

**ACTS  
OF THE  
GENERAL ASSEMBLY**



**2019 REGULAR SESSION**

**VOLUME I**

**VOLUME II**

**VOLUME III**



**ACTS**

**OF THE**

**GENERAL ASSEMBLY**

**OF THE**

**COMMONWEALTH OF VIRGINIA**

**2019 REGULAR SESSION**

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

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**CHAPTERS 1-676**

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

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# ACTS OF THE GENERAL ASSEMBLY

## 2019 REGULAR SESSION

### CHAPTER 1

*An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, relating to Major Headquarters Workforce Grant Fund.*

[S 1255]

Approved February 5, 2019

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

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, as follows:**

#### CHAPTER 22.12.

#### MAJOR HEADQUARTERS WORKFORCE GRANT FUND.

##### **§ 59.1-284.31. Major Headquarters Workforce Grant Fund.**

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

"Affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a qualified company.

"Capital investment" means an investment by or on behalf of a qualified company on or after November 1, 2018, in real property, tangible personal property, or both, at a facility that is properly chargeable to a capital account or would be so chargeable with a proper election. "Capital investment" may include (i) a capital expenditure related to a leasehold interest in a property; (ii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease; and (iii) building up-fit and tenant improvements made by or on behalf of a qualified company.

"Eligible county" means Arlington County.

"Facility" means the building, group of buildings, or corporate campus located in the eligible county, including any related machinery, furniture, fixtures, and equipment, that is owned, leased, licensed, occupied, or otherwise operated by a qualified company as a major headquarters facility for use in the administration, management, and operation of its business.

"Fund" means the Major Headquarters Workforce Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company in an amount of \$22,000 per new full-time job for the first 25,000 new full-time jobs, for a maximum aggregate amount of \$550 million, and \$15,564 per new full-time job for up to 12,850 additional new full-time jobs, for an additional maximum aggregate amount of \$200 million, as calculated in accordance with the memorandum of understanding. The grant is intended to pay or to reimburse the qualified company for the costs of workforce development, workforce recruitment, and workforce instruction or training. The qualified company may use the proceeds of the grant for any lawful purpose, including but not limited to those outlined in subsection D of § 2.2-115.

"Memorandum of understanding" means the memorandum of understanding entered into on or about November 12, 2018, among a qualified company, the Commonwealth, and the Virginia Economic Development Partnership Authority that sets forth the requirements for the creation of new full-time jobs for the qualified company to be eligible for grant payments from the Fund. The memorandum of understanding shall contain criteria for the average annual wages for the new full-time jobs to qualify for a grant payment, starting at \$150,000 for calendar year 2019 and escalating at 1.5 percent per year.

"New full-time job" means a position in which employees of a qualified company are principally located at the facility and are expected to work a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the employer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions shall not qualify as new full-time jobs. A position created when a job function is shifted from an existing location in the Commonwealth shall qualify as a new full-time job if the qualified company certifies that it has hired a new employee to fill substantially the same job at the existing location as that held by the transferred position.

"Qualified company" means a company, including its affiliates, that between November 1, 2018, and December 31, 2038, is expected to (i) make or cause to be made a capital investment at a facility of at least \$2 billion, (ii) create at least 25,000 new full-time jobs, and (iii) potentially create an additional 12,850 jobs.

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Major Headquarters Workforce Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such

*Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of making grant payments pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection F.*

*C. A qualified company shall be eligible to receive grant payments for each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2023, and ending with the Commonwealth's fiscal year starting on July 1, 2042. The grant payments under this section shall be paid to the qualified company from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified company meeting the requirements for receiving grant payments set forth in the memorandum of understanding.*

*D. For the first 25,000 new full-time jobs, the aggregate amount of grant payments payable under this chapter shall not exceed \$550 million and shall be calculated in accordance with the memorandum of understanding. For the next 12,850 new full-time jobs, the aggregate amount of grant payments payable under this chapter shall not exceed \$200 million and shall be calculated in accordance with the memorandum of understanding. The memorandum of understanding shall contain criteria for the average annual wages paid for the new full-time jobs to qualify for a grant payment, and contain other criteria for a new full-time job to qualify for a grant payment. The memorandum of understanding shall contain restrictions on the maximum aggregate amount of grant payments that may be paid to the qualified company through any fiscal year as follows:*

*\$200 million through fiscal year 2024;*

*\$300 million through fiscal year 2025;*

*\$350 million through fiscal year 2026;*

*\$400 million through fiscal year 2027;*

*\$450 million through fiscal year 2028;*

*\$500 million through fiscal year 2029;*

*\$550 million through fiscal year 2030;*

*\$600 million through fiscal year 2031;*

*\$650 million through fiscal year 2032;*

*\$700 million through fiscal year 2033; and*

*\$750 million through fiscal year 2034 and later fiscal years.*

*E. A qualified company applying for a grant payment pursuant to this chapter shall provide evidence, satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and maintained as of the last day of the calendar year that immediately precedes the date of the application and (ii) the average annual wage paid for those new full-time jobs. Similar evidence shall be provided each year until the new full-time jobs become new full-time jobs that qualify for a grant payment. The application and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than April 1 of each year following the end of the calendar year upon which the evidence set forth is based. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment. For filings by mail, the postmark cancellation shall govern the date of the filing determination.*

*F. Within 60 days of receiving the application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the verification of the information contained in the application and the resulting amount of the grant payments to which the qualified company may be entitled for payment. Such grant payments shall be made by check or electronic payment issued by the State Treasurer on warrant of the Comptroller in the Commonwealth's fourth or later fiscal year following the submission of such application, as provided in the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks or electronic payments for grant payments under this chapter without a specific appropriation for the same.*

*G. As a condition for the receipt of a grant payment, a qualified company shall make available for inspection to the Secretary, upon request, all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt of a grant payment as set forth in this chapter and subject to the memorandum of understanding.*

## CHAPTER 2

*An Act to amend and reenact § 55-513.2 of the Code of Virginia, relating to the Virginia Property Owners' Association Act; home-based businesses.*

[H 1853]

Approved February 13, 2019

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

**1. That § 55-513.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 55-513.2. Home-based businesses permitted; compliance with local ordinances.**

A. Except to the extent the declaration provides otherwise, no association shall prohibit any lot owner from operating a home-based business within his personal residence. The association may, however, establish (i) reasonable restrictions as to

the time, place, and manner of the operation of a home-based business and (ii) reasonable restrictions as to the size, place, duration, and manner of the placement or display of any signs on the owner's lot related to such home-based business. Any home-based business shall comply with all applicable local ordinances.

*B. If a development is located in a locality that classifies home-based child care services as an accessory or ancillary residential use under the locality's zoning ordinance, the provision of home-based child care services in a personal residence shall be deemed a residential use unless expressly (i) prohibited or restricted by the declaration or (ii) restricted by the association's bylaws or rules as provided in subsection A.*

### CHAPTER 3

*An Act to amend and reenact § 19.2-390.3 of the Code of Virginia, relating to Child Pornography Registry; contents of Registry; criminal investigations; report.*

[H 1940]

Approved February 13, 2019

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

**1. That § 19.2-390.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-390.3. Child Pornography Registry; maintenance; access.**

A. The Office of the Attorney General, in cooperation with the Department of State Police, shall keep and maintain a Child Pornography Registry (*the Registry*) to be located within the State Police, separate and apart from all other records maintained by either department. The purpose of the Registry shall be to assist the efforts of law-enforcement agencies statewide to protect their communities from repeat child pornographers and to protect children from becoming victims of criminal offenders by aiding in identifying victims and perpetrators. Criminal justice agencies, including law-enforcement agencies, may request of the State Police a search and comparison of child pornography images contained within the Registry with those images obtained by criminal justice agencies during the course of official investigations.

B. The Registry shall include ~~images of sexually explicit visual material in any form including any picture, photograph, drawing, sculpture, motion picture film, digital image or similar visual representation, copies of all known or suspected "child pornography," as that term is defined in subsection A of § 18.2-374.1, obtained during the course of a criminal investigation, or presented as evidence and used in any conviction for any offense enumerated in §§ 18.2-374.1 and 18.2-374.1:1.~~

C. Registry information provided under this section shall be used for the purposes of the administration of criminal justice, *for victim identification*, or for the protection of the public in general and children in particular. Use of the information or the images contained therein for purposes not authorized by this section is prohibited and a willful violation of this section with the intent to harass or intimidate another ~~shall be punished as is~~ a Class 6 felony.

D. The Virginia Criminal Information Network and any form or document used by the Department of State Police to disseminate information from the Registry shall provide notice that any unauthorized possession, use, or dissemination of the information or images is a crime punishable as a Class 6 felony.

**2. That the Department of State Police, in cooperation with the Office of the Attorney General, shall submit a report detailing the implementation plan for changes to the Child Pornography Registry pursuant to this act to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committee on Appropriations and Senate Committee on Finance by January 1, 2020, as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents, and the report shall be posted on the General Assembly's website.**

### CHAPTER 4

*An Act to amend and reenact § 2.2-3711 of the Code of Virginia, relating to the Virginia Freedom of Information Act; meeting exemption for the Fort Monroe Authority.*

[H 1964]

Approved February 13, 2019

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

**1. That § 2.2-3711 of the Code of Virginia is amended and reenacted as follows:**

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

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

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher

makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

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

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

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

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

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

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

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

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

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

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

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

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

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

## CHAPTER 5

*An Act to amend and reenact §§ 55-248.4 and 55-248.7 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; provisions made applicable to rental tenancy by operation of law in absence of written rental agreement.*

[H 2054]

Approved February 13, 2019

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

**1. That §§ 55-248.4 and 55-248.7 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-248.4. Definitions.**

When used in this chapter, unless expressly stated otherwise:

"Action" means recoupment, counterclaim, set off, or other civil suit and any other proceeding in which rights are determined, including without limitation actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Application deposit" means any refundable deposit of money, however denominated, including all money intended to be used as a security deposit under a rental agreement, or property, which is paid by a tenant to a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Application fee" means any nonrefundable fee, which is paid by a tenant to a landlord or managing agent for the purpose of being considered as a tenant for a dwelling unit. An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant. However, where an application is being made for a dwelling unit which is a public housing unit or other

housing unit subject to regulation by the Department of Housing and Urban Development, an application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing background, credit, or other pre-occupancy checks on the applicant.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any structure or that part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Commencement date of rental agreement" means the date upon which the tenant is entitled to occupy the dwelling unit as a tenant.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including, but not limited to, a manufactured home.

"Effective date of rental agreement" means the date upon which the rental agreement is signed by the landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

"Facility" means something that is built, constructed, installed or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or person authorized by the landlord to occupy the premises, who has the permission of the tenant to visit but not to occupy the premises.

"Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

"Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which such dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the name of such owner, lessor or sublessor. Such managing agent shall be subject to the provisions of § 16.1-88.03. Landlord shall not, however, include a community land trust as defined in § 55-221.1.

"Managing agent" means a person authorized by the landlord to act on behalf of the landlord under an agreement.

"Mold remediation in accordance with professional standards" means mold remediation of that portion of the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold, performed consistent with guidance documents published by the United States Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the American Conference of Governmental Industrial Hygienists (the Bioaerosols Manual), Standard Reference Guides of the Institute of Inspection, Cleaning and Restoration for Water Damage Restoration and Professional Mold Remediation, or any protocol for mold remediation prepared by an industrial hygienist consistent with said guidance documents.

"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building. However, nothing in this definition shall be construed to apply to any nonresidential space in such building.

"Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered limited liability partnerships or limited liability companies, or any lawful combination of natural persons permitted by law.

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice, which may be either a United States postal certificate of mailing or a certificate of service confirming such mailing prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has received a verbal notice of it, or from all of the facts and circumstances known to him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform another person whether or not the other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to show that the notice was given to the recipient of the notice.

"Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any combination thereof, and any other legal or commercial entity.

"Owner" means one or more persons or entities, jointly or severally, in whom is vested:

1. All or part of the legal title to the property; or

2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.

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

"Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

"Processing fee for payment of rent with bad check" means the processing fee specified in the rental agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn by the tenant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds.

"Readily accessible" means areas within the interior of the dwelling unit available for observation at the time of the move-in inspection that do not require removal of materials, personal property, equipment or similar items.

"Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental agreement, including prepaid rent paid more than one month in advance of the rent due date.

"Rental agreement" or "lease agreement" means all *rental* agreements, written or oral, and valid rules and regulations adopted under § 55-248.17 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

"Rental application" means the written application or similar document used by a landlord to determine if a prospective tenant is qualified to become a tenant of a dwelling unit. A landlord may charge an application fee as provided in this chapter and may request a prospective tenant to provide information that will enable the landlord to make such determination. The landlord may photocopy each applicant's driver's license or other similar photo identification, containing either the applicant's social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not photocopy a U.S. government-issued identification so long as to do so is a violation of Title 18 U.S.C. Part I, Chapter 33, § 701. The landlord may require that each applicant provide a social security number issued by the U.S. Social Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue Service, for the purpose of determining whether each applicant is eligible to become a tenant in the landlord's dwelling unit.

"Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. Major facility in the case of a bathroom means toilet, and either a bath or shower, and in the case of a kitchen means refrigerator, stove, or sink.

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the commencement date of the rental agreement. Security deposit shall not include a damage insurance policy or renter's insurance policy as those terms are defined in § 55-248.7:2 purchased by a landlord to provide coverage for a tenant.

"Single-family residence" means a structure, other than a multi-family residential structure, maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

"Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

"Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to the exclusion of others and shall include roomer. Tenant shall not include (i) an authorized occupant, (ii) a guest or invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental agreement but has no right to occupy a dwelling unit.

"Tenant records" means all information, including financial, maintenance, and other records about a tenant or prospective tenant, whether such information is in written or electronic form or other medium. A tenant may request copies of his tenant records pursuant to § 55-248.9:1.

"Utility" means electricity, natural gas, water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2, or a ratio utility billing system as defined in § 55-226.2.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the move-in inspection.

"Written notice" means notice given in accordance with § 55-248.6, including any representation of words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or other medium, retrievable in a perceivable form, and regardless of whether an electronic signature authorized by Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1 is affixed. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third party the responsibility of providing any written notice required by this chapter.

#### **§ 55-248.7. Terms and conditions of rental agreement; copy for tenant; accounting of rental payments.**

A. A landlord and tenant may include in a rental agreement, terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.

B. ~~In the absence of~~ *The landlord shall offer the tenant a written rental agreement; the tenant shall pay as rent the fair rental value for the use and occupancy containing the terms governing the rental of the dwelling unit and setting forth the terms and conditions of the landlord tenant relationship. Such written rental agreement shall be effective upon the date signed by the parties.*

C. *If a landlord does not offer a written rental agreement, the tenancy shall exist by operation of law, consisting of the following terms and conditions:*

1. The provision of this chapter shall be applicable to the dwelling unit that is being rented;
2. The duration of the rental agreement shall be for 12 months and shall not be subject to automatic renewal, except in the event of a month-to-month lease as otherwise provided for under subsection C of § 55-248.37;
3. Rent shall be paid in 12 equal periodic installments in an amount agreed upon by the landlord and the tenant and if no amount is agreed upon, the installments shall be at fair market rent;
4. Rent payments shall be due on the first day of each month during the tenancy and shall be considered late if not paid by the fifth of the month;
5. If the rent is paid by the tenant after the fifth day of any given month, the landlord shall be entitled to charge a late charge as provided in this chapter;
6. The landlord may collect a security deposit not to exceed an amount equal to two months of rent; and
7. The parties may enter into a written rental agreement at any time during the 12-month tenancy created by this subsection.

~~Rent~~ D. Except as provided in the written rental agreement or, as provided in subsection C if no written agreement is offered, rent shall be payable without demand or notice at the time and place agreed upon by the parties. ~~Unless otherwise agreed~~ Except as provided in the written rental agreement, rent is payable at the place designated by the landlord and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

~~D. Unless the rental agreement fixes a definite term,~~ E. Except as provided in the written rental agreement or, as provided in subsection C if no written agreement is offered, the tenancy shall be week to week in case of a roomer who pays weekly rent, and in all other cases month to month. Terminations of tenancies shall be governed by § 55-248.37 unless the rental agreement provides for a different notice period.

~~E. F.~~ F. If the rental agreement contains any provision whereby the landlord may approve or disapprove a sublessee or assignee of the tenant, the landlord shall within 10 business days of receipt by him of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days shall be deemed evidence of his approval.

~~F. G.~~ G. A copy of any written rental agreement signed by both the tenant and the landlord shall be provided to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement shall not affect the validity of the agreement.

~~G. H.~~ H. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

~~H. I.~~ I. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the tenant pays rent in the form of cash or money order.

## CHAPTER 6

*An Act to amend and reenact § 18.2-264 of the Code of Virginia, relating to prohibited inhalants or other noxious chemical substances; fluorinated hydrocarbons or vapors; hydrogenated fluorocarbons.*

[H 2138]

Approved February 13, 2019

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

#### **1. That § 18.2-264 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 18.2-264. Inhaling drugs or other noxious chemical substances or causing, etc., others to do so.**

A. It ~~shall be~~ *is* unlawful, except under the direction of a practitioner as defined in § 54.1-3401, for any person deliberately to smell or inhale any drugs or any other noxious chemical substances ~~including but not limited to fingernail polish or model airplane glue, containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors,~~ with the intent to become intoxicated, inebriated, excited, *or* stupefied or to dull the brain or nervous system.

Any person violating the provisions of this subsection ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. It ~~shall be~~ *is* unlawful for any person, other than one duly licensed, deliberately to cause, invite, or induce any person to smell or inhale any drugs or any other noxious *chemical substances or chemicals containing any ketone, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors* with the intent to intoxicate, inebriate, excite, stupefy, or ~~to~~ dull the brain or nervous system of such person.

Any person violating the provisions of this subsection ~~shall be~~ *is* guilty of a Class 2 misdemeanor.

C. *For the purposes of this section, "noxious chemical substances" includes fingernail polish and model airplane glue and chemicals containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons or vapors, fluorinated hydrocarbons or vapors, or hydrogenated fluorocarbons.*

## CHAPTER 7

*An Act to amend and reenact § 4.1-111 of the Code of Virginia, relating to alcoholic beverage control; happy hour advertising.*

[S 1726]

Approved February 13, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 4.1-111 of the Code of Virginia is amended and reenacted as follows:****§ 4.1-111. Regulations of Board.**

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55-526, but only in accordance with this title.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour ~~but prohibit the advertising of~~ and any pricing related to such happy hour. *Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.*

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

## CHAPTER 8

*An Act to amend and reenact §§ 8.01-654, 8.01-658, and 8.01-662 of the Code of Virginia and to repeal §§ 8.01-656, 8.01-657, and 8.01-659 of the Code of Virginia, relating to habeas corpus.*

[H 1909]

Approved February 13, 2019

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

**1. That §§ 8.01-654, 8.01-658, and 8.01-662 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-654. When and where petition filed; what petition to contain.**

A. 1. ~~The A petition for a writ of habeas corpus ad subjiciendum shall be granted forthwith by~~ *may be filed in* the Supreme Court or any circuit court; ~~to any person who shall apply for the same by petition,~~ showing by affidavits or other evidence ~~probable cause to believe that he~~ *the petitioner* is detained without lawful authority.

2. A petition for writ of habeas corpus ad subjiciendum, other than a petition challenging a criminal conviction or sentence, shall be brought within one year after the cause of action accrues. A habeas corpus petition attacking a criminal conviction or sentence, except as provided in § 8.01-654.1 for cases in which a death sentence has been imposed, shall be filed within two years from the date of final judgment in the trial court or within one year from either final disposition of the direct appeal in state court or the time for filing such appeal has expired, whichever is later.

B. 1. With respect to any such petition filed by a petitioner ~~held whose detention originated~~ under criminal process, and subject to the provisions of subsection C of this section and of § 17.1-310, only the circuit court ~~which that~~ entered the original judgment ~~or order of conviction or convictions resulting in the detention~~ complained of in the petition shall have authority to issue writs of habeas corpus. If a district court entered the original judgment ~~or order of conviction or convictions resulting in the detention~~ complained of in the petition, only the circuit court for the city or county wherein the district court sits shall have authority to issue writs of habeas corpus. Hearings on such petition, where granted in the circuit court, may be held at any circuit court within the same circuit as the circuit court in which the petition was filed, as designated by the judge thereof.

2. Such petition shall contain all allegations the facts of which are known to petitioner at the time of filing and such petition shall enumerate all previous applications and their disposition. No writ shall be granted on the basis of any allegation the facts of which petitioner had knowledge at the time of filing any previous petition. The provisions of this section shall not apply to a petitioner's first petition for a writ of habeas corpus when the sole allegation of such petition is that the petitioner was deprived of the right to pursue an appeal from a final judgment of conviction or probation revocation, except that such petition shall contain all facts pertinent to the denial of appeal that are known to the petitioner at the time of the filing, and such petition shall certify that the petitioner has filed no prior habeas corpus petitions attacking the conviction or probation revocation.

3. Such petition may allege detention without lawful authority through challenge to a conviction, although the sentence imposed for such conviction is suspended or is to be served subsequently to the sentence currently being served by petitioner.

4. In the event the allegations of illegality of the petitioner's detention can be fully determined on the basis of recorded matters, the court may make its determination whether such writ should issue on the basis of the record.

5. The court shall give findings of fact and conclusions of law following a determination on the record or after hearing, to be made a part of the record and transcribed.

6. If petitioner alleges as a ground for illegality of his detention the inadequacy of counsel, he shall be deemed to waive his privilege with respect to communications between such counsel and himself to the extent necessary to permit a full and fair hearing for the alleged ground.

C. 1. With respect to any such petition filed by a petitioner held under the sentence of death, and subject to the provisions of this subsection, the Supreme Court shall have exclusive jurisdiction to consider and award writs of habeas corpus. The circuit court which entered the judgment order setting the sentence of death shall have authority to conduct an evidentiary hearing on such a petition only if directed to do so by order of the Supreme Court.

2. Hearings conducted in a circuit court pursuant to an order issued under the provisions of subdivision 1 of this subsection shall be limited in subject matter to the issues enumerated in the order.

3. The circuit court shall conduct such a hearing within 90 days after the order of the Supreme Court has been received and shall report its findings of fact and recommend conclusions of law to the Supreme Court within 60 days after the conclusion of the hearing. Any objection to the report of the circuit court must be filed in the Supreme Court within 30 days after the report is filed.

**§ 8.01-658. When and from whom response required; dismissal of habeas petition without prejudice.**

A. ~~The writ shall be served on the person to whom it is directed or, in his absence from the place where the petitioner is confined,~~ *Except as may be provided in the Rules of Supreme Court of Virginia, no response to a petition for a writ of habeas corpus shall be required except upon an order of the court, directed to the person in whose custody the petitioner is detained or on the person having the immediate or potential custody of him, and made returnable as soon as may be before the court ordering the same.*

B. *When the petition challenges a criminal conviction or sentence:*

1. If the petitioner is in jail, prison, or other actual physical restraint due to the conviction or sentence he is attacking, the named respondent shall be (i) the Director of the Department of Corrections or the warden or superintendent of the state correctional facility where the petitioner is detained if the ~~sentence is one year or more~~ *petitioner has been committed to, or is subject to transfer to, the Department of Corrections* or (ii) the sheriff or superintendent of a local or regional jail facility if the ~~petitioner's sentence is less than one year~~ *will be served in such local or regional jail facility.*

2. If the petitioner is on probation or parole due to the conviction or sentence he is attacking, the named respondent shall be the probation or parole officer responsible for supervising the applicant or the official in charge of the parole or probation agency.

3. If a petitioner has a suspended sentence and is not under supervision by a probation or parole officer, the respondent shall be (i) the local sheriff if the judgment of conviction the petitioner challenges has a suspended sentence of less than one year or (ii) the Director of the Department of Corrections if the judgment of conviction the petitioner challenges has a suspended sentence of one year or more.

~~B. C.~~ The petitioner shall name a proper party respondent, and if he fails to do so, the court ~~shall~~ may allow amendment of the petition. If the petitioner fails to amend the petition by naming a proper party respondent in the time provided by the court, the court in which the petition is filed shall dismiss the habeas petition without prejudice.

*D. If the court in which the petition was filed determines that the petitioner's allegations present a case for the determination of unrecorded matters of fact relating to a previous judicial proceeding in any circuit court, the court may transfer the petition to the circuit court in which such judicial proceeding occurred, or if the petition was filed in the Supreme Court, the Court may require the circuit court in which such judicial proceeding occurred to conduct an evidentiary hearing, in accordance with such procedures as may be set forth in the Rules of Supreme Court of Virginia.*

**§ 8.01-662. Judgment of court or judge trying it; payment of costs and expenses when petition denied.**

After hearing the matter both upon the ~~return~~ response and any other evidence, the court ~~before whom the petitioner is brought~~ shall either discharge or remand ~~him~~ the petitioner, grant him any other relief to which he is entitled, or admit him to bail and adjudge the cost of the proceeding, including the charge for transporting the prisoner.

~~Provided,~~ provided, however, that if the petition is denied, the costs and expenses of the proceeding and the ~~attorney's~~ attorney fees of any attorney appointed to represent the petitioner shall be assessed against the petitioner. If such cost, expenses, and fees are collected, they shall be paid to the Commonwealth.

*When relief is granted upon a petition for a writ of habeas corpus, the order granting relief on the writ shall be served on the respondent and the petitioner. Service may, in the court's discretion, be accomplished by personal service or by transmitting a certified copy of the order to the parties via regular or certified mail, a third-party commercial carrier, or electronic delivery.*

**2. That §§ 8.01-656, 8.01-657, and 8.01-659 of the Code of Virginia are repealed.**

## CHAPTER 9

*An Act to amend the Code of Virginia by adding a section numbered 8.01-420.4:1, relating to deposition of corporate officer.*

[H 2167]

Approved February 13, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 8.01-420.4:1 as follows:**

**§ 8.01-420.4:1. Taking of depositions; corporate officers.**

*A. For the purposes of this section, "officer" means the president, chief executive officer, chief operating officer, or chief financial officer of a publicly traded company or of a subsidiary of such company that employs 250 or more people.*

*B. In any action in which an officer's publicly traded company is a party, if a party issues a witness subpoena for the deposition of an officer prior to taking the deposition of a corporate representative pursuant to Supreme Court Rule 4:5(b)(6), and the officer, or company on the officer's behalf, files a motion for a protective order asserting that the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, in order to defeat such motion for a protective order, the burden is on the party seeking the deposition to show that (i) the officer's deposition is reasonably calculated to lead to the discovery of admissible evidence, (ii) the officer may have personal knowledge of discoverable information that cannot reasonably be discovered through other means, and (iii) a deposition of a representative other than the officer or other methods of discovery are unsatisfactory, insufficient, or inadequate.*

*C. A motion for a protective order filed pursuant to subsection B shall include one or more proposed corporate employees available to be deposed instead of the officer, along with a description of the employee's role in the corporation, his knowledge relevant to the subject matter of the litigation, and the source of such knowledge, provided that the party opposing the motion has stated with reasonable particularity the matters on which the officer's examination is requested.*

*D. If a protective order is issued and the party seeking the deposition subsequently learns that the requirements set forth in subsection B can be met, then the party seeking the deposition may file for modification or lifting of the protective order.*

**2. That the provisions of § 8.01-420.4:1 of the Code of Virginia, as created by this act, apply to a subpoena issued pursuant to the Uniform Interstate Depositions and Discovery Act (§ 8.01-412.8 et seq. of the Code of Virginia) consistent with the provisions of subsection E of § 8.01-412.10 of the Code of Virginia.**

## CHAPTER 10

*An Act to amend and reenact § 8.01-420 of the Code of Virginia, relating to summary judgment; limited use of discovery depositions and affidavits.*

[H 2197]

Approved February 13, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 8.01-420 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-420. Depositions as basis for motion for summary judgment or to strike evidence.**

A. Except as provided in ~~subsection~~ *subsections B and C*, no motion for summary judgment or to strike the evidence shall be sustained when based in whole or in part upon any discovery depositions under Rule 4:5, unless all parties to the suit or action shall agree that such deposition may be so used. Notwithstanding the foregoing, requests for admissions for which the responses are submitted in support of a motion for summary judgment may be based in whole or in part upon any discovery depositions under Rule 4:5 and may include admitted facts learned or referenced in such a deposition, provided that any such request for admission shall not reference the deposition or require the party to admit that the deponent gave specific testimony.

B. Notwithstanding the provisions of subsection A, a motion for summary judgment seeking dismissal of any claim or demand for punitive damages may be sustained, as to the punitive damages claim or demand only, when based in whole or in part upon any discovery depositions under Rule 4:5. However, such a motion may not be based upon discovery depositions under Rule 4:5 with respect to any claim or demand for punitive damages based on the operation of a motor vehicle by a person while under the influence of alcohol, any narcotic drug, or any other self-administered intoxicant or drug.

C. *Notwithstanding the provisions of subsection A, discovery depositions under Rule 4:5 and affidavits may be used in support of or in opposition to a motion for summary judgment in any action when the only parties to the action are business entities and the amount at issue is \$50,000 or more.*

## CHAPTER 11

*An Act to amend and reenact §§ 55-2, 55-57, 55-76, 55-77, 55-79, and 58.1-807 of the Code of Virginia, relating to lease agreements; requirements; emergency.*

[H 2287]

Approved February 13, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 55-2, 55-57, 55-76, 55-77, 55-79, and 58.1-807 of the Code of Virginia are amended and reenacted as follows:****§ 55-2. When deed or will necessary to convey estate; no parol partition or gift valid.**

A. No estate of inheritance or freehold ~~or for a term of more than five years~~ in lands shall be conveyed unless by deed or will, nor shall any voluntary partition of lands by coparceners, having such an estate therein, be made, except by deed; nor shall any right to a conveyance of any such estate or term in land accrue to the donee of the land or those claiming under him, under a gift or promise of gift of the same not in writing, although such gift or promise be followed by possession thereunder and improvement of the land by the donee or those claiming under him.

B. *Any lease agreement or other written document conveying a non-freehold estate in land, which was entered into before, and which remains in effect as of, the effective date of this subsection, or which is entered into after the effective date of this subsection, shall not be invalid, unenforceable, or subject to repudiation by the parties to such agreement on account of, or otherwise affected by, the fact that the conveyance of the estate was not in the form of a deed.*

**§ 55-57. Form of a lease.**

A ~~deed~~ ~~of~~ lease may be made in the following form, or to the same effect: "This ~~deed~~ lease, made the \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, between (herein insert the names of parties), witnesseth: that the said \_\_\_\_\_ ~~doth~~ *does* (or do) demise unto the said \_\_\_\_\_, his personal representative and assigns, all (here describe the property) from the \_\_\_\_ day of \_\_\_\_\_, for the term of \_\_\_\_\_, thence ensuing, yielding therefor during the said term the rent of (here state the rent and mode of payment). Witness the following signature ~~and seal~~ (or signatures ~~and seals~~)."

**§ 55-76. Of lessee "to pay the rent" and "to pay the taxes."-**

In a ~~deed~~ ~~of~~ lease a covenant by the lessee "to pay the rent" shall have the effect of a covenant that the rent reserved by the ~~deed~~ lease shall be paid to the lessor, or those entitled under him, in the manner therein mentioned; and a covenant by him "to pay the taxes" shall have the effect of a covenant that all the taxes, levies, and assessments upon the demised premises, or upon the lessor on account thereof, shall be paid by the lessee or those claiming under him.

**§ 55-77. "That he will not assign, etc.," and "that he will leave the premises in good repair."**

In a ~~deed~~ ~~of~~ lease a covenant by the lessee that "he will not assign without leave" shall have the same effect as a covenant that the lessee will not, during the term, assign, transfer or set over the premises, or any part thereof, to any person

without the consent, in writing, of the lessor, his representative or assigns. And a covenant by him that "he will leave the premises in good repair" shall, subject to the qualifications of § 55-226, have the same effect as a covenant that the demised premises will, at the expiration or other sooner determination of the term, be peaceably surrendered and yielded up unto the lessor, his representatives or assigns, in good and substantial repair and condition, reasonable wear and tear excepted.

**§ 55-79. Effect of provision for reentry by lessor.**

If in a ~~deed of~~ lease it ~~be~~ is provided that "the lessor may reenter for default of \_\_\_\_\_ days in the payment of rent, or for the breach of covenants," it shall have the effect of an agreement that if the rent reserved, or any part thereof, be unpaid for such number of days after the day on which it ought to have been paid, or if any of the other covenants on the part of the lessee, his personal representative or assigns be broken, then, in either of such cases, the lessor, or those entitled in his place at any time afterwards, into and upon the demised premises, or any part thereof, in the name of the whole, may reenter, and the same again have, repossess and enjoy, as of his or their former estate.

**§ 58.1-807. Contracts generally; leases.**

A. Except as hereinafter provided, on every contract or memorandum thereof relating to real or personal property admitted to record, a recordation tax is hereby levied at the rate of 25 cents on every \$100 or fraction thereof of the consideration or value contracted for.

B. The recordation of a ~~deed of~~ lease for a term of years, or assignment of the lessee's interest therein, or memorandum thereof, shall be taxed according to the provisions of this section, unless provided otherwise in § 58.1-809 or unless the annual rental, multiplied by the term for which the lease runs, or remainder thereof, equals or exceeds the actual value of the property leased. In such cases the tax for recording the ~~deed of~~ lease shall be based upon the actual value of the property at the date of lease, including the value of any realty required by the terms of the lease to be constructed thereon by the lessor.

C. The recordation of an assignment of the lessor's interest in a lease, or memorandum thereof, shall be taxed according to the provisions of this section, unless the assignment of the lessor's interest in the lease is to provide additional security for an obligation of the lessor on which the tax has been previously paid, or the assignment of the lessor's interest is made to the person who owns the property which is subject to the lease. In such cases there shall be no tax for recording the lessor's assignment of the lease.

D. Notwithstanding the other provisions of this section, the tax on the recordation of leases of oil and gas rights shall be \$25. The tax on the recordation of leases of coal and other mineral rights shall be \$50.

E. Notwithstanding the other provisions of this section, the tax on the recordation of leases of outdoor advertising signs owned by a person engaged in the business of outdoor advertising licensed by the Virginia Department of Transportation pursuant to § 33.2-1209 shall be \$25.

F. Notwithstanding the other provisions of this section, the tax on the recordation of a lease of a communications tower or a communications tower site shall be \$75; the tax on the recordation of each lease to affix any communications equipment or antenna to any such tower or other structure shall be \$15.

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

## CHAPTER 12

*An Act to amend and reenact § 63.2-1526 of the Code of Virginia, relating to appeals from founded complaints of child abuse or neglect; concurrent criminal investigations.*

[H 1953]

Approved February 13, 2019

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

**1. That § 63.2-1526 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1526. Appeals of certain actions of local departments.**

A. A person who is suspected of or is found to have committed abuse or neglect may, within ~~thirty~~ 30 days of being notified of that determination, request the local department rendering such determination to amend the determination and the local department's related records. Upon written request, the local department shall provide the appellant all information used in making its determination. Disclosure of the reporter's name or information which may endanger the well-being of a child shall not be released. The identity of a collateral witness or any other person shall not be released if disclosure may endanger his life or safety. Information prohibited from being disclosed by state or federal law or regulation shall not be released. The local department shall hold an informal conference or consultation where such person, who may be represented by counsel, shall be entitled to informally present testimony of witnesses, documents, factual data, arguments or other submissions of proof to the local department. With the exception of the local director, no person whose regular duties include substantial involvement with child abuse and neglect cases shall preside over the informal conference. If the local department refuses the request for amendment or fails to act within ~~forty-five~~ 45 days after receiving such request, the person may, within ~~thirty~~ 30 days thereafter, petition the Commissioner, who shall grant a hearing to determine whether it appears, by a preponderance of the evidence, that the determination or record contains information which is irrelevant or inaccurate regarding the commission of abuse or neglect by the person who is the subject of the determination or record and therefore shall be amended. A person who is the subject of a report who requests an amendment to the record, as provided above, has the right to obtain an extension for an additional specified period of up to ~~sixty~~ 60 days by requesting in writing

that the ~~forty-five~~ 45 days in which the local department must act be extended. The extension period, which may be up to ~~sixty~~ 60 days, shall begin at the end of the ~~forty-five~~ 45 days in which the local department must act. When there is an extension period, the ~~thirty-day~~ 30-day period to request an administrative hearing shall begin on the termination of the extension period.

B. The Commissioner shall designate and authorize one or more members of his staff to conduct such hearings. The decision of any staff member so designated and authorized shall have the same force and effect as if the Commissioner had made the decision. The hearing officer shall have the authority to issue subpoenas for the production of documents and the appearance of witnesses. The hearing officer is authorized to determine the number of depositions that will be allowed and to administer oaths or affirmations to all parties and witnesses who plan to testify at the hearing. The Board shall adopt regulations necessary for the conduct of such hearings. Such regulations shall include provisions stating that the person who is the subject of the report has the right (i) to submit oral or written testimony or documents in support of himself and (ii) to be informed of the procedure by which information will be made available or withheld from him. In case of any information withheld, such person shall be advised of the general nature of such information and the reasons, for reasons of privacy or otherwise, that it is being withheld. Upon giving reasonable notice, either party at his own expense may depose a nonparty and submit such deposition at the hearing pursuant to Board regulation. Upon good cause shown, after a party's written motion, the hearing officer may issue subpoenas for the production of documents or to compel the attendance of witnesses at the hearing, except that alleged child victims of the person and their siblings shall not be subpoenaed, deposed or required to testify. The person who is the subject of the report may be represented by counsel at the hearing. Upon petition, the court shall have the power to enforce any subpoena that is not complied with or to review any refusal to issue a subpoena. Such decisions may not be further appealed except as part of a final decision that is subject to judicial review. Such hearing officers are empowered to order the amendment of such determination or records as is required to make them accurate and consistent with the requirements of this chapter or the regulations adopted hereunder. If, after hearing the facts of the case, the hearing officer determines that the person who is the subject of the report has presented information that was not available to the local department at the time of the local conference and which if available may have resulted in a different determination by the local department, he may remand the case to the local department for reconsideration. The local department shall have ~~fourteen~~ 14 days in which to reconsider the case. If, at the expiration of ~~fourteen~~ 14 days, the local department fails to act or fails to amend the record to the satisfaction of the appellant, the case shall be returned to the hearing officer for a determination. If aggrieved by the decision of the hearing officer, such person may obtain further review of the decision in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.).

C. Whenever an appeal of the local department's finding is made and a criminal charge *or investigation* is also filed *or commenced* against the appellant for the same conduct involving the same victim as investigated by the local department, the appeal process shall automatically be stayed until the criminal prosecution in ~~either~~ *the trial court* is completed, *until the criminal investigation is closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal of the local department's finding, for 180 days after the appellant's request for appeal.* During such stay, the appellant's right of access to the records of the local department regarding the matter being appealed shall also be stayed. Once the criminal prosecution in ~~either~~ *the trial court* has been completed, *the criminal investigation is closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal of the local department's finding, 180 days have passed,* the local department shall advise the appellant in writing of his right to resume his appeal within the time frames provided by law and regulation.

## CHAPTER 13

*An Act to amend the Code of Virginia by adding a section numbered 18.2-254.2, relating to specialty dockets; report.*

[H 2665]

Approved February 13, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 18.2-254.2 as follows:**

**§ 18.2-254.2. Specialty dockets; report.**

*The Office of the Executive Secretary of the Supreme Court shall develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets established in accordance with the Rules of Supreme Court of Virginia. Each local specialty docket shall submit evaluative reports to the Office of the Executive Secretary as requested. The Office of the Executive Secretary of the Supreme Court of Virginia shall submit a report of such evaluations to the General Assembly by December 1 of each year.*

## CHAPTER 14

*An Act to amend and reenact §§ 16.1-69.48:1 and 46.2-646 of the Code of Virginia, relating to dismissal of summons for expiration of vehicle registration; proof of compliance.*

[H 1712]

Approved February 13, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-69.48:1 and 46.2-646 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-69.48:1. Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.**

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to §§ 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251 or 19.2-303.2; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that incident. However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.573770);
2. Virginia Crime Victim-Witness Fund (.049180);
3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund) (.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.257353);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.764706);
2. Virginia Crime Victim-Witness Fund (.058824);
3. Regional Criminal Justice Training Academies Fund (.019608);
4. Courthouse Construction/Maintenance Fund (.039216);
5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and

6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

**§ 46.2-646. Expiration and renewal of registration.**

A. Every registration under this title, unless otherwise provided, shall expire on the last day of the twelfth month next succeeding the date of registration. Every registration, unless otherwise provided, shall be renewed annually on application by the owner and by payment of the fees required by law, the renewal to take effect on the first day of the month succeeding the date of expiration. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring registration if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, and (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

B. All motor vehicles, trailers, and semitrailers registered in the Commonwealth shall, at the discretion of the Commissioner, be placed in a system of registration on a monthly basis to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve months of the year. All such motor vehicles, trailers, and semitrailers, unless otherwise provided, shall be registered for a period of twelve months. The registration shall be extended, at the discretion of the Commissioner, on receipt of appropriate prorated fees, as required by law, for a period of not less than one month nor more than eleven months as is necessary to distribute the registrations as equally as practicable on a monthly basis. The Commissioner shall, on request, assign to any owner or owners of two or more motor vehicles, trailers, or semitrailers the same registration period. The expiration date shall be the last day of the twelfth month or the last day of the designated month. Except for motor vehicles, trailers, and semitrailers registered for more than one year under subsection C of this section, every registration shall be renewed annually on application by the owner and by payment of fees required by law, the renewal to take effect on the first day of the succeeding month.

C. The Commissioner may offer, at his discretion, an optional multi-year registration for all motor vehicles, trailers, and semitrailers except for (i) those registered under the International Registration Plan and (ii) those registered as uninsured motor vehicles. When this option is offered and chosen by the registrant, all annual and twelve-month fees due at the time of registration shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

D. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons where proof of compliance with this section is provided to the court on or before the court date.

## CHAPTER 15

*An Act to amend and reenact §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3219.14 of the Code of Virginia, relating to real property tax exemption for disabled veterans; surviving spouses; ability to move to a different residence.*

[H 1655]

Approved February 15, 2019

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

**1. That §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3219.14 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.**

A. Pursuant to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2011, the General Assembly hereby exempts from taxation the real property, including the joint real property of husband and wife, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his principal place of residence. If the veteran's disability rating occurs after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the exemption for him under this section begins on the date of such rating. However, no county, city, or town shall be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's filing of the affidavit or written statement required by § 58.1-3219.6. If the qualified veteran acquires the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, *and the surviving spouse does not remarry; and the surviving spouse continues to occupy the real property as his. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.*

C. A county, city, or town shall provide for the exemption from real property taxes the qualifying dwelling pursuant to this section and shall provide for the exemption from real property taxes the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. If the veteran owns a house that is his residence, including a manufactured home as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, such house or manufactured home shall be exempt even if the veteran does not own the land on which the house or manufactured home is located. If such land is not owned by the veteran, then the land is not exempt. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long

as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a business purpose.

D. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (a) held by the veteran's spouse as tenant for life, (b) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (c) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a denominator, 100 percent.

**§ 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed forces killed in action.**

A. Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2015, the General Assembly hereby exempts from taxation the real property described in subsection B of the surviving spouse (i) of any member of the armed forces of the United States who was killed in action as determined by the U.S. Department of Defense and (ii) who occupies the real property as his principal place of residence. For purposes of this section, such determination of "killed in action" includes a determination by the U.S. Department of Defense of "died of wounds received in action." If such member of the armed forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date that such member of the armed forces is killed in action, then the exemption for the surviving spouse shall begin on the date that such member of the armed forces is killed in action. However, no county, city, or town shall be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by § 58.1-3219.10. If the surviving spouse acquires the property after January 1, 2015, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

B. Those dwellings in the locality with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single family residential shall qualify for a total exemption from real property taxes under this article. If the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single family homes, condominiums, town homes, manufactured homes as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet this requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

For purposes of determining whether a dwelling, or a portion of its value, is exempt from county and town real property taxes, the average assessed value shall be such average for all dwellings located within the county that are situated on property zoned as single family residential.

C. The surviving spouse of a member of the armed forces killed in action shall qualify for the exemption so long as the surviving spouse does not remarry ~~and continues to occupy the real property as his principal place of residence~~. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.

D. A county, city, or town shall provide for the exemption from real property taxes (i) the qualifying dwelling, or the portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection B, and (ii) except land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. A real property improvement other than a dwelling, including the land upon which such improvement is

situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a business purpose.

E. For purposes of this exemption, real property of any surviving spouse of a member of the armed forces killed in action includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has 1 as a numerator and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the principal residence is jointly owned by two or more individuals including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by the surviving spouse, and as a denominator, 100 percent.

**§ 58.1-3219.14. Exemption from taxes on property of surviving spouses of certain persons killed in the line of duty.**

A. Pursuant to Article X, Section 6-B of the Constitution of Virginia, for tax years beginning on or after January 1, 2017, any county, city, or town may exempt from taxation the real property described in subsection B of the surviving spouse of any covered person who occupies the real property as his principal place of residence. If the covered person's death occurred on or prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360. No county, city, or town shall be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by § 58.1-3219.15.

B. Those dwellings, in any locality that provides the exemption pursuant to this article, with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single-family residential shall qualify for a total exemption from real property taxes under this article. If the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet this requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

For purposes of determining whether a dwelling, or a portion of its value, is exempt from county and town real property taxes, the average assessed value shall be such average for all dwellings located within the county that are situated on property zoned as single-family residential.

C. The surviving spouse shall qualify for the exemption so long as the surviving spouse does not remarry ~~and continues to occupy the real property as his principal place of residence~~. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.

D. A county, city, or town shall provide for the exemption from real property taxes of (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection B, and (ii) with the exception of land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (a) to house or cover motor

vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (b) for other than a business purpose.

E. For purposes of this exemption, real property of any surviving spouse of a covered person includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. Such real property does not include any interest held under a leasehold or term of years.

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is 1 and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.

2. In the event that the principal residence is jointly owned by two or more individuals including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is the percentage of ownership interest in the dwelling held by the surviving spouse and the denominator of which is 100.

**2. That the provisions of this act shall apply to taxable years beginning on and after January 1, 2019.**

**3. That if a surviving spouse was eligible for an exemption pursuant to the provisions of § 58.1-3219.5 of the Code of Virginia prior to January 1, 2019, but became ineligible for such exemption prior to January 1, 2019, solely because he moved to a different principal place of residence, then he shall be eligible to claim such exemption for taxable years beginning on and after January 1, 2019, so long as he is eligible for such exemption pursuant to the provisions of § 58.1-3219.5 of the Code of Virginia, as amended by this act.**

## CHAPTER 16

*An Act to amend and reenact § 58.1-3212 of the Code of Virginia, relating to real property tax; exemptions for elderly and handicapped; computation of income limitation.*

[H 1937]

Approved February 15, 2019

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

**1. That § 58.1-3212 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3212. Local restrictions and exemptions.**

Pursuant to Article X, Section 6 (b) of the Constitution of Virginia, the General Assembly hereby authorizes the governing body of a county, city or town to establish by ordinance net financial worth or annual income limitations as a condition of eligibility for any exemption or deferral of tax allowed pursuant to this article. If the governing body establishes an annual income limitation, the computation of annual income shall be based on adding together the income received during the preceding calendar year, without regard to whether a tax return is actually filed, by (i) owners of the dwelling who use it as their principal residence, (ii) owners' relatives who live in the dwelling, except for those relatives living in the dwelling and providing bona fide caregiving services to the owner whether such relatives are compensated or not, and (iii) at the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide caregivers of the owner, whether compensated or not. *A locality may provide in its ordinance that, for the purpose of the computation of annual income, if an individual described in clause (ii) and (iii) is permanently and totally disabled, any disability income received by such person shall not be included.* If the governing body establishes a net financial worth limitation, net financial worth shall be based on adding together the net financial worth, including the present value of equitable interests, as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner, of the dwelling.

Nothing in this section shall be construed or interpreted as to preclude or prohibit the governing body of a county, city or town from excluding certain sources of income, or a portion of the same, for purposes of its annual income limitation or excluding certain assets, or a portion of the same, for purposes of its net financial worth limitation.

Any county, city, or town that pursuant to this article provides for the exemption from, deferral of, or a combination program of exemptions from and deferrals of real property taxes may exempt or defer the real property taxes of the qualifying dwelling and the land, not exceeding ten acres, upon which it is situated.

No local ordinance shall require that a citizen reside in the jurisdiction for a designated period of time as a condition for qualifying for any real estate tax exemption or deferral program established pursuant to § 58.1-3210.

## CHAPTER 17

*An Act to amend and reenact §§ 58.1-301, 58.1-322.03, and 58.1-402 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code; Virginia taxable income.*

[H 2529]

Approved February 15, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-301, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted as follows:****§ 58.1-301. Conformity to Internal Revenue Code.**

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

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on ~~February 9~~ *December 31, 2018*, except for:

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

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

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

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

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

~~6. The provisions of the Tax Cuts and Jobs Act (the Act) enacted December 22, 2017, as Public Law 115-97, provided, however, that this exception shall not apply to the following:~~

~~a. Treatment of certain individuals performing services in the Sinai Peninsula of Egypt pursuant to § 11026 of the Act;~~

~~b. Relief for 2016 disaster areas pursuant to § 11028 of the Act;~~

~~e. Any other provision of the Act that affects the computation of federal adjusted gross income of individuals or federal taxable income of corporations for taxable years beginning after December 31, 2016, and before January 1, 2018, other than the temporary reduction in the medical expense deduction floor pursuant to § 11027 of the Act; and~~

~~7. The provisions of the Bipartisan Budget Act of 2018 enacted February 9, 2018, as Public Law 115-123, that affect any taxable year other than a taxable year beginning after December 31, 2016, and before January 1, 2018.~~

*5. For taxable years beginning on and after January 1, 2019, the provisions of § 11046 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), related to the suspension of the overall limitation on itemized deductions.*

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

**§ 58.1-322.03. Virginia taxable income; deductions.**

In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount that, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

~~b. Three thousand dollars for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); provided~~ *Provided* that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: *(i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a*

married individual filing a separate return) and (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.

8. The total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the individual has not claimed a deduction for such amount on his federal income tax return.

9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. The amount an individual pays annually in premiums for long-term health care insurance, provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the

individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided that the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

15. *For taxable years beginning on and after January 1, 2018, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.*

16. *For taxable years beginning on and after January 1, 2019, the actual amount of real and personal property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal Revenue Code.*

#### **§ 58.1-402. Virginia taxable income.**

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C, D, ~~and~~ E, and G.

For a regulated investment company and a real estate investment trust, such term means the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C, D, ~~and~~ E, and G.

B. There shall be added to the extent excluded from federal taxable income:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which the Commonwealth is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. [Repealed.]

4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

6. [Repealed.]

7. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code;

8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the intangible expenses and costs if one of the following applies:

(1) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(2) The related member derives at least one-third of its gross revenues from the licensing of intangible property to parties who are not related members, and the transaction giving rise to the expenses and costs between the corporation and the related member was made at rates and terms comparable to the rates and terms of agreements that the related member has entered into with parties who are not related members for the licensing of intangible property; or

(3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible expenses and costs meet both of the following: (i) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the transaction giving rise to the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of intangible expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such intangible expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under § 58.1-446;

9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the interest expenses and costs, if:

(1) The related member has substantial business operations relating to interest-generating activities, in which the related member pays expenses for at least five full-time employees who maintain, manage, defend or are otherwise responsible for operations or administration relating to the interest-generating activities; and

(2) The interest expenses and costs are not directly or indirectly for, related to or in connection with the direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of intangible property; and

(3) The transaction giving rise to the expenses and costs between the corporation and the related member has a valid business purpose other than the avoidance or reduction of taxation and payments between the parties are made at arm's length rates and terms; and

(4) One of the following applies:

(i) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related members provided the payments continue to be made at arm's length rates and terms;

(iii) The related member engages in transactions with parties other than related members that generate revenue in excess of \$2 million annually; or

(iv) The transaction giving rise to the interest payments between the corporation and a related member was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a person who is not a related member; (b) the debt is part of a regular and systematic funds management or portfolio investment activity conducted by the related member, whereby the funds of two or more related members are aggregated for the purpose of achieving economies of scale, the internal financing of the active business operations of members, or the benefit of centralized management of funds; (c) financing the expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of acquisition-related indebtedness to related members.

b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of interest expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such interest expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related interest expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under § 58.1-446.

d. For purposes of subdivision B 9:

"Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the payment terms of the agreement governing the transaction or any amendments thereto.

"Valid business purpose" means one or more business purposes that alone or in combination constitute the motivation for some business activity or transaction, which activity or transaction improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For purposes of this subdivision, a REIT is a Captive REIT if:

(1) It is not regularly traded on an established securities market;

(2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is (i) a corporation or an

association taxable as a corporation under the Internal Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and

(3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of the Internal Revenue Code.

b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall not be considered a corporation or an association taxable as a corporation:

(1) Any REIT that is not treated as a Captive REIT;

(2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT subsidiary of a Captive REIT;

(3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or value of the beneficial interests or shares of such trust; and

(4) Any Qualified Foreign Entity.

c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

d. For purposes of subdivision B 10:

"Listed Australian Property Trust" means an Australian unit trust registered as a Management Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market.

"Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the laws of the United States and that satisfies all of the following criteria:

(1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government securities;

(2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt from entity level tax;

(3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest;

(4) The shares or certificates of beneficial interest of such entity are regularly traded on an established securities market or, if not so traded, not more than 10 percent of the voting power or value in such entity is held directly, indirectly, or constructively by a single entity or individual; and

(5) The entity is organized in a country that has a tax treaty with the United States.

e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be taken into consideration when determining if such REIT is a Captive REIT.

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable income:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of the Commonwealth.

4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth or any other taxing jurisdiction.

5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income) *or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue Code (Global Intangible Low-Taxed Income)*.

8. Any amount included therein which is foreign source income as defined in § 58.1-302.

9. [Repealed.]

10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50 percent or more of the voting stock.

11. [Repealed.]

12, 13. [Expired.]

14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.

15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1.

16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to § 58.1-440.1.

18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

19, 20. [Repealed.]

21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount if such related member is subject to Virginia income tax on the same amount.

22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.

b. As used in this subdivision 25:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate

degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 or 25 for the same investment.

b. As used in this subdivision 26:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

2. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

E. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.

F. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

*G. For taxable years beginning on and after January 1, 2018, there shall be deducted to the extent included in and not otherwise subtracted from federal taxable income 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subsection, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.*

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

**3. That the provisions of this act amending § 58.1-301 of the Code of Virginia shall be effective only for taxable years beginning on and after January 1, 2018.**

**4. That in addition to any refund due pursuant to § 58.1-309 of the Code of Virginia, and for taxable years beginning on and after January 1, 2018, but before January 1, 2019, an individual filing a final return before July 1, 2019, or married persons filing a final joint return before July 1, 2019, shall be issued a refund out of the Taxpayer Relief Fund (the Fund) established in the fifth enactment of this act in an amount up to \$110 for an individual, or \$220 for married persons filing a joint return. The Governor, in consultation with the State Comptroller and the Tax Commissioner, shall certify to the General Assembly on or before September 1, 2019, the estimated amount available in the Fund for the issuance of such refunds after taking into account the amounts in the Fund necessary to fund the tax policy changes set forth in the first enactment of this act for taxable years beginning on and after January 1, 2018, but before January 1, 2019. If such estimated amount is insufficient to issue refunds of \$110 for an individual, or \$220 for married persons filing a joint return, then such refunds shall be reduced and prorated based on the amount of available funds. An individual shall only be allowed a refund pursuant to this enactment up to the amount of such individual's tax liability after the application of any deductions, subtractions, or credits to which the individual is entitled pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 of the Code of Virginia. Married persons**

filing a joint return shall only be allowed a refund pursuant to this enactment up to the amount of such married persons' tax liability after the application of any deductions, subtractions, or credits to which the married persons are entitled pursuant to Chapter 3 of Title 58.1 of the Code of Virginia. Any refund issued pursuant to this enactment shall be subject to collection under the provisions of the Setoff Debt Collection Act (§ 58.1-520 et seq. of the Code of Virginia). Refunds due pursuant to this enactment shall be issued on or after October 1, 2019, but before October 15, 2019.

5. That there is hereby established a special nonreverting fund to be known as the "Taxpayer Relief Fund" (the Fund). Any revenues generated by the individual reform provisions contained in Subtitle A of Title I and §§ 13611-13613 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), from the collection of taxes during Fiscal Years 2019 through 2025, estimated to be approximately \$450 million annually, beyond those revenues reasonably expected to be collected due to general economic growth and absent the federal policy changes, less the estimated reduction in revenues needed to implement the tax policy changes set forth in the first enactment of this act for the relevant fiscal year, shall be transferred to the Fund. The Governor, in consultation with the State Comptroller and the Tax Commissioner, shall certify to the General Assembly on or before September 1 each year the estimated amount to be transferred to the Fund pursuant to this act. The amount certified shall take into account changes in taxpayer behavior and changes in general revenue collections unrelated to federal tax policy changes. The amount certified shall also take into account and be adjusted accordingly for additional tax policy changes adopted by the federal government after January 1, 2019, that may be reasonably expected to positively or negatively impact revenues of the Commonwealth. The General Assembly shall appropriate any revenues in the Fund to effectuate permanent or temporary tax reform measures.

## CHAPTER 18

*An Act to amend and reenact §§ 58.1-301, 58.1-322.03, and 58.1-402 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code; Virginia taxable income.*

[S 1372]

Approved February 15, 2019

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

**1. That §§ 58.1-301, 58.1-322.03, and 58.1-402 of the Code of Virginia are amended and reenacted as follows:**

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

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

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on ~~February 9~~ *December 31, 2018*, except for:

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

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

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

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

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

6. The provisions of the Tax Cuts and Jobs Act (the Act) enacted December 22, 2017, as Public Law 115-97, provided; however, that this exception shall not apply to the following:

a. Treatment of certain individuals performing services in the Sinai Peninsula of Egypt pursuant to § 11026 of the Act;

b. Relief for 2016 disaster areas pursuant to § 11028 of the Act;

e. Any other provision of the Act that affects the computation of federal adjusted gross income of individuals or federal taxable income of corporations for taxable years beginning after December 31, 2016, and before January 1, 2018, other than the temporary reduction in the medical expense deduction floor pursuant to § 11027 of the Act; and

7. The provisions of the Bipartisan Budget Act of 2018 enacted February 9, 2018; as Public Law 115-123, that affect any taxable year other than a taxable year beginning after December 31, 2016, and before January 1, 2018.

5. For taxable years beginning on and after January 1, 2019, the provisions of § 11046 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), related to the suspension of the overall limitation on itemized deductions.

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

**§ 58.1-322.03. Virginia taxable income; deductions.**

In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount that, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. ~~Three thousand dollars for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return);~~ provided *Provided* that the taxpayer has not itemized deductions for the taxable year on his federal income tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) and (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2026, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or

receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.

8. The total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the individual has not claimed a deduction for such amount on his federal income tax return.

9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. The amount an individual pays annually in premiums for long-term health care insurance, provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided that the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

15. *For taxable years beginning on and after January 1, 2018, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.*

16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal Revenue Code.

**§ 58.1-402. Virginia taxable income.**

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C, D, ~~and~~ E, and G.

For a regulated investment company and a real estate investment trust, such term means the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C, D, ~~and~~ E, and G.

B. There shall be added to the extent excluded from federal taxable income:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which the Commonwealth is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. [Repealed.]

4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

6. [Repealed.]

7. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code;

8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the intangible expenses and costs if one of the following applies:

(1) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(2) The related member derives at least one-third of its gross revenues from the licensing of intangible property to parties who are not related members, and the transaction giving rise to the expenses and costs between the corporation and the related member was made at rates and terms comparable to the rates and terms of agreements that the related member has entered into with parties who are not related members for the licensing of intangible property; or

(3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible expenses and costs meet both of the following: (i) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the transaction giving rise to the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of intangible expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such intangible expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions

identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under § 58.1-446;

9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the interest expenses and costs, if:

(1) The related member has substantial business operations relating to interest-generating activities, in which the related member pays expenses for at least five full-time employees who maintain, manage, defend or are otherwise responsible for operations or administration relating to the interest-generating activities; and

(2) The interest expenses and costs are not directly or indirectly for, related to or in connection with the direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of intangible property; and

(3) The transaction giving rise to the expenses and costs between the corporation and the related member has a valid business purpose other than the avoidance or reduction of taxation and payments between the parties are made at arm's length rates and terms; and

(4) One of the following applies:

(i) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related members provided the payments continue to be made at arm's length rates and terms;

(iii) The related member engages in transactions with parties other than related members that generate revenue in excess of \$2 million annually; or

(iv) The transaction giving rise to the interest payments between the corporation and a related member was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a person who is not a related member; (b) the debt is part of a regular and systematic funds management or portfolio investment activity conducted by the related member, whereby the funds of two or more related members are aggregated for the purpose of achieving economies of scale, the internal financing of the active business operations of members, or the benefit of centralized management of funds; (c) financing the expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of acquisition-related indebtedness to related members.

B. A corporation required to add to its federal taxable income interest expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of interest expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such interest expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related interest expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under § 58.1-446.

d. For purposes of subdivision B 9:

"Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the payment terms of the agreement governing the transaction or any amendments thereto.

"Valid business purpose" means one or more business purposes that alone or in combination constitute the motivation for some business activity or transaction, which activity or transaction improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For purposes of this subdivision, a REIT is a Captive REIT if:

(1) It is not regularly traded on an established securities market;

(2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is (i) a corporation or an association taxable as a corporation under the Internal Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and

(3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of the Internal Revenue Code.

b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall not be considered a corporation or an association taxable as a corporation:

(1) Any REIT that is not treated as a Captive REIT;

(2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT subsidiary of a Captive REIT;

(3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or value of the beneficial interests or shares of such trust; and

(4) Any Qualified Foreign Entity.

c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

d. For purposes of subdivision B 10:

"Listed Australian Property Trust" means an Australian unit trust registered as a Management Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market.

"Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the laws of the United States and that satisfies all of the following criteria:

(1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government securities;

(2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt from entity level tax;

(3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest;

(4) The shares or certificates of beneficial interest of such entity are regularly traded on an established securities market or, if not so traded, not more than 10 percent of the voting power or value in such entity is held directly, indirectly, or constructively by a single entity or individual; and

(5) The entity is organized in a country that has a tax treaty with the United States.

e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be taken into consideration when determining if such REIT is a Captive REIT.

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable income:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of the Commonwealth.

4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth or any other taxing jurisdiction.

5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income) *or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue Code (Global Intangible Low-Taxed Income)*.

8. Any amount included therein which is foreign source income as defined in § 58.1-302.

9. [Repealed.]

10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50 percent or more of the voting stock.

11. [Repealed.]

12, 13. [Expired.]

14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.

15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1.

16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to § 58.1-440.1.

18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

19, 20. [Repealed.]

21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount if such related member is subject to Virginia income tax on the same amount.

22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in

any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.

b. As used in this subdivision 25:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 or 25 for the same investment.

b. As used in this subdivision 26:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

2. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

E. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.

F. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also

address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

*G. For taxable years beginning on and after January 1, 2018, there shall be deducted to the extent included in and not otherwise subtracted from federal taxable income 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subsection, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.*

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

**3. That the provisions of this act amending § 58.1-301 of the Code of Virginia shall be effective only for taxable years beginning on and after January 1, 2018.**

**4. That in addition to any refund due pursuant to § 58.1-309 of the Code of Virginia, and for taxable years beginning on and after January 1, 2018, but before January 1, 2019, an individual filing a final return before July 1, 2019, or married persons filing a final joint return before July 1, 2019, shall be issued a refund out of the Taxpayer Relief Fund (the Fund) established in the fifth enactment of this act in an amount up to \$110 for an individual, or \$220 for married persons filing a joint return. The Governor, in consultation with the State Comptroller and the Tax Commissioner, shall certify to the General Assembly on or before September 1, 2019, the estimated amount available in the Fund for the issuance of such refunds after taking into account the amounts in the Fund necessary to fund the tax policy changes set forth in the first enactment of this act for taxable years beginning on and after January 1, 2018, but before January 1, 2019. If such estimated amount is insufficient to issue refunds of \$110 for an individual, or \$220 for married persons filing a joint return, then such refunds shall be reduced and prorated based on the amount of available funds. An individual shall only be allowed a refund pursuant to this enactment up to the amount of such individual's tax liability after the application of any deductions, subtractions, or credits to which the individual is entitled pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 of the Code of Virginia. Married persons filing a joint return shall only be allowed a refund pursuant to this enactment up to the amount of such married persons' tax liability after the application of any deductions, subtractions, or credits to which the married persons are entitled pursuant to Chapter 3 of Title 58.1 of the Code of Virginia. Any refund issued pursuant to this enactment shall be subject to collection under the provisions of the Setoff Debt Collection Act (§ 58.1-520 et seq. of the Code of Virginia). Refunds due pursuant to this enactment shall be issued on or after October 1, 2019, but before October 15, 2019.**

**5. That there is hereby established a special nonreverting fund to be known as the "Taxpayer Relief Fund" (the Fund). Any revenues generated by the individual reform provisions contained in Subtitle A of Title I and §§ 13611-13613 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), from the collection of taxes during Fiscal Years 2019 through 2025, estimated to be approximately \$450 million annually, beyond those revenues reasonably expected to be collected due to general economic growth and absent the federal policy changes, less the estimated reduction in revenues needed to implement the tax policy changes set forth in the first enactment of this act for the relevant fiscal year, shall be transferred to the Fund. The Governor, in consultation with the State Comptroller and the Tax Commissioner, shall certify to the General Assembly on or before September 1 each year the estimated amount to be transferred to the Fund pursuant to this act. The amount certified shall take into account changes in taxpayer behavior and changes in general revenue collections unrelated to federal tax policy changes. The amount certified shall also take into account and be adjusted accordingly for additional tax policy changes adopted by the federal government after January 1, 2019, that may be reasonably expected to positively or negatively impact revenues of the Commonwealth. The General Assembly shall appropriate any revenues in the Fund to effectuate permanent or temporary tax reform measures.**

## CHAPTER 19

*An Act to amend and reenact § 58.1-439.12:04 of the Code of Virginia, relating to income tax credits; housing choice vouchers; eligible housing areas.*

[H 1681]

Approved February 15, 2019

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

**1. That § 58.1-439.12:04 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-439.12:04. Tax credit for participating landlords.**

A. As used in this section, unless the context clearly shows otherwise, the term or phrase:

"Dwelling unit" means an individual housing unit in an apartment building, an individual housing unit in multifamily residential housing, a single-family residence, or any similar individual housing unit.

"Eligible housing area" means a census tract in the Richmond Metropolitan Statistical ~~area~~ *Area or the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area* in which less than 10 percent of the residents live below the poverty level, as defined by the United States government and determined by the most recent United States census.

"Housing authority" means a housing authority created under Article 1 (§ 36-1 et seq.) of Chapter 1 of Title 36 ~~of this Code~~ or other government agency that is authorized by the United States government under the United States Housing Act

of 1937 (42 U.S.C. § 1437 et seq.) to administer a housing choice voucher program, or the authorized agent of such a housing authority that is authorized to act upon that authority's behalf. The term shall also include the Virginia Housing Development Authority.

"Housing choice voucher" means tenant-based assistance by a housing authority pursuant to 42 U.S.C. § 1437f et seq.

"Participating landlord" means any person engaged in the business of the rental of dwelling units who is (i) subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) and (ii) performing obligations under a contract with a housing authority relating to the rental of qualified housing units.

"Qualified housing unit" means a dwelling unit that is located in an eligible housing area for which a portion of the rent is paid by a housing authority, which payment is pursuant to a housing choice voucher program.

B. For taxable years beginning on or after January 1, 2010, a participating landlord renting a qualified housing unit shall be eligible for a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent of the fair market value of the rent for the unit, computed for that portion of the taxable year in which the unit was rented by such landlord to a tenant participating in a housing choice voucher program. The Department of Housing and Community Development shall administer and issue the tax credit under this section. If (i) the same parcel of real property contains four or more dwelling units and (ii) the total number of qualified housing units on the parcel in the relevant taxable year exceeds 25 percent of the total dwelling units on the parcel, then the tax credit under this section shall apply only to a limited number of qualified housing units with regard to such parcel of real property, with the limited number being equal to 25 percent of the total dwelling units on such parcel of real property in the taxable year.

C. The Department of Housing and Community Development shall issue tax credits under this section on a fiscal year basis. The maximum amount of tax credits that may be issued under this section in each fiscal year shall be \$250,000.

D. Participating landlords shall apply to the Department of Housing and Community Development for tax credits under this section. The Department of Housing and Community Development shall determine the credit amount allowable to the participating landlord for the taxable year and shall also determine the fair market value of the rent for the qualified housing unit based on the fair market rent approved by the United States Department of Housing and Urban Development as the basis for the tenant-based assistance provided through the housing choice voucher program for the qualified housing unit. In issuing tax credits under this section, the Department of Housing and Community Development shall provide a written certification to the participating landlord, which certification shall report the amount of the tax credit approved by the Department. The participating landlord shall attach the certification to the applicable income tax return.

E. The Board of Housing and Community Development shall establish and issue guidelines for purposes of implementing the provisions of this section. The guidelines shall provide for the allocation of tax credits among participating landlords requesting credits. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

F. In no case shall the amount of credit taken by a participating landlord for any taxable year exceed the total amount of tax imposed by this chapter for the taxable year. If the amount of credit issued by the Department of Housing and Community Development for a taxable year exceeds the landlord's tax liability imposed by this chapter for such taxable year, then the amount that exceeds the tax liability may be carried over for credit against the income taxes of the participating landlord in the next five taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

G. In the event that the amount of the qualified requests for tax credits for participating landlords in the fiscal year exceeds \$250,000, the Department of Housing and Community Development shall pro rate the tax credits among the qualified applicants.

## CHAPTER 20

*An Act to amend and reenact § 58.1-609.11 of the Code of Virginia, relating to retail sales and use tax exemption; nonprofits; limited liability companies.*

[H 1950]

Approved February 15, 2019

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

**1. That § 58.1-609.11 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-609.11. Exemptions for nonprofit entities.**

A. For purposes of this section, "nonprofit organization" or "nonprofit entity" means an entity that meets the requirements of subsection D. "Nonprofit organization" or "nonprofit entity" includes a single member limited liability company whose sole member is a nonprofit organization.

B. Any nonprofit organization that holds a valid certificate of exemption from the Department of Taxation, or any nonprofit church that holds a valid self-executing certificate of exemption, that exempts it from collecting or paying state and local retail sales or use taxes as of June 30, 2003, pursuant to § 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9, or 58.1-609.10, as such sections are in effect on June 30, 2003, shall remain exempt from the collection or payment of such

taxes under the same terms and conditions as provided under such sections as such sections existed on June 30, 2003, until: (i) July 1, 2007, for such entities that were exempt under § 58.1-609.4; (ii) July 1, 2008, for such entities that were exempt under § 58.1-609.7; (iii) July 1, 2004, for the first one-half of such entities that were exempt under § 58.1-609.8, except churches, which will remain exempt under the same criteria and procedures in effect for churches on June 30, 2003; (iv) July 1, 2005, for the second one-half of such entities that were exempt under § 58.1-609.8; and (v) July 1, 2006, for such entities that were exempt under § 58.1-609.9 or under § 58.1-609.10. At the end of the applicable period of such exemptions, to maintain or renew an exemption for the period of time set forth in subsection ~~E~~ G, each entity must follow the procedures set forth in subsection ~~B~~ C and meet the criteria set forth in subsection ~~E~~ D. Provided, however, that any entity that was exempt from collecting sales and use tax shall continue to be exempt from such collection, and any entity that was exempt from paying sales and use tax for the purchase of services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it follows the other procedures set forth in subsection ~~B~~ C and meets the criteria set forth in subsection ~~E~~ D. Provided further, however, that an educational institution doing business in the Commonwealth which provides a face-to-face educational experience in American government and was exempt pursuant to subdivision 4 of § 58.1-609.4 from paying sales and use tax for the purchase of services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it follows the other procedures set forth in subsection ~~B~~ C and meets the criteria set forth in subsection ~~E~~ D.

~~B~~-C. 1. On and after July 1, 2004, in addition to the organizations described in subsection ~~A~~ B, and except as restricted in subdivision 2, the tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to purchases of tangible personal property for use or consumption by any nonprofit entity that, pursuant to this section, (i) files an appropriate application with the Department of Taxation, (ii) meets the applicable criteria, and (iii) is issued a certificate of exemption from the Department of Taxation for the period of time covered by the certificate.

2. If the entity that is exempt under this section is exempt from federal income tax under § 501(c)(19) of the Internal Revenue Code, or has annual gross receipts of less than \$5,000 and is organized for at least one of the purposes set forth in § 501(c)(19) of the Internal Revenue Code, then the exemption under this section for such entity shall not apply to purchases of tangible personal property that are used primarily (i) for social and recreational activities for members or (ii) for providing insurance benefits to members or members' dependents.

~~E~~-D. To qualify for the exemption under subsection ~~B~~ C, a nonprofit entity must meet the applicable criteria under this subsection as follows:

1. a. The entity is exempt from federal income taxation (i) under § 501(c)(3) of the Internal Revenue Code; (ii) under § 501(c)(4) of the Internal Revenue Code and is organized for a charitable purpose; or (iii) under § 501(c)(19) of the Internal Revenue Code; or

b. The entity has annual gross receipts of less than \$5,000, and the entity is organized for at least one of the purposes set forth in § 501(c)(3) of the Internal Revenue Code, one of the charitable purposes set forth in § 501(c)(4) of the Internal Revenue Code, or one of the purposes set forth in § 501(c)(19) of the Internal Revenue Code; and

2. The entity is in compliance with all applicable state solicitation laws; and, where applicable, provides appropriate verification of such compliance; and

3. The entity's annual general administrative costs, including salaries and fundraising, relative to its annual gross revenue, under generally accepted accounting principles, is not greater than 40 percent; and

4. If the entity's gross annual revenue was at least \$750,000 in the previous year, then the entity must provide a financial review performed by an independent certified public accountant. However, for any entity with gross annual revenue of at least \$1 million in the previous year, the Department may require that the entity provide a financial audit performed by an independent certified public accountant. If the Department specifically requires an entity with gross annual revenue of at least \$1 million in the previous year to provide a financial audit performed by an independent certified public accountant, then the entity shall provide such audit in order to qualify for the exemption under this section, which audit shall be in lieu of the financial review; and

5. If the entity filed a federal 990 or 990 EZ tax form, or the successor forms to such forms, with the Internal Revenue Service, then it must provide a copy of such form to the Department of Taxation; and

6. If the entity did not file a federal 990 or 990 EZ tax form, or the successor forms to such forms, with the Internal Revenue Service, then the entity must provide the following information:

a. A list of the Board of Directors or other responsible agents of the entity, composed of at least two individuals, with names and addresses where the individuals physically can be found; and

b. The location where the financial records of the entity are available for public inspection.

~~D~~-E. On and after July 1, 2004, in addition to the criteria set forth in subsection ~~E~~ D, the Department of Taxation shall ask each entity for the total taxable purchases made in the preceding year, unless such records are not available through no fault of the entity. If the records are not available through no fault of the entity, then the entity must provide such information to the Department the following year. No information provided pursuant to this subsection (except the failure to provide available information) shall be a basis for the Department of Taxation to refuse to exempt an entity.

~~E~~-F. Any entity that is determined under subsections ~~B~~, C, and D, and E by the Department of Taxation to be exempt from paying sales and use tax shall also be exempt from collecting sales and use tax, at its election, if (i) the entity is within the same class of organization of any entity that was exempt from collecting sales and use tax on June 30, 2003, or (ii) the

entity is organized exclusively to foster, sponsor, and promote physical education, athletic programs, and contests for youths in the Commonwealth.

F. G. The duration of each exemption granted by the Department of Taxation shall be no less than five years and no greater than seven years. During the period of such exemption, the failure of an exempt entity to maintain compliance with the applicable criteria set forth in subsection E D shall constitute grounds for revocation of the exemption by the Department. At the end of the period of such exemption, to maintain or renew the exemption, each entity must provide the Department of Taxation the same information as required upon initial exemption and meet the same criteria.

G. H. For purposes of this section, the Department of Taxation and the Department of Agriculture and Consumer Services shall be allowed to share information when necessary to supplement the information required.

## CHAPTER 21

*An Act to amend and reenact § 58.1-439.12:07 of the Code of Virginia, relating to telework expenses tax credit; expiration.*

[H 2065]

Approved February 15, 2019

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

**1. That § 58.1-439.12:07 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-439.12:07. Telework expenses tax credit.**

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

"Eligible telework expenses" means expenses incurred during the taxable year pursuant to a telework agreement, in an amount up to \$1,200 for each participating employee, that enable a participating employee to begin to telework, which expenses are not otherwise the subject of a deduction from income claimed by the employer in any tax year. Such expenses include, but are not limited to, expenses paid or incurred to purchase computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, high-speed Internet connectivity equipment, computer security software and devices, and all related delivery, installation, and maintenance fees. Such expenses do not include replacement costs for computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, or computer security software and devices at the principal place of business when that equipment is relocated to the telework site. Eligible telework expenses may also include up to a maximum of \$20,000 for conducting a telework assessment on or after January 1, 2012. Such costs shall be ineligible for this credit if they are otherwise taken as a deduction by the employer from income in any taxable year. The costs included and allowed to be taken as a credit include program planning costs, which may include direct program development and training costs, raw labor costs, and professional consulting fees. Such costs shall not include those for which a credit is claimed under any other provision of this chapter. The credit for conducting a telework assessment shall be allowed once for each employer meeting the requirements herein.

"Employer" means any employer subject to the income tax imposed by this chapter.

"Participating employee" means an employee who has entered into a telework agreement with his employer on or after July 1, 2012, in accordance with policies set by the Virginia Department of Rail and Public Transportation. The term shall not include an individual who is self-employed or an individual who ordinarily spends a majority of the workday at a location other than the place where his duties are normally performed.

"Telework" means the performance of normal and regular work functions on a workday at a location different from the place where work functions are normally performed and that is within or closer to the participating employee's residence. The term shall not include home-based businesses, extensions of the workday, or work performed on a weekend or holiday.

"Telework agreement" means an agreement signed by the employer and the participating employee, on or after July 1, 2012, but before January 1, ~~2022~~ 2019, that defines the terms of a telework arrangement, including the number of days per month the participating employee will telework in order to qualify for the credit, and any restrictions on the location from which the employee will telework.

"Telework assessment" means an optional assessment leading to the development of policies and procedures necessary to implement a formal telework program that would qualify the employer for the credit provided in this section, including but not limited to a workforce profile; a telework program business case and plan; a detailed accounting of the purpose, goals, and operating procedures of the telework program; methodologies for measuring telework program activities and success; and a deployment schedule for increasing telework activity.

B. For taxable years beginning on or after January 1, 2012, but before January 1, ~~2022~~ 2019, an employer shall be allowed a credit against the taxes imposed pursuant to Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) ~~of this chapter~~ for eligible telework expenses incurred during the calendar year that ends during the taxable year. The amount of the credit shall not exceed \$50,000 per employer for each calendar year.

Such expenses may be incurred (i) only once per participating employee and (ii) directly by the employer on behalf of the participating employee or directly by the participating employee and reimbursed by the employer.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. The amount of tax credits available to any employer under this section in any taxable year shall not exceed the employer's tax liability. No unused tax credit shall be carried forward or carried back against the employer's tax liability. An employer shall be ineligible for a tax credit pursuant to this section if such employer claims a credit based on the jobs, wages, or other expenses for the same employee under any other provision of this chapter.

E. An employer seeking to claim a tax credit provided herein shall submit a reservation application to the Tax Commissioner for tentative approval of the credit between September 1 and October 31 of the year preceding the calendar year in which the eligible telework expenses will be incurred. The Tax Commissioner shall establish policies and procedures for the reservation of tax credits by eligible employers. Such policies and procedures shall provide (i) requirements for applying for reservations of tax credits; (ii) a system for allocating the available amount of tax credits among eligible employers; and (iii) a procedure for the cancellation and reallocation of tax credit reservations allocated to eligible employers that, after reserving tax credits, have been determined to be ineligible for all or a portion of the tax credits reserved. Such application shall certify that the employer would not have incurred the eligible telework expenses for which the credit is sought but for the availability of such credit. The Tax Commissioner shall provide tentative approval of the applications no later than December 31 of the year in which the applications are received. When the application and amount of tax credits have been approved and the employer applicant notified, such employer may make purchases approved for the tax credits during the immediately following taxable year or lose the right to such credits.

F. In no event shall the aggregate amount of tax credits approved by the Tax Commissioner exceed \$1 million annually. In the event the credit amounts on the applications filed with the Tax Commissioner exceed the maximum aggregate amount of tax credits, then the tax credits shall be allocated on a pro rata basis based on the amounts allowed by subsection B among the eligible employers who filed timely applications.

G. Actions of the Tax Commissioner relating to the approval or denial of applications for reservations of tax credits pursuant to this section shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

## CHAPTER 22

*An Act to amend and reenact § 58.1-3231 of the Code of Virginia, relating to special assessment for land preservation; optional limit on annual increase in assessed value.*

[H 2365]

Approved February 15, 2019

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

**1. That § 58.1-3231 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3231. Authority of counties, cities and towns to adopt ordinances; general reassessment following adoption of ordinance.**

Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for the use value assessment and taxation, in accord with the provisions of this article, of real estate classified in § 58.1-3230. The local governing body pursuant to § 58.1-3237.1 may provide in the ordinance that property located in specified zoning districts shall not be eligible for special assessment as provided in this article. However, real estate that is being provided use value assessment and taxation shall not be denied such use value assessment and taxation solely because of its location in a newly created zoning district that was not requested by the real estate owner. The provisions of this article shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by the governing body thereof not later than June 30 of the year previous to the year when such taxes are first assessed and levied under this article, or December 31 of such year for localities which have adopted a fiscal year assessment date of July 1, under Chapter 30 (§ 58.1-3000 et seq.) of this subtitle. The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant to law by a central state agency.

Land used in agricultural and forestal production within an agricultural district, a forestal district or an agricultural and forestal district that has been established under Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use plan or local ordinance pursuant to this section has been adopted.

Such ordinance shall provide for the assessment and taxation in accordance with the provisions of this article of any or all of the four classes of real estate set forth in § 58.1-3230. If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to § 58.1-3230 require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then such ordinance may waive such prior use requirement for real estate devoted to the production of agricultural and horticultural crops that require more than two years from initial planting until commercially feasible harvesting. If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to § 58.1-3230 require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then (i) use of other similar property by a lessee of the owner shall be included in calculating such time and (ii) the Commissioner of Agriculture and Consumer Services shall include in the uniform standards a shorter minimum length of time for real estate with no prior qualifying use, provided that the owner submits a written document of the

owner's intent regarding use of the real estate containing elements set out in the uniform standards. Localities are not required to maintain such written document.

*Such ordinance may provide that the annual increase in the assessed value of property within the classes of real estate set forth in § 58.1-3230 shall not exceed a dollar amount per acre specified in the ordinance.*

In addition to but not to replace any other requirements of a land-use plan such ordinance may provide that the special assessment and taxation be established on a sliding scale which establishes a lower assessment for property held for longer periods of time within the classes of real estate set forth in § 58.1-3230. Any such sliding scale shall be set forth in the ordinance.

Notwithstanding any other provision of law, the governing body of any county, city or town shall be authorized to direct a general reassessment of real estate in the year following adoption of an ordinance pursuant to this article.

## CHAPTER 23

*An Act to amend and reenact § 58.1-302 of the Code of Virginia, relating to income tax; definition of resident estate or trust.*

[H 2526]

Approved February 15, 2019

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

**1. That § 58.1-302 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-302. Definitions.**

For the purpose of this chapter and unless otherwise required by the context:

"Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same interests.

"Compensation" means wages, salaries, commissions and any other form of remuneration paid or accrued to employees for personal services.

"Corporation" includes associations, joint stock companies and insurance companies.

"Domicile" means the permanent place of residence of a taxpayer and the place to which he intends to return even though he may actually reside elsewhere. In determining domicile, consideration may be given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for federal income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, residence for purposes of voting as proven by registration to vote, if any, and such other factors as may reasonably be deemed necessary to determine the person's domicile.

"Foreign source income" means:

1. Interest, other than interest derived from sources within the United States;
2. Dividends, other than dividends derived from sources within the United States;
3. Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties;
4. Gains, profits, or other income from the sale of intangible or real property located without the United States; and
5. The amount of an individual's share of net income attributable to a foreign source qualified business unit of an electing small business corporation (S corporation). For purposes of this subsection, qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

"Income and deductions from Virginia sources" includes:

1. Items of income, gain, loss and deduction attributable to:
  - a. The ownership of any interest in real or tangible personal property in Virginia;
  - b. A business, trade, profession or occupation carried on in Virginia; or
  - c. Prizes paid by the Virginia Lottery Department, and gambling winnings from wagers placed or paid at a location in Virginia.
2. Income from intangible personal property, including annuities, dividends, interest, royalties and gains from the disposition of intangible personal property to the extent that such income is from property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

"Income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion of a return or claim for refund shall be treated as if it

were the preparation of the return or claim for refund. A person shall not be an "income tax return preparer" merely because the person:

1. Furnishes typing, reproducing, or other mechanical assistance;
2. Prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed;
3. Prepares as a fiduciary a return or claim for refund for any person; or
4. Prepares an application for correction of an erroneous assessment or a protective claim for refund for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

"Individual" means all natural persons whether married or unmarried and fiduciaries acting for natural persons, but not fiduciaries acting for trusts or estates.

"Intangible expenses and costs" means:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income;
2. Losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
3. Royalty, patent, technical and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs.

"Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.

"Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease, transfer, or disposition of intangible property.

"Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

"Related entity" means:

1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock;
2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock; or
3. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of § 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution rules of § 318 of the Internal Revenue Code shall apply for purposes of determining whether the ownership requirements of this subdivision have been met.

"Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, a component member as defined in § 1563(b) of the Internal Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance with § 1563(e) of the Internal Revenue Code.

"Resident" applies only to natural persons and includes, for the purpose of determining liability for the taxes imposed by this chapter upon the income of any taxable year every person domiciled in Virginia at any time during the taxable year and every other person who, for an aggregate of more than 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in Virginia or not. The word "resident" shall not include any member of the United States Congress who is domiciled in another state.

"Resident estate or trust" means:

1. The estate of a decedent who at his death was domiciled in the Commonwealth;
2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth; *or*
3. A trust created by or consisting of property of a person domiciled in the Commonwealth; ~~or~~
4. ~~A trust or estate which is being administered in the Commonwealth.~~

"Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or other disposition of intangible property shall include only the net gain realized from the transaction.

"State," for purposes of Article 10 (§ 58.1-400 et seq.), means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country.

"Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary income tax return under the laws of the United States.

"Virginia fiduciary adjustment" means the net amount of the applicable modifications described in §§ 58.1-322.01, 58.1-322.02, and 58.1-322.04 (including subdivision 1 of § 58.1-322.04 if the estate or trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction of an estate or trust. The fiduciary adjustment shall not include the modification in § 58.1-322.03, except that the amount of state income taxes excluded from federal taxable income shall be included. The fiduciary adjustment shall also include the modification in subdivision 7 of § 58.1-322.03 regarding the deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.

## CHAPTER 24

*An Act to amend and reenact § 58.1-3713 of the Code of Virginia, relating to local gas severance tax; sunset date.*

[H 2555]

Approved February 15, 2019

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

#### **1. That § 58.1-3713 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-3713. Local gas road improvement and Virginia Coalfield Economic Development Authority tax.**

A. In addition to the taxes authorized under § 58.1-3712, any county or city may adopt a license tax on every person engaging in the business of severing gases from the earth. The rate of such tax shall not exceed one percent. The provisions of § 58.1-3712 as they relate to measurement of gross receipts, filing of reports and record keeping shall be applicable to the tax imposed under this section.

The moneys collected for each county or city from the taxes imposed under authority of this section and subsection B of § 58.1-3741 shall be paid into a special fund of such county or city to be called the Coal and Gas Road Improvement Fund of such county or city, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the governing body of such county or city may determine as provided in subsection B of this section. The county may also, in its discretion, elect to improve city or town roads with its funds if consent of the city or town council is obtained. Such funds shall be in addition to those allocated to such counties from state highway funds which allocations shall not be reduced as a result of any revenues received from the tax imposed hereunder. In those localities that comprise the Virginia Coalfield Economic Development Authority, the tax imposed under this section or subsection B of § 58.1-3741 shall be paid as follows: (i) three-fourths of the revenue shall be paid to the Coal and Gas Road Improvement Fund and used for the purposes set forth herein; however, one-fourth of such revenue may be used to fund the construction of new water or sewer systems and lines and the repair or enhancement of existing water or sewer systems and lines in areas with natural water supplies that are insufficient from the standpoint of quality or quantity, or the construction of natural gas service lines as authorized by § 15.2-2109.3, and (ii) one-fourth of the revenue shall be paid to the Virginia Coalfield Economic Development Fund. Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, a county or city may provide for an additional one-fourth allocation for the construction of new systems or lines for water, sewer, or natural gas as authorized by § 15.2-2109.3, or the repair or enhancement of existing water, sewer, or natural gas systems or lines in areas with natural water supplies or existing natural gas services that are insufficient from the standpoint of quality or quantity; however, if this option is initiated by a county or city, it must satisfy the requirements set forth in § 58.1-3713.01. Notwithstanding the foregoing limitations regarding revenues used for water systems, sewer systems, or natural gas systems, such revenues designated for water and water systems, sewer systems, or natural gas systems shall be distributed directly to the local public service authority for such purposes instead of the local governing body. Funds in the Coal and Gas Road Improvement Fund used to construct, repair, or enhance natural gas service lines or systems shall not exceed one-fourth of the revenue paid to the Coal and Gas Road Improvement Fund collected from the severance tax imposed upon the severance of natural gas pursuant to this section and may be so used only upon passage of a local ordinance or resolution of the governing body of the applicable county or city providing for the same.

B. Any county or city imposing the tax authorized in this section or in subsection B of § 58.1-3741 shall establish a Coal and Gas Road Improvement Advisory Committee, to be composed of four members: (i) a member of the governing body of such county or city, appointed by the governing body, (ii) a representative of the Department of Transportation, and (iii) two citizens of such county or city connected with the coal and gas industry, appointed for a term of four years, initially commencing July 1, 1989, by the chief judge of the circuit court.

Such committee shall develop on or before July 1 of each year a plan for improvement of roads during the following fiscal year. Such plan shall have the approval of three members of the committee and shall be submitted to the governing body of the county or city for approval. The governing body may approve or disapprove such plan, but may make no changes without the approval of three members of the committee.

C. No tax shall be imposed under this section on or after January 1, ~~2020~~ 2022.

## CHAPTER 25

*An Act to amend and reenact § 58.1-339.2 of the Code of Virginia, relating to historic rehabilitation tax credit.*

[H 2705]

Approved February 15, 2019

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

**1. That § 58.1-339.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-339.2. Historic rehabilitation tax credit.**

A. Effective for taxable years beginning on and after January 1, 1997, any individual, trust or estate, or corporation incurring eligible expenses in the rehabilitation of a certified historic structure shall be entitled to a credit against the tax imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; and Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in accordance with the following schedule:

Year	% of Eligible Expenses
1997	10%
1998	15%
1999	20%
2000 and thereafter	25%

If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxes of such taxpayer in the next ten taxable years or until the full credit is used, whichever occurs first. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively. Credits granted to a partnership or electing small business corporation (S corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners or shareholders mutually agree as provided in an executed document, the form of which shall be prescribed by the Director of the Department of Historic Resources.

B. Effective for taxable years beginning on and after January 1, 2000, any individual, trust, estate, or corporation resident in Virginia that incurs eligible expenses in the rehabilitation of a certified historic structure in any other state that has in effect a reciprocal historic structure rehabilitation tax credit program and agreement for residents of that state who rehabilitate historic structures in Virginia shall be entitled to a credit to the same extent as provided in subsection A and other applicable provisions of law; however, no eligible party shall receive any credit authorized under this subsection prior to taxable years beginning on and after January 1, 2002.

C. 1. To claim the credit authorized under this section, the taxpayer shall apply to the Virginia Department of Historic Resources, which shall determine the amount of eligible rehabilitation expenses and issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to the Virginia tax return on which the credit is claimed.

2. For taxable years beginning on and after January 1, 2017, ~~but before January 1, 2019~~, the amount of the credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$5 million in any taxable year.

D. When used in this section:

"Certified historic structure" means a property listed individually on the Virginia Landmarks Register, or certified by the Director of the Virginia Department of Historic Resources as contributing to the historic significance of a historic district that is listed on the Virginia Landmarks Register or certified by the Director of the Virginia Department of Historic Resources as meeting the criteria for listing on the Virginia Landmarks Register.

"Eligible rehabilitation expenses" means expenses incurred in the material rehabilitation of a certified historic structure and added to the property's capital account.

"Material rehabilitation" means improvements or reconstruction consistent with "The Secretary of the Interior's Standards for Rehabilitation," the cost of which amounts to at least fifty percent of the assessed value of such building for local real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses, unless the building is an owner-occupied building, in which case the cost shall amount to at least twenty-five percent of the assessed value of such building for local real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses.

"Owner-occupied building" means any building that is used as a personal residence by the owner.

E. The Director of the Department of Historic Resources shall establish by regulation the requirements needed for this program, including the fees to defray necessary expenses thereof, and, except as otherwise prohibited by this section, the extent to which the availability of the credit provided by this section is coextensive with the availability of the federal tax credit for the rehabilitation of certified historic resources.

F. Any gain or income under federal law from the allocation or application of a tax credit under this section shall not be (i) taxable gain or income for purposes of the tax imposed pursuant to Article 2 (§ 58.1-320 et seq.), (ii) taxable gain or income for purposes of the tax imposed pursuant to Article 6 (§ 58.1-360 et seq.), or (iii) taxable gain or income for purposes of the tax imposed pursuant to Article 10 (§ 58.1-400 et seq.). However, nothing in this subsection shall be construed or interpreted as allowing a subtraction or deduction for such gain or income under federal law if the gain or income is otherwise excluded, deducted, or subtracted in computing the respective tax set forth under clauses (i) through (iii).

## CHAPTER 26

*An Act to amend and reenact § 65.2-402 of the Code of Virginia, relating to workers' compensation; presumption of compensability for certain cancers.*

[S 1030]

Approved February 15, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:****§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.**

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian ~~or~~ breast, *colon, brain, or testicular* cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed 12 years of continuous service who has a contact with a toxic substance encountered in the line of duty shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, a "toxic substance" is one which is a known or suspected carcinogen, as defined by the International Agency for Research on Cancer, and which causes, or is suspected to cause, leukemia or pancreatic, prostate, rectal, throat, ovarian ~~or~~ breast, *colon, brain, or testicular* cancer.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

2. That the provisions of this act shall not become effective unless reenacted by the 2020 Session of the General Assembly.

3. That the 2020 Session of the General Assembly, in considering and enacting any legislation relating to workers' compensation and the presumption of compensability for certain cancers, shall consider any research, findings, and recommendations of the Joint Legislative Audit and Review Commission from the Commission's review of the Virginia Workers' Compensation program.

## CHAPTER 27

*An Act to amend and reenact §§ 16.1-241 and 32.1-45.1 of the Code of Virginia, relating to exposure to bodily fluids; infection with human immunodeficiency virus or hepatitis B or C viruses; expedited testing.*

[H 1998]

Approved February 15, 2019

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

**1. That §§ 16.1-241 and 32.1-45.1 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 16.1-241. Jurisdiction; consent for abortion.**

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244;

6. Who is charged with a traffic infraction as defined in § 46.2-100; or

7. Who is alleged to have refused to take a blood test in violation of § 18.2-268.2.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or

through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental illness or judicial certification of eligibility for admission to a training center for persons with intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown, (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or is otherwise before the court pursuant to subdivision A 4; or

3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services that are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for a work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law that causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a juvenile.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.).

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

R. [Repealed.]

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.

W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to perform the abortion without consent of or notice to an authorized person.

Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has been obtained or the minor delivers to the physician a court order entered pursuant to this section and the physician or his agent provides such notice as such order may require. However, neither consent nor judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and the attending physician has reason to suspect that the minor may be an abused or neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's medical record.

For purposes of this subsection:

"Authorization" means the minor has delivered to the physician a notarized, written statement signed by an authorized person that the authorized person knows of the minor's intent to have an abortion and consents to such abortion being performed on the minor.

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the minor regularly and customarily resides and who has care and control of the minor. Any person who knows he is not an authorized person and who knowingly and willfully signs an authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides

written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

"Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

"Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor children.

Y. *Petitions involving minors filed pursuant to § 32.1-45.1 relating to obtaining a blood specimen or test results.*

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of § 17.1-272, or subsection B, D, M, or R.

Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of subsection W shall be guilty of a Class 3 misdemeanor.

**§ 32.1-45.1. Deemed consent to testing and release of test results related to infection with human immunodeficiency virus or hepatitis B or C viruses.**

A. Whenever any health care provider, or any person employed by or under the direction and control of a health care provider, is directly exposed to body fluids of a patient in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such test results to the person who was exposed. In other than emergency situations, it shall be the responsibility of the health care provider to inform patients of this provision prior to providing them with health care services which create a risk of such exposure.

B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any person employed by or under the direction and control of a health care provider, in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the patient who was exposed.

C. For the purposes of this section, "health care provider" means any person, facility or agency licensed or certified to provide care or treatment by the Department of Health, Department of Behavioral Health and Developmental Services, Department of Rehabilitative Services, or the Department of Social Services, any person licensed or certified by a health regulatory board within the Department of Health Professions except for the Boards of Funeral Directors and Embalmers and Veterinary Medicine or any personal care agency contracting with the Department of Medical Assistance Services.

D. "Health care provider," as defined in subsection C, shall be deemed to include any person who renders emergency care or assistance, without compensation and in good faith, at the scene of an accident, fire, or any life-threatening emergency, or while en route therefrom to any hospital, medical clinic or doctor's office during the period while rendering such emergency care or assistance. The Department of Health shall provide appropriate counseling and opportunity for face-to-face disclosure of any test results to any such person.

E. Whenever any law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider is directly exposed to body fluids of a person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the person who was exposed.

F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement officer, salaried or

volunteer firefighter, or salaried or volunteer emergency medical services provider shall also be deemed to have consented to the release of such test results to the person who was exposed.

G. For the purposes of this section, "law-enforcement officer" means a person who is both (i) engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or department under the direction and control of the Commonwealth or any local governing body that employs persons who have law-enforcement authority.

H. Whenever any school board employee is directly exposed to body fluids of any person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the school board employee who was exposed. ~~If the person whose blood specimen is sought for testing is a minor, the parent, guardian, or person standing in loco parentis of such minor shall be notified prior to initiating such testing. In other than emergency situations, it shall be the responsibility of the school board employee to inform the person of this provision prior to the contact that creates a risk of such exposure.~~

I. Whenever any person is directly exposed to the body fluids of a school board employee in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the school board employee whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The school board employee shall also be deemed to have consented to the release of such test results to the person.

J. For the purposes of this section, "school board employee" means a person who is both (i) acting in the course of employment at the time of such exposure and (ii) employed by any local school board in the Commonwealth.

K. For purposes of this section, if the person whose blood specimen is sought for testing is a minor, ~~and that minor refuses to provide such specimen,~~ consent for obtaining such specimen shall be obtained from the parent, guardian, or person standing in loco parentis of such minor prior to initiating such testing. If the parent or guardian or person standing in loco parentis withholds such consent, or is not reasonably available, the person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition the juvenile and domestic relations district court in the county or city where the minor resides or resided, or, in the case of a nonresident, the county or city where the health care provider, law-enforcement agency or school board has its principal office or, in the case of a health care provider rendering emergency care pursuant to subsection D, the county or city where the exposure occurred, for an order requiring the minor to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section.

L. Except as provided in subsection K, if the person whose blood specimen is sought for testing refuses to provide such specimen, any person *identified by this section who was potentially exposed to the human immunodeficiency virus or the hepatitis B or C viruses in the manner described by this section*, or the employer of such person, may petition, *on a form to be provided by the Office of the Executive Secretary of the Supreme Court of Virginia*, the general district court of the county or city in which the person whose specimen is sought resides or resided, or, in the case of a nonresident, the county or city where the health care provider, law-enforcement agency or school board has its principal office or, in the case of a health care provider rendering emergency care pursuant to subsection D, the county or city where the exposure occurred, for an order requiring the person to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section. *A hearing on such a petition shall be given precedence on the docket so as to be heard by the court within 48 hours of the filing of the petition, or, if the court is closed during such time period, such petition shall be heard on the next day that the court is in session. A copy of the petition, which shall specify the date and location of the hearing, shall be provided to the person whose specimen is sought.* At any hearing before the court, the person whose specimen is sought or his counsel may appear. The court ~~shall~~ may be advised by the Commissioner or his designee prior to entering any testing order. *If the general district court determines that there is probable cause to believe that a person identified by this section has been exposed in the manner prescribed by this section, the court shall issue an order requiring the person whose bodily fluids were involved in the exposure to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section.* If a testing order is issued, both the petitioner and the person from whom the blood specimen is sought shall receive counseling and opportunity for face-to-face disclosure of any test results by a licensed practitioner or trained counselor.

M. *Any person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of the order. Any hearing conducted pursuant to this subsection shall be held in camera as soon as practicable. The record shall be sealed. The order of the circuit court shall be final and nonappealable.*

N. *No specimen obtained pursuant to this section shall be tested for any purpose other than for the purpose provided for in this section, nor shall the specimen or the results of any testing pursuant to this section be used for any purpose in any criminal matter or investigation. Any violation of this subsection shall constitute reversible error in any criminal case in which the specimen or results were used.*

## CHAPTER 28

*An Act to amend and reenact § 55-248.34:1 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; tenant's right of redemption.*

[H 1898]

Approved February 15, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 55-248.34:1 of the Code of Virginia is amended and reenacted as follows:****§ 55-248.34:1. Landlord's acceptance of rent with reservation.**

A. The landlord may accept full or partial payment of all rent and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55-248.38:2, provided that the landlord has stated in a written notice to the tenant that any and all amounts owed to the landlord by the tenant, including payment of any rent, damages, money judgment, award of attorney fees, and court costs, would be accepted with reservation and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. Such notice may be included in a written termination notice given by the landlord to the tenant in accordance with § 55-248.31, and if so included, nothing herein shall be construed by a court of law or otherwise as requiring such landlord to give the tenant subsequent written notice. If the dwelling unit is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, nothing herein shall be construed to require that written notice be given to any public agency paying a portion of the rent under the rental agreement. If a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable.

B. However, the tenant may pay or present to the court a redemption tender for payment of all rent due and owing as of the return date, including late charges, attorney fees and court costs, at or before the first return date on an action for unlawful detainer. For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of said return date.

C. If the tenant presents a redemption tender to the court at the return date, the court shall continue the action for unlawful detainer for 10 days following the return date for payment to the landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs and dismissal of the action upon such payment. Should the landlord not receive full payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, within 10 days of the return date, the court shall, without further evidence, grant to the landlord judgment for all amounts due and immediate possession of the premises.

D. In cases of unlawful detainer, a tenant may pay the landlord or ~~his attorney~~ *the landlord's attorney*, or pay into court, all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, and (v) costs of the proceeding as provided by law, at which time the unlawful detainer proceeding shall be dismissed. *If such payment has not been made as of the return date for the unlawful detainer, the tenant may pay to the landlord, the landlord's attorney, or the court all amounts claimed on the summons in unlawful detainer, including current rent, damages, late fees, costs of court, any civil recovery, attorney fees, and sheriff fees, no less than two business days before the date scheduled by the officer to whom the writ of eviction has been delivered to be executed. Any payments made by the tenant shall be by cashier's check, certified check, or money order.* A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental agreement or any renewal term thereof.

## CHAPTER 29

*An Act to amend and reenact § 4.1-111 of the Code of Virginia, relating to alcoholic beverage control; happy hour advertising.*

[H 2073]

Approved February 15, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 4.1-111 of the Code of Virginia is amended and reenacted as follows:****§ 4.1-111. Regulations of Board.**

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.
2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.
3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.
4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.
5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.
6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.
7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.
8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.
9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.
10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.
11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.
12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.
13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:
  - a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and
  - b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55-526, but only in accordance with this title.
14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.
15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour ~~but prohibit the advertising of~~ and any pricing related to such happy hour. *Such regulations shall not prohibit on-premises licensees from using creative marketing techniques in such advertisements, provided that such techniques do not tend to induce overconsumption or consumption by minors.*
16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

## CHAPTER 30

*An Act to amend and reenact § 55-513.2 of the Code of Virginia, relating to the Virginia Property Owners' Association Act; home-based businesses.*

[S 1537]

Approved February 15, 2019

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

**1. That § 55-513.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 55-513.2. Home-based businesses permitted; compliance with local ordinances.**

A. Except to the extent the declaration provides otherwise, no association shall prohibit any lot owner from operating a home-based business within his personal residence. The association may, however, establish (i) reasonable restrictions as to the time, place, and manner of the operation of a home-based business and (ii) reasonable restrictions as to the size, place, duration, and manner of the placement or display of any signs on the owner's lot related to such home-based business. Any home-based business shall comply with all applicable local ordinances.

B. *If a development is located in a locality that classifies home-based child care services as an accessory or ancillary residential use under the locality's zoning ordinance, the provision of home-based child care services in a personal residence shall be deemed a residential use unless expressly (i) prohibited or restricted by the declaration or (ii) restricted by the association's bylaws or rules as provided in subsection A.*

## CHAPTER 31

*An Act to amend and reenact § 58.1-3131 of the Code of Virginia, relating to local treasurers; recordkeeping.*

[H 1731]

Approved February 19, 2019

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

**1. That § 58.1-3131 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3131. Warrants; recordkeeping requirements; release of information.**

The treasurer shall ~~provide and keep a well-bound book,~~ *maintain a record* in which he shall make an entry of all warrants *and other legal demand instruments* legally drawn upon him by the governing body and presented for payment, stating correctly the amount, number, in whose favor drawn and the date such warrant was issued. All such warrants *and other legal demand instruments* shall be paid, in the order presented, out of the fund drawn upon.

No information contained in the ~~list record~~ of warrants *and other legal demand instruments*, including any invoice that has been presented to a locality for payment, and the locality has attempted to pay it, but the payment has not been completed because electronic payment has failed or a check was mailed but not cashed, shall be released for any purpose except (i) that the local governing body may publish aggregated information relating to warrants *and other legal demand instruments* paid, as classified by expenditure item, recipient, date, or disbursement, or (ii) as a means of establishing the status of a claim previously reported as having been paid when a person legally entitled to the funds presents evidence that a previously submitted claim has not been paid. In no case, however, shall the governing body of any county, city, or town publish any information that is prohibited from release under federal or state law, including but not limited to confidential records held pursuant to § 58.1-3.

## CHAPTER 32

*An Act to amend and reenact §§ 2.2-5101 and 2.2-5102.1 of the Code of Virginia, relating to Virginia Investment Partnership Act; Virginia Investment Performance Grants; Virginia Economic Development Incentive Grants; reauthorization.*

[H 2021]

Approved February 19, 2019

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

**1. That §§ 2.2-5101 and 2.2-5102.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-5101. Virginia Investment Performance Grants.**

A. Subject to the appropriation by the General Assembly of sufficient moneys to the Investment Performance Grant subfund, any eligible manufacturer or research and development service that is not eligible for a major eligible employer grant under § 2.2-5102 shall be eligible for an investment performance grant as provided in this section.

B. The Partnership shall establish an application process by which eligible manufacturers and research and development services may apply for a grant under this section. An application for a grant under this section shall not be approved until the Partnership has verified that the capital investment has been completed.

C. The amount of the investment performance grant that an eligible manufacturer or research and development service shall be eligible to receive under this section shall be determined by the Secretary, based on the recommendation of the Partnership, and contingent upon approval by the Governor. The determination of the appropriate amount of an investment performance grant shall be based on the application of guidelines that establish criteria for correlating the amount of a grant to the relative value to the Commonwealth of the eligible investment.

D. The Partnership shall assist the Secretary in developing objective guidelines that shall be used in awarding investment performance grants. No grant shall be awarded until the Secretary has provided copies of such guidelines for review to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. The guidelines shall require determinations regarding the amount of investment performance grants to address:

1. The number of new jobs created by the capital investment;
2. The wages paid for the new jobs and the amount by which wages exceed the average manufacturing wage for the locality or region;
3. The extent to which the capital investment produces (i) measurable increases in capacity, productivity, or both; (ii) measurable decreases in the production of flawed product; or (iii) measurable advances in knowledge, research, or the application of research findings for the creation of new or significantly improved products or processes that support manufacturing;
4. The amount of the capital investment;
5. The net present value of benefits to Virginia;
6. The amount of other incentives offered by the Commonwealth and the locality; and
7. The importance of the manufacturing or research and development facility to the economy of the locality or region.

The guidelines shall also address the eligibility of manufacturers or research and development services that make a capital investment in phases over a period of years, and limits on eligibility for multiple grants by the same manufacturer or research and development service within stated periods of time.

E. The amount of an investment performance grant to any eligible manufacturer under this section shall not exceed \$3 million or 10 percent of the amount appropriated by the General Assembly to the Investment Performance Grant subfund in the year that the terms of a grant are determined. For all eligible projects awarded grants on or after July 1, 2005, and before July 1, 2009, the amount of an investment performance grant to any recipient under this section shall not exceed \$1.5 million. For eligible projects awarded grants on or after July 1, 2009, the amount of an investment performance grant to any recipient under this section shall not exceed \$3 million, except for eligible projects that demonstrate extraordinary characteristics described in guidelines implementing this chapter the amount of an investment performance grant to any such recipient under this section shall not exceed \$5 million.

F. For all eligible projects awarded grants before July 1, 2005, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$6 million, and the aggregate amount of grants outstanding to all eligible manufacturers under this section for all years shall at no time exceed \$30 million. For all such grants awarded prior to that date, the annual obligations of the Commonwealth to make grant payments to individual eligible manufacturers under this section shall not exceed \$600,000. For all eligible projects awarded grants on or after July 1, 2005, and before July 1, 2009, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$3 million, and the aggregate amount of such grants awarded after that date and outstanding at any time shall not exceed \$15 million. For all such grants awarded on or after that date, the annual obligations of the Commonwealth to make grant payments to individual recipients under this section shall not exceed \$300,000. For all eligible projects awarded grants on or after July 1, 2009, and before July 1, 2015, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$6 million, and the aggregate amount of such grants awarded on or after July 1, 2009, and before July 1, 2015, and outstanding at any time shall not exceed \$30 million. For all such grants awarded on or after July 1, 2009, and before July 1, 2015, the annual obligations of the Commonwealth to make grant payments to individual recipients under this section shall not exceed \$1 million. For all eligible projects awarded grants on or after July 1, 2015, *but before July 1, 2019*, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$6 million, and the aggregate amount of such grants awarded on or after July 1, 2015, *but before July 1, 2019*, and outstanding at any time shall not exceed \$20 million. For all such grants awarded on or after July 1, 2015, *but before July 1, 2019*, the annual obligations of the Commonwealth to make grant payments to individual recipients under this section shall not exceed \$1 million. *For all eligible projects awarded grants on or after July 1, 2019, the aggregate amount of investment performance grants approved under this section in any year shall not exceed \$4 million, and the aggregate amount of such grants awarded on or after July 1, 2019, and outstanding at any time shall not exceed \$20 million. For all such grants awarded on or after July 1, 2019, the annual obligations of the Commonwealth to make grant payments to individual recipients under this section shall not exceed \$1 million.*

G. Any eligible manufacturer or research and development service shall be eligible to receive a grant from the Fund in five equal installments beginning in the third year after the capital investment is completed and the Partnership has verified that the requirements applicable to such grant have been satisfied. Any eligible manufacturer or research and development service located in a fiscally distressed area of the State, as defined in the guidelines implementing this chapter, shall be eligible to begin receiving grants in the second year after the capital investment is completed and verified.

#### **§ 2.2-5102.1. Virginia Economic Development Incentive Grants.**

A. Subject to the appropriation by the General Assembly of sufficient moneys to the Economic Development Incentive Grant subfund, any eligible company that meets the requirements of this section and is not awarded a grant under § 2.2-5101 or 2.2-5102 for the same project shall be eligible to apply for an economic development incentive grant as provided in this section.

B. The Partnership shall establish an application process by which eligible companies may apply for a grant under this section. An application for a grant under this section shall not be approved for payment until the Partnership has verified that the applicable requirements of the memorandum of agreement have been satisfied.

C. The amount of the economic development incentive grant that an eligible company may receive under this section shall be determined at the sole discretion of the Governor based on the recommendation of the Secretary. The determination of the appropriate amount for an economic development incentive grant shall be based on the application of guidelines that establish criteria for correlating the amount of a grant to the relative value to the Commonwealth of the new investment and employment.

D. The Partnership shall assist the Secretary in developing objective guidelines that shall be used in awarding economic development incentive grants. No grant shall be awarded until the Secretary has provided copies of such guidelines for review to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance. The preparation of the guidelines shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.). The guidelines shall require determinations regarding the amount of investment performance grants to address:

1. The number of new jobs created by the capital investment;
2. The wages paid for the new jobs and the amount by which wages exceed the average wage for the locality or region;
3. The amount of the capital investment;

4. The net present value of benefits to Virginia;
5. The amount of other incentives offered by the Commonwealth and the locality; and
6. The importance of the facility to the economy of the locality or region.

The guidelines shall also address the eligibility of companies that make a capital investment in phases over a period of years, and limits on eligibility for multiple grants by the same company within stated periods of time.

E. For eligible projects awarded grants prior to July 1, 2010, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million, and the aggregate amount of such grants outstanding that were awarded prior to July 1, 2010, shall not exceed \$30 million. For eligible projects awarded grants on or after July 1, 2010, *but before July 1, 2019*, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million and the aggregate amount of such grants outstanding on or after July 1, 2010, *but before July 1, 2019*, shall not exceed \$30 million. *For eligible projects awarded grants on or after July 1, 2019, the aggregate amount of economic development incentive grants payable under this section in any fiscal year shall not exceed \$6 million and the aggregate amount of such grants outstanding on or after July 1, 2019, shall not exceed \$30 million.*

F. Any eligible company shall be eligible to receive a grant from the Fund in no fewer than five installments beginning in the third year after the Partnership has verified that the requirements applicable to such grant have been satisfied. All such terms shall be negotiated and set forth in a memorandum of agreement.

G. The Comptroller shall not draw any warrants to issue checks for grants under this chapter without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act. The payment of any grant under this section shall be in accordance with the terms and conditions set forth in a memorandum of agreement between a major eligible employer and the Commonwealth. These terms and conditions shall supplement the provisions of this chapter and shall include but not be limited to the terms of the payment of the grant. The payment of the grant shall be made in full or in proportion to a major eligible employer's fulfillment of the terms of the memorandum of agreement.

### CHAPTER 33

*An Act to amend and reenact §§ 55-79.83:1, 55-471.1, and 55-514.1 of the Code of Virginia, relating to common interest communities; dissemination of annual budget; reserve for capital components.*

[H 2030]

Approved February 19, 2019

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

**1. That §§ 55-79.83:1, 55-471.1, and 55-514.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-79.83:1. Annual budget; reserves for capital components.**

A. *Except to the extent provided in the condominium instruments, the executive organ shall, prior to the commencement of the fiscal year, make available to unit owners either (i) the annual budget of the unit owners' association or (ii) a summary of such annual budget.*

B. Except to the extent otherwise provided in the condominium instruments ~~and unless the condominium instruments impose more stringent requirements~~, the executive organ shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components *as defined in § 55-79.41*;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive organ deems necessary to maintain reserves, as appropriate.

~~B. C.~~ C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the unit owners' association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components *as defined in § 55-79.41*;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; ~~and~~

3. A ~~general~~ statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to this section ~~and the extent to which the unit owners' association is funding its reserve obligations consistent with the study currently in effect; and~~

4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

**§ 55-471.1. Annual budget; reserves for capital components.**

A. *Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.*

B. Except to the extent otherwise provided in the declaration ~~and unless the declaration imposes more stringent requirements~~, the executive board shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components *as defined in § 55-426*;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

~~B.~~ C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components *as defined in § 55-426*;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; ~~and~~

3. A ~~general~~ statement describing the procedures used for ~~the~~ estimation and accumulation of cash reserves pursuant to this section and the extent to which the association is funding its reserve obligations consistent with the study currently in effect; *and*

4. *A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.*

**§ 55-514.1. Annual budget; reserves for capital components.**

A. *Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.*

B. Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements, the board of directors shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components *as defined in § 55-509*;

2. Review the results of that study at least annually to determine if reserves are sufficient; and

3. Make any adjustments the board of directors deems necessary to maintain reserves, as appropriate.

~~B.~~ C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitation:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components *as defined in § 55-509*;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore capital components and the amount of the expected contribution to the reserve fund for that year; ~~and~~

3. A ~~general~~ statement describing the procedures used for ~~the~~ estimation and accumulation of cash reserves pursuant to this section ~~and the extent to which the association is funding its reserve obligations consistent with the study currently in effect~~; *and*

4. *A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.*

**2. That the Common Interest Community Board shall develop guidelines for the development of reserve studies for capital components, including a list of capital components that should be addressed in a reserve study.**

## CHAPTER 34

*An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, relating to Semiconductor Manufacturing Grant Fund; creation.*

[H 2180]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, as follows:**

*CHAPTER 22.12.*

*SEMICONDUCTOR MANUFACTURING GRANT FUND.*

**§ 59.1-284.31. Semiconductor Manufacturing Grant Fund created.**

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

*"Capital investment" means an expenditure, or an asset transfer from a different qualified company site outside of the eligible city to a facility within an eligible city, by or on behalf of the qualified company on or after April 1, 2018, in real property, tangible personal property, or both, at a facility within an eligible city that has been capitalized or is subject to being capitalized. "Capital investment" may include (i) the purchase of land and the cost of infrastructure development and land improvements, (ii) a capital expenditure related to a leasehold interest in real property, and (iii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease.*

*"Eligible city" means the City of Manassas.*

*"Facility" means the building, group of buildings, or manufacturing, distribution, and research and development campus, including any related machinery and tools, furniture, fixtures, and equipment, in an eligible city that is owned, leased, licensed, occupied, or otherwise operated by the qualified company for use in the manufacture of, or research and development for, semiconductors and other electronic devices.*

*"Fund" means the Semiconductor Manufacturing Grant Fund.*

*"Grant" means a grant from the Fund awarded to a qualified company in an aggregate amount of up to \$70,000,000. Grant proceeds are intended to be used by the qualified company to pay or reimburse the costs of site preparation and infrastructure related to the facility.*

*"Memorandum of understanding" means a performance agreement or related document entered into on or before August 1, 2019, between a qualified company and the Commonwealth that sets forth the requirements for capital investment and the creation of new jobs for the qualified company.*

*"New job" means full-time employment at the facility measured at any time following June 30, 2018, for which the annual average wage is at least \$92,000, with an escalation factor for each year, that requires a minimum of 38 hours of an employee's time per week for the entire normal year, consisting of at least 48 weeks, of the qualified company's operations. Seasonal or temporary positions and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new jobs. Any new job must be in addition to the baseline number of existing full-time positions at the qualified company's facilities in the eligible city.*

*"Qualified company" means a semiconductor manufacturing company, and its affiliates, that manufactures and distributes semiconductors, that between April 1, 2018, and June 30, 2033, is expected to (i) make or cause to be made a capital investment at a facility of at least \$2.98 billion; (ii) create and maintain at least 1,106 new jobs at the facility related to, or supportive of, its manufacturing, distribution, and research and development functions; and (iii) establish and operate a research and development facility for research and product development in areas of interest to a semiconductor manufacturer, including research regarding unmanned systems and the "Internet of things."*

*"Secretary" means the Secretary of Commerce and Trade or his designee.*

*B. There is hereby created in the state treasury a nonreverting fund to be known as the Semiconductor Manufacturing Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated to the Fund shall be paid into the state treasury and credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose to pay grant installments. Payment of such grant installments shall be made by check issued by the State Treasurer on warrant of the Comptroller. The Comptroller shall not draw any warrants to issue checks for Grant installments under this section without a specific appropriation for the same.*

*C. Subject to appropriation by the General Assembly, a qualified company shall be eligible to receive grant installments of \$50 million in fiscal year 2020 and \$20 million in fiscal year 2021. Such grant installments shall be paid to the qualified company from the Fund during each such fiscal year, contingent upon the qualified company's meeting the requirements set forth in the memorandum of understanding to provide security for any potential repayment of the grant, including a cash escrow.*

*D. A qualified company receiving a grant installment pursuant to this section shall provide evidence, satisfactory to the Secretary, annually of (i) the aggregate number of new jobs created and maintained as of the last day of the fiscal year, the payroll paid by the qualified company during the fiscal year, and the average annual wage of the new jobs in the fiscal year and (ii) the aggregate amount of the capital investment made during the fiscal year, including the extent to which such capital investment was or was not subject to the Virginia Retail Sales and Use Tax (§ 58.1-600 et seq.). The report and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than October 1 each year following the end of the prior fiscal year upon which the evidence is based.*

*E. The memorandum of understanding shall provide that if any annual report and evidence provided pursuant to subsection D indicates that the qualified company failed to meet certain targets for capital investment that is or is not subject to the Virginia retail sales and use tax, the average annual wage for new jobs, the number of new jobs, or the payroll paid for new jobs, the qualified company may be required to repay the Commonwealth a portion of the grant in an amount that reflects the value of the shortfall in the applicable target.*

*F. As a condition of receipt and retention of the grant, a qualified company shall make available to the Secretary for inspection all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt and retention of the grant as set forth herein and subject to the memorandum of understanding. All such documents appropriately identified by the qualified company shall be considered confidential and proprietary, and shall not be subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

## CHAPTER 35

*An Act to amend and reenact § 2.2-1616 of the Code of Virginia, relating to the Small Business Investment Grant Fund; recapture of awards.*

[H 2347]

Approved February 19, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-1616 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-1616. Creation, administration, and management of the Small Business Investment Grant Fund.**

A. As used in this section:

"Authority" means the Virginia Small Business Financing Authority.

"Eligible investor" means an individual subject to the tax imposed by § 58.1-320 or a special purpose entity established for the purpose of making investments for an individual. "Eligible investor" does not include an individual who engages in the business of making debt or equity investments in private businesses, or any person that would be allocated a portion of the grant under this section as a partner, shareholder, member, or owner of an entity that engages in such business.

"Fund" means the Small Business Investment Grant Fund.

"Pass-through entity" means the same as that term is defined in § 58.1-390.1.

"Qualified investment" means a cash investment in a qualified business in the form of equity or subordinated debt.

"Small business" means a corporation, pass-through entity, or other entity that (i) has annual gross revenues of no more than \$5 million in its most recent fiscal year; (ii) has its principal office or facility in the Commonwealth; (iii) is engaged in business primarily in or does substantially all of its production in the Commonwealth; (iv) has not obtained during its existence more than \$5 million in aggregate gross cash proceeds from the issuance of its equity or debt investments, not including commercial loans from national or state-chartered banking or savings and loan institutions; (v) has no more than 50 employees who are employed within the Commonwealth; and (vi) has been designated as such by the Authority pursuant to the provisions of this section.

"Subordinated debt" means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first three years after issuance, (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person, and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.

B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Small Business Investment Grant Fund, to be administered by the Department. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants pursuant to this section, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the Director. Grants from the Fund shall only be made to applications pursuant to this section.

C. An eligible investor that makes a qualified investment in a small business on or after July 1, ~~2016~~ 2019, but prior to January 1, ~~2019~~ 2022, that has been certified by the Authority pursuant to subsection D shall be eligible for a grant in an amount equal to the lesser of 50 percent of the qualified investment or \$50,000. An eligible investor may apply for a grant for each qualified investment that is made to one or more small businesses not to exceed a total grant allocation from the Fund of \$250,000 per eligible investor.

D. A small business shall apply with the Authority to receive qualified investments eligible for the grant pursuant to this section and shall provide to the Authority such information as the Authority deems necessary to demonstrate that it meets the qualifications set forth in subsection A.

E. Any eligible investor applying for a grant pursuant to this section shall submit an application to the Authority. The Authority shall determine the amount of the grant allowable to the eligible investor for the year.

F. *If an eligible investor is awarded a grant pursuant to this section and the small business in which the investment was made (i) relocates outside of the Commonwealth within two years of the award of the grant or (ii) closes within two years of the award of the grant as a result of a criminal conviction on the part of any officer, director, manager, or general partner of such business relating to his involvement with the business, such investor shall forfeit the grant and refund such moneys to the Authority.*

~~Unless~~ *Additionally, unless* the eligible investor transfers the equity received in connection with a qualified investment as a result of (a) the liquidation of the small business issuing such equity; (b) the merger, consolidation, or other acquisition of such business with or by a party not affiliated with such business; or (c) the death of the eligible investor, any eligible investor that fails to hold such equity for at least two years shall forfeit the grant and shall pay the Authority interest on the total allowed grant at the rate of one percent per month, compounded monthly, from the date the grant was awarded to the taxpayer.

The Authority shall deposit any amounts received under this subsection into the general fund of the Commonwealth.

G. Grants shall be issued in the order that each completed eligible application is received by the Authority. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are available.

H. An eligible investor shall not be awarded a grant pursuant to this section for any investment in a small business for which the eligible investor has been allowed a tax credit pursuant to § 58.1-339.4.

I. The Authority shall establish policies and procedures relating to (i) the certification of small businesses, (ii) the application for grants, and (iii) the recapture of grant awards claimed with interest in the event that the qualified investment is not held for the requisite period set forth in subsection F. Such policies and procedures shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

## CHAPTER 36

*An Act to amend and reenact § 59.1-284.29 of the Code of Virginia, relating to Advanced Shipbuilding Production Facility Grants; grant availability dates.*

[H 2362]

Approved February 19, 2019

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

**1. That § 59.1-284.29 of the Code of Virginia is amended and reenacted as follows:**

**§ 59.1-284.29. Advanced Shipbuilding Production Facility Grant Program.**

A. As used in this section:

"Advanced shipbuilding" means (i) the manufacture, construction, assembly, overhaul, repair, and testing of nuclear vessels and submarines for the United States Navy; (ii) the design or development of nuclear vessels and submarines for the United States Navy; or (iii) the manufacturing activities of a private company described under 2007 index number 336611 of the North American Industry Classification System.

"Capital investment" means an investment in real property, tangible personal property, or both, within the eligible city.

"Eligible city" means the City of Newport News or its industrial development authority.

"Foundry" means a facility and equipment used to cast metal components used in advanced shipbuilding.

"Grant" means the advanced shipbuilding production facility grant as described in this section.

"Memorandum of understanding" means a performance agreement entered into on or before August 31, 2016, among a qualified shipbuilder, the Commonwealth, and others as appropriate, such as the eligible city, setting forth the requirements for capital investment and the creation of new full-time jobs that will make the qualified shipbuilder eligible for a grant under this section.

"New full-time job" means employment of an indefinite duration in an eligible city, and engaged in the construction of a class of vessel or submarine not being built in that eligible city prior to January 1, 2016, for which the average annual wage is at least equal to the prevailing average annual wage in that eligible city and for which the standard fringe benefits are paid by the qualified shipbuilder, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such qualified shipbuilder's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new full-time jobs under this section. Other positions, which may or may not be of indefinite duration, including supplemental employees of affiliates, subsidiaries, joint ventures, contractors, or subcontractors of the qualified shipbuilder, may be considered new full-time jobs if designated as such in the memorandum of understanding between such qualified shipbuilder, the Commonwealth, and others.

"New production facility" means a facility or equipment that, pursuant to a memorandum of understanding with the Secretary, is constructed or purchased after January 1, 2016, and operated by the qualified shipbuilder for use in the construction of or manufacture of components for a class of nuclear vessels or submarines not being built in that eligible city as of January 1, 2016. Such new production facility may be owned by the qualified shipbuilder or may be operated by the qualified shipbuilder through a lease agreement with the eligible city or a local industrial development authority.

"Qualified shipbuilder" means a shipbuilder located in an eligible city that (i) makes a new capital investment of at least \$750 million from January 1, 2015, through December 31, 2020, related to advanced shipbuilding in an eligible city; (ii) creates at least 1,000 new full-time jobs in an eligible city for advanced shipbuilding or activities ancillary to or supportive of advanced shipbuilding; and (iii) builds a new production facility.

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. Any qualified shipbuilder located in an eligible city or the eligible city shall be eligible to receive a grant each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, ~~2022~~ 2020, and ending with the Commonwealth's fiscal year starting on July 1, ~~2026~~ 2024, unless such time frame is extended in accordance with subsection C or D. The grants under this section (i) shall be paid, subject to appropriation by the General Assembly, from the fund entitled the Advanced Shipbuilding Production Facility Grant Fund established in subsection G; (ii) shall not exceed \$40 million in the aggregate; (iii) shall be paid to a qualified shipbuilder or eligible city during each fiscal year contingent upon the qualified shipbuilder's meeting the requirements for the aggregate of (a) number of new full-time jobs created and the substantial retention of the same and (b) amount of the capital investment made, as set forth in the memorandum of understanding; and

(iv) shall be expended by the qualified shipbuilder or the eligible city on the capital or lease cost of a new production facility or a new or existing foundry.

1. The amount of the grant to be paid in each fiscal year shall be conditional upon the qualified shipbuilder's meeting the requirements for (i) the aggregate number of new full-time jobs created and the substantial retention of the same throughout the calendar year that immediately precedes the beginning of such fiscal year and (ii) the aggregate amount of the capital investment made as of the last day of the calendar year that immediately precedes the beginning of such fiscal year. If the qualified shipbuilder has not fully met the grant requirements by December 31, 2020, the period of eligibility may be extended for up to three years, provided that the grants in any given fiscal year shall not exceed \$8 million, plus any amounts deferred in accordance with subsection C or D.

2. The aggregate amount of grants that may be awarded in a particular fiscal year shall not exceed the following:

- a. \$8 million for the Commonwealth's fiscal year beginning July 1, ~~2022~~ 2020;
- b. \$16 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2023~~ 2021;
- c. \$24 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2024~~ 2022;
- d. \$32 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2025~~ 2023; and
- e. \$40 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2026~~ 2024.

C. Any qualified shipbuilder or eligible city applying for a grant under this section shall provide evidence, satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and the substantial retention of the same throughout the calendar year that immediately precedes the beginning of the fiscal year in which the grant is to be paid and (ii) the aggregate amount of the capital investment made as of the last day of the calendar year that immediately precedes the beginning of the fiscal year in which the grant is to be paid. The application and evidence shall be filed with the Secretary in person or by mail no later than April 1 each year following the calendar year in which the qualified shipbuilder meets such aggregate new full-time job requirements and aggregate capital investments. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment set forth in subsection B. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

D. The memorandum of understanding may provide that if a grant payment has been deferred for any reason, including the initial failure to meet the aggregate capital investment or the aggregate new full-time job requirements set forth in the memorandum of understanding or the occurrence of any substantial reduction in such new full-time job requirements after such requirements have been met but before the grant payment has been made, payment in a subsequent fiscal year for which such requirements have been met for the immediately preceding calendar year shall include both the deferred payment and the scheduled grant payment as provided in subsection B or that a proportional payment, based on the proportional share of the required additional full-time jobs, be made.

E. The memorandum of understanding may also provide that a shipbuilder or eligible city that has qualified for and received grants under § 59.1-284.23 may qualify for up to a separate and additional \$6 million in one or more grants payable after July 1, 2016, but before July 1, 2022, to be used in the construction, lease, expansion, or renovation of a foundry in the eligible city. The memorandum of understanding shall require that the total amount of grants received pursuant to this subsection shall not exceed 25 percent of the total cost of improvements needed to meet standards for making castings for the construction of a class of vessel or submarine not being built in that eligible city prior to January 1, 2016, and that those standards are subsequently met. The memorandum of understanding may also set forth requirements for certain employment levels at the foundry. For clarification, such grants are not included in and shall not be subject to the overall limitation of the aggregate grant amount set forth in subsection B.

F. As a condition of receipt of a grant, a qualified shipbuilder shall make available to the Secretary or his designee for inspection upon his request relevant and applicable documents to determine whether the qualified shipbuilder has met the requirements for the receipt of grants as set forth in this section and subject to the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks for the grant program under this section without a specific appropriation for the same. All such documents appropriately identified by the qualified shipbuilder shall be considered confidential and proprietary.

G. There is hereby created in the state treasury a special nonreverting fund to be known as the Advanced Shipbuilding Production Facility Grant Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the purposes stated in this section.

## CHAPTER 37

*An Act to amend and reenact §§ 4.1-100, 4.1-119, 4.1-121, 4.1-122, 4.1-124, and 4.1-221.1 of the Code of Virginia and to repeal § 4.1-126 of the Code of Virginia, relating to alcoholic beverage control; local referendums.*

[S 1110]

Approved February 19, 2019

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

**1. That §§ 4.1-100, 4.1-119, 4.1-121, 4.1-122, 4.1-124, and 4.1-221.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59i.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that ~~have not approved~~ prohibit the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership

which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### **§ 4.1-119. Operation of government stores.**

A. Subject to the ~~requirements~~ provisions of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government

stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. (Effective until July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

E. (Effective July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

#### **§ 4.1-121. Referendum on establishment of government stores.**

A. The qualified voters of any county, city, or town having a population of 1,000 or more may file a petition with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the sale by the Virginia Alcoholic Beverage Control Authority of *alcoholic beverages*, other than beer and wine not produced by farm wineries, should be ~~permitted~~ *prohibited* within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the

jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be ~~permitted~~ *prohibited* in ..... (name of county, city, or town)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

B. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within four years of the date of the prior referendum. However, a town shall not be prescribed from holding a referendum within such period although an election has been held in the county in which the town or a part thereof is located less than four years prior thereto.

**§ 4.1-122. Effect of local option referenda.**

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote "~~No~~" "*Yes*" on the question, then on and after ~~sixty~~ 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this title to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted ~~against permitting~~ *to prohibit* the sale of alcoholic beverages by the Board and in a subsequent election a majority of the voters of the county, city, or town vote "~~Yes~~" "*No*" on the question stated in § 4.1-121, then such alcoholic beverages ~~permitted to be sold by such referendum~~ may, in accordance with this title, be sold within the county, city, or town on and after ~~sixty~~ 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election district of a county and the majority of voters voting in such referendum voted "~~Yes~~," the sale by the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be ~~permitted~~ *prohibited* in such county, town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this title.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

**§ 4.1-124. Referendum on the sale of mixed beverages.**

A. The provisions of this title relating to the sale of mixed beverages shall ~~not become~~ *be* effective in any town, county, or supervisor's election district of a county ~~until~~ *unless* a majority of the voters voting in a referendum vote ~~affirmatively~~ "*Yes*" on the question of whether *the sale of* mixed alcoholic beverages ~~should be sold~~ by restaurants licensed under this title *should be prohibited*. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be ~~permitted~~ *prohibited* within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be ~~permitted~~ *prohibited* in ..... (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages ~~permitted to be sold~~ *prohibited from sale* by such referendum ~~may in accordance with this title~~ *shall not* be sold by restaurants ~~licensed by the Board~~ within the town,

county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

~~The Notwithstanding the provisions of this section shall not require, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 to hold a referendum on the same question if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this title should be prohibited was previously held in the former city and a majority of the voters voting in the former city had previously approved the sale of mixed beverages by restaurants licensed by the Board in such city such referendum voted "Yes."~~

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin or sex.

#### **§ 4.1-221.1. Limitation of tasting licenses.**

Samples of alcoholic beverages given or sold by a licensee shall not exceed two ounces per person of each product tasted, provided that (i) in the case of wine or beer, no more than four products shall be offered or (ii) in the case of spirits, no more than two products shall be offered. Tasting licenses for mixed beverages shall only be issued for events to be held in localities ~~which have approved~~ that do not prohibit the sale of mixed beverages pursuant to § 4.1-124. No license shall be issued to any person to whom issuance of a retail license is prohibited. No more than four tasting licenses annually shall be issued to any person. The provisions of this section shall not apply to tastings conducted pursuant to § 4.1-201.1.

**2. That § 4.1-126 of the Code of Virginia is repealed.**

**3. That notwithstanding the provisions of § 4.1-124 of the Code of Virginia, as amended by this act, mixed beverage licenses may be granted to any establishment described in § 4.1-126 of the Code of Virginia, as it was in effect prior to the effective date of this act, subject to all other applicable provisions of Title 4.1 of the Code of Virginia and regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority.**

**4. That the provisions of the first, second, and third enactments of this act shall become effective on July 1, 2020.**

**5. That a referendum may be held in any town, county, or supervisor's election district of a county between July 1, 2019, and June 30, 2020, on either or both of the following questions: "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in ..... (name of town, county, or supervisor's election district of county)?" and "Shall the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be prohibited in ..... (name of county, city, or town)?" The result of any referendum held pursuant to this enactment shall become effective on July 1, 2020.**

**6. That the result of any referendum held by a town, county, or supervisor's election district of a county prior to July 1, 2019, under the provisions of § 4.1-121 or 4.1-124 of the Code of Virginia, as those sections were in effect prior to the effective date of the first enactment, shall remain valid and enforceable for a period of five years after the date upon which such referendum was held.**

## CHAPTER 38

*An Act to amend and reenact § 2.2-2337 of the Code of Virginia, relating to the Fort Monroe Authority; definition of Area of Operation.*

[S 1131]

Approved February 19, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-2337 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-2337. Definitions.**

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

"Area of Operation" means ~~an area coextensive with the territorial boundaries of the land acquired or to be acquired from the federal government by the Authority or the Commonwealth~~ *land owned by the Commonwealth at Fort Monroe.*

"Authority" means the Fort Monroe Authority.

"Board" means the Board of Trustees created in § 2.2-2338.

"Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by the Authority pursuant to this article.

"City of Hampton" or "City" means the City of Hampton, Virginia, a municipal corporation of the Commonwealth of Virginia.

"Design Standards" means the standards developed as a requirement of the Programmatic Agreement and referred to in that document as the "Historic Preservation Manual and Design Standards" which govern the restoration, rehabilitation, and renovation of the contributing elements to the Fort Monroe National Historic Landmark District and new construction, additions, and reconstruction of buildings so they are compatible with the overall character of the District, as they may be adopted or amended from time to time.

"Facility" means a particular building or structure or particular buildings or structures, including all equipment, appurtenances, and accessories necessary or appropriate for the operation of such facility.

"Fort Monroe Master Plan" or "Master Plan" means the plan that identifies the long-term vision for the reuse of the Area of Operation, key implementation projects, and a detailed implementation strategy for attracting new uses and investment to the Area of Operation as approved by the Authority and produced in accordance with the public participation plan as adopted by the Authority.

"Fort Monroe Reuse Plan" or "Reuse Plan" means the document created by the Fort Monroe Federal Area Development Authority and adopted as an official operating document on August 20, 2008, as it may be amended from time to time.

"Programmatic Agreement for the Closure and Disposal of Fort Monroe, Va." or "Programmatic Agreement" means that certain agreement, as it may be amended from time to time, entered into among the U.S. Army, the Virginia State Historic Preservation Officer, the Advisory Council on Historic Preservation, the Commonwealth of Virginia, the Fort Monroe Federal Area Development Authority and the National Park Service and signed by all Signatory Parties as of April 27, 2009, pursuant to § 106 of the National Historic Preservation Act.

"Project" means any specific enterprise undertaken by the Authority, including the facilities as defined in this article, and all other property, real or personal, or any interest therein, necessary or appropriate for the operation of such property.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

"State Memorandum of Understanding" means an agreement between the Authority, the Secretary of Administration, the State Historic Preservation Officer, and the Governor, on behalf of all state agencies, to protect Fort Monroe and its historic, cultural, and natural assets by carefully implementing the plans, stipulations, requirements, and obligations under the Programmatic Agreement for nonfederal lands following the transfer of properties from the United States Army to the Commonwealth.

"Trustees" means the members of the Board of Trustees of the Authority.

## CHAPTER 39

*An Act to amend and reenact §§ 9.1-184 and 22.1-79.4 of the Code of Virginia, relating to the Virginia Center for School and Campus Safety; threat assessment; case management tool.*

[S 1213]

Approved February 19, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 9.1-184 and 22.1-79.4 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-184. Virginia Center for School and Campus Safety created; duties.**

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;

2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;

3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;

4. *Develop a case management tool for the collection and reporting of data by threat assessment teams pursuant to § 22.1-79.4;*

5. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department;

~~5- 6.~~ Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;

~~6- 7.~~ Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;

~~7- 8.~~ Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;

~~8- 9.~~ Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;

~~9- 10.~~ Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth; and

~~10- 11.~~ In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students.

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

**§ 22.1-79.4. Threat assessment teams and oversight committees.**

A. Each local school board shall adopt policies for the establishment of threat assessment teams, including the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Virginia Center for School and Campus Safety (*the Center*) in accordance with § 9.1-184. Such policies shall include procedures for referrals to community services boards or health care providers for evaluation or treatment, when appropriate.

B. The superintendent of each school division may establish a committee charged with oversight of the threat assessment teams operating within the division, which may be an existing committee established by the division. The committee shall include individuals with expertise in human resources, education, school administration, mental health, and law enforcement.

C. Each division superintendent shall establish, for each school, a threat assessment team that shall include persons with expertise in counseling, instruction, school administration, and law enforcement. Threat assessment teams may be established to serve one or more schools as determined by the division superintendent. Each team shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self; (ii) identify members of the school community to whom threatening behavior should be reported; and (iii) implement policies adopted by the local school board pursuant to subsection A.

D. Upon a preliminary determination that a student poses a threat of violence or physical harm to self or others, a threat assessment team shall immediately report its determination to the division superintendent or his designee. The division superintendent or his designee shall immediately attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school division personnel from acting immediately to address an imminent threat.

E. Each threat assessment team established pursuant to this section shall *collect and report to the Center* quantitative data on its activities ~~according to guidance using the case management tool developed by the Department of Criminal Justice Services Center.~~

F. Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or need for assistance, a threat assessment team may obtain criminal history record information, as provided in §§ 19.2-389 and 19.2-389.1, and health records, as provided in § 32.1-127.1:03. No member of a threat assessment team shall redisclose any criminal history record information or health information

obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

## CHAPTER 40

*An Act to amend and reenact § 2.2-2452 of the Code of Virginia, relating to the Board of Veterans Services; membership and scope of responsibilities.*

[S 1241]

Approved February 19, 2019

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

**1. That § 2.2-2452 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2452. Board of Veterans Services; membership; terms; quorum; compensation; staff.**

A. The Board of Veterans Services (the Board) is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall have a total membership of ~~22~~ 26 members, including ~~five~~ seven legislative members, ~~14~~ 15 nonlegislative citizen members, and ~~three~~ four ex officio members. Members shall be appointed as follows: ~~three~~ four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; ~~two~~ three members of the Senate to be appointed by the Senate Committee on Rules; and ~~14~~ 15 nonlegislative citizen members to be appointed by the Governor. The Commissioner of the Department of Veterans Services, the Chairman of the Board of Trustees of the Veterans Services Foundation, ~~and~~ the Chairman of the Joint Leadership Council of Veterans Service Organizations, *and the Chairman of the Virginia War Memorial Foundation*, or their designees, shall serve ex officio with full voting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

In making appointments, the Governor shall endeavor to ensure a balanced geographical representation on the Board, while at the same time selecting appointees of such qualifications and experience as will allow them to develop reasonable and effective policy recommendations related to (i) the services provided to veterans of the Armed Forces of the United States and their eligible spouses, orphans, and dependents by the Department of Veterans Services *and (ii) the mission of the Virginia War Memorial.*

Legislative members and the Commissioner of the Department of Veterans Services shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no House member shall serve more than six consecutive two-year terms, and no Senate member shall serve more than three consecutive four-year terms. No nonlegislative citizen member shall serve more than two consecutive four-year terms; however, a nonlegislative citizen member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

B. The Board shall select a chairman and vice-chairman from its membership. The Commissioner of the Department of Veterans Services shall not be eligible to serve as chairman. The Board shall meet at least three times a year at such times as it deems appropriate or on call of the chairman. A majority of the members of the Board shall constitute a quorum.

C. The Board shall organize itself in such a way as to allow it to fulfill its powers and duties.

D. The Department of Veterans Services shall provide staff to assist the Board in its administrative, planning, and procedural duties.

**2. That the provisions of this act shall become effective on January 1, 2020.**

## CHAPTER 41

*An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, relating to Semiconductor Manufacturing Grant Fund; creation.*

[S 1370]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, as follows:**

### CHAPTER 22.12.

#### SEMICONDUCTOR MANUFACTURING GRANT FUND.

**§ 59.1-284.31. Semiconductor Manufacturing Grant Fund created.**

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

*"Capital investment" means an expenditure, or an asset transfer from a different qualified company site outside of the eligible city to a facility within an eligible city, by or on behalf of the qualified company on or after April 1, 2018, in real*

property, tangible personal property, or both, at a facility within an eligible city that has been capitalized or is subject to being capitalized. "Capital investment" may include (i) the purchase of land and the cost of infrastructure development and land improvements, (ii) a capital expenditure related to a leasehold interest in real property, and (iii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease.

"Eligible city" means the City of Manassas.

"Facility" means the building, group of buildings, or manufacturing, distribution, and research and development campus, including any related machinery and tools, furniture, fixtures, and equipment, in an eligible city that is owned, leased, licensed, occupied, or otherwise operated by the qualified company for use in the manufacture of, or research and development for, semiconductors and other electronic devices.

"Fund" means the Semiconductor Manufacturing Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company in an aggregate amount of up to \$70,000,000. Grant proceeds are intended to be used by the qualified company to pay or reimburse the costs of site preparation and infrastructure related to the facility.

"Memorandum of understanding" means a performance agreement or related document entered into on or before August 1, 2019, between a qualified company and the Commonwealth that sets forth the requirements for capital investment and the creation of new jobs for the qualified company.

"New job" means full-time employment at the facility measured at any time following June 30, 2018, for which the annual average wage is at least \$92,000, with an escalation factor for each year, that requires a minimum of 38 hours of an employee's time per week for the entire normal year, consisting of at least 48 weeks, of the qualified company's operations. Seasonal or temporary positions and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new jobs. Any new job must be in addition to the baseline number of existing full-time positions at the qualified company's facilities in the eligible city.

"Qualified company" means a semiconductor manufacturing company, and its affiliates, that manufactures and distributes semiconductors, that between April 1, 2018, and June 30, 2033, is expected to (i) make or cause to be made a capital investment at a facility of at least \$2.98 billion; (ii) create and maintain at least 1,106 new jobs at the facility related to, or supportive of, its manufacturing, distribution, and research and development functions; and (iii) establish and operate a research and development facility for research and product development in areas of interest to a semiconductor manufacturer, including research regarding unmanned systems and the "Internet of things."

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. There is hereby created in the state treasury a nonreverting fund to be known as the Semiconductor Manufacturing Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated to the Fund shall be paid into the state treasury and credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose to pay grant installments. Payment of such grant installments shall be made by check issued by the State Treasurer on warrant of the Comptroller. The Comptroller shall not draw any warrants to issue checks for Grant installments under this section without a specific appropriation for the same.

C. Subject to appropriation by the General Assembly, a qualified company shall be eligible to receive grant installments of \$50 million in fiscal year 2020 and \$20 million in fiscal year 2021. Such grant installments shall be paid to the qualified company from the Fund during each such fiscal year, contingent upon the qualified company's meeting the requirements set forth in the memorandum of understanding to provide security for any potential repayment of the grant, including a cash escrow.

D. A qualified company receiving a grant installment pursuant to this section shall provide evidence, satisfactory to the Secretary, annually of (i) the aggregate number of new jobs created and maintained as of the last day of the fiscal year, the payroll paid by the qualified company during the fiscal year, and the average annual wage of the new jobs in the fiscal year and (ii) the aggregate amount of the capital investment made during the fiscal year, including the extent to which such capital investment was or was not subject to the Virginia Retail Sales and Use Tax (§ 58.1-600 et seq.). The report and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than October 1 each year following the end of the prior fiscal year upon which the evidence is based.

E. The memorandum of understanding shall provide that if any annual report and evidence provided pursuant to subsection D indicates that the qualified company failed to meet certain targets for capital investment that is or is not subject to the Virginia retail sales and use tax, the average annual wage for new jobs, the number of new jobs, or the payroll paid for new jobs, the qualified company may be required to repay the Commonwealth a portion of the grant in an amount that reflects the value of the shortfall in the applicable target.

F. As a condition of receipt and retention of the grant, a qualified company shall make available to the Secretary for inspection all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt and retention of the grant as set forth herein and subject to the memorandum of understanding. All such documents appropriately identified by the qualified company shall be considered confidential and proprietary, and shall not be subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

## CHAPTER 42

*An Act to amend and reenact § 19.2-390.3 of the Code of Virginia, relating to Child Pornography Registry; contents of Registry; criminal investigations; report.*

[S 1379]

Approved February 19, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 19.2-390.3 of the Code of Virginia is amended and reenacted as follows:****§ 19.2-390.3. Child Pornography Registry; maintenance; access.**

A. The Office of the Attorney General, in cooperation with the Department of State Police, shall keep and maintain a Child Pornography Registry (*the Registry*) to be located within the State Police, separate and apart from all other records maintained by either department. The purpose of the Registry shall be to assist the efforts of law-enforcement agencies statewide to protect their communities from repeat child pornographers and to protect children from becoming victims of criminal offenders by aiding in identifying victims and perpetrators. Criminal justice agencies, including law-enforcement agencies, may request of the State Police a search and comparison of child pornography images contained within the Registry with those images obtained by criminal justice agencies during the course of official investigations.

B. The Registry shall include ~~images of sexually explicit visual material in any form including any picture, photograph, drawing, sculpture, motion picture film, digital image or similar visual representation, copies of all known or suspected "child pornography," as that term is defined in subsection A of § 18.2-374.1, obtained during the course of a criminal investigation, or presented as evidence and used in any conviction for any offense enumerated in §§ 18.2-374.1 and 18.2-374.1:1.~~

C. Registry information provided under this section shall be used for the purposes of the administration of criminal justice, *for victim identification*, or for the protection of the public in general and children in particular. Use of the information or the images contained therein for purposes not authorized by this section is prohibited and a willful violation of this section with the intent to harass or intimidate another ~~shall be punished as is~~ a Class 6 felony.

D. The Virginia Criminal Information Network and any form or document used by the Department of State Police to disseminate information from the Registry shall provide notice that any unauthorized possession, use, or dissemination of the information or images is a crime punishable as a Class 6 felony.

**2. That the Department of State Police, in cooperation with the Office of the Attorney General, shall submit a report detailing the implementation plan for changes to the Child Pornography Registry pursuant to this act to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committee on Appropriations and Senate Committee on Finance by January 1, 2020, as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents, and the report shall be posted on the General Assembly's website.**

## CHAPTER 43

*An Act to amend and reenact § 55-248.34:1 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; tenant's right of redemption.*

[S 1445]

Approved February 19, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 55-248.34:1 of the Code of Virginia is amended and reenacted as follows:****§ 55-248.34:1. Landlord's acceptance of rent with reservation.**

A. The landlord may accept full or partial payment of all rent and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55-248.38:2, provided that the landlord has stated in a written notice to the tenant that any and all amounts owed to the landlord by the tenant, including payment of any rent, damages, money judgment, award of attorney fees, and court costs, would be accepted with reservation and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. Such notice may be included in a written termination notice given by the landlord to the tenant in accordance with § 55-248.31, and if so included, nothing herein shall be construed by a court of law or otherwise as requiring such landlord to give the tenant subsequent written notice. If the dwelling unit is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, nothing herein shall be construed to require that written notice be given to any public agency paying a portion of the rent under the rental agreement. If a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable.

B. However, the tenant may pay or present to the court a redemption tender for payment of all rent due and owing as of the return date, including late charges, attorney fees and court costs, at or before the first return date on an action for unlawful detainer. For purposes of this section, "redemption tender" means a written commitment to pay all rent due and

owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of said return date.

C. If the tenant presents a redemption tender to the court at the return date, the court shall continue the action for unlawful detainer for 10 days following the return date for payment to the landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs and dismissal of the action upon such payment. Should the landlord not receive full payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, within 10 days of the return date, the court shall, without further evidence, grant to the landlord judgment for all amounts due and immediate possession of the premises.

D. In cases of unlawful detainer, a tenant may pay the landlord or ~~his attorney~~ *the landlord's attorney*, or pay into court, all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, and (v) costs of the proceeding as provided by law, at which time the unlawful detainer proceeding shall be dismissed. *If such payment has not been made as of the return date for the unlawful detainer, the tenant may pay to the landlord, the landlord's attorney, or the court all amounts claimed on the summons in unlawful detainer, including current rent, damages, late fees, costs of court, any civil recovery, attorney fees, and sheriff fees, no less than two business days before the date scheduled by the officer to whom the writ of eviction has been delivered to be executed. Any payments made by the tenant shall be by cashier's check, certified check, or money order.* A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental agreement or any renewal term thereof.

## CHAPTER 44

*An Act to amend and reenact §§ 55-79.83:1, 55-471.1, and 55-514.1 of the Code of Virginia, relating to common interest communities; dissemination of annual budget; reserve for capital components.*

[S 1538]

Approved February 19, 2019

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

**1. That §§ 55-79.83:1, 55-471.1, and 55-514.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-79.83:1. Annual budget; reserves for capital components.**

A. *Except to the extent provided in the condominium instruments, the executive organ shall, prior to the commencement of the fiscal year, make available to unit owners either (i) the annual budget of the unit owners' association or (ii) a summary of such annual budget.*

B. ~~Except to the extent otherwise provided in the condominium instruments and unless the condominium instruments impose more stringent requirements,~~ the executive organ shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components *as defined in § 55-79.41*;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive organ deems necessary to maintain reserves, as appropriate.

~~B. C.~~ C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the unit owners' association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components *as defined in § 55-79.41*;
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside, to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; ~~and~~

3. A ~~general~~ statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to this section ~~and the extent to which the unit owners' association is funding its reserve obligations consistent with the study currently in effect; and~~

4. *A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.*

**§ 55-471.1. Annual budget; reserves for capital components.**

A. *Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.*

B. ~~Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements,~~ the executive board shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components *as defined in § 55-426*;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

~~B. C.~~ To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components *as defined in § 55-426*;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; ~~and~~

3. A ~~general~~ statement describing the procedures used for ~~the~~ estimation and accumulation of cash reserves pursuant to this section and the extent to which the association is funding its reserve obligations consistent with the study currently in effect; *and*

4. *A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.*

**§ 55-514.1. Annual budget; reserves for capital components.**

A. *Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.*

B. Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements, the board of directors shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components *as defined in § 55-509*;

2. Review the results of that study at least annually to determine if reserves are sufficient; and

3. Make any adjustments the board of directors deems necessary to maintain reserves, as appropriate.

~~B. C.~~ To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitation:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components *as defined in § 55-509*;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside, to repair, replace, or restore capital components and the amount of the expected contribution to the reserve fund for that year; and

3. A ~~general~~ statement describing the procedures used for ~~the~~ estimation and accumulation of cash reserves pursuant to this section ~~and the extent to which the association is funding its reserve obligations consistent with the study currently in effect~~; *and*

4. *A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.*

**2. That the Common Interest Community Board shall develop guidelines for the development of reserve studies for capital components, including a list of capital components that should be addressed in a reserve study.**

## CHAPTER 45

*An Act to amend and reenact §§ 55-248.4 and 55-248.7 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; provisions made applicable to rental tenancy by operation of law in absence of written rental agreement.*

[S 1676]

Approved February 19, 2019

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

**1. That §§ 55-248.4 and 55-248.7 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-248.4. Definitions.**

When used in this chapter, unless expressly stated otherwise:

"Action" means recoupment, counterclaim, set off, or other civil suit and any other proceeding in which rights are determined, including without limitation actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Application deposit" means any refundable deposit of money, however denominated, including all money intended to be used as a security deposit under a rental agreement, or property, which is paid by a tenant to a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Application fee" means any nonrefundable fee, which is paid by a tenant to a landlord or managing agent for the purpose of being considered as a tenant for a dwelling unit. An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant. However, where an application is being made for a dwelling unit which is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, an application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing background, credit, or other pre-occupancy checks on the applicant.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any structure or that part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Commencement date of rental agreement" means the date upon which the tenant is entitled to occupy the dwelling unit as a tenant.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including, but not limited to, a manufactured home.

"Effective date of rental agreement" means the date upon which the rental agreement is signed by the landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

"Facility" means something that is built, constructed, installed or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or person authorized by the landlord to occupy the premises, who has the permission of the tenant to visit but not to occupy the premises.

"Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

"Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which such dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the name of such owner, lessor or sublessor. Such managing agent shall be subject to the provisions of § 16.1-88.03. Landlord shall not, however, include a community land trust as defined in § 55-221.1.

"Managing agent" means a person authorized by the landlord to act on behalf of the landlord under an agreement.

"Mold remediation in accordance with professional standards" means mold remediation of that portion of the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold, performed consistent with guidance documents published by the United States Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the American Conference of Governmental Industrial Hygienists (the Bioaerosols Manual), Standard Reference Guides of the Institute of Inspection, Cleaning and Restoration for Water Damage Restoration and Professional Mold Remediation, or any protocol for mold remediation prepared by an industrial hygienist consistent with said guidance documents.

"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building. However, nothing in this definition shall be construed to apply to any nonresidential space in such building.

"Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered limited liability partnerships or limited liability companies, or any lawful combination of natural persons permitted by law.

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice, which may be either a United States postal certificate of mailing or a certificate of service confirming such mailing prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has received a verbal notice of it, or from all of the facts and circumstances known to him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform another person whether or not the other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to show that the notice was given to the recipient of the notice.

"Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any combination thereof, and any other legal or commercial entity.

"Owner" means one or more persons or entities, jointly or severally, in whom is vested:

1. All or part of the legal title to the property, or

2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.

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

"Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

"Processing fee for payment of rent with bad check" means the processing fee specified in the rental agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn by the tenant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds.

"Readily accessible" means areas within the interior of the dwelling unit available for observation at the time of the move-in inspection that do not require removal of materials, personal property, equipment or similar items.

"Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental agreement, including prepaid rent paid more than one month in advance of the rent due date.

"Rental agreement" or "lease agreement" means all *rental* agreements, written or oral, and valid rules and regulations adopted under § 55-248.17 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

"Rental application" means the written application or similar document used by a landlord to determine if a prospective tenant is qualified to become a tenant of a dwelling unit. A landlord may charge an application fee as provided in this chapter and may request a prospective tenant to provide information that will enable the landlord to make such determination. The landlord may photocopy each applicant's driver's license or other similar photo identification, containing either the applicant's social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not photocopy a U.S. government-issued identification so long as to do so is a violation of Title 18 U.S.C. Part I, Chapter 33, § 701. The landlord may require that each applicant provide a social security number issued by the U.S. Social Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue Service, for the purpose of determining whether each applicant is eligible to become a tenant in the landlord's dwelling unit.

"Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. Major facility in the case of a bathroom means toilet, and either a bath or shower, and in the case of a kitchen means refrigerator, stove, or sink.

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the commencement date of the rental agreement. Security deposit shall not include a damage insurance policy or renter's insurance policy as those terms are defined in § 55-248.7:2 purchased by a landlord to provide coverage for a tenant.

"Single-family residence" means a structure, other than a multi-family residential structure, maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

"Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

"Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to the exclusion of others and shall include roomer. Tenant shall not include (i) an authorized occupant, (ii) a guest or invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental agreement but has no right to occupy a dwelling unit.

"Tenant records" means all information, including financial, maintenance, and other records about a tenant or prospective tenant, whether such information is in written or electronic form or other medium. A tenant may request copies of his tenant records pursuant to § 55-248.9:1.

"Utility" means electricity, natural gas, water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2, or a ratio utility billing system as defined in § 55-226.2.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the move-in inspection.

"Written notice" means notice given in accordance with § 55-248.6, including any representation of words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or other medium, retrievable in a perceivable form, and regardless of whether an electronic signature authorized by Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1 is affixed. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third party the responsibility of providing any written notice required by this chapter.

**§ 55-248.7. Terms and conditions of rental agreement; copy for tenant; accounting of rental payments.**

A. A landlord and tenant may include in a rental agreement, terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.

B. ~~In the absence of~~ *The landlord shall offer the tenant a written rental agreement; the tenant shall pay as rent the fair rental value for the use and occupancy containing the terms governing the rental of the dwelling unit and setting forth the terms and conditions of the landlord tenant relationship. Such written rental agreement shall be effective upon the date signed by the parties.*

C. *If a landlord does not offer a written rental agreement, the tenancy shall exist by operation of law, consisting of the following terms and conditions:*

1. *The provision of this chapter shall be applicable to the dwelling unit that is being rented;*
2. *The duration of the rental agreement shall be for 12 months and shall not be subject to automatic renewal, except in the event of a month-to-month lease as otherwise provided for under subsection C of § 55-248.37;*
3. *Rent shall be paid in 12 equal periodic installments in an amount agreed upon by the landlord and the tenant and if no amount is agreed upon, the installments shall be at fair market rent;*

4. Rent payments shall be due on the first day of each month during the tenancy and shall be considered late if not paid by the fifth of the month;

5. If the rent is paid by the tenant after the fifth day of any given month, the landlord shall be entitled to charge a late charge as provided in this chapter;

6. The landlord may collect a security deposit not to exceed an amount equal to two months of rent; and

7. The parties may enter into a written rental agreement at any time during the 12-month tenancy created by this subsection.

~~Rent D.~~ Except as provided in the written rental agreement, or as provided in subsection C if no written agreement is offered, rent shall be payable without demand or notice at the time and place agreed upon by the parties. ~~Unless otherwise agreed~~ Except as provided in the written rental agreement, rent is payable at the place designated by the landlord and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

~~D.~~ ~~Unless the rental agreement fixes a definite term,~~ E. Except as provided in the written rental agreement or, as provided in subsection C if no written agreement is offered, the tenancy shall be week to week in case of a roomer who pays weekly rent, and in all other cases month to month. Terminations of tenancies shall be governed by § 55-248.37 unless the rental agreement provides for a different notice period.

~~E.~~ F. If the rental agreement contains any provision whereby the landlord may approve or disapprove a sublessee or assignee of the tenant, the landlord shall within 10 business days of receipt by him of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days shall be deemed evidence of his approval.

~~F.~~ G. A copy of any written rental agreement signed by both the tenant and the landlord shall be provided to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement shall not affect the validity of the agreement.

~~G.~~ H. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

~~H.~~ I. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the tenant pays rent in the form of cash or money order.

## CHAPTER 46

*An Act to amend and reenact § 19.2-245.1 of the Code of Virginia, relating to forgery; venue.*

[H 1751]

Approved February 19, 2019

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

**1. That § 19.2-245.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-245.1. Forgery; where prosecuted.**

If any person commits forgery, that forgery may be prosecuted in any county or city (i) where the writing was forged, or where the same was used or passed, or attempted to be used or passed, or deposited or placed with another person, firm, association, or corporation either for collection or credit for the account of any person, firm, association, or corporation ~~or~~; (ii) where the writing is found in the possession of the defendant; or (iii) where an issuer, acquirer, or account holder sustained a financial loss as a result of the offense.

## CHAPTER 47

*An Act to amend and reenact § 8.01-53 of the Code of Virginia, relating to wrongful death beneficiaries; parents of the decedent.*

[H 1767]

Approved February 19, 2019

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

**1. That § 8.01-53 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-53. Class and beneficiaries; when determined.**

A. The damages awarded pursuant to § 8.01-52 shall be distributed as specified under § 8.01-54 to (i) the surviving spouse, children of the deceased and children of any deceased child of the deceased, *and the parents of the decedent if any of such parents, within 12 months prior to the decedent's death, regularly received support or regularly received services from the decedent for necessities, including living expenses, food, shelter, health care expenses, or in-home assistance or*

care, or (ii) if there be none such, then to the parents, brothers and sisters of the deceased, and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (iii) if the decedent has left both surviving spouse and parent or parents, but no child or grandchild, the award shall be distributed to the surviving spouse and such parent or parents or (iv) if there are survivors under clause (i) or clause (iii), the award shall be distributed to those beneficiaries and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (v) if no survivors exist under clause (i), (ii), (iii), or (iv), the award shall be distributed in the course of descents as provided for in § 64.2-200. Provided, however, no parent whose parental rights and responsibilities have been terminated by a court of competent jurisdiction or pursuant to a permanent entrustment agreement with a child welfare agency shall be eligible as a beneficiary under this section. For purposes of this section, a relative is any person related to the decedent by blood, marriage, or adoption and also includes a stepchild of the decedent.

B. The class and beneficiaries thereof eligible to receive such distribution shall be fixed (i) at the time the verdict is entered if the jury makes the specification, or (ii) at the time the judgment is rendered if the court specifies the distribution.

C. A beneficiary may renounce his interest in any claim brought pursuant to § 8.01-50 and, in such event, the damages shall be distributed to the beneficiaries in the same class as the renouncing beneficiary or, if there are none, to the beneficiaries in any subsequent class in the order of priority set forth in subsection A.

**2. That the provisions of this act shall apply only to causes of action arising on or after July 1, 2019.**

## CHAPTER 48

*An Act to amend and reenact §§ 8.01-654, 8.01-658, and 8.01-662 of the Code of Virginia and to repeal §§ 8.01-656, 8.01-657, and 8.01-659 of the Code of Virginia, relating to habeas corpus.*

[S 1069]

Approved February 19, 2019

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

**1. That §§ 8.01-654, 8.01-658, and 8.01-662 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-654. When and where petition filed; what petition to contain.**

A. 1. ~~The A petition for a writ of habeas corpus ad subjiciendum shall be granted forthwith by~~ *may be filed in the Supreme Court or any circuit court, to any person who shall apply for the same by petition,* showing by affidavits or other evidence ~~probable cause to believe that he~~ *the petitioner* is detained without lawful authority.

2. A petition for writ of habeas corpus ad subjiciendum, other than a petition challenging a criminal conviction or sentence, shall be brought within one year after the cause of action accrues. A habeas corpus petition attacking a criminal conviction or sentence, except as provided in § 8.01-654.1 for cases in which a death sentence has been imposed, shall be filed within two years from the date of final judgment in the trial court or within one year from either final disposition of the direct appeal in state court or the time for filing such appeal has expired, whichever is later.

B. 1. With respect to any such petition filed by a petitioner ~~held whose detention originated~~ under criminal process, and subject to the provisions of subsection C of this section and of § 17.1-310, only the circuit court ~~which that~~ entered the original judgment ~~or order of conviction or convictions resulting in the detention~~ complained of in the petition shall have authority to issue writs of habeas corpus. If a district court entered the original judgment ~~or order of conviction or convictions resulting in the detention~~ complained of in the petition, only the circuit court for the city or county wherein the district court sits shall have authority to issue writs of habeas corpus. Hearings on such petition, where granted in the circuit court, may be held at any circuit court within the same circuit as the circuit court in which the petition was filed, as designated by the judge thereof.

2. Such petition shall contain all allegations the facts of which are known to petitioner at the time of filing and such petition shall enumerate all previous applications and their disposition. No writ shall be granted on the basis of any allegation the facts of which petitioner had knowledge at the time of filing any previous petition. The provisions of this section shall not apply to a petitioner's first petition for a writ of habeas corpus when the sole allegation of such petition is that the petitioner was deprived of the right to pursue an appeal from a final judgment of conviction or probation revocation, except that such petition shall contain all facts pertinent to the denial of appeal that are known to the petitioner at the time of the filing, and such petition shall certify that the petitioner has filed no prior habeas corpus petitions attacking the conviction or probation revocation.

3. Such petition may allege detention without lawful authority through challenge to a conviction, although the sentence imposed for such conviction is suspended or is to be served subsequently to the sentence currently being served by petitioner.

4. In the event the allegations of illegality of the petitioner's detention can be fully determined on the basis of recorded matters, the court may make its determination whether such writ should issue on the basis of the record.

5. The court shall give findings of fact and conclusions of law following a determination on the record or after hearing, to be made a part of the record and transcribed.

6. If petitioner alleges as a ground for illegality of his detention the inadequacy of counsel, he shall be deemed to waive his privilege with respect to communications between such counsel and himself to the extent necessary to permit a full and fair hearing for the alleged ground.

C. 1. With respect to any such petition filed by a petitioner held under the sentence of death, and subject to the provisions of this subsection, the Supreme Court shall have exclusive jurisdiction to consider and award writs of habeas corpus. The circuit court which entered the judgment order setting the sentence of death shall have authority to conduct an evidentiary hearing on such a petition only if directed to do so by order of the Supreme Court.

2. Hearings conducted in a circuit court pursuant to an order issued under the provisions of subdivision 1 of this subsection shall be limited in subject matter to the issues enumerated in the order.

3. The circuit court shall conduct such a hearing within 90 days after the order of the Supreme Court has been received and shall report its findings of fact and recommend conclusions of law to the Supreme Court within 60 days after the conclusion of the hearing. Any objection to the report of the circuit court must be filed in the Supreme Court within 30 days after the report is filed.

**§ 8.01-658. When and from whom response required; dismissal of habeas petition without prejudice.**

A. ~~The writ shall be served on the person to whom it is directed or, in his absence from the place where the petitioner is confined,~~ Except as may be provided in the Rules of Supreme Court of Virginia, no response to a petition for a writ of habeas corpus shall be required except upon an order of the court, directed to the person in whose custody the petitioner is detained or on the person having the immediate or potential custody of him, and made returnable as soon as may be before the court ordering the same.

B. *When the petition challenges a criminal conviction or sentence:*

1. If the petitioner is in jail, prison, or other actual physical restraint due to the conviction or sentence he is attacking, the named respondent shall be (i) the Director of the Department of Corrections or the warden or superintendent of the state correctional facility where the petitioner is detained if the ~~sentence is one year or more~~ *petitioner has been committed to, or is subject to transfer to, the Department of Corrections* or (ii) the sheriff or superintendent of a local or regional jail facility if the ~~petitioner's sentence is less than one year~~ *will be served in such local or regional jail facility.*

2. If the petitioner is on probation or parole due to the conviction or sentence he is attacking, the named respondent shall be the probation or parole officer responsible for supervising the applicant or the official in charge of the parole or probation agency.

3. If a petitioner has a suspended sentence and is not under supervision by a probation or parole officer, the respondent shall be (i) the local sheriff if the judgment of conviction the petitioner challenges has a suspended sentence of less than one year or (ii) the Director of the Department of Corrections if the judgment of conviction the petitioner challenges has a suspended sentence of one year or more.

~~B.~~ C. The petitioner shall name a proper party respondent, and if he fails to do so, the court ~~shall~~ *may* allow amendment of the petition. If the petitioner fails to amend the petition by naming a proper party respondent in the time provided by the court, the court in which the petition is filed shall dismiss the habeas petition without prejudice.

D. *If the court in which the petition was filed determines that the petitioner's allegations present a case for the determination of unrecorded matters of fact relating to a previous judicial proceeding in any circuit court, the court may transfer the petition to the circuit court in which such judicial proceeding occurred, or if the petition was filed in the Supreme Court, the Court may require the circuit court in which such judicial proceeding occurred to conduct an evidentiary hearing, in accordance with such procedures as may be set forth in the Rules of Supreme Court of Virginia.*

**§ 8.01-662. Judgment of court or judge trying it; payment of costs and expenses when petition denied.**

After hearing the matter both upon the ~~return~~ *response* and any other evidence, the court ~~before whom the petitioner is brought~~ shall either discharge or remand ~~him~~ *the petitioner*, grant ~~him~~ *any other relief to which he is entitled*, or admit him to bail and adjudge the cost of the proceeding, including the charge for transporting the prisoner.

~~Provided,~~ *provided,* however, that if the petition is denied, the costs and expenses of the proceeding and the ~~attorney's~~ *attorney's* fees of any attorney appointed to represent the petitioner shall be assessed against the petitioner. If such cost, expenses, and fees are collected, they shall be paid to the Commonwealth.

*When relief is granted upon a petition for a writ of habeas corpus, the order granting relief on the writ shall be served on the respondent and the petitioner. Service may, in the court's discretion, be accomplished by personal service or by transmitting a certified copy of the order to the parties via regular or certified mail, a third-party commercial carrier, or electronic delivery.*

**2. That §§ 8.01-656, 8.01-657, and 8.01-659 of the Code of Virginia are repealed.**

**CHAPTER 49**

*An Act to amend and reenact §§ 55-2, 55-57, 55-76, 55-77, 55-79, and 58.1-807 of the Code of Virginia, relating to lease agreements; requirements; emergency.*

[S 1422]

Approved February 19, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-2, 55-57, 55-76, 55-77, 55-79, and 58.1-807 of the Code of Virginia are amended and reenacted as follows:

**§ 55-2. When deed or will necessary to convey estate; no parol partition or gift valid.**

A. No estate of inheritance or freehold ~~or for a term of more than five years~~ in lands shall be conveyed unless by deed or will, nor shall any voluntary partition of lands by coparceners, having such an estate therein, be made, except by deed; nor shall any right to a conveyance of any such estate or term in land accrue to the donee of the land or those claiming under him, under a gift or promise of gift of the same not in writing, although such gift or promise be followed by possession thereunder and improvement of the land by the donee or those claiming under him.

B. *Any lease agreement or other written document conveying a non-freehold estate in land, which was entered into before, and which remains in effect as of, the effective date of this subsection, or which is entered into after the effective date of this subsection, shall not be invalid, unenforceable, or subject to repudiation by the parties to such agreement on account of, or otherwise affected by, the fact that the conveyance of the estate was not in the form of a deed.*

**§ 55-57. Form of a lease.**

A ~~deed~~ of lease may be made in the following form, or to the same effect: "This ~~deed~~ lease, made the \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, between (herein insert the names of parties), witnesseth: that the said \_\_\_\_\_ ~~doth~~ does (or do) demise unto the said \_\_\_\_\_, his personal representative and assigns, all (here describe the property) from the \_\_\_\_ day of \_\_\_\_\_, for the term of \_\_\_\_\_, thence ensuing, yielding therefor during the said term the rent of (here state the rent and mode of payment). Witness the following signature ~~and seal~~ (or signatures ~~and seals~~)."

**§ 55-76. Of lessee "to pay the rent" and "to pay the taxes."**

In a ~~deed~~ of lease a covenant by the lessee "to pay the rent" shall have the effect of a covenant that the rent reserved by the ~~deed~~ lease shall be paid to the lessor, or those entitled under him, in the manner therein mentioned; and a covenant by him "to pay the taxes" shall have the effect of a covenant that all the taxes, levies, and assessments upon the demised premises, or upon the lessor on account thereof, shall be paid by the lessee or those claiming under him.

**§ 55-77. "That he will not assign, etc.," and "that he will leave the premises in good repair."**

In a ~~deed~~ of lease a covenant by the lessee that "he will not assign without leave" shall have the same effect as a covenant that the lessee will not, during the term, assign, transfer or set over the premises, or any part thereof, to any person without the consent, in writing, of the lessor, his representative or assigns. And a covenant by him that "he will leave the premises in good repair" shall, subject to the qualifications of § 55-226, have the same effect as a covenant that the demised premises will, at the expiration or other sooner determination of the term, be peaceably surrendered and yielded up unto the lessor, his representatives or assigns, in good and substantial repair and condition, reasonable wear and tear excepted.

**§ 55-79. Effect of provision for reentry by lessor.**

If in a ~~deed~~ of lease it ~~be~~ is provided that "the lessor may reenter for default of \_\_\_\_ days in the payment of rent, or for the breach of covenants," it shall have the effect of an agreement that if the rent reserved, or any part thereof, be unpaid for such number of days after the day on which it ought to have been paid, or if any of the other covenants on the part of the lessee, his personal representative or assigns be broken, then, in either of such cases, the lessor, or those entitled in his place at any time afterwards, into and upon the demised premises, or any part thereof, in the name of the whole, may reenter, and the same again have, repossess and enjoy, as of his or their former estate.

**§ 58.1-807. Contracts generally; leases.**

A. Except as hereinafter provided, on every contract or memorandum thereof relating to real or personal property admitted to record, a recordation tax is hereby levied at the rate of 25 cents on every \$100 or fraction thereof of the consideration or value contracted for.

B. The recordation of a ~~deed~~ of lease for a term of years, or assignment of the lessee's interest therein, or memorandum thereof, shall be taxed according to the provisions of this section, unless provided otherwise in § 58.1-809 or unless the annual rental, multiplied by the term for which the lease runs, or remainder thereof, equals or exceeds the actual value of the property leased. In such cases the tax for recording the ~~deed~~ of lease shall be based upon the actual value of the property at the date of lease, including the value of any realty required by the terms of the lease to be constructed thereon by the lessor.

C. The recordation of an assignment of the lessor's interest in a lease, or memorandum thereof, shall be taxed according to the provisions of this section, unless the assignment of the lessor's interest in the lease is to provide additional security for an obligation of the lessor on which the tax has been previously paid, or the assignment of the lessor's interest is made to the person who owns the property which is subject to the lease. In such cases there shall be no tax for recording the lessor's assignment of the lease.

D. Notwithstanding the other provisions of this section, the tax on the recordation of leases of oil and gas rights shall be \$25. The tax on the recordation of leases of coal and other mineral rights shall be \$50.

E. Notwithstanding the other provisions of this section, the tax on the recordation of leases of outdoor advertising signs owned by a person engaged in the business of outdoor advertising licensed by the Virginia Department of Transportation pursuant to § 33.2-1209 shall be \$25.

F. Notwithstanding the other provisions of this section, the tax on the recordation of a lease of a communications tower or a communications tower site shall be \$75; the tax on the recordation of each lease to affix any communications equipment or antenna to any such tower or other structure shall be \$15.

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

## CHAPTER 50

*An Act to amend the Code of Virginia by adding a section numbered 8.01-420.4:1, relating to deposition of corporate officer.*

[S 1457]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 8.01-420.4:1 as follows:**

**§ 8.01-420.4:1. Taking of depositions; corporate officers.**

A. For the purposes of this section, "officer" means the president, chief executive officer, chief operating officer, or chief financial officer of a publicly traded company or of a subsidiary of such company that employs 250 or more people.

B. In any action in which an officer's publicly traded company is a party, if a party issues a witness subpoena for the deposition of an officer prior to taking the deposition of a corporate representative pursuant to Supreme Court Rule 4:5(b)(6), and the officer, or company on the officer's behalf, files a motion for a protective order asserting that the discovery sought is obtainable from some other source that is more convenient, less burdensome, or less expensive, in order to defeat such motion for a protective order, the burden is on the party seeking the deposition to show that (i) the officer's deposition is reasonably calculated to lead to the discovery of admissible evidence, (ii) the officer may have personal knowledge of discoverable information that cannot reasonably be discovered through other means, and (iii) a deposition of a representative other than the officer or other methods of discovery are unsatisfactory, insufficient, or inadequate.

C. A motion for a protective order filed pursuant to subsection B shall include one or more proposed corporate employees available to be deposed instead of the officer, along with a description of the employee's role in the corporation, his knowledge relevant to the subject matter of the litigation, and the source of such knowledge, provided that the party opposing the motion has stated with reasonable particularity the matters on which the officer's examination is requested.

D. If a protective order is issued and the party seeking the deposition subsequently learns that the requirements set forth in subsection B can be met, then the party seeking the deposition may file for modification or lifting of the protective order.

**2. That the provisions of § 8.01-420.4:1 of the Code of Virginia, as created by this act, apply to a subpoena issued pursuant to the Uniform Interstate Depositions and Discovery Act (§ 8.01-412.8 et seq. of the Code of Virginia) consistent with the provisions of subsection E of § 8.01-412.10 of the Code of Virginia.**

## CHAPTER 51

*An Act to amend the Code of Virginia by adding a section numbered 18.2-254.2, relating to specialty dockets; report.*

[S 1655]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 18.2-254.2 as follows:**

**§ 18.2-254.2. Specialty dockets; report.**

The Office of the Executive Secretary of the Supreme Court shall develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets established in accordance with the Rules of Supreme Court of Virginia. Each local specialty docket shall submit evaluative reports to the Office of the Executive Secretary as requested. The Office of the Executive Secretary of the Supreme Court of Virginia shall submit a report of such evaluations to the General Assembly by December 1 of each year.

## CHAPTER 52

*An Act to amend and reenact §§ 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia, relating to taxation of all-terrain vehicles, mopeds, and off-road motorcycles.*

[H 1679]

Approved February 19, 2019

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

**1. That §§ 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-2402. (Contingent expiration date) Levy.**

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price:

1. Three percent through midnight on June 30, 2013, four percent beginning July 1, 2013, through midnight on June 30, 2014, 4.05 percent beginning July 1, 2014, through midnight on June 30, 2015, 4.1 percent beginning July 1, 2015, through midnight on June 30, 2016, and 4.15 percent beginning on and after July 1, 2016, of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle sold in the Commonwealth; and if such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, sold by a Virginia dealer, or, if sold by anyone other than a Virginia dealer ~~and then, used or stored for use in the Commonwealth,~~ (a) in a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle. *In any city or county located within the Historic Triangle, as defined in § 58.1-603.2, an additional one percent tax shall be imposed in addition to the tax prescribed in clause (a) if such vehicle is an all-terrain vehicle, moped, or off-road motorcycle.*

2. Three percent through midnight on June 30, 2013, four percent beginning July 1, 2013, through midnight on June 30, 2014, 4.05 percent beginning July 1, 2014, through midnight on June 30, 2015, 4.1 percent beginning July 1, 2015, through midnight on June 30, 2016, and 4.15 percent beginning on and after July 1, 2016, of the sale price of each motor vehicle, not sold in Virginia but used or stored for use in the Commonwealth; or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. If such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. If such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, not sold in the Commonwealth but used or stored for use in the Commonwealth (a) in a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle. *In any city or county located within the Historic Triangle, as defined in § 58.1-603.2, an additional one percent tax shall be imposed in addition to the tax prescribed in clause (a) if such vehicle is an all-terrain vehicle, moped, or off-road motorcycle.* When any motor vehicle or manufactured home not sold in the Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to taxation at a rate exceeding zero percent shall be \$75, except as provided by those exemptions defined in § 58.1-2403. This subdivision shall not apply to any all-terrain vehicle, moped, or off-road motorcycle subject to taxation under this chapter.

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of the Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or Title 46.2 shall be guilty of a Class 3 misdemeanor.

E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to subdivision A 10 of § 46.2-1530, shall be subject to the tax.

**§ 58.1-2402. (Contingent effective date) Levy.**

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price:

1. Three percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle sold in the Commonwealth; and if such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, ~~sold by a Virginia dealer, or sold by anyone other than a Virginia dealer and then used or stored for use in the Commonwealth, (a) in a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a);~~ the tax shall be ~~5.3~~ five percent of the sales price of each such vehicle; *except that in any city or county located within the Historic Triangle, as defined in § 58.1-603.2, the tax shall be six percent of the sales price of each such vehicle.*

2. Three percent of the sale price of each motor vehicle, or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in the Commonwealth. If such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. If such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, not sold in the Commonwealth but used or stored for use in the Commonwealth ~~(a) in a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a);~~ the tax shall be ~~5.3~~ five percent of the sales price of each such vehicle, *except that in any city or county located within the Historic Triangle, as defined in § 58.1-603.2, the tax shall be six percent of the sales price of each such vehicle.* When any motor vehicle or manufactured home not sold in the Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to taxation at a rate exceeding zero percent shall be \$35, except as provided by those exemptions defined in § 58.1-2403. This subdivision shall not apply to any all-terrain vehicle, moped, or off-road motorcycle subject to taxation under this chapter.

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of the Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or Title 46.2 shall be guilty of a Class 3 misdemeanor.

E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to subdivision A 10 of § 46.2-1530, shall be subject to the tax.

#### **§ 58.1-2403. Exemptions.**

No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

1. Sold to or used by the United States government or any governmental agency thereof;
2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
3. Registered in the name of a volunteer fire department or volunteer emergency medical services agency not operated for profit;
4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;
5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;
6. A manufactured home permanently attached to real estate and included in the sale of real estate;
7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;
8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;

9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;

10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;

11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § 46.2-602.2;

12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;

13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;

15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;

16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of such vehicle a total loss claim;

17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;

18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code;

19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;

20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;

21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines, and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;

23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees holding title to the motor vehicle;

24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the Commonwealth by the lessee purchasing the vehicle;

26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person;

27. An all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, that ~~is being~~:

a. *Is being* titled for the first time in the Commonwealth and that the applicant (i) has owned for more than 12 months or (ii) has owned for less than 12 months and provides evidence of tax paid pursuant to Chapter 6 (§ 58.1-600 et seq.); or

b. *Would otherwise be eligible for an agricultural exemption, as provided in § 58.1-609.2;*

28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and that is primarily used by the organization to transport to markets for sale produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; or

29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or (ii) otherwise agreed to accept the return

of the vehicle due to a mechanical defect or failure and refunded to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of purchase.

**§ 58.1-2425. (Contingent expiration date) Disposition of revenues.**

A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402, and this section shall be distributed to and paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iii) the net additional revenues generated by increases in the rates of taxes under subdivisions A 1 and A 2 of § 58.1-2402 and generated by the increase in the minimum tax under subdivision A 3 of § 58.1-2402 pursuant to enactments of a Session of the General Assembly held in 2013 shall be deposited by the Comptroller into the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530; and (iv) all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a 4.3 percent tax shall be distributed in the same manner as the state sales and use tax pursuant to §§ 58.1-638 and 58.1-638.3, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; ~~and (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from a Virginia dealer, or purchased from anyone other than a Virginia dealer or outside of Virginia and then used or stored for use in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed pursuant to § 58.1-603.1; except that this;~~ (d) *if the all-terrain vehicle, moped, or off-road motorcycle was purchased from anyone other than a Virginia dealer or outside of Virginia and then used or stored for use in a county or city in a planning district described in § 58.1-603.1, an amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia equal to a 0.7 percent tax shall be distributed to the county or city in which the vehicle is used or stored for use; and (e) an amount equal to a one percent tax shall be distributed in a manner consistent with the provisions of subsection 1 of § 58.1-638 for each all-terrain vehicle, moped, and off-road motorcycle subject to the additional tax within the Historic Triangle under subdivision A 1 of § 58.1-2402.*

B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to clause (ii) of subsection A, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

**§ 58.1-2425. (Contingent effective date) Disposition of revenues.**

A. (Effective until October 1, 2018) Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; and (ii) effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs.

A. (Effective October 1, 2018) Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city,

town, or county wherein such manufactured home is to be situated as a dwelling; (ii) effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; and (iii) all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use ~~and~~; (b) an amount equal to a four percent tax shall be distributed in the same manner as the state sales and use tax pursuant to § 58.1-638, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; *and (c) an amount equal to a one percent tax shall be distributed in a manner consistent with the provisions of subsection I of § 58.1-638 for each all-terrain vehicle, moped, and off-road motorcycle subject to the additional tax within the Historic Triangle under subdivision A 1 of § 58.1-2402.*

B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to clause (ii) of subsection A of this section, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

**2. That the provisions of this act related to the additional tax imposed on vehicles in the Historic Triangle, as defined in § 58.1-603.2 of the Code of Virginia, shall be subject to the provisions of the fourth enactment of Chapter 850 of the Acts of Assembly of 2018.**

## CHAPTER 53

*An Act to amend and reenact § 58.1-1738 of the Code of Virginia, relating to motor vehicle rental tax.*

[H 1974]

Approved February 19, 2019

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

**1. That § 58.1-1738 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-1738. Administration of the tax.**

The tax on the rental of a motor vehicle shall be paid by the person renting such motor vehicle, collected by the rentor of such motor vehicle, and remitted to the Tax Commissioner on or before the twentieth day of the month following the month in which the gross proceeds from such rental were due. All of the responsibilities imposed on dealers in Chapter 6 (§ 58.1-600 et seq.) ~~of this title~~ shall apply to rentors for purposes of this article, *except the provision in subsection A of § 58.1-615 requiring a sales or use tax return to be filed when the dealer is not liable to remit to the Tax Commissioner any tax for the period covered by the return.* The tax on rental transactions in the Commonwealth shall apply regardless of the state for which a certificate of title is required.

The provisions of Chapter 6 (§ 58.1-600 et seq.) ~~of this title~~ shall apply to this article, mutatis mutandis, except as herein provided.

## CHAPTER 54

*An Act to amend the Code of Virginia by adding in Title 62.1 a chapter numbered 26, consisting of sections numbered 62.1-271 through 62.1-275, relating to Potomac Aquifer recharge monitoring: laboratory established; SWIFT Project.*

[H 2358]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding in Title 62.1 a chapter numbered 26, consisting of sections numbered 62.1-271 through 62.1-275, as follows:**

### CHAPTER 26.

#### POTOMAC AQUIFER RECHARGE MONITORING.

**§ 62.1-271. Definitions.**

*For the purposes of this chapter:*

*"Committee" means the Potomac Aquifer Recharge Oversight Committee established pursuant to § 62.1-272.*

*"Department" means the Department of Environmental Quality.*

*"HRSD" means the Hampton Roads Sanitation District.*

*"Laboratory" means the Potomac Aquifer Recharge Monitoring Laboratory established pursuant to § 62.1-274.*

"SWIFT Project" means the Sustainable Water Initiative for Tomorrow Project conducted by HRSD.

**§ 62.1-272. Potomac Aquifer Recharge Oversight Committee.**

A. The Potomac Aquifer Recharge Oversight Committee is established as an advisory board and shall consist of eight voting members and two nonvoting members:

1. The State Health Commissioner or his designee, who shall be a full-time employee of the Virginia Department of Health;

2. The Director of the Department of Environmental Quality or his designee, who shall be a full-time employee of the Department;

3. The Executive Director of the Hampton Roads Planning District Commission or his designee, who shall be a full-time employee of the Hampton Roads Planning District Commission;

4. The two Co-Directors of the Potomac Aquifer Recharge Monitoring Laboratory established pursuant to § 62.1-274;

5. The Director of the Occoquan Watershed Monitoring Laboratory, established pursuant to regulations adopted by the Board;

6. A Virginia citizen who is a full-time employee of a water authority or locality that depends on the Potomac Aquifer as a significant source of public drinking water;

7. A Virginia citizen who is a licensed physician engaged in medical practice within the Eastern Virginia Groundwater Management Area;

8. The Regional Administrator of Region III of the U.S. Environmental Protection Agency (EPA) or his designee, who shall be a full-time employee of EPA Region III and shall serve ex officio without voting privileges; and

9. The Director of the Virginia and West Virginia Water Science Center of the U.S. Geological Survey (USGS) or his designee, who shall be a full-time employee of USGS and shall serve ex officio without voting privileges.

The two Virginia citizen members shall be selected on the basis of merit without regard to political affiliation and shall, by character and reputation, reasonably be expected to inspire the highest degree of cooperation and confidence in the work of the Committee. Each citizen member shall be appointed by the Governor, subject to confirmation by the General Assembly, and shall be appointed for an initial term of two years ending July 1, 2021, and for a term of four years thereafter. Any vacancy of the seat of a citizen member other than by expiration of a term shall be filled by the Governor by appointment for the unexpired term.

B. The Director of the Department shall be the initial chairman of the Committee and shall serve an initial term as chairman until July 1, 2020. The Committee shall elect a chairman to serve thereafter from among any of the eight voting members. The chairman shall be elected to serve a one-year term ending the next July 1 or until his successor is elected. There shall be no limitation on the number of consecutive terms that a committee member may be elected to serve as chairman.

C. The Committee shall convene at least quarterly during the initial three years ending July 1, 2022, and shall convene at least once per calendar year thereafter.

**§ 62.1-273. Committee duties and functions.**

A. The Committee shall be responsible for ensuring that the SWIFT Project, including its effect on the Potomac Aquifer, is monitored independently.

B. The Committee shall periodically, but not less than every five years, obtain an evaluation of the work of the Potomac Aquifer Recharge Monitoring Laboratory by an independent panel of national experts convened under the auspices of the National Water Research Institute or a similar organization. The evaluation shall address (i) monitoring parameter selection procedures; (ii) analytical methods and screening techniques; (iii) monitoring locations, frequency, results, and interpretation; (iv) modeling activities; and (v) research activities.

C. Additional related activities of the Committee may include:

1. Ensuring that a monitoring program is developed and implemented for monitoring water quality, geological, aquifer pressure, land subsidence, and other SWIFT Project-related impacts;

2. Ensuring independent review of data concerning the quality of the final water produced by the SWIFT Project and upstream process control testing conducted by HRSD in the course of operating the SWIFT Project;

3. Ensuring that a continuous record of monitoring data is maintained and available;

4. Ensuring that projections are made of the effects of the SWIFT Project;

5. Ensuring that the Laboratory operations are separate, distinct, and independent from operations by HRSD;

6. Ensuring that research or modeling on aquifer science, managed aquifer recharge, water reuse treatment, wastewater treatment, and advanced treatment technology is conducted and coordinated with the appropriate stakeholders;

7. Ensuring that data on the status and performance of the SWIFT Project and on any changes in the condition of the aquifer due to the SWIFT Project are synthesized, reported, and submitted at least once a year to the relevant regulatory agencies and made available to localities, water authorities, the general public, and other stakeholders within the Eastern Virginia Groundwater Management Area;

8. Serving as a liaison with stakeholders in the Eastern Virginia Groundwater Management Area;

9. Ensuring that informational material related to the SWIFT Project is readily available to the public;

10. Ensuring that the Laboratory is established to fulfill the above responsibilities;

11. In the event that the Committee finds there to be, related to the SWIFT Project, an imminent danger to the environment, a public water supply, or public health, welfare, or safety, referring such matter to the State Water Control

Board for the potential issuance of an emergency order to cease injection or make changes pursuant to subdivisions (8a) and (8b) of § 62.1-44.15 or to the Virginia Department of Health for the potential issuance of an emergency order to cease injection or make changes pursuant to § 32.1-13 or 32.1-175; and

12. In the event that the Committee finds that SWIFT Project water does not meet HRSD standards for tasting events, directing HRSD to discontinue its use of SWIFT Project water in water tasting demonstrations or limited demonstration-scale promotional products.

D. The Committee may establish an advisory council to provide scientific and technical expertise in fields including aquifer science, managed aquifer recharge, wastewater treatment, advanced water treatment technology, water reuse, geology, geochemistry, hydrogeology, and related fields. The Committee may direct the advisory council to synthesize technical information for the Committee, provide recommendations related to monitoring SWIFT Project impacts, and provide other advice and support.

E. The authority granted to the Committee pursuant to this section shall not be construed to prohibit or limit the Department, the State Water Control Board, or the State Health Commissioner from taking any lawful action related to the SWIFT Project.

**§ 62.1-274. Potomac Aquifer Recharge Monitoring Laboratory.**

A. The Potomac Aquifer Recharge Monitoring Laboratory is established and shall be located at a suitable location in the Hampton Roads region as selected by Old Dominion University (ODU) and Virginia Polytechnic Institute and State University (VPI) and as approved by HRSD.

B. 1. The first Co-Director of the Laboratory (the ODU Director) shall be a member of the faculty of ODU who has appropriate technical and scientific knowledge and shall be appointed by the president of ODU with the concurrence of the Director of the Department and the State Health Commissioner.

2. The ODU Director shall be under the general supervision of the president of ODU and shall carry out specific duties imposed upon him by the president. The ODU Director also shall carry out the duties listed in this section and in so doing shall act at the direction of the Potomac Aquifer Recharge Oversight Committee established by § 62.1-272.

C. 1. The second Co-Director of the Laboratory (the VPI Director) shall be a member of the faculty of VPI who has appropriate technical and scientific knowledge and shall be appointed by the president of VPI with the concurrence of the Director of the Department and the State Health Commissioner.

2. The VPI Director shall be under the general supervision of the president of VPI and shall carry out specific duties imposed upon him by the president. The VPI Director also shall carry out the duties listed in this section and in so doing shall act at the direction of the Committee.

D. The ODU Director and the VPI Director shall coordinate with each other in efficiently and effectively carrying out the duties of the Laboratory.

E. Subject to the approval of the Committee, the Directors may apply for, accept, and expend grants, gifts, donations, and appropriated funds from public or private sources; employ personnel; and enter into contracts to carry out the purposes of this section.

F. The Laboratory shall work cooperatively with relevant technical experts as appropriate and necessary to carry out the purposes of this chapter, including experts at the Virginia Institute of Marine Science, The College of William and Mary in Virginia, Christopher Newport University, the University of Virginia, and other universities, agencies, and departments of the Commonwealth, and the U.S. Geological Survey.

G. The Laboratory shall:

1. Monitor the impact of the SWIFT Project on the Potomac Aquifer by reviewing and synthesizing relevant water quality data;

2. Identify needs and recommend options for filling gaps in the monitoring of the Potomac Aquifer, such as by recommending changes to monitoring locations and protocols;

3. Conduct sampling and analysis of SWIFT Project water and groundwater on a local scale near SWIFT Project injections to verify monitoring data reported by HRSD, and transmit the results of such analyses to the Director of the Department, the State Health Commissioner, and HRSD;

4. Generate, assimilate, interpret, manage, and consolidate data to help inform decision making related to the impact of the SWIFT Project on the Potomac Aquifer. These actions may include the creation of a clearinghouse for aquifer and SWIFT Project data and the synthesis and dissemination of information to various audiences, including the public and the scientific community; and

5. Advance understanding of the Potomac Aquifer, aquifer science, managed aquifer recharge, water reuse treatment technology, and advanced water treatment, through research, analysis, or modeling.

H. The Laboratory shall focus initially on meeting the demonstration-phase needs of the SWIFT Project; however, development of the Laboratory shall be planned in a manner to support its timely and cost-effective expansion to meet the increased needs associated with the phased full-scale implementation of the SWIFT Project.

**§ 62.1-275. Cessation of injection.**

A. HRSD shall operate and monitor the SWIFT Project advanced treatment process and recharge operations in accordance with any applicable permit or authorization issued by the U.S. Environmental Protection Agency at all times, including during the cessation of injection and the implementation of other required measures, when applicable, in accordance with the terms and conditions of the permitted contingency plan.

*B. If HRSD fails to comply with the requirements of any applicable permit or authorization issued by the U.S. Environmental Protection Agency, the State Water Control Board may issue to HRSD a special order or emergency special order pursuant to subdivisions (8a) and (8b) of § 62.1-44.15, or the State Health Commissioner may issue to HRSD an emergency order pursuant to § 32.1-13 or 32.1-175, directing HRSD to cease injections or make necessary corrections to the SWIFT Project's advanced treatment processes or recharge operations. This subsection shall not be construed to prohibit or limit the Department, the State Water Control Board, or the State Health Commissioner from taking any lawful action related to the SWIFT Project.*

**2. That the Potomac Aquifer Recharge Oversight Committee established by § 62.1-272 of the Code of Virginia, as created by this act, shall request from the Hampton Roads Sanitation District funding sufficient to conduct its activities, including the monitoring of the recharge of the Potomac Aquifer, until July 1, 2022. No later than July 1, 2021, the Committee shall develop a plan for funding such activities beginning July 1, 2022.**

## CHAPTER 55

*An Act to amend and reenact § 2.2-1509 of the Code of Virginia, relating to the requirement for the Governor's submission of bills requesting an authorization of additional bonded indebtedness.*

[S 1318]

Approved February 19, 2019

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

**1. That § 2.2-1509 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-1509. Budget Bill.**

A. On or before December 20 of the year immediately prior to the beginning of each regular session of the General Assembly held in an even-numbered year, the Governor also shall submit to the presiding officer of each house of the General Assembly, at the same time he submits "The Executive Budget," copies of a tentative bill for all proposed appropriations of the budget, for each year in the ensuing biennial appropriation period, which shall be known as "The Budget Bill." "The Budget Bill" shall be organized by function, primary agency, and proposed appropriation item and shall include an identification of, and authorization for, common programs and the appropriation of funds according to programs. Except as expressly provided in an appropriation act, whenever the amounts in a schedule for a single appropriation item are shown in two or more lines, the portions of the total amount shown on separate lines are for information purposes only and are not limiting. No such bill shall contain any appropriation the expenditure of which is contingent upon the receipt of revenues in excess of funds unconditionally appropriated.

B. The salary proposed for payment for the position of each cabinet secretary and administrative head of each agency and institution of the executive branch of state government shall be specified in "The Budget Bill," showing the salary ranges and levels proposed for such positions.

C. "The Budget Bill" shall include all proposed capital appropriations, including each capital project to be financed through revenue bonds or other debt issuance, the amount of each project, and the identity of the entity that will issue the debt.

~~D. Concurrently with the submission of "The Budget Bill," the Governor shall submit a tentative bill involving a also ensure a prefiled bill is submitted to the Chairman of the House Committee on Appropriations and the Chairman of the Senate Committee on Finance in accordance with the deadlines for prefiling under subdivision A 3 of § 30-19.3 for any request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to be made in whole or in part, from revenues or appropriations contained in "The Budget Bill."~~

E. On or before December 20 of the year immediately prior to the beginning of each regular session held in an odd-numbered year of the General Assembly, the Governor shall submit to the presiding officer of each house printed copies of all gubernatorial amendments proposed to the general appropriation act adopted in the immediately preceding even-numbered year session. In preparing the amendments, the Governor may obtain estimates in the manner prescribed in §§ 2.2-1504, 2.2-1505, and 2.2-1506. ~~On the same date he shall also submit a tentative bill during a the second year of the appropriation period, a~~ The Governor shall also ensure a prefiled bill is submitted to the Chairman of the House Committee on Appropriations and the Chairman of the Senate Committee on Finance in accordance with the deadlines for prefiling under subdivision A 3 of § 30-19.3 for any request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to be made in whole or in part, from revenues or appropriations contained in the proposed gubernatorial amendments.

F. The proposed capital appropriations or capital projects described in, or for which proposed appropriations are made pursuant to, this section shall include the capital outlay projects required to be included in "The Budget Bill" pursuant to § 2.2-1509.1. The Governor shall propose appropriations for such capital outlay projects in "The Budget Bill" in accordance with the minimum amount of funding and the designated sources of funding for such projects as required under § 2.2-1509.1.

## CHAPTER 56

*An Act to authorize the issuance of bonds, in an amount up to \$17,500,000 plus financing costs, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, for paying costs of acquiring, constructing, and equipping revenue-producing capital projects at institutions of higher education of the Commonwealth; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to provide for the sale of such bonds, and to issue notes to borrow money in anticipation of the issuance of the bonds; to provide for the pledge of the net revenues of such capital projects and the full faith, credit, and taxing power of the Commonwealth for the payment of such bonds; and to provide that the interest income on such bonds and notes shall be exempt from all taxation by the Commonwealth and any political subdivision thereof.*

[S 1319]

Approved February 19, 2019

Whereas, Article X, Section 9 (c) of the Constitution of Virginia provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including their enlargement or improvement, at, among others, institutions of higher education of the Commonwealth; and

Whereas, in accordance with Article X, Section 9 (c) of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of each of the capital projects identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Article X, Section 9 (c) of the Constitution of Virginia; now, therefore,

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

**1. §1. Title.**

*This act shall be known and may be cited as the "Commonwealth of Virginia Institutions of Higher Education Bond Act of 2019."*

**§ 2. Authorization of bonds and bond anticipation notes.**

*The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Institutions of Higher Education Bonds, Series ....." in an aggregate principal amount not exceeding \$17,500,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher education of the Commonwealth as follows:*

<i>Institution</i>	<i>Project Title</i>	<i>Amount</i>
<i>Radford University</i>	<i>Acquire Property for Campus Expansion</i>	<i>\$17,500,000</i>
<i>Total</i>		<i>\$17,500,000</i>

**§ 3. Application of proceeds.**

*The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs), shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of acquiring, constructing, renovating, enlarging, improving, and equipping the authorized capital projects, including financing costs. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.*

**§ 4. Details, sale of bonds and BANs.**

*Bonds and BANs shall be dated and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the*

authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding 30 years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement, and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth.

In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds Bond Anticipation Notes, Series ....."

#### § 5. Execution of bonds and BANs.

Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such bond or BAN, although at the date of such bond or BAN, such persons may not have been such officers.

#### § 6. Sources for payment of expenses.

All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from payments made by the institutions for which the capital projects were authorized in § 2, or from any other available funds as the Treasury Board shall determine.

#### § 7. Revenues.

The institution of higher education named in § 2 is hereby authorized (i) to fix, revise, charge, and collect rates, fees, and charges for or in connection with the use, occupancy, and services of each capital project named in § 2 or the system of which such capital project is a part and (ii) to pledge to the portion of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees, and charges and remaining after payment of the expenses of operating the project or system, as the case may be. The institution is further authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

#### § 8. Investments and contracts.

A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of bonds or BANs, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B.

#### § 9. Security for bonds and BANs.

The net revenues of the capital projects set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on the BANs or bonds to be paid or redeemed thereby. In the event

*the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.*

**§ 10. Exemption of interest from tax.**

*The bonds and BANs issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, or town, or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the participating institutions to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.*

**§ 11. Refunding bonds and BANs.**

*The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth and to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X, Section 9 (c) of the Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.*

**§ 12. Defeasance.**

*Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Article X, Section 9 (c) or (b), as the case may be, of the Constitution of Virginia.*

**§ 13. Severability.**

*The provisions of this act or the application thereof to any person or circumstance that are held invalid shall not affect the validity of other provisions or applications of this act which can be given effect without the invalid provisions or applications.*

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

## CHAPTER 57

*An Act to amend and reenact §§ 16.1-69.48:1 and 46.2-646 of the Code of Virginia, relating to dismissal of summons for expiration of vehicle registration; proof of compliance.*

[S 1383]

Approved February 19, 2019

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

**1. That §§ 16.1-69.48:1 and 46.2-646 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-69.48:1. Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.**

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to §§ 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251 or 19.2-303.2; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that incident. However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.573770);
2. Virginia Crime Victim-Witness Fund (.049180);
3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund) (.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.257353);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.764706);
2. Virginia Crime Victim-Witness Fund (.058824);
3. Regional Criminal Justice Training Academies Fund (.019608);
4. Courthouse Construction/Maintenance Fund (.039216);
5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

**§ 46.2-646. Expiration and renewal of registration.**

A. Every registration under this title, unless otherwise provided, shall expire on the last day of the twelfth month next succeeding the date of registration. Every registration, unless otherwise provided, shall be renewed annually on application by the owner and by payment of the fees required by law, the renewal to take effect on the first day of the month succeeding the date of expiration. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring registration if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, and (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.

B. All motor vehicles, trailers, and semitrailers registered in the Commonwealth shall, at the discretion of the Commissioner, be placed in a system of registration on a monthly basis to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve months of the year. All such motor vehicles, trailers, and semitrailers, unless otherwise provided, shall be registered for a period of twelve months. The registration shall be extended, at the discretion of the Commissioner, on receipt of appropriate prorated fees, as required by law, for a period of not less than one month nor more than eleven months as is necessary to distribute the registrations as equally as practicable on a monthly basis. The Commissioner shall, on request, assign to any owner or owners of two or more motor vehicles, trailers, or semitrailers the same registration period. The expiration date shall be the last day of the twelfth month or the last day of the designated month. Except for motor vehicles, trailers, and semitrailers registered for more than one year under subsection C of this section, every registration shall be renewed annually on application by the owner and by payment of fees required by law, the renewal to take effect on the first day of the succeeding month.

C. The Commissioner may offer, at his discretion, an optional multi-year registration for all motor vehicles, trailers, and semitrailers except for (i) those registered under the International Registration Plan and (ii) those registered as uninsured motor vehicles. When this option is offered and chosen by the registrant, all annual and twelve-month fees due at the time of registration shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

D. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons where proof of compliance with this section is provided to the court on or before the court date.

## CHAPTER 58

An Act to amend the Code of Virginia by adding in Title 62.1 a chapter numbered 26, consisting of sections numbered 62.1-271 through 62.1-275, relating to Potomac Aquifer recharge monitoring; laboratory established; SWIFT Project. [S 1414]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding in Title 62.1 a chapter numbered 26, consisting of sections numbered 62.1-271 through 62.1-275, as follows:**

## CHAPTER 26.

## POTOMAC AQUIFER RECHARGE MONITORING.

**§ 62.1-271. Definitions.**

For the purposes of this chapter:

"Committee" means the Potomac Aquifer Recharge Oversight Committee established pursuant to § 62.1-272.

"Department" means the Department of Environmental Quality.

"HRSD" means the Hampton Roads Sanitation District.

"Laboratory" means the Potomac Aquifer Recharge Monitoring Laboratory established pursuant to § 62.1-274.

"SWIFT Project" means the Sustainable Water Initiative for Tomorrow Project conducted by HRSD.

**§ 62.1-272. Potomac Aquifer Recharge Oversight Committee.**

A. The Potomac Aquifer Recharge Oversight Committee is established as an advisory board and shall consist of eight voting members and two nonvoting members:

1. The State Health Commissioner or his designee, who shall be a full-time employee of the Virginia Department of Health;

2. The Director of the Department of Environmental Quality or his designee, who shall be a full-time employee of the Department;

3. The Executive Director of the Hampton Roads Planning District Commission or his designee, who shall be a full-time employee of the Hampton Roads Planning District Commission;

4. The two Co-Directors of the Potomac Aquifer Recharge Monitoring Laboratory established pursuant to § 62.1-274;

5. The Director of the Occoquan Watershed Monitoring Laboratory, established pursuant to regulations adopted by the Board;

6. A Virginia citizen who is a full-time employee of a water authority or locality that depends on the Potomac Aquifer as a significant source of public drinking water;

7. A Virginia citizen who is a licensed physician engaged in medical practice within the Eastern Virginia Groundwater Management Area;

8. The Regional Administrator of Region III of the U.S. Environmental Protection Agency (EPA) or his designee, who shall be a full-time employee of EPA Region III and shall serve ex officio without voting privileges; and

9. The Director of the Virginia and West Virginia Water Science Center of the U.S. Geological Survey (USGS) or his designee, who shall be a full-time employee of USGS and shall serve ex officio without voting privileges.

The two Virginia citizen members shall be selected on the basis of merit without regard to political affiliation and shall, by character and reputation, reasonably be expected to inspire the highest degree of cooperation and confidence in the work of the Committee. Each citizen member shall be appointed by the Governor, subject to confirmation by the General Assembly, and shall be appointed for an initial term of two years ending July 1, 2021, and for a term of four years thereafter. Any vacancy of the seat of a citizen member other than by expiration of a term shall be filled by the Governor by appointment for the unexpired term.

B. The Director of the Department shall be the initial chairman of the Committee and shall serve an initial term as chairman until July 1, 2020. The Committee shall elect a chairman to serve thereafter from among any of the eight voting members. The chairman shall be elected to serve a one-year term ending the next July 1 or until his successor is elected. There shall be no limitation on the number of consecutive terms that a committee member may be elected to serve as chairman.

C. The Committee shall convene at least quarterly during the initial three years ending July 1, 2022, and shall convene at least once per calendar year thereafter.

**§ 62.1-273. Committee duties and functions.**

A. The Committee shall be responsible for ensuring that the SWIFT Project, including its effect on the Potomac Aquifer, is monitored independently.

B. The Committee shall periodically, but not less than every five years, obtain an evaluation of the work of the Potomac Aquifer Recharge Monitoring Laboratory by an independent panel of national experts convened under the auspices of the National Water Research Institute or a similar organization. The evaluation shall address (i) monitoring parameter selection procedures; (ii) analytical methods and screening techniques; (iii) monitoring locations, frequency, results, and interpretation; (iv) modeling activities; and (v) research activities.

C. Additional related activities of the Committee may include:

1. Ensuring that a monitoring program is developed and implemented for monitoring water quality, geological, aquifer pressure, land subsidence, and other SWIFT Project-related impacts;
2. Ensuring independent review of data concerning the quality of the final water produced by the SWIFT Project and upstream process control testing conducted by HRSD in the course of operating the SWIFT Project;
3. Ensuring that a continuous record of monitoring data is maintained and available;
4. Ensuring that projections are made of the effects of the SWIFT Project;
5. Ensuring that the Laboratory operations are separate, distinct, and independent from operations by HRSD;
6. Ensuring that research or modeling on aquifer science, managed aquifer recharge, water reuse treatment, wastewater treatment, and advanced treatment technology is conducted and coordinated with the appropriate stakeholders;
7. Ensuring that data on the status and performance of the SWIFT Project and on any changes in the condition of the aquifer due to the SWIFT Project are synthesized, reported, and submitted at least once a year to the relevant regulatory agencies and made available to localities, water authorities, the general public, and other stakeholders within the Eastern Virginia Groundwater Management Area;
8. Serving as a liaison with stakeholders in the Eastern Virginia Groundwater Management Area;
9. Ensuring that informational material related to the SWIFT Project is readily available to the public;
10. Ensuring that the Laboratory is established to fulfill the above responsibilities;
11. In the event that the Committee finds there to be, related to the SWIFT Project, an imminent danger to the environment, a public water supply, or public health, welfare, or safety, referring such matter to the State Water Control Board for the potential issuance of an emergency order to cease injection or make changes pursuant to subdivisions (8a) and (8b) of § 62.1-44.15 or to the Virginia Department of Health for the potential issuance of an emergency order to cease injection or make changes pursuant to § 32.1-13 or 32.1-175; and
12. In the event that the Committee finds that SWIFT Project water does not meet HRSD standards for tasting events, directing HRSD to discontinue its use of SWIFT Project water in water tasting demonstrations or limited demonstration-scale promotional products.

D. The Committee may establish an advisory council to provide scientific and technical expertise in fields including aquifer science, managed aquifer recharge, wastewater treatment, advanced water treatment technology, water reuse, geology, geochemistry, hydrogeology, and related fields. The Committee may direct the advisory council to synthesize technical information for the Committee, provide recommendations related to monitoring SWIFT Project impacts, and provide other advice and support.

E. The authority granted to the Committee pursuant to this section shall not be construed to prohibit or limit the Department, the State Water Control Board, or the State Health Commissioner from taking any lawful action related to the SWIFT Project.

#### **§ 62.1-274. Potomac Aquifer Recharge Monitoring Laboratory.**

A. The Potomac Aquifer Recharge Monitoring Laboratory is established and shall be located at a suitable location in the Hampton Roads region as selected by Old Dominion University (ODU) and Virginia Polytechnic Institute and State University (VPI) and as approved by HRSD.

B. 1. The first Co-Director of the Laboratory (the ODU Director) shall be a member of the faculty of ODU who has appropriate technical and scientific knowledge and shall be appointed by the president of ODU with the concurrence of the Director of the Department and the State Health Commissioner.

2. The ODU Director shall be under the general supervision of the president of ODU and shall carry out specific duties imposed upon him by the president. The ODU Director also shall carry out the duties listed in this section and in so doing shall act at the direction of the Potomac Aquifer Recharge Oversight Committee established by § 62.1-272.

C. 1. The second Co-Director of the Laboratory (the VPI Director) shall be a member of the faculty of VPI who has appropriate technical and scientific knowledge and shall be appointed by the president of VPI with the concurrence of the Director of the Department and the State Health Commissioner.

2. The VPI Director shall be under the general supervision of the president of VPI and shall carry out specific duties imposed upon him by the president. The VPI Director also shall carry out the duties listed in this section and in so doing shall act at the direction of the Committee.

D. The ODU Director and the VPI Director shall coordinate with each other in efficiently and effectively carrying out the duties of the Laboratory.

E. Subject to the approval of the Committee, the Directors may apply for, accept, and expend grants, gifts, donations, and appropriated funds from public or private sources; employ personnel; and enter into contracts to carry out the purposes of this section.

F. The Laboratory shall work cooperatively with relevant technical experts as appropriate and necessary to carry out the purposes of this chapter, including experts at the Virginia Institute of Marine Science, The College of William and Mary in Virginia, Christopher Newport University, the University of Virginia, and other universities, agencies, and departments of the Commonwealth, and the U.S. Geological Survey.

G. The Laboratory shall:

1. Monitor the impact of the SWIFT Project on the Potomac Aquifer by reviewing and synthesizing relevant water quality data;

2. Identify needs and recommend options for filling gaps in the monitoring of the Potomac Aquifer, such as by recommending changes to monitoring locations and protocols;

3. Conduct sampling and analysis of SWIFT Project water and groundwater on a local scale near SWIFT Project injections to verify monitoring data reported by HRSD, and transmit the results of such analyses to the Director of the Department, the State Health Commissioner, and HRSD;

4. Generate, assimilate, interpret, manage, and consolidate data to help inform decision making related to the impact of the SWIFT Project on the Potomac Aquifer. These actions may include the creation of a clearinghouse for aquifer and SWIFT Project data and the synthesis and dissemination of information to various audiences, including the public and the scientific community; and

5. Advance understanding of the Potomac Aquifer, aquifer science, managed aquifer recharge, water reuse treatment technology, and advanced water treatment, through research, analysis, or modeling.

H. The Laboratory shall focus initially on meeting the demonstration-phase needs of the SWIFT Project; however, development of the Laboratory shall be planned in a manner to support its timely and cost-effective expansion to meet the increased needs associated with the phased full-scale implementation of the SWIFT Project.

**§ 62.1-275. Cessation of injection.**

A. HRSD shall operate and monitor the SWIFT Project advanced treatment process and recharge operations in accordance with any applicable permit or authorization issued by the U.S. Environmental Protection Agency at all times, including during the cessation of injection and the implementation of other required measures, when applicable, in accordance with the terms and conditions of the permitted contingency plan.

B. If HRSD fails to comply with the requirements of any applicable permit or authorization issued by the U.S. Environmental Protection Agency, the State Water Control Board may issue to HRSD a special order or emergency special order pursuant to subdivisions (8a) and (8b) of § 62.1-44.15, or the State Health Commissioner may issue to HRSD an emergency order pursuant to § 32.1-13 or 32.1-175, directing HRSD to cease injections or make necessary corrections to the SWIFT Project's advanced treatment processes or recharge operations. This subsection shall not be construed to prohibit or limit the Department, the State Water Control Board, or the State Health Commissioner from taking any lawful action related to the SWIFT Project.

**2. That the Potomac Aquifer Recharge Oversight Committee established by § 62.1-272 of the Code of Virginia, as created by this act, shall request from the Hampton Roads Sanitation District funding sufficient to conduct its activities, including the monitoring of the recharge of the Potomac Aquifer, until July 1, 2022. No later than July 1, 2021, the Committee shall develop a plan for funding such activities beginning July 1, 2022.**

## CHAPTER 59

*An Act to designate the bridge on Meadow Road over Interstate 64 at mile marker 202 in Henrico County the "Trooper Mark Barrett Memorial Bridge."*

[S 1690]

Approved February 19, 2019

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

**1. § 1.** *The bridge on Meadow Road over Interstate 64 at mile marker 202 in Henrico County is hereby designated the "Trooper Mark Barrett Memorial Bridge." The Department of Transportation shall place and maintain appropriate markers indicating the designation of this bridge. This designation shall not affect any other designation heretofore or hereafter applied to this bridge.*

## CHAPTER 60

*An Act to amend the Code of Virginia by adding in Chapter 21 of Title 23.1 a section numbered 23.1-2104, relating to Radford University; authority to establish Radford University-Roanoke Division.*

[H 2181]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding in Chapter 21 of Title 23.1 a section numbered 23.1-2104 as follows:**

**§ 23.1-2104. Authority to establish Radford University-Roanoke Division.**

A. In recognition of the fact that maintaining an innovative academic health center in Roanoke addresses the increased health care training needs in the Commonwealth, the board may establish the Radford University-Roanoke Division (the Division) through the acquisition of Jefferson College of Health Sciences, a nonprofit private institution wholly owned and operated by Carilion Clinic.

B. Upon establishment of the Division, the board may (i) exercise the same powers with respect to the operation of the Division as are vested in the board regarding the University and (ii) offer at the Division all programs of instruction offered

by Jefferson College of Health Sciences at the time of acquisition, including associate-degree programs. However, the board shall cease to offer such associate-degree programs at the Division when the Council, the nationally recognized regional accreditation body, and the programmatic accreditation body approve Virginia Western Community College to offer such associate-degree programs in the Roanoke region. Nothing in this section shall authorize the University to offer any other associate-degree programs in the Roanoke region.

C. Notwithstanding any other provision of law, the University may award merit-based and need-based institutional aid to students enrolled at the Division in a manner that is consistent with practices at the former Jefferson College of Health Sciences.

## CHAPTER 61

*An Act to amend the Code of Virginia by adding a section numbered 22.1-137.3, relating to school safety procedures; emergency situations; annual training.*

[S 1215]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 22.1-137.3 as follows:**

**§ 22.1-137.3. School safety procedures; emergency situations; annual training.**

*In addition to complying with the requirements for drills set forth in §§ 22.1-137, 22.1-137.1, and 22.1-137.2, each school board shall develop training on safety procedures in the event of an emergency situation on school property. Such training shall be delivered to each student and employee in each school at least once each school year.*

**2. That the Board of Education shall develop guidelines for the development and delivery of training required by this act.**

## CHAPTER 62

*An Act to amend and reenact § 22.1-3 of the Code of Virginia, relating to military families; relocation to the Commonwealth; student registration.*

[S 1249]

Approved February 19, 2019

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

**1. That § 22.1-3 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-3. Persons to whom public schools shall be free.**

A. The public schools in each school division shall be free to each person of school age who resides within the school division. Every person of school age shall be deemed to reside in a school division:

1. When the person is living with a natural parent or a parent by legal adoption;

2. When, in accordance with the provisions of § 22.1-360, the person is living with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed under 10 U.S.C. § 1044b by the custodial parent;

3. When the parents of such person are dead and the person is living with a person in loco parentis who actually resides within the school division;

4. When the parents of such person are unable to care for the person and the person is living, not solely for school purposes, with another person who resides in the school division and is (i) the court-appointed guardian, or has legal custody, of the person; (ii) acting in loco parentis pursuant to placement of the person for adoption by a person or entity authorized to do so under § 63.2-1200; or (iii) an adult relative providing temporary kinship care as that term is defined in § 63.2-100. Local school divisions may require one or both parents and the relative providing kinship care to submit signed, notarized affidavits (a) explaining why the parents are unable to care for the person, (b) detailing the kinship care arrangement, and (c) agreeing that the kinship care provider or the parent will notify the school within 30 days of when the kinship care arrangement ends, as well as a power of attorney authorizing the adult relative to make educational decisions regarding the person. A school division may also require the parent or adult relative to obtain written verification from the local department of social services where the parent or parents live, or from both that department and the department of social services where the kinship provider lives, that the kinship arrangement serves a legitimate purpose that is in the best interest of the person other than school enrollment. With written consent from the parent or adult relative, for the purposes of expediting enrollment, a school division may obtain such written verification directly from the local department or departments of social services. The verification process shall be consistent with confidentiality provisions of Article 5 (§ 22.1-287 et seq.) of Chapter 14 of this title and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2. If the kinship care arrangement lasts more than one year, a school division may require continued verification directly from one or both departments of social services as to why the parents are unable to care for the person and that the kinship care arrangement

serves a legitimate purpose other than school enrollment. A local school division may enroll a person living with a relative in a kinship care arrangement that has not been verified by a local department of social services;

5. When the person is living in the school division not solely for school purposes, as an emancipated minor; or

6. When the person living in the school division is a homeless child or youth, as set forth in this subdivision, who lacks a fixed, regular, and adequate nighttime residence. Such persons shall include (i) children and youths, including unaccompanied youths who are not in the physical custody of their parents, who (a) are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations or in emergency or transitional shelters; or are abandoned in hospitals; (b) have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or (c) are living in parked cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (ii) migratory children, as defined in the federal Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended, who are deemed homeless as they are living in circumstances set forth in clause (i).

School divisions shall comply with the requirements of Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.), to ensure that homeless children and youths shall receive the educational services comparable to those offered to other public school students.

School divisions serving the students identified in subdivision 6 shall coordinate the identification and provision of services to such students with relevant local social services agencies and other agencies and programs providing services to such students, and with other school divisions as may be necessary to resolve interdivisional issues.

B. In the interest of providing educational continuity to the children of military personnel, no child of a person on active military duty:

1. Who is attending a school free of charge in accordance with this section shall be charged tuition by that school division upon such child's relocation to military housing located in another school division in the Commonwealth, pursuant to orders received by such child's parent to relocate to base housing. Such children shall be allowed to continue attending school in the school division they attended immediately prior to the relocation and shall not be charged tuition for attending such school;

2. Who is attending a school free of charge in accordance with this section shall be charged tuition by that school division upon such child's relocation pursuant to orders received by such child's parent to relocate to a new duty station or to be deployed. Such children shall be allowed to remain enrolled in the current school division free of tuition through the end of the school year; and

3. Who is eligible to attend school free of charge in accordance with this section shall be charged tuition by a school division that will be the child's school division of residence once his service member parent is relocated pursuant to orders received. Such a child shall be allowed to enroll in the school division of the child's intended residence if documentation is provided, at the time of enrollment, of military orders of the service member parent or an official letter from the service member's command indicating such relocation. Documentation indicating a permanent address within the school division shall be provided to the school division within 120 days of a child's enrollment or tuition may be charged, including tuition for the days since the child's enrollment in school. In the event that the child's service member parent is ordered to relocate before the 120th day following the child's enrollment, the school division shall not charge tuition. *Students eligible to enroll in a school division pursuant to this subdivision may register, remotely or in-person, for courses and other academic programs and participate in the lottery process for charter schools and college partnership laboratory schools in the school division in which such student will reside at the same time and in the same manner as students who reside in the local school division.* The assignment of the school such child will attend shall be determined by the local school division.

Such children as listed in subdivisions 1, 2, and 3 shall be counted in the average daily membership of the school division in which they are enrolled. Further, the school division in which such children are enrolled subsequent to their relocation to base housing shall not be responsible for providing for their transportation to and from school.

## CHAPTER 63

*An Act to amend and reenact §§ 22.1-298.1, 22.1-298.2, and 23.1-902 of the Code of Virginia, relating to teacher licensure; criteria; assessments.*

[S 1397]

Approved February 19, 2019

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

**1. That §§ 22.1-298.1, 22.1-298.2, and 23.1-902 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-298.1. Regulations governing licensure.**

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments, *or meet alternative evaluation standards* to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure and procedures for the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (i) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (ii) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (iii) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. ~~Complete~~ *Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards* as prescribed by the Board of Education;

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in

which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia; and

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, or 6 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

*F. The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.*

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

~~G.~~ H. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

~~H.~~ I. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

~~I.~~ J. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

~~J.~~ K. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

~~K.~~ L. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

~~L. M.~~ The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection ~~J~~ K, shall permit applicants to submit third-party employment verification forms.

**§ 22.1-298.2. Regulations governing education preparation programs.**

A. As used in this section:

"Assessment of basic skills" means ~~an assessment prescribed by the Board of Education that an individual must take prior to admission into an approved education preparation program, as prescribed by the Board of Education in its regulations.~~

~~Education, "education preparation program"~~ includes four-year bachelor's degree programs in teacher education.

B. Education preparation programs shall meet the requirements for accreditation and program approval as prescribed by the Board of Education in its regulations.

C. The Board of Education regulations shall provide for education preparation programs offered by institutions of higher education, Virginia public school divisions, and certified providers for alternate routes to licensure.

~~D. The Board shall prescribe an assessment of basic skills for individuals seeking entry into an approved education preparation program and shall establish a minimum passing score for such assessment.~~ The Board also may prescribe other requirements for admission to Virginia's approved education preparation programs in its regulations.

E. The Board shall establish accountability measures for approved education programs. Data shall be submitted to the Board on not less than a biennial basis.

**§ 23.1-902. Education preparation programs offered by institutions of higher education.**

A. Education preparation programs offered by public institutions of higher education and private institutions of higher education shall meet the requirements for accreditation and program approval as prescribed by the Board of Education in its regulations.

~~B. As provided in § 22.1-298.2, the Board of Education shall prescribe an assessment of basic skills for individuals seeking entry into an approved education preparation program and shall establish a minimum passing score for such assessment.~~ The Board of Education may prescribe in its regulations other requirements for admission to approved education preparation programs in the Commonwealth.

C. Any candidate who fails to achieve the minimum score established by the Board of Education may be denied entrance into an education preparation program on the basis of such failure, but any such candidate who gains entrance and enrolls in an education preparation program shall have the opportunity to address all deficiencies.

## CHAPTER 64

*An Act to amend the Code of Virginia by adding in Chapter 21 of Title 23.1 a section numbered 23.1-2104, relating to Radford University; authority to establish Radford University-Roanoke Division.*

[S 1506]

Approved February 19, 2019

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

**1. That the Code of Virginia is amended by adding in Chapter 21 of Title 23.1 a section numbered 23.1-2104 as follows:**

**§ 23.1-2104. Authority to establish Radford University-Roanoke Division.**

*A. In recognition of the fact that maintaining an innovative academic health center in Roanoke addresses the increased health care training needs in the Commonwealth, the board may establish the Radford University-Roanoke Division (the Division) through the acquisition of Jefferson College of Health Sciences, a nonprofit private institution wholly owned and operated by Carilion Clinic.*

*B. Upon establishment of the Division, the board may (i) exercise the same powers with respect to the operation of the Division as are vested in the board regarding the University and (ii) offer at the Division all programs of instruction offered by Jefferson College of Health Sciences at the time of acquisition, including associate-degree programs. However, the board shall cease to offer such associate-degree programs at the Division when the Council, the nationally recognized regional accreditation body, and the programmatic accreditation body approve Virginia Western Community College to offer such associate-degree programs in the Roanoke region. Nothing in this section shall authorize the University to offer any other associate-degree programs in the Roanoke region.*

*C. Notwithstanding any other provision of law, the University may award merit-based and need-based institutional aid to students enrolled at the Division in a manner that is consistent with practices at the former Jefferson College of Health Sciences.*

## CHAPTER 65

*An Act to amend and reenact §§ 16.1-283.1 and 63.2-1220.2 of the Code of Virginia, relating to post-adoption contact and communication agreements.*

[S 1139]

Approved February 19, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-283.1 and 63.2-1220.2 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-283.1. Authority to enter into voluntary post-adoption contact and communication agreement.**

A. In any case in which a child has been placed in foster care as a result of (i) court commitment, (ii) an entrustment agreement entered into by the parent or parents, or (iii) other voluntary relinquishment by the parent or parents, or in any case in which the parent or parents have voluntarily consented to the adoption of the child, the child's birth parent or parents may enter into a written post-adoption contact and communication agreement with the pre-adoptive parent or parents as provided in Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. *Unless the parental rights of the birth parent or parents have been terminated pursuant to subsection E of § 16.1-283, a local board of social services or child welfare agency required to file a petition for a permanency planning hearing pursuant to § 16.1-282.1 may inform the birth parent or parents and shall inform the adoptive parent or parents that they may enter into such an agreement and shall inform the child if he is 14 years of age or older that he may consent to such an agreement.*

B. The court may consider the appropriateness of a written post-adoption contact and communication agreement entered into pursuant to subsection A and in accordance with Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 at the permanency planning hearing pursuant to § 16.1-282.1 and, if the court finds that all of the requirements of subsection A and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 have been met, shall incorporate the written post-adoption contact and communication agreement into an order entered at the conclusion of such hearing.

**§ 63.2-1220.2. Authority to enter into post-adoption contact and communication agreements.**

A. In any proceeding for adoption pursuant to this chapter, the birth parent(s) and the adoptive parent(s) of a child may enter into a written post-adoption contact and communication agreement. A post-adoption contact and communication agreement may include, but is not limited to, provisions related to contact and communication between the child, the birth parent(s), and the adoptive parent(s) and provisions for the sharing of information about the child, including sharing of photographs of the child and information about the child's education, health, and welfare. *Unless the parental rights of the birth parent or parents have been terminated pursuant to subsection E of § 16.1-283, a local board of social services or child welfare agency required to file a petition for a permanency planning hearing pursuant to § 16.1-282.1 may inform the birth parent or parents and shall inform the adoptive parent or parents that they may enter into such an agreement and shall inform the child if he is 14 years of age or older that he may consent to such an agreement.*

B. Any post-adoption contact and communication agreement entered into by the birth parent(s) and the adoptive parent(s) of a child shall include acknowledgment by the birth parent(s) that the adoption of the child is irrevocable, even if the adoptive parent(s) do not abide by the post-adoption contact and communication agreement, and acknowledgment by the adoptive parent(s) that the agreement grants the birth parent(s) the right to seek to enforce the post-adoption contact and communication provisions set forth in the agreement. The petitioner for adoption shall file such agreement with other documents filed in the circuit court having jurisdiction over the child's adoption.

C. In no event shall failure to enter into a post-adoption contact and communication agreement with identified adoptive parent(s) after a valid entrustment agreement or consent to the child's adoption is executed, or failure to comply with a post-adoption contact and communication agreement, affect the validity of (i) the consent to the adoption, (ii) the voluntary relinquishment of parental rights, (iii) the voluntary or involuntary termination of parental rights, or (iv) the finality of the adoption.

D. No birth parent(s) or adoptive parent(s) of a child shall be required to enter into a post-adoption contact and communication agreement.

## CHAPTER 66

*An Act to amend and reenact § 54.1-2810 of the Code of Virginia, relating to funeral establishments; full time manager requirement; exception; number of calls.*

[S 1300]

Approved February 19, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 54.1-2810 of the Code of Virginia is amended and reenacted as follows:****§ 54.1-2810. Licensure of funeral establishments.**

No person shall conduct, maintain, manage or operate a funeral establishment unless a license for each such establishment has been issued by the Board. No license to operate a funeral establishment shall be issued by the Board unless each such funeral establishment has in charge, full time, a person licensed for the practice of funeral service or a

licensed funeral director. Applications for funeral establishment licenses shall be made on forms furnished by the Board and filed by the owner or the registered agent of the corporation with the Board.

Each funeral establishment license shall expire annually at a time prescribed by Board regulation. A license may be renewed within 30 days of its expiration. Upon expiration of the license, the Board shall notify each licensee of the provisions of this section. Renewal of a license after the expiration of the 30-day period shall be in the discretion of the Board.

Violations of any provisions of this chapter or any Board regulations by any person, or an officer, agent or employee with the knowledge or consent of any person operating a funeral establishment shall be considered sufficient cause for suspension or revocation of the funeral establishment license.

An operator of a funeral establishment shall not allow any person licensed for the practice of funeral service to operate out of his funeral establishment unless the licensee is the operator or an employee of the operator of a licensed funeral establishment.

If the manager of the funeral service establishment is unable, for any reason, to exercise adequate supervision, direction, management, and control of the funeral establishment, the owner shall designate any funeral service licensee to serve as a temporary manager and notify the Board in writing within 14 days. If such inability of the manager exceeds 90 days or is expected to exceed 90 days, a new manager shall be designated and registered with the Board. At the conclusion of the 90-day period for designation of a new manager, a funeral service establishment which has failed to designate a new manager shall not operate as a funeral service establishment.

When licensing funeral establishments, the Board may grant a hardship waiver from the requirement for a full-time manager licensed for the practice of funeral service or licensed as a funeral director, allowing the operation of two funeral establishments having in charge one full-time person licensed for the practice of funeral service or one licensed funeral director who divides his time between the two funeral establishments. Prior to granting a hardship waiver, the Board shall find that (i) the two establishments have been in operation for at least three years; (ii) the combined average number of funeral calls at the two establishments, as submitted in monthly reports to the Division of Vital Records and Health Statistics of the Virginia Department of Health, over the previous three years is no more than ~~85~~ 135 per year; and (iii) the distance between the two establishments is 50 miles or less.

Prior to granting a renewal of a license granted under a hardship waiver, the Board shall determine whether the requirements for license renewal under such waiver continue to exist.

## CHAPTER 67

*An Act to authorize the issuance of special license plates for supporters of the Virginia Aquarium bearing the legend PROTECT SEA LIFE; fees.*

[H 1637]

Approved February 21, 2019

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

1. § 1. *Special license plates for supporters of the Virginia Aquarium bearing the legend PROTECT SEA LIFE; fees.*

A. *On receipt of an application and payment of the fee prescribed by this section, and following the provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue to the applicant special license plates for supporters of the Virginia Aquarium bearing the legend PROTECT SEA LIFE.*

B. *The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Virginia Aquarium Fund established within the Department of Accounts. These funds shall be paid annually to the Virginia Aquarium and Marine Science Center Foundation and used to support its operation and programs in Virginia. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.*

## CHAPTER 68

*An Act to amend and reenact § 18.2-259.1 of the Code of Virginia, relating to out-of-state drug offenses; restricted driver's license.*

[H 1664]

Approved February 21, 2019

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

1. That § 18.2-259.1 of the Code of Virginia is amended and reenacted as follows:

**§ 18.2-259.1. Forfeiture of driver's license for violations of article.**

A. In addition to any other sanction or penalty imposed for a violation of this article, the (i) judgment of conviction under this article or (ii) placement on probation following deferral of further proceedings under § 18.2-251, except if the proceeding was for possession of marijuana pursuant to § 18.2-250.1, or subsection H of § 18.2-258.1 for any such offense shall of itself operate to deprive the person so convicted or placed on probation after deferral of proceedings under § 18.2-251 or subsection H of § 18.2-258.1 of the privilege to drive or operate a motor vehicle, engine, or train in the Commonwealth for a period of six months from the date of such judgment or placement on probation. Such license forfeiture shall be in addition to and shall run consecutively with any other license suspension, revocation or forfeiture in effect or imposed upon the person so convicted or placed on probation. However, a juvenile who has had his license suspended or denied pursuant to § 16.1-278.9 shall not have his license forfeited pursuant to this section for the same offense.

B. The court trying the case shall order any person so convicted or placed on probation to surrender his driver's license to be disposed of in accordance with the provisions of § 46.2-398 and shall notify the Department of Motor Vehicles of any such conviction entered and of the license forfeiture to be imposed.

C. In those cases where the court determines there are compelling circumstances warranting an exception, the court may provide that any individual be issued a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license in accordance with the provisions of subsection B and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection. This order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to such person who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, but only if the order provides for a restricted license for that period. A copy of the order and, after receipt thereof, the restricted license shall be carried at all times by such person while operating a motor vehicle. The court may require a person issued a restricted permit under the provisions of this subsection to be monitored by an alcohol safety action program during the period of license suspension. Any violation of the terms of the restricted license or of any condition set forth by the court related thereto, or any failure to remain drug-free during such period shall be reported forthwith to the court by such program. Any person who operates a motor vehicle in violation of any restriction imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

*D. Any person who has been convicted under the laws of another state or the United States of a violation substantially similar to a violation of this article and whose privilege to operate a motor vehicle in the Commonwealth is subject to revocation under the provisions of § 46.2-390.1 may petition the general district court of the county or city in which he resides for restricted driving privileges. Subject to the limitations provided in subsection C, if the court determines that there are compelling circumstances warranting an exception, the court may provide that any such person be issued a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1.*

**CHAPTER 69**

*An Act to amend and reenact §§ 46.2-733 and 46.2-1158.01 of the Code of Virginia, relating to driving distance for testing certain motor vehicles.*

[H 1677]

Approved February 21, 2019

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

**1. That §§ 46.2-733 and 46.2-1158.01 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-733. License plates for persons delivering unladen vehicles; fees.**

A. On receipt of an application, the Commissioner shall issue appropriately designed license plates to persons engaged in the business of delivering unladen motor vehicles under their own power from points of assembly or distribution.

B. Every applicant for license plates to be issued under this section shall, before he begins delivery of any of these vehicles, apply to the Commissioner for a registration card and license plates. On the payment of a fee of \$75, a registration card and license plates shall be issued to the applicant in a form prescribed by the Commissioner. The Commissioner shall issue to the applicant two license plates. For each additional license plate, a fee of \$20 per plate shall be paid by the applicant.

C. It shall be unlawful for any person to use these license plates other than on unladen motor vehicles, trailers, and semitrailers which are being delivered from points of assembly or distribution in the usual course of his delivery business or which are used as provided in subsection D of this section. The operators of such vehicles being delivered, bearing license plates issued under this section, shall at all times during their operation have in their possession a proper bill of lading showing the point of origin and destination of the vehicle being delivered and describing it. It shall be unlawful for any person to use these license plates unless either the origin or the destination of the vehicle being delivered is within the Commonwealth.

D. License plates issued under this section may be used by any financial institutions specifically excluded from the definition of "motor vehicle dealer" in subdivision 5 of § 46.2-1500 for the purpose of using them in the normal course of business in taking, repossessing, or otherwise transporting vehicles for the purpose of preservation, sale, allowing a prospective buyer to test-drive the vehicle if the prospective buyer is accompanied by an employee of the financial institution or has the written permission of the financial institution on a form provided by the Department, or otherwise in connection with repossession or foreclosure of the vehicle on which there is a security interest securing a loan to a financial institution.

E. License plates issued under this section may be issued to any business engaged in automobile auctions or the mounting, installing, servicing, or repairing of equipment on or in a vehicle. The use of license plates issued under this section shall be limited to (i) the pick up and delivery of a vehicle or (ii) driving on the highway in order to test the installation, service, or repairs at a distance of not more than ~~five~~ 10 miles from the place of business and shall not be used on vehicles employed for general transportation.

**§ 46.2-1158.01. Exceptions to motor vehicle inspection requirement.**

A. The following shall be exempt from inspection as required by § 46.2-1157:

1. Four-wheel vehicles weighing less than 500 pounds and having less than 6 horsepower;
2. Boat, utility, or travel trailers that are not equipped with brakes;
3. Antique motor vehicles or antique trailers as defined in § 46.2-100 and licensed pursuant to § 46.2-730;
4. Any motor vehicle, trailer, or semitrailer that is outside the Commonwealth at the time its inspection expires when operated by the most direct route to the owner's or operator's place of residence or the owner's legal place of business in the Commonwealth;
5. A truck, tractor truck, trailer, or semitrailer for which the period fixed for inspection has expired while the vehicle was outside the Commonwealth (i) from a point outside the Commonwealth to the place where such vehicle is kept or garaged within the Commonwealth or (ii) to a destination within the Commonwealth where such vehicle will be (a) unloaded within 24 hours of entering the Commonwealth, (b) inspected within such 24-hour period, and (c) operated, after being unloaded, only to an inspection station or to the place where it is kept or garaged within the Commonwealth;
6. New motor vehicles, new trailers, or new semitrailers operated upon the highways of the Commonwealth for the purpose of delivery from the place of manufacture to the dealer's or distributor's designated place of business or between places of business if such manufacturer, dealer, or distributor has more than one place of business; dealers or distributors may take delivery and operate upon the highways of the Commonwealth new motor vehicles, new trailers, or new semitrailers from another dealer or distributor provided a motor vehicle, trailer, or semitrailer shall not be considered new if driven upon the highways for any purpose other than the delivery of the vehicle;
7. New motor vehicles, new trailers, or new semitrailers bearing a manufacturer's license operated for test purposes by the manufacturer;
8. Motor vehicles, trailers, or semitrailers operated for test purposes by a certified inspector during the performance of an official inspection;
9. New motor vehicles, new trailers, or new semitrailers operated upon the highways of the Commonwealth over the most direct route to a location for installation of a permanent body;
10. Motor vehicles, trailers, or semitrailers purchased outside the Commonwealth driven to the purchaser's place of residence or the dealer's or distributor's designated place of business;
11. Prior to purchase from auto auctions, motor vehicles, trailers, or semitrailers operated upon the highways not to exceed a ~~five-mile~~ 10-mile radius of such auction by prospective purchasers only for the purpose of road testing and motor vehicles, trailers, or semitrailers purchased from auto auctions operated upon the highways from such auction to (i) an official safety inspection station provided that (a) the inspection station is located between the auto auction and the purchaser's residence or place of business or within a ~~five-mile~~ 10-mile radius of such residence or business and (b) the vehicle is taken to the inspection station on the same day the purchaser removes the vehicle from the auto auction or (ii) the purchaser's place of residence or business;
12. Motor vehicles, trailers, or semitrailers, after the expiration of a period fixed for the inspection thereof, (i) operated over the most direct route between the place where such vehicle is kept or garaged and an official inspection station or (ii) parked on a highway and that have been submitted for a motor vehicle safety inspection to an official inspection station, for the purpose of having the same inspected pursuant to a prior appointment with such station;
13. Any vehicle for transporting well-drilling machinery and mobile equipment as defined in § 46.2-700;
14. Motor vehicles being towed in a legal manner as exempted under § 46.2-1150;
15. Logtrailers as exempted under § 46.2-1159;
16. Motor vehicles designed or altered and used exclusively for racing or other exhibition purposes as exempted under § 46.2-1160;
17. Any tow dolly or converter gear as defined in § 46.2-1119;
18. A new motor vehicle, as defined in § 46.2-1500, that has been inspected in accordance with an inspection requirement of the manufacturer or distributor of the new motor vehicle by an employee who customarily performs such inspection on behalf of a motor vehicle dealer licensed pursuant to § 46.2-1508. Such inspection shall be deemed to be the first inspection for the purpose of § 46.2-1158, and an inspection approval sticker furnished by the Department of State

Police at the uniform price paid by all official inspection stations to the Department of State Police for an inspection approval sticker may be affixed to the vehicle as required by § 46.2-1163;

19. Mopeds;

20. Low-speed vehicles;

21. Vehicles exempt from registration pursuant to Article 6 (§ 46.2-662 et seq.) of Chapter 6; and

22. Military surplus motor vehicles as defined in § 46.2-100 and licensed pursuant to § 46.2-730.1.

B. The following shall be exempt from inspection as required by § 46.2-1157 provided that (i) the commercial motor vehicle operates in interstate commerce; (ii) the commercial motor vehicle is found to meet the federal requirements for annual inspection through a self-inspection, a third-party inspection, a Commercial Vehicle Safety Alliance inspection, or a periodic inspection performed by any state with a program; (iii) the inspection has been determined by the Federal Motor Carrier Safety Administration to be comparable to or as effective as the requirements of 49 C.F.R. § 396.3(a); and (iv) documentation of such determination as provided for in 49 C.F.R. § 396.3(b) is available for review by law-enforcement officials to verify that the inspection is current:

1. Any commercial motor vehicle operating in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations;

2. Any trailer or semitrailer being operated in interstate commerce that is subject to the Federal Motor Carrier Safety Regulations.

## CHAPTER 70

*An Act to authorize the issuance of special license plates for supporters of Virginia State Parks bearing the legend VIRGINIA STATE PARKS; fees.*

[H 1709]

Approved February 21, 2019

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

**1. § 1. Special license plates for supporters of Virginia State Parks bearing the legend VIRGINIA STATE PARKS; fees.**

A. *On receipt of an application and payment of the fee prescribed by this section, and following the provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue to the applicant special license plates for supporters of Virginia State Parks bearing the legend VIRGINIA STATE PARKS.*

B. *The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Virginia State Parks Fund established within the Department of Accounts. These funds shall be paid annually to the Virginia Department of Conservation and Recreation and used to support its operation and programs in Virginia. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.*

## CHAPTER 71

*An Act to amend and reenact §§ 46.2-612 and 46.2-613 of the Code of Virginia, relating to reorganization of motor vehicle registration, licensing, and certificates of title statutes; segregation of criminal offenses and traffic offenses; alteration of judicial authority to dismiss related criminal offenses.*

[H 1711]

Approved February 21, 2019

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

**1. That §§ 46.2-612 and 46.2-613 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-612. Failure to surrender revoked certificate of title, registration card, license plates or decals; other offenses relating to registration, licensing, and certificates of title; penalties.**

A. It shall be unlawful for the owner of any motor vehicle, trailer, or semitrailer, for which license plates, decals, or registration cards have been revoked pursuant to this article, to fail or refuse to surrender to the Department, on demand, a certificate of title if it is incorrect in any material particular; ~~or a revoked registration card, license plates, and decals.~~ Violation of this ~~section~~ *subsection* shall constitute a Class 2 misdemeanor.

B. *No person shall:*

1. *Display or cause or permit to be displayed any registration card, certificate of title, or license plate or decal that he knows is fictitious or that he knows has been canceled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.*

2. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal that has been suspended, canceled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.

3. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer, for a certificate of title, or for any renewal or duplicate certificate or knowingly make a false statement of a material fact, knowingly conceal a material fact, or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.

**§ 46.2-613. Infractions relating to registration, licensing, and certificates of title; penalties.**

A. No person shall:

1. Operate, park, or permit the operation or parking of a motor vehicle, trailer, or semitrailer owned, leased, or otherwise controlled by him on a highway unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals, if any, assigned to it by the Department for the current registration period, subject to the exemptions mentioned in Article 5 (§ 46.2-655 et seq.) and Article 6 (§ 46.2-662 et seq.). The provisions of this subdivision shall apply to the registration, licensing, and titling of mopeds on or after July 1, 2014.

~~2. Display or cause or permit to be displayed any registration card, certificate of title, or license plate or decal that he knows is fictitious or that he knows has been cancelled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.~~

~~3.~~ 2. Possess or use any registration card, license plate, or decal to which he is not entitled or knowingly permit the use of any registration card, license plate, or decal by anyone not entitled to it.

~~4. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.~~

~~5. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer, for a certificate of title, or for any renewal or duplicate certificate or knowingly make a false statement of a material fact, knowingly conceal a material fact, or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.~~

~~6.~~ 3. Willfully and intentionally violate the limitations imposed under §§ 46.2-665, 46.2-666, and 46.2-670 while operating an unregistered vehicle pursuant to the agricultural and horticultural exemptions allowed under those sections. A first violation of this subdivision shall constitute a traffic infraction punishable by a fine of not more than \$250, and a second or subsequent violation of this subdivision shall constitute a traffic infraction punishable by a fine of \$250.

B. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

**CHAPTER 72**

*An Act to amend and reenact § 46.2-624 of the Code of Virginia, relating to certificate of title; vehicle used as a taxicab.*

[H 1768]

Approved February 21, 2019

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

**1. That § 46.2-624 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-624. Information required on vehicles damaged by water.**

A. ~~Unless there is attached to the certificate of title of the vehicle a statement signed by the owner to the effect that the vehicle has been used as a taxicab, it shall be unlawful for any person knowingly to sell, transfer, or otherwise dispose of any motor vehicle that has been used as a taxicab.~~

~~B. Violation of subsection A shall constitute a Class 1 misdemeanor.~~

~~C.~~ When a vehicle has been damaged by water to such an extent that the insurance company insuring it has paid a claim of \$3,500 or more because of this water damage, the insurance company shall report the payment of such claim to the Department.

~~D. On receipt of a certificate of title to which the information required in subsection A is attached or upon B. Upon receipt of information from an insurance company pursuant to subsection C, the Commissioner shall, on issuing issue a new certificate of title, and place an appropriate indicator upon such certificate in order to convey that information to the new owner of the motor vehicle.~~

## CHAPTER 73

*An Act to authorize the conveyance of an easement by the Department of Forestry in Buckingham County.*

[H 1783]

Approved February 21, 2019

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

1. § 1. *That in accordance with the provisions of § 10.1-1107 of the Code of Virginia, the Department of Forestry is hereby authorized to convey, upon such terms as the Department deems proper, a perpetual right-of-way across a portion of the Appomattox-Buckingham State Forest, identified as tax map parcel number 176-12 in Buckingham County, to Robert H. Whistleman and Karen L. Whistleman. Such easement shall be 40 feet in width and run with the existing road in the location described to the greatest extent possible. The final easement may vary as necessary to reach the boundary of the Whistlemans' property and as deemed necessary by both parties as an improvement in the road location. The purpose of the conveyance from the Department of Forestry to Robert H. Whistleman and Karen L. Whistleman is to provide a right-of-way for ingress and egress and access for utilities from State Route 24 to the Whistlemans' parcel, identified as tax map parcel number 176-6.*

§ 2. *The granting and conveying of the easements and rights-of-way shall be made in a form that complies with the provisions of § 2.2-1151 of the Code of Virginia. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.*

## CHAPTER 74

*An Act to amend the Code of Virginia by adding a section numbered 46.2-745.1, relating to special license plate; Navy and Marine Corps Medal.*

[H 1832]

Approved February 21, 2019

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

1. **That the Code of Virginia is amended by adding a section numbered 46.2-745.1 as follows:**

**§ 46.2-745.1. Special license plates for persons awarded the Navy and Marine Corps Medal.**

*On receipt of an application and written confirmation from one of the armed services of the United States that the applicant has been awarded the Navy and Marine Corps Medal, the Commissioner shall issue special license plates to such persons. No fee shall be charged for the issuance of these license plates under this section to any one motor vehicle owned and used personally by any applicant. For each additional set of license plates issued to an applicant under this section, the Commissioner shall charge the prescribed fee for state license plates.*

*It shall be unlawful for any person who is not a person described in this section to willfully and falsely represent himself as having the qualifications to obtain the special license plates herein provided for.*

*The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.*

*Unmarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.*

## CHAPTER 75

*An Act to amend and reenact § 46.2-345 of the Code of Virginia, relating to special identification card; applicants who are blind or vision impaired.*

[H 1927]

Approved February 21, 2019

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

1. **That § 46.2-345 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.**

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person provided:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address;

2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;

3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit.

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is \$2 per year, with a \$10 minimum fee. Persons 21 years old or older may be issued a scenic special identification card for an additional fee of \$5.

C. Every special identification card shall expire on the applicant's birthday at the end of the period of years for which a special identification card has been issued. At no time shall any special identification card be issued for less than three nor more than eight years, except under the provisions of subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii) the card was not issued as a temporary special identification card under the provisions of subsection B of § 46.2-328.1. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions. Any special identification card issued to a person required to register pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years which the applicant attains an age equally divisible by five. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each such person shall appear for each renewal or the requirement to obtain a photograph in accordance with subsection C of § 46.2-323.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card shall appear in person before the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. Special identification cards for persons under age 15 shall bear a full face photograph. The special identification card issued to persons under age 15 shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Unless otherwise prohibited by law, a valid Virginia driver's license may be surrendered for a special identification card without the applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card shall be considered a reissue and the expiration date shall be the last day of the month of the surrendered driver's license's month of expiration.

H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

I. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

J. The Department may promulgate regulations necessary for the effective implementation of the provisions of this section.

K. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

L. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application for the special identification card.

M. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall

indicate on the applicant's special identification card that the applicant has any condition listed in subsection K of § 46.2-342 *or that the applicant is blind or vision impaired.*

## CHAPTER 76

*An Act to amend and reenact § 18.2-259.1 of the Code of Virginia, relating to out-of-state drug offenses; restricted driver's license.*

[S 1181]

Approved February 21, 2019

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

**1. That § 18.2-259.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-259.1. Forfeiture of driver's license for violations of article.**

A. In addition to any other sanction or penalty imposed for a violation of this article, the (i) judgment of conviction under this article or (ii) placement on probation following deferral of further proceedings under § 18.2-251, except if the proceeding was for possession of marijuana pursuant to § 18.2-250.1, or subsection H of § 18.2-258.1 for any such offense shall of itself operate to deprive the person so convicted or placed on probation after deferral of proceedings under § 18.2-251 or subsection H of § 18.2-258.1 of the privilege to drive or operate a motor vehicle, engine, or train in the Commonwealth for a period of six months from the date of such judgment or placement on probation. Such license forfeiture shall be in addition to and shall run consecutively with any other license suspension, revocation or forfeiture in effect or imposed upon the person so convicted or placed on probation. However, a juvenile who has had his license suspended or denied pursuant to § 16.1-278.9 shall not have his license forfeited pursuant to this section for the same offense.

B. The court trying the case shall order any person so convicted or placed on probation to surrender his driver's license to be disposed of in accordance with the provisions of § 46.2-398 and shall notify the Department of Motor Vehicles of any such conviction entered and of the license forfeiture to be imposed.

C. In those cases where the court determines there are compelling circumstances warranting an exception, the court may provide that any individual be issued a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license in accordance with the provisions of subsection B and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection. This order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to such person who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, but only if the order provides for a restricted license for that period. A copy of the order and, after receipt thereof, the restricted license shall be carried at all times by such person while operating a motor vehicle. The court may require a person issued a restricted permit under the provisions of this subsection to be monitored by an alcohol safety action program during the period of license suspension. Any violation of the terms of the restricted license or of any condition set forth by the court related thereto, or any failure to remain drug-free during such period shall be reported forthwith to the court by such program. Any person who operates a motor vehicle in violation of any restriction imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

*D. Any person who has been convicted under the laws of another state or the United States of a violation substantially similar to a violation of this article and whose privilege to operate a motor vehicle in the Commonwealth is subject to revocation under the provisions of § 46.2-390.1 may petition the general district court of the county or city in which he resides for restricted driving privileges. Subject to the limitations provided in subsection C, if the court determines that there are compelling circumstances warranting an exception, the court may provide that any such person be issued a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1.*

## CHAPTER 77

*An Act to amend and reenact § 46.2-1570 of the Code of Virginia, relating to motor vehicle dealers and manufacturers; franchises; discontinuation of manufacturing rights.*

[S 1333]

Approved February 21, 2019

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

**1. That § 46.2-1570 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1570. Discontinuation of distributors.**

A. If the contract between a distributor and a manufacturer or importer is terminated or otherwise discontinued, all franchises granted to motor vehicle dealers in Virginia by that distributor shall continue in full force and shall not be

affected by the discontinuance, except that the manufacturer, factory branch, distributor, representative, or other person who undertakes to distribute motor vehicles of the same line-make or the same motor vehicles of a ~~re named~~ renamed line-make shall be substituted for the discontinued distributor under the existing motor vehicle dealer franchises and those franchises shall be modified accordingly.

*B. If a manufacturer or factory branch (i) (a) discontinues its right to manufacture a line-make of motor vehicles or (b) sells or otherwise transfers its right to manufacture a line-make of motor vehicles to another manufacturer or factory branch that will manufacture motor vehicles of the same line-make and (ii) the acquiring manufacturer or factory branch does not honor the existing franchise agreements of motor vehicle dealers in Virginia of the same line-make, such discontinuation, sale, or transfer shall constitute a termination of the franchise pursuant to subdivisions 5b and 5c of § 46.2-1569 and such motor vehicle dealers shall be entitled to compensation pursuant to those subdivisions.*

## CHAPTER 78

*An Act to amend and reenact §§ 46.2-341.14:1, 46.2-341.14:10, and 46.2-1702 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-326.1, relating to commercial vehicle training and testing.*

[S 1347]

Approved February 21, 2019

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

**1. That §§ 46.2-341.14:1, 46.2-341.14:10, and 46.2-1702 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-326.1 as follows:**

**§ 46.2-326.1. Designation of commercial driver's license skills testing examiners.**

*A. Notwithstanding the provisions of § 46.2-1702 and unless the Commissioner identifies grounds that would be cause for cancellation of a certification pursuant to subsection D of § 46.2-341.14:5 during the application process, the Department shall certify a licensed Class A driver training school as a third party tester, as defined in § 46.2-341.4, to conduct skills tests if, in addition to the requirements listed in subsections B and C of § 46.2-341.14:1, the school (i) has a program length of 160 hours or more and (ii) maintains a bond in the amount of \$100,000 to pay for retesting drivers in the event that the third party tester or one or more of its third party examiners, as defined in § 46.2-341.4, are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.*

*The bond required by this subsection shall be in lieu of the bond required in subdivision C 5 of § 46.2-341.14:1 but in addition to the bond required for a licensed Class A driver training school.*

*B. Licensed Class A driver training schools meeting the requirements of subsection A may apply to the Department for certification as a third party tester. Such application shall include the information required in the application in § 46.2-341.14:3 and shall include (i) evidence of the requirements listed in subsection A; (ii) an application for an employee who will act as a third party examiner; (iii) evidence that the licensed Class A driver training school has maintained a place of business in the Commonwealth for at least three years and has maintained its licensure in good standing or that the third party examiner has been licensed as an instructor, as defined in § 46.2-1700, at a licensed Class A driver training school for a minimum of two years and has maintained such licensure in good standing; and (iv) a \$100 application fee. Such application must be renewed annually.*

*For the purposes of this subsection, "good standing" means that the instructor has not had sanctions levied against him by the Department for actions related to his role as an instructor or that the driver training school has not had sanctions levied by the Department for actions related to participation in the Class A driver training school program.*

*C. If the Department fails to certify a licensed Class A driver training school applicant, the Department shall communicate to the applicant its decision and the reason for denial in writing within 60 days of submission of the application.*

*D. Licensed Class A driver training schools operating as third party testers shall:*

- 1. Remit \$50 per skills test to the Department in accordance with § 46.2-341.13;*
- 2. Submit to the Department the results of each skills test administered in a form prescribed by the Department;*
- 3. Test only individuals receiving instruction and training from that school; and*
- 4. Not require their students to be tested at their driver training school.*

*E. Individuals intending to act as third party examiners for a licensed Class A driver training school that is operating as a third party tester shall meet the requirements in § 46.2-341.14:2 and submit to the Department an application that includes (i) the information in the application required by § 46.2-341.14:3, (ii) evidence of their employment by a licensed Class A driver training school that is operating as a third party tester, and (iii) a \$50 application fee. Such application must be renewed annually.*

*F. The Department shall have the authority to revoke or cancel the third party tester certification of a licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school, effective immediately, for any reason enumerated in § 46.2-341.14:5. A licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school shall not administer skills tests if*

its authority to provide training has been revoked, canceled, or suspended by the Department pursuant to § 46.2-1705 or any other provision of law.

**§ 46.2-341.14:1. Requirements for third party testers.**

A. Pursuant to § 46.2-341.14, third party testers will be authorized to issue skills test certificates, which will be accepted by the Department as evidence of satisfaction of the skills test component of the commercial driver's license examination. Authority to issue skills test certificates will be granted only to third party testers certified by the Department.

B. To qualify for certification, a third party tester shall:

1. Make application to and enter into an agreement with the Department as provided in § 46.2-341.14:3;
2. Maintain a place of business in the Commonwealth;
3. Have at least one certified third party examiner in his employ;
4. Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ 46.2-341.14:2 and 46.2-341.14:7;

5. Permit the Department and the FMCSA of the U.S. Department of Transportation to conduct random examinations, inspections, and audits of its records, facilities, and operations that relate to the third party testing program without prior notice;

6. Maintain at the principal place of business a copy of the state certificate authorizing the third party tester to administer a commercial driver's license testing program and current third party agreement;

7. Maintain at a location in the Commonwealth, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether the driver passes or fails the test. Each such record shall include:

- a. The complete name of the driver;
- b. The driver's ~~Social Security~~ *social security* number or other driver's license number and the name of the state or jurisdiction that issued the license held by the driver at the time of the test;
- c. The date the driver took the skills test;
- d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test certificate, if issued;
- e. The name and certification number of the third party examiner conducting the skills test; *and*
- f. Evidence of (i) the driver's employment with the third party tester at the time the test was taken; ~~if~~ *or if* the third party tester is a school board that tests drivers who are trained but not employed by the school board, evidence that ~~(i)~~ (a) the driver was employed by a school board at the time of the test and ~~(ii)~~ (b) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide; *and, or*

~~g. Notwithstanding the provisions of subdivision f, evidence of (ii) the student's enrollment in a commercial driver training course offered by a community college or Class A driver training school at the time the test was taken if the third party tester is a comprehensive community college in the Virginia Community College System.~~

8. Maintain at a location in the Commonwealth a record of each third party examiner in the employ of the third party tester. Each record shall include:

- a. Name and ~~Social Security~~ *social security* number;
- b. Evidence of the third party examiner's certification by the Department;
- c. A copy of the third party examiner's current training and driving record, which must be updated annually;
- d. Evidence that the third party examiner is an employee of the third party tester; and
- e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction issued by the Department of Education;

9. Retain the records required in subdivision 8 for at least two years after the third party examiner leaves the employ of the third party tester;

10. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of §§ 46.2-341.14:8 and 46.2-341.14:9 and the instructions provided by the Department;

11. Maintain compliance with all applicable provisions of this article and the third party tester agreement executed pursuant to § 46.2-341.14:3; and

12. Maintain a copy of the third party tester's road test route or routes approved by the Department.

C. In addition to the requirements listed in subsection B, all third party testers who are not governmental entities, including a comprehensive community college in the Virginia Community College System, shall:

1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in the Commonwealth for a minimum of one year;

2. ~~Employ~~ *For employers that are testing their own employees, employ* at least ~~75~~ 50 drivers of commercial motor vehicles licensed in the Commonwealth; during the 12-month period preceding the application, including part-time and seasonal drivers. This requirement may be waived by the Department pursuant to § 46.2-341.14:10;

3. If subject to the FMCSA regulations *as a motor carrier* and rated by the U.S. Department of Transportation, maintain a rating of "satisfactory";

4. Comply with the Virginia Motor Carrier Safety Regulations; and

5. Initiate and maintain a bond in the amount of \$5,000 to pay for retesting drivers in the event that the ~~third party~~ *third party* tester or one or more of its examiners are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.

**§ 46.2-341.14:10. Waiver of requirement that third party tester applicant employ 50 drivers.**

A. Any applicant for certification as third party tester may submit with his application a request for a waiver of the requirement that the third party tester employ at least ~~75~~ 50 drivers within the 12-month period preceding the application.

Such request shall include the following:

1. A statement of need. This statement should explain why the applicant should be certified as a third party tester. The statement should also include reasons why the testing facilities or programs offered by the Department will not meet the applicant's business requirements.

2. An estimate of the number of employees per year who will require commercial driver's license skills testing after April 1, 1992. If the waiver request is filed prior to April 1, 1992, the request should also include an estimate of the number of employees who will require skills testing prior to that date.

B. The Department will review the applicant's waiver request and will evaluate the Department's testing and third party monitoring resources. The Department will decide whether to grant the waiver request after balancing the stated needs of the applicant and the available resources of the Department. The Department will notify the applicant in writing of its decision.

**§ 46.2-1702. Certification of driver education courses by Commissioner.**

Notwithstanding any other provision of law, the Commissioner shall have the authority to approve as a driver education course satisfying the requirements of § 46.2-334 any course which is offered by any driver training school licensed under the provisions of this chapter if he finds that the course is of comparable content and quality to that offered in the Commonwealth's public schools. In making such finding, the Commissioner shall not require that the instructors of any driver training school meet the certification requirements of teachers in the Commonwealth's public schools.

Any comprehensive community college within the Virginia Community College System shall have the authority to offer the courses required by the Virginia Board of Education to become a certified driver education instructor in Virginia on a not-for-credit basis so long as the courses include the same content and curriculum required by the Department of Education, enabling individuals who complete those courses to then teach driver's education in Virginia driver education training schools upon official certification by the Department of Motor Vehicles. The Virginia Department of Education shall provide the curriculum, content, and other information regarding the courses required to become certified driver education instructors in Virginia to any comprehensive community college within the Virginia Community College System. The content of each course must be accurate and rigorous and must meet the requirements for the Department of Education's Curriculum and Administrative Guide for Driver's Education, which includes the Board of Education's standards of learning.

Except for schools in the Commonwealth's public school system and providers of correspondence courses approved by the Board of Education pursuant to subsection F of § 22.1-205, only those driver training schools that are licensed as computer-based driver education providers shall be authorized to administer computer-based driver education courses, including the parent/student driver education component of the driver education curriculum as established in § 22.1-205. The content and quality of such computer-based driver education courses shall be comparable to that of courses offered in the Commonwealth's public schools. The Commissioner may establish minimum standards for testing students who have enrolled in computer-based driver education courses. Such standards may include (i) requirements for the test site; (ii) verification that the person taking the test is the person enrolled in the course; (iii) verification of the identity of the student using photo identification approved by the Commissioner; and (iv) maintenance of a log containing the name and title of the licensed instructor monitoring the test, the test date, the name of the student taking the test, and the student's time-in and time-out of the test site. Computer-based driver education providers shall not issue a certificate of completion to a student prior to receiving proof of completion of the additional minimum 90-minute parent/student driver education component pursuant to § 22.1-205.

Any driver training school licensed under the provisions of this chapter shall be authorized to provide the 90-minute parent/student driver education component of the driver education curriculum pursuant to § 22.1-205. Only public schools and those driver training schools that are licensed as computer-based driver education providers shall be authorized to administer the parent/student driver education component of the driver education curriculum through a virtual, computer-based program. Completion of such education component shall satisfy the requirement for the additional 90-minute parent/student driver education component so long as there is participation of the student's parent or guardian and the content provided is comparable to that which is offered in the Commonwealth's public schools and emphasizes (a) parental responsibilities regarding juvenile driver behavior, (b) juvenile driving restrictions pursuant to this Code, and (c) the dangers of driving while intoxicated and underage consumption of alcohol.

The Commissioner shall have authority to approve any driver education course offered by any Class A licensee if he finds the course meets the requirements for such courses as set forth in this chapter and as otherwise established by the Department. Class A licensees shall not be permitted to administer knowledge or behind-the-wheel examinations *unless authorized pursuant to § 46.2-326.1*. Driver education courses offered by any Class B licensee shall be based on the driver education curriculum currently approved by the Department of Education and the Department.

The Commissioner may accept, in lieu of requirements established by the Department of Education for instructor qualification, (1) 20 years' service with the Virginia Department of State Police by a law-enforcement officer who retired or resigned while in good standing from such Department or (2)(i) 20 years' service as a traffic enforcement officer with patrol experience with any local police department by a law-enforcement officer who has been certified by the Virginia

Department of Criminal Justice Services pursuant to § 15.2-1706, (ii) who retired or resigned while in good standing from such department, and (iii) who has been certified to teach driver training by the Virginia Department of Criminal Justice Services.

**2. That the provisions of this act shall become effective on October 1, 2019.**

**3. That the Commissioner of the Department of Motor Vehicles shall report to the Chairmen of the House and Senate Committees on Transportation by December 1, 2021, (i) regarding the wait times for commercial driver's licenses and the growth of third party testing in the Commonwealth and (ii) on infractions incurred by holders of a Virginia commercial driver's license while driving a commercial motor vehicle, aggregated by the type of tester, beginning after the implementation of this act.**

## CHAPTER 79

*An Act to amend and reenact §§ 46.2-612 and 46.2-613 of the Code of Virginia, relating to reorganization of motor vehicle registration, licensing, and certificates of title statutes; segregation of criminal offenses and traffic offenses; alteration of judicial authority to dismiss related criminal offenses.*

[S 1382]

Approved February 21, 2019

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

**1. That §§ 46.2-612 and 46.2-613 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-612. Failure to surrender revoked certificate of title, registration card, license plates or decals; other offenses relating to registration, licensing, and certificates of title; penalties.**

A. It shall be unlawful for the owner of any motor vehicle, trailer, or semitrailer, for which license plates, decals, or registration cards have been revoked pursuant to this article, to fail or refuse to surrender to the Department, on demand, a certificate of title if it is incorrect in any material particular; ~~or a revoked registration card, license plates, and decals.~~ Violation of this ~~section~~ *subsection* shall constitute a Class 2 misdemeanor.

*B. No person shall:*

*1. Display or cause or permit to be displayed any registration card, certificate of title, or license plate or decal that he knows is fictitious or that he knows has been canceled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.*

*2. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal that has been suspended, canceled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.*

*3. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer, for a certificate of title, or for any renewal or duplicate certificate or knowingly make a false statement of a material fact, knowingly conceal a material fact, or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.*

**§ 46.2-613. Infractions relating to registration, licensing, and certificates of title; penalties.**

*A. No person shall:*

*1. Operate, park, or permit the operation or parking of a motor vehicle, trailer, or semitrailer owned, leased, or otherwise controlled by him on a highway unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals, if any, assigned to it by the Department for the current registration period, subject to the exemptions mentioned in Article 5 (§ 46.2-655 et seq.) and Article 6 (§ 46.2-662 et seq.). The provisions of this subdivision shall apply to the registration, licensing, and titling of mopeds on or after July 1, 2014.*

~~*2. Display or cause or permit to be displayed any registration card, certificate of title, or license plate or decal that he knows is fictitious or that he knows has been cancelled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.*~~

~~*3. 2. Possess or use any registration card, license plate, or decal to which he is not entitled or knowingly permit the use of any registration card, license plate, or decal by anyone not entitled to it.*~~

~~*4. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.*~~

~~*5. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer, for a certificate of title, or for any renewal or duplicate certificate or knowingly make a false statement of a material fact, knowingly conceal a material fact, or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.*~~

~~*6. 3. Willfully and intentionally violate the limitations imposed under §§ 46.2-665, 46.2-666, and 46.2-670 while operating an unregistered vehicle pursuant to the agricultural and horticultural exemptions allowed under those sections. A*~~

first violation of this subdivision shall constitute a traffic infraction punishable by a fine of not more than \$250, and a second or subsequent violation of this subdivision shall constitute a traffic infraction punishable by a fine of \$250.

B. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

## CHAPTER 80

*An Act to amend and reenact § 46.2-746.8 of the Code of Virginia, relating to special license plates for members of the International Association of Fire Fighters.*

[S 1474]

Approved February 21, 2019

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

**1. That § 46.2-746.8 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-746.8. Special license plates for members of certain occupational associations.**

On receipt of an application and written evidence that the applicant is a member of such organization, the Commissioner shall issue special license plates to members of ~~the following organizations: the International Association of Firefighters, the Virginia Realtors; and the Society of Certified Public Accountants.~~

**2. § 1. Special license plates for members of the International Association of Fire Fighters; fees.**

A. *On receipt of an application and payment of the fee prescribed by this section, and following the provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue special license plates for members of the International Association of Fire Fighters.*

B. *The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the International Association of Fire Fighters Fund established within the Department of Accounts. These funds shall be paid annually to the Virginia Professional Fire Fighters Charitable Foundation and used to support the efforts of various other charitable organizations supported by the firefighters throughout the Commonwealth. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.*

**3. That all license plates issued to members of the International Association of Fire Fighters pursuant to § 46.2-746.8 of the Code of Virginia prior to July 1, 2019, shall remain valid until their expiration, but shall thereafter be renewed under the provisions of subsection B of the second enactment of this act.**

## CHAPTER 81

*An Act to amend and reenact § 33.2-331 of the Code of Virginia, relating to six-year plans for secondary state highways; public meeting.*

[S 1684]

Approved February 21, 2019

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

**1. That § 33.2-331 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-331. Annual meeting with county officers; six-year plan for secondary state highways; certain reimbursements required.**

For purposes of this section, "cancellation" means complete elimination of a highway construction or improvement project from the six-year plan.

The governing body of each county in the secondary state highway system may, jointly with the representatives of the Department as designated by the Commissioner of Highways, prepare a six-year plan for the improvements to the secondary state highway system in that county. Each such six-year plan shall be based upon the best estimate of funds to be available to the county for expenditure in the six-year period on the secondary state highway system. Each such plan shall list the proposed improvements, together with an estimated cost of each project so listed. Following the preparation of the plan *in any year in which a proposed new funding allocation is greater than \$100,000*, the board of supervisors or other local governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county once a week for two successive weeks and posting notice of the proposed hearing at the front door of the courthouse of such county 10 days before the meeting. At the public hearings, which shall be conducted jointly by the board of supervisors and the representative of the Department, the entire six-year plan shall be discussed with the citizens of the county and their views considered. Following the discussion, the local governing body, together with the representative of the Department, shall finalize and officially adopt the six-year plan, which shall then be considered the official plan of the county.

At least once in each calendar year *in which a proposed new funding allocation is greater than \$100,000*, representatives of the Department in charge of the secondary state highway system in each county, or some representative of the Department designated by the Commissioner of Highways, shall meet with the governing body of each county in a regular or special meeting of the local governing body for the purpose of preparing a budget for the expenditure of improvement funds for the next fiscal year. The representative of the Department shall furnish the local governing body with an updated estimate of funds, and the board and the representative of the Department shall jointly prepare the list of projects to be carried out in that fiscal year taken from the six-year plan by order of priority and following generally the policies of the Board in regard to the statewide improvements to the secondary state highway system. ~~Such~~ *In any year in which a proposed new funding allocation is greater than \$100,000*, such list of priorities shall then be presented at a public hearing duly advertised in accordance with the procedure outlined in this section, and comments of citizens shall be obtained and considered. Following this public hearing, the board, with the concurrence of the representative of the Department, shall adopt, as official, a priority program for the ensuing year, and the Department shall include such listed projects in its secondary highways budget for the county for that year.

At least once every two years following the adoption of the original six-year plan, the governing body of each county, together with the representative of the Department, ~~shall~~ *may* update the six-year plan of the county by adding to it and extending it as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for secondary highway purposes become available, the local governing body may request a revision in its six-year plan in order that such plan be amended to provide for the expenditure of the additional funds. Such additions and extensions to each six-year plan shall be prepared in the same manner and following the same procedures as outlined herein for its initial preparation. Where the local governing body and the representative of the Department fail to agree upon a priority program, the local governing body may appeal to the Commissioner of Highways. The Commissioner of Highways shall consider all proposed priorities and render a decision establishing a priority program based upon a consideration by the Commissioner of Highways of the welfare and safety of county citizens. Such decision shall be binding.

Nothing in this section shall preclude a local governing body, with the concurrence of the representative of the Department, from combining the public hearing *that may be required pursuant to this section* for revision of a six-year plan with the public hearing *that may be required pursuant to this section* for review of the list of priorities, provided that notice of such combined hearing is published in accordance with procedures provided in this section.

All such six-year plans shall consider all existing highways in the secondary state highway system, including those in the towns located in the county that are maintained as a part of the secondary state highway system, and shall be made a public document.

If any county cancels any highway construction or improvement project included in its six-year plan after the location and design for the project has been approved, such county shall reimburse the Department the net amount of all funds expended by the Department for planning, engineering, right-of-way acquisition, demolition, relocation, and construction between the date on which project development was initiated and the date of cancellation. To the extent that funds from secondary highway allocations have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary highway allocation. The Commissioner of Highways may waive all or any portion of such reimbursement at his discretion.

The provisions of this section shall not apply in instances where less than 100 percent of the right-of-way is available for donation for unpaved highway improvements.

## CHAPTER 82

*An Act to amend and reenact § 33.2-1020 of the Code of Virginia, relating to certificates; notice of filing or recordation.*

[S 1700]

Approved February 21, 2019

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

#### **1. That § 33.2-1020 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 33.2-1020. Payment of certificates of deposit; recordation of certain certificates; notice to owner.**

A. A certificate of deposit shall be deemed and held for the purpose of this article to be payment into the custody of such court. Payment against any certificate of deposit so issued and countersigned, when ordered by the court named therein, shall be paid by the State Treasurer on warrants of the Comptroller, issued on vouchers signed by the Commissioner of Highways.

B. A duplicate of each certificate of deposit so issued and countersigned shall be kept as a record in the office of the Commissioner of Highways and a copy thereof shall be filed with the State Treasurer.

C. The Commissioner of Highways shall give notice, between 30 and 45 days prior to the date on which any certificate will be filed or recorded pursuant to this chapter, to the owner or tenant, if known, of the freehold by certified or registered mail that such certificate ~~of deposit~~ will be filed or recorded. Additionally, within four business days of the filing or recording of a certificate, the Commissioner of Highways shall give notice of such filing or recording to the owner or tenant, if known, of the freehold by providing a copy of such certificate by certified or registered mail.

## CHAPTER 83

*An Act to amend and reenact § 33.2-214 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 15 of Title 33.2 a section numbered 33.2-1532, relating to the Robert O. Norris Bridge and Statewide Special Structure Fund.*

[S 1749]

Approved February 21, 2019

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

**1. That § 33.2-214 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 15 of Title 33.2 a section numbered 33.2-1532 as follows:**

**§ 33.2-214. Transportation; Six-Year Improvement Program.**

A. The Board shall have the power and duty to monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Article 5 (§ 33.2-281 et seq.) in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

B. The Board shall have the power and duty to coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and set aside funds as provided in § 33.2-1524. To allocate funds for these needs pursuant to §§ 33.2-358 and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

C. The Board shall have the power and duty to enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

D. The Board shall have the power and duty to promote increasing private investment in the Commonwealth's transportation infrastructure, including acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.

E. The Board shall only include a project or program wholly or partially funded with funds from the State of Good Repair Program pursuant to § 33.2-369, the High Priority Projects Program pursuant to § 33.2-370, or the Highway Construction District Grant Programs pursuant to § 33.2-371 in the Six-Year Improvement Program if the allocation of funds from those programs and other funding committed to such project or program within the six-year horizon of the Six-Year Improvement Program is sufficient to complete the project or program. *The provisions of this subsection shall not apply to any project (i) the design and construction of which cannot be completed within six years, (ii) the estimated costs of which exceed \$2 billion, and (iii) that requires the Board to exercise its authority to waive the funding cap pursuant to subsection B of § 33.2-369.*

F. The Board shall have the power and duty to integrate land use with transportation planning and programming, consistent with the efficient and economical use of public funds. If the Board determines that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional Transportation Improvement Program as described in § 33.2-3201 is not consistent with the Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B, and the location of routes to be followed by roads comprising systems of state highways pursuant to subsection A of § 33.2-208, the Board shall notify the locality of such inconsistency and request that the applicable plan or program be amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to amend the plan or program, then the Board may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law. However, the Board shall not reallocate any funds allocated pursuant to § 33.2-319 or 33.2-366, based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program nor shall the Board reallocate any funds, allocated pursuant to subsection C or D of § 33.2-358, from any projects on highways controlled by any county that has withdrawn, or elects to withdraw, from the secondary system of state highways based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program. If a locality or metropolitan planning organization requests the termination of a project, and the Department does not agree to the termination, or if a locality or metropolitan planning organization does not advance a project to the next phase of construction when requested by the Board and the Department has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for all funds expended on the project. If, after design approval by the Chief Engineer of the Department, a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for the additional project costs above the original estimates for making such alterations.

**§ 33.2-1532. Robert O. Norris Bridge and Statewide Special Structure Fund.**

*There is hereby created in the state treasury a special nonreverting fund to be known as the Robert O. Norris Bridge and Statewide Special Structure Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. The amount allocated to the Fund pursuant to §§ 33.2-358, 33.2-369, and 33.2-1530 and any funds as*

may be appropriated by the General Assembly shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of funding maintenance and replacement of large and unique structures. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Transportation. No later than November 30 each year, the Commissioner of Highways shall submit a report to the Governor and General Assembly on the use of moneys in the Fund.

2. That the Commonwealth Transportation Board (the Board) shall undertake a comprehensive review of the current and future condition of pavements and bridges in the Commonwealth. This review shall at a minimum (i) consider current conditions and performance targets of pavements and bridges, (ii) consider current investment strategies of the Highway Maintenance and Operating Fund as well as the State of Good Repair Program, (iii) recommend new performance targets for pavements and bridges with sustainable performance over a 20-year period, and (iv) develop an investment strategy for the Highway Maintenance and Operating Fund and the State of Good Repair Program to achieve those sustainable performance targets, including a plan to address the funding needs of large and unique bridges and tunnel structures in the Commonwealth. The Board shall report no later than December 1, 2019, to the Chairmen of the House and Senate Committees on Transportation, the Joint Commission on Transportation Accountability, the House Committee on Appropriations, and the Senate Committee on Finance.

3. That the Commonwealth Transportation Board (the Board) shall, after July 1, 2020, and based on the review conducted by the Board pursuant to the second enactment of this act, dedicate a portion of funding from the Highway Maintenance and Operating Fund and the State of Good Repair Fund to the Robert O. Norris Bridge and Statewide Special Structure Fund, as created by this act.

4. That the Commonwealth Transportation Board shall evaluate the feasibility of using the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq. of the Code of Virginia) to design, build, operate, and maintain two bridges to replace the existing Robert O. Norris Bridge on State Route 3 over the Rappahannock River between Lancaster and Middlesex Counties and the existing Downing Bridge on U.S. Route 360 over the Rappahannock River between the Town of Warsaw in Richmond County and the Town of Tappahannock in Essex County.

#### CHAPTER 84

*An Act to amend and reenact §§ 16.1-283.1 and 63.2-1220.2 of the Code of Virginia, relating to post-adoption contact and communication agreements.*

[H 1728]

Approved February 21, 2019

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

**1. That §§ 16.1-283.1 and 63.2-1220.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-283.1. Authority to enter into voluntary post-adoption contact and communication agreement.**

A. In any case in which a child has been placed in foster care as a result of (i) court commitment, (ii) an entrustment agreement entered into by the parent or parents, or (iii) other voluntary relinquishment by the parent or parents, or in any case in which the parent or parents have voluntarily consented to the adoption of the child, the child's birth parent or parents may enter into a written post-adoption contact and communication agreement with the pre-adoptive parent or parents as provided in Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. *Unless the parental rights of the birth parent or parents have been terminated pursuant to subsection E of § 16.1-283, a local board of social services or child welfare agency required to file a petition for a permanency planning hearing pursuant to § 16.1-282.1 may inform the birth parent or parents and shall inform the adoptive parent or parents that they may enter into such an agreement and shall inform the child if he is 14 years of age or older that he may consent to such an agreement.*

B. The court may consider the appropriateness of a written post-adoption contact and communication agreement entered into pursuant to subsection A and in accordance with Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 at the permanency planning hearing pursuant to § 16.1-282.1 and, if the court finds that all of the requirements of subsection A and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 have been met, shall incorporate the written post-adoption contact and communication agreement into an order entered at the conclusion of such hearing.

**§ 63.2-1220.2. Authority to enter into post-adoption contact and communication agreements.**

A. In any proceeding for adoption pursuant to this chapter, the birth parent(s) and the adoptive parent(s) of a child may enter into a written post-adoption contact and communication agreement. A post-adoption contact and communication agreement may include, but is not limited to, provisions related to contact and communication between the child, the birth parent(s), and the adoptive parent(s) and provisions for the sharing of information about the child, including sharing of photographs of the child and information about the child's education, health, and welfare. *Unless the parental rights of the birth parent or parents have been terminated pursuant to subsection E of § 16.1-283, a local board of social services or child welfare agency required to file a petition for a permanency planning hearing pursuant to § 16.1-282.1 may inform the birth parent or parents and shall inform the adoptive parent or parents that they may enter into such an agreement and shall inform the child if he is 14 years of age or older that he may consent to such an agreement.*

B. Any post-adoption contact and communication agreement entered into by the birth parent(s) and the adoptive parent(s) of a child shall include acknowledgment by the birth parent(s) that the adoption of the child is irrevocable, even if the adoptive parent(s) do not abide by the post-adoption contact and communication agreement, and acknowledgment by the adoptive parent(s) that the agreement grants the birth parent(s) the right to seek to enforce the post-adoption contact and communication provisions set forth in the agreement. The petitioner for adoption shall file such agreement with other documents filed in the circuit court having jurisdiction over the child's adoption.

C. In no event shall failure to enter into a post-adoption contact and communication agreement with identified adoptive parent(s) after a valid entrustment agreement or consent to the child's adoption is executed, or failure to comply with a post-adoption contact and communication agreement, affect the validity of (i) the consent to the adoption, (ii) the voluntary relinquishment of parental rights, (iii) the voluntary or involuntary termination of parental rights, or (iv) the finality of the adoption.

D. No birth parent(s) or adoptive parent(s) of a child shall be required to enter into a post-adoption contact and communication agreement.

## CHAPTER 85

*An Act to amend and reenact §§ 54.1-3446 and 54.1-3448 of the Code of Virginia, relating to controlled substances; Schedules I and II.*

[H 1803]

Approved February 21, 2019

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

**1. That §§ 54.1-3446 and 54.1-3448 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-3446. Schedule I.**

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

3,4-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-{[1-(dimethylamino)cyclohexyl]methyl}benzamide (other name: AH-7921);

Acetyl fentanyl (other name: desmethyl fentanyl);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alpha-acetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxidine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;  
 Levophenacetylmorphan;  
 Morpheridine;  
*MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine)*;  
 N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);  
 N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranfentanyl);  
 N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);  
 N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);  
 N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);  
 N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);  
 N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:  
 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);  
 N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other names: 2-fluorofentanyl,  
 ortho-fluorofentanyl);  
 N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: 3-fluorofentanyl);  
 N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name:  
 beta-hydroxy-3-methylfentanyl);  
 N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);  
 N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);  
 N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: para-fluoroisobutyryl  
 fentanyl);  
 N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-butanamide (other name: para-fluorobutyrylfentanyl);  
 N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: para-fluorofentanyl);  
 Noracymethadol;  
 Norlevorphanol;  
 Normethadone;  
 Norpipanone;  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-furancarboxamide (other name: Furanyl fentanyl);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-propenamide (other name: Acryl fentanyl);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-butanamide (other name: butyryl fentanyl);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-pentanamide (other name: Pentanoyl fentanyl);  
 N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide (other name: thiofentanyl);  
 Phenadoxone;  
 Phenampromide;  
 Phenomorphan;  
 Phenoperidine;  
 Piritramide;  
 Proheptazine;  
 Properidine;  
 Propiram;  
 Racemoramide;  
 Tilidine;  
 Trimeperidine;  
*N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-1,3-benzodioxole-5-carboxamide (other name: Benzodioxole fentanyl)*;  
*3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide (other name: U-49900)*;  
*2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-48800)*;  
*2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-51754)*;  
*N-(2-fluorophenyl)-2-methoxy-N-[1-(2-phenylethyl)-4-piperidyl]-acetamide (other name: Ocfentanyl)*;  
*N-(4-methoxyphenyl)-N-[1-(2-phenylethyl)-4-piperidyl]-butanamide (other name: 4-methoxybutyrylfentanyl)*;  
*N-phenyl-2-methyl-N-[1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: Isobutyryl fentanyl)*;  
*N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-cyclopentanecarboxamide (other name: Cyclopentyl fentanyl)*;  
*N-phenyl-N-(1-methyl-4-piperidyl)-propanamide (other name: N-methyl norfentanyl)*;  
*N-[2-(dimethylamino)cyclohexyl]-N-methyl-1,3-benzodioxole-5-carboxamide (other names: 3,4-methylenedioxy  
 U-47700 or 3,4-MDO-U-47700)*;  
*N-phenyl-N-[1-(2-phenylethyl)-4-piperidyl]-2-butanamide (other name: Crotonyl fentanyl)*;  
*N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidyl]-propanamide (other name: 4-phenylfentanyl)*.  
 2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted,  
 whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:  
 Acetorphine;  
 Acetyldihydrocodeine;  
 Benzylmorphine;

Codeine methylbromide;  
 Codeine-N-Oxide;  
 Cyprenorphine;  
 Desomorphine;  
 Dihydromorphine;  
 Drotebanol;  
 Etorphine;  
 Heroin;  
 Hydromorphinol;  
 Methyl-desorphine;  
 Methyl-dihydromorphine;  
 Morphine methylbromide;  
 Morphine methylsulfonate;  
 Morphine-N-Oxide;  
 Myrophine;  
 Nicocodeine;  
 Nicomorphine;  
 Normorphine;  
 Pholcodine;  
 Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:

2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

4-fluoro-N-ethylamphetamine;

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d]pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxy-methamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names:

N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);  
 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);  
 Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);  
 Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);  
 Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);  
 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);  
 3,4-methylenedioxypropylvalerone (other name: MDPV);  
 4-methylmethcathinone (other names: mephedrone, 4-MMC);  
 3,4-methylenedioxyethylmethcathinone (other name: methylone);  
 Naphthylpyrovalerone (other name: naphyrone);  
 4-fluoromethcathinone (other name: flephedrone, 4-FMC);  
 4-methoxymethcathinone (other names: methedrone; bk-PMMA);  
 Ethcathinone (other name: N-ethylcathinone);  
 3,4-methylenedioxyethylcathinone (other name: ethylone);  
 Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);  
 N,N-dimethylcathinone (other name: metamfepramone);  
 Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);  
 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);  
 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);  
 Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);  
 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);  
 3-fluoromethcathinone (other name: 3-FMC);  
 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);  
 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);  
 4-Methylethcathinone (other name: 4-MEC);  
 4-Ethylmethcathinone (other name: 4-EMC);  
 N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);  
 Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);  
 Alpha-methylamino-butyrophenone (other name: Buphedrone);  
 Alpha-methylamino-valerophenone (other name: Pentedrone);  
 3,4-Dimethylmethcathinone (other name: 3.4-DMMC);  
 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);  
 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);  
 Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);  
 4-Fluoromethamphetamine (other name: 4-FMA);  
 4-Fluoroamphetamine (other name: 4-FA);  
 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);  
 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);  
 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);  
 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);  
 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);  
 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);  
 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);  
 (2-aminopropyl)benzofuran (other name: APB);  
 (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);  
 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);  
 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);  
 Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);  
 Benocyclidine (other names: BCP, BTCP);  
 Alpha-pyrrolidinobutyrophenone (other name: alpha-PBP);  
 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);  
 4-bromomethcathinone (other name: 4-BMC);  
 4-chloromethcathinone (other name: 4-CMC);  
 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);

- Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);  
 Alpha-Pyrrolidinoheptiophenone (other name: PV8);  
 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);  
 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);  
*Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B)*;  
 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);  
 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);  
 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);  
 4-Chloroethcathinone (other name: 4-CEC);  
 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);  
 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);  
 (2-Methylaminopropyl)benzofuran (other name: MAPB);  
 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);  
 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9)
- 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);  
 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);  
 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);  
 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);  
 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);  
 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);  
 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);  
 4-methyl-alpha-ethylaminopentiophenone;  
 4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);  
 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);  
 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);  
 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);  
 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);  
 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB);  
*2-(methylamino)-2-phenyl-cyclohexanone (other name: Deschloroketamine)*;  
*2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine)*;  
*2-methyl-1-(4-(methylthio)phenyl)-2-morpholinopropiophenone (other name: MMMP)*;  
*Alpha-ethylaminohexanophenone (other name: N-ethylhexedrone)*;  
*N-ethyl-1-(3-methoxyphenyl)cyclohexylamine (other name: 3-methoxy-PCE)*;  
*4-fluoro-alpha-pyrrolidinohexiophenone (other name: 4-fluoro-alpha-PHP)*;  
*N-ethyl-1,2-diphenylethylamine (other name: Ephenedine)*;  
*2,5-dimethoxy-4-chloroamphetamine (other name: DOC)*;  
*3,4-methylenedioxy-N-tert-butylcathinone.*
4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:
- Clonazolam;
  - Etizolam;
  - Flualprazolam*;
  - Flubromazepam;
  - Flubromazolam;
  - Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate;
  - 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
  - Mecloqualone;
  - Methaqualone.
5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:
- 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
  - Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;
  - 4,5-dihydro-5-phenyl-2-oxazolamine);
  - Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
  - Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
  - Ethylamphetamine;
  - Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);

Fenethylamine;

Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)-propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropionophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-trimethylphenethylamine);

*Methyl 2-(4-fluorophenyl)-2-(2-piperidinyl)acetate (other name: 4-fluoromethylphenidate);*

*Isopropyl-2-phenyl-2-(2-piperidinyl)acetate (other name: Isopropylphenidate).*

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-(N-methylpiperidin-2-ylmethyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-ylmethyl)-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name:

WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);

N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);  
 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);  
 (8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);  
 (8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);  
 (8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);  
 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);  
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);  
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);  
 Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);  
 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);  
 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);  
 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);  
 N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);  
 Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);  
 Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);  
 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido}-3-methylbutanoate) (other names: AMB-FUBINACA, FUB-AMB);  
 N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);  
 N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);  
*N-(adamantanyl)-1-(5-chloropentyl) indazole-3-carboxamide (other name: 5-chloro-AKB48);*  
 Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);  
 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);  
 Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);  
 Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carboxyl]valinate (other name: MMB-CHMICA);  
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-ADB-PINACA);  
*1-(4-cyanobutyl)-N-(1-methyl-1-phenylethyl)-1H-indazole-3-carboxamide (other name: 4-cyano CUMYL-BUTINACA).*

#### § 54.1-3448. Schedule II.

The controlled substances listed in this section are included in Schedule II:

1. Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, *naldemedine*, nalmefene, naloxone naltrexone and their respective salts, but including the following:

- Raw opium;
- Opium extracts;
- Opium fluid extracts;
- Powdered opium;
- Granulated opium;
- Tincture of opium;
- Codeine;
- Dihydroetorphine;
- Ethylmorphine;
- Etorphine hydrochloride;
- Hydrocodone;
- Hydromorphone;
- Metopon;
- Oripavine (3-O-demethylthebaine or 6,7,8,14-tetrahydro-4,

5-alpha-epoxy-6-methoxy-17-methylmorphinan-3-ol);

Morphine;

Oxycodone;

Oxymorphone;

Thebaine.

Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium.

Opium poppy and poppy straw.

Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine; cocaine or any salt or isomer thereof.

Concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid or powder form, which contains the phenanthrene alkaloids of the opium poppy.

2. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Alfentanil;

Alphaprodine;

Anileridine;

Bezitramide;

Bulk dextropropoxyphene (nondosage forms);

Carfentanil;

Dihydrocodeine;

Diphenoxylate;

Fentanyl;

Isomethadone;

Levo-alphaacetylmethadol (levo-alpha-acetylmethadol)(levomethadyl acetate)(LAAM);

Levomethorphan;

Levorphanol;

Metazocine;

Methadone;

Methadone — Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

Moramide — Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

Pethidine (other name: meperidine);

Pethidine — Intermediate — A, 4-cyano-1-methyl-4-phenylpiperidine;

Pethidine — Intermediate — B, ethyl-4-phenylpiperidine-4-carboxylate;

Pethidine — Intermediate — C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

Phenazocine;

Piminodine;

Racemethorphan;

Racemorphan;

Remifentanil;

Sufentanil;

Tapentadol;

Thiafentanil.

3. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Amphetamine, its salts, optical isomers, and salts of its optical isomers;

Phenmetrazine and its salts;

Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

Methylphenidate;

Lisdexamfetamine, its salts, isomers, and salts of its isomers.

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Amobarbital;

Glutethimide;

Secobarbital;

Pentobarbital;

Phencyclidine.

5. The following hallucinogenic substances:

Nabilone;

*Dronabinol ((-)-delta-9-trans tetrahydrocannabinol) in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration.*

6. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances which are:

a. Immediate precursors to amphetamine and methamphetamine:

Phenylacetone.

b. Immediate precursor to phencyclidine:

1-phenylcyclohexylamine;

1-piperidinocyclohexanecarbonitrile (other name: PCC).

c. Immediate precursor to fentanyl:

4-anilino-N-phenethyl-4-piperidine (ANPP).

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0.00 for periods of imprisonment in state adult correctional facilities. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0.00 for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 86

*An Act to amend and reenact § 54.1-2722 of the Code of Virginia, relating to practice of dental hygiene; remote supervision; employment or supervision by the Department of Behavioral Health and Developmental Services.*

[H 1849]

Approved February 21, 2019

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

**1. That § 54.1-2722 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2722. License; application; qualifications; practice of dental hygiene; report.**

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection V of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health *or the Department of Behavioral Health and Developmental Services* who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health *or the Department of Behavioral Health and Developmental Services*. A dental hygienist providing such services shall practice pursuant to a ~~protocol adopted by the Commissioner of Health on September 23, 2010, having been protocols~~ developed jointly by ~~(i) the medical directors of the Cumberland Plateau, Southside, and Shenandoah Health Districts; (ii) dental hygienists employed by the Department of Health; (iii) the Director of the Dental Health Division of the Department of Health; (iv) one representative of the~~ *and the Department of Behavioral Health and Developmental Services for each agency, in consultation with the Virginia Dental Association;* and ~~(v) one representative of the Virginia Dental Hygienists' Association.~~ Such ~~protocol~~ *protocols* shall be adopted by the Board as regulations.

A report of services provided by dental hygienists *employed by the Virginia Department of Health* pursuant to such protocol, including their impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted *annually to the Secretary of Health and Human Resources by the Department of Health, and a report of services provided by dental hygienists employed by the Department of Behavioral Health and Developmental Services shall be prepared and submitted annually to the Virginia Secretary of Health and Human Resources annually by the Department of Behavioral Health and Developmental Services.* Nothing in this section shall be construed to authorize or establish the independent practice of dental hygiene.

F. For the purposes of this subsection, "remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the remote supervision of a dentist who holds an active license by the Board and who has a dental practice physically located in the Commonwealth. No dental hygienist shall practice under remote supervision unless he has (i) completed a continuing education course designed to develop the competencies needed to provide care under remote supervision offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at a federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; *mobile dentistry program for adults with developmental disabilities operated by the Department of Behavioral Health and Developmental Services' Office of Integrated Health;* or women, infants, and children (WIC) program.

A dental hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. No dental hygienist practicing under remote supervision shall administer local anesthetic or nitrous oxide.

Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) verbal confirmation from the patient that he does not have a dentist of record whom he is seeing regularly.

After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision may provide further dental hygiene services following a written practice protocol developed and provided by the supervising dentist. Such written practice protocol shall consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.

A dental hygienist practicing under remote supervision shall inform the supervising dentist of all findings for a patient. A dental hygienist practicing under remote supervision may continue to treat a patient for 90 days. After such 90-day period, the supervising dentist, absent emergent circumstances, shall either conduct an examination of the patient or refer the patient to another dentist to conduct an examination. The supervising dentist shall develop a diagnosis and treatment plan for the patient, and either the supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The supervising dentist shall review a patient's records at least once every 10 months.

Nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer.

**2. That the Board of Dentistry shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

## CHAPTER 87

*An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to possession and administration of naloxone; regional jail employees.*

[H 1878]

Approved February 21, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 54.1-3408 of the Code of Virginia is amended and reenacted as follows:****§ 54.1-3408. Professional use by practitioners.**

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

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

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

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

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

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

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

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

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

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

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

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical

lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

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

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

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

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a

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

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

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

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

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

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

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

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

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

supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

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

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

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

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

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, *employees of regional jails*, and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Y. Notwithstanding any other law or regulation to the contrary, a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423 may dispense naloxone to a person who has completed a training program on the administration of naloxone for opioid overdose reversal approved by the Department of Behavioral Health and Developmental Services, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber, (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, and (iii) without charge or compensation. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

## CHAPTER 88

*An Act to amend and reenact § 51.5-60 of the Code of Virginia, relating to definition of blind person.*

[H 1938]

Approved February 21, 2019

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

**1. That § 51.5-60 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.5-60. Definitions.**

The following terms whenever used in this chapter, shall have the meanings respectively set forth unless the context requires a different meaning is clearly required by the context:

"Blind person" means a person having not better than 20/200 who has central visual acuity of 20/200 or less in the better eye, as measured at twenty feet with correcting lenses or having visual acuity greater than 20/200 but with best correction, or a limitation in the field of vision of the better eye, such that the widest diameter of the visual field in the better eye subtending subtends an angle of no greater than twenty 20 degrees; measured at a distance of thirty three centimeters using a three-millimeter white test object, or a Goldman III-4e target, or other equivalent equipment. Such blindness shall be certified by a duly licensed physician or optometrist or less.

"Board" means the Board for the Blind and Vision Impaired.

"Business enterprise" means any business other than a vending stand.

"Commissioner" means the Commissioner of the Department for the Blind and Vision Impaired.

"Custodian" means any person or group of persons having the authority to grant permission for the installation and operation of vending stands and other business enterprises.

"Department" means the Department for the Blind and Vision Impaired.

"Direct labor" means all work required for the preparation, processing and assembling of goods or articles including the packaging and packing thereof, but not including time spent in the supervision, administration, inspection and shipping of such operations, or in the production of component materials by other than blind persons.

"Goods or articles made by blind persons" means goods or articles in the manufacture of which not less than seventy-five percent of the total hours of direct labor is performed by a blind person or persons.

"Nominee" means any nonprofit corporation familiar with work for the blind and in the placement of the blind.

"Public and private buildings and other properties throughout the Commonwealth" means (i) buildings, land, or other property owned by or leased to the Commonwealth other than rights-of-way for interstate highways or (ii) buildings, land, or other property owned by or leased to a political subdivision, including a municipality, or a corporation or individual.

"Vending machine" means a coin or currency operated machine that dispenses articles or services, except that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

"Vending stand" means an installation in any public or private building for the sale of newspapers, periodicals, confections, tobacco products, soft drinks, ice cream, wrapped foods and such other articles as may be approved by the custodian thereof and the Department.

**CHAPTER 89**

*An Act to amend and reenact §§ 32.1-162.9:1, 37.2-416, 37.2-506, and 63.2-1720, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to Department of Medical Assistance Services; Medicaid service providers; release of criminal history background information.*

[H 2035]

Approved February 21, 2019

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

**1. That §§ 32.1-162.9:1, 37.2-416, 37.2-506, and 63.2-1720, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-162.9:1. Employment for compensation of persons convicted of barrier crimes prohibited; criminal records check required; drug testing; suspension or revocation of license.**

A. A licensed home care organization as defined in § 32.1-162.7 or any home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or any licensed hospice as defined in § 32.1-162.1 shall not hire for compensated employment, persons who have been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

However, a home care organization or hospice may hire an applicant who has been convicted of one such offense punishable as a misdemeanor that does not involve abuse or neglect if five years have elapsed since the conviction.

Any person desiring to work at a licensed home care organization as defined in § 32.1-162.7 or any home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or any licensed hospice as defined in § 32.1-162.1 shall provide the hiring facility with a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or outside the Commonwealth. Any person making a materially false statement when providing such sworn statement or affirmation regarding any such offense is guilty upon conviction of a Class 1 misdemeanor. Further dissemination of the information provided pursuant to this section is prohibited other than to a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

Such home care organization or hospice shall, within 30 days of employment, obtain for any compensated employees an original criminal record clearance with respect to convictions for offenses specified in this section or an original criminal history record from the Central Criminal Records Exchange. However, no employee shall be permitted to work in a position

that involves direct contact with a patient until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. The provisions of this section shall be enforced by the Commissioner. If an applicant is denied employment because of convictions appearing on his criminal history record, the home care organization or hospice shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant.

The provisions of this section shall not apply to volunteers who work with the permission or under the supervision of a person who has received a clearance pursuant to this section.

*B. Notwithstanding any other provision of law, a licensed home care agency, a home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8, or any licensed hospice as defined in § 32.1-162.1 that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been performed on an employee of the home care agency in accordance with this section and (ii) whether such person is eligible for employment.*

C. A licensed home care organization as defined in § 32.1-162.7 or any home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 shall establish policies for maintaining a drug-free workplace, which may include drug testing when the employer has cause to believe that the person has engaged in the use of illegal drugs and periodically during the course of employment. All positive results from drug testing administered pursuant to this section shall be reported to the health regulatory boards responsible for licensing, certifying, or registering the person to practice, if any.

~~C. D.~~ D. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

~~D. E.~~ E. A licensed home care organization or hospice shall notify and provide all students a copy of the provisions of this section prior to or upon enrollment in a certified nurse aide program operated by such home care organization or hospice.

#### **§ 37.2-416. Background checks required.**

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or E, no provider licensed pursuant to this article shall:

1. Hire for compensated employment any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

2. Approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date to be a sponsored residential service provider or (b) such applicant continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or

3. Permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a shared living arrangement or (b) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse or adult mental health treatment facilities a person who was convicted of any violation of § 18.2-51.3; a misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of § 18.2-57; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse treatment facilities a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a shared living arrangement persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A provider may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Providers licensed pursuant to this article also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

*J. Notwithstanding any other provision of law, a provider licensed pursuant to this article that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a*

*person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.*

**§ 37.2-506. Background checks required.**

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, or permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver persons who have been convicted of (a) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse or adult mental health treatment programs a person who was convicted of any violation of § 18.2-51.3; a misdemeanor violation of § 18.2-56 or 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse treatment programs a person who has been convicted of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a shared living arrangement persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. A community services board may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. *Notwithstanding any other provision of law, a community services board that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for a person described in subsection B for whom a criminal history background check is required and (ii) whether the person described in subsection B is eligible for employment, to provide sponsored residential services, to provide services in the home of a sponsored residential service provider, or to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver.*

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 63.2-1720. (For expiration date, see Acts 2017, cc. 189 and 751, as amended by Acts 2018, cc. 146 and 278) Assisted living facilities, adult day care centers, child-placing agencies, and independent foster homes; employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.**

A. No assisted living facility or adult day care center shall hire for compensated employment or continue to employ persons who have been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02. A child-placing agency or independent foster home licensed in accordance with the provisions of this chapter shall not hire for compensated employment or continue to employ persons who (i) have been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) are the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment shall undergo background checks pursuant to subsection C.

B. A licensed assisted living facility or adult day care center may hire an applicant or continue to employ a person convicted of one misdemeanor barrier crime not involving abuse or neglect, or any substantially similar offense under the laws of another jurisdiction, if five years have elapsed following the conviction.

C. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed child-placing agencies and independent foster homes, whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of licensed child-placing agencies and independent foster homes, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor.

E. A licensed assisted living facility, licensed adult day care center, licensed child-placing agency, or licensed independent foster home shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed child-placing agencies and independent foster homes, (a) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (b) a copy of the information from the central registry for any compensated employee within 30 days of employment. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the licensed assisted living facility, adult day care center, child-placing agency, or independent foster home shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

F. No volunteer who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth shall be permitted to serve in a licensed child-placing agency or independent foster home. Any person desiring to volunteer at a licensed child-placing agency or independent foster home shall provide the agency or home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency or independent foster home shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (a) the information from the central registry and (b) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such licensed child-placing agency or independent foster home shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-placing agency or independent foster home, whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

G. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to this section.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

*I. Notwithstanding any other provision of law, a licensed adult day care center that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for an employee in accordance with this section and (ii) whether such employee is eligible for employment.*

J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

K. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 63.2-1720. (For effective date, see Acts 2017, cc. 189 and 751, as amended by Acts 2018, cc. 146 and 278) Assisted living facilities and adult day care centers; employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.**

A. No assisted living facility or adult day care center shall hire for compensated employment or continue to employ persons who have been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02. A child-placing agency or independent foster home licensed in accordance with the provisions of this chapter shall not hire for compensated employment or continue to employ persons who (i) have been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) are the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment shall undergo background checks pursuant to subsection C.

B. A licensed assisted living facility or adult day care center may hire an applicant or continue to employ a person convicted of one misdemeanor barrier crime not involving abuse or neglect, or any substantially similar offense under the laws of another jurisdiction, if five years have elapsed following the conviction.

C. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed child-placing agencies,

independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of licensed child-placing agencies, independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor.

E. A licensed assisted living facility, licensed adult day care center, licensed child-placing agency, licensed independent foster home, licensed family day system, registered family day home, or family day home approved by a family day system shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed child-placing agencies, independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, (a) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (b) a copy of the information from the central registry for any compensated employee within 30 days of employment. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the licensed assisted living facility, adult day care center, child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

F. No volunteer who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth shall be permitted to serve in a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system. Any person desiring to volunteer at a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide the agency, system, or home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (a) the information from the central registry and (b) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system, whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

G. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to this section.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. *Notwithstanding any other provision of law, a licensed adult day care center that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for an employee in accordance with this section and (ii) whether such employee is eligible for employment.*

J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

¶ K. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

## CHAPTER 90

*An Act to amend and reenact §§ 18.2-246.8, 18.2-246.10, and 18.2-371.2 of the Code of Virginia, relating to purchase, possession, and sale of tobacco products, nicotine vapor products, and alternative nicotine products; minimum age requirements; penalties.*

[H 2748]

Approved February 21, 2019

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

#### 1. That §§ 18.2-246.8, 18.2-246.10, and 18.2-371.2 of the Code of Virginia are amended and reenacted as follows:

##### § 18.2-246.8. Age verification requirements.

A. No person shall mail, ship, or otherwise deliver cigarettes in connection with a delivery sale unless prior to the first delivery sale to a consumer such person:

1. Obtains from the prospective consumer a certification that includes (i) a reliable confirmation that the consumer is at least the legal minimum purchase age, and (ii) a statement signed by the prospective consumer in writing that certifies the prospective consumer's address and that the consumer is at least ~~18~~ 21 years of age. Such statement shall also confirm (a) that the prospective consumer understands that signing another person's name to such certification is illegal, (b) that the sale of cigarettes to individuals under the legal minimum purchase age is illegal, and (c) that the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of the Commonwealth;

2. Makes a good faith effort to verify the information contained in the certification provided by the prospective consumer pursuant to subsection A against a commercially available database of valid, government-issued identification that contains the date of birth or age of the individual placing the order, or obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order;

3. Provides to the prospective consumer, via e-mail or other means, a notice that meets the requirements of § 18.2-246.9; and

4. Receives payment for the delivery sale from the prospective consumer by a credit or debit card that has been issued in such consumer's name or by a check drawn on the consumer's account.

B. Persons accepting purchase orders made via the Internet for delivery sales may request that prospective consumers provide their e-mail addresses.

##### § 18.2-246.10. Shipping requirements.

Each person who mails, ships, or otherwise delivers cigarettes in connection with a delivery sale:

1. Shall include as part of the shipping documents a clear and conspicuous statement providing as follows: "Cigarettes: Virginia Law Prohibits Shipping to Individuals Under ~~18~~ 21, and Requires the Payment of all Applicable Taxes";

2. Shall use a method of mailing, shipping, or delivery that obligates the delivery service or any party making delivery to require (i) the consumer placing the purchase order for the delivery sale, or an adult of legal minimum purchase age, to sign to accept delivery of the shipping container, and (ii) proof, in the form of a valid, government-issued identification bearing a photograph of the individual who signs to accept delivery of the shipping container, demonstrating that he is either the addressee who is of legal minimum purchase age or another adult of legal minimum purchase age. However, proof of the legal minimum purchase age shall be required only if such individual appears to be under 27 years of age; and

3. Shall provide to the delivery service retained for such delivery sale evidence of full compliance with § 18.2-246.12.

##### § 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, and alternative nicotine products by a person under 21 years of age or sale of tobacco products, nicotine vapor products, and alternative nicotine products to persons under 21 years of age.

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person less than ~~18~~ 21 years of age, knowing or having reason to believe that such person is less than ~~18~~ 21 years of age, any tobacco product, nicotine vapor product, or alternative nicotine product.

Tobacco products, *nicotine vapor products*, and *alternative nicotine products* may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of tobacco products by ~~minors persons under 21 years of age~~ is unlawful and (ii) located in a place ~~which that~~ is not open to the general public and is not generally accessible to ~~minors persons under 21 years of age~~. An establishment ~~which that~~ prohibits the presence of ~~minors persons under 21 years of age~~ unless accompanied by ~~an adult a person 21 years of age or older~~ is not open to the general public.

B. No person less than ~~18~~ 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, or alternative nicotine product. The provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor products, or alternative nicotine products by a person less than ~~18~~ 21 years of age making a delivery of tobacco products, nicotine vapor products, or alternative nicotine products in pursuance of his employment.

This subsection shall not apply to purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, nicotine vapor product, or alternative nicotine product to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least ~~18~~ 21 years of age. Such identification is not required from an individual whom the person has reason to believe is at least ~~18~~ 21 years of age or who the person knows is at least ~~18~~ 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least ~~18~~ 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least ~~18~~ 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco product, nicotine vapor product, or alternative nicotine product for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, or alternative nicotine product verifies that the purchaser is at least ~~18~~ 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least ~~18~~ 21 years of age before the tobacco product, nicotine vapor product, or alternative nicotine product will be released to the purchaser.

D. *The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, or alternative nicotine product to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.*

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, or tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

~~E.~~ F. 1. Cigarettes shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, or alternative nicotine product shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, or alternative nicotine products to any person under ~~18~~ 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

~~F.~~ G. Nothing in this section shall be construed to create a private cause of action.

~~G.~~ H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

~~H.~~ I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not

include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

## CHAPTER 91

*An Act to require the State Board of Social Services to amend its regulations regarding generator requirements for assisted living facilities.*

[S 1077]

Approved February 21, 2019

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

**1. § 1.** *That the State Board of Social Services shall amend its regulations governing emergency preparedness and response plans and temporary emergency electrical power sources of assisted living facilities to require the following:*

*1. Any assisted living facility that is equipped with an on-site emergency generator shall (i) include in its emergency preparedness and response plan a description of the emergency generator's capacity to provide sufficient power for the operation of lighting, ventilation, temperature control, supplied oxygen, and refrigeration and (ii) test such emergency generator monthly and maintain records of such tests; and*

*2. Any assisted living facility that is not equipped with an on-site emergency generator shall (i) enter into an agreement with a vendor capable of providing the assisted living facility with an emergency generator for the provision of electricity during an interruption of the normal electric power supply; (ii) enter into at least one agreement with a separate vendor capable of providing an emergency generator in the event that the primary vendor is unable to comply with its agreement with the assisted living facility during an emergency; and (iii) have its temporary emergency electrical power source connection tested at the time of installation and every two years thereafter by a contracted vendor and maintain records of such tests.*

*§ 2. The State Department of Social Services shall provide notice to all licensed assisted living facilities regarding the date by which such assisted living facilities must comply with the regulations promulgated pursuant to this act.*

## CHAPTER 92

*An Act to amend and reenact §§ 54.1-2900, 54.1-2951.1 through 54.1-2952.1, 54.1-2953, and 54.1-2957 of the Code of Virginia, relating to patient care teams; podiatrists and physician assistants.*

[S 1209]

Approved February 21, 2019

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

**1. That §§ 54.1-2900, 54.1-2951.1 through 54.1-2952.1, 54.1-2953, and 54.1-2957 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 54.1-2900. Definitions.**

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

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

*"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.*

*"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.*

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

*"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.*

"Physician assistant" means an individual a health care professional who has met the requirements of the Board for licensure and who works under the supervision of a licensed doctor of medicine, osteopathy, or podiatry as a physician assistant.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics,

osteopathy or the administration or prescribing of any drugs, medicines, serums or vaccines. "Practice of chiropractic" shall include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

**§ 54.1-2951.1. Requirements for licensure and practice as a physician assistant.**

A. The Board shall promulgate regulations establishing requirements for licensure as a physician assistant that shall include the following:

1. Successful completion of a physician assistant program or surgical physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant;
2. Passage of the certifying examination administered by the National Commission on Certification of Physician Assistants; and
3. Documentation that the applicant for licensure has not had his license or certification as a physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

B. ~~Prior to initiating~~ *Every physician assistant shall practice with a supervising physician, the physician assistant shall enter into a written or electronic practice agreement as part of a patient care team and shall enter into a written or electronic practice agreement with at least one supervising physician patient care team physician or patient care team podiatrist.*

C. A practice agreement shall include ~~delegated activities~~ *acts* pursuant to § 54.1-2952, provisions for the periodic review of patient charts or electronic health records, guidelines for ~~availability and ongoing communications~~ *collaboration and consultation* among the parties to the agreement and the patient, periodic joint evaluation of the services delivered, and provisions for appropriate physician input in complex clinical cases, in patient emergencies, and for referrals.

A practice agreement may include provisions for periodic site visits by ~~supervising licensees who supervise and direct assistants who provide services~~ *a patient care team physician or patient care team podiatrist who is part of the patient care team* at a location other than where the licensee regularly practices. Such visits shall be in the manner and at the frequency as determined by ~~the supervising~~ *a patient care team physician or patient care team podiatrist who is part of the patient care team.*

D. Evidence of a practice agreement shall be maintained by the physician assistant and provided to the Board upon request. *The practice agreement may be maintained in writing or electronically, and may be a part of credentialing documents, practice protocols, or procedures.*

**§ 54.1-2951.2. Issuance of a license.**

The Board shall issue ~~the a~~ license to the physician assistant to practice ~~under the supervision of a licensed doctor of medicine, osteopathy, or podiatry,~~ *as part of a patient care team* in accordance with § 54.1-2951.1.

**§ 54.1-2951.3. Restricted volunteer license for certain physician assistants.**

A. The Board may issue a restricted volunteer license to a physician assistant who meets the qualifications for licensure for physician assistants. The Board may refuse issuance of licensure pursuant to § 54.1-2915.

B. A person holding a restricted volunteer license under this section shall:

1. Only practice in public health or community free clinics approved by the Board;
2. Only treat patients who have no insurance or who are not eligible for financial assistance for medical care; and
3. Not receive remuneration directly or indirectly for practicing as a physician assistant.

C. A physician assistant with a restricted volunteer license issued under this section shall only practice as a physician assistant and perform certain ~~delegated~~ acts which constitute the practice of medicine to the extent and in the manner authorized by the Board if:

1. *A patient care team physician who supervises physician assistants or patient care team podiatrist is available at all times to collaborate and consult with the physician assistant;* or
2. ~~The~~ *A patient care team physician supervising any physician assistant or patient care team podiatrist periodically reviews the relevant patient records.*

D. A restricted volunteer license granted pursuant to this section shall be issued to the physician assistant without charge, shall expire twelve months from the date of issuance, and may be renewed annually in accordance with regulations promulgated by the Board.

E. A physician assistant holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the regulations promulgated under this chapter unless otherwise provided for in this section.

**§ 54.1-2952. Role of patient care team physician or patient care team podiatrist on patient care teams; services that may be performed by physician assistants; responsibility of licensee; employment of physician assistants.**

A. A patient care team physician or a patient care team podiatrist licensed under this chapter may ~~supervise~~ *serve on a patient care team with physician assistants and delegate certain acts which constitute the shall provide collaboration and consultation to such physician assistants. No patient care team physician or patient care team podiatrist shall be allowed to collaborate or consult with more than six physician assistants on a patient care team at any one time.*

B. ~~Physician assistants may practice of medicine to the extent and in the manner authorized by the Board. The physician shall provide continuous supervision as required by this section; however, the requirement for physician supervision of physician assistants shall not be construed as requiring the physical presence of the supervising physician during all times and places of service delivery by physician assistants. A patient care team physician or patient care team podiatrist shall be available at all times to collaborate and consult with physician assistants. Each patient care team of supervising physician and physician assistant shall identify the relevant physician assistant's scope of practice, including the delegation of medical tasks as appropriate to the physician assistant's level of competence, the physician assistant's relationship with and access to the supervising physician, and an evaluation process for the physician assistant's performance.~~

C. ~~Physician assistants appointed as medical examiners pursuant to § 32.1-282 shall be under the continuous supervision of only function as part of a patient care team that has a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282.~~

~~No licensee shall be allowed to supervise more than six physician assistants at any one time.~~

D. Any professional corporation or partnership of any licensee, any hospital and any commercial enterprise having medical facilities for its employees ~~which that~~ are supervised by one or more physicians or podiatrists may employ one or more physician assistants in accordance with the provisions of this section.

Activities shall be ~~delegated performed~~ in a manner consistent with sound medical practice and the protection of the health and safety of the patient. Such activities shall be set forth in a practice ~~supervision~~ agreement between the physician assistant and the ~~supervising patient care team~~ physician or patient care team podiatrist and may include health care services ~~which that~~ are educational, diagnostic, therapeutic, or preventive, ~~or include including establishing a diagnosis, providing treatment, but shall not include the establishment of a final diagnosis or treatment plan for the patient unless set forth in the practice supervision agreement and performing procedures.~~ Prescribing or dispensing of drugs may be permitted as provided in § 54.1-2952.1. In addition, a licensee is authorized to ~~delegate and supervise~~ *physician assistant may perform initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency department, when performed under the direction, supervision and control of the supervising licensee in accordance with the practice agreement, including tasks performed, relating to the provision of medical care in an emergency department. When practicing in a hospital, the physician assistant shall report any acute or significant finding or change in a patient's clinical status to the supervising physician as soon as circumstances require and shall record such finding in appropriate institutional records. The physician assistant shall transfer to a supervising physician the direction of care of a patient in an emergency department who has a life-threatening injury or illness. Prior to the patient's discharge, the services rendered to each patient by a physician assistant in a hospital's emergency department shall be reviewed in accordance with the practice agreement and the policies and procedures of the health care institution. A physician assistant who is employed to practice in an emergency department shall be under the supervision of a physician present within the facility.*

Further, unless otherwise prohibited by federal law or by hospital bylaws, rules, or policies, nothing in this section shall prohibit any physician assistant who is not employed by the emergency physician or his professional entity from practicing in a hospital emergency department, within the scope of his practice, while under continuous physician supervision as required by this section, whether or not the supervising physician is physically present in the facility. The supervising patient care team physician who authorizes such practice by his ~~collaborates and consults with~~ a physician assistant shall ~~(i) retain exclusive supervisory control of and responsibility for the physician assistant and (ii). The patient care team physician or the on-duty emergency department physician shall be available at all times for collaboration and consultation with both the physician assistant and the emergency department physician. Prior to the patient's discharge from the emergency department, the physician assistant shall communicate the proposed disposition plan for any patient under his care to both his supervising physician and the emergency department physician. No person shall have control of or supervisory responsibility for any physician assistant who is not employed by the person or the person's business entity.~~

~~B- E. No physician assistant shall perform any delegated acts except at the direction of the licensee and under his supervision and control beyond those set forth in the practice agreement or authorized as part of the patient care team. No physician assistant practicing in a hospital shall render care to a patient unless the physician responsible for that patient has signed the practice agreement, pursuant to regulations of the Board, to act as supervising a physician on a patient care team for that physician assistant. Every licensee, professional corporation or partnership of licensees, hospital, or commercial enterprise that employs a physician assistant shall be fully responsible for the acts of the physician assistant in the care and treatment of human beings.~~

~~E- F. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is working under the supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology as part of a patient care team, (ii) has been trained in the proper use of equipment for the purpose of performing radiologic technology procedures consistent with Board regulations, and (iii) has successfully completed the exam administered by the American Registry of Radiologic Technologists for physician assistants for the purpose of performing radiologic technology procedures may use fluoroscopy for guidance of diagnostic and therapeutic procedures.~~

**§ 54.1-2952.1. Prescription of certain controlled substances and devices by licensed physician assistants.**

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed physician assistant shall have the authority to prescribe controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.), provided that the physician assistant has entered into and is, at the time of writing a prescription, a party to a practice agreement with a licensed *patient care team* physician or *patient care team* podiatrist that provides for the ~~direction and supervision by such licensee~~ *of collaboration and consultation regarding the prescriptive practices of the physician assistant.* Such practice agreements shall include *a statement of the controlled substances the physician assistant is or is not authorized to prescribe and may restrict such prescriptive authority as deemed appropriate by the patient care team physician or patient care team podiatrist providing direction and supervision.*

B. It shall be unlawful for the physician assistant to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the practice agreement ~~between the licensee and the assistant and the requirements in this section.~~

C. The Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of physician assistants as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

The regulations promulgated pursuant to this section shall include, at a minimum, (i) such requirements as may be necessary to ensure continued physician assistant competency ~~that, which~~ *may include continuing education, testing, and/or any other requirement;* and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients; and (ii) a requirement that the physician assistant disclose to his patients ~~the his~~ *name, address, and telephone number of the supervising licensee* and that he is a physician assistant. ~~A separate office for the physician assistant shall not be established.~~ *If a patient or his representative requests to speak with the patient care team physician or patient care team podiatrist, the physician assistant shall arrange for communication between the parties or provide the necessary information.*

D. This section shall not prohibit a licensed physician assistant from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

**§ 54.1-2953. Renewal, revocation, suspension, and refusal.**

The Board may revoke, suspend, or refuse to renew ~~an approval~~ *a license to practice as a physician assistant* for any of the following:

1. ~~Any reason stated in this chapter for revocation or suspension of the license of a practitioner~~ *action by a physician assistant constituting unprofessional conduct pursuant to § 54.1-2915;*
2. ~~Failure of the supervising licensee to supervise the physician assistant or failure of the employer to provide a licensee to supervise the~~ *Practice by a physician assistant other than as part of a patient care team, including practice without entering into a practice agreement with at least one patient care team physician or patient care team podiatrist;*
3. ~~The physician assistant's engaging in acts beyond the scope of authority as approved by the Board~~ *Failure of the physician assistant to practice in accordance with the requirements of his practice agreement;*
4. Negligence or incompetence on the part of the physician assistant or ~~the supervising licensee in his use of the physician assistant other member of the patient care team under his supervision;~~
5. ~~Violating~~ *Violation of or cooperating with others cooperation in violating* the violation of any provision of this chapter or the regulations of the Board; or
6. ~~A change in the Board's requirements for approval with which the~~ *Failure to comply with any regulation of the Board required for licensure of a physician assistant or the licensee does not comply.*

**§ 54.1-2957. Licensure and practice of nurse practitioners.**

A. As used in this section:

"Clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

"Collaboration" means ~~the communication and decision-making process among a nurse practitioner, patient care team physician, and other health care providers who are members of a patient care team related to the treatment that includes the degree of cooperation necessary to provide treatment and care of a patient and includes (i) communication of data and information about the treatment and care of a patient, including exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.~~

"Consultation" means ~~the communicating of data and information, exchanging of clinical observations and assessments, accessing and assessing of additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.~~

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified nurse midwife or a certified registered nurse anesthetist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice

agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is a certified registered nurse anesthetists shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The Boards shall jointly promulgate regulations, consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, governing such practice.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or certified registered nurse anesthetist, who has completed the equivalent of at least five years of full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner

satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

**2. That the Board of Medicine shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

### CHAPTER 93

*An Act to amend and reenact § 54.1-2808.3 of the Code of Virginia, relating to sale of caskets.*

[S 1247]

Approved February 21, 2019

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

**1. That § 54.1-2808.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2808.3. Acceptance of third-party-provided caskets.**

*A. No person except a licensed funeral service establishment or funeral service licensee shall offer for sale or sell a casket when preneed arrangements for funeral services are being made, including preneed funeral contracts and preneed funeral planning.*

*B. When at-need arrangements for funeral services have been made with a licensed funeral service establishment, funeral service licensees shall accept caskets provided by third parties in accordance with 16 C.F.R. Part 453, Funeral Industry Practices, Federal Trade Commission.*

### CHAPTER 94

*An Act to amend and reenact § 54.1-2408.1, 54.1-3424, and 54.1-3434 of the Code of Virginia, relating to the Board of Pharmacy; seizure of controlled substances and prescription devices.*

[S 1289]

Approved February 21, 2019

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

**1. That §§ 54.1-2408.1, 54.1-3424, and 54.1-3434 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2408.1. Summary action against licenses, certificates, registrations, or multistate licensure privilege; allegations to be in writing.**

*A. Any health regulatory board may suspend the license, certificate, registration, permit, or multistate licensure privilege of any person holding a license, certificate, registration, permit, or licensure privilege issued by it without a hearing simultaneously with the institution of proceedings for a hearing, if the relevant board finds that there is a substantial danger to the public health or safety which warrants this action. A board may meet by telephone conference call when summarily suspending a license, certificate, registration, permit, or licensure privilege if a good faith effort to assemble a quorum of the board has failed and, in the judgment of a majority of the members of the board, the continued practice by the individual constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension.*

*B. Any health regulatory board may restrict the license, certificate, registration, permit, or multistate licensure privilege of any person holding a license, certificate, registration, permit, or licensure privilege issued by it without proceeding simultaneously with notification of an informal conference pursuant to §§ 2.2-4019 and 54.1-2400, if the relevant board finds that there is a substantial danger to the public health or safety that warrants this action. A board may meet by telephone conference call when summarily restricting a license, certificate, registration, permit, or licensure privilege if a good faith effort to assemble a quorum of the board has failed and, in the judgment of a majority of the members of the board, the continued practice by the individual constitutes a substantial danger to the public health or safety. The informal conference shall be scheduled within a reasonable time of the date of the summary restriction. *Evidence establishing that the registration issued by the U.S. Drug Enforcement Administration to a person holding a license,**

*certificate, registration, permit, or multistate licensure privilege has been suspended or voluntarily surrendered in lieu of disciplinary action is sufficient for a finding that there is a substantial danger to the public health or safety.*

C. Allegations of violations of this title shall be made in writing to the relevant health regulatory board.

**§ 54.1-3424. Suspension or revocation of registration, license or permit; limitation to particular controlled substance; controlled substances placed under seal; sale of perishables and forfeiture; notification to DEA.**

A. A registration to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Board upon a finding that the registrant:

1. Has furnished false or fraudulent material information in an application filed under this chapter;
2. Has been convicted of a felony under any state or federal law relating to any controlled substance;
3. Has had his federal registration to manufacture, distribute or dispense controlled substances suspended or revoked;
4. Has violated or cooperated with others in violating any provision of this chapter or regulations of the Board relating to the manufacture, distribution or dispensing of controlled substances.

B. The Board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

C. ~~If the Board suspends or revokes a registration, or if the license or permit of a person possessing controlled substances under an exemption in § 54.1-3422 A is suspended or revoked by the issuing board, all controlled substances owned or possessed by the registrant, licensee or permittee at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances shall be forfeited to the Commonwealth.~~ *summarily suspends, suspends, or revokes a registration, license, permit, or certificate, all controlled substances and prescription devices owned or possessed pursuant to the registration, license, permit, or certificate may be placed under seal by the Board or an authorized agent of the Board as of the effective date of the order of summary suspension, suspension, or revocation. The Board or an authorized agent of the board shall perform an inventory of the controlled substances and prescription devices placed under seal. The controlled substances and prescription devices under seal shall remain in a secured manner on the premises at the previously authorized address of the registration, license, permit, or certificate. No person shall access or relocate such controlled substances and prescription devices without authorization from the Board. The registrant, licensee, permittee, or certificate holder shall ensure the controlled substances and prescription devices remain securely under seal at all times with no unauthorized access.*

*Following the conclusion of all appeals, if any, or the deadline to file an appeal, if none are filed, the controlled substances and prescription devices shall be subject to forfeiture. The Board shall direct the owner to appropriately transfer or dispose of the sealed controlled substances and prescription devices under the supervision of an authorized agent, or the controlled substances and devices shall be forfeited, seized, and destroyed by the Board, the authorized agent of the Board, or any law-enforcement officer. Costs associated with the storage and destruction of the seized substances and devices shall be at the expense of the owner of such.*

*Prior to forfeiture, the owner of the controlled substances or prescription devices may request permission from the Board to transfer the sealed controlled substances and prescription devices, at the owner's expense and under the supervision of an authorized agent, to an entity authorized to possess or destroy such substances or devices.*

D. *Controlled substances and prescription devices that have been abandoned and are stored at a location that is not authorized for the storage of such substances and devices shall be considered contraband. The Board, an authorized agent of the Board, or any law-enforcement officer may seize and destroy such substances and devices. Costs associated with the storage and destruction of the seized substances and devices shall be at the expense of the owner of such substances and devices, if known.*

E. The Board shall promptly notify the DEA of all orders suspending or revoking registration and all forfeitures of controlled substances.

**§ 54.1-3434. Permit to conduct pharmacy.**

No person shall conduct a pharmacy without first obtaining a permit from the Board.

The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmacy and who will be fully engaged in the practice of pharmacy at the location designated on the application.

The application shall (i) show the corporate name and trade name, (ii) list any pharmacist in addition to the pharmacist-in-charge practicing at the location indicated on the application, and (iii) list the hours during which the pharmacy will be open to provide pharmacy services. Any change in the hours of operation, which is expected to last more than one week, shall be reported to the Board in writing and posted, at least fourteen days prior to the anticipated change, in a conspicuous place to provide notice to the public. The Board shall promulgate regulations to provide exceptions to this prior notification.

If the owner is other than the pharmacist making the application, the type of ownership shall be indicated and shall list any partner or partners, and, if a corporation, then the corporate officers and directors. Further, if the owner is not a pharmacist, he shall not abridge the authority of the pharmacist-in-charge to exercise professional judgment relating to the dispensing of drugs in accordance with this act and Board regulations.

The permit shall be issued only to the pharmacist who signs the application as the pharmacist-in-charge and as such assumes the full responsibilities for the legal operation of the pharmacy. This permit and responsibilities shall not be construed to negate any responsibility of any pharmacist or other person.

Upon termination of practice by the pharmacist-in-charge, or upon any change in partnership composition, or upon the acquisition, as defined in Board regulations, of the existing corporation by another person or the closing of a pharmacy, the permit previously issued shall be immediately surrendered to the Board by the pharmacist-in-charge to whom it was issued, or by his legal representative, and an application for a new permit may be made in accordance with the requirements of this chapter.

The Board shall promulgate regulations (i) defining acquisition of an existing permitted, registered or licensed facility or of any corporation under which the facility is directly or indirectly organized; (ii) providing for the transfer, confidentiality, integrity, and security of the pharmacy's prescription dispensing records and other patient records, regardless of where located; and (iii) establishing a reasonable time period for designation of a new pharmacist-in-charge. At the conclusion of the time period for designation of a new pharmacist-in-charge, a pharmacy which has failed to designate a new pharmacist-in-charge shall not operate as a pharmacy nor maintain a stock of prescription drugs on the premises. The Director shall immediately notify the owner of record that the pharmacy no longer holds a valid permit and that the owner shall make provision for the proper disposition of all Schedule II through VI drugs and devices on the premises within ~~fifteen~~ 15 days of receipt of this notice. At the conclusion of the ~~fifteen-day~~ 15-day period, the Director or his authorized agent, *or any law-enforcement officer in coordination with the Director*, shall seize and indefinitely secure all Schedule II through VI drugs and devices still on the premises, and *the Director shall* notify the owner of such seizure. The Director, *his authorized agent, or the law-enforcement officer* may properly dispose of the seized drugs and devices after ~~six months~~ 60 days from the date of the notice of seizure if the owner has not claimed and provided for the proper disposition of the property. The Board *or law enforcement agency* shall assess a fee of not less than the cost of storage of said drugs upon the owner for reclaiming seized property.

The succeeding pharmacist-in-charge shall cause an inventory to be made of all Schedule I, II, III, IV and V drugs on hand. Such inventory shall be completed as of the date he becomes pharmacist-in-charge and prior to opening for business on that date.

The pharmacist to whom such permit is issued shall provide safeguards against diversion of all controlled substances.

An application for a pharmacy permit shall be accompanied by a fee determined by the Board. All permits shall expire annually on a date determined by the Board in regulation.

Every pharmacy shall be equipped so that prescriptions can be properly filled. The Board of Pharmacy shall prescribe the minimum of such professional and technical equipment and reference material which a pharmacy shall at all times possess. Nothing shall prevent a pharmacist who is eligible to receive information from the Prescription Monitoring Program from requesting and receiving such information; however, no pharmacy shall be required to maintain Internet access to the Prescription Monitoring Program. No permit shall be issued or continued for the conduct of a pharmacy until or unless there is compliance with the provisions of this chapter and regulations promulgated by the Board.

Every pharmacy shall comply with federal requirements for an electronic, interoperable system to identify, trace, and verify prescription drugs as they are distributed.

Each day during which a person is in violation of this section shall constitute a separate offense.

## CHAPTER 95

*An Act to amend the Code of Virginia by adding a section numbered 32.1-126.5, relating to the Commissioner of Health; consolidation of inspections.*

[S 1366]

Approved February 21, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 32.1-126.5 as follows:**  
**§ 32.1-126.5. Consolidation of inspections.**

*The Commissioner shall identify any inspection of a medical care facility required by this title, Board regulations, the Commissioner, the Department, or any other state regulatory boards or agencies and shall, in collaboration with any such inspecting entity, work to consolidate, as much as practicable, all such inspections in order to minimize the interruption of the provision of care in such medical care facilities.*

## CHAPTER 96

*An Act to amend and reenact § 54.1-3319 of the Code of Virginia, relating to pharmacist; counseling for new prescriptions; disposal of medicine.*

[S 1405]

Approved February 21, 2019

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

**1. That § 54.1-3319 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3319. Counseling.**

A. A pharmacist shall conduct a prospective drug review before each new prescription is dispensed or delivered to a patient or a person acting on behalf of the patient. Such review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions, including serious interactions with nonprescription or over-the-counter drugs, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse. A pharmacist may conduct a prospective drug review before refilling a prescription to the extent the pharmacist deems appropriate in his professional judgment.

B. A pharmacist shall offer to counsel any person who presents a new prescription for filling. The offer to counsel may be made in any manner the pharmacist deems appropriate in his professional judgment, and may include any one or a combination of the following:

1. Face-to-face communication with the pharmacist or the pharmacist's designee;
2. A sign posted in such a manner that it can be seen by patients;
3. A notation affixed to or written on the bag in which the prescription is to be delivered;
4. A notation contained on the prescription container; or
5. By telephone.

For the purposes of medical assistance and other third-party reimbursement or payment programs, any of the above methods, or a combination thereof, shall constitute an acceptable offer to provide counseling, except to the extent this subsection is inconsistent with regulations promulgated by the federal Health Care Financing Administration governing 42 U.S.C. § 1396r-8 (g)(2)(A)(ii). A pharmacist may offer to counsel any person who receives a refill of a prescription to the extent deemed appropriate by the pharmacist in his professional judgment.

C. If the offer to counsel is accepted, the pharmacist shall counsel the person presenting the prescription to the extent the pharmacist deems appropriate in his professional judgment. Such counseling shall be performed by the pharmacist himself and may, but need not, include the following:

1. The name and description of the medication;
2. The dosage form, dosage, route of administration, and duration of drug therapy;
3. Special directions and precautions for preparation, administration, and use by the patient;
4. Common adverse or severe side effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
5. Techniques for self-monitoring drug therapy;
6. Proper storage *and disposal*;
7. Prescription refill information; and
8. Action to be taken in the event of a missed dose.

Nothing in this section shall be construed as requiring a pharmacist to provide counseling when the person presenting the prescription fails to accept the pharmacist's offer to counsel. If the prescription is delivered to a person residing outside of the local telephone calling area of the pharmacy, the pharmacist shall either provide a toll-free telephone number or accept reasonable collect calls from such person.

D. Reasonable efforts shall be made to obtain, record, and maintain the following patient information generated at the individual pharmacy:

1. Name, address, telephone number, date of birth or age, and gender;
2. Individual history where significant, including known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and
3. Any additional comments relevant to the patient's drug use, including any failure to accept the pharmacist's offer to counsel.

Such information may be recorded in the patient's manual or electronic profile, or in the prescription signature log, or in any other system of records and may be considered by the pharmacist in the exercise of his professional judgment concerning both the offer to counsel and content of counseling. The absence of any record of a failure to accept the pharmacist's offer to counsel shall be presumed to signify that such offer was accepted and that such counseling was provided.

E. This section shall not apply to any drug dispensed to an inpatient of a hospital or nursing home, except to the extent required by regulations promulgated by the federal Health Care Financing Administration implementing 42 U.S.C. § 1396r-8 (g)(2)(A).

**CHAPTER 97**

*An Act to require the Board of Social Services to amend regulations governing staffing of certain assisted living facility units during overnight hours.*

[S 1410]

Approved February 21, 2019

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

1. § 1. That the Board of Social Services shall amend 22VAC40-73-1130 governing staffing of units of assisted living facilities with residents who have serious cognitive impairment due to a primary psychiatric diagnosis of dementia and are unable to recognize danger or protect their own safety and welfare to require that the following number of direct care staff members be awake and on duty and responsible for the care and supervision of the residents at all times during night hours:

1. When 22 or fewer residents are present, at least two direct care staff members;

2. When 23 to 32 residents are present, at least three direct care staff members;

3. When 33 to 40 residents are present, at least four direct care staff members; and

4. When more than 40 residents are present, at least four direct care staff members plus at least one additional direct care staff member for every 10 residents or portion thereof in excess of 40 residents.

Nothing in this act shall apply to the provisions of 22VAC40-73-280.

**CHAPTER 98**

An Act to amend and reenact § 63.2-1509 of the Code of Virginia, relating to mandatory reporters of child abuse or neglect; prenatal substance exposure.

[S 1436]

Approved February 21, 2019

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

1. That § 63.2-1509 of the Code of Virginia is amended and reenacted as follows:

**§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.**

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;

2. Any hospital resident or intern, and any person employed in the nursing profession;

3. Any person employed as a social worker or family-services specialist;

4. Any probation officer;

5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;

6. Any person providing full-time or part-time child care for pay on a regularly planned basis;

7. Any mental health professional;

8. Any law-enforcement officer or animal control officer;

9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;

10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;

11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;

12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;

14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;

15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;

16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team;

17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs; and

18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client.

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall, *due to the special medical needs of infants affected by substance exposure*, include (i) a finding made by a health care provider within six weeks of the birth of a child that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made by a health care provider within four years following a child's birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy; or (iii) a diagnosis made by a health care provider within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report. *Such reports shall not constitute a per se finding of child abuse or neglect. If a health care provider in a licensed hospital makes any finding or diagnosis set forth in clause (i), (ii), or (iii), the hospital shall require the development of a written discharge plan under protocols established by the hospital pursuant to subdivision B 6 of § 32.1-127.*

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

## CHAPTER 99

*An Act to amend and reenact § 24.2-613 of the Code of Virginia, relating to elections; form of ballot; ballot order.*

[S 1577]

Approved February 21, 2019

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

**1. That § 24.2-613 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-613. Form of ballot.**

A. The ballots shall comply with the requirements of this title and the standards prescribed by the State Board.

B. For elections for federal, statewide, and General Assembly offices only, each candidate who has been nominated by a political party or in a primary election shall be identified by the name of his political party. Independent candidates shall be identified by the term "Independent." For the purpose of this section, any Independent candidate may, by producing sufficient and appropriate evidence of nomination by a "recognized political party" to the State Board, have the term "Independent" on the ballot converted to that of a "recognized political party" on the ballot and be treated on the ballot in a manner consistent with the candidates nominated by political parties. For the purpose of this section, a "recognized political party" is defined as an organization that, for at least six months preceding the filing of its nominee for the office, has had in continual existence a state central committee composed of registered voters residing in each congressional district of the Commonwealth, a party plan and bylaws, and a duly elected state chairman and secretary. A letter from the state chairman of a recognized political party certifying that a candidate is the nominee of that party and also signed by such candidate accepting that nomination shall constitute sufficient and appropriate evidence of nomination by a recognized political party. The name of the political party, the name of the "recognized political party," or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.

C. Except as provided for primary elections, the State Board shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. In an election district in which more than one person is nominated by one political party for the same office, the candidates' names shall appear alphabetically in their party groups under the name of the office, with sufficient space between party groups to indicate them as such. For the purpose of this section, except as provided for presidential elections in § 24.2-614, "recognized political parties" shall be treated as a class; the order of the recognized political parties within the class shall be determined by lot by the State Board; and the class shall follow the political parties as defined by § 24.2-101 and precede the independent class. Independent candidates shall be treated as a class under "Independent", and their names shall be placed on the ballot after the political parties and recognized political parties. Where there is more than one independent candidate for an office, their names shall appear on the ballot in an order determined by the priority of time of filing for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board as in the case of a tie vote for the office.

For the purposes of this subsection, "time of filing for the office" means the time at which an independent candidate has filed his petition signature pages with a number of signatures at least equal to the number required for the office pursuant to § 24.2-506. In the case of an office for which no petition is required, "time of filing for the office" means the time at which the candidate has filed his completed statement of qualification pursuant to § 24.2-501.

No individual's name shall appear on the ballot more than once for the same office.

D. *On any ballot, all offices to be elected shall appear before any questions presented to the voters.*

E. In preparing the printed ballots for general, special, and primary elections, the State Board and general registrars shall cause to be printed in not less than 10-point type, immediately below the title of any office, a statement of the number of candidates for whom votes may be cast for that office. For any office to which only one candidate can be elected, the following language shall be used: "Vote for only one." For any office to which more than one candidate can be elected, the following language shall be used: "Vote for not more than \_\_\_\_."

F. Any locality that uses machine-readable ballots at one or more precincts, including any central absentee precinct, may, with the approval of the State Board, use a printed reproduction of the machine-readable ballot in lieu of the official machine-readable ballot. Such reproductions shall be printed and otherwise handled in accordance with all laws and procedures that apply to official paper ballots.

## CHAPTER 100

*An Act to amend and reenact §§ 37.2-408.1 and 63.2-1726 of the Code of Virginia, relating to statutory alignment with federal Family First Prevention Services Act.*

[S 1678]

Approved February 21, 2019

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

**1. That §§ 37.2-408.1 and 63.2-1726 of the Code of Virginia are amended and reenacted as follows:**

**§ 37.2-408.1. Background check required; children's residential facilities.**

A. Notwithstanding the provisions of § 37.2-416, as a condition of employment, volunteering or providing services on a regular basis, every children's residential facility that is regulated or operated by the Department shall require any person who (i) accepts a position of employment at such a facility ~~who was not employed by that facility prior to July 1, 2008,~~ (ii) ~~is currently employed by such a facility,~~ (iii) volunteers for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2008,~~ or (iii) (iv) provides contractual services directly to a juvenile for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2008,~~ to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the person's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the person. The children's residential facility shall inform the person that he is entitled to obtain a copy of any background

check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the person's eligibility to have responsibility for the safety and well-being of children. The person shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth. The results of the criminal history background check must be received prior to permitting a person to work ~~with children~~ *in the children's residential facility*.

The Central Criminal Records Exchange, upon receipt of a person's record or notification that no record exists, shall forward it to the state agency that operates or regulates the children's residential facility with which the person is affiliated. The state agency shall, upon receipt of a person's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the children's residential facility whether the person is eligible to have responsibility for the safety and well-being of children. Except as otherwise provided in subsection B, no children's residential facility regulated or operated by the Department shall hire for compensated employment or allow to volunteer or provide contractual services persons who have been convicted of or are the subject of pending charges for (a) any offense set forth in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, to be a volunteer, or to provide contractual services or (2) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02. The provisions of this section also shall apply to structured residential programs, excluding secure detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision.

B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for compensated employment or for volunteer or contractual service purposes persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment, volunteer, or contractual services.

If the person is denied employment, or the opportunity to volunteer or provide services, at a children's residential facility because of information appearing on his criminal history record, and the person disputes the information upon which the denial was based, upon written request of the person the state agency shall furnish the person the procedures for obtaining his criminal history record from the Federal Bureau of Investigation. ~~If the person has been permitted to assume duties that do not involve contact with children pending receipt of the report, the children's residential facility is not precluded from suspending the person from his position pending a final determination of the person's eligibility to have responsibility for the safety and well-being of children.~~ The information provided to the children's residential facility shall not be disseminated except as provided in this section.

C. Those persons listed in clauses (i), ~~(ii), and (iii)~~ *through (iv)* of subsection A also shall authorize the children's residential facility to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The person shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The children's residential facility shall receive the results of the central registry search prior to permitting a person to work ~~alone with children~~. Children's residential facilities regulated or operated by the Department shall not hire for compensated employment, or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect.

D. The cost of obtaining the criminal history record and the central registry information shall be borne by the person unless the children's residential facility, at its option, decides to pay the cost.

**§ 63.2-1726. Background check required; children's residential facilities.**

A. As a condition of employment, volunteering, or providing services on a regular basis, every children's residential facility that is regulated or operated by the Departments of Social Services, Education, Military Affairs, or Behavioral Health and Developmental Services shall require any individual who (i) accepts a position of employment at such a facility ~~who was not employed by that facility prior to July 1, 2007,~~ (ii) *is employed by such a facility,* (iii) volunteers for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2007,~~ or (iii) (iv) provides contractual services directly to a juvenile for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2007,~~ to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The children's residential facility shall inform the applicant that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the applicant's eligibility to have responsibility for the safety and well-being of children. The applicant shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth. The results of the criminal history background check must be received prior to permitting an applicant to work ~~with children~~ *in the children's residential facility*.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the state agency which operates or regulates the children's residential facility with which the applicant is affiliated. The state agency shall, upon receipt of an applicant's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the children's facility whether the applicant is eligible to have responsibility for the safety and well-being of children. Except as otherwise provided in subsection B, no children's residential facility regulated or operated by the Departments of Education, Behavioral Health and Developmental Services, Military Affairs, or Social Services shall hire for compensated employment or allow to volunteer or provide contractual services persons who have been convicted of or are the subject of pending charges for (a) any offense set forth in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, to be a volunteer, or to provide contractual services or (2) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02. The provisions of this section also shall apply to residential programs established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision and to local secure detention facilities, provided, however, that the provisions of this section related to local secure detention facilities shall only apply to an individual who, on or after July 1, 2013, accepts a position of employment at such local secure detention facility, volunteers at such local secure detention facility on a regular basis and will be alone with a juvenile in the performance of his duties, or provides contractual services directly to a juvenile at a local secure detention facility on a regular basis and will be alone with a juvenile in the performance of his duties. The Central Criminal Records Exchange and the state or local agency that regulates or operates the local secure detention facility shall process the criminal history record information regarding such applicant in accordance with this subsection and subsection B.

B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for compensated employment or for volunteer or contractual service purposes persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment, volunteer, or contractual services.

If the applicant is denied employment or the opportunity to volunteer or provide services at a children's residential facility because of information appearing on his criminal history record, and the applicant disputes the information upon which the denial was based, upon written request of the applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history record from the Federal Bureau of Investigation. ~~If the applicant has been permitted to assume duties that do not involve contact with children pending receipt of the report, the children's residential facility is not precluded from suspending the applicant from his position pending a final determination of the applicant's eligibility to have responsibility for the safety and well-being of children.~~ The information provided to the children's residential facility shall not be disseminated except as provided in this section.

C. Those individuals listed in clauses (i), ~~(ii)~~ and ~~(iii)~~ through (iv) of subsection A also shall authorize the children's residential facility to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The applicant shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The children's residential facility shall receive the results of the central registry search prior to permitting an applicant to work ~~alone with children~~. Children's residential facilities regulated or operated by the Departments of Education; Behavioral Health and Developmental Services; Military Affairs; and Social Services shall not hire for compensated employment or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect. Every residential facility for juveniles which is regulated or operated by the Department of Juvenile Justice shall be authorized to obtain a copy of the information from the central registry.

D. The Boards of Social Services; Education; Juvenile Justice; and Behavioral Health and Developmental Services, and the Department of Military Affairs, may adopt regulations to comply with the provisions of this section. Copies of any information received by a children's residential facility pursuant to this section shall be available to the agency that regulates or operates such facility but shall not be disseminated further. The cost of obtaining the criminal history record and the central registry information shall be borne by the employee or volunteer unless the children's residential facility, at its option, decides to pay the cost.

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

## CHAPTER 101

*An Act to amend and reenact §§ 54.1-2400.1, 54.1-3500, and 54.1-3505 of the Code of Virginia, relating to the Board of Counseling; qualified mental health professionals.*

[S 1694]

Approved February 21, 2019

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

**1. That §§ 54.1-2400.1, 54.1-3500, and 54.1-3505 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.**

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Licensed substance abuse treatment practitioner" means any person licensed to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Marriage and family therapist" means a person licensed to engage in the practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Mental health service provider" or "provider" refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, physician assistant, professional counselor, psychologist, qualified mental health professional, registered nurse, registered peer recovery specialist, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

"Professional counselor" means a person who practices counseling as defined in § 54.1-3500.

"Psychologist" means a person who practices psychology as defined in § 54.1-3600.

~~"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, the Department of Corrections, or a provider licensed by the Department of Behavioral Health and Developmental Services has the same meaning as provided in § 54.1-3500.~~

"Registered nurse" means a person licensed to practice professional nursing as defined in § 54.1-3000.

"Registered peer recovery specialist" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer recovery specialist shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.

"School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

"Social worker" means a person who practices social work as defined in § 54.1-3700.

B. A mental health service provider has a duty to take precautions to protect third parties from violent behavior or other serious harm only when the client has orally, in writing, or via sign language, communicated to the provider a specific and immediate threat to cause serious bodily injury or death to an identified or readily identifiable person or persons, if the provider reasonably believes, or should believe according to the standards of his profession, that the client has the intent and ability to carry out that threat immediately or imminently. If the third party is a child, in addition to taking precautions to protect the child from the behaviors in the above types of threats, the provider also has a duty to take precautions to protect the child if the client threatens to engage in behaviors that would constitute physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the threat has been communicated to the provider by the threatening client while the provider is engaged in his professional duties.

C. The duty set forth in subsection B is discharged by a mental health service provider who takes one or more of the following actions:

1. Seeks involuntary admission of the client under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential victim if the potential victim is under the age of 18.

3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or potential victim's place of residence or place of work, or place of work of the parent or guardian if the potential victim is under age 18, or both.

4. Takes steps reasonably available to the provider to prevent the client from using physical violence or other means of harm to others until the appropriate law-enforcement agency can be summoned and takes custody of the client.

5. Provides therapy or counseling to the client or patient in the session in which the threat has been communicated until the mental health service provider reasonably believes that the client no longer has the intent or the ability to carry out the threat.

6. In the case of a registered peer recovery specialist, or a qualified mental health professional who is not otherwise licensed by a health regulatory board at the Department of Health Professions, reports immediately to a licensed mental health service provider to take one or more of the actions set forth in this subsection.

D. A mental health service provider shall not be held civilly liable to any person for:

1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the threats described in subsection B made by his clients to potential third party victims or law-enforcement agencies or by taking any of the actions specified in subsection C.

2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause the third party serious physical harm.

3. Failing to take precautions other than those enumerated in subsection C to protect a potential third party victim from the client's violent behavior.

#### **§ 54.1-3500. Definitions.**

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

"Appraisal activities" means the exercise of professional judgment based on observations and objective assessments of a client's behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remediate identified problems or to make appropriate referrals.

"Board" means the Board of Counseling.

"Certified substance abuse counseling assistant" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.2.

"Certified substance abuse counselor" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.1.

"Counseling" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct, and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

"Marriage and family therapist" means a person trained in the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques.

"Marriage and family therapy" means the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques and delivery of services to individuals, couples, and families, singularly or in groups, for the purpose of treating such disorders.

"Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, standards, and methods of the counseling profession, which shall include appraisal, counseling, and referral activities.

"Practice of marriage and family therapy" means the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques, which shall include assessment, treatment, and referral activities.

"Practice of substance abuse treatment" means rendering or offering to render substance abuse treatment to individuals, groups, organizations, or the general public.

"Professional counselor" means a person trained in the application of principles, standards, and methods of the counseling profession, including counseling interventions designed to facilitate an individual's achievement of human development goals and remediating mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.

"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, the Department of Corrections, or a provider licensed by the Department of Behavioral Health and Developmental Services includes qualified mental health professionals-adult and qualified mental health professionals-child.

"Qualified mental health professional-adult" means a qualified mental health professional who provides collaborative mental health services for adults. A qualified mental health professional-adult shall provide such services as an employee or

*independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.*

*"Qualified mental health professional-child" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative mental health services for children and adolescents up to 22 years of age. A qualified mental health professional-child shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.*

*"Qualified mental health professional-trainee" means a person who is receiving supervised training to qualify as a qualified mental health professional and is registered with the Board.*

"Referral activities" means the evaluation of data to identify problems and to determine advisability of referral to other specialists.

"Registered peer recovery specialist" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer recovery specialist shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.

"Residency" means a post-internship supervised clinical experience registered with the Board.

"Resident" means an individual who has submitted a supervisory contract to the Board and has received Board approval to provide clinical services in professional counseling under supervision.

"Substance abuse" and "substance dependence" mean a maladaptive pattern of substance use leading to clinically significant impairment or distress.

"Substance abuse treatment" means (i) the application of specific knowledge, skills, substance abuse treatment theory, and substance abuse treatment techniques to define goals and develop a treatment plan of action regarding substance abuse or dependence prevention, education, or treatment in the substance abuse or dependence recovery process and (ii) referrals to medical, social services, psychological, psychiatric, or legal resources when such referrals are indicated.

"Supervision" means the ongoing process, performed by a supervisor, of monitoring the performance of the person supervised and providing regular, documented individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person supervised.

#### **§ 54.1-3505. Specific powers and duties of the Board.**

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.

5. [Expired.]

6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.

7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.

8. To maintain a registry of persons who meet the requirements for supervision of residents. The Board shall make the registry of approved supervisors available to persons seeking residence status.

9. To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration, *and for the registration of persons receiving supervised training in order to qualify as a qualified mental health professional.*

10. To promulgate regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the Board of Behavioral Health and Developmental Services pursuant to § 37.2-203.

## CHAPTER 102

*An Act to amend and reenact §§ 18.2-246.8, 18.2-246.10, and 18.2-371.2 of the Code of Virginia, relating to purchase, possession, and sale of tobacco products, nicotine vapor products, and alternative nicotine products; minimum age requirements; penalties.*

[S 1727]

Approved February 21, 2019

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

1. That §§ 18.2-246.8, 18.2-246.10, and 18.2-371.2 of the Code of Virginia are amended and reenacted as follows:

#### § 18.2-246.8. Age verification requirements.

A. No person shall mail, ship, or otherwise deliver cigarettes in connection with a delivery sale unless prior to the first delivery sale to a consumer such person:

1. Obtains from the prospective consumer a certification that includes (i) a reliable confirmation that the consumer is at least the legal minimum purchase age, and (ii) a statement signed by the prospective consumer in writing that certifies the prospective consumer's address and that the consumer is at least ~~18~~ 21 years of age. Such statement shall also confirm (a) that the prospective consumer understands that signing another person's name to such certification is illegal, (b) that the sale of cigarettes to individuals under the legal minimum purchase age is illegal, and (c) that the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of the Commonwealth;

2. Makes a good faith effort to verify the information contained in the certification provided by the prospective consumer pursuant to subsection A against a commercially available database of valid, government-issued identification that contains the date of birth or age of the individual placing the order, or obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order;

3. Provides to the prospective consumer, via e-mail or other means, a notice that meets the requirements of § 18.2-246.9; and

4. Receives payment for the delivery sale from the prospective consumer by a credit or debit card that has been issued in such consumer's name or by a check drawn on the consumer's account.

B. Persons accepting purchase orders made via the Internet for delivery sales may request that prospective consumers provide their e-mail addresses.

#### § 18.2-246.10. Shipping requirements.

Each person who mails, ships, or otherwise delivers cigarettes in connection with a delivery sale:

1. Shall include as part of the shipping documents a clear and conspicuous statement providing as follows: "Cigarettes: Virginia Law Prohibits Shipping to Individuals Under ~~18~~ 21, and Requires the Payment of all Applicable Taxes";

2. Shall use a method of mailing, shipping, or delivery that obligates the delivery service or any party making delivery to require (i) the consumer placing the purchase order for the delivery sale, or an adult of legal minimum purchase age, to sign to accept delivery of the shipping container, and (ii) proof, in the form of a valid, government-issued identification bearing a photograph of the individual who signs to accept delivery of the shipping container, demonstrating that he is either the addressee who is of legal minimum purchase age or another adult of legal minimum purchase age. However, proof of the legal minimum purchase age shall be required only if such individual appears to be under 27 years of age; and

3. Shall provide to the delivery service retained for such delivery sale evidence of full compliance with § 18.2-246.12.

**§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products, and alternative nicotine products by a person under 21 years of age or sale of tobacco products, nicotine vapor products, and alternative nicotine products to persons under 21 years of age.**

A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any person less than ~~18~~ 21 years of age, knowing or having reason to believe that such person is less than ~~18~~ 21 years of age, any tobacco product, nicotine vapor product, or alternative nicotine product.

Tobacco products, *nicotine vapor products, and alternative nicotine products* may be sold from a vending machine only if the machine is (i) posted with a notice, in a conspicuous manner and place, indicating that the purchase or possession of tobacco products by ~~minors persons under 21 years of age~~ is unlawful and (ii) located in a place ~~which~~ that is not open to the general public and is not generally accessible to ~~minors persons under 21 years of age~~. An establishment ~~which~~ that prohibits the presence of ~~minors persons under 21 years of age~~ unless accompanied by ~~an adult~~ a person 21 years of age or older is not open to the general public.

B. No person less than ~~18~~ 21 years of age shall attempt to purchase, purchase, or possess any tobacco product, nicotine vapor product, or alternative nicotine product. The provisions of this subsection shall not be applicable to the possession of

tobacco products, nicotine vapor products, or alternative nicotine products by a person less than ~~18~~ 21 years of age making a delivery of tobacco products, nicotine vapor products, or alternative nicotine products in pursuance of his employment. This subsection shall not apply to purchase, attempt to purchase, or possession by a law-enforcement officer or his agent when the same is necessary in the performance of his duties.

C. No person shall sell a tobacco product, nicotine vapor product, or alternative nicotine product to any individual who does not demonstrate, by producing a driver's license or similar photo identification issued by a government agency, that the individual is at least ~~18~~ 21 years of age. Such identification is not required from an individual whom the person has reason to believe is at least ~~18~~ 21 years of age or who the person knows is at least ~~18~~ 21 years of age. Proof that the person demanded, was shown, and reasonably relied upon a photo identification stating that the individual was at least ~~18~~ 21 years of age shall be a defense to any action brought under this subsection. In determining whether a person had reason to believe an individual is at least ~~18~~ 21 years of age, the trier of fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner of the individual.

This subsection shall not apply to mail order or Internet sales, provided that the person offering the tobacco product, nicotine vapor product, or alternative nicotine product for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product, or alternative nicotine product verifies that the purchaser is at least ~~18~~ 21 years of age through a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or delivery that requires the signature of a person at least ~~18~~ 21 years of age before the tobacco product, nicotine vapor product, or alternative nicotine product will be released to the purchaser.

*D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any tobacco product, nicotine vapor product, or alternative nicotine product to any active duty military personnel who are 18 years of age or older. An identification card issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.*

E. A violation of subsection A or C by an individual or by a separate retail establishment that involves a nicotine vapor product, alternative nicotine product, or tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third or subsequent violation.

A violation of subsection A or C by an individual or by a separate retail establishment that involves the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has trained its employees concerning the requirements of this section, the court shall suspend all of the penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 of § 16.1-278.8.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

~~E. F.~~ 1. Cigarettes shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, or alternative nicotine product shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, or alternative nicotine products to any person under ~~18~~ 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

~~F. G.~~ Nothing in this section shall be construed to create a private cause of action.

~~G. H.~~ Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

~~H. I.~~ As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

## CHAPTER 103

*An Act to amend and reenact § 46.2-924 of the Code of Virginia, relating to pedestrian crossings; Town of Ashland.*

[H 1648]

Approved February 21, 2019

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

#### **1. That § 46.2-924 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 46.2-924. Drivers to stop for pedestrians; installation of certain signs; penalty.**

A. The driver of any vehicle on a highway shall yield the right-of-way to any pedestrian crossing such highway:

1. At any clearly marked crosswalk, whether at mid-block or at the end of any block;
2. At any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block;
3. At any intersection when the driver is approaching on a highway or street where the legal maximum speed does not exceed 35 miles per hour.

B. Notwithstanding the provisions of subsection A, at intersections or crosswalks where the movement of traffic is being regulated by law-enforcement officers or traffic control devices, the driver shall yield according to the direction of the law-enforcement officer or device.

No pedestrian shall enter or cross an intersection in disregard of approaching traffic.

The drivers of vehicles entering, crossing, or turning at intersections shall change their course, slow down, or stop if necessary to permit pedestrians to cross such intersections safely and expeditiously.

Pedestrians crossing highways at intersections shall at all times have the right-of-way over vehicles making turns into the highways being crossed by the pedestrians.

C. The governing body of Arlington County, Fairfax County, Loudoun County and any town therein, the City of Alexandria, the City of Fairfax, ~~and~~ the City of Falls Church, *and the Town of Ashland* may by ordinance provide for the installation and maintenance of highway signs at marked crosswalks specifically requiring operators of motor vehicles, at the locations where such signs are installed, to yield the right-of-way to pedestrians crossing or attempting to cross the highway. Any operator of a motor vehicle who fails at such locations to yield the right-of-way to pedestrians as required by such signs shall be guilty of a traffic infraction punishable by a fine of no less than \$100 or more than \$500. The Department of Transportation shall develop criteria for the design, location, and installation of such signs. The provisions of this section shall not apply to any limited access highway.

D. Where a shared-use path crosses a highway at a clearly marked crosswalk and there are no traffic control signals at such crossing, the local governing body may by ordinance require pedestrians, cyclists, and any other users of such shared-used path to come to a complete stop prior to entering such crosswalk. Such local ordinance may provide for a fine not to exceed \$100 for violations. Any locality adopting such an ordinance shall install and maintain stop signs, consistent with standards adopted by the Commonwealth Transportation Board and to the extent necessary in coordination with the Department of Transportation. At such crosswalks, no user of such shared-use path shall enter the crosswalk in disregard of approaching traffic.

E. A locality adopting an ordinance under subsection D shall coordinate the enforcement and placement of any stop signs affecting a shared-use path owned and operated by a park authority formed under Chapter 57 (§ 15.2-5700 et seq.) of Title 15.2 with such authority.

## CHAPTER 104

*An Act to amend and reenact § 46.2-916.2 of the Code of Virginia, relating to golf carts and utility vehicles; Town of Dendron.*

[H 1678]

Approved February 21, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-916.2 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-916.2. Designation of public highways for golf cart and utility vehicle operations.**

A. No portion of the public highways may be designated for use by golf carts and utility vehicles unless the governing body of the county, city, or town in which that portion of the highway is located has reviewed and approved such highway usage.

B. The governing body of any county, city, or town may by ordinance authorize the operation of golf carts and utility vehicles on designated public highways within its boundaries after (i) considering the speed, volume, and character of motor vehicle traffic using such highways and (ii) determining that golf cart and utility vehicle operation on particular highways is compatible with state and local transportation plans and consistent with the Commonwealth's Statewide Pedestrian Policy provided for in § 33.2-354.

C. Notwithstanding the other provisions of this section, no town that has not established its own police department, as defined in § 9.1-165, may authorize the operation of golf carts or utility vehicles. The provision of this subsection shall not apply to the Towns of Clarendon, Clifton, *Dendron*, Irvington, Jarratt, Saxis, Urbanna, or Wachapreague.

D. No public highway shall be designated for use by golf carts and utility vehicles if such golf cart and utility vehicle operations will impede the safe and efficient flow of motor vehicle traffic.

E. The county, city, or town that has authorized the operation of golf carts or utility vehicles shall be responsible for the installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles. Such county, city, or town may include in its ordinance for designating highways the ability to recover its costs of the signs and maintenance pertaining thereto from organizations, individuals, or entities requesting the designations. The cost of installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles shall not be paid by the Virginia Department of Transportation.

F. Notwithstanding the other provisions of this section, employees of the Department of Conservation and Recreation may operate golf carts and utility vehicles on those portions of public highways located within Department of Conservation and Recreation property and on Virginia Department of Transportation-maintained highways that are adjacent to Department of Conservation and Recreation property, provided the golf cart or utility vehicle is being operated on highways with speed limits of no more than 35 miles per hour.

## CHAPTER 105

*An Act to amend and reenact §§ 16.1-309.2, 16.1-309.3, and 16.2-309.7 of the Code of Virginia, relating to the Virginia Juvenile Community Crime Control Act; prevention of juvenile crime prior to intake.*

[H 1771]

Approved February 21, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-309.2, 16.1-309.3, and 16.2-309.7 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-309.2. Purpose and intent.**

The General Assembly, to ensure *the prevention of juvenile crime and the imposition of appropriate and just sanctions and to make the most efficient use of community diversion and community-based and correctional resources for those juveniles who have been screened for needing community diversion or community-based services using an evidence-based assessment protocol or are before intake on complaints or the court on petitions alleging that the juvenile is a child in need of services, child in need of supervision, or delinquent, has determined that it is in the best interest of the Commonwealth to establish a community-based system of progressive intensive sanctions and services that correspond to the severity of offense and treatment needs. The purpose of this system shall be to deter crime by providing community diversion or community-based services to juveniles who are in need of such services and by providing an immediate, effective punishment that emphasizes accountability of the juvenile offender for his actions as well as reduces the pattern of repeat offending. In furtherance of this purpose, counties, cities or combinations thereof are encouraged to develop, implement, operate, and evaluate programs and services responsive to their specific juvenile offender needs and juvenile crime trends.*

This article shall be interpreted and construed to accomplish the following purposes:

1. Promote an adequate level of services to be available to every juvenile and domestic relations district court.
2. Ensure local autonomy and flexibility in addressing juvenile crime.
3. Encourage a public and private partnership in the design and delivery of services for juveniles who come before intake on a complaint or the court on a petition alleging a child is in need of services, in need of supervision, or delinquent

*or have been screened for needing community diversion or community-based services using an evidence-based assessment protocol.*

4. Emphasize parental responsibility and provide community-based services for juveniles and their families which hold them accountable for their behavior.

5. Establish a locally driven statewide planning process for the allocation of state resources.

6. Promote the development of an adequate service capacity for juveniles before intake on a complaint or the court on petitions alleging status or delinquent offenses.

**§ 16.1-309.3. Establishment of a community-based system of services; biennial local plan; quarterly report.**

A. Any county, city, or combination thereof may establish a community-based system pursuant to this article, which shall provide, or arrange to have accessible, a variety of predispositional and postdispositional services. These services may include, but are not limited to, diversion, community service, restitution, house arrest, intensive juvenile supervision, substance abuse assessment and testing, first-time offender programs, intensive individual and family treatment, structured day treatment and structured residential programs, aftercare/parole community supervision, and residential and nonresidential services for *juveniles who have been screened for needing community diversion or community-based services using an evidence-based assessment protocol or juvenile offenders who are before intake on complaints or the court on petitions alleging that the juvenile is delinquent, in need of services, or in need of supervision but shall not include secure detention for the purposes of this article.* Such community-based systems shall be based on an annual review of court-related data and an objective assessment of the need for services and programs for *juveniles who have been screened for needing community diversion or community-based services using an evidence-based assessment protocol or juvenile offenders who are before intake on complaints or the court on petitions alleging that the juvenile is a child in need of services, in need of supervision, or delinquent.* The community-based system shall be developed after consultation with the judge or judges of the juvenile and domestic relations district court, the director of the court services unit, the community policy and management team established under § 2.2-5205, and, if applicable, the director of any program established pursuant to § 66-26.

B. Community-based services instituted pursuant to this article shall be administered by a county, city, or combination thereof; and may be administered through a community policy and management team established under § 2.2-5204 or a commission established under § 16.1-315. Such programs and services may be provided by qualified public or private agencies, pursuant to appropriate contracts. Any commission established under § 16.1-315 providing predispositional and postdispositional services prior to the enactment of this article which serves the City of Chesapeake or the City of Hampton shall directly receive the proportion of funds calculated under § 16.1-309.7 on behalf of the owner localities. The funds received shall be allocated directly to the member localities. Any member locality which elects to withdraw from the commission shall be entitled to its full allocation as provided in §§ 16.1-309.6 and 16.1-309.7. The Department of Juvenile Justice shall provide technical assistance to localities, upon request, for establishing or expanding programs or services pursuant to this article.

C. Funds provided to implement the provisions of this article shall not be used to supplant funds established as the state pool of funds under § 2.2-5211.

D. Any county, city, or combination thereof which establishes a community-based system pursuant to this article shall biennially submit to the State Board for approval a local plan for the development, implementation, and operation of such services, programs, and facilities pursuant to this article. The plan shall provide (i) the projected number of juveniles served by alternatives to secure detention and (ii) any reduction in secure detention rates and commitments to state care as a result of programs funded pursuant to this article. The State Board shall solicit written comments on the plan from the judge or judges of the juvenile and domestic relations court, the director of the court services unit, and, if applicable, the director of programs established pursuant to § 66-26. Prior to the initiation of any new services, the plan shall also include a cost comparison for the private operation of such services.

E. Each locality shall report quarterly to the Director the data required by the Department to measure progress on stated objectives and to evaluate programs and services within such locality's plan.

**§ 16.1-309.7. Determination of payment.**

A. The Commonwealth shall provide financial assistance to localities whose plans have been approved pursuant to subsection D of § 16.1-309.3 in quarterly payments based on the annual calculated costs which shall be determined as follows:

1. For community diversion services, one-half of the calculated costs as determined by the following factors: (i) the statewide daily average costs for predispositional nonresidential services and (ii) the total number of children in need of services and children in need of supervision complaints diverted at intake by the locality in the previous year *and the total number of children who have been screened for needing community diversion or community-based services using an evidence-based assessment protocol.*

2. For predispositional community-based services, three-quarters of the calculated costs as determined by the following factors: (i) the statewide daily average cost evenly divided for predispositional community-based residential and nonresidential services and (ii) the number of arrests of juveniles based on the locality's most recent year available Uniform Crime Reports for (a) one-third of all Part 1 crimes against property, (b) one-third of all drug offenses and (c) all remaining Part 2 arrests.

3. For postdispositional community-based services for adjudicated juveniles, one-half of the calculated costs as determined by the following factors: (i) the statewide average daily costs for postdispositional community-based nonresidential services and (ii) the locality's total number of juveniles, who, in the previous year, were adjudicated delinquent for the first time.

4. For postdispositional community-based services for juveniles adjudicated delinquent for a second or subsequent offense, one-half of the calculated costs as determined by the following factors: (i) the statewide average daily costs evenly divided for postdispositional community-based residential and nonresidential services and (ii) the locality's total number of court dispositions which, in the previous year, adjudicated juveniles as (a) delinquent for a second or subsequent offense, (b) children in need of services, or (c) children in need of supervision, less those juveniles receiving services under the provisions of §§ 16.1-285.1 and 16.1-286.

B. Any moneys distributed by the Commonwealth under this article which are unexpended at the end of each fiscal year within a biennium shall be retained by the county, city or combination thereof and subsequently expended for operating expenses of Juvenile Community Crime Control Act programs. Any surplus funds remaining at the end of a biennium shall be returned to the state treasury.

## CHAPTER 106

*An Act to amend and reenact § 16.1-260 of the Code of Virginia, relating to student offenses reportable by intake officers to school division superintendents.*

[H 1787]

Approved February 21, 2019

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

**1. That § 16.1-260 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-260. Intake; petition; investigation.**

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a

juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan, provided that (a) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (b) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (1) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (2) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (3) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1; ~~or~~
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; *or*
14. A *threat* pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-250.1, 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 18.2-250.1 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 18.2-250.1 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

## CHAPTER 107

*An Act to amend and reenact § 19.2-299 of the Code of Virginia, relating to investigations and reports by probation officers; persons eligible for parole.*

[H 1833]

Approved February 21, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 19.2-299 of the Code of Virginia is amended and reenacted as follows:****§ 19.2-299. Investigations and reports by probation officers in certain cases.**

A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the attorney for the Commonwealth, the court may, or on motion of the defendant shall; or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall, unless waived by the defendant and the attorney for the Commonwealth, when the defendant pleads guilty or nolo contendere without a plea agreement or is found guilty by the court after a plea of not guilty or nolo contendere; or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49, § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1, or 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. Unless the defendant or the attorney for the Commonwealth objects, the court may order that the report contain no more than the defendant's criminal history, any history of substance abuse, any physical or health-related problems as may be pertinent, and any applicable sentencing guideline worksheets. This expedited report shall be subject to all the same procedures as all other sentencing reports and sentencing guidelines worksheets. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. Counsel for the accused may provide the accused with a copy of the presentence report. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. Subject to the limitations set forth in § 37.2-901, any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person (a) is charged with a felony subsequent to the time of the preparation of the report or (b) has been convicted of the crime or crimes for which the report was prepared and is pursuing a post-conviction remedy. *Such report shall be made available for review without a court order to incarcerated persons who are eligible for release by the Virginia Parole Board, or such person's counsel, pursuant to regulations promulgated by the Virginia Parole Board for that purpose.* The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

### CHAPTER 108

*An Act to amend and reenact § 4.05, as amended, of Chapter 576 of the Acts of Assembly of 1978, which provided a charter for the City of Newport News, relating to time of inaugural meeting of newly elected city council.*

[S 1045]

Approved February 21, 2019

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

#### **1. That § 4.05, as amended, of Chapter 576 of the Acts of Assembly of 1978 is amended and reenacted as follows:**

§ 4.05. Inaugural meetings; induction of members and election of vice-mayor.

The first meeting of a newly elected council shall take place on the date of the first regularly scheduled meeting of the city council in the month of July following the election at ~~10:00 a.m. at a place~~ *a time and location* specified for same in the notice sent to the council members in accord with the manner set forth in § 4.06 of this charter for special meetings. At or before this first meeting, the oath of office shall be administered to the duly elected members as provided by law. In the absence of the mayor, the meeting may be called to order by the city clerk. The first business of the council shall be the election of a vice-mayor and the adoption of rules of procedure. Until this business has been completed, the council shall not adjourn for a period longer than forty-eight hours.

### CHAPTER 109

*An Act to amend and reenact § 4, as amended, of Chapter IV of Chapter 431 of the Acts of Assembly of 1950, which provided a charter for the City of Hopewell, relating to appointment of president of city council.*

[S 1191]

Approved February 21, 2019

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

#### **1. That § 4, as amended, of Chapter IV of Chapter 431 of the Acts of Assembly of 1950 is amended and reenacted as follows:**

§ 4. ~~Election~~ *Appointment* and terms of president (ex officio mayor), vice-president (ex officio vice-mayor) and members of boards and commissions; quorum; journal; etc.

(a) On the first Tuesday in January next following the regular municipal election, or as soon thereafter as may be practicable, the newly elected council shall proceed to ~~choose~~ *appoint* by majority vote of all the members thereof one of their number to be president, who shall be ex officio mayor, and another as vice-president, who shall be ex officio vice-mayor, of the council, each of whom shall serve for a period of two years from the first day of the January next following the *regular municipal* election and until their successor or successors *as mayor or vice-mayor* have been ~~elected~~ *appointed* and qualified; ~~provided, however, that the terms of the president and vice president set to expire on June 30, 2012, shall be extended to December 31, 2012, and until their successors have been elected and qualified.~~

(b) Appointment of boards and commissions; enumeration, term. The school board, library board, and dock commission shall each consist of five members of the board of such regional free library system as are permitted under the inter-jurisdictional contract establishing the regional library system as that contract may be amended from time to time.

The council shall appoint the members of such boards and commissions as are provided for in this charter, or as may be established by the council or by general law on a date and for such terms as may be established by ordinance.

The members of the boards and commissions shall serve until their successors have been appointed and qualified.

(c) Elections to be by viva voce vote; rules of procedure; punishment of members for misconduct, etc.; quorum; eligibility of members for other office; journal of proceedings. All elections by the council shall be viva voce and the vote recorded in the journal of the council.

The council may determine its own rules of procedure; in the absence of established rules of procedure, Robert's Rules of Order shall prevail. Council may punish its members for misconduct and may compel the attendance of members in such manner and under such penalties as may be prescribed by ordinance. It shall keep a journal of its proceedings. A majority of all the members of the council shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

No person, now a member or who may hereafter be elected to the council, shall during his tenure of office, or during the term for which he was elected as such member, be eligible to any office to be filled by the council by election or appointment.

## CHAPTER 110

*An Act to amend and reenact § 3.01.1 and § 3.04, as amended, of Chapter 116 of the Acts of Assembly of 1948, which provided a charter for the City of Richmond, relating to runoff elections.*

[S 1193]

Approved February 21, 2019

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

**1. That § 3.01.1 and § 3.04, as amended, of Chapter 116 of the Acts of Assembly of 1948 are amended and reenacted as follows:**

## § 3.01.1 Election of mayor.

On the first Tuesday after the first Monday in November 2004, and every four years thereafter, a general election shall be held to elect the mayor. All persons seeking to have their names appear on the ballot as candidates for mayor must comply with the provisions of Chapter 5 (§ 24.2-500 et seq.) of Title 24.2 of the Code of Virginia and must file with their declaration of candidacy a petition containing a minimum of 500 signatures of qualified voters of the city, to include at least 50 qualified voters from each of the nine election districts. However, these filing requirements shall only apply to the initial, general election and not to any runoff election that may subsequently become necessary.

In the general election, the person receiving the most votes in each of at least five of the nine city council districts shall be elected mayor. Should no one be elected, then the two persons receiving the highest total of votes city wide shall be considered nominated for a runoff election. The runoff election shall be held on the sixth Tuesday after the November general election between the two nominees. The date of any such runoff election shall, as soon as possible, be posted at the courthouse and published at least once in a newspaper of general circulation in the city. In any such runoff election, write-in votes shall not be counted, and the person receiving the most votes in each of at least five of the nine city council districts shall be elected mayor. In the event the two candidates in a runoff election shall each win an equal number of council districts, the candidate receiving the most votes city wide shall be elected mayor. An elected term shall run four years. Anyone eligible to serve on city council may serve as mayor, except no one may be elected mayor for three consecutive full terms, and no one may simultaneously hold the office of mayor and any other elected position.

*The procedures and deadlines for voter registration, applying for an absentee ballot, and casting an absentee ballot for any runoff election shall be as provided in Chapters 4 (§ 24.2-400 et seq.), 4.1 (§ 24.2-451 et seq.), and 7 (§ 24.2-700 et seq.) of Title 24.2 of the Code of Virginia for general elections.*

## § 3.04. Vacancies in office of councilman or mayor.

A. Vacancies in the office of councilman, from whatever cause arising, shall be filled in accordance with general law applicable to interim appointments and special elections, provided that, any provision in the general law to the contrary notwithstanding, a special election may be called to fill any such vacancy if the vacancy occurs more than one year prior to the expiration of the full term of the office to be filled.

B. A vacancy in the office of mayor shall be filled by special election conducted according to the rules herein provided for the general election and held within 60 days, but no sooner than 30 days, from the date of the vacancy. Any runoff, should one be necessary, shall be held on the first Tuesday after the fifth day following the date that voting machines used in the special election may be unsealed pursuant to § 24.2-659 of the Code of Virginia or the third Tuesday following the special election, whichever is later. However, if the date by which either the special election or possible runoff election for the office of mayor must be conducted should fall within 60 days prior to a primary election or general election, then the special or runoff election shall be held on the same day as the primary or general election, if allowed by general law, or, if not allowed by general law, then the special election shall be held on the first Tuesday after the fifth day following the date that voting machines used in the primary or general election may be unsealed pursuant to § 24.2-659 of the Code of Virginia. Any runoff that may be necessary shall be held on the first Tuesday after the fifth day following the date that the voting machines used in the special election may be unsealed pursuant to § 24.2-659 of the Code of Virginia or the third Tuesday following the special election, whichever is later. The president of the council shall serve as acting mayor until a successor is elected.

C. *The procedures and deadlines for voter registration, applying for an absentee ballot, and casting an absentee ballot for any runoff election as may be necessary after a special election for mayor shall be as provided in Chapters 4 (§ 24.2-400 et seq.), 4.1 (§ 24.2-451 et seq.), and 7 (§ 24.2-700 et seq.) of Title 24.2 of the Code of Virginia for general elections.*

## CHAPTER 111

*An Act to amend and reenact § 15.2-1408 of the Code of Virginia, relating to restrictions on activities of former officers and employees; City of Richmond.*

[S 1194]

Approved February 21, 2019

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

**1. That § 15.2-1408 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1408. Restrictions on activities of former officers and employees by certain counties and cities.**

*A. The term "officer or employee," as used in this section, includes members of local governing bodies, county or city officers and employees, and individuals who receive monetary compensation for service on or employment by agencies, boards, authorities, sanitary districts, commissions, committees, and task forces appointed by the local governing body.*

*B. In the Counties of Bedford, Fauquier, James City, Pittsylvania, and Stafford; and the Cities of Charlottesville and Virginia Beach, the governing body, by ordinance, may prohibit former officers and employees, for one year after their terms of office have ended or employment ceased, from providing personal and substantial assistance for remuneration of any kind to any party, in connection with any proceeding, application, case, contract, or other particular matter involving the county or city or an agency thereof, if that matter is one in which the former officer or employee participated personally and substantially as a county or city officer or employee through decision, approval, or recommendation.*

~~The term "officer or employee," as used in this section, includes members of local governing bodies, county or city officers and employees, and individuals who receive monetary compensation for service on or employment by agencies, boards, authorities, sanitary districts, commissions, committees, and task forces appointed by the local governing body.~~

*C. In the City of Richmond, the governing body, by ordinance, may prohibit former officers and employees, for one year after their terms of office have ended or employment has ceased, from representing a client or acting in a representative capacity on behalf of any person or group, for compensation, on matters related to ordinances, contracts, proceedings, applications, cases, or other matters of any nature involving any agency, department, or office of local government in which the former officer or employee served or was employed during the one-year period immediately prior to the termination of employment or service. This prohibition shall be in addition to any other prohibition that may be provided by law.*

## CHAPTER 112

*An Act to amend and reenact § 46.2-1025 of the Code of Virginia, relating to amber warning lights; vehicles hauling forest products.*

[S 1254]

Approved February 21, 2019

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

**1. That § 46.2-1025 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1025. Flashing amber, purple, or green warning lights.**

*A. The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the Superintendent:*

- 1. Vehicles used for the principal purpose of towing or servicing disabled vehicles;*
- 2. Vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways, or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways;*
- 3. Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;*
- 4. Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;*
- 5. Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection operations;*
- 6. Vehicles used by individuals for emergency snow-removal purposes;*
- 7. Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;*
- 8. Fire apparatus and emergency medical services vehicles, provided the amber lights are used in addition to lights permitted under § 46.2-1023 and are so mounted or installed as to be visible from behind the vehicle;*
- 9. Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is being operated on a public highway;*
- 10. Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;*
- 11. Vehicles used to collect and deliver packages weighing less than 150 pounds by a national package delivery company that delivers such packages in all 50 states, provided that the amber lights are lit only when the vehicle is stopped and its operator is engaged in such collection and delivery;*
- 12. Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's back-up lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in § 46.2-1175.1, is in operation;*

13. Vehicles used by law-enforcement agency personnel in the enforcement of laws governing motor vehicle parking;
  14. Government-owned law-enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is in motion;
  15. Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;
  16. Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;
  17. Vehicles owned and used by construction companies operating under Virginia contractors licenses;
  18. Vehicles used to lead or provide escorts for bicycle races authorized by the Department of Transportation or the locality in which the race is being conducted;
  19. Vehicles used by radio or television stations for remote broadcasts, provided that the amber lights are not lit while the vehicle is in motion;
  20. Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subdivision, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;
  21. Vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;
  22. Vehicles used in patrol work by members of neighborhood watch groups approved by the chief law-enforcement officer of the locality in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion;
  23. Vehicles that are not tow trucks as defined in § 46.2-100, but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing and recovery site;
  24. Vehicles used or operated by federally licensed amateur radio operators, provided that the amber lights are not lit while the vehicle is in motion, (i) while participating in emergency communications or drills on behalf of federal, state, or local authorities or (ii) while providing communications services to localities for public service events authorized by the Department of Transportation where the event is being conducted; ~~and~~
  25. Publicly owned or operated transit buses; *and*
  26. *Vehicles used for hauling trees, logs, or any other forest products when hauling such products, provided that the amber lights are mounted or installed so as to be visible from behind the vehicle.*
- B. Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.
- C. Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle. The Superintendent of State Police shall develop standards and specifications for purple lights authorized in this subsection.
- D. Vehicles used by police, firefighting, or emergency medical services personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the Superintendent. Such lights shall not be activated while the vehicle is operating upon the highway.

## CHAPTER 113

*An Act to amend and reenact § 1 of Article II and §§ 2, as amended, 7, 11, 13, and 15 of Article III of Chapter 366 of the Acts of Assembly of 1958, which provided a charter for the Town of Irvington in Lancaster County, relating to corporate limits, town council and mayor.*

[S 1350]

Approved February 21, 2019

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

**1. That § 1 of Article II and §§ 2, as amended, 7, 11, 13, and 15 of Article III of Chapter 366 of the Acts of Assembly of 1958 are amended and reenacted as follows:**

#### Article II. Corporate Limits.

§ 1. The territory embraced within the limits of the town of Irvington is as follows:

Beginning at a point on the westerly side of Virginia State Highway # 3 (*renumbered as Virginia State Highway 200*), which leads from the Town of Irvington to the Town of Kilmarnock, Virginia, where the land now or formerly belonging to the Leland estate corners with the land of Thomas Banks, which said point of beginning is designated by a cement corner stone; thence running along the line separating the property of the Leland Estate from the Banks property South 82° 20' 20" West 340.11 feet to an old axle; thence continuing along said line South 81° 45' 50" West 153.14 feet to a pipe; thence continuing along said line South 81° 32' 50" West 749.20 feet to an old pipe; thence continuing along said line separating the said Leland and Banks properties South 80° 39' 50" West 940.52 feet to a marked Poplar tree, thence continuing along said line South 79° 54' 20" West 414.11 feet to a cement marker; thence continuing along the same course a distance of approximately 180 feet to the center of Church Branch of Carters Creek; thence running in a Southerly direction down the center of said Branch by the Leland property, property of Dew and Henderson, property of E. A. Stephens and others to a point opposite the property of Warner Moore; thence running in an easterly direction along with center line of the eastern

branch of Carters Creek by a Black buoy, the old ferry slip, by the Yarbrough property, the James property to a point in the center of said Creek opposite the property of M. J. Alga; thence running in a Northerly direction along the center of said Eastern Branch of Carters Creek by the lands of Crosby Miller, T. D. McGinnes, through the center of a certain bridge located on Virginia State Highway # 3 (*renumbered as Virginia State Highway 200*) which leads from the Town of Irvington to the Town of White Stone, Virginia, and continuing in a Northerly direction up the center of said Branch, known as Old Mill Cove, and continuing in a general Northerly direction up the center of said swamp by the S. A. Buchan estate to the Southern boundary of the land of Earl M. Pittman; thence running North 85° 29' 30" West approximately sixty feet to a cement marker; thence continuing North 85° 20' 30" West 2948.16 feet to another cement marker on the Eastern edge of Virginia State Highway # 3 (*renumbered as Virginia State Highway 200*) which leads from the Town of Irvington to the town of Kilmarnock, Virginia, thence continuing same course approximately 110 feet across said highway to the Leland property; thence running along the western edge of Virginia State Highway # 3 (*renumbered as Virginia State Highway 200*) in a northerly direction approximately 955.50 feet to a cement marker, the point of beginning, the said property embraced within the Town of Irvington being shown on a certain plat of survey made by T. D. Wilkinson, III, Certified Surveyor, dated the 3rd day of May, 1956, which said plat is of record in the Clerk's Office of the Circuit Court of Lancaster County, Virginia, *Instrument number 180001509, and also shown on a certain plat of survey of a portion of the boundary of Irvington, made by Robert C. Buckley, Jr., Certified Surveyor, dated October 28, 1994, which said plat is of record in the Clerk's Office of the Circuit Court of Lancaster County, Virginia, Instrument number CLR 940000938.*

### Article III. Administration and Government.

§ 2. ~~On the second Tuesday in June, 1962, and every two years thereafter, there shall be elected by the qualified voters of the town, one elector of the town, who shall be denominated mayor and six other such electors who shall be councilmen and constitute the town council.~~ *On the first Tuesday in May 2020, and every four years thereafter, there shall be elected by the qualified voters of the town one elector of the town who shall be denominated the mayor and three other such electors, all of whom shall serve terms of four years. On the first Tuesday in May 2022, and every four years thereafter, there shall be elected by the qualified voters of the town an additional three electors, who shall serve terms of four years. The six electors other than the mayor shall constitute the town council.* They shall enter upon the duties of their offices on the first day of ~~September~~ *July* next succeeding their election and shall continue in office until their successors are duly elected and qualified. Every person so elected shall take an oath faithfully to execute and discharge the duties of his office to the best of his judgment and the mayor shall take the oath prescribed by the law for State officers. The failure of any person elected or appointed under the provisions of this charter to qualify or to take the oath required, within the time prescribed for entering upon the discharge of the duties of the office to which he is elected or appointed, shall vacate such office, and the council shall proceed and is hereby vested with power to fill such vacancy in the manner herein prescribed.

§ 7. The mayor shall preside at the meetings of the council, *voting only in case of a tie*, and perform such other duties as are prescribed by this charter and by general law and such as may be imposed by the council consistent with his office. He shall take care and see that the by-laws, ordinances, acts and resolutions of the council are faithfully executed and obeyed. He shall be ex officio conservator of the peace within the town and within one mile of its corporate limits. He shall see that peace and good order are preserved and that persons and property within the town are protected. He shall authenticate by his signature such documents and instruments as the council, this charter, or the laws of the Commonwealth require. He shall from time to time recommend to the council such measures as he may deem needful for the welfare of the town.

§ 11. The council shall appoint at its first regular meeting in ~~September~~ *July* after its election, a clerk of the council who shall hold office at the pleasure of the council. He shall attend the meetings of the council and keep its minutes and records and have charge of the corporate seal and shall attest the same. He shall keep all papers required to be kept by the council, shall publish reports and ordinances as are required to be published and shall perform such other duties as the council may require. His compensation shall be fixed by the council. Any vacancy in this office shall be filled by the council.

§ 13. The council shall appoint at its first meeting in ~~September~~ *July*, or as soon as practicable thereafter, a treasurer who shall hold office for a term of two years. The council may provide a salary for the treasurer. He shall give such bond, with surety and in such penalty as the council prescribes. He shall receive all money belonging to the town, and keep correct accounts of all receipts from all sources and of all expenditures of all departments. He shall be responsible for the collection of all taxes, license fees, levies and charges due to the town, and shall disburse the moneys of the town in the manner prescribed by the council as it may by ordinance direct. The treasurer shall make such reports and at such time as the council may prescribe. The books and accounts of the treasurer shall be examined and audited at such times as the council may direct, such examination and audit to be reported to the council.

§ 15. The council may appoint at its first regular meeting in ~~September~~ *July* or as soon as practicable thereafter, a town sergeant, who shall also be chief of police and have all the powers vested in town sergeants by general law. He shall hold office at the pleasure of the council. His duties shall be such as the council prescribes. He shall be vested with the powers of a conservator of the peace. His compensation shall be fixed by the council.

## CHAPTER 114

*An Act to amend and reenact § 59.1-284.29 of the Code of Virginia, relating to Advanced Shipbuilding Production Facility Grants; grant availability dates.*

[S 1393]

Approved February 21, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 59.1-284.29 of the Code of Virginia is amended and reenacted as follows:****§ 59.1-284.29. Advanced Shipbuilding Production Facility Grant Program.**

A. As used in this section:

"Advanced shipbuilding" means (i) the manufacture, construction, assembly, overhaul, repair, and testing of nuclear vessels and submarines for the United States Navy; (ii) the design or development of nuclear vessels and submarines for the United States Navy; or (iii) the manufacturing activities of a private company described under 2007 index number 336611 of the North American Industry Classification System.

"Capital investment" means an investment in real property, tangible personal property, or both, within the eligible city.

"Eligible city" means the City of Newport News or its industrial development authority.

"Foundry" means a facility and equipment used to cast metal components used in advanced shipbuilding.

"Grant" means the advanced shipbuilding production facility grant as described in this section.

"Memorandum of understanding" means a performance agreement entered into on or before August 31, 2016, among a qualified shipbuilder, the Commonwealth, and others as appropriate, such as the eligible city, setting forth the requirements for capital investment and the creation of new full-time jobs that will make the qualified shipbuilder eligible for a grant under this section.

"New full-time job" means employment of an indefinite duration in an eligible city, and engaged in the construction of a class of vessel or submarine not being built in that eligible city prior to January 1, 2016, for which the average annual wage is at least equal to the prevailing average annual wage in that eligible city and for which the standard fringe benefits are paid by the qualified shipbuilder, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such qualified shipbuilder's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new full-time jobs under this section. Other positions, which may or may not be of indefinite duration, including supplemental employees of affiliates, subsidiaries, joint ventures, contractors, or subcontractors of the qualified shipbuilder, may be considered new full-time jobs if designated as such in the memorandum of understanding between such qualified shipbuilder, the Commonwealth, and others.

"New production facility" means a facility or equipment that, pursuant to a memorandum of understanding with the Secretary, is constructed or purchased after January 1, 2016, and operated by the qualified shipbuilder for use in the construction of or manufacture of components for a class of nuclear vessels or submarines not being built in that eligible city as of January 1, 2016. Such new production facility may be owned by the qualified shipbuilder or may be operated by the qualified shipbuilder through a lease agreement with the eligible city or a local industrial development authority.

"Qualified shipbuilder" means a shipbuilder located in an eligible city that (i) makes a new capital investment of at least \$750 million from January 1, 2015, through December 31, 2020, related to advanced shipbuilding in an eligible city; (ii) creates at least 1,000 new full-time jobs in an eligible city for advanced shipbuilding or activities ancillary to or supportive of advanced shipbuilding; and (iii) builds a new production facility.

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. Any qualified shipbuilder located in an eligible city or the eligible city shall be eligible to receive a grant each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, ~~2022~~ 2020, and ending with the Commonwealth's fiscal year starting on July 1, ~~2026~~ 2024, unless such time frame is extended in accordance with subsection C or D. The grants under this section (i) shall be paid, subject to appropriation by the General Assembly, from the fund entitled the Advanced Shipbuilding Production Facility Grant Fund established in subsection G; (ii) shall not exceed \$40 million in the aggregate; (iii) shall be paid to a qualified shipbuilder or eligible city during each fiscal year contingent upon the qualified shipbuilder's meeting the requirements for the aggregate of (a) number of new full-time jobs created and the substantial retention of the same and (b) amount of the capital investment made, as set forth in the memorandum of understanding; and (iv) shall be expended by the qualified shipbuilder or the eligible city on the capital or lease cost of a new production facility or a new or existing foundry.

1. The amount of the grant to be paid in each fiscal year shall be conditional upon the qualified shipbuilder's meeting the requirements for (i) the aggregate number of new full-time jobs created and the substantial retention of the same throughout the calendar year that immediately precedes the beginning of such fiscal year and (ii) the aggregate amount of the capital investment made as of the last day of the calendar year that immediately precedes the beginning of such fiscal year. If the qualified shipbuilder has not fully met the grant requirements by December 31, 2020, the period of eligibility may be extended for up to three years, provided that the grants in any given fiscal year shall not exceed \$8 million, plus any amounts deferred in accordance with subsection C or D.

2. The aggregate amount of grants that may be awarded in a particular fiscal year shall not exceed the following:

- a. \$8 million for the Commonwealth's fiscal year beginning July 1, ~~2022~~ 2020;
- b. \$16 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2023~~ 2021;
- c. \$24 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2024~~ 2022;
- d. \$32 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2025~~ 2023; and
- e. \$40 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2026~~ 2024.

C. Any qualified shipbuilder or eligible city applying for a grant under this section shall provide evidence, satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and the substantial retention of the same throughout the calendar year that immediately precedes the beginning of the fiscal year in which the grant is to be paid and (ii) the aggregate amount of the capital investment made as of the last day of the calendar year that immediately precedes the beginning of the fiscal year in which the grant is to be paid. The application and evidence shall be filed with the Secretary in person or by mail no later than April 1 each year following the calendar year in which the qualified shipbuilder meets such aggregate new full-time job requirements and aggregate capital investments. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment set forth in subsection B. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

D. The memorandum of understanding may provide that if a grant payment has been deferred for any reason, including the initial failure to meet the aggregate capital investment or the aggregate new full-time job requirements set forth in the memorandum of understanding or the occurrence of any substantial reduction in such new full-time job requirements after such requirements have been met but before the grant payment has been made, payment in a subsequent fiscal year for which such requirements have been met for the immediately preceding calendar year shall include both the deferred payment and the scheduled grant payment as provided in subsection B or that a proportional payment, based on the proportional share of the required additional full-time jobs, be made.

E. The memorandum of understanding may also provide that a shipbuilder or eligible city that has qualified for and received grants under § 59.1-284.23 may qualify for up to a separate and additional \$6 million in one or more grants payable after July 1, 2016, but before July 1, 2022, to be used in the construction, lease, expansion, or renovation of a foundry in the eligible city. The memorandum of understanding shall require that the total amount of grants received pursuant to this subsection shall not exceed 25 percent of the total cost of improvements needed to meet standards for making castings for the construction of a class of vessel or submarine not being built in that eligible city prior to January 1, 2016, and that those standards are subsequently met. The memorandum of understanding may also set forth requirements for certain employment levels at the foundry. For clarification, such grants are not included in and shall not be subject to the overall limitation of the aggregate grant amount set forth in subsection B.

F. As a condition of receipt of a grant, a qualified shipbuilder shall make available to the Secretary or his designee for inspection upon his request relevant and applicable documents to determine whether the qualified shipbuilder has met the requirements for the receipt of grants as set forth in this section and subject to the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks for the grant program under this section without a specific appropriation for the same. All such documents appropriately identified by the qualified shipbuilder shall be considered confidential and proprietary.

G. There is hereby created in the state treasury a special nonreverting fund to be known as the Advanced Shipbuilding Production Facility Grant Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the purposes stated in this section.

## CHAPTER 115

*An Act to amend and reenact § 19.2-390 of the Code of Virginia, relating to reports to Central Criminal Records Exchange; additional offenses.*

[S 1529]

Approved February 21, 2019

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

**1. That § 19.2-390 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.**

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment,

presentment or information, the arrest on *capias* or warrant for failure to appear, and the service of a warrant for another jurisdiction, on any of the following charges:

- a. Treason;
- b. Any felony;
- c. Any offense punishable as a misdemeanor under Title 54.1; ~~or~~
- d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; *or*
- e. *Any offense in violation of § 3.2-6570, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, or 46.2-817.*

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

2. For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court dismisses the proceeding pursuant to § 18.2-251; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or *capias* may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or *capias* to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his post-release supervision or probation, the law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

C. The clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, *nolle prosequi*, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action which may have resulted from an indictment, presentment or information, and (ii) any adjudication of delinquency based upon an act which, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.2-1722. Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement

agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or *capias* into the VCIN.

D. In addition to those offenses enumerated in subsection A of this section, the Central Criminal Records Exchange may receive, classify and file any other fingerprints, photographs, and records of arrest or confinement submitted to it by any law-enforcement agency or any correctional institution.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

## CHAPTER 116

*An Act to amend and reenact § 46.2-1222.1 of the Code of Virginia, relating to local regulation of parking of certain vehicles.*

[S 1560]

Approved February 21, 2019

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

**1. That § 46.2-1222.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1222.1. Regulation or prohibition of parking of certain vehicles in certain counties and towns.**

A. The Counties of Arlington, Fairfax, Hanover, Stafford, and Prince William and the Towns of Blackstone, *Cape Charles*, Clifton, Herndon, Leesburg, and Vienna may by ordinance regulate or prohibit the parking on any public highway in such county or town of any or all of the following: (i) watercraft; (ii) boat trailers; (iii) motor homes, as defined in § 46.2-100; and (iv) camping trailers, as defined in § 46.2-100.

B. In addition to commercial vehicles defined in § 46.2-1224, any such county or town may also, by ordinance, regulate or prohibit the parking on any public highway in any residence district as defined in § 46.2-100 any or all of the following: (i) any trailer or semitrailer, regardless of whether such trailer or semitrailer is attached to another vehicle; (ii) any vehicle with three or more axles; (iii) any vehicle that has a gross vehicle weight rating of 12,000 or more pounds; (iv) any vehicle designed to transport 16 or more passengers including the driver; and (v) any vehicle of any size that is being used in the transportation of hazardous materials as defined in § 46.2-341.4. The provisions of any such ordinance shall not apply to (i) any commercial vehicle when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power.

## CHAPTER 117

*An Act to amend and reenact § 46.2-1233 of the Code of Virginia, relating to towing fees.*

[S 1567]

Approved February 21, 2019

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

**1. That § 46.2-1233 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1233. Localities may regulate towing fees.**

The governing body of any locality may by ordinance set reasonable limits on fees charged for the removal of motor vehicles, trailers, and parts thereof left on private property in violation of § 46.2-1231, and for the removal of trespassing vehicles under § 46.2-1215, taking into consideration the fair market value of such removal.

Localities in Planning District 8 and Planning District 16 shall establish by ordinance (i) a hookup and initial towing fee of *no less than \$135 and no more than the maximum charges provided in § 46.2-1233.1* and (ii) for towing a vehicle between ~~seven o'clock~~ 7:00 p.m. and ~~eight o'clock~~ 8:00 a.m. or on any Saturday, Sunday, or holiday, an additional fee of \$25 per instance; however, such ordinance shall also provide that in no event shall more than two such additional fees be charged for towing any vehicle.

## CHAPTER 118

*An Act to amend and reenact § 15.2-3108 of the Code of Virginia, relating to local boundary agreements.*

[S 1594]

Approved February 21, 2019

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

**1. That § 15.2-3108 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-3108. Petition and hearing; recordation of order; costs.**

Within a reasonable time after a voluntary boundary agreement is adopted by the affected localities, each affected locality shall petition the circuit court for one of the affected localities to approve the boundary agreement. The petition shall set forth the facts pertaining to the desire to relocate or change the boundary line between the localities, and the petition shall include or have attached to it either (i) a plat depicting the change in the boundaries of the localities as agreed; (ii) a metes and bounds description of the new boundary line as agreed upon by the two localities; or (iii) ~~regarding the boundary between the Counties of Louisa and Goochland, between the County of Loudoun and any town therein, or between the Counties of Spotsylvania and Orange,~~ a Geographic Information System (GIS) map depicting the change in the boundaries of the localities as agreed, having been established by Virginia State Plane Coordinates System, South Zone or North Zone, as applicable, meeting National Geodetic Survey standards. If the court finds that the procedures required by § 15.2-3107 have been complied with and that the petition is otherwise in proper order, the court shall enter an appropriate order establishing the new boundary. The order shall include a plat depicting the change in the boundaries of the locality, a metes and bounds description of the new boundary line of the locality, or, ~~regarding the boundary between the Counties of Louisa and Goochland, between the County of Loudoun and any town therein, or between the Counties of Spotsylvania and Orange,~~ a GIS map depicting the change in the boundaries of the localities that includes the Virginia State Plane, South Zone or North Zone coordinates, as applicable, and that order shall be entered in the land records of the court and indexed in the names of the localities which were involved. Costs shall be awarded as the court may determine. Whenever such an order is entered, a certified copy of the order shall be sent to the Secretary of the Commonwealth by the clerk of the court.

## CHAPTER 119

*An Act to amend and reenact § 59.1-542 of the Code of Virginia, relating to enterprise zones.*

[S 1785]

Approved February 21, 2019

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

**1. That § 59.1-542 of the Code of Virginia is amended and reenacted as follows:**

**§ 59.1-542. Enterprise zone designation.**

A. Upon the Department's announcement of periodic zone designation competitions, the governing body of any county or city may make written application to the Department to have an area or areas declared an enterprise zone. Such application shall include a description of the area or areas to be included, the development potential of these areas, the need for special state incentives, the local incentives that shall be provided to support new economic activity, and other information that the Department deems necessary to assess requests for designation.

B. Two or more adjacent localities may file a joint application for an enterprise zone. Localities applying for a joint zone shall demonstrate a regional need for an enterprise zone and a regional impact that could not be achieved through a

single jurisdiction zone. Applicants for a joint zone shall also specify what mechanisms will be used to ensure that the economic benefits of such a zone are shared among the applicant localities.

C. An enterprise zone may consist of no more than three noncontiguous areas. The aggregate size of these noncontiguous zone areas shall be as follows:

1. For cities, the minimum size of an enterprise zone shall be one-quarter square mile and the maximum size of an enterprise zone shall be one square mile or seven percent of the jurisdiction's land area or an area that includes seven percent of the population, whichever is largest.

2. For towns designated as enterprise zones under former §§ 59.1-272 through 59.1-278, 59.1-279.1, or 59.1-280.2 through 59.1-284 of the Enterprise Zone Act (§ 59.1-270 et seq.), the size of an enterprise zone shall conform to the size requirements for cities in subdivision 1.

3. For unincorporated areas of counties, the minimum size of an enterprise zone shall be one-half square mile and the maximum size of an enterprise zone shall be six square miles.

4. For consolidated cities the enterprise zones in cities for which the boundaries were created through the consolidation of a city and county or the consolidation of two cities, the enterprise zone shall conform substantially to the size requirements for unincorporated areas of counties in subdivision 3.

In no instance shall a zone consist only of a site for a single business firm. Localities shall be limited to three enterprise zone designations.

D. A joint enterprise zone shall consist of no more than three noncontiguous zone areas for each participating locality. The aggregate size of these noncontiguous areas shall be specified by regulation.

E. Upon recommendation of the Director of the Department, the Governor may designate up to 30 enterprise zones in accordance with the provisions of this chapter. Such designations are to be done in coordination with the expiration of existing zones designated under earlier Enterprise Zone Program provisions. The initial round of six zone designation applications and approval may be conducted prior to adoption of final program regulations provided that the process is consistent with the provisions of this chapter. Enterprise zones shall be designated for an initial 10-year period except as provided for in subsections A and B of § 59.1-546. Upon recommendation of the Director of the Department, the Governor may renew zones *designated on or after July 1, 2005*, for up to ~~two~~ *three* five-year renewal periods *and zones designated prior to July 1, 2005, for one five-year renewal period*. Recommendations for five-year renewals shall be based on the locality's performance of its enterprise zone responsibilities, the continued need for such a zone, and its effectiveness in creating jobs and capital investment.

F. Localities that have zone designations are responsible for providing the local incentives specified in their applications, providing timely submission of enterprise zone reports and evaluations as required by regulation, verifying that businesses and properties seeking enterprise zone incentives are physically located within their zones, and implementing an active local enterprise zone program within the context of overall economic development efforts.

## CHAPTER 120

*An Act to amend and reenact §§ 9.1-101, 18.2-57, and 22.1-280.2:1 of the Code of Virginia, relating to school security officers; private or religious schools; carrying a firearm in performance of duties.*

[H 1656]

Approved February 21, 2019

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

**1. That §§ 9.1-101, 18.2-57, and 22.1-280.2:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-101. Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy

created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

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

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

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

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

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

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

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

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

F. As used in this section:

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

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

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority, conservation police officers appointed pursuant to § 29.1-200, full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any

employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1.

"School security officer" means ~~an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school the same as that term is defined in § 9.1-101.~~

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

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

#### **§ 22.1-280.2:1. Employment of school security officers.**

Local school boards *and private or religious schools* may employ school security officers, as defined in § 9.1-101, for the purposes set forth therein. Such school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board *or private or religious school* he was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board *or private or religious school* solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board *or private or religious school* grants him the authority to carry a firearm in the performance of his duties.

## **CHAPTER 121**

*An Act to amend and reenact § 22.1-138 of the Code of Virginia, relating to public school building security enhancements; compliance with Uniform Statewide Building Code and Statewide Fire Prevention Code.*

[H 1725]

Approved February 21, 2019

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

#### **1. That § 22.1-138 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 22.1-138. Minimum standards for public school buildings.**

A. The Board of Education shall prescribe by regulation minimum standards for the erection of or addition to public school buildings governing instructional, operational, health and maintenance facilities where these are not specifically addressed in the Uniform Statewide Building Code.

B. By July 1, 1994, every school building in operation in the Commonwealth shall be tested for radon pursuant to procedures established by the United States Environmental Protection Agency (EPA) for radon measurements in schools.

School buildings and additions opened for operation after July 1, 1994, shall be tested for radon pursuant to such EPA procedures and regulations prescribed by the Board of Education pursuant to subsection A of this section. Each school shall maintain files of its radon test results and make such files available for review. The division superintendent shall report radon test results to the Department of Health.

C. *Each school board shall, in consultation with the local building official and the state or local fire marshal, develop a procurement plan to ensure that all security enhancements to public school buildings are in compliance with the Uniform Statewide Building Code (§ 36-97 et seq.) and Statewide Fire Prevention Code (§ 27-94 et seq.).*

## CHAPTER 122

*An Act to amend and reenact § 23.1-3110 of the Code of Virginia, relating to the Institute for Advanced Learning and Research; executive director.*

[H 1835]

Approved February 21, 2019

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

**1. That § 23.1-3110 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-3110. President or president and executive director.**

The board may appoint ~~an~~ a (i) *president* or (ii) *president and executive director* of the Institute who may be an employee of Averett University, Danville Community College, or Virginia Polytechnic Institute and State University. The *president or president and executive director* shall supervise and manage the Institute and shall prepare and submit, upon the direction and approval of the board, all budgets and requests for appropriations.

## CHAPTER 123

*An Act to amend the Code of Virginia by adding a section numbered 22.1-277.2:2, relating to alternative education programs; data.*

[H 1985]

Approved February 21, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 22.1-277.2:2 as follows:**

**§ 22.1-277.2:2. Alternative education program data.**

*The Department of Education shall annually collect from each school board and publish on its website data on alternative education programs for students who have been suspended, expelled, or otherwise precluded from attendance at school. Such data shall (i) be published in a manner that protects the identities of individual students; (ii) be disaggregated by local school division and by student race, ethnicity, gender, and disability; and (iii) include:*

*1. The number of students enrolled in alternative education programs pursuant to each of the five clauses set forth in subsection A of § 22.1-277.2:1;*

*2. The number of students enrolled in alternative education programs who have received (i) a short-term suspension, (ii) a long-term suspension, or (iii) an expulsion;*

*3. The current availability of various categories of alternative education programs available to all students and not solely special education students, including full-day programs with on-site, in-school teacher instruction; full-day programs with off-site, out-of-school teacher instruction; primarily virtual instruction; home-based or home-bound instruction; partial-day instruction; and any other category that the Department of Education may identify;*

*4. The average length of enrollment in an alternative education program during each school year;*

*5. The number of students who transition within the same school year from an alternative education program back into the school at which they were enrolled immediately preceding enrollment in the alternative education program; and*

*6. Relevant student achievement data, as determined by the Department of Education.*

## CHAPTER 124

*An Act providing a management agreement between the Commonwealth and James Madison University pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).*

[H 2290]

Approved February 21, 2019

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

**1. That the following shall hereafter be known as the 2019 Management Agreement Between the Commonwealth of Virginia and James Madison University:**

*MANAGEMENT AGREEMENT  
BY AND BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY*

*This MANAGEMENT AGREEMENT, executed this 15th day of November, 2018, by and between the Commonwealth of Virginia (hereafter, the Commonwealth) and James Madison University (hereafter, the University) provides as follows:*

**RECITALS**

WHEREAS, the University has satisfied the conditions precedent set forth in §§ 23.1-1004 and 23.1-1005 of the Code of Virginia to become a public institution of higher education of the Commonwealth governed by Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia ("Article 4" and the "Act", respectively), as evidenced by:

1. Board of Visitors Approval. The minutes of a meeting of the board of visitors of the University held on September 14, 2018, indicate that an absolute two-thirds or more of the members voted to approve the resolution required by subdivision B 2 of § 23.1-1004 of the Act;

2. Written Application to the Governor. The University has submitted to the Governor a written application, dated July 10, 2018, with copies to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health, expressing the sense of its board of visitors that the University is qualified to be, and should be, governed by Article 4 of the Act, and substantiating that the University has fulfilled the requirements of subdivision B 3 of § 23.1-1004 of the Act; and

3. Finding by the Governor. In accordance with § 23.1-1005 of the Act, the Governor has found that the University has fulfilled the requirements of § 23.1-1004 of the Act, and therefore has authorized Cabinet Secretaries to enter into this management agreement on behalf of the Commonwealth with the University; and

WHEREAS, the University is therefore authorized to enter into this management agreement as provided in subsection B of § 23.1-1004 and Article 4 of the Act.

**AGREEMENT**

NOW, THEREFORE, in accordance with the provisions of the Act, and in consideration of the foregoing premises, the Commonwealth and the University do now agree as follows:

**ARTICLE 1. DEFINITIONS.**

As used in this Agreement, the following terms have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Agreement" or "management agreement" means this agreement between the Commonwealth of Virginia and the University as required by Article 4 of the Act.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered employee" means any person who is employed by the University on either a salaried or wage basis.

"Covered institution" means, on and after the effective date of its initial management agreement with the Commonwealth, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by and in accordance with the provisions of Article 4 of the Act.

"Enabling statutes" means those chapters, other than Chapter 10 of Title 23.1 of the Code of Virginia, as amended, creating, continuing, or otherwise setting forth the powers, purposes, and missions of the individual public institutions of higher education of the Commonwealth.

"Parties" means the parties to this management agreement, the Commonwealth of Virginia and the University.

"Public institution of higher education" means associate-degree-granting and baccalaureate public institutions of higher education, as those terms are defined in § 23.1-100 of the Code of Virginia.

"University" means James Madison University.

**ARTICLE 2. SCOPE OF MANAGEMENT AGREEMENT.****SECTION 2.1. Enhanced Authority Granted and Accompanying Accountability.**

Article 4 of the Act provides that, upon the execution of, and as of the effective date for, this management agreement, the University shall become a covered institution entitled to be granted by the Commonwealth and to exercise the powers and authority provided in Article 4 of the Act that are expressly contained in this management agreement. In general, subject to its management agreement with the Commonwealth, status as a covered institution governed by Article 4 of the Act and this management agreement is intended to replace (i) the post-General Assembly authorization prior-approval system of reviews, approvals, policies, and procedures carried out and implemented by a variety of central state agencies with (ii) a post-audit system of reviews and accountability under which a covered institution is fully responsible and fully accountable for managing itself pursuant to Article 4 of the Act and its management agreement with the Commonwealth.

**SECTION 2.1.1. Assessments and Accountability.** The University and its implementation of the enhanced authority granted by Article 4 of the Act and this management agreement, and the board of visitors policies attached hereto as Exhibits A through F, shall be subject to the reviews, assessments, and audits (i) set forth in the Act that are to be conducted by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia, (ii) as may be conducted periodically by the Secretaries of Finance, Administration, Education, or by some combination of these three Secretaries, or (iii) as otherwise may be required by law other than the Act.

**SECTION 2.1.2. Express Grant of Powers and Authority.** Subject to the specific conditions and limitations contained in § 23.1-1008 (Operational Authority Generally), §§ 23.1-1016, 23.1-1017, and 23.1-1019 (Capital Projects; Procurement; Property Generally), and §§ 23.1-1020 through 23.1-1026 (Human Resources) of Article 4 of the Act, the Commonwealth and the University agree that the Commonwealth has granted to the University by this management agreement all the powers and authority contained in certain policies adopted by the board of visitors of the University attached hereto as

*Exhibits A through F and governing (i) the undertaking and implementation of capital projects, and other acquisition and disposition of property (Exhibit A), (ii) the leasing of property, including capital leases (Exhibit B), (iii) information technology (Exhibit C), (iv) the procurement of goods, services, including certain professional services, insurance, and construction (Exhibit D), (v) human resources (Exhibit E), and (vi) its system of financial management (Exhibit F), including, as provided in subsection B of § 23.1-1012 of the Act, the sole authority to establish tuition, fees, room, board, and other charges consistent with sum sufficient appropriation authority for nongeneral funds as provided by the Governor and the General Assembly in the Commonwealth's biennial appropriations authorization. Subject to the specific conditions and limitations contained in §§ 23.1-1008 through 23.1-1011 of the Act, in this management agreement, and in one or more of the board of visitors policies attached hereto as Exhibits A through F, the Commonwealth and the University agree that the Commonwealth has expressly granted to the University all the powers and authority permitted by the Act.*

*The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this management agreement and the policies adopted by it and attached as Exhibits A through F. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate the duties and responsibilities set forth in this management agreement to its officers, committees, and subcommittees, and, as set forth in the policies adopted by the board and attached hereto as Exhibits A through F, to a person or persons within the University.*

**SECTION 2.1.3. Reimbursement by the University of Certain Costs.** *By July 1 of each odd-numbered year, the University shall inform the Secretary of Finance of any intent during the next biennium to withdraw from any health or other group insurance or risk management program made available to the University through any agency, body corporate, political subdivision, authority, or other entity of the Commonwealth, and in which the University is then participating, to enable the Commonwealth's actuaries to complete an adverse selection analysis of any such decision and to determine the additional costs to the Commonwealth that would result from any such withdrawal. If upon notice of such additional costs to the Commonwealth, the University proceeds to withdraw from such health or other group insurance or risk management program, the University shall, pursuant to subdivision B 5 of § 23.1-1004 of the Act, reimburse the Commonwealth for all such additional costs attributable to such withdrawal as determined by the Commonwealth's actuaries.*

**SECTION 2.1.4. Potential Impact on Virginia College Savings Plan.** *As required by subdivision B 6 of § 23.1-1004 of the Act, the University has given consideration to potential future impacts of tuition increases on the Virginia College Savings Plan, Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 of the Code of Virginia and has discussed those potential impacts with the Executive Director and staff of that Plan and with parties in the Administration who participated in the development of this management agreement. The Executive Director of the Plan has provided to the University and the Commonwealth the Plan's assumptions underlying the contract pricing of the program.*

**SECTION 2.1.5. Justification for Deviations from the Virginia Public Procurement Act.** *Pursuant to § 23.1-1017 of the Act and subject to the provisions of this management agreement, the University may be exempt from the provisions of the Virginia Public Procurement Act (VPPA), Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia. Any procurement policies or rules that deviate from the VPPA must be uniform across all institutions governed by Article 4 of the Act, and the board of visitors shall adopt and comply with procurement policies that are based upon competitive principles and seek competition to the maximum practical degree. The Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials and the Rules Governing Procurement of Goods, Services, Insurance, and Construction (the Procurement Rules) attached to such policy as Attachment 1 constitute the policies and uniform deviations from the VPPA required by subsections A and B of § 23.1-1017 of the Act.*

*Subsection E of § 23.1-1017 of the Act requires that the University identify the public, educational, and operational interests served by any procurement rule or rules that deviate from those in the VPPA. The adopted board of visitors policy on procurement and the Procurement Rules provide the University with the autonomy to administer its procurement process while fully adhering to the principle that competition should be sought to the maximum extent feasible. This autonomy will better position the University to support the requirements of its growing teaching, research, and outreach missions. Greater autonomy in procurement will improve internal capacity to respond quickly to emergent material and service issues and, therefore, enable the University to be more efficient and effective in meeting the Commonwealth's goals for institutions of higher education. In some instances, costs will be reduced. Taken collectively, the University's procurement policies and rules that differ from those required by the VPPA will enhance procurement "best practices" as they currently are being observed within the higher education community nationally. Further, these changes will provide efficiencies to both the University and public sector suppliers.*

**SECTION 2.1.6. Quantification of Cost Savings.** *Subsection D of § 23.1-1012 of the Act requires that a covered institution include in its management agreement with the Commonwealth the quantification of cost savings realized as a result of the additional operational flexibility provided pursuant to Article 4 of the Act. Since this initial management agreement with the Commonwealth has not yet been implemented by the University, the parties agree that the University is not in a position to quantify any such cost savings at this time, although the University expects that there will be cost savings resulting from the additional authority granted to the University pursuant to Article 4 of the Act and that such cost savings will be part of the determinations made during the reviews, assessments, and audits to be conducted pursuant to Article 4 of the Act by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia, and as otherwise described in Section 2.1.1 above.*

*SECTION 2.1.7. Participation in State Programs.* The Commonwealth intends that the University shall continue to fully participate in, and receive funding support from, the many and varied programs established now or in the future by the Commonwealth to provide support for Virginia's public institutions of higher education and for Virginians attending such institutions, including but not limited to the state capital outlay and bond financing initiatives undertaken from time to time by the Commonwealth; the Higher Education Equipment Trust Fund established pursuant to Chapter 12 (§ 23.1-1200 et seq.) of Title 23.1 of the Code of Virginia; the Maintenance Reserve Fund as provided in the general appropriation act; the Eminent Scholars program as provided in the general appropriation act; the Commonwealth's various student financial assistance programs; and other statewide programs or initiatives that exist, or may be established, in support of the Commonwealth's higher education institutions, programs, or activities.

*SECTION 2.1.8. Implied Authority.* Pursuant to subsection C of § 23.1-1006 of the Act, the only implied authority granted to the University by this management agreement is that implied authority that is actually necessary to carry out the expressed grant of financial or operational authority contained in this agreement or in the policies adopted by the University's board of visitors and attached hereto as Exhibits A through F.

*SECTION 2.1.9. Exercise of Authority.* The University and the Commonwealth acknowledge and agree that the execution of this management agreement constitutes the conclusion of a process that, as of the effective date of this Agreement, confers upon the University the enhanced authority and operating flexibility described in this article above, all of which is in furtherance of the purposes of Article 4 of the Act. Therefore, without any further conditions or requirements, the University shall, on and after the effective date of this management agreement, be authorized to exercise the authority conferred upon it by this management agreement, the policies adopted by its board of visitors attached hereto as Exhibits A through F, and by §§ 23.1-1008 through 23.1-1011 of the Act, except to the extent that the powers and authority contained therein have been limited by this management agreement or the board of visitors policies attached hereto as Exhibits A through F.

The University and the Commonwealth also acknowledge and agree that, pursuant to subsection L of § 23.1-1006 of the Act and consistent with the terms of this management agreement, the board of visitors of the University shall assume full responsibility for management of the University, subject to the requirements and conditions set forth in Article 4 of the Act, the general requirements for this management agreement as provided in § 23.1-1002 of the Act, and this management agreement. The board of visitors shall be fully accountable for (i) the management of the University as provided in the Act, (ii) meeting the requirements of §§ 23.1-206 and 23.1-306 of the Code of Virginia, and (iii) meeting such other provisions as are set forth in this management agreement.

#### *SECTION 2.2. State Goals.*

*SECTION 2.2.1. Furthering State Goals.* As required for all public institutions of higher education of the Commonwealth by subsection A of § 23.1-1002 of the Act, prior to August 1, 2005, the board of visitors of the University adopted the resolution setting forth its commitment to the Governor and the General Assembly to meet the state goals specified in subsection A of § 23.1-1002 of the Act.

*SECTION 2.2.2. Student Enrollment, Tuition, and Financial Aid.* As required by § 23.1-306 of the Code of Virginia, the University, along with all other public institutions of higher education of the Commonwealth, has developed and submitted to the State Council of Higher Education for Virginia (SCHEV) by October 1, 2018, an institution-specific six-year plan addressing the University's academic, financial, and enrollment plans for the six-year period of fiscal years 2018-2020 through 2022-2024. Subsection A of § 23.1-306 of the Code of Virginia requires the University to update this six-year plan by July 1 of each odd-numbered year and amend or affirm biennially in each even-numbered year. Subdivision B 3 of § 23.1-1006 of the Act requires that a management agreement address, among other issues, such matters as the University's undergraduate Virginia student enrollment, its financial aid requirements and capabilities, and its tuition policy for undergraduate Virginia students. These matters are addressed in this section and in the University's six-year plan submitted to SCHEV, and the parties therefore agree that the University's six-year plan and the description in this section meet the requirement of subdivision B 3 of § 23.1-1006 of the Act.

Subsection C of § 23.1-1012 of the Act requires the board of visitors of the University to include in this management agreement the University's commitment to provide need-based grant aid for middle-income and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees. The University's commitment in this regard is clear. The University is committed to increasing the economic and social diversity of the student body at the University. The University is committed to assuring access to qualified and admitted Virginia students.

To address the challenges associated with the rising costs of college, the University uses institutional, state, and federal funding to help mitigate the effect of rising costs on students from low-income and middle-income families. The University awards financial aid based on the U.S. Department of Education's federal methodology. The federal methodology is used in all of the University's aid packaging that includes institutional, state, and federal funding. The University's financial aid packaging processes and procedures target the neediest enrolled applicants, as required under state and federal law. Based on the Health and Human Services poverty levels, about 40 percent of the University's enrolled undergraduate applicants for federal financial aid fall into the low-income and middle-income range.

For 2018-2019, the Expected Family Contribution (EFC) cutoff for awarding Virginia Student Financial Assistance Program (VSFAP) and University grants to on-time, in-state, undergraduate financial aid filers was \$9,500. This definition of middle class was used to award financial aid dollars to needy students. The University's ultimate goal for the future is to

increase the EFC cutoff that will be equal to or above one-half the cost of attendance. The \$9,500 EFC cutoff in 2017-18 equaled 36.5 percent of the full-time, in-state cost of attendance.

To move forward in accomplishing its goals, over the period of the six-year plan, the University is committed to seeking, from all sources—state-appropriated scholarship funds and federal, institutional, and private support—to continue its commitment to providing additional financial aid through grants and loans to those Virginians with need. In addition, as tuition and fees increase over the period of the six-year plan, the University will readjust the level of financial aid funding so that insufficiency of family resources will not be a barrier to attending the University.

The Commonwealth and the University agree that this commitment meets the requirements of subsection C of § 23.1-1012 of the Act.

#### SECTION 2.3. Other Law.

As provided in subsection C of § 23.1-1006 of the Act, the University shall be governed and administered in the manner provided not only in this management agreement, but also as provided in the general appropriation act then in effect and the University's enabling statutes.

#### SECTION 2.4. The General Appropriation Act.

The Commonwealth and the University agree that, pursuant to the current terms of the Act and the terms of § 4-11.00 of the 2004-2006 Appropriation Act, if there is a conflict between the provisions of the general appropriation act and the provisions of Article 4 of the Act, or this management agreement, or the board of visitors policies attached to this management agreement as Exhibits A through F, the provisions of the general appropriation act shall control, and shall continue to control unless provided otherwise by law.

SECTION 2.4.1. *The University's Enabling Statutes.* As provided in subsection E of § 23.1-1006 of the Act, in the event of a conflict between any provision of Article 4 of this Act and the University's enabling statutes, the enabling statutes shall control.

SECTION 2.4.2. *Title 2.2 of the Code of Virginia.* As provided in subsection D of § 23.1-1006 of the Act, except as specifically made inapplicable under Article 4 of the Act and the express terms of this management agreement, the provisions of Title 2.2 relating generally to the operation, management, supervision, regulation, and control of public institutions of higher education shall be applicable to the University as provided by the express terms of this management agreement. As further provided in subsection E of § 23.1-1006 of the Act, in the event of conflict between any provision of Title 2.2 and any provision of Article 4 of the Act as expressed in this management agreement, the provisions of this management agreement shall control.

SECTION 2.4.3. *Educational Policies of the Commonwealth.* As provided in subsection J of § 23.1-1006 of the Act, for purposes of §§ 23.1-101, 23.1-102, 23.1-103, 23.1-104, and 23.1-107, Chapter 2 (§ 23.1-200 et seq.), §§ 23.1-306, 23.1-402, 23.1-403, and 23.1-404, Chapter 5 (§ 23.1-500 et seq.), Chapter 6 (§ 23.1-600 et seq.), Chapter 7 (§ 23.1-700 et seq.), §§ 23.1-800, 23.1-801, 23.1-901, and 23.1-1001, Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), subsections G, H, and I of § 23.1-1300, § 23.1-1302, and subsection B of § 23.1-1303 of Title 23.1 the Code of Virginia, each covered institution shall remain a public institution of higher education following its conversion to a covered institution governed by Article 4 of the Act and shall retain the authority granted and any obligations required by such provisions.

In addition, the University shall retain the authority, and any obligations related to the exercise of such authority, that is granted to institutions of higher education pursuant to Chapter 2 (§ 23.1-200 et seq.), Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), Chapter 6, Article 2 (§ 23.1-612 et seq.), Chapter 6, Article 3 (§ 23.1-617 et seq.), Chapter 6, Article 5 (§ 23.1-628 et seq.), Chapter 6, Article 6 (§ 23.1-636 et seq.), § 23.1-619, Chapter 6, Article 7 (§ 23.1-639 et seq.), and Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 the Code of Virginia, unless and until provided otherwise by law other than the Act.

SECTION 2.4.4. *Public Access to Information.* The University shall continue to be subject to § 2.2-4342 of the Code of Virginia and to the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, but shall be entitled to conduct business pursuant to § 2.2-3709 of the Code of Virginia if expressly named therein and, in all cases, may conduct business as a "state public body" for purposes of subsection B of § 2.2-3708 of the Code of Virginia.

SECTION 2.4.5. *Conflicts of Interests.* As provided in subsection F of § 23.1-1006 of the Act, the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia, that are applicable to officers and employees of a state governmental agency shall continue to apply to the members of the board of visitors of the University and to its covered employees.

SECTION 2.4.6. *Other Provisions of the Code of Virginia.* Other than as specified in this article above, any other powers and authorities granted to the University pursuant to any other sections of the Code of Virginia, including other provisions of the Act, are not affected by this management agreement or the board policies attached hereto as Exhibits A through F.

### ARTICLE 3. AMENDMENTS TO, AND RIGHT AND POWER TO VOID OR REVOKE, MANAGEMENT AGREEMENT.

#### SECTION 3.1. Amendments.

Any change to or deviation from this management agreement or the board of visitors policies attached hereto as Exhibits A through F shall be reported to the Secretaries of Finance, Administration, and Education and to the Chairmen of

the Senate Committee on Finance and the House Committee on Appropriations and shall be posted on the University's website. The change or deviation shall become effective unless one of the above persons notifies the University in writing within 60 days that the change or deviation is substantial and material. Any substantial and material change or deviation shall require the execution by the parties of an amendment to this management agreement or a new management agreement and may lead to the Governor declaring this management agreement to be void pursuant to subdivision E of § 23.1-1007 of the Act.

*SECTION 3.2. Right and Power to Void, Revoke, or Reinstate Management Agreement.*

*SECTION 3.2.1. Governor.* Pursuant to subdivision E of § 23.1-1007, if the Governor makes a written determination that the University is not in substantial compliance with the terms of this management agreement or with the requirements of the Act in general, (i) the Governor shall provide a copy of that written determination to the rector of the board of visitors of the University and to the members of the General Assembly, and (ii) the University shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of this management agreement and with the requirements of the Act, as soon as practicable, and shall provide a copy of such corrective action plan to the members of the General Assembly. If, after a reasonable period of time after the corrective action plan has been implemented by the University, the Governor determines that the institution is not yet in substantial compliance with this management agreement or the requirements of the Act, the Governor may void this management agreement. Upon the Governor voiding this management agreement, the University shall no longer be allowed to exercise any restructured financial or operational authority pursuant to the provisions of Article 4 of the Act unless and until the University has entered into a subsequent management agreement with the Secretary or Secretaries designated by the Governor or the voided management agreement is reinstated by the General Assembly.

*SECTION 3.2.2. General Assembly.* As provided in subsection E of § 23.1-1007 of the Act, the General Assembly may reinstate a management agreement declared void by the Governor. Pursuant to subsection F of § 23.1-1007 of the Act, the University's status as a covered institution governed by Article 4 of the Act may be revoked by an act of the General Assembly if the University fails to meet the requirements of Article 4 of the Act or the management agreement.

*ARTICLE 4. GENERAL PROVISIONS.*

*SECTION 4.1. No Third-Party Beneficiary Status.*

Nothing in this Agreement, express or implied, shall be construed as conferring any third-party beneficiary status on any person or entity.

*SECTION 4.2. Sovereign Immunity.*

Pursuant to subsections G and H of § 23.1-1006 of the Act, the University and the members of its board of visitors, officers, directors, employees, and agents shall be entitled to the same sovereign immunity to which they would be entitled if the University were not governed by the Act, provided that the Virginia Tort Claims Act, Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01 of the Code of Virginia, and its limitations on recoveries shall remain applicable with respect to the University.

*SECTION 4.3. Term of Agreement.*

The management agreement negotiated by the University shall continue in effect unless the Governor, the General Assembly, or the University determine that the management agreement needs to be renegotiated or revised.

WHEREFORE, the foregoing management agreement has been executed as of this 15th day of November, 2018, and shall become effective on the effective date of the legislation enacted into law providing for the terms of such Agreement.

EXHIBIT A

MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT  
  
POLICY GOVERNING  
CAPITAL PROJECTS  
  
THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING CAPITAL PROJECTS

*I. PREAMBLE.*

Pursuant to Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act (the Act), upon becoming a covered institution, a public institution of higher education in Virginia may be delegated the authority to establish its own system for undertaking the implementation of its capital projects. In general, status as a covered institution is designed to replace the post-authorization system of reviews, approvals, policies, and

procedures carried out by a variety of central state agencies, and also the traditional pre-authorization approval process for projects funded entirely with nongeneral funds and without any proceeds from state tax-supported debt. Consistent with its current practice, the University's system for carrying out its capital outlay process as a covered institution is to be governed by policies adopted by the board of visitors. The following provisions of this policy, together with the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials adopted by the board, and the Rules Governing Procurement of Goods, Services, Insurance, and Construction, which is attached as Attachment 1 to that Policy, constitute the adopted board of visitors policies regarding the University's capital projects, whether funded by a general fund appropriation of the General Assembly, state tax-supported debt, or funding from other sources.

This policy is intended to encompass and implement the expanded authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

## II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Capital lease" means a lease that is defined as such within generally accepted accounting principles pursuant to the pronouncement of the Financial Accounting Standards Board.

"Capital professional services" means professional engineering, architecture, land surveying, and landscape architecture services related to capital projects.

"Capital project(s)" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction, improvements or renovations, and capital leases.

"Covered institution" means, on and after the effective date of its initial management agreement, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Major capital project(s)" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction of 5,000 square feet or greater or costing \$3 million or more, improvements or renovations of \$3 million or more, and capital leases.

"State tax-supported debt" means bonds, notes, or other obligations issued under Article X, Section 9 (a), 9 (b), 9 (c), or 9 (d) of the Constitution of Virginia, if the debt service payments are made or ultimately are to be made from general government funds, as defined in the December 19, 2017, Report to the Governor and General Assembly of the Debt Capacity Advisory Committee or as that definition is amended from time to time.

"University" means James Madison University.

## III. SCOPE OF POLICY.

This policy applies to the planning and budget development for capital projects, capital project authorization, and the implementation of capital projects, whether funded by a general fund appropriation of the General Assembly, proceeds from state tax-supported debt, or funding from other sources.

This policy provides guidance for (i) the process for developing one or more capital project programs for the University, (ii) authorization of new capital projects, (iii) procurement of capital professional services and construction services, (iv) design reviews and code approvals for capital projects, (v) environmental impact requirements, (vi) building demolitions, (vii) building and land acquisitions, (viii) building and land dispositions, (ix) project management systems, and (x) reporting requirements.

## IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

## V. CAPITAL PROGRAM.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall adopt a system for developing one or more capital project programs that defines or define the capital needs of the University for a given period of time consistent with the University's published Master Plan. This process may or may not mirror the Commonwealth's requirements for capital plans. The board of visitors shall approve the program for major capital projects. Major capital projects that are to be funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt shall follow the Commonwealth's requirements for capital

plans. The board may approve amendments to the program for major capital projects annually or more often if circumstances warrant.

It shall be University policy that each capital project program shall meet the University's mission and institutional objectives and be appropriately authorized by the University. Moreover, it shall be University policy that each capital project shall be of a size and scope to provide for the defined program needs, designed in accordance with all applicable building codes and handicapped accessibility standards as well as the University's design guidelines and standards, and costed to reflect current costs and escalated to the mid-point of anticipated construction.

#### VI. AUTHORIZATION OF CAPITAL PROJECTS.

The board of visitors shall authorize the initiation of each major capital project by approving its size, scope, budget, and funding. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall adopt procedures for approving the size, scope, budget, and funding of all other capital projects. Major capital projects that are to be funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt shall require both board of visitors approval and those pre-appropriation approvals of the State's governmental agencies then applicable, and shall follow the State's process for capital budget requests.

It shall be the policy of the University that the implementation of capital projects shall be carried out so that the capital project as completed is the capital project approved by the board for major capital projects and according to the procedures adopted by the President of the University, acting through the Senior Vice President of Administration or his designee, for all other capital projects. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall ensure strict adherence to this requirement.

Accordingly, the budget, size, and scope of a capital project shall not be materially changed beyond the plans and justifications that were the basis for the capital project's approval, either before or during construction, unless approved in advance as described in this section above. Minor changes shall be permissible if they are determined by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, to be justified.

Major capital projects may be submitted for board of visitors authorization at any time but must include a statement of urgency if not part of the approved major capital project program.

#### VII. PROCUREMENT OF CAPITAL PROFESSIONAL SERVICES AND CONSTRUCTION SERVICES.

It shall be the policy of the University that procurements shall result in the purchase of high quality services and construction at reasonable prices and shall be consistent with the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials adopted by the board, and with the Rules Governing Procurement of Goods, Services, Insurance, and Construction, which is attached as Attachment 1 to such policy. Specifically, the University is committed to:

1. Seeking competition to the maximum practical degree, taking into account the size of the anticipated procurement, the term of the resulting contract, and the likely extent of competition;
2. Conducting all procurements in a fair and impartial manner and avoiding any impropriety or the appearance of any impropriety prohibited by state law or University policy;
3. Making procurement rules clear in advance of any competition;
4. Providing access to the University's business to all qualified vendors, firms, and contractors, with no potential bidder or offeror excluded arbitrarily or capriciously, while allowing the flexibility to engage in cooperative procurements and to meet special needs of the University;
5. Including in contracts of more than \$10,000 the contractor's agreement not to discriminate against employees or applicants because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law except where there is a bona fide occupational qualification reasonably necessary to the contractor's normal operations; and
6. Providing for a nondiscriminatory procurement process, and including appropriate and lawful provisions to effectuate fair and reasonable consideration of women-owned, minority-owned, and small businesses and to promote and encourage a diversity of suppliers.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, is authorized to develop implementing procedures for the procurement of capital professional services and construction services at the University. The procedures shall implement this policy and provide for:

- a. A system of competitive negotiation for capital professional services, including a procedure for expedited procurement of capital professional services under \$80,000, pursuant to subdivisions 1, 2, and 3 a of the defined term "competitive negotiation" in § 4 of the Rules Governing Procurement of Goods, Services, Insurance, and Construction;
- b. A prequalification procedure for contractors or products;
- c. A procedure for special construction contracting methods, including but not limited to design-build and construction management contracts; and
- d. A prompt payment procedure.

The University also may enter into cooperative arrangements with other private or public health or educational institutions, health care provider alliances, purchasing organizations, or state agencies where, in the judgment of the University, the purposes of this policy will be furthered.

#### VIII. DESIGN REVIEWS AND CODE APPROVALS.

The board of visitors shall review the design of all major capital projects and shall provide final major capital project authorization based on the size, scope, and cost estimate provided with the design. Unless stipulated by the board of visitors

at the design review, no further design reviews shall be required. For all capital projects other than major capital projects, the President of the University, acting through the Senior Vice President for Administration and Finance or his designee, shall adopt procedures for design review and project authorization based on the size, scope, and cost estimate provided with the design. It shall be University policy that all capital projects shall be designed and constructed in accordance with applicable Virginia Uniform Statewide Building Code (VUSBC) standards and the applicable accessibility code.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall designate a building official responsible for building code compliance at the University, by either (i) hiring an individual to be the University building official or (ii) continuing to use the services of the Department of General Services, Division of Engineering and Buildings, to perform the building official function. If option (i) is selected, the individual hired as the University building official shall be a full-time employee of the University who has no other assigned duties or responsibilities at the institution and who is not employed by any firm or business providing facility services to the University, is a registered professional architect or engineer, and is certified by the Department of Housing and Community Development to perform this building official function. The University building official shall issue building permits for each capital project required by the VUSBC to have a building permit, shall determine the suitability for occupancy of, and shall issue certifications for building occupancy for, all capital projects requiring such certification. Prior to issuing any such certification, this individual shall ensure that the VUSBC and accessibility requirements are met for that capital project and that such capital project has been inspected by the State Fire Marshal or his designee as required. When serving as the University building official, such individual shall organizationally report directly and exclusively to the board of visitors. If the University hires its own University building official, it shall fulfill the code review requirement by maintaining a review unit of licensed professional architects or engineers supported by resources and staff who are certified by the Department of Housing and Community Development in accordance with § 36-137 of the Code of Virginia for such purpose and who shall review plans, specifications, and documents for compliance with building codes and standards and perform required inspections of work in progress and the completed capital project. No individual licensed professional architect or engineer hired under the University personnel system as a member of the review unit or contracted with to perform these functions shall also perform other building code-related design, construction, facilities-related project management, or facilities management functions for the University on the same capital project.

#### IX. ENVIRONMENTAL IMPACT REPORTS.

It shall be the policy of the University to assess the environmental, historic preservation, and conservation impacts of all capital projects and to minimize and otherwise mitigate all adverse impacts to the extent practicable. The University shall develop a procedure for the preparation and approval of environmental impact reports for capital projects, in accordance with state environmental, historic preservation, and conservation requirements generally applicable to capital projects otherwise meeting the definition of major capital projects but with a cost of \$500,000 or more as set forth in § 10.1-1188 of the Code of Virginia.

#### X. BUILDING DEMOLITIONS.

It shall be the policy of the University to consider the environmental and historical aspects of any proposed demolitions. The University shall develop a procedure for the preparation and review of demolition requests, including any necessary reviews by the Department of Historic Resources and the Art and Architectural Review Board in accordance with state historic preservation requirements generally applicable to capital projects in the Commonwealth. Further, for any property that was acquired or constructed with funding from a general fund appropriation of the General Assembly or from proceeds from state tax-supported debt, general laws applicable to state-owned property shall apply.

#### XI. BUILDING OR LAND ACQUISITIONS.

It is the policy of the University that capital projects involving building or land acquisition shall be subjected to thorough inquiry and due diligence prior to closing on the acquisition of such real property. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall ensure that the project management system implemented pursuant to Section XIII of this policy provides for a review and analysis of all pertinent matters relating to the acquisition of buildings and land as any prudent purchaser would perform to the end that any building or land acquired by the University shall be suitable for its intended purpose, that the acquisition can be made without substantial risk of liability to the University, and that the cost of the real property to be acquired, together with any contemplated development thereof, shall be such that compliance with the provisions of Section VI of this policy is achieved. In addition, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall ensure that, where feasible and appropriate to do so, the following specific policies pertaining to the acquisition of buildings or land for capital projects are carried out.

##### A. Environmental and Land Use Considerations.

It is the policy of the University to reasonably cooperate with each locality affected by the acquisition. Such cooperation shall include but not be limited to furnishing any information that the locality may reasonably request and reviewing any requests by the locality with regard to any such acquisition. The University shall consider the zoning and comprehensive plan designation by the locality of the building or land and surrounding parcels, as well as any designation by state or federal agencies of historically or archeologically significant areas on the land. Nothing herein shall be construed as requiring the University to comply with local zoning laws and ordinances.

##### B. Infrastructure and Site Condition.

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall ensure that, in the case of capital projects involving the acquisition of buildings or land, the project management systems implemented under Section XIII of this policy provide for a review of the following matters prior to acquisition of the building or land: that any land can be developed for its intended purpose without extraordinary cost; that an environmental engineer has been engaged by the University to provide an assessment of any environmental conditions on the land; that there is adequate vehicular ingress and egress to serve the contemplated use of the building or land; that utilities and other services to the land are adequate or can reasonably be provided or have been provided in the case of building acquisitions; and that the condition and grade of the soils have been examined to determine if any conditions exist that would require extraordinary site work.*

*C. Title and Survey.*

*A survey shall be prepared for any real property acquired, and an examination of title to the real property shall be conducted by a licensed attorney or, in the alternative, a commitment for title insurance shall be procured from a title insurance company authorized to do business in the Commonwealth. Based upon the survey and title examination or report, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall conclude, prior to acquisition of the real property, that title thereto will be conveyed to the University in fee simple, free and clear of all liens, encumbrances, covenants, restrictions, easements, or other matters that may have a significant adverse effect upon the University's ability to own, occupy, convey, or develop the real property.*

*D. Appraisal.*

*An appraisal shall be conducted of the real property to be acquired to determine its fair market value and the consistency of the fair market value with the price agreed upon by the University.*

**XII. BUILDING OR LAND DISPOSITIONS.**

*The board of visitors shall approve the disposition of any building or land. Disposition of land or buildings, the acquisition or construction of which was funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt, shall require both board of visitors approval and other approvals in accordance with general law applicable to state-owned property and with the University's enabling statutes.*

**XIII. PROJECT MANAGEMENT SYSTEMS.**

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall implement one or more systems for the management of capital projects for the University. The systems may include the delegation of project management authority to appropriate University officials, including a grant of authority to such officials to engage in further delegation of authority as the President of the University deems appropriate.*

*The project management systems for capital projects shall be designed to ensure that such projects comply with the provisions of this policy and other board of visitors policies applicable to closely related subjects such as the selection of architects or policies applicable to University buildings and grounds.*

*The project management systems may include one or more reporting systems applicable to capital projects whereby University officials responsible for the management of such projects provide appropriate and timely reports to the President of the University on the status of such projects during construction.*

**XIV. REPORTING REQUIREMENTS.**

*In addition to complying with any internal reporting systems contained in the University's project management systems, as described in Section XIII above, the University shall comply with state reporting requirements for those major capital projects funded entirely or in part by a general fund appropriation of the General Assembly or state tax-supported debt. Additionally, if any capital project constructs improvements on land, or renovates property, that originally was acquired or constructed in whole or in part with a general fund appropriation for that purpose or proceeds from state tax-supported debt, and such improvements or renovations are undertaken entirely with funds not appropriated by the General Assembly, and if the cost of such improvements or renovations is reasonably expected to exceed \$2 million, the decision to undertake such improvements or renovations shall be communicated as required by subdivision D 3 of § 23.1-1016 of the Act. As a matter of routine, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall report to the Department of General Services on the status of such capital projects at the initiation of the project, prior to the commencement of construction, and at the time of acceptance of any such capital project.*

**EXHIBIT B**

**MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT  
POLICY GOVERNING LEASES OF REAL PROPERTY**

THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING LEASES OF REAL PROPERTY

**I. PREAMBLE.**

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides that, upon becoming a covered institution, the University may have the authority to establish its own system for the leasing of real property. The University's system for implementing this authority is governed by policies adopted by the board of visitors. The following provisions of this policy constitute the adopted board of visitors policies regarding leases of real property entered into by the University.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, as defined in § 23.1-1000 of the Act, are not affected by this policy.

**II. DEFINITIONS.**

The following words and terms, when used in this policy, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Capital lease" means a lease that is defined as such within generally accepted accounting principles pursuant to the pronouncement of the Financial Accounting Standards Board.

"Covered institution" means a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by Article 4 of the Act.

"Expense lease" means an operating lease of real property under the control of another entity to the University.

"Income lease" means an operating lease of real property under the control of the University to another entity.

"Lease" means any type of lease involving real property.

"Operating lease" means any lease involving real property, or improvements thereon, that is not a capital lease.

**III. SCOPE OF POLICY.**

This policy provides guidance for the implementation of all University leases.

**IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.**

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

**V. REQUIREMENTS FOR LEASES.**

**A. Factors to Be Considered When Entering into Leases.**

All leases shall be for a purpose consistent with the mission of the University. The decision to enter into a lease shall be further based upon cost, demonstrated need, compliance with this policy, consideration of all costs of occupancy, and a determination that the use of the property to be leased is necessary and is efficiently planned. Leases shall also conform to the space planning procedures that may be adopted by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, to ensure that the plan for the space to be leased is consistent with the purpose for which the space is intended.

**B. Competition to Be Sought to Maximum Practicable Degree.**

Competition shall be sought to the maximum practicable degree for all leases. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, is authorized to ensure that leases are procured through competition to the maximum degree practicable and to determine when, under guidelines that may be developed and adopted by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, it is impractical to procure leases through competition.

**C. Approval of Form of Lease Required.**

The form of leases entered into by the University shall be approved by the University's legal counsel.

**D. Execution of Leases.**

All leases entered into by the University shall be executed only by those University officers or persons authorized by the President of the University or as may subsequently be authorized by the board of visitors, and subject to any such limits or conditions as may be prescribed in the delegation of authority. Subject to the University's Policy Governing Capital Projects (Exhibit A) adopted by the board as part of the management agreement between the Commonwealth and the University, no other University approval shall be required for leases or leasing, nor state approval required except in the case of leases of real property as may be governed by general state law in accordance with §§ 23.1-1016 and 23.1-1028 of the Act.

*E. Capital Leases.*

*The board of visitors shall authorize the initiation of capital leases pursuant to the authorization process included in the Policy Governing Capital Projects (Exhibit A) adopted by the board as part of the management agreement between the Commonwealth and the University.*

*F. Compliance with Applicable Law.*

*All leases of real property by the University shall be consistent with any requirements of law that are contained in the Act or are otherwise applicable.*

*G. Certification of Occupancy.*

*All real property covered by an expense lease or leased by the University under a capital lease shall be certified for occupancy by the appropriate public body or building official.*

**EXHIBIT C**

**MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT**

**POLICY GOVERNING  
INFORMATION TECHNOLOGY**

**THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING INFORMATION TECHNOLOGY**

**I. PREAMBLE.**

*The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides in § 23.1-1018, inter alia, that public institutions of higher education in the Commonwealth of Virginia that have entered into a management agreement with the Commonwealth "may be exempt from the provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if the governing board of such covered institution adopts and the covered institution complies with" policies that govern the exempted provisions. This policy shall become effective upon the effective date of a management agreement between the Commonwealth and the University authorized in accord with the Act and which incorporates this policy.*

*The board of visitors of the University is authorized to adopt this policy pursuant to § 23.1-1018 of the Act.*

**II. DEFINITIONS.**

*As used in this policy, the following terms have the following meanings, unless the context requires otherwise:*

*"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

*"Board of visitors" or "board" means the rector and board of visitors of the University.*

*"Information technology" or "IT" has the same meaning as set forth in § 2.2-2006 of the Code of Virginia as it currently exists and from time to time may be amended.*

*"Major information technology project" or "major IT project" has the same meaning as set forth in § 2.2-2006 of the Code of Virginia as it currently exists and from time to time may be amended.*

*"Policy" means this Information Technology Policy adopted by the board of visitors.*

*"State Chief Information Officer" or "State CIO" means the Chief Information Officer of the Commonwealth of Virginia. These terms shall include, where appropriate and/or required by law, the Virginia Information Technologies Agency.*

*"University" means James Madison University.*

**III. SCOPE OF POLICY.**

*This policy is intended to cover and implement the authority that the University will exercise under Article 4 of the Act. This policy is not intended to affect any other powers and authorities granted to the University pursuant to the general appropriation act and the Code of Virginia, including other provisions of the Act or the University's enabling statutes, as that term is defined in § 23.1-1000 of the Act.*

*This policy shall govern the University's information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits conducted within, by, or on behalf of the University. Upon the effective date of this management agreement between the Commonwealth and the University, therefore, the University shall be exempt from the provisions of the Code of Virginia governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia, and the provisions*

*governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia, that otherwise would govern the University's information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits conducted within, by, or on behalf of the University, provided, however, that the University still shall be subject to those provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia, that are applicable to public institutions of higher education of the Commonwealth and that do not govern information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits within, by, or on behalf of the University.*

*The procurement of information technology and telecommunications goods and services, including automated data processing hardware and software, shall be governed by the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials (Exhibit D) approved by the board, and the Rules Governing Procurement of Goods, Services, Insurance, and Construction that are incorporated in and attached to such policy.*

#### **IV. GENERAL PROVISIONS.**

##### **A. Board of Visitors Accountability and Delegation of Authority.**

*The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.*

##### **B. Strategic Planning.**

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall be responsible for overall IT strategic planning at the University, which shall be linked to and in support of the University's overall strategic plan.*

*At least 45 days prior to the beginning of each fiscal year, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall make available the University's IT strategic plan covering the next fiscal year to the State CIO for his review and comment with regard to the consistency of the University's plan with the intent of the currently published overall six-year IT strategic plan for the Commonwealth developed by the State CIO pursuant to subdivision A 3 of § 2.2-2007.1 of the Code of Virginia, and into which the University's plan is to be incorporated.*

##### **C. Expenditure Reporting and Budgeting.**

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall approve and be responsible for overall IT budgeting and investments at the University. The University's IT budget and investments shall be linked to and in support of the University's IT strategic plan, and shall be consistent with general University policies, the board-approved annual operating budget, and other board approvals for certain procurements.*

*By October 1 of each year, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall make available to the State CIO a report on the previous fiscal year's IT expenditures.*

*The University shall be specifically exempt from:*

- 1. Subdivision B 3 of § 2.2-2007.1 of the Code of Virginia, as it currently exists and from time to time may be amended, relating to review by the State CIO of IT budget requests;*
- 2. The Virginia Technology Infrastructure Fund, Article 3 (§ 2.2-2022 et seq.) of Chapter 20.1 of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended; and*
- 3. Any other substantially similar provision of the Code of Virginia governing IT expenditure reporting and budgeting, as it currently exists and from time to time may be amended.*

##### **D. Project Management.**

*Pursuant to § 23.1-1018 of the Act, the board shall adopt the project management policies, standards, and guidelines developed by the Commonwealth or those based upon industry best practices for project management as defined by leading IT consulting firms, leading software development firms, or a nationally-recognized project management association, appropriately tailored to the specific circumstances of the University. Copies of the board's policies, standards, and guidelines shall be made available to the State CIO.*

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall oversee the management of all University IT projects. IT projects may include, but are not limited to, upgrades to network infrastructure, provision of technology to support research, database development, implementation of new applications, and development of IT services for students, faculty, and staff. Day-to-day management of projects shall be the responsibility of appointed project directors and shall be in accordance with the project management policies, standards, and guidelines adopted by the board, as amended and revised from time to time.*

*On a quarterly basis, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall report to the State CIO on the budget, schedule, and overall status of the University's major IT projects. This requirement shall not apply to research projects, research initiatives, or instructional programs.*

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall be responsible for decisions to substantially alter a project's scope, budget, or schedule after initial approval.*

*The University shall be specifically exempt from:*

*1. § 2.2-2007.1 of the Code of Virginia, as it currently exists and from time to time may be amended, relating to additional duties of the State CIO relating to information technology planning and budgeting;*

*2. Division of Project Management, Article 2 (§ 2.2-2016 et seq.) of Chapter 20.1 of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended; and*

*3. Any other substantially similar provision of the Code of Virginia governing IT project management, as it currently exists or from time to time may be amended.*

*The State CIO shall continue to have the authority regarding project suspension and termination as provided in subsection B of § 2.2-2016.1 of the Code of Virginia and shall continue to provide the University with reasonable notice of, and a reasonable opportunity to correct, any identified problems before a project is terminated.*

*E. Infrastructure, Architecture, Ongoing Operations, and Security.*

*Pursuant to § 23.1-1018 of the Act, the board shall adopt the policies, standards, and guidelines related to IT infrastructure, architecture, ongoing operations, and security developed by the Commonwealth or those of nationally recognized associations, appropriately tailored to the specific circumstances of the University. Copies of the policies shall be made available to the State CIO.*

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall be responsible for implementing such policies, standards, and guidelines adopted by the board, as amended and revised from time to time.*

*For purposes of implementing this policy, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall appoint an existing University employee to serve as a liaison between the University and the State CIO.*

*F. Audits.*

*Pursuant to § 23.1-1018 of the Act, the board shall adopt the policies, standards, and guidelines developed by the Commonwealth or those based upon industry best practices for project auditing as defined by leading IT experts, including consulting firms, or a nationally-recognized project auditing association, appropriately tailored to the specific circumstances of the University, which provide for independent validation and verification of the University's major IT projects. Copies of the policies, standards, and guidelines, as amended and revised from time to time, shall be made available to the State CIO.*

*Audits of IT strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, and security shall also be the responsibility of the University's internal audit department and the Auditor of Public Accounts.*

#### EXHIBIT D

MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT

POLICY GOVERNING  
THE PROCUREMENT OF GOODS, SERVICES,  
INSURANCE, AND CONSTRUCTION AND  
THE DISPOSITION OF SURPLUS MATERIALS

THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING  
THE PROCUREMENT OF GOODS, SERVICES,  
INSURANCE, AND CONSTRUCTION AND  
THE DISPOSITION OF SURPLUS MATERIALS

**I. PREAMBLE.**

A. Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides that the University, upon becoming a covered institution, shall be authorized to establish its own system for the procurement of goods, services, insurance, and construction and for the independent disposition of surplus materials by public or private transaction.

The Act provides that a covered institution shall comply with policies adopted by its board of visitors for the procurement of goods, services, insurance, and construction and the disposition of surplus materials. The provisions of this policy, together with the Rules Governing Procurement of Goods, Services, Insurance, and Construction attached to this policy as Attachment I, constitute the adopted board of visitors policies required by the Act regarding procurement of goods, services, insurance, and construction and the disposition of surplus materials by the University.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to any other sections of the Code of Virginia, including other provisions of the Act, the general appropriation act, and the University's enabling statutes are not affected by this policy.

**II. DEFINITIONS.**

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Agreement" or "management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered institution" means, on and after the effective date of its initial management agreement, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the management agreement.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Goods" means all material, equipment, supplies, and printing, including information technology and telecommunications goods such as automated data processing hardware and software.

"Rules" means the Rules Governing Procurement of Goods, Services, Insurance, and Construction attached to this policy as Attachment I.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials or the rental of equipment, materials, and supplies. "Services" includes both professional services, which include the practice of accounting, actuarial services, law, dentistry, medicine, optometry, and pharmacy, and nonprofessional services, which include any service not specifically identified as professional services.

"Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and recyclable items, that are determined to be surplus by the University.

"University" means James Madison University.

**III. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.**

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

**IV. GENERAL PROVISIONS.****A. Adoption of This Policy and Continued Applicability of Other Board of Visitors Procurement Policies.**

The University has had decentralization and pilot program autonomy in many procurement functions and activities since the 1994 Appropriation Act. The Act extends and reinforces the autonomy previously granted to the University in Item 330 E of the 1994 Appropriation Act. This policy therefore is adopted by the board of visitors to enable the University to develop a procurement system, as well as a surplus materials disposition system. Any University electronic procurement system shall integrate or interface with the Commonwealth's electronic procurement system.

This policy shall be effective on the effective date. The policies and procedures adopted by the President of the University to implement this policy shall continue to be subject to any other policies adopted by the board of visitors affecting procurements at the University, including policies regarding the nature and amounts of procurements that may be undertaken without the approval of the board of visitors or the President of the University.

**B. Scope and Purpose of University Procurement Policies.**

This policy shall apply to procurements of goods, services, insurance, and construction. It shall be the policy of the University that procurements conducted by the University result in the purchase of high quality goods and services at reasonable prices, and that the University be free, to the maximum extent permitted by law and this policy, from

*constraining policies that hinder the ability of the University to do business in a competitive environment. This policy, together with the rules, shall apply to all procurements undertaken by the University, regardless of the source of funds.*

*C. Collaboration, Communication, and Cooperation with the Commonwealth.*

*The University is committed to developing, maintaining, and sustaining collaboration, communication, and cooperation with the Commonwealth regarding the matters addressed in this policy, particularly with the Secretary of Administration, the Department of General Services, and the Virginia Information Technologies Agency. Identifying business objectives and goals common to both the University and the Commonwealth and the mechanisms by which such objectives and goals may be jointly pursued and achieved are among the desired outcomes of such collaboration, communication, and cooperation.*

*D. Commitment to Statewide Contracts, Electronic Procurement, and SWAM Participation and Use.*

*The University is committed to maximizing its internal operational efficiencies, economies of scale among institutions of higher education, and the leveraged buying power of the Commonwealth as a whole.*

*Consistent with this commitment, the University:*

*1. May purchase from and participate in all statewide contracts for goods and services, including information technology goods and services, except that the University shall purchase from and participate in contracts for communications services and telecommunications facilities entered into by the Virginia Information Technologies Agency pursuant to § 2.2-2011 of the Code of Virginia unless an exception is provided in the general appropriation act or by other law, and provided that orders not placed through statewide contracts shall be processed directly or by integration or interface through the Commonwealth's electronic procurement system;*

*2. Shall use directly or by integration or interface the Commonwealth's electronic procurement system; and*

*3. Shall adopt a small, woman-owned, and minority-owned (SWAM) business program that is consistent with the Commonwealth's SWAM program.*

*E. Implementation.*

*To effect its implementation under the Act, and if the University remains in continued substantial compliance with the terms and conditions of this management agreement with the Commonwealth pursuant to the requirements of the Act, the University's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia, except § 2.2-4342 and §§ 2.2-4367 through 2.2-4377 of such chapter; the oversight of the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia; the state agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials in §§ 2.2-1124 and 2.2-1125 of the Code of Virginia; the requirement to purchase from the Department for the Blind and Vision Impaired pursuant to § 2.2-1117 of the Code of Virginia; and any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including but not limited to Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia, regarding the review and the oversight by the Division of Engineering and Buildings of the Virginia Department of General Services of contracts for the construction of University capital projects and construction-related professional services as set forth in § 2.2-1132 of such article.*

**V. UNIVERSITY PROCUREMENT POLICIES.**

**A. General Competitive Principles.**

*In connection with University procurements and the processes leading to award of contracts for goods, services, insurance, and construction, the University is committed to:*

*1. Seeking competition to the maximum practical degree, taking into account the size of the anticipated procurement, the term of the resulting contract, and the likely extent of competition;*

*2. Conducting all procurements in an open, fair, and impartial manner and avoiding any impropriety or the appearance of any impropriety;*

*3. Making procurement rules clear in advance of any competition;*

*4. Providing access to the University's business to all qualified vendors, firms, and contractors, with no potential bidder or offeror excluded arbitrarily or capriciously, while allowing the flexibility to engage in cooperative procurements and to meet special needs of the University;*

*5. Ensuring that specifications for purchases are fairly drawn so as not to favor unduly a particular vendor; and*

*6. Providing for the free exchange of information between the University, vendors, firms, or contractors concerning the goods or services sought and offered while preserving the confidentiality of proprietary information.*

**B. Access to Records.**

*Procurement records shall be available to citizens or to interested persons, firms, or corporations in accordance with the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, except those records exempt from disclosure pursuant to subdivisions 7 and 12 of § 2.2-3705.1, subdivision 4 of § 2.2-3705.4, or other applicable exemptions of the Virginia Freedom of Information Act, and § 2.2-4342 of the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia.*

**C. Cooperative Procurements and Alliances.**

*In circumstances where the University determines and documents that statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to the University that meet its business goals and objectives, the University is authorized to participate in cooperative procurements with other public or private organizations or entities, including other educational institutions, public-private partnerships, public bodies, charitable organizations, health care provider alliances, and purchasing organizations, so long as the resulting contracts are procured competitively pursuant to subsections A through J of § 5 of the rules and the purposes of this policy are furthered. In the event the University engages in a cooperative contract with a private organization or public-private partnership and the contract was not competitively procured pursuant to subsections A through J of § 5 of the rules, use of the contract by other state agencies, institutions, and public bodies shall be prohibited. Notwithstanding all of the provisions of this subsection above, use of cooperative contracts shall conform to the business requirements of the Commonwealth's electronic procurement system, including the requirement for payment of applicable fees. By October 1 of each year, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall make available to the Secretary of Administration, the Joint Legislative Audit and Review Commission, and the Auditor of Public Accounts a list of all cooperative contracts and alliances entered into or used during the prior fiscal year.*

*D. Training; Ethics in Contracting.*

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall take all necessary and reasonable steps to assure (i) that all University officials responsible for and engaged in procurements authorized by the Act and this policy are knowledgeable regarding the requirements of the Act, this policy, and the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, (ii) that only officials authorized by this policy and any procedures adopted by the President of the University to implement this policy are responsible for and engaged in such procurements, and (iii) that compliance with the Act and this policy are achieved.*

*The University shall maintain an ongoing program to provide professional development opportunities to its buying staff and to provide methods training to internal staff who are engaged in placing decentralized small purchase transactions.*

*E. Ethics and University Procurements.*

*In implementing the authority conferred by this policy, the personnel administering any procurement shall adhere to the following provisions of the Code of Virginia: the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia, and the Virginia Governmental Frauds Act, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2 of the Code of Virginia.*

**VI. UNIVERSITY SURPLUS MATERIALS POLICY AND PROCEDURES.**

*The policy and procedures for disposal for surplus materials shall provide for the sale, environmentally appropriate disposal, or recycling of surplus materials by the University and the retention of the resulting proceeds by the University.*

**VII. ADOPTION AND EFFECTIVE DATES OF RULES AND IMPLEMENTING POLICIES AND PROCEDURES.**

*A. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall adopt one or more comprehensive sets of specific procurement policies and procedures for the University, which, in addition to the rules, implement applicable provisions of law and this policy. The University procurements shall be carried out in accordance with this policy, the rules, and any implementing policies and procedures adopted by the University. The implementing policies and procedures adopted by the University (i) shall include the delegation of procurement authority by the board to appropriate University officials who shall oversee University procurements of goods, services, insurance, and construction, including a grant of authority to such officials to engage in further delegation of authority as the President of the University deems appropriate, and (ii) shall remain consistent with the competitive principles set forth in Section V of this policy.*

*B. Any implementing policies and procedures adopted pursuant to subsection A and the rules shall become effective on the effective date and, as of such date, shall be applicable to all procurements undertaken by the University on behalf of the University for goods, services, insurance, and construction. This policy, the rules, and any implementing policies and procedures adopted by the University shall not affect existing contracts already in effect.*

*C. The rules and the University implementing policies and procedures for all University procurements of goods, services, insurance, and construction and the disposition of surplus property shall be substantially consistent with the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors in their form as of the effective date and as amended or changed in the future, and with the University procedures specific to the acquisition of goods and services. The rules and the University implementing policies and procedures shall implement a system of competitive negotiation, and competitive sealed bidding when appropriate, for goods, services, including professional services, as defined in the rules, insurance, and construction.*

**VIII. REQUIREMENTS FOR RULES AND IMPLEMENTING POLICIES AND PROCEDURES.**

*A. Protests, Appeals, and Debarment.*

*The rules and the University implementing policies and procedures for procurements other than capital outlay shall include a process or processes for an administrative appeal by vendors, firms, or contractors. Protests and appeals may challenge determinations of vendor, firm, or contractor non-responsibility or ineligibility, or the award of contracts,*

provided that such protests and appeals are filed within the timeframes specified by the rules. Remedies available shall be limited to reversal of the action challenged or, where a contract already being performed is declared void, compensation for the cost of performance up to the time of such declaration. The rules and the University implementing policies and procedures also may establish the basis and process for debarment of any vendor, firm, or contractor.

*B. Prompt Payment of Contractors and Subcontractors.*

The rules and the University implementing policies and procedures shall include provisions related to prompt payment of outstanding invoices, which shall include payment of interest on properly-presented invoices outstanding more than seven days beyond the payment date, at a rate no higher than the lowest prime rate charged by any commercial bank as published in the Wall Street Journal. The payment date shall be the later of 30 days from the date of the receipt of goods or invoice, or the date established by the contract. All contracts also shall require prompt payment of subcontractors by the general contractor, upon receipt of payment by the University.

*C. Types of Procurements.*

The rules and the University implementing policies and procedures shall implement a system of competitive negotiation for professional services, as defined in the rules, and shall implement purchasing procedures developed to maximize competition given the size and duration of the contract and the needs of the University. Such policies and procedures may include special provisions for procurements, such as emergency procurements, sole source procurements, brand name procurements, small purchases, procurements in which only one qualified vendor responds, and others.

*D. Approval and Public Notice of Procurements.*

The rules and the University implementing policies and procedures shall provide for approval of solicitation documents by an authorized individual and for reasonable public notice of procurements, given the size and nature of the need and the applicability of any exemption in the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

*E. Administration of Contracts.*

The rules and the University implementing policies and procedures shall contain provisions related to the administration of contracts, including contract claims, modifications, extensions, and assignments.

*F. Nondiscrimination.*

The rules and the University implementing policies and procedures shall provide for a nondiscriminatory procurement process that prohibits discrimination because of the race, religion, color, sex, or national origin of the bidder or offeror in the solicitation and award of contracts and shall include appropriate provisions to effectuate fair and reasonable consideration of women-owned, minority-owned, and small businesses and to promote and encourage a diversity of suppliers.

#### ATTACHMENT 1

##### *Rules Governing Procurement of Goods, Services, Insurance, and Construction by a Public Institution of Higher Education of the Commonwealth of Virginia Governed by Article 4 of the*

##### *Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

*In accordance with the provisions of the Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, and in particular § 23.1-1017 of the Act, the governing body of a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth pursuant to Article 4 of the Act has adopted the following rules to govern the procurement of goods, services, insurance, and construction by the Institution:*

*§ 1. Purpose. -*

*The purpose of these rules is to enunciate the public policies pertaining to procurement of goods, services, insurance, and construction by the Institution from nongovernmental sources, to include governmental procurement that may or may not result in monetary consideration for either party. These rules shall apply whether the consideration is monetary or nonmonetary and regardless of whether the Institution, the contractor, or some third party is providing the consideration.*

*§ 2. Scope of procurement authority. -*

*Subject to these rules, and the Institution's continued substantial compliance with the terms and conditions of its management agreement with the Commonwealth pursuant to the requirements—particularly Article 4—of the Act, the Institution shall have and shall be authorized to have and exercise all of the authority relating to procurement of goods, services, insurance, and construction, including but not limited to capital outlay-related procurement and information technology-related procurement, that Institutions are authorized to exercise pursuant to Article 4 of the Act.*

*§ 3. Competition is the priority. -*

*To the end that the Institution shall obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in an open, fair, and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to the Institution's business, and that no offeror be arbitrarily or capriciously excluded, it is the intent of the governing body of the Institution that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being*

drawn to favor a particular vendor, and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered. The Institution may consider best value concepts when procuring goods and nonprofessional services but not construction or professional services. Professional services will be procured using a qualification-based selection process. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.

§ 4. Definitions. -

As used in these rules:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition, "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.

"Best value" means the overall combination of quality, price, and various elements of required services that in total are optimal relative to the Institution's needs, as predetermined in the solicitation.

"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

"Competitive negotiation" means a method of contractor selection that includes the following elements:

1. Issuance of a written request for proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.

2. Public notice of the request for proposal at least 10 days prior to the date set for receipt of proposals by publication in a newspaper or newspapers of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice also shall be published on the Department of General Services' central electronic procurement website and may be published on other appropriate websites. In addition, proposals may be solicited directly from potential contractors.

3. a. Procurement of professional services. The procurement of professional services for capital projects shall be conducted using a qualification-based selection process. The Institution shall engage in individual discussions with two or more offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the Institution may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the Institution shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the Institution can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Institution determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

A contract for architectural or professional engineering services relating to construction projects may be negotiated by the Institution for multiple projects, provided (i) the projects require similar experience and expertise and (ii) the nature of the projects is clearly identified in the request for proposal. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall be as set in the request for proposal, and (c) the project fee of any single project shall not exceed the term limit as set in the request for proposal. Any unused amounts from any contract term may be carried forward. Competitive negotiations for such contracts may result in awards to more than one offeror provided the request for proposal stated the potential for a multivendor award.

Multiphase professional services contracts satisfactory and advantageous to the Institution for environmental, location, design, and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the Institution shall state the anticipated intended total scope of the project and

determine in writing that the nature of the work is such that the best interests of such Institution require awarding the contract.

b. *Procurement of other than professional services.* Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposal, including price if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the Institution shall select the offeror that, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the request for proposal, awards may be made to more than one offeror. Should the Institution determine in writing and in its sole discretion that only one offeror has made the best proposal, a contract may be negotiated and awarded to that offeror.

"Competitive sealed bidding" is a method of contractor selection, other than for professional services, that includes the following elements:

1. Issuance of a written invitation to bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the Institution has provided for prequalification of bidders, the invitation to bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an invitation to bid may be issued requesting the submission of unpriced offers to be followed by an invitation to bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

2. Public notice of the invitation to bid at least 10 days prior to the date set for receipt of bids by publication on the Department of General Services' central electronic procurement website. Public notice also may be published in a newspaper of general circulation or on other appropriate websites, or both. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

3. Public opening and announcement of all bids received.

4. Evaluation of bids based upon the requirements set forth in the invitation, that may include special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, that are helpful in determining acceptability.

5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the invitation to bid, awards may be made to more than one bidder.

"Construction" means building, altering, repairing, improving, or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading, or similar work upon real property.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

"Covered institution" or "Institution" means, on and after the effective date of the initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Design-build contract" means a contract between the Institution and another party in which the party contracting with the Institution agrees to both design and build the structure, roadway, or other item specified in the contract.

"Goods" means all material, equipment, supplies, and printing, including information technology and telecommunications goods such as automated data processing hardware and software.

"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, or the request for proposal, that does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured.

"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

"Nonprofessional services" means any services not specifically identified as professional services in the definition of professional services and includes small construction projects valued not over \$1 million, provided that subdivision 3 a of the definition of "competitive negotiation" in this section shall still apply to professional services for such small construction projects.

"Potential bidder or offeror" for the purposes of §§ 50 and 54 of these rules, means a person who, at the time the Institution negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance, or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering.

*"Public body" means any legislative, executive, or judicial body, agency, office, department, authority, post, commission, committee, institution, board, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in these rules.*

*"Public contract" means an agreement between the Institution and a nongovernmental source that is enforceable in a court of law.*

*"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.*

*"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the invitation to bid.*

*"Rules" means these Rules Governing Procurement of Goods, Services, Insurance, and Construction adopted by the governing body of the covered institution.*

*"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.*

*"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials, and supplies.*

*"Sheltered workshop" means a work-oriented rehabilitative facility with a controlled working environment and individual goals that utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.*

*§ 5. Methods of procurement. -*

*A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.*

*B. Professional services shall be procured by competitive negotiation. Qualification-based selection shall be used for design services.*

*C. Goods, services, or insurance may be procured by competitive negotiation.*

*D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the Institution and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:*

- 1. By the Institution on a fixed price design-build basis or construction management basis under § 7;*
- 2. By the Institution for the construction, alteration, repair, renovation, or demolition of buildings; or*
- 3. By the Institution for the construction of highways and any draining, dredging, excavation, grading, or similar work upon real property.*

*E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The Institution shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area, which may be the Department of General Services' website for the Commonwealth's central electronic procurement system, or published in a newspaper of general circulation on the day the Institution awards or announces its decision to award the contract, whichever occurs first. Public notice shall also be published on the Department of General Services' website for the Commonwealth's central electronic procurement system and may be published on other appropriate websites.*

*F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The Institution shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area, which may be the Department of General Services' website for the Commonwealth's central electronic procurement system, or published in a newspaper of general circulation on the day the Institution awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Public notice may also be published on the Department of General Services' website for the Commonwealth's central electronic procurement system and other appropriate websites.*

*G. The Institution may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.*

H. The Institution may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.

I. Upon a determination made in advance by the Institution and set forth in writing that the purchase of goods, products, or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination.

J. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning.

§ 6. Cooperative procurement. -

A. In circumstances where the Institution determines and documents that statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to the Institution that meet its business goals and objectives, the Institution is authorized to participate in, sponsor, conduct, or administer a cooperative procurement arrangement on behalf of or in conjunction with public bodies, public or private health or educational institutions, other public or private organizations or entities, including public-private partnerships, charitable organizations, health care provider alliances, or purchasing organizations or entities, or with public agencies or institutions or group purchasing organizations of the several states, territories of the United States, or the District of Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services. The Institution may purchase from any authority, department, agency, institution, city, county, town, or other political subdivision of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. In such instances, deviation from the procurement procedures set forth in these rules and the administrative policies and procedures established to implement these rules shall be permitted. Notwithstanding all of the provisions of this section above, use of cooperative contracts shall conform to the business requirements of the Commonwealth's electronic procurement system, including the requirement for payment of applicable fees. Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

B. In circumstances where statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to meet the Institution's business goals and objectives, and as authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases:

1. The Institution may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the United States government; and

2. The Institution may purchase telecommunications and information technology goods and nonprofessional services from a United States General Services Administration contract or a contract awarded by any other agency of the United States government.

§ 7. Design-build or construction management contracts authorized. -

A. Notwithstanding any other provisions of law, the Institution may enter into contracts on a fixed price design-build basis or construction management basis in accordance with the provisions of this section.

B. Procurement of construction by the design-build or construction management method shall be a two-step competitive negotiation process. In the first step, offerors shall be requested to submit their qualifications. Based upon the information submitted and any other relevant information that the Commonwealth may obtain, no more than five offerors deemed most suitable for the project shall be selected by the Commonwealth and requested to submit proposals.

§ 8. Modification of the contract. -

A. A contract awarded by the Institution may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 25 percent of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the President of the Institution or his designee. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

B. The Institution may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

C. Nothing in this section shall prevent the Institution from placing greater restrictions on contract modifications.

§ 9. Discrimination prohibited; participation of small, women-owned, and minority-owned business. -

A. In the solicitation or awarding of contracts, the Institution shall not discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, the Institution shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

B. The Institution shall establish programs consistent with this section to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions. The programs established shall be in writing and shall include cooperation with the Department of Minority Business Enterprise, the U.S. Small Business Administration, and other public or private agencies. The Institution shall submit annual progress reports on minority business procurement to the Department of Minority Business Enterprise.

C. Whenever there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is by law authorized and encouraged to require the Institution to implement appropriate enhancement or remedial measures consistent with prevailing law.

D. In the solicitation or awarding of contracts, the Institution shall not discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless it has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

§ 10. Employment discrimination by contractor prohibited; required contract provisions. -

The Institution shall include in every contract of more than \$10,000 the following provisions:

1. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

2. The contractor will include the provisions of subdivisions 1 a, b, and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

§ 11. Drug-free workplace to be maintained by contractor; required contract provisions.

The Institution shall include in every contract over \$10,000 the following provisions:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with these rules, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of the contract.

§ 12. Use of brand names. -

Unless otherwise provided in the invitation to bid, the name of a certain brand, make, or manufacturer shall not restrict bidders to the specific brand, make, or manufacturer named and shall be deemed to convey the general style, type, character, and quality of the article desired. Any article that the Institution in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

§ 13. Comments concerning specifications. -

The Institution shall establish procedures whereby comments concerning specifications or other provisions in invitations to bid or requests for proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.

§ 14. Prequalification generally; prequalification for construction. -

A. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedure shall be established in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the process.

B. Any prequalification of prospective contractors for construction by the Institution shall be pursuant to a prequalification process for construction projects adopted by the Institution. The process shall be consistent with the provisions of this section.

The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of subsection D of § 34 of these rules.

In all instances in which the Institution requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for

submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.

At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the Institution shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

A decision by the Institution denying prequalification under the provisions of this subsection shall be final and conclusive unless the contractor appeals the decision as provided in § 54 of these rules.

C. The Institution may deny prequalification to any contractor only if the Institution finds one of the following:

1. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the Institution shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

2. The contractor does not have appropriate experience to perform the construction project in question;

3. The contractor or any officer, director, or owner thereof has had judgments entered against him within the past 10 years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the Institution without good cause. If the Institution has not contracted with a contractor in any prior construction contracts, the Institution may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The Institution may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

5. The contractor or any officer, director, owner, project manager, procurement manager, or chief financial official thereof has been convicted within the past 10 years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, (ii) the Virginia Governmental Frauds Act, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2 of the Code of Virginia, (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1 of the Code of Virginia, or (iv) any substantially similar law of the United States or another state;

6. The contractor or any officer, director, or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state, or agency of the federal government; and

7. The contractor failed to provide to the Institution in a timely manner any information requested by the Institution relevant to subdivisions 1 through 6 of this subsection.

§ 15. Negotiation with lowest responsible bidder. -

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, the Institution may negotiate with the apparent low bidder to obtain a contract price within available funds. However, the negotiation may be undertaken only under conditions and procedures described in writing and approved by the Institution prior to issuance of the invitation to bid and summarized therein.

§ 16. Cancellation, rejection of bids; waiver of informalities. -

A. An invitation to bid, a request for proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. The reasons for cancellation or rejection shall be made part of the contract file. The Institution shall not cancel or reject an invitation to bid, a request for proposal, or any other solicitation, bid, or proposal pursuant to this section solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

B. The Institution may waive informalities in bids.

§ 17. Exclusion of insurance bids prohibited. -

Notwithstanding any other provision of law, no insurer licensed to transact the business of insurance in the Commonwealth or approved to issue surplus lines insurance in the Commonwealth shall be excluded from presenting an insurance bid proposal to the Institution in response to a request for proposal or an invitation to bid. Nothing in this section shall preclude the Institution from debarring a prospective insurer pursuant to § 18 of these rules.

§ 18. Debarment. -

Prospective contractors may be debarred from contracting for particular types of supplies, services, insurance, or construction, for specified periods of time. Any debarment procedure shall be established in writing by the Institution. Any debarment procedure may provide for debarment on the basis of a contractor's unsatisfactory performance for the Institution.

§ 19. Purchase programs for recycled goods; Institution responsibilities. -

A. The Institution may implement a purchase program for recycled goods and may coordinate its efforts so as to achieve the goals and objectives set forth in §§ 10.1-1425.6, 10.1-1425.7, and 10.1-1425.8 of the Code of Virginia and §§ 20 and 22 of these rules.

*B. The Department of Environmental Quality, with advice from the Virginia Recycling Markets Development Council, shall advise the Institution concerning the designation of recycled goods.*

*§ 20. Preference for Virginia products with recycled content and for Virginia firms. -*

*A. In the case of a tie bid, preference shall be given to goods produced in Virginia or goods, services, or construction provided by Virginia persons, firms, or corporations; otherwise the tie shall be decided by lot.*

*B. Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed by the Institution to the lowest responsive and responsible bidder who is a resident of Virginia.*

*C. Notwithstanding the provisions of subsections A and B, in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content.*

*§ 21. Preference for Virginia coal used in the Institution. -*

*In determining the award of any contract for coal to be purchased for use in the Institution with state funds, the Institution shall procure using competitive sealed bidding and shall award to the lowest responsive and responsible bidder offering coal mined in Virginia so long as its bid price is not more than four percent greater than the bid price of the low responsive and responsible bidder offering coal mined elsewhere.*

*§ 22. Preference for recycled paper and paper products used by the Institution. -*

*A. In determining the award of any contract for paper and paper products to be purchased for use by the Institution, it shall competitively procure recycled paper and paper products of a quality suitable for the purpose intended, so long as the price is not more than 10 percent greater than the price of the low responsive and responsible bidder or offeror offering a product that does not qualify under subsection B.*

*B. For purposes of this section, recycled paper and paper products means any paper or paper products meeting the U.S. Environmental Protection Agency-recommended content standards as defined in 40 C.F.R. Part 247.*

*§ 23. Withdrawal of bid due to error. -*

*A. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.*

*If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, which was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.*

*One of the following procedures for withdrawal of a bid shall be selected by the Institution and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice or (ii) the bidder shall submit to the Institution or designated official his original work papers, documents, and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. In either instance, the work papers, documents, and materials may be considered as trade secrets or proprietary information subject to the conditions of subsection F of § 34 of these rules. The bids shall be opened one day following the time fixed by the Institution for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract shall not be awarded by the Institution until the two-hour period has elapsed. The mistake shall be proved only from the original work papers, documents, and materials delivered as required herein.*

*B. The Institution may establish procedures for the withdrawal of bids for other than construction contracts.*

*C. No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.*

*D. If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.*

*E. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.*

*F. If the Institution denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.*

*§ 24. Contract Pricing Arrangements. -*

*A. Public contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited by these rules.*

*B. Except in case of emergency affecting the public health, safety, or welfare, no public contract shall be awarded on the basis of cost plus a percentage of cost.*

*C. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section.*

*§ 25. Workers' compensation requirements for construction contractors and subcontractors. -*

*A. No contractor shall perform any work on a construction project of the Institution unless he (i) has obtained, and continues to maintain for the duration of the work, workers' compensation coverage required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2 of the Code of Virginia and (ii) provides prior to the award of contract, on a form furnished by the Institution, evidence of such coverage.*

*B. The Department of General Services shall provide the workers' compensation coverage form to the Institution. Failure of the Institution to provide the form prior to the award of contract shall waive the requirements of clause (ii) of subsection A.*

*C. No subcontractor shall perform any work on a construction project of the Institution unless he has obtained, and continues to maintain for the duration of such work, workers' compensation coverage required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2 of the Code of Virginia.*

*§ 26. Retainage on construction contracts. -*

*A. In any contract issued by the Institution for construction that provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with no more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.*

*B. Any subcontract for a public project that provides for similar progress payments shall be subject to the provisions of this section.*

*§ 27. Public construction contract provisions barring damages for unreasonable delays declared void. -*

*A. Any provision contained in any public construction contract of the Institution that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent the delay is caused by acts or omissions of the Institution, its agents, or employees and due to causes within their control, shall be void and unenforceable as against public policy.*

*B. Subsection A shall not be construed to render void any provision of a public construction contract awarded by the Institution that:*

*1. Allows the recovery of that portion of delay costs caused by the acts or omissions of the contractor or its subcontractors, agents, or employees;*

*2. Requires notice of any delay by the party claiming the delay;*

*3. Provides for liquidated damages for delay; or*

*4. Provides for arbitration or any other procedure designed to settle contract disputes.*

*C. A contractor making a claim against the Institution for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract of the Institution shall be liable to the Institution and shall pay it for a percentage of all costs incurred by the Institution in investigating, analyzing, negotiating, litigating, and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim that is determined through litigation or arbitration to be false or to have no basis in law or in fact.*

*D. If the Institution denies a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract for the Institution, it shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the Institution shall be equal to the percentage of the contractor's total delay claim for which the Institution's denial is determined through litigation or arbitration to have been made in bad faith.*

*§ 28. Bid bonds. -*

*A. Except in cases of emergency, all bids or proposals for construction contracts in excess of \$1 million shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that if the contract is awarded to the bidder, he will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.*

*B. No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid or (ii) the face amount of the bid bond.*

*C. Nothing in this section shall preclude the Institution from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$1 million.*

*§ 29. Performance and payment bonds. -*

*A. Upon the award by the Institution of any (i) public construction contract exceeding \$1 million awarded to any prime contractor or (ii) public construction contract exceeding \$1 million awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures, or other improvements to real property owned by the Institution, the contractor shall furnish to the Institution the following bonds:*

1. Except for transportation-related projects, a performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications, and conditions of the contract. For transportation-related projects, such bond shall be in a form and amount satisfactory to the Institution.

2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work.

For the purposes of this subsection, "labor or materials" include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

B. Each of the bonds shall be executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia.

C. The bonds shall be payable to the Commonwealth of Virginia, naming also the Institution.

D. Each of the bonds shall be filed with the Institution or a designated office or official thereof.

E. Nothing in this section shall preclude the Institution from requiring payment or performance bonds for construction contracts below \$1 million.

F. Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

§ 30. Alternative forms of security. -

A. In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

B. If approved by the Institution's general counsel or his equivalent, a bidder may furnish to the Institution a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the Institution equivalent to a corporate surety's bond.

§ 31. Bonds on other than construction contracts. -

The Institution may require bid, payment, or performance bonds for contracts for goods or services if provided in the invitation to bid or request for proposal.

§ 32. Action on performance bond. -

No action against the surety on a performance bond shall be brought by the Institution unless brought within one year after (i) completion of the contract, including the expiration of all warranties and guarantees or (ii) discovery of the defect or breach of warranty that gave rise to the action.

§ 33. Actions on payment bonds; waiver of right to sue. -

A. Subject to the provisions of subsection B, any claimant who has performed labor or furnished material in accordance with the contract documents in furtherance of the work provided in any contract for which a payment bond has been given, and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, may bring an action on the payment bond to recover any amount due him for the labor or material. The obligee named in the bond need not be named a party to the action.

B. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this subsection.

C. Any action on a payment bond shall be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

D. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

§ 34. Public inspection of certain records. -

A. Except as provided in this section, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm, or corporation, in accordance with the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

B. Cost estimates relating to a proposed procurement transaction prepared by or for the Institution shall not be open to public inspection.

C. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the Institution decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

D. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the Institution decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.

E. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

F. Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 14 of these rules shall not be subject to the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia; however, the bidder, offeror, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

§ 35. Exemption for certain transactions. -

A. The provisions of these rules shall not apply to:

1. The selection of services related to the management and investment of the Institution's endowment funds, endowment income, or gifts. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2 of the Code of Virginia.

2. The purchase of items for resale at retail bookstores and similar retail outlets operated by the Institution. However, such purchase procedures shall provide for competition where practicable.

3. Procurement of any construction or planning and design services for construction by the Institution when (i) the planning, design, or construction is \$50,000 or less or (ii) the Institution is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether or not those federal procedures are in conformance with the provisions of these rules.

4. The purchase of goods and services by the Institution when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 9 of these rules.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of these rules, the Institution may comply with such federal requirements, notwithstanding the provisions of these rules, only upon the written determination of the President of the Institution or his designee that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of these rules in conflict with the conditions of the grant or contract.

§ 36. Permitted contracts with certain religious organizations; purpose; limitations. -

A. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, authorizes public bodies to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization, and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

B. For the purposes of this section, "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

C. The Institution, in procuring goods or services, or in making disbursements pursuant to this section, shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

D. The Institution shall ensure that all invitations to bid, requests for proposals, contracts, and purchase orders prominently display a nondiscrimination statement indicating that it does not discriminate against faith-based organizations.

E. A faith-based organization contracting with the Institution (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender, or national origin and (ii) shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the Institution. Nothing in clause (ii) shall be construed to supersede or otherwise override any other applicable state law.

F. Consistent with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, funds provided for expenditure pursuant to contracts with public bodies shall not be spent for sectarian worship,

instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

G. Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 U.S.C. § 2000e-1 et seq., to employ persons of a particular religion.

H. If an individual, who applies for or receives goods, services, or disbursements provided pursuant to a contract between the Institution and a faith-based organization, objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the Institution shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

The Institution shall provide to each individual who applies for or receives goods, services, or disbursements provided pursuant to a contract between the Institution and a faith-based organization a notice in boldface type that states: "Neither the Institution's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form."

§ 37. Exemptions from competition for certain transactions. -

The Institution may enter into contracts without competition, as that term is described in subsections A through J of § 5 of these rules, for:

1. The purchase of goods or services that are produced or performed by or related to:

a. Persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Vision Impaired;

b. Nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped;

c. Private educational institutions; or

d. Other public educational institutions.

2. Speakers and performing artists;

3. Memberships and association dues;

4. Sponsored research grant sub-awards and contract sub-awards, not to include the purchase of goods or services by the Institution;

5. Group travel in foreign countries;

6. Conference facilities and services;

7. Participation in intercollegiate athletic tournaments and events including team travel and lodging, registration, and tournament fees;

8. Royalties; or

9. The purchase of legal services, provided that the Office of the Attorney General has been consulted, or expert witnesses or other services associated with litigation or regulatory proceedings.

§ 38. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations. -

The Institution may enter into contracts for insurance or electric utility service without competitive sealed bidding or competitive negotiation if purchased through an association of which the Institution is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the Institution has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

§ 39. Definitions. -

As used in §§ 39 through 46 of these rules, unless the context requires a different meaning:

"Contractor" means the entity that has a direct contract with the Institution.

"Debtor" means any individual, business, or group having a delinquent debt or account with any state agency that obligation has not been satisfied or set aside by court order or discharged in bankruptcy.

"Payment date" means either (i) the date on which payment is due under the terms of a contract for provision of goods or services or (ii) if such date has not been established by contract, (a) 30 days after receipt of a proper invoice by the Institution or its agent or (b) 30 days after receipt of the goods or services by the Institution.

"Subcontractor" means any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.

§ 40. Exemptions. -

The provisions of §§ 39 through 46 of these rules shall not apply to the late payment provisions contained in any public utility tariffs prescribed by the State Corporation Commission.

§ 41. Retainage to remain valid. -

*Notwithstanding the provisions of §§ 39 through 46 of these rules, the provisions of § 26 of these rules relating to retainage shall remain valid.*

*§ 42. Prompt payment of bills by the Institution. -*

*A. The Institution shall promptly pay for the completely delivered goods or services by the required payment date.*

*Payment shall be deemed to have been made when offset proceedings have been instituted, as authorized under the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia.*

*B. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial deliveries or executions to the extent that such contract provides for separate payment for such partial delivery or execution.*

*§ 43. Defect or impropriety in the invoice or goods and/or services received. -*

*In instances where there is a defect or impropriety in an invoice or in the goods or services received, the Institution shall notify the supplier of the defect or impropriety, if the defect or impropriety would prevent payment by the payment date. The notice shall be sent within 15 days after receipt of the invoice or the goods or services.*

*§ 44. Date of postmark deemed to be date payment is made. -*

*In those cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made for purposes of these rules.*

*§ 45. Payment clauses to be included in contracts. -*

*Any contract awarded by the Institution shall include:*

*1. A payment clause that obligates the contractor to take one of the two following actions within seven days after receipt of amounts paid to the contractor by the Institution for work performed by the subcontractor under that contract:*

*a. Pay the subcontractor for the proportionate share of the total payment received from the Institution attributable to the work performed by the subcontractor under that contract; or*

*b. Notify the Institution and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.*

*2. A payment clause that requires (i) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.*

*3. An interest clause that obligates the contractor to pay interest to the subcontractor on all amounts owed by the contractor that remain unpaid after seven days following receipt by the contractor of payment from the Institution for work performed by the subcontractor under that contract, except for amounts withheld as allowed in subdivision 1.*

*4. An interest rate clause stating, "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of 1% per month."*

*Any such contract awarded shall further require the contractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.*

*A contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the Institution. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.*

*§ 46. Interest penalty; exceptions. -*

*A. Interest shall accrue, at the rate determined pursuant to subsection B, on all amounts owed by the Institution to a vendor that remain unpaid after seven days following the payment date. However, nothing in this section shall affect any contract providing for a different rate of interest, or for the payment of interest in a different manner.*

*B. The rate of interest charged the Institution pursuant to subsection A shall be the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the publication entitled *The Wall Street Journal*. Whenever a split prime rate is published, the lower of the two rates shall be used. However, in no event shall the rate of interest charged exceed the rate of interest established pursuant to § 58.1-1812 of the Code of Virginia.*

*C. Notwithstanding subsection A, no interest penalty shall be charged when payment is delayed because of disagreement between the Institution and a vendor regarding the quantity, quality, or time of delivery of goods or services or the accuracy of any invoice received for the goods or services. The exception from the interest penalty provided by this subsection shall apply only to that portion of a delayed payment that is actually the subject of the disagreement and shall apply only for the duration of the disagreement.*

*D. This section shall not apply to § 26 of these rules pertaining to retainage on construction contracts, during the period of time prior to the date the final payment is due. Nothing contained herein shall prevent a contractor from receiving interest on such funds under an approved escrow agreement.*

*E. Notwithstanding subsection A, no interest penalty shall be paid to any debtor on any payment, or portion thereof, withheld pursuant to the Comptroller's Debt Setoff Program, as authorized by the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia, commencing with the date the payment is withheld. If, as a result of an error, a payment or portion thereof is withheld, and it is determined that at the time of setoff no debt was owed to the Commonwealth, then interest shall accrue at the rate determined pursuant to subsection B on amounts withheld that remain unpaid after seven days following the payment date.*

*§ 47. Ineligibility. -*

A. Any bidder, offeror, or contractor refused permission to participate, or disqualified from participation, in public contracts to be issued by the Institution shall be notified in writing. Prior to the issuance of a written determination of disqualification or ineligibility, the Institution shall (i) notify the bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Institution shall issue its written determination of disqualification or ineligibility based on all information in the possession of the Institution, including any rebuttal information, within five business days of the date the Institution received such rebuttal information.

If the evaluation reveals that the bidder, offeror, or contractor should be allowed permission to participate in the public contract, the Institution shall cancel the proposed disqualification action. If the evaluation reveals that the bidder should be refused permission to participate, or disqualified from participation, in the public contract, the Institution shall so notify the bidder, offeror, or contractor. The notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

B. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Constitution of Virginia or applicable state law or regulations, the sole relief shall be restoration of eligibility.

§ 48. Appeal of denial of withdrawal of bid. -

A. A decision denying withdrawal of bid under the provisions of § 23 of these rules shall be final and conclusive unless the bidder appeals the decision within 10 days after receipt of the decision by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

B. If no bid bond was posted, a bidder refused withdrawal of a bid under the provisions of § 23 of these rules, prior to appealing, shall deliver to the Institution a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, the sole relief shall be withdrawal of the bid.

§ 49. Determination of nonresponsibility. -

A. Following public opening and announcement of bids received on an invitation to bid, the Institution shall evaluate the bids in accordance with element 4 of the definition of "Competitive sealed bidding" in § 4 of these rules. At the same time, the Institution shall determine whether the apparent low bidder is responsible. If the Institution so determines, then it may proceed with an award in accordance with element 5 of the definition of "competitive sealed bidding" in § 4 of these rules. If the Institution determines that the apparent low bidder is not responsible, it shall proceed as follows:

1. Prior to the issuance of a written determination of nonresponsibility, the Institution shall (i) notify the apparent low bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the apparent low bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

2. Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Institution shall issue its written determination of responsibility based on all information in the possession of the Institution, including any rebuttal information, within five business days of the date the Institution received the rebuttal information. At the same time, the Institution shall notify, with return receipt requested, the bidder in writing of its determination.

3. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

The provisions of this subsection shall not apply to procurements involving the prequalification of bidders and the rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.

B. If, upon appeal pursuant to § 54 or 55 of these rules, it is determined that the decision of the Institution was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question or directed award as provided in subsection A of § 54 of these rules, or both.

If it is determined that the decision of the Institution was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, and an award of the contract has been made, the relief shall be as set forth in subsection B of § 54 of these rules.

C. A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section, and may not protest the award or proposed award under the provisions of § 50 of these rules.

*D. Nothing contained in this section shall be construed to require the Institution, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.*

*§ 50. Protest of award or decision to award. -*

*A. Any bidder or offeror who desires to protest the award or decision to award a contract shall submit the protest in writing to the Institution, or an official designated by the Institution, no later than 10 days after the award or the announcement of the decision to award, whichever occurs first.*

*Public notice of the award or the announcement of the decision to award shall be given by the Institution in the manner prescribed in the terms or conditions of the invitation to bid or request for proposal. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit the protest in the same manner no later than 10 days after posting or publication of the notice of such contract as provided in § 5 of these rules. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction that are subject to inspection under § 34 of these rules, then the time within which the protest shall be submitted shall expire 10 days after those records are available for inspection by such bidder or offeror under § 34 of these rules, or at such later time as provided in this section. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The Institution or designated official shall issue a decision in writing within 10 days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within 10 days of receipt of the written decision by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules. Nothing in this subsection shall be construed to permit a bidder to challenge the validity of the terms or conditions of the invitation to bid or request for proposal. The use of Alternative Dispute Resolution (ADR) shall constitute an administrative appeal procedure meeting the standards of § 55 of these rules.*

*B. If prior to an award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The Institution shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided.*

*Where the award has been made but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the Institution may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.*

*C. Where the Institution, an official designated by it, or an appeals board determines, after a hearing held following reasonable notice to all bidders, that there is probable cause to believe that a decision to award was based on fraud or corruption or on an act in violation of these rules, the Institution, designated official, or appeals board may enjoin the award of the contract to a particular bidder.*

*§ 51. Effect of appeal upon contract. -*

*Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with these rules shall not be affected by the fact that a protest or appeal has been filed.*

*§ 52. Stay of award during protest. -*

*An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest as provided in § 50 of these rules, or the filing of a timely legal action as provided in § 54 of these rules, no further action to award the contract shall be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.*

*§ 53. Contractual disputes. -*

*A. Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment. However, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.*

*B. The Institution shall include in its contracts a procedure for consideration of contractual claims. Such procedure, which may be contained in the contract or may be specifically incorporated into the contract by reference and made available to the contractor, shall establish a time limit for a final decision in writing by the Institution. If the Institution has established administrative procedures meeting the standards of § 55 of these rules, such procedures shall be contained in the contract or specifically incorporated in the contract by reference and made available to the contractor. The Institution may require the submission of contractual claims pursuant to any contract to Alternative Dispute Resolution (ADR) as an administrative procedure.*

*C. A contractor may not invoke administrative procedures meeting the standards of § 55 of these rules, if available, or institute legal action as provided in § 54 of these rules, prior to receipt of the Institution's decision on the claim, unless the Institution fails to render such decision within the time specified in the contract.*

*D. The decision of the Institution shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by the Institution by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.*

§ 54. *Legal actions.* -

A. A bidder or offeror, actual or prospective, who is refused permission or disqualified from participation in bidding or competitive negotiation, or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the petitioner establishes that the decision was not (i) an honest exercise of discretion, but rather was arbitrary or capricious; (ii) in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the invitation to bid; or (iii) in the case of denial of prequalification, based upon the criteria for denial of prequalification set forth in subsection B of § 14 of these rules. In the event the apparent low bidder, having been previously determined by the Institution to be not responsible in accordance with § 4 of these rules, is found by the court to be a responsible bidder, the court may direct the Institution to award the contract to such bidder in accordance with the requirements of this section and the invitation to bid.

B. A bidder denied withdrawal of a bid under § 23 of these rules may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the bidder establishes that the decision of the Institution was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid.

C. A bidder, offeror, or contractor, or a potential bidder, or offeror on a contract negotiated on a sole source or emergency basis in the manner provided in § 5 of these rules, whose protest of an award or decision to award under § 50 of these rules is denied, may bring an action in the appropriate circuit court challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not (i) an honest exercise of discretion, but rather is arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms and conditions of the invitation to bid or request for proposal.

D. If injunctive relief is granted, the court, upon request of the Institution, shall require the posting of reasonable security to protect the Institution.

E. A contractor may bring an action involving a contract dispute with the Institution in the appropriate circuit court. Notwithstanding any other provision of law, the Comptroller shall not be named as a defendant in any action brought pursuant to these rules or § 33.1-387 of the Code of Virginia, except for disputes involving contracts of the Office of the Comptroller or the Department of Accounts.

F. A bidder, offeror, or contractor need not utilize administrative procedures meeting the standards of § 55 of these rules, if available, but if those procedures are invoked by the bidder, offeror, or contractor, the procedures shall be exhausted prior to instituting legal action concerning the same procurement transaction unless the Institution agrees otherwise.

G. Nothing herein shall be construed to prevent the Institution from instituting legal action against a contractor.

§ 55. *Administrative appeals procedure.* -

A. The Institution may establish an administrative procedure for hearing (i) protests of a decision to award or an award, (ii) appeals from refusals to allow withdrawal of bids, (iii) appeals from disqualifications and determinations of nonresponsibility, (iv) appeals from decisions on disputes arising during the performance of a contract, or (v) any of these. Such administrative procedure may include the use of Alternative Dispute Resolution (ADR) or shall provide for a hearing before a disinterested person or panel, the opportunity to present pertinent information and the issuance of a written decision containing findings of fact. The disinterested person or panel shall not be an employee of the governmental entity against whom the claim has been filed. The findings of fact shall be final and conclusive and shall not be set aside unless the same are (a) fraudulent, arbitrary, or capricious; (b) so grossly erroneous as to imply bad faith; or (c) in the case of denial of prequalification, the findings were not based upon the criteria for denial of prequalification set forth in subsection B of § 14 of these rules. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner. The Institution may seek advice and input from the Alternative Dispute Resolution Council in establishing an ADR procedure.

B. Any party to the administrative procedure, including the Institution, shall be entitled to institute judicial review if such action is brought within 30 days of receipt of the written decision.

§ 56. *Alternative dispute resolution.* -

The Institution may enter into agreements to submit disputes arising from contracts entered into pursuant to these rules to arbitration and utilize mediation and other alternative dispute resolution procedures. However, such procedures shall be nonbinding and subject to § 2.2-514 of the Code of Virginia, as applicable.

§ 57. *Ethics in public contracting.* -

The Institution and its governing body, officers, and employees shall be governed by the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia.

EXHIBIT E

MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY

PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT

POLICY GOVERNING  
HUMAN RESOURCES FOR  
PARTICIPATING COVERED EMPLOYEES  
AND OTHER UNIVERSITY EMPLOYEES

THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY IN VIRGINIA  
POLICY GOVERNING  
HUMAN RESOURCES FOR  
PARTICIPATING COVERED EMPLOYEES  
AND OTHER UNIVERSITY EMPLOYEES

**I. PREAMBLE.**

*The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, establishes a process for the restructuring of institutions of higher education of the Commonwealth of Virginia and provides that upon becoming a covered institution, the University shall have responsibility and accountability for human resources management for all University employees, defined in the Act as "covered employees," who pursuant to subsection A of § 23.1-1020 of the Act shall continue to be "state employee[s]". Specifically, the Act provides that, as of the effective date of its initial management agreement with the Commonwealth, all classified employees shall continue to be covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and shall be subject to the policies and procedures prescribed by the Virginia Department of Human Resource Management, provided that they may subsequently elect to become participating covered employees. All participating covered employees shall: (i) be exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia; (ii) remain subject to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, provided they were subject to the state grievance procedure prior to that effective date; (iii) participate in a compensation plan that is subject to the review and approval of the board of visitors; and (iv) be hired pursuant to procedures that are based on merit and fitness and may, subject to certain specified conditions, continue to participate in either state-sponsored or University-sponsored benefit plans as described by the management agreement.*

*The provisions of this policy are adopted by the board of visitors to implement the governing law and constitute the human resources policies to be included in any human resources system adopted by the University for its employees.*

*This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.*

**II. DEFINITIONS.**

*As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:*

*"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

*"Board of visitors" or "board" means the rector and board of visitors of the University.*

*"Classified employees" means employees who are covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and the policies and procedures established by the Virginia Department of Human Resource Management and who are not participating covered employees.*

*"Covered employee" or "University employee" means any person who is employed by the University on either a salaried or nonsalaried (wage) basis.*

*"Covered institution" means, on and after the effective date of its initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.*

*"Effective date" means the effective date of the initial management agreement between the University and the Commonwealth.*

*"Employee" means covered employee unless the context clearly indicates otherwise.*

*"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.*

*"Governing law" means the Act and the University's enabling statutes.*

*"Management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.*

*"Participating covered employee" means (i) all salaried nonfaculty University employees who were employed as of the day prior to the effective date and who elect pursuant to § 23.1-1022 of the Act to participate in and be governed by such human resources program or programs, plans, policies, and procedures established by the University, (ii) all salaried nonfaculty University employees who are employed by the University on or after the effective date, (iii) all nonsalaried*

nonfaculty University employees without regard to when they were hired, and (iv) all faculty University employees without regard to when they were hired.

"Systems" means collectively the University human resources system that is in effect from time to time.

"University" means James Madison University.

"University human resources system" means the human resources system for University employees as provided for in this policy.

### III. SCOPE AND PURPOSE OF UNIVERSITY HUMAN RESOURCES POLICIES.

The University has had human resources system autonomy through decentralization for its employees for some time. For example, general faculty at the University are expressly exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 *et seq.*) of Title 2.2 of the Code of Virginia. The University has had decentralization in most human resources functions and activities since the late 1980s and early 1990s, including, but not limited to, the running of payrolls and the administration of hiring, classification, and promotion practices of administrative, professional, and instructional faculty.

The Act extends and reinforces the human resources autonomy previously granted to the University. This policy therefore is adopted by the board of visitors to enable the University to develop, adopt, and have in place by or after the effective date of its initial management agreement with the Commonwealth a human resources system or systems for all University employees. On the effective date, and until changed by the University or unless otherwise specified in this policy, the systems for University employees shall be the same systems applicable to those employees in effect immediately prior to the effective date.

### IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

### V. UNIVERSITY HUMAN RESOURCES SYSTEMS.

#### A. Adoption and Implementation of University Human Resources Systems.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, is hereby authorized to adopt and implement human resources systems for employees of the University that are consistent with the governing law, other applicable provisions of law, these University human resources policies for University employees, and any other human resources policies adopted by the Department of Human Resource Management or the board of visitors for University personnel, unless University employees are exempted from those other human resources policies by law or policy. The University human resources systems shall include a delegation of personnel authority to appropriate University officials responsible for overseeing and implementing the University human resources systems, including a grant of authority to such officials to engage in further delegation of authority as the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, deems appropriate.

The University commits to regularly engage employees in appropriate discussions and to receive employee input as the new University human resources systems are developed. The University will regularly communicate the details of new proposals to all employees who are eligible to participate in the University human resources system through written communication, open meetings, and website postings as appropriate, so that employees will have full information that will help them evaluate the merits of the new human resources system compared to the then-current state human resources system.

Effective on the effective date of its initial management agreement with the Commonwealth, and until amended as described in this subsection, the University's human resources systems shall consist of the following:

1. The current "James Madison University Faculty Handbook," as it is posted on the Provost's website, <https://www.jmu.edu/facultyhandbook/>, and periodically amended;
2. The current human resources system for classified employees in the University as posted on the Virginia Department of Human Resource Management website at <http://www.dhrm.virginia.gov/hrpolicies>; and
3. The human resources system for participating covered employees, that shall include nonsalaried (wage) employees, as posted on the University's human resources website, <https://www.jmu.edu/humanresources/>.

All the systems described in this subsection above, except the system described in subdivision 2, may be amended by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, consistent with these human resources policies. The system described in subdivision 2 may be amended only by the State.

#### B. Training in and Compliance with Applicable Provisions of Law and Board of Visitors Human Resources Policies.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall take all necessary and reasonable steps to assure (i) that the University officials who develop, implement, and administer the University human resources systems authorized by governing law and these human resources policies are knowledgeable regarding the requirements of the governing law, other applicable provisions of law, these University human resources policies, and other applicable board of visitors human resources policies affecting University employees and (ii) that compliance with such laws and human resources policies is achieved.

#### VI. HUMAN RESOURCES POLICIES.

*The University human resources systems adopted by the University pursuant to governing law and this policy, as set forth in Section V above, shall embody the following human resources policies and principles:*

##### *A. Election by University Salaried Nonfaculty Employees.*

*Upon the adoption by the University of a University human resources system, each salaried nonfaculty University employee who was in the employment of the University as of the day prior to the effective date of its initial management agreement with the Commonwealth shall be permitted to elect to participate in and be governed by either (i) the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and administered by the Department of Human Resource Management, or (ii) the University human resources system, as appropriate. A salaried nonfaculty University employee who elects to continue to be governed by the state human resources program described in this subsection above shall continue to be governed by all state human resources and benefit plans, programs, policies, and procedures that apply to and govern state employees. A salaried nonfaculty University employee who elects to participate in and be governed by the University human resources system, by that election, shall be deemed to have elected to be eligible to participate in and to be governed by the University human resources system, authorized alternative insurance, and severance plans, programs, policies, and procedures that are or may be adopted by the University as part of that University human resources system.*

*The University shall provide each of its salaried nonfaculty University employees who were in the employment of the University as of the day prior to the effective date of the University's initial management agreement with the Commonwealth at least 90 days after the date on which the University's human resources system becomes effective for that University employee's classification of employees to make the election required by the prior paragraph. If such a salaried nonfaculty University employee does not make an election by the end of that specified election period, that University employee shall be deemed not to have elected to participate in the University human resources system. If such a salaried nonfaculty University employee elects to participate in the University human resources system, that election shall be irrevocable. At least every two years, the University shall offer to salaried nonfaculty University employees who have elected to continue to participate in the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, an opportunity to elect to participate in the University human resources system, provided that, each time prior to offering such opportunity to such salaried nonfaculty University employees, and at least once every two years after the effective date of the University human resources system, the University shall make available to each of its salaried nonfaculty University employees a comparison of its human resources system for that classification of salaried nonfaculty University employee with the state human resources program for comparable state employees, including but not limited to a comparability assessment of compensation and benefits.*

*A copy of the human resources program comparison shall be provided to the Department of Human Resource Management.*

##### *B. Classification and Compensation.*

*1. General. The systems shall include classification and compensation plans that are fair and reasonable and are based on the availability of University financial resources. The plans adopted by the University for participating covered employees shall be independent of, and need not be based on, the classification and compensation plans of the Commonwealth, do not require the approval of any state agency or officer, and shall be subject to the review and approval by the board of visitors as set forth in subdivision 3. The University shall provide information on its classification and compensation plans to all University employees. The plans applicable to participating covered employees may or may not include changes in classification or compensation announced by the Commonwealth, depending on such factors as the availability of necessary financial resources to fund any such changes and subject to the review and approval by the board of visitors of any major changes in the University's compensation plans.*

*2. Classification Plan. The systems shall include one or more classification plans for University employees that classify positions according to job responsibilities and qualifications. On the effective date and until changed by the University, the classification plans shall be the same plans that are in effect for each group of employees immediately prior to the effective date.*

*3. Compensation Plan. The systems shall include one or more compensation plans for each University employee classification or group. On the effective date and until changed by the Department of Human Resource Management, the compensation plan for classified employees in the University shall be the compensation plan in effect immediately prior to the effective date, known as the Commonwealth's Classified Compensation Plan. On the effective date and until changed by the University, the compensation plan or plans for all participating covered employees shall be the compensation plan or plans in effect immediately prior to the effective date. The University may adopt one or more compensation plans for participating covered employees that are non-graded plan(s) based on internal and external market data and other relevant factors to be determined annually. Any major change in compensation plans for participating covered employees shall be reviewed and approved by the board of visitors before that change becomes effective. Any change recommended in the compensation plans may take into account the prevailing rates in the labor market for the jobs in question or for similar positions, the relative value of jobs, the competency and skills of the individual employee, internal equity, and the availability of necessary financial resources to fund the proposed change. The compensation payable to University employees shall be authorized and approved only by designated University officers delegated such authority by the University, and shall be consistent with the approved compensation plan for the relevant position or classification. Further*

approval by any other state agency, governmental body, or officer is not required for setting, adjusting, or approving the compensation payable to individual participating covered employees.

4. *Wages.* The systems shall include policies and procedures for the authorization, computation, and payment of wages, where appropriate, for such premium pays as overtime, shift differential, on call, and call back, and for the payment of hourly employees.

5. *Payment of Compensation.* The systems shall include policies and procedures for paying compensation to employees, including the establishment of one or more payday schedules.

6. *Work Schedule and Workweek.* The systems shall include policies and procedures for the establishment of, and modifications to, work schedules and workweeks for all University employees, including alternative work schedules and sites and telecommuting policies and procedures.

7. *Other Classification and Compensation Policies and Procedures.* The systems may include any other reasonable classification and compensation policies and procedures the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, deems appropriate.

#### *C. Benefits.*

The systems shall provide fringe benefits to all benefits-eligible employees, including retirement benefits, health care insurance, life, disability, and accidental death and dismemberment insurance. The benefits provided shall include a basic plan of benefits for each benefits-eligible employee, and may include an optional benefits plan for benefits-eligible employees, including additional insurance coverage, long-term care, tax deferred annuities, flexible reimbursement accounts, employee assistance programs, employee intramural and recreational passes, and other wellness programs. As provided in subsections B and C § 23.1-1025 of the Act, the University may require participating covered employees to pay all or a portion of the cost of group life, disability, and accidental death and dismemberment insurance, which may be collected through a payroll deduction program. Participating covered employees shall not be required to present evidence of insurability for basic group life insurance coverage. The board of visitors may elect to provide benefits through Virginia Retirement System group insurance programs under the terms of and to the extent allowed by § 23.1-1025 of the Act or any other provision of law.

Notwithstanding the provisions of this subsection above, pursuant to subsection A of § 23.1-1020 of the Act, and unless and until that section is amended, the state retirement system, state health insurance program, and state workers' compensation coverage program as they may be amended from time to time, shall continue to apply to and govern all eligible University employees.

The systems may provide different benefits plans for reasonably different groups or classifications of employees, and may provide benefits to part-time employees. On the effective date and until changed by the appropriate governing authority, the benefits plans provided by the University to classified employees and participating covered employees shall be the benefits plans provided to that group or classification as of the date immediately prior to that effective date. On or after the effective date, alternative University group life, accidental death and dismemberment, and short-term and long-term disability plans may be provided to eligible participating covered employees, or at the election of the board of visitors and subject to the execution of participation agreements as provided in subsections B and C of § 23.1-1025 of the Act, they may be provided by the appropriate state programs, but no contributions to the state programs by the University shall be required for participating covered employees who do not participate in the programs. Subject to the provisions of the Act, any new plans, programs, and material changes permitted under current law in University employee benefit plans, other than classified employee benefit plans, shall be approved by the board of visitors, including the authority to increase the cash match contribution rate up to the limit permitted by the Code of Virginia based on available resources and the authority to implement cafeteria-style benefits for University employees other than classified employees.

Insurance and all proceeds therefrom provided pursuant to § 23.1-1025 of the Act shall be exempt from legal process and may be subject to voluntary assignment as provided in subsection A of § 23.1-1025 of the Act.

#### *D. Employee Relations.*

1. *General.* The systems shall contain provisions that protect the rights and privileges of University employees consistent with sound management principles and fair employment practice law.

2. *Employee Safety and Health.* The systems shall contain provisions that promote workplace safety compliance with applicable law and regulations.

3. *Employee Work Environment.* The systems shall promote a work environment that is conducive to the performance of job duties and free from intimidation or coercion in violation of state or federal law, including sexual harassment or other discrimination.

4. *Employee Recognition.* The systems may provide for the use of leave awards and bonuses specific to policies and procedures for awarding, honoring, or otherwise recognizing University employees, including but not limited to those who have performed particularly meritorious service for the University, have been employed by the University for specified periods of time, or have retired from the University after lengthy service.

5. *Counseling Services.* The systems shall provide counseling services through the State's Employee Assistance Program or a University Employee Assistance Program to any eligible University employee experiencing job-related difficulties and seeking counseling for those difficulties, and shall establish the circumstances under which the time necessary to participate in such counseling may be granted.

6. *Unemployment Compensation.* The systems shall ensure that University employees receive the full unemployment compensation benefits to which they are legally entitled and that the University's liability is limited to legitimate claims for such benefits.

7. *Workers' Compensation.* The systems shall ensure that University employees have workers' compensation benefits to which they are legally entitled pursuant to the State Employees Workers' Compensation Program administered by the Department of Human Resource Management.

8. *Performance Planning and Evaluation.* The systems shall include one or more performance planning and evaluation processes for University employees that (i) establish and communicate the University's performance expectations, (ii) help develop productive working relationships, (iii) allow employees to present their views concerning their performance, (iv) identify areas for training or professional development, (v) establish the process by which evaluations shall be conducted, (vi) clarify how superlative or inadequate performance shall be addressed, and (vii) ensure that all University employees are provided relevant information on the evaluation process. The systems may include separate performance and evaluation processes for reasonably distinguishable groups of University employees. On the effective date, the existing merit-based performance management system for faculty shall continue, until amended by the University. On or after that effective date, University nonfaculty salaried participating covered employees may be subject to a variable merit-based performance management system.

9. *Standards of Conduct and Performance.* In order to protect the well-being and rights of all employees and to ensure safe, efficient University operations and compliance with the law, the systems shall establish rules of personal conduct and standards of acceptable work performance for University salaried nonfaculty employees and policies for corrective discipline. In general, the policies for corrective discipline shall serve to (i) establish a uniform and objective process for correcting or disciplining unacceptable conduct or work performance, (ii) distinguish between less serious and more serious actions of misconduct and provide corrective action accordingly, and (iii) limit corrective action to employee conduct occurring only when employees are at work or are otherwise representing the University in an official or work-related capacity, unless otherwise specifically provided by the policies of the systems or other applicable law. The systems may provide for a probationary period for new and re-employed University salaried nonfaculty employees, during which period the policies for corrective discipline shall not be applicable and the employee may not use the grievance procedure set forth in subdivision 10. The systems may include separate rules of personal conduct and standards of acceptable work performance and policies for corrective discipline for reasonably distinguishable groups of University employees.

10. *Grievance Procedure.* As provided in the governing law, employees shall be encouraged to resolve employment-related problems and complaints informally, and shall be permitted to discuss their concerns freely and without fear of retaliation with immediate supervisors and management. In the event that such problems cannot be resolved informally, all salaried nonfaculty University employees, regardless of their date of hire, shall have access, as provided in subsection A of § 23.1-1020 and in § 23.1-1023 of the Act, to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, to the extent it was applicable to their classification of employees prior to the effective date. On the effective date and until changed by the University, the faculty grievance procedures in effect immediately prior to the effective date shall continue.

11. *Discrimination Complaints.* If a classified employee believes discrimination has occurred, the classified employee may file a complaint with the Department of Human Resource Management Office of Equal Employment and Dispute Resolution. All covered employees and applicants for employment after the effective date of the University's initial management agreement with the Commonwealth shall file a complaint with the appropriate University office or with the appropriate federal agencies.

12. *Layoff Policy.* The systems shall include one or more layoff policies for salaried University employees who lose their jobs for reasons other than their job performance or conduct, such as a reduction in force or reorganization at the University. These University layoff policies shall govern such issues as (i) whether there is a need to effect a layoff, (ii) actions to be taken prior to a layoff, (iii) notice to employees affected by a layoff, (iv) placement options within the University or its respective major divisions and within other parts of the University, (v) the preferential employment rights, if any, of various University employees, (vi) the effect of layoff on leave and service, and (vii) the policy for recalling employees. In accordance with the terms of the Act, University employees who (a) were employed prior to the effective date of the University's initial management agreement with the Commonwealth, (b) would otherwise be eligible for severance benefits under the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia, (c) were covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, prior to that effective date, and (d) are separated because of a reduction in force shall have the same preferential hiring rights with state agencies and other executive branch institutions as classified employees have under § 2.2-3201 of the Code of Virginia. Conversely, the University shall recognize the hiring preference conferred by § 2.2-3201 of the Code of Virginia on state employees who were hired by a state agency or executive branch institution before the effective date of the University's initial management agreement with the Commonwealth and who were separated after that date by that state agency or executive branch institution because of a reduction in workforce. If the University has adopted a classification system pursuant to § 23.1-1021 of the Act that differs from the classification system administered by the Department of Human Resource Management, the University shall classify the separated employee according to its classification system and shall place the separated employee appropriately. The University may include separate policies for reasonably distinguishable

groups of University employees. On or after the effective date of the University's initial management agreement with the Commonwealth, all employees from other state agencies and executive branch institutions who are placed by the University under the provisions of the State Layoff Policy shall be participating covered employees.

13. *Severance Benefits.* In accordance with the terms of the Act, the University shall adopt severance policies for salaried participating covered employees who are involuntarily separated for reasons unrelated to performance or conduct. The terms and conditions of such policies shall be determined by the board of visitors. Classified employees who otherwise would be eligible and were employed prior to the effective date of the University's initial management agreement with the Commonwealth shall be covered by the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia. The University and the Board of the Virginia Retirement System may negotiate a formula according to which cash severance benefits may be converted to years of age or creditable service for participating covered employees who participate in the Virginia Retirement System. An employee's becoming, on the effective date, a covered employee shall not constitute a severance or reduction in force to which severance policies or policies pursuant to the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia, would apply.

14. *Use of Alcohol and Other Drugs.* The systems shall include policies and procedures that (i) establish and maintain a work environment at the University that is free from the adverse effect of alcohol and other drugs, (ii) are consistent with the federal Drug-Free Workplace Act of 1988, 41 U.S.C. § 81, and with the James Madison University Alcohol and Other Drugs Policy, (iii) describe the range of authorized disciplinary action, including termination where appropriate, for violations of such policies and procedures and the process to be followed in taking such disciplinary action, (iv) provide University employees access to assistance and treatment for problems involving alcohol and other drugs, (v) provide for the circumstances under which employees are required to report certain violations of the policies and procedures to their supervisor, and the University is required to report those violations to a federal contracting or granting agency, (vi) describe the circumstances under which personnel records of actions taken under the University's alcohol and other drugs policy shall not be kept confidential, and (vii) provide notice to University employees of the scope and content of the University alcohol and other drugs policy. As part of this alcohol and other drugs policy, and in compliance with the federal Omnibus Transportation Employee Testing Act of 1991, P.L. 102-143, the systems may provide for pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up alcohol and other drug testing for University positions that are particularly safety sensitive, such as those requiring a commercial driver's license.

15. *Background Checks.* The systems shall include a process for conducting background checks that may include but is not limited to reference checks, educational/professional credentialing checks, and conviction and driver's records checks on applicants for full-time or part-time positions at the University, and for addressing situations where employees do not disclose a conviction on their application or otherwise falsify their application with regard to information concerning their educational/professional credentials and/or prior convictions.

16. *Other Employee Relations Policies and Procedures.* The systems shall include any other reasonable employee relations policies or procedures that the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, deems appropriate, that may include, but are not limited to, policies or procedures relating to orientation programs for new or re-employed University employees, an employee suggestion program, the responsibility of University employees for property placed in their charge, work breaks, inclement weather and emergencies, and employment outside the University.

#### *E. Leave and Release Time.*

The systems shall include policies and procedures regarding leave for eligible employees. The systems shall provide reasonable paid leave for purposes such as holidays, vacation, or other personal uses. The systems may provide for release time for such matters as the donation of blood, participation in an employee assistance program, and other appropriate employment-related matters. On or after the effective date of its initial management agreement with the Commonwealth, and until a new program is adopted by the appropriate authority, the University shall continue to provide leave and release time to participating covered employees in accordance with the leave and release time policies and procedures applicable to each classification of employees prior to that effective date. On or after that effective date, the University may provide an alternative leave and release time system for salaried nonfaculty participating covered employees.

#### *F. Equal Employment Opportunity, Nondiscrimination, Employment, and Separation.*

1. *Equal Employment Opportunity and Nondiscrimination.* The systems shall contain policies and procedures to ensure that all aspects of human resources management, including the employment of University employees, meet all requirements of federal and state law and of the relevant policies of the board of visitors with regard to equal employment opportunity and nondiscrimination.

2. *Employment.* The systems shall include policies and procedures for the recruitment, selection, and hiring of University employees that are based on merit and fitness, including where appropriate a requirement for job posting, interviews, pre-employment testing, pre-employment drug testing, reference checks, and conviction record checks. On and after the effective date, the University shall post all salaried nonfaculty position vacancies through the University's job posting system, the Commonwealth's job posting system, and other external media as appropriate. The systems shall establish designated veterans' re-employment rights in accordance with applicable law.

In order to encourage employees to attain the highest level positions for which they are qualified, and to compensate employees for accepting positions of increased value and responsibility, the systems shall include policies and procedures governing the promotion of employees, including the effect of promotion on an employee's compensation.

On or after the effective date of the University's initial management agreement with the Commonwealth, all employees hired from other state agencies shall be participating covered employees. University classified employees who change jobs within the University through a competitive employment process—i.e., promotion or transfer—shall have the choice of remaining a classified employee or becoming a participating covered employee. If a classified employee elects to become a participating covered employee, that decision shall be irrevocable.

3. Notice of Separation. The systems shall include policies and procedures requiring reasonable notice, where appropriate, of a decision either by the employee or by the University to separate the employee from the University in accordance with policies governing performance, conduct, or layoff.

G. Information Systems.

The University shall provide an electronic file transfer of information on all salaried University employees and shall continue to provide the employee position reports to meet the human resources reporting requirements specified by law or by request of the Governor or the General Assembly, unless the University is specifically exempted from those requirements. The University shall conduct assessments to demonstrate its accountability for human resources practices that comply with laws and regulations. The Department of Human Resource Management and the University have entered into a Memorandum of Understanding, attached hereto as Attachment 2, that may be amended from time to time by agreement of the parties, regarding the specific data and reporting requirements. The University shall be accountable for ensuring the timeliness and integrity of the data transmitted to the Department of Human Resource Management.

VII. CONTINUED APPLICABILITY OF OTHER PROVISIONS OF THE CODE OF VIRGINIA AND OTHER BOARD OF VISITORS POLICIES AFFECTING UNIVERSITY PERSONNEL.

On and after the effective date, University employees shall be subject to the terms and conditions of the Act and the management agreement between the Commonwealth and the University. Classified employees shall continue to be subject to the human resources policies and exceptions to those policies adopted or approved by the Department of Human Resource Management.

In addition, all University employees also shall remain subject to any other human resources policies adopted by the board of visitors applicable to University personnel unless University employees or a subset thereof are specifically exempted from those other human resources policies either by those other policies or by this policy.

ATTACHMENT 2

Memorandum of Understanding  
Between James Madison University and the  
Department of Human Resource Management Regarding  
the Reporting of Human Resources Management Data

This Memorandum of Understanding (MOU), which may be amended from time to time by the agreement of all parties, is an attachment to the Policy Governing Human Resources for participating covered employees and other University employees pursuant to the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, and is hereby entered into between the University and the Department of Human Resource Management (DHRM).

This document outlines the provisions for information management pertaining to human resources data, consistent with the objectives to enable DHRM to meet the Commonwealth's reporting requirements, to ensure compliance with relevant federal and state laws and regulations, and to do so through efficient and cost-effective methods.

1. In lieu of data entry into the state's Personnel Management Information System (PMIS), data will be transmitted through an electronic file transfer to update DHRM's warehouse.

a. The University will provide a flat file of designated personnel data. For classified employees, the data provided will match DHRM's data values for the designated fields. For salaried participating covered employees, the data provided will include the University's data values for the designated fields. The University will provide a data dictionary to DHRM. The file of designated data will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.

b. The University will provide a second flat file of salaried personnel actions for classified employees and salaried participating covered employees, such as promotions, separations, and salary adjustments. The file of relevant personnel actions and designated data to be provided for each action will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.

2. DHRM will accept the federal Affirmative Action Plan (AAP), including the adverse impact analyses of employment and compensation actions that are part of the AAP, as demonstration of the University's compliance with relevant federal and state employment laws and regulations.

3. Other reports to be provided by the University include the following:

- a. Monthly employment position report.
- b. Annual report on salaried, wage, and contract employees.

The undersigned hereby agree to the provisions contained in the MOU.

APPROVALS:

James Madison University:

By: .....Date.....

Senior Vice for Administration and Finance, Department of Human Resource Management:

By: .....Date.....

EXHIBIT F

MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT  
  
POLICY GOVERNING  
FINANCIAL OPERATIONS AND MANAGEMENT  
  
THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING  
FINANCIAL OPERATIONS AND MANAGEMENT

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, establishes by law a process for granting additional authority to institutions of higher education for financial operations and management, subject to the adoption of policies by their governing boards and the approval of management agreements to be negotiated with the Commonwealth.

The following provisions of this policy constitute the adopted board of visitors policies regarding the University's financial operations and management.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered institution" means, on or after the effective date of its initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the initial management agreement between the University and the Commonwealth.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"State tax-supported debt" means bonds, notes, or other obligations issued under Article X, Section 9 (a), 9 (b), 9 (c), or 9 (d) of the Constitution of Virginia, if the debt service payments are made or ultimately are to be made from general government funds, as defined in the December 19, 2017, Report to the Governor and General Assembly of the Debt Capacity Advisory Committee or as that definition is amended from time to time.

"University" means James Madison University.

III. SCOPE OF POLICY.

This policy applies to the University's responsibility for management, investment, and stewardship of all its financial resources, including but not limited to, general, nongeneral, and private funds. This responsibility includes maintaining an independent uniform system of accounting, financial reporting, and internal controls adequate to protect and account for the University's financial resources as well as allowing for recording of required information into Cardinal.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

#### V. FINANCIAL MANAGEMENT AND REPORTING SYSTEM.

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall continue to be authorized by the board to maintain existing policies and implement new policies governing the management of University financial resources. These policies shall continue to (i) ensure compliance with generally accepted accounting principles; (ii) ensure consistency with the current accounting principles employed by the Commonwealth, including the use of fund accounting principles, with regard to the establishment of the underlying accounting records of the University and the allocation and utilization of resources within the accounting system, including the relevant guidance provided by the State Council of Higher Education for Virginia chart of accounts with regard to the allocation and proper use of funds from specific types of fund sources; (iii) provide adequate risk management and internal controls to protect and safeguard all financial resources, including moneys transferred to the University pursuant to a general fund appropriation; and (iv) ensure compliance with the requirements of the general appropriation act.*

*The financial management system shall continue to include a financial reporting system to satisfy both the requirements for inclusion in the Commonwealth's Comprehensive Annual Financial Report, as specified in the related State Comptroller's Directives, and the University's separately audited financial statements. To ensure observance of limitations and restrictions placed on the use of the resources available to the University, the accounting and bookkeeping systems of the University shall continue to be maintained in accordance with the principles prescribed for governmental organizations by the Governmental Accounting Standards Board.*

*In addition, the financial management system shall continue to provide financial reporting for the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, and the board of visitors to enable them to provide adequate oversight of the financial operations of the University. The University shall provide to state agencies including, but not limited to, the Department of Accounts, the Department of Planning and Budget, the Joint Legislative Audit and Review Commission, the Auditor of Public Accounts, and the State Council of Higher Education for Virginia and to the Chairmen of the Senate Committee on Finance and the House Committee on Appropriations special reports as may be requested from time to time.*

#### VI. FINANCIAL MANAGEMENT POLICIES.

*The University has operated for many years at Level II and 2.5 as part of the Act. Accordingly, the University currently operates a system of independent financial management policies guided by the general principles contained in the Commonwealth's Accounting Policies and Procedures such as establishing strong risk management and internal accounting controls to ensure University financial resources are properly safeguarded and that appropriate stewardship of public funds is obtained through management's oversight of the effective and efficient use of such funds in the performance of University programs.*

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall have the authority to create and implement any and all new financial management policies necessary to maintain the University's current financial management system for the continued effective protection and management of all University financial resources.*

*Upon the effective date of its initial management agreement with the Commonwealth, the University shall continue to follow its current independent financial management policies, as well as any new policies that have been developed and submitted to the State Comptroller for review and comment as a result of the management agreement. Any significant new policies developed after the effective date shall be submitted to the State Comptroller for review and comment before being implemented by the University.*

#### VII. FINANCIAL RESOURCE RETENTION AND MANAGEMENT.

*Pursuant to subsection C of § 23.1-206 of the Code of Virginia, the State Council of Higher Education for Virginia (SCHEV) annually shall assess and certify to the Governor and the General Assembly the degree to which each public institution of higher education of the Commonwealth has met the financial and administrative management and education-related performance benchmarks called for by that subsection and approved as part of the general appropriation act then in effect for the state goals and objectives set forth in subdivisions A 1 through 12 of § 23.1-1002 of the Act. Each public institution of higher education of the Commonwealth that (i) has been certified during the fiscal year by SCHEV as having met such institutional performance benchmarks and (ii) meets the conditions prescribed in subsection A of § 23.1-1002 of the Act, shall receive certain financial incentives, including interest on the tuition and fees and other nongeneral fund education and general revenues deposited into the State Treasury by the public institution of higher education. In order to be certified, the University must meet all measures adopted prior to the effective date of this management agreement pursuant to subdivision A 3 of § 23.1-1003 of the Act.*

*The Commonwealth shall retain all funds related to general fund appropriations but shall pay these funds to the University as specified in Section IX of this policy. The University is authorized to deposit tuition, educational and general fees, research and sponsored program funds, auxiliary enterprise funds, and all other nongeneral fund revenues weekly in the State Treasury pursuant to the state process in place at the time of such deposit. The University shall be given any interest earned on auxiliary balances on a monthly basis.*

*The University also shall have sum sufficient appropriation authority for all nongeneral funds as approved by the Governor and the General Assembly in the Commonwealth's biennial appropriations process and shall report to the Department of Planning and Budget (i) its estimate of the nongeneral fund revenues for the sum sufficient appropriation to be included in the biennial Budget Bill for each of the two years in the next biennium by November 1 of each odd-numbered*

year and (ii) the estimate to be included in the Budget Bill for the first and second year of the then-current biennium by November 1 of each even-numbered year.

The board of visitors shall retain the authority to establish tuition, fee, room, board, and other charges, with appropriate commitment provided to need-based grant aid for middle-income and lower-income undergraduate Virginians. Except as provided otherwise in the general appropriation act then in effect, it is the intent of the Commonwealth and the University that the University shall be exempt from the revenue restrictions in the general provisions of the general appropriation act related to nongeneral funds. In addition, unless prohibited by the general appropriation act then in effect, it is the intent of the Commonwealth and the University that the University shall be entitled to retain nongeneral fund savings generated from changes in Commonwealth rates and charges, including but not limited to health, life, and disability insurance rates, retirement contribution rates, telecommunications charges, and utility rates rather than reverting such savings back to the Commonwealth.

For the receipt of general and nongeneral funds, the University shall conform to the Virginia Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended.

#### VIII. ACCOUNTS RECEIVABLE MANAGEMENT AND COLLECTION.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall continue to be authorized to create and implement any and all accounts receivable management and collection policies as part of a system for the management of University financial resources. The policies shall be guided by the requirements of the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia, such that the University shall take all appropriate and cost-effective actions to aggressively collect accounts receivable in a timely manner.

These actions shall include, but not be limited to, establishing the criteria for granting credit to University customers; establishing the nature and timing of collection procedures within the above general principles; and the independent authority to select and contract with collection agencies and, after consultation with the Office of the Attorney General, private attorneys as needed to perform any and all collection activities for all University accounts receivable such as reporting delinquent accounts to credit bureaus, obtaining judgments, garnishments, and liens against such debtors, and other actions. In accordance with sound collection activities, the University shall continue to utilize the Commonwealth's debt set off collection programs and procedures, shall develop procedures acceptable to the Tax Commissioner and the State Comptroller to implement such programs, and shall provide a quarterly summary report of receivables to the Department of Accounts in accordance with the reporting procedures established pursuant to the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia.

#### IX. DISBURSEMENT MANAGEMENT.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall continue to be authorized to create and implement any and all disbursement policies as part of a system for the management of University financial resources. The disbursement management policies shall continue to define the appropriate and reasonable uses of all funds, from whatever source derived, in the execution of the University's operations. These policies also shall continue to address the timing of appropriate and reasonable disbursements consistent with the Prompt Payment Act, and the appropriateness of certain goods or services relative to the University's mission, including travel-related disbursements. Further, the University's disbursement policy shall continue to provide for the mechanisms by which payments are made including the use of charge cards, warrants, and electronic payments.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, is authorized to independently select, engage, and contract for such consultants, accountants, and financial experts, and other such providers of expert advice and consultation, and, after consultation with the Office of the Attorney General, private attorneys, as may be necessary or desirable in his or her discretion. The University will continue to locally manage and administer the Commonwealth's credit card and cost recovery programs related to disbursements, subject to any restrictions contained in the Commonwealth's contracts governing those programs, as it has as part of its Level 2.5 authority.

The disbursement policies shall ensure that adequate risk management and internal control procedures shall be maintained over previously decentralized processes for public records, payroll, and non-payroll disbursements. The University shall continue to provide summary quarterly prompt payment reports to the Department of Accounts in accordance with the reporting procedures established pursuant to the Prompt Payment Act.

The University has operated for many years at Level II and 2.5 as part of the Act. The University's disbursement policies shall continue to be guided by the principles of the Commonwealth's policies as included in the Commonwealth's Accounting Policy and Procedures Manual. Upon the effective date, the University shall continue to follow its current disbursement policies, as well as any new disbursement policies that have been developed and submitted to the State Comptroller for review and comment as a result of the management agreement. Any significant new disbursement policies developed after the effective date shall be submitted to the State Comptroller for review and comment before being implemented by the University.

#### X. DEBT MANAGEMENT.

The University has a board of visitors-approved debt policy that defines the maximum percent of institutional resources that can be used to pay debt service in a fiscal year and the maximum amount of debt that can be prudently issued within a

specific period. Annually, the board is provided a report on the University's debt-related activities. Any change in the debt policy shall be submitted to the State Treasurer for review and comment prior to their adoption by the University.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall continue to be authorized to create and implement any and all debt management policies as part of a system for the management of University financial resources.

Pursuant to subsection C of § 23.1-1015 of the Act, the University shall have the authority to issue bonds, notes, or other obligations that do not constitute state tax-supported debt, as determined by the Treasury Board, and that are consistent with debt capacity and management policies and guidelines established by its board of visitors, without obtaining the consent of any legislative body, elected official, commission, board, bureau, or agency of the Commonwealth or of any political subdivision, and without any proceedings or conditions other than those specifically required by Article 4 of the Act, provided, however, that the University shall notify the State Treasurer of its intention to issue bonds pursuant to this policy at the time it adopts the bond issuance planning schedule for those bonds. Any new or revised debt capacity and management policy shall be submitted to the State Treasurer for review and comment prior to its adoption by the University.

The University recognizes that there are numerous types of financing structures and funding sources available, each with specific benefits, risks, and costs. All potential funding sources shall be reviewed by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, within the context of the overall portfolio to ensure that any financial product or structure is consistent with the University's objectives. Regardless of the financing structure(s) utilized, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall obtain sufficient documentation to gain a full understanding of the transaction, including (i) the identification of potential risks and benefits and (ii) an analysis of the impact on University creditworthiness and debt capacity. All such debt or financial products issued pursuant to the provisions of §§ 23.1-1014 and 23.1-1015 of the Act shall be authorized by resolution of the board of visitors, providing that they do not constitute state tax-supported debt.

#### XI. INVESTMENT POLICY.

It is the policy of the University to invest public funds in a manner that will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all statutes governing the investment of public funds. Investments shall be made with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. This policy conforms with the Investment of Public Funds Act, Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 of the Code of Virginia.

Endowment investments, if any, shall be invested and managed in accordance with the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2 of the Code of Virginia.

The University is charged with the responsibility of reporting to the board of visitors on an annual basis.

#### XII. INSURANCE AND RISK MANAGEMENT.

By July 1 of each odd-numbered year, the University shall inform the Secretary of Finance of any intent during the next biennium to withdraw from any insurance or risk management program made available to the University through the Commonwealth's Division of Risk Management and in which the University is then participating, to enable the Commonwealth to complete an adverse selection analysis of any such decision and to determine the additional costs to the Commonwealth that would result from any such withdrawal. If, upon notice of such additional costs to the Commonwealth, the University proceeds to withdraw from the insurance or risk management program, the University shall reimburse the Commonwealth for all such additional costs attributable to such withdrawal, as determined by the Commonwealth's actuaries. Such payment shall be made in a manner agreeable to both the University and the Commonwealth.

**2. That notwithstanding the provisions of subsections A and B of § 23.1-1007 of the Code of Virginia, the management agreement negotiated by James Madison University (the University) shall continue in effect unless the Governor, the General Assembly, or the University determine that the management agreement needs to be renegotiated or revised.**

### CHAPTER 125

*An Act providing a management agreement between the Commonwealth and James Madison University pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).*

[S 1386]

Approved February 21, 2019

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

**1. That the following shall hereafter be known as the 2019 Management Agreement Between the Commonwealth of Virginia and James Madison University:**

MANAGEMENT AGREEMENT  
BY AND BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY

*This MANAGEMENT AGREEMENT, executed this 15th day of November, 2018, by and between the Commonwealth of Virginia (hereafter, the Commonwealth) and James Madison University (hereafter, the University) provides as follows:*

**RECITALS**

*WHEREAS, the University has satisfied the conditions precedent set forth in §§ 23.1-1004 and 23.1-1005 of the Code of Virginia to become a public institution of higher education of the Commonwealth governed by Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia ("Article 4" and the "Act", respectively), as evidenced by:*

*1. Board of Visitors Approval. The minutes of a meeting of the board of visitors of the University held on September 14, 2018, indicate that an absolute two-thirds or more of the members voted to approve the resolution required by subdivision B 2 of § 23.1-1004 of the Act;*

*2. Written Application to the Governor. The University has submitted to the Governor a written application, dated July 10, 2018, with copies to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health, expressing the sense of its board of visitors that the University is qualified to be, and should be, governed by Article 4 of the Act, and substantiating that the University has fulfilled the requirements of subdivision B 3 of § 23.1-1004 of the Act; and*

*3. Finding by the Governor. In accordance with § 23.1-1005 of the Act, the Governor has found that the University has fulfilled the requirements of § 23.1-1004 of the Act, and therefore has authorized Cabinet Secretaries to enter into this management agreement on behalf of the Commonwealth with the University; and*

*WHEREAS, the University is therefore authorized to enter into this management agreement as provided in subsection B of § 23.1-1004 and Article 4 of the Act.*

**AGREEMENT**

*NOW, THEREFORE, in accordance with the provisions of the Act, and in consideration of the foregoing premises, the Commonwealth and the University do now agree as follows:*

**ARTICLE 1. DEFINITIONS.**

*As used in this Agreement, the following terms have the following meanings, unless the context requires otherwise:*

*"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

*"Agreement" or "management agreement" means this agreement between the Commonwealth of Virginia and the University as required by Article 4 of the Act.*

*"Board of visitors" or "board" means the rector and board of visitors of the University.*

*"Covered employee" means any person who is employed by the University on either a salaried or wage basis.*

*"Covered institution" means, on and after the effective date of its initial management agreement with the Commonwealth, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by and in accordance with the provisions of Article 4 of the Act.*

*"Enabling statutes" means those chapters, other than Chapter 10 of Title 23.1 of the Code of Virginia, as amended, creating, continuing, or otherwise setting forth the powers, purposes, and missions of the individual public institutions of higher education of the Commonwealth.*

*"Parties" means the parties to this management agreement, the Commonwealth of Virginia and the University.*

*"Public institution of higher education" means associate-degree-granting and baccalaureate public institutions of higher education, as those terms are defined in § 23.1-100 of the Code of Virginia.*

*"University" means James Madison University.*

**ARTICLE 2. SCOPE OF MANAGEMENT AGREEMENT.**

**SECTION 2.1. Enhanced Authority Granted and Accompanying Accountability.**

*Article 4 of the Act provides that, upon the execution of, and as of the effective date for, this management agreement, the University shall become a covered institution entitled to be granted by the Commonwealth and to exercise the powers and authority provided in Article 4 of the Act that are expressly contained in this management agreement. In general, subject to its management agreement with the Commonwealth, status as a covered institution governed by Article 4 of the Act and this management agreement is intended to replace (i) the post-General Assembly authorization prior-approval system of reviews, approvals, policies, and procedures carried out and implemented by a variety of central state agencies with (ii) a post-audit system of reviews and accountability under which a covered institution is fully responsible and fully accountable for managing itself pursuant to Article 4 of the Act and its management agreement with the Commonwealth.*

*SECTION 2.1.1. Assessments and Accountability. The University and its implementation of the enhanced authority granted by Article 4 of the Act and this management agreement, and the board of visitors policies attached hereto as Exhibits A through F, shall be subject to the reviews, assessments, and audits (i) set forth in the Act that are to be conducted by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia, (ii) as may be conducted periodically by the Secretaries of Finance, Administration, Education, or by some combination of these three Secretaries, or (iii) as otherwise may be required by law other than the Act.*

*SECTION 2.1.2. Express Grant of Powers and Authority. Subject to the specific conditions and limitations contained in § 23.1-1008 (Operational Authority Generally), §§ 23.1-1016, 23.1-1017, and 23.1-1019 (Capital Projects; Procurement; Property Generally), and §§ 23.1-1020 through 23.1-1026 (Human Resources) of Article 4 of the Act, the Commonwealth*

and the University agree that the Commonwealth has granted to the University by this management agreement all the powers and authority contained in certain policies adopted by the board of visitors of the University attached hereto as Exhibits A through F and governing (i) the undertaking and implementation of capital projects, and other acquisition and disposition of property (Exhibit A), (ii) the leasing of property, including capital leases (Exhibit B), (iii) information technology (Exhibit C), (iv) the procurement of goods, services, including certain professional services, insurance, and construction (Exhibit D), (v) human resources (Exhibit E), and (vi) its system of financial management (Exhibit F), including, as provided in subsection B of § 23.1-1012 of the Act, the sole authority to establish tuition, fees, room, board, and other charges consistent with sum sufficient appropriation authority for nongeneral funds as provided by the Governor and the General Assembly in the Commonwealth's biennial appropriations authorization. Subject to the specific conditions and limitations contained in §§ 23.1-1008 through 23.1-1011 of the Act, in this management agreement, and in one or more of the board of visitors policies attached hereto as Exhibits A through F, the Commonwealth and the University agree that the Commonwealth has expressly granted to the University all the powers and authority permitted by the Act.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this management agreement and the policies adopted by it and attached as Exhibits A through F. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate the duties and responsibilities set forth in this management agreement to its officers, committees, and subcommittees, and, as set forth in the policies adopted by the board and attached hereto as Exhibits A through F, to a person or persons within the University.

**SECTION 2.1.3. Reimbursement by the University of Certain Costs.** By July 1 of each odd-numbered year, the University shall inform the Secretary of Finance of any intent during the next biennium to withdraw from any health or other group insurance or risk management program made available to the University through any agency, body corporate, political subdivision, authority, or other entity of the Commonwealth, and in which the University is then participating, to enable the Commonwealth's actuaries to complete an adverse selection analysis of any such decision and to determine the additional costs to the Commonwealth that would result from any such withdrawal. If upon notice of such additional costs to the Commonwealth, the University proceeds to withdraw from such health or other group insurance or risk management program, the University shall, pursuant to subdivision B 5 of § 23.1-1004 of the Act, reimburse the Commonwealth for all such additional costs attributable to such withdrawal as determined by the Commonwealth's actuaries.

**SECTION 2.1.4. Potential Impact on Virginia College Savings Plan.** As required by subdivision B 6 of § 23.1-1004 of the Act, the University has given consideration to potential future impacts of tuition increases on the Virginia College Savings Plan, Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 of the Code of Virginia and has discussed those potential impacts with the Executive Director and staff of that Plan and with parties in the Administration who participated in the development of this management agreement. The Executive Director of the Plan has provided to the University and the Commonwealth the Plan's assumptions underlying the contract pricing of the program.

**SECTION 2.1.5. Justification for Deviations from the Virginia Public Procurement Act.** Pursuant to § 23.1-1017 of the Act and subject to the provisions of this management agreement, the University may be exempt from the provisions of the Virginia Public Procurement Act (VPPA), Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia. Any procurement policies or rules that deviate from the VPPA must be uniform across all institutions governed by Article 4 of the Act, and the board of visitors shall adopt and comply with procurement policies that are based upon competitive principles and seek competition to the maximum practical degree. The Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials and the Rules Governing Procurement of Goods, Services, Insurance, and Construction (the Procurement Rules) attached to such policy as Attachment 1 constitute the policies and uniform deviations from the VPPA required by subsections A and B of § 23.1-1017 of the Act.

Subsection E of § 23.1-1017 of the Act requires that the University identify the public, educational, and operational interests served by any procurement rule or rules that deviate from those in the VPPA. The adopted board of visitors policy on procurement and the Procurement Rules provide the University with the autonomy to administer its procurement process while fully adhering to the principle that competition should be sought to the maximum extent feasible. This autonomy will better position the University to support the requirements of its growing teaching, research, and outreach missions. Greater autonomy in procurement will improve internal capacity to respond quickly to emergent material and service issues and, therefore, enable the University to be more efficient and effective in meeting the Commonwealth's goals for institutions of higher education. In some instances, costs will be reduced. Taken collectively, the University's procurement policies and rules that differ from those required by the VPPA will enhance procurement "best practices" as they currently are being observed within the higher education community nationally. Further, these changes will provide efficiencies to both the University and public sector suppliers.

**SECTION 2.1.6. Quantification of Cost Savings.** Subsection D of § 23.1-1012 of the Act requires that a covered institution include in its management agreement with the Commonwealth the quantification of cost savings realized as a result of the additional operational flexibility provided pursuant to Article 4 of the Act. Since this initial management agreement with the Commonwealth has not yet been implemented by the University, the parties agree that the University is not in a position to quantify any such cost savings at this time, although the University expects that there will be cost savings resulting from the additional authority granted to the University pursuant to Article 4 of the Act and that such cost savings will be part of the determinations made during the reviews, assessments, and audits to be conducted pursuant to Article 4 of

the Act by the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission, and the State Council of Higher Education for Virginia, and as otherwise described in Section 2.1.1 above.

**SECTION 2.1.7. Participation in State Programs.** *The Commonwealth intends that the University shall continue to fully participate in, and receive funding support from, the many and varied programs established now or in the future by the Commonwealth to provide support for Virginia's public institutions of higher education and for Virginians attending such institutions, including but not limited to the state capital outlay and bond financing initiatives undertaken from time to time by the Commonwealth; the Higher Education Equipment Trust Fund established pursuant to Chapter 12 (§ 23.1-1200 et seq.) of Title 23.1 of the Code of Virginia; the Maintenance Reserve Fund as provided in the general appropriation act; the Eminent Scholars program as provided in the general appropriation act; the Commonwealth's various student financial assistance programs; and other statewide programs or initiatives that exist, or may be established, in support of the Commonwealth's higher education institutions, programs, or activities.*

**SECTION 2.1.8. Implied Authority.** *Pursuant to subsection C of § 23.1-1006 of the Act, the only implied authority granted to the University by this management agreement is that implied authority that is actually necessary to carry out the expressed grant of financial or operational authority contained in this agreement or in the policies adopted by the University's board of visitors and attached hereto as Exhibits A through F.*

**SECTION 2.1.9. Exercise of Authority.** *The University and the Commonwealth acknowledge and agree that the execution of this management agreement constitutes the conclusion of a process that, as of the effective date of this Agreement, confers upon the University the enhanced authority and operating flexibility described in this article above, all of which is in furtherance of the purposes of Article 4 of the Act. Therefore, without any further conditions or requirements, the University shall, on and after the effective date of this management agreement, be authorized to exercise the authority conferred upon it by this management agreement, the policies adopted by its board of visitors attached hereto as Exhibits A through F, and by §§ 23.1-1008 through 23.1-1011 of the Act, except to the extent that the powers and authority contained therein have been limited by this management agreement or the board of visitors policies attached hereto as Exhibits A through F.*

*The University and the Commonwealth also acknowledge and agree that, pursuant to subsection L of § 23.1-1006 of the Act and consistent with the terms of this management agreement, the board of visitors of the University shall assume full responsibility for management of the University, subject to the requirements and conditions set forth in Article 4 of the Act, the general requirements for this management agreement as provided in § 23.1-1002 of the Act, and this management agreement. The board of visitors shall be fully accountable for (i) the management of the University as provided in the Act, (ii) meeting the requirements of §§ 23.1-206 and 23.1-306 of the Code of Virginia, and (iii) meeting such other provisions as are set forth in this management agreement.*

## **SECTION 2.2. State Goals.**

**SECTION 2.2.1. Furthering State Goals.** *As required for all public institutions of higher education of the Commonwealth by subsection A of § 23.1-1002 of the Act, prior to August 1, 2005, the board of visitors of the University adopted the resolution setting forth its commitment to the Governor and the General Assembly to meet the state goals specified in subsection A of § 23.1-1002 of the Act.*

**SECTION 2.2.2. Student Enrollment, Tuition, and Financial Aid.** *As required by § 23.1-306 of the Code of Virginia, the University, along with all other public institutions of higher education of the Commonwealth, has developed and submitted to the State Council of Higher Education for Virginia (SCHEV) by October 1, 2018, an institution-specific six-year plan addressing the University's academic, financial, and enrollment plans for the six-year period of fiscal years 2018-2020 through 2022-2024. Subsection A of § 23.1-306 of the Code of Virginia requires the University to update this six-year plan by July 1 of each odd-numbered year and amend or affirm biennially in each even-numbered year. Subdivision B 3 of § 23.1-1006 of the Act requires that a management agreement address, among other issues, such matters as the University's undergraduate Virginia student enrollment, its financial aid requirements and capabilities, and its tuition policy for undergraduate Virginia students. These matters are addressed in this section and in the University's six-year plan submitted to SCHEV, and the parties therefore agree that the University's six-year plan and the description in this section meet the requirement of subdivision B 3 of § 23.1-1006 of the Act.*

*Subsection C of § 23.1-1012 of the Act requires the board of visitors of the University to include in this management agreement the University's commitment to provide need-based grant aid for middle-income and lower-income Virginia students in a manner that encourages student enrollment and progression without respect to potential increases in tuition and fees. The University's commitment in this regard is clear. The University is committed to increasing the economic and social diversity of the student body at the University. The University is committed to assuring access to qualified and admitted Virginia students.*

*To address the challenges associated with the rising costs of college, the University uses institutional, state, and federal funding to help mitigate the effect of rising costs on students from low-income and middle-income families. The University awards financial aid based on the U.S. Department of Education's federal methodology. The federal methodology is used in all of the University's aid packaging that includes institutional, state, and federal funding. The University's financial aid packaging processes and procedures target the neediest enrolled applicants, as required under state and federal law. Based on the Health and Human Services poverty levels, about 40 percent of the University's enrolled undergraduate applicants for federal financial aid fall into the low-income and middle-income range.*

For 2018-2019, the Expected Family Contribution (EFC) cutoff for awarding Virginia Student Financial Assistance Program (VSFAP) and University grants to on-time, in-state, undergraduate financial aid filers was \$9,500. This definition of middle class was used to award financial aid dollars to needy students. The University's ultimate goal for the future is to increase the EFC cutoff that will be equal to or above one-half the cost of attendance. The \$9,500 EFC cutoff in 2017-18 equaled 36.5 percent of the full-time, in-state cost of attendance.

To move forward in accomplishing its goals, over the period of the six-year plan, the University is committed to seeking, from all sources—state-appropriated scholarship funds and federal, institutional, and private support—to continue its commitment to providing additional financial aid through grants and loans to those Virginians with need. In addition, as tuition and fees increase over the period of the six-year plan, the University will readjust the level of financial aid funding so that insufficiency of family resources will not be a barrier to attending the University.

The Commonwealth and the University agree that this commitment meets the requirements of subsection C of § 23.1-1012 of the Act.

#### SECTION 2.3. Other Law.

As provided in subsection C of § 23.1-1006 of the Act, the University shall be governed and administered in the manner provided not only in this management agreement, but also as provided in the general appropriation act then in effect and the University's enabling statutes.

#### SECTION 2.4. The General Appropriation Act.

The Commonwealth and the University agree that, pursuant to the current terms of the Act and the terms of § 4-11.00 of the 2004-2006 Appropriation Act, if there is a conflict between the provisions of the general appropriation act and the provisions of Article 4 of the Act, or this management agreement, or the board of visitors policies attached to this management agreement as Exhibits A through F, the provisions of the general appropriation act shall control, and shall continue to control unless provided otherwise by law.

**SECTION 2.4.1. The University's Enabling Statutes.** As provided in subsection E of § 23.1-1006 of the Act, in the event of a conflict between any provision of Article 4 of this Act and the University's enabling statutes, the enabling statutes shall control.

**SECTION 2.4.2. Title 2.2 of the Code of Virginia.** As provided in subsection D of § 23.1-1006 of the Act, except as specifically made inapplicable under Article 4 of the Act and the express terms of this management agreement, the provisions of Title 2.2 relating generally to the operation, management, supervision, regulation, and control of public institutions of higher education shall be applicable to the University as provided by the express terms of this management agreement. As further provided in subsection E of § 23.1-1006 of the Act, in the event of conflict between any provision of Title 2.2 and any provision of Article 4 of the Act as expressed in this management agreement, the provisions of this management agreement shall control.

**SECTION 2.4.3. Educational Policies of the Commonwealth.** As provided in subsection J of § 23.1-1006 of the Act, for purposes of §§ 23.1-101, 23.1-102, 23.1-103, 23.1-104, and 23.1-107, Chapter 2 (§ 23.1-200 et seq.), §§ 23.1-306, 23.1-402, 23.1-403, and 23.1-404, Chapter 5 (§ 23.1-500 et seq.), Chapter 6 (§ 23.1-600 et seq.), Chapter 7 (§ 23.1-700 et seq.), §§ 23.1-800, 23.1-801, 23.1-901, and 23.1-1001, Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), subsections G, H, and I of § 23.1-1300, § 23.1-1302, and subsection B of § 23.1-1303 of Title 23.1 the Code of Virginia, each covered institution shall remain a public institution of higher education following its conversion to a covered institution governed by Article 4 of the Act and shall retain the authority granted and any obligations required by such provisions.

In addition, the University shall retain the authority, and any obligations related to the exercise of such authority, that is granted to institutions of higher education pursuant to Chapter 2 (§ 23.1-200 et seq.), Chapter 11 (§ 23.1-1100 et seq.), Chapter 12 (§ 23.1-1200 et seq.), Chapter 6, Article 2 (§ 23.1-612 et seq.), Chapter 6, Article 3 (§ 23.1-617 et seq.), Chapter 6, Article 5 (§ 23.1-628 et seq.), Chapter 6, Article 6 (§ 23.1-636 et seq.), § 23.1-619, Chapter 6, Article 7 (§ 23.1-639 et seq.), and Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 the Code of Virginia, unless and until provided otherwise by law other than the Act.

**SECTION 2.4.4. Public Access to Information.** The University shall continue to be subject to § 2.2-4342 of the Code of Virginia and to the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, but shall be entitled to conduct business pursuant to § 2.2-3709 of the Code of Virginia if expressly named therein and, in all cases, may conduct business as a "state public body" for purposes of subsection B of § 2.2-3708 of the Code of Virginia.

**SECTION 2.4.5. Conflicts of Interests.** As provided in subsection F of § 23.1-1006 of the Act, the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia, that are applicable to officers and employees of a state governmental agency shall continue to apply to the members of the board of visitors of the University and to its covered employees.

**SECTION 2.4.6. Other Provisions of the Code of Virginia.** Other than as specified in this article above, any other powers and authorities granted to the University pursuant to any other sections of the Code of Virginia, including other provisions of the Act, are not affected by this management agreement or the board policies attached hereto as Exhibits A through F.

**ARTICLE 3. AMENDMENTS TO, AND RIGHT AND POWER TO VOID OR REVOKE, MANAGEMENT AGREEMENT.**

*SECTION 3.1. Amendments.*

Any change to or deviation from this management agreement or the board of visitors policies attached hereto as Exhibits A through F shall be reported to the Secretaries of Finance, Administration, and Education and to the Chairmen of the Senate Committee on Finance and the House Committee on Appropriations and shall be posted on the University's website. The change or deviation shall become effective unless one of the above persons notifies the University in writing within 60 days that the change or deviation is substantial and material. Any substantial and material change or deviation shall require the execution by the parties of an amendment to this management agreement or a new management agreement and may lead to the Governor declaring this management agreement to be void pursuant to subdivision E of § 23.1-1007 of the Act.

*SECTION 3.2. Right and Power to Void, Revoke, or Reinstate Management Agreement.*

*SECTION 3.2.1. Governor.* Pursuant to subdivision E of § 23.1-1007, if the Governor makes a written determination that the University is not in substantial compliance with the terms of this management agreement or with the requirements of the Act in general, (i) the Governor shall provide a copy of that written determination to the rector of the board of visitors of the University and to the members of the General Assembly, and (ii) the University shall develop and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into substantial compliance with the terms of this management agreement and with the requirements of the Act, as soon as practicable, and shall provide a copy of such corrective action plan to the members of the General Assembly. If, after a reasonable period of time after the corrective action plan has been implemented by the University, the Governor determines that the institution is not yet in substantial compliance with this management agreement or the requirements of the Act, the Governor may void this management agreement. Upon the Governor voiding this management agreement, the University shall no longer be allowed to exercise any restructured financial or operational authority pursuant to the provisions of Article 4 of the Act unless and until the University has entered into a subsequent management agreement with the Secretary or Secretaries designated by the Governor or the voided management agreement is reinstated by the General Assembly.

*SECTION 3.2.2. General Assembly.* As provided in subsection E of § 23.1-1007 of the Act, the General Assembly may reinstate a management agreement declared void by the Governor. Pursuant to subsection F of § 23.1-1007 of the Act, the University's status as a covered institution governed by Article 4 of the Act may be revoked by an act of the General Assembly if the University fails to meet the requirements of Article 4 of the Act or the management agreement.

**ARTICLE 4. GENERAL PROVISIONS.***SECTION 4.1. No Third-Party Beneficiary Status.*

Nothing in this Agreement, express or implied, shall be construed as conferring any third-party beneficiary status on any person or entity.

*SECTION 4.2. Sovereign Immunity.*

Pursuant to subsections G and H of § 23.1-1006 of the Act, the University and the members of its board of visitors, officers, directors, employees, and agents shall be entitled to the same sovereign immunity to which they would be entitled if the University were not governed by the Act, provided that the Virginia Tort Claims Act, Article 18.1 (§ 8.01-195.1 et seq.) of Chapter 3 of Title 8.01 of the Code of Virginia, and its limitations on recoveries shall remain applicable with respect to the University.

*SECTION 4.3. Term of Agreement.*

The management agreement negotiated by the University shall continue in effect unless the Governor, the General Assembly, or the University determine that the management agreement needs to be renegotiated or revised.

WHEREFORE, the foregoing management agreement has been executed as of this 15th day of November, 2018, and shall become effective on the effective date of the legislation enacted into law providing for the terms of such Agreement.

**EXHIBIT A**

MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT

POLICY GOVERNING  
CAPITAL PROJECTS

THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING CAPITAL PROJECTS

### *I. PREAMBLE.*

Pursuant to Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act (the Act), upon becoming a covered institution, a public institution of higher education in Virginia may be delegated the authority to establish its own system for undertaking the implementation of its capital projects. In general, status as a covered institution is designed to replace the post-authorization system of reviews, approvals, policies, and procedures carried out by a variety of central state agencies, and also the traditional pre-authorization approval process for projects funded entirely with nongeneral funds and without any proceeds from state tax-supported debt. Consistent with its current practice, the University's system for carrying out its capital outlay process as a covered institution is to be governed by policies adopted by the board of visitors. The following provisions of this policy, together with the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials adopted by the board, and the Rules Governing Procurement of Goods, Services, Insurance, and Construction, which is attached as Attachment 1 to that Policy, constitute the adopted board of visitors policies regarding the University's capital projects, whether funded by a general fund appropriation of the General Assembly, state tax-supported debt, or funding from other sources.

This policy is intended to encompass and implement the expanded authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

### *II. DEFINITIONS.*

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Capital lease" means a lease that is defined as such within generally accepted accounting principles pursuant to the pronouncement of the Financial Accounting Standards Board.

"Capital professional services" means professional engineering, architecture, land surveying, and landscape architecture services related to capital projects.

"Capital project(s)" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction, improvements or renovations, and capital leases.

"Covered institution" means, on and after the effective date of its initial management agreement, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Major capital project(s)" means the acquisition of any interest in land, including improvements on the acquired land at the time of acquisition, new construction of 5,000 square feet or greater or costing \$3 million or more, improvements or renovations of \$3 million or more, and capital leases.

"State tax-supported debt" means bonds, notes, or other obligations issued under Article X, Section 9 (a), 9 (b), 9 (c), or 9 (d) of the Constitution of Virginia, if the debt service payments are made or ultimately are to be made from general government funds, as defined in the December 19, 2017, Report to the Governor and General Assembly of the Debt Capacity Advisory Committee or as that definition is amended from time to time.

"University" means James Madison University.

### *III. SCOPE OF POLICY.*

This policy applies to the planning and budget development for capital projects, capital project authorization, and the implementation of capital projects, whether funded by a general fund appropriation of the General Assembly, proceeds from state tax-supported debt, or funding from other sources.

This policy provides guidance for (i) the process for developing one or more capital project programs for the University, (ii) authorization of new capital projects, (iii) procurement of capital professional services and construction services, (iv) design reviews and code approvals for capital projects, (v) environmental impact requirements, (vi) building demolitions, (vii) building and land acquisitions, (viii) building and land dispositions, (ix) project management systems, and (x) reporting requirements.

### *IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.*

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

### *V. CAPITAL PROGRAM.*

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall adopt a system for developing one or more capital project programs that defines or define the capital needs

of the University for a given period of time consistent with the University's published Master Plan. This process may or may not mirror the Commonwealth's requirements for capital plans. The board of visitors shall approve the program for major capital projects. Major capital projects that are to be funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt shall follow the Commonwealth's requirements for capital plans. The board may approve amendments to the program for major capital projects annually or more often if circumstances warrant.

It shall be University policy that each capital project program shall meet the University's mission and institutional objectives and be appropriately authorized by the University. Moreover, it shall be University policy that each capital project shall be of a size and scope to provide for the defined program needs, designed in accordance with all applicable building codes and handicapped accessibility standards as well as the University's design guidelines and standards, and costed to reflect current costs and escalated to the mid-point of anticipated construction.

#### VI. AUTHORIZATION OF CAPITAL PROJECTS.

The board of visitors shall authorize the initiation of each major capital project by approving its size, scope, budget, and funding. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall adopt procedures for approving the size, scope, budget, and funding of all other capital projects. Major capital projects that are to be funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt shall require both board of visitors approval and those pre-appropriation approvals of the State's governmental agencies then applicable, and shall follow the State's process for capital budget requests.

It shall be the policy of the University that the implementation of capital projects shall be carried out so that the capital project as completed is the capital project approved by the board for major capital projects and according to the procedures adopted by the President of the University, acting through the Senior Vice President of Administration or his designee, for all other capital projects. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall ensure strict adherence to this requirement.

Accordingly, the budget, size, and scope of a capital project shall not be materially changed beyond the plans and justifications that were the basis for the capital project's approval, either before or during construction, unless approved in advance as described in this section above. Minor changes shall be permissible if they are determined by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, to be justified.

Major capital projects may be submitted for board of visitors authorization at any time but must include a statement of urgency if not part of the approved major capital project program.

#### VII. PROCUREMENT OF CAPITAL PROFESSIONAL SERVICES AND CONSTRUCTION SERVICES.

It shall be the policy of the University that procurements shall result in the purchase of high quality services and construction at reasonable prices and shall be consistent with the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials adopted by the board, and with the Rules Governing Procurement of Goods, Services, Insurance, and Construction, which is attached as Attachment 1 to such policy. Specifically, the University is committed to:

1. Seeking competition to the maximum practical degree, taking into account the size of the anticipated procurement, the term of the resulting contract, and the likely extent of competition;
2. Conducting all procurements in a fair and impartial manner and avoiding any impropriety or the appearance of any impropriety prohibited by state law or University policy;
3. Making procurement rules clear in advance of any competition;
4. Providing access to the University's business to all qualified vendors, firms, and contractors, with no potential bidder or offeror excluded arbitrarily or capriciously, while allowing the flexibility to engage in cooperative procurements and to meet special needs of the University;
5. Including in contracts of more than \$10,000 the contractor's agreement not to discriminate against employees or applicants because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law except where there is a bona fide occupational qualification reasonably necessary to the contractor's normal operations; and
6. Providing for a nondiscriminatory procurement process, and including appropriate and lawful provisions to effectuate fair and reasonable consideration of women-owned, minority-owned, and small businesses and to promote and encourage a diversity of suppliers.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, is authorized to develop implementing procedures for the procurement of capital professional services and construction services at the University. The procedures shall implement this policy and provide for:

- a. A system of competitive negotiation for capital professional services, including a procedure for expedited procurement of capital professional services under \$80,000, pursuant to subdivisions 1, 2, and 3 a of the defined term "competitive negotiation" in § 4 of the Rules Governing Procurement of Goods, Services, Insurance, and Construction;
- b. A prequalification procedure for contractors or products;
- c. A procedure for special construction contracting methods, including but not limited to design-build and construction management contracts; and
- d. A prompt payment procedure.

*The University also may enter into cooperative arrangements with other private or public health or educational institutions, health care provider alliances, purchasing organizations, or state agencies where, in the judgment of the University, the purposes of this policy will be furthered.*

#### VIII. DESIGN REVIEWS AND CODE APPROVALS.

*The board of visitors shall review the design of all major capital projects and shall provide final major capital project authorization based on the size, scope, and cost estimate provided with the design. Unless stipulated by the board of visitors at the design review, no further design reviews shall be required. For all capital projects other than major capital projects, the President of the University, acting through the Senior Vice President for Administration and Finance or his designee, shall adopt procedures for design review and project authorization based on the size, scope, and cost estimate provided with the design. It shall be University policy that all capital projects shall be designed and constructed in accordance with applicable Virginia Uniform Statewide Building Code (VUSBC) standards and the applicable accessibility code.*

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall designate a building official responsible for building code compliance at the University, by either (i) hiring an individual to be the University building official or (ii) continuing to use the services of the Department of General Services, Division of Engineering and Buildings, to perform the building official function. If option (i) is selected, the individual hired as the University building official shall be a full-time employee of the University who has no other assigned duties or responsibilities at the institution and who is not employed by any firm or business providing facility services to the University, is a registered professional architect or engineer, and is certified by the Department of Housing and Community Development to perform this building official function. The University building official shall issue building permits for each capital project required by the VUSBC to have a building permit, shall determine the suitability for occupancy of, and shall issue certifications for building occupancy for, all capital projects requiring such certification. Prior to issuing any such certification, this individual shall ensure that the VUSBC and accessibility requirements are met for that capital project and that such capital project has been inspected by the State Fire Marshal or his designee as required. When serving as the University building official, such individual shall organizationally report directly and exclusively to the board of visitors. If the University hires its own University building official, it shall fulfill the code review requirement by maintaining a review unit of licensed professional architects or engineers supported by resources and staff who are certified by the Department of Housing and Community Development in accordance with § 36-137 of the Code of Virginia for such purpose and who shall review plans, specifications, and documents for compliance with building codes and standards and perform required inspections of work in progress and the completed capital project. No individual licensed professional architect or engineer hired under the University personnel system as a member of the review unit or contracted with to perform these functions shall also perform other building code-related design, construction, facilities-related project management, or facilities management functions for the University on the same capital project.*

#### IX. ENVIRONMENTAL IMPACT REPORTS.

*It shall be the policy of the University to assess the environmental, historic preservation, and conservation impacts of all capital projects and to minimize and otherwise mitigate all adverse impacts to the extent practicable. The University shall develop a procedure for the preparation and approval of environmental impact reports for capital projects, in accordance with state environmental, historic preservation, and conservation requirements generally applicable to capital projects otherwise meeting the definition of major capital projects but with a cost of \$500,000 or more as set forth in § 10.1-1188 of the Code of Virginia.*

#### X. BUILDING DEMOLITIONS.

*It shall be the policy of the University to consider the environmental and historical aspects of any proposed demolitions. The University shall develop a procedure for the preparation and review of demolition requests, including any necessary reviews by the Department of Historic Resources and the Art and Architectural Review Board in accordance with state historic preservation requirements generally applicable to capital projects in the Commonwealth. Further, for any property that was acquired or constructed with funding from a general fund appropriation of the General Assembly or from proceeds from state tax-supported debt, general laws applicable to state-owned property shall apply.*

#### XI. BUILDING OR LAND ACQUISITIONS.

*It is the policy of the University that capital projects involving building or land acquisition shall be subjected to thorough inquiry and due diligence prior to closing on the acquisition of such real property. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall ensure that the project management system implemented pursuant to Section XIII of this policy provides for a review and analysis of all pertinent matters relating to the acquisition of buildings and land as any prudent purchaser would perform to the end that any building or land acquired by the University shall be suitable for its intended purpose, that the acquisition can be made without substantial risk of liability to the University, and that the cost of the real property to be acquired, together with any contemplated development thereof, shall be such that compliance with the provisions of Section VI of this policy is achieved. In addition, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall ensure that, where feasible and appropriate to do so, the following specific policies pertaining to the acquisition of buildings or land for capital projects are carried out.*

##### A. Environmental and Land Use Considerations.

*It is the policy of the University to reasonably cooperate with each locality affected by the acquisition. Such cooperation shall include but not be limited to furnishing any information that the locality may reasonably request and*

reviewing any requests by the locality with regard to any such acquisition. The University shall consider the zoning and comprehensive plan designation by the locality of the building or land and surrounding parcels, as well as any designation by state or federal agencies of historically or archeologically significant areas on the land. Nothing herein shall be construed as requiring the University to comply with local zoning laws and ordinances.

**B. Infrastructure and Site Condition.**

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall ensure that, in the case of capital projects involving the acquisition of buildings or land, the project management systems implemented under Section XIII of this policy provide for a review of the following matters prior to acquisition of the building or land: that any land can be developed for its intended purpose without extraordinary cost; that an environmental engineer has been engaged by the University to provide an assessment of any environmental conditions on the land; that there is adequate vehicular ingress and egress to serve the contemplated use of the building or land; that utilities and other services to the land are adequate or can reasonably be provided or have been provided in the case of building acquisitions; and that the condition and grade of the soils have been examined to determine if any conditions exist that would require extraordinary site work.

**C. Title and Survey.**

A survey shall be prepared for any real property acquired, and an examination of title to the real property shall be conducted by a licensed attorney or, in the alternative, a commitment for title insurance shall be procured from a title insurance company authorized to do business in the Commonwealth. Based upon the survey and title examination or report, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall conclude, prior to acquisition of the real property, that title thereto will be conveyed to the University in fee simple, free and clear of all liens, encumbrances, covenants, restrictions, easements, or other matters that may have a significant adverse effect upon the University's ability to own, occupy, convey, or develop the real property.

**D. Appraisal.**

An appraisal shall be conducted of the real property to be acquired to determine its fair market value and the consistency of the fair market value with the price agreed upon by the University.

**XII. BUILDING OR LAND DISPOSITIONS.**

The board of visitors shall approve the disposition of any building or land. Disposition of land or buildings, the acquisition or construction of which was funded entirely or in part by a general fund appropriation of the General Assembly or proceeds from state tax-supported debt, shall require both board of visitors approval and other approvals in accordance with general law applicable to state-owned property and with the University's enabling statutes.

**XIII. PROJECT MANAGEMENT SYSTEMS.**

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall implement one or more systems for the management of capital projects for the University. The systems may include the delegation of project management authority to appropriate University officials, including a grant of authority to such officials to engage in further delegation of authority as the President of the University deems appropriate.

The project management systems for capital projects shall be designed to ensure that such projects comply with the provisions of this policy and other board of visitors policies applicable to closely related subjects such as the selection of architects or policies applicable to University buildings and grounds.

The project management systems may include one or more reporting systems applicable to capital projects whereby University officials responsible for the management of such projects provide appropriate and timely reports to the President of the University on the status of such projects during construction.

**XIV. REPORTING REQUIREMENTS.**

In addition to complying with any internal reporting systems contained in the University's project management systems, as described in Section XIII above, the University shall comply with state reporting requirements for those major capital projects funded entirely or in part by a general fund appropriation of the General Assembly or state tax-supported debt. Additionally, if any capital project constructs improvements on land, or renovates property, that originally was acquired or constructed in whole or in part with a general fund appropriation for that purpose or proceeds from state tax-supported debt, and such improvements or renovations are undertaken entirely with funds not appropriated by the General Assembly, and if the cost of such improvements or renovations is reasonably expected to exceed \$2 million, the decision to undertake such improvements or renovations shall be communicated as required by subdivision D 3 of § 23.1-1016 of the Act. As a matter of routine, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall report to the Department of General Services on the status of such capital projects at the initiation of the project, prior to the commencement of construction, and at the time of acceptance of any such capital project.

**EXHIBIT B**

**MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY**

PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT

POLICY GOVERNING LEASES OF REAL PROPERTY

THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING LEASES OF REAL PROPERTY

**I. PREAMBLE.**

*The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides that, upon becoming a covered institution, the University may have the authority to establish its own system for the leasing of real property. The University's system for implementing this authority is governed by policies adopted by the board of visitors. The following provisions of this policy constitute the adopted board of visitors policies regarding leases of real property entered into by the University.*

*This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, as defined in § 23.1-1000 of the Act, are not affected by this policy.*

**II. DEFINITIONS.**

*The following words and terms, when used in this policy, shall have the following meaning unless the context clearly indicates otherwise:*

*"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

*"Board of visitors" or "board" means the rector and board of visitors of the University.*

*"Capital lease" means a lease that is defined as such within generally accepted accounting principles pursuant to the pronouncement of the Financial Accounting Standards Board.*

*"Covered institution" means a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by Article 4 of the Act.*

*"Expense lease" means an operating lease of real property under the control of another entity to the University.*

*"Income lease" means an operating lease of real property under the control of the University to another entity.*

*"Lease" means any type of lease involving real property.*

*"Operating lease" means any lease involving real property, or improvements thereon, that is not a capital lease.*

**III. SCOPE OF POLICY.**

*This policy provides guidance for the implementation of all University leases.*

**IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.**

*The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.*

**V. REQUIREMENTS FOR LEASES.**

**A. Factors to Be Considered When Entering into Leases.**

*All leases shall be for a purpose consistent with the mission of the University. The decision to enter into a lease shall be further based upon cost, demonstrated need, compliance with this policy, consideration of all costs of occupancy, and a determination that the use of the property to be leased is necessary and is efficiently planned. Leases shall also conform to the space planning procedures that may be adopted by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, to ensure that the plan for the space to be leased is consistent with the purpose for which the space is intended.*

**B. Competition to Be Sought to Maximum Practicable Degree.**

*Competition shall be sought to the maximum practicable degree for all leases. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, is authorized to ensure that leases are procured through competition to the maximum degree practicable and to determine when, under guidelines that may be developed and adopted by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, it is impractical to procure leases through competition.*

**C. Approval of Form of Lease Required.**

*The form of leases entered into by the University shall be approved by the University's legal counsel.*

**D. Execution of Leases.**

All leases entered into by the University shall be executed only by those University officers or persons authorized by the President of the University or as may subsequently be authorized by the board of visitors, and subject to any such limits or conditions as may be prescribed in the delegation of authority. Subject to the University's Policy Governing Capital Projects (Exhibit A) adopted by the board as part of the management agreement between the Commonwealth and the University, no other University approval shall be required for leases or leasing, nor state approval required except in the case of leases of real property as may be governed by general state law in accordance with §§ 23.1-1016 and 23.1-1028 of the Act.

*E. Capital Leases.*

The board of visitors shall authorize the initiation of capital leases pursuant to the authorization process included in the Policy Governing Capital Projects (Exhibit A) adopted by the board as part of the management agreement between the Commonwealth and the University.

*F. Compliance with Applicable Law.*

All leases of real property by the University shall be consistent with any requirements of law that are contained in the Act or are otherwise applicable.

*G. Certification of Occupancy.*

All real property covered by an expense lease or leased by the University under a capital lease shall be certified for occupancy by the appropriate public body or building official.

EXHIBIT C

MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT

POLICY GOVERNING  
INFORMATION TECHNOLOGY

THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING INFORMATION TECHNOLOGY

*I. PREAMBLE.*

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides in § 23.1-1018, inter alia, that public institutions of higher education in the Commonwealth of Virginia that have entered into a management agreement with the Commonwealth "may be exempt from the provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if the governing board of such covered institution adopts and the covered institution complies with" policies that govern the exempted provisions. This policy shall become effective upon the effective date of a management agreement between the Commonwealth and the University authorized in accord with the Act and which incorporates this policy.

The board of visitors of the University is authorized to adopt this policy pursuant to § 23.1-1018 of the Act.

*II. DEFINITIONS.*

As used in this policy, the following terms have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Information technology" or "IT" has the same meaning as set forth in § 2.2-2006 of the Code of Virginia as it currently exists and from time to time may be amended.

"Major information technology project" or "major IT project" has the same meaning as set forth in § 2.2-2006 of the Code of Virginia as it currently exists and from time to time may be amended.

"Policy" means this Information Technology Policy adopted by the board of visitors.

"State Chief Information Officer" or "State CIO" means the Chief Information Officer of the Commonwealth of Virginia. These terms shall include, where appropriate and/or required by law, the Virginia Information Technologies Agency.

"University" means James Madison University.

*III. SCOPE OF POLICY.*

This policy is intended to cover and implement the authority that the University will exercise under Article 4 of the Act. This policy is not intended to affect any other powers and authorities granted to the University pursuant to the general

appropriation act and the Code of Virginia, including other provisions of the Act or the University's enabling statutes, as that term is defined in § 23.1-1000 of the Act.

This policy shall govern the University's information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits conducted within, by, or on behalf of the University. Upon the effective date of this management agreement between the Commonwealth and the University, therefore, the University shall be exempt from the provisions of the Code of Virginia governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia, that otherwise would govern the University's information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits conducted within, by, or on behalf of the University, provided, however, that the University still shall be subject to those provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia, and the provisions governing the Information Technology Advisory Council, Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2 of the Code of Virginia, that are applicable to public institutions of higher education of the Commonwealth and that do not govern information technology strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, security, and audits within, by, or on behalf of the University.

The procurement of information technology and telecommunications goods and services, including automated data processing hardware and software, shall be governed by the Policy Governing the Procurement of Goods, Services, Insurance, and Construction, and the Disposition of Surplus Materials (Exhibit D) approved by the board, and the Rules Governing Procurement of Goods, Services, Insurance, and Construction that are incorporated in and attached to such policy.

#### IV. GENERAL PROVISIONS.

##### A. Board of Visitors Accountability and Delegation of Authority.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

##### B. Strategic Planning.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall be responsible for overall IT strategic planning at the University, which shall be linked to and in support of the University's overall strategic plan.

At least 45 days prior to the beginning of each fiscal year, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall make available the University's IT strategic plan covering the next fiscal year to the State CIO for his review and comment with regard to the consistency of the University's plan with the intent of the currently published overall six-year IT strategic plan for the Commonwealth developed by the State CIO pursuant to subdivision A 3 of § 2.2-2007.1 of the Code of Virginia, and into which the University's plan is to be incorporated.

##### C. Expenditure Reporting and Budgeting.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall approve and be responsible for overall IT budgeting and investments at the University. The University's IT budget and investments shall be linked to and in support of the University's IT strategic plan, and shall be consistent with general University policies, the board-approved annual operating budget, and other board approvals for certain procurements.

By October 1 of each year, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall make available to the State CIO a report on the previous fiscal year's IT expenditures.

The University shall be specifically exempt from:

1. Subdivision B 3 of § 2.2-2007.1 of the Code of Virginia, as it currently exists and from time to time may be amended, relating to review by the State CIO of IT budget requests;
2. The Virginia Technology Infrastructure Fund, Article 3 (§ 2.2-2022 et seq.) of Chapter 20.1 of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended; and
3. Any other substantially similar provision of the Code of Virginia governing IT expenditure reporting and budgeting, as it currently exists and from time to time may be amended.

##### D. Project Management.

Pursuant to § 23.1-1018 of the Act, the board shall adopt the project management policies, standards, and guidelines developed by the Commonwealth or those based upon industry best practices for project management as defined by leading IT consulting firms, leading software development firms, or a nationally-recognized project management association,

appropriately tailored to the specific circumstances of the University. Copies of the board's policies, standards, and guidelines shall be made available to the State CIO.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall oversee the management of all University IT projects. IT projects may include, but are not limited to, upgrades to network infrastructure, provision of technology to support research, database development, implementation of new applications, and development of IT services for students, faculty, and staff. Day-to-day management of projects shall be the responsibility of appointed project directors and shall be in accordance with the project management policies, standards, and guidelines adopted by the board, as amended and revised from time to time.

On a quarterly basis, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall report to the State CIO on the budget, schedule, and overall status of the University's major IT projects. This requirement shall not apply to research projects, research initiatives, or instructional programs.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall be responsible for decisions to substantially alter a project's scope, budget, or schedule after initial approval.

The University shall be specifically exempt from:

1. § 2.2-2007.1 of the Code of Virginia, as it currently exists and from time to time may be amended, relating to additional duties of the State CIO relating to information technology planning and budgeting;
2. Division of Project Management, Article 2 (§ 2.2-2016 et seq.) of Chapter 20.1 of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended; and
3. Any other substantially similar provision of the Code of Virginia governing IT project management, as it currently exists or from time to time may be amended.

The State CIO shall continue to have the authority regarding project suspension and termination as provided in subsection B of § 2.2-2016.1 of the Code of Virginia and shall continue to provide the University with reasonable notice of, and a reasonable opportunity to correct, any identified problems before a project is terminated.

*E. Infrastructure, Architecture, Ongoing Operations, and Security.*

Pursuant to § 23.1-1018 of the Act, the board shall adopt the policies, standards, and guidelines related to IT infrastructure, architecture, ongoing operations, and security developed by the Commonwealth or those of nationally recognized associations, appropriately tailored to the specific circumstances of the University. Copies of the policies shall be made available to the State CIO.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall be responsible for implementing such policies, standards, and guidelines adopted by the board, as amended and revised from time to time.

For purposes of implementing this policy, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall appoint an existing University employee to serve as a liaison between the University and the State CIO.

*F. Audits.*

Pursuant to § 23.1-1018 of the Act, the board shall adopt the policies, standards, and guidelines developed by the Commonwealth or those based upon industry best practices for project auditing as defined by leading IT experts, including consulting firms, or a nationally-recognized project auditing association, appropriately tailored to the specific circumstances of the University, which provide for independent validation and verification of the University's major IT projects. Copies of the policies, standards, and guidelines, as amended and revised from time to time, shall be made available to the State CIO.

Audits of IT strategic planning, expenditure reporting, budgeting, project management, infrastructure, architecture, ongoing operations, and security shall also be the responsibility of the University's internal audit department and the Auditor of Public Accounts.

#### EXHIBIT D

MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT

POLICY GOVERNING  
THE PROCUREMENT OF GOODS, SERVICES,  
INSURANCE, AND CONSTRUCTION AND  
THE DISPOSITION OF SURPLUS MATERIALS

THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY  
POLICY GOVERNING  
THE PROCUREMENT OF GOODS, SERVICES,  
INSURANCE, AND CONSTRUCTION AND  
THE DISPOSITION OF SURPLUS MATERIALS

**I. PREAMBLE.**

A. Article 4 (§ 23.1-1004 et seq.) of the Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, provides that the University, upon becoming a covered institution, shall be authorized to establish its own system for the procurement of goods, services, insurance, and construction and for the independent disposition of surplus materials by public or private transaction.

The Act provides that a covered institution shall comply with policies adopted by its board of visitors for the procurement of goods, services, insurance, and construction and the disposition of surplus materials. The provisions of this policy, together with the Rules Governing Procurement of Goods, Services, Insurance, and Construction attached to this policy as Attachment I, constitute the adopted board of visitors policies required by the Act regarding procurement of goods, services, insurance, and construction and the disposition of surplus materials by the University.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to any other sections of the Code of Virginia, including other provisions of the Act, the general appropriation act, and the University's enabling statutes are not affected by this policy.

**II. DEFINITIONS.**

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Agreement" or "management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered institution" means, on and after the effective date of its initial management agreement, a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the management agreement.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Goods" means all material, equipment, supplies, and printing, including information technology and telecommunications goods such as automated data processing hardware and software.

"Rules" means the Rules Governing Procurement of Goods, Services, Insurance, and Construction attached to this policy as Attachment I.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials or the rental of equipment, materials, and supplies. "Services" includes both professional services, which include the practice of accounting, actuarial services, law, dentistry, medicine, optometry, and pharmacy, and nonprofessional services, which include any service not specifically identified as professional services.

"Surplus materials" means personal property including, but not limited to, materials, supplies, equipment, and recyclable items, that are determined to be surplus by the University.

"University" means James Madison University.

**III. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.**

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

**IV. GENERAL PROVISIONS.**

A. Adoption of This Policy and Continued Applicability of Other Board of Visitors Procurement Policies.

The University has had decentralization and pilot program autonomy in many procurement functions and activities since the 1994 Appropriation Act. The Act extends and reinforces the autonomy previously granted to the University in Item 330 E of the 1994 Appropriation Act. This policy therefore is adopted by the board of visitors to enable the University to develop a procurement system, as well as a surplus materials disposition system. Any University electronic procurement system shall integrate or interface with the Commonwealth's electronic procurement system.

This policy shall be effective on the effective date. The policies and procedures adopted by the President of the University to implement this policy shall continue to be subject to any other policies adopted by the board of visitors

affecting procurements at the University, including policies regarding the nature and amounts of procurements that may be undertaken without the approval of the board of visitors or the President of the University.

*B. Scope and Purpose of University Procurement Policies.*

This policy shall apply to procurements of goods, services, insurance, and construction. It shall be the policy of the University that procurements conducted by the University result in the purchase of high quality goods and services at reasonable prices, and that the University be free, to the maximum extent permitted by law and this policy, from constraining policies that hinder the ability of the University to do business in a competitive environment. This policy, together with the rules, shall apply to all procurements undertaken by the University, regardless of the source of funds.

*C. Collaboration, Communication, and Cooperation with the Commonwealth.*

The University is committed to developing, maintaining, and sustaining collaboration, communication, and cooperation with the Commonwealth regarding the matters addressed in this policy, particularly with the Secretary of Administration, the Department of General Services, and the Virginia Information Technologies Agency. Identifying business objectives and goals common to both the University and the Commonwealth and the mechanisms by which such objectives and goals may be jointly pursued and achieved are among the desired outcomes of such collaboration, communication, and cooperation.

*D. Commitment to Statewide Contracts, Electronic Procurement, and SWAM Participation and Use.*

The University is committed to maximizing its internal operational efficiencies, economies of scale among institutions of higher education, and the leveraged buying power of the Commonwealth as a whole.

Consistent with this commitment, the University:

1. May purchase from and participate in all statewide contracts for goods and services, including information technology goods and services, except that the University shall purchase from and participate in contracts for communications services and telecommunications facilities entered into by the Virginia Information Technologies Agency pursuant to § 2.2-2011 of the Code of Virginia unless an exception is provided in the general appropriation act or by other law, and provided that orders not placed through statewide contracts shall be processed directly or by integration or interface through the Commonwealth's electronic procurement system;

2. Shall use directly or by integration or interface the Commonwealth's electronic procurement system; and

3. Shall adopt a small, woman-owned, and minority-owned (SWAM) business program that is consistent with the Commonwealth's SWAM program.

*E. Implementation.*

To effect its implementation under the Act, and if the University remains in continued substantial compliance with the terms and conditions of this management agreement with the Commonwealth pursuant to the requirements of the Act, the University's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia, except § 2.2-4342 and §§ 2.2-4367 through 2.2-4377 of such chapter; the oversight of the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia; the state agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials in §§ 2.2-1124 and 2.2-1125 of the Code of Virginia; the requirement to purchase from the Department for the Blind and Vision Impaired pursuant to § 2.2-1117 of the Code of Virginia; and any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including but not limited to Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia, regarding the review and the oversight by the Division of Engineering and Buildings of the Virginia Department of General Services of contracts for the construction of University capital projects and construction-related professional services as set forth in § 2.2-1132 of such article.

**V. UNIVERSITY PROCUREMENT POLICIES.**

*A. General Competitive Principles.*

In connection with University procurements and the processes leading to award of contracts for goods, services, insurance, and construction, the University is committed to:

1. Seeking competition to the maximum practical degree, taking into account the size of the anticipated procurement, the term of the resulting contract, and the likely extent of competition;

2. Conducting all procurements in an open, fair, and impartial manner and avoiding any impropriety or the appearance of any impropriety;

3. Making procurement rules clear in advance of any competition;

4. Providing access to the University's business to all qualified vendors, firms, and contractors, with no potential bidder or offeror excluded arbitrarily or capriciously, while allowing the flexibility to engage in cooperative procurements and to meet special needs of the University;

5. Ensuring that specifications for purchases are fairly drawn so as not to favor unduly a particular vendor; and

6. Providing for the free exchange of information between the University, vendors, firms, or contractors concerning the goods or services sought and offered while preserving the confidentiality of proprietary information.

*B. Access to Records.*

*Procurement records shall be available to citizens or to interested persons, firms, or corporations in accordance with the provisions of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, except those records exempt from disclosure pursuant to subdivisions 7 and 12 of § 2.2-3705.1, subdivision 4 of § 2.2-3705.4, or other applicable exemptions of the Virginia Freedom of Information Act, and § 2.2-4342 of the Virginia Public Procurement Act, Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia.*

*C. Cooperative Procurements and Alliances.*

*In circumstances where the University determines and documents that statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to the University that meet its business goals and objectives, the University is authorized to participate in cooperative procurements with other public or private organizations or entities, including other educational institutions, public-private partnerships, public bodies, charitable organizations, health care provider alliances, and purchasing organizations, so long as the resulting contracts are procured competitively pursuant to subsections A through J of § 5 of the rules and the purposes of this policy are furthered. In the event the University engages in a cooperative contract with a private organization or public-private partnership and the contract was not competitively procured pursuant to subsections A through J of § 5 of the rules, use of the contract by other state agencies, institutions, and public bodies shall be prohibited. Notwithstanding all of the provisions of this subsection above, use of cooperative contracts shall conform to the business requirements of the Commonwealth's electronic procurement system, including the requirement for payment of applicable fees. By October 1 of each year, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall make available to the Secretary of Administration, the Joint Legislative Audit and Review Commission, and the Auditor of Public Accounts a list of all cooperative contracts and alliances entered into or used during the prior fiscal year.*

*D. Training; Ethics in Contracting.*

*The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall take all necessary and reasonable steps to assure (i) that all University officials responsible for and engaged in procurements authorized by the Act and this policy are knowledgeable regarding the requirements of the Act, this policy, and the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, (ii) that only officials authorized by this policy and any procedures adopted by the President of the University to implement this policy are responsible for and engaged in such procurements, and (iii) that compliance with the Act and this policy are achieved.*

*The University shall maintain an ongoing program to provide professional development opportunities to its buying staff and to provide methods training to internal staff who are engaged in placing decentralized small purchase transactions.*

*E. Ethics and University Procurements.*

*In implementing the authority conferred by this policy, the personnel administering any procurement shall adhere to the following provisions of the Code of Virginia: the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia, and the Virginia Governmental Frauds Act, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2 of the Code of Virginia.*

**VI. UNIVERSITY SURPLUS MATERIALS POLICY AND PROCEDURES.**

*The policy and procedures for disposal for surplus materials shall provide for the sale, environmentally appropriate disposal, or recycling of surplus materials by the University and the retention of the resulting proceeds by the University.*

**VII. ADOPTION AND EFFECTIVE DATES OF RULES AND IMPLEMENTING POLICIES AND PROCEDURES.**

*A. The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall adopt one or more comprehensive sets of specific procurement policies and procedures for the University, which, in addition to the rules, implement applicable provisions of law and this policy. The University procurements shall be carried out in accordance with this policy, the rules, and any implementing policies and procedures adopted by the University. The implementing policies and procedures adopted by the University (i) shall include the delegation of procurement authority by the board to appropriate University officials who shall oversee University procurements of goods, services, insurance, and construction, including a grant of authority to such officials to engage in further delegation of authority as the President of the University deems appropriate, and (ii) shall remain consistent with the competitive principles set forth in Section V of this policy.*

*B. Any implementing policies and procedures adopted pursuant to subsection A and the rules shall become effective on the effective date and, as of such date, shall be applicable to all procurements undertaken by the University on behalf of the University for goods, services, insurance, and construction. This policy, the rules, and any implementing policies and procedures adopted by the University shall not affect existing contracts already in effect.*

*C. The rules and the University implementing policies and procedures for all University procurements of goods, services, insurance, and construction and the disposition of surplus property shall be substantially consistent with the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors in their form as of the effective date and as amended or changed in the future, and with the University procedures specific to the acquisition of goods and services. The rules and the University implementing policies and procedures shall implement a system of*

competitive negotiation, and competitive sealed bidding when appropriate, for goods, services, including professional services, as defined in the rules, insurance, and construction.

#### VIII. REQUIREMENTS FOR RULES AND IMPLEMENTING POLICIES AND PROCEDURES.

##### A. Protests, Appeals, and Debarment.

The rules and the University implementing policies and procedures for procurements other than capital outlay shall include a process or processes for an administrative appeal by vendors, firms, or contractors. Protests and appeals may challenge determinations of vendor, firm, or contractor non-responsibility or ineligibility, or the award of contracts, provided that such protests and appeals are filed within the timeframes specified by the rules. Remedies available shall be limited to reversal of the action challenged or, where a contract already being performed is declared void, compensation for the cost of performance up to the time of such declaration. The rules and the University implementing policies and procedures also may establish the basis and process for debarment of any vendor, firm, or contractor.

##### B. Prompt Payment of Contractors and Subcontractors.

The rules and the University implementing policies and procedures shall include provisions related to prompt payment of outstanding invoices, which shall include payment of interest on properly-presented invoices outstanding more than seven days beyond the payment date, at a rate no higher than the lowest prime rate charged by any commercial bank as published in the Wall Street Journal. The payment date shall be the later of 30 days from the date of the receipt of goods or invoice, or the date established by the contract. All contracts also shall require prompt payment of subcontractors by the general contractor, upon receipt of payment by the University.

##### C. Types of Procurements.

The rules and the University implementing policies and procedures shall implement a system of competitive negotiation for professional services, as defined in the rules, and shall implement purchasing procedures developed to maximize competition given the size and duration of the contract and the needs of the University. Such policies and procedures may include special provisions for procurements, such as emergency procurements, sole source procurements, brand name procurements, small purchases, procurements in which only one qualified vendor responds, and others.

##### D. Approval and Public Notice of Procurements.

The rules and the University implementing policies and procedures shall provide for approval of solicitation documents by an authorized individual and for reasonable public notice of procurements, given the size and nature of the need and the applicability of any exemption in the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

##### E. Administration of Contracts.

The rules and the University implementing policies and procedures shall contain provisions related to the administration of contracts, including contract claims, modifications, extensions, and assignments.

##### F. Nondiscrimination.

The rules and the University implementing policies and procedures shall provide for a nondiscriminatory procurement process that prohibits discrimination because of the race, religion, color, sex, or national origin of the bidder or offeror in the solicitation and award of contracts and shall include appropriate provisions to effectuate fair and reasonable consideration of women-owned, minority-owned, and small businesses and to promote and encourage a diversity of suppliers.

#### ATTACHMENT 1

##### *Rules Governing Procurement of Goods, Services, Insurance, and Construction by a Public Institution of Higher Education of the Commonwealth of Virginia Governed by Article 4 of the*

##### *Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

In accordance with the provisions of the Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, and in particular § 23.1-1017 of the Act, the governing body of a public institution of higher education of the Commonwealth of Virginia that has entered into a management agreement with the Commonwealth pursuant to Article 4 of the Act has adopted the following rules to govern the procurement of goods, services, insurance, and construction by the Institution:

##### § 1. Purpose. -

The purpose of these rules is to enunciate the public policies pertaining to procurement of goods, services, insurance, and construction by the Institution from nongovernmental sources, to include governmental procurement that may or may not result in monetary consideration for either party. These rules shall apply whether the consideration is monetary or nonmonetary and regardless of whether the Institution, the contractor, or some third party is providing the consideration.

##### § 2. Scope of procurement authority. -

Subject to these rules, and the Institution's continued substantial compliance with the terms and conditions of its management agreement with the Commonwealth pursuant to the requirements—particularly Article 4—of the Act, the Institution shall have and shall be authorized to have and exercise all of the authority relating to procurement of goods, services, insurance, and construction, including but not limited to capital outlay-related procurement and information technology-related procurement, that Institutions are authorized to exercise pursuant to Article 4 of the Act.

##### § 3. Competition is the priority. -

*To the end that the Institution shall obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in an open, fair, and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to the Institution's business, and that no offeror be arbitrarily or capriciously excluded, it is the intent of the governing body of the Institution that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered. The Institution may consider best value concepts when procuring goods and nonprofessional services but not construction or professional services. Professional services will be procured using a qualification-based selection process. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.*

*§ 4. Definitions. -*

*As used in these rules:*

*"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.*

*"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition, "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.*

*"Best value" means the overall combination of quality, price, and various elements of required services that in total are optimal relative to the Institution's needs, as predetermined in the solicitation.*

*"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.*

*"Competitive negotiation" means a method of contractor selection that includes the following elements:*

*1. Issuance of a written request for proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor.*

*2. Public notice of the request for proposal at least 10 days prior to the date set for receipt of proposals by publication in a newspaper or newspapers of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice also shall be published on the Department of General Services' central electronic procurement website and may be published on other appropriate websites. In addition, proposals may be solicited directly from potential contractors.*

*3. a. Procurement of professional services. The procurement of professional services for capital projects shall be conducted using a qualification-based selection process. The Institution shall engage in individual discussions with two or more offerors deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the Institution may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the Institution shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the Institution can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Institution determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.*

*A contract for architectural or professional engineering services relating to construction projects may be negotiated by the Institution for multiple projects, provided (i) the projects require similar experience and expertise and (ii) the nature of the projects is clearly identified in the request for proposal. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall be as set in the request for proposal, and (c) the project fee of any single project shall not exceed the term limit as set in the request for proposal. Any unused amounts from any contract term may be carried forward.*

*Competitive negotiations for such contracts may result in awards to more than one offeror provided the request for proposal stated the potential for a multivendor award.*

*Multiphase professional services contracts satisfactory and advantageous to the Institution for environmental, location, design, and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the Institution shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of such Institution require awarding the contract.*

*b. Procurement of other than professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposal, including price if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the Institution shall select the offeror that, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the request for proposal, awards may be made to more than one offeror. Should the Institution determine in writing and in its sole discretion that only one offeror has made the best proposal, a contract may be negotiated and awarded to that offeror.*

*"Competitive sealed bidding" is a method of contractor selection, other than for professional services, that includes the following elements:*

*1. Issuance of a written invitation to bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the Institution has provided for prequalification of bidders, the invitation to bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an invitation to bid may be issued requesting the submission of unpriced offers to be followed by an invitation to bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.*

*2. Public notice of the invitation to bid at least 10 days prior to the date set for receipt of bids by publication on the Department of General Services' central electronic procurement website. Public notice also may be published in a newspaper of general circulation or on other appropriate websites, or both. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include businesses selected from a list made available by the Department of Minority Business Enterprise.*

*3. Public opening and announcement of all bids received.*

*4. Evaluation of bids based upon the requirements set forth in the invitation, that may include special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, that are helpful in determining acceptability.*

*5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the invitation to bid, awards may be made to more than one bidder.*

*"Construction" means building, altering, repairing, improving, or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading, or similar work upon real property.*

*"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.*

*"Covered institution" or "Institution" means, on and after the effective date of the initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.*

*"Design-build contract" means a contract between the Institution and another party in which the party contracting with the Institution agrees to both design and build the structure, roadway, or other item specified in the contract.*

*"Goods" means all material, equipment, supplies, and printing, including information technology and telecommunications goods such as automated data processing hardware and software.*

*"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, or the request for proposal, that does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured.*

*"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.*

*"Nonprofessional services" means any services not specifically identified as professional services in the definition of professional services and includes small construction projects valued not over \$1 million, provided that subdivision 3 a of the definition of "competitive negotiation" in this section shall still apply to professional services for such small construction projects.*

*"Potential bidder or offeror" for the purposes of §§ 50 and 54 of these rules, means a person who, at the time the Institution negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance, or construction, of the type to be procured under the contract, and who at such time is eligible and*

qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering.

"Public body" means any legislative, executive, or judicial body, agency, office, department, authority, post, commission, committee, institution, board, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in these rules.

"Public contract" means an agreement between the Institution and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the invitation to bid.

"Rules" means these Rules Governing Procurement of Goods, Services, Insurance, and Construction adopted by the governing body of the covered institution.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials, and supplies.

"Sheltered workshop" means a work-oriented rehabilitative facility with a controlled working environment and individual goals that utilizes work experience and related services for assisting the handicapped person to progress toward normal living and a productive vocational status.

§ 5. Methods of procurement. -

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

B. Professional services shall be procured by competitive negotiation. Qualification-based selection shall be used for design services.

C. Goods, services, or insurance may be procured by competitive negotiation.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the Institution and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

1. By the Institution on a fixed price design-build basis or construction management basis under § 7;

2. By the Institution for the construction, alteration, repair, renovation, or demolition of buildings; or

3. By the Institution for the construction of highways and any draining, dredging, excavation, grading, or similar work upon real property.

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The Institution shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area, which may be the Department of General Services' website for the Commonwealth's central electronic procurement system, or published in a newspaper of general circulation on the day the Institution awards or announces its decision to award the contract, whichever occurs first. Public notice shall also be published on the Department of General Services' website for the Commonwealth's central electronic procurement system and may be published on other appropriate websites.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The Institution shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area, which may be the Department of General Services' website for the Commonwealth's central electronic procurement system, or published in a newspaper of general circulation on the day the Institution awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Public notice may also be published on the Department of General Services' website for the Commonwealth's central electronic procurement system and other appropriate websites.

G. The Institution may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.

H. The Institution may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.

I. Upon a determination made in advance by the Institution and set forth in writing that the purchase of goods, products, or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination.

J. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning.

§ 6. Cooperative procurement. -

A. In circumstances where the Institution determines and documents that statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to the Institution that meet its business goals and objectives, the Institution is authorized to participate in, sponsor, conduct, or administer a cooperative procurement arrangement on behalf of or in conjunction with public bodies, public or private health or educational institutions, other public or private organizations or entities, including public-private partnerships, charitable organizations, health care provider alliances, or purchasing organizations or entities, or with public agencies or institutions or group purchasing organizations of the several states, territories of the United States, or the District of Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services. The Institution may purchase from any authority, department, agency, institution, city, county, town, or other political subdivision of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. In such instances, deviation from the procurement procedures set forth in these rules and the administrative policies and procedures established to implement these rules shall be permitted. Notwithstanding all of the provisions of this section above, use of cooperative contracts shall conform to the business requirements of the Commonwealth's electronic procurement system, including the requirement for payment of applicable fees. Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

B. In circumstances where statewide contracts for goods and services, including information technology and telecommunications goods and services, do not provide goods and services to meet the Institution's business goals and objectives, and as authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases:

1. The Institution may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the United States government; and

2. The Institution may purchase telecommunications and information technology goods and nonprofessional services from a United States General Services Administration contract or a contract awarded by any other agency of the United States government.

§ 7. Design-build or construction management contracts authorized. -

A. Notwithstanding any other provisions of law, the Institution may enter into contracts on a fixed price design-build basis or construction management basis in accordance with the provisions of this section.

B. Procurement of construction by the design-build or construction management method shall be a two-step competitive negotiation process. In the first step, offerors shall be requested to submit their qualifications. Based upon the information submitted and any other relevant information that the Commonwealth may obtain, no more than five offerors deemed most suitable for the project shall be selected by the Commonwealth and requested to submit proposals.

§ 8. Modification of the contract. -

A. A contract awarded by the Institution may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 25 percent of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the President of the Institution or his designee. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

B. The Institution may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

C. Nothing in this section shall prevent the Institution from placing greater restrictions on contract modifications.

§ 9. Discrimination prohibited; participation of small, women-owned, and minority-owned business. -

A. In the solicitation or awarding of contracts, the Institution shall not discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, the Institution shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

*B. The Institution shall establish programs consistent with this section to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions. The programs established shall be in writing and shall include cooperation with the Department of Minority Business Enterprise, the U.S. Small Business Administration, and other public or private agencies. The Institution shall submit annual progress reports on minority business procurement to the Department of Minority Business Enterprise.*

*C. Whenever there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is by law authorized and encouraged to require the Institution to implement appropriate enhancement or remedial measures consistent with prevailing law.*

*D. In the solicitation or awarding of contracts, the Institution shall not discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless it has made a written determination that employing ex-offenders on the specific contract is not in its best interest.*

*§ 10. Employment discrimination by contractor prohibited; required contract provisions. -*

*The Institution shall include in every contract of more than \$10,000 the following provisions:*

*1. During the performance of this contract, the contractor agrees as follows:*

*a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.*

*b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.*

*c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.*

*2. The contractor will include the provisions of subdivisions 1 a, b, and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.*

*§ 11. Drug-free workplace to be maintained by contractor; required contract provisions.*

*The Institution shall include in every contract over \$10,000 the following provisions:*

*During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.*

*For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with these rules, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of the contract.*

*§ 12. Use of brand names. -*

*Unless otherwise provided in the invitation to bid, the name of a certain brand, make, or manufacturer shall not restrict bidders to the specific brand, make, or manufacturer named and shall be deemed to convey the general style, type, character, and quality of the article desired. Any article that the Institution in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.*

*§ 13. Comments concerning specifications. -*

*The Institution shall establish procedures whereby comments concerning specifications or other provisions in invitations to bid or requests for proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.*

*§ 14. Prequalification generally; prequalification for construction. -*

*A. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedure shall be established in writing and sufficiently in advance of its implementation to allow potential contractors a fair opportunity to complete the process.*

*B. Any prequalification of prospective contractors for construction by the Institution shall be pursuant to a prequalification process for construction projects adopted by the Institution. The process shall be consistent with the provisions of this section.*

*The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the*

prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of subsection D of § 34 of these rules.

In all instances in which the Institution requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.

At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the Institution shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

A decision by the Institution denying prequalification under the provisions of this subsection shall be final and conclusive unless the contractor appeals the decision as provided in § 54 of these rules.

C. The Institution may deny prequalification to any contractor only if the Institution finds one of the following:

1. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the Institution shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

2. The contractor does not have appropriate experience to perform the construction project in question;

3. The contractor or any officer, director, or owner thereof has had judgments entered against him within the past 10 years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the Institution without good cause. If the Institution has not contracted with a contractor in any prior construction contracts, the Institution may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The Institution may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

5. The contractor or any officer, director, owner, project manager, procurement manager, or chief financial official thereof has been convicted within the past 10 years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia, (ii) the Virginia Governmental Frauds Act, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2 of the Code of Virginia, (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1 of the Code of Virginia, or (iv) any substantially similar law of the United States or another state;

6. The contractor or any officer, director, or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state, or agency of the federal government; and

7. The contractor failed to provide to the Institution in a timely manner any information requested by the Institution relevant to subdivisions 1 through 6 of this subsection.

§ 15. Negotiation with lowest responsible bidder. -

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, the Institution may negotiate with the apparent low bidder to obtain a contract price within available funds. However, the negotiation may be undertaken only under conditions and procedures described in writing and approved by the Institution prior to issuance of the invitation to bid and summarized therein.

§ 16. Cancellation, rejection of bids; waiver of informalities. -

A. An invitation to bid, a request for proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. The reasons for cancellation or rejection shall be made part of the contract file. The Institution shall not cancel or reject an invitation to bid, a request for proposal, or any other solicitation, bid, or proposal pursuant to this section solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

B. The Institution may waive informalities in bids.

§ 17. Exclusion of insurance bids prohibited. -

Notwithstanding any other provision of law, no insurer licensed to transact the business of insurance in the Commonwealth or approved to issue surplus lines insurance in the Commonwealth shall be excluded from presenting an insurance bid proposal to the Institution in response to a request for proposal or an invitation to bid. Nothing in this section shall preclude the Institution from debarring a prospective insurer pursuant to § 18 of these rules.

§ 18. Debarment. -

Prospective contractors may be debarred from contracting for particular types of supplies, services, insurance, or construction, for specified periods of time. Any debarment procedure shall be established in writing by the Institution. Any

debarment procedure may provide for debarment on the basis of a contractor's unsatisfactory performance for the Institution.

§ 19. Purchase programs for recycled goods; Institution responsibilities. -

A. The Institution may implement a purchase program for recycled goods and may coordinate its efforts so as to achieve the goals and objectives set forth in §§ 10.1-1425.6, 10.1-1425.7, and 10.1-1425.8 of the Code of Virginia and §§ 20 and 22 of these rules.

B. The Department of Environmental Quality, with advice from the Virginia Recycling Markets Development Council, shall advise the Institution concerning the designation of recycled goods.

§ 20. Preference for Virginia products with recycled content and for Virginia firms. -

A. In the case of a tie bid, preference shall be given to goods produced in Virginia or goods, services, or construction provided by Virginia persons, firms, or corporations; otherwise the tie shall be decided by lot.

B. Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed by the Institution to the lowest responsive and responsible bidder who is a resident of Virginia.

C. Notwithstanding the provisions of subsections A and B, in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content.

§ 21. Preference for Virginia coal used in the Institution. -

In determining the award of any contract for coal to be purchased for use in the Institution with state funds, the Institution shall procure using competitive sealed bidding and shall award to the lowest responsive and responsible bidder offering coal mined in Virginia so long as its bid price is not more than four percent greater than the bid price of the low responsive and responsible bidder offering coal mined elsewhere.

§ 22. Preference for recycled paper and paper products used by the Institution. -

A. In determining the award of any contract for paper and paper products to be purchased for use by the Institution, it shall competitively procure recycled paper and paper products of a quality suitable for the purpose intended, so long as the price is not more than 10 percent greater than the price of the low responsive and responsible bidder or offeror offering a product that does not qualify under subsection B.

B. For purposes of this section, recycled paper and paper products means any paper or paper products meeting the U.S. Environmental Protection Agency-recommended content standards as defined in 40 C.F.R. Part 247.

§ 23. Withdrawal of bid due to error. -

A. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.

If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, which was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.

One of the following procedures for withdrawal of a bid shall be selected by the Institution and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice or (ii) the bidder shall submit to the Institution or designated official his original work papers, documents, and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the opening of bids. In either instance, the work papers, documents, and materials may be considered as trade secrets or proprietary information subject to the conditions of subsection F of § 34 of these rules. The bids shall be opened one day following the time fixed by the Institution for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The contract shall not be awarded by the Institution until the two-hour period has elapsed. The mistake shall be proved only from the original work papers, documents, and materials delivered as required herein.

B. The Institution may establish procedures for the withdrawal of bids for other than construction contracts.

C. No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

D. If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.

E. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

*F. If the Institution denies the withdrawal of a bid under the provisions of this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.*

*§ 24. Contract Pricing Arrangements. -*

*A. Public contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited by these rules.*

*B. Except in case of emergency affecting the public health, safety, or welfare, no public contract shall be awarded on the basis of cost plus a percentage of cost.*

*C. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section.*

*§ 25. Workers' compensation requirements for construction contractors and subcontractors. -*

*A. No contractor shall perform any work on a construction project of the Institution unless he (i) has obtained, and continues to maintain for the duration of the work, workers' compensation coverage required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2 of the Code of Virginia and (ii) provides prior to the award of contract, on a form furnished by the Institution, evidence of such coverage.*

*B. The Department of General Services shall provide the workers' compensation coverage form to the Institution. Failure of the Institution to provide the form prior to the award of contract shall waive the requirements of clause (ii) of subsection A.*

*C. No subcontractor shall perform any work on a construction project of the Institution unless he has obtained, and continues to maintain for the duration of such work, workers' compensation coverage required pursuant to the provisions of Chapter 8 (§ 65.2-800 et seq.) of Title 65.2 of the Code of Virginia.*

*§ 26. Retainage on construction contracts. -*

*A. In any contract issued by the Institution for construction that provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with no more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.*

*B. Any subcontract for a public project that provides for similar progress payments shall be subject to the provisions of this section.*

*§ 27. Public construction contract provisions barring damages for unreasonable delays declared void. -*

*A. Any provision contained in any public construction contract of the Institution that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent the delay is caused by acts or omissions of the Institution, its agents, or employees and due to causes within their control, shall be void and unenforceable as against public policy.*

*B. Subsection A shall not be construed to render void any provision of a public construction contract awarded by the Institution that:*

*1. Allows the recovery of that portion of delay costs caused by the acts or omissions of the contractor or its subcontractors, agents, or employees;*

*2. Requires notice of any delay by the party claiming the delay;*

*3. Provides for liquidated damages for delay; or*

*4. Provides for arbitration or any other procedure designed to settle contract disputes.*

*C. A contractor making a claim against the Institution for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract of the Institution shall be liable to the Institution and shall pay it for a percentage of all costs incurred by the Institution in investigating, analyzing, negotiating, litigating, and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim that is determined through litigation or arbitration to be false or to have no basis in law or in fact.*

*D. If the Institution denies a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract for the Institution, it shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the Institution shall be equal to the percentage of the contractor's total delay claim for which the Institution's denial is determined through litigation or arbitration to have been made in bad faith.*

*§ 28. Bid bonds. -*

*A. Except in cases of emergency, all bids or proposals for construction contracts in excess of \$1 million shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that if the contract is awarded to the bidder, he will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.*

*B. No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid or (ii) the face amount of the bid bond.*

*C. Nothing in this section shall preclude the Institution from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$1 million.*

§ 29. Performance and payment bonds. -

A. Upon the award by the Institution of any (i) public construction contract exceeding \$1 million awarded to any prime contractor or (ii) public construction contract exceeding \$1 million awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures, or other improvements to real property owned by the Institution, the contractor shall furnish to the Institution the following bonds:

1. Except for transportation-related projects, a performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications, and conditions of the contract. For transportation-related projects, such bond shall be in a form and amount satisfactory to the Institution.

2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work.

For the purposes of this subsection, "labor or materials" include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

B. Each of the bonds shall be executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia.

C. The bonds shall be payable to the Commonwealth of Virginia, naming also the Institution.

D. Each of the bonds shall be filed with the Institution or a designated office or official thereof.

E. Nothing in this section shall preclude the Institution from requiring payment or performance bonds for construction contracts below \$1 million.

F. Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

§ 30. Alternative forms of security. -

A. In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

B. If approved by the Institution's general counsel or his equivalent, a bidder may furnish to the Institution a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the Institution equivalent to a corporate surety's bond.

§ 31. Bonds on other than construction contracts. -

The Institution may require bid, payment, or performance bonds for contracts for goods or services if provided in the invitation to bid or request for proposal.

§ 32. Action on performance bond. -

No action against the surety on a performance bond shall be brought by the Institution unless brought within one year after (i) completion of the contract, including the expiration of all warranties and guarantees or (ii) discovery of the defect or breach of warranty that gave rise to the action.

§ 33. Actions on payment bonds; waiver of right to sue. -

A. Subject to the provisions of subsection B, any claimant who has performed labor or furnished material in accordance with the contract documents in furtherance of the work provided in any contract for which a payment bond has been given, and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, may bring an action on the payment bond to recover any amount due him for the labor or material. The obligee named in the bond need not be named a party to the action.

B. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this subsection.

C. Any action on a payment bond shall be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

D. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

§ 34. Public inspection of certain records. -

A. Except as provided in this section, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm, or corporation, in

accordance with the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

B. Cost estimates relating to a proposed procurement transaction prepared by or for the Institution shall not be open to public inspection.

C. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the Institution decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

D. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the Institution decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.

E. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

F. Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 14 of these rules shall not be subject to the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia; however, the bidder, offeror, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

§ 35. Exemption for certain transactions. -

A. The provisions of these rules shall not apply to:

1. The selection of services related to the management and investment of the Institution's endowment funds, endowment income, or gifts. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2 of the Code of Virginia.

2. The purchase of items for resale at retail bookstores and similar retail outlets operated by the Institution. However, such purchase procedures shall provide for competition where practicable.

3. Procurement of any construction or planning and design services for construction by the Institution when (i) the planning, design, or construction is \$50,000 or less or (ii) the Institution is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether or not those federal procedures are in conformance with the provisions of these rules.

4. The purchase of goods and services by the Institution when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 9 of these rules.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of these rules, the Institution may comply with such federal requirements, notwithstanding the provisions of these rules, only upon the written determination of the President of the Institution or his designee that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of these rules in conflict with the conditions of the grant or contract.

§ 36. Permitted contracts with certain religious organizations; purpose; limitations. -

A. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, authorizes public bodies to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization, and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

B. For the purposes of this section, "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

C. The Institution, in procuring goods or services, or in making disbursements pursuant to this section, shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F, or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

D. The Institution shall ensure that all invitations to bid, requests for proposals, contracts, and purchase orders prominently display a nondiscrimination statement indicating that it does not discriminate against faith-based organizations.

E. A faith-based organization contracting with the Institution (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender, or national origin and (ii) shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the Institution. Nothing in clause (ii) shall be construed to supersede or otherwise override any other applicable state law.

F. Consistent with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, funds provided for expenditure pursuant to contracts with public bodies shall not be spent for sectarian worship, instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

G. Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 U.S.C. § 2000e-1 et seq., to employ persons of a particular religion.

H. If an individual, who applies for or receives goods, services, or disbursements provided pursuant to a contract between the Institution and a faith-based organization, objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the Institution shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

The Institution shall provide to each individual who applies for or receives goods, services, or disbursements provided pursuant to a contract between the Institution and a faith-based organization a notice in boldface type that states: "Neither the Institution's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form."

§ 37. Exemptions from competition for certain transactions. -

The Institution may enter into contracts without competition, as that term is described in subsections A through J of § 5 of these rules, for:

1. The purchase of goods or services that are produced or performed by or related to:

a. Persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Vision Impaired;

b. Nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped;

c. Private educational institutions; or

d. Other public educational institutions.

2. Speakers and performing artists;

3. Memberships and association dues;

4. Sponsored research grant sub-awards and contract sub-awards, not to include the purchase of goods or services by the Institution;

5. Group travel in foreign countries;

6. Conference facilities and services;

7. Participation in intercollegiate athletic tournaments and events including team travel and lodging, registration, and tournament fees;

8. Royalties; or

9. The purchase of legal services, provided that the Office of the Attorney General has been consulted, or expert witnesses or other services associated with litigation or regulatory proceedings.

§ 38. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations. -

The Institution may enter into contracts for insurance or electric utility service without competitive sealed bidding or competitive negotiation if purchased through an association of which the Institution is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the Institution has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

§ 39. Definitions. -

As used in §§ 39 through 46 of these rules, unless the context requires a different meaning:

"Contractor" means the entity that has a direct contract with the Institution.

"Debtor" means any individual, business, or group having a delinquent debt or account with any state agency that obligation has not been satisfied or set aside by court order or discharged in bankruptcy.

"Payment date" means either (i) the date on which payment is due under the terms of a contract for provision of goods or services or (ii) if such date has not been established by contract, (a) 30 days after receipt of a proper invoice by the Institution or its agent or (b) 30 days after receipt of the goods or services by the Institution.

"Subcontractor" means any entity that has a contract to supply labor or materials to the contractor to whom the contract was awarded or to any subcontractor in the performance of the work provided for in such contract.

§ 40. Exemptions. -

The provisions of §§ 39 through 46 of these rules shall not apply to the late payment provisions contained in any public utility tariffs prescribed by the State Corporation Commission.

§ 41. Retainage to remain valid. -

Notwithstanding the provisions of §§ 39 through 46 of these rules, the provisions of § 26 of these rules relating to retainage shall remain valid.

§ 42. Prompt payment of bills by the Institution. -

A. The Institution shall promptly pay for the completely delivered goods or services by the required payment date.

Payment shall be deemed to have been made when offset proceedings have been instituted, as authorized under the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia.

B. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial deliveries or executions to the extent that such contract provides for separate payment for such partial delivery or execution.

§ 43. Defect or impropriety in the invoice or goods and/or services received. -

In instances where there is a defect or impropriety in an invoice or in the goods or services received, the Institution shall notify the supplier of the defect or impropriety, if the defect or impropriety would prevent payment by the payment date. The notice shall be sent within 15 days after receipt of the invoice or the goods or services.

§ 44. Date of postmark deemed to be date payment is made. -

In those cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made for purposes of these rules.

§ 45. Payment clauses to be included in contracts. -

Any contract awarded by the Institution shall include:

1. A payment clause that obligates the contractor to take one of the two following actions within seven days after receipt of amounts paid to the contractor by the Institution for work performed by the subcontractor under that contract:

a. Pay the subcontractor for the proportionate share of the total payment received from the Institution attributable to the work performed by the subcontractor under that contract; or

b. Notify the Institution and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

2. A payment clause that requires (i) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

3. An interest clause that obligates the contractor to pay interest to the subcontractor on all amounts owed by the contractor that remain unpaid after seven days following receipt by the contractor of payment from the Institution for work performed by the subcontractor under that contract, except for amounts withheld as allowed in subdivision 1.

4. An interest rate clause stating, "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of 1% per month."

Any such contract awarded shall further require the contractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

A contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the Institution. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

§ 46. Interest penalty; exceptions. -

A. Interest shall accrue, at the rate determined pursuant to subsection B, on all amounts owed by the Institution to a vendor that remain unpaid after seven days following the payment date. However, nothing in this section shall affect any contract providing for a different rate of interest, or for the payment of interest in a different manner.

B. The rate of interest charged the Institution pursuant to subsection A shall be the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the publication entitled *The Wall Street Journal*. Whenever a split prime rate is published, the lower of the two rates shall be used. However, in no event shall the rate of interest charged exceed the rate of interest established pursuant to § 58.1-1812 of the Code of Virginia.

C. Notwithstanding subsection A, no interest penalty shall be charged when payment is delayed because of disagreement between the Institution and a vendor regarding the quantity, quality, or time of delivery of goods or services or the accuracy of any invoice received for the goods or services. The exception from the interest penalty provided by this subsection shall apply only to that portion of a delayed payment that is actually the subject of the disagreement and shall apply only for the duration of the disagreement.

D. This section shall not apply to § 26 of these rules pertaining to retainage on construction contracts, during the period of time prior to the date the final payment is due. Nothing contained herein shall prevent a contractor from receiving interest on such funds under an approved escrow agreement.

E. Notwithstanding subsection A, no interest penalty shall be paid to any debtor on any payment, or portion thereof, withheld pursuant to the Comptroller's Debt Setoff Program, as authorized by the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia, commencing with the date the payment is withheld. If, as a result of

*an error, a payment or portion thereof is withheld, and it is determined that at the time of setoff no debt was owed to the Commonwealth, then interest shall accrue at the rate determined pursuant to subsection B on amounts withheld that remain unpaid after seven days following the payment date.*

*§ 47. Ineligibility. -*

*A. Any bidder, offeror, or contractor refused permission to participate, or disqualified from participation, in public contracts to be issued by the Institution shall be notified in writing. Prior to the issuance of a written determination of disqualification or ineligibility, the Institution shall (i) notify the bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.*

*Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Institution shall issue its written determination of disqualification or ineligibility based on all information in the possession of the Institution, including any rebuttal information, within five business days of the date the Institution received such rebuttal information.*

*If the evaluation reveals that the bidder, offeror, or contractor should be allowed permission to participate in the public contract, the Institution shall cancel the proposed disqualification action. If the evaluation reveals that the bidder should be refused permission to participate, or disqualified from participation, in the public contract, the Institution shall so notify the bidder, offeror, or contractor. The notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.*

*B. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Constitution of Virginia or applicable state law or regulations, the sole relief shall be restoration of eligibility.*

*§ 48. Appeal of denial of withdrawal of bid. -*

*A. A decision denying withdrawal of bid under the provisions of § 23 of these rules shall be final and conclusive unless the bidder appeals the decision within 10 days after receipt of the decision by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.*

*B. If no bid bond was posted, a bidder refused withdrawal of a bid under the provisions of § 23 of these rules, prior to appealing, shall deliver to the Institution a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.*

*C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, the sole relief shall be withdrawal of the bid.*

*§ 49. Determination of nonresponsibility. -*

*A. Following public opening and announcement of bids received on an invitation to bid, the Institution shall evaluate the bids in accordance with element 4 of the definition of "Competitive sealed bidding" in § 4 of these rules. At the same time, the Institution shall determine whether the apparent low bidder is responsible. If the Institution so determines, then it may proceed with an award in accordance with element 5 of the definition of "competitive sealed bidding" in § 4 of these rules. If the Institution determines that the apparent low bidder is not responsible, it shall proceed as follows:*

*1. Prior to the issuance of a written determination of nonresponsibility, the Institution shall (i) notify the apparent low bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the apparent low bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.*

*2. Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The Institution shall issue its written determination of responsibility based on all information in the possession of the Institution, including any rebuttal information, within five business days of the date the Institution received the rebuttal information. At the same time, the Institution shall notify, with return receipt requested, the bidder in writing of its determination.*

*3. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.*

*The provisions of this subsection shall not apply to procurements involving the prequalification of bidders and the rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.*

*B. If, upon appeal pursuant to § 54 or 55 of these rules, it is determined that the decision of the Institution was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid, and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question or directed award as provided in subsection A of § 54 of these rules, or both.*

*If it is determined that the decision of the Institution was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or*

conditions of the invitation to bid, and an award of the contract has been made, the relief shall be as set forth in subsection B of § 54 of these rules.

C. A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section, and may not protest the award or proposed award under the provisions of § 50 of these rules.

D. Nothing contained in this section shall be construed to require the Institution, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

§ 50. Protest of award or decision to award. -

A. Any bidder or offeror who desires to protest the award or decision to award a contract shall submit the protest in writing to the Institution, or an official designated by the Institution, no later than 10 days after the award or the announcement of the decision to award, whichever occurs first.

Public notice of the award or the announcement of the decision to award shall be given by the Institution in the manner prescribed in the terms or conditions of the invitation to bid or request for proposal. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit the protest in the same manner no later than 10 days after posting or publication of the notice of such contract as provided in § 5 of these rules. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction that are subject to inspection under § 34 of these rules, then the time within which the protest shall be submitted shall expire 10 days after those records are available for inspection by such bidder or offeror under § 34 of these rules, or at such later time as provided in this section. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The Institution or designated official shall issue a decision in writing within 10 days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within 10 days of receipt of the written decision by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules. Nothing in this subsection shall be construed to permit a bidder to challenge the validity of the terms or conditions of the invitation to bid or request for proposal. The use of Alternative Dispute Resolution (ADR) shall constitute an administrative appeal procedure meeting the standards of § 55 of these rules.

B. If prior to an award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The Institution shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided.

Where the award has been made but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the Institution may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

C. Where the Institution, an official designated by it, or an appeals board determines, after a hearing held following reasonable notice to all bidders, that there is probable cause to believe that a decision to award was based on fraud or corruption or on an act in violation of these rules, the Institution, designated official, or appeals board may enjoin the award of the contract to a particular bidder.

§ 51. Effect of appeal upon contract. -

Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with these rules shall not be affected by the fact that a protest or appeal has been filed.

§ 52. Stay of award during protest. -

An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest as provided in § 50 of these rules, or the filing of a timely legal action as provided in § 54 of these rules, no further action to award the contract shall be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

§ 53. Contractual disputes. -

A. Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment. However, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

B. The Institution shall include in its contracts a procedure for consideration of contractual claims. Such procedure, which may be contained in the contract or may be specifically incorporated into the contract by reference and made available to the contractor, shall establish a time limit for a final decision in writing by the Institution. If the Institution has established administrative procedures meeting the standards of § 55 of these rules, such procedures shall be contained in the contract or specifically incorporated in the contract by reference and made available to the contractor. The Institution may require the submission of contractual claims pursuant to any contract to Alternative Dispute Resolution (ADR) as an administrative procedure.

C. A contractor may not invoke administrative procedures meeting the standards of § 55 of these rules, if available, or institute legal action as provided in § 54 of these rules, prior to receipt of the Institution's decision on the claim, unless the Institution fails to render such decision within the time specified in the contract.

D. The decision of the Institution shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by the Institution by invoking administrative procedures meeting the standards of § 55 of these rules, if available, or in the alternative by instituting legal action as provided in § 54 of these rules.

§ 54. Legal actions. -

A. A bidder or offeror, actual or prospective, who is refused permission or disqualified from participation in bidding or competitive negotiation, or who is determined not to be a responsible bidder or offeror for a particular contract, may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the petitioner establishes that the decision was not (i) an honest exercise of discretion, but rather was arbitrary or capricious; (ii) in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the invitation to bid; or (iii) in the case of denial of prequalification, based upon the criteria for denial of prequalification set forth in subsection B of § 14 of these rules. In the event the apparent low bidder, having been previously determined by the Institution to be not responsible in accordance with § 4 of these rules, is found by the court to be a responsible bidder, the court may direct the Institution to award the contract to such bidder in accordance with the requirements of this section and the invitation to bid.

B. A bidder denied withdrawal of a bid under § 23 of these rules may bring an action in the appropriate circuit court challenging that decision, which shall be reversed only if the bidder establishes that the decision of the Institution was not (i) an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms or conditions of the invitation to bid.

C. A bidder, offeror, or contractor, or a potential bidder, or offeror on a contract negotiated on a sole source or emergency basis in the manner provided in § 5 of these rules, whose protest of an award or decision to award under § 50 of these rules is denied, may bring an action in the appropriate circuit court challenging a proposed award or the award of a contract, which shall be reversed only if the petitioner establishes that the proposed award or the award is not (i) an honest exercise of discretion, but rather is arbitrary or capricious, or (ii) in accordance with the Constitution of Virginia, applicable state law or regulations, or the terms and conditions of the invitation to bid or request for proposal.

D. If injunctive relief is granted, the court, upon request of the Institution, shall require the posting of reasonable security to protect the Institution.

E. A contractor may bring an action involving a contract dispute with the Institution in the appropriate circuit court. Notwithstanding any other provision of law, the Comptroller shall not be named as a defendant in any action brought pursuant to these rules or § 33.1-387 of the Code of Virginia, except for disputes involving contracts of the Office of the Comptroller or the Department of Accounts.

F. A bidder, offeror, or contractor need not utilize administrative procedures meeting the standards of § 55 of these rules, if available, but if those procedures are invoked by the bidder, offeror, or contractor, the procedures shall be exhausted prior to instituting legal action concerning the same procurement transaction unless the Institution agrees otherwise.

G. Nothing herein shall be construed to prevent the Institution from instituting legal action against a contractor.

§ 55. Administrative appeals procedure. -

A. The Institution may establish an administrative procedure for hearing (i) protests of a decision to award or an award, (ii) appeals from refusals to allow withdrawal of bids, (iii) appeals from disqualifications and determinations of nonresponsibility, (iv) appeals from decisions on disputes arising during the performance of a contract, or (v) any of these. Such administrative procedure may include the use of Alternative Dispute Resolution (ADR) or shall provide for a hearing before a disinterested person or panel, the opportunity to present pertinent information and the issuance of a written decision containing findings of fact. The disinterested person or panel shall not be an employee of the governmental entity against whom the claim has been filed. The findings of fact shall be final and conclusive and shall not be set aside unless the same are (a) fraudulent, arbitrary, or capricious; (b) so grossly erroneous as to imply bad faith; or (c) in the case of denial of prequalification, the findings were not based upon the criteria for denial of prequalification set forth in subsection B of § 14 of these rules. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner. The Institution may seek advice and input from the Alternative Dispute Resolution Council in establishing an ADR procedure.

B. Any party to the administrative procedure, including the Institution, shall be entitled to institute judicial review if such action is brought within 30 days of receipt of the written decision.

§ 56. Alternative dispute resolution. -

The Institution may enter into agreements to submit disputes arising from contracts entered into pursuant to these rules to arbitration and utilize mediation and other alternative dispute resolution procedures. However, such procedures shall be nonbinding and subject to § 2.2-514 of the Code of Virginia, as applicable.

§ 57. Ethics in public contracting. -

The Institution and its governing body, officers, and employees shall be governed by the Ethics in Public Contracting provisions of the Virginia Public Procurement Act, Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 of the Code of Virginia.

## EXHIBIT E

MANAGEMENT AGREEMENT  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
JAMES MADISON UNIVERSITY  
PURSUANT TO  
THE RESTRUCTURED HIGHER EDUCATION  
FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT

POLICY GOVERNING  
HUMAN RESOURCES FOR  
PARTICIPATING COVERED EMPLOYEES  
AND OTHER UNIVERSITY EMPLOYEES

THE RECTOR AND BOARD OF VISITORS  
OF JAMES MADISON UNIVERSITY IN VIRGINIA  
POLICY GOVERNING  
HUMAN RESOURCES FOR  
PARTICIPATING COVERED EMPLOYEES  
AND OTHER UNIVERSITY EMPLOYEES

## I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, establishes a process for the restructuring of institutions of higher education of the Commonwealth of Virginia and provides that upon becoming a covered institution, the University shall have responsibility and accountability for human resources management for all University employees, defined in the Act as "covered employees," who pursuant to subsection A of § 23.1-1020 of the Act shall continue to be "state employee[s]". Specifically, the Act provides that, as of the effective date of its initial management agreement with the Commonwealth, all classified employees shall continue to be covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and shall be subject to the policies and procedures prescribed by the Virginia Department of Human Resource Management, provided that they may subsequently elect to become participating covered employees. All participating covered employees shall: (i) be exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia; (ii) remain subject to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, provided they were subject to the state grievance procedure prior to that effective date; (iii) participate in a compensation plan that is subject to the review and approval of the board of visitors; and (iv) be hired pursuant to procedures that are based on merit and fitness and may, subject to certain specified conditions, continue to participate in either state-sponsored or University-sponsored benefit plans as described by the management agreement.

The provisions of this policy are adopted by the board of visitors to implement the governing law and constitute the human resources policies to be included in any human resources system adopted by the University for its employees.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

## II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Classified employees" means employees who are covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and the policies and procedures established by the Virginia Department of Human Resource Management and who are not participating covered employees.

"Covered employee" or "University employee" means any person who is employed by the University on either a salaried or nonsalaried (wage) basis.

"Covered institution" means, on and after the effective date of its initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the initial management agreement between the University and the Commonwealth.

"Employee" means covered employee unless the context clearly indicates otherwise.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Governing law" means the Act and the University's enabling statutes.

"Management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"Participating covered employee" means (i) all salaried nonfaculty University employees who were employed as of the day prior to the effective date and who elect pursuant to § 23.1-1022 of the Act to participate in and be governed by such human resources program or programs, plans, policies, and procedures established by the University, (ii) all salaried nonfaculty University employees who are employed by the University on or after the effective date, (iii) all nonsalaried nonfaculty University employees without regard to when they were hired, and (iv) all faculty University employees without regard to when they were hired.

"Systems" means collectively the University human resources system that is in effect from time to time.

"University" means James Madison University.

"University human resources system" means the human resources system for University employees as provided for in this policy.

### III. SCOPE AND PURPOSE OF UNIVERSITY HUMAN RESOURCES POLICIES.

The University has had human resources system autonomy through decentralization for its employees for some time. For example, general faculty at the University are expressly exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia. The University has had decentralization in most human resources functions and activities since the late 1980s and early 1990s, including, but not limited to, the running of payrolls and the administration of hiring, classification, and promotion practices of administrative, professional, and instructional faculty.

The Act extends and reinforces the human resources autonomy previously granted to the University. This policy therefore is adopted by the board of visitors to enable the University to develop, adopt, and have in place by or after the effective date of its initial management agreement with the Commonwealth a human resources system or systems for all University employees. On the effective date, and until changed by the University or unless otherwise specified in this policy, the systems for University employees shall be the same systems applicable to those employees in effect immediately prior to the effective date.

### IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

### V. UNIVERSITY HUMAN RESOURCES SYSTEMS.

#### A. Adoption and Implementation of University Human Resources Systems.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, is hereby authorized to adopt and implement human resources systems for employees of the University that are consistent with the governing law, other applicable provisions of law, these University human resources policies for University employees, and any other human resources policies adopted by the Department of Human Resource Management or the board of visitors for University personnel, unless University employees are exempted from those other human resources policies by law or policy. The University human resources systems shall include a delegation of personnel authority to appropriate University officials responsible for overseeing and implementing the University human resources systems, including a grant of authority to such officials to engage in further delegation of authority as the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, deems appropriate.

The University commits to regularly engage employees in appropriate discussions and to receive employee input as the new University human resources systems are developed. The University will regularly communicate the details of new proposals to all employees who are eligible to participate in the University human resources system through written communication, open meetings, and website postings as appropriate, so that employees will have full information that will help them evaluate the merits of the new human resources system compared to the then-current state human resources system.

Effective on the effective date of its initial management agreement with the Commonwealth, and until amended as described in this subsection, the University's human resources systems shall consist of the following:

1. The current "James Madison University Faculty Handbook," as it is posted on the Provost's website, <https://www.jmu.edu/facultyhandbook/>, and periodically amended;
2. The current human resources system for classified employees in the University as posted on the Virginia Department of Human Resource Management website at <http://www.dhrm.virginia.gov/hrpolicies>; and
3. The human resources system for participating covered employees, that shall include nonsalaried (wage) employees, as posted on the University's human resources website, <https://www.jmu.edu/humanresources/>.

All the systems described in this subsection above, except the system described in subdivision 2, may be amended by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, consistent with these human resources policies. The system described in subdivision 2 may be amended only by the State.

*B. Training in and Compliance with Applicable Provisions of Law and Board of Visitors Human Resources Policies.*

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall take all necessary and reasonable steps to assure (i) that the University officials who develop, implement, and administer the University human resources systems authorized by governing law and these human resources policies are knowledgeable regarding the requirements of the governing law, other applicable provisions of law, these University human resources policies, and other applicable board of visitors human resources policies affecting University employees and (ii) that compliance with such laws and human resources policies is achieved.

**VI. HUMAN RESOURCES POLICIES.**

The University human resources systems adopted by the University pursuant to governing law and this policy, as set forth in Section V above, shall embody the following human resources policies and principles:

**A. Election by University Salaried Nonfaculty Employees.**

Upon the adoption by the University of a University human resources system, each salaried nonfaculty University employee who was in the employment of the University as of the day prior to the effective date of its initial management agreement with the Commonwealth shall be permitted to elect to participate in and be governed by either (i) the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and administered by the Department of Human Resource Management, or (ii) the University human resources system, as appropriate. A salaried nonfaculty University employee who elects to continue to be governed by the state human resources program described in this subsection above shall continue to be governed by all state human resources and benefit plans, programs, policies, and procedures that apply to and govern state employees. A salaried nonfaculty University employee who elects to participate in and be governed by the University human resources system, by that election, shall be deemed to have elected to be eligible to participate in and to be governed by the University human resources system, authorized alternative insurance, and severance plans, programs, policies, and procedures that are or may be adopted by the University as part of that University human resources system.

The University shall provide each of its salaried nonfaculty University employees who were in the employment of the University as of the day prior to the effective date of the University's initial management agreement with the Commonwealth at least 90 days after the date on which the University's human resources system becomes effective for that University employee's classification of employees to make the election required by the prior paragraph. If such a salaried nonfaculty University employee does not make an election by the end of that specified election period, that University employee shall be deemed not to have elected to participate in the University human resources system. If such a salaried nonfaculty University employee elects to participate in the University human resources system, that election shall be irrevocable. At least every two years, the University shall offer to salaried nonfaculty University employees who have elected to continue to participate in the state human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, an opportunity to elect to participate in the University human resources system, provided that, each time prior to offering such opportunity to such salaried nonfaculty University employees, and at least once every two years after the effective date of the University human resources system, the University shall make available to each of its salaried nonfaculty University employees a comparison of its human resources system for that classification of salaried nonfaculty University employee with the state human resources program for comparable state employees, including but not limited to a comparability assessment of compensation and benefits.

A copy of the human resources program comparison shall be provided to the Department of Human Resource Management.

**B. Classification and Compensation.**

1. *General.* The systems shall include classification and compensation plans that are fair and reasonable and are based on the availability of University financial resources. The plans adopted by the University for participating covered employees shall be independent of, and need not be based on, the classification and compensation plans of the Commonwealth, do not require the approval of any state agency or officer, and shall be subject to the review and approval by the board of visitors as set forth in subdivision 3. The University shall provide information on its classification and compensation plans to all University employees. The plans applicable to participating covered employees may or may not include changes in classification or compensation announced by the Commonwealth, depending on such factors as the availability of necessary financial resources to fund any such changes and subject to the review and approval by the board of visitors of any major changes in the University's compensation plans.

2. *Classification Plan.* The systems shall include one or more classification plans for University employees that classify positions according to job responsibilities and qualifications. On the effective date and until changed by the University, the classification plans shall be the same plans that are in effect for each group of employees immediately prior to the effective date.

3. *Compensation Plan.* The systems shall include one or more compensation plans for each University employee classification or group. On the effective date and until changed by the Department of Human Resource Management, the compensation plan for classified employees in the University shall be the compensation plan in effect immediately prior to the effective date, known as the Commonwealth's Classified Compensation Plan. On the effective date and until changed by the University, the compensation plan or plans for all participating covered employees shall be the compensation plan or plans in effect immediately prior to the effective date. The University may adopt one or more compensation plans for participating covered employees that are non-graded plan(s) based on internal and external market data and other relevant

factors to be determined annually. Any major change in compensation plans for participating covered employees shall be reviewed and approved by the board of visitors before that change becomes effective. Any change recommended in the compensation plans may take into account the prevailing rates in the labor market for the jobs in question or for similar positions, the relative value of jobs, the competency and skills of the individual employee, internal equity, and the availability of necessary financial resources to fund the proposed change. The compensation payable to University employees shall be authorized and approved only by designated University officers delegated such authority by the University, and shall be consistent with the approved compensation plan for the relevant position or classification. Further approval by any other state agency, governmental body, or officer is not required for setting, adjusting, or approving the compensation payable to individual participating covered employees.

4. *Wages.* The systems shall include policies and procedures for the authorization, computation, and payment of wages, where appropriate, for such premium pays as overtime, shift differential, on call, and call back, and for the payment of hourly employees.

5. *Payment of Compensation.* The systems shall include policies and procedures for paying compensation to employees, including the establishment of one or more payday schedules.

6. *Work Schedule and Workweek.* The systems shall include policies and procedures for the establishment of, and modifications to, work schedules and workweeks for all University employees, including alternative work schedules and sites and telecommuting policies and procedures.

7. *Other Classification and Compensation Policies and Procedures.* The systems may include any other reasonable classification and compensation policies and procedures the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, deems appropriate.

#### C. Benefits.

The systems shall provide fringe benefits to all benefits-eligible employees, including retirement benefits, health care insurance, life, disability, and accidental death and dismemberment insurance. The benefits provided shall include a basic plan of benefits for each benefits-eligible employee, and may include an optional benefits plan for benefits-eligible employees, including additional insurance coverage, long-term care, tax deferred annuities, flexible reimbursement accounts, employee assistance programs, employee intramural and recreational passes, and other wellness programs. As provided in subsections B and C § 23.1-1025 of the Act, the University may require participating covered employees to pay all or a portion of the cost of group life, disability, and accidental death and dismemberment insurance, which may be collected through a payroll deduction program. Participating covered employees shall not be required to present evidence of insurability for basic group life insurance coverage. The board of visitors may elect to provide benefits through Virginia Retirement System group insurance programs under the terms of and to the extent allowed by § 23.1-1025 of the Act or any other provision of law.

Notwithstanding the provisions of this subsection above, pursuant to subsection A of § 23.1-1020 of the Act, and unless and until that section is amended, the state retirement system, state health insurance program, and state workers' compensation coverage program as they may be amended from time to time, shall continue to apply to and govern all eligible University employees.

The systems may provide different benefits plans for reasonably different groups or classifications of employees, and may provide benefits to part-time employees. On the effective date and until changed by the appropriate governing authority, the benefits plans provided by the University to classified employees and participating covered employees shall be the benefits plans provided to that group or classification as of the date immediately prior to that effective date. On or after the effective date, alternative University group life, accidental death and dismemberment, and short-term and long-term disability plans may be provided to eligible participating covered employees, or at the election of the board of visitors and subject to the execution of participation agreements as provided in subsections B and C of § 23.1-1025 of the Act, they may be provided by the appropriate state programs, but no contributions to the state programs by the University shall be required for participating covered employees who do not participate in the programs. Subject to the provisions of the Act, any new plans, programs, and material changes permitted under current law in University employee benefit plans, other than classified employee benefit plans, shall be approved by the board of visitors, including the authority to increase the cash match contribution rate up to the limit permitted by the Code of Virginia based on available resources and the authority to implement cafeteria-style benefits for University employees other than classified employees.

Insurance and all proceeds therefrom provided pursuant to § 23.1-1025 of the Act shall be exempt from legal process and may be subject to voluntary assignment as provided in subsection A of § 23.1-1025 of the Act.

#### D. Employee Relations.

1. *General.* The systems shall contain provisions that protect the rights and privileges of University employees consistent with sound management principles and fair employment practice law.

2. *Employee Safety and Health.* The systems shall contain provisions that promote workplace safety compliance with applicable law and regulations.

3. *Employee Work Environment.* The systems shall promote a work environment that is conducive to the performance of job duties and free from intimidation or coercion in violation of state or federal law, including sexual harassment or other discrimination.

4. *Employee Recognition.* The systems may provide for the use of leave awards and bonuses specific to policies and procedures for awarding, honoring, or otherwise recognizing University employees, including but not limited to those who

have performed particularly meritorious service for the University, have been employed by the University for specified periods of time, or have retired from the University after lengthy service.

5. *Counseling Services.* The systems shall provide counseling services through the State's Employee Assistance Program or a University Employee Assistance Program to any eligible University employee experiencing job-related difficulties and seeking counseling for those difficulties, and shall establish the circumstances under which the time necessary to participate in such counseling may be granted.

6. *Unemployment Compensation.* The systems shall ensure that University employees receive the full unemployment compensation benefits to which they are legally entitled and that the University's liability is limited to legitimate claims for such benefits.

7. *Workers' Compensation.* The systems shall ensure that University employees have workers' compensation benefits to which they are legally entitled pursuant to the State Employees Workers' Compensation Program administered by the Department of Human Resource Management.

8. *Performance Planning and Evaluation.* The systems shall include one or more performance planning and evaluation processes for University employees that (i) establish and communicate the University's performance expectations, (ii) help develop productive working relationships, (iii) allow employees to present their views concerning their performance, (iv) identify areas for training or professional development, (v) establish the process by which evaluations shall be conducted, (vi) clarify how superlative or inadequate performance shall be addressed, and (vii) ensure that all University employees are provided relevant information on the evaluation process. The systems may include separate performance and evaluation processes for reasonably distinguishable groups of University employees. On the effective date, the existing merit-based performance management system for faculty shall continue, until amended by the University. On or after that effective date, University nonfaculty salaried participating covered employees may be subject to a variable merit-based performance management system.

9. *Standards of Conduct and Performance.* In order to protect the well-being and rights of all employees and to ensure safe, efficient University operations and compliance with the law, the systems shall establish rules of personal conduct and standards of acceptable work performance for University salaried nonfaculty employees and policies for corrective discipline. In general, the policies for corrective discipline shall serve to (i) establish a uniform and objective process for correcting or disciplining unacceptable conduct or work performance, (ii) distinguish between less serious and more serious actions of misconduct and provide corrective action accordingly, and (iii) limit corrective action to employee conduct occurring only when employees are at work or are otherwise representing the University in an official or work-related capacity, unless otherwise specifically provided by the policies of the systems or other applicable law. The systems may provide for a probationary period for new and re-employed University salaried nonfaculty employees, during which period the policies for corrective discipline shall not be applicable and the employee may not use the grievance procedure set forth in subdivision 10. The systems may include separate rules of personal conduct and standards of acceptable work performance and policies for corrective discipline for reasonably distinguishable groups of University employees.

10. *Grievance Procedure.* As provided in the governing law, employees shall be encouraged to resolve employment-related problems and complaints informally, and shall be permitted to discuss their concerns freely and without fear of retaliation with immediate supervisors and management. In the event that such problems cannot be resolved informally, all salaried nonfaculty University employees, regardless of their date of hire, shall have access, as provided in subsection A of § 23.1-1020 and in § 23.1-1023 of the Act, to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, to the extent it was applicable to their classification of employees prior to the effective date. On the effective date and until changed by the University, the faculty grievance procedures in effect immediately prior to the effective date shall continue.

11. *Discrimination Complaints.* If a classified employee believes discrimination has occurred, the classified employee may file a complaint with the Department of Human Resource Management Office of Equal Employment and Dispute Resolution. All covered employees and applicants for employment after the effective date of the University's initial management agreement with the Commonwealth shall file a complaint with the appropriate University office or with the appropriate federal agencies.

12. *Layoff Policy.* The systems shall include one or more layoff policies for salaried University employees who lose their jobs for reasons other than their job performance or conduct, such as a reduction in force or reorganization at the University. These University layoff policies shall govern such issues as (i) whether there is a need to effect a layoff, (ii) actions to be taken prior to a layoff, (iii) notice to employees affected by a layoff, (iv) placement options within the University or its respective major divisions and within other parts of the University, (v) the preferential employment rights, if any, of various University employees, (vi) the effect of layoff on leave and service, and (vii) the policy for recalling employees. In accordance with the terms of the Act, University employees who (a) were employed prior to the effective date of the University's initial management agreement with the Commonwealth, (b) would otherwise be eligible for severance benefits under the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia, (c) were covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, prior to that effective date, and (d) are separated because of a reduction in force shall have the same preferential hiring rights with state agencies and other executive branch institutions as classified employees have under § 2.2-3201 of the Code of Virginia. Conversely, the University shall recognize the hiring preference conferred by § 2.2-3201 of the Code of Virginia on

state employees who were hired by a state agency or executive branch institution before the effective date of the University's initial management agreement with the Commonwealth and who were separated after that date by that state agency or executive branch institution because of a reduction in workforce. If the University has adopted a classification system pursuant to § 23.1-1021 of the Act that differs from the classification system administered by the Department of Human Resource Management, the University shall classify the separated employee according to its classification system and shall place the separated employee appropriately. The University may include separate policies for reasonably distinguishable groups of University employees. On or after the effective date of the University's initial management agreement with the Commonwealth, all employees from other state agencies and executive branch institutions who are placed by the University under the provisions of the State Layoff Policy shall be participating covered employees.

13. *Severance Benefits.* In accordance with the terms of the Act, the University shall adopt severance policies for salaried participating covered employees who are involuntarily separated for reasons unrelated to performance or conduct. The terms and conditions of such policies shall be determined by the board of visitors. Classified employees who otherwise would be eligible and were employed prior to the effective date of the University's initial management agreement with the Commonwealth shall be covered by the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia. The University and the Board of the Virginia Retirement System may negotiate a formula according to which cash severance benefits may be converted to years of age or creditable service for participating covered employees who participate in the Virginia Retirement System. An employee's becoming, on the effective date, a covered employee shall not constitute a severance or reduction in force to which severance policies or policies pursuant to the Workforce Transition Act of 1995, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia, would apply.

14. *Use of Alcohol and Other Drugs.* The systems shall include policies and procedures that (i) establish and maintain a work environment at the University that is free from the adverse effect of alcohol and other drugs, (ii) are consistent with the federal Drug-Free Workplace Act of 1988, 41 U.S.C. § 81, and with the James Madison University Alcohol and Other Drugs Policy, (iii) describe the range of authorized disciplinary action, including termination where appropriate, for violations of such policies and procedures and the process to be followed in taking such disciplinary action, (iv) provide University employees access to assistance and treatment for problems involving alcohol and other drugs, (v) provide for the circumstances under which employees are required to report certain violations of the policies and procedures to their supervisor, and the University is required to report those violations to a federal contracting or granting agency, (vi) describe the circumstances under which personnel records of actions taken under the University's alcohol and other drugs policy shall not be kept confidential, and (vii) provide notice to University employees of the scope and content of the University alcohol and other drugs policy. As part of this alcohol and other drugs policy, and in compliance with the federal Omnibus Transportation Employee Testing Act of 1991, P.L. 102-143, the systems may provide for pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up alcohol and other drug testing for University positions that are particularly safety sensitive, such as those requiring a commercial driver's license.

15. *Background Checks.* The systems shall include a process for conducting background checks that may include but is not limited to reference checks, educational/professional credentialing checks, and conviction and driver's records checks on applicants for full-time or part-time positions at the University, and for addressing situations where employees do not disclose a conviction on their application or otherwise falsify their application with regard to information concerning their educational/professional credentials and/or prior convictions.

16. *Other Employee Relations Policies and Procedures.* The systems shall include any other reasonable employee relations policies or procedures that the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, deems appropriate, that may include, but are not limited to, policies or procedures relating to orientation programs for new or re-employed University employees, an employee suggestion program, the responsibility of University employees for property placed in their charge, work breaks, inclement weather and emergencies, and employment outside the University.

#### *E. Leave and Release Time.*

The systems shall include policies and procedures regarding leave for eligible employees. The systems shall provide reasonable paid leave for purposes such as holidays, vacation, or other personal uses. The systems may provide for release time for such matters as the donation of blood, participation in an employee assistance program, and other appropriate employment-related matters. On or after the effective date of its initial management agreement with the Commonwealth, and until a new program is adopted by the appropriate authority, the University shall continue to provide leave and release time to participating covered employees in accordance with the leave and release time policies and procedures applicable to each classification of employees prior to that effective date. On or after that effective date, the University may provide an alternative leave and release time system for salaried nonfaculty participating covered employees.

#### *F. Equal Employment Opportunity, Nondiscrimination, Employment, and Separation.*

1. *Equal Employment Opportunity and Nondiscrimination.* The systems shall contain policies and procedures to ensure that all aspects of human resources management, including the employment of University employees, meet all requirements of federal and state law and of the relevant policies of the board of visitors with regard to equal employment opportunity and nondiscrimination.

2. *Employment.* The systems shall include policies and procedures for the recruitment, selection, and hiring of University employees that are based on merit and fitness, including where appropriate a requirement for job posting, interviews, pre-employment testing, pre-employment drug testing, reference checks, and conviction record checks. On and

after the effective date, the University shall post all salaried nonfaculty position vacancies through the University's job posting system, the Commonwealth's job posting system, and other external media as appropriate. The systems shall establish designated veterans' re-employment rights in accordance with applicable law.

In order to encourage employees to attain the highest level positions for which they are qualified, and to compensate employees for accepting positions of increased value and responsibility, the systems shall include policies and procedures governing the promotion of employees, including the effect of promotion on an employee's compensation.

On or after the effective date of the University's initial management agreement with the Commonwealth, all employees hired from other state agencies shall be participating covered employees. University classified employees who change jobs within the University through a competitive employment process—i.e., promotion or transfer—shall have the choice of remaining a classified employee or becoming a participating covered employee. If a classified employee elects to become a participating covered employee, that decision shall be irrevocable.

3. Notice of Separation. The systems shall include policies and procedures requiring reasonable notice, where appropriate, of a decision either by the employee or by the University to separate the employee from the University in accordance with policies governing performance, conduct, or layoff.

#### G. Information Systems.

The University shall provide an electronic file transfer of information on all salaried University employees and shall continue to provide the employee position reports to meet the human resources reporting requirements specified by law or by request of the Governor or the General Assembly, unless the University is specifically exempted from those requirements. The University shall conduct assessments to demonstrate its accountability for human resources practices that comply with laws and regulations. The Department of Human Resource Management and the University have entered into a Memorandum of Understanding, attached hereto as Attachment 2, that may be amended from time to time by agreement of the parties, regarding the specific data and reporting requirements. The University shall be accountable for ensuring the timeliness and integrity of the data transmitted to the Department of Human Resource Management.

#### VII. CONTINUED APPLICABILITY OF OTHER PROVISIONS OF THE CODE OF VIRGINIA AND OTHER BOARD OF VISITORS POLICIES AFFECTING UNIVERSITY PERSONNEL.

On and after the effective date, University employees shall be subject to the terms and conditions of the Act and the management agreement between the Commonwealth and the University. Classified employees shall continue to be subject to the human resources policies and exceptions to those policies adopted or approved by the Department of Human Resource Management.

In addition, all University employees also shall remain subject to any other human resources policies adopted by the board of visitors applicable to University personnel unless University employees or a subset thereof are specifically exempted from those other human resources policies either by those other policies or by this policy.

#### ATTACHMENT 2

##### Memorandum of Understanding Between James Madison University and the Department of Human Resource Management Regarding the Reporting of Human Resources Management Data

This Memorandum of Understanding (MOU), which may be amended from time to time by the agreement of all parties, is an attachment to the Policy Governing Human Resources for participating covered employees and other University employees pursuant to the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, and is hereby entered into between the University and the Department of Human Resource Management (DHRM).

This document outlines the provisions for information management pertaining to human resources data, consistent with the objectives to enable DHRM to meet the Commonwealth's reporting requirements, to ensure compliance with relevant federal and state laws and regulations, and to do so through efficient and cost-effective methods.

1. In lieu of data entry into the state's Personnel Management Information System (PMIS), data will be transmitted through an electronic file transfer to update DHRM's warehouse.

a. The University will provide a flat file of designated personnel data. For classified employees, the data provided will match DHRM's data values for the designated fields. For salaried participating covered employees, the data provided will include the University's data values for the designated fields. The University will provide a data dictionary to DHRM. The file of designated data will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.

b. The University will provide a second flat file of salaried personnel actions for classified employees and salaried participating covered employees, such as promotions, separations, and salary adjustments. The file of relevant personnel actions and designated data to be provided for each action will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.

2. DHRM will accept the federal Affirmative Action Plan (AAP), including the adverse impact analyses of employment and compensation actions that are part of the AAP, as demonstration of the University's compliance with relevant federal and state employment laws and regulations.

3. Other reports to be provided by the University include the following:

- a. Monthly employment position report.
  - b. Annual report on salaried, wage, and contract employees.
- The undersigned hereby agree to the provisions contained in the MOU.

APPROVALS:

James Madison University:

By: .....Date.....

Senior Vice for Administration and Finance, Department of Human Resource Management:

By: .....Date.....

EXHIBIT F

MANAGEMENT AGREEMENT  
 BETWEEN  
 THE COMMONWEALTH OF VIRGINIA  
 AND  
 JAMES MADISON UNIVERSITY  
 PURSUANT TO  
 THE RESTRUCTURED HIGHER EDUCATION  
 FINANCIAL AND ADMINISTRATIVE OPERATIONS ACT

POLICY GOVERNING  
 FINANCIAL OPERATIONS AND MANAGEMENT

THE RECTOR AND BOARD OF VISITORS  
 OF JAMES MADISON UNIVERSITY  
 POLICY GOVERNING  
 FINANCIAL OPERATIONS AND MANAGEMENT

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the Act), Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia, establishes by law a process for granting additional authority to institutions of higher education for financial operations and management, subject to the adoption of policies by their governing boards and the approval of management agreements to be negotiated with the Commonwealth.

The following provisions of this policy constitute the adopted board of visitors policies regarding the University's financial operations and management.

This policy is intended to cover the authority that may be granted to the University pursuant to Article 4 of the Act. Any other powers and authorities granted to the University pursuant to the general appropriation act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's enabling statutes, are not affected by this policy.

II. DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

"Act" means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 10 (§ 23.1-1000 et seq.) of Title 23.1 of the Code of Virginia.

"Board of visitors" or "board" means the rector and board of visitors of the University.

"Covered institution" means, on or after the effective date of its initial management agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 of the Act.

"Effective date" means the effective date of the initial management agreement between the University and the Commonwealth.

"Enabling statutes" has the same meaning as provided in § 23.1-1000 of the Act.

"Management agreement" means an agreement between the Commonwealth of Virginia and the University that enables the University to be governed by Article 4 of the Act.

"State tax-supported debt" means bonds, notes, or other obligations issued under Article X, Section 9 (a), 9 (b), 9 (c), or 9 (d) of the Constitution of Virginia, if the debt service payments are made or ultimately are to be made from general government funds, as defined in the December 19, 2017, Report to the Governor and General Assembly of the Debt Capacity Advisory Committee or as that definition is amended from time to time.

"University" means James Madison University.

III. SCOPE OF POLICY.

This policy applies to the University's responsibility for management, investment, and stewardship of all its financial resources, including but not limited to, general, nongeneral, and private funds. This responsibility includes maintaining an independent uniform system of accounting, financial reporting, and internal controls adequate to protect and account for the University's financial resources as well as allowing for recording of required information into Cardinal.

#### IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The board of visitors shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of this policy. Consistent with this full and ultimate accountability, however, the board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate board resolution the duties and responsibilities set forth in this policy to a person or persons within the University who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

#### V. FINANCIAL MANAGEMENT AND REPORTING SYSTEM.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall continue to be authorized by the board to maintain existing policies and implement new policies governing the management of University financial resources. These policies shall continue to (i) ensure compliance with generally accepted accounting principles; (ii) ensure consistency with the current accounting principles employed by the Commonwealth, including the use of fund accounting principles, with regard to the establishment of the underlying accounting records of the University and the allocation and utilization of resources within the accounting system, including the relevant guidance provided by the State Council of Higher Education for Virginia chart of accounts with regard to the allocation and proper use of funds from specific types of fund sources; (iii) provide adequate risk management and internal controls to protect and safeguard all financial resources, including moneys transferred to the University pursuant to a general fund appropriation; and (iv) ensure compliance with the requirements of the general appropriation act.

The financial management system shall continue to include a financial reporting system to satisfy both the requirements for inclusion in the Commonwealth's Comprehensive Annual Financial Report, as specified in the related State Comptroller's Directives, and the University's separately audited financial statements. To ensure observance of limitations and restrictions placed on the use of the resources available to the University, the accounting and bookkeeping systems of the University shall continue to be maintained in accordance with the principles prescribed for governmental organizations by the Governmental Accounting Standards Board.

In addition, the financial management system shall continue to provide financial reporting for the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, and the board of visitors to enable them to provide adequate oversight of the financial operations of the University. The University shall provide to state agencies including, but not limited to, the Department of Accounts, the Department of Planning and Budget, the Joint Legislative Audit and Review Commission, the Auditor of Public Accounts, and the State Council of Higher Education for Virginia and to the Chairmen of the Senate Committee on Finance and the House Committee on Appropriations special reports as may be requested from time to time.

#### VI. FINANCIAL MANAGEMENT POLICIES.

The University has operated for many years at Level II and 2.5 as part of the Act. Accordingly, the University currently operates a system of independent financial management policies guided by the general principles contained in the Commonwealth's Accounting Policies and Procedures such as establishing strong risk management and internal accounting controls to ensure University financial resources are properly safeguarded and that appropriate stewardship of public funds is obtained through management's oversight of the effective and efficient use of such funds in the performance of University programs.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall have the authority to create and implement any and all new financial management policies necessary to maintain the University's current financial management system for the continued effective protection and management of all University financial resources.

Upon the effective date of its initial management agreement with the Commonwealth, the University shall continue to follow its current independent financial management policies, as well as any new policies that have been developed and submitted to the State Comptroller for review and comment as a result of the management agreement. Any significant new policies developed after the effective date shall be submitted to the State Comptroller for review and comment before being implemented by the University.

#### VII. FINANCIAL RESOURCE RETENTION AND MANAGEMENT.

Pursuant to subsection C of § 23.1-206 of the Code of Virginia, the State Council of Higher Education for Virginia (SCHEV) annually shall assess and certify to the Governor and the General Assembly the degree to which each public institution of higher education of the Commonwealth has met the financial and administrative management and education-related performance benchmarks called for by that subsection and approved as part of the general appropriation act then in effect for the state goals and objectives set forth in subdivisions A 1 through 12 of § 23.1-1002 of the Act. Each public institution of higher education of the Commonwealth that (i) has been certified during the fiscal year by SCHEV as having met such institutional performance benchmarks and (ii) meets the conditions prescribed in subsection A of § 23.1-1002 of the Act, shall receive certain financial incentives, including interest on the tuition and fees and other nongeneral fund education and general revenues deposited into the State Treasury by the public institution of higher education. In order to be certified, the University must meet all measures adopted prior to the effective date of this management agreement pursuant to subdivision A 3 of § 23.1-1003 of the Act.

The Commonwealth shall retain all funds related to general fund appropriations but shall pay these funds to the University as specified in Section IX of this policy. The University is authorized to deposit tuition, educational and general

fees, research and sponsored program funds, auxiliary enterprise funds, and all other nongeneral fund revenues weekly in the State Treasury pursuant to the state process in place at the time of such deposit. The University shall be given any interest earned on auxiliary balances on a monthly basis.

The University also shall have sum sufficient appropriation authority for all nongeneral funds as approved by the Governor and the General Assembly in the Commonwealth's biennial appropriations process and shall report to the Department of Planning and Budget (i) its estimate of the nongeneral fund revenues for the sum sufficient appropriation to be included in the biennial Budget Bill for each of the two years in the next biennium by November 1 of each odd-numbered year and (ii) the estimate to be included in the Budget Bill for the first and second year of the then-current biennium by November 1 of each even-numbered year.

The board of visitors shall retain the authority to establish tuition, fee, room, board, and other charges, with appropriate commitment provided to need-based grant aid for middle-income and lower-income undergraduate Virginians. Except as provided otherwise in the general appropriation act then in effect, it is the intent of the Commonwealth and the University that the University shall be exempt from the revenue restrictions in the general provisions of the general appropriation act related to nongeneral funds. In addition, unless prohibited by the general appropriation act then in effect, it is the intent of the Commonwealth and the University that the University shall be entitled to retain nongeneral fund savings generated from changes in Commonwealth rates and charges, including but not limited to health, life, and disability insurance rates, retirement contribution rates, telecommunications charges, and utility rates rather than reverting such savings back to the Commonwealth.

For the receipt of general and nongeneral funds, the University shall conform to the Virginia Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 of the Code of Virginia, as it currently exists and from time to time may be amended.

#### VIII. ACCOUNTS RECEIVABLE MANAGEMENT AND COLLECTION.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall continue to be authorized to create and implement any and all accounts receivable management and collection policies as part of a system for the management of University financial resources. The policies shall be guided by the requirements of the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia, such that the University shall take all appropriate and cost-effective actions to aggressively collect accounts receivable in a timely manner.

These actions shall include, but not be limited to, establishing the criteria for granting credit to University customers; establishing the nature and timing of collection procedures within the above general principles; and the independent authority to select and contract with collection agencies and, after consultation with the Office of the Attorney General, private attorneys as needed to perform any and all collection activities for all University accounts receivable such as reporting delinquent accounts to credit bureaus, obtaining judgments, garnishments, and liens against such debtors, and other actions. In accordance with sound collection activities, the University shall continue to utilize the Commonwealth's debt set off collection programs and procedures, shall develop procedures acceptable to the Tax Commissioner and the State Comptroller to implement such programs, and shall provide a quarterly summary report of receivables to the Department of Accounts in accordance with the reporting procedures established pursuant to the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of Title 2.2 of the Code of Virginia.

#### IX. DISBURSEMENT MANAGEMENT.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall continue to be authorized to create and implement any and all disbursement policies as part of a system for the management of University financial resources. The disbursement management policies shall continue to define the appropriate and reasonable uses of all funds, from whatever source derived, in the execution of the University's operations. These policies also shall continue to address the timing of appropriate and reasonable disbursements consistent with the Prompt Payment Act, and the appropriateness of certain goods or services relative to the University's mission, including travel-related disbursements. Further, the University's disbursement policy shall continue to provide for the mechanisms by which payments are made including the use of charge cards, warrants, and electronic payments.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, is authorized to independently select, engage, and contract for such consultants, accountants, and financial experts, and other such providers of expert advice and consultation, and, after consultation with the Office of the Attorney General, private attorneys, as may be necessary or desirable in his or her discretion. The University will continue to locally manage and administer the Commonwealth's credit card and cost recovery programs related to disbursements, subject to any restrictions contained in the Commonwealth's contracts governing those programs, as it has as part of its Level 2.5 authority.

The disbursement policies shall ensure that adequate risk management and internal control procedures shall be maintained over previously decentralized processes for public records, payroll, and non-payroll disbursements. The University shall continue to provide summary quarterly prompt payment reports to the Department of Accounts in accordance with the reporting procedures established pursuant to the Prompt Payment Act.

The University has operated for many years at Level II and 2.5 as part of the Act. The University's disbursement policies shall continue to be guided by the principles of the Commonwealth's policies as included in the Commonwealth's Accounting Policy and Procedures Manual. Upon the effective date, the University shall continue to follow its current

disbursement policies, as well as any new disbursement policies that have been developed and submitted to the State Comptroller for review and comment as a result of the management agreement. Any significant new disbursement policies developed after the effective date shall be submitted to the State Comptroller for review and comment before being implemented by the University.

#### X. DEBT MANAGEMENT.

The University has a board of visitors-approved debt policy that defines the maximum percent of institutional resources that can be used to pay debt service in a fiscal year and the maximum amount of debt that can be prudently issued within a specific period. Annually, the board is provided a report on the University's debt-related activities. Any change in the debt policy shall be submitted to the State Treasurer for review and comment prior to their adoption by the University.

The President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall continue to be authorized to create and implement any and all debt management policies as part of a system for the management of University financial resources.

Pursuant to subsection C of § 23.1-1015 of the Act, the University shall have the authority to issue bonds, notes, or other obligations that do not constitute state tax-supported debt, as determined by the Treasury Board, and that are consistent with debt capacity and management policies and guidelines established by its board of visitors, without obtaining the consent of any legislative body, elected official, commission, board, bureau, or agency of the Commonwealth or of any political subdivision, and without any proceedings or conditions other than those specifically required by Article 4 of the Act, provided, however, that the University shall notify the State Treasurer of its intention to issue bonds pursuant to this policy at the time it adopts the bond issuance planning schedule for those bonds. Any new or revised debt capacity and management policy shall be submitted to the State Treasurer for review and comment prior to its adoption by the University.

The University recognizes that there are numerous types of financing structures and funding sources available, each with specific benefits, risks, and costs. All potential funding sources shall be reviewed by the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, within the context of the overall portfolio to ensure that any financial product or structure is consistent with the University's objectives. Regardless of the financing structure(s) utilized, the President of the University, acting through the Senior Vice President of Administration and Finance or his designee, shall obtain sufficient documentation to gain a full understanding of the transaction, including (i) the identification of potential risks and benefits and (ii) an analysis of the impact on University creditworthiness and debt capacity. All such debt or financial products issued pursuant to the provisions of §§ 23.1-1014 and 23.1-1015 of the Act shall be authorized by resolution of the board of visitors, providing that they do not constitute state tax-supported debt.

#### XI. INVESTMENT POLICY.

It is the policy of the University to invest public funds in a manner that will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all statutes governing the investment of public funds. Investments shall be made with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. This policy conforms with the Investment of Public Funds Act, Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 of the Code of Virginia.

Endowment investments, if any, shall be invested and managed in accordance with the Uniform Prudent Management of Institutional Funds Act, Chapter 11 (§ 64.2-1100 et seq.) of Title 64.2 of the Code of Virginia.

The University is charged with the responsibility of reporting to the board of visitors on an annual basis.

#### XII. INSURANCE AND RISK MANAGEMENT.

By July 1 of each odd-numbered year, the University shall inform the Secretary of Finance of any intent during the next biennium to withdraw from any insurance or risk management program made available to the University through the Commonwealth's Division of Risk Management and in which the University is then participating, to enable the Commonwealth to complete an adverse selection analysis of any such decision and to determine the additional costs to the Commonwealth that would result from any such withdrawal. If, upon notice of such additional costs to the Commonwealth, the University proceeds to withdraw from the insurance or risk management program, the University shall reimburse the Commonwealth for all such additional costs attributable to such withdrawal, as determined by the Commonwealth's actuaries. Such payment shall be made in a manner agreeable to both the University and the Commonwealth.

**2. That notwithstanding the provisions of subsections A and B of § 23.1-1007 of the Code of Virginia, the management agreement negotiated by James Madison University (the University) shall continue in effect unless the Governor, the General Assembly, or the University determine that the management agreement needs to be renegotiated or revised.**

### CHAPTER 126

An Act to amend and reenact § 16.1-243 of the Code of Virginia, relating to transfer of venue; delinquency; adjudication.

[S 1201]

Approved February 21, 2019

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

**1. That § 16.1-243 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-243. Venue.****A. Original venue:**

1. Cases involving children, other than support or where protective order issued: Proceedings with respect to children under this law, except support proceedings as provided in subdivision 2 or family abuse proceedings as provided in subdivision 3, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county; (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships; (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241, 63.2-1233, and 63.2-1237, be commenced in any city or county, provided, however, that diligent efforts shall first be made to commence such hearings (i) in the city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside. In cases in which a hearing is commenced in a city or county other than one described in clause (i), (ii), or (iii), the petitioner shall certify in writing to the court that diligent efforts to commence a hearing in such city or county have been made but have proven ineffective;

d. Abuse and neglect: In cases involving an allegedly abused or neglected child, be commenced (i) in the city or county where the child resides, (ii) in the city or county where the child is present when the proceedings are commenced, or (iii) in the city or county where the alleged abuse or neglect occurred; and

e. All other cases: In all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse shall be commenced where (i) either party has his or her principal residence (ii) the abuse occurred or (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family or household member of the petitioner.

**B. Transfer of venue:**

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur ~~only after adjudication~~ in delinquency proceedings *only after adjudication, which shall include, for the purposes of this section, a finding of facts sufficient to justify a finding of delinquency.*

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based either upon changes in

circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.

5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic relations district court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. Records imaged from the original documents shall be considered original documents for purposes of the transfer of venue. The transferor court may, in its discretion, retain copies as it deems appropriate.

## CHAPTER 127

*An Act to amend and reenact §§ 2.3, 3.4, and 3.5 of Chapters 629 and 674 of the Acts of Assembly of 2005, which provided a charter for the City of Waynesboro, relating to city council procedures; real estate tax assessments.*

[S 1396]

Approved February 21, 2019

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

**1. That §§ 2.3, 3.4, and 3.5 of Chapters 629 and 674 of the Acts of Assembly of 2005 are amended and reenacted as follows:**

§ 2.3. Financial powers.

(a) Generally. In accordance with the Constitutions of the Commonwealth of Virginia and the United States, the city may raise annual taxes and assessments on property, persons and other subjects of taxation, which are not prohibited by law, such sums of money as in the judgment of the city are necessary to pay the debts, defray the expense, accomplish the purposes, and perform the functions of the city, in such manner as the council deems necessary or expedient. The city shall impose no tax on its bonds.

(b) Consumer utility tax, etc. The city shall have power to impose, levy, and collect, in such manner as its council shall deem expedient, a consumer or subscriber tax upon the amount paid for the use within the city of water, electricity, gas, telephone, television, cell phone, wireless, and any public utility service, or the amount paid for any one or more of such public utility services used within the city, and the council may provide that such tax shall be added to and collected with bills rendered consumers for such services.

(c) Assessments for local improvements. The city may impose special or local assessments for local improvements and enforce payment thereof, subject, however, to such limitations prescribed by the Constitution of Virginia as may be in force at the time of the imposition of such special or local assessments.

(d) Water, lights and sewerage, rates; rates and charges for public utilities or services, etc., operated, etc., by city. The city may establish, impose, and enforce water, light and sewerage rates, and rates and charges for public utilities, or other service, products, or conveniences, operated, rendered, or furnished by the city; assess, or cause to be assessed, water, light, sewerage, and other public utility rates and charges directly against the owner or owners of the buildings, or against the proper tenant or tenants; and in event such rates and charges shall be assessed against a tenant, then the said council may, by an ordinance, require of such tenant a deposit of such reasonable amount as may be by such ordinance prescribed before furnishing such services to such tenant.

(e) Imposition of license taxes; fine or penalty for doing business without license; fees to be paid on grant or transfer of license.

(1) License taxes may be imposed by ordinance on businesses, trades, professions, and callings and upon the persons, firms, associations, and corporations engaged therein, and the agents thereof, except in cases where taxation by the locality shall be prohibited by general law, and nothing herein shall be construed to repeal or amend any general law with respect to taxation.

(2) The council may subject any person, who, without having obtained a license therefor, shall do any act or follow any business, occupation, vocation, pursuit, or calling in the city for which a license may be required by ordinance, to such fine or penalty as it is authorized to impose for any violation of its laws.

(3) For every city license granted or transferred by the commissioner of revenue under this Charter, the commissioner shall charge a fee to be prescribed by an ordinance. Such license or transfer may be withheld until the fees are paid into the city treasury for city purposes.

(f) Levy on other property. It is hereby expressly provided that said council shall, in its discretion, be authorized to fix such annual levy on property subject to taxation in the City of Waynesboro, for city purposes, without any limit as to the rate thereof, any provisions of the general laws of the state to the contrary notwithstanding, provided that said council shall not fix such levy on property partially segregated to the state for purposes of state taxation at a higher rate than is or may be permitted by the general laws relating thereto.

(g) Issuance of bonds, notes, and evidence of debt.

(1) For the execution of its powers and duties, the city council may, in the name and for the use of the city, contract loans and cause to be issued certificates of debts or bonds, provided no such certificate of debt or bonds shall be issued except by ordinance adopted in accordance with Section 7 of Article VII of the Constitution of Virginia, and otherwise in

accordance with the requirements of the Virginia "Public Finance Act." No such certificate or bonds shall be issued prior to city council holding a public hearing on the question, duly advertised at least ten (10) days in advance in a general newspaper of local circulation, and the ordinance authorizing any such certificate or bonds shall be introduced at one meeting of city council and adopted at a second meeting at least seven (7) calendar days after such introduction.

(2) Notwithstanding the foregoing paragraph, no bonds, notes, or other obligations shall be issued until their issuance shall have been authorized by a majority of the qualified voters of the city voting on the question at an election held for the purpose in the manner provided by general law, except as follows:

(i) The council may authorize the issuance of refunding bonds or refunding notes by an ordinance adopted in the manner set forth in subdivision (g) (1) by the affirmative vote of a majority of all members of the council.

(ii) The council may authorize, by an ordinance adopted in the manner set forth in subdivision (g) (1) by the affirmative vote of four-fifths (4/5) of all members of the council, the issuance of bonds and other obligations of a type excluded from the computation of indebtedness of cities under Section 10 (a) of Article VII of the Constitution by complying with the conditions for exclusion set forth therein.

(iii) The city shall have the authority without a vote of the people to make temporary loans not in excess of what may be paid out of current revenues for the fiscal year in which made.

(iv) Bonds which are secured by a lien on the property being purchased may be issued for the purchase of real or personal property without a vote of the people.

(v) The city shall have the authority, by an ordinance adopted in the manner set forth in subdivision (g) (1) by the affirmative vote of four-fifths (4/5) of all members of the council, to issue without a vote of the people bonds or interest-bearing obligations which, including existing general obligation indebtedness, do not exceed ten percent (10%) of the assessed valuation of the real estate in the city subject to taxation, as shown by the last preceding assessment for taxes.

(h) Liens for taxes, levies, and assessments. There shall be a lien on all real estate within the corporate limits for taxes, levies, and assessments, in favor of the city, assessed thereon, from the commencement of the year for which the same were assessed, and there shall also be a lien on the real estate on which local assessments for improvements may be made for the amount of such assessments from the time the same is levied by the city council. *Any person aggrieved by an assessment made by the assessor of real estate shall have the right to a hearing before the city assessor. After the hearing before the city assessor, if a person is still aggrieved by the assessment, such person may apply to the board of equalization for a hearing. Application for relief to the board of equalization in the year for which the assessment is challenged and disposition of such application by the board of equalization shall continue to be prerequisites to the jurisdiction of the circuit court to hear an appeal with respect to a real estate assessment for that year.* The council may by ordinance permit taxes to be paid in semi-annual installments.

(i) Additional powers. The city, the financial officers, and all deputies and agents charged with the duty of collecting any and all taxes, licenses, and assessments due the city shall have all the powers provided by law for the collection thereof to cities and towns and their respective officers thereof, and in addition shall have all the rights, powers, and remedies provided to any state officers for the collection of taxes. It is further expressly provided that the treasurer, commission of the revenue, and court clerk shall proceed under the general law for handling of delinquent lands, the sale thereof, the purchase of same with the required reports of sale and all provisions for redemption, or if not redeemed for the making of a tax title deed, in accordance with the provisions of the tax code of Virginia. In addition to the lien for the principal amount of such taxes, the city shall have a lien, with all the priorities provided therefor, for any and all penalties, interest, and costs accrued by reason of delinquency in the payment of such taxes.

#### § 3.4. Organizational rules; election of mayor.

(a) ~~At nine o'clock ante meridian on the first day of July following a regular municipal election, or if such day is a Sunday, then on the day following, the council shall meet at the usual place for holding the meetings of the legislative board of the city, The city council shall assemble for an organizational meeting at its first regular session in July each year for the purposes set forth in § 15.2-1416 of the Code of Virginia, at which time the newly elected council members, after first having taken oaths prescribed by law, shall assume the duties of the office. Thereafter, the council shall meet at such times as may be prescribed by ordinance or resolution, except that they shall regularly meet not less than once each month. The mayor, any member of the council, or the city manager may call special meetings of the council at any time (on at least twelve (12) hours written notice), with the purpose of said meeting stated therein, to each member served personally or left at such member's usual place of business or residence. No business other than that mentioned in the call shall be considered at such meeting, except upon the consent of no fewer than four-fifths (4/5) of the members of the council.~~

(b) All meetings of the council shall be public except, if otherwise authorized by general law. Any citizen may have access to the minutes and records thereof at all reasonable times.

(c) The council shall elect one of its members as chairman, who shall be ex officio mayor.

(d) The mayor shall be elected by the council for a term of two (2) years and shall preside at meetings of the council and perform such other duties consistent with the office as may be imposed by the council. The mayor shall have a vote and voice in the proceedings, but no veto. The mayor shall be the official head of the city but shall have no jurisdiction or authority to hear, determine, or try any civil or criminal matters. In times of public danger or emergency, the mayor, or during the mayor's absence or disability, the city manager, may take command of the police and maintain order and enforce the laws, and for this purpose, may deputize such assistant police officers as may be necessary. During absence or disability,

except as above provided, the city manager's duties shall be performed by another member appointed by the council. The mayor shall authenticate by signature such instruments as the council, this Charter, or the laws of the state shall require.

(e) On the ~~first~~ day of the *first regular meeting* in July following the regular municipal election and organization of the council, or as soon thereafter as may be practicable, the council shall elect a city manager, city clerk, city attorney, city assessor, and such other officers as may come within their jurisdiction, each of whom shall serve at the pleasure of the council, provided that the council may elect the city clerk, city manager, city attorney, city assessor, and such other officers for terms of one year each, beginning July 1, subject to removal by the council for cause, and in no event shall the council elect any officer for a term extending beyond June 30 next succeeding each regular biennial municipal election for members of the council.

§ 3.5. Ordinances and resolutions.

(a) Except in dealing with parliamentary procedure, the council shall act only by ordinance or resolution, and with the exception of ordinances making appropriations or authorizing the contracting of indebtedness, shall be confined to one subject, although nothing shall prevent council from acting collectively on a number of resolutions or ordinances by one comprehensive action approving a consent agenda containing all such resolutions and ordinances.

(b) Each proposed ordinance or resolution shall be introduced in a written or printed form, and the enacting clause of all ordinances passed by the council shall substantially be, "Be it ordained by the council of the City of Waynesboro, Virginia."

(c) ~~No~~ *Except as provided herein*, no ordinance, or resolution having the effect of an ordinance, or resolution suspending an ordinance, unless it is an emergency measure, shall be passed until it has been considered at two meetings not less than one week apart, one of which shall be a regular meeting and the other of which may be either an adjourned or called meeting. Any ordinance or resolution considered at one such meeting may be amended and passed as amended at the next such meeting, provided that the amendment does not materially change the ordinance. No ordinance shall be amended unless such section or sections as are intended to be amended shall be reenacted. *Nonetheless, an ordinance, or resolution having the effect of an ordinance, wherein the city is the recipient of money, funds, or a grant may be passed upon one consideration at a meeting open to the public.* The ayes and noes shall be taken and recorded upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the council. Except as otherwise provided in this Charter, an affirmative vote of a majority of the members elected to the council shall be necessary to adopt any ordinance or resolution.

(d) Effective date of ordinances; emergency measures. No ordinance passed by the council shall take effect until at least ten (10) days from the date of its passage, except that the council may, by the affirmative vote of the majority of its members, pass emergency measures to take effect at the time indicated therein or specifically provide that a nonemergency ordinance take effect immediately upon its passage.

(e) Recordation and authentication of ordinances; publication of ordinances; introduction of ordinances in evidence.

(1) Every ordinance, or resolution having the effect of an ordinance, when passed shall be recorded by the city clerk in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the city clerk.

(2) Every ordinance of a general or permanent nature shall be published in full once within ten (10) days after its final passage by posting a copy thereof at the front door of the municipal building and at two other public places in the city or, when ordered by the council, by publication in a newspaper published or circulated in the city for such time as the council may direct, provided that the foregoing requirements as to publication shall not apply to ordinances reordained in or by a general compilation or codification of ordinances printed by authority of the council.

(3) A record or entry made by the city clerk or a copy of such record or entry duly certified by said clerk shall be prima facie evidence of the terms of the ordinance and its due publication. All ordinances and resolutions of the council may be read in evidence in all courts and in all other proceedings in which it may be necessary to refer thereto, either from the original record thereof, from a copy thereof, certified by the city clerk, or from any volume of ordinances printed by authority of the council.

(f) Publication of indexed ordinances. The council shall from time to time direct the publication, with suitable index, of the city ordinances.

## CHAPTER 128

*An Act to amend and reenact § 8.01-420 of the Code of Virginia, relating to summary judgment; limited use of discovery depositions and affidavits.*

[S 1486]

Approved February 21, 2019

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

**1. That § 8.01-420 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-420. Depositions as basis for motion for summary judgment or to strike evidence.**

A. Except as provided in ~~subsection~~ *subsections B and C*, no motion for summary judgment or to strike the evidence shall be sustained when based in whole or in part upon any discovery depositions under Rule 4:5, unless all parties to the suit or action shall agree that such deposition may be so used. Notwithstanding the foregoing, requests for admissions for

which the responses are submitted in support of a motion for summary judgment may be based in whole or in part upon any discovery depositions under Rule 4:5 and may include admitted facts learned or referenced in such a deposition, provided that any such request for admission shall not reference the deposition or require the party to admit that the deponent gave specific testimony.

B. Notwithstanding the provisions of subsection A, a motion for summary judgment seeking dismissal of any claim or demand for punitive damages may be sustained, as to the punitive damages claim or demand only, when based in whole or in part upon any discovery depositions under Rule 4:5. However, such a motion may not be based upon discovery depositions under Rule 4:5 with respect to any claim or demand for punitive damages based on the operation of a motor vehicle by a person while under the influence of alcohol, any narcotic drug, or any other self-administered intoxicant or drug.

C. *Notwithstanding the provisions of subsection A, discovery depositions under Rule 4:5 and affidavits may be used in support of or in opposition to a motion for summary judgment in any action when the only parties to the action are business entities and the amount at issue is \$50,000 or more.*

## CHAPTER 129

*An Act to amend and reenact § 15.2-2303.4 of the Code of Virginia and to repeal the third enactment of Chapter 322 of the Acts of Assembly of 2016, relating to conditional rezoning proffers.*

[S 1373]

Approved February 21, 2019

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

#### **1. That § 15.2-2303.4 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers.**

A. For purposes of this section, unless the context requires a different meaning:

"New residential development" means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment.

"New residential use" means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be developed and shall include all cash proffers.

"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be developed and shall not include any cash proffers.

"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a property or properties.

"Public facilities" means public transportation facilities, public safety facilities, public school facilities, or public parks.

"Public facility improvement" means an offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

"Public safety facility improvement" means construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

"Public school facility improvement" means construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto.

"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to transit.

"Residentially zoned property" means property zoned or proposed to be zoned for either single-family or multifamily housing.

"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to § 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

B. Notwithstanding any other provision of law, general or special, no ~~locality~~ *local governing body* shall (i) ~~request or accept~~ *require* any unreasonable proffer, as described in subsection C, in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.

C. Notwithstanding any other provision of law, general or special, ~~(\*)~~ as used in this chapter, a proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless ~~it~~:

1. It addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for; and ~~(ii) an offsite proffer shall be deemed unreasonable pursuant to subdivision (i) unless~~

2. ~~If an offsite proffer~~, it addresses an impact to an offsite public facility, such that ~~(a)~~ (i) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and ~~(b)~~ (ii) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. ~~For the purposes of this section, a~~ A locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use.

D. Notwithstanding the provisions of subsection C:

1. An applicant or owner may, at the time of filing an application pursuant to this section or during the development review process, submit any onsite or offsite proffer that the owner and applicant deem reasonable and appropriate, as conclusively evidenced by the signed proffers.

2. Failure to submit proffers as set forth in subdivision 1 shall not be a basis for the denial of any rezoning or proffer condition amendment application.

E. Notwithstanding any other provision of law, general or special:

1. Actions brought to contest the action of a ~~locality~~ *local governing body* in violation of this section shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition amendment pursuant to subsection F of § 15.2-2285, *provided that the applicant objected in writing to the governing body regarding a proposed condition prior to the governing body's grant or denial of the rezoning application.*

2. In any action in which a ~~locality~~ *local governing body* has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit an unreasonable proffer or proffer condition amendment that ~~it has proven~~ was ~~suggested, requested, or required~~ *in writing* by the ~~locality~~ *local governing body* in violation of this section, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.

3. In any successful action brought pursuant to this section contesting an action of a ~~locality~~ *local governing body* in violation of this section, the applicant may be entitled to an award of reasonable attorney fees and costs and to an order remanding the matter to the governing body with a direction to approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer *or to amend the proffer to bring it into compliance with this section.* If the ~~locality~~ *local governing body* fails or refuses to approve the rezoning or proffer condition amendment, *or fails or refuses to amend the proffer to bring it into compliance with this section,* within a reasonable time not to exceed 90 days from the date of the court's order to do so, the court shall enjoin the ~~locality~~ *local governing body* from interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to the local governing body pursuant to this subsection, the requirements of § 15.2-2204 shall not apply.

~~E. F.~~ The provisions of this section shall not apply to any new residential development or new residential use occurring within any of the following areas: (i) an approved small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit as defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and allows additional density within the vicinity of such existing or planned station; or (iii) an approved service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail station.

~~F. G.~~ This section shall be construed as supplementary to any existing provisions limiting or curtailing proffers or proffer condition amendments for new residential development or new residential use that are consistent with its terms and shall be construed to supersede any existing statutory provision with respect to proffers or proffer condition amendments for new residential development or new residential use that are inconsistent with its terms.

*H. Notwithstanding any provision in this section to the contrary, nothing contained herein shall be deemed or interpreted to prohibit or to require communications between an applicant or owner and the locality. The applicant, owner, and locality may engage in pre-filing and post-filing discussions regarding the potential impacts of a proposed new residential development or new residential use on public facilities as defined in subsection A and on other public facilities of the locality, and potential voluntary onsite or offsite proffers, permitted under subsections C and D, that might address those impacts. Such verbal discussions shall not be used as the basis that an unreasonable proffer or proffer condition amendment was required by the locality. Furthermore, notwithstanding any provision in this section to the contrary, nothing contained*

*herein shall be deemed or interpreted to prohibit or to require presentation, analysis, or discussion of the potential impacts of new residential development or new residential use on the locality's public facilities.*

**2. That the third enactment of Chapter 322 of the Acts of Assembly of 2016 is repealed.**

**3. That this act shall be effective as to any application for a rezoning filed on or after July 1, 2019, or for a proffer condition amendment amending a rezoning that was filed on or after July 1, 2019, or to any then-pending rezoning application in which the applicant elects to proceed hereunder, by amendment of that pending application.**

**4. That an applicant with a pending application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may continue to proceed under the law as it existed prior to that date, and an applicant with a pending rezoning application filed on or after July 1, 2016, but before July 1, 2019, or proffer condition amendment application amending a rezoning for which the application was filed on or after July 1, 2016, but before July 1, 2019, may continue to proceed under the law as it existed during that period.**

## CHAPTER 130

*An Act to amend and reenact § 8.01-126 of the Code of Virginia, relating to unlawful detainer; initial hearing; subsequent filings; termination notice.*

[S 1627]

Approved February 21, 2019

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

**1. That § 8.01-126 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-126. Summons for unlawful detainer issued by magistrate or clerk or judge of a general district court.**

*A. For the purposes of this section, "termination notice" means a notice given under § 55-248.31 or other notice of termination of tenancy given by the landlord to the tenant of a dwelling unit, or any notice of termination given by a landlord to a tenant of a nonresidential premises.*

*B. In any case when possession of any house, land or tenement is unlawfully detained by the person in possession thereof, the landlord, his agent, attorney, or other person, entitled to the possession may present to a magistrate or a clerk or judge of a general district court a statement under oath of the facts which authorize the removal of the tenant or other person in possession, describing such premises; and thereupon such magistrate, clerk or judge shall issue his summons against the person or persons named in such affidavit. The process issued upon any such summons issued by a magistrate, clerk or judge may be served as provided in § 8.01-293, 8.01-296, or 8.01-299. When issued by a magistrate it may be returned to and the case heard and determined by the judge of a general district court. If the summons for unlawful detainer is filed to terminate a tenancy pursuant to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.), the initial hearing on such summons shall occur as soon as practicable, but not more than 21 days from the date of filing. If the case cannot be heard within 21 days from the date of filing, the initial hearing shall be held as soon as practicable, *but in no event later than 30 days after the date of the filing.* If the plaintiff requests that the initial hearing be set on a date later than 21 days from the date of filing, the initial hearing shall be set on a date the plaintiff is available that is also available for the court. Such summons shall be served at least 10 days before the return day thereof.*

*B. C. Notwithstanding any other rule of court or provision of law to the contrary, the plaintiff in an unlawful detainer case may submit into evidence a photocopy of a properly executed paper document or paper printout of an electronically stored document including a copy of the original lease or other documents, provided that the plaintiff provides an affidavit or sworn testimony that the copy of such document is a true and accurate copy of the original lease. An attorney or agent of the landlord or managing agent may present such affidavit into evidence.*

*C. D. 1. Notwithstanding any other rule of court or provision of law to the contrary, when the defendant does not make an appearance in court, the plaintiff or the plaintiff's attorney or agent may submit into evidence by an affidavit or sworn testimony a statement of the amount of outstanding rent, late charges, attorney fees, and any other charges or damages due as of the date of the hearing. The plaintiff or the plaintiff's attorney or agent shall advise the court of any payments by the defendant that result in a variance reducing the amount due the plaintiff as of the day of the hearing.*

*2. a. If the unlawful detainer summons served upon the defendant requests judgment for all amounts due as of the date of the hearing, the court shall permit amendment of the amount requested on the summons for unlawful detainer filed in court in accordance with the evidence and in accordance with the amounts contracted for in the rental agreement and shall enter a judgment for such amount due as of the date of the hearing in addition to entering an order of possession for the premises. *Notwithstanding any rule of court or provision of law to the contrary, no order of possession shall be entered unless the plaintiff or plaintiff's attorney or agent has presented a copy of a proper termination notice that the court admits into evidence.**

*b. Notwithstanding any rule of court or provision of law to the contrary, a plaintiff may amend the amount alleged to be due and owing in an unlawful detainer to request all amounts due and owing as of the date of the hearing. If additional amounts become due and owing prior to the final disposition of a pending unlawful detainer, the plaintiff may also amend the amount alleged to be due and owing to include such additional amounts. If the plaintiff requests to amend the amount alleged to be due and owing in an unlawful detainer, the judge shall grant such amendment. Upon amendment of the unlawful detainer, such plaintiff shall not subsequently file an additional summons for unlawful detainer against the*

*defendant for such additional amounts if such additional amounts could have been included in such amendment. If another unlawful detainer is filed, the court shall dismiss the subsequent unlawful detainer. Nothing herein shall be construed to preclude a plaintiff from filing an unlawful detainer for a non-rent violation during the pendency of an unlawful detainer for nonpayment of rent.*

3. In determining the amount due the plaintiff as of the date of the hearing, if the rental agreement or lease provides that rent is due and payable on the first of the month in advance for the entire month, at the request of the plaintiff or the plaintiff's attorney or agent, the amount due as of the date of the hearing shall include the rent due for the entire month in which the hearing is held, and rent shall not be prorated as of the actual court date. Otherwise, the rent shall be prorated as of the date of the hearing. However, nothing herein shall be construed to permit a landlord to collect rent in excess of the amount stated in such rental agreement or lease. If a money judgment has been granted for the amount due for the month of the hearing pursuant to this section and the landlord re-rents such dwelling unit and receives rent from a new tenant prior to the end of such month, the landlord is required to reflect the applicable portion of the judgment as satisfied pursuant to § 16.1-94.01.

4. If, on the date of a foreclosure sale of a single-family residential dwelling unit, the former owner remains in possession of such dwelling unit, such former owner becomes a tenant at sufferance. Such tenancy may be terminated by a written termination notice from the successor owner given to such tenant at least three days prior to the effective date of termination. Upon the expiration of the three-day period, the successor owner may file an unlawful detainer under this section. Such tenant shall be responsible for payment of fair market rental from the date of such foreclosure until the date the tenant vacates the dwelling unit, as well as damages, and for payment of reasonable attorney fees and court costs.

### CHAPTER 131

*An Act to amend the Code of Virginia by adding a section numbered 40.1-28.01, relating to provisions of a nondisclosure or confidentiality agreement; sexual assault; condition of employment.*

[H 1820]

Approved February 22, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 40.1-28.01 as follows:**

**§ 40.1-28.01. Nondisclosure or confidentiality agreement; provisions regarding sexual assault; condition of employment.**

*A. No employer shall require an employee or a prospective employee to execute or renew any provision in a nondisclosure or confidentiality agreement that has the purpose or effect of concealing the details relating to a claim of sexual assault pursuant to § 18.2-61, 18.2-67.1, 18.2-67.3, or 18.2-67.4 as a condition of employment. Any such provision is against public policy and is void and unenforceable.*

*B. This section shall in no way limit other grounds that exist at law or in equity for the unenforceability of any such agreement or any provision of such agreement.*

### CHAPTER 132

*An Act to amend and reenact § 8.01-126 of the Code of Virginia, relating to unlawful detainer; initial hearing; subsequent filings; termination notice.*

[H 1922]

Approved February 22, 2019

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

**1. That § 8.01-126 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-126. Summons for unlawful detainer issued by magistrate or clerk or judge of a general district court.**

*A. For the purposes of this section, "termination notice" means a notice given under § 55-248.31 or other notice of termination of tenancy given by the landlord to the tenant of a dwelling unit, or any notice of termination given by a landlord to a tenant of a nonresidential premises.*

*B. In any case when possession of any house, land or tenement is unlawfully detained by the person in possession thereof, the landlord, his agent, attorney, or other person, entitled to the possession may present to a magistrate or a clerk or judge of a general district court a statement under oath of the facts which authorize the removal of the tenant or other person in possession, describing such premises; and thereupon such magistrate, clerk or judge shall issue his summons against the person or persons named in such affidavit. The process issued upon any such summons issued by a magistrate, clerk or judge may be served as provided in § 8.01-293, 8.01-296, or 8.01-299. When issued by a magistrate it may be returned to and the case heard and determined by the judge of a general district court. If the summons for unlawful detainer is filed to terminate a tenancy pursuant to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.), the initial hearing on such summons shall occur as soon as practicable, but not more than 21 days from the date of filing. If the case cannot be heard within 21 days from the date of filing, the initial hearing shall be held as soon as practicable, *but in no event later than**

30 days after the date of the filing. If the plaintiff requests that the initial hearing be set on a date later than 21 days from the date of filing, the initial hearing shall be set on a date the plaintiff is available that is also available for the court. Such summons shall be served at least 10 days before the return day thereof.

**B- C.** Notwithstanding any other rule of court or provision of law to the contrary, the plaintiff in an unlawful detainer case may submit into evidence a photocopy of a properly executed paper document or paper printout of an electronically stored document including a copy of the original lease or other documents, provided that the plaintiff provides an affidavit or sworn testimony that the copy of such document is a true and accurate copy of the original lease. An attorney or agent of the landlord or managing agent may present such affidavit into evidence.

**C- D. 1.** Notwithstanding any other rule of court or provision of law to the contrary, when the defendant does not make an appearance in court, the plaintiff or the plaintiff's attorney or agent may submit into evidence by an affidavit or sworn testimony a statement of the amount of outstanding rent, late charges, attorney fees, and any other charges or damages due as of the date of the hearing. The plaintiff or the plaintiff's attorney or agent shall advise the court of any payments by the defendant that result in a variance reducing the amount due the plaintiff as of the day of the hearing.

**2. a.** If the unlawful detainer summons served upon the defendant requests judgment for all amounts due as of the date of the hearing, the court shall permit amendment of the amount requested on the summons for unlawful detainer filed in court in accordance with the evidence and in accordance with the amounts contracted for in the rental agreement and shall enter a judgment for such amount due as of the date of the hearing in addition to entering an order of possession for the premises. *Notwithstanding any rule of court or provision of law to the contrary, no order of possession shall be entered unless the plaintiff or plaintiff's attorney or agent has presented a copy of a proper termination notice that the court admits into evidence.*

**b.** *Notwithstanding any rule of court or provision of law to the contrary, a plaintiff may amend the amount alleged to be due and owing in an unlawful detainer to request all amounts due and owing as of the date of the hearing. If additional amounts become due and owing prior to the final disposition of a pending unlawful detainer, the plaintiff may also amend the amount alleged to be due and owing to include such additional amounts. If the plaintiff requests to amend the amount alleged to be due and owing in an unlawful detainer, the judge shall grant such amendment. Upon amendment of the unlawful detainer, such plaintiff shall not subsequently file an additional summons for unlawful detainer against the defendant for such additional amounts if such additional amounts could have been included in such amendment. If another unlawful detainer is filed, the court shall dismiss the subsequent unlawful detainer. Nothing herein shall be construed to preclude a plaintiff from filing an unlawful detainer for a non-rent violation during the pendency of an unlawful detainer for nonpayment of rent.*

**3.** In determining the amount due the plaintiff as of the date of the hearing, if the rental agreement or lease provides that rent is due and payable on the first of the month in advance for the entire month, at the request of the plaintiff or the plaintiff's attorney or agent, the amount due as of the date of the hearing shall include the rent due for the entire month in which the hearing is held, and rent shall not be prorated as of the actual court date. Otherwise, the rent shall be prorated as of the date of the hearing. However, nothing herein shall be construed to permit a landlord to collect rent in excess of the amount stated in such rental agreement or lease. If a money judgment has been granted for the amount due for the month of the hearing pursuant to this section and the landlord re-rents such dwelling unit and receives rent from a new tenant prior to the end of such month, the landlord is required to reflect the applicable portion of the judgment as satisfied pursuant to § 16.1-94.01.

**4.** If, on the date of a foreclosure sale of a single-family residential dwelling unit, the former owner remains in possession of such dwelling unit, such former owner becomes a tenant at sufferance. Such tenancy may be terminated by a written termination notice from the successor owner given to such tenant at least three days prior to the effective date of termination. Upon the expiration of the three-day period, the successor owner may file an unlawful detainer under this section. Such tenant shall be responsible for payment of fair market rental from the date of such foreclosure until the date the tenant vacates the dwelling unit, as well as damages, and for payment of reasonable attorney fees and court costs.

## CHAPTER 133

*An Act to amend and reenact §§ 20-99.1:1 and 20-106 of the Code of Virginia, relating to no-fault divorce; waiver of service.*

[H 1945]

Approved February 22, 2019

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

**1. That §§ 20-99.1:1 and 20-106 of the Code of Virginia are amended and reenacted as follows:**

**§ 20-99.1:1. How defendant may accept service; waive service.**

A. A defendant in such suits may accept service of process by signing the proof of service before any officer authorized to administer oaths. This proof of service shall, when filed with the papers in the suit, have the same effect as if it had been served upon the defendant by a person authorized to serve process. In addition, service of process may be accepted or waived by any party, upon voluntary execution of a notarized writing specifying an intent to accept or waive any particular process, or by a defendant by filing an answer in the suit. Such notarized writing may be provided in the clerk's office of any

circuit court and may be signed by such party to the proceedings before any clerk or deputy clerk of any circuit court, under oath, or may be drafted and filed by counsel *or a pro se party* in the proceeding, and shall, when filed with the papers in the suit, have the same effect as if the process specified had been personally served upon the defendant by a person authorized to serve process. *For a suit for a no-fault divorce under subdivision A (9) of § 20-91, any such waiver may occur within a reasonable time prior to or after the suit is filed, provided that a copy of the complaint is attached to such waiver, or is otherwise provided to the defendant, and the final decree of divorce as proposed by the complainant is signed by the defendant.* The court may enter any order or decree without further notice unless a defendant has filed an answer in the suit.

B. When service is accepted pursuant to this section by a nonresident person out of the Commonwealth, such service shall have the same effect as an order of publication duly executed.

C. Any process served outside the Commonwealth executed in such manner as provided for in this section is validated.

**§ 20-106. Testimony may be required to be given orally; evidence by affidavit.**

A. In any suit for divorce, the trial court may require the whole or any part of the testimony to be given orally in open court, and if either party desires it, such testimony and the rulings of the court on the exceptions thereto, if any, shall be reduced to writing, and the judge shall certify that such evidence was given before him and such rulings made. When so certified the same shall stand on the same footing as a deposition regularly taken in the cause, provided, however, that no such oral evidence shall be given or heard unless and until after such notice to the adverse party as is required by law to be given of the taking of depositions, or when there has been no service of process within this Commonwealth upon, or appearance by the defendant against whom such testimony is sought to be introduced. However, a party may proceed to take evidence in support of a divorce by deposition or affidavit without leave of court only in support of a divorce on the grounds set forth in subdivision A (9) of § 20-91, where (i) the parties have resolved all issues by a written settlement agreement, (ii) there are no issues other than the grounds of the divorce itself to be adjudicated, or (iii) the adverse party has been personally served with the complaint and has failed to file a responsive pleading or to make an appearance as required by law.

B. The affidavit of a party submitted as evidence shall be based on the personal knowledge of the affiant, contain only facts that would be admissible in court, give factual support to the grounds for divorce stated in the complaint or counterclaim, and establish that the affiant is competent to testify to the contents of the affidavit. If either party is incarcerated, neither party shall submit evidence by affidavit without leave of court or the consent in writing of the guardian ad litem for the incarcerated party, or of the incarcerated party if a guardian ad litem is not required pursuant to § 8.01-9. The affidavit shall:

1. Give factual support to the grounds for divorce stated in the complaint or counterclaim, including that the parties are over the age of 18 and not suffering from any condition that renders either party legally incompetent;
2. Verify whether either party is incarcerated;
3. Verify the military status of the opposing party and advise whether the opposing party has filed an answer or a waiver of his rights under the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.);
4. Affirm that at least one party to the suit was at the time of the filing of the suit, and had been for a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and domiciliary of the Commonwealth;
5. Affirm that the parties have lived separate and apart, continuously, without interruption and without cohabitation, and with the intent to remain separate and apart permanently, for the statutory period required by subdivision A (9) of § 20-91;
6. Affirm the affiant's desire to be awarded a divorce pursuant to subdivision A (9) of § 20-91;
7. State whether there were children born or adopted of the marriage and affirm that the wife is not known to be pregnant from the marriage; and
8. Be accompanied by the affidavit of at least one corroborating witness, which shall:
  - a. Verify that the affiant is over the age of 18 and not suffering from any condition that renders him legally incompetent;
  - b. Verify whether either party is incarcerated;
  - c. Give factual support to the grounds for divorce stated in the complaint or counterclaim;
  - d. Verify that at least one of the parties to the suit was at the time of the filing of the suit, and had been for a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and domiciliary of the Commonwealth;
  - e. Verify whether there were children born or adopted of the marriage and verify that the wife is not known to be pregnant from the marriage; and
  - f. Verify the affiant's personal knowledge that the parties have not cohabitated since the date of separation alleged in the complaint or counterclaim and that it has been either party's intention since that date to remain separate and apart permanently.

C. If a party moves for a divorce pursuant to § 20-121.02, any affidavit may be submitted in support of the grounds for divorce set forth in subdivision A (9) of § 20-91.

D. A verified complaint shall not be deemed an affidavit for purposes of this section.

E. Either party may submit the depositions or affidavits required by this section in support of the grounds for divorce requested by either party pursuant to the terms of this section.

*F. In contemplation of or in a suit for a no-fault divorce under subdivision A (9) of § 20-91, the plaintiff or his attorney may take and file, as applicable, the complaint, the affidavits or depositions, any other associated documents, and the proposed decree contemporaneously, and a divorce may be granted solely on those documents where the defendant has waived service and, where applicable, notice.*

## CHAPTER 134

*An Act to amend and reenact § 8.01-682 of the Code of Virginia, relating to appellate damages.*

[H 1955]

Approved February 22, 2019

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

**1. That § 8.01-682 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-682. What damages awarded appellee.**

When any judgment is affirmed, *whether in whole or in part*, damages shall be awarded to the appellee *on the portion of the judgment affirmed*. When the judgment is for the payment of money, the damages shall be the interest to which the party is legally entitled, as provided in § 6.2-302 or any other provision of law, from the date of filing the notice of appeal until the date the appellate court issues its mandate. Such interest shall be computed upon the whole amount of the recovery *affirmed*, including interest and costs, and such damages shall be in satisfaction of all interest during such period of time. When the judgment is not for the payment of any money, except costs, the damages shall be such specific sum as the appellate court may deem reasonable, not being more than \$2,500 nor less than \$150.

## CHAPTER 135

*An Act to amend and reenact § 54.1-3319 of the Code of Virginia, relating to pharmacist; counseling for new prescriptions; disposal of medicine.*

[H 1743]

Approved February 22, 2019

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

**1. That § 54.1-3319 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3319. Counseling.**

A. A pharmacist shall conduct a prospective drug review before each new prescription is dispensed or delivered to a patient or a person acting on behalf of the patient. Such review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions, including serious interactions with nonprescription or over-the-counter drugs, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse. A pharmacist may conduct a prospective drug review before refilling a prescription to the extent the pharmacist deems appropriate in his professional judgment.

B. A pharmacist shall offer to counsel any person who presents a new prescription for filling. The offer to counsel may be made in any manner the pharmacist deems appropriate in his professional judgment, and may include any one or a combination of the following:

1. Face-to-face communication with the pharmacist or the pharmacist's designee;
2. A sign posted in such a manner that it can be seen by patients;
3. A notation affixed to or written on the bag in which the prescription is to be delivered;
4. A notation contained on the prescription container; or
5. By telephone.

For the purposes of medical assistance and other third-party reimbursement or payment programs, any of the above methods, or a combination thereof, shall constitute an acceptable offer to provide counseling, except to the extent this subsection is inconsistent with regulations promulgated by the federal Health Care Financing Administration governing 42 U.S.C. § 1396r-8 (g)(2)(A)(ii). A pharmacist may offer to counsel any person who receives a refill of a prescription to the extent deemed appropriate by the pharmacist in his professional judgment.

C. If the offer to counsel is accepted, the pharmacist shall counsel the person presenting the prescription to the extent the pharmacist deems appropriate in his professional judgment. Such counseling shall be performed by the pharmacist himself and may, but need not, include the following:

1. The name and description of the medication;
2. The dosage form, dosage, route of administration, and duration of drug therapy;
3. Special directions and precautions for preparation, administration, and use by the patient;
4. Common adverse or severe side effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
5. Techniques for self-monitoring drug therapy;
6. Proper storage *and disposal*;

7. Prescription refill information; and
8. Action to be taken in the event of a missed dose.

Nothing in this section shall be construed as requiring a pharmacist to provide counseling when the person presenting the prescription fails to accept the pharmacist's offer to counsel. If the prescription is delivered to a person residing outside of the local telephone calling area of the pharmacy, the pharmacist shall either provide a toll-free telephone number or accept reasonable collect calls from such person.

D. Reasonable efforts shall be made to obtain, record, and maintain the following patient information generated at the individual pharmacy:

1. Name, address, telephone number, date of birth or age, and gender;
2. Individual history where significant, including known allergies and drug reactions, and a comprehensive list of medications and relevant devices; and
3. Any additional comments relevant to the patient's drug use, including any failure to accept the pharmacist's offer to counsel.

Such information may be recorded in the patient's manual or electronic profile, or in the prescription signature log, or in any other system of records and may be considered by the pharmacist in the exercise of his professional judgment concerning both the offer to counsel and content of counseling. The absence of any record of a failure to accept the pharmacist's offer to counsel shall be presumed to signify that such offer was accepted and that such counseling was provided.

E. This section shall not apply to any drug dispensed to an inpatient of a hospital or nursing home, except to the extent required by regulations promulgated by the federal Health Care Financing Administration implementing 42 U.S.C. § 1396r-8 (g)(2)(A).

## CHAPTER 136

*An Act to amend and reenact § 32.1-102.2, as it is currently effective and as it shall become effective, and § 32.1-127 of the Code of Virginia, relating to certificates of public need; nursing homes and hospitals; disaster exemption.*

[H 1870]

Approved February 22, 2019

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

**1. That § 32.1-102.2, as it is currently effective and as it shall become effective, and § 32.1-127 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-102.2. (Effective until July 1, 2019) Regulations.**

A. The Board shall promulgate regulations which are consistent with this article and:

1. Shall establish concise procedures for the prompt review of applications for certificates consistent with the provisions of this article which may include a structured batching process which incorporates, but is not limited to, authorization for the Commissioner to request proposals for certain projects. In any structured batching process established by the Board, applications, combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy and proton beam therapy, and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, and nuclear medicine imaging;

2. May classify projects and may eliminate one or more or all of the procedures prescribed in § 32.1-102.6 for different classifications;

3. May provide for exempting from the requirement of a certificate projects determined by the Commissioner, upon application for exemption, to be subject to the economic forces of a competitive market or to have no discernible impact on the cost or quality of health services;

4. Shall establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole;

5. May establish, on or after July 1, 1999, a schedule of fees for applications for certificates to be applied to expenses for the administration and operation of the certificate of public need program. Such fees shall not be less than \$1,000 nor exceed the lesser of one percent of the proposed expenditure for the project or \$20,000. Until such time as the Board shall establish a schedule of fees, such fees shall be one percent of the proposed expenditure for the project; however, such fees shall not be less than \$1,000 or more than \$20,000; ~~and~~

6. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision 8 of the definition of "project" in § 32.1-102.1. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and

criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6; and

7. *Shall establish an exemption from the requirement for a certificate, for a period of no more than 30 days, for projects involving a temporary increase in the total number of beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.*

B. The Board shall promulgate regulations providing for time limitations for schedules for completion and limitations on the exceeding of the maximum capital expenditure amount for all reviewable projects. The Commissioner shall not approve any such extension or excess unless it complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval of a certificate on the agreement of the applicant to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the Commissioner to condition the issuing or renewing of any license for any applicant whose certificate was approved upon such condition on whether such applicant has complied with any agreement to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.

#### **§ 32.1-102.2. (Effective July 1, 2019) Regulations.**

The Board shall promulgate regulations that are consistent with this article and:

1. Shall establish concise procedures for the prompt review of applications for certificates consistent with the provisions of this article which may include a structured batching process which incorporates, but is not limited to, authorization for the Commissioner to request proposals for certain projects. In any structured batching process established by the Board, applications, combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy and proton beam therapy, and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, and nuclear medicine imaging;

2. May classify projects and may eliminate one or more or all of the procedures prescribed in § 32.1-102.6 for different classifications;

3. May provide for exempting from the requirement of a certificate projects determined by the Commissioner, upon application for exemption, to be subject to the economic forces of a competitive market or to have no discernible impact on the cost or quality of health services;

4. Shall establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole;

5. May establish, on or after July 1, 1999, a schedule of fees for applications for certificates to be applied to expenses for the administration and operation of the certificate of public need program. Such fees shall not be less than \$1,000 nor exceed the lesser of one percent of the proposed expenditure for the project or \$20,000. Until such time as the Board shall establish a schedule of fees, such fees shall be one percent of the proposed expenditure for the project; however, such fees shall not be less than \$1,000 or more than \$20,000; ~~and~~

6. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision 8 of the definition of "project" in § 32.1-102.1. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6; and

7. *Shall establish an exemption from the requirement for a certificate, for a period of no more than 30 days, for projects involving a temporary increase in the total number of beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.*

B. The Board shall promulgate regulations providing for time limitations for schedules for completion and limitations on the exceeding of the maximum capital expenditure amount for all reviewable projects. The Commissioner shall not approve any such extension or excess unless it complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval of a certificate on the agreement of the applicant to provide a level of charity care to indigent persons or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the Commissioner to condition the issuing or renewing of any

license for any applicant whose certificate was approved upon such condition on whether such applicant has complied with any agreement to provide a level of charity care to indigent persons or accept patients requiring specialized care. Except in the case of nursing homes, the value of charity care provided to individuals pursuant to this subsection shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

**§ 32.1-127. Regulations.**

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities. For purposes of this paragraph, facilities in which five or more first trimester abortions per month are performed shall be classified as a category of "hospital";

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration or reregistration of any sex offender within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is a registered sex offender, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call

physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis; ~~and~~

23. (Effective March 1, 2019) Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan; *and*

24. *Shall establish an exemption, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.*

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot which is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

## CHAPTER 137

*An Act to amend and reenact §§ 54.1-2900, 54.1-2951.1 through 54.1-2952.1, 54.1-2953, and 54.1-2957 of the Code of Virginia, relating to patient care teams; podiatrists and physician assistants.*

[H 1952]

Approved February 22, 2019

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

**1. That §§ 54.1-2900, 54.1-2951.1 through 54.1-2952.1, 54.1-2953, and 54.1-2957 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2900. Definitions.**

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

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

*"Collaboration" means the communication and decision-making process among health care providers who are members of a patient care team related to the treatment of a patient that includes the degree of cooperation necessary to provide treatment and care of the patient and includes (i) communication of data and information about the treatment and care of a patient, including the exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.*

*"Consultation" means communicating data and information, exchanging clinical observations and assessments, accessing and assessing additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.*

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

*"Patient care team podiatrist" means a podiatrist who is actively licensed to practice podiatry in the Commonwealth, who regularly practices podiatry in the Commonwealth, and who provides management and leadership to physician assistants in the care of patients as part of a patient care team.*

~~"Physician assistant" means an individual a health care professional who has met the requirements of the Board for licensure and who works under the supervision of a licensed doctor of medicine, osteopathy, or podiatry as a physician assistant.~~

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or

conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs, medicines, serums or vaccines. "Practice of chiropractic" shall include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of

radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

**§ 54.1-2951.1. Requirements for licensure and practice as a physician assistant.**

A. The Board shall promulgate regulations establishing requirements for licensure as a physician assistant that shall include the following:

1. Successful completion of a physician assistant program or surgical physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant;
2. Passage of the certifying examination administered by the National Commission on Certification of Physician Assistants; and
3. Documentation that the applicant for licensure has not had his license or certification as a physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

~~B. Prior to initiating~~ *Every physician assistant shall practice with a supervising physician, the physician assistant shall enter into a written or electronic practice agreement as part of a patient care team and shall enter into a written or electronic practice agreement with at least one supervising physician patient care team physician or patient care team podiatrist.*

~~C. A practice agreement shall include delegated activities acts pursuant to § 54.1-2952, provisions for the periodic review of patient charts or electronic health records, guidelines for availability and ongoing communications collaboration and consultation among the parties to the agreement and the patient, periodic joint evaluation of the services delivered, and provisions for appropriate physician input in complex clinical cases, in patient emergencies, and for referrals.~~

~~A practice agreement may include provisions for periodic site visits by supervising licensees who supervise and direct assistants who provide services a patient care team physician or patient care team podiatrist who is part of the patient care team at a location other than where the licensee regularly practices. Such visits shall be in the manner and at the frequency as determined by the supervising a patient care team physician or patient care team podiatrist who is part of the patient care team.~~

D. Evidence of a practice agreement shall be maintained by the physician assistant and provided to the Board upon request. *The practice agreement may be maintained in writing or electronically, and may be a part of credentialing documents, practice protocols, or procedures.*

**§ 54.1-2951.2. Issuance of a license.**

~~The Board shall issue the a license to the physician assistant to practice under the supervision of a licensed doctor of medicine, osteopathy, or podiatry, as part of a patient care team in accordance with § 54.1-2951.1.~~

**§ 54.1-2951.3. Restricted volunteer license for certain physician assistants.**

A. The Board may issue a restricted volunteer license to a physician assistant who meets the qualifications for licensure for physician assistants. The Board may refuse issuance of licensure pursuant to § 54.1-2915.

B. A person holding a restricted volunteer license under this section shall:

1. Only practice in public health or community free clinics approved by the Board;
2. Only treat patients who have no insurance or who are not eligible for financial assistance for medical care; and
3. Not receive remuneration directly or indirectly for practicing as a physician assistant.

C. A physician assistant with a restricted volunteer license issued under this section shall only practice as a physician assistant and perform certain ~~delegated~~ acts which constitute the practice of medicine to the extent and in the manner authorized by the Board if:

1. *A patient care team physician who supervises physician assistants or patient care team podiatrist is available at all times to collaborate and consult with the physician assistant; or*
2. ~~The~~ *A patient care team physician supervising any physician assistant or patient care team podiatrist periodically reviews the relevant patient records.*

D. A restricted volunteer license granted pursuant to this section shall be issued to the physician assistant without charge, shall expire twelve months from the date of issuance, and may be renewed annually in accordance with regulations promulgated by the Board.

E. A physician assistant holding a restricted volunteer license issued pursuant to this section is subject to the provisions of this chapter and the regulations promulgated under this chapter unless otherwise provided for in this section.

**§ 54.1-2952. Role of patient care team physician or patient care team podiatrist on patient care teams; services that may be performed by physician assistants; responsibility of licensee; employment of physician assistants.**

A. ~~A patient care team physician or a patient care team podiatrist licensed under this chapter may supervise~~ *serve on a patient care team with physician assistants and delegate certain acts which constitute the shall provide collaboration and consultation to such physician assistants. No patient care team physician or patient care team podiatrist shall be allowed to collaborate or consult with more than six physician assistants on a patient care team at any one time.*

B. ~~Physician assistants may practice of medicine to the extent and in the manner authorized by the Board. The physician shall provide continuous supervision as required by this section; however, the requirement for physician supervision of physician assistants shall not be construed as requiring the physical presence of the supervising physician during all times and places of service delivery by physician assistants~~ *A patient care team physician or patient care team podiatrist shall be available at all times to collaborate and consult with physician assistants. Each patient care team of supervising physician and physician assistant shall identify the relevant physician assistant's scope of practice; including the delegation of medical tasks as appropriate to the physician assistant's level of competence, the physician assistant's relationship with and access to the supervising physician; and an evaluation process for the physician assistant's performance.*

C. ~~Physician assistants appointed as medical examiners pursuant to § 32.1-282 shall be under the continuous supervision of only function as part of a patient care team that has a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282.~~

~~No licensee shall be allowed to supervise more than six physician assistants at any one time.~~

D. Any professional corporation or partnership of any licensee, any hospital and any commercial enterprise having medical facilities for its employees ~~which that~~ are supervised by one or more physicians or podiatrists may employ one or more physician assistants in accordance with the provisions of this section.

Activities shall be ~~delegated performed~~ in a manner consistent with sound medical practice and the protection of the health and safety of the patient. Such activities shall be set forth in a practice supervision agreement between the physician assistant and the ~~supervising patient care team physician or patient care team podiatrist~~ and may include health care services ~~which that~~ are educational, diagnostic, therapeutic, or preventive, ~~or include including establishing a diagnosis, providing treatment, but shall not include the establishment of a final diagnosis or treatment plan for the patient unless set forth in the practice supervision agreement and performing procedures.~~ Prescribing or dispensing of drugs may be permitted as provided in § 54.1-2952.1. In addition, ~~a licensee is authorized to delegate and supervise physician assistant may perform initial and ongoing evaluation and treatment of any patient in a hospital, including its emergency department, when performed under the direction, supervision and control of the supervising licensee in accordance with the practice agreement, including tasks performed, relating to the provision of medical care in an emergency department. When practicing in a hospital, the physician assistant shall report any acute or significant finding or change in a patient's clinical status to the supervising physician as soon as circumstances require and shall record such finding in appropriate institutional records. The physician assistant shall transfer to a supervising physician the direction of care of a patient in an emergency department who has a life-threatening injury or illness. Prior to the patient's discharge, the services rendered to each patient by a physician assistant in a hospital's emergency department shall be reviewed in accordance with the practice agreement and the policies and procedures of the health care institution. A physician assistant who is employed to practice in an emergency department shall be under the supervision of a physician present within the facility.~~

Further, unless otherwise prohibited by federal law or by hospital bylaws, rules, or policies, nothing in this section shall prohibit any physician assistant who is not employed by the emergency physician or his professional entity from practicing in a hospital emergency department, within the scope of his practice, while under continuous physician supervision as required by this section; whether or not the supervising physician is physically present in the facility. The supervising ~~patient care team physician who authorizes such practice by his collaborates and consults with a physician assistant shall~~ (i) retain exclusive supervisory control of and responsibility for the physician assistant and (ii) ~~The patient care team physician or the on-duty emergency department physician shall be available at all times for collaboration and consultation with both the physician assistant and the emergency department physician. Prior to the patient's discharge from the emergency department, the physician assistant shall communicate the proposed disposition plan for any patient under his care to both his supervising physician and the emergency department physician. No person shall have control of or supervisory responsibility for any physician assistant who is not employed by the person or the person's business entity.~~

~~B. E. No physician assistant shall perform any delegated acts except at the direction of the licensee and under his supervision and control beyond those set forth in the practice agreement or authorized as part of the patient care team. No physician assistant practicing in a hospital shall render care to a patient unless the physician responsible for that patient has signed the practice agreement, pursuant to regulations of the Board, to act as supervising a physician on a patient care team for that physician assistant. Every licensee, professional corporation or partnership of licensees, hospital, or commercial~~

enterprise that employs a physician assistant shall be fully responsible for the acts of the physician assistant in the care and treatment of human beings.

~~C. F. Notwithstanding the provisions of § 54.1-2956.8:1, a licensed physician assistant who (i) is working under the supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology as part of a patient care team, (ii) has been trained in the proper use of equipment for the purpose of performing radiologic technology procedures consistent with Board regulations, and (iii) has successfully completed the exam administered by the American Registry of Radiologic Technologists for physician assistants for the purpose of performing radiologic technology procedures may use fluoroscopy for guidance of diagnostic and therapeutic procedures.~~

**§ 54.1-2952.1. Prescription of certain controlled substances and devices by licensed physician assistants.**

A. In accordance with the provisions of this section and pursuant to the requirements of Chapter 33 (§ 54.1-3300 et seq.), a licensed physician assistant shall have the authority to prescribe controlled substances and devices as set forth in Chapter 34 (§ 54.1-3400 et seq.), provided that the physician assistant has entered into and is, at the time of writing a prescription, a party to a practice agreement with a licensed *patient care team* physician or *patient care team* podiatrist that provides for ~~the direction and supervision by such licensee of collaboration and consultation regarding~~ the prescriptive practices of the physician assistant. Such practice agreements shall include *a statement of the controlled substances the physician assistant is or is not authorized to prescribe and may restrict such prescriptive authority as deemed appropriate by the patient care team physician or patient care team podiatrist providing direction and supervision.*

B. It shall be unlawful for the physician assistant to prescribe controlled substances or devices pursuant to this section unless such prescription is authorized by the practice agreement ~~between the licensee and the assistant and the requirements in this section.~~

C. The Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of physician assistants as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

The regulations promulgated pursuant to this section shall include, at a minimum, (i) such requirements as may be necessary to ensure continued physician assistant competency ~~that, which~~ may include continuing education, testing, and ~~or~~ any other requirement; and shall address the need to promote ethical practice, an appropriate standard of care, patient safety, the use of new pharmaceuticals, and appropriate communication with patients; and (ii) a requirement that the physician assistant disclose to his patients ~~the his~~ name, address, and telephone number ~~of the supervising licensee~~ and that he is a physician assistant. ~~A separate office for the physician assistant shall not be established. If a patient or his representative requests to speak with the patient care team physician or patient care team podiatrist, the physician assistant shall arrange for communication between the parties or provide the necessary information.~~

D. This section shall not prohibit a licensed physician assistant from administering controlled substances in compliance with the definition of "administer" in § 54.1-3401 or from receiving and dispensing manufacturers' professional samples of controlled substances in compliance with the provisions of this section.

**§ 54.1-2953. Renewal, revocation, suspension, and refusal.**

The Board may revoke, suspend, or refuse to renew ~~an approval~~ a license to practice as a physician assistant for any of the following:

1. Any ~~reason stated in this chapter for revocation or suspension of the license of a practitioner~~ action by a physician assistant constituting unprofessional conduct pursuant to § 54.1-2915;
2. ~~Failure of the supervising licensee to supervise the physician assistant or failure of the employer to provide a licensee to supervise the~~ Practice by a physician assistant other than as part of a patient care team, including practice without entering into a practice agreement with at least one patient care team physician or patient care team podiatrist;
3. ~~The physician assistant's engaging in acts beyond the scope of authority as approved by the Board~~ Failure of the physician assistant to practice in accordance with the requirements of his practice agreement;
4. Negligence or incompetence on the part of the physician assistant or ~~the supervising licensee in his use of the physician assistant~~ other member of the patient care team under his supervision;
5. ~~Violating~~ Violation of or ~~cooperating with others cooperation in violating~~ the violation of any provision of this chapter or the regulations of the Board; or
6. ~~A change in the Board's requirements for approval with which the~~ Failure to comply with any regulation of the Board required for licensure of a physician assistant ~~or the licensee does not comply.~~

**§ 54.1-2957. Licensure and practice of nurse practitioners.**

A. As used in this section:

"Clinical experience" means the postgraduate delivery of health care directly to patients pursuant to a practice agreement with a patient care team physician.

"Collaboration" means the communication and decision-making process among a nurse practitioner, patient care team physician, and other health care providers who are members of a patient care team related to the treatment that includes the degree of cooperation necessary to provide treatment and care of a patient and includes (i) communication of data and information about the treatment and care of a patient, including exchange of clinical observations and assessments, and (ii) development of an appropriate plan of care, including decisions regarding the health care provided, accessing and assessment of appropriate additional resources or expertise, and arrangement of appropriate referrals, testing, or studies.

"Consultation" means the communicating of data and information, exchanging of clinical observations and assessments, accessing and assessing of additional resources and expertise, problem-solving, and arranging for referrals, testing, or studies.

B. The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It is unlawful for a person to practice as a nurse practitioner in the Commonwealth unless he holds such a joint license.

C. Every nurse practitioner other than a nurse practitioner licensed by the Boards of Medicine and Nursing as a certified nurse midwife or a certified registered nurse anesthetist or a nurse practitioner who meets the requirements of subsection I shall maintain appropriate collaboration and consultation, as evidenced in a written or electronic practice agreement, with at least one patient care team physician. A nurse practitioner who meets the requirements of subsection I may practice without a written or electronic practice agreement. A nurse practitioner who is licensed by the Boards of Medicine and Nursing as a certified nurse midwife shall practice pursuant to subsection H. A nurse practitioner who is a certified registered nurse anesthetists shall practice under the supervision of a licensed doctor of medicine, osteopathy, podiatry, or dentistry. A nurse practitioner who is appointed as a medical examiner pursuant to § 32.1-282 shall practice in collaboration with a licensed doctor of medicine or osteopathic medicine who has been appointed to serve as a medical examiner pursuant to § 32.1-282. Collaboration and consultation among nurse practitioners and patient care team physicians may be provided through telemedicine as described in § 38.2-3418.16.

Physicians on patient care teams may require that a nurse practitioner be covered by a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

Service on a patient care team by a patient care team member shall not, by the existence of such service alone, establish or create liability for the actions or inactions of other team members.

D. The Boards of Medicine and Nursing shall jointly promulgate regulations specifying collaboration and consultation among physicians and nurse practitioners working as part of patient care teams that shall include the development of, and periodic review and revision of, a written or electronic practice agreement; guidelines for availability and ongoing communications that define consultation among the collaborating parties and the patient; and periodic joint evaluation of the services delivered. Practice agreements shall include provisions for (i) periodic review of health records, which may include visits to the site where health care is delivered, in the manner and at the frequency determined by the nurse practitioner and the patient care team physician and (ii) input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. For nurse practitioners providing care to patients within a hospital or health care system, the practice agreement may be included as part of documents delineating the nurse practitioner's clinical privileges or the electronic or written delineation of duties and responsibilities in collaboration and consultation with a patient care team physician.

E. The Boards of Medicine and Nursing may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, pursuant to regulations of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in the Commonwealth. A nurse practitioner to whom a license is issued by endorsement may practice without a practice agreement with a patient care team physician pursuant to subsection I if such application provides an attestation to the Boards that the applicant has completed the equivalent of at least five years of full-time clinical experience, as determined by the Boards, in accordance with the laws of the state in which the nurse practitioner was licensed.

F. Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

G. In the event a physician who is serving as a patient care team physician dies, becomes disabled, retires from active practice, surrenders his license or has it suspended or revoked by the Board, or relocates his practice such that he is no longer able to serve, and a nurse practitioner is unable to enter into a new practice agreement with another patient care team physician, the nurse practitioner may continue to practice upon notification to the designee or his alternate of the Boards and receipt of such notification. Such nurse practitioner may continue to treat patients without a patient care team physician for an initial period not to exceed 60 days, provided the nurse practitioner continues to prescribe only those drugs previously authorized by the practice agreement with such physician and to have access to appropriate input from appropriate health care providers in complex clinical cases and patient emergencies and for referrals. The designee or his alternate of the Boards shall grant permission for the nurse practitioner to continue practice under this subsection for another 60 days, provided the nurse practitioner provides evidence of efforts made to secure another patient care team physician and of access to physician input.

H. Nurse practitioners licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife shall practice in consultation with a licensed physician in accordance with a practice agreement between the nurse practitioner and the licensed physician. Such practice agreement shall address the availability of the physician for routine and urgent consultation on patient care. Evidence of a practice agreement shall be maintained by a nurse practitioner and provided to the Boards upon request. The Boards shall jointly promulgate regulations, consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives, governing such practice.

I. A nurse practitioner, other than a nurse practitioner licensed by the Boards of Medicine and Nursing in the category of certified nurse midwife or certified registered nurse anesthetist, who has completed the equivalent of at least five years of

full-time clinical experience as a licensed nurse practitioner, as determined by the Boards, may practice in the practice category in which he is certified and licensed without a written or electronic practice agreement upon receipt by the nurse practitioner of an attestation from the patient care team physician stating (i) that the patient care team physician has served as a patient care team physician on a patient care team with the nurse practitioner pursuant to a practice agreement meeting the requirements of this section and § 54.1-2957.01; (ii) that while a party to such practice agreement, the patient care team physician routinely practiced with a patient population and in a practice area included within the category for which the nurse practitioner was certified and licensed; and (iii) the period of time for which the patient care team physician practiced with the nurse practitioner under such a practice agreement. A copy of such attestation shall be submitted to the Boards together with a fee established by the Boards. Upon receipt of such attestation and verification that a nurse practitioner satisfies the requirements of this subsection, the Boards shall issue to the nurse practitioner a new license that includes a designation indicating that the nurse practitioner is authorized to practice without a practice agreement. In the event that a nurse practitioner is unable to obtain the attestation required by this subsection, the Boards may accept other evidence demonstrating that the applicant has met the requirements of this subsection in accordance with regulations adopted by the Boards.

A nurse practitioner authorized to practice without a practice agreement pursuant to this subsection shall (a) only practice within the scope of his clinical and professional training and limits of his knowledge and experience and consistent with the applicable standards of care, (b) consult and collaborate with other health care providers based on the clinical conditions of the patient to whom health care is provided, and (c) establish a plan for referral of complex medical cases and emergencies to physicians or other appropriate health care providers.

A nurse practitioner practicing without a practice agreement pursuant to this subsection shall obtain and maintain coverage by or shall be named insured on a professional liability insurance policy with limits equal to the current limitation on damages set forth in § 8.01-581.15.

**2. That the Board of Medicine shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

## CHAPTER 138

*An Act to amend and reenact §§ 54.1-2409 and 54.1-3434.3 of the Code of Virginia, relating to health professions and facilities; adverse action in another jurisdiction; suspension and reinstatement.*

[H 1971]

Approved February 22, 2019

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

**1. That §§ 54.1-2409 and 54.1-3434.3 of the Code of Virginia is amended and reenacted as follows:**

#### **§ 54.1-2409. Mandatory suspension or revocation; reinstatement; hearing for reinstatement.**

A. Upon receipt of documentation by any court or government agency that a person licensed, certified, or registered by a board within the Department of Health Professions has (i) had his license, certificate, or registration to practice the same profession or occupation revoked or suspended for reasons other than nonrenewal or accepted for surrender in lieu of disciplinary action in another jurisdiction and has not had his license, certificate, or registration to so practice reinstated within that jurisdiction, *unless such revocation, suspension, or surrender was based solely on the disciplinary action of a board within the Department or mandatory suspension by the Director of the Department* or ~~has~~ (ii) been convicted of a felony or has been adjudged incapacitated, the Director of the Department shall immediately suspend, without a hearing, the license, certificate, or registration of any person so disciplined, convicted, or adjudged. The Director shall notify such person or his legal guardian, conservator, trustee, committee, or other representative of the suspension in writing to his address on record with the Department. Such notice shall include a copy of the documentation from such court or agency, certified by the Director as the documentation received from such court or agency. Such person shall not have the right to practice within this Commonwealth until his license, certificate, or registration has been reinstated by the Board.

B. The clerk of any court in which a conviction of a felony or an adjudication of incapacity is made, who has knowledge that a person licensed, certified, or registered by a board within the Department has been convicted or found incapacitated, shall have a duty to report these findings promptly to the Director.

C. When a conviction has not become final, the Director may decline to suspend the license, certificate, or registration until the conviction becomes final if there is a likelihood of injury or damage to the public if the person's services are not available.

D. Any person whose license, certificate, or registration has been suspended as provided in this section may apply to the board for reinstatement of his license, certificate, or registration. Such person shall be entitled to a hearing not later than the next regular meeting of the board after the expiration of 60 days from the receipt of such application, and shall have the right to be represented by counsel and to summon witnesses to testify in his behalf. The Board may consider other information concerning possible violations of Virginia law at such hearing, if reasonable notice is given to such person of the information.

The reinstatement of the applicant's license, certificate, or registration shall require the affirmative vote of three-fourths of the members of the board at the hearing. The board may order such reinstatement without further examination of the applicant, or reinstate the license, certificate, or registration upon such terms and conditions as it deems appropriate.

E. Pursuant to the authority of the Board of Nursing provided in Chapter 30 (§ 54.1-3000 et seq.) of this title, the provisions of this section shall apply, mutatis mutandis, to persons holding a multistate licensure privilege to practice nursing.

**§ 54.1-3434.3. Denial, revocation, suspension of registration, summary proceedings.**

The Board may deny, revoke, suspend, or take other disciplinary actions against a nonresident pharmacy registration as provided for in § 54.1-3316.

The Board shall immediately suspend, without a hearing, the registration of any nonresident pharmacy upon receipt of documentation by the licensing agency in the jurisdiction where a nonresident pharmacy registered with the Board is located, that the nonresident pharmacy has had its license, certificate, permit, or registration as a pharmacy revoked or suspended by that agency and has not been reinstated, or if the Board has received notification from the licensing agency that the pharmacy in the resident state no longer holds a valid unexpired license, permit, certificate, or registration as a pharmacy. The Board shall provide written notice of the suspension to the nonresident pharmacy at the address of record on file with the Board and to the resident-state licensing agency. The nonresident pharmacy may apply for reinstatement of the registration only after it has been reinstated by and holds a current and unrestricted license, certificate, permit, or registration as a pharmacy from the licensing agency in the jurisdiction where it is located. Such nonresident pharmacy shall be entitled to a hearing not later than the next regular meeting of the Board after the expiration of ~~30~~ 60 days from the receipt of such application, and shall have the right to be represented by counsel and to summon witnesses to testify on its behalf.

The Board may summarily suspend the registration of any nonresident pharmacy without a hearing, simultaneously with the institution of proceedings for a hearing, if it finds that there is a substantial danger to the public health or safety that warrants such action. The Board may meet by telephone conference call when summarily suspending the registration if a good faith effort to assemble a quorum of the Board has failed and, in the judgment of a majority of the members of the Board, the continued dispensing by the nonresident pharmacy constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension. The Board may consider other information concerning possible violations of Virginia law at a hearing, if reasonable notice is given to such nonresident pharmacy of the information.

A nonresident pharmacy with a suspended registration shall not ship, mail, or deliver any Schedule II through VI drugs into the Commonwealth unless reinstated by the Board.

The Board may refer complaints concerning nonresident pharmacies to the regulatory or licensing agency in the jurisdiction where the pharmacy is located. The Board may take other disciplinary action against a nonresident pharmacy in accordance with §§ 54.1-2400 and 54.1-3316 following notice and the opportunity for a hearing.

## CHAPTER 139

*An Act to amend and reenact §§ 22.1-227.1, 22.1-253.13:2, 22.1-253.13:10, and 22.1-290.01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-291.1:1, relating to school counselors; nomenclature; staff time.*

[H 1729]

Approved February 22, 2019

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

**1. That §§ 22.1-227.1, 22.1-253.13:2, 22.1-253.13:10, and 22.1-290.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-291.1:1 as follows:**

**§ 22.1-227.1. Career and technical education.**

A. The Board of Education shall incorporate into career and technical education the Standards of Learning for mathematics, science, English, and social studies, including history, and other subject areas as may be appropriate. The Board may also authorize, in its regulations for accrediting public schools in Virginia, the substitution of industry certification and state licensure examinations for Standards of Learning assessments for the purpose of awarding credit for career and technical education courses, where appropriate.

B. The Board shall also develop a plan for increasing the number of students receiving industry certification and state licensure as part of their career and technical education. The plan shall include an annual goal for school divisions. Where there is an accepted national industry certification for career and technical education instructional personnel and programs for automotive technology, such certification shall be mandatory.

C. With such funds as may be appropriated for such purpose, there shall be established, within the Department of Education, a unit of specialists in career and technical education. The unit shall (i) assist in developing and revising local career and technical curriculum to integrate the Standards of Learning, (ii) provide professional development for career and technical instructional personnel to improve the quality of career and technical education, (iii) conduct site visits to the

schools providing career and technical education, and (iv) seek the input of business and industry representatives regarding the content and direction of career and technical education programs in the public schools of the Commonwealth.

D. The Board shall develop guidelines for the establishment of High School to Work Partnerships, hereafter referred to as "Partnerships," between public high schools and local businesses to create opportunities for high school students to (i) participate in an apprenticeship, internship, or job shadow program in a variety of trades and skilled labor positions or (ii) tour local businesses and meet with owners and employees. These guidelines shall include a model waiver form to be used by high schools and local businesses in connection with Partnership programs to protect both the students and the businesses from liability.

Each local school board may establish Partnerships or delegate the authority to establish Partnerships to the local school division's career and technical education administrator or his designee, in collaboration with the ~~guidance~~ school counselor office of each public high school in the school division, and shall educate high school students about opportunities available through such Partnerships.

Students who miss a partial or full day of school while participating in Partnership programs shall not be counted as absent for the purposes of calculating average daily membership, but each local school board shall develop policies and procedures for students to make up missed work and may determine the maximum number of school days per academic year that a student may spend participating in a Partnership program.

**§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, *school* counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of

Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to the type of school and student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. ~~Guidance~~ School counselors in elementary schools, one hour per day per 100 students, one full-time at 500 students, one hour per day additional time per 100 students or major fraction thereof; ~~guidance~~ school counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional period per 80 students or major fraction thereof; ~~guidance~~ school counselors in high schools, one period per 70 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof. Local school divisions that employ a sufficient number of ~~guidance~~ school counselors to meet this staffing requirement may assign ~~guidance~~ school counselors to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for ~~guidance~~ school counselors, and shall be based on the school's total enrollment; ~~guidance~~ school counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual

pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;
2. Fiscal and human resources positions, including fiscal and audit operations;
3. Student support positions, including (i) social workers and social work administrative positions; (ii) ~~guidance~~ *school counselor* administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including school nurses and school psychologists;
4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;
5. Technology professional positions not included in subsection J;
6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;
7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and
8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

P. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

#### **§ 22.1-253.13:10. Standards of Learning Innovation Committee.**

The Secretary of Education, upon receiving recommendations for appointments from the Virginia Parent Teacher Association, Virginia Education Association, Virginia School Boards Association, Virginia Association of Secondary School Principals, Virginia Association of Elementary School Principals, Virginia Association of School Superintendents, Virginia State Reading Association, Virginia School Counselor Association, and Virginia Association for Supervision and Curriculum Development, shall establish and appoint nonlegislative citizen members to the Standards of Learning Innovation Committee (Committee). The Committee shall consist of (i) four members of the Virginia House of Delegates, appointed by the Speaker of the House of Delegates; (ii) three members of the Virginia Senate, appointed by the Senate Committee on Rules on the recommendation of the Chair of the Senate Committee on Education and Health; and (iii) at least one parent of a currently enrolled public school student, public elementary school teacher, public secondary school teacher, public secondary school ~~guidance~~ *counselor*, school board member, public school principal, division superintendent, curriculum and instruction specialist, higher education faculty member, representative of a four-year public institution of higher education in the Commonwealth, representative of a two-year public institution of higher education in the Commonwealth, and representative of the business community in the Commonwealth and such other stakeholders as the Secretary deems appropriate, appointed by the Secretary. Members of the Committee should reflect geographic diversity and rural and urban school systems as far as practicable. The Superintendent of Public Instruction, the President of the

Board of Education or his designee, and the Secretary of Education or his designee shall serve ex officio. All other members shall be appointed for terms of two years. The Committee, under the direction of the Secretary, shall periodically make recommendations to the Board of Education on (a) the Standards of Learning assessments, (b) authentic individual student growth measures, (c) alignment between the Standards of Learning and assessments and the School Performance Report Card, and (d) ideas on innovative teaching in the classroom. An affirmative vote by a majority of the legislative members in attendance and a majority of nonlegislative members in attendance shall be required for the Committee to adopt any recommendations. The Board of Education shall review the recommendations of the Committee and submit to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health, in advance of the next regular session of the General Assembly, any comments on such recommendations that the Board of Education deems appropriate.

**§ 22.1-290.01. Virginia Teaching Scholarship Loan Program established; purpose; Board of Education to administer Program; eligibility requirements for scholarship and awards; collaboration and consultation with State Council of Higher Education; repayment of scholarship required.**

A. With such funds as may be appropriated for this purpose and any gifts, donations, grants, bequests, and other funds that may be received on behalf of the Program by the Board of Education, there is hereby established the Virginia Teaching Scholarship Loan Program, hereinafter referred to as the "Program," to: (i) increase the number of teacher candidates pursuing careers in critical teacher shortage areas as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas; (ii) expand eligibility to teacher candidates, including graduate students and paraprofessionals from Virginia school divisions who are enrolled full-time or part-time in an approved teacher education program; (iii) increase the diversity of persons pursuing careers in teaching, including male teacher candidates enrolled in an elementary or middle school education program and minority teacher candidates enrolled in any teaching endorsement area; and (iv) increase the number of teacher candidates pursuing careers in career and technical education.

B. The Board of Education shall establish, in regulation, criteria for determining critical teacher shortage areas for awarding scholarships pursuant to this section. The criteria shall include such factors as the needs in teaching endorsement areas among the several school divisions of the Commonwealth, teacher shortages at the elementary and secondary grade levels, and teacher shortages in rural and urban regions of the Commonwealth.

C. The Program shall be administered by the Board of Education. The Board may promulgate such regulations as may be necessary for the implementation of the Program. The Board shall consult with the State Council of Higher Education in the implementation of the Program.

The Program shall consist of scholarships awarded annually to teacher candidates, including graduate students and paraprofessionals from Virginia school divisions at an accredited baccalaureate private institution of higher education in the Commonwealth or baccalaureate public institution of higher education in the Commonwealth, who (i) are enrolled full-time or part-time in an approved teacher education program or are participants in another approved teacher education program; (ii) have maintained a cumulative grade point average of at least 2.7 on a 4.0 scale or its equivalent; and (iii) are nominated for such scholarship by the institution where they are enrolled. In addition, the candidates must meet one or more of the following criteria: (a) be enrolled in a program leading to an endorsement in a critical shortage area as established by the Board of Education; (b) be a male teacher candidate in an elementary or middle school education program; (c) be a minority teacher candidate enrolled in any teacher endorsement area; or (d) be a student in an approved teacher education program leading to an endorsement in career and technical education.

D. Before any teaching scholarship is awarded in accordance with the provisions of this section, the scholarship recipient shall sign a promissory note agreeing (i) to pursue an approved teacher education program full-time or part-time at an accredited baccalaureate private institution of higher education in the Commonwealth or baccalaureate public institution of higher education in the Commonwealth or another approved teacher education program and (ii) upon graduation, to begin teaching in the public schools of the Commonwealth in a critical teaching shortage discipline or in a career and technical education discipline or, regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch or in a rural or urban region of the Commonwealth with a teacher shortage.

Upon program completion, the scholarship recipient shall begin teaching in the public schools of the Commonwealth in the first full academic year after becoming eligible for a teaching license, and shall fulfill the teaching obligation in accordance with the promissory note by teaching continuously in Virginia for the same number of years that he was the beneficiary of such scholarship. Such scholarship recipient may fulfill the teaching obligation by accepting a teaching position (i) in one of the critical teacher shortage disciplines as established by the Board of Education; or (ii) in a career and technical education discipline; or (iii) regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch; or (iv) in any discipline or at any grade level within a school division with a shortage of teachers, as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas; or (v) in a rural or urban region of the state with a teacher shortage.

E. The Board of Education may recover the total amount of funds awarded as a scholarship, or the appropriate proportion thereof, including any accrued interest, if the scholarship recipient fails to honor the teaching obligation.

F. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Virginia Teaching Scholarship Loan Fund, hereinafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. The Fund shall consist of such moneys as may be appropriated for the Virginia Teaching Scholarship Loan Program and such gifts, donations, grants, bequests, and other funds as may be received on its behalf by the Board of

Education. The Fund shall be used solely to fund the Virginia Teaching Scholarship Loan Program. Interest earned on such moneys shall remain in the Fund and be credited to it. Moneys in the Fund shall be used solely to award scholarships pursuant to the Virginia Teaching Scholarship Loan Program as provided in this section. Disbursements from the Fund for such scholarships shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the President of the Board of Education.

G. The Board of Education and the State Council of Higher Education shall make available to parents, students, teachers, high school ~~guidance~~ counselors, and academic advisors and financial aid administrators at public and private institutions of higher education information concerning the Virginia Teacher Scholarship Loan Program, eligibility for the loans, and the terms and conditions under which such loans are awarded, in order that students interested in pursuing careers in the teaching profession may be advised of the availability of such financial assistance.

**§ 22.1-291.1:1. School counselors; staff time.**

*Each school counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students.*

## CHAPTER 140

*An Act to amend the Code of Virginia by adding a section numbered 22.1-137.3, relating to school safety procedures; emergency situations; annual training.*

[H 1732]

Approved February 22, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 22.1-137.3 as follows:**

**§ 22.1-137.3. School safety procedures; emergency situations; annual training.**

*In addition to complying with the requirements for drills set forth in §§ 22.1-137, 22.1-137.1, and 22.1-137.2, each school board shall develop training on safety procedures in the event of an emergency situation on school property. Such training shall be delivered to each student and employee in each school at least once each school year.*

**2. That the Board of Education shall develop guidelines for the development and delivery of training required by this act.**

## CHAPTER 141

*An Act to amend and reenact § 22.1-279.8 of the Code of Virginia, relating to development and review of school crisis, emergency management, and medical emergency response plans; include certain first responders.*

[H 1737]

Approved February 22, 2019

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

**1. That § 22.1-279.8 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.**

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits as defined in this section and consistent with such list.

The results of such school safety audits shall be made public within 90 days of completion. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The completed walk-through checklist shall be made available upon request to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available upon request to the chief law-enforcement officer of the locality the results of such audits.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall ~~provide copies of such plans to~~ include the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, *the executive director of the relevant regional emergency medical services council*, and the emergency management official of the locality, *or their designees, in the development of such plans*. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis, emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board ~~and the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, the executive director of the relevant regional emergency medical services council, and the emergency management official of the locality, or their designees,~~ shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

## CHAPTER 142

*An Act to amend and reenact § 22.1-271.5 of the Code of Virginia, relating to concussions in student-athletes; guidelines, policies, and procedures.*

[H 1930]

Approved February 22, 2019

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

**1. That § 22.1-271.5 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-271.5. Guidelines and policies and procedures on concussions in student-athletes.**

A. The Board of Education shall develop, *biennially update*, and distribute to each local school division guidelines on policies to inform and educate coaches, student-athletes, and ~~their~~ *student-athletes'* parents or guardians of the nature and risk of concussions, criteria for removal from and return to play, risks of not reporting the injury and continuing to play, and the effects of concussions on student-athletes' academic performance.

B. Each local school division shall develop *and biennially update* policies and procedures regarding the identification and handling of suspected concussions in student-athletes. Such policies shall:

1. Require that in order to participate in any extracurricular physical activity, each student-athlete and the student-athlete's parent or guardian shall review, on an annual basis, information on concussions provided by the local school division. After having reviewed materials describing the short- and long-term health effects of concussions, each student-athlete and the student-athlete's parent or guardian shall sign a statement acknowledging receipt of such information, in a manner approved by the Board of Education;

2. Require a student-athlete suspected by that student-athlete's coach, athletic trainer, or team physician of sustaining a concussion or brain injury in a practice or game to be removed from the activity at that time. A student-athlete who has been removed from play, evaluated, and suspected to have a concussion or brain injury shall not return to play that same day nor until (i) evaluated by an appropriate licensed health care provider as determined by the Board of Education and (ii) in receipt of written clearance to return to play from such licensed health care provider.

The licensed health care provider evaluating student-athletes suspected of having a concussion or brain injury may be a volunteer; and

3. Include a "Return to Learn Protocol" with the following requirements:

a. School personnel shall be alert to cognitive and academic issues that may be experienced by a student who has suffered a concussion or other head injury, including (i) difficulty with concentration, organization, and long-term and short-term memory; (ii) sensitivity to bright lights and sounds; and (iii) short-term problems with speech and language, reasoning, planning, and problem solving; and

b. School personnel shall accommodate the gradual return to full participation in academic activities of a student who has suffered a concussion or other head injury as appropriate, based on the recommendation of the student's licensed health care provider as to the appropriate amount of time that such student needs to be away from the classroom.

C. Each non-interscholastic youth sports program utilizing public school property shall either (i) establish policies and procedures regarding the identification and handling of suspected concussions in student-athletes, consistent with either the local school division's policies and procedures developed in compliance with this section or the Board's Guidelines for Policies on Concussions in Student-Athletes, or (ii) follow the local school division's policies and procedures as set forth in subsection B. In addition, local school divisions may provide the guidelines to organizations sponsoring athletic activity for student-athletes on school property. Local school divisions shall not be required to enforce compliance with such policies.

D. As used in this section, "non-interscholastic youth sports program" means a program organized for recreational athletic competition or recreational athletic instruction for youth.

**2. That the Board of Education shall collaborate with the Virginia High School League, the Virginia Department of Health, the Virginia Athletic Trainers' Association, the Virginia Physical Therapy Association, representatives of the Children's Hospital of the King's Daughters and the Children's National Health System, the Brain Injury Association of Virginia, the American Academy of Pediatrics, the Virginia College of Emergency Physicians, the Virginia Academy of Family Physicians, the Virginia Association of School Nurses, a representative from a non-interscholastic youth sports program, and any other interested stakeholders that it deems appropriate to biennially update its guidelines on policies to inform and educate coaches, student-athletes, and student-athletes' parents or guardians of the nature and risk of concussions, criteria for removal from and return to play, risks of not reporting the injury and continuing to play, and the effects of concussions on student-athletes' academic performance pursuant to subsection A of § 22.1-271.5 of the Code of Virginia, as amended by this act.**

## CHAPTER 143

*An Act to require the Board of Education to review and revise its Career and Technical Education Work-Based Learning Guide.*

[H 2018]

Approved February 22, 2019

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

**1. § 1.** *The Board of Education shall review and revise its Career and Technical Education Work-Based Learning Guide (the Guide) to expand the opportunities available for students to earn credit for graduation through high-quality work-based learning experiences such as job shadowing, mentorships, internships, and externships. In performing such review, the Board shall consult with (i) stakeholders representing a variety of industries and (ii) organizations representing the business community and shall consider (a) the diversity of school divisions across the Commonwealth, (b) the need for local flexibility to establish credit-bearing work-based learning experiences through a variety of methods, and (c) the needs of industries across the Commonwealth.*

**§ 2.** *The Board of Education shall complete its work to revise the Guide no later than December 1, 2019.*

## CHAPTER 144

*An Act to amend and reenact § 46.2-1222.1 of the Code of Virginia, relating to local regulation of parking of certain vehicles.*

[H 1777]

Approved February 22, 2019

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

**1. That § 46.2-1222.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1222.1. Regulation or prohibition of parking of certain vehicles in certain counties and towns.**

A. The Counties of Arlington, Fairfax, Hanover, Stafford, and Prince William and the Towns of Blackstone, *Cape Charles*, Clifton, Herndon, Leesburg, and Vienna may by ordinance regulate or prohibit the parking on any public highway in such county or town of any or all of the following: (i) watercraft; (ii) boat trailers; (iii) motor homes, as defined in § 46.2-100; and (iv) camping trailers, as defined in § 46.2-100.

B. In addition to commercial vehicles defined in § 46.2-1224, any such county or town may also, by ordinance, regulate or prohibit the parking on any public highway in any residence district as defined in § 46.2-100 any or all of the following: (i) any trailer or semitrailer, regardless of whether such trailer or semitrailer is attached to another vehicle; (ii) any vehicle with three or more axles; (iii) any vehicle that has a gross vehicle weight rating of 12,000 or more pounds; (iv) any vehicle designed to transport 16 or more passengers including the driver; and (v) any vehicle of any size that is being used in the transportation of hazardous materials as defined in § 46.2-341.4. The provisions of any such ordinance shall not apply to (i) any commercial vehicle when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power.

## CHAPTER 145

*An Act to amend and reenact § 46.2-1025 of the Code of Virginia, relating to amber warning lights; vehicles hauling forest products.*

[H 1802]

Approved February 22, 2019

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

**1. That § 46.2-1025 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1025. Flashing amber, purple, or green warning lights.**

A. The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the Superintendent:

1. Vehicles used for the principal purpose of towing or servicing disabled vehicles;
2. Vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways, or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways;
3. Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;
4. Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;
5. Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection operations;
6. Vehicles used by individuals for emergency snow-removal purposes;
7. Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;
8. Fire apparatus and emergency medical services vehicles, provided the amber lights are used in addition to lights permitted under § 46.2-1023 and are so mounted or installed as to be visible from behind the vehicle;
9. Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is being operated on a public highway;
10. Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;
11. Vehicles used to collect and deliver packages weighing less than 150 pounds by a national package delivery company that delivers such packages in all 50 states, provided that the amber lights are lit only when the vehicle is stopped and its operator is engaged in such collection and delivery;
12. Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's back-up

lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in § 46.2-1175.1, is in operation;

13. Vehicles used by law-enforcement agency personnel in the enforcement of laws governing motor vehicle parking;

14. Government-owned law-enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is in motion;

15. Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;

16. Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;

17. Vehicles owned and used by construction companies operating under Virginia contractors licenses;

18. Vehicles used to lead or provide escorts for bicycle races authorized by the Department of Transportation or the locality in which the race is being conducted;

19. Vehicles used by radio or television stations for remote broadcasts, provided that the amber lights are not lit while the vehicle is in motion;

20. Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subdivision, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;

21. Vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;

22. Vehicles used in patrol work by members of neighborhood watch groups approved by the chief law-enforcement officer of the locality in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion;

23. Vehicles that are not tow trucks as defined in § 46.2-100, but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing and recovery site;

24. Vehicles used or operated by federally licensed amateur radio operators, provided that the amber lights are not lit while the vehicle is in motion, (i) while participating in emergency communications or drills on behalf of federal, state, or local authorities or (ii) while providing communications services to localities for public service events authorized by the Department of Transportation where the event is being conducted; ~~and~~

25. Publicly owned or operated transit buses; *and*

26. *Vehicles used for hauling trees, logs, or any other forest products when hauling such products, provided that the amber lights are mounted or installed so as to be visible from behind the vehicle.*

B. Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.

C. Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle. The Superintendent of State Police shall develop standards and specifications for purple lights authorized in this subsection.

D. Vehicles used by police, firefighting, or emergency medical services personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the Superintendent. Such lights shall not be activated while the vehicle is operating upon the highway.

## CHAPTER 146

*An Act to amend and reenact § 18.2-67.9 of the Code of Virginia, relating to testimony by child victims and witnesses using two-way closed-circuit television; commercial sex trafficking and prostitution offenses.*

[H 2464]

Approved February 22, 2019

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

**1. That § 18.2-67.9 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-67.9. Testimony by child victims and witnesses using two-way closed-circuit television.**

A. The provisions of this section shall apply to an alleged victim who was ~~fourteen~~ 14 years of age or ~~under~~ younger at the time of the alleged offense and is ~~sixteen~~ 16 years of age or ~~under~~ younger at the time of the trial and to a witness who is ~~fourteen~~ 14 years of age or ~~under~~ younger at the time of the trial.

In any criminal proceeding, including preliminary hearings, involving an alleged offense against a child, relating to a violation of the laws pertaining to kidnapping pursuant to Article 3 (§ 18.2-47 et seq.) of Chapter 4, criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4, commercial sex trafficking or prostitution offenses pursuant to Article 3 (§ 18.2-344 et seq.) of Chapter 8, or family offenses pursuant to Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, or involving an alleged murder of a person of any age, the attorney for the Commonwealth or the defendant may apply for an order from the court that the testimony of the alleged victim or a child witness be taken in a room outside the courtroom and be televised by two-way closed-circuit television. The party seeking such order shall apply for the order at least seven days before the trial date or at least seven days before such other preliminary proceeding to which the order is to apply.

B. The court may order that the testimony of the child be taken by closed-circuit television as provided in subsection A if it finds that the child is unavailable to testify in open court in the presence of the defendant, the jury, the judge, and the public, for any of the following reasons:

1. The child's persistent refusal to testify despite judicial requests to do so;
2. The child's substantial inability to communicate about the offense; or
3. The substantial likelihood, based upon expert opinion testimony, that the child will suffer severe emotional trauma from so testifying.

Any ruling on the child's unavailability under this subsection shall be supported by the court with findings on the record or with written findings in a court not of record.

C. In any proceeding in which closed-circuit television is used to receive testimony, the attorney for the Commonwealth and the defendant's attorney shall be present in the room with the child, and the child shall be subject to direct and cross-examination. The only other persons allowed to be present in the room with the child during his testimony shall be those persons necessary to operate the closed-circuit equipment; and any other person whose presence is determined by the court to be necessary to the welfare and well-being of the child.

D. The child's testimony shall be transmitted by closed-circuit television into the courtroom for the defendant, jury, judge, and public to view. The defendant shall be provided with a means of private, contemporaneous communication with his attorney during the testimony.

E. Notwithstanding any other provision of law, none of the cost of the two-way closed-circuit television shall be assessed against the defendant.

## CHAPTER 147

*An Act to amend and reenact § 29.1-303.1 of the Code of Virginia, relating to hunting license; resident trip license.*

[H 1621]

Approved February 22, 2019

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

**1. That § 29.1-303.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 29.1-303.1. Trip hunting licenses.**

Nonresidents *or residents* of the Commonwealth may purchase a ~~nonresident~~ trip hunting license in lieu of the ~~nonresident~~ hunting license required by ~~subdivision 3~~ of § 29.1-303. The duration for which the license shall be valid shall be established by the Board. The fee for the ~~nonresident~~ trip hunting license shall be established by the Board and may be revised pursuant to § 29.1-103.

## CHAPTER 148

*An Act to amend and reenact § 10.1-609.2 of the Code of Virginia, relating to dams; wetland vegetation.*

[H 1715]

Approved February 22, 2019

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

**1. That § 10.1-609.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-609.2. Prohibited vegetation; certain wetland vegetation allowed.**

A. Dam owners shall not permit the growth of trees and other woody vegetation and shall remove any such vegetation from the slopes and crest of embankments and the emergency spillway area; and within a distance of 25 feet from the toe of the embankment and abutments of the dam.

*B. The provisions of subsection A shall not apply to wetland vegetation, including woody shrubs, trees, and plants, that is growing on a permanent aquatic or safety bench that has been added to the upstream embankment slope of a regulated impounding structure if such vegetation is associated with a wetland mitigation bank or in-lieu fee site that (i) has been approved by the U.S. Army Corps of Engineers and the Department of Environmental Quality and (ii) is the subject of a restrictive covenant or other permanent instrument that specifically protects the particular wetland vegetation from removal and is recorded among the land records of the locality. However, the Department may require the dam owner to remove trees by flush cutting unless the Department determines on the basis of site-specific information that the grubbing of roots is necessary to protect the integrity of the dam in a particular case.*

C. Owners failing to maintain their dam in accordance with this section shall be subject to enforcement pursuant to § 10.1-613.

## CHAPTER 149

*An Act to amend and reenact §§ 46.2-688, 46.2-706 through 46.2-708, and 46.2-710 of the Code of Virginia, relating to motor vehicle insurance verification by the Department of Motor Vehicles; report.*

[H 1867]

Approved February 22, 2019

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

**1. That §§ 46.2-688, 46.2-706 through 46.2-708, and 46.2-710 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-688. Refund of fees paid.**

Any person holding a registration card and license plate or license plates with decal who disposes of, elects not to use the vehicle for which it was issued on the highways in the Commonwealth, or transfers another valid license plate to the vehicle, may surrender, prior to the beginning of the registration period, the license plates or license plates with decals and registration card or provide other evidence of registration of the vehicle to the Commissioner with a statement that the vehicle for which the license plate or license plate with decal was issued has been disposed of, election has been made not to use the vehicle on the highways in the Commonwealth, or another valid license plate has been transferred to the vehicle and request a refund of the fee paid. The Commissioner shall retain five dollars of the fee to cover the costs incurred in issuing the plates and processing the refund.

The Commissioner shall refund to the applicant a proration, in six-month increments, of the total cost of the registration and license plates or license plates with decals if application for the refund is made when there are six or more months remaining in the registration period. *The Commissioner shall not provide a refund when otherwise eligible if the applicant chooses not to return the license plates to the Department.* No charge or deduction shall be assessed for any refund made under this subsection.

**§ 46.2-706. Additional fee; proof of insurance required of applicants for registration of insured motor vehicles; verification of insurance; suspension of driver's license, registration certificates, and license plates for certain violations.**

A. In addition to any other fees prescribed by law, every person registering an uninsured motor vehicle, as defined in § 46.2-705, at the time of registering or reregistering the uninsured vehicle, shall pay a fee of \$500; however, if the uninsured motor vehicle is being registered ~~or reregistered~~ for a period of less than a full year, the uninsured motor vehicle fee shall be prorated for the unexpired portion of the registration period. If the vehicle is a motor vehicle being registered ~~or reregistered~~ as provided in subsection B of § 46.2-697, the fee shall be one-fourth of the annual uninsured motor vehicle fee for each quarter for which the vehicle is registered.

B. If the owner of a motor vehicle registered under this article as an uninsured motor vehicle, during the period for which such vehicle is registered, obtains insurance coverage adequate to permit such vehicle's registration as an insured motor vehicle and presents evidence satisfactory to the Commissioner of the existence of such insurance coverage, the Commissioner shall amend the Department's records to show such vehicle to be registered as an insured motor vehicle and shall refund to the owner a prorated portion of the additional fee required by this section for registration of an uninsured motor vehicle. Such proration shall be on a monthly basis, except that no such refund shall be made (i) as to any registration during the last three months of its validity or (ii) on any portion of any such fee required to be paid resulting from a determination by the Department or any court that a vehicle was uninsured and no fee had been paid.

C. Every person applying for registration of a motor vehicle and declaring it to be an insured motor vehicle shall, under the penalties set forth in § 46.2-707, execute and furnish to the Commissioner his certificate that the motor vehicle is an insured motor vehicle as defined in § 46.2-705, or that the Commissioner has issued to its owner, in accordance with § 46.2-368, a certificate of self-insurance applicable to the vehicle sought to be registered. The Commissioner, or his duly authorized agent, may verify that the motor vehicle is properly insured by comparing owner and vehicle identification information on file at the Department of Motor Vehicles with liability information on the owner and vehicle transmitted to the Department by any insurance company licensed to do business in the Commonwealth as provided in § 46.2-706.1. If no record of liability insurance is found, the Department may require the motor vehicle owner to verify insurance in a method prescribed by the Commissioner.

D. The refusal or neglect of any owner within 30 days to submit the liability insurance information when required by the Commissioner or his duly authorized agent, or the electronic notification by the insurance company or surety company that the policy or bond named in the certificate of insurance is not in effect, shall require the Commissioner to suspend any driver's license and all registration certificates and license plates issued to the owner of the motor vehicle until the person (i) has paid to the Commissioner a *noncompliance* fee of ~~\$500~~ \$600 to be disposed of as provided for in § 46.2-710 ~~with respect to the motor vehicle determined to be uninsured~~ and (ii) furnishes proof of financial responsibility for the future in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3. No order of suspension required by this section shall become effective until the Commissioner has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension. Any request for an administrative hearing made by such person must be received by the Department within 180 days of the issuance date of the order of suspension unless the person presents to the Department evidence of military

service as defined by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), incarceration, commitment, hospitalization, or physical presence outside the United States at the time the order of suspension was issued. When three years have elapsed from the effective date of the suspension required in this section, the Commissioner may relieve the person of the requirement of furnishing proof of future financial responsibility.

E. The Commissioner shall suspend the driver's license and all registration certificates and license plates of any person on receiving a record of his conviction of a violation of any provisions of § 46.2-707, but the Commissioner shall dispense with the suspension when the person is convicted for a violation of § 46.2-707 and the Department's records show conclusively that the motor vehicle was insured or that the fee applicable to the registration of an uninsured motor vehicle has been paid by the owner prior to the date and time of the alleged offense.

*F. The Commissioner may dispense with a suspension for a violation of this section or § 46.2-708 if the person determined to have committed the violation provides to the Commissioner proof that conclusively shows that the motor vehicle in question was insured at the time the Department initiated insurance monitoring under § 46.2-706 or at the time of a violation of § 46.2-708.*

**§ 46.2-706.1. Insurance and surety companies to furnish certain insurance information.**

A. Any liability insurance information relating to individually identified vehicles or persons, received from such companies under this section, shall be considered privileged information and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Such information shall be used in conjunction with information supplied under § 46.2-706 to verify insurance for motor vehicles certified by their owners to be insured.

C. Insurance companies licensed to do business in Virginia shall provide to the Department ~~monthly electronic, electronically in a manner prescribed by the Commissioner, updates of insured information and vehicle descriptions required by the Commissioner when they~~ ~~(i) cancel~~ *within 30 days of a policy change to liability insurance for vehicles a vehicle registered in Virginia, (ii) add including liability insurance for vehicles registered in Virginia, or (iii) provide liability insurance for vehicles registered in Virginia newly satisfying that satisfies financial responsibility requirements. A policy change occurs when an insurance company (i) issues liability insurance, (ii) cancels liability insurance, (iii) becomes aware of a lapse in liability insurance, (iv) reissues or reinstates liability insurance, or (v) adds a vehicle to an existing liability insurance policy.*

D. Insurance companies licensed to do business in Virginia shall respond electronically in a manner prescribed by the Commissioner to a Department request for acknowledgment of liability insurance within 15 days of receiving the request. Insurance companies shall respond to the request by confirming or denying the existence of a policy with the company.

E. Every update of a policy change concerning a liability insurance policy shall include the following information: vehicle identification number, full name of first named insured, vehicle make, and vehicle model year. If available, the following information shall also be included: date of birth for first named insured, full names and dates of birth for all vehicle operators, and Virginia drivers' license numbers or social security numbers for the first named insured and all vehicle operators.

**§ 46.2-707. Operating uninsured motor vehicle without payment of fee; verification of insurance; false evidence of insurance.**

Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558 who operates or permits the operation of that motor vehicle without first having paid to the Commissioner the uninsured motor vehicle fee required by § 46.2-706, to be disposed of as provided by § 46.2-710, shall be guilty of a Class 3 misdemeanor.

Any person who is the operator of such an uninsured motor vehicle and not the titled owner, who knows that the required fee has not been paid to the Commissioner, shall be guilty of a Class 3 misdemeanor.

The Commissioner or his duly authorized agent, having reason to believe that a motor vehicle is being operated or has been operated on any specified date, may require the owner of such motor vehicle to verify insurance in a method prescribed by the Commissioner as provided for by § 46.2-706. The refusal or neglect of the owner who has not, prior to the date of operation, paid the uninsured motor vehicle fee required by § 46.2-706 as to such motor vehicle, to provide such verification shall be prima facie evidence that the motor vehicle was an uninsured motor vehicle at the time of such operation.

Any person who falsely verifies insurance to the Commissioner or gives false evidence that a motor vehicle sought to be registered is an insured motor vehicle, shall be guilty of a Class 3 misdemeanor.

However, the foregoing portions of this section shall not be applicable if it is established that the owner had good cause to believe and did believe that such motor vehicle was an insured motor vehicle, in which event the provisions of § 46.2-609 shall be applicable.

Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558, and who has not paid the uninsured motor vehicle fee required by § 46.2-706, shall immediately surrender the vehicle's license plates to the Department, unless the vehicle's registration has been deactivated as provided by § 46.2-646.1. Any person who fails to immediately surrender his vehicle's license plates as required by this section is guilty of a Class 3 misdemeanor.

Abstracts of records of conviction, as defined in this title, of any violation of any of the provisions of this section shall be forwarded to the Commissioner as prescribed by § 46.2-383.

The Commissioner shall suspend the driver's license and all registration certificates and license plates of any titled owner of an uninsured motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section, and he shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person until such person pays ~~the a noncompliance fee applicable to the registration of an uninsured motor vehicle as prescribed in § 46.2-706~~ of \$600 to be disposed of as provided for in § 46.2-710 and furnishes proof of future financial responsibility as prescribed by Article 15 (§ 46.2-435 et seq.) of Chapter 3 ~~of this title~~. However, when three years have elapsed from the date of the suspension herein required, the Commissioner may relieve such person of the requirement of furnishing proof of future financial responsibility. When such suspension results from a conviction for presenting or causing to be presented to the Commissioner false verification as to whether a motor vehicle is an insured motor vehicle or false evidence that any motor vehicle sought to be registered is insured, then the Commissioner shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person so convicted for a period of 180 days from the date of such order of suspension, and only then when all other provisions of law have been complied with by such person.

The Commissioner shall suspend the driver's license of any person who is the operator but not the titled owner of a motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section and he shall not thereafter reissue the driver's license until 30 days from the date of such order of suspension.

**§ 46.2-707.1. Noncompliance fee payment plan.**

A. The Department may establish ~~an uninsured motor vehicle~~ a noncompliance fee payment plan to allow individuals to pay the fees for a motor vehicle determined to be uninsured as prescribed in § 46.2-706, 46.2-707, or 46.2-708. Notwithstanding §§ 46.2-706, 46.2-707, and 46.2-708, ~~a Virginia resident~~ an individual 18 years of age or older whose driver's license and vehicle registration have been suspended pursuant to § 46.2-706, 46.2-707, or 46.2-708 may apply to the Department to enter into a payment plan agreement with a duration of no more than three years from the agreement date, referred to in this section as the "payment plan period."

B. To be eligible to enter into the payment plan, the individual must (i) have one or more outstanding suspensions of driving privileges pursuant to the provisions of § 46.2-706, 46.2-707, or 46.2-708 and have no other outstanding suspensions or revocations; (ii) meet all other conditions for reinstatement of driving privileges; and (iii) have ~~never not defaulted twice on a prior~~ the same uninsured motor vehicle payment plan agreement.

C. An eligible individual who ~~enters~~ pays a \$25 administrative fee when entering into a payment plan agreement or when reentering into a payment plan agreement with the Department, ~~pays a \$25 administrative fee~~, and pays the reinstatement fee pursuant to §§ 46.2-333.1 and 46.2-411, if required, shall be eligible to have his driving privileges reinstated by the Department.

D. The amount and frequency of each payment and the duration of the payment plan shall be described in the payment plan agreement signed by the Department and the individual. Payments may be made in person, online, *by telephone*, or by mail. The full fee must be paid in no more than three years from the agreement date; however, an individual may repay the balance of the fee at any time during the payment plan period with no penalty.

E. If an individual defaults on the payment plan agreement, the Commissioner shall suspend the driver's license and all registration certificates and license plates issued to the owner of the motor vehicle determined to be uninsured. Such driver's license, registration certificates, and license plates shall remain suspended until the individual pays the balance of the fee applicable to the registration of an uninsured motor vehicle as prescribed in § 46.2-706, 46.2-707, or 46.2-708 and furnishes proof of future financial responsibility as prescribed by Article 15 (§ 46.2-435 et seq.) of Chapter 3. An individual is in default if he (i) pays an installment payment late as defined in the payment plan agreement or (ii) fails to make an installment payment as agreed to in the payment plan agreement. If an individual is in default *and is ineligible to reenter the payment plan*, full payment of the balance of the fee shall be due as agreed to in the payment plan agreement. *The Commissioner may extend the due date of any installment payment for not more than 30 days if the Department is unable to process an installment payment due to circumstances beyond its control.*

F. When all fees are paid, the individual shall continue to furnish proof of financial responsibility pursuant to Article 15 (§ 46.2-435 et seq.) of Chapter 3 and § 46.2-709.

G. Installment payments of the fee with respect to the motor vehicle determined to be uninsured shall be disposed of pursuant to § 46.2-710. The administrative fee shall be paid to the Commissioner and deposited into the state treasury account set aside in a special fund to be used to meet the necessary expenses incurred by the Department.

**§ 46.2-708. Suspension of driver's license and registration when uninsured motor vehicle is involved in reportable accident; hearing prior to suspension.**

When it appears to the Commissioner from the records of his office *or from a report submitted by an insurance company licensed to do business in the Commonwealth* that an uninsured motor vehicle as defined in § 46.2-705, subject to registration in the Commonwealth, is involved in a reportable accident in the Commonwealth resulting in death, injury or property damage with respect to which motor vehicle the owner thereof has not paid the uninsured motor vehicle fee as prescribed in § 46.2-706, the Commissioner shall, in addition to enforcing the applicable provisions of Article 13 (§ 46.2-417 et seq.) of Chapter 3, suspend such owner's driver's license and all of his license plates and registration certificates until such person has complied with Article 13 of Chapter 3 and has paid to the Commissioner a noncompliance fee of ~~\$500~~ \$600, to be disposed of as provided by § 46.2-710, with respect to the motor vehicle involved in the accident and furnishes proof of future financial responsibility in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of

Chapter 3. However, no order of suspension required by this section shall become effective until the Commissioner has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension. Any request for an administrative hearing made by such person must be received by the Department within 180 days of the issuance date of the order of suspension unless the person presents to the Department evidence of military service as defined by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), incarceration, commitment, hospitalization, or physical presence outside the United States at the time the order of suspension was issued.

However, when three years have elapsed from the effective date of the suspension herein required, the Commissioner may relieve such person of the requirement of furnishing proof of future financial responsibility. The presentation by a person subject to the provisions of this section of a certificate of insurance, executed by an agent or representative of an insurance company qualified to do business in this Commonwealth, showing that on the date and at the time of the accident the vehicle was an insured motor vehicle as herein defined, or, presentation by such person of evidence that the additional fee applicable to the registration of an uninsured motor vehicle had been paid to the Department prior to the date and time of the accident, shall be sufficient bar to the suspension provided for in this section.

**§ 46.2-710. Disposition of funds collected.**

*From every noncompliance fee collected by the Commissioner under the provisions of this article, the Commissioner shall retain \$100 to be placed in a special fund in the state treasury to be used to meet the expenses of the Department. All other funds collected by the Commissioner under the provisions of this article shall be paid into the state treasury and held in a special fund to be known as the Uninsured Motorists Fund to be disbursed as provided by law. The Commissioner may expend ~~monies~~ moneys from such funds, for the administration of this article, in accordance with the ~~General Appropriations Act~~ general appropriation act.*

**2. That the provisions of this act amending and reenacting § 46.2-706.1 of the Code of Virginia shall become effective on January 1, 2020.**

**3. That in December 2024 the Department of Motor Vehicles shall report to the General Assembly regarding the effectiveness of the provisions of this act in improving the Department of Motor Vehicles' Insurance Verification Program. The report shall provide recommendations to address any lack of compliance with the Commonwealth's motor vehicle liability insurance requirements.**

## CHAPTER 150

*An Act to amend the Code of Virginia by adding a section numbered 29.1-553.1, relating to penalty for wanton waste.*

[H 1613]

Approved February 27, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 29.1-553.1 as follows:**

**§ 29.1-553.1. Penalty for wanton waste.**

*Any person violating a regulation adopted by the Board to prohibit wanton waste shall be guilty of a Class 2 misdemeanor.*

## CHAPTER 151

*An Act to amend and reenact § 29.1-521 of the Code of Virginia, relating to the killing of nuisance species from an automobile.*

[H 1696]

Approved February 27, 2019

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

**1. That § 29.1-521 of the Code of Virginia is amended and reenacted as follows:**

**§ 29.1-521. Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as permitted; exception; penalty.**

A. The following shall be unlawful:

1. To hunt or kill any wild bird or wild animal, including any nuisance species, with a gun, firearm, or other weapon, or to hunt or kill any deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs, on Sunday. The provision of this subdivision that prohibits the hunting or killing of any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) any person who hunts or kills raccoons; (ii) any person who hunts or kills birds in the family Rallidae or waterfowl, subject to geographical limitations established by the Director and except within 200 yards of a place of worship or any accessory structure thereof; or (iii) any landowner or member of his family or any person with written permission from the landowner who hunts or kills any wild bird or wild animal, including any nuisance species, on the landowner's property, except within 200 yards of a place of worship or any accessory structure thereof. However, a person

lawfully carrying a gun, firearm, or other weapon on Sunday in an area that could be used for hunting shall not be presumed to be hunting on Sunday, absent evidence to the contrary.

2. To destroy or molest the nest, eggs, dens, or young of any wild bird or wild animal, except nuisance species, at any time without a permit as required by law.

3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily bag or season limit during such day or season. However, any properly licensed person, or a person exempt from having to obtain a license, who has obtained such daily bag or season limit while hunting may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow, an unloaded slingbow, an unloaded arrowgun, or an unloaded crossbow. Any properly licensed person, or person exempt from having to obtain a license, who has obtained such season limit prior to commencement of the hunt may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he does not have a firearm, bow, slingbow, arrowgun, or crossbow in his possession.

4. To knowingly occupy any baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal or to put out bait or salt for any wild bird or wild animal for the purpose of taking or killing it. There shall be a rebuttable presumption that a person charged with violating this subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal. However, this shall not apply to baiting nuisance species of animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully trapped.

5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in progress.

6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except (i) as provided in § 29.1-521.3 or (ii) for the killing of nuisance species as defined in § 29.1-100 on private property by the owner of such property or his designee from a stationary automobile or other stationary vehicle.

7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name and address of the trapper; or (ii) an identification number issued by the Department.

8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may authorize employees of federal, state, and local government agencies, and persons holding a valid Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that are completely submerged at least once every 72 hours, and the Board may adopt regulations permitting trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations permitting trappers to use remote trap-checking technology to check traps under specified conditions.

10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for transportation, transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law and only by the manner or means and within the numbers stated. However, the provisions of this section shall not be construed to prohibit the (i) use or transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers; (ii) the manufacture or sale of implements, including tools or utensils made from legally harvested deer skeletal parts, including antlers; (iii) the possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements authorized by regulations adopted by the Board.

11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the hungry and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed meat to the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the actual cost for processing the meat. In addition, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation and (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall be punishable as provided in § 29.1-553.

B. Notwithstanding any other provision of this article, any American Indian who produces verification that he is an enrolled member of a tribe recognized by the Commonwealth, another state, or the U.S. government, may possess, offer for sale, or sell to another American Indian, or offer to purchase or purchase from another American Indian, parts of legally obtained fur-bearing animals, nonmigratory game birds, and game animals, except bear. Such legally obtained parts shall include antlers, hooves, feathers, claws, and bones.

"Verification" as used in this section shall include (i) display of a valid tribal identification card, (ii) confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv) certification from a tribal office that the person is an enrolled member of the tribe.

C. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of snakes resulting from the use of such devices.

D. A violation of subdivisions A 1 through 10 shall be punishable as a Class 3 misdemeanor.

## CHAPTER 152

*An Act to amend and reenact § 28.2-600 of the Code of Virginia, relating to riparian planting ground assignment eligibility.*  
[H 1779]

Approved February 27, 2019

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

**1. That § 28.2-600 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-600. Riparian planting ground assignments; eligibility; fee.**

A. Any owner of land bordering on a body of water in the oyster-growing area of ~~this~~ *the* Commonwealth whose shore front measures at least 205 feet at the low-water mark, who has not had as much as one-half acre of ground already assigned him on the front, or whose lease has terminated and is not to be renewed, may apply for planting grounds to the Commissioner.

The Commissioner shall assign to him ~~such only a riparian planting ground wherever the owner may designate within his riparian waters~~ *that the Commissioner, in his discretion, deems appropriate to encompass as much as one-half acre of ground*, provided that the ground does not encroach into an existing oyster-planting ground lease assigned under Article 2 (§ 28.2-603 et seq.) ~~of this chapter. The fee for such assignment shall be \$1-50. The Commissioner may consider assigning an area that the owner designates within his riparian waters.~~ Such ground shall not exceed one-half acre, and shall not be less than 105 feet wide along the shore, beginning at low-water mark, extending out not more than 210 feet, or to the ~~middle~~ *nearest edge of the channel or the middle of the body of water, whichever is the shorter distance.*

B. *Upon the transfer of a lease, a ground shall be assigned only within an area deemed appropriate by the Commissioner to encompass as much as one-half acre of ground within the landowner's riparian waters.*

C. The grounds shall be surveyed, plotted, marked, assigned, and recorded as provided for assignments to persons in Article 2 (§ 28.2-603 et seq.) ~~of this chapter.~~

D. Any riparian assignment that was duly recorded in the clerk's office of the county or city where the grounds are located, or at the Commission office prior to July 1, 1986, shall continue in effect.

## CHAPTER 153

*An Act to amend and reenact § 46.2-1516 of the Code of Virginia, relating to supplemental motor vehicle sales locations; car shows.*

[H 2039]

Approved February 27, 2019

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

**1. That § 46.2-1516 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1516. Supplemental sales locations.**

The Board may issue a license for a licensed motor vehicle dealer to display for sale or sell vehicles at locations other than his established place of business, subject to compliance with local ordinances and requirements. A license issued pursuant to this section shall not be required for a licensed motor vehicle dealer to display for sale or sell vehicles at wholesale auction; placing vehicles for sale at a wholesale auction shall not be considered a consignment.

A permanent supplemental license may be issued for premises less than 500 yards from the dealer's established place of business, provided a sign is displayed as required for the established place of business. A supplemental license shall not be required for premises otherwise contiguous to the established place of business except for a public thoroughfare.

A temporary supplemental license may be issued for a period not to exceed seven days, or 14 days for trailers and motorcycles, provided that the application is made 15 days prior to the sale. The Board shall not issue a temporary supplemental license (i) for the same jurisdiction for a consecutive seven-day period or (ii) for motorcycles for a consecutive 14-day period. The Board shall not issue more than eight supplemental licenses per year to any licensed motor vehicle dealer.

A temporary supplemental license for the sale of new motor vehicles may be issued only for locations within the dealer's area of responsibility, as defined in his franchise or sales agreement, unless proof is provided that all dealers in the same line-make in whose areas of responsibility, as defined in their franchise or sales agreements, where the temporary supplemental license is sought do not oppose the issuance of the temporary license.

A temporary supplemental license for sale of used motor vehicles may be issued only for the county, city, or town in which the dealer is licensed pursuant to § 46.2-1510, or for a contiguous county, city, or town. Temporary licenses may be issued without regard to the foregoing geographic restrictions where the dealer operating under a temporary license provides notice by certified mail, at least 30 days before any proposed sale under a temporary license, to all other dealers licensed in the jurisdiction in which the sale will occur of the intent to conduct a sale and permits any locally licensed dealer who wishes to do so to participate in the sale on the same terms as the dealer operating under the temporary license. Any locally licensed dealer who chooses to participate in the sale must obtain a temporary supplemental license for the sale pursuant to this section. The dealer operating under a temporary license shall provide to the Board a copy of the notice

required under this section and a list of the dealers to whom the notice was distributed. *A temporary supplemental license for sale of used motor vehicles that are late model vehicles as defined by § 46.2-1600 at a new motor vehicle show that is sponsored by a statewide or local trade association of franchised dealers and held within the geographic area of the dealer members of such association may be issued without regard to the foregoing geographic restrictions or notification and approval provisions, provided that the applicant is lawfully participating in such new motor vehicle show.*

A temporary supplemental license may be issued for the sale of boat trailers at a boat show. Any such license shall be valid for no more than 14 days. Application for such a license shall be made and such license obtained prior to the opening of the show. Temporary supplemental licenses for sale of boat trailers at boat shows may be issued for any boat show located anywhere in the Commonwealth without notification of or approval by other boat trailer dealers.

## CHAPTER 154

*An Act to amend and reenact § 46.2-746.8 of the Code of Virginia, relating to special license plates for members of the International Association of Fire Fighters.*

[H 2114]

Approved February 27, 2019

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

**1. That § 46.2-746.8 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-746.8. Special license plates for members of certain occupational associations.**

On receipt of an application and written evidence that the applicant is a member of such organization, the Commissioner shall issue special license plates to members of ~~the following organizations: the International Association of Firefighters, the Virginia Realtors, and the Society of Certified Public Accountants.~~

**2. § 1. Special license plates for members of the International Association of Fire Fighters; fees.**

*A. On receipt of an application and payment of the fee prescribed by this section, and following the provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue special license plates for members of the International Association of Fire Fighters.*

*B. The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the International Association of Fire Fighters Fund established within the Department of Accounts. These funds shall be paid annually to the Virginia Professional Fire Fighters Charitable Foundation and used to support the efforts of various other charitable organizations supported by the firefighters throughout the Commonwealth. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.*

**3. That all license plates issued to members of the International Association of Fire Fighters pursuant to § 46.2-746.8 of the Code of Virginia prior to July 1, 2019, shall remain valid until their expiration, but shall thereafter be renewed under the provisions of subsection B of the second enactment of this act.**

## CHAPTER 155

*An Act to amend and reenact §§ 46.2-341.14:1, 46.2-341.14:10, and 46.2-1702 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-326.1, relating to commercial vehicle training and testing.*

[H 2183]

Approved February 27, 2019

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

**1. That §§ 46.2-341.14:1, 46.2-341.14:10, and 46.2-1702 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-326.1 as follows:**

**§ 46.2-326.1. Designation of commercial driver's license skills testing examiners.**

*A. Notwithstanding the provisions of § 46.2-1702 and unless the Commissioner identifies grounds that would be cause for cancellation of a certification pursuant to subsection D of § 46.2-341.14:5 during the application process, the Department shall certify a licensed Class A driver training school as a third party tester, as defined in § 46.2-341.4, to conduct skills tests if, in addition to the requirements listed in subsections B and C of § 46.2-341.14:1, the school (i) has a program length of 160 hours or more and (ii) maintains a bond in the amount of \$100,000 to pay for retesting drivers in the event that the third party tester or one or more of its third party examiners, as defined in § 46.2-341.4, are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.*

*The bond required by this subsection shall be in lieu of the bond required in subdivision C 5 of § 46.2-341.14:1 but in addition to the bond required for a licensed Class A driver training school.*

*B. Licensed Class A driver training schools meeting the requirements of subsection A may apply to the Department for certification as a third party tester. Such application shall include the information required in the application in § 46.2-341.14:3 and shall include (i) evidence of the requirements listed in subsection A; (ii) an application for an employee who will act as a third party examiner; (iii) evidence that the licensed Class A driver training school has maintained a place of business in the Commonwealth for at least three years and has maintained its licensure in good standing or that the third party examiner has been licensed as an instructor, as defined in § 46.2-1700, at a licensed Class A driver training school for a minimum of two years and has maintained such licensure in good standing; and (iv) a \$100 application fee. Such application must be renewed annually.*

*For the purposes of this subsection, "good standing" means that the instructor has not had sanctions levied against him by the Department for actions related to his role as an instructor or that the driver training school has not had sanctions levied by the Department for actions related to participation in the Class A driver training school program.*

*C. If the Department fails to certify a licensed Class A driver training school applicant, the Department shall communicate to the applicant its decision and the reason for denial in writing within 60 days of submission of the application.*

*D. Licensed Class A driver training schools operating as third party testers shall:*

- 1. Remit \$50 per skills test to the Department in accordance with § 46.2-341.13;*
- 2. Submit to the Department the results of each skills test administered in a form prescribed by the Department;*
- 3. Test only individuals receiving instruction and training from that school; and*
- 4. Not require their students to be tested at their driver training school.*

*E. Individuals intending to act as third party examiners for a licensed Class A driver training school that is operating as a third party tester shall meet the requirements in § 46.2-341.14:2 and submit to the Department an application that includes (i) the information in the application required by § 46.2-341.14:3, (ii) evidence of their employment by a licensed Class A driver training school that is operating as a third party tester, and (iii) a \$50 application fee. Such application must be renewed annually.*

*F. The Department shall have the authority to revoke or cancel the third party tester certification of a licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school, effective immediately, for any reason enumerated in § 46.2-341.14:5. A licensed Class A driver training school permitted to administer skills tests pursuant to the provisions of this section or any third party examiner employed by such Class A driver training school shall not administer skills tests if its authority to provide training has been revoked, canceled, or suspended by the Department pursuant to § 46.2-1705 or any other provision of law.*

**§ 46.2-341.14:1. Requirements for third party testers.**

*A. Pursuant to § 46.2-341.14, third party testers will be authorized to issue skills test certificates, which will be accepted by the Department as evidence of satisfaction of the skills test component of the commercial driver's license examination. Authority to issue skills test certificates will be granted only to third party testers certified by the Department.*

*B. To qualify for certification, a third party tester shall:*

- 1. Make application to and enter into an agreement with the Department as provided in § 46.2-341.14:3;*
- 2. Maintain a place of business in the Commonwealth;*
- 3. Have at least one certified third party examiner in his employ;*
- 4. Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ 46.2-341.14:2 and 46.2-341.14:7;*

*5. Permit the Department and the FMCSA of the U.S. Department of Transportation to conduct random examinations, inspections, and audits of its records, facilities, and operations that relate to the third party testing program without prior notice;*

*6. Maintain at the principal place of business a copy of the state certificate authorizing the third party tester to administer a commercial driver's license testing program and current third party agreement;*

*7. Maintain at a location in the Commonwealth, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether the driver passes or fails the test. Each such record shall include:*

- a. The complete name of the driver;*
- b. The driver's ~~Social Security~~ social security number or other driver's license number and the name of the state or jurisdiction that issued the license held by the driver at the time of the test;*
- c. The date the driver took the skills test;*
- d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test certificate, if issued;*
- e. The name and certification number of the third party examiner conducting the skills test; and*
- f. Evidence of (i) the driver's employment with the third party tester at the time the test was taken- ~~H~~, or if the third party tester is a school board that tests drivers who are trained but not employed by the school board, evidence that ~~(i)~~ (a) the driver was employed by a school board at the time of the test and ~~(ii)~~ (b) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide; ~~and, or~~*

~~g. Notwithstanding the provisions of subdivision f, evidence of (ii) the student's enrollment in a commercial driver training course offered by a community college or Class A driver training school at the time the test was taken if the third party tester is a comprehensive community college in the Virginia Community College System.~~

8. Maintain at a location in the Commonwealth a record of each third party examiner in the employ of the third party tester. Each record shall include:

- a. Name and ~~Social Security~~ social security number;
- b. Evidence of the third party examiner's certification by the Department;
- c. A copy of the third party examiner's current training and driving record, which must be updated annually;
- d. Evidence that the third party examiner is an employee of the third party tester; and
- e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction issued by the Department of Education;

9. Retain the records required in subdivision 8 for at least two years after the third party examiner leaves the employ of the third party tester;

10. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of §§ 46.2-341.14:8 and 46.2-341.14:9 and the instructions provided by the Department;

11. Maintain compliance with all applicable provisions of this article and the third party tester agreement executed pursuant to § 46.2-341.14:3; and

12. Maintain a copy of the third party tester's road test route or routes approved by the Department.

C. In addition to the requirements listed in subsection B, all third party testers who are not governmental entities, including a comprehensive community college in the Virginia Community College System, shall:

1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in the Commonwealth for a minimum of one year;

2. ~~Employ~~ For employers that are testing their own employees, employ at least ~~75~~ 50 drivers of commercial motor vehicles licensed in the Commonwealth; during the 12-month period preceding the application, including part-time and seasonal drivers. This requirement may be waived by the Department pursuant to § 46.2-341.14:10;

3. If subject to the FMCSA regulations as a motor carrier and rated by the U.S. Department of Transportation, maintain a rating of "satisfactory";

4. Comply with the Virginia Motor Carrier Safety Regulations; and

5. Initiate and maintain a bond in the amount of \$5,000 to pay for retesting drivers in the event that the ~~third party~~ third party tester or one or more of its examiners are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.

**§ 46.2-341.14:10. Waiver of requirement that third party tester applicant employ 50 drivers.**

A. Any applicant for certification as third party tester may submit with his application a request for a waiver of the requirement that the third party tester employ at least ~~75~~ 50 drivers within the 12-month period preceding the application.

Such request shall include the following:

1. A statement of need. This statement should explain why the applicant should be certified as a third party tester. The statement should also include reasons why the testing facilities or programs offered by the Department will not meet the applicant's business requirements.

2. An estimate of the number of employees per year who will require commercial driver's license skills testing after April 1, 1992. If the waiver request is filed prior to April 1, 1992, the request should also include an estimate of the number of employees who will require skills testing prior to that date.

B. The Department will review the applicant's waiver request and will evaluate the Department's testing and third party monitoring resources. The Department will decide whether to grant the waiver request after balancing the stated needs of the applicant and the available resources of the Department. The Department will notify the applicant in writing of its decision.

**§ 46.2-1702. Certification of driver education courses by Commissioner.**

Notwithstanding any other provision of law, the Commissioner shall have the authority to approve as a driver education course satisfying the requirements of § 46.2-334 any course which is offered by any driver training school licensed under the provisions of this chapter if he finds that the course is of comparable content and quality to that offered in the Commonwealth's public schools. In making such finding, the Commissioner shall not require that the instructors of any driver training school meet the certification requirements of teachers in the Commonwealth's public schools.

Any comprehensive community college within the Virginia Community College System shall have the authority to offer the courses required by the Virginia Board of Education to become a certified driver education instructor in Virginia on a not-for-credit basis so long as the courses include the same content and curriculum required by the Department of Education, enabling individuals who complete those courses to then teach driver's education in Virginia driver education training schools upon official certification by the Department of Motor Vehicles. The Virginia Department of Education shall provide the curriculum, content, and other information regarding the courses required to become certified driver education instructors in Virginia to any comprehensive community college within the Virginia Community College System. The content of each course must be accurate and rigorous and must meet the requirements for the Department of Education's Curriculum and Administrative Guide for Driver's Education, which includes the Board of Education's standards of learning.

Except for schools in the Commonwealth's public school system and providers of correspondence courses approved by the Board of Education pursuant to subsection F of § 22.1-205, only those driver training schools that are licensed as computer-based driver education providers shall be authorized to administer computer-based driver education courses, including the parent/student driver education component of the driver education curriculum as established in § 22.1-205. The content and quality of such computer-based driver education courses shall be comparable to that of courses offered in the Commonwealth's public schools. The Commissioner may establish minimum standards for testing students who have enrolled in computer-based driver education courses. Such standards may include (i) requirements for the test site; (ii) verification that the person taking the test is the person enrolled in the course; (iii) verification of the identity of the student using photo identification approved by the Commissioner; and (iv) maintenance of a log containing the name and title of the licensed instructor monitoring the test, the test date, the name of the student taking the test, and the student's time-in and time-out of the test site. Computer-based driver education providers shall not issue a certificate of completion to a student prior to receiving proof of completion of the additional minimum 90-minute parent/student driver education component pursuant to § 22.1-205.

Any driver training school licensed under the provisions of this chapter shall be authorized to provide the 90-minute parent/student driver education component of the driver education curriculum pursuant to § 22.1-205. Only public schools and those driver training schools that are licensed as computer-based driver education providers shall be authorized to administer the parent/student driver education component of the driver education curriculum through a virtual, computer-based program. Completion of such education component shall satisfy the requirement for the additional 90-minute parent/student driver education component so long as there is participation of the student's parent or guardian and the content provided is comparable to that which is offered in the Commonwealth's public schools and emphasizes (a) parental responsibilities regarding juvenile driver behavior, (b) juvenile driving restrictions pursuant to this Code, and (c) the dangers of driving while intoxicated and underage consumption of alcohol.

The Commissioner shall have authority to approve any driver education course offered by any Class A licensee if he finds the course meets the requirements for such courses as set forth in this chapter and as otherwise established by the Department. Class A licensees shall not be permitted to administer knowledge or behind-the-wheel examinations *unless authorized pursuant to § 46.2-326.1*. Driver education courses offered by any Class B licensee shall be based on the driver education curriculum currently approved by the Department of Education and the Department.

The Commissioner may accept, in lieu of requirements established by the Department of Education for instructor qualification, (1) 20 years' service with the Virginia Department of State Police by a law-enforcement officer who retired or resigned while in good standing from such Department or (2)(i) 20 years' service as a traffic enforcement officer with patrol experience with any local police department by a law-enforcement officer who has been certified by the Virginia Department of Criminal Justice Services pursuant to § 15.2-1706, (ii) who retired or resigned while in good standing from such department, and (iii) who has been certified to teach driver training by the Virginia Department of Criminal Justice Services.

**2. That the provisions of this act shall become effective on October 1, 2019.**

**3. That the Commissioner of the Department of Motor Vehicles shall report to the Chairmen of the House and Senate Committees on Transportation by December 1, 2021, (i) regarding the wait times for commercial driver's licenses and the growth of third party testing in the Commonwealth and (ii) on infractions incurred by holders of a Virginia commercial driver's license while driving a commercial motor vehicle, aggregated by the type of tester, beginning after the implementation of this act.**

## CHAPTER 156

*An Act to designate the bridge on Meadow Road over Interstate 64 at mile marker 202 in Henrico County the "Trooper Mark Barrett Memorial Bridge."*

[H 2226]

Approved February 27, 2019

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

**1. § 1.** *The bridge on Meadow Road over Interstate 64 at mile marker 202 in Henrico County is hereby designated the "Trooper Mark Barrett Memorial Bridge." The Department of Transportation shall place and maintain appropriate markers indicating the designation of this bridge. This designation shall not affect any other designation heretofore or hereafter applied to this bridge.*

## CHAPTER 157

*An Act to amend and reenact § 33.2-245 of the Code of Virginia, relating to comprehensive highway access management standards.*

[H 2313]

Approved February 27, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 33.2-245 of the Code of Virginia is amended and reenacted as follows:****§ 33.2-245. Comprehensive highway access management standards.**

A. For purposes of this section, "comprehensive highway access management standards" means a coordinated set of state standards and guidelines that allow the Commonwealth and its localities to manage access to the systems of state highways according to their federal functional classification or operational characteristics through the control of and improvements to the location, number, spacing, and design of entrances, median openings, turn lanes, street intersections, traffic signals, and interchanges.

B. The General Assembly declares it to be in the public interest that comprehensive highway access management standards be developed and implemented to enhance the operation and safety of the systems of state highways in order to protect the public health, safety, and general welfare while ensuring that private property is entitled to reasonable access to the systems of state highways. The goals of the comprehensive highway access management standards are:

1. To reduce traffic congestion and impacts to the level of service of highways, leading to reduced fuel consumption and air pollution;
2. To enhance public safety by decreasing traffic crash rates;
3. To support economic development in the Commonwealth by promoting the efficient movement of people and goods;
4. To reduce the need for new highways and road widening by improving the performance of the existing systems of state highways; and
5. To preserve public investment in new highways by maximizing their performance.

C. The Commissioner of Highways shall develop and implement comprehensive highway access management standards for managing access to and preserving and improving the efficient operation of the systems of state highways. The comprehensive highway access management standards shall include standards and guidelines for the location, number, spacing, and design of entrances, median openings, turn lanes, street intersections, traffic signals, and interchanges.

Nothing in such standards shall preempt the authority of a local government to regulate the type or density of land uses abutting the systems of state highways.

*The Commissioner of Highways shall require that any official who approves any highway access project shall certify that he has applied due diligence in approving such project and that such approval is, in his professional opinion, consistent with the minimum standards developed pursuant to this section. An appeal of the denial, revocation, or conditions of a permit shall be in accordance with the provisions of 24VAC30-73-50.*

**CHAPTER 158**

*An Act to amend and reenact § 10.1-1181.9 of the Code of Virginia, relating to forester title.*

[H 2341]

Approved February 27, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 10.1-1181.9 of the Code of Virginia is amended and reenacted as follows:****§ 10.1-1181.9. Requirements for forester title.**

A. In order to use the title of forester in connection with any practice of forestry, the person shall (i) hold a baccalaureate or higher degree from ~~an~~ *a public or private* institution of higher education ~~curriculum, having completed a degree program that (a) is accredited by the Society of American Foresters (the Society) and such degree curriculum shall meet~~ (b) *meets* the minimum education ~~criteria~~ *criteria* set forth by the Society in the fields of forest ecology and biology, management of forest resources, and forest resources policy and administration *or* (ii) *have met the educational criteria for Certified Forester as reviewed and officially recognized in writing by the Society.*

B. *No person shall be appointed by the Governor to serve as State Forester unless he meets the requirements of clause (i) of subsection A.*

**CHAPTER 159**

*An Act to amend and reenact § 58.1-3970.1 of the Code of Virginia, relating to real estate with delinquent taxes or liens; appointment of special commissioner; City of Martinsville.*

[H 2405]

Approved February 27, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-3970.1 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-3970.1. Appointment of special commissioner to execute title to certain real estate with delinquent taxes or liens to localities.**

A. Except as provided in subsection B, in any proceedings under this article for the sale of a parcel or parcels of real estate which meet all of the following: (i) each parcel has delinquent real estate taxes or the locality has a lien against the

parcel for removal, repair or securing of a building or structure; removal of trash, garbage, refuse, litter; or the cutting of grass, weeds or other foreign growth, (ii) each parcel has an assessed value of \$50,000 or less, and (iii) such taxes and liens, together, including penalty and accumulated interest, exceed 50 percent of the assessed value of the parcel or such taxes alone exceed 25 percent of the assessed value of the parcel, the locality may petition the circuit court to appoint a special commissioner to execute the necessary deed or deeds to convey the real estate to the locality in lieu of the sale at public auction. After notice as required by this article, service of process, and upon answer filed by the owner or other parties in interest to the bill in equity, the court shall allow the parties to present evidence and arguments, *ore tenus*, prior to the appointment of the special commissioner. Any surplusage accruing to a locality as a result of the sale of the parcel or parcels after the receipt of the deed shall be payable to the beneficiaries of any liens against the property and to the former owner, his heirs or assigns in accordance with § 58.1-3967. No deficiency shall be charged against the owner after conveyance to the locality.

B. For a parcel or parcels of real estate in the Cities of Norfolk, Richmond, Hopewell, Newport News, Petersburg, Fredericksburg, ~~and~~ Hampton, and Martinsville, all of the provisions of subsection A shall apply except (i) that the percentage of taxes and liens, together, including penalty and accumulated interest, and the percentage of taxes alone set forth in clause (iii) of subsection A shall exceed 35 percent and 15 percent, respectively, of the assessed value of the parcel or parcels or (ii) that the percentage of taxes and liens, together, including penalty and accumulated interest, and the percentage of taxes alone set forth in clause (iii) of subsection A shall exceed 20 percent and 10 percent, respectively, of the assessed value of the parcel or parcels, and each parcel has an assessed value of \$100,000 or less, provided that under this clause the property is not an occupied dwelling, and the locality enters into an agreement for sale of the parcel to a nonprofit organization to renovate or construct a single-family dwelling on the parcel for sale to a person or persons to reside in the dwelling whose income is below the area median income.

## CHAPTER 160

*An Act to amend and reenact § 46.2-1500 of the Code of Virginia, relating to motor vehicle dealers; definitions.*

[H 2487]

Approved February 27, 2019

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

#### **1. That § 46.2-1500 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 46.2-1500. Definitions.**

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

"Affiliate" means any entity in which a manufacturer, factory branch, distributor, or distributor branch has voting control or owns at least 51 percent of the ownership equity, or any entity in which another entity has voting control or owns at least 51 percent of the ownership equity and also has voting control and owns at least 51 percent of the ownership of a manufacturer, factory branch, distributor, or distributor branch. An entity that provides vehicle purchase or lease financing that uses the name of the manufacturer or distributor, or the name of any line make of the manufacturer or distributor, in the name of the entity under which it transacts business with a consumer, other than in the name of an individual product offered by the entity, shall be considered an "affiliate."

"Board" means the Motor Vehicle Dealer Board.

"Camping trailer" means a recreational vehicle constructed with collapsible partial side walls that fold for towing by a consumer-owned tow vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

"Certificate of origin" means the document provided by the manufacturer of a new motor vehicle *or new trailer*, or its distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its franchised motor vehicle dealers, and the original purchaser not for resale.

"Dealer-operator" means the individual who works at the established place of business of a dealer and who is responsible for and in charge of day-to-day operations of that place of business.

"Demonstrator" means a new motor vehicle having a gross vehicle weight rating of less than 16,000 pounds that (i) has more than 750 miles accumulated on its odometer that has been driven by dealer personnel or by prospective purchasers during the course of selling, displaying, demonstrating, showing, or exhibiting it and (ii) may be sold as a new motor vehicle, provided the dealer complies with the provisions of subsection D of § 46.2-1530.

"Distributor" means a person who is licensed by the Department under this chapter and who sells or distributes new motor vehicles *or new trailers* pursuant to a written agreement with the manufacturer to franchised motor vehicle dealers in the Commonwealth.

"Distributor branch" means a branch office licensed by the Department under this chapter and maintained by a distributor for the sale of motor vehicles to motor vehicle dealers or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Distributor representative" means a person who is licensed by the Department under this chapter and employed by a distributor or by a distributor branch, for the purpose of making or promoting the sale of motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory branch" means a branch office maintained by a person for the sale of motor vehicles to distributors or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Factory representative" means a person who is licensed by the Department under this chapter and employed by a person who manufactures or assembles motor vehicles or by a factory branch for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory repurchase motor vehicle" means a motor vehicle sold, leased, rented, consigned, or otherwise transferred to a person under an agreement that the motor vehicle will be resold or otherwise retransferred only to the manufacturer or distributor of the motor vehicle, and which is reacquired by the manufacturer or distributor, or its agents.

"Family member" means a person who either (i) is the spouse, child, grandchild, spouse of a child, spouse of a grandchild, brother, sister, or parent of the dealer or owner or (ii) has been employed continuously by the dealer for at least five years.

"Franchise" means a written contract or agreement between two or more persons whereby one person, the franchisee, is granted the right to engage in the business of offering and selling, offering and delivering pursuant to a lease, servicing, or offering, selling, and servicing new motor vehicles *or new trailers* of a particular line-make or late model or used motor vehicles of a particular line-make manufactured or distributed by the grantor of the right, the franchisor, and where the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, the motor vehicle or its manufacturer or distributor. "Franchise" includes any severable part or parts of a franchise agreement which separately provides for selling and servicing different line-makes of the franchisor.

"Franchised late model or franchised used motor vehicle dealer" means a dealer selling used motor vehicles, including vehicles purchased from the franchisor, under the trademark of a manufacturer or distributor that has a franchise agreement with a manufacturer or distributor.

"Franchised motor vehicle dealer" or "franchised dealer" means a dealer in new motor vehicles *or new trailers* that has a franchise agreement with a manufacturer or distributor of new motor vehicles *or new trailers* to sell new motor vehicles *or new trailers* or to sell used motor vehicles under the trademark of a manufacturer or distributor regardless of the age of the motor vehicles.

"Fund" means the Motor Vehicle Dealer Board Fund.

"Independent motor vehicle dealer" means a dealer in used motor vehicles.

"Late model motor vehicle" means a motor vehicle of the current model year and the immediately preceding model year.

"Line-make" means the name of the motor vehicle manufacturer or distributor and a brand or name plate marketed by the manufacturer or distributor. The line-make of a motorcycle manufacturer, factory branch, distributor, or distributor branch includes every brand of all-terrain vehicle, autocycle, and off-road motorcycle manufactured or distributed bearing the name of the motorcycle manufacturer or distributor.

"Manufactured home dealer" means any person licensed as a manufactured home dealer under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

"Manufacturer" means a person who is licensed by the Department under this chapter and engaged in the business of constructing or assembling new motor vehicles *or new trailers* and, in the case of trucks, recreational vehicles, and motor homes, also means a person engaged in the business of manufacturing engines, transmissions, power trains, or rear axles, when such engines, transmissions, power trains, or rear axles are not warranted by the final manufacturer or assembler of the truck, recreational vehicle, or motor home.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any vehicle within the term "farm tractor" or "moped" as defined in § 46.2-100. Except as otherwise provided, for the purposes of this chapter, all-terrain vehicles, autocycles, and off-road motorcycles are deemed to be motorcycles.

"Motor home" means a motorized recreational vehicle designed to provide temporary living quarters for recreational, camping, or travel use that contains at least four of the following permanently installed independent life support systems that meet the National Fire Protection Association standards for recreational vehicles: (i) a cooking facility with an onboard fuel source; (ii) a potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection; (iii) a toilet with exterior evacuation; (iv) a gas or electric refrigerator; (v) a heating or air conditioning system with an onboard power or fuel source separate from the vehicle engine; or (vi) a 110-125 volt electric power supply.

"Motor vehicle" means the same as provided in § 46.2-100, except, for the purposes of this chapter, "motor vehicle" includes trailers, as defined in this section, and does not include (i) manufactured homes, sales of which are regulated under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36; (ii) nonrepairable vehicles, as defined in § 46.2-1600; (iii) salvage vehicles, as defined in § 46.2-1600; or (iv) mobile cranes that exceed the size or weight limitations as set forth in § 46.2-1105, 46.2-1110, or 46.2-1113 or Article 17 (§ 46.2-1122 et seq.) of Chapter 10.

"Motor vehicle dealer" or "dealer" means any person who:

1. For commission, money, or other thing of value, buys *for resale*, sells, *or exchanges*, either outright or on conditional sale, ~~buyment~~ lease, chattel mortgage, or ~~otherwise~~ *other similar transaction* or arranges or offers or attempts to solicit or negotiate on behalf of others ~~the~~ the sale, purchase, or exchange of, *either outright or on conditional sale, lease,*

*chattel mortgage, or other similar transaction, an interest in new motor vehicles, new and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by him; or*

2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; ~~or~~

~~3. Offers~~ Any person who offers to sell, sells, displays, or permits the display for sale, of five or more motor vehicles within any 12 consecutive months- *is presumed to be a motor vehicle dealer and may rebut the presumption by a preponderance of the evidence.*

For the purposes of Article 7.2 (§ 46.2-1573.2 et seq.), "dealer" means recreational vehicle dealer. For the purposes of Article 7.3 (§ 46.2-1573.13 et seq.), "dealer" means trailer dealer and watercraft trailer dealer. For the purposes of Article 7.4 (§ 46.2-1573.25 et seq.), "dealer" means motorcycle dealer.

"Motor vehicle dealer" or "dealer" does not include:

1. Receivers, trustees, administrators, executors, guardians, conservators or other persons appointed by or acting under judgment or order of any court or their employees when engaged in the specific performance of their duties as employees.

2. Public officers, their deputies, assistants, or employees, while performing their official duties.

3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles to others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired for their own use and actually so used, when the vehicles have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.

4. Persons dealing solely in the sale and distribution of *fire-fighting vehicles, ambulances, and funeral vehicles*, including motor vehicles adapted therefor; however, this exemption shall not exempt any person from the provisions of §§ 46.2-1519, 46.2-1520, and 46.2-1548.

5. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or the United States which may have received title to a motor vehicle in the normal course of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that institution occurring as a result of any loan secured by a lien on the vehicle.

6. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.

7. Any person licensed to sell real estate who sells a manufactured home or similar vehicle in conjunction with the sale of the parcel of land on which the manufactured home or similar vehicle is located.

8. Any person who permits the operation of a motor vehicle show or permits the display of motor vehicles for sale by any motor vehicle dealer licensed under this chapter.

9. An insurance company authorized to do business in the Commonwealth that sells or disposes of vehicles under a contract with its insured in the regular course of business.

10. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of vehicles owned by others.

11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

12. Any credit union authorized to do business in Virginia, provided the credit union does not receive a commission, money, or other thing of value directly from a motor vehicle dealer.

13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

14. The State Department of Social Services or local departments of social services.

15. Any person dealing solely in the sale and distribution of utility or cargo trailers that have unloaded weights of 3,000 pounds or less; however, this exemption shall not exempt any person who deals in stock trailers or watercraft trailers.

16. *Any motor vehicle manufacturer or distributor selling a new motor vehicle at wholesale to its franchised dealer or a used motor vehicle to a licensed dealer.*

For the purposes of Article 7 (§ 46.2-1566 et seq.), "dealer" does not include recreational vehicle dealers, trailer dealers, watercraft trailer dealers, or motorcycle dealers.

"Motor vehicle salesperson" or "salesperson" means (i) any person who is hired as an employee by a motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a commission, fee, or any other consideration from the dealer; (ii) any person who supervises salespersons employed by a motor vehicle dealer, whether compensated by salary or by commission; (iii) any person, compensated by salary or commission by a motor vehicle dealer, who negotiates with or induces a customer to enter into a security agreement on behalf of a dealer; or (iv) any person who is licensed as a motor vehicle dealer and who sells or exchanges motor vehicles. For purposes of this section, any person who is an independent contractor as defined by the United States Internal Revenue Code shall be deemed not to be a motor vehicle salesperson.

"Motor vehicle show" means a display of motor vehicles to the general public at a location other than a dealer's location licensed under this chapter where the vehicles are not being offered for sale or exchange during or as part of the display.

"New motor vehicle" means any vehicle, excluding trailers, that is in the possession of the manufacturer, factory branch, distributor, distributor branch, or motor vehicle dealer and for which an original title has not been issued by the Department or by the issuing agency of any other state and has less than 7,500 miles accumulated on its odometer.

"New trailer" means any trailer that (i) has not been previously sold except in good faith for the purpose of resale; (ii) has not been used as a rental, driver education, or demonstration trailer or for the personal or business transportation of the manufacturer, distributor, dealer, or any of its employees; (iii) has not been used except for limited use necessary in moving or road testing the trailer prior to delivery to a customer; (iv) is transferred by a certificate of origin; and (v) has the manufacturer's certification that it conforms to all applicable federal trailer safety and emission standards. Notwithstanding clauses (i) and (iii), a trailer that has been previously sold but not titled shall be deemed a new trailer if it meets the requirements of clauses (ii), (iv), and (v).

"Original license" means a motor vehicle dealer license issued to an applicant who has never been licensed as a motor vehicle dealer in Virginia or whose Virginia motor vehicle dealer license has been expired for more than 30 days.

"Recreational vehicle" or "RV" means a vehicle that (i) is either self-propelled or towed by a consumer-owned tow vehicle, (ii) is primarily designed to provide temporary living quarters for recreational, camping, or travel use; and (iii) complies with all applicable federal vehicle regulations and does not require a special movement permit to legally use the highways. Recreational vehicle includes motor homes, travel trailers, and camping trailers.

"Relevant market area" means as follows:

1. For motor vehicle dealers except motorcycle dealers, in metropolitan localities the relevant market area shall be a circular area around an existing franchised dealer with a population of 250,000, not to exceed a radius of 10 miles, but in no case less than seven miles.

2. For motor vehicle dealers except motorcycle dealers, if the population in a circular area within a radius of 10 miles around an existing franchised dealer is less than 250,000, but the population in an area within a radius of 15 miles around an existing franchised dealer is 150,000 or more, the relevant market area shall be that circular area within the 15-mile radius.

3. For motor vehicle dealers except motorcycle dealers, in all other cases the relevant market area shall be a circular area within a radius of 20 miles around an existing franchised dealer or the area of responsibility defined in the franchise, whichever is greater. In any case where the franchise agreement is silent as to area of responsibility, the relevant market area shall be the greater of a circular area within a radius of 20 miles around an existing franchised dealer or that area in which the franchisor otherwise requires the franchisee to make significant retail sales or sales efforts.

4. For motorcycle dealers, the relevant market area shall be a circular area within a radius of 20 miles around an existing franchised dealer location with a population of one million or more. If the population within a 20-mile radius is less than one million but greater than 750,000, the relevant market area shall be a circular area within a radius of 30 miles. If the population within a 30-mile radius is less than 750,000, the relevant market area shall be a circular area within a radius of 40 miles.

Notwithstanding the foregoing provision of this section, in the case of dealers in motor vehicles with gross vehicle weight ratings of 26,000 pounds or greater, excluding recreational vehicles, the relevant market area with respect to the dealer's franchise for all such vehicles shall be a circular area around an existing franchised dealer with a radius of 25 miles, except where the population in such circular area is less than 250,000, in which case the relevant market area shall be a circular area around an existing franchised dealer with a radius of 50 miles, or the area of responsibility defined in the franchise, whichever is greater.

In determining population for relevant market areas, the most recent census by the U.S. Bureau of the Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be accumulated for all census tracts either wholly or partially within the relevant market area.

"Retail installment sale" means every sale of one or more motor vehicles to a buyer for his use and not for resale, in which the price of the vehicle is payable in one or more installments and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under form of contract designated either as a security agreement, conditional sale, bailment lease, chattel mortgage, or otherwise.

"Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a buyer for his personal use and not for resale.

"Sale at wholesale" or "wholesale" means a sale to motor vehicle dealers or wholesalers other than to consumers; a sale to one who intends to resell.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with another motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by another motor vehicle, including semitrailers but not manufactured homes, watercraft trailers, camping trailers, or travel trailers.

"Travel trailer" means a vehicle designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight so as not to require a special highway movement permit when towed by a consumer-owned tow vehicle.

"Used motor vehicle" means any vehicle other than a new motor vehicle as defined in this section.

"Watercraft trailer" means any new or used trailer specifically designed to carry a watercraft or a motorboat and purchased, sold, or offered for sale by a watercraft dealer licensed under Chapter 8 (§ 29.1-800 et seq.) of Title 29.1.

"Watercraft trailer dealer" means any watercraft dealer licensed under Chapter 8 (§ 29.1-800 et seq.) of Title 29.1.

"Wholesale auction" means an auction of motor vehicles restricted to sales at wholesale.

## CHAPTER 161

*An Act to amend and reenact § 46.2-341.14:01 of the Code of Virginia, relating to commercial driver's licenses; military service members.*

[H 2551]

Approved February 27, 2019

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

**1. That § 46.2-341.14:01 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-341.14:01. Military third party testers and military third party examiners; substitute for knowledge and driving skills tests for drivers with military commercial motor vehicle experience.**

A. Pursuant to § 46.2-341.14, the Commissioner shall permit military bases that have entered into an agreement with the Department to serve as third party testers in administering state knowledge and skills tests for issuing commercial driver's licenses. Military third party testers and military third party examiners shall comply with the requirements set forth in §§ 46.2-341.14:1 through 46.2-341.14:9 with respect to knowledge and skills tests.

B. Pursuant to 49 C.F.R. § 383.77, the Commissioner ~~may~~ shall waive the driving skills test *required by 49 C.F.R. § 383.23 and* as specified in 49 C.F.R. § 383.113 for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his application for a commercial driver's license and substitute an applicant's driving record in combination with certain driving experience for the skills test.

C. To obtain a skills test waiver, the following conditions and limitations must be met:

1. An applicant must certify that, during the two-year period immediately prior to applying for a commercial driver's license, he:

- a. Has not ~~had~~ *simultaneously held* more than one license except for a military license;
- b. Has not had any license suspended, revoked, canceled, or disqualified;
- c. Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this article;
- d. Has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in this article; and
- e. Has not had any conviction for a violation of military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic crash and has no record of a crash in which he was at fault; and

2. An applicant must provide evidence and certify that he:

- a. Is regularly employed or was regularly employed within the last ~~90 days~~ *year* or any other period authorized by the FMCSA in a military position requiring operation of a commercial motor vehicle;
- b. Was exempted from the commercial driver's license requirements in 49 C.F.R. § 383.3(c); and
- c. Was operating a vehicle representative of the commercial motor vehicle the driver applicant operates, or expects to operate, for at least the two years immediately preceding discharge from the military.

*D. The Commissioner shall waive the knowledge test for certain current or former military service members applying for a commercial learner's permit or commercial driver's license as permitted by 49 C.F.R. § 383.77, provided that such current or former military service member meets the conditions and limitations provided by 49 C.F.R. § 383.77.*

*E. The Commissioner shall waive the knowledge test and driving skills test for certain current or former military service members applying for certain endorsements as permitted by 49 C.F.R. § 383.77, provided that such current or former military service member meets the conditions and limitations provided by 49 C.F.R. § 383.77.*

## CHAPTER 162

*An Act to amend and reenact § 33.2-1020 of the Code of Virginia, relating to certificates; notice of filing or recordation.*

[H 2674]

Approved February 27, 2019

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

**1. That § 33.2-1020 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-1020. Payment of certificates of deposit; recordation of certain certificates; notice to owner.**

A. A certificate of deposit shall be deemed and held for the purpose of this article to be payment into the custody of such court. Payment against any certificate of deposit so issued and countersigned, when ordered by the court named therein, shall be paid by the State Treasurer on warrants of the Comptroller, issued on vouchers signed by the Commissioner of Highways.

B. A duplicate of each certificate of deposit so issued and countersigned shall be kept as a record in the office of the Commissioner of Highways and a copy thereof shall be filed with the State Treasurer.

C. The Commissioner of Highways shall give notice, between 30 and 45 days prior to the date on which any certificate will be filed or recorded pursuant to this chapter, to the owner or tenant, if known, of the freehold by certified or registered mail that such certificate of deposit will be filed or recorded. Additionally, within four business days of the filing or recording of a certificate, the Commissioner of Highways shall give notice of such filing or recording to the owner or tenant, if known, of the freehold by providing a copy of such certificate by certified or registered mail.

## CHAPTER 163

*An Act to amend and reenact § 2.2-3705.7 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 40 of Title 58.1 a section numbered 58.1-4029, relating to Virginia Lottery; disclosure of identity of winners.*

[S 1060]

Approved February 27, 2019

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

**1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 40 of Title 58.1 a section numbered 58.1-4029 as follows:**

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development

Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the

disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. *If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.*

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

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

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

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

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

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

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

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

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

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

**§ 58.1-4029. Disclosure of identity of winners by the Department.**

*Except as provided in subsection B of § 58.1-4019, the Department shall not disclose information about the identity of an individual lottery winner if the value of the prize won by the winner exceeds \$10 million, unless the winner consents in writing to such disclosure.*

## CHAPTER 164

*An Act to amend and reenact §§ 28.2-600, 28.2-607, 28.2-608, 28.2-613, and 28.2-625 of the Code of Virginia, relating to oyster planting grounds; lease assignments.*

[S 1413]

Approved February 27, 2019

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

**1. That §§ 28.2-600, 28.2-607, 28.2-608, 28.2-613, and 28.2-625 of the Code of Virginia are amended and reenacted as follows:**

**§ 28.2-600. Riparian planting ground assignments; eligibility; fee.**

Any owner of land bordering on a body of water in the oyster-growing area of this Commonwealth whose shore front measures at least 205 feet at the low-water mark, who has not had as much as one-half acre of ground already assigned him on the front, or whose lease has terminated and is not to be renewed, may apply for planting grounds to the Commissioner. The Commissioner shall assign to him such ground ~~wherever the owner may designate~~ within his riparian waters, *subject to the Commissioner's discretion with respect to the precise location, and provided the ground does not encroach into an existing oyster-planting ground lease assigned under Article 2 (§ 28.2-603 et seq.) of this chapter.* ~~The fee for such assignment shall be \$1-50.~~ Such ground shall not exceed one-half acre, and shall not be less than 105 feet wide along the shore, beginning at low-water mark, extending out not more than 210 feet, or to the middle of the channel or body of water, whichever is the shorter distance. The grounds shall be surveyed, plotted, marked, assigned, and recorded as provided for

assignments to persons in Article 2 (§ 28.2-603 et seq.) of this chapter. Any riparian assignment that was duly recorded in the clerk's office of the county or city where the grounds are located, or at the Commission office prior to July 1, 1986, shall continue in effect.

**§ 28.2-607. Survey and marking of ground.**

If a protest is not filed in the Commission office within ~~sixty~~ 60 days after posting of the notice of application, the Commissioner shall select a surveyor to survey the grounds and make a plat in duplicate. The surveyor shall forward the plat of survey to the Commissioner. If no protest to the application or surveying of ground is made within ~~thirty~~ 30 days after the plat of survey is recorded in the Commissioner's office, the ground applied for shall be assigned provided that:

1. The application and assignment complies with all applicable provisions of law and, in the judgment of the Commissioner, the assignment is in the public interest. *In making that determination, the Commissioner shall consider (i) the factors set out in subsection A of § 28.2-1205 and (ii) the public benefits and impacts of shellfish aquaculture.*

2. All fees; ~~and~~ costs; and the annual rent have been paid for the lease of the ground. The ground shall be marked at the expense of the applicant.

The grounds shall be marked in accordance with Commission regulations for marking oyster grounds.

**§ 28.2-608. Application, surveying, and recording fees.**

Any applicant for general oyster-planting ground or for riparian oyster ground shall pay (i) an application fee of ~~twenty-five dollars~~ \$300 if the application is for less than five acres, \$500 if the application is for five to 25 acres, and \$1,000 if the application is for more than 25 acres; and (ii) the Commission's surveying costs including the cost of the survey and of preparing the original and one copy of the plat; ~~and (iii) the cost of recording each assignment or transfer and plat in the Commission office. The fee for recording each assignment shall be \$1.50.~~ No ground shall be assigned until all the prescribed fees have been paid.

**§ 28.2-613. Duration of lease.**

Each assignment of general oyster-planting ground shall continue in force for ~~ten~~ 10 years from the date of assignment, unless the assignment is terminated; ~~however, assignments issued between July 1, 1976, and July 1, 1980, shall continue in force for twenty years from the date of assignment.~~ The interest in such ground is chattel real.

Upon the death of the renter, testate as to the lease, it shall vest in the named beneficiary subject to the rights of creditors, if he is a resident of this Commonwealth, provided that he files an application for transfer with the Commission within ~~eighteen~~ 18 months after the date of death. If the named beneficiary is not a resident he shall have ~~eighteen~~ 18 months after the date of death to transfer the lease to a qualified holder.

Upon the death of the renter, intestate as to the lease, the lease shall vest in the personal representative, who shall transfer the lease to a qualified holder within ~~eighteen~~ 18 months.

If there is no qualification on the renter's estate within one year of his death, the Commission may within six months thereafter transfer the lease to a qualified holder upon receipt of a transfer duly executed by all of the lawful heirs of the renter.

If there is no transfer under any of the above, the ground shall become vacant and open to assignment.

Upon expiration of the initial or any subsequent term of the assignment, the Commission shall, on application of the holder, renew the assignment for an additional ~~ten-year~~ 10-year term. The Commission shall not renew or extend an assignment where there has been no significant production of oysters or clams, no reasonable plantings of oysters, clams or cultch or no significant oyster or clam aquaculture operation, during any portion of the ~~ten-year~~ 10-year period immediately prior to the application for renewal, unless the Commission finds that there was good cause for the failure to produce or plant oysters, clams or cultch or finds that the assignment is directly related to and beneficial to the production of oyster-planting grounds immediately adjacent to the assignment. In determining whether there was good cause for the failure to produce or plant oysters, clams, or cultch, in addition to other factors, the Commission shall ~~consider~~ *decide whether the renewal is in the public interest considering the factors in subsection A of § 28.2-1205, the prevalence of the diseases MSX and Dermo, the public benefits and impacts of shellfish aquaculture, and whether the oyster-planting ground has traditionally produced commercial quantities of oysters or clams. The Commission shall set by regulation a fee structure for renewal fees to be paid by applicants. Such fees shall seek to reflect the cost to the Commission of processing the renewal application, but shall not exceed \$300.*

**§ 28.2-625. Transfer or assignment.**

A person holding an existing lease of oyster-planting ground may transfer or assign all or any part of the lease to another under the following conditions and provisions:

1. The transfer or assignment may be made only to a resident of the Commonwealth, or a firm or corporation authorized by Virginia laws to occupy and hold oyster-planting ground.

2. The application for transfer or assignment shall be in the form prescribed by the Commissioner and shall be filed with the Commission.

3. The Commissioner shall require a new survey if no survey exists of the exact parcel or parcels of grounds to be transferred or assigned.

4. The cost of any new surveys required under this section shall be borne by the person making the transfer, and the cost and fees shall be the same as for surveys made by the Commissioner.

5. The application shall be accompanied by the transfer fee of ~~five dollars if the parcel or parcels are ten acres or less and ten dollars if the parcel or parcels are more than ten acres~~ \$300 for each lease less than five acres, \$500 for each lease of five to 25 acres, and \$1,000 for each lease greater than 25 acres.

6. The Commissioner shall record in his office the application for transfer or assignment with any correction or new plat he deems necessary *only if the Commissioner believes that the transfer or assignment is in the public interest after considering the factors in subsection A of § 28.2-1205 and the public benefits and impacts of shellfish aquaculture. No lease shall be transferred if the leaseholder has been denied renewal under § 28.2-613.*

7. The transfer or assignment shall constitute a new lease of the tract or parcel assigned and any ground remaining under the old lease.

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

## CHAPTER 165

*An Act to amend and reenact § 63.2-1904 of the Code of Virginia, relating to child support enforcement; fees.*

[H 1819]

Approved February 27, 2019

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

**1. That § 63.2-1904 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1904. Administrative support remedies available for individuals not receiving public assistance; fees.**

The Department shall make available to those individuals not receiving public assistance, upon receipt of an authorization to seek or enforce a support obligation the same support services provided to recipients of public assistance. These services may include, but are not limited to:

1. Locating noncustodial parents to obtain child support;
2. Establishing paternity;
3. Establishing or modifying child support obligations, that shall include a provision for health care coverage for dependent children of the parents; and

4. Enforcing and collecting child support obligations; however, the only support in arrears that may be enforced by administrative action is (i) arrearages accrued or accruing under a court order or decree or (ii) arrearages on an administrative order accruing from the entry of such administrative order.

No individual shall be required to obtain support services from the Department prior to commencing a judicial proceeding to establish, modify, enforce or collect a child support obligation.

The Board shall charge the following fees:

- a. One dollar, upon application for services pursuant to this section. At the option of the Department, the fee may be paid by the Department on behalf of the applicants;
- b. Twenty-five dollars, for the cost of reopening a case within six months of requesting case closure; and
- c. ~~Twenty-five~~ *Thirty-five* dollars per federal fiscal year in each case of an obligee who has never received assistance pursuant to the Temporary Assistance for Needy Families ~~Program~~ *program* and for whom the Department has collected at least ~~\$500~~ *\$550* of child support annually. *The Department shall collect and retain such fee from the amount of child support collected annually in excess of \$550.*

The Department is further designated as the public entity responsible for implementing immediate income withholding pursuant to § 466 of the Social Security Act, as amended.

## CHAPTER 166

*An Act to amend and reenact § 63.2-611 of the Code of Virginia, relating to Virginia Initiative for Employment Not Welfare; transitional child care.*

[H 1871]

Approved February 27, 2019

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

**1. That § 63.2-611 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-611. Case management; support services; transitional support services.**

A. The Commissioner, through the local departments, with such funds as appropriated, shall offer families participating in VIEW intensive case management services throughout the family's participation in VIEW. Case management services shall include initial assessment of the full range of services that will be needed by each family including testing and evaluation, development of the individualized agreement of personal responsibility, and periodic reassessment of service needs and the agreement of personal responsibility. It shall be the goal of the Department to have a statewide intensive case management ratio not higher than the statewide average ratio in Title IV-F of the Social Security Act Job Opportunities and Basic Skills Training Program State Plan as the ratio existed on July 1, 1995.

B. Local departments are authorized to provide services to VIEW families throughout the family's participation in VIEW subject to regulations adopted by the Board, including:

1. Child care for the children of participants if:

- a. The participant is employed and child-care services are required to enable the continued employment of the participant;
  - b. Child-care services are required to enable a participant to receive job placement, job training or education services; or
  - c. The participant is otherwise eligible for child care pursuant to Board regulations.
2. Transportation that will enable parental employment or participation in services required by the agreement of personal responsibility.
3. Job counseling, education and training, and job search assistance consistent with the purposes of VIEW.
4. Medical assistance.

C. A participant whose TANF financial assistance is terminated, either voluntarily or involuntarily, shall receive the following services for up to ~~twelve~~ 12 months after termination, if needed:

1. Assistance with child care if such assistance enables the individual to work *or the individual is enrolled in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia and is taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an industry-recognized credential, certification, or license;*

2. Assistance with transportation, if such transportation enables the individual to work;

3. Medical assistance, including transitional medical assistance for families with a working parent who becomes ineligible for TANF financial assistance because of increased earnings according to policies of the Virginia Department of Medical Assistance Services; and

4. Financial assistance of \$50 per month, if the participant is employed and is working at least 30 hours per week or more at the time of TANF closure and remains employed and continues to work at least 30 hours per week or more.

D. The Department or local departments may purchase or otherwise acquire motor vehicles from the centralized fleet of motor vehicles controlled by the Commissioner of Highways under Article 7 (§ 2.2-1173 et seq.) of Chapter 11 of Title 2.2 and sell or otherwise transfer such vehicles to TANF recipients or former recipients. Purchases, sales, and other transfers of vehicles under this subsection shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), or the provisions of §§ 2.2-1124, 2.2-1153, 2.2-1156, and 2.2-1177 relating to the sale, purchase, and transfer of surplus motor vehicles and other surplus state property.

E. Nothing in this section shall be construed or interpreted to create a cause of action or administrative claim based upon a right or entitlement to any specific services or an exemption or waiver from any provision of VIEW.

## CHAPTER 167

*An Act to amend and reenact § 53.1-48 of the Code of Virginia, relating to Virginia Correctional Enterprises; procedure for exemptions to the mandatory purchase provisions.*

[H 1981]

Approved February 27, 2019

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

**1. That § 53.1-48 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-48. Exceptions as to purchases.**

A department, institution, or agency of the Commonwealth may be granted an exemption from the provisions of § 53.1-47 with the *written* consent of ~~both the Director of the Division of Purchases and Supply and the Chief Executive Officer of the Virginia Correctional Enterprises Program~~ in any case where (i) the article so produced or manufactured does not meet the reasonable requirements of the department, institution, or agency, (ii) an identical article can be obtained at a verified lesser cost from the private sector, which is evidenced by a verified request for pricing, or (iii) the requisition made cannot be complied with on account of an insufficient supply of the articles or supplies required, or otherwise. In any case where an exemption from the provisions of § 53.1-47 is *not* granted as provided in this section, ~~the Director of Purchases and Supply and the Chief Executive Officer of the Virginia Correctional Enterprises Program~~ shall ~~submit~~ *provide* a written justification for the ~~exemption~~ *denial* to the ~~Director of the Department of Corrections and the Director of the Department of General Services~~ department, institution, or agency that requested the exemption.

## CHAPTER 168

*An Act to amend and reenact § 32.1-277 of the Code of Virginia, relating to Office of the Chief Medical Examiner; central office and facilities.*

[H 2057]

Approved February 27, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-277 of the Code of Virginia is amended and reenacted as follows:

**§ 32.1-277. Office of the Chief Medical Examiner; central and district offices and facilities.**

The Commissioner shall establish and maintain, for the purpose of conducting medicolegal investigations of deaths and postmortem examinations, an Office of the Chief Medical Examiner, which shall include a central office and facilities ~~in the City of Richmond~~ and such district offices and facilities in such localities in the Commonwealth as may be necessary to carry out the provisions of this article. The central office and each district office established pursuant to this section shall be under the supervision of the Chief Medical Examiner. Each such office and facility shall have adequate professional, technical, and medical investigative personnel and physical facilities for the conduct of such examinations and investigations as may be authorized or required by law.

## CHAPTER 169

*An Act to amend and reenact §§ 54.1-3002 and 54.1-3603 of the Code of Virginia, relating to composition of the Boards of Nursing and Psychology; health regulatory boards; staggered terms.*

[H 2228]

Approved February 27, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-3002 and 54.1-3603 of the Code of Virginia are amended and reenacted as follows:

**§ 54.1-3002. Board of Nursing; membership; terms; meetings; quorum; administrative officer.**

The Board of Nursing shall consist of 14 members as follows: eight registered nurses, at least two of whom are licensed nurse practitioners; ~~three~~ *two* licensed practical nurses; ~~and~~ three citizen members; *and one member who shall be a registered nurse or a licensed practical nurse.* The terms of office of the Board shall be four years.

The Board shall meet ~~each January~~ *at least annually* and shall elect *officers* from its membership ~~a president, a vice president, and a secretary.~~ It may hold such other meetings as may be necessary to perform its duties. A majority of the Board including one of its officers shall constitute a quorum for the conduct of business at any meeting. Special meetings of the Board shall be called by the administrative officer upon written request of two members.

The Board shall have an administrative officer who shall be a registered nurse.

**§ 54.1-3603. Board of Psychology; membership.**

The Board of Psychology shall regulate the practice of psychology. The membership of the Board shall be representative of the practices of psychology and shall consist of nine members as follows: five persons who are licensed as clinical psychologists, one person licensed as a school psychologist, one person licensed ~~as an applied psychologist~~ *in any category of psychology*, and two citizen members. At least one of the seven psychologist members of the Board shall be a member of the faculty at an accredited institution of higher education in the Commonwealth actively engaged in teaching psychology. The terms of the members of the Board shall be four years.

2. That for appointments to the Board of Nursing pursuant to § 54.1-3002 of the Code of Virginia, as amended by this act, that are set to begin July 1, 2021, one registered nurse and one licensed practical nurse shall be appointed for a term of one year, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Nursing shall be for a term of four years, as provided in § 54.1-3002 of the Code of Virginia, as amended by this act.

3. That for appointments to the Board of Psychology pursuant to § 54.1-3603 of the Code of Virginia, as amended by this act, that are set to begin July 1, 2020, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Psychology shall be for a term of four years, as provided in § 54.1-3603 of the Code of Virginia, as amended by this act.

4. That for appointments to the Board of Dentistry pursuant to § 54.1-2702 of the Code of Virginia that are set to begin July 1, 2020, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Dentistry shall be for a term of four years, as provided in § 54.1-2702 of the Code of Virginia.

5. That for appointments to the Board of Long-Term Care Administrators pursuant to § 54.1-3101 of the Code of Virginia that are set to begin July 1, 2019, one licensed nursing home administrator and one assisted living facility administrator shall be appointed for a term of one year, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Long-Term Care Administrators shall be for a term of four years, as provided in § 54.1-3101 of the Code of Virginia.

6. That for appointments to the Board of Medicine pursuant to § 54.1-2911 of the Code of Virginia that are set to begin July 1, 2020, three members shall be appointed for a term of two years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Medicine shall be for a term of four years, as provided in § 54.1-2911 of the Code of Virginia.

7. That for appointments to the Board of Veterinary Medicine pursuant to § 54.1-3802 of the Code of Virginia that are set to begin July 1, 2019, the citizen member shall be appointed for a term of three years, and any remaining

appointments shall be for a term of four years. Thereafter, all appointments to the Board of Veterinary Medicine shall be for a term of four years, as provided in § 54.1-3802 of the Code of Virginia.

8. That for appointments to the Board of Audiology and Speech-Language Pathology pursuant to § 54.1-2602 of the Code of Virginia that are set to begin July 1, 2022, one speech-language pathologist shall be appointed for a term of two years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Audiology and Speech-Language Pathology shall be for a term of four years, as provided in § 54.1-2602 of the Code of Virginia.

9. That for appointments to the Board of Pharmacy pursuant to § 54.1-3305 of the Code of Virginia that are set to begin July 1, 2022, one citizen member and one pharmacist shall be appointed for a term of three years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Pharmacy shall be for a term of four years, as provided in § 54.1-3305 of the Code of Virginia.

10. That for appointments to the Board of Counseling pursuant to § 54.1-3503 of the Code of Virginia that are set to begin July 1, 2021, one member shall be appointed for a term of two years, two members shall be appointed for a term of three years, and any remaining appointments shall be for a term of four years. Thereafter, all appointments to the Board of Counseling shall be for a term of four years, as provided in § 54.1-3503 of the Code of Virginia.

## CHAPTER 170

*An Act to amend and reenact §§ 2.2-3705.7, 2.2-3711, 15.2-1627.5, and 63.2-1605 of the Code of Virginia, relating to protective services; adult abuse, neglect, and exploitation; multidisciplinary teams.*

[H 2560]

Approved February 27, 2019

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

**1. That §§ 2.2-3705.7, 2.2-3711, 15.2-1627.5, and 63.2-1605 of the Code of Virginia are amended and reenacted as follows:**

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's

financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

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

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

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

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

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

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

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

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

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

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

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

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

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault *response* team established pursuant to § 15.2-1627.4 ~~or~~, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child *sexual* abuse *response* teams established pursuant to § 15.2-1627.5, or (iii) *individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605.* The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

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

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

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

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

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant

to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

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

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

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

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

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

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

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

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

**§ 15.2-1627.5. Coordination of multidisciplinary response to child sexual abuse and the abuse, neglect, and exploitation of adults.**

A. The attorney for the Commonwealth in each jurisdiction in the Commonwealth shall establish a multidisciplinary child sexual abuse response team, which may be an existing multidisciplinary team. The multidisciplinary team shall conduct regular reviews of new and ongoing reports of felony sex offenses in the jurisdiction involving a child and the investigations thereof and, at the request of any member of the team, may conduct reviews of any other reports of child abuse and neglect or sex offenses in the jurisdiction involving a child and the investigations thereof. The multidisciplinary team shall meet frequently enough to ensure that no new or ongoing reports go more than 60 days without being reviewed by the team.

B. The following individuals, or their designees, shall participate in review meetings of the multidisciplinary team *established pursuant to subsection A*: the attorney for the Commonwealth; law-enforcement officials responsible for the investigation of sex offenses involving a child in the jurisdiction; a representative of the local child protective services unit; a representative of a child advocacy center serving the jurisdiction, if one exists; and a representative of an Internet Crimes Against Children task force affiliate agency serving the jurisdiction, if one exists. In addition, the attorney for the Commonwealth may invite other individuals, or their designees, including the school superintendent of the jurisdiction; a representative of any sexual assault crisis center serving the jurisdiction, if one exists; the director of the victim/witness program serving the jurisdiction, if one exists; and a health professional knowledgeable in the treatment and provision of services to children who have been sexually abused.

*C. The attorney for the Commonwealth in each jurisdiction may also establish a multidisciplinary adult abuse, neglect, and exploitation response team to review cases of abuse, neglect, and exploitation of adults as defined in § 63.2-1603. The multidisciplinary team may be established separately or in conjunction with any already existing multidisciplinary team.*

**§ 63.2-1605. Protective services for adults by local departments.**

A. Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of such report and shall initiate an investigation within 24 hours of the time the report is received in the local department. Local departments shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as

defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

C. The local department or the adult protective services hotline shall immediately refer the matter and all relevant documentation to the local law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon determining, during the course of an investigation pursuant to this article, the occurrence of any of the following:

1. Sexual abuse as defined in § 18.2-67.10;
2. Death that is believed to be the result of abuse or neglect;
3. Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect;
4. Suspected financial exploitation of an adult; or
5. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.

Local law-enforcement agencies shall provide local departments and the adult protective services hotline with a preferred point of contact for referrals.

D. The local department shall refer any appropriate matter and all relevant documentation, to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

E. If a local department is denied access to an adult for whom there is reason to suspect the need for adult protective services, then the local department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may enter an order permitting such access or entry.

F. In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings, or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the investigation and do not conflict with § 18.2-386.1. However, if the adult is determined to be incapable of making an informed decision and of giving informed consent and either has no legal representative or the legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be given by an agent appointed under an advance medical directive or medical power of attorney, or by a person authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately available, then consent shall be deemed to be given.

G. Local departments shall foster the development, implementation, and coordination of adult protective services to prevent adult abuse, neglect, and exploitation.

H. Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults incarcerated in state correctional facilities.

I. The report and evidence received by the local department and any written findings, evaluations, records, and recommended actions shall be confidential and shall be exempt from disclosure requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be disclosed to persons having a legitimate interest in the matter in accordance with §§ 63.2-102 and 63.2-104 and pursuant to official interagency agreements or memoranda of understanding between state agencies.

J. All written findings and actions of the local department or its director regarding adult protective services investigations are final and shall not be (i) appealable to the Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

*K. Each local department may foster, when practicable, the creation, maintenance, and coordination of community-based multidisciplinary teams that shall include, where possible, members of the medical, mental health, social work, nursing, education, legal, and law-enforcement professions. Such teams shall:*

1. Assist the local department in identifying abused, neglected, and exploited adults as defined in § 63.2-1603.
2. Coordinate medical, social, and legal services for abused, neglected, and exploited adults and their families.
3. Develop innovative programs for detection and prevention of the abuse, neglect, and exploitation of adults.
4. Promote community awareness and action to address the abuse, neglect, and exploitation of adults.
5. Disseminate information to the general public regarding the problem of abuse, neglect, and exploitation of adults, strategies and methods for preventing such abuse, neglect, and exploitation, and treatment options for abused, neglected, and exploited adults.

*Such multidisciplinary teams may share information among the parties in the performance of their duties but shall be bound by confidentiality and shall execute a sworn statement to honor the confidentiality of the information they share. A violation of this subsection is punishable as a Class 3 misdemeanor. All such information and records shall be used by the team only in the exercise of its proper function and shall not be disclosed. No person who participated in the team and no member of the team shall be required to make any statement as to what transpired during a meeting or what information was collected during the meeting. Upon the conclusion of a meeting, all information and records concerning the adult shall be returned to the originating agency or destroyed. Any information exchanged in accordance with the multidisciplinary review team shall not be considered to be a violation of any of the provisions of § 63.2-102, 63.2-104, or 63.2-105.*

## CHAPTER 171

*An Act to amend and reenact § 2.2-4303.2 of the Code of Virginia, relating to the Virginia Public Procurement Act; job order contracting; limitations.*

[S 1153]

Approved February 27, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-4303.2 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-4303.2. Job order contracting; limitations.**

A. A job order contract may be awarded by a public body for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first. Contractors may be selected through either competitive sealed bidding or competitive negotiation.

B. Such contracts may be renewable for two additional one-year terms at the option of the public body. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed ~~\$5 million~~ *the maximum threshold amount.*

*Beginning on July 1, 2019, the maximum threshold amount shall be \$6 million.*

~~Individual~~ *Subject to the maximum threshold amount, no individual job orders order shall not exceed \$500,000.*

C. For the purposes of this section, any unused amounts from one contract term shall not be carried forward to any additional term.

D. Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in subsection B is prohibited.

E. No public body shall issue or use a job order, under a job order contract, solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in § 54.1-400. However, professional architectural or engineering services may be included on a job order where such professional services (i) are incidental and directly related to the job, (ii) do not exceed \$25,000 per job order, and (iii) do not exceed \$75,000 per contract term.

F. Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. *However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to \$250,000, subject to the maximum annual threshold amount established in this section.*

## CHAPTER 172

*An Act to amend and reenact §§ 22.1-79.5 and 22.1-279.6 of the Code of Virginia, relating to public schools; tobacco products and nicotine vapor products; prohibition.*

[S 1295]

Approved February 27, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 22.1-79.5 and 22.1-279.6 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-79.5. Policy regarding tobacco and nicotine vapor products.**

~~Each school board shall develop and implement a policy to prohibit, at any time, the use and distribution of electronic cigarettes any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at a an on-site or off-site school-sponsored activity.~~

*Such policy shall include (i) provisions for its enforcement among students, employees, and visitors, including the enumeration of possible sanctions or disciplinary action consistent with state or federal law, and (ii) referrals to resources to help staff and students overcome tobacco addiction.*

*Each school board shall work to ensure adequate notice of this policy.*

**§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.**

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training

of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal to notify the parent of any student involved in an alleged incident of bullying of the status of any investigation within five school days of the allegation of bullying.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing ~~electronic cigarettes~~ *any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2*, on a school bus, on school property, or at ~~a~~ *an on-site or off-site school-sponsored activity.*

## CHAPTER 173

*An Act to amend and reenact § 22.1-7 of the Code of Virginia, relating to children in residence or custody; participation in educational programs.*

[S 1314]

Approved February 27, 2019

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

#### **1. That § 22.1-7 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 22.1-7. Responsibility of each state board, agency, and institution having children in residence or in custody.**

A. Each state board, state agency, and state institution having children in residence or in custody shall have responsibility for providing for the education and training to such children which is at least comparable to that which would be provided to such children in the public school system. Such board, agency, or institution may provide such education and training either directly with its own facilities and personnel in cooperation with the Board of Education or under contract with a school division or any other public or private nonreligious school, agency, or institution.

B. The Board of Education shall supervise the education and training provided to school-age individuals in state training centers, and shall provide for and direct the education for school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services.

C. The Board shall prescribe standards and regulations for all such education and training provided directly by a state board, state agency, or state institution.

D. Each state board, state agency, or state institution providing such education and training shall submit annually its program therefor to the Board of Education for approval in accordance with regulations of the Board.

E. If any child in the custody of any state board, state agency, or state institution is a child with disabilities as defined in § 22.1-213 and such board, agency, or institution must contract with a private nonreligious school to provide special education as defined in § 22.1-213 for such child, the state board, state agency, or state institution may proceed as a guardian pursuant to the provisions of subsection A of § 22.1-218.

*F. Any person of school age who is admitted pursuant to § 16.1-338, 16.1-339, or 16.1-340.1 or in accordance with an order of involuntary commitment entered pursuant to §§ 16.1-341 through 16.1-345 to a state facility for children and adolescents operated by the Department of Behavioral Health and Developmental Services shall, upon admission, be permitted to participate in any education program offered in the facility that is administered by the Department of Education, regardless of his enrollment status. Information required to enroll such person in any such education program may be disclosed in accordance with state and federal law. Nothing in this subsection shall be construed to require enrollment in an education program if such person has been excused from attendance at school pursuant to subdivision B 1 of § 22.1-254.*

## CHAPTER 174

*An Act to amend and reenact § 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; annual mixed beverage performing arts facility license.*

[H 1657]

Approved February 27, 2019

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

**1. That § 4.1-210 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-210. Mixed beverages licenses.**

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and

nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility; (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings, and objects significant in American history and culture; (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access; or (iv) a locality for special events conducted on the premises of a museum for historic interpretation that is owned and operated by the locality. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers or in single original metal cans, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1,200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption

in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.

12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers or in single original metal cans, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption.

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

17. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

18. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

19. *Annual mixed beverage performing arts facility license to persons operating food concessions at any multipurpose theater located in the historical district of the Town of Bridgewater, provided that the theater (i) is owned and operated by a governmental entity and (ii) has a total capacity in excess of 100 patrons. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.*

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, ~~or~~ 18, *or* 19 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

## CHAPTER 175

*An Act to amend and reenact § 4.1-126 of the Code of Virginia, relating to alcoholic beverage control; mixed beverage referendum; exception.*

[H 1905]

Approved February 27, 2019

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

**1. That § 4.1-126 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-126. Licenses for establishments in national forests, certain adjoining lands, on the Blue Ridge Parkway, and certain other properties.**

A. Notwithstanding the provisions of § 4.1-124, mixed beverage licenses may be granted to establishments located (i) on property owned by the federal government in Jefferson National Forest, George Washington National Forest or the Blue Ridge Parkway; (ii) at altitudes of 3,800 feet or more above sea level on property adjoining the Jefferson National Forest; (iii) at an altitude of 2,800 feet or more above sea level on property adjoining the Blue Ridge Parkway at Mile Marker No. 189; (iv) on property within one-quarter mile of Mile Marker No. 174 on the Blue Ridge Parkway; (v) on property developed by a nonprofit economic development company or an industrial development authority; (vi) on old Jonesboro Road between Routes 823 and 654, located approximately 5,500 feet from the City of Bristol; (vii) on property developed as a motor sports road racing club, of which the track surface is 3.27 miles in length, on 1,200 acres of rural property bordering the Dan River in Halifax County, with such license applying to any area of the property deemed appropriate by the Board; (viii) at an altitude of 2,645 feet or more above sea level on land containing at least 750 acres used for recreational purposes and located within two and one-half miles of the Blue Ridge Parkway; (ix) on property fronting U.S. Route 11, with portions fronting Route 659, adjoining the City of Bristol and located approximately 2,700 feet north of mile marker 7.7 on Interstate 81; (x) on property bounded on the north by U.S. Route 11 and to the south by Interstate 81, and located between mile markers 8.1 and 8.5 of Interstate 81; (xi) on property consisting of at least 10,000 acres and operated as a resort located in any county with a population between 19,200 and 19,500; (xii) on property located as of December 1, 2012, within the Montgomery County Route 177 Urban Development Area, which area is adjacent to Exit 109 on Interstate 81; (xiii) on property fronting Route 603, with portions fronting on Interstate 81, located approximately 1,100 feet from the intersection of Route 603 and Interstate 81 at Exit 128; (xiv) on property located south of and within 1,400 feet of Interstate 81 between mile markers 38.8 and 39.5; (xv) on property bounded on the north by Interstate 81, on the west and south by State Route 691, and on the east by State Route 689; (xvi) on property located south of and within 1,500 feet of Interstate 81 between mile markers 44 and 44.4; (xvii) on property within 3,000 feet of Interstate 81 on either frontage road between mile markers 75 and 86 in the County of Wythe; (xviii) on property within the boundary of any town incorporated in 1875 located adjacent to the intersection of Interstate 81 and Route 91; (xix) on property adjacent to the intersection of U.S. Route 220 North and State Route 57, operated as a country club as of December 31, 1926, in Henry County; (xx) on property adjacent to Lake Lanier, operated as a country club as of December 31, 1932, in Henry County; (xxi) on property fronting Old Jonesboro Road between Routes 823 and 808, located approximately 4,500 feet south of Interstate 81, and operated as a country club; (xxii) on property located west of Route 58 and approximately 3,000 feet north of Interstate 81; (xxiii) on property fronting U.S. Route 11 and 1,300 feet north of Interstate 81; (xxiv) on property located within 1,500 feet of Exit 26 on Interstate 81; (xxv) on property within the boundary of any town incorporated in 1911 located adjacent to the intersection of Route 63 and Route 58 Alternate; (xxvi) on property within the boundary of any town incorporated in 1894 consisting of 1.9 square miles and, prior to the town's incorporation, known as Guest Station; (xxvii) on property fronting Kanawha Ridge Road, located within approximately 700 feet of Route 638, and operated as a resort in Carroll County as of December 31, 2007; (xxviii) on property located 2,135 feet north of the intersection of State Routes 1223 and 661; (xxix) on property located on State Route 685 approximately 1,128 feet west of the intersection of State Routes 652 and 685; (xxx) on property located on State Route 685 approximately 1,600 feet east of the intersection of State Routes 652 and 685; ~~and~~ (xxxi) on property located adjacent to State Route 697 and operated as a country club in the Powell Valley section of Wise County; (xxxii) *on property fronting Doe Creek Farm Road, located approximately 1,310 feet southeast of the intersection of State Route 613 and Doe Creek Farm Road, and listed on the National Register of Historic Places;* (xxxiii) *on property adjacent to the southeast side of the intersection of Route 58 Alternate and Skaggs Hill Road within the boundary of any town incorporated in 1891;* (xxxiv) *on property along River Bend Drive and 805 feet directly north of Route 58 Alternate within the boundary of any town incorporated in 1891;* and (xxxv) *on property fronting the north side of Mullins Avenue to the west of the intersection of Mullins Avenue and Chase Street and located in a town incorporated in 1884.*

B. In granting any license under clauses (iii) and (iv) of subsection A, the Board shall consider whether the (i) voters of the jurisdiction in which the establishment is located have voted by referendum under the provisions of § 4.1-124 to prohibit the sale of mixed beverages and (ii) granting of a license will give that establishment an unfair business advantage over other establishments in the same jurisdiction. If an unfair business advantage will result, then no license shall be granted.

## CHAPTER 176

*An Act to amend and reenact §§ 19.2-121 and 19.2-149 of the Code of Virginia, relating to bail and recognizances; magistrate's checklist; surety's basis for request for capias.*

[H 2453]

Approved February 27, 2019

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

**1. That §§ 19.2-121 and 19.2-149 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-121. Fixing terms of bail.**

A. If the person is admitted to bail, the terms thereof shall be such as, in the judgment of any official granting or reconsidering the same, will be reasonably fixed to assure the appearance of the accused and to assure his good behavior pending trial. The judicial officer shall take into account (i) the nature and circumstances of the offense; (ii) whether a firearm is alleged to have been used in the offense; (iii) the weight of the evidence; (iv) the financial resources of the accused or juvenile and his ability to pay bond; (v) the character of the accused or juvenile including his family ties, employment or involvement in education; (vi) his length of residence in the community; (vii) his record of convictions; (viii) his appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings; (ix) whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness, juror, or victim; and (x) any other information available which the court considers relevant to the determination of whether the accused or juvenile is unlikely to appear for court proceedings.

B. *When a magistrate conducts a bail hearing for a person arrested on a warrant or capias for a jailable offense, the magistrate shall describe the information considered under subsection A on a form provided by the Executive Secretary of the Supreme Court and shall transmit the completed form to the circuit court or district court before which the warrant or capias is returnable.*

C. In any case where the accused has appeared and otherwise met the conditions of bail, no bond therefor shall be used to satisfy fines and costs unless agreed to by the person who posted such bond.

**§ 19.2-149. How surety on a bond in recognizance may surrender principal and be discharged from liability.**

A bail bondsman or his licensed bail enforcement agent on a bond in a recognizance may at any time arrest his principal and surrender him to the court before which the recognizance was taken or before which such principal's appearance is required, or to the sheriff, sergeant or jailer of the county or city wherein the court before which such principal's appearance is required is located; in addition to the above authority, upon the application of the surety, the court, or the clerk thereof, before which the recognizance was taken, or before which such principal's appearance is required, or any magistrate shall issue a capias for the arrest of such principal, and such capias may be executed by such bail bondsman or his licensed bail enforcement agent, or by any sheriff, sergeant or police officer, and the person executing such capias shall deliver such principal and such capias to the sheriff or jailer of the county or the sheriff, sergeant or jailer of the city in which the appearance of such principal is required, and thereupon the surety or the property bail bondsman shall be discharged from liability for any act of the principal subsequent thereto. *Upon application of the surety for a capias, the surety shall state the basis for which the capias is being requested.* Such sheriff, sergeant or jailer shall thereafter deliver such capias to the clerk of such court, with his endorsement thereon acknowledging delivery of such principal to his custody.

If a magistrate issues a capias pursuant to this section, the magistrate shall transmit a copy of the capias to the court before which such principal's appearance is required by the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.

**CHAPTER 177**

*An Act to amend and reenact § 18.2-198.1 of the Code of Virginia, relating to offenses relating to credit cards; venue.*

[H 2484]

Approved February 27, 2019

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

**1. That § 18.2-198.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-198.1. Venue.**

Notwithstanding the provisions of § 19.2-244, a prosecution for a violation of this article may be had in any county or city in which (i) any act in furtherance of the crime was committed ~~or~~; (ii) an issuer or acquirer, or an agent of either, sustained a financial loss as a result of the offense; *or (iii) the cardholder resides.* A prosecution for a violation of § 18.2-192 may be had in any county or city where a credit card number is used, is attempted to be used, or is possessed with intent to violate § 18.2-193, 18.2-195, or 18.2-197.

**CHAPTER 178**

*An Act to amend and reenact §§ 4.1-100, 4.1-119, 4.1-121, 4.1-122, 4.1-124, and 4.1-221.1 of the Code of Virginia and to repeal § 4.1-126 of the Code of Virginia, relating to alcoholic beverage control; local referendums.*

[H 2634]

Approved February 27, 2019

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

**1. That §§ 4.1-100, 4.1-119, 4.1-121, 4.1-122, 4.1-124, and 4.1-221.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licenses.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that ~~have not approved~~ *prohibit* the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### **§ 4.1-119. Operation of government stores.**

A. Subject to the ~~requirements~~ *provisions* of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. (Effective until July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

E. (Effective July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

#### **§ 4.1-121. Referendum on establishment of government stores.**

A. The qualified voters of any county, city, or town having a population of 1,000 or more may file a petition with the circuit court of the county or city, or of the county wherein the town or the greater part thereof is situated, asking that a referendum be held on the question of whether the sale by the Virginia Alcoholic Beverage Control Authority of *alcoholic beverages*, other than beer and wine not produced by farm wineries, should be ~~permitted~~ *prohibited* within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the jurisdiction on January 1 preceding its filing or by at least 100 qualified voters, whichever is greater. Upon the filing of a petition, the court shall order the election officials of the county, city, or town, on the date fixed in the order, to conduct a referendum on the question. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the county, city, or town once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be ~~permitted~~ *prohibited* in ..... (name of county, city, or town)?"

The referendum shall be ordered and held and the results certified as provided in § 24.2-684. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the county, city, or town.

B. Once a referendum has been held, no other referendum on the same question shall be held in the county, city, or town within four years of the date of the prior referendum. However, a town shall not be prescribed from holding a referendum within such period although an election has been held in the county in which the town or a part thereof is located less than four years prior thereto.

**§ 4.1-122. Effect of local option referenda.**

A. If in any referendum held under the provisions of § 4.1-121 in any county, city, or town a majority of the qualified voters vote ~~"No"~~ "Yes" on the question, then on and after ~~sixty~~ 60 days from the date on which the order of the court, setting forth the results of such referendum was entered of record, none of the alcoholic beverages voted against shall be sold in such county, city, or town except for delivery or shipment to persons outside of such county, city, or town authorized under this title to acquire the alcoholic beverages for resale. This subsection shall not apply to common carriers of passengers by train, boat or airplane selling wine and beer to bona fide passengers.

B. If in any such referendum held in any county, city, or town in which a majority of the qualified voters have previously voted ~~against permitting to prohibit~~ the sale of alcoholic beverages by the Board and in a subsequent election a majority of the voters of the county, city, or town vote ~~"Yes"~~ "No" on the question stated in § 4.1-121, then such alcoholic beverages ~~permitted to be sold by such referendum~~ may, in accordance with this title, be sold within the county, city, or town on and after ~~sixty~~ 60 days from the day on which the order of the court setting forth the results of such election is entered of record.

C. If any referendum is held under the provisions of § 4.1-124 in any county, town, or supervisor's election district of a county and the majority of voters voting in such referendum voted "Yes," the sale by the Board of alcoholic beverages, other than beer and wine not produced by farm wineries, shall be ~~permitted~~ *prohibited* in such county, town, or supervisor's election district of a county. Notwithstanding this section and any referendum held under § 4.1-121 to the contrary, persons licensed to sell mixed beverages in such county, town, or supervisor's election district of a county shall also be permitted to sell wine and beer for on-premises consumption, provided the appropriate license fees are paid for the privilege.

D. The provisions of this section shall not prevent in any county, city, or town, the sale and delivery or shipment of alcoholic beverages specified in § 4.1-200 to and by persons therein authorized to sell alcoholic beverages, nor prevent the delivery or shipment of alcoholic beverages under Board regulations into any county, city, or town, except as otherwise prohibited by this title.

E. For the purpose of this section, when any referendum is held in any town, separate and apart from the county in which such town or a part thereof is located, such town shall be treated as being separate and apart from such county.

**§ 4.1-124. Referendum on the sale of mixed beverages.**

A. The provisions of this title relating to the sale of mixed beverages shall ~~not become~~ *be* effective in any town, county, or supervisor's election district of a county ~~until~~ *unless* a majority of the voters voting in a referendum vote ~~affirmatively~~ "Yes" on the question of whether *the sale of* mixed alcoholic beverages ~~should be sold~~ by restaurants licensed under this title *should be prohibited*. The qualified voters of a town, county, or supervisor's election district of a county may file a petition with the circuit court of the county asking that a referendum be held on the question of whether the sale of mixed beverages by restaurants licensed by the Board should be ~~permitted~~ *prohibited* within that jurisdiction. The petition shall be signed by qualified voters equal in number to at least 10 percent of the number registered in the town, county, or supervisor's election district on January 1 preceding its filing or at least 100 qualified voters, whichever is greater.

Petition requirements for any county shall be based on the number of registered voters in the county, including the number of registered voters in any town having a population in excess of 1,000 located within such county. Upon the filing of a petition, and under no other circumstances, the court shall order the election officials of the county to conduct a referendum on the question.

The clerk of the circuit court of the county shall publish notice of the referendum in a newspaper of general circulation in the town, county, or supervisor's election district once a week for three consecutive weeks prior to the referendum.

The question on the ballot shall be:

"Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be ~~permitted~~ *prohibited* in ..... (name of town, county, or supervisor's election district of county)?"

The referendum shall be ordered and held and the results certified as provided in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2. Thereupon the court shall enter of record an order certified by the clerk of the court to be transmitted to the Board and to the governing body of the town or county. Mixed beverages ~~permitted to be sold~~ *prohibited from sale* by such referendum ~~may in accordance with this title~~ *shall not* be sold by restaurants ~~licensed by the Board~~ within the town, county, or supervisor's election district of a county on or after 30 days following the entry of the order if a majority of the voters voting in the referendum have voted "Yes."

The provisions of this section shall be applicable to towns having a population in excess of 1,000 to the same extent and subject to the same conditions and limitations as are otherwise applicable to counties under this section. Such towns shall be treated as separate local option units, and only residents of any such town shall be eligible to vote in any referendum held pursuant to this section for any such town. Residents of towns having a population in excess of 1,000, however, shall also be eligible to vote in any referendum held pursuant to this section for any county in which the town is located.

~~The Notwithstanding the provisions of this section shall not require, the sale of mixed beverages by restaurants shall be prohibited in any town created as a result of a city-to-town reversion pursuant to Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2 to hold a referendum on the same question if a referendum on the question of whether the sale of mixed beverages by restaurants licensed under this title should be prohibited was previously held in the former city and a majority of the voters voting in the former city had previously approved the sale of mixed beverages by restaurants licensed by the Board in such city such referendum voted "Yes."~~

B. Once a referendum has been held, no other referendum on the same question shall be held in the town, county, or supervisor's election district of a county for a period of 23 months.

C. Notwithstanding the provisions of subsection A, the sale of mixed beverages shall be allowed on property dedicated for industrial or commercial development and controlled through the provision of public utilities and covenanting of the land by any multijurisdictional industrial development authority, as set forth under Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2, provided that (i) such authority operates under a partnership agreement between three or more counties, cities, or towns and such jurisdictions participate administratively and financially in the authority and (ii) the sale of mixed beverages is permitted in one of the member counties, cities, towns, or a supervisor's election district of one of the counties and that the governing board of the authority authorizes an establishment located within the confines of such property to apply to the Board for such license. The appropriate license fees shall be paid for this privilege.

D. Notwithstanding the provisions of subsection A of this section and subsection C of § 4.1-122, the sale of mixed beverages by licensees, and the sale of alcoholic beverages other than beer and wine not produced by farm wineries by the Board, shall be allowed in any city in the Commonwealth.

E. Notwithstanding the provisions of subsection A, the Board may grant a mixed beverage restaurant license to a restaurant located on the premises of and operated by a private club exclusively for its members and their guests, subject to the qualifications and restrictions on the issuance of such license imposed by § 4.1-210. However, no license authorized by this subsection shall be granted if the private club restricts its membership on the basis of race, color, creed, national origin or sex.

#### **§ 4.1-221.1. Limitation of tasting licenses.**

Samples of alcoholic beverages given or sold by a licensee shall not exceed two ounces per person of each product tasted, provided that (i) in the case of wine or beer, no more than four products shall be offered or (ii) in the case of spirits, no more than two products shall be offered. Tasting licenses for mixed beverages shall only be issued for events to be held in localities ~~which have approved that do not prohibit~~ the sale of mixed beverages pursuant to § 4.1-124. No license shall be issued to any person to whom issuance of a retail license is prohibited. No more than four tasting licenses annually shall be issued to any person. The provisions of this section shall not apply to tastings conducted pursuant to § 4.1-201.1.

**2. That § 4.1-126 of the Code of Virginia is repealed.**

**3. That notwithstanding the provisions of § 4.1-124 of the Code of Virginia, as amended by this act, mixed beverage licenses may be granted to any establishment described in § 4.1-126 of the Code of Virginia, as it was in effect prior to the effective date of this act, subject to all other applicable provisions of Title 4.1 of the Code of Virginia and regulations of the Board of Directors of the Virginia Alcoholic Beverage Control Authority.**

**4. That the provisions of the first, second, and third enactments of this act shall become effective on July 1, 2020.**

**5. That a referendum may be held in any town, county, or supervisor's election district of a county between July 1, 2019, and June 30, 2020, on either or both of the following questions: "Shall the sale of mixed alcoholic beverages by restaurants licensed by the Virginia Alcoholic Beverage Control Authority be prohibited in ..... (name of town, county, or supervisor's election district of county)?" and "Shall the sale by the Virginia Alcoholic Beverage Control Authority of alcoholic beverages, other than beer and wine not produced by farm wineries, be prohibited in ..... (name of county, city, or town)?" The result of any referendum held pursuant to this enactment shall become effective on July 1, 2020.**

**6. That the result of any referendum held by a town, county, or supervisor's election district of a county prior to July 1, 2019, under the provisions of § 4.1-121 or 4.1-124 of the Code of Virginia, as those sections were in effect prior to the effective date of the first enactment, shall remain valid and enforceable for a period of five years after the date upon which such referendum was held.**

## **CHAPTER 179**

*An Act to amend and reenact §§ 54.1-2105, 54.1-2106.1, 54.1-2108.2, and 54.1-2109 of the Code of Virginia, relating to the Real Estate Board; real estate licensees.*

[S 1061]

Approved February 27, 2019

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

**1. That §§ 54.1-2105, 54.1-2106.1, 54.1-2108.2, and 54.1-2109 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2105. General powers of Real Estate Board; regulations; educational and experience requirements for licensure.**

A. The Board may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations.

B. The Board shall adopt regulations establishing minimum educational requirements as conditions for licensure. Board regulations relating to initial licensure shall include the following requirements:

1. Every applicant for an initial license as a real estate salesperson shall have:

a. At a minimum, a high school diploma or its equivalent; and

b. Completed a course in the principles of real estate that carried an academic credit of at least four semester hours, but not less than 60 hours of classroom, correspondence, or other distance learning instruction, offered by an accredited institution of higher education, high school offering adult distributive education courses, or other school or educational institution offering an equivalent course.

2. Every applicant for an initial license as a real estate broker shall have:

a. At a minimum, a high school diploma or its equivalent; and

b. Completed not less than 12 semester hours of classroom or correspondence or other distance learning instruction in real estate courses offered by an accredited institution of higher education or other school or educational institution offering equivalent courses.

3. Every applicant for a license by reciprocity as a real estate salesperson or real estate broker shall have:

a. Completed a course in the principles of real estate that is comparable in content and duration and scope to that required in subdivision 1 or 12 semester hours of classroom or correspondence or other distance learning instruction in real estate courses that are comparable in content and duration and scope to that required in subdivision 2; and

b. If currently licensed by another state as a real estate salesperson or broker, passed Virginia's examination.

C. The Board may waive any requirement under the regulations relating to education or experience when the broker or salesperson is found to have education or experience equivalent to that required. No regulation imposing educational requirements for initial licensure beyond those specified by law shall apply to any person who was licensed prior to July 1, 1975, and who has been continuously licensed since that time, except that licensure as a salesperson prior to such time shall not exempt a salesperson who seeks to be licensed as a broker from the educational requirements established for brokers.

D. The Board shall establish criteria to ensure that prelicensure and broker licensure courses meet the standards of quality deemed by the Board to be necessary to protect the public interests. For correspondence and other distance learning instruction offered by an approved provider, such criteria may include appropriate testing procedures. The Board may establish procedures to ensure the quality of the courses.

Noncollegiate institutions shall not be authorized to grant collegiate semester hours for academic credit.

The specific content of the real estate courses shall be in real estate brokerage, real estate finance, real estate appraisal, real estate law, and such related subjects as are approved by the Board.

E. The Board may establish criteria delineating the permitted activities of unlicensed individuals employed by, *or affiliated as an independent contractor with*, real estate licensees or under the supervision of a real estate broker.

F. The Board may take a disciplinary case against a licensee under advisement, defer a finding in such case, and dismiss such action upon terms and conditions set by the Board.

**§ 54.1-2106.1. Licenses required.**

A. No business entity, other than a sole proprietorship, shall act, offer to act, or advertise to act, as a real estate firm without a real estate firm license from the Board. Such firm may be granted a license in a fictitious name. No business entity shall be granted a firm license unless (i) every managing member of a limited liability company, officer of a corporation, partner within a partnership, or associate within an association who actively participates in the firm brokerage business holds a license as a real estate broker; and (ii) every employee or independent contractor who acts as a salesperson for such business entity holds a license as a real estate salesperson or broker. An individual holding a broker's license may operate a real estate brokerage firm which he owns as a sole proprietorship without any further licensure by the Board, although such individual shall not operate the brokerage firm in a fictitious name. However, nothing herein shall be construed to prohibit a broker operating a brokerage firm from having a business entity separate from the brokerage firm for such broker's own real estate business, provided that such separate business entity otherwise complies with this section. A non-broker-owned sole proprietorship shall obtain a license from the Board.

B. No individual shall act as a broker without a real estate broker's license from the Board. An individual who holds a broker's license may act as a salesperson for another broker. A broker may be an owner, member, or officer of a business entity salesperson as defined in subsection C.

C. No individual shall act as a salesperson without a salesperson's license from the Board. A business entity may act as a salesperson with a separate business entity salesperson's license from the Board. No business entity shall be granted a business entity salesperson's license unless every owner or officer who actively participates in the brokerage business of such entity holds a license as a salesperson or broker from the Board. The Board shall establish standards in its regulations for the names of business entity salespersons when more than one licensee is an owner or officer.

D. No group of individuals consisting of one or more real estate brokers or real estate salespersons, or a combination thereof, shall act as a real estate team without first obtaining a business entity salesperson's license from the Board. A real

estate team may hire one or more unlicensed assistants, *as employees or independent contractors*, as otherwise provided by law.

E. If any principal broker maintains more than one place of business within the Commonwealth, such principal broker shall be required to obtain a branch office license from the Board for each place of business maintained. A copy of the branch office license shall be kept on the premises of the branch office.

**§ 54.1-2108.2. Protection of escrow funds, etc., held by a real estate broker in the event of termination of a real estate purchase contract.**

Notwithstanding any other provision of law, for purchase transactions:

1. Upon the ratification of a contract, an earnest money deposit received by the principal broker or supervising broker ~~or his associates~~, *or an agent of such principal broker or supervising broker*, shall be placed in an escrow account by the end of the fifth business banking day following ratification, unless otherwise agreed to in writing by the principals to the transaction, and shall remain in that account until the transaction has been consummated or terminated.

2. In the event that the transaction is not consummated, the principal broker or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in a written agreement as to their disposition, upon which the funds shall be returned to the agreed-upon principal as provided in such written agreement; (ii) a court of competent jurisdiction orders such disbursement of the funds; (iii) the funds are successfully interpleaded into a court of competent jurisdiction pursuant to this section; or (iv) the broker releases the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract that established the earnest money deposit.

At the option of a broker, written notice may be sent by the broker that release of such funds shall be made unless a written protest is received from the principal who is not receiving the funds by such broker within 15 calendar days of the date of such notice. Notice of a disbursement shall be given to the parties to the transaction in accordance with the contract, but if the contract does not specify a method of delivery, one of the following methods complies with this section: (a) hand delivery; (b) United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing; (c) electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or (d) overnight delivery using a commercial service or the United States Postal Service. Except as provided in the clear and explicit terms of the contract, no broker shall be required to make a determination as to the party entitled to receive the earnest money deposit. A broker who complies with this section shall be immune from liability to any of the parties to the contract.

3. A principal broker or supervising broker holding escrow funds for a principal to the transaction may seek to have a court of competent jurisdiction take custody of disputed or unclaimed escrow funds via an interpleader action pursuant to § 16.1-77.

4. If a principal broker or supervising broker is holding escrow funds for the owner of real property and such property is foreclosed upon by a lender, the principal broker or supervising broker shall have the right to file an interpleader action pursuant to § 16.1-77 and otherwise comply with the provisions of § 54.1-2108.1.

**§ 54.1-2109. Death or disability of a broker.**

Upon the death or disability of a licensed real estate broker who was engaged in a proprietorship or who was the only licensed broker in a corporation or partnership, the Real Estate Board shall grant approval to carry on the business of the deceased or disabled broker for 180 days following the death or disability of the broker solely for the purpose of concluding the business of the deceased or disabled broker in the following order:

1. A personal representative qualified by the court to administer the deceased broker's estate.

2. If there is no personal representative qualified pursuant to subdivision 1, then an agent designated under a power of attorney of the disabled or deceased broker, which designation expressly references this section.

3. If there is no agent designated pursuant to subdivision 2, the executor nominated in the deceased broker's will.

4. If there is no executor nominated pursuant to subdivision 3, then an adult family member of the disabled or deceased broker.

5. If there is no adult family member nominated pursuant to subdivision 4, then an employee of, *or an independent contractor affiliated with*, the disabled or deceased broker.

In the event none of the foregoing is available or suitable, the Board may appoint any other suitable person to terminate the business within 180 days.

## CHAPTER 180

*An Act to amend and reenact §§ 8.01-128, 8.01-129, 8.01-293, 8.01-470, 8.01-471, 16.1-69.40, 16.1-88.03, 17.1-272, 55-225.01, 55-225.1, 55-246.1, 55-248.3:1, 55-248.35, 55-248.38:1, 55-248.38:2, and 58.1-3947 of the Code of Virginia, relating to eviction; writs of possession and eviction.*

[S 1448]

Approved February 27, 2019

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

**1. That §§ 8.01-128, 8.01-129, 8.01-293, 8.01-470, 8.01-471, 16.1-69.40, 16.1-88.03, 17.1-272, 55-225.01, 55-225.1, 55-246.1, 55-248.3:1, 55-248.35, 55-248.38:1, 55-248.38:2, and 58.1-3947 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-128. Verdict and judgment; damages.**

A. If it appears that the plaintiff was forcibly or unlawfully turned out of possession, or that it was unlawfully detained from him, the verdict or judgment shall be for the plaintiff for the premises, or such part thereof as may be found to have been so held or detained. The verdict or judgment shall also be for such damages as the plaintiff may prove to have been sustained by him by reason of such forcible or unlawful entry, or unlawful detention, of such premises, and such rent as he may prove to have been owing to him.

B. The plaintiff may, alternatively, receive a final, appealable judgment for possession of the property unlawfully entered or unlawfully detained and be issued ~~a writ~~ *an order* of possession at the initial hearing on a summons for unlawful detainer, upon evidence presented by the plaintiff to the court. At the initial hearing, upon request of the plaintiff, the court shall bifurcate the unlawful detainer case and set a continuance date no later than 120 days from the date of the initial hearing to determine final rent and damages. On such continuance date, the court shall permit amendment of the amount requested on the summons for unlawful detainer filed in court in accordance with the (i) notice of hearing to establish final rent and damages mailed to the last known address of the defendant and filed with the court at least 15 days prior to the continuance date as provided herein, (ii) evidence presented to the court, and (iii) amounts contracted for in the rental agreement. Nothing in this subsection shall preclude a defendant who appears in court at the initial court date from contesting an unlawful detainer action as otherwise provided by law.

If under this section an appeal is taken as to possession, the entire case shall be considered appealed. The plaintiff shall, in the instance of a continuance taken under this section, mail to the defendant at the defendant's last known address at least 15 days prior to the continuance date a notice advising (a) of the continuance date, (b) of the amounts of final rent and damages, and (c) that the plaintiff is seeking judgment for additional sums. A copy of such notice shall be filed with the court.

C. No verdict or judgment rendered under this section shall bar any separate concurrent or future action for any such damages or rent as may not be so claimed.

**§ 8.01-129. Appeal from judgment of general district court.**

A. An appeal shall lie from the judgment of a general district court, in any proceeding under this article, to the circuit court in the same manner and with like effect and upon like security as appeals taken under the provisions of § 16.1-106 et seq. except as specifically provided in this section. The appeal shall be taken within 10 days and the security approved by the court from which the appeal is taken. Notwithstanding the provisions of § 16.1-106 et seq., the bond shall be posted and the writ tax paid within 10 days of the date of the judgment.

B. In any unlawful detainer case filed under § 8.01-126, if a judge grants the plaintiff a judgment for possession of the premises, upon request of the plaintiff, the judge shall further order that the writ *of eviction* issue immediately upon entry of judgment for possession. In such case, the clerk shall deliver the writ *of eviction* to the sheriff, who shall then, at least 72 hours prior to execution of such writ, serve notice of intent to execute the writ, including the date and time of eviction, as provided in § 8.01-470. In no case, however, shall the sheriff evict the defendant from the dwelling unit prior to the expiration of the defendant's 10-day appeal period. If the defendant perfects an appeal, the sheriff shall return the writ to the clerk who issued it.

When the appeal is taken by the defendant, he shall be required to give security also for all rent which has accrued and may accrue upon the premises, but for not more than one year's rent, and also for all damages that have accrued or may accrue from the unlawful use and occupation of the premises for a period not exceeding three months. Trial by jury shall be had upon application of any party.

**§ 8.01-293. Authorization to serve process, *capias* or show cause order; execute writ of possession or eviction and levy upon property.**

A. The following persons are authorized to serve process:

1. The sheriff within such territorial bounds as described in § 8.01-295;

2. Any person of age 18 years or older and who is not a party or otherwise interested in the subject matter in controversy. For purposes of this subdivision, an investigator employed by an attorney for the Commonwealth or employed by the Indigent Defense Commission, who within 10 years immediately prior to being employed by the attorney for the Commonwealth or Indigent Defense Commission was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth and retired or resigned from his position as a law-enforcement officer in good standing, shall not be considered to be a party or otherwise interested in the subject matter in controversy while engaged in the performance of his official duties, provided that the sheriff in the jurisdiction where process is to be served has agreed that such investigators may serve process. If a sheriff has agreed that such investigators may serve process, then investigators employed by either an attorney for the Commonwealth or the Indigent Defense Commission may serve process. However, in any case in which custody or visitation of a minor child or children is at issue and a summons is issued for the attendance and testimony of a teacher or other school personnel who is not a party to the proceeding, if such summons is served on school property, it shall be served only by a sheriff or his deputy; or

3. A private process server. For purposes of this section, "private process server" means any person 18 years of age or older and who is not a party or otherwise interested in the subject matter in controversy, and who charges a fee for service of process.

Whenever in this Code the term "officer" or "sheriff" is used to refer to persons authorized to make, return or do any other act relating to service of process, such term shall be deemed to refer to any person authorized by this section to serve process.

B. Notwithstanding any other provision of law (i) only a sheriff or high constable may execute an order or writ of possession for personal, real or mixed property, including ~~an order or a writ of possession~~ *eviction* arising out of an action in unlawful entry and detainer or ejection; (ii) any sheriff, high constable or law-enforcement officer as defined in § 9.1-101 of the Code of Virginia may serve any *capias* or show cause order; and (iii) only a sheriff, the high constable for the City of Norfolk or Virginia Beach or a treasurer may levy upon property.

#### **§ 8.01-470. Writs on judgments for specific property.**

On a judgment for the recovery of specific property, ~~real or personal~~, a writ of possession *for personal property or a writ of eviction for real property* may issue for the specific property *pursuant to an order of possession entered by a court of competent jurisdiction*, which shall conform to the judgment as to the description of the property and the estate, title, and interest recovered, and there may also be issued a writ of *feri facias* for the damages or profits and costs. In cases of unlawful entry and detainer and of ejection, the officer to whom a writ of ~~possession~~ *eviction* has been delivered to be executed shall, at least 72 hours before execution, serve notice of intent to execute, including the date and time of execution, as well as the rights afforded to tenants in §§ 55-237.1 and 55-248.38:2, together with a copy of the writ attached, on the defendant in person or, if the party to be served is not found at the specific property for which a writ of ~~possession~~ *eviction* has been issued, then service shall be effected by posting a copy of such process at the front door or at such other door as appears to be the main entrance of such property. The execution of the writ of ~~possession~~ *eviction* by the sheriff should occur within 15 calendar days from the date the writ of ~~possession~~ *eviction* is received by the sheriff, or as soon as practicable thereafter, but in no event later than 30 days from the date the writ of ~~possession~~ *eviction* is issued. *An order of possession shall remain valid for 180 days from the date granted by the court. If a plaintiff cancels a writ of eviction, such plaintiff may request other writs of eviction during such 180-day period.* In cases of unlawful entry and detainer and of ejection, whenever the officer to whom a writ of ~~possession~~ *eviction* has been delivered to be executed finds the premises locked, he may, after declaring at the door the cause of his coming and demanding to have the door opened, employ reasonable and necessary force to break and enter the door and put the plaintiff in possession. The execution of the writ of ~~possession~~ *eviction* shall be effective against the tenants named in the writ of ~~possession~~ *eviction* and their authorized occupants, guests or invitees, and any trespassers in the premises. And an officer having a writ of possession for specific personal property, if he finds locked or fastened the building or place wherein he has reasonable cause to believe the property specified in the writ is located, may in the daytime, after notice to the defendant, his agent or bailee, break and enter such building or place for the purpose of executing such writ.

#### **§ 8.01-471. Time period for issuing writs of eviction in unlawful entry and detainer; when returnable.**

Writs of ~~possession~~ *eviction*, in case of unlawful entry and detainer, shall be issued within ~~one year~~ *180 days* from the date of judgment for possession and shall be made returnable within 30 days from the date of issuing the writ. *Notwithstanding any other provision of law, a writ of eviction not executed within 30 days from the date of issuance shall be vacated as a matter of law without further order of the court that entered the order of possession, and no further action shall be taken by the clerk.* No writ shall issue, however, in cases under the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) if, following the entry of judgment for possession, the landlord has ~~accepted rent payments without reservation~~ *entered into a new written rental agreement with the tenant*, as described in § 55-248.34:1. A writ of ~~possession~~ *eviction* may be requested by the plaintiff or the plaintiff's attorney or agent.

#### **§ 16.1-69.40. Powers and duties of clerks; civil liability.**

The clerk and deputy clerks shall be conservators of the peace within the territory for which the court has jurisdiction, and may, within such judicial district, issue warrants, detention orders, and other processes, original, mesne and final, both civil and criminal, commit to jail or other detention facility, or admit to bail upon recognizance, persons charged with crimes or before the court on civil petition, subject to the limitations set forth by law, and issue subpoenas for witnesses, writs of *feri facias* and writs of possession *and eviction*, attachments and garnishments and abstracts of judgments. A record made in the performance of the clerk's official duties may be authenticated as a true copy by the clerk or by a deputy clerk without additional authentication by the judge to whom the clerk reports, notwithstanding the provisions of subsection B of § 8.01-391.

No clerk or deputy clerk shall issue any warrant or process based on complaint of his spouse, child, grandchild, parent, grandparent, parent-in-law, child-in-law, brother, sister, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, first cousin, guardian or ward. They may take affidavits and administer oaths and affirmations, take and certify depositions in the same manner as a notary public, perform such other notarial acts as allowed under § 47.1-12, take acknowledgments to deeds or other writings for purposes of recordation, and issue all other legal processes which may be issued by the judge of such court and exercise such other powers and perform such other duties as are conferred or imposed upon them by law. The clerk may also issue to interested persons informational brochures authorized by a judge of such court explaining the legal rights of such persons.

No clerk or deputy clerk shall be civilly liable for providing information or assistance that is within the scope of his duties.

The clerk shall develop, implement and administer procedures necessary for the efficient operation of the clerk's office, keep the records and accounts of the court, supervise nonjudicial personnel and discharge such other duties as may be prescribed by the judge.

**§ 16.1-88.03. Pleadings and other papers by certain parties not represented by attorneys.**

A. Any corporation, partnership, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership or business trust and the Department of Military Affairs, when the amount claimed in any civil action pursuant to subdivision (1) or (3) of § 16.1-77 does not exceed the jurisdictional amounts authorized in such subsections, exclusive of interest, may prepare, execute, file, and have served on other parties in any proceeding in a general district court a warrant in debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, suggestion for summons in garnishment, garnishment summons, ~~writ~~ order of possession, writ of eviction, writ of fieri facias, interpleader and civil appeal notice without the intervention of an attorney. Such papers may be signed by a corporate officer, a manager of a limited liability company, a general partner of any form of partnership or a trustee of any business trust, or such corporate officer, with the approval of the board of directors, or manager, general partner or trustee may authorize in writing an employee, a person licensed under the provisions of § 54.1-2106.1, a property manager, or a managing agent of a landlord as defined in § 55-248.4 to sign such papers as the agent of the business entity. Only an agency employee designated in writing by the Adjutant General may sign such papers on behalf of the Department of Military Affairs. However, this section shall not apply to an action under subdivision (1) or (3) of § 16.1-77 which was assigned to a corporation, partnership, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership or business trust, or individual solely for the purpose of enforcing an obligation owed or right inuring to another.

B. Nothing in this section shall allow a nonlawyer to file a bill of particulars or grounds of defense or to argue motions, issue a subpoena, rule to show cause, or *capias*; file or interrogate at debtor interrogatories; or to file, issue or argue any other paper, pleading or proceeding not set forth in subsection A.

C. The provisions of § 8.01-271.1 shall apply to any pleading, motion or other paper filed or made pursuant to this section.

D. Parties not represented by counsel, and who have made an appearance in the case, shall promptly notify in writing the clerk of court wherein the litigation is pending, and any adverse party, of any change in the party's address necessary for accurate mailing or service of any pleadings or notices. In the absence of such notification, a mailing to or service upon a party at the most recent address contained in the court file of the case shall be deemed effective service or other notice.

**§ 17.1-272. Process and service fees generally.**

A. The fee for process and service in the following instances shall be \$12:

1. Service on any person, firm or corporation, an order, notice, summons or any other civil process, except as herein otherwise provided, and for service on any person, firm, or corporation any process when the body is not taken and making a return thereof, except that no fee shall be charged for service pursuant to § 2.2-4022.

2. Summoning a witness or garnishee on an attachment.

3. Service on any person of an attachment or other process under which the body is taken and making a return thereon.

4. Service of any order of court not otherwise provided for, except that no fees shall be charged for protective orders issued pursuant to Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

5. Making a return of a writ of fieri facias where no levy is made or forthcoming bond is taken.

6. Summoning a witness in any case in which custody or visitation of a minor child or children is at issue.

B. The fees for process and service in the following instances shall be \$25:

1. Service and publication of any notice of a publicly-advertised public sale.

2. Service of a writ of possession *or writ of eviction*, except that there shall be an additional fee of \$12 for each additional defendant.

3. Levying upon current money, bank notes, goods or chattels of a judgment debtor pursuant to § 8.01-478.

4. Service of a declaration in ejectment on any person, firm or corporation, except that there shall be an additional fee of \$12 for each additional defendant.

5. Levying distress warrant or an attachment.

6. Levying an execution.

C. The process and service fee for serving any papers returnable out of state shall be \$75, except no fees shall be charged for the service of papers in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protective order or a petition for a protective order. A victim of domestic violence, stalking, or sexual assault shall not bear the costs associated with the filing of criminal charges against the offender, and no victim shall bear the costs associated with the filing, issuance, registration, or service of a warrant, protective order, petition for a protective order, or witness subpoena, issued inside or outside the Commonwealth.

D. The fees set out in this section shall be allowable for services provided by such officers in the circuit and district courts.

**§ 55-225.01. Sections applicable only to certain residential tenancies.**

A. Residential tenancies. The Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) shall apply to occupancy in any single-family residential dwelling unit and any multifamily dwelling unit located in Virginia unless exempted pursuant to the provisions of this section. Occupancy in a public housing unit or other housing unit that is a residential dwelling unit is subject to this chapter, however, if the provisions of this chapter are inconsistent with the regulations of the Department of Housing and Urban Development, such regulations shall control.

B. Exempt residential dwelling units.

1. Where the landlord is a natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in its own name subject to a rental agreement, such landlord may opt out of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) by so stating in a rental agreement with a tenant. Such residential dwelling units shall be exempt from the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.), and the provisions of §§ 55-225.01 through 55-225.48 shall be applicable.

2. Where occupancy is under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

C. Tenancies and occupancies that are not residential tenancies. The following occupancies are not residential tenancies under this chapter:

1. Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;

2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

4. Occupancy in a campground as defined in § 35.1-1;

5. Occupancy by a tenant who is not required to pay rent pursuant to a rental agreement; or

6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is conditioned upon employment in and about the premises or a former employee whose occupancy continues less than 60 days.

D. Occupancy in hotel, motel, and extended stay facility.

1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a writ of ~~possession~~ *eviction* issued pursuant to such action, which would otherwise be required under this chapter.

2. A hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar transient lodging shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person for consideration if such person does not reside in such lodging as his primary residence.

3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for fewer than 90 consecutive days, such lodging shall not be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of the five-day period specified in the notice, may exercise self-help eviction if payment in full has not been received.

4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for more than 90 consecutive days or is subject to a written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.

5. Nothing herein shall be construed to preclude the owner of a lodging establishment that uses self-help eviction pursuant to this section from pursuing any civil or criminal remedies under the laws of the Commonwealth.

**§ 55-225.1. Recovery of possession limited.**

A landlord may not recover or take possession of a residential dwelling unit by (i) willful diminution of services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service required to be supplied by the landlord under a rental agreement or (ii) refusal to permit the tenant access to such unit unless such refusal is pursuant to an unlawful detainer action from a court of competent jurisdiction and the execution of a writ of ~~possession~~ *eviction* issued pursuant thereto. A provision included in a rental agreement for a dwelling unit authorizing action prohibited by this section is unenforceable.

**§ 55-246.1. Who may recover rent or possession.**

Notwithstanding any rule of court to the contrary, (i) any person licensed under the provisions of § 54.1-2106.1, (ii) any property manager, or a managing agent of a landlord as defined in § 55-248.4, or (iii) any employee, who is authorized in writing by a corporate officer with the approval of the board of directors, or by a manager, a general partner or a trustee, of a partnership, association, corporation, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited

partnership, business trust, or family trust to sign pleadings as the agent of the business entity may obtain a judgment (a) for possession in the general district court for the county or city wherein the premises, or part thereof, is situated or (b) for rent or damages, including actual damages for breach of the rental agreement, or for final rent and damages under § 8.01-128, in any general district court where venue is proper under § 8.01-259, against any defendant if the person seeking such judgment had a contractual agreement with the landlord to manage the premises for which rent or possession is due and may prepare, execute, file, and have served on other parties in any general district court a warrant in debt, suggestion for summons in garnishment, garnishment summons, ~~writ~~ order of possession, writ of eviction, or writ of fieri facias arising out of a landlord tenant relationship. However, the activities of any such person in court shall be limited by the provisions of § 16.1-88.03. However, nothing shall be construed as preventing a nonlawyer from requesting relief from the court as provided by law or statute when such nonlawyer is before the court on one of the actions specified herein.

**§ 55-248.3:1. Applicability of chapter.**

A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or otherwise modified, in whole or in part, by the governing body of any locality, its boards and commissions or other instrumentalities, or the courts of the Commonwealth. Occupancy in a public housing unit or other housing unit that is a residential dwelling unit is subject to this chapter, however, if the provisions of this chapter are inconsistent with the regulations of the Department of Housing and Urban Development, such regulations shall control.

B. The provisions of this chapter shall apply to occupancy in all single-family and multifamily residential dwelling units and multifamily dwelling unit located in the Commonwealth. However, where the landlord is a natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in its own name subject to a rental agreement, such landlord may opt out of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) by so stating in a rental agreement with a tenant. Such residential dwelling units shall be exempt from this chapter and the provisions of §§ 55-225.01 through 55-225.48 shall be applicable.

The provisions of this chapter shall not apply to instances where occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

C. Tenancies and occupancies that are not residential tenancies. The following occupancies are not residential tenancies under this chapter:

1. Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;
2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;
3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;
4. Occupancy in a campground as defined in § 35.1-1;
5. Occupancy by a tenant who pays no rent pursuant to a rental agreement; or
6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is conditioned upon employment in and about the premises or ~~as~~ a former employee whose occupancy continues less than 60 days.

D. Occupancy in hotel, motel, and extended stay facility.

1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a writ of ~~possession~~ *eviction* issued pursuant to such action, which would otherwise be required under this chapter.

2. A hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar transient lodging shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person for consideration if such person does not reside in such lodging as his primary residence.

3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for fewer than 90 consecutive days, such lodging shall not be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of the five-day period specified in the notice, may exercise self-help eviction if payment in full has not been received.

4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for more than 90 consecutive days or is subject to a written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.

5. Nothing herein shall be construed to preclude the owner of a lodging establishment that uses self-help eviction pursuant to this section from pursuing any civil or criminal remedies under the laws of the Commonwealth.

**§ 55-248.35. Remedy after termination.**

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement, reasonable attorney's fees as provided in § 55-248.31, and the cost of

service of any notice under § 55-225 or § 55-248.31 or process by a sheriff or private process server which cost shall not exceed the amount authorized by § 55-248.31:1, which claims may be enforced, without limitation, by the institution of an action for unlawful entry or detainer. Actual damages for breach of the rental agreement may include a claim for such rent as would have accrued until the expiration of the term thereof or until a tenancy pursuant to a new rental agreement commences, whichever first occurs; provided that nothing herein contained shall diminish the duty of the landlord to mitigate actual damages for breach of the rental agreement. In obtaining post-possession judgments for actual damages as defined herein, the landlord shall not seek a judgment for accelerated rent through the end of the term of the tenancy.

In any unlawful detainer action brought by the landlord, this section shall not be construed to prevent the landlord from being granted by the court a simultaneous judgment for money due and for possession of the premises without a credit for any security deposit. Upon the tenant vacating the premises either voluntarily or by a writ of ~~possession~~ *eviction*, security deposits shall be credited to the tenants' account by the landlord in accordance with the requirements of § 55-248.15:1.

**§ 55-248.38:1. Disposal of property abandoned by tenants.**

If any items of personal property are left in the dwelling unit, the premises, or in any storage area provided by the landlord, after the rental agreement has terminated and delivery of possession has occurred, the landlord may consider such property to be abandoned. The landlord may dispose of the property so abandoned as the landlord sees fit or appropriate, provided he has: (i) given a termination notice to the tenant in accordance with this chapter, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after termination, (ii) given written notice to the tenant in accordance with § 55-248.33, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after expiration of the seven-day notice period, or (iii) given a separate written notice to the tenant, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within 24 hours after expiration of a 10-day period from the date such notice was given to the tenant. Any written notice to the tenant shall be given in accordance with § 55-248.6. The tenant shall have the right to remove his personal property from the dwelling unit or the premises at reasonable times during the 24-hour period after termination or at such other reasonable times until the landlord has disposed of the remaining personal property of the tenant.

During the 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided in this section, the tenant shall have a right to injunctive or other relief as provided by law. If the landlord received any funds from any sale of abandoned property as provided in this section, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in selling, storing or safekeeping such property. If any such funds are remaining after application, the remaining funds shall be treated as a security deposit under the provisions of § 55-248.15:1. The provisions of this section shall not be applicable if the landlord has been granted ~~a writ~~ *an order* of possession for the premises in accordance with Title 8.01 and execution of ~~such~~ *a writ of eviction* has been completed pursuant to § 8.01-470.

Nothing herein shall affect the right of a landlord to enforce an inchoate or perfected lien of the landlord on the personal property of a tenant in a dwelling unit or on the premises leased to such tenant and the right of a landlord to distress, levy, and seize such personal property as otherwise provided by law.

**§ 55-248.38:2. Authority of sheriffs to store and sell personal property removed from residential premises; recovery of possession by owner; disposition or sale.**

Notwithstanding the provisions of § 8.01-156, when personal property is removed from a dwelling unit, the premises, or from any storage area provided by the landlord pursuant to an action of unlawful detainer or ejection, or pursuant to any other action in which personal property is removed from the dwelling unit in order to restore the dwelling unit to the person entitled thereto, the sheriff shall oversee the removal of such personal property to be placed into the public way. The tenant shall have the right to remove his personal property from the public way during the 24-hour period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the public way.

At the landlord's request, any personal property removed pursuant to this section shall be placed into a storage area designated by the landlord, which may be the dwelling unit. The tenant shall have the right to remove his personal property from the landlord's designated storage area at reasonable times during the 24 hours after eviction from the landlord's or at such other reasonable times until the landlord has disposed of the property as provided herein. During that 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided herein, the tenant shall have a right to injunctive or other relief as otherwise provided by law.

Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord in selling or storing such property. If any funds are remaining after application, the remaining funds shall be treated as security deposit under applicable law.

The notice posted by the sheriff *with the writ of eviction* setting the date and time of the eviction, pursuant to § 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and shall include in the said notice a copy of this statute attached to, or made a part of, this notice.

**§ 58.1-3947. Lease of real estate for collection of taxes.**

Any real estate in the county, city or town belonging to the person or estate assessed with taxes due on such real estate may be rented or leased by the treasurer, sheriff, constable or collector, privately or at public outcry, after due publication, in the discretion of such treasurer, sheriff, constable or collector, either at the front door of the courthouse or on the premises or at some public place in the community where the premises are situated, after giving not less than fifteen days' notice by printed or written notices posted at the front door of the courthouse and at three or more places in the neighborhood of the real estate to be leased. Such leasing shall be for a term not exceeding one year and for cash sufficient to pay the taxes due on the real estate so rented and the costs and charges of advertising and leasing. When a lease is effected, the treasurer, collector, sheriff or constable leasing such real estate shall put the lessee in possession thereof and for such purpose shall have like powers as those exercised by a sheriff acting under a writ of possession *or writ of eviction*.

**CHAPTER 181**

*An Act to amend and reenact §§ 2.2-402 and 19.2-392.2 of the Code of Virginia, relating to expungement of police and court records; absolute pardon.*

[H 2278]

Approved February 27, 2019

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

**1. That §§ 2.2-402 and 19.2-392.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-402. Keeper of seals of Commonwealth; duties generally.**

A. The Secretary of the Commonwealth shall (i) be keeper of the seals of the Commonwealth; (ii) keep a record of all executive acts, arrange and preserve all records and papers belonging to the executive branch of state government; (iii) be charged with the clerical duties of that department; and (iv) render to the Governor, in the dispatch of executive business, such services as he requires. The Secretary of the Commonwealth shall record or register all papers or documents required by law to be registered or recorded in his office, and, when required, furnish a copy of any record in his office under the seal of the Commonwealth.

B. The Secretary of the Commonwealth may authenticate records of any court of the Commonwealth and of any department of the government. He shall keep a register of all city, incorporated town, county, and district officers, and, when required, give a certificate of the election and qualification of any such officer.

C. The Secretary of the Commonwealth shall make an annual report to the Governor, identifying the following: (i) the governing boards of all public institutions of higher education, and other boards appointed by the Governor; (ii) all commissions issued under appointments made by the Governor, except commissions to notaries public; (iii) all departments, boards, councils, commissions, and other collegial bodies created in the executive branch of state government; and (iv) such other matters as the Governor requires.

The annual report shall also include:

1. An organizational chart of state government that (i) identifies each agency, department, and institution of state government and (ii) contains a brief description of the duties of each agency, department, and institution. The Secretary of the Commonwealth may include such other information in the organizational chart as the Secretary deems appropriate. Annually, the Secretary shall make such revisions to the organizational chart as are necessary to ensure its accuracy. The organizational chart shall be posted on the Commonwealth's website; and

2. Information and photographs of the members of the General Assembly; these materials shall be maintained for the Secretary's use in the annual report by the Clerks of the House of Delegates and the Senate.

The reports shall be transmitted by the Governor to the General Assembly, printed as other annual reports are printed, bound in a separate volume, and disposed of according to law.

D. The Secretary of the Commonwealth shall collect all fees described in § 2.2-409, and all other fees of office and commissions, accruing and pay them into the state treasury.

*E. The Secretary of the Commonwealth shall, as soon as practicable, forward a copy of any absolute pardon granted by the Governor to a person for the commission of a crime that such person did not commit to the circuit court for the county or city in which such person was convicted of the crime for which the Governor granted the absolute pardon.*

**§ 19.2-392.2. Expungement of police and court records.**

A. If a person is charged with the commission of a crime or any offense defined in Title 18.2, and

1. Is acquitted, or

2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and satisfaction pursuant to § 19.2-151, he may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge.

B. If any person whose name or other identification has been used without his consent or authorization by another person who has been charged or arrested using such name or identification, he may file a petition with the court disposing of

the charge for relief pursuant to this section. Such person shall not be required to pay any fees for the filing of a petition under this subsection. A petition filed under this subsection shall include one complete set of the petitioner's fingerprints obtained from a law-enforcement agency.

C. The petition with a copy of the warrant or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except where not reasonably available, the date of arrest and the name of the arresting agency. Where this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge to be expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest.

D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is served on him.

E. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

F. After receiving the criminal history record information from the CCRE, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records, relating to the charge. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest was for a misdemeanor violation, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the charge, and the court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) when the charge to be expunged is a felony, stipulates in such written notice that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing.

G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

H. Notwithstanding any other provision of this section, when the charge is dismissed because the court finds that the person arrested or charged is not the person named in the summons, warrant, indictment or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the police and court records relating to the charge. Such order shall contain a statement that the dismissal and expungement are ordered pursuant to this subsection and shall be accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon the entry of such order, it shall be treated as provided in subsection K.

I. Notwithstanding any other provision of this section, ~~when a person has been granted upon receiving a copy pursuant to § 2.2-402 of an absolute pardon for the commission of a crime that he a person did not commit, he may file in the circuit court of the county or city in which the conviction occurred a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge and conviction, and~~ the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of such order, it shall be treated as provided in subsection K.

J. Upon receiving a copy of a writ vacating a conviction pursuant to § 19.2-327.5 or 19.2-327.13, the court shall enter an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of the order, it shall be treated as provided in subsection K.

K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

L. Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

M. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion and notice made within three years of the entry of such order.

## CHAPTER 182

*An Act to amend and reenact § 46.2-903 of the Code of Virginia, relating to vehicles on sidewalks.*

[H 1786]

Approved March 5, 2019

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

**1. That § 46.2-903 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-903. Riding or driving vehicles other than bicycles, electric power-assisted bicycles, electric personal assistive mobility devices, or other power-driven mobility device on sidewalks.**

No person shall ride or drive any vehicle *on the sidewalks of any county, city, or town of the Commonwealth* other than (i) an emergency vehicle, as defined in § 46.2-920.; (ii) a vehicle engaged in snow or ice removal and control operations.; (iii) a wheel chair or wheel chair conveyance, whether self-propelled or otherwise.; (iv) a bicycle.; (v) an electric personal assistive mobility device.; or (vi) an electric power-assisted bicycle ~~on the sidewalks of any county, city, or town of the Commonwealth.~~

*Nothing in this section shall be construed to prohibit any public entity, in accordance with the federal Americans with Disabilities Act of 1990 (P.L. 101-336, 104 Stat. 327) and other applicable state and federal laws, from (a) allowing the use of other power-driven mobility devices, as that term is defined in § 10.1-204, by disabled individuals on a sidewalk or (b) requiring a user of an other power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability.*

## CHAPTER 183

*An Act to amend and reenact § 58.1-512 of the Code of Virginia, relating to land preservation tax credit; allowable time to claim credit.*

[H 1816]

Approved March 5, 2019

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

**1. That § 58.1-512 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-512. Land preservation tax credits for individuals and corporations.**

A. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by §§ 58.1-320 and 58.1-400, an amount equal to 50 percent of the fair market value of any land or interest in land located in Virginia which is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. For such conveyances made on or after January 1, 2007, the tax credit shall be 40 percent of the fair market value of the land or interest in land so conveyed.

B. The fair market value of qualified donations made under this section shall be determined in accordance with § 58.1-512.1 and substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions. The value of the donated interest in land that qualifies for credit under this section, as determined according to appropriate federal law and regulations, shall be subject to the limits established by United States Internal Revenue Code § 170(c). In order to qualify for a tax credit under this section, the qualified appraisal shall be signed by the qualified appraiser, who must be licensed in the Commonwealth of Virginia as provided in § 54.1-2011, and a copy of the appraisal shall be submitted to the Department. In the event that any appraiser falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has signed, the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § 54.1-2013, which may include, but need not be limited to, revocation of the appraiser's license. Any appraisal that, upon audit by the Department, is determined to be false or fraudulent, may be disregarded by the Department in determining the fair market value of the property and the amount of tax credit to be allowed under this section.

C. 1. The amount of the credit that may be claimed by each taxpayer, including credit claimed by applying unused credits as provided under subsection C of § 58.1-513, shall not exceed \$50,000 for 2000 taxable years; \$75,000 for 2001 taxable years; \$100,000 for each of 2002 through 2008 taxable years; \$50,000 for each of 2009, 2010, and 2011 taxable years; \$100,000 for each of 2012, 2013, and 2014 taxable years; \$20,000 for each of 2015, 2016, and 2017 taxable years; and \$50,000 for 2018 taxable years and for each taxable year thereafter. However, for any fee simple donation of land conveyed to the Commonwealth on or after January 1, 2015, the amount of the credit claimed shall not exceed \$100,000 for each taxable year, provided that no part of the charitable contributions deduction under § 170 of the Internal Revenue Code related to such fee simple donation is allowable by reason of a sale or exchange of property. In addition, for each taxpayer, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit that is unused in any one taxable year may be carried over for

a maximum of 10 consecutive taxable years following the taxable year in which the credit originated until fully expended. A credit shall not be reduced by the amount of unused credit that could have been claimed in a prior year by the taxpayer but was unclaimed. For taxpayers affected by the credit reduction for taxable years 2009, 2010, 2011, and 2015 and thereafter, any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 13 consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. Qualified donations shall include the conveyance of a fee interest in real property or the conveyance in perpetuity of a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170(h) of the United States Internal Revenue Code of 1986, as amended.

The Department of Conservation and Recreation shall compile an annual report on qualified donations of less-than-fee interests accepted by any public or private conservation agency in the respective calendar year and shall submit the report by December 1 of each year to the Chairmen of the House Committee on Appropriations, House Committee on Finance, and the Senate Committee on Finance. In preparing such report, the Department of Conservation and Recreation shall consult and coordinate with the Department of Taxation and the Departments of Forestry and Agriculture and Consumer Services to provide an estimate of the number of acres of land currently being used for "production agriculture and silviculture" as defined in § 3.2-300 that have been protected by qualified donations of less-than-fee interests. This report shall include information, when available, on land qualifying for credits being used for "production agriculture and silviculture" that have onsite operational best management practices, which are designed to reduce the amount of nutrients and sediment entering public waters. In addition, the report shall include information, when available, on riparian buffers, both vegetated/forested buffers and no-plow buffers, required by deed restriction on land qualifying for credits in order to protect water quality. This information shall be reported in summary fashion as appropriate to preserve confidentiality of information. Qualified donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property by a charitable organization that (i) meets the definition of "holder" in § 10.1-1009 and (ii) holds one or more conservation easements acquired pursuant to the authority conferred on a "holder" by § 10.1-1010.

3. Any fee interest, or a less-than-fee interest, in real property that has been dedicated as open space within, or as part of, a residential subdivision or any other type of residential or commercial development; dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits shall not be a qualified donation under this article.

4. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509(a)(2) or (ii) meets the requirements of § 509(a)(3) and is controlled by an organization described in § 509(a)(2).

5. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity. In the case of conveyances of a fee interest to a charitable organization that is a "holder" as defined in § 10.1-1009, the credit shall not be allowed until the charitable organization agrees that subsequent conveyances of the fee interest in the property will be (i) subject to a previous conveyance in perpetuity of a conservation easement, as that term is defined in § 10.1-1009, or subject to the conveyance in perpetuity of an open-space easement, as that term is defined in § 10.1-1700, or (ii) conveyed to the Commonwealth of Virginia or to a federal conservation agency. No credit shall be allowed with respect to any subsequent conveyances by the charitable organization.

D. The issuance of tax credits under this article for donations made on and after January 1, 2007, shall be in accordance with procedures and deadlines established by the Department and shall be administered under the following conditions:

1. The taxpayer shall apply for a credit after completing the donation by submitting a form or forms prescribed by the Department in consultation with the Department of Conservation and Recreation. If the application requests a credit of \$1 million or more or if the donation meets the conditions of subdivision 3 c, then a copy of the application shall also be filed with the Department of Conservation and Recreation by the taxpayer. The application shall include, but not be limited to:

- a. A description of the conservation purpose or purposes being served by the donation;
- b. The fair market value of land being donated in the absence of any easement or other restriction;
- c. The public benefit derived from the donation;
- d. The extent to which water quality best management practices will be implemented on the property; and
- e. Whether the property is fully or partially forested and a forest management plan is included in the terms of the donation.

2. Applications for otherwise qualified donations of a less-than-fee interest shall be accompanied by an affidavit describing how the donated interest in land meets the requirements of § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder. The application with accompanying affidavit shall be submitted to the Department of Taxation, with a copy also provided to the Department of Conservation and Recreation.

3. a. No credit in the amount of \$1 million or more shall be issued with respect to a donation unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation, based on the criteria adopted by the Virginia Land Conservation Foundation for this purpose. Such criteria and subsequent amendments shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.), but the Virginia Land Conservation Foundation shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the

proposed criteria. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action.

b. For purposes of determining whether a credit requires verification of the conservation value, the credits allowed under this article with respect to donations of any other portion of a recorded parcel of land within the preceding 11 years shall be aggregated with the credit claimed for the current donation. This subdivision shall not apply if (i) all owners of the parcel who have been allowed credit for a qualified donation are not affiliated with the person or entity seeking credit for the current donation of a different portion of the parcel and (ii) in the case of an individual seeking credit, the individual has not previously made a qualified donation for any portion of the parcel and is not an immediate family member of any such owners.

c. If (i) the real property that is the subject of the donation was partitioned from or part of another parcel of land and any other portion of such parcel, or any land partitioned from such parcel of land, has been allowed a tax credit under this article (or an application for tax credit is pending) within three years of such donation and (ii) the tax credit that would otherwise be allowed to the donor for such donation is at least \$250,000, then no credit under this article shall be issued with respect to such donation described in clause (i) unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action. Nothing in this subdivision shall be construed or interpreted (a) as allowing additional tax credit for any land or interest in land previously conveyed for which tax credit has already been allowed under this article or (b) affecting the validity of any tax credit allowed under this article for a prior conveyance of any land or interest in land.

4. a. Tax credits shall be issued on a calendar year basis, and in no case shall the Department issue more than the maximum allowed for the calendar year. The maximum amount of credits that may be issued in a calendar year shall be \$100 million plus any credits previously issued under this article but subsequently disallowed or invalidated by the Department. Credits previously issued but subsequently disallowed or invalidated shall be reissued in a subsequent calendar year. All credits shall be issued in the order that each complete application is filed. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. If within 30 days after an application for credits has been filed the Tax Commissioner provides written notice to the donor that he has determined that the preparation of a second qualified appraisal is warranted, the application shall not be deemed complete until the fair market value of the donation has been finally determined by the Tax Commissioner. The Tax Commissioner shall make a final determination within 180 days of notifying the donor, unless the donor has filed an appeal. The donor shall have the right to appeal any decision of the Department in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.). If more than one complete application is filed at the same time, the credits with respect to those applications shall be issued in the order that the conveyances were recorded in the appropriate circuit court of the Commonwealth. In the event that a credit requires verification of the conservation value by the Department of Conservation and Recreation and such verification has not been received at the time the maximum \$100 million allowed is reached for the calendar year of the donation, such credit shall not be issued for that calendar year but shall be issued in the calendar year that the conservation value of the credit is verified by the Department of Conservation and Recreation.

No credit shall be allowed for any land or interest in land conveyed ~~on or after July 1, 2015,~~ unless (i) for a conveyance made before January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the *third* year following the calendar year of the conveyance or (ii) for a conveyance made on or after January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the *second* year following the calendar year of the conveyance. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. Solely for purposes of this condition, any application for which the Tax Commissioner has given written notice to the donor that the preparation of a second qualified appraisal is warranted shall be deemed timely filed, provided that the application was otherwise complete as of such filing deadline.

b. Beginning with calendar year 2008, the \$100 million amount contained in subdivision 4 a shall be increased by an amount equal to \$100 million multiplied by the percentage by which the consumer price index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31, 2006.

c. Beginning with calendar year 2015, the maximum amount of credits that may be issued in a calendar year shall not exceed \$75 million. In no case shall the Department issue any tax credit for a donation from any allocation or pool of tax credits attributable to a calendar year prior to the year in which the complete tax credit application for the donation was filed.

Beginning with the submission due on or before December 20, 2015, and in each year thereafter, the Governor shall include in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his amendments to the general appropriation act in effect submitted pursuant to subsection E of § 2.2-1509 a recommended appropriation from the general fund equal to the difference between the amount calculated pursuant to subdivision b and \$75 million, but not more than \$20 million, to be allocated as follows: 80 percent to the Virginia Land Conservation Fund to be used in accordance with § 10.1-1020, with no less than 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of easements with public access; 10 percent to the Virginia Battlefield Preservation Fund to be used in

accordance with § 10.1-2202.4; and 10 percent to the Virginia Farmland Preservation Fund to be used in accordance with § 3.2-201.

5. a. Any taxpayer that has been issued a tax credit by the Department shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 10 consecutive taxable year carryforward provisions of this article, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 13 consecutive taxable year carryforward provisions of this article.

b. Any taxpayer to whom a credit has been transferred may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 11 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 14 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer.

6. Neither the verification of conservation value by the Department of Conservation and Recreation nor the issuance of a credit by the Department of Taxation shall in any way be construed or interpreted as prohibiting the Department of Taxation or the Tax Commissioner from auditing any credit claimed pursuant to the provisions of this article or from assessing tax relating to the claiming of any credit under this article.

E. In any review or appeal before the Tax Commissioner or in any court in the Commonwealth the burden of proof shall be on the taxpayer to show that the fair market value and conservation value at the time of the qualified donation is consistent with this section and that all requirements of this article have been satisfied.

CHAPTER 184

An Act to amend and reenact § 10.1-2211.2 of the Code of Virginia, relating to historical African American cemeteries; Pulaski County.

[H 1973]

Approved March 5, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-2211.2 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.

A. For purposes of this section:

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1900, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves or any person or locality that owns a historical African American cemetery.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided in the general appropriation act in favor of the treasurer of a qualified organization caring for any cemetery set forth in this subsection. Such appropriations shall be allocated on the basis of the number of graves, monuments, and markers in a cemetery of African Americans who lived at any time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, as set forth opposite the cemetery name or as documented by the qualified organization, shall be multiplied by the rate of \$5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth.

IN THE COUNTY OF:	NUMBER:
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44

*Pulaski*

*New River Cemetery* 33

*West Dublin Cemetery* 44

IN THE CITY OF: NUMBER:

Charlottesville

Daughters of Zion Cemetery 192

Portsmouth

Mt. Calvary Cemetery 266

Richmond

Evergreen Cemetery 2,100

C. An organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery and its graves and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

D. Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection C. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

E. In addition to funds that may be provided pursuant to subsection B, any organization set forth in subsection B may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. Such a grant shall be made from any appropriation made available by the General Assembly for such purpose.

F. Any locality may receive and hold funds drawn pursuant to subsection B on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

G. The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B.

## CHAPTER 185

*An Act to amend and reenact § 33.2-1601 of the Code of Virginia, relating to Rail Enhancement Fund; matching funds.*

[H 1983]

Approved March 5, 2019

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

#### 1. That § 33.2-1601 of the Code of Virginia is amended and reenacted as follows:

##### § 33.2-1601. Rail Enhancement Fund.

A. The General Assembly declares it to be in the public interest that railway preservation and development of railway transportation facilities are an important element of a balanced transportation system of the Commonwealth for freight and passengers and further declares it to be in the public interest that the retention, maintenance, improvement, and development of freight and passenger railways are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Rail Enhancement Fund, referred to in this section as "the Fund," which shall be considered a special fund within the Transportation Trust Fund. The Fund shall be established on the books of the Comptroller and shall consist of dedications pursuant to § 58.1-1741 and such funds from other sources as may be set forth in the appropriation act and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Rail and Public Transportation or the Director's designee.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Board, the Fund for acquiring, leasing, or improving railways or railroad equipment, rolling stock, rights-of-way, or facilities, or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way, or facilities, for freight or passenger rail transportation purposes whenever the Board has determined that such acquisition, lease, or improvement is for the common good of a region of the

Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be used as matching funds for federal grants to support passenger or freight rail projects.

D. Projects undertaken pursuant to this section shall be limited to those the Board has determined will result in public benefits to a region of the Commonwealth or the Commonwealth as a whole that are equal to or greater than the investment of funds under this section. Such public benefits shall include the impact of the project on traffic congestion and environmental quality and, whenever possible, give due consideration to passenger rail capacity on corridors identified by the Board that have existing or proposed passenger rail service. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, a local government source, *federal funds for freight rail projects*, or a combination of such sources.

## CHAPTER 186

*An Act to authorize the conveyance of an easement by the Department of Forestry in New Kent County.*

[H 2016]

Approved March 5, 2019

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

1. § 1. *That in accordance with the provisions of § 10.1-1107 of the Code of Virginia, the Department of Forestry is hereby authorized to convey, upon such terms as the Department deems proper, a permanent easement and right-of-way across a portion of the New Kent Forestry Center to John D. Tolley and Laurie L. Tolley. Such easement shall be 50 feet in width and run with the existing road in the location described to the greatest extent possible. The final easement may vary as necessary to reach the boundary of the Tolleys' parcel and as deemed necessary by both parties as an improvement in the road location. The purpose of the conveyance from the Department of Forestry to John D. Tolley and Laurie L. Tolley is to provide a nonexclusive easement for ingress and egress from State Route 60 to the Tolleys' parcel, identified as Tax Map Parcel Number 43-40A.*

§ 2. *The granting and conveying of the easement and right-of-way shall be made in a form that complies with the provisions of § 2.2-1151 of the Code of Virginia. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.*

## CHAPTER 187

*An Act to authorize the issuance of bonds, in an amount up to \$17,500,000 plus financing costs, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, for paying costs of acquiring, constructing, and equipping revenue-producing capital projects at institutions of higher education of the Commonwealth; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to provide for the sale of such bonds, and to issue notes to borrow money in anticipation of the issuance of the bonds; to provide for the pledge of the net revenues of such capital projects and the full faith, credit, and taxing power of the Commonwealth for the payment of such bonds; and to provide that the interest income on such bonds and notes shall be exempt from all taxation by the Commonwealth and any political subdivision thereof.*

[H 2357]

Approved March 5, 2019

Whereas, Article X, Section 9 (c) of the Constitution of Virginia provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including their enlargement or improvement, at, among others, institutions of higher education of the Commonwealth; and

Whereas, in accordance with Article X, Section 9 (c) of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of each of the capital projects identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Article X, Section 9 (c) of the Constitution of Virginia; now, therefore,

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

1. §1. *Title.*

*This act shall be known and may be cited as the "Commonwealth of Virginia Institutions of Higher Education Bond Act of 2019."*

§ 2. *Authorization of bonds and bond anticipation notes.*

*The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Institutions of Higher Education Bonds, Series ....." in an aggregate principal amount not exceeding \$17,500,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest,*

and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher education of the Commonwealth as follows:

<i>Institution</i>	<i>Project Title</i>	<i>Amount</i>
<i>Radford University</i>	<i>Acquire Property for Campus Expansion</i>	<i>\$17,500,000</i>
<i>Total</i>		<i>\$17,500,000</i>

§ 3. *Application of proceeds.*

The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs), shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of acquiring, constructing, renovating, enlarging, improving, and equipping the authorized capital projects, including financing costs. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. *Details, sale of bonds and BANs.*

Bonds and BANs shall be dated and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding 30 years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement, and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth.

In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds Bond Anticipation Notes, Series ....."

§ 5. *Execution of bonds and BANs.*

Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such bond or BAN, although at the date of such bond or BAN, such persons may not have been such officers.

§ 6. *Sources for payment of expenses.*

All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from payments made by the institutions for which the capital projects were authorized in § 2, or from any other available funds as the Treasury Board shall determine.

§ 7. *Revenues.*

The institution of higher education named in § 2 is hereby authorized (i) to fix, revise, charge, and collect rates, fees, and charges for or in connection with the use, occupancy, and services of each capital project named in § 2 or the system of which such capital project is a part and (ii) to pledge to the portion of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees, and charges and remaining after payment of the expenses of operating the project or system, as the case may be. The institution is further authorized to create debt service and sinking funds for the

payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

§ 8. Investments and contracts.

A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of bonds or BANs, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B.

§ 9. Security for bonds and BANs.

The net revenues of the capital projects set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on the BANs or bonds to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.

§ 10. Exemption of interest from tax.

The bonds and BANs issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, or town, or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the participating institutions to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.

§ 11. Refunding bonds and BANs.

The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth and to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X, Section 9 (c) of the Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.

§ 12. Defeasance.

Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Article X, Section 9 (c) or (b), as the case may be, of the Constitution of Virginia.

§ 13. Severability.

The provisions of this act or the application thereof to any person or circumstance that are held invalid shall not affect the validity of other provisions or applications of this act which can be given effect without the invalid provisions or applications.

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

## CHAPTER 188

*An Act to amend and reenact § 2.2-1509 of the Code of Virginia, relating to the requirement for the Governor's submission of bills requesting an authorization of additional bonded indebtedness.*

[H 2360]

Approved March 5, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-1509 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-1509. Budget Bill.**

A. On or before December 20 of the year immediately prior to the beginning of each regular session of the General Assembly held in an even-numbered year, the Governor also shall submit to the presiding officer of each house of the General Assembly, at the same time he submits "The Executive Budget," copies of a tentative bill for all proposed appropriations of the budget, for each year in the ensuing biennial appropriation period, which shall be known as "The Budget Bill." "The Budget Bill" shall be organized by function, primary agency, and proposed appropriation item and shall include an identification of, and authorization for, common programs and the appropriation of funds according to programs. Except as expressly provided in an appropriation act, whenever the amounts in a schedule for a single appropriation item are shown in two or more lines, the portions of the total amount shown on separate lines are for information purposes only and are not limiting. No such bill shall contain any appropriation the expenditure of which is contingent upon the receipt of revenues in excess of funds unconditionally appropriated.

B. The salary proposed for payment for the position of each cabinet secretary and administrative head of each agency and institution of the executive branch of state government shall be specified in "The Budget Bill," showing the salary ranges and levels proposed for such positions.

C. "The Budget Bill" shall include all proposed capital appropriations, including each capital project to be financed through revenue bonds or other debt issuance, the amount of each project, and the identity of the entity that will issue the debt.

~~D. Concurrently with the submission of "The Budget Bill," the~~ The Governor shall submit a tentative bill involving a also ensure a prefiled bill is submitted to the Chairman of the House Committee on Appropriations and the Chairman of the Senate Committee on Finance in accordance with the deadlines for prefiling under subdivision A 3 of § 30-19.3 for any request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to be made in whole or in part, from revenues or appropriations contained in "The Budget Bill."

E. On or before December 20 of the year immediately prior to the beginning of each regular session held in an odd-numbered year of the General Assembly, the Governor shall submit to the presiding officer of each house printed copies of all gubernatorial amendments proposed to the general appropriation act adopted in the immediately preceding even-numbered year session. In preparing the amendments, the Governor may obtain estimates in the manner prescribed in §§ 2.2-1504, 2.2-1505, and 2.2-1506. ~~On the same date he shall also submit a tentative bill during a the second year of the appropriation period, a~~ The Governor shall also ensure a prefiled bill is submitted to the Chairman of the House Committee on Appropriations and the Chairman of the Senate Committee on Finance in accordance with the deadlines for prefiling under subdivision A 3 of § 30-19.3 for any request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to be made in whole or in part, from revenues or appropriations contained in the proposed gubernatorial amendments.

F. The proposed capital appropriations or capital projects described in, or for which proposed appropriations are made pursuant to, this section shall include the capital outlay projects required to be included in "The Budget Bill" pursuant to § 2.2-1509.1. The Governor shall propose appropriations for such capital outlay projects in "The Budget Bill" in accordance with the minimum amount of funding and the designated sources of funding for such projects as required under § 2.2-1509.1.

## CHAPTER 189

*An Act to amend and reenact § 58.1-439.6 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-439.6:1, relating to sunset date for worker retraining tax credit; worker training investment tax credit.*

[H 2539]

Approved March 5, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-439.6 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-439.6:1 as follows:****§ 58.1-439.6. Worker retraining tax credit.**

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic development in the form of (i) noncredit courses at any of the Commonwealth's comprehensive community colleges or a private school or

(ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Commissioner of Labor and Industry.

"Manufacturing" means processing, manufacturing, refining, mining, or converting products for sale or resale.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"STEM or STEAM discipline" means a science, technology, engineering, mathematics, or applied mathematics related discipline as certified by the Virginia Economic Development Partnership Authority in consultation with the Superintendent of Public Instruction. The term shall include a health care-related discipline.

B. 1. For taxable years beginning on and after January 1, 1999, but prior to January 1, ~~2022~~ 2019, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 30 percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. ~~However, for taxable years beginning prior to January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$100 per qualified employee annually.~~ For taxable years beginning on or after January 1, 2013, *but prior to January 1, 2019*, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$200 per qualified employee annually, or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline, including but not limited to industry-recognized credentials, certificates, and certifications.

2. For taxable years beginning on and after January 1, 2018, but prior to January 1, ~~2022~~ 2019, a business primarily engaged in manufacturing shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) in an amount equal to 35 percent of its direct costs incurred during the taxable year in conducting orientation, instruction, and training in the Commonwealth relating to the manufacturing activities undertaken by the business. In no event shall the credit allowed to a business under this subdivision exceed \$2,000 for any taxable year. The Department shall allow credit only for programs that (i) provide orientation, instruction, and training solely to students in grades six through 12; (ii) are coordinated with the local school division; and (iii) are conducted either at a plant or facility owned, leased, rented, or otherwise used by the business or at a public middle or high school in Virginia. The taxpayer shall include in its direct costs only the following expenditures: (a) salaries or wages paid to instructors and trainers, prorated for the period of instruction or training; (b) costs for orientation, instruction, and training materials; (c) amounts paid for machinery and equipment used primarily for such instruction and training; and (d) the cost of leased or rented space used primarily for conducting the program.

3. The total amount of tax credits granted under this section for each fiscal year shall not exceed \$1 million.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. 1. An employer shall be allowed a credit pursuant to subdivision B 1 only for those courses at a comprehensive community college or a private school for which courses have been certified as eligible worker retraining to the Department of Taxation by the Virginia Economic Development Partnership Authority. The Virginia Economic Development Partnership Authority shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether a course or program qualifies as eligible worker retraining and, if it qualifies, whether the course or program is in a STEM or STEAM discipline.

2. A business shall be allowed the credit pursuant to subdivision B 2 only for an orientation, instruction, and training program that has been approved by the local school division and certified as eligible by the Virginia Economic Development Partnership Authority. A business seeking a tax credit under subdivision B 2 shall include in its application reviewed by the Virginia Economic Development Partnership Authority an approval from the local school division. The Virginia Economic Development Partnership Authority shall review requests for certification submitted by businesses and shall advise the Tax Commissioner whether an orientation, instruction, and training program qualifies as relating to the manufacturing activities undertaken by the business and meets other applicable requirements.

3. The Tax Commissioner shall develop guidelines (i) establishing procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which shall include only those courses and programs that are substantially related to the duties of a qualified employee or that enhance the qualified employee's job-related skills, and that promote economic development, and (iii) providing for the allocation of credits among employers and businesses requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer or business that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer or business shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

F. No employer or business shall be eligible to claim a credit under this section for worker retraining or manufacturing orientation, instruction, and training undertaken by any program operated, administered, or paid for by the Commonwealth.

G. The Department shall review certifications received from the Virginia Economic Development Partnership Authority pursuant to subsection D and, if it determines a taxpayer meets the applicable requirements, shall issue a credit in the amount specified in subsection B.

H. The Virginia Economic Development Partnership Authority shall report annually to the Chairmen of the House Finance and Senate Finance Committees on the status and implementation of the credit established by this section, including certifications for eligible worker retraining.

**§ 58.1-439.6:1. Worker training tax credit.**

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

"Eligible worker training" means the training of a qualified employee or non-highly compensated worker in the form of (i) credit or noncredit courses at any institution recognized on the Eligible Training Provider List that results in the qualified employee or non-highly compensated worker receiving a workforce credential or (ii) instruction or training that is part of an apprenticeship agreement approved by the Commissioner of Labor and Industry.

"Industry-recognized" means demonstrating competency or proficiency in the technical and occupational skills identified as necessary for performing functions of an occupation based on standards developed or endorsed by employers or industry organizations.

"Manufacturing" means processing, manufacturing, refining, mining, or converting products for sale or resale.

"Non-highly compensated worker" means a worker whose income is less than Virginia's median wage, as reported by the Virginia Employment Commission, in the taxable year prior to applying for the credit. "Non-highly compensated worker" does not include an owner or relative.

"Owner" means an individual who owns, directly or indirectly, more than a five percent interest in the business claiming the credit.

"Qualified employee" means an employee of a business eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the business' operations if the standard fringe benefits are paid by the business for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. "Qualified employee" does not include an owner or relative.

"Relative" means a spouse, child, grandchild, parent, or sibling of an owner.

"Workforce credential" means an industry-recognized (i) certification, (ii) certificate, or (iii) degree.

B. 1. For taxable years beginning on and after January 1, 2019, but prior to July 1, 2022, a business shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 35 percent of expenses incurred by the business during the taxable year for eligible worker training. If the recipient of the training is a qualified employee, the credit shall not exceed \$500 per qualified employee annually. If the recipient of the training is a non-highly compensated worker, the credit shall not exceed \$1,000 per non-highly compensated worker annually.

2. For taxable years beginning on and after January 1, 2019, but prior to January 1, 2022, a business primarily engaged in manufacturing shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) in an amount equal to 35 percent of its direct costs incurred during the taxable year in conducting orientation, instruction, and training in the Commonwealth relating to the manufacturing activities undertaken by the business. In no event shall the credit allowed to a business under this subdivision exceed \$2,000 for any taxable year. The Department shall allow credit only for programs that (i) provide orientation, instruction, and training solely to students in grades six through 12; (ii) are coordinated with the local school division; and (iii) are conducted either at a plant or facility owned, leased, rented, or otherwise used by the business or at a public middle or high school in the Commonwealth. The taxpayer shall include in its direct costs only the following expenditures: (a) salaries or wages paid to instructors and trainers, prorated for the period of instruction or training; (b) costs for orientation, instruction, and training materials; (c) amounts paid for machinery and equipment used primarily for such instruction and training; and (d) the cost of leased or rented space used primarily for conducting the program.

3. The total amount of tax credits granted under this section for each fiscal year shall not exceed \$1 million.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

*D. 1. A business shall be allowed a credit pursuant to subdivision B 1 only for those programs and providers that have been approved for inclusion in the Commonwealth's Eligible Training Provider List. The Workforce Innovation Opportunity Act Title 1 Administrator shall provide the Tax Commissioner with the approved list annually.*

*2. A business shall be allowed the credit pursuant to subdivision B 2 only for an orientation, instruction, and training program that has been approved by the local school division and certified as eligible by the Department of Education. A business seeking a tax credit under subdivision B 2 shall include in its application reviewed by the Department of Education an approval from the local school division. The Department of Education shall review requests for certification submitted by businesses and shall advise the Tax Commissioner whether an orientation, instruction, and training program qualifies as relating to the manufacturing activities undertaken by the business and meets other applicable requirements.*

*3. The Tax Commissioner shall develop guidelines (i) establishing procedures for claiming the credit provided by this section and (ii) providing for the allocation of credits among businesses requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).*

*E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If a business that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such business shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.*

*F. No business shall be eligible to claim a credit under this section for eligible worker training or manufacturing orientation, instruction, and training undertaken by any program operated, administered, or paid for by the Commonwealth.*

*G. The Tax Commissioner shall report annually to the Chairmen of the House and Senate Committees on Finance on the status and implementation of the credit established by this section.*

## CHAPTER 190

*An Act to amend and reenact § 3.2-6540 of the Code of Virginia, relating to dangerous dogs; deferral of proceedings.*

[H 2745]

Approved March 5, 2019

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

#### **1. That § 3.2-6540 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 3.2-6540. Control of dangerous dogs; penalties.**

A. As used in this section, "dangerous dog" means:

1. A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that (i) no serious physical injury, as determined by a licensed veterinarian, has occurred to the dog or cat as a result of the attack or bite; (ii) both animals are owned by the same person; or (iii) such attack occurred on the property of the attacking or biting dog's owner or custodian; or

2. A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

B. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.

C. Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog may apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

D. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. The court, upon finding the animal to be a dangerous dog, may order

the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner.

*E. If, after hearing the evidence, the court decides to defer further proceedings without entering an adjudication that the animal is a dangerous dog, it may do so, notwithstanding any other provision of this section. A court that defers further proceedings shall place specific conditions upon the owner of the dog. If the owner violates any of the conditions, the court may enter an adjudication that the animal is a dangerous dog and proceed as otherwise provided in this section. Upon fulfillment of the conditions, the court shall dismiss the proceedings against the animal and the owner without an adjudication that the animal is a dangerous dog.*

*F. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.*

~~D. G.~~ No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.

*E. H.* No animal shall be found to be a dangerous dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog.

*F. I.* If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

*G. J.* The owner of any animal found to be a dangerous dog shall, within 30 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of \$150, in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of \$85 and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.

*H. K.* All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed; and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (a) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (b) the animal has been permanently identified by means of electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

*I. L.* While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to § 3.2-6503. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

*J. M.* The owner shall cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

*K. N.* After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

~~I. O.~~ Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

~~M. P.~~ The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562 or (ii) grant the owner up to 30 days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

~~N. Q.~~ All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § 3.2-6556.

~~O. R.~~ The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous dogs. No locality may impose a felony penalty for violation of such ordinances.

## CHAPTER 191

*An Act to amend and reenact § 58.1-3713 of the Code of Virginia, relating to local gas severance tax; sunset date.*

[S 1165]

Approved March 5, 2019

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

#### **1. That § 58.1-3713 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-3713. Local gas road improvement and Virginia Coalfield Economic Development Authority tax.**

A. In addition to the taxes authorized under § 58.1-3712, any county or city may adopt a license tax on every person engaging in the business of severing gases from the earth. The rate of such tax shall not exceed one percent. The provisions of § 58.1-3712 as they relate to measurement of gross receipts, filing of reports and record keeping shall be applicable to the tax imposed under this section.

The moneys collected for each county or city from the taxes imposed under authority of this section and subsection B of § 58.1-3741 shall be paid into a special fund of such county or city to be called the Coal and Gas Road Improvement Fund of such county or city, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the governing body of such county or city may determine as provided in subsection B of this section. The county may also, in its discretion, elect to improve city or town roads with its funds if consent of the city or town council is obtained. Such funds shall be in addition to those allocated to such counties from state highway funds which allocations shall not be reduced as a result of any revenues received from the tax imposed hereunder. In those localities that comprise the Virginia Coalfield Economic Development Authority, the tax imposed under this section or subsection B of § 58.1-3741 shall be paid as follows: (i) three-fourths of the revenue shall be paid to the Coal and Gas Road Improvement Fund and used for the purposes set forth herein; however, one-fourth of such revenue may be used to fund the construction of new water or sewer systems and lines and the repair or enhancement of existing water or sewer systems and lines in areas with natural water supplies that are insufficient from the standpoint of quality or quantity, or the construction of natural gas service lines as authorized by § 15.2-2109.3, and (ii) one-fourth of the revenue shall be paid to the Virginia Coalfield Economic Development Fund. Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, a county or city may provide for an additional one-fourth allocation for the construction of new systems or lines for water, sewer, or natural gas as authorized by § 15.2-2109.3, or the repair or enhancement of existing water, sewer, or natural gas systems or lines in areas with natural water supplies or existing natural gas services that are insufficient from the standpoint

of quality or quantity; however, if this option is initiated by a county or city, it must satisfy the requirements set forth in § 58.1-3713.01. Notwithstanding the foregoing limitations regarding revenues used for water systems, sewer systems, or natural gas systems, such revenues designated for water and water systems, sewer systems, or natural gas systems shall be distributed directly to the local public service authority for such purposes instead of the local governing body. Funds in the Coal and Gas Road Improvement Fund used to construct, repair, or enhance natural gas service lines or systems shall not exceed one-fourth of the revenue paid to the Coal and Gas Road Improvement Fund collected from the severance tax imposed upon the severance of natural gas pursuant to this section and may be so used only upon passage of a local ordinance or resolution of the governing body of the applicable county or city providing for the same.

B. Any county or city imposing the tax authorized in this section or in subsection B of § 58.1-3741 shall establish a Coal and Gas Road Improvement Advisory Committee, to be composed of four members: (i) a member of the governing body of such county or city, appointed by the governing body, (ii) a representative of the Department of Transportation, and (iii) two citizens of such county or city connected with the coal and gas industry, appointed for a term of four years, initially commencing July 1, 1989, by the chief judge of the circuit court.

Such committee shall develop on or before July 1 of each year a plan for improvement of roads during the following fiscal year. Such plan shall have the approval of three members of the committee and shall be submitted to the governing body of the county or city for approval. The governing body may approve or disapprove such plan, but may make no changes without the approval of three members of the committee.

C. No tax shall be imposed under this section on or after January 1, ~~2020~~ 2022.

## CHAPTER 192

*An Act to amend and reenact § 58.1-302 of the Code of Virginia, relating to income tax; definition of resident estate or trust.*

[S 1205]

Approved March 5, 2019

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

#### **1. That § 58.1-302 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-302. Definitions.**

For the purpose of this chapter and unless otherwise required by the context:

"Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same interests.

"Compensation" means wages, salaries, commissions and any other form of remuneration paid or accrued to employees for personal services.

"Corporation" includes associations, joint stock companies and insurance companies.

"Domicile" means the permanent place of residence of a taxpayer and the place to which he intends to return even though he may actually reside elsewhere. In determining domicile, consideration may be given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for federal income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, residence for purposes of voting as proven by registration to vote, if any, and such other factors as may reasonably be deemed necessary to determine the person's domicile.

"Foreign source income" means:

1. Interest, other than interest derived from sources within the United States;
2. Dividends, other than dividends derived from sources within the United States;
3. Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties;
4. Gains, profits, or other income from the sale of intangible or real property located without the United States; and
5. The amount of an individual's share of net income attributable to a foreign source qualified business unit of an electing small business corporation (S corporation). For purposes of this subsection, qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such income shall be determined in accordance with §§ 861, 862, and 987 of the Internal Revenue Code.

In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

"Income and deductions from Virginia sources" includes:

1. Items of income, gain, loss and deduction attributable to:
  - a. The ownership of any interest in real or tangible personal property in Virginia;
  - b. A business, trade, profession or occupation carried on in Virginia; or

c. Prizes paid by the Virginia Lottery Department, and gambling winnings from wagers placed or paid at a location in Virginia.

2. Income from intangible personal property, including annuities, dividends, interest, royalties and gains from the disposition of intangible personal property to the extent that such income is from property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

"Income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion of a return or claim for refund shall be treated as if it were the preparation of the return or claim for refund. A person shall not be an "income tax return preparer" merely because the person:

1. Furnishes typing, reproducing, or other mechanical assistance;
2. Prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed;
3. Prepares as a fiduciary a return or claim for refund for any person; or
4. Prepares an application for correction of an erroneous assessment or a protective claim for refund for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

"Individual" means all natural persons whether married or unmarried and fiduciaries acting for natural persons, but not fiduciaries acting for trusts or estates.

"Intangible expenses and costs" means:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income;
2. Losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
3. Royalty, patent, technical and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs.

"Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.

"Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease, transfer, or disposition of intangible property.

"Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

"Related entity" means:

1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock;
2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock; or
3. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of § 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution rules of § 318 of the Internal Revenue Code shall apply for purposes of determining whether the ownership requirements of this subdivision have been met.

"Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, a component member as defined in § 1563(b) of the Internal Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance with § 1563(e) of the Internal Revenue Code.

"Resident" applies only to natural persons and includes, for the purpose of determining liability for the taxes imposed by this chapter upon the income of any taxable year every person domiciled in Virginia at any time during the taxable year and every other person who, for an aggregate of more than 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in Virginia or not. The word "resident" shall not include any member of the United States Congress who is domiciled in another state.

"Resident estate or trust" means:

1. The estate of a decedent who at his death was domiciled in the Commonwealth;
2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth; *or*
3. A trust created by or consisting of property of a person domiciled in the Commonwealth; ~~or~~

~~4. A trust or estate which is being administered in the Commonwealth.~~

"Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or other disposition of intangible property shall include only the net gain realized from the transaction.

"State," for purposes of Article 10 (§ 58.1-400 et seq.), means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country.

"Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary income tax return under the laws of the United States.

"Virginia fiduciary adjustment" means the net amount of the applicable modifications described in §§ 58.1-322.01, 58.1-322.02, and 58.1-322.04 (including subdivision 1 of § 58.1-322.04 if the estate or trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction of an estate or trust. The fiduciary adjustment shall not include the modification in § 58.1-322.03, except that the amount of state income taxes excluded from federal taxable income shall be included. The fiduciary adjustment shall also include the modification in subdivision 7 of § 58.1-322.03 regarding the deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.

## CHAPTER 193

*An Act to amend and reenact §§ 46.2-688, 46.2-706 through 46.2-708, and 46.2-710 of the Code of Virginia, relating to motor vehicle insurance verification by the Department of Motor Vehicles; report.*

[S 1787]

Approved March 5, 2019

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

**1. That §§ 46.2-688, 46.2-706 through 46.2-708, and 46.2-710 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-688. Refund of fees paid.**

Any person holding a registration card and license plate or license plates with decal who disposes of, elects not to use the vehicle for which it was issued on the highways in the Commonwealth, or transfers another valid license plate to the vehicle, may surrender, prior to the beginning of the registration period, the license plates or license plates with decals and registration card or provide other evidence of registration of the vehicle to the Commissioner with a statement that the vehicle for which the license plate or license plate with decal was issued has been disposed of, election has been made not to use the vehicle on the highways in the Commonwealth, or another valid license plate has been transferred to the vehicle and request a refund of the fee paid. The Commissioner shall retain five dollars of the fee to cover the costs incurred in issuing the plates and processing the refund.

The Commissioner shall refund to the applicant a proration, in six-month increments, of the total cost of the registration and license plates or license plates with decals if application for the refund is made when there are six or more months remaining in the registration period. *The Commissioner shall not provide a refund when otherwise eligible if the applicant chooses not to return the license plates to the Department.* No charge or deduction shall be assessed for any refund made under this subsection.

**§ 46.2-706. Additional fee; proof of insurance required of applicants for registration of insured motor vehicles; verification of insurance; suspension of driver's license, registration certificates, and license plates for certain violations.**

A. In addition to any other fees prescribed by law, every person registering an uninsured motor vehicle, as defined in § 46.2-705, at the time of registering or reregistering the uninsured vehicle, shall pay a fee of \$500; however, if the uninsured motor vehicle is being registered ~~or reregistered~~ for a period of less than a full year, the uninsured motor vehicle fee shall be prorated for the unexpired portion of the registration period. If the vehicle is a motor vehicle being registered ~~or reregistered~~ as provided in subsection B of § 46.2-697, the fee shall be one-fourth of the annual uninsured motor vehicle fee for each quarter for which the vehicle is registered.

B. If the owner of a motor vehicle registered under this article as an uninsured motor vehicle, during the period for which such vehicle is registered, obtains insurance coverage adequate to permit such vehicle's registration as an insured motor vehicle and presents evidence satisfactory to the Commissioner of the existence of such insurance coverage, the Commissioner shall amend the Department's records to show such vehicle to be registered as an insured motor vehicle and shall refund to the owner a prorated portion of the additional fee required by this section for registration of an uninsured motor vehicle. Such proration shall be on a monthly basis, except that no such refund shall be made (i) as to any registration during the last three months of its validity or (ii) on any portion of any such fee required to be paid resulting from a determination by the Department or any court that a vehicle was uninsured and no fee had been paid.

C. Every person applying for registration of a motor vehicle and declaring it to be an insured motor vehicle shall, under the penalties set forth in § 46.2-707, execute and furnish to the Commissioner his certificate that the motor vehicle is an insured motor vehicle as defined in § 46.2-705, or that the Commissioner has issued to its owner, in accordance with § 46.2-368, a certificate of self-insurance applicable to the vehicle sought to be registered. The Commissioner, or his duly authorized agent, may verify that the motor vehicle is properly insured by comparing owner and vehicle identification information on file at the Department of Motor Vehicles with liability information on the owner and vehicle transmitted to

the Department by any insurance company licensed to do business in the Commonwealth as provided in § 46.2-706.1. If no record of liability insurance is found, the Department may require the motor vehicle owner to verify insurance in a method prescribed by the Commissioner.

D. The refusal or neglect of any owner within 30 days to submit the liability insurance information when required by the Commissioner or his duly authorized agent, or the electronic notification by the insurance company or surety company that the policy or bond named in the certificate of insurance is not in effect, shall require the Commissioner to suspend any driver's license and all registration certificates and license plates issued to the owner of the motor vehicle until the person (i) has paid to the Commissioner a *noncompliance* fee of ~~\$500~~ \$600 to be disposed of as provided for in § 46.2-710 ~~with respect to the motor vehicle determined to be uninsured~~ and (ii) furnishes proof of financial responsibility for the future in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3. No order of suspension required by this section shall become effective until the Commissioner has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension. Any request for an administrative hearing made by such person must be received by the Department within 180 days of the issuance date of the order of suspension unless the person presents to the Department evidence of military service as defined by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), incarceration, commitment, hospitalization, or physical presence outside the United States at the time the order of suspension was issued. When three years have elapsed from the effective date of the suspension required in this section, the Commissioner may relieve the person of the requirement of furnishing proof of future financial responsibility.

E. The Commissioner shall suspend the driver's license and all registration certificates and license plates of any person on receiving a record of his conviction of a violation of any provisions of § 46.2-707, but the Commissioner shall dispense with the suspension when the person is convicted for a violation of § 46.2-707 and the Department's records show conclusively that the motor vehicle was insured or that the fee applicable to the registration of an uninsured motor vehicle has been paid by the owner prior to the date and time of the alleged offense.

F. *The Commissioner may dispense with a suspension for a violation of this section or § 46.2-708 if the person determined to have committed the violation provides to the Commissioner proof that conclusively shows that the motor vehicle in question was insured at the time the Department initiated insurance monitoring under § 46.2-706 or at the time of a violation of § 46.2-708.*

**§ 46.2-706.1. Insurance and surety companies to furnish certain insurance information.**

A. Any liability insurance information relating to individually identified vehicles or persons, received from such companies under this section, shall be considered privileged information and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Such information shall be used in conjunction with information supplied under § 46.2-706 to verify insurance for motor vehicles certified by their owners to be insured.

C. Insurance companies licensed to do business in Virginia shall provide to the Department ~~monthly electronic, electronically in a manner prescribed by the Commissioner, updates of insured information and vehicle descriptions required by the Commissioner when they~~ (i) ~~cancel~~ within 30 days of a policy change to liability insurance for ~~vehicles a~~ vehicle registered in Virginia, (ii) ~~add~~ including liability insurance for vehicles registered in Virginia, or (iii) provide liability insurance for vehicles registered in Virginia newly satisfying that satisfies financial responsibility requirements. A policy change occurs when an insurance company (i) issues liability insurance, (ii) cancels liability insurance, (iii) becomes aware of a lapse in liability insurance, (iv) reissues or reinstates liability insurance, or (v) adds a vehicle to an existing liability insurance policy.

D. Insurance companies licensed to do business in Virginia shall respond electronically in a manner prescribed by the Commissioner to a Department request for acknowledgment of liability insurance within 15 days of receiving the request. Insurance companies shall respond to the request by confirming or denying the existence of a policy with the company.

E. Every update of a policy change concerning a liability insurance policy shall include the following information: vehicle identification number, full name of first named insured, vehicle make, and vehicle model year. If available, the following information shall also be included: date of birth for first named insured, full names and dates of birth for all vehicle operators, and Virginia drivers' license numbers or social security numbers for the first named insured and all vehicle operators.

**§ 46.2-707. Operating uninsured motor vehicle without payment of fee; verification of insurance; false evidence of insurance.**

Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558 who operates or permits the operation of that motor vehicle without first having paid to the Commissioner the uninsured motor vehicle fee required by § 46.2-706, to be disposed of as provided by § 46.2-710, shall be guilty of a Class 3 misdemeanor.

Any person who is the operator of such an uninsured motor vehicle and not the titled owner, who knows that the required fee has not been paid to the Commissioner, shall be guilty of a Class 3 misdemeanor.

The Commissioner or his duly authorized agent, having reason to believe that a motor vehicle is being operated or has been operated on any specified date, may require the owner of such motor vehicle to verify insurance in a method prescribed by the Commissioner as provided for by § 46.2-706. The refusal or neglect of the owner who has not, prior to the date of operation, paid the uninsured motor vehicle fee required by § 46.2-706 as to such motor vehicle, to provide such

verification shall be prima facie evidence that the motor vehicle was an uninsured motor vehicle at the time of such operation.

Any person who falsely verifies insurance to the Commissioner or gives false evidence that a motor vehicle sought to be registered is an insured motor vehicle, shall be guilty of a Class 3 misdemeanor.

However, the foregoing portions of this section shall not be applicable if it is established that the owner had good cause to believe and did believe that such motor vehicle was an insured motor vehicle, in which event the provisions of § 46.2-609 shall be applicable.

Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558, and who has not paid the uninsured motor vehicle fee required by § 46.2-706, shall immediately surrender the vehicle's license plates to the Department, unless the vehicle's registration has been deactivated as provided by § 46.2-646.1. Any person who fails to immediately surrender his vehicle's license plates as required by this section is guilty of a Class 3 misdemeanor.

Abstracts of records of conviction, as defined in this title, of any violation of any of the provisions of this section shall be forwarded to the Commissioner as prescribed by § 46.2-383.

The Commissioner shall suspend the driver's license and all registration certificates and license plates of any titled owner of an uninsured motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section, and he shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person until such person pays ~~the a noncompliance fee applicable to the registration of an uninsured motor vehicle as prescribed in § 46.2-706 of \$600 to be disposed of as provided for in § 46.2-710~~ and furnishes proof of future financial responsibility as prescribed by Article 15 (§ 46.2-435 et seq.) of Chapter 3 ~~of this title~~. However, when three years have elapsed from the date of the suspension herein required, the Commissioner may relieve such person of the requirement of furnishing proof of future financial responsibility. When such suspension results from a conviction for presenting or causing to be presented to the Commissioner false verification as to whether a motor vehicle is an insured motor vehicle or false evidence that any motor vehicle sought to be registered is insured, then the Commissioner shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person so convicted for a period of 180 days from the date of such order of suspension, and only then when all other provisions of law have been complied with by such person.

The Commissioner shall suspend the driver's license of any person who is the operator but not the titled owner of a motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section and he shall not thereafter reissue the driver's license until 30 days from the date of such order of suspension.

**§ 46.2-707.1. Noncompliance fee payment plan.**

A. The Department may establish ~~an uninsured motor vehicle~~ *a noncompliance fee payment plan* to allow individuals to pay the fees for a motor vehicle determined to be uninsured as prescribed in § 46.2-706, 46.2-707, or 46.2-708. Notwithstanding §§ 46.2-706, 46.2-707, and 46.2-708, ~~a Virginia resident~~ *an individual* 18 years of age or older whose driver's license and vehicle registration have been suspended pursuant to § 46.2-706, 46.2-707, or 46.2-708 may apply to the Department to enter into a payment plan agreement with a duration of no more than three years from the agreement date, referred to in this section as the "payment plan period."

B. To be eligible to enter into the payment plan, the individual must (i) have one or more outstanding suspensions of driving privileges pursuant to the provisions of § 46.2-706, 46.2-707, or 46.2-708 and have no other outstanding suspensions or revocations; (ii) meet all other conditions for reinstatement of driving privileges; and (iii) have ~~never not~~ defaulted *twice on a prior the same* uninsured motor vehicle payment plan agreement.

C. An eligible individual who ~~enters~~ *pays a \$25 administrative fee when entering* into a payment plan agreement *or when reentering into a payment plan agreement* with the Department, ~~pays a \$25 administrative fee~~, and pays the reinstatement fee pursuant to §§ 46.2-333.1 and 46.2-411, if required, shall be eligible to have his driving privileges reinstated by the Department.

D. The amount and frequency of each payment and the duration of the payment plan shall be described in the payment plan agreement signed by the Department and the individual. Payments may be made in person, online, *by telephone*, or by mail. The full fee must be paid in no more than three years from the agreement date; however, an individual may repay the balance of the fee at any time during the payment plan period with no penalty.

E. If an individual defaults on the payment plan agreement, the Commissioner shall suspend the driver's license and all registration certificates and license plates issued to the owner of the motor vehicle determined to be uninsured. Such driver's license, registration certificates, and license plates shall remain suspended until the individual pays the balance of the fee applicable to the registration of an uninsured motor vehicle as prescribed in § 46.2-706, 46.2-707, or 46.2-708 and furnishes proof of future financial responsibility as prescribed by Article 15 (§ 46.2-435 et seq.) of Chapter 3. An individual is in default if he (i) pays an installment payment late as defined in the payment plan agreement or (ii) fails to make an installment payment as agreed to in the payment plan agreement. If an individual is in default *and is ineligible to reenter the payment plan*, full payment of the balance of the fee shall be due as agreed to in the payment plan agreement. *The Commissioner may extend the due date of any installment payment for not more than 30 days if the Department is unable to process an installment payment due to circumstances beyond its control.*

F. When all fees are paid, the individual shall continue to furnish proof of financial responsibility pursuant to Article 15 (§ 46.2-435 et seq.) of Chapter 3 and § 46.2-709.

G. Installment payments of the fee with respect to the motor vehicle determined to be uninsured shall be disposed of pursuant to § 46.2-710. The administrative fee shall be paid to the Commissioner and deposited into the state treasury account set aside in a special fund to be used to meet the necessary expenses incurred by the Department.

**§ 46.2-708. Suspension of driver's license and registration when uninsured motor vehicle is involved in reportable accident; hearing prior to suspension.**

When it appears to the Commissioner from the records of his office *or from a report submitted by an insurance company licensed to do business in the Commonwealth* that an uninsured motor vehicle as defined in § 46.2-705, subject to registration in the Commonwealth, is involved in a reportable accident in the Commonwealth resulting in death, injury or property damage with respect to which motor vehicle the owner thereof has not paid the uninsured motor vehicle fee as prescribed in § 46.2-706, the Commissioner shall, in addition to enforcing the applicable provisions of Article 13 (§ 46.2-417 et seq.) of Chapter 3, suspend such owner's driver's license and all of his license plates and registration certificates until such person has complied with Article 13 of Chapter 3 and has paid to the Commissioner a *noncompliance* fee of ~~\$500~~ \$600, to be disposed of as provided by § 46.2-710, with respect to the motor vehicle involved in the accident and furnishes proof of future financial responsibility in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3. However, no order of suspension required by this section shall become effective until the Commissioner has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension. Any request for an administrative hearing made by such person must be received by the Department within 180 days of the issuance date of the order of suspension unless the person presents to the Department evidence of military service as defined by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), incarceration, commitment, hospitalization, or physical presence outside the United States at the time the order of suspension was issued.

However, when three years have elapsed from the effective date of the suspension herein required, the Commissioner may relieve such person of the requirement of furnishing proof of future financial responsibility. The presentation by a person subject to the provisions of this section of a certificate of insurance, executed by an agent or representative of an insurance company qualified to do business in this Commonwealth, showing that on the date and at the time of the accident the vehicle was an insured motor vehicle as herein defined, or, presentation by such person of evidence that the additional fee applicable to the registration of an uninsured motor vehicle had been paid to the Department prior to the date and time of the accident, shall be sufficient bar to the suspension provided for in this section.

**§ 46.2-710. Disposition of funds collected.**

*From every noncompliance fee collected by the Commissioner under the provisions of this article, the Commissioner shall retain \$100 to be placed in a special fund in the state treasury to be used to meet the expenses of the Department. All other funds collected by the Commissioner under the provisions of this article shall be paid into the state treasury and held in a special fund to be known as the Uninsured Motorists Fund to be disbursed as provided by law. The Commissioner may expend ~~monies~~ moneys from such funds, for the administration of this article, in accordance with the ~~General Appropriations Act~~ general appropriation act.*

**2. That the provisions of this act amending and reenacting § 46.2-706.1 of the Code of Virginia shall become effective on January 1, 2020.**

**3. That in December 2024 the Department of Motor Vehicles shall report to the General Assembly regarding the effectiveness of the provisions of this act in improving the Department of Motor Vehicles' Insurance Verification Program. The report shall provide recommendations to address any lack of compliance with the Commonwealth's motor vehicle liability insurance requirements.**

## CHAPTER 194

*An Act to amend the Code of Virginia by adding a section numbered 46.2-745.1, relating to special license plate; Armed Forces Expeditionary Medal.*

[H 2220]

Approved March 5, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 46.2-745.1 as follows:**

**§ 46.2-745.1. Special license plates for persons awarded the Armed Forces Expeditionary Medal.**

*On receipt of an application and written confirmation from one of the armed services that the applicant has been awarded the Armed Forces Expeditionary Medal, the Commissioner shall issue special license plates to such persons and to unmarried surviving spouses of such persons.*

*For each set of plates issued under this section, the Commissioner shall charge, in addition to the prescribed cost of state license plates, a one-time fee of \$10 at the time the plates are issued.*

*It shall be unlawful for any person who is not a person described in this section to willfully and falsely represent himself as having the qualifications to obtain the special license plates herein provided for.*

*The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.*

*Unmarried surviving spouses of persons eligible to receive special license plates under this section may also be issued special license plates under this section.*

## CHAPTER 195

*An Act to amend and reenact §§ 57-36, 57-38.1, and 57-38.2 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 3 of Title 57 a section numbered 57-35.35:1, relating to previously unidentified cemeteries.*

[H 2238]

Approved March 5, 2019

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

**1. That §§ 57-36, 57-38.1, and 57-38.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 3 of Title 57 a section numbered 57-35.35:1 as follows:**

#### Article 4.

~~Abandonment; Abandoned or Previously Unidentified Cemeteries; Removal of Remains.~~

#### **§ 57-35.35:1. Definitions.**

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

*"Previously unidentified cemetery" means a cemetery that, notwithstanding the fact that it is known to researchers, members of the community, or descendants of those buried there, has not been identified in the Virginia Cultural Resources Information System or has not been officially located in the land records of the locality.*

#### **§ 57-36. Abandoned or previously unidentified graveyards may be condemned; removal of bodies.**

A. When a graveyard, wholly or partly within any ~~county, city, or town~~ locality, has been abandoned; ~~or~~ is unused and neglected by the owners, *or is a previously unidentified graveyard*, and such graveyard is necessary, in whole or in part, for public purposes, authorized by the charter of such ~~city or town~~ locality, or by the general statutes providing for the government of ~~counties, cities, and towns~~ localities, such ~~county, city, or town~~ locality may acquire title to such burying ground by condemnation proceedings, to be instituted and conducted in the manner and mode prescribed in the statutes providing for the exercise of the power of eminent domain by ~~counties, cities, and towns~~ localities. The locality may continue to maintain all or a portion of the burying ground as a graveyard.

B. The court taking jurisdiction of the case may, in its discretion, require the ~~county, city, or town~~ locality to acquire the whole burying ground, in which event the ~~county, city, or town~~ locality may use such part thereof as may be necessary for its purposes and sell the residue. The court, however, shall direct that the remains interred in such graveyard, if possible so to do, be removed to some repository used and maintained as a cemetery.

C. Should any ~~county, city, or town~~ locality, having acquired by any means land on which ~~an~~ a previously unidentified or abandoned graveyard is located, including lands acquired in accordance with § 22.1-126.1 for educational purposes, initiate plans to use that land for purposes other than to maintain the graveyard, such ~~county, city, or town~~ locality shall, prior to completion of said plans, develop and engage in active public notice and participation regarding efforts to avoid adverse impacts to the graveyard or to remove the remains interred in such graveyard to an alternative repository. Such public notice and participation shall include, at minimum, publication of at least one notice in a local newspaper of general circulation, notice posted at the site of the graveyard, and notice to and consultation with any historic preservation or other such commission, as well as area historical and genealogical societies, and at least one public hearing. The locality shall make a good faith effort to identify and contact living descendants of the persons buried in the graveyard, if known. In addition, the locality is encouraged to post such notice on the Internet, including appropriate websites and through the use of social media, and to consult with the Virginia Department of Historic Resources. Having given all public comment due consideration, the ~~county, city, or town~~ locality is encouraged first to adjust plans to maintain the graveyard as part of the larger land use plan or, if that is not feasible, to request permission to proceed with removal through the court or through the Virginia Department of Historic Resources should archaeological removal be appropriate. In any event, any removal of remains should be given all due care and respect, as should the selection of and reburial in another cemetery. This requirement for public notice, consultation, consideration of comments, and following due process for removal of human remains shall apply in cases where the presence of ~~an~~ a previously unidentified or abandoned graveyard is discovered during either the planning or construction phases of a project.

D. Any ~~county, city, or town~~ locality that has acquired by any means land on which ~~an~~ a previously unidentified or abandoned cemetery or gravesite of ~~Virginians held as slaves at the time of their deaths~~ any Virginian held as a slave at the time of his death is located shall notify the Virginia Department of Historic Resources of the location of such cemetery or gravesite. The Department shall record the location of the cemetery or gravesite. A listing of the locations of all *previously unidentified or abandoned cemeteries and gravesites of Virginians held as slaves at the time of their deaths that have been provided to the Department shall be maintained by the Department as a public record.*

**§ 57-38.1. Proceedings by landowner for removal of remains from previously unidentified or abandoned family graveyard.**

The owner of any land on which is located a *previously unidentified graveyard* or an abandoned family graveyard, and there has been no reservation of rights in such graveyard, or when the beneficiaries of any reservations of rights desire to

waive such rights, and in which no body has been interred for twenty-five years may file a bill in equity in the circuit court of the county or in the circuit or corporation court wherein such land is located for the purpose of having the remains interred in such graveyard removed to some more suitable repository. To such bill all persons in interest, known or unknown, other than the plaintiffs shall be duly made defendants. If any of such parties be unknown, the plaintiffs shall undertake active, good faith efforts to locate interested parties including, at a minimum, publication of at least one notice in a local newspaper of general circulation, notice posted at the site of the graveyard, and notice to and consultation with any historic preservation or other such commission, as well as area historical and genealogical societies. In addition, the plaintiff is encouraged to post such notice on the Internet, including appropriate websites and through the use of social media, and to consult with the Virginia Department of Historic Resources. Upon the case being properly matured for hearing, and proof being made of the propriety of the removal, the court may order the removal made and the remains properly deposited in another place, at the expense of the petitioner. Such removal and reinterment shall be done with due care and decency.

In determining the question of removal the court shall consider the historical significance of such graveyard and shall consider as well the wishes of the parties concerned so far as they are brought to its knowledge, including the desire of any beneficiaries of any reservation of rights to waive such reservation of rights in favor of removal, and so considering shall exercise a sound discretion in granting or refusing the relief prayed for.

**§ 57-38.2. Proceedings by heir at law or descendant for removal of ancestor's remains from previously unidentified or abandoned family graveyard.**

Any heir at law or descendant of a deceased person interred in a *previously unidentified graveyard* or an abandoned family graveyard in which no body has been interred for ~~twenty-five~~ 25 years may file a bill in equity in the circuit court of the county or city wherein the land is located for the purpose of having the remains interred in the graveyard removed to some more suitable repository. The owner of the land, any beneficiaries of any reservation of rights, and all other persons in interest, known or unknown, other than the plaintiffs shall be duly made defendants. If any of such parties are unknown, notice may be given by order of publication. Upon the case being properly matured for hearing, and proof being made of the propriety of the removal, the court may order the removal and the remains properly deposited in another place, at the expense of the petitioner. The removal and reinterment shall be done with due care and decency.

The bill may be filed and relief granted regardless of whether there has been a reservation of rights in the graveyard and regardless of whether the beneficiaries of any reservation of rights desire to waive their rights. In determining the question of removal, the court shall consider the historical significance of the graveyard and the wishes of the parties concerned so far as they are brought to its knowledge, including the desire of any beneficiaries of any reservation in rights, and shall exercise sound discretion in granting or refusing the relief prayed for.

## CHAPTER 196

*An Act to amend and reenact § 46.2-1095 of the Code of Virginia, relating to child restraint devices and safety belts; emergency and law-enforcement vehicles.*

[H 1662]

Approved March 5, 2019

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

**1. That § 46.2-1095 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1095. Child restraint devices required when transporting certain children; safety belts for passengers less than 18 years old required.**

A. (Effective until July 1, 2019) Any person who drives on the highways of Virginia any motor vehicle manufactured after January 1, 1968, shall ensure that any child, up to age eight, whom he transports therein is provided with and properly secured in a child restraint device of a type which meets the standards adopted by the United States Department of Transportation. Further, rear-facing child restraint devices shall be placed in the back seat of a vehicle. In the event the vehicle does not have a back seat, the child restraint device may be placed in the front passenger seat only if the vehicle is either not equipped with a passenger side airbag or the passenger side airbag has been deactivated.

A. (Effective July 1, 2019) Any person who drives on the highways of Virginia any motor vehicle manufactured after January 1, 1968, shall ensure that any child, up to age eight, whom he transports therein is provided with and properly secured in a child restraint device of a type which meets the standards adopted by the United States Department of Transportation. Such child restraint device shall not be forward-facing until at least (i) the child reaches two years of age or (ii) the child reaches the minimum weight limit for a forward-facing child restraint device as prescribed by the manufacturer of the device. Further, child restraint devices shall be placed in the back seat of a vehicle. In the event the vehicle does not have a back seat, the child restraint device may be placed in the front passenger seat only if the vehicle is either not equipped with a passenger side airbag or the passenger side airbag has been deactivated.

B. Any person transporting another person less than 18 years old, except for those required pursuant to subsection A to be secured in a child restraint device, shall ensure that such person is provided with and properly secured by an appropriate safety belt system when driving on the highways of Virginia in any motor vehicle manufactured after January 1, 1968, equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices.

C. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages in a civil action.

D. A violation of this section may be charged on the uniform traffic summons form.

E. Nothing in this section shall apply to *any person operating* taxicabs, school buses, executive sedans, or limousines. *The provisions of (i) subsection B shall not apply to any person operating an emergency medical services agency vehicle, fire company vehicle, fire department vehicle, or law-enforcement agency vehicle while in the performance of his official duties and (ii) subsection A shall not apply to any person operating any such vehicle in the performance of his official duties, under exigent circumstances, provided that no child restraint device is readily available.*

## CHAPTER 197

*An Act to amend and reenact §§ 16.1-253.1 and 19.2-152.9 of the Code of Virginia, relating to preliminary protective orders; full hearing date; court closure.*

[H 1673]

Approved March 5, 2019

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

#### **1. That §§ 16.1-253.1 and 19.2-152.9 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.**

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

A preliminary protective order may include any one or more of the following conditions to be imposed on the allegedly abusing person:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.
2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons.
3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.
4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.
5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner.
6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.
7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.
8. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.
9. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the

agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, *unless the court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered.* If the respondent fails to appear at this hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served forthwith on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the allegedly abusing person. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

E. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

F. As used in this section, "copy" includes a facsimile copy.

G. No fee shall be charged for filing or serving any petition or order pursuant to this section.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

#### **§ 19.2-152.9. Preliminary protective orders.**

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. Immediate and present danger of any act of violence, force, or threat or evidence sufficient to establish probable cause that an act of violence, force, or threat has recently occurred shall constitute good cause.

A preliminary protective order may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or household members as the court deems necessary for the health and safety of such persons;

3. Such other conditions as the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order, *unless the court is closed pursuant to § 16.1-69.35 or 17.1-207 and such closure prevents the hearing from being held within such time period, in which case the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. If such court is closed pursuant to § 16.1-69.35 or 17.1-207, the preliminary protective order shall remain in full force and effect until it is dissolved by such court, until another preliminary protective order is entered, or until a protective order is entered.* If the respondent fails to appear at this hearing because the respondent was not personally served, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise provided, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the court finds that the petitioner has proven the allegation that the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat by a preponderance of the evidence.

E. No fees shall be charged for filing or serving petitions pursuant to this section.

F. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

G. As used in this section, "copy" includes a facsimile copy.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

## CHAPTER 198

*An Act to amend and reenact § 4.05, as amended, of Chapter 576 of the Acts of Assembly of 1978, which provided a charter for the City of Newport News, relating to time of inaugural meeting of newly elected city council.*

[H 1766]

Approved March 5, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 4.05, as amended, of Chapter 576 of the Acts of Assembly of 1978 is amended and reenacted as follows:**

§ 4.05. Inaugural meetings; induction of members and election of vice-mayor.

The first meeting of a newly elected council shall take place on the date of the first regularly scheduled meeting of the city council in the month of July following the election at ~~10:00 a.m. at a place~~ a time and location specified for same in the notice sent to the council members in accord with the manner set forth in § 4.06 of this charter for special meetings. At or before this first meeting, the oath of office shall be administered to the duly elected members as provided by law. In the absence of the mayor, the meeting may be called to order by the city clerk. The first business of the council shall be the election of a vice-mayor and the adoption of rules of procedure. Until this business has been completed, the council shall not adjourn for a period longer than forty-eight hours.

## CHAPTER 199

*An Act to amend and reenact § 53.1-128 of the Code of Virginia, relating to inmate workforces; eligibility for voluntary participation.*

[H 1935]

Approved March 5, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 53.1-128 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-128. Workforces and authorized work places.**

The local governing body of any county, city or town may establish workforces in the county, city or town under such conditions as it may prescribe. Such workforces are authorized to work on (i) public property or works owned, leased or operated by the Commonwealth or the county, city or town; (ii) a privately operated national park on federal land; (iii) any property owned by a nonprofit organization that is exempt from taxation under 26 U.S.C. § 501(c)(3) or (c)(4) and that is organized and operated exclusively for charitable or social welfare purposes whether the same is located within such county, city or town, or elsewhere; or (iv) private property (a) owned or occupied by an elderly or indigent person or persons where such property has been identified by a citizens housing advisory committee as needing rehabilitation or repair and the property owner has consented to such work or (b) classified as or used as a cemetery where such property has been abandoned and where on such property exist nuisances that have been identified by a municipal corporation for abatement or removal pursuant to § 15.2-1115 or a similar local ordinance. Every person 18 years of age or older who is convicted and confined for any violation of a local ordinance and who is confined as a punishment or for failure to pay a required fine, shall be liable to work in such workforce. Every person 18 years of age or older who is confined pending disposition of a ~~nonviolent criminal offense~~ or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 or a criminal offense not listed in § 19.2-297.1 may work in such workforce on a voluntary basis with the approval of and under the supervision of the sheriff or his designee.

## CHAPTER 200

*An Act to amend and reenact §§ 9.1-185.8 and 19.2-143 of the Code of Virginia, relating to forfeiture on recognizance; bail bondsman; suspension of license.*

[H 2078]

Approved March 5, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 9.1-185.8 and 19.2-143 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-185.8. Professional conduct standards; grounds for disciplinary actions.**

A. Any violations of the restrictions or standards under this statute shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail bondsman's license. A licensed bail bondsman is responsible for ensuring that his employees, partners and individuals contracted to perform services for or on behalf of the bonding business comply with all of these provisions, and do not violate any of the restrictions that apply to bail bondsmen. Violations by a bondsman's employee, partner, or agent may be grounds for disciplinary action against the bondsman, including probation, suspension or revocation of license.

B. A licensed bail bondsman shall not:

1. Knowingly commit, or be a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, forgery, scheme or device whereby any other person lawfully relies upon the word, representation, or conduct of the bail bondsman.

2. Solicit sexual favors or extort additional consideration as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors.

3. Conduct a bail bond transaction that demonstrates bad faith, dishonesty, coercion, incompetence, extortion or untrustworthiness.

4. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person on whose bond he is surety or offers to become surety, to induce that person to commit any crime.

5. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any employee of a governmental agency involved with the administration of justice, including but not limited to law-enforcement personnel, magistrates, judges, and jail employees, as well as attorneys. De minimis gifts, not to exceed \$50 per year per recipient, are acceptable, provided the purpose of the gift is not to directly solicit business, or would otherwise be a violation of Board regulations or the laws of the Commonwealth.

6. Fail to comply with any of the statutory or regulatory requirements governing licensed bail bondsmen.

7. Fail to cooperate with any investigation by the Department.

8. Fail to comply with any subpoena issued by the Department.

9. Provide materially incorrect, misleading, incomplete or untrue information in a license application, renewal application, or any other document filed with the Department.

10. Provide bail for any person if he is also an attorney representing that person.

11. Provide bail for any person if the bondsman was initially involved in the arrest of that person.

C. A licensed bail bondsman shall ensure that each recognizance on all bonds for which he signs shall contain the name and contact information for both the surety agent and the registered agent of the issuing company.

D. An administrative fee may be charged by a bail bondsman, not to exceed reasonable costs. Reasonable costs may include, but are not limited to, travel, court time, recovery fees, phone expenses, administrative overhead and postage.

E. A property bail bondsman shall not enter into any bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of four times the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

F. A property bail bondsman or his agent shall not refuse to cover any forfeiture of bond against him or refuse to pay such forfeiture after notice and final order of the court.

G. A surety bail bondsman shall not write bail bonds on any qualifying power of attorney for which a copy has not been filed with the Department.

H. A surety bail bondsman shall not violate any of the statutes or regulations that govern insurance agents.

I. A licensed bail bondsman shall not charge a bail bond premium less than 10 percent or more than 15 percent of the amount of the bond. A licensed bail bondsman shall not loan money with interest for the purpose of helping another obtain a bail bond.

For the purposes of this subsection, "bail bond premium" means the amount of money paid to a licensed bail bondsman for the execution of a bail bond.

J. A licensed bail bondsman who has been arrested for a felony offense shall not issue any new bonds pending the outcome of the investigation by the Department.

*K. If a recognizance is forfeited pursuant to § 19.2-143 and such recognizance is not paid by 4:00 p.m. on the last day of the 150-day period from the finding of default, the clerk shall notify the Department of such default and the Department shall suspend the license of any bail bondsman on the bond in the forfeited recognizance until the forfeited recognizance is satisfied, unless suspended for another cause. If any employer of such bail bondsman receives notice pursuant to § 19.2-143 to pay a forfeited recognizance within 10 business days and such forfeiture is not paid within 10 business days of the notice to pay, the Department shall suspend the licenses of the employer of the bail bondsman and the agents thereof until the forfeited recognizance is satisfied, unless suspended for another cause.*

**§ 19.2-143. Where default recorded; process on recognizance; forfeiture on recognizance; when copy may be used; cash bond.**

When a person, under recognizance in a case, either as party or witness, fails to perform the condition of appearance thereof, if it is to appear before a court of record, or a district court, ~~a hearing shall be held upon reasonable notice to all parties affording them opportunity to show cause why the recognizance or any part thereof should not be forfeited. The show cause notice shall be issued within 45~~ the court shall record the default therein, and shall issue a notice of default within five days of the breach of the condition of appearance.

~~If the court finds the recognizance or any part thereof should be forfeited, the default shall be recorded therein, unless~~ the defendant or juvenile is brought before the court within 150 days of the findings of default, *the court shall dismiss the default upon the filing of a motion by the party in default.* After 150 days of the finding of default, his default shall be recorded therein, and if it is to appear before a district court, his default shall be entered by the judge of such court, on the case papers unless the defendant or juvenile has been delivered or appeared before the court. The process on any such forfeited recognizance shall be issued from the court before which the appearance was to be, and wherein such forfeiture was recorded or entered. Any such process issued by a judge shall be made returnable before, and tried by, such judge, who

shall promptly transmit to the clerk of the circuit court of his county or city wherein deeds are recorded an abstract of such judgment as he may render thereon, which shall be forthwith docketed by the clerk of such court. *If the forfeited recognizance is not paid by 4:00 p.m. on the last day of the 150-day period from the finding of default, the license of any bail bondsman on the bond shall be suspended in accordance with § 9.1-185.8. At such time, the court shall issue a notice to pay within 10 business days to any employer of such bail bondsman if a property bondsman. If the forfeiture is not paid within 10 business days of the notice to pay, licenses of the employer of the bail bondsman and agents thereof shall be suspended in accordance with § 9.1-185.8.*

If the defendant or juvenile appears before or is delivered to the court within 24 months of the findings of default, the court shall remit any bond previously ordered forfeited by the courts, less such costs as the court may direct.

If it is brought to the attention of the court that the defendant or juvenile is incarcerated in another state or country within 48 months of the finding of default, thereby preventing his delivery or appearance within that period, the court shall remit any bond previously ordered forfeited. If the defendant or juvenile left the Commonwealth with the permission of the court, the bond shall be remitted without deduction of costs; otherwise, the cost of returning him to the Commonwealth shall be deducted from the bond.

Evidence that the defendant or juvenile is incarcerated or subject to court process in another jurisdiction on the day his appearance is required or a medical certificate from a duly licensed physician that the defendant was physically unable to so appear shall be considered evidence of good cause why the recognizance should not be forfeited.

If such recognizance so forfeited is not for such appearance, process thereon shall be issued from the court in which it was taken, or the court to which it was made returnable, and in a proceeding in one court on a recognizance entered in another a copy thereof shall be evidence in like manner as the original would be if it had been entered in the court wherein the proceeding is being had thereon.

However, when any defendant or juvenile who posted a cash bond and failed to appear is tried in his absence and is convicted, the court or judge trying the case shall first apply the cash bond, or so much thereof as may be necessary, to the payment of any fines or costs, or both, adjudged against the defendant or juvenile or imposed by law. Any remaining funds shall be forfeited without further notice. However, if a rehearing is granted, the court may remit part or all of such cash bond not applied ultimately to fines or costs, and order a refund of the same by the State Treasurer, or by the treasurer or director of finance of the locality, if the bond was collected by a locality pursuant to § 19.2-136, but only if good cause is shown.

If the defendant or juvenile posted a cash bond and failed to appear, but is not tried in his absence, the bond shall be forfeited promptly without further notice. However, if the defendant or juvenile appears in court within 60 days after the bond is forfeited, the judge may remit part or all of any bond previously forfeited and order a refund of the same by the State Treasurer, or by the treasurer or director of finance of the locality, if the bond was collected by a locality pursuant to § 19.2-136.

## CHAPTER 201

*An Act to amend and reenact § 19.2-310.2 of the Code of Virginia, relating to DNA analysis; conviction of certain crimes or similar ordinance of a locality.*

[H 2439]

Approved March 5, 2019

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

**1. That § 19.2-310.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-310.2. Blood, saliva, or tissue sample required for DNA analysis upon conviction of certain crimes; fee.**

A. Every person convicted of a felony on or after July 1, 1990, every person convicted of a felony offense under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 who was incarcerated on July 1, 1989, and every person convicted of a misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-60.3, 18.2-60.4, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-102, 18.2-119, 18.2-121, 18.2-130, 18.2-370.6, 18.2-387, or 18.2-387.1 or subsection E of § 18.2-460 or of any similar ordinance of any locality shall have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The Department of Forensic Science shall provide to LIDS the most current information submitted to the DNA data bank on a weekly basis and shall remove from LIDS and the data bank persons no longer eligible to be in the data bank. A fee of \$53 shall be charged for the withdrawal of this sample. The fee shall be taxed as part of the costs of the criminal case resulting in the conviction and \$15 of the fee shall be paid into the general fund of the locality where the sample was taken and \$38 of the fee shall be paid into the general fund of the state treasury. This fee shall only be taxed one time regardless of the number of samples taken. The assessment provided for herein shall be in addition to any other fees prescribed by law. The analysis shall be performed by the Department of Forensic Science or other entity designated by the Department. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Department in a DNA data bank and shall be made available only as provided in § 19.2-310.5.

B. After July 1, 1990, the blood, saliva, or tissue sample shall be taken prior to release from custody. Notwithstanding the provisions of § 53.1-159, any person convicted of an offense listed in subsection A who is in custody after July 1, 1990,

shall provide a blood, saliva, or tissue sample prior to his release. Every person so convicted after July 1, 1990, who is not sentenced to a term of confinement shall provide a blood, saliva, or tissue sample as a condition of such sentence. A person required under this section to submit a sample for DNA analysis is not relieved from this requirement regardless of whether no blood, saliva, or tissue sample has been taken from the person or, if a sample has been taken, whether the sample or the results from the analysis of a sample cannot be found in the DNA data bank maintained by the Department of Forensic Science.

C. Nothing in this section shall prevent the Department of Forensic Science from including the identification characteristics of an individual's DNA profile in the DNA data bank as ordered by a circuit court pursuant to a lawful plea agreement.

D. A collection or placement of a sample for DNA analysis that was taken or retained in good faith does not invalidate the sample's use in the data bank pursuant to the provisions of this article. The detention, arrest, or conviction of a person based upon a data bank match or data bank information is not invalidated if it is determined that the sample was obtained, placed, or retained in the data bank in good faith, or if the conviction or juvenile adjudication that resulted in the collection of the DNA sample was subsequently vacated or otherwise altered in any future proceeding, including but not limited to post-trial or post-fact-finding motions, appeals, or collateral attacks.

E. The Virginia Department of Corrections and the Department of Forensic Science shall, on a quarterly basis, compare databases of offenders under the custody or supervision of the Department of Corrections with the DNA data bank of the Department of Forensic Science. The Virginia Department of Corrections shall require a DNA sample of those offenders under its custody or supervision if they are not identified in the DNA data bank.

F. The Department of State Police shall verify that a DNA sample required to be taken for the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-903 has been received by the Department of Forensic Science. In any instance where a DNA sample has not been received, the Department of State Police or its designee shall obtain from the person required to register a sample for DNA analysis.

G. Each community-based probation services agency established pursuant to § 9.1-174 shall determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

H. The sheriff or regional jailer shall determine by reviewing the Local Inmate Data System upon intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

## CHAPTER 202

*An Act to amend and reenact § 53.1-40.10 of the Code of Virginia, relating to Department of Corrections; policies to facilitate exchange of health records and information.*

[H 2499]

Approved March 5, 2019

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

#### **1. That § 53.1-40.10 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 53.1-40.10. Exchange of medical and mental health information and records.**

A. Whenever a person is committed to a state correctional facility, the person in charge of the facility or his designee shall be entitled to obtain medical records concerning such person from a health care provider. In addition, medical and mental health information and records of any person committed to the Department of Corrections may be exchanged among the following:

1. Administrative personnel for the facility in which the prisoner is imprisoned when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the facility, its employees, or other prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the safety and security of the facility.

2. Members of the Parole Board, as specified in § 53.1-138, in order to conduct the investigation required under § 53.1-155.

3. Probation and parole officers for use in parole and probation planning, release, and supervision.

4. Officials within the Department for the purpose of formulating recommendations for treatment and rehabilitative programs; classification, security and work assignments; and determining the necessity for medical, dental, and mental health care, treatment, and programs.

5. Medical and mental health hospitals and facilities, both public and private, including community service boards, for use in planning for and supervision of post-incarceration medical and mental health care, treatment, and programs.

6. The Department for Aging and Rehabilitative Services, the Department of Social Services, and any local department of social services in the Commonwealth for the purposes of reentry planning and post-incarceration placement and services.

B. Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. § 2.11 et seq., shall not be subject to the provisions of this section. The disclosure of results of a test for human immunodeficiency virus shall not be permitted except as provided in § 32.1-36.1.

C. The release of medical and mental health information and records to any other agency or individual shall be subject to all regulations promulgated by the Department which govern confidentiality of such records. Medical and mental health information concerning a prisoner which has been exchanged pursuant to this section may be used only as provided herein and shall otherwise remain confidential and protected from disclosure.

D. *The Department shall develop policies to improve the exchange of medical and mental health information and records of persons committed to a state correctional facility, including policies to improve access to electronic health records and electronic exchange of information and records for the provision of telemedicine and telepsychiatry.*

**2. That the Department of Corrections shall report on its progress in implementing the provisions of this act to the Chairmen of the House Committee on Health, Welfare and Institutions, the Senate Committee on Education and Health, and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century by October 1, 2019.**

## CHAPTER 203

*An Act to amend and reenact §§ 18.2-308.09 and 18.2-308.2 of the Code of Virginia, relating to restoration of firearms rights; report to State Police.*

[H 2548]

Approved March 5, 2019

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

**1. That §§ 18.2-308.09 and 18.2-308.2 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3 or the substantially similar law of any other state or of the United States.
2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.
3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a concealed handgun permit.
4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.
5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.
6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a ~~permit~~ *restoration order* may be obtained in accordance with subsection C of that section.
7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.
8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.
9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § 4.1-333.
10. An alien other than an alien lawfully admitted for permanent residence in the United States.
11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.
12. An individual who is a fugitive from justice.
13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense that would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an individual with previous adjudications of delinquency who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge.

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

**§ 18.2-308.2. Possession or transportation of firearms, firearms ammunition, stun weapons, explosives or concealed weapons by convicted felons; penalties; petition for restoration order; when issued.**

A. It shall be unlawful for (i) any person who has been convicted of a felony; (ii) any person adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder in violation of § 18.2-31 or 18.2-32, kidnapping in violation of § 18.2-47, robbery by the threat or presentation of firearms in violation of § 18.2-58, or rape in violation of § 18.2-61; or (iii) any person under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act which would be a felony if committed by an adult, other than those felonies set forth in clause (ii), whether such conviction or adjudication occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or ammunition for a firearm, any stun weapon as defined by § 18.2-308.1, or any explosive material, or to knowingly and intentionally carry about his person, hidden from common observation, any weapon described in subsection A of § 18.2-308. However, such person may possess in his residence or the curtilage thereof a stun weapon as defined by § 18.2-308.1. Any person who violates this section shall be guilty of a Class 6 felony. However, any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § 17.1-805 shall be sentenced to a mandatory minimum term of imprisonment of five years. Any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of any other felony within the prior 10 years shall be sentenced to a mandatory minimum term of imprisonment of two years. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, ammunition for a firearm, explosive material or other weapon while carrying out his duties as a member of the Armed Forces of the United States or of the National Guard of Virginia or of any other state, (ii) any law-enforcement officer in the performance of his duties, (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms, (iv) any person whose right to possess firearms or ammunition has been restored under the law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport, possess, or receive firearms by such state, or (v) any person adjudicated delinquent as a juvenile who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge and who is not otherwise prohibited under clause (i) or (ii) of subsection A.

C. Any person prohibited from possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon under subsection A may petition the circuit court of the jurisdiction in which he resides or, if the person is not a resident of the Commonwealth, the circuit court of any county or city where such person was last convicted of a felony or adjudicated delinquent of a disqualifying offense pursuant to subsection A, for a ~~permit to possess or carry~~ *restoration order that unconditionally authorizes possessing, transporting, or carrying* a firearm, ammunition for a firearm, or a stun weapon;

however, no person who has been convicted of a felony shall be qualified to petition for such a ~~permit~~ *an order* unless his civil rights have been restored by the Governor or other appropriate authority. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. The court may, in its discretion and for good cause shown, grant such petition and issue a ~~permit~~ *restoration order*. *Such order shall contain the petitioner's name and date of birth. The clerk shall certify and forward forthwith to the Central Criminal Records Exchange (CCRE), on a form provided by the CCRE, a copy of the order to be accompanied by a complete set of the petitioner's fingerprints. The Department of State Police shall forthwith enter the petitioner's name and description in the CCRE so that the order's existence will be made known to law-enforcement personnel accessing the computerized criminal history records for investigative purposes.* The provisions of this section relating to firearms, ammunition for a firearm, and stun weapons shall not apply to any person who has been ~~granted a permit~~ *issued a restoration order* pursuant to this subsection.

C1. Any person who was prohibited from possessing, transporting or carrying explosive material under subsection A may possess, transport or carry such explosive material if his right to possess, transport or carry explosive material has been restored pursuant to federal law.

C2. The prohibitions of subsection A shall not prohibit any person other than a person convicted of an act of violence as defined in § 19.2-297.1 or a violent felony as defined in subsection C of § 17.1-805 from possessing, transporting, or carrying (i) antique firearms or (ii) black powder in a quantity not exceeding five pounds if it is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. For the purposes of this subsection, "antique firearms" means any firearm described in subdivision 3 of the definition of "antique firearm" in subsection G of § 18.2-308.2:2.

D. For the purpose of this section:

"Ammunition for a firearm" means the combination of a cartridge, projectile, primer, or propellant designed for use in a firearm other than an antique firearm as defined in § 18.2-308.2:2.

"Explosive material" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord but shall not include fireworks or permissible fireworks as defined in § 27-95.

**2. That the provisions of this act shall become effective on January 1, 2021.**

## CHAPTER 204

*An Act to amend and reenact § 2.2-2452 of the Code of Virginia, relating to the Board of Veterans Services; membership and scope of responsibilities.*

[H 2632]

Approved March 5, 2019

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

**1. That § 2.2-2452 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2452. Board of Veterans Services; membership; terms; quorum; compensation; staff.**

A. The Board of Veterans Services (the Board) is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall have a total membership of ~~22~~ 26 members, including ~~five~~ seven legislative members, ~~14~~ 15 nonlegislative citizen members, and ~~three~~ four ex officio members. Members shall be appointed as follows: ~~three~~ four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; ~~two~~ three members of the Senate to be appointed by the Senate Committee on Rules; and ~~14~~ 15 nonlegislative citizen members to be appointed by the Governor. The Commissioner of the Department of Veterans Services, the Chairman of the Board of Trustees of the Veterans Services Foundation, ~~and~~ the Chairman of the Joint Leadership Council of Veterans Service Organizations, *and the Chairman of the Virginia War Memorial Foundation*, or their designees, shall serve ex officio with full voting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

In making appointments, the Governor shall endeavor to ensure a balanced geographical representation on the Board, while at the same time selecting appointees of such qualifications and experience as will allow them to develop reasonable and effective policy recommendations related to (i) the services provided to veterans of the Armed Forces of the United States and their eligible spouses, orphans, and dependents by the Department of Veterans Services *and (ii) the mission of the Virginia War Memorial.*

Legislative members and the Commissioner of the Department of Veterans Services shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no House member shall serve more than six consecutive two-year terms, and no Senate member shall serve more than three consecutive four-year terms. No nonlegislative citizen member shall serve more than two consecutive four-year terms; however, a nonlegislative citizen member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

B. The Board shall select a chairman and vice-chairman from its membership. The Commissioner of the Department of Veterans Services shall not be eligible to serve as chairman. The Board shall meet at least three times a year at such times as it deems appropriate or on call of the chairman. A majority of the members of the Board shall constitute a quorum.

C. The Board shall organize itself in such a way as to allow it to fulfill its powers and duties.

D. The Department of Veterans Services shall provide staff to assist the Board in its administrative, planning, and procedural duties.

**2. That the provisions of this act shall become effective on January 1, 2020.**

## CHAPTER 205

*An Act to amend and reenact § 19.2-149 of the Code of Virginia, relating to bail bondsman; surrender of principal; deposit.*

[H 2659]

Approved March 5, 2019

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

**1. That § 19.2-149 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-149. How surety on a bond in recognizance may surrender principal and be discharged from liability; deposit for surrender of principal.**

A. A bail bondsman or his licensed bail enforcement agent on a bond in a recognizance may at any time arrest his principal and surrender him to the court before which the recognizance was taken or before which such principal's appearance is required, or to the sheriff, sergeant or jailer of the county or city wherein the court before which such principal's appearance is required is located; in addition to the above authority, upon the application of the surety, the court, or the clerk thereof, before which the recognizance was taken, or before which such principal's appearance is required, or any magistrate shall issue a *capias* for the arrest of such principal, and such *capias* may be executed by such bail bondsman or his licensed bail enforcement agent, or by any sheriff, sergeant or police officer, and the person executing such *capias* shall deliver such principal and such *capias* to the sheriff or jailer of the county or the sheriff, sergeant or jailer of the city in which the appearance of such principal is required, and thereupon the surety or the property bail bondsman shall be discharged from liability for any act of the principal subsequent thereto. Such sheriff, sergeant or jailer shall thereafter deliver such *capias* to the clerk of such court, with his endorsement thereon acknowledging delivery of such principal to his custody. If a magistrate issues a *capias* pursuant to this section, the magistrate shall transmit a copy of the *capias* to the court before which such principal's appearance is required by the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.

*B. If a bail bondsman on a bond in a recognizance surrenders his principal for any reason other than a summons to show cause issued by the court for which the principal is to appear, the bondsman shall deposit with the clerk or magistrate the greater of 10 percent of the amount of the bond or \$50, which shall be made at such time the bondsman makes application for a *capias*. The bondsman shall petition the court within 15 days from the surrender of the principal to show cause, if any can be shown, why the bondsman is entitled to the amount deposited. If the court finds that there was sufficient cause to surrender the principal, the court shall return the deposited funds to the bondsman. If the court finds that the surrender of the principal by the bondsman was unreasonable, the deposited funds shall be returned to the principal. Remission of funds shall not be issued by the court until the sixteenth day after the finding. Nothing in this subsection shall apply to a private citizen who posted cash or real estate to secure the release of a defendant.*

## CHAPTER 206

*An Act to amend and reenact § 16.1-260 of the Code of Virginia, relating to student offenses reportable by intake officers to school division superintendents.*

[S 1381]

Approved March 5, 2019

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

**1. That § 16.1-260 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-260. Intake; petition; investigation.**

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the

Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision, or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan, provided that (a) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (b) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision, or delinquent, the intake officer shall (1) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (2) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (3) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or other services which are required by law, (iv) family

abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;
12. An act of violence by a mob pursuant to § 18.2-42.1; ~~or~~
13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; *or*
14. A threat pursuant to § 18.2-60.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing

curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a misdemeanor violation of § 18.2-250.1, 18.2-266, 18.2-266.1, or 29.1-738, or the commission of any other alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a violation of § 18.2-250.1 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B, provided such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 18.2-250.1 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

## CHAPTER 207

*An Act to amend and reenact § 4, as amended, of Chapter IV of Chapter 431 of the Acts of Assembly of 1950, which provided a charter for the City of Hopewell, relating to appointment of president of city council.*

[H 2002]

Approved March 5, 2019

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

**1. That § 4, as amended, Chapter IV of Chapter 431 of the Acts of Assembly of 1950 is amended and reenacted as follows:**

§ 4. ~~Election~~ *Appointment* and terms of president (ex officio mayor), vice-president (ex officio vice-mayor) and members of boards and commissions; quorum; journal; etc.

(a) On the first Tuesday in January next following the regular municipal election, or as soon thereafter as may be practicable, the newly elected council shall proceed to ~~choose~~ *appoint* by majority vote of all the members thereof one of their number to be president, who shall be ex officio mayor, and another as vice-president, who shall be ex officio vice-mayor, of the council, each of whom shall serve for a period of two years from the first day of the January next following the *regular municipal* election and until their successor or successors *as mayor or vice-mayor* have been ~~elected~~ *appointed* and qualified; ~~provided, however, that the terms of the president and vice president set to expire on June 30, 2012, shall be extended to December 31, 2012, and until their successors have been elected and qualified.~~

(b) Appointment of boards and commissions; enumeration, term. The school board, library board, and dock commission shall each consist of five members of the board of such regional free library system as are permitted under the inter-jurisdictional contract establishing the regional library system as that contract may be amended from time to time.

The council shall appoint the members of such boards and commissions as are provided for in this charter, or as may be established by the council or by general law on a date and for such terms as may be established by ordinance.

The members of the boards and commissions shall serve until their successors have been appointed and qualified.

(c) Elections to be by viva voce vote; rules of procedure; punishment of members for misconduct, etc.; quorum; eligibility of members for other office; journal of proceedings. All elections by the council shall be viva voce and the vote recorded in the journal of the council.

The council may determine its own rules of procedure; in the absence of established rules of procedure, Robert's Rules of Order shall prevail. Council may punish its members for misconduct and may compel the attendance of members in such manner and under such penalties as may be prescribed by ordinance. It shall keep a journal of its proceedings. A majority of

all the members of the council shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

No person, now a member or who may hereafter be elected to the council, shall during his tenure of office, or during the term for which he was elected as such member, be eligible to any office to be filled by the council by election or appointment.

## CHAPTER 208

*An Act to amend and reenact § 9.1-202 of the Code of Virginia, relating to the Virginia Fire Services Board; membership.*

[H 2093]

Approved March 5, 2019

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

#### **1. That § 9.1-202 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 9.1-202. Virginia Fire Services Board; membership; terms; compensation.**

A. The Virginia Fire Services Board (the Board) is established as a policy board within the meaning of § 2.2-2100 in the executive branch of state government. The Board shall consist of 15 members to be appointed by the Governor as follows: a representative of the insurance industry; two members of the general public with no connection to the fire services, one of whom shall be a representative of those industries affected by SARA Title III and OSHA training requirements; ~~and~~ one member each from the Virginia Fire Chiefs Association, the Virginia State Firefighters Association, the Virginia Professional Fire Fighters, the Virginia Fire Service Council, the Virginia Fire Prevention Association, the Virginia Chapter of the International Association of Arson Investigators, the Virginia Municipal League, and the Virginia Association of Counties; ~~a local fire marshal as defined by § 27-30; and a member of the Virginia Society of Fire Service Instructors who is a faculty member who teaches fire science at a public institution of higher education certified Virginia fire service instructor.~~ Of these appointees, at least one shall be a volunteer firefighter. ~~The State Fire Marshal, the State Forester, and a member of the Board of Housing and Community Development appointed by the chairman of that Board shall also serve as ex officio members of the Board.~~

Each of the organizations represented shall submit at least three names for each position for the Governor's consideration in making these appointments.

B. Members of the Board appointed by the Governor shall serve for terms of four years. An appointment to fill a vacancy shall be for the unexpired term. No appointee shall serve more than two successive four-year terms but neither shall any person serve beyond the time he holds the office or organizational membership by reason of which he was initially eligible for appointment.

C. The Board annually shall elect its chairman and vice-chairman from among its membership and shall adopt rules of procedure.

D. All members shall be reimbursed for expenses incurred in the performance of their duties as provided in § 2.2-2825. Funding for the expenses shall be provided from the Fire Programs Fund established pursuant to § 38.2-401.

E. The Board shall meet no more than six times each calendar year. The Secretary of Public Safety and Homeland Security may call a special meeting of the Board should circumstances dictate. A majority of the current membership of the Board shall constitute a quorum for all purposes.

## CHAPTER 209

*An Act to require the Department of Medical Assistance Services to implement a process for payments for certain services to hospice patients.*

[H 1639]

Approved March 5, 2019

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

**1. § 1.** *That the Department of Medical Assistance Services shall, to the extent permitted by federal law, implement a process for payment of the nursing facility or ICF/MR share of payments directly to the nursing facility or ICF/MR rather than to the hospice care provider for hospice services furnished to an individual who is a resident of a nursing facility or ICF/MR and who would be eligible under the Commonwealth's program of medical assistance for nursing facility services or services in an ICF/MR had he not elected hospice care. Payments made directly to a nursing facility or ICF/MR shall be the full amount that would be paid to the nursing facility or ICF/MR if the individual was not receiving hospice services, and shall not reflect any discount to such rates.*

## CHAPTER 210

*An Act to amend and reenact §§ 2.2-435.8, 2.2-2472, 63.2-100, 63.2-601, 63.2-608, 65.2-101, 65.2-500, 65.2-502, and 65.2-512 of the Code of Virginia, relating to Virginia Initiative for Employment Not Welfare; name change.*

[H 1746]

Approved March 5, 2019

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

**1. That §§ 2.2-435.8, 2.2-2472, 63.2-100, 63.2-601, 63.2-608, 65.2-101, 65.2-500, 65.2-502, and 65.2-512 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-435.8. Workforce program evaluations; sharing of certain data.**

A. Notwithstanding any provision of law to the contrary, the agencies specified in subsection D may share data from within their respective databases solely to (i) provide the workforce program evaluation and policy analysis required by subdivision A 8 of § 2.2-435.7 and clause (i) of subdivision A 10 of § 2.2-435.7 and (ii) conduct education program evaluations that require employment outcomes data to meet state and federal reporting requirements.

B. Data shared pursuant to subsection A shall not include any personal identifying information, shall be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the Governor or his designee shall re-encrypt the data to prevent any participating agency from connecting shared data sets with existing agency files. For the purposes of this section:

1. "Identifying information" means the same as that term is defined in § 18.2-186.3; and

2. "Encrypted" means the same as that term is defined in § 18.2-186.6.

C. The Governor or his designee and all agencies authorized under this section shall destroy or erase all shared data upon completion of all required evaluations and analyses. The Governor or his designee may retain a third-party entity to assist with the evaluation and analysis.

D. The databases from the following agencies relating to the specific programs identified in this subsection may be shared solely to achieve the purposes specified in subsection A:

1. Virginia Employment Commission: Unemployment Insurance, Job Service, Trade Act, and Veterans Employment Training Programs;

2. Virginia Community College System: Postsecondary Career and Technical Education, Workforce Innovation and Opportunity Act Adult, Youth and Dislocated Worker Programs;

3. Department for Aging and Rehabilitative Services: Vocational Rehabilitation and Senior Community Services Employment Program;

4. Department for the Blind and Vision Impaired: Vocational Rehabilitation;

5. Department of Education: Adult Education and Family Literacy, Special Education, and Career and Technical Education;

6. Department of Labor and Industry: Apprenticeship;

7. Department of Social Services: Supplemental Nutrition Assistance Program and Virginia Initiative for ~~Employment Not Welfare~~ *Education and Work*;

8. Virginia Economic Development Partnership: Virginia Jobs Investment Program;

9. Department of Juvenile Justice: Youth Industries and Institutional Work Programs and Career and Technical Education Programs;

10. Department of Corrections: Career and Technical Education Programs; and

11. The State Council of Higher Education for Virginia.

**§ 2.2-2472. Powers and duties of the Board; Virginia Workforce System created.**

A. The Board shall implement a Virginia Workforce System that shall undertake the following actions to implement and foster workforce development and training and better align education and workforce programs to meet current and projected skills requirements of an increasingly technological, global workforce:

1. Provide policy advice to the Governor on workforce and workforce development issues in order to create a business-driven system that yields increasing rates of attainment of workforce credentials in demand by business and increasing rates of jobs creation and attainment;

2. Provide policy direction to local workforce development boards;

3. Assist the Governor in the development, implementation, and modification of any combined state plan developed pursuant to the WIOA;

4. Identify current and emerging statewide workforce needs of the business community;

5. Forecast and identify training requirements for the new workforce;

6. Recommend strategies to match trained workers with available jobs to include strategies for increasing business engagement in education and workforce development;

7. Evaluate the extent to which the state's workforce development programs emphasize education and training opportunities that align with employers' workforce needs and labor market statistics and report the findings of this analysis to the Governor every two years;

8. Advise and oversee the development of a strategic workforce dashboard and tools that will inform the Governor, policy makers, system stakeholders, and the public on issues such as state and regional labor market conditions, the relationship between the supply and demand for workers, workforce program outcomes, and projected employment growth or decline. The Virginia Employment Commission, along with other workforce partners, shall provide data to populate the tools and dashboard;

9. Determine and publish a list of jobs, trades, and professions for which high demand for qualified workers exists or is projected by the Virginia Employment Commission. The Virginia Employment Commission shall support the Virginia Board of Workforce Development in making such determination. Such information shall be published biennially and disseminated to employers; education and training entities, including associate-degree-granting and baccalaureate public institutions of higher education; government agencies, including the Department of Education and public libraries; and other users in the public and private sectors;

10. Develop pay-for-performance contract strategy incentives for rapid reemployment services consistent with the WIOA as an alternative model to traditional programs;

11. Conduct a review of budgets, which shall be submitted annually to the Board by each agency conducting federal and state funded career and technical and adult education and workforce development programs, that identify the agency's sources and expenditures of administrative, workforce education and training, and support services for workforce development programs;

12. Review and recommend industry credentials that align with high demand occupations, which credentials shall include a credential that determines career readiness;

13. Define the Board's role in certifying WIOA training providers, including those not subject to the authority expressed in Article 3 (§ 23.1-213 et seq.) of Chapter 2 of Title 23.1;

14. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 13;

15. Create quality standards, guidelines, and directives applicable to local workforce development boards and the operation of one-stops, as necessary and appropriate to carry out the purposes of this article; and

16. Perform any act or function in accordance with the purposes of this article.

B. The Board may establish such committees as it deems necessary including the following:

1. A committee to accomplish the federally mandated requirements of the WIOA;

2. An advanced technology committee to focus on high-technology workforce training needs and skills attainment solutions through sector strategies, career readiness, and career pathways;

3. A performance and accountability committee to coordinate with the Virginia Employment Commission, the State Council of Higher Education for Virginia, the Virginia Community College System, and the Council on Virginia's Future to develop the metrics and measurements for publishing comprehensive workforce score cards and other longitudinal data that will enable the Virginia Workforce System to measure comprehensive accountability and performance; and

4. A military transition assistance committee to focus on workforce development and employment of veterans and on reducing process and qualification barriers to training and employment services.

C. The Board and the Governor's cabinet secretaries shall assist the Governor in complying with the provisions of the WIOA and ensuring the coordination and effectiveness of all federal and state funded career and technical and adult education and workforce development programs and providers within Virginia's Workforce System.

D. The Board shall assist the Governor in the following areas with respect to workforce development: development of any combined state plan developed pursuant to the WIOA; development and continuous improvement of a statewide workforce development system that ensures career readiness and coordinates and aligns career and technical education, adult education, and federal and state workforce programs; development of linkages to ensure coordination and nonduplication among programs and activities; designation of local areas; development of local discretionary allocation formulas; development and continuous improvement of comprehensive state performance measures including, without limitation, performance measures reflecting the degree to which one-stop centers provide comprehensive services with all mandatory partners and the degree to which local workforce development boards have obtained funding from sources other than the WIOA; preparation of the annual report to the U.S. Secretary of Labor; development of a statewide employment statistics system; and development of a statewide system of one-stop centers that provide comprehensive workforce services to employers, employees, and job seekers.

The Board shall share information regarding its meetings and activities with the public.

E. Each local workforce development board shall develop and submit to the Governor and the Board an annual workforce demand plan for its workforce development board area based on a survey of local and regional businesses that reflects the local employers' needs and requirements and the availability of trained workers to meet those needs and requirements. Local boards shall also designate or certify one-stop operators; identify eligible providers of youth activities; develop a budget; conduct local oversight of one-stop operators and training providers in partnership with its local chief elected official; negotiate local performance measures, including incentives for good performance and penalties for inadequate performance; assist in developing statewide employment statistics; coordinate workforce development activities with economic development strategies and the annual demand plan, and develop linkages among them; develop and enter into memoranda of understanding with one-stop partners and implement the terms of such memoranda; promote participation by the private sector; actively seek sources of financing in addition to WIOA funds; report performance statistics to the Board; and certify local training providers in accordance with criteria provided by the Board. Further, a local

training provider certified by any workforce development board has reciprocal certification for all workforce development boards.

F. Each workforce development board shall develop and execute a strategic plan designed to combine public and private resources to support sector strategies, career pathways, and career readiness skills development. Such initiatives shall include or address (i) a regional vision for workforce development; (ii) protocols for planning workforce strategies that anticipate industry needs; (iii) the needs of incumbent and underemployed workers in the region; (iv) the development of partners and guidelines for various forms of on-the-job training, such as registered apprenticeships; (v) the setting of standards and metrics for operational delivery; (vi) alignment of monetary and other resources, including private funds and in-kind contributions, to support the workforce development system; and (vii) the generation of new sources of funding to support workforce development in the region.

G. Local workforce development boards are encouraged to implement pay-for-performance contract strategy incentives for rapid reemployment services consistent within the WIOA as an alternative model to traditional programs. Such incentives shall focus on (i) partnerships that lead to placements of eligible job seekers in unsubsidized employment and (ii) placement in unsubsidized employment for hard-to-serve job seekers. At the discretion of the local workforce development board, funds to the extent permissible under §§ 128(b) and 133(b) of the WIOA may be allocated for pay-for-performance partnerships.

H. Each chief local elected official shall consult with the Governor regarding designation of local workforce development areas; appoint members to the local board in accordance with state criteria; serve as the local grant recipient unless another entity is designated in the local plan; negotiate local performance measures with the Governor; ensure that all mandated partners are active participants in the local workforce development board and one-stop center; and collaborate with the local workforce development board on local plans and program oversight.

I. Each local workforce development board shall develop and enter into a memorandum of understanding concerning the operation of the one-stop delivery system in the local area with each entity that carries out any of the following programs or activities:

1. Programs authorized under Title I of the WIOA;
2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. § 49 et seq.);
3. Adult education and literacy activities authorized under Title II of the WIOA;
4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.);
5. Postsecondary career and technical education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.);
6. Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. § 2271 et seq.);
7. Activities pertaining to employment and training programs for veterans authorized under 38 U.S.C. § 4100 et seq.;
8. Programs authorized under Title 60.2, in accordance with applicable federal law;
9. Workforce development activities or work requirements of the Temporary Assistance to Needy Families (TANF) program known in Virginia as the Virginia Initiative for ~~Employment, Not Welfare Education and Work (VIEW) program~~ established pursuant to § 63.2-608;
10. Workforce development activities or work programs authorized under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.);
11. Other programs or activities as required by the WIOA; and
12. Programs authorized under Title I of the WIOA.

J. The quorum for a meeting of a local workforce development board shall consist of a majority of both the private sector and public sector members. Each local workforce development board shall share information regarding its meetings and activities with the public.

K. For the purposes of implementing the WIOA, income from service in the Virginia National Guard shall not disqualify unemployed service members from WIOA-related services.

L. The Chief Workforce Development Advisor shall be responsible for the coordination of the Virginia Workforce System and the implementation of the WIOA.

#### **§ 63.2-100. Definitions.**

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents

with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services providers, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;
2. An establishment required to be licensed as a summer camp by § 35.1-18; and
3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency.

"Foster home" means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person and (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a relative child of whom they had been the foster parents.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from the Virginia Initiative for ~~Employment Not Welfare~~ *Education and Work* (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

#### **§ 63.2-601. Virginia Temporary Assistance for Needy Families Program; goals.**

The goals of the Temporary Assistance for Needy Families Program are to:

1. Offer Virginians living in poverty the opportunity to achieve economic independence by removing barriers and disincentives to work and providing positive incentives to work;
2. Provide families living in poverty with the opportunities and work skills necessary for self-sufficiency;
3. Allow families living in poverty to contribute materially to their own self-sufficiency;
4. Set out the responsibilities of and expectations for recipients of public assistance and the government; and
5. Provide families living in poverty with the opportunity to obtain work experience through the Virginia Initiative for ~~Employment Not Welfare~~ *Education and Work* (VIEW).

None of the provisions of this chapter shall be construed or interpreted to create any rights, causes of action, administrative claims or exemptions to the provisions of the Program, except as specifically provided in §§ 63.2-609, 63.2-613, and 63.2-618.

The Department of Small Business and Supplier Diversity and the Virginia Employment Commission shall assist the Department in the administration of the Program.

#### **§ 63.2-608. Virginia Initiative for Education and Work (VIEW).**

A. The Department shall establish and administer the Virginia Initiative for ~~Employment Not Welfare~~ *Education and Work* (VIEW) to reduce long-term dependence on welfare, emphasize personal responsibility, and enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills, and prior training of a participant.

VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients and shall include a written agreement of personal responsibility requiring parents to participate in work activities while receiving TANF, earned-income disregards to reduce disincentives to work, and a limit on TANF financial assistance.

VIEW shall require all able-bodied recipients of TANF who do not meet an exemption to participate in a work activity. VIEW shall require eligible TANF recipients to participate in unsubsidized, partially subsidized or fully subsidized employment or other allowable TANF work activity as defined by federal law and enter into an agreement of personal responsibility.

B. To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia law, the Department and local departments may, through applicable procurement laws and regulations, engage the services of public and private organizations to operate VIEW and to provide services incident to such operation.

C. All VIEW participants shall be under the direction and supervision of a case manager.

D. The Department shall ensure that participants are assigned to one of the following work activities within 90 days after the approval of TANF assistance:

1. Unsubsidized private-sector employment;
2. Subsidized employment, as follows:

a. The Department shall conduct a program in accordance with this section that shall be known as the Full Employment Program (FEP). FEP replaces TANF with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for TANF may participate in FEP unless exempted by this chapter. FEP shall assign participants to subsidized wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the workforce.

b. Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. At no point shall a participant's spendable income received from wages and tax credits be less than the value of TANF received prior to the work placement.

c. Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers shall ensure that jobs made available to FEP participants are in conformity with § 3304(a)(5) of the Federal Unemployment Tax Act. FEP participants cannot be used to displace regular workers.

d. FEP employers shall:

- (i) Endeavor to make FEP placements positive learning and training experiences;
- (ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;
- (iii) Pay wages to participants at the same rate that they are paid to other employees performing the same type of work and having similar experience and employment tenure;
- (iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the same basis that they are provided to other employees performing the same type of work and having similar employment experience and tenure;
- (v) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and no less than those in which other employees perform the same type of work;
- (vi) Provide workers' compensation coverage for participants;
- (vii) Encourage volunteer mentors from among their other employees to assist participants in becoming oriented to work and the workplace; and
- (viii) Sign an agreement with the local department outlining the employer requirements to participate in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements in the event the employer violates FEP rules.

e. As a condition of FEP participation, employers shall be prohibited from discriminating against any person, including program participants, on the basis of race, color, sex, national origin, religion, age, or disability;

3. Part-time or temporary employment;

4. Community work experience, as follows:

a. The Department and local departments shall work with other state, regional and local agencies and governments in developing job placements that serve a useful public purpose as provided in § 482(f) of the Social Security Act, as amended. Placements shall be selected to provide skills and serve a public function. VIEW participants shall not displace regular workers.

b. The number of hours per week for participants shall be determined by combining the total dollar amount of TANF and food stamps and dividing by the minimum wage with a maximum of a work week of 32 hours, of which up to 12 hours of employment-related education and training may substitute for work experience employment; or

5. Any other allowable TANF work activity as defined by federal law.

E. Notwithstanding the provisions of subsections A and D, if a local department determines that a VIEW participant is in need of job skills and would benefit from immediate job skills training, it may place the participant in a program preparing individuals for a high school equivalency examination approved by the Board of Education, a career and technical education program targeted at skills required for particular employment opportunities, or an apprenticeship program developed by the local department in accordance with requirements established by the Department. Eligible participants include those with problems related to obtaining and retaining employment, such as participants (i) with less than a high school education, (ii) whose reading or math skills are at or below the eighth grade level, (iii) who have not retained a job

for a period of at least six months during the prior two years, or (iv) who are in a treatment program for a substance abuse problem or are receiving services through a family violence treatment program. The VIEW participant may continue in a high school equivalency examination preparation program, career and technical education program, or apprenticeship program for as long as the local department determines he is progressing satisfactorily and to the extent permitted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended.

F. Participants may be reevaluated after a period determined by the local department and reassigned to another work component. In addition, the number of hours worked may be reduced by the local department so that a participant may complete additional training or education to further his employability.

G. Local departments shall be authorized to sanction parents up to the full amount of the TANF grant for noncompliance, unless good cause exists.

H. VIEW participants shall not be assigned to projects that require that they travel unreasonable distances from their homes or remain away from their homes overnight without their consent.

Any injury to a VIEW participant arising out of and in the course of community work experience shall be covered by the participant's existing Medicaid coverage. If a community work experience participant is unable to work due to such an accident, his status shall be reviewed to determine whether he is eligible for an exemption from the limitation on TANF financial assistance.

A community work experience participant who becomes incapacitated for 30 days or more shall be eligible for TANF financial assistance for the duration of the incapacity, if otherwise eligible.

The Board shall adopt regulations providing for the accrual of paid sick leave or other equivalent mechanism for community work experience participants.

#### **§ 65.2-101. Definitions.**

As used in this title:

"Average weekly wage" means:

1. a. The earnings of the injured employee in the employment in which he was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, divided by 52; but if the injured employee lost more than seven consecutive calendar days during such period, although not in the same week, then the earnings for the remainder of the 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. When the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided that results fair and just to both parties will be thereby obtained. When, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

b. When for exceptional reasons the foregoing would be unfair either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

2. Whenever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of his earnings. For the purpose of this title, the average weekly wage of the members of the Virginia National Guard and the Virginia Defense Force, registered members on duty or in training of the United States Civil Defense Corps of the Commonwealth, volunteer firefighters engaged in firefighting activities under the supervision and control of the Department of Forestry, and forest wardens shall be deemed to be such amount as will entitle them to the maximum compensation payable under this title; however, any award entered under the provisions of this title on behalf of members of the National Guard or their dependents, or registered members on duty or in training of the United States Civil Defense Corps of the Commonwealth or their dependents, shall be subject to credit for benefits paid them under existing or future federal law on account of injury or occupational disease covered by the provisions of this title.

3. Whenever volunteer firefighters, volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, members of volunteer search and rescue organizations, volunteer members of community emergency response teams, and volunteer members of medical reserve corps are deemed employees under this title, their average weekly wage shall be deemed sufficient to produce the minimum compensation provided by this title for injured workers or their dependents. For the purposes of workers' compensation insurance premium calculations, the monthly payroll for each volunteer firefighter or volunteer who is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 shall be deemed to be \$300.

4. The average weekly wage of persons, other than those covered in subdivision 3 of this definition, who respond to a hazardous materials incident at the request of the Department of Emergency Management shall be based upon the earnings of such persons from their primary employers.

"Award" means the grant or denial of benefits or other relief under this title or any rule adopted pursuant thereto.

"Change in condition" means a change in physical condition of the employee as well as any change in the conditions under which compensation was awarded, suspended, or terminated which would affect the right to, amount of, or duration of compensation.

"Client company" means any person that enters into an agreement for professional employer services with a professional employer organization.

"Coemployee" means an employee performing services pursuant to an agreement for professional employer services between a client company and a professional employer organization.

"Commission" means the Virginia Workers' Compensation Commission as well as its former designation as the Virginia Industrial Commission.

"Employee" means:

1. a. Every person, including aliens and minors, in the service of another under any contract of hire or apprenticeship, written or implied, whether lawfully or unlawfully employed, except (i) one whose employment is not in the usual course of the trade, business, occupation or profession of the employer or (ii) as otherwise provided in subdivision 2 of this definition.

b. Any apprentice, trainee, or retrainee who is regularly employed while receiving training or instruction outside of regular working hours and off the job, so long as the training or instruction is related to his employment and is authorized by his employer.

c. Members of the Virginia National Guard, whether on duty in a paid or unpaid status or when performing voluntary service to their unit in a nonduty status at the request of their commander.

Income benefits for members of the National Guard shall be terminated when they are able to return to their customary civilian employment or self-employment. If they are neither employed nor self-employed, those benefits shall terminate when they are able to return to their military duties. If a member of the National Guard who is fit to return to his customary civilian employment or self-employment remains unable to perform his military duties and thereby suffers loss of military pay which he would otherwise have earned, he shall be entitled to one day of income benefits for each unit training assembly or day of paid training which he is unable to attend.

d. Members of the Virginia Defense Force.

e. Registered members of the United States Civil Defense Corps of the Commonwealth, whether on duty or in training.

f. Except as provided in subdivision 2 of this definition, all officers and employees of the Commonwealth, including (i) forest wardens; (ii) judges, clerks, deputy clerks and employees of juvenile and domestic relations district courts and general district courts; and (iii) secretaries and administrative assistants for officers and members of the General Assembly employed pursuant to § 30-19.4 and compensated as provided in the general appropriation act, who shall be deemed employees of the Commonwealth.

g. Except as provided in subdivision 2 of this definition, all officers and employees of a municipal corporation or political subdivision of the Commonwealth.

h. Except as provided in subdivision 2 of this definition, (i) every executive officer, including president, vice-president, secretary, treasurer or other officer, elected or appointed in accordance with the charter and bylaws of a corporation, municipal or otherwise and (ii) every manager of a limited liability company elected or appointed in accordance with the articles of organization or operating agreement of the limited liability company.

i. Policemen and firefighters, sheriffs and their deputies, town sergeants and their deputies, county and city commissioners of the revenue, county and city treasurers, attorneys for the Commonwealth, clerks of circuit courts and their deputies, officers and employees, and electoral board members appointed in accordance with § 24.2-106, who shall be deemed employees of the respective cities, counties and towns in which their services are employed and by whom their salaries are paid or in which their compensation is earnable. However, notwithstanding the foregoing provision of this subdivision, such individuals who would otherwise be deemed to be employees of the city, county, or town in which their services are employed and by whom their salaries are paid or in which their compensation is earnable shall be deemed to be employees of the Commonwealth while rendering aid outside of the Commonwealth pursuant to a request, approved by the Commonwealth, under the Emergency Management Assistance Compact enacted pursuant to § 44-146.28:1.

j. Members of the governing body of any county, city, or town in the Commonwealth, whenever coverage under this title is extended to such members by resolution or ordinance duly adopted.

k. Volunteers, officers and employees of any commission or board of any authority created or controlled by a local governing body, or any local agency or public service corporation owned, operated or controlled by such local governing body, whenever coverage under this title is authorized by resolution or ordinance duly adopted by the governing board of any county, city, town, or any political subdivision thereof.

l. Except as provided in subdivision 2 of this definition, volunteer firefighters, volunteer emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, members of volunteer search and rescue organizations, volunteer members of regional hazardous materials emergency response teams, volunteer members of community emergency response teams, and volunteer members of medical reserve corps, who shall be deemed employees of (i) the political subdivision or public institution of higher education in which the principal office of such volunteer fire company, volunteer emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police force, auxiliary or reserve deputy sheriff force, volunteer search and rescue organization, regional hazardous materials emergency response team, community emergency response team, or medical reserve corps is located if the governing body of such political subdivision or public institution of higher education has adopted a resolution acknowledging those persons as employees for the purposes of this title or (ii) in the case of volunteer firefighters or volunteer emergency medical services personnel, the fire companies or emergency medical services

agencies for which volunteer services are provided whenever such companies or squads elect to be included as an employer under this title.

m. (1) Volunteer firefighters, volunteer emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, members of volunteer search and rescue organizations and any other persons who respond to an incident upon request of the Department of Emergency Management, who shall be deemed employees of the Department of Emergency Management for the purposes of this title.

(2) Volunteer firefighters when engaged in firefighting activities under the supervision and control of the Department of Forestry, who shall be deemed employees of the Department of Forestry for the purposes of this title.

n. Any sole proprietor, shareholder of a stock corporation having only one shareholder, member of a limited liability company having only one member, or all partners of a business electing to be included as an employee under the workers' compensation coverage of such business if the insurer is notified of this election. Any sole proprietor, shareholder or member or the partners shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this title.

When any partner or sole shareholder, member or proprietor is entitled to receive coverage under this title, such person shall be subject to all provisions of this title as if he were an employee; however, the notices required under §§ 65.2-405 and 65.2-600 shall be given to the insurance carrier, and the panel of physicians required under § 65.2-603 shall be selected by the insurance carrier.

o. The independent contractor of any employer subject to this title at the election of such employer provided (i) the independent contractor agrees to such inclusion and (ii) unless the employer is self-insured, the employer's insurer agrees in writing to such inclusion. All or part of the cost of the insurance coverage of the independent contractor may be borne by the independent contractor.

When any independent contractor is entitled to receive coverage under this section, such person shall be subject to all provisions of this title as if he were an employee, provided that the notices required under §§ 65.2-405 and 65.2-600 are given either to the employer or its insurance carrier.

However, nothing in this title shall be construed to make the employees of any independent contractor the employees of the person or corporation employing or contracting with such independent contractor.

p. The legal representative, dependents and any other persons to whom compensation may be payable when any person covered as an employee under this title shall be deceased.

q. Jail officers and jail superintendents employed by regional jails or jail farm boards or authorities, whether created pursuant to Article 3.1 (§ 53.1-95.2 et seq.) or Article 5 (§ 53.1-105 et seq.) of Chapter 3 of Title 53.1, or an act of assembly.

r. AmeriCorps members who receive stipends in return for volunteering in local, state and nonprofit agencies in the Commonwealth, who shall be deemed employees of the Commonwealth for the purposes of this title.

s. Food Stamp recipients participating in the work experience component of the Food Stamp Employment and Training Program, who shall be deemed employees of the Commonwealth for the purposes of this title.

t. Temporary Assistance for Needy Families recipients not eligible for Medicaid participating in the work experience component of the Virginia Initiative for ~~Employment Not Welfare Program~~ *Education and Work*, who shall be deemed employees of the Commonwealth for the purposes of this title.

2. "Employee" shall not mean:

a. Officers and employees of the Commonwealth who are elected by the General Assembly, or appointed by the Governor, either with or without the confirmation of the Senate. This exception shall not apply to any "state employee" as defined in § 51.1-124.3 nor to Supreme Court Justices, judges of the Court of Appeals, judges of the circuit or district courts, members of the Workers' Compensation Commission and the State Corporation Commission, or the Superintendent of State Police.

b. Officers and employees of municipal corporations and political subdivisions of the Commonwealth who are elected by the people or by the governing bodies, and who act in purely administrative capacities and are to serve for a definite term of office.

c. Any person who is a licensed real estate salesperson, or a licensed real estate broker associated with a real estate broker, if (i) substantially all of the salesperson's or associated broker's remuneration is derived from real estate commissions, (ii) the services of the salesperson or associated broker are performed under a written contract specifying that the salesperson is an independent contractor, and (iii) such contract includes a provision that the salesperson or associated broker will not be treated as an employee for federal income tax purposes.

d. Any taxicab or executive sedan driver, provided the Commission is furnished evidence that such individual is excluded from taxation by the Federal Unemployment Tax Act.

e. Casual employees.

f. Domestic servants.

g. Farm and horticultural laborers, unless the employer regularly has in service more than three full-time employees.

h. Employees of any person, firm or private corporation, including any public service corporation, that has regularly in service less than three employees in the same business within this Commonwealth, unless such employees and their employers voluntarily elect to be bound by this title. However, this exemption shall not apply to the operators of underground coal mines or their employees. An executive officer who is not paid salary or wages on a regular basis at an

agreed upon amount and who rejects coverage under this title pursuant to § 65.2-300 shall not be included as an employee for purposes of this subdivision.

i. Employees of any common carrier by railroad engaging in commerce between any of the several states or territories or between the District of Columbia and any of the states or territories and any foreign nation or nations, and any person suffering injury or death while he is employed by such carrier in such commerce. This title shall not be construed to lessen the liability of any such common carrier or to diminish or take away in any respect any right that any person so employed, or the personal representative, kindred or relation, or dependent of such person, may have under the act of Congress relating to the liability of common carriers by railroad to their employees in certain cases, approved April 22, 1908, or under §§ 8.01-57 through 8.01-62 or § 56-441.

j. Employees of common carriers by railroad who are engaged in intrastate trade or commerce. However, this title shall not be construed to lessen the liability of such common carriers or take away or diminish any right that any employee or, in case of his death, the personal representative of such employee of such common carrier may have under §§ 8.01-57 through 8.01-61 or § 56-441.

k. Except as provided in subdivision l of this definition, a member of a volunteer fire department or volunteer emergency medical services agency when engaged in activities related principally to participation as an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of such fire department whether or not the volunteer continues to receive compensation from his employer for time away from the job.

l. Except as otherwise provided in this title, noncompensated employees and noncompensated directors of (i) corporations exempt from taxation pursuant to § 501(c)(3) of Title 26 of the United States Code (Internal Revenue Code of 1954) or (ii) property owners' associations as defined in § 55-509.

m. Any person performing services as a sports official for an entity sponsoring an interscholastic or intercollegiate sports event or any person performing services as a sports official for a public entity or a private, nonprofit organization which sponsors an amateur sports event. For the purposes of this subdivision, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper or other person who is a neutral participant in a sports event. This shall not include any person, otherwise employed by an organization or entity sponsoring a sports event, who performs services as a sports official as part of his regular employment.

n. Any person who suffers an injury on or after July 1, 2012, for which there is jurisdiction under either the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 901 et seq., and its extensions, or the Merchant Marine Act of 1920, 46 U.S.C. § 30104 et seq. However, this title shall not be construed to eliminate or diminish any right that any person or, in the case of the person's death, his personal representative, may have under either the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 901 et seq., and its extensions, or the Merchant Marine Act of 1920, 46 U.S.C. § 30104 et seq.

o. An owner-operator of a motor vehicle that is leased with or to a common or contract carrier in the trucking industry if (i) the owner-operator performs services for the carrier pursuant to a contract that provides that the owner-operator is an independent contractor and shall not be treated as an employee for purposes of the Federal Insurance Contributions Act, 26 U.S.C. § 3101 et seq., Social Security Act of 1935, P.L. 74-271, federal unemployment tax laws, and federal income tax laws and (ii) each of the following factors is present:

- (1) The owner-operator is responsible for the maintenance of the vehicle;
- (2) The owner-operator bears the principal burden of the vehicle's operating costs;
- (3) The owner-operator is the driver;

(4) The owner-operator's compensation is based on factors related to the work performed and not on the basis of hours or time expended; and

- (5) The owner-operator determines the method and means of performing the service.

"Employer" includes (i) any person, the Commonwealth or any political subdivision thereof and any individual, firm, association or corporation, or the receiver or trustee of the same, or the legal representative of a deceased employer, using the service of another for pay and (ii) any volunteer fire company or volunteer emergency medical services agency electing to be included and maintaining coverage as an employer under this title. If the employer is insured, it includes his insurer so far as applicable.

"Executive officer" means (i) the president, vice-president, secretary, treasurer or other officer elected or appointed in accordance with the charter and bylaws of a corporation and (ii) the managers elected or appointed in accordance with the articles of organization or operating agreement of a limited liability company. However, "executive officer" does not include (a) noncompensated officers of corporations exempt from taxation pursuant to § 501(c)(3) of Title 26 of the United States Code (Internal Revenue Code of 1954) or (b) noncompensated officers of a property owners' association as such term is defined in § 55-509.

"Filed" means hand delivered to the Commission's office in Richmond or any regional office maintained by the Commission; sent by means of electronic transmission approved by the Commission; sent by facsimile transmission; or posted at any post office of the United States Postal Service by certified or registered mail. Filing by first-class mail, electronic transmission, or facsimile transmission shall be deemed completed only when the document or other material transmitted reaches the Commission or its designated agent.

"Injury" means only injury by accident arising out of and in the course of the employment or occupational disease as defined in Chapter 4 (§ 65.2-400 et seq.) and does not include a disease in any form, except when it results naturally and

unavoidably from either of the foregoing causes. Such term shall not include any injury, disease or condition resulting from an employee's voluntary:

1. Participation in employer-sponsored off-duty recreational activities which are not part of the employee's duties; or
2. Use of a motor vehicle that was provided to the employee by a motor vehicle dealer as defined by § 46.2-1500 and bears a dealer's license plate as defined by § 46.2-1550 for (i) commuting to or from work or (ii) any other nonwork activity.

Such term shall include any injury, disease or condition:

1. Arising out of and in the course of the employment of (a) an employee of a hospital as defined in § 32.1-123; (b) an employee of a health care provider as defined in § 8.01-581.1; (c) an employee of the Department of Health or a local department of health; (d) a member of a search and rescue organization; or (e) any person described in clauses (i) through (iv), (vi), and (ix) of subsection A of § 65.2-402.1 otherwise subject to the provisions of this title; and

2. Resulting from (a) the administration of vaccinia (smallpox) vaccine, Cidofir and derivatives thereof, or Vaccinia Immune Globulin as part of federally initiated smallpox countermeasures, or (b) transmission of vaccinia in the course of employment from an employee participating in such countermeasures to a coemployee of the same employer.

"Professional employer organization" means any person that enters into a written agreement with a client company to provide professional employer services.

"Professional employer services" means services provided to a client company pursuant to a written agreement with a professional employer organization whereby the professional employer organization initially employs all or a majority of a client company's workforce and assumes responsibilities as an employer for all coemployees that are assigned, allocated, or shared by the agreement between the professional employer organization and the client company.

"Staffing service" means any person, other than a professional employer organization, that hires its own employees and assigns them to a client to support or supplement the client's workforce. It includes temporary staffing services that supply employees to clients in special work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects.

**§ 65.2-500. Compensation for total incapacity; computation of average wage; exclusion of AmeriCorps members, certain Food Stamp Employment and Training Program participants, and certain Temporary Assistance for Needy Families participants.**

A. Except as provided in subsections E, F and G, when the incapacity for work resulting from the injury is total, the employer shall pay, or cause to be paid, as hereinafter provided, to the injured employee during such total incapacity, a weekly compensation equal to 66 2/3 percent of his average weekly wages, with a minimum not less than 25 percent and a maximum of not more than 100 percent of the average weekly wage of the Commonwealth as defined herein. In any event, income benefits shall not exceed the average weekly wage of the injured employee. Any farm employer who continues to furnish benefits while the employee is incapacitated shall be given credit for the value of such benefits so furnished when computing the compensation due the employee.

B. For the purpose of this section the average wage in the Commonwealth shall be determined by the Commission as follows: On or before January 1 of each year, the total wages, excluding wages of United States government employees, reported on contribution reports to the Virginia Employment Commission for the 12-month period ending the preceding June 30 shall be divided by the average monthly number of insured workers (determined by dividing the total insured workers reported for that 12-month period by 12). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest dollar. The average weekly wage as so determined shall be applicable for the full period during which income benefits are payable, when the date of occurrence of injury or of disablement in the case of disease falls within the year commencing with the July 1 following the date of determination.

C. The minimum or the maximum weekly income benefits shall not be changed for any year unless the computation herein provided results in an increase or decrease of \$2 or more, raised to the next even dollar in the level of the minimum or the maximum weekly income benefits.

D. The weekly compensation on account of total and permanent incapacity as defined by subsection C of § 65.2-503 shall continue for the lifetime of the injured employee without limit as to total amount.

E. AmeriCorps members as defined in subdivision r of § 65.2-101 shall not be eligible to receive weekly compensation for total incapacity, whether permanent or temporary, regardless of whether the injury results in death.

F. Food Stamp recipients participating in the work experience component of the Food Stamp Employment and Training Program as defined in subdivision s of § 65.2-101 shall not be eligible to receive weekly compensation for total incapacity, whether permanent or temporary, regardless of whether the injury results in death.

G. Temporary Assistance for Needy Families recipients participating in the work experience component of the Virginia Initiative for ~~Employment Not Welfare Program~~ *Education and Work* as defined in subdivision t of § 65.2-101 shall not be eligible to receive weekly compensation for total incapacity, whether permanent or temporary, regardless of whether the injury results in death.

**§ 65.2-502. Compensation for partial incapacity; exclusion of AmeriCorps members, certain Food Stamp Employment and Training Program participants, and certain Temporary Assistance for Needy Families participants.**

A. Except as otherwise provided in § 65.2-503 or 65.2-510, or as provided in subsections B, C and D, when the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid, as hereinafter provided, to the injured employee during such incapacity a weekly compensation equal to 66 2/3 percent of the difference between his

average weekly wages before the injury and the average weekly wages which he is able to earn thereafter, but not more than 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500. For purposes of calculating an injured employee's post-injury average weekly wage, the following rules shall apply to commissioned employees, self-employed income, and income derived from an employer in which the injured worker or their immediate family has an ownership interest: if the period of partial incapacity exists for 13 weeks or less, the injured employee's post-injury average weekly wage shall be computed by dividing the employee's total earnings during the first two weeks of partial incapacity by two, subject to retroactive adjustments as provided hereinafter. If the period of partial incapacity exists for more than 13 weeks, the injured employee's post-injury average weekly wage for each 13-week interval shall be computed by dividing the employee's total earnings during the period of partial incapacity by the number of weeks included in such period; however, if an injured employee's period of partial incapacity ends after the close of a 13-week interval but before the close of the next 13-week interval, the injured employee's post-injury average weekly wage for such portion of the subsequent 13-week interval shall be calculated by dividing the employee's total earnings during the period of partial incapacity by the number of weeks included in such period. When an injured employee is under a continuing award of temporary partial benefits, the employer or the employee shall be entitled to seek a retroactive adjustment of the temporary partial rate for the 90 days preceding the application seeking such adjustment of the temporary partial rate computed in accordance with the above method of calculation. Any resulting amount due to the employee shall be paid to the employee. Any resulting credit due to the employer may be offset dollar for dollar against future compensation benefits due the injured employee, subject to the provisions of § 65.2-520. The employee is required pursuant to § 65.2-712 to immediately disclose increases in his earnings. For all other employments, the employee's post-injury average weekly wage may, in the Commission's discretion, be calculated using the preceding formula or a week-to-week calculation. In case the partial incapacity begins after a period of total incapacity, the latter period shall be deducted from the maximum period herein allowed for partial incapacity. However, the employer shall not be required to pay, or cause to be paid, compensation under this section to any injured employee not eligible for lawful employment; nor shall any such injured employee not eligible for lawful employment who is partially incapacitated be entitled during partial incapacity to receive temporary total benefits under § 65.2-500.

B. AmeriCorps members as defined in subdivision r of § 65.2-101 shall not be eligible to receive weekly compensation for partial incapacity, whether permanent or temporary, regardless of whether the injury results in death.

C. Food Stamp recipients participating in the work experience component of the Food Stamp Employment and Training Program as defined in subdivision s of § 65.2-101 shall not be eligible to receive weekly compensation for partial incapacity, whether permanent or temporary, regardless of whether the injury results in death.

D. Temporary Assistance for Needy Families recipients participating in the work experience component of the Virginia Initiative for ~~Employment Not Welfare Program~~ *Education and Work* as defined in subdivision t of § 65.2-101 shall not be eligible to receive weekly compensation for partial incapacity, whether permanent or temporary, regardless of whether the injury results in death.

**§ 65.2-512. Compensation to dependents of an employee killed; burial expenses.**

A. Except as provided in subsections F, G and H, if death results from the accident within nine years, the employer shall pay, or cause to be paid, compensation in weekly payments equal to 66 2/3 percent of the employee's average weekly wages, but not more than 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500 nor less than 25 percent of the average weekly wage as defined therein:

1. To those persons presumed to be wholly dependent upon the deceased employee as set forth in subdivisions A 1, A 2, and A 3 of § 65.2-515, for a period of 500 weeks from the date of injury; or

2. If there are no total dependents pursuant to subdivision A 1, A 2, or A 3 of § 65.2-515, to those persons presumed to be wholly dependent as set forth in subdivision A 4 of § 65.2-515, and to those determined to be wholly dependent in fact, for a period of 400 weeks from the date of injury; or

3. If there are no total dependents, to partial dependents in fact, for a period of 400 weeks from the date of injury.

B. The employer shall also pay burial expenses not exceeding \$10,000 and reasonable transportation expenses for the deceased not exceeding \$1,000.

C. Benefits shall be divided equally among total dependents, to the exclusion of partial dependents. If there are no total dependents, benefits shall be divided among partial dependents according to the dependency of each upon the earnings of the employee at the time of the injury, in the proportion that partial dependency bears to total dependency.

D. If benefits are terminated as to any member of a class herein, that member's share shall be divided among the remaining members of the class proportionately according to their dependency.

E. When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments but shall not continue for a period longer than specified in subsection A of this section.

F. No benefits shall be paid pursuant to this section to the dependents of an AmeriCorps member as defined in subdivision r of § 65.2-101.

G. No benefits shall be paid pursuant to subsections A, C, D or E to the dependents of a Food Stamp recipient participating in the work experience component of the Food Stamp Employment and Training Program as defined in subdivision s of § 65.2-101.

H. No benefits shall be paid pursuant to subsections A, C, D or E to the dependents of a Temporary Assistance for Needy Families recipient participating in the work experience component of the Virginia Initiative for ~~Employment Net Welfare Program~~ *Education and Work* as defined in subdivision t of § 65.2-101.

## CHAPTER 211

*An Act to amend and reenact §§ 32.1-325 and 38.2-3418.16 of the Code of Virginia, relating to telemedicine services; coverage.*

[H 1970]

Approved March 5, 2019

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

**1. That §§ 32.1-325 and 38.2-3418.16 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.**

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by

federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for

medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines; ~~and~~

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3); *and*

26. *A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services.*

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement pursuant with a home care organization pursuant to subsection E of § 32.1-162.13.

6. (Expires January 1, 2020) Provide payments or transfers pursuant to § 457 of the Internal Revenue Code to the deferred compensation plan described in § 51.1-602 on behalf of an individual who is a dentist or an oral and maxillofacial surgeon providing services as an independent contractor pursuant to a Medicaid agreement or contract under this section. Notwithstanding the provisions of § 51.1-600, an "employee" for purposes of Chapter 6 (§ 51.1-600 et seq.) of Title 51.1 shall include an independent contractor as described in this subdivision.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

**§ 38.2-3418.16. Coverage for telemedicine services.**

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine services, as provided in this section.

B. As used in this section; "~~telemedicine services~~,":

*"Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.*

*"Telemedicine services" as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient, providing remote patient monitoring services, or consulting with other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.*

C. An insurer, corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

D. An insurer, corporation, or health maintenance organization shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services; however, such insurer, corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact.

E. Nothing shall preclude the insurer, corporation, or health maintenance organization from undertaking utilization review to determine the appropriateness of telemedicine services, provided that such appropriateness is made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan. Any such utilization review shall not require pre-authorization of emergent telemedicine services.

F. An insurer, corporation, or health maintenance organization may offer a health plan containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services, provided that the deductible, copayment, or coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through face-to-face diagnosis, consultation, or treatment.

G. No insurer, corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

H. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2011, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

I. This section shall not apply to short-term travel, accident-only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

*J. The coverage required by this section shall include the use of telemedicine technologies as it pertains to medically necessary remote patient monitoring services to the full extent that these services are available.*

## CHAPTER 212

*An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to possession and administration of naloxone; school nurses.*

[H 2318]

Approved March 5, 2019

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

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

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

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the

direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Y. Notwithstanding any other law or regulation to the contrary, a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423 may dispense naloxone to a person who has completed a training program on the administration of naloxone for opioid overdose reversal approved by the Department of Behavioral Health and Developmental Services, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber, (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, and (iii) without charge or compensation. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

## CHAPTER 213

*An Act to amend and reenact §§ 32.1-263 and 54.1-2915 of the Code of Virginia, relating to death certificates; medical certifications; electronic filing.*

[H 2445]

Approved March 5, 2019

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

**1. That §§ 32.1-263 and 54.1-2915 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-263. Filing death certificates; medical certification; investigation by Office of the Chief Medical Examiner.**

A. A death certificate, including, if known, the social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342 of the deceased, shall be filed for each death that occurs in the Commonwealth. Non-electronically filed death certificates shall be filed with the registrar of any district in the Commonwealth within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Electronically filed death certificates shall be filed with the State Registrar of Vital Records through the Electronic Death Registration System within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Any death certificate shall be registered by such registrar if it has been completed and filed in accordance with the following requirements:

1. If the place of death is unknown, but the dead body is found in the Commonwealth, the death shall be registered in the Commonwealth and the place where the dead body is found shall be shown as the place of death. If the date of death is

unknown, it shall be determined by approximation, taking into consideration all relevant information, including information provided by the immediate family regarding the date and time that the deceased was last seen alive, if the individual died in his home; and

2. When death occurs in a moving conveyance, in the United States of America and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in the Commonwealth and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in the Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

B. The licensed funeral director, funeral service licensee, office of the state anatomical program, or next of kin as defined in § 54.1-2800 who first assumes custody of a dead body shall complete the certificate of death. He shall obtain personal data of the deceased necessary to complete the certificate of death, including the social security number of the deceased or control number issued to the deceased by the Department of Motor Vehicles pursuant to § 46.2-342, from the best qualified person or source available and obtain the medical certification from the person responsible therefor.

If a licensed funeral director, funeral service licensee, or representative of the office of the state anatomical program completes the certificate of death, he shall file the certificate of death with the State Registrar of Vital Records electronically using the Electronic Death Registration System and in accordance with the requirements of subsection A. If a member of the next of kin of the deceased completes the certificate of death, he shall file the certificate of death in accordance with the requirements of subsection A but shall not be required to file the certificate of death electronically.

C. The medical certification shall be completed, ~~signed in black or dark blue ink, and returned to the funeral director and filed electronically with the State Registrar of Vital Records using the Electronic Death Registration System~~ within 24 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, or by the physician that pronounces death pursuant to § 54.1-2972. If the death occurred while under the care of a hospice provider, the medical certification shall be completed by the decedent's health care provider and filed electronically with the State Registrar of Vital Records using the Electronic Death Registration System for completion of the death certificate.

In the absence of such physician or with his approval, the certificate may be completed and ~~signed~~ filed by the following: (i) another physician employed or engaged by the same professional practice; (ii) a physician assistant supervised by such physician; (iii) a nurse practitioner practicing in accordance with the provisions of § 54.1-2957; (iv) the chief medical officer or medical director, or his designee, of the institution, hospice, or nursing home in which death occurred; (v) a physician specializing in the delivery of health care to hospitalized or emergency department patients who is employed by or engaged by the facility where the death occurred; (vi) the physician who performed an autopsy upon the decedent; (vii) an individual to whom the physician has delegated authority to complete and ~~sign~~ file the certificate, if such individual has access to the medical history of the case and death is due to natural causes; or (viii) a physician *who is not licensed in another state by the Board of Medicine* who was in charge of the patient's care for the illness or condition that resulted in death. *A physician described in clause (viii) who completes a certificate in accordance with this subsection shall not be required to register with the Electronic Death Registration System or complete the certificate electronically.*

D. When inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, the Chief Medical Examiner shall cause an investigation of the cause of death to be made and the medical certification portion of the death certificate to be completed and ~~signed~~ filed within 24 hours after being notified of the death. If the Office of the Chief Medical Examiner refuses jurisdiction, the physician last furnishing medical care to the deceased shall prepare and ~~sign~~ file the medical certification portion of the death certificate.

E. If the death is a natural death and a death certificate is being prepared pursuant to § 54.1-2972 and the physician, nurse practitioner, or physician assistant is uncertain about the cause of death, he shall use his best medical judgment to certify a reasonable cause of death or contact the health district physician director in the district where the death occurred to obtain guidance in reaching a determination as to a cause of death and document the same.

If the cause of death cannot be determined within 24 hours after death, the medical certification shall be completed as provided by regulations of the Board. The attending physician or the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282 shall give the funeral director or person acting as such notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician, the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282.

F. A physician, nurse practitioner, ~~or~~ physician assistant, *or individual delegated authority to complete and file a certificate of death by a physician* who, in good faith, files ~~or signs~~ a certificate of death or determines the cause of death shall be immune from civil liability, only for such ~~signature filing~~ and determination of causes of death on such certificate, absent gross negligence or willful misconduct.

#### **§ 54.1-2915. Unprofessional conduct; grounds for refusal or disciplinary action.**

A. The Board may refuse to issue a certificate or license to any applicant; reprimand any person; place any person on probation for such time as it may designate; impose a monetary penalty or terms as it may designate on any person; suspend any license for a stated period of time or indefinitely; or revoke any license for any of the following acts of unprofessional conduct:

1. False statements or representations or fraud or deceit in obtaining admission to the practice, or fraud or deceit in the practice of any branch of the healing arts;
  2. Substance abuse rendering him unfit for the performance of his professional obligations and duties;
  3. Intentional or negligent conduct in the practice of any branch of the healing arts that causes or is likely to cause injury to a patient or patients;
  4. Mental or physical incapacity or incompetence to practice his profession with safety to his patients and the public;
  5. Restriction of a license to practice a branch of the healing arts in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction, or for an entity of the federal government;
  6. Undertaking in any manner or by any means whatsoever to procure or perform or aid or abet in procuring or performing a criminal abortion;
  7. Engaging in the practice of any of the healing arts under a false or assumed name, or impersonating another practitioner of a like, similar, or different name;
  8. Prescribing or dispensing any controlled substance with intent or knowledge that it will be used otherwise than medicinally, or for accepted therapeutic purposes, or with intent to evade any law with respect to the sale, use, or disposition of such drug;
  9. Violating provisions of this chapter on division of fees or practicing any branch of the healing arts in violation of the provisions of this chapter;
  10. Knowingly and willfully committing an act that is a felony under the laws of the Commonwealth or the United States, or any act that is a misdemeanor under such laws and involves moral turpitude;
  11. Aiding or abetting, having professional connection with, or lending his name to any person known to him to be practicing illegally any of the healing arts;
  12. Conducting his practice in a manner contrary to the standards of ethics of his branch of the healing arts;
  13. Conducting his practice in such a manner as to be a danger to the health and welfare of his patients or to the public;
  14. Inability to practice with reasonable skill or safety because of illness or substance abuse;
  15. Publishing in any manner an advertisement relating to his professional practice that contains a claim of superiority or violates Board regulations governing advertising;
  16. Performing any act likely to deceive, defraud, or harm the public;
  17. Violating any provision of statute or regulation, state or federal, relating to the manufacture, distribution, dispensing, or administration of drugs;
  18. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.) and this chapter or regulations of the Board;
  19. Engaging in sexual contact with a patient concurrent with and by virtue of the practitioner and patient relationship or otherwise engaging at any time during the course of the practitioner and patient relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive;
  20. Conviction in any state, territory, or country of any felony or of any crime involving moral turpitude;
  21. Adjudication of legal incompetence or incapacity in any state if such adjudication is in effect and the person has not been declared restored to competence or capacity; ~~or~~
  22. Performing the services of a medical examiner as defined in 49 C.F.R. § 390.5 if, at the time such services are performed, the person performing such services is not listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R. § 390.109 or fails to meet the requirements for continuing to be listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R. § 390.111; *or*
  23. *Failing or refusing to complete and file electronically using the Electronic Death Registration System any medical certification in accordance with the requirements of subsection C of § 32.1-263. However, failure to complete and file a medical certification electronically using the Electronic Death Registration System in accordance with the requirements of subsection C of § 32.1-263 shall not constitute unprofessional conduct if such failure was the result of a temporary technological or electrical failure or other temporary extenuating circumstance that prevented the electronic completion and filing of the medical certification using the Electronic Death Registration System.*
- B. The commission or conviction of an offense in another state, territory, or country, which if committed in Virginia would be a felony, shall be treated as a felony conviction or commission under this section regardless of its designation in the other state, territory, or country.
- C. The Board shall refuse to issue a certificate or license to any applicant if the candidate or applicant has had his certificate or license to practice a branch of the healing arts revoked or suspended, and has not had his certificate or license to so practice reinstated, in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction.

**2. That the provisions of the first enactment of this act shall become effective on January 1, 2020.**

**3. That every licensed physician of medicine or osteopathy, physician assistant, and nurse practitioner who practices (i) as a hospitalist or in the specialty of emergency medicine in a hospital or as a medical director at a nursing home located in the Commonwealth shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning July 1, 2019; (ii) in the specialty of family medicine or internal medicine shall register with the Electronic Death Registration System**

and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning October 1, 2019; (iii) in the specialty of oncology or general surgery shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning November 1, 2019; and (iv) in any other specialty and completes medical certifications of death pursuant to § 32.1-263 of the Code of Virginia, as amended by this act, shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning December 1, 2019.

4. That the Department of Health shall work with the Medical Society of Virginia, Virginia Hospital and Healthcare Association, Virginia Funeral Directors Association, Virginia Morticians' Association, Inc., Association of Independent Funeral Homes of Virginia, and other stakeholders to educate and encourage physicians, physician assistants, and nurse practitioners to timely register with and utilize the Electronic Death Registration System.

## CHAPTER 214

*An Act to amend and reenact §§ 54.1-3454 and 54.1-3456.1 of the Code of Virginia, relating to Drug Control Act; Schedule V; gabapentin.*

[H 2557]

Approved March 5, 2019

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

**1. That §§ 54.1-3454 and 54.1-3456.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-3454. Schedule V.**

The controlled substances listed in this section are included in Schedule V:

1. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

The Board may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subdivision 1 from the application of all or any part of this chapter and such substances so excepted may be dispensed pursuant to § 54.1-3416.

2. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

Pyrovalerone.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (also referred to as BRV; UCB-34714; Briviact);

Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]-2779;

*Gabapentin [1-(aminomethyl)cyclohexaneacetic acid];*

Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

**§ 54.1-3456.1. Drugs of concern.**

~~A.~~ The Board may promulgate regulations designating specific drugs and substances, including any controlled substance or other drug or substance where there has been or there is the actual or relative potential for abuse, as drugs of concern. Drugs or substances designated as drugs of concern shall be reported to the Department of Health Professions and shall be subject to reporting requirements for the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.).

~~B. Drugs and substances designated as drugs of concern shall include any material, compound, mixture, or preparation that contains any quantity of the substance tramadol or gabapentin, including its salts. Drugs and substances designated as drugs of concern shall not include any nonnarcotic drug that may be lawfully sold over the counter or behind the counter without a prescription.~~

2. That notwithstanding the provisions of this act or any other provision of law, any wholesale drug distributor licensed and regulated by the Board of Pharmacy and registered with and regulated by the U.S. Drug Enforcement Administration shall have until July 1, 2020, or within 6 months of final approval of compliance from the Board of Pharmacy and the U.S. Drug Enforcement Administration, whichever is earlier, to comply with the storage requirements for Schedule V controlled substances containing gabapentin.

## CHAPTER 215

*An Act to amend and reenact §§ 18.2-265.1 and 54.1-3466 of the Code of Virginia, relating to drug paraphernalia and controlled paraphernalia; fentanyl testing products.*

[H 2563]

Approved March 5, 2019

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

#### **1. That §§ 18.2-265.1 and 54.1-3466 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 18.2-265.1. Definition.**

As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana or a controlled substance. It includes, but is not limited to:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of marijuana or any species of plant which is a controlled substance or from which a controlled substance can be derived;
2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing marijuana or controlled substances;
3. Isomerization devices intended for use or designed for use in increasing the potency of marijuana or any species of plant which is a controlled substance;
4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or effectiveness of marijuana or controlled substances, *other than narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog;*
5. Scales and balances intended for use or designed for use in weighing or measuring marijuana or controlled substances;
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or designed for use in cutting controlled substances;
7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances;
9. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of marijuana or controlled substances;
10. Containers and other objects intended for use or designed for use in storing or concealing marijuana or controlled substances;
11. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body;
12. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - b. Water pipes;
  - c. Carburetion tubes and devices;
  - d. Smoking and carburetion masks;
  - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
  - f. Miniature cocaine spoons, and cocaine vials;
  - g. Chamber pipes;
  - h. Carburetor pipes;
  - i. Electric pipes;
  - j. Air-driven pipes;
  - k. Chillums;
  - l. Bongs;
  - m. Ice pipes or chillers.

**§ 54.1-3466. Possession or distribution of controlled paraphernalia; definition of controlled paraphernalia; evidence; exceptions.**

A. For purposes of this chapter, "controlled paraphernalia" means (i) a hypodermic syringe, needle, or other instrument or implement or combination thereof adapted for the administration of controlled dangerous substances by hypodermic injections under circumstances that reasonably indicate an intention to use such controlled paraphernalia for purposes of illegally administering any controlled drug or (ii) gelatin capsules, glassine envelopes, or any other container suitable for the packaging of individual quantities of controlled drugs in sufficient quantity to and under circumstances that reasonably indicate an intention to use any such item for the illegal manufacture, distribution, or dispensing of any such controlled drug. Evidence of such circumstances shall include, but not be limited to, close proximity of any such controlled paraphernalia to any adulterants or equipment commonly used in the illegal manufacture and distribution of controlled drugs including, but not limited to, scales, sieves, strainers, measuring spoons, staples and staplers, or procaine hydrochloride, mannitol, lactose, quinine, or any controlled drug, or any machine, equipment, instrument, implement, device, or combination thereof that is adapted for the production of controlled drugs under circumstances that reasonably indicate an intention to use such item or combination thereof to produce, sell, or dispense any controlled drug in violation of the provisions of this chapter. *"Controlled paraphernalia" does not include narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog.*

B. Except as authorized in this chapter, it is unlawful for any person to possess controlled paraphernalia.

C. Except as authorized in this chapter, it is unlawful for any person to distribute controlled paraphernalia.

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

E. The provisions of this section shall not apply to persons who have acquired possession and control of controlled paraphernalia in accordance with the provisions of this article or to any person who owns or is engaged in breeding or raising livestock, poultry, or other animals to which hypodermic injections are customarily given in the interest of health, safety, or good husbandry; or to hospitals, physicians, pharmacists, dentists, podiatrists, veterinarians, funeral directors and embalmers, persons to whom a permit has been issued, manufacturers, wholesalers, or their authorized agents or employees when in the usual course of their business, if the controlled paraphernalia lawfully obtained continue to be used for the legitimate purposes for which they were obtained.

F. The provisions of this section and of § 18.2-265.3 shall not apply to (i) a person who dispenses naloxone in accordance with the provisions of subsection Y of § 54.1-3408 and who, in conjunction with such dispensing of naloxone, dispenses or distributes hypodermic needles and syringes for injecting such naloxone or (ii) a person who possesses naloxone that has been dispensed in accordance with the provisions of subsection Y of § 54.1-3408 and possesses hypodermic needles and syringes for injecting such naloxone in conjunction with such possession of naloxone.

## CHAPTER 216

*An Act to amend and reenact § 19.2-11.01 of the Code of Virginia, relating to crime victim rights; notice of release of defendant found unrestorably incompetent or acquitted by reason of insanity.*

[H 2648]

Approved March 5, 2019

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

**1. That § 19.2-11.01 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-11.01. Crime victim and witness rights.**

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.

**1. Victim and witness protection and law-enforcement contacts.**

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which

may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) ~~of this title~~ and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305, 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.) ~~of this title~~, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § 19.2-11.2.

f. Victims of sexual assault, as defined in § 19.2-11.5, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ 19.2-11.5 et seq.).

g. *Upon the victim's request, the victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of the release of a defendant (i) who was found to be unrestorably incompetent and was committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 or (ii) who was acquitted by reason of insanity and committed pursuant to § 19.2-182.3.*

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to §§ 19.2-264.4 and 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.

Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

## 5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses, any telephone numbers, and email addresses may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

## 6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

## CHAPTER 217

*An Act to amend and reenact §§ 54.1-2400.1, 54.1-3500, and 54.1-3505 of the Code of Virginia, relating to the Board of Counseling; qualified mental health professionals.*

[H 2693]

Approved March 5, 2019

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

**1. That §§ 54.1-2400.1, 54.1-3500, and 54.1-3505 of the Code of Virginia are amended and reenacted as follows: § 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.**

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Licensed substance abuse treatment practitioner" means any person licensed to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Marriage and family therapist" means a person licensed to engage in the practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Mental health service provider" or "provider" refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, physician assistant, professional counselor, psychologist, qualified mental health professional, registered nurse, registered peer recovery specialist, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

"Professional counselor" means a person who practices counseling as defined in § 54.1-3500.

"Psychologist" means a person who practices psychology as defined in § 54.1-3600.

"Qualified mental health professional" ~~means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, the Department of Corrections, or a provider licensed by the Department of Behavioral Health and Developmental Services has the same meaning as provided in § 54.1-3500.~~

"Registered nurse" means a person licensed to practice professional nursing as defined in § 54.1-3000.

"Registered peer recovery specialist" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer recovery specialist shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.

"School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

"Social worker" means a person who practices social work as defined in § 54.1-3700.

B. A mental health service provider has a duty to take precautions to protect third parties from violent behavior or other serious harm only when the client has orally, in writing, or via sign language, communicated to the provider a specific and immediate threat to cause serious bodily injury or death to an identified or readily identifiable person or persons, if the provider reasonably believes, or should believe according to the standards of his profession, that the client has the intent and ability to carry out that threat immediately or imminently. If the third party is a child, in addition to taking precautions to protect the child from the behaviors in the above types of threats, the provider also has a duty to take precautions to protect the child if the client threatens to engage in behaviors that would constitute physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the threat has been communicated to the provider by the threatening client while the provider is engaged in his professional duties.

C. The duty set forth in subsection B is discharged by a mental health service provider who takes one or more of the following actions:

1. Seeks involuntary admission of the client under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.
2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential victim if the potential victim is under the age of 18.
3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or potential victim's place of residence or place of work, or place of work of the parent or guardian if the potential victim is under age 18, or both.
4. Takes steps reasonably available to the provider to prevent the client from using physical violence or other means of harm to others until the appropriate law-enforcement agency can be summoned and takes custody of the client.
5. Provides therapy or counseling to the client or patient in the session in which the threat has been communicated until the mental health service provider reasonably believes that the client no longer has the intent or the ability to carry out the threat.
6. In the case of a registered peer recovery specialist, or a qualified mental health professional who is not otherwise licensed by a health regulatory board at the Department of Health Professions, reports immediately to a licensed mental health service provider to take one or more of the actions set forth in this subsection.

D. A mental health service provider shall not be held civilly liable to any person for:

1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the threats described in subsection B made by his clients to potential third party victims or law-enforcement agencies or by taking any of the actions specified in subsection C.
2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause the third party serious physical harm.
3. Failing to take precautions other than those enumerated in subsection C to protect a potential third party victim from the client's violent behavior.

**§ 54.1-3500. Definitions.**

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

"Appraisal activities" means the exercise of professional judgment based on observations and objective assessments of a client's behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remediate identified problems or to make appropriate referrals.

"Board" means the Board of Counseling.

"Certified substance abuse counseling assistant" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.2.

"Certified substance abuse counselor" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.1.

"Counseling" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct, and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

"Marriage and family therapist" means a person trained in the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques.

"Marriage and family therapy" means the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques and delivery of services to individuals, couples, and families, singularly or in groups, for the purpose of treating such disorders.

"Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, standards, and methods of the counseling profession, which shall include appraisal, counseling, and referral activities.

"Practice of marriage and family therapy" means the appraisal and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques, which shall include assessment, treatment, and referral activities.

"Practice of substance abuse treatment" means rendering or offering to render substance abuse treatment to individuals, groups, organizations, or the general public.

"Professional counselor" means a person trained in the application of principles, standards, and methods of the counseling profession, including counseling interventions designed to facilitate an individual's achievement of human development goals and remediating mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.

~~"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, the Department of Corrections, or a provider licensed by the Department of Behavioral Health and Developmental Services includes qualified mental health professionals-adult and qualified mental health professionals-child.~~

*"Qualified mental health professional-adult" means a qualified mental health professional who provides collaborative mental health services for adults. A qualified mental health professional-adult shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.*

*"Qualified mental health professional-child" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative mental health services for children and adolescents up to 22 years of age. A qualified mental health professional-child shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.*

*"Qualified mental health professional-trainee" means a person who is receiving supervised training to qualify as a qualified mental health professional and is registered with the Board.*

"Referral activities" means the evaluation of data to identify problems and to determine advisability of referral to other specialists.

"Registered peer recovery specialist" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer recovery specialist shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a provider

licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.

"Residency" means a post-internship supervised clinical experience registered with the Board.

"Resident" means an individual who has submitted a supervisory contract to the Board and has received Board approval to provide clinical services in professional counseling under supervision.

"Substance abuse" and "substance dependence" mean a maladaptive pattern of substance use leading to clinically significant impairment or distress.

"Substance abuse treatment" means (i) the application of specific knowledge, skills, substance abuse treatment theory, and substance abuse treatment techniques to define goals and develop a treatment plan of action regarding substance abuse or dependence prevention, education, or treatment in the substance abuse or dependence recovery process and (ii) referrals to medical, social services, psychological, psychiatric, or legal resources when such referrals are indicated.

"Supervision" means the ongoing process, performed by a supervisor, of monitoring the performance of the person supervised and providing regular, documented individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person supervised.

#### **§ 54.1-3505. Specific powers and duties of the Board.**

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.

5. [Expired.]

6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.

7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.

8. To maintain a registry of persons who meet the requirements for supervision of residents. The Board shall make the registry of approved supervisors available to persons seeking residence status.

9. To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration, *and for the registration of persons receiving supervised training in order to qualify as a qualified mental health professional.*

10. To promulgate regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the Board of Behavioral Health and Developmental Services pursuant to § 37.2-203.

## **CHAPTER 218**

*An Act to amend and reenact § 63.2-611 of the Code of Virginia, relating to Virginia Initiative for Employment Not Welfare; transitional child care.*

[S 1145]

Approved March 5, 2019

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

**1. That § 63.2-611 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-611. Case management; support services; transitional support services.**

A. The Commissioner, through the local departments, with such funds as appropriated, shall offer families participating in VIEW intensive case management services throughout the family's participation in VIEW. Case management services shall include initial assessment of the full range of services that will be needed by each family including testing and evaluation, development of the individualized agreement of personal responsibility, and periodic reassessment of service needs and the agreement of personal responsibility. It shall be the goal of the Department to have a statewide intensive case management ratio not higher than the statewide average ratio in Title IV-F of the Social Security Act Job Opportunities and Basic Skills Training Program State Plan as the ratio existed on July 1, 1995.

B. Local departments are authorized to provide services to VIEW families throughout the family's participation in VIEW subject to regulations adopted by the Board, including:

1. Child care for the children of participants if:

a. The participant is employed and child-care services are required to enable the continued employment of the participant;

b. Child-care services are required to enable a participant to receive job placement, job training or education services; or

c. The participant is otherwise eligible for child care pursuant to Board regulations.

2. Transportation that will enable parental employment or participation in services required by the agreement of personal responsibility.

3. Job counseling, education and training, and job search assistance consistent with the purposes of VIEW.

4. Medical assistance.

C. A participant whose TANF financial assistance is terminated, either voluntarily or involuntarily, shall receive the following services for up to ~~twelve~~ 12 months after termination, if needed:

1. Assistance with child care if such assistance enables the individual to work *or the individual is enrolled in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia and is taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an industry-recognized credential, certification, or license;*

2. Assistance with transportation, if such transportation enables the individual to work;

3. Medical assistance, including transitional medical assistance for families with a working parent who becomes ineligible for TANF financial assistance because of increased earnings according to policies of the Virginia Department of Medical Assistance Services; and

4. Financial assistance of \$50 per month, if the participant is employed and is working at least 30 hours per week or more at the time of TANF closure and remains employed and continues to work at least 30 hours per week or more.

D. The Department or local departments may purchase or otherwise acquire motor vehicles from the centralized fleet of motor vehicles controlled by the Commissioner of Highways under Article 7 (§ 2.2-1173 et seq.) of Chapter 11 of Title 2.2 and sell or otherwise transfer such vehicles to TANF recipients or former recipients. Purchases, sales, and other transfers of vehicles under this subsection shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), or the provisions of §§ 2.2-1124, 2.2-1153, 2.2-1156, and 2.2-1177 relating to the sale, purchase, and transfer of surplus motor vehicles and other surplus state property.

E. Nothing in this section shall be construed or interpreted to create a cause of action or administrative claim based upon a right or entitlement to any specific services or an exemption or waiver from any provision of VIEW.

## CHAPTER 219

*An Act to amend and reenact §§ 32.1-325 and 38.2-3418.16 of the Code of Virginia, relating to telemedicine services; coverage.*

[S 1221]

Approved March 5, 2019

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

**1. That §§ 32.1-325 and 38.2-3418.16 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.**

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash

surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one

such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines; ~~and~~

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3); *and*

26. *A provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services.*

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

6. (Expires January 1, 2020) Provide payments or transfers pursuant to § 457 of the Internal Revenue Code to the deferred compensation plan described in § 51.1-602 on behalf of an individual who is a dentist or an oral and maxillofacial surgeon providing services as an independent contractor pursuant to a Medicaid agreement or contract under this section. Notwithstanding the provisions of § 51.1-600, an "employee" for purposes of Chapter 6 (§ 51.1-600 et seq.) of Title 51.1 shall include an independent contractor as described in this subdivision.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the

Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

**§ 38.2-3418.16. Coverage for telemedicine services.**

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine services, as provided in this section.

B. As used in this section, "~~telemedicine services~~,"

*"Remote patient monitoring services" means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.*

*"Telemedicine services" as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient, providing remote patient monitoring services, or consulting with other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.*

C. An insurer, corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

D. An insurer, corporation, or health maintenance organization shall not be required to reimburse the treating provider or the consulting provider for technical fees or costs for the provision of telemedicine services; however, such insurer, corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis that the insurer, corporation, or health maintenance organization is responsible for coverage for the provision of the same service through face-to-face consultation or contact.

E. Nothing shall preclude the insurer, corporation, or health maintenance organization from undertaking utilization review to determine the appropriateness of telemedicine services, provided that such appropriateness is made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan. Any such utilization review shall not require pre-authorization of emergent telemedicine services.

F. An insurer, corporation, or health maintenance organization may offer a health plan containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services, provided that the

deductible, copayment, or coinsurance does not exceed the deductible, copayment, or coinsurance applicable if the same services were provided through face-to-face diagnosis, consultation, or treatment.

G. No insurer, corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

H. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2011, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

I. This section shall not apply to short-term travel, accident-only, or limited or specified disease policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

J. *The coverage required by this section shall include the use of telemedicine technologies as it pertains to medically necessary remote patient monitoring services to the full extent that these services are available.*

## CHAPTER 220

*An Act to amend the Code of Virginia by adding in Article 4 of Chapter 4 of Title 37.2 a section numbered 37.2-431.1, relating to Department of Behavioral Health and Developmental Services; certification of recovery residences.*

[H 2045]

Approved March 5, 2019

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

**1. That the Code of Virginia is amended by adding in Article 4 of Chapter 4 of Title 37.2 a section numbered 37.2-431.1 as follows:**

**§ 37.2-431.1. Certified recovery residences.**

A. *As used in this section:*

*"Certified recovery residence" means a recovery residence that has been certified by the Department.*

*"Credentialing entity" means a nonprofit organization that develops and administers professional certification programs according to nationally recognized recovery housing standards.*

*"Recovery residence" means a housing facility that provides alcohol-free and illicit-drug-free housing to individuals with substance abuse disorders and individuals with co-occurring mental illnesses and substance abuse disorders that does not include clinical treatment services.*

*B. No person shall advertise, represent, or otherwise imply to the public that a recovery residence or other housing facility is a certified recovery residence unless such recovery residence or other housing facility has been certified by the Department in accordance with regulations adopted by the Board. Such regulations may require accreditation by or membership in a credentialing agency as a condition of certification.*

*C. The Department shall maintain a list of certified recovery residences on its website.*

*D. The Department may institute civil proceedings in the name of the Commonwealth to enjoin any person from violating the provisions of this section and to recover a civil penalty of at least \$200 but no more than \$1,000 for each violation. Such proceedings shall be brought in the general district or circuit court for the county or city in which the violation occurred or where the defendant resides. Civil penalties assessed under this section shall be paid into the Behavioral Health and Developmental Services Trust Fund established in § 37.2-318.*

## CHAPTER 221

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

[H 2158]

Approved March 5, 2019

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

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

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

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

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

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

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

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

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

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

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

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

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

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

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

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

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

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

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

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

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

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

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

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

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

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

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

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from

administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

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

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

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

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

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

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

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

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

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

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

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

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

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, *a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1*, may dispense naloxone or other opioid antagonist used for overdose reversal and a person *to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection* may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Y. Notwithstanding any other law or regulation to the contrary, a person who is ~~authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423~~ may dispense naloxone to a person who has ~~completed a training program~~ *received instruction on the administration of naloxone for opioid overdose reversal approved by the Department of Behavioral Health and Developmental Services*, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber; *and* (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health; ~~and (iii) without charge or compensation. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. *No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed.* A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.~~

Z. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

## CHAPTER 222

*An Act to amend and reenact § 32.1-46 of the Code of Virginia, relating to required immunizations; acellular pertussis booster.*

[H 2215]

Approved March 5, 2019

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

**1. That § 32.1-46 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-46. Immunization of patients against certain diseases.**

A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized in accordance with the Immunization Schedule developed and published by the Centers for Disease Control and Prevention (CDC), Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). The required immunizations for attendance at a public or private elementary, middle or secondary school, child care center, nursery school, family day care home or developmental center shall be those set forth in the State Board of Health Regulations for the Immunization of School Children. The Board's regulations shall at a minimum require:

1. A minimum of three properly spaced doses of hepatitis B vaccine (HepB).
2. A minimum of three or more properly spaced doses of diphtheria toxoid. One dose shall be administered on or after the fourth birthday.
3. A minimum of three or more properly spaced doses of tetanus toxoid. One dose shall be administered on or after the fourth birthday.
4. A minimum of three or more properly spaced doses of acellular pertussis vaccine. One dose shall be administered on or after the fourth birthday. A booster dose shall be administered prior to entry into the ~~sixth~~ seventh grade.
5. Two or three primary doses of Haemophilus influenzae type b (Hib) vaccine, depending on the manufacturer, for children up to 60 months of age.
6. Two properly spaced doses of live attenuated measles (rubeola) vaccine. The first dose shall be administered at age 12 months or older.
7. One dose of live attenuated rubella vaccine shall be administered at age 12 months or older.
8. One dose of live attenuated mumps vaccine shall be administered at age 12 months or older.
9. All children born on and after January 1, 1997, shall be required to have one dose of varicella vaccine on or after 12 months.
10. Three or more properly spaced doses of oral polio vaccine (OPV) or inactivated polio vaccine (IPV). One dose shall be administered on or after the fourth birthday. A fourth dose shall be required if the three dose primary series consisted of a combination of OPV and IPV.
11. One to four doses, dependent on age at first dose, of properly spaced pneumococcal conjugate (PCV) vaccine for children up to 60 months of age.
12. Three doses of properly spaced human papillomavirus (HPV) vaccine for females. The first dose shall be administered before the child enters the sixth grade.

The parent, guardian or person standing in loco parentis may have such child immunized by a physician, physician assistant, nurse practitioner, registered nurse, or licensed practical nurse, or a pharmacist who administers pursuant to a valid prescription, or may present the child to the appropriate local health department, which shall administer the vaccines required by the State Board of Health Regulations for the Immunization of School Children without charge to the parent of or person standing in loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the child is eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq. (CHAMPUS). In all cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or CHAMPUS, the Department shall seek reimbursement from the health carrier, Medicare, Medicaid, CHIP, or CHAMPUS for all allowable costs associated with the provision of the vaccine. For the purposes of this section, the Department shall be deemed a participating provider with a managed care health insurance plan as defined in § 32.1-137.1.

B. A physician, physician assistant, nurse practitioner, registered nurse, licensed practical nurse, pharmacist, or local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate that shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.

C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, regulations of the Board.

D. The provisions of this section shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board;
2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia, a licensed nurse practitioner, or a local health department that states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child; or
3. Because the human papillomavirus is not communicable in a school setting, a parent or guardian, at the parent's or guardian's sole discretion, may elect for the parent's or guardian's child not to receive the human papillomavirus vaccine, after having reviewed materials describing the link between the human papillomavirus and cervical cancer approved for such use by the Board.

E. For the purpose of protecting the public health by ensuring that each child receives age-appropriate immunizations, any physician, physician assistant, nurse practitioner, licensed institutional health care provider, local or district health department, the Virginia Immunization Information System, and the Department of Health may share immunization and

patient locator information without parental authorization, including, but not limited to, the month, day, and year of each administered immunization; the patient's name, address, telephone number, birth date, and social security number; and the parents' names. The immunization information; the patient's name, address, telephone number, birth date, and social security number; and the parents' names shall be confidential and shall only be shared for the purposes set out in this subsection.

F. The State Board of Health shall review this section annually and make recommendations for revision by September 1 to the Governor, the General Assembly, and the Joint Commission on Health Care.

## CHAPTER 223

*An Act to amend the Code of Virginia by adding a section numbered 54.1-2910.3:1, relating to Medicaid recipients; treatment involving opioids; payment.*

[H 2558]

Approved March 5, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 54.1-2910.3:1 as follows:**

**§ 54.1-2910.3:1. Medicaid recipients; treatment involving prescription of opioids; payment.**

*A. No provider licensed pursuant to this chapter shall request or require a patient who is a recipient of medical assistance services pursuant to the state plan for medical assistance and who is a recipient of health care services involving (i) the prescription of an opioid for the management of pain or (ii) the prescription of buprenorphine-containing products, methadone, or other opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration for medication-assisted treatment of opioid addiction to pay costs associated with the provision of such service out-of-pocket. The prohibition on payment of costs shall not apply to a recipient's cost-sharing amounts required by the state plan for medical assistance.*

*B. Every provider who does not accept payment from the Department of Medical Assistance Services for health care services who intends to provide health care services described in subsection A to a patient who is a recipient of medical assistance services pursuant to the state plan for medical assistance shall, prior to providing such health care services, provide written notice to such patient that (i) the Commonwealth's program of medical assistance services covers the health care services described in subsection A and the Department of Medical Assistance Services will pay for such health care services if such health care services are determined to meet the Department of Medical Assistance Service's medical necessity criteria and (ii) the provider does not participate in the Commonwealth's program of medical assistance and will not accept payment from the Department of Medical Assistance Services for such health care services. Such notice and the patient's acknowledgment of such notice shall be documented in the patient's medical record.*

## CHAPTER 224

*An Act to amend and reenact §§ 32.1-263 and 54.1-2915 of the Code of Virginia, relating to death certificates; medical certifications; electronic filing.*

[S 1439]

Approved March 5, 2019

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

**1. That §§ 32.1-263 and 54.1-2915 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-263. Filing death certificates; medical certification; investigation by Office of the Chief Medical Examiner.**

A. A death certificate, including, if known, the social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342 of the deceased, shall be filed for each death that occurs in the Commonwealth. Non-electronically filed death certificates shall be filed with the registrar of any district in the Commonwealth within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Electronically filed death certificates shall be filed with the State Registrar of Vital Records through the Electronic Death Registration System within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Any death certificate shall be registered by such registrar if it has been completed and filed in accordance with the following requirements:

1. If the place of death is unknown, but the dead body is found in the Commonwealth, the death shall be registered in the Commonwealth and the place where the dead body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation, taking into consideration all relevant information, including information provided by the immediate family regarding the date and time that the deceased was last seen alive, if the individual died in his home; and

2. When death occurs in a moving conveyance, in the United States of America and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in the Commonwealth and the place where it is first

removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in the Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

B. The licensed funeral director, funeral service licensee, office of the state anatomical program, or next of kin as defined in § 54.1-2800 who first assumes custody of a dead body shall complete the certificate of death. He shall obtain personal data of the deceased necessary to complete the certificate of death, including the social security number of the deceased or control number issued to the deceased by the Department of Motor Vehicles pursuant to § 46.2-342, from the best qualified person or source available and obtain the medical certification from the person responsible therefor.

If a licensed funeral director, funeral service licensee, or representative of the office of the state anatomical program completes the certificate of death, he shall file the certificate of death with the State Registrar of Vital Records electronically using the Electronic Death Registration System and in accordance with the requirements of subsection A. If a member of the next of kin of the deceased completes the certificate of death, he shall file the certificate of death in accordance with the requirements of subsection A but shall not be required to file the certificate of death electronically.

C. The medical certification shall be completed, ~~signed in black or dark blue ink, and returned to the funeral director and filed electronically with the State Registrar of Vital Records using the Electronic Death Registration System~~ within 24 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, or by the physician that pronounces death pursuant to § 54.1-2972. If the death occurred while under the care of a hospice provider, the medical certification shall be completed by the decedent's health care provider and filed electronically with the State Registrar of Vital Records using the Electronic Death Registration System for completion of the death certificate.

In the absence of such physician or with his approval, the certificate may be completed and ~~signed~~ filed by the following: (i) another physician employed or engaged by the same professional practice; (ii) a physician assistant supervised by such physician; (iii) a nurse practitioner practicing in accordance with the provisions of § 54.1-2957; (iv) the chief medical officer or medical director, or his designee, of the institution, hospice, or nursing home in which death occurred; (v) a physician specializing in the delivery of health care to hospitalized or emergency department patients who is employed by or engaged by the facility where the death occurred; (vi) the physician who performed an autopsy upon the decedent; (vii) an individual to whom the physician has delegated authority to complete and ~~sign~~ file the certificate, if such individual has access to the medical history of the case and death is due to natural causes; or (viii) a physician *who is not licensed in another state by the Board of Medicine* who was in charge of the patient's care for the illness or condition that resulted in death. *A physician described in clause (viii) who completes a certificate in accordance with this subsection shall not be required to register with the Electronic Death Registration System or complete the certificate electronically.*

D. When inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, the Chief Medical Examiner shall cause an investigation of the cause of death to be made and the medical certification portion of the death certificate to be completed and ~~signed~~ filed within 24 hours after being notified of the death. If the Office of the Chief Medical Examiner refuses jurisdiction, the physician last furnishing medical care to the deceased shall prepare and ~~sign~~ file the medical certification portion of the death certificate.

E. If the death is a natural death and a death certificate is being prepared pursuant to § 54.1-2972 and the physician, nurse practitioner, or physician assistant is uncertain about the cause of death, he shall use his best medical judgment to certify a reasonable cause of death or contact the health district physician director in the district where the death occurred to obtain guidance in reaching a determination as to a cause of death and document the same.

If the cause of death cannot be determined within 24 hours after death, the medical certification shall be completed as provided by regulations of the Board. The attending physician or the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282 shall give the funeral director or person acting as such notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician, the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282.

F. A physician, nurse practitioner, ~~or~~ physician assistant, *or individual delegated authority to complete and file a certificate of death by a physician who, in good faith, files ~~or signs~~ a certificate of death or determines the cause of death shall be immune from civil liability, only for such ~~signature~~ filing and determination of causes of death on such certificate, absent gross negligence or willful misconduct.*

**§ 54.1-2915. Unprofessional conduct; grounds for refusal or disciplinary action.**

A. The Board may refuse to issue a certificate or license to any applicant; reprimand any person; place any person on probation for such time as it may designate; impose a monetary penalty or terms as it may designate on any person; suspend any license for a stated period of time or indefinitely; or revoke any license for any of the following acts of unprofessional conduct:

1. False statements or representations or fraud or deceit in obtaining admission to the practice, or fraud or deceit in the practice of any branch of the healing arts;
2. Substance abuse rendering him unfit for the performance of his professional obligations and duties;
3. Intentional or negligent conduct in the practice of any branch of the healing arts that causes or is likely to cause injury to a patient or patients;

4. Mental or physical incapacity or incompetence to practice his profession with safety to his patients and the public;
  5. Restriction of a license to practice a branch of the healing arts in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction, or for an entity of the federal government;
  6. Undertaking in any manner or by any means whatsoever to procure or perform or aid or abet in procuring or performing a criminal abortion;
  7. Engaging in the practice of any of the healing arts under a false or assumed name, or impersonating another practitioner of a like, similar, or different name;
  8. Prescribing or dispensing any controlled substance with intent or knowledge that it will be used otherwise than medicinally, or for accepted therapeutic purposes, or with intent to evade any law with respect to the sale, use, or disposition of such drug;
  9. Violating provisions of this chapter on division of fees or practicing any branch of the healing arts in violation of the provisions of this chapter;
  10. Knowingly and willfully committing an act that is a felony under the laws of the Commonwealth or the United States, or any act that is a misdemeanor under such laws and involves moral turpitude;
  11. Aiding or abetting, having professional connection with, or lending his name to any person known to him to be practicing illegally any of the healing arts;
  12. Conducting his practice in a manner contrary to the standards of ethics of his branch of the healing arts;
  13. Conducting his practice in such a manner as to be a danger to the health and welfare of his patients or to the public;
  14. Inability to practice with reasonable skill or safety because of illness or substance abuse;
  15. Publishing in any manner an advertisement relating to his professional practice that contains a claim of superiority or violates Board regulations governing advertising;
  16. Performing any act likely to deceive, defraud, or harm the public;
  17. Violating any provision of statute or regulation, state or federal, relating to the manufacture, distribution, dispensing, or administration of drugs;
  18. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.) and this chapter or regulations of the Board;
  19. Engaging in sexual contact with a patient concurrent with and by virtue of the practitioner and patient relationship or otherwise engaging at any time during the course of the practitioner and patient relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive;
  20. Conviction in any state, territory, or country of any felony or of any crime involving moral turpitude;
  21. Adjudication of legal incompetence or incapacity in any state if such adjudication is in effect and the person has not been declared restored to competence or capacity; ~~or~~
  22. Performing the services of a medical examiner as defined in 49 C.F.R. § 390.5 if, at the time such services are performed, the person performing such services is not listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R. § 390.109 or fails to meet the requirements for continuing to be listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R. § 390.111; *or*
  23. *Failing or refusing to complete and file electronically using the Electronic Death Registration System any medical certification in accordance with the requirements of subsection C of § 32.1-263. However, failure to complete and file a medical certification electronically using the Electronic Death Registration System in accordance with the requirements of subsection C of § 32.1-263 shall not constitute unprofessional conduct if such failure was the result of a temporary technological or electrical failure or other temporary extenuating circumstance that prevented the electronic completion and filing of the medical certification using the Electronic Death Registration System.*
- B. The commission or conviction of an offense in another state, territory, or country, which if committed in Virginia would be a felony, shall be treated as a felony conviction or commission under this section regardless of its designation in the other state, territory, or country.
- C. The Board shall refuse to issue a certificate or license to any applicant if the candidate or applicant has had his certificate or license to practice a branch of the healing arts revoked or suspended, and has not had his certificate or license to so practice reinstated, in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction.

**2. That the provisions of the first enactment of this act shall become effective on January 1, 2020.**

**3. That every licensed physician of medicine or osteopathy, physician assistant, and nurse practitioner who practices (i) as a hospitalist or in the specialty of emergency medicine in a hospital or as a medical director at a nursing home located in the Commonwealth shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning July 1, 2019; (ii) in the specialty of family medicine or internal medicine shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning October 1, 2019; (iii) in the specialty of oncology or general surgery shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration**

System beginning November 1, 2019; and (iv) in any other specialty and completes medical certifications of death pursuant to § 32.1-263 of the Code of Virginia shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia electronically with the Electronic Death Registration System beginning December 1, 2019.

4. That the Department of Health shall work with the Medical Society of Virginia, Virginia Hospital and Healthcare Association, Virginia Funeral Directors Association, Virginia Morticians' Association, Inc., Association of Independent Funeral Homes of Virginia, and other stakeholders to educate and encourage physicians, physician assistants, and nurse practitioners to timely register with and utilize the Electronic Death Registration System.

## CHAPTER 225

*An Act to amend and reenact § 23.1-507 of the Code of Virginia, relating to University of Virginia's College at Wise; reduced rate tuition.*

[H 1666]

Approved March 5, 2019

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

**1. That § 23.1-507 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-507. University of Virginia's College at Wise; reduced rate tuition charges for certain students.**

A. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who resides in Kentucky within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in Kentucky, and is entitled to in-state tuition charges at the institutions of higher education in Kentucky if Kentucky has similar reciprocal provisions for Virginia students.

B. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who resides in Tennessee within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in Tennessee, and is entitled to in-state tuition charges at the institutions of higher education in Tennessee if Tennessee has similar reciprocal provisions for Virginia students.

C. *The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who resides in the Appalachian Region as defined in 40 U.S.C. § 14102, is domiciled within the Appalachian Region, and is entitled to in-state tuition charges at a public institution of higher education in the Appalachian Region and such entitlement is based on circumstances that when applied to a student who resides in Virginia would result in entitlement to in-state tuition. Reduced rate tuition for students who reside in and are domiciled in the Appalachian Region shall not be set below the in-state tuition rate for Virginia students attending the University of Virginia's College at Wise.*

D. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled in programs offered jointly by its partners or associates and the University of Virginia's College at Wise at a regional off-campus center who resides in Tennessee within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in Tennessee, and is entitled to in-state tuition charges at the institutions of higher education in Tennessee if Tennessee has similar reciprocal provisions for Virginia students. Any such respective partners or associates shall establish separate tuition charges for their independent classes or programs at such regional off-campus centers.

~~D. E.~~ Any non-Virginia student granted reduced rate tuition pursuant to this section shall be counted as a non-Virginia student for the purposes of determining admissions, enrollment, and tuition and fee revenue policies.

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

## CHAPTER 226

*An Act to amend and reenact § 22.1-140 of the Code of Virginia, relating to school buildings; plans to be reviewed by a professional trained and experienced in crime prevention through building design.*

[H 1738]

Approved March 5, 2019

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

**1. That § 22.1-140 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-140. Plans for buildings to be approved by division superintendent.**

No public school building or addition or alteration thereto, for either permanent or temporary use, shall be advertised for bid, contracted for, erected, or otherwise acquired until the plans and specifications therefor (i) have been approved in writing by the division superintendent ~~and~~; (ii) are accompanied by a statement by an architect or professional engineer licensed by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects that such plans and specifications are, in his professional opinion and belief, in compliance with the regulations of the Board of Education and the Uniform Statewide Building Code; *and (iii) have been reviewed by an individual or entity with professional expertise in building security and crime prevention through building design.* The division superintendent's

approval, architect's or engineer's statement, *all reviewers' comments*, and a copy of the final plans and specifications shall be submitted to the Superintendent of Public Instruction.

## CHAPTER 227

*An Act to amend the Code of Virginia by adding a section numbered 22.1-299.7, relating to the Department of Education; establishment of a microcredential program.*

[H 2217]

Approved March 5, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 22.1-299.7 as follows:**

**§ 22.1-299.7. Microcredential program; certain STEM subjects.**

A. *The Department of Education may establish a microcredential program for the purpose of permitting any public elementary or secondary school teacher who holds a renewable or provisional license or any individual who participates in any alternate route to licensure program to complete additional coursework and earn microcredentials in science, technology, engineering, and mathematics (STEM) endorsement areas, including computer science, for which there is a high need for additional qualified teachers.*

B. *The Department of Education shall direct the Advisory Board on Teacher Education and Licensure to convene a workgroup including pertinent education stakeholders to determine how any microcredential awarded pursuant to any microcredential program established pursuant to subsection A will be used to award add-on endorsements and certifications for teachers in STEM endorsement areas, including computer science, for which there is a high need for additional qualified teachers.*

C. *Any course offered through any microcredential program established pursuant to subsection A shall be offered in-person or in a blended format of in-person and online instruction.*

D. *Any teacher who holds a renewable license and who participates, through any microcredential program offered pursuant to subsection A, in courses that do not contribute to an endorsement is eligible for professional development points toward renewal of his license for the number of in-person hours of coursework completed, upon providing a certificate of such participation from the course provider.*

## CHAPTER 228

*An Act to amend the Code of Virginia by adding a section numbered 22.1-207.2:1, relating to school boards; School Breakfast Program and National School Lunch Program; web-based application.*

[H 2400]

Approved March 5, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 22.1-207.2:1 as follows:**

**§ 22.1-207.2:1. School Breakfast Program and National School Lunch Program; web-based application.**

*Each local school board that collects information to determine eligibility for participation in the School Breakfast Program or the National School Lunch Program administered by the U.S. Department of Agriculture shall establish and post prominently on its website a web-based application for student participation in such program and shall continue to provide a paper-based application.*

**2. That any school board in establishing a web-based application to comply with the provisions of this act may adopt the U.S. Department of Agriculture's Web-Based Prototype Application for Free and Reduced Price School Meals or may digitize its existing paper-based application.**

## CHAPTER 229

*An Act to amend and reenact §§ 22.1-287.1 and 23.1-405 of the Code of Virginia, relating to scholastic records; disclosure of directory information.*

[H 2449]

Approved March 5, 2019

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

**1. That §§ 22.1-287.1 and 23.1-405 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-287.1. Directory information.**

A. *Notwithstanding §§ 22.1-287 and 22.1-288, directory information, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) (FERPA), and which may include a student's name, sex, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and*

height as a member of an athletic team, dates of attendance, degrees and awards received, and other similar information, may be disclosed in accordance with federal and state law and regulations, provided that the school has given notice to the parent or eligible student of (i) the types of information that the school has designated as directory information, (ii) the right of the parent or eligible student to refuse the designation of any or all of the types of information about the student as directory information, and (iii) the period of time within which the parent or eligible student must notify the school in writing that he does not want any or all of the types of information about the student designated as directory information. However, no school shall disclose the address, telephone number, or email address of a student pursuant to ~~34 C.F.R. § 99.31(a)(11)~~ or the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) unless the parent or eligible student has affirmatively consented in writing to such disclosure. *Additionally, except as required by state or federal law, no school shall disclose the address, telephone number, or email address of a student pursuant to 34 C.F.R. § 99.31(a)(11) unless (a) the disclosure is to students enrolled in the school or to school board employees for educational purposes or school business and the parent or eligible student has not opted out of such disclosure in accordance with this subsection and school board policy or (b) the parent or eligible student has affirmatively consented in writing to such disclosure. This subsection shall not apply to any disclosure, other than a disclosure pursuant to 34 C.F.R. § 99.31(a)(11), permitted under FERPA.*

B. For purposes of this section, an "eligible student" is a student 18 years of age or older or a student under the age of 18 who is emancipated.

**§ 23.1-405. Student records and personal information; social media.**

A. As used in this section:

"Social media account" means a personal account with an electronic medium or service through which users may create, share, or view user-generated content, including, without limitation, videos, photographs, blogs, podcasts, messages, emails, or website profiles or locations. "Social media account" does not include an account (i) opened by a student at the request of a public or private institution of higher education or (ii) provided to a student by a public or private institution of higher education such as the student's email account or other software program owned or operated exclusively by a public or private institution of higher education.

B. Each public institution of higher education and private institution of higher education may require any student who attends, or any applicant who has been accepted to and has committed to attend, such institution to provide, to the extent available, from the originating secondary school and, if applicable, any institution of higher education he has attended a complete student record, including any mental health records held by the previous school or institution. Such records shall be kept confidential as required by state and federal law, including the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) (FERPA).

C. Student directory information, as defined by FERPA, and which may include a student's name, sex, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height as a member of an athletic team, dates of attendance, degrees and awards received, and other similar information, may be disclosed, provided that the institution has given notice to the student of (i) the types of information that the institution has designated as directory information, (ii) the right of the student to refuse the designation of any or all of the types of information about the student as directory information, and (iii) the period of time within which the student must notify the institution in writing that he does not want any or all of the types of information about the student designated as directory information. However, no institution shall disclose the address, telephone number, or email address of a student pursuant to ~~34 C.F.R. § 99.31(a)(11)~~ or the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) unless the student has affirmatively consented in writing to such disclosure. *Additionally, except as required by state or federal law, no institution shall disclose the address, telephone number, or email address of a student pursuant to 34 C.F.R. § 99.31(a)(11) unless (a) the disclosure is to students enrolled in the institution for educational purposes or institution business and the student has not opted out of such disclosure in accordance with this subsection and institution policy or (b) the student has affirmatively consented in writing to such disclosure except as required by state or federal law. This subsection shall not apply to disclosures, other than disclosures pursuant to 34 C.F.R. § 99.31(a)(11), permitted under FERPA.*

D. No public institution of higher education shall sell students' personal information, including names, addresses, phone numbers, and email addresses, to any person. This subsection shall not apply to transactions involving credit, debit, employment, finance, identity verification, risk assessment, fraud prevention, or other transactions initiated by the student.

E. No public or private institution of higher education shall require a student to disclose the username or password to any of such student's personal social media accounts. Nothing in this subsection shall prevent a campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 from performing his official duties.

**CHAPTER 230**

*An Act to amend and reenact § 23.1-2219 of the Code of Virginia, relating to the Virginia Foundation for the Humanities; task force; membership.*

[H 2699]

Approved March 5, 2019

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

**1. That § 23.1-2219 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-2219. Virginia Foundation for the Humanities; identification of the history of formerly enslaved African Americans in Virginia.**

A. With such funds as are appropriated by the General Assembly and with the agreement of the Virginia Foundation for the Humanities (the Foundation), the Foundation shall identify the history of formerly enslaved African Americans in Virginia and determine ways to preserve that history for educational and cultural purposes.

B. The Foundation shall:

1. Promote the identification, preservation, and conservation of historic sites significant to the history, presence, and contributions of formerly enslaved African Americans in Virginia;

2. Assess the extent to which students and the public are knowledgeable concerning African American history, the African slave trade, slavery in Virginia and America, and the vestiges of slavery in the Commonwealth and the nation;

3. Identify the contributions of African Americans to Virginia, the nation, and the world;

4. Inventory relevant African American historical sites, memorials, exhibits, and resources in the Commonwealth and assess the potential economic impact of tourism and economic development promotion relative to such sites;

5. Develop a register of historical sites significant to African American history in Virginia that should be preserved and recommend options for preservation and ways to increase tourism revenues; and

6. Develop and maintain a roster of volunteer historians, educators, businesses, organizations, and speakers to act as resource persons for classroom teachers on African American history, the African slave trade, American slavery, the impact of slavery on modern society, and the contributions of African Americans to Virginia and the nation.

C. To assist the Foundation in its work, a task force is hereby created consisting of ~~12~~ 17 members as follows: three members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; ~~four~~ seven nonlegislative citizen members to be appointed by the Governor, at least one of whom shall be a recognized historian with scholarship in American history and slavery *and at least one of whom shall be the president of a historically black college or university located in the Commonwealth*. The Director of the Department of Historic Resources or his designee, the Director of the Black History Museum and Cultural Center of Virginia or his designee, *the executive director of the Virginia Tourism Authority or his designee, the chairman of the board of trustees of the Virginia Outdoors Foundation or his designee,* and the President of the Foundation shall serve ex officio.

Legislative members shall serve terms coincident with their terms of office. Gubernatorial appointments shall be for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Nonlegislative citizen members may be reappointed. Vacancies shall be filled in the same manner as the original appointments.

The task force shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

## CHAPTER 231

*An Act to amend and reenact § 22.1-280.2:2 of the Code of Virginia, relating to the Public School Security Equipment Grant Act of 2013; eligible security equipment.*

[H 2720]

Approved March 5, 2019

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

**1. That § 22.1-280.2:2 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-280.2:2. Public School Security Equipment Grant Act of 2013.**

A. This section shall be known and may be cited as the "Public School Security Equipment Grant Act of 2013."

B. For purposes of this section:

"Authority" means the Virginia Public School Authority.

"Department" means the Department of Education.

"Eligible school division" means a (i) local school division or (ii) regional vocational center, special education center, alternative education center, or academic year Governor's School serving public school students in grades K through 12. The term shall also include the Virginia School for the Deaf and the Blind.

"Local school division" means a school division with schools subject to state accreditation and whose students are required to be reported in fall membership for grades K through 12.

"Security equipment" includes building modifications and fixtures such as security vestibules.

C. The Authority shall issue bonds for the purpose of grant payments to eligible school divisions of the Commonwealth to be used exclusively for purchasing security equipment for schools, including any related installation, which is designed to improve and help ensure the safety of students attending public schools in Virginia. Such grants shall not be used to pay for security equipment that is not included or described in a grant application approved by the Department pursuant to subsection D. The amount of grants provided to each eligible school division pursuant to this

section shall not exceed \$100,000 for each fiscal year of the Commonwealth. Funds for the payment of such grants shall be provided from the issuance of bonds by the Authority, provided that the Authority shall not issue more than an aggregate of \$6 million in bonds, after all costs, for such grants during each fiscal year of the Commonwealth. In addition, the Authority shall ensure that no more than an aggregate principal amount of \$30 million in bonds issued under this section shall be outstanding at any time. Eligible school divisions seeking a grant shall apply to the Department, which shall be responsible for administering the grant program.

The Authority shall work with the Department to determine the schedule for the issuance of the bonds, which shall be based in part upon eligible school divisions having sufficient funds to purchase such security equipment. The payment of debt service on such bonds shall be as provided in the general appropriation act.

Such grants shall be in addition to all other grants made to local governments, school boards, or school divisions according to law. In addition, such grants shall not replace or be in lieu of loans to local school boards or interest rate subsidy payments to local school boards pursuant to Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, and the issuance of such bonds and the payment of such grants shall not, except as herein provided, affect or otherwise amend the provisions of such chapter as they relate to the powers and duties of the Authority, local school boards, local governments, or any other entity.

D. Based on the criteria developed by the Department in collaboration with the Department of Criminal Justice Services, eligible school divisions shall apply for a grant by August 1 of each year. As a condition of receiving a grant, a local match of 25 percent of the grant amount shall be required. The Superintendent of Public Instruction is authorized to reduce the local match for local school divisions with a composite index of local ability-to-pay less than 0.2000, including any such school division participating in a regional vocational center, special education center, alternative education center, or academic year Governor's School. The Virginia School for the Deaf and the Blind shall be exempt from the match requirement.

Grants shall be awarded by the Department on a competitive basis. As part of the application for a grant, each eligible school division shall (i) identify with specificity the security equipment for which grants are being sought, as well as the estimated costs to purchase and install the security equipment, and (ii) certify that it is the intent of the eligible school division to purchase the security equipment within six months of approval of any grant by the Department.

If the Department determines that a grant shall be paid to an eligible school division under this section, it shall provide a written certification to the chairman of the Authority directing him to make a grant payment in a specific amount to the eligible school division. The Department, however, shall not make such written certification until it has established that the Authority has sufficient funds to make such grant payment. The Authority shall only make grant payments to an eligible school division for the grants provided under this section upon receipt of such written certification. The Authority shall make such grant payments, and in the amounts as directed by the Department, within 30 days of receipt of the certification.

E. The Department shall develop guidelines concerning the requirements for applying for a grant and the administration of such grants. Such guidelines shall not be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

F. In the event that two or more local school divisions became one local school division, whether by consolidation of only the local school divisions or by consolidation of the local governments, such resulting local school division shall be eligible for grants on the basis of the same number of local school divisions as existed prior to September 30, 2012.

G. The Authority shall take all necessary and proper steps as it is authorized to take under law to carry out the provisions of this section.

H. Beginning in 2014, the Department shall make an annual report to the General Assembly by September 1 of each year reporting (i) the total grants paid during the immediately prior fiscal year to each eligible school division and (ii) a general description of the security equipment purchased by eligible school divisions.

## CHAPTER 232

*An Act to amend the Code of Virginia by adding a section numbered 22.1-277.2:2, relating to alternative education programs; data.*

[S 1298]

Approved March 5, 2019

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

#### **1. That the Code of Virginia is amended by adding a section numbered 22.1-277.2:2 as follows:**

##### **§ 22.1-277.2:2. Alternative education program data.**

*The Department of Education shall annually collect from each school board and publish on its website data on alternative education programs for students who have been suspended, expelled, or otherwise precluded from attendance at school. Such data shall (i) be published in a manner that protects the identities of individual students; (ii) be disaggregated by local school division and by student race, ethnicity, gender, and disability; and (iii) include:*

*1. The number of students enrolled in alternative education programs pursuant to each of the five clauses set forth in subsection A of § 22.1-277.2:1;*

*2. The number of students enrolled in alternative education programs who have received (i) a short-term suspension, (ii) a long-term suspension, or (iii) an expulsion;*

3. *The current availability of various categories of alternative education programs available to all students and not solely special education students, including full-day programs with on-site, in-school teacher instruction; full-day programs with off-site, out-of-school teacher instruction; primarily virtual instruction; home-based or home-bound instruction; partial-day instruction; and any other category that the Department of Education may identify;*
4. *The average length of enrollment in an alternative education program per program during each school year;*
5. *The number of students who transition within the same school year from an alternative education program back into the school at which they were enrolled immediately preceding enrollment in the alternative education program; and*
6. *Relevant student achievement data, as determined by the Department of Education.*

### CHAPTER 233

*An Act to require the Board of Education to review and revise its Career and Technical Education Work-Based Learning Guide.*

[S 1434]

Approved March 5, 2019

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

**1. § 1.** *The Board of Education shall review and revise its Career and Technical Education Work-Based Learning Guide (the Guide) to expand the opportunities available for students to earn credit for graduation through high-quality work-based learning experiences such as job shadowing, mentorships, internships, and externships. In performing such review, the Board shall consult with (i) stakeholders representing a variety of industries and (ii) organizations representing the business community and shall consider (a) the diversity of school divisions across the Commonwealth, (b) the need for local flexibility to establish credit-bearing work-based learning experiences through a variety of methods, and (c) the needs of industries across the Commonwealth.*

*§ 2. The Board of Education shall complete its work to revise the Guide no later than December 1, 2019.*

### CHAPTER 234

*An Act to amend and reenact § 18.2-369 of the Code of Virginia, relating to abuse and neglect of incapacitated adults; informed consent.*

[H 1674]

Approved March 5, 2019

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

**1. That § 18.2-369 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-369. Abuse and neglect of incapacitated adults; penalty.**

A. ~~It shall be~~ *is* unlawful for any responsible person to abuse or neglect any incapacitated adult as defined in this section. Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect does not result in serious bodily injury or disease to the incapacitated adult is guilty of a Class 1 misdemeanor. Any responsible person who is convicted of a second or subsequent offense under this subsection is guilty of a Class 6 felony.

B. Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect results in serious bodily injury or disease to the incapacitated adult is guilty of a Class 4 felony. Any responsible person who abuses or neglects an incapacitated adult in violation of this section and the abuse or neglect results in the death of the incapacitated adult is guilty of a Class 3 felony.

C. For purposes of this section:

"Abuse" means (i) knowing and willful conduct that causes physical injury or pain or (ii) knowing and willful use of physical restraint, including confinement, as punishment, for convenience or as a substitute for treatment, except where such conduct or physical restraint, including confinement, is a part of care or treatment and is in furtherance of the health and safety of the incapacitated person.

"Incapacitated adult" means any person 18 years of age or older who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent the adult lacks sufficient understanding or capacity to make, communicate or carry out reasonable decisions concerning his well-being.

"Neglect" means the knowing and willful failure by a responsible person to provide treatment, care, goods or services which results in injury to the health or endangers the safety of an incapacitated adult.

"Responsible person" means a person who has responsibility for the care, custody or control of an incapacitated person by operation of law or who has assumed such responsibility voluntarily, by contract or in fact.

"Serious bodily injury or disease" shall include but not be limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, or (vi) life-threatening internal injuries or conditions, whether or not caused by trauma.

D. No responsible person shall be in violation of this section whose conduct was (i) in accordance with the informed consent of the incapacitated person *that was given when he was not incapacitated* or a person authorized to consent on his

behalf; (ii) in accordance with a declaration by the incapacitated person under the Health Care Decisions Act (§ 54.1-2981 et seq.) *that was given when he was not incapacitated* or with the provisions of a valid medical power of attorney; (iii) in accordance with the wishes of the incapacitated person *that were made known when he was not incapacitated* or a person authorized to consent on behalf of the incapacitated person and in accord with the tenets and practices of a church or religious denomination; (iv) incident to necessary movement of, placement of or protection from harm to the incapacitated person; or (v) a bona fide, recognized or approved practice to provide medical care.

**2. That the provisions of this act are declaratory of existing law.**

## CHAPTER 235

*An Act to amend and reenact § 16.1-243 of the Code of Virginia, relating to transfer of venue; delinquency; adjudication.*

[H 2414]

Approved March 5, 2019

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

**1. That § 16.1-243 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-243. Venue.**

A. Original venue:

1. Cases involving children, other than support or where protective order issued: Proceedings with respect to children under this law, except support proceedings as provided in subdivision 2 or family abuse proceedings as provided in subdivision 3, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county; (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships; (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241, 63.2-1233, and 63.2-1237, be commenced in any city or county, provided, however, that diligent efforts shall first be made to commence such hearings (i) in the city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside. In cases in which a hearing is commenced in a city or county other than one described in clause (i), (ii), or (iii), the petitioner shall certify in writing to the court that diligent efforts to commence a hearing in such city or county have been made but have proven ineffective;

d. Abuse and neglect: In cases involving an allegedly abused or neglected child, be commenced (i) in the city or county where the child resides, (ii) in the city or county where the child is present when the proceedings are commenced, or (iii) in the city or county where the alleged abuse or neglect occurred; and

e. All other cases: In all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse shall be commenced where (i) either party has his or her principal residence (ii) the abuse occurred or (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family or household member of the petitioner.

B. Transfer of venue:

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur ~~only after adjudication~~ in delinquency proceedings *only after adjudication, which shall include, for the purposes of this section, a finding of facts sufficient to justify a finding of delinquency.*

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the

parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.

5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic relations district court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. Records imaged from the original documents shall be considered original documents for purposes of the transfer of venue. The transferor court may, in its discretion, retain copies as it deems appropriate.

## CHAPTER 236

*An Act to amend and reenact § 29.1-733.20 of the Code of Virginia, relating to watercraft; transfer by operation of law; transfer on death.*

[H 2796]

Approved March 5, 2019

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

#### **1. That § 29.1-733.20 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 29.1-733.20. Transfer by operation of law.**

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

"By operation of law" means pursuant to a law or judicial order affecting ownership of a watercraft:

1. Because of death, such as in the case of a legatee, distributee, or surviving joint owner;
2. Because of divorce or other family law proceeding;
3. Because of any written agreement ratified or incorporated in a decree or order of a court of record;
4. Because of merger, consolidation, dissolution, insolvency, or bankruptcy;
5. Because of an execution sale;

6. Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law, including a lien provided for in § 43-34; ~~or~~

7. *Through the execution of a statement of transfer on death; or*

8. Through other legal process.

"Transfer-by-law statement" means a record signed by a transferee stating that by operation of law the transferee has acquired or has the right to acquire an ownership interest in a watercraft.

B. A transfer-by-law statement shall contain:

1. The name and last-known mailing address of the owner of record and the transferee and the other information required by subsection B of § 29.1-733.7;

2. Documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;

3. A statement that:

- a. The certificate of title is an electronic certificate of title;
- b. The transferee does not have possession of the written certificate of title created in the name of the owner of record; or
- c. The transferee is delivering the written certificate to the Department with the transfer-by-law statement;

4. Except for a transfer described in subdivision 1 of the definition of "by operation of law," evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the files of the Department as having an interest, including a security interest, in the watercraft; and

5. If the owner is dead and no fiduciary has qualified for his estate, an estate statement to the effect that no qualification for the estate has been made, that no qualification is expected, and that the decedent's debts have been paid or that the

proceeds from the sale of the watercraft will be applied against his debts. The estate statement shall contain the name, residence at the time of death, and date of death of the decedent and the names of any other persons having an interest in the watercraft for which the transfer of title is sought. If these persons are of legal age, they shall signify in writing their consent to the transfer.

C. Unless the Department rejects a transfer-by-law statement for a reason stated in subsection C of § 29.1-733.8 or because the statement does not include documentation or an estate statement satisfactory to the Department as to the transferee's ownership interest or right to acquire the ownership interest, not later than 20 days after delivery to the Department of the transfer-by-law statement and payment of fees and taxes payable under the law of the Commonwealth other than this article in connection with the statement or with the acquisition or use of the watercraft, the Department shall:

1. Accept the statement;
  2. Amend the files of the Department to reflect the transfer; and
  3. If the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:
    - a. Cancel the certificate even if the certificate has not been delivered to the Department;
    - b. Create a new certificate indicating the transferee as owner;
    - c. Indicate on the new certificate any security interest indicated on the canceled certificate, unless a court order provides otherwise; and
    - d. Deliver the new certificate or a record evidencing an electronic certificate.
- D. This section does not apply to a transfer of an interest in a watercraft by a secured party under Part 6 (§ 8.9A-601 et seq.) of Title 8.9A.

## CHAPTER 237

*An Act to amend and reenact §§ 20-99.1:1 and 20-106 of the Code of Virginia, relating to no-fault divorce; waiver of service.*

[S 1541]

Approved March 5, 2019

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

**1. That §§ 20-99.1:1 and 20-106 of the Code of Virginia are amended and reenacted as follows:**

**§ 20-99.1:1. How defendant may accept service; waive service.**

A. A defendant in such suits may accept service of process by signing the proof of service before any officer authorized to administer oaths. This proof of service shall, when filed with the papers in the suit, have the same effect as if it had been served upon the defendant by a person authorized to serve process. In addition, service of process may be accepted or waived by any party, upon voluntary execution of a notarized writing specifying an intent to accept or waive any particular process, or by a defendant by filing an answer in the suit. Such notarized writing may be provided in the clerk's office of any circuit court and may be signed by such party to the proceedings before any clerk or deputy clerk of any circuit court, under oath, or may be drafted and filed by counsel *or a pro se party* in the proceeding, and shall, when filed with the papers in the suit, have the same effect as if the process specified had been personally served upon the defendant by a person authorized to serve process. *For a suit for a no-fault divorce under subdivision A (9) of § 20-91, any such waiver may occur within a reasonable time prior to or after the suit is filed, provided that a copy of the complaint is attached to such waiver, or is otherwise provided to the defendant, and the final decree of divorce as proposed by the complainant is signed by the defendant.* The court may enter any order or decree without further notice unless a defendant has filed an answer in the suit.

B. When service is accepted pursuant to this section by a nonresident person out of the Commonwealth, such service shall have the same effect as an order of publication duly executed.

C. Any process served outside the Commonwealth executed in such manner as provided for in this section is validated.

**§ 20-106. Testimony may be required to be given orally; evidence by affidavit.**

A. In any suit for divorce, the trial court may require the whole or any part of the testimony to be given orally in open court, and if either party desires it, such testimony and the rulings of the court on the exceptions thereto, if any, shall be reduced to writing, and the judge shall certify that such evidence was given before him and such rulings made. When so certified the same shall stand on the same footing as a deposition regularly taken in the cause, provided, however, that no such oral evidence shall be given or heard unless and until after such notice to the adverse party as is required by law to be given of the taking of depositions, or when there has been no service of process within this Commonwealth upon, or appearance by the defendant against whom such testimony is sought to be introduced. However, a party may proceed to take evidence in support of a divorce by deposition or affidavit without leave of court only in support of a divorce on the grounds set forth in subdivision A (9) of § 20-91, where (i) the parties have resolved all issues by a written settlement agreement, (ii) there are no issues other than the grounds of the divorce itself to be adjudicated, or (iii) the adverse party has been personally served with the complaint and has failed to file a responsive pleading or to make an appearance as required by law.

B. The affidavit of a party submitted as evidence shall be based on the personal knowledge of the affiant, contain only facts that would be admissible in court, give factual support to the grounds for divorce stated in the complaint or counterclaim, and establish that the affiant is competent to testify to the contents of the affidavit. If either party is incarcerated, neither party shall submit evidence by affidavit without leave of court or the consent in writing of the guardian

ad litem for the incarcerated party, or of the incarcerated party if a guardian ad litem is not required pursuant to § 8.01-9. The affidavit shall:

1. Give factual support to the grounds for divorce stated in the complaint or counterclaim, including that the parties are over the age of 18 and not suffering from any condition that renders either party legally incompetent;
  2. Verify whether either party is incarcerated;
  3. Verify the military status of the opposing party and advise whether the opposing party has filed an answer or a waiver of his rights under the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.);
  4. Affirm that at least one party to the suit was at the time of the filing of the suit, and had been for a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and domiciliary of the Commonwealth;
  5. Affirm that the parties have lived separate and apart, continuously, without interruption and without cohabitation, and with the intent to remain separate and apart permanently, for the statutory period required by subdivision A (9) of § 20-91;
  6. Affirm the affiant's desire to be awarded a divorce pursuant to subdivision A (9) of § 20-91;
  7. State whether there were children born or adopted of the marriage and affirm that the wife is not known to be pregnant from the marriage; and
  8. Be accompanied by the affidavit of at least one corroborating witness, which shall:
    - a. Verify that the affiant is over the age of 18 and not suffering from any condition that renders him legally incompetent;
    - b. Verify whether either party is incarcerated;
    - c. Give factual support to the grounds for divorce stated in the complaint or counterclaim;
    - d. Verify that at least one of the parties to the suit was at the time of the filing of the suit, and had been for a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and domiciliary of the Commonwealth;
    - e. Verify whether there were children born or adopted of the marriage and verify that the wife is not known to be pregnant from the marriage; and
    - f. Verify the affiant's personal knowledge that the parties have not cohabitated since the date of separation alleged in the complaint or counterclaim and that it has been either party's intention since that date to remain separate and apart permanently.
- C. If a party moves for a divorce pursuant to § 20-121.02, any affidavit may be submitted in support of the grounds for divorce set forth in subdivision A (9) of § 20-91.
- D. A verified complaint shall not be deemed an affidavit for purposes of this section.
- E. Either party may submit the depositions or affidavits required by this section in support of the grounds for divorce requested by either party pursuant to the terms of this section.
- F. *In contemplation of or in a suit for a no-fault divorce under subdivision A (9) of § 20-91, the plaintiff or his attorney may take and file, as applicable, the complaint, the affidavits or depositions, any other associated documents, and the proposed decree contemporaneously, and a divorce may be granted solely on those documents where the defendant has waived service and, where applicable, notice.*

## CHAPTER 238

*An Act to amend and reenact §§ 54.1-4000, 54.1-4001, 54.1-4003, 54.1-4009, 54.1-4010, and 54.1-4200 of the Code of Virginia, relating to the definition of pawnbroker.*

[H 1773]

Approved March 5, 2019

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

**1. That §§ 54.1-4000, 54.1-4001, 54.1-4003, 54.1-4009, 54.1-4010, and 54.1-4200 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 54.1-4000. Definition of pawnbroker.**

"Pawnbroker" means any *natural* person who lends or advances money or other things for profit on the pledge and possession of tangible personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

#### **§ 54.1-4001. License required; license authorized by court; building designated in license; penalty.**

A. No *natural* person shall engage in the business of a pawnbroker without having a valid license issued by the county, city, or town in which the pawnbroker conducts such business.

B. The circuit court of any county or city may authorize any county, city, or town to issue to any ~~individual~~ *natural person*, who has not been convicted of a felony or a crime involving moral turpitude in the last ten years, a license to engage in the business of a pawnbroker in that county, city, or town. No such license shall be issued by any county, city, or town except with such authority. Prior to the issuance of the license, the applicant shall furnish his date of birth, a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the

Commonwealth, and such other information to the licensing authority as may be required by the governing body. The license shall designate the building in which the licensee shall carry on such business.

C. No *natural* person shall engage in the business of a pawnbroker in any location other than the one designated in his license, except with consent of the court which authorized the license.

D. Any *natural* person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor. Each day's violation shall constitute a separate offense.

**§ 54.1-4003. Bond required; private action on bond.**

A. No *natural* person shall be licensed as a pawnbroker or engage in the business of a pawnbroker without having in existence a bond with surety in the minimum amount of \$50,000 to secure the payment of any judgment recovered under the provisions of subsection B.

B. Any person who recovers a judgment against a licensed pawnbroker for the pawnbroker's misconduct may maintain an action in his own name upon the bond of the pawnbroker if the execution issued upon such judgment is wholly or partially unsatisfied.

**§ 54.1-4009. Records to be kept; credentials of person pawning goods; fee; penalty.**

A. Every pawnbroker shall keep at his place of business an accurate and legible record of each loan or transaction in the course of his business, including transactions in which secondhand goods, wares, or merchandise is purchased for resale. The account shall be recorded at the time of the loan or transaction and shall include:

1. A description, serial number, and a statement of ownership of the goods, article, or thing pawned or pledged or received on account of money loaned thereon or purchased for resale;

2. The time, date, and place of the transaction;

3. The amount of money loaned thereon at the time of pledging the same or paid as the purchase price;

4. The rate of interest to be paid on such loan;

5. The fees charged by the pawnbroker, itemizing each fee charged;

6. The full name, residence address, telephone number, and driver's license number or other form of identification of the person pawning or pledging or selling the goods, article, or thing, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks, of such person;

7. Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person pawning, pledging, or selling the goods, article, or thing, such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

8. A digital image of the form of identification used by the person involved in the transaction, unless the form of identification used is a United States military issued identification or other form of identification included under 18 U.S.C. § 701, in which case the person involved in the transaction shall be required to present an alternate government-issued identification card bearing a photograph of such person or the pawnbroker shall be required to take a photograph of the person involved in the transaction;

9. As to loans, the terms and conditions of the loan, including the period for which any such loan may be made; and

10. All other facts and circumstances respecting such loan or purchase.

B. A pawnbroker may maintain at his place of business an electronic record of each transaction involving goods, articles, or things pawned or pledged or purchased. If maintained electronically, a pawnbroker shall retain the electronic records for at least one year after the date of the transaction and make such electronic records available to any duly authorized law-enforcement officer upon request.

C. For each loan or transaction, a pawnbroker may charge:

1. A service fee for making the daily electronic reports to the appropriate law-enforcement officers required by § 54.1-4010, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed five percent of the amount loaned on such item or paid by the pawnbroker for such item or \$3, whichever is less; and

2. A late fee, not to exceed 10 percent of the amount loaned, for each item that is not claimed by the pledged date, provided that the pawner is notified of the fee on the pawn ticket.

Any *natural* person, ~~firm, or corporation~~ violating any of the provisions of this section is guilty of a Class 4 misdemeanor.

D. No goods, article, or thing shall be pawned or pledged or received on account of money loaned or purchased for resale if the original serial number affixed to the goods, article, or thing has been removed, defaced, or altered.

E. The Superintendent of State Police shall promulgate regulations specifying the nature of the particular description for the purposes of subdivision A 6.

The Superintendent of State Police shall promulgate regulations specifying the nature of identifying credentials of the person pawning, pledging, or selling the goods, article, or thing. Such credentials shall be examined by the pawnbroker, and an appropriate record retained thereof.

**§ 54.1-4010. Daily reports.**

A. Every pawnbroker shall prepare a daily report of all goods, articles, or things pawned or pledged with him or sold to him that day and shall file such report by noon of the following day with the chief of police or other law-enforcement officer of the county, city, or town where his business is conducted designated by the local attorney for the Commonwealth to receive it. The report shall include the pledgor's or seller's name, residence, and driver's license number or other form of

identification; a photograph or digital image of the form of identification used by the pledgor or seller; and a description of the goods, articles, or other things pledged or sold and, unless maintained in electronic format, shall be in writing and clearly legible to any person inspecting it. A pawnbroker may compile and maintain the daily report in an electronic format and, if so maintained, shall file the required daily reports electronically with the appropriate law-enforcement officer through use of a disk, electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer. Any local governing body, may by ordinance, require a pawnbroker to maintain and file a daily report electronically through the use of a disk, electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer.

B. The Department of State Police shall adopt regulations for the uniform reporting of information required by this section.

C. Any *natural person, firm, or corporation* violating any of the provisions of this section is guilty of a Class 4 misdemeanor.

#### **§ 54.1-4200. Definitions.**

For the purpose of this chapter, unless the context requires a different meaning:

"Dealer in firearms" means (i) any person, firm, partnership, or corporation engaged in the business of selling, trading or transferring firearms at wholesale or retail; (ii) any person, firm, partnership, or corporation engaged in the business of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or (iii) any *natural person, firm, partnership, or corporation* that is a pawnbroker.

"Engaged in business" means as applied to a dealer in firearms a person, firm, partnership, or corporation that devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through repetitive purchase or resale of firearms, but such term shall not involve a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.

"Firearms show" means any gathering or exhibition, open to the public, not occurring on the permanent premises of a dealer in firearms, conducted principally for the purposes of exchanging, selling or trading firearms as defined in § 18.2-308.2:2.

**2. That any county, city, or town may extend the license of a pawnbroker that is not a natural person for a period of up to one year after the effective date of this act.**

### **CHAPTER 239**

*An Act to amend and reenact §§ 2.3, 3.4, and 3.5 of Chapters 629 and 674 of the Acts of Assembly of 2005, which provided a charter for the City of Waynesboro, relating to city council procedures; real estate tax assessments.*

[H 1893]

Approved March 5, 2019

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

**1. That §§ 2.3, 3.4, and 3.5 of Chapters 629 and 674 of the Acts of Assembly of 2005 are amended and reenacted as follows:**

§ 2.3. Financial powers.

(a) Generally. In accordance with the Constitutions of the Commonwealth of Virginia and the United States, the city may raise annual taxes and assessments on property, persons and other subjects of taxation, which are not prohibited by law, such sums of money as in the judgment of the city are necessary to pay the debts, defray the expense, accomplish the purposes, and perform the functions of the city, in such manner as the council deems necessary or expedient. The city shall impose no tax on its bonds.

(b) Consumer utility tax, etc. The city shall have power to impose, levy, and collect, in such manner as its council shall deem expedient, a consumer or subscriber tax upon the amount paid for the use within the city of water, electricity, gas, telephone, television, cell phone, wireless, and any public utility service, or the amount paid for any one or more of such public utility services used within the city, and the council may provide that such tax shall be added to and collected with bills rendered consumers for such services.

(c) Assessments for local improvements. The city may impose special or local assessments for local improvements and enforce payment thereof, subject, however, to such limitations prescribed by the Constitution of Virginia as may be in force at the time of the imposition of such special or local assessments.

(d) Water, lights and sewerage, rates; rates and charges for public utilities or services, etc., operated, etc., by city. The city may establish, impose, and enforce water, light and sewerage rates, and rates and charges for public utilities, or other service, products, or conveniences, operated, rendered, or furnished by the city; assess, or cause to be assessed, water, light, sewerage, and other public utility rates and charges directly against the owner or owners of the buildings, or against the proper tenant or tenants; and in event such rates and charges shall be assessed against a tenant, then the said council may, by an ordinance, require of such tenant a deposit of such reasonable amount as may be by such ordinance prescribed before furnishing such services to such tenant.

(e) Imposition of license taxes; fine or penalty for doing business without license; fees to be paid on grant or transfer of license.

(1) License taxes may be imposed by ordinance on businesses, trades, professions, and callings and upon the persons, firms, associations, and corporations engaged therein, and the agents thereof, except in cases where taxation by the locality shall be prohibited by general law, and nothing herein shall be construed to repeal or amend any general law with respect to taxation.

(2) The council may subject any person, who, without having obtained a license therefor, shall do any act or follow any business, occupation, vocation, pursuit, or calling in the city for which a license may be required by ordinance, to such fine or penalty as it is authorized to impose for any violation of its laws.

(3) For every city license granted or transferred by the commissioner of revenue under this Charter, the commissioner shall charge a fee to be prescribed by an ordinance. Such license or transfer may be withheld until the fees are paid into the city treasury for city purposes.

(f) Levy on other property. It is hereby expressly provided that said council shall, in its discretion, be authorized to fix such annual levy on property subject to taxation in the City of Waynesboro, for city purposes, without any limit as to the rate thereof, any provisions of the general laws of the state to the contrary notwithstanding, provided that said council shall not fix such levy on property partially segregated to the state for purposes of state taxation at a higher rate than is or may be permitted by the general laws relating thereto.

(g) Issuance of bonds, notes, and evidence of debt.

(1) For the execution of its powers and duties, the city council may, in the name and for the use of the city, contract loans and cause to be issued certificates of debts or bonds, provided no such certificate of debt or bonds shall be issued except by ordinance adopted in accordance with Section 7 of Article VII of the Constitution of Virginia, and otherwise in accordance with the requirements of the Virginia "Public Finance Act." No such certificate or bonds shall be issued prior to city council holding a public hearing on the question, duly advertised at least ten (10) days in advance in a general newspaper of local circulation, and the ordinance authorizing any such certificate or bonds shall be introduced at one meeting of city council and adopted at a second meeting at least seven (7) calendar days after such introduction.

(2) Notwithstanding the foregoing paragraph, no bonds, notes, or other obligations shall be issued until their issuance shall have been authorized by a majority of the qualified voters of the city voting on the question at an election held for the purpose in the manner provided by general law, except as follows:

(i) The council may authorize the issuance of refunding bonds or refunding notes by an ordinance adopted in the manner set forth in subdivision (g) (1) by the affirmative vote of a majority of all members of the council.

(ii) The council may authorize, by an ordinance adopted in the manner set forth in subdivision (g) (1) by the affirmative vote of four-fifths (4/5) of all members of the council, the issuance of bonds and other obligations of a type excluded from the computation of indebtedness of cities under Section 10 (a) of Article VII of the Constitution by complying with the conditions for exclusion set forth therein.

(iii) The city shall have the authority without a vote of the people to make temporary loans not in excess of what may be paid out of current revenues for the fiscal year in which made.

(iv) Bonds which are secured by a lien on the property being purchased may be issued for the purchase of real or personal property without a vote of the people.

(v) The city shall have the authority, by an ordinance adopted in the manner set forth in subdivision (g) (1) by the affirmative vote of four-fifths (4/5) of all members of the council, to issue without a vote of the people bonds or interest-bearing obligations which, including existing general obligation indebtedness, do not exceed ten percent (10%) of the assessed valuation of the real estate in the city subject to taxation, as shown by the last preceding assessment for taxes.

(h) Liens for taxes, levies, and assessments. There shall be a lien on all real estate within the corporate limits for taxes, levies, and assessments, in favor of the city, assessed thereon, from the commencement of the year for which the same were assessed, and there shall also be a lien on the real estate on which local assessments for improvements may be made for the amount of such assessments from the time the same is levied by the city council. *Any person aggrieved by an assessment made by the assessor of real estate shall have the right to a hearing before the city assessor. After the hearing before the city assessor, if a person is still aggrieved by the assessment, such person may apply to the board of equalization for a hearing. Application for relief to the board of equalization in the year for which the assessment is challenged and disposition of such application by the board of equalization shall continue to be prerequisites to the jurisdiction of the circuit court to hear an appeal with respect to a real estate assessment for that year.* The council may by ordinance permit taxes to be paid in semi-annual installments.

(i) Additional powers. The city, the financial officers, and all deputies and agents charged with the duty of collecting any and all taxes, licenses, and assessments due the city shall have all the powers provided by law for the collection thereof to cities and towns and their respective officers thereof, and in addition shall have all the rights, powers, and remedies provided to any state officers for the collection of taxes. It is further expressly provided that the treasurer, commission of the revenue, and court clerk shall proceed under the general law for handling of delinquent lands, the sale thereof, the purchase of same with the required reports of sale and all provisions for redemption, or if not redeemed for the making of a tax title deed, in accordance with the provisions of the tax code of Virginia. In addition to the lien for the principal amount of such taxes, the city shall have a lien, with all the priorities provided therefor, for any and all penalties, interest, and costs accrued by reason of delinquency in the payment of such taxes.

§ 3.4. Organizational rules; election of mayor.

(a) ~~At nine o'clock ante meridian on the first day of July following a regular municipal election, or if such day is a Sunday, then on the day following, the council shall meet at the usual place for holding the meetings of the legislative board of the city.~~ *The city council shall assemble for an organizational meeting at its first regular session in July each year for the purposes set forth in § 15.2-1416 of the Code of Virginia, at which time the newly elected council members, after first having taken oaths prescribed by law, shall assume the duties of the office. Thereafter, the council shall meet at such times as may be prescribed by ordinance or resolution, except that they shall regularly meet not less than once each month. The mayor, any member of the council, or the city manager may call special meetings of the council at any time (on at least twelve (12) hours written notice), with the purpose of said meeting stated therein, to each member served personally or left at such member's usual place of business or residence. No business other than that mentioned in the call shall be considered at such meeting, except upon the consent of no fewer than four-fifths (4/5) of the members of the council.*

(b) All meetings of the council shall be public except, if otherwise authorized by general law. Any citizen may have access to the minutes and records thereof at all reasonable times.

(c) The council shall elect one of its members as chairman, who shall be ex officio mayor.

(d) The mayor shall be elected by the council for a term of two (2) years and shall preside at meetings of the council and perform such other duties consistent with the office as may be imposed by the council. The mayor shall have a vote and voice in the proceedings, but no veto. The mayor shall be the official head of the city but shall have no jurisdiction or authority to hear, determine, or try any civil or criminal matters. In times of public danger or emergency, the mayor, or during the mayor's absence or disability, the city manager, may take command of the police and maintain order and enforce the laws, and for this purpose, may deputize such assistant police officers as may be necessary. During absence or disability, except as above provided, the city manager's duties shall be performed by another member appointed by the council. The mayor shall authenticate by signature such instruments as the council, this Charter, or the laws of the state shall require.

(e) On the ~~first~~ *first* day of the *first regular meeting* in July following the regular municipal election and organization of the council, or as soon thereafter as may be practicable, the council shall elect a city manager, city clerk, city attorney, city assessor, and such other officers as may come within their jurisdiction, each of whom shall serve at the pleasure of the council, provided that the council may elect the city clerk, city manager, city attorney, city assessor, and such other officers for terms of one year each, beginning July 1, subject to removal by the council for cause, and in no event shall the council elect any officer for a term extending beyond June 30 next succeeding each regular biennial municipal election for members of the council.

§ 3.5. Ordinances and resolutions.

(a) Except in dealing with parliamentary procedure, the council shall act only by ordinance or resolution, and with the exception of ordinances making appropriations or authorizing the contracting of indebtedness, shall be confined to one subject, although nothing shall prevent council from acting collectively on a number of resolutions or ordinances by one comprehensive action approving a consent agenda containing all such resolutions and ordinances.

(b) Each proposed ordinance or resolution shall be introduced in a written or printed form, and the enacting clause of all ordinances passed by the council shall substantially be, "Be it ordained by the council of the City of Waynesboro, Virginia."

(c) ~~No~~ *Except as provided herein, no* ordinance, or resolution having the effect of an ordinance, or resolution suspending an ordinance, unless it is an emergency measure, shall be passed until it has been considered at two meetings not less than one week apart, one of which shall be a regular meeting and the other of which may be either an adjourned or called meeting. Any ordinance or resolution considered at one such meeting may be amended and passed as amended at the next such meeting, provided that the amendment does not materially change the ordinance. No ordinance shall be amended unless such section or sections as are intended to be amended shall be reenacted. *Nonetheless, an ordinance, or resolution having the effect of an ordinance, wherein the city is the recipient of money, funds, or a grant may be passed upon one consideration at a meeting open to the public.* The ayes and noes shall be taken and recorded upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the council. Except as otherwise provided in this Charter, an affirmative vote of a majority of the members elected to the council shall be necessary to adopt any ordinance or resolution.

(d) Effective date of ordinances; emergency measures. No ordinance passed by the council shall take effect until at least ten (10) days from the date of its passage, except that the council may, by the affirmative vote of the majority of its members, pass emergency measures to take effect at the time indicated therein or specifically provide that a nonemergency ordinance take effect immediately upon its passage.

(e) Recordation and authentication of ordinances; publication of ordinances; introduction of ordinances in evidence.

(1) Every ordinance, or resolution having the effect of an ordinance, when passed shall be recorded by the city clerk in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the city clerk.

(2) Every ordinance of a general or permanent nature shall be published in full once within ten (10) days after its final passage by posting a copy thereof at the front door of the municipal building and at two other public places in the city or, when ordered by the council, by publication in a newspaper published or circulated in the city for such time as the council may direct, provided that the foregoing requirements as to publication shall not apply to ordinances reordained in or by a general compilation or codification of ordinances printed by authority of the council.

(3) A record or entry made by the city clerk or a copy of such record or entry duly certified by said clerk shall be prima facie evidence of the terms of the ordinance and its due publication. All ordinances and resolutions of the council may be read in evidence in all courts and in all other proceedings in which it may be necessary to refer thereto, either from the original record thereof, from a copy thereof, certified by the city clerk, or from any volume of ordinances printed by authority of the council.

(f) Publication of indexed ordinances. The council shall from time to time direct the publication, with suitable index, of the city ordinances.

## CHAPTER 240

*An Act to amend and reenact §§ 15.2-1638, 16.1-69.35, 16.1-77, and 16.1-123.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-69.35:01, relating to court buildings; ownership, location, and jurisdiction.*

[H 2239]

Approved March 5, 2019

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

**1. That §§ 15.2-1638, 16.1-69.35, 16.1-77, and 16.1-123.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-69.35:01 as follows:**

**§ 15.2-1638. County or city governing body to provide courthouse, clerk's office, jail and suitable facilities for attorney for the Commonwealth; acquisition of land.**

The governing body of every county and city shall provide courthouses with suitable space and facilities to accommodate the various courts and officials thereof serving the county or city; within or outside such courthouses, a clerk's office, the record room of which shall be fireproof; a jail; and, upon request therefor, suitable space and facilities for the attorney for the Commonwealth to discharge the duties of his office. The costs thereof and of the land on which they may be, and of keeping the same in good order, shall be chargeable to the county or city. The fee simple of the lands and of the buildings and improvements thereon utilized for such courthouses shall be in the county or city, *or jointly in a county and a city*, and the governing body of the county or city may purchase so much of such property, as, with what it has, may be necessary for the purposes enumerated or for any other proper purpose of the county or city. However, any portion of the property owned by a county and located within a city or town and not actually occupied by the courthouse, clerk's office, or jail, may be sold or exchanged and conveyed to such city or town to be used for street or other public purposes. Any such sale or exchange by the governing body of a county shall be made in accordance with the provisions of § 15.2-1800.

The amendments contained in Chapter 90 of the 1986 Acts of Assembly shall not apply to the City of Virginia Beach.

### **§ 16.1-69.35. Administrative duties of chief district judge.**

The chief judge of each district shall have the following administrative duties and authority with respect to his district:

1. When any district court judge is under any disability or for any other cause is unable to hold court and the chief judge determines that assistance is needed:

a. The chief district judge shall designate a judge within the district or a judge of another district court within the Commonwealth, if one is reasonably available, to hear and dispose of any action or actions properly coming before such district court for disposition;

b. If unable to designate a judge as provided in subdivision 1 a, the chief district judge may designate a retired district judge eligible for recall pursuant to § 16.1-69.22:1 for such hearing and disposition if such judge consents; or

c. If unable to assign a retired district court judge, the chief district judge may designate a retired circuit court judge eligible for recall pursuant to § 17.1-106 if such judge consents or the chief district judge may request that the Chief Justice of the Supreme Court designate a circuit judge if such judge consents.

If no judges are available under subdivision a, b or c, then a substitute judge shall be designated pursuant to § 16.1-69.21.

While acting, any judge so designated shall have all the authority and power of the judge of the court, and his order or judgment shall, to all intents and purposes, be the judgment of the court. A general district court judge designated pursuant to subdivision 1 a, may, with his consent, substitute for or replace a juvenile and domestic relations district court judge, and vice versa. The names of the judges designated under subdivisions b and c shall be selected from a list provided by the Executive Secretary and approved by the Chief Justice of the Supreme Court.

2. The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned.

3. If on account of congestion in the work of any district court or when in his opinion the administration of justice so requires, the Chief Justice of the Supreme Court may, upon his own initiative or upon written application of the chief district court judge desiring assistance, designate a judge from another district or any circuit court judge, if such circuit court judge consents, or a retired judge eligible for recall, to provide judicial assistance to such district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist and while so acting his order or judgment shall be, to all intents and purposes, the judgment of the court to which he is assigned.

4. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge may establish special divisions of any general district court when the work of the court may be more efficiently handled thereby such as through the establishment of special civil, criminal or traffic divisions, and he may assign the judges of the general district court with respect to serving such special divisions. In the City of Richmond the general district court shall, in addition to any specialized divisions, maintain a separate division of such court in that part of Richmond south of the James River with concurrent jurisdiction in civil matters whenever one or more of the defendants reside or the cause of action or any part thereof arises in that part of the city, concurrent jurisdiction over all traffic matters arising in that part of the city and concurrent jurisdiction over all other criminal matters arising in that part of the city.

5. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge shall determine when the district courts or divisions of such courts shall be open for the transaction of business. The chief judge or presiding judge of any district court may authorize the clerk's office to close on any date when the chief judge or presiding judge determines that operation of the clerk's office, under prevailing conditions, would constitute a threat to the health or safety of the clerk's office personnel or the general public. Closing of the clerk's office pursuant to this subsection shall have the same effect as provided in subsection B of § 1-210. In determining whether to close because of a threat to the health or safety of the general public, the chief judge or the presiding judge of the district court shall coordinate with the chief judge or presiding judge of the circuit court so that, where possible and appropriate, both the circuit and district courts take the same action. He shall determine the times each such court shall be held for the trial of civil, criminal or traffic matters and cases. He shall determine whether, in the case of district courts in counties, court shall be held at any place or places in addition to the county seat *or other place expressly authorized by statute*. He shall determine the office hours and arrange a vacation schedule of the judges within his district, in order to ensure the availability of a judge or judges to the public at normal times of business. A schedule of the times and places at which court is held shall be filed with the Executive Secretary of the Supreme Court and kept posted at the courthouse, and in any county also at any such other place or places where court may be held, and the clerk shall make such schedules available to the public upon request. Any matter may, in the discretion of the judge, or by direction of the chief district judge, be removed from any one of such designated places to another, or to or from the county seat *or other place expressly authorized by statute*, in order to serve the convenience of the parties or to expedite the administration of justice; however, any town having a population of over 15,000 as of July 1, 1972, having court facilities and a court with both general criminal and civil jurisdiction prior to July 1, 1972, shall be designated by the chief judge as a place to hold court.

6. Subject to the provisions of § 16.1-69.38, the chief judge of a general district court or the chief judge of a juvenile and domestic relations district court may establish a voluntary civil mediation program for the alternate resolution of disputes. The costs of the program shall be paid by the local governing bodies within the district or by the parties who voluntarily participate in the program.

**§ 16.1-69.35:01. Location of district courts for Albemarle County.**

*The Albemarle General District Court and the Albemarle Juvenile and Domestic Relations District Court may sit in the City of Charlottesville on property immediately across the street from the county courthouse.*

**§ 16.1-77. Civil jurisdiction of general district courts.**

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$4,500 exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees. However, this \$25,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$25,000 exclusive of interest and any attorney fees.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease or guarantee of such lease.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code.

(5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.

(8) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.

(9) Jurisdiction to try and decide any cases pursuant to § 55-79.80:2 of the Condominium Act (§ 55-79.39 et seq.) or § 55-513 of the Property Owners' Association Act (§ 55-508 et seq.).

(10) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional limits of the general district court. Any party that disagrees with an order by a general district court granting an application to compel arbitration may appeal such decision to the circuit court pursuant to § 8.01-581.016.

*For purposes of this section, the territory served by a county general district court expressly authorized by statute to be established in a city includes the general district court courtroom.*

**§ 16.1-123.1. Criminal and traffic jurisdiction of general district courts.**

1. Each general district court shall have, within the county, including the towns within such county, or city for which it is established, exclusive original jurisdiction for the trial of:

a. All offenses against the ordinances, laws and bylaws of such county, including the towns within such county, or city or of any service district within such county or city, except a city ordinance enacted pursuant to §§ 18.2-372 through 18.2-391.1. All offenses against the ordinances of a service district shall be prosecuted in the name of such service district;

b. All other misdemeanors and traffic infractions arising in such county, including the towns in such county, or city.

2. Each general district court which is established within a city shall also have:

a. Concurrent jurisdiction with the circuit court of such city for all violations of state revenue and election laws; and

b. Exclusive original jurisdiction, except as otherwise provided by general law or the city charter, within the area extending for one mile beyond the corporate limits thereof, for the trial of all offenses against the ordinances, laws and bylaws of the city.

3. If a city lying within a county has no general district court provided by city charter or under general law, then the general district court of the county within which such city lies shall have the same jurisdiction in such city as a general district court established for a city would have.

4. Each general district court shall have such other jurisdiction, exclusive or concurrent, as may be conferred on such court by general law or by provisions of the charter of the city for which the court was established.

5. *Notwithstanding the provisions of subsection C of § 19.2-244, any county general district court authorized by § 16.1-69.35:01 to be established in a city shall have exclusive original jurisdiction for the trial of all misdemeanors committed within or upon the general district court courtroom.*

6. Nothing herein shall affect the jurisdiction conferred on the juvenile and domestic relations district court by Chapter 11 (§ 16.1-226 et seq.) ~~of this title.~~

## CHAPTER 241

*An Act to amend and reenact § 8.01-246 of the Code of Virginia, relating to statute of limitations; action based on an unsigned, written contract.*

[H 2242]

Approved March 5, 2019

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

**1. That § 8.01-246 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-246. Personal actions based on contracts.**

Subject to the provisions of § 8.01-243 regarding injuries to person and property and of § 8.01-245 regarding the application of limitations to fiduciaries, and their bonds, actions founded upon a contract, other than actions on a judgment or decree, shall be brought within the following number of years next after the cause of action shall have accrued:

1. In actions or upon a recognizance, except recognizance of bail in a civil suit, within ~~ten~~ 10 years; and in actions or motions upon a recognizance of bail in a civil suit, within three years, omitting from the computation of such three years such time as the right to sue out such execution shall have been suspended by injunction, supersedeas or other process;

2. In actions on any contract ~~which~~ that is not otherwise specified and ~~which~~ that is in writing and signed by the party to be charged thereby, or by his agent, within five years whether such writing be under seal or not;

3. In actions by a partner against another for settlement of the partnership account or in actions upon accounts concerning the trade of merchandise between merchant and merchant, their factors, or servants, within five years from the cessation of the dealings in which they are interested together;

4. In actions upon (i) any contract that is not otherwise specified and that is in writing and not signed by the party to be charged, or by his agent, or (ii) any unwritten contract, express or implied, within three years.

Provided that as to any action to which § 8.2-725 of the Uniform Commercial Code is applicable, that section shall be controlling except that in products liability actions for injury to person and for injury to property, other than the property subject to contract, the limitation prescribed in § 8.01-243 shall apply.

## CHAPTER 242

*An Act to amend and reenact § 6.2-866 of the Code of Virginia, relating to the quorum required for a meeting of the board of directors of a bank.*

[H 2298]

Approved March 5, 2019

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

**1. That § 6.2-866 of the Code of Virginia is amended and reenacted as follows:**

**§ 6.2-866. Meetings of board of directors.**

The board of directors of every bank shall hold meetings at least once in each calendar month. At each meeting of the board, a majority of the whole board shall be necessary for the lawful transaction of business. Notwithstanding the foregoing, (i) the shareholders, by bylaw, may fix any number not less than ~~five~~ a majority as a quorum and (ii) the Commission may allow less frequent meetings, but not less often than quarterly.

## CHAPTER 243

*An Act to amend and reenact §§ 43-4, 43-5, 43-8, and 43-10 of the Code of Virginia, relating to mechanic's liens; forms.*

[H 2409]

Approved March 5, 2019

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

**1. That §§ 43-4, 43-5, 43-8, and 43-10 of the Code of Virginia are amended and reenacted as follows:**

**§ 43-4. Perfection of lien by general contractor; recordation and notice.**

A general contractor, or any other lien claimant under §§ 43-7 and 43-9, in order to perfect the lien given by § 43-3, provided such lien has not been barred by § 43-4.01 C, shall file a memorandum of lien at any time after the work is commenced or material furnished, but not later than 90 days from the last day of the month in which he last performs labor or furnishes material, and in no event later than 90 days from the time such building, structure, or railroad is completed, or the work thereon otherwise terminated. The memorandum shall be filed in the clerk's office in the county or city in which the building, structure or railroad, or any part thereof is located. The memorandum shall show the names *and addresses* of the owner of the property sought to be charged, and of the claimant of the lien, the amount and consideration of his claim, ~~and~~ the time or times when the same is or will be due and payable, *and the date from which interest is claimed*, verified by the oath of the claimant, or his agent, including a statement declaring his intention to claim the benefit of the lien, and giving a brief description of the property on which he claims a lien. The memorandum shall also contain the claimant's license or certificate number issued by the Board for Contractors pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, if any, and the date such license or certificate was issued and the date such license or certificate expires. It shall be the duty of the clerk in whose office the memorandum is filed to record and index the same as provided in § 43-4.1, in the name of the claimant of the lien and of the owner of the property. From the time of such recording and indexing all persons shall be deemed to have notice thereof. A lien claimant who is a general contractor, and not lien claimants under §§ 43-7 and 43-9, also shall file along with the memorandum of lien, a certification of mailing of a copy of the memorandum of lien on the owner of the property at the owner's last known address. The cost of recording the memorandum shall be taxed against the person found liable in any judgment or decree enforcing such lien. The lien claimant may file any number of memoranda but no memorandum filed pursuant to this chapter shall include sums due for labor or materials furnished more than 150 days prior to the last day on which labor was performed or material furnished to the job preceding the filing of such memorandum. However, any memorandum may include (i) sums withheld as retainages with respect to labor performed or materials furnished at any time before it is filed, but not to exceed 10 percent of the total contract price and (ii) sums which are not yet due because the party with whom the lien claimant contracted has not yet received such funds from the owner or another

third party. The time limitations set forth herein shall apply to all labor performed or materials furnished on construction commenced on or after July 1, 1980. An inaccuracy in the memorandum as to the claimant's license or certificate number, if any, the date such license or certificate was issued, or the date such license or certificate expires shall not bar a person from perfecting a lien if the claimant can otherwise be reasonably identified in the records of the Board for Contractors.

**§ 43-5. Sufficiency of memorandum and affidavit required by § 43-4.**

The memorandum and affidavit required by § 43-4 shall be sufficient if substantially in form and effect as follows:  
Memorandum for Mechanic's Lien Claimed by General Contractor.

Name of owner: \_\_\_\_\_  
Address of owner: \_\_\_\_\_  
Name of claimant: \_\_\_\_\_  
Address of claimant: \_\_\_\_\_  
Contractor license or certificate number of claimant (if applicable): \_\_\_\_\_

\_\_\_\_\_  
Issuance date of license or certificate (if applicable):

\_\_\_\_\_  
Expiration date of license or certificate (if applicable):

If no contractor license or certificate number is included, the claimant certifies that such a valid license or certificate is not required by law for the work done for which the benefit of a lien is claimed.

1. Type of materials or services furnished: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Amount claimed: \$ \_\_\_\_\_

*If any part of the Amount claimed is not due as of the date of this mechanic's lien, identify the date or event upon which it will be due and the sum(s) to which the due date(s) or event(s) apply:* \_\_\_\_\_

3. Type of structure on which work done or materials furnished: \_\_\_\_\_

4. Brief description and location of real property: \_\_\_\_\_

5. Date from which interest on the above amount is claimed:

Date: \_\_\_\_\_

It is the intent of the claimant to claim the benefit of a lien.

The undersigned hereby certifies that he has mailed a copy of this memorandum of lien to the owner of the property at the owner's last known address: \_\_\_\_\_ (address), on \_\_\_\_\_ (date of mailing).

\_\_\_\_\_  
(Name of claimant).

Affidavit.

State of Virginia,

County (or city) of \_\_\_\_\_, to wit:

I, \_\_\_\_\_ (notary or other officer) for the county (or city) aforesaid, do certify that \_\_\_\_\_ claimant, or \_\_\_\_\_, agent for claimant, this day made oath before me in my county (or city) aforesaid that \_\_\_\_\_ (the owner) is justly indebted to claimant in the sum of \_\_\_\_\_ dollars, for the consideration stated in the foregoing memorandum, and that the same is payable as therein stated.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Notary Public or Magistrate, et cetera.)

**§ 43-8. Sufficiency of memorandum, affidavit and notice required by § 43-7.**

The memorandum, affidavit and notice required by § 43-7 shall be sufficient if substantially in form and effect as follows:

Memorandum for Mechanic's Lien Claimed by Subcontractor.

Name of owner: \_\_\_\_\_

Address of owner: \_\_\_\_\_

Name of general contractor (if any): \_\_\_\_\_

Name of claimant: \_\_\_\_\_

Address of claimant: \_\_\_\_\_

Contractor license or certificate number of claimant (if applicable): \_\_\_\_\_

\_\_\_\_\_  
Issuance date of license or certificate (if applicable):

Expiration date of license or certificate (if applicable):

If no contractor license or certificate number is included, the claimant certifies that such a valid license or certificate is not required by law for the work done for which the benefit of a lien is claimed.

1. Type of materials or services furnished: \_\_\_\_\_

2. Amount claimed: \$ \_\_\_\_\_

If any part of the Amount claimed is not due as of the date of this mechanic's lien, identify the date or event upon which it will be due and the sum(s) to which the due date(s) or event(s) apply: \_\_\_\_\_

3. Type of structure on which work done or materials furnished: \_\_\_\_\_

4. Brief description and location of real property: \_\_\_\_\_

5. Date from which interest on above amount is claimed:

Date: \_\_\_\_\_

It is the intent of the claimant to claim the benefit of a lien.

\_\_\_\_\_ (Name of claimant).

Affidavit.

State of Virginia,

County (or city) of \_\_\_\_\_ to wit:

I, \_\_\_\_\_ (notary or other officer) for the county (or city) aforesaid, do certify that \_\_\_\_\_, claimant, or \_\_\_\_\_, agent for claimant, this day made oath before me in my county (or city) aforesaid that \_\_\_\_\_ is justly indebted to claimant in the sum of \_\_\_\_\_ dollars, for the consideration stated in the foregoing memorandum, and that the same is payable as therein stated.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ (Notary Public or Magistrate, et cetera.)

Notice.

To \_\_\_\_\_ (owner).

You are hereby notified that \_\_\_\_\_ (general contractor) is indebted to me in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) with interest thereon from the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for work done (or materials furnished, as the case may be,) in and about the construction (or removal, etc.) of a \_\_\_\_\_ (describe structure, whether dwelling, store, or etc.) which he has contracted to construct (or remove, etc.) for you or on property owned by you in the county (or city) of \_\_\_\_\_, and that I have duly recorded a mechanic's lien for the same.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ (Subcontractor).

**§ 43-10. Sufficiency of memorandum, affidavit and notice required by § 43-9.**

The memorandum, affidavit and notice required by § 43-9 shall be sufficient if substantially in form and effect as follows:

Memorandum for Mechanic's Lien Claimed by Sub-subcontractor.

Name of owner: \_\_\_\_\_

Address of owner: \_\_\_\_\_

Name of general contractor (if any) and subcontractor: \_\_\_\_\_

Name of claimant: \_\_\_\_\_

Address of claimant: \_\_\_\_\_

Contractor license or certificate number of claimant (if applicable): \_\_\_\_\_

Issuance date of license or certificate (if applicable): \_\_\_\_\_

Expiration date of license or certificate (if applicable): \_\_\_\_\_

If no contractor license or certificate number is included, the claimant certifies that such a valid license or certificate is not required by law for the work done for which the benefit of a lien is claimed.

1. Type of materials or services furnished: \_\_\_\_\_

2. Amount claimed: \$ \_\_\_\_\_

If any part of the Amount claimed is not due as of the date of this mechanic's lien, identify the date or event upon which it will be due, and the sum(s) to which the due date(s) or event(s) apply: \_\_\_\_\_

3. Type of structure on which work done or materials furnished: \_\_\_\_\_

\_\_\_\_\_

4. Brief description and location of real property:

5. Date from which interest on above amount is claimed:

Date: \_\_\_\_\_

It is the intent of the claimant to claim the benefit of a lien.

\_\_\_\_\_  
(Name of claimant).

\_\_\_\_\_  
(Signature of claimant or agent for claimant).

Affidavit.

State of Virginia,

County (or city) of \_\_\_\_\_, to wit:

I, \_\_\_\_\_ (notary or other officer) for the county (or city) aforesaid do certify that \_\_\_\_\_ claimant, or \_\_\_\_\_, agent for claimant, this day made oath before me in my county (or city) aforesaid that \_\_\_\_\_ is justly indebted to claimant in the sum of \_\_\_\_\_ dollars for the consideration stated in the foregoing memorandum, and that the same is payable as therein stated.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Notary Public or Magistrate, et cetera.)

Notice.

To \_\_\_\_\_ (owner) and \_\_\_\_\_ (general contractor):

You are hereby notified that \_\_\_\_\_, a subcontractor under you, said \_\_\_\_\_ (general contractor) for the construction (or removal, etc.) of a \_\_\_\_\_ (describe structure) for you, or on property owned by you, said \_\_\_\_\_ (owner) is indebted to me in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) with interest thereon from the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for work done (or materials furnished) in and about the construction (or removal, etc.) of \_\_\_\_\_ (naming structure), situate in the county (or city) of \_\_\_\_\_ Virginia, and that I have duly recorded a mechanic's lien for the same.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Sub-subcontractor).

## CHAPTER 244

*An Act to amend and reenact § 6.2-866 of the Code of Virginia, relating to the quorum required for a meeting of the board of directors of a bank.*

[S 1272]

Approved March 5, 2019

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

**1. That § 6.2-866 of the Code of Virginia is amended and reenacted as follows:**

**§ 6.2-866. Meetings of board of directors.**

The board of directors of every bank shall hold meetings at least once in each calendar month. At each meeting of the board, a majority of the whole board shall be necessary for the lawful transaction of business. Notwithstanding the foregoing, (i) the shareholders, by bylaw, may fix any number not less than ~~five~~ a majority as a quorum and (ii) the Commission may allow less frequent meetings, but not less often than quarterly.

## CHAPTER 245

*An Act to amend and reenact § 15.2-2303.4 of the Code of Virginia and to repeal the third enactment of Chapter 322 of the Acts of Assembly of 2016, relating to conditional rezoning proffers.*

[H 2342]

Approved March 5, 2019

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

**1. That § 15.2-2303.4 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers.**

A. For purposes of this section, unless the context requires a different meaning:

"New residential development" means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment.

"New residential use" means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be developed and shall include all cash proffers.

"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be developed and shall not include any cash proffers.

"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a property or properties.

"Public facilities" means public transportation facilities, public safety facilities, public school facilities, or public parks.

"Public facility improvement" means an offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

"Public safety facility improvement" means construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

"Public school facility improvement" means construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto.

"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to transit.

"Residentially zoned property" means property zoned or proposed to be zoned for either single-family or multifamily housing.

"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to § 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

B. Notwithstanding any other provision of law, general or special, no ~~locality~~ *local governing body* shall (i) ~~request or accept~~ *require* any unreasonable proffer, as described in subsection C, in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.

C. Notwithstanding any other provision of law, general or special, ~~(+)~~ as used in this chapter, a proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless ~~it~~:

1. *It* addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for; and ~~(ii) an offsite proffer shall be deemed unreasonable pursuant to subdivision (i) unless~~

2. *If an offsite proffer*, it addresses an impact to an offsite public facility, such that ~~(a)~~ (i) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and ~~(b)~~ (ii) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. ~~For the purposes of this section, a~~ locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use.

D. *Notwithstanding the provisions of subsection C:*

1. *An applicant or owner may, at the time of filing an application pursuant to this section or during the development review process, submit any onsite or offsite proffer that the owner and applicant deem reasonable and appropriate, as conclusively evidenced by the signed proffers.*

2. *Failure to submit proffers as set forth in subdivision 1 shall not be a basis for the denial of any rezoning or proffer condition amendment application.*

E. Notwithstanding any other provision of law, general or special:

1. Actions brought to contest the action of a ~~locality~~ *local governing body* in violation of this section shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition amendment pursuant to subsection F of § 15.2-2285, *provided that the applicant objected in writing to the governing body regarding a proposed condition prior to the governing body's grant or denial of the rezoning application.*

2. In any action in which a ~~locality~~ *local governing body* has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit an unreasonable proffer or proffer condition amendment that ~~it has proven~~ *was suggested, requested, or required in writing* by the ~~locality~~

*local governing body in violation of this section, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.*

3. In any successful action brought pursuant to this section contesting an action of a ~~locality~~ *local governing body* in violation of this section, the applicant may be entitled to an award of reasonable attorney fees and costs and to an order remanding the matter to the governing body with a direction to approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer *or to amend the proffer to bring it into compliance with this section.* If the ~~locality~~ *local governing body* fails or refuses to approve the rezoning or proffer condition amendment, *or fails or refuses to amend the proffer to bring it into compliance with this section,* within a reasonable time not to exceed 90 days from the date of the court's order to do so, the court shall enjoin the ~~locality~~ *local governing body* from interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to the local governing body pursuant to this subsection, the requirements of § 15.2-2204 shall not apply.

~~F.~~ *F.* The provisions of this section shall not apply to any new residential development or new residential use occurring within any of the following areas: (i) an approved small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit as defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and allows additional density within the vicinity of such existing or planned station; or (iii) an approved service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail station.

~~F.~~ *G.* This section shall be construed as supplementary to any existing provisions limiting or curtailing proffers or proffer condition amendments for new residential development or new residential use that are consistent with its terms and shall be construed to supersede any existing statutory provision with respect to proffers or proffer condition amendments for new residential development or new residential use that are inconsistent with its terms.

*H. Notwithstanding any provision in this section to the contrary, nothing contained herein shall be deemed or interpreted to prohibit or to require communications between an applicant or owner and the locality. The applicant, owner, and locality may engage in pre-filing and post-filing discussions regarding the potential impacts of a proposed new residential development or new residential use on public facilities as defined in subsection A and on other public facilities of the locality, and potential voluntary onsite or offsite proffers, permitted under subsections C and D, that might address those impacts. Such verbal discussions shall not be used as the basis that an unreasonable proffer or proffer condition amendment was required by the locality. Furthermore, notwithstanding any provision in this section to the contrary, nothing contained herein shall be deemed or interpreted to prohibit or to require presentation, analysis, or discussion of the potential impacts of new residential development or new residential use on the locality's public facilities.*

**2. That the third enactment of Chapter 322 of the Acts of Assembly of 2016 is repealed.**

**3. That this act shall be effective as to any application for a rezoning filed on or after July 1, 2019, or for a proffer condition amendment amending a rezoning that was filed on or after July 1, 2019, or to any then-pending rezoning application in which the applicant elects to proceed hereunder, by amendment of that pending application.**

**4. That an applicant with a pending application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may continue to proceed under the law as it existed prior to that date, and an applicant with a pending rezoning application filed on or after July 1, 2016, but before July 1, 2019, or proffer condition amendment application amending a rezoning for which the application was filed on or after July 1, 2016, but before July 1, 2019, may continue to proceed under the law as it existed during that period.**

## CHAPTER 246

*An Act to amend and reenact §§ 22.1-79.5 and 22.1-279.6 of the Code of Virginia, relating to public schools; tobacco products and nicotine vapor products; prohibition.*

[H 2384]

Approved March 6, 2019

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

**1. That §§ 22.1-79.5 and 22.1-279.6 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-79.5. Policy regarding tobacco and nicotine vapor products.**

Each school board shall develop and implement a policy to prohibit, *at any time,* the use *and distribution* of ~~electronic cigarettes~~ *any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2,* on a school bus, on school property, or at ~~a~~ *an on-site or off-site* school-sponsored activity.

*Such policy shall include (i) provisions for its enforcement among students, employees, and visitors, including the enumeration of possible sanctions or disciplinary action consistent with state or federal law, and (ii) referrals to resources to help staff and students overcome tobacco addiction.*

*Each school board shall work to ensure adequate notice of this policy.*

**§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.**

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal to notify the parent of any student involved in an alleged incident of bullying of the status of any investigation within five school days of the allegation of bullying.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing ~~electronic e-cigarettes~~ *any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2*, on a school bus, on school property, or at ~~a~~ *an on-site or off-site* school-sponsored activity.

## CHAPTER 247

*An Act to amend and reenact § 2.2-3705.7 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 40 of Title 58.1 a section numbered 58.1-4029, relating to Virginia Lottery; disclosure of identity of winners.*

[H 1650]

Approved March 8, 2019

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

**1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 40 of Title 58.1 a section numbered 58.1-4029 as follows:**

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or

the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

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

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. *If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.*

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

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

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

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

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

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

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

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of

sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

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

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

**§ 58.1-4029. Disclosure of identity of winners by the Department.**

*Except as provided in subsection B of § 58.1-4019, the Department shall not disclose information about the identity of an individual lottery winner if the value of the prize won by the winner exceeds \$10 million, unless the winner consents in writing to such disclosure.*

## CHAPTER 248

*An Act to amend and reenact §§ 56-1.2, 56-1.2:1, and 56-232.2:1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 6 of Title 2.2 a section numbered 2.2-614.5, relating to electric vehicle charging stations; operation by certain state agencies.*

[H 1934]

Approved March 8, 2019

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

**1. That §§ 56-1.2, 56-1.2:1, and 56-232.2:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 6 of Title 2.2 a section numbered 2.2-614.5 as follows:**

**§ 2.2-614.5. Electric vehicle charging stations.**

*The Department of General Services, Department of Motor Vehicles, and Department of Transportation may locate and operate a retail fee-based electric vehicle charging station on any property or facility that such agency controls if the electric vehicle charging services are offered at prevailing market rates. For the purposes of this section, "prevailing market rates" means rates that include applicable taxes and are similar to those generally available to consumers in competitive areas for the same services.*

**§ 56-1.2. Persons, localities, and school boards not designated as public utility, public service corporation, etc.**

The terms public utility, public service corporation, or public service company, as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) of this title, shall not refer to:

1. Any person who owns or operates property and provides electricity, natural gas, water, or sewer service to residents or tenants on the property, provided that (i) the electricity, natural gas, water, or sewer service provided to the residents or tenants is purchased by the person from a public utility, public service corporation, public service company, or person licensed by the Commission as a competitive provider of energy services, or a county, city or town, or other publicly regulated political subdivision or public body, (ii) the person or his agent charges to the resident or tenant on the property only that portion of the person's utility charges for the electricity, natural gas, water, or sewer service which is attributable to usage by the resident or tenant on the property, and additional service charges permitted by § 55-226.2, and (iii) the person maintains three years' billing records for such charges; ~~or~~

2. Any (i) person who is not a public service corporation and who provides electric vehicle charging service at retail, (ii) school board that operates retail fee-based electric vehicle charging stations on school property pursuant to § 22.1-131, (iii) locality that operates a retail fee-based electric vehicle charging station on property owned or leased by the locality pursuant to § 15.2-967.2, or (iv) board of visitors of any baccalaureate public institution of higher education that operates a retail fee-based electric vehicle charging station on the grounds of such institution pursuant to § 23.1-1301.1. The

ownership or operation of a facility at which electric vehicle charging service is sold, and the selling of electric vehicle charging service from that facility, does not render such person, school board, locality, or board of visitors a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.

3. The Department of Conservation and Recreation when operating a retail fee-based electric vehicle charging station on property of any existing state park or similar recreational facility the Department controls pursuant to § 10.1-104.01. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the Department of Conservation and Recreation a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.

4. The Chancellor of the Virginia Community College System when operating a retail fee-based electric vehicle charging station on the grounds of any comprehensive community college pursuant to § 23.1-2908.1. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the Chancellor of the Virginia Community College System a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.

5. *The Department of General Services, Department of Motor Vehicles, or Department of Transportation when operating a retail fee-based electric vehicle charging station on any property or facility that such agency controls. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the agency a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.*

**§ 56-1.2:1. Retail sale of electricity in connection with the provision of electric vehicle charging service.**

A. The provision of electric vehicle charging service by a person, locality, public institution of higher education, or a school board that is not a public utility, public service corporation, or public service company, or by the Department of Conservation and Recreation, *Department of General Services, Department of Motor Vehicles, or Department of Transportation*, shall not constitute the retail sale of electricity if:

1. The electricity furnished in connection with the provision of electric vehicle charging service is used solely for transportation purposes; and

2. The person, locality, public institution of higher education, or school board providing the electric vehicle charging service, or the Department of Conservation and Recreation, *Department of General Services, Department of Motor Vehicles, or Department of Transportation*, has procured the furnished electricity from the public utility that is authorized by the Commission to engage in the retail sale of electricity within the exclusive service territory in which the electric vehicle charging service is provided.

B. The provision of electric vehicle charging service shall:

1. Be a permitted electric utility activity of a certificated electric utility; and

2. Not affect the status as a public utility of a certificated public utility that provides such service.

**§ 56-232.2:1. Regulation of electric vehicle charging service.**

The Commission shall not regulate or prescribe the rates, charges, and fees for the provision of retail electric vehicle charging service provided by persons, localities, public institutions of higher education, the Department of Conservation and Recreation, *the Department of General Services, the Department of Motor Vehicles, the Department of Transportation*, or school boards other than public service corporations. Sales of electricity by public utilities to a person, a locality, a public institution of higher education, the Department of Conservation and Recreation, *the Department of General Services, the Department of Motor Vehicles, the Department of Transportation*, or a school board that (i) is not a public service corporation and (ii) provides electric vehicle charging service shall continue to be regulated by the Commission to the same extent as are other services provided by public utilities. The Commission may adopt regulations implementing this section.

## CHAPTER 249

*An Act to amend and reenact § 7.1 of Chapter 396 of the Acts of Assembly of 1987, as amended by Chapter 658 of the Acts of Assembly of 2006, relating to Chesapeake Hospital Authority.*

[H 2286]

Approved March 8, 2019

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

**1. That § 7.1 of Chapter 396 of the Acts of Assembly of 1987, as amended by Chapter 658 of the Acts of Assembly of 2006, is amended and reenacted as follows:**

§ 7.1. The Authority shall have the following powers to carry out the purposes and intent of this act:

(1) To provide or assist in providing medical care and related services in its service area.

(2) To promote, develop, improve and increase the commerce and economic development of the City of Chesapeake and its environs.

(3) To assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities, and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation or other supporting organization, joint venture or other entity organized for any purpose or any individual. *The investment of funds held by the Authority, or contributed to its affiliated foundations, shall be exempt from the application of the Investment of Public Funds Act, Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 of the Code of Virginia.* The investments of any entity wholly owned or controlled by the Authority that is an "institution," as such term is defined in § 55-268.12, shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.) of the Code of Virginia.

(4) To provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this act.

(5) To make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities.

(6) To make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others.

(7) To transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities, facilities that will assist or aid the Authority in carrying out the purposes and intent of this act.

(8) To participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities for providing medical care or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this act.

(9) To conduct or engage in any lawful business, activity, effort or project, necessary or convenient for the purposes of the Authority or for the exercise of any of its powers.

(10) To exercise all other powers granted to nonstock corporations pursuant to § 13.1-826 of the Code of Virginia, as amended.

(11) To procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this act. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its members, officers, directors, employees, or agents are otherwise entitled.

## CHAPTER 250

*An Act to amend and reenact § 7.1 of Chapter 396 of the Acts of Assembly of 1987, as amended by Chapter 658 of the Acts of Assembly of 2006, relating to Chesapeake Hospital Authority.*

[S 1088]

Approved March 8, 2019

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

**1. That § 7.1 of Chapter 396 of the Acts of Assembly of 1987, as amended by Chapter 658 of the Acts of Assembly of 2006, is amended and reenacted as follows:**

§ 7.1. The Authority shall have the following powers to carry out the purposes and intent of this act:

(1) To provide or assist in providing medical care and related services in its service area.

(2) To promote, develop, improve and increase the commerce and economic development of the City of Chesapeake and its environs.

(3) To assist in or provide for the creation of domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities, and to purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, shares of or other interests in, or obligations of, any domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities organized for any purpose, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any other obligations

of any domestic or foreign stock or nonstock corporation, limited liability company, partnership, limited partnership, association, foundation or other supporting organization, joint venture or other entity organized for any purpose or any individual. *The investment of funds held by the Authority, or contributed to its affiliated foundations, shall be exempt from the application of the Investment of Public Funds Act, Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 of the Code of Virginia.* The investments of any entity wholly owned or controlled by the Authority that is an "institution," as such term is defined in § 55-268.12, shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.) of the Code of Virginia.

(4) To provide domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities owned in whole or in part or controlled, directly or indirectly, in whole or in part, by the Authority with appropriate assistance, including making loans and providing time of employees, in carrying out any activities authorized by this act.

(5) To make loans and provide other assistance to domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities.

(6) To make contracts or guarantees, incur liabilities, borrow money, or secure any obligations of others.

(7) To transact its business, locate its offices and control, directly or through domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations, joint ventures or other entities, facilities that will assist or aid the Authority in carrying out the purposes and intent of this act.

(8) To participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations or other supporting organizations or other entities for providing medical care or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this act.

(9) To conduct or engage in any lawful business, activity, effort or project, necessary or convenient for the purposes of the Authority or for the exercise of any of its powers.

(10) To exercise all other powers granted to nonstock corporations pursuant to § 13.1-826 of the Code of Virginia, as amended.

(11) To procure such insurance, participate in such insurance plans, or provide such self-insurance, or any combination thereof, as it deems necessary or convenient to carry out the purposes and provisions of this act. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its members, officers, directors, employees, or agents are otherwise entitled.

## CHAPTER 251

*An Act to amend and reenact § 10.1-2211.2 of the Code of Virginia, relating to historical African American cemeteries; City of Suffolk.*

[H 2311]

Approved March 8, 2019

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

**1. That § 10.1-2211.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.**

A. For purposes of this section:

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1900, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves or any person or locality that owns a historical African American cemetery.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided in the general appropriation act in favor of the treasurer of a qualified organization caring for any cemetery set forth in this subsection. Such appropriations shall be allocated on the basis of the number of graves, monuments, and markers in a cemetery of African Americans who lived at any time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, as set forth opposite the cemetery name or as documented by the qualified organization, shall be multiplied by the rate of \$5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial

survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth.

IN THE COUNTY OF:	NUMBER:
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44
IN THE CITY OF:	NUMBER:
Charlottesville	
Daughters of Zion Cemetery	192
Portsmouth	
Mt. Calvary Cemetery	266
Richmond	
Evergreen Cemetery	2,100
Suffolk	
Oak Lawn Cemetery	468

C. An organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery and its graves and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

D. Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection C. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

E. In addition to funds that may be provided pursuant to subsection B, any organization set forth in subsection B may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. Such a grant shall be made from any appropriation made available by the General Assembly for such purpose.

F. Any locality may receive and hold funds drawn pursuant to subsection B on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

G. The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B.

## CHAPTER 252

*An Act to amend and reenact § 10.1-2211.2 of the Code of Virginia, relating to historical African American cemeteries; City of Martinsville.*

[H 2406]

Approved March 8, 2019

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

**1. That § 10.1-2211.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.**

A. For purposes of this section:

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1900, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves or any person or locality that owns a historical African American cemetery.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided in the general appropriation act in favor of the treasurer of a qualified organization caring for any cemetery set forth in this subsection. Such appropriations shall be allocated on the basis of the number of graves, monuments, and markers in a cemetery of African Americans who lived at any time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave markers or, at the discretion of the

Director, other historical records. Such number of graves, monuments, and markers, as set forth opposite the cemetery name or as documented by the qualified organization, shall be multiplied by the rate of \$5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth.

IN THE COUNTY OF:	NUMBER:
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44
IN THE CITY OF:	NUMBER:
Charlottesville	
Daughters of Zion Cemetery	192
<i>Martinsville</i>	
<i>Matthews Cemetery</i>	8
<i>The People's Cemetery</i>	178
<i>Smith Street Cemetery</i>	9
Portsmouth	
Mt. Calvary Cemetery	266
Richmond	
Evergreen Cemetery	2,100

C. An organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery and its graves and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

D. Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection C. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

E. In addition to funds that may be provided pursuant to subsection B, any organization set forth in subsection B may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. Such a grant shall be made from any appropriation made available by the General Assembly for such purpose.

F. Any locality may receive and hold funds drawn pursuant to subsection B on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

G. The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B.

## CHAPTER 253

*An Act to amend and reenact § 6.2-817 of the Code of Virginia and to repeal § 6.2-818 of the Code of Virginia, relating to banks; capital stock.*

[H 2419]

Approved March 8, 2019

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

**1. That § 6.2-817 of the Code of Virginia is amended and reenacted as follows:**

**§ 6.2-817. Capital stock subscriptions.**

A. Subscriptions to the capital stock of a bank shall be paid in money at not less than par. No bank shall begin business until the amounts specified in its certificate of authority to commence business have been received by the bank.

B. All money received for subscriptions to or for purchases of stock of a bank before it opens for business shall be deposited in an escrow account in an insured financial institution or invested in United States government obligations, under

the joint control of two organizing directors of the bank; ~~both of whom shall be bonded for an amount equal to the total amount of the money to be collected.~~ Such funds, together with any income thereon, shall be remitted to the bank on the day it opens for business. If the bank is denied a certificate of authority or is refused insurance of accounts, or it otherwise is determined that the bank will not open for business, such funds, after payment of any amount owing for expenses in connection with such attempted organization, including reasonable consulting fees, attorney fees, salaries, filing fees, and other expenses, shall be refunded to subscribers or shareholders.

C. The requirement that capital stock be paid in money shall not be construed to prohibit the establishment, as otherwise authorized by law, of stock option plans, stock purchase plans, and restricted stock award plans, and the issuance of stock pursuant to such plans. Such plans shall be established only after the bank has opened for business, and shall be approved by a majority vote of the bank's shareholders. In no event shall any stock option be granted at a price which is less than 100 percent of the fair market value per share of the stock.

**2. That § 6.2-818 of the Code of Virginia is repealed.**

## CHAPTER 254

*An Act to amend and reenact § 6.2-817 of the Code of Virginia and to repeal § 6.2-818 of the Code of Virginia, relating to banks; capital stock.*

[S 1609]

Approved March 8, 2019

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

**1. That § 6.2-817 of the Code of Virginia is amended and reenacted as follows:**

**§ 6.2-817. Capital stock subscriptions.**

A. Subscriptions to the capital stock of a bank shall be paid in money at not less than par. No bank shall begin business until the amounts specified in its certificate of authority to commence business have been received by the bank.

B. All money received for subscriptions to or for purchases of stock of a bank before it opens for business shall be deposited in an escrow account in an insured financial institution or invested in United States government obligations, under the joint control of two organizing directors of the bank; ~~both of whom shall be bonded for an amount equal to the total amount of the money to be collected.~~ Such funds, together with any income thereon, shall be remitted to the bank on the day it opens for business. If the bank is denied a certificate of authority or is refused insurance of accounts, or it otherwise is determined that the bank will not open for business, such funds, after payment of any amount owing for expenses in connection with such attempted organization, including reasonable consulting fees, attorney fees, salaries, filing fees, and other expenses, shall be refunded to subscribers or shareholders.

C. The requirement that capital stock be paid in money shall not be construed to prohibit the establishment, as otherwise authorized by law, of stock option plans, stock purchase plans, and restricted stock award plans, and the issuance of stock pursuant to such plans. Such plans shall be established only after the bank has opened for business, and shall be approved by a majority vote of the bank's shareholders. In no event shall any stock option be granted at a price which is less than 100 percent of the fair market value per share of the stock.

**2. That § 6.2-818 of the Code of Virginia is repealed.**

## CHAPTER 255

*An Act to amend and reenact §§ 58.1-1101 and 58.1-1103 of the Code of Virginia, relating to intangible personal property; classification and exemption of business property with an original cost of less than \$25.*

[H 2440]

Approved March 8, 2019

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

**1. That §§ 58.1-1101 and 58.1-1103 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-1101. Classification.**

A. The subjects of taxation classified by this section are hereby defined as intangible personal property:

1. Capital which is inventory, except wine while in the hands of a farm winery producer as defined in § 4.1-100, merchandise located in a foreign trade zone as defined in subdivision 7 of this subsection and any agricultural product held in this Commonwealth by any manufacturer for manufacturing or processing which is of such nature as customarily requires storage and processing for periods of more than one year in order to age or condition such product for manufacture. Such agricultural product shall be includible in inventory for one tax year only and after being taxed for one year shall thereafter be excluded for all succeeding tax years;

2. Capital which is personal property, tangible in fact, used in manufacturing (including, but not limited to, furniture, fixtures, office equipment and computer equipment used in corporate headquarters), mining, water well drilling, radio or television broadcasting, dairy, dry cleaning or laundry businesses. Machinery and tools, motor vehicles and delivery

equipment of such businesses shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property;

2a. Personal property, tangible in fact, used in cable television businesses. Machines and tools, motor vehicles, delivery equipment, trunk and feeder cables, studio equipment, antennae and office furniture and equipment of such businesses shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property;

3. Money;

4. Bonds, notes, and other evidences of debt; demands and claims;

5. Shares of stock;

6. Accounts receivable;

7. All imported and exported foreign merchandise or domestic merchandise scheduled for export while in inventory located in a foreign trade zone within the Commonwealth;

8. Computer application software, except computer application software which is inventory as defined in subdivision 1 of this subsection, is defined as computer instructions, in any form, which are designed to be read by a computer and to enable it to perform specific operations with data or information stored by the computer; ~~and~~

9. Capital which is personal property, tangible in fact, used in commercial fishing businesses, and used in the water to catch or harvest seafood, including but not limited to crab pots, nets, tongs, and dredge equipment. Fishing vessels and property permanently attached to such vessels shall not be defined as intangible personal property for purposes of this chapter and shall be taxed locally as tangible personal property according to the applicable provisions of law relative to such property; *and*

10. *Capital which is personal property, tangible in fact, that (i) is employed in a trade or business, (ii) has an original cost of less than \$25, and (iii) is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.) of Chapter 35, merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.) of Chapter 35, or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.) of Chapter 35.*

B. [Repealed.]

C. The subjects of intangible personal property set forth in subdivisions 1 through ~~9~~ 10 of subsection A shall be exempt from taxation as provided in Article X, Section 6 (a) (5) of the Constitution of Virginia.

**§ 58.1-1103. Exempt professions and businesses; how property used therein taxable.**

Section 58.1-1100, *except subdivision A 10 of § 58.1-1101*, shall not be construed to apply to (i) ~~to~~ any profession ~~which~~ that the Commonwealth regulates by law, (ii) ~~to~~ industrial development corporations organized pursuant to the terms of §§ 13.1-981 through 13.1-998, or (iii) ~~to~~ the business of farming, which includes propagating, growing, selling, and planting, as an incident to the sale, of evergreens, shade trees, shrubs, and all other nursery products, ornamental and otherwise, grown by the seller. Property used or employed in such exempt activities shall be taxable in the actual form in which it exists and not as intangible personal property.

## CHAPTER 256

*An Act to amend and reenact §§ 59.1-510, 59.1-515, 59.1-516, and 59.1-517 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-514.1, relating to the Virginia Telephone Privacy Protection Act; joint liability of seller and telephone solicitor for violations; rebuttable presumption created.*

[H 2600]

Approved March 8, 2019

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

**1. That §§ 59.1-510, 59.1-515, 59.1-516, and 59.1-517 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-514.1 as follows:**

**§ 59.1-510. Definitions; rule of construction.**

As used in this chapter:

"Established business relationship" means a relationship between the called person and the person on whose behalf the telephone solicitation call is being made *or initiated* based on: (i) the called person's purchase from, or transaction with, the person on whose behalf the telephone solicitation call is being made *or initiated* within the 18 months immediately preceding the date of the call or (ii) the called person's inquiry or application regarding any property, good, or service offered by the person on whose behalf the telephone solicitation call is being made *or initiated* within the three months immediately preceding the date of the call.

"Personal relationship" means the relationship between a telephone solicitor making *or initiating* a telephone solicitation call and any family member, friend, or acquaintance of that telephone solicitor.

"Responsible person" means either or both of (i) a telephone solicitor or (ii) a seller if the telephone solicitation call offering or advertising the seller's property, goods, or services is presumed to have been made or initiated on behalf of or for the benefit of the seller and the presumption is not rebutted as provided in subsection B of § 59.1-514.1.

"Seller" means any person on whose behalf or for whose benefit a telephone solicitation call offering or advertising the person's property, goods, or services is made or initiated.

"Telephone solicitation call" means any telephone call made *or initiated* to any natural person's residence in the Commonwealth, or to any wireless telephone with a Virginia area code *or to a wireless telephone registered to any natural person who is a resident of the Commonwealth*, for the purpose of offering or advertising any property, goods, or services for sale, lease, license, or investment, including offering or advertising an extension of credit.

"Telephone solicitor" means any person who makes *or initiates*, or causes another person to make *or initiate*, a telephone solicitation call *on its own behalf or for its own benefit or on behalf of or for the benefit of a seller*.

**§ 59.1-514.1. Joint liability of seller and telephone solicitor for prohibited acts; rebuttable presumption.**

A. A seller on whose behalf or for whose benefit a telephone solicitor makes or initiates a telephone solicitation call in violation of any provision of § 59.1-511, 59.1-512, 59.1-513, or 59.1-514 and the telephone solicitor making or initiating the telephone call shall be jointly and severally liable for such violation.

B. A telephone solicitation call offering or advertising a seller's property, goods, or services shall be presumed to have been made or initiated on behalf of or for the benefit of the seller, whether or not any agency relationship exists between the telephone solicitor and the seller, whether or not the seller supervised or directed the conduct of the telephone solicitor, and whether or not the telephone solicitor is shown to have acted at the seller's direction and request when making or initiating the telephone solicitation call. The presumption may be rebutted if it is shown by clear and convincing evidence that the seller did not retain or request the telephone solicitor to make telephone solicitation calls on the seller's behalf or for the seller's benefit and that the telephone solicitation calls offering or advertising the seller's property, goods, or services were made by the telephone solicitor without the seller's knowledge or consent.

**§ 59.1-515. Individual action for damages.**

A. Any natural person who is aggrieved by a violation of this chapter shall be entitled to initiate an action *against any responsible person* to enjoin such violation and to recover *from any responsible person* damages in the amount of \$500 for each such violation.

B. If the court finds a willful violation, the court may, in its discretion, increase the amount of ~~the award~~ any damages awarded under subsection A to an amount not exceeding \$1,500.

C. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such person may be awarded under subsection A or B reasonable ~~attorneys'~~ attorney fees and court costs.

D. An action for damages, ~~attorneys'~~ attorney fees, and costs brought under this section may be filed in an appropriate general district court or small claims court *against any responsible person* so long as the amount claimed does not exceed the jurisdictional limits set forth in § 16.1-77 or § 16.1-122.2, as applicable. Any action brought under this section that includes a request for an injunction shall be filed in an appropriate circuit court.

**§ 59.1-516. Investigative authority.**

~~A. The Commissioner of the Department of Agriculture and Consumer Services, or his duly authorized representative, shall have the power to inquire into possible violations of this chapter, and to request, but not to require, an appropriate legal official to bring an action under § 59.1-517 with respect to such violation.~~

~~B.~~ Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued pursuant to this section.

**§ 59.1-517. Enforcement; civil penalties.**

A. The Attorney General, an attorney for the Commonwealth, or the attorney for any ~~county, city or town~~ locality may cause an action to be brought in the name of the Commonwealth or of the ~~county, city or town~~ locality, *as applicable*, to enjoin any violation of this chapter by any *responsible person* and to recover *from any responsible person* damages for aggrieved persons in the amount of \$500 for each such violation.

B. If the court finds a willful violation, the court may, in its discretion, also ~~award~~ assess *against any responsible person* a civil penalty of not more than \$1,000 for each such violation.

C. In any action brought under this section, the Attorney General, the attorney for the Commonwealth, or the attorney for the ~~county, city or town~~ locality may recover reasonable expenses incurred by the state or local agency in investigating and preparing the case, and ~~attorneys'~~ attorney fees.

D. Any civil penalties ~~awarded~~ assessed under ~~this section~~ subsection B in an action brought in the name of the Commonwealth shall be paid into the Literary Fund. Any civil penalties ~~awarded~~ assessed under ~~this section~~ subsection B in an action brought in the name of a ~~county, city or town~~ locality shall be paid into the general fund of the ~~county, city or town~~ locality.

## CHAPTER 257

*An Act to amend and reenact § 10.1-2211.2 of the Code of Virginia, relating to historical African American cemeteries; City of Hampton.*

[H 2681]

Approved March 8, 2019

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

**1. That § 10.1-2211.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.**

A. For purposes of this section:

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1900, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves or any person or locality that owns a historical African American cemetery.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided in the general appropriation act in favor of the treasurer of a qualified organization caring for any cemetery set forth in this subsection. Such appropriations shall be allocated on the basis of the number of graves, monuments, and markers in a cemetery of African Americans who lived at any time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, as set forth opposite the cemetery name or as documented by the qualified organization, shall be multiplied by the rate of \$5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth.

IN THE COUNTY OF:	NUMBER:
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44
IN THE CITY OF:	NUMBER:
Charlottesville	
Daughters of Zion Cemetery	192
<i>Hampton</i>	
<i>Bassette's Cemetery</i>	212
<i>Elmerton Cemetery</i>	339
<i>Good Samaritan Cemetery</i>	37
<i>Pleasant Shade Cemetery</i>	29
<i>Queen Street Cemetery</i>	14
<i>Tucker Family Cemetery</i>	15
<i>Union Street Cemetery</i>	125
Portsmouth	
Mt. Calvary Cemetery	266
Richmond	
Evergreen Cemetery	2,100

C. An organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery and its graves and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

D. Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection C. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

E. In addition to funds that may be provided pursuant to subsection B, any organization set forth in subsection B may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. Such a grant shall be made from any appropriation made available by the General Assembly for such purpose.

F. Any locality may receive and hold funds drawn pursuant to subsection B on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

G. The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B.

## CHAPTER 258

*An Act to amend and reenact §§ 3.2-5900 and 3.2-6500 of the Code of Virginia, relating to livestock definition; alpaca.*

[H 2689]

Approved March 8, 2019

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

#### **1. That §§ 3.2-5900 and 3.2-6500 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 3.2-5900. Definitions.**

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

"Accredited veterinarian" means a veterinarian approved by the Administrator of the U.S. Department of Agriculture in accordance with 9 C.F.R. Part 161, which includes the authority to issue health certificates.

"Animal" means any organism of the kingdom Animalia, other than a human being.

"Hatching egg" means any egg of any chicken, turkey, waterfowl, or game bird, or the egg of any other avian species that is used or intended to be used for hatching purposes.

"Horse" means any stallion, colt, gelding, mare, or filly.

"Livestock" includes all domestic or domesticated bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus *Lama* or *Vicugna*; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"Passport" means a document that may be used in lieu of a Certificate of Veterinary Inspection and shall contain animal identifiers and health maintenance history such as vaccinations and laboratory tests.

"Poultry" includes all domestic fowl and game birds raised in captivity.

"State Veterinarian" means the veterinarian employed by the Commissioner as provided in § 3.2-5901.

"State Veterinarian's representative" means any person who is either: (i) an employee of the Department under the direction of the State Veterinarian; or (ii) a veterinarian deputized pursuant to § 3.2-5901.

##### **§ 3.2-6500. Definitions.**

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

"Abandon" means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.2-6503 for a period of four consecutive days.

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

"Adequate feed" means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals' feet to pass through the openings; (ii) sag under the animals' weight; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

"Adequate space" means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked

on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

"Adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

"Adoption" means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

"Agricultural animals" means all livestock and poultry.

"Ambient temperature" means the temperature surrounding the animal.

"Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, animal means any species susceptible to rabies. For the purposes of § 3.2-6570, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

"Animal control officer" means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.2-6555.

"Boarding establishment" means a place or establishment other than a public or private animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee. "Boarding establishment" shall not include any private residential dwelling that shelters, feeds, and waters fewer than five companion animals not owned by the proprietor.

"Collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

"Commercial dog breeder" means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

"Consumer" means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term "consumer" shall not include a business or corporation engaged in sales or services.

"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of business as a common carrier or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

"Direct and immediate threat" means any clear and imminent danger to an animal's health, safety or life.

"Dump" means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

"Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

"Enclosure" means a structure used to house or restrict animals from running at large.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

"Exhibitor" means any person who has animals for or on public display, excluding an exhibitor licensed by the U.S. Department of Agriculture.

"Facility" means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

"Farming activity" means, consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

"Foster care provider" means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

"Foster home" means a private residential dwelling and its surrounding grounds, or any facility other than a public or private animal shelter, at which site through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization care or rehabilitation is provided for companion animals.

"Groomer" means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

"Home-based rescue" means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Humane investigator" means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.2-6558.

"Humane society" means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

"Incorporated" means organized and maintained as a legal entity in the Commonwealth.

"Kennel" means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

"Law-enforcement officer" means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capraeae animals; animals of the genus *Lama* or *Vicugna*; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574, and who adopts or receives a dog or cat from a releasing agency.

"Ordinance" means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

"Other officer" includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

"Owner" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

"Pet shop" means a retail establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

"Poultry" includes all domestic fowl and game birds raised in captivity.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

"Private animal shelter" means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization.

"Properly cleaned" means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

"Properly lighted" when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

"Properly lighted" when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

"Public animal shelter" means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

"Releasing agency" means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

"Research facility" means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

"Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

"Sore" means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any

limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. Part 11.2.

"Sterilize" or "sterilization" means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

"Treasurer" includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

"Treatment" or "adequate treatment" means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

"Veterinary treatment" means treatment by or on the order of a duly licensed veterinarian.

"Weaned" means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species and has ingested such food, without nursing, for a period of at least five days.

## CHAPTER 259

*An Act to amend and reenact § 58.1-3505 of the Code of Virginia, relating to personal property tax; exemption for agricultural vehicles.*

[H 2733]

Approved March 8, 2019

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

**1. That § 58.1-3505 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3505. Classification of farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment; governing body may exempt.**

A. Farm animals, grains and other feeds used for the nurture of farm animals, agricultural products as defined in § 3.2-6400, farm machinery and farm implements are hereby defined as separate items of taxation and classified as follows:

1. Horses, mules and other kindred animals.
2. Cattle.
3. Sheep and goats.
4. Hogs.
5. Poultry.
6. Grains and other feeds used for the nurture of farm animals.
7. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100 and other agricultural products in the hands of a producer.
8. Farm machinery other than the farm machinery described in subdivision 10, and farm implements, which shall include (i) equipment and machinery used by farm wineries as defined in § 4.1-100 in the production of wine; (ii) *equipment and machinery used by a nursery as defined in § 3.2-3800 for the production of horticultural products; and (iii) any farm tractor as defined in § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes.*
9. Equipment used by farmers or farm cooperatives qualifying under § 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.
10. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.
11. Privately owned trailers as defined in § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions A 1 through A 7 of this section.
12. Motor vehicles that are used ~~exclusively~~ *primarily* for agricultural purposes, for which the owner is not required to obtain a registration certificate, license plate, and decal or pay a registration fee pursuant to § 46.2-665, 46.2-666, or 46.2-670.
13. Trucks or tractor trucks as defined in § 46.2-100, that are ~~exclusively~~ *primarily* used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7 or for the transport of farm-related machinery.

B. The governing body of any county, city or town may, by ordinance duly adopted, exempt in whole or in part from taxation, or provide a different rate of tax upon, all or any of the above classes of farm animals, grains and feeds used for the nurture of farm animals, farm vehicles, and farm machinery, implements or equipment set forth in subsection A.

C. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100; and other agricultural products, as defined in § 3.2-6400, shall be exempt from taxation under this chapter while in the hands of a producer.

## CHAPTER 260

*An Act to amend and reenact § 10.1-2211.2 of the Code of Virginia, relating to historical African American cemeteries; City of Alexandria.*

[H 2739]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 10.1-2211.2 of the Code of Virginia is amended and reenacted as follows:****§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.**

## A. For purposes of this section:

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1900, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves or any person or locality that owns a historical African American cemetery.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided in the general appropriation act in favor of the treasurer of a qualified organization caring for any cemetery set forth in this subsection. Such appropriations shall be allocated on the basis of the number of graves, monuments, and markers in a cemetery of African Americans who lived at any time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, as set forth opposite the cemetery name or as documented by the qualified organization, shall be multiplied by the rate of \$5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth.

IN THE COUNTY OF:	NUMBER:
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44
IN THE CITY OF:	NUMBER:
<i>Alexandria</i>	
<i>Baptist Cemetery at the African American Heritage Park</i>	28
<i>Contrabands and Freedmen Cemetery</i>	631
<i>Douglass Cemetery</i>	83
<i>Lebanon Union Cemetery</i>	53
<i>Methodist Protestant Cemetery</i>	1,134
<i>Penny Hill Cemetery</i>	14
Charlottesville	
Daughters of Zion Cemetery	192
Portsmouth	
Mt. Calvary Cemetery	266
Richmond	
Evergreen Cemetery	2,100

C. An organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery and its graves and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

D. Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection C. No organization that fails to comply with any of the requirements of this section

shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

E. In addition to funds that may be provided pursuant to subsection B, any organization set forth in subsection B may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. Such a grant shall be made from any appropriation made available by the General Assembly for such purpose.

F. Any locality may receive and hold funds drawn pursuant to subsection B on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

G. The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B.

## CHAPTER 261

*An Act to amend and reenact § 58.1-3 of the Code of Virginia, relating to clerks of court, disclosure of tax information.*

[H 2768]

Approved March 8, 2019

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

#### **1. That § 58.1-3 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-3. Secrecy of information; penalties.**

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent *or by the commissioner of accounts making a settlement of accounts filed in such estate*;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing

the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously

provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; and (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

## CHAPTER 262

*An Act to amend and reenact §§ 15.2-958.2:01 and 58.1-405.1 of the Code of Virginia, relating to income tax; modification for certain companies; grants; Page County.*

[H 2776]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 15.2-958.2:01 and 58.1-405.1 of the Code of Virginia are amended and reenacted as follows:****§ 15.2-958.2:01. Grants for certain corporations and pass-through entities.**

A. The counties and cities listed in subsection B may give grants or loans to any eligible company, as defined in § 58.1-405.1.

B. The counties and cities that may give grants pursuant to subsection A are:

1. The Counties of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, *Page*, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe and the Cities of Bristol, Galax, and Norton;

2. The Counties of Amelia, Appomattox, Buckingham, Charlotte, Cumberland, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, and Prince Edward and the Cities of Danville and Martinsville;

3. The Counties of Accomack, Caroline, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland; and

4. The Counties of Brunswick and Dinwiddie and the City of Petersburg.

**§ 58.1-405.1. Eligibility of companies for apportionment modification; certification by the Virginia Economic Development Partnership Authority.**

A. For purposes of this section:

"Authority" means the Virginia Economic Development Partnership Authority.

"Eligible company" means a corporation or pass-through entity, as defined in § 58.1-390.1, that does not have any existing property or payroll in Virginia as of January 1, 2018, and on or after January 1, 2018, but before January 1, 2025, (i) either (a) spends at least \$5 million on new capital investment in a qualified locality or qualified localities and creates at least 10 new jobs in a qualified locality or qualified localities or (b) creates at least 50 new jobs in a qualified locality or qualified localities; (ii) is a traded-sector company; and (iii) is certified by the Authority as generating a positive fiscal impact pursuant to subsection B.

"New capital investment" means real property acquired in a qualified locality or qualified localities on or after January 1, 2018, but before January 1, 2025, and any improvements to real property in a qualified locality or qualified localities on or after January 1, 2018, but before January 1, 2025.

"New job" means a permanent, full-time position of indefinite duration that pays at least 150 percent of the minimum wage, as defined in the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.), and that requires a minimum of (i) 35 hours of an employee's time a week for the entire normal year of the eligible company's operations, which normal year shall consist of at least 48 weeks, or (ii) 1,680 hours per year.

"Qualified development site" means real property that is in a locality adjacent to a qualified locality and, before January 1, 2018, either (i) was owned or partly owned by a qualified locality or an industrial development authority of which a qualified locality is a member or (ii) was owned or partly owned by a locality or industrial development authority, was leased to a private party, and was subject to a revenue-sharing agreement providing that a portion of the revenues from the lease would be distributed to a qualified locality. "Qualified development site" does not include real property that is not owned by the Commonwealth or a political subdivision thereof.

"Qualified locality" means (i) the County of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, *Page*, Russell, Scott, Smyth, Tazewell, Washington, Wise, or Wythe or the City of Bristol, Galax, or Norton; (ii) the County of Amelia, Appomattox, Buckingham, Charlotte, Cumberland, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, or Prince Edward or the City of Danville or Martinsville; (iii) the County of Accomack, Caroline, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, or Westmoreland; or (iv) the County of Brunswick or Dinwiddie or the City of Petersburg. "Qualified locality" includes a qualified development site.

"Traded-sector company" means a company that directly or indirectly derives more than 50 percent of its revenue from out-of-state sources.

B. 1. The Authority shall determine whether a company will generate a positive fiscal impact based on the following factors: (i) job creation; (ii) private capital investment; and (iii) anticipated additional state and local tax revenue. The Authority also shall consider the additional revenue the Commonwealth likely would expend in and for the localities if the economy in the localities continues to erode. In making its determination, the Authority shall consult with the Department regarding the revenue impact of certifying such company. The Authority shall certify a company only if it determines such company will generate a positive fiscal impact.

2. The Authority shall deny certification to any company if it determines such taxpayer has engaged in a merger, acquisition, similar business combination, name change, change in business form, or other transaction the primary purpose of which is to obtain status as an eligible company.

3. The Authority shall make an annual re-certification according to subdivision B 1, and no company shall remain an eligible company for any taxable year that the Authority does not grant re-certification.

C. Any eligible company may elect to apportion its income pursuant to the provisions of § 58.1-408, 58.1-417, 58.1-418, 58.1-419, 58.1-420, 58.1-422, 58.1-422.1, or 58.1-422.2, as applicable. However, if the entire business of an eligible company is transacted or conducted within the Commonwealth, it shall not apportion its income pursuant to this subsection but may elect to apportion its income pursuant to the provisions of § 58.1-405.

## CHAPTER 263

*An Act to amend and reenact §§ 15.2-958.2:01 and 58.1-405.1 of the Code of Virginia, relating to income tax; modification for certain companies; grants; Page County.*

[S 1428]

Approved March 8, 2019

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

#### **1. That §§ 15.2-958.2:01 and 58.1-405.1 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 15.2-958.2:01. Grants for certain corporations and pass-through entities.**

A. The counties and cities listed in subsection B may give grants or loans to any eligible company, as defined in § 58.1-405.1.

B. The counties and cities that may give grants pursuant to subsection A are:

1. The Counties of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, *Page*, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe and the Cities of Bristol, Galax, and Norton;

2. The Counties of Amelia, Appomattox, Buckingham, Charlotte, Cumberland, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, and Prince Edward and the Cities of Danville and Martinsville;

3. The Counties of Accomack, Caroline, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland; and

4. The Counties of Brunswick and Dinwiddie and the City of Petersburg.

##### **§ 58.1-405.1. Eligibility of companies for apportionment modification; certification by the Virginia Economic Development Partnership Authority.**

A. For purposes of this section:

"Authority" means the Virginia Economic Development Partnership Authority.

"Eligible company" means a corporation or pass-through entity, as defined in § 58.1-390.1, that does not have any existing property or payroll in Virginia as of January 1, 2018, and on or after January 1, 2018, but before January 1, 2025, (i) either (a) spends at least \$5 million on new capital investment in a qualified locality or qualified localities and creates at least 10 new jobs in a qualified locality or qualified localities or (b) creates at least 50 new jobs in a qualified locality or qualified localities; (ii) is a traded-sector company; and (iii) is certified by the Authority as generating a positive fiscal impact pursuant to subsection B.

"New capital investment" means real property acquired in a qualified locality or qualified localities on or after January 1, 2018, but before January 1, 2025, and any improvements to real property in a qualified locality or qualified localities on or after January 1, 2018, but before January 1, 2025.

"New job" means a permanent, full-time position of indefinite duration that pays at least 150 percent of the minimum wage, as defined in the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.), and that requires a minimum of (i) 35 hours of an employee's time a week for the entire normal year of the eligible company's operations, which normal year shall consist of at least 48 weeks, or (ii) 1,680 hours per year.

"Qualified development site" means real property that is in a locality adjacent to a qualified locality and, before January 1, 2018, either (i) was owned or partly owned by a qualified locality or an industrial development authority of which a qualified locality is a member or (ii) was owned or partly owned by a locality or industrial development authority, was leased to a private party, and was subject to a revenue-sharing agreement providing that a portion of the revenues from the lease would be distributed to a qualified locality. "Qualified development site" does not include real property that is not owned by the Commonwealth or a political subdivision thereof.

"Qualified locality" means (i) the County of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, *Page*, Russell, Scott, Smyth, Tazewell, Washington, Wise, or Wythe or the City of Bristol, Galax, or Norton; (ii) the County of Amelia, Appomattox, Buckingham, Charlotte, Cumberland, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, or Prince Edward or the City of Danville or Martinsville; (iii) the County of Accomack, Caroline, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, or Westmoreland; or (iv) the County of Brunswick or Dinwiddie or the City of Petersburg. "Qualified locality" includes a qualified development site.

"Traded-sector company" means a company that directly or indirectly derives more than 50 percent of its revenue from out-of-state sources.

B. 1. The Authority shall determine whether a company will generate a positive fiscal impact based on the following factors: (i) job creation; (ii) private capital investment; and (iii) anticipated additional state and local tax revenue. The

Authority also shall consider the additional revenue the Commonwealth likely would expend in and for the localities if the economy in the localities continues to erode. In making its determination, the Authority shall consult with the Department regarding the revenue impact of certifying such company. The Authority shall certify a company only if it determines such company will generate a positive fiscal impact.

2. The Authority shall deny certification to any company if it determines such taxpayer has engaged in a merger, acquisition, similar business combination, name change, change in business form, or other transaction the primary purpose of which is to obtain status as an eligible company.

3. The Authority shall make an annual re-certification according to subdivision B 1, and no company shall remain an eligible company for any taxable year that the Authority does not grant re-certification.

C. Any eligible company may elect to apportion its income pursuant to the provisions of § 58.1-408, 58.1-417, 58.1-418, 58.1-419, 58.1-420, 58.1-422, 58.1-422.1, or 58.1-422.2, as applicable. However, if the entire business of an eligible company is transacted or conducted within the Commonwealth, it shall not apportion its income pursuant to this subsection but may elect to apportion its income pursuant to the provisions of § 58.1-405.

## CHAPTER 264

*An Act to amend and reenact §§ 59.1-510, 59.1-515, 59.1-516, and 59.1-517 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-514.1, relating to the Virginia Telephone Privacy Protection Act; joint liability of seller and telephone solicitor for violations; rebuttable presumption created.*

[S 1041]

Approved March 8, 2019

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

**1. That §§ 59.1-510, 59.1-515, 59.1-516, and 59.1-517 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-514.1 as follows:**

**§ 59.1-510. Definitions; rule of construction.**

As used in this chapter:

"Established business relationship" means a relationship between the called person and the person on whose behalf the telephone solicitation call is being made *or initiated* based on: (i) the called person's purchase from, or transaction with, the person on whose behalf the telephone solicitation call is being made *or initiated* within the 18 months immediately preceding the date of the call or (ii) the called person's inquiry or application regarding any property, good, or service offered by the person on whose behalf the telephone solicitation call is being made *or initiated* within the three months immediately preceding the date of the call.

"Personal relationship" means the relationship between a telephone solicitor making *or initiating* a telephone solicitation call and any family member, friend, or acquaintance of that telephone solicitor.

"Responsible person" means either or both of (i) a telephone solicitor or (ii) a seller if the telephone solicitation call offering or advertising the seller's property, goods, or services is presumed to have been made or initiated on behalf of or for the benefit of the seller and the presumption is not rebutted as provided in subsection B of § 59.1-514.1.

"Seller" means any person on whose behalf or for whose benefit a telephone solicitation call offering or advertising the person's property, goods, or services is made or initiated.

"Telephone solicitation call" means any telephone call made *or initiated* to any natural person's residence in the Commonwealth, or to any wireless telephone with a Virginia area code *or to a wireless telephone registered to any natural person who is a resident of the Commonwealth*, for the purpose of offering or advertising any property, goods, or services for sale, lease, license, or investment, including offering or advertising an extension of credit.

"Telephone solicitor" means any person who makes *or initiates*, or causes another person to make *or initiate*, a telephone solicitation call *on its own behalf or for its own benefit or on behalf of or for the benefit of a seller*.

**§ 59.1-514.1. Joint liability of seller and telephone solicitor for prohibited acts; rebuttable presumption.**

A. A seller on whose behalf or for whose benefit a telephone solicitor makes or initiates a telephone solicitation call in violation of any provision of § 59.1-511, 59.1-512, 59.1-513, or 59.1-514 and the telephone solicitor making or initiating the telephone call shall be jointly and severally liable for such violation.

B. A telephone solicitation call offering or advertising a seller's property, goods, or services shall be presumed to have been made or initiated on behalf of or for the benefit of the seller, whether or not any agency relationship exists between the telephone solicitor and the seller, whether or not the seller supervised or directed the conduct of the telephone solicitor, and whether or not the telephone solicitor is shown to have acted at the seller's direction and request when making or initiating the telephone solicitation call. The presumption may be rebutted if it is shown by clear and convincing evidence that the seller did not retain or request the telephone solicitor to make telephone solicitation calls on the seller's behalf or for the seller's benefit and that the telephone solicitation calls offering or advertising the seller's property, goods, or services were made by the telephone solicitor without the seller's knowledge or consent.

**§ 59.1-515. Individual action for damages.**

A. Any natural person who is aggrieved by a violation of this chapter shall be entitled to initiate an action *against any responsible person* to enjoin such violation and to recover *from any responsible person* damages in the amount of \$500 for each such violation.

B. If the court finds a willful violation, the court may, in its discretion, increase the amount of ~~the award~~ *any damages awarded under subsection A* to an amount not exceeding \$1,500.

C. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such person may be awarded *under subsection A or B* reasonable ~~attorneys' attorney~~ fees and court costs.

D. An action for damages, ~~attorneys' attorney~~ fees, and costs brought under this section may be filed in an appropriate general district court or small claims court *against any responsible person* so long as the amount claimed does not exceed the jurisdictional limits set forth in § 16.1-77 or § 16.1-122.2, as applicable. Any action brought under this section that includes a request for an injunction shall be filed in an appropriate circuit court.

**§ 59.1-516. Investigative authority.**

~~A. The Commissioner of the Department of Agriculture and Consumer Services, or his duly authorized representative, shall have the power to inquire into possible violations of this chapter, and to request, but not to require, an appropriate legal official to bring an action under § 59.1-517 with respect to such violation.~~

~~B.~~ Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply *mutatis mutandis* to civil investigative demands issued pursuant to this section.

**§ 59.1-517. Enforcement; civil penalties.**

A. The Attorney General, an attorney for the Commonwealth, or the attorney for any ~~county, city or town~~ *locality* may cause an action to be brought in the name of the Commonwealth or of the ~~county, city or town~~ *locality, as applicable*, to enjoin any violation of this chapter by any *responsible person* and to recover *from any responsible person* damages for aggrieved persons in the amount of \$500 for each such violation.

B. If the court finds a willful violation, the court may, in its discretion, also ~~award~~ *assess against any responsible person* a civil penalty of not more than \$1,000 for each such violation.

C. In any action brought under this section, the Attorney General, the attorney for the Commonwealth, or the attorney for the ~~county, city or town~~ *locality* may recover reasonable expenses incurred by the state or local agency in investigating and preparing the case, and ~~attorneys' attorney~~ fees.

D. Any civil penalties ~~awarded~~ *assessed* under ~~this section~~ *subsection B* in an action brought in the name of the Commonwealth shall be paid into the Literary Fund. Any civil penalties ~~awarded~~ *assessed* under ~~this section~~ *subsection B* in an action brought in the name of a ~~county, city or town~~ *locality* shall be paid into the general fund of the ~~county, city or town~~ *locality*.

**CHAPTER 265**

*An Act to amend and reenact § 46.2-888 of the Code of Virginia, relating to removing motor vehicles from roadway.*

[S 1073]

Approved March 8, 2019

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

**1. That § 46.2-888 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-888. Stopping on highways; removing motor vehicle from roadway.**

A. No person shall stop a vehicle in such manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency, an accident, or a mechanical breakdown.

B. In the event of such an emergency, accident, or breakdown, the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are in working order. If the driver is capable of safely doing so, the vehicle is movable, and there are no injuries or deaths resulting from the emergency, accident, or breakdown, the driver shall move the vehicle from the roadway to prevent obstructing the regular flow of traffic, provided, however, that the movement of the vehicle to prevent the obstruction of traffic shall not relieve the law-enforcement officer of his duty pursuant to § 46.2-373. A report of the vehicle's location shall be made to the nearest law-enforcement officer as soon as practicable, and the vehicle shall be moved from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay. If the vehicle is not promptly removed, such removal may be ordered by a law-enforcement officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

C. *In the event of an accident on any part of Interstate 66 where a HOT lane as defined in § 33.2-500 is under construction and the shoulders of Interstate 66 are being or have been removed, the driver shall move the vehicle from the roadway to the nearest pull-off area if the driver is capable of safely doing so, the vehicle is movable, and there are no injuries or deaths resulting from the accident, provided, however, that the movement of the vehicle shall not relieve the law-enforcement officer of his duty pursuant to § 46.2-373. For purposes of this subsection, "pull-off area" includes an exit ramp or otherwise agreed-upon location. A violation of this subsection is a traffic infraction punishable by a fine of \$20.*

2. That the provisions of this act shall expire upon the certification by the Secretary of Transportation that the HOT lane construction on Interstate 66 is complete.

## CHAPTER 266

*An Act to amend and reenact §§ 38.2-126, 38.2-1887, and 38.2-1888 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 38.2-1888.1 through 38.2-1888.5 and 58.1-2501.1, relating to travel insurance.*

[S 1565]

Approved March 8, 2019

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

**1. That §§ 38.2-126, 38.2-1887, and 38.2-1888 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 38.2-1888.1 through 38.2-1888.5 and 58.1-2501.1 as follows:**

**§ 38.2-126. Marine.**

A. "Marine insurance" means insurance against any kind of loss or damage to:

1. Vessels, craft, aircraft, vehicles of every kind, excluding vehicles operating under their own power or while in storage not incidental to transportation, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein in respect to any risks or perils of navigation, transit or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting shipment, or during any delays, storage, transshipment, or reshipment incident to shipment, including marine builders' risks and all personal property floater risks;

2. Persons or property in connection with or appertaining to marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of the insurance. This class of insurance shall not include life insurance, surety bonds or insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles;

3. Precious stones, jewels, jewelry, gold, silver and other precious metals used in business, trade, or otherwise and whether or not in transit. This class of insurance shall include jewelers' block insurance;

4. (i) Bridges, tunnels, and other instrumentalities of transportation and communication, excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage, unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot, and civil commotion are the only hazards to be covered; (ii) to piers, wharves, docks, and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and civil commotion; and (iii) to other aids to navigation and transportation, including dry docks and marine railways, against all risks.

B. Marine insurance shall also include "marine protection and indemnity insurance," meaning insurance against loss, damage, or expense or against legal liability of the insured for loss, damage, or expense arising out of or incident to ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

C. Any policy of "marine insurance" as defined in this section providing protection against bodily injury, sickness or death of another person may include appropriate provisions obligating the insurer to pay medical, hospital, surgical, and funeral expenses arising out of the death or injury of any person, regardless of any legal liability of the insured.

D. *Marine insurance shall also include "travel insurance" as defined in § 38.2-1887.*

**§ 38.2-1887. Application of article; definitions.**

A. *This article applies to travel insurance that covers any resident of the Commonwealth, any travel insurance sold, solicited, negotiated, or offered in the Commonwealth, and any travel insurance policies or certificates delivered or issued for delivery in the Commonwealth. This article shall not apply to cancellation fee waivers or travel assistance services except as expressly provided in this article. In the event of conflict between the provisions in this article and other provisions of this title, the provisions of this article shall control.*

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

"Aggregator site" means a website that provides access to information, including product and insurer information, regarding insurance products from more than one insurer for use in comparison shopping.

"Blanket travel insurance" means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.

"Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

"Designated ~~Responsible Licensed Producer~~ licensed producer" or "DRLP" "DLP" means an employee, officer, director, manager, member, or partner of a limited lines travel insurance agent who (i) is a licensed *property and casualty*

insurance agent, a personal lines insurance agent, ~~which may include~~ or an individual limited lines property and casualty insurance agent; and (ii) has been designated by the limited lines travel insurance agent as the person responsible for the limited lines travel insurance agent's compliance with the travel insurance laws, rules, and regulations of the Commonwealth.

"Eligible group" means two or more persons who are engaged in a common enterprise or have an economic, educational, or social affinity or relationship, including:

1. Any entity engaged in the business of providing travel or travel services, including (i) tour operators, (ii) lodging providers, (iii) vacation property owners, (iv) hotels and resorts, (v) travel clubs, (vi) travel agencies, (vii) property managers, (viii) cultural exchange programs, and (ix) common carriers or the operator, owner, or lessor of a means of transportation of passengers, including cruise lines, railroads, steamship companies, and public bus carriers. All members or customers of any group must have a common exposure to risk attendant to such travel;

2. Any public or private school or institution of higher education covering students, teachers, employees, or volunteers;

3. Any employer covering any group of employees, volunteers, contractors, boards of directors, dependents, or guests;

4. Any sports team or camp, or sponsor of such team or camp, covering participants, members, campers, employees, officials, supervisors, or volunteers;

5. Any religious, charitable, recreational, educational, or civic organization or branch thereof covering any group of members, participants, or volunteers;

6. Any financial institution or financial institution vendor, or parent holding company, trustee, or agent designated by one or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;

7. Any incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association, covering its members;

8. Any trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to the Commission's permitting the use of a trust and the premium tax provisions in § 58.1-2501.1 of any incorporated or unincorporated association;

9. Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;

10. Any volunteer fire department, emergency medical services department, police department, or court or any first aid, civil defense, or similar volunteer group covering any group of members, participants, or volunteers;

11. Any preschools or daycare institutions covering children or adults and senior citizen clubs;

12. Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status in the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company is the policyholder under a policy to which this definition applies; or

13. Any other group where the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest.

"Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.

"Group travel insurance" means travel insurance issued to an eligible group.

"Limited lines travel insurance agent" means a licensed property and casualty insurance agent, a personal lines insurance agent, or a limited lines property and casualty agent; ~~designated by an insurer as the travel insurance supervising entity.~~

"Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the Commonwealth.

"Primary certificate holder" means a person who elects and purchases travel insurance under a group policy.

"Primary policyholder" means a person who elects and purchases individual travel insurance.

"Travel administrator" means a person who directly or indirectly underwrites, collects, charges collateral or premiums from, or adjusts or settles claims on residents of the Commonwealth, in connection with travel insurance. A person shall not be considered a travel administrator if his only actions that would otherwise cause him to be considered a travel administrator are among the following:

1. A person working for a travel administrator to the extent that his activities are subject to the supervision and control of the travel administrator;

2. An insurance agent selling insurance or engaged in administrative and claims-related activities within the scope of the agent's license;

3. A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance agent in accordance with this article; or

4. An individual adjusting or settling claims in the normal course of his practice or employment as an attorney at law and who does not collect charges or premiums in connection with insurance coverage.

"Travel assistance services" means noninsurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in the transfer or shifting of risk that would constitute the business of insurance. "Travel assistance services" includes (i) security advisories; (ii) destination information; (iii) vaccination and immunization information services; (iv) travel reservation services; (v) entertainment; (vi) activity and event planning; (vii) translation assistance; (viii) emergency messaging; (ix) international legal and medical referrals; (x) medical case monitoring; (xi) coordination of transportation arrangements; (xii) emergency cash transfer assistance; (xiii) medical prescription replacement assistance; (xiv) passport and travel document replacement assistance; (xv) lost luggage assistance; (xvi) concierge services; and (xvii) any other service that is furnished in connection with planned travel. Travel assistance services are not insurance.

"Travel insurance" means insurance coverage for personal risks incident to planned travel, including (i) interruption or cancellation of trip or event; (ii) loss of baggage or personal effects; (iii) damages to accommodations or rental vehicles; ~~or~~ (iv) ~~sickness, accident, or death occurring during travel~~ emergency evacuation; (v) repatriation of remains; or (vi) any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commission. "Travel insurance" may include appropriate provisions obligating the insurer to pay medical, hospital, surgical, and funeral expenses arising out of the death, dismemberment, sickness, or injury of any person, and death and dismemberment benefits in the event of death or dismemberment, if the death, dismemberment, sickness, or injury is caused by or is incidental to a cause of loss insured under the policy. "Travel insurance" does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than six months ~~or longer~~, including those working or residing overseas as an expatriate ~~or deployed overseas as military personnel~~.

"Travel protection plan" means any plan that provides travel insurance, travel assistance services, or cancellation fee waivers.

"Travel retailer" means a business entity that offers and disseminates travel insurance on behalf of and under the direction and license of a travel insurance agent ~~or under its own agent license~~.

### **§ 38.2-1888. Licensing and registration.**

A. The Commission may issue a limited lines travel insurance agent license to an individual or business entity that has filed with the Commission an application for a limited lines travel insurance agent license in a form and manner prescribed by the Commission. The limited lines travel insurance agent shall be licensed to sell, solicit, or negotiate travel insurance through a licensed insurer.

B. No person may act as a limited lines travel insurance agent or travel retailer unless properly licensed or registered, respectively.

C. The grounds for the suspension or revocation of the license of and the penalties applicable to resident insurance agents shall be applicable to limited lines travel insurance agents and travel retailers.

D. A travel retailer may offer and disseminate travel insurance under ~~its own or another's~~ the license of a limited lines travel insurance agent ~~license~~ only if the following conditions are met:

1. Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that:

- a. Provide the identity and contact information of the insurer and the limited lines travel insurance agent;
- b. Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and
- c. Explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage;

2. The limited lines travel insurance agent or travel retailer provides to purchasers of travel insurance:

- a. A description of the material terms or the actual material terms of the insurance coverage;
- b. A description of the process for filing a claim;
- c. A description of the review or cancellation process for the travel insurance policy; and
- d. The identity and contact information of the insurer and limited lines travel insurance agent;

3. At the time of licensure, the limited lines travel insurance agent shall establish and maintain a register on a form prescribed by the Commission of each travel retailer that offers travel insurance on the limited lines travel insurance agent's behalf. The register shall be maintained and updated by the limited lines travel insurance agent and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's Federal Tax Identification Number. The limited lines travel insurance agent shall submit such register to the Commission upon reasonable request. The limited lines travel insurance agent shall also certify that the travel retailer registered complies with 18 U.S.C. § 1033;

4. The limited lines travel insurance agent has designated a ~~DRLP~~ DLP;

5. The ~~DRLP~~ DLP, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance agent's insurance operations complies with a background check or fingerprinting requirements applicable to insurance agents;

6. The limited lines travel insurance agent has paid all applicable insurance agent licensing fees as set forth in this title; and

7. The limited lines travel insurance agent requires each employee or authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the Commission. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers;

~~B. E.~~ A travel retailer's employee or authorized representative who is not licensed as an insurance agent may not:

1. Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;
2. Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or
3. Hold himself or itself out as a licensed insurer, licensed agent, or insurance expert.

~~C. A F.~~ *Notwithstanding any other provision of law, a travel retailer whose insurance-related activities, and those of its employees or authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction and license of a limited lines travel insurance agent meeting the conditions stated in this article is authorized to conduct such activities and receive related compensation, upon registration by the limited lines travel insurance agent as described in subdivision A D 3. No travel retailer employee or authorized representative may be compensated based primarily on the number of customers who purchase travel insurance coverage; however, nothing in this article shall prohibit payment of compensation to a travel retailer or its employees or authorized representatives for activities under the limited lines travel insurance agent's license that are incidental to the travel retailer's or its employee's or authorized representative's overall compensation.*

~~D.~~ *Travel insurance may be provided under an individual policy or under a group or master policy.*

~~E. G.~~ As the insurer designee, the limited lines travel insurance agent and the insurer (i) are responsible for the acts of a travel retailer who is not a limited lines travel insurance agent and (ii) shall use reasonable means to ensure compliance by the travel retailer with this article.

*H. No person is authorized to sell, solicit, and negotiate travel insurance unless licensed and appointed as a limited lines travel insurance agent.*

**§ 38.2-1888.1. Suspension, revocation, or termination of license.**

*A. If a limited lines travel insurance agent or travel retailer or its employee or authorized representative violates any provision of this article, the Commission may do any of the following:*

1. *After notice and hearing, impose fines and penalties in accordance with § 38.2-218; and*
2. *After notice and hearing, impose such other penalties that the Commission deems necessary and reasonable to carry out the purpose of this article, including (i) suspending the privilege of transacting travel insurance pursuant to this article at specific business locations where violations have occurred, (ii) suspending or revoking the ability of individual employees or authorized representatives or travel retailers to act under the license, and (iii) imposing a penalty in accordance with § 38.2-218 on the licensed producer designated by the travel insurance agent pursuant to § 38.2-1820.*

*B. The license authority of any licensed limited lines property and casualty producer selling travel insurance may be terminated if the sole licensed producer designated for the limited lines travel insurance agent's compliance with the insurance laws, rules, and regulations of the Commonwealth is removed for any reason and a new designated licensed producer has not been appointed. The Commission shall be notified within 30 calendar days of such removal and of the newly designated licensed producer.*

**§ 38.2-1888.2. Travel protection plans.**

*Travel protection plans may be offered for one price for the combined features that the travel protection plan offers in the Commonwealth if:*

1. *The travel protection plan clearly discloses to the consumer at or prior to the time of purchase that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides information and an opportunity at or prior to the time of purchase for the consumer to obtain additional information regarding the features and pricing of each; and*
2. *The fulfillment materials (i) describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan and (ii) include the travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.*

**§ 38.2-1888.3. Sales practices.**

*A. For the purposes of this section, "delivery" means handing fulfillment materials to the primary policyholder or primary certificate holder or sending fulfillment materials by United States Postal Service mail or by any other delivery service or electronic means to the policyholder or certificate holder.*

*B. Any person offering travel insurance to residents of the Commonwealth is subject to the unfair trade practice penalties contained in Chapter 5 (§ 38.2-500 et seq.), except as otherwise provided in this section. In the event of a conflict between this article and other provisions of this title regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this article shall control.*

*C. Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice.*

*D. All documents provided to consumers prior to the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy itself, including forms, endorsements, policies, rate filings, and certificates of insurance.*

*For travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase and in the coverage's fulfillment materials.*

*The fulfillment materials and the information described in subdivision 2 of § 38.2-1888.2 shall be provided to a primary policyholder or primary certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until (i) at least 15 days following the date of delivery of the travel protection plan's fulfillment materials sent by United States Postal Service mail or (ii) at least 10 days following the date of delivery of the travel protection plan's fulfillment materials sent by means other than United States Postal Service mail.*

*E. The company shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.*

*F. Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.*

*G. No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using negative option or opt out that would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form when the consumer purchases a trip.*

*H. It shall be an unfair trade practice to market blanket travel insurance coverage as free.*

*I. Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:*

*1. Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance agent supplying the trip or travel package; or*

*2. Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.*

**§ 38.2-1888.4. Travel administrators.**

*A. Notwithstanding any other provision of this title, no person shall act or represent itself as a travel administrator for travel insurance in the Commonwealth unless that person:*

*1. Is a licensed property and casualty insurance agent in the Commonwealth for activities permitted under that agent license; or*

*2. Holds a valid managing general agent (MGA) license in the Commonwealth.*

*B. An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the Commissioner upon request.*

**§ 38.2-1888.5. Classification of travel insurance.**

*A. Notwithstanding any other provision of this title, travel insurance shall be classified and filed for purposes of rates and forms under the inland marine line of insurance as set forth in § 38.2-126.*

*B. Travel insurance may be in the form of an individual, group, or blanket policy.*

**§ 58.1-2501.1. Premium tax; travel insurance.**

*A. As used in this section:*

*"Blanket travel insurance" has the same meaning ascribed thereto in § 38.2-1887.*

*"Primary certificate holder" has the same meaning ascribed thereto in § 38.2-1887.*

*"Primary policyholder" has the same meaning ascribed thereto in § 38.2-1887.*

*"Travel assistance services" has the same meaning ascribed thereto in § 38.2-1887.*

*"Travel insurance" has the same meaning ascribed thereto in § 38.2-1887.*

*B. A travel insurer shall pay premium tax as provided in § 58.1-2501 on travel insurance premiums paid by any of the following:*

*1. A primary policyholder who is a resident of the Commonwealth;*

*2. A primary certificate holder that is a resident of the Commonwealth; or*

*3. A blanket travel insurance policyholder that is a resident of the Commonwealth or that has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in the Commonwealth for eligible blanket group members, subject to apportionment rules that apply to the insurer across multiple taxing jurisdictions or that permits the insurer to allocate premiums on an apportioned basis in a reasonable and equitable manner in those jurisdictions.*

*C. A travel insurer shall (i) document the state of residence or principal place of business of the primary policyholder or primary certificate holder and (ii) report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.*

**2. That the provisions of this act shall apply to policies of travel insurance purchased on or after July 1, 2019.**

## CHAPTER 267

*An Act to amend and reenact § 3.2-4901 of the Code of Virginia, relating to animal remedies; exemptions.*

[H 2256]

Approved March 8, 2019

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

**1. That § 3.2-4901 of the Code of Virginia is amended and reenacted as follows:**

**§ 3.2-4901. Exemptions from chapter.**

The provisions of this chapter shall not apply to ~~the~~:

1. *The compounding or dispensing of veterinarians' prescriptions, nor the dispensing of drugs or preparations by registered pharmacists compounded at the request of the purchaser and not intended for resale, nor shall such provisions apply to any animal remedy sold exclusively to or used exclusively by licensed veterinarians.*

2. *Any animal remedy that contains as an ingredient any part of the Cannabis plant or any product made from any part of the Cannabis plant.*

## CHAPTER 268

*An Act to amend and reenact § 10.1-2211.2 of the Code of Virginia, relating to historical African American cemeteries; City of Hampton.*

[S 1128]

Approved March 8, 2019

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

**1. That § 10.1-2211.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.**

A. For purposes of this section:

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1900, for interments of African Americans.

"Qualified organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves or any person or locality that owns a historical African American cemetery.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided in the general appropriation act in favor of the treasurer of a qualified organization caring for any cemetery set forth in this subsection. Such appropriations shall be allocated on the basis of the number of graves, monuments, and markers in a cemetery of African Americans who lived at any time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, as set forth opposite the cemetery name or as documented by the qualified organization, shall be multiplied by the rate of \$5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth.

IN THE COUNTY OF:	NUMBER:
Henrico	
East End Cemetery	4,875
Loudoun	
African-American Burial Ground for the Enslaved at Belmont	44
IN THE CITY OF:	NUMBER:
Charlottesville	
Daughters of Zion Cemetery	192
Hampton	
Bassette's Cemetery	212
Elmerton Cemetery	339
Good Samaritan Cemetery	37

<i>Pleasant Shade Cemetery</i>	29
<i>Queen Street Cemetery</i>	14
<i>Tucker Family Cemetery</i>	15
<i>Union Street Cemetery</i>	125
Portsmouth	
Mt. Calvary Cemetery	266
Richmond	
Evergreen Cemetery	2,100

C. An organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery and its graves and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

D. Each qualified organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection C. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

E. In addition to funds that may be provided pursuant to subsection B, any organization set forth in subsection B may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its historical African American cemeteries and graves. Such a grant shall be made from any appropriation made available by the General Assembly for such purpose.

F. Any locality may receive and hold funds drawn pursuant to subsection B on behalf of any qualified organization until such time as the organization is able to receive or utilize such funds. No local matching funds shall be required for any grants made pursuant to this section.

G. The owner of a historical African American cemetery shall reasonably cooperate with a qualified organization that receives funds pursuant to subsection B.

## CHAPTER 269

*An Act to amend and reenact § 33.2-613 of the Code of Virginia, relating to free use of toll facilities; emergency medical services vehicles.*

[S 1183]

Approved March 8, 2019

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

**1. That § 33.2-613 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;
7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;
8. The Commissioner of the Department of Motor Vehicles;
9. Employees of the Department of Motor Vehicles;
10. Local police officers;
11. Sheriffs and their deputies;
12. Regional jail officials;
13. Animal wardens;
14. The Director and officers of the Department of Game and Inland Fisheries;
15. Persons operating firefighting equipment and emergency medical services vehicles ~~owned by a political subdivision of the Commonwealth or a nonprofit association or corporation as defined in § 32.1-111.1;~~
16. Operators of school buses being used to transport pupils to or from schools;

17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;

18. Employees of the Department of Rail and Public Transportation;

19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and

20. Law-enforcement officers of the Virginia Marine Resources Commission.

B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety.

3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license issued by the Commonwealth or any other state shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

1. The vehicle is specially equipped to permit its operation by a handicapped person;

2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;

3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and

4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;

2. Members of the Commonwealth Transportation Board;

3. Employees of the Department of Transportation;

4. The Superintendent of the Department of State Police;

5. Officers and employees of the Department of State Police;

6. The Commissioner of the Department of Motor Vehicles;

7. Employees of the Department of Motor Vehicles; and

8. Sheriffs and deputy sheriffs.

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, ~~and~~ such vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

## CHAPTER 270

*An Act to amend and reenact §§ 58.1-322.02 and 58.1-402 of the Code of Virginia, relating to Virginia taxable income; subtraction for gain from taking by eminent domain.*

[S 1256]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-322.02 and 58.1-402 of the Code of Virginia are amended and reenacted as follows:****§ 58.1-322.02. Virginia taxable income; subtractions.**

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a

subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided that the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the

amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. *For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.*

#### **§ 58.1-402. Virginia taxable income.**

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C, D, and E.

For a regulated investment company and a real estate investment trust, such term means the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C, D, and E.

B. There shall be added to the extent excluded from federal taxable income:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which the Commonwealth is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. [Repealed.]

4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

6. [Repealed.]

7. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code;

8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the intangible expenses and costs if one of the following applies:

(1) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(2) The related member derives at least one-third of its gross revenues from the licensing of intangible property to parties who are not related members, and the transaction giving rise to the expenses and costs between the corporation and the related member was made at rates and terms comparable to the rates and terms of agreements that the related member has entered into with parties who are not related members for the licensing of intangible property; or

(3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible expenses and costs meet both of the following: (i) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the transaction giving rise to the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of intangible expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such intangible expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under § 58.1-446;

9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect

transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the interest expenses and costs, if:

(1) The related member has substantial business operations relating to interest-generating activities, in which the related member pays expenses for at least five full-time employees who maintain, manage, defend or are otherwise responsible for operations or administration relating to the interest-generating activities; and

(2) The interest expenses and costs are not directly or indirectly for, related to or in connection with the direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of intangible property; and

(3) The transaction giving rise to the expenses and costs between the corporation and the related member has a valid business purpose other than the avoidance or reduction of taxation and payments between the parties are made at arm's length rates and terms; and

(4) One of the following applies:

(i) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related members provided the payments continue to be made at arm's length rates and terms;

(iii) The related member engages in transactions with parties other than related members that generate revenue in excess of \$2 million annually; or

(iv) The transaction giving rise to the interest payments between the corporation and a related member was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a person who is not a related member; (b) the debt is part of a regular and systematic funds management or portfolio investment activity conducted by the related member, whereby the funds of two or more related members are aggregated for the purpose of achieving economies of scale, the internal financing of the active business operations of members, or the benefit of centralized management of funds; (c) financing the expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of acquisition-related indebtedness to related members.

b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of interest expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such interest expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related interest expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under § 58.1-446.

d. For purposes of subdivision B 9:

"Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal Revenue Code that was in effect at the time of

the agreement, and (iv) the borrower or payor adheres to the payment terms of the agreement governing the transaction or any amendments thereto.

"Valid business purpose" means one or more business purposes that alone or in combination constitute the motivation for some business activity or transaction, which activity or transaction improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For purposes of this subdivision, a REIT is a Captive REIT if:

(1) It is not regularly traded on an established securities market;

(2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is (i) a corporation or an association taxable as a corporation under the Internal Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and

(3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of the Internal Revenue Code.

b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall not be considered a corporation or an association taxable as a corporation:

(1) Any REIT that is not treated as a Captive REIT;

(2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT subsidiary of a Captive REIT;

(3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or value of the beneficial interests or shares of such trust; and

(4) Any Qualified Foreign Entity.

c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

d. For purposes of subdivision B 10:

"Listed Australian Property Trust" means an Australian unit trust registered as a Management Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market.

"Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the laws of the United States and that satisfies all of the following criteria:

(1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government securities;

(2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt from entity level tax;

(3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest;

(4) The shares or certificates of beneficial interest of such entity are regularly traded on an established securities market or, if not so traded, not more than 10 percent of the voting power or value in such entity is held directly, indirectly, or constructively by a single entity or individual; and

(5) The entity is organized in a country that has a tax treaty with the United States.

e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be taken into consideration when determining if such REIT is a Captive REIT.

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable income:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of the Commonwealth.

4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth or any other taxing jurisdiction.

5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income).

8. Any amount included therein which is foreign source income as defined in § 58.1-302.

9. [Repealed.]

10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50 percent or more of the voting stock.

11. [Repealed.]

12, 13. [Expired.]

14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.

15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1.

16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to § 58.1-440.1.

18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

19, 20. [Repealed.]

21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount if such related member is subject to Virginia income tax on the same amount.

22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.

b. As used in this subdivision 25:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 or 25 for the same investment.

b. As used in this subdivision 26:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

27. *For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.*

D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

2. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

E. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.

F. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

## CHAPTER 271

*An Act to amend and reenact § 58.1-3919.1 of the Code of Virginia, relating to private collectors; delinquent taxes and other amounts due.*

[S 1301]

Approved March 8, 2019

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

**1. That § 58.1-3919.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3919.1. Use of private collectors by treasurers for the collection of delinquent local taxes.**

Notwithstanding the provisions of § 58.1-3934, the treasurer in any county, city, or town, with the approval of the local governing body, may employ, upon such terms as may be agreed upon, the services of private collection agents to assist with the collection of any local taxes ~~which~~ *or other amounts due to the locality that remain delinquent* for a period of three months or more and for which the appropriate statute of limitations has not yet run. Compensation for such services shall either be provided by the local governing body directly to such collection agents or by means of an expense in the treasurer's budget or shall be withheld by the agent from the amount collected. The treasurer shall be given credit for taxes *and other amounts due* collected for any compensation rightfully withheld by such collection agents.

Prior to referring a delinquent account to a collection agent pursuant to this section, the treasurer shall have provided written notification of such delinquency by first-class mail to the taxpayer at such address as is contained in the tax records of the city or county or, if the treasurer has reason to believe the taxpayer's address as contained in such records is no longer current, at such other address, if any, as the treasurer may obtain from sources available to him pursuant to general law, including without limitation the Virginia Employment Commission, the Department of Motor Vehicles, or the Department of Taxation.

## CHAPTER 272

*An Act to amend and reenact § 58.1-439.12:04 of the Code of Virginia, relating to income tax credits; housing choice vouchers; eligible housing areas.*

[S 1656]

Approved March 8, 2019

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

**1. That § 58.1-439.12:04 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-439.12:04. Tax credit for participating landlords.**

A. As used in this section, unless the context clearly shows otherwise, the term or phrase:

"Dwelling unit" means an individual housing unit in an apartment building, an individual housing unit in multifamily residential housing, a single-family residence, or any similar individual housing unit.

"Eligible housing area" means a census tract in the Richmond Metropolitan Statistical ~~area~~ *Area or the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area* in which less than 10 percent of the residents live below the poverty level, as defined by the United States government and determined by the most recent United States census.

"Housing authority" means a housing authority created under Article 1 (§ 36-1 et seq.) of Chapter 1 of Title 36 ~~of this Code~~ or other government agency that is authorized by the United States government under the United States Housing Act of 1937 (42 U.S.C. § 1437 et seq.) to administer a housing choice voucher program, or the authorized agent of such a housing authority that is authorized to act upon that authority's behalf. The term shall also include the Virginia Housing Development Authority.

"Housing choice voucher" means tenant-based assistance by a housing authority pursuant to 42 U.S.C. § 1437f et seq.

"Participating landlord" means any person engaged in the business of the rental of dwelling units who is (i) subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) and (ii) performing obligations under a contract with a housing authority relating to the rental of qualified housing units.

"Qualified housing unit" means a dwelling unit that is located in an eligible housing area for which a portion of the rent is paid by a housing authority, which payment is pursuant to a housing choice voucher program.

B. For taxable years beginning on or after January 1, 2010, a participating landlord renting a qualified housing unit shall be eligible for a credit against the tax levied pursuant to § 58.1-320 or 58.1-400 in an amount equal to 10 percent of the fair market value of the rent for the unit, computed for that portion of the taxable year in which the unit was rented by such landlord to a tenant participating in a housing choice voucher program. The Department of Housing and Community Development shall administer and issue the tax credit under this section. If (i) the same parcel of real property contains four or more dwelling units and (ii) the total number of qualified housing units on the parcel in the relevant taxable year exceeds 25 percent of the total dwelling units on the parcel, then the tax credit under this section shall apply only to a limited number of qualified housing units with regard to such parcel of real property, with the limited number being equal to 25 percent of the total dwelling units on such parcel of real property in the taxable year.

C. The Department of Housing and Community Development shall issue tax credits under this section on a fiscal year basis. The maximum amount of tax credits that may be issued under this section in each fiscal year shall be \$250,000.

D. Participating landlords shall apply to the Department of Housing and Community Development for tax credits under this section. The Department of Housing and Community Development shall determine the credit amount allowable to the participating landlord for the taxable year and shall also determine the fair market value of the rent for the qualified housing unit based on the fair market rent approved by the United States Department of Housing and Urban Development as the basis for the tenant-based assistance provided through the housing choice voucher program for the qualified housing unit. In issuing tax credits under this section, the Department of Housing and Community Development shall provide a

written certification to the participating landlord, which certification shall report the amount of the tax credit approved by the Department. The participating landlord shall attach the certification to the applicable income tax return.

E. The Board of Housing and Community Development shall establish and issue guidelines for purposes of implementing the provisions of this section. The guidelines shall provide for the allocation of tax credits among participating landlords requesting credits. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

F. In no case shall the amount of credit taken by a participating landlord for any taxable year exceed the total amount of tax imposed by this chapter for the taxable year. If the amount of credit issued by the Department of Housing and Community Development for a taxable year exceeds the landlord's tax liability imposed by this chapter for such taxable year, then the amount that exceeds the tax liability may be carried over for credit against the income taxes of the participating landlord in the next five taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

G. In the event that the amount of the qualified requests for tax credits for participating landlords in the fiscal year exceeds \$250,000, the Department of Housing and Community Development shall pro rate the tax credits among the qualified applicants.

### CHAPTER 273

*An Act to amend the Code of Virginia by adding a section numbered 63.2-1706.1, relating to Department of Social Services; child welfare agencies; prioritization of inspections.*

[H 1627]

Approved March 8, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 63.2-1706.1 as follows:**

**§ 63.2-1706.1. Inspections of child welfare agencies; prioritization.**

*The Commissioner shall prioritize inspections of child welfare agencies in the following order: (i) inspections conducted in response to a complaint involving a licensed, registered, license-exempt, or unlicensed child welfare agency; (ii) inspections of licensed or registered child welfare agencies that are not conducted in response to a complaint; (iii) inspections of license-exempt or unlicensed child welfare agencies that have entered into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant, other than inspections conducted in response to a complaint; and (iv) inspections of license-exempt and unlicensed child welfare agencies that are not conducted in response to a complaint.*

### CHAPTER 274

*An Act to amend and reenact § 2.2-4302.2 of the Code of Virginia, relating to the Virginia Public Procurement Act; request for proposals; publication.*

[H 1629]

Approved March 8, 2019

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

**1. That § 2.2-4302.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4302.2. Process for competitive negotiation.**

A. The process for competitive negotiation shall include the following:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal, indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities, specifications or qualifications that will be required. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals. No Request for Proposal for construction authorized by this chapter shall condition a successful offeror's eligibility on having a specified experience modification factor;

2. Public notice of the Request for Proposal at least 10 days prior to the date set for receipt of proposals by posting on the Department of General Services' central electronic procurement website or other appropriate websites. ~~Additionally, public~~ ~~Public~~ ~~bodies~~ ~~shall~~ ~~may~~ ~~also~~ ~~publish~~ ~~in~~ ~~a~~ ~~newspaper~~ ~~of~~ ~~general~~ ~~circulation~~ ~~in~~ ~~the~~ ~~area~~ ~~in~~ ~~which~~ ~~the~~ ~~contract~~ ~~is~~ ~~to~~ ~~be~~ ~~performed~~ ~~so~~ ~~as~~ ~~to~~ ~~provide~~ ~~reasonable~~ ~~notice~~ ~~to~~ ~~the~~ ~~maximum~~ ~~number~~ ~~of~~ ~~offerors~~ ~~that~~ ~~can~~ ~~be~~ ~~reasonably~~ ~~anticipated~~ ~~to~~ ~~submit~~ ~~proposals~~ ~~in~~ ~~response~~ ~~to~~ ~~the~~ ~~particular~~ ~~request~~. Posting on the Department of General Services' central electronic procurement website shall be required of (i) any state public body and (ii) any local public body if such local public body

*elects not to publish notice of the Request for Proposal in a newspaper of general circulation in the area in which the contract is to be performed.* Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities. In addition, proposals may be solicited directly from potential contractors. Any additional solicitations shall include certified businesses selected from a list made available by the Department of Small Business and Supplier Diversity; and

3. For goods, nonprofessional services, and insurance, selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. In the case of a proposal for information technology, as defined in § 2.2-2006, a public body shall not require an offeror to state in a proposal any exception to any liability provisions contained in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. The offeror shall state any exception to any liability provisions contained in the Request for Proposal in writing at the beginning of negotiations, and such exceptions shall be considered during negotiation. Price shall be considered, but need not be the sole or primary determining factor. After negotiations have been conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best proposal and provides the best value, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror; or

4. For professional services, the public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the public body in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. In accordance with § 2.2-4342, proprietary information from competing offerors shall not be disclosed to the public or to competitors. For architectural or engineering services, the public body shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to § 2.2-1132, until after the qualified offerors are ranked for negotiations. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the public body shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to the public body, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, a public body may award contracts to more than one offeror.

Should the public body determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

B. Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long-term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, where the completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to entering into any such contract, the public body shall (i) state the anticipated intended total scope of the project and (ii) determine in writing that the nature of the work is such that the best interests of the public body require awarding the contract.

For the purposes of subdivision A 1, "experience modification factor" means a value assigned to an employer as determined by a rate service organization in accordance with its uniform experience rating plan required to be filed pursuant to subsection D of § 38.2-1913.

## CHAPTER 275

*An Act to amend and reenact §§ 35.1-1 and 35.1-25 of the Code of Virginia, relating to restaurants; certified food protection managers; exemptions.*

Approved March 8, 2019

[H 1663]

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

**1. That §§ 35.1-1 and 35.1-25 of the Code of Virginia are amended and reenacted as follows:**

**§ 35.1-1. Definitions.**

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

"Bed-and-breakfast operation" means a residential-type establishment that provides (i) two or more rental accommodations for transient guests and food service to a maximum of 18 transient guests on any single day for five or more days in any calendar year or (ii) at least one rental accommodation for transient guests and food service to a maximum of 18 transient guests on any single day for 30 or more days in any calendar year.

"Board" or "State Board" means the State Board of Health.

"Campground" means any area, place, parcel, or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements, including any travel trailer camp, recreation camp, family campground, camping resort, or camping community. "Campground" does not mean a summer camp, migrant labor camp, or park for mobile homes as defined in this section and in §§ 32.1-203 and 36-71, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions from providing his sanitary facilities within his property lines.

"Camping unit" means any device or vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel, including any tent, tent trailer, travel trailer, camping trailer, pickup camper, or motor home.

"Campsite" means any plot of ground within a campground used or intended for occupation by the camping unit.

*"Certified food protection manager" means a person who has demonstrated proficiency in food safety issues, regulations, and techniques in maintaining a safe-food environment by passing a test and receiving a certification as part of a program that is accredited by the Board.*

"Commissioner" means the State Health Commissioner.

"Department" means the State Department of Health.

"Hotel" means any place offering to the public for compensation transitory lodging or sleeping accommodations, overnight or otherwise, including facilities known by varying nomenclatures or designations as hotels, motels, travel lodges, tourist homes, or hostels.

"Person" means an individual, corporation, partnership, association, or any other legal entity.

"Restaurant" means:

1. Any place where food is prepared for service to the public on or off the premises, or any place where food is served, including lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and institutions of higher education, and kitchen areas of local correctional facilities subject to standards adopted under § 53.1-68.

2. Any place or operation that prepares or stores food for distribution to persons of the same business operation or of a related business operation for service to the public, including operations preparing or storing food for catering services, push cart operations, hotdog stands, and other mobile points of service.

3. Mobile points of service to which food is distributed by a place or operation described in subdivision 2 unless the point of service and of consumption is in a private residence.

"Restaurant" does not include any place manufacturing packaged or canned foods that are distributed to grocery stores or other similar retailers for sale to the public.

"Summer camp" means any building, tent, or vehicle, or group of buildings, tents, or vehicles, if operated as one place or establishment, or any other place or establishment, public or private, together with the land and waters adjacent thereto, that is operated or used in this Commonwealth for the entertainment, education, recreation, religious instruction or activities, physical education, or health of persons under 18 years of age who are not related to the operator of such place or establishment by blood or marriage within the third degree of consanguinity or affinity, if 12 or more such persons at any one time are accommodated, gratuitously or for compensation, overnight and during any portion of more than two consecutive days.

**§ 35.1-25. Exemptions.**

A. The provisions of this title applicable to restaurants shall not apply to:

1. Boardinghouses that do not accommodate transients;

2. Cafeterias operated by industrial plants for employees only;

3. Churches; fraternal or school organizations; organizations that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code; and volunteer fire departments and volunteer emergency medical services agencies that hold occasional dinners, bazaars, and other fund-raisers of one or two days' duration, at which food (i) prepared in the homes of members; (ii) prepared in the kitchen of the church, school, or organization; or (iii) purchased or donated from a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) is offered for sale to the public. Restaurants licensed pursuant to Chapter 3 that donate or sell food to the entities identified in this subdivision shall not be required to apply for any additional permits

from, or pay any additional permit application fees to, the Department for the proposed occasional dinner, bazaar, or other fundraiser;

4. Grocery stores, including the delicatessen portion that is a part of a grocery store selling exclusively for off-premises consumption, and places manufacturing or selling packaged or canned goods;

5. Churches that serve meals consisting of food prepared in the homes of members or in the kitchen of the church or purchased or donated from a restaurant licensed pursuant to Chapter 3 (§ 35.1-18 et seq.) for their members or their invited guests;

6. Convenience stores or gas stations that are subject to the Department of Agriculture and Consumer Services' Retail Food Establishment Regulations or any regulations subsequently adopted and that (i) have 15 or fewer seats at which food is served to the public on the premises of the convenience store or gas station and (ii) are not associated with a national or regional restaurant chain. Notwithstanding this exemption, such convenience stores or gas stations shall remain responsible for collecting any applicable local meals tax;

7. Concession stands at youth athletic activities, if such stands are promoted or sponsored by a youth athletic association or by any charitable nonprofit organization or group thereof that has been recognized as being a part of the recreational program of the political subdivision where the association or organization is located by an ordinance or resolution of such political subdivision; or

8. Any bed-and-breakfast operation that prepares food for and offers food to guests, regardless of the time the food is prepared and offered, if (i) the premises of the bed-and-breakfast operation is a home that is owner occupied or owner-agent occupied, (ii) the bed-and-breakfast operation prepares food for and offers food to transient guests of the bed and breakfast only, (iii) the number of guests served by the bed-and-breakfast operation does not exceed 18 on any single day, and (iv) guests for whom food is prepared and to whom food is offered are informed in a manner established by the Board in regulations that the food is prepared in a kitchen that is not licensed as a restaurant and is not subject to regulations governing restaurants.

*B. No regulation issued by the Board shall require any restaurant that is operated by (i) a nonprofit civic service organization, (ii) a volunteer fire department, or (iii) a volunteer emergency medical services agency to employ a certified food protection manager.*

## CHAPTER 276

*An Act to amend and reenact §§ 63.2-1505 and 63.2-1506 of the Code of Virginia, relating to child abuse and neglect; investigations by local boards of social services.*

[H 1671]

Approved March 8, 2019

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

**1. That §§ 63.2-1505 and 63.2-1506 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-1505. Investigations by local departments.**

A. An investigation requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;
5. Whether abuse or neglect has occurred;
6. If abuse or neglect has occurred, who abused or neglected the child; and
7. A finding of either founded or unfounded based on the facts collected during the investigation.

B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;
2. Complete a report and enter it into the statewide automation system maintained by the Department;
3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;
4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;
5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. However, upon written justification by the local department, the time for such determination may be extended not to exceed a total of 60 days or, in the event that the investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so warrant, as stated in the written justification, the time for such determination may be extended not to exceed 90 days. If through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report,

the time the child cannot be found shall not be computed as part of the total time period allowed for the investigation and determination and documentation of such reasonable diligence shall be placed in the record. In cases involving the death of a child or alleged sexual abuse of a child who is the subject of the report, the time during which records necessary for the investigation of the complaint but not created by the local department, including autopsy or medical or forensic records or reports, are not available to the local department due to circumstances beyond the local department's control shall not be computed as part of the total time period allowed for the investigation and determination, and documentation of the circumstances that resulted in the delay shall be placed in the record. In cases in which the subject of the investigation is a full-time, part-time, permanent, or temporary employee of a school division who is suspected of abusing or neglecting a child in the course of his educational employment, the time period for determining whether a report is founded or unfounded and transmitting a report to that effect to the Department and the person who is the subject of the investigation shall be mandatory, and every local department shall make the required determination and report within the specified time period without delay;

6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect; and

7. If a report of child abuse and neglect is founded, and the subject of the report is or was at the time of the investigation or the conduct that led to the report a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint without delay.

Any information exchanged for the purposes of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

C. Each local board may obtain and consider, in accordance with regulations adopted by the Board, statewide criminal history record information from the Central Criminal Records Exchange and *shall obtain and consider* results of a search of the child abuse and neglect central registry of any individual who is the subject of a child abuse or neglect investigation conducted under this section when there is evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether removal will protect a child from harm. *The local board shall determine whether the individual has resided in another state within at least the preceding five years and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state.* The local board also may obtain such a criminal records or registry search on all adult household members residing in the home where the individual who is the subject of the investigation resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with such removal, a court may admit such information as evidence. Where the individual who is the subject of such information contests its accuracy through testimony under oath in hearing before the court, no court shall receive or consider the contested criminal history record information without certified copies of conviction. Further dissemination of the information provided to the local board is prohibited, except as authorized by law.

D. A person who has not previously participated in the investigation of complaints of child abuse or neglect in accordance with this chapter shall not participate in the investigation of any case involving a complaint of alleged sexual abuse of a child unless he (i) has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child or (ii) is under the direct supervision of a person who has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child. No individual may make a determination of whether a case involving a complaint of alleged sexual abuse of a child is founded or unfounded unless he has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child.

**§ 63.2-1506. Family assessments by local departments.**

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and
5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. *Obtain and consider the results of a search of the child abuse and neglect registry for any individual who is the subject of a family assessment. The local board shall determine whether the individual has resided in another state within at least the preceding five years, and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state. The local board also may obtain and consider, in accordance with regulations of the Board, statewide criminal history record information from the Central Criminal Records Exchange for any individual who is the subject of a family assessment;*

3. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;

~~4~~ 4. Complete the family assessment within 45 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment. However, upon written justification by the local department, the family assessment may be extended, not to exceed a total of 60 days;

4-5. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;

~~5~~ 6. Petition the court for services deemed necessary;

~~6~~ 7. Make no disposition of founded or unfounded for reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515; and

~~7~~ 8. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required.

C. When a local department has been designated as a child-protective services differential response agency by the Department, the local department may investigate any report of child abuse or neglect, but the following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii) abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left alone in the same dwelling with a person to whom the child is not related by blood or marriage and who has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902, (v) child has been taken into the custody of the local department, or (vi) cases involving a caretaker at a state-licensed child day center, religiously exempt child day center, licensed, registered or approved family day home, private or public school, hospital or any institution. If a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local department shall (a) conduct a family assessment, unless an investigation is required pursuant to this subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law, regardless of whether the local department makes a finding of abuse or neglect.

## CHAPTER 277

*An Act to amend and reenact § 2.2-3802 of the Code of Virginia, relating to Government Data Collection and Dissemination Practices Act; exemptions.*

[H 1740]

Approved March 8, 2019

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

**1. That § 2.2-3802 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3802. Systems to which chapter inapplicable.**

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, and the Virginia Alcoholic Beverage Control Authority;
7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:
  - a. The Department of State Police;
  - b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
  - c. Police departments of cities, counties, and towns;
  - d. Sheriff's departments of counties and cities;

e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

f. The Division of Capitol Police.

8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;

9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;

11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);

13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;

14. Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations; ~~and~~

15. Maintained by the Department of Social Services related to child welfare, ~~adult services or adult protective services~~, or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services; ~~which~~ *that* is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515; *and*

16. *Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult protective services, or auxiliary grants when requests for personal information are made to the Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.*

## CHAPTER 278

*An Act to amend and reenact § 24.2-707 of the Code of Virginia, relating to absentee voting; certain absentee voters permitted to vote after close of absentee voting location.*

[H 1790]

Approved March 8, 2019

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

**1. That § 24.2-707 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment.**

A. On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646, without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope and mail it to the office of the general registrar or deliver it personally to the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

B. An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth ~~above~~ *in subsection A* except that he may complete the procedure in person in the office of the general registrar, or at another location or locations in the county or city approved by the electoral board, before a registrar, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with

adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar for the purpose of completing the application for an absentee ballot in person pursuant to §§ 24.2-701 and 24.2-706. *Any applicant who is in line to cast his ballot when the office of the general registrar or location being used for in-person absentee voting closes shall be permitted to cast his absentee ballot that day.*

On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 of § 24.2-706 to the applicant by mail, obtaining a certificate or other evidence of mailing.

C. Failure to follow the procedures set forth ~~above~~ *in subsection A or B* shall render the applicant's ballot void.

D. The general registrar of any county or city using a central absentee voting precinct may provide for the casting of absentee ballots on voting equipment prior to election day by applicants who are voting in person. The Department of Elections shall prescribe procedures for the use of voting equipment. The procedures shall provide for the casting of absentee ballots prior to election day by in-person applicants on voting equipment which has been certified, and is currently approved, by the Department of Elections. The procedures shall be applicable and uniformly applied by the Department of Elections to all jurisdictions using comparable voting equipment. At least two officers of election, one representing each political party, shall be present during all hours that absentee voting is available at any location at which absentee ballots are cast prior to election day.

E. The requirement that officers of election shall be present if ballots are cast on voting equipment prior to election day shall not be applicable when the voting equipment is located in the office of the general registrar and the general registrar or an assistant registrar is present.

## CHAPTER 279

*An Act to amend and reenact § 32.1-229 of the Code of Virginia, relating to Department of Health and Board of Health; mitigating the risks of radon.*

[H 1885]

Approved March 8, 2019

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

**1. That § 32.1-229 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-229. Powers and duties of the Board.**

The Board shall:

1. Establish a program of effective regulation of sources of radiation for the protection of the public health and safety, including a program of education and technical assistance relating to radon that is targeted to those areas of the Commonwealth known to have high radon levels. *As a part of such program, a list of persons who are nationally certified to offer screening, testing, or mitigation for radon shall be made available to the public.*

2. Establish a program to promote the orderly regulation of radiation within the Commonwealth, among the states and between the federal government and the Commonwealth and to facilitate intergovernmental cooperation with respect to use and regulation of sources of radiation to the end that duplication of regulation may be minimized.

3. Establish a program to permit maximum utilization of sources of radiation consistent with the public health and safety.

4. Promulgate regulations providing for (i) general or specific licenses to use, manufacture, produce, transfer, receive, acquire, own or possess quantities of, or devices or equipment utilizing, by-product, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially, (ii) registration of the possession of a source of radiation and of information with respect thereto, and (iii) regulation of by-product, source and special nuclear material.

5. Encourage, participate in and conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation.

6. Establish fee schedules for the licensure of radioactive materials.

7. Establish guidelines to require the licensed facilities or physicians' offices where mammography services are performed to offer to the patient, prior to departure, development of such films to ensure integrity and quality of the film. When film developing is not available or the patient chooses not to wait, the patient shall be notified within two business days if another mammogram is necessary. This requirement does not imply or require that a diagnostic opinion be made at the time of the mammogram. The interpreting physician may require that the mammogram be retaken if, in the opinion of the physician, the study is of inadequate quality. Such guidelines shall also require the licensed facility or physician's office where mammography services are performed to (i) include information on breast density in mammogram letters sent to patients pursuant to regulations implementing the Mammography Quality Standards Act promulgated by the U.S. Food and Drug Administration, and (ii) include in letters sent to patients determined by the interpreting physician to have heterogeneously dense or extremely dense tissue, as defined in nationally recognized guidelines or systems for breast imaging reporting of mammography screening, including the Breast Imaging Reporting and Data System (BI-RADS) of the

American College of Radiology, and any equivalent new terms, as such guidelines or systems are updated, the following notice:

"YOUR MAMMOGRAM DEMONSTRATES THAT YOU HAVE DENSE BREAST TISSUE. DENSE BREAST TISSUE IS VERY COMMON AND IS NOT ABNORMAL. HOWEVER, DENSE BREAST TISSUE CAN MAKE IT HARDER TO FIND CANCER ON A MAMMOGRAM AND MAY ALSO BE ASSOCIATED WITH AN INCREASED RISK OF BREAST CANCER.

THIS INFORMATION IS GIVEN TO YOU TO RAISE YOUR AWARENESS. USE THIS INFORMATION TO TALK TO YOUR DOCTOR ABOUT YOUR OWN RISKS FOR BREAST CANCER. AT THAT TIME, ASK YOUR DOCTOR IF MORE SCREENING TESTS MIGHT BE USEFUL BASED ON YOUR RISK.

A REPORT OF YOUR MAMMOGRAPHY RESULTS HAS BEEN SENT TO YOUR REFERRING PHYSICIAN'S OFFICE, AND YOU SHOULD CONTACT YOUR PHYSICIAN IF YOU HAVE ANY QUESTIONS OR CONCERNS ABOUT THIS REPORT."

8. Issue such orders or modifications thereof as may be necessary in connection with proceedings under this title.

## CHAPTER 280

*An Act to amend and reenact § 2.2-1201 of the Code of Virginia, relating to state agencies and employees; break time and location for employees to express breast milk.*

[H 1916]

Approved March 8, 2019

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

#### **1. That § 2.2-1201 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 2.2-1201. Duties of Department; Director.**

A. The Department shall have the following duties:

1. Make recommendations to the Governor regarding the establishment and maintenance of a classification plan for the service of the Commonwealth, and recommend necessary amendments thereto.

2. Make recommendations to the Governor regarding the establishment and administration of a compensation plan for all employees, and recommend necessary amendments thereto.

3. Design and maintain a personnel information system that shall support the operational needs of the Department and of state agencies, and that shall provide for the management information needs of the Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a roster of all employees in the service of the Commonwealth, in which there shall be set forth as to each employee, the employing agency, the class title, pay, status and such other data as may be deemed desirable to produce significant facts pertaining to personnel administration.

4. Establish and direct a program of employee-management relations designed to improve communications between employees and agencies of the Commonwealth.

5. Establish and administer a system of performance evaluation for all employees in the service of the Commonwealth, based on the quality of service rendered, related where practicable to specific standards of performance. In no event shall workers' compensation leave affect the total number of hours credited during a performance cycle for purposes of calculating incentive increases in salary based on such performance evaluations.

6. Establish and administer a system of recruitment designed to attract high quality employees to the service of the Commonwealth. In administering this system, applicants shall be rated on the basis of relative merit and classified in accordance with their suitability for the various classes of positions in the service of the Commonwealth, and a record thereof shall be maintained in the open register.

7. Design and utilize an application form which shall include, but not be limited to, information on prior volunteer work performed by the applicant.

8. Establish and administer a comprehensive and integrated program of employee training and management development.

9. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.

10. Establish and administer a program to ensure equal employment opportunity to applicants for state employment and to state employees in all incidents of employment.

11. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include the suspension without pay for more than 10 days of any state employee who is under investigation without a hearing conducted either by a level of supervision above the employee's immediate supervisor or by his agency head.

12. Adopt and implement a centralized program to provide awards to employees who propose procedures or ideas that are adopted and that will result in eliminating or reducing state expenditures or improving operations, provided such proposals are placed in effect. The centralized program shall be designed to (i) protect the identity of the individual making the proposal while it is being evaluated for implementation by a state agency, (ii) publicize the acceptance of proposals and financial awards to state employees, and (iii) include a reevaluation process that individuals making proposals may access if their proposals are rejected by the evaluating agency. The reevaluation process must include individuals from the private

sector. State employees who make a suggestion or proposal under this section shall receive initial confirmation of receipt within 30 days. A determination of the feasibility of the suggestion or proposal shall occur within 60 days of initial receipt.

13. Develop state personnel policies and, after approval by the Governor, disseminate and interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the Internet. At a minimum, the Department's acceptable use policy shall contain provisions that (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate. The Director of the Department shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to ensure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department shall have no authority with respect to the state grievance procedures.

13a. Develop state personnel policies, with the approval of the Governor, that permit any full-time state employee who is also a member of the organized reserve forces of any of the armed services of the United States or of the Virginia National Guard to carry forward from year to year the total of his accrued annual leave time without regard to the regulation or policy of his agency regarding the maximum number of hours allowed to be carried forward at the end of a calendar year. Any amount over the usual amount allowed to be carried forward shall be reserved for use only as leave taken pursuant to active military service as provided by § 2.2-2903.1. Such leave and its use shall be in addition to leave provided under § 44-93. Any leave carried forward for the purposes described remaining upon termination of employment with the Commonwealth or any department, institution or agency thereof that has not been used in accordance with § 2.2-2903.1 shall not be paid or credited in any way to the employee.

*13b. Develop state personnel policies that provide break time for nursing mothers to express breast milk. Such policies shall require an agency to provide (i) a reasonable break time for an employee to express breast milk for her nursing child after the child's birth each time such employee has need to express the breast milk and (ii) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public and that may be used by an employee to express breast milk. Such break time shall, if possible, run concurrently with any break time already provided to the employee. An agency shall not be required to compensate an employee receiving reasonable break time for any work time spent for such purpose. For purposes of this subdivision, "reasonable," with regard to break time provided for nursing mothers to express breast milk, means a break time that complies with the guidance for employers in assessing the frequency and timing of breaks to express breast milk set forth in the U.S. Department of Labor's Request for Information RIN 1235-ZA00, 75 Federal Register 80073 (December 21, 2010).*

14. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year and the net gains and losses in personnel for each agency for a three-year period.

15. Submit a report to the members of the General Assembly on or before September 30 of each year showing (i) the total number of full-time and part-time employees, (ii) contract temporary employees, (iii) hourly temporary employees, and (iv) the number of employees who voluntarily and involuntarily terminated their employment with each department, agency or institution in the previous fiscal year.

16. Administer the workers' compensation insurance plan for state employees in accordance with § 2.2-2821.

17. Work jointly with the Department of General Services and the Virginia Information Technologies Agency to develop expedited processes for the procurement of staff augmentation to supplement salaried and wage employees of state agencies. Such processes shall be consistent with the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Department may perform contract administration duties and responsibilities for any resulting statewide augmentation contracts.

B. The Director may convene such ad hoc working groups as the Director deems appropriate to address issues regarding the state workforce.

## CHAPTER 281

*An Act to amend and reenact § 22.1-7 of the Code of Virginia, relating to children in residence or custody; participation in educational programs.*

[H 1986]

Approved March 8, 2019

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

**1. That § 22.1-7 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-7. Responsibility of each state board, agency, and institution having children in residence or in custody.**

A. Each state board, state agency, and state institution having children in residence or in custody shall have responsibility for providing for the education and training to such children which is at least comparable to that which would be provided to such children in the public school system. Such board, agency, or institution may provide such education and training either directly with its own facilities and personnel in cooperation with the Board of Education or under contract with a school division or any other public or private nonreligious school, agency, or institution.

B. The Board of Education shall supervise the education and training provided to school-age individuals in state training centers, and shall provide for and direct the education for school-age individuals in state hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services.

C. The Board shall prescribe standards and regulations for all such education and training provided directly by a state board, state agency, or state institution.

D. Each state board, state agency, or state institution providing such education and training shall submit annually its program therefor to the Board of Education for approval in accordance with regulations of the Board.

E. If any child in the custody of any state board, state agency, or state institution is a child with disabilities as defined in § 22.1-213 and such board, agency, or institution must contract with a private nonreligious school to provide special education as defined in § 22.1-213 for such child, the state board, state agency, or state institution may proceed as a guardian pursuant to the provisions of subsection A of § 22.1-218.

*F. Any person of school age who is admitted pursuant to § 16.1-338, 16.1-339, or 16.1-340.1 or in accordance with an order of involuntary commitment entered pursuant to §§ 16.1-341 through 16.1-345 to a state facility for children and adolescents operated by the Department of Behavioral Health and Developmental Services shall, upon admission, be permitted to participate in any education program offered in the facility that is administered by the Department of Education, regardless of his enrollment status. Information required to enroll such person in any such education program may be disclosed in accordance with state and federal law. Nothing in this subsection shall be construed to require enrollment in an education program if such person has been excused from attendance at school pursuant to subdivision B 1 of § 22.1-254.*

## CHAPTER 282

*An Act to amend and reenact §§ 16.1-228, 16.1-281, 16.1-282, 16.1-282.1, 16.1-282.2, 37.2-408.1, 63.2-100, and 63.2-1726 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-906.1, relating to statutory alignment with federal Family First Prevention Services Act; statutory alignment.*

[H 2014]

Approved March 8, 2019

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

**1. That §§ 16.1-228, 16.1-281, 16.1-282, 16.1-282.1, 16.1-282.2, 37.2-408.1, 63.2-100, and 63.2-1726 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-906.1 as follows:**

**§ 16.1-228. Definitions.**

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has

been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile," or "minor" means a person less than 18 years of age.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

*"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.*

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

*"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.*

*"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.*

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

#### **§ 16.1-281. Foster care plan.**

A. In any case in which (i) a local board of social services places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody of a child is given to a local board of social services or a child welfare agency, the local department of social services or child welfare agency shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § 2.2-5208 may be accepted by the court as the foster care plan if it meets the requirements of this section.

The representatives of such department or agency shall involve the child's parent(s) in the development of the plan, except when parental rights have been terminated or the local department of social services or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board placed the child. The representatives of such department or agency shall involve a child who is 14 years of age or older in the development of the plan and, at the option of such child, up to two members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A child under 14 years of age may be involved in the development of the plan if such involvement is consistent with the best interests of the child. In cases where either the parent(s) or child is not involved in the development of the plan, the department or agency shall include in the plan a full description of the reasons therefor.

The department or child welfare agency shall file the plan with the juvenile and domestic relations district court within 45 days following the transfer of custody or the board's placement of the child unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional 60 days. However, a foster care plan shall be filed in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. A foster care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within 45 days following transfer of custody to the board or agency or the board's placement of the child.

B. The foster care plan shall describe in writing (i) the programs, care, services and other support which will be offered to the child and his parents and other prior custodians; (ii) the participation and conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians, and between the child and his siblings; (iv) the nature of the placement or

placements which will be provided for the child; (v) for school-age children, the school placement of the child; (vi) for children 14 years of age and older, the child's needs and goals in the areas of counseling, education, housing, employment, and money management skills development, along with specific independent living services that will be provided to the child to help him reach these goals; and (vii) for children 14 years and older, an explanation of the child's rights with respect to education, health, visitation, court participation, and the right to stay safe and avoid exploitation; ~~and (viii).~~ *The foster care plan shall include all documentation specified in 42 U.S.C. § 675(5)(1) and § 63.2-905.3. If the child in foster care is placed in a qualified residential treatment program as defined in § 16.1-228, the foster care plan shall also include the report and documentation set forth in subsection A of § 63.2-906.1. If the child in foster care is pregnant or is the parent of a child, the foster care plan shall also include (a) a list of the services and programs to be provided to or on behalf of the child to ensure parental readiness or capability and (b) a description of the foster care prevention strategy for any child born to the child in foster care.* In cases in which a foster care plan approved prior to July 1, 2011, identifies independent living as the goal for the child, and in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living, the plan shall also describe the programs and services which will help the child prepare for the transition from foster care to independent living. If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process. For a child 14 years of age and older, the plan shall include a signed acknowledgment by the child that the child has received a copy of the plan and that the rights contained therein have been explained to the child in an age-appropriate manner.

If the department or child welfare agency concludes that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, the department, child welfare agency or team shall ~~(a)~~ (1) include a full description of the reasons for this conclusion; ~~(b)~~ (2) provide information on the opportunities for placing the child with a relative or in an adoptive home; ~~(c)~~ (3) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time; and (4) if neither of such placements is feasible; ~~(d)~~, explain why permanent foster care is the plan for the child or independent living is the plan for the child in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living.

~~"Independent living" as used in this section has the meaning set forth in § 63.2-100.~~

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent if the court finds that ~~(1)~~ (A) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; ~~(2)~~ (B) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; ~~(3)~~ (C) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or ~~(4)~~ (D) based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances which would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

~~"Independent living" has the meaning set forth in § 63.2-100.~~

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

Within 30 days of making a determination that reasonable efforts to reunite the child with the parents are not required, the court shall hold a permanency planning hearing pursuant to § 16.1-282.1.

C. A copy of the entire foster care plan shall be sent by the court to the child, if he is 12 years of age or older; the guardian ad litem for the child, the attorney for the child's parents or for any other person standing in loco parentis at the time the board or child welfare agency obtained custody or the board placed the child, to the parents or other person standing in loco parentis, and such other persons as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan

shall be sent by the court to the foster parents. A hearing shall be held for the purpose of reviewing and approving the foster care plan. The hearing shall be held within 60 days of (i) the child's initial foster care placement, if the child was placed through an agreement between the parents or guardians and the local department of social services or a child welfare agency; (ii) the original preliminary removal order hearing, if the child was placed in foster care pursuant to § 16.1-252; (iii) the hearing on the petition for relief of custody, if the child was placed in foster care pursuant to § 16.1-277.02; or (iv) the dispositional hearing at which the child was placed in foster care and an order was entered pursuant to § 16.1-278.2, 16.1-278.3, 16.1-278.4, 16.1-278.5, 16.1-278.6, or 16.1-278.8. However, the hearing shall be held in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. If the judge makes any revision in any part of the foster care plan, a copy of the changes shall be sent by the court to all persons who received a copy of the original of that part of the plan.

C1. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

C2. Any order entered at the conclusion of the hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to clause (iv) of subsection A of § 16.1-282.1; or, in cases in which independent living was identified as the goal for a child in a foster care plan approved prior to July 1, 2011, or in which a child has been admitted to the United States as a refugee or asylee and is over 16 years of age and independent living has been identified as the permanency goal for the child, by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of 16 years, pursuant to clause (v) of subsection A of § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his parents or other persons standing in loco parentis at the time the board or agency obtained custody or the board placed the child.

E. *1. In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, a hearing shall be held within 60 days of such placement. Prior to such hearing, the qualified residential treatment program shall file with the court the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 16.1-228. The court shall (i) consider the assessment report prepared by a qualified individual pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 16.1-228 and submitted pursuant to this subsection; (ii) consider the report and documentation required under subsection A of § 63.2-906.1 and filed with the foster care or permanency plan; (iii) determine whether the needs of the child can be met through placement in a foster home or, if not, whether placement in the qualified residential treatment program would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; and (iv) approve or deny the placement of the child in the qualified residential treatment program. The hearing required by this subsection may be held in conjunction with a dispositional hearing held pursuant to subsection C, a foster care review hearing held pursuant to § 16.1-282, a permanency planning hearing held pursuant to § 16.1-282.1, or an annual foster care review hearing held pursuant to § 16.1-282.2, provided that such hearing has already been scheduled by the court and is held within 60 days of the child's placement in the qualified residential treatment program.*

*2. If the child remains placed in the qualified residential treatment program during any subsequent hearings held pursuant to subsection C or § 16.1-282, 16.1-282.1, or 16.1-282.2, the local board of social services or licensed child-placing agency shall present evidence at such hearing that demonstrates (i) that the ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster home and that the child's placement in the qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and is consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (ii) the specific treatment or service needs of the child that will be met in the qualified residential treatment program and the length of time the child is expected to need such treatment or services; and (iii) the efforts made by the local board of social services to prepare the child to return home or to be placed with a fit and willing relative, legal guardian, or adoptive parent, or in a foster home. The court shall review such evidence and approve or deny the continued placement of the child in the qualified residential treatment program.*

F. At the conclusion of the hearing at which the initial foster care plan is reviewed, the court shall schedule a foster care review hearing to be held within four months in accordance with § 16.1-282. However, if an order is entered pursuant to subsection C2, the court shall schedule a foster care review hearing to be held within 12 months of the entry of such order in accordance with the provisions of § 16.1-282.2. Parties who are present at the hearing at which the initial foster care plan is

reviewed shall be given notice of the date set for the foster care review hearing and parties who are not present shall be summoned as provided in § 16.1-263.

~~F. G.~~ Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile court, upon order of the judge, to review the status of children in the custody of local boards of social services or placed by local boards of social services on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.

**§ 16.1-282. Foster care review.**

A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a foster care review hearing shall be held within four months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child: ~~(a)~~ (i) was placed through an agreement between the parents or guardians and the local board of social services where legal custody remains with the parents or guardians and such agreement has not been dissolved by court order; or ~~(b)~~ (ii) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights granted, filed or ordered to be filed on the child's behalf; has not been placed in permanent foster care; or is age 16 or over and the plan for the child is not independent living.

Any interested party, including the parent, guardian or person who stood in loco parentis prior to the board's placement of the child or the board's or child welfare agency's assumption of legal custody, may file with the court the petition for a foster care review hearing hereinafter described at any time after the initial foster care placement of the child. However, the board or child welfare agency shall file the petition within three months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281.

B. The petition shall:

1. Be filed in the court in which the foster care plan for the child was reviewed and approved. Upon the order of such court, however, the petition may be filed in the court of the county or city in which the board or child welfare agency having legal custody or having placed the child has its principal office or where the child resides;

2. State, if such is reasonably obtainable, the current address of the child's parents and, if the child was in the custody of a person or persons standing in loco parentis at the time the board or child welfare agency obtained legal custody or the board placed the child, of such person or persons;

3. Describe the placement or placements provided for the child while in foster care and the services or programs offered to the child and his parents and, if applicable, the persons previously standing in loco parentis;

4. Describe the nature and frequency of the contacts between the child and his parents and, if applicable, the persons previously standing in loco parentis;

5. Set forth in detail the manner in which the foster care plan previously filed with the court was or was not complied with and the extent to which the goals thereof have been met; and

6. Set forth the disposition sought and the grounds therefor; however, in the case of a child who has attained age 16 and for whom the plan is independent living, the foster care plan shall be included and shall address the services needed to assist the child to transition from foster care to independent living.

C. Upon receipt of the petition filed by the board, child welfare agency, or any interested party as provided in subsection B of this section, the court shall schedule a hearing to be held within 30 days if a hearing was not previously scheduled. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The child, if he is 12 years of age or older;

2. The attorney-at-law representing the child as guardian ad litem;

3. The child's parents and, if the child was in the custody of a person standing in loco parentis at the time the department obtained custody, such person or persons. No such notification shall be required, however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. If the parent or guardian of the child did not appear at the dispositional hearing and was not noticed to return for the foster care review hearing in accordance with subsection ~~F~~ of § 16.1-281, the parent or guardian shall be summoned to appear at the foster care review hearing in accordance with § 16.1-263. The review hearing shall be held pursuant to this section although a parent or guardian fails to appear and is not represented by counsel, provided personal or substituted service was made on the parent or guardian, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort;

4. The foster parent or foster parents or other care providers of the child;

5. The petitioning board or child welfare agency; and

6. Such other persons as the court, in its discretion, may direct. The local board of social services or other child welfare agency shall identify for the court such other persons as have a legitimate interest in the hearing, including, but not limited to, preadoptive parents for a child in foster care.

*D. In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

*E.* At the conclusion of the hearing, the court shall, upon the proof adduced in accordance with the best interests of the child and subject to the provisions of subsection ~~D~~ *F*, enter any appropriate order of disposition consistent with the dispositional alternatives available to the court at the time of the original hearing. The court order shall state whether reasonable efforts, if applicable, have been made to reunite the child with his parents, guardian or other person standing in loco parentis to the child. Any order entered at the conclusion of this hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to ~~subdivision clause (iv) of subsection A~~ ~~iv~~ of § 16.1-282.1; or, if the child has attained the age of 16 years and the plan for the child is independent living, directing the board or agency to provide the necessary services to transition from foster care, pursuant to ~~subdivision clause (v) of subsection A~~ ~~v~~ of § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.

~~D~~ *F.* Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide for, as appropriate, any terms and conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

*E. G.* The court shall possess continuing jurisdiction over cases reviewed under this section for so long as a child remains in a foster care placement or, when a child is returned to his prior family subject to conditions imposed by the court, for so long as such conditions are effective. After the hearing required pursuant to subsection C, the court shall schedule a permanency planning hearing on the case to be held five months thereafter in accordance with § 16.1-282.1 or within 30 days upon the petition of any party entitled to notice in proceedings under this section when the judge determines there is good cause shown for such a hearing. However, in the case of a child who is the subject of an order that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to ~~subdivision clause (iv) of subsection A~~ ~~iv~~ of § 16.1-282.1; or by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of 16 years, pursuant to ~~subdivision clause (v) of subsection A~~ ~~v~~ of § 16.1-282.1, a permanency planning hearing within five months shall not be required and the court shall schedule a foster care review hearing to be held within 12 months of the entry of such order in accordance with the provisions of § 16.1-282.2.

#### **§ 16.1-282.1. Permanency planning hearing for children in foster care.**

*A.* In the case of a child who was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a permanency planning hearing shall be held within 10 months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child (a) was placed through an agreement between the parents or guardians and the local board of social services where legal custody remains with the parents or guardians and such agreement has not been dissolved by court order; or (b) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights filed on the child's behalf, has not been placed in permanent foster care, or is age 16 or over and the plan for the child is not independent living. The board or child welfare agency shall file a petition for a permanency planning hearing 30 days prior to the date of the permanency planning hearing scheduled by the court. The purpose of this hearing is to establish a permanent goal for the child and either to achieve the permanent goal or to defer such action through the approval of an interim plan for the child.

To achieve the permanent goal, the petition for a permanency planning hearing shall seek to (i) transfer the custody of the child to his prior family, or dissolve the board's placement agreement and return the child to his prior family; (ii) transfer custody of the child to a relative other than the child's prior family, subject to the provisions of subsection A1; (iii) terminate residual parental rights pursuant to § 16.1-277.01 or 16.1-283; (iv) place a child who is 16 years of age or older in permanent foster care pursuant to § 63.2-908; (v) if the child has been admitted to the United States as a refugee or asylee and has attained the age of 16 years or older and the plan is independent living, direct the board or agency to provide the child with services to transition from foster care; or (vi) place a child who is 16 years of age or older in another planned permanent living arrangement in accordance with the provisions of subsection A2. In cases in which a foster care plan approved prior to July 1, 2011, includes independent living as the goal for a child who is not admitted to the United States as an asylee or refugee, the petition shall direct the board or agency to provide the child with services to transition from foster care.

For approval of an interim plan, the petition for a permanency planning hearing shall seek to continue custody with the board or agency, or continue placement with the board through a parental agreement; or transfer custody to the board or child welfare agency from the parents or guardian of a child who has been in foster care through an agreement where the parents or guardian retains custody.

Upon receipt of the petition, if a permanency planning hearing has not already been scheduled, the court shall schedule such a hearing to be held within 30 days. The permanency planning hearing shall be held within 10 months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection ~~E~~ *G* of § 16.1-282 shall apply to the scheduling and notice of proceedings under this section.

A1. The following requirements shall apply to the transfer of custody of the child to a relative other than the child's prior family in accordance with the provisions of *clause* (ii) of subsection A. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide, as appropriate, for any terms or conditions which would promote the child's interest and welfare.

A2. The following requirements shall apply to the selection and approval of placement in another planned permanent living arrangement as the permanent goal for the child in accordance with *clause* (vi) of subsection A:

1. The board or child welfare agency shall petition for alternative (vi) of subsection A only if the child has a severe and chronic emotional, physical or neurological disabling condition for which the child requires long-term residential treatment; and the board or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interests of the child. In a foster care plan filed with the petition pursuant to this section, the board or agency shall document the following: (i) the investigation conducted of the placement alternatives listed in clauses (i) through (v) of subsection A and why each of these is not currently in the best interest of the child; (ii) at least one compelling reason why none of the alternatives listed in clauses (i) through (v) is achievable for the child at the time placement in another planned permanent living arrangement is selected as the permanent goal for the child; (iii) the identity of the long-term residential treatment service provider; (iv) the nature of the child's disability; (v) the anticipated length of time required for the child's treatment; and (vi) the status of the child's eligibility for admission and long-term treatment. The court shall ensure that the local department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including through efforts that utilize search technology, including social media, to find the child's biological family members. The court shall ask the child about the child's desired permanency outcome and make a judicial determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue to not be in the best interest of the child.

2. Before approving alternative (vi) of subsection A as the plan for the child, the court shall find (i) that the child has a severe and chronic emotional, physical or neurological disabling condition; (ii) that the child requires long-term residential treatment for the disabling condition; and (iii) that none of the alternatives listed in clauses (i) through (v) of subsection A is achievable for the child at the time placement in another planned permanent living arrangement is approved as the permanent goal for the child. If the board or agency petitions for alternative (vi), alternative (vi) may be approved by the court for a period of six months at a time.

3. At the conclusion of the permanency planning hearing, if alternative (vi) of subsection A is the permanent plan, the court shall schedule a hearing to be held within six months to review the child's placement in another planned permanent living arrangement in accordance with subdivision A2 4 of subsection A2. All parties present at the hearing at which *clause* (vi) of subsection A is approved as the permanent plan for the child shall be given notice of the date scheduled for the foster care review hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, this subsection A2 shall govern the scheduling and notice for such hearings.

4. The court shall review a foster care plan for any child who is placed in another planned permanent living arrangement every six months from the date of the permanency planning hearing held pursuant to this subsection, so long as the child remains in the legal custody of the board or child welfare agency. The board or child welfare agency shall file such petitions for review pursuant to the provisions of § 16.1-282 and shall, in addition, include in the petition the information required by subdivision A2 1 of subsection A2 of this section. The petition for foster care review shall be filed no later than 30 days prior to the hearing scheduled in accordance with subdivision A2 3 of subsection A2. At the conclusion of the foster care review hearing, if alternative (vi) of subsection A remains the permanent plan, the court shall enter an order that states whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to monitor the child's status in another planned permanent living arrangement.

However, if at any time during the six-month approval periods permitted by this subsection, a determination is made by treatment providers that the child's need for long-term residential treatment for the child's disabling condition is eliminated, the board or agency shall immediately begin to plan for post-discharge services and shall, within 30 days of making such a determination, file a petition for a permanency planning hearing pursuant to subsection A of this section. Upon receipt of the petition, the court shall schedule a permanency planning hearing to be held within 30 days. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection E G of § 16.1-282 shall apply to proceedings under this section.

A3. The following requirements shall apply to the selection and approval of permanent foster care pursuant to *clause* (iv) of subsection A:

1. The court shall ensure that the local department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including through efforts that utilize search technology, including social media, to find the child's biological family members.

2. The court shall ask the child about the child's desired permanency outcome and make a judicial determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue to not be in the best interest of the child.

B. The following requirements shall apply to the selection and approval of an interim plan for the child in accordance with subsection A:

1. The board or child welfare agency shall petition for approval of an interim plan only if the board or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interest of the child. If the board or agency petitions for approval of an interim plan, such plan may be approved by the court for a maximum period of six months. The board or agency shall also file a foster care plan that (i) identifies a permanent goal for the child that corresponds with one of the alternatives specified in clauses (i) through (v) of subsection A; (ii) includes provisions for accomplishing the permanent goal within six months; and (iii) summarizes the investigation conducted of the alternatives listed in clauses (i) through (v) of subsection A and why achieving each of these is not in the best interest of the child at this time. The foster care plan shall describe the child's placement, including the in-state and out-of-state placement options and whether the child's placement is in state or out of state. If the child's placement is out of state, the foster care plan shall provide the reason why the out-of-state placement is appropriate and in the best interests of the child.

2. Before approving an interim plan for the child, the court shall find:

a. When returning home remains the plan for the child, that the parent has made marked progress toward reunification with the child, the parent has maintained a close and positive relationship with the child, and the child is likely to return home within the near future, although it is premature to set an exact date for return at the time of this hearing; or

b. When returning home is not the plan for the child, that marked progress is being made to achieve the permanent goal identified by the board or child welfare agency and that it is premature to set an exact date for accomplishing the goal at the time of this hearing. The court shall consider the in-state and out-of-state placement options, and if the child has been placed out of state, determine whether the out-of-state placement is appropriate and in the best interests of the child.

3. Upon approval of an interim plan, the court shall schedule a hearing to be held within six months to determine that the permanent goal is accomplished and to enter an order consistent with alternative (i), (ii), (iii), (iv), or (v) of subsection A. All parties present at the initial permanency planning hearing shall be given notice of the date scheduled for the second permanency planning hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, subsection A shall govern the scheduling and notice for such hearings.

C. In each permanency planning hearing and in any hearing regarding the transition of the child from foster care to independent living, the court shall consult with the child in an age-appropriate manner regarding the proposed permanency plan or transition plan for the child, unless the court finds that such consultation is not in the best interests of the child.

D. *In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

E. At the conclusion of the permanency planning hearing held pursuant to this section, whether action is taken or deferred to achieve the permanent goal for the child, the court shall enter an order that states whether reasonable efforts have been made to reunite the child with the child's prior family, if returning home is the permanent goal for the child; or whether reasonable efforts have been made to achieve the permanent goal identified by the board or agency, if the goal is other than returning the child home.

In making this determination, the court shall give consideration to whether the board or agency has placed the child in a timely manner in accordance with the foster care plan and completed the steps necessary to finalize the permanent placement of the child.

#### **§ 16.1-282.2. Annual foster care review.**

A. The court shall review a foster care plan annually for any child who remains in the legal custody of a local board of social services or a child welfare agency and (i) on whose behalf a petition to terminate parental rights has been granted, filed or ordered to be filed, (ii) who is placed in permanent foster care, or (iii) who is age 16 or over and for whom the plan is independent living. The foster care review hearing shall be scheduled at the conclusion of a hearing held pursuant to § 16.1-281, 16.1-282, or 16.1-282.1 at which the order is entered: terminating parental rights, directing the filing of a petition for termination of parental rights by the board or agency, placing the child in permanent foster care, or directing the board or agency to provide the child who is age 16 or over and for whom the plan is independent living with services to transition from foster care. The foster care review hearing shall be held within 12 months of the date of such order, so long as the child remains in the custody of the board or agency.

The board or agency shall file the petition for a foster care review hearing, and the court shall provide notice of the foster care review hearing in accordance with the provisions of § 16.1-282. The board or agency shall file a written Adoption Progress Report with the juvenile court pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283, if applicable, with the petition required by this section. The court order entered at the conclusion of the hearing held on the petition shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the approved foster care plan that established a permanent goal for the child and to complete the steps necessary to finalize the permanent placement of the child.

B. At the foster care review hearing in the case of a child who is placed in permanent foster care, the court shall give consideration to the appropriateness of the services being provided to the child and permanent foster parents, to any change in circumstances since the entry of the order placing the child in permanent foster care, and to such other factors as the court deems proper.

C. At the foster care review hearing in the case of a child who meets the criteria of subdivisions A 1 through 4 of § 16.1-283.2, the court shall inquire of the guardian ad litem and the local board of social services whether the child has expressed a preference that the possibility of restoring the parental rights of his parent or parents be investigated. If the child expresses or has expressed such a preference, the court shall direct the local board of social services or the child's guardian ad litem to conduct an investigation of the parent or parents. If, following such investigation, the local board of social services or the child's guardian ad litem deems it appropriate to do so, either may file a petition for the restoration of parental rights. A hearing on such petition shall be held as provided by § 16.1-283.2.

*D. In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

**§ 37.2-408.1. Background check required; children's residential facilities.**

A. Notwithstanding the provisions of § 37.2-416, as a condition of employment, volunteering or providing services on a regular basis, every children's residential facility that is regulated or operated by the Department shall require any person who (i) accepts a position of employment at such a facility ~~who was not employed by that facility prior to July 1, 2008,~~ (ii) ~~is currently employed by such a facility,~~ (iii) volunteers for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2008,~~ or (iii) (iv) provides contractual services directly to a juvenile for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2008,~~ to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the person's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the person. The children's residential facility shall inform the person that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the person's eligibility to have responsibility for the safety and well-being of children. The person shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth. The results of the criminal history background check must be received prior to permitting a person to work ~~with children in the children's residential facility.~~

The Central Criminal Records Exchange, upon receipt of a person's record or notification that no record exists, shall forward it to the state agency that operates or regulates the children's residential facility with which the person is affiliated. The state agency shall, upon receipt of a person's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the children's facility whether the person is eligible to have responsibility for the safety and well-being of children. Except as otherwise provided in subsection B, no children's residential facility regulated or operated by the Department shall hire for compensated employment or allow to volunteer or provide contractual services persons who have been convicted of or are the subject of pending charges for (a) any offense set forth in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, to be a volunteer, or to provide contractual services or (2) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02. The provisions of this section also shall apply to structured residential programs, excluding secure detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision.

B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for compensated employment or for volunteer or contractual service purposes persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment, volunteer, or contractual services.

If the person is denied employment, or the opportunity to volunteer or provide services, at a children's residential facility because of information appearing on his criminal history record, and the person disputes the information upon which the denial was based, upon written request of the person the state agency shall furnish the person the procedures for obtaining his criminal history record from the Federal Bureau of Investigation. ~~If the person has been permitted to assume duties that do not involve contact with children pending receipt of the report, the children's residential facility is not precluded from suspending the person from his position pending a final determination of the person's eligibility to have responsibility for the safety and well-being of children.~~ The information provided to the children's residential facility shall not be disseminated except as provided in this section.

C. Those persons listed in clauses (i), ~~(ii), and (iii)~~ *through (iv)* of subsection A also shall authorize the children's residential facility to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any

investigation of child abuse or neglect undertaken on him. The person shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The children's residential facility shall receive the results of the central registry search prior to permitting a person to work ~~alone with children~~. Children's residential facilities regulated or operated by the Department shall not hire for compensated employment, or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect.

D. The cost of obtaining the criminal history record and the central registry information shall be borne by the person unless the children's residential facility, at its option, decides to pay the cost.

**§ 63.2-100. Definitions.**

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services providers, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;
2. An establishment required to be licensed as a summer camp by § 35.1-18; and
3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

*"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.*

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

*"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.*

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency.

"Foster home" means ~~the place of a residence of any natural person~~ licensed by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person and (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice

immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a relative child of whom they had been the foster parents.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

*"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.*

*"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and*

accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from the Virginia Initiative for Employment Not Welfare (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

**§ 63.2-906.1. Qualified residential treatment programs.**

A. In cases in which a child is placed by a local board or licensed child-placing agency in a qualified residential treatment program as defined in § 63.2-100, the foster care plan shall include (i) a description of the reasonable and good faith efforts made by the local department to identify and include on the child's family and permanency team all appropriate biological relatives, fictive kin, professionals, and, if the child is 14 years of age or older, members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281; (ii) contact information for all members of the child's family and permanency team and for other family members and fictive kin; (iii) evidence that all meetings of the family and permanency team are held at a time and place convenient for the child's family; (iv) if reunification is the goal for the child, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team; (v) the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 63.2-100 and evidence that such assessment was conducted in conjunction with the child's family and permanency team; (vi) the placement preferences of the child and the family and permanency team with recognition that the child should be placed with his siblings unless the court finds that such placement is contrary to the best interest of the child; and (vii) if the placement preferences of the child and the family and permanency team differ from the placement recommended in the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 63.2-100, the reasons why the preferences of the child and the family and permanency team were not recommended.

B. In all cases in which a child is placed by a local board or licensed child-placing agency in a qualified residential treatment program as defined in § 63.2-100, a hearing shall be held in accordance with the provisions of subsection E of § 16.1-281 within 60 days of such placement.

C. If any child 13 years of age or older is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or any child 12 years of age or younger is placed in a qualified residential treatment program for more than six consecutive or nonconsecutive months, the Commissioner shall submit to the federal Secretary of Health and Human Services (i) the most recent versions of the evidence and documentation required under subdivision E 2 of § 16.2-181 and (ii) a written approval, signed by the Commissioner, for the continued placement of the child in the qualified residential treatment program.

**§ 63.2-1726. Background check required; children's residential facilities.**

A. As a condition of employment, volunteering, or providing services on a regular basis, every children's residential facility that is regulated or operated by the Departments of Social Services, Education, Military Affairs, or Behavioral

Health and Developmental Services shall require any individual who (i) accepts a position of employment at such a facility ~~who was not employed by that facility prior to July 1, 2007,~~ (ii) *is employed by such a facility,* (iii) volunteers for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2007,~~ or (iii) (iv) provides contractual services directly to a juvenile for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2007,~~ to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The children's residential facility shall inform the applicant that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the applicant's eligibility to have responsibility for the safety and well-being of children. The applicant shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth. The results of the criminal history background check must be received prior to permitting an applicant to work ~~with children in the children's residential facility.~~

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the state agency which operates or regulates the children's residential facility with which the applicant is affiliated. The state agency shall, upon receipt of an applicant's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the children's facility whether the applicant is eligible to have responsibility for the safety and well-being of children. Except as otherwise provided in subsection B, no children's residential facility regulated or operated by the Departments of Education, Behavioral Health and Developmental Services, Military Affairs, or Social Services shall hire for compensated employment or allow to volunteer or provide contractual services persons who have been convicted of or are the subject of pending charges for (a) any offense set forth in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, to be a volunteer, or to provide contractual services or (2) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02. The provisions of this section also shall apply to residential programs established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision and to local secure detention facilities, provided, however, that the provisions of this section related to local secure detention facilities shall only apply to an individual who, on or after July 1, 2013, accepts a position of employment at such local secure detention facility, volunteers at such local secure detention facility on a regular basis and will be alone with a juvenile in the performance of his duties, or provides contractual services directly to a juvenile at a local secure detention facility on a regular basis and will be alone with a juvenile in the performance of his duties. The Central Criminal Records Exchange and the state or local agency that regulates or operates the local secure detention facility shall process the criminal history record information regarding such applicant in accordance with this subsection and subsection B.

B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for compensated employment or for volunteer or contractual service purposes persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment, volunteer, or contractual services.

If the applicant is denied employment or the opportunity to volunteer or provide services at a children's residential facility because of information appearing on his criminal history record, and the applicant disputes the information upon which the denial was based, upon written request of the applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history record from the Federal Bureau of Investigation. ~~If the applicant has been permitted to assume duties that do not involve contact with children pending receipt of the report, the children's residential facility is not precluded from suspending the applicant from his position pending a final determination of the applicant's eligibility to have responsibility for the safety and well-being of children.~~ The information provided to the children's residential facility shall not be disseminated except as provided in this section.

C. Those individuals listed in clauses (i), ~~(ii)~~ and ~~(iii)~~ through (iv) of subsection A also shall authorize the children's residential facility to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The applicant shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The children's residential facility shall receive the results of the central registry search prior to permitting an applicant to work ~~alone with children.~~ Children's residential facilities regulated or operated by the Departments of Education; Behavioral Health and Developmental Services; Military Affairs; and Social Services shall not hire for compensated employment or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect. Every residential facility for juveniles which is regulated or operated by the Department of Juvenile Justice shall be authorized to obtain a copy of the information from the central registry.

D. The Boards of Social Services; Education; Juvenile Justice; and Behavioral Health and Developmental Services, and the Department of Military Affairs, may adopt regulations to comply with the provisions of this section. Copies of any

information received by a children's residential facility pursuant to this section shall be available to the agency that regulates or operates such facility but shall not be disseminated further. The cost of obtaining the criminal history record and the central registry information shall be borne by the employee or volunteer unless the children's residential facility, at its option, decides to pay the cost.

**2. That an emergency exists and the provisions of this act amending §§ 37.2-408.1 and 63.2-1726 of the Code of Virginia are in force from its passage.**

### CHAPTER 283

*An Act to amend and reenact § 24.2-613 of the Code of Virginia, relating to elections; form of ballot; ballot order.*

[H 2046]

Approved March 8, 2019

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

**1. That § 24.2-613 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-613. Form of ballot.**

A. The ballots shall comply with the requirements of this title and the standards prescribed by the State Board.

B. For elections for federal, statewide, and General Assembly offices only, each candidate who has been nominated by a political party or in a primary election shall be identified by the name of his political party. Independent candidates shall be identified by the term "Independent." For the purpose of this section, any Independent candidate may, by producing sufficient and appropriate evidence of nomination by a "recognized political party" to the State Board, have the term "Independent" on the ballot converted to that of a "recognized political party" on the ballot and be treated on the ballot in a manner consistent with the candidates nominated by political parties. For the purpose of this section, a "recognized political party" is defined as an organization that, for at least six months preceding the filing of its nominee for the office, has had in continual existence a state central committee composed of registered voters residing in each congressional district of the Commonwealth, a party plan and bylaws, and a duly elected state chairman and secretary. A letter from the state chairman of a recognized political party certifying that a candidate is the nominee of that party and also signed by such candidate accepting that nomination shall constitute sufficient and appropriate evidence of nomination by a recognized political party. The name of the political party, the name of the "recognized political party," or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.

C. Except as provided for primary elections, the State Board shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. In an election district in which more than one person is nominated by one political party for the same office, the candidates' names shall appear alphabetically in their party groups under the name of the office, with sufficient space between party groups to indicate them as such. For the purpose of this section, except as provided for presidential elections in § 24.2-614, "recognized political parties" shall be treated as a class; the order of the recognized political parties within the class shall be determined by lot by the State Board; and the class shall follow the political parties as defined by § 24.2-101 and precede the independent class. Independent candidates shall be treated as a class under "Independent", and their names shall be placed on the ballot after the political parties and recognized political parties. Where there is more than one independent candidate for an office, their names shall appear on the ballot in an order determined by the priority of time of filing for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board as in the case of a tie vote for the office.

For the purposes of this subsection, "time of filing for the office" means the time at which an independent candidate has filed his petition signature pages with a number of signatures at least equal to the number required for the office pursuant to § 24.2-506. In the case of an office for which no petition is required, "time of filing for the office" means the time at which the candidate has filed his completed statement of qualification pursuant to § 24.2-501.

No individual's name shall appear on the ballot more than once for the same office.

D. *On any ballot, all offices to be elected shall appear before any questions presented to the voters.*

E. In preparing the printed ballots for general, special, and primary elections, the State Board and general registrars shall cause to be printed in not less than 10-point type, immediately below the title of any office, a statement of the number of candidates for whom votes may be cast for that office. For any office to which only one candidate can be elected, the following language shall be used: "Vote for only one." For any office to which more than one candidate can be elected, the following language shall be used: "Vote for not more than \_\_\_\_."

~~E.~~ F. Any locality that uses machine-readable ballots at one or more precincts, including any central absentee precinct, may, with the approval of the State Board, use a printed reproduction of the machine-readable ballot in lieu of the official machine-readable ballot. Such reproductions shall be printed and otherwise handled in accordance with all laws and procedures that apply to official paper ballots.

## CHAPTER 284

*An Act to amend and reenact § 46.2-320.1 of the Code of Virginia, relating to nonpayment of child support; amount of arrearage paid; time period to pay arrearage; repayment schedule; suspension of driver's license.*

[H 2059]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-320.1 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-320.1. Other grounds for suspension; nonpayment of child support.**

A. The Commissioner may enter into an agreement with the Department of Social Services whereby the Department may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or more or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings. A suspension or refusal to renew authorized pursuant to this section shall not be effective until 30 days after service on the delinquent obligor of notice of intent to suspend or refusal to renew. The notice of intent shall be served on the obligor by the Department of Social Services (a) by certified mail, return receipt requested, or by electronic means, sent to the obligor's last known addresses as shown in the records of the Department or the Department of Social Services or (b) pursuant to § 8.01-296, or service may be waived by the obligor in accordance with procedures established by the Department of Social Services. The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within ~~40~~ 30 days from service of the notice of intent. Upon receipt of the request for a hearing, the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew. The court shall authorize the suspension or refusal to renew only if it finds that the obligor's noncompliance with the child support order was willful. Upon a showing by the Department of Social Services that the obligor is delinquent in the payment of child support by 90 days or more or in an amount of \$5,000 or more, the burden of proving that the delinquency was not willful shall rest upon the obligor. The Department shall not suspend or refuse to renew the driver's license until a final determination is made by the court.

B. At any time after service of a notice of intent, the person may petition the juvenile and domestic relations district court in the jurisdiction where he resides for the issuance of a restricted license to be used if the suspension or refusal to renew becomes effective. Upon such petition and a finding of good cause, the court may provide that such person be issued a restricted permit to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. A restricted license issued pursuant to this subsection shall not permit any person to operate a commercial motor vehicle as defined in § 46.2-341.4. The court shall order the surrender of the person's license to operate a motor vehicle, to be disposed of in accordance with the provisions of § 46.2-398, and shall forward to the Commissioner a copy of its order entered pursuant to this subsection. The order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify him.

C. The Department shall not renew a driver's license or terminate a license suspension imposed pursuant to this section until it has received from the Department of Social Services a certification that the person has (i) paid the delinquency in full; (ii) reached an agreement with the Department of Social Services to satisfy the delinquency within a period not to exceed 10 years, and at least one payment representing at least five percent of the total delinquency or \$600, whichever is ~~greater~~ less, has been made pursuant to the agreement; (iii) complied with a subpoena, summons, or warrant relating to a paternity or child support proceeding; or (iv) completed or is successfully participating in an intensive case monitoring program for child support as ordered by a juvenile and domestic relations district court or as administered by the Department of Social Services. Certification by the Department of Social Services shall be made by electronic or telephonic communication and shall be made on the same work day that payment required by clause (i) or (ii) is made.

D. If a person who has entered into an agreement with the Department of Social Services pursuant to clause (ii) of subsection C fails to comply with the requirements of the agreement, the Department of Social Services shall notify the Department of the person's noncompliance and the Department shall suspend or refuse to renew the driver's license of the person until it has received from the Department of Social Services a certification that the person has paid the delinquency in full or has entered into a subsequent agreement with the Department of Social Services to satisfy the delinquency within a period not to exceed seven years and has made at least one payment of \$1,200 or ~~five~~ seven percent of the total delinquency, whichever is ~~greater~~ less, pursuant to the agreement. If the person fails to comply with the terms of a subsequent agreement reached with the Department of Social Services pursuant to this section, without further notice to the person as provided in the subsequent agreement, the Department of Social Services shall notify the Department of the person's noncompliance, and the Department shall suspend or refuse to renew the driver's license of the person. A person who has failed to comply with the terms of a second or subsequent agreement pursuant to this subsection may be granted a new agreement with the Department of Social Services if the person has made at least one payment of \$1,800 or ~~five~~ 10 percent of the total delinquency, whichever is ~~greater~~ less, and agrees to a repayment schedule of not more than seven years. Upon receipt of certification from the Department of Social Services of the person's satisfaction of these conditions, the Department shall issue a driver's license to the person or reinstate the person's driver's license. Certification

by the Department of Social Services shall be made by electronic or telephonic communication and shall be made on the same work day that payment required by this subsection is made.

## CHAPTER 285

*An Act to amend and reenact § 46.2-320.1 of the Code of Virginia, relating to nonpayment of child support; amount of arrearage paid; time period to pay arrearage; repayment schedule; suspension of driver's license.*

[S 1667]

Approved March 8, 2019

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

#### 1. That § 46.2-320.1 of the Code of Virginia is amended and reenacted as follows:

##### § 46.2-320.1. Other grounds for suspension; nonpayment of child support.

A. The Commissioner may enter into an agreement with the Department of Social Services whereby the Department may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or more or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings. A suspension or refusal to renew authorized pursuant to this section shall not be effective until 30 days after service on the delinquent obligor of notice of intent to suspend or refusal to renew. The notice of intent shall be served on the obligor by the Department of Social Services (a) by certified mail, return receipt requested, or by electronic means, sent to the obligor's last known addresses as shown in the records of the Department or the Department of Social Services or (b) pursuant to § 8.01-296, or service may be waived by the obligor in accordance with procedures established by the Department of Social Services. The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within ~~40~~ 30 days from service of the notice of intent. Upon receipt of the request for a hearing, the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew. The court shall authorize the suspension or refusal to renew only if it finds that the obligor's noncompliance with the child support order was willful. Upon a showing by the Department of Social Services that the obligor is delinquent in the payment of child support by 90 days or more or in an amount of \$5,000 or more, the burden of proving that the delinquency was not willful shall rest upon the obligor. The Department shall not suspend or refuse to renew the driver's license until a final determination is made by the court.

B. At any time after service of a notice of intent, the person may petition the juvenile and domestic relations district court in the jurisdiction where he resides for the issuance of a restricted license to be used if the suspension or refusal to renew becomes effective. Upon such petition and a finding of good cause, the court may provide that such person be issued a restricted permit to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. A restricted license issued pursuant to this subsection shall not permit any person to operate a commercial motor vehicle as defined in § 46.2-341.4. The court shall order the surrender of the person's license to operate a motor vehicle, to be disposed of in accordance with the provisions of § 46.2-398, and shall forward to the Commissioner a copy of its order entered pursuant to this subsection. The order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify him.

C. The Department shall not renew a driver's license or terminate a license suspension imposed pursuant to this section until it has received from the Department of Social Services a certification that the person has (i) paid the delinquency in full; (ii) reached an agreement with the Department of Social Services to satisfy the delinquency within a period not to exceed 10 years, and at least one payment representing at least five percent of the total delinquency or \$600, whichever is ~~greater~~ less, has been made pursuant to the agreement; (iii) complied with a subpoena, summons, or warrant relating to a paternity or child support proceeding; or (iv) completed or is successfully participating in an intensive case monitoring program for child support as ordered by a juvenile and domestic relations district court or as administered by the Department of Social Services. Certification by the Department of Social Services shall be made by electronic or telephonic communication and shall be made on the same work day that payment required by clause (i) or (ii) is made.

D. If a person who has entered into an agreement with the Department of Social Services pursuant to clause (ii) of subsection C fails to comply with the requirements of the agreement, the Department of Social Services shall notify the Department of the person's noncompliance and the Department shall suspend or refuse to renew the driver's license of the person until it has received from the Department of Social Services a certification that the person has paid the delinquency in full or has entered into a subsequent agreement with the Department of Social Services to satisfy the delinquency within a period not to exceed seven years and has made at least one payment of \$1,200 or ~~five~~ seven percent of the total delinquency, whichever is ~~greater~~ less, pursuant to the agreement. If the person fails to comply with the terms of a subsequent agreement reached with the Department of Social Services pursuant to this section, without further notice to the person as provided in the subsequent agreement, the Department of Social Services shall notify the Department of the person's noncompliance, and the Department shall suspend or refuse to renew the driver's license of the person. A person who has failed to comply with the terms of a second or subsequent agreement pursuant to this subsection may be granted a new agreement with the Department of Social Services if the person has made at least one payment of \$1,800 or ~~five~~ 10 percent of the total delinquency, whichever is ~~greater~~ less, and agrees to a repayment schedule of not more than

seven years. Upon receipt of certification from the Department of Social Services of the person's satisfaction of these conditions, the Department shall issue a driver's license to the person or reinstate the person's driver's license. Certification by the Department of Social Services shall be made by electronic or telephonic communication and shall be made on the same work day that payment required by this subsection is made.

## CHAPTER 286

*An Act to amend and reenact § 2.2-4303.2 of the Code of Virginia, relating to the Virginia Public Procurement Act; job order contracting; limitations.*

[H 2071]

Approved March 8, 2019

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

**1. That § 2.2-4303.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4303.2. Job order contracting; limitations.**

A. A job order contract may be awarded by a public body for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first. Contractors may be selected through either competitive sealed bidding or competitive negotiation.

B. Such contracts may be renewable for two additional one-year terms at the option of the public body. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed ~~\$5 million~~ *the maximum threshold amount.*

*Beginning on July 1, 2019, the maximum threshold amount shall be \$6 million.*

~~Individual~~ *Subject to the maximum threshold amount, no individual job orders order shall not exceed \$500,000.*

C. For the purposes of this section, any unused amounts from one contract term shall not be carried forward to any additional term.

D. Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in subsection B is prohibited.

E. No public body shall issue or use a job order, under a job order contract, solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in § 54.1-400. However, professional architectural or engineering services may be included on a job order where such professional services (i) are incidental and directly related to the job, (ii) do not exceed \$25,000 per job order, and (iii) do not exceed \$75,000 per contract term.

F. Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. *However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to \$250,000, subject to the maximum annual threshold amount established in this section.*

## CHAPTER 287

*An Act to amend and reenact § 54.1-3005 of the Code of Virginia, relating to Board of Nursing; application for license or certification; military spouse; expedited review.*

[H 2129]

Approved March 8, 2019

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

**1. That § 54.1-3005 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3005. Specific powers and duties of Board.**

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;

2. To approve programs that meet the requirements of this chapter and of the Board;

3. To provide consultation service for educational programs as requested;

4. To provide for periodic surveys of educational programs;

5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;

6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;

7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon

application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

10. To license and maintain a registry of all licensed massage therapists and to promulgate regulations governing the criteria for licensure as a massage therapist and the standards of professional conduct for licensed massage therapists;

11. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

14. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

15. To expedite application processing, to the extent possible, *pursuant to § 54.1-119* for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

18. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

19. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

20. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;

21. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and

22. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse practitioners pursuant to § 54.1-2957.

## CHAPTER 288

*An Act to amend and reenact §§ 3.2-6528, 8.01-384.1, 19.2-152.4:3, 22.1-213, 22.1-214, 22.1-217.01, 22.1-319, 32.1-64.1, 32.1-64.2, 36-99.5, 46.2-342, 51.5-44, 51.5-45, and 54.1-2600 of the Code of Virginia, relating to persons who are deaf or hard of hearing; terminology.*

[H 2137]

Approved March 8, 2019

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

**1. That §§ 3.2-6528, 8.01-384.1, 19.2-152.4:3, 22.1-213, 22.1-214, 22.1-217.01, 22.1-319, 32.1-64.1, 32.1-64.2, 36-99.5, 46.2-342, 51.5-44, 51.5-45, and 54.1-2600 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 3.2-6528. Amount of license tax.**

The governing body of each county or city shall impose by ordinance a license tax on the ownership of dogs within its jurisdiction. The governing body of any locality that has adopted an ordinance pursuant to subsection B of § 3.2-6524 shall impose by ordinance a license tax on the ownership of cats within its jurisdiction. The governing body may establish different rates of taxation for ownership of female dogs, male dogs, spayed or neutered dogs, female cats, male cats, and spayed or neutered cats. The tax for each dog or cat shall not be more than \$10 for each year or \$50 for a lifetime license issued pursuant to subsection B of § 3.2-6530. If the dog or cat has been spayed, the tax shall not exceed the tax provided for

a male dog or cat. Any ordinance may provide for an annual license tax for kennels of 10, 20, 30, 40, or 50 dogs or cats not to exceed \$50 for any one such block of kennels.

No license tax shall be levied on any dog that is trained and serves as (i) a guide dog for a blind person, ~~that is trained and serves as~~ (ii) a hearing dog for a ~~person who is deaf or hearing-impaired person~~ *hard of hearing*, or ~~that is trained and serves as~~ (iii) a service dog for a mobility-impaired or otherwise disabled person.

As used in this section, "hearing dog," "mobility-impaired person," "otherwise disabled person," and "service dog" have the same meanings as assigned in § 51.5-40.1.

**§ 8.01-384.1. Interpreters for deaf in civil proceedings.**

In any civil proceeding in which a speech-impaired ~~or hearing-impaired~~ person *or a person who is deaf or hard of hearing* is a party or witness, the court may appoint a qualified interpreter to assist such person in the proceeding. The court shall appoint an interpreter for any speech-impaired ~~or hearing-impaired~~ person *or person who is deaf or hard of hearing* who requests this assistance.

Interpreters for the deaf *and hard of hearing* in these proceedings shall be procured through the Department for the Deaf and Hard-of-Hearing.

Any person who is eligible for an interpreter pursuant to this section may waive the use of an interpreter appointed by the court for all or a portion of the proceedings. A person who waives his right to an interpreter may provide his own interpreter at his own expense without regard to whether the interpreter is qualified under this section.

The compensation of interpreters appointed pursuant to this section shall be fixed by the court and paid from the general fund of the state treasury or may, in the discretion of the court, be assessed as a part of the cost of the proceedings.

The provisions of this section shall apply in both circuit courts and district courts.

**§ 19.2-152.4:3. Duties and responsibilities of local pretrial services officers.**

A. Each local pretrial services officer, for the jurisdictions served, shall:

1. Investigate and interview defendants arrested on state and local warrants and who are detained in jails located in jurisdictions served by the agency while awaiting a hearing before any court that is considering or reconsidering bail, at initial appearance, advisement or arraignment, or at other subsequent hearings;

2. Present a pretrial investigation report with recommendations to assist courts in discharging their duties related to granting or reconsidering bail;

3. Supervise and assist all defendants residing within the jurisdictions served and placed on pretrial supervision by any judicial officer within the jurisdictions to ensure compliance with the terms and conditions of bail;

4. Conduct random drug and alcohol tests on any defendant under supervision for whom a judicial officer has ordered testing or who has been required to refrain from excessive use of alcohol or use of any illegal drug or controlled substance or other defendant-specific condition of bail related to alcohol or substance abuse;

5. Seek a *capias* from any judicial officer pursuant to § 19.2-152.4:1 for any defendant placed under supervision or the custody of the agency who fails to comply with the conditions of bail or supervision, when continued liberty or noncompliance presents a risk of flight, a risk to public safety or risk to the defendant;

6. Seek an order to show cause why the defendant should not be required to appear before the court in those cases requiring a subsequent hearing before the court;

7. Provide defendant-based information to assist any law-enforcement officer with the return to custody of defendants placed on supervision for which a *capias* has been sought; and

8. Keep such records and make such reports as required by the Commonwealth of Virginia Department of Criminal Justice Services.

B. Each local pretrial services officer, for the jurisdictions served, may provide the following optional services, as appropriate and when available resources permit:

1. Conduct, subject to court approval, drug and alcohol screenings, or tests at investigation pursuant to subsection B of § 19.2-123 or following release to supervision, and conduct or facilitate the preparation of screenings or assessments or both pursuant to state approved protocols;

2. Facilitate placement of defendants in a substance abuse education or treatment program or services or other education or treatment service when ordered as a condition of bail;

3. Sign for the custody of any defendant investigated by a pretrial services officer, and released by a court to pretrial supervision as the sole term and condition of bail or when combined with an unsecured bond;

4. Provide defendant information and investigation services for those who are detained in jails located in jurisdictions served by the agency and are awaiting an initial bail hearing before a magistrate;

5. Supervise defendants placed by any judicial officer on home electronic monitoring as a condition of bail and supervision;

6. Prepare, for defendants investigated, the financial statement-eligibility determination form for indigent defense services; and

7. Subject to approved procedures and if so requested by the court, coordinate for defendants investigated, services for court-appointed counsel and for interpreters for foreign-language speaking and ~~hearing-impaired~~ *deaf or hard of hearing* defendants.

**§ 22.1-213. Definitions.**

As used in this article:

"Children with disabilities" means those persons (i) who are age two to 21, inclusive, having reached the age of two by the date specified in § 22.1-254; (ii) who have intellectual disability or serious emotional disturbance, ~~or~~ are physically disabled, speech impaired, ~~hearing impaired deaf or hard of hearing~~, visually impaired, or multiple disabled, ~~or~~ are otherwise health impaired, including those who have autism spectrum disorder or a specific learning disability, or are otherwise disabled as defined by the Board of Education; and (iii) who because of such impairments need special education.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a disabled child to benefit from special education, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. ~~The term~~ "Related services" also includes school health services, social work services in schools, and parent counseling and training.

"Special education" means specially designed instruction at no cost to the parent, to meet the unique needs of a disabled child, including classroom instruction, home instruction, instruction provided in hospitals and institutions, instruction in physical education, and instruction in career and technical education.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. ~~The term~~ "Specific learning disability" does not include children who have learning problems that are primarily the result of visual, hearing, or motor handicaps, of intellectual disability, or of environmental, cultural, or economic disadvantage.

**§ 22.1-214. Board to prepare special education program for children with disabilities.**

A. The Board of Education shall prepare and supervise the implementation by each school division of a program of special education designed to educate and train children with disabilities between the ages defined in § 22.1-213 and may prepare and place in operation such program for such individuals of other ages. The program developed by the Board of Education shall be designed to ensure that all children with disabilities have available to them a free and appropriate education, including specially designed instruction to meet the unique needs of such children. The program shall require (i) that the hearing of each disabled child be tested prior to placement in a special education program and (ii) that a complete audiological assessment, including tests ~~which that~~ will assess inner and middle ear functioning, be performed on each child who is ~~hearing impaired deaf or hard of hearing~~ or who fails the test required in clause (i). The school boards of the several school divisions, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing, the Department of Health, and other state and local agencies ~~which that~~ can or may be able to assist in providing educational and related services shall assist and cooperate with the Board of Education in the development of such program.

B. The Board of Education shall prescribe procedures to afford due process to children with disabilities and their parents or guardians and to school divisions in resolving disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in state or federal statutes or regulations. These procedures shall encourage the use of mediation as an informal means of resolving such disputes. Mediation shall not, however, be used to deny or delay the due process rights of parents or guardians. The procedures shall require that all testimony be given under oath or affirmation administered by the hearing officer.

C. The Board of Education may provide for final decisions to be made by a hearing officer. The parents and the school division shall have the right to be represented by legal counsel or other representative before such hearing officer without being in violation of the provisions of § 54.1-3904.

D. Any party aggrieved by the findings and decision made pursuant to the procedures prescribed pursuant to subsections B and C may, within 180 days of such findings and decision, bring a civil action in the circuit court for the jurisdiction in which the school division is located. In any such action, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

D1. In any action brought pursuant to subsection D, the court, in its discretion, may award reasonable attorney fees as part of the costs (i) to a prevailing party who is the parent of a child with a disability; (ii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent who files a complaint or a subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cause of litigation.

Attorney fees may not be awarded relating to any meeting of the Individualized Education Plan (IEP) Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection B.

E. Whenever the Board of Education, in its discretion, determines that a school division fails to establish and maintain programs of free and appropriate public education ~~which that~~ comply with regulations established by the Board, the Board may withhold all special education moneys from the school division and may use the payments ~~which that~~ would have been available to such school division to provide special education, directly or by contract, to eligible children with disabilities in such manner as the Board considers appropriate.

F. The Board of Education shall supervise educational programs for children with disabilities by other public agencies and shall ensure that the identification, evaluation, and placement of children with disabilities and youth in education programs by other public agencies, as appropriate, are consistent with the provisions of the Board of Education's special education regulations.

G. The Board of Education shall prescribe regulations to provide a range of assessment procedures for the evaluation of children with disabilities. These regulations shall include provision for parents to participate, if they so request, in the consideration of the assessment components to be used. However, such regulations shall not require any local school board to exceed the requirements of federal law or regulations for the identification and evaluation of children with disabilities.

**§ 22.1-217.01. Information on educational and other services for students identified as deaf or hard of hearing or visually impaired.**

The Department of Education shall annually prepare and distribute to local school boards packets of information describing the educational and other services available through the Virginia School for the Deaf and the Blind, the Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Blind and Vision Impaired to students who are identified as ~~hearing impaired~~ *deaf or hard of hearing* or visually impaired. Local school boards shall annually post this information on the school division's website and inform the parents of those students who are identified as ~~hearing impaired~~ *deaf or hard of hearing* or visually impaired of its availability. School boards shall ensure that packets of such information are available in an accessible format for review by parents who do not have Internet access.

**§ 22.1-319. Definitions.**

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

"Board" means the Virginia Board of Education.

"Department" means the Department of Education.

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

"School for students with disabilities" or "school" or "schools" means a privately owned and operated preschool, school, or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction; for a consideration, profit, or tuition; to persons determined to have autism, deaf-blindness, a developmental delay, a ~~hearing impairment~~ *loss* including deafness, intellectual disability, multiple disabilities, an orthopedic impairment, other health impairment, an emotional disturbance, a severe disability, a specific learning disability, a speech or language impairment, a traumatic brain injury, or a visual impairment including blindness.

"Superintendent" means the Superintendent of Public Instruction.

Article 6.1.

Virginia Hearing ~~Impairment~~ *Loss* Identification and Monitoring System.

**§ 32.1-64.1. Virginia Hearing Loss Identification and Monitoring System.**

A. In order to identify hearing loss at the earliest possible age among newborns and to provide early intervention for all infants so identified as having ~~hearing impairment~~ *loss*, the Commissioner shall establish and maintain the Virginia Hearing ~~Impairment~~ *Loss* Identification and Monitoring System. This system shall be for the purpose of identifying and monitoring infants with ~~hearing impairment~~ *loss* to ensure that such infants receive appropriate early intervention through treatment, therapy, training, and education.

B. The Virginia Hearing ~~Impairment~~ *Loss* Identification and Monitoring System shall be initiated in all hospitals with neonatal intensive care services, in all hospitals in the Commonwealth having newborn nurseries, and in other birthing places or centers in the Commonwealth.

C. In all hospitals with neonatal intensive care services, the chief medical officer of such hospitals or his designee shall identify infants at risk of ~~hearing impairment~~ *loss* using criteria established by the Board. Beginning on July 1, 1999, all infants shall be given a hearing screening test, regardless of whether or not the infant is at risk of ~~hearing impairment~~ *loss*, by the chief medical officer or his designee using methodology approved by the Board. The test shall take place before the infant is discharged from the hospital to the care of the parent or guardian, or as the Board may by regulation provide.

In all other hospitals and other birthing places or centers, the chief medical officer or his designee or the attending practitioner shall identify infants at risk of ~~hearing impairment~~ *loss* using criteria established by the Board.

D. Beginning on July 1, 2000, the Board shall provide by regulation for the giving of hearing screening tests for all infants born in all hospitals. The Board's regulations shall establish when the testing shall be offered and performed and procedures for reporting.

An infant whose hearing screening indicates the need for a diagnostic audiological examination shall be offered such examination at a center approved by the Board of Health. As a condition of such approval, such centers shall maintain suitable audiological support and medical and educational referral practices.

E. The Commissioner shall appoint an advisory committee to assist in the design, implementation, and revision of this identification and monitoring system. The advisory committee shall meet at least four times per year. A chairman shall be elected annually by the advisory committee. The Department of Health shall provide support services to the advisory committee. The advisory committee shall consist of representatives from relevant groups including, but not limited to, the health insurance industry; physicians, including at least one pediatrician or family practitioner, one otolaryngologist, and one neonatologist; nurses representing newborn nurseries; audiologists; hearing aid dealers and fitters; teachers of the deaf and ~~hard-of-hearing~~ *hard of hearing*; parents of children who are deaf or ~~hard-of-hearing~~ *hard of hearing*; adults who are

deaf or ~~hard-of-hearing~~ *hard of hearing*; hospital administrators; and personnel of appropriate state agencies, including the Department of Medical Assistance Services, the Department of Education, and the Department for the Deaf and Hard-of-Hearing. The Department of Education, the Department for the Deaf and Hard-of-Hearing, and the Department of Behavioral Health and Developmental Services shall cooperate with the Commissioner and the Board in implementing this system.

F. With the assistance of the advisory committee, the Board shall promulgate such rules and regulations as may be necessary to implement this identification and monitoring system. These rules and regulations shall include criteria, including current screening methodology, for the identification of infants (i) with hearing ~~impairment~~ *loss* and (ii) at risk of hearing ~~impairment~~ *loss* and shall include the scope of the information to be reported, reporting forms, screening protocols, appropriate mechanisms for follow-up, relationships between the identification and monitoring system and other state agency programs or activities, and mechanisms for review and evaluation of the activities of the system. The identification and monitoring system shall collect the name, address, sex, race, and any other information determined to be pertinent by the Board, for infants who are screened pursuant to this section.

G. In addition, the Board's regulations shall provide that any person making a determination that an infant (i) is at risk for hearing ~~impairment~~ *loss*, (ii) has failed to pass a hearing screening, or (iii) was not successfully tested shall notify the parent or guardian of the infant, the infant's primary care practitioner, and the Commissioner. The Board may provide guidelines for the notification process.

H. No testing required to be performed or offered by this section shall be performed if the parents of the infant object to the test based on their bona fide religious convictions.

**§ 32.1-64.2. Confidentiality of records; publication; Commissioner required to contact parents, physicians, and relevant local early intervention program.**

The Commissioner and all other persons to whom data is submitted pursuant to § 32.1-64.1 shall keep such information confidential. No publication of research or statistical data shall be made that identifies any infant with hearing ~~impairment~~ *loss* or risk of hearing ~~impairment~~ *loss*. The Commissioner shall contact the parents of children identified with hearing ~~impairment~~ *loss* or at risk of hearing ~~impairment~~ *loss*, their physicians, and the relevant local early intervention program to provide them with information about available public and private health care and educational resources, including any hearing ~~impairment~~ *loss* clinics.

The Commissioner may authorize linkages between secure electronic data systems maintained by the Department of Health containing newborn hearing screening records and the Virginia Immunization Information System (VIIS) operated pursuant to § 32.1-46.01. The Commissioner may authorize health care providers authorized to view VIIS to view newborn hearing screening records of individuals to whom the providers are providing health care services. The records may be made available until the child reaches seven years of age, after which the records shall not be made available through a linkage to VIIS. Such linkages shall be subject to all applicable state and federal privacy laws and regulations.

**§ 36-99.5. Smoke alarms for persons who are deaf or hard of hearing.**

Smoke alarms for persons who are deaf or ~~hearing impaired~~ *hard of hearing* shall be installed only in conformance with the provisions of the current Building Code and maintained in accordance with the Statewide Fire Prevention Code (§ 27-94 et seq.) and subdivision C 6 of § 36-105, Part III of the Building Code. Such alarms shall be provided by the landlord or proprietor, upon request by a tenant of a rental unit or a person living with such tenant who is deaf or ~~hearing impaired~~ *hard of hearing* as referenced by the Virginia Fair Housing Law (§ 36-96.1 et seq.), or upon request by an occupant of any of the following occupancies, regardless of when constructed:

1. All dormitory buildings arranged for the shelter and sleeping accommodations of more than 20 individuals;
2. All boarding and lodging houses arranged for shelter and sleeping accommodations of more than five individuals; or
3. All residential rental dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke alarm in the tenant's unit in accordance with § 55-225.4 or 55-248.16, as applicable.

A hotel or motel shall have available no fewer than one such smoke alarm for each 70 units or portion thereof, except that this requirement shall not apply to any hotel or motel with fewer than 35 units. The proprietor of the hotel or motel shall post in a conspicuous place at the registration desk or counter a permanent sign stating the availability of smoke alarms for persons who are deaf or ~~hearing impaired~~ *hard of hearing*. Visual alarms shall be provided for all meeting rooms for which an advance request has been made.

The proprietor or landlord may require a refundable deposit for a smoke alarm, not to exceed the original cost or replacement cost, whichever is greater, of such smoke alarm. Rental fees shall not be increased as compensation for this requirement.

A landlord of a rental unit shall provide a reasonable accommodation to a person who is deaf or ~~hearing impaired~~ *hard of hearing* who requests installation of a smoke alarm that is appropriate for persons who are deaf or ~~hearing impaired~~ *hard of hearing* if such accommodation is appropriate in accordance with the Virginia Fair Housing Law (§ 36-96.1 et seq.).

**§ 46.2-342. What license to contain; organ donor information; Uniform Donor Document.**

A. Every license issued under this chapter shall bear:

1. For licenses issued or renewed on or after July 1, 2003, a license number which shall be assigned by the Department to the licensee and shall not be the same as the licensee's social security number;
2. A photograph of the licensee;

3. The licensee's full name, year, month, and date of birth;
4. The licensee's address, subject to the provisions of subsection B;
5. A brief description of the licensee for the purpose of identification;
6. A space for the signature of the licensee; and
7. Any other information deemed necessary by the Commissioner for the administration of this title.

No abbreviated names or nicknames shall be shown on any license.

B. At the option of the licensee, the address shown on the license may be either the post office box, business, or residence address of the licensee, provided such address is located in Virginia. However, regardless of which address is shown on the license, the licensee shall supply the Department with his residence address, which shall be an address in Virginia. This residence address shall be maintained in the Department's records. Whenever the licensee's address shown either on his license or in the Department's records changes, he shall notify the Department of such change as required by § 46.2-324.

C. The Department may contract with the United States Postal Service or an authorized agent to use the National Change of Address System for the purpose of obtaining current address information for a person whose name appears in customer records maintained by the Department. If the Department receives information from the National Change of Address System indicating that a person whose name appears in a Department record has submitted a permanent change of address to the Postal Service, the Department may then update its records with the mailing address obtained from the National Change of Address System.

D. The license shall be made of a material and in a form to be determined by the Commissioner.

E. Licenses issued to persons less than 21 years old shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. The Department shall establish a method by which an applicant for a driver's license or an identification card may indicate his consent to make an anatomical gift for transplantation, therapy, research, and education pursuant to § 32.1-291.5, and shall cooperate with the Virginia Transplant Council to ensure that such method is designed to encourage organ, tissue, and eye donation with a minimum of effort on the part of the donor and the Department.

G. If an applicant indicates his consent to be a donor pursuant to subsection F, the Department may make a notation of this designation on his license or card and shall make a notation of this designation in his driver record. The notation shall remain on the individual's license or card until he revokes his consent to make an anatomical gift by requesting removal of the notation from his license or card or otherwise in accordance with § 32.1-291.6. Inclusion of a notation indicating consent to making an organ donation on an applicant's license or card pursuant to this subsection shall be sufficient legal authority for removal, following death, of the subject's organs or tissues without additional authority from the donor or his family or estate, in accordance with the provisions of § 32.1-291.8.

H. A minor may make a donor designation pursuant to subsection F without the consent of a parent or legal guardian as authorized by the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.).

I. The Department shall provide a method by which an applicant conducting a Department of Motor Vehicles transaction using electronic means may make a voluntary contribution to the Virginia Donor Registry and Public Awareness Fund (Fund) established pursuant to § 32.1-297.1. The Department shall inform the applicant of the existence of the Fund and also that contributing to the Fund is voluntary.

J. The Department shall collect all moneys contributed pursuant to subsection I and transmit the moneys on a regular basis to the Virginia Transplant Council, which shall credit the contributions to the Fund.

K. When requested by the applicant, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's license that the applicant (i) is an insulin-dependent diabetic, (ii) is *deaf or hard of hearing* or speech impaired, or (iii) has an intellectual disability, as defined in § 37.2-100, or autism spectrum disorder, as defined in § 38.2-3418.17.

L. In the absence of gross negligence or willful misconduct, the Department and its employees shall be immune from any civil or criminal liability in connection with the making of or failure to make a notation of donor designation on any license or card or in any person's driver record.

M. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ donor information brochure describing the organ donor program and providing instructions for completion of the uniform donor document information describing the bone marrow donation program and instructions for registration in the National Bone Marrow Registry. The Department shall include a copy of such brochure with every driver's license renewal notice or application mailed to licensed drivers in Virginia.

**§ 51.5-44. Rights of persons with disabilities in public places and places of public accommodation.**

A. A person with a disability has the same rights as other persons to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places. For purposes of this section, a "person with a disability" means a person whose disability is unrelated to his ability to utilize and benefit from a place of public accommodation or public service.

B. A person with a disability is entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, subways, boats or any other public

conveyances or modes of transportation, restaurants, hotels, lodging places, places of public accommodation, amusement or resort, public entities including schools, and other places to which the general public is invited subject only to the conditions and limitations established by law and applicable alike to all persons.

C. Each town, city, or county, individually or through transportation district commissions, shall ensure that persons with disabilities have access to the public transportation within its jurisdiction by either (i) use of the same transportation facilities or carriers available to the general public, (ii) provision of paratransit or special transportation services for persons with disabilities, or (iii) both. All persons with disabilities in the jurisdiction's service area who, by reason of their disabilities, are unable to use the service for the general public shall be eligible to use such paratransit or special transportation service. No fee that exceeds the fee charged to the general public shall be charged a person with a disability for the use of the same transportation facilities or carriers available to the general public. Paratransit or special transportation service for persons with disabilities may charge fees to such persons comparable to the fees charged to the general public for similar service in the jurisdiction service area, taking into account especially the type, length, and time of trip. Any variance between special service and regular service fares shall be justifiable in terms of actual differences between the two kinds of service provided.

D. Nothing in this title shall be construed to require retrofitting of any public transit equipment or to require the retrofitting, renovation, or alteration of buildings or places to a degree more stringent than that required by the applicable building code in effect at the time the building permit for such building or place is issued.

E. Every totally or partially blind person shall have the right to be accompanied by a dog in harness trained as a guide dog, every ~~deaf or hearing-impaired~~ person who *is deaf or hard of hearing* shall have the right to be accompanied by a dog trained as a hearing dog on a blaze orange leash, and every mobility-impaired or otherwise disabled person shall have the right to be accompanied by a dog, trained as a service dog, in a harness, backpack, or vest identifying the dog as a trained service dog, in any of the places listed in subsection B without being required to pay an extra charge for the dog, provided that he shall be liable for any damage done to the premises or facilities by such dog. The provisions of this section shall apply to persons accompanied by a dog that is in training, at least six months of age, and is (i) in harness, provided such person is an experienced trainer of guide dogs or is conducting continuing training of a guide dog; (ii) on a blaze orange leash, provided such person is an experienced trainer of hearing dogs or is conducting continuing training of a hearing dog; (iii) in a harness, backpack, or vest identifying the dog as a trained service dog, provided such person is an experienced trainer of service dogs or is conducting continuing training of a service dog; (iv) wearing a jacket identifying the recognized guide, hearing, or service dog organization, provided such person is an experienced trainer of the organization identified on the jacket; or (v) the person is part of a three-unit service dog team and is conducting continuing training of a service dog.

**§ 51.5-45. Right of persons with disabilities to housing accommodations.**

A. All persons with disabilities unrelated to their ability to acquire, rent, or maintain property shall be entitled to full and equal opportunity to acquire, as other members of the general public, any housing accommodations offered for sale, rent, lease, or compensation, subject to the conditions and limitations established by law and applying alike to all persons. "Housing accommodations" for the purpose of this section means any real property, or portion thereof, which is used or occupied or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings; but does not include any single family residence the occupant or owner of which rents, leases, or furnishes for compensation not more than one room therein.

B. Every visually impaired person who has a guide dog, every ~~hearing-impaired~~ person who *is deaf or hard of hearing* and has a hearing dog, and every mobility-impaired or otherwise disabled person with a service dog shall be entitled to full and equal access with such dog to all housing accommodations provided for in this section. He shall not be required to pay extra compensation for such dog but shall be liable for any damage done to the premises by such dog.

C. Nothing in this section shall require any person offering for sale, renting, leasing, or providing for compensation real property to modify that real property or provide a higher degree of care for a person with a disability than for a person who is not disabled, except as provided in § 36-99.5, nor shall anything in this section require any person who is selling, renting, leasing, or providing for compensation real property to sell, rent, lease, or provide such property to any person who would constitute a direct threat to the property or safety of others.

**§ 54.1-2600. Definitions.**

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

"Audiologist" means any person who engages in the practice of audiology.

"Board" means the Board of Audiology and Speech-Language Pathology.

"Practice of audiology" means the practice of conducting measurement, testing and evaluation relating to hearing and vestibular systems, including audiologic and electrophysiological measures, and conducting programs of identification, hearing conservation, habilitation, and rehabilitation for the purpose of identifying disorders of the hearing and vestibular systems and modifying communicative disorders related to hearing loss, including but not limited to vestibular evaluation, limited cerumen management, electrophysiological audiometry and cochlear implants. Any person offering services to the public under any descriptive name or title which would indicate that audiology services are being offered shall be deemed to be practicing audiology.

"Practice of speech-language pathology" means the practice of facilitating development and maintenance of human communication through programs of screening, identifying, assessing and interpreting, diagnosing, habilitating and rehabilitating speech-language disorders, including but not limited to:

1. Providing alternative communication systems and instruction and training in the use thereof;
2. Providing aural habilitation, rehabilitation and counseling services to ~~hearing-impaired~~ individuals *who are deaf or hard of hearing* and their families;
3. Enhancing speech-language proficiency and communication effectiveness; and
4. Providing audiologic screening.

Any person offering services to the public under any descriptive name or title which would indicate that professional speech-language pathology services are being offered shall be deemed to be practicing speech-language pathology.

"Speech-language disorders" means disorders in fluency, speech articulation, voice, receptive and expressive language (syntax, morphology, semantics, pragmatics), swallowing disorders, and cognitive communication functioning.

"Speech-language pathologist" means any person who engages in the practice of speech-language pathology.

## CHAPTER 289

*An Act to amend and reenact § 24.2-613 of the Code of Virginia, relating to form of ballot; uniformity of names of candidates.*

[H 2148]

Approved March 8, 2019

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

#### **1. That § 24.2-613 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 24.2-613. Form of ballot.**

A. The ballots shall comply with the requirements of this title and the standards prescribed by the State Board. *The names of all candidates to appear on the ballots shall be in the same font, size, and style.*

B. For elections for federal, statewide, and General Assembly offices only, each candidate who has been nominated by a political party or in a primary election shall be identified by the name of his political party. Independent candidates shall be identified by the term "Independent." For the purpose of this section, any Independent candidate may, by producing sufficient and appropriate evidence of nomination by a "recognized political party" to the State Board, have the term "Independent" on the ballot converted to that of a "recognized political party" on the ballot and be treated on the ballot in a manner consistent with the candidates nominated by political parties. For the purpose of this section, a "recognized political party" is defined as an organization that, for at least six months preceding the filing of its nominee for the office, has had in continual existence a state central committee composed of registered voters residing in each congressional district of the Commonwealth, a party plan and bylaws, and a duly elected state chairman and secretary. A letter from the state chairman of a recognized political party certifying that a candidate is the nominee of that party and also signed by such candidate accepting that nomination shall constitute sufficient and appropriate evidence of nomination by a recognized political party. The name of the political party, the name of the "recognized political party," or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.

C. Except as provided for primary elections, the State Board shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. In an election district in which more than one person is nominated by one political party for the same office, the candidates' names shall appear alphabetically in their party groups under the name of the office, with sufficient space between party groups to indicate them as such. For the purpose of this section, except as provided for presidential elections in § 24.2-614, "recognized political parties" shall be treated as a class; the order of the recognized political parties within the class shall be determined by lot by the State Board; and the class shall follow the political parties as defined by § 24.2-101 and precede the independent class. Independent candidates shall be treated as a class under "Independent", and their names shall be placed on the ballot after the political parties and recognized political parties. Where there is more than one independent candidate for an office, their names shall appear on the ballot in an order determined by the priority of time of filing for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board as in the case of a tie vote for the office.

For the purposes of this subsection, "time of filing for the office" means the time at which an independent candidate has filed his petition signature pages with a number of signatures at least equal to the number required for the office pursuant to § 24.2-506. In the case of an office for which no petition is required, "time of filing for the office" means the time at which the candidate has filed his completed statement of qualification pursuant to § 24.2-501.

No individual's name shall appear on the ballot more than once for the same office.

D. In preparing the printed ballots for general, special, and primary elections, the State Board and general registrars shall cause to be printed in not less than 10-point type, immediately below the title of any office, a statement of the number of candidates for whom votes may be cast for that office. For any office to which only one candidate can be elected, the following language shall be used: "Vote for only one." For any office to which more than one candidate can be elected, the following language shall be used: "Vote for not more than \_\_\_\_\_."

E. Any locality that uses machine-readable ballots at one or more precincts, including any central absentee precinct, may, with the approval of the State Board, use a printed reproduction of the machine-readable ballot in lieu of the official

machine-readable ballot. Such reproductions shall be printed and otherwise handled in accordance with all laws and procedures that apply to official paper ballots.

## CHAPTER 290

*An Act to amend and reenact § 54.1-2701 of the Code of Virginia, relating to volunteer dentists and dental hygienists.*

[H 2184]

Approved March 8, 2019

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

**1. That § 54.1-2701 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2701. Exemptions.**

This chapter shall not:

1. Apply to a licensed physician or surgeon unless he practices dentistry as a specialty;
2. Apply to a nurse practitioner certified by the Board of Nursing and the Board of Medicine except that intraoral procedures shall be performed only under the direct supervision of a licensed dentist;
3. Apply to a dentist or a dental hygienist of the United States Army, Navy, Coast Guard, Air Force, Public Health Service, or Department of Veterans Affairs;
4. Apply to any dentist of the United States Army, Navy, Coast Guard, or Air Force rendering services voluntarily and without compensation while deemed to be licensed pursuant to § 54.1-106;
5. Apply to any dentist or dental hygienist who (i) does not regularly practice dentistry in Virginia, (ii) holds a current valid license or certificate to practice as a dentist or dental hygienist in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of ~~this~~ *the* Commonwealth under the auspices of a publicly supported ~~all volunteer~~, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least ~~45~~ *five* days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the ~~volunteer~~, nonprofit organization on the dates and at the location filed with the Board. *Clauses (iv), (v), and (vi) shall not apply to dentists and dental hygienists volunteering to provide free health care to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people if they do so for a period not exceeding three consecutive days and if the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.* The Board may deny the right to practice in Virginia to any dentist or dental hygienist whose license has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations; or
6. Prevent an office assistant from performing usual secretarial duties or other assistance as set forth in regulations promulgated by the Board.

## CHAPTER 291

*An Act to amend and reenact §§ 32.1-126, 59.1-198, and 59.1-200 of the Code of Virginia, relating to nursing homes; truth in advertising for inspections, surveys, and investigations.*

[H 2219]

Approved March 8, 2019

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

**1. That §§ 32.1-126, 59.1-198, and 59.1-200 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-126. Commissioner to inspect and to issue licenses to or assure compliance with certification requirements for hospitals, nursing homes, and certified nursing facilities; notice of denial of license; consultative advice and assistance; notice to electric utilities.**

A. Pursuant to this article, the Commissioner shall issue licenses to, and assure compliance with certification requirements for hospitals and nursing homes, and assure compliance with certification requirements for facilities owned or operated by agencies of the Commonwealth as defined in subdivision (vi) of § 32.1-124, which after inspection are found to be in compliance with the provisions of this article and with all applicable state and federal regulations. The Commissioner shall notify by certified mail or by overnight express mail any applicant denied a license of the reasons for such denial.

B. The Commissioner shall cause each and every hospital, nursing home, and certified nursing facility to be inspected periodically, but not less often than biennially, in accordance with the provisions of this article and regulations of the Board. However, except when performed in conjunction with an inspection required by the Centers for Medicare and Medicaid Services, no hospital, nursing home, or certified nursing facility shall receive additional inspections until all other hospitals, nursing homes, or certified nursing facilities in the Commonwealth, respectively, have also been inspected, unless the additional inspections are (i) necessary to follow up on a preoperational inspection or one or more violations; (ii) required

by a uniformly applied risk-based schedule established by the Department; (iii) necessary to investigate a complaint regarding the hospital, nursing home, or certified nursing facility; or (iv) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.

Unless expressly prohibited by federal statute or regulation, the findings of the Commissioner, with respect to periodic surveys of nursing facilities conducted pursuant to the Survey, Certification, and Enforcement Procedures set forth in 42 C.F.R. Part 488, shall be considered case decisions pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to the Department's informal dispute resolution procedures, or, at the option of the Department or the nursing facility, the formal fact-finding procedures under § 2.2-4020. The Commonwealth shall be deemed the proponent for purposes of § 2.2-4020. Further, notwithstanding the provisions of clause (iii) of subsection A of § 2.2-4025, such case decisions shall also be subject to the right to court review pursuant to Article 5 (§ 2.2-4025 et seq.) of Chapter 40 of Title 2.2.

C. The Commissioner may, in accordance with regulations of the Board, provide for consultative advice and assistance, with such limitations and restrictions as he deems proper, to any person who intends to apply for a hospital or nursing home license or nursing facility certification.

D. For the purpose of facilitating the prompt restoration of electrical service and prioritization of customers during widespread power outages, the Commissioner shall notify on a quarterly basis all electric utilities serving customers in Virginia as to the location of all nursing homes licensed in the Commonwealth. The requirements of this subsection shall be met if the Commissioner maintains such information on an electronic database accessible by electric utilities serving customers in Virginia.

*E. No person shall use, in any advertisement for professional services provided by such person, the results of any survey, inspection, or investigation of a nursing home or certified nursing facility conducted by a state or federal agency, including any statement of deficiencies, finding of deficiencies, or plan of corrective action, unless the advertisement includes all of the following:*

1. *The date on which the survey, inspection, or investigation was conducted;*
2. *A statement that the nursing home or certified nursing facility is required to submit a plan of correction in response to every statement of deficiency;*
3. *If a finding or deficiency cited in a statement of deficiencies has been corrected, a statement that the finding or deficiency has been corrected and the date on which the finding or deficiency was corrected; and*
4. *A statement that the advertisement is not authorized or endorsed by the Virginia Department of Health, the Centers for Medicare and Medicaid Services, the Office of the Inspector General, or any other governmental agency.*

*The information required by this subsection shall be in the same color, font, and size as all other language on or in the advertisement and shall appear as prominently as all other language used in the advertisement. Nothing in this subsection shall be construed to prohibit the results of a survey, inspection, or investigation from being used in any administrative proceeding, civil proceeding, or criminal investigation or prosecution, in accordance with the rules set forth by the applicable tribunal.*

#### **§ 59.1-198. Definitions.**

As used in this chapter:

"Business opportunity" means the sale of any products, equipment, supplies or services which are sold to an individual for the purpose of enabling such individual to start a business to be operated out of his residence, but does not include a business opportunity which is subject to the Business Opportunity Sales Act, Chapter 21 (§ 59.1-262 et seq.) of this title.

"Children's product" means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

1. A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable;
2. Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger;
3. Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger; and
4. The Age Determination Guidelines issued by the staff of the Consumer Products Safety Commission in September 2002, and any successor to such guidelines.

"Consumer transaction" means:

1. The advertisement, sale, lease, license or offering for sale, lease or license, of goods or services to be used primarily for personal, family or household purposes;
2. Transactions involving the advertisement, offer or sale to an individual of a business opportunity that requires both his expenditure of money or property and his personal services on a continuing basis and in which he has not been previously engaged;
3. Transactions involving the advertisement, offer or sale to an individual of goods or services relating to the individual's finding or obtaining employment;
4. A layaway agreement, whereby part or all of the price of goods is payable in one or more payments subsequent to the making of the layaway agreement and the supplier retains possession of the goods and bears the risk of their loss or damage until the goods are paid in full according to the layaway agreement; ~~and~~

5. Transactions involving the advertisement, sale, lease, or license, or the offering for sale, lease or license, of goods or services to a church or other religious body; *and*

6. *Transactions involving the advertisement of legal services that contain information about the results of a state or federal survey, inspection, or investigation of a nursing home or certified nursing facility as described in subsection E of § 32.1-126.*

"Cure offer" means a written offer of one or more things of value, including but not limited to the payment of money, that is made by a supplier and that is delivered to a person claiming to have suffered a loss as a result of a consumer transaction or to the attorney for such person. A cure offer shall be reasonably calculated to remedy a loss claimed by the person and it shall include a minimum additional amount equaling 10 percent of the value of the cure offer or \$500, whichever is greater, as compensation for inconvenience, any attorney's or other fees, expenses, or other costs of any kind that such person may incur in relation to such loss; provided, however that the minimum additional amount need not exceed \$4,000.

"Defective drywall" means drywall, or similar building material composed of dried gypsum-based plaster, that (i) as a result of containing the same or greater levels of strontium sulfide that has been found in drywall manufactured in the People's Republic of China and imported into the United States between 2004 and 2007 is capable, when exposed to heat, humidity, or both, of releasing sulfur dioxide, hydrogen sulfide, carbon disulfide, or other sulfur compounds into the air or (ii) has been designated by the U.S. Consumer Product Safety Commission as a product with a product defect that constitutes a substantial product hazard within the meaning of § 15(a)(2) of the Consumer Product Safety Act (15 U.S.C. § 2064 (a)(2)).

"Goods" means all real, personal or mixed property, tangible or intangible. For purposes of this chapter, intangible property includes but shall not be limited to "computer information" and "informational rights" in computer information as defined in § 59.1-501.2.

"Person" means any natural person, corporation, trust, partnership, association and any other legal entity.

"Services" includes but shall not be limited to (i) work performed in the business or occupation of the supplier, (ii) work performed for the supplier by an agent whose charges or costs for such work are transferred by the supplier to the consumer or purchaser as an element of the consumer transaction, or (iii) the subject of an "access contract" as defined in § 59.1-501.2.

"Supplier" means a seller, lessor ~~or~~ licensor, *or professional* who advertises, solicits, or engages in consumer transactions, or a manufacturer, distributor, or licensor who advertises and sells, leases, or licenses goods or services to be resold, leased, or sublicensed by other persons in consumer transactions.

#### **§ 59.1-200. Prohibited practices.**

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

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

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

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

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

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

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

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

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

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

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

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

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

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

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

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

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

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

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

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

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

37. Violating any provision of § 8.01-40.2;

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

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

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

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

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
43. Violating any provision of § 59.1-443.2;
44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1;
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1; ~~and~~
58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.); *and*
59. *Violating any provision of subsection E of § 32.1-126.*
- B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

## CHAPTER 292

*An Act to amend and reenact §§ 32.1-126, 59.1-198, and 59.1-200 of the Code of Virginia, relating to nursing homes; truth in advertising for inspections, surveys, and investigations.*

[S 1217]

Approved March 8, 2019

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

**1. That §§ 32.1-126, 59.1-198, and 59.1-200 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-126. Commissioner to inspect and to issue licenses to or assure compliance with certification requirements for hospitals, nursing homes, and certified nursing facilities; notice of denial of license; consultative advice and assistance; notice to electric utilities.**

A. Pursuant to this article, the Commissioner shall issue licenses to, and assure compliance with certification requirements for hospitals and nursing homes, and assure compliance with certification requirements for facilities owned or operated by agencies of the Commonwealth as defined in subdivision (vi) of § 32.1-124, which after inspection are found to be in compliance with the provisions of this article and with all applicable state and federal regulations. The Commissioner shall notify by certified mail or by overnight express mail any applicant denied a license of the reasons for such denial.

B. The Commissioner shall cause each and every hospital, nursing home, and certified nursing facility to be inspected periodically, but not less often than biennially, in accordance with the provisions of this article and regulations of the Board. However, except when performed in conjunction with an inspection required by the Centers for Medicare and Medicaid Services, no hospital, nursing home, or certified nursing facility shall receive additional inspections until all other hospitals, nursing homes, or certified nursing facilities in the Commonwealth, respectively, have also been inspected, unless the additional inspections are (i) necessary to follow up on a preoperational inspection or one or more violations; (ii) required by a uniformly applied risk-based schedule established by the Department; (iii) necessary to investigate a complaint regarding the hospital, nursing home, or certified nursing facility; or (iv) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.

Unless expressly prohibited by federal statute or regulation, the findings of the Commissioner, with respect to periodic surveys of nursing facilities conducted pursuant to the Survey, Certification, and Enforcement Procedures set forth in

42 C.F.R. Part 488, shall be considered case decisions pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to the Department's informal dispute resolution procedures, or, at the option of the Department or the nursing facility, the formal fact-finding procedures under § 2.2-4020. The Commonwealth shall be deemed the proponent for purposes of § 2.2-4020. Further, notwithstanding the provisions of clause (iii) of subsection A of § 2.2-4025, such case decisions shall also be subject to the right to court review pursuant to Article 5 (§ 2.2-4025 et seq.) of Chapter 40 of Title 2.2.

C. The Commissioner may, in accordance with regulations of the Board, provide for consultative advice and assistance, with such limitations and restrictions as he deems proper, to any person who intends to apply for a hospital or nursing home license or nursing facility certification.

D. For the purpose of facilitating the prompt restoration of electrical service and prioritization of customers during widespread power outages, the Commissioner shall notify on a quarterly basis all electric utilities serving customers in Virginia as to the location of all nursing homes licensed in the Commonwealth. The requirements of this subsection shall be met if the Commissioner maintains such information on an electronic database accessible by electric utilities serving customers in Virginia.

*E. No person shall use, in any advertisement for professional services provided by such person, the results of any survey, inspection, or investigation of a nursing home or certified nursing facility conducted by a state or federal agency, including any statement of deficiencies, finding of deficiencies, or plan of corrective action, unless the advertisement includes all of the following:*

1. *The date on which the survey, inspection, or investigation was conducted;*
2. *A statement that the nursing home or certified nursing facility is required to submit a plan of correction in response to every statement of deficiency;*
3. *If a finding or deficiency cited in a statement of deficiencies has been corrected, a statement that the finding or deficiency has been corrected and the date on which the finding or deficiency was corrected; and*
4. *A statement that the advertisement is not authorized or endorsed by the Virginia Department of Health, the Centers for Medicare and Medicaid Services, the Office of the Inspector General, or any other governmental agency.*

*The information required by this subsection shall be in the same color, font, and size as all other language on or in the advertisement and shall appear as prominently as all other language used in the advertisement. Nothing in this subsection shall be construed to prohibit the results of a survey, inspection, or investigation from being used in any administrative proceeding, civil proceeding, or criminal investigation or prosecution, in accordance with the rules set forth by the applicable tribunal.*

#### **§ 59.1-198. Definitions.**

As used in this chapter:

"Business opportunity" means the sale of any products, equipment, supplies or services which are sold to an individual for the purpose of enabling such individual to start a business to be operated out of his residence, but does not include a business opportunity which is subject to the Business Opportunity Sales Act, Chapter 21 (§ 59.1-262 et seq.) of this title.

"Children's product" means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

1. A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable;
2. Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger;
3. Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger; and
4. The Age Determination Guidelines issued by the staff of the Consumer Products Safety Commission in September 2002, and any successor to such guidelines.

"Consumer transaction" means:

1. The advertisement, sale, lease, license or offering for sale, lease or license, of goods or services to be used primarily for personal, family or household purposes;
2. Transactions involving the advertisement, offer or sale to an individual of a business opportunity that requires both his expenditure of money or property and his personal services on a continuing basis and in which he has not been previously engaged;
3. Transactions involving the advertisement, offer or sale to an individual of goods or services relating to the individual's finding or obtaining employment;
4. A layaway agreement, whereby part or all of the price of goods is payable in one or more payments subsequent to the making of the layaway agreement and the supplier retains possession of the goods and bears the risk of their loss or damage until the goods are paid in full according to the layaway agreement; ~~and~~
5. Transactions involving the advertisement, sale, lease, or license, or the offering for sale, lease or license, of goods or services to a church or other religious body; *and*

*6. Transactions involving the advertisement of legal services that contain information about the results of a state or federal survey, inspection, or investigation of a nursing home or certified nursing facility as described in subsection E of § 32.1-126.*

"Cure offer" means a written offer of one or more things of value, including but not limited to the payment of money, that is made by a supplier and that is delivered to a person claiming to have suffered a loss as a result of a consumer transaction or to the attorney for such person. A cure offer shall be reasonably calculated to remedy a loss claimed by the person and it shall include a minimum additional amount equaling 10 percent of the value of the cure offer or \$500, whichever is greater, as compensation for inconvenience, any attorney's or other fees, expenses, or other costs of any kind that such person may incur in relation to such loss; provided, however that the minimum additional amount need not exceed \$4,000.

"Defective drywall" means drywall, or similar building material composed of dried gypsum-based plaster, that (i) as a result of containing the same or greater levels of strontium sulfide that has been found in drywall manufactured in the People's Republic of China and imported into the United States between 2004 and 2007 is capable, when exposed to heat, humidity, or both, of releasing sulfur dioxide, hydrogen sulfide, carbon disulfide, or other sulfur compounds into the air or (ii) has been designated by the U.S. Consumer Product Safety Commission as a product with a product defect that constitutes a substantial product hazard within the meaning of § 15(a)(2) of the Consumer Product Safety Act (15 U.S.C. § 2064 (a)(2)).

"Goods" means all real, personal or mixed property, tangible or intangible. For purposes of this chapter, intangible property includes but shall not be limited to "computer information" and "informational rights" in computer information as defined in § 59.1-501.2.

"Person" means any natural person, corporation, trust, partnership, association and any other legal entity.

"Services" includes but shall not be limited to (i) work performed in the business or occupation of the supplier, (ii) work performed for the supplier by an agent whose charges or costs for such work are transferred by the supplier to the consumer or purchaser as an element of the consumer transaction, or (iii) the subject of an "access contract" as defined in § 59.1-501.2.

"Supplier" means a seller, lessor ~~or~~ licensor, or *professional* who advertises, solicits, or engages in consumer transactions, or a manufacturer, distributor, or licensor who advertises and sells, leases, or licenses goods or services to be resold, leased, or sublicensed by other persons in consumer transactions.

#### **§ 59.1-200. Prohibited practices.**

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

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

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

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

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

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

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

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

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

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

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

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

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

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

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

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

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

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

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

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

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

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

24. Violating any provision of § 54.1-1505;

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

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

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

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

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

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

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

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

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

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

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

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

37. Violating any provision of § 8.01-40.2;

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

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

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

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

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

43. Violating any provision of § 59.1-443.2;

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

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

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

47. Violating any provision of § 18.2-239;

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

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

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

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

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1;

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

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

56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);

57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1; ~~and~~

58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.); *and*

59. *Violating any provision of subsection E of § 32.1-126.*

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

## CHAPTER 293

*An Act to amend and reenact § 32.1-35.1 of the Code of Virginia, relating to Virginia Department of Health; monitoring of health care-associated infections.*

[H 2425]

Approved March 8, 2019

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

**1. That § 32.1-35.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-35.1. Information on health care-associated infections.**

~~Acute care hospitals shall Health care facilities that are required to report information about nosocomial health care-associated infections to the Centers for Disease Control and Prevention's National Healthcare Safety Network. Such hospitals (NHSN) pursuant to the Centers for Medicare and Medicaid Services reporting requirements shall release their infection such data to the Board of Health through the NHSN. The specific infections to be reported, the hospitals required to report, and patient populations to be included shall be prescribed by Board regulation. Such hospital infection rate data may be released to the public by the Board, upon request.~~

## CHAPTER 294

*An Act to require the Board of Social Services to amend regulations governing staffing of certain assisted living facility units during overnight hours.*

[H 2521]

Approved March 8, 2019

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

**1. § 1. That the Board of Social Services shall amend 22VAC40-73-1130 governing staffing of units of assisted living facilities with residents who have serious cognitive impairment due to a primary psychiatric diagnosis of dementia and are unable to recognize danger or protect their own safety and welfare to require that the following number of direct care staff members be awake and on duty and responsible for the care and supervision of the residents at all times during night hours:**

*1. When 22 or fewer residents are present, at least two direct care staff members;*

*2. When 23 to 32 residents are present, at least three direct care staff members;*

*3. When 33 to 40 residents are present, at least four direct care staff members; and*

*4. When more than 40 residents are present, at least four direct care staff members plus at least one additional direct care staff member for every 10 residents or portion thereof in excess of 40 residents.*

*Nothing in this act shall apply to the provisions of 22VAC40-73-280.*

## CHAPTER 295

*An Act to amend and reenact § 63.2-1509 of the Code of Virginia, relating to child abuse and neglect; mandatory reporters.*  
[S 1257]

Approved March 8, 2019

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

**1. That § 63.2-1509 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.**

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;
2. Any hospital resident or intern, and any person employed in the nursing profession;
3. Any person employed as a social worker or family-services specialist;
4. Any probation officer;
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;
6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
7. Any mental health professional;
8. Any law-enforcement officer or animal control officer;
9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;
12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;

14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;

15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;

16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team;

17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs; ~~and~~

18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client; *and*

~~This subsection shall not apply to any~~ 19. Any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church ~~as it relates to (i) information, unless the information supporting the suspicion of child abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.~~

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect

hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by a health care provider within six weeks of the birth of a child that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made by a health care provider within four years following a child's birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy; or (iii) a diagnosis made by a health care provider within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

## CHAPTER 296

*An Act to amend and reenact § 63.2-1526 of the Code of Virginia, relating to appeals from founded complaints of child abuse or neglect; concurrent criminal investigations.*

[S 1416]

Approved March 8, 2019

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

**1. That § 63.2-1526 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1526. Appeals of certain actions of local departments.**

A. A person who is suspected of or is found to have committed abuse or neglect may, within ~~thirty~~ 30 days of being notified of that determination, request the local department rendering such determination to amend the determination and the local department's related records. Upon written request, the local department shall provide the appellant all information used in making its determination. Disclosure of the reporter's name or information which may endanger the well-being of a child shall not be released. The identity of a collateral witness or any other person shall not be released if disclosure may endanger his life or safety. Information prohibited from being disclosed by state or federal law or regulation shall not be released. The local department shall hold an informal conference or consultation where such person, who may be represented by counsel, shall be entitled to informally present testimony of witnesses, documents, factual data, arguments or other submissions of proof to the local department. With the exception of the local director, no person whose regular duties include substantial involvement with child abuse and neglect cases shall preside over the informal conference. If the local department refuses the request for amendment or fails to act within ~~forty-five~~ 45 days after receiving such request, the person may, within ~~thirty~~ 30 days thereafter, petition the Commissioner, who shall grant a hearing to determine whether it appears, by a preponderance of the evidence, that the determination or record contains information which is irrelevant or inaccurate regarding the commission of abuse or neglect by the person who is the subject of the determination or record and therefore shall be amended. A person who is the subject of a report who requests an amendment to the record, as provided above, has the right to obtain an extension for an additional specified period of up to ~~sixty~~ 60 days by requesting in writing that the ~~forty-five~~ 45 days in which the local department must act be extended. The extension period, which may be up to ~~sixty~~ 60 days, shall begin at the end of the ~~forty-five~~ 45 days in which the local department must act. When there is an

extension period, the ~~thirty-day~~ 30-day period to request an administrative hearing shall begin on the termination of the extension period.

B. The Commissioner shall designate and authorize one or more members of his staff to conduct such hearings. The decision of any staff member so designated and authorized shall have the same force and effect as if the Commissioner had made the decision. The hearing officer shall have the authority to issue subpoenas for the production of documents and the appearance of witnesses. The hearing officer is authorized to determine the number of depositions that will be allowed and to administer oaths or affirmations to all parties and witnesses who plan to testify at the hearing. The Board shall adopt regulations necessary for the conduct of such hearings. Such regulations shall include provisions stating that the person who is the subject of the report has the right (i) to submit oral or written testimony or documents in support of himself and (ii) to be informed of the procedure by which information will be made available or withheld from him. In case of any information withheld, such person shall be advised of the general nature of such information and the reasons, for reasons of privacy or otherwise, that it is being withheld. Upon giving reasonable notice, either party at his own expense may depose a nonparty and submit such deposition at the hearing pursuant to Board regulation. Upon good cause shown, after a party's written motion, the hearing officer may issue subpoenas for the production of documents or to compel the attendance of witnesses at the hearing, except that alleged child victims of the person and their siblings shall not be subpoenaed, deposed or required to testify. The person who is the subject of the report may be represented by counsel at the hearing. Upon petition, the court shall have the power to enforce any subpoena that is not complied with or to review any refusal to issue a subpoena. Such decisions may not be further appealed except as part of a final decision that is subject to judicial review. Such hearing officers are empowered to order the amendment of such determination or records as is required to make them accurate and consistent with the requirements of this chapter or the regulations adopted hereunder. If, after hearing the facts of the case, the hearing officer determines that the person who is the subject of the report has presented information that was not available to the local department at the time of the local conference and which if available may have resulted in a different determination by the local department, he may remand the case to the local department for reconsideration. The local department shall have ~~fourteen~~ 14 days in which to reconsider the case. If, at the expiration of ~~fourteen~~ 14 days, the local department fails to act or fails to amend the record to the satisfaction of the appellant, the case shall be returned to the hearing officer for a determination. If aggrieved by the decision of the hearing officer, such person may obtain further review of the decision in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.).

C. Whenever an appeal of the local department's finding is made and a criminal charge *or investigation* is also filed *or commenced* against the appellant for the same conduct involving the same victim as investigated by the local department, the appeal process shall automatically be stayed until the criminal prosecution in ~~circuit~~ the trial court is completed, *until the criminal investigation is closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal of the local department's finding, for 180 days after the appellant's request for appeal.* During such stay, the appellant's right of access to the records of the local department regarding the matter being appealed shall also be stayed. Once the criminal prosecution in ~~circuit~~ the trial court has been completed, *the criminal investigation is closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal of the local department's finding, 180 days have passed,* the local department shall advise the appellant in writing of his right to resume his appeal within the time frames provided by law and regulation.

## CHAPTER 297

*An Act to amend and reenact §§ 63.2-100 and 63.2-1715, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding in Title 20 a chapter numbered 10, consisting of sections numbered 20-166 and 20-167, relating to delegation of parental or legal custodial powers; child-placing agency.*

[H 2542]

Approved March 8, 2019

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

**1. That §§ 63.2-100 and 63.2-1715, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 20 a chapter numbered 10, consisting of sections numbered 20-166 and 20-167, as follows:**

### CHAPTER 10.

#### POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL CUSTODIAL POWERS.

##### § 20-166. Power of attorney to delegate parental or legal custodial powers.

A. A parent or legal custodian of a child, by a properly executed power of attorney pursuant to § 20-167, may delegate to another person, for a period not to exceed 180 days, any of the powers regarding the custody, care, and property of the child except the power to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child. In the event that both parents of a child are exercising joint custody, both parents shall be required to execute such power of attorney.

Such parent or legal custodian who is a service member may delegate such powers for a period longer than 180 days while on active duty service if such active duty is longer than 180 days, but such period shall not exceed the term of active

duty service plus 30 days. For the purposes of this section, "service member" means (i) a member of the Armed Forces of the United States, (ii) a member of the Armed Forces Reserves, (iii) a member of the National Guard, (iv) a member of the commissioned corps of the National Oceanic and Atmospheric Administration, (v) a member of the commissioned corps of the U.S. Public Health Services, or (vi) any person otherwise required to enter or serve in the active military services of the United States under a call or order of the President of the United States or to serve on state active duty.

A delegation of powers under this section shall not operate to change or modify any parental or legal rights, obligations, or authority established by an existing court order or deprive a parent or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of any child under this title.

B. Any power of attorney properly executed pursuant to § 20-167 shall be signed by all persons with authority to make decisions concerning the child pursuant to Chapter 6.1 (§ 20-124.1 et seq.), the person to whom powers are delegated under the power of attorney, and a representative of a licensed child-placing agency that assists parents and legal guardians with the process of delegating parental and legal custodial powers of their children, including assistance with identifying appropriate placements for their children and providing services and resources to support children, parents and legal guardians, and persons to whom parental or legal custodial powers are delegated pursuant to this chapter. That agency shall file notice of the arrangement authorized by the power of attorney with the local department of social services in the jurisdiction where the parents or legal guardian resides within seven days of its execution.

C. Any person who has signed the form under § 20-167 shall have the authority to revoke or withdraw the power of attorney authorized by subsection A at any time. If the delegation of authority lasts longer than 180 days, a new power of attorney shall be executed. Where such delegation is executed by a service member; if the delegation is longer than 180 days while on active duty service and exceeds the term of active duty service plus 30 days, a new power of attorney shall be executed.

D. The attorney-in-fact shall exercise parental or legal authority on a continuous basis for not less than 24 hours and without compensation for the intended duration of the power of attorney authorized by subsection A and shall not be subject to the licensing requirements of § 63.2-1701.

E. The execution of a power of attorney by a parent or legal custodian authorized by subsection A shall not constitute abandonment, abuse, or neglect as defined in § 63.2-100 unless the parent or legal custodian fails to make contact or execute a new power of attorney after the time limit has elapsed.

F. Under a delegation of powers as authorized by subsection A, the child subject to the power of attorney shall not be deemed placed in foster care, in a foster home, or in an independent foster home as defined in § 63.2-100, and the parties shall not be subject to any of the licensing requirements or regulations for foster care.

G. A licensed child-placing agency that assists parents and legal guardians with the process of delegating parental and legal custodial powers of their children shall (i) comply with background check requirements established by regulations of the Board of Social Services or otherwise provided by law; (ii) develop and implement written policies and procedures for (a) governing active and closed cases, (b) governing admissions, (c) monitoring the administration of medications, (d) prohibiting corporal punishment, (e) ensuring that children are not subjected to abuse or neglect, (f) investigating allegations of misconduct toward children, (g) implementing back-up emergency care plans for children, (h) assigning designated casework staff, (i) managing all records, (j) utilizing discharge policies, and (k) regulating the use of seclusion and restraint; and (iii) provide pre-service and ongoing training for temporary placement providers and staff. Any person to whom any powers are delegated pursuant to this section shall comply with background check requirements established by regulations of the Board of Social Services or otherwise provided by law.

H. Except as may be permitted by the federal No Child Left Behind Act, 20 U.S.C. §§ 6301 et seq. and 7801 et seq., a power of attorney executed pursuant to § 20-167 shall be invalid if executed for the primary purpose of enrolling the child in a school for the sole purpose of participating in the academic or interscholastic athletics programs provided by that school or for any other unlawful purpose. Violation of this subsection shall be punishable in accordance with the laws of the Commonwealth and may require, in addition to any other remedies, repayment by such parent of all costs incurred by the school as a result of the violation.

**§ 20-167. Statutory form for power of attorney to delegate parental or legal custodial powers.**

A. A power of attorney to delegate parental or legal authority executed pursuant to this chapter shall be substantially as follows:

**POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL CUSTODIAL POWERS**

1. I/We certify that I/we am/are the parent or legal custodian of:

Full name of minor child: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Full name of minor child: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Full name of minor child: \_\_\_\_\_ Date of birth: \_\_\_\_\_

2. I/We designate \_\_\_\_\_ (insert full name, address, and phone number of designated attorney-in-fact) as the attorney-in-fact of each child listed above.

3. I/We delegate to the attorney-in-fact all of my/our power and authority regarding the care, custody, and property of each minor child named above, including the right to enroll the child in school, the right to inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function, or treatment that may concern the child. This delegation shall not include

*the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child. I/We understand that this power of attorney shall not operate to change or modify any parental or legal rights, obligations, or authority established by an existing court order or deprive a parent or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of any child under Title 20 of the Code of Virginia, and I/we understand that I/we shall continue to be bound by any obligations in such order. By my/our signature below, I/we hereby certify that I/we am/are not executing this power of attorney for any unlawful purpose or for the primary purpose of enrolling my/our child/children in a school for the sole purpose of participating in the academic or interscholastic athletics programs provided by that school.*

OR

3. *I/We delegate to the attorney-in-fact the following specific powers and responsibilities:*

\_\_\_\_\_

*This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child. I/We understand that this power of attorney shall not operate to change or modify any parental or legal rights, obligations, or authority established by an existing court order or deprive a parent or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of any child under Title 20 of the Code of Virginia, and I/we understand that I/we shall continue to be bound by any obligations in such order. By my/our signature below, I/we hereby certify that I/we am/are not executing this power of attorney for any unlawful purpose or for the primary purpose of enrolling my/our child/children in a school for the sole purpose of participating in the academic or interscholastic athletics programs provided by that school.*

4. *This power of attorney is effective for a period not to exceed 180 days, beginning \_\_\_\_\_ (insert date) and ending \_\_\_\_\_ (insert date). I/We reserve the right to revoke this authority at any time.*

OR

4. *I/We am/are a service member, as defined by § 20-166 of the Code of Virginia, and am/are on, or am/are scheduled to be on, active duty for a period that is set to last longer than 180 days. This power of attorney is effective for a period not to exceed the period of active duty plus 30 days, beginning \_\_\_\_\_ (insert date) and ending \_\_\_\_\_ (insert date). I/We reserve the right to revoke this authority at any time.*

*Signature(s) of parent/legal custodian: \_\_\_\_\_ Date: \_\_\_\_\_*

5. *I hereby accept my designation as attorney-in-fact for the minor child/children specified in this power of attorney and agree to act at all times in the best interests of the child/children specified herein and within the limits of the powers delegated to me. I understand that this power of attorney does not change or modify any parental or legal rights, obligations, or authority established by an existing court order or deprive a parent or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of the child/children specified herein. By my signature below, I affirm that I have received notice of any existing court order regarding the custody, visitation, or support of the child/children and agree to honor the rights of a parent or legal custodian of the child/children as specified in such order.*

*Signature of attorney-in-fact: \_\_\_\_\_ Date: \_\_\_\_\_*

6. *I, \_\_\_\_\_ (insert name of representative of licensed child-placing agency), on behalf of \_\_\_\_\_ (insert name of licensed child-placing agency), hereby approve the designation of the aforementioned attorney-in-fact for the minor child/children specified in this power of attorney and accept responsibility for the supervision of the placement during the time the child/children is/are in the care of the attorney-in-fact.*

*Signature of representative of licensed child-placing agency: \_\_\_\_\_ Date: \_\_\_\_\_*

*B. A power of attorney executed under this chapter is legally sufficient if the wording of the form complies substantially with subsection A, the form is properly completed, and the signatures of the parties are acknowledged or verified before a notary public.*

**§ 63.2-100. Definitions.**

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment

for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services providers, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more

adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 ~~or~~ (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;
2. An establishment required to be licensed as a summer camp by § 35.1-18; and
3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance

Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. *"Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.*

"Foster home" means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person ~~and~~; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency.

"Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a relative child of whom they had been the foster parents.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from the Virginia Initiative for Employment Not Welfare (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

**§ 63.2-1715. (Effective until July 1, 2019) Exemptions from licensure.**

A. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 63.2-1716.
2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.
3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

6. Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

7. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

9. Practice or competition in organized competitive sports leagues.

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.

11. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.

12. A certified preschool or nursery school program operated by a private school that is accredited by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and complies with the provisions of § 63.2-1717.

13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

14. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

15. A child day program offered by a local school division, staffed by local school division employees, and attended by children who are at least four years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school board.

B. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

C. *No person to whom parental and legal custodial powers have been delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 shall be required to obtain a license to operate an independent foster home or approval as a foster parent from the Commissioner.*

D. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

#### **§ 63.2-1715. (Effective July 1, 2019) Exemptions from licensure.**

A. The following programs are not child day programs and shall not be required to be licensed:

1. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

2. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

3. Instructional programs offered by private schools that serve school-age children and that satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

6. Practice or competition in organized competitive sports leagues.

7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified religious services or related activities to allow parents or guardians or their designees who are on site to attend such religious services and activities.

8. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. The following child day programs shall not be required to be licensed:

1. A child day program or child day center that has obtained an exemption pursuant to § 63.2-1716.

2. A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by a private school that is accredited by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and complies with the provisions of § 63.2-1717.

6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

7. A program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by children who are at least four years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:

1. File with the Commissioner annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

2. Report to the Commissioner all incidents involving serious physical injury to or death of children attending the child day program. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and

3. Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.

D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;

2. Maintain daily attendance records that document the arrival and departure of all children;

3. Have an emergency preparedness plan in place;

4. Comply with all applicable laws and regulations governing transportation of children; and

5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

E. The Commissioner shall inspect child day programs that are exempt from licensure pursuant to subsection B to determine compliance with the provisions of this section only upon receipt of a complaint, except as otherwise provided by law.

F. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

G. No person to whom parental and legal custodial powers have been delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 shall be required to obtain a license to operate an independent foster home or approval as a foster parent from the Commissioner.

H. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

## CHAPTER 298

*An Act to amend and reenact § 15.2-1610 of the Code of Virginia, relating to sheriffs; standard motor vehicle markings.*

[H 2585]

Approved March 8, 2019

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

**1. That § 15.2-1610 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1610. Standard uniforms and motor vehicle markings to be adopted by sheriffs.**

A. Except as provided in § 15.2-1611, all uniforms used by sheriffs and their deputies and police officers under the direct control of a sheriff while in the performance of their duties shall (i) easily identify local law-enforcement officers to members of the public, (ii) be of a design and style approved by the sheriff of the locality, and (iii) be worn according to the policies established by the sheriff of the locality.

B. All marked motor vehicles used by sheriffs' offices shall ~~be solid dark brown or some other solid color, with a reflectorized gold, five-point star on each front side door. The lettering on such stars shall say "Sheriff's Office" or "Sheriff" in a half-circle above the Seal of the Commonwealth or the seal of the jurisdiction. The name of the county or city shall be placed in a half-circle below the Seal. The words "Sheriff's Office" or "Sheriff" shall be placed on the rear of the trunk conspicuously display on each front side door of such vehicles the words "Sheriff's Office" or "Sheriff" and the name of the county or city.~~

C. All sheriffs' offices shall be in full compliance with specifications for uniforms and motor vehicle markings, if the sheriff prescribes that uniforms be worn and marked motor vehicles be utilized.

## CHAPTER 299

*An Act to amend and reenact § 32.1-102.3:1.1 of the Code of Virginia, relating to continuing care retirement communities; accessing medical assistance; certificate of public need.*

[H 2722]

Approved March 8, 2019

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

**1. That § 32.1-102.3:1.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-102.3:1.1. Continuing care retirement communities accessing medical assistance.**

A. ~~On or after July 1, 2010, a~~ A nursing facility in Planning District 8 in a continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, which is not already certified for participation in the Medical Assistance Program, may be certified for participation in the Medical Assistance Program, without regard to any condition of a certificate of public need, so long as:

1. The nursing facility is no longer operating under an open admissions period;
2. Any residents who qualify and receive medical assistance under the state program must have been residents of the continuing care retirement community for at least three years;
3. Not more than ~~40~~ 25 percent ~~of the facility~~ of the nursing home beds of the facility, or 15 nursing home beds, whichever is fewer, may be occupied by individuals receiving benefits at any given time; and
4. Any resident who qualifies for and receives medical assistance under the state program in a continuing care retirement community nursing facility must have first exhausted any refundable entrance fee paid on the resident's behalf, as defined in § 38.2-4900, as a result of expenditures for that resident's care in the continuing care retirement community.

B. Nothing in this section shall alter the conditions of a continuing care retirement community's participation in the Medical Assistance Program if that continuing care retirement community was certified for participation prior to July 1, 2010.

For the purposes of this section, "open admissions period" means a time during which a facility may take admissions directly into its nursing home beds without the signing of a standard contract.

## CHAPTER 300

*An Act to amend and reenact §§ 2.2-3705.7 and 54.1-2400.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 34.1 of Title 54.1 a section numbered 54.1-3484 and an article numbered 2, consisting of sections*

*numbered 54.1-3485 through 54.1-3496, relating to the licensure of physical therapists and physical therapist assistants; Physical Therapy Licensure Compact.*

[S 1106]

Approved March 8, 2019

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

**1. That §§ 2.2-3705.7 and 54.1-2400.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 34.1 of Title 54.1 a section numbered 54.1-3484 and an article numbered 2, consisting of sections numbered 54.1-3485 through 54.1-3496, as follows:**

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

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

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

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

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

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

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

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

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

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

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

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be

construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

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

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. *Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.*

**§ 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary proceeding; penalty.**

A. Any reports, information or records received and maintained by the Department of Health Professions or any health regulatory board in connection with possible disciplinary proceedings, including any material received or developed by a board during an investigation or proceeding, shall be strictly confidential. The Department of Health Professions or a board may only disclose such confidential information:

1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;

2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession, including the coordinated licensure information system, as defined in § 54.1-3040.2 *and the data system as set forth in § 54.1-3492*;

3. To hospital committees concerned with granting, limiting or denying hospital privileges if a final determination regarding a violation has been made;

4. Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary circumstances being shown;

5. To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any person is first deleted. Such release shall be made pursuant to a written agreement to ensure compliance with this section; or

6. To the Health Practitioners' Monitoring Program within the Department of Health Professions in connection with health practitioners who apply to or participate in the Program.

B. In no event shall confidential information received, maintained or developed by the Department of Health Professions or any board, or disclosed by the Department of Health Professions or a board to others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence in any civil action. This section shall not, however, be construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any investigation or proceeding by any health regulatory board acting within the scope of its authority. The disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such privilege in any other proceeding.

D. This section shall not prohibit the Director of the Department of Health Professions, after consultation with the relevant health regulatory board president or his designee, from disclosing to the Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which indicates a possible violation of any provision of criminal law, including the laws relating to the manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

E. This section shall not prohibit the Director of the Department of Health Professions from disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information required to be made available to the public pursuant to § 54.1-2910.1.

F. This section shall not prohibit the Director of the Department of Health Professions, following consultation with the relevant health regulatory board president or his designee, from disclosing information about a suspected violation of state or federal law or regulation to other agencies within the Health and Human Resources Secretariat or to federal law-enforcement agencies having jurisdiction over the suspected violation or requesting an inspection or investigation of a licensee by such state or federal agency when the Director has reason to believe that a possible violation of federal or state law has occurred. Such disclosure shall not exceed the minimum information necessary to permit the state or federal agency having jurisdiction over the suspected violation of state or federal law to conduct an inspection or investigation. Disclosures by the Director pursuant to this subsection shall not be limited to requests for inspections or investigations of licensees. Nothing in this subsection shall require the Director to make any disclosure. Nothing in this section shall permit any agency to which the Director makes a disclosure pursuant to this section to re-disclose any information, reports, records, or materials received from the Department.

G. Whenever a complaint or report has been filed about a person licensed, certified, or registered by a health regulatory board, the source and the subject of a complaint or report shall be provided information about the investigative and disciplinary procedures at the Department of Health Professions. Prior to interviewing a licensee who is the subject of a complaint or report, or at the time that the licensee is first notified in writing of the complaint or report, whichever shall occur first, the licensee shall be provided with a copy of the complaint or report and any records or supporting documentation, unless such provision would materially obstruct a criminal or regulatory investigation. If the relevant board concludes that a disciplinary proceeding will not be instituted, the board may send an advisory letter to the person who was the subject of the complaint or report. The relevant board may also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv), if appropriate, that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to the requirements of this section relating to confidentiality and discovery.

H. Orders and notices of the health regulatory boards relating to disciplinary actions, other than confidential exhibits described in subsection K, shall be disclosed. Information on the date and location of any disciplinary proceeding, allegations against the respondent, and the list of statutes and regulations the respondent is alleged to have violated shall be provided to the source of the complaint or report by the relevant board prior to the proceeding. The source shall be notified of the disposition of a disciplinary case.

I. This section shall not prohibit investigative staff authorized under § 54.1-2506 from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses any portion of records or other supporting documentation necessary to refresh the fact witnesses' recollection.

J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.

K. In disciplinary actions in which a practitioner is or may be unable to practice with reasonable skill and safety to patients and the public because of a mental or physical disability, a health regulatory board shall consider whether to disclose and may decide not to disclose in its notice or order the practitioner's health records, as defined in § 32.1-127.1:03, or his health services, as defined in § 32.1-127.1:03. Such information may be considered by the relevant board in a closed hearing in accordance with subdivision A 16 of § 2.2-3711 and included in a confidential exhibit to a notice or order. The public notice or order shall identify, if known, the practitioner's mental or physical disability that is the basis for its determination. In the event that the relevant board, in its discretion, determines that this subsection should apply, information contained in the confidential exhibit shall remain part of the confidential record before the relevant board and is subject to court review under the Administrative Process Act (§ 2.2-4000 et seq.) and to release in accordance with this section.

**§ 54.1-3484. Criminal history background checks.**

*The Board shall require each applicant for licensure as a physical therapist or physical therapist assistant to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant.*

*The Central Criminal Records Exchange shall forward the results of the state and federal criminal history record search to the Board, which shall be a governmental entity. If an applicant is denied licensure because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation and the Central Criminal Records Exchange. The information shall not be disseminated except as provided in this section.*

*Article 2.*

*Physical Therapy Licensure Compact.*

**§ 54.1-3485. Form of compact; declaration of purpose.**

A. *The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Physical Therapy Licensure Compact with any and all jurisdictions legally joining therein according to its terms, in the form substantially as follows.*

B. *The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient is located at the time of the patient encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.*

*This Compact is designed to achieve the following objectives:*

- 1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;*
- 2. Enhance the states' ability to protect the public's health and safety;*
- 3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;*
- 4. Support spouses of relocating military members;*
- 5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and*
- 6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.*

**§ 54.1-3486. Definitions.**

*As used in this Compact, and except as otherwise provided, the following definitions shall apply:*

*"Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.*

*"Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.*

*"Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.*

*"Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.*

*"Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.*

*"Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.*

*"Encumbered license" means a license that a physical therapy licensing board has limited in any way.*

*"Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them, by the Commission.*

*"Home state" means the member state that is the licensee's primary state of residence.*

*"Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.*

*"Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.*

*"Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.*

*"Member state" means a state that has enacted the Compact.*

*"Party state" means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.*

*"Physical therapist" means an individual who is licensed by a state to practice physical therapy.*

*"Physical therapist assistant" means an individual who is licensed or certified by a state and who assists the physical therapist in selected components of physical therapy.*

*"Physical therapy," "physical therapy practice," and "the practice of physical therapy" mean the care and services provided by or under the direction and supervision of a licensed physical therapist as defined by § 54.1-3473.*

*"Physical Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.*

*"Physical therapy licensing board" or "licensing board" means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.*

*"Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.*

*"Rule" means a regulation, principle, or directive promulgated by the Commission that has the force of law.*

*"State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.*

**§ 54.1-3487. State participation in the Compact.**

A. To participate in the Compact, a state must:

1. Participate fully in the Commission's data system, including using the Commission's unique identifier as defined in rules;
2. Have a mechanism in place for receiving and investigating complaints about licensees;
3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or of the availability of investigative information regarding a licensee;
4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with subsection B of § 54.1-3488;
5. Comply with the rules of the Commission;
6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and
7. Have continuing competence requirements as a condition for license renewal.

B. Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and shall submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. § 534 and 42 U.S.C. § 14616.

C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.

D. Member states may charge a fee for granting a compact privilege.

**§ 54.1-3488. Compact privilege.**

A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

1. Hold a license in the home state;
2. Have no encumbrance on any state license;
3. Be eligible for a compact privilege in any member state in accordance with subsections D, G, and H;
4. Have not had any adverse action against any license or compact privilege within the previous two years;
5. Notify the Commission that the licensee is seeking the compact privilege within a remote state or remote states;
6. Pay any applicable fees, including any state fee, for the compact privilege;
7. Meet any jurisprudence requirements established by the remote state or states in which the licensee is seeking a compact privilege; and
8. Report to the Commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of subsection A to maintain the compact privilege in the remote state.

C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and
2. Two years have elapsed from the date of the adverse action.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection A to obtain a compact privilege in any remote state.

G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;
2. All fines have been paid; and
3. Two years have elapsed from the date of the adverse action.

H. Once the requirements of subsection G have been met, the licensee must meet the requirements in subsection A to obtain a compact privilege in a remote state.

**§ 54.1-3489. Active duty military personnel or their spouses.**

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

1. Home of record;
2. Permanent Change of Station (PCS); or
3. State of current residence if it is different from the PCS state or home of record.

**§ 54.1-3490. Adverse actions.**

A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.

*B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.*

*C. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.*

*D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.*

*E. A remote state shall have the authority to:*

*1. Take adverse actions as set forth in subsection D of § 54.1-3488 against a licensee's compact privilege in the state;*

*2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses and/or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and*

*3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.*

*F. Joint investigations.*

*1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.*

*2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.*

**§ 54.1-3491. Establishment of the Physical Therapy Compact Commission.**

*A. The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission.*

*1. The Commission is an instrumentality of the Compact states.*

*2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent that it adopts or consents to participate in alternative dispute resolution proceedings.*

*3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.*

*B. Membership, voting, and meetings.*

*1. Each member state shall have and be limited to one delegate selected by that member state's licensing board.*

*2. The delegate shall be a current member of the licensing board who is a physical therapist, a physical therapist assistant, a public member, or the board administrator.*

*3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.*

*4. The member state board shall fill any vacancy occurring in the Commission.*

*5. Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.*

*6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.*

*7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.*

*C. The Commission shall have the following powers and duties:*

*1. Establish the fiscal year of the Commission;*

*2. Establish bylaws;*

*3. Maintain its financial records in accordance with the bylaws;*

*4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;*

*5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;*

*6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;*

*7. Purchase and maintain insurance and bonds;*

*8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;*

*9. Hire employees, elect or appoint officers, fix compensation, define duties, and grant such individuals appropriate authority to carry out the purposes of the Compact and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;*

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services and receive, utilize and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law-enforcement agencies;

17. Establish and elect an Executive Board; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.

*D. The Executive Board.*

The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be composed of nine members as follows:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex officio, nonvoting member from the recognized national physical therapy professional association; and

c. One ex officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

2. The ex officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Board as provided in bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any Commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Perform other duties as provided in rules or bylaws.

*E. Meetings of the Commission.*

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in § 54.1-3493.

2. The Commission or the Executive Board or other committees of the Commission may convene in a closed, nonpublic meeting if the Commission or Executive Board or other committees of the Commission must discuss:

a. Noncompliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law-enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting or portion of a meeting is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and

documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

*F. Financing of the Commission.*

1. The Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

*G. Qualified immunity, defense, and indemnification.*

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing in this subdivision shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

**§ 54.1-3492. Data system.**

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse actions against a license or compact privilege;

4. Nonconfidential information related to alternative program participation;

5. Any denial of application for licensure, and the reason or reasons for such denial; and

6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state will only be available to other party states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

**§ 54.1-3493. Rulemaking.**

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and
2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least 25 persons;
2. A state or federal governmental subdivision or agency; or
3. An association having at least 25 members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording shall be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or member state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

**§ 54.1-3494. Oversight, dispute resolution, and enforcement.**

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

**B. Default, technical assistance, and termination.**

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

**C. Dispute resolution.**

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and nonmember states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

**D. Enforcement.**

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

**§ 54.1-3495. Date of implementation of the Interstate Commission for Physical Therapy Practice and associated rules, withdrawal, and amendment.**

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this Compact.

*E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.*

**§ 54.1-3496. Construction and severability.**

*This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.*

**2. That the provisions of this act shall become effective on January 1, 2020.**

**3. That the Board of Physical Therapy shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

## CHAPTER 301

*An Act to require local departments of social services to notify the community services board when a child in foster care is identified as having a developmental disability.*

[S 1135]

Approved March 8, 2019

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

**1. § 1.** *That the local department of social services shall notify the appropriate community services board as soon as it is known that a child in the foster care system has a developmental disability so that the community services board may screen the child for placement on the statewide developmental disability waiver waiting list.*

## CHAPTER 302

*An Act to amend and reenact § 2.2-2009 of the Code of Virginia and to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 55.3, consisting of a section numbered 2.2-5514, relating to administration of government; prohibition on the use of certain products and services.*

[S 1233]

Approved March 8, 2019

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

**1. That § 2.2-2009 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 55.3, consisting of a section numbered 2.2-5514, as follows:**

**§ 2.2-2009. Additional duties of the CIO relating to security of government information.**

A. To provide for the security of state government electronic information from unauthorized uses, intrusions or other security threats, the CIO shall direct the development of policies, standards, and guidelines for assessing security risks, determining the appropriate security measures and performing security audits of government electronic information. Such policies, standards, and guidelines shall apply to the Commonwealth's executive, legislative, and judicial branches and independent agencies. The CIO shall work with representatives of the Chief Justice of the Supreme Court and Joint Rules Committee of the General Assembly to identify their needs. Such policies, standards, and guidelines shall, at a minimum:

1. Address the scope and frequency of security audits. In developing and updating such policies, standards, and guidelines, the CIO shall designate a government entity to oversee, plan, and coordinate the conduct of periodic security audits of all executive branch agencies and independent agencies. The CIO shall coordinate these audits with the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission. The Chief Justice of the Supreme Court and the Joint Rules Committee of the General Assembly shall determine the most appropriate methods to review the protection of electronic information within their branches;

2. Control unauthorized uses, intrusions, or other security threats;

3. Provide for the protection of confidential data maintained by state agencies against unauthorized access and use in order to ensure the security and privacy of citizens of the Commonwealth in their interaction with state government. Such policies, standards, and guidelines shall include requirements that (i) any state employee or other authorized user of a state technology asset provide passwords or other means of authentication to use a technology asset and access a state-owned or state-operated computer network or database and (ii) a digital rights management system or other means of authenticating and controlling an individual's ability to access electronic records be utilized to limit access to and use of electronic records that contain confidential information to authorized individuals;

4. Address the creation and operation of a risk management program designed to identify information technology security gaps and develop plans to mitigate the gaps. All agencies in the Commonwealth shall cooperate with the CIO,

including (i) providing the CIO with information required to create and implement a Commonwealth risk management program, (ii) creating an agency risk management program, and (iii) complying with all other risk management activities; and

5. Require that any contract for information technology entered into by the Commonwealth's executive, legislative, and judicial branches and independent agencies require compliance with applicable federal laws and regulations pertaining to information security and privacy.

B. 1. The CIO shall annually report to the Governor, the Secretary, and General Assembly on the results of security audits, the extent to which security policy, standards, and guidelines have been adopted by executive branch and independent agencies, and a list of those executive branch agencies and independent agencies that have not implemented acceptable security and risk management regulations, policies, standards, and guidelines to control unauthorized uses, intrusions, or other security threats. For any executive branch agency or independent agency whose security audit results and plans for corrective action are unacceptable, the CIO shall report such results to (i) the Secretary, (ii) any other affected cabinet secretary, (iii) the Governor, and (iv) the Auditor of Public Accounts. Upon review of the security audit results in question, the CIO may take action to suspend the executive branch agency's or independent agency's information technology projects pursuant to subsection B of § 2.2-2016.1, limit additional information technology investments pending acceptable corrective actions, and recommend to the Governor and Secretary any other appropriate actions.

2. Executive branch agencies and independent agencies subject to such audits as required by this section shall fully cooperate with the entity designated to perform such audits and bear any associated costs. Public bodies that are not required to but elect to use the entity designated to perform such audits shall also bear any associated costs.

C. In addition to coordinating security audits as provided in subdivision B 1, the CIO shall conduct an annual comprehensive review of cybersecurity policies of every executive branch agency, with a particular focus on any breaches in information technology that occurred in the reviewable year and any steps taken by agencies to strengthen cybersecurity measures. Upon completion of the annual review, the CIO shall issue a report of his findings to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Such report shall not contain technical information deemed by the CIO to be security sensitive or information that would expose security vulnerabilities.

D. The provisions of this section shall not infringe upon responsibilities assigned to the Comptroller, the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by other provisions of the Code of Virginia.

E. The CIO shall promptly receive reports from directors of departments in the executive branch of state government made in accordance with § 2.2-603 and shall take such actions as are necessary, convenient or desirable to ensure the security of the Commonwealth's electronic information and confidential data.

F. The CIO shall provide technical guidance to the Department of General Services in the development of policies, standards, and guidelines for the recycling and disposal of computers and other technology assets. Such policies, standards, and guidelines shall include the expunging, in a manner as determined by the CIO, of all confidential data and personal identifying information of citizens of the Commonwealth prior to such sale, disposal, or other transfer of computers or other technology assets.

G. The CIO shall provide all directors of agencies and departments with all such information, guidance, and assistance required to ensure that agencies and departments understand and adhere to the policies, standards, and guidelines developed pursuant to this section.

H. *The CIO shall promptly notify all public bodies as defined in § 2.2-5514 of hardware, software, or services that have been prohibited pursuant to Chapter 55.3 (§ 2.2-5514).*

#### CHAPTER 55.3.

#### PROHIBITION ON THE USE OF CERTAIN PRODUCTS AND SERVICES.

##### **§ 2.2-5514. Prohibition on the use of certain products and services.**

A. *For the purposes of this section, "public body" means any legislative body; any court of the Commonwealth; any authority, board, bureau, commission, district, or agency of the Commonwealth; any political subdivision of the Commonwealth, including counties, cities, and towns, city councils, boards of supervisors, school boards, planning commissions, and governing boards of institutions of higher education; and other organizations, corporations, or agencies in the Commonwealth supported wholly or principally by public funds. "Public body" includes any committee, subcommittee, or other entity however designated of the public body or formed to advise the public body, including those with private sector or citizen members and corporations organized by the Virginia Retirement System.*

B. *No public body may use, whether directly or through work with or on behalf of another public body, any hardware, software, or services that have been prohibited by the U.S. Department of Homeland Security for use on federal systems.*

### CHAPTER 303

*An Act to require the Director of the Department of Corrections to review and revise the Department's visitation policies concerning visitors at state correctional facilities; wearing of tampons or menstrual cups.*

[H 1884]

Approved March 8, 2019

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

1. § 1. *The Director of the Department of Corrections shall review the Department's visitation policies concerning visitors' wearing of tampons or menstrual cups at state correctional facilities and shall revise such policies as necessary to permit such visitors to wear tampons or menstrual cups. The Department shall make the policy available to the public as soon as practicable and shall provide a copy to the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on Rehabilitation and Social Services by November 1, 2019.*

**CHAPTER 304**

*An Act to amend and reenact § 20-107.3 of the Code of Virginia, relating to military retirement benefits; marital share.*

[H 1988]

Approved March 8, 2019

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

1. That § 20-107.3 of the Code of Virginia is amended and reenacted as follows:

**§ 20-107.3. Court may decree as to property and debts of the parties.**

A. Upon decreeing the dissolution of a marriage, and also upon decreeing a divorce from the bond of matrimony, or upon the filing with the court as provided in subsection J of a certified copy of a final divorce decree obtained without the Commonwealth, the court, upon request of either party, (i) shall determine the legal title as between the parties, and the ownership and value of all property, real or personal, tangible or intangible, of the parties and shall consider which of such property is separate property, which is marital property, and which is part separate and part marital property in accordance with subdivision A 3 and (ii) shall determine the nature of all debts of the parties, or either of them, and shall consider which of such debts is separate debt and which is marital debt. The court shall determine the value of any such property as of the date of the evidentiary hearing on the evaluation issue. The court shall determine the amount of any such debt as of the date of the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, and the extent to which such debt has increased or decreased from the date of separation until the date of the evidentiary hearing. Upon motion of either party made no less than 21 days before the evidentiary hearing the court may, for good cause shown, in order to attain the ends of justice, order that a different valuation date be used. The court, on the motion of either party, may retain jurisdiction in the final decree of divorce to adjudicate the remedy provided by this section when the court determines that such action is clearly necessary, and all decrees heretofore entered retaining such jurisdiction are validated.

1. Separate property is (i) all property, real and personal, acquired by either party before the marriage; (ii) all property acquired during the marriage by bequest, devise, descent, survivorship or gift from a source other than the other party; (iii) all property acquired during the marriage in exchange for or from the proceeds of sale of separate property, provided that such property acquired during the marriage is maintained as separate property; and (iv) that part of any property classified as separate pursuant to subdivision A 3. Income received from separate property during the marriage is separate property if not attributable to the personal effort of either party. The increase in value of separate property during the marriage is separate property, unless marital property or the personal efforts of either party have contributed to such increases and then only to the extent of the increases in value attributable to such contributions. The personal efforts of either party must be significant and result in substantial appreciation of the separate property if any increase in value attributable thereto is to be considered marital property.

2. Marital property is (i) all property titled in the names of both parties, whether as joint tenants, tenants by the entirety or otherwise, except as provided by subdivision A 3, (ii) that part of any property classified as marital pursuant to subdivision A 3, or (iii) all other property acquired by each party during the marriage which is not separate property as defined above. All property including that portion of pensions, profit-sharing or deferred compensation or retirement plans of whatever nature, acquired by either spouse during the marriage, and before the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, is presumed to be marital property in the absence of satisfactory evidence that it is separate property. For purposes of this section marital property is presumed to be jointly owned unless there is a deed, title or other clear indicia that it is not jointly owned.

3. The court shall classify property as part marital property and part separate property as follows:

a. In the case of income received from separate property during the marriage, such income shall be marital property only to the extent it is attributable to the personal efforts of either party. In the case of the increase in value of separate property during the marriage, such increase in value shall be marital property only to the extent that marital property or the personal efforts of either party have contributed to such increases, provided that any such personal efforts must be significant and result in substantial appreciation of the separate property.

For purposes of this subdivision, the nonowning spouse shall bear the burden of proving that (i) contributions of marital property or personal effort were made and (ii) the separate property increased in value. Once this burden of proof is met, the owning spouse shall bear the burden of proving that the increase in value or some portion thereof was not caused by contributions of marital property or personal effort.

"Personal effort" of a party shall be deemed to be labor, effort, inventiveness, physical or intellectual skill, creativity, or managerial, promotional or marketing activity applied directly to the separate property of either party.

b. In the case of any pension, profit-sharing, or deferred compensation plan or retirement benefit, the marital share as defined in subsection G shall be marital property.

c. In the case of any personal injury or workers' compensation recovery of either party, the marital share as defined in subsection H shall be marital property.

d. When marital property and separate property are commingled by contributing one category of property to another, resulting in the loss of identity of the contributed property, the classification of the contributed property shall be transmuted to the category of property receiving the contribution. However, to the extent the contributed property is retraceable by a preponderance of the evidence and was not a gift, such contributed property shall retain its original classification.

e. When marital property and separate property are commingled into newly acquired property resulting in the loss of identity of the contributing properties, the commingled property shall be deemed transmuted to marital property. However, to the extent the contributed property is retraceable by a preponderance of the evidence and was not a gift, the contributed property shall retain its original classification.

f. When separate property is retitled in the joint names of the parties, the retitled property shall be deemed transmuted to marital property. However, to the extent the property is retraceable by a preponderance of the evidence and was not a gift, the retitled property shall retain its original classification.

g. When the separate property of one party is commingled into the separate property of the other party, or the separate property of each party is commingled into newly acquired property, to the extent the contributed property is retraceable by a preponderance of the evidence and was not a gift, each party shall be reimbursed the value of the contributed property in any award made pursuant to this section.

h. Subdivisions A 3 d, e and f shall apply to jointly owned property. No presumption of gift shall arise under this section where (i) separate property is commingled with jointly owned property; (ii) newly acquired property is conveyed into joint ownership; or (iii) existing property is conveyed or retitled into joint ownership. For purposes of this subdivision A 3, property is jointly owned when it is titled in the name of both parties, whether as joint tenants, tenants by the entireties, or otherwise.

4. Separate debt is (i) all debt incurred by either party before the marriage, (ii) all debt incurred by either party after the date of the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, and (iii) that part of any debt classified as separate pursuant to subdivision A 5. However, to the extent that a party can show by a preponderance of the evidence that the debt was incurred for the benefit of the marriage or family, the court may designate the debt as marital.

5. Marital debt is (i) all debt incurred in the joint names of the parties before the date of the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, whether incurred before or after the date of the marriage, and (ii) all debt incurred in either party's name after the date of the marriage and before the date of the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent. However, to the extent that a party can show by a preponderance of the evidence that the debt, or a portion thereof, was incurred, or the proceeds secured by incurring the debt were used, in whole or in part, for a nonmarital purpose, the court may designate the entire debt as separate or a portion of the debt as marital and a portion of the debt as separate.

B. For the purposes of this section only, both parties shall be deemed to have rights and interests in the marital property. However, such interests and rights shall not attach to the legal title of such property and are only to be used as a consideration in determining a monetary award, if any, as provided in this section.

C. Except as provided in subsection G, the court shall have no authority to order the division or transfer of separate property or marital property, or separate or marital debt, which is not jointly owned or owed. However, upon a finding that separate property of one party is in the possession or control of the other party, the court may order that the property be transferred to the party whose separate property it is. The court may, based upon the factors listed in subsection E, divide or transfer or order the division or transfer, or both, of jointly owned marital property, jointly owed marital debt, or any part thereof. The court shall also have the authority to apportion and order the payment of the debts of the parties, or either of them, that are incurred prior to the dissolution of the marriage, based upon the factors listed in subsection E.

As a means of dividing or transferring the jointly owned marital property, the court may transfer or order the transfer of real or personal property or any interest therein to one of the parties, permit either party to purchase the interest of the other and direct the allocation of the proceeds, provided the party purchasing the interest of the other agrees to assume any indebtedness secured by the property, or order its sale by private sale by the parties, through such agent as the court shall direct, or by public sale as the court shall direct without the necessity for partition. All decrees entered prior to July 1, 1991, which are final and not subject to further proceedings on appeal as of that date, which divide or transfer or order the division or transfer of property directly between the parties are hereby validated and deemed self-executing. All orders or decrees which divide or transfer or order division or transfer of real property between the parties shall be recorded and indexed in the names of the parties in the appropriate grantor and grantee indexes in the land records in the clerk's office of the circuit court of the county or city in which the property is located.

D. In addition, based upon (i) the equities and the rights and interests of each party in the marital property, and (ii) the factors listed in subsection E, the court has the power to grant a monetary award, payable either in a lump sum or over a period of time in fixed amounts, to either party. The party against whom a monetary award is made may satisfy the award, in whole or in part, by conveyance of property, subject to the approval of the court. An award entered pursuant to this

subsection shall constitute a judgment within the meaning of § 8.01-426 and shall not be docketed by the clerk unless the decree so directs. An award entered pursuant to this subsection may be enforceable in the same manner as any other money judgment. The provisions of § 8.01-382, relating to interest on judgments, shall apply unless the court orders otherwise.

Any marital property, which has been considered or ordered transferred in granting the monetary award under this section, shall not thereafter be the subject of a suit between the same parties to transfer title or possession of such property.

E. The amount of any division or transfer of jointly owned marital property, and the amount of any monetary award, the apportionment of marital debts, and the method of payment shall be determined by the court after consideration of the following factors:

1. The contributions, monetary and nonmonetary, of each party to the well-being of the family;
2. The contributions, monetary and nonmonetary, of each party in the acquisition and care and maintenance of such marital property of the parties;
3. The duration of the marriage;
4. The ages and physical and mental condition of the parties;
5. The circumstances and factors which contributed to the dissolution of the marriage, specifically including any ground for divorce under the provisions of subdivision A (1), (3) or (6) of § 20-91 or § 20-95;
6. How and when specific items of such marital property were acquired;
7. The debts and liabilities of each spouse, the basis for such debts and liabilities, and the property which may serve as security for such debts and liabilities;
8. The liquid or nonliquid character of all marital property;
9. The tax consequences to each party;
10. The use or expenditure of marital property by either of the parties for a nonmarital separate purpose or the dissipation of such funds, when such was done in anticipation of divorce or separation or after the last separation of the parties; and
11. Such other factors as the court deems necessary or appropriate to consider in order to arrive at a fair and equitable monetary award.

F. The court shall determine the amount of any such monetary award without regard to maintenance and support awarded for either party or support for the minor children of both parties and shall, after or at the time of such determination and upon motion of either party, consider whether an order for support and maintenance of a spouse or children shall be entered or, if previously entered, whether such order shall be modified or vacated.

G. In addition to the monetary award made pursuant to subsection D, and upon consideration of the factors set forth in subsection E:

1. The court may direct payment of a percentage of the marital share of any pension, profit-sharing or deferred compensation plan or retirement benefits, whether vested or nonvested, which constitutes marital property and whether payable in a lump sum or over a period of time. The court may order direct payment of such percentage of the marital share by direct assignment to a party from the employer trustee, plan administrator or other holder of the benefits. However, the court shall only direct that payment be made as such benefits are payable. No such payment shall exceed 50 percent of the marital share of the cash benefits actually received by the party against whom such award is made. "Marital share" means that portion of the total interest, the right to which was earned during the marriage and before the last separation of the parties, if at such time or thereafter at least one of the parties intended that the separation be permanent. *Any determination of military retirement benefits shall be in accordance with the federal Uniformed Services Former Spouses' Protection Act (10 U.S.C. 1408 et seq.).*

2. To the extent permitted by federal or other applicable law, the court may order a party to designate a spouse or former spouse as irrevocable beneficiary during the lifetime of the beneficiary of all or a portion of any survivor benefit or annuity plan of whatsoever nature, but not to include a life insurance policy except to the extent permitted by § 20-107.1:1. The court, in its discretion, shall determine as between the parties, who shall bear the costs of maintaining such plan.

H. In addition to the monetary award made pursuant to subsection D, and upon consideration of the factors set forth in subsection E, the court may direct payment of a percentage of the marital share of any personal injury or workers' compensation recovery of either party, whether such recovery is payable in a lump sum or over a period of time. However, the court shall only direct that payment be made as such recovery is payable, whether by settlement, jury award, court award, or otherwise. "Marital share" means that part of the total personal injury or workers' compensation recovery attributable to lost wages or medical expenses to the extent not covered by health insurance accruing during the marriage and before the last separation of the parties, if at such time or thereafter at least one of the parties intended that the separation be permanent.

I. Nothing in this section shall be construed to prevent the affirmation, ratification and incorporation in a decree of an agreement between the parties pursuant to §§ 20-109 and 20-109.1. Agreements, otherwise valid as contracts, entered into between spouses prior to the marriage shall be recognized and enforceable.

J. A court of proper jurisdiction under § 20-96 may exercise the powers conferred by this section after a court of a foreign jurisdiction has decreed a dissolution of a marriage or a divorce from the bond of matrimony, if (i) one of the parties was domiciled in this Commonwealth when the foreign proceedings were commenced, (ii) the foreign court did not have personal jurisdiction over the party domiciled in the Commonwealth, (iii) the proceeding is initiated within two years of

receipt of notice of the foreign decree by the party domiciled in the Commonwealth, and (iv) the court obtains personal jurisdiction over the parties pursuant to subdivision A 9 of § 8.01-328.1, or in any other manner permitted by law.

K. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section, including the authority to:

1. Order a date certain for transfer or division of any jointly owned property under subsection C or payment of any monetary award under subsection D;
2. Punish as contempt of court any willful failure of a party to comply with the provisions of any order made by the court under this section;
3. Appoint a special commissioner to transfer any property under subsection C where a party refuses to comply with the order of the court to transfer such property; and
4. Modify any order entered in a case filed on or after July 1, 1982, intended to affect or divide any pension, profit-sharing or deferred compensation plan or retirement benefits pursuant to the United States Internal Revenue Code or other applicable federal laws, only for the purpose of establishing or maintaining the order as a qualified domestic relations order or to revise or conform its terms so as to effectuate the expressed intent of the order.

L. If it appears upon or after the entry of a final decree of divorce from the bond of matrimony that neither party resides in the city or county of the circuit court that entered the decree, the court may, on the motion of any party or on its own motion, transfer to the circuit court for the city or county where either party resides the authority to make additional orders pursuant to subsection K or to carry out or enforce any stipulation, contract, or agreement between the parties that has been affirmed, ratified, and incorporated by reference pursuant to § 20-109.1.

### CHAPTER 305

*An Act to amend the Code of Virginia by adding a section numbered 15.2-2022.1, relating to turns into or out of certain residential areas; resident permits.*

[H 2033]

Approved March 8, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 15.2-2022.1 as follows:**

**§ 15.2-2022.1. Turns into or out of certain residential areas; resident permits.**

*Notwithstanding the provisions of subsection A of § 15.2-2000, or any other provision of law, a county operating under the urban county executive form of government may by ordinance develop a program to issue resident permits or stickers to residents of a designated area that will allow such residents to make turns into or out of the designated area during certain times of the day when such turns would otherwise be restricted.*

### CHAPTER 306

*An Act to amend and reenact § 3.01.1 and § 3.04, as amended, of Chapter 116 of the Acts of Assembly of 1948, which provided a charter for the City of Richmond, relating to runoff elections.*

[H 2052]

Approved March 8, 2019

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

**1. That § 3.01.1 and § 3.04, as amended, of Chapter 116 of the Acts of Assembly of 1948 are amended and reenacted as follows:**

**§ 3.01.1 Election of mayor.**

On the first Tuesday after the first Monday in November 2004, and every four years thereafter, a general election shall be held to elect the mayor. All persons seeking to have their names appear on the ballot as candidates for mayor must comply with the provisions of Chapter 5 (§ 24.2-500 et seq.) of Title 24.2 of the Code of Virginia and must file with their declaration of candidacy a petition containing a minimum of 500 signatures of qualified voters of the city, to include at least 50 qualified voters from each of the nine election districts. However, these filing requirements shall only apply to the initial, general election and not to any runoff election that may subsequently become necessary.

In the general election, the person receiving the most votes in each of at least five of the nine city council districts shall be elected mayor. Should no one be elected, then the two persons receiving the highest total of votes city wide shall be considered nominated for a runoff election. The runoff election shall be held on the sixth Tuesday after the November general election between the two nominees. The date of any such runoff election shall, as soon as possible, be posted at the courthouse and published at least once in a newspaper of general circulation in the city. In any such runoff election, write-in votes shall not be counted, and the person receiving the most votes in each of at least five of the nine city council districts shall be elected mayor. In the event the two candidates in a runoff election shall each win an equal number of council districts, the candidate receiving the most votes city wide shall be elected mayor. An elected term shall run four years.

Anyone eligible to serve on city council may serve as mayor, except no one may be elected mayor for three consecutive full terms, and no one may simultaneously hold the office of mayor and any other elected position.

*The procedures and deadlines for voter registration, applying for an absentee ballot, and casting an absentee ballot for any runoff election shall be as provided in Chapters 4 (§ 24.2-400 et seq.), 4.1 (§ 24.2-451 et seq.), and 7 (§ 24.2-700 et seq.) of Title 24.2 of the Code of Virginia for general elections.*

§ 3.04. Vacancies in office of councilman or mayor.

A. Vacancies in the office of councilman, from whatever cause arising, shall be filled in accordance with general law applicable to interim appointments and special elections, provided that, any provision in the general law to the contrary notwithstanding, a special election may be called to fill any such vacancy if the vacancy occurs more than one year prior to the expiration of the full term of the office to be filled.

B. A vacancy in the office of mayor shall be filled by special election conducted according to the rules herein provided for the general election and held within 60 days, but no sooner than 30 days, from the date of the vacancy. Any runoff, should one be necessary, shall be held on the first Tuesday after the fifth day following the date that voting machines used in the special election may be unsealed pursuant to § 24.2-659 of the Code of Virginia or the third Tuesday following the special election, whichever is later. However, if the date by which either the special election or possible runoff election for the office of mayor must be conducted should fall within 60 days prior to a primary election or general election, then the special or runoff election shall be held on the same day as the primary or general election, if allowed by general law, or, if not allowed by general law, then the special election shall be held on the first Tuesday after the fifth day following the date that voting machines used in the primary or general election may be unsealed pursuant to § 24.2-659 of the Code of Virginia. Any runoff that may be necessary shall be held on the first Tuesday after the fifth day following the date that the voting machines used in the special election may be unsealed pursuant to § 24.2-659 of the Code of Virginia or the third Tuesday following the special election, whichever is later. The president of the council shall serve as acting mayor until a successor is elected.

*C. The procedures and deadlines for voter registration, applying for an absentee ballot, and casting an absentee ballot for any runoff election as may be necessary after a special election for mayor shall be as provided in Chapters 4 (§ 24.2-400 et seq.), 4.1 (§ 24.2-451 et seq.), and 7 (§ 24.2-700 et seq.) of Title 24.2 of the Code of Virginia for general elections.*

## CHAPTER 307

*An Act to amend and reenact § 46.2-1167 of the Code of Virginia, relating to motor vehicle safety inspections; charges.*

[H 2514]

Approved March 8, 2019

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

**1. That § 46.2-1167 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1167. Charges for inspection and reinspection; exemption.**

A. Each official safety inspection station may charge no more than:

1. Fifty-one dollars for each inspection of any (i) tractor truck, (ii) truck that has a gross vehicle weight rating of 26,000 pounds or more, or (iii) motor vehicle that is used to transport passengers and has a seating capacity of more than 15 passengers, including the driver, \$0.50 of which shall be transmitted to the Department of State Police to support the Department's costs in administering the motor vehicle safety inspection program;

2. Twelve dollars for each inspection of any motorcycle, \$10 of which shall be retained by the inspection station and \$2 of which shall be transmitted to the Department of State Police who shall retain \$0.50 to support the Department's costs in administering the motor vehicle safety inspection program and deposit the remaining \$1.50 into the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-1191;

3. Twelve dollars for each inspection of any autocycle, \$10 of which shall be retained by the inspection station and \$2 of which shall be transmitted to the Department of State Police to be used to support the Department's costs in administering the motor vehicle safety inspection program; and

4. ~~Sixteen~~ *Twenty* dollars for each inspection of any other vehicle, ~~\$0.50~~ *\$0.70* of which shall be transmitted to the Department of State Police to support the Department's costs in administering the motor vehicle safety inspection program.

No such charge shall be mandatory, however, and no such charge shall be made unless the station has previously contracted therefor.

B. Each official safety inspection station may charge \$1 for each reinspection of a vehicle rejected by the station, as provided in § 46.2-1158, if the vehicle is submitted for reinspection within the validity period of the rejection sticker. If a rejected vehicle is not submitted to the same station within the validity period of the rejection sticker or is submitted to another official safety inspection station, an amount no greater than that permitted under subsection A may be charged for the inspection.

## CHAPTER 308

*An Act to amend and reenact §§ 1.2 and 2.2, § 2.3, as amended, § 3.1, § 3.2, as amended, §§ 3.3 through 3.9, 3.12, 3.15, and 4.1, § 4.2, as amended, §§ 4.3, 4.5, 4.6, 4.7, 5.1, 5.2, and 7.2, § 7.3, as amended, and §§ 8.4, 8.6, 8.7, 8.10, and 8.11 of Chapter 112 of the Acts of Assembly of 1971; to amend Chapter 112 of the Acts of Assembly of 1971 by adding a section numbered 3.1:1; and to repeal §§ 5.3 and 5.4, Chapter 6 (§§ 6.1, 6.2, and 6.3), and §§ 8.2, 8.3, and 8.5 of Chapter 112 of the Acts of Assembly of 1971, which provided a charter for the Town of Berryville in Clarke County, relating to boundaries, town powers, town council, town officers, appointments, and actions against town.*

[H 2572]

Approved March 8, 2019

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

**1. That §§ 1.2 and 2.2, § 2.3, as amended, § 3.1, § 3.2, as amended, §§ 3.3 through 3.9, 3.12, 3.15, and 4.1, § 4.2, as amended, §§ 4.3, 4.5, 4.6, 4.7, 5.1, 5.2, and 7.2, § 7.3, as amended, and §§ 8.4, 8.6, 8.7, 8.10, and 8.11 of Chapter 112 of the Acts of Assembly of 1971 are amended and reenacted and that Chapter 112 of the Acts of Assembly of 1971 is amended by adding a section numbered 3.1:1 as follows:**

## § 1.2. Boundaries.

The corporate boundaries of the town of Berryville shall be as follows:

Beginning at a pipe in the west side of North Buckmarsh Street (U.S. Route No. 340), such point being at the intersection of the west right-of-way line of North Buckmarsh Street and an extension of the north lot line of the Episcopal parsonage; thence along the west right-of-way line of North Buckmarsh Street, N 27° 43' E. a distance of 634.47 feet to a pipe; thence N. 45° 42' W. 2241.36 feet along the rear lot lines on the north side of Walnut Street to a pipe; thence S. 56° 34' 30" W. a distance of 160.38 feet to a pipe; thence S. 45° 45' 30" W. a distance of 4490.77 feet to a pipe in the orchard of H. F. Byrd, such line crossing West Main Street (Va. Route 7); thence, still through the orchards of H. F. Byrd and other properties, S. 57° 25' E. a distance of 3754.92 feet to a spike in the center line of South Church Street; thence S. 53° 42' E. a distance of 1736.86 feet to a pipe, such line crossing the Norfolk and Western Railway right-of-way; thence along a 13° 13' curve, parallel to the Norfolk and Western Railway, such curve having a tangent bearing of N. 62° 10' E. and a tangent distance of 250.80 feet to a pipe and point of intersection; thence still parallel to the Norfolk and Western Railway N. 49° 03' E. a distance of 2484.97 feet to a point of intersection of a 15° 38' curve, the corporate limits following the curve; thence N. 64° 44' E. a distance of 585.77 feet to a pipe; thence N. 49° 41' W. a distance of 3315.36 feet to a pipe and the place of beginning. *In addition: Annexation Area A, 350 acres, Deed Book 193, Page 226; Annexation Area B1, 7.691 acres, Deed Book 227, Page 779; Annexation Area B2, 8.965 acres, Deed Book 237, Page 794; Annexation Area B3, 63.0898 acres, Deed Book 258, Page 156; Annexation Area B4, 10.5316 acres, Deed Book 279, Page 257; Annexation Area B5, 196.5 acres, Deed Book 308, Page 685; Annexation Area B6, 114.38 acres, Deed Book 364, Page 501; Annexation Area B7, 42.2588 acres, Deed Book 421, Page 722; Annexation Area B8, 41.81 acres, Deed Book 472, Page 284.*

## § 2.2. Adoption of certain sections of Code of Virginia.

The powers set forth in §§ ~~45-1-837~~ 15.2-1100 through ~~45-1-915~~ 15.2-1133, both inclusive, of Chapter ~~48~~ 11 of Title ~~45-1~~ 15.2 of the Code of Virginia, as in force on January 1, ~~1971~~ 2019, are hereby conferred on and vested in the town of Berryville.

## § 2.3. Eminent domain.

The powers of eminent domain set forth in Title ~~45-1~~ Chapter 19 (§ 15.2-1901 *et seq.*) of Title 15.2, Title ~~25~~ 25.1, Chapter ~~1-1~~ and §§ ~~33-1-121~~ through ~~33-1-132~~, Chapter 1, and Chapter 10 (§ 33.2-1000 *et seq.*) of Title 33.2 of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the town of Berryville subject to the provisions of § ~~25-233~~ 25.1-200 of the Code of Virginia.

(a) In any case in which a petition for condemnation is filed by or on behalf of the town, a true copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any taking or damaging of any property, within or without the town, for the public purposes of the town, shall be filed with the petition and shall constitute sufficient evidence of the necessity of the exercise of the powers of eminent domain by the town. The town may employ the procedures conferred by the foregoing laws, mutatis mutandis, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to §§ ~~33-1-121~~ to ~~33-1-132~~ 33.2-1019 through 33.2-1029, inclusive, of the Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the town council, signed by the mayor and countersigned by the town treasurer. Such certificate shall have the same effect as certificates issued by the Commonwealth Transportation Commissioner, under the aforesaid laws, and may be issued in any case in which the town proposes to acquire property or interest therein by the exercise of its powers of eminent domain for any lawful public purpose, whether within or without the town; provided, that the condemnation authority shall be subject to the provisions of § ~~25-233~~ 25.1-200 of the Code of Virginia.

(c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or canceled by the court having jurisdiction of the proceedings, upon petition of the town, at any time after the filing thereof; provided, that the court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund of any excessive sums theretofore paid pursuant to such certificate as shall, upon due notice and hearing, appear just. The court shall have

jurisdiction to require refunding bonds, for good cause shown by the town or any other person or party in interest, prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the town.

### Chapter 3.

Mayor, ~~Recorder~~ *Vice Mayor*, and *Town Council*.

§ 3.1. Composition of council; qualifications of mayor, ~~recorder~~ *vice mayor*, and ~~councilmen~~ *council members*.

The town of Berryville shall be governed by a town council composed of the mayor, the ~~recorder~~ *vice mayor*, and four ~~councilmen~~ *council members*. The mayor, ~~recorder~~ *vice mayor*, and ~~councilmen~~ *council members* shall be residents and qualified voters of the town. The mayor and ~~recorder~~ *vice mayor* shall be elected from the town at large. The four ~~councilmen~~ *council members* shall reside one in each ward of the town, but shall be elected by all of the qualified voters of the town.

§ 3.1:1. *Office of recorder continued as office of vice mayor.*

*The office of vice mayor shall become effective on July 1, 2022, and the previously established office of recorder shall remain effective until July 1, 2022.*

§ 3.2. Election and term of office of mayor, ~~recorder~~ *vice mayor*, and ~~councilmen~~ *council members*.

Elections for mayor, ~~recorder~~ *vice mayor*, and ~~councilmen~~ *council members* shall be held on the first Tuesday in May of each even-numbered year. On the first Tuesday in May, ~~1972~~ 2020, a mayor and ~~councilmen~~ *council members* from Wards 1 and 3 shall be elected for a term of four years; and a ~~recorder~~ and ~~councilmen~~ from Wards 2 and 4 shall be elected for a term of two years. On the first Tuesday in May, ~~1974~~ 2022, a ~~recorder~~ *vice mayor* and ~~councilmen~~ *council members* from Wards 2 and 4 shall be elected for terms of four years. ~~Thereafter, the mayor, recorder and all councilmen shall be elected for terms of four years.~~

§ 3.3. When terms of office to begin.

The terms of office for the mayor, ~~recorder~~ *vice mayor*, and ~~councilmen~~ *council members* shall begin on the first day of July next following their election.

§ 3.4. Oath of office.

The mayor, ~~recorder~~ *vice mayor*, and ~~councilmen~~ *council members* shall each, before entering upon the duties of their office, make oath or affirmation that they will truly, faithfully, and impartially discharge the duties of their offices to the best of their abilities, so long as they shall continue therein.

§ 3.5. Vacancies in office.

Vacancies in the office of mayor, ~~recorder~~ *vice mayor*, or ~~councilman~~ *council member* shall be filled within forty-five days for the unexpired terms by a majority vote of the remaining members of the town council.

§ 3.6. When new election for mayor, ~~recorder~~ *vice mayor*, or ~~councilman~~ *council member* required.

If any person who shall have been duly elected mayor, ~~recorder~~ *vice mayor*, or ~~councilman~~ *council member* shall not be eligible, as herein prescribed, or shall refuse to take the oath or affirmation required under this Charter within two weeks from the day of the beginning of ~~his~~ *the* term of office, the town council shall declare ~~his~~ *the* office vacant; and shall order a new election for mayor, ~~recorder~~ *vice mayor*, or ~~councilman~~ *council member*; as the case may be.

§ 3.7. Powers and duties of mayor.

The mayor ~~shall be a member of the town council~~, shall preside over the meetings of the town council, and shall have the same right to speak and vote therein as other members of the town council. ~~He~~ *The* mayor shall be recognized as the head of the town government for all ceremonial purposes, for the purposes of military law, and for the service of civil processes. The mayor shall have no power of veto over the ordinances and resolutions of the town council.

§ 3.8. Powers and duties of ~~recorder~~ *vice mayor*; ~~recorder~~ *vice mayor* to act as mayor during absence, disability, etc., of mayor.

The ~~recorder~~ *vice mayor* shall be a member of the town council and shall have the same right to speak and vote therein as other members of the town council. ~~The recorder shall keep the journal of the proceedings of the town council and have charge of and preserve the records of the town.~~ In the absence from the town, or disqualification, inability, or sickness of the mayor, or during any vacancy in the office of mayor, the ~~recorder~~ *vice mayor* shall perform the duties of the mayor and be vested with all ~~his~~ *the* powers of the mayor. ~~The recorder shall have the powers and duties of the vice mayor as set forth in this section until July 1, 2022.~~

§ 3.9. Absence or disability of mayor and ~~recorder~~ *vice mayor*.

If both the mayor and ~~recorder~~ *vice mayor* are absent or unable to act, the town council shall, by a majority vote of the members present, elect from its members a person to serve as acting mayor until either the mayor or ~~recorder~~ *vice mayor* is present and able to act. The person so elected shall possess the powers and discharge the duties of the mayor during such period of time.

§ 3.12. Meetings of council.

The town council shall fix the time of ~~their stated~~ *its regular* meetings; and they shall meet at least once a month. Special meetings may be called at any time by the mayor or by three members of the town council; provided; that all members shall be duly notified a reasonable period of time prior to any special meeting.

§ 3.15. Council to fix salaries.

The town council is hereby authorized to fix the salaries of each of the members of the town council; members of boards or commissions, and all appointed officers. The salaries of the mayor, ~~recorder~~ *vice mayor*, and ~~councilmen~~ *council members* shall not be ~~charged~~ *changed* during the term for which they were elected.

§ 4.1. Appointment and qualifications.

There shall be a town manager, who shall be the executive officer of the town and shall be responsible to the town council for the proper administration of the town government. ~~He~~ *The town manager* shall be appointed by the town council for an indefinite term. ~~He~~ *and shall serve at the pleasure of the town council. The town manager shall* be chosen solely on the basis of ~~his~~ executive and administrative qualifications, with special reference to ~~his~~ actual experience in or knowledge of accepted practice in respect to the duties of ~~his~~ *the* office. At the time of ~~his~~ *the* appointment, ~~he~~ *the town manager* need not be a resident of the town or the Commonwealth, but during ~~his~~ *the* tenure of office, ~~he~~ shall reside within Clarke County.

§ 4.2. Duties.

It shall be the duty of the town manager to:

- (a) Attend all meetings of the town council, with the right to speak but not to vote.
- (b) Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration, and make such recommendations as may seem ~~to him~~ desirable.
- (c) Prepare and submit the annual budget to the town council and be responsible for its administration after its adoption.
- (d) Present adequate financial and activity reports as required by the town council.
- (e) Arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council.
- (f) *Be responsible for the supervision of all town employees.*
- (g) Perform such other duties as may be prescribed by this charter or required of ~~him~~ *the town manager* in accordance therewith by the town council or which may be required of the chief executive officer of a town by the general laws of the Commonwealth, other than the duties conferred on the mayor by this charter.

§ 4.3. Powers as to town officers and employees.

All officers and employees of the town, except those appointed by the town council pursuant to this charter or the general laws of the Commonwealth, shall be appointed and may be removed by the town manager, who shall ~~report~~ *advise the town council* of each appointment or removal ~~to the town council at the next meeting thereof promptly~~ following any such appointment or removal.

§ 4.5. Council not to interfere in appointments or removals; relationship with council.

Neither the town council nor any of its members, *including the mayor and vice mayor*, shall direct or request; the appointment of any person to or ~~his~~ removal from any office or employment by the town manager or by any of ~~his~~ subordinates or in any way take part in the appointment or for removal of officers and employees of the town, except as specifically provided in this charter. Except for the purpose of inquiry, the town council and its members shall deal with the administrative services solely through the town manager, and neither the town council nor any member thereof shall give orders, either publicly or privately, to any subordinate of the town manager. ~~Any councilman violating the provisions of this section or voting for a motion, resolution or ordinance in violation of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to be a councilman.~~

§ 4.6. Relations with boards, commissions and agencies.

The town manager shall have the right to attend and participate in the proceedings of, but not vote in, the meetings of all boards, commissions, or agencies created by this charter or by ordinance and any other board or commission the town council may designate.

§ 4.7. Acting town manager.

The town council shall designate by resolution a person to act as town manager in case of the *extended* absence, incapacity, death, or resignation of the town manager, until ~~his~~ *the town manager's* return to duty or the appointment of ~~his~~ *a* successor.

§ 5.1. Appointment.

The town council may appoint ~~such the following~~ officers of the town as ~~they~~ *the town council* may deem necessary. ~~Such officers may include, but shall not be limited to, a town manager, a town attorney, a town treasurer, a town assessor, a judge of the municipal court and justices of the peace: town manager, assistant town manager for administration/treasurer, assistant town manager for community development/operations, and town attorney. Such officers shall be appointed for an indefinite term and shall serve at the pleasure of the town council.~~ The enumeration of officers in this section shall not be construed to require the appointment of any of such officers herein named. Officers appointed by the town council shall perform such duties as may be specified ~~in this charter~~ by the town council.

§ 5.2. Deputies and assistants.

The town council may ~~appoint such deputies and assistants~~ *to establish a deputy or assistant position for the appointive offices as the town council may deem necessary. The town manager shall appoint and supervise such deputies and assistants.*

§ 7.2. Actions against town for damages, etc.

(a) No action shall be maintained against the town for damages for any injury to any person ~~or~~ property alleged to have been sustained by reason of the negligence of the town, or any officer, agent, or employee thereof, unless ~~a~~ written statement, verified by oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is a result of the alleged negligence of the town, its officers, agents or employees, of the nature of the claim and the time and place at which the injury is alleged to have occurred, or to have been received, shall have been filed with the mayor or an

attorney appointed by the town council for this purpose, and the town is hereby authorized to appoint such an attorney, within sixty days after such cause of action shall have accrued. Where the claimant is an infant or non compos mentis, or the injured party dies within such sixty days, such statement may be filed within one hundred twenty days; provided, that if the complainant is compos mentis during such sixty day period but is able to establish by clear and convincing evidence that due to the injury sustained for which a claim is asserted that he was physically or mentally unable to give such notice within the sixty day period; then the time for giving notice shall be tolled until the claimant sufficiently recovers from such injury so as to be able to give such notice. No officer, agent or employee of the town shall have authority to waive such conditions precedent or any of them notice is given to the town in accordance with § 15.2-209 of the Code of Virginia.

(b) In any action against the town to recover damages against it for any negligence in the construction or maintenance of its streets, alleys, lanes, parks, public places, sewers, reservoirs, or water mains, *water treatment plant, wastewater treatment plant, stormwater system, or other town facilities*, where any person or corporation is liable with the town for such negligence, every such person or corporation shall be joined as defendant with the town in such action brought to recover damages for such negligence, and where there is a judgment or verdict against the town, as well as the other defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the damages assessed.

(c) If it is ascertained by the judgment of the court that some person or corporation other than the town is primarily liable, there shall be a stay of execution against the town until execution against such person or persons or corporation or corporations shall have been returned without realizing the full amount of such judgment.

(d) If the town, when not primarily liable, shall pay such judgment in whole or in part, the plaintiff shall, to the extent that such judgment is paid by the town, assign the judgment to the town, without recourse on the plaintiff, and the town shall be entitled to have execution issued for its benefit against the other defendant or defendants who have been ascertained to be primarily liable, or may institute any suit to enforce such judgment or an action at law, or scire facias to revive such judgment.

(e) No order shall be entered or made, and no injunction shall be awarded by any court or judge, to stay proceedings of the town in the prosecution of their works, unless it be manifest that they, their officers, agents, or servants are transcending the authority given them in this charter, and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

(f) The town council is authorized and empowered to compromise any claim for damages or any suit or action brought against the town.

#### § 7.3 Creation of debt; issuance of bonds.

The town council *by a majority vote* is authorized to cause the town ~~by a majority vote~~ to incur debt and to issue bonds, notes, and other evidences of indebtedness for the purposes and in the manner set forth for towns in the Constitution of the Commonwealth of Virginia and the Public Finance Act of 1991, Chapter 5-1 (§ 15.2-2600 *et seq.* of Title ~~15.1~~ 15.2 of the Code of Virginia of 1950, as amended), or any acts amendatory thereof or supplemental thereto.

#### § 8.4. Bonds of officers and employees.

The town council may require all or any officers and employees of the town to give bond for the faithful and proper discharge of their duties. As used herein, the words "officers and employees" shall include officers and employees paid solely or partly by the town. The town ~~may~~ shall pay the premium on such bonds from the town funds and may provide for individual surety bonds or for a bond covering all officers and employees or any group thereof. The bond shall be payable to the town as its interest may appear in event of breach of the conditions thereof.

#### § 8.6. United States government employees.

No person, otherwise eligible, shall be disqualified, by reason of his accepting or holding an office, post, trust, or emolument under the United States government, from serving as an officer or employee of the town, or as a member, officer, or employee of any board or commission.

#### § 8.7. Acceptance of federal aid, contributions, etc.

The town shall have the power to receive and accept from any federal agency grants of any kind for or in aid of the construction of any project, the procuring or reserving of park land, open spaces or any recreational facility, and to do all such things or make any covenants or agreements which may be necessary or required in order to obtain and use such federal grants. The town may receive and accept aid or contributions from any source or money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

#### § 8.10. Ordinances continued in force.

All ordinances now in force in the town of Berryville, not inconsistent with this charter, shall be and remain in force until altered, amended, or repealed by the town council.

#### § 8.11. Severability of provisions.

If any clause, sentence, paragraph or part of this charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this charter, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**2. That §§ 5.3 and 5.4, Chapter 6 (§§ 6.1, 6.2, and 6.3), and §§ 8.2, 8.3, and 8.5 of Chapter 112 of the Acts of Assembly of 1971 are repealed.**

## CHAPTER 309

*An Act to amend and reenact §§ 4 through 7 of Chapter 486 of the Acts of Assembly of 1892, which provided a charter for the Town of Glasgow in Rockbridge County, relating to chief of police.*

[H 2660]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 4 through 7 of Chapter 486 of the Acts of Assembly of 1892 are amended and reenacted as follows:**§ 4. *Appointment, compensation, duties, and bonds of chief of police, clerk, and treasurer.*

The council shall appoint annually a ~~sergeant~~ chief of police, clerk, and treasurer, and shall fix their compensation and prescribe their duties, and require such bonds as may be deemed proper.

§ 5. *Chief of police to have powers of sheriff as to collection of taxes, levies, and fines and service and return of process.*

The ~~sergeant~~ chief of police of said town, who shall from time to time be appointed under this ~~act~~ charter, shall have the like rights of distress and a power for collecting the taxes and levies made by said council of said town as sheriffs in similar cases, and shall be entitled to the same or like fees and commissions for collecting said taxes and levies, as are allowed sheriffs for collecting county levies, and in the service and return of all processes, and in the collection of all fines arising under the authority of this ~~act~~ charter, or of any bylaws made in pursuance hereof, he shall have and possess the same rights and powers and be entitled to the same or like fees and commissions as allowed by law to sheriffs for similar services.

§ 6. *Chief of police to have powers and liabilities of constable as to collection of money and execution of warrants.*

The ~~sergeant~~ chief of police of said town, upon entering into bond in the ~~county~~ general district court of Rockbridge ~~county~~ County, in the manner prescribed by law for constables, and with such conditions as constables are required by law to enter into, shall have all the power and authority of a constable in the collection of money by warrant or otherwise, and to execute any and all process to him directed, or which might have been so directed; and shall and may do and perform all acts, execute and return such warrants, and be liable in the same manner and to the same extent that constables are by laws now in force.

§ 7. *Power of chief of police to arrest persons in violation of town ordinances.*

The ~~sergeant~~ chief of police of said town shall be conservator of the peace, and shall have power to arrest in said town, or anywhere within Rockbridge ~~county~~ County, upon a warrant issued by the mayor, recorder, or councilmen, any person charged with a violation of the laws or ordinances of said town; and when a violation of the laws or ordinances of said town is committed in his presence, he shall have authority and power, without warrant, forthwith to arrest the offender, and carry him before some conservator of the peace of said town to be dealt with according to law.

## CHAPTER 310

*An Act to amend and reenact § 1.02, § 3.01, as amended, §§ 6.02 and 6.04, and § 10.03, as amended, of Chapter 99 of the Acts of Assembly of 1994, which provided a charter for the Town of Dumfries in Prince William County, relating to boundaries, election, and budget.*

[H 2670]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 1.02, § 3.01, as amended, §§ 6.02 and 6.04, and § 10.03, as amended, of Chapter 99 of the Acts of Assembly of 1994 are amended and reenacted as follows:**

## § 1.02. Boundaries.

The present boundaries of the Town of Dumfries are as set out in a decree entered in Prince William County Circuit Court Law Case No. 2285, styled "In the Matter of the Annexation of Part of the Territory Known as Dumfries [*now known as Potomac*] Magisterial District to the Town of Dumfries," on the 30th day of December, 1966. Future boundaries shall be the same unless changed in accordance with law.

## § 3.01. Election, qualification and term of office.

(a) The Town of Dumfries shall be governed by a town council elected at large and composed of a mayor and six other members, all of whom shall be qualified voters of the town. Candidates for town offices shall not be identified on the ballot by political affiliation. In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § 24.2-506 of the Code of Virginia (1950), as amended.

(b) On the ~~first~~ Tuesday in ~~May 1994~~ after the first Monday in November 2022, and every four years thereafter, there shall be elected by the qualified voters of the town a mayor and three council members from the town at large. On the ~~first~~ Tuesday in ~~May 1996~~ after the first Monday in November 2020, and every four years thereafter, there shall be elected three council members from the town at large.

(c) The persons elected shall take office on ~~July~~ *January* 1 succeeding their election and remain in office until their successors have qualified and taken office.

§ 6.02. Submission of budget and budget message.

On or before the ~~fifteenth~~ *first* day of April of each year, a budget for the ensuing fiscal year and an accompanying message shall be submitted to the council.

§ 6.04. Budget.

(a) The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the council may require. The budget shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed tax levies, user fees, assessments, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual income and expenditures of the preceding fiscal year.

(b) The total of proposed expenditures shall not exceed the total of estimated available funds.

(c) *The budget each year will have a midyear review held in February.*

§ 10.03. Citation of act.

This act may for all purposes be referred to or cited as the Charter for the Town of Dumfries, Virginia, of ~~2003~~ *2018*.

### CHAPTER 311

*An Act to amend and reenact § 1.02, § 3.01, as amended, §§ 6.02 and 6.04, and § 10.03, as amended, of Chapter 99 of the Acts of Assembly of 1994, which provided a charter for the Town of Dumfries in Prince William County, relating to boundaries, election, and budget.*

[S 1691]

Approved March 8, 2019

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

**1. That § 1.02, § 3.01, as amended, §§ 6.02 and 6.04, and § 10.03, as amended, of Chapter 99 of the Acts of Assembly of 1994 are amended and reenacted as follows:**

§ 1.02. Boundaries.

The present boundaries of the Town of Dumfries are as set out in a decree entered in Prince William County Circuit Court Law Case No. 2285, styled "In the Matter of the Annexation of Part of the Territory Known as Dumfries *now known as Potomac* Magisterial District to the Town of Dumfries," on the 30th day of December, 1966. Future boundaries shall be the same unless changed in accordance with law.

§ 3.01. Election, qualification and term of office.

(a) The Town of Dumfries shall be governed by a town council elected at large and composed of a mayor and six other members, all of whom shall be qualified voters of the town. Candidates for town offices shall not be identified on the ballot by political affiliation. In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § 24.2-506 of the Code of Virginia (1950), as amended.

(b) On the ~~first~~ *first* Tuesday in ~~May 1994~~ *after the first Monday in November 2022*, and every four years thereafter, there shall be elected by the qualified voters of the town a mayor and three council members from the town at large. On the ~~first~~ *first* Tuesday in ~~May 1996~~ *after the first Monday in November 2020*, and every four years thereafter, there shall be elected three council members from the town at large.

(c) The persons elected shall take office on ~~July~~ *January* 1 succeeding their election and remain in office until their successors have qualified and taken office.

§ 6.02. Submission of budget and budget message.

On or before the ~~fifteenth~~ *first* day of April of each year, a budget for the ensuing fiscal year and an accompanying message shall be submitted to the council.

§ 6.04. Budget.

(a) The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the council may require. The budget shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed tax levies, user fees, assessments, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual income and expenditures of the preceding fiscal year.

(b) The total of proposed expenditures shall not exceed the total of estimated available funds.

(c) *The budget each year will have a midyear review held in February.*

§ 10.03. Citation of act.

This act may for all purposes be referred to or cited as the Charter for the Town of Dumfries, Virginia, of ~~2003~~ *2018*.

## CHAPTER 312

*An Act to amend and reenact § 2.2-2001.3 of the Code of Virginia, relating to the Department of Veterans Services; Virginia War Memorial division.*

[H 2672]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-2001.3 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-2001.3. Virginia War Memorial division.**

A. The Virginia War Memorial is established as a division within the Department of Veterans Services. The Virginia War Memorial, its grounds, and all its contents, furnishings, funds, endowments, and other property, now owned or hereafter acquired, are and shall remain property of the Commonwealth. The Commissioner shall maintain administrative and financial control of the Virginia War Memorial and its subsidiaries, including adopting regulations for the use of and visitation to the Memorial. Regulations of the Commissioner shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

B. The mission of the Virginia War Memorial shall be to honor patriotic Virginians who rendered faithful service and sacrifice in the cause of freedom and liberty for the Commonwealth and the nation in time of war, honor all of Virginia's veterans, preserve their history, educate the public, and inspire patriotism in all Virginians.

C. The Department shall, with the advice of the ~~Virginia War Memorial~~ *Board of Veterans Services*, adopt policies governing (i) the programs and activities that may and should be carried out at the Memorial, (ii) the use of and visitation to the Memorial, and (iii) fees for the use of the Memorial.

D. ~~The Beginning July 1, 2019, the names and homes of record designation of all Virginians "Missing in Action" as a result of the Vietnam War and all Virginians "Killed in Action" (i) as a result of military operations against terrorism, (ii) as a result of a terrorist act, or (iii) in any armed conflict after December 6, 1941, shall be placed on the Shrine of Memory on the grounds of the Virginia War Memorial after July 1, 2018. In the case of a Virginian "Killed in Action," the name and home of record designation shall be placed on the Virginia War Memorial. New names shall be added to the Shrine of Memory within one year of the date of confirmed death. No individual who does not meet these criteria shall be honored on the Shrine of Memory.~~

E. ~~The names and homes of record designation of all Virginians "Missing in Action" as a result of the Vietnam War and all other Virginians who served honorably but do not meet the criteria in clause (i), (ii), or (iii) of subsection D shall be honored at the Virginia War Memorial.~~

F. To preserve the dignity of military medals authorized by the U.S. Department of Defense and the memory of those who have rendered faithful service and sacrifice in the cause of freedom and liberty, the Virginia War Memorial division of the Department shall be vested with the full authority to take possession of military medals, ribbons, or certificates that come into the possession of the Commonwealth for which the ownership is unknown until such time as the true owner is able to take possession. The Virginia War Memorial division of the Department shall make reasonable efforts, based on available resources, to determine the rightful owner and return any military medal, ribbon, or certificate that comes into its possession pursuant to this section.

~~F.~~ G. The Commissioner shall provide supervision of the Virginia War Memorial ~~Education~~ Foundation and any other nonprofit corporation established as an instrumentality to provide fundraising for the Memorial and assist in the details of administering the affairs of the Memorial.

## CHAPTER 313

*An Act to amend and reenact § 4, as amended, §§ 5 and 6, §§ 7, 8, and 9, as amended, and § 11 of Chapter 364 of the Acts of Assembly of 1942, which provided a charter for the Town of Kenbridge in Lunenburg County, relating to town council, elections, chief of police, and powers of the town.*

[H 2740]

Approved March 8, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 4, as amended, §§ 5 and 6, §§ 7, 8, and 9, as amended, and § 11 of Chapter 364 of the Acts of Assembly of 1942 are amended and reenacted as follows:****§ 4. Composition of council and vacancies.**

The council shall consist of a mayor and six other electors of the town, who shall be denominated the council of the town. The mayor and ~~councilmen~~ *council members* shall be elected for a term of ~~two~~ *four* years at a general election held for that purpose on the first Tuesday of May ~~of every even numbered year as provided by law~~, and the persons so elected shall enter upon the duties of their office on the first day of July next succeeding their election, and shall continue in office until their successors are qualified.

Every person elected a ~~councilman~~ *council member* of the town, shall, on or before the day on which he enters upon the performance of his duties, qualify by taking and subscribing an oath faithfully to execute the duties of his office to the best of his judgment; and the person elected mayor shall take and subscribe the oath prescribed by law for State officers.

Any such oath of ~~councilmen~~ *council members* and mayor may be taken before any officer authorized by law to administer oaths, and shall, when so taken and subscribed, be forthwith returned to the clerk of the town, who shall enter the same on record in the minute book of the council.

The ~~councilmen~~ *council* shall be the judge of the election, qualification, and returns of its members; may fine members for disorderly behavior; and, with the concurrence of two-thirds of its membership, expel a member. If any person ~~be returned is adjudged disqualified or is expelled,~~ *the vacancy shall be filled by appointment by the council, a new election to fill the vacancy shall be held in the town on such date as the council may prescribe,* except that where there shall be vacancies in the majority of the council; ~~the vacancies shall be filled as provided by law~~ *the circuit court of Lunenburg County shall fill such vacancies.* Any vacancy occurring otherwise during the term for which any of the persons have been elected may be filled by the council by the appointment of anyone eligible for such office. A vacancy in the office of the mayor may be filled by the council from the electors of the town.

*The mayor and council serving at the time of the passage of this act shall continue in office until their successors are elected and qualified. An election shall be held in May of 2020, and every four years thereafter, to elect three council members. An election shall be held in May of 2022, and every four years thereafter, to elect three other council members. An election shall be held for mayor in May of 2020 and every four years thereafter. The council shall declare by ordinance or resolution which three council member seats are up for election in 2020 and which three council member seats are up for election in 2022.*

§ 5. Qualification of mayor and ~~councilmen~~ *council members.*

Any person; qualified to vote in the town in the election in which he *or she* offers shall be eligible to the office of mayor or ~~councilman~~ *council member.*

§ 6. Disqualification of mayor and ~~councilmen~~ *council members.*

Any member of the council who shall have been convicted of a felony while in office shall forfeit his *or her* office.

§ 7. Organization of meetings of council.

~~At eight o'clock post meridian on the first day in July following a regular municipal election, or if such day be a Saturday, Sunday or legal holiday, then on the day following, the council shall meet at the usual place for holding its meetings, at which time the newly elected mayor and councilmen, after first having taken the oaths prescribed by law, shall assume the duties of their offices. At the regularly scheduled June town council meeting immediately following a regular municipal election, the council shall meet at the usual place for holding its meetings, at which time any newly elected mayor and council members shall take the oath of office. On July 1 immediately following a regular municipal election, such mayor and council members shall assume the duties of their offices.~~ At its first meeting the council shall elect from its members a person to serve as vice-mayor for the following two years. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution. The mayor or any three members of the council may call special meetings of the council at any time after giving at least twelve hours written notice to the other members of the purpose, place, and time of such special meeting. Special meetings may also be held at any time without notice, provided all members of the council attend.

A majority of all members shall constitute a quorum, but a smaller number may adjourn from time to time, and compel the attendance of absentees.

The council shall fix the compensation of its members and of all other officers and/or agents and employees of the town.

§ 8. Powers of mayor.

The mayor shall be the chief executive officer of the town. He *or she* shall control the police of the town, and may appoint special police officers when he *or she* deems it necessary.

All bylaws and ordinances, before they become valid and operative, shall have his *or her* signature, but the mayor shall vote only in cases where the vote is a tie.

In the absence or disability of the mayor, or in the event of the death or resignation of the mayor, his *or her* duties shall be performed by the vice-mayor.

In addition to the powers and duties herein specifically enumerated, the mayor shall be vested with all such other powers and charged with all such other duties, not in conflict herewith, as are provided the Constitution and general laws of the State.

§ 9. Law-enforcement officers.

There shall be a chief of police for the town who shall be elected by the council, and who shall serve at the will and pleasure of the council.

The ~~chief of police for~~ *police chief shall be the chief police officer* of the town and shall perform such duties and be invested with such authority as ~~was provided by the common law for constables~~ *is provided by the general law for sergeants or police chiefs of towns,* and shall perform such other duties and be invested with such other authority as the council may prescribe.

§ 11. Powers of the town.

A. *The Town of Kenbridge shall have and may exercise all powers that are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive and shall have, exercise, and enjoy all the rights, immunities, powers, and privileges, and be subject to all the duties and obligations, now appertaining to and incumbent on the town as a municipal corporation.*

B. *The powers set forth in §§ 15.2-1100 through 15.2-1133 of the Code of Virginia, as amended, are hereby conferred on and vested in the Town of Kenbridge.*

C. *The powers of eminent domain as set forth in Titles 15.2 and 25.1 of the Code of Virginia, as amended, are hereby conferred upon the Town of Kenbridge.*

D. In addition to the powers mentioned in this section and in § 1 hereof of this charter, the said Town of Kenbridge shall have the following powers:

First: To raise annually by taxes and assessments in said town such sums of money as the council thereof shall deem necessary for the purposes of said town, and in such manner as said council shall deem expedient, in accordance with the Constitution of this State and the United States, and of the general laws of the State in pursuance thereof.

Second: To impose special or local assessments for local improvements and enforce payment thereof, subject however, to such limitations prescribed by the Constitution of Virginia as may be in force at the time of the imposition of such special or local assessments.

Third: To contract debts, borrow money, and make and issue evidence of indebtedness.

Fourth: To expend the money of the town for all lawful purposes.

Fifth: To acquire by purchase, gift, devise, condemnation or otherwise, property, real or personal, or any estate or interest therein, within or without said town for any of the purposes of the town; and to hold, improve, sell, lease, or dispose of the same or any part thereof, including any property now owned by the town.

Sixth: To own, operate, and maintain water works and to acquire within or without said town such water lines, property rights, and riparian rights as the council of said town may deem necessary for the purpose of providing an adequate water supply for said town, and of piping or conducting the same into the town; to lay all necessary mains and service lines, either within or without the corporate limits of said town with which to distribute said water, and to charge and collect water rents therefor; to erect and maintain all necessary dams, pumping stations, filter plants, or other works in connection therewith; to make reasonable rules and regulations for promoting the purity of its said water supply and for protecting the same from pollution; and to do all things necessary in order to provide an adequate public water system for the town.

Seventh: To establish, construct, and maintain sanitary sewers, sewer lines, sewerage disposal plants and systems, and to require the owners or occupiers of real estate within the corporate limits of the town, which may front or abut on the line of any such sewer system to make connection therewith, and to use such sewer facilities as may be furnished by the town, under such ordinances and regulations as the council may deem necessary or proper for the proper disposal of sewerage and to improve and secure sanitary conditions; to charge, assess and collect reasonable fees, rentals, or assessments or costs of service for connecting with and using such sewers, and to make regulations for the use, enjoyment, protection, and care of such sewers and sewer systems; and the power to enforce the observance of all such ordinances and regulations by the imposition and collection of fines and penalties for noncompliance thereof, as other fines and penalties for violation for the ordinances of the town are collected.

Eighth: In every case where a street, alley, park or public property of the town has been, or shall be, occupied or encroached upon by a fence, building, porch, projection, or otherwise, without first having obtained consent thereto from the town council or a franchise thereof, such occupancy or encroachment shall be deemed a nuisance, and the owner or occupant of the premises encroaching, upon conviction of so doing, shall be fined not less than five (\$5.00) nor more than fifty (\$50.00) dollars, and each day's continuance of the said occupancy or encroachment shall constitute a separate offense, such fine to be recovered in the name of the town and for its use, and the town council may require the owner of the premises encroaching, if known, or if not known, the occupant thereof, to remove the encroachment within a reasonable time, and if such removal be not made within the time prescribed by the council, to cause the encroachment to be removed and collect from the owner, or if the owner be not known, the occupant, all reasonable charges therefor with costs, by the same process that they are authorized by law to collect taxes.

No encroachment upon any street or alley, however long continued, shall constitute any adverse possession to, or confer any rights upon the person claiming thereunder, as against the town.

Ninth: To issue bonds in such manner and for such purposes as are provided in ~~Chapter one hundred and twenty-two of the Code of Virginia~~ by general law.

Tenth: To inspect, test, measure, and weigh any commodity or commodities or articles of consumption for use within the town; and to establish, regulate, license, and inspect weights, meters, measures and scales.

Eleventh: To license and regulate the holding and location of shows, circuses, public exhibitions, carnivals, and other similar shows or fairs, or prohibit the holding of the same, or any of them, within the town or within one mile thereof.

Twelfth: To require every owner of motor vehicles residing in the said town, on a date to be designated by the council, to annually register such motor vehicles and to obtain a license to operate the same by making application to the treasurer of the said town, or such other person as may be designated by the council of the said town to issue said license and to require

the said owner to pay an annual license fee therefor to be fixed by the council; provided that the said license fee shall not exceed the amount charged by the State on the said machine.

Thirteenth: To construct, maintain, regulate and operate public improvements of all kinds, including municipal and other buildings, armories, sewage disposal plants, jails, comfort stations, markets, and all buildings and structures necessary or appropriate for the use and proper operation of the various departments of the town; and to acquire by condemnation or otherwise, all lands, riparian and other rights, and easements necessary for such improvements, or any of them, either within or without the town, and to construct, maintain, and aid therein roads and bridges to any property owned by the said town and situated beyond the corporate limits thereof, and to acquire land necessary for the aforesaid purposes, by condemnation or otherwise.

Fourteenth: To charge and collect fees for permits to use public facilities and for public services and privileges. The said town shall have the power and right to charge a different rate for any service rendered or convenience furnished to citizens without the corporate limits from the rates charged for similar service to citizens within the corporate limits.

Fifteenth: To compel the abatement and removal of all nuisances within the town or upon property owned by the town beyond its limits at the expense of the person or persons causing the same, or the owner or occupant of the ground or premises whereon the same may be, and to collect said expense by suit or motion or by distress and sale; to require all lands, lots, or other premises within the town, to be kept clean and sanitary and free from stagnant water, weeds, filth and unsightly deposits, or to make them so at the expense of the owners or occupants thereof, and to collect said expense by suit or motion or by distress and sale; to regulate, or prevent slaughter houses or other noisome or offensive business within the said town, the keeping of hogs or other animals, poultry or other fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the town; to compel the abatement of smoke and dust and prevent unnecessary noise; to regulate the location of stables and the manner in which they shall be kept and constructed; to regulate the location, construction, operation, and maintenance of billboards, signs, advertising, and generally to define, prohibit, abate, suppress, and prevent all things detrimental to the health, morals, aesthetic, safety, convenience, and welfare of the inhabitants of the town, and to require all owners or occupants of property having sidewalks in front thereof to keep the same clean and sanitary, and free from all weeds, filth, unsightly deposits, ice and snow.

Sixteenth: To provide for regular and safe construction of houses in the town for the future, and to provide a building code for the town, to provide setback lines on the streets beyond which no building may be constructed, to require the standard of all dwelling houses to be maintained in residential sections in keeping with the majority of residences therein, and to require the standard of all business houses to be maintained in business sections in keeping with the majority of the business houses therein.

Seventeenth: To prevent any person having no visible means of support, paupers, and persons who may be dangerous to the peace and safety of the town, from coming to said town from without the same; and also to expel therefrom any such person who has been in said town less than twelve months.

Eighteenth: To restrain and punish drunkards, vagrants, and street beggars, to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill-fame and gambling houses; to prevent and punish lewd, indecent and disorderly exhibitions in said town; and to expel therefrom persons guilty of such conduct who have not resided therein as much as one year.

Nineteenth: To offer and pay rewards for the apprehension and conviction of criminals.

Twentieth: To enjoin and restrain the violation of any town ordinance or ordinances, although a penalty is provided upon conviction of such violation.

Twenty-first: In so far as not prohibited by general law, to pass and enforce all by-laws, rules, regulations and ordinances which it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health and protection of its citizens of their property and to do such other things and pass such other laws as may be necessary or proper to carry into full effect, all powers, authority, capacity, or jurisdiction, which is or shall be granted to or vested in said town, or in the council, court, or officers thereof, or which may be necessarily incident to a municipal corporation.

Twenty-second: To do all things whatsoever necessary or expedient and lawful to be done for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce, or industries of the town, or its inhabitants.

Twenty-third: To prescribe any penalty for the violation of any town ordinance, rule, or regulation or of any provision of this charter, not exceeding five hundred dollars fine or twelve months' imprisonment in jail, or both.

Twenty-fourth: To own, operate and maintain electric light works, either within or without the corporate limits of the town and to supply electricity whether the same be generated or purchased by said town, to its customers and consumers both without and within the corporate limits of said town, at such price and upon such terms as it may prescribe, and to that end it may contract and purchase electricity from the owners thereof upon such terms as it may deem expedient.

Twenty-fifth: To exercise the power of eminent domain within this State with respect to lands and machinery, equipment or improvements thereon, for any lawful purposes of the said town.

Twenty-sixth: Except when prohibited by general law, the town may levy a tax or a license on any person, firm or corporation pursuing or conducting any trade, business, profession, occupation, employment or calling whatsoever within

the boundaries of the town, whether a license may be required therefor by the State or not, and may provide penalties for any violation thereof.

Twenty-seventh: A lien shall exist on all real estate within the corporate limits for taxes, levies, and assessments in favor of the town, together with all penalties and interest due thereon, assessed thereon from the commencement of the year for which the same were assessed and the procedure for collecting the said taxes, for selling real estate for town taxes and for the redemption of real estate sold for town taxes shall be the same as provided in the general law for the State, to the same extent as if the provisions of said general law were herein set out at length. The said town shall have the benefit of all other and additional remedies for the collection of town taxes which are now or hereafter may be granted or permitted under the general law.

Twenty-eighth: To extinguish and prevent fires, and to establish, regulate and control a fire department or division, to regulate the size, height, materials, and construction of buildings, fences, walls, retaining walls, and other structures hereafter erected in such a manner as the public safety and convenience may require; to remove and require to be removed or reconstructed any building, structure, or addition thereto, which by reason of dilapidation, defect of structure, or other cause may be dangerous to life or property, or which may be erected contrary to law; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, added to, enlarged, or repaired and to direct that any or all buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron, or other fireproof material; to construct dams across any of the streams within said town for the purpose of providing an adequate supply of water with which to combat fires, and to prohibit the release of water contained in such dams within said town as may be now owned or hereafter constructed by others, in times of drought, in order to provide an adequate supply of water with which to combat fires; and to enact such laws as may be necessary to provide for the protection of the citizens and property of the town from fire, or for securing the safety of persons from fires in halls and buildings used for public assemblies.

Twenty-ninth: To regulate the keeping of gunpowder, nitro-glycerin, or other explosive or combustible substances; and to regulate or prohibit the exhibition or possession of fireworks, the discharge of fire arms, and the making of bonfires within the said town.

Thirtieth: To prohibit from and punish minors for frequenting, playing in, and loitering in any public pool room, billiard parlor, or bowling alley, and to punish any proprietor or agent thereof for permitting same.

Thirty-first: Except when prohibited by general law, to prohibit any person, firm, or corporation from pursuing or conducting any trade, business, profession, occupation, employment, or calling within the boundaries of the town on the Sabbath.

Thirty-second: Except when prohibited by general law the said town shall have the power to regulate the speed and manner in which all vehicles, motordriven or otherwise, shall operate in the said town.

## CHAPTER 314

*An Act to amend and reenact § 2.2-2001.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 23 of Chapter 24 of Title 2.2 a section numbered 2.2-2469.1, relating to the Virginia War Memorial Board; transfer of duties and sunset.*

[H 2744]

Approved March 8, 2019

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

**1. That § 2.2-2001.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 23 of Chapter 24 of Title 2.2 a section numbered 2.2-2469.1 as follows:**

#### **§ 2.2-2001.3. Virginia War Memorial division.**

A. The Virginia War Memorial is established as a division within the Department of Veterans Services. The Virginia War Memorial, its grounds, and all its contents, furnishings, funds, endowments, and other property, now owned or hereafter acquired, are and shall remain property of the Commonwealth. The Commissioner shall maintain administrative and financial control of the Virginia War Memorial and its subsidiaries, including adopting regulations for the use of and visitation to the Memorial. Regulations of the Commissioner shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

B. The mission of the Virginia War Memorial shall be to honor patriotic Virginians who rendered faithful service and sacrifice in the cause of freedom and liberty for the Commonwealth and the nation in time of war, honor all of Virginia's veterans, preserve their history, educate the public, and inspire patriotism in all Virginians.

C. The Department shall, with the advice of the ~~Virginia War Memorial~~ Board of Veterans Services, adopt policies governing (i) the programs and activities that may and should be carried out at the Memorial, (ii) the use of and visitation to the Memorial, and (iii) fees for the use of the Memorial.

D. The names and homes of record designation of all Virginians "Missing in Action" as a result of the Vietnam War and all Virginians "Killed in Action" (i) as a result of military operations against terrorism, (ii) as a result of a terrorist act, or (iii) in any armed conflict after December 6, 1941, shall be placed on the Virginia War Memorial after July 1, 2018. In the

case of a Virginian "Killed in Action," the name and home of record designation shall be placed on the Virginia War Memorial within one year of the date of confirmed death.

E. To preserve the dignity of military medals authorized by the U.S. Department of Defense and the memory of those who have rendered faithful service and sacrifice in the cause of freedom and liberty, the Virginia War Memorial division of the Department shall be vested with the full authority to take possession of military medals, ribbons, or certificates that come into the possession of the Commonwealth for which the ownership is unknown until such time as the true owner is able to take possession. The Virginia War Memorial division of the Department shall make reasonable efforts, based on available resources, to determine the rightful owner and return any military medal, ribbon, or certificate that comes into its possession pursuant to this section.

F. The Commissioner shall provide supervision of the Virginia War Memorial Education Foundation and any other nonprofit corporation established as an instrumentality to provide fundraising for the Memorial and assist in the details of administering the affairs of the Memorial.

**§ 2.2-2469.1. Sunset.**

*The provisions of this article shall expire on January 1, 2020.*

**2. That the provisions of this act amending § 2.2-2001.3 of the Code of Virginia shall become effective on January 1, 2020.**

### CHAPTER 315

*An Act to provide a new charter for the Town of Capron in Southampton County and to repeal Chapter 188 of the Acts of Assembly of 1914, which provided a charter for the Town of Capron.*

[H 2808]

Approved March 8, 2019

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

1.

*CHARTER  
FOR THE  
TOWN OF CAPRON.  
CHAPTER 1.  
INCORPORATION AND BOUNDARIES.*

**§ 1.1. Incorporation.**

A. *Be it enacted by the General Assembly of Virginia that the Town of Capron, in the County of Southampton, as the same has heretofore been or may hereafter be laid off in lots, streets, and alleys, has been made a town corporate by the name of the "Town of Capron," and by that name has exercised the powers conferred upon towns by the General Assembly and the Code of Virginia, and is subject to all the provisions of said Code, and to all laws now in force, or which may hereafter be enacted in reference to the government of towns of less than 5,000 inhabitants, so far as the same are not inconsistent with the provisions of this act.*

B. *The inhabitants of the territory comprised within the present limits of the Town of Capron, hereinafter referred to as "Town," as such limits are now or may hereafter be altered and established by law, constitutes and continues a body politic and corporate, known and designated as the "Town of Capron," and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and have a corporate seal that it may alter, renew, or amend at its pleasure by proper ordinance.*

**§ 1.2. Boundaries.**

*The territory embraced within the Town is that territory in the County of Southampton, Virginia, established in the Acts of the General Assembly, and all Acts amendatory thereof, by annexation and by the order of the Circuit Court of Southampton County as follows, beginning at a point on the Courtland road about 70 yards northeast of the intersection of said road with Main Street; thence in a westerly direction along said Courtland road to the northeast corner of J.N. Applewhite's residence lot; thence along said Applewhite's lot in a westerly direction a straight line a distance of 70 yards; thence in a southerly direction parallel with Main Street and 70 yards distance from same to a point within 70 yards of the northern line of the Southern Railway's right-of-way; thence westerly parallel with the said right-of-way and 70 yards north of same to Church Street; thence westerly across said Church Street and along the northern boundary of said right-of-way to a point 140 yards west of said Church Street; thence in a southeasterly direction across said right-of-way, parallel with Church Street and 140 yards west of same to a point 140 yards west of the intersection of Church and Main Streets; thence south in a line 140 yards west of the western boundary of Main Street and parallel with the same to the new road; thence easterly along said new road across Main Street to a point 140 yards east of the eastern boundary of Main Street and opposite the intersection of the new road and Main Street; thence in a northerly direction along a line parallel with Main Street and 140 yards east of the eastern boundary of same to a point within 140 yards of Elm Avenue; thence in a easterly direction parallel with Elm Avenue and 140 yards opposite a culvert in said Avenue, thence in a northerly direction across said Avenue at culvert to the north side of the Southern Railway's right-of-way; thence westerly along said*

right-of-way to a point 70 yards east of the eastern boundary line of Main Street; thence in a northerly direction parallel with said Main Street and 70 yards east of same to the Courtland road, the point of beginning.

## CHAPTER 2.

## POWERS.

## § 2.1. General grant of powers.

The Town shall have and may exercise all powers that are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this Charter shall be held to be exclusive, and the Town shall have, exercise, and enjoy all the rights, immunities, powers, and privileges and be subject to all the duties and obligations now pertaining to and incumbent on the Town as a municipal corporation.

## § 2.2. Adoption of powers granted by the Code of Virginia.

The powers granted in § 2.1 of this Charter include specifically, but are not limited to, all powers set forth in Chapter 11 (§ 15.2-1100 et seq.) of Title 15.2 of the Code of Virginia.

## CHAPTER 3.

## MAYOR AND TOWN COUNCIL.

## § 3.1. Composition of Town Council; election qualification and term of office of Mayor and Council Members.

The Town shall continue to be governed by a Mayor and a Town Council composed of six Council Members, all of whom shall be qualified electors of the Town and shall serve for terms of two years and until their successors are appointed or elected and qualified as provided by law.

## § 3.2. When terms of office to begin.

Terms of office for Mayor and Council Members shall begin on the first day of July next following their election.

## § 3.3. Oath of office.

The Mayor and Council Members shall each, before entering upon the duties of their office, make oath or affirmation that they will truly, faithfully, and impartially discharge the duties of their office to the best of their abilities, so long as they shall continue therein. The Clerk of the Circuit Court of Southampton County, Virginia, shall administer such oath.

## § 3.4. Election and term of Vice Mayor.

The Town Council, by a majority vote at the first meeting following each council election, shall elect from its members a Vice Mayor who shall serve at the discretion of the Town Council.

## § 3.5. Vacancies in office of Mayor and Council Members.

Vacancies in the office of the Mayor and Council Members shall be filled for the unexpired portion of the term by a majority vote of the Council Members within 90 days after the vacancy occurs. Persons so elected to fill vacancies shall be qualified voters and residents of the Town.

## § 3.6. Town Council a continuing body.

The Town Council shall be a continuing body, and no measures pending before such body or any contract or obligation incurred shall abate or be discontinued by reason of the expiration of the term of office or removal of any of its members.

## § 3.7. Powers and duties of Mayor and Vice Mayor.

The Mayor shall be the chief executive officer of the Town and shall have and exercise all power and authority conferred by general law not inconsistent with this Charter. The Mayor shall be recognized as the head of the Town government for all ceremonial purposes. The Mayor shall preside over the meetings of the Town Council and perform such other duties as may be prescribed by this Charter, Town ordinances, the general laws, and such as may be imposed by the Town Council consistent with the office. The Mayor shall be entitled to vote upon measures pending before the Town Council only in the event of a tie. The Mayor shall see that the duties of the various Town officers are faithfully performed. The Mayor shall see that peace and order are preserved and that persons and property are protected within the Town and the corporate limits thereof. The Mayor may issue all warrants charging violation of any ordinances of the Town. During the absence of the Mayor or the inability of the Mayor to act, the Vice Mayor shall possess the powers and discharge the duties of the Mayor.

## § 3.8. Absence or inability of Mayor and Vice Mayor.

If both the Mayor and Vice Mayor are absent or unable to act, the Town Council shall, by a majority vote of the members present, elect from its members a person to serve as acting Mayor at that meeting or until either the Mayor or Vice Mayor is present and able to act. Whenever it is necessary to elect an acting Mayor pursuant to this section, the acting Mayor shall possess the powers and discharge the duties of the Mayor from the time of election until the Mayor is present and able to act. The Town Clerk or acting Town Clerk shall call the meeting of the Town Council to order and shall preside until an acting Mayor is elected. This shall not be construed to vest in the Town Clerk any of the powers and duties of the Mayor, except as expressly stated in this section.

## § 3.9. General powers and duties of the Town Council.

A. The Town Council shall be responsible for the determination of all matters of policy for the Town and for ensuring the implementation thereof.

B. The Town Council shall have the full powers and authority that are now or may hereafter be granted to councils of towns by the general laws of the Commonwealth of Virginia and by this Charter.

C. The Town Council shall have the power to make motions, adopt ordinances and resolutions, enforce the same, and exercise all powers granted by this Charter and by the laws of the Commonwealth of Virginia.

D. The Town Council may create and appoint such boards, bodies, departments, officers, or consultants, define their duties, and set compensation as may be permitted or required by this Charter, Town ordinances, or the general laws of the Commonwealth of Virginia.

E. The Town Council shall have the power to establish rules for the collection of garbage and other debris and the disposal of offal, ashes, leaves, limbs, garbage, carcasses of unclaimed dead animals, and other refuse; to make reasonable charges therefor; to acquire and operate equipment for the disposal of such materials; to ensure that operators are legally licensed to operate such equipment; and to contract and regulate the collection and disposal thereof.

F. The Town Council shall have the power to acquire by purchase, gift, devise, condemnation, or otherwise property, real or personal, or any estate therein within or without the Town for any legal purpose of the Town and to hold, improve, lease, sell, or otherwise dispose of the same or any part thereof, including any property owned by the Town.

G. The Town Council shall have the power to construct, maintain, regulate, and operate Town property of all kinds, including municipal and other buildings.

H. The Town Council shall have the power to grant franchises for public utilities in accordance with the provisions of the Constitution of Virginia, Town ordinances, and general laws, provided, however, that the Town shall at all times have the power to construct, own, operate, manage, sell, encumber, or otherwise dispose of, either within or without the Town, any and all public utilities for the Town and to sell the services thereof, any existing franchises notwithstanding.

I. The Town Council shall have the following powers to regulate and prohibit public nuisances:

1. To regulate and compel the abatement and removal of nuisances within the Town, or upon property owned by the Town beyond its limits, at the expense of the person or persons causing the same or of the owner or occupant of the grounds or premises whereon the same may be, and to collect said expenses by suit or motion, or by distress and sale, including transportation through streets, smoke and dust, noise, things detrimental to public health, and sidewalks.

2. To require all lands, lots, and other premises within the Town to be kept clean, sanitary, and free from stagnant water, weeds, filth, and unsightly deposits, to make them so at the expense of the owners and occupants thereof, and to collect said expenses by suit, lien, and by distress and sale.

3. To regulate and prohibit animals being kept or running at large in the Town or any portion thereof.

4. To regulate or prohibit the conduct of any dangerous, offensive, or unhealthful business, trade, or employment; the transportation of any offensive substance; the manufacture, storage, transportation, possession, and use of any explosive or flammable substance; and the use and exhibition of fireworks and the discharge of firearms. The Town Council may regulate the maintenance of safety devices on storage equipment for such substances or items as provided by the Constitution of Virginia and § 15.2-1113 of the Code of Virginia, as amended from time to time.

5. To prohibit indecent and disorderly conduct within the Town limits.

6. To prohibit and punish for mischievous, wanton, or malicious damage to public property and private property.

J. The Town Council shall have the power to offer and pay rewards for the apprehension and conviction of criminals.

K. The Town Council shall have the power to provide fire protection, suppression, and public safety.

L. The Town Council shall have the power to name or alter the names of streets within the Town limits.

M. The Town Council shall have the power to establish, regulate, and maintain parks, playgrounds, and public grounds and to keep them lighted and in good repair.

N. The Town Council shall have the power to plant, maintain, or remove shade trees and shrubs along the streets and upon such public grounds to prevent the obstruction of such streets and highways.

O. The Town Council shall have the power to take such actions as to promote the beautification of the Town.

P. The Town Council shall have the power to extend or contract the corporate limits of the Town as provided by the Constitution and general laws of the Commonwealth of Virginia in force at the time.

Q. The Town Council shall have the power to put into force and effect by ordinance any and all of the foregoing powers and any other powers and authorities of the said council given by this Charter, Town ordinances, or any state law, or any amendments thereto; and to prescribe punishment for the violation of any Town ordinance, rule, or regulation, or of any provision of this Charter.

R. The Town Council shall have the power to regulate the size and improvement of lots or parcels of land within the Town limits, including the authority to adopt zoning ordinances and appoint a planning commission, a board of zoning appeals, and a zoning administrator as permitted by the Constitution and general laws of the Commonwealth of Virginia.

S. The Town Council shall have the power to own, operate, and regulate a water system, sewage system, or both.

T. The Town Council shall have the power to own, operate, and regulate a Town cemetery, a Town dump, and other lands outside the Town limits.

§ 3.10. Meetings of Town Council.

The Town Council shall hold at least one public meeting each month with a time and date being fixed by ordinance. A journal shall be kept of its official proceedings. The Town Clerk upon the request of the Mayor or any three Council Members shall call special meetings. Reasonable notice of such special meeting shall be given to each Council Member and the Mayor as set forth in the Constitution of Virginia and Title 15.2 of the Code of Virginia, as amended from time to time.

§ 3.11. Rules of order and procedure.

The Town Council shall establish its own rules of order and procedure and may punish its own members and other persons for violations thereof.

§ 3.12. *Town Council to fix salaries.*

*The Mayor and Town Council may receive a stipend for each regular monthly meeting attended or a per diem allowance for services, the amount thereof to be fixed by the Town Council during the budget process of an election year.*

CHAPTER 4.

APPOINTIVE OFFICERS.

§ 4.1. *Appointment.*

*The Town Council may appoint such officers of the Town as it deems necessary. Such officers may include, but shall not be limited to, a Town Clerk, a Town Treasurer, a Supervisor of Public Works, and a Town Sergeant. Officers appointed by the Town Council shall perform such duties as may be specified in this Charter, by the laws of the Commonwealth of Virginia, by Town ordinances, and by the Town Council.*

§ 4.2. *Terms of office.*

*Officers, deputies, and assistant officers appointed by the Town Council shall serve at the will and pleasure of the Town Council.*

§ 4.3. *Appointment of one person to more than one office.*

*The Town Council in its discretion may appoint the same person to more than one appointive office, subject to such limitations as are set forth in the Constitution of Virginia and Title 15.2 of the Code of Virginia, as amended from time to time.*

§ 4.4. *Residence of officers and employees.*

*Any appointive officer or employee of the Town may be appointed and serve whether the appointee be a resident or nonresident of the Town.*

CHAPTER 5.

FINANCIAL PROVISIONS.

§ 5.1. *Fiscal year.*

*The fiscal year of the Town shall begin July 1 of each year and end on June 30 of the year following, but the same may be changed by action of the Town Council where not inconsistent with the laws of the Commonwealth of Virginia.*

§ 5.2. *Assessment of taxes.*

*A. The Town Council shall provide to Southampton County's Commissioner of Revenue current Town tax rates for personal and real estate property within the Town limits and collect the same to any extent not prohibited by the laws of the Commonwealth of Virginia, such rates to be established by the Town Council.*

*B. The Town shall have the power to impose a business license fee and shall collect a percentage of gross sales reported to the Town Clerk by each business annually, such rate to be established by the Town Council.*

§ 5.3. *Registration of motor vehicles.*

*The Town shall have the power to impose license requirements and collect the same to any extent not prohibited by the laws of the Commonwealth of Virginia.*

§ 5.4. *Other revenue-generating activity.*

*The Town shall have the power to engage in other revenue-generating activities to any extent not prohibited by the laws of the Commonwealth of Virginia.*

§ 5.5. *Actions against the Town for damages, etc.*

*The Town Council is authorized and empowered to compromise any claim for damages or any suit or action brought or threatened against the Town.*

§ 5.6. *Creation of debt; election on issuance of bonds.*

*The Town Council shall have the power to borrow money, encumber the assets of the Town, and issue bonds under any provisions of the Constitution of Virginia and general laws of the Commonwealth of Virginia.*

§ 5.7. *Bonds of officers and employees.*

*The Town Council may require any or all Town officers and employees to give bond for the faithful and proper discharge of their duties. As used herein, "officers and employees" shall include officers, employees, and consultants paid solely or partly by the Town. The Town may pay a premium on such bonds from the Town funds and may provide for individual surety bonds or for a bond covering all officers and employees or any group thereof. The bond shall be payable to the Town as its interest may appear in the event of a breach of the conditions thereof.*

CHAPTER 6.

MISCELLANEOUS.

§ 6.1. *Elections governed by state law.*

*All Town elections shall be held and conducted in the manner prescribed by the laws of the Commonwealth of Virginia.*

§ 6.2. *Present ordinances continued in effect.*

*All ordinances now in force in the Town, not inconsistent with this Charter, shall be and remain in force until altered, amended, or repealed by the Town Council.*

§ 6.3. *Applicability outside the Town.*

*All ordinances of the Town, so far as they are applicable, shall apply on, in, or to all land, buildings, and structures owned by or leased or rented to the Town and located outside the Town.*

§ 6.4. Severability of provisions.

If any clause, sentence, paragraph, or part of this Charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Charter, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**2. That Chapter 188 of the Acts of Assembly of 1914 is repealed.**

### CHAPTER 316

*An Act to amend and reenact § 3, as amended, of Chapter 571 of the Acts of Assembly of 1997, which provided a charter for the Town of Grottoes in Rockingham County, relating to mayor.*

[H 2809]

Approved March 8, 2019

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

**1. That § 3, as amended, of Chapter 571 of the Acts of Assembly of 1997 is amended and reenacted as follows:**

§ 3. Election of the mayor and council persons; vacancies; time of meeting; appointment of vice-mayor.

A. Notwithstanding the provisions of § 24.2-222 of the Code of Virginia, on the first Tuesday in November in each even-numbered year, there shall be elected a mayor and three council persons from the town at large, as well as council persons to fill vacancies, if any, whose terms of office shall begin on the first day of January following such election, but in cases of filling vacancies, the term shall begin immediately, and they shall serve until their successors shall be duly elected and qualify. In order to transition from a May to November election date, any mayor or council person elected in 1996 for a four-year term, or in 1998 for a two-year term, shall hold office until his successor has qualified. His successor shall be elected on the Tuesday after the first Monday in November 2000 and shall take office on the January 1 following his election. Any council person elected in 1998 for a four-year term shall hold office until his successor has qualified. His successor shall be elected on the Tuesday after the first Monday in November 2002 and shall take office on the January 1 following his election.

B. ~~The~~ *Beginning in 2020, the* mayor shall be elected for a term of ~~two~~ four years; council persons shall serve for terms of four years each.

C. The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of the term of office of the council persons or any member. Vacancies in the council shall be filled for the unexpired terms by a majority vote of the remaining members until the next ensuing regularly scheduled general election for the office, or if the vacancy occurs within 120 days of such regularly scheduled general election, at the second such ensuing election. The present mayor and council persons shall continue in office until the expiration of the term for which they were respectively elected.

D. The council shall, by ordinance, fix the time for the regular meetings. Special meetings shall be called by the clerk of the council upon request of the mayor or any three council persons; reasonable notice of each special meeting shall be given each member of the council; no business shall be transacted at a special meeting except that for which the special meeting is called, unless the council is unanimous.

E. The council may, by ordinance, appoint one of its members to serve as vice-mayor during his or her term of office.

### CHAPTER 317

*An Act to amend and reenact § 23.1-608 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-608.1, relating to the Virginia Military Survivors and Dependents Education Program; eligibility.*

[S 1173]

Approved March 8, 2019

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

**1. That § 23.1-608 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-608.1 as follows:**

**§ 23.1-608. Virginia Military Survivors and Dependents Education Program; tuition and fee waivers.**

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

"Domicile" has the same meaning as provided in § 23.1-500.

~~"Fund" means the Virginia Military Survivors and Dependents Education Fund.~~

"Program" means the Virginia Military Survivors and Dependents Education Program.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war; or (ii) of a veteran who served in the Armed Forces of the United States, Reserves of the Armed Forces of

*the United States, or Virginia National Guard and, as a direct result of due to such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.*

B. The Virginia Military Survivors and Dependents Education Program is established for the purpose of waiving tuition and mandatory fees at a public institution of higher education or Eastern Virginia Medical School for qualified survivors and dependents who have been admitted to such institution and meet the requirements of subsection C, as certified by the Commissioner of Veterans Services.

C. Admitted qualified survivors and dependents are eligible for a waiver of tuition and mandatory fees pursuant to this section if the military service member who was killed, became missing in action, became a prisoner of war, or is disabled (i) established domicile (a) at the time of entering such active military service or called to active duty as a member of the Reserves of the Armed Forces of the United States or Virginia National Guard; (b) at least five years immediately prior to, or had a physical presence in the Commonwealth for at least five years immediately prior to, the date on which the admission application was submitted by or on behalf of such qualified survivor or dependent for admission to such institution of higher education or Eastern Virginia Medical School; or (c) on the date of his death and for at least five years immediately prior to his death or had a physical presence in the Commonwealth on the date of his death and had a physical presence in the Commonwealth for at least five years immediately prior to his death; (ii) in the case of a qualified child, is deceased and the surviving parent, at some time previous to marrying the deceased parent, established domicile for at least five years, or established domicile or had a physical presence in the Commonwealth for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such child; or (iii) in the case of a qualified spouse, is deceased and the surviving spouse, at some time previous to marrying the deceased spouse, established domicile for at least five years or had a physical presence in the Commonwealth for at least five years prior to the date on which the admission application was submitted by such qualified spouse.

~~D. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education Fund is established for the sole purpose of providing financial assistance in an amount (i) up to \$2,000 or (ii) as provided in the general appropriation act, for room and board charges, books and supplies, and other expenses at any public institution of higher education or Eastern Virginia Medical School for the use and benefit of qualified survivors and dependents; provided that the maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor's or dependent's educational expenses allowed under this subsection.~~

~~E. Each year, from the funds available in the Fund, the Council and each public institution of higher education and Eastern Virginia Medical School shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of Veterans Services for distribution.~~

~~F. The Council shall disburse to each public institution of higher education and Eastern Virginia Medical School the funds appropriated or otherwise made available by the Commonwealth to support the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.~~

~~G. The Department of Veterans Services shall disseminate information about the Program and Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Program and Fund.~~

~~H. E. Each public institution of higher education and Eastern Virginia Medical School shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.~~

**§ 23.1-608.1. Virginia Military Survivors and Dependents Education Fund; stipends.**

A. As used in this section:

"Fund" means the Virginia Military Survivors and Dependents Education Fund.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran who, as a direct result of such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

B. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education Fund is established for the sole purpose of providing financial assistance, in an amount (i) up to \$2,000 or (ii) as provided in the general appropriation act,

for room and board charges, books and supplies, and other expenses at any public institution of higher education or Eastern Virginia Medical School for the use and benefit of qualified survivors and dependents, provided that the maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor's or dependent's educational expenses allowed under this subsection.

C. Each year, from the funds available in the Fund, the Council and each public institution of higher education and Eastern Virginia Medical School shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of Veterans Services for distribution.

D. The Council shall disburse to each public institution of higher education and Eastern Virginia Medical School the funds appropriated or otherwise made available by the Commonwealth to support the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.

E. The Department of Veterans Services shall disseminate information about the Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Fund.

F. Each public institution of higher education and Eastern Virginia Medical School shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

### CHAPTER 318

An Act to amend and reenact § 2.2-2001.3 of the Code of Virginia, relating to the Department of Veterans Services; Virginia War Memorial division.

[S 1265]

Approved March 8, 2019

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

#### 1. That § 2.2-2001.3 of the Code of Virginia is amended and reenacted as follows:

##### § 2.2-2001.3. Virginia War Memorial division.

A. The Virginia War Memorial is established as a division within the Department of Veterans Services. The Virginia War Memorial, its grounds, and all its contents, furnishings, funds, endowments, and other property, now owned or hereafter acquired, are and shall remain property of the Commonwealth. The Commissioner shall maintain administrative and financial control of the Virginia War Memorial and its subsidiaries, including adopting regulations for the use of and visitation to the Memorial. Regulations of the Commissioner shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

B. The mission of the Virginia War Memorial shall be to honor patriotic Virginians who rendered faithful service and sacrifice in the cause of freedom and liberty for the Commonwealth and the nation in time of war, honor all of Virginia's veterans, preserve their history, educate the public, and inspire patriotism in all Virginians.

C. The Department shall, with the advice of the ~~Virginia War Memorial~~ Board of Veterans Services, adopt policies governing (i) the programs and activities that may and should be carried out at the Memorial, (ii) the use of and visitation to the Memorial, and (iii) fees for the use of the Memorial.

D. ~~The Beginning July 1, 2019, the names and homes of record designation of all Virginians "Missing in Action" as a result of the Vietnam War and all Virginians "Killed in Action" (i) as a result of military operations against terrorism, (ii) as a result of a terrorist act, or (iii) in any armed conflict after December 6, 1941, shall be placed on the Shrine of Memory on the grounds of the Virginia War Memorial after July 1, 2018. In the case of a Virginian "Killed in Action," the name and home of record designation shall be placed on the Virginia War Memorial. New names shall be added to the Shrine of Memory within one year of the date of confirmed death. No individual who does not meet these criteria shall be honored on the Shrine of Memory.~~

E. ~~The names and homes of record designation of all Virginians "Missing in Action" as a result of the Vietnam War and all other Virginians who served honorably but do not meet the criteria in clause (i), (ii), or (iii) of subsection D shall be honored at the Virginia War Memorial.~~

F. To preserve the dignity of military medals authorized by the U.S. Department of Defense and the memory of those who have rendered faithful service and sacrifice in the cause of freedom and liberty, the Virginia War Memorial division of the Department shall be vested with the full authority to take possession of military medals, ribbons, or certificates that come into the possession of the Commonwealth for which the ownership is unknown until such time as the true owner is able to take possession. The Virginia War Memorial division of the Department shall make reasonable efforts, based on available resources, to determine the rightful owner and return any military medal, ribbon, or certificate that comes into its possession pursuant to this section.

~~F. G~~ The Commissioner shall provide supervision of the Virginia War Memorial Education Foundation and any other nonprofit corporation established as an instrumentality to provide fundraising for the Memorial and assist in the details of administering the affairs of the Memorial.

### CHAPTER 319

*An Act to amend and reenact § 46.2-1095 of the Code of Virginia, relating to child restraint devices and safety belts; emergency and law-enforcement vehicles.*

[S 1677]

Approved March 8, 2019

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

**1. That § 46.2-1095 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1095. Child restraint devices required when transporting certain children; safety belts for passengers less than 18 years old required.**

A. (Effective until July 1, 2019) Any person who drives on the highways of Virginia any motor vehicle manufactured after January 1, 1968, shall ensure that any child, up to age eight, whom he transports therein is provided with and properly secured in a child restraint device of a type which meets the standards adopted by the United States Department of Transportation. Further, rear-facing child restraint devices shall be placed in the back seat of a vehicle. In the event the vehicle does not have a back seat, the child restraint device may be placed in the front passenger seat only if the vehicle is either not equipped with a passenger side airbag or the passenger side airbag has been deactivated.

A. (Effective July 1, 2019) Any person who drives on the highways of Virginia any motor vehicle manufactured after January 1, 1968, shall ensure that any child, up to age eight, whom he transports therein is provided with and properly secured in a child restraint device of a type which meets the standards adopted by the United States Department of Transportation. Such child restraint device shall not be forward-facing until at least (i) the child reaches two years of age or (ii) the child reaches the minimum weight limit for a forward-facing child restraint device as prescribed by the manufacturer of the device. Further, child restraint devices shall be placed in the back seat of a vehicle. In the event the vehicle does not have a back seat, the child restraint device may be placed in the front passenger seat only if the vehicle is either not equipped with a passenger side airbag or the passenger side airbag has been deactivated.

B. Any person transporting another person less than 18 years old, except for those required pursuant to subsection A to be secured in a child restraint device, shall ensure that such person is provided with and properly secured by an appropriate safety belt system when driving on the highways of Virginia in any motor vehicle manufactured after January 1, 1968, equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices.

C. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages in a civil action.

D. A violation of this section may be charged on the uniform traffic summons form.

E. Nothing in this section shall apply to *any person operating taxicabs, school buses, executive sedans, or limousines. The provisions of (i) subsection B shall not apply to any person operating an emergency medical services agency vehicle, fire company vehicle, fire department vehicle, or law-enforcement agency vehicle while in the performance of his official duties and (ii) subsection A shall not apply to any person operating any such vehicle in the performance of his official duties, under exigent circumstances, provided that no child restraint device is readily available.*

### CHAPTER 320

*An Act to amend the Code of Virginia by adding in Article 3 of Chapter 1 of Title 53.1 a section numbered 53.1-17.1, relating to Department of Corrections; health care continuous quality improvement committee.*

[S 1273]

Approved March 8, 2019

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

**1. That the Code of Virginia is amended by adding in Article 3 of Chapter 1 of Title 53.1 a section numbered 53.1-17.1 as follows:**

**§ 53.1-17.1. Continuous quality improvement committee; report.**

A. *The Director shall establish a health care continuous quality improvement committee, which shall be composed of the Director, or his designee, and at least one of each of the following: a health services director, physician, nurse, dentist, mental health director, pharmacist, psychiatrist, specialist in infection control, and grievance counselor employed by the Department. The committee shall (i) identify appropriate criteria for evaluation of the quality of health care services provided by the Department, (ii) monitor and evaluate the quality of health care services provided by the Department*

utilizing the criteria identified, and (iii) develop strategies to improve the quality of health care services provided by the Department.

B. Beginning July 1, 2020, the committee established pursuant to subsection A shall publish quarterly continuous quality improvement reports setting forth such data and information as the committee shall deem appropriate on a website maintained by the Department. Each facility shall submit quarterly continuous quality improvement reports containing such data and information as may be required by the committee at such times as may be required by the committee, for inclusion in the committee's quarterly continuous quality improvement report.

## CHAPTER 321

*An Act to amend and reenact § 16.1-69.35 of the Code of Virginia, relating to Marsh Criminal-Traffic Division at Manchester General District Court and John Marshall Criminal-Traffic Division at Richmond General District Court; concurrent jurisdiction.*

[H 1742]

Approved March 8, 2019

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

#### **1. That § 16.1-69.35 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 16.1-69.35. Administrative duties of chief district judge.**

The chief judge of each district shall have the following administrative duties and authority with respect to his district:

1. When any district court judge is under any disability or for any other cause is unable to hold court and the chief judge determines that assistance is needed:

a. The chief district judge shall designate a judge within the district or a judge of another district court within the Commonwealth, if one is reasonably available, to hear and dispose of any action or actions properly coming before such district court for disposition;

b. If unable to designate a judge as provided in subdivision 1 a, the chief district judge may designate a retired district judge eligible for recall pursuant to § 16.1-69.22:1 for such hearing and disposition if such judge consents; or

c. If unable to assign a retired district court judge, the chief district judge may designate a retired circuit court judge eligible for recall pursuant to § 17.1-106 if such judge consents or the chief district judge may request that the Chief Justice of the Supreme Court designate a circuit judge if such judge consents.

If no judges are available under subdivision a, b or c, then a substitute judge shall be designated pursuant to § 16.1-69.21.

While acting, any judge so designated shall have all the authority and power of the judge of the court, and his order or judgment shall, to all intents and purposes, be the judgment of the court. A general district court judge designated pursuant to subdivision 1 a, may, with his consent, substitute for or replace a juvenile and domestic relations district court judge, and vice versa. The names of the judges designated under subdivisions b and c shall be selected from a list provided by the Executive Secretary and approved by the Chief Justice of the Supreme Court.

2. The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned.

3. If on account of congestion in the work of any district court or when in his opinion the administration of justice so requires, the Chief Justice of the Supreme Court may, upon his own initiative or upon written application of the chief district court judge desiring assistance, designate a judge from another district or any circuit court judge, if such circuit court judge consents, or a retired judge eligible for recall, to provide judicial assistance to such district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist and while so acting his order or judgment shall be, to all intents and purposes, the judgment of the court to which he is assigned.

4. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge may establish special divisions of any general district court when the work of the court may be more efficiently handled thereby such as through the establishment of special civil, criminal or traffic divisions, and he may assign the judges of the general district court with respect to serving such special divisions. In the City of Richmond the general district court shall, in addition to any specialized divisions, maintain a separate division of such court in that part of Richmond south of the James River with concurrent jurisdiction ~~in civil matters whenever one or more of the defendants reside or the cause of action or any part thereof arises in that part of the city, concurrent jurisdiction over all traffic matters arising in that part of the city and concurrent jurisdiction over all other criminal matters arising in that part of the city~~ *over all matters arising in the City of Richmond.*

5. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge shall determine when the district courts or divisions of such courts shall be open for the transaction of business. The chief judge or presiding judge of any district court may authorize the clerk's office to close on any date when the chief judge or presiding judge determines that operation of the clerk's office, under prevailing conditions, would constitute a threat to the health or safety of the clerk's office personnel or the general public. Closing of the clerk's office pursuant to this subsection shall have the same effect as provided in subsection B of § 1-210. In determining whether to close because of a threat to the health or safety of the general public, the chief judge or the presiding judge of the district court shall coordinate with the chief judge or presiding judge of the circuit court so that, where possible and appropriate, both the circuit and district courts take the same action. He shall determine the times each such court shall be held for the trial of civil, criminal or traffic matters and cases. He shall determine whether, in the case of district courts in counties, court shall be held at any place or places in addition to the county seat. He shall determine the office hours and arrange a vacation schedule of the judges within his district, in order to ensure the availability of a judge or judges to the public at normal times of business. A schedule of the times and places at which court is held shall be filed with the Executive Secretary of the Supreme Court and kept posted at the courthouse, and in any county also at any such other place or places where court may be held, and the clerk shall make such schedules available to the public upon request. Any matter may, in the discretion of the judge, or by direction of the chief district judge, be removed from any one of such designated places to another, or to or from the county seat, in order to serve the convenience of the parties or to expedite the administration of justice; however, any town having a population of over 15,000 as of July 1, 1972, having court facilities and a court with both general criminal and civil jurisdiction prior to July 1, 1972, shall be designated by the chief judge as a place to hold court.

6. Subject to the provisions of § 16.1-69.38, the chief judge of a general district court or the chief judge of a juvenile and domestic relations district court may establish a voluntary civil mediation program for the alternate resolution of disputes. The costs of the program shall be paid by the local governing bodies within the district or by the parties who voluntarily participate in the program.

## CHAPTER 322

*An Act to amend and reenact § 15.2-2511 of the Code of Virginia, relating to annual local audit; notice of delay.*

[H 1866]

Approved March 8, 2019

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

#### **1. That § 15.2-2511 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 15.2-2511. Audit of local government records, etc.; Auditor of Public Accounts; audit of shortages.**

A. Localities shall have all their accounts and records, including all accounts and records of their constitutional officers, audited annually as of June 30 by an independent certified public accountant in accordance with the specifications furnished by the Auditor of Public Accounts. The certified public accountant shall present a detailed written report to the local governing body at a public session by the following December 31. Every locality shall contract for the performance of the annual audit not later than April 1 of each fiscal year, and such contract shall incorporate the provisions of this section relating to audit specifications and report date. The report shall be (i) *submitted to the Auditor of Public Accounts*, (ii) *preserved by the clerk of the local governing body*, and ~~shall be~~ (iii) *open to public inspection at all times by any qualified voter. If the audit is not completed as required by this section, the locality shall promptly post a statement on its website, if such website exists, declaring that the required audit is pending, the reasons for the delay, and the estimated date of completion. Such statement shall also be posted and made available to the public at the next scheduled meeting of the local governing body and also be sent to the Auditor of Public Accounts. The statement shall continue to be posted and updated until the audit is complete.*

The accounts and records of any county or city officer listed in Article VII, Section 4 of the Constitution of Virginia, hereinafter referred to as "constitutional officers," shall be subject to the provisions of this section.

When the annual audit conducted pursuant to this subsection includes the clerk of the circuit court, the audit shall satisfy the requirement of an audit pursuant to § 30-134.

In the event *that* a locality fails to obtain the annual audit prescribed by this subsection, the Auditor of Public Accounts may undertake the audit or may employ the services of certified public accountants and charge the full cost of such services to the locality. However, no part of the cost and expense of such audit shall be paid by any locality whose governing body has its accounts audited for the fiscal years in question as prescribed above and furnishes the Auditor of Public Accounts with a copy of such audit.

B. Except where otherwise authorized by statute, the Auditor of Public Accounts shall audit the accounts of local governments and constitutional officers only when (i) special circumstances require an audit, or (ii) there is suspected fraud or inappropriate handling of funds ~~which~~ *that* may affect the financial interests of the Commonwealth. However, the Auditor of Public Accounts shall also audit the accounts of a local government at any other time upon a majority vote of the local governing body, with all expenses of the audit to be borne by the requesting locality. In all instances, such audits shall be carried out with the approval of the Joint Legislative Audit and Review Commission.

Any shortage existing in the accounts of the locality or constitutional officer, as ascertained by the audit, shall be made public within 30 days after the shortage is discovered, and a brief statement thereof shall be sent by the Auditor of Public Accounts to the members and clerk of the local governing body and to the circuit court for the locality, and shall be filed in the clerk's office of such court.

C. The provisions of this section shall apply to all counties and cities, to all towns having a population of 3,500 or over, and to all towns constituting a separate school division regardless of their population. *However, any town with a population of less than 3,500 that voluntarily has an audit prepared shall also submit the results of such audit to the Auditor of Public Accounts.*

### CHAPTER 323

*An Act to amend and reenact § 30-355 of the Code of Virginia, relating to the Virginia Conflict of Interest and Ethics Advisory Council; meetings requirement.*

[H 1889]

Approved March 8, 2019

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

**1. That § 30-355 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-355. Virginia Conflict of Interest and Ethics Advisory Council; membership; terms; quorum; expenses.**

A. The Virginia Conflict of Interest and Ethics Advisory Council (the Council) is hereby created as an advisory council in the legislative branch to encourage and facilitate compliance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) (hereafter the Acts) and the lobbying laws in Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 (hereafter Article 3).

B. The Council shall consist of nine members as follows: three members appointed by the Speaker of the House of Delegates, two of whom shall be members of the House of Delegates and one of whom shall be a former judge of a court of record; three members appointed by the Senate Committee on Rules, two of whom shall be members of the Senate and one of whom shall be a former judge of a court of record; and three members appointed by the Governor, one of whom shall be a current or former executive branch employee, one of whom shall be appointed from a list of three nominees submitted by the Virginia Association of Counties, and one of whom shall be appointed from a list of three nominees submitted by the Virginia Municipal League. In the appointment to the Council of members of the House of Delegates made by the Speaker and members of the Senate made by the Senate Committee on Rules, equal representation shall be given to each of the political parties having the highest and next highest number of members elected to their respective body. All members of the Council are subject to confirmation by the General Assembly by a majority vote in each house of (i) the members present of the majority party and (ii) the members present of the minority party.

C. All appointments following the initial staggering of terms shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms in the same manner as the original appointment. No nonlegislative citizen member shall be eligible to serve for more than two successive four-year terms. However, after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Legislative members and other state government officials shall serve terms coincident with their terms of office. Legislative members may be reappointed for successive terms.

D. The members of the Council shall elect from among their membership a chairman and a vice-chairman for two-year terms. The chairman and vice-chairman may not succeed themselves to the same position. The Council shall hold meetings ~~quarterly~~ *or* upon the call of the chairman *or whenever the majority of the members so request.* A majority of the Council appointed shall constitute a quorum.

E. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825, and 30-19.12, as appropriate. Funding for expenses of the members shall be provided from existing appropriations to the Council.

### CHAPTER 324

*An Act to amend and reenact §§ 55-248.25 and 55-248.27 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; noncompliance with rental agreement; tenant's right to reasonable attorney fees.*

[H 1923]

Approved March 8, 2019

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

**1. That §§ 55-248.25 and 55-248.27 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-248.25. Landlord's noncompliance as defense to action for possession for nonpayment of rent.**

A. In an action for possession based upon nonpayment of rent or in an action for rent by a landlord when the tenant is in possession, the tenant may assert as a defense that there exists upon the leased premises, a condition which constitutes or will constitute, a fire hazard or a serious threat to the life, health or safety of occupants thereof, including but not limited to

a lack of heat or running water or of light or of electricity or adequate sewage disposal facilities or an infestation of rodents, or a condition which constitutes material noncompliance on the part of the landlord with the rental agreement or provisions of law. The assertion of any defense provided for in this section shall be conditioned upon the following:

1. Prior to the commencement of the action for rent or possession, the landlord or his agent was served a written notice of the aforesaid condition or conditions by the tenant or was notified by a violation or condemnation notice from an appropriate state or municipal agency, but that the landlord has refused, or having a reasonable opportunity to do so, has failed to remedy the same. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court except that there shall be a rebuttable presumption that a period in excess of thirty days from receipt of the notification by the landlord is unreasonable; and

2. The tenant, if in possession, has paid into court the amount of rent found by the court to be due and unpaid, to be held by the court pending the issuance of an order under subsection C.

B. It shall be a sufficient answer to such a defense provided for in this section if the landlord establishes the conditions alleged in the defense do not in fact exist; or such conditions have been removed or remedied; or such conditions have been caused by the tenant or members of the family of such tenant or of his or their guests; or the tenant has unreasonably refused entry to the landlord to the premises for the purposes of correcting such conditions.

C. The court shall make findings of fact upon any defense raised under this section or the answer to any defense and, thereafter, shall pass such order as may be required including any one or more of the following:

1. An order to set-off to the tenant as determined by the court in such amount as may be equitable to represent the existence of any condition set forth in subsection A which is found by the court to exist;

2. Terminate the rental agreement or order surrender of the premises to the landlord; or

3. Refer any matter before the court to the proper state or municipal agency for investigation and report and grant a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court any rents which will become due during the period of continuance, to be held by the court pending its further order or in its discretion the court may use such funds to pay a mortgage on the property in order to stay a foreclosure, to pay a creditor to prevent or satisfy a bill to enforce a mechanic's or materialman's lien, or to remedy any condition set forth in subsection A which is found by the court to exist.

D. If it appears that the tenant has raised a defense under this section in bad faith or has caused the violation or has unreasonably refused entry to the landlord for the purpose of correcting the condition giving rise to the violation, the court, in its discretion, may impose upon the tenant the reasonable costs of the landlord, including court costs, the costs of repair where the court finds the tenant has caused the violation, and reasonable attorney's attorney fees.

*E. If the court finds that the tenant has successfully raised a defense under this section and enters judgment for the tenant, the court, in its discretion, may impose upon the landlord the reasonable costs of the tenant, including court costs, and reasonable attorney fees.*

**§ 55-248.27. Tenant's assertion; rent escrow.**

A. The tenant may assert that there exists upon the leased premises, a condition or conditions which constitute a material noncompliance by the landlord with the rental agreement or with provisions of law, or which if not promptly corrected, will constitute a fire hazard or serious threat to the life, health or safety of occupants thereof, including but not limited to, a lack of heat or hot or cold running water, except if the tenant is responsible for payment of the utility charge and where the lack of such heat or hot or cold running water is the direct result of the tenant's failure to pay the utility charge; or of light, electricity or adequate sewage disposal facilities; or an infestation of rodents; or of the existence of paint containing lead pigment on surfaces within the dwelling, provided that the landlord has notice of such paint. The tenant may file such an assertion in a general district court wherein the premises are located by a declaration setting forth such assertion and asking for one or more forms of relief as provided for in subsection D.

B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court that:

1. Prior to the commencement of the action the landlord was served a written notice by the tenant of the conditions described in subsection A, or was notified of such conditions by a violation or condemnation notice from an appropriate state or municipal agency, and that the landlord has refused, or having a reasonable opportunity to do so, has failed to remedy the same. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court except that there shall be a rebuttable presumption that a period in excess of 30 days from receipt of the notification by the landlord is unreasonable; and

2. The tenant has paid into court the amount of rent called for under the rental agreement, within five days of the date due thereunder, unless or until such amount is modified by subsequent order of the court under this chapter.

C. It shall be sufficient answer or rejoinder to a declaration pursuant to subsection A if the landlord establishes to the satisfaction of the court that the conditions alleged by the tenant do not in fact exist, or such conditions have been removed or remedied, or such conditions have been caused by the tenant or members of his family or his or their invitees or licensees, or the tenant has unreasonably refused entry to the landlord to the premises for the purpose of correcting such conditions.

D. Any court shall make findings of fact on the issues before it and shall issue any order that may be required. Such an order may include, but is not limited to, any one or more of the following:

1. Terminating the rental agreement upon the request of the tenant or ordering the premises surrendered to the landlord if the landlord prevails on a request for possession pursuant to an unlawful detainer properly filed with the court;

2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in accordance with this chapter;

3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;

4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated as determined by the court in such an amount as may be equitable to represent the existence of the condition or conditions found by the court to exist. In all cases where the court deems that the tenant is entitled to relief under this chapter, the burden shall be upon the landlord to show cause why there should not be an abatement of rent;

5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in order to make repairs or to otherwise remedy the condition. In either case, the court shall in its order insure that moneys thus disbursed will be in fact used for the purpose of making repairs or effecting a remedy;

6. Referring any matter before the court to the proper state or municipal agency for investigation and report and granting a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court rents within five days of date due under the rental agreement, subject to any abatement under this section, which become due during the period of the continuance, to be held by the court pending its further order;

7. In its discretion, ordering escrow funds disbursed to pay a mortgage on the property in order to stay a foreclosure; or

8. In its discretion, ordering escrow funds disbursed to pay a creditor to prevent or satisfy a bill to enforce a mechanic's or materialman's lien.

Notwithstanding any provision of this subsection, where an escrow account is established by the court and the condition or conditions are not fully remedied within six months of the establishment of such account, and the landlord has not made reasonable attempts to remedy the condition, the court shall award all moneys accumulated in escrow to the tenant. In such event, the escrow shall not be terminated, but shall begin upon a new six-month period with the same result if, at the end thereof, the condition or conditions have not been remedied.

E. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be held within fifteen calendar days from the date of service of process on the landlord as authorized by § 55-248.12, except that the court shall order an earlier hearing where emergency conditions are alleged to exist upon the premises, such as failure of heat in winter, lack of adequate sewage facilities or any other condition which constitutes an immediate threat to the health or safety of the inhabitants of the leased premises. The court, on motion of either party or on its own motion, may hold hearings subsequent to the initial proceeding in order to further determine the rights and obligations of the parties. Distribution of escrow moneys may only occur by order of the court after a hearing of which both parties are given notice as required by law or upon motion of both the landlord and tenant or upon certification by the appropriate inspector that the work required by the court to be done has been satisfactorily completed. If the tenant proceeds under this subsection, he may not proceed under any other section of this article as to that breach.

*F. In cases where the court deems that the tenant is entitled to relief under this section and enters judgment for the tenant, the court, in its discretion, may impose upon the landlord the reasonable costs of the tenant, including court costs, and reasonable attorney fees.*

## CHAPTER 325

*An Act to amend and reenact § 6.2-2001 of the Code of Virginia, relating to providers of debt management plans; exempt entities.*

[H 2284]

Approved March 8, 2019

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

**1. That § 6.2-2001 of the Code of Virginia is amended and reenacted as follows:**

**§ 6.2-2001. License requirement; exceptions.**

A. No person shall engage in the business of providing or offering to provide a DMP to any consumer, whether or not the person has an office, facility, agent, or other physical presence in the Commonwealth, unless such person obtains from the Commission a license issued pursuant to this chapter. The provisions of this chapter shall not apply to *any bank, savings institution, or credit union, or to a person licensed to practice law in the Commonwealth.*

B. This chapter shall be construed by the Commission to promote sound personal financial advice and management, and protect against financial loss consumers who place money or control of their funds or credit into the custody of an agency for transmission to such consumers' creditors.

C. A person licensed under this chapter is not required to be licensed as a money transmitter under Chapter 19 (§ 6.2-1900 et seq.), if the person's money transmission activities are limited to providing debt pooling and distribution services in accordance with this chapter.

## CHAPTER 326

*An Act to repeal § 55-112 of the Code of Virginia, relating to clerks of court, Torrens system.*

[H 2769]

Approved March 8, 2019

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

**1. That § 55-112 of the Code of Virginia is repealed.**

## CHAPTER 327

*An Act to amend and reenact § 30-355 of the Code of Virginia, relating to the Virginia Conflict of Interest and Ethics Advisory Council; meetings requirement.*

[S 1067]

Approved March 8, 2019

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

**1. That § 30-355 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-355. Virginia Conflict of Interest and Ethics Advisory Council; membership; terms; quorum; expenses.**

A. The Virginia Conflict of Interest and Ethics Advisory Council (the Council) is hereby created as an advisory council in the legislative branch to encourage and facilitate compliance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) (hereafter the Acts) and the lobbying laws in Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 (hereafter Article 3).

B. The Council shall consist of nine members as follows: three members appointed by the Speaker of the House of Delegates, two of whom shall be members of the House of Delegates and one of whom shall be a former judge of a court of record; three members appointed by the Senate Committee on Rules, two of whom shall be members of the Senate and one of whom shall be a former judge of a court of record; and three members appointed by the Governor, one of whom shall be a current or former executive branch employee, one of whom shall be appointed from a list of three nominees submitted by the Virginia Association of Counties, and one of whom shall be appointed from a list of three nominees submitted by the Virginia Municipal League. In the appointment to the Council of members of the House of Delegates made by the Speaker and members of the Senate made by the Senate Committee on Rules, equal representation shall be given to each of the political parties having the highest and next highest number of members elected to their respective body. All members of the Council are subject to confirmation by the General Assembly by a majority vote in each house of (i) the members present of the majority party and (ii) the members present of the minority party.

C. All appointments following the initial staggering of terms shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms in the same manner as the original appointment. No nonlegislative citizen member shall be eligible to serve for more than two successive four-year terms. However, after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Legislative members and other state government officials shall serve terms coincident with their terms of office. Legislative members may be reappointed for successive terms.

D. The members of the Council shall elect from among their membership a chairman and a vice-chairman for two-year terms. The chairman and vice-chairman may not succeed themselves to the same position. The Council shall hold meetings ~~quarterly~~ ~~or~~ upon the call of the chairman *or whenever the majority of the members so request*. A majority of the Council appointed shall constitute a quorum.

E. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825, and 30-19.12, as appropriate. Funding for expenses of the members shall be provided from existing appropriations to the Council.

## CHAPTER 328

*An Act to amend and reenact § 8.01-53 of the Code of Virginia, relating to wrongful death beneficiaries; parents of the decedent.*

[S 1543]

Approved March 8, 2019

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

**1. That § 8.01-53 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-53. Class and beneficiaries; when determined.**

A. The damages awarded pursuant to § 8.01-52 shall be distributed as specified under § 8.01-54 to (i) the surviving spouse, children of the deceased and children of any deceased child of the deceased, *and the parents of the decedent if any of such parents, within 12 months prior to the decedent's death, regularly received support or regularly received services*

from the decedent for necessities, including living expenses, food, shelter, health care expenses, or in-home assistance or care, or (ii) if there be none such, then to the parents, brothers and sisters of the deceased, and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (iii) if the decedent has left both surviving spouse and parent or parents, but no child or grandchild, the award shall be distributed to the surviving spouse and such parent or parents or (iv) if there are survivors under clause (i) or clause (iii), the award shall be distributed to those beneficiaries and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (v) if no survivors exist under clause (i), (ii), (iii), or (iv), the award shall be distributed in the course of descents as provided for in § 64.2-200. Provided, however, no parent whose parental rights and responsibilities have been terminated by a court of competent jurisdiction or pursuant to a permanent entrustment agreement with a child welfare agency shall be eligible as a beneficiary under this section. For purposes of this section, a relative is any person related to the decedent by blood, marriage, or adoption and also includes a stepchild of the decedent.

B. The class and beneficiaries thereof eligible to receive such distribution shall be fixed (i) at the time the verdict is entered if the jury makes the specification, or (ii) at the time the judgment is rendered if the court specifies the distribution.

C. A beneficiary may renounce his interest in any claim brought pursuant to § 8.01-50 and, in such event, the damages shall be distributed to the beneficiaries in the same class as the renouncing beneficiary or, if there are none, to the beneficiaries in any subsequent class in the order of priority set forth in subsection A.

**2. That the provisions of this act shall apply only to causes of action arising on or after July 1, 2019.**

## CHAPTER 329

*An Act to amend and reenact § 23.1-506 of the Code of Virginia, relating to public institutions of higher education; in-state tuition; foreign service officers.*

[H 1936]

Approved March 8, 2019

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

**1. That § 23.1-506 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-506. Eligibility for in-state tuition; exception; certain out-of-state and high school students.**

A. Notwithstanding § 23.1-502 or any other provision of law to the contrary, the following students are eligible for in-state tuition charges regardless of domicile:

1. Any non-Virginia student who resides outside the Commonwealth and has been employed full time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement if such student has paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for in-state tuition charges for so long as the student is employed full time in the Commonwealth and the student pays Virginia income taxes on all taxable income earned in the Commonwealth.

2. Any non-Virginia student who resides outside the Commonwealth and is claimed as a dependent for federal and Virginia income tax purposes if the nonresident parent claiming the student as a dependent has been employed full time in the Commonwealth for at least one year immediately prior to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such student shall continue to be eligible for in-state tuition charges for so long as his qualifying parent is employed full time in the Commonwealth, pays Virginia income taxes on all taxable income earned in the Commonwealth, and claims the student as a dependent for Virginia and federal income tax purposes.

3. Any active duty member, activated guard or reserve member, or guard or reserve member mobilized or on temporary active orders for 180 days or more who resides in the Commonwealth.

4. Any veteran who resides in the Commonwealth.

5. Any surviving spouse who resides in the Commonwealth.

6. Following completion of active duty service, any non-Virginia student who established domicile before being called to active duty in the National Guard of another state if during such active duty he maintained at least one of the following in the Commonwealth: a driver's license, motor vehicle registration, voter registration, employment, property ownership, or sources of financial support.

7. *Any member of the foreign service office who resided in the Commonwealth for at least 90 days immediately prior to receiving a foreign service assignment and who continues to be assigned overseas, and any dependents of such member.*

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

B. Notwithstanding the provisions of § 23.1-502 or any other provision of law to the contrary, the governing board of any public institution of higher education may charge in-state tuition to the following students regardless of domicile:

1. Any non-Virginia student enrolled in one of the institution's programs designated by the Council who (i) is entitled to reduced tuition charges at the institutions of higher education in any other state that is a party to the Southern Regional Education Compact and that has similar reciprocal provisions for Virginia students and (ii) is domiciled in such other state;

2. Any non-Virginia student from a foreign country who is enrolled in a foreign exchange program approved by the institution of higher education during the same period in which a Virginia student from such institution is attending such foreign institution as an exchange student; and

3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is enrolled in courses specifically designed as part of the high school or magnet school curriculum in a comprehensive community college for which he may, upon successful completion, receive high school and college credit pursuant to a dual enrollment agreement between the high school or magnet school and the comprehensive community college.

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a non-Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

C. The State Board shall charge in-state tuition to any non-Virginia student enrolled at a comprehensive community college who resides in another state within a 30-mile radius of a public institution of higher education in the Commonwealth, is domiciled in such other state, and is entitled to in-state tuition charges at the institutions of higher education in any state that is contiguous to the Commonwealth and that has similar reciprocal provisions for Virginia students.

Any non-Virginia student granted in-state tuition pursuant to this subsection shall be counted as a Virginia student for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

### CHAPTER 330

*An Act to amend and reenact § 40.1-28.9 of the Code of Virginia, relating to exemptions to the minimum wage.*

[H 2473]

Approved March 8, 2019

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

#### **1. That § 40.1-28.9 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 40.1-28.9. Definitions.**

##### **A. As used in this article:**

~~A. "Employer" includes any individual, partnership, association, corporation, business trust, or any person or groups of persons acting directly or indirectly in the interest of an employer in relation to an employee;~~

**B. "Employee" includes any individual employed by an employer, except the following:**

1. Any person employed as a farm laborer or farm employee;

2. Any person employed in domestic service or in or about a private home or in an eleemosynary institution primarily supported by public funds;

3. Any person engaged in the activities of an educational, charitable, religious or nonprofit organization where the relationship of employer-employee does not, in fact, exist, or where the services rendered to such organizations are on a voluntary basis;

~~4. Newsboys, shoe shine boys, caddies Caddies on golf courses; babysitters, ushers, doormen, concession attendants and cashiers in theaters;~~

5. Traveling salesmen or outside salesmen working on a commission basis; taxicab drivers and operators;

6. Any person under the age of 18 in the employ of his father, mother or legal guardian;

~~7. 12. Any person confined in any penal or corrective institution of the State or any of its political subdivisions or admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services;~~

8. Any person employed by a ~~boys' and/or girls'~~ summer camp for boys, girls, or both boys and girls;

9. Any person under the age of 16, regardless of by whom employed;

10. Any person who normally works and is paid based on the amount of work done;

~~11. [Repealed.]~~

~~12. 12. Any person whose employment is covered by the Fair Labor Standards Act of 1938, as amended;~~

~~13. 13. Any person whose earning capacity is impaired by physical deficiency, mental illness, or intellectual disability;~~

~~14. 14. Students participating in a bona fide educational program;~~

~~15. 15. Any person employed by an employer who does not have four or more persons employed at any one time; provided that husbands, wives, sons, daughters and parents of the employer shall not be counted in determining the number of persons employed;~~

~~16. 16. Any person who is less than 18 years of age and who is currently enrolled on a full-time basis in any secondary school, institution of higher education or trade school, provided the person is not employed more than 20 hours per week;~~

~~17. 17. Any person of any age who is currently enrolled on a full-time basis in any secondary school, institution of higher education or trade school and is in a work-study program or its equivalent at the institution at which he or she is enrolled as a student;~~

17. Any person who is less than 18 years of age and who is under the jurisdiction and direction of a juvenile and domestic relations district court; or

18. Any person who works as a babysitter for fewer than 10 hours per week.

~~€.~~ "Employer" includes any individual, partnership, association, corporation, business trust, or any person or groups of persons acting directly or indirectly in the interest of an employer in relation to an employee.

"Wages" means legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value; provided, wages may include the reasonable cost to the employer of furnishing meals and for lodging to an employee, if such board or lodging is customarily furnished by the employer, and used by the employee.

~~Đ.~~ B. In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, except in the case of an employee who establishes by clear and convincing evidence that the actual amount of tips received by him was less than the amount determined by the employer. In such case, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.

## CHAPTER 331

An Act to amend and reenact § 40.1-28.9 of the Code of Virginia, relating to exemptions to the minimum wage.

[S 1079]

Approved March 8, 2019

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

#### 1. That § 40.1-28.9 of the Code of Virginia is amended and reenacted as follows:

##### § 40.1-28.9. Definitions.

A. As used in this article:

~~A.~~ "Employer" includes any individual, partnership, association, corporation, business trust, or any person or groups of persons acting directly or indirectly in the interest of an employer in relation to an employee;

~~B.~~ "Employee" includes any individual employed by an employer, except the following:

1. Any person employed as a farm laborer or farm employee;

2. Any person employed in domestic service or in or about a private home or in an eleemosynary institution primarily supported by public funds;

3. Any person engaged in the activities of an educational, charitable, religious or nonprofit organization where the relationship of employer-employee does not, in fact, exist, or where the services rendered to such organizations are on a voluntary basis;

~~4. Newsboys, shoe shine boys, caddies Caddies on golf courses, babysitters, ushers, doormen, concession attendants and cashiers in theaters;~~

5. Traveling salesmen or outside salesmen working on a commission basis; taxicab drivers and operators;

6. Any person under the age of 18 in the employ of his father, mother or legal guardian;

7. Any person confined in any penal or corrective institution of the State or any of its political subdivisions or admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services;

8. Any person employed by a ~~boys' and/or girls'~~ summer camp for boys, girls, or both boys and girls;

9. Any person under the age of 16, regardless of by whom employed;

10. Any person who normally works and is paid based on the amount of work done;

~~11. [Repealed.]~~

~~12.~~ Any person whose employment is covered by the Fair Labor Standards Act of 1938, as amended;

~~13.~~ 12. Any person whose earning capacity is impaired by physical deficiency, mental illness, or intellectual disability;

~~14.~~ 13. Students participating in a bona fide educational program;

~~15.~~ 14. Any person employed by an employer who does not have four or more persons employed at any one time; provided that husbands, wives, sons, daughters and parents of the employer shall not be counted in determining the number of persons employed;

~~16.~~ 15. Any person who is less than 18 years of age and who is currently enrolled on a full-time basis in any secondary school, institution of higher education or trade school, provided the person is not employed more than 20 hours per week;

16A. Any person of any age who is currently enrolled on a full-time basis in any secondary school, institution of higher education or trade school and is in a work-study program or its equivalent at the institution at which he or she is enrolled as a student;

17. Any person who is less than 18 years of age and who is under the jurisdiction and direction of a juvenile and domestic relations district court; or

18. Any person who works as a babysitter for fewer than 10 hours per week.

~~€.~~ "Employer" includes any individual, partnership, association, corporation, business trust, or any person or groups of persons acting directly or indirectly in the interest of an employer in relation to an employee.

"Wages" means legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value; provided, wages may include the reasonable cost to the employer of furnishing meals and for lodging to an employee, if such board or lodging is customarily furnished by the employer, and used by the employee.

~~Đ.~~ B. In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, except in the case of an employee who

establishes by clear and convincing evidence that the actual amount of tips received by him was less than the amount determined by the employer. In such case, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.

## CHAPTER 332

*An Act to amend and reenact §§ 38.2-3408 and 38.2-4221 of the Code of Virginia, relating to accident and sickness insurance and health services plans; reimbursement for services provided by nurse practitioners.*

[H 1640]

Approved March 12, 2019

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

**1. That §§ 38.2-3408 and 38.2-4221 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-3408. Policy providing for reimbursement for services that may be performed by certain practitioners other than physicians.**

A. If an accident and sickness insurance policy provides reimbursement for any service that may be legally performed by a person licensed in this Commonwealth as a chiropractor, optometrist, optician, professional counselor, psychologist, clinical social worker, podiatrist, physical therapist, chiropodist, clinical nurse specialist who renders mental health services, audiologist, speech pathologist, certified nurse midwife *or other nurse practitioner*, marriage and family therapist, or licensed acupuncturist, reimbursement under the policy shall not be denied because the service is rendered by the licensed practitioner.

B. If an accident and sickness insurance policy provides reimbursement for a service that may be legally performed by a licensed pharmacist, reimbursement under the policy shall not be denied because the service is rendered by the licensed pharmacist provided that (i) the service is performed for an insured for a condition under the terms of a collaborative agreement, as defined in § 54.1-3300, between a pharmacist and the physician with whom the insured is undergoing a course of treatment or (ii) the service is for the administration of vaccines for immunization. Notwithstanding the provisions of § 38.2-3407, the insurer may require the pharmacist, any pharmacy or provider that may employ such pharmacist, or the collaborating physician to enter into a written agreement with the insurer as a condition for reimbursement for such services. In addition, reimbursement to pharmacists acting under the terms of a collaborative agreement under this subsection shall not be subject to the provisions of § 38.2-3407.7.

C. This section shall not apply to Medicaid, or any state fund.

**§ 38.2-4221. Services of certain practitioners other than physicians to be covered.**

A. A nonstock corporation shall not fail or refuse, either directly or indirectly, to allow or to pay to a subscriber for all or any part of the health services rendered by any doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist who renders mental health services, audiologist, speech pathologist, certified nurse midwife *or other nurse practitioner*, marriage and family therapist, or licensed acupuncturist licensed to practice in Virginia, if the services rendered (i) are services provided for by the subscription contract and (ii) are services which the doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist who renders mental health services, audiologist, speech pathologist, certified nurse midwife *or other nurse practitioner*, marriage and family therapist, or licensed acupuncturist is licensed to render in this Commonwealth.

B. If a subscription contract provides reimbursement for a service that may be legally performed by a licensed pharmacist, reimbursement under the subscription contract by the nonstock corporation shall not be denied because the service is rendered by the licensed pharmacist provided that (i) the service is performed for a subscriber for a condition under the terms of a collaborative agreement, as defined in § 54.1-3300, between a pharmacist and the physician with whom the subscriber is undergoing a course of treatment or (ii) the service is for the administration of vaccines for immunization. Notwithstanding the provisions of § 38.2-4209, the nonstock corporation may require the pharmacist, any pharmacy or provider that may employ such pharmacist, or the collaborating physician to enter into a written agreement with the nonstock corporation as a condition for reimbursement for such services. In addition, reimbursement to pharmacists acting under the terms of a collaborative agreement under this subsection shall not be subject to the provisions of § 38.2-4209.1.

**2. That the requirements of § 30-343 of the Code of Virginia regarding the conduct of an assessment by the Health Insurance Reform Commission shall not apply to this act.**

**3. That the provisions of this act shall become effective on October 1, 2019.**

## CHAPTER 333

*An Act to amend and reenact §§ 38.2-3408 and 38.2-4221 of the Code of Virginia, relating to accident and sickness insurance and health services plans; reimbursement for services provided by nurse practitioners.*

[S 1178]

Approved March 12, 2019

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

**1. That §§ 38.2-3408 and 38.2-4221 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-3408. Policy providing for reimbursement for services that may be performed by certain practitioners other than physicians.**

A. If an accident and sickness insurance policy provides reimbursement for any service that may be legally performed by a person licensed in this Commonwealth as a chiropractor, optometrist, optician, professional counselor, psychologist, clinical social worker, podiatrist, physical therapist, chiropodist, clinical nurse specialist who renders mental health services, audiologist, speech pathologist, certified nurse midwife *or other nurse practitioner*, marriage and family therapist, or licensed acupuncturist, reimbursement under the policy shall not be denied because the service is rendered by the licensed practitioner.

B. If an accident and sickness insurance policy provides reimbursement for a service that may be legally performed by a licensed pharmacist, reimbursement under the policy shall not be denied because the service is rendered by the licensed pharmacist provided that (i) the service is performed for an insured for a condition under the terms of a collaborative agreement, as defined in § 54.1-3300, between a pharmacist and the physician with whom the insured is undergoing a course of treatment or (ii) the service is for the administration of vaccines for immunization. Notwithstanding the provisions of § 38.2-3407, the insurer may require the pharmacist, any pharmacy or provider that may employ such pharmacist, or the collaborating physician to enter into a written agreement with the insurer as a condition for reimbursement for such services. In addition, reimbursement to pharmacists acting under the terms of a collaborative agreement under this subsection shall not be subject to the provisions of § 38.2-3407.7.

C. This section shall not apply to Medicaid, or any state fund.

**§ 38.2-4221. Services of certain practitioners other than physicians to be covered.**

A. A nonstock corporation shall not fail or refuse, either directly or indirectly, to allow or to pay to a subscriber for all or any part of the health services rendered by any doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist who renders mental health services, audiologist, speech pathologist, certified nurse midwife *or other nurse practitioner*, marriage and family therapist, or licensed acupuncturist licensed to practice in Virginia, if the services rendered (i) are services provided for by the subscription contract and (ii) are services which the doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist who renders mental health services, audiologist, speech pathologist, certified nurse midwife *or other nurse practitioner*, marriage and family therapist, or licensed acupuncturist is licensed to render in this Commonwealth.

B. If a subscription contract provides reimbursement for a service that may be legally performed by a licensed pharmacist, reimbursement under the subscription contract by the nonstock corporation shall not be denied because the service is rendered by the licensed pharmacist provided that (i) the service is performed for a subscriber for a condition under the terms of a collaborative agreement, as defined in § 54.1-3300, between a pharmacist and the physician with whom the subscriber is undergoing a course of treatment or (ii) the service is for the administration of vaccines for immunization. Notwithstanding the provisions of § 38.2-4209, the nonstock corporation may require the pharmacist, any pharmacy or provider that may employ such pharmacist, or the collaborating physician to enter into a written agreement with the nonstock corporation as a condition for reimbursement for such services. In addition, reimbursement to pharmacists acting under the terms of a collaborative agreement under this subsection shall not be subject to the provisions of § 38.2-4209.1.

**2. That the requirements of § 30-343 of the Code of Virginia regarding the conduct of an assessment by the Health Insurance Reform Commission shall not apply to this act.**

**3. That the provisions of the first enactment of this act shall become effective on October 1, 2019.**

## CHAPTER 334

*An Act to amend and reenact §§ 38.2-2212 and 38.2-2213 of the Code of Virginia, relating to motor vehicle insurance policies; foster parents.*

[H 1883]

Approved March 12, 2019

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

**1. That §§ 38.2-2212 and 38.2-2213 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-2212. Grounds and procedure for cancellation of or refusal to renew motor vehicle insurance policies; review by Commissioner.**

A. The following definitions shall apply to this section:

"Cancellation" or "to cancel" means a termination of a policy during the policy period.

"Insurer" means any insurance company, association, or exchange licensed to transact motor vehicle insurance in this Commonwealth.

"Policy of motor vehicle insurance" or "policy" means a policy or contract for bodily injury or property damage liability insurance issued or delivered in this Commonwealth covering liability arising from the ownership, maintenance, or

use of any motor vehicle, insuring as the named insured one individual or husband and wife who are residents of the same household, and under which the insured vehicle designated in the policy is either:

a. A motor vehicle of a private passenger, station wagon, or motorcycle type that is not used commercially, rented to others, or used as a public or livery conveyance where the term "public or livery conveyance" does not include car pools, or

b. Any other four-wheel motor vehicle which is not used in the occupation, profession, or business, other than farming, of the insured, or as a public or livery conveyance, or rented to others. The term "policy of motor vehicle insurance" or "policy" does not include (i) any policy issued through the Virginia Automobile Insurance Plan, (ii) any policy covering the operation of a garage, sales agency, repair shop, service station, or public parking place, (iii) any policy providing insurance only on an excess basis, or (iv) any other contract providing insurance to the named insured even though the contract may incidentally provide insurance on motor vehicles.

"Renewal" or "to renew" means (i) the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, providing types and limits of coverage at least equal to those contained in the policy being superseded, or (ii) the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy. Each renewal shall conform with the requirements of the manual rules and rating program currently filed by the insurer with the Commission. Except as provided in subsection K of this section, any policy with a policy period or term of less than 12 months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of six months from the original effective date.

B. This section shall apply only to that portion of a policy of motor vehicle insurance providing the coverage required by §§ 38.2-2204, 38.2-2205, and 38.2-2206.

C. 1. No insurer shall refuse to renew a motor vehicle insurance policy solely because of any one or more of the following factors:

a. Age;

b. Sex;

c. Residence;

d. Race;

e. Color;

f. Creed;

g. National origin;

h. Ancestry;

i. Marital status;

j. Lawful occupation, including the military service;

k. Lack of driving experience, or number of years driving experience;

l. Lack of supporting business or lack of the potential for acquiring such business;

m. One or more accidents or violations that occurred more than 48 months immediately preceding the upcoming anniversary date;

n. One or more claims submitted under the uninsured motorists coverage of the policy where the uninsured motorist is known or there is physical evidence of contact;

o. A single claim by a single insured submitted under the medical expense coverage due to an accident for which the insured was neither wholly nor partially at fault;

p. One or more claims submitted under the comprehensive or towing coverages. However, nothing in this section shall prohibit an insurer from modifying or refusing to renew the comprehensive or towing coverages at the time of renewal of the policy on the basis of one or more claims submitted by an insured under those coverages, provided that the insurer shall mail or deliver to the insured at the address shown in the policy, or deliver electronically to the address provided by the named insured, written notice of any such change in coverage at least 45 days prior to the renewal;

q. Two or fewer motor vehicle accidents within a three-year period unless the accident was caused either wholly or partially by the named insured, a resident of the same household, or other customary operator;

r. Credit information contained in a "consumer report," as defined in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., bearing on a natural person's creditworthiness, credit standing or credit capacity. If credit information is used, in part, as the basis for the nonrenewal, such credit information shall be based on a consumer report procured within 120 days from the effective date of the nonrenewal. The provisions of this subdivision shall apply only to insurance purchased primarily for personal, family, or household purposes; ~~or~~

s. The refusal of a motor vehicle owner as defined in § 46.2-1088.6 to provide access to recorded data from a recording device as defined in § 46.2-1088.6; *or*

*t. The status of the person as a foster care provider or a person in foster care.*

2. Nothing in this section shall require any insurer to renew a policy for an insured where the insured's occupation has changed so as to materially increase the risk. Nothing contained in subdivisions ~~o~~ n, ~~p~~ o, and ~~q~~ p of this subsection shall prohibit an insurer from refusing to renew a policy where a claim is false or fraudulent. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

D. No insurer shall cancel a policy except for one or more of the following reasons:

1. The named insured or any other operator who either resides in the same household or customarily operates a motor vehicle insured under the policy has had his driver's license suspended or revoked during the policy period or, if the policy is a renewal, during its policy period or the 90 days immediately preceding the last effective date.

2. The named insured fails to pay the premium for the policy or any installment of the premium, whether payable to the insurer or its agent either directly or indirectly under any premium finance plan or extension of credit.

3. The named insured or his duly constituted attorney-in-fact has notified the insurer of a change in the insured's legal residence to a state other than Virginia and the insured vehicle will be principally garaged in the new state of legal residence.

E. No cancellation or refusal to renew by an insurer of a policy of motor vehicle insurance shall be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew, or the insurer delivers such notice electronically to the address provided by the named insured. The notice shall:

1. Be in a type size authorized under § 38.2-311.

2. State the effective date of the cancellation or refusal to renew. The effective date of cancellation or refusal to renew shall be at least 45 days after mailing or delivering to the insured the notice of cancellation or notice of refusal to renew. However, when the policy is being canceled or not renewed for the reason set forth in subdivision *D* 2 of ~~subsection D of this section~~ the effective date may be less than 45 days but at least 15 days from the date of mailing or delivery.

3. State the specific reason of the insurer for cancellation or refusal to renew and provide for the notification required by §§ 38.2-608, 38.2-609, and subsection B of § 38.2-610. However, those notification requirements shall not apply when the policy is being canceled or not renewed for the reason set forth in subdivision *D* 2 of ~~subsection D of this section~~.

4. Inform the insured of his right to request in writing within 15 days of the receipt of the notice that the Commissioner review the action of the insurer.

The notice of cancellation or refusal to renew shall contain the following statement to inform the insured of such right:

**IMPORTANT NOTICE**

Within 15 days of receiving this notice, you or your attorney may request in writing that the Commissioner of Insurance review this action to determine whether the insurer has complied with Virginia laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the cancellation or nonrenewal laws, the Commissioner may require that your policy be reinstated. However, the Commissioner is prohibited from making underwriting judgments. If this insurer has complied with the cancellation or nonrenewal laws, the Commissioner does not have the authority to overturn this action.

5. Inform the insured of the possible availability of other insurance which may be obtained through his agent, through another insurer, or through the Virginia Automobile Insurance Plan.

6. If sent by mail or delivered electronically, comply with the provisions of § 38.2-2208.

Nothing in this subsection prohibits any insurer or agent from including in the notice of cancellation or refusal to renew, any additional disclosure statements required by state or federal laws, or any additional information relating to the availability of other insurance.

F. Nothing in this section shall apply:

1. If the insurer or its agent acting on behalf of the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate, or other evidence of renewal, or has manifested its willingness to renew in writing to the insured. The written manifestation shall include the name of a proposed insurer, the expiration date of the policy, the type of insurance coverage, and information regarding the estimated renewal premium. The insurer shall retain a copy of each written manifestation for a period of at least one year from the expiration date of any policy that is not renewed;

2. If the named insured, or his duly constituted attorney-in-fact, has notified the insurer or its agent orally, or in writing, if the insurer requires such notification to be in writing, that he wishes the policy to be canceled or that he does not wish the policy to be renewed, or if prior to the date of expiration he fails to accept the offer of the insurer to renew the policy;

3. To any motor vehicle insurance policy which has been in effect less than 60 days when the termination notice is mailed or delivered to the insured, unless it is a renewal policy; or

4. If an affiliated insurer has manifested its willingness to provide coverage at a lower premium than would have been charged for the same exposures on the expiring policy. The affiliated insurer shall manifest its willingness to provide coverage by issuing a policy with the types and limits of coverage at least equal to those contained in the expiring policy unless the named insured has requested a change in coverage or limits. When such offer is made by an affiliated insurer, an offer of renewal shall not be required of the insurer of the expiring policy, and the policy issued by the affiliated insurer shall be deemed to be a renewal policy.

G. There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner or his subordinates; any insurer, its authorized representatives, its agents, or its employees; or any person furnishing to the insurer information as to reasons for cancellation or refusal to renew, for any statement made by any of them in complying with this section or for providing information pertaining to the cancellation or refusal to renew. For the purposes of this section, no insurer shall be required to furnish a notice of cancellation or refusal to renew to anyone other than the named insured, any person designated by the named insured, or any other person to whom such notice is required to be given by the terms of the policy and the Commissioner.

H. Within 15 days of receipt of the notice of cancellation or refusal to renew, any insured or his attorney shall be entitled to request in writing to the Commissioner that he review the action of the insurer in canceling or refusing to renew the policy

of the insured. Upon receipt of the request, the Commissioner shall promptly begin a review to determine whether the insurer's cancellation or refusal to renew complies with the requirements of this section and of § 38.2-2208 if the notice was sent by mail or delivered electronically. The policy shall remain in full force and effect during the pendency of the review by the Commissioner except where the cancellation or refusal to renew is for the reason set forth in subdivision *D 2* of ~~subsection D of this section~~, in which case the policy shall terminate as of the effective date stated in the notice. Where the Commissioner finds from the review that the cancellation or refusal to renew has not complied with the requirements of this section or of § 38.2-2208, he shall immediately notify the insurer, the insured and any other person to whom such notice was required to be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this section authorizes the Commissioner to substitute his judgment as to underwriting for that of the insurer. Where the Commissioner finds in favor of the insured, the Commission in its discretion may award the insured reasonable attorneys' fees.

I. Each insurer shall maintain for at least one year, records of cancellation and refusal to renew and copies of every notice or statement referred to in subsection E ~~of this section~~ that it sends to any of its insureds.

J. The provisions of this section shall not apply to any insurer that limits the issuance of policies of motor vehicle liability insurance to one class or group of persons engaged in any one particular profession, trade, occupation, or business. Nothing in this section requires an insurer to renew a policy of motor vehicle insurance if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization. No insurer is required to renew a policy if the insured becomes a nonresident of Virginia.

K. Notwithstanding any other provision of this section, a motor vehicle insurance policy with a policy period or term of five months or less may expire at its expiration date when the insurer has manifested in writing its willingness to renew the policy for at least 30 days and has mailed or delivered the written manifestation to the insured at least 15 days before the expiration date of the policy. The written manifestation shall include the name of the proposed insurer, the expiration date of the policy, the type of insurance coverage, and the estimated renewal premium. The insurer shall retain a copy of the written manifestation for at least one year from the expiration date of any policy that is not renewed.

#### **§ 38.2-2213. Discrimination in issuance of motor vehicle insurance.**

No insurer or agent shall refuse to issue a motor vehicle insurance policy as defined in § 38.2-2212 solely because of any one or more of the following factors: the age, sex, residence, race, color, creed, national origin, ancestry, marital status, *status of a person as a foster care provider or a person in foster care*, or lawful occupation, including the military service, of the person seeking the coverage. Nothing in this section prohibits any insurer from limiting the issuance of motor vehicle insurance policies to those who are residents of this Commonwealth nor does this section prohibit any insurer from limiting the issuance of motor vehicle insurance policies only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

### **CHAPTER 335**

*An Act to amend and reenact § 54.1-3303, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to requirements for issuing prescriptions; exceptions for public health practitioners.*

[H 1914]

Approved March 12, 2019

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

**1. That § 54.1-3303, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3303. (Effective until July 1, 2020) Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.**

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner. In cases in which the practitioner is an employee of *or contracted by* the Department of Health *or a local health department* and is providing expedited

partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, the examination required by clause (iii) shall not be required.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

C. A prescription shall only be issued for a medicinal or therapeutic purpose in the usual course of treatment or for authorized research. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription. A practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than for medicinal or therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

D. No prescription shall be filled unless a bona fide practitioner-patient-pharmacist relationship exists. A bona fide practitioner-patient-pharmacist relationship shall exist in cases in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to a patient for a medicinal or therapeutic purpose within the course of his professional practice.

In cases in which it is not clear to a pharmacist that a bona fide practitioner-patient relationship exists between a prescriber and a patient, a pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed.

Any person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

E. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, with the diagnosed patient; (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease; (iii) the practitioner has met all requirements of a bona fide practitioner-patient relationship, as defined in subsection B, for the close contact except for the physical examination required in clause (iii) of subsection B;

and (iv) when such emergency treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability. *In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona-fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.*

F. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

G. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

H. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

I. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

J. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

K. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-3408.01 and regulations of the Board.

**§ 54.1-3303. (Effective July 1, 2020) Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.**

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, may prescribe Schedule II through VI controlled substances to the patient, provided that the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

B. In order to determine whether a prescription that appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

C. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, with the diagnosed patient; (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease; (iii) the practitioner has met all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, for the close contact except for the physical examination required in clause (iii) of subsection A; and (iv) when such emergency treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability. *In cases in which the practitioner is an employee of or contracted by the Department of Health or a local health department, the bona-fide practitioner-patient relationship with the diagnosed patient, as required by clause (i), shall not be required.*

D. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

E. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the

Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

F. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

G. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

H. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

I. Notwithstanding any other provision of law, a prescriber may authorize a registered nurse or licensed practical nurse to approve additional refills of a prescribed drug for no more than 90 consecutive days, provided that (i) the drug is classified as a Schedule VI drug; (ii) there are no changes in the prescribed drug, strength, or dosage; (iii) the prescriber has a current written protocol, accessible by the nurse, that identifies the conditions under which the nurse may approve additional refills; and (iv) the nurse documents in the patient's chart any refills authorized for a specific patient pursuant to the protocol and the additional refills are transmitted to a pharmacist in accordance with the allowances for an authorized agent to transmit a prescription orally or by facsimile pursuant to subsection C of § 54.1-3408.01 and regulations of the Board.

## CHAPTER 336

*An Act to amend and reenact §§ 63.2-902 and 63.2-904 of the Code of Virginia, relating to foster care agreements; rights of foster parent; dispute resolution; regulations.*

[H 2108]

Approved March 12, 2019

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

#### **1. That §§ 63.2-902 and 63.2-904 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 63.2-902. Agreements with persons taking children.**

A. Every local board and licensed child-placing agency shall, with respect to each child placed by it in a foster home or children's residential facility, enter into a written agreement contained in an approved foster care policy with the head of such home or facility, which agreement shall provide that the authorized representatives of the local board or agency shall have access at all times to such child and to the home or facility, and that the head of the home or facility will release custody of the child so placed to the authorized representatives of the local board or agency whenever, in the opinion of the local board or agency, or in the opinion of the Commissioner, it is in the best interests of the child.

B. *Local boards and licensed child-placing agencies shall implement and publicize a dispute resolution process through which a foster parent may contest an alleged violation of the regulations governing the collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents. Prior to filing a complaint through such dispute resolution process, the foster parent shall contact the family services specialist assigned to the foster home, provide a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents, and attempt to resolve the dispute. Family services specialists shall respond within five business days and explain any corrective action to be taken in response to the foster parent's complaint. If the foster parent and family services specialist are unable to resolve the complaint informally, the foster parent may file a written complaint through the dispute resolution process with the local board's foster care supervisor or assigned designee. The complaint shall include a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents, along with any other information required by Department regulation. The foster care supervisor or assigned designee shall respond to the complaint in writing within five business days, setting forth all findings regarding the alleged violation and any corrective action to be taken.*

*If the foster parent disagrees with the findings or corrective actions proposed by the foster care supervisor or assigned designee, the foster parent may appeal the decision to the local director by filing a written notice of appeal. The notice of appeal shall include a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents, a copy of the foster care supervisor or assigned designee's findings and recommendations, and any other information required by Department regulation. The local director shall hold a meeting between all parties within seven business days to gather any information necessary to determine the validity of the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents and the appropriateness of any recommendations for corrective action made by the family services specialist and foster care supervisor or assigned designee. A summary of the meeting shall be documented in writing by the family services specialist after approval by the foster care supervisor or assigned designee. Following such meeting and documentation, the local director shall issue to all parties written findings and, when applicable, recommendations for corrective action.*

**§ 63.2-904. Investigation, visitation, and supervision of foster homes or independent living arrangement; removal of child.**

A. Before placing or arranging for the placement of any such child in a foster home or independent living arrangement, a local board or licensed child-placing agency shall cause a careful study to be made to determine the suitability of such home or independent living arrangement, and after placement shall cause such home or independent living arrangement and child to be visited as often as necessary to protect the interests of such child. Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.

B. Every local board or licensed child-placing agency that places a child in a foster home or independent living arrangement shall maintain such supervision over such home or independent living arrangement as shall be required by the standards and policies established by the Board.

C. Whenever any child placed by a local board or licensed child-placing agency and still under its control or supervision is subject, in the home in which he is placed, to unwholesome influences or to neglect or mistreatment, or whenever the Commissioner shall so order, such local board or agency shall cause the child to be removed from such home and shall make for him such arrangements as may be approved by the Commissioner. *Notwithstanding any other provision of law, the Commissioner shall have the authority to place, remove, or direct the placement or removal of any child who is under the supervision and control of a local board or licensed child-placing agency. Pursuant to such authority, the Commissioner shall remove or direct the removal of any child placed by a local board or licensed child-placing agency in a foster home or children's residential facility that fails to comply with any state or federal requirements intended to protect the child's health, safety, or well-being.*

D. Consistent with the reasonable and prudent parent standard defined in 42 U.S.C. § 675(10)(A), caregivers for children in foster care shall support normalcy for such children. The Board shall adopt regulations to assist local boards and licensed child-placing agencies in carrying out practices that support careful and sensible parental decisions that maintain the health, safety, and best interest of the child while at the same time encouraging his emotional and developmental growth.

**2. That the Department of Social Services shall promulgate regulations to ensure collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents to be effective within 280 days of the enactment of this act. These regulations shall include a statement of the rights and responsibilities of foster parents, requirements for the provision of background, medical, and psychological information to foster parents for each child placed in their home, and requirements for notice to foster parents of any court hearings and scheduled meetings regarding a foster child placed in their care.**

## CHAPTER 337

*An Act to amend the Code of Virginia by adding a section numbered 38.2-3407.9:05, relating to accident and sickness insurance; step therapy protocols.*

[H 2126]

Approved March 12, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 38.2-3407.9:05 as follows:**

**§ 38.2-3407.9:05. Step therapy protocols.**

A. *As used in this section:*

*"Carrier" means any (i) insurer issuing individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; (ii) corporation providing individual or group accident and sickness subscription contracts; or (iii) health maintenance organization providing a health care plan for health care services. "Carrier" includes any entity administering a policy or plan providing health insurance coverage to state employees pursuant to § 2.2-2818 but does not include any entity administering a policy or plan providing coverage*

pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare); Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid); or Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP).

"Clinical practice guideline" means a systematically developed statement to assist decision making by providers about appropriate health care for a specific clinical circumstance or condition.

"Clinical review criteria" means the written screening procedures, decision abstracts, clinical protocols, and practice guidelines used by a carrier, utilization review organization, or independent review organization to determine the medical necessity and appropriateness of a health care service.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease and that provides coverage for prescription drugs. "Health benefit plan" includes any policy or plan providing health insurance coverage to state employees pursuant to § 2.2-2818.

"Patient" means a policyholder, subscriber, participant, or other individual covered by a health benefit plan.

"Provider" means a hospital, physician, or any type of provider licensed, certified, or authorized by statute to provide a covered service under the health benefit plan.

"Step therapy exception" means overriding a step therapy protocol in favor of immediate coverage of the provider's selected prescription drug provided that such drug is covered under the health benefit plan, which determination is based on a review of the patient's or prescribing provider's request for an override, along with supporting rationale and documentation.

"Step therapy protocol" means a protocol setting the sequence in which prescription drugs for a specified medical condition and medically appropriate for a particular patient are covered under a health benefit plan.

"Utilization review organization" means an entity that conducts utilization review, other than a carrier performing utilization review for its own health benefit plans.

B. Carriers or utilization review organizations that develop step therapy protocols for a health benefit plan shall ensure that those step therapy protocols:

1. Are developed and endorsed by a multidisciplinary panel of experts that manages conflicts of interest among the members of the writing and review groups by requiring members to disclose to the carrier any potential conflict of interest, including carriers and pharmaceutical manufacturers, and recuse themselves of voting if they have a conflict of interest;

2. Are based on peer-reviewed research and medical practice, and may also consider published clinical practice guidelines established for relevant patient subgroups in addition to or in the absence of peer-reviewed research; and

3. Are continually updated based on a review of new evidence, research, and newly developed treatments.

C. When establishing a step therapy protocol, a utilization review agent may also take into account the needs of atypical patient populations and diagnoses when establishing clinical review criteria.

D. This section shall not be construed to require carriers to set up a new entity to develop clinical review criteria used for step therapy protocols.

E. When coverage of a prescription drug for the treatment of any medical condition is restricted for use by a carrier or utilization review organization through the use of a step therapy protocol, the patient and prescribing provider shall have access to a clear, readily accessible, and convenient process to request a step therapy exception. A carrier or utilization review organization may use its existing medical exceptions process to satisfy this requirement. The process shall be made easily accessible on the carrier's or utilization review organization's website.

F. A step therapy exception request shall be granted if the prescribing provider's submitted justification and supporting clinical documentation, if needed, are determined to support the prescribing provider's statement that:

1. The required prescription drug is contraindicated;

2. The required drug would be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

3. The patient has tried the step therapy-required prescription drug while under their current or a previous health benefit plan, and such prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event; or

4. The patient is currently receiving a positive therapeutic outcome on a prescription drug recommended by his provider for the medical condition under consideration while on a current or the immediately preceding health benefit plan.

G. Upon the granting of a step therapy exception, the carrier or utilization review organization shall authorize coverage for the prescription drug prescribed by the patient's treating provider, provided that the prescription drug is covered under the current health benefit plan.

H. The carrier or utilization review organization shall respond to a step therapy exception request within 72 hours of receipt, including hours on weekends, that the request is approved, denied, or requires supplementation. In cases where exigent circumstances exist, a carrier or utilization review organization shall respond within 24 hours of receipt, including hours on weekends, that the request is approved, denied, or requires supplementation.

I. A patient may appeal any step therapy exception request denial made pursuant to this section under the health benefit plan's existing appeal procedures.

J. Drug samples shall not be considered trial and failure of a preferred drug.

*K. This section shall not be construed to prevent a carrier or utilization review organization from requiring an enrollee to try an AB-rated generic equivalent or interchangeable biological product prior to providing coverage, or substitute a generic for a branded drug.*

*L. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to implement this section.*

*M. This section shall apply to any health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2020.*

### CHAPTER 338

*An Act to amend and reenact § 54.1-2951.1 of the Code of Virginia, relating to physician assistants; licensure by endorsement.*

[H 2169]

Approved March 12, 2019

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

**1. That § 54.1-2951.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2951.1. Requirements for licensure as a physician assistant; licensure by endorsement.**

A. The Board shall promulgate regulations establishing requirements for licensure as a physician assistant that shall include the following:

1. Successful completion of a physician assistant program or surgical physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant;

2. Passage of the certifying examination administered by the National Commission on Certification of Physician Assistants; and

3. Documentation that the applicant for licensure has not had his license or certification as a physician assistant suspended or revoked and is not the subject of any disciplinary proceedings in another jurisdiction.

*B. The Board may issue a license by endorsement to an applicant for licensure as a physician assistant if the applicant (i) is the spouse of an active duty member of the Armed Forces of the United States or the Commonwealth, (ii) holds current certification from the National Commission on Certification of Physician Assistants, and (iii) holds a license as a physician assistant that is in good standing, or that is eligible for reinstatement if lapsed, under the laws of another state.*

C. Prior to initiating practice with a supervising physician, the physician assistant shall enter into a written or electronic practice agreement with at least one supervising physician or podiatrist.

☞ A practice agreement shall include delegated activities pursuant to § 54.1-2952, provisions for the periodic review of patient charts or electronic health records, guidelines for availability and ongoing communications among the parties to the agreement and the patient, periodic joint evaluation of the services delivered, and provisions for appropriate physician input in complex clinical cases, in patient emergencies, and for referrals.

A practice agreement may include provisions for periodic site visits by supervising licensees who supervise and direct assistants who provide services at a location other than where the licensee regularly practices. Such visits shall be in the manner and at the frequency as determined by the supervising physician or podiatrist.

D. Evidence of a practice agreement shall be maintained by the physician assistant and provided to the Board upon request.

### CHAPTER 339

*An Act to amend and reenact § 63.2-1606 of the Code of Virginia, relating to financial exploitation of adults; reporting by financial institution staff.*

[H 2225]

Approved March 12, 2019

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

**1. That § 63.2-1606 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.**

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities inspectors of the Department of Health are exempt from reporting suspected abuse immediately while conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the local department or the adult protective services hotline in accordance with requirements of this section by the following persons acting in their professional capacity:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine;

2. Any mental health services provider as defined in § 54.1-2400.1;

3. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital to which the adult is transported, who shall make such report forthwith;

4. Any guardian or conservator of an adult;

5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;

6. Any person providing full, intermittent or occasional care to an adult for compensation, including, but not limited to, companion, chore, homemaker, and personal care workers; and

7. Any law-enforcement officer.

B. The report shall be made in accordance with subsection A to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any other obligation to report as required by law. If a person required to report under this section receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure; such reports may, however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 or to a local or regional adult fatality review team as provided in § 32.1-283.6 and, if reviewed by the Team or a local or regional adult fatality review team, shall be subject to applicable confidentiality requirements of the Team or a local or regional adult fatality review team.

C. Any financial institution staff who suspects that an adult has been exploited financially may report such suspected exploitation *and provide supporting information and records* to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline. For purposes of this section, "financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.

D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline.

E. Any person who makes a report or provides records or information pursuant to subsection A, C, or D, or who testifies in any judicial proceeding arising from such report, records or information, or who takes or causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any civil or criminal liability on account of such report, records, information, photographs, video recordings, appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.

F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to the local department or to the adult protective services hotline. Employers whose employees are mandated reporters shall notify employees upon hiring of the requirement to report.

G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false ~~shall be~~ *is* guilty of a Class 4 misdemeanor. Any subsequent conviction of this provision ~~shall be~~ *is* a Class 2 misdemeanor.

H. Any person who fails to make a required report or notification pursuant to subsection A shall be subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a court of competent jurisdiction, in its discretion. All other civil penalties under this section shall be determined by the Commissioner for Aging and Rehabilitative Services or his designee. The Commissioner for Aging and Rehabilitative Services shall establish by regulation a process for imposing and collecting civil penalties, and a process for appeal of the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process Act.

I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician. The medical examiner and the law-enforcement agency shall receive the report and determine if an investigation is warranted. The medical examiner may

order an autopsy. If an autopsy is conducted, the medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or to the adult protective services hotline.

J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge that the same matter has already been reported to the local department or to the adult protective services hotline.

K. All law-enforcement departments and other state and local departments, agencies, authorities and institutions shall cooperate with each adult protective services worker of a local department in the detection, investigation and prevention of adult abuse, neglect and exploitation.

### CHAPTER 340

*An Act to amend and reenact § 54.1-3207 of the Code of Virginia, relating to Board of Optometry; membership.*

[H 2247]

Approved March 12, 2019

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

**1. That § 54.1-3207 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3207. Board of Optometry.**

The Board of Optometry shall be composed of six members as follows: five licensed optometrists and one citizen member. *Licensed optometrists appointed to the Board shall be individuals who, at the time of appointment, (i) have been engaged in the practice of optometry for at least five years, (ii) have met all requirements for practice as an optometrist set forth in this chapter and are qualified to engage in the full scope of the practice of optometry, and (iii) are actively engaged in the delivery of clinical care to patients.* The terms of office of the members shall be four years. ~~The professional members of the Board shall have been engaged in the practice of optometry for at least five years prior to the date of their appointment. After July 1, 1996, all professional members newly appointed to the Board shall be certified in the administration of therapeutic pharmaceutical agents pursuant to Article 5 (§ 54.1-3222 et seq.) of this chapter.~~

**2. That this act shall not be construed to affect existing appointments to the Board of Optometry for which the terms have not expired. The provisions of this act shall apply to appointments to the Board of Optometry made after July 1, 2019.**

### CHAPTER 341

*An Act to amend and reenact §§ 24.2-114 and 24.2-422 of the Code of Virginia, relating to voter registration; notification of denial.*

[S 1042]

Approved March 12, 2019

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

**1. That §§ 24.2-114 and 24.2-422 of the Code of Virginia are amended and reenacted as follows:**

**§ 24.2-114. Duties and powers of general registrar.**

In addition to the other duties required by this title, the general registrar, and the assistant registrars acting under his supervision, shall:

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of § 24.2-412.

2. Participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.

3. Perform his duties within the county or city he was appointed to serve, except that a registrar may (i) go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city or (ii) notwithstanding any other provision of law, participate in multijurisdictional staffing for voter registration offices, approved by the State Board, that are located at facilities of the Department of Motor Vehicles.

4. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.

5. Indicate on the registration records for each accepted mail voter registration application form returned by mail pursuant to Article 3.1 (§ 24.2-416.1 et seq.) of Chapter 4 that the registrant has registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the State Board so that those persons who registered by mail are identified on the registration records, lists of registered voters furnished pursuant to § 24.2-405, lists of persons who voted furnished pursuant to § 24.2-406, and pollbooks used for the conduct of elections.

6. Accept a registration application or request for transfer or change of address submitted by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications and requests for transfer or change of address from residents of other counties and cities in accordance with written instructions from the State Board

and shall forward the completed application or request to the registrar of the applicant's residence. Notwithstanding the provisions of § 24.2-416, the registrar of the applicant's residence shall recognize as timely any application or request for transfer or change of address submitted to any person authorized to receive voter registration applications pursuant to Chapter 4 (§ 24.2-400 et seq.), prior to or on the final day of registration. The registrar of the applicant's residence shall determine the qualification of the applicant, including whether the applicant has ever been convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored, and promptly notify the applicant at the address shown on the application or request of the acceptance or denial of his registration or transfer. However, notification shall not be required when the registrar does not have an address for the applicant.

7. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for purposes of this title.

8. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.

9. If a person is denied registration, promptly notify such person in writing of the denial and the reason for denial within 14 days of the denial in accordance with § 24.2-422.

10. Verify the accuracy of the pollbooks provided for each election by the State Board, make the pollbooks available to the precincts, and according to the instructions of the State Board provide a copy of the data from the pollbooks to the State Board after each election for voting credit purposes.

11. Retain the pollbooks in his principal office for two years from the date of the election.

12. Maintain accurate and current registration records and comply with the requirements of this title for the transfer, inactivation, and cancellation of voter registrations.

13. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.

14. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.

15. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia by providing electronically, through the Department of Elections, the information contained in that person's registration application.

16. Whenever any person is believed to be registered or voting in more than one state or territory of the United States at the same time, inquire about, or provide information from the voter's registration and voting records to any appropriate voter registration or other authority of another state or territory who inquires about, that person's registration and voting history.

17. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status.

18. Carry out such other duties as prescribed by the electoral board in his capacity as the director of elections for the locality in which he serves.

19. Attend an annual training program provided by the State Board. A general registrar may designate one member of his staff to attend such training program if he is unable to attend because of a personal or family emergency.

#### **§ 24.2-422. Appeal of person denied registration.**

A. A person denied registration shall have the right to appeal, without payment of writ tax or giving security for costs, to the circuit court of the county or city in which he offers to register by filing with the clerk of the court, within ~~ten~~ 10 days after of being notified of the denial, a petition in writing to have his right to register determined.

The petitioner may file his petition by completing and filing a form which shall be prescribed by the State Board and which shall be used by the general registrar to notify an applicant of the denial of his application to register and of the reasons for the denial. The form shall (i) state that an applicant denied registration has the right to appeal to the circuit court of the county or city in which he offers to register, (ii) give the name and address of the clerk of the circuit court for such county or city (to be supplied by the general registrar), (iii) state that a filing fee of ten dollars must be paid when filing the petition, (iv) contain a statement by which the applicant may indicate his desire to petition the court to have his right to register determined, and (v) provide space for the applicant to state the facts in support of his right to register.

On the filing of a petition to have the right to register determined, the clerk of the court shall immediately bring the matter to the attention of the chief judge of the court for the scheduling of a hearing on the petition. The matter shall be heard and determined on the face of the petition, the answer made in writing by the general registrar, and any evidence

introduced as part of the proceedings. The proceedings shall take precedence over all other business of the court and shall be heard as soon as possible.

On the filing of the petition, the clerk of the court shall immediately give notice to the attorney for the Commonwealth for his county or city, who shall appear and defend against the petition on behalf of the Commonwealth.

Judgment in favor of the petitioner shall entitle him to registration. From a judgment rendered against the petitioner, an appeal shall lie to the Supreme Court of Virginia.

B. The general registrar shall send a new application for registration to the applicant with the form prescribed in subsection A. The general registrar shall advise the applicant that he may complete and return the new application, in lieu of filing an appeal, if the reason stated for denial is that the applicant has failed to sign the application or failed to provide a required item of information on the application. Any applicant who returns a second application and whose second application is denied shall have the right to appeal provided in subsection A.

C. The provisions of § 24.2-416, pertaining to the closing of registration records in advance of an election, shall apply to any application submitted pursuant to subsection B following a denial of registration.

## CHAPTER 342

*An Act to amend and reenact § 24.2-418 of the Code of Virginia, relating to voter registration; protected voters; foster parents.*

[S 1244]

Approved March 12, 2019

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

**1. That § 24.2-418 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-418. Application for registration.**

A. Each applicant to register shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information necessary to complete the application to register. Unless physically disabled, he shall sign the application. The application to register shall be only on a form or forms prescribed by the State Board.

The form of the application to register shall require the applicant to provide the following information: full name; gender; date of birth; social security number, if any; whether the applicant is presently a United States citizen; address of residence in the precinct; place of last previous registration to vote; and whether the applicant has ever been adjudicated incapacitated and disqualified to vote or convicted of a felony, and if so, whether the applicant's right to vote has been restored. The form shall contain a statement that whoever votes more than once in any election in the same or different jurisdictions is guilty of a Class 6 felony. Unless directed by the applicant or as permitted in § 24.2-411.1 or 24.2-411.2, the registration application shall not be pre-populated with information the applicant is required to provide.

B. The form shall permit any individual, as follows, or member of his household, to furnish, in addition to his residence street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, on voter registration records made available for public inspection pursuant to § 24.2-444, or on lists of absentee voter applicants furnished pursuant to § 24.2-706 or 24.2-710. The voter shall comply with the provisions of § 24.2-424 for any change in the post office box address provided under this subsection.

1. Any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C. § 8331(20), but excluding officers whose duties relate to detention as defined in 5 U.S.C. § 8331(20);

2. Any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia;

3. Any party who has furnished a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him, accompanied by evidence that he has filed a complaint with a magistrate or law-enforcement official against such other person;

4. Any party participating in the address confidentiality program pursuant to § 2.2-515.2; ~~and~~

5. Any active or retired federal or Virginia justice or judge and any active or retired attorney employed by the United States Attorney General or Virginia Attorney General; *and*

6. *Any person who has been approved to be a foster parent pursuant to Chapter 9 (§ 63.2-900 et seq.) of Title 63.2.*

C. If the applicant formerly resided in another state, the general registrar shall send the information contained in the applicant's registration application to the appropriate voter registration official or other authority of another state where the applicant formerly resided, as prescribed in subdivision 15 of § 24.2-114.

## CHAPTER 343

*An Act to amend and reenact § 32.1-102.2, as it is currently effective and as it shall become effective, and § 32.1-127 of the Code of Virginia, relating to certificates of public need; nursing homes and hospitals; disaster exemption.*

[S 1277]

Approved March 12, 2019

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

**1. That § 32.1-102.2, as it is currently effective and as it shall become effective, and § 32.1-127 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-102.2. (Effective until July 1, 2019) Regulations.**

A. The Board shall promulgate regulations which are consistent with this article and:

1. Shall establish concise procedures for the prompt review of applications for certificates consistent with the provisions of this article which may include a structured batching process which incorporates, but is not limited to, authorization for the Commissioner to request proposals for certain projects. In any structured batching process established by the Board, applications, combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy and proton beam therapy, and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, and nuclear medicine imaging;

2. May classify projects and may eliminate one or more or all of the procedures prescribed in § 32.1-102.6 for different classifications;

3. May provide for exempting from the requirement of a certificate projects determined by the Commissioner, upon application for exemption, to be subject to the economic forces of a competitive market or to have no discernible impact on the cost or quality of health services;

4. Shall establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole;

5. May establish, on or after July 1, 1999, a schedule of fees for applications for certificates to be applied to expenses for the administration and operation of the certificate of public need program. Such fees shall not be less than \$1,000 nor exceed the lesser of one percent of the proposed expenditure for the project or \$20,000. Until such time as the Board shall establish a schedule of fees, such fees shall be one percent of the proposed expenditure for the project; however, such fees shall not be less than \$1,000 or more than \$20,000; ~~and~~

6. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision 8 of the definition of "project" in § 32.1-102.1. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6.; *and*

*7. Shall establish an exemption from the requirement for a certificate, for a period of no more than 30 days, for projects involving a temporary increase in the total number of beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.*

B. The Board shall promulgate regulations providing for time limitations for schedules for completion and limitations on the exceeding of the maximum capital expenditure amount for all reviewable projects. The Commissioner shall not approve any such extension or excess unless it complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval of a certificate on the agreement of the applicant to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the Commissioner to condition the issuing or renewing of any license for any applicant whose certificate was approved upon such condition on whether such applicant has complied with any agreement to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.

**§ 32.1-102.2. (Effective July 1, 2019) Regulations.**

The Board shall promulgate regulations that are consistent with this article and:

1. Shall establish concise procedures for the prompt review of applications for certificates consistent with the provisions of this article which may include a structured batching process which incorporates, but is not limited to, authorization for the Commissioner to request proposals for certain projects. In any structured batching process established

by the Board, applications, combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy and proton beam therapy, and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, and nuclear medicine imaging;

2. May classify projects and may eliminate one or more or all of the procedures prescribed in § 32.1-102.6 for different classifications;

3. May provide for exempting from the requirement of a certificate projects determined by the Commissioner, upon application for exemption, to be subject to the economic forces of a competitive market or to have no discernible impact on the cost or quality of health services;

4. Shall establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole;

5. May establish, on or after July 1, 1999, a schedule of fees for applications for certificates to be applied to expenses for the administration and operation of the certificate of public need program. Such fees shall not be less than \$1,000 nor exceed the lesser of one percent of the proposed expenditure for the project or \$20,000. Until such time as the Board shall establish a schedule of fees, such fees shall be one percent of the proposed expenditure for the project; however, such fees shall not be less than \$1,000 or more than \$20,000; ~~and~~

6. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision 8 of the definition of "project" in § 32.1-102.1. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6; *and*

*7. Shall establish an exemption from the requirement for a certificate, for a period of no more than 30 days, for projects involving a temporary increase in the total number of beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.*

B. The Board shall promulgate regulations providing for time limitations for completion and limitations on the exceeding of the maximum capital expenditure amount for all reviewable projects. The Commissioner shall not approve any such extension or excess unless it complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval of a certificate on the agreement of the applicant to provide a level of charity care to indigent persons or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the Commissioner to condition the issuing or renewing of any license for any applicant whose certificate was approved upon such condition on whether such applicant has complied with any agreement to provide a level of charity care to indigent persons or accept patients requiring specialized care. Except in the case of nursing homes, the value of charity care provided to individuals pursuant to this subsection shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

#### **§ 32.1-127. Regulations.**

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities. For purposes of this paragraph, facilities in which five or more first trimester abortions per month are performed shall be classified as a category of "hospital";

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent

recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration or reregistration of any sex offender within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is a registered sex offender, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.);

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department,

which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis; ~~and~~

23. (Effective March 1, 2019) Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan; *and*

24. *Shall establish an exemption, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds in an existing hospital or nursing home when the Commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.*

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot which is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

## CHAPTER 344

*An Act to amend the Code of Virginia by adding a section numbered 15.2-2114.01, relating to a local Stormwater Management Fund.*

[H 1614]

Approved March 12, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 15.2-2114.01 as follows:**

**§ 15.2-2114.01. Local Stormwater Management Fund; grant moneys.**

*Any locality may by ordinance create a local Stormwater Management Fund consisting of appropriated local moneys for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention on previously developed lands. Grants from such fund shall be used only for the construction, improvement, or repair of a stormwater management facility or for erosion and sediment control.*

## CHAPTER 345

*An Act to amend and reenact § 3.2-6571 of the Code of Virginia, relating to animal fighting; confiscation of tethered cocks.*

[H 1626]

Approved March 12, 2019

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

**1. That § 3.2-6571 of the Code of Virginia is amended and reenacted as follows:**

**§ 3.2-6571. Animal fighting; penalty.**

A. No person shall knowingly:

1. Promote, prepare for, engage in, or be employed in, the fighting of animals for amusement, sport, or gain;
2. Attend an exhibition of the fighting of animals;
3. Authorize or allow any person to undertake any act described in this section on any premises under his charge or control; or
4. Aid or abet any such acts.

Except as provided in subsection B, any person who violates any provision of this subsection is guilty of a Class 1 misdemeanor.

B. Any person who violates any provision of subsection A in combination with one or more of the following is guilty of a Class 6 felony:

1. When a dog is one of the animals;

2. When any device or substance intended to enhance an animal's ability to fight or to inflict injury upon another animal is used, or possessed with intent to use it for such purpose;
3. When money or anything of value is wagered on the result of such fighting;
4. When money or anything of value is paid or received for the admission of a person to a place for animal fighting;
5. When any animal is possessed, owned, trained, transported, or sold with the intent that the animal engage in an exhibition of fighting with another animal; or
6. When he permits or causes a minor to (i) attend an exhibition of the fighting of any animals or (ii) undertake or be involved in any act described in this subsection.

C. 1. Any animal control officer, as defined in § 3.2-6500, shall confiscate any *tethered cock or any other* animal that he determines has been, is, or is intended to be used in animal fighting and any equipment used in training such animal or used in animal fighting.

2. Upon confiscation of an animal, the animal control officer shall petition the appropriate court for a hearing for a determination of whether the animal has been, is, or is intended to be used in animal fighting. The hearing shall be not more than 10 business days from the date of the confiscation of the animal. If the court finds that the animal has not been used, is not used, and is not intended to be used in animal fighting, it shall order the animal released to its owner. However, if the court finds probable cause to believe that the animal has been, is, or is intended to be used in animal fighting, the court shall order the animal forfeited to the locality unless the owner posts bond in surety with the locality in an amount sufficient to compensate the locality for its cost of caring for the animal for a period of nine months. He shall post additional bond for each successive nine-month period until a final determination by the trial court on any criminal charges brought pursuant to ~~subsections~~ *subsection A or B*.

3. Upon a final determination of guilt by the trial court on criminal charges brought pursuant to ~~subsections~~ *subsection A or B*, the court shall order that the animal be forfeited to the locality. Upon a final determination of not guilty by the trial court on the underlying criminal charges, a confiscated animal shall be returned to its owner and any bond shall be refunded to him.

D. Any person convicted of violating any provision of subsection A or B shall be prohibited by the court from possession or ownership of companion animals or ~~cocks~~ *fowl*.

E. In addition to fines and costs, the court shall order any person who is convicted of a violation of this section to pay all reasonable costs incurred in housing, caring for, or euthanizing any confiscated animal. If the court finds that the actual costs are reasonable, it may order payment of actual costs.

F. The provisions of this section shall not apply to any law-enforcement officer in the performance of his duties. This section shall not prohibit (i) authorized wildlife management activities or hunting, fishing, or trapping authorized under any title of the Code of Virginia or regulations promulgated thereto or (ii) farming activities authorized under Title 3.2 of the Code of Virginia or regulations promulgated thereto.

## CHAPTER 346

*An Act to amend and reenact §§ 38.2-126, 38.2-1887, and 38.2-1888 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 38.2-1888.1 through 38.2-1888.5 and 58.1-2501.1, relating to travel insurance.*

[H 2186]

Approved March 12, 2019

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

**1. That §§ 38.2-126, 38.2-1887, and 38.2-1888 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 38.2-1888.1 through 38.2-1888.5 and 58.1-2501.1 as follows:**

#### **§ 38.2-126. Marine.**

A. "Marine insurance" means insurance against any kind of loss or damage to:

1. Vessels, craft, aircraft, vehicles of every kind, excluding vehicles operating under their own power or while in storage not incidental to transportation, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein in respect to any risks or perils of navigation, transit or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting shipment, or during any delays, storage, transshipment, or reshipment incident to shipment, including marine builders' risks and all personal property floater risks;

2. Persons or property in connection with or appertaining to marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of the insurance. This class of insurance shall not include life insurance, surety bonds or insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles;

3. Precious stones, jewels, jewelry, gold, silver and other precious metals used in business, trade, or otherwise and whether or not in transit. This class of insurance shall include jewelers' block insurance;

4. (i) Bridges, tunnels, and other instrumentalities of transportation and communication, excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage, unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot, and civil commotion are the only hazards to be covered; (ii) to piers, wharves, docks, and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and civil commotion; and (iii) to other aids to navigation and transportation, including dry docks and marine railways, against all risks.

B. Marine insurance shall also include "marine protection and indemnity insurance," meaning insurance against loss, damage, or expense or against legal liability of the insured for loss, damage, or expense arising out of or incident to ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

C. Any policy of "marine insurance" as defined in this section providing protection against bodily injury, sickness or death of another person may include appropriate provisions obligating the insurer to pay medical, hospital, surgical, and funeral expenses arising out of the death or injury of any person, regardless of any legal liability of the insured.

*D. Marine insurance shall also include "travel insurance" as defined in § 38.2-1887.*

**§ 38.2-1887. Application of article; definitions.**

A. *This article applies to travel insurance that covers any resident of the Commonwealth, any travel insurance sold, solicited, negotiated, or offered in the Commonwealth, and any travel insurance policies or certificates delivered or issued for delivery in the Commonwealth. This article shall not apply to cancellation fee waivers or travel assistance services except as expressly provided in this article. In the event of conflict between the provisions in this article and other provisions of this title, the provisions of this article shall control.*

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

*"Aggregator site" means a website that provides access to information, including product and insurer information, regarding insurance products from more than one insurer for use in comparison shopping.*

*"Blanket travel insurance" means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.*

*"Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.*

*"Designated Responsible Licensed Producer licensed producer" or "DRLP" "DLP" means an employee, officer, director, manager, member, or partner of a limited lines travel insurance agent who (i) is a licensed property and casualty insurance agent, a personal lines insurance agent, ~~which may include~~ or an individual limited lines property and casualty insurance agent; and (ii) has been designated by the limited lines travel insurance agent as the person responsible for the limited lines travel insurance agent's compliance with the travel insurance laws, rules, and regulations of the Commonwealth.*

*"Eligible group" means two or more persons who are engaged in a common enterprise or have an economic, educational, or social affinity or relationship, including:*

*1. Any entity engaged in the business of providing travel or travel services, including (i) tour operators, (ii) lodging providers, (iii) vacation property owners, (iv) hotels and resorts, (v) travel clubs, (vi) travel agencies, (vii) property managers, (viii) cultural exchange programs, and (ix) common carriers or the operator, owner, or lessor of a means of transportation of passengers, including cruise lines, railroads, steamship companies, and public bus carriers. All members or customers of any group must have a common exposure to risk attendant to such travel;*

*2. Any public or private school or institution of higher education covering students, teachers, employees, or volunteers;*

*3. Any employer covering any group of employees, volunteers, contractors, boards of directors, dependents, or guests;*

*4. Any sports team or camp, or sponsor of such team or camp, covering participants, members, campers, employees, officials, supervisors, or volunteers;*

*5. Any religious, charitable, recreational, educational, or civic organization or branch thereof covering any group of members, participants, or volunteers;*

*6. Any financial institution or financial institution vendor, or parent holding company, trustee, or agent designated by one or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;*

*7. Any incorporated or unincorporated association, including labor unions, having a common interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association, covering its members;*

*8. Any trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to the Commission's permitting the use of a trust and the premium tax provisions in § 58.1-2501.1 of any incorporated or unincorporated association;*

*9. Any entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers;*

10. Any volunteer fire department, emergency medical services department, police department, or court or any first aid, civil defense, or similar volunteer group covering any group of members, participants, or volunteers;

11. Any preschools or daycare institutions covering children or adults and senior citizen clubs;

12. Any automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status in the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company is the policyholder under a policy to which this definition applies; or

13. Any other group where the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest.

"Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.

"Group travel insurance" means travel insurance issued to an eligible group.

"Limited lines travel insurance agent" means a licensed property and casualty insurance agent, a personal lines insurance agent, or a limited lines property and casualty agent; ~~designated by an insurer as the travel insurance supervising entity.~~

"Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the Commonwealth.

"Primary certificate holder" means a person who elects and purchases travel insurance under a group policy.

"Primary policyholder" means a person who elects and purchases individual travel insurance.

"Travel administrator" means a person who directly or indirectly underwrites, collects, charges collateral or premiums from, or adjusts or settles claims on residents of the Commonwealth, in connection with travel insurance. A person shall not be considered a travel administrator if his only actions that would otherwise cause him to be considered a travel administrator are among the following:

1. A person working for a travel administrator to the extent that his activities are subject to the supervision and control of the travel administrator;

2. An insurance agent selling insurance or engaged in administrative and claims-related activities within the scope of the agent's license;

3. A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance agent in accordance with this article; or

4. An individual adjusting or settling claims in the normal course of his practice or employment as an attorney at law and who does not collect charges or premiums in connection with insurance coverage.

"Travel assistance services" means noninsurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in the transfer or shifting of risk that would constitute the business of insurance. "Travel assistance services" includes (i) security advisories; (ii) destination information; (iii) vaccination and immunization information services; (iv) travel reservation services; (v) entertainment; (vi) activity and event planning; (vii) translation assistance; (viii) emergency messaging; (ix) international legal and medical referrals; (x) medical case monitoring; (xi) coordination of transportation arrangements; (xii) emergency cash transfer assistance; (xiii) medical prescription replacement assistance; (xiv) passport and travel document replacement assistance; (xv) lost luggage assistance; (xvi) concierge services; and (xvii) any other service that is furnished in connection with planned travel. Travel assistance services are not insurance.

"Travel insurance" means insurance coverage for personal risks incident to planned travel, including (i) interruption or cancellation of trip or event; (ii) loss of baggage or personal effects; (iii) damages to accommodations or rental vehicles; ~~or~~ (iv) ~~sickness, accident, or death occurring during travel~~ emergency evacuation; (v) repatriation of remains; or (vi) any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commission. "Travel insurance" may include appropriate provisions obligating the insurer to pay medical, hospital, surgical, and funeral expenses arising out of the death, dismemberment, sickness, or injury of any person, and death and dismemberment benefits in the event of death or dismemberment, if the death, dismemberment, sickness, or injury is caused by or is incidental to a cause of loss insured under the policy. "Travel insurance" does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than six months ~~or longer~~, including those working or residing overseas as an expatriate ~~or deployed overseas as military personnel~~.

"Travel protection plan" means any plan that provides travel insurance, travel assistance services, or cancellation fee waivers.

"Travel retailer" means a business entity that offers and disseminates travel insurance on behalf of and under the direction and license of a travel insurance agent ~~or under its own agent license~~.

### § 38.2-1888. Licensing and registration.

A. The Commission may issue a limited lines travel insurance agent license to an individual or business entity that has filed with the Commission an application for a limited lines travel insurance agent license in a form and manner prescribed by the Commission. The limited lines travel insurance agent shall be licensed to sell, solicit, or negotiate travel insurance through a licensed insurer.

*B. No person may act as a limited lines travel insurance agent or travel retailer unless properly licensed or registered, respectively.*

*C. The grounds for the suspension or revocation of the license of and the penalties applicable to resident insurance agents shall be applicable to limited lines travel insurance agents and travel retailers.*

*D. A travel retailer may offer and disseminate travel insurance under its own or another's the license of a limited lines travel insurance agent license only if the following conditions are met:*

1. Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that:

a. Provide the identity and contact information of the insurer and the limited lines travel insurance agent;

b. Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

c. Explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage;

2. The limited lines travel insurance agent or travel retailer provides to purchasers of travel insurance:

a. A description of the material terms or the actual material terms of the insurance coverage;

b. A description of the process for filing a claim;

c. A description of the review or cancellation process for the travel insurance policy; and

d. The identity and contact information of the insurer and limited lines travel insurance agent;

3. At the time of licensure, the limited lines travel insurance agent shall establish and maintain a register on a form prescribed by the Commission of each travel retailer that offers travel insurance on the limited lines travel insurance agent's behalf. The register shall be maintained and updated by the limited lines travel insurance agent and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's Federal Tax Identification Number. The limited lines travel insurance agent shall submit such register to the Commission upon reasonable request. The limited lines travel insurance agent shall also certify that the travel retailer registered complies with 18 U.S.C. § 1033;

4. The limited lines travel insurance agent has designated a ~~DRLP~~ *DLP*;

5. The ~~DRLP~~ *DLP*, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance agent's insurance operations complies with a background check or fingerprinting requirements applicable to insurance agents;

6. The limited lines travel insurance agent has paid all applicable insurance agent licensing fees as set forth in this title; and

7. The limited lines travel insurance agent requires each employee or authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the Commission. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers;

~~B- E.~~ A travel retailer's employee or authorized representative who is not licensed as an insurance agent may not:

1. Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

2. Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

3. Hold himself or itself out as a licensed insurer, licensed agent, or insurance expert.

~~C- A F.~~ *Notwithstanding any other provision of law, a travel retailer whose insurance-related activities, and those of its employees or authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction and license of a limited lines travel insurance agent meeting the conditions stated in this article is authorized to conduct such activities and receive related compensation, upon registration by the limited lines travel insurance agent as described in subdivision A D 3. No travel retailer employee or authorized representative may be compensated based primarily on the number of customers who purchase travel insurance coverage; however, nothing in this article shall prohibit payment of compensation to a travel retailer or its employees or authorized representatives for activities under the limited lines travel insurance agent's license that are incidental to the travel retailer's or its employee's or authorized representative's overall compensation.*

~~D:~~ *Travel insurance may be provided under an individual policy or under a group or master policy.*

~~E: G.~~ As the insurer designee, the limited lines travel insurance agent and the insurer (i) are responsible for the acts of a travel retailer who is not a limited lines travel insurance agent and (ii) shall use reasonable means to ensure compliance by the travel retailer with this article.

*H. No person is authorized to sell, solicit, and negotiate travel insurance unless licensed and appointed as a limited lines travel insurance agent.*

**§ 38.2-1888.1. Suspension, revocation, or termination of license.**

*A. If a limited lines travel insurance agent or travel retailer or its employee or authorized representative violates any provision of this article, the Commission may do any of the following:*

1. *After notice and hearing, impose fines and penalties in accordance with § 38.2-218; and*

2. After notice and hearing, impose such other penalties that the Commission deems necessary and reasonable to carry out the purpose of this article, including (i) suspending the privilege of transacting travel insurance pursuant to this article at specific business locations where violations have occurred, (ii) suspending or revoking the ability of individual employees or authorized representatives or travel retailers to act under the license, and (iii) imposing a penalty in accordance with § 38.2-218 on the licensed producer designated by the travel insurance agent pursuant to § 38.2-1820.

B. The license authority of any licensed limited lines property and casualty producer selling travel insurance may be terminated if the sole licensed producer designated for the limited lines travel insurance agent's compliance with the insurance laws, rules, and regulations of the Commonwealth is removed for any reason and a new designated licensed producer has not been appointed. The Commission shall be notified within 30 calendar days of such removal and of the newly designated licensed producer.

**§ 38.2-1888.2. Travel protection plans.**

Travel protection plans may be offered for one price for the combined features that the travel protection plan offers in the Commonwealth if:

1. The travel protection plan clearly discloses to the consumer at or prior to the time of purchase that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides information and an opportunity at or prior to the time of purchase for the consumer to obtain additional information regarding the features and pricing of each; and

2. The fulfillment materials (i) describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan and (ii) include the travel insurance disclosures and the contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

**§ 38.2-1888.3. Sales practices.**

A. For the purposes of this section, "delivery" means handing fulfillment materials to the primary policyholder or primary certificate holder or sending fulfillment materials by United States Postal Service mail or by any other delivery service or electronic means to the policyholder or certificate holder.

B. Any person offering travel insurance to residents of the Commonwealth is subject to the unfair trade practice penalties contained in Chapter 5 (§ 38.2-500 et seq.), except as otherwise provided in this section. In the event of a conflict between this article and other provisions of this title regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this article shall control.

C. Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice.

D. All documents provided to consumers prior to the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy itself, including forms, endorsements, policies, rate filings, and certificates of insurance.

For travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase and in the coverage's fulfillment materials.

The fulfillment materials and the information described in subdivision 2 of § 38.2-1888.2 shall be provided to a primary policyholder or primary certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until (i) at least 15 days following the date of delivery of the travel protection plan's fulfillment materials sent by United States Postal Service mail or (ii) at least 10 days following the date of delivery of the travel protection plan's fulfillment materials sent by means other than United States Postal Service mail.

E. The company shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

F. Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

G. No person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using negative option or opt out that would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form when the consumer purchases a trip.

H. It shall be an unfair trade practice to market blanket travel insurance coverage as free.

I. Where a consumer's destination jurisdiction requires insurance coverage, it shall not be an unfair trade practice to require that a consumer choose between the following options as a condition of purchasing a trip or travel package:

1. Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance agent supplying the trip or travel package; or

2. Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

**§ 38.2-1888.4. Travel administrators.**

A. Notwithstanding any other provision of this title, no person shall act or represent itself as a travel administrator for travel insurance in the Commonwealth unless that person:

1. Is a licensed property and casualty insurance agent in the Commonwealth for activities permitted under that agent license; or

2. Holds a valid managing general agent (MGA) license in the Commonwealth.

B. An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and records relevant to the insurer to be made available by the travel administrator to the Commissioner upon request.

**§ 38.2-1888.5. Classification of travel insurance.**

A. Notwithstanding any other provision of this title, travel insurance shall be classified and filed for purposes of rates and forms under the inland marine line of insurance as set forth in § 38.2-126.

B. Travel insurance may be in the form of an individual, group, or blanket policy.

**§ 58.1-2501.1. Premium tax; travel insurance.**

A. As used in this section:

"Blanket travel insurance" has the same meaning ascribed thereto in § 38.2-1887.

"Primary certificate holder" has the same meaning ascribed thereto in § 38.2-1887.

"Primary policyholder" has the same meaning ascribed thereto in § 38.2-1887.

"Travel assistance services" has the same meaning ascribed thereto in § 38.2-1887.

"Travel insurance" has the same meaning ascribed thereto in § 38.2-1887.

B. A travel insurer shall pay premium tax as provided in § 58.1-2501 on travel insurance premiums paid by any of the following:

1. A primary policyholder who is a resident of the Commonwealth;

2. A primary certificate holder that is a resident of the Commonwealth; or

3. A blanket travel insurance policyholder that is a resident of the Commonwealth or that has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in the Commonwealth for eligible blanket group members, subject to apportionment rules that apply to the insurer across multiple taxing jurisdictions or that permits the insurer to allocate premiums on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

C. A travel insurer shall (i) document the state of residence or principal place of business of the primary policyholder or primary certificate holder and (ii) report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

**2. That the provisions of this act shall apply to policies of travel insurance purchased on or after July 1, 2019.**

**CHAPTER 347**

*An Act to amend and reenact §§ 2.2-1829 and 2.2-1831.3 of the Code of Virginia, relating to Revenue Stabilization Fund and Revenue Reserve Fund; maximum amounts.*

[H 2354]

Approved March 12, 2019

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

**1. That §§ 2.2-1829 and 2.2-1831.3 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1829. Reports of Auditor of Public Accounts; Fund deposits and withdrawals.**

A. On or before December 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year. The Auditor shall, at the same time, provide his report on (i) the ~~45 percent~~ limitation on the total amount in the Fund; ~~and~~ (ii) the amount that could be paid into the Fund; and ~~(ii)~~ (iii) the amount necessary for deposit for the next fiscal year into the Fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia. The Governor shall include any such amount in his budget bill submitted to the General Assembly pursuant to § 2.2-1509. A schedule of deposits may be provided for in the Appropriation Act.

B. If the report of the Auditor of Public Accounts, pursuant to subsection A, indicates that the annual percentage increase in the certified tax revenues collected in the most recently ended fiscal year is eight percent or greater than the certified tax revenues collected for the immediately preceding fiscal year and that such annual percentage increase in the certified tax revenues for the most recently ended fiscal year is also equal to or greater than 1.5 times the average annual percentage increase in the certified tax revenues collected in the six fiscal years immediately preceding the most recently ended fiscal year, the Governor shall include in his budget recommendations, submitted to the General Assembly in the subsequent session pursuant to § 2.2-1509, an additional amount for deposit to the Fund in excess of any mandatory deposit to the Fund required by Article X, Section 8 of the Constitution of Virginia. Such additional amount shall be equal to at least 25 percent of the product of the certified tax revenues collected in the most recently ended fiscal year multiplied by the difference between the annual percentage increase in the certified tax revenues collected for the most recently ended fiscal

year and the average annual percentage increase in the certified tax revenues collected in the six fiscal years immediately preceding the most recently ended fiscal year. Any such additional deposits to the Fund shall be included in the Governor's budget recommendations submitted to the General Assembly in the subsequent session pursuant to § 2.2-1509 only if the estimate of general fund revenues prepared in accordance with § 2.2-1503 for the fiscal year in which the deposit is to be made is at least five percent greater than the actual general fund revenues for the immediately preceding fiscal year.

C. The State Comptroller shall draw such warrants as appropriated and the State Treasurer shall deposit such warrants into the Fund. No amounts shall be withdrawn from the Fund except pursuant to appropriations made by the General Assembly in accordance with § 2.2-1830. However, if any amounts accrue, such as through interest or dividends, to the credit of the Fund in excess of the ~~15 percent~~ limitation calculated by the Auditor of Public Accounts *as provided in subsection E*, any excess shall be paid into the general fund ~~pursuant to Article X, Section 8 of the Constitution of Virginia either from the Fund or from the Revenue Reserve Fund created pursuant to § 2.2-1831.2.~~

D. For the purposes of the Comptroller's preliminary and final annual reports as required by § 2.2-813, all balances remaining in the Fund on June 30 of each fiscal year shall be considered to be a portion of the fund balance of the general fund of the state treasury.

*E. At no time shall the combined amount in the Fund and the Revenue Reserve Fund exceed 15 percent of the Commonwealth's average annual tax revenues derived from taxes on income and retail sales as certified by the Auditor of Public Accounts for the three fiscal years immediately preceding.*

**§ 2.2-1831.3. Commitment of funds for Revenue Reserve Fund.**

A. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the total general fund revenues collected in the most recently ended fiscal year. The Auditor of Public Accounts shall, at the same time, provide his report on the amount that could be paid into the Fund and the amount by which the amount in the Fund is less than the maximum amount permitted.

B. Whenever there is a fiscal year in which general fund revenues do not result in a mandatory deposit to the Revenue Stabilization Fund required by Article X, Section 8 of the Constitution of Virginia, the Comptroller shall, at the end of the fiscal year, commit within his annual report pursuant to § 2.2-813 the amount of the general fund revenue in excess of the official forecast for that prior fiscal year, less any deposit to the Virginia Water Quality Improvement Fund pursuant to subsection A of § 10.1-2128, for deposit into the Fund. Such amount committed for deposit into the Fund shall not exceed one percent of the total general fund revenues for the prior fiscal year. ~~In no event shall the total amount in the Fund at any time exceed two percent of the total general fund revenues for the prior fiscal year.~~

C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended appropriations from the general fund or recommended amendments to general fund appropriations in the general appropriation act in effect at that time an amount for deposit into the Fund at least equal to the amounts committed by the Comptroller and confirmed by the Auditor of Public Accounts for such purposes pursuant to the provisions of subsection B. A schedule of deposits may be provided in the appropriation act.

D. The State Comptroller shall draw such warrants as appropriated, and the State Treasurer shall deposit such warrants into the Fund. No withdrawal shall be made from the Fund except in accordance with § 2.2-1831.4.

E. For the purposes of the Comptroller's preliminary and final annual reports as required by § 2.2-813, all balances remaining in the Fund on June 30 of each fiscal year shall be considered to be a portion of the fund balance of the general fund of the state treasury. However, if any amounts accrue, such as through interest or dividends, to the credit of the Fund in excess of the ~~limit set forth in this subsection~~ *as limitation* calculated by the Auditor of Public Accounts *as provided in subsection F*, any excess shall be paid into the general fund *either from the Fund or from the Revenue Stabilization Fund created pursuant to § 2.2-1828.*

*F. At no time shall the combined amount in the Fund and the Revenue Stabilization Fund created pursuant to § 2.2-1828 exceed 15 percent of the Commonwealth's average annual tax revenues derived from taxes on income and retail sales as certified by the Auditor of Public Accounts for the three fiscal years immediately preceding.*

**CHAPTER 348**

*An Act to amend and reenact §§ 10.1-1105 and 55-332 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55-334.2 and 55-334.3, relating to timber theft; accounting; disclosure; penalty.*

[H 2411]

Approved March 12, 2019

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

**1. That §§ 10.1-1105 and 55-332 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55-334.2 and 55-334.3 as follows:**

**§ 10.1-1105. Additional powers and duties of State Forester.**

A. The State Forester shall supervise and direct all forest interests and all matters pertaining to forestry within the Commonwealth. He shall have charge of all forest wardens and shall appoint, direct and supervise persons he employs to perform labor in the forest reservations or the nurseries provided for herein, and he is authorized to employ temporary forest wardens to extinguish forest fires in the Commonwealth. He shall take such action as is authorized by law to prevent and

extinguish forest fires; develop a program to promote the use of prescribed burning for community protection and ecological, silvicultural, and wildlife management; enforce all laws pertaining to forest and woodlands; prosecute any violation of such laws; develop silvicultural best management practices, including reforestation, prevention of erosion and sedimentation, and maintenance of buffers for water quality, pursuant to Article 12 (§ 10.1-1181.1 et seq.) ~~of this chapter~~; collect information relative to forest destruction and conditions; direct the protection and improvement of all forest reservations; and, as far as his duties as State Forester will permit, conduct an educational course on forestry at the University of Virginia for credit toward a degree, at farmers' institutes and at similar meetings within the Commonwealth. He shall provide for the protection of state waters from pollution by sediment deposition resulting from silvicultural activities as provided in Article 12 (§ 10.1-1181.1 et seq.) ~~of this chapter~~. In addition, the State Forester shall cooperate with counties, municipalities, corporations and individuals in preparing plans and providing technical assistance, based on generally accepted scientific forestry principles, for the protection, management and replacement of trees, wood lots and timber tracts and the establishment and preservation of urban forests, under an agreement that the parties obtaining such assistance shall pay the field and traveling expenses of the person employed in preparing such plans. *The State Forester also shall assist landowners and law-enforcement agencies with regard to reported cases of timber theft.*

*B. Records of the Department composed of confidential commercial or financial information supplied by individuals or business entities to the Department in the course of an investigation of timber theft are excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

**§ 55-332. Procedure for determination of damage.**

A. The owner of the land on which ~~such~~ a trespass prohibited by the provisions of § 55-331 was committed shall have the right, within ~~30~~ 90 days after the discovery of such trespass and the identity of the trespasser, to notify the trespasser and to appoint an experienced timber estimator to determine the amount of damages. For the purposes of determining damages, the value of the timber cut shall be calculated by first determining the value of the timber on the stump. Within 30 days after receiving notice of the alleged trespass and of the appointment of such estimator, the alleged trespasser, if he does not deny the fact of trespass, shall appoint an experienced timber estimator to participate with the one already so appointed in the estimation of damages. If the two estimators cannot agree, they shall select a third person, experienced and disinterested, and the decision thereafter made shall be final and conclusive and not subject to appeal. The estimation of damages and the rendition of statement must be effected within 30 days from the receipt of notice of appointment, by the trespasser, of an estimator.

If the alleged trespasser fails to appoint an estimator within the prescribed time, or to notify, within such time, that the allegation of the fact of trespass is disputed, the estimator appointed by the injured party may make an estimate, and collection or recovery may be had accordingly.

B. Any person who (i) severs or removes any timber from the land of another without legal right or permission or (ii) authorizes or directs the severing or removal of timber or trees from the land of another without legal right or permission shall be liable to pay to the rightful owner of the timber three times the value of the timber on the stump and shall pay to the rightful owner of the property the reforestation costs incurred not to exceed \$450 per acre, the costs of ascertaining the value of the timber, any directly associated legal costs, and reasonable attorney fees incurred by the owner of the timber as a result of the trespass.

**§ 55-334.2. Larceny of timber; failure to remit payment to owner; penalty.**

A. Any person who buys timber directly from the owner of the land on which the timber is grown shall make payment in full to the owner by the date specified in the written timber sales agreement or, if there is no such written agreement, within 60 days from the date that the buyer removes the timber from the property.

B. Any person who, without the consent of the seller, fails to make payment in full within the time period established by subsection A is guilty of timber theft, which is punishable as a Class 1 misdemeanor, and shall be ordered to pay restitution equal to three times the value of the timber established in the timber sale agreement, whether written or oral, in addition to any penalties imposed by the court.

C. No person shall be prosecuted under this section if he remits payment in full within the time period established by subsection A or D to a person he believes in good faith to be the rightful owner of the timber.

D. An owner of land who does not receive payment in full within the time period established in subsection A may notify the timber buyer in writing of his demand for payment at such buyer's last known address by certified mail or by personal delivery. The timber buyer's failure to make payment in full within 10 days after such mailing or personal delivery shall constitute prima facie evidence of such buyer's intent to violate the provisions of subsection A. However, no person who remits payment in full within 10 days after such demand for payment shall be prosecuted for violating the provisions of subsection A, notwithstanding his failure to remit payment in full within the time period established in subsection A.

**§ 55-334.3. Load tickets required for certain sales of timber; penalty.**

A. Whenever a timber buyer acquires timber and the load is sold by weight, cord, or measure of board feet, such buyer shall, upon request of the owner of the land from which the timber is removed, furnish such landowner within 30 days of the request or 30 days from the date that the timber is removed, whichever is later, a true and accurate accounting of each load removed from the property related to the sale.

Such accounting shall include all supporting documentation, such as load tickets or settlement statements provided to the timber buyer by the facility receiving, weighing, scaling, or measuring the trees, timber, or wood, and shall contain, at a minimum, (i) the name of the facility receiving, weighing, scaling, or measuring the trees, timber, or wood; (ii) the date the

trees, timber, or wood was received at the facility; (iii) the name of the producer or logging company; (iv) the type of wood; (v) the type of product; (vi) the weight or scale information, including the total volume if the load is measured by scale, or the gross and tare, or net weights, if the load is measured by weight; and (vii) the weight, scale, or amount of wood deducted and the deduction classification.

B. No load ticket or settlement report shall be required to include price or market value information unless the timber sales agreement, whether written or oral, stipulates that the landowner is to be paid based on a share of the value of the timber removed.

C. Any person who fails to provide the information required by this section, or who knowingly provides false information, is guilty of a Class 3 misdemeanor.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 349

*An Act to amend and reenact § 33.2-214 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 15 of Title 33.2 a section numbered 33.2-1532, relating to the Robert O. Norris Bridge and Statewide Special Structure Fund.*

[H 2784]

Approved March 12, 2019

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

**1. That § 33.2-214 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 15 of Title 33.2 a section numbered 33.2-1532 as follows:**

**§ 33.2-214. Transportation; Six-Year Improvement Program.**

A. The Board shall have the power and duty to monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Article 5 (§ 33.2-281 et seq.) in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

B. The Board shall have the power and duty to coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and set aside funds as provided in § 33.2-1524. To allocate funds for these needs pursuant to §§ 33.2-358 and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

C. The Board shall have the power and duty to enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

D. The Board shall have the power and duty to promote increasing private investment in the Commonwealth's transportation infrastructure, including acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.

E. The Board shall only include a project or program wholly or partially funded with funds from the State of Good Repair Program pursuant to § 33.2-369, the High Priority Projects Program pursuant to § 33.2-370, or the Highway Construction District Grant Programs pursuant to § 33.2-371 in the Six-Year Improvement Program if the allocation of funds from those programs and other funding committed to such project or program within the six-year horizon of the Six-Year Improvement Program is sufficient to complete the project or program. *The provisions of this subsection shall not apply to any project (i) the design and construction of which cannot be completed within six years, (ii) the estimated costs of which exceed \$2 billion, and (iii) that requires the Board to exercise its authority to waive the funding cap pursuant to subsection B of § 33.2-369.*

F. The Board shall have the power and duty to integrate land use with transportation planning and programming, consistent with the efficient and economical use of public funds. If the Board determines that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional Transportation Improvement Program as described in § 33.2-3201 is not consistent with the Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B, and the location of routes to be followed by roads comprising systems of state highways pursuant to subsection A of § 33.2-208, the Board shall notify the locality of such inconsistency and request that the applicable plan or program be amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to amend the plan or program, then the Board may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law. However, the Board shall not reallocate any funds allocated pursuant to § 33.2-319 or 33.2-366, based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program nor shall the Board reallocate any funds, allocated pursuant to subsection C or D of § 33.2-358, from any projects on highways

controlled by any county that has withdrawn, or elects to withdraw, from the secondary system of state highways based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program. If a locality or metropolitan planning organization requests the termination of a project, and the Department does not agree to the termination, or if a locality or metropolitan planning organization does not advance a project to the next phase of construction when requested by the Board and the Department has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for all funds expended on the project. If, after design approval by the Chief Engineer of the Department, a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for the additional project costs above the original estimates for making such alterations.

**§ 33.2-1532. Robert O. Norris Bridge and Statewide Special Structure Fund.**

*There is hereby created in the state treasury a special nonreverting fund to be known as the Robert O. Norris Bridge and Statewide Special Structure Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. The amount allocated to the Fund pursuant to §§ 33.2-358, 33.2-369, and 33.2-1530 and any funds as may be appropriated by the General Assembly shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of funding maintenance and replacement of large and unique structures. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Transportation. No later than November 30 each year, the Commissioner of Highways shall submit a report to the Governor and General Assembly on the use of moneys in the Fund.*

**2. That the Commonwealth Transportation Board (the Board) shall undertake a comprehensive review of the current and future condition of pavements and bridges in the Commonwealth. This review shall at a minimum (i) consider current conditions and performance targets of pavements and bridges, (ii) consider current investment strategies of the Highway Maintenance and Operating Fund as well as the State of Good Repair Program, (iii) recommend new performance targets for pavements and bridges with sustainable performance over a 20-year period, and (iv) develop an investment strategy for the Highway Maintenance and Operating Fund and the State of Good Repair Program to achieve those sustainable performance targets, including a plan to address the funding needs of large and unique bridges and tunnel structures in the Commonwealth. The Board shall report no later than December 1, 2019, to the Chairmen of the House and Senate Committees on Transportation, the Joint Commission on Transportation Accountability, the House Committee on Appropriations, and the Senate Committee on Finance.**

**3. That the Commonwealth Transportation Board (the Board) shall, after July 1, 2020, and based on the review conducted by the Board pursuant to the second enactment of this act, dedicate a portion of funding from the Highway Maintenance and Operating Fund and the State of Good Repair Fund to the Robert O. Norris Bridge and Statewide Special Structure Fund, as created by this act.**

**4. That the Commonwealth Transportation Board shall evaluate the feasibility of using the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq. of the Code of Virginia) to design, build, operate, and maintain two bridges to replace the existing Robert O. Norris Bridge on State Route 3 over the Rappahannock River between Lancaster and Middlesex Counties and the existing Downing Bridge on U.S. Route 360 over the Rappahannock River between the Town of Warsaw in Richmond County and the Town of Tappahannock in Essex County.**

## CHAPTER 350

*An Act to amend and reenact § 30-256 of the Code of Virginia, relating to Chesapeake Bay Restoration Fund Advisory Committee; members.*

[S 1152]

Approved March 12, 2019

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

**1. That § 30-256 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-256. Chesapeake Bay Restoration Fund Advisory Committee; membership; terms; expenses; staff.**

A. There is hereby established in the legislative branch of state government the Chesapeake Bay Restoration Fund Advisory Committee (the Committee). The Committee shall advise the General Assembly on the expenditure of moneys received in the Chesapeake Bay Restoration Fund (the Fund) created pursuant to § 46.2-749.2.

B. The Committee shall consist of seven persons as follows: two members of the House of Delegates appointed by the Speaker of the House of Delegates; one member of the Senate appointed by the Senate Committee on Rules; two nonlegislative citizen members appointed by the Speaker of the House of Delegates, one of whom shall be a representative of the Chesapeake Bay Foundation; and two nonlegislative citizen members appointed by the Senate Committee on Rules, one of whom shall be a representative of the Virginia Association of Soil and Water Conservation Districts. All persons appointed to the Committee shall be representative of the interests associated with the restoration and conservation of the Chesapeake Bay and shall be citizens of the Commonwealth.

C. Nonlegislative citizen members of the Committee shall serve for terms of four years. Legislative members shall serve terms coincident with their terms of office and may be reappointed for successive terms. Appointments to fill vacancies shall be for the unexpired term and shall be made in the same manner as the original appointment. Nonlegislative citizen members shall not be eligible to serve more than ~~two~~ four consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. Members shall receive no compensation for their services, but shall be reimbursed out of the Fund for all reasonable and necessary expenses as provided in §§ 2.2-2813 and 2.2-2825 incurred in the performance of their duties. The Division of Legislative Services shall be reimbursed from the Fund for costs, as shall be approved by the Committee, incurred in providing administrative assistance to the Committee.

E. The Committee shall elect a chairman and vice-chairman from among its legislative membership. A majority of the members of the Committee shall constitute a quorum. The Committee shall meet at least one time each year, and additional meetings may be held at the call of the chairman.

F. The Committee shall develop goals and guidelines for the use of the Fund in accordance with the purposes of the fund as provided in § 46.2-749.2. The uses of the Fund may include cooperative programs with, or project grants to, state agencies, the federal government, or any not-for-profit agency, institution, organization, or entity, public or private. Moneys in the Fund ~~may~~ shall not be used to supplant existing general fund appropriations except as provided in subsection D.

G. No later than November 15 of each year, the Committee shall present to the General Assembly and the Governor a plan for expenditure of any amounts in the Fund.

H. Staffing of the Committee shall be provided by the Division of Legislative Services.

**2. That three of the nonlegislative citizen members of the Chesapeake Bay Restoration Fund Advisory Committee, as established by § 30-256 of the Code of Virginia, as amended by this act, whose terms expire July 1, 2019, shall have their terms of service extended as follows: one such member appointed by the Senate Committee on Rules shall have his term extended until July 1, 2020; one such member appointed by the Senate Committee on Rules shall have his term extended until July 1, 2021; and one such member appointed by the Speaker of the House of Delegates shall have his term extended until July 1, 2022. No such period of extension of a member's term of service pursuant to the provisions of this act shall constitute a term in determining the member's eligibility for reappointment.**

## CHAPTER 351

*An Act to amend and reenact §§ 45.1-361.19 and 45.1-361.31 of the Code of Virginia, relating to oil and gas wells; bonding requirements; application notice.*

[S 1271]

Approved March 12, 2019

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

**1. That §§ 45.1-361.19 and 45.1-361.31 of the Code of Virginia are amended and reenacted as follows:**

**§ 45.1-361.19. Notice of hearing; standing; form of hearing.**

A. Any person who applies for a hearing in front of the Board pursuant to the provisions of § 45.1-361.20, 45.1-361.21, or 45.1-361.22 shall simultaneously with the filing of such application, provide notice by *commercial delivery service*, *return receipt requested*, or certified mail, return receipt requested, to each gas or oil owner, coal owner, or mineral owner having an interest underlying the tract which is the subject of the hearing, and to the operator of any gas storage field certificated by the State Corporation Commission as a public utility facility whose certificated area includes the tract which is the subject of the hearing. Whenever a hearing applicant is unable to provide such written notice because the identity or location of a person to whom notice is required to be given is unknown, the hearing applicant shall promptly notify the Board of such inability.

B. At least 10 days prior to a hearing, the Board shall publish its agenda in newspapers of general circulation that are widely circulated in the localities where the lands that are the subject of the hearing are located. The agenda shall include the name of each applicant, the localities where the lands that are the subject of the hearing are located, the purpose of the hearing, and the date, time and location thereof.

C. The Board shall conduct all hearings on applications made to it pursuant to the formal litigated issues hearing provisions of the Administrative Process Act (§ 2.2-4000 et seq.). The applicant and any person to whom notice is required to be given pursuant to the provisions of subsection A of this section shall have standing to be heard at the hearing. The Board shall render its decision on such applications within thirty days of the hearing's closing date and shall provide notification of its decision to all parties to the hearing pursuant to the provisions of the Administrative Process Act.

**§ 45.1-361.31. Bonding and financial security required.**

A. To ensure compliance with all laws and regulations pertaining to permitted activities and the furnishing of reports and other information required by the Board or Director, all permit applicants shall give bond with surety acceptable to the Director and payable to the Commonwealth. At the election of the permit applicant, a cash bond may be given. The amount of the bond required shall be sufficient to cover the costs of properly plugging the well and restoring the site, but in no case shall the amount of the bond be less than \$10,000 per well plus \$2,000 per acre of disturbed land, calculated to the nearest

tenth of an acre. Bonds shall remain in force until released by the Director. *The Director may require additional bond or financial security for any well proposed to be drilled in Tidewater Virginia.*

B. Upon receipt of an application for permits for gas or oil operations and at the request of the permit applicant, the Director may, in lieu of requiring a separate bond for each permit, require a blanket bond. The amount of the blanket bond shall be as follows:

1. For one to ~~fifteen~~ 10 wells, \$25,000.
2. For ~~sixteen to thirty~~ wells, \$50,000.
- ~~3. For thirty-one to fifty~~ 50 wells, ~~\$75,000~~ \$50,000.
4. 3. For ~~fifty-one or more~~ 51 to 200 wells, \$100,000.
4. For more than 200 wells, \$200,000.

For purposes of calculating blanket bond amounts, from one-tenth of an acre to five acres of disturbed land for a separately permitted gathering pipeline shall be equivalent to one well. The Director shall promulgate regulations for the release of acreage used to calculate blanket bond amounts for separately permitted gathering pipelines in cases where sites have been stabilized.

C. Any gas or oil operator who elects to post a blanket bond shall pay into the Gas and Oil Plugging and Restoration Fund those fees and assessments required under the provisions of § 45.1-361.32.

~~D. This section's minimum requirements for bonding shall be met by all permitted gas or oil operations by July 1, 1991.~~

## CHAPTER 352

*An Act to amend the Code of Virginia by adding a section numbered 46.2-341.9:01, relating to commercial driver's licenses; specialized training required.*

[S 1343]

Approved March 12, 2019

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

**1. That the Code of Virginia is amended by adding a section numbered 46.2-341.9:01 as follows:**

**§ 46.2-341.9:01. Specialized training required.**

*The Commissioner shall require that the course of instruction and other relevant materials related to driver training for commercial driver's licenses for Class A, Class B, and Class C commercial motor vehicles include training on the recognition, prevention, and reporting of human trafficking. The Commissioner shall identify industry-specific materials for use in the training required by this section.*

## CHAPTER 353

*An Act to amend and reenact §§ 10.1-1105 and 55-332 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55-334.2 and 55-334.3, relating to timber theft; accounting; disclosure; penalty.*

[S 1469]

Approved March 12, 2019

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

**1. That §§ 10.1-1105 and 55-332 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55-334.2 and 55-334.3 as follows:**

**§ 10.1-1105. Additional powers and duties of State Forester.**

A. The State Forester shall supervise and direct all forest interests and all matters pertaining to forestry within the Commonwealth. He shall have charge of all forest wardens and shall appoint, direct and supervise persons he employs to perform labor in the forest reservations or the nurseries provided for herein, and he is authorized to employ temporary forest wardens to extinguish forest fires in the Commonwealth. He shall take such action as is authorized by law to prevent and extinguish forest fires; develop a program to promote the use of prescribed burning for community protection and ecological, silvicultural, and wildlife management; enforce all laws pertaining to forest and woodlands; prosecute any violation of such laws; develop silvicultural best management practices, including reforestation, prevention of erosion and sedimentation, and maintenance of buffers for water quality, pursuant to Article 12 (§ 10.1-1181.1 et seq.) ~~of this chapter~~; collect information relative to forest destruction and conditions; direct the protection and improvement of all forest reservations; and, as far as his duties as State Forester will permit, conduct an educational course on forestry at the University of Virginia for credit toward a degree, at farmers' institutes and at similar meetings within the Commonwealth. He shall provide for the protection of state waters from pollution by sediment deposition resulting from silvicultural activities as provided in Article 12 (§ 10.1-1181.1 et seq.) ~~of this chapter~~. In addition, the State Forester shall cooperate with counties, municipalities, corporations and individuals in preparing plans and providing technical assistance, based on generally accepted scientific forestry principles, for the protection, management and replacement of trees, wood lots and timber tracts and the establishment and preservation of urban forests, under an agreement that the parties obtaining such

assistance shall pay the field and traveling expenses of the person employed in preparing such plans. *The State Forester also shall assist landowners and law-enforcement agencies with regard to reported cases of timber theft.*

*B. Records of the Department composed of confidential commercial or financial information supplied by individuals or business entities to the Department in the course of an investigation of timber theft are excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

**§ 55-332. Procedure for determination of damage.**

A. The owner of the land on which ~~such~~ a trespass prohibited by the provisions of § 55-331 was committed shall have the right, within ~~30~~ 90 days after the discovery of such trespass and the identity of the trespasser, to notify the trespasser and to appoint an experienced timber estimator to determine the amount of damages. For the purposes of determining damages, the value of the timber cut shall be calculated by first determining the value of the timber on the stump. Within 30 days after receiving notice of the alleged trespass and of the appointment of such estimator, the alleged trespasser, if he does not deny the fact of trespass, shall appoint an experienced timber estimator to participate with the one already so appointed in the estimation of damages. If the two estimators cannot agree, they shall select a third person, experienced and disinterested, and the decision thereafter made shall be final and conclusive and not subject to appeal. The estimation of damages and the rendition of statement must be effected within 30 days from the receipt of notice of appointment, by the trespasser, of an estimator.

If the alleged trespasser fails to appoint an estimator within the prescribed time, or to notify, within such time, that the allegation of the fact of trespass is disputed, the estimator appointed by the injured party may make an estimate; and collection or recovery may be had accordingly.

B. Any person who (i) severs or removes any timber from the land of another without legal right or permission or (ii) authorizes or directs the severing or removal of timber or trees from the land of another without legal right or permission shall be liable to pay to the rightful owner of the timber three times the value of the timber on the stump and shall pay to the rightful owner of the property the reforestation costs incurred not to exceed \$450 per acre, the costs of ascertaining the value of the timber, any directly associated legal costs, and reasonable attorney fees incurred by the owner of the timber as a result of the trespass.

**§ 55-334.2. Larceny of timber; failure to remit payment to owner; penalty.**

A. Any person who buys timber directly from the owner of the land on which the timber is grown shall make payment in full to the owner by the date specified in the written timber sales agreement or, if there is no such written agreement, within 60 days from the date that the buyer removes the timber from the property.

B. Any person who, without the consent of the seller, fails to make payment in full within the time period established by subsection A is guilty of timber theft, which is punishable as a Class 1 misdemeanor, and shall be ordered to pay restitution equal to three times the value of the timber established in the timber sale agreement, whether written or oral, in addition to any penalties imposed by the court.

C. No person shall be prosecuted under this section if he remits payment in full within the time period established by subsection A or D to a person he believes in good faith to be the rightful owner of the timber.

D. An owner of land who does not receive payment in full within the time period established in subsection A may notify the timber buyer in writing of his demand for payment at such buyer's last known address by certified mail or by personal delivery. The timber buyer's failure to make payment in full within 10 days after such mailing or personal delivery shall constitute prima facie evidence of such buyer's intent to violate the provisions of subsection A. However, no person who remits payment in full within 10 days after such demand for payment shall be prosecuted for violating the provisions of subsection A, notwithstanding his failure to remit payment in full within the time period established in subsection A.

**§ 55-334.3. Load tickets required for certain sales of timber; penalty.**

A. Whenever a timber buyer acquires timber and the load is sold by weight, cord, or measure of board feet, such buyer shall, upon request of the owner of the land from which the timber is removed, furnish such landowner within 30 days of the request or 30 days from the date that the timber is removed, whichever is later, a true and accurate accounting of each load removed from the property related to the sale.

Such accounting shall include all supporting documentation, such as load tickets or settlement statements provided to the timber buyer by the facility receiving, weighing, scaling, or measuring the trees, timber, or wood, and shall contain, at a minimum, (i) the name of the facility receiving, weighing, scaling, or measuring the trees, timber, or wood; (ii) the date the trees, timber, or wood was received at the facility; (iii) the name of the producer or logging company; (iv) the type of wood; (v) the type of product; (vi) the weight or scale information, including the total volume if the load is measured by scale, or the gross and tare, or net weights, if the load is measured by weight; and (vii) the weight, scale, or amount of wood deducted and the deduction classification.

B. No load ticket or settlement report shall be required to include price or market value information unless the timber sales agreement, whether written or oral, stipulates that the landowner is to be paid based on a share of the value of the timber removed.

C. Any person who fails to provide the information required by this section, or who knowingly provides false information, is guilty of a Class 3 misdemeanor.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of**

imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

#### CHAPTER 354

*An Act to amend and reenact § 30-179 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 37 of Title 2.2 a section numbered 2.2-3715, relating to the Virginia Freedom of Information Advisory Council; advisory opinions; evidence in civil proceeding.*

[H 1772]

Approved March 12, 2019

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

**1. That § 30-179 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 37 of Title 2.2 a section numbered 2.2-3715:**

**§ 2.2-3715. Effect of advisory opinions from the Freedom of Information Advisory Council on liability for willful and knowing violations.**

*Any officer, employee, or member of a public body who is alleged to have committed a willful and knowing violation pursuant to § 2.2-3714 shall have the right to introduce at any proceeding a copy of a relevant advisory opinion issued pursuant to § 30-179 as evidence that he did not willfully and knowingly commit the violation if the alleged violation resulted from his good faith reliance on the advisory opinion.*

**§ 30-179. Powers and duties of the Council.**

The Council shall:

1. Furnish, upon request, advisory opinions or guidelines, and other appropriate information regarding the Freedom of Information Act (§ 2.2-3700 et seq.) to any person or ~~agency of state or local government~~ *public body*, in an expeditious manner;
2. Conduct training seminars and educational programs for the members and staff of public bodies and other interested persons on the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.);
3. Publish such educational materials as it deems appropriate on the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.);
4. Request from any ~~agency of state or local government~~ *public body* such assistance, services, and information as will enable the Council to effectively carry out its responsibilities. Information provided to the Council by ~~an agency of state or local government~~ *a public body* shall not be released to any other party unless authorized by such ~~agency~~ *public body*;
5. Assist in the development and implementation of the provisions of § 2.2-3704.1;
6. Develop the public comment form for use by designated public bodies in accordance with subdivision D 6 of § 2.2-3708.2;
7. Develop an online public comment form to be posted on the Council's official public government website to enable any requester to comment on the quality of assistance provided to the requester by a public body; and
8. Report annually on or before December 1 of each year on its activities and findings regarding the Freedom of Information Act (§ 2.2-3700 et seq.), including recommendations for changes in the law, to the General Assembly and the Governor. The annual report shall be published as a state document.

#### CHAPTER 355

*An Act to amend the Code of Virginia by adding in Chapter 13.2 of Title 55 an article numbered 7, consisting of sections numbered 55-248.40:1, 55-248.40:2, and 55-248.40:3, relating to the Eviction Diversion Pilot Program.*

[H 2655]

Approved March 12, 2019

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

**1. That the Code of Virginia is amended by adding in Chapter 13.2 of Title 55 an article numbered 7, consisting of sections numbered 55-248.40:1, 55-248.40:2, and 55-248.40:3, as follows:**

*Article 7.*

*Eviction Diversion Pilot Program.*

**§ 55-248.40:1. Establishment of Eviction Diversion Pilot Program; purpose; goals.**

*A. There is hereby established the Eviction Diversion Pilot Program (the Program) within the existing structure of the general district courts for the cities of Danville, Hampton, Petersburg, and Richmond. The purpose of the Program shall be to reduce the number of evictions of low-income persons. Notwithstanding any other provision of law, no eviction diversion court or program shall be established except in conformance with this section.*

*B. The goals of the Program shall include (i) reducing the number of evictions of low-income persons from their residential dwelling units for the failure to pay small amounts of money under the rental agreement, in particular when such persons have experienced an event that adversely affected financial circumstances such as the loss of employment or a*

medical crisis in their immediate family; (ii) reducing displacement of families from their homes and the resulting adverse consequences to children who are no longer able to remain in the same public school after eviction; (iii) encouraging understanding of eviction-related processes and facilitating the landlord's and tenant's entering into a reasonable payment plan that provides for the landlord to receive full rental payments as contracted for in the rental agreement and for the tenant to have the opportunity to make current such rental payments; and (iv) encouraging tenants to make rental payments in the manner as provided in the rental agreement.

**§ 55-248.40:2. Eviction Diversion Pilot Program; administration.**

Administrative oversight of the implementation of the Program and training for judges who preside over general district courts participating in the Program shall be conducted by the Executive Secretary of the Supreme Court of Virginia (Executive Secretary).

**§ 55-248.40:3. Eviction Diversion Pilot Program; process; court-ordered payment plan.**

A. A tenant in an unlawful detainer case shall be eligible to participate in the Program if he:

1. Appears in court on the first docket call of the case and requests to have the case referred into the Program;
2. Pays to the landlord or into the court at least 25 percent of the amount due on the unlawful detainer as amended on the first docket call of the case;
3. Provides sworn testimony that he is employed and has sufficient funds to make the payments under the court payment plan, or otherwise has sufficient funds to make such payments;
4. Provides sworn testimony explaining the reasons for being unable to make rental payments as contracted for in the rental agreement;
5. Has not been late within the last 12 months in payment of rent as contracted for in the rental agreement at the rate of either (i) more than two times in six months or (ii) more than three times in 12 months;
6. Has not exercised the right of redemption pursuant to § 55-248.34:1 within the last six months; and
7. Has not participated in an eviction diversion program within the last 12 months.

B. The court shall direct an eligible tenant pursuant to subsection A and his landlord to participate in the Program and to enter into a court-ordered payment plan. The court shall provide for a continuance of the case on the docket of the general district court in which the unlawful detainer action is filed to allow for full payment under the plan. The court-ordered payment plan shall be based on a payment agreement entered into by the landlord and tenant, on a form provided by the Executive Secretary, and shall contain the following provisions:

1. All payments shall be (i) made to the landlord; (ii) paid by cashier's check, certified check, or money order; and (iii) received by the landlord on or before the fifth day of each month included in the plan;
2. The remaining payments of the amounts on the amended unlawful detainer after the first payments made on the first docket call of the case shall be paid on the following schedule: (i) 25 percent due by the fifth day of the month following the initial court hearing date, (ii) 25 percent due by the fifth day of the second month following the initial court hearing date, and (iii) the final payment of 25 percent due by the fifth day of the third month following the initial court hearing date; and
3. All rental payments shall continue to be made by the tenant to the landlord as contracted for in the rental agreement within five days of the due date established by the rental agreement each month during the course of the court-ordered payment plan.

C. If the tenant makes all payments in accordance with the court-ordered payment plan, the judge shall dismiss the unlawful detainer as being satisfied.

D. If the tenant fails to make a payment under the court-ordered payment plan or to keep current any monthly rental payments to the landlord as contracted for in the rental agreement within five days of the due date established by the rental agreement, the landlord shall submit to the general district court clerk a written notice, on a form provided by the Executive Secretary, that the tenant has failed to make payments in accordance with the plan. A copy of such written notice shall be given to the tenant in accordance with § 55-248.6.

The court shall enter an order of possession without further hearings or proceedings, unless the tenant files an affidavit with the court within 10 days of the date of such notice stating that the current rent has in fact been paid and that the landlord has not properly acknowledged payment of such rent. A copy of such affidavit shall be given to the landlord in accordance with § 55-248.6.

The landlord may seek a money judgement for final rent and damages pursuant to subsection B of § 8.01-128.

E. Nothing in this section shall be construed to limit (i) the landlord from filing an unlawful detainer for a non-rent violation against the tenant while such tenant is participating in the Program or (ii) the landlord and tenant from entering into a voluntary payment agreement outside the provisions of this section.

**2. That it is the intent of the General Assembly, recognizing the critical need in the Commonwealth to reduce the number of evictions of low-income persons from residential dwelling units, to establish an eviction diversion pilot program and to evaluate the benefits and costs associated with such a program.**

**3. That the provisions of the first enactment of this act shall become effective on July 1, 2020.**

**4. That the provisions of the first enactment of this act shall expire on July 1, 2023.**

**5. That the Virginia Housing Commission shall request data from the Executive Secretary pursuant to § 16.1-69.54:1 and conduct evaluations of the effectiveness and efficiency of the eviction diversion pilot program established by the first enactment of this act. To assist the Commission, the Office of the Executive Secretary of the Virginia Supreme**

Court shall provide the data requested by the Commission in electronic format, at such times as requested by the Commission.

6. That beginning on July 1, 2022, the Virginia Housing Commission shall evaluate data submitted by the Office of the Executive Secretary of the Virginia Supreme Court relating to the eviction diversion pilot program. The Commission shall submit a report on its findings on or before November 30, 2022, to the General Assembly and the Chairmen of the Senate Committees on Finance, General Laws and Technology, and Courts of Justice and the Chairmen of the House Committees on Appropriations, Finance, General Laws, and Courts of Justice, including recommendations for legislation for the 2023 Session of the General Assembly.

7. That the provisions of this act shall not apply to any tenant who has exercised the right of redemption pursuant to § 55-248.34:1 of the Code of Virginia at any time before July 1, 2020.

## CHAPTER 356

*An Act to amend the Code of Virginia by adding in Chapter 13.2 of Title 55 an article numbered 7, consisting of sections numbered 55-248.40:1, 55-248.40:2, and 55-248.40:3, relating to the Eviction Diversion Pilot Program.*

[S 1450]

Approved March 12, 2019

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

**1. That the Code of Virginia is amended by adding in Chapter 13.2 of Title 55 an article numbered 7, consisting of sections numbered 55-248.40:1, 55-248.40:2, and 55-248.40:3, as follows:**

*Article 7.*

*Eviction Diversion Pilot Program.*

**§ 55-248.40:1. Establishment of Eviction Diversion Pilot Program; purpose; goals.**

A. There is hereby established the Eviction Diversion Pilot Program (the Program) within the existing structure of the general district courts for the cities of Danville, Hampton, Petersburg, and Richmond. The purpose of the Program shall be to reduce the number of evictions of low-income persons. Notwithstanding any other provision of law, no eviction diversion court or program shall be established except in conformance with this section.

B. The goals of the Program shall include (i) reducing the number of evictions of low-income persons from their residential dwelling units for the failure to pay small amounts of money under the rental agreement, in particular when such persons have experienced an event that adversely affected financial circumstances such as the loss of employment or a medical crisis in their immediate family; (ii) reducing displacement of families from their homes and the resulting adverse consequences to children who are no longer able to remain in the same public school after eviction; (iii) encouraging understanding of eviction-related processes and facilitating the landlord's and tenant's entering into a reasonable payment plan that provides for the landlord to receive full rental payments as contracted for in the rental agreement and for the tenant to have the opportunity to make current such rental payments; and (iv) encouraging tenants to make rental payments in the manner as provided in the rental agreement.

**§ 55-248.40:2. Eviction Diversion Pilot Program; administration.**

Administrative oversight of the implementation of the Program and training for judges who preside over general district courts participating in the Program shall be conducted by the Executive Secretary of the Supreme Court of Virginia (Executive Secretary).

**§ 55-248.40:3. Eviction Diversion Pilot Program; process; court-ordered payment plan.**

A. A tenant in an unlawful detainer case shall be eligible to participate in the Program if he:

1. Appears in court on the first docket call of the case and requests to have the case referred into the Program;
2. Pays to the landlord or into the court at least 25 percent of the amount due on the unlawful detainer as amended on the first docket call of the case;
3. Provides sworn testimony that he is employed and has sufficient funds to make the payments under the court payment plan, or otherwise has sufficient funds to make such payments;
4. Provides sworn testimony explaining the reasons for being unable to make rental payments as contracted for in the rental agreement;
5. Has not been late within the last 12 months in payment of rent as contracted for in the rental agreement at the rate of either (i) more than two times in six months or (ii) more than three times in 12 months;
6. Has not exercised the right of redemption pursuant to § 55-248.34:1 within the last six months; and
7. Has not participated in an eviction diversion program within the last 12 months.

B. The court shall direct an eligible tenant pursuant to subsection A and his landlord to participate in the Program and to enter into a court-ordered payment plan. The court shall provide for a continuance of the case on the docket of the general district court in which the unlawful detainer action is filed to allow for full payment under the plan. The court-ordered payment plan shall be based on a payment agreement entered into by the landlord and tenant, on a form provided by the Executive Secretary, and shall contain the following provisions:

1. All payments shall be (i) made to the landlord; (ii) paid by cashier's check, certified check, or money order; and (iii) received by the landlord on or before the fifth day of each month included in the plan;

2. The remaining payments of the amounts on the amended unlawful detainer after the first payments made on the first docket call of the case shall be paid on the following schedule: (i) 25 percent due by the fifth day of the month following the initial court hearing date, (ii) 25 percent due by the fifth day of the second month following the initial court hearing date, and (iii) the final payment of 25 percent due by the fifth day of the third month following the initial court hearing date; and

3. All rental payments shall continue to be made by the tenant to the landlord as contracted for in the rental agreement within five days of the due date established by the rental agreement each month during the course of the court-ordered payment plan.

C. If the tenant makes all payments in accordance with the court-ordered payment plan, the judge shall dismiss the unlawful detainer as being satisfied.

D. If the tenant fails to make a payment under the court-ordered payment plan or to keep current any monthly rental payments to the landlord as contracted for in the rental agreement within five days of the due date established by the rental agreement, the landlord shall submit to the general district court clerk a written notice, on a form provided by the Executive Secretary, that the tenant has failed to make payments in accordance with the plan. A copy of such written notice shall be given to the tenant in accordance with § 55-248.6.

The court shall enter an order of possession without further hearings or proceedings, unless the tenant files an affidavit with the court within 10 days of the date of such notice stating that the current rent has in fact been paid and that the landlord has not properly acknowledged payment of such rent. A copy of such affidavit shall be given to the landlord in accordance with § 55-248.6.

The landlord may seek a money judgement for final rent and damages pursuant to subsection B of § 8.01-128.

E. Nothing in this section shall be construed to limit (i) the landlord from filing an unlawful detainer for a non-rent violation against the tenant while such tenant is participating in the Program or (ii) the landlord and tenant from entering into a voluntary payment agreement outside the provisions of this section.

**2. That it is the intent of the General Assembly, recognizing the critical need in the Commonwealth to reduce the number of evictions of low-income persons from residential dwelling units, to establish an eviction diversion pilot program and to evaluate the benefits and costs associated with such a program.**

**3. That the provisions of the first enactment of this act shall become effective on July 1, 2020.**

**4. That the provisions of the first enactment of this act shall expire on July 1, 2023.**

**5. That the Virginia Housing Commission shall request data from the Executive Secretary pursuant to § 16.1-69.54:1 and conduct evaluations of the effectiveness and efficiency of the eviction diversion pilot program established by the first enactment of this act. To assist the Commission, the Office of the Executive Secretary of the Virginia Supreme Court shall provide the data requested by the Commission in electronic format, at such times as requested by the Commission.**

**6. That beginning on July 1, 2022, the Virginia Housing Commission shall evaluate data submitted by the Office of the Executive Secretary of the Virginia Supreme Court relating to the eviction diversion pilot program. The Commission shall submit a report on its findings on or before November 30, 2022, to the General Assembly and the Chairmen of the Senate Committees on Finance, General Laws and Technology, and Courts of Justice and the Chairmen of the House Committees on Appropriations, Finance, General Laws, and Courts of Justice, including recommendations for legislation for the 2023 Session of the General Assembly.**

**7. That the provisions of this act shall not apply to any tenant who has exercised the right of redemption pursuant to § 55-248.34:1 of the Code of Virginia at any time before July 1, 2020.**

## CHAPTER 357

*An Act to amend and reenact §§ 2.2-507 and 2.2-510 of the Code of Virginia, relating to Office of the Attorney General; representation of members of the General Assembly for violations of the Virginia Freedom of Information Act.*

[S 1101]

Approved March 12, 2019

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

**1. That §§ 2.2-507 and 2.2-510 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-507. Legal service in civil matters.**

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local,

public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority;
2. Agents inspecting or investigators appointed by the State Corporation Commission;
3. Agents, investigators, or auditors employed by the Department of Taxation;
4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Corrections, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;
5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;
6. Persons employed by the Commissioner of Motor Vehicles;
7. Persons appointed by the Commissioner of Marine Resources;
8. Police officers appointed by the Superintendent of State Police;
9. Conservation police officers appointed by the Department of Game and Inland Fisheries;
10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;
11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
12. Any emergency medical services agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;
13. Conservation officers of the Department of Conservation and Recreation; or
14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department being represented or whose members, officers, inspectors, investigators, or other employees are being represented pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

D. Nothing herein shall limit the powers granted in § 16.1-88.03.

#### **§ 2.2-510. Employment of special counsel generally.**

No special counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, official, justice of the Supreme Court, or judge of any circuit court or district court except in the following cases:

1. When the Governor determines that, because of the nature of the legal service to be performed, the Attorney General's office is unable to render such service, then the Governor shall issue an exemption order stating with particularity the facts and reasons leading to the conclusion that the Attorney General's office is unable to render such service. The Governor may then employ special counsel to render such service as he may deem necessary and proper. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department to be represented or whose members, officers, inspectors, investigators, or other employees are to be represented pursuant to this section.

2. In cases of legal services in civil matters to be performed for the Commonwealth, where it is impracticable or uneconomical for the Attorney General to render such service, he may employ special counsel whose compensation shall be paid out of the appropriation for the Attorney General's office.

3. In cases of legal services in civil matters to be performed for any state department, institution, division, commission, board, bureau, agency, entity, official, *member of the General Assembly*, justice of the Supreme Court, or judge of any circuit court or district court where it is impracticable or uneconomical for the Attorney General's office to render such service, special counsel may be employed but only as set forth in subsection D of § 2.2-507, upon the written recommendation of the Attorney General, who shall approve all requisitions drawn upon the Comptroller for warrants as compensation for such special counsel before the Comptroller shall have authority to issue such warrants.

4. In cases where the Attorney General certifies to the Governor that he is unable to render certain legal services, the Governor may employ special counsel or other assistance to render such services as may be necessary.

## CHAPTER 358

*An Act to amend and reenact §§ 2.2-3701, 2.2-3705.2, 2.2-3705.6, 2.2-3705.7, and 2.2-3711 of the Code of Virginia, relating to the Virginia Freedom of Information Act; definition of trade secret.*

[S 1180]

Approved March 12, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3701, 2.2-3705.2, 2.2-3705.6, 2.2-3705.7, and 2.2-3711 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 2.2-3701. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Closed meeting" means a meeting from which the public is excluded.

"Electronic communication" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information" as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (a) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (b) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions; governing boards of public institutions of higher education; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records.

"Public records" means all writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.

"Regional public body" means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, which unit includes two or more localities.

"Scholastic records" means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution.

*"Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.).*

#### **§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law.

Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Confidential information, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

2. Information that describes the design, function, operation, or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

3. Information that would disclose the security aspects of a system safety program plan adopted pursuant to Federal Transit Administration regulations by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

4. Information concerning security plans and specific assessment components of school safety audits, as provided in § 22.1-279.8.

Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of security plans after (i) any school building or property has been subjected to fire, explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered or been threatened with any personal injury.

5. Information concerning the mental health assessment of an individual subject to commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the Commitment Review Committee; except that in no case shall information identifying the victims of a sexually violent predator be disclosed.

6. Subscriber data provided directly or indirectly by a communications services provider to a public body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if the data is in a form not made available by the communications services provider to the public generally. Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

7. Subscriber data collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a personal, medical, or financial nature provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if such records are not otherwise publicly available.

Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

For the purposes of this subdivision:

"Communications services provider" means the same as that term is defined in § 58.1-647.

"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a communications services provider.

8. Information held by the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, that would (i) reveal strategies under consideration or development by the Council or such commission or organizations to prevent the closure or realignment of federal military installations located in Virginia or the relocation of national security facilities located in Virginia, to limit the adverse economic effect of such realignment, closure, or relocation, or to seek additional tenant activity growth from the Department of Defense or federal government or (ii) disclose trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Council or such commission or organizations in connection with their work.

In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information for which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in this subdivision shall be construed to prevent the disclosure of all or part of any record, other than a trade secret that has been specifically identified as required by this subdivision, after the Department of Defense or federal agency has issued a final, unappealable decision, or in the event of litigation, a court of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or expansion of the military installation or tenant activities, or the relocation of the national security facility, for which records are sought.

9. Information, as determined by the State Comptroller, that describes the design, function, operation, or implementation of internal controls over the Commonwealth's financial processes and systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment of internal controls mandated by the State Comptroller, if disclosure of such information would jeopardize the security of the Commonwealth's financial assets.

However, records relating to the investigation of and findings concerning the soundness of any fiscal process shall be disclosed in a form that does not compromise internal controls. Nothing in this subdivision shall be construed to prohibit the Auditor of Public Accounts or the Joint Legislative Audit and Review Commission from reporting internal control deficiencies discovered during the course of an audit.

10. Information relating to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the STARS or any other similar local or regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other similar local or regional communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, or programming maintained by or utilized by STARS or any other similar local or regional public safety communications system.

11. Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS department if disclosure of such information would reveal the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

12. Information concerning the disaster recovery plans or the evacuation plans in the event of fire, explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by the Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of Health. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of executed evacuation plans after the occurrence of fire, explosion, natural disaster, or other catastrophic event.

13. Records received by the Department of Criminal Justice Services pursuant to §§ 9.1-184, 22.1-79.4, and 22.1-279.8 or for purposes of evaluating threat assessment teams established by a public institution of higher education pursuant to § 23.1-805 or by a private nonprofit institution of higher education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

14. Information contained in (i) engineering, architectural, or construction drawings; (ii) operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other records that reveal any of the following, the disclosure of which would jeopardize the safety or security of any person; governmental facility, building, or structure or persons using such facility, building, or structure; or public or private commercial office, multifamily residential, or retail building or its occupants:

a. Critical infrastructure information or the location or operation of security equipment and systems of any public building, structure, or information storage facility, including ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, or utility equipment and systems;

b. Vulnerability assessments, information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building structure, information technology system, or software program;

c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational or transportation plans or protocols; or

d. Interconnectivity, network monitoring, network operation centers, master sites, or systems related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system.

The same categories of records of any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and resilience. Such statement shall be a public record and shall be disclosed upon request.

Any public body receiving a request for records excluded under clauses (a) and (b) of this subdivision 14 shall notify the Secretary of Public Safety and Homeland Security or his designee of such request and the response made by the public body in accordance with § 2.2-3704.

Nothing in this subdivision 14 shall prevent the disclosure of records relating to (1) the structural or environmental soundness of any such facility, building, or structure or (2) an inquiry into the performance of such facility, building, or structure after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.

As used in this subdivision, "critical infrastructure information" means the same as that term is defined in 6 U.S.C. § 131.

15. Information held by the Virginia Commercial Space Flight Authority that is categorized as classified or sensitive but unclassified, including national security, defense, and foreign policy information, provided that such information is exempt under the federal Freedom of Information Act, 5 U.S.C. § 552.

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.
10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.
11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and  
b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (~~§ 59.1-336 et seq.~~); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:
  - (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
  - (2) Identifying with specificity the data or other materials for which protection is sought; and
  - (3) Stating the reasons why protection is necessary.The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the

responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1~~, submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~ or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~; including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position

of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets; ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.);~~ provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant or loan application, or accompanying a grant or loan application, submitted to the Virginia Research Investment Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records would (i) reveal (a) trade secrets ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.);~~ (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.);~~ (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.);~~ including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public

through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local

government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social

Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the ~~Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other

identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

#### **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision

shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the

membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

## CHAPTER 359

*An Act to amend and reenact § 2.2-3708.2 of the Code of Virginia, relating to meetings held through electronic communications means under the Virginia Freedom of Information Act.*

[S 1182]

Approved March 12, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 2.2-3708.2 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 2.2-3708.2. Meetings held through electronic communication means.**

A. The following provisions apply to all public bodies:

1. Subject to the requirements of subsection C, all public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that:

a. Such member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance; or

b. Such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subdivision is limited each calendar year to two meetings.

2. If participation by a member through electronic communication means is approved pursuant to subdivision 1, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public. If participation is approved pursuant to subdivision 1 a, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a temporary or permanent disability or other medical condition that prevented the member's physical attendance. If participation is approved pursuant to subdivision 1 b, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to subdivision 1 b is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

3. Any public body may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency. The public body convening a meeting in accordance with this subdivision shall:

a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;

b. Make arrangements for public access to such meeting; and

c. Otherwise comply with the provisions of this section.

The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

B. The following provisions apply to regional public bodies:

1. Subject to the requirements in subsection C, regional public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means if, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.

2. If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public.

If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection C, such disapproval shall be recorded in the minutes with specificity.

C. Participation by a member of a public body in a meeting through electronic communication means pursuant to ~~subsections A~~ *subdivisions A 1 and 2* and *subsection B* shall be authorized only if the following conditions are met:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at one primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

D. The following provisions apply to state public bodies:

1. Except as provided in subsection D of § 2.2-3707.01, state public bodies may also conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided that (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subdivision 2, and (iii) members of the public are provided a substantially equivalent electronic communication means through which to witness the meeting. For the purposes of this subsection, "witness" means observe or listen.

If a state public body holds a meeting through electronic communication means pursuant to this subsection, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

2. Notice of any regular meeting held pursuant to this subsection shall be provided at least three working days in advance of the date scheduled for the meeting. Notice, reasonable under the circumstance, of special, emergency, or continued meetings held pursuant to this section shall be given contemporaneously with the notice provided to members of the public body conducting the meeting. For the purposes of this subsection, "continued meeting" means a meeting that is continued to address an emergency or to conclude the agenda of a meeting for which proper notice was given.

The notice shall include the date, time, place, and purpose for the meeting; shall identify the primary or central meeting location and any remote locations that are open to the public pursuant to subdivision 4; shall include notice as to the electronic communication means by which members of the public may witness the meeting; and shall include a telephone number that may be used to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

3. A copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body conducting the meeting.

4. Public access to the remote locations from which additional members of the public body participate through electronic communication means shall be encouraged but not required. However, if three or more members are gathered at the same remote location, then such remote location shall be open to the public.

5. If access to remote locations is afforded, (i) all persons attending the meeting at any of the remote locations shall be afforded the same opportunity to address the public body as persons attending at the primary or central location and (ii) a copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of the public body for the meeting shall be made available for inspection by members of the public attending the meeting at any of the remote locations at the time of the meeting.

6. The public body shall make available to the public at any meeting conducted in accordance with this subsection a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § 30-179.

7. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes. For emergency meetings held by electronic communication means, the nature of the emergency shall be stated in the minutes.

8. Any authorized state public body that meets by electronic communication means pursuant to this subsection shall make a written report of the following to the Virginia Freedom of Information Advisory Council by December 15 of each year:

a. The total number of meetings held that year in which there was participation through electronic communication means;

b. The dates and purposes of each such meeting;

c. A copy of the agenda for each such meeting;

d. The primary or central meeting location of each such meeting;

e. The types of electronic communication means by which each meeting was held;

- f. If possible, the number of members of the public who witnessed each meeting through electronic communication means;
  - g. The identity of the members of the public body recorded as present at each meeting, and whether each member was present at the primary or central meeting location or participated through electronic communication means;
  - h. The identity of any members of the public body who were recorded as absent at each meeting and any members who were recorded as absent at a meeting but who monitored the meeting through electronic communication means;
  - i. If members of the public were granted access to a remote location from which a member participated in a meeting through electronic communication means, the number of members of the public at each such remote location;
  - j. A summary of any public comment received about the process of conducting a meeting through electronic communication means; and
  - k. A written summary of the public body's experience conducting meetings through electronic communication means, including its logistical and technical experience.
- E. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

### CHAPTER 360

*An Act to amend and reenact § 64.2-601 of the Code of Virginia, relating to payment or delivery of small asset by affidavit; check, draft, or other negotiable instrument; financial institution.*

[S 1186]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-601 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-601. Payment or delivery of small asset by affidavit.**

A. Any person having possession of a small asset shall pay or deliver the small asset to the designated successor of the decedent upon being presented an affidavit made by all of the known successors stating:

1. That the value of the decedent's entire personal probate estate as of the date of the decedent's death, wherever located, does not exceed \$50,000;
2. That at least 60 days have elapsed since the decedent's death;
3. That no application for the appointment of a personal representative is pending or has been granted in any jurisdiction;
4. That the decedent's will, if any, was duly probated;
5. That the claiming successor is entitled to payment or delivery of the small asset, and the basis upon which such entitlement is claimed;
6. The names and addresses of all successors, to the extent known;
7. The name of each successor designated to receive payment or delivery of the small asset on behalf of all successors; and
8. That the designated successor shall have a fiduciary duty to safeguard and promptly pay or deliver the small asset as required by the laws of the Commonwealth.

B. The designated successor may discharge his fiduciary duty to promptly pay or deliver the small asset to a successor who is, or is reasonably believed to be, incapacitated or under a legal disability, by paying or delivering the asset directly to the incapacitated or disabled successor or applying it for such successor's benefit, or by:

1. Paying it to such successor's conservator or, if no conservator exists, guardian;
2. Paying it to such successor's custodian under the Virginia Uniform Transfers to Minors Act (§ 64.2-1900 et seq.) or custodial trustee under the Uniform Custodial Trust Act (§ 64.2-900 et seq.), and, for that purpose, creating a custodianship or custodial trust;
3. If the designated successor does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of such successor to be expended on such successor's behalf; or
4. Managing it as a separate fund on such successor's behalf, subject to such successor's continuing right to withdraw the asset.

C. Any successor may be represented and bound under virtual representation provisions of §§ 64.2-714, 64.2-716, and 64.2-717 with respect to affidavits required and designations of persons to receive payment or delivery of a small asset under this article.

D. A transfer agent of any security, upon the surrender of the certificates, if any, evidencing the security, shall change the registered ownership on the books of a corporation from the decedent to the designated successor upon the presentation of an affidavit as provided in subsection A.

E. Upon the presentation of an affidavit as provided in subsection A, the designated successor may endorse or negotiate any small asset that is a check, draft, or other negotiable instrument that is payable to the decedent or the decedent's estate. *Notwithstanding the provisions of §§ 8.3A-403, 8.3A-417, and 8.3A-420, a financial institution accepting*

*such check, draft, or other negotiable instrument presented for deposit in such manner is discharged from all claims for the amount accepted.*

## CHAPTER 361

*An Act to amend and reenact § 15.2-2511 of the Code of Virginia, relating to voluntary town audits; submission to Auditor of Public Accounts.*

[S 1312]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2511 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2511. Audit of local government records, etc.; Auditor of Public Accounts; audit of shortages.**

A. Localities shall have all their accounts and records, including all accounts and records of their constitutional officers, audited annually as of June 30 by an independent certified public accountant in accordance with the specifications furnished by the Auditor of Public Accounts. The certified public accountant shall present a detailed written report to the local governing body at a public session by the following December 31. Every locality shall contract for the performance of the annual audit not later than April 1 of each fiscal year and such contract shall incorporate the provisions of this section relating to audit specifications and report date. The report shall be preserved by the clerk of the local governing body, and shall be open to public inspection at all times by any qualified voter.

The accounts and records of any county or city officer listed in Article VII, Section 4 of the Constitution of Virginia, hereinafter referred to as "constitutional officers," shall be subject to the provisions of this section.

When the annual audit conducted pursuant to this subsection includes the clerk of the circuit court, the audit shall satisfy the requirement of an audit pursuant to § 30-134.

In the event a locality fails to obtain the annual audit prescribed by this subsection, the Auditor of Public Accounts may undertake the audit or may employ the services of certified public accountants and charge the full cost of such services to the locality. However, no part of the cost and expense of such audit shall be paid by any locality whose governing body has its accounts audited for the fiscal years in question as prescribed above and furnishes the Auditor of Public Accounts with a copy of such audit.

B. Except where otherwise authorized by statute, the Auditor of Public Accounts shall audit the accounts of local governments and constitutional officers only when (i) special circumstances require an audit, or (ii) there is suspected fraud or inappropriate handling of funds which may affect the financial interests of the Commonwealth. However, the Auditor of Public Accounts shall also audit the accounts of a local government at any other time upon a majority vote of the local governing body, with all expenses of the audit to be borne by the requesting locality. In all instances, such audits shall be carried out with the approval of the Joint Legislative Audit and Review Commission.

Any shortage existing in the accounts of the locality or constitutional officer, as ascertained by the audit, shall be made public within 30 days after the shortage is discovered, and a brief statement thereof shall be sent by the Auditor of Public Accounts to the members and clerk of the local governing body and to the circuit court for the locality, and shall be filed in the clerk's office of such court.

C. The provisions of this section shall apply to all counties and cities, to all towns having a population of 3,500 or over, and to all towns constituting a separate school division regardless of their population.

*D. Notwithstanding the provisions of this section, any town not required to submit an audit pursuant to subsection C that voluntarily contracts for or performs an audit shall submit the results of such audit to the Auditor of Public Accounts upon completion of the audit.*

## CHAPTER 362

*An Act to amend and reenact §§ 2.2-4001, 2.2-4101, and 2.2-4102 of the Code of Virginia, relating to the Registrar of Regulations.*

[S 1377]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-4001, 2.2-4101, and 2.2-4102 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-4001. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Agency" means any authority, instrumentality, officer, board or other unit of the state government empowered by the basic laws to make regulations or decide cases.

"Agency action" means either an agency's regulation or case decision or both, any violation, compliance, or noncompliance with which could be a basis for the imposition of injunctive orders, penal or civil sanctions of any kind, or the grant or denial of relief or of a license, right, or benefit by any agency or court.

"Basic law" or "basic laws" means provisions of the Constitution and statutes of the Commonwealth authorizing an agency to make regulations or decide cases or containing procedural requirements therefor.

"Case" or "case decision" means any agency proceeding or determination that, under laws or regulations at the time, a named party as a matter of past or present fact, or of threatened or contemplated private action, either is, is not, or may or may not be (i) in violation of such law or regulation or (ii) in compliance with any existing requirement for obtaining or retaining a license or other right or benefit.

"Guidance document" means the same as that term is defined in § 2.2-4101.

"Hearing" means agency processes other than those informational or factual inquiries of an informal nature provided in §§ 2.2-4007.01 and 2.2-4019 and includes only (i) opportunity for private parties to submit factual proofs in formal proceedings as provided in § 2.2-4009 in connection with the making of regulations or (ii) a similar right of private parties or requirement of public agencies as provided in § 2.2-4020 in connection with case decisions.

"Hearing officer" means an attorney selected from a list maintained by the Executive Secretary of the Supreme Court in accordance with § 2.2-4024.

"Public assistance and social services programs" means those programs specified in § 63.2-100.

"Registrar" means the Registrar of Regulations ~~appointed~~ *employed* as provided in § 2.2-4102.

"Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, adopted by an agency in accordance with the authority conferred on it by applicable basic laws.

"Subordinate" means (i) one or more but less than a quorum of the members of a board constituting an agency, (ii) one or more of its staff members or employees, or (iii) any other person or persons designated by the agency to act in its behalf.

"Virginia Register of Regulations" means the publication issued under the provisions of Article 6 (§ 2.2-4031 et seq.).

"Virginia Regulatory Town Hall" means the website operated by the Department of Planning and Budget, which has online public comment forums and displays information about regulatory actions under consideration in the Commonwealth and sends this information to registered public users.

#### § 2.2-4101. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means any authority, instrumentality, officer, board, or other unit of the government of the Commonwealth with express or implied authority to issue regulations other than the General Assembly, courts, municipal corporations, counties, other local or regional governmental authorities including sanitary or other districts and joint state-federal, interstate or intermunicipal authorities, the Virginia Resources Authority, the Virginia Code Commission with respect to minor changes made under the provisions of § 30-150, and educational institutions operated by the Commonwealth with respect to regulations that pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.

"Virginia Administrative Code" means the codified publication of regulations under the provisions of Chapter 15 (§ 30-145 et seq.) of Title 30.

"Commission" means the Virginia Code Commission.

"Guidance document" means any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations, excluding agency minutes or documents that pertain only to the internal management of agencies. Nothing in this definition shall be construed or interpreted to expand the identification or release of any document otherwise protected by law.

"Registrar" means the Registrar of Regulations ~~appointed~~ *employed* as provided in § 2.2-4102.

"Rule" or "regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws.

"Virginia Register of Regulations" means the publication issued under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.).

#### § 2.2-4102. Registrar of Regulations; publications.

~~The Commission shall engage or appoint on a contract, part-time, or annual basis Division of Legislative Services shall employ a professionally experienced or trained Registrar of Regulations. Under the direction of the Commission or the Director of the Division of Legislative Services, the Registrar shall, at a suitable place to be designated by the Commission, perform the duties required by this chapter or assigned by the Commission or the Director of the Division of Legislative Services in accordance with Chapter 40 (§ 2.2-4000 et seq.), this chapter, or Chapter 15 (§ 30-145 et seq.) of Title 30. The Commission shall as necessary also (i) appoint clerical or other personnel if any, (ii) arrange by contract or otherwise for the necessary facilities and services, and (iii) provide for the compilation and publication of the Virginia Register of Regulations and the Virginia Administrative Code pursuant to §§ 2.2-4031 and 30-146.~~

### CHAPTER 363

*An Act to amend and reenact § 15.2-4904 of the Code of Virginia, relating to industrial development authority; King William County.*

Approved March 12, 2019

[H 2012]

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-4904 of the Code of Virginia is amended and reenacted as follows:

**§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.**

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three, and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms, and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies, which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors; the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority; *the board of supervisors of King William County may appoint nine members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors*; the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council; however, the town council *of the Town of Saint Paul* may at its option return to a ~~seven member~~ *seven-member* board by removing the last three members appointed; the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors, and the town council of the Town of South Boston shall appoint two at-large members; Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one *member* at-large, with terms staggered as agreed upon by the board of supervisors; Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority; the board of supervisors of Goochland County may appoint five members to serve on the board of the authority; the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council; the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs; and one at-large member, with terms staggered as agreed upon by the city council; *and* the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority or is absent from any four meetings of the authority within any 12-month period or upon unanimous vote of the board of supervisors. In any such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective

successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Except as provided herein, four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. In the case of the Economic Development Authority of Goochland County, three members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

### CHAPTER 364

*An Act to amend and reenact §§ 55-79.97 and 55-509.4 of the Code of Virginia, relating to the Condominium Act and Property Owners' Association Act; delivery of condominium resale certificates and association disclosure packets; right of purchaser to cancel contract.*

[H 2385]

Approved March 12, 2019

#### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 55-79.97 and 55-509.4 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 55-79.97. Resale by purchaser; resale certificate; use of for sale sign in connection with resale; designation of authorized representative.**

A. In the event of any resale of a condominium unit by a unit owner other than the declarant, and subject to the provisions of subsection F and § 55-79.87 A, the unit owner shall disclose in the contract that (i) the unit is located within a development which is subject to the Condominium Act, (ii) the Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the purchaser, (iii) the purchaser may cancel the contract within three days after receiving the resale certificate or being notified that the resale certificate will not be available, (iv) if the purchaser has received the resale certificate, the purchaser has a right to request a resale certificate update or financial update in accordance with § 55-79.97:1, as appropriate, and (v) the right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the resale certificate shall be deemed not to be available if (a) a current annual report has not been filed by the unit owners' association with either the State Corporation Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55-79.93:1, (b) the seller has made a written request to the unit owners' association that the resale certificate be provided and no such resale certificate has been received within 14 days in accordance with subsection C, or (c) written notice has been provided by the unit owners' association that a resale certificate is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. A resale certificate update or a financial update may be requested as provided in § 55-79.97:1, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract, if ~~on or before the date that the purchaser signs the contract, the purchaser receives the resale certificate or~~ is notified that the resale certificate will not be available ~~on or before the date that the purchaser signs the contract, or receives a resale certificate that does not contain the information required by this subsection to be included in the resale certificate;~~ (ii) within three days after receiving the resale certificate if the resale certificate ~~or~~ notice that the resale certificate will not be available, ~~or a resale certificate that does not contain the information required by this subsection to be included in the resale certificate~~ is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the resale certificate ~~or~~ notice that the resale certificate will not be available, ~~or a resale certificate that does not contain the information required by this subsection to be included in the resale certificate~~ is sent to the purchaser by United States mail. The purchaser may also cancel the contract at any time prior to

settlement if the purchaser has not been notified that the resale certificate will not be available and the resale certificate is not delivered to the purchaser.

Notice of cancellation shall be provided to the unit owner or his agent by one of the following methods:

a. Hand delivery;

b. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;

c. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or

d. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be returned promptly to the purchaser.

A resale certificate shall include the following:

1. An appropriate statement pursuant to subsection H of § 55-79.84 which need not be notarized and, if applicable, an appropriate statement pursuant to § 55-79.85;

2. A statement of any expenditure of funds approved by the unit owners' association or the executive organ which shall require an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;

3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association, together with any known post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements, and the status of the account;

4. A statement whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;

5. The current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the executive organ;

6. A copy of the unit owners' association's current budget or a summary thereof prepared by the unit owners' association and a copy of the statement of its financial position (balance sheet) for the last fiscal year for which a statement is available, including a statement of the balance due of any outstanding loans of the unit owners' association;

7. A statement of the nature and status of any pending suits or unpaid judgments to which the unit owners' association is a party which either could or would have a material impact on the unit owners' association or the unit owners or which relates to the unit being purchased;

8. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association, including the fidelity bond maintained by the unit owners' association, and what additional insurance coverage would normally be secured by each individual unit owner;

9. A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, are or are not in violation of the condominium instruments;

10. A copy of the current bylaws, rules and regulations and architectural guidelines adopted by the unit owners' association and the amendments thereto;

11. A statement of whether the condominium or any portion thereof is located within a development subject to the Property Owners' Association Act (§ 55-508 et seq.) of Chapter 26 of this title;

12. A copy of the notice given to the unit owner by the unit owners' association of any current or pending rule or architectural violation;

13. A copy of any approved minutes of the executive organ and unit owners' association meetings for the six calendar months preceding the request for the resale certificate;

14. Certification that the unit owners' association has filed with the Common Interest Community Board the annual report required by § 55-79.93:1; which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing;

15. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;

16. A statement setting forth any restrictions, limitation or prohibition on the right of a unit owner to display the flag of the United States, including, but not limited to reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;

17. A statement setting forth any restriction, limitation, or prohibition on the right of a unit owner to install or use solar energy collection devices on the unit owner's property;

18. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies; and

19. A copy of the fully completed form developed by the Common Interest Community Board pursuant to § 54.1-2350.

Failure to receive a resale certificate shall not excuse any failure to comply with the provisions of the condominium instruments, articles of incorporation, or rules or regulations.

The resale certificate shall be delivered in accordance with the written request and instructions of the seller or the seller's authorized agent, including whether the resale certificate shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to

whom the resale certificate shall be delivered. The resale certificate shall be delivered within 14 days of receipt of such request. The resale certificate shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

D. The seller or the seller's authorized agent may request that the resale certificate be provided in hard copy or in electronic form. A unit owners' association or common interest community manager may provide the resale certificate electronically; however, the seller or the seller's authorized agent shall have the right to request that the resale certificate be provided in hard copy. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the resale certificate in person at the principal place of business of the unit owners' association. If the seller or the seller's authorized agent requests that the resale certificate be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The resale certificate shall not be delivered in hard copy if the requester has requested delivery of such resale certificate electronically. If the resale certificate is provided electronically by a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another fee during the subsequent 12-month period, except that the preparer may charge an update fee for a financial update or for an inspection as provided in § 55-79.97:1. If the seller or the seller's authorized agent asks that the resale certificate be provided in electronic format, the seller or the seller's authorized agent may request that an electronic copy be provided to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. If so requested, the unit owners' association or its common interest community manager may require the seller or the seller's authorized agent to pay the fee specified in § 55-79.97:1. Regardless of whether the resale certificate is delivered in paper form or electronically, the preparer of the resale certificate shall provide such resale certificate directly to the persons designated by the requester to the addresses or, if applicable, the email addresses provided by the requester.

E. Subject to the provisions of § 55-79.87, but notwithstanding any other provisions of this chapter, the provisions and requirements of this section shall apply to any such resale of a condominium unit created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.).

F. The resale certificate required by this section need not be provided in the case of:

1. A disposition of a unit by gift;
2. A disposition of a unit pursuant to court order if the court so directs;
3. A disposition of a unit by foreclosure or deed in lieu of foreclosure; or
4. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction.

G. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the resale certificate to the purchaser.

H. For purposes of this chapter:

"Delivery" means that the resale certificate is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the resale certificate means that the purchaser or purchaser's authorized agent has received the resale certificate by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

I. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the resale certificate may be made by the unit owner or the seller's authorized agent.

J. If the unit is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last resale certificate or disclosure packet.

K. Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided by law, no unit owners' association shall:

1. Require the use of any for sale sign that is (i) a unit owners' association sign or (ii) a real estate sign that does not comply with the requirements of the Virginia Real Estate Board. A unit owners' association may, however, prohibit the placement of signs in the common elements and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Virginia Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or

2. Require any unit owner to execute a formal power of attorney if the unit owner designates a person licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized representative, and the unit owners' association shall recognize such representation without a formal power of attorney, provided that the unit owners' association is given a

written authorization signed by the unit owner designating such representative. Notwithstanding the foregoing, the requirements of § 55-79.77 and the condominium instruments shall be satisfied before any such representative may exercise a vote on behalf of a unit owner as a proxy.

**§ 55-509.4. Contract disclosure statement; right of cancellation; use of for sale sign in connection with resale; designation of authorized representative.**

A. Subject to the provisions of subsection A of § 55-509.10, an owner selling a lot shall disclose in the contract that (i) the lot is located within a development that is subject to the Virginia Property Owners' Association Act (§ 55-508 et seq.); (ii) the Act requires the seller to obtain from the property owners' association an association disclosure packet and provide it to the purchaser; (iii) the purchaser may cancel the contract within three days after receiving the association disclosure packet or being notified that the association disclosure packet will not be available; (iv) if the purchaser has received the association disclosure packet, the purchaser has a right to request an update of such disclosure packet in accordance with subsection H of § 55-509.6 or subsection D of § 55-509.7, as appropriate; and (v) the right to receive the association disclosure packet and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the association disclosure packet shall be deemed not to be available if (a) a current annual report has not been filed by the association with either the State Corporation Commission pursuant to § 13.1-936 or with the Common Interest Community Board pursuant to § 55-516.1, (b) the seller has made a written request to the association that the packet be provided and no such packet has been received within 14 days in accordance with subsection A of § 55-509.5, or (c) written notice has been provided by the association that a packet is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the association disclosure packet shall be current as of a date specified on the association disclosure packet prepared in accordance with this section; however, a disclosure packet update or financial update may be requested in accordance with subsection G of § 55-509.6 or subsection D of § 55-509.7, as appropriate. The purchaser may cancel the contract: (i) within three days after the date of the contract, if on or before the date that the purchaser signs the contract, the purchaser receives the association disclosure packet ~~or~~, is notified that the association disclosure packet will not be available, *or receives an association disclosure packet that is not in conformity with the provisions of § 55-509.5*; (ii) within three days after receiving the association disclosure packet if the association disclosure packet ~~or~~, notice that the association disclosure packet will not be available, *or an association disclosure packet that is not in conformity with the provisions of § 55-509.5* is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the association disclosure packet ~~or~~, notice that the association disclosure packet will not be available, *or an association disclosure packet that is not in conformity with the provisions of § 55-509.5* is sent to the purchaser by United States mail. The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the association disclosure packet will not be available and the association disclosure packet is not delivered to the purchaser.

Notice of cancellation shall be provided to the lot owner or his agent by one of the following methods:

1. Hand delivery;
2. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;
3. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or
4. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the seller shall cause any deposit to be returned promptly to the purchaser.

D. Whenever any contract is canceled based on a failure to comply with subsection A or C or pursuant to subsection B, any deposit or escrowed funds shall be returned within 30 days of the cancellation, unless the parties to the contract specify in writing a shorter period.

E. Any rights of the purchaser to cancel the contract provided by this chapter are waived conclusively if not exercised prior to settlement.

F. Except as expressly provided in this chapter, the provisions of this section and § 55-509.5 may not be varied by agreement, and the rights conferred by this section and § 55-509.5 may not be waived.

G. For purposes of this chapter:

"Delivery" means that the disclosure packet is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the disclosure packet means that the purchaser or purchaser's authorized agent has received the disclosure packet by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

H. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the disclosure packet may be made by the lot owner or the lot owner's authorized agent.

I. If the lot is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last disclosure packet or resale certificate.

J. Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no property owners' association shall:

1. Require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or

2. Require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative, and the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization signed by the lot owner designating such representative. Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.

## CHAPTER 365

*An Act to amend and reenact § 55-218.1 of the Code of Virginia, relating to the appointment of resident agent by nonresident property owner.*

[H 2410]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 55-218.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 55-218.1. Appointment of resident agent by nonresident property owner; service of process, etc., on such agent or on Secretary of the Commonwealth.**

~~Any~~ *A. As used in this section, "nonresident property owner" means any nonresident individual or group of individuals who owns and leases (i) residential real property consisting of four or more rental units or (ii) commercial real property within a county or city in the Commonwealth.*

~~B. Every nonresident person as the term "person" is defined in § 55-248.4 of this title of the Commonwealth who owns and leases residential or commercial real property consisting of four or more units within a county or city in the Commonwealth property owner shall have~~ *appoint and continuously maintain an agent who (i) if such agent is an individual, is a resident of the Commonwealth, or if such agent is a corporation, limited liability company, partnership, or other entity, is authorized to transact business in the Commonwealth and (ii) maintains a business office within the Commonwealth. Every lease executed by or on behalf of nonresident property owners regarding any such real property shall specifically designate such agent and the agent's office address for the purpose of service of any process, notice, order or demand required or permitted by law to be served upon such property owner.*

*C. Whenever any nonresident property owner fails to appoint or maintain an agent, as required herein, or whenever his agent cannot with reasonable diligence be found, then the Secretary of the Commonwealth shall be an agent of the nonresident property owner upon whom may be served any process, notice, order or demand. Service may be made on the Secretary or any of his staff at his office who shall forthwith cause it to be sent by registered or certified mail addressed to the property owner at his address as shown on the official tax records maintained by the locality where the property is located.*

*D. The name and office address of the agent appointed as provided herein shall be filed in the office of the clerk of the court in which deeds are recorded in the county or city wherein the property lies. Recordation shall be in the same book as certificates of fictitious names are recorded as provided by § 59.1-74 for which the clerk shall be entitled to a fee of \$10.*

*E. No nonresident property owner shall maintain an action in the courts of the Commonwealth concerning property for which a designation is required hereunder until such designation has been filed.*

## CHAPTER 366

*An Act to amend and reenact §§ 9.1-102, 9.1-112, and 66-10 of the Code of Virginia, relating to juvenile correctional officers; training standards.*

[H 2438]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 9.1-102, 9.1-112, and 66-10 of the Code of Virginia are amended and reenacted as follows:****§ 9.1-102. Powers and duties of the Board and the Department.**

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;
2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;
3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;
4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;
5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;
6. [Repealed];
7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;
8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;
9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, *and* correctional officers employed by the Department of Corrections under the provisions of Title 53.1, ~~and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25-3;~~
10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;
11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;
12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and institutions of higher education within or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;
13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;
14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;
15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;
16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;
17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § 9.1-131;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;

43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);

44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory

procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;

50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation;

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process; and

54. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

#### **§ 9.1-112. Committee on Training; membership.**

There is created a permanent Committee on Training under the Board that shall be the policy-making body responsible to the Board for effecting the provisions of subdivisions 2 through 17 of § 9.1-102. The Committee on Training shall be composed of ~~16~~ 15 members of the Board as follows: the Superintendent of the Department of State Police; the Director of the Department of Corrections; ~~the Director of the Department of Juvenile Justice~~; a member of the Private Security Services Advisory Board; the Executive Secretary of the Supreme Court of Virginia; two sheriffs representing the Virginia State Sheriffs Association; two representatives of the Chiefs of Police Association; the active-duty law-enforcement officer representing police and fraternal associations; the attorney for the Commonwealth representing the Association of Commonwealth's Attorneys; a representative of the Virginia Municipal League; a representative of the Virginia Association of Counties; a regional jail superintendent representing the Virginia Association of Regional Jails; one citizen representing community interests; and one member designated by the chairman of the Board from among the other appointments made by the Governor.

The Committee on Training shall annually elect its chairman from among its members.

#### **§ 66-10. Powers and duties of Board.**

The Board shall have the following powers and duties:

1. To establish and monitor policies for the programs and facilities for which the Department is responsible under this law.

2. To ensure the development of a long-range youth services policy.

3. To monitor the activities of the Department and its effectiveness in implementing the policies developed by the Board.

4. To advise the Governor and Director on matters relating to youth services.

5. To promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth.

6. To ensure the development of programs to educate citizens and elicit public support for the activities of the Department.

7. To establish length-of-stay guidelines for juveniles indeterminately committed to the Department and to make such guidelines available for public comment.

8. To adopt all necessary regulations for the management and operation of the schools in the Department except that the regulations adopted hereunder shall not conflict with regulations relating to security of the institutions in which the juveniles are committed.

9. *To establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as juvenile correctional officers employed at a juvenile correctional facility as defined in § 66-25.3.*

## CHAPTER 367

*An Act to amend and reenact § 55-79.77 of the Code of Virginia, relating to the Condominium Act; meetings of unit owners' associations; proxy voting.*

[H 2647]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 55-79.77 of the Code of Virginia is amended and reenacted as follows:**

**§ 55-79.77. Meetings of unit owners' associations and executive organ; voting by unit owners; proxies.**

A. The bylaws may allocate to each unit depicted on plats and plans that comply with subsections A and B of § 55-79.58 a number of votes in the unit owners' association proportionate to the undivided interest in the common elements appertaining to each such unit.

B. Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners' association, subject to the following exception: Each convertible space so depicted shall be allocated a number of votes in the unit owners' association proportionate to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining votes in the unit owners' association shall be allocated equally to the other units so depicted.

C. Since a unit owner may be more than one person, if only one of such persons is present at a meeting of the unit owners' association, that person shall be entitled to cast the votes appertaining to that unit. But if more than one of such persons is present, the vote appertaining to that unit shall be cast only in accordance with their unanimous agreement unless the condominium instruments expressly provide otherwise, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that unit without protest being made forthwith by any of the others to the person presiding over the meeting. Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this subsection to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a unit owner.

D. The votes appertaining to any unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such ~~persons~~ *unit owners*. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit owner or by any of such persons, that it be revoked. Except to the extent otherwise provided in the condominium instruments, any proxy shall be void if it is not dated, or if it purports to be revocable without notice as aforesaid. ~~The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person.~~ *Any proxy shall be void if not signed by or on behalf of the unit owner. If the unit owner is more than one person, any such unit owner may object to the proxy at or prior to the meeting, whereupon the proxy shall be deemed revoked.* Any proxy shall terminate after the first meeting held on or after the date of that proxy or any recess or adjournment of that meeting. The proxy shall include a brief explanation of the effect of leaving the proxy uninstructed. To the extent the condominium instruments or rules adopted thereto expressly so provide, a vote or proxy may be submitted by electronic transmission, provided that any such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the unit owner or the unit owner's proxy.

E. If 50 percent or more of the votes in the unit owners' association appertain to 25 percent or less of the units, then in any case where a majority vote is required by the condominium instruments or by this chapter, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the units.

F. All votes appertaining to units owned by the unit owners' association shall be deemed present for quorum purposes at all duly called meetings of the unit owners' association and shall be deemed cast in the same proportions as the votes cast by unit owners other than the unit owners' association.

G. Except to the extent that the condominium instruments provide otherwise, the voting interest allocated to the unit or member that has been suspended by the unit owners' association or the executive organ pursuant to the condominium instruments shall not be counted in the total number of voting interests used to determine the quorum for any meeting or vote under the condominium instruments.

## CHAPTER 368

*An Act to amend and reenact § 55-510 of the Code of Virginia, relating to Property Owners' Association Act; association meetings; notice by email.*

[H 2694]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 55-510 of the Code of Virginia is amended and reenacted as follows:**

**§ 55-510. Access to association records; association meetings; notice.**

A. The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association, shall be available for examination and copying by a member in good standing or his authorized agent including but not limited to:

1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and

2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association; however, individual salary information shall not be available for examination and copying during the declarant control period.

Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for an association managed by a common interest community manager and 10 business days' written notice for a self-managed association, which notice reasonably identifies the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;

2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

3. Pending or probable litigation. Probable litigation means those instances where there has been a specific threat of litigation from a party or the legal counsel of a party;

4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § 55-513;

5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;

6. Disclosure of information in violation of law;

7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55-510.1;

8. Documentation, correspondence or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or

9. Individual unit owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

D. Books and records kept by or on behalf of an association shall be withheld from inspection and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.

E. Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs thereof. Charges may be imposed only in accordance with a cost schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all members in good standing, and (iii) be provided to such requesting member at the time the request is made.

F. Notwithstanding the provisions of subsections B and C, all books and records of the association, including individual salary information for all employees and payments to independent contractors, shall be available for examination and copying upon request by a member of the board of directors in the discharge of his duties as a director.

G. Meetings of the association shall be held in accordance with the provisions of the bylaws at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 14 days in advance of any annual or regularly scheduled meeting, and at least seven days in advance of any other meeting, send to each member notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

Notice shall be sent by United States mail to all members at the address of their respective lots unless the member has provided to such officer or his agent an address other than the address of the member's lot; ~~or notice~~. *In lieu of sending such notice by United States mail, notice may be (i) hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the member, or (ii) sent to the member by electronic mail, provided that the member has elected to receive such notice by electronic mail and, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail.* Except as provided in subdivision C 7, draft minutes of the

board of directors shall be open for inspection and copying (†) (a) within 60 days from the conclusion of the meeting to which such minutes appertain or (†) (b) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first.

### CHAPTER 369

*An Act to amend and reenact § 22.1-138 of the Code of Virginia, relating to school buildings; electronic room partitions.*

[H 1753]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-138 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-138. Minimum standards for public school buildings.**

A. The Board of Education shall prescribe by regulation minimum standards for the erection of or addition to public school buildings governing instructional, operational, health and maintenance facilities where these are not specifically addressed in the Uniform Statewide Building Code.

B. By July 1, 1994, every school building in operation in the Commonwealth shall be tested for radon pursuant to procedures established by the United States Environmental Protection Agency (EPA) for radon measurements in schools.

School buildings and additions opened for operation after July 1, 1994, shall be tested for radon pursuant to such EPA procedures and regulations prescribed by the Board of Education pursuant to subsection A of this section. Each school shall maintain files of its radon test results and make such files available for review. The division superintendent shall report radon test results to the Department of Health.

C. *No school employee shall open or close an electronic room partition in any school building unless (i) no student is present in such building, (ii) (a) no student is present in the room or area in which such partition is located and (b) such room or area is locked or otherwise inaccessible to students, or (iii) such partition includes a safety sensor that automatically stops the partition when a body passes between the leading edge and a wall, an opposing partition, or the stacking area.*

D. *Any annual safety review or exercise for school employees in a local school division shall include information and demonstrations, as appropriate, regarding the provisions of subsection C.*

E. *The Department of Education shall make available to each school board model safety guidance regarding the operation of electronic room partitions.*

### CHAPTER 370

*An Act to require the Department of Education to establish an energy career cluster.*

[H 2008]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Department of Education, in consultation with representatives from pertinent industries such as renewable energy, natural gas, nuclear energy, coal, and oil, shall establish as its seventeenth approved career cluster an energy career cluster. In developing the energy career cluster, the Department of Education shall base the knowledge and skill sets contained in such career cluster on the energy industry competency and credential models developed by the Center for Energy Workforce Development in partnership with the U.S. Department of Labor. The Department of Education shall report to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than December 1, 2019, on its progress toward establishing such energy career cluster.*

### CHAPTER 371

*An Act to require the Department of Education to establish an energy career cluster.*

[S 1348]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Department of Education, in consultation with representatives from pertinent industries such as renewable energy, natural gas, nuclear energy, coal, and oil, shall establish as its seventeenth approved career cluster an energy career cluster. In developing the energy career cluster, the Department of Education shall base the knowledge and skill sets contained in such career cluster on the energy industry competency and credential models developed by the Center for Energy Workforce Development in partnership with the U.S. Department of Labor. The Department of Education shall report to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than December 1, 2019, on its progress toward establishing such energy career cluster.*

## CHAPTER 372

*An Act to amend and reenact § 22.1-207.1:1 of the Code of Virginia, relating to family life education; consent.*

[H 2205]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 22.1-207.1:1 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-207.1:1. Family life education; certain curricula and Standards of Learning.**

A. Any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school, as described in the Board of Education's family life education guidelines.

B. Any high school family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on (i) the prevention of dating violence, domestic abuse, sexual harassment, including sexual harassment using electronic means, and sexual violence and ~~may incorporate age-appropriate elements of effective and evidence-based programs on~~ (ii) the law and meaning of consent. Such age-appropriate elements of effective and evidence-based programs on the prevention of sexual violence may include instruction that increases student awareness of the fact that consent is required before sexual activity.

C. Any family life education curriculum offered in any elementary school, middle school, or high school shall incorporate age-appropriate elements of effective and evidence-based programs on the importance of the personal privacy and personal boundaries of other individuals and tools for a student to use to ensure that he respects the personal privacy and personal boundaries of other individuals.

D. Any family life education curriculum offered by a local school division may incorporate age-appropriate elements of effective and evidence-based programs on the prevention, recognition, and awareness of child abduction, child abuse, child sexual exploitation, and child sexual abuse.

## CHAPTER 373

*An Act to amend and reenact § 23.1-1300 of the Code of Virginia, relating to members of boards of visitors; employment waiting period.*

[S 1068]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 23.1-1300 of the Code of Virginia is amended and reenacted as follows:****§ 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory representatives; residency.**

A. Members appointed by the Governor to the governing boards of public institutions of higher education shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed by the Governor to such a governing board shall serve for more than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General Assembly. Members appointed by the Governor to the governing board of a public institution of higher education shall continue to hold office until their successors have been appointed and qualified. *ex officio* members shall serve a term coincident with their term of office.

B. No member appointed by the Governor to the governing board of a public institution of higher education who has served two consecutive four-year terms on such board is eligible to serve on the same board until at least four years have passed since the end of his second consecutive four-year term.

C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any public institution of higher education and fill the vacancy resulting from the removal.

D. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection C.

E. If any member of the governing board of a public institution of higher education fails to attend (i) the meetings of the board for one year without sufficient cause, as determined by a majority vote of the board, or (ii) the educational programs required by § 23.1-1304 in his first two years of membership without sufficient cause, as determined by a majority vote of the board, the remaining members of the board shall record such failure in the minutes at its next meeting and notify the Governor, and the office of such member shall be vacated. No member of the board of visitors of a baccalaureate public institution of higher education or the State Board for Community Colleges who fails to attend the educational programs required by § 23.1-1304 during his first four-year term is eligible for reappointment to such board.

F. The governing board of each public institution of higher education shall adopt in its bylaws policies (i) for removing members pursuant to subsection E and (ii) referencing the Governor's power to remove members described in subsection C.

G. The governing board of each public institution of higher education and each local community college board may appoint one or more nonvoting, advisory faculty representatives to its respective board. In the case of local community college boards and boards of visitors, such representatives shall be chosen from individuals elected by the faculty or the institution's faculty senate or its equivalent. In the case of the State Board, such representatives shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall be appointed to serve (i) at least one term of at least 12 months, which shall be coterminous with the institution's fiscal year or (ii) for such terms as may be mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local community college board or the board of visitors, and the institution's faculty senate or its equivalent.

H. The board of visitors of any baccalaureate public institution of higher education shall appoint one or more students as nonvoting, advisory representatives. Such representatives shall be appointed under such circumstances and serve for such terms as the board of visitors of the institution shall prescribe.

I. Nothing in subsections G and H shall prohibit the governing board of any public institution of higher education or any local community college board from excluding such nonvoting, advisory faculty or student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or salaries, or any other matter.

J. The president or any one of the vice presidents of the board of visitors of Virginia Military Institute, the chairman or the vice-chairman of the State Board, and the rector or vice-rector of the governing board of each other public institution of higher education shall be a resident of the Commonwealth.

K. *No baccalaureate public institution of higher education shall employ an individual appointed by the Governor to the board of visitors of such institution within two years of the expiration of his term. Such prohibition shall not apply to the employment of an individual to serve as an institution president or, in the case of Virginia Military Institute, the Superintendent.*

#### CHAPTER 374

*An Act to amend and reenact § 30-354 of the Code of Virginia, relating to the Commission on Civic Education; extends sunset.*

[S 1097]

Approved March 12, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-354 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-354. (Expires July 1, 2019) Sunset.**

This chapter shall expire on July 1, ~~2019~~ 2020.

#### CHAPTER 375

*An Act to amend and reenact §§ 20-156, 20-158 through 20-163, and 20-165 of the Code of Virginia, relating to assisted conception.*

[H 1979]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 20-156, 20-158 through 20-163, and 20-165 of the Code of Virginia are amended and reenacted as follows:**

**§ 20-156. Definitions.**

As used in this chapter unless the context requires a different meaning:

"Assisted conception" means a pregnancy resulting from any intervening medical technology, whether in vivo or in vitro, which completely or partially replaces sexual intercourse as the means of conception. Such intervening medical technology includes, but is not limited to, conventional medical and surgical treatment as well as noncoital reproductive technology such as artificial insemination by donor, cryopreservation of gametes and embryos, in vitro fertilization, uterine embryo lavage, embryo transfer, gamete intrafallopian tube transfer, and low tubal ovum transfer.

"Compensation" means payment of any valuable consideration for services in excess of reasonable medical and ancillary costs.

"Cryopreservation" means freezing and storing of gametes and embryos for possible future use in assisted conception.

"Donor" means an individual, other than a surrogate, who contributes the sperm or egg used in assisted conception.

"Gamete" means either a sperm or an ovum.

"Genetic parent" means an individual who contributes a gamete resulting in a conception.

"Gestational mother" means the woman who gives birth to a child, regardless of her genetic relationship to the child.

"Embryo" means the organism resulting from the union of a sperm and an ovum from first cell division until approximately the end of the second month of gestation.

"Embryo transfer" means the placing of a viable embryo into the uterus of a gestational mother.

"Infertile" means the inability to conceive after one year of unprotected sexual intercourse.

"Intended ~~parents parent~~" means a ~~man and a woman~~, married to ~~each other~~, ~~couple or unmarried individual~~ who ~~enter~~ enters into an agreement with a surrogate under the terms of which ~~they such parent~~ will be the ~~parents parent~~ of any child born to the surrogate through assisted conception regardless of the genetic relationships between the intended ~~parents parent~~, the surrogate, and the child.

"In vitro" means any process that can be observed in an artificial environment such as a test tube or tissue culture plate.

"In vitro fertilization" means the fertilization of ova by sperm in an artificial environment.

"In vivo" means any process occurring within the living body.

"Legal or contractual custody" means having authority granted by law, contract, or court order to make decisions concerning the use of an embryo.

"Ovum" means the female gamete or reproductive cell prior to fertilization.

"Reasonable medical and ancillary costs" means the costs of the performance of assisted conception, the costs of prenatal maternal health care, the costs of maternal and child health care for a reasonable ~~post partum~~ *postpartum* period, the reasonable costs for medications and maternity clothes, and any additional and reasonable costs for housing and other living expenses attributable to the pregnancy.

"Sperm" means the male gametes or reproductive cells which impregnate the ova.

"Surrogacy contract" means an agreement between ~~the intended parents parent~~, a surrogate, and her ~~husband spouse~~, if any, in which the surrogate agrees to be impregnated through the use of assisted conception, to carry any resulting fetus, and to relinquish to the intended ~~parents parent~~ the custody of and parental rights to any resulting child.

"Surrogate" means any adult woman who agrees to bear a child carried for ~~the intended parents parent~~.

### **§ 20-158. Parentage of child resulting from assisted conception.**

A. Determination of parentage, generally. — Except as provided in subsections B, C, D, and E of ~~this section~~, the parentage of any child resulting from the performance of assisted conception shall be determined as follows:

1. The gestational mother of a child is the child's mother.

2. The ~~husband spouse~~ of the gestational mother of a child is the child's ~~father~~ *other parent*, notwithstanding any declaration of invalidity or annulment of the marriage obtained after the performance of assisted conception, unless ~~he such spouse~~ commences an action in which the mother and child are parties within two years after ~~he such spouse~~ discovers or, in the exercise of due diligence, reasonably should have discovered the child's birth and in which it is determined that ~~he such spouse~~ did not consent to the performance of assisted conception.

3. A donor is not the parent of a child conceived through assisted conception, unless the donor is the ~~husband spouse~~ of the gestational mother.

B. Death of spouse. — Any child resulting from the insemination of a ~~wife's gestational mother's~~ ovum using her ~~husband's spouse's~~ sperm, with his consent, is the child of the ~~husband and wife gestational mother and her spouse~~ notwithstanding that, during the ~~ten-month~~ *10-month* period immediately preceding the birth, either party died.

However, any person who dies before in utero implantation of an embryo resulting from the union of ~~his the spouse's~~ sperm or ~~her gestational mother's~~ ovum with another gamete, whether or not the other gamete is that of the person's spouse, is not the parent of any resulting child unless (i) implantation occurs before notice of the death can reasonably be communicated to the physician performing the procedure or (ii) the person consents to be a parent in writing executed before the implantation.

C. Divorce. — Any child resulting from insemination of a ~~wife's gestational mother's~~ ovum using her ~~husband's spouse's~~ sperm, with his consent, is the child of the ~~husband and wife gestational mother and her spouse~~ notwithstanding that either party filed for a divorce or annulment during the ~~ten-month~~ *10-month* period immediately preceding the birth. Any person who is a party to an action for divorce or annulment commenced by filing before in utero implantation of an embryo resulting from the union of ~~his the spouse's~~ sperm or ~~her gestational mother's~~ ovum with another gamete, whether or not the other gamete is that of the person's spouse, is not the parent of any resulting child unless (i) implantation occurs before notice of the filing can reasonably be communicated to the physician performing the procedure or (ii) the person consents in writing to be a parent, whether the writing was executed before or after the implantation.

D. Birth pursuant to court approved surrogacy contract. — After approval of a surrogacy contract by the court and entry of an order as provided in subsection D of § 20-160, the intended ~~parents are parent~~ is the ~~parents parent~~ of any resulting child. However, if the court vacates the order approving the agreement pursuant to subsection B of § 20-161, the surrogate ~~who is the genetic parent~~ is the mother of the resulting child and her ~~husband spouse~~, if any, is the ~~father~~ *other parent*. The intended ~~parents parent~~ may only obtain parental rights through adoption as provided in Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2.

E. Birth pursuant to surrogacy contract not approved by court. — In the case of a surrogacy contract that has not been approved by a court as provided in § 20-160, the parentage of any resulting child shall be determined as follows:

1. The gestational mother is the child's mother unless the intended mother is a genetic parent, in which case the intended mother is the mother.

2. If ~~either of the intended parents~~ an ~~intended parent~~ is a genetic parent of the resulting child, ~~the intended father is the child's father~~ *such intended parent is the child's parent*. However, if (i) the surrogate is ~~married~~ *a genetic parent*, (ii) ~~the surrogate is married and her husband spouse~~ is a party to the surrogacy contract, and (iii) the surrogate ~~who is a genetic~~

parent exercises her right to retain custody and parental rights to the resulting child pursuant to § 20-162, then the surrogate and her ~~husband~~ spouse are the parents. *If the surrogate is unmarried and (a) is a genetic parent, (b) is a party to the surrogacy contract, and (c) exercises her right to retain custody and parental rights to the resulting child pursuant to § 20-162, then the surrogate is the parent.*

3. ~~If neither of the no intended parents~~ parent is a genetic parent of the resulting child, *but the embryo that was used is subject to the legal or contractual custody of an intended parent, then such intended parent is the parent. However, if no intended parent is a genetic parent, and the embryo that was used is not subject to the legal or contractual custody of such intended parent, then the surrogate is the mother and her ~~husband~~ spouse, if any, is the child's ~~father~~ other parent if ~~he~~ such other parent is a party to the contract. ~~The~~ In such an event, the intended ~~parents~~ parent may only obtain parental rights through adoption as provided in Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2.*

4. After the signing and filing of the surrogate consent and report form in conformance with the requirements of subsection A of § 20-162, the intended ~~parents are~~ parent is the ~~parents~~ parent of the child and the surrogate and her ~~husband~~ spouse, if any, shall not be the parents of the child.

#### **§ 20-159. Surrogacy contracts permissible.**

A. A surrogate, her ~~husband~~ spouse, if any, and *the* prospective intended ~~parents~~ parent may enter into a written agreement whereby the surrogate may relinquish all her rights and duties as parent of a child conceived through assisted conception, and the *prospective* intended ~~parents~~ parent may become the ~~parents~~ parent of the child as provided in subsection D or E of § 20-158.

B. Surrogacy contracts ~~shall~~ may be approved by the court as provided in § 20-160. However, any surrogacy contract that has not been approved by the court shall be governed by the provisions of §§ 20-156 through 20-159 and §§ 20-162 through 20-165 including the provisions for reformation in conformance with this chapter as provided in § 20-162.

#### **§ 20-160. Petition and hearing for court approval of surrogacy contract; requirements; orders.**

A. Prior to the performance of assisted conception, the intended ~~parents~~ parent, the surrogate, and her ~~husband~~ spouse, *if any*, shall join in a petition to the circuit court of the county or city in which at least one of the parties resides. The surrogacy contract shall be signed by all the parties and acknowledged before an officer or other person authorized by law to take acknowledgments.

A copy of the contract shall be attached to the petition. The court shall appoint a guardian ad litem to represent the interests of any resulting child and shall appoint counsel to represent the surrogate. The court shall order a home study by a local department of social services or welfare or a licensed child-placing agency, to be completed prior to the hearing on the petition.

All hearings and proceedings conducted under this section shall be held in camera, and all court records shall be confidential and subject to inspection only under the standards applicable to adoptions as provided in § 63.2-1245. The court conducting the proceedings shall have exclusive and continuing jurisdiction of all matters arising under the surrogacy contract until all provisions of the contract are fulfilled.

B. The court shall hold a hearing on the petition. The court shall enter an order approving the surrogacy contract and authorizing the performance of assisted conception for a period of twelve months after the date of the order, and may discharge the guardian ad litem and attorney for the surrogate upon finding that:

1. The court has jurisdiction in accordance with § 20-157;
2. A local department of social services or welfare or a licensed child-placing agency has conducted a home study of the intended parents, the surrogate, and her ~~husband~~ spouse, if any, and has filed a report of this home study with the court;
3. The intended ~~parents~~ parent, the surrogate, and her ~~husband~~ spouse, if any, meet the standards of fitness applicable to adoptive parents;
4. All the parties have voluntarily entered into the surrogacy contract and understand its terms and the nature, meaning, and effect of the proceeding and understand that any agreement between them for payment of compensation is void and unenforceable;
5. The agreement contains adequate provisions to guarantee the payment of reasonable medical and ancillary costs either in the form of insurance, cash, escrow, bonds, or other arrangements satisfactory to the parties, including allocation of responsibility for such costs in the event of termination of the pregnancy, termination of the contract pursuant to § 20-161, or breach of the contract by any party;

6. The surrogate has had at least one pregnancy, and has experienced at least one live birth, and bearing another child does not pose an unreasonable risk to her physical or mental health or to that of any resulting child. This finding shall be supported by medical evidence;

7. Prior to signing the surrogacy contract, the intended ~~parents~~ parent, the surrogate, and her ~~husband~~ spouse, if any, have submitted to physical examinations and psychological evaluations by practitioners licensed to perform such services pursuant to Title 54.1, and the court and all parties have been given access to the records of the physical examinations and psychological evaluations;

8. The intended ~~mother~~ parent is infertile, is unable to bear a child, or is unable to do so without unreasonable risk to the unborn child or to the physical or mental health of the intended ~~mother~~ parent or the child. This finding shall be supported by medical evidence;

9. At least one of the intended ~~parents~~ parent is expected to be the genetic parent of any child resulting from the agreement *or such intended parent has the legal or contractual custody of the embryo at issue*;

10. The ~~husband~~ *spouse* of the surrogate, if any, is a party to the surrogacy agreement;

11. All parties have received counseling concerning the effects of the surrogacy by a qualified health care professional or social worker, and a report containing conclusions about the capacity of the parties to enter into and fulfill the agreement has been filed with the court; and

12. The agreement would not be substantially detrimental to the interests of any of the affected persons.

C. Unless otherwise provided in the surrogacy contract, all court costs, counsel fees, and other costs and expenses associated with the hearing, including the costs of the home study, shall be assessed against the intended ~~parents~~ *parent*.

D. Within seven days of the birth of any resulting child, the intended ~~parents~~ *parent* shall file a written notice with the court that the child was born to the surrogate within 300 days after the last performance of assisted conception. Upon the filing of this notice and a finding that ~~at least one of the intended parents~~ *parent* is the genetic parent of the resulting child as substantiated by medical evidence, *or upon proof of the legal or contractual custody of the embryo by such intended parent*, the court shall enter an order directing the State Registrar of Vital Records to issue a new birth certificate naming the intended ~~parents~~ *parent* as the ~~parents~~ *parent* of the child pursuant to § 32.1-261.

If evidence cannot be produced that at least one of the intended ~~parents~~ *parent* is the genetic parent of the resulting child, *or proof of the legal or contractual custody of the embryo by such intended parent cannot be produced*, the court shall not enter an order directing the issuance of a new birth certificate naming the intended ~~parents~~ *parent* as the ~~parents~~ *parent* of the child, and the surrogate and her ~~husband~~ *spouse*, if any, shall be the parents of the child. The intended ~~parents~~ *parent* may obtain parental rights only through adoption as provided in Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2.

**§ 20-161. Termination of court-approved surrogacy contract.**

A. Subsequent to an order entered pursuant to subsection B of § 20-160, but before the surrogate becomes pregnant through the use of assisted conception, the court for cause, or the surrogate, her ~~husband~~ *spouse*, if any, or the intended ~~parents~~ *parent*, *for cause*, may terminate the agreement by giving written notice of termination to all other parties and by filing notice of the termination with the court. Upon receipt of the notice, the court shall vacate the order entered under subsection B of § 20-160.

B. Within 180 days after the last performance of any assisted conception, a surrogate who is also a genetic parent may terminate the agreement by filing written notice with the court. The court shall vacate the order entered pursuant to subsection B of § 20-160 upon finding, after notice to the parties to the agreement and a hearing, that the surrogate has voluntarily terminated the agreement and that she understands the effects of the termination.

Unless otherwise provided in the contract as approved, the surrogate shall incur no liability to the intended ~~parents~~ *parent* for exercising her rights of termination pursuant to this section.

**§ 20-162. Contracts not approved by the court; requirements.**

A. In the case of any surrogacy agreement for which prior court approval has not been obtained pursuant to § 20-160, the provisions of this section and §§ 20-156 through 20-159 and §§ 20-163 through 20-165 shall apply. Any provision in a surrogacy contract that attempts to reduce the rights or responsibilities of the intended ~~parents~~ *parent*, the surrogate, or her ~~husband~~ *spouse*, if any, or the rights of any resulting child shall be reformed to include the requirements set forth in this chapter. A provision in the contract providing for compensation to be paid to the surrogate is void and unenforceable. Such surrogacy contracts shall be enforceable and shall be construed only as follows:

1. The surrogate, her ~~husband~~ *spouse*, if any, and the intended ~~parents~~ *parent* shall be parties to any such surrogacy contract.

2. The contract shall be in writing, signed by all the parties, and acknowledged before an officer or other person authorized by law to take acknowledgments.

3. Upon expiration of three days following birth of any resulting child, the surrogate may relinquish her parental rights to the intended ~~parents~~ *parent*, if at least one of the intended ~~parents~~ *parent* is the genetic parent of the child, *or the embryo was subject to the legal or contractual custody of such intended parent*, by signing a surrogate consent and report form naming the intended ~~parents~~ *parent* as the ~~parents~~ *parent* of the child. The surrogate consent and report form shall be developed, furnished, and distributed by the State Registrar of Vital Records. The surrogate consent and report form shall be signed and acknowledged before an officer or other person authorized by law to take acknowledgments. The surrogate consent and report form, a copy of the contract, and a statement from the physician who performed the assisted conception stating *either* the genetic relationships between the child, the surrogate, and ~~the at least one intended parents~~, ~~at least one of whom shall be the genetic parent of the child~~ *parent*, *or proof of the legal or contractual custody of the embryo*, shall be filed with the State Registrar within 180 days after the birth. The statement from the physician shall be signed and acknowledged before an officer or other person authorized by law to take acknowledgments. There shall be a rebuttable presumption that the statement from the physician accurately states the genetic relationships among the child, the surrogate, and the intended ~~parents~~ *parent*. Where a physician's statement is not available *and at least one intended parent is a genetic parent*, DNA testing establishing the genetic relationships between the child, the surrogate, and the intended ~~parents~~ *parent* may be substituted for the physician's statement.

4. Upon the filing of the surrogate consent and report form and the required attachments, including the physician's statement, *DNA testing establishing the genetic relationships between the child, the surrogate, and the intended parent*, *or proof of the legal or contractual custody of the embryo*, within 180 days of the birth, a new birth certificate shall be established by the State Registrar for the child naming the intended ~~parents~~ *parent* as the ~~parents~~ *parent* of the child as provided in § 32.1-261.

B. Any contract governed by the provisions of this section shall include or, in the event such provisions are not explicitly covered in the contract or are included but are inconsistent with this section, shall be deemed to include the following provisions:

1. The intended ~~parents~~ *parent* shall be the ~~parents~~ *parent* of any resulting child ~~only~~ when the surrogate relinquishes her parental rights as provided in subdivision A 3 ~~of this section~~ and a new birth certificate is established as provided in subdivision A 4 of this section and § 32.1-261, *unless parentage is instead established through Chapter 3.1 (§ 20-49.1 et seq.)*;

2. Incorporation of this chapter and a statement by each of the parties that they have read and understood the contract, they know and understand their rights and responsibilities under Virginia law, and the contract was entered into knowingly and voluntarily; and

3. A guarantee by the intended ~~parents~~ *parent* for payment of reasonable medical and ancillary costs either in the form of insurance, cash, escrow, bonds, or other arrangements satisfactory to the parties, including allocation of responsibility for such costs in the event of termination of the pregnancy, termination of the contract, or breach of the contract by any party.

C. Under any contract that does not include an allocation of responsibility for reasonable medical and ancillary costs in the event of termination of the pregnancy, termination of the contract, or breach of the contract by any party, the following provisions shall control:

1. If the intended ~~parents~~ *parent* and the surrogate and her ~~husband~~ *spouse*, if any, and if ~~he~~ *such spouse* is a party to the contract, consent in writing to termination of the contract, the intended ~~parents~~ *parent* is responsible for all reasonable medical and ancillary costs for a period of six weeks following the termination.

2. If the surrogate *is a genetic parent and* voluntarily terminates the contract during the pregnancy, without consent of the intended ~~parents~~ *parent*, the intended ~~parents~~ *parent* shall be responsible for one-half of the reasonable medical and ancillary costs incurred prior to the termination.

3. If, after the birth of any resulting child, the surrogate *is also a genetic parent and* fails to relinquish parental rights to the intended ~~parents~~ *parent* pursuant to the contract, the intended ~~parents~~ *parent* shall be responsible for one-half of the reasonable medical and ancillary costs incurred prior to the birth.

#### **§ 20-163. Miscellaneous provisions related to all surrogacy contracts.**

A. The surrogate shall be solely responsible for the clinical management of the pregnancy.

B. After the entry of an order under subsection B of § 20-160 or upon the execution of a contract pursuant to § 20-162, the marriage of the surrogate shall not affect the validity of the order or contract, and her ~~husband~~ *spouse* shall not be deemed a party to the contract in the absence of his explicit written consent.

C. Following the entry of an order pursuant to subsection D of § 20-160 or upon the relinquishing of the custody of and parental rights to any resulting child and the filing of the surrogate consent and report form as provided in § 20-162, the intended ~~parents~~ *parent* shall have the custody of, parental rights to, and full responsibilities for any child resulting from the performance of assisted conception from a surrogacy agreement regardless of the child's health, physical appearance, any mental or physical handicap, and regardless of whether the child is born alive.

D. A child born to a surrogate within 300 days after assisted conception pursuant to an order under subsection B of § 20-160 or a contract under § 20-162 is presumed to result from the assisted conception. This presumption is conclusive as to all persons who fail to file an action to test its validity within two years after the birth of the child. The child and the parties to the contract shall be named as parties in any such action. The action shall be filed in the court that issued or could have issued an order under § 20-160.

E. Health care providers shall not be liable for recognizing the surrogate as the mother of the resulting child before receipt of a copy of an order entered under § 20-160 or a copy of the contract, or for recognizing the intended ~~parents~~ *parent* as the ~~parents~~ *parent* of the resulting child after receipt of such order or copy of the contract.

#### **§ 20-165. Surrogate brokers prohibited; penalty; liability of surrogate brokers.**

A. It shall be unlawful for any person, firm, corporation, partnership, or other entity to accept compensation for recruiting or procuring surrogates or to accept compensation for otherwise arranging or inducing *an* intended ~~parents~~ *parent* and surrogates to enter into surrogacy contracts in this Commonwealth. A violation of this section shall be punishable as a Class 1 misdemeanor.

B. Any person who acts as a surrogate broker in violation of this section shall, in addition, be liable to all the parties to the purported surrogacy contract in a total amount equal to three times the amount of compensation to have been paid to the broker pursuant to the contract. One-half of the damages under this subsection shall be due the surrogate and her ~~husband~~ *spouse*, if any, and if he is a party to the contract, and one-half shall be due the intended ~~parents~~ *parent*.

An action under this section shall be brought within five years of the date of the contract.

C. The provisions of this section shall not apply to the services of an attorney in giving legal advice or in preparing a surrogacy contract.

## CHAPTER 376

*An Act to amend and reenact § 63.2-602 of the Code of Virginia, relating to Temporary Assistance for Needy Families (TANF); eligibility.*

[H 2005]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 63.2-602 of the Code of Virginia is amended and reenacted as follows:****§ 63.2-602. Eligibility for Temporary Assistance for Needy Families (TANF); penalty.**

A. A person shall be eligible for Temporary Assistance for Needy Families if that person:

1. Has not attained the age of ~~eighteen~~ 18 years, or, if ~~regularly attending a full-time student in a secondary school or in the equivalent level of career and technical education, has not attained the age of nineteen years and is reasonably expected to complete his senior year of school prior to attaining age nineteen;~~

2. Is a resident of Virginia;

3. Is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a residence maintained by such relative or is in placement under conditions specified by the Board;

4. Is in need of public assistance; and

5. If ~~under the age of eighteen years less than 18 years of age,~~ is in compliance with compulsory school attendance laws (§ 22.1-254 et seq.) as described in § 63.2-606. Prior to imposing a sanction of benefits, the local department shall make reasonable efforts to discuss with the parent or caretaker, by personal contact that may include direct telephone contact, a plan to return the child to school. If such efforts fail, the local department shall mail a written advance notice of proposed action to the parent or caretaker advising that benefits may be reduced if the parent or caretaker fails to contact the local department to develop a plan to return the child to school.

B. An applicant for TANF shall:

1. Furnish, apply for or have an application made on his behalf, and on behalf of all children for whom assistance is being requested, for a social security account number to be used in the administration of the program;

2. Assign the Commonwealth any rights to support from any other person such applicant may have on his own behalf or on behalf of any other family member for whom the applicant is applying for or receiving aid, except for any support that accrued prior to the execution of the assignment;

3. Identify the parents of the child for whom aid is claimed, subject to the "good cause" provisions or exceptions in federal law or regulations. However, this requirement shall not apply if the child is in a foster care placement or if the local department determines, based upon the sworn statement of the applicant or recipient or of another person with knowledge of the circumstances, that the child was conceived as the result of incest or rape; and

4. Cooperate in (i) locating the parent of the child with respect to whom TANF is claimed, (ii) establishing the paternity of a child born out of wedlock with respect to whom TANF is claimed, (iii) obtaining support payments for such applicant or recipient and for a child with respect to whom TANF is claimed, and (iv) obtaining any other payments or property due such applicant or recipient for such child.

Any applicant or recipient who intentionally misidentifies another person as a parent shall be guilty of a Class 5 felony.

C. Unless an exception to the requirement set forth in subdivision B 3 applies, the Department's Division of Child Support Enforcement shall proceed to determine parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. If paternity is not established after six months of receipt of TANF, the case shall be reviewed to determine the reason that paternity has not been established. If paternity has not been established due to the caretaker relative's noncooperation, the local department may suspend the entire grant or the adult portion of the grant, subject to Board regulations.

D. TANF shall be provided to two-parent families on the same terms and conditions that TANF is provided to single-parent families.

## CHAPTER 377

*An Act to amend and reenact § 63.2-1242.1 of the Code of Virginia, relating to adoption by relative.*

[H 2208]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 63.2-1242.1 of the Code of Virginia is amended and reenacted as follows:****§ 63.2-1242.1. Relative adoption.**

A. For the purposes of this chapter, a "close relative placement" shall be an adoption by the child's grandparent, great-grandparent, adult nephew or niece, adult brother or sister, adult uncle or aunt, ~~or~~ adult great uncle or great aunt, *stepparent, adult stepbrother or stepsisters, or other adult relatives of the child by marriage or adoption.*

B. In a close relative placement the court may accept the written and signed consent of the birth parent(s) that is signed under oath and acknowledged by an officer authorized by law to take such ~~acknowledgements~~ *acknowledgments*.

### CHAPTER 378

*An Act to amend and reenact § 20-124.3 of the Code of Virginia, relating to custody and visitation orders; exchange of child.*

[H 2317]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 20-124.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 20-124.3. Best interests of the child; visitation.**

In determining best interests of a child for purposes of determining custody or visitation arrangements including any pendente lite orders pursuant to § 20-103, the court shall consider the following:

1. The age and physical and mental condition of the child, giving due consideration to the child's changing developmental needs;
2. The age and physical and mental condition of each parent;
3. The relationship existing between each parent and each child, giving due consideration to the positive involvement with the child's life, the ability to accurately assess and meet the emotional, intellectual and physical needs of the child;
4. The needs of the child, giving due consideration to other important relationships of the child, including but not limited to siblings, peers and extended family members;
5. The role that each parent has played and will play in the future, in the upbringing and care of the child;
6. The propensity of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child;
7. The relative willingness and demonstrated ability of each parent to maintain a close and continuing relationship with the child, and the ability of each parent to cooperate in and resolve disputes regarding matters affecting the child;
8. The reasonable preference of the child, if the court deems the child to be of reasonable intelligence, understanding, age and experience to express such a preference;
9. Any history of family abuse as that term is defined in § 16.1-228 or sexual abuse. If the court finds such a history, the court may disregard the factors in subdivision 6; and
10. Such other factors as the court deems necessary and proper to the determination.

The judge shall communicate to the parties the basis of the decision either orally or in writing. Except in cases of consent orders for custody and visitation, this communication shall set forth the judge's findings regarding the relevant factors set forth in this section. *At the request of either party, the court may order that the exchange of a child shall take place at an appropriate meeting place.*

### CHAPTER 379

*An Act to amend the Code of Virginia by adding a section numbered 54.1-2937.1, relating to Board of Medicine; retiree license.*

[H 2457]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 54.1-2937.1 as follows:**

**§ 54.1-2937.1. Retiree license.**

*A. The Board may issue a retiree license to any doctor of medicine, osteopathy, podiatry, or chiropractic who holds an unrestricted, active license to practice in the Commonwealth upon receipt of a request and submission of the fee required by the Board. A person to whom a retiree license has been issued shall not be required to meet continuing competency requirements for the first biennial renewal of such license.*

*B. A person to whom a retiree license has been issued shall only engage in the practice of medicine, osteopathy, podiatry, or chiropractic for the purpose of providing (i) charity care, as defined in § 32.1-102.1, and (ii) health care services to patients in their residence for whom travel is a barrier to receiving medical care.*

### CHAPTER 380

*An Act to amend and reenact § 15.2-2292 of the Code of Virginia, relating to family day homes; zoning permits.*

[H 2569]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 15.2-2292 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-2292. Zoning provisions for family day homes.**

A. Zoning ordinances for all purposes shall consider a family day home as defined in § 63.2-100 serving one through four children, exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed upon such a home. Nothing in this section shall apply to any county or city which is subject to § 15.2-741 or 15.2-914.

B. A local governing body may by ordinance allow a zoning administrator to use an administrative process to issue zoning permits for a family day home as defined in § 63.2-100 serving five through 12 children, exclusive of the provider's own children and any children who reside in the home. The ordinance may contain such standards as the local governing body deems appropriate and shall include a requirement that notification be sent by registered or certified letter to the last known address of each adjacent property owner. If the zoning administrator receives no written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance *and all other applicable local ordinances*, the zoning administrator ~~may~~ shall issue the permit sought. *If the zoning administrator receives a written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance, the zoning administrator shall consider such objection and may (i) issue or deny the permit sought or (ii) if required by the ordinance, refer the permit to the local governing body for consideration.* The ordinance shall provide a process whereby an applicant for a family day home that is denied a permit through the administrative process may request that its application be considered after a hearing following public notice as provided in § 15.2-2204. Upon such hearing, the local governing body may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit. The provisions of this subsection shall not prohibit a local governing body from exercising its authority, if at all, under subdivision A 3 of § 15.2-2286.

**CHAPTER 381**

*An Act to amend and reenact §§ 63.2-1508 and 63.2-1517 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-1506.1, relating to child abuse and neglect; report or complaint; victims of sex trafficking; taking child victim into custody.*

[H 2597]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 63.2-1508 and 63.2-1517 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1506.1 as follows:****§ 63.2-1506.1. Sex trafficking assessments by local departments.**

A. *If a report or complaint is based upon information and allegations that a child is a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22), the local department shall conduct a sex trafficking assessment, unless at any time during the sex trafficking assessment the local department determines that an investigation or family assessment is required pursuant to § 63.2-1505 or 63.2-1506.*

B. *A sex trafficking assessment requires the collection of information necessary to determine:*

1. *The immediate safety needs of the child;*
  2. *The protective and rehabilitative services needs of the child and the child's family that will deter abuse and neglect;*
- and
3. *Risk of future harm to the child.*

C. *When a local department responds to the report or complaint by conducting a sex trafficking assessment, the local department may:*

1. *Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and the child's family;*
2. *Petition the court for services deemed necessary; or*
3. *Commence an immediate investigation or family assessment, if at any time during the sex trafficking assessment the local department determines that an investigation or family assessment is required pursuant to § 63.2-1505 or 63.2-1506.*

D. *In the event that the parents or guardians of the child reside in a jurisdiction other than that in which the report or complaint was received, the local department that received the report or complaint and the local department where the child resides with his parents or guardians shall work jointly to complete the sex trafficking assessment.*

E. *Reports or complaints for which a sex trafficking assessment is completed shall not be entered into the central registry contained in § 63.2-1515.*

F. *The local department or departments shall notify the Child Protective Services Unit within the Department in writing whenever such a sex trafficking assessment is conducted.*

**§ 63.2-1508. Valid report or complaint.**

A. A valid report or complaint means the local department has evaluated the information and allegations of the report or complaint and determined that the local department shall conduct an investigation or family assessment because the following elements are present:

1. The alleged victim child or children are under ~~the age of eighteen~~ 18 years of age at the time of the complaint or report;
2. The alleged abuser is the alleged victim child's parent or other caretaker;
3. The local department receiving the complaint or report has jurisdiction; and
4. The circumstances described allege suspected child abuse or neglect.

*B. A valid report or complaint regarding a child who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22) may be established if the alleged abuser is the alleged victim child's parent, other caretaker, or any other person suspected to have caused such abuse or neglect.*

C. Nothing in this section shall relieve any person specified in § 63.2-1509 from making a report required by that section, regardless of the identity of the person suspected to have caused such abuse or neglect.

**§ 63.2-1517. Authority to take child into custody.**

A. A physician or child-protective services worker of a local department or law-enforcement official investigating a report or complaint of abuse and neglect may take a child into custody for up to 72 hours without prior approval of parents or guardians provided:

1. The circumstances of the child are such that continuing in his place of residence or in the care or custody of the parent, guardian, custodian or other person responsible for the child's care, presents an imminent danger to the child's life or health to the extent that severe or irremediable injury would be likely to result or if evidence of abuse is perishable or subject to deterioration before a hearing can be held;
2. A court order is not immediately obtainable;
3. The court has set up procedures for placing such children;
4. Following taking the child into custody, the parents or guardians are notified as soon as practicable. Every effort shall be made to provide such notice in person;
5. A report is made to the local department; and
6. The court is notified and the person or agency taking custody of such child obtains, as soon as possible, but in no event later than 72 hours, an emergency removal order pursuant to § 16.1-251; however, if a preliminary removal order is issued after a hearing held in accordance with § 16.1-252 within 72 hours of the removal of the child, an emergency removal order shall not be necessary. Any person or agency petitioning for an emergency removal order after four hours have elapsed following taking custody of the child shall state the reasons therefor pursuant to § 16.1-251.

B. If the 72-hour period for holding a child in custody and for obtaining a preliminary or emergency removal order expires on a Saturday, Sunday, or legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, or legal holiday or day on which the court is lawfully closed.

*C. A child-protective services worker of a local department responding to a complaint or report of abuse and neglect for purposes of sex trafficking or severe forms of trafficking may take a child into custody and the local department may maintain custody of the child for up to 72 hours without prior approval of a parent or guardian, provided that the alleged victim child or children have been identified as a victim or victims of sex trafficking or a victim or victims of severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7101 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22). After taking the child into custody, the local department shall notify the parent or guardian of such child as soon as practicable. Every effort shall be made to provide such notice in person. The local department shall also notify the Child-Protective Services Unit within the Department whenever a child is taken into custody.*

*D. When a child is taken into custody by a child-protective services worker of a local department pursuant to subsection C, that child shall be returned as soon as practicable to the custody of his parent or guardian. However, the local department shall not be required to return the child to his parent or guardian if the circumstances are such that continuing in his place of residence or in the care or custody of such parent or guardian, or custodian or other person responsible for the child's care, presents an imminent danger to the child's life or health to the extent that severe or irremediable injury would be likely to result or if the evidence of abuse is perishable or subject to deterioration before a hearing can be held. If the local department cannot return the child to the custody of his parents or guardians within 72 hours, the local department shall obtain an emergency removal order pursuant to § 16.1-251.*

**CHAPTER 382**

*An Act to amend and reenact §§ 24.2-800 and 24.2-802, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to recounts; rules of procedure; multiple simultaneous recounts.*

[H 2625]

Approved March 14, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-800 and 24.2-802, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

**§ 24.2-800. Recounts in all elections.**

A. The provisions of this article apply to all elections held in the Commonwealth.

B. When there is between any candidate apparently nominated or elected and any candidate apparently defeated a difference of not more than one percent of the total vote cast for the two such candidates as determined by the State Board or the electoral board, the defeated candidate may appeal from the determination of the State Board or the electoral board for a recount of the vote as set forth in this article. When there is between any write-in candidate apparently nominated or elected and any candidate apparently defeated, or between any candidate apparently nominated or elected and any write-in candidate apparently defeated, a difference of not more than five percent of the total vote cast for the two such candidates as determined by the State Board or the electoral board, the defeated candidate may appeal from the determination of the State Board or the electoral board for a recount of the vote as set forth in this article. In an election of electors for the President and Vice President of the United States, the presidential candidate shall represent the vice presidential candidate and slate of electors and be the party to the recount for purposes of this article.

C. When there is between the vote for a question and the vote against a question a difference of not more than fifty votes or one percent of the total vote cast for and against the question as determined by the State Board or the electoral board, whichever is greater, fifty or more voters qualified to vote on the question, by signing and filing their petition, may appeal from the determination of the State Board or the electoral board for a recount of the vote as set forth in this article.

*D. The State Board shall promulgate standards and instructions for the conduct of simultaneous recounts of two or more elections in a single election district.*

**§ 24.2-802. (Effective until July 1, 2020) Procedure for recount.**

A. The State Board of Elections shall promulgate standards for (i) the proper handling and security of voting and counting machines, ballots, and other materials required for a recount, (ii) accurate determination of votes based upon objective evidence and taking into account the counting machine and form of ballots approved for use in the Commonwealth, and (iii) any other matters that will promote a timely and accurate resolution of the recount. The chief judge of the circuit court or the full recount court may, consistent with State Board of Elections standards, resolve disputes over the application of the standards and direct all other appropriate measures to ensure the proper conduct of the recount.

The recount procedures to be followed throughout the election district shall be as uniform as practicable, taking into account the types of ballots and voting and counting machines in use in the election district.

In preparation for the recount, the clerks of the circuit courts shall (a) secure all printed ballots and other election materials in sealed boxes; (b) place all of the sealed boxes in a vault or room not open to the public or to anyone other than the clerk and his staff; (c) cause such vault or room to be securely locked except when access is necessary for the clerk and his staff; and (d) certify that these security measures have been taken in whatever form is deemed appropriate by the chief judge.

B. Within seven calendar days of the filing of the petition for a recount of any election other than an election for presidential electors, or within five calendar days of the filing of a petition for a recount of an election for presidential electors, the chief judge of the circuit court shall call a preliminary hearing at which (i) motions may be disposed of and (ii) the rules of procedure may be fixed, both subject to review by the full court. As part of the preliminary hearing, the chief judge may permit the petitioner and his counsel, together with each other party and his counsel and at least two members of the electoral board and the custodians, to examine any direct recording electronic machine of the type that prints returns when the print-out sheets are not clearly legible. The petitioner and his counsel and each other party and their counsel under supervision of the electoral board and its agents shall also have access to pollbooks and other materials used in the election for examination purposes, provided that individual ballots cast in the election shall not be examined at the preliminary hearing. The chief judge during the preliminary hearing shall review all security measures taken for all ballots and voting and counting machines and direct, as he deems necessary, all appropriate measures to ensure proper security to conduct the recount.

The chief judge, subject to review by the full court, may set the place or places for the recount and may order the delivery of election materials to a central location and the transportation of voting and counting machines to a central location in each county or city under appropriate safeguards.

After the full court is appointed under § 24.2-801 or 24.2-801.1, it shall call a hearing at which all motions shall be disposed of and the rules of procedure shall be fixed finally, *and it shall issue a written order setting out such rules of procedure*. The court shall call for the advice and cooperation of the Department, the State Board, or any local electoral board, as appropriate, and such boards or agency shall have the duty and authority to assist the court. The court shall fix procedures that shall provide for the accurate determination of votes in the election.

The determination of the votes in a recount shall be based on votes cast in the election and shall not take into account (a) any absentee ballots or provisional ballots sought to be cast but ruled invalid and not cast in the election, (b) ballots cast only for administrative or test purposes and voided by the officers of election, or (c) ballots spoiled by a voter and replaced with a new ballot.

The eligibility of any voter to have voted shall not be an issue in a recount. Commencing upon the filing of the recount, nothing shall prevent the discovery or disclosure of any evidence that could be used pursuant to § 24.2-803 in contesting the results of an election.

C. The court shall permit each candidate, or petitioner and governing body or chief executive officer, to select an equal number of the officers of election to be recount officials and to count printed ballots, or in the case of direct recording electronic machines, to redetermine the vote. The number shall be fixed by the court and be sufficient to conduct the recount within a reasonable period. The court may permit each party to the recount to submit a list of alternate officials in the number the court directs. There shall be at least one team of recount officials to recount printed ballots and to redetermine the vote cast on direct recording electronic machines of the type that prints returns for the election district at large in which the recount is being held. There shall be at least one team from each locality using ballot scanner machines to insert the ballots into one or more scanners. The ballot scanner machines shall be programmed to count only votes cast for parties to the recount or for or against the question in a referendum recount. Each team shall be composed of one representative of each party.

The court may provide that if, at the time of the recount, any recount official fails to appear, the remaining recount officials present shall appoint substitute recount officials who shall possess the same qualifications as the recount officials for whom they substitute. The court may select pairs of recount coordinators to serve for each county or city in the election district who shall be members of the county or city electoral board and represent different political parties. The court shall have authority to summon such officials and coordinators. On the request of any party to the recount, the court shall allow that party to appoint one representative observer for each team of recount officials. The representative observers shall have an unobstructed view of the work of the recount officials. The expenses of its representatives shall be borne by each party.

D. The court (i) shall supervise the recount and (ii) may require delivery of any or all pollbooks used and any or all ballots cast at the election, or may assume supervision thereof through the recount coordinators and officials.

The redetermination of the vote in a recount shall be conducted as follows:

1. For paper ballots, the recount officials shall hand count the paper ballots using the standards promulgated by the State Board pursuant to subsection A.

2. For direct recording electronic machines (DREs), the recount officials shall open the envelopes with the printouts and read the results from the printouts. If the printout is not clear, or on the request of the court, the recount officials shall rerun the printout from the machine or examine the counters as appropriate.

3. For ballot scanner machines, the recount officials shall rerun all the machine-readable ballots through a scanner programmed to count only the votes for the office or issue in question in the recount and to set aside all ballots containing write-in votes, overvotes, and undervotes. The ballots that are set aside, any ballots not accepted by the scanner, and any ballots for which a scanner could not be programmed to meet the programming requirements of this subdivision, shall be hand counted using the standards promulgated by the State Board pursuant to subsection A. If the total number of machine-readable ballots reported as counted by the scanner plus the total number of ballots set aside by the scanner do not equal the total number of ballots rerun through the scanner, then all ballots cast on ballot scanner machines for that precinct shall be set aside to be counted by hand using the standards promulgated by the State Board pursuant to subsection A. Prior to running the machine-readable ballots through the ballot scanner machine, the recount officials shall ensure that logic and accuracy tests have been successfully performed on each scanner after the scanner has been programmed. The result calculated for ballots accepted by the ballot scanner machine during the recount shall be considered the correct determination for those machine-readable ballots unless the court finds sufficient cause to rule otherwise.

There shall be only one redetermination of the vote in each precinct.

At the conclusion of the recount of each precinct, the recount officials shall write down the number of valid ballots cast, this number being obtained from the ballots cast in the precinct, or from the ballots cast as shown on the statement of results if the ballots cannot be found, for each of the two candidates or for and against the question. They shall submit the ballots or the statement of results used, as to the validity of which questions exist, to the court. The written statement of any one recount official challenging a ballot shall be sufficient to require its submission to the court. If, on all direct recording electronic machines, the number of persons voting in the election, or the number of votes cast for the office or on the question, totals more than the number of names on the pollbooks of persons voting on the voting machines, the figures recorded by the machines shall be accepted as correct.

At the conclusion of the recount of all precincts, after allowing the parties to inspect the questioned ballots, and after hearing arguments, the court shall rule on the validity of all questioned ballots and votes. After determining all matters pertaining to the recount and redetermination of the vote as raised by the parties, the court shall certify to the State Board and the electoral board or boards (a) the vote for each party to the recount and declare the person who received the higher number of votes to be nominated or elected, as appropriate, or (b) the votes for and against the question and declare the outcome of the referendum. The Department shall post on the Internet any and all changes made during the recount to the results as previously certified by it pursuant to § 24.2-679.

E. Costs of the recount shall be assessed against the counties and cities comprising the election district when (i) the candidate petitioning for the recount is declared the winner; (ii) the petitioners in a recount of a referendum win the recount; or (iii) there was between the candidate apparently nominated or elected and the candidate petitioning for the recount a difference of not more than one-half of one percent of the total vote cast for the two such candidates as determined by the State Board or electoral board prior to the recount. Otherwise the costs of the recount shall be assessed against the candidate

petitioning for the recount or the petitioners in a recount of a referendum. If more than one candidate petitions for a recount, the court may assess costs in an equitable manner between the counties and cities and any such candidate if both are liable for costs under this subsection. Costs incurred to date shall be assessed against any candidate or petitioner who defaults or withdraws his petition.

F. The court shall determine the costs of the recount subject to the following limitations: (i) no per diem payment shall be assessed for salaried election officials; (ii) no per diem payment to officers of election serving as recount officials shall exceed two-thirds of the per diem paid such officers by the county or city for service on election day; and (iii) per diem payments to alternates shall be allowed only if they serve.

G. Any petitioner who may be assessed with costs under subsection E shall post a bond with surety with the court in the amount of \$10 per precinct in the area subject to recount. If the petitioner wins the recount, the bond shall not be forfeit. If the petitioner loses the recount, the bond shall be forfeit only to the extent of the assessed costs. If the assessed costs exceed the bond, he shall be liable for such excess.

H. The recount proceeding shall be final and not subject to appeal.

I. For the purposes of this section:

"Overvote" means a ballot on which a voter casts a vote for a greater number of candidates or positions than the number for which he was lawfully entitled to vote and no vote shall be counted with respect to that office or issue.

"Undervote" means a ballot on which a voter casts a vote for a lesser number of candidates or positions than the number for which he was lawfully entitled to vote.

**§ 24.2-802. (Effective July 1, 2020) Procedure for recount.**

A. The State Board of Elections shall promulgate standards for (i) the proper handling and security of voting systems, ballots, and other materials required for a recount, (ii) accurate determination of votes based upon objective evidence and taking into account the voting system and form of ballots approved for use in the Commonwealth, and (iii) any other matters that will promote a timely and accurate resolution of the recount. The chief judge of the circuit court or the full recount court may, consistent with State Board of Elections standards, resolve disputes over the application of the standards and direct all other appropriate measures to ensure the proper conduct of the recount.

The recount procedures to be followed throughout the election district shall be as uniform as practicable, taking into account the types of ballots and voting systems in use in the election district.

In preparation for the recount, the clerks of the circuit courts shall (a) secure all printed ballots and other election materials in sealed boxes; (b) place all of the sealed boxes in a vault or room not open to the public or to anyone other than the clerk and his staff; (c) cause such vault or room to be securely locked except when access is necessary for the clerk and his staff; and (d) certify that these security measures have been taken in whatever form is deemed appropriate by the chief judge.

B. Within seven calendar days of the filing of the petition for a recount of any election other than an election for presidential electors, or within five calendar days of the filing of a petition for a recount of an election for presidential electors, the chief judge of the circuit court shall call a preliminary hearing at which (i) motions may be disposed of and (ii) the rules of procedure may be fixed, both subject to review by the full court. The petitioner and his counsel and each other party and their counsel under supervision of the electoral board and its agents shall have access to pollbooks and other materials used in the election for examination purposes, provided that individual ballots cast in the election shall not be examined at the preliminary hearing. The chief judge during the preliminary hearing shall review all security measures taken for all ballots and voting systems and direct, as he deems necessary, all appropriate measures to ensure proper security to conduct the recount.

The chief judge, subject to review by the full court, may set the place or places for the recount and may order the delivery of election materials to a central location and the transportation of voting systems to a central location in each county or city under appropriate safeguards.

After the full court is appointed under § 24.2-801 or 24.2-801.1, it shall call a hearing at which all motions shall be disposed of and the rules of procedure shall be fixed finally, *and it shall issue a written order setting out such rules of procedure*. The court shall call for the advice and cooperation of the Department, the State Board, or any local electoral board, as appropriate, and such boards or agency shall have the duty and authority to assist the court. The court shall fix procedures that shall provide for the accurate determination of votes in the election.

The determination of the votes in a recount shall be based on votes cast in the election and shall not take into account (a) any absentee ballots or provisional ballots sought to be cast but ruled invalid and not cast in the election, (b) ballots cast only for administrative or test purposes and voided by the officers of election, or (c) ballots spoiled by a voter and replaced with a new ballot.

The eligibility of any voter to have voted shall not be an issue in a recount. Commencing upon the filing of the recount, nothing shall prevent the discovery or disclosure of any evidence that could be used pursuant to § 24.2-803 in contesting the results of an election.

C. The court shall permit each candidate, or petitioner and governing body or chief executive officer, to select an equal number of the officers of election to be recount officials and to count printed ballots. The number shall be fixed by the court and be sufficient to conduct the recount within a reasonable period. The court may permit each party to the recount to submit a list of alternate officials in the number the court directs. There shall be at least one team from each locality using ballot scanner machines to insert the ballots into one or more scanners. The ballot scanner machines shall be programmed to

count only votes cast for parties to the recount or for or against the question in a referendum recount. Each team shall be composed of one representative of each party.

The court may provide that if, at the time of the recount, any recount official fails to appear, the remaining recount officials present shall appoint substitute recount officials who shall possess the same qualifications as the recount officials for whom they substitute. The court may select pairs of recount coordinators to serve for each county or city in the election district who shall be members of the county or city electoral board and represent different political parties. The court shall have authority to summon such officials and coordinators. On the request of any party to the recount, the court shall allow that party to appoint one representative observer for each team of recount officials. The representative observers shall have an unobstructed view of the work of the recount officials. The expenses of its representatives shall be borne by each party.

D. The court (i) shall supervise the recount and (ii) may require delivery of any or all pollbooks used and any or all ballots cast at the election, or may assume supervision thereof through the recount coordinators and officials.

The redetermination of the vote in a recount shall be conducted as follows:

1. For paper ballots, the recount officials shall hand count the paper ballots using the standards promulgated by the State Board pursuant to subsection A.

2. For ballot scanner machines, the recount officials shall rerun all the machine-readable ballots through a scanner programmed to count only the votes for the office or issue in question in the recount and to set aside all ballots containing write-in votes, overvotes, and undervotes. The ballots that are set aside, any ballots not accepted by the scanner, and any ballots for which a scanner could not be programmed to meet the programming requirements of this subdivision, shall be hand counted using the standards promulgated by the State Board pursuant to subsection A. If the total number of machine-readable ballots reported as counted by the scanner plus the total number of ballots set aside by the scanner do not equal the total number of ballots rerun through the scanner, then all ballots cast on ballot scanner machines for that precinct shall be set aside to be counted by hand using the standards promulgated by the State Board pursuant to subsection A. Prior to running the machine-readable ballots through the ballot scanner machine, the recount officials shall ensure that logic and accuracy tests have been successfully performed on each scanner after the scanner has been programmed. The result calculated for ballots accepted by the ballot scanner machine during the recount shall be considered the correct determination for those machine-readable ballots unless the court finds sufficient cause to rule otherwise.

There shall be only one redetermination of the vote in each precinct.

At the conclusion of the recount of each precinct, the recount officials shall write down the number of valid ballots cast, this number being obtained from the ballots cast in the precinct, or from the ballots cast as shown on the statement of results if the ballots cannot be found, for each of the two candidates or for and against the question. They shall submit the ballots or the statement of results used, as to the validity of which questions exist, to the court. The written statement of any one recount official challenging a ballot shall be sufficient to require its submission to the court. If, on all ballot scanners, the number of persons voting in the election, or the number of votes cast for the office or on the question, totals more than the number of names on the pollbooks of persons voting on the voting machines, the figures recorded by the machines shall be accepted as correct.

At the conclusion of the recount of all precincts, after allowing the parties to inspect the questioned ballots, and after hearing arguments, the court shall rule on the validity of all questioned ballots and votes. After determining all matters pertaining to the recount and redetermination of the vote as raised by the parties, the court shall certify to the State Board and the electoral board or boards (a) the vote for each party to the recount and declare the person who received the higher number of votes to be nominated or elected, as appropriate, or (b) the votes for and against the question and declare the outcome of the referendum. The Department shall post on the Internet any and all changes made during the recount to the results as previously certified by it pursuant to § 24.2-679.

E. Costs of the recount shall be assessed against the counties and cities comprising the election district when (i) the candidate petitioning for the recount is declared the winner; (ii) the petitioners in a recount of a referendum win the recount; or (iii) there was between the candidate apparently nominated or elected and the candidate petitioning for the recount a difference of not more than one-half of one percent of the total vote cast for the two such candidates as determined by the State Board or electoral board prior to the recount. Otherwise the costs of the recount shall be assessed against the candidate petitioning for the recount or the petitioners in a recount of a referendum. If more than one candidate petitions for a recount, the court may assess costs in an equitable manner between the counties and cities and any such candidate if both are liable for costs under this subsection. Costs incurred to date shall be assessed against any candidate or petitioner who defaults or withdraws his petition.

F. The court shall determine the costs of the recount subject to the following limitations: (i) no per diem payment shall be assessed for salaried election officials; (ii) no per diem payment to officers of election serving as recount officials shall exceed two-thirds of the per diem paid such officers by the county or city for service on election day; and (iii) per diem payments to alternates shall be allowed only if they serve.

G. Any petitioner who may be assessed with costs under subsection E shall post a bond with surety with the court in the amount of \$10 per precinct in the area subject to recount. If the petitioner wins the recount, the bond shall not be forfeit. If the petitioner loses the recount, the bond shall be forfeit only to the extent of the assessed costs. If the assessed costs exceed the bond, he shall be liable for such excess.

H. The recount proceeding shall be final and not subject to appeal.

I. For the purposes of this section:

"Overvote" means a ballot on which a voter casts a vote for a greater number of candidates or positions than the number for which he was lawfully entitled to vote and no vote shall be counted with respect to that office or issue.

"Undervote" means a ballot on which a voter casts a vote for a lesser number of candidates or positions than the number for which he was lawfully entitled to vote.

### CHAPTER 383

*An Act to amend and reenact § 38.2-3431 of the Code of Virginia, relating to group health plans; small employers.*

[H 2719]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3431 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-3431. Application of article; definitions.**

A. This article applies to group health plans and to health insurance issuers offering group health insurance coverage, and individual policies offered to employees of small employers.

Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, each corporation providing individual or group accident and sickness subscription contracts, and each health maintenance organization or multiple employer welfare arrangement providing health care plans for health care services that offers individual or group coverage to the small employer market in this Commonwealth shall be subject to the provisions of this article. Any issuer of individual coverage to employees of a small employer shall be subject to the provisions of this article if any of the following conditions are met:

1. Any portion of the premiums or benefits is paid by or on behalf of the employer;
2. The eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the employer for any portion of the premium;
3. The employer has permitted payroll deduction for the covered individual and any portion of the premium is paid by the employer, provided that the health insurance issuer providing individual coverage under such circumstances shall be registered as a health insurance issuer in the small group market under this article, and shall have offered small employer group insurance to the employer in the manner required under this article; or
4. The health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for the purpose of § 106, 125, or 162 of the United States Internal Revenue Code.

B. For the purposes of this article:

"Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the Commission that a health insurance issuer is in compliance with the provisions of this article based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the health insurance issuer in establishing premium rates for applicable insurance coverage.

"Affiliation period" means a period which, under the terms of the health insurance coverage offered by a health maintenance organization, must expire before the health insurance coverage becomes effective. The health maintenance organization is not required to provide health care services or benefits during such period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

1. Such period shall begin on the enrollment date.

2. An affiliation period under a plan shall run concurrently with any waiting period under the plan.

"Beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (8)).

"Bona fide association" means, with respect to health insurance coverage offered in this Commonwealth, an association which:

1. Has been actively in existence for at least five years;
2. Has been formed and maintained in good faith for purposes other than obtaining insurance;
3. Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);
4. Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member);
5. Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and
6. Meets such additional requirements as may be imposed under the laws of this Commonwealth.

"Certification" means a written certification of the period of creditable coverage of an individual under a group health plan and coverage provided by a health insurance issuer offering group health insurance coverage and the coverage if any under such COBRA continuation provision, and the waiting period if any and affiliation period if applicable imposed with respect to the individual for any coverage under such plan.

"Church plan" has the meaning given such term under section 3(33) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (33)).

"COBRA continuation provision" means any of the following:

1. Section 4980B of the Internal Revenue Code of 1986 (26 U.S.C. § 4980B), other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines;
2. Part 6 of subtitle B of Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1161 et seq.), other than section 609 of such Act; or
3. Title XXII of P.L. 104-191.

"Creditable coverage" means with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or B of Title XVIII of the Social Security Act (42 U.S.C. § 1395c or § 1395);
4. Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.), other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code (10 U.S.C. § 1071 et seq.);
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code (5 U.S.C. § 8901 et seq.);
9. A public health plan (as defined in federal regulations);
10. A health benefit plan under section 5 (e) of the Peace Corps Act (22 U.S.C. § 2504(e)); or
11. Individual health insurance coverage.

Such term does not include coverage consisting solely of coverage of excepted benefits.

"Dependent" means the spouse or child of an eligible employee, subject to the applicable terms of the policy, contract or plan covering the eligible employee.

"Eligible employee" means an employee who works for a small group employer on a full-time basis, has a normal work week of 30 or more hours, has satisfied applicable waiting period requirements, and is not a part-time, temporary or substitute employee. At the employer's sole discretion, the eligibility criterion may be broadened to include part-time employees.

"Eligible individual" means such an individual in relation to the employer as shall be determined:

1. In accordance with the terms of such plan;
2. As provided by the health insurance issuer under rules of the health insurance issuer which are uniformly applicable to employers in the group market; and
3. In accordance with all applicable law of this Commonwealth governing such issuer and such market.

"Employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (6)).

"Employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (5)), except that such term shall include only employers of two or more employees.

"Enrollment date" means, with respect to an eligible individual covered under a group health plan or health insurance coverage, the date of enrollment of the eligible individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment.

"Excepted benefits" means benefits under one or more (or any combination thereof) of the following:

1. Benefits not subject to requirements of this article:
  - a. Coverage only for accident, or disability income insurance, or any combination thereof;
  - b. Coverage issued as a supplement to liability insurance;
  - c. Liability insurance, including general liability insurance and automobile liability insurance;
  - d. Workers' compensation or similar insurance;
  - e. Medical expense and loss of income benefits;
  - f. Credit-only insurance;
  - g. Coverage for on-site medical clinics; and
  - h. Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.
2. Benefits not subject to requirements of this article if offered separately:
  - a. Limited scope dental or vision benefits;
  - b. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and
  - c. Such other similar, limited benefits as are specified in regulations.
3. Benefits not subject to requirements of this article if offered as independent, noncoordinated benefits:
  - a. Coverage only for a specified disease or illness; and
  - b. Hospital indemnity or other fixed indemnity insurance.
4. Benefits not subject to requirements of this article if offered as separate insurance policy:
  - a. Medicare supplemental health insurance (as defined under section 1882 (g)(1) of the Social Security Act (42 U.S.C. § 1395ss (g)(1)));

b. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code (10 U.S.C. § 1071 et seq.); and

c. Similar supplemental coverage provided to coverage under a group health plan.

"Federal governmental plan" means a governmental plan established or maintained for its employees by the government of the United States or by an agency or instrumentality of such government.

"Governmental plan" has the meaning given such term under section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (32)) and any federal governmental plan.

"Group health insurance coverage" means in connection with a group health plan, health insurance coverage offered in connection with such plan.

"Group health plan" means an employee welfare benefit plan (as defined in section 3 (1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (1)), to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a MEWA or plan provided by another benefit arrangement. "Health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; Medicaid coverage; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

"Health insurance issuer" means an insurance company, or insurance organization (including a health maintenance organization) which is licensed to engage in the business of insurance in this Commonwealth and which is subject to the laws of this Commonwealth which regulate insurance within the meaning of section 514 (b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1144 (b)(2)). Such term does not include a group health plan.

"Health maintenance organization" means:

1. A federally qualified health maintenance organization;
2. An organization recognized under the laws of this Commonwealth as a health maintenance organization; or
3. A similar organization regulated under the laws of this Commonwealth for solvency in the same manner and to the same extent as such a health maintenance organization.

"Health status-related factor" means the following in relation to the individual or a dependent eligible for coverage under a group health plan or health insurance coverage offered by a health insurance issuer:

1. Health status;
2. Medical condition (including both physical and mental illnesses);
3. Claims experience;
4. Receipt of health care;
5. Medical history;
6. Genetic information;
7. Evidence of insurability (including conditions arising out of acts of domestic violence); or
8. Disability.

"Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, but does not include coverage defined as excepted benefits. Individual health insurance coverage does not include short-term limited duration coverage.

"Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"Large employer" means, in connection with a group health plan or health insurance coverage with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

"Large group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a large employer.

"Late enrollee" means, with respect to coverage under a group health plan or health insurance coverage provided by a health insurance issuer, a participant or beneficiary who enrolls under the plan other than during:

1. The first period in which the individual is eligible to enroll under the plan; or
2. A special enrollment period as required pursuant to subsections J through M of § 38.2-3432.3.

"Medical care" means amounts paid for:

1. The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
2. Transportation primarily for and essential to medical care referred to in subdivision 1; and
3. Insurance covering medical care referred to in subdivisions 1 and 2.

"Network plan" means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care (including items and services paid for as medical care) are provided, in whole or in part, through a defined set of providers under contract with the health insurance issuer.

"Nonfederal governmental plan" means a governmental plan that is not a federal governmental plan.

"Participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (7)).

"Placed for adoption," or "placement" or "being placed" for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

"Plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (16)(B)).

"Preexisting condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date. Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to such information.

"Premium" means all moneys paid by an employer and eligible employees as a condition of coverage from a health insurance issuer, including fees and other contributions associated with the health benefit plan.

"Rating period" means the 12-month period for which premium rates are determined by a health insurance issuer and are assumed to be in effect.

"Self-employed individual" means an individual who derives a substantial portion of his income from a trade or business (i) operated by the individual as a sole proprietor, (ii) through which the individual has attempted to earn taxable income, and (iii) for which he has filed the appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year.

"Service area" means a broad geographic area of the Commonwealth in which a health insurance issuer sells or has sold insurance policies on or before January 1994, or upon its subsequent authorization to do business in Virginia.

"Small employer" means in connection with a group health plan or health insurance coverage with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 50 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year. In determining whether a corporation or limited liability company employed an average of at least one individual during the preceding calendar year and employed at least one employee on the first day of the plan year, an individual who performed any service for remuneration under a contract of hire, written or oral, express or implied, for a (i) corporation of which the individual is ~~its sole~~ a shareholder or an immediate family member of ~~such sole~~ a shareholder or (ii) a limited liability company of which the individual is ~~its sole~~ a member or an immediate family member of ~~such sole member~~, shall be deemed to be an employee of the corporation or the limited liability company, respectively. *However, a health insurance issuer shall not be required to issue more than one group health plan for each employer identification number issued by the Internal Revenue Service for a business entity, without regard to the number of shareholders or members of such business entity.* "Small employer" includes a self-employed individual.

"Small group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a small employer.

"State" means each of the several states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"Waiting period" means, with respect to a group health plan or health insurance coverage provided by a health insurance issuer and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan. If an employee or dependent enrolls during a special enrollment period pursuant to subsections J through M of § 38.2-3432.3 or as a late enrollee, any period before such enrollment is not a waiting period.

C. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

## CHAPTER 384

*An Act to amend and reenact § 32.1-102.3:1.1 of the Code of Virginia, relating to certificate of public need; certain nursing facilities in a continuing care retirement community; nursing home bed cap.*

Approved March 14, 2019

[S 1722]

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-102.3:1.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-102.3:1.1. Continuing care retirement communities accessing medical assistance.**

A. ~~On or after July 1, 2010, a~~ A nursing facility in Planning District 8 in a continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, which is not already certified for participation in the Medical Assistance Program, may be certified for participation in the Medical Assistance Program, without regard to any condition of a certificate of public need, so long as:

1. The nursing facility is no longer operating under an open admissions period;
2. Any residents who qualify and receive medical assistance under the state program must have been residents of the continuing care retirement community for at least three years;
3. Not more than ~~40~~ 25 percent of the *nursing home beds of the facility or 15 nursing home beds, whichever is fewer*, may be *occupied by individuals* receiving benefits at any given time; and
4. Any resident who qualifies for and receives medical assistance under the state program in a continuing care retirement community nursing facility must have first exhausted any refundable entrance fee paid on the resident's behalf, as defined in § 38.2-4900, as a result of expenditures for that resident's care in the continuing care retirement community.

B. Nothing in this section shall alter the conditions of a continuing care retirement community's participation in the Medical Assistance Program if that continuing care retirement community was certified for participation prior to July 1, 2010.

For the purposes of this section, "open admissions period" means a time during which a facility may take admissions directly into its nursing home beds without the signing of a standard contract.

### CHAPTER 385

*An Act to amend and reenact § 15.2-3108 of the Code of Virginia, relating to local boundary agreements.*

[H 1649]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-3108 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-3108. Petition and hearing; recordation of order; costs.**

Within a reasonable time after a voluntary boundary agreement is adopted by the affected localities, each affected locality shall petition the circuit court for one of the affected localities to approve the boundary agreement. The petition shall set forth the facts pertaining to the desire to relocate or change the boundary line between the localities, and the petition shall include or have attached to it either (i) a plat depicting the change in the boundaries of the localities as agreed; (ii) a metes and bounds description of the new boundary line as agreed upon by the two localities; or (iii) ~~regarding the boundary between the Counties of Louisa and Goochland, between the County of Loudoun and any town therein, or between the Counties of Spotsylvania and Orange,~~ a Geographic Information System (GIS) map depicting the change in the boundaries of the localities as agreed, having been established by Virginia State Plane Coordinates System, South Zone or North Zone, as applicable, meeting National Geodetic Survey standards. If the court finds that the procedures required by § 15.2-3107 have been complied with and that the petition is otherwise in proper order, the court shall enter an appropriate order establishing the new boundary. The order shall include a plat depicting the change in the boundaries of the locality, a metes and bounds description of the new boundary line of the locality, ~~or, regarding the boundary between the Counties of Louisa and Goochland, between the County of Loudoun and any town therein, or between the Counties of Spotsylvania and Orange,~~ a GIS map depicting the change in the boundaries of the localities that includes the Virginia State Plane, South Zone or North Zone coordinates, as applicable, and that order shall be entered in the land records of the court and indexed in the names of the localities which were involved. Costs shall be awarded as the court may determine. Whenever such an order is entered, a certified copy of the order shall be sent to the Secretary of the Commonwealth by the clerk of the court.

### CHAPTER 386

*An Act to amend and reenact §§ 55-225.24 and 55-248.7:2 of the Code of Virginia, relating to landlord and tenant; landlord may obtain certain insurance for tenant; notice.*

[H 1660]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-225.24 and 55-248.7:2 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-225.24. Landlord may obtain certain insurance for tenant.**

A. Damage Insurance. A landlord may require as a condition of tenancy that a tenant have commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and pay for the cost of premiums for such insurance coverage obtained by the landlord, generally known as

"damage insurance." As provided in § 55-225.02, such payments shall not be deemed a security deposit, but shall be rent. However, the landlord shall not require a tenant to pay both security deposits and the cost of damage insurance premiums, if the total amount of any security deposits and damage insurance premiums exceeds the amount of two months' periodic rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with administration of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

B. Renter's Insurance. A landlord may require as a condition of tenancy that a tenant have renter's insurance as specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in residential units not occupied by the owner. A landlord may require a tenant to pay for the cost of premiums for such insurance obtained by the landlord, to provide such coverage for the tenant as part of rent or as otherwise provided herein. As provided in § 55-225.02, such payments shall not be deemed a security deposit, but shall be rent. If the landlord requires that such premiums be paid prior to the commencement of the tenancy, the total amount of all security deposits and insurance premiums for damage insurance and renter's insurance shall not exceed the amount of two months' periodic rent. Otherwise, the landlord may add a monthly amount as additional rent to recover the costs of such insurance coverage. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. If a tenant allows his renter's insurance policy required by the rental agreement to lapse for any reason, the landlord may provide any landlord's renter's insurance coverage to such tenant. The tenant shall be obligated to pay for the cost of premiums for such insurance as rent or as otherwise provided herein until the tenant has provided written documentation to the landlord showing that the tenant has reinstated his own renter's insurance coverage.

C. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with the administration of a renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy. *Any failure of the landlord to provide such summary or certificate, or to make available a copy of the insurance policy, shall not affect the validity of the rental agreement.*

*If the rental agreement does not require the tenant to obtain renter's insurance, the landlord shall provide a written notice to the tenant, prior to the execution of the rental agreement, stating that (i) the landlord is not responsible for the tenant's personal property, (ii) the landlord's insurance coverage does not cover the tenant's personal property, and (iii) if the tenant wishes to protect his personal property, he should obtain renter's insurance. The notice shall inform the tenant that any such renter's insurance obtained by the tenant does not cover flood damage and advise the tenant to contact the Federal Emergency Management Agency (FEMA) or visit the websites for FEMA's National Flood Insurance Program or for the Virginia Department of Conservation and Recreation's Flood Risk Information System to obtain information regarding whether the property is located in a special flood hazard area. Any failure of the landlord to provide such notice shall not affect the validity of the rental agreement. If the tenant requests translation of the notice from the English language to another language, the landlord may assist the tenant in obtaining a translator or refer the tenant to an electronic translation service. In doing so, the landlord shall not be deemed to have breached any of his obligations under this chapter or otherwise become liable for any inaccuracies in the translation. The landlord shall not charge a fee for such assistance or referral.*

D. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant as part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided by the landlord relative to the premises, or the tenant's prorated share of a self-insurance program held in an escrow account by the landlord, including the landlord's administrative or other fees associated with the administration of such coverages. The landlord may apply such funds held in escrow to pay claims pursuant to the landlord's self-insurance plan.

**§ 55-248.7:2. Landlord may obtain certain insurance for tenant.**

A. Damage Insurance. A landlord may require as a condition of tenancy that a tenant have commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and pay for the cost of premiums for such insurance coverage obtained by the landlord, generally known as "damage insurance." As provided in § 55-248.4, such payments shall not be deemed a security deposit, but shall be rent. However, as provided in § 55-248.9, the landlord cannot require a tenant to pay both security deposits and the cost of damage insurance premiums, if the total amount of any security deposits and damage insurance premiums exceeds the

amount of two months' periodic rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with administration of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

B. Renter's Insurance. A landlord may require as a condition of tenancy that a tenant have renter's insurance as specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in residential units not occupied by the owner. A landlord may require a tenant to pay for the cost of premiums for such insurance obtained by the landlord, to provide such coverage for the tenant as part of rent or as otherwise provided herein. As provided in § 55-248.4, such payments shall not be deemed a security deposit, but shall be rent. If the landlord requires that such premiums be paid prior to the commencement of the tenancy, the total amount of all security deposits and insurance premiums for damage insurance and renter's insurance shall not exceed the amount of two months' periodic rent. Otherwise, the landlord may add a monthly amount as additional rent to recover the costs of such insurance coverage. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. If a tenant allows his renter's insurance policy required by the rental agreement to lapse for any reason, the landlord may provide any landlord's renter's insurance coverage to such tenant. The tenant shall be obligated to pay for the cost of premiums for such insurance as rent or as otherwise provided herein until the tenant has provided written documentation to the landlord showing that the tenant has reinstated his own renter's insurance coverage.

C. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with the administration of a renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy. *Any failure of the landlord to provide such summary or certificate, or to make available a copy of the insurance policy, shall not affect the validity of the rental agreement.*

*If the rental agreement does not require the tenant to obtain renter's insurance, the landlord shall provide a written notice to the tenant, prior to the execution of the rental agreement, stating that (i) the landlord is not responsible for the tenant's personal property, (ii) the landlord's insurance coverage does not cover the tenant's personal property, and (iii) if the tenant wishes to protect his personal property, he should obtain renter's insurance. The notice shall inform the tenant that any such renter's insurance obtained by the tenant does not cover flood damage and advise the tenant to contact the Federal Emergency Management Agency (FEMA) or visit the websites for FEMA's National Flood Insurance Program or for the Virginia Department of Conservation and Recreation's Flood Risk Information System to obtain information regarding whether the property is located in a special flood hazard area. Any failure of the landlord to provide such notice shall not affect the validity of the rental agreement. If the tenant requests translation of the notice from the English language to another language, the landlord may assist the tenant in obtaining a translator or refer the tenant to an electronic translation service. In doing so, the landlord shall not be deemed to have breached any of his obligations under this chapter or otherwise become liable for any inaccuracies in the translation. The landlord shall not charge a fee for such assistance or referral.*

D. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant as part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided by the landlord relative to the premises, or the tenant's prorated share of a self-insurance program held in an escrow account by the landlord, including the landlord's administrative or other fees associated with the administration of such coverages. The landlord may apply such funds held in escrow to pay claims pursuant to the landlord's self-insurance plan.

### CHAPTER 387

*An Act to amend and reenact § 15.2-2311 of the Code of Virginia, relating to Board of Zoning Appeals; written order; certified mail.*

[H 1698]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2311 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2311. Appeals to board.**

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to § 15.2-2286. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given and the zoning administrator's written order is sent by registered *or certified* mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There shall be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporation Commission. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs. A decision by the board on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator in accordance with this section. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order. For jurisdictions that impose civil penalties for violations of the zoning ordinance, any such civil penalty shall not be assessed by a court having jurisdiction during the pendency of the 30-day appeal period.

B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

C. In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical errors.

D. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

**CHAPTER 388**

*An Act to amend the Code of Virginia by adding sections numbered 4.1-119.1 and 60.2-400.1, relating to posting notice of the human trafficking hotline.*

[H 1887]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding sections numbered 4.1-119.1 and 60.2-400.1 as follows:****§ 4.1-119.1. Human trafficking hotline; posted notice required.**

*Within each government store, except for government stores established on a distiller's licensed premises pursuant to subsection D of § 4.1-119, the Authority shall post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.*

**§ 60.2-400.1. Human trafficking hotline; posted notice required.**

*Within each employment office, the Commission shall post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance. The notice required by this section shall (i) be posted in a place readily visible and accessible to the public and (ii) meet the requirements specified in subsection C of § 40.1-11.3.*

## CHAPTER 389

*An Act to amend and reenact § 2.2-2337 of the Code of Virginia, relating to the Fort Monroe Authority; definition of Area of Operation.*

[H 1963]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-2337 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-2337. Definitions.**

As used in this article, unless the context requires a different meaning:

"Area of Operation" means ~~an area coextensive with the territorial boundaries of the land acquired or to be acquired from the federal government by the Authority or the Commonwealth~~ *land owned by the Commonwealth at Fort Monroe.*

"Authority" means the Fort Monroe Authority.

"Board" means the Board of Trustees created in § 2.2-2338.

"Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by the Authority pursuant to this article.

"City of Hampton" or "City" means the City of Hampton, Virginia, a municipal corporation of the Commonwealth of Virginia.

"Design Standards" means the standards developed as a requirement of the Programmatic Agreement and referred to in that document as the "Historic Preservation Manual and Design Standards" which govern the restoration, rehabilitation, and renovation of the contributing elements to the Fort Monroe National Historic Landmark District and new construction, additions, and reconstruction of buildings so they are compatible with the overall character of the District, as they may be adopted or amended from time to time.

"Facility" means a particular building or structure or particular buildings or structures, including all equipment, appurtenances, and accessories necessary or appropriate for the operation of such facility.

"Fort Monroe Master Plan" or "Master Plan" means the plan that identifies the long-term vision for the reuse of the Area of Operation, key implementation projects, and a detailed implementation strategy for attracting new uses and investment to the Area of Operation as approved by the Authority and produced in accordance with the public participation plan as adopted by the Authority.

"Fort Monroe Reuse Plan" or "Reuse Plan" means the document created by the Fort Monroe Federal Area Development Authority and adopted as an official operating document on August 20, 2008, as it may be amended from time to time.

"Programmatic Agreement for the Closure and Disposal of Fort Monroe, Va." or "Programmatic Agreement" means that certain agreement, as it may be amended from time to time, entered into among the U.S. Army, the Virginia State Historic Preservation Officer, the Advisory Council on Historic Preservation, the Commonwealth of Virginia, the Fort Monroe Federal Area Development Authority and the National Park Service and signed by all Signatory Parties as of April 27, 2009, pursuant to § 106 of the National Historic Preservation Act.

"Project" means any specific enterprise undertaken by the Authority, including the facilities as defined in this article, and all other property, real or personal, or any interest therein, necessary or appropriate for the operation of such property.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

"State Memorandum of Understanding" means an agreement between the Authority, the Secretary of Administration, the State Historic Preservation Officer, and the Governor, on behalf of all state agencies, to protect Fort Monroe and its historic, cultural, and natural assets by carefully implementing the plans, stipulations, requirements, and obligations under the Programmatic Agreement for nonfederal lands following the transfer of properties from the United States Army to the Commonwealth.

"Trustees" means the members of the Board of Trustees of the Authority.

## CHAPTER 390

*An Act to amend and reenact §§ 54.1-2350 and 55-519 of the Code of Virginia, relating to residential property; information on covenants; required disclosures; stormwater management facilities.*

[H 2019]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 54.1-2350 and 55-519 of the Code of Virginia are amended and reenacted as follows:****§ 54.1-2350. Annual report; form to accompany resale certificates and disclosure packets.**

In addition to the provisions of § 54.1-2349, the Board shall:

1. Administer the provisions of Chapter 29 (§ 55-528 et seq.) of Title 55;
2. Develop and disseminate an association annual report form for use in accordance with §§ 55-79.93:1, 55-504.1, and 55-516.1; and

3. Develop and disseminate a form to accompany resale certificates required pursuant to § 55-79.97 and association disclosure packets required pursuant to § 55-509.5, which form shall summarize the unique characteristics of common interest communities generally that may affect a prospective purchaser's decision to purchase a lot or unit located in a common interest community. The form shall include information on the following, which may or may not be applicable to a particular common interest community: (i) the obligation on the part of an owner to pay regular annual or special assessments to the association; (ii) the penalty for failure or refusal to pay such assessments; (iii) the purposes for which such assessments, if any, may be used, *including for the construction or maintenance of stormwater management facilities*; (iv) the importance the declaration of restrictive covenants or condominium instruments, as applicable, and other governing documents play in association living; (v) limitations on an owner's ability to rent his lot or unit; (vi) limitations on an owner's ability to park or store certain types of motor vehicles or boats within the common interest community; (vii) limitations on an owner's ability to maintain an animal as a pet within the lot or unit, or in common areas or common elements; (viii) architectural guidelines applicable to an owner's lot or unit; (ix) limitations on an owner's ability to operate a business within a dwelling unit on a lot or within a unit; (x) the period or length of declarant control; and (xi) that the purchase contract for a lot within an association is a legally binding document once it is signed by the prospective purchaser where the purchaser has not elected to cancel the purchase contract in accordance with law. The form shall also provide that (a) the purchaser remains responsible for his own examination of the materials that constitute the resale certificate or disclosure packet and of any table of contents that may be contained therein; (b) the purchaser shall carefully review the entire resale certificate or disclosure packet; and (c) the contents of the resale certificate or disclosure packet shall control to the extent that there are any inconsistencies between the form and the resale certificate or disclosure packet.

**§ 55-519. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.**

A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

B. The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of (i) any local ordinance creating such district, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74 and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2 and that purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any stormwater detention facilities located on the property, or *the existence or recordation of* any maintenance agreement for such facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any maintenance agreement for such facilities, *such as contacting their settlement provider, consulting the locality in which the property is located, or reviewing any survey of the property that may have been conducted,* in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

8. The owner makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

9. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property;

10. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

11. The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract; and

12. The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2 and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event, prior to settlement pursuant to such contract.

C. The residential property disclosure statement shall be delivered in accordance with § 55-520.

### CHAPTER 391

*An Act to amend and reenact §§ 54.1-2349, 55-79.93:1, 55-504.1, 55-509.6, 55-509.7, 55-516.1, and 55-529 of the Code of Virginia, relating to Common Interest Community Board; association fees; Common Interest Community Management Information Fund.*

[H 2081]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2349, 55-79.93:1, 55-504.1, 55-509.6, 55-509.7, 55-516.1, and 55-529 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2349. Powers and duties of the Board.**

A. The Board shall administer and enforce the provisions of this chapter. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include ~~but not be limited to~~ the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. ~~The Board shall annually assess each common interest community manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest community management during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The annual payment shall be remitted to the State Treasurer and Upon application for license and each renewal thereof, the applicant shall pay a fee established by the Board, which shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § 55-529;~~

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by

regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 55-529;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this chapter;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter; and

8. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ 55-508 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this chapter and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this chapter, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this chapter with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this chapter or Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

D. Notwithstanding the provisions of subsection E of § 55-530, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within the time period required under § 55-79.97, 55-79.97:1, 55-484, 55-509.5, 55-509.6, or 55-509.7.

**§ 55-79.93:1. Annual report by unit owners' association.**

A. The unit owners' association shall file an annual report in a form and at such time as prescribed by regulations of the agency. The filing of the annual report required by this section shall commence upon the termination of the declarant control period pursuant to § 55-79.74. The annual report shall be accompanied by a ~~fixed~~ fee in an amount established by the agency, *which shall be paid into the state treasury and credited to the Common Interest Community Management Information Fund established pursuant to § 55-529.*

B. The agency may accept copies of forms submitted to other state agencies to satisfy the requirements of this section if such forms contain substantially the same information required by the agency.

~~C. The unit owners' association shall also remit to the agency an annual payment as follows:~~

~~1. The lesser of:~~

~~a. \$1,000 or such other amount as established by agency regulation; or~~

~~b. Five hundredths of one percent (0.05%) of the unit owners' association's gross assessment income during the preceding year.~~

~~2. For the purposes of clause b of subsection C, no minimum payment shall be less than \$10.00.~~

~~D. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529.~~

**§ 55-504.1. Annual report by associations.**

A. The association shall file an annual report in a form and at such time as prescribed by regulations of the agency. The filing of the annual report required by this section shall commence upon the termination of any declarant control period reserved pursuant to § 55-460. The annual report shall be accompanied by a ~~fixed~~ fee in an amount established by the agency, *which shall be paid into the state treasury and credited to the Common Interest Community Management Information Fund established pursuant to § 55-529.*

B. The agency may accept copies of forms submitted to other state agencies to satisfy the requirements of this section if such forms contain substantially the same information required by the agency.

~~C. The association shall also remit to the agency an annual payment as follows:~~

~~1. The lesser of:~~

~~a. \$1,000 or such other amount as established by agency regulation; or~~

~~b. Five hundredths of one percent (0.05%) of the association's gross assessment income during the preceding year.~~

~~2. For the purposes of subdivision 1 b, no minimum payment shall be less than \$10.00.~~

~~D. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529.~~

**§ 55-509.6. Fees for disclosure packet; professionally managed associations.**

A. A professionally managed association or its common interest community manager may charge certain fees as authorized by this section for the inspection of the property, the preparation and issuance of the disclosure packet required by § 55-509.5, and for such other services as set out in this section. The seller or the seller's authorized agent shall specify in writing whether the disclosure packet shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the disclosure packet shall be delivered.

B. A reasonable fee may be charged by the preparer as follows for:

1. The inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration and as required to prepare the association disclosure packet, a fee not to exceed \$100;

2. The preparation and delivery of the disclosure packet in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. The preparer of the disclosure packet shall provide the disclosure packet directly to the designated persons. Only one fee shall be charged for the preparation and delivery of the disclosure packet;

3. At the option of the seller or the seller's authorized agent, with the consent of the association or the common interest community manager, expediting the inspection, preparation and delivery of the disclosure packet, an additional expedite fee not to exceed \$50;

4. At the option of the seller or the seller's authorized agent, an additional hard copy of the disclosure packet, a fee not to exceed \$25 per hard copy;

5. At the option of the seller or the seller's authorized agent, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the association disclosure packet; and

6. A post-closing fee to the purchaser of the property, collected at settlement, for the purpose of establishing the purchaser as the owner of the property in the records of the association, a fee not to exceed \$50.

Except as otherwise provided in subsection E, neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request for the disclosure packet is made. The disclosure packet shall state that all fees and costs for the disclosure packet shall be the personal obligation of the lot owner and shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516, if not paid at settlement or within 60 days of the delivery of the disclosure packet, whichever occurs first.

For purposes of this section, an expedite fee shall only be charged if the inspection and preparation of delivery of the disclosure packet are completed within five business days of the request for a disclosure packet.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the association or its common interest community manager for compliance with the duties and responsibilities of the association under this chapter. No additional fee shall be charged for access to the association's or common interest community manager's website. The association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so the seller or the seller's authorized agent will know such fees at the time of requesting the packet.

D. Any fees charged pursuant to this section shall be collected at the time of settlement on the sale of the lot and shall be due and payable out of the settlement proceeds in accordance with this section. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. The seller shall be responsible for all costs associated with the preparation and delivery of the association disclosure packet, except for the costs of any disclosure packet update or financial update, which costs shall be the responsibility of the requester, payable at settlement. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time of the request is made for the association disclosure packet.

E. If settlement does not occur within 60 days of the delivery of the disclosure packet, or funds are not collected at settlement and disbursed to the association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the disclosure packet against the lot owner, (ii) the personal obligation of the lot owner, and (iii) an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association. The association shall pay the common interest community manager the amount due from the lot owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requester shall specify whether the disclosure packet update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the disclosure packet update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the association or the common interest community manager perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. Neither the association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the association. If the requester asks that the specified update be provided in electronic format, neither the association nor its common interest community manager may require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When an association disclosure packet has been delivered as required by § 55-509.5, the association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations, architectural guidelines, and articles of incorporation, if any, of the association as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

L. If the association or its common interest community manager has been requested in writing to furnish the association disclosure packet required by § 55-509.5, failure to provide the association disclosure packet substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The preparer of the association disclosure packet shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the date of the settlement of the sale.

M. The Common Interest Community Board may assess a monetary penalty for failure to deliver the association disclosure packet within 14 days against any (i) property owners' association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.

N. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board, (ii) is current in filing the most recent annual report *and fee* with the Common Interest Community Board pursuant to § 55-516.1, (iii) is current in paying the annual payment to the Common Interest Community Board pursuant to § 55-516.1 and any assessment made by the Common Interest Community Board pursuant to § 55-530.1, and (iv) provides the disclosure packet electronically if so requested by the requester.

**§ 55-509.7. Fees for disclosure packets; associations not professionally managed.**

A. An association that is not professionally managed may charge a fee for the preparation and issuance of the association disclosure packet required by § 55-509.5. Any fee shall reflect the actual cost of the preparation of the association disclosure packet, but shall not exceed \$0.10 per page of copying costs or a total of \$100 for all costs incurred in

preparing the association disclosure packet. The seller or his authorized agent shall specify whether the association disclosure packet shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the disclosure packet shall be delivered. If the seller or his authorized agent specifies that delivery shall be made to the purchaser or his authorized agent, the preparer shall provide the disclosure packet directly to the designated persons, at the same time it is delivered to the seller or his authorized agent. The association shall advise the requestor if electronic delivery of the disclosure packet or the disclosure packet update or financial update is not available, if electronic delivery has been requested by the seller or his authorized agent.

B. At the option of the seller or the seller's authorized agent, with the consent of the association, a reasonable fee may be charged for (i) expediting the inspection, preparation, and delivery of the disclosure packet, if completed within five business days of the request, not to exceed \$50; (ii) an additional hard copy of the disclosure packet not to exceed \$25 per hard copy; and (iii) third-party commercial delivery service for hand delivery or overnight delivery of the association disclosure packet not to exceed an amount equal to the actual cost paid.

C. No fees other than those specified in this section shall be charged by the association for compliance with duties and responsibilities under this section. Any fees charged pursuant to this section shall be collected at the time of delivery of the disclosure packet. If unpaid, any such fees shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association.

D. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or his authorized agent, including the seller or his authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requestor shall specify whether the disclosure packet update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the specified update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request therefor.

E. The settlement agent may request a financial update. The requestor shall specify whether the financial update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request therefor.

F. A reasonable fee for the disclosure packet update or a financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or his authorized agent, the requestor may request that the association perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$50. Any fees charged for the specified update shall be collected at the time of delivery of the update. The association shall not require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requestor may request that the specified update be provided in hard copy or in electronic form.

G. No association may require the requestor to request the specified update electronically. The seller or his authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the association. If the requestor asks that the specified update be provided in electronic format, the association shall not require the requester to pay any fees to use the provider's electronic network or system. If the requestor asks that the specified update be provided in electronic format, the requestor may designate no more than two additional recipients to receive the specified update in electronic format at no additional charge. A copy of the specified update shall be provided to the seller or his authorized agent.

H. When a disclosure packet has been delivered as required by § 55-509.5, the association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations, architectural guidelines and articles of incorporation, if any, of the association as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

I. If the association has been requested to furnish the association disclosure packet required by this section, failure to provide the association disclosure packet substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The association shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$500. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the date of the settlement of the sale.

J. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board, (ii) is current in filing the most recent annual report *and fee* with the Common Interest Community Board pursuant to § 55-516.1, and (iii) is current in paying ~~the annual payment to the Common Interest Community Board pursuant to § 55-516.1~~ and any assessment made by the Common Interest Community Board pursuant to § 55-530.1.

K. An association that is not professionally managed may charge and collect fees for inspection of the property, the preparation and issuance of an association disclosure packet, and such other services as set out in § 55-509.6, provided that the association provides the disclosure packet electronically if so requested by the requester and otherwise complies with § 55-509.6.

**§ 55-516.1. Annual report by association.**

A. The association shall file an annual report in a form and at such time as prescribed by regulations of the Common Interest Community Board. The annual report shall be accompanied by a ~~fixed~~ fee in an amount established by the Board, *which shall be paid into the state treasury and credited to the Common Interest Community Management Information Fund established pursuant to § 55-529.*

B. The Common Interest Community Board may accept copies of forms submitted to other state agencies to satisfy the requirements of this section if such forms contain substantially the same information required by the Common Interest Community Board.

~~C. The association shall also remit to the agency an annual payment as follows:~~

~~1. The lesser of:~~

~~a. \$1,000 or such other amount as established by agency regulation; or~~

~~b. Five hundredths of one percent (0.05%) of the association's gross assessment income during the preceding year.~~

~~2. For the purposes of subdivision 1 b, no minimum payment shall be less than \$10.00.~~

~~D. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529.~~

**§ 55-529. Common Interest Community Management Information Fund.**

A. There is hereby created the Common Interest Community Management Information Fund to be used in the discretion of the Board to promote the improvement and more efficient operation of common interest communities through research and education. The Fund shall consist of money paid into it pursuant to §§ 54.1-2349, 55-79.93:1, 55-504.1, and 55-516.1. The Fund shall be established on the books of the Comptroller, and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but, at the discretion of the Board, shall remain in the Fund or shall be transferred to the Common Interest Community Management Recovery Fund established pursuant to § 55-530.1. Interest earned on the Fund shall be credited to the Fund.

*B. Following the close of any biennium, when the Common Interest Community Management Information Fund shows expenses allocated to it for the past biennium to be more than 10 percent greater or less than moneys collected on behalf of the Board, the Board shall revise the fees levied by it for placement into the Fund so that the fees are sufficient but not excessive to cover expenses. A fee established pursuant to § 55-79.93:1, 55-504.1, or 55-516.1 shall not exceed \$25 unless such fee is based on the number of units or lots in the association.*

**CHAPTER 392**

*An Act to amend and reenact § 46.2-1088.3 of the Code of Virginia, relating to air bags; manufacture, importation, sale, etc., of counterfeit or nonfunctional air bag prohibited; penalty.*

[H 2143]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1088.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1088.3. Air bags; installation of other object in lieu of air bag prohibited; manufacture, sale, etc., of counterfeit or nonfunctional air bag prohibited; notice of installation of previously installed airbag required; penalties.**

*A. As used in this section:*

*"Counterfeit air bag" means a replacement air bag or a replacement air bag component displaying an unauthorized mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts for a motor vehicle manufacturer.*

*"Nonfunctional air bag" means a replacement air bag that has been previously deployed, damaged, or is otherwise inoperable or that has a fault that is detected by the vehicle diagnostic system after the installation procedure is complete and includes any object, including a counterfeit air bag, intended to deceive the vehicle's owner into believing the object is a functional air bag.*

*B. Any person who, without the knowledge of the vehicle's owner or the person requesting the installation, reinstallation, or replacement of a motor vehicle air bag, installs or reinstalls any air bag or other component of the vehicle's inflatable restraint system knowing that the air bag installation is not in accordance with federal safety regulations applicable to that specific line-make, model, and model year vehicle is guilty of a Class 1 misdemeanor.*

*C. Any person who, without the knowledge of the vehicle's owner or the person requesting the installation, reinstallation, or replacement of a motor vehicle air bag, installs, reinstalls, or replaces a motor vehicle air bag or other component of the vehicle's inflatable restraint system with an air bag or other component of a vehicle's inflatable restraint system knowing that the air bag was previously installed in another motor vehicle is guilty of a Class 2 misdemeanor.*

*D. Any person who knowingly manufactures, imports, sells, installs, or reinstalls a counterfeit airbag or nonfunctional air bag, or any device that is intended to conceal a counterfeit air bag or nonfunctional air bag, in a motor vehicle is guilty of a Class 1 misdemeanor.*

*E. The provisions of this section shall not apply to the sale, installation, reinstallation, or replacement of any motor vehicle air bag on vehicles used solely for police work, as described in § 46.2-750.1.*

*F. Any sale, installation, reinstallation, or replacement of a motor vehicle air bag in violation of this section shall not be construed as a superseding cause that limits the liability of any party in any civil action.*

### CHAPTER 393

*An Act to amend and reenact § 15.2-958.4 of the Code of Virginia, relating to affordable housing; waiver of certain fees.*

[H 2229]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-958.4 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-958.4. Waiver of certain fees for affordable housing.**

A. A locality may by ordinance provide for the waiver of building permit fees and other local fees associated with the construction, renovation, or rehabilitation of housing by a § 501(c)(3) organization with a primary purpose of assisting with the provision of affordable housing.

B. A locality may by ordinance provide for the waiver of building permit fees and other local fees associated with the construction, renovation, or rehabilitation of housing by a private-sector entity that is pursuing an affordable housing development. For purposes of this subsection, a locality may determine in its ordinance what constitutes affordable housing and may set other conditions on the waiver of fees as it deems appropriate.

### CHAPTER 394

*An Act to amend and reenact §§ 55-225.24 and 55-248.7:2 of the Code of Virginia, relating to landlord and tenant; disclosure of waiver of subrogation provision in renter's insurance policy obtained by a landlord on behalf of a tenant.*

[H 2304]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-225.24 and 55-248.7:2 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-225.24. Landlord may obtain certain insurance for tenant.**

A. **Damage Insurance.** A landlord may require as a condition of tenancy that a tenant have commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and pay for the cost of premiums for such insurance coverage obtained by the landlord, generally known as "damage insurance." As provided in § 55-225.02, such payments shall not be deemed a security deposit, but shall be rent. However, the landlord shall not require a tenant to pay both security deposits and the cost of damage insurance premiums, if the total amount of any security deposits and damage insurance premiums exceeds the amount of two months' periodic rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with administration of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

B. **Renter's Insurance.** A landlord may require as a condition of tenancy that a tenant have renter's insurance as specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in residential units not occupied by the owner. A landlord may require a tenant to pay for the cost of premiums for such insurance obtained by the landlord, to provide such coverage for the tenant as part of rent or as otherwise provided herein. As provided in § 55-225.02, such payments shall not be deemed a security deposit, but shall be rent. If the landlord requires that such premiums be paid prior to the commencement of the tenancy, the total amount of all security deposits and insurance premiums for damage insurance and renter's insurance shall not exceed the amount of two months' periodic rent. Otherwise, the landlord may add a monthly amount as additional rent to recover the costs of such insurance coverage. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. If a tenant allows his renter's insurance policy required by the rental agreement to lapse for any reason, the landlord may provide any landlord's renter's insurance coverage to such tenant. The tenant shall be obligated to

pay for the cost of premiums for such insurance as rent or as otherwise provided herein until the tenant has provided written documentation to the landlord showing that the tenant has reinstated his own renter's insurance coverage.

C. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with the administration of a renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy. *Such summary or certificate shall include a statement regarding whether the insurance policy contains a waiver of subrogation provision. Any failure of the landlord to provide such summary or certificate, or to make available a copy of the insurance policy, shall not affect the validity of the rental agreement.*

D. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant as part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided by the landlord relative to the premises, or the tenant's prorated share of a self-insurance program held in an escrow account by the landlord, including the landlord's administrative or other fees associated with the administration of such coverages. The landlord may apply such funds held in escrow to pay claims pursuant to the landlord's self-insurance plan.

**§ 55-248.7:2. Landlord may obtain certain insurance for tenant.**

A. Damage Insurance. A landlord may require as a condition of tenancy that a tenant have commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and pay for the cost of premiums for such insurance coverage obtained by the landlord, generally known as "damage insurance." As provided in § 55-248.4, such payments shall not be deemed a security deposit, but shall be rent. However, as provided in § 55-248.9, the landlord cannot require a tenant to pay both security deposits and the cost of damage insurance premiums, if the total amount of any security deposits and damage insurance premiums exceeds the amount of two months' periodic rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with administration of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

B. Renter's Insurance. A landlord may require as a condition of tenancy that a tenant have renter's insurance as specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in residential units not occupied by the owner. A landlord may require a tenant to pay for the cost of premiums for such insurance obtained by the landlord, to provide such coverage for the tenant as part of rent or as otherwise provided herein. As provided in § 55-248.4, such payments shall not be deemed a security deposit, but shall be rent. If the landlord requires that such premiums be paid prior to the commencement of the tenancy, the total amount of all security deposits and insurance premiums for damage insurance and renter's insurance shall not exceed the amount of two months' periodic rent. Otherwise, the landlord may add a monthly amount as additional rent to recover the costs of such insurance coverage. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. If a tenant allows his renter's insurance policy required by the rental agreement to lapse for any reason, the landlord may provide any landlord's renter's insurance coverage to such tenant. The tenant shall be obligated to pay for the cost of premiums for such insurance as rent or as otherwise provided herein until the tenant has provided written documentation to the landlord showing that the tenant has reinstated his own renter's insurance coverage.

C. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with the administration of a renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy. *Such summary or certificate shall include a statement regarding whether the insurance policy contains a waiver of subrogation provision. Any failure of the landlord to provide such summary or certificate, or to make available a copy of the insurance policy, shall not affect the validity of the rental agreement.*

D. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant as part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided by the landlord relative to the premises,

or the tenant's prorated share of a self-insurance program held in an escrow account by the landlord, including the landlord's administrative or other fees associated with the administration of such coverages. The landlord may apply such funds held in escrow to pay claims pursuant to the landlord's self-insurance plan.

## CHAPTER 395

*An Act to amend and reenact §§ 54.1-2105, 54.1-2106.1, 54.1-2108.2, and 54.1-2109 of the Code of Virginia, relating to the Real Estate Board; real estate licensees.*

[H 2352]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2105, 54.1-2106.1, 54.1-2108.2, and 54.1-2109 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2105. General powers of Real Estate Board; regulations; educational and experience requirements for licensure.**

A. The Board may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations.

B. The Board shall adopt regulations establishing minimum educational requirements as conditions for licensure. Board regulations relating to initial licensure shall include the following requirements:

1. Every applicant for an initial license as a real estate salesperson shall have:

a. At a minimum, a high school diploma or its equivalent; and

b. Completed a course in the principles of real estate that carried an academic credit of at least four semester hours, but not less than 60 hours of classroom, correspondence, or other distance learning instruction, offered by an accredited institution of higher education, high school offering adult distributive education courses, or other school or educational institution offering an equivalent course.

2. Every applicant for an initial license as a real estate broker shall have:

a. At a minimum, a high school diploma or its equivalent; and

b. Completed not less than 12 semester hours of classroom or correspondence or other distance learning instruction in real estate courses offered by an accredited institution of higher education or other school or educational institution offering equivalent courses.

3. Every applicant for a license by reciprocity as a real estate salesperson or real estate broker shall have:

a. Completed a course in the principles of real estate that is comparable in content and duration and scope to that required in subdivision 1 or 12 semester hours of classroom or correspondence or other distance learning instruction in real estate courses that are comparable in content and duration and scope to that required in subdivision 2; and

b. If currently licensed by another state as a real estate salesperson or broker, passed Virginia's examination.

C. The Board may waive any requirement under the regulations relating to education or experience when the broker or salesperson is found to have education or experience equivalent to that required. No regulation imposing educational requirements for initial licensure beyond those specified by law shall apply to any person who was licensed prior to July 1, 1975, and who has been continuously licensed since that time, except that licensure as a salesperson prior to such time shall not exempt a salesperson who seeks to be licensed as a broker from the educational requirements established for brokers.

D. The Board shall establish criteria to ensure that prelicensure and broker licensure courses meet the standards of quality deemed by the Board to be necessary to protect the public interests. For correspondence and other distance learning instruction offered by an approved provider, such criteria may include appropriate testing procedures. The Board may establish procedures to ensure the quality of the courses.

Noncollegiate institutions shall not be authorized to grant collegiate semester hours for academic credit.

The specific content of the real estate courses shall be in real estate brokerage, real estate finance, real estate appraisal, real estate law, and such related subjects as are approved by the Board.

E. The Board may establish criteria delineating the permitted activities of unlicensed individuals employed by, or affiliated as an independent contractor with, real estate licensees or under the supervision of a real estate broker.

F. The Board may take a disciplinary case against a licensee under advisement, defer a finding in such case, and dismiss such action upon terms and conditions set by the Board.

**§ 54.1-2106.1. Licenses required.**

A. No business entity, other than a sole proprietorship, shall act, offer to act, or advertise to act, as a real estate firm without a real estate firm license from the Board. Such firm may be granted a license in a fictitious name. No business entity shall be granted a firm license unless (i) every managing member of a limited liability company, officer of a corporation, partner within a partnership, or associate within an association who actively participates in the firm brokerage business holds a license as a real estate broker; and (ii) every employee or independent contractor who acts as a salesperson for such business entity holds a license as a real estate salesperson or broker. An individual holding a broker's license may operate a real estate brokerage firm which he owns as a sole proprietorship without any further licensure by the Board, although such

individual shall not operate the brokerage firm in a fictitious name. However, nothing herein shall be construed to prohibit a broker operating a brokerage firm from having a business entity separate from the brokerage firm for such broker's own real estate business, provided that such separate business entity otherwise complies with this section. A non-broker-owned sole proprietorship shall obtain a license from the Board.

B. No individual shall act as a broker without a real estate broker's license from the Board. An individual who holds a broker's license may act as a salesperson for another broker. A broker may be an owner, member, or officer of a business entity salesperson as defined in subsection C.

C. No individual shall act as a salesperson without a salesperson's license from the Board. A business entity may act as a salesperson with a separate business entity salesperson's license from the Board. No business entity shall be granted a business entity salesperson's license unless every owner or officer who actively participates in the brokerage business of such entity holds a license as a salesperson or broker from the Board. The Board shall establish standards in its regulations for the names of business entity salespersons when more than one licensee is an owner or officer.

D. No group of individuals consisting of one or more real estate brokers or real estate salespersons, or a combination thereof, shall act as a real estate team without first obtaining a business entity salesperson's license from the Board. A real estate team may hire one or more unlicensed assistants, *as employees or independent contractors*, as otherwise provided by law.

E. If any principal broker maintains more than one place of business within the Commonwealth, such principal broker shall be required to obtain a branch office license from the Board for each place of business maintained. A copy of the branch office license shall be kept on the premises of the branch office.

**§ 54.1-2108.2. Protection of escrow funds, etc., held by a real estate broker in the event of termination of a real estate purchase contract.**

Notwithstanding any other provision of law, for purchase transactions:

1. Upon the ratification of a contract, an earnest money deposit received by the principal broker or supervising broker ~~or his associates, or an agent of such principal broker or supervising broker~~, shall be placed in an escrow account by the end of the fifth business banking day following ratification, unless otherwise agreed to in writing by the principals to the transaction, and shall remain in that account until the transaction has been consummated or terminated.

2. In the event that the transaction is not consummated, the principal broker or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in a written agreement as to their disposition, upon which the funds shall be returned to the agreed-upon principal as provided in such written agreement; (ii) a court of competent jurisdiction orders such disbursement of the funds; (iii) the funds are successfully interpleaded into a court of competent jurisdiction pursuant to this section; or (iv) the broker releases the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract that established the earnest money deposit.

At the option of a broker, written notice may be sent by the broker that release of such funds shall be made unless a written protest is received from the principal who is not receiving the funds by such broker within 15 calendar days of the date of such notice. Notice of a disbursement shall be given to the parties to the transaction in accordance with the contract, but if the contract does not specify a method of delivery, one of the following methods complies with this section: (a) hand delivery; (b) United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing; (c) electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or (d) overnight delivery using a commercial service or the United States Postal Service. Except as provided in the clear and explicit terms of the contract, no broker shall be required to make a determination as to the party entitled to receive the earnest money deposit. A broker who complies with this section shall be immune from liability to any of the parties to the contract.

3. A principal broker or supervising broker holding escrow funds for a principal to the transaction may seek to have a court of competent jurisdiction take custody of disputed or unclaimed escrow funds via an interpleader action pursuant to § 16.1-77.

4. If a principal broker or supervising broker is holding escrow funds for the owner of real property and such property is foreclosed upon by a lender, the principal broker or supervising broker shall have the right to file an interpleader action pursuant to § 16.1-77 and otherwise comply with the provisions of § 54.1-2108.1.

**§ 54.1-2109. Death or disability of a broker.**

Upon the death or disability of a licensed real estate broker who was engaged in a proprietorship or who was the only licensed broker in a corporation or partnership, the Real Estate Board shall grant approval to carry on the business of the deceased or disabled broker for 180 days following the death or disability of the broker solely for the purpose of concluding the business of the deceased or disabled broker in the following order:

1. A personal representative qualified by the court to administer the deceased broker's estate.

2. If there is no personal representative qualified pursuant to subdivision 1, then an agent designated under a power of attorney of the disabled or deceased broker, which designation expressly references this section.

3. If there is no agent designated pursuant to subdivision 2, the executor nominated in the deceased broker's will.

4. If there is no executor nominated pursuant to subdivision 3, then an adult family member of the disabled or deceased broker.

5. If there is no adult family member nominated pursuant to subdivision 4, then an employee of, *or an independent contractor affiliated with*, the disabled or deceased broker.

In the event none of the foregoing is available or suitable, the Board may appoint any other suitable person to terminate the business within 180 days.

## CHAPTER 396

*An Act to amend and reenact § 59.1-437 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-437.1, relating to extended service contract providers; bonding requirement; remedies; civil penalty.*

[H 2038]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-437 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-437.1 as follows:**

**§ 59.1-437. Third party obligors; proof of financial stability.**

~~A. Every extended service contract obligor, before it is registered, shall file and maintain with the Commissioner, in form and substance satisfactory to him, a bond with corporate surety, from a company authorized to transact business in the Commonwealth or a letter of credit from a bank insured by the Federal Deposit Insurance Corporation, in the amount of \$10,000. Additional bond or letter of credit amounts shall be similarly filed with the Commissioner and shall be adjusted from time to time, in accordance with the following schedule:~~

Total Amount of Unexpired Extended Service Contracts	Amount of Bond or Letter of Credit
\$0 to \$50,000	\$10,000
\$50,001 to \$300,000	\$40,000
\$300,001 to \$750,000	\$65,000
\$750,001 or more	\$90,000

~~The total amount of unexpired extended service contracts shall be the total consideration paid by all purchasers to the extended service obligor for all extended service contracts currently in effect.~~

~~B. The bond or letter of credit required by subsection A of this section shall be in favor of the Commonwealth for the benefit of purchasers of extended service contracts for consumer products in the event that the extended service contract obligor does not fulfill its obligations under such contracts for any reason, including insolvency or bankruptcy.~~

~~C. The aggregate liability of the bond or letter of credit to all persons for all breaches of the conditions of the bond or letter of credit shall in no event exceed the amount of the bond or letter of credit. The bond or letter of credit shall not be cancelled or terminated except with the consent of the Commissioner.~~

~~D. In order to ensure the faithful performance of a third party obligor's obligations to its contract holders, each third party obligor shall furnish proof of its financial stability by complying with either of the following:~~

~~1. The third party obligor shall show that it has a net worth of at least \$100 million by providing the Commissioner with a copy of the third party obligor's most recent annual audited financial statement; or~~

~~2. The third party obligor shall show a net worth of the third party obligor or its parent company of at least \$100 million by providing the Commissioner with a copy of the third party obligor's, or if the third party obligor's financial statements are consolidated with those of its parent company, the third party obligor's parent company's, most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission, provided the Form 10-K or Form 20-F was filed with the Securities and Exchange Commission within the last calendar year. If the third party obligor's parent company's Form 10-K or Form 20-F is filed to meet the third party obligor's financial stability requirement, then the parent company shall agree to guarantee the obligations of the third party obligor relating to service contracts sold by the third party obligor in this Commonwealth.~~

~~E. B. In lieu of compliance with subsection D A, a third party obligor may demonstrate financial responsibility by filing with the Commissioner a copy of a liability insurance policy issued by an insurer authorized to transact business in this Commonwealth and which covers 100 percent of the obligor's service contract liabilities, including the administration of claims and the cost for such administration. Reimbursement insurance policies filed pursuant to this section may not be cancelled by either the third party obligor or the issuing insurer without providing 60 days' notice to the Commissioner.~~

~~C. Each service contract shall include a disclosure in substantially the form as follows or in such other form as the Commissioner directs:~~

~~"If any promise made in the contract has been denied or has not been honored within 60 days after your request, you may contact the Virginia Department of Agriculture and Consumer Services, Office of Charitable and Regulatory Programs to file a complaint."~~

*D. Upon receipt of a complaint by a purchaser against an obligor asserting that a promise made in a contract has been denied or has not been honored within 60 days after the purchaser's request, the Commissioner may conduct an investigation as authorized by § 59.1-439 to determine if the obligor or its insurance company, if complying with subsection B, has improperly denied or failed to honor a purchaser's request. If the Commissioner determines that a purchaser's request was improperly denied or failed to be honored by an obligor or its insurance company, if complying with subsection B, the Commissioner may issue an order requiring the obligor to rectify or justify the denial or failure. In addition to the penalties provided in § 59.1-441, if the denial or failure is not rectified or sufficiently justified by the obligor, the Commissioner may (i) issue a cease and desist order requiring the obligor to cease operations in the Commonwealth until the denial or failure has been rectified; (ii) deny, suspend, or revoke the obligor's registration; or (iii) assess a civil penalty of up to \$1,000 per violation not to exceed \$10,000 in the aggregate for all similar violations. Any civil penalties collected pursuant to this subsection shall be payable to the State Treasurer for deposit to the general fund. If the Commissioner elects to assess such a civil penalty and an obligor does not pay the civil penalty within 60 days of its assessment, the Commissioner may (a) issue a cease and desist order requiring the obligor to cease operations in the Commonwealth until the civil penalty has been paid or (b) deny, suspend, or revoke the obligor's registration.*

**§ 59.1-437.1. Denial, suspension, or revocation of registration.**

*A. The Commissioner may deny an application for registration of an obligor under § 59.1-436 or may suspend or revoke such registration if the Commissioner finds that such action is necessary for the protection of purchasers or prospective purchasers or that any one of the following is true:*

- 1. The obligor has failed to comply with any provision of this chapter;*
- 2. The obligor has improperly denied or failed to honor a purchaser's request as provided in subsection D of § 59.1-437 and the denial or failure is not rectified or sufficiently justified by the obligor;*
- 3. The obligor does not pay a civil penalty assessed pursuant to subsection D of § 59.1-437 within 60 days of its assessment;*
- 4. The obligor's application for registration or any amendment thereto is incomplete in any respect;*
- 5. The obligor failed to meet any other requirement of § 59.1-437;*
- 6. The obligor has made any representation in any document or information filed with the Commissioner that is false or misleading;*
- 7. The obligor has engaged or is engaging in any unlawful act or practice;*
- 8. The obligor does not have a reasonable ability to discharge the obligations imposed upon it by any extended service contract; or*
- 9. Facts not known by the Commissioner at the time the Commissioner considered the application for registration indicate that such registration should not have been issued.*

*B. Except as provided in subsection C, the Commissioner may deny, suspend, or revoke an obligor's registration after a hearing with 15 days' notice.*

*C. If the Commissioner finds that the public health, safety, or welfare requires emergency action and incorporates this finding in his order, the Commissioner may summarily deny, suspend, or revoke a registration. The obligor shall be given an opportunity within 10 days after entry of such an order to appear before the Commissioner and show cause why the summary order should not remain in effect. If good cause is shown, the Commissioner shall vacate the summary order. If good cause is not shown, the summary order shall remain in effect. The obligor shall have 15 days after the registration is summarily suspended within which to request a hearing, or the Commissioner may within 30 days thereafter set the matter for a hearing.*

*D. If any such registration is suspended or revoked, the Commissioner shall state its reasons for doing so, which shall be entered of record. Suspension or revocation of a registration for any violation of this chapter shall not affect the authority to take any action authorized by § 59.1-441 with respect to such violation.*

## CHAPTER 397

*An Act to amend and reenact the fifteenth enactment of Chapter 296 of the Acts of Assembly of 2018, relating to stakeholder processes for the development of energy efficiency programs.*

[H 2293]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

- 1. That the fifteenth enactment of Chapter 296 of the Acts of Assembly of 2018 is amended and reenacted as follows:**
  - 15. That each Phase I Utility and Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall develop a proposed program of energy conservation measures. Any program shall provide for the submission of a petition or petitions for approval to design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1 of the Code of Virginia. At least five percent of such energy efficiency programs shall benefit low-income, elderly, and disabled individuals. The projected costs for the utility to design, implement, and operate such energy efficiency programs, including a margin to be recovered on operating expenses, shall be no less than an aggregate amount of \$140 million for a Phase I Utility and \$870 million for a**

Phase II Utility for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. In developing such portfolio of energy efficiency programs, each utility shall utilize a stakeholder process, to be facilitated by an independent monitor compensated under the funding provided pursuant to subdivision E of § 56-592.1 of the Code of Virginia, to provide input and feedback on the development of such energy efficiency programs. Such stakeholder process shall include representatives from each utility, the State Corporation Commission, the office of Consumer Counsel of the Attorney General, the Department of Mines, Minerals and Energy, energy efficiency program implementers, energy efficiency providers, residential and small business customers, and any other interested stakeholder who the independent monitor deems appropriate for inclusion in such process. *The independent monitor shall convene meetings of the participants in the stakeholder process not less frequently than twice in each calendar year during the period beginning July 1, 2019, and ending July 1, 2028.* The ~~utility~~ independent monitor shall report on the status of the energy efficiency ~~program~~ stakeholder process, including (i) the objectives established by the stakeholder group during this process related to programs to be proposed, (ii) recommendations related to programs to be proposed that result from the stakeholder process, and (iii) the status of those recommendations, in addition to the petitions filed and the determination thereon, to the Governor, the State Corporation Commission, and the Chairmen of the House and Senate Commerce and Labor Committees on July 1, 2019, and annually thereafter through July 1, 2028.

### CHAPTER 398

*An Act to amend and reenact the fifteenth enactment of Chapter 296 of the Acts of Assembly of 2018, relating to stakeholder processes for the development of energy efficiency programs.*

[S 1605]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That the fifteenth enactment of Chapter 296 of the Acts of Assembly of 2018 is amended and reenacted as follows:

15. That each Phase I Utility and Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall develop a proposed program of energy conservation measures. Any program shall provide for the submission of a petition or petitions for approval to design, implement, and operate energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1 of the Code of Virginia. At least five percent of such energy efficiency programs shall benefit low-income, elderly, and disabled individuals. The projected costs for the utility to design, implement, and operate such energy efficiency programs, including a margin to be recovered on operating expenses, shall be no less than an aggregate amount of \$140 million for a Phase I Utility and \$870 million for a Phase II Utility for the period beginning July 1, 2018, and ending July 1, 2028, including any existing approved energy efficiency programs. In developing such portfolio of energy efficiency programs, each utility shall utilize a stakeholder process, to be facilitated by an independent monitor compensated under the funding provided pursuant to subdivision E of § 56-592.1 of the Code of Virginia, to provide input and feedback on the development of such energy efficiency programs. Such stakeholder process shall include representatives from each utility, the State Corporation Commission, the office of Consumer Counsel of the Attorney General, the Department of Mines, Minerals and Energy, energy efficiency program implementers, energy efficiency providers, residential and small business customers, and any other interested stakeholder who the independent monitor deems appropriate for inclusion in such process. *The independent monitor shall convene meetings of the participants in the stakeholder process not less frequently than twice in each calendar year during the period beginning July 1, 2019, and ending July 1, 2028.* The ~~utility~~ independent monitor shall report on the status of the energy efficiency ~~program~~ stakeholder process, including (i) the objectives established by the stakeholder group during this process related to programs to be proposed, (ii) recommendations related to programs to be proposed that result from the stakeholder process, and (iii) the status of those recommendations, in addition to the petitions filed and the determination thereon, to the Governor, the State Corporation Commission, and the Chairmen of the House and Senate Commerce and Labor Committees on July 1, 2019, and annually thereafter through July 1, 2028.

### CHAPTER 399

*An Act to require the State Corporation Commission to convene a stakeholder group on consumer data protection issues.*

[H 2332]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

1. § 1. That by September 1, 2019, the State Corporation Commission (Commission) shall convene and facilitate a Data Access Stakeholder group to review and consider the following subjects:

1. *Customer privacy considerations, including the establishment of the definitions for, and the protection of, personally identifiable information and energy usage data resulting from the deployment of advanced metering infrastructure by the electric utility;*

2. *The impact of data sharing on the physical and cybersecurity of utility infrastructure and systems;*

3. *Aggregating anonymized energy usage data;*

4. *The format for data access that is customer-friendly and computer-friendly;*

5. *Ensuring that standards and practices for access to data adhere to nationally recognized standards and best practices;*

6. *Opt-in/opt-out conditions for access to customers' utility usage data by the electric utility, a contracted agent, and a third party;*

7. *Current data access and sharing provisions resulting from the deployment of advanced metering infrastructure implemented by other utilities in the Commonwealth;*

8. *Costs of and cost recovery mechanisms for changes to electric utility infrastructure needed to implement regulations; and*

9. *Notice requirements by utilities to customers regarding the types of energy usage data being collected, how that data is used by the utility to provide the utility service, how customers can access their data, how the customer can manage and direct what specific information from their energy usage data can be shared, with whom this data can be shared outside the utility, and when the data can be shared.*

*The Data Access Stakeholder group shall conclude its work no later than April 1, 2020, and the Commission shall report the recommendations of the Data Access Stakeholder group to the General Assembly.*

## CHAPTER 400

*An Act to amend and reenact § 33.2-331 of the Code of Virginia, relating to six-year plans for secondary state highways; public meeting.*

[H 2578]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-331 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-331. Annual meeting with county officers; six-year plan for secondary state highways; certain reimbursements required.**

For purposes of this section, "cancellation" means complete elimination of a highway construction or improvement project from the six-year plan.

The governing body of each county in the secondary state highway system may, jointly with the representatives of the Department as designated by the Commissioner of Highways, prepare a six-year plan for the improvements to the secondary state highway system in that county. Each such six-year plan shall be based upon the best estimate of funds to be available to the county for expenditure in the six-year period on the secondary state highway system. Each such plan shall list the proposed improvements, together with an estimated cost of each project so listed. Following the preparation of the plan *in any year in which a proposed new funding allocation is greater than \$100,000*, the board of supervisors or other local governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county once a week for two successive weeks and posting notice of the proposed hearing at the front door of the courthouse of such county 10 days before the meeting. At the public hearings, which shall be conducted jointly by the board of supervisors and the representative of the Department, the entire six-year plan shall be discussed with the citizens of the county and their views considered. Following the discussion, the local governing body, together with the representative of the Department, shall finalize and officially adopt the six-year plan, which shall then be considered the official plan of the county.

At least once in each calendar year *in which a proposed new funding allocation is greater than \$100,000*, representatives of the Department in charge of the secondary state highway system in each county, or some representative of the Department designated by the Commissioner of Highways, shall meet with the governing body of each county in a regular or special meeting of the local governing body for the purpose of preparing a budget for the expenditure of improvement funds for the next fiscal year. The representative of the Department shall furnish the local governing body with an updated estimate of funds, and the board and the representative of the Department shall jointly prepare the list of projects to be carried out in that fiscal year taken from the six-year plan by order of priority and following generally the policies of the Board in regard to the statewide improvements to the secondary state highway system. ~~Such~~ *In any year in which a proposed new funding allocation is greater than \$100,000*, such list of priorities shall then be presented at a public hearing duly advertised in accordance with the procedure outlined in this section, and comments of citizens shall be obtained and considered. Following this public hearing, the board, with the concurrence of the representative of the Department, shall adopt, as official, a priority program for the ensuing year, and the Department shall include such listed projects in its secondary highways budget for the county for that year.

At least once every two years following the adoption of the original six-year plan, the governing body of each county, together with the representative of the Department, ~~shall~~ *may* update the six-year plan of the county by adding to it and extending it as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for secondary highway purposes become available, the local governing body may request a revision in its six-year plan in order that such plan be amended to provide for the expenditure of the additional funds. Such additions and extensions to each six-year plan shall be prepared in the same manner and following the same procedures as outlined herein for its initial preparation. Where the local governing body and the representative of the Department fail to agree upon a priority program, the local governing body may appeal to the Commissioner of Highways. The Commissioner of Highways shall consider all proposed priorities and render a decision establishing a priority program based upon a consideration by the Commissioner of Highways of the welfare and safety of county citizens. Such decision shall be binding.

Nothing in this section shall preclude a local governing body, with the concurrence of the representative of the Department, from combining the public hearing *that may be required pursuant to this section* for revision of a six-year plan with the public hearing *that may be required pursuant to this section* for review of the list of priorities, provided that notice of such combined hearing is published in accordance with procedures provided in this section.

All such six-year plans shall consider all existing highways in the secondary state highway system, including those in the towns located in the county that are maintained as a part of the secondary state highway system, and shall be made a public document.

If any county cancels any highway construction or improvement project included in its six-year plan after the location and design for the project has been approved, such county shall reimburse the Department the net amount of all funds expended by the Department for planning, engineering, right-of-way acquisition, demolition, relocation, and construction between the date on which project development was initiated and the date of cancellation. To the extent that funds from secondary highway allocations have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary highway allocation. The Commissioner of Highways may waive all or any portion of such reimbursement at his discretion.

The provisions of this section shall not apply in instances where less than 100 percent of the right-of-way is available for donation for unpaved highway improvements.

## CHAPTER 401

*An Act to direct the Commissioner of Highways to report certain data on overweight trucks.*

[H 2800]

Approved March 14, 2019

### **Be it enacted by the General Assembly of Virginia:**

1. *§ 1. The Commissioner of Highways shall report annually by December 1 to the Governor, the General Assembly, and the Commonwealth Transportation Board regarding the operation of overweight vehicles on highways of the Commonwealth. The report shall include, at a minimum, (i) data regarding the frequency and severity of incidents and crashes involving overweight trucks compared to other trucks, (ii) the maintenance and infrastructure needs of routes frequently used by overweight trucks and comparison of such needs to similar routes not frequented by such trucks, and (iii) the estimated number of additional vehicle miles that would be necessary if such vehicles were not permitted to carry overweight loads. In submitting the report, the Commissioner shall indicate if additional data is needed to provide further reports, and if so, include a proposal for additional data collection. Nothing herein shall be construed to require the Commissioner to prospectively gather additional data not already collected by the Commissioner or any transportation agency.*

2. **That the provisions of this act shall expire on January 1, 2021.**

## CHAPTER 402

*An Act to amend and reenact § 46.2-749.119 of the Code of Virginia, relating to special license plates; Virginia Association for Community Conflict Resolution.*

[S 1020]

Approved March 14, 2019

### **Be it enacted by the General Assembly of Virginia:**

1. **That § 46.2-749.119 of the Code of Virginia is amended and reenacted as follows:**

#### **§ 46.2-749.119. Special license plates; members and supporters of Resolution Virginia; fees.**

A. On receipt of an application and payment of the fee prescribed by this section, the Commissioner shall issue to the applicant special license plates for members and supporters of the ~~the Virginia Association for Community Conflict Resolution~~ *Resolution Virginia*.

B. The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the ~~the Virginia Association for Community Conflict~~ *Resolution Virginia*.

Resolution *Virginia* Fund, established within the Department of Accounts. These funds shall be paid annually to the ~~Virginia Association for Community Conflict Resolution~~ *Virginia* and used to support its programs and activities in Virginia.

## CHAPTER 403

*An Act to amend and reenact § 46.2-1239.1 of the Code of Virginia, relating to the Potomac River Bridge Towing Compact.*

[S 1296]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1239.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1239.1. Potomac River Bridge Towing Compact.**

Article I. Parties and Titles.

The Parties to this Compact are the Commonwealth of Virginia, the State of Maryland and the District of Columbia. This agreement shall be known as the Potomac River Bridge Towing Compact.

Article II. Findings and Purpose.

The Woodrow Wilson Memorial Bridge, Rochambeau Memorial Bridge, George Mason Memorial Bridge, Theodore Roosevelt Memorial Bridge, Francis Scott Key Bridge, Chain Bridge, *Harry W. Nice Bridge*, *Sandy Hook Bridge*, *Brunswick Bridge*, *Point of Rocks Bridge*, and American Legion Memorial Bridge all pass through the territorial jurisdiction of two or more of the three Parties. Experience has shown that traffic back-ups often prevent state troopers or police officers of the appropriate jurisdiction from arriving at the scene of a disabled or abandoned vehicle to take corrective action. The purpose of this Compact is to facilitate the prompt and orderly removal of disabled and abandoned vehicles from the bridges by giving all three Parties jurisdiction to exercise appropriate authority anywhere on the bridges.

Article III. Authority to Direct Traffic and Authorize Removal of Vehicles.

The Parties hereby give one another all necessary power and authority to have their respective state troopers or local law-enforcement officers direct traffic and authorize the removal of disabled or abandoned vehicles, trailers, semitrailers or the parts or contents thereof, from any part of the Potomac River bridges, to the same extent and in the same manner that such troopers and local law-enforcement officers may exercise such authority in their own jurisdictions. However, no Party, acting through its troopers or local law-enforcement officers, shall have the authority to direct or authorize the towing or removal of any vehicle or other thing to a destination outside its own jurisdiction, unless the consent of an officer or trooper of the destination jurisdiction has been obtained.

Article IV. Disposition of Towed Vehicles.

All vehicles and their contents towed or removed from the Potomac River bridges pursuant to this Compact shall be subject to the exclusive jurisdiction of the place to which such vehicle and its contents are taken, and the handling and disposition of such vehicle and its contents shall be governed by the laws and procedures of that jurisdiction.

Article V. No Agency.

Each of the Parties shall act solely on its own authority within the jurisdiction granted. This Compact shall not be construed as creating any agency relationship between the Parties.

Article VI. Effective Date.

The provisions of this Compact shall take effect thirty days after the legislative bodies of the Parties having jurisdiction over one or several of the bridges identified in Article II have enacted Compacts substantially identical to this Compact.

Article VII. Termination.

The Governor of the Commonwealth of Virginia or State of Maryland, or the Mayor of the District of Columbia may withdraw from this Compact at any time upon thirty days' written notice to the other Parties.

**2. That the provisions of this act shall become effective only upon enactment by the legislative bodies of the State of Maryland and the District of Columbia of legislation substantially similar to this act.**

## CHAPTER 404

*An Act to amend and reenact § 22.1-3 of the Code of Virginia, relating to military families; relocation to the Commonwealth; student registration.*

[H 1623]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-3 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-3. Persons to whom public schools shall be free.**

A. The public schools in each school division shall be free to each person of school age who resides within the school division. Every person of school age shall be deemed to reside in a school division:

1. When the person is living with a natural parent or a parent by legal adoption;

2. When, in accordance with the provisions of § 22.1-360, the person is living with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed under 10 U.S.C. § 1044b by the custodial parent;

3. When the parents of such person are dead and the person is living with a person in loco parentis who actually resides within the school division;

4. When the parents of such person are unable to care for the person and the person is living, not solely for school purposes, with another person who resides in the school division and is (i) the court-appointed guardian, or has legal custody, of the person; (ii) acting in loco parentis pursuant to placement of the person for adoption by a person or entity authorized to do so under § 63.2-1200; or (iii) an adult relative providing temporary kinship care as that term is defined in § 63.2-100. Local school divisions may require one or both parents and the relative providing kinship care to submit signed, notarized affidavits (a) explaining why the parents are unable to care for the person, (b) detailing the kinship care arrangement, and (c) agreeing that the kinship care provider or the parent will notify the school within 30 days of when the kinship care arrangement ends, as well as a power of attorney authorizing the adult relative to make educational decisions regarding the person. A school division may also require the parent or adult relative to obtain written verification from the local department of social services where the parent or parents live, or from both that department and the department of social services where the kinship provider lives, that the kinship arrangement serves a legitimate purpose that is in the best interest of the person other than school enrollment. With written consent from the parent or adult relative, for the purposes of expediting enrollment, a school division may obtain such written verification directly from the local department or departments of social services. The verification process shall be consistent with confidentiality provisions of Article 5 (§ 22.1-287 et seq.) of Chapter 14 of this title and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2. If the kinship care arrangement lasts more than one year, a school division may require continued verification directly from one or both departments of social services as to why the parents are unable to care for the person and that the kinship care arrangement serves a legitimate purpose other than school enrollment. A local school division may enroll a person living with a relative in a kinship care arrangement that has not been verified by a local department of social services;

5. When the person is living in the school division not solely for school purposes, as an emancipated minor; or

6. When the person living in the school division is a homeless child or youth, as set forth in this subdivision, who lacks a fixed, regular, and adequate nighttime residence. Such persons shall include (i) children and youths, including unaccompanied youths who are not in the physical custody of their parents, who (a) are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations or in emergency or transitional shelters; or are abandoned in hospitals; (b) have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or (c) are living in parked cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (ii) migratory children, as defined in the federal Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended, who are deemed homeless as they are living in circumstances set forth in clause (i).

School divisions shall comply with the requirements of Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.), to ensure that homeless children and youths shall receive the educational services comparable to those offered to other public school students.

School divisions serving the students identified in subdivision 6 shall coordinate the identification and provision of services to such students with relevant local social services agencies and other agencies and programs providing services to such students, and with other school divisions as may be necessary to resolve interdivisional issues.

B. In the interest of providing educational continuity to the children of military personnel, no child of a person on active military duty:

1. Who is attending a school free of charge in accordance with this section shall be charged tuition by that school division upon such child's relocation to military housing located in another school division in the Commonwealth, pursuant to orders received by such child's parent to relocate to base housing. Such children shall be allowed to continue attending school in the school division they attended immediately prior to the relocation and shall not be charged tuition for attending such school;

2. Who is attending a school free of charge in accordance with this section shall be charged tuition by that school division upon such child's relocation pursuant to orders received by such child's parent to relocate to a new duty station or to be deployed. Such children shall be allowed to remain enrolled in the current school division free of tuition through the end of the school year; and

3. Who is eligible to attend school free of charge in accordance with this section shall be charged tuition by a school division that will be the child's school division of residence once his service member parent is relocated pursuant to orders received. Such a child shall be allowed to enroll in the school division of the child's intended residence if documentation is provided, at the time of enrollment, of military orders of the service member parent or an official letter from the service member's command indicating such relocation. Documentation indicating a permanent address within the school division shall be provided to the school division within 120 days of a child's enrollment or tuition may be charged, including tuition for the days since the child's enrollment in school. In the event that the child's service member parent is ordered to relocate before the 120th day following the child's enrollment, the school division shall not charge tuition. *Students eligible to enroll in a school division pursuant to this subdivision may register, remotely or in-person, for courses and other academic*

programs and participate in the lottery process for charter schools and college partnership laboratory schools in the school division in which such student will reside at the same time and in the same manner as students who reside in the local school division. The assignment of the school such child will attend shall be determined by the local school division.

Such children as listed in subdivisions 1, 2, and 3 shall be counted in the average daily membership of the school division in which they are enrolled. Further, the school division in which such children are enrolled subsequent to their relocation to base housing shall not be responsible for providing for their transportation to and from school.

## CHAPTER 405

*An Act to amend and reenact § 22.1-98.2 of the Code of Virginia, relating to state share for basic aid; duration of certain cost-savings agreements.*

[H 1807]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-98.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-98.2. Certain agreements; adjustment of state share for basic aid.**

A. Any school board of a school division in which fewer than 1,100 students were included in average daily membership for the preceding school year, in a locality that has a local composite index of .6000 or greater, and has 65 percent or more of its local taxes coming from real estate taxes, as calculated by the Auditor of Public Accounts and reported annually to the Department of Education, upon entering into certain cost-savings agreements with a contiguous school division for the consolidation or sharing of educational, administrative, or support services, shall receive the state share for basic aid computed on the basis of the composite index of local ability-to-pay of the contiguous school division, calculated annually, ~~for a period of 15 years.~~

The Board of Education shall develop eligibility criteria for such cost-savings and service-sharing agreements and for the adjustment of the state share for basic aid, consistent with the appropriation act.

The Governor shall approve the adjustment to the state share prior to the disbursement of funds. The Department of Education shall annually report to the Chairmen of the House *Committee on Appropriations* and Senate *Committee on Finance* ~~Committees~~ the cost-savings agreements made and the adjusted state shares so approved.

B. The local school board receiving the adjusted state share shall not use the additional funds received to supplant local funds appropriated for education. The adjusted state share shall be used solely for educational purposes and shall not be used to reduce local operating expenditures for public education from the prior fiscal year. However, no school division shall be required to maintain a per pupil expenditure for operations that exceeds the per pupil expenditure in the prior fiscal year. The superintendent of the school division shall inform the Superintendent of Public Instruction of the public education purpose for which these local funds shall be used.

C. ~~This section shall not~~ *Nothing in this section shall* prohibit the Commonwealth from terminating or modifying any program or function under which distribution to a local school board has been made, and if so terminated or modified all obligations hereunder shall cease or be reduced in proportion with such modifications, as the case may be.

D. *Except as provided in subsection C, such contractual agreements shall remain in effect until terminated by the relevant school divisions.* If any such contractual agreements between the relevant school divisions terminate ~~prior to the end of the applicable period set forth above,~~ the Commonwealth's obligation under this section shall cease.

E. This agreement and adjusted state payment shall be in lieu of any existing funds a locality receives from a Small School Division Assistance grant.

F. Any standard of quality set forth in this act that is not required as of June 30, 2004, and for which additional state funding is required, shall not take effect unless the state's share of funding that standard is included in the general appropriation act for the period July 1, 2004, through June 30, 2006, passed during the 2004 Session of the General Assembly and signed into law by the Governor.

## CHAPTER 406

*An Act to amend and reenact § 22.1-98.2 of the Code of Virginia, relating to state share for basic aid; duration of certain cost-savings agreements.*

[S 1771]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-98.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-98.2. Certain agreements; adjustment of state share for basic aid.**

A. Any school board of a school division in which fewer than 1,100 students were included in average daily membership for the preceding school year, in a locality that has a local composite index of .6000 or greater, and has 65 percent or more of its local taxes coming from real estate taxes, as calculated by the Auditor of Public Accounts and

reported annually to the Department of Education, upon entering into certain cost-savings agreements with a contiguous school division for the consolidation or sharing of educational, administrative, or support services, shall receive the state share for basic aid computed on the basis of the composite index of local ability-to-pay of the contiguous school division, calculated annually, ~~for a period of 15 years.~~

The Board of Education shall develop eligibility criteria for such cost-savings and service-sharing agreements and for the adjustment of the state share for basic aid, consistent with the appropriation act.

The Governor shall approve the adjustment to the state share prior to the disbursement of funds. The Department of Education shall annually report to the Chairmen of the House *Committee on Appropriations* and Senate *Committee on Finance* ~~Committees~~ the cost-savings agreements made and the adjusted state shares so approved.

B. The local school board receiving the adjusted state share shall not use the additional funds received to supplant local funds appropriated for education. The adjusted state share shall be used solely for educational purposes and shall not be used to reduce local operating expenditures for public education from the prior fiscal year. However, no school division shall be required to maintain a per pupil expenditure for operations that exceeds the per pupil expenditure in the prior fiscal year. The superintendent of the school division shall inform the Superintendent of Public Instruction of the public education purpose for which these local funds shall be used.

C. ~~This section shall not~~ *Nothing in this section shall* prohibit the Commonwealth from terminating or modifying any program or function under which distribution to a local school board has been made, and if so terminated or modified all obligations hereunder shall cease or be reduced in proportion with such modifications, as the case may be.

D. *Except as provided in subsection C, such contractual agreements shall remain in effect until terminated by the relevant school divisions.* If any such contractual agreements between the relevant school divisions terminate ~~prior to the end of the applicable period set forth above,~~ the Commonwealth's obligation under this section shall cease.

E. This agreement and adjusted state payment shall be in lieu of any existing funds a locality receives from a Small School Division Assistance grant.

F. Any standard of quality set forth in this act that is not required as of June 30, 2004, and for which additional state funding is required, shall not take effect unless the state's share of funding that standard is included in the general appropriation act for the period July 1, 2004, through June 30, 2006, passed during the 2004 Session of the General Assembly and signed into law by the Governor.

## CHAPTER 407

*An Act to amend and reenact §§ 22.1-298.1, 22.1-298.2, and 23.1-902 of the Code of Virginia, relating to teacher licensure; criteria; assessments.*

[H 2037]

Approved March 14, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 22.1-298.1, 22.1-298.2, and 23.1-902 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 22.1-298.1. Regulations governing licensure.**

###### A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework ~~or~~ pass additional assessments, *or meet alternative evaluation standards* to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure and procedures for the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (i) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms

the basis for revocation of a license; (ii) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (iii) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. ~~Complete~~ *Demonstrate proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board of Education;*

2. Complete study in attention deficit disorder;

3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and

4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia; and

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, or 6 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. *The Board shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a provisional license that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.*

G. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

~~G. H.~~ The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

~~H. I.~~ The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;
2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;
3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and
4. Met the requirements set forth in subdivisions D 1 and 3.

~~I. J.~~ Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

~~J. K.~~ The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

~~K. L.~~ The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

~~L. M.~~ The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection ~~J~~ K, shall permit applicants to submit third-party employment verification forms.

#### **§ 22.1-298.2. Regulations governing education preparation programs.**

A. As used in this section:

~~"Assessment of basic skills" means an assessment prescribed by the Board of Education that an individual must take prior to admission into an approved education preparation program, as prescribed by the Board of Education in its regulations.~~

~~"Education, "education preparation program" includes four-year bachelor's degree programs in teacher education.~~

B. Education preparation programs shall meet the requirements for accreditation and program approval as prescribed by the Board of Education in its regulations.

C. The Board of Education regulations shall provide for education preparation programs offered by institutions of higher education, Virginia public school divisions, and certified providers for alternate routes to licensure.

~~D. The Board shall prescribe an assessment of basic skills for individuals seeking entry into an approved education preparation program and shall establish a minimum passing score for such assessment. The Board also may prescribe other requirements for admission to Virginia's approved education preparation programs in its regulations.~~

E. The Board shall establish accountability measures for approved education programs. Data shall be submitted to the Board on not less than a biennial basis.

**§ 23.1-902. Education preparation programs offered by institutions of higher education.**

A. Education preparation programs offered by public institutions of higher education and private institutions of higher education shall meet the requirements for accreditation and program approval as prescribed by the Board of Education in its regulations.

B. ~~As provided in § 22.1-298.2, the Board of Education shall prescribe an assessment of basic skills for individuals seeking entry into an approved education preparation program and shall establish a minimum passing score for such assessment.~~ The Board of Education may prescribe in its regulations ~~other~~ requirements for admission to approved education preparation programs in the Commonwealth.

C. Any candidate who fails to achieve the minimum score established by the Board of Education may be denied entrance into an education preparation program on the basis of such failure, but any such candidate who gains entrance and enrolls in an education preparation program shall have the opportunity to address all deficiencies.

**CHAPTER 408**

*An Act to amend the Code of Virginia by adding a section numbered 23.1-102.1, relating to public institutions of higher education; executive officers; salaries.*

[H 2336]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 23.1-102.1 as follows:****§ 23.1-102.1. Executive officers; salaries.**

*The governing board of each public institution of higher education shall report by September 1 of each year to the Chairmen of the House Committees on Appropriations and Education and the Senate Committees on Finance and Education and Health the salary by position of any executive officer of such institution that exceeds for the previous fiscal year the salary limit for the chief executive officer for such institution set forth in the general appropriation act.*

**CHAPTER 409**

*An Act to amend and reenact § 22.1-298.1 of the Code of Virginia, relating to teacher licensure; reciprocity; alternate routes.*

[H 2486]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 22.1-298.1 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-298.1. Regulations governing licensure.**

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the *guidelines developed pursuant to subsection M* or regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure and procedures for the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (i) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (ii) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of

his license in accordance with Board regulations; and (iii) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Complete professional assessments as prescribed by the Board of Education;
2. Complete study in attention deficit disorder;
3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and
4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia; and

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, or 6 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

G. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

H. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;
2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

I. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

J. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

K. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

L. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection J, shall (i) permit applicants to submit third-party employment verification forms and (ii) grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

M. The Board shall develop guidelines that establish a process to permit a school board or any organization sponsored by a school board to petition the Board for approval of an alternate route to licensure that may be used to meet the requirements for a provisional or renewable license or any endorsement. Any such alternate route may include alternatives to the regulatory requirements for teacher preparation, including alternative professional assessments and coursework. The petitioner may proffer or the Board may impose conditions in conjunction with the approval of such petition.

**2. That the Board of Education shall develop guidelines as required by subsection M of § 22.1-298.1 of the Code of Virginia, as amended by this act, no later than December 1, 2019.**

## CHAPTER 410

*An Act to amend and reenact § 22.1-279.8 of the Code of Virginia, relating to development and review of school crisis, emergency management, and medical emergency response plans; include certain first responders.*

[S 1220]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-279.8 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.**

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of

terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits as defined in this section and consistent with such list.

The results of such school safety audits shall be made public within 90 days of completion. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The completed walk-through checklist shall be made available upon request to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available upon request to the chief law-enforcement officer of the locality the results of such audits.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall ~~provide copies of such plans to~~ include the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, *the executive director of the relevant regional emergency medical services council*, and the emergency management official of the locality, *or their designees, in the development of such plans*. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis, emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board *and the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, the executive director of the relevant regional emergency medical services council, and the emergency management official of the locality, or their designees*, shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

## CHAPTER 411

*An Act to amend and reenact § 17.1-606 of the Code of Virginia, relating to civil actions; determination of indigency.*

[H 1944]

Approved March 14, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-606 of the Code of Virginia is amended and reenacted as follows:**

**§ 17.1-606. Persons allowed services without fees or costs.**

A. Any person who is (i) a plaintiff in a civil action in a court of the Commonwealth and a resident of the Commonwealth or (ii) a defendant in a civil action in a court of the Commonwealth, and who is on account of his poverty unable to pay fees or costs, may be allowed by a court to sue or defend a suit therein, without paying fees or costs; whereupon he shall have, from any counsel whom the court may assign him, and from all officers, all needful services and process, without any fees, except what may be included in the costs recovered from the opposite party.

B. In determining a person's inability to pay fees or costs on account of his poverty, the court shall consider the factors set forth in subsection B of § 19.2-159, *provided that, in the case of a no-fault divorce proceeding under subdivision A (9) of § 20-91, there shall be a presumption that a person who is a current recipient of a state or federally funded public assistance program for the indigent is unable to pay. In such no-fault divorce proceeding, such person shall certify to the receipt of such benefits under oath.*

## CHAPTER 412

*An Act to amend and reenact § 16.1-241 of the Code of Virginia, relating to the jurisdiction of juvenile and domestic relations district courts; state or federal benefit.*

[H 2679]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-241 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-241. Jurisdiction; consent for abortion.**

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244;

6. Who is charged with a traffic infraction as defined in § 46.2-100; or

7. Who is alleged to have refused to take a blood test in violation of § 18.2-268.2.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand

jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

*A1. Making specific findings of fact required by state or federal law to enable a child to apply for or receive a state or federal benefit.*

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental illness or judicial certification of eligibility for admission to a training center for persons with intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown, (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or is otherwise before the court pursuant to subdivision A 4; or

3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services that are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for a work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law that causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a juvenile.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.).

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

R. [Repealed.]

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.

W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to perform the abortion without consent of or notice to an authorized person.

Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has been obtained or the minor delivers to the physician a court order entered pursuant to this section and the physician or his agent provides such notice as such order may require. However, neither consent nor judicial authorization nor notice shall be required if the

minor declares that she is abused or neglected and the attending physician has reason to suspect that the minor may be an abused or neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's medical record.

For purposes of this subsection:

"Authorization" means the minor has delivered to the physician a notarized, written statement signed by an authorized person that the authorized person knows of the minor's intent to have an abortion and consents to such abortion being performed on the minor.

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the minor regularly and customarily resides and who has care and control of the minor. Any person who knows he is not an authorized person and who knowingly and willfully signs an authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

"Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

"Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor children.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of § 17.1-272, or subsection B, D, M, or R.

Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of subsection W shall be guilty of a Class 3 misdemeanor.

## CHAPTER 413

*An Act to amend and reenact §§ 63.2-1522 and 63.2-1523 of the Code of Virginia, relating to out-of-court and recorded statements made by a child; abuse or neglect of a child.*

[H 1622]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-1522 and 63.2-1523 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-1522. Admission of evidence of sexual acts with children.**

A. In any civil proceeding involving alleged abuse or neglect of a child pursuant to this chapter or pursuant to §§ 16.1-241, 16.1-251, 16.1-252, 16.1-253, 16.1-283, or § 20-107.2, an out-of-court statement made by a child ~~the age of twelve~~ *14 years of age or under* younger at the time the statement is offered into evidence, describing any act of a sexual nature performed with or on the child by another, not otherwise admissible by statute or rule, may be admissible in evidence if the requirements of subsection B are met.

B. An out-of-court statement may be admitted into evidence as provided in subsection A if:

1. The child testifies at the proceeding, or testifies by means of a videotaped deposition or closed-circuit television, and at the time of such testimony is subject to ~~cross examination~~ *cross-examination* concerning the out-of-court statement or the child is found by the court to be unavailable to testify on any of these grounds:

a. The child's death;

b. The child's absence from the jurisdiction, provided such absence is not for the purpose of preventing the availability of the child to testify;

c. The child's total failure of memory;  
 d. The child's physical or mental disability;  
 e. The existence of a privilege involving the child;  
 f. The child's incompetency, including the child's inability to communicate about the offense because of fear or a similar reason; and

g. The substantial likelihood, based upon expert opinion testimony, that the child would suffer severe emotional trauma from testifying at the proceeding or by means of a videotaped deposition or closed-circuit television.

2. The child's out-of-court statement is shown to possess particularized guarantees of trustworthiness and reliability.

C. A statement may not be admitted under this section unless the proponent of the statement notifies the adverse party of his intention to offer the statement and the substance of the statement sufficiently in advance of the proceedings to provide the adverse party with a reasonable opportunity to prepare to meet the statement, including the opportunity to subpoena witnesses.

D. In determining whether a statement possesses particularized guarantees of trustworthiness and reliability under subdivision B 2, the court shall consider, but is not limited to, the following factors:

1. The child's personal knowledge of the event;
2. The age and maturity of the child;
3. Certainty that the statement was made, including the credibility of the person testifying about the statement and any apparent motive such person may have to falsify or distort the event including bias, corruption, or coercion;
4. Any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion;
5. The timing of the child's statement;
6. Whether more than one person heard the statement;
7. Whether the child was suffering pain or distress when making the statement;
8. Whether the child's age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;
9. Whether the statement has internal consistency or coherence, and uses terminology appropriate to the child's age;
10. Whether the statement is spontaneous or directly responsive to questions;
11. Whether the statement is responsive to suggestive or leading questions; and
12. Whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

E. The court shall support with findings on the record, or with written findings in a court not of record, any rulings pertaining to the child's unavailability and the trustworthiness and reliability of the out-of-court statement.

**§ 63.2-1523. Use of videotaped statements of complaining witnesses as evidence.**

A. In any civil proceeding involving alleged abuse or neglect of a child pursuant to this chapter or pursuant to §§ 16.1-241, 16.1-251, 16.1-252, 16.1-253, 16.1-283, or § 20-107.2, a recording of a statement of the alleged victim of the offense, made prior to the proceeding, may be admissible as evidence if the requirements of subsection B are met and the court determines that:

1. The alleged victim is ~~the age of twelve~~ *14 years of age* or ~~under~~ *younger* at the time the statement is offered into evidence;

2. The recording is both visual and oral, and every person appearing in, and every voice recorded on, the tape is identified;

3. The recording is on videotape or was recorded by other electronic means capable of making an accurate recording;

4. The recording has not been altered;

5. No attorney for any party to the proceeding was present when the statement was made;

6. The person conducting the interview of the alleged victim was authorized to do so by the child-protective services coordinator of the local department;

7. All persons present at the time the statement was taken, including the alleged victim, are present and available to testify or be cross examined at the proceeding when the recording is offered; and

8. The parties or their attorneys were provided with a list of all persons present at the recording and were afforded an opportunity to view the recording at least ~~ten~~ *10* days prior to the scheduled proceedings.

B. A recorded statement may be admitted into evidence as provided in subsection A if:

1. The child testifies at the proceeding, or testifies by means of closed-circuit television, and at the time of such testimony is subject to ~~cross examination~~ *cross-examination* concerning the recorded statement or the child is found by the court to be unavailable to testify on any of these grounds:

a. The child's death;

b. The child's absence from the jurisdiction, provided such absence is not for the purpose of preventing the availability of the child to testify;

c. The child's total failure of memory;

d. The child's physical or mental disability;

e. The existence of a privilege involving the child;

f. The child's incompetency, including the child's inability to communicate about the offense because of fear or a similar reason;

g. The substantial likelihood, based upon expert opinion testimony, that the child would suffer severe emotional trauma from testifying at the proceeding or by means of closed-circuit television; and

2. The child's recorded statement is shown to possess particularized guarantees of trustworthiness and reliability.

C. A recorded statement may not be admitted under this section unless the proponent of the statement notifies the adverse party of his intention to offer the statement and the substance of the statement sufficiently in advance of the proceedings to provide the adverse party with a reasonable opportunity to prepare to meet the statement, including the opportunity to subpoena witnesses.

D. In determining whether a recorded statement possesses particularized guarantees of trustworthiness and reliability under subdivision B 2, the court shall consider, but is not limited to, the following factors:

1. The child's personal knowledge of the event;
2. The age and maturity of the child;
3. Any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion;
4. The timing of the child's statement;
5. Whether the child was suffering pain or distress when making the statement;
6. Whether the child's age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;
7. Whether the statement has a "ring of verity," has internal consistency or coherence, and uses terminology appropriate to the child's age;
8. Whether the statement is spontaneous or directly responsive to questions;
9. Whether the statement is responsive to suggestive or leading questions; and
10. Whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

E. The court shall support with findings on the record, or with written findings in a court not of record, any rulings pertaining to the child's unavailability and the trustworthiness and reliability of the recorded statement.

## CHAPTER 414

*An Act to amend and reenact § 63.2-1509 of the Code of Virginia, relating to child abuse and neglect; mandatory reporters.*

[H 1659]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1509 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.**

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;
2. Any hospital resident or intern, and any person employed in the nursing profession;
3. Any person employed as a social worker or family-services specialist;
4. Any probation officer;
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;
6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
7. Any mental health professional;
8. Any law-enforcement officer or animal control officer;
9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;
12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;
14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;
15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;

16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team;

17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs; ~~and~~

18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client; *and*

~~This subsection shall not apply to any regular~~ 19. Any minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church ~~as it relates to (i) information, unless the information supporting the suspicion of child abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.~~

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by a health care provider within six weeks of the birth of a child that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made by a health care provider within four years following a child's birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy; or (iii) a diagnosis made by a health care provider within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

## CHAPTER 415

*An Act to amend and reenact § 65.2-402 of the Code of Virginia, relating to workers' compensation; presumption of compensability for certain cancers.*

[H 1804]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 65.2-402 of the Code of Virginia is amended and reenacted as follows:****§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.**

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian ~~or~~ breast, *colon, brain, or testicular* cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed 12 years of continuous service who has a contact with a toxic substance encountered in the line of duty shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, a "toxic substance" is one which is a known or suspected carcinogen, as defined by the International Agency for Research on Cancer, and which causes, or is suspected to cause, leukemia or pancreatic, prostate, rectal, throat, ovarian ~~or~~ breast, *colon, brain, or testicular* cancer.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

2. That the provisions of this act shall not become effective unless reenacted by the 2020 Session of the General Assembly.
3. That the 2020 Session of the General Assembly, in considering and enacting any legislation relating to workers' compensation and the presumption of compensability for certain cancers, shall consider any research, findings, and recommendations of the Joint Legislative Audit and Review Commission from the Commission's review of the Virginia Workers' Compensation program.

#### CHAPTER 416

*An Act to require the Department of Medical Assistance Services to amend waiver eligibility criteria to allow dependents of foreign service members to remain on waiting lists for services when assigned outside the Commonwealth.*

[H 1812]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

1. § 1. That the Department of Medical Assistance Services shall amend eligibility criteria for the Community Living waiver and the Family and Individual Support waiver to allow the dependent of a foreign service member who was added to the waiting list for services through such waivers while he was a resident of the Commonwealth to maintain his position on the waiting list following a transfer of the foreign service member to an assignment outside of the Commonwealth, so long as the foreign service member maintains the Commonwealth as his legal residence to which he intends to return following completion of the assignment.

#### CHAPTER 417

*An Act to amend and reenact § 54.1-3442.6 of the Code of Virginia, relating to pharmaceutical processor; employment; misdemeanors.*

[H 1841]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That § 54.1-3442.6 of the Code of Virginia is amended and reenacted as follows:

**§ 54.1-3442.6. Permit to operate pharmaceutical processor.**

A. No person shall operate a pharmaceutical processor without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely and securely cultivating Cannabis plants intended for producing cannabidiol oil and THC-A oil, producing cannabidiol oil and THC-A oil, and dispensing and delivering in person cannabidiol oil and THC-A oil to a registered patient or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; (x) the secure disposal of plant remains; and (xi) a process for registering a cannabidiol oil and THC-A oil product.

D. Every pharmaceutical processor shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor.

E. The Board shall require an applicant for a pharmaceutical processor permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

F. No person who has been convicted of (i) a felony under the laws of the Commonwealth or another jurisdiction or of (ii) within the last five years, any offense in violation of Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction shall be employed by or act as an agent of a pharmaceutical processor.

*G. Every pharmaceutical processor shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees.*

## CHAPTER 418

*An Act to amend and reenact § 54.1-2400.2 of the Code of Virginia, relating to Department of Health Professions; disclosure of investigative information.*

[H 1848]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 54.1-2400.2 of the Code of Virginia is amended and reenacted as follows:**

#### **§ 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary proceeding; penalty.**

A. Any reports, information or records received and maintained by the Department of Health Professions or any health regulatory board in connection with possible disciplinary proceedings, including any material received or developed by a board during an investigation or proceeding, shall be strictly confidential. The Department of Health Professions or a board may only disclose such confidential information:

1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;
2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession, including the coordinated licensure information system, as defined in § 54.1-3040.2;
3. *To the Virginia Department of Education or the State Council of Higher Education for Virginia, if such information relates to nursing or nurse aide education programs regulated by the Board of Nursing;*
4. To hospital committees concerned with granting, limiting or denying hospital privileges if a final determination regarding a violation has been made;
- ~~4. 5.~~ Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary circumstances being shown;
- ~~5. 6.~~ To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any person is first deleted. Such release shall be made pursuant to a written agreement to ensure compliance with this section; or
- ~~6. 7.~~ To the Health Practitioners' Monitoring Program within the Department of Health Professions in connection with health practitioners who apply to or participate in the Program.

B. In no event shall confidential information received, maintained or developed by the Department of Health Professions or any board, or disclosed by the Department of Health Professions or a board to others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence in any civil action. This section shall not, however, be construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any investigation or proceeding by any health regulatory board acting within the scope of its authority. The disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such privilege in any other proceeding.

D. This section shall not prohibit the Director of the Department of Health Professions, after consultation with the relevant health regulatory board president or his designee, from disclosing to the Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which indicates a possible violation of any provision of criminal law, including the laws relating to the manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

E. This section shall not prohibit the Director of the Department of Health Professions from disclosing matters listed in subdivision A 1, ~~A~~ 2, or ~~A~~ 3 of § 54.1-2909; from making the reports of aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information required to be made available to the public pursuant to § 54.1-2910.1.

F. This section shall not prohibit the Director of the Department of Health Professions, following consultation with the relevant health regulatory board president or his designee, from disclosing information about a suspected violation of state or federal law or regulation to other agencies within the Health and Human Resources Secretariat or to federal law-enforcement agencies having jurisdiction over the suspected violation or requesting an inspection or investigation of a licensee by such state or federal agency when the Director has reason to believe that a possible violation of federal or state law has occurred. Such disclosure shall not exceed the minimum information necessary to permit the state or federal agency having jurisdiction over the suspected violation of state or federal law to conduct an inspection or investigation. Disclosures by the Director pursuant to this subsection shall not be limited to requests for inspections or investigations of licensees. Nothing in this subsection shall require the Director to make any disclosure. Nothing in this section shall permit any agency to which the Director makes a disclosure pursuant to this section to re-disclose any information, reports, records, or materials received from the Department.

G. Whenever a complaint or report has been filed about a person licensed, certified, or registered by a health regulatory board, the source and the subject of a complaint or report shall be provided information about the investigative and

disciplinary procedures at the Department of Health Professions. Prior to interviewing a licensee who is the subject of a complaint or report, or at the time that the licensee is first notified in writing of the complaint or report, whichever shall occur first, the licensee shall be provided with a copy of the complaint or report and any records or supporting documentation, unless such provision would materially obstruct a criminal or regulatory investigation. If the relevant board concludes that a disciplinary proceeding will not be instituted, the board may send an advisory letter to the person who was the subject of the complaint or report. The relevant board may also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv), if appropriate, that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to the requirements of this section relating to confidentiality and discovery.

H. Orders and notices of the health regulatory boards relating to disciplinary actions, other than confidential exhibits described in subsection K, shall be disclosed. Information on the date and location of any disciplinary proceeding, allegations against the respondent, and the list of statutes and regulations the respondent is alleged to have violated shall be provided to the source of the complaint or report by the relevant board prior to the proceeding. The source shall be notified of the disposition of a disciplinary case.

I. This section shall not prohibit investigative staff authorized under § 54.1-2506 from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses any portion of records or other supporting documentation necessary to refresh the fact witnesses' recollection.

J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.

K. In disciplinary actions in which a practitioner is or may be unable to practice with reasonable skill and safety to patients and the public because of a mental or physical disability, a health regulatory board shall consider whether to disclose and may decide not to disclose in its notice or order the practitioner's health records, as defined in § 32.1-127.1:03, or his health services, as defined in § 32.1-127.1:03. Such information may be considered by the relevant board in a closed hearing in accordance with subdivision A 16 of § 2.2-3711 and included in a confidential exhibit to a notice or order. The public notice or order shall identify, if known, the practitioner's mental or physical disability that is the basis for its determination. In the event that the relevant board, in its discretion, determines that this subsection should apply, information contained in the confidential exhibit shall remain part of the confidential record before the relevant board and is subject to court review under the Administrative Process Act (§ 2.2-4000 et seq.) and to release in accordance with this section.

## CHAPTER 419

*An Act to amend and reenact § 32.1-330.3 of the Code of Virginia, relating to Department of Medical Assistance Services; PACE program; prospective client education.*

[H 1975]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-330.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-330.3. Operation of a pre-PACE plan or PACE plan; oversight by Department of Medical Assistance Services.**

~~A. Operation of a pre-PACE plan or PACE plan that participates in the medical assistance services program must be in accordance with a prepaid health plan contract or other PACE contract consistent with Chapter 6 of Title IV of the federal Balanced Budget Act of 1997 with the Department of Medical Assistance Services.~~

~~As used in this section, "pre-PACE" unless the context requires a different meaning:~~

~~"PACE" means of or associated with long-term care health plans (i) authorized as programs of all-inclusive care for the elderly by Subtitle I (§ 4801 et seq.) of Chapter 6 of Title IV of the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 528 et seq., §§ 4801-4804, 1997, pursuant to Title XVIII and Title XIX of the United States Social Security Act (42 U.S.C. § 1395eee et seq.), and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) and (ii) which have signed agreements with the Department of Medical Assistance Services as long-term care health plans.~~

~~"Pre-PACE" means of or associated with long-term care prepaid health plans (i) authorized by the U.S. Health Care Financing Administration pursuant to § 1903(m)(2)(B) of Title XIX of the United States Social Security Act (42 U.S.C. § 1396b et seq.) and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) and (ii) which have signed agreements with the Department of Medical Assistance Services as long-term care prepaid health plans.~~

~~2. As used in this section, "PACE" means of or associated with long-term care health plans (i) authorized as programs of all-inclusive care for the elderly by Subtitle I (§ 4801 et seq.) of Chapter 6 of Title IV of the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 528 et seq., §§ 4801-4804, 1997, pursuant to Title XVIII and Title XIX of the~~

~~United States Social Security Act (42 U.S.C. § 1395ccc et seq.); and the state plan for medical assistance services as established pursuant to Chapter 10 (§ 32.1-323 et seq.) and (ii) which have signed agreements with the Department of Medical Assistance Services as long-term care health plans.~~

~~B. Operation of a pre-PACE plan or PACE plan that participates in the medical assistance services program shall be in accordance with a prepaid health plan contract or other PACE contract consistent with Chapter 6 of Title IV of the federal Balanced Budget Act of 1997 with the Department of Medical Assistance Services.~~

~~C. All contracts and subcontracts shall contain an agreement to hold harmless the Department of Medical Assistance Services and pre-PACE and PACE enrollees in the event that a pre-PACE or PACE provider cannot or will not pay for services performed by the subcontractor pursuant to the contract or subcontract.~~

~~Ɖ. D. During the pre-PACE or PACE period, the plan shall have a fiscally sound operation as demonstrated by total assets being greater than total unsubordinated liabilities, sufficient cash flow and adequate liquidity to meet obligations as they become due, and a plan for handling insolvency approved by the Department of Medical Assistance Services.~~

~~Ɖ. E. The pre-PACE or PACE plan must demonstrate that it has arrangements in place in the amount of, at least, the sum of the following to cover expenses in the event of insolvency:~~

~~1. One month's total capitation revenue to cover expenses the month prior to insolvency; and~~

~~2. One month's average payment of operating expenses to cover potential expenses the month after the date of insolvency has been declared or operations cease.~~

~~The required arrangements to cover expenses shall be in accordance with the PACE Protocol as published by On Lok, Inc. in cooperation with the U.S. Health Care Financing Administration, as of April 14, 1995, or any successor protocol that may be agreed upon between the U.S. Health Care Financing Administration and On Lok, Inc.~~

~~Appropriate arrangements to cover expenses shall include one or more of the following: reasonable and sufficient net worth, insolvency insurance, letters of credit, or parental guarantees.~~

~~Ɖ. F. Enrollment in a pre-PACE or PACE plan shall be restricted to those individuals who participate in programs authorized pursuant to Title XIX or Title XVIII of the United States Social Security Act, respectively.~~

~~Ɖ. G. Full disclosure shall be made to all individuals in the process of enrolling in the pre-PACE or PACE plan that services are not guaranteed beyond a 30-day period.~~

~~Ɖ. H. The Board of Medical Assistance Services shall establish a Transitional Advisory Group to determine license requirements, regulations, and ongoing oversight. The Advisory Group shall include representatives from each of the following organizations: Department of Medical Assistance Services, Department of Social Services, Department of Health, Bureau of Insurance, Board of Medicine, Board of Pharmacy, Department for Aging and Rehabilitative Services, and a pre-PACE or PACE provider.~~

~~I. The Department shall develop and implement a coordinated plan to provide choice and education about the PACE program. The plan shall ensure that:~~

~~1. Information about the availability and potential benefits of participating in the PACE program is provided to all eligible long-term services and supports clients as part of the preadmission screening process pursuant to § 32.1-330. The client's choice regarding participation in the PACE program shall be documented on the state preadmission screening authorization form. The Department shall provide initial and ongoing training of all preadmission screening teams on the PACE program.~~

~~2. The Department develops informational materials and correspondence, including the initial and annual enrollment letters, for use by the Department and its contractors to educate and notify potentially eligible clients about long-term services and supports. These informational materials shall include the following:~~

~~a. A description of the PACE program;~~

~~b. A statement that an eligible individual has the option to enroll in the PACE program or be automatically enrolled in a managed care organization; and~~

~~c. Contact information for PACE providers.~~

## CHAPTER 420

*An Act to amend and reenact § 63.2-1606 of the Code of Virginia, relating to financial exploitation of aged or incapacitated adults; authority to refuse transactions or disbursements.*

[H 1987]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1606 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.**

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities inspectors of the Department of Health are exempt from reporting suspected abuse immediately while conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social Security Act, as amended, of certified nursing facilities as defined in

§ 32.1-123. Reports shall be made to the local department or the adult protective services hotline in accordance with requirements of this section by the following persons acting in their professional capacity:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine;
2. Any mental health services provider as defined in § 54.1-2400.1;
3. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital to which the adult is transported, who shall make such report forthwith;
4. Any guardian or conservator of an adult;
5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;
6. Any person providing full, intermittent or occasional care to an adult for compensation, including, but not limited to, companion, chore, homemaker, and personal care workers; and
7. Any law-enforcement officer.

B. The report shall be made in accordance with subsection A to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any other obligation to report as required by law. If a person required to report under this section receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure; such reports may, however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 or to a local or regional adult fatality review team as provided in § 32.1-283.6 and, if reviewed by the Team or a local or regional adult fatality review team, shall be subject to applicable confidentiality requirements of the Team or a local or regional adult fatality review team.

C. Any financial institution staff who suspects that an adult has been exploited financially may report such suspected financial exploitation to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline. For purposes of this section, "financial:

*"Financial exploitation" means the illegal, unauthorized, improper, or fraudulent use of the funds, property, benefits, resources, or other assets of an adult, as defined in § 63.2-1603, for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Financial exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services.*

*"Financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.*

D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline.

E. Any person who makes a report or provides records or information pursuant to subsection A, C, or D, or who testifies in any judicial proceeding arising from such report, records or information, or who takes or causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any civil or criminal liability on account of such report, records, information, photographs, video recordings, appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.

F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to the local department or to the adult protective services hotline. Employers whose employees are mandated reporters shall notify employees upon hiring of the requirement to report.

G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false shall be guilty of a Class 4 misdemeanor. Any subsequent conviction of this provision shall be a Class 2 misdemeanor.

H. Any person who fails to make a required report or notification pursuant to subsection A shall be subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a court of competent jurisdiction, in its discretion. All other civil penalties under this section shall be determined by the Commissioner for Aging and Rehabilitative Services or his designee. The Commissioner for Aging and Rehabilitative Services shall establish by regulation a process for imposing and collecting civil penalties, and a process for appeal of the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process Act.

I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician. The medical examiner and the law-enforcement agency shall receive the report and determine if an investigation is warranted. The medical examiner may order an autopsy. If an autopsy is conducted, the medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or to the adult protective services hotline.

J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge that the same matter has already been reported to the local department or to the adult protective services hotline.

K. All law-enforcement departments and other state and local departments, agencies, authorities and institutions shall cooperate with each adult protective services worker of a local department in the detection, investigation and prevention of adult abuse, neglect and exploitation.

*L. Financial institution staff may refuse to execute a transaction, may delay a transaction, or may refuse to disburse funds if the financial institution staff (i) believes in good faith that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult or (ii) makes, or has actual knowledge that another person has made, a report to the local department or adult protective services hotline stating a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult. The financial institution staff may continue to refuse to execute a transaction, delay a transaction, or refuse to disburse funds for a period no longer than 30 business days after the date upon which such transaction or disbursement was initially requested based on a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult, unless otherwise ordered by a court of competent jurisdiction. Upon request, and to the extent permitted by state and federal law, financial institution staff making a report to the local department of social services may report any information or records relevant to the report or investigation. Absent gross negligence or willful misconduct, the financial institution and its staff shall be immune from civil or criminal liability for refusing to execute a transaction, delaying a transaction, or refusing to disburse funds pursuant to this subsection. The authority of a financial institution staff to refuse to execute a transaction, to delay a transaction, or to refuse to disburse funds pursuant to this subsection shall not be contingent upon whether financial institution staff has reported suspected financial exploitation of the adult pursuant to subsection C.*

## CHAPTER 421

*An Act to amend and reenact § 63.2-1606 of the Code of Virginia, relating to financial exploitation of aged or incapacitated adults; authority to refuse transactions or disbursements.*

[S 1490]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 63.2-1606 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.**

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities inspectors of the Department of Health are exempt from reporting suspected abuse immediately while conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the local department or the adult protective services hotline in accordance with requirements of this section by the following persons acting in their professional capacity:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine;
2. Any mental health services provider as defined in § 54.1-2400.1;
3. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital to which the adult is transported, who shall make such report forthwith;
4. Any guardian or conservator of an adult;

5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;

6. Any person providing full, intermittent or occasional care to an adult for compensation, including, but not limited to, companion, chore, homemaker, and personal care workers; and

7. Any law-enforcement officer.

B. The report shall be made in accordance with subsection A to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any other obligation to report as required by law. If a person required to report under this section receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure; such reports may, however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 or to a local or regional adult fatality review team as provided in § 32.1-283.6 and, if reviewed by the Team or a local or regional adult fatality review team, shall be subject to applicable confidentiality requirements of the Team or a local or regional adult fatality review team.

C. Any financial institution staff who suspects that an adult has been exploited financially may report such suspected financial exploitation to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline. For purposes of this section, ~~financial:~~

*"Financial exploitation" means the illegal, unauthorized, improper, or fraudulent use of the funds, property, benefits, resources, or other assets of an adult, as defined in § 63.2-1603, for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Financial exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services.*

*"Financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.*

D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline.

E. Any person who makes a report or provides records or information pursuant to subsection A, C, or D, or who testifies in any judicial proceeding arising from such report, records or information, or who takes or causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any civil or criminal liability on account of such report, records, information, photographs, video recordings, appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.

F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to the local department or to the adult protective services hotline. Employers whose employees are mandated reporters shall notify employees upon hiring of the requirement to report.

G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false shall be guilty of a Class 4 misdemeanor. Any subsequent conviction of this provision shall be a Class 2 misdemeanor.

H. Any person who fails to make a required report or notification pursuant to subsection A shall be subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a court of competent jurisdiction, in its discretion. All other civil penalties under this section shall be determined by the Commissioner for Aging and Rehabilitative Services or his designee. The Commissioner for Aging and Rehabilitative Services shall establish by regulation a process for imposing and collecting civil penalties, and a process for appeal of the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process Act.

I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician. The medical examiner and the law-enforcement agency shall receive the report and determine if an investigation is warranted. The medical examiner may order an autopsy. If an autopsy is conducted, the medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or to the adult protective services hotline.

J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge that the same matter has already been reported to the local department or to the adult protective services hotline.

K. All law-enforcement departments and other state and local departments, agencies, authorities and institutions shall cooperate with each adult protective services worker of a local department in the detection, investigation and prevention of adult abuse, neglect and exploitation.

L. *Financial institution staff may refuse to execute a transaction, may delay a transaction, or may refuse to disburse funds if the financial institution staff (i) believes in good faith that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult or (ii) makes, or has actual knowledge that another person has made, a report to the local department or adult protective services hotline stating a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult. The financial institution staff may continue to refuse to execute a transaction, delay a transaction, or refuse to disburse funds for a period no longer than 30 business days after the date upon which such transaction or disbursement was initially requested based on a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an adult, unless otherwise ordered by a court of competent jurisdiction. Upon request, and to the extent permitted by state and federal law, financial institution staff making a report to the local department of social services may report any information or records relevant to the report or investigation. Absent gross negligence or willful misconduct, the financial institution and its staff shall be immune from civil or criminal liability for refusing to execute a transaction, delaying a transaction, or refusing to disburse funds pursuant to this subsection. The authority of a financial institution staff to refuse to execute a transaction, to delay a transaction, or to refuse to disburse funds pursuant to this subsection shall not be contingent upon whether financial institution staff has reported suspected financial exploitation of the adult pursuant to subsection C.*

## CHAPTER 422

*An Act to amend and reenact § 32.1-319.1 of the Code of Virginia, relating to Department of Medical Assistance Services; fraud prevention.*

[H 2015]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-319.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-319.1. Department to establish pilot program to use data analytics to mitigate risk of improper payments.**

A. The Department shall ~~establish~~ *conduct a pilot program using prepayment analytics to develop and implement means to mitigate the risk of improper payments to providers of services that are paid through the Department's fee-for-service delivery system who commit fraud, abuse, or errors. Such program furnished under the state plan for medical assistance and all applicable waivers. The pilot program shall include the use of predictive modeling, provider profiling, trend analysis, and other prepayment analytics to identify providers and claims with a high likelihood of fraud, abuse, or error and prevent payments on potentially fraudulent or erroneous claims from being made until such claims have been validated.*

B. The Department may enter into a contract or agreement with a vendor for the operation of the *pilot* program to mitigate the risk of improper payments to providers of services ~~that are paid through the Department's fee-for-service delivery system furnished under the state plan for medical assistance and all applicable waivers~~ required by this section. *However, selection of a vendor shall be dependent on the demonstration of a proof of concept, prior to entering into a contract or agreement.*

**2. That the Department of Medical Assistance Services shall report to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance (i) by August 1, 2019, on the Department's progress in designing and implementing the pilot program established in accordance with the provisions of this act and (ii) by February 1, 2020, on the effectiveness of the pilot program established pursuant to this act in mitigating the risk of improper payments to providers.**

## CHAPTER 423

*An Act to require the Board of Health to amend regulations governing newborn screening to include screening for congenital cytomegalovirus in newborns who fail the newborn hearing screen.*

[H 2026]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Board of Health shall amend regulations governing newborn screening to include screening for congenital cytomegalovirus in newborns who fail the newborn hearing screen.*

## CHAPTER 424

*An Act to amend and reenact § 2.2-1202 of the Code of Virginia, relating to the Department of Human Resource Management; review of employee recruitment, retention, and compensation; report.*

[H 2055]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-1202 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-1202. Review of employee compensation; biennial report on employee recruitment and retention.**

A. It is a goal of the Commonwealth ~~that to compensate~~ its employees ~~be compensated~~ at a rate comparable to the rate of compensation for employees in the private sector of the Commonwealth in similar occupations, *and consistently recruit and retain the most suitably qualified employees. In determining comparability, consideration shall be given to the economic value of fringe benefits in addition to direct compensation. An annual review shall be conducted by the Director of the Department to determine where discrepancies in compensation exist as between the public and private sectors of the Commonwealth. The results of the review shall be reported by December 15 of each year to the Governor and the General Assembly. To achieve this goal, the Director of the Department shall annually review (i) recruitment and retention trends, (ii) the functions performed by each classified job role, (iii) the number of employees and distribution of classified job roles across state agencies, and (iv) how the salaries for each classified job role compare to salaries paid by other employers in the Commonwealth and, as appropriate, to comparable salaries at a regional or national level.*

B. *The Director of the Department shall, on or before September 1 of each odd-numbered year, submit a report on (i) the classified job roles that should receive higher salary increases based on identified recruitment and retention challenges, (ii) the appropriate amount by which the salary of such classified job roles should be increased, and (iii) cost estimates for funding any salary increases to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.*

## CHAPTER 425

*An Act to amend and reenact § 2.2-1124 of the Code of Virginia, relating to the Department of General Services; disposition of surplus materials; veteran-owned small businesses and veterans service organizations.*

[H 2161]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-1124 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-1124. Disposition of surplus materials.**

A. ~~Surplus~~ *For purposes of this section, "surplus materials" means personal property, including, but not limited to, materials, supplies, equipment, and recyclable items, but shall does not include property as defined in § 2.2-1147 that is determined to be surplus. "Surplus materials shall" does not include finished products that a state hospital or training center operated by the Department of Behavioral Health and Developmental Services sells for the benefit of individuals receiving services in the state hospital or training center, provided that (i) most of the supplies, equipment, or products have been donated to the state hospital or training center; (ii) the individuals in the state hospital or training center have substantially altered the supplies, equipment, or products in the course of occupational or other therapy; and (iii) the substantial alterations have resulted in a finished product.*

B. *The Department shall establish procedures for the disposition of surplus materials from departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:*

1. *Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or agencies of the Commonwealth;*

2. *Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of*

primary health care services (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge;

3. Permit public sales or auctions, including online public auctions;

4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service departments for the purpose of resale at cost to TANF recipients;

5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as children's homes;

6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified in this section;

7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to be derived therefrom or (b) the surplus material is not suitable for sale;

8. Permit any animal especially trained for police work to be sold at a price of \$1 to the handler who last was in control of the animal. The agency or institution may allow the immediate survivor of any full-time sworn law-enforcement officer who (i) is killed in the line of duty or (ii) dies in service and has at least 10 years of service to purchase the service animal at a price of \$1. Any such sale shall not be deemed a violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);

9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency of the Commonwealth for distribution to needy individuals by and through local social services boards;

10. Encourage the recycling of paper products, beverage containers, electronics, and used motor oil;

11. Require the proceeds from any sale or recycling of surplus materials be promptly deposited into the state treasury in accordance with § 2.2-1802 and report the deposit to the State Comptroller;

12. Permit donations of surplus computers and related equipment to public schools in the Commonwealth and Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and providing services to persons with disabilities, at-risk youths, or low-income families. For the purposes of this subdivision, "at-risk youths" means school-age children approved eligible to receive free or reduced price meals in the federally funded lunch program;

13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public television stations located in the state and other nonprofit organizations approved for the distribution of federal surplus materials;

14. Permit a public institution of higher education to dispose of its surplus materials at the location where the surplus materials are held and to retain any proceeds from such disposal, provided that the institution meets the conditions prescribed in subsection A of § 23.1-1002 and § 23.1-1019 (regardless of whether or not the institution has been granted any authority under Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1);

15. Permit surplus materials from (i) the Department of Defense Excess Property Program or (ii) other surplus property programs administered by the Commonwealth to be transferred or sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as an educational institution devoted to emergency management training, preparedness, and response; ~~and~~

16. Require, to the extent practicable, the recycling and disposal of computers and other information technology assets. Additionally, for computers or information technology assets that may contain confidential state data or personal identifying information of citizens of the Commonwealth, the Department shall ensure all policies for the transfer or other disposition of computers or information technology assets are consistent with data and information security policies developed by the Virginia Information Technologies Agency; *and*

17. *Permit surplus materials to be sold, prior to public sale or auction, to (i) service disabled veteran-owned businesses and (ii) veterans service organizations.*

*For purposes of this subdivision:*

*"Service disabled veteran" means the same as that term is defined in § 2.2-2000.1.*

*"Service disabled veteran-owned business" means the same as that term is defined in § 2.2-2000.1.*

*"Veterans service organization" means an association or other entity organized for the benefit of veterans that has been recognized by the U.S. Department of Veterans Affairs or chartered by Congress.*

C. The Department shall dispose of surplus materials pursuant to the procedures established in subsection B or permit any department, division, institution, or agency of the Commonwealth to dispose of its surplus materials consistent with the procedures so established. No surplus materials shall be disposed of without prior consent of the head of the department, division, institution, or agency of the Commonwealth in possession of such surplus materials or the Governor.

D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may donate surplus materials only under the following circumstances:

1. Emergencies declared in accordance with § 44-146.18:2 or 44-146.28;

2. As set forth in the budget bill as defined by § 2.2-1509, provided that (a) the budget bill contains a description of the surplus materials, the method by which the surplus materials shall be distributed, and the anticipated recipients, and (b) such information shall be provided by the Department to the Department of Planning and Budget in sufficient time for inclusion in the budget bill;

3. When the market value of the surplus materials, which shall be donated for a public purpose, is less than \$500; however, the total market value of all surplus materials so donated by any department, division, institution, or agency shall not exceed 25 percent of the revenue generated by such department's, division's, institution's, or agency's sale of surplus

materials in the fiscal year, except these limits shall not apply in the case of surplus computer equipment and related items donated to Virginia public schools; or

4. During a local emergency, upon written request of the head of a local government or a political subdivision in the Commonwealth to the head of a department, division, institution, or agency.

E. On or before October 1 of each year, the Department shall prepare, and file with the Secretary of the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming fiscal year pursuant to subdivision B 6.

F. The Department may make available to any local public body of the Commonwealth the services or facilities authorized by this section; however, the furnishing of any such services shall not limit or impair any services normally rendered any department, division, institution or agency of the Commonwealth. All public bodies shall be authorized to use the services of the Department's Surplus Property Program under the guidelines established pursuant to this section and the surplus property policies and procedures of the Department. Proceeds from the sale of the surplus property shall be returned to the local body minus a service fee. The service fee charged by the Department shall be consistent with the fee charged by the Department to state public bodies.

## CHAPTER 426

*An Act to amend and reenact § 2.2-3711 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 4 of Title 24.2 a section numbered 24.2-410.2, relating to the Virginia voter registration system; security plans and procedures; remedying security risks.*

[H 2178]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3711 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 4 of Title 24.2 a section numbered 24.2-410.2 as follows:**

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

**§ 24.2-410.2. Security of the Virginia voter registration system.**

A. *The State Board shall promulgate regulations and standards necessary to ensure the security and integrity of the Virginia voter registration system and the supporting technologies utilized by the counties and cities to maintain and record registrant information. The State Board shall, in consultation with representatives of local government information technology professionals and general registrars, update the security standards at least annually. Such review shall be completed by November 30 each year.*

B. *The electoral board of each county and city that utilizes supporting technologies to maintain and record registrant information shall develop and annually update written plans and procedures to ensure the security and integrity of those supporting technologies. All plans and procedures shall be in compliance with the security standards established by the State Board pursuant to subsection A. Each electoral board shall report annually by March 1 to the Department of Elections on its security plans and procedures. The general registrar and the Department of Elections shall provide assistance to the electoral board, upon request by the electoral board.*

C. *In accordance with the process prescribed by the State Board, the Department of Elections may limit access to the Virginia voter registration system by any county or city that has failed to comply with the provisions of subsection B or the security standards established by the State Board pursuant to subsection A. Such access shall be limited as necessary in order to address and resolve any security risks or to enforce compliance with the provisions of subsection B or the security standards established by the State Board. Prior to restricting access to Virginia voter registration system by any county or city, the Department of Elections shall provide notice to the county or city of the failure to comply with the provisions of subsection A or B and the county or city shall have seven days to correct any deficiencies. The Department of Elections may provide technical assistance to any county or city upon request by the county or city.*

D. *Records of the State Board or of a local electoral board, to the extent such records describe protocols for maintaining the security of the Virginia voter registration system and the supporting technologies utilized to maintain and record registrant information, the release of which would compromise the security of the Virginia voter registration system, shall be confidential and excluded from inspection and copying under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

E. *The State Board or a local electoral board may hold a closed meeting pursuant to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) for the purpose of discussing protocols for maintaining the security of the Virginia voter registration system and the supporting technologies utilized to maintain and record registrant information, where discussion of such matters in open meeting would compromise the security of the Virginia voter registration system. Nothing in this subsection shall be construed to authorize a closed meeting to discuss any breach of security of the Virginia voter registration system.*

F. *Nothing in this section shall be construed to prohibit the release of information concerning any breach of security of the Virginia voter registration system.*

**2. That the State Board of Elections shall convene a work group prior to adopting standards prescribed by § 24.2-410.2 of the Code of Virginia, as created by this act. Such work group shall consist of representatives from counties and cities, selected in consultation with the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Association of Local Government Information Technology Executives. The representatives selected shall include representatives from both rural and urban localities and localities of varying population sizes. At least one staff member of the Joint Legislative Audit and Review Commission, designated by the Director of the Joint Legislative Audit and Review Commission, shall also serve on this work group. Such work group shall review proposed standards and develop general cost estimates for implementation of such security standards pursuant to this act.**

**3. That the Department of Elections shall establish a standing advisory group of local government information technology professionals and general registrars to provide assistance to the State Board of Elections and consult on emerging security concerns and updates to annual security standards pursuant to subsection A of § 24.2-410.2 of the Code of Virginia, as created by this act.**

## CHAPTER 427

*An Act to amend and reenact § 2.2-4343 of the Code of Virginia, relating to the Virginia Public Procurement Act; exempt counties, cities, school boards, and towns with populations greater than 3,500; competitive negotiation for professional services.*

[H 2198]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-4343 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-4343. Exemption from operation of chapter for certain transactions.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the respective public institution of higher education pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The exemption shall be in writing and kept on file with the agency's disbursement records.

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 and Chapter 43.1 (§ 2.2-4378 et seq.).

10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by such governing body and its agencies, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of subsections B, C, and D of § 2.2-4303, §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4342, 2.2-4343.1, and

2.2-4367 through 2.2-4377, and Chapter 43.1 (§ 2.2-4378 et seq.) shall apply to all counties, cities, and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

The method for procurement of professional services through competitive negotiation set forth in §§ 2.2-4302.2, 2.2-4303.1, and 2.2-4303.2 shall also apply to all counties, cities, and school divisions, and to all towns having a population greater than 3,500, where the cost of the professional service is expected to exceed ~~\$60,000~~ \$80,000 in the aggregate or for the sum of all phases of a contract or project. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body that is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators that are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16. The Eastern Virginia Medical School in the selection of services related to the management and investment of its endowment and other institutional funds. The selection of these services shall, however, be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

17. The Department of Corrections in the selection of pre-release and post-incarceration services and the Department of Juvenile Justice in the selection of pre-release and post-commitment services.

18. The University of Virginia Medical Center to the extent provided by subdivision A 3 of § 23.1-2213.

19. The purchase of goods and services by a local governing body or any authority, board, department, instrumentality, institution, agency or other unit of state government when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

20. The contract by community services boards or behavioral health authorities with an administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

21. [Expired].

22. The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed \$100,000, provided that the procurement is accomplished by (i) obtaining written informal solicitation of a minimum of three bidders or offerors if practicable and (ii) including a written statement regarding the basis for awarding the contract.

23. The Virginia Industries for the Blind when procuring components, materials, supplies, or services for use in commodities and services furnished to the federal government in connection with its operation as an AbilityOne Program-qualified nonprofit agency for the blind under the Javits-Wagner-O'Day Act, 41 U.S.C. §§ 8501-8506, provided that the procurement is accomplished using procedures that ensure that funds are used as efficiently as practicable. Such procedures shall require documentation of the basis for awarding contracts. Notwithstanding the provisions of § 2.2-1117, no public body shall be required to purchase such components, materials, supplies, services, or commodities.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

## CHAPTER 428

*An Act to amend and reenact § 54.1-3505 of the Code of Virginia, relating to issuance of temporary licenses; individuals engaged in counseling residency.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3505 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3505. Specific powers and duties of the Board.**

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.

5. [Expired.]

6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.

7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.

8. To maintain a registry of persons who meet the requirements for supervision of residents. The Board shall make the registry of approved supervisors available to persons seeking residence status.

9. To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration.

10. To promulgate regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the Board of Behavioral Health and Developmental Services pursuant to § 37.2-203.

11. *To promulgate regulations for the issuance of temporary licenses to individuals engaged in a counseling residency so that they may acquire the supervised, postgraduate experience required for licensure.*

**2. That the Board of Counseling shall promulgate regulations to implement the provisions of this act within 280 days of enactment.**

**CHAPTER 429**

*An Act to require the Department of Health to develop a plan for oversight and enforcement of certain requirements governing onsite sewage treatment systems.*

[H 2322]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1.** *§ 1. That the Department of Health shall develop a plan for the oversight and enforcement by the Department of requirements related to the inspection and pump-out of onsite sewage treatment systems that do not require a Virginia Pollutant Discharge Elimination System permit established pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq. of the Code of Virginia) and are located in counties eligible for participation in the Rural Coastal Virginia Community Enhancement Authority pursuant to Chapter 76 (§ 15.2-7600 et seq.) of Title 15.2 of the Code of Virginia. The Department shall present such plan to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health prior to implementing the plan.*

## CHAPTER 430

*An Act to amend and reenact § 32.1-330 of the Code of Virginia, relating to expediting review of applications for long-term care.*

[H 2474]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 32.1-330 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-330. Preadmission screening required.**

A. All individuals who will be eligible for community or institutional long-term care services as defined in the state plan for medical assistance shall be evaluated to determine their need for nursing facility services as defined in that plan. The Department shall require a preadmission screening of all individuals who, at the time of application for admission to a certified nursing facility as defined in § 32.1-123, are eligible for medical assistance or will become eligible within six months following admission. For community-based screening, the screening team shall consist of a nurse, social worker or other assessor designated by the Department, and physician who are employees of the Department of Health or the local department of social services or a team of licensed physicians, nurses, and social workers at the Wilson Workforce and Rehabilitation Center (WWRC) for WWRC clients only. For institutional screening, the Department shall contract with acute care hospitals. The Department shall contract with other public or private entities to conduct required community-based and institutional screenings in addition to or in lieu of the screening teams described in this section in jurisdictions in which the screening team has been unable to complete screenings of individuals within 30 days of such individuals' application.

*The Department shall report annually by August 1 to the Governor and the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health regarding (i) the number of screenings for eligibility for community-based and institutional long-term care services conducted pursuant to this subsection and (ii) the number of cases in which the Department or the public or private entity with which the Department has entered into a contract to conduct such screenings fails to complete such screenings within 30 days.*

B. The Department shall require all individuals who administer screenings pursuant to this section to receive training on and be certified in the use of the uniform assessment instrument for screening individuals for eligibility for community or institutional long-term care services provided in accordance with the state plan for medical assistance prior to conducting such screenings. The Department shall publicly report by August 1, 2018, and each year thereafter on the outcomes of the performance standards.

## CHAPTER 431

*An Act to amend and reenact §§ 54.1-2722 and 54.1-3408 of the Code of Virginia, relating to the administration of topical drugs; dental hygienists, physician assistants, and nurses.*

[H 2493]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 54.1-2722 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:****§ 54.1-2722. License; application; qualifications; practice of dental hygiene.**

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection V of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health. A dental hygienist providing such services shall practice pursuant to a protocol adopted by the Commissioner of Health on September 23, 2010, having been developed jointly by (i) the medical directors of the Cumberland Plateau, Southside, and Lenowisco Health Districts; (ii) dental hygienists employed by the Department of Health; (iii) the Director of the Dental Health Division of the Department of Health; (iv) one representative of the Virginia Dental Association; and (v) one representative of the Virginia Dental Hygienists' Association. Such protocol shall be adopted by the Board as regulations.

A report of services provided by dental hygienists pursuant to such protocol, including their impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted by the Department of Health to the Virginia Secretary of Health and Human Resources annually. Nothing in this section shall be construed to authorize or establish the independent practice of dental hygiene.

F. For the purposes of this subsection, "remote supervision" means that a supervising dentist is accessible and available for communication and consultation with a dental hygienist during the delivery of dental hygiene services, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the remote supervision of a dentist who holds an active license by the Board and who has a dental practice physically located in the Commonwealth. No dental hygienist shall practice under remote supervision unless he has (i) completed a continuing education course designed to develop the competencies needed to provide care under remote supervision offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at a federally qualified health center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; or women, infants, and children (WIC) program.

A dental hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer topical oral fluorides, *topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry* under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. No dental hygienist practicing under remote supervision shall administer local anesthetic or nitrous oxide.

Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) verbal confirmation from the patient that he does not have a dentist of record whom he is seeing regularly.

After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision may provide further dental hygiene services following a written practice protocol developed and provided by the supervising dentist. Such written practice protocol shall consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.

A dental hygienist practicing under remote supervision shall inform the supervising dentist of all findings for a patient. A dental hygienist practicing under remote supervision may continue to treat a patient for 90 days. After such 90-day period, the supervising dentist, absent emergent circumstances, shall either conduct an examination of the patient or refer

the patient to another dentist to conduct an examination. The supervising dentist shall develop a diagnosis and treatment plan for the patient, and either the supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The supervising dentist shall review a patient's records at least once every 10 months.

Nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer.

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to

§ 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral

Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, or a dental hygienist may possess and administer topical fluoride varnish ~~to the teeth of children aged six months to three years~~ pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry ~~that conforms to standards adopted by the Department of Health.~~

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Y. Notwithstanding any other law or regulation to the contrary, a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423 may dispense naloxone to a person who has completed a training program on the administration of naloxone for opioid overdose reversal approved by the Department of Behavioral Health and Developmental Services, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber, (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, and (iii) without charge or compensation. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

## CHAPTER 432

*An Act to amend the Code of Virginia by adding a section numbered 38.2-3445.1, relating to health insurance; payment of out-of-network providers.*

[H 2538]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 38.2-3445.1 as follows:**

**§ 38.2-3445.1. Patient access to elective services.**

A. As used in this section:

"Cost-sharing requirement" means a deductible, copayment amount, or coinsurance rate.

"Elective services" means health care services rendered to a covered person that are not emergency services.

"In-network provider" means a health care provider or provider group having a contract with a carrier to provide health care services to a covered person under a health benefit plan as a member of the health benefit plan's network.

"Provider group" means a group of multispecialty or single-specialty health care providers who contract with a facility to exclusively provide multispecialty or single-specialty health care services at such facility.

"Required notice" means notice by a facility to a covered person (i) that health care services provided by a provider group will be billed separately from the facility and (ii) that some health care services may not be provided by an in-network provider.

B. In a facility where a covered person receives scheduled elective services, the facility shall post the required notice or inform the covered person of the required notice at the time of pre-admission or pre-registration.

C. The facility shall inform the covered person or his legal representative (i) of the names of all provider groups providing health care services at the facility, (ii) that consultation with the covered person's managed care plan is recommended to determine if the provider groups providing health care services at the facility are in-network providers, and (iii) that the covered person may be financially responsible for health care services performed by a provider that is not an in-network provider, in addition to any cost-sharing requirements.

**CHAPTER 433**

An Act to amend and reenact § 32.1-134.01 of the Code of Virginia, relating to information for maternity patients; perinatal anxiety.

[H 2613]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-134.01 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-134.01. Certain information required for maternity patients.**

Every licensed nurse midwife, licensed midwife, or hospital providing maternity care shall, prior to releasing each maternity patient, make available to such patient and, if present, to the father of the infant; *and* other relevant family members; or caretakers, information about the incidence of postpartum blues ~~and~~, perinatal depression, *and perinatal anxiety*; information to increase awareness of shaken baby syndrome and the dangers of shaking infants; *and* information about safe sleep environments for infants that is consistent with current information available from the American Academy of Pediatrics. This information shall be discussed with the maternity patient and the father of the infant; *and* other relevant family members; or caretakers who are present at discharge.

**CHAPTER 434**

An Act to amend and reenact §§ 16.1-251, 16.1-252, 16.1-277.01, 16.1-277.02, 16.1-278.2, 16.1-278.3, and 16.1-283 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 11 of Title 16.1 a section numbered 16.1-229.1, relating to removal of child; names and contact information of persons with a legitimate interest.

[H 2622]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-251, 16.1-252, 16.1-277.01, 16.1-277.02, 16.1-278.2, 16.1-278.3, and 16.1-283 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 11 of Title 16.1 a section numbered 16.1-229.1 as follows:**

**§ 16.1-229.1. Removal of a child; names and contact information of persons with a legitimate interest.**

*In any proceeding held pursuant to this chapter in which a child is removed from his home, the court may order the parents or guardians of such child to provide the names and contact information for all persons with a legitimate interest to the local department of social services.*

**§ 16.1-251. Emergency removal order.**

A. A child may be taken into immediate custody and placed in shelter care pursuant to an emergency removal order in cases in which the child is alleged to have been abused or neglected. Such order may be issued ex parte by the court upon a petition supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that:

1. The child would be subjected to an imminent threat to life or health to the extent that severe or irremediable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition.

2. Reasonable efforts have been made to prevent removal of the child from his home and there are no alternatives less drastic than removal of the child from his home which could reasonably protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-253.

If the petitioner fails to obtain an emergency removal order within four hours of taking custody of the child, the affidavit or sworn testimony before the judge or intake officer shall state the reasons therefor.

When a child is removed from his home and there is no reasonable opportunity to provide preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

The petitioner shall not be required by the court to make reasonable efforts to prevent removal of the child from his home if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."

B. Whenever a child is taken into immediate custody pursuant to an emergency removal order, a hearing shall be held in accordance with § 16.1-252 as soon as practicable, but in no event later than five business days after the removal of the child.

C. In the emergency removal order the court shall give consideration to temporary placement of the child with a ~~relative or other interested individual, including grandparents,~~ *person with a legitimate interest* under the supervision of the local department of social services, until such time as the hearing in accordance with § 16.1-252 is held.

D. The local department of social services having "legal custody" of a child as defined in § 16.1-228 (i) shall not be required to comply with the requirements of this section in order to redetermine where and with whom the child shall live, notwithstanding that the child had been placed with a natural parent.

#### **§ 16.1-252. Preliminary removal order; hearing.**

A. A preliminary removal order in cases in which a child is alleged to have been abused or neglected may be issued by the court after a hearing wherein the court finds that reasonable efforts have been made to prevent removal of the child from his home. The hearing shall be in the nature of a preliminary hearing rather than a final determination of custody.

B. Prior to the removal hearing, notice of the hearing shall be given at least 24 hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian or other person standing in loco parentis of the child and to the child if he or she is 12 years of age or older. If notice to the parents, guardian, legal custodian or other person standing in loco parentis cannot be given despite diligent efforts to do so, the hearing shall be held nonetheless, and the parents, guardian, legal custodian or other person standing in loco parentis shall be afforded a later hearing on their motion regarding a continuation of the summary removal order. The notice provided herein shall include (i) the time, date and place for the hearing; (ii) a specific statement of the factual circumstances which allegedly necessitate removal of the child; and (iii) notice that child support will be considered if a determination is made that the child must be removed from the home.

C. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

D. At the removal hearing the child and his parent, guardian, legal custodian or other person standing in loco parentis shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf. If the child was 14 years of age or under on the date of the alleged offense and is 16 or under at the time of the hearing, the child's attorney or guardian ad litem, or if the child has been committed to the custody of the Department of Social Services, the local department of social services, may apply for an order from the court that the child's testimony be taken in a room outside the courtroom and be televised by two-way closed-circuit television. The provisions of § 63.2-1521 shall apply, mutatis mutandis, to the use of two-way closed-circuit television except that the person seeking the order shall

apply for the order at least 48 hours before the hearing, unless the court for good cause shown allows the application to be made at a later time.

E. In order for a preliminary order to issue or for an existing order to be continued, the petitioning party or agency must prove:

1. The child would be subjected to an imminent threat to life or health to the extent that severe or irremediable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition; and

2. Reasonable efforts have been made to prevent removal of the child from his home and there are no alternatives less drastic than removal of the child from his home which could reasonably and adequately protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-253.

When a child is removed from his home and there is no reasonable opportunity to provide preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

The petitioner shall not be required by the court to make reasonable efforts to prevent removal of the child from his home if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."

F. If the court determines that pursuant to subsection E hereof the removal of the child is proper, the court shall:

1. Order that the child be placed in the temporary care and custody of a suitable person, subject to the provisions of subsection F1 of this section and under the supervision of the local department of social services, with consideration being given to placement in the temporary care and custody of a ~~relative or other interested individual, including grandparents,~~ *person with a legitimate interest* until such time as the court enters an order of disposition pursuant to § 16.1-278.2, or, if such placement is not available, in the care and custody of a suitable agency;

2. Order that reasonable visitation be allowed between the child and his parents, guardian, legal custodian or other person standing in loco parentis, and between the child and his siblings, if such visitation would not endanger the child's life or health; and

3. Order that the parent or other legally obligated person pay child support pursuant to § 16.1-290.

In addition, the court may enter a preliminary protective order pursuant to § 16.1-253 imposing requirements and conditions as specified in that section which the court deems appropriate for protection of the welfare of the child.

F1. Prior to the entry of an order pursuant to subsection F of this section transferring temporary custody of the child to a ~~relative or other interested individual, including grandparents~~ *person with a legitimate interest*, the court shall consider whether the ~~relative or other interested individual~~ *such person* is one who (i) is willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; and (iii) is willing and has the ability to protect the child from abuse and neglect. The court's order transferring temporary custody to a ~~relative or other interested individual~~ *person with a legitimate interest* should provide for compliance with any preliminary protective order entered on behalf of the child in accordance with the provisions of § 16.1-253; initiation and completion of the investigation as directed by the court and court review of the child's placement required in accordance with the provisions of § 16.1-278.2; and, as appropriate, ongoing provision of social services to the child and the temporary custodian.

G. At the conclusion of the preliminary removal order hearing, the court shall determine whether the allegations of abuse or neglect have been proven by a preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order. However, if, before such a finding is made, a person responsible for the care and custody of the child, the child's

guardian ad litem or the local department of social services objects to a finding being made at the hearing, the court shall schedule an adjudicatory hearing to be held within 30 days of the date of the initial preliminary removal hearing. The adjudicatory hearing shall be held to determine whether the allegations of abuse and neglect have been proven by a preponderance of the evidence. Parties who are present at the preliminary removal order hearing shall be given notice of the date set for the adjudicatory hearing and parties who are not present shall be summoned as provided in § 16.1-263. The hearing shall be held and an order may be entered, although a party to the preliminary removal order hearing fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort.

The preliminary removal order and any preliminary protective order issued shall remain in full force and effect pending the adjudicatory hearing.

H. If the preliminary removal order includes a finding of abuse or neglect and the child is removed from his home or a preliminary protective order is issued, a dispositional hearing shall be held pursuant to § 16.1-278.2. The dispositional hearing shall be scheduled at the time of the preliminary removal order hearing and shall be held within 60 days of the preliminary removal order hearing. If an adjudicatory hearing is requested pursuant to subsection G, the dispositional hearing shall nonetheless be scheduled at the initial preliminary removal order hearing. All parties present at the preliminary removal order hearing shall be given notice of the date scheduled for the dispositional hearing; parties who are not present shall be summoned to appear as provided in § 16.1-263.

I. The local department of social services having "legal custody" of a child as defined in § 16.1-228 (i) shall not be required to comply with the requirements of this section in order to redetermine where and with whom the child shall live, notwithstanding that the child had been placed with a natural parent.

J. Violation of any order issued pursuant to this section shall constitute contempt of court.

**§ 16.1-277.01. Approval of entrustment agreement.**

A. In any case in which a child has been entrusted pursuant to § 63.2-903 or 63.2-1817 to the local board of social services or to a child welfare agency, a petition for approval of the entrustment agreement by the board or agency:

1. Shall be filed within a reasonable period of time, no later than 89 days after the execution of an entrustment agreement for less than 90 days, if the child is not returned to the caretaker from whom he was entrusted within that period;

2. Shall be filed within a reasonable period of time, not to exceed 30 days after the execution of an entrustment agreement for 90 days or longer or for an unspecified period of time, if such entrustment agreement does not provide for the termination of all parental rights and responsibilities with respect to the child; and

3. May be filed in the case of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child.

The board or agency shall file a foster care plan pursuant to § 16.1-281 to be heard with any petition for approval of an entrustment agreement.

B. Upon the filing of a petition for approval of an entrustment agreement pursuant to subsection A of § 16.1-241, the court shall appoint a guardian ad litem to represent the child in accordance with the provisions of § 16.1-266, and shall schedule the matter for a hearing to be held as follows: within 45 days of the filing of a petition pursuant to subdivision A 1, A 2 or A 3, except where an order of publication has been ordered by the court, in which case the hearing shall be held within 75 days of the filing of the petition. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The local board of social services or child welfare agency;

2. The child, if he is 12 years of age or older;

3. The guardian ad litem for the child; and

4. The child's parents, guardian, legal custodian or other person standing in loco parentis to the child. No such notification shall be required, however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. A birth father shall be given notice of the proceedings if he is an acknowledged father pursuant to § 20-49.1, adjudicated pursuant to § 20-49.8, or presumed pursuant to § 63.2-1202, or has registered with the Virginia Birth Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.). An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. Failure to register with the Virginia Birth Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 of Title 63.2 shall be evidence that the identity of the father is not reasonably ascertainable. The hearing shall be held and an order may be entered, although a parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. However, when a petition seeks approval of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child, a summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264. The remaining parent's parental rights may be terminated even though that parent has not entered into an entrustment agreement if the court finds, based upon clear and convincing evidence, that it is in the best interest of the child and that (i) the identity of the parent is not reasonably

ascertainable; (ii) the identity and whereabouts of the parent are known or reasonably ascertainable, and the parent is personally served with notice of the termination proceeding pursuant to § 8.01-296 or 8.01-320; (iii) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of the termination proceedings by certified or registered mail to the last known address and such parent fails to object to the proceedings within 15 days of the mailing of such notice; or (iv) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of the termination proceedings through an order of publication pursuant to §§ 8.01-316 and 8.01-317, and such parent fails to object to the proceedings.

C. At the hearing held pursuant to this section, the court shall hear evidence on the petition filed and shall review the foster care plan for the child filed by the local board or child welfare agency in accordance with § 16.1-281.

D. At the conclusion of the hearing, the court shall make a finding, based upon a preponderance of the evidence, whether approval of the entrustment agreement is in the best interest of the child. However, if the petition seeks approval of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child, the court shall make a finding, based upon clear and convincing evidence, whether termination of parental rights is in the best interest of the child. If the court makes either of these findings, the court may make any of the orders of disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2. Any such order transferring legal custody of the child shall be made in accordance with the provisions of subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection D1. This order shall include, but need not be limited to, the following findings: (i) that there is no less drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, if the order transfers legal custody of the child to a local board of social services. At any time subsequent to the transfer of legal custody of the child pursuant to this section, a birth parent or parents of the child and the pre-adoptive parent or parents may enter into a written post-adoption contact and communication agreement in accordance with the provisions of § 16.1-283.1 and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

The effect of the court's order approving a permanent entrustment agreement is to terminate an entrusting parent's residual parental rights. Any order terminating parental rights shall be accompanied by an order (i) continuing or granting custody to a local board of social services or to a licensed child-placing agency or (ii) granting custody or guardianship to a ~~relative or other interested individual~~ *person with a legitimate interest*. Such an order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. A final order terminating parental rights pursuant to this section renders the approved entrustment agreement irrevocable. Such order may be appealed in accordance with the provisions of § 16.1-296.

D1. Any order transferring custody of the child to a ~~relative or other interested individual~~ *person with a legitimate interest* pursuant to subsection D shall be entered only upon a finding, based upon a preponderance of the evidence, that ~~the relative or other interested individual~~ *such person* is one who (i) after an investigation as directed by the court, is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a ~~relative or other interested individual~~ *person with a legitimate interest* should further provide for, as appropriate, any terms and conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

E. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered pursuant to this section shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

#### **§ 16.1-277.02. Petition for relief of care and custody.**

A. Requests for petitions for relief of the care and custody of a child shall be referred initially to the local department of social services for investigation and the provision of services, if appropriate, in accordance with the provisions of § 63.2-319 or Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Upon the filing of a petition for relief of a child's care and custody pursuant to subdivision A 4 of § 16.1-241, the court shall appoint a guardian ad litem to represent the child in accordance with the provisions of § 16.1-266, and shall schedule the matter for a hearing on the petition. Such hearing on the petition may include partial or final disposition of the matter. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The child, if he is 12 years of age or older;
2. The guardian ad litem for the child;

3. The child's parents, custodian or other person standing in loco parentis to the child. No such notification shall be required, however, if the judge certifies on the record that the identity of the parent is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. The hearing on the petition shall be held pursuant to this section although a parent fails to appear and is not represented by counsel, provided personal or substituted service was made on the parent, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. However, in the case of a hearing to grant a petition for permanent relief of custody and terminate a parent's residual parental rights, notice to the parent whose rights may be affected shall be provided in accordance with the provisions of §§ 16.1-263 and 16.1-264; and

4. The local board of social services. Upon receiving notice of the hearing pursuant to this section, the local board of social services shall investigate the matter and provide services, as appropriate, in accordance with the provisions of § 63.2-319 or Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.

B. At the hearing, the local board of social services, the child, the child's parents, guardian, legal custodian or other person standing in loco parentis and any other family or household member of the child to whom notice was given shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.

C. At the conclusion of the hearing on the petition, the court shall make a finding, based upon a preponderance of the evidence, whether there is good cause shown for the petitioner's desire to be relieved of the child's care and custody, unless the petition seeks permanent relief of custody and termination of parental rights. If the petition seeks permanent relief of custody and termination of parental rights, the court shall make a finding, based upon clear and convincing evidence, whether termination of parental rights is in the best interest of the child. If the court makes either of these findings, the court may enter:

1. A preliminary protective order pursuant to § 16.1-253;
2. An order that requires the local board of social services to provide services to the family as required by law;
3. An order that is consistent with any of the dispositional alternatives pursuant to § 16.1-278.3; or
4. Any combination of these orders.

Any such order transferring legal custody of the child shall be made in accordance with the provisions of subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection C1. This order shall include, but need not be limited to, the following findings: (i) that there is no less drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, if the order transfers legal custody of the child to a local board of social services. Any order terminating residual parental rights shall be accompanied by an order continuing or granting custody to a local board of social services, or to a licensed child-placing agency or the granting of custody or guardianship to a ~~relative or other interested individual~~ *person with a legitimate interest*. Such an order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. At any time subsequent to the transfer of legal custody of the child pursuant to this section, a birth parent or parents of the child and the pre-adoptive parent or parents may enter into a written post-adoption contact and communication agreement in accordance with the provisions of § 16.1-283.1 and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

The court shall schedule a subsequent hearing within 60 days of the hearing held pursuant to this section: (a) to enter a final order of disposition pursuant to § 16.1-278.3 or (b) if the child is placed in foster care, for review of the foster care plan filed pursuant to § 16.1-281. If a party is required to be present at the subsequent hearing, and (1) is present at the hearing on the petition, the party shall be given notice of the date set for the subsequent hearing; (2) if not present, shall be summoned as provided in § 16.1-263.

C1. Any order transferring temporary custody of the child to a ~~relative or other interested individual~~ *person with a legitimate interest* pursuant to subsection C shall be entered only upon a finding, based upon a preponderance of the evidence, that ~~the relative or other interested individual~~ *such person* is one who (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; and (iii) is willing and has the ability to protect the child from abuse and neglect. The court's order transferring temporary custody to a ~~relative or other interested individual~~ *person with a legitimate interest* should further provide for compliance with any preliminary protective order entered on behalf of the child in accordance with the provisions of § 16.1-253; and, as appropriate, ongoing provision of social services to the child and the child's custodian; and court review of the child's placement with ~~the relative or other interested individual~~ *such person with a legitimate interest*. Any final order transferring custody of the child to a ~~relative or other interested individual~~ *person with a legitimate interest* pursuant to this section shall, in addition, be entered only after an investigation as directed by the court and upon a finding, stated in the court's order, that ~~the relative or other interested individual~~ *such person* is one who satisfies clauses (i), (ii), and (iii) and is committed to providing a permanent, suitable home for the child.

D. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered pursuant to this section shall file a written Adoption

Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

**§ 16.1-278.2. Abused, neglected, or abandoned children or children without parental care.**

A. Within 60 days of a preliminary removal order hearing held pursuant to § 16.1-252 or a hearing on a preliminary protective order held pursuant to § 16.1-253, a dispositional hearing shall be held if the court found abuse or neglect and (i) removed the child from his home or (ii) entered a preliminary protective order. Notice of the dispositional hearing shall be provided to the child's parent, guardian, legal custodian, or other person standing in loco parentis in accordance with § 16.1-263. The hearing shall be held and a dispositional order may be entered, although a parent, guardian, legal custodian, or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. Notice shall also be provided to the local department of social services, the guardian ad litem and, if appointed, the court-appointed special advocate.

If a child is found to be (a) abused or neglected; (b) at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in his care; or (c) abandoned by his parent or other custodian, or without parental care and guardianship because of his parent's absence or physical or mental incapacity, the juvenile court or the circuit court may make any of the following orders of disposition to protect the welfare of the child:

1. Enter an order pursuant to the provisions of § 16.1-278;
2. Permit the child to remain with his parent, subject to such conditions and limitations as the court may order with respect to such child and his parent or other adult occupant of the same dwelling;
3. Prohibit or limit contact as the court deems appropriate between the child and his parent or other adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal development. The prohibition may exclude any such individual from the home under such conditions as the court may prescribe for a period to be determined by the court but in no event for longer than 180 days from the date of such determination. A hearing shall be held within 150 days to determine further disposition of the matter that may include limiting or prohibiting contact for another 180 days;
4. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child-caring institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency that places the child shall have the final authority to determine the appropriate placement for the child.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child; and the order shall so state.

5. After a finding that there is no less drastic alternative, transfer legal custody, subject to the provisions of § 16.1-281, to any of the following:

- a. A ~~relative or other interested individual~~ *person with a legitimate interest* subject to the provisions of subsection A1 ~~of this section~~;
- b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such child; however, a court shall not transfer legal custody of an abused or neglected child to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services; or
- c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this section shall prohibit the commitment of a child to any local board of social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of social services as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child; and the order shall so state.

A finding by the court that reasonable efforts were made to prevent removal of the child from his home shall not be required if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."

6. Transfer legal custody pursuant to subdivision 5 of this section and order the parent to participate in such services and programs or to refrain from such conduct as the court may prescribe; or

7. Terminate the rights of the parent pursuant to § 16.1-283.

A1. Any order transferring custody of the child to a ~~relative or other interested individual~~ *person with a legitimate interest* pursuant to subdivision A 5 shall be entered only upon a finding, based upon a preponderance of the evidence, that ~~the relative or other interested individual~~ *such person* is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a ~~relative or other interested individual~~ *person with a legitimate interest* should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

B. If the child has been placed in foster care, at the dispositional hearing the court shall review the foster care plan for the child filed in accordance with § 16.1-281 by the local department of social services, a public agency designated by the community policy and management team which places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardians, or child welfare agency.

C. Any preliminary protective orders entered on behalf of the child shall be reviewed at the dispositional hearing and may be incorporated, as appropriate, in the dispositional order.

D. A dispositional order entered pursuant to this section is a final order from which an appeal may be taken in accordance with § 16.1-296.

### **§ 16.1-278.3. Relief of care and custody.**

A. Within 60 days of a hearing on a petition for relief of the care and custody of any child pursuant to § 16.1-277.02 at which the court found (i) good cause for the petitioner's desire to be relieved of a child's care and custody or (ii) that permanent relief of custody and termination of residual parental rights is in the best interest of the child, a dispositional hearing shall be held, if a final order disposing of the matter was not entered at the conclusion of the hearing on the petition held pursuant to § 16.1-277.02.

B. Notice of the dispositional hearing shall be provided to the local department of social services, the guardian ad litem for the child, the child if he is at least 12 years of age, and the child's parents, custodian or other person standing in loco parentis. However, if a parent's residual parental rights were terminated at the hearing on the petition held pursuant to § 16.1-277.02, no such notice of the hearing pursuant to this section shall be provided to the parent. The hearing shall be held and a dispositional order may be entered, although a parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that the person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. However, in the case of a hearing to grant a petition for permanent relief of custody and terminate a parent's residual parental rights, notice to the parent whose rights may be affected shall be provided in accordance with the provisions of §§ 16.1-263 and 16.1-264.

C. The court may make any of the orders of disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2. Any such order transferring legal custody of the child shall be made in accordance with the provisions of subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection D1. This order shall include, but need not be limited to, the following findings: (i) that there is no less drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, if the order transfers legal custody of the child to a local board of social services. Any preliminary protective orders entered on behalf of the child shall be reviewed at the dispositional hearing and may be incorporated, as appropriate, in the dispositional order. If the child has been placed in foster care, at the dispositional hearing the court shall review the foster care plan for the child filed by the local board of social services or child welfare agency in accordance with § 16.1-281.

D. If the parent or other custodian seeks to be relieved permanently of the care and custody of any child and the court finds by clear and convincing evidence that termination of the parent's parental rights is in the best interest of the child, the court may terminate the parental rights of that parent. If the remaining parent has not petitioned for permanent relief of the care and custody of the child, the remaining parent's parental rights may be terminated in accordance with the provisions of § 16.1-283. Any order terminating parental rights shall be accompanied by an order (i) continuing or granting custody to a local board of social services or to a licensed child-placing agency; or (ii) granting custody or guardianship to a ~~relative or other interested individual~~ *person with a legitimate interest*. Such an order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. Proceedings under this section shall be advanced on the docket so as to provide for their earliest practicable disposition. At any time subsequent to the transfer of legal custody of the child pursuant to this section, a birth parent or parents of the child and the pre-adoptive parent or parents may enter into a written post-adoption contact and communication agreement in accordance with the provisions of § 16.1-283.1 and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

D1. Any order transferring custody of the child to a ~~relative or other interested individual~~ *person with a legitimate interest* pursuant to subsection C or D shall be entered only upon a finding, based upon a preponderance of the evidence, that the ~~relative or other interested individual~~ *such person* is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a ~~relative or other interested individual~~ *person with a legitimate interest* should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

E. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered pursuant to this section shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

F. A dispositional order entered pursuant to this section is a final order from which an appeal may be taken in accordance with § 16.1-296.

#### **§ 16.1-283. Termination of residual parental rights.**

A. The residual parental rights of a parent or parents may be terminated by the court as hereinafter provided in a separate proceeding if the petition specifically requests such relief. No petition seeking termination of residual parental rights shall be accepted by the court prior to the filing of a foster care plan, pursuant to § 16.1-281, which documents termination of residual parental rights as being in the best interests of the child. The court may hear and adjudicate a petition for termination of parental rights in the same proceeding in which the court has approved a foster care plan which documents that termination is in the best interests of the child. The court may terminate the residual parental rights of one parent without affecting the rights of the other parent. The local board of social services or a licensed child-placing agency need not have identified an available and eligible family to adopt a child for whom termination of parental rights is being sought prior to the entry of an order terminating parental rights.

Any order terminating residual parental rights shall be accompanied by an order continuing or granting custody to a local board of social services; or to a licensed child-placing agency or ~~the granting of custody or guardianship to a relative or other interested individual~~ *person with a legitimate interest*, subject to the provisions of subsection A1. However, in such cases the court shall give a consideration to granting custody to ~~relatives of the child, including grandparents~~ *a person with a legitimate interest*. An order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto.

The summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. Written notice of the hearing shall also be provided to the foster parents of the child, a relative providing care for the child, and any preadoptive parents for the child informing them that they may appear as witnesses at the hearing to give testimony and otherwise participate in the proceeding. The persons entitled to notice and an opportunity to be heard need not be made parties to the proceedings. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264.

A1. Any order transferring custody of the child to a ~~relative or other interested individual~~ *person with a legitimate interest* pursuant to subsection A shall be entered only upon a finding, based upon a preponderance of the evidence, that ~~the relative or other interested individual~~ *such person* is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a ~~relative or other interested individual~~ *person with a legitimate interest* should further provide, as appropriate, for any terms and conditions which would promote the child's interest and welfare.

B. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused and placed in foster care as a result of (i) court commitment; (ii) an entrustment agreement entered into by the parent or parents; or (iii) other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The neglect or abuse suffered by such child presented a serious and substantial threat to his life, health or development; and

2. It is not reasonably likely that the conditions which resulted in such neglect or abuse can be substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within a reasonable period of time. In making this determination, the court shall take into consideration the efforts made to rehabilitate the parent or parents by any public or private social, medical, mental health or other rehabilitative agencies prior to the child's initial placement in foster care.

Proof of any of the following shall constitute prima facie evidence of the conditions set forth in subdivision B 2:

a. The parent or parents have a mental or emotional illness or intellectual disability of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his age and stage of development;

b. The parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning; or

c. The parent or parents, without good cause, have not responded to or followed through with appropriate, available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

C. The residual parental rights of a parent or parents of a child placed in foster care as a result of court commitment, an entrustment agreement entered into by the parent or parents or other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The parent or parents have, without good cause, failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the child's placement in foster care notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child relationship. Proof that the parent or parents have failed without good cause to communicate on a continuing and planned basis with the child for a period of six months shall constitute prima facie evidence of this condition; or

2. The parent or parents, without good cause, have been unwilling or unable within a reasonable period of time not to exceed 12 months from the date the child was placed in foster care to remedy substantially the conditions which led to or required continuation of the child's foster care placement, notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end. Proof that the parent or parents, without good cause, have failed or been unable to make substantial progress towards elimination of the conditions which led to or required continuation of the child's foster care placement in accordance with their obligations under and within the time limits or goals set forth in a foster care plan filed with the court or any other plan jointly designed and agreed to by the parent or parents and a public or private social, medical, mental health or other rehabilitative agency shall constitute prima facie evidence of this condition. The court shall take into consideration the prior efforts of such agencies to rehabilitate the parent or parents prior to the placement of the child in foster care.

D. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused upon the ground of abandonment may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The child was abandoned under such circumstances that either the identity or the whereabouts of the parent or parents cannot be determined; and

2. The child's parent or parents, guardian or relatives have not come forward to identify such child and claim a relationship to the child within three months following the issuance of an order by the court placing the child in foster care; and

3. Diligent efforts have been made to locate the child's parent or parents without avail.

E. The residual parental rights of a parent or parents of a child who is in the custody of a local board or licensed child-placing agency may be terminated by the court if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) the parent has subjected any child to aggravated circumstances.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or a child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse which place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent who has been convicted of one of the felonies specified in this subsection or who has been found by the court to have subjected any child to aggravated circumstances.

F. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first written Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

G. Notwithstanding any other provisions of this section, residual parental rights shall not be terminated if it is established that the child, if he is 14 years of age or older or otherwise of an age of discretion as determined by the court, objects to such termination. However, residual parental rights of a child 14 years of age or older may be terminated over the objection of the child, if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion.

## CHAPTER 435

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 5 of Title 32.1 a section numbered 32.1-137.06, relating to Lyme disease test result information.*

[H 2731]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 5 of Title 32.1 a section numbered 32.1-137.06 as follows:**

**§ 32.1-137.06. Lyme disease test result information.**

*A. Every laboratory reporting the results of a test for Lyme disease ordered in an office-based setting by a health care provider shall include a notice to be provided together with such test results when such test results are reported to the health care provider that states: PATIENTS UNDERGOING A LYME DISEASE TEST SHOULD BE AWARE THAT LYME DISEASE TESTS VARY AND MAY PRODUCE RESULTS THAT ARE INACCURATE. THIS MEANS A PATIENT MAY NOT BE ABLE TO RELY ON A POSITIVE OR NEGATIVE RESULT. HEALTH CARE PROVIDERS ARE ENCOURAGED TO DISCUSS LYME DISEASE TEST RESULTS WITH THE PATIENT FOR WHOM THE TEST WAS ORDERED.*

*B. A laboratory that complies with this section shall be immune from civil liability absent gross negligence or willful misconduct.*

## CHAPTER 436

*An Act to amend and reenact §§ 63.2-1505 and 63.2-1506 of the Code of Virginia, relating to child protective services; investigations and family assessments; contact information.*

[H 2743]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 63.2-1505 and 63.2-1506 of the Code of Virginia are amended and reenacted as follows:****§ 63.2-1505. Investigations by local departments.**

A. An investigation requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
  2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
  3. Risk of future harm to the child;
  4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;
  5. Whether abuse or neglect has occurred;
  6. If abuse or neglect has occurred, who abused or neglected the child; and
  7. A finding of either founded or unfounded based on the facts collected during the investigation.
- B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;
2. Complete a report and enter it into the statewide automation system maintained by the Department;
3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;
4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;

5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. However, upon written justification by the local department, the time for such determination may be extended not to exceed a total of 60 days or, in the event that the investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so warrant, as stated in the written justification, the time for such determination may be extended not to exceed 90 days. If through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the total time period allowed for the investigation and determination and documentation of such reasonable diligence shall be placed in the record. In cases involving the death of a child or alleged sexual abuse of a child who is the subject of the report, the time during which records necessary for the investigation of the complaint but not created by the local department, including autopsy or medical or forensic records or reports, are not available to the local department due to circumstances beyond the local department's control shall not be computed as part of the total time period allowed for the investigation and determination, and documentation of the circumstances that resulted in the delay shall be placed in the record. In cases in which the subject of the investigation is a full-time, part-time, permanent, or temporary employee of a school division who is suspected of abusing or neglecting a child in the course of his educational employment, the time period for determining whether a report is founded or unfounded and transmitting a report to that effect to the Department and the person who is the subject of the investigation shall be mandatory, and every local department shall make the required determination and report within the specified time period without delay;

6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect; and

7. If a report of child abuse and neglect is founded, and the subject of the report is or was at the time of the investigation or the conduct that led to the report a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint without delay.

Any information exchanged for the purposes of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

C. Each local board may obtain and consider, in accordance with regulations adopted by the Board, statewide criminal history record information from the Central Criminal Records Exchange and results of a search of the child abuse and neglect central registry of any individual who is the subject of a child abuse or neglect investigation conducted under this section when there is evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether removal will protect a child from harm. The local board also may obtain such a criminal records or registry search on all adult household members residing in the home where the individual who is the subject of the investigation resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with such removal, a court may admit such

information as evidence. Where the individual who is the subject of such information contests its accuracy through testimony under oath in hearing before the court, no court shall receive or consider the contested criminal history record information without certified copies of conviction. Further dissemination of the information provided to the local board is prohibited, except as authorized by law.

D. A person who has not previously participated in the investigation of complaints of child abuse or neglect in accordance with this chapter shall not participate in the investigation of any case involving a complaint of alleged sexual abuse of a child unless he (i) has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child or (ii) is under the direct supervision of a person who has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child. No individual may make a determination of whether a case involving a complaint of alleged sexual abuse of a child is founded or unfounded unless he has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child.

*E. Any individual who is the subject of a child abuse or neglect investigation conducted under this section shall notify the local department prior to changing his place of residence and provide the local department with the address of his new residence.*

**§ 63.2-1506. Family assessments by local departments.**

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and
5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;
2. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;
3. Complete the family assessment within 45 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment. However, upon written justification by the local department, the family assessment may be extended, not to exceed a total of 60 days;
4. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;
5. Petition the court for services deemed necessary;
6. Make no disposition of founded or unfounded for reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515; and
7. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required.

C. When a local department has been designated as a child-protective services differential response agency by the Department, the local department may investigate any report of child abuse or neglect, but the following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii) abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left alone in the same dwelling with a person to whom the child is not related by blood or marriage and who has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902, (v) child has been taken into the custody of the local department, or (vi) cases involving a caretaker at a state-licensed child day center, religiously exempt child day center, licensed, registered or approved family day home, private or public school, hospital or any institution. If a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local department shall (a) conduct a family assessment, unless an investigation is required pursuant to this subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law, regardless of whether the local department makes a finding of abuse or neglect.

*D. Any individual who is the subject of a family assessment conducted under this section shall notify the local department prior to changing his place of residence and provide the local department with the address of his new residence.*

**2. That the State Department of Social Services (the Department) shall document and report to the General Assembly and the Governor by November 1, 2020, the number of individuals who notified a local department of**

social services of an address change and provided updated contact information pursuant to § 63.2-1505 or 63.2-1506 of the Code of Virginia, as amended by this act, between July 1, 2019, and July 1, 2020. Local departments of social services shall provide all information necessary to generate such report to the Department.

### CHAPTER 437

*An Act to amend and reenact § 63.2-900.1 of the Code of Virginia, relating to kinship foster care; notice.*

[H 2758]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-900.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-900.1. Kinship foster care.**

A. The local board shall, in accordance with regulations adopted by the Board, determine whether the child has ~~a relative~~ *any relatives* who ~~is~~ *may be* eligible to become a kinship foster parent. *The local board shall take all reasonable steps to provide notice to such relatives of their potential eligibility to become a kinship foster parent and explain any opportunities such relatives may have to participate in the placement and care of the child, including opportunities available through kinship foster care or kinship guardianship.*

B. Kinship foster care placements pursuant to this section shall be subject to all requirements of, and shall be eligible for all services related to, foster care placement contained in this chapter. Subject to approval by the Commissioner, a local board may grant a waiver of the Board's standards for foster home approval, set forth in regulations, that are not related to safety. Waivers granted pursuant to this subsection shall be considered and, if appropriate, granted on a case-by-case basis and shall include consideration of the unique needs of each child to be placed. Upon request by a local board, the Commissioner shall review the local board's decision and reasoning to grant a waiver and shall verify that the foster home approval standard being waived is not related to safety. The approval or disapproval by the Commissioner of the local board's waiver shall not be considered a case decision as defined in § 2.2-4001.

C. The kinship foster parent shall be eligible to receive payment at the full foster care rate for the care of the child.

D. A child placed in kinship foster care pursuant to this section shall not be removed from the physical custody of the kinship foster parent, provided *that* the child has been living with the kinship foster parent for six consecutive months and the placement continues to meet approval standards for foster care, unless (i) the kinship foster parent consents to the removal; (ii) removal is agreed upon at a family partnership meeting as defined by the Department; (iii) removal is ordered by a court of competent jurisdiction; or (iv) removal is warranted pursuant to § 63.2-1517.

### CHAPTER 438

*An Act to amend and reenact § 63.2-900.1 of the Code of Virginia, relating to kinship foster care; notice.*

[S 1720]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-900.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-900.1. Kinship foster care.**

A. The local board shall, in accordance with regulations adopted by the Board, determine whether the child has ~~a relative~~ *any relatives* who ~~is~~ *may be* eligible to become a kinship foster parent. *The local board shall take all reasonable steps to provide notice to such relatives of their potential eligibility to become a kinship foster parent and explain any opportunities such relatives may have to participate in the placement and care of the child, including opportunities available through kinship foster care or kinship guardianship.*

B. Kinship foster care placements pursuant to this section shall be subject to all requirements of, and shall be eligible for all services related to, foster care placement contained in this chapter. Subject to approval by the Commissioner, a local board may grant a waiver of the Board's standards for foster home approval, set forth in regulations, that are not related to safety. Waivers granted pursuant to this subsection shall be considered and, if appropriate, granted on a case-by-case basis and shall include consideration of the unique needs of each child to be placed. Upon request by a local board, the Commissioner shall review the local board's decision and reasoning to grant a waiver and shall verify that the foster home approval standard being waived is not related to safety. The approval or disapproval by the Commissioner of the local board's waiver shall not be considered a case decision as defined in § 2.2-4001.

C. The kinship foster parent shall be eligible to receive payment at the full foster care rate for the care of the child.

D. A child placed in kinship foster care pursuant to this section shall not be removed from the physical custody of the kinship foster parent, provided *that* the child has been living with the kinship foster parent for six consecutive months and the placement continues to meet approval standards for foster care, unless (i) the kinship foster parent consents to the removal; (ii) removal is agreed upon at a family partnership meeting as defined by the Department; (iii) removal is ordered by a court of competent jurisdiction; or (iv) removal is warranted pursuant to § 63.2-1517.

## CHAPTER 439

*An Act to amend and reenact § 38.2-3447 of the Code of Virginia, relating to restrictions relating to accident and sickness insurance premium rates; variances in area rate factors.*

[H 2770]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 38.2-3447 of the Code of Virginia is amended and reenacted as follows:****§ 38.2-3447. Restrictions relating to premium rates.**

A. Notwithstanding any provision of § 38.2-3432.2, 38.2-3501, 38.2-4306, or any other section of this title to the contrary, a health carrier offering a health benefit plan providing individual or small group health insurance coverage shall develop its premium rates based on the following:

1. Whether the health benefit plan covers an individual or family;
2. Rating areas, as may be established by the Commission;
3. Age, except that the rate shall not vary by more than 3 to 1 for adults; and
4. Tobacco use, except that the rate shall not vary by more than 1.5 to 1.

B. A premium rate shall not vary with respect to any particular health benefit plan by any other factor not described in subsection A.

C. Rating variations for family coverage shall be applied based on the portion of the premium that is attributable to each family member covered under the health benefit plan.

*D. If the proposed area rate factors set forth in a rate filing for individual or small group health insurance coverage by a health carrier for a rating area exceed by more than 15 percent the weighted average of the proposed area rate factors among all rating areas in which the health carrier offers health benefit plans in that market, then:*

*1. The health carrier's rate filing shall include in a publicly available and unredacted form:*

*a. A comparison of the area rate factor for individual and small group health benefit plans that utilize the same provider network and provider reimbursement levels of the health benefit plans that are subject to the filing;*

*b. A detailed disclosure of the area rate factor methodology, which disclosure shall include any third-party resources or representations from a person other than the signing actuary, on which the signing actuary relied, provided that disclosure of third-party resources shall address that the source data only reflects differences in unit cost and provider practice patterns; and*

*c. To the extent that the health carrier is deriving any area rate factor from experience data, by rating area for the experience period used:*

*(1) The (i) total enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; and (vi) loss ratio for each of their rating areas in that market; and*

*(2) Aggregated incurred claims for any health system exceeding 30 percent of total incurred claims for that rating area in that market.*

*2. The Commission shall hold a public hearing on the proposed premium rates prior to the approval of the rate filing.*

*3. The Commission shall not approve the proposed rate filing if (i) a variance in area rate factors, indexed to the same rating region for both the individual and small group markets, of 15 percent or more exists between health benefit plans a carrier intends to offer in the individual market and health benefit plans intended to be offered in the small group market, when those plans utilize the same provider network and provider reimbursement levels and (ii) the methodologies used to calculate the area rate factors are different between the two markets.*

E. Beginning for plan year 2020, a health carrier with an approved rate filing that contains at least one area rate factor that exceeds by more than 25 percent the weighted average of the area rate factors among all rating areas in a market in which the health carrier offers individual or small group health insurance coverage shall file with the Commission for each calendar quarter during that plan year a report that provides, for each rating area within the market in which the health carrier operates, the plan's (i) enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; (vi) loss ratio; and (vii) aggregate incurred claims, for each health system exceeding 25 percent of total incurred claims for that rating area. The health carrier shall make each such quarterly report publicly available, without redaction, not later than 45 days after the end of the calendar quarter.

F. As used in subdivisions D and E:

*"Allowed claims" means the amount of claims of a covered person for health care services that are owed pursuant to the terms of the covered person's health benefits plan, including payment made by the covered person's health carrier, and cost-sharing obligations owed by or on behalf of the covered person.*

*"Health system" means an organization that consists of either (i) at least one hospital plus at least one group of physicians or (ii) more than one group of physicians.*

*"Incurred claims" means allowed claims less copayments, deductible amounts, and other cost-sharing obligations owed by or on behalf of a covered person.*

"Methodologies," when referring to the calculation of area rate factors, includes (i) the types of inputs, including experience period claims data, third-party database, other sources of data, and (ii) the series of calculations that are used to derive area rate factors. This definition shall not preclude a health carrier from calculating area rate factors for rates for the individual market, based on the cost and care delivery practices associated with the providers expected to be utilized by covered persons that reside in a given rating area, while calculating area rate factors for rates for the small group market, based on those providers that are expected to be utilized by individuals employed by small employers that are located in the rating area without regard to where the covered persons reside.

"Provider" means a health care provider, as defined in § 38.2-3438, that is affiliated or in-network with a health carrier.

"Weighted average," when referring to area rate factors, means the mean of the area rate factors when weighted based on the projected number of covered persons distributed by rating area.

**2. That the provisions of this act shall apply only to proposed rate filings for the 2020 plan year and subsequent plan years.**

## CHAPTER 440

An Act to amend and reenact § 38.2-3447 of the Code of Virginia, relating to restrictions relating to accident and sickness insurance premium rates; variances in area rate factors.

[S 1734]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3447 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-3447. Restrictions relating to premium rates.**

A. Notwithstanding any provision of § 38.2-3432.2, 38.2-3501, 38.2-4306, or any other section of this title to the contrary, a health carrier offering a health benefit plan providing individual or small group health insurance coverage shall develop its premium rates based on the following:

1. Whether the health benefit plan covers an individual or family;
2. Rating areas, as may be established by the Commission;
3. Age, except that the rate shall not vary by more than 3 to 1 for adults; and
4. Tobacco use, except that the rate shall not vary by more than 1.5 to 1.

B. A premium rate shall not vary with respect to any particular health benefit plan by any other factor not described in subsection A.

C. Rating variations for family coverage shall be applied based on the portion of the premium that is attributable to each family member covered under the health benefit plan.

D. If the proposed area rate factors set forth in a rate filing for individual or small group health insurance coverage by a health carrier for a rating area exceed by more than 15 percent the weighted average of the proposed area rate factors among all rating areas in which the health carrier offers health benefit plans in that market, then:

1. The health carrier's rate filing shall include in a publicly available and unredacted form:

a. A comparison of the area rate factor for individual and small group health benefit plans that utilize the same provider network and provider reimbursement levels of the health benefit plans that are subject to the filing;

b. A detailed disclosure of the area rate factor methodology, which disclosure shall include any third-party resources or representations from a person other than the signing actuary, on which the signing actuary relied, provided that disclosure of third-party resources shall address that the source data only reflects differences in unit cost and provider practice patterns; and

c. To the extent that the health carrier is deriving any area rate factor from experience data, by rating area for the experience period used:

(1) The (i) total enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; and (vi) loss ratio for each of their rating areas in that market; and

(2) Aggregated incurred claims for any health system exceeding 30 percent of total incurred claims for that rating area in that market.

2. The Commission shall hold a public hearing on the proposed premium rates prior to the approval of the rate filing.

3. The Commission shall not approve the proposed rate filing if (i) a variance in area rate factors, indexed to the same rating region for both the individual and small group markets, of 15 percent or more exists between health benefit plans a carrier intends to offer in the individual market and health benefit plans intended to be offered in the small group market, when those plans utilize the same provider network and provider reimbursement levels and (ii) the methodologies used to calculate the area rate factors are different between the two markets.

E. Beginning for plan year 2020, a health carrier with an approved rate filing that contains at least one area rate factor that exceeds by more than 25 percent the weighted average of the area rate factors among all rating areas in a market in which the health carrier offers individual or small group health insurance coverage shall file with the

Commission for each calendar quarter during that plan year a report that provides, for each rating area within the market in which the health carrier operates, the plan's (i) enrollment; (ii) total premiums; (iii) allowed claims; (iv) incurred claims excluding anticipated or, if available, actual risk adjustment payments or receipts; (v) incurred claims including anticipated or, if available, actual risk adjustment payments or receipts; (vi) loss ratio; and (vii) aggregate incurred claims, for each health system exceeding 25 percent of total incurred claims for that rating area. The health carrier shall make each such quarterly report publicly available, without redaction, not later than 45 days after the end of the calendar quarter.

F. As used in subdivisions D and E:

"Allowed claims" means the amount of claims of a covered person for health care services that are owed pursuant to the terms of the covered person's health benefits plan, including payment made by the covered person's health carrier, and cost-sharing obligations owed by or on behalf of the covered person.

"Health system" means an organization that consists of either (i) at least one hospital plus at least one group of physicians or (ii) more than one group of physicians.

"Incurred claims" means allowed claims less copayments, deductible amounts, and other cost-sharing obligations owed by or on behalf of a covered person.

"Methodologies," when referring to the calculation of area rate factors, includes (i) the types of inputs, including experience period claims data, third-party database, other sources of data, and (ii) the series of calculations that are used to derive area rate factors. This definition shall not preclude a health carrier from calculating area rate factors for rates for the individual market, based on the cost and care delivery practices associated with the providers expected to be utilized by covered persons that reside in a given rating area, while calculating area rate factors for rates for the small group market, based on those providers that are expected to be utilized by individuals employed by small employers that are located in the rating area without regard to where the covered persons reside.

"Provider" means a health care provider, as defined in § 38.2-3438, that is affiliated or in-network with a health carrier.

"Weighted average," when referring to area rate factors, means the mean of the area rate factors when weighted based on the projected number of covered persons distributed by rating area.

**2. That the provisions of this act shall apply only to proposed rate filings for the 2020 plan year and subsequent plan years.**

## CHAPTER 441

*An Act to amend and reenact § 58.1-3660 of the Code of Virginia, relating to tax-exempt pollution control facilities; certifying authority; Department of Health.*

[H 2811]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3660 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3660. Certified pollution control equipment and facilities.**

A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property and such property. Certified pollution control equipment and facilities shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.

B. As used in this section:

"Certified pollution control equipment and facilities" shall mean any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the Department of Taxation by a state certifying authority. For solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, that serve any of the public institutions of higher education listed in § 23.1-100 or any private college as defined in § 23.1-105; (iii) 80 percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization (a) between January 1, 2015, and June 30, 2018, for

projects greater than 20 megawatts or (b) on or after July 1, 2018, for projects greater than 20 megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity, and that are first in service on or after January 1, 2017; (iv) projects equaling five megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019; and (v) 80 percent of the assessed value of all other projects equaling more than five megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization on or after January 1, 2019. The exemption for solar photovoltaic (electric energy) projects greater than 20 megawatts, as measured in alternating current (AC) generation capacity, shall not apply to projects upon which construction begins after January 1, 2024. ~~Such property~~ *For pollution control equipment and facilities certified by the Virginia Department of Health, this exemption applies only to onsite sewage systems that serve 10 or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds. All such property as described in this definition shall not include the land on which such equipment or facilities are located.*

"State certifying authority" shall mean the State Water Control Board *or the Virginia Department of Health*, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for solar energy projects and for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 442

*An Act to amend and reenact § 15.2-2292 of the Code of Virginia, relating to family day homes; zoning permits.*

[S 1094]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2292 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2292. Zoning provisions for family day homes.**

A. Zoning ordinances for all purposes shall consider a family day home as defined in § 63.2-100 serving one through four children, exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed upon such a home. Nothing in this section shall apply to any county or city which is subject to § 15.2-741 or 15.2-914.

B. A local governing body may by ordinance allow a zoning administrator to use an administrative process to issue zoning permits for a family day home as defined in § 63.2-100 serving five through 12 children, exclusive of the provider's own children and any children who reside in the home. The ordinance may contain such standards as the local governing body deems appropriate and shall include a requirement that notification be sent by registered or certified letter to the last known address of each adjacent property owner. If the zoning administrator receives no written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance *and all other applicable local ordinances*, the zoning administrator ~~may~~ shall issue the permit sought. *If the zoning administrator receives a written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance, the zoning administrator shall consider such objection and may (i) issue or deny the permit sought or (ii) if required by the ordinance, refer the permit to the local governing body for consideration.* The ordinance shall provide a process whereby an applicant for a family day home that is denied a permit through the administrative process may request that its application be considered after a hearing following public notice as provided in § 15.2-2204. Upon such hearing, the local governing body may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit. The provisions of this subsection shall not prohibit a local governing body from exercising its authority, if at all, under subdivision A 3 of § 15.2-2286.

## CHAPTER 443

*An Act to amend and reenact § 64.2-2020 of the Code of Virginia, relating to guardianship; annual report.*

[S 1144]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-2020 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-2020. Annual reports by guardians.**

A. A guardian shall file an annual report in compliance with the filing deadlines in § 64.2-1305 with the local department of social services for the jurisdiction where the incapacitated person then resides. The *annual* report shall be on a form prepared by the Office of the Executive Secretary of the Supreme Court and shall be accompanied by a filing fee of \$5. The local department shall retain the fee in the jurisdiction where the fee is collected for use in the provision of services to adults in need of protection. Within 60 days of receipt of the annual report, the local department shall file a copy of the *annual* report with the clerk of the circuit court that appointed the guardian, to be placed with the court papers pertaining to the guardianship case. Twice each year the local department shall file with the clerk of the circuit court a list of all guardians who are more than 90 days delinquent in filing an annual report as required by this section. If the guardian is also a conservator, a settlement of accounts shall also be filed with the commissioner of accounts as provided in § 64.2-1305.

B. The *annual* report to the local department of social services shall include:

1. A description of the current mental, physical, and social condition of the incapacitated person;
  2. A description of the *incapacitated* person's living arrangements during the reported period;
  3. The medical, educational, vocational, and other professional services provided to the *incapacitated* person and the guardian's opinion as to the adequacy of the *incapacitated* person's care;
  4. A statement of the frequency and nature of the guardian's visits with and activities on behalf of the *incapacitated* person;
  5. A statement of whether the guardian agrees with the current treatment or habilitation plan;
  6. A recommendation as to the need for continued guardianship, any recommended changes in the scope of the guardianship, and any other information useful in the opinion of the guardian; and
  7. The compensation requested and the reasonable and necessary expenses incurred by the guardian.
- The guardian shall certify that the information contained in the *annual* report is true and correct to the best of his knowledge.

C. *If the local department of social services files notice that the annual report has not been timely filed in accordance with subsection A with the clerk of the circuit court, the court may issue a summons or rule to show cause why the guardian has failed to file such annual report.*

**CHAPTER 444**

*An Act to amend the Code of Virginia by adding a section numbered 54.1-2910.3:1, relating to Medicaid recipients; treatment involving opioids; payment.*

[S 1167]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 54.1-2910.3:1 as follows:****§ 54.1-2910.3:1. Medicaid recipients; treatment involving prescription of opioids; payment.**

A. *No provider licensed pursuant to this chapter shall request or require a patient who is a recipient of medical assistance services pursuant to the state plan for medical assistance and who is a recipient of health care services involving (i) the prescription of an opioid for the management of pain or (ii) the prescription of buprenorphine-containing products, methadone, or other opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration for medication-assisted treatment of opioid addiction to pay costs associated with the provision of such service out-of-pocket. The prohibition on payment of costs shall not apply to a recipient's cost-sharing amounts required by the state plan for medical assistance.*

B. *Every provider who does not accept payment from the Department of Medical Assistance Services for health care services who intends to provide health care services described in subsection A to a patient who is a recipient of medical assistance services pursuant to the state plan for medical assistance shall, prior to providing such health care services, provide written notice to such patient that (i) the Commonwealth's program of medical assistance services covers the health care services described in subsection A and the Department of Medical Assistance Services will pay for such health care services if such health care services are determined to meet the Department of Medical Assistance Service's medical necessity criteria and (ii) the provider does not participate in the Commonwealth's program of medical assistance and will not accept payment from the Department of Medical Assistance Services for such health care services. Such notice and the patient's acknowledgment of such notice shall be documented in the patient's medical record.*

**CHAPTER 445**

*An Act to direct the Secretary of Health and Human Resources and the Secretary of Education to establish a school-based health centers joint task force; report.*

[S 1195]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

1. § 1. *The Virginia's Children's Cabinet established by the Governor pursuant to Executive Order No. 11 (2018) shall establish a school-based health centers joint task force (the joint task force) that includes representatives from the General Assembly, the Department of Health, the Department of Education, the Department of Medical Assistance Services, the Department of Behavioral Health and Developmental Services, the Office of Children's Services, and all other relevant state agencies and stakeholder groups deemed appropriate, who shall be tasked with (i) assessing the current landscape of school-based services and mental health screening, evaluation, and treatment in school settings; (ii) in coordination with ongoing behavioral health transformation efforts of the Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services, developing best practice recommendations for trauma-informed school-based health centers as a vehicle for the provision of both medical and behavioral health services delivered in school settings; (iii) evaluating options for billing public and private insurance for school-based health services; and (iv) developing a plan for establishing a Virginia affiliate member organization, recognized by the national School-Based Health Alliance, for the purposes of providing technical assistance and guidance for localities interested in bolstering or implementing current and future school-based health centers. The joint task force shall work in coordination with the Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services and may serve as an advisory body to other relevant committees, commissions, and members of the General Assembly on school-based health matters. The joint task force shall hold a minimum of four meetings and shall report its findings and recommendations to the Governor and the Chairmen of the Senate Committee on Education and Health and the House Committees on Education and Health, Welfare and Institutions by December 1, 2019.*

**CHAPTER 446**

*An Act to amend and reenact §§ 63.2-209, 63.2-900, 63.2-900.1, 63.2-904, 63.2-906, and 63.2-907 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 63.2-904.1, 63.2-904.2, and 63.2-913.1, relating to foster care omnibus.*

[S 1339]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 63.2-209, 63.2-900, 63.2-900.1, 63.2-904, 63.2-906, and 63.2-907 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 63.2-904.1, 63.2-904.2, and 63.2-913.1 as follows:

**§ 63.2-209. Divisions of Department; staffing.**

A. The Commissioner shall establish in the Department such divisions and regional offices as may be necessary.

B. *The Commissioner shall ensure that regional offices responsible for oversight of foster care and adoption services are equipped with sufficient staff, and in no event less than four staff members, to provide effective oversight of and assistance with foster care and adoption services provided by local boards in the Commonwealth. At least one staff member shall be tasked with (i) reviewing the placement of children by local boards in children's residential facilities to verify that such placements are warranted by medical necessity and (ii) monitoring other health-related issues, such as medication management, frequency of visits with health care providers, and use of psychotropic medications. At least one staff member shall be tasked with supporting the efforts of local boards to find family-based placement options for children who are placed in or at risk of being placed in a children's residential facility without a medical necessity for congregate care. At least one staff member shall be tasked with supporting the efforts of local boards to find a permanent placement for children who have the greatest risk of aging out of foster care without a permanent family. At least one staff member shall be tasked with conducting foster care and adoption case reviews to ensure that local boards within the region are providing foster care and adoption services in a manner that complies with state and federal laws and regulations and protects the health, safety, and well-being of children under the supervision and control of such local boards. Notwithstanding any other provision of law, staff of regional offices shall have the authority to provide temporary staff support to local departments experiencing higher than normal caseloads or staff shortages.*

**§ 63.2-900. Accepting children for placement in homes, facilities, etc., by local boards.**

A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians.

The Board shall adopt regulations for the provision of foster care services by local boards, which shall be directed toward the prevention of unnecessary foster care placements and towards the immediate care of and permanent planning for children in the custody of or placed by local boards and that shall achieve, as quickly as practicable, permanent placements for such children. The local board shall first seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interests, pursuant to § 63.2-900.1. In cases in which a child cannot be returned to his prior family or placed for adoption and kinship care is not currently in the best

interests of the child, the local board shall consider the placement and services that afford the best alternative for protecting the child's welfare. Placements may include but are not limited to family foster care, treatment foster care and residential care. Services may include but are not limited to assessment and stabilization, diligent family search, intensive in-home, intensive wraparound, respite, mentoring, family mentoring, adoption support, supported adoption, crisis stabilization or other community-based services. The Board shall also approve in foster care policy the language of the agreement required in § 63.2-902. The agreement shall include at a minimum a Code of Ethics and mutual responsibilities for all parties to the agreement.

Within 30 days of accepting for foster care placement a person under 18 years of age whose father is unknown, the local board shall request a search of the Virginia Birth Father Registry established pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 to determine whether any man has registered as the putative father of the child. If the search results indicate that a man has registered as the putative father of the child, the local board shall contact the man to begin the process to determine paternity.

The local board shall, in accordance with the regulations adopted by the Board and in accordance with the entrustment agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority.

Whenever a local board places a child where legal custody remains with the parent, parents or guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement shall specify the responsibilities of each for the care and control of the child.

The local board shall have authority to place for adoption, and to consent to the adoption of, any child properly committed or entrusted to its care when the order of commitment or entrustment agreement between the parent or parents and the agency provides for the termination of all parental rights and responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the child.

The local board shall also have the right to accept temporary custody of any person under 18 years of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of adoption unless the placement agreement between the foster parents and the local board specifically so stipulates.

B. Prior to the approval of any family for placement of a child, a home study shall be completed and the prospective foster or adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department as prescribed in regulations adopted by the Board. Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.

C. Prior to placing any such child in any foster home or children's residential facility, the local board shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to § 63.2-902. However, if a child is placed in a children's residential facility licensed as a temporary emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the facility, the written agreement does not need to be entered into prior to placement, but shall be completed and signed by the local board and the facility representative within 24 hours of the child's arrival or by the end of the next business day after the child's arrival.

Agreements entered into pursuant to this subsection shall include a statement by the local board that all reasonably ascertainable background, medical, and psychological records of the child, including whether the child has been the subject of an investigation as the perpetrator of sexual abuse, have been provided to the foster home or children's residential facility.

D. Within 72 hours of placing a child of school age in a foster care placement, as defined in § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement, and (ii) inform the principal of the status of the parental rights.

If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment.

*E. Every local board shall submit to the Department through its statewide automated system the names of all foster parents licensed to provide foster care services in the locality served by the local board and update such list quarterly.*

#### **§ 63.2-900.1. Kinship foster care.**

A. The local board shall, in accordance with regulations adopted by the Board, determine whether the child has a relative who is eligible to become a kinship foster parent. *Searches for relatives eligible to serve as a kinship foster parent shall be conducted at the time the child enters foster care, at least annually thereafter, and prior to any subsequent changes to the child's placement setting.*

B. Kinship foster care placements pursuant to this section shall be subject to all requirements of, and shall be eligible for all services related to, foster care placement contained in this chapter. Subject to approval by the Commissioner, a local board may grant a waiver of the Board's standards for foster home approval, set forth in regulations, that are not related to safety. Waivers granted pursuant to this subsection shall be considered and, if appropriate, granted on a case-by-case basis and shall include consideration of the unique needs of each child to be placed. Upon request by a local board, the Commissioner shall review the local board's decision and reasoning to grant a waiver and shall verify that the foster home

approval standard being waived is not related to safety. The approval or disapproval by the Commissioner of the local board's waiver shall not be considered a case decision as defined in § 2.2-4001.

C. The kinship foster parent shall be eligible to receive payment at the full foster care rate for the care of the child.

D. A child placed in kinship foster care pursuant to this section shall not be removed from the physical custody of the kinship foster parent, provided the child has been living with the kinship foster parent for six consecutive months and the placement continues to meet approval standards for foster care, unless (i) the kinship foster parent consents to the removal; (ii) removal is agreed upon at a family partnership meeting as defined by the Department; (iii) removal is ordered by a court of competent jurisdiction; or (iv) removal is warranted pursuant to § 63.2-1517.

**§ 63.2-904. Investigation, visitation, and supervision of foster homes or independent living arrangement; removal of child.**

A. Before placing or arranging for the placement of any such child in a foster home or independent living arrangement, a local board or licensed child-placing agency shall cause a careful study to be made to determine the suitability of such home or independent living arrangement, and after placement shall cause such home or independent living arrangement and child to be visited as often as necessary to protect the interests of such child. Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.

B. Every local board or licensed child-placing agency that places a child in a foster home or independent living arrangement shall maintain such supervision over such home or independent living arrangement as shall be required by the standards and policies established by the Board.

C. Whenever any child placed by a local board or licensed child-placing agency and still under its control or supervision is subject, in the home in which he is placed, to unwholesome influences or to neglect or mistreatment, or whenever the Commissioner shall so order, such local board or agency shall cause the child to be removed from such home and shall make for him such arrangements as may be approved by the Commissioner. *Notwithstanding any other provision of law, the Commissioner shall have the authority to place, remove, or direct the placement or removal of any child who is under the supervision and control of a local board or licensed child-placing agency. Pursuant to such authority, the Commissioner shall remove or direct the removal of any child placed by a local board or licensed child-placing agency in a foster home or children's residential facility that fails to comply with any state or federal requirements intended to protect the child's health, safety, or well-being.*

D. Consistent with the reasonable and prudent parent standard defined in 42 U.S.C. § 675(10)(A), caregivers for children in foster care shall support normalcy for such children. The Board shall adopt regulations to assist local boards and licensed child-placing agencies in carrying out practices that support careful and sensible parental decisions that maintain the health, safety, and best interest of the child while at the same time encouraging his emotional and developmental growth.

**§ 63.2-904.1. Intervention by Commissioner; corrective action plans; assumption of temporary control.**

A. *The Commissioner shall have the authority to create and enforce a corrective action plan for any local board that, in the Commissioner's discretion, (i) fails to provide foster care services or make placement and removal decisions in accordance with this title or Board regulations or (ii) takes any action or fails to act in a manner that poses a substantial risk to the health, safety, or well-being of any child under its supervision and control. The corrective action plan shall (a) include specific objectives that the local board must meet in order to comply with applicable laws and regulations and ensure the health, safety, and well-being of all children in its supervision and control and (b) set the date by which such objectives must be completed, which shall not extend beyond 90 days after implementation of the corrective action plan unless the Commissioner determines that the objectives of the corrective action plan cannot be reasonably accomplished within such time frame. During the time the corrective action plan is in effect, the Commissioner may direct Department staff to provide assistance to the local board, monitor its progress in meeting the objectives stated in the plan, and take any measures necessary to protect the health, safety, and well-being of children in the local board's supervision and control. The Commissioner shall provide regular updates to the chairman of the Board, chairman of the local board, and local director regarding the local board's progress in meeting the objectives of the corrective action plan.*

*Prior to implementing a corrective action plan, the Commissioner shall provide written notice of his intent to implement the corrective action plan and the reasons for which such plan was developed to the chairman of the Board, chairman of the local board, and local director. Upon request by the chairman of the Board, chairman of the local board, or local director, the Commissioner shall hold a hearing to determine whether a corrective action plan is appropriate.*

B. *If the local board fails to timely comply with the corrective action plan, the Commissioner shall have the authority to temporarily assume control over all or part of the local board's foster care services and associated funds. Upon assuming such control, the Commissioner may utilize Department staff or contract with private entities to provide foster care services in the locality served by the local board and manage funds appropriated for such purposes. For any period during which a local board is under the Commissioner's control, the Commissioner shall work with the local board and local director to make any adjustments necessary to facilitate the local board's resumption of control over its foster care services and funds. The Commissioner shall remit control of such foster care services and funds to the local board upon determining that the local board has made all adjustments necessary to ensure that foster care services are provided in compliance with state and federal law and regulations and in a manner that adequately protects the health, safety, and well-being of all children in its supervision and control.*

*C. Whenever the Commissioner assumes temporary control over a local board's foster care services and funds pursuant to this section, the amount of local funding made available for such services shall remain equal to or greater than the amounts available immediately prior to the Commissioner's assumption of temporary control. Additionally, the locality in which the local board is located shall be required to pay the local share of any costs associated with any services necessary to align the local board's foster care services with state and federal laws and regulations.*

**§ 63.2-904.2. Complaint system.**

*The Commissioner shall establish and maintain mechanisms to receive reports and complaints from foster parents, interested stakeholders, and other citizens of the Commonwealth regarding violations of laws or regulations applicable to foster care and any other matters affecting the health, safety, or well-being of children in foster care. Such mechanisms shall include establishing a statewide, toll-free hotline to be administered by the Department; publicizing the existence of such hotline; and enhancing electronic communication with the Department for the receipt of reports or complaints.*

*Reports and complaints received through the foster care hotline or other mechanisms established pursuant to this section shall be investigated pursuant to Board regulations. All information received or maintained by the Department in connection with such reports, complaints, or investigations shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be relayed and used on a confidential basis pursuant to Board regulations for the purposes of investigation and to protect the health, safety, and well-being of children in foster care.*

**§ 63.2-906. Foster care plans; permissible plan goals; court review of foster children.**

A. Each child who is committed or entrusted to the care of a local board or to a licensed child-placing agency or who is placed through an agreement between a local board and the parent, parents or guardians, where legal custody remains with the parent, parents or guardians, shall have a foster care plan prepared by the local department, the child welfare agency, or the family assessment and planning team established pursuant to § 2.2-5207, as specified in § 16.1-281. The representatives of such local department, child welfare agency, or team shall (i) involve the child's parent(s) in the development of the plan, except when parental rights have been terminated or the local department of social services or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the child welfare agency placed the child and (ii) for any child for whom reunification remains the goal, meet and consult with the child's parent(s) or other person standing in loco parentis, provided that the parent(s) or other person has been located and parental rights have not been terminated, no less than once every two months and at all critical decision-making points throughout the child's foster care case. The representatives of such department, child welfare agency, or team shall involve the child in the development of the plan, if such involvement is consistent with the best interests of the child. In cases where either the parent(s) or child is not involved in the development of the plan, the department, child welfare agency, or team shall include in the plan a full description of the reasons therefor in accordance with § 16.1-281.

A court may place a child in the care and custody of (i) a public agency in accordance with § 16.1-251 or 16.1-252, and (ii) (b) a public or licensed private child-placing agency in accordance with § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6, or 16.1-278.8. Children may be placed by voluntary relinquishment in the care and custody of a public or private agency in accordance with § 16.1-277.01 or §§ 16.1-277.02 and 16.1-278.3. Children may be placed through an agreement where legal custody remains with the parent, parents or guardians in accordance with §§ 63.2-900 and 63.2-903, or § 2.2-5208.

B. Each child in foster care shall be assigned a permanent plan goal to be reviewed and approved by the juvenile and domestic relations district court having jurisdiction of the child's case. Permissible plan goals are to:

1. Transfer custody of the child to his prior family;
2. Transfer custody of the child to a relative other than his prior family;
3. Finalize an adoption of the child;
4. Place a child who is 16 years of age or older in permanent foster care;
5. Transition to independent living if, and only if, the child is admitted to the United States as a refugee or asylee; or
6. Place a child who is 16 years of age or older in another planned permanent living arrangement in accordance with subsection A2 of § 16.1-282.1.

C. Each child in foster care shall be subject to the permanency planning and review procedures established in §§ 16.1-281, 16.1-282, and 16.1-282.1.

**§ 63.2-907. Administrative review of children in foster care.**

Each local board shall establish and keep current a social service plan with service objectives and shall provide the necessary social services for achievement of a permanent home for each child for whom it has care and custody or has an agreement with the parents or guardians to place in accordance with regulations adopted by the Board. Each local board shall review the cases of children placed through an agreement or in its custody in accordance with the regulations adopted by the Board. Each local board shall review the cases of children placed through an agreement or in its custody on a planned basis to evaluate the current status and effectiveness (i) of the service plan's objectives and (ii) of the services being provided for each child in custody, which are directed toward the immediate care of and planning for permanency for the child, in accordance with policies of the Board.

The Department shall establish and maintain (a) a system to review and monitor compliance by local boards with the policies adopted by the Board and (b) a tracking system of every child in the care and custody of or placed by local boards in order to monitor the effectiveness of service planning, service objectives and service delivery by the local boards that

shall be directed toward the achievement of permanency for children in foster care. *As part of the system to review and monitor compliance by local boards, the Department shall establish and maintain an online dashboard, to be updated quarterly, that is accessible by local boards. Such dashboard shall be categorized by local board and include information regarding (1) the number of children who did not receive all required caseworker visits and the amount of time that has lapsed since each child's last visit; (2) the number of children placed in children's residential facilities; (3) the number of children who have been in foster care for more than 24 months, 36 months, and 48 months; (4) safety concerns identified in case reviews and whether such concerns have been alleviated; (5) the number of foster care caseworkers with caseloads exceeding the standard established pursuant to § 63.2-913.1; (6) the number of children in foster care to whom a caseworker with a caseload exceeding the standard set forth in § 63.2-913.1 has been assigned; and (7) the turnover rate of entry-level and experienced foster care caseworkers. Local boards shall provide to the Department any data and information necessary to populate the dashboard.*

The Board shall adopt regulations necessary to implement the procedures and policies set out in this section. The Board shall establish as a goal that at any point in time the number of children who are in foster care for longer than twenty-four months shall not exceed 5,500 children.

**§ 63.2-913.1. Caseload standard.**

*The Department shall, pursuant to Board regulations, establish a caseload standard that limits the amount of foster care cases that may be assigned to each foster care caseworker. Such caseload standard shall be reviewed and updated, as appropriate, annually on the basis of the time and work necessary to effectively manage each foster care case.*

**2. That the Commissioner of Social Services shall establish within the State Department of Social Services (Department) a director of foster care health and safety position. The director of foster care health and safety shall (i) identify local boards of social services (local boards) that fail to provide foster care services in a manner that complies with applicable laws and regulations and ensures the health, safety, and well-being of all children in the supervision and control of the local board; (ii) ensure that local boards remedy such failures, including those related to caseworker visits, safe and appropriate placement settings, and the provision of physical, mental, and behavioral health screenings and services; (iii) ensure that reports of abuse, neglect, mistreatment, and deaths of children in foster care are properly investigated; (iv) manage the process through which the Department reviews children's residential facility placements for medical necessity; and (v) track health outcomes of children in foster care. On or before November 30 of each year, the director of foster care health and safety shall report to the Governor and the General Assembly on the implementation and effectiveness of such objectives and any other issues relevant to the health, safety, and well-being of children in foster care.**

**3. That the State Department of Social Services shall develop and implement a data-driven strategic plan, to be updated biennially, to improve the recruitment and retention of foster parents in the Commonwealth.**

**4. That the State Department of Social Services shall develop and implement a more reliable, structured, and comprehensive case review and quality improvement process to monitor and improve foster care services provided by local boards and departments of social services in the Commonwealth.**

**5. That the State Department of Social Services shall develop and implement an ongoing review process to monitor the placement of children by local boards of social services in children's residential facilities and ensure that such placements are warranted by medical necessity for congregate care.**

**6. That the State Department of Social Services shall develop and implement a process to (i) identify and review foster care cases in which the child has been in foster care for 24 months or longer; (ii) provide assistance to local boards and departments of social services to find a permanent home for such children; and (iii) conduct follow-up reviews of such cases annually to ensure that the local board and department of social services continue to make diligent efforts to secure a permanent home for such children.**

**CHAPTER 447**

*An Act to amend and reenact §§ 63.2-1720.1 and 63.2-1721.1, as they are currently effective and as they shall become effective, of the Code of Virginia, relating to child care providers; fingerprint background checks.*

[S 1407]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-1720.1 and 63.2-1721.1, as they are currently effective and as they shall become effective, of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-1720.1. (For expiration date, see Acts 2018, cc. 146 and 278) Child day centers, family day homes, and family day systems; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.**

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 63.2-1716, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant

shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter.

B. Any individual required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 and any child abuse and neglect registry or equivalent registry maintained by any other state in which the individual has resided in the preceding five years for any founded complaint of child abuse or neglect against him.

The individual's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded *by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency* through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individual. Upon receipt of the individual's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department, and the Department shall report to the child day center, family day home, or family day system described in subsection A as to whether the individual is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center, family day home, or family day system.

C. The child day center, family day home, or family day system described in subsection A shall inform every individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the individual's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state *or the local law-enforcement agency* of such processing and administration.

I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center, family day home, or family day system described in subsection A of such conviction or finding.

**§ 63.2-1720.1. (For effective date, see Acts 2018, cc. 146 and 278) Licensed child day centers and licensed family day homes; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.**

A. No child day center or family day home licensed in accordance with the provisions of this chapter shall hire for compensated employment, continue to employ, or permit to serve as a volunteer in a position that is involved in the day-to-day operations of the child day center or family day home or in which the employee or volunteer will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment or to serve as volunteers shall undergo a background check in accordance with subsection B.

B. Any applicant required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the child day center or family day home to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him.

The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded *by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency* through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department, and the Department shall report to the child day center or family day home whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center or family day home.

C. The child day center or family day home shall inform every applicant for compensated employment or to serve as a volunteer required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the applicant's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state *or the local law-enforcement agency* of such processing and administration.

I. Any person employed for compensation at a licensed child day center or family day home or permitted to serve as a volunteer at a licensed child day center or family day home in a position that is involved in the day-to-day operations of the child day center or family day home or in which he will be alone with, in control of, or supervising children who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center or family day home of such conviction or finding.

**§ 63.2-1721.1. (For expiration date, see Acts 2018, cc. 146 and 278) Background check upon application for licensure, registration, or approval as child day center, family day home, or family day system; penalty.**

A. Every (i) applicant for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system; (ii) agent of an applicant for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system at the time of application who is or will be involved in the day-to-day operations of the child day center, family day home, or family day system or who is or will be alone with, in control of, or supervising one or more of the children; and (iii) adult living in such child day center or family day home shall undergo a background check in accordance with subsection B prior to issuance of a license as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system and every five years thereafter.

B. Every person required to undergo a background check pursuant to subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of any pending criminal charges for any offense within or outside the Commonwealth and whether or not he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the child day center, family day home, or family day system specified in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 and any child abuse and neglect registry or equivalent registry maintained by any other state in which the individual has resided in the preceding five years for any founded complaint of child abuse or neglect against him.

Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded *by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency* through the Central Criminal Records Exchange to the Federal Bureau of Investigation for

the purpose of obtaining national criminal history record information regarding the individual. Upon receipt of an individual's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department. The Department shall report to the child day center, family day home, or family day system described in subsection A as to whether the individual is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data.

C. If any person specified in subsection A required to have a background check (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723, no license as a child day center, family day home, or family day system or registration as a family day home shall be granted by the Commissioner and no approval as a family day home shall be granted by the family day system.

D. Information from a search of the central registry maintained pursuant to § 63.2-1515 and any child abuse and neglect registry or equivalent registry maintained by any other state in which the applicant, agent, or adult has resided in the preceding five years, authorized in accordance with subdivision B 3, shall be obtained prior to issuance of a license as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system.

E. No person specified in subsection A shall be involved in the day-to-day operations of the child day center, family day home, or family day system, or shall be alone with, in control of, or supervising one or more children, without first having completed any required background check pursuant to subsection B.

F. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

G. If an individual is denied licensure, registration, or approval because of information from the central registry or any child abuse and neglect registry or equivalent registry maintained by any other state, or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry, any child abuse and neglect registry or equivalent registry maintained by any other state, or the Central Criminal Records Exchange to the individual.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

**§ 63.2-1721.1. (For effective date, see Acts 2018, cc. 146 and 278) Background check upon application for licensure as child day center or family day home; penalty.**

A. Every (i) applicant for licensure as a child day center or family day home; (ii) agent of an applicant for licensure as a child day center or family day home at the time of application who is or will be involved in the day-to-day operations of the child day center or family day home or who is or will be alone with, in control of, or supervising one or more of the children; and (iii) adult living in the family day home shall undergo a background check in accordance with subsection B prior to issuance of a license as a child day center or family day home.

B. Every person required to undergo a background check pursuant to subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of any pending criminal charges for any offense within or outside the Commonwealth and whether or not he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the Department to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him.

Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding the individual. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data.

C. If any person specified in subsection A required to have a background check (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723, no license as a child day center or family day home shall be granted.

D. Information from a search of the central registry maintained pursuant to § 63.2-1515, authorized in accordance with subdivision B 3, shall be obtained prior to issuance of a license as a child day center or family day home.

E. No person specified in subsection A shall be involved in the day-to-day operations of the child day center or family day home, or shall be alone with, in control of, or supervising one or more children without first having completed any required background check pursuant to subsection B.

F. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

G. If an applicant is denied licensure because of information from the central registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

**2. That the provisions of the first enactment of this act shall become effective on July 1, 2020.**

**3. That the Department of Social Services shall implement a process for receiving criminal history background checks processed by local law-enforcement agencies by July 1, 2020.**

## CHAPTER 448

*An Act to amend and reenact § 63.2-1803 of the Code of Virginia, relating to assisted living facilities; requirement for licensed administrator.*

[S 1409]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1803 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1803. Staffing of assisted living facilities.**

A. An administrator of an assisted living facility shall be licensed as an assisted living facility administrator by the Virginia Board of Long-Term Care Administrators pursuant to Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1. However, an administrator of an assisted living facility licensed for residential living care only shall not be required to be licensed. Any person meeting the qualifications for a licensed nursing home administrator under § 54.1-3103 shall be deemed qualified to (i) serve as an administrator of an assisted living facility or (ii) serve as the administrator of both an assisted living facility and a licensed nursing home, provided the assisted living facility and licensed nursing home are part of the same building.

B. If a licensed assisted living facility administrator dies, resigns, is discharged, or becomes unable to perform his duties, the assisted living facility shall immediately employ a licensed administrator or appoint an acting administrator who is qualified by education for an approved administrator-in-training program and has a minimum of one year of administrative or supervisory experience in a health care or long-term care facility, or has completed such a program and is awaiting licensure. The facility shall give immediate notice to the regional licensing office of the Department of Social Services and to the Board of Long-Term Care Administrators *that the licensed administrator died, resigned, was discharged, or became unable to perform his duties* and shall provide the last date of employment of the licensed administrator. When an acting administrator is named, he shall notify the Department of his employment and, if intending to assume the position permanently, submit a completed application for an approved administrator-in-training program to the Board of Long-Term Care Administrators within 10 days of employment. An assisted living facility may be operated by an acting administrator for no more than 150 days, or not more than 90 days if the acting administrator has not applied for licensure, from the last date of employment of the licensed administrator.

C. The Department may grant an extension of up to 30 days in addition to the 150 days from the last date of employment of a licensed administrator if the acting administrator has applied for licensure as a long-term care administrator pursuant to Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1, has completed the administrator-in-training program, and is awaiting the results of the national examination. If a 30-day extension is granted, the acting administrator shall immediately submit written notice to the Board of Long-Term Care Administrators. In no case shall an assisted living facility be operated with an acting administrator for more than 180 days, including the 30-day extension, from the last date of employment of a licensed administrator.

D. No assisted living facility shall operate under the supervision of an acting administrator pursuant to § 54.1-3103.1 and this section more than ~~one time~~ *two times* during any two-year period unless authorized to do so by the Department. Determinations regarding authorization to operate under the supervision of an acting administrator for more than ~~one time~~ *two times* in any two-year period shall be made by the Department on a case-by-case basis.

E. The assisted living facility shall have adequate, appropriate, and sufficient staff to provide services to attain and maintain (i) the physical, mental and psychosocial well-being of each resident as determined by resident assessments and individual plans of care and (ii) the physical safety of the residents on the premises. Upon admission and upon request, the assisted living facility shall provide in writing a description of the types of staff working in the facility and the services provided, including the hours such services are available.

## CHAPTER 449

*An Act to amend and reenact §§ 63.2-1709, 63.2-1709.1, 63.2-1710.1, 63.2-1712, and 63.2-1737 of the Code of Virginia, relating to child welfare agencies and assisted living facilities; summary suspension.*

[S 1435]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-1709, 63.2-1709.1, 63.2-1710.1, 63.2-1712, and 63.2-1737 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-1709. Enforcement and sanctions; assisted living facilities and adult day care centers; interim administration; receivership, revocation, denial, summary suspension.**

A. Upon receipt and verification by the Commissioner of information from any source indicating an imminent and substantial risk of harm to residents, the Commissioner may require an assisted living facility to contract with an individual licensed by the Board of Long-Term Care Administrators, to be either selected from a list created and maintained by the Department of Medical Assistance Services or selected from a pool of appropriately licensed administrators recommended by the owner of the assisted living facility, to administer, manage, or operate the assisted living facility on an interim basis, and to attempt to bring the facility into compliance with all relevant requirements of law, regulation, or any plan of correction approved by the Commissioner. Such contract shall require the interim administrator to comply with any and all requirements established by the Department to ensure the health, safety, and welfare of the residents. Prior to or upon conclusion of the period of interim administration, management, or operation, an inspection shall be conducted to determine whether operation of the assisted living facility shall be permitted to continue or should cease. Such interim administration, management, or operation shall not be permitted when defects in the conditions of the premises of the assisted living facility (i) present ~~imminent~~ immediate and substantial risks to the health, safety, and welfare of residents, and (ii) may not be corrected within a reasonable period of time. Any decision by the Commissioner to require the employment of a person to administer, manage, or operate an assisted living facility shall be subject to the rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.). Actual and reasonable costs of such interim administration shall be the responsibility of and shall be borne by the owner of the assisted living facility.

B. The Board shall adopt regulations for the Commissioner to use in determining when the imposition of administrative sanctions or initiation of court proceedings, severally or jointly, is appropriate in order to ensure prompt correction of violations in assisted living facilities and adult day care centers involving noncompliance with state law or regulation as discovered through any inspection or investigation conducted by the Departments of Social Services, Health, or Behavioral Health and Developmental Services. The Commissioner may impose such sanctions or take such actions as are appropriate for violation of any of the provisions of this subtitle or any regulation adopted under any provision of this subtitle that adversely affects the health, safety or welfare of an assisted living facility resident or an adult day care participant. Such sanctions or actions may include (i) petitioning the court to appoint a receiver for any assisted living facility or adult day care center and (ii) revoking or denying renewal of the license for the assisted living facility or adult day care center for violation of any of the provisions of this subtitle, § 54.1-3408 or any regulation adopted under this subtitle that violation adversely affects, or is an ~~imminent~~ immediate and substantial threat to, the health, safety or welfare of the person cared for therein, or for permitting, aiding or abetting the commission of any illegal act in an assisted living facility or adult day care center.

C. The Commissioner may issue a *notice of summary order of suspension* of the license to operate the assisted living facility pursuant to (i) for assisted living facilities operated by agencies of the Commonwealth, the procedures set forth in § 63.2-1710.1 or (ii) for all other assisted living facilities, the procedures hereinafter set forth in conjunction with any proceeding for revocation, denial, or other action when conditions or practices exist that pose an ~~imminent~~ immediate and substantial threat to the health, safety, and welfare of the residents. ~~Before a summary order of suspension shall take effect, the Commissioner shall issue to the assisted living facility a~~ The notice of summary order of suspension ~~setting~~ shall set forth (a) the ~~procedures for the summary order of suspension~~ *procedures*, (b) hearing and appeal rights as provided under this subsection, ~~and~~ (c) facts and evidence that formed the basis for which the summary order of suspension is sought, ~~and~~ (d) the time, date, and location of the hearing to determine whether the suspension is appropriate. Such notice shall be served on the assisted living facility or its designee as soon as practicable thereafter by personal service or certified mail, return receipt requested, to the address of record of the assisted living facility. ~~The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such~~

The *summary suspension* hearing shall be presided over by a hearing officer selected by the Commissioner from a list prepared by the Executive Secretary of the Supreme Court of Virginia and shall be held as soon as practicable, but in no event later than 15 business days following service of the notice of hearing; however, the hearing officer may grant a written request for a continuance, not to exceed an additional 10 business days, for good cause shown. ~~After~~ Within 10 business days after such hearing, the hearing officer shall provide to the Commissioner written findings and conclusions, together with a recommendation *as to* whether the license should be summarily suspended; ~~whereupon the~~

Within 10 business days of the receipt of the hearing officer's findings, conclusions, and recommendation, the Commissioner may issue a final order of summary suspension or an order that such summary suspension is not warranted

*by the facts and circumstances presented. The Commissioner shall adopt the hearing officer's recommended decision unless to do so would be an error of law or Department policy. Any final agency case decision in which the Commissioner rejects a hearing officer's findings, conclusions, or recommended decision, the Commissioner shall state with particularity the basis for rejection. In issuing a final order of summary suspension, the Commissioner shall issue (1) a final order of summary suspension or (2) an order that summary suspension is not warranted by the facts and circumstances presented may suspend the license of the assisted living facility or suspend only certain authority of the assisted living facility to provide certain services or perform certain functions that the Commissioner determines should be restricted or modified in order to protect the health, safety, and welfare of the residents receiving care. A final order of summary suspension shall include notice that the assisted living facility may appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following service of the order. A copy of any final order of summary suspension shall be prominently displayed by the provider at each public entrance of the facility, or in lieu thereof, the provider may display a written statement summarizing the terms of the order in a prominent location, printed in a clear and legible size and typeface, and identifying the location within the facility where the final order of summary suspension may be reviewed.*

Upon appeal, the sole issue before the court shall be whether the Department had reasonable grounds to require the assisted living facility to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. Any concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary order of suspension. ~~Failure~~ *The willful and material failure to comply with the summary final order of summary suspension shall constitute an offense under subdivision 3 of § 63.2-1712. At the request of the Commissioner, all agencies and subdivisions of the Commonwealth shall cooperate with the Commissioner in the relocation of residents of an assisted living facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to residents.*

D. Notice of the Commissioner's intent to revoke or deny renewal of the license for an assisted living facility or to summarily suspend the license of an assisted living facility shall be provided by the Department and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. In determining whether to deny, revoke, or summarily suspend a license, the Commissioner may choose to deny, revoke, or summarily suspend only certain authority of the assisted living facility to operate; and may restrict or modify the assisted living facility's authority to provide certain services or perform certain functions that the Commissioner determines should be restricted or modified in order to protect the health, safety, or welfare of the residents. Such proposed denial, revocation, or summary suspension of certain services or functions may be appealed (i) if the assisted living facility is operated by an agency of the Commonwealth; in accordance with the provisions of § 63.2-1710.2 and (ii) for all other assisted living facilities; as otherwise provided in this subtitle for any denial, revocation, or summary suspension.

**§ 63.2-1709.1. Enforcement and sanctions; child welfare agencies; revocation, denial, and summary suspension.**

A. The Commissioner may revoke or deny the renewal of the license of any child welfare agency that violates any provision of this subtitle or fails to comply with the limitations and standards set forth in its license.

B. Pursuant to the procedures set forth in subsection C and in addition to the authority for other disciplinary actions provided in this title, the Commissioner may issue a notice of summary suspension of the license of any child welfare agency, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the child welfare agency that pose an immediate and substantial threat to the health, safety, and welfare of the children receiving care and the Commissioner believes the operation of the child welfare agency should be suspended during the pendency of such proceeding.

C. A notice of summary suspension issued by the Commissioner to a child welfare agency shall set forth (i) the summary suspension procedures; (ii) hearing and appeal rights as provided in this subsection; (iii) facts and evidence that formed the basis for the summary suspension; and (iv) the time, date, and location of a hearing to determine whether the summary suspension is appropriate. Such notice shall be served on the child welfare agency or its designee as soon as practicable thereafter by personal service or certified mail, return receipt requested, to the address of record of the child welfare agency.

The summary suspension hearing shall be presided over by a hearing officer selected by the Commissioner from a list prepared by the Executive Secretary of the Supreme Court of Virginia and shall be held as soon as practicable, but in no event later than 15 business days following service of the notice of summary suspension; however, the hearing officer may grant a written request for a continuance, not to exceed an additional 10 business days, for good cause shown. Within 10 business days after such hearing, the hearing officer shall provide to the Commissioner written findings and conclusions, together with a recommendation as to whether the license should be summarily suspended.

Within 10 business days of the receipt of the hearing officer's findings, conclusions, and recommendation, the Commissioner may issue a final order of summary suspension or an order that such summary suspension is not warranted by the facts and circumstances presented. The Commissioner shall adopt the hearing officer's recommended decision unless to do so would be an error of law or Department policy. In the event that the Commissioner rejects the hearing officer's findings, conclusions, or recommendation, the Commissioner shall state with particularity the basis for rejection. In issuing a final order of summary suspension, the Commissioner may choose to suspend the license of the child welfare agency or to suspend only certain authority of the child welfare agency to operate, including the authority to provide certain services or perform certain functions that the Commissioner determines should be restricted or modified in order to protect the health,

safety, or welfare of the children receiving care. A final order of summary suspension shall include notice that the licensee may appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following service of the order. The sole issue before the court shall be whether the Commissioner had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.

A copy of any final order of summary suspension shall be prominently displayed by the child welfare agency at each public entrance of the facility, or in lieu thereof, the child welfare agency may display a written statement summarizing the terms of the order in a prominent location, printed in a clear and legible size and typeface, and identifying the location within the facility where the final order of summary suspension may be reviewed.

The willful and material failure to comply with the final order of summary suspension constitutes a violation of subdivision 3 of § 63.2-1712. In the case of a children's residential facility, the Commissioner may require the cooperation of any other agency or subdivision of the Commonwealth in the relocation of children who are residents of a children's residential facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to such residents.

The provisions of this subsection shall not apply to any child welfare agency operated by an agency of the Commonwealth, which shall instead be governed by the provisions of § 63.2-1710.1.

**§ 63.2-1710.1. Summary order of suspension; assisted living facilities and child welfare agencies operated by an agency of the Commonwealth.**

Whenever the Commissioner issues a summary order of suspension of the license to operate an assisted living facility, group home, or ~~children's residential facility~~ child welfare agency operated by an agency of the Commonwealth:

1. Before such summary order of suspension shall take effect, the Commissioner shall issue to the assisted living facility, group home, or ~~children's residential facility~~ child welfare agency a notice of summary order of suspension setting forth (i) the procedures for a hearing and right of review as provided in this section and (ii) facts and evidence that formed the basis on which the summary order of suspension is sought. Such notice shall be served on the licensee or its designee as soon as practicable thereafter by personal service or certified mail, return receipt requested, to the address of record of the licensee. The notice shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the notice of the summary order of suspension and shall be convened by the Commissioner or his designee. After such hearing, the Commissioner may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented.

2. A final order of summary suspension shall include notice that the licensee may request, in writing and within three business days after receiving the Commissioner's decision, that the Commissioner refer the matter to the Secretary of Health and Human Resources for resolution within three business days of the referral. Any determination by the Secretary shall be final and not subject to judicial review. If the final order of summary suspension is upheld, it shall take effect immediately, and a copy of the final order of summary suspension shall be prominently displayed by the licensee at each public entrance of the facility. Any concurrent revocation, denial, or other proceedings shall not be affected by the outcome of any determination by the Secretary.

**§ 63.2-1712. Offenses; penalty.**

Any person, and each officer and each member of the governing board of any association or corporation that operates an assisted living facility, adult day care center or child welfare agency, shall be guilty of a Class 1 misdemeanor if he:

1. Interferes with any representative of the Commissioner in the discharge of his duties under this subtitle;
2. Makes to the Commissioner or any representative of the Commissioner any report or statement, with respect to the operation of any assisted living facility, adult day care center or child welfare agency, that is known by such person to be false or untrue;
3. Operates or engages in the conduct of an assisted living facility, adult day care center or child welfare agency without first obtaining a license as required by this subtitle or after such license has been revoked or suspended or has expired and not been renewed. No violation shall occur if the facility, center, or agency has applied to the Department for renewal prior to the expiration date of the license. Every day's violation of this subdivision shall constitute a separate offense; or
4. Operates or engages in the conduct of an assisted living facility, adult day care center, or child welfare agency serving more persons than the maximum stipulated in the license.

**§ 63.2-1737. Licensure of group homes and residential facilities for children.**

A. Notwithstanding any other provisions of this subtitle, the Department shall cooperate with other state departments in fulfilling their respective licensing and certification responsibilities of children's residential facilities. The Board shall adopt regulations establishing the Department as the single licensing agency for the regulation of children's residential facilities, including group homes, which provide social services programs, with the exception of educational programs licensed by the Department of Education and facilities regulated by the Department of Juvenile Justice. Notwithstanding any other provisions of this chapter, licenses issued to children's residential facilities may be issued for periods of up to 36 successive months.

B. The Board's regulations for the regulation of children's residential facilities shall address the services required to be provided in such facilities as it may deem appropriate to ensure the health and safety of the children. In addition, the Board's regulations shall include, but shall not be limited to (i) specifications for the structure and accommodations of such facilities according to the needs of the children; (ii) rules concerning allowable activities, local government- and facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

C. Notwithstanding any other provisions of this chapter, any facility licensed by the Commissioner as a child-caring institution as of January 1, 1987, and that receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as adopted by the Board and in effect on January 1, 1987. Effective January 1, 1987, all children's residential facilities shall be licensed under the regulations for children's residential facilities.

~~D. Pursuant to the procedures set forth in subsection E and in addition to the authority for other disciplinary actions provided in this title, the Commissioner may issue a summary order of suspension of the license of any group home or residential facility for children, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the home or facility that pose an immediate and substantial threat to the health, safety, and welfare of the children who are residents and the Commissioner believes the operation of the home or facility should be suspended during the pendency of such proceeding.~~

~~E. The summary order of suspension shall take effect upon its issuance and shall be served on the licensee or its designee as soon as practicable thereafter by personal service and certified mail, return receipt requested, to the address of record of the licensee. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the summary order of suspension and shall be convened by the Commissioner or his designee.~~

~~After such hearing, the Commissioner may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the licensee may appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before the court shall be whether the Commissioner had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.~~

~~The willful and material failure to comply with the summary order of suspension or final order of summary suspension shall be punishable as a Class 2 misdemeanor. The Commissioner may require the cooperation of any other agency or subdivision of the Commonwealth in the relocation of children who are residents of a home or facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to such residents.~~

~~The provisions of this subsection shall not apply to any group home or children's residential facility operated by an agency of the Commonwealth, which shall instead be governed by the provisions of § 63.2-1710.1.~~

~~F. In addition to the requirements set forth in subsection B, the Board's regulations shall require, as a condition of initial licensure or, if appropriate, license renewal, that the applicant shall: (i) be personally interviewed by Department personnel to determine the qualifications of the owner or operator before granting an initial license; (ii) provide evidence of having relevant prior experience before any initial license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff participation in training on appropriate siting of the residential facilities for children, good neighbor policies, community relations, and shaken baby syndrome and its effects; and (iv) be required to screen residents prior to admission to exclude individuals with behavioral issues, such as histories of violence, that cannot be managed in the relevant residential facility.~~

~~G. E.~~ In addition, the Department shall:

1. Notify relevant local governments and placing and funding agencies, including the Office of Children's Services, of multiple health and safety or human rights violations in residential facilities for which the Department serves as lead licensure agency when such violations result in the lowering of the licensure status of the facility to provisional;

2. Post on the Department's website information concerning the application for initial licensure of or renewal, denial, or provisional licensure of any residential facility for children located in the locality;

3. Require all licensees to self-report lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges that may have been made relating to the health and safety or human rights of residents;

4. Require proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's operational plan;

5. Disseminate to local governments, or post on the Department's website, an accurate (updated weekly or monthly as necessary) list of licensed and operating group homes and other residential facilities for children by locality with information on services and identification of the lead licensure agency; and

6. Modify the term of the license at any time during the term of the license based on a change in compliance.

## CHAPTER 450

*An Act to amend and reenact § 38.2-3431 of the Code of Virginia, relating to group health plans; small employers.*

[S 1475]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3431 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-3431. Application of article; definitions.**

A. This article applies to group health plans and to health insurance issuers offering group health insurance coverage, and individual policies offered to employees of small employers.

Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, each corporation providing individual or group accident and sickness subscription contracts, and each health maintenance organization or multiple employer welfare arrangement providing health care plans for health care services that offers individual or group coverage to the small employer market in this Commonwealth shall be subject to the provisions of this article. Any issuer of individual coverage to employees of a small employer shall be subject to the provisions of this article if any of the following conditions are met:

1. Any portion of the premiums or benefits is paid by or on behalf of the employer;
2. The eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the employer for any portion of the premium;
3. The employer has permitted payroll deduction for the covered individual and any portion of the premium is paid by the employer, provided that the health insurance issuer providing individual coverage under such circumstances shall be registered as a health insurance issuer in the small group market under this article, and shall have offered small employer group insurance to the employer in the manner required under this article; or
4. The health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for the purpose of § 106, 125, or 162 of the United States Internal Revenue Code.

B. For the purposes of this article:

"Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the Commission that a health insurance issuer is in compliance with the provisions of this article based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the health insurance issuer in establishing premium rates for applicable insurance coverage.

"Affiliation period" means a period which, under the terms of the health insurance coverage offered by a health maintenance organization, must expire before the health insurance coverage becomes effective. The health maintenance organization is not required to provide health care services or benefits during such period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

1. Such period shall begin on the enrollment date.
2. An affiliation period under a plan shall run concurrently with any waiting period under the plan.

"Beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (8)).

"Bona fide association" means, with respect to health insurance coverage offered in this Commonwealth, an association which:

1. Has been actively in existence for at least five years;
2. Has been formed and maintained in good faith for purposes other than obtaining insurance;
3. Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);
4. Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member);
5. Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and
6. Meets such additional requirements as may be imposed under the laws of this Commonwealth.

"Certification" means a written certification of the period of creditable coverage of an individual under a group health plan and coverage provided by a health insurance issuer offering group health insurance coverage and the coverage if any under such COBRA continuation provision, and the waiting period if any and affiliation period if applicable imposed with respect to the individual for any coverage under such plan.

"Church plan" has the meaning given such term under section 3(33) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (33)).

"COBRA continuation provision" means any of the following:

1. Section 4980B of the Internal Revenue Code of 1986 (26 U.S.C. § 4980B), other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines;
2. Part 6 of subtitle B of Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1161 et seq.), other than section 609 of such Act; or

3. Title XXII of P.L. 104-191.

"Creditable coverage" means with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or B of Title XVIII of the Social Security Act (42 U.S.C. § 1395c or § 1395);
4. Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.), other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code (10 U.S.C. § 1071 et seq.);
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code (5 U.S.C. § 8901 et seq.);
9. A public health plan (as defined in federal regulations);
10. A health benefit plan under section 5 (e) of the Peace Corps Act (22 U.S.C. § 2504(e)); or
11. Individual health insurance coverage.

Such term does not include coverage consisting solely of coverage of excepted benefits.

"Dependent" means the spouse or child of an eligible employee, subject to the applicable terms of the policy, contract or plan covering the eligible employee.

"Eligible employee" means an employee who works for a small group employer on a full-time basis, has a normal work week of 30 or more hours, has satisfied applicable waiting period requirements, and is not a part-time, temporary or substitute employee. At the employer's sole discretion, the eligibility criterion may be broadened to include part-time employees.

"Eligible individual" means such an individual in relation to the employer as shall be determined:

1. In accordance with the terms of such plan;
2. As provided by the health insurance issuer under rules of the health insurance issuer which are uniformly applicable to employers in the group market; and
3. In accordance with all applicable law of this Commonwealth governing such issuer and such market.

"Employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (6)).

"Employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (5)), except that such term shall include only employers of two or more employees.

"Enrollment date" means, with respect to an eligible individual covered under a group health plan or health insurance coverage, the date of enrollment of the eligible individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment.

"Excepted benefits" means benefits under one or more (or any combination thereof) of the following:

1. Benefits not subject to requirements of this article:
  - a. Coverage only for accident, or disability income insurance, or any combination thereof;
  - b. Coverage issued as a supplement to liability insurance;
  - c. Liability insurance, including general liability insurance and automobile liability insurance;
  - d. Workers' compensation or similar insurance;
  - e. Medical expense and loss of income benefits;
  - f. Credit-only insurance;
  - g. Coverage for on-site medical clinics; and
  - h. Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.
2. Benefits not subject to requirements of this article if offered separately:
  - a. Limited scope dental or vision benefits;
  - b. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and
  - c. Such other similar, limited benefits as are specified in regulations.
3. Benefits not subject to requirements of this article if offered as independent, noncoordinated benefits:
  - a. Coverage only for a specified disease or illness; and
  - b. Hospital indemnity or other fixed indemnity insurance.
4. Benefits not subject to requirements of this article if offered as separate insurance policy:
  - a. Medicare supplemental health insurance (as defined under section 1882 (g)(1) of the Social Security Act (42 U.S.C. § 1395ss (g)(1)));
  - b. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code (10 U.S.C. § 1071 et seq.); and
  - c. Similar supplemental coverage provided to coverage under a group health plan.

"Federal governmental plan" means a governmental plan established or maintained for its employees by the government of the United States or by an agency or instrumentality of such government.

"Governmental plan" has the meaning given such term under section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (32)) and any federal governmental plan.

"Group health insurance coverage" means in connection with a group health plan, health insurance coverage offered in connection with such plan.

"Group health plan" means an employee welfare benefit plan (as defined in section 3 (1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (1))), to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a MEWA or plan provided by another benefit arrangement. "Health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; Medicaid coverage; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

"Health insurance issuer" means an insurance company, or insurance organization (including a health maintenance organization) which is licensed to engage in the business of insurance in this Commonwealth and which is subject to the laws of this Commonwealth which regulate insurance within the meaning of section 514 (b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1144 (b)(2)). Such term does not include a group health plan.

"Health maintenance organization" means:

1. A federally qualified health maintenance organization;
2. An organization recognized under the laws of this Commonwealth as a health maintenance organization; or
3. A similar organization regulated under the laws of this Commonwealth for solvency in the same manner and to the same extent as such a health maintenance organization.

"Health status-related factor" means the following in relation to the individual or a dependent eligible for coverage under a group health plan or health insurance coverage offered by a health insurance issuer:

1. Health status;
2. Medical condition (including both physical and mental illnesses);
3. Claims experience;
4. Receipt of health care;
5. Medical history;
6. Genetic information;
7. Evidence of insurability (including conditions arising out of acts of domestic violence); or
8. Disability.

"Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, but does not include coverage defined as excepted benefits. Individual health insurance coverage does not include short-term limited duration coverage.

"Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"Large employer" means, in connection with a group health plan or health insurance coverage with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

"Large group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a large employer.

"Late enrollee" means, with respect to coverage under a group health plan or health insurance coverage provided by a health insurance issuer, a participant or beneficiary who enrolls under the plan other than during:

1. The first period in which the individual is eligible to enroll under the plan; or
2. A special enrollment period as required pursuant to subsections J through M of § 38.2-3432.3.

"Medical care" means amounts paid for:

1. The diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
2. Transportation primarily for and essential to medical care referred to in subdivision 1; and
3. Insurance covering medical care referred to in subdivisions 1 and 2.

"Network plan" means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care (including items and services paid for as medical care) are provided, in whole or in part, through a defined set of providers under contract with the health insurance issuer.

"Nonfederal governmental plan" means a governmental plan that is not a federal governmental plan.

"Participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (7)).

"Placed for adoption," or "placement" or "being placed" for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

"Plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002 (16)(B)).

"Preexisting condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date. Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to such information.

"Premium" means all moneys paid by an employer and eligible employees as a condition of coverage from a health insurance issuer, including fees and other contributions associated with the health benefit plan.

"Rating period" means the 12-month period for which premium rates are determined by a health insurance issuer and are assumed to be in effect.

"Self-employed individual" means an individual who derives a substantial portion of his income from a trade or business (i) operated by the individual as a sole proprietor, (ii) through which the individual has attempted to earn taxable income, and (iii) for which he has filed the appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year.

"Service area" means a broad geographic area of the Commonwealth in which a health insurance issuer sells or has sold insurance policies on or before January 1994, or upon its subsequent authorization to do business in Virginia.

"Small employer" means in connection with a group health plan or health insurance coverage with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 50 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year. In determining whether a corporation or limited liability company employed an average of at least one individual during the preceding calendar year and employed at least one employee on the first day of the plan year, an individual who performed any service for remuneration under a contract of hire, written or oral, express or implied, for a (i) corporation of which the individual is ~~its sole~~ a shareholder or an immediate family member of ~~such sole~~ a shareholder or (ii) a limited liability company of which the individual is ~~its sole~~ a member or an immediate family member of ~~such sole member~~, shall be deemed to be an employee of the corporation or the limited liability company, respectively. *However, a health insurance issuer shall not be required to issue more than one group health plan for each employer identification number issued by the Internal Revenue Service for a business entity, without regard to the number of shareholders or members of such business entity.* "Small employer" includes a self-employed individual.

"Small group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a small employer.

"State" means each of the several states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"Waiting period" means, with respect to a group health plan or health insurance coverage provided by a health insurance issuer and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan. If an employee or dependent enrolls during a special enrollment period pursuant to subsections J through M of § 38.2-3432.3 or as a late enrollee, any period before such enrollment is not a waiting period.

C. The provisions of this section shall not apply in any instance in which the provisions of this section are inconsistent or in conflict with a provision of Article 6 (§ 38.2-3438 et seq.) of Chapter 34.

## CHAPTER 451

*An Act to amend and reenact § 38.2-3418.17 of the Code of Virginia, relating to health insurance; coverage for autism spectrum disorder.*

[S 1693]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3418.17 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-3418.17. Coverage for autism spectrum disorder.**

A. Notwithstanding the provisions of § 38.2-3419 and any other provision of law, each insurer proposing to issue ~~group~~ accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing ~~group~~ accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall, as provided in this section, provide coverage for the diagnosis of autism spectrum disorder and the treatment of autism spectrum disorder, in individuals (i) from January 1, 2012, until January 1, 2016, from age two years through age six years ~~and~~; (ii) from ~~and after~~ January 1, 2016, *until January 1, 2020*, from age two years through age 10 years; *and (iii) from and after January 1, 2020, of any age*, subject to the annual maximum benefit limitation set forth in subsection K and to *the* provisions of subsection G. If an individual who is being treated for autism spectrum disorder becomes older than the applicable maximum age set forth in the preceding sentence and continues to need treatment, this section does not preclude coverage of treatment and services. In addition to the requirements imposed on health insurance issuers by § 38.2-3436, an insurer shall not terminate coverage or refuse to deliver, issue, amend, adjust, or renew coverage of an individual solely because the individual is diagnosed with autism spectrum disorder or has received treatment for autism spectrum disorder.

B. For purposes of this section:

"Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Autism spectrum disorder" means any pervasive developmental disorder, including (i) autistic disorder, (ii) Asperger's Syndrome, (iii) Rett syndrome, (iv) childhood disintegrative disorder, or (v) Pervasive Developmental Disorder — Not Otherwise Specified, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

"Behavioral health treatment" means professional, counseling, and guidance services and treatment programs that are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual.

"Diagnosis of autism spectrum disorder" means medically necessary assessments, evaluations, or tests to diagnose whether an individual has an autism spectrum disorder.

"Medically necessary" means based upon evidence and reasonably expected to do any of the following: (i) prevent the onset of an illness, condition, injury, or disability; (ii) reduce or ameliorate the physical, mental, or developmental effects of an illness, condition, injury, or disability; or (iii) assist to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the individual and the functional capacities that are appropriate for individuals of the same age.

"Pharmacy care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

"Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

"Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

"Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists, physical therapists, or clinical social workers.

"Treatment for autism spectrum disorder" shall be identified in a treatment plan and includes the following care prescribed or ordered for an individual diagnosed with autism spectrum disorder by a licensed physician or a licensed psychologist who determines the care to be medically necessary: (i) behavioral health treatment, (ii) pharmacy care, (iii) psychiatric care, (iv) psychological care, (v) therapeutic care, and (vi) applied behavior analysis when provided or supervised by a board certified behavior analyst who shall be licensed by the Board of Medicine. The prescribing practitioner shall be independent of the provider of applied behavior analysis.

"Treatment plan" means a plan for the treatment of autism spectrum disorder developed by a licensed physician or a licensed psychologist pursuant to a comprehensive evaluation or reevaluation performed in a manner consistent with the most recent clinical report or recommendation of the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry.

C. Except for inpatient services, if an individual is receiving treatment for an autism spectrum disorder, an insurer, corporation, or health maintenance organization shall have the right to request a review of that treatment, including an independent review, not more than once every 12 months unless the insurer, corporation, or health maintenance organization and the individual's licensed physician or licensed psychologist agree that a more frequent review is necessary. The cost of obtaining any review, including an independent review, shall be covered under the policy, contract, or plan.

D. Coverage under this section will not be subject to any visit limits, and shall be neither different nor separate from coverage for any other illness, condition, or disorder for purposes of determining deductibles, lifetime dollar limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

E. Nothing shall preclude the undertaking of usual and customary procedures, including prior authorization, to determine the appropriateness of, and medical necessity for, treatment of autism spectrum disorder under this section, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan.

F. The provisions of this section shall not apply to (i) short-term travel, accident only, limited, or specified disease policies; (ii) short-term nonrenewable policies of not more than six months' duration; (iii) policies, contracts, or plans issued in the individual market or small group markets; or (iv) policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

G. The requirements of this section requiring that coverage be provided with regard to individuals from age two years through age six years shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended on or after January 1, 2012, but prior to January 1, 2016; ~~and~~; the requirements of this section requiring that coverage be provided with regard to individuals from age two years through age 10 years shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended on or after January 1, 2016, *but prior to January 1, 2020; and the requirements of this section requiring that coverage be provided with regard to individuals of any age shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended on or after January 1, 2020,* and to all such policies, contracts, or plans to which a term is changed or any premium adjustment is made on or after such date.

H. Any coverage required pursuant to this section shall be in addition to the coverage required by § 38.2-3418.5 and other provisions of law. This section shall not be construed as diminishing any coverage required by § 38.2-3412.1. This section shall not be construed as affecting any obligation to provide services to an individual under an individualized family service plan, an individualized education program, or an individualized service plan.

I. Pursuant to the provisions of § 2.2-2818.2, this section shall apply to health coverage offered to state employees pursuant to § 2.2-2818 and to health insurance coverage offered to employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, teachers, and retirees pursuant to § 2.2-1204.

J. Notwithstanding any provision of this section to the contrary:

1. An insurer, corporation, or health maintenance organization, or a governmental entity providing coverage for such treatment pursuant to subsection I, is exempt from providing coverage for behavioral health treatment required under this section and not covered by the insurer, corporation, health maintenance organization, or governmental entity providing coverage for such treatment pursuant to subsection I as of December 31, 2011, if:

a. An actuary, affiliated with the insurer, corporation, or health maintenance organization, who is a member of the American Academy of Actuaries and meets the American Academy of Actuaries' professional qualification standards for rendering an actuarial opinion related to health insurance rate making, certifies in writing to the Commissioner of Insurance that:

(1) Based on an analysis to be completed no more frequently than one time per year by each insurer, corporation, or health maintenance organization, or such governmental entity, for the most recent experience period of at least one year's duration, the costs associated with coverage of behavioral health treatment required under this section, and not covered as of December 31, 2011, exceeded one percent of the premiums charged over the experience period by the insurer, corporation, or health maintenance organization; and

(2) Those costs solely would lead to an increase in average premiums charged of more than one percent for all insurance policies, subscription contracts, or health care plans commencing on inception or the next renewal date, based on the premium rating methodology and practices the insurer, corporation, or health maintenance organization, or such governmental entity, employs; and

b. The Commissioner approves the certification of the actuary;

2. An exemption allowed under subdivision 1 shall apply for a one-year coverage period following inception or next renewal date of all insurance policies, subscription contracts, or health care plans issued or renewed during the one-year period following the date of the exemption, after which the insurer, corporation, or health maintenance organization, or such governmental entity, shall again provide coverage for behavioral health treatment required under this section;

3. An insurer, corporation, or health maintenance organization, or such governmental entity, may claim an exemption for a subsequent year, but only if the conditions specified in subdivision 1 again are met; and

4. Notwithstanding the exemption allowed under subdivision 1, an insurer, corporation, or health maintenance organization, or such a governmental entity, may elect to continue to provide coverage for behavioral health treatment required under this section.

K. Coverage for applied behavior analysis under this section will be subject to an annual maximum benefit of \$35,000, unless the insurer, corporation, or health maintenance organization elects to provide coverage in a greater amount.

L. As of January 1, 2014, to the extent that this section requires benefits that exceed the essential health benefits specified under § 1302(b) of the federal Patient Protection and Affordable Care Act (H.R. 3590), as amended (the ACA), the specific benefits that exceed the specified essential health benefits shall not be required of a qualified health plan when the plan is offered in the Commonwealth by a health carrier through a health benefit exchange established under § 1311 of the ACA. Nothing in this subsection shall nullify application of this section to plans offered outside such an exchange.

## CHAPTER 452

*An Act to amend and reenact § 38.2-3418.17 of the Code of Virginia, relating to health insurance; coverage for autism spectrum disorder.*

[H 2577]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 38.2-3418.17 of the Code of Virginia is amended and reenacted as follows:****§ 38.2-3418.17. Coverage for autism spectrum disorder.**

A. Notwithstanding the provisions of § 38.2-3419 and any other provision of law, each insurer proposing to issue ~~group~~ accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing ~~group~~ accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall, as provided in this section, provide coverage for the diagnosis of autism spectrum disorder and the treatment of autism spectrum disorder, in individuals (i) from January 1, 2012, until January 1, 2016, from age two years through age six years ~~and~~; (ii) from ~~and after~~ January 1, 2016, *until January 1, 2020*, from age two years through age 10 years; *and (iii) from and after January 1, 2020, of any age*, subject to the annual maximum benefit limitation set forth in subsection K and to *the* provisions of subsection G. If an individual who is being treated for autism spectrum disorder becomes older than the applicable maximum age set forth in the preceding sentence and continues to need treatment, this section does not preclude coverage of treatment and services. In addition to the requirements imposed on health insurance issuers by § 38.2-3436, an insurer shall not terminate coverage or refuse to deliver, issue, amend, adjust, or renew coverage of an individual solely because the individual is diagnosed with autism spectrum disorder or has received treatment for autism spectrum disorder.

B. For purposes of this section:

"Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Autism spectrum disorder" means any pervasive developmental disorder, including (i) autistic disorder, (ii) Asperger's Syndrome, (iii) Rett syndrome, (iv) childhood disintegrative disorder, or (v) Pervasive Developmental Disorder — Not Otherwise Specified, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

"Behavioral health treatment" means professional, counseling, and guidance services and treatment programs that are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual.

"Diagnosis of autism spectrum disorder" means medically necessary assessments, evaluations, or tests to diagnose whether an individual has an autism spectrum disorder.

"Medically necessary" means based upon evidence and reasonably expected to do any of the following: (i) prevent the onset of an illness, condition, injury, or disability; (ii) reduce or ameliorate the physical, mental, or developmental effects of an illness, condition, injury, or disability; or (iii) assist to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the individual and the functional capacities that are appropriate for individuals of the same age.

"Pharmacy care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

"Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

"Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

"Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists, physical therapists, or clinical social workers.

"Treatment for autism spectrum disorder" shall be identified in a treatment plan and includes the following care prescribed or ordered for an individual diagnosed with autism spectrum disorder by a licensed physician or a licensed psychologist who determines the care to be medically necessary: (i) behavioral health treatment, (ii) pharmacy care, (iii) psychiatric care, (iv) psychological care, (v) therapeutic care, and (vi) applied behavior analysis when provided or supervised by a board certified behavior analyst who shall be licensed by the Board of Medicine. The prescribing practitioner shall be independent of the provider of applied behavior analysis.

"Treatment plan" means a plan for the treatment of autism spectrum disorder developed by a licensed physician or a licensed psychologist pursuant to a comprehensive evaluation or reevaluation performed in a manner consistent with the most recent clinical report or recommendation of the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry.

C. Except for inpatient services, if an individual is receiving treatment for an autism spectrum disorder, an insurer, corporation, or health maintenance organization shall have the right to request a review of that treatment, including an independent review, not more than once every 12 months unless the insurer, corporation, or health maintenance organization

and the individual's licensed physician or licensed psychologist agree that a more frequent review is necessary. The cost of obtaining any review, including an independent review, shall be covered under the policy, contract, or plan.

D. Coverage under this section will not be subject to any visit limits, and shall be neither different nor separate from coverage for any other illness, condition, or disorder for purposes of determining deductibles, lifetime dollar limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

E. Nothing shall preclude the undertaking of usual and customary procedures, including prior authorization, to determine the appropriateness of, and medical necessity for, treatment of autism spectrum disorder under this section, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan.

F. The provisions of this section shall not apply to (i) short-term travel, accident only, limited, or specified disease policies; (ii) short-term nonrenewable policies of not more than six months' duration; (iii) policies, contracts, or plans issued in the individual market or small group markets; or (iv) policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

G. The requirements of this section requiring that coverage be provided with regard to individuals from age two years through age six years shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended on or after January 1, 2012, but prior to January 1, 2016; ~~and~~; the requirements of this section requiring that coverage be provided with regard to individuals from age two years through age 10 years shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended on or after January 1, 2016, *but prior to January 1, 2020; and the requirements of this section requiring that coverage be provided with regard to individuals of any age shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended on or after January 1, 2020,* and to all such policies, contracts, or plans to which a term is changed or any premium adjustment is made on or after such date.

H. Any coverage required pursuant to this section shall be in addition to the coverage required by § 38.2-3418.5 and other provisions of law. This section shall not be construed as diminishing any coverage required by § 38.2-3412.1. This section shall not be construed as affecting any obligation to provide services to an individual under an individualized family service plan, an individualized education program, or an individualized service plan.

I. Pursuant to the provisions of § 2.2-2818.2, this section shall apply to health coverage offered to state employees pursuant to § 2.2-2818 and to health insurance coverage offered to employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, teachers, and retirees pursuant to § 2.2-1204.

J. Notwithstanding any provision of this section to the contrary:

1. An insurer, corporation, or health maintenance organization, or a governmental entity providing coverage for such treatment pursuant to subsection I, is exempt from providing coverage for behavioral health treatment required under this section and not covered by the insurer, corporation, health maintenance organization, or governmental entity providing coverage for such treatment pursuant to subsection I as of December 31, 2011, if:

a. An actuary, affiliated with the insurer, corporation, or health maintenance organization, who is a member of the American Academy of Actuaries and meets the American Academy of Actuaries' professional qualification standards for rendering an actuarial opinion related to health insurance rate making, certifies in writing to the Commissioner of Insurance that:

(1) Based on an analysis to be completed no more frequently than one time per year by each insurer, corporation, or health maintenance organization, or such governmental entity, for the most recent experience period of at least one year's duration, the costs associated with coverage of behavioral health treatment required under this section, and not covered as of December 31, 2011, exceeded one percent of the premiums charged over the experience period by the insurer, corporation, or health maintenance organization; and

(2) Those costs solely would lead to an increase in average premiums charged of more than one percent for all insurance policies, subscription contracts, or health care plans commencing on inception or the next renewal date, based on the premium rating methodology and practices the insurer, corporation, or health maintenance organization, or such governmental entity, employs; and

b. The Commissioner approves the certification of the actuary;

2. An exemption allowed under subdivision 1 shall apply for a one-year coverage period following inception or next renewal date of all insurance policies, subscription contracts, or health care plans issued or renewed during the one-year period following the date of the exemption, after which the insurer, corporation, or health maintenance organization, or such governmental entity, shall again provide coverage for behavioral health treatment required under this section;

3. An insurer, corporation, or health maintenance organization, or such governmental entity, may claim an exemption for a subsequent year, but only if the conditions specified in subdivision 1 again are met; and

4. Notwithstanding the exemption allowed under subdivision 1, an insurer, corporation, or health maintenance organization, or such a governmental entity, may elect to continue to provide coverage for behavioral health treatment required under this section.

K. Coverage for applied behavior analysis under this section will be subject to an annual maximum benefit of \$35,000, unless the insurer, corporation, or health maintenance organization elects to provide coverage in a greater amount.

L. As of January 1, 2014, to the extent that this section requires benefits that exceed the essential health benefits specified under § 1302(b) of the federal Patient Protection and Affordable Care Act (H.R. 3590), as amended (the ACA), the specific benefits that exceed the specified essential health benefits shall not be required of a qualified health plan when the plan is offered in the Commonwealth by a health carrier through a health benefit exchange established under § 1311 of the ACA. Nothing in this subsection shall nullify application of this section to plans offered outside such an exchange.

### CHAPTER 453

*An Act to amend the Code of Virginia by adding a section numbered 53.1-39.1, relating to Department of Corrections; restrictive housing; data collection and reporting; report.*

[H 1642]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 53.1-39.1 as follows:**

**§ 53.1-39.1. Restrictive housing; data collection and reporting; report.**

*A. As used in this section:*

*"Offender" means an adult or juvenile who is confined in a state correctional facility.*

*"Restrictive housing" means special-purpose bed assignments operated under maximum security regulations and procedures, and utilized under proper administrative process, for the personal protection or custodial management of offenders. The Department of Corrections' restrictive housing shall, at a minimum, adhere to the standards adopted by the American Correctional Association, the accrediting body for the corrections industry.*

*"Shared Allied Management Unit" or "SAM Unit" means a general population environment used to promote safety within institutions by avoiding the use of restrictive housing to manage vulnerable populations that typically require a high level of services from security, mental health, or medical staff.*

*"Vulnerable population" means offenders who are at a greater risk of victimization or being bullied in the general population due to characteristics such as cognitive challenge, age (seniors and youthful), small stature, or timid personalities.*

*B. The Department shall report to the General Assembly and the Governor on or before October 1 of each year the following information for the Department, in the aggregate for the previous fiscal year:*

*1. The average daily population;*

*2. The number of offenders who were placed in and the number of offenders who were released from restrictive housing;*

*3. The age, sex, race, ethnicity, mental health code, medical class code, security level, and custody level classification of each offender housed in restrictive housing or a SAM Unit;*

*4. The disciplinary offense history preceding placement in restrictive housing or a SAM Unit;*

*5. The number of days each offender spent in restrictive housing;*

*6. The number of offenders released from restrictive housing directly into the community;*

*7. The number of full-time mental health staff; and*

*8. Any changes made during the reporting period to written policies or procedures of the Department and each state correctional facility relating to the use and conditions of restrictive housing and SAM Units.*

*C. The Department shall submit the annual report to the Governor, the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on Rehabilitation and Social Services, and the Clerks of the House of Delegates and the Senate as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports, and the annual report shall be posted on the General Assembly's website. The Department shall publish the report on the Department's website following its submission to the Governor, the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on Rehabilitation and Social Services, and the Clerks of the House of Delegates and the Senate.*

### CHAPTER 454

*An Act to amend and reenact § 8.01-15.2 of the Code of Virginia, relating to Servicemembers Civil Relief Act; attorney fees.*

[H 1675]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-15.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-15.2. Servicemembers Civil Relief Act; default judgment; appointment of counsel.**

*A. Notwithstanding the provisions of § 8.01-428, in any civil action or proceeding in which the defendant does not make an appearance, the court shall not enter a judgment by default until the plaintiff files with the court an affidavit (i) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or (ii) if*

the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service. Subject to the provisions of § 8.01-3, the Supreme Court shall prescribe the form of such affidavit, or the requirement for an affidavit may be satisfied by a written statement, declaration, verification or certificate, subscribed and certified or declared to be true under penalty of perjury. Any judgment by default entered by any court in any civil action or proceeding in violation of subchapter II of the Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.) may be set aside as provided by the Act. Failure to file an affidavit shall not constitute grounds to set aside an otherwise valid default judgment against a defendant who was not, at the time of service of process or entry of default judgment, a servicemember as defined in 50 U.S.C. § 3911.

B. Where appointment of counsel is required pursuant to 50 U.S.C. § 3931 or 3932 or another section of the Servicemembers Civil Relief Act, the court may assess reasonable attorney fees and costs against any party as the court deems appropriate, including a party aggrieved by a violation of the Act, and shall direct in its order which of the parties to the case shall pay such fees and costs. Such fees and costs shall not be assessed against the Commonwealth unless it is the party that obtains the judgment. *Any attorney fees assessed pursuant to this subsection shall not exceed \$125, unless the court deems a higher amount appropriate.*

C. The appointed counsel may issue a subpoena duces tecum for all discoverable electronic and print files, records, documents, and memoranda regarding the transactional basis for the suit. If requested in the subpoena, the plaintiff shall also deliver all documents or information concerning the location of the servicemember.

D. Counsel appointed pursuant to the Servicemembers Civil Relief Act shall not be selected by the plaintiff or have any affiliation with the plaintiff. However, counsel for the plaintiff may provide a list of attorneys familiar with the provisions of the Servicemembers Civil Relief Act upon the request of the court.

## CHAPTER 455

*An Act to amend and reenact § 9.1-184 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-280.2:3, relating to school boards; local law-enforcement agencies; school resource officers; memorandums of understanding.*

[H 1733]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-184 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-280.2:3 as follows:**

**§ 9.1-184. Virginia Center for School and Campus Safety created; duties.**

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;

2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;

3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;

4. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department;

5. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;

6. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;

7. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;

8. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;

9. Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth; ~~and~~

10. In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students; and

11. *Develop a model memorandum of understanding setting forth the respective roles and responsibilities of local school boards and local law-enforcement agencies regarding the use of school resource officers. Such model memorandum of understanding may be used by local school boards and local law-enforcement agencies to satisfy the requirements of § 22.1-280.2:3.*

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

**§ 22.1-280.2:3. School boards; local law-enforcement agencies; memorandums of understanding.**

*The school board in each school division in which the local law-enforcement agency employs school resource officers, as defined in § 9.1-101, shall enter into a memorandum of understanding with such local law-enforcement agency that sets forth the powers and duties of such school resource officers. The provisions of such memorandum of understanding shall be based on the model memorandum of understanding developed by the Virginia Center for School and Campus Safety pursuant to subdivision A 11 of § 9.1-184, which may be modified by the parties in accordance with their particular needs. Each such school board and local law-enforcement agency shall review and amend or affirm such memorandum at least once every five years or at any time upon the request of either party.*

## CHAPTER 456

*An Act to amend and reenact §§ 9.1-184 and 22.1-79.4 of the Code of Virginia, relating to the Virginia Center for School and Campus Safety; threat assessment; case management tool.*

[H 1734]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-184 and 22.1-79.4 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-184. Virginia Center for School and Campus Safety created; duties.**

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;

2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;

3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;

4. *Develop a case management tool for the collection and reporting of data by threat assessment teams pursuant to § 22.1-79.4;*

5. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department;

~~5-~~ 6. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;

~~6-~~ 7. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;

~~7-~~ 8. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;

~~8-~~ 9. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;

~~9-~~ 10. Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth; and

~~10-~~ 11. In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students.

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

**§ 22.1-79.4. Threat assessment teams and oversight committees.**

A. Each local school board shall adopt policies for the establishment of threat assessment teams, including the assessment of and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Virginia Center for School and Campus Safety (*the Center*) in accordance with § 9.1-184. Such policies shall include procedures for referrals to community services boards or health care providers for evaluation or treatment, when appropriate.

B. The superintendent of each school division may establish a committee charged with oversight of the threat assessment teams operating within the division, which may be an existing committee established by the division. The committee shall include individuals with expertise in human resources, education, school administration, mental health, and law enforcement.

C. Each division superintendent shall establish, for each school, a threat assessment team that shall include persons with expertise in counseling, instruction, school administration, and law enforcement. Threat assessment teams may be established to serve one or more schools as determined by the division superintendent. Each team shall (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self; (ii) identify members of the school community to whom threatening behavior should be reported; and (iii) implement policies adopted by the local school board pursuant to subsection A.

D. Upon a preliminary determination that a student poses a threat of violence or physical harm to self or others, a threat assessment team shall immediately report its determination to the division superintendent or his designee. The division superintendent or his designee shall immediately attempt to notify the student's parent or legal guardian. Nothing in this subsection shall preclude school division personnel from acting immediately to address an imminent threat.

E. Each threat assessment team established pursuant to this section shall *collect and report to the Center* quantitative data on its activities ~~according to guidance using the case management tool developed by the Department of Criminal Justice Services Center.~~

F. Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence to self or others or exhibits significantly disruptive behavior or need for assistance, a threat assessment team may obtain criminal history record information, as provided in §§ 19.2-389 and 19.2-389.1, and health records, as provided in § 32.1-127.1:03. No member of a threat assessment team shall redisclose any criminal history record information or health information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

## CHAPTER 457

*An Act to amend and reenact §§ 54.1-4009, 54.1-4101, and 54.1-4102 of the Code of Virginia, relating to pawning goods; unexpired government-issued identification card required.*

[H 1774]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-4009, 54.1-4101, and 54.1-4102 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-4009. Records to be kept; credentials of person pawning goods; fee; penalty.**

A. Every pawnbroker shall keep at his place of business an accurate and legible record of each loan or transaction in the course of his business, including transactions in which secondhand goods, wares, or merchandise is purchased for resale. The account shall be recorded at the time of the loan or transaction and shall include:

1. A description, serial number, and a statement of ownership of the goods, article, or thing pawned or pledged or received on account of money loaned thereon or purchased for resale;

2. The time, date, and place of the transaction;

3. The amount of money loaned thereon at the time of pledging the same or paid as the purchase price;

4. The rate of interest to be paid on such loan;

5. The fees charged by the pawnbroker, itemizing each fee charged;

6. The full name, residence address, telephone number, and driver's license number or other form of identification of the person pawning or pledging or selling the goods, article, or thing, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks, of such person;

7. Verification of the identification by the exhibition of ~~a~~ *an unexpired* government-issued identification card bearing *the current legal address* and a photograph of the person pawning, pledging, or selling the goods, article, or thing, such as a driver's license or military identification card. *If the government-issued identification card does not bear the current legal address, the person shall present other documentation verifying his current legal address.* The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

8. A digital image of the form of identification used by the person involved in the transaction, unless the form of identification used is a United States military issued identification or other form of identification included under 18 U.S.C. § 701, in which case the person involved in the transaction shall be required to present an alternate government-issued

identification card bearing a photograph of such person or the pawnbroker shall be required to take a photograph of the person involved in the transaction;

9. As to loans, the terms and conditions of the loan, including the period for which any such loan may be made; and
10. All other facts and circumstances respecting such loan or purchase.

B. A pawnbroker may maintain at his place of business an electronic record of each transaction involving goods, articles, or things pawned or pledged or purchased. If maintained electronically, a pawnbroker shall retain the electronic records for at least one year after the date of the transaction and make such electronic records available to any duly authorized law-enforcement officer upon request.

C. For each loan or transaction, a pawnbroker may charge:

1. A service fee for making the daily electronic reports to the appropriate law-enforcement officers required by § 54.1-4010, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed five percent of the amount loaned on such item or paid by the pawnbroker for such item or \$3, whichever is less; and

2. A late fee, not to exceed 10 percent of the amount loaned, for each item that is not claimed by the pledged date, provided that the pawner is notified of the fee on the pawn ticket.

Any person, firm, or corporation violating any of the provisions of this section is guilty of a Class 4 misdemeanor.

D. No goods, article, or thing shall be pawned or pledged or received on account of money loaned or purchased for resale if the original serial number affixed to the goods, article, or thing has been removed, defaced, or altered.

E. The Superintendent of State Police shall promulgate regulations specifying the nature of the particular description for the purposes of subdivision A 6.

The Superintendent of State Police shall promulgate regulations specifying the nature of identifying credentials of the person pawning, pledging, or selling the goods, article, or thing. Such credentials shall be examined by the pawnbroker, and an appropriate record retained thereof.

**§ 54.1-4101. Records to be kept; copy furnished to local authorities.**

A. Every dealer shall keep at his place of business an accurate and legible record of each purchase of precious metals or gems. The record of each purchase shall be retained by the dealer for at least 24 months and shall set forth the following:

1. A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers, or other identifying marks or monograms on each item purchased, the true weight or carat of any gem, and the price paid for each item;

2. The date, time, and place of receiving the items purchased;

3. The full name, residence address, work place, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, and other identifying marks of the person selling the precious metals or gems;

4. Verification of the identification by the exhibition of ~~a~~ *an unexpired* government-issued identification card bearing *the current legal address* and a photograph of the person selling the precious metals or gems, such as a driver's license or military identification card. *If the government-issued identification card does not bear the current legal address, the person shall present other documentation verifying his current legal address.* The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

5. A statement of ownership from the seller; and

6. A digital image of the form of identification used by the person involved in the transaction.

B. The information required by subdivisions A 1 through A 3 shall appear on each bill of sale for all precious metals and gems purchased by a dealer, and a copy shall be mailed or delivered within 24 hours of the time of purchase to the chief law-enforcement officer of the locality in which the purchase was made.

**§ 54.1-4102. Credentials and statement of ownership required from seller.**

No dealer shall purchase precious metals or gems without first (i) ascertaining the identity of the seller by requiring an *unexpired* identification card issued by a governmental agency with *the current legal address* and a photograph of the seller thereon, and at least one other corroborating means of identification, and (ii) obtaining a statement of ownership from the seller. *If the government-issued identification card does not bear the current legal address, the person shall present other documentation verifying his current legal address.*

The governing body of the locality wherein the dealer conducts his business may determine the contents of the statement of ownership.

## CHAPTER 458

*An Act to amend and reenact §§ 2.2-515.2, 8.01-42.4, 18.2-513, 19.2-10.2, 19.2-386.16, and 19.2-386.35 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-348.1, relating to promoting travel for prostitution; penalty.*

[H 1817]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-515.2, 8.01-42.4, 18.2-513, 19.2-10.2, 19.2-386.16, and 19.2-386.35 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-348.1 as follows:**

**§ 2.2-515.2. Address confidentiality program established; victims of domestic violence, stalking, sexual violence, or human trafficking; application; disclosure of records.**

A. As used in this section:

"Address" means a residential street address, school address, or work address of a person as specified on the person's application to be a program participant.

"Applicant" means a person who is a victim of domestic violence, stalking, or sexual violence or is a parent or guardian of a minor child or incapacitated person who is the victim of domestic violence, stalking, or sexual violence.

"Domestic violence" means an act as defined in § 38.2-508 and includes threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law-enforcement officers. Such threat must be a threat of force which would place any person in reasonable apprehension of death or bodily injury.

"Program participant" means a person certified by the Office of the Attorney General as eligible to participate in the Address Confidentiality Program.

"Sexual or domestic violence programs" means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence, or stalking. Such programs may also include specialized services for victims of human trafficking.

"Sexual violence" means conduct that is prohibited under clause (ii), (iii), (iv), or (v) of § 18.2-48, or § 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.5, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted of the alleged violation.

"Stalking" means conduct that is prohibited under § 18.2-60.3, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted for the alleged violation.

B. The Statewide Facilitator for Victims of Domestic Violence shall establish a program to be known as the "Address Confidentiality Program" to protect victims of domestic violence, stalking, or sexual violence by authorizing the use of designated addresses for such victims. An individual who is at least 18 years of age, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of an incapacitated person, or an emancipated minor may apply in person at (i) sexual or domestic violence programs that have been accredited by the Virginia Sexual and Domestic Violence Program Professional Standards Committee established pursuant to § 9.1-116.3 and are qualified to (a) assist the eligible person in determining whether the address confidentiality program should be part of such person's overall safety plan, (b) explain the address confidentiality program services and limitations, (c) explain the program participant's responsibilities, and, (d) assist the person eligible for participation with the completion of application materials or (ii) crime victim and witness assistance programs. The Office of the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if the application contains the following:

1. A sworn statement by the applicant declaring to be true and correct under penalty of perjury that the applicant has good reason to believe that:

a. The applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of domestic violence, sexual violence, or stalking;

b. The applicant fears further acts of violence, stalking, retribution, or intimidation from the applicant's assailant, abuser, or trafficker; and

c. The applicant is not on active parole or probation supervision requirements under federal, state, or local law.

2. A designation of the Office of the Attorney General as agent for the purpose of receiving mail on behalf of the applicant;

3. The applicant's actual address to which mail can be forwarded and a telephone number where the applicant can be called;

4. A listing of any minor children residing at the applicant's actual address, each minor child's date of birth, and each minor child's relationship to the applicant; and

5. The signature of the applicant and any person who assisted in the preparation of the application and the date.

C. Upon approval of a completed application, the Office of the Attorney General shall certify the applicant as a program participant. An applicant shall be certified for three years following the date of the approval, unless the certification is withdrawn or invalidated before that date. A program participant may apply to be recertified every three years.

D. Upon receipt of first-class mail addressed to a program participant, the Attorney General or his designee shall forward the mail to the actual address of the program participant. The actual address of a program participant shall be available only to the Attorney General and to those employees involved in the operation of the Address Confidentiality Program and to law-enforcement officers. A program participant's actual address may be entered into the Virginia Criminal Information Network (VCIN) system so that it may be made known to law-enforcement officers accessing the VCIN system for law-enforcement purposes.

E. The Office of the Attorney General may cancel a program participant's certification if:

1. The program participant requests withdrawal from the program;

2. The program participant obtains a name change through an order of the court and does not provide notice and a copy of the order to the Office of the Attorney General within seven days after entry of the order;

3. The program participant changes his residence address and does not provide seven days' notice to the Office of the Attorney General prior to the change of address;

4. The mail forwarded by the Office of the Attorney General to the address provided by the program participant is returned as undeliverable;

5. Any information contained in the application is false;

6. The program participant has been placed on parole or probation while a participant in the address confidentiality program; or

7. The applicant is required to register as a sex offender pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

For purposes of the address confidentiality program, residents of temporary housing for 30 days or less are not eligible to enroll in the address confidentiality program until a permanent residential address is obtained.

The application form shall contain a statement notifying each applicant of the provisions of this subsection.

F. A program participant may request that any state or local agency use the address designated by the Office of the Attorney General as the program participant's address, except when the program participant is purchasing a firearm from a dealer in firearms. The agency shall accept the address designated by the Office of the Attorney General as a program participant's address, unless the agency has received a written exemption from the Office of the Attorney General demonstrating to the satisfaction of the Attorney General that:

1. The agency has a bona fide statutory basis for requiring the program participant to disclose to it the actual location of the program participant; and

2. The disclosed confidential address of the program participant will be used only for that statutory purpose and will not be disclosed or made available in any way to any other person or agency.

A state agency may request an exemption by providing in writing to the Office of the Attorney General identification of the statute or administrative rule that demonstrates the agency's bona fide requirement and authority for the use of the actual address of an individual. A request for a waiver from an agency may be for an individual program participant, a class of program participants, or all program participants. The denial of an agency's exemption request shall be in writing and include a statement of the specific reasons for the denial. Acceptance or denial of an agency's exemption request shall constitute final agency action.

Any state or local agency that discloses the program participant's confidential address provided by the Office of the Attorney General shall be immune from civil liability unless the agency acted with gross negligence or willful misconduct.

A program participant's actual address shall be disclosed pursuant to a court order.

G. Records submitted to or provided by the Office of the Attorney General in accordance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) to the extent such records contain information identifying a past or current program participant, including such person's name, actual and designated address, telephone number, and any email address. However, access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of a program participant in cases where the program participant is a minor child or an incapacitated person, except when the parent or legal guardian is named as the program participant's assailant.

H. Neither the Office of the Attorney General, its officers or employees, or others who have a responsibility to a program participant under this section shall have any liability nor shall any cause of action arise against them in their official or personal capacity from the failure of a program participant to receive any first class mail forwarded to him by the Office of the Attorney General pursuant to this section. Nor shall any such liability or cause of action arise from the failure of a program participant to timely receive any first class mail forwarded by the Office of the Attorney General pursuant to this section.

#### **§ 8.01-42.4. Civil action for trafficking in persons.**

A. Any person injured by reason of (i) a violation of clause (iii), (iv), or (v) of § 18.2-48; (ii) a violation of § 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368; or (iii) a felony violation of § 18.2-346 may sue therefor and recover compensatory damages, punitive damages, and reasonable attorney fees and costs.

B. No action shall be commenced under this section more than seven years after the later of the date on which such person (i) was no longer subject to the conduct prohibited by clause (iii), (iv), or (v) of § 18.2-48 or § 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368 or under a felony violation of § 18.2-346 or (ii) attained 18 years of age.

#### **§ 18.2-348.1. Promoting travel for prostitution; penalty.**

*It is unlawful for any travel agent to knowingly promote travel services, as defined in § 59.1-445, for the purposes of prostitution or any act in violation of an offense set forth in subsection E 1 of § 9.1-902, made punishable within the Commonwealth, whether committed within or without. Violation of this section shall constitute a separate and distinct offense, and any person violating this section is guilty of a Class 1 misdemeanor. Punishment for a violation of this section shall be separate and apart from any punishment received from any other offense. For the purposes of this section "travel agent" means any person who for a consideration consults with or advises persons concerning travel services in the course of his business.*

#### **§ 18.2-513. Definitions.**

As used in this chapter, ~~the term:~~

"Criminal street gang" ~~shall be~~ means the same as such term is defined in § 18.2-46.1.

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang; or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" ~~shall be~~ means the same as such term is defined in § 18.2-246.2.

"Racketeering activity" means to commit, attempt to commit, conspire to commit, or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of this title, § 18.2-460; a felony offense of §§ 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of this title, §§ 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, 18.2-95, Article 4 (§ 18.2-111 et seq.) of Chapter 5 of this title, Article 1 (§ 18.2-168 et seq.) of Chapter 6 of this title, §§ 18.2-178, 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6 of this title, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of this title, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title, §§ 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-348, 18.2-348.1, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9 of this title, Article 1 (§ 18.2-434 et seq.) of Chapter 10 of this title, Article 2 (§ 18.2-438 et seq.) of Chapter 10 of this title, Article 3 (§ 18.2-446 et seq.) of Chapter 10 of this title, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of this title, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, the United States or its territories.

**§ 19.2-10.2. Administrative subpoena issued for record from provider of electronic communication service or remote computing service.**

A. A provider of electronic communication service or remote computing service that is transacting or has transacted any business in the Commonwealth shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications as required by § 19.2-70.3, to an attorney for the Commonwealth or the Attorney General pursuant to an administrative subpoena issued under this section.

1. In order to obtain such records or other information, the attorney for the Commonwealth or the Attorney General shall certify on the face of the subpoena that there is reason to believe that the records or other information being sought are relevant to a legitimate law-enforcement investigation concerning violations of §§ 18.2-47, 18.2-48, 18.2-49, 18.2-346, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-374.1, and 18.2-374.1:1, former § 18.2-374.1:2, and § 18.2-374.3.

2. Upon written certification by the attorney for the Commonwealth or the Attorney General that there is a reason to believe that the victim is under the age of 18 and that notification or disclosure of the existence of the subpoena will endanger the life or physical safety of an individual, or lead to flight from prosecution, the destruction of or tampering with evidence, the intimidation of potential witnesses, or otherwise seriously jeopardize an investigation, the subpoena shall include a provision ordering the service provider not to notify or disclose the existence of the subpoena to another person, other than an attorney to obtain legal advice, for a period of 30 days after the date on which the service provider responds to the subpoena.

3. On a motion made promptly by the electronic communication service or remote computing service provider, a court of competent jurisdiction may quash or modify the administrative subpoena if the records or other information requested are unusually voluminous in nature or if compliance with the subpoena would otherwise cause an undue burden on the service provider.

B. All records or other information received by an attorney for the Commonwealth or the Attorney General pursuant to an administrative subpoena issued under this section shall be used only for a reasonable length of time not to exceed 30 days and only for a legitimate law-enforcement purpose. Upon completion of the investigation, the records or other information held by the attorney for the Commonwealth or the Attorney General shall be destroyed if no prosecution is initiated. The existence of such a subpoena shall be disclosed upon motion of an accused.

C. No cause of action shall lie in any court against an electronic communication service or remote computing service provider, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of an administrative subpoena issued under this section.

D. Records or other information pertaining to a subscriber to or customer of such service means name, address, local and long distance telephone connection records, or records of session times and durations, length of service, including start date, and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service.

E. Nothing in this section shall require the disclosure of information in violation of any federal law.

**§ 19.2-386.16. Forfeiture of motor vehicles used in commission of certain crimes.**

A. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a second or subsequent offense of § 18.2-346, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356 or 18.2-357 or of a similar ordinance of any county, city or town or knowingly used for the transportation of any stolen goods, chattels or other property, when the value of such stolen goods, chattels or other property is \$500 or more, or any stolen property obtained as a result of a robbery, without regard to the value of the property, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such

vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

B. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and during the commission of, or in an attempt to commit, a misdemeanor violation of subsection D of § 18.2-47 or a felony violation of (i) Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2 or (ii) § 18.2-357 where the prostitute is a minor, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a receipt therefor.

C. Forfeiture of such vehicle shall be enforced as is provided in Chapter 22.1 (§ 19.2-386.1 et seq.).

**§ 19.2-386.35. Seizure of property used in connection with certain offenses.**

All money, equipment, motor vehicles, and other personal and real property of any kind or character together with any interest or profits derived from the investment of such proceeds or other property that (i) was used in connection with the commission of, or in an attempt to commit, a violation of subsection B of § 18.2-47, § 18.2-48 or 18.2-59, subsection B of § 18.2-346, or § 18.2-347, 18.2-348, *18.2-348.1*, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 40.1-29, 40.1-100.2, or 40.1-103; (ii) is traceable to the proceeds of some form of activity that violates subsection B of § 18.2-47, § 18.2-48 or 18.2-59, subsection B of § 18.2-346, or § 18.2-347, 18.2-348, *18.2-348.1*, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103; or (iii) was used to or intended to be used to promote some form of activity that violates subsection B of § 18.2-47, § 18.2-48 or 18.2-59, subsection B of § 18.2-346, or § 18.2-347, 18.2-348, *18.2-348.1*, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103 is subject to lawful seizure by a law-enforcement officer and subject to forfeiture to the Commonwealth pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.). Any forfeiture action under this section shall be stayed until conviction, and property eligible for forfeiture pursuant to this section shall be forfeited only upon the entry of a final judgment of conviction for an offense listed in this section; if no such judgment is entered, all property seized pursuant to this section shall be released from seizure.

Real property shall not be subject to seizure unless the minimum prescribed punishment for the violation is a term of imprisonment of not less than five years.

All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§ 19.2-386.1 et seq.), and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under this section.

## CHAPTER 459

*An Act to amend and reenact § 46.2-1220 of the Code of Virginia, relating to parking ordinances; enforcement.*

[H 1818]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1220 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1220. Parking, stopping, and standing regulations in counties, cities, or towns; parking meters; presumption as to violation of ordinances; penalty.**

The governing body of any county, city, or town may by ordinance provide for the regulation of parking, stopping, and standing of vehicles within its limits, including, but not limited to, the regulation of any vehicle blocking access to and preventing use of curb ramps, fire hydrants, and mailboxes on public or private property. Such ordinances may also include the installation and maintenance of parking meters. The ordinance may require the deposit of a coin of a prescribed denomination, determine the length of time a vehicle may be parked, and designate a department, official, or employee of the local government to administer the provisions of the ordinance. The ordinance may delegate to that department, official, or employee the authority to make and enforce any additional regulations concerning parking that may be required, including, but not limited to, penalties for violations, deadlines for the payment of fines, and late payment penalties for fines not paid when due. In a ~~city~~ *locality* having a population of at least 40,000, the ordinance may also provide that a summons or parking ticket for the violation of the ordinance or regulations may be issued by law-enforcement officers, other uniformed ~~city~~ *employees of the locality*, or by uniformed personnel serving under contract with the ~~city~~ *locality*. Notwithstanding the foregoing provisions of this section, the governing bodies of Augusta, Bath, and Rockingham Counties may by ordinance provide for the regulation of parking, stopping, and standing of vehicles within their limits, but no such ordinance shall authorize or provide for the installation and maintenance of parking meters.

No ordinance adopted under the provisions of this section shall prohibit the parking of two motorcycles in single parking spaces designated, marked, and sized for four-wheel vehicles. The governing body of any county, city, or town may, by ordinance, permit the parking of three or more motorcycles in single parking spaces designated, marked, and sized for four-wheel vehicles.

If any ordinance regulates parking on an interstate highway or any arterial highway or any extension of an arterial highway, it shall be subject to the approval of the Commissioner of Highways.

In any prosecution charging a violation of the ordinance or regulation, proof that the vehicle described in the complaint, summons, parking ticket citation, or warrant was parked in violation of the ordinance or regulation, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) ~~or~~

~~this title~~, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. Violators of local ordinances adopted by Chesterfield County or James City County pursuant to this section shall be subject to a civil penalty not to exceed \$75, the proceeds from which shall be paid into the locality's general fund.

### CHAPTER 460

*An Act to amend and reenact § 46.2-1233 of the Code of Virginia, relating to towing fees.*

[H 1865]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1233 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1233. Localities may regulate towing fees.**

The governing body of any locality may by ordinance set reasonable limits on fees charged for the removal of motor vehicles, trailers, and parts thereof left on private property in violation of § 46.2-1231, and for the removal of trespassing vehicles under § 46.2-1215, taking into consideration the fair market value of such removal.

Localities in Planning District 8 and Planning District 16 shall establish by ordinance (i) a hookup and initial towing fee of *no less than \$135 and no more than the maximum charges provided in § 46.2-1233.1* and (ii) for towing a vehicle between ~~seven o'clock 7:00 p.m. and eight o'clock 8:00 a.m.~~ on any Saturday, Sunday, or holiday, an additional fee of \$25 per instance; however, such ordinance shall also provide that in no event shall more than two such additional fees be charged for towing any vehicle.

### CHAPTER 461

*An Act to amend and reenact § 15.2-2242 of the Code of Virginia, relating to subdivision ordinance; sidewalks.*

[H 1913]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2242 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2242. Optional provisions of a subdivision ordinance.**

A subdivision ordinance may include:

1. Provisions for variations in or exceptions to the general regulations of the subdivision ordinance in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

2. A requirement (i) for the furnishing of a preliminary opinion from the applicable health official regarding the suitability of a subdivision for installation of subsurface sewage disposal systems where such method of sewage disposal is to be utilized in the development of a subdivision and (ii) that all buildings constructed on lots resulting from subdivision of a larger tract that abuts or adjoins a public water or sewer system or main shall be connected to that public water or sewer system or main subject to the provisions of § 15.2-2121.

3. A requirement that, in the event streets in a subdivision will not be constructed to meet the standards necessary for inclusion in the secondary system of state highways or for state street maintenance moneys paid to municipalities, the subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the streets in the subdivision do not meet state standards and will not be maintained by the Department of Transportation or the localities enacting the ordinances. Grantors of any subdivision lots to which such statement applies must include the statement on each deed of conveyance thereof. However, localities in their ordinances may establish minimum standards for construction of streets that will not be built to state standards.

For streets constructed or to be constructed, as provided for in this subsection, a subdivision ordinance may require that the same procedure be followed as that set forth in provision 5 of § 15.2-2241. Further, the subdivision ordinance may provide that the developer's financial commitment shall continue until such time as the local government releases such financial commitment in accordance with provision 11 of § 15.2-2241.

4. Reasonable provision for the voluntary funding of off-site road improvements and reimbursements of advances by the governing body. If a subdivider or developer makes an advance of payments for or construction of reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him, the need for which is substantially generated and reasonably required by the construction or improvement of his subdivision or development, and such advance is accepted, the governing body may agree to reimburse the subdivider or developer from such funds as the governing body may make available for such purpose from time to time for the cost of such advance together with interest, which shall be excludable from gross income for federal income tax purposes, at a rate equal to the rate of interest on bonds most recently issued by the governing body on the following terms and conditions:

a. The governing body shall determine or confirm that the road improvements were substantially generated and reasonably required by the construction or improvement of the subdivision or development and shall determine or confirm

the cost thereof, on the basis of a study or studies conducted by qualified traffic engineers and approved and accepted by the subdivider or developer.

b. The governing body shall prepare, or cause to be prepared, a report accepted and approved by the subdivider or developer, indicating the governmental services required to be furnished to the subdivision or development and an estimate of the annual cost thereof for the period during which the reimbursement is to be made to the subdivider or developer.

c. The governing body may make annual reimbursements to the subdivider or developer from funds made available for such purpose from time to time, including but not limited to real estate taxes assessed and collected against the land and improvements on the property included in the subdivision or development in amounts equal to the amount by which such real estate taxes exceed the annual cost of providing reasonable and necessary governmental services to such subdivision or development.

5. In Arlington County, Fairfax County, Loudoun County, and Prince William County, in any town located within such counties, in Bedford County, Pittsylvania County, Spotsylvania County, and Stafford County, or in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Hampton, Manassas, Manassas Park, and Portsmouth, provisions for payment by a subdivider or developer of land of a pro rata share of the cost of reasonable and necessary road improvements, located outside the property limits of the land owned or controlled by him but serving an area having related traffic needs to which his subdivision or development will contribute, to reimburse an initial subdivider or developer who has advanced such costs or constructed such road improvements. Such ordinance may apply to road improvements constructed after July 1, 1988, in Fairfax County; in Arlington County, Loudoun County, and Prince William County, in any town located within such counties, in Bedford County, Pittsylvania County, Spotsylvania County, and Stafford County, or in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Hampton, Manassas, Manassas Park, and Portsmouth, such ordinance may only apply to road improvements constructed after the effective date of such ordinance.

Such provisions shall provide for the adoption of a pro rata reimbursement plan which shall include reasonable standards to identify the area having related traffic needs, to determine the total estimated or actual cost of road improvements required to adequately serve the area when fully developed in accordance with the comprehensive plan or as required by proffered conditions, and to determine the proportionate share of such costs to be reimbursed by each subsequent subdivider or developer within the area, with interest (i) at the legal rate or (ii) at an inflation rate prescribed by a generally accepted index of road construction costs, whichever is less.

For any subdivision ordinance adopted pursuant to provision 5 of this section after February 1, 1993, no such payment shall be assessed or imposed upon a subsequent developer or subdivider if (i) prior to the adoption of a pro rata reimbursement plan the subsequent subdivider or developer has proffered conditions pursuant to § 15.2-2303 for offsite road improvements and such proffered conditions have been accepted by the locality, (ii) the locality has assessed or imposed an impact fee on the subsequent development or subdivision pursuant to Article 8 (§ 15.2-2317 et seq.) of Chapter 22, or (iii) the subsequent subdivider or developer has received final site plan, subdivision plan, or plan of development approval from the locality prior to the adoption of a pro rata reimbursement plan for the area having related traffic needs.

The amount of the costs to be reimbursed by a subsequent developer or subdivider shall be determined before or at the time the site plan or subdivision is approved. The ordinance shall specify that such costs are to be collected at the time of the issuance of a temporary or final certificate of occupancy or functional use and occupancy within the development, whichever shall come first. The ordinance also may provide that the required reimbursement may be paid (i) in lump sum, (ii) by agreement of the parties on installment at a reasonable rate of interest or rate of inflation, whichever is less, for a fixed number of years, or (iii) on such terms as otherwise agreed to by the initial and subsequent subdividers and developers.

Such ordinance provisions may provide that no certificate of occupancy shall be issued to a subsequent developer or subdivider until (i) the initial developer certifies to the locality that the subsequent developer has made the required reimbursement directly to him as provided above or (ii) the subsequent developer has deposited the reimbursement amount with the locality for transfer forthwith to the initial developer.

6. Provisions for establishing and maintaining access to solar energy to encourage the use of solar heating and cooling devices in new subdivisions. The provisions shall be applicable to a new subdivision only when so requested by the subdivider.

7. Provisions, in any town with a population between 14,500 and 15,000, granting authority to the governing body, in its discretion, to use funds escrowed pursuant to provision 5 of § 15.2-2241 for improvements similar to but other than those for which the funds were escrowed, if the governing body (i) obtains the written consent of the owner or developer who submitted the escrowed funds; (ii) finds that the facilities for which funds are escrowed are not immediately required; (iii) releases the owner or developer from liability for the construction or for the future cost of constructing those improvements for which the funds were escrowed; and (iv) accepts liability for future construction of these improvements. If such town fails to locate such owner or developer after making a reasonable attempt to do so, the town may proceed as if such consent had been granted. In addition, the escrowed funds to be used for such other improvement may only come from an escrow that does not exceed a principal amount of \$30,000 plus any accrued interest and shall have been escrowed for at least five years.

8. Provisions for clustering of single-family dwellings and preservation of open space developments, which provisions shall comply with the requirements and procedures set forth in § 15.2-2286.1.

9. Provisions requiring that where a lot being subdivided or developed fronts on an existing street, and adjacent property on either side has an existing sidewalk *or when the provision of a sidewalk, the need for which is substantially generated and reasonably required by the proposed development, is in accordance with the locality's adopted comprehensive plan*, a locality may require the dedication of land for, and construction of, a sidewalk on the property being subdivided or developed; ~~to connect to the existing sidewalk~~. Nothing in this paragraph shall alter in any way any authority of localities or the Department of Transportation to require sidewalks on any newly constructed street or highway.

10. Provisions for requiring and considering Phase I environmental site assessments based on the anticipated use of the property proposed for the subdivision or development that meet generally accepted national standards for such assessments, such as those developed by the American Society for Testing and Materials, and Phase II environmental site assessments, that also meet accepted national standards, such as, but not limited to, those developed by the American Society for Testing and Materials, if the locality deems such to be reasonably necessary, based on findings in the Phase I assessment, and in accordance with regulations of the United States Environmental Protection Agency and the American Society for Testing and Materials. A reasonable fee may be charged for the review of such environmental assessments. Such fees shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and administrative expense involved in such review.

11. Provisions for requiring disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans.

12. Provisions, in any town located in the Northern Virginia Transportation District, granting authority to the governing body to require the dedication of land for sidewalk, curb, and gutter improvements on the property being subdivided or developed if the property is designated for such improvements on the locality's adopted pedestrian plan.

## CHAPTER 462

*An Act to amend and reenact § 15.2-2242 of the Code of Virginia, relating to subdivision ordinance; sidewalks.*

[S 1663]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 15.2-2242 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 15.2-2242. Optional provisions of a subdivision ordinance.**

A subdivision ordinance may include:

1. Provisions for variations in or exceptions to the general regulations of the subdivision ordinance in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

2. A requirement (i) for the furnishing of a preliminary opinion from the applicable health official regarding the suitability of a subdivision for installation of subsurface sewage disposal systems where such method of sewage disposal is to be utilized in the development of a subdivision and (ii) that all buildings constructed on lots resulting from subdivision of a larger tract that abuts or adjoins a public water or sewer system or main shall be connected to that public water or sewer system or main subject to the provisions of § 15.2-2121.

3. A requirement that, in the event streets in a subdivision will not be constructed to meet the standards necessary for inclusion in the secondary system of state highways or for state street maintenance moneys paid to municipalities, the subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the streets in the subdivision do not meet state standards and will not be maintained by the Department of Transportation or the localities enacting the ordinances. Grantors of any subdivision lots to which such statement applies must include the statement on each deed of conveyance thereof. However, localities in their ordinances may establish minimum standards for construction of streets that will not be built to state standards.

For streets constructed or to be constructed, as provided for in this subsection, a subdivision ordinance may require that the same procedure be followed as that set forth in provision 5 of § 15.2-2241. Further, the subdivision ordinance may provide that the developer's financial commitment shall continue until such time as the local government releases such financial commitment in accordance with provision 11 of § 15.2-2241.

4. Reasonable provision for the voluntary funding of off-site road improvements and reimbursements of advances by the governing body. If a subdivider or developer makes an advance of payments for or construction of reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him, the need for which is substantially generated and reasonably required by the construction or improvement of his subdivision or development, and such advance is accepted, the governing body may agree to reimburse the subdivider or developer from such funds as the governing body may make available for such purpose from time to time for the cost of such advance together with interest, which shall be excludable from gross income for federal income tax purposes, at a rate equal to the rate of interest on bonds most recently issued by the governing body on the following terms and conditions:

a. The governing body shall determine or confirm that the road improvements were substantially generated and reasonably required by the construction or improvement of the subdivision or development and shall determine or confirm the cost thereof, on the basis of a study or studies conducted by qualified traffic engineers and approved and accepted by the subdivider or developer.

b. The governing body shall prepare, or cause to be prepared, a report accepted and approved by the subdivider or developer, indicating the governmental services required to be furnished to the subdivision or development and an estimate of the annual cost thereof for the period during which the reimbursement is to be made to the subdivider or developer.

c. The governing body may make annual reimbursements to the subdivider or developer from funds made available for such purpose from time to time, including but not limited to real estate taxes assessed and collected against the land and improvements on the property included in the subdivision or development in amounts equal to the amount by which such real estate taxes exceed the annual cost of providing reasonable and necessary governmental services to such subdivision or development.

5. In Arlington County, Fairfax County, Loudoun County, and Prince William County, in any town located within such counties, in Bedford County, Pittsylvania County, Spotsylvania County, and Stafford County, or in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Hampton, Manassas, Manassas Park, and Portsmouth, provisions for payment by a subdivider or developer of land of a pro rata share of the cost of reasonable and necessary road improvements, located outside the property limits of the land owned or controlled by him but serving an area having related traffic needs to which his subdivision or development will contribute, to reimburse an initial subdivider or developer who has advanced such costs or constructed such road improvements. Such ordinance may apply to road improvements constructed after July 1, 1988, in Fairfax County; in Arlington County, Loudoun County, and Prince William County, in any town located within such counties, in Bedford County, Pittsylvania County, Spotsylvania County, and Stafford County, or in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Hampton, Manassas, Manassas Park, and Portsmouth, such ordinance may only apply to road improvements constructed after the effective date of such ordinance.

Such provisions shall provide for the adoption of a pro rata reimbursement plan which shall include reasonable standards to identify the area having related traffic needs, to determine the total estimated or actual cost of road improvements required to adequately serve the area when fully developed in accordance with the comprehensive plan or as required by proffered conditions, and to determine the proportionate share of such costs to be reimbursed by each subsequent subdivider or developer within the area, with interest (i) at the legal rate or (ii) at an inflation rate prescribed by a generally accepted index of road construction costs, whichever is less.

For any subdivision ordinance adopted pursuant to provision 5 of this section after February 1, 1993, no such payment shall be assessed or imposed upon a subsequent developer or subdivider if (i) prior to the adoption of a pro rata reimbursement plan the subsequent subdivider or developer has proffered conditions pursuant to § 15.2-2303 for offsite road improvements and such proffered conditions have been accepted by the locality, (ii) the locality has assessed or imposed an impact fee on the subsequent development or subdivision pursuant to Article 8 (§ 15.2-2317 et seq.) of Chapter 22, or (iii) the subsequent subdivider or developer has received final site plan, subdivision plan, or plan of development approval from the locality prior to the adoption of a pro rata reimbursement plan for the area having related traffic needs.

The amount of the costs to be reimbursed by a subsequent developer or subdivider shall be determined before or at the time the site plan or subdivision is approved. The ordinance shall specify that such costs are to be collected at the time of the issuance of a temporary or final certificate of occupancy or functional use and occupancy within the development, whichever shall come first. The ordinance also may provide that the required reimbursement may be paid (i) in lump sum, (ii) by agreement of the parties on installment at a reasonable rate of interest or rate of inflation, whichever is less, for a fixed number of years, or (iii) on such terms as otherwise agreed to by the initial and subsequent subdividers and developers.

Such ordinance provisions may provide that no certificate of occupancy shall be issued to a subsequent developer or subdivider until (i) the initial developer certifies to the locality that the subsequent developer has made the required reimbursement directly to him as provided above or (ii) the subsequent developer has deposited the reimbursement amount with the locality for transfer forthwith to the initial developer.

6. Provisions for establishing and maintaining access to solar energy to encourage the use of solar heating and cooling devices in new subdivisions. The provisions shall be applicable to a new subdivision only when so requested by the subdivider.

7. Provisions, in any town with a population between 14,500 and 15,000, granting authority to the governing body, in its discretion, to use funds escrowed pursuant to provision 5 of § 15.2-2241 for improvements similar to but other than those for which the funds were escrowed, if the governing body (i) obtains the written consent of the owner or developer who submitted the escrowed funds; (ii) finds that the facilities for which funds are escrowed are not immediately required; (iii) releases the owner or developer from liability for the construction or for the future cost of constructing those improvements for which the funds were escrowed; and (iv) accepts liability for future construction of these improvements. If such town fails to locate such owner or developer after making a reasonable attempt to do so, the town may proceed as if such consent had been granted. In addition, the escrowed funds to be used for such other improvement may only come from an escrow that does not exceed a principal amount of \$30,000 plus any accrued interest and shall have been escrowed for at least five years.

8. Provisions for clustering of single-family dwellings and preservation of open space developments, which provisions shall comply with the requirements and procedures set forth in § 15.2-2286.1.

9. Provisions requiring that where a lot being subdivided or developed fronts on an existing street, and adjacent property on either side has an existing sidewalk *or when the provision of a sidewalk, the need for which is substantially*

generated and reasonably required by the proposed development, is in accordance with the locality's adopted comprehensive plan, a locality may require the dedication of land for, and construction of, a sidewalk on the property being subdivided or developed; ~~to connect to the existing sidewalk.~~ Nothing in this paragraph shall alter in any way any authority of localities or the Department of Transportation to require sidewalks on any newly constructed street or highway.

10. Provisions for requiring and considering Phase I environmental site assessments based on the anticipated use of the property proposed for the subdivision or development that meet generally accepted national standards for such assessments, such as those developed by the American Society for Testing and Materials, and Phase II environmental site assessments, that also meet accepted national standards, such as, but not limited to, those developed by the American Society for Testing and Materials, if the locality deems such to be reasonably necessary, based on findings in the Phase I assessment, and in accordance with regulations of the United States Environmental Protection Agency and the American Society for Testing and Materials. A reasonable fee may be charged for the review of such environmental assessments. Such fees shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and administrative expense involved in such review.

11. Provisions for requiring disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans.

12. Provisions, in any town located in the Northern Virginia Transportation District, granting authority to the governing body to require the dedication of land for sidewalk, curb, and gutter improvements on the property being subdivided or developed if the property is designated for such improvements on the locality's adopted pedestrian plan.

### CHAPTER 463

*An Act to amend the Code of Virginia by adding in Article 3 of Chapter 1 of Title 53.1 a section numbered 53.1-17.1, relating to Department of Corrections; health care continuous quality improvement committee.*

[H 1917]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 3 of Chapter 1 of Title 53.1 a section numbered 53.1-17.1 as follows:**

**§ 53.1-17.1. Continuous quality improvement committee; report.**

A. The Director shall establish a health care continuous quality improvement committee, which shall be composed of the Director, or his designee, and at least one of each of the following: a health services director, physician, nurse, dentist, mental health director, pharmacist, psychiatrist, specialist in infection control, and grievance counselor employed by the Department. The committee shall (i) identify appropriate criteria for evaluation of the quality of health care services provided by the Department, (ii) monitor and evaluate the quality of health care services provided by the Department utilizing the criteria identified, and (iii) develop strategies to improve the quality of health care services provided by the Department.

B. Beginning July 1, 2020, the committee established pursuant to subsection A shall publish quarterly continuous quality improvement reports setting forth such data and information as the committee shall deem appropriate on a website maintained by the Department. Each facility shall submit quarterly continuous quality improvement reports containing such data and information as may be required by the committee at such times as may be required by the committee, for inclusion in the committee's quarterly continuous quality improvement report.

### CHAPTER 464

*An Act to amend and reenact § 59.1-74 of the Code of Virginia, as it shall become effective, relating to transacting business under an assumed name.*

[H 1925]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-74 of the Code of Virginia, as it shall become effective, is amended and reenacted as follows:**

**§ 59.1-74. (Effective January 1, 2020) Recordation of certificate and registration of names.**

A. The clerk of the court with whom a certificate of assumed or fictitious name is filed shall keep a book in which all certificates of assumed or fictitious name and certificates of release of an assumed or fictitious name are recorded, with their date of record, and shall keep a register in which shall be entered in alphabetical order the name under which every business is conducted and the names of every person owning the business.

B. No license shall be issued by a commissioner of the revenue until a certificate of assumed or fictitious name has been made and filed (i) in the office of the clerk of the Commission or (ii) prior to ~~May 1, 2019~~ *January 1, 2020*, in the office of the clerk of the court, and evidence of the filing has been provided to the commissioner of the revenue by the person conducting business under the assumed or fictitious name.

**2. That an emergency exists and this act is in force from its passage.**

**CHAPTER 465**

*An Act to amend and reenact §§ 18.2-51.4 and 18.2-51.5 of the Code of Virginia, relating to maiming, etc., of another; driving while intoxicated; operating a watercraft while intoxicated; penalties.*

[H 1941]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-51.4 and 18.2-51.5 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-51.4. Maiming, etc., of another resulting from driving while intoxicated.**

A. Any person who, as a result of driving while intoxicated in violation of § 18.2-266 or any local ordinance substantially similar thereto in a manner so gross, wanton, and culpable as to show a reckless disregard for human life, unintentionally causes the serious bodily injury of another person *is guilty of a Class 6 felony*.

*B. Any person who, as a result of driving while intoxicated in violation of § 18.2-266 or any local ordinance substantially similar thereto in a manner so gross, wanton, and culpable as to show a reckless disregard for human life, unintentionally causes the serious bodily injury of another person resulting in permanent and significant physical impairment shall be is guilty of a Class 6 4 felony.*

C. The driver's license of any person convicted under this section shall be revoked pursuant to subsection B of § 46.2-391.

~~B. D.~~ The provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of ~~Title 18.2~~ shall apply, mutatis mutandis, upon arrest for a violation of this section.

*E. As used in this section, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.*

**§ 18.2-51.5. Maiming, etc., of another resulting from operating a watercraft while intoxicated; penalty.**

A. Any person who, as a result of operating a watercraft or motorboat in violation of subsection B of § 29.1-738 or a similar local ordinance in a manner so gross, wanton, and culpable as to show reckless disregard for human life, unintentionally causes the serious bodily injury of another person *is guilty of a Class 6 felony*.

*B. Any person who, as a result of operating a watercraft or motorboat in violation of subsection B of § 29.1-738 or a similar local ordinance in a manner so gross, wanton, and culpable as to show reckless disregard for human life, unintentionally causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 4 felony.*

C. The court shall order any person convicted under this section not to operate a watercraft or motorboat that is underway upon the waters of the Commonwealth. After two years have passed from the date of the conviction, the convicted person may petition the court that entered the conviction for the right to operate a watercraft or motorboat upon the waters of the Commonwealth. Upon consideration of such petition, the court may restore the right to operate a watercraft or motorboat subject to such terms and conditions as the court deems appropriate, including the successful completion of a water safety alcohol rehabilitation program described in § 29.1-738.5.

~~B. D.~~ The provisions of Article 3 (§ 29.1-734 et seq.) of Chapter 7 of Title 29.1 shall apply, mutatis mutandis, upon arrest for a violation of this section.

*E. As used in this section, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.*

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

**CHAPTER 466**

*An Act to amend and reenact §§ 4.1-100 and 4.1-119 of the Code of Virginia, relating to alcoholic beverage control; licensed distillers; manufacture and sale of low alcohol beverage cooler.*

[H 1960]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100 and 4.1-119 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. Definitions.**

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title, except that low alcohol beverage coolers (i) *may be manufactured by a licensed distiller or a distiller located outside the Commonwealth and* (ii) shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage ~~which~~ that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### **§ 4.1-119. Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, *low alcohol beverage coolers*, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits and *low alcohol beverage coolers*, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits and *low alcohol beverage coolers* in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be ~~(a)~~ (1) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages or (2) used in a *low alcohol beverage cooler* and ~~(b)~~ (b) bottled by the receiving distillery.

E. (Effective until July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

E. (Effective July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

## CHAPTER 467

*An Act to amend and reenact §§ 54.1-2352, 55-79.100, 55-396, and 55-500 of the Code of Virginia, relating to the Common Interest Community Board; enforcement; issuance of compliance orders.*

[H 1962]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2352, 55-79.100, 55-396, and 55-500 of the Code of Virginia are amended and reenacted as follows: § 54.1-2352. Cease and desist orders.**

A. The Board may issue an order requiring the governing board of the association to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this chapter, if the Board determines after notice and hearing that the governing board of an association has:

1. Violated any statute or regulation of the Board governing the association regulated pursuant to this chapter, including engaging in any act or practice in violation of this chapter, Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, or any of the Board's regulations or orders;

2. Failed to register as an association or to file an annual report as required by statute or regulation;

3. Materially misrepresented facts in an application for registration or an annual report; or

4. Willfully refused to furnish the Board information or records required or requested pursuant to statute or regulation.

B. If the Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary *order to cease and desist* ~~order~~ *or to take such affirmative action as may be deemed appropriate by the Board*. Prior to issuing the temporary ~~cease and desist~~ *order*, the Board shall give notice of the proposal to issue a temporary ~~cease and desist~~ *order* to the person. Every temporary ~~cease and desist~~ *order* shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

**§ 55-79.100. Cease and desist orders.**

(a) If the agency determines after notice and hearing that a person has:

(1) Violated any provision of this chapter;

(2) Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of a unit;

(3) Made any substantial change in the plan of disposition and development of the condominium subsequent to the order of registration without notifying the agency;

(4) Disposed of any units which have not been registered with the agency; or

(5) Violated any lawful order or rule of the agency;

it may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the agency will carry out the purposes of this chapter.

(b) If the agency makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary *order to cease and desist* ~~order~~ *or to take such affirmative action as may be deemed appropriate by the agency*. Prior to issuing the temporary ~~cease and desist~~ *order*, the agency shall give notice of the proposal to issue a temporary ~~cease and desist~~ *order* to the person. Every temporary ~~cease and desist~~ *order* shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

**§ 55-396. General powers and duties of Board.**

A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this chapter. The Board may prescribe forms and procedures for submitting information to the Board.

B. The Board may accept grants in aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions, in furtherance of the objectives of this chapter.

C. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the Board's duties.

D. 1. If the Board determines after legal notice and opportunity for hearing that a developer or reseller or an agent of a developer or reseller has:

a. Made any representation in any document or information filed with the Board which is false or misleading;

b. Engaged or is engaging in any unlawful act or practice;

c. Disseminated or caused to be disseminated orally, or in writing, any false or misleading promotional materials in connection with a time-share program;

d. Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of time-shares in the time-share program;

e. Failed to perform any stipulation or agreement made to induce the Board to issue an order relating to that time-share program;

f. Otherwise violated any provision of this chapter or any of the Board's rules and regulations or orders; or

g. Disposed of any time-share in a project without first complying with the requirements of this chapter, it may issue an order requiring the developer to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this chapter.

2. If the Board makes a finding of fact at a hearing that the public interest will be irreparably harmed by delay in issuing an order, as prescribed in subdivision 1 ~~of this subsection~~, it may issue a temporary *order to cease and desist* ~~order~~ *or to take such affirmative action as may be deemed appropriate by the agency*. With the issuance of a temporary ~~cease and desist~~ *order*, the Board, by registered mail or other personal written service, shall give notice of the issuance to the developer or the reseller. Every temporary ~~cease and desist~~ *order* shall include in its terms:

a. A provision clearly stating the reasons for issuing such ~~cease and desist~~ *order*, the date of the hearing on its issuance, and the nature and extent of the facts and findings on which the order was based;

b. A provision that a hearing by the Board may be held, after due notice but not more than ~~fifteen~~ 15 days from the date such temporary ~~cease and desist~~ *order* is effective, to determine whether or not a ~~cease and desist~~ *an order* as called for in ~~the immediately preceding subsection~~ *subdivision 1* shall be issued;

c. A provision that such temporary cease and desist order may remain in full force for a period of not more than ~~fifteen~~ 15 days from the date of its issuance or the date on which the Board has determined that an order as prescribed in subdivision 1 ~~of this subsection~~ is to be issued, whichever shall occur first; and

d. A provision that a failure to comply with such temporary ~~cease and desist~~ order will be a violation of this chapter. The Board shall not issue more than one temporary cease and desist order with reference to such finding of fact as prescribed in this subsection.

E. The Board may also issue a cease and desist order if the developer has not registered the time-share program as required by this chapter or if a reseller has not registered as required by this chapter.

F. The Board, after notice and hearing, may issue an order revoking the registration of the developer's time-share program or the registration of a reseller upon determination that such developer, reseller, or agent thereof has failed to comply with a cease and desist order issued by the Board affecting the developer's time-share program or the reseller.

G. If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in violation of this chapter or any of the Board's rules, regulations or orders applicable thereto, the Board, without prior administrative proceedings, may bring suit in the circuit court of the city or county in which any portion of the time-share project is located to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

H. Upon request of a time-share owner, the Board shall, in accordance with subsection B of § 55-382, issue its determination whether compliance with § 55-375 or 55-386 has occurred.

#### **§ 55-500. Cease and desist order.**

If the agency determines, after notice and hearing, that any person has disseminated or caused to be disseminated orally or in writing any false or misleading promotional materials in connection with a cooperative, or that any person has otherwise violated any provision of this chapter or the agency's rules, regulations or orders, the agency may issue an order to cease and desist from that conduct ~~to comply with the provisions of this chapter and the agency's rules, regulations and orders, or to take affirmative action to correct conditions resulting from that conduct or failure to comply or to take such affirmative action as may be appropriate to the agency.~~

### **CHAPTER 468**

*An Act to amend and reenact § 2.2-2342 of the Code of Virginia, relating to Fort Monroe Authority; payments to the City of Hampton in lieu of real property taxes.*

[H 1965]

Approved March 18, 2019

#### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 2.2-2342 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 2.2-2342. Payments to Commonwealth or political subdivisions thereof; payments to the City of Hampton.**

A. The Authority may agree to make such payments to the Commonwealth or any political subdivision thereof, which payments such bodies are hereby authorized to accept, for any goods, services, licenses, concessions or franchises as the Authority finds consistent with the purposes for which the Authority has been created.

B. ~~On or before January 15, 2012, the Authority shall pay to the City of Hampton a fee in an amount to be determined by the formula defined below for the period September 15, 2011, through December 31, 2011. Thereafter, fees It is the intent of this section that the Authority shall pay a fee in lieu of taxes as provided in this section. Such fee shall be payable by the Authority to the City of Hampton and shall be payable, in arrears, for the period January 1 through June 30 on each June 30, and for the period July 1 through December 31 on each December 31. The amount of such fee shall be determined as follows: (i) all property in the Fort Monroe Area of Operation shall be assessed as if it was privately owned property; (ii) property exempt from taxation by classification under § 58.1-3606 that would not be taxed if located elsewhere in the City of Hampton by virtue of the ownership, control, or use of the property, other than property classified solely under subdivision A 1 of § 58.1-3606, based on the use of the property and regardless of ownership of the property, shall be excluded from the calculation of the fee in lieu of taxes; and (iii) property designated by ordinance of the City of Hampton as exempt from taxation pursuant to § 58.1-3651, or pursuant to any other applicable action of the City Council, based on the use of the property and regardless of ownership of the property, shall be excluded from the calculation of the fee; (iv) property owned or leased and exclusively used by the National Park Service or the City of Hampton, property remaining under the ownership of the federal government, and any other property that would not be taxed if it was located elsewhere in the City of Hampton by virtue of the ownership, control, or use of the property, except as otherwise provided herein, shall be excluded from the calculation of the fee; and (v) the total assessed value of the property, less any exclusions as indicated herein exemptions, shall then be divided by \$100, multiplied by the then-current real estate tax rate set by the City of Hampton, minus the real estate taxes (a) owed to the City of Hampton directly from taxpayers other than the Authority within the Authority's Area of Operation. This shall be the amount of the fee payable to the City of Hampton. It is the intent of this section that for properties at Fort Monroe that would be taxed by the City of Hampton if privately held, the Authority shall pay a fee in lieu of taxes, but that properties at Fort Monroe that would not be taxed by the City if privately held shall be exempt from the fee, taking into account the current limitations on the transfer of properties at Fort Monroe,~~

including lessees subject to taxation and billed to the lessee pursuant to subsection E, and (b) collected by the Authority and remitted to the City of Hampton pursuant to subsection E in the calendar year prior to the year for which the fee in lieu of taxes is then determined. The Authority or its qualifying lessees shall may apply to the assessor of real estate for the City of Hampton and follow the process for recognition of the an exemption applicable to other such properties in the City for any property subject to the fee in lieu of taxes, other than property subject to taxation and billed directly to the lessee pursuant to subsection E.

C. The Authority shall use all funds available and manage its finances and take all necessary and prudent actions to ensure that the fee in lieu of taxes provided in subsection B is paid when due and shall notify the City of Hampton and the Trustees as soon as practical if the funds will not be available to pay the fee in lieu of taxes when due and the Trustees shall take all necessary actions to remedy any deficiency. In the event the fee in lieu of taxes is not paid when due, interest thereon shall at that time accrue at the rate, not to exceed the maximum amount allowed by § 2.2-4355, determined by the City of Hampton until such time as the overdue payment and interest are paid. Unpaid fees in lieu of taxes and interest thereon shall rank in parity with liens for unpaid taxes and may be collected by the City of Hampton as taxes are collected; however, no real property of the Commonwealth or the Authority may be sold in such collection efforts.

⊖ D. The Authority shall have the right to contest the assessments made on property at Fort Monroe owned by the Commonwealth or itself the Authority or any property for which the Commonwealth or the Authority shall be responsible for payment of the fee in lieu of taxes, using the procedures utilized by other citizens of the City of Hampton, including appeals to the Board of Review of Real Estate Assessments for the City of Hampton and appeals therefrom to the Circuit Court of the City of Hampton, which is hereby granted jurisdiction to adjudicate any such appeal by the Authority in the same manner as applicable to private property owners or lessees in the city City.

E. Notwithstanding the provisions of § 58.1-3203, all real property in the Area of Operation that is leased, whether by short-term operating/revenue lease or long-term ground lease, shall be assessed as if it were privately owned, and each lessee thereof shall be subject to taxation to be billed and collected by the City of Hampton as if the lessee were the owner, regardless of the term; however, leases for a cumulative term of less than 20 years shall be billed to and collected from the Authority by the City of Hampton. For purposes of this subsection, "cumulative term" includes the original term plus any optional extensions or renewals of that term. The City of Hampton shall have no obligation to assess any leased property that may be subject to taxation pursuant to this subsection unless and until it has received from the Authority a complete and fully executed copy of the lease, which shall include a description of the property comparable to that which would be required for the fee simple conveyance of such leased property. Any property not assessed by the City of Hampton pursuant to this subsection shall remain subject to the provisions of subsection B. This subsection shall not apply to leases of any term with other government entities.

F. The Authority and any lessee that is directly billed by the City of Hampton (i) may apply to the assessor of real estate for the City of Hampton and follow the process for recognition of an exemption applicable to other such properties in the City and (ii) shall have the right to contest the assessments made on property taxed to the lessee pursuant to this section using the procedures utilized by other citizens of the City of Hampton, including appeals to the Board of Review of Real Estate Assessments for the City of Hampton and appeals therefrom to the Circuit Court of the City of Hampton, which is hereby granted jurisdiction to adjudicate any such appeal by a qualifying lessee in the same manner applicable to private property owners and other lessees in the City.

## CHAPTER 469

An Act to amend and reenact § 2.2-2342 of the Code of Virginia, relating to Fort Monroe Authority; payments to the City of Hampton in lieu of real property taxes.

[S 1089]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2342 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2342. Payments to Commonwealth or political subdivisions thereof; payments to the City of Hampton.**

A. The Authority may agree to make such payments to the Commonwealth or any political subdivision thereof, which payments such bodies are hereby authorized to accept, for any goods, services, licenses, concessions or franchises as the Authority finds consistent with the purposes for which the Authority has been created.

B. ~~On or before January 15, 2012, the Authority shall pay to the City of Hampton a fee in an amount to be determined by the formula defined below for the period September 15, 2011, through December 31, 2011. Thereafter, fees~~ It is the intent of this section that the Authority shall pay a fee in lieu of taxes as provided in this section. Such fee shall be payable by the Authority to the City of Hampton and shall be payable, in arrears, for the period January 1 through June 30 on each June 30, and for the period July 1 through December 31 on each December 31. The amount of such fee shall be determined as follows: (i) all property in the Fort Monroe Area of Operation shall be assessed as if it was privately owned property; (ii) property ~~exempt from taxation by classification under § 58.1-3606 that would not be taxed if located elsewhere in the City of Hampton by virtue of the ownership, control, or use of the property,~~ other than property classified solely under subdivision A 1 of § 58.1-3606, ~~based on the use of the property and regardless of ownership of the property,~~ shall be

excluded from the calculation of the fee *in lieu of taxes*; and (iii) property designated by ordinance of the City of Hampton as exempt from taxation pursuant to § 58.1-3651, or pursuant to any other applicable action of the City Council, based on the use of the property and regardless of ownership of the property, shall be excluded from the calculation of the fee; (iv) property owned or leased and exclusively used by the National Park Service or the City of Hampton, property remaining under the ownership of the federal government, and any other property that would not be taxed if it was located elsewhere in the City of Hampton by virtue of the ownership, control, or use of the property, except as otherwise provided herein, shall be excluded from the calculation of the fee; and (v) the total assessed value of the property, less any exclusions as indicated herein exemptions, shall then be divided by \$100, multiplied by the then-current real estate tax rate set by the City of Hampton, minus the real estate taxes (a) owed to the City of Hampton directly from taxpayers other than the Authority within the Authority's Area of Operation. This shall be the amount of the fee payable to the City of Hampton. It is the intent of this section that for properties at Fort Monroe that would be taxed by the City of Hampton if privately held, the Authority shall pay a fee in lieu of taxes, but that properties at Fort Monroe that would not be taxed by the City if privately held shall be exempt from the fee, taking into account the current limitations on the transfer of properties at Fort Monroe, including lessees subject to taxation and billed to the lessee pursuant to subsection E, and (b) collected by the Authority and remitted to the City of Hampton pursuant to subsection E in the calendar year prior to the year for which the fee in lieu of taxes is then determined. The Authority or its qualifying lessees shall may apply to the assessor of real estate for the City of Hampton and follow the process for recognition of the an exemption applicable to other such properties in the City for any property subject to the fee in lieu of taxes, other than property subject to taxation and billed directly to the lessee pursuant to subsection E.

C. The Authority shall use all funds available and manage its finances and take all necessary and prudent actions to ensure that the fee *in lieu of taxes* provided in subsection B is paid when due and shall notify the City of Hampton and the Trustees as soon as practical if the funds will not be available to pay the fee *in lieu of taxes* when due and the Trustees shall take all necessary actions to remedy any deficiency. In the event the fee *in lieu of taxes* is not paid when due, interest thereon shall at that time accrue at the rate, not to exceed the maximum amount allowed by § 2.2-4355, determined by the City of Hampton until such time as the overdue payment and interest are paid. Unpaid fees *in lieu of taxes* and interest thereon shall rank in parity with liens for unpaid taxes and may be collected by the City of Hampton as taxes are collected; however, no real property of the Commonwealth or the Authority may be sold in such collection efforts.

⇄ D. The Authority shall have the right to contest the assessments made on property at Fort Monroe owned by the Commonwealth or itself the Authority or any property for which the Commonwealth or the Authority shall be responsible for payment of the fee *in lieu of taxes*, using the procedures utilized by other citizens of the City of Hampton, including appeals to the Board of Review of Real Estate Assessments for the City of Hampton and appeals therefrom to the Circuit Court of the City of Hampton, which is hereby granted jurisdiction to adjudicate any such appeal by the Authority in the same manner as applicable to private property owners or lessees in the city City.

E. Notwithstanding the provisions of § 58.1-3203, all real property in the Area of Operation that is leased, whether by short-term operating/revenue lease or long-term ground lease, shall be assessed as if it were privately owned, and each lessee thereof shall be subject to taxation to be billed and collected by the City of Hampton as if the lessee were the owner, regardless of the term; however, leases for a cumulative term of less than 20 years shall be billed to and collected from the Authority by the City of Hampton. For purposes of this subsection, "cumulative term" includes the original term plus any optional extensions or renewals of that term. The City of Hampton shall have no obligation to assess any leased property that may be subject to taxation pursuant to this subsection unless and until it has received from the Authority a complete and fully executed copy of the lease, which shall include a description of the property comparable to that which would be required for the fee simple conveyance of such leased property. Any property not assessed by the City of Hampton pursuant to this subsection shall remain subject to the provisions of subsection B. This subsection shall not apply to leases of any term with other government entities.

F. The Authority and any lessee that is directly billed by the City of Hampton (i) may apply to the assessor of real estate for the City of Hampton and follow the process for recognition of an exemption applicable to other such properties in the City and (ii) shall have the right to contest the assessments made on property taxed to the lessee pursuant to this section using the procedures utilized by other citizens of the City of Hampton, including appeals to the Board of Review of Real Estate Assessments for the City of Hampton and appeals therefrom to the Circuit Court of the City of Hampton, which is hereby granted jurisdiction to adjudicate any such appeal by a qualifying lessee in the same manner applicable to private property owners and other lessees in the City.

## CHAPTER 470

An Act to amend and reenact § 65.2-602 of the Code of Virginia, relating to workers' compensation; tolling of statute of limitations.

[H 2022]

Approved March 18, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-602 of the Code of Virginia is amended and reenacted as follows:

**§ 65.2-602. Tolling of statute of limitations.**

In any case where an employer has received notice of an accident resulting in compensable injury to an employee as required by § 65.2-600; and, whether or not an award has been entered, ~~such the employer nevertheless~~ has paid compensation or wages to such employee during incapacity for work, as defined in § 65.2-500 or § 65.2-502, resulting from such injury or the employer has failed to file the report of said accident with the Virginia Workers' Compensation Commission as required by § 65.2-900, ~~and such conduct of the employer has operated to prejudice the rights of such employee with respect to the filing of a claim prior to expiration of a statute of limitations otherwise applicable; such statute shall be tolled for the duration of such payment or, as the case may be, until the employer files the first report of accident required by § 65.2-900 or otherwise has under a workers' compensation plan or insurance policy furnished or caused to be furnished medical service to such employee as required by § 65.2-603, the statute of limitations applicable to the filing of a claim shall be tolled until the last day for which such payment of compensation or wages or furnishment of medical services as described above is provided and that occurs more than six months after the date of accident. However, no such payment of wages or workers' compensation benefits or furnishment of medical service as described above occurring after the expiration of the statute of limitations shall apply to this provision. In the case where the employer has failed to file a first report, the statute of limitations shall be tolled during the duration thereof until the employer filed the first report of accident as required by § 65.2-900. In the event that more than one of the above tolling provisions applies, whichever of those causes the longer period of tolling shall apply. For purposes of this section, such rights of an employee shall be deemed not prejudiced if his employer has filed the first report of accident as required by § 65.2-900 or he has received after the accident a workers' compensation guide described in § 65.2-201 or a notice in substantially the following form:~~

~~NOTICE TO EMPLOYEE:~~

~~BECAUSE OF THE ACCIDENT OR INJURY YOU HAVE REPORTED, YOU MAY HAVE A WORKERS' COMPENSATION CLAIM. HOWEVER, SUCH CLAIM MAY BE LOST IF YOU DO NOT FILE IT WITH THE VIRGINIA WORKERS' COMPENSATION COMMISSION WITHIN THE TIME LIMIT PROVIDED BY LAW. YOU MAY FIND OUT WHAT TIME LIMIT APPLIES TO YOUR INJURY BY CONTACTING THE COMMISSION. THE FACT THAT YOUR EMPLOYER MAY BE COVERING YOUR MEDICAL EXPENSES OR CONTINUING TO PAY YOUR SALARY OR WAGES DOES NOT STOP THE TIME FROM RUNNING.~~

~~Such notice shall also include the address and telephone number which the employee may use to contact the Commission.~~

**2. That the provisions of this act shall apply with respect to any claim under the Virginia Workers' Compensation Act (§ 65.2-100 et seq. of the Code of Virginia) that arises with respect to an injury as defined in § 65.2-101 of the Code of Virginia occurring on or after July 1, 2019.**

**CHAPTER 471**

*An Act to amend and reenact § 18.2-461 of the Code of Virginia, relating to false information and hoax criminal activities; penalty.*

[H 2056]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-461 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-461. Falsely summoning or giving false reports to law-enforcement officials.**

It shall be unlawful for any person (i) to knowingly give a false report as to the commission of any crime to any law-enforcement official with intent to mislead; (ii) to knowingly, with the intent to mislead a law-enforcement agency, cause another to give a false report to any law-enforcement official by publicly simulating a violation of Chapter 4 (§ 18.2-30 et seq.) or Chapter 5 (§ 18.2-77 et seq.); or (iii) without just cause and with intent to interfere with the operations of any law-enforcement official, to call or summon any law-enforcement official by telephone or other means, including engagement or activation of an automatic emergency alarm. Violation of the provisions of this section shall be punishable as a Class 1 misdemeanor.

**CHAPTER 472**

*An Act to amend and reenact § 15.2-1408 of the Code of Virginia, relating to restrictions on activities of former officers and employees; City of Richmond.*

[H 2061]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1408 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1408. Restrictions on activities of former officers and employees by certain counties and cities.**

A. *The term "officer or employee," as used in this section, includes members of local governing bodies, county or city officers and employees, and individuals who receive monetary compensation for service on or employment by agencies, boards, authorities, sanitary districts, commissions, committees, and task forces appointed by the local governing body.*

B. *In the Counties of Bedford, Fauquier, James City, Pittsylvania, and Stafford; and the Cities of Charlottesville and Virginia Beach, the governing body, by ordinance, may prohibit former officers and employees, for one year after their terms of office have ended or employment ceased, from providing personal and substantial assistance for remuneration of any kind to any party, in connection with any proceeding, application, case, contract, or other particular matter involving the county or city or an agency thereof, if that matter is one in which the former officer or employee participated personally and substantially as a county or city officer or employee through decision, approval, or recommendation.*

~~The term "officer or employee," as used in this section, includes members of local governing bodies, county or city officers and employees, and individuals who receive monetary compensation for service on or employment by agencies, boards, authorities, sanitary districts, commissions, committees, and task forces appointed by the local governing body.~~

C. *In the City of Richmond, the governing body, by ordinance, may prohibit former officers and employees, for one year after their terms of office have ended or employment has ceased, from representing a client or acting in a representative capacity on behalf of any person or group, for compensation, on matters related to ordinances, contracts, proceedings, applications, cases, or other matters of any nature involving any agency, department, or office of local government in which the former officer or employee served or was employed during the one-year period immediately prior to the termination of employment or service. This prohibition shall be in addition to any other prohibition that may be provided by law.*

### CHAPTER 473

*An Act to amend the Code of Virginia by adding in Chapter 1.2 of Title 19.2 a section numbered 19.2-11.13, relating to Physical Evidence Recovery Kit Tracking System.*

[H 2080]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 1.2 of Title 19.2 a section numbered 19.2-11.13 as follows:**

**§ 19.2-11.13. Physical Evidence Recovery Kit Tracking System.**

A. *The Department shall maintain a statewide electronic tracking system for physical evidence recovery kits. The Physical Evidence Recovery Kit Tracking System (the System) will utilize an assigned unique identification number to track each physical evidence recovery kit from its distribution as an uncollected kit to the health care provider through to its destruction. The Department shall ensure that each physical evidence recovery kit is assigned a unique identification number.*

B. *The Department shall provide access to the System to health care providers, law-enforcement agencies, the Division, and the Office of the Chief Medical Examiner. All such entities and agencies shall be required to enter the identification number and other information pertaining to the kits in the System as required by the Department and to update the status and location of each kit in the System whenever such status or location changes.*

C. *The health care provider shall inform the victim of sexual assault of the unique identification number assigned to the physical evidence recovery kit utilized by the health care provider during the forensic medical examination and provide the victim with information regarding the System.*

D. *Records entered into the System are confidential and are not subject to disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.).*

**2. That the provisions of this act shall become effective on July 1, 2020.**

**3. That information about the use of the Physical Evidence Recovery Kit Tracking System shall be reported in the Forensic Science Board's annual report that is submitted by November 1 of each year in accordance with subsection B of § 9.1-1110 of the Code of Virginia.**

### CHAPTER 474

*An Act to amend and reenact §§ 9.1-501, 18.2-268.7, and 46.2-341.26:7 of the Code of Virginia, relating to Department of Forensic Science; accrediting bodies.*

[H 2118]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-501, 18.2-268.7, and 46.2-341.26:7 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-501. Conduct of investigation.**

The provisions of this section shall apply whenever an investigation by an agency focuses on matters which could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law-enforcement officer:

1. Any questioning of the officer shall take place at a reasonable time and place as designated by the investigating officer, preferably when the officer under investigation is on duty and at the office of the command of the investigating officer or at the office of the local precinct or police unit of the officer being investigated, unless matters being investigated are of such a nature that immediate action is required.

2. Prior to the officer being questioned, he shall be informed of (i) the name and rank of the investigating officer and of any individual to be present during the questioning and (ii) the nature of the investigation.

3. When a blood or urine specimen is taken from a law-enforcement officer for the purpose of determining whether the officer has used drugs or alcohol, the specimen shall be divided and placed into two separate containers. One specimen shall be tested while the other is held in a proper manner to preserve the specimen by the facility collecting or testing the specimen. Should the first specimen test positive, the law-enforcement officer shall have the right to require the second specimen be sent to a laboratory of his choice for independent testing in accordance generally with the procedures set forth in §§ 18.2-268.1 through 18.2-268.12. The officer shall notify the chief of his agency in writing of his request within 10 days of being notified of positive specimen results. The laboratory chosen by the officer shall be accredited or certified by one or more of the following bodies: ~~the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB)~~; the College of American Pathologists (CAP), the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA), ~~or~~ the American Board of Forensic Toxicology (ABFT), *or an accrediting body that requires conformance to forensic-specific requirements and that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement with a scope of accreditation that covers the testing being performed.*

**§ 18.2-268.7. Transmission of blood test samples; use as evidence.**

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § 18.2-268.6, the Department shall have it examined for its alcohol or drug or both alcohol and drug content and the Director shall execute a certificate of analysis indicating the name of the accused; the date, time and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug or both alcohol and drug content. The Director shall remove the withdrawal certificate from the vial and either (i) attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached or (ii) electronically scan it into the Department's Laboratory Information Management System and place the original withdrawal certificate in its case-specific file. The certificate of analysis and the withdrawal certificate shall be returned or electronically transmitted to the clerk of the court in which the charge will be heard.

B. After completion of the analysis, the Department shall preserve the remainder of the blood until at least 90 days have lapsed. The accused may, at any time prior to the expiration of such 90-day period, by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis. On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence, provided that the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: ~~American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB)~~; College of American Pathologists (CAP); U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); ~~or~~ American Board of Forensic Toxicology (ABFT); *or an accrediting body that requires conformance to forensic-specific requirements and that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement with a scope of accreditation that covers the testing being performed.* If no notice of a motion to transmit the remainder of the blood sample is received prior to the expiration of the 90-day period, the Department shall destroy the remainder of the blood sample unless the Commonwealth has filed a written request with the Department to return the remainder of the blood sample to the investigating law-enforcement agency. In such case, the Department shall return the remainder of the blood sample, if not sent to an independent laboratory, to the investigating law-enforcement agency.

C. When a blood sample taken in accordance with the provisions of §§ 18.2-268.2 through 18.2-268.6 is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding.

Upon request of the person whose blood was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

**§ 46.2-341.26:7. Transmission of samples.**

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § 46.2-341.26:6, the Department shall have it examined for its alcohol or drug content, and the Director shall execute a certificate of analysis indicating the name of the suspect; the date, time, and by whom the blood sample was received and examined; a statement

that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug content. The Director or his representative shall remove the withdrawal certificate from the vial and either (i) attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached or (ii) electronically scan it into the Department's Laboratory Information Management System and place the original withdrawal certificate in its case-specific file. The certificate of analysis and the withdrawal certificate shall be returned or electronically transmitted to the clerk of the court in which the charge will be heard.

B. After completion of the analysis, the Department shall preserve the remainder of the blood until at least 90 days have lapsed. The accused may, at any time prior to the expiration of such 90-day period, by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis. On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence, provided that the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: ~~American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB)~~; College of American Pathologists (CAP); U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); ~~or American Board of Forensic Toxicology (ABFT)~~; *or an accrediting body that requires conformance to forensic-specific requirements and that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement with a scope of accreditation that covers the testing being performed.* If no notice of a motion to transmit the remainder of the blood sample is received prior to the expiration of the 90-day period, the Department shall destroy the remainder of the blood sample unless the Commonwealth has filed a written request with the Department to return the remainder of the blood sample to the investigating law-enforcement agency. In such case, the Department shall return the remainder of the blood sample, if not sent to an independent laboratory, to the investigating law-enforcement agency.

C. When a blood sample taken in accordance with the provisions of §§ 46.2-341.26:2 through 46.2-341.26:6 is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding.

Upon request of the person whose blood or breath was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

## CHAPTER 475

*An Act to amend and reenact § 9.1-101 of the Code of Virginia, relating to Department of Criminal Justice Services; definition of law-enforcement officer; security division of the Virginia Lottery.*

[H 2166]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-101 of the Code of Virginia is amended and reenacted as follows:**

**§ 9.1-101. Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2,

any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a ~~full-time~~ sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police

department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

## CHAPTER 476

*An Act to amend the Code of Virginia by adding a section numbered 18.2-429.1, relating to false caller identification information; penalty.*

[H 2170]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 18.2-429.1 as follows:**

**§ 18.2-429.1. False caller identification information; penalty.**

*A. For the purposes of this section:*

*"Caller identification information" means data that identifies the identity of the caller or the caller's telephone number to the recipient of a telephone call or to the recipient's telephone network.*

*"False caller identification information" means data that misrepresents the identity of the caller or the caller's telephone number to the recipient of a telephone call or to the recipient's telephone network.*

*B. Any person who, with the intent to defraud, intimidate, or harass, causes a telephone to ring and engages in conduct that results in the display of false caller identification information on the called party's telephone is guilty of a Class 3 misdemeanor. A second or subsequent conviction under this subsection is punishable as a Class 2 misdemeanor if the prior conviction occurred before the date of the offense charged.*

*C. This section shall not apply to:*

*1. The blocking of caller identification information;*

*2. Any law-enforcement agencies or any law-enforcement officer while he is engaged in the performance of his official duties;*

*3. Any intelligence or security agency of the federal government or any employee of such agency while he is engaged in the performance of his official duties; or*

*4. Any telecommunications, broadband, or Voice-over-Internet protocol service provider that is (i) acting in its capacity as an intermediary for the transmission of telephone service between the caller and the recipient, (ii) providing or configuring a service or service feature as requested by a customer, (iii) acting in a manner that is authorized or required by law, or (iv) engaging in other conduct that is a necessary incident to the provision of service.*

## CHAPTER 477

*An Act to amend and reenact §§ 16.1-88.03, 55-246.1, and 55-248.4 of the Code of Virginia, relating to the managing agent of a landlord.*

[H 2262]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-88.03, 55-246.1, and 55-248.4 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-88.03. Pleadings and other papers by certain parties not represented by attorneys.**

A. Any corporation, partnership, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership or business trust and the Department of Military Affairs, when the amount claimed in any civil action pursuant to subdivision (1) or (3) of § 16.1-77 does not exceed the jurisdictional amounts authorized in such subsections, exclusive of interest, may prepare, execute, file, and have served on other parties in any proceeding in a general district court a warrant in debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, suggestion for summons in garnishment, garnishment summons, writ of possession, writ of fieri facias, interpleader and civil appeal notice without the intervention of an attorney. Such papers may be signed by a corporate officer, a manager of a limited liability company, a general partner of any form of partnership or a trustee of any business trust, or such corporate officer, with the approval of the board of directors, or manager, general partner or trustee may authorize in writing an employee, a person licensed under the provisions of § 54.1-2106.1, ~~a~~ or the property manager, or ~~a~~ the managing agent of a landlord as defined in § 55-248.4 pursuant to the written property management agreement to sign such papers as the agent of the business

entity. Only an agency employee designated in writing by the Adjutant General may sign such papers on behalf of the Department of Military Affairs. However, this section shall not apply to an action under subdivision (1) or (3) of § 16.1-77 which was assigned to a corporation, partnership, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership or business trust, or individual solely for the purpose of enforcing an obligation owed or right inuring to another.

B. Nothing in this section shall allow a nonlawyer to file a bill of particulars or grounds of defense or to argue motions, issue a subpoena, rule to show cause, or *capias*; file or interrogate at debtor interrogatories; or to file, issue or argue any other paper, pleading or proceeding not set forth in subsection A.

C. The provisions of § 8.01-271.1 shall apply to any pleading, motion or other paper filed or made pursuant to this section.

D. Parties not represented by counsel, and who have made an appearance in the case, shall promptly notify in writing the clerk of court wherein the litigation is pending, and any adverse party, of any change in the party's address necessary for accurate mailing or service of any pleadings or notices. In the absence of such notification, a mailing to or service upon a party at the most recent address contained in the court file of the case shall be deemed effective service or other notice.

#### **§ 55-246.1. Who may recover rent or possession.**

Notwithstanding any rule of court to the contrary, (i) any person licensed under the provisions of § 54.1-2106.1, (ii) any property manager, or ~~a~~ *the* managing agent of a landlord as defined in § 55-248.4 *pursuant to the written property management agreement*, or (iii) any employee, who is authorized in writing by a corporate officer with the approval of the board of directors, or by a manager, a general partner or a trustee, of a partnership, association, corporation, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership, business trust, or family trust to sign pleadings as the agent of the business entity may obtain a judgment (a) for possession in the general district court for the county or city wherein the premises, or part thereof, is situated or (b) for rent or damages, including actual damages for breach of the rental agreement, or for final rent and damages under § 8.01-128, in any general district court where venue is proper under § 8.01-259, against any defendant if the person seeking such judgment had a contractual agreement with the landlord to manage the premises for which rent or possession is due and may prepare, execute, file, and have served on other parties in any general district court a warrant in debt, suggestion for summons in garnishment, garnishment summons, writ of possession, or writ of fieri facias arising out of a landlord tenant relationship. However, the activities of any such person in court shall be limited by the provisions of § 16.1-88.03. However, nothing shall be construed as preventing a nonlawyer from requesting relief from the court as provided by law or statute when such nonlawyer is before the court on one of the actions specified herein.

#### **§ 55-248.4. Definitions.**

When used in this chapter, unless expressly stated otherwise:

"Action" means recoupment, counterclaim, set off, or other civil suit and any other proceeding in which rights are determined, including without limitation actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Application deposit" means any refundable deposit of money, however denominated, including all money intended to be used as a security deposit under a rental agreement, or property, which is paid by a tenant to a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Application fee" means any nonrefundable fee, which is paid by a tenant to a landlord or managing agent for the purpose of being considered as a tenant for a dwelling unit. An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant. However, where an application is being made for a dwelling unit which is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, an application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing background, credit, or other pre-occupancy checks on the applicant.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any structure or that part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Commencement date of rental agreement" means the date upon which the tenant is entitled to occupy the dwelling unit as a tenant.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including, but not limited to, a manufactured home.

"Effective date of rental agreement" means the date upon which the rental agreement is signed by the landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

"Facility" means something that is built, constructed, installed or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or person authorized by the landlord to occupy the premises, who has the permission of the tenant to visit but not to occupy the premises.

"Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

"Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which such dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the name of such owner, lessor or sublessor. Such managing agent shall be subject to the provisions of § 16.1-88.03. Landlord shall not, however, include a community land trust as defined in § 55-221.1.

"Managing agent" means ~~a~~ the person authorized by the landlord to act *as the property manager* on behalf of the landlord ~~under an~~ pursuant to the written property management agreement.

"Mold remediation in accordance with professional standards" means mold remediation of that portion of the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold, performed consistent with guidance documents published by the United States Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the American Conference of Governmental Industrial Hygienists (the Bioaerosols Manual), Standard Reference Guides of the Institute of Inspection, Cleaning and Restoration for Water Damage Restoration and Professional Mold Remediation, or any protocol for mold remediation prepared by an industrial hygienist consistent with said guidance documents.

"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building. However, nothing in this definition shall be construed to apply to any nonresidential space in such building.

"Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered limited liability partnerships or limited liability companies, or any lawful combination of natural persons permitted by law.

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice, which may be either a United States postal certificate of mailing or a certificate of service confirming such mailing prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has received a verbal notice of it, or from all of the facts and circumstances known to him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform another person whether or not the other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to show that the notice was given to the recipient of the notice.

"Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any combination thereof, and any other legal or commercial entity.

"Owner" means one or more persons or entities, jointly or severally, in whom is vested:

1. All or part of the legal title to the property, or
2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.

"Person" means any individual, group of individuals, corporation, partnership, business trust, association or other legal entity, or any combination thereof.

"Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

"Processing fee for payment of rent with bad check" means the processing fee specified in the rental agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn by the tenant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds.

"Readily accessible" means areas within the interior of the dwelling unit available for observation at the time of the move-in inspection that do not require removal of materials, personal property, equipment or similar items.

"Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental agreement, including prepaid rent paid more than one month in advance of the rent due date.

"Rental agreement" or "lease agreement" means all agreements, written or oral, and valid rules and regulations adopted under § 55-248.17 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

"Rental application" means the written application or similar document used by a landlord to determine if a prospective tenant is qualified to become a tenant of a dwelling unit. A landlord may charge an application fee as provided in this chapter and may request a prospective tenant to provide information that will enable the landlord to make such determination. The landlord may photocopy each applicant's driver's license or other similar photo identification, containing either the applicant's social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not photocopy a U.S. government-issued identification so long as to do so is a violation of Title 18 U.S.C. Part I, Chapter 33, § 701. The landlord may require that each applicant provide a social security number issued by the U.S. Social Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue Service, for the purpose of determining whether each applicant is eligible to become a tenant in the landlord's dwelling unit.

"Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. Major

facility in the case of a bathroom means toilet, and either a bath or shower, and in the case of a kitchen means refrigerator, stove, or sink.

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the commencement date of the rental agreement. Security deposit shall not include a damage insurance policy or renter's insurance policy as those terms are defined in § 55-248.7:2 purchased by a landlord to provide coverage for a tenant.

"Single-family residence" means a structure, other than a multi-family residential structure, maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

"Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

"Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to the exclusion of others and shall include roomer. Tenant shall not include (i) an authorized occupant, (ii) a guest or invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental agreement but has no right to occupy a dwelling unit.

"Tenant records" means all information, including financial, maintenance, and other records about a tenant or prospective tenant, whether such information is in written or electronic form or other medium. A tenant may request copies of his tenant records pursuant to § 55-248.9:1.

"Utility" means electricity, natural gas, water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2, or a ratio utility billing system as defined in § 55-226.2.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the move-in inspection.

"Written notice" means notice given in accordance with § 55-248.6, including any representation of words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or other medium, retrievable in a perceivable form, and regardless of whether an electronic signature authorized by Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1 is affixed. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third party the responsibility of providing any written notice required by this chapter.

## CHAPTER 478

*An Act to amend and reenact §§ 19.2-187 and 19.2-187.01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 9.1-1101.1, relating to Department of Forensic Science; purchase of forensic laboratory services.*

[H 2279]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-187 and 19.2-187.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 9.1-1101.1 as follows:**

**§ 9.1-1101.1. Purchase of forensic laboratory services.**

*A. Notwithstanding any other provision of law, the Department may make and enter into contracts or agreements for forensic laboratory services with any laboratory located in the Commonwealth that is operated by an institution of higher education located in the Commonwealth or a corporate entity that is wholly owned by an institution of higher education located in the Commonwealth, which institution offers a program leading to the Doctor of Pharmacy degree and is accredited by the Accreditation Council for Pharmacy Education and the Southern Association of Colleges and Schools. No such contract or agreement for forensic laboratory services shall be made or entered into with any other laboratory, except as provided in subsection B.*

*B. The Department may request, and the Director of the Division of Purchases and Supply of the Department of General Services may grant, an exemption from the provisions of subsection A if (i) a laboratory described in subsection A does not meet the reasonable requirements of the Department; (ii) a laboratory described in subsection A cannot provide the forensic laboratory services required by the Department; (iii) forensic laboratory services identical to those provided by the laboratory described in subsection A can be obtained at a cost that is at least 10 percent less than the cost of obtaining such forensic laboratory services from the laboratory described in subsection A, as evidenced by a verified request for pricing; or (iv) in cases in which the Department has issued a Request for Proposals, a proposal submitted by a laboratory other than a laboratory described in subsection A has received a ranking that is at least 10 percent higher than the ranking of any laboratory described in subsection A. In any case in which an exemption is granted pursuant to this subsection, the Director of the Division of Purchases and Supply of the Department of General Services shall submit a written justification for the exemption to the Directors of the Department of Forensic Science and the Department of General Services.*

**§ 19.2-187. Admission into evidence of certain certificates of analysis.**

A. In any hearing or trial of any criminal offense or in any proceeding brought pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.), a certificate of analysis of a person performing an analysis or examination, duly attested by such person, shall be admissible in evidence as evidence of the facts therein stated and the results of the analysis or examination referred to therein, provided that (i) the certificate of analysis is filed with the clerk of the court hearing the case at least seven days prior to the proceeding if the attorney for the Commonwealth intends to offer it into evidence in a preliminary hearing or the accused intends to offer it into evidence in any hearing or trial, or (ii) the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, when any such analysis or examination is performed in any laboratory operated by the Division of Consolidated Laboratory Services or the Department of Forensic Science or authorized by such Department to conduct such analysis or examination, or performed by a person licensed by the Department of Forensic Science pursuant to § 18.2-268.9 or 46.2-341.26:9 to conduct such analysis or examination, or performed by the Federal Bureau of Investigation, the United States Postal Service, the federal Bureau of Alcohol, Tobacco and Firearms, the Naval Criminal Investigative Service, the National Fish and Wildlife Forensics Laboratory, the federal Drug Enforcement Administration, the Forensic Document Laboratory of the U.S. Department of Homeland Security, or the U.S. Secret Service Laboratory. *For purposes of this section, any laboratory that has entered into a contract with the Department of Forensic Science for the provision of forensic laboratory services shall be deemed authorized by the Department to conduct such analyses or examinations.*

B. In a hearing or trial in which the provisions of subsection A of § 19.2-187.1 do not apply, a copy of such certificate shall be mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at no charge at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. The request to the clerk shall be on a form prescribed by the Supreme Court and filed with the clerk at least 10 days prior to the hearing or trial. In the event that a request for a copy of a certificate is filed with the clerk with respect to a case that is not yet before the court, the clerk shall advise the requester that he must resubmit the request at such time as the case is properly before the court in order for such request to be effective. If, upon proper request made by counsel of record for the accused, a copy of such certificate is not mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused in a timely manner in accordance with this section, the accused shall be entitled to continue the hearing or trial.

C. The certificate of analysis of any examination conducted by the Department of Forensic Science relating to a controlled substance or marijuana shall be mailed or forwarded by personnel of the Department of Forensic Science to the attorney for the Commonwealth of the jurisdiction where such offense may be heard. The attorney for the Commonwealth shall acknowledge receipt of the certificate on forms provided by the laboratory.

Any such certificate of analysis purporting to be signed, either by hand or by electronic means, by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it. The attestation signature of a person performing the analysis or examination may be either hand or electronically signed.

D. Any testimony offered by either party in a preliminary hearing or sentencing hearing, or offered by the accused in any hearing other than a trial, from a person who performed an analysis or examination that resulted in a certificate of analysis may be presented by two-way video conferencing. The two-way video testimony permitted by this section shall comply with the provisions of subsection B of § 19.2-3.1. In addition, unless otherwise agreed by the parties and the court, (i) all orders pertaining to witnesses apply to witnesses testifying by video conferencing; (ii) upon request, all materials read or used by the witness during his testimony shall be identified on the video; and (iii) any witness testifying by video conferencing shall certify at the conclusion of his testimony, under penalty of perjury, that he did not engage in any off-camera communications with any person during his testimony.

E. For the purposes of this section and §§ 19.2-187.01, 19.2-187.1, and 19.2-187.2, the term "certificate of analysis" includes reports of analysis and results of laboratory examination.

F. Nothing in this section shall be construed as requiring a locality to purchase a two-way electronic video and audio communication system. Any decision to purchase such a system is at the discretion of the locality.

**§ 19.2-187.01. Certificate of analysis as evidence of chain of custody of material described therein.**

A report of analysis duly attested by the person performing such analysis or examination in any laboratory operated by (i) the Division of Consolidated Laboratory Services, the Department of Forensic Science or any of its regional laboratories, or by any laboratory authorized by such Division or Department to conduct such analysis or examination; (ii) the Federal Bureau of Investigation; (iii) the federal Bureau of Alcohol, Tobacco and Firearms; (iv) the Naval Criminal Investigative Service; (v) the federal Drug Enforcement Administration; (vi) the United States Postal Service; (vii) the U.S. Secret Service; or (viii) the Forensic Document Laboratory of the U.S. Department of Homeland Security shall be prima facie evidence in a criminal or civil proceeding as to the custody of the material described therein from the time such material is received by an authorized agent of such laboratory until such material is released subsequent to such analysis or examination. Any such certificate of analysis purporting to be signed by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it. The signature of the person who received the material for the laboratory on the request for laboratory examination form shall be deemed prima facie evidence that the person receiving the material was an authorized agent and that such receipt constitutes proper receipt by the laboratory for purposes of this section. *For purposes of this section, any laboratory*

*that has entered into a contract with the Department of Forensic Science for the provision of forensic laboratory services shall be deemed authorized by the Department to conduct such analyses or examinations.*

## CHAPTER 479

*An Act to amend and reenact §§ 19.2-187 and 19.2-187.01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 9.1-1101.1, relating to Department of Forensic Science; purchase of forensic laboratory services.*

[S 1274]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-187 and 19.2-187.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 9.1-1101.1 as follows:**

#### **§ 9.1-1101.1. Purchase of forensic laboratory services.**

*A. Notwithstanding any other provision of law, the Department may make and enter into contracts or agreements for forensic laboratory services with any laboratory located in the Commonwealth that is operated by an institution of higher education located in the Commonwealth or a corporate entity that is wholly owned by an institution of higher education located in the Commonwealth, which institution offers a program leading to the Doctor of Pharmacy degree and is accredited by the Accreditation Council for Pharmacy Education and the Southern Association of Colleges and Schools. No such contract or agreement for forensic laboratory services shall be made or entered into with any other laboratory, except as provided in subsection B.*

*B. The Department may request, and the Director of the Division of Purchases and Supply of the Department of General Services may grant, an exemption from the provisions of subsection A if (i) a laboratory described in subsection A does not meet the reasonable requirements of the Department; (ii) a laboratory described in subsection A cannot provide the forensic laboratory services required by the Department; (iii) forensic laboratory services identical to those provided by the laboratory described in subsection A can be obtained at a cost that is at least 10 percent less than the cost of obtaining such forensic laboratory services from the laboratory described in subsection A, as evidenced by a verified request for pricing; or (iv) in cases in which the Department has issued a Request for Proposals, a proposal submitted by a laboratory other than a laboratory described in subsection A has received a ranking that is at least 10 percent higher than the ranking of any laboratory described in subsection A. In any case in which an exemption is granted pursuant to this subsection, the Director of the Division of Purchases and Supply of the Department of General Services shall submit a written justification for the exception to the Directors of the Department of Forensic Science and the Department of General Services.*

#### **§ 19.2-187. Admission into evidence of certain certificates of analysis.**

*A. In any hearing or trial of any criminal offense or in any proceeding brought pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.), a certificate of analysis of a person performing an analysis or examination, duly attested by such person, shall be admissible in evidence as evidence of the facts therein stated and the results of the analysis or examination referred to therein, provided that (i) the certificate of analysis is filed with the clerk of the court hearing the case at least seven days prior to the proceeding if the attorney for the Commonwealth intends to offer it into evidence in a preliminary hearing or the accused intends to offer it into evidence in any hearing or trial, or (ii) the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, when any such analysis or examination is performed in any laboratory operated by the Division of Consolidated Laboratory Services or the Department of Forensic Science or authorized by such Department to conduct such analysis or examination, or performed by a person licensed by the Department of Forensic Science pursuant to § 18.2-268.9 or 46.2-341.26:9 to conduct such analysis or examination, or performed by the Federal Bureau of Investigation, the United States Postal Service, the federal Bureau of Alcohol, Tobacco and Firearms, the Naval Criminal Investigative Service, the National Fish and Wildlife Forensics Laboratory, the federal Drug Enforcement Administration, the Forensic Document Laboratory of the U.S. Department of Homeland Security, or the U.S. Secret Service Laboratory. For purposes of this section, any laboratory that has entered into a contract with the Department of Forensic Science for the provision of forensic laboratory services shall be deemed authorized by the Department to conduct such analyses or examinations.*

*B. In a hearing or trial in which the provisions of subsection A of § 19.2-187.1 do not apply, a copy of such certificate shall be mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at no charge at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. The request to the clerk shall be on a form prescribed by the Supreme Court and filed with the clerk at least 10 days prior to the hearing or trial. In the event that a request for a copy of a certificate is filed with the clerk with respect to a case that is not yet before the court, the clerk shall advise the requester that he must resubmit the request at such time as the case is properly before the court in order for such request to be effective. If, upon proper request made by counsel of record for the accused, a copy of such certificate is not mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused in a timely manner in accordance with this section, the accused shall be entitled to continue the hearing or trial.*

C. The certificate of analysis of any examination conducted by the Department of Forensic Science relating to a controlled substance or marijuana shall be mailed or forwarded by personnel of the Department of Forensic Science to the attorney for the Commonwealth of the jurisdiction where such offense may be heard. The attorney for the Commonwealth shall acknowledge receipt of the certificate on forms provided by the laboratory.

Any such certificate of analysis purporting to be signed, either by hand or by electronic means, by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it. The attestation signature of a person performing the analysis or examination may be either hand or electronically signed.

D. Any testimony offered by either party in a preliminary hearing or sentencing hearing, or offered by the accused in any hearing other than a trial, from a person who performed an analysis or examination that resulted in a certificate of analysis may be presented by two-way video conferencing. The two-way video testimony permitted by this section shall comply with the provisions of subsection B of § 19.2-3.1. In addition, unless otherwise agreed by the parties and the court, (i) all orders pertaining to witnesses apply to witnesses testifying by video conferencing; (ii) upon request, all materials read or used by the witness during his testimony shall be identified on the video; and (iii) any witness testifying by video conferencing shall certify at the conclusion of his testimony, under penalty of perjury, that he did not engage in any off-camera communications with any person during his testimony.

E. For the purposes of this section and §§ 19.2-187.01, 19.2-187.1, and 19.2-187.2, the term "certificate of analysis" includes reports of analysis and results of laboratory examination.

F. Nothing in this section shall be construed as requiring a locality to purchase a two-way electronic video and audio communication system. Any decision to purchase such a system is at the discretion of the locality.

**§ 19.2-187.01. Certificate of analysis as evidence of chain of custody of material described therein.**

A report of analysis duly attested by the person performing such analysis or examination in any laboratory operated by (i) the Division of Consolidated Laboratory Services, the Department of Forensic Science or any of its regional laboratories, or by any laboratory authorized by such Division or Department to conduct such analysis or examination; (ii) the Federal Bureau of Investigation; (iii) the federal Bureau of Alcohol, Tobacco and Firearms; (iv) the Naval Criminal Investigative Service; (v) the federal Drug Enforcement Administration; (vi) the United States Postal Service; (vii) the U.S. Secret Service; or (viii) the Forensic Document Laboratory of the U.S. Department of Homeland Security shall be prima facie evidence in a criminal or civil proceeding as to the custody of the material described therein from the time such material is received by an authorized agent of such laboratory until such material is released subsequent to such analysis or examination. Any such certificate of analysis purporting to be signed by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it. The signature of the person who received the material for the laboratory on the request for laboratory examination form shall be deemed prima facie evidence that the person receiving the material was an authorized agent and that such receipt constitutes proper receipt by the laboratory for purposes of this section. *For purposes of this section, any laboratory that has entered into a contract with the Department of Forensic Science for the provision of forensic laboratory services shall be deemed authorized by the Department to conduct such analyses or examinations.*

## CHAPTER 480

*An Act to amend the Code of Virginia by adding a section numbered 46.2-2011.33, relating to operation of certain motor vehicles; sex offenders.*

[H 2300]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 46.2-2011.33 as follows:**

**§ 46.2-2011.33. Prohibition on taxicab operators; registered sex offender.**

*No person who is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 for a sexually violent offense, as defined in subsection E of § 9.1-902, or who is listed on the U.S. Department of Justice's National Sex Offender Public Website for an offense that is similar to a sexually violent offense may operate a taxicab for the transportation of passengers for remuneration over the highways of the Commonwealth.*

## CHAPTER 481

*An Act to amend and reenact § 54.1-111 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation; unlicensed practice; cease and desist notices.*

[H 2327]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 54.1-111 of the Code of Virginia is amended and reenacted as follows:****§ 54.1-111. Unlawful acts; prosecution; proceedings in equity; civil penalty.**

A. ~~It shall be~~ *is* unlawful for any person, partnership, corporation, or other entity to engage in any of the following acts:

1. Practicing a profession or occupation without holding a valid license as required by statute or regulation.
2. Making use of any designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.
3. Making use of any titles, words, letters, or abbreviations which may reasonably be confused with a designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.
4. Performing any act or function which is restricted by statute or regulation to persons holding a professional or occupational license or certification, without being duly certified or licensed.
5. Failing to register as a practitioner of a profession or occupation as required by statute or regulation.
6. Materially misrepresenting facts in an application for licensure, certification, or registration.
7. Willfully refusing to furnish a regulatory board information or records required or requested pursuant to statute or regulation.
8. Violating any statute or regulation governing the practice of any profession or occupation regulated pursuant to this title.
9. Refusing to process a request, tendered in accordance with the regulations of the relevant health regulatory board or applicable statutory law, for patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice.

B. Any person who willfully engages in any unlawful act enumerated in this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor. The third or any subsequent conviction for violating this section during a 36-month period ~~shall constitute~~ *constitutes* a Class 6 felony. In addition, any person convicted of any unlawful act enumerated in ~~subdivision~~ *subdivisions A 1 through 8 of this subsection*, for conduct that is within the purview of any regulatory board within the Department of Professional and Occupational Regulation, may be ordered by the court to pay restitution in accordance with §§ 19.2-305 through 19.2-305.4.

C. ~~The Director of the Department of Professional and Occupational Regulation, or his designee, may issue a notice to any person violating the provisions of subdivisions A 1 through 5 or A 8 to cease and desist such activity.~~

~~B-~~ D. In addition to the criminal penalties provided for in subsection ~~A B~~, the Department of Professional and Occupational Regulation or the Department of Health Professions, without compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the provisions of subsection A and may institute proceedings in equity to enjoin any person, partnership, corporation or any other entity from engaging in any unlawful act enumerated in this section and to recover a civil penalty of at least \$200 but not more than \$5,000 per violation, with each unlawful act constituting a separate violation; but in no event shall the civil penalties against any one person, partnership, corporation or other entity exceed \$25,000 per year. Such proceedings shall be brought in the name of the Commonwealth by the appropriate Department in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

~~C-~~ E. This section shall not be construed to prohibit or prevent the owner of patient records from (i) retaining copies of his patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice or (ii) charging a reasonable fee, in accordance with subsections B2, B3, B4, and B6 of § 8.01-413 or subsection J of § 32.1-127.1:03, for copies of patient records, as applicable under the circumstances.

~~D-~~ F. Nothing in this section, nor §§ 13.1-543, 13.1-1102, 54.1-2902, and 54.1-2929, shall be construed to prohibit or prevent any entity of a type listed in § 13.1-542.1 or 13.1-1101.1, which employs or contracts with an individual licensed by a health regulatory board, from (i) practicing or engaging in the practice of a profession or occupation for which such individual is licensed, (ii) providing or rendering professional services related thereto through the licensed individual, or (iii) having a legitimate interest in enforcing the terms of employment or its contract with the licensed individual.

~~E-~~ G. This section shall apply, mutatis mutandis, to all persons holding a multistate licensure privilege to practice nursing in the Commonwealth of Virginia.

**CHAPTER 482**

*An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, relating to Major Headquarters Workforce Grant Fund.*

[H 2356]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 22.12, consisting of a section numbered 59.1-284.31, as follows:**

## CHAPTER 22.12.

## MAJOR HEADQUARTERS WORKFORCE GRANT FUND.

**§ 59.1-284.31. Major Headquarters Workforce Grant Fund.**

A. As used in this chapter, unless the context requires a different meaning:

"Affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a qualified company.

"Capital investment" means an investment by or on behalf of a qualified company on or after November 1, 2018, in real property, tangible personal property, or both, at a facility that is properly chargeable to a capital account or would be so chargeable with a proper election. "Capital investment" may include (i) a capital expenditure related to a leasehold interest in a property; (ii) the purchase or lease of furniture, fixtures, machinery, and equipment, including under an operating lease; and (iii) building up-fit and tenant improvements made by or on behalf of a qualified company.

"Eligible county" means Arlington County.

"Facility" means the building, group of buildings, or corporate campus located in the eligible county, including any related machinery, furniture, fixtures, and equipment, that is owned, leased, licensed, occupied, or otherwise operated by a qualified company as a major headquarters facility for use in the administration, management, and operation of its business.

"Fund" means the Major Headquarters Workforce Grant Fund.

"Grant" means a grant from the Fund awarded to a qualified company in an amount of \$22,000 per new full-time job for the first 25,000 new full-time jobs, for a maximum aggregate amount of \$550 million, and \$15,564 per new full-time job for up to 12,850 additional new full-time jobs, for an additional maximum aggregate amount of \$200 million, as calculated in accordance with the memorandum of understanding. The grant is intended to pay or to reimburse the qualified company for the costs of workforce development, workforce recruitment, and workforce instruction or training. The qualified company may use the proceeds of the grant for any lawful purpose, including but not limited to those outlined in subsection D of § 2.2-115.

"Memorandum of understanding" means the memorandum of understanding entered into on or about November 12, 2018, among a qualified company, the Commonwealth, and the Virginia Economic Development Partnership Authority that sets forth the requirements for the creation of new full-time jobs for the qualified company to be eligible for grant payments from the Fund. The memorandum of understanding shall contain criteria for the average annual wages for the new full-time jobs to qualify for a grant payment, starting at \$150,000 for calendar year 2019 and escalating at 1.5 percent per year.

"New full-time job" means a position in which employees of a qualified company are principally located at the facility and are expected to work a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of the employer's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions shall not qualify as new full-time jobs. A position created when a job function is shifted from an existing location in the Commonwealth shall qualify as a new full-time job if the qualified company certifies that it has hired a new employee to fill substantially the same job at the existing location as that held by the transferred position.

"Qualified company" means a company, including its affiliates, that between November 1, 2018, and December 31, 2038, is expected to (i) make or cause to be made a capital investment at a facility of at least \$2 billion, (ii) create at least 25,000 new full-time jobs, and (iii) potentially create an additional 12,850 jobs.

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Major Headquarters Workforce Grant Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of making grant payments pursuant to this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection F.

C. A qualified company shall be eligible to receive grant payments for each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, 2023, and ending with the Commonwealth's fiscal year starting on July 1, 2042. The grant payments under this section shall be paid to the qualified company from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified company meeting the requirements for receiving grant payments set forth in the memorandum of understanding.

D. For the first 25,000 new full-time jobs, the aggregate amount of grant payments payable under this chapter shall not exceed \$550 million and shall be calculated in accordance with the memorandum of understanding. For the next 12,850 new full-time jobs, the aggregate amount of grant payments payable under this chapter shall not exceed \$200 million and shall be calculated in accordance with the memorandum of understanding. The memorandum of understanding shall contain criteria for the average annual wages paid for the new full-time jobs to qualify for a grant payment, and contain other criteria for a new full-time job to qualify for a grant payment. The memorandum of understanding shall contain restrictions on the maximum aggregate amount of grant payments that may be paid to the qualified company through any fiscal year as follows:

\$200 million through fiscal year 2024;

\$300 million through fiscal year 2025;  
 \$350 million through fiscal year 2026;  
 \$400 million through fiscal year 2027;  
 \$450 million through fiscal year 2028;  
 \$500 million through fiscal year 2029;  
 \$550 million through fiscal year 2030;  
 \$600 million through fiscal year 2031;  
 \$650 million through fiscal year 2032;  
 \$700 million through fiscal year 2033; and  
 \$750 million through fiscal year 2034 and later fiscal years.

E. A qualified company applying for a grant payment pursuant to this chapter shall provide evidence, satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and maintained as of the last day of the calendar year that immediately precedes the date of the application and (ii) the average annual wage paid for those new full-time jobs. Similar evidence shall be provided each year until the new full-time jobs become new full-time jobs that qualify for a grant payment. The application and evidence shall be filed with the Secretary in person, by mail, or as otherwise agreed upon in the memorandum of understanding, by no later than April 1 of each year following the end of the calendar year upon which the evidence set forth is based. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

F. Within 60 days of receiving the application and evidence pursuant to subsection E, the Secretary shall certify to the Comptroller and the qualified company the verification of the information contained in the application and the resulting amount of the grant payments to which the qualified company may be entitled for payment. Such grant payments shall be made by check or electronic payment issued by the State Treasurer on warrant of the Comptroller in the Commonwealth's fourth or later fiscal year following the submission of such application, as provided in the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks or electronic payments for grant payments under this chapter without a specific appropriation for the same.

G. As a condition for the receipt of a grant payment, a qualified company shall make available for inspection to the Secretary, upon request, all documents relevant and applicable to determining whether the qualified company has met the requirements for the receipt of a grant payment as set forth in this chapter and subject to the memorandum of understanding.

## CHAPTER 483

An Act to amend and reenact § 15.2-2285 of the Code of Virginia, relating to adoption of zoning ordinance.

[H 2375]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2285 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal.**

A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. *The governing body shall hold at least one public hearing on a proposed reduction of the commission's review period. The governing body shall publish a notice of the public hearing in a newspaper having general circulation in the locality at least two weeks prior to the public hearing date and shall also publish the notice on the locality's website, if one exists.* In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. However, no land may be zoned

to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

D. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

E. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

F. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty days of the decision with the circuit court having jurisdiction of the land affected by the decision. However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

## CHAPTER 484

*An Act to amend and reenact § 18.2-186.6 of the Code of Virginia, relating to breach of personal information notification; passport and military identification numbers.*

[H 2396]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 18.2-186.6 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 18.2-186.6. Breach of personal information notification.**

A. As used in this section:

"Breach of the security of the system" means the unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of personal information maintained by an individual or entity as part of a database of personal information regarding multiple individuals and that causes, or the individual or entity reasonably believes has caused, or will cause, identity theft or other fraud to any resident of the Commonwealth. Good faith acquisition of personal information by an employee or agent of an individual or entity for the purposes of the individual or entity is not a breach of the security of the system, provided that the personal information is not used for a purpose other than a lawful purpose of the individual or entity or subject to further unauthorized disclosure.

"Encrypted" means the transformation of data through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without the use of a confidential process or key, or the securing of the information by another method that renders the data elements unreadable or unusable.

"Entity" includes corporations, business trusts, estates, partnerships, limited partnerships, limited liability partnerships, limited liability companies, associations, organizations, joint ventures, governments, governmental subdivisions, agencies, or instrumentalities or any other legal entity, whether for profit or not for profit.

"Financial institution" has the meaning given that term in 15 U.S.C. § 6809(3).

"Individual" means a natural person.

"Notice" means:

1. Written notice to the last known postal address in the records of the individual or entity;
2. Telephone notice;
3. Electronic notice; or

4. Substitute notice, if the individual or the entity required to provide notice demonstrates that the cost of providing notice will exceed \$50,000, the affected class of Virginia residents to be notified exceeds 100,000 residents, or the individual or the entity does not have sufficient contact information or consent to provide notice as described in subdivisions 1, 2, or 3 of this definition. Substitute notice consists of all of the following:

- a. E-mail notice if the individual or the entity has e-mail addresses for the members of the affected class of residents;
- b. Conspicuous posting of the notice on the website of the individual or the entity if the individual or the entity maintains a website; and
- c. Notice to major statewide media.

Notice required by this section shall not be considered a debt communication as defined by the Fair Debt Collection Practices Act in 15 U.S.C. § 1692a.

Notice required by this section shall include a description of the following:

- (1) The incident in general terms;
- (2) The type of personal information that was subject to the unauthorized access and acquisition;
- (3) The general acts of the individual or entity to protect the personal information from further unauthorized access;
- (4) A telephone number that the person may call for further information and assistance, if one exists; and
- (5) Advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports.

"Personal information" means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of the Commonwealth, when the data elements are neither encrypted nor redacted:

1. Social security number;
2. Driver's license number or state identification card number issued in lieu of a driver's license number; ~~or~~
3. Financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial accounts;
4. *Passport number; or*
5. *Military identification number.*

The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

"Redact" means alteration or truncation of data such that no more than the following are accessible as part of the personal information:

1. Five digits of a social security number; or
2. The last four digits of a driver's license number, state identification card number, or account number.

B. If unencrypted or unredacted personal information was or is reasonably believed to have been accessed and acquired by an unauthorized person and causes, or the individual or entity reasonably believes has caused or will cause, identity theft or another fraud to any resident of the Commonwealth, an individual or entity that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach of the security of the system to the Office of the Attorney General and any affected resident of the Commonwealth without unreasonable delay. Notice required by this section may be reasonably delayed to allow the individual or entity to determine the scope of the breach of the security of the system and restore the reasonable integrity of the system. Notice required by this section may be delayed if, after the individual or entity notifies a law-enforcement agency, the law-enforcement agency determines and advises the individual or entity that the notice will impede a criminal or civil investigation, or homeland or national security. Notice shall be made without unreasonable delay after the law-enforcement agency determines that the notification will no longer impede the investigation or jeopardize national or homeland security.

C. An individual or entity shall disclose the breach of the security of the system if encrypted information is accessed and acquired in an unencrypted form, or if the security breach involves a person with access to the encryption key and the individual or entity reasonably believes that such a breach has caused or will cause identity theft or other fraud to any resident of the Commonwealth.

D. An individual or entity that maintains computerized data that includes personal information that the individual or entity does not own or license shall notify the owner or licensee of the information of any breach of the security of the system without unreasonable delay following discovery of the breach of the security of the system, if the personal information was accessed and acquired by an unauthorized person or the individual or entity reasonably believes the personal information was accessed and acquired by an unauthorized person.

E. In the event an individual or entity provides notice to more than 1,000 persons at one time pursuant to this section, the individual or entity shall notify, without unreasonable delay, the Office of the Attorney General and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. § 1681a (p), of the timing, distribution, and content of the notice.

F. An entity that maintains its own notification procedures as part of an information privacy or security policy for the treatment of personal information that are consistent with the timing requirements of this section shall be deemed to be in compliance with the notification requirements of this section if it notifies residents of the Commonwealth in accordance with its procedures in the event of a breach of the security of the system.

G. An entity that is subject to Title V of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) and maintains procedures for notification of a breach of the security of the system in accordance with the provision of that Act and any rules, regulations, or guidelines promulgated thereto shall be deemed to be in compliance with this section.

H. An entity that complies with the notification requirements or procedures pursuant to the rules, regulations, procedures, or guidelines established by the entity's primary or functional state or federal regulator shall be in compliance with this section.

I. Except as provided by subsections J and K, pursuant to the enforcement duties and powers of the Office of the Attorney General, the Attorney General may bring an action to address violations of this section. The Office of the Attorney General may impose a civil penalty not to exceed \$150,000 per breach of the security of the system or a series of breaches of a similar nature that are discovered in a single investigation. Nothing in this section shall limit an individual from recovering direct economic damages from a violation of this section.

J. A violation of this section by a state-chartered or licensed financial institution shall be enforceable exclusively by the financial institution's primary state regulator.

K. A violation of this section by an individual or entity regulated by the State Corporation Commission's Bureau of Insurance shall be enforced exclusively by the State Corporation Commission.

L. The provisions of this section shall not apply to criminal intelligence systems subject to the restrictions of 28 C.F.R. Part 23 that are maintained by law-enforcement agencies of the Commonwealth and the organized Criminal Gang File of the Virginia Criminal Information Network (VCIN), established pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

M. Notwithstanding any other provision of this section, any employer or payroll service provider that owns or licenses computerized data relating to income tax withheld pursuant to Article 16 (§ 58.1-460 et seq.) of Chapter 3 of Title 58.1 shall notify the Office of the Attorney General without unreasonable delay after the discovery or notification of unauthorized access and acquisition of unencrypted and unredacted computerized data containing a taxpayer identification number in combination with the income tax withheld for that taxpayer that compromises the confidentiality of such data and that creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or the employer or payroll provider reasonably believes has caused or will cause, identity theft or other fraud. With respect to employers, this subsection applies only to information regarding the employer's employees, and does not apply to information regarding the employer's customers or other non-employees.

Such employer or payroll service provider shall provide the Office of the Attorney General with the name and federal employer identification number of the employer as defined in § 58.1-460 that may be affected by the compromise in confidentiality. Upon receipt of such notice, the Office of the Attorney General shall notify the Department of Taxation of the compromise in confidentiality. The notification required under this subsection that does not otherwise require notification under this section shall not be subject to any other notification, requirement, exemption, or penalty contained in this section.

## CHAPTER 485

*An Act to amend and reenact § 55-419 of the Code of Virginia, relating to the Virginia Self-Service Storage Act; enforcement of liens; online public auction.*

[H 2509]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 55-419 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 55-419. Enforcement of lien.**

A. 1. If any occupant is in default under a rental agreement, the owner shall notify the occupant of such default by regular mail at his last known address or, if expressly provided for in the rental agreement, such notice may be given by electronic means. If such default is not cured within 10 days after its occurrence, then the owner may proceed to enforce such lien by selling the contents of the occupant's unit at public auction, for cash, and apply the proceeds to satisfaction of the lien, with the surplus, if any, to be disbursed as hereinafter provided. Before conducting such a public auction, the owner shall notify the occupant as prescribed in subsection C and shall advertise the time, place, and terms thereof in such manner as to give publicity thereto.

2. In the case of personal property having a fair market value in excess of \$1,000, and against which a creditor has filed a financing statement in the name of the occupant at the State Corporation Commission or in the city or county where the self-service storage facility is located or in the city or county in Virginia shown as the last known address of the occupant, or if such personal property is a watercraft required by the laws of Virginia to be registered and the Department of Game and Inland Fisheries shows a lien on the certificate of title, the owner shall notify the lienholder of record, by certified mail, at the address on the financing statement or certificate of title, at least 10 days prior to the time and place of the proposed public auction.

If the owner of the personal property cannot be ascertained, the name of "John Doe" shall be substituted in the proceedings hereunder and no written notice shall be required. Whenever a watercraft is sold hereunder, the Department of Game and Inland Fisheries shall issue a certificate of title and registration to the purchaser thereof upon his application containing the serial or motor number of the watercraft purchased, together with an affidavit by the lienholder, or by the person conducting the public auction, evidencing compliance with the provisions hereof.

B. Whenever the occupant is in default, the owner shall have the right to deny the occupant access to the leased space.

C. After the occupant has been in default for a period of 10 days, and before the owner can sell the occupant's personal property in accordance with this chapter, the owner shall send a further notice of default, by verified mail, postage prepaid, to the occupant at his last known address or, if expressly provided for in the rental agreement, such notice may be given by electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. Such notice of default shall include:

1. An itemized statement of the owner's claim, indicating the charges due on the date of the notice and the date when the charges became due;

2. A demand for payment of the charges due within a specified time not less than 20 days after the date of the notice;

3. A statement that the contents of the occupant's leased space are subject to the owner's lien;

4. A conspicuous statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at public auction at a specified time and place; and

5. The name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to the notice.

D. At any time prior to the public auction pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and thereby redeem the personal property.

E. In the event of a public auction pursuant to this section, the owner may satisfy his lien from the proceeds of the public auction, and shall hold the balance, if any, for delivery on demand to the occupant or other lienholder referred to in this chapter. However, the owner shall not be obligated to hold any balance for a lienholder of record notified pursuant to subdivision A 2, or any other lien creditor, that fails to claim an interest in the balance within 30 days of the public auction. So long as the owner complies with the provisions of this chapter, the owner's liability to the occupant under this chapter shall be limited to the net proceeds received from the public auction of any personal property, and as to other lienholders, shall be limited to the net proceeds received from the public auction of any personal property covered by such superior lien.

F. Any public auction of the personal property shall be held (i) at the self-service storage facility ~~or~~, (ii) at the nearest suitable place to where the personal property is held or stored, or (iii) online. An advertisement shall be published in a newspaper of general circulation in the county, city or town in which the public auction is to be held, or in the case of an online public auction, in the county, city, or town in which the self-service storage facility is located, at least once prior to the public auction. The advertisement must state ~~(i)~~ (a) the fact that it is a public auction; ~~(ii)~~ (b) the date, time and location of the public auction; and ~~(iii)~~ (c) form of payment.

G. A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this chapter takes such property free and clear of any rights of persons against whom the lien was valid.

H. Any notice made pursuant to this section shall be presumed delivered when it is (i) deposited with the United States Postal Service and properly addressed to the occupant's last known address with postage prepaid or (ii) sent by electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of default.

I. In the case of any motor vehicle, so long as the motor vehicle remains stored within such leased space, the owner shall have a lien on such vehicle in accordance with § 46.2-644.01.

## CHAPTER 486

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.4, relating to Sex Trafficking Response Coordinator; duties; report.*

[H 2576]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.4 as follows:**

#### ***§ 9.1-116.4. Sex Trafficking Response Coordinator; duties; report.***

*A. There is established within the Department a Sex Trafficking Response Coordinator (the Coordinator). The Coordinator shall:*

- 1. Create a statewide plan for local and state agencies to identify and respond to victims of sex trafficking;*
- 2. Coordinate the development of standards and guidelines for treatment programs for victims of sex trafficking;*
- 3. Maintain a list of programs that provide treatment or specialized services to victims of sex trafficking and make such list available to law-enforcement agencies, attorneys for the Commonwealth, crime victim and witness assistance programs, the Department of Juvenile Justice, the Department of Social Services, the Department of Education, and school divisions;*
- 4. Oversee the development of a curriculum to be completed by persons convicted of solicitation of prostitution under subsection B of § 18.2-346; and*
- 5. Promote strategies for the education, training, and awareness of sex trafficking and for the reduction of demand for commercial sex.*

*B. The Coordinator may request and shall receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party or any political subdivision thereof, cooperation and assistance in the performance of its duties. The Coordinator may also consult and exchange information with local government agencies and interested stakeholders.*

*C. The Coordinator shall report annually on or before October 1 to the Governor and the General Assembly. The report shall include a summary of activities for the year and any recommendations to address sex trafficking within the Commonwealth. The Department shall ensure that such report is available to the public.*

## CHAPTER 487

*An Act to amend and reenact §§ 9.1-102 and 22.1-279.8 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 9.1-114.1, relating to Department of Criminal Justice Services; school resource officers; school administrators; compulsory minimum training standards.*

[H 2609]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-102 and 22.1-279.8 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 9.1-114.1 as follows:**

**§ 9.1-102. Powers and duties of the Board and the Department.**

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and institutions of higher education within or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;
18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;
19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;
20. Conduct audits as required by § 9.1-131;
21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;
22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;
23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;
24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;
25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;
26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;
27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;
28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;
29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;
30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;
31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;
32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;
33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;
34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;

43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);

44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues,

security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;

50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation;

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process; ~~and~~

54. *Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer working with students in a school environment; and*

55. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

**§ 9.1-114.1. Compliance with minimum training standards by school resource officers.**

*Every full-time or part-time law-enforcement officer employed as a school resource officer after July 1, 2020, shall comply with the compulsory minimum training standards for school resource officers established by the Board within a period of time fixed by the Board. The Department shall ensure that such required training is available throughout the Commonwealth.*

**§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.**

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits as defined in this section and consistent with such list.

The results of such school safety audits shall be made public within 90 days of completion. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The completed walk-through checklist shall be made available upon request to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available upon request to the chief law-enforcement officer of the locality the results of such audits.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall provide copies of such plans to the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, and the emergency management official of the locality. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis, emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

*E. Each school board shall ensure that every public school it supervises employs at least one school administrator who has completed, either in-person or online, school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety in accordance with subdivision A 1 of § 9.1-184. However, such requirement shall not apply if such required training is not available online.*

## CHAPTER 488

*An Act to amend and reenact §§ 9.1-102 and 22.1-279.8 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 9.1-114.1, relating to Department of Criminal Justice Services; school resource officers; school administrators; compulsory minimum training standards.*

[S 1130]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-102 and 22.1-279.8 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 9.1-114.1 as follows:**

#### **§ 9.1-102. Powers and duties of the Board and the Department.**

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the

Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and institutions of higher education within or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § 9.1-131;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

- h. Criminal investigations that embody current best practices for conducting photographic and live lineups;
  - i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and
  - j. Missing children, missing adults, and search and rescue protocol;
38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;
39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;
40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;
41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;
42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;
43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);
44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);
45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);
46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;
47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;
48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;
49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;
50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation;

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process; ~~and~~

54. *Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer working with students in a school environment; and*

55. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

**§ 9.1-114.1. Compliance with minimum training standards by school resource officers.**

*Every full-time or part-time law-enforcement officer employed as a school resource officer after July 1, 2020, shall comply with the compulsory minimum training standards for school resource officers established by the Board within a period of time fixed by the Board. The Department shall ensure that such required training is available throughout the Commonwealth.*

**§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.**

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits as defined in this section and consistent with such list.

The results of such school safety audits shall be made public within 90 days of completion. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The completed walk-through checklist shall be made available upon request to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available upon request to the chief law-enforcement officer of the locality the results of such audits.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall provide copies of such plans to the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, and the emergency management official of the locality. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis, emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

E. *Each school board shall ensure that every public school it supervises employs at least one school administrator who has completed, either in-person or online, school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety in accordance with subdivision A 1 of § 9.1-184. However, such requirement shall not apply if such required training is not available online.*

## CHAPTER 489

*An Act to amend and reenact § 9.1-500 of the Code of Virginia, relating to the Law-Enforcement Officers Procedural Guarantee Act; definition of law-enforcement officer.*

[H 2656]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 9.1-500 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 9.1-500. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries, the Virginia Alcoholic Beverage Control Authority, the Department of Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer.

"Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary officer of one of the following agencies:

a. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries, the Virginia Alcoholic Beverage Control Authority, the Department of Motor Vehicles, or the Department of Conservation and Recreation;

b. The police department, bureau or force of any political subdivision or the campus police department of any public institution of higher education of the Commonwealth where such department, bureau or force has ~~at~~ *three* or more law-enforcement officers; or

c. Any conservation police officer as defined in § 9.1-101.

For the purposes of this chapter, "law-enforcement officer" shall not include the sheriff's department of any city or county.

## CHAPTER 490

*An Act to amend and reenact § 18.2-386.2 of the Code of Virginia, relating to unlawful dissemination or sale of images of another person; penalty.*

[H 2678]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 18.2-386.2 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-386.2. Unlawful dissemination or sale of images of another; penalty.**

A. Any person who, with the intent to coerce, harass, or intimidate, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another person who is totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast, where such person knows or has reason to know that he is not licensed or authorized to disseminate or sell such videographic or still image is guilty of a Class 1 misdemeanor. ~~However,~~ ~~¶~~ *For purposes of this subsection, "another person" includes a person whose image was used in creating, adapting, or modifying a videographic or still image with the intent to depict an actual person and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic.*

B. *If a person uses services of an Internet service provider, an electronic mail service provider, or any other information service, system, or access software provider that provides or enables computer access by multiple users to a computer server in committing acts prohibited under this section, such provider shall not be held responsible for violating this section for content provided by another person.*

~~B. C.~~ *Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any videographic or still image created by any means whatsoever is produced, reproduced, found, stored, received, or possessed in violation of this section.*

~~C. D.~~ *The provisions of this section shall not preclude prosecution under any other statute.*

## CHAPTER 491

*An Act to amend and reenact § 23.1-608 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-608.1, relating to the Virginia Military Survivors and Dependents Education Program; eligibility.*

[H 2685]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 23.1-608 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-608.1 as follows:****§ 23.1-608. Virginia Military Survivors and Dependents Education Program; tuition and fee waivers.**

A. As used in this section, unless the context requires a different meaning:

"Domicile" has the same meaning as provided in § 23.1-500.

~~"Fund" means the Virginia Military Survivors and Dependents Education Fund.~~

"Program" means the Virginia Military Survivors and Dependents Education Program.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war; or (ii) of a veteran who *served in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard and, as a direct result of due to* such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

B. The Virginia Military Survivors and Dependents Education Program is established for the purpose of waiving tuition and mandatory fees at a public institution of higher education or Eastern Virginia Medical School for qualified survivors and dependents who have been admitted to such institution and meet the requirements of subsection C, as certified by the Commissioner of Veterans Services.

C. Admitted qualified survivors and dependents are eligible for a waiver of tuition and mandatory fees pursuant to this section if the military service member who was killed, became missing in action, became a prisoner of war, or is disabled (i) established domicile (a) at the time of entering such active military service or called to active duty as a member of the Reserves of the Armed Forces of the United States or Virginia National Guard; (b) at least five years immediately prior to, or had a physical presence in the Commonwealth for at least five years immediately prior to, the date on which the admission application was submitted by or on behalf of such qualified survivor or dependent for admission to such

institution of higher education or Eastern Virginia Medical School; or (c) on the date of his death and for at least five years immediately prior to his death or had a physical presence in the Commonwealth on the date of his death and had a physical presence in the Commonwealth for at least five years immediately prior to his death; (ii) in the case of a qualified child, is deceased and the surviving parent, at some time previous to marrying the deceased parent, established domicile for at least five years, or established domicile or had a physical presence in the Commonwealth for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such child; or (iii) in the case of a qualified spouse, is deceased and the surviving spouse, at some time previous to marrying the deceased spouse, established domicile for at least five years or had a physical presence in the Commonwealth for at least five years prior to the date on which the admission application was submitted by such qualified spouse.

~~D. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education Fund is established for the sole purpose of providing financial assistance in an amount (i) up to \$2,000 or (ii) as provided in the general appropriation act, for room and board charges, books and supplies, and other expenses at any public institution of higher education or Eastern Virginia Medical School for the use and benefit of qualified survivors and dependents, provided that the maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor's or dependent's educational expenses allowed under this subsection.~~

~~E. Each year, from the funds available in the Fund, the Council and each public institution of higher education and Eastern Virginia Medical School shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of Veterans Services for distribution.~~

~~F. The Council shall disburse to each public institution of higher education and Eastern Virginia Medical School the funds appropriated or otherwise made available by the Commonwealth to support the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.~~

~~G. The Department of Veterans Services shall disseminate information about the Program and Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Program and Fund.~~

~~H. E. Each public institution of higher education and Eastern Virginia Medical School shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.~~

**§ 23.1-608.1. Virginia Military Survivors and Dependents Education Fund; stipends.**

A. As used in this section:

*"Fund" means the Virginia Military Survivors and Dependents Education Fund.*

*"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran who, as a direct result of such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.*

~~B. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education Fund is established for the sole purpose of providing financial assistance, in an amount (i) up to \$2,000 or (ii) as provided in the general appropriation act, for room and board charges, books and supplies, and other expenses at any public institution of higher education or Eastern Virginia Medical School for the use and benefit of qualified survivors and dependents, provided that the maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor's or dependent's educational expenses allowed under this subsection.~~

~~C. Each year, from the funds available in the Fund, the Council and each public institution of higher education and Eastern Virginia Medical School shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of Veterans Services for distribution.~~

~~D. The Council shall disburse to each public institution of higher education and Eastern Virginia Medical School the funds appropriated or otherwise made available by the Commonwealth to support the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.~~

~~E. The Department of Veterans Services shall disseminate information about the Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the~~

annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency's policies and strategies relating to dissemination of information about the Fund.

F. Each public institution of higher education and Eastern Virginia Medical School shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

### CHAPTER 492

An Act to amend and reenact § 34-6 of the Code of Virginia, relating to exemptions of real estate; recordation of signed writing; location of real estate or residence of householder if property located outside of the Commonwealth.

[H 2711]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 34-6 of the Code of Virginia is amended and reenacted as follows:**

**§ 34-6. How exemption of real estate secured; form to claim exemption of real property.**

In order to secure the benefit of the exemptions of real estate under §§ 34-4 and 34-4.1, the householder, by a writing signed by him and duly admitted to record, to be recorded as deeds are recorded, in the county or city wherein such real estate or any part thereof is located ~~and~~ or, if such property is located outside of the Commonwealth, in the county or city *in the Commonwealth* where the householder resides, shall declare his intention to claim such benefit and select and set apart the real estate to be held by the householder as exempt, and describe the same with reasonable certainty, affixing to the description his cash valuation of the estate so selected and set apart. Equitable as well as legal estates may be so selected and set apart. The following form, or one which is substantially similar, shall be used and shall be sufficient for the writing required by this section:

HOMESTEAD DEED FOR REAL PROPERTY

Name of Householder \_\_\_\_\_

Name of title holder of record (if different) \_\_\_\_\_

Is the householder a disabled veteran entitled to claim the additional exemption under § 34-4.1? \_\_\_\_\_

Address of Householder \_\_\_\_\_

Name(s) and age(s) of dependent(s) \_\_\_\_\_

County/city/state in which real property claimed as exempt is located \_\_\_\_\_

Description of property claimed as exempt \_\_\_\_\_

Value of property described above \_\_\_\_\_

Number of homestead deeds that have been filed by the Householder \_\_\_\_\_

Exemption amount previously claimed on prior homestead deeds \_\_\_\_\_

List the jurisdictions where previous homestead deeds were filed \_\_\_\_\_

\_\_\_\_\_  
(Signature of Householder)

\_\_\_\_\_  
[ACKNOWLEDGMENT]

Such writing or deed shall not be required to secure any exemption under this Code except those exemptions created by §§ 34-4 and 34-4.1.

### CHAPTER 493

An Act to amend and reenact §§ 9.1-102 and 22.1-280.2:1 of the Code of Virginia, relating to employment of school security officers; law-enforcement officers previously employed by the United States or any state or political subdivision thereof; carrying a firearm in performance of duties.

[H 2721]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-102 and 22.1-280.2:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-102. Powers and duties of the Board and the Department.**

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the

Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and institutions of higher education within or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § 9.1-131;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

- h. Criminal investigations that embody current best practices for conducting photographic and live lineups;
  - i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and
  - j. Missing children, missing adults, and search and rescue protocol;
38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;
39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;
40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;
41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;
42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, *including school security officers described in clause (b) of § 22.1-280.2:1*, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;
43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);
44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);
45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);
46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;
47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;
48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;
49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;
50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation;

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process; and

54. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

**§ 22.1-280.2:1. Employment of school security officers.**

Local school boards may employ school security officers, as defined in § 9.1-101 for the purposes set forth therein. Such school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board he (a) was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth or (b) was employed by a law-enforcement agency of the United States or any state or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer as defined in § 9.1-101; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board grants him the authority to carry a firearm in the performance of his duties.

## CHAPTER 494

*An Act to amend the Code of Virginia by adding a section numbered 56-235.12, relating to public utilities; acquisition of rights-of-way for qualified economic development sites.*

[H 2738]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-235.12 as follows:**

**§ 56-235.12. Economic development programs.**

**A. As used in this section:**

*"Acquire utility rights-of-way" means the planning, surveying, permitting, and acquisition of land, including options, easements, and other estates in land.*

*"Costs" includes depreciation, taxes, return on investment, and other land-related costs associated with costs incurred to acquire utility rights-of-way pursuant to a Program.*

*"Economic Development Program" or "Program" means a program under which a utility is authorized by the Commission under this section to acquire utility rights-of-way for one or more qualified economic development sites.*

*"Partnership" means the Virginia Economic Development Partnership Authority.*

*"Qualified economic development site" means an industrial site within the Commonwealth that has been certified by the Partnership pursuant to subsection B.*

*"Utility" means a public utility providing water, sewer, electric, or natural gas service to retail customers in the Commonwealth.*

**B. The Partnership is authorized to certify that an industrial site is a qualified economic development site if it finds that:**

**1. The person with legal authority to develop the site is authorized to contract for the extension of utility service to the site;**

**2. The development of the site is compliant with applicable zoning requirements and is consistent with the locality's comprehensive plan;**

**3. Applicable environmental surveys and reviews, including any wetlands survey, geotechnical borings, a topographical survey, a cultural resources review, an Endangered Species review, or a Phase 1 Environmental Assessment, if required, are completed;**

**4. An estimate of the costs of the development of the site has been prepared and provided to the Partnership; and**

**5. The acquisition of utility rights-of-way for the site will further the creation of new jobs and capital investment in the Commonwealth by facilitating the location of one or more significant economic development projects in the Commonwealth.**

C. A utility proposing an Economic Development Program shall file a proposal with the Commission for review. A proposal for approval of a Program shall include an analysis of how acquiring utility rights-of-way will enhance the Commonwealth's infrastructure and promote the Commonwealth's competitive business environment by improving the readiness of a qualified economic development site.

D. The Commission shall approve, or approve with appropriate modifications, a Program if it finds that:

1. The implementation of the Program will provide material economic development benefits that might not otherwise be attained absent the Commission's approval of the Program;
2. The Program proposes a rate mechanism, including base rates or a rate adjustment clause, that authorizes the utility to recover its costs incurred in implementing the Program until such time as the investment is placed in service;
3. The proposal to acquire utility rights-of-way would not otherwise be immediately supported by expected revenues from new loads served under the Program at the qualified economic development site;
4. The utility's capital investment does not exceed one percent of gross plant investment in the aggregate or \$5 million for any specific qualified economic development site;
5. The associated charges resulting from implementation of the Program will apply only to firm service customers;
6. The Virginia Economic Development Partnership has certified pursuant to subsection B that the site for which the utility proposes to acquire utility rights-of-way under the Program is a qualified economic development site;
7. The Program is designed only to acquire utility rights-of-way to a qualified economic development site and not to provide service to other customers or potential customers;
8. The utility's assumptions regarding costs to acquire utility rights-of-way under the Program are not unduly speculative; and
9. The Program is not otherwise contrary to the public interest.

E. After Commission review and absent action by the Commission to the contrary, the Program shall take effect 120 days following the date on which the proposal for the Program was filed. Any amendment to a Program following its implementation shall be submitted to the Commission at least 60 days prior to the proposed effective date thereof and, absent action by the Commission to the contrary, the amendment shall become effective on such date.

F. The Commission's approval of a Program shall authorize the utility to:

1. Acquire utility rights-of-way for the ordinary extension of utility facilities in the normal course of business to one or more qualified economic development sites; and
2. Recover costs incurred in implementing the Program, including costs deferred and associated carrying costs, from the time incurred until the time the Commission establishes new rates that include recovery of such deferred costs.

G. A utility, in implementing a Program, shall in good faith coordinate the acquisition of rights-of-way with communications providers and other utilities, including water, sewer, electric, or natural gas utilities, so that any facilities ultimately to be constructed may be collocated to the extent feasible.

H. In calculating the utility's return on the investment with regard to costs incurred in implementing a Program, the Commission shall use the utility's regulatory capital structure, including the cost of equity most recently approved by the Commission. If the utility's cost of capital at the time its Economic Development Program is filed has not been changed by order of the Commission within the preceding five years, the Commission may require the utility to file an updated weighted average cost of capital, and the utility may propose an updated weighted average cost of capital.

I. Nothing in this section shall:

1. Be deemed to prevent one or more utilities from jointly filing a Program under this section, and the Commission may consolidate consideration of Programs filed to serve the same qualified economic development site;
2. Otherwise impair or enlarge the powers granted to public service companies by this title;
3. Permit a Program to include conversion of existing retail propane customers to electric or natural gas; or
4. Prohibit an electric utility from recovering its transmission-related costs incurred in implementing the Program through a rate adjustment clause pursuant to subdivision A 4 of § 56-585.1.

J. A utility may request proprietary treatment of any and all supporting materials provided in support of a Program.

## CHAPTER 495

*An Act to amend the Code of Virginia by adding a section numbered 56-235.12, relating to public utilities; acquisition of rights-of-way for qualified economic development sites.*

[S 1695]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-235.12 as follows:**

**§ 56-235.12. Economic development programs.**

A. As used in this section:

"Acquire utility rights-of-way" means the planning, surveying, permitting, and acquisition of land, including options, easements, and other estates in land.

"Costs" includes depreciation, taxes, return on investment, and other land-related costs associated with costs incurred to acquire utility rights-of-way pursuant to a Program.

"Economic Development Program" or "Program" means a program under which a utility is authorized by the Commission under this section to acquire utility rights-of-way for one or more qualified economic development sites.

"Partnership" means the Virginia Economic Development Partnership Authority.

"Qualified economic development site" means an industrial site within the Commonwealth that has been certified by the Partnership pursuant to subsection B.

"Utility" means a public utility providing water, sewer, electric, or natural gas service to retail customers in the Commonwealth.

B. The Partnership is authorized to certify that an industrial site is a qualified economic development site if it finds that:

1. The person with legal authority to develop the site is authorized to contract for the extension of utility service to the site;

2. The development of the site is compliant with applicable zoning requirements and is consistent with the locality's comprehensive plan;

3. Applicable environmental surveys and reviews, including any wetlands survey, geotechnical borings, a topographical survey, a cultural resources review, an Endangered Species review, or a Phase 1 Environmental Assessment, if required, are completed;

4. An estimate of the costs of the development of the site has been prepared and provided to the Partnership; and

5. The acquisition of utility rights-of-way for the site will further the creation of new jobs and capital investment in the Commonwealth by facilitating the location of one or more significant economic development projects in the Commonwealth.

C. A utility proposing an Economic Development Program shall file a proposal with the Commission for review. A proposal for approval of a Program shall include an analysis of how acquiring utility rights-of-way will enhance the Commonwealth's infrastructure and promote the Commonwealth's competitive business environment by improving the readiness of a qualified economic development site.

D. The Commission shall approve, or approve with appropriate modifications, a Program if it finds that:

1. The implementation of the Program will provide material economic development benefits that might not otherwise be attained absent the Commission's approval of the Program;

2. The Program proposes a rate mechanism, including base rates or a rate adjustment clause, that authorizes the utility to recover its costs incurred in implementing the Program until such time as the investment is placed in service;

3. The proposal to acquire utility rights-of-way would not otherwise be immediately supported by expected revenues from new loads served under the Program at the qualified economic development site;

4. The utility's capital investment does not exceed one percent of gross plant investment in the aggregate or \$5 million for any specific qualified economic development site;

5. The associated charges resulting from implementation of the Program will apply only to firm service customers;

6. The Virginia Economic Development Partnership has certified pursuant to subsection B that the site for which the utility proposes to acquire utility rights-of-way under the Program is a qualified economic development site;

7. The Program is designed only to acquire utility rights-of-way to a qualified economic development site and not to provide service to other customers or potential customers;

8. The utility's assumptions regarding costs to acquire utility rights-of-way under the Program are not unduly speculative; and

9. The Program is not otherwise contrary to the public interest.

E. After Commission review and absent action by the Commission to the contrary, the Program shall take effect 120 days following the date on which the proposal for the Program was filed. Any amendment to a Program following its implementation shall be submitted to the Commission at least 60 days prior to the proposed effective date thereof and, absent action by the Commission to the contrary, the amendment shall become effective on such date.

F. The Commission's approval of a Program shall authorize the utility to:

1. Acquire utility rights-of-way for the ordinary extension of utility facilities in the normal course of business to one or more qualified economic development sites; and

2. Recover costs incurred in implementing the Program, including costs deferred and associated carrying costs, from the time incurred until the time the Commission establishes new rates that include recovery of such deferred costs.

G. A utility, in implementing a Program, shall in good faith coordinate the acquisition of rights-of-way with communications providers and other utilities, including water, sewer, electric, or natural gas utilities, so that any facilities ultimately to be constructed may be collocated to the extent feasible.

H. In calculating the utility's return on the investment with regard to costs incurred in implementing a Program, the Commission shall use the utility's regulatory capital structure, including the cost of equity most recently approved by the Commission. If the utility's cost of capital at the time its Economic Development Program is filed has not been changed by order of the Commission within the preceding five years, the Commission may require the utility to file an updated weighted average cost of capital, and the utility may propose an updated weighted average cost of capital.

I. Nothing in this section shall:

1. *Be deemed to prevent one or more utilities from jointly filing a Program under this section, and the Commission may consolidate consideration of Programs filed to serve the same qualified economic development site;*
  2. *Otherwise impair or enlarge the powers granted to public service companies by this title;*
  3. *Permit a Program to include conversion of existing retail propane customers to electric or natural gas; or*
  4. *Prohibit an electric utility from recovering its transmission-related costs incurred in implementing the Program through a rate adjustment clause pursuant to subdivision A 4 of § 56-585.1.*
- J. A utility may request proprietary treatment of any and all supporting materials provided in support of a Program.*

## CHAPTER 496

*An Act to amend and reenact § 59.1-542 of the Code of Virginia, relating to enterprise zones.*

[H 2779]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-542 of the Code of Virginia is amended and reenacted as follows:**

**§ 59.1-542. Enterprise zone designation.**

A. Upon the Department's announcement of periodic zone designation competitions, the governing body of any county or city may make written application to the Department to have an area or areas declared an enterprise zone. Such application shall include a description of the area or areas to be included, the development potential of these areas, the need for special state incentives, the local incentives that shall be provided to support new economic activity, and other information that the Department deems necessary to assess requests for designation.

B. Two or more adjacent localities may file a joint application for an enterprise zone. Localities applying for a joint zone shall demonstrate a regional need for an enterprise zone and a regional impact that could not be achieved through a single jurisdiction zone. Applicants for a joint zone shall also specify what mechanisms will be used to ensure that the economic benefits of such a zone are shared among the applicant localities.

C. An enterprise zone may consist of no more than three noncontiguous areas. The aggregate size of these noncontiguous zone areas shall be as follows:

1. For cities, the minimum size of an enterprise zone shall be one-quarter square mile and the maximum size of an enterprise zone shall be one square mile or seven percent of the jurisdiction's land area or an area that includes seven percent of the population, whichever is largest.

2. For towns designated as enterprise zones under former §§ 59.1-272 through 59.1-278, 59.1-279.1, or 59.1-280.2 through 59.1-284 of the Enterprise Zone Act (§ 59.1-270 et seq.), the size of an enterprise zone shall conform to the size requirements for cities in subdivision 1.

3. For unincorporated areas of counties, the minimum size of an enterprise zone shall be one-half square mile and the maximum size of an enterprise zone shall be six square miles.

4. For consolidated cities the enterprise zones in cities for which the boundaries were created through the consolidation of a city and county or the consolidation of two cities, the enterprise zone shall conform substantially to the size requirements for unincorporated areas of counties in subdivision 3.

In no instance shall a zone consist only of a site for a single business firm. Localities shall be limited to three enterprise zone designations.

D. A joint enterprise zone shall consist of no more than three noncontiguous zone areas for each participating locality. The aggregate size of these noncontiguous areas shall be specified by regulation.

E. Upon recommendation of the Director of the Department, the Governor may designate up to 30 enterprise zones in accordance with the provisions of this chapter. Such designations are to be done in coordination with the expiration of existing zones designated under earlier Enterprise Zone Program provisions. The initial round of six zone designation applications and approval may be conducted prior to adoption of final program regulations provided that the process is consistent with the provisions of this chapter. Enterprise zones shall be designated for an initial 10-year period except as provided for in subsections A and B of § 59.1-546. Upon recommendation of the Director of the Department, the Governor may renew zones *designated on or after July 1, 2005*, for up to ~~two~~ *three* five-year renewal periods *and zones designated prior to July 1, 2005, for one five-year renewal period*. Recommendations for five-year renewals shall be based on the locality's performance of its enterprise zone responsibilities, the continued need for such a zone, and its effectiveness in creating jobs and capital investment.

F. Localities that have zone designations are responsible for providing the local incentives specified in their applications, providing timely submission of enterprise zone reports and evaluations as required by regulation, verifying that businesses and properties seeking enterprise zone incentives are physically located within their zones, and implementing an active local enterprise zone program within the context of overall economic development efforts.

## CHAPTER 497

*An Act to amend and reenact § 62.1-229.5 of the Code of Virginia, relating to living shorelines; loans to businesses.*

[H 2783]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-229.5 of the Code of Virginia is amended and reenacted as follows:**

**§ 62.1-229.5. Loans for living shorelines.**

Loans may be made from the Fund, in the Board's discretion, (i) to a local government for the purpose of establishing living shorelines, as defined in § 28.2-104.1, to protect or improve water quality and prevent the pollution of state waters or (ii) to a local government that has developed a funding program to provide low-interest loans or other incentives to *businesses* or individual citizens of the Commonwealth to facilitate the establishment of living shorelines to protect or improve water quality and prevent the pollution of state waters. *To be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority as defined in § 15.2-7600. Eligible businesses include bed-and-breakfast operations, campgrounds, and restaurants, as defined in § 35.1-1, and businesses that use working waterfronts, as defined in § 15.2-2201.* The Board shall develop guidelines for the administration of such loans.

## CHAPTER 498

*An Act to amend and reenact § 18.2-461 of the Code of Virginia, relating to false information and hoax criminal activities; penalty.*

[S 1031]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-461 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-461. Falsely summoning or giving false reports to law-enforcement officials.**

It shall be unlawful for any person (i) to knowingly give a false report as to the commission of any crime to any law-enforcement official with intent to mislead; (ii) *to knowingly, with the intent to mislead a law-enforcement agency, cause another to give a false report to any law-enforcement official by publicly simulating a violation of Chapter 4 (§ 18.2-30 et seq.) or Chapter 5 (§ 18.2-77 et seq.);* or ~~(iii)~~ (iii) without just cause and with intent to interfere with the operations of any law-enforcement official, to call or summon any law-enforcement official by telephone or other means, including engagement or activation of an automatic emergency alarm. Violation of the provisions of this section shall be punishable as a Class 1 misdemeanor.

## CHAPTER 499

*An Act to amend and reenact §§ 55-396 and 55-399 of the Code of Virginia and to repeal § 55-399.1 of the Code of Virginia, relating to the Virginia Real Estate Time-Share Act; Common Interest Community Board; administrative proceedings.*

[S 1086]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-396 and 55-399 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-396. General powers and duties of Board.**

A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this chapter. The Board may prescribe forms and procedures for submitting information to the Board.

B. The Board may accept grants in aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions, in furtherance of the objectives of this chapter.

C. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the Board's duties.

D. 1. If the Board determines after legal notice and opportunity for hearing that a developer or reseller or an agent of a developer or reseller has:

a. Made any representation in any document or information filed with the Board which is false or misleading;

b. Engaged or is engaging in any unlawful act or practice;

c. Disseminated or caused to be disseminated orally, or in writing, any false or misleading promotional materials in connection with a time-share program;

d. Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of time-shares in the time-share program;

e. Failed to perform any stipulation or agreement made to induce the Board to issue an order relating to that time-share program;

f. Otherwise violated any provision of this chapter or any of the Board's rules and regulations or orders; or

g. Disposed of any time-share in a project without first complying with the requirements of this chapter, it may issue an order requiring the developer to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this chapter.

2. If the Board makes a finding of fact ~~at a hearing in writing~~ that the public interest will be irreparably harmed by delay in issuing an order, as prescribed in subdivision 1 ~~of this subsection~~, it may issue a temporary cease and desist order. ~~With the issuance of a Prior to issuing the~~ temporary cease and desist order, the Board; ~~by registered mail or other personal written service~~, shall give notice of the ~~issuance~~ *proposal to issue a temporary cease and desist order* to the developer or the reseller. Every temporary cease and desist order shall include in its terms:

a. A provision clearly stating the reasons for issuing such cease and desist order; ~~the date of the hearing on its issuance~~; and the nature and extent of the facts and findings on which the order ~~was~~ *is* based;

b. ~~A provision that a hearing by the Board may be held, after due notice but not more than fifteen days from the date such temporary cease and desist order is effective, to determine whether or not a cease and desist order as called for in the immediately preceding subsection shall be issued;~~

~~e. A provision that such temporary cease and desist order may remain in full force for a period of not more than fifteen days from the date of its issuance or the date on which the Board has determined that an order as prescribed in subdivision 1 of this subsection is to be issued, whichever shall occur first; and~~

~~d. A provision that a failure to comply with such temporary cease and desist order will be a violation of this chapter. The Board shall not issue more than one temporary cease and desist order with reference to such finding of fact as prescribed in this subsection; and~~

~~c. A provision that upon request a hearing will be held promptly to determine whether or not the cease and desist order shall become permanent.~~

*The Board shall not issue more than one temporary cease and desist order with reference to such finding of fact as prescribed in this subsection.*

E. The Board may also issue a cease and desist order if the developer has not registered the time-share program as required by this chapter or if a reseller has not registered as required by this chapter.

F. The Board, after notice and hearing, may issue an order revoking the registration of the developer's time-share program or the registration of a reseller upon determination that such developer, reseller, or agent thereof has failed to comply with a cease and desist order issued by the Board affecting the developer's time-share program or the reseller.

G. If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in violation of this chapter or any of the Board's rules, regulations or orders applicable thereto, the Board, without prior administrative proceedings, may bring suit in the circuit court of the city or county in which any portion of the time-share project is located to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

H. Upon request of a time-share owner, the Board shall, in accordance with subsection B of § 55-382, issue its determination whether compliance with § 55-375 or 55-386 has occurred.

#### **§ 55-399. Proceedings and investigations.**

A. *All proceedings of the Board under this chapter shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).*

B. The Board may:

~~1. Make~~ *make* necessary public or private investigations within or outside ~~this~~ *the* Commonwealth to determine whether any person has violated or is about to violate any provision of this chapter or any rule, regulation, or order issued hereunder; ~~or to aid in the enforcement of this chapter in prescribing rules, regulations and forms hereunder;~~

~~2. Require or permit any person to file a statement in writing, under oath or otherwise as the Board determines, as to all facts and circumstances concerning the matter to be investigated pursuant to this chapter.~~

~~B. For the purpose of any investigation or proceeding under the chapter, the Board may administer oaths or affirmations; and upon such motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts; or any other matter reasonably calculated to lead to the discovery of material evidence.~~

~~C. Any proceeding or hearing of the Board under this chapter, wherein witnesses are subpoenaed and their attendance required for evidence to be taken, or any matter is to be produced to ascertain material evidence, shall take place within the County of Henrico and such proceeding shall be held before the Board sitting in regular session, but not less frequently than monthly.~~

~~D. Upon failure to obey a subpoena or to answer questions propounded by the Board, and upon reasonable notice to all persons affected thereby, the Board may apply to the Circuit Court of the County of Henrico for an order compelling compliance.~~

~~E. Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).~~

**2. That § 55-399.1 of the Code of Virginia is repealed.**

## CHAPTER 500

*An Act to amend and reenact § 2.2-3711 of the Code of Virginia, relating to the Freedom of Information Act; Fort Monroe Authority; closed meeting exemption.*

[S 1090]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3711 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, *the Fort Monroe Authority*, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the

University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system,

acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

## CHAPTER 501

*An Act to amend the Code of Virginia by adding a section numbered 56-257.4, relating to the State Corporation Commission; natural gas utilities; investigative reports.*

[S 1176]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-257.4 as follows:**

**§ 56-257.4. Report by the State Corporation Commission on investigation of natural gas utilities incident.**

*The Commission shall, upon written request, make available for public inspection within 30 days of the receipt of the request a report regarding the finalized enforcement action or investigation related to the death or personal injury necessitating inpatient hospitalization of any person, or estimated damage to property exceeding \$50,000, that was the direct result of a leak or other incident involving the intrastate facilities of a natural gas utility operator. The report shall only be available for public inspection, upon written request, after the Commission has concluded the enforcement action or investigation. The report shall not reveal:*

- 1. Infrastructure information for, or the location or operation of security or utility equipment and systems of, any public or private building, structure, or information storage facility;*
- 2. Risk assessment information not provided to the public by the utility operator;*
- 3. Specific security plans and measures of an entity, facility, building structure, information technology system, or software program;*
- 4. Information confidential or sensitive in nature;*
- 5. Information proprietary to the natural gas utility operator; or*
- 6. Information that would jeopardize the safety or security of any (i) person; (ii) governmental facility, building, or structure; or (iii) private commercial office, residential, or retail building.*

## CHAPTER 502

*An Act to amend and reenact § 9.1-184 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-280.2:3, relating to school boards; local law-enforcement agencies; school resource officers; memorandums of understanding.*

[S 1214]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-184 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-280.2:3 as follows:**

**§ 9.1-184. Virginia Center for School and Campus Safety created; duties.**

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

- 1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;*
- 2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;*
- 3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;*
- 4. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department;*
- 5. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;*
- 6. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;*
- 7. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;*
- 8. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;*

9. Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth; ~~and~~

10. In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students; *and*

11. *Develop a model memorandum of understanding setting forth the respective roles and responsibilities of local school boards and local law-enforcement agencies regarding the use of school resource officers. Such model memorandum of understanding may be used by local school boards and local law-enforcement agencies to satisfy the requirements of § 22.1-280.2:3.*

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

**§ 22.1-280.2:3. School boards; local law-enforcement agencies; memorandums of understanding.**

*The school board in each school division in which the local law-enforcement agency employs school resource officers, as defined in § 9.1-101, shall enter into a memorandum of understanding with such local law-enforcement agency that sets forth the powers and duties of such school resource officers. The provisions of such memorandum of understanding shall be based on the model memorandum of understanding developed by the Virginia Center for School and Campus Safety pursuant to subdivision A 11 of § 9.1-184, which may be modified by the parties in accordance with their particular needs. Each such school board and local law-enforcement agency shall review and amend or affirm such memorandum at least once every five years or at any time upon the request of either party.*

### CHAPTER 503

*An Act to direct the Board for Contractors to revise Board regulations pertaining to designated employees.*

[S 1219]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

1. § 1. A. *That the Board for Contractors (Board) is directed to revise Board regulations to allow multiple individuals from a single firm to sit for the business examination required to be confirmed as the firm's designated employee. The Board shall also review current regulations and procedures pertaining to the time allowed for a change of the designated employee to determine if the current time for replacement is sufficient and practicable.*

B. *As used in this section:*

*"Designated employee" means the contractor's full-time employee, or a member of the contractor's responsible management, who is at least 18 years of age and who has successfully completed the oral or written examination required by the Board on behalf of the contractor.*

*"Firm" means any business entity recognized under the laws of the Commonwealth of Virginia.*

### CHAPTER 504

*An Act to amend and reenact § 55-519 of the Code of Virginia, relating to the Virginia Residential Property Disclosure Act; required disclosures.*

[S 1292]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

1. **That § 55-519 of the Code of Virginia is amended and reenacted as follows:**

**§ 55-519. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.**

A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

B. The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions, *or any conveyances of mineral rights*, as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of (i) any local ordinance creating such district, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74 and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2 and that purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any stormwater detention facilities located on the property, or any maintenance agreement for such facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any maintenance agreement for such facilities, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

8. The owner makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

9. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property;

10. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) ~~review of~~ reviewing any map depicting special flood hazard areas, and (iii) *contacting the Federal Emergency Management Agency (FEMA) or visiting the website for FEMA's National Flood Insurance Program or for the Virginia Department of Conservation and Recreation's Flood Risk Information System*, and (iv) determining whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

11. The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract; and

12. The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2 and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event, prior to settlement pursuant to such contract.

C. The residential property disclosure statement shall be delivered in accordance with § 55-520.

## CHAPTER 505

*An Act to amend the Code of Virginia by adding a section numbered 15.2-966.1, relating to primary health care facility for employees of locality.*

[S 1358]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 15.2-966.1 as follows:**

**§ 15.2-966.1. Establishment of primary health care facility for employees of locality.**

*Any locality may establish and operate a primary care health care facility for the locality's employees and covered dependents. Such facility may provide vision and dental care in addition to medical services.*

## CHAPTER 506

*An Act to amend and reenact § 18.2-60 of the Code of Virginia, relating to threats of death or bodily injury to a health care provider.*

[S 1395]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-60 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-60. Threats of death or bodily injury to a person or member of his family; threats of death or bodily injury to persons on school property; threats of death or bodily injury to health care providers; penalty.**

A. 1. Any person who knowingly communicates, in a writing, including an electronically transmitted communication producing a visual or electronic message, a threat to kill or do bodily injury to a person, regarding that person or any member of his family, and the threat places such person in reasonable apprehension of death or bodily injury to himself or his family member, is guilty of a Class 6 felony. However, any person who violates this subsection with the intent to commit an act of terrorism as defined in § 18.2-46.4 is guilty of a Class 5 felony.

2. Any person who communicates a threat, in a writing, including an electronically transmitted communication producing a visual or electronic message, to kill or do bodily harm, (i) on the grounds or premises of any elementary, middle or secondary school property, (ii) at any elementary, middle or secondary school-sponsored event or (iii) on a school bus to any person or persons, regardless of whether the person who is the object of the threat actually receives the threat, and the threat would place the person who is the object of the threat in reasonable apprehension of death or bodily harm, is guilty of a Class 6 felony.

B. Any person who orally makes a threat to *kill or to do bodily injury to (i) any employee of any elementary, middle or secondary school, while on a school bus, on school property or at a school-sponsored activity, to kill or to do bodily injury to such person or (ii) any health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties in a hospital as defined in § 18.2-57 or in an emergency room on the premises of any clinic or other facility rendering emergency medical care, unless the person is on the premises of the hospital or emergency room of the clinic or other facility rendering emergency medical care as a result of an emergency custody order pursuant to § 37.2-808, involuntary temporary detention order pursuant to § 37.2-809, involuntary hospitalization order pursuant to § 37.2-817, or emergency custody order of a conditionally released acquittee pursuant to § 19.2-182.9*, is guilty of a Class 1 misdemeanor.

A prosecution pursuant to this section may be either in the county, city or town in which the communication was made or received.

## CHAPTER 507

*An Act to amend the Code of Virginia by adding a section numbered 9.1-1101.1, relating to Department of Forensic Science; possession of unlawful items by employees; immunity.*

[S 1401]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 9.1-1101.1 as follows:**

**§ 9.1-1101.1. Possession or transfer of unlawful items by Department employees while engaged in the performance of official duties.**

*Whenever the possession or transfer of any item or material is prohibited by law, such prohibition shall not apply to any Department employee who possesses or transfers such prohibited item or material while engaged in the performance of his official duties.*

## CHAPTER 508

*An Act to amend Chapters 779 and 798 of the Acts of Assembly of 1993, which provided a charter for the County of James City, by adding in Chapter 7 a section numbered 7.5, relating to additional planning powers; inoperable vehicles.*

[S 1408]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That Chapter 779 of the Acts of Assembly of 1993, which provided a charter for the County of James City, is amended by adding in Chapter 7 a section numbered 7.5 as follows:**

*§ 7.5. Additional planning powers.*

*The board of supervisors may, by ordinance, exercise those powers granted to certain localities pursuant to § 15.2-905 of the Code of Virginia. Such powers shall only be exercised on property two acres in area or smaller.*

**2. That Chapter 798 of the Acts of Assembly of 1993, which provided a charter for the County of James City, is amended by adding in Chapter 7 a section numbered 7.5 as follows:**

*§ 7.5. Additional planning powers.*

*The board of supervisors may, by ordinance, exercise those powers granted to certain localities pursuant to § 15.2-905 of the Code of Virginia. Such powers shall only be exercised on property two acres in area or smaller.*

## CHAPTER 509

*An Act to amend and reenact § 38.2-401 of the Code of Virginia, relating to burn buildings; change in terminology.*

[S 1411]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-401 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-401. Fire Programs Fund.**

A. 1. There is hereby established in the state treasury a special nonreverting fund to be known as the Fire Programs Fund, hereinafter referred to as "the Fund." The Fund shall be administered by the Department of Fire Programs under policies and definitions established by the Virginia Fire Services Board. All moneys collected pursuant to the assessment made by the Commission pursuant to subdivision 2 of this subsection shall be paid into the state treasury and credited to the Fund. The Fund shall also consist of any moneys appropriated thereto by the General Assembly and any grants or other moneys received by the Virginia Fire Services Board or Department of Fire Programs for the purposes set forth in this section. Any moneys deposited to or remaining in such Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Interest earned on all moneys in the Fund and interest earned on moneys held by the Commission pursuant to subdivision 2 of this subsection prior to the deposit of such moneys into the Fund, including interest earned on such moneys during any period when the Commission is reconciling payments from insurers, shall remain in or be deposited into the Fund, as the case may be, and be credited to it. Such interest shall be set aside for fire service purposes in accordance with policies developed by the Virginia Fire Services Board. Notwithstanding any other provision of law to the contrary, policies established by the Virginia Fire Services Board for the administration of the Fund, and any grants provided from the Fund, that are not inconsistent with the purposes set out in this section shall be binding upon any locality that accepts such funds or related grants. The Commission shall be reimbursed from the Fund for all expenses necessary for the administration of this section. The balance of moneys in the Fund shall be allocated periodically as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Department of Fire Programs (Director) or his designee.

2. The Commission shall annually assess against all licensed insurance companies doing business in the Commonwealth by writing any type of insurance as defined in §§ 38.2-110, 38.2-111, 38.2-126, 38.2-130 and 38.2-131 and those combination policies as defined in § 38.2-1921 that contain insurance as defined in §§ 38.2-110, 38.2-111 and 38.2-126, an assessment in the amount of one percent of the total direct gross premium income for such insurance. Such assessment shall be apportioned, assessed and paid as prescribed by § 38.2-403. In any year in which a company has no direct gross premium income or in which its direct gross premium income is insufficient to produce at the rate of assessment prescribed by law an amount equal to or in excess of \$100, there shall be so apportioned and assessed against such company a contribution of \$100.

B. After reserving funds for the Fire Services Grant Program and Dry Fire Hydrant Grant Program pursuant to subsection D, 75 percent of the remaining moneys available for allocation from the Fund shall be allocated to the several counties, cities, and towns of the Commonwealth providing fire service operations to be used for the improvement of volunteer and career fire services in each of the receiving localities. Funds allocated to the counties, cities, and towns pursuant to this subsection shall not be used directly or indirectly to supplant or replace any other funds appropriated by the counties, cities, and towns for fire service operations. Such funds shall be used solely for the purposes of (i) training

volunteer or career firefighting personnel in each of the receiving localities; (ii) funding fire prevention and public safety education programs; (iii) constructing, improving, and expanding regional or local fire service training facilities; (iv) purchasing emergency medical care and equipment for fire personnel; (v) payment of personnel costs related to fire and medical training for fire personnel; (vi) purchasing personal protective equipment, vehicles, equipment, and supplies for use in the receiving locality specifically for fire service purposes; or (vii) providing training and education and purchasing products, including personal protective equipment, diesel exhaust removal systems, decontamination equipment, and commercial extractors, that are designed to reduce the incidence of cancer among firefighters. Notwithstanding any other provision of the Code, when localities use such funds to construct, improve, or expand fire service training facilities, fire-related training provided at such training facilities shall be by instructors certified or approved according to policies developed by the Virginia Fire Services Board. Distribution of this 75 percent of the Fund shall be made on the basis of population as provided for in §§ 4.1-116 and 4.1-117; however, no county or city eligible for such funds shall receive less than \$10,000, nor eligible town less than \$4,000. The Virginia Fire Services Board shall be authorized to exceed allocations of \$10,000 for eligible counties and cities and \$4,000 for eligible towns, respectively. Allocations to counties, cities, and towns receiving such allocations shall be fair and equitable as set forth in Board policy. Any increases or decreases in such allocations shall be uniform for all localities. In order to remain eligible for such funds, each receiving locality shall report annually to the Department on the use of the funds allocated to it for the previous year and shall provide a completed Fire Programs Fund Disbursement Agreement form. Each receiving locality shall be responsible for certifying the proper use of the funds. If, at the end of any annual reporting period, a satisfactory report and a completed agreement form have not been submitted by a receiving locality, any funds due to that locality for the next year shall not be retained. Such funds shall be added to the 75 percent of the Fund allocated to the counties, cities, and towns of the Commonwealth for improvement of fire services in localities.

C. The remainder of the moneys available for allocation from the Fund shall be used for (i) the purposes of carrying out the powers and duties assigned to the Department of Fire Programs under Chapter 2 (§ 9.1-200) of Title 9.1, which shall include providing funded training and administrative support services for nonfunded training to localities and (ii) the payment of the compensation and costs of expenses of the members of the Fire Services Board in performing their official duties; however, the Fund shall not be used for salaries or operating expenses associated with the Office of the State Fire Marshal.

D. The Fire Services Grant Program is hereby established and will be used as grants to provide regional fire services training facilities, to finance the Virginia Fire Incident Reporting System and to build or repair ~~burn buildings~~ *live fire training structures* as determined by the Virginia Fire Services Board. Beginning January 1, 1996, \$1 million from the assessments made pursuant to this section shall be distributed each year for the Fire Services Grant Program to be used as herein provided, and \$100,000 shall be distributed annually for continuing the statewide Dry Fire Hydrant Grant Program. Moneys allocated pursuant to this subsection shall be used for the purposes stated in this subsection, and for no other purpose. All grants provided from these programs shall be administered by the Department according to the policies established by the Virginia Fire Services Board.

E. Moneys in the Fund shall not be diverted or expended for any purpose not authorized by this section.

F. The Director shall establish written standards for determining the extent to which clients outside the Commonwealth shall be financially responsible for the cost of fire and emergency services training provided by the Department of Fire Programs. Revenues generated by such training shall be retained in the Fire Programs Fund and may be used solely for providing additional funded direct training to members of Virginia's fire and emergency services.

## CHAPTER 510

*An Act to amend and reenact §§ 46.2-1054, 46.2-1216, and 46.2-1231 of the Code of Virginia, relating to immobilization of vehicles.*

[S 1432]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1054, 46.2-1216, and 46.2-1231 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-1054. Suspension of objects or alteration of vehicle so as to obstruct driver's view.**

It shall be unlawful for any person (i) to drive a motor vehicle on a highway in the Commonwealth with any object or objects, other than a rear view mirror, sun visor, or other equipment of the motor vehicle approved by the Superintendent, suspended from any part of the motor vehicle in such a manner as to obstruct the driver's clear view of the highway through the windshield, the front side windows, or the rear window; or (ii) to alter a passenger-carrying vehicle in such a manner as to obstruct the driver's view through the windshield. However, this section shall not apply ~~(i)~~ (a) when the driver's clear view of the highway through the rear window is obstructed if such motor vehicle is equipped with a mirror on each side, so located as to reflect to the driver a view of the highway for at least 200 feet to the rear of such vehicle, ~~(ii)~~ (b) to safety devices installed on the windshields of vehicles owned by private waste haulers or local governments and used to transport solid waste, or ~~(iii)~~ (c) to bicycle racks installed on the front of any bus operated by any city, county, transit authority, or

transit or transportation district. *The provisions of clause (ii) shall not apply to the lawful immobilization of vehicles pursuant to § 46.2-1216 or 46.2-1231.*

**§ 46.2-1216. Removal or immobilization of motor vehicles, vehicles, and trailers against which there are outstanding parking violations; ordinances.**

The governing body of any county, city, or town may provide by ordinance that any motor vehicle, vehicle, or trailer parked on the public highways or public grounds against which there are three or more unpaid or otherwise unsettled parking violation notices may be removed to a place within such county, city, or town or in an adjacent locality designated by the chief law-enforcement officer for the temporary storage of the motor vehicle, vehicle, or trailer, or the motor vehicle, vehicle, or trailer may be immobilized in a manner ~~which~~ *that* will prevent its removal or *lawful* operation except by authorized law-enforcement personnel. The governing body of Fairfax County, and any town adjacent to such county, Loudoun County, Prince William County, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and Virginia Beach may also provide by ordinance that whenever any motor vehicle, vehicle, or trailer against which there are three or more outstanding unpaid or otherwise unsettled parking violation notices is found parked upon private property, including privately owned streets and roads, the motor vehicle, vehicle, or trailer may, by towing or otherwise, be removed or immobilized in the manner provided above; provided that no motor vehicle, vehicle, or trailer may be removed or immobilized from property which is owned or occupied as a single family residence. Any such ordinance shall further provide that no such motor vehicle, vehicle, or trailer parked on private property may be removed or immobilized unless written authorization to enforce this section has been given by the owner of the property or an association of owners formed pursuant to Chapter 4.1 (§ 55-79.1 et seq.) or Chapter 4.2 (§ 55-79.39 et seq.) of Title 55 and that the local governing body has provided written assurance to the owner of the property that he will be held harmless from all loss, damage, or expense, including costs and attorney fees, that may be incurred as a result of the towing or otherwise of any motor vehicle, vehicle, or trailer pursuant to this section. The ordinance shall provide that the removal or immobilization of the motor vehicle, vehicle, or trailer shall be by or under the direction of, an officer or employee of the police department or sheriff's office.

Any ordinance shall provide that it shall be the duty of the law-enforcement personnel removing or immobilizing the motor vehicle, vehicle, or trailer or under whose direction such motor vehicle, vehicle, or trailer is removed or immobilized, to inform as soon as practicable the owner of the removed or immobilized motor vehicle, vehicle, or trailer of the nature and circumstances of the prior unsettled parking violation notices for which the motor vehicle, vehicle, or trailer was removed or immobilized. In any case involving immobilization of a motor vehicle, vehicle, or trailer pursuant to this section, there shall be placed on the motor vehicle, vehicle, or trailer, in a conspicuous manner, a notice warning that the motor vehicle, vehicle, or trailer has been immobilized and that any attempt to move the motor vehicle, vehicle, or trailer might damage it.

Any ordinance shall provide that the owner of an immobilized motor vehicle, vehicle, or trailer, or other person acting on his behalf, shall be allowed at least 24 hours from the time of immobilization to repossess or secure the release of the motor vehicle, vehicle, or trailer. Failure to repossess or secure the release of the motor vehicle, vehicle, or trailer within that time period may result in the removal of the motor vehicle, vehicle, or trailer to a storage area for safekeeping under the direction of law-enforcement personnel.

Any ordinance shall provide that the owner of the removed or immobilized motor vehicle, vehicle, or trailer or other person acting on his behalf, shall be permitted to repossess or to secure the release of the motor vehicle, vehicle, or trailer by payment of the outstanding parking violation notices for which the motor vehicle, vehicle, or trailer was removed or immobilized and by payment of all costs incidental to the immobilization, removal, and storage of the motor vehicle, vehicle, or trailer and the efforts to locate the owner of the motor vehicle, vehicle, or trailer. Should the owner fail or refuse to pay such fines and costs, or should the identity or whereabouts of the owner be unknown and unascertainable, the ordinance may provide for the sale of the motor vehicle, vehicle, or trailer in accordance with the procedures set forth in § 46.2-1213.

**§ 46.2-1231. Ticketing, removal, or immobilization of trespassing vehicles by owner or operator of parking or other lot or building; charges.**

The owner, operator, or lessee of any parking lot, parking area, or parking space in a parking lot or area or any part of a parking lot or area, or of any other lot or building, including any county, city, or town, or authorized agent of the person having control of such premises may have any vehicle occupying the lot, area, space, or building without the permission of its owner, operator, lessee, or authorized agent of the one having the control of the premises, removed by towing or otherwise to a licensed garage for storage until called for by the owner or his agent if there are posted at all entrances to the parking lot or area signs clearly and conspicuously disclosing that such vehicle, if parked without permission, will be removed, towed, or immobilized. Such signs shall, at a minimum, include the nonemergency telephone number of the local law-enforcement agency or the telephone number of the responsible towing and recovery operator to contact for information related to the location of vehicles towed from that location. The requirements of this section relating to the posting of signs by an owner, operator, or lessee of any parking lot, parking area or space shall not apply to localities in which the local governing body has adopted an ordinance pursuant to § 46.2-1232.

Whenever a trespassing vehicle is removed or towed as permitted by this section, notice of this action shall forthwith be given by the tow truck operator to the State Police or the local law-enforcement agency of the jurisdiction from which the vehicle was towed. It shall be unlawful to fail to report such tow as required by this section and violation of the reporting requirement of this section shall constitute a traffic infraction punishable by a fine of not more than \$100. Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no

greater than that charged for one day of storage and safekeeping. If the vehicle is removed and stored, the vehicle owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage.

All businesses engaged in towing vehicles without the consent of their owners shall prominently display (i) at their main place of business and (ii) at any other location where towed vehicles may be reclaimed a comprehensive list of all their fees for towing, recovery, and storage services, or the basis of such charges. This requirement to display a list of fees may also be satisfied by providing, when the towed vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the person who reclaims the vehicle. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered, or stored without his consent. At the time a vehicle owner or agent reclaims a towed vehicle, such towing and recovery operator, if located in Planning District 8, shall provide a written receipt that provides a telephone number or website available for customer complaints. A locality located wholly or partially in Planning District 8 may require additional information to be included on such receipt.

Notwithstanding the foregoing provisions of this section, if the owner or representative or agent of the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed \$25 or such other limit as the governing body of the county, city, or town may set by ordinance, in lieu of towing.

In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator, lessee or authorized agent of the premises on which the trespassing vehicle is parked may cause the vehicle to be immobilized ~~by a boot or other device that prevents a vehicle from being moved by preventing a wheel from turning in a manner that prevents its removal or lawful operation,~~ provided that ~~the boot or other~~ any device used to immobilize the trespassing vehicle does not damage the vehicle or ~~wheel any part of the vehicle~~. The charge for the removal of any ~~boot or device used to immobilize a trespassing vehicle~~ shall not exceed \$25 or such other limit as the governing body of the county, city, or town may set by ordinance. In lieu of having the vehicle removed by towing or otherwise, or in lieu of causing the vehicle to be immobilized, the owner, operator, lessee or authorized agent of the premises on which the trespassing vehicle is parked may cause to have an authorized local government official or law-enforcement officer issue, on the premises, a notice of the violation of a parking ordinance or regulation created pursuant to § 46.2-1220 or 46.2-1221 to the registered owner of the vehicle.

This section shall not apply to police, fire, or public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another. The governing body of every county, city, and town may by ordinance set limits on fees and charges provided for in this section.

## CHAPTER 511

*An Act to amend the Code of Virginia by adding in Title 55 a chapter numbered 14.1, consisting of sections numbered 55-252.1 through 55-252.4, relating to the Residential Executory Real Estate Contracts Act.*

[S 1449]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 55 a chapter numbered 14.1, consisting of sections numbered 55-252.1 through 55-252.4, as follows:**

### CHAPTER 14.1.

#### RESIDENTIAL EXECUTORY REAL ESTATE CONTRACTS ACT.

##### § 55-252.1. Definitions.

*As used in this chapter, unless the context requires a different meaning:*

*"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice in the form of a certificate of service confirming such mailing or hand delivery prepared by the sender.*

*"Option payment" means the amount paid by the purchaser in a residential executory real estate contract in exchange for the right to purchase the property that is the subject of such contract at a specific price within a specified time.*

*"Purchaser" means a person who enters into a residential executory real estate contract.*

*"Residential executory real estate contract" means an installment land contract, lease option contract, or rent-to-own contract by which a purchaser acquires any right or interest in real property other than a right of first refusal and occupies or intends to occupy the property as his primary residence.*

*"Vendor" means the person who sells, or proposes to sell, real property under a residential executory real estate contract.*

##### § 55-252.2. Exemptions.

*The provisions of this chapter shall not apply to residential executory real estate contracts where the vendor is:*

*1. A natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in the Commonwealth unless the person or entity is an agent, affiliate, subsidiary, or parent company to another legal entity that owns at least one additional residential dwelling unit in the Commonwealth;*

*2. A real estate licensee pursuant to Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1; or*

3. A bank, savings institution, credit union, or mortgage lender licensed under Title 6.2.

**§ 55-252.3. Provisions applicable to residential executory real estate contracts.**

A. Notwithstanding any other provision of law, a residential executory real estate contract shall be subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.).

B. Notwithstanding any other provision of law, the following provisions shall be applicable to every residential executory real estate contract:

1. The purchaser shall have the right to exercise the option to purchase the property at any time before the option expires, and no fee or penalty shall be charged to any purchaser who exercises the option at an earlier time than anticipated under the contract.

2. If the purchaser defaults in the payment of rent or other requirements under a lease, the vendor may serve notice of such default. If default is limited solely to failure to pay rent or other monetary charges, the vendor may terminate the lease and recover possession of the premises only if the delinquent obligation remains outstanding more than 30 days after notice is served upon the purchaser notifying him of (i) the nonpayment, (ii) the amount of the delinquency, and (iii) the vendor's intention to terminate the lease if the default is not timely cured.

3. The vendor may not forfeit the option payment or any portion of such payment, provided, however, that the vendor may apply the option payment (i) to any amounts owed by such purchaser under the residential executory real estate contract or (ii) as otherwise directed by court order in an interpleader action filed by such vendor pursuant to § 8.01-364 in a court of competent jurisdiction.

4. If the vendor defaults, the purchaser shall be entitled to bring an action in a court of competent jurisdiction (i) to enjoin further violations; (ii) to recover the purchaser's actual damages; (iii) for specific performance of the contract; (iv) for rescission; or (v) to receive other equitable relief as the court may find appropriate in the interests of justice.

5. The prevailing party in any proceeding under this chapter in a court of competent jurisdiction may be awarded reasonable attorney fees and costs.

C. A residential executory real estate contract may be recorded among the land records in the office of the clerk of the circuit court where the real property is located.

D. The provisions contained in this section shall not be waived by contract.

**§ 55-252.4. Board for Housing and Community Development; development of best practice provisions for residential executory real estate contracts.**

The Board for Housing and Community Development shall develop and make available on its website best practice provisions for residential executory real estate contracts. Such best practice provisions shall include (i) the full names and current mailing addresses of all parties to the contract; (ii) a legal description of the subject premises; (iii) the term of the contract or rental agreement and the amount of periodic payments or rent due; (iv) the most recent assessment of the value of the subject premises by the relevant property tax assessor, as well as the amount of property tax assigned to the property in the year preceding the transaction; (v) a statement disclosing any liens or encumbrances against the subject premises; (vi) the contract sales price for the subject premises, which shall be stated as a precise fixed amount in United States dollars; (vii) a description and the amount of any charges or fees for services that are includable in the contract separate from the contract sales price; (viii) the amount of any option payment and the deadline by which such option payment is required to be paid; (ix) the residual amount of the contract sales price that is required to be paid after the option payment has been made; (x) the total amount that the purchaser is required to pay in order to complete the purchase of the property under the terms of the contract, including the combined amount of the option, contract sales price, and rent payments coming due over the term of the contract; (xi) the amount that may be paid to extend the option, if any, and the duration of any such extension; and (xii) the notarized signature of each party and date of each signature.

## CHAPTER 512

An Act to amend and reenact § 2.2-621 of the Code of Virginia, relating to compliance with grant requirements; creation of new jobs.

[S 1463]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-621 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-621. Grants by the Commonwealth; certification of employment.**

~~Every~~ A. A state agency may require that as a condition of receiving any grant or other incentive that is based on employment goals, a recipient company must provide copies of employer quarterly payroll reports that have been provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal.

B. In assessing the compliance of a recipient company in creating new jobs as a condition of receiving or maintaining a grant or incentive, a state agency may include new jobs related to the activities of the recipient company or its affiliates in satisfying the terms of the grant or incentive (i) at sites in the Commonwealth owned or used by the recipient company or its affiliates or (ii) created by or on behalf of the recipient company or its affiliates, including teleworking positions held by Virginia residents who are employees of the recipient company or its affiliates.

C. As used in this section, "state agency" means the same as that term is defined in § 2.2-4347.

### CHAPTER 513

*An Act to amend and reenact §§ 55-79.97 and 55-509.4 of the Code of Virginia, relating to the Condominium Act and Property Owners' Association Act; delivery of condominium resale certificates and association disclosure packets; right of purchaser to cancel contract.*

[S 1580]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-79.97 and 55-509.4 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-79.97. Resale by purchaser; resale certificate; use of for sale sign in connection with resale; designation of authorized representative.**

A. In the event of any resale of a condominium unit by a unit owner other than the declarant, and subject to the provisions of subsection F and § 55-79.87 A, the unit owner shall disclose in the contract that (i) the unit is located within a development which is subject to the Condominium Act, (ii) the Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the purchaser, (iii) the purchaser may cancel the contract within three days after receiving the resale certificate or being notified that the resale certificate will not be available, (iv) if the purchaser has received the resale certificate, the purchaser has a right to request a resale certificate update or financial update in accordance with § 55-79.97:1, as appropriate, and (v) the right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the resale certificate shall be deemed not to be available if (a) a current annual report has not been filed by the unit owners' association with either the State Corporation Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55-79.93:1, (b) the seller has made a written request to the unit owners' association that the resale certificate be provided and no such resale certificate has been received within 14 days in accordance with subsection C, or (c) written notice has been provided by the unit owners' association that a resale certificate is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. A resale certificate update or a financial update may be requested as provided in § 55-79.97:1, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract, if *on or before the date that the purchaser signs the contract*, the purchaser receives the resale certificate ~~or~~ is notified that the resale certificate will not be available ~~on or before the date that the purchaser signs the contract~~, or receives a resale certificate that does not contain the information required by this subsection to be included in the resale certificate; (ii) within three days after receiving the resale certificate if the resale certificate ~~or~~ notice that the resale certificate will not be available, or a resale certificate that does not contain the information required by this subsection to be included in the resale certificate is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the resale certificate ~~or~~ notice that the resale certificate will not be available, or a resale certificate that does not contain the information required by this subsection to be included in the resale certificate is sent to the purchaser by United States mail. The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the resale certificate will not be available and the resale certificate is not delivered to the purchaser.

Notice of cancellation shall be provided to the unit owner or his agent by one of the following methods:

- a. Hand delivery;
- b. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;
- c. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or
- d. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be returned promptly to the purchaser.

A resale certificate shall include the following:

1. An appropriate statement pursuant to subsection H of § 55-79.84 which need not be notarized and, if applicable, an appropriate statement pursuant to § 55-79.85;
2. A statement of any expenditure of funds approved by the unit owners' association or the executive organ which shall require an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;
3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association, together with any known post-closing fee charged by the common interest community manager, if any,

and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements, and the status of the account;

4. A statement whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;

5. The current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the executive organ;

6. A copy of the unit owners' association's current budget or a summary thereof prepared by the unit owners' association and a copy of the statement of its financial position (balance sheet) for the last fiscal year for which a statement is available, including a statement of the balance due of any outstanding loans of the unit owners' association;

7. A statement of the nature and status of any pending suits or unpaid judgments to which the unit owners' association is a party which either could or would have a material impact on the unit owners' association or the unit owners or which relates to the unit being purchased;

8. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association, including the fidelity bond maintained by the unit owners' association, and what additional insurance coverage would normally be secured by each individual unit owner;

9. A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, are or are not in violation of the condominium instruments;

10. A copy of the current bylaws, rules and regulations and architectural guidelines adopted by the unit owners' association and the amendments thereto;

11. A statement of whether the condominium or any portion thereof is located within a development subject to the Property Owners' Association Act (§ 55-508 et seq.) of Chapter 26 of this title;

12. A copy of the notice given to the unit owner by the unit owners' association of any current or pending rule or architectural violation;

13. A copy of any approved minutes of the executive organ and unit owners' association meetings for the six calendar months preceding the request for the resale certificate;

14. Certification that the unit owners' association has filed with the Common Interest Community Board the annual report required by § 55-79.93:1; which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing;

15. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;

16. A statement setting forth any restrictions, limitation or prohibition on the right of a unit owner to display the flag of the United States, including, but not limited to reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;

17. A statement setting forth any restriction, limitation, or prohibition on the right of a unit owner to install or use solar energy collection devices on the unit owner's property;

18. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies; and

19. A copy of the fully completed form developed by the Common Interest Community Board pursuant to § 54.1-2350.

Failure to receive a resale certificate shall not excuse any failure to comply with the provisions of the condominium instruments, articles of incorporation, or rules or regulations.

The resale certificate shall be delivered in accordance with the written request and instructions of the seller or the seller's authorized agent, including whether the resale certificate shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the resale certificate shall be delivered. The resale certificate shall be delivered within 14 days of receipt of such request. The resale certificate shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

D. The seller or the seller's authorized agent may request that the resale certificate be provided in hard copy or in electronic form. A unit owners' association or common interest community manager may provide the resale certificate electronically; however, the seller or the seller's authorized agent shall have the right to request that the resale certificate be provided in hard copy. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the resale certificate in person at the principal place of business of the unit owners' association. If the seller or the seller's authorized agent requests that the resale certificate be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The resale certificate shall not be delivered in hard copy if the requester has requested delivery of such resale certificate electronically. If the resale certificate is provided electronically by a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another fee during the subsequent 12-month period, except that the preparer may charge an update fee for a financial update or for an inspection as provided in § 55-79.97:1. If the seller or the seller's authorized agent asks that the resale certificate be provided in electronic format, the seller or the seller's authorized agent may request that an electronic copy be provided to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. If so requested, the unit owners' association or its common interest community manager may require the seller or the seller's authorized agent to pay the fee specified in § 55-79.97:1. Regardless of whether the resale certificate is delivered in paper form or electronically, the

preparer of the resale certificate shall provide such resale certificate directly to the persons designated by the requester to the addresses or, if applicable, the email addresses provided by the requester.

E. Subject to the provisions of § 55-79.87, but notwithstanding any other provisions of this chapter, the provisions and requirements of this section shall apply to any such resale of a condominium unit created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.).

F. The resale certificate required by this section need not be provided in the case of:

1. A disposition of a unit by gift;
2. A disposition of a unit pursuant to court order if the court so directs;
3. A disposition of a unit by foreclosure or deed in lieu of foreclosure; or
4. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction.

G. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the resale certificate to the purchaser.

H. For purposes of this chapter:

"Delivery" means that the resale certificate is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the resale certificate means that the purchaser or purchaser's authorized agent has received the resale certificate by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

I. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the resale certificate may be made by the unit owner or the seller's authorized agent.

J. If the unit is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last resale certificate or disclosure packet.

K. Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided by law, no unit owners' association shall:

1. Require the use of any for sale sign that is (i) a unit owners' association sign or (ii) a real estate sign that does not comply with the requirements of the Virginia Real Estate Board. A unit owners' association may, however, prohibit the placement of signs in the common elements and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Virginia Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or

2. Require any unit owner to execute a formal power of attorney if the unit owner designates a person licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized representative, and the unit owners' association shall recognize such representation without a formal power of attorney, provided that the unit owners' association is given a written authorization signed by the unit owner designating such representative. Notwithstanding the foregoing, the requirements of § 55-79.77 and the condominium instruments shall be satisfied before any such representative may exercise a vote on behalf of a unit owner as a proxy.

**§ 55-509.4. Contract disclosure statement; right of cancellation; use of for sale sign in connection with resale; designation of authorized representative.**

A. Subject to the provisions of subsection A of § 55-509.10, an owner selling a lot shall disclose in the contract that (i) the lot is located within a development that is subject to the Virginia Property Owners' Association Act (§ 55-508 et seq.); (ii) the Act requires the seller to obtain from the property owners' association an association disclosure packet and provide it to the purchaser; (iii) the purchaser may cancel the contract within three days after receiving the association disclosure packet or being notified that the association disclosure packet will not be available; (iv) if the purchaser has received the association disclosure packet, the purchaser has a right to request an update of such disclosure packet in accordance with subsection H of § 55-509.6 or subsection D of § 55-509.7, as appropriate; and (v) the right to receive the association disclosure packet and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the association disclosure packet shall be deemed not to be available if (a) a current annual report has not been filed by the association with either the State Corporation Commission pursuant to § 13.1-936 or with the Common Interest Community Board pursuant to § 55-516.1, (b) the seller has made a written request to the association that the packet be provided and no such packet has been received within 14 days in accordance with subsection A of § 55-509.5, or (c) written notice has been provided by the association that a packet is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the association disclosure packet shall be current as of a date specified on the association disclosure packet prepared in accordance with this section; however, a disclosure packet update or financial update may be requested in accordance with subsection G of § 55-509.6 or subsection D of § 55-509.7, as appropriate. The purchaser may cancel the contract: (i) within three days after the date of the contract, if on or before the date that the purchaser signs the contract, the purchaser receives the association disclosure packet ~~or~~ is notified that the association disclosure packet will not be available, *or receives an association disclosure packet that is not in conformity with the provisions of § 55-509.5*; (ii) within three days after receiving the association disclosure packet if the association disclosure packet ~~or~~ notice that the association disclosure packet will not be available, *or an association disclosure packet that is not in conformity with the provisions of § 55-509.5* is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the association disclosure packet ~~or~~ notice that the association disclosure packet will not be available, *or an association disclosure packet that is not in conformity with the provisions of § 55-509.5* is sent to the purchaser by United States mail. The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the association disclosure packet will not be available and the association disclosure packet is not delivered to the purchaser.

Notice of cancellation shall be provided to the lot owner or his agent by one of the following methods:

1. Hand delivery;
2. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;
3. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or
4. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the seller shall cause any deposit to be returned promptly to the purchaser.

D. Whenever any contract is canceled based on a failure to comply with subsection A or C or pursuant to subsection B, any deposit or escrowed funds shall be returned within 30 days of the cancellation, unless the parties to the contract specify in writing a shorter period.

E. Any rights of the purchaser to cancel the contract provided by this chapter are waived conclusively if not exercised prior to settlement.

F. Except as expressly provided in this chapter, the provisions of this section and § 55-509.5 may not be varied by agreement, and the rights conferred by this section and § 55-509.5 may not be waived.

G. For purposes of this chapter:

"Delivery" means that the disclosure packet is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the disclosure packet means that the purchaser or purchaser's authorized agent has received the disclosure packet by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

H. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the disclosure packet may be made by the lot owner or the lot owner's authorized agent.

I. If the lot is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last disclosure packet or resale certificate.

J. Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no property owners' association shall:

1. Require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or

2. Require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative, and the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization signed by

the lot owner designating such representative. Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.

## CHAPTER 514

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.4, relating to Sex Trafficking Response Coordinator; duties; report.*

[S 1669]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.4 as follows:**

**§ 9.1-116.4. Sex Trafficking Response Coordinator; duties; report.**

*A. There is established within the Department a Sex Trafficking Response Coordinator (the Coordinator). The Coordinator shall:*

- 1. Create a statewide plan for local and state agencies to identify and respond to victims of sex trafficking;*
- 2. Coordinate the development of standards and guidelines for treatment programs for victims of sex trafficking;*
- 3. Maintain a list of programs that provide treatment or specialized services to victims of sex trafficking and make such list available to law-enforcement agencies, attorneys for the Commonwealth, crime victim and witness assistance programs, the Department of Juvenile Justice, the Department of Social Services, the Department of Education, and school divisions;*
- 4. Oversee the development of a curriculum to be completed by persons convicted of solicitation of prostitution under subsection B of § 18.2-346; and*
- 5. Promote strategies for the education, training, and awareness of sex trafficking and for the reduction of demand for commercial sex.*

*B. The Coordinator may request and shall receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party or any political subdivision thereof, cooperation and assistance in the performance of its duties. The Coordinator may also consult and exchange information with local government agencies and interested stakeholders.*

*C. The Coordinator shall report annually on or before October 1 to the Governor and the General Assembly. The report shall include a summary of activities for the year and any recommendations to address sex trafficking within the Commonwealth. The Department shall ensure that such report is available to the public.*

## CHAPTER 515

*An Act to amend and reenact § 18.2-386.2 of the Code of Virginia, relating to unlawful dissemination or sale of images of another person; penalty.*

[S 1736]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-386.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-386.2. Unlawful dissemination or sale of images of another; penalty.**

*A. Any person who, with the intent to coerce, harass, or intimidate, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another person who is totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast, where such person knows or has reason to know that he is not licensed or authorized to disseminate or sell such videographic or still image is guilty of a Class 1 misdemeanor. ~~However,~~ ~~¶~~ *For purposes of this subsection, "another person" includes a person whose image was used in creating, adapting, or modifying a videographic or still image with the intent to depict an actual person and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic.**

*B. If a person uses services of an Internet service provider, an electronic mail service provider, or any other information service, system, or access software provider that provides or enables computer access by multiple users to a computer server in committing acts prohibited under this section, such provider shall not be held responsible for violating this section for content provided by another person.*

~~B. C.~~ *Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any videographic or still image created by any means whatsoever is produced, reproduced, found, stored, received, or possessed in violation of this section.*

~~C. D.~~ *The provisions of this section shall not preclude prosecution under any other statute.*

## CHAPTER 516

An Act to amend the Code of Virginia by adding a section numbered 53.1-39.1, relating to Department of Corrections; restrictive housing; data collection and reporting; report.

[S 1777]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 53.1-39.1 as follows:**

**§ 53.1-39.1. Restrictive housing; data collection and reporting; report.**

A. As used in this section:

"Offender" means an adult or juvenile who is confined in a state correctional facility.

"Restrictive housing" means special-purpose bed assignments operated under maximum security regulations and procedures, and utilized under proper administrative process, for the personal protection or custodial management of offenders. The Department of Corrections' restrictive housing shall, at a minimum, adhere to the standards adopted by the American Correctional Association, the accrediting body for the corrections industry.

"Shared Allied Management Unit" or "SAM Unit" means a general population environment used to promote safety within institutions by avoiding the use of restrictive housing to manage vulnerable populations that typically require a high level of services from security, mental health, or medical staff.

"Vulnerable population" means offenders who are at a greater risk of victimization or being bullied in the general population due to characteristics such as cognitive challenge, age (seniors and youthful), small stature, or timid personalities.

B. The Department shall report to the General Assembly and the Governor on or before October 1 of each year the following information for the Department, in the aggregate for the previous fiscal year:

1. The average daily population;
2. The number of offenders who were placed in and the number of offenders who were released from restrictive housing;
3. The age, sex, race, ethnicity, mental health code, medical class code, security level, and custody level classification of each offender housed in restrictive housing or a SAM Unit;
4. The disciplinary offense history preceding placement in restrictive housing or a SAM Unit;
5. The number of days each offender spent in restrictive housing;
6. The number of offenders released from restrictive housing directly into the community;
7. The number of full-time mental health staff; and
8. Any changes made during the reporting period to written policies or procedures of the Department and each state correctional facility relating to the use and conditions of restrictive housing and SAM Units.

C. The Department shall submit the annual report to the Governor, the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on Rehabilitation and Social Services, and the Clerks of the House of Delegates and the Senate as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports, and the annual report shall be posted on the General Assembly's website. The Department shall publish the report on the Department's website following its submission to the Governor, the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on Rehabilitation and Social Services, and the Clerks of the House of Delegates and the Senate.

## CHAPTER 517

An Act to amend and reenact §§ 54.1-111 and 54.1-113 of the Code of Virginia, relating to the Department of Professional and Occupational Licensing.

[S 1751]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-111 and 54.1-113 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-111. Unlawful acts; prosecution; proceedings in equity; civil penalty.**

- A. It ~~shall be~~ is unlawful for any person, partnership, corporation, or other entity to engage in any of the following acts:
1. Practicing a profession or occupation without holding a valid license as required by statute or regulation.
  2. Making use of any designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.
  3. Making use of any titles, words, letters, or abbreviations which may reasonably be confused with a designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.

4. Performing any act or function which is restricted by statute or regulation to persons holding a professional or occupational license or certification, without being duly certified or licensed.

5. Failing to register as a practitioner of a profession or occupation as required by statute or regulation.

6. Materially misrepresenting facts in an application for licensure, certification, or registration.

7. Willfully refusing to furnish a regulatory board information or records required or requested pursuant to statute or regulation.

8. Violating any statute or regulation governing the practice of any profession or occupation regulated pursuant to this title.

9. Refusing to process a request, tendered in accordance with the regulations of the relevant health regulatory board or applicable statutory law, for patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice.

*B.* Any person who willfully engages in any unlawful act enumerated in this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor. The third or any subsequent conviction for violating this section during a 36-month period ~~shall constitute~~ *constitutes* a Class 6 felony. In addition, any person convicted of any unlawful act enumerated in subdivision A 1 through 8 ~~of this subsection~~, for conduct that is within the purview of any regulatory board within the Department of Professional and Occupational Regulation, may be ordered by the court to pay restitution in accordance with §§ 19.2-305 through 19.2-305.4.

*C.* *The Director of the Department of Professional and Occupational Regulation, or his designee, may issue a notice to any person violating the provisions of subdivisions A 1 through 5 or A 8 to cease and desist such activity.*

~~*B.*~~ *D.* In addition to the criminal penalties provided for in subsection ~~A B~~, the Department of Professional and Occupational Regulation or the Department of Health Professions, without compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the provisions of subsection A and may institute proceedings in equity to enjoin any person, partnership, corporation or any other entity from engaging in any unlawful act enumerated in this section and to recover a civil penalty of at least \$200 but not more than \$5,000 per violation, with each unlawful act constituting a separate violation; but in no event shall the civil penalties against any one person, partnership, corporation or other entity exceed \$25,000 per year. Such proceedings shall be brought in the name of the Commonwealth by the appropriate Department in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

~~*E.*~~ *E.* This section shall not be construed to prohibit or prevent the owner of patient records from (i) retaining copies of his patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice or (ii) charging a reasonable fee, in accordance with subsections B2, B3, B4, and B6 of § 8.01-413 or subsection J of § 32.1-127.1:03, for copies of patient records, as applicable under the circumstances.

~~*D.*~~ *F.* Nothing in this section, nor §§ 13.1-543, 13.1-1102, 54.1-2902, and 54.1-2929, shall be construed to prohibit or prevent any entity of a type listed in § 13.1-542.1 or 13.1-1101.1, which employs or contracts with an individual licensed by a health regulatory board, from (i) practicing or engaging in the practice of a profession or occupation for which such individual is licensed, (ii) providing or rendering professional services related thereto through the licensed individual, or (iii) having a legitimate interest in enforcing the terms of employment or its contract with the licensed individual.

*E.* *G.* This section shall apply, mutatis mutandis, to all persons holding a multistate licensure privilege to practice nursing in the Commonwealth of Virginia.

**§ 54.1-113. Regulatory boards to adjust fees; certain transfer of moneys collected on behalf of health regulatory boards prohibited.**

*A.* *Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation maintained under § 54.1-308 shows that unspent and unencumbered revenue exceeds 20 percent or \$100,000 of the total expenses allocated to the regulatory board for the past biennium, whichever is greater, the regulatory board shall (i) distribute all such excess revenue to current regulants and (ii) reduce the fees levied by it for certification, licensure, registration, or permit and renewal thereof so that the fees are sufficient but not excessive to cover expenses.*

~~*B.*~~ *B.* Following the close of any biennium, when the account for any regulatory board within the ~~Department of Professional and Occupational Regulation or the Department of Health Professions~~ maintained under ~~§ 54.1-308 or~~ 54.1-2505 shows expenses allocated to it for the past biennium to be more than 10 percent greater or less than moneys collected on behalf of the *regulatory board*, it shall revise the fees levied by it for certification, licensure, registration, or permit and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

~~*B.*~~ *C.* Nongeneral funds generated by fees collected on behalf of the health regulatory boards and accounted for and deposited into a special fund by the Director of the Department of Health Professions shall be held exclusively to cover the expenses of the health regulatory boards, the Health Practitioners' Monitoring Program, and the Department and Board of Health Professions and shall not be transferred to any agency other than the Department of Health Professions, except as provided in §§ 54.1-3011.1 and 54.1-3011.2.

**2. That the provisions of this act amending § 54.1-113 of the Code of Virginia shall become effective on July 1, 2022.**

## CHAPTER 518

*An Act to amend and reenact § 8.01-341.2 of the Code of Virginia, relating to deferral of jury service; persons who have legal custody of and are responsible for the care of a child.*

[H 1814]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-341.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-341.2. Deferral or limitation of jury service for particular occupational inconvenience or for persons who have legal custody and are responsible for a child.**

The court, *at the request of a person selected for jury service* or on its own motion, may exempt any person from jury service for a particular term of court, or limit that person's service to particular dates of that term, if serving on a jury during that term or certain dates of that term of court would cause such person a particular occupational inconvenience. Any such person who is selected for jury service, and who is exempted under the provisions of this section, shall not be discharged from his obligation to serve on a jury, but such obligation shall only be deferred until the term of court next after such particular occupational inconvenience ~~shall end~~ ends. For purposes of this section, "occupational inconvenience" includes inconvenience to a person (i) who, during the term of court for which such person is selected for jury service, is enrolled as a full-time student at an accredited public or private institution of higher education and who is attending classes at such institution during such term and (ii) *who has legal custody of and is necessarily and personally responsible for a child or children 16 years of age or younger requiring continuous care by him during normal court hours. The provisions of this section shall not interfere with the exemption available under subdivision 8 of § 8.01-341.1.*

## CHAPTER 519

*An Act to amend and reenact § 8.01-407 of the Code of Virginia, relating to summons to compel attendance before commissioner of another state.*

[H 1924]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-407 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-407. How summons for witness issued, and to whom directed; prior permission of court to summon certain officials and judges.**

A. A summons may be issued, directed as prescribed in § 8.01-292, commanding the officer to summon any person to attend on the day and at the place that such attendance is desired, to give evidence before a court, grand jury, arbitrators, magistrate, notary, or any commissioner or other person appointed by a court or acting under its process or authority in a judicial or quasi-judicial capacity. The summons may be issued by the clerk of the court if the attendance is desired at a court or in a proceeding pending in a court. The clerk shall not impose any time restrictions limiting the right to properly request a summons up to and including the date of the proceeding:

If attendance is desired before a commissioner in chancery or other commissioner of a court, the summons may be issued by the clerk of the court in which the matter is pending, or by such commissioner in chancery or other commissioner;

If attendance is desired before a notary or other officer taking a deposition, the summons may be issued by such notary or other officer at the instance of the attorney desiring the attendance of the person sought;

If attendance is sought before a grand jury, the summons may be issued by the attorney for the Commonwealth, or the clerk of the court, at the instance of the attorney for the Commonwealth.

Except as otherwise provided in this subsection, if attendance is desired in a civil proceeding pending in a court or at a deposition in connection with such proceeding, including medical malpractice review panels, and a claim before the Workers' Compensation Commission, a summons may be issued by an attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer of the court. An attorney-issued summons shall be on a form approved by the Supreme Court, signed by the attorney and shall include the attorney's address. The summons and any transmittal sheet shall be deemed to be a pleading to which the provisions of § 8.01-271.1 shall apply. A copy of the summons and, if served by a sheriff, all service of process fees, shall be mailed or delivered to the clerk's office of the court in which the case is pending or the Workers' Compensation Commission, as applicable, on the day of issuance by the attorney. The law governing summonses issued by a clerk shall apply *mutatis mutandis*. When an attorney-at-law who is an active member of the Virginia State Bar transmits one or more attorney-issued subpoenas to a sheriff to be served in his jurisdiction, such subpoenas shall be accompanied by a transmittal sheet. The transmittal sheet, which may be in the form of a letter, shall contain for each subpoena (i) the person to be served, (ii) the name of the city or county in which the subpoena is to be served, in parentheses, (iii) the style of the case in which the subpoena was issued, (iv) the court in which the case is pending, and (v) the amount of fees tendered or paid to each clerk in whose court the case is pending together with a photocopy of either (a) the payment instrument and a photocopy of the letter sent to the clerk's office that accompanied such

payment instrument or (b) the clerk's receipt. If copies of the same transmittal sheet are used to send subpoenas to more than one sheriff for service of process, then subpoenas shall be grouped by the jurisdiction in which they are to be served. For each person to be served, an original subpoena and copy thereof shall be included. If the attorney desires a return copy of the transmittal sheet as proof of receipt, he shall also enclose an additional copy of the transmittal sheet together with an envelope addressed to the attorney with sufficient first class postage affixed. Upon receipt of such transmittal, the transmittal sheet shall be date-stamped and, if the extra copy and above-described envelope are provided, the copy shall also be date-stamped and returned to the attorney-at-law in the above-described envelope.

However, when such transmittal does not comply with the provisions of this section, the sheriff may promptly return such transmittal if accompanied by a short description of such noncompliance. An attorney may not issue a summons in any of the following civil proceedings: (a) habeas corpus under Article 3 (§ 8.01-654 et seq.) of Chapter 25 of this title, (b) delinquency or abuse and neglect proceedings under Article 3 (§ 16.1-241 et seq.) of Chapter 11 of Title 16.1, (c) civil forfeiture proceedings, (d) habitual offender proceedings under Article 9 (§ 46.2-351 et seq.) of Chapter 3 of Title 46.2, (e) administrative license suspension pursuant to § 46.2-391.2, and (f) petition for writs of mandamus or prohibition in connection with criminal proceedings. A sheriff shall not be required to serve an attorney-issued subpoena that is not issued at least five business days prior to the date that attendance is desired.

In other cases, if attendance is desired, the summons may be issued by the clerk of the circuit court of the county or city in which the attendance is desired.

A summons shall express on whose behalf, and in what case or about what matter, the witness is to attend. Failure to respond to any such summons shall be punishable by the court in which the proceeding is pending as for contempt. When any subpoena is served less than five calendar days before appearance is required, the court may, after considering all of the circumstances, refuse to enforce the subpoena for lack of adequate notice. If any subpoena is served less than five calendar days before appearance is required upon any judicial officer generally incompetent to testify pursuant to § 19.2-271, such subpoena shall be without legal force or effect unless the subpoena has been issued by a judge.

B. No subpoena shall, without permission of the court first obtained, issue for the attendance of the Governor, Lieutenant Governor, or Attorney General of this Commonwealth, a judge of any court thereof; the President or Vice President of the United States; any member of the President's Cabinet; any ambassador or consul; or any military officer on active duty holding the rank of admiral or general.

~~C. This section shall be deemed to authorize a summons to compel attendance of a citizen of the Commonwealth before commissioners or other persons appointed by authority of another state when the summons requires the attendance of such witness at a place not out of his county or city.~~

## CHAPTER 520

*An Act to amend and reenact § 64.2-1614 of the Code of Virginia, relating to Uniform Power of Attorney Act breach of fiduciary duty; recovery of attorney fees.*

[H 1954]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 64.2-1614 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 64.2-1614. Judicial relief.**

A. In addition to the remedies referenced in § 64.2-1621, the following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

1. The principal or the agent;
2. A guardian, conservator, personal representative of the estate of a deceased principal, or other fiduciary acting for the principal;
3. A person authorized to make health care decisions for the principal;
4. The principal's spouse, parent, or descendant;
5. An adult who is a brother, sister, niece, or nephew of the principal;
6. A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;
7. The adult protective services unit of the local department of social services for the county or city where the principal resides or is located;
8. The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and
9. A person asked to accept the power of attorney.

B. Whether or not supplemental relief is sought in the proceeding, where an agent has violated duties of disclosure imposed by § 64.2-1612, any person to whom such duties are owing may, for the purpose of obtaining information pertinent to the need or propriety of (i) instituting a proceeding under Chapter 20 (§ 64.2-2000 et seq.); (ii) terminating, suspending, or limiting the authority of the agent; or (iii) bringing a proceeding to hold the agent, or a transferee from such agent, liable for breach of duty or to recover particular assets or the value of such assets of a principal or deceased principal, petition a

circuit court for discovery from the agent of information and records pertaining to actions taken pursuant to a power of attorney.

2. The petition may be filed in the circuit court of the county or city in which the agent resides or has his principal place of employment, or, if a nonresident, in any court in which a determination of incompetency or incapacity of the principal is proper under Chapter 20 (§ 64.2-2000 et seq.), or, if a conservator or guardian has been appointed for the principal, in the court that made the appointment. The court, after reasonable notice to the agent and to the principal, if no guardian or conservator has been appointed, or to the conservator or guardian, if one has been appointed, may conduct a hearing on the petition. The court, upon the hearing on the petition and upon consideration of the interest of the principal and his estate, may dismiss the petition or may enter such order or orders respecting discovery as it may deem appropriate, including an order that the agent respond to all discovery methods that the petitioner might employ in a civil action or suit subject to the Rules of Supreme Court of Virginia. Upon the failure of the agent to make discovery, the court may make and enforce further orders respecting discovery that would be proper in a civil action subject to such Rules and may award expenses, including reasonable attorney fees, as therein provided. Furthermore, upon completion of discovery, the court, if satisfied that prior to filing the petition the petitioner had requested the information or records that are the subject of ordered discovery pursuant to § 64.2-1612, may, upon finding that the failure to comply with the request for information was unreasonable, order the agent to pay the petitioner's expenses in obtaining discovery, including reasonable attorney fees.

3. A determination to grant or deny in whole or in part discovery sought hereunder shall not be considered a finding regarding the competence, capacity, or impairment of the principal, nor shall the granting or denial of discovery hereunder preclude the availability of other remedies involving protection of the person or estate of the principal or the rights and duties of the agent.

C. The agent may, after reasonable notice to the principal, petition the circuit court for authority to make gifts of the principal's property to the extent not inconsistent with the express terms of the power of attorney or other writing. The court shall determine the amounts, recipients, and proportions of any gifts of the principal's property after considering all relevant factors including, without limitation, those contained in subsection C of § 64.2-1638.

D. Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

*E. In a judicial proceeding under this chapter, if the court finds that the agent breached his fiduciary duty in violation of the provisions of this chapter, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney fees, to any person who petitions the court for relief under subdivisions A 1 through 8, to be paid by the agent found in violation. This provision applies to a judicial proceeding concerning a power of attorney commenced on or after July 1, 2019.*

## CHAPTER 521

*An Act to amend and reenact § 59.1-200 of the Code of Virginia, relating to the Virginia Consumer Protection Act; prohibited practices; unlawful practice of an occupation or profession.*

[H 2218]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-200 of the Code of Virginia is amended and reenacted as follows:**

**§ 59.1-200. Prohibited practices.**

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror

has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain animals by pet dealers which is described in such sections, is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.);

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
  34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
  35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;
  36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
  37. Violating any provision of § 8.01-40.2;
  38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
  39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
  40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
  41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);
  42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
  43. Violating any provision of § 59.1-443.2;
  44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
  45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
  46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
  47. Violating any provision of § 18.2-239;
  48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
  49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
  50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
  51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
  52. Violating any provision of § 8.2-317.1;
  53. Violating subsection A of § 9.1-149.1;
  54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
  55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
  56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
  57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1; ~~and~~
  58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.); *and*
  59. *Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1.*
- B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

## CHAPTER 522

*An Act to amend and reenact § 19.2-215.9 of the Code of Virginia, relating to multi-jurisdiction grand jury; secrecy of information.*

[H 2413]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-215.9 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-215.9. Court reporter provided; safekeeping of transcripts, notes, etc.; when disclosure permitted; access to record of testimony and evidence.**

A. A court reporter shall be provided for a multi-jurisdiction grand jury to record, manually or electronically, and transcribe all oral testimony taken before a multi-jurisdiction grand jury, but such a reporter shall not be present during any stage of its deliberations. Such transcription shall include the original or copies of all documents, reports, or other evidence presented to the multi-jurisdiction grand jury. The notes, tapes, and transcriptions of the reporter are for the use of the multi-jurisdiction grand jury, and the contents thereof shall not be used or divulged by anyone except as provided in this article. After the multi-jurisdiction grand jury has completed its use of the notes, tapes, and transcriptions, the foreman shall

cause them to be delivered to the clerk of the circuit court in whose jurisdiction the multi-jurisdiction grand jury sits, with copies provided to special counsel. Upon motion of special counsel, the presiding judge may order that such notes, tapes, and transcriptions be destroyed at the direction of special counsel by any means the presiding judge deems sufficient, provided that at least seven years have passed from the date of the multi-jurisdiction grand jury proceeding where such notes, tapes, and transcriptions were made.

B. The clerk shall cause the notes, tapes, and transcriptions or other evidence to be kept safely. Upon motion to the presiding judge, special counsel or the attorney for the Commonwealth or United States attorney of any jurisdiction where the offense could be prosecuted or investigated shall be permitted to review any of the evidence which was presented to the multi-jurisdiction grand jury and shall be permitted to make notes and to duplicate portions of the evidence as he deems necessary for use in a criminal investigation or proceeding. Special counsel, the attorney for the Commonwealth, or the United States attorney shall maintain the secrecy of all information obtained from a review or duplication of the evidence presented to the multi-jurisdiction grand jury, except that this information may be disclosed pursuant to the provisions of subdivision 2 of § 19.2-215.1. A United States attorney satisfies his duty to maintain secrecy of information obtained from a review or duplication of evidence presented to the multi-jurisdiction grand jury if such information is maintained in accordance with the Federal Rules of Criminal Procedure. *After a person has been indicted by a grand jury, the attorney for the Commonwealth shall notify such person that the multi-jurisdiction grand jury was used to obtain evidence for a prosecution.* Upon motion to the presiding judge by a person indicted by a multi-jurisdiction grand jury or by a person being prosecuted with evidence presented to a multi-jurisdiction grand jury, similar permission to review, note, or duplicate evidence shall be extended.

*Any person granted permission to make notes and to duplicate portions of the evidence given before the multi-jurisdiction grand jury shall maintain the secrecy of all information obtained from a review or duplication of the evidence presented to the multi-jurisdiction grand jury, except for disclosure as he deems necessary for use in a criminal investigation or proceeding. The timing of the access to such evidence shall be determined by the presiding judge after a hearing on the matter, if the parties do not otherwise agree. Any person granted permission herein is precluded from making additional copies of these materials, except as he deems necessary for use in a criminal investigation or proceeding, without permission of the presiding judge and is to notify the presiding judge and the attorney for the Commonwealth immediately if these materials are lost or their secrecy has not been maintained.*

C. If any witness who testified or produced evidence before the multi-jurisdiction grand jury is prosecuted on the basis of his testimony or the evidence he produced, or if any witness is prosecuted for perjury on the basis of his testimony or the evidence he produced before the multi-jurisdiction grand jury, the presiding judge, on motion of either special counsel or the defendant, shall permit the defendant access to the testimony of or evidence produced by the defendant before the multi-jurisdiction grand jury. The testimony and the evidence produced by the defendant before the multi-jurisdiction grand jury shall then be admissible in the trial of the criminal offense with which the defendant is charged (i) to establish a charge of perjury in the Commonwealth's case-in-chief on the basis of his testimony before the multi-jurisdiction grand jury and (ii) for the purpose of impeaching the defendant in the trial of any other criminal matter, provided the testimony or evidence being used for impeachment was produced by the defendant voluntarily before the multi-jurisdiction grand jury.

## CHAPTER 523

*An Act to amend and reenact § 38.2-1877 of the Code of Virginia, relating to portable electronics insurance; notices.*

[H 2723]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 38.2-1877 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 38.2-1877. Requirements for sale of portable electronics insurance.**

A. At every location where portable electronics insurance is offered to customers, the vendor shall make available to a prospective customer brochures or other written materials that:

1. Disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

2. State that the purchase of coverage by a customer of portable electronics insurance is not required in order to purchase or lease portable electronics or services;

3. Summarize the material terms of the insurance coverage, including: (i) the identity of the insurer; (ii) the amount of any applicable deductible and how it is to be paid; (iii) benefits of the coverage; and (iv) key terms and conditions of coverage such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment; and

4. Summarize the process for filing a claim, including a description of (i) any requirements to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements and (ii) proof of loss requirements.

B. Portable electronics insurance may be offered on a month-to-month or other periodic basis as an individual policy or a group or master commercial inland marine policy issued to a vendor of portable electronics under which the individual customer may elect to purchase coverage.

C. An insurer or vendor of portable electronics insurance may issue notices and correspondence by mail or by electronic means as set forth in this subsection. The consumer may provide an electronic mail address to the insurer or vendor of portable electronics which shall be considered to be the customer's consent to receive notices and correspondence by electronic means so long as a disclosure to that effect is provided to the customer within 30 days following the purchase of portable electronics insurance.

## CHAPTER 524

*An Act to amend and reenact § 19.2-368.11:1 of the Code of Virginia, relating to Criminal Injuries Compensation Fund; amount of award.*

[H 2773]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-368.11:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-368.11:1. Amount of award.**

A. Compensation for Total Loss of Earnings: An award made pursuant to this chapter for total loss of earnings ~~which~~ *that* results directly from incapacity incurred by a crime victim shall be payable during total incapacity to the victim or to such other eligible person, at a weekly compensation rate equal to ~~66 2/3~~ 66-2/3 percent of the victim's average weekly wages. ~~The total amount of weekly compensation shall not exceed \$600.~~ The victim's average weekly wages shall be determined as provided in § 65.2-101.

B. Compensation for Partial Loss of Earnings: An award made pursuant to this chapter for partial loss of earnings which results directly from incapacity incurred by a crime victim shall be payable during incapacity at a weekly rate equal to ~~66 2/3~~ 66-2/3 percent of the difference between the victim's average weekly wages before the injury and the weekly wages which the victim is able to earn thereafter. The combined total of actual weekly earnings and compensation for partial loss of earnings shall not exceed \$600 per week.

C. Compensation for Loss of Earnings of Parent of Minor Victim: The parent or guardian of a minor crime victim may receive compensation for loss of earnings, calculated as specified in subsections A and B, for time spent obtaining medical treatment for the child and for accompanying the child to, attending or participating in investigative, prosecutorial, judicial, adjudicatory and post-conviction proceedings.

D. Compensation for Dependents of a Victim Who Is Killed: If death results to a victim of crime entitled to benefits, dependents of the victim shall be entitled to compensation in accordance with the provisions of §§ 65.2-512 and 65.2-515 in an amount not to exceed the maximum aggregate payment or the maximum weekly compensation which would have been payable to the deceased victim under this section.

E. Compensation for Unreimbursed Medical Costs, Funeral Expenses, Services, etc.: Awards may also be made on claims or portions of claims based upon the claimant's actual expenses incurred as are determined by the Commission to be appropriate, for (i) unreimbursed medical expenses or indebtedness reasonably incurred for medical expenses; (ii) expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, for the benefit of himself and his family, if he had not been a victim of crime; (iii) expenses directly related to funeral or burial, not to exceed ~~\$5,000~~ \$10,000; (iv) expenses attributable to pregnancy resulting from forcible rape; (v) mental health counseling for survivors as defined under subdivisions A 2 and A 4 of § 19.2-368.4, not to exceed \$3,500 per claim; (vi) reasonable and necessary moving expenses, not to exceed \$2,000, incurred by a victim or survivors as defined under subdivisions A 2 and A 4 of § 19.2-368.4; and (vii) any other reasonable and necessary expenses and indebtedness incurred as a direct result of the injury or death upon which such claim is based, not otherwise specifically provided for. Notwithstanding any other provision of law, a person who is not eligible for an award under subsection A of § 19.2-368.4 who pays expenses directly related to funeral or burial is eligible for reimbursement subject to the limitations of this section.

F. Notwithstanding the provisions of subdivision 3 of § 19.2-368.10, §§ 19.2-368.5, 19.2-368.5:1, 19.2-368.6, 19.2-368.7, and 19.2-368.8, subsection G of this section, and § 19.2-368.16, the Criminal Injuries Compensation Fund shall pay for physical evidence recovery kit examinations conducted on victims of sexual assault. Any individual that submits to and completes a physical evidence recovery kit examination shall be considered to have met the reporting and cooperation requirements of this chapter. Funds paid for physical evidence recovery kit collection shall not be offset against the Fund's maximum allowable award as provided in subsection H. Payments may be subject to negotiated agreements with the provider. ~~Healthcare~~ *Health care* providers that complete physical evidence recovery kit examinations may bill the Fund directly subject to the provisions of § 19.2-368.5:2. The Commission shall develop policies for a distinct payment process for physical evidence recovery kit examination expenses as required under subdivision 1 of § 19.2-368.3.

In order for the Fund to consider additional crime-related expenses, victims shall file with the Fund following the provisions of this chapter and Criminal Injuries Compensation Fund policy.

G. Any claim made pursuant to this chapter shall be reduced by the amount of any payments received or to be received as a result of the injury from or on behalf of the person who committed the crime or from any other public or private source, including an emergency award by the Commission pursuant to § 19.2-368.9.

H. To qualify for an award under this chapter, a claim must have a minimum value of \$100, and payments for injury or death to a victim of crime, to the victim's dependents or to others entitled to payment for covered expenses, after being reduced as provided in subsection G, shall not exceed ~~\$25,000~~ \$35,000 in the aggregate.

## CHAPTER 525

*An Act to amend and reenact § 30-370 of the Code of Virginia, relating to the Commission on Economic Opportunity for Virginians in Aspiring and Diverse Communities; sunset.*

[H 2814]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-370 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-370. (Expires July 1, 2019) Sunset.**

This chapter shall expire on July 1, ~~2019~~ 2020.

## CHAPTER 526

*An Act to amend and reenact § 16.1-69.35 of the Code of Virginia, relating to Marsh Criminal-Traffic Division at Manchester General District Court and John Marshall Criminal-Traffic Division at Richmond General District Court; concurrent jurisdiction.*

[S 1108]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-69.35 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-69.35. Administrative duties of chief district judge.**

The chief judge of each district shall have the following administrative duties and authority with respect to his district:

1. When any district court judge is under any disability or for any other cause is unable to hold court and the chief judge determines that assistance is needed:

a. The chief district judge shall designate a judge within the district or a judge of another district court within the Commonwealth, if one is reasonably available, to hear and dispose of any action or actions properly coming before such district court for disposition;

b. If unable to designate a judge as provided in subdivision 1 a, the chief district judge may designate a retired district judge eligible for recall pursuant to § 16.1-69.22:1 for such hearing and disposition if such judge consents; or

c. If unable to assign a retired district court judge, the chief district judge may designate a retired circuit court judge eligible for recall pursuant to § 17.1-106 if such judge consents or the chief district judge may request that the Chief Justice of the Supreme Court designate a circuit judge if such judge consents.

If no judges are available under subdivision a, b or c, then a substitute judge shall be designated pursuant to § 16.1-69.21.

While acting, any judge so designated shall have all the authority and power of the judge of the court, and his order or judgment shall, to all intents and purposes, be the judgment of the court. A general district court judge designated pursuant to subdivision 1 a, may, with his consent, substitute for or replace a juvenile and domestic relations district court judge, and vice versa. The names of the judges designated under subdivisions b and c shall be selected from a list provided by the Executive Secretary and approved by the Chief Justice of the Supreme Court.

2. The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned.

3. If on account of congestion in the work of any district court or when in his opinion the administration of justice so requires, the Chief Justice of the Supreme Court may, upon his own initiative or upon written application of the chief district court judge desiring assistance, designate a judge from another district or any circuit court judge, if such circuit court judge consents, or a retired judge eligible for recall, to provide judicial assistance to such district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he

is designated to assist and while so acting his order or judgment shall be, to all intents and purposes, the judgment of the court to which he is assigned.

4. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge may establish special divisions of any general district court when the work of the court may be more efficiently handled thereby such as through the establishment of special civil, criminal or traffic divisions, and he may assign the judges of the general district court with respect to serving such special divisions. In the City of Richmond the general district court shall, in addition to any specialized divisions, maintain a separate division of such court in that part of Richmond south of the James River with concurrent jurisdiction ~~in civil matters whenever one or more of the defendants reside or the cause of action or any part thereof arises in that part of the city, concurrent jurisdiction over all traffic matters arising in that part of the city and concurrent jurisdiction over all other criminal matters arising in that part of the city over all matters arising in the City of Richmond.~~

5. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge shall determine when the district courts or divisions of such courts shall be open for the transaction of business. The chief judge or presiding judge of any district court may authorize the clerk's office to close on any date when the chief judge or presiding judge determines that operation of the clerk's office, under prevailing conditions, would constitute a threat to the health or safety of the clerk's office personnel or the general public. Closing of the clerk's office pursuant to this subsection shall have the same effect as provided in subsection B of § 1-210. In determining whether to close because of a threat to the health or safety of the general public, the chief judge or the presiding judge of the district court shall coordinate with the chief judge or presiding judge of the circuit court so that, where possible and appropriate, both the circuit and district courts take the same action. He shall determine the times each such court shall be held for the trial of civil, criminal or traffic matters and cases. He shall determine whether, in the case of district courts in counties, court shall be held at any place or places in addition to the county seat. He shall determine the office hours and arrange a vacation schedule of the judges within his district, in order to ensure the availability of a judge or judges to the public at normal times of business. A schedule of the times and places at which court is held shall be filed with the Executive Secretary of the Supreme Court and kept posted at the courthouse, and in any county also at any such other place or places where court may be held, and the clerk shall make such schedules available to the public upon request. Any matter may, in the discretion of the judge, or by direction of the chief district judge, be removed from any one of such designated places to another, or to or from the county seat, in order to serve the convenience of the parties or to expedite the administration of justice; however, any town having a population of over 15,000 as of July 1, 1972, having court facilities and a court with both general criminal and civil jurisdiction prior to July 1, 1972, shall be designated by the chief judge as a place to hold court.

6. Subject to the provisions of § 16.1-69.38, the chief judge of a general district court or the chief judge of a juvenile and domestic relations district court may establish a voluntary civil mediation program for the alternate resolution of disputes. The costs of the program shall be paid by the local governing bodies within the district or by the parties who voluntarily participate in the program.

## CHAPTER 527

*An Act to amend and reenact §§ 64.2-1908 and 64.2-1919 of the Code of Virginia, relating to the Uniform Transfers to Minors Act; age 25.*

[S 1307]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 64.2-1908 and 64.2-1919 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 64.2-1908. Manner of creating custodial property and effecting transfer; designation of initial custodian; control.**

A. Custodial property is created and a transfer is made whenever:

1. An uncertificated security or a certificated security in registered form is either:

a. Registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act"; or

b. Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection B.

2. Money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred, to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act."

3. The ownership of a life or endowment insurance policy or annuity contract is either:

a. Registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act"; or

b. Assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act."

4. An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act."

5. An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act."

6. A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

a. Issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act"; or

b. Delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act."

7. An interest in any property not described in subdivisions 1 through 6 is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection B.

Nothing in this subsection shall be deemed to prohibit the creation or transfer of custodial property from a personal representative, trustee, or conservator to himself as custodian pursuant to §§ 64.2-1904, 64.2-1905, and 64.2-1906.

B. An instrument in the following form satisfies the requirements of subdivisions A 1 b and A 7.

**TRANSFER UNDER THE VIRGINIA UNIFORM TRANSFERS TO MINORS ACT**

I, \_\_\_\_\_ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to \_\_\_\_\_ (name of custodian), as custodian for \_\_\_\_\_ (name of minor) under the Virginia Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Virginia Uniform Transfers to Minors Act.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Custodian)

C. A transferor shall place the custodian in control of the custodial property as soon as practicable.

D. A transferor who transfers property to an individual under the age of 21 years pursuant to § 64.2-1903 or 64.2-1904 may expressly provide that the custodian shall deliver, convey, or pay the property to the individual on the individual's attaining the age of 21 by inclusion of the parenthetical "(21)" after the words "Virginia Uniform Transfers to Minors Act" or substantially similar language. In such case, the word "minor" as used in this chapter shall mean an individual who has not attained the age of 21 years.

E. A transferor who transfers property on or after July 1, 2019, to an individual under the age of 21 years pursuant to § 64.2-1903 or 64.2-1904 may expressly provide that the custodian shall deliver, convey, or pay the property to the individual on the individual's attaining the age of 25 by inclusion of the parenthetical "(25)" after the words "Virginia Uniform Transfers to Minors Act" or substantially similar language. In such case, the word "minor" as used in this chapter shall mean an individual who has not attained the age of 25 years.

**§ 64.2-1919. Termination of custodianship.**

The A. Except as provided in subsection B, the custodian shall transfer the custodial property to the minor or to the minor's estate in an appropriate manner upon the earlier of:

1. The minor's attainment of 18 years of age or if the transfer was made as provided in subsection D or E of § 64.2-1908, the minor's attainment of 21 or 25 years of age, as applicable; or

2. The minor's death.

B. If the custodial property is transferred by irrevocable gift or the exercise of an inter vivos general power of appointment in the manner provided in subsection E of § 64.2-1908, for delivery, conveyance, or payment to the minor upon the minor's attaining the age of 25 years, the custodian shall nevertheless transfer the custodial property to the minor upon the minor's attaining the age of 21 years if the minor delivers a written request therefor to the custodian. A request under this subsection shall be valid only if it is delivered to the custodian during the period beginning 30 days before the date on which the minor attains the age of 21 years and ending 30 days after the later of (i) the date on which the minor attains the age of 21 years or (ii) the date on which the custodian delivers written notice to the minor of the minor's right to terminate the custodianship pursuant to this subsection.

## CHAPTER 528

*An Act to amend and reenact § 30-196 of the Code of Virginia, relating to the Commissioners for Promotion of Uniformity of Legislation; Commissioner expense reimbursements.*

[S 1378]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-196 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-196. Appointment of Commissioners; terms; compensation.**

A. There shall be appointed by the Governor three Commissioners, who with the Director of the Division of Legislative Services and any persons appointed as life members are hereby constituted a board of Commissioners by the name and style of Commissioners for the Promotion of Uniformity of Legislation in the United States. The three Commissioners appointed by the Governor shall serve for a term of four years, with each such term commencing on October 1. A Commissioner appointed by the Governor shall serve until his successor is appointed.

B. Each of the appointed Commissioners shall hold office at the pleasure of the Governor, and excepting life members and the Director of the Division of Legislative Services, shall serve for a term of four years. Vacancies shall be filled by the Governor for unexpired terms.

C. The Commissioners shall receive no compensation for their services, but their necessary travel and hotel expenses shall be reimbursed, *subject to the approval of the Joint Rules Committee or to the joint approval of the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules, and shall be paid out of any funds that may be appropriated for such purposes.*

## CHAPTER 529

*An Act to amend and reenact § 64.2-409 of the Code of Virginia, relating to clerks of circuit courts; retention of wills for safekeeping.*

[S 1426]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-409 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-409. Wills of living persons lodged for safekeeping with clerks of certain courts.**

A. A person or his attorney may, during the person's lifetime, lodge for safekeeping with the clerk of the circuit court serving the jurisdiction where the person resides any will executed by such person. The clerk shall receive such will and give the person lodging it a receipt. The clerk shall (i) place the will in an envelope and seal it securely, (ii) number the envelope and endorse upon it the name of the testator and the date on which it was lodged, and (iii) index the same alphabetically in a permanent index that shows the number and date such will was deposited.

B. An attorney-at-law, bank, or trust company that has held a will for safekeeping for a client for at least seven years and that has no knowledge of whether the client is alive or dead after such time may lodge such will with the clerk as provided in subsection A.

C. The clerk shall carefully preserve the envelope containing the will unopened until it is returned to the testator or his nominee in the testator's lifetime upon request of the testator or his nominee in writing or until the death of the testator. If such will is returned during the testator's lifetime and is later returned to the clerk, it shall be considered to be a separate lodging under the provisions of this section.

D. Upon notice of the testator's death, the clerk shall open the will and deliver the same to any person entitled to offer it for probate.

E. The clerk shall charge a fee of \$2 for lodging, indexing, and preserving a will pursuant to this section.

F. The provisions of this section are applicable only to the clerk's office of a court where the judge or judges of such court have entered an order authorizing the use of the clerk's office for such purpose.

*G. The clerk may destroy any will that has been lodged in his office for safekeeping under this section for 100 years or more.*

## CHAPTER 530

*An Act to amend and reenact § 30-356 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 31 of Title 2.2 an article numbered 9, consisting of a section numbered 2.2-3132, relating to conflict of interest; duties of Virginia Conflict of Interest and Ethics Advisory Council; training requirement; inquiries from citizens.*

[S 1430]

Approved March 18, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 30-356 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 31 of Title 2.2 an article numbered 9, consisting of a section numbered 2.2-3132, as follows:

Article 9.

*Training for Local Filers.*

**§ 2.2-3132. Training on prohibited conduct and conflicts of interest.**

A. The Council shall provide training sessions for local elected officials on the provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). The Council may provide such training sessions by online means.

B. Each local elected official shall complete the training session described in subsection A within two months after assuming the local elected office and thereafter at least once during each consecutive period of two calendar years while he holds such office, commencing with the date on which he last completed a training session. No penalty shall be imposed on a local elected official for failing to complete a training session.

C. The clerk of the respective governing body or school board shall maintain records indicating local elected officials subject to the training requirement and the dates of their completion of a training session pursuant to subsection B. Such records shall be maintained as public records for five years in the office of the clerk of the respective governing body or school board.

**§ 30-356. Powers and duties of the Council.**

The Council shall:

1. Prescribe the forms required for complying with the disclosure requirements of Article 3 and the Acts. These forms shall be the only forms used to comply with the provisions of Article 3 or the Acts. The Council shall make available the disclosure forms and shall provide guidance and other instructions to assist in the completion of the forms;

2. Review all disclosure forms filed by lobbyists pursuant to Article 3 and by state government officers and employees and legislators pursuant to the Acts. The Council may review disclosure forms for completeness, including reviewing the information contained on the face of the form to determine if the disclosure form has been fully completed and comparing the disclosures contained in any disclosure form filed by a lobbyist pursuant to § 2.2-426 with other disclosure forms filed with the Council, and requesting any amendments to ensure the completeness of and correction of errors in the forms, if necessary. If a disclosure form is found to have not been filed or to have been incomplete as filed, the Council shall notify the filer in writing and direct the filer to file a completed disclosure form within a prescribed period of time, and such notification shall be confidential and is excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

3. Require all disclosure forms and lobbyist registration statements that are required to be filed with the Council to be filed electronically in accordance with the standards approved by the Council. The Council shall provide software or electronic access for filing the required disclosure forms and registration statements without charge to all individuals required to file with the Council. The Council shall prescribe the method of execution and certification of electronically filed forms, including the use of an electronic signature as authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.). The Council may grant extensions as provided in § 30-356.2 and may authorize a designee to grant such extensions;

4. Accept and review any statement received from a filer disputing the receipt by such filer of a gift that has been disclosed on the form filed by a lobbyist pursuant to Article 3;

5. Beginning July 1, 2016, establish and maintain a searchable electronic database comprising those disclosure forms that are filed with the Council pursuant to §§ 2.2-426, 2.2-3117, 2.2-3118, and 30-111. Such database shall be available to the public through the Council's official website;

6. Furnish, upon request, formal advisory opinions or guidelines and other appropriate information, including informal advice, regarding ethics, conflicts issues arising under Article 3 or the Acts, or a person's duties under Article 3 or the Acts to any person ~~covered by Article 3 or the Acts~~ covered by Article 3 or the Acts or to any agency of state or local government, in an expeditious manner. The Council may authorize a designee to furnish formal opinions or informal advice. Formal advisory opinions are public record and shall be published on the Council's website; however, no formal advisory opinion furnished by a designee of the Council shall be available to the public or published until such opinion has been approved by the Council. Published formal advisory opinions may have such deletions and changes as may be necessary to protect the identity of the person involved or other persons supplying information. Informal advice given by the Council or the Council's designee is confidential and is excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, if the recipient invokes the immunity provisions of § 2.2-3121 or 30-124, the record of the request and the informal advice given shall be deemed to be a public record and shall be released upon request. Other records relating to formal advisory opinions or informal advice, including records of requests, notes, correspondence, and draft versions of such opinions or advice, shall also be confidential and excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act;

7. Conduct training seminars and educational programs for lobbyists, state and local government officers and employees, legislators, and other interested persons on the requirements of Article 3 and the Acts and provide *training sessions for local elected officials in compliance with Article 9 (§ 2.2-3132) of Chapter 31 of Title 2.2 and ethics orientation sessions for legislators in compliance with Article 6 (§ 30-129.1 et seq.) of Chapter 13;*

8. Approve orientation courses conducted pursuant to § 2.2-3128 and, upon request, review the educational materials and approve any training or course on the requirements of Article 3 and the Acts conducted for state and local government officers and employees;

9. Publish such educational materials as it deems appropriate on the provisions of Article 3 and the Acts;

10. Review actions taken in the General Assembly with respect to the discipline of its members for the purpose of offering nonbinding advice;

11. Request from any agency of state or local government such assistance, services, and information as will enable the Council to effectively carry out its responsibilities. Information provided to the Council by an agency of state or local government shall not be released to any other party unless authorized by such agency;

12. Redact from any document or form that is to be made available to the public any residential address, personal telephone number, or signature contained on that document or form; and

13. Report on or before December 1 of each year on its activities and findings regarding Article 3 and the Acts, including recommendations for changes in the laws, to the General Assembly and the Governor. The annual report shall be submitted by the chairman as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be published as a state document.

**2. That a local elected official holding office on July 1, 2019, shall complete the training required by § 2.2-3132 of the Code of Virginia as created by this act no later than December 31, 2019.**

### CHAPTER 531

*An Act to amend and reenact § 2.2-3713 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-3704.3, relating to the Virginia Freedom of Information Act; training requirements; proceedings for enforcement.*

[S 1431]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3713 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-3704.3 as follows:**

**§ 2.2-3704.3. Training for local officials.**

*A. The Virginia Freedom of Information Advisory Council (the Council) or the local government attorney shall provide online training sessions for local elected officials on the provisions of this chapter.*

*B. Each local elected official shall complete a training session described in subsection A within two months after assuming the local elected office and thereafter at least once during each consecutive period of two calendar years commencing with the date on which he last completed a training session, for as long as he holds such office. No penalty shall be imposed on a local elected official for failing to complete a training session.*

*C. The clerk of each governing body or school board shall maintain records indicating the names of elected officials subject to the training requirements in subsection B and the dates on which each such official completed training sessions satisfying such requirements. Such records shall be maintained for five years in the office of the clerk of the respective governing body or school board.*

**§ 2.2-3713. Proceedings for enforcement of chapter.**

A. Any person, including the attorney for the Commonwealth acting in his official or individual capacity, denied the rights and privileges conferred by this chapter may proceed to enforce such rights and privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause. Such petition may be brought in the name of the person notwithstanding that a request for public records was made by the person's attorney in his representative capacity. Venue for the petition shall be addressed as follows:

1. In a case involving a local public body, to the general district court or circuit court of the county or city from which the public body has been elected or appointed to serve and in which such rights and privileges were so denied;

2. In a case involving a regional public body, to the general district or circuit court of the county or city where the principal business office of such body is located; and

3. In a case involving a board, bureau, commission, authority, district, institution, or agency of the state government, including a public institution of higher education, or a standing or other committee of the General Assembly, to the general district court or the circuit court of the residence of the aggrieved party or of the City of Richmond.

B. In any action brought before a general district court, a corporate petitioner may appear through its officer, director or managing agent without the assistance of counsel, notwithstanding any provision of law or Rule of the Supreme Court of Virginia to the contrary.

C. Notwithstanding the provisions of § 8.01-644, the petition for mandamus or injunction shall be heard within seven days of the date when the same is made, provided the party against whom the petition is brought has received a copy of the petition at least three working days prior to filing. *However, if the petition or the affidavit supporting the petition for mandamus or injunction alleges violations of the open meetings requirements of this chapter, the three-day notice to the party against whom the petition is brought shall not be required.* The hearing on any petition made outside of the regular

terms of the circuit court of a locality that is included in a judicial circuit with another locality or localities shall be given precedence on the docket of such court over all cases that are not otherwise given precedence by law.

D. The petition shall allege with reasonable specificity the circumstances of the denial of the rights and privileges conferred by this chapter. A single instance of denial of the rights and privileges conferred by this chapter shall be sufficient to invoke the remedies granted herein. If the court finds the denial to be in violation of the provisions of this chapter, the petitioner shall be entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses, and attorneys' attorney fees from the public body if the petitioner substantially prevails on the merits of the case, unless special circumstances would make an award unjust. In making this determination, a court may consider, among other things, the reliance of a public body on an opinion of the Attorney General or a decision of a court that substantially supports the public body's position.

E. In any action to enforce the provisions of this chapter, the public body shall bear the burden of proof to establish an exclusion by a preponderance of the evidence. No court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies. Any failure by a public body to follow the procedures established by this chapter shall be presumed to be a violation of this chapter.

F. Failure by any person to request and receive notice of the time and place of meetings as provided in § 2.2-3707 shall not preclude any person from enforcing his rights and privileges conferred by this chapter.

**2. That the provisions of § 2.2-3704.3 of the Code of Virginia, as created by this act, shall become effective on July 1, 2020.**

**3. That a local elected official holding office on July 1, 2020, shall complete the training required by § 2.2-3704.3 of the Code of Virginia, as created by this act, no later than December 31, 2020.**

## CHAPTER 532

*An Act to amend and reenact § 3.2-6500 of the Code of Virginia, relating to animals; adequate shelter.*

[H 1625]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.2-6500 of the Code of Virginia is amended and reenacted as follows:**

**§ 3.2-6500. Definitions.**

As used in this chapter unless the context requires a different meaning:

"Abandon" means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.2-6503 for a period of four consecutive days.

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

"Adequate feed" means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; *during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of straw, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat;* and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weights, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

"Adequate space" means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to

protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

"Adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

"Adoption" means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

"Agricultural animals" means all livestock and poultry.

"Ambient temperature" means the temperature surrounding the animal.

"Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, animal means any species susceptible to rabies. For the purposes of § 3.2-6570, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

"Animal control officer" means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.2-6555.

"Boarding establishment" means a place or establishment other than a public or private animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee. "Boarding establishment" shall not include any private residential dwelling that shelters, feeds, and waters fewer than five companion animals not owned by the proprietor.

"Collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

"Commercial dog breeder" means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

"Consumer" means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term "consumer" shall not include a business or corporation engaged in sales or services.

"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of business as a common carrier or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

"Direct and immediate threat" means any clear and imminent danger to an animal's health, safety or life.

"Dump" means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

"Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

"Enclosure" means a structure used to house or restrict animals from running at large.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

"Exhibitor" means any person who has animals for or on public display, excluding an exhibitor licensed by the U.S. Department of Agriculture.

"Facility" means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

"Farming activity" means, consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

"Foster care provider" means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

"Foster home" means a private residential dwelling and its surrounding grounds, or any facility other than a public or private animal shelter, at which site through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization care or rehabilitation is provided for companion animals.

"Groomer" means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

"Home-based rescue" means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Humane investigator" means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.2-6558.

"Humane society" means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

"Incorporated" means organized and maintained as a legal entity in the Commonwealth.

"Kennel" means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

"Law-enforcement officer" means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratis; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574, and who adopts or receives a dog or cat from a releasing agency.

"Ordinance" means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

"Other officer" includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

"Owner" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

"Pet shop" means a retail establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

"Poultry" includes all domestic fowl and game birds raised in captivity.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

"Private animal shelter" means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization.

"Properly cleaned" means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

"Properly lighted" when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

"Properly lighted" when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

"Public animal shelter" means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

"Releasing agency" means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

"Research facility" means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

"Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

"Sore" means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. Part 11.2.

"Sterilize" or "sterilization" means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

"Treasurer" includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

"Treatment" or "adequate treatment" means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

"Veterinary treatment" means treatment by or on the order of a duly licensed veterinarian.

"Weaned" means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species and has ingested such food, without nursing, for a period of at least five days.

### CHAPTER 533

*An Act to amend and reenact § 10.1-2131 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 21.1 of Title 10.1 sections numbered 10.1-2127.1 and 10.1-2134.1 and by adding a section numbered 62.1-44.15:29.2, relating to Water Quality Improvement Grant; point source pollution; Stormwater Local Assistance Fund.*

[H 1822]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-2131 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 21.1 of Title 10.1 sections numbered 10.1-2127.1 and 10.1-2134.1 and by adding a section numbered 62.1-44.15:29.2 as follows:**

**§ 10.1-2127.1. Definitions.**

*As used in this article, unless the context requires a different meaning:*

*"Fund" means the Virginia Water Quality Improvement Fund established by § 10.1-2128.*

**§ 10.1-2131. Point source pollution funding; conditions for approval.**

A. The Department of Environmental Quality (*the Department*) shall be the lead state agency for determining the appropriateness of any grant related to point source pollution to be made from the Fund to restore, protect, or improve state water quality.

B. The Director of the Department of Environmental Quality (*the Director*) shall, subject to available funds and in coordination with the Director of the Department of Conservation and Recreation, direct the State Treasurer to make Water Quality Improvement Grants in accordance with the guidelines established pursuant to § 10.1-2129. The Director of the Department of Environmental Quality shall enter into grant agreements with all facilities designated as significant dischargers or eligible nonsignificant dischargers that apply for grants; however, all such grant agreements shall contain provisions that payments thereunder are subject to the availability of funds.

C. Notwithstanding the priority provisions of § 10.1-2129, the Director of the Department of Environmental Quality shall not authorize the distribution of grants from the Fund for purposes other than financing the cost of design and installation of nutrient removal technology at publicly owned treatment works in the Chesapeake Bay watershed until such time as nutrient reductions of regulations, permits, or the Chesapeake Bay TMDL Watershed Implementation Plan are satisfied, unless he finds that there exists in the Fund sufficient funds for substantial and continuing progress in implementation of the reductions established in accordance with regulations, permits, or the Chesapeake Bay TMDL Watershed Implementation Plan within the Chesapeake Bay watershed.

In addition to the provisions of § 10.1-2130, all grant agreements related to nutrients shall include: (i) numerical technology-based effluent concentration limitations on nutrient discharges to state waters based upon the technology installed by the facility; (ii) enforceable provisions related to the maintenance of the numerical concentrations that will allow for exceedances of 0.8 mg/L for total nitrogen or no more than 10 percent, whichever is greater, for exceedances of 0.1 mg/L for total phosphorus or no more than 10%, and for exceedances caused by extraordinary conditions; and (iii) recognition of the authority of the Commonwealth to make the Virginia Water Facilities Revolving Fund (§ 62.1-224

et seq.) available to local governments to fund their share of the cost of designing and installing nutrient removal technology based on financial need and subject to availability of revolving loan funds, priority ranking, and revolving loan distribution criteria.

If, pursuant to § 10.1-1187.6, the State Water Control Board approves an alternative compliance method to technology-based concentration limitations in Virginia Pollutant Discharge Elimination System permits, the concentration limitations of the grant agreement shall be suspended subject to the terms of such approval. The cost of the design and installation of nutrient removal technology at publicly owned treatment works meeting the nutrient reductions of regulations, permits, or the Chesapeake Bay TMDL Watershed Implementation Plan and incurred prior to the execution of a grant agreement is eligible for reimbursement from the Fund ~~provided~~ if the grant is made pursuant to an executed agreement consistent with the provisions of this chapter.

Subsequent to the implementation of any applicable regulations, permits, or the Chesapeake Bay TMDL Watershed Implementation Plan, the Director may authorize disbursements from the Fund for any water quality restoration, protection, and improvements related to point source pollution that are clearly demonstrated as likely to achieve measurable and specific water quality improvements, including cost effective technologies to reduce loads of total phosphorus, total nitrogen, or nitrogen-containing ammonia in order to meet the requirements of regulations associated with the reduction of ammonia that have not yet been adopted and that are more stringent than regulations adopted by the State Water Control Board as of January 1, 2018. Notwithstanding ~~the previous provisions~~ any provision of this subsection, the Director may, at any time, authorize grants, including grants to institutions of higher education, for technical assistance related to nutrient reduction.

*Notwithstanding any other provision of this chapter, the Director may at any time authorize grants for the design and installation of wastewater conveyance infrastructure that (a) diverts wastewater from one publicly owned treatment works that is eligible for grant funding under this chapter to another publicly owned treatment works that also is eligible for such funding; (b) diverts wastewater to a receiving treatment works that is capable of achieving compliance with its nutrient reduction or ammonia control discharge requirements and results in a net reduction in total phosphorus, total nitrogen, or nitrogen-containing ammonia discharges; and (c) results in a Water Quality Improvement Grant expense being incurred by the Department that is the same as or lower than the grant expense the Department would incur in funding design and installation of eligible nutrient removal or other applicable treatment technology at such treatment works that would have treated the wastewater in the absence of the diversion project.*

D. The grant percentage provided for financing the costs of the design and installation of nutrient removal technology at publicly owned treatment works shall be based upon the financial need of the community as determined by comparing the annual sewer charges expended within the service area to the reasonable sewer cost established for the community.

E. Grants shall be awarded in the following manner:

1. In communities for which the ratio of annual sewer charges to reasonable sewer cost is less than 0.30, the Director ~~of the Department of Environmental Quality~~ shall authorize grants in the amount of 35 percent of the costs of the design and installation of nutrient removal technology;

2. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.30 and less than 0.50, the Director shall authorize grants in the amount of 45 percent of the costs of the design and installation of nutrient removal technology;

3. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.50 and less than 0.80, the Director shall authorize grants in the amount of 60 percent of the costs of design and installation of nutrient removal technology; and

4. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.80, the Director shall authorize grants in the amount of 75 percent of the costs of the design and installation of nutrient removal technology.

**§ 10.1-2134.1. Water Quality Improvement Fund; estimate of requests.**

*The Department of Environmental Quality (the Department), in consultation with stakeholders, including representatives of the Virginia Association of Municipal Wastewater Agencies, local governments, and conservation organizations, shall annually determine an estimate of the amount of Water Quality Improvement Grant funding expected to be requested by local governments for projects that are related to point source pollution and are eligible for grant funding pursuant to the provisions of this chapter. The Department shall include such estimate in (i) the biennial funding report that is submitted to the Governor pursuant to the provisions of § 2.2-1504 and (ii) the annual progress report on the impaired waters clean-up plan that is submitted to legislative committees pursuant to the provisions of § 62.1-44.118.*

**§ 62.1-44.15:29.2. Stormwater Local Assistance Fund, estimate of requests.**

*The Department, in consultation with stakeholders, including representatives of the Virginia Municipal Stormwater Association, local governments, and conservation organizations, shall annually determine an estimate of the amount of stormwater local assistance matching grants expected to be requested by local governments for projects that are related to planning, designing, and implementing stormwater best management practices and are eligible for funding. The Department shall include such estimate in (i) the biennial funding report that is submitted to the Governor pursuant to the provisions of § 2.2-1504 and (ii) the annual progress report on the impaired waters clean-up plan that is submitted to legislative committees pursuant to the provisions of § 62.1-44.118.*

## CHAPTER 534

*An Act to amend and reenact § 15.2-6407 of the Code of Virginia, relating to Virginia Regional Industrial Facilities Act; revenue sharing; composite index.*

[H 1838]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 15.2-6407 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-6407. Revenue sharing agreements.**

A. Notwithstanding the requirements of Chapter 34 (§ 15.2-3400 et seq.) of this title, the member localities may agree to a revenue and economic growth-sharing arrangement with respect to tax revenues and other income and revenues generated by any facility owned by an authority. Such member localities may be located in any jurisdiction participating in the Appalachian Region Interstate Compact or a similar agreement for interstate cooperation for economic and workforce development authorized by law. The obligations of the parties to any such agreement shall not be construed to be debt within the meaning of Article VII, Section 10 of the Constitution of Virginia. Any such agreement shall be approved by a majority vote of the governing bodies of the member localities reaching such an agreement but shall not require any other approval.

B. *With any such revenue and economic growth-sharing arrangement entered into by localities, the Department of Taxation's calculation of true values as applied to the Commonwealth's composite index of local ability-to-pay shall take into account an agreement whereby a portion of real property tax revenue is initially paid to one locality and redistributed to another locality. Such calculation shall properly apportion the percentage of tax revenue ultimately received by each locality. Each participating locality shall include in reports to the Department of Taxation of its taxable real estate the apportioned fair market value of the property upon which such revenue sharing is based. The Department of Taxation shall collect annually, from each participating locality, the taxable real estate value used to determine and apportion the fair market value of the property adjustments upon which such revenue sharing is based.*

**2. That the provisions of this act shall become effective on July 1, 2021.**

## CHAPTER 535

*An Act to amend and reenact §§ 56-576 and 56-585.1 of the Code of Virginia, relating to the establishment of a pilot program to facilitate the construction of electric transmission infrastructure for business parks.*

[H 1840]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 56-576 and 56-585.1 of the Code of Virginia are amended and reenacted as follows:****§ 56-576. Definitions.**

As used in this chapter:

"Affiliate" means any person that controls, is controlled by, or is under common control with an electric utility.

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

"Business park" means a land development containing a minimum of 100 contiguous acres classified as a Tier 4 site under the Virginia Economic Development Partnership's Business Ready Sites Program that is developed and constructed by an industrial development authority, or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 or other act of the General Assembly, in order to promote business development and that is located in an area of the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

"Combined heat and power" means a method of using waste heat from electrical generation to offset traditional processes, space heating, air conditioning, or refrigeration.

"Commission" means the State Corporation Commission.

"Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

"Covered entity" means a provider in the Commonwealth of an electric service not subject to competition but shall not include default service providers.

"Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

"Curtailement" means inducing retail customers to reduce load during times of peak demand so as to ease the burden on the electrical grid.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric energy from any supplier licensed and seeking to sell electric energy to that customer.

"Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy through a retail distribution system to a retail customer.

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric distribution grid transformation project" means a project associated with electric distribution infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate the integration of utility-owned or customer-owned renewable electric generation resources with the utility's electric distribution grid or to otherwise enhance electric distribution grid reliability, electric distribution grid security, customer service, or energy efficiency and conservation, including advanced metering infrastructure; intelligent grid devices for real time system and asset information; automated control systems for electric distribution circuits and substations; communications networks for service meters; intelligent grid devices and other distribution equipment; distribution system hardening projects for circuits, other than the conversion of overhead tap lines to underground service, and substations designed to reduce service outages or service restoration times; physical security measures at key distribution substations; cyber security measures; energy storage systems and microgrids that support circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup energy supply; electrical facilities and infrastructure necessary to support electric vehicle charging systems; LED street light conversions; and new customer information platforms designed to provide improved customer access, greater service options, and expanded access to energy usage information.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity implemented after the expiration of capped rates. Energy efficiency programs include equipment, physical, or program change designed to produce measured and verified reductions in the amount of electricity required to perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems; and (iii) customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency programs include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. Utilities shall be authorized to install and operate such advanced metering technology and equipment on a customer's premises; however, nothing in this chapter establishes a requirement that an energy efficiency program be implemented on a customer's premises and be connected to a customer's wiring on the customer's side of the inter-connection without the customer's expressed consent.

"Generate," "generating," or "generation of" electric energy means the production of electric energy.

"Generator" means a person owning, controlling, or operating a facility that produces electric energy for sale.

"Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the Commission.

"Independent system operator" means a person that may receive or has received, by transfer pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"In the public interest," for purposes of assessing energy efficiency programs, describes an energy efficiency program if the Commission determines that the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests. In addition, an energy efficiency program may be deemed to be "in the public interest" if the program provides measurable and verifiable energy savings to low-income customers or elderly customers.

"Measured and verified" means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

"Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

"New underground facilities" means facilities to provide underground distribution service. "New underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted devices, connections at customer meters, and transition terminations from existing overhead distribution sources.

"Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

"Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas, or nuclear power. Renewable energy shall also include the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass.

"Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for residential, commercial, institutional, or industrial purposes.

"Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

"Renovated and improved facility" means a facility the components of which have been upgraded to enhance its operating efficiency.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or nonmetered points of delivery located in the Commonwealth.

"Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

"Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

"Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer, including host sites on commercial buildings, multifamily residential buildings, school or university buildings, and buildings of a church or religious body.

"Solar energy system" means a system of components that produces heat or electricity, or both, from sunlight.

"Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not mean a generator that produces electric energy exclusively for its own consumption or the consumption of an affiliate.

"Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail customer.

"Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a retail customer.

"Transmission system" means those facilities and equipment that are required to provide for the transmission of electric energy.

#### **§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most

recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review, nor shall the Commission set such return more than 300 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall first remove from such group the two utilities within such group that have the lowest reported returns of the group, as well as the two utilities within such group that have the highest reported returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission; ~~and~~; (ii) costs charged to

the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member; and (iii) costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service; charges for new and existing transmission facilities, including costs incurred by the utility to construct, operate, and maintain transmission lines and substations installed in order to provide service to a business park; administrative charges; and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision 2. The Commission shall only approve such a petition if it finds that the program is in the public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

None of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, shall be assigned to any large general service customer. A large general service customer is a customer that has a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery. A utility shall not charge such large general service customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of participation in a renewable energy portfolio standard program pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs as are provided for in a program approved pursuant to § 56-585.2;

e. Projected and actual costs of projects that the Commission finds to be necessary to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations; and

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility.

The Commission shall have the authority to determine the duration or amortization period for any adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power

source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility described in clause (i) or (ii) shall demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process. The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity,

and with an aggregate rated capacity that does not exceed 5,000 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 50 megawatts, that use energy derived from sunlight or from wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of \$20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of \$750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

For generating facilities other than those utilizing nuclear power constructed pursuant to clause (ii) or those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such facilities shall continue to be eligible for an enhanced rate of return on common equity during the construction phase of the facility and the approved first portion of its service life of between 12 and 25 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1, 2013, the enhanced return for such facilities constructed pursuant to clause (ii) shall be 100 basis points, which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred

after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new nuclear generation facility or facilities are in the public interest.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from wind with an aggregate capacity of 5,000 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 50 megawatts, together with a new test or demonstration project for a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 16 megawatts, are in the public interest. To the extent that a utility elects to recover the costs of any such new generation facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on

common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2

for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that:

a. The utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds

appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed \$50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period

commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

**2. That the Virginia Economic Development Partnership shall conduct a pilot program within the certificated service territory of each investor-owned electric utility other than a utility described in subsection G of § 56-580 of the Code of Virginia (Pilot Utility) for the purpose of promoting economic development in areas of the Commonwealth**

designated as an opportunity zone listed by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service. The pilot program shall allow any Pilot Utility to complete the construction phase of a transmission line and associated substation to provide the electric infrastructure to a business park, as defined in § 56-576 of the Code of Virginia, as amended by this act, located in an opportunity zone within the Pilot Utility's certificated service territory where investments by an industrial development authority, or a similar political subdivision of the Commonwealth created pursuant to § 15.2-4903 of the Code of Virginia or other act of the General Assembly, in the siting, environmental review, pre-engineering design, and transmission right-of-way acquisition have been made prior to the public announcement of a prospective occupant of the business park. Each pilot program shall be subject to the following terms, conditions, and restrictions:

a. As used in this enactment, "opportunity zone" means areas of the Commonwealth designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service.

b. The costs incurred by the Pilot Utility after January 1, 2019, to construct, operate, and maintain transmission lines and associated substations installed in order to provide service to a business park participating in the pilot program shall be recovered by the Pilot Utility pursuant to a rate adjustment clause approved by the Commission in subdivision A 4 of § 56-585.1 of the Code of Virginia, as amended by this act.

c. Qualifying projects shall have revenue sharing agreements between two or more localities.

d. Each individual qualifying project shall be less than seven miles in length.

e. The role of the Virginia Economic Development Partnership in conducting the pilot program is to certify that up to three petitions within the certificated service territory of each Pilot Utility addresses the eligibility criteria for participation in the pilot program set forth in § 56-576 of the Code of Virginia and in this enactment.

3. That a utility consumer services cooperative organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 of the Code of Virginia may, but shall not be required to, conduct a pilot program on the same basis as an investor-owned utility that is a Pilot Utility pursuant to the second enactment of this act by filing an appropriate application or petition before the Commission. Should such a petition or application be filed by a cooperative, the cooperative may recover its costs pursuant to a rate adjustment clause approved by the Commission in subdivision A 4 of § 56-585.1 of the Code of Virginia, as amended by this act. For purposes of this act only, a cooperative shall be subject to the provisions of subdivision A 4 of § 56-585.1 of the Code of Virginia, as amended by this act, insofar as they relate to infrastructure for business parks.

4. That the provisions of this act shall expire on December 31, 2023. The expiration of this act shall not affect the cost recovery of constructing a transmission facility that is commenced prior to such date as part of a pilot program conducted pursuant to the second or third enactment of this act.

## CHAPTER 536

*An Act to amend and reenact §§ 3.2-6569, 3.2-6570, and 18.2-403.2 of the Code of Virginia, relating to cruelty to animals; aggravated cruelty; penalty.*

[H 1874]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-6569, 3.2-6570, and 18.2-403.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 3.2-6569. Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.**

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. The seizure or impoundment of an equine resulting from a violation of clause ~~(iii)~~ (iv) of subsection A or clause (ii) of subsection B of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal, the humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or

3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than ~~thirty~~ 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § 3.2-6571, then the court shall order that the animal may be: (a) sold by a local governing body, if not a companion animal; (b) disposed of by a local governing body pursuant to subsection D of § 3.2-6546, whether such animal is a companion animal or an agricultural animal; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

H. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.

M. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

**§ 3.2-6570. Cruelty to animals; penalty.**

A. Any person who: (i) overrides, overdrives, overloads, ~~tortures~~, ill-treats, or abandons any animal, whether belonging to himself or another; (ii) tortures any animal, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation on any animal, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; ~~(iii)~~ (iii) deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment; ~~(iii)~~ (iv) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; ~~(iv)~~ (v) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; ~~(v)~~ (vi) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; ~~(vi)~~ (vii) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or ~~(vii)~~ (viii) causes any of the above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (iv) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (v) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (vi) causes any of the actions described in clauses (i) through (v), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes *serious bodily injury to such dog or cat that is a companion animal*, the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal; is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540, 3.2-6540.1, or 3.2-6552.

*For the purposes of this subsection, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.*

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

**§ 18.2-403.2. Offenses involving animals — Class 3 misdemeanors.**

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 3 misdemeanor:

1. Violation of § 3.2-6511 pertaining to the failure of a shopkeeper or pet dealer to provide adequate care to animals.
2. Violation of § 3.2-6509 pertaining to the misrepresentation of an animal's condition by the shopkeeper or pet dealer.
3. Violation of § 3.2-6510 pertaining to the sale of baby fowl.
4. Violation of clause ~~(iii)~~ (iv) of subsection A of § 3.2-6570 pertaining to soring horses.
5. Violation of § 3.2-6519 pertaining to notice of consumer remedies required to be supplied by boarding establishments.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

### CHAPTER 537

*An Act to amend and reenact §§ 3.2-6569, 3.2-6570, and 18.2-403.2 of the Code of Virginia, relating to cruelty to animals; aggravated cruelty; penalty.*

[S 1604]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-6569, 3.2-6570, and 18.2-403.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 3.2-6569. Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.**

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. The seizure or impoundment of an equine resulting from a violation of clause ~~(iii)~~ (iv) of subsection A or clause (ii) of subsection B of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal, the humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein

such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than ~~thirty~~ 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § 3.2-6571, then the court shall order that the animal may be: (a) sold by a local governing body, if not a companion animal; (b) disposed of by a local governing body pursuant to subsection D of § 3.2-6546, whether such animal is a companion animal or an agricultural animal; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

H. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.

M. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

### § 3.2-6570. Cruelty to animals; penalty.

A. Any person who: (i) overrides, overdrives, overloads, ~~tortures~~, ill-treats, or abandons any animal, whether belonging to himself or another; (ii) ~~tortures~~ any animal, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation on any animal, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; ~~(iii)~~ (iii) deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment; ~~(iv)~~ (iv) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; ~~(v)~~ (v) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; ~~(vi)~~ (vi) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; ~~(vii)~~ (vii) carries or causes to be carried by any

vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or ~~(vii)~~ (viii) causes any of the above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (iv) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (v) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (vi) causes any of the actions described in clauses (i) through (v), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes *serious bodily injury to such dog or cat that is a companion animal*, the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal; is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540, 3.2-6540.1, or 3.2-6552.

*For the purposes of this subsection, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.*

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

#### **§ 18.2-403.2. Offenses involving animals — Class 3 misdemeanors.**

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 3 misdemeanor:

1. Violation of § 3.2-6511 pertaining to the failure of a shopkeeper or pet dealer to provide adequate care to animals.
2. Violation of § 3.2-6509 pertaining to the misrepresentation of an animal's condition by the shopkeeper or pet dealer.
3. Violation of § 3.2-6510 pertaining to the sale of baby fowl.
4. Violation of clause ~~(iii)~~ (iv) of subsection A of § 3.2-6570 pertaining to soring horses.
5. Violation of § 3.2-6519 pertaining to notice of consumer remedies required to be supplied by boarding establishments.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 538

*An Act to amend and reenact §§ 45.1-181 and 45.1-184.2 of the Code of Virginia, relating to permit fees; mineral mining.*

[H 1932]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 45.1-181 and 45.1-184.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 45.1-181. Permit required; fee; renewal fee; application; furnishing copy of map, etc., to landowner; approval by Department.**

It is unlawful for any operator to engage in any mining operation in Virginia; without having first obtained from the Department a permit to engage in such operation and paying a fee therefor of ~~\$34~~ \$50 per acre for every acre of land to be affected by the total operation for which plans have been submitted, which shall be deposited in the state treasury in a special fund to be used by the Director for the administration of this chapter. A permit shall be obtained prior to the start of any mining operation. If within 10 days of the anniversary date of the permit, the Director, after inspection, is satisfied that the operation is proceeding according to the plan submitted to and approved by him, then the Director shall renew the permit upon payment of a renewal fee by the operator of ~~\$16 per acre~~ for land to be affected by the total operation in the next ensuing year: *according to the following schedule:*

<i>Anniversary Date:</i>	<i>Renewal Fee:</i>
<i>Beginning July 1, 2019</i>	<i>\$18 per disturbed acre</i>
<i>Beginning July 1, 2020</i>	<i>\$20 per disturbed acre</i>
<i>Beginning July 1, 2021</i>	<i>\$22 per disturbed acre</i>
<i>Beginning July 1, 2022</i>	<i>\$24 per disturbed acre</i>

The renewal fees shall be deposited in the state treasury in the special fund set out above. If the operator believes changes in his original plan are necessary or if additional land not shown as a part of the approved plan of operation is to be disturbed, he shall submit an amended plan of operation which shall be approved by the Director in the same manner as an original plan and shall be subject to the provisions of this section and §§ 45.1-182.1 and 45.1-183. A separate permit shall be secured for each mining operation conducted. Application for a mining permit shall be made in writing on forms prescribed by the Director and shall be signed and sworn to by the applicant or his duly authorized representative. The application, in addition to such other information as may be reasonably required by the Director, shall contain the following information: (i) the common name and geologic title, where applicable, of the mineral to be extracted; (ii) a description of the land upon which the applicant proposes to conduct mining operations, which description shall set forth: the name of the county or city in which such land is located; the location of its boundaries and any other description of the land to be disturbed in order that it may be located and distinguished from other lands and easily ascertainable as shown by a map attached thereto showing the amount of land to be disturbed; (iii) the name and address of the owner or owners of the surface of the land; (iv) the name and address of the owner or owners of the mineral, ore or other solid matter; (v) the source of the operator's legal right to enter and conduct operations on the land to be covered by the permit; (vi) the total number of acres of land to be covered by the permit; (vii) a reasonable estimate of the number of acres of land that will be disturbed by mining operations on the area to be covered by the permit during the ensuing year; (viii) whether any mining permits of any type are now held by the applicant and the number thereof; (ix) the name and address of the applicant, if an individual; the names and addresses of all partners, if a partnership; the state of incorporation and the name and address of its registered agent, if a corporation; or the name and address of the trustee, if a trust; and (x) if known, whether the applicant, or any subsidiary or affiliate or any partnership, association, trust or corporation controlled by or under common control with applicant, or any person required to be identified by clause (ix), has ever had a mining permit of any type issued under the laws of this or any other state revoked or has ever had a mining or other bond, or security deposited in lieu of bond, forfeited. Clause (iv) shall not apply to the shell, container chamber, passage, or open space set forth in § 55-154.2.

The application for a permit shall be accompanied by two copies of an accurate map or aerial photograph or plan and meeting the following requirements:

1. Be prepared by a licensed engineer or licensed land surveyor or issued by a standard mapping service or in such a manner as to be acceptable to the Director;
2. Identify the area to correspond with the land described in the application;
3. Show adjacent deep mining, if any, and the boundaries of surface properties, with the names of owners of the affected area which lie within 100 feet of any part of the affected area;
4. Be drawn to a scale of 400 feet to the inch or better;
5. Show the names and location of all streams, creeks or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area affected and within 500 feet of such area;
6. Show by appropriate markings the boundaries of the area of land affected, the outcrop of the seam at the surface or deposit to be mined, and the total number of acres involved in the area of land affected;

7. Show the date on which the map was prepared, the north arrow and the quadrangle name; and

8. Show the drainage plan on and away from the area of land affected, including the directional flow of water, constructed drainways, natural waterways used for drainage and the streams or tributaries receiving the discharge.

Upon receipt of a written request by any landowner on whose property a sand and gravel operation is permitted pursuant to this section, the operator of the sand and gravel operation shall provide a copy of the map, photograph or plan to the landowner.

No permit shall be issued by the Department until the Director has approved the plan of operation required in this section and § 45.1-182.1 and the bond from the applicant as required in § 45.1-183.

**§ 45.1-184.2. Succession of one operator by another at uncompleted project.**

Where one operator succeeds another at any uncompleted operation, whether by sale, assignment, lease, merger, or otherwise, the Director may release the first operator from all liability under this chapter as to that particular operation and transfer the permit to the successor operator; provided, however, that the successor operator has complied with the requirements of this chapter, and the successor operator assumes as part of his obligation under this chapter, all liability for the reclamation of the area of land affected by the first operator. No fee, or any portion thereof, paid by the first operator shall be returned to either operator. The permit fee for the successor operator for the area of land permitted by the first operator shall be ~~\$16 per acre~~ calculated according to the following schedule, except as provided by § 45.1-180.4.:

<i>Date of Succession:</i>	<i>Permit Fee:</i>
<i>Beginning July 1, 2019</i>	<i>\$18 per disturbed acre</i>
<i>Beginning July 1, 2020</i>	<i>\$20 per disturbed acre</i>
<i>Beginning July 1, 2021</i>	<i>\$22 per disturbed acre</i>
<i>Beginning July 1, 2022</i>	<i>\$24 per disturbed acre</i>

The mining permit for the successor operator shall be valid for one year from the date of issuance and shall be renewed thereafter in accordance with the provisions of this chapter.

## CHAPTER 539

*An Act to amend and reenact § 10.1-1020 of the Code of Virginia, relating to Virginia Land Conservation Foundation; list of proposed projects.*

[H 2009]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-1020 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-1020. Virginia Land Conservation Fund; purposes of Foundation.**

A. The Foundation shall establish, administer, manage, including the creation of reserves, and make expenditures and allocations from a special, nonreverting fund in the state treasury to be known as the Virginia Land Conservation Fund, hereinafter referred to as the Fund. The Foundation shall establish and administer the Fund solely for the purposes of:

1. Acquiring fee simple title or other rights, including the purchase of development rights, to interests or privileges in property for the protection or preservation of ecological, cultural or historical resources, lands for recreational purposes, state forest lands, and lands for threatened or endangered species, fish and wildlife habitat, natural areas, agricultural and forestal lands and open space; and

2. Providing grants to state agencies, including the Virginia Outdoors Foundation, and matching grants to other public bodies and holders for acquiring fee simple title or other rights, including the purchase of development rights, to interests or privileges in real property for the protection or preservation of ecological, cultural or historical resources, lands for recreational purposes, and lands for threatened or endangered species, fish and wildlife habitat, natural areas, agricultural and forestal lands and open space. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of each grant and the required match. The criteria shall include provisions for grants to localities for purchase of development rights programs.

Interests in land acquired as provided in subdivision 1 of this subsection may be held by the Foundation or transferred to state agencies or other appropriate holders. Whenever a holder acquires any interest in land other than a fee simple interest as a result of a grant or transfer from the Foundation, such interest shall be held jointly by the holder and a public body. Whenever a holder acquires a fee simple interest in land as a result of a grant or transfer from the Foundation, a public body shall hold an open space easement in such land.

B. The Fund shall consist of general fund moneys and gifts, endowments or grants from the United States government, its agencies and instrumentalities, and funds from any other available sources, public or private. Such moneys, gifts, endowments, grants or funds from other sources may be either restricted or unrestricted. For the purposes of this chapter, "restricted funds" shall mean those funds received by the Board to which specific conditions apply; "restricted funds" shall include, but not be limited to, general obligation bond moneys and conditional gifts. "Unrestricted funds" shall mean those

received by the Foundation to which no specific conditions apply; "unrestricted funds" shall include, but not be limited to, moneys appropriated to the Fund by the General Assembly to which no specific conditions are attached and unconditional gifts.

*Beginning July 1, 2019, the Foundation shall conduct a grant round each year to identify and rank projects for the subsequent fiscal year. Biennially in the odd-numbered years, the Foundation shall assume an amount of funding of the grant program as provided in the general appropriation act. Biennially in the even-numbered years, the Foundation shall assume the most recent amount of funding of the grant program as specified in the most recently enacted general appropriation act. On or before December 15 of each year, the chairman of the Board of Trustees shall provide copies of such project rankings to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. At the beginning of each fiscal year, the Foundation shall finalize grant awards based on the funded level appropriated for that year, as provided in subsections C and D. Any ranked project that does not receive a proposed grant as a result of an insufficiency in appropriated funds shall be eligible to participate in a subsequent grant round.*

C. In any fiscal year ~~in~~ for which the Fund ~~contains~~ is appropriated less than \$10 million ~~in new deposits on September 1~~, and after an allocation for administrative expenses has been made as provided in subsection G, the remaining unrestricted funds in the Fund shall be allocated as follows:

1. Twenty-five percent shall be transferred to the Virginia Outdoors Foundation's Open-Space Lands Preservation Trust Fund to be used as provided in § 10.1-1801.1; and

2. Seventy-five percent shall be divided equally among the following four grant uses: (i) natural area protection; (ii) open spaces and parks, including but not limited to, land for public hunting, fishing or wildlife watching; (iii) farmlands and forest preservation; and (iv) historic area preservation. Of the amount allocated as provided in this subdivision, at least one third shall be used to secure easements to be held or co-held by a public body.

D. In any fiscal year ~~in~~ for which the Fund ~~contains~~ is appropriated \$10 million or more ~~in new deposits on September 1~~, and after an allocation for administrative expenses has been made as provided in subsection G, the remaining unrestricted funds in the Fund shall be allocated as follows:

1. Twenty-five percent shall be transferred to the Virginia Outdoors Foundation's Open-Space Lands Preservation Trust Fund to be used as provided in § 10.1-1801.1; and

2. The remaining funds shall be divided equally among the following five grant uses: (i) natural area protection; (ii) open spaces and parks, including but not limited to, land for public hunting, fishing, or wildlife watching; (iii) farmland preservation; (iv) forestland conservation; and (v) historic area preservation.

E. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall not revert to the general fund. Interest earned on moneys received by the Fund other than bond proceeds shall remain in the Fund and be credited to it. Any funds transferred to the Open-Space Lands Preservation Trust Fund pursuant to this section and not disbursed or committed to a project by the end of the fiscal year in which the funds were transferred shall be returned to the Virginia Land Conservation Fund and shall be redistributed among the authorized grant uses during the next grant cycle.

F. A portion of the Fund, not to exceed twenty percent of the annual balance of unrestricted funds, may be used to develop properties purchased in fee simple, or through the purchase of development rights, with the assets of the Fund for public use including, but not limited to, development of trails, parking areas, infrastructure, and interpretive projects or to conduct environmental assessments or other preliminary evaluations of properties prior to the acquisition of any property interest.

G. Up to \$250,000 per year of the interest generated by the Fund may be used for the Foundation's administrative expenses, including, but not limited to, the expenses of the Board and its members, development of the Foundation's strategic plan, development and maintenance of an inventory of properties as provided in subdivision 1 b of § 10.1-1021, development of a needs assessment for future expenditures as provided in subdivision 1 c of § 10.1-1021, and fulfillment of reporting requirements. All such expenditures shall be subject to approval by the Board of Trustees.

H. The Comptroller shall maintain the restricted funds and the unrestricted funds in separate accounts.

I. For the purposes of this section, "public body" shall have the meaning ascribed to it in § 10.1-1700, and "holder" shall have the meaning ascribed to it in § 10.1-1009.

## CHAPTER 540

*An Act to authorize the issuance of special license plates for supporters of Virginia's Move Over law bearing the legend MOVE OVER; fees.*

[H 2011]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

1. § 1. *Special license plates for supporters of Virginia's Move Over law bearing the legend MOVE OVER; fees.*

A. *On receipt of an application and payment of the fee prescribed by this section, and following the provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue to the applicant special license plates for supporters of Virginia's Move Over law bearing the legend MOVE OVER.*

*B. The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Lt. Bradford T. Clark Memorial Fund established within the Department of Accounts. These funds shall be paid annually to the Fredericks Family Fund Foundation and used to support its operation and programs in Virginia. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.*

## CHAPTER 541

*An Act to amend and reenact § 58.1-3970.1 of the Code of Virginia, relating to real estate with delinquent taxes or liens; appointment of special commissioner; increase required value.*

[H 2060]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3970.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3970.1. Appointment of special commissioner to execute title to certain real estate with delinquent taxes or liens to localities.**

A. Except as provided in subsection B, in any proceedings under this article for the sale of a parcel or parcels of real estate which meet all of the following: (i) each parcel has delinquent real estate taxes or the locality has a lien against the parcel for removal, repair or securing of a building or structure; removal of trash, garbage, refuse, litter; or the cutting of grass, weeds or other foreign growth, (ii) each parcel has an assessed value of ~~\$50,000~~ \$75,000 or less, and (iii) such taxes and liens, together, including penalty and accumulated interest, exceed 50 percent of the assessed value of the parcel or such taxes alone exceed 25 percent of the assessed value of the parcel, the locality may petition the circuit court to appoint a special commissioner to execute the necessary deed or deeds to convey the real estate to the locality in lieu of the sale at public auction. After notice as required by this article, service of process, and upon answer filed by the owner or other parties in interest to the bill in equity, the court shall allow the parties to present evidence and arguments, ore tenus, prior to the appointment of the special commissioner. Any surplusage accruing to a locality as a result of the sale of the parcel or parcels after the receipt of the deed shall be payable to the beneficiaries of any liens against the property and to the former owner, his heirs or assigns in accordance with § 58.1-3967. No deficiency shall be charged against the owner after conveyance to the locality.

B. For a parcel or parcels of real estate in the Cities of Norfolk, Richmond, Hopewell, Newport News, Petersburg, Fredericksburg, and Hampton, all of the provisions of subsection A shall apply except (i) that the percentage of taxes and liens, together, including penalty and accumulated interest, and the percentage of taxes alone set forth in clause (iii) of subsection A shall exceed 35 percent and 15 percent, respectively, of the assessed value of the parcel or parcels or (ii) that the percentage of taxes and liens, together, including penalty and accumulated interest, and the percentage of taxes alone set forth in clause (iii) of subsection A shall exceed 20 percent and 10 percent, respectively, of the assessed value of the parcel or parcels, and each parcel has an assessed value of ~~\$100,000~~ \$150,000 or less, provided that under this clause the property is not an occupied dwelling, and the locality enters into an agreement for sale of the parcel to a nonprofit organization to renovate or construct a single-family dwelling on the parcel for sale to a person or persons to reside in the dwelling whose income is below the area median income.

## CHAPTER 542

*An Act to amend and reenact § 33.2-110 of the Code of Virginia, relating to certain private roads or rights-of-way; gates and fences.*

[H 2212]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-110 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-110. Gates across private roads; leaving gates open; gates across private roads leading to forestlands; penalties.**

A. Any person owning land over which another or others have a private road or right-of-way may, except when it is otherwise provided by contract, erect and maintain gates across such roads or right-of-way at all points at which fences extend to such roads on each side thereof; ~~provided that a~~ A court of competent jurisdiction may, upon petition, ~~where it is alleged and proved by petitioner that the gates have been willfully and maliciously erected,~~ require the landowner to make such changes as may be necessary and reasonable in the use of such roads for both the landowner and the petitioner. *Nothing herein shall prohibit the replacement of a gate with a cattle guard as authorized in § 55-305.*

B. If any person without permission of the owners of such gate or of the land on which the gate is located leaves the gate open, he is guilty of a Class 1 misdemeanor.

C. The owners of forest and timberlands may substantially obstruct or close private and seldom used roads leading to or into such forest or timberlands from the public highways of the Commonwealth at points at or near which the private roads enter their property or forestlands; and, in all cases where any such private road is subject to an easement for travel for the benefit of other lands not regularly and continuously inhabited, the owner of such forest or timberlands may obstruct the road with a gate, chain, cable, or other removable obstruction, lock the obstruction, and after furnishing a key to the lock to the owner or owners of the land or lands to which the forestlands are servient, require those entitled to the easement to unlock and relock such obstruction upon making use of the road.

There shall be no penalty upon the owner of such forest or timberlands for failure to erect such obstructions, but if such obstruction is erected, any person without the permission of the owner who destroys, removes, or leaves the obstruction open or unlocked, in cases where the obstruction is locked by the owner and the keys are furnished as provided in this subsection, is guilty of a misdemeanor punishable by a fine of not less than \$25 nor more than \$500, provided that in all cases of forest fires upon the owner's lands or those adjacent or near thereto, the expressed permission of the owner shall be deemed given to all persons aiding in extinguishing or preventing the spreading of the fire to remove the obstructions, including the breaking of locks.

## CHAPTER 543

*An Act to amend and reenact §§ 46.2-208 and 46.2-844 of the Code of Virginia, relating to Department of Motor Vehicles records; certain private vendors; penalty.*

[H 2344]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-208 and 46.2-844 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-208. Records of Department; when open for inspection; release of privileged information.**

A. All records in the office of the Department containing the specific classes of information outlined below shall be considered privileged records:

1. Personal information, including all data defined as "personal information" in § 2.2-3801;
2. Driver information, including all data that relates to driver's license status and driver activity; and
3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical data included in personal data shall be released only to a physician, physician assistant, or nurse practitioner as provided in § 46.2-322.

2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.

3. Notwithstanding other provisions of this section, information disclosed or furnished shall be assessed a fee as specified in § 46.2-214.

4. When the person requesting the information is (i) the subject of the information, (ii) the parent or guardian of the subject of the information, (iii) the authorized representative of the subject of the information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent or guardian of the subject of the information, (c) the authorized representative of the subject of the information, or (d) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver and vehicle information in the form of an abstract of the record.

5. On the written request of any insurance carrier, surety, or representative of an insurance carrier or surety, the Commissioner shall furnish such insurance carrier, surety, or representative an abstract of the record of any person subject to the provisions of this title. The abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report of which is required by § 46.2-372. No such report of any conviction or accident shall be made after 60 months from the date of the conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. This abstract shall not be admissible in evidence in any court proceedings.

6. On the written request of any business organization or its agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the business organization or agent with that contained in the Department's records and, when the information supplied by the business organization or agent is different from that contained in the Department's records, provide the business organization or agent with correct information as contained in the Department's

records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. The Commissioner shall provide vehicle information to any business organization or agent on such business' or agent's written request. Disclosures made under this subdivision shall not include any personal information and shall not be subject to the limitations contained in subdivision 6.

8. On the written request of any motor vehicle rental or leasing company or its designated agent, the Commissioner shall (i) compare personal information supplied by the company or agent with that contained in the Department's records and, when the information supplied by the company or agent is different from that contained in the Department's records, provide the company or agent with correct information as contained in the Department's records and (ii) provide the company or agent with driver information in the form of an abstract of any person subject to the provisions of this title. Such abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract shall include any record of any conviction or accident more than 60 months after the date of such conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall cease to be included in such abstract after 60 months from the date on which the driver's license or driving privilege was reinstated. No abstract released under this subdivision shall be admissible in evidence in any court proceedings.

9. On the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, the Commissioner shall (i) compare personal information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the Department's records and, when the information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, is different from that contained in the Department's records, provide the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with correct information as contained in the Department's records and (ii) provide driver and vehicle information in the form of an abstract of the record showing all convictions, accidents, and driver's license suspensions or revocations; ~~and~~ *The Commissioner may also release* other appropriate information as the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, may require in order to carry out its official functions. The abstract shall be provided free of charge.

10. On request of the driver licensing authority in any other state or foreign country, the Commissioner shall provide whatever classes of information the requesting authority shall require in order to carry out its official functions. The information shall be provided free of charge.

11. On the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide the employer, prospective employer, or agent with driver information in the form of an abstract of an individual's record showing all convictions, accidents, driver's license suspensions or revocations, and any type of driver's license that the individual currently possesses, provided that the individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

12. On the written request of any member of or applicant for membership in a volunteer fire company or any volunteer emergency medical services personnel or applicant to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the volunteer fire company or volunteer emergency medical services agency with that contained in the Department's records and, when the information supplied by the volunteer fire company or volunteer emergency medical services agency is different from that contained in the Department's records, provide the volunteer fire company or volunteer emergency medical services agency with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the member's, personnel, or applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency to serve as a member of a volunteer emergency medical services agency and the abstract is needed by a volunteer fire company or volunteer emergency medical services agency to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the Department's records and, when the information supplied by a

Virginia affiliate of Big Brothers/Big Sisters of America is different from that contained in the Department's records, provide the Virginia affiliate of Big Brothers/Big Sisters of America with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15. Upon the request of any employer, prospective employer, or authorized representative of either, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the driving record of any individual who has been issued a commercial driver's license, provided that the individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle. Such abstract shall show all convictions, accidents, license suspensions, revocations, or disqualifications, and any type of driver's license that the individual currently possesses.

16. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

17. Upon the request of an attorney representing a person in a motor vehicle accident, the Commissioner shall provide vehicle information, including the owner's name and address, to the attorney.

18. Upon the request, in the course of business, of any authorized representative of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle information, including the owner's name and address, descriptive data and title, registration, and vehicle activity data as requested or (ii) all driver information including name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth of Virginia meeting the request criteria designated by such person, with such request criteria consisting of driver's license number or address information. No such information shall be used for solicitation of sales, marketing, or other commercial purposes.

19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.2-802 the Commissioner shall provide vehicle information, including the owner's name and address.

20. Upon written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility or traffic light photo-monitoring system acting on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Compeer with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Compeer is different from that contained in the Department's records, provide the Virginia affiliate of Compeer with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of Compeer.

23. Upon the request of the Department of Environmental Quality for the purpose of obtaining vehicle owner data in connection with enforcement actions involving on-road testing of motor vehicles, pursuant to § 46.2-1178.1.

24. On the written request of any person who has applied to be a volunteer vehicle operator with a Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information supplied by a Virginia chapter of the American Red Cross with that contained in the Department's records and, when the information supplied by a Virginia

chapter of the American Red Cross is different from that contained in the Department's records, provide the Virginia chapter of the American Red Cross with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the American Red Cross.

25. On the written request of any person who has applied to be a volunteer vehicle operator with a Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the Civil Air Patrol.

26. On the written request of any person who has applied to be a volunteer vehicle operator with Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action with that contained in the Department's records and, when the information supplied by Faith in Action is different from that contained in the Department's records, provide Faith in Action with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with Faith in Action.

27. On the written request of the surviving spouse or child of a deceased person or the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requestor with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. On the written request of any person who has applied to be a volunteer with a Virginia Council of the Girl Scouts of the USA, the Commissioner shall (i) compare personal information supplied by a Virginia Council of the Girl Scouts of the USA with that contained in the Department's records and, when the information supplied by a Virginia Council of the Girl Scouts of the USA is different from that contained in the Department's records, provide a Virginia Council of the Girl Scouts of the USA with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with the Virginia Council of the Girl Scouts of the USA.

29. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or other organization approved by the Commissioner.

*30. Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.*

C. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving privilege of any individual, he may notify the National Driver Register Service operated by the United States Department of Transportation and any similar national driver information system and provide whatever classes of information the authority may require.

D. Accident reports may be inspected under the provisions of §§ 46.2-379 and 46.2-380.

E. Whenever the Commissioner takes any licensing action pursuant to the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), he may provide information to the Commercial Driver License Information System, or any similar national commercial driver information system, regarding such action.

F. In addition to the foregoing provisions of this section, vehicle information may also be inspected under the provisions of §§ 46.2-633, 46.2-644.02, 46.2-644.03, and §§ 46.2-1200.1 through 46.2-1237.

G. The Department may promulgate regulations to govern the means by which personal, vehicle, and driver information is requested and disseminated.

H. Driving records of any person accused of an offense involving the operation of a motor vehicle shall be provided by the Commissioner upon request to any person acting as counsel for the accused. If such counsel is from the public defender's office or has been appointed by the court, such records shall be provided free of charge.

I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2, subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by every general district court or

circuit court or the clerk thereof, pursuant to § 46.2-383. Such records shall be electronically available to any law-enforcement officer as provided for under clause (ii) of subdivision B 9.

J. Whenever the Commissioner issues a certificate of title for a motor vehicle, he may notify the National Motor Vehicle Title Information System, or any other nationally recognized system providing similar information, or any entity contracted to collect information for such system, and may provide whatever classes of information are required by such system.

**§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence; penalty.**

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road, or school driveway *and the bus is put in motion* is subject to a civil penalty of \$250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. 1. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

2. *Any private vendor contracting with a school division pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.*

3. For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

## CHAPTER 544

*An Act to amend and reenact §§ 46.2-208 and 46.2-844 of the Code of Virginia, relating to Department of Motor Vehicles records; certain private vendors; penalty.*

[S 1520]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 46.2-208 and 46.2-844 of the Code of Virginia are amended and reenacted as follows:****§ 46.2-208. Records of Department; when open for inspection; release of privileged information.**

A. All records in the office of the Department containing the specific classes of information outlined below shall be considered privileged records:

1. Personal information, including all data defined as "personal information" in § 2.2-3801;
2. Driver information, including all data that relates to driver's license status and driver activity; and
3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical data included in personal data shall be released only to a physician, physician assistant, or nurse practitioner as provided in § 46.2-322.

2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.

3. Notwithstanding other provisions of this section, information disclosed or furnished shall be assessed a fee as specified in § 46.2-214.

4. When the person requesting the information is (i) the subject of the information, (ii) the parent or guardian of the subject of the information, (iii) the authorized representative of the subject of the information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent or guardian of the subject of the information, (c) the authorized representative of the subject of the information, or (d) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver and vehicle information in the form of an abstract of the record.

5. On the written request of any insurance carrier, surety, or representative of an insurance carrier or surety, the Commissioner shall furnish such insurance carrier, surety, or representative an abstract of the record of any person subject to the provisions of this title. The abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report of which is required by § 46.2-372. No such report of any conviction or accident shall be made after 60 months from the date of the conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. This abstract shall not be admissible in evidence in any court proceedings.

6. On the written request of any business organization or its agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the business organization or agent with that contained in the Department's records and, when the information supplied by the business organization or agent is different from that contained in the Department's records, provide the business organization or agent with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. The Commissioner shall provide vehicle information to any business organization or agent on such business' or agent's written request. Disclosures made under this subdivision shall not include any personal information and shall not be subject to the limitations contained in subdivision 6.

8. On the written request of any motor vehicle rental or leasing company or its designated agent, the Commissioner shall (i) compare personal information supplied by the company or agent with that contained in the Department's records and, when the information supplied by the company or agent is different from that contained in the Department's records, provide the company or agent with correct information as contained in the Department's records and (ii) provide the company or agent with driver information in the form of an abstract of any person subject to the provisions of this title. Such abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract shall include any record of any conviction or accident more than 60 months after the date of such conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall cease to be included in such abstract after 60 months from the date on which the driver's license or driving privilege was reinstated. No abstract released under this subdivision shall be admissible in evidence in any court proceedings.

9. On the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, the Commissioner shall (i) compare personal information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the Department's records and, when the information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, is different from that contained in the Department's records, provide the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with correct information as contained in the Department's records and (ii) provide driver and vehicle information in the form of an abstract of the record showing all convictions, accidents, and driver's license suspensions or revocations; ~~and~~ *The Commissioner may also release* other appropriate information as the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, may require in order to carry out its official functions. The abstract shall be provided free of charge.

10. On request of the driver licensing authority in any other state or foreign country, the Commissioner shall provide whatever classes of information the requesting authority shall require in order to carry out its official functions. The information shall be provided free of charge.

11. On the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide the employer, prospective employer, or agent with driver information in the form of an abstract of an individual's record showing all convictions, accidents, driver's license suspensions or revocations, and any type of driver's license that the individual currently possesses, provided that the individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

12. On the written request of any member of or applicant for membership in a volunteer fire company or any volunteer emergency medical services personnel or applicant to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the volunteer fire company or volunteer emergency medical services agency with that contained in the Department's records and, when the information supplied by the volunteer fire company or volunteer emergency medical services agency is different from that contained in the Department's records, provide the volunteer fire company or volunteer emergency medical services agency with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the member's, personnel, or applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire company or a volunteer emergency medical services agency to serve as a member of a volunteer emergency medical services agency and the abstract is needed by a volunteer fire company or volunteer emergency medical services agency to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America is different from that contained in the Department's records, provide the Virginia affiliate of Big Brothers/Big Sisters of America with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15. Upon the request of any employer, prospective employer, or authorized representative of either, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the driving record of any individual who has been issued a commercial driver's license, provided that the individual's position or the position

that the individual is being considered for involves the operation of a commercial motor vehicle. Such abstract shall show all convictions, accidents, license suspensions, revocations, or disqualifications, and any type of driver's license that the individual currently possesses.

16. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

17. Upon the request of an attorney representing a person in a motor vehicle accident, the Commissioner shall provide vehicle information, including the owner's name and address, to the attorney.

18. Upon the request, in the course of business, of any authorized representative of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle information, including the owner's name and address, descriptive data and title, registration, and vehicle activity data as requested or (ii) all driver information including name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth of Virginia meeting the request criteria designated by such person, with such request criteria consisting of driver's license number or address information. No such information shall be used for solicitation of sales, marketing, or other commercial purposes.

19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.2-802 the Commissioner shall provide vehicle information, including the owner's name and address.

20. Upon written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility or traffic light photo-monitoring system acting on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Compeer with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Compeer is different from that contained in the Department's records, provide the Virginia affiliate of Compeer with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of Compeer.

23. Upon the request of the Department of Environmental Quality for the purpose of obtaining vehicle owner data in connection with enforcement actions involving on-road testing of motor vehicles, pursuant to § 46.2-1178.1.

24. On the written request of any person who has applied to be a volunteer vehicle operator with a Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information supplied by a Virginia chapter of the American Red Cross with that contained in the Department's records and, when the information supplied by a Virginia chapter of the American Red Cross is different from that contained in the Department's records, provide the Virginia chapter of the American Red Cross with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the American Red Cross.

25. On the written request of any person who has applied to be a volunteer vehicle operator with a Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the Civil Air Patrol.

26. On the written request of any person who has applied to be a volunteer vehicle operator with Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action with that contained in the Department's records and, when the information supplied by Faith in Action is different from that contained in the Department's records,

provide Faith in Action with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with Faith in Action.

27. On the written request of the surviving spouse or child of a deceased person or the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requestor with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. On the written request of any person who has applied to be a volunteer with a Virginia Council of the Girl Scouts of the USA, the Commissioner shall (i) compare personal information supplied by a Virginia Council of the Girl Scouts of the USA with that contained in the Department's records and, when the information supplied by a Virginia Council of the Girl Scouts of the USA is different from that contained in the Department's records, provide a Virginia Council of the Girl Scouts of the USA with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with the Virginia Council of the Girl Scouts of the USA.

29. Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or other organization approved by the Commissioner.

30. *Upon the request of the operator of a video-monitoring system as defined in § 46.2-844 acting on behalf of a government entity, the Commissioner shall provide vehicle owner data pursuant to subsection B of § 46.2-844. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having passed a stopped school bus and the vehicle information, including all descriptive vehicle data and title and registration data for such vehicle.*

C. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving privilege of any individual, he may notify the National Driver Register Service operated by the United States Department of Transportation and any similar national driver information system and provide whatever classes of information the authority may require.

D. Accident reports may be inspected under the provisions of §§ 46.2-379 and 46.2-380.

E. Whenever the Commissioner takes any licensing action pursuant to the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), he may provide information to the Commercial Driver License Information System, or any similar national commercial driver information system, regarding such action.

F. In addition to the foregoing provisions of this section, vehicle information may also be inspected under the provisions of §§ 46.2-633, 46.2-644.02, 46.2-644.03, and §§ 46.2-1200.1 through 46.2-1237.

G. The Department may promulgate regulations to govern the means by which personal, vehicle, and driver information is requested and disseminated.

H. Driving records of any person accused of an offense involving the operation of a motor vehicle shall be provided by the Commissioner upon request to any person acting as counsel for the accused. If such counsel is from the public defender's office or has been appointed by the court, such records shall be provided free of charge.

I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2, subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records shall be electronically available to any law-enforcement officer as provided for under clause (ii) of subdivision B 9.

J. Whenever the Commissioner issues a certificate of title for a motor vehicle, he may notify the National Motor Vehicle Title Information System, or any other nationally recognized system providing similar information, or any entity contracted to collect information for such system, and may provide whatever classes of information are required by such system.

**§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence; penalty.**

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road, or school driveway *and the bus is put in motion* is subject to a civil penalty of \$250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be

rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. 1. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

2. Any private vendor contracting with a school division pursuant to this subsection may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that improperly pass stopped school buses. Information provided to such private vendor shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used only for enforcement against individuals who violate the provisions of this section. The school division shall annually certify compliance with this subdivision and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized use or disclosure of such personal information shall be grounds for termination of the agreement between the Department of Motor Vehicles and the private vendor.

3. For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

## CHAPTER 545

*An Act to amend and reenact § 62.1-44.15:21 of the Code of Virginia, relating to impacts to wetlands; permit requirements for compensation.*

[H 2403]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-44.15:21 of the Code of Virginia is amended and reenacted as follows:**

**§ 62.1-44.15:21. Impacts to wetlands.**

A. Permits shall address avoidance and minimization of wetland impacts to the maximum extent practicable. A permit shall be issued only if the Board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment of state waters or fish and wildlife resources.

B. Permits shall contain requirements for compensating impacts on wetlands. Such compensation requirements shall be sufficient to achieve no net loss of existing wetland acreage and functions and may be met through (i) wetland creation or restoration, (ii) purchase or use of mitigation bank credits pursuant to § 62.1-44.15:23, (iii) contribution to the Wetland and Stream Replacement Fund established pursuant to § 62.1-44.15:23.1 to provide compensation for impacts to wetlands, streams, or other state waters that occur in areas where neither mitigation bank credits nor credits from a Board-approved fund that have met the success criteria are available at the time of permit application, or (iv) contribution to a Board-approved fund dedicated to achieving no net loss of wetland acreage and functions. *The Board shall evaluate the appropriate compensatory mitigation option on a case-by-case basis with consideration for which option is practicable and*

*ecologically and environmentally preferable, including, in terms of replacement of acreage and functions, which option offers the greatest likelihood of success and avoidance of temporal loss of acreage and function. Preference shall be given first to mitigation bank credits, then to permittee responsible mitigation under a watershed approach conducted before or concurrently with project impacts, over in-lieu fee program credits that have not met success criteria. This evaluation shall be consistent with the U.S. Army Corps of Engineers Compensatory Mitigation for Losses of Aquatic Resources (33 C.F.R. Part 332).* When utilized in conjunction with creation, restoration, or mitigation bank credits, compensation may incorporate (a) preservation or restoration of upland buffers adjacent to wetlands or other state waters or (b) preservation of wetlands.

C. The Board shall utilize the U.S. Army Corps of Engineers' "Wetlands Delineation Manual, Technical Report Y-87-1, January 1987, Final Report" as the approved method for delineating wetlands. The Board shall adopt appropriate guidance and regulations to ensure consistency with the U.S. Army Corps of Engineers' implementation of delineation practices. The Board shall also adopt guidance and regulations for review and approval of the geographic area of a delineated wetland. Any such approval of a delineation shall remain effective for a period of five years; however, if the Board issues a permit pursuant to this article for an activity in the delineated wetland within the five-year period, the approval shall remain effective for the term of the permit. Any delineation accepted by the U.S. Army Corps of Engineers as sufficient for its exercise of jurisdiction pursuant to § 404 of the Clean Water Act shall be determinative of the geographic area of that delineated wetland.

D. The Board shall develop general permits for such activities in wetlands as it deems appropriate. General permits shall include such terms and conditions as the Board deems necessary to protect state waters and fish and wildlife resources from significant impairment. The Board is authorized to waive the requirement for a general permit or deem an activity in compliance with a general permit when it determines that an isolated wetland is of minimal ecological value. The Board shall develop general permits for:

1. Activities causing wetland impacts of less than one-half of an acre;
2. Facilities and activities of utilities and public service companies regulated by the Federal Energy Regulatory Commission or State Corporation Commission, except for construction of any natural gas transmission pipeline that is greater than 36 inches inside diameter pursuant to a certificate of public convenience and necessity under § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)). No Board action on an individual or general permit for such facilities shall alter the siting determination made through Federal Energy Regulatory Commission or State Corporation Commission approval. The Board and the State Corporation Commission shall develop a memorandum of agreement pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1, and 56-580 to ensure that consultation on wetland impacts occurs prior to siting determinations;
3. Coal, natural gas, and coalbed methane gas mining activities authorized by the Department of Mines, Minerals and Energy, and sand mining;
4. Virginia Department of Transportation or other linear transportation projects; and
5. Activities governed by nationwide or regional permits approved by the Board and issued by the U.S. Army Corps of Engineers. Conditions contained in the general permits shall include, but not be limited to, filing with the Board any copies of preconstruction notification, postconstruction report, and certificate of compliance required by the U.S. Army Corps of Engineers.

E. Within 15 days of receipt of an individual permit application, the Board shall review the application for completeness and either accept the application or request additional specific information from the applicant. Within 120 days of receipt of a complete application, the Board shall issue the permit, issue the permit with conditions, deny the permit, or decide to conduct a public meeting or hearing. If a public meeting or hearing is held, it shall be held within 60 days of the decision to conduct such a proceeding, and a final decision as to the permit shall be made within 90 days of completion of the public meeting or hearing. In addition, for an individual permit application related to an application to the Federal Energy Regulatory Commission for a certificate of public convenience and necessity pursuant to § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)) for construction of any natural gas transmission pipeline greater than 36 inches inside diameter, the Board shall complete its consideration within the one-year period established under 33 U.S.C. § 1341(a).

F. Within 15 days of receipt of a general permit application, the Board shall review the application for completeness and either accept the application or request additional specific information from the applicant. A determination that an application is complete shall not mean the Board will issue the permit but means only that the applicant has submitted sufficient information to process the application. The Board shall deny, approve, or approve with conditions any application for coverage under a general permit within 45 days of receipt of a complete preconstruction application. The application shall be deemed approved if the Board fails to act within 45 days.

G. No Virginia Water Protection Permit shall be required for impacts to wetlands caused by activities governed under Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 or normal agricultural activities or normal silvicultural activities. This section shall also not apply to normal residential gardening, lawn and landscape maintenance, or other similar activities that are incidental to an occupant's ongoing residential use of property and of minimal ecological impact. The Board shall develop criteria governing this exemption and shall specifically identify the activities meeting these criteria in its regulations.

H. No Virginia Water Protection Permit shall be required for impacts caused by the construction or maintenance of farm or stock ponds, but other permits may be required pursuant to state and federal law. For purposes of this exclusion, farm or stock ponds shall include all ponds and impoundments that do not fall under the authority of the Virginia Soil and

Water Conservation Board pursuant to Article 2 (§ 10.1-604 et seq.) of Chapter 6 pursuant to normal agricultural or silvicultural activities.

I. No Virginia Water Protection Permit shall be required for wetland and open water impacts to a stormwater management facility that was created on dry land for the purpose of conveying, treating, or storing stormwater, but other permits may be required pursuant to local, state, or federal law. The Department shall adopt guidance to ensure that projects claiming this exemption create no more than minimal ecological impact.

J. An individual Virginia Water Protection Permit shall be required for impacts to state waters for the construction of any natural gas transmission pipeline greater than 36 inches inside diameter pursuant to a certificate of public convenience and necessity under § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)). For purposes of this subsection:

1. Each wetland and stream crossing shall be considered as a single and complete project; however, only one individual Virginia Water Protection Permit addressing all such crossings shall be required for any such pipeline. Notwithstanding the requirement for only one such individual permit addressing all such crossings, individual review of each proposed water body crossing with an upstream drainage area of five square miles or greater shall be performed.

2. All pipelines shall be constructed in a manner that minimizes temporary and permanent impacts to state waters and protects water quality to the maximum extent practicable, including by the use of applicable best management practices that the Board determines to be necessary to protect water quality.

3. The Department shall assess an administrative charge to any applicant for such project to cover the direct costs of services rendered associated with its responsibilities pursuant to this subsection. This administrative charge shall be in addition to any fee assessed pursuant to § 62.1-44.15:6.

## CHAPTER 546

*An Act to amend and reenact § 15.2-4901 of the Code of Virginia, relating to industrial development authorities; legislative intent.*

[H 2485]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 15.2-4901 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 15.2-4901. Purpose of chapter.**

It is the intent of the legislature by the passage of this chapter to authorize the creation of industrial development authorities by the localities in the Commonwealth so that such authorities may acquire, own, lease, and dispose of properties and make loans to the end that such authorities may be able to promote industry and develop trade by inducing manufacturing, industrial, governmental, nonprofit and commercial enterprises and institutions of higher education to locate in or remain in the Commonwealth and further the use of its agricultural products and natural resources, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience or prosperity. Such authority shall not itself be authorized to operate any such manufacturing, industrial, nonprofit or commercial enterprise or any facility of an institution of higher education.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to pollution control facilities to the end that such authorities may protect and promote the health of the inhabitants of the Commonwealth and the conservation, protection and improvement of its natural resources by exercising such powers for the control or abatement of land, sewer, water, air, noise and general environmental pollution derived from the operation of any industrial or medical facility and to vest such authorities with all powers that may be necessary to enable them to accomplish such purpose, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience or prosperity.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to medical facilities and facilities for the residence or care of the aged to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement and improvement of medical facilities and facilities for the residence or care of the aged in order to provide modern and efficient medical services to the inhabitants of the Commonwealth and care of the aged of the Commonwealth in accordance with their special needs and also by assisting in the refinancing of medical facilities and facilities for the residence or care of the aged owned and operated by organizations which are exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code of 1954, as amended, in order to reduce the costs to residents of the Commonwealth of utilizing such facilities and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health and welfare. It is not intended hereby that any such authority shall itself be authorized to operate any such medical facility or facility for the residence or care of the aged.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for use by organizations (other than institutions organized and operated exclusively for religious purposes) which are described in § 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which are exempt from federal income taxation pursuant to § 501(a) of the Internal Revenue Code of 1954, as amended, to the end that such authorities may protect or promote the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of the aforesaid entities and organizations in order to provide operations, recreational, activity centers, and other facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for accredited nonprofit private institutions of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of facilities of aforesaid institutions in order to provide improved educational facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such educational facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to facilities for a locality, the Commonwealth and its agencies, and governmental and nonprofit organizations and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience or prosperity.

It is further the intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for museums and historical education, demonstration and interpretation, together with any and all buildings, structures or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit organizations in order to promote tourism and economic development in the Commonwealth, to promote the knowledge of and appreciation by the citizens of the Commonwealth of the historical and cultural development and heritage of the Commonwealth and the United States and to promote thereby their health, welfare, convenience and prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities devoted to the staging of equine events and activities (other than racing) for use by governmental or nonprofit, nonreligious organizations and operated by such governmental or nonprofit, nonreligious organizations in order to promote the equine industry and equine-related activities (other than racing) which are integral to the Commonwealth's economy and heritage and to promote thereby the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to acquiring, developing, owning and operating an industrial park and any utilities that are intended primarily to serve the park and to issue bonds for such purposes. The bonds may be secured by revenues generated by the industrial park or the utilities being financed or by any other funds of the authority.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities created by one or more municipalities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1, in addition to the powers previously or hereafter granted in this chapter, the powers contained herein with respect to facilities used primarily for single or multi-family residences in order to promote safe and affordable housing in the Commonwealth and to benefit thereby the safety, health, welfare and prosperity of the inhabitants of the Commonwealth. It is not intended hereby that any such authority shall itself be authorized to operate any such facility or exercise any powers of eminent domain set forth in § 36-27.

*It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilitating and supporting landowner access to carbon markets through aggregation of landowners to reach a size that attracts the investment of private capital. Such aggregation provides landowners of various size tracts of land enhanced opportunities to access capital and benefits that support and enhance the agriculture and forest industries for the health, welfare, convenience and prosperity of the inhabitants of the Commonwealth.*

In any instance in this chapter where an industrial development authority may issue bonds through its authority to finance, the authority may also refinance such bonds.

This chapter shall be liberally construed in conformity with these intentions.

## CHAPTER 547

An Act to amend and reenact § 33.2-613 of the Code of Virginia, relating to suspension of tolls; evacuations.

[H 2489]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-613 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;
7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;
8. The Commissioner of the Department of Motor Vehicles;
9. Employees of the Department of Motor Vehicles;
10. Local police officers;
11. Sheriffs and their deputies;
12. Regional jail officials;
13. Animal wardens;
14. The Director and officers of the Department of Game and Inland Fisheries;
15. Persons operating firefighting equipment and emergency medical services vehicles owned by a political subdivision of the Commonwealth or a nonprofit association or corporation;
16. Operators of school buses being used to transport pupils to or from schools;
17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
18. Employees of the Department of Rail and Public Transportation;
19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
20. Law-enforcement officers of the Virginia Marine Resources Commission.

B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.

2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. *Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.*

3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.

C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.

D. Any vehicle operated by the holder of a valid driver's license issued by the Commonwealth or any other state shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:

1. The vehicle is specially equipped to permit its operation by a handicapped person;

2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;

3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and

4. Such identifying window sticker is properly displayed on the vehicle.

A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection and shall accept any payments made by such persons.

E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the provisions of § 22.1-187.

F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the conduct of official business:

1. The Commissioner of Highways;
2. Members of the Commonwealth Transportation Board;
3. Employees of the Department of Transportation;
4. The Superintendent of the Department of State Police;
5. Officers and employees of the Department of State Police;
6. The Commissioner of the Department of Motor Vehicles;
7. Employees of the Department of Motor Vehicles; and
8. Sheriffs and deputy sheriffs.

*However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent with the terms of the applicable comprehensive agreement between the operator and the Department. The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll collections on other tolled facilities in the same affected area, whichever occurs first.*

G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements of subdivisions D 1 through 4.

H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of subdivision B 1 of § 56-543, said vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

## CHAPTER 548

*An Act to amend and reenact § 33.2-119 of the Code of Virginia, relating to tolling; Planning District 8.*

[H 2527]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-119 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-119. Limitation on tolling.**

A. For purposes of this section, "auxiliary lane" means the portion of the roadway adjoining the traveled way as a shoulder or for speed change, turning, weaving, or the maneuvering of entering and leaving traffic.

B. Notwithstanding any other provision of this title, no toll may be imposed or collected on un-tolled lanes or components of a highway, bridge, or tunnel without approval from the General Assembly. However, such prohibition shall not apply to (i) reconstruction with additional lanes of a highway, bridge, or tunnel provided that the number of un-tolled non-high-occupancy vehicle lanes, excluding auxiliary lanes, after the reconstruction is not less than the number of un-tolled, non-high-occupancy vehicle lanes, excluding auxiliary lanes, prior to such reconstruction; (ii) new construction that is opened to the public as a tolled facility; (iii) new construction that is opened to the public as high-occupancy vehicle lanes; (iv) existing high-occupancy vehicle lanes; or (v) an existing lane on a segment of a highway whose length does not exceed 10 miles and is between an interchange and an interchange or an interchange and a bridge, provided that the number of un-tolled non-high-occupancy vehicle lanes on such segment is equal to the number of un-tolled non-high-occupancy vehicle lanes on the portion of the highway preceding such segment.

C. Notwithstanding the provisions of subsection B, prior approval of the General Assembly shall be required prior to the imposition and collection of any toll for use of all or any portion of (i) a non-limited access highway except for a bridge,

tunnel, or the approaches to a bridge or tunnel ~~or~~; (ii) Interstate 81; or (iii) any primary highway that is wholly located in Planning District 8 and that was previously classified as a secondary highway and is between 30 and 35 miles in length.

## CHAPTER 549

An Act to amend and reenact §§ 58.1-603.1, 58.1-603.2, 58.1-604.01, and 58.1-611.1 of the Code of Virginia, relating to sales and use tax; reduced rate on essential personal hygiene products.

[H 2540]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-603.1, 58.1-603.2, 58.1-604.01, and 58.1-611.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-603.1. (Contingent expiration date) Additional state sales tax in certain counties and cities.**

In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met. Such tax shall not be levied upon food purchased for human consumption *and essential personal hygiene products*, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

**§ 58.1-603.2. (For contingent effective date and contingent expiration date, see Acts 2018, c. 850) Additional state sales and use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

A. For purposes of this section, "Historic Triangle" means all of the City of Williamsburg and the Counties of James City and York.

B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby levied and imposed in the Historic Triangle a retail sales tax at the rate of one percent. Such tax shall not be levied upon food purchased for human consumption *and essential personal hygiene products*, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied and imposed in the Historic Triangle a retail use tax at the rate of one percent. Such tax shall not be levied upon food purchased for human consumption *and essential personal hygiene products*, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

D. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

1. Fifty percent of the revenues shall be deposited into the Historic Triangle Marketing Fund created pursuant to subsection E and used for the purposes set forth therein; and

2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books of the Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the locality in which the sales or use tax was collected. The revenues received by a locality pursuant to this subsection shall not be used to reduce the amount of other revenues appropriated by such locality to or for use by the Greater Williamsburg Chamber and Tourism Alliance below the amount provided in fiscal year 2018.

E. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the Historic Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and administered by the Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance. The Fund shall be established on the books of the Comptroller. All revenues generated pursuant to this section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and promoting the Historic Triangle area as an overnight tourism destination, with the intent to attract visitors from a sufficient distance so as to require an overnight stay of at least one night, as set forth in this subsection. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Finance.

2. The Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council) shall consist of members as follows: one member of the James City County Board of Supervisors, one member of the York County Board of Supervisors; one member of the Williamsburg City Council, one representative of the Colonial Williamsburg Foundation, one representative of the Jamestown-Yorktown Foundation, one representative of Busch Gardens Williamsburg, one representative of Historic Jamestowne, one representative of the Williamsburg Hotel and Motel Association, and one representative of the Williamsburg Area Restaurant Association. The Chief Executive Officer of the Virginia Tourism Alliance and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as ex officio, non-voting members of the Council.

3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office) to administer a program of marketing, advertising, and promotion to attract visitors to the Historic Triangle area, as required by this subsection. The Council shall use moneys in the Fund to fund the pay for necessary expenses of the Office and to fund the activities of the Office. The Office shall be overseen by a professional with extensive experience in marketing or advertising and in the tourism industry. The Office shall be responsible for (i) developing and implementing, in consultation with the Council, long-term and short-term strategic plans for advertising and promoting the numerous facilities, venues, and attractions devoted to education, historic preservation, amusement, entertainment, and dining in the Historic Triangle as a cohesive and unified travel destination for local, national, and international travelers; (ii) assisting, upon request, with the coordination of cross-advertising and cross-marketing efforts between various tourism venues and destinations in the Historic Triangle region; (iii) identifying strategies for both increasing the number of overnight visitors to the region and increasing the average length of stay of tourists in the region; and (iv) performing any other function related to the promotion of the Historic Triangle region as may be identified by the Council.

4. The Council shall report annually on its long-term and short-term strategic plans and the implementation of such plans; marketing efforts; metrics regarding tourism in the Historic Triangle region; use of the funds in the Fund; and any other details relevant to the work of the Council and the Office. Such report shall be delivered no later than December 1 of each year to the managers or chief executive officers of the City of Williamsburg and the Counties of James City and York, and to the Chairmen of the House Committees on Finance and Appropriations and the Senate Committee on Finance.

**§ 58.1-604.01. (Contingent expiration date) Additional state use tax in certain counties and cities.**

In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met. Such tax shall not be levied upon food purchased for human consumption *and essential personal hygiene products*, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

**§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption and essential personal hygiene products.**

A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption ~~shall be levied and distributed as follows:~~

1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638; (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638; and (iii) the revenue from the tax at the rate of one and one-half percent shall be used for general fund purposes.

2. On and after July 1, 2005, the tax rate on such food and essential personal hygiene products shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638.

B. The provisions of this section shall not affect the imposition of tax on food purchased for human consumption and essential personal hygiene products pursuant to §§ 58.1-605 and 58.1-606.

C. 1. As used in this section, "food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

2. As used in this section, "essential personal hygiene products" means (i) nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow. "Essential personal hygiene products" does not include any item that is otherwise exempt pursuant to this chapter.

2. That the provisions of this act shall become effective on January 1, 2020.

## CHAPTER 550

An Act to amend and reenact §§ 58.1-603.1, 58.1-603.2, 58.1-604.01, and 58.1-611.1 of the Code of Virginia, relating to sales and use tax; reduced rate on essential personal hygiene products.

[S 1715]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 58.1-603.1, 58.1-603.2, 58.1-604.01, and 58.1-611.1 of the Code of Virginia are amended and reenacted as follows:

**§ 58.1-603.1. (Contingent expiration date) Additional state sales tax in certain counties and cities.**

In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met. Such tax shall not be levied upon food purchased for human consumption and essential personal hygiene products, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

**§ 58.1-603.2. (For contingent effective date and contingent expiration date, see Acts 2018, c. 850) Additional state sales and use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.**

A. For purposes of this section, "Historic Triangle" means all of the City of Williamsburg and the Counties of James City and York.

B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby levied and imposed in the Historic Triangle a retail sales tax at the rate of one percent. Such tax shall not be levied upon food purchased for human consumption *and essential personal hygiene products*, as *such terms are* defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied and imposed in the Historic Triangle a retail use tax at the rate of one percent. Such tax shall not be levied upon food purchased for human consumption *and essential personal hygiene products*, as *such terms are* defined in § 58.1-611.1. Such tax shall be added to the rate of the state use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

D. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

1. Fifty percent of the revenues shall be deposited into the Historic Triangle Marketing Fund created pursuant to subsection E and used for the purposes set forth therein; and

2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books of the Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the locality in which the sales or use tax was collected. The revenues received by a locality pursuant to this subsection shall not be used to reduce the amount of other revenues appropriated by such locality to or for use by the Greater Williamsburg Chamber and Tourism Alliance below the amount provided in fiscal year 2018.

E. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the Historic Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and administered by the Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance. The Fund shall be established on the books of the Comptroller. All revenues generated pursuant to this section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and promoting the Historic Triangle area as an overnight tourism destination, with the intent to attract visitors from a sufficient distance so as to require an overnight stay of at least one night, as set forth in this subsection. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Finance.

2. The Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council) shall consist of members as follows: one member of the James City County Board of Supervisors, one member of the York County Board of Supervisors; one member of the Williamsburg City Council, one representative of the Colonial Williamsburg Foundation, one representative of the Jamestown-Yorktown Foundation, one representative of Busch Gardens Williamsburg, one representative of Historic Jamestowne, one representative of the Williamsburg Hotel and Motel Association, and one representative of the Williamsburg Area Restaurant Association. The Chief Executive Officer of the Virginia Tourism Alliance and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as *ex officio*, non-voting members of the Council.

3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office) to administer a program of marketing, advertising, and promotion to attract visitors to the Historic Triangle area, as required by this subsection. The Council shall use moneys in the Fund to fund the pay for necessary expenses of the Office and to fund the activities of the Office. The Office shall be overseen by a professional with extensive experience in marketing or advertising and in the tourism industry. The Office shall be responsible for (i) developing and implementing, in consultation with the Council, long-term and short-term strategic plans for advertising and promoting the numerous facilities, venues, and attractions devoted to education, historic preservation, amusement, entertainment, and dining in the Historic Triangle as a cohesive and unified travel destination for local, national, and international travelers; (ii) assisting, upon request, with the coordination of cross-advertising and cross-marketing efforts between various tourism venues and destinations in the Historic Triangle region; (iii) identifying strategies for both increasing the number of overnight visitors to the region and increasing the average length of stay of tourists in the region; and (iv) performing any other function related to the promotion of the Historic Triangle region as may be identified by the Council.

4. The Council shall report annually on its long-term and short-term strategic plans and the implementation of such plans; marketing efforts; metrics regarding tourism in the Historic Triangle region; use of the funds in the Fund; and any other details relevant to the work of the Council and the Office. Such report shall be delivered no later than December 1 of each year to the managers or chief executive officers of the City of Williamsburg and the Counties of James City and York, and to the Chairmen of the House Committees on Finance and Appropriations and the Senate Committee on Finance.

**§ 58.1-604.01. (Contingent expiration date) Additional state use tax in certain counties and cities.**

In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of

January 1, 2013, has a population of 1.5 million or more, as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i), a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met. Such tax shall not be levied upon food purchased for human consumption *and essential personal hygiene products*, as such terms are defined in § 58.1-611.1. Such tax shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

**§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption and essential personal hygiene products.**

A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption ~~shall be levied and distributed as follows:~~

~~1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638; (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638; and (iii) the revenue from the tax at the rate of one and one-half percent shall be used for general fund purposes.~~

~~2. On and after July 1, 2005, the tax rate on such food and essential personal hygiene products shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638.~~

B. The provisions of this section shall not affect the imposition of tax on food purchased for human consumption *and essential personal hygiene products* pursuant to §§ 58.1-605 and 58.1-606.

C. 1. As used in this section, "food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

2. As used in this section, "essential personal hygiene products" means (i) *nondurable incontinence products such as diapers, disposable undergarments, pads, and bed sheets* and (ii) *menstrual cups and pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual flow*. "Essential personal hygiene products" does not include any item that is otherwise exempt pursuant to this chapter.

**2. That the provisions of this act shall become effective on January 1, 2020.**

## CHAPTER 551

*An Act to hold mass transit providers harmless for certain operating fund losses.*

[H 2553]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

1. § 1. *The Commonwealth Transportation Board may allocate supplemental operating funds in fiscal year 2020 to any transit provider that receives funds to support operating costs pursuant to subdivision C 1 of § 33.2-1526.1 of the Code of Virginia and that is negatively impacted by a loss of operating funds as a direct result of the performance-based allocation process set forth in Chapter 854 of the Acts of Assembly of 2018. The maximum amount of supplemental operating funds available pursuant to this authorization shall not exceed \$3 million from the nongeneral fund amounts available to the Department of Rail and Public Transportation.*

## CHAPTER 552

*An Act to amend and reenact § 62.1-229.1 of the Code of Virginia, relating to loans and grants for agricultural best management practices; riparian buffers.*

[H 2637]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-229.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 62.1-229.1. Loans and grants for agricultural best management practices.**

Loans *or grants* may be made from the Fund, in the Board's discretion, to ~~an individual~~ (i) *any person* for the construction, renovation, improvement, or equipping of facilities or structures to implement agricultural best management practices to prevent pollution of state waters; ~~to~~; (ii) a local government ~~which~~ that has developed a low-interest loan program to provide loans or other incentives to facilitate the construction, renovation, improvement, or equipping of such facilities or structures; ~~or~~ (iii) a financial institution working with a local government to establish ~~such~~ a program pursuant to clause (ii). The Board shall develop guidelines for the administration of such loans *and grants* and shall determine the terms and conditions of any loan *or grant* from the Fund. *For purposes of this section, facilities or structures to implement agricultural best management practices may include riparian buffers planted in trees and maintained in accordance with the terms and conditions of the loan or grant.*

## CHAPTER 553

*An Act to direct the Department of Rail and Public Transportation to evaluate rail signage options; report.*

[H 2737]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. The Department of Rail and Public Transportation (Department), in conjunction with all relevant stakeholders, shall evaluate the placement and maintenance of highway signs to (i) indicate the presence and direction of nearby Amtrak or intercity passenger rail stations and (ii) promote the use of such services and shall evaluate the cost and potential funding sources for such signs. The Department shall consult relevant stakeholders to create an inventory of existing Amtrak highway signs and review Amtrak signage in other states, including the "by train" signs in North Carolina. The Department shall report its findings to the Secretary of Transportation and the Chairmen of the House and Senate Committees on Transportation by December 1, 2019.**

## CHAPTER 554

*An Act to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-400, relating to Clean Energy Advisory Board; fund; solar installation loan or rebate; report; sunset.*

[H 2741]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-400, as follows:**

## CHAPTER 27.

## CLEAN ENERGY ADVISORY BOARD.

**§ 45.1-395. Clean Energy Advisory Board; purpose.**

*The Clean Energy Advisory Board (the Board) is established as an advisory board in the executive branch of state government. The purpose of the Board is to establish a pilot program for disbursing loans or rebates for the installation of solar energy infrastructure in low-income and moderate-income households.*

**§ 45.1-396. Membership; terms; quorum; meetings.**

*The Board shall have a total membership of 15 members that shall consist of 14 nonlegislative citizen members and one ex officio member. Nonlegislative citizen members shall be appointed as follows:*

*1. Four nonlegislative citizen members to be appointed by the Speaker of the House of Delegates upon consideration of the recommendations of the Board of Directors of the Maryland-DC-Delaware-Virginia Solar Energy Industries Association (the MDV-SEIA Board) and the Governor's Advisory Council on Environmental Justice (the Council), one of whom shall be a designee of the Virginia Housing Development Authority, created pursuant to the provisions of Chapter 1.2 (§ 36-55.24 et seq.) of Title 36; one of whom shall be a rooftop solar energy professional or employer or representative of*

rooftop solar energy professionals; one of whom shall be a current or former member of the Council; and one of whom shall be a member or representative of the Virginia, Maryland and Delaware Association of Electric Cooperatives (VMDAEC);

2. Three nonlegislative citizen members to be appointed by the Senate Committee on Rules upon consideration of the recommendations of the MDV-SEIA Board, one of whom shall be a solar energy professional or employer or representative of solar energy professionals, one of whom shall work for or with a Virginia-based investor-owned electric utility company, and one of whom shall be a member or representative of VMDAEC; and

3. Seven nonlegislative citizen members to be appointed by the Governor upon consideration of the recommendations of the MDV-SEIA Board and the Council and subject to confirmation by the General Assembly, one of whom shall be an attorney who is licensed to practice in the Commonwealth and maintains a legal practice in renewable energy law and transactions, one of whom shall be an attorney who is licensed to practice in the Commonwealth and specializes in tax law and energy transactions, one of whom shall be an attorney with the Division of Consumer Counsel created pursuant to the provisions of § 2.2-517, one of whom shall be an employee of a community development financial institution who specializes in impact investing, one of whom shall be a member of a Virginia environmental organization, and two of whom shall be designees of the Department of Housing and Community Development, created pursuant to the provisions of Chapter 8 (§ 36-131 et seq.) of Title 36.

The Director or his designee shall serve *ex officio* with voting privileges and shall assist in convening the meetings of the Board.

Nonlegislative citizen members of the Board shall be citizens of the Commonwealth. The *ex officio* member of the Board shall serve a term coincident with his term of office. Nonlegislative citizen members shall be appointed for a term of three years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

**§ 45.1-397. Powers and duties of the Board; report.**

The Board shall have the following powers and duties:

1. To advise the Director on the management of the Low-to-Moderate Income Solar Loan and Rebate Fund (the Fund) pursuant to the provisions of § 45.1-398;

2. To develop, establish, and operate, with the approval of the Director, a Low-to-Moderate Income Solar Loan and Rebate Pilot Program (the Program) pursuant to the provisions of § 45.1-399;

3. To advise the Director on the possibility of working with a community development financial institution or other financial institutions to further the purposes of the Program;

4. To advise the Director on the distribution of moneys in the Fund in the form of loans or rebates pursuant to the provisions of § 45.1-399; and

5. To submit to the Governor and the General Assembly an annual report for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

**§ 45.1-398. Low-to-Moderate Income Solar Loan and Rebate Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Low-to-Moderate Income Solar Loan and Rebate Fund (the Fund). The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of extending loans or paying rebates to electric customers who complete solar installations or energy efficiency improvements pursuant to the provisions of § 45.1-399. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

**§ 45.1-399. Low-to-Moderate Income Solar Loan and Rebate Pilot Program.**

A. The Board, with the approval of the Director, shall develop and establish a Low-to-Moderate Income Solar Loan and Rebate Pilot Program (the Program) and rules for the loan or rebate application process. The Program shall be open to any Virginia resident whose household income is at or below 80 percent of the state median income or regional median income, whichever is greater. The Program shall allow only one loan per residence, irrespective of the ownership of the solar energy system that is installed. Such loan shall be available only for a solar installation or energy efficiency improvements pursuant to the provisions of Chapter 1.2 (§ 36-55.24 et seq.) of Title 36.

B. The Board shall accept an application only from the installer of the solar installation or the agent of the customer.

Each application shall include (i) 12 months of the customer's utility bills prior to installation of the solar energy system and an agreement to provide 12 months of utility bills to the Board following the installation; (ii) the customer's

permission for the Director to (a) create a customer profile for the customer if he becomes an eligible loan or rebate customer; (b) aggregate the data provided by such eligible loan or rebate customers, and (c) use such aggregate data for the purpose of lowering energy costs and implementing effective programs; (iii) evidence of the completion of a home performance audit, conducted by a qualified local weatherization service provider, before and after installation of energy efficiency services such as lighting or insulation improvements, attic tents, weatherization, air sealing of openings in the building envelope, sealing of ducts, or thermostat upgrades, to demonstrate that such energy efficiency services were completed and resulted in a reduction in consumption of at least 12 percent; and (iv) an affidavit attesting to the receipt of a public benefit at the time the solar energy system is to be installed.

C. The Board shall review each application submitted to it on a first-come, first-served basis and shall recommend to the Director the approval or denial of each such application within 30 days of receipt. If the Director approves an application, he shall hold a reservation of funds for as long as 180 days for final loan or rebate claim and disbursement.

D. A customer whose application is approved may install an energy system that is interconnected pursuant to the provisions of § 56-594 or any section in Title 56 that addresses net energy metering provisions for electric cooperative service territories.

E. All of the work of installing the energy system shall be completed by a licensed contractor that (i) possesses an Alternative Energy System (AES) Contracting specialty as defined by the Board for Contractors pursuant to the provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1; (ii) possesses certification for solar installation from the North American Board of Certified Energy Practitioners, Solar Energy International, Roof Integrated Solar Energy, or a similar installer certification program; (iii) possesses a rating of "A" or higher from the local Better Business Bureau; and (iv) has installed a minimum of 150 net-metered residential solar systems in Virginia. If the work of installing the solar energy system requires electrical work, it shall be completed by an electrical contractor licensed by the Virginia Department of Professional and Occupational Regulation. All photovoltaic panels, inverters, and other electrical apparatus used in the solar energy system shall be tested and certified by a federal Occupational Safety and Health Administration Nationally Recognized Testing Laboratory such as UL LLC and installed in compliance with manufacturer specifications and all applicable building and electrical codes.

F. The customer or the installer, acting on behalf of the customer, shall submit any loan or rebate claim within 90 days of completion of the installation of the solar energy system, with completion deemed to have occurred once the solar energy system's bi-directional meter or net meter, or the respective utility's revenue grade meter, has been installed and the system has been electrified. Each rebate claim shall include, at a minimum, a date of system electrification and a time-stamped and date-stamped verification of (i) bi-directional net meter delivery or (ii) the operation of a compatible programmed smart meter capable of tracking net metering activity.

G. The Director shall review and approve or deny a loan or rebate claim within 60 days of receipt and shall provide a written explanation of each denial to the respective claimant. The Director shall disburse from the Low-to-Moderate Income Solar Loan and Rebate Fund created pursuant to § 45.1-398 the loan or rebate for each approved claim within 60 days of its receipt of the claim and according to the order in which its respective application was approved. Any rebate or grant shall be in the amount of no more than \$2 per DC watt for up to six kilowatts of solar capacity installed. The customer may use a rebate in addition to any federal tax credits or state incentives or enhancements earned for the same solar installation.

**§ 45.1-400. Sunset.**

*This chapter shall expire on July 1, 2022.*

## CHAPTER 555

*An Act to amend the Code of Virginia by adding in Title 67 a chapter numbered 16, consisting of sections numbered 67-1600 through 67-1607, relating to the establishment of the Southwest Virginia Energy Research and Development Authority.*

[H 2747]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 67 a chapter numbered 16, consisting of sections numbered 67-1600 through 67-1607, as follows:**

**CHAPTER 16.**

**SOUTHWEST VIRGINIA ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.**

**§ 67-1600. Definitions.**

*As used in this chapter, unless the context requires a different meaning:*

*"Authority" means the Southwest Virginia Energy Research and Development Authority created pursuant to this chapter.*

*"Developer" means any private developer of an energy development project in Southwest Virginia.*

*"Energy development project" means an electric generation facility located within Southwest Virginia and includes interests in land, improvements, and ancillary facilities.*

*"Southwest Virginia" means the region of the Commonwealth designated as Southwest Virginia in § 22.1-350.*

**§ 67-1601. Authority created; purpose.**

*The Southwest Virginia Energy Research and Development Authority is created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of promoting opportunities for energy development in Southwest Virginia, to create jobs and economic activity in Southwest Virginia consistent with the Virginia Energy Plan prepared pursuant to Chapter 2 (§ 67-200 et seq.), and to position Southwest Virginia and the Commonwealth as a leader in energy workforce and energy technology research and development. The Authority may also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority shall have only those powers enumerated in this chapter.*

**§ 67-1602. Membership; terms; vacancies; expenses.**

*A. The Authority shall be composed of 11 nonlegislative citizen members appointed as follows: Four members shall be appointed by the Governor, four members shall be appointed by the Speaker of the House of Delegates, and three members shall be appointed by the Senate Committee on Rules. All members of the Authority shall reside in the Commonwealth.*

*B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.*

*C. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.*

*D. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.*

*E. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.*

*F. Except as otherwise provided in this chapter, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

**§ 67-1603. Powers and duties of the Authority.**

*In addition to such other powers and duties established under this chapter, the Authority shall have the power and duty to:*

- 1. Adopt, use, and alter at will an official seal;*
- 2. Make bylaws for the management and regulation of its affairs;*
- 3. Maintain an office at such place or places within the Commonwealth as it may designate;*
- 4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is created;*
- 5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;*
- 6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary and fix their compensation to be payable from funds made available to the Authority;*
- 7. Invest its funds as permitted by applicable law;*
- 8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any state, and from any municipality, county, or other political subdivision thereof and any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;*
- 9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;*
- 10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied;*
- 11. Leverage the strength in energy workforce and energy technology research and development of Virginia's public and private institutions of higher education;*
- 12. Support the development of pump storage hydropower in Southwest Virginia and energy storage generally;*
- 13. Promote the development of renewable energy generation facilities on brownfield sites, including abandoned mine sites;*
- 14. Promote energy workforce development;*

15. Assist energy technology research and development by, among other actions, promoting the development of a Southwest Virginia Energy Park; and

16. Identify and work with the Commonwealth's industries and nonprofit partners in advancing efforts related to energy development in Southwest Virginia.

**§ 67-1604. Annual report.**

On or before October 15 of each year, beginning in 2020, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairmen of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

**§ 67-1605. Confidentiality of information.**

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of energy projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**§ 67-1606. Declaration of public purpose; exemption from taxation.**

A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

B. The Authority shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this chapter.

**§ 67-1607. Sunset.**

The provisions of this chapter shall expire on July 1, 2029.

## CHAPTER 556

An Act to amend the Code of Virginia by adding in Title 67 a chapter numbered 16, consisting of sections numbered 67-1600 through 67-1607, relating to the establishment of the Southwest Virginia Energy Research and Development Authority.

[S 1707]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 67 a chapter numbered 16, consisting of sections numbered 67-1600 through 67-1607, as follows:**

CHAPTER 16.

SOUTHWEST VIRGINIA ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.

**§ 67-1600. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Southwest Virginia Energy Research and Development Authority created pursuant to this chapter.

"Developer" means any private developer of an energy development project in Southwest Virginia.

"Energy development project" means an electric generation facility located within Southwest Virginia and includes interests in land, improvements, and ancillary facilities.

"Southwest Virginia" means the region of the Commonwealth designated as Southwest Virginia in § 22.1-350.

**§ 67-1601. Authority created; purpose.**

The Southwest Virginia Energy Research and Development Authority is created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of promoting opportunities for energy development in Southwest Virginia, to create jobs and economic activity in Southwest Virginia consistent with the Virginia Energy Plan prepared pursuant to Chapter 2 (§ 67-200 et seq.), and to position Southwest Virginia and the Commonwealth as a leader in energy workforce and energy technology research and development. The Authority may also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority shall have only those powers enumerated in this chapter.

**§ 67-1602. Membership; terms; vacancies; expenses.**

A. The Authority shall be composed of 11 nonlegislative citizen members appointed as follows: Four members shall be appointed by the Governor; four members shall be appointed by the Speaker of the House of Delegates, and three members shall be appointed by the Senate Committee on Rules. All members of the Authority shall reside in the Commonwealth.

B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two

additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

D. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

E. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

F. Except as otherwise provided in this chapter, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**§ 67-1603. Powers and duties of the Authority.**

In addition to such other powers and duties established under this chapter, the Authority shall have the power and duty to:

1. Adopt, use, and alter at will an official seal;
2. Make bylaws for the management and regulation of its affairs;
3. Maintain an office at such place or places within the Commonwealth as it may designate;
4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is created;
5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;
6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary and fix their compensation to be payable from funds made available to the Authority;
7. Invest its funds as permitted by applicable law;
8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any state, and from any municipality, county, or other political subdivision thereof and any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;
9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;
10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied;
11. Leverage the strength in energy workforce and energy technology research and development of Virginia's public and private institutions of higher education;
12. Support the development of pump storage hydropower in Southwest Virginia and energy storage generally;
13. Promote the development of renewable energy generation facilities on brownfield sites, including abandoned mine sites;
14. Promote energy workforce development;
15. Assist energy technology research and development by, among other actions, promoting the development of a Southwest Virginia Energy Park; and
16. Identify and work with the Commonwealth's industries and nonprofit partners in advancing efforts related to energy development in Southwest Virginia.

**§ 67-1604. Annual report.**

On or before October 15 of each year, beginning in 2020, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairmen of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

**§ 67-1605. Confidentiality of information.**

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of energy projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

*C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

**§ 67-1606. Declaration of public purpose; exemption from taxation.**

*A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.*

*B. The Authority shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this chapter.*

**§ 67-1607. Sunset.**

*The provisions of this chapter shall expire on July 1, 2029.*

## CHAPTER 557

*An Act to amend and reenact § 46.2-1242 of the Code of Virginia, relating to parking; access aisles adjacent to parking spaces reserved for persons with disabilities.*

[H 2805]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1242 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1242. Parking in spaces reserved for persons with disabilities; local ordinances; penalty.**

*A. 1. No vehicles other than those displaying disabled parking license plates, organizational removable windshield placards, permanent removable windshield placards, or temporary removable windshield placards issued under § 46.2-1241, or DV disabled parking license plates issued under subsection B of § 46.2-739, shall be parked in any parking spaces reserved for persons with disabilities.*

*2. No person without a disability that limits or impairs his ability to walk shall park a vehicle with disabled parking license plates, organizational removable windshield placards, permanent removable windshield placards, temporary removable windshield placards, or DV disabled parking license plates issued under subsection B of § 46.2-739 in a parking space reserved for persons with disabilities that limit or impair their ability to walk except when transporting a disabled person in the vehicle.*

*3. No vehicle shall be parked in any striped access aisle adjacent to a parking space reserved for persons with disabilities.*

*4. A summons or parking ticket for the offense may be issued by law-enforcement officers, uniformed law-enforcement department employees, or volunteers acting pursuant to § 46.2-1244 without the necessity of a warrant's being obtained by the owner of any private parking area.*

*5. Parking a vehicle in a space reserved for persons with disabilities or in a striped access aisle in violation of this section shall be punishable by a fine of not less than \$100 nor more than \$500.*

*B. The governing body of any county, city, or town may, by ordinance, provide that it shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under § 46.2-1241, or DV disabled parking license plates issued under subsection B of § 46.2-739, to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk or for a person who is not limited or impaired in his ability to walk to park a vehicle in a parking space so designated except when transporting a person with such a disability in the vehicle. If there is a placard within a vehicle utilizing a parking space reserved for persons with disabilities, but that placard is not displayed as required pursuant to subsection E of § 46.2-1241, such ordinance may provide for a fine less than that imposed under this section. The governing body of any county, city, or town may, by ordinance, provide that no vehicle shall be parked in any striped access aisle adjacent to a parking space reserved for persons with disabilities.*

*1. Any local governing body, by such ordinance, may assess and retain a fine of not less than \$100 nor more than \$500 for its violation.*

*2. The ordinance may further provide that a summons or parking ticket for the offense may be issued by law-enforcement officers, volunteers serving in units established pursuant to § 46.2-1244, and other uniformed personnel employed by the locality to enforce parking regulations without the necessity of a warrant's being obtained by the owner of the private parking area.*

*C. In any prosecution charging a violation of this section or an ordinance adopted pursuant to this section, proof that the vehicle described in the complaint, summons, parking ticket, citation, or warrant was parked in violation of this section or the ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) of this title, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.*

D. No violation of this section or an ordinance adopted pursuant to this section shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in § 36-99.11, provided the space is clearly distinguishable as a parking space reserved for persons with disabilities that limit or impair their ability to walk.

## CHAPTER 558

*An Act to amend and reenact § 59.1-437 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-437.1, relating to extended service contract providers; bonding requirement; remedies; civil penalty.*

[S 1188]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-437 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-437.1 as follows:**

**§ 59.1-437. Third party obligors; proof of financial stability.**

A. Every extended service contract obligor, before it is registered, shall file and maintain with the Commissioner, in form and substance satisfactory to him, a bond with corporate surety, from a company authorized to transact business in the Commonwealth or a letter of credit from a bank insured by the Federal Deposit Insurance Corporation, in the amount of \$10,000. Additional bond or letter of credit amounts shall be similarly filed with the Commissioner and shall be adjusted from time to time, in accordance with the following schedule:

Total Amount of Unexpired Extended Service Contracts	Amount of Bond or Letter of Credit
\$0 to \$50,000	\$10,000
\$50,001 to \$300,000	\$40,000
\$300,001 to \$750,000	\$65,000
\$750,001 or more	\$90,000

The total amount of unexpired extended service contracts shall be the total consideration paid by all purchasers to the extended service obligor for all extended service contracts currently in effect.

B. The bond or letter of credit required by subsection A of this section shall be in favor of the Commonwealth for the benefit of purchasers of extended service contracts for consumer products in the event that the extended service contract obligor does not fulfill its obligations under such contracts for any reason, including insolvency or bankruptcy.

C. The aggregate liability of the bond or letter of credit to all persons for all breaches of the conditions of the bond or letter of credit shall in no event exceed the amount of the bond or letter of credit. The bond or letter of credit shall not be cancelled or terminated except with the consent of the Commissioner.

D. In order to ensure the faithful performance of a third party obligor's obligations to its contract holders, each third party obligor shall furnish proof of its financial stability by complying with either of the following:

1. The third party obligor shall show that it has a net worth of at least \$100 million by providing the Commissioner with a copy of the third party obligor's most recent annual audited financial statement; or

2. The third party obligor shall show a net worth of the third party obligor or its parent company of at least \$100 million by providing the Commissioner with a copy of the third party obligor's, or if the third party obligor's financial statements are consolidated with those of its parent company, the third party obligor's parent company's, most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission, provided the Form 10-K or Form 20-F was filed with the Securities and Exchange Commission within the last calendar year. If the third party obligor's parent company's Form 10-K or Form 20-F is filed to meet the third party obligor's financial stability requirement, then the parent company shall agree to guarantee the obligations of the third party obligor relating to service contracts sold by the third party obligor in this Commonwealth.

E. B. In lieu of compliance with subsection D A, a third party obligor may demonstrate financial responsibility by filing with the Commissioner a copy of a liability insurance policy issued by an insurer authorized to transact business in this Commonwealth and which covers 100 percent of the obligor's service contract liabilities, including the administration of claims and the cost for such administration. Reimbursement insurance policies filed pursuant to this section may not be cancelled by either the third party obligor or the issuing insurer without providing 60 days' notice to the Commissioner.

C. Each service contract shall include a disclosure in substantially the form as follows or in such other form as the Commissioner directs:

*"If any promise made in the contract has been denied or has not been honored within 60 days after your request, you may contact the Virginia Department of Agriculture and Consumer Services, Office of Charitable and Regulatory Programs to file a complaint."*

D. Upon receipt of a complaint by a purchaser against an obligor asserting that a promise made in a contract has been denied or has not been honored within 60 days after the purchaser's request, the Commissioner may conduct an

investigation as authorized by § 59.1-439 to determine if the obligor or its insurance company, if complying with subsection B, has improperly denied or failed to honor a purchaser's request. If the Commissioner determines that a purchaser's request was improperly denied or failed to be honored by an obligor or its insurance company, if complying with subsection B, the Commissioner may issue an order requiring the obligor to rectify or justify the denial or failure. In addition to the penalties provided in § 59.1-441, if the denial or failure is not rectified or sufficiently justified by the obligor, the Commissioner may (i) issue a cease and desist order requiring the obligor to cease operations in the Commonwealth until the denial or failure has been rectified; (ii) deny, suspend, or revoke the obligor's registration; or (iii) assess a civil penalty of up to \$1,000 per violation not to exceed \$10,000 in the aggregate for all similar violations. Any civil penalties collected pursuant to this subsection shall be payable to the State Treasurer for deposit to the general fund. If the Commissioner elects to assess such a civil penalty and an obligor does not pay the civil penalty within 60 days of its assessment, the Commissioner may (a) issue a cease and desist order requiring the obligor to cease operations in the Commonwealth until the civil penalty has been paid or (b) deny, suspend, or revoke the obligor's registration.

**§ 59.1-437.1. Denial, suspension, or revocation of registration.**

A. The Commissioner may deny an application for registration of an obligor under § 59.1-436 or may suspend or revoke such registration if the Commissioner finds that such action is necessary for the protection of purchasers or prospective purchasers or that any one of the following is true:

1. The obligor has failed to comply with any provision of this chapter;
2. The obligor has improperly denied or failed to honor a purchaser's request as provided in subsection D of § 59.1-437 and the denial or failure is not rectified or sufficiently justified by the obligor;
3. The obligor does not pay a civil penalty assessed pursuant to subsection D of § 59.1-437 within 60 days of its assessment;
4. The obligor's application for registration or any amendment thereto is incomplete in any respect;
5. The obligor failed to meet any other requirement of § 59.1-437;
6. The obligor has made any representation in any document or information filed with the Commissioner that is false or misleading;
7. The obligor has engaged or is engaging in any unlawful act or practice;
8. The obligor does not have a reasonable ability to discharge the obligations imposed upon it by any extended service contract; or
9. Facts not known by the Commissioner at the time the Commissioner considered the application for registration indicate that such registration should not have been issued.

B. Except as provided in subsection C, the Commissioner may deny, suspend, or revoke an obligor's registration after a hearing with 15 days' notice.

C. If the Commissioner finds that the public health, safety, or welfare requires emergency action and incorporates this finding in his order, the Commissioner may summarily deny, suspend, or revoke a registration. The obligor shall be given an opportunity within 10 days after entry of such an order to appear before the Commissioner and show cause why the summary order should not remain in effect. If good cause is shown, the Commissioner shall vacate the summary order. If good cause is not shown, the summary order shall remain in effect. The obligor shall have 15 days after the registration is summarily suspended within which to request a hearing, or the Commissioner may within 30 days thereafter set the matter for a hearing.

D. If any such registration is suspended or revoked, the Commissioner shall state its reasons for doing so, which shall be entered of record. Suspension or revocation of a registration for any violation of this chapter shall not affect the authority to take any action authorized by § 59.1-441 with respect to such violation.

## CHAPTER 559

An Act to amend the Code of Virginia by adding a section numbered 15.2-2114.01, relating to a local Stormwater Management Fund.

[S 1248]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 15.2-2114.01 as follows:**

**§ 15.2-2114.01. Local Stormwater Management Fund; grant moneys.**

Any locality may by ordinance create a local Stormwater Management Fund consisting of appropriated local moneys for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention on previously developed lands. Grants from such fund shall be used only for the construction, improvement, or repair of a stormwater management facility or for erosion and sediment control.

## CHAPTER 560

An Act to amend and reenact §§ 43-34 and 46.2-644.03 of the Code of Virginia, relating to mechanics' liens; notice of sale.

[S 1336]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 43-34 and 46.2-644.03 of the Code of Virginia are amended and reenacted as follows:**

**§ 43-34. Enforcement of liens acquired under §§ 43-31 through 43-33 and of liens of bailees.**

*For the purposes of this section, "public place" means a premises owned by the Commonwealth or a political subdivision thereof, or an agency of either, that is open to the general public.*

Any person having a lien under §§ 43-31 through 43-33 and any bailee, except where otherwise provided, having a lien as such at common law on personal property in his possession that he has no power to sell for the satisfaction of the lien, if the debt for which the lien exists is not paid within 10 days after it is due and the value of the property affected by the lien does not exceed \$10,000, may sell such property or so much thereof as may be necessary, by public auction, for cash. The proceeds shall be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any, shall be paid within 30 days of the sale to any lienholder, and then to the owner of the property. A seller who fails to remit the surplus as provided shall be liable to the person entitled to the surplus in an amount equal to \$50 for each day beyond 30 days that the failure continues.

Before making the sale, the seller shall advertise the time, place, and terms thereof in *any of the following places: (i) a public place in the county or city where the property is located; (ii) a website operated by the Commonwealth, the county or city where the property is located, or a political subdivision of either; or (iii) a newspaper of general circulation in the county or city where the property is located, either in print or on its website.* In the case of property other than a motor vehicle required to be registered in Virginia having a value in excess of \$600, 10 days' prior notice shall be given to any secured party who has filed a financing statement against the property, and written notice shall be given to the owner as hereinafter provided.

If the value of the property is more than \$10,000 but does not exceed \$25,000, the party having the lien, after giving notice as herein provided, may apply by petition to any general district court of the county or city wherein the property is, or, if the value of the property exceeds \$25,000, to the circuit court of the county or city, for the sale of the property. If, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court is satisfied that the debt and lien are established and the property should be sold to pay the debt, the court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ of fieri facias.

If the owner of the property is a resident of the Commonwealth, any notice required by this section may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by personal delivery or by certified or registered mail delivered to the present owner of the property to be sold at his last known address at least 10 days prior to the date of sale. If the owner of the property is a nonresident or if his address is unknown, any notice required by this section may be served by posting a copy thereof in three of any of the following places in any combination: (i) one or more public places in the county or city where the property is located; (ii) one or more websites operated by the Commonwealth, the county or city where the property is located, or a political subdivision of either; or (iii) one or more newspapers of general circulation in the county or city where the property is located, either in print or on their websites. ~~For purposes of this section, "public place" means a premises owned by the Commonwealth or a political subdivision thereof, or an agency of either, that is open to the general public.~~

**§ 46.2-644.03. Enforcement of liens acquired under §§ 46.2-644.01 and 46.2-644.02 and of liens of bailees.**

*For the purposes of this section, "public place" means a premises owned by the Commonwealth or a political subdivision thereof, or an agency of either, that is open to the general public.*

Any person having a lien under §§ 46.2-644.01 and 46.2-644.02 and any bailee, except where otherwise provided, having a lien as such at common law on personal property in his possession that he has no power to sell for the satisfaction of the lien, if the debt for which the lien exists is not paid within 10 days after it is due and the value of the property affected by the lien does not exceed \$12,500, may sell such property or so much thereof as may be necessary, by public auction, for cash. The proceeds shall be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any, shall be paid within 30 days of the sale to any lienholder, and then to the owner of the property. A seller who fails to remit the surplus as provided shall be liable to the person entitled to the surplus in an amount equal to \$50 for each day beyond 30 days that the failure continues.

Before making the sale, the seller shall advertise the time, place, and terms thereof in *any of the following places: (i) a public place in the county or city where the property is located; (ii) a website operated by the Commonwealth, the county or city where the property is located, or a political subdivision of either; or (iii) a newspaper of general circulation in the county or city where the property is located, either in print or on its website.* In the case of property other than a motor vehicle required to be registered in Virginia having a value in excess of \$600, 10 days' prior notice shall be given to any secured party who has filed a financing statement against the property, and written notice shall be given to the owner as hereinafter provided. If the property is a motor vehicle required by the motor vehicle laws of Virginia to be registered, the

person having the lien shall ascertain from the Commissioner of the Department of Motor Vehicles whether the certificate of title of the motor vehicle shows a lien thereon. At that time, the Commissioner shall also determine the value of the property and shall communicate it to the bailee. If the certificate of title shows a lien, the bailee proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days prior thereto. If the name of the owner cannot be ascertained, the name of "John Doe" shall be substituted in any proceedings hereunder and no written notice as to him shall be required to be mailed. Whenever a vehicle is shown by the Department of Motor Vehicles records to be owned by a person who has indicated that he is on active military duty or service, the Department shall include such information in response to requests for vehicle information pursuant to the requirements of this chapter.

If the value of the property is more than \$12,500 but does not exceed \$25,000, the party having the lien, after giving notice as herein provided, may apply by petition to any general district court of the county or city wherein the property is, or, if the value of the property exceeds \$25,000, to the circuit court of the county or city, for the sale of the property. If, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court is satisfied that the debt and lien are established and the property should be sold to pay the debt, the court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ of fieri facias.

In determining the value of the property as required by this section, the Commissioner shall use a recognized pricing guide and, in using such guide, shall use the trade-in value specified in such guide.

If the owner of the property is a resident of the Commonwealth, any notice required by this section may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by personal delivery or by certified or registered mail delivered to the present owner of the property to be sold at his last known address at least 10 days prior to the date of sale. If the owner of the property is a nonresident or if his address is unknown, any notice required by this section may be served by posting a copy thereof in three of any of the following places in any combination: (i) one or more public places in the county or city where the property is located; (ii) one or more websites operated by the Commonwealth, the county or city where the property is located, or a political subdivision of either; or (iii) one or more newspapers of general circulation in the county or city where the property is located, either in print or on their websites. ~~For purposes of this section, "public place" means a premises owned by the Commonwealth or a political subdivision thereof, or an agency of either, that is open to the general public.~~

If the property is a motor vehicle (i) for which neither the owner nor any other lienholder or secured party can be determined by the Department of Motor Vehicles through a diligent search of its records, (ii) manufactured for a model year at least six years prior to the current model year, and (iii) having a value of no more than \$3,000 as determined by the provisions of § 8.01-419.1, a person having a lien on such vehicle may, after showing proof that the vehicle has been in his continuous custody for at least 30 days, apply for and receive from the Department of Motor Vehicles title or a nonrepairable certificate to such vehicle, free of all liens and claims of ownership of others, and proceed to sell or otherwise dispose of the vehicle.

Whenever a motor vehicle is sold hereunder, the Department of Motor Vehicles shall issue a certificate of title and registration or a nonrepairable certificate to the purchaser thereof upon his application containing the serial or motor number of the vehicle purchased together with an affidavit of the lienholder that he has complied with the provisions hereof, or by the sheriff conducting a sale that he has complied with said order.

Any garage keeper to whom a motor vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 may after 30 days from the date of delivery proceed under this section, provided that action has not been taken pursuant to such sections for the sale of such motor vehicle.

Notwithstanding any provisions to the contrary, any person having a lien under § 46.2-644.01 or 46.2-644.02 shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.) when disposing of a vehicle owned by a member of the military duty or service.

## CHAPTER 561

*An Act to amend and reenact §§ 46.2-644.01 and 46.2-644.02 of the Code of Virginia, relating to garage and mechanics' liens; amount of lien.*

[S 1342]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-644.01 and 46.2-644.02 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-644.01. Lien of keeper of garage.**

A. Every keeper of a garage and every person keeping any vehicles shall have a lien upon such vehicles for the amount that may be due him for the towing, storage, recovery, and care thereof, until such amount is paid.

B. In the case of any vehicle subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, the keeper of the garage shall have a lien thereon for his reasonable charges for storage under this section not to exceed \$500 and for alteration and repair under § 46.2-644.02 not to exceed \$1,000. However, in the case of a storage

lien, to obtain the priority for an amount in excess of \$300, the person asserting the lien shall make a reasonable attempt to notify any secured party of record at the Department of Motor Vehicles by telephonic means and shall give written notice by certified mail, return receipt requested, to any secured party of record at the Department of Motor Vehicles within seven business days of taking possession of the vehicle. If the secured party does not, within seven business days of receipt of the notice, take or refuse redelivery to it or its designee, the lienor shall be entitled to priority for the full amount of storage charges, not to exceed \$500. Notwithstanding a redelivery, the vehicle shall be subject to subsection D.

*In the case of any vehicle not subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, the keeper of the garage shall have a lien thereon for his reasonable charges for storage under this section and for alteration and repair under § 46.2-644.02 not to exceed the value of the vehicle as determined by the provisions of § 8.01-419.1.*

C. In addition, any person furnishing services involving the towing and recovery of a vehicle shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written notice within seven days of receipt of the vehicle by certified mail, return receipt requested, to all secured parties of record at the Department of Motor Vehicles.

D. In addition, any keeper shall be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens and may retain possession of such property until such charges are paid.

E. Any lien created under this section shall not extend to any personal property that is not attached to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of such personal property to return it to the owner if the owner claims the items prior to auction.

F. For the purposes of this section, in the case of a truck or combination of vehicles, the owner, or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck, shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.

#### **§ 46.2-644.02. Lien of mechanic for repairs.**

Every mechanic who shall alter or repair any article of personal property at the request of the owner of such property shall have a lien thereon for his just and reasonable charges therefor and may retain possession of such property until such charges are paid.

~~And every~~ Every mechanic who shall make necessary alterations or repairs on any article of personal property which from its character requires the making of ordinary repairs thereto as a reasonable incident to its reasonable and customary use, at the request of any person legally in possession thereof under a reservation of title contract, chattel mortgage, deed of trust, or other instrument securing money, the person so in possession having authority to use such property, shall have a lien thereon for his just and reasonable charges therefor to the extent of \$1,000 *or, if the property is a motor vehicle and is not subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, an amount not to exceed the value of the vehicle as determined by the provisions of § 8.01-419.1.* In addition, such mechanic shall be entitled to a lien against the proceeds, if any, remaining after the satisfaction of all prior security interests or liens and may retain possession of such property until such charges are paid. In any action to enforce the lien hereby given all persons having an interest in the property sought to be subjected shall be made parties defendant.

If the owner of the property held by the mechanic shall desire to obtain possession thereof, he shall make the mechanic defendant in proceeding in the county or municipal court to recover the property.

The owner may give a bond payable to the court, in a penalty of the amount equal to the lien claimed by the mechanic and court costs, with security to be approved by the clerk, and conditioned for the performance of the final judgment of the court on the trial of the proceeding, and with a further condition to the effect that, if upon the hearing, the judgment of the court be that the lien of the mechanic on such property, or any part thereof, be enforced, judgment may thereupon be entered against the obligors on such bond for the amount due the mechanic and court costs, if assessed against the owner, without further or other proceedings against them thereon. Upon giving of the bond, the property shall be delivered to the owner.

## **CHAPTER 562**

*An Act to amend and reenact § 3.2-6538 of the Code of Virginia, relating to dogs running at large in packs; local ordinance; civil penalty.*

[S 1367]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 3.2-6538 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 3.2-6538. Governing body of any locality may prohibit dogs from running at large; civil penalty.**

~~The governing body of any~~ Any locality may by ordinance prohibit the running at large of all or any category of dogs, *except dogs used for hunting*, in all or any designated portion of such locality during such months as ~~they~~ it may designate. ~~Governing bodies~~ Any such locality may also require that dogs be confined, restricted, or penned up during such periods. For the purpose of this section, a dog shall be deemed to run at large while roaming, *or running or self-hunting* off the property of its owner or custodian and not under its owner's or custodian's immediate control. Any person who permits his

dog to run at large, or remain unconfined, unrestricted, or not penned up shall be deemed to have violated *an ordinance adopted pursuant to the provisions of this section. Such ordinance shall provide that the owner or custodian of any dog found running at large in a pack shall be subject to a civil penalty in an amount established by the locality not to exceed \$100 per dog so found. For the purpose of such ordinance, a dog shall be deemed to be running at large in a pack if it is running at large in the company of one or more other dogs that are also running at large. Any civil penalty collected pursuant to such ordinance shall be deposited by the treasurer of the locality pursuant to the provisions of § 3.2-6534.*

### CHAPTER 563

*An Act to repeal Chapter 41 of the Acts of Assembly of 2013 and Chapter 184 of the Acts of Assembly of 2015, relating to Chesapeake Bay Watershed Implementation Plan; Lynnhaven River and Little Creek watersheds.*

[S 1388]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That Chapter 41 of the Acts of Assembly of 2013 and Chapter 184 of the Acts of Assembly of 2015 are repealed.**

### CHAPTER 564

*An Act to amend and reenact § 15.2-958.3 of the Code of Virginia, relating to C-PACE loans; stormwater management; residential dwellings and condominiums.*

[S 1400]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-958.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-958.3. Financing clean energy and stormwater management programs.**

A. Any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy or stormwater management improvements with free and willing property owners of both existing properties and new construction. Such an ordinance shall include but not be limited to the following:

1. The kinds of renewable energy production and distribution facilities, energy usage efficiency improvements, ~~or~~ water usage efficiency improvements, or stormwater management improvements for which loans may be offered;

2. The proposed arrangement for such loan program, including (i) a statement concerning the source of funding that will be used to pay for work performed pursuant to the contracts; (ii) the interest rate and time period during which contracting property owners would repay the loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality;

3. A minimum and maximum aggregate dollar amount which may be financed;

4. A method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a third party for professional services to administer such loan program;

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as (i) a program application fee paid by the property owner requesting to participate in the program, (ii) a component of the interest rate on the assessment in the written contract between the locality and the property owner, or (iii) a combination of (i) and (ii); and

7. A draft contract specifying the terms and conditions proposed by the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. The locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

D. In order to secure the loan authorized pursuant to this section, the locality shall be authorized to place a voluntary special assessment lien equal in value to the loan against any property where such clean energy systems or stormwater management improvements are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans.

E. A voluntary special assessment lien on real property other than a residential dwelling with fewer than five dwelling units or a condominium project as defined in § 55-79.2:

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien in the land records where the property is located, and (ii) evidence that the property owner is current on payments on loans secured by a mortgage or deed of trust lien on the property and on property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and that the title of the benefitted property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

2. Shall run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

3. May be enforceable by the local government in the same manner that a property tax lien against real property may be enforced by the local government. A local government shall be entitled to recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax; and

4. May incur interest and penalties for delinquent installments of the assessment in the same manner as delinquent property taxes.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

## CHAPTER 565

*An Act to amend and reenact § 62.1-132.3:2 of the Code of Virginia, relating to Port of Virginia Economic and Infrastructure Development Grant Fund and Program.*

[S 1459]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 62.1-132.3:2 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 62.1-132.3:2. Port of Virginia Economic and Infrastructure Development Grant Fund and Program.**

A. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, and any funds transferred at the request of the Executive Director from the Port Opportunity Fund created pursuant to § 62.1-132.3:1, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Port of Virginia Economic and Infrastructure Development Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director. Moneys in the Fund shall be used solely for the purpose of grants to qualified applicants to the Port of Virginia Economic and Infrastructure Development Grant Program.

B. As used in this section, unless the context requires a different meaning:

"New, permanent full-time position" means a job of an indefinite duration, created by a qualified company as a result of operations within the Commonwealth, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year shall consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of an employee's time per week for the portion of the taxable year in which the employee was initially hired for the qualified company's location within the Commonwealth. "New, permanent full-time position" includes security positions as required within a foreign trade zone, established pursuant to Foreign Trade Zones Act of 1934, as amended (19 U.S.C. §§ 81a through 81u). "New, permanent full-time position" does not include seasonal or temporary positions, jobs created when a position is shifted from an existing location in the Commonwealth to the qualified company's new or expanded location, or positions in building and grounds maintenance or other positions that are ancillary to the principal activities performed by the employees at the qualified company's location within the Commonwealth.

"Qualified company" means a corporation, limited liability company, partnership, joint venture, or other business entity that (i) locates or expands a facility within the Commonwealth; (ii) creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth during its first year of operation or during the year when the expansion occurs; (iii) is involved in maritime commerce or exports or imports manufactured goods through the Port of Virginia; and (iv) is engaged in one or more of the following: the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration or extraction.

"Qualified full-time employee" means an employee filling a new, permanent full-time position in the qualified company's location within the Commonwealth. A "qualified full-time employee" does not include an employee (i) for whom a tax credit was previously earned pursuant to § 58.1-439 or 58.1-439.12:06 by a related party as listed in § 267(b) of the Internal Revenue Code or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code; (ii) who was previously employed in the same job function at an existing location in the Commonwealth by a related party as listed in § 267(b) of the Internal Revenue Code; or (iii) whose job function was previously performed at a different location in the Commonwealth by an employee of a related party as listed in § 267(b) of the Internal Revenue Code or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code.

C. Beginning January 1, 2014, but not later than June 30, ~~2020~~ 2025, and subject to appropriation, any qualified company that locates or expands a facility within the Commonwealth shall be eligible to apply for a one-time grant from the Fund, in an amount determined as follows:

1. One thousand dollars per new, permanent full-time position if the qualified company creates at least 25 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs;

2. Fifteen hundred dollars per new, permanent full-time position if the qualified company creates at least 50 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs;

3. Two thousand dollars per new, permanent full-time position if the qualified company creates at least 75 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs; and

4. Three thousand dollars per new, permanent full-time position if the qualified company creates at least 100 new, permanent full-time positions for qualified full-time employees during its first year of operation or during the year in which the expansion occurs.

D. The maximum amount of grant allowable per qualified company in any given fiscal year is \$500,000. The maximum amount of grants allowable among all qualified companies in any given fiscal year is \$5 million.

E. To qualify for a grant pursuant to this section, a qualified company must apply for the grant not later than March 31 in the year immediately following the location or expansion of a facility within the Commonwealth pursuant to an application process developed by the Virginia Port Authority. Within 90 days after the filing deadline, the Executive Director shall certify to the Comptroller and the qualified company the amount of grant to which the qualified company is entitled under this section. Payment of each grant shall be made by check issued by the State Treasurer on warrant of the Comptroller within 60 days of such certification and in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund or \$5 million, such grants shall be paid in the next fiscal year in which funds are available.

F. A qualified company that has received a grant in accordance with the requirements provided in this section shall be eligible for a second grant from the Fund if it (i) locates or expands an additional facility in a separate location, as determined by the Virginia Port Authority, within the Commonwealth; (ii) creates at least 300 new, permanent full-time positions at the additional facility over and above those agreed upon in the qualified company's original memorandum of understanding with the Virginia Port Authority; and (iii) increases cargo volumes through the Port of Virginia by at least five percent, not including any volume increase resulting from the original grant, from the additional facility. If the qualified company satisfies the requirements provided in this subsection and receives a grant consistent with the requirements of this section, then the qualified company shall enter into another separate memorandum of understanding with the Virginia Port Authority as provided in subsection G.

G. Prior to receipt of a grant, the qualified company shall enter into a memorandum of understanding with the Virginia Port Authority establishing the requirements for maintaining the number of new, permanent full-time positions for qualified employees at the qualified company's location within the Commonwealth. If the number of new, permanent full-time positions for any of the three years immediately following receipt of a grant falls below the number of new, permanent full-time positions created during the year for which the grant is claimed, the amount of the grant must be recalculated using the decreased number of new, permanent full-time positions and the qualified company shall repay the difference.

H. No qualified company shall apply for a grant nor shall one be awarded under this section to an otherwise qualified company if (i) a credit pursuant to § 58.1-439 or 58.1-439.12:06 is claimed for the same employees or for capital expenditures at the same facility by the qualified company, by a related party as listed in § 267(b) of the Internal Revenue Code, or by a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code or (ii) the qualified company was a party to a reorganization as defined in § 368(b) of the Internal Revenue Code, and any corporation involved in the reorganization as defined in § 368(a) of the Internal Revenue Code previously received a grant under this section for the same facility or operations.

I. The Virginia Port Authority, with the assistance of the Virginia Economic Development Partnership, shall develop guidelines establishing procedures and requirements for qualifying for the grant, including the affirmative determination that each applicant is a qualified company, as defined above, engaged in a port-related business. The guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). For the purposes of administering this grant program, the Virginia Port Authority and the Department of Taxation shall exchange information regarding whether a qualified company,

a related party as listed in § 267(b) of the Internal Revenue Code, or a trade or business under common control as defined in regulations issued pursuant to § 52(b) of the Internal Revenue Code has claimed a credit pursuant to § 58.1-439 or 58.1-439.12:06 for the same employees or for capital expenditures at the same facility.

## CHAPTER 566

*An Act to amend and reenact §§ 3.2-6509 and 3.2-6512 of the Code of Virginia, relating to comprehensive animal care; enforceable under Virginia Consumer Protection Act.*

[S 1462]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 3.2-6509 and 3.2-6512 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 3.2-6509. Misrepresentation of animal's condition; penalties.**

No person shall misrepresent the physical condition of any animal at the animal's sale, trade, delivery, or other method of transfer. For the purpose of this section, misrepresentation shall include selling, trading, delivering or otherwise transferring an animal to another person with the knowledge that the animal has an infection, communicable disease, parasitic infestation, abnormality or other physical defect that is not made known to the person receiving the animal. The sale of an agricultural animal that has external or internal parasites that are not made known to the person receiving the animal shall not be a violation of this section unless the animal is clinically ill or debilitated due to such parasites at the time of sale, trade, delivery or transfer of the animal. Violation of this section is a Class 3 misdemeanor.

*Any violation of this section by a pet dealer shall also constitute a prohibited practice under § 59.1-200 and shall be subject to the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).*

##### **§ 3.2-6512. Sale without pet dealer's animal history certificate violation of Consumer Protection Act; contents of certificate.**

It shall be a violation of the Virginia Consumer Protection Act (§ 59.1-196 et seq.) for any pet dealer to sell a dog or cat within the Commonwealth stating, promising, or representing that the animal is registered or capable of being registered with any animal pedigree registry organization, without providing the consumer with a pet dealer's animal history certificate at the time the consumer takes possession of the dog or cat. The pet dealer's animal history certificate shall be signed by the pet dealer or his agent or employee and shall contain the following information:

1. The animal's breed, sex, age, color, and birth date;
2. The name and address of the person from whom the pet dealer purchased the animal;
3. The breeder's name and address;
4. The name and registration number of the animal's parents;
5. If the animal has been so examined, the date on which the animal has been examined by a licensed veterinarian, the name and address of such veterinarian, and a brief statement of any findings made; and
6. A statement of all vaccinations administered to the animal, including the identity and quantity of the vaccine, and the name and address of the person or licensed veterinarian administering or supervising the vaccinations.

The information contained in the pet dealer's animal history certificate required herein shall be informative only, and the pet dealer shall not be responsible in any manner for the accuracy of such information unless he knows or has reason to know that such information is erroneous.

A copy of the pet dealer's animal history certificate signed by the consumer shall be maintained by the pet dealer for a period of ~~one year~~ *two years* following the date of sale.

A pet shop operating in the Commonwealth shall post in a conspicuous place on or near the cage of any dog or cat available for sale the breeder's name, city, state, and USDA license number. A pet shop or a USDA licensed dealer who advertises any dog or cat for sale in the Commonwealth, including by Internet advertisement, shall provide prior to the time of sale the breeder's name, city, state, and USDA license number.

## CHAPTER 567

*An Act to hold mass transit providers harmless for certain operating fund losses.*

[S 1680]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. § 1. The Commonwealth Transportation Board may allocate supplemental operating funds in fiscal year 2020 to any transit provider that receives funds to support operating costs pursuant to subdivision C 1 of § 33.2-1526.1 of the Code of Virginia and that is negatively impacted by a loss of operating funds as a direct result of the performance-based allocation process set forth in Chapter 854 of the Acts of Assembly of 2018. The maximum amount of supplemental operating funds available pursuant to this authorization shall not exceed \$3 million from the nongeneral fund amounts available to the Department of Rail and Public Transportation.**

## CHAPTER 568

*An Act to direct the Commissioner of Highways to report certain data on overweight trucks.*

[S 1775]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Commissioner of Highways shall report annually by December 1 to the Governor, the General Assembly, and the Commonwealth Transportation Board regarding the operation of overweight vehicles on highways of the Commonwealth. The report shall include, at a minimum, (i) data regarding the frequency and severity of incidents and crashes involving overweight trucks compared to other trucks, (ii) the maintenance and infrastructure needs of routes frequently used by overweight trucks and comparison of such needs to similar routes not frequented by such trucks, and (iii) the estimated number of additional vehicle miles that would be necessary if such vehicles were not permitted to carry overweight loads. In submitting the report, the Commissioner shall indicate if additional data is needed to provide further reports, and if so, include a proposal for additional data collection. Nothing herein shall be construed to require the Commissioner to prospectively gather additional data not already collected by the Commissioner or any transportation agency.*

**2. That the provisions of this act shall expire on January 1, 2021.**

## CHAPTER 569

*An Act to amend and reenact §§ 22.1-79.1 and 22.1-296 of the Code of Virginia, relating to the school calendar; opening day of the school year.*

[H 1652]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-79.1 and 22.1-296 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-79.1. Opening of the school year; approvals for certain alternative schedules.**

A. Each local school board shall set the school calendar so that the first day students are required to attend school shall be ~~after no earlier than 14 days before~~ Labor Day. *In each school division in which the school board sets the school calendar so that the first day students are required to attend school is before Labor Day, such school board shall close each school in the school division from the Friday immediately preceding Labor Day through Labor Day.* The Board of Education may waive this requirement based on a school board certifying that it meets ~~one~~ of the good cause requirements of subsection B.

B. For purposes of this section, "good cause" means:

~~1. A school division has been closed an average of eight days per year during any five of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations;~~

~~2. A school division is providing, in the school year for which the waiver is sought, an instructional program or programs in one or more of its elementary or middle or high schools, excluding Virtual Virginia, which are dependent on and provided in one or more elementary or middle or high schools of another school division that qualifies for such waiver. However, any waiver granted by the Board of Education pursuant to this subdivision shall only apply to the opening date for those schools where such dependent programs are provided;~~

~~3. A school division is providing its students, in the school year for which the waiver is sought, with an experimental or innovative program which requires an earlier opening date than that established in subsection A of this section and which has been approved by the Department of Education pursuant to the regulations of the Board of Education establishing standards for accrediting public schools. However, any waiver or extension of the school year granted by the Board of Education pursuant to this subdivision or its standards for accrediting public schools for such an experimental or innovative program shall only apply to the opening date for those schools where such experimental or innovative programs are offered generally to the student body of the school. For the purposes of this subdivision, experimental or innovative programs shall include instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools; or Any waiver provided pursuant to this subsection shall only apply to the opening date for those schools where such year-round instructional programs are offered~~

~~4. A school division is entirely surrounded by a school division that has an opening date prior to Labor Day in the school year for which the waiver is sought. Such school division may open schools on the same opening date as the surrounding school division.~~

C. Individual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternative school schedule plans providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades one through ~~twelve~~ 12 and 540 hours for kindergarten.

**§ 22.1-296. Payment of employees; reimbursement for private transportation; certain sick leave policies.**

A. Each school board shall provide for the payment of teachers, principals, assistant principals, and other employees monthly, ~~semi-monthly~~ *semimonthly*, or biweekly, as may be determined by the school board.

However, school boards ~~receiving a waiver from the Board of Education pursuant to § 22.1-79.1 and~~ setting the school calendar so that the first day students are required to attend occurs prior to August 15 shall establish a payment schedule to ensure that all contract personnel are compensated for time worked within the first month of employment.

B. All school board employees may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

C. Each local school board shall adopt policies providing for leave without pay for school board employees with debilitating or life-threatening illness or injury, without regard to the employee's length of service with the school board.

**2. That any school board of a school division that was granted a waiver for the 2018-2019 school year under one of the good cause requirements then in effect pursuant to § 22.1-79.1 of the Code of Virginia or pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, may continue to set the school calendar so that the first day students are required to attend is earlier than 14 days before Labor Day. Additionally, any school board of a school division that was granted a waiver pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, shall not be required to close the Friday immediately preceding Labor Day.**

## CHAPTER 570

*An Act to amend and reenact §§ 22.1-79.1 and 22.1-296 of the Code of Virginia, relating to the school calendar; opening day of the school year.*

[S 1005]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-79.1 and 22.1-296 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-79.1. Opening of the school year; approvals for certain alternative schedules.**

A. Each local school board shall set the school calendar so that the first day students are required to attend school shall be ~~after no earlier than 14 days before~~ Labor Day. *In each school division in which the school board sets the school calendar so that the first day students are required to attend school is before Labor Day, such school board shall close each school in the school division from the Friday immediately preceding Labor Day through Labor Day.* The Board of Education may waive this requirement based on a school board certifying that it meets ~~one~~ of the good cause requirements of subsection B.

B. For purposes of this section, "good cause" means:

~~1. A school division has been closed an average of eight days per year during any five of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations;~~

~~2. A school division is providing, in the school year for which the waiver is sought, an instructional program or programs in one or more of its elementary or middle or high schools, excluding Virtual Virginia, which are dependent on and provided in one or more elementary or middle or high schools of another school division that qualifies for such waiver. However, any waiver granted by the Board of Education pursuant to this subdivision shall only apply to the opening date for those schools where such dependent programs are provided;~~

~~3. A school division is providing its students, in the school year for which the waiver is sought, with an experimental or innovative program which requires an earlier opening date than that established in subsection A of this section and which has been approved by the Department of Education pursuant to the regulations of the Board of Education establishing standards for accrediting public schools. However, any waiver or extension of the school year granted by the Board of Education pursuant to this subdivision or its standards for accrediting public schools for such an experimental or innovative program shall only apply to the opening date for those schools where such experimental or innovative programs are offered generally to the student body of the school. For the purposes of this subdivision, experimental or innovative programs shall include instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools; ~~or. Any waiver provided pursuant to this subsection shall only apply to the opening date for those schools where such year-round instructional programs are offered~~~~

~~4. A school division is entirely surrounded by a school division that has an opening date prior to Labor Day in the school year for which the waiver is sought. Such school division may open schools on the same opening date as the surrounding school division.~~

C. Individual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternative school schedule plans providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades one through ~~twelve~~ 12 and 540 hours for kindergarten.

**§ 22.1-296. Payment of employees; reimbursement for private transportation; certain sick leave policies.**

A. Each school board shall provide for the payment of teachers, principals, assistant principals, and other employees monthly, ~~semi-monthly~~ *semimonthly*, or biweekly, as may be determined by the school board.

However, school boards ~~receiving a waiver from the Board of Education pursuant to § 22.1-79.1 and~~ setting the school calendar so that the first day students are required to attend occurs prior to August 15 shall establish a payment schedule to ensure that all contract personnel are compensated for time worked within the first month of employment.

B. All school board employees may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

C. Each local school board shall adopt policies providing for leave without pay for school board employees with debilitating or life-threatening illness or injury, without regard to the employee's length of service with the school board.

**2. That any school board of a school division that was granted a waiver for the 2018-2019 school year under one of the good cause requirements then in effect pursuant to § 22.1-79.1 of the Code of Virginia or pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, may continue to set the school calendar so that the first day students are required to attend is earlier than 14 days before Labor Day. Additionally, any school board of a school division that was granted a waiver pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session I, shall not be required to close the Friday immediately preceding Labor Day.**

**CHAPTER 571**

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 6 of Title 23.1 a section numbered 23.1-611.1, relating to the State Council of Higher Education for Virginia; financial aid award notification.*

[H 1704]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 6 of Title 23.1 a section numbered 23.1-611.1 as follows:**

**§ 23.1-611.1. Financial aid award notification.**

*Any comprehensive financial aid award notification provided to a student by a public institution of higher education or private institution of higher education shall meet the requirements and best practices established by the Council in its Financial Aid Award Letters Policies and Guidance.*

**CHAPTER 572**

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 6 of Title 23.1 a section numbered 23.1-611.1, relating to the State Council of Higher Education for Virginia; financial aid award notification.*

[S 1593]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 6 of Title 23.1 a section numbered 23.1-611.1 as follows:**

**§ 23.1-611.1. Financial aid award notification.**

*Any comprehensive financial aid award notification provided to a student by a public institution of higher education or private institution of higher education shall meet the requirements and best practices established by the Council in its Financial Aid Award Letters Policies and Guidance.*

**CHAPTER 573**

*An Act to amend and reenact § 22.1-277 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-251.1:1, relating to cannabidiol oil and THC-A oil; use at school.*

[H 1720]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-277 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-251.1:1 as follows:**

**§ 18.2-251.1:1. Possession or distribution of cannabidiol oil or THC-A oil; public schools.**

*No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person*

*employed by or contracted with a local school board to deliver health-related services shall be prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, 18.2-250.1, or 18.2-255 for the possession or distribution of cannabidiol oil or THC-A oil for storing, dispensing, or administering cannabidiol oil or THC-A oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabidiol oil or THC-A oil in accordance with subsection B of § 54.1-3408.3.*

**§ 22.1-277. Suspensions and expulsions of students generally.**

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

*E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel any student who holds a valid written certification for the use of cannabidiol oil or THC-A oil issued by a practitioner in accordance with subsection B of § 54.1-3408.3 for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board.*

**2. That the Department of Health Professions, in coordination with the Department of Education, shall develop and make available to school boards a standardized form that is to be completed by a practitioner who issues a written certification and a pharmaceutical processor that dispenses the cannabidiol oil or THC-A oil to a student. A completed form shall identify the student; specify the dosage of the cannabidiol oil or THC-A oil, the frequency in which it is to be administered, and any other circumstances that may warrant its use; and provide other relevant information.**

## CHAPTER 574

*An Act to amend and reenact § 22.1-277 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-251.1:1, relating to cannabidiol oil and THC-A oil; use at school.*

[S 1632]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-277 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-251.1:1 as follows:**

**§ 18.2-251.1:1. Possession or distribution of cannabidiol oil or THC-A oil; public schools.**

*No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under § 18.2-248, 18.2-248.1, 18.2-250, 18.2-250.1, or 18.2-255 for the possession or distribution of cannabidiol oil or THC-A oil for storing, dispensing, or administering cannabidiol oil or THC-A oil, in accordance with a policy adopted by the local school board, to a student who has been issued a valid written certification for the use of cannabidiol oil or THC-A oil in accordance with subsection B of § 54.1-3408.3.*

**§ 22.1-277. Suspensions and expulsions of students generally.**

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

*E. Notwithstanding the provisions of § 22.1-277.08, no school board shall be required to suspend or expel any student who holds a valid written certification for the use of cannabidiol oil or THC-A oil issued by a practitioner in accordance*

with subsection B of § 54.1-3408.3 for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with a policy adopted by the school board.

**2. That the Department of Health Professions, in coordination with the Department of Education, shall develop and make available to school boards a standardized form that is to be completed by a practitioner who issues a written certification and a pharmaceutical processor that dispenses the cannabidiol oil or THC-A oil to a student. A completed form shall identify the student; specify the dosage of the cannabidiol oil or THC-A oil, the frequency in which it is to be administered, and any other circumstances that may warrant its use; and provide other relevant information.**

## CHAPTER 575

*An Act to require certain State Library Board advisory committees to make recommendations relating to the Virginia Public Records Act.*

[H 1788]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Public School Records Consortium and the Records Oversight Committee, established by the State Library Board as advisory committees pursuant to subsection B of § 42.1-82 of the Code of Virginia, shall confer with school boards and division superintendents and submit to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than November 1, 2019, recommendations on ways in which school boards and school board employees can better promote efficiency and cost-effectiveness in the implementation of the Virginia Public Records Act (§ 42.1-76 et seq. of the Code of Virginia).*

## CHAPTER 576

*An Act to amend and reenact § 22.1-253.13:9 of the Code of Virginia, relating to the Virginia Index of Performance incentive program; Exemplar School Recognition Program.*

[H 1868]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:9 of the Code of Virginia is amended and reenacted as follows:**

#### **§ 22.1-253.13:9. Exemplar School Recognition Program.**

A. Schools and local school divisions shall be recognized by the Board of Education in accordance with guidelines it shall establish for the ~~Virginia Index of Performance (VIP) incentive program~~ *Exemplar School Recognition Program (the Program)*. The ~~VIP incentive program~~ *Program* shall be designed to recognize and reward ~~fully accredited (i) schools and school divisions that make significant progress toward achieving advanced proficiency levels in reading, mathematics, science, and history and social science, and on other indicators of school and student performance that exceed Board-established requirements or show continuous improvement on academic and school quality indicators and (ii) schools, school divisions, and school boards that implement effective, innovative practices that are aligned with the Commonwealth's goals for public education.~~ *fully accredited (i) schools and school divisions that make significant progress toward achieving advanced proficiency levels in reading, mathematics, science, and history and social science, and on other indicators of school and student performance that exceed Board-established requirements or show continuous improvement on academic and school quality indicators and (ii) schools, school divisions, and school boards that implement effective, innovative practices that are aligned with the Commonwealth's goals for public education.* Such recognition may include:

1. Public announcements recognizing individual schools and divisions;
2. Tangible rewards;
3. Waivers of certain board regulations;
4. Exemptions from certain reporting requirements; or
5. Other commendations deemed appropriate to recognize high achievement.

In addition to Board recognition, local school boards shall adopt policies to recognize individual schools through public announcements or media releases as well as other appropriate recognition.

~~In order to encourage school divisions to promote student achievement in science, technology, engineering, and mathematics, the Board of Education shall take into account in its guidelines a school division's increase in enrollments and elective course offerings in these areas:~~

B. A school that maintains a passing rate on Virginia assessment program tests or additional tests approved by the Board of 95 percent or above in each of the four core academic areas for two consecutive years may, upon application to the Department of Education, receive a waiver from accreditation. A school receiving such a waiver shall be fully accredited for a three-year period. However, such school shall continue to annually submit documentation in compliance with the pre-accreditation eligibility requirements.

~~C. Schools may be eligible to receive the Governor's Award for Outstanding Achievement. This award will be given to schools rated fully accredited that significantly increase the achievement of students within student subgroups in accordance with guidelines prescribed by the Board of Education.~~

D. In its guidelines for calculating an award under the Virginia Index of Performance incentive program pursuant to this section, the Department of Education shall take into account the number of high school students who earn the one-year Uniform Certificate of General Studies or an associate degree from a comprehensive community college in the Commonwealth concurrent with a high school diploma.

**2. That pursuant to the provisions of this act, the Board of Education shall replace the existing Virginia Index of Performance (VIP) incentive program with the Exemplar School Recognition Program.**

### CHAPTER 577

*An Act to amend and reenact § 22.1-206 of the Code of Virginia, relating to public schools; instruction on the risks of tobacco and nicotine products.*

[H 1881]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-206 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-206. Instruction concerning drugs, alcohol, substance abuse, and tobacco and nicotine products.**

A. Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

B. Instruction concerning the public safety hazards and dangers of alcohol abuse, underage drinking, and drunk driving shall be provided in the public schools. The Virginia Alcoholic Beverage Control Authority shall provide educational materials to the Department of Education. The Department of Education shall review and shall distribute such materials as are approved to the public schools.

C. *The Virginia Foundation for Healthy Youth shall develop and the Department of Education shall distribute to each local school division educational materials concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2. Instruction concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products, as such terms are defined in § 18.2-371.2, shall be provided in each public elementary and secondary school in the Commonwealth, consistent with such educational materials.*

### CHAPTER 578

*An Act to amend and reenact § 23.1-627.3 of the Code of Virginia, relating to New Economy Workforce Credential Grant Fund and Program; grant priority.*

[H 1920]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-627.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-627.3. New Economy Workforce Credential Grant Fund and Program established; administration.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the New Economy Workforce Credential Grant Fund. The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly, and from any other sources, public or private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of disbursing moneys to eligible institutions for the award of grants pursuant to the Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the director of the Council.

B. There is hereby established a New Economy Workforce Credential Grant Program for the purpose of disbursing moneys from the Fund to eligible institutions for the award of grants to benefit students pursuant to this article.

C. The Council shall administer the Program and shall carry out the goals and purposes of the Program set forth in this article. In administering the Program, the Council (i) shall require eligible institutions to provide student-specific data and make final decisions on any dispute between eligible institutions and grant recipients; (ii) shall undertake periodic assessments of the overall success of the Program and recommend modifications, interventions, and other actions based on such assessment; and (iii) may adopt such regulations for the administration of the Program as it deems necessary and appropriate.

D. The Council shall instruct the Comptroller to annually disburse moneys to eligible institutions on a first-come, first-served basis as eligible students enroll in noncredit workforce training programs ~~identified by the governing board of the eligible institution pursuant to subsection E, provided that no~~, giving priority to noncredit workforce training programs in high-demand fields in which employer demand is currently unmet by the available workforce. No more than one-quarter of the moneys in the Fund ~~are~~ shall be disbursed annually to any eligible institution. The Council shall set forth the

procedure by which eligible institutions shall notify the Council when eligible students enroll in noncredit workforce training programs identified by the governing board of the eligible institution pursuant to subsection E.

E. The Board shall make recommendations to eligible institutions to help determine high-demand fields for which noncredit workforce training programs may be offered pursuant to the Program. The governing board of each eligible institution shall determine the noncredit workforce training programs offered pursuant to the Program.

## CHAPTER 579

*An Act to amend the Code of Virginia by adding a section numbered 22.1-279.3:2, relating to public elementary and secondary school students; protective orders; notification.*

[H 1997]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 22.1-279.3:2 as follows:**

**§ 22.1-279.3:2. Public elementary and secondary school students; protective orders; notification.**

*Any school principal who receives notice that a circuit court, general district court, juvenile and domestic relations district court, or magistrate has issued a protective order pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, or 16.1-279.1, subsection D of § 18.2-60.3, or Chapter 9.1 (§ 19.2-152.7:1 et seq.) of Title 19.2 for the protection of any child who is enrolled at a public elementary or secondary school in the Commonwealth where such principal is employed, or any other order prohibiting contact with such a child, including an order issued as a condition of pretrial or posttrial supervision, shall subsequently notify licensed instructional personnel and other school personnel who (i) provide direct educational or support services to the protected child or the child subject to the order; (ii) have a legitimate educational interest in such information, and (iii) are responsible for the direct supervision of the protected child or the child subject to the order that such order has been issued.*

**2. That the Board of Education shall establish guidelines and develop model policies to aid local school boards in the implementation of § 22.1-279.3:2 of the Code of Virginia, as created by this act.**

## CHAPTER 580

*An Act to amend the Code of Virginia by adding a section numbered 23.1-2907.2, relating to the Virginia Community College System; certain registered apprenticeships; uniform instruction.*

[H 2020]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-2907.2 as follows:**

**§ 23.1-2907.2. Registered apprenticeships; uniform instruction.**

*The System, in consultation with the Department of Labor and Industry, shall develop and deliver uniform, related instruction for registered apprenticeships in high-demand programs, as determined by the Virginia Board of Workforce Development and the Virginia Employment Commission, and for which coursework is not otherwise available. Such instruction shall be available statewide and shall be delivered in a face-to-face, online, or blended format.*

## CHAPTER 581

*An Act to amend the Code of Virginia by adding a section numbered 22.1-207.2:1, relating to public schools; parental review of certain anti-bullying and suicide prevention materials.*

[H 2107]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 22.1-207.2:1 as follows:**

**§ 22.1-207.2:1. Anti-bullying or suicide prevention materials; parental right to review.**

*Each school board shall develop and implement policies that ensure that parents have the right to review any audio-visual materials that contain graphic sexual or violent content used in any anti-bullying or suicide prevention program. Such policies shall require that prior to using any such material, the parent of the child participating in such a program shall be provided written notice of his right to review the material and his right to excuse his child from participating in the part of such program utilizing such material.*

## CHAPTER 582

*An Act to amend and reenact § 22.1-253.13:1 of the Code of Virginia, relating to school boards; public institutions of higher education; College and Career Access Pathways Partnerships.*

[H 2123]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 22.1-253.13:1 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-253.13:1. Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives.**

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of the Commonwealth must be to enable each student to develop the skills that are necessary for success in school, preparation for life, and reaching their full potential. The General Assembly and the Board of Education find that the quality of education is dependent upon the provision of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of high-quality instructional personnel; (ii) the appropriate learning environment designed to promote student achievement; (iii) quality instruction that enables each student to become a productive and educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of other resources. In keeping with this goal, the General Assembly shall provide for the support of public education as set forth in Article VIII, Section 1 of the Constitution of Virginia.

B. The Board of Education shall establish educational objectives known as the Standards of Learning, which shall form the core of Virginia's educational program, and other educational objectives, which together are designed to ensure the development of the skills that are necessary for success in school and for preparation for life in the years beyond. At a minimum, the Board shall establish Standards of Learning for English, mathematics, science, and history and social science. The Standards of Learning shall not be construed to be regulations as defined in § 2.2-4001.

The Board shall seek to ensure that the Standards of Learning are consistent with a high-quality foundation educational program. The Standards of Learning shall include, but not be limited to, the basic skills of communication (listening, speaking, reading, and writing); computation and critical reasoning, including problem solving and decision making; proficiency in the use of computers and related technology; computer science and computational thinking, including computer coding; and the skills to manage personal finances and to make sound financial decisions.

The English Standards of Learning for reading in kindergarten through grade three shall be based on components of effective reading instruction, to include, at a minimum, phonemic awareness, phonics, fluency, vocabulary development, and text comprehension.

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning. The Board of Education shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such review and revision on a more frequent basis.

To provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing revised Standards of Learning. Thirty days prior to conducting such hearings, the Board shall give notice of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise the Standards of Learning in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of the Standards of Learning.

In addition, the Department of Education shall make available and maintain a website, either separately or through an existing website utilized by the Department of Education, enabling public elementary, middle, and high school educators to submit recommendations for improvements relating to the Standards of Learning, when under review by the Board according to its established schedule, and related assessments required by the Standards of Quality pursuant to this chapter. Such website shall facilitate the submission of recommendations by educators.

School boards shall implement the Standards of Learning or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives established by the school division at appropriate age or grade levels. The curriculum adopted by the local school division shall be aligned to the Standards of Learning.

The Board of Education shall include in the Standards of Learning for history and social science the study of contributions to society of diverse people. For the purposes of this subsection, "diverse" includes consideration of disability, ethnicity, race, and gender.

The Board of Education shall include in the Standards of Learning for health instruction in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Such instruction shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external

defibrillator, such as a program developed by the American Heart Association or the American Red Cross. No teacher who is in compliance with subdivision D 3 of § 22.1-298.1 shall be required to be certified as a trainer of cardiopulmonary resuscitation to provide instruction for non-certification.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for career and technical education programs to require the full integration of English, mathematics, science, and history and social science Standards of Learning. Career and technical education programs shall be aligned with industry and professional standard certifications, where they exist.

The Board shall establish content standards and curriculum guidelines for courses in career investigation in elementary school, middle school, and high school. Each school board shall (i) require each middle school student to take at least one course in career investigation or (ii) select an alternate means of delivering the career investigation course to each middle school student, provided that such alternative is equivalent in content and rigor and provides the foundation for such students to develop their academic and career plans. Any school board may require (a) such courses in career investigation at the high school level as it deems appropriate, subject to Board approval as required in subsection A of § 22.1-253.13:4, and (b) such courses in career investigation at the elementary school level as it deems appropriate. The Board shall develop and disseminate to each school board career investigation resource materials that are designed to ensure that students have the ability to further explore interest in career and technical education opportunities in middle and high school. In developing such resource materials, the Board shall consult with representatives of career and technical education, industry, skilled trade associations, chambers of commerce or similar organizations, and contractor organizations.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 that is aligned to the Standards of Learning and meets or exceeds the requirements of the Board of Education. The program of instruction shall emphasize reading, writing, speaking, mathematical concepts and computations, proficiency in the use of computers and related technology, computer science and computational thinking, including computer coding, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and world and United States history, economics, government, foreign languages, international cultures, health and physical education, environmental issues, and geography necessary for responsible participation in American society and in the international community; fine arts, which may include, but need not be limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education, gainful employment, or training in a career or technical field; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning and to achieve economic self-sufficiency.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those who fail to achieve a passing score on any Standards of Learning assessment in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs shall include components that are research-based.

Any student who achieves a passing score on one or more, but not all, of the Standards of Learning assessments for the relevant grade level in grades three through eight may be required to attend a remediation program.

Any student who fails to achieve a passing score on all of the Standards of Learning assessments for the relevant grade level in grades three through eight or who fails an end-of-course test required for the award of a verified unit of credit shall be required to attend a remediation program or to participate in another form of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs, in accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01.

Remediation programs shall include, when applicable, a procedure for early identification of students who are at risk of failing the Standards of Learning assessments in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs may also include summer school for all elementary and middle school grades and for all high school academic courses, as defined by regulations promulgated by the Board of Education, or other forms of remediation. Summer school remediation programs or other forms of remediation shall be chosen by the division superintendent to be appropriate to the academic needs of the student. Students who are required to attend such summer school programs or to participate in another form of remediation shall not be charged tuition by the school division.

The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation that has been selected by his parent, in consultation with the division superintendent or his designee, and is either (i) conducted by an accredited private school or (ii) a special program that has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the student's parent.

The Board of Education shall establish standards for full funding of summer remedial programs that shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

D. Local school boards shall also implement the following:

1. Programs in grades K through three that emphasize developmentally appropriate learning to enhance success.

2. Programs based on prevention, intervention, or remediation designed to increase the number of students who earn a high school diploma and to prevent students from dropping out of school. Such programs shall include components that are research-based.

3. Career and technical education programs incorporated into the K through 12 curricula that include:

a. Knowledge of careers and all types of employment opportunities, including, but not limited to, apprenticeships, entrepreneurship and small business ownership, the military, and the teaching profession, and emphasize the advantages of completing school with marketable skills;

b. Career exploration opportunities in the middle school grades;

c. Competency-based career and technical education programs that integrate academic outcomes, career guidance, and job-seeking skills for all secondary students. Programs shall be based upon labor market needs and student interest. Career guidance shall include counseling about available employment opportunities and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subdivision. Such plan shall be developed with the input of area business and industry representatives and local comprehensive community colleges and shall be submitted to the Superintendent of Public Instruction in accordance with the timelines established by federal law; and

d. Annual notice on its website to enrolled high school students and their parents of (i) the availability of the postsecondary education and employment data published by the State Council of Higher Education on its website pursuant to § 23.1-204.1 and (ii) the opportunity for such students to obtain a nationally recognized career readiness certificate at a local public high school, comprehensive community college, or workforce center.

4. Educational objectives in middle and high school that emphasize economic education and financial literacy pursuant to § 22.1-200.03.

5. Early identification of students with disabilities and enrollment of such students in appropriate instructional programs consistent with state and federal law.

6. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

7. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board of Education.

8. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

9. A plan to make achievements for students who are educationally at risk a divisionwide priority that shall include procedures for measuring the progress of such students.

10. An agreement for postsecondary degree attainment with a comprehensive community college in the Commonwealth specifying the options for students to complete an associate degree or a one-year Uniform Certificate of General Studies from a comprehensive community college concurrent with a high school diploma. Such agreement shall specify the credit available for dual enrollment courses and Advanced Placement courses with qualifying exam scores of three or higher.

11. A plan to notify students and their parents of the availability of dual enrollment and advanced placement classes; career and technical education programs, including internships, externships, apprenticeships, credentialing programs, certification programs, licensure programs, and other work-based learning experiences; the International Baccalaureate Program and Academic Year Governor's School Programs; the qualifications for enrolling in such classes, programs, and experiences; and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations. This plan shall include notification to students and parents of the agreement with a comprehensive community college in the Commonwealth to enable students to complete an associate degree or a one-year Uniform Certificate of General Studies concurrent with a high school diploma.

12. Identification of students with limited English proficiency and enrollment of such students in appropriate instructional programs, which programs may include dual language programs whereby such students receive instruction in English and in a second language.

13. Early identification, diagnosis, and assistance for students with reading and mathematics problems and provision of instructional strategies and reading and mathematics practices that benefit the development of reading and mathematics skills for all students.

Local school divisions shall provide reading intervention services to students in kindergarten through grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading test or any reading diagnostic test that meets criteria established by the Department of Education. Local school divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis, at a time to be determined by the Superintendent of Public Instruction. Each student who receives early intervention reading services will be assessed again at the end of that school year. The local school division, in its discretion, shall provide such reading intervention services prior to promoting a student from grade three to grade four. Reading intervention services may include the use of: special reading teachers; trained aides; volunteer tutors under the supervision of a certified teacher; computer-based reading tutorial programs; aides to instruct in-class groups while the teacher provides direct instruction to the students who need extra assistance; and

extended instructional time in the school day or school year for these students. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or early intervention reading may be used to meet the requirements of this subdivision.

Local school divisions shall provide algebra readiness intervention services to students in grades six through nine who are at risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on any diagnostic test that has been approved by the Department of Education. Local school divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis, at a time to be determined by the Superintendent of Public Instruction. Each student who receives algebra readiness intervention services will be assessed again at the end of that school year. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or algebra readiness intervention services may be used to meet the requirements of this subdivision.

14. Incorporation of art, music, and physical education as a part of the instructional program at the elementary school level.

15. (Applicable to school years before the 2018-2019 school year) A program of physical fitness available to all students with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, or (iii) other programs and physical activities deemed appropriate by the local school board. Each local school board shall incorporate into its local wellness policy a goal for the implementation of such program during the regular school year.

15. (Applicable beginning with the 2018-2019 school year) A program of physical activity available to all students in grades kindergarten through five consisting of at least 20 minutes per day or an average of 100 minutes per week during the regular school year and available to all students in grades six through 12 with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, (iii) recess, or (iv) other programs and physical activities deemed appropriate by the local school board. Each local school board shall implement such program during the regular school year.

16. A program of student services for kindergarten through grade 12 that shall be designed to aid students in their educational, social, and career development.

17. The collection and analysis of data and the use of the results to evaluate and make decisions about the instructional program.

18. A program of instruction in the high school Virginia and U.S. Government course on all information and concepts contained in the civics portion of the U.S. Naturalization Test.

E. From such funds as may be appropriated or otherwise received for such purpose, there shall be established within the Department of Education a unit to (i) conduct evaluative studies; (ii) provide the resources and technical assistance to increase the capacity for school divisions to deliver quality instruction; and (iii) assist school divisions in implementing those programs and practices that will enhance pupil academic performance and improve family and community involvement in the public schools. Such unit shall identify and analyze effective instructional programs and practices and professional development initiatives; evaluate the success of programs encouraging parental and family involvement; assess changes in student outcomes prompted by family involvement; and collect and disseminate among school divisions information regarding effective instructional programs and practices, initiatives promoting family and community involvement, and potential funding and support sources. Such unit may also provide resources supporting professional development for administrators and teachers. In providing such information, resources, and other services to school divisions, the unit shall give priority to those divisions demonstrating a less than 70 percent passing rate on the Standards of Learning assessments.

F. Each local school board may enter into agreements for postsecondary *course credit*, credential, certification, or license attainment, *hereinafter referred to as College and Career Access Pathways Partnerships (Partnerships)*, with comprehensive community colleges or other public institutions of higher education or educational institutions established pursuant to Title 23.1 that offer a career and technical education curriculum. Such ~~agreements~~ *Partnerships* shall (i) specify ~~(+)~~ the options for students to take courses as part of the career and technical education curriculum that lead to *course credit* or an industry-recognized credential, certification, or license concurrent with a high school diploma ~~and~~; (ii) *specify the credit, credentials, certifications, or licenses available for such courses; and (iii) specify available options for students to participate in pre-apprenticeship and apprenticeship programs at comprehensive community colleges concurrent with the pursuit of a high school diploma and receive college credit and high school credit for successful completion of any such program.*

**2. That nothing in the provisions of this act shall be construed to deem any student who participates in any course pursuant to a College and Career Access Pathways Partnership eligible for a grant pursuant to the New Economy Workforce Credential Grant Program established in Article 4.1 (§ 23.1-627.1 et seq.) of Chapter 6 of Title 23.1 of the Code of Virginia.**

## CHAPTER 583

*An Act to amend and reenact § 23.1-307 of the Code of Virginia, relating to public institutions of higher education; tuition and fee increases; public comment.*

[H 2173]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 23.1-307 of the Code of Virginia is amended and reenacted as follows:****§ 23.1-307. Public institutions of higher education; tuition and fees.**

A. The governing board of each public institution of higher education shall continue to fix, revise, charge, and collect tuition, fees, rates, rentals, and other charges for the services, goods, or facilities furnished by or on behalf of such institution and may adopt policies regarding any such service rendered or the use, occupancy, or operation of any such facility.

B. Except to the extent included in the institution's six-year plan as provided in subsection C, if the total of an institution's tuition and educational and general fees for any fiscal year for Virginia students exceeds the difference for such fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303 and (ii) the sum of the tuition and educational and general fees for non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304, the institution shall forgo new state funding at a level above the general funds received by the institution during the 2011-2012 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide increased financial aid to maintain affordability for students from low-income and middle-income families. This limitation shall not apply to any portion of tuition and educational and general fees for Virginia students allocated to student financial aid, an institution's share of state-mandated salary or fringe benefit increases, increases in funds other than state general funds for the improvement of faculty salary competitiveness above the level included in the calculation in clause (i) of subsection B of § 23.1-303, the institution's progress towards achieving any financial incentive pursuant to § 23.1-305, unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or other items directly attributable to an institution's unique mission and contributions.

C. Nothing in subsection B shall prohibit an institution from including in its six-year plan required by § 23.1-306 (i) new programs or initiatives including quality improvements or (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, that will cause the total of the institution's tuition and educational and general fees for any fiscal year for Virginia students to exceed the difference for such fiscal year between (a) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303, and (b) the sum of the tuition and educational and general fees for the institution's non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304.

D. No governing board of any public institution of higher education shall approve an increase in undergraduate tuition or mandatory fees without providing students and the public a projected range of the planned increase, an explanation of the need for the increase, and notice of the date and location of any vote on such increase at least 30 days prior to such vote.

E. *Prior to any vote referenced in subsection D, the governing board of each public institution of higher education shall permit public comment on the proposed increase at a meeting, as that term is defined in § 2.2-3701, of the governing board. Each such governing board shall establish policies for such public comment, which may include reasonable time limitations.*

## CHAPTER 584

*An Act to amend and reenact § 23.1-307 of the Code of Virginia, relating to public institutions of higher education; tuition and fee increases; public comment.*

[S 1118]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 23.1-307 of the Code of Virginia is amended and reenacted as follows:****§ 23.1-307. Public institutions of higher education; tuition and fees.**

A. The governing board of each public institution of higher education shall continue to fix, revise, charge, and collect tuition, fees, rates, rentals, and other charges for the services, goods, or facilities furnished by or on behalf of such institution and may adopt policies regarding any such service rendered or the use, occupancy, or operation of any such facility.

B. Except to the extent included in the institution's six-year plan as provided in subsection C, if the total of an institution's tuition and educational and general fees for any fiscal year for Virginia students exceeds the difference for such fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B

of § 23.1-303 and (ii) the sum of the tuition and educational and general fees for non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304, the institution shall forgo new state funding at a level above the general funds received by the institution during the 2011-2012 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide increased financial aid to maintain affordability for students from low-income and middle-income families. This limitation shall not apply to any portion of tuition and educational and general fees for Virginia students allocated to student financial aid, an institution's share of state-mandated salary or fringe benefit increases, increases in funds other than state general funds for the improvement of faculty salary competitiveness above the level included in the calculation in clause (i) of subsection B of § 23.1-303, the institution's progress towards achieving any financial incentive pursuant to § 23.1-305, unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or other items directly attributable to an institution's unique mission and contributions.

C. Nothing in subsection B shall prohibit an institution from including in its six-year plan required by § 23.1-306 (i) new programs or initiatives including quality improvements or (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, that will cause the total of the institution's tuition and educational and general fees for any fiscal year for Virginia students to exceed the difference for such fiscal year between (a) the institution's cost of education for all students, as calculated pursuant to clause (j) of subsection B of § 23.1-303, and (b) the sum of the tuition and educational and general fees for the institution's non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304.

D. No governing board of any public institution of higher education shall approve an increase in undergraduate tuition or mandatory fees without providing students and the public a projected range of the planned increase, an explanation of the need for the increase, and notice of the date and location of any vote on such increase at least 30 days prior to such vote.

*E. Prior to any vote referenced in subsection D, the governing board of each public institution of higher education shall permit public comment on the proposed increase at a meeting, as that term is defined in § 2.2-3701, of the governing board. Each such governing board shall establish policies for such public comment, which may include reasonable time limitations.*

## CHAPTER 585

*An Act to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to the Standards for Accreditation; review and corrective action.*

[H 2147]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.**

A. The Board of Education shall promulgate regulations establishing standards for accreditation pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), which shall include student outcome measures, requirements and guidelines for instructional programs and for the integration of educational technology into such instructional programs, administrative and instructional staffing levels and positions, including staff positions for supporting educational technology, student services, auxiliary education programs such as library and media services, requirements for graduation from high school, community relations, and the philosophy, goals, and objectives of public education in Virginia.

The Board of Education shall promulgate regulations establishing standards for accreditation of public virtual schools under the authority of the local school board that enroll students full time.

The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of Education. Each local school board shall report the accreditation status of all schools in the local school division annually in public session. ~~Within the time specified by the Board of Education, each school board shall~~

~~submit corrective action plans for any schools within its school division that have been designated as not meeting the standards as approved by the Board.~~

*The Board shall establish a review process to assist any school that does not meet the standards established by the Board. The relevant school board shall report the results of such review and any annual progress reports in public session and shall implement any actions identified through such review and utilize them for improvement planning.*

*The Board shall establish a corrective action plan process for any school that does not meet the standards established by the Board. Such process shall require (i) each school board to submit a corrective action plan for any school in the local school division that does not meet the standards established by the Board and (ii) any school board that fails to demonstrate progress in developing or implementing any such corrective action plan to enter into a memorandum of understanding with the Board.*

When the Board of Education determines through ~~the school academic~~ its review process that the failure of schools within a division to ~~achieve full accreditation status~~ meet the standards established by the Board is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall *enter into a memorandum of understanding with the Board and shall subsequently* submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division ~~achieve full accreditation status~~ meet the standards established by the Board. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to ~~achieve full accreditation~~ meet the standards established by the Board, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

~~With such funds as are appropriated or otherwise received for this purpose, the Board shall adopt and implement an academic review process, to be conducted by the Department of Education, to assist schools that are accredited with warning. The Department shall forward a report of each academic review to the relevant local school board, and such school board shall report the results of such academic review and the required annual progress reports in public session. The local school board shall implement any actions identified through the academic review and utilize them for improvement planning.~~

B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. The Superintendent of Public Instruction shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

C. With such funds as are available for this purpose, the Board of Education shall prescribe assessment methods to determine the level of achievement of the Standards of Learning objectives by all students. Such assessments shall evaluate knowledge, application of knowledge, critical thinking, and skills related to the Standards of Learning being assessed. The Board shall, with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments. The Department of Education shall make available to school divisions Standards of Learning assessments typically administered by the middle and high schools by December 1 of the school year in which such assessments are to be administered or when newly developed assessments are available, whichever is later.

The Board shall also provide the option of industry certification and state licensure examinations as a student-selected credit.

The Board of Education shall make publicly available such assessments in a timely manner and as soon as practicable following the administration of such tests, so long as the release of such assessments does not compromise test security or deplete the bank of assessment questions necessary to construct subsequent tests, or limit the ability to test students on demand and provide immediate results in the web-based assessment system.

The Board shall include in the student outcome measures that are required by the Standards for Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and science in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, and mathematics in grade eight; (e) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (f) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board.

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall (1) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (2) permit and encourage integrated assessments that include multiple subject areas; and (3) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

Local school divisions shall provide targeted mathematics remediation and intervention to students in grades six through eight who show computational deficiencies as demonstrated by their individual performance on any diagnostic test or grade-level Standards of Learning mathematics test that measures non-calculator computational skills.

The Department of Education shall award recovery credit to any student in grades three through eight who fails a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and passes such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board of Education shall (A) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (B) select appropriate industry certification and state licensure examinations; and (C) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels. An annual justification that includes evidence that the student meets the participation criteria defined by the Virginia Department of Education shall be provided for each student considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall review such justification and make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the student. The superintendent and the school board chairman shall certify to the Board of Education, as a part of certifying compliance with the Standards of Quality, that there is a justification in the Individual Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with this requirement shall be monitored as a part of the special education monitoring process conducted by the Department of Education. The Board shall report to the Governor and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

The Standards of Learning requirements, including all related assessments, shall be waived for any student awarded a scholarship under the Brown v. Board of Education Scholarship Program, pursuant to § 30-231.2, who is enrolled in a preparation program for a high school equivalency examination approved by the Board of Education or in an adult basic education program or an adult secondary education program to obtain the high school diploma or a high school equivalency certificate.

The Department of Education shall develop processes for informing school divisions of changes in the Standards of Learning.

The Board of Education may adopt special provisions related to the administration and use of any Standards of Learning test or tests in a content area as applied to accreditation ratings for any period during which the Standards of Learning content or assessments in that area are being revised and phased in. Prior to statewide administration of such tests, the Board of Education shall provide notice to local school boards regarding such special provisions.

The Board of Education shall not include in its calculation of the passage rate of a Standards of Learning assessment for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

D. The Board of Education may pursue all available civil remedies pursuant to § 22.1-19.1 or administrative action pursuant to § 22.1-292.1 for breaches in test security and unauthorized alteration of test materials or test results.

The Board may initiate or cause to be initiated a review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests, including the exclusion of students from testing who are required to be assessed, by local school board employees responsible for the distribution or administration of the tests.

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 10 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or

investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

Notwithstanding any other provision of state law, no test or examination authorized by this section, including the Standards of Learning assessments, shall be released or required to be released as minimum competency tests, if, in the judgment of the Board, such release would breach the security of such test or examination or deplete the bank of questions necessary to construct future secure tests.

E. With such funds as may be appropriated, the Board of Education may provide, through an agreement with vendors having the technical capacity and expertise to provide computerized tests and assessments, and test construction, analysis, and security, for (i) web-based computerized tests and assessments, including computer-adaptive Standards of Learning assessments, for the evaluation of student progress during and after remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

F. To assess the educational progress of students as individuals and as groups, each local school board shall require the use of Standards of Learning assessments, alternative assessments, and other relevant data, such as industry certification and state licensure examinations, to evaluate student progress and to determine educational performance. Each local school shall require the administration of appropriate assessments to students, which may include criterion-referenced tests and teacher-made tests and shall include the Standards of Learning assessments, the local school board's alternative assessments, and the National Assessment of Educational Progress state-by-state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board of Education, the results from the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, if administered, industry certification examinations, and the Standards of Learning Assessments to the public.

The Board of Education shall not require administration of the Stanford Achievement Test Series, Ninth Edition (Stanford Nine) assessment, except as may be selected to facilitate compliance with the requirements for home instruction pursuant to § 22.1-254.1.

The Board shall include requirements for the reporting of the Standards of Learning assessment scores and averages for each year, regardless of accreditation frequency, as part of the Board's requirements relating to the School Performance Report Card. Such scores shall be disaggregated for each school by student subgroups on the Virginia assessment program as appropriate and shall be reported to the public within three months of their receipt. These reports (i) shall be posted on the portion of the Department of Education's website relating to the School Performance Report Card, in a format and in a manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

G. Each local school division superintendent shall regularly review the division's submission of data and reports required by state and federal law and regulations to ensure that all information is accurate and submitted in a timely fashion. The Superintendent of Public Instruction shall provide a list of the required reports and data to division superintendents annually. The status of compliance with this requirement shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

H. Any school board may request the Board of Education for release from state regulations or, on behalf of one or more of its schools, for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for certain other schools by the Standards ~~of~~ *for* Accreditation pursuant to 8VAC20-131-280 C of the Virginia Administrative Code. Waivers of regulatory requirements may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The Board of Education may grant, for a period up to five years, a waiver of regulatory requirements that are not (i) mandated by state or federal law or (ii) designed to promote health or safety. The school board shall provide in its waiver request a description of how the releases from state regulations are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The Department of Education shall provide (a) guidance to any local school division that requests releases from state regulations and (b) information about opportunities to form partnerships with other agencies or entities to any local school division in which the school or schools granted releases from state regulations have demonstrated improvement in the quality of instruction and the achievement of students.

The Board of Education may also grant local school boards waivers of specific requirements in § 22.1-253.13:2, based on submission of a request from the division superintendent and chairman of the local school board, permitting the local school board to assign instructional personnel to the schools with the greatest needs, so long as the school division employs a sufficient number of personnel divisionwide to meet the total number required by § 22.1-253.13:2 and all pupil/teacher ratios and class size maximums set forth in subsection C of § 22.1-253.13:2 are met. The school board shall provide in its request a description of how the waivers from specific Standards of Quality staffing standards are designed to increase the quality of instruction and improve the achievement of students in the affected school or schools. The waivers may be renewed in up to five-year increments, or revoked, based on student achievement results in the affected school or schools.

## CHAPTER 586

*An Act to amend and reenact §§ 22.1-3, 22.1-4.1, 22.1-270, and 22.1-271.2 of the Code of Virginia, relating to free public elementary and secondary education; eligibility criteria.*

[H 2297]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 22.1-3, 22.1-4.1, 22.1-270, and 22.1-271.2 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-3. Persons to whom public schools shall be free.**

A. The public schools in each school division shall be free to each person of school age who resides within the school division. Every person of school age shall be deemed to reside in a school division:

1. When the person is living with a natural parent or a parent by legal adoption;
2. When, in accordance with the provisions of § 22.1-360, the person is living with a noncustodial parent or other person standing in loco parentis, not solely for school purposes, pursuant to a Special Power of Attorney executed under 10 U.S.C. § 1044b by the custodial parent;
3. When the parents of such person are dead and the person is living with a person in loco parentis who actually resides within the school division;
4. When the parents of such person are unable to care for the person and the person is living, not solely for school purposes, with another person who resides in the school division and is (i) the court-appointed guardian, or has legal custody, of the person; (ii) acting in loco parentis pursuant to placement of the person for adoption by a person or entity authorized to do so under § 63.2-1200; or (iii) an adult relative providing temporary kinship care as that term is defined in § 63.2-100. Local school divisions may require one or both parents and the relative providing kinship care to submit signed, notarized affidavits (a) explaining why the parents are unable to care for the person, (b) detailing the kinship care arrangement, and (c) agreeing that the kinship care provider or the parent will notify the school within 30 days of when the kinship care arrangement ends, as well as a power of attorney authorizing the adult relative to make educational decisions regarding the person. A school division may also require the parent or adult relative to obtain written verification from the local department of social services where the parent or parents live, or from both that department and the department of social services where the kinship provider lives, that the kinship arrangement serves a legitimate purpose that is in the best interest of the person other than school enrollment. With written consent from the parent or adult relative, for the purposes of expediting enrollment, a school division may obtain such written verification directly from the local department or departments of social services. The verification process shall be consistent with confidentiality provisions of Article 5 (§ 22.1-287 et seq.) of Chapter 14 of this title and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2. If the kinship care arrangement lasts more than one year, a school division may require continued verification directly from one or both departments of social services as to why the parents are unable to care for the person and that the kinship care arrangement serves a legitimate purpose other than school enrollment. A local school division may enroll a person living with a relative in a kinship care arrangement that has not been verified by a local department of social services;

5. When the person is living in the school division not solely for school purposes, as an emancipated minor; ~~or~~

6. *When all or any portion of the building in which such person resides (i) with another person as set forth in subdivisions 1 through 4 or (ii) as an emancipated minor as set forth in subdivision 5 is taxable by the locality in which the school division is located; or*

7. When the person living in the school division is a homeless child or youth, as set forth in this subdivision, who lacks a fixed, regular, and adequate nighttime residence. Such persons shall include (i) children and youths, including unaccompanied youths who are not in the physical custody of their parents, who (a) are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations or in emergency or transitional shelters; or are abandoned in hospitals; (b) have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or (c) are living in parked cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (ii) migratory children, as defined in the federal Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended, who are deemed homeless as they are living in circumstances set forth in clause (i).

School divisions shall comply with the requirements of Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.), to ensure that homeless children and youths shall receive the educational services comparable to those offered to other public school students.

School divisions serving the students identified in *this* subdivision ~~6~~ shall coordinate the identification and provision of services to such students with relevant local social services agencies and other agencies and programs providing services to such students, and with other school divisions as may be necessary to resolve interdivisional issues.

B. In the interest of providing educational continuity to the children of military personnel, no child of a person on active military duty:

1. Who is attending a school free of charge in accordance with this section shall be charged tuition by that school division upon such child's relocation to military housing located in another school division in the Commonwealth, pursuant

to orders received by such child's parent to relocate to base housing. Such children shall be allowed to continue attending school in the school division they attended immediately prior to the relocation and shall not be charged tuition for attending such school;

2. Who is attending a school free of charge in accordance with this section shall be charged tuition by that school division upon such child's relocation pursuant to orders received by such child's parent to relocate to a new duty station or to be deployed. Such children shall be allowed to remain enrolled in the current school division free of tuition through the end of the school year; and

3. Who is eligible to attend school free of charge in accordance with this section shall be charged tuition by a school division that will be the child's school division of residence once his service member parent is relocated pursuant to orders received. Such a child shall be allowed to enroll in the school division of the child's intended residence if documentation is provided, at the time of enrollment, of military orders of the service member parent or an official letter from the service member's command indicating such relocation. Documentation indicating a permanent address within the school division shall be provided to the school division within 120 days of a child's enrollment or tuition may be charged, including tuition for the days since the child's enrollment in school. In the event that the child's service member parent is ordered to relocate before the 120th day following the child's enrollment, the school division shall not charge tuition. The assignment of the school such child will attend shall be determined by the local school division.

Such children as listed in subdivisions 1, 2, and 3 shall be counted in the average daily membership of the school division in which they are enrolled. Further, the school division in which such children are enrolled subsequent to their relocation to base housing shall not be responsible for providing for their transportation to and from school.

#### **§ 22.1-4.1. Street addresses required in certain school admission documents.**

Documents submitted for admission of any child to public schools in the Commonwealth, except such documents required in accordance with §§ 22.1-3.1 and 22.1-270, shall include the street address or route number of each pupil's residence. If no street address or route number exists for such residence, a post office box number shall be required.

If the pupil is a homeless child or youth as defined in subdivision A 6 7 of § 22.1-3, and for that reason the school division determines, on the basis of the affidavit of the person seeking to enroll the pupil, that a street address, route number, or post office box number cannot be provided, it may accept an address in an alternate form it deems appropriate.

Address information provided under this section shall not be released to any person unless otherwise authorized by law.

#### **§ 22.1-270. Preschool physical examinations.**

A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed within the 12 months prior to the date such pupil first enters such public kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

If the pupil is a homeless child or youth as defined in subdivision A 6 7 of § 22.1-3, and for that reason cannot furnish the report or records required by (i) or (ii) of this subsection, and the person seeking to enroll the pupil furnishes to the school division an affidavit so stating and also indicating that, to the best of his knowledge, such pupil is in good health and free from any communicable or contagious disease, the school division shall immediately refer the student to the local school division liaison, as described in Subtitle VII-B of the federal McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable, assist in obtaining the necessary physical examination by the county or city health department or other clinic or physician's office and shall immediately admit the pupil to school, as required by such Act.

B. The physician, or licensed nurse practitioner or licensed physician assistant acting under the supervision of a licensed physician, making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as handicapped.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. Parents of entering students shall complete a health information form which shall be distributed by the local school divisions. Such forms shall be developed and provided jointly by the Department of Education and Department of Health, or developed and provided by the school division and approved by the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent to complete such form within the extended time, the superintendent may send to the

parent written notice of the date he intends to exclude the child from school; however, no child who is a homeless child or youth as defined in subdivision A 6 7 of § 22.1-3 shall be excluded from school for such failure to complete such form.

**§ 22.1-271.2. Immunization requirements.**

A. No student shall be admitted by a school unless at the time of admission the student or his parent submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C or is a homeless child or youth as defined in subdivision A 6 7 of § 22.1-3. If a student does not have documentary proof of immunization, the school shall notify the student or his parent (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C, including any homeless child or youth as defined in subdivision A 6 7 of § 22.1-3; (iii) that the student may be immunized and receive certification by a licensed physician, licensed nurse practitioner, registered nurse or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Any physician, nurse practitioner, registered nurse or local health department employee performing immunizations shall provide to any person who has been immunized or to his parent, upon request, documentary proof of immunizations conforming with the requirements of this section.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within 90 calendar days. If the student requires more than two doses of hepatitis B vaccine, the conditional enrollment period shall be 180 calendar days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician, licensed nurse practitioner, or local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

However, if a student is a homeless child or youth as defined in subdivision A 6 7 of § 22.1-3 and (a) does not have documentary proof of necessary immunizations or has incomplete immunizations and (b) is not exempted from immunization pursuant to clauses (i) or (ii) of this subsection, the school division shall immediately admit such student and shall immediately refer the student to the local school division liaison, as described in the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001, as amended (42 U.S.C. § 11431 et seq.)(the Act), who shall assist in obtaining the documentary proof of, or completing, immunization and other services required by such Act.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C, including notice that such student is a homeless child or youth as defined in subdivision A 6 7 of § 22.1-3.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record. Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within 30 calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted, including those students who are homeless children or youths as defined in subdivision A 6 7 of § 22.1-3.

F. The requirement for Haemophilus Influenzae Type b immunization as provided in § 32.1-46 shall not apply to any child admitted to any grade level, kindergarten through grade 12.

G. The Board of Health shall promulgate rules and regulations for the implementation of this section in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in cooperation with the Board of Education.

**2. That (i) each student who resides on property that is located in more than one school division and who registers for enrollment at a public school in one such local school division prior to July 1, 2019, and (ii) any sibling of any such student shall be deemed to reside in such local school division and is eligible to attend public school in such local school division for free.**

## CHAPTER 587

An Act to amend and reenact §§ 22.1-292.1, 22.1-298.1, and 22.1-304 of the Code of Virginia, relating to school board employees; discipline; written reprimand.

[H 2325]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 22.1-292.1, 22.1-298.1, and 22.1-304 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-292.1. Violations related to secure mandatory tests.**

A. The Board of Education may (i) *issue written reprimand to or* (ii) suspend or revoke the administrative or teaching license ~~it has issued to~~ of any person holder of a Board-issued administrative or teaching license who knowingly and willfully commits any of the following acts related to secure mandatory tests administered to students as required by this title or by the Board of Education:

1. Giving unauthorized access to secure test questions;
2. Copying or reproducing all or any portion of any secure test booklet;
3. Divulging the contents of any portion of a secure test;
4. Coaching or assisting examinees during testing or altering test materials or examinees' responses in any way;
5. Making available any answer keys;
6. Failing to follow test security procedures established by the Department of Education;
7. Providing a false certification on any test security form required by the Department of Education;
8. Retaining a copy of secure test questions;
9. Excluding students from testing who are required to be assessed; and
10. Participating in, directing, aiding, assisting in, or encouraging any of the acts prohibited by this section.

For the purposes of this section, "secure test" means an item, question, or test that has not been made publicly available by the Department of Education.

Nothing in this section shall be construed to prohibit educational personnel from providing input to administrators or other authorized personnel, including school board members and members of the General Assembly, except when done in a manner that violates test integrity or security regarding the accuracy, clarity, or propriety of test items or test administration procedures.

B. Nothing in this section shall be construed to prohibit or restrict the reasonable and necessary actions of the Board of Education, the Superintendent of Public Instruction, or the Department of Education in test development or selection, test form construction, standard setting, test scoring and reporting, or any other related activities which, in the judgment of the Superintendent of Public Instruction or the Board of Education, are necessary and appropriate.

C. Any *written reprimand*, suspension, or revocation imposed for the acts enumerated in this section shall be rendered pursuant to Board regulations promulgated pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and § 22.1-298.1, governing the licensure of teachers.

**§ 22.1-298.1. Regulations governing licensure.**

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for 10 years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include ~~requirements~~ *procedures* for (i) the denial, suspension, cancellation, revocation, and reinstatement of licensure; (ii) *written reprimand of license holders, notice of which shall be made by the Superintendent of Public Instruction to division superintendents or their designated representatives; and* ~~procedures for~~ (iii) the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require ~~(i)~~ (a) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that

there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; ~~(ii)~~ (b) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and ~~(iii)~~ (c) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a 10-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Complete professional assessments as prescribed by the Board of Education;
2. Complete study in attention deficit disorder;
3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and
4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

2. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

3. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

5. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential;

6. Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia; and

7. Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

E. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision D 1, 3, or 6 as a condition of such licensure, but each such teacher shall complete each such requirement during the first year of provisional licensure.

F. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 2, 4, or 6.

G. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

H. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations. Such alternate routes shall include eligibility for any individual to receive, notwithstanding any provision of law to the contrary, a renewable one-year license to teach in public high schools in the Commonwealth if he has:

1. Received a graduate degree from a regionally accredited institution of higher education;

2. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

3. Received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

4. Met the requirements set forth in subdivisions D 1 and 3.

I. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 5 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

J. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual; and

3. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. Each such individual shall establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

K. The Board shall include in its regulations an alternate route to licensure for elementary education preK-6 and an alternate route to licensure for special education general curriculum K-12. Each such alternate route to licensure shall require individuals to (i) meet the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought and (ii) complete an alternative certification program that provides training in the pedagogy and methodology of the respective content or special education areas prescribed by the Board. The curriculum of any such alternative certification program shall be approved by the Board. Nothing in this subsection shall preclude the Board from establishing other alternate routes to licensure.

L. The Board, in its regulations providing for licensure by reciprocity established pursuant to subsection J, shall permit applicants to submit third-party employment verification forms.

**§ 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.**

A. If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within 15 days of receipt of such notice. Except as provided in § 22.1-305 and except in the case of a reduction in force as provided in subsection F, written notice of nonrenewal of the probationary contract must be given by the school board on or before June 15 of each year. If no such notice is given a teacher by June 15, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.

B. Teachers employed after completing the probationary period shall be entitled to continuing contracts during good behavior and competent service. Written notice of noncontinuation of the contract by either party must be given by June 15 of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.

C. A teacher may resign after June 15 of any school year with the approval of the local school board or, upon authorization by the school board, with the approval of the division superintendent. The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation.

If the division superintendent has been authorized to approve resignations, a teacher may, within one week, withdraw a request to resign. Upon the expiration of the one-week period, the division superintendent shall notify the school board of his decision to accept or reject the resignation. The school board, within two weeks, may reverse the decision of the division superintendent.

In the event that the board or the division superintendent declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary action, which may include *written reprimand* or revocation of the teacher's license, may be taken pursuant to regulations prescribed by the Board of Education.

D. As soon after June 15 as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

E. A school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects.

F. Within two weeks of the approval of the school budget by the appropriating body, but no later than July 1, school boards shall notify all teachers who may be subject to a reduction in force due to a decrease in the school board's budget as approved by the appropriating body.

G. If a school board implements a reduction in workforce pursuant to this section, such reduction shall not be made solely on the basis of seniority but must include consideration of, among other things, the performance evaluations of the teachers potentially affected by the reduction in workforce.

## CHAPTER 588

*An Act to amend and reenact § 23.1-307 of the Code of Virginia, relating to governing boards of public institutions of higher education; tuition and fee increases; public comment; report.*

[H 2337]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-307 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-307. Public institutions of higher education; tuition and fees.**

A. The governing board of each public institution of higher education shall continue to fix, revise, charge, and collect tuition, fees, rates, rentals, and other charges for the services, goods, or facilities furnished by or on behalf of such institution and may adopt policies regarding any such service rendered or the use, occupancy, or operation of any such facility.

B. Except to the extent included in the institution's six-year plan as provided in subsection C, if the total of an institution's tuition and educational and general fees for any fiscal year for Virginia students exceeds the difference for such fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303 and (ii) the sum of the tuition and educational and general fees for non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304, the institution shall forgo new state funding at a level above the general funds received by the institution during the 2011-2012 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide increased financial aid to maintain affordability for students from low-income and middle-income families. This limitation shall not apply to any portion of tuition and educational and general fees for Virginia students allocated to student financial aid, an institution's share of state-mandated salary or fringe benefit increases, increases in funds other than state general funds for the improvement of faculty salary competitiveness above the level included in the calculation in clause (i) of subsection B of § 23.1-303, the institution's progress towards achieving any financial incentive pursuant to § 23.1-305, unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or other items directly attributable to an institution's unique mission and contributions.

C. Nothing in subsection B shall prohibit an institution from including in its six-year plan required by § 23.1-306 (i) new programs or initiatives including quality improvements or (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, that will cause the total of the institution's tuition and educational and general fees for any fiscal year for Virginia students to exceed the difference for such fiscal year between (a) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303, and (b) the sum of the tuition and educational and general fees for the institution's non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304.

D. No governing board of any public institution of higher education shall approve an increase in undergraduate tuition or mandatory fees without providing students and the public a projected range of the planned increase, an explanation of the need for the increase, and notice of the date and location of any vote on such increase at least 30 days prior to such vote.

*E. Prior to any vote referenced in subsection D, the governing board of each public institution of higher education shall permit public comment on the proposed increase at a meeting, as that term is defined in § 2.2-3701, of the governing board. Each such governing board shall establish policies for such public comment, which may include reasonable time limitations.*

*F. At any meeting at which the governing board of a public institution of higher education approves an increase in undergraduate tuition and mandatory fees, the governing board shall provide an explanation of any deviation from the projected range provided pursuant to subsection D.*

*G. No later than August 1 of each year, the Council shall provide to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance a report on any increase in undergraduate tuition and mandatory fees at a public institution of higher education, the public comment relating to such increase in undergraduate tuition and mandatory fees, and any deviation in the increase in undergraduate tuition and mandatory fees from the increase projected in the institutional six-year plan provided pursuant to § 23.1-306.*

## CHAPTER 589

*An Act to amend and reenact § 23.1-601 of the Code of Virginia, relating to public institutions of higher education; tuition and fees; foster care youth.*

[H 2350]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-601 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-601. Public institutions of higher education; grants for tuition and fees for certain individuals.**

A. Each comprehensive community college shall *and any other associate-degree-granting public institution of higher education or baccalaureate public institution of higher education may* provide a grant for the payment of tuition ~~or~~ and fees, except fees established for the purpose of paying for course materials such as laboratory fees, for any Virginia student who:

1. a. Has received a high school diploma or has passed a high school equivalency examination approved by the Board of Education and was in foster care or in the custody of the Department of Social Services or is considered a special needs adoption at the time such diploma or certificate was awarded; or

b. Was in foster care when he turned 18 and subsequently received a high school diploma or passed a high school equivalency examination approved by the Board of Education;

2. Is enrolled or has been accepted for enrollment as a full-time or part-time student, taking a minimum of six credit hours per semester, in a degree or certificate program of at least one academic year in length or in a noncredit workforce credential program in a comprehensive community college;

3. Has not been enrolled in postsecondary education as a full-time student for more than five years or does not have a bachelor's degree;

4. Maintains the required grade point average established by the ~~State Board~~ *governing board of the institution at which he is enrolled;*

5. Has submitted complete applications for federal student financial aid programs for which he may be eligible;

6. Demonstrates financial need; and

7. Meets any additional financial need requirements established by the ~~State Board~~ *governing board of the institution at which he is enrolled* for the purposes of such grant.

B. The State Board *and the Council*, in consultation with ~~the Council~~ and the Department of Social Services, shall establish regulations governing such grants. The regulations shall include provisions addressing renewals of grants, financial need, the calculation of grant amounts after consideration of any additional financial resources or aid the student holds, the minimum grade point average required to retain such grant, and procedures for the repayment of tuition and fees for failure to meet the requirements imposed by this section.

## CHAPTER 590

*An Act to amend and reenact § 23.1-1308 of the Code of Virginia, relating to public institutions of higher education; online course catalogue; no-cost and low-cost course materials.*

[H 2380]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-1308 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-1308. Governing board procedures; textbook sales and bookstores; open educational resources.**

A. No employee of a public institution of higher education shall demand or receive any payment, loan, subscription, advance, deposit of money, services, or anything, present or promised, as an inducement for requiring students to purchase a specific textbook required for coursework or instruction. However, such employee may receive (i) sample copies, instructor's copies, or instructional material not to be sold and (ii) royalties or other compensation from sales of textbooks that include such instructor's own writing or work.

B. The governing board of each public institution of higher education shall implement procedures for making available to students in a central location and in a standard format on the relevant institutional website listings of textbooks required or assigned for particular courses at the institution. The lists of those required or assigned textbooks for each particular course shall include the International Standard Book Number (ISBN) along with other relevant information.

C. Public institutions of higher education maintaining a bookstore supported by auxiliary services or operated by a private contractor shall post the listing of such textbooks when the relevant instructor or academic department identifies the required textbooks for order and subsequent student purchase.

D. The governing board of each public institution of higher education shall implement policies, procedures, and guidelines that encourage efforts to minimize the cost of textbooks for students while maintaining the quality of education and academic freedom. The guidelines shall ensure that:

1. Faculty textbook adoptions are made with sufficient lead time to university-managed or contract-managed bookstores so as to confirm availability of the requested materials and, when possible, ensure maximum availability of used textbooks;

2. In the textbook adoption process, the intent to use all items ordered, particularly each individual item sold as part of a bundled package, is affirmatively confirmed by the faculty member before the adoption is finalized. If the faculty member does not intend to use each item in the bundled package, he shall notify the bookstore, and the bookstore shall order the individualized items when their procurement is cost effective for both the institution and students and such items are made available by the publisher;

3. Faculty members affirmatively acknowledge the bookstore's quoted retail price of textbooks selected for use in each course;

4. Faculty members are encouraged to limit their use of new edition textbooks when previous editions do not significantly differ in a substantive way as determined by the appropriate faculty member; and

5. Provisions address the availability of required textbooks to students otherwise unable to afford the cost.

E. The governing board of each public institution of higher education shall implement guidelines for the adoption and use of low-cost and no-cost open educational resources in courses offered at such institution. Such guidelines may include provisions for low-cost commercially published materials.

F. *The registrar or another appropriate employee of each public institution of higher education shall identify conspicuously in the online course catalogue or registration system, as soon as practicable after the necessary information becomes available, each course for which the instructor exclusively uses no-cost course materials or low-cost course materials.*

G. No funds provided for financial aid from university bookstore revenue shall be counted in the calculation for state appropriations for student financial aid.

## CHAPTER 591

*An Act to amend and reenact § 22.1-279.1:1 of the Code of Virginia, relating to the use of seclusion and restraint in public schools.*

[H 2599]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-279.1:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-279.1:1. The use of seclusion and restraint in public schools; Board of Education regulations.**

The Board shall adopt regulations on the use of seclusion and restraint in public elementary and secondary schools in the Commonwealth that (i) are consistent with its Guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations and the Fifteen Principles contained in the U.S. Department of Education's Restraint and Seclusion: Resource Document; (ii) include definitions, criteria for use, restrictions for use, training requirements, notification requirements, reporting requirements, and follow-up requirements; and (iii) address distinctions, including distinctions in emotional and physical development, between (a) the general student population and the special education student population and (b) elementary school students and secondary school students. *The Board shall specifically (1) identify and prohibit the use of any method of restraint or seclusion that it determines poses a significant danger to the student and (2) establish safety standards for seclusion.*

## CHAPTER 592

*An Act to require Virginia Polytechnic Institute and State University and Virginia State University to jointly develop a plan for a new degree program.*

[H 2702]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. Virginia Polytechnic Institute and State University and Virginia State University shall jointly develop and report to the State Council of Higher Education for Virginia, the House Committee on Education, and the Senate Committee on Education and Health no later than October 1, 2019, a plan for the establishment of a baccalaureate or other degree program that prepares graduates to be effective career and technical education teachers in order to address persistent teacher shortages in career and technical education subject areas in the Commonwealth.**

## CHAPTER 593

An Act to amend the Code of Virginia by adding a section numbered 2.2-2472.3, relating to local workforce development boards; career pathways for opportunity youth.

[H 2726]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 2.2-2472.3 as follows:**

**§ 2.2-2472.3. Strategy for career pathways for opportunity youth.**

A. As used in this section, "opportunity youth" means individuals between the ages of 16 and 24 who are (i) homeless, in foster care, or involved in the justice system or (ii) neither gainfully employed nor enrolled in an educational institution.

B. Local workforce development boards, in consultation with local chief elected officials; secondary and postsecondary education institutions, business leaders, and local community organizations, including youth organizations, shall develop focused strategies for engaging opportunity youth and placing them on pathways to education, training, and careers. The key focus of the strategy shall be actions that lead to retention, credential attainment, and gainful employment.

C. Each local workforce development board shall develop a strategic plan that includes performance measures for evaluating results of the implementation of the strategies developed pursuant to subsection B. The plan shall be submitted to the Governor's Chief Workforce Development Advisor annually on or before November 30.

## CHAPTER 594

An Act to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 27, consisting of sections numbered 2.2-2491 through 2.2-2495, relating to the Virginia African American Advisory Board; report.

[H 2767]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 24 of Title 2.2 an article numbered 27, consisting of sections numbered 2.2-2491 through 2.2-2495, as follows:**

*Article 27.*

*Virginia African American Advisory Board.*

**§ 2.2-2491. The Virginia African American Advisory Board.**

The Virginia African American Advisory Board (the Board) is established as an advisory board in the executive branch of state government.

**§ 2.2-2492. Membership; terms; quorum; meetings.**

A. The Board shall have a total membership of 26 members that shall consist of 21 nonlegislative citizen members and five ex officio members. Nonlegislative citizen members shall be appointed as follows: 21 members, at least 15 of whom shall be African American, to be appointed by the Governor, subject to confirmation by the General Assembly. The Secretaries of the Commonwealth, Commerce and Trade, Education, Health and Human Resources, and Public Safety and Homeland Security or their designees shall serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

B. ex officio members of the Board shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. No nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

**§ 2.2-2493. Compensation; expenses.**

Members of the Board shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

**§ 2.2-2494. Powers and duties of the Board.**

The Board shall have the following powers and duties:

1. Advise the Governor regarding the development of economic, professional, cultural, educational, and governmental links between the Commonwealth of Virginia and the African American community in Virginia;

2. Undertake studies, sponsor symposiums, conduct research, and prepare factual reports in order to gather information to formulate and present recommendations to the Governor relative to issues of concern and importance to the African American community in the Commonwealth;

3. Advise the Governor as needed regarding any statutory, regulatory, or other issues of importance to the African American community in the Commonwealth;

4. Apply for, accept, and expend gifts, grants, or donations from public, quasi-public, or private sources, including any matching funds as may be designated in an appropriation act, to enable it to better carry out its objectives; and

5. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Board no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

**§ 2.2-2495. Staffing.**

The Office of the Governor shall provide staff support to the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

**2. That the initial appointments of nonlegislative citizen members shall be staggered as follows: five members for a one-year term, five members for a two-year term, six members for a three-year term, and five members for a four-year term.**

## CHAPTER 595

An Act to amend and reenact §§ 22.1-207.1 and 22.1-207.1:1 of the Code of Virginia, relating to family life education; human trafficking.

[S 1141]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-207.1 and 22.1-207.1:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-207.1. Family life education.**

A. As used in this section, "abstinence education" means an educational or motivational component that has as its exclusive purpose teaching the social, psychological, and health gains to be realized by teenagers' abstaining from sexual activity before marriage.

B. The Board of Education shall develop Standards of Learning and curriculum guidelines for a comprehensive, sequential family life education curriculum in grades kindergarten through 12. Such curriculum guidelines shall include instruction as appropriate for the age of the student in family living and community relationships; the benefits, challenges, responsibilities, and value of marriage for men, women, children, and communities; the value of family relationships; abstinence education; the value of postponing sexual activity; the benefits of adoption as a positive choice in the event of an unwanted pregnancy; human sexuality; human reproduction; *the prevention of human trafficking*; dating violence, the characteristics of abusive relationships, steps to take to deter sexual assault, ~~and~~ the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as the requirements of the law; the etiology, prevention, and effects of sexually transmitted diseases; and mental health education and awareness.

C. All such instruction shall be designed to promote parental involvement, foster positive self-concepts, and provide mechanisms for coping with peer pressure and the stresses of modern living according to the students' developmental stages and abilities. The Board shall also establish requirements for appropriate training for teachers of family life education, which shall include training in instructional elements to support the various curriculum components.

**§ 22.1-207.1:1. Family life education; certain curricula and Standards of Learning.**

A. Any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school, as described in the Board of Education's family life education guidelines.

B. Any high school family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the prevention of dating violence, domestic abuse, sexual harassment, including sexual harassment using electronic means, ~~and~~ sexual violence, *and human trafficking* and may incorporate age-appropriate elements of effective and evidence-based programs on the law and meaning of consent. Such age-appropriate elements of effective and evidence-based programs on the prevention of sexual violence may include instruction that increases student awareness of the fact that consent is required before sexual activity.

C. Any family life education curriculum offered in any elementary school, middle school, or high school shall incorporate age-appropriate elements of effective and evidence-based programs on the importance of the personal privacy and personal boundaries of other individuals and tools for a student to use to ensure that he respects the personal privacy and personal boundaries of other individuals.

D. Any family life education curriculum offered by a local school division may incorporate age-appropriate elements of effective and evidence-based programs on the prevention, recognition, and awareness of child abduction, child abuse, child sexual exploitation, and child sexual abuse.

## CHAPTER 596

*An Act to amend and reenact § 22.1-207.1:1 of the Code of Virginia, relating to public schools; family life education; female genital mutilation.*

[S 1159]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-207.1:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-207.1:1. Family life education; certain curricula and Standards of Learning.**

A. Any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school, as described in the Board of Education's family life education guidelines.

B. Any high school family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the prevention of dating violence, domestic abuse, sexual harassment, including sexual harassment using electronic means, and sexual violence and may incorporate age-appropriate elements of effective and evidence-based programs on the law and meaning of consent. Such age-appropriate elements of effective and evidence-based programs on the prevention of sexual violence may include instruction that increases student awareness of the fact that consent is required before sexual activity.

C. Any family life education curriculum offered in any elementary school, middle school, or high school shall incorporate age-appropriate elements of effective and evidence-based programs on the importance of the personal privacy and personal boundaries of other individuals and tools for a student to use to ensure that he respects the personal privacy and personal boundaries of other individuals.

D. *Any family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the harmful physical and emotional effects of female genital mutilation; associated criminal penalties; and the rights of the victim, including any civil action pursuant to § 8.01-42.5.*

E. Any family life education curriculum offered by a local school division may incorporate age-appropriate elements of effective and evidence-based programs on the prevention, recognition, and awareness of child abduction, child abuse, child sexual exploitation, and child sexual abuse.

## CHAPTER 597

*An Act to amend the Code of Virginia by adding a section numbered 22.1-299.7, relating to the Department of Education; establishment of a microcredential program.*

[S 1419]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 22.1-299.7 as follows:**

**§ 22.1-299.7. Microcredential program; certain STEM subjects.**

A. *The Department of Education may establish a microcredential program for the purpose of permitting any public elementary or secondary school teacher who holds a renewable or provisional license or any individual who participates in any alternate route to licensure program to complete additional coursework and earn microcredentials in science, technology, engineering, and mathematics (STEM) endorsement areas, including computer science, for which there is a high need for additional qualified teachers.*

B. *The Department of Education shall direct the Advisory Board on Teacher Education and Licensure to convene a workgroup including pertinent education stakeholders to determine how any microcredential awarded pursuant to any microcredential program established pursuant to subsection A will be used to award add-on endorsements and certifications for teachers in STEM endorsement areas, including computer science, for which there is a high need for additional qualified teachers.*

C. *Any course offered through any microcredential program established pursuant to subsection A shall be offered in-person or in a blended format of in-person and online instruction.*

D. *Any teacher who holds a renewable license and who participates, through any microcredential program offered pursuant to subsection A, in courses that do not contribute to an endorsement is eligible for professional development points toward renewal of his license for the number of in-person hours of coursework completed, upon providing a certificate of such participation from the course provider.*

## CHAPTER 598

*An Act to amend the Code of Virginia by adding a section numbered 22.1-298.2:1, relating to the Department of Education; teacher employment data; education preparation programs.*

[S 1433]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 22.1-298.2:1 as follows:****§ 22.1-298.2:1. Teacher employment data; education preparation programs.**

*The Department of Education shall aggregate and report to each education preparation program the following teacher employment data on such program's graduates, as available and to the extent that such data does not reveal personally identifiable information: the total number of graduates who obtain full licensure within three years of graduation; the percentage of all graduates who teach within three years of graduation; the total number of graduates employed in the Commonwealth by school division, graduation year, and type of school; the school characteristics, attributes of students, and educational outcomes where graduates initially taught; and information on teacher transfers and departures relative to initial employment.*

**2. That the provisions of this act shall become effective upon the implementation of an automated teacher licensure and intake system by the Department of Education.**

## CHAPTER 599

*An Act to amend and reenact § 23.1-226 of the Code of Virginia, relating to the State Council of Higher Education for Virginia; regulation of certain programs of tutorial instruction; exemptions.*

[S 1461]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 23.1-226 of the Code of Virginia is amended and reenacted as follows:****§ 23.1-226. Exemptions.**

A. The provisions of this article shall not apply to any public institution of higher education as that term is defined in § 23.1-100 or any entity authorized to issue bonds pursuant to Chapter 11 (§ 23.1-1100 et seq.).

B. The following activities or programs offered by postsecondary schools that are otherwise subject to this article are exempt from its provisions:

1. The awarding of any honorary degree conferred that clearly states on its face that it is honorary in nature and is regarded as (i) commemorative in recognition of an individual's contributions to society and (ii) not representative of the satisfactory completion of any or all of the requirements of a program or course of study;

2. A nursing education program or curriculum regulated by the Board of Nursing;

3. A professional or occupational training program subject to the approval of (i) a regulatory board pursuant to Title 54.1 or (ii) another state or federal governmental agency;

4. Any course or program of instruction provided or approved by any professional body, fraternal organization, civic club, or benevolent order for which the principal purpose is continuing or professional education or a similar purpose and for which no degree credit is awarded;

5. Any course or program offered through approved multistate compacts, including the Southern Regional Education Board's Electronic Campus;

6. Any course offered and delivered by a postsecondary school solely on a contractual basis for which no individual is charged tuition and there is no advertising for open enrollment;

7. Any school, institute, or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects relating to the trade, business, or profession represented by such association;

8. Any public or private high school accredited or recognized by the Board of Education that has offered or may offer one or more courses as provided in this article, if the school collects any tuition, fees, or charges as permitted by Title 22.1 in the case of a public school or pursuant to regulations prescribed by the relevant governing body in the case of a private school; or

9. Tutorial instruction delivered and designed to (i) supplement regular classes for students enrolled in any public or private school or (ii) prepare an individual for an examination for professional practice or higher education, or (iii) prepare an individual for an examination to demonstrate proficiency or to maintain proficiency in an occupational field.

C. The Council shall exempt from the provisions of this article any postsecondary school whose primary purpose is to provide religious or theological education. Postsecondary schools shall apply for exemptions to confer certificates or degrees relating to religion and theology. Exemptions may be granted for a maximum of five years, unless the postsecondary school has been granted a standing exemption prior to July 1, 2002. Each postsecondary school seeking such an exemption or continuation of such an exemption shall file such information as may be required by the Council. If the

Council does not grant a postsecondary school an exemption, the postsecondary school shall be notified in writing with the reasons for the exemption denial. The affected postsecondary school has the right to appeal the Council's decision pursuant to Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of Title 2.2. The Council shall, in each instance, determine the applicability of the exemption as provided in this section.

D. Notwithstanding the exemptions provided in this section, exempted postsecondary schools are subject to the provisions of subsection B of § 23.1-221 and a postsecondary school may seek Council approval for an otherwise exempt activity or program.

## CHAPTER 600

*An Act to amend and reenact § 23.1-507 of the Code of Virginia, relating to University of Virginia's College at Wise; reduced rate tuition.*

[S 1519]

Approved March 18, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 23.1-507 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 23.1-507. University of Virginia's College at Wise; reduced rate tuition charges for certain students.**

A. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who resides in Kentucky within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in Kentucky, and is entitled to in-state tuition charges at the institutions of higher education in Kentucky if Kentucky has similar reciprocal provisions for Virginia students.

B. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who resides in Tennessee within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in Tennessee, and is entitled to in-state tuition charges at the institutions of higher education in Tennessee if Tennessee has similar reciprocal provisions for Virginia students.

C. *The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled at the University of Virginia's College at Wise who resides in the Appalachian Region as defined in 40 U.S.C. § 14102, is domiciled within the Appalachian Region, and is entitled to in-state tuition charges at a public institution of higher education in the Appalachian Region and such entitlement is based on circumstances that when applied to a student who resides in Virginia would result in entitlement to in-state tuition. Reduced rate tuition for students who reside in and are domiciled in the Appalachian Region shall not be set below the in-state tuition rate for Virginia students attending the University of Virginia's College at Wise.*

D. The board of visitors of the University of Virginia may charge reduced rate tuition to any student enrolled in programs offered jointly by its partners or associates and the University of Virginia's College at Wise at a regional off-campus center who resides in Tennessee within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in Tennessee, and is entitled to in-state tuition charges at the institutions of higher education in Tennessee if Tennessee has similar reciprocal provisions for Virginia students. Any such respective partners or associates shall establish separate tuition charges for their independent classes or programs at such regional off-campus centers.

~~D. E.~~ E. Any non-Virginia student granted reduced rate tuition pursuant to this section shall be counted as a non-Virginia student for the purposes of determining admissions, enrollment, and tuition and fee revenue policies.

#### **2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 601

*An Act to amend the Code of Virginia by adding a section numbered 2.2-4303.01, relating to the Virginia Public Procurement Act; high-risk contracts; report.*

[H 1668]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That the Code of Virginia is amended by adding a section numbered 2.2-4303.01 as follows:**

##### **§ 2.2-4303.01. High-risk contracts; definition; review.**

A. *For the purposes of this section, "high-risk contract" means any public contract with a state public body for the procurement of goods, services, insurance, or construction that is anticipated to either (i) cost in excess of \$10 million over the initial term of the contract or (ii) cost in excess of \$5 million over the initial term of the contract and meet at least one of the following criteria: (a) the goods, services, insurance, or construction that is the subject of the contract is being procured by two or more state public bodies; (b) the anticipated term of the initial contract, excluding renewals, is greater than five years; or (c) the state public body procuring the goods, services, insurance, or construction has not procured similar goods, services, insurance, or construction within the last five years.*

*B. Prior to issuing a solicitation for a high-risk contract, a state public body shall submit such solicitation for review by (i) the Office of the Attorney General, (ii) the Department of General Services for solicitations for goods and nonprofessional and professional services that are not for information technology or road construction or design, and (iii) the Virginia Information Technologies Agency for solicitations for goods and services related to information technology. Such reviews shall be completed within 30 business days and include an evaluation of the extent to which the solicitation complies with applicable state law and policy, as well as an evaluation of the appropriateness of the solicitation's terms and conditions. In addition, the review shall ensure that such solicitations for high-risk contracts contain distinct and measurable performance metrics and clear enforcement provisions, including penalties or incentives, to be used in the event that contract performance metrics or other provisions are not met.*

*C. Prior to awarding a high-risk contract, a state public body shall submit such contract for review by (i) the Office of the Attorney General, (ii) the Department of General Services for contracts for goods and nonprofessional and professional services that are not for information technology or road construction or design, and (iii) the Virginia Information Technologies Agency for contracts for goods and services related to information technology. Such reviews shall be completed within 30 business days and include an evaluation of the extent to which the contract complies with applicable state law and policy, as well as an evaluation of the legality and appropriateness of the contract's terms and conditions. In addition, the review shall ensure that such high-risk contracts contain distinct and measurable performance metrics and clear enforcement provisions, including penalties or incentives, to be used in the event that contract performance metrics or other provisions are not met.*

*D. The Department of General Services' central electronic procurement system shall serve as a centralized resource for all state public bodies on information related to the performance of high-risk contracts. All state public bodies shall submit information on high-risk contracts for inclusion in the system. Such information shall include, but not be limited to, the following information on each high-risk contract:*

- 1. Scheduled contract performance dates and actual contract completion dates;*
  - 2. Contract award value and actual contract expenditures; and*
  - 3. Information on vendor performance, including any cure letters, formal complaints, and end-of-contract evaluations.*
- 2. That any existing contract that (i) meets the definition of a high-risk contract and (ii) has two or more remaining renewal provisions shall be reviewed in accordance with the provisions of subsection C of § 2.2-4303.01 of the Code of Virginia, as created by this act, prior to any such renewal.**
  - 3. That the Department of General Services shall collaborate with the Virginia Information Technologies Agency and the Office of the Attorney General on any improvements to the Department's central electronic procurement system that are necessary to allow it to effectively collect quantifiable and objective information related to the performance of high-risk contracts. The Department of General Services, in collaboration with the Virginia Information Technologies Agency and the Office of the Attorney General, shall submit a report to the House Committee on Appropriations and the Senate Committee on Finance by November 1, 2019, including recommendations for any such improvements.**
  - 4. That the provisions of subsection D of § 2.2-4303.01 of the Code of Virginia, as created by this act, shall become effective on July 1, 2020.**
  - 5. That the Department of General Services and the Virginia Information Technologies Agency shall develop guidelines for state agencies to use when assigning staff to administer high-risk contracts. Such guidelines shall provide that any staff designated as a contract administrator shall have prior contract administration experience and shall direct an agency's chief procurement officer to communicate to such contract administrator, when he first assumes his role, his responsibilities for effectively administering the contract.**
  - 6. In implementing the provisions of this act, the Virginia Information Technologies Agency shall, to the extent possible, collaborate with the Department of Planning and Budget to ensure that implementation costs are funded by internal service funds.**

## CHAPTER 602

*An Act to amend and reenact § 63.2-1805 of the Code of Virginia, relating to assisted living facilities; temporary emergency electrical power source; disclosure to prospective residents.*

[H 1815]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1805 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1805. Admissions and discharge; mandatory minimum liability insurance.**

**A. The Board shall adopt regulations:**

- 1. Governing admissions to assisted living facilities;**
- 2. Requiring that each assisted living facility prepare and provide a statement, in a format prescribed by the Department, to any prospective resident and his legal representative, if any, prior to admission and upon request, that discloses information, fully and accurately in plain language, about the (i) services; (ii) fees, including clear information**

about what services are included in the base fee and any fees for additional services; (iii) admission, transfer, and discharge criteria, including criteria for transfer to another level of care within the same facility or complex; (iv) general number and qualifications of staff on each shift; (v) range, frequency, and number of activities provided for residents; and (vi) ownership structure of the facility;

3. Establishing a process to ensure that each resident admitted or retained in an assisted living facility receives appropriate services and periodic independent reassessments and reassessments when there is a significant change in the resident's condition in order to determine whether a resident's needs can continue to be met by the facility and whether continued placement in the facility is in the best interests of the resident;

4. Governing appropriate discharge planning for residents whose care needs can no longer be met by the facility;

5. Addressing the involuntary discharge of residents;

6. Requiring that residents are informed of their rights pursuant to § 63.2-1808 at the time of admission;

7. Establishing a process to ensure that any resident temporarily detained in a facility pursuant to §§ 37.2-809 through 37.2-813 is accepted back in the assisted living facility if the resident is not involuntarily admitted pursuant to §§ 37.2-814 through 37.2-819;

8. Requiring that each assisted living facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

9. Requiring that each assisted living facility prepare and provide a statement, in a format prescribed by the Board, to any resident or prospective resident and his legal representative, if any, and upon request, that discloses whether the assisted living facility maintains liability insurance in force to compensate residents or other individuals for injuries and losses from the negligent acts of the facility, provided that no facility shall state that liability insurance is in place unless such insurance provides a minimum amount of coverage as established by the Board; ~~and~~

10. Establishing the minimum amount of liability insurance coverage to be maintained by an assisted living facility for purposes of disclosure in accordance with subdivision 9; *and*

11. *Requiring that all assisted living facilities disclose to each prospective resident, or his legal representative, in writing in a document provided to the prospective resident or his legal representative and as evidenced by the written acknowledgment of the resident or his legal representative on the same document, whether the facility has an on-site emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply and, if the assisted living facility does have an on-site emergency electrical power source, (i) the items for which such on-site emergency electrical power source will supply power in the event of an interruption of the normal electric power supply and (ii) whether staff of the assisted living facility have been trained to maintain and operate such on-site emergency electrical power source to ensure the provision of electricity during an interruption of the normal electrical power supply. For the purposes of this subdivision, an on-site emergency electrical power supply shall include both permanent emergency electrical power supply sources and portable emergency electrical power sources, provided that such temporary electrical power supply source remains on the premises of the assisted living facility at all times. Written acknowledgement of the disclosure shall be represented by the signature or initials of the resident or his legal representative immediately following the on-site emergency electrical power source disclosure statement.*

B. If there are observed behaviors or patterns of behavior indicative of mental illness, intellectual disability, substance abuse, or behavioral disorders, as documented in the uniform assessment instrument completed pursuant to § 63.2-1804, the facility administrator or designated staff member shall ensure that an evaluation of the individual is or has been conducted by a qualified professional as defined in regulations. If the evaluation indicates a need for mental health, developmental, substance abuse, or behavioral disorder services, the facility shall provide (i) a notification of the resident's need for such services to the authorized contact person of record when available and (ii) a notification of the resident's need for such services to the community services board or behavioral health authority established pursuant to Title 37.2 that serves the city or county in which the facility is located, or other appropriate licensed provider. The Department shall not take adverse action against a facility that has demonstrated and documented a continual good faith effort to meet the requirements of this subsection.

C. The Department shall not order the removal of a resident from an assisted living facility if (i) the resident, the resident's family, the resident's physician, and the facility consent to the resident's continued stay in the assisted living facility and (ii) the facility is capable of providing, obtaining, or arranging for the provision of necessary services for the resident, including, but not limited to, home health care or hospice care.

D. Notwithstanding the provisions of subsection C, assisted living facilities shall not admit or retain an individual with any of the following conditions or care needs:

1. Ventilator dependency.

2. Dermal ulcers III and IV, except those stage III ulcers that are determined by an independent physician to be healing.

3. Intravenous therapy or injections directly into the vein except for intermittent intravenous therapy managed by a health care professional licensed in Virginia or as permitted in subsection E.

4. Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold.

5. Psychotropic medications without appropriate diagnosis and treatment plans.

6. Nasogastric tubes.
7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube or as permitted in subsection E.
8. An imminent physical threat or danger to self or others is presented by the individual.
9. Continuous licensed nursing care (seven-days-a-week, 24-hours-a-day) is required by the individual.
10. Placement is no longer appropriate as certified by the individual's physician.
11. Maximum physical assistance is required by the individual as documented by the uniform assessment instrument and the individual meets Medicaid nursing facility level-of-care criteria as defined in the State Plan for Medical Assistance, unless the individual's independent physician determines otherwise. Maximum physical assistance means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.
12. The assisted living facility determines that it cannot meet the individual's physical or mental health care needs.
13. Other medical and functional care needs that the Board determines cannot be met properly in an assisted living facility.
  - E. Except for auxiliary grant recipients, at the request of the resident in an assisted living facility and when his independent physician determines that it is appropriate, (i) care for the conditions or care needs defined in subdivisions D 3 and D 7 may be provided to the resident by a licensed physician, a licensed nurse or a nurse holding a multistate licensure privilege under a physician's treatment plan, or a home care organization licensed in Virginia or (ii) care for the conditions or care needs defined in subdivision D 7 may also be provided to the resident by facility staff if the care is delivered in accordance with the regulations of the Board of Nursing for delegation by a registered nurse Part VIII (18VAC90-20-420 et seq.) of 18VAC90-20.
  - The Board shall adopt regulations to implement the provisions of this subsection.
  - F. In adopting regulations pursuant to subsections A, B, C, D, and E the Board shall consult with the Departments of Health and Behavioral Health and Developmental Services.

## CHAPTER 603

*An Act to amend and reenact § 54.1-2808.3 of the Code of Virginia, relating to sale of caskets.*

[H 1828]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

- 1. That § 54.1-2808.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2808.3. Acceptance of third-party-provided caskets.**

*A. No person except a licensed funeral service establishment or funeral service licensee shall offer for sale or sell a casket when preneed arrangements for funeral services are being made, including preneed funeral contracts and preneed funeral planning.*

*B. When at-need arrangements for funeral services have been made with a licensed funeral service establishment, funeral service licensees shall accept caskets provided by third parties in accordance with 16 C.F.R. Part 453, Funeral Industry Practices, Federal Trade Commission.*

## CHAPTER 604

*An Act to amend and reenact § 63.2-1734 of the Code of Virginia, relating to child day programs; staff training requirements; exemption for cooperative preschools.*

[H 2258]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

- 1. That § 63.2-1734 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1734. Regulations for child welfare agencies.**

*A. The Board shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.*

*Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services, and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or certification agency.*

Such regulations governing child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year shall not (i) prohibit school-age children from using outdoor play equipment and areas approved for use by students of the school during school hours or (ii) in the case of public schools, require inspection or approval of the building, vehicles used to transport children attending the child day program that are owned by the school, or meals served to such children that are prepared by the school.

*Such regulations governing orientation and training of child day program staff shall provide that parents or other persons who participate in a cooperative preschool center on behalf of a child attending such cooperative preschool center, including such parents and persons who are counted for the purpose of determining staff-to-child ratios, shall be exempt from orientation and training requirements applicable to staff of child day programs; however, such regulations may require such parents and persons to complete up to four hours of training per year. This orientation and training exemption shall not apply to any parent or other person who participates in a cooperative preschool center that has entered into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant.*

B. The Board shall adopt or amend regulations, policies, and procedures related to child day care in collaboration with the Virginia Recreation and Park Society. No regulation adopted by the Board shall prohibit a child day center from hiring an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, to provide protection for children placed in the care of the child day center or employees of the center. The Board shall adopt or amend regulations related to therapeutic recreation programs in collaboration with the Virginia Park and Recreation Society and the Department of Behavioral Health and Developmental Services.

## CHAPTER 605

*An Act to amend the Code of Virginia by adding a section numbered 2.2-2012.1, relating to major information technology project procurement; terms and conditions; limitation of liability provisions.*

[H 2324]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 2.2-2012.1 as follows:**

**§ 2.2-2012.1. Major information technology project procurement; terms and conditions.**

A. For purposes of this section, "supplier" means an offeror with whom the Commonwealth has entered into a contract for a major information technology project.

B. Except as provided in subsection C, in any contract for a major information technology project, terms and conditions relating to the indemnification obligations and liability of a supplier shall be reasonable and shall not exceed in aggregate twice the value of the contract. There shall be no limitation on the liability of a supplier for (i) the intentional or willful misconduct, fraud, or recklessness of a supplier or any employee of a supplier or (ii) claims for bodily injury, including death, and damage to real property or tangible personal property resulting from the negligence of a supplier or any employee of a supplier.

C. If the CIO believes that a major information technology project presents an exceptional risk to the Commonwealth, he shall conduct a risk assessment prior to the issuance of a Request for Proposal. Such risk assessment shall include consideration of the nature, processing, and use of sensitive or personally identifiable information. If the risk assessment concludes that the project presents an exceptional risk to the Commonwealth and the limitation of liability amount provided in subsection B is not reasonably adequate to protect the interest of the Commonwealth, the CIO may recommend and request approval by the Secretary of Administration to increase the limitation of liability amount.

The CIO shall make such recommendation in writing setting forth the reasons that the limitations in subsection B are not adequate to protect the Commonwealth's interests. The recommendation shall describe the risks presented to the Commonwealth and how those risks are not sufficiently mitigated by the expected terms and conditions associated with the Request for Proposal. The CIO shall recommend a reasonable maximum alternative limitation of liability amount that is a multiple of the contract value, with the same exceptions to the limitation as provided in subsection B.

The Secretary of Administration shall review and may approve any recommended maximum alternative limitation of liability amount to be included in any Request for Proposal issued for the project. The CIO shall annually publish a list of all approvals granted under this subsection pertaining to any Request for Proposal issued in the previous 12-month period.

D. Notwithstanding the provisions of this section, the Commonwealth may agree to a lower limitation for any contract subject to subsection B or C.

## CHAPTER 606

*An Act to amend the Code of Virginia by adding a section numbered 2.2-2012.1, relating to major information technology project procurement; terms and conditions; limitation of liability provisions.*

[S 1329]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 2.2-2012.1 as follows:**

**§ 2.2-2012.1. Major information technology project procurement; terms and conditions.**

A. For purposes of this section, "supplier" means an offeror with whom the Commonwealth has entered into a contract for a major information technology project.

B. Except as provided in subsection C, in any contract for a major information technology project, terms and conditions relating to the indemnification obligations and liability of a supplier shall be reasonable and shall not exceed in aggregate twice the value of the contract. There shall be no limitation on the liability of a supplier for (i) the intentional or willful misconduct, fraud, or recklessness of a supplier or any employee of a supplier or (ii) claims for bodily injury, including death, and damage to real property or tangible personal property resulting from the negligence of a supplier or any employee of a supplier.

C. If the CIO believes that a major information technology project presents an exceptional risk to the Commonwealth, he shall conduct a risk assessment prior to the issuance of a Request for Proposal. Such risk assessment shall include consideration of the nature, processing, and use of sensitive or personally identifiable information. If the risk assessment concludes that the project presents an exceptional risk to the Commonwealth and the limitation of liability amount provided in subsection B is not reasonably adequate to protect the interest of the Commonwealth, the CIO may recommend and request approval by the Secretary of Administration to increase the limitation of liability amount.

The CIO shall make such recommendation in writing setting forth the reasons that the limitations in subsection B are not adequate to protect the Commonwealth's interests. The recommendation shall describe the risks presented to the Commonwealth and how those risks are not sufficiently mitigated by the expected terms and conditions associated with the Request for Proposal. The CIO shall recommend a reasonable maximum alternative limitation of liability amount that is a multiple of the contract value, with the same exceptions to the limitation as provided in subsection B.

The Secretary of Administration shall review and may approve any recommended maximum alternative limitation of liability amount to be included in any Request for Proposal issued for the project. The CIO shall annually publish a list of all approvals granted under this subsection pertaining to any Request for Proposal issued in the previous 12-month period.

D. Notwithstanding the provisions of this section, the Commonwealth may agree to a lower limitation for any contract subject to subsection B or C.

## CHAPTER 607

*An Act to amend and reenact § 38.2-316.1 of the Code of Virginia, relating to rates for individual and certain group health benefit plans; minimum loss ratios.*

[H 2345]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-316.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-316.1. Premium rates.**

A. As used in this section:

"Anticipated loss ratio" means the ratio of the present value of the future benefits to the present value of the future premiums of a policy form over the entire period for which rates are computed to provide coverage.

"Student health insurance coverage" means a type of individual health insurance coverage offered in the individual market that is provided pursuant to a written agreement between an institution of higher education, as defined by the Higher Education Act of 1965, P.L. 89-329, and a health carrier to students enrolled in that institution of higher education and their dependents; that does not make health insurance coverage available other than in connection with enrollment as a student or as a dependent of a student in the institution of higher education; and that does not condition eligibility for health insurance coverage on any health status-related factor related to a student or a dependent of the student.

B. The Commission shall review and approve accident and sickness insurance premium rates applicable to (i) health benefit plans issued in the Commonwealth in the individual and small group markets, as those terms are defined in § 38.2-3431, and (ii) health benefit plans providing health insurance coverage, as defined in § 38.2-3431, in the individual market to residents of the Commonwealth through a group trust, association, purchasing cooperative, or other group that is not an employer plan. In connection therewith, the Commission is authorized to establish minimum loss ratios to assure that the benefits provided by accident and sickness insurance policies are or are likely to be reasonable in relation to the

premiums charged. The Commission shall promulgate regulations to establish standards applicable to such review and approval.

~~B~~. C. Premium rate filings for a health benefit plan issued in the Commonwealth in the individual and small group markets shall include a description of agent commissions and any limitations or exceptions as they relate to the payment of such commissions.

*D. Every policy, rider, or endorsement form affecting benefits that is submitted for approval shall be accompanied by a rate filing, as required by § 38.2-316. Any subsequent addition to or change in rates applicable to such policy, rider, or endorsement form shall also be filed. Each rate submission shall comply with the requirements of 14VAC5-130.*

*E. Benefits shall be deemed reasonable in relation to premiums, provided that the anticipated loss ratio of the policy form, including riders and endorsements, is at least as great as provided in 14VAC5-130. The reasonableness of benefits with respect to filings of rate revisions for a previously approved form shall be determined as provided in 14VAC5-130.*

*F. A health insurance issuer shall consider the claims experience of all enrollees in all health benefit plans, other than grandfathered plans and student health insurance coverage, in the individual market to be members of a single risk pool. A health insurance issuer shall consider the claims experience of all enrollees in all health plans, other than grandfathered plans, in the small group market to be members of a single risk pool. Each plan year or policy year, as applicable, a health insurance issuer shall establish an index rate based on the total combined claims costs for providing essential health benefits within the single risk pool of the individual or small group market as provided in 14VAC5-130. A health insurance issuer may vary premium rates for a particular plan from its index rate for a relevant state market only on the basis of an actuarially justified plan-specific factor permitted under 14VAC5-130.*

*G. If the Commission finds that the premium rate filed in accordance with this section is not meeting or will not meet the originally filed and approved loss ratio, the Commission may require appropriate rate adjustments, premium refunds, or premium credits (i) as deemed necessary for the coverage to conform with the minimum loss ratio standards established pursuant to subsection B and (ii) that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current rates by the health insurance issuer for the coverage. The Commission may take into consideration any previous or expected premium refunds or credits. The Commission may require the submission of detailed supporting documents as necessary to justify the adjustment.*

*H. The Commission may request information subsequent to approval of a policy form or rate revision so that it may determine whether premium rates are reasonable in relation to the benefits provided as specified in 14VAC5-130.*

*I. Except as otherwise provided, nothing contained in this section shall be construed to relieve a health insurance issuer from complying with other statutory requirements set forth in this title.*

*J. The Commission may prescribe procedures for the effective monitoring of actual experience under any form subject to 14VAC5-130.*

## CHAPTER 608

*An Act to amend and reenact § 59.1-148.3 of the Code of Virginia, relating to purchase of handguns or other weapons; auxiliary law-enforcement officers.*

[S 1048]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-148.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

A. The Department of State Police, the Department of Game and Inland Fisheries, the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Marine Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of Forestry, any sheriff, any regional jail board or authority, and any local police department may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for a service-incurred disability with no expectation of returning to the employment where he incurred the disability to purchase the service handgun issued or previously issued to him by the agency or institution at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This privilege shall also extend to any former Superintendent of the Department of State Police who leaves service after a minimum of five years. This privilege shall also extend to any person listed in this subsection who is eligible for retirement with at least 10 years of service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this section to accept a position covered by the Virginia Retirement System. Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may, with approval of the agency head, be sold to the officer subject to the qualifications of this section at a fair market price

determined as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the instant background check.

B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who retires with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

D. The governing board of any institution of higher learning named in § 23.1-1100 may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

G. Any sheriff or local police department, ~~in accordance with written authorization or approval from the local governing body,~~ may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

## CHAPTER 609

*An Act to require the Secretary of Health and Human Resources to examine the causes of the high census at the Commonwealth's state hospitals for individuals with mental illness.*

[S 1488]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1.** § 1. *That the Secretary of Health and Human Resources shall convene a work group composed of stakeholders, including the Department of Behavioral Health and Developmental Services, the Department of Medical Assistance Services, the Virginia Association of Community Services Boards, the National Alliance on Mental Illness - Virginia, Mental Health America of Virginia, VOCAL, Inc., the Virginia Hospital and Healthcare Association, the Office of the Executive Secretary of the Supreme Court of Virginia, the Virginia Association of Chiefs of Police, the Virginia Sheriffs' Association, the Institute of Law, Psychiatry and Public Policy, the Psychiatric Society of Virginia, the Virginia College of Emergency Room Physicians, and the Medical Society of Virginia, to examine the causes of the high census at the Commonwealth's state hospitals for individuals with mental illness.*

*In conducting such examination, the work group shall consider the impact of the practice of conducting evaluations of individuals who are the subject of an emergency custody order in hospital emergency departments, the treatment needs of individuals with complex medical conditions, the treatment needs of individuals who are under the influence of alcohol or other controlled substances, and the need to ensure that individuals receive treatment in the most appropriate setting to meet their physical and behavioral health care needs on the census at the Commonwealth's state hospitals for individuals with mental illness. The work group shall also consider the potential impact of (i) extending the time frame during which an emergency custody order remains valid, (ii) revising security requirements to allow custody of a person who is the subject of an emergency custody order to be transferred from law enforcement to a hospital emergency department, (iii) diverting individuals who are the subject of an emergency custody order from hospital emergency departments to other, more appropriate locations for medical and psychological evaluations, and (iv) preventing unnecessary use of hospital emergency department resources by improving the efficiency of the evaluation process on the census at the Commonwealth's state hospitals for individuals with mental illness. The work group shall include analysis of how such issues affect both adults and children. The work group shall develop recommendations, including recommendations for both long-term and short-term solutions to the high census at the Commonwealth's state hospitals for individuals with mental illness, which*

*shall include recommendations for statutory, regulatory, and budget actions to address the high census at the Commonwealth's state hospitals for individuals with mental illness.*

*Staffing support for the work group shall be provided by the Department of Behavioral Health and Developmental Services. The work group shall complete its work and report its recommendations to the Chairmen of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century, the House Committee on Appropriations, the House Committee for Courts of Justice, the Senate Committee on Finance, and the Senate Committee for Courts of Justice by November 1, 2019.*

### CHAPTER 610

*An Act related to the disposition of property in Carroll County on which the former Southwestern Virginia Training Center was situated.*

[S 1509]

Approved March 19, 2019

#### **Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Commonwealth shall not convey, sell, or otherwise dispose of certain real property in Carroll County outside the town of Hillsville on which the former Southwestern Virginia Training Center was situated pursuant to § 2.2-1156. The Commonwealth shall work with representatives of Carroll and Grayson Counties and the City of Galax and other stakeholders, including the Blue Ridge Crossroads Economic Development Authority, to develop a plan for the conveyance, sale, or other disposition of such property for the purpose of housing children requiring foster care or as a juvenile residential treatment facility.*

*§ 2. Any conveyance, sale, or other disposition of the property described in § 1 that is proposed as a result of the planning among the Commonwealth, local representatives, and other stakeholders shall be approved by the General Assembly prior to execution of such conveyance, sale, or other disposition.*

*§ 3. The prohibition on the conveyance, sale, or other disposition of the property described in § 1 shall expire on July 1, 2021, and thereafter any conveyance, sale, or other disposition of such property shall be in accordance with § 2.2-1156.*

### CHAPTER 611

*An Act to amend and reenact § 17.1-276 of the Code of Virginia, relating to remote access to land records; fee; exemption for certain state agencies.*

[H 2058]

Approved March 19, 2019

#### **Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-276 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 17.1-276. Fee allowed for providing secure remote access to land records.**

A. A clerk of the circuit court who provides secure remote access to land records pursuant to § 17.1-294 may charge a fee as provided in this section. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295. The clerk may charge a flat clerk's fee to be assessed for each subscriber, as defined in § 17.1-295, in an amount not to exceed \$50 per month and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275. The clerk's fees shall be used to cover operational expenses as defined in § 17.1-295.

The Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, *the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority,* and the Department of Rail and Public Transportation shall be exempt from paying any fee for remote access to land records. If any clerk contracts with an outside vendor to provide remote access to land records to subscribers, such contract shall contain a provision exempting the Office of the Attorney General, the Division of Debt Collection, the Department of Transportation, the Virginia Outdoors Foundation, the Department of Historic Resources, *the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, the Virginia Alcoholic Beverage Control Authority,* and the Department of Rail and Public Transportation from paying any access or subscription fee.

B. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to have remote access, in accordance with the security standards established by the Virginia Information Technologies Agency. Any such agreement between a state agency or employee thereof acting in the employee's official capacity and the clerk or an outside vendor contracted by the clerk to provide remote access to land records to subscribers, or such an agreement between a state agency or employee thereof acting in the employee's official capacity and both the clerk and the outside vendor, shall not contain any provision requiring the state agency or employee thereof acting in the employee's official capacity to indemnify

the clerk or the vendor. *Any such agreement between a state agency and the clerk or an outside vendor shall provide that the state agency is required to monitor its employees' activity under such agreement to ensure compliance with its terms.*

C. The clerk may establish a program under which the clerk assesses a reasonable convenience fee that shall not exceed \$2 per transaction for remote access to land records and a separate fee per image downloaded in an amount not to exceed the fee provided in subdivision A 8 of § 17.1-275.

D. Nothing herein shall be construed to require the use by the general public of the secure remote access to land records made available by the clerk, and such records may continue to be accessed in person in the clerk's office.

## CHAPTER 612

*An Act to amend and reenact § 18.2-121.3 of the Code of Virginia, relating to trespass; unmanned aircraft system; penalty.* [H 1636]

Approved March 19, 2019

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 18.2-121.3 of the Code of Virginia is amended and reenacted as follows:

##### § 18.2-121.3. Trespass with an unmanned aircraft system; penalty.

A. Any person who knowingly and intentionally causes an unmanned aircraft system to (i) enter the property of another and come within 50 feet of a dwelling house ~~(i)~~ (a) to coerce, intimidate, or harass another person or ~~(ii)~~ (b) after having been given actual notice to desist, for any other reason, or (ii) take off or land in violation of current Federal Aviation Administration Special Security Instructions or UAS Security Sensitive Airspace Restrictions is guilty of a Class 1 misdemeanor.

B. This section shall not apply to any person who causes an unmanned aircraft system to enter the property as set forth in subsection A if (i) consent is given to the entry by any person with legal authority to consent or by any person who is lawfully present on such property or (ii) such person is authorized by federal regulations to operate an unmanned aircraft system and is operating such system in an otherwise lawful manner and consistent with federal regulations.

## CHAPTER 613

*An Act to amend and reenact § 9.1-904 of the Code of Virginia, relating to Sex Offender and Crimes Against Minors Registry; reregistration schedule.*

[H 2089]

Approved March 19, 2019

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 9.1-904 of the Code of Virginia is amended and reenacted as follows:

##### § 9.1-904. Reregistration.

A. Every person required to register, ~~other than a person convicted of a sexually violent offense or murder,~~ shall reregister with the State Police ~~on an annual basis from the date of the initial registration.~~ Every person ~~convicted of a sexually violent offense or murder shall reregister with the State Police every 90 days from the date of initial registration on a schedule pursuant to this section.~~ Reregistration means that the person has notified the State Police,; confirmed his current physical and mailing address and electronic mail address information, and any instant message, chat, or other Internet communication name or identity information that he uses or intends to use,; and provided such other information, including identifying information, ~~which~~ that the State Police may require. Upon registration and as may be necessary thereafter, the State Police shall provide the person with an address verification form to be used for reregistration. The form shall contain in bold print a statement indicating that failure to comply with the registration required is punishable as provided in § 18.2-472.1. *Copies of all forms to be used for reregistration and guidelines for submitting such forms, including month and time reregistration intervals pursuant to subsections C and D, shall be available through distribution by the State Police, from local law-enforcement agencies, and in a format capable of being downloaded and printed from a website maintained by the State Police.* Upon registration and as may be necessary thereafter, the person shall likewise be required to execute a consent form consistent with applicable law that authorizes a business or organization that offers electronic communications or remote computer services to provide to the Department of State Police any information pertaining to that person necessary to determine the veracity of his electronic identity information in the registry.

B. ~~Any person convicted of a violation of § 18.2-472.1, other than a person convicted of a sexually violent offense or murder, shall reregister with the State Police every 180 days from the date of such conviction. Any person convicted of a violation of § 18.2-472.1, in which such person was included on the Registry for a conviction of a sexually violent offense or murder, shall reregister with the State Police every 30 days from the date of conviction. Reregistration means the person has notified the State Police, confirmed his current physical and mailing address and electronic mail address information, any instant message, chat or other Internet communication name or identity information that he uses or intends to use, and provided such other information, including identifying information, which the State Police may require. Upon registration and as may be necessary thereafter, the State Police shall provide the person with an address verification form to be used for~~

~~reregistration. The form shall state the registration requirements and contain in bold print a statement indicating that failure to comply with the registration requirements is punishable as provided in § 18.2-472.1.~~

~~€.~~ Every person required to register pursuant to this chapter shall submit to be photographed by a local law-enforcement agency every two years, *during such person's required reregistration month and time interval pursuant to subsections C and D*, commencing with the date of initial registration ~~reregistration~~. Photographs shall be in color, be taken with the registrant facing the camera, and clearly show the registrant's face and shoulders only. No person other than the registrant may appear in the photograph submitted. The photograph shall indicate the registrant's full name, date of birth and the date the photograph was taken. The local law-enforcement agency shall forthwith forward the photograph and the registration form to the State Police. Where practical, the local law-enforcement agency may electronically transfer a digital photograph containing the required information to the Sex Offender and Crimes Against Minors Registry within the State Police.

*C. Every person required to register, other than a person convicted of a sexually violent offense or murder, shall register with the State Police once each year during such person's birth month. Every person convicted of a sexually violent offense or murder shall reregister with the State Police four times each year at three-month intervals, including the person's birth month. Any person convicted of a violation of § 18.2-472.1, other than a person convicted of a sexually violent offense or murder, shall reregister with the State Police twice each year: once in the person's birth month and once in the month that is six months from the person's birth month. Any person convicted of a violation of § 18.2-472.1, in which such person was included on the Registry for a conviction of a sexually violent offense or murder, shall reregister with the State Police every month.*

*D. Persons required to register with last names beginning with A through L shall reregister with the State Police from the first to the fifteenth of such person's reregistration months pursuant to subsection C, and persons required to register with last names beginning with M through Z shall reregister with the State Police from the sixteenth to the last day of the month during such person's reregistration months pursuant to subsection C. The last name shall be the last name in the person's name pursuant to § 9.1-903 as it appears in the Registry.*

*E. For the period of July 1, 2020, to July 1, 2021, any person required to reregister shall continue to reregister with the State Police on such person's reregistration schedule in place prior to July 1, 2020, until such person has reregistered pursuant to the new reregistration schedule provided in subsections C and D, at which time such person shall continue to reregister pursuant to the new reregistration schedule provided in subsections C and D.*

**2. That the provisions of this act shall become effective on July 1, 2020.**

**3. That, no later than June 1, 2020, the Department of State Police shall inform every person required to register with the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq. of the Code of Virginia) in person of the new registration and reregistration system required by the provisions of this act and provide the person with a written description of the requirements for compliance with the provisions of this act, including the new reregistration schedule.**

**4. That, no later than July 1, 2020, the Department of State Police shall maintain a website with access to the written description of the requirements for compliance with the provisions of this act, including the new month and time registration and reregistration schedule mandated by this act, and any forms and guidelines required under the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq. of the Code of Virginia) in a format capable of being downloaded and printed.**

## CHAPTER 614

*An Act to amend and reenact § 9.1-904 of the Code of Virginia, relating to Sex Offender and Crimes Against Minors Registry; reregistration schedule.*

[S 1418]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-904 of the Code of Virginia is amended and reenacted as follows:**

**§ 9.1-904. Reregistration.**

~~A. Every person required to register, other than a person convicted of a sexually violent offense or murder, shall reregister with the State Police on an annual basis from the date of the initial registration. Every person convicted of a sexually violent offense or murder shall reregister with the State Police every 90 days from the date of initial registration on a schedule pursuant to this section. Reregistration means that the person has notified the State Police; confirmed his current physical and mailing address and electronic mail address information; and any instant message, chat, or other Internet communication name or identity information that he uses or intends to use; and provided such other information, including identifying information, which that the State Police may require. Upon registration and as may be necessary thereafter, the State Police shall provide the person with an address verification form to be used for reregistration. The form shall contain in bold print a statement indicating that failure to comply with the registration required is punishable as provided in § 18.2-472.1. Copies of all forms to be used for reregistration and guidelines for submitting such forms, including month and time reregistration intervals pursuant to subsections C and D, shall be available through distribution by the State~~

*Police, from local law-enforcement agencies, and in a format capable of being downloaded and printed from a website maintained by the State Police. Upon registration and as may be necessary thereafter, the person shall likewise be required to execute a consent form consistent with applicable law that authorizes a business or organization that offers electronic communications or remote computer services to provide to the Department of State Police any information pertaining to that person necessary to determine the veracity of his electronic identity information in the registry.*

~~B. Any person convicted of a violation of § 18.2-472.1, other than a person convicted of a sexually violent offense or murder, shall reregister with the State Police every 180 days from the date of such conviction. Any person convicted of a violation of § 18.2-472.1, in which such person was included on the Registry for a conviction of a sexually violent offense or murder, shall reregister with the State Police every 30 days from the date of conviction. Reregistration means the person has notified the State Police, confirmed his current physical and mailing address and electronic mail address information, any instant message, chat or other Internet communication name or identity information that he uses or intends to use, and provided such other information, including identifying information, which the State Police may require. Upon registration and as may be necessary thereafter, the State Police shall provide the person with an address verification form to be used for reregistration. The form shall state the registration requirements and contain in bold print a statement indicating that failure to comply with the registration requirements is punishable as provided in § 18.2-472.1.~~

~~C. Every person required to register pursuant to this chapter shall submit to be photographed by a local law-enforcement agency every two years, during such person's required reregistration month and time interval pursuant to subsections C and D, commencing with the date of initial registration reregistration. Photographs shall be in color, be taken with the registrant facing the camera, and clearly show the registrant's face and shoulders only. No person other than the registrant may appear in the photograph submitted. The photograph shall indicate the registrant's full name, date of birth and the date the photograph was taken. The local law-enforcement agency shall forthwith forward the photograph and the registration form to the State Police. Where practical, the local law-enforcement agency may electronically transfer a digital photograph containing the required information to the Sex Offender and Crimes Against Minors Registry within the State Police.~~

*C. Every person required to register, other than a person convicted of a sexually violent offense or murder, shall reregister with the State Police once each year during such person's birth month. Every person convicted of a sexually violent offense or murder shall reregister with the State Police four times each year at three-month intervals, including the person's birth month. Any person convicted of a violation of § 18.2-472.1, other than a person convicted of a sexually violent offense or murder, shall reregister with the State Police twice each year: once in the person's birth month and once in the month that is six months from the person's birth month. Any person convicted of a violation of § 18.2-472.1, in which such person was included on the Registry for a conviction of a sexually violent offense or murder, shall reregister with the State Police every month.*

*D. Persons required to register with last names beginning with A through L shall reregister with the State Police from the first to the fifteenth of such person's reregistration months pursuant to subsection C, and persons required to register with last names beginning with M through Z shall reregister with the State Police from the sixteenth to the last day of the month during such person's reregistration months pursuant to subsection C. The last name shall be the last name in the person's name pursuant to § 9.1-903 as it appears in the Registry.*

*E. For the period of July 1, 2020, to July 1, 2021, any person required to reregister shall continue to reregister with the State Police on such person's reregistration schedule in place prior to July 1, 2020, until such person has reregistered pursuant to the new reregistration schedule provided in subsections C and D, at which time such person shall continue to reregister pursuant to the new reregistration schedule provided in subsections C and D.*

**2. That the provisions of this act shall become effective on July 1, 2020.**

**3. That, no later than June 1, 2020, the Department of State Police shall inform every person required to register with the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq. of the Code of Virginia) in person of the new registration and reregistration system required by the provisions of this act and provide the person with a written description of the requirements for compliance with the provisions of this act, including the new reregistration schedule.**

**4. That, no later than July 1, 2020, the Department of State Police shall maintain a website with access to the written description of the requirements for compliance with the provisions of this act, including the new month and time registration and reregistration schedule mandated by this act, and any forms and guidelines required under the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq. of the Code of Virginia) in a format capable of being downloaded and printed.**

## CHAPTER 615

*An Act to amend and reenact §§ 2.2-222.1, 2.2-222.3, 44-146.17:2, 44-146.18, and 44-146.28 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 44-146.18:4; and to repeal § 2.2-613 of the Code of Virginia, relating to the Virginia Department of Emergency Management; annual reporting requirements; Virginia Comprehensive Emergency Management Report.*

[H 2133]

Approved March 19, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-222.1, 2.2-222.3, 44-146.17:2, 44-146.18, and 44-146.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 44-146.18:4 as follows:

§ 2.2-222.1. Secretary to oversee and monitor the development, maintenance, and implementation of a comprehensive and measurable homeland security strategy for the Commonwealth.

A. The Secretary shall ensure that, consistent with the National Incident Management System (NIMS), the Commonwealth implements a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action pursuant to securing the Commonwealth at both the state and local level against man-made and natural disasters. To that end, the Secretary shall take action to assign responsibility among agencies, jurisdictions, and subdivisions of the Commonwealth to ~~effect~~ affect the highest state of readiness posed by both man-made and natural disasters. In doing so, the Secretary shall ensure that preparedness initiatives will be effectively and efficiently coordinated, implemented, and monitored.

B. The Secretary shall also oversee and monitor the development, maintenance, and implementation of a comprehensive and measurable homeland security strategy for the Commonwealth. To ensure a comprehensive strategy, the Secretary shall coordinate the homeland security strategy with *the Secure and Resilient Commonwealth Panel, as established in § 2.2-222.3, and* all state and local, public and private, councils that have a homeland security focus within the Commonwealth. The strategy shall ensure that the Commonwealth's homeland security programs are resourced, executed, and assessed according to well-defined and relevant Commonwealth homeland security requirements. In support of the strategy, the Secretary shall provide oversight of the designated State Administrative Agency (SAA) for homeland security to ensure that applications for grant funds by state agencies or local governments describe well-defined requirements for planning, organizing, training, equipping, exercising, evaluating, and taking corrective action measures essential to Commonwealth security.

C. ~~The Secretary shall ensure that the homeland security strategy is fully incorporated into the Secure Commonwealth Plan. In the development of the Secure Commonwealth Plan, the Secretary~~ *homeland security strategy* shall (i) designate a state proponent for each goal *identified in the strategy in the Secure Commonwealth Plan required within the Commonwealth homeland security strategy*; (ii) identify which state agencies shall have responsibility for prevention, protection, mitigation, response, and recovery requirements associated with each goal *in the Secure Commonwealth Plan*; (iii) prescribe metrics to those state agencies to quantify readiness for man-made and natural disasters; (iv) ensure that state agencies follow rigorous planning practices; and (v) conduct annual reviews and updates to ensure planning, organizing, training, equipping, exercising, evaluating, and taking corrective action is fully implemented at state and local levels of government.

D. ~~The Secretary shall develop annually the Commonwealth Threat Hazard Identification and Risk Assessment (C-THIRA) Report to identify threats and hazards and determine capability targets and resource requirements necessary to address anticipated and unanticipated risks to state and local preparedness. The C-THIRA Report shall (i) identify a list of the threats and hazards of primary concern to the Commonwealth; (ii) describe the threats and hazards of concern, showing how they may affect the Commonwealth; (iii) assess each threat and hazard in context to develop a specific capability target for each core capability consistent with federal National Preparedness Goals; and (iv) estimate the resources required to achieve the capability targets through the use of community assets and mutual aid, while also considering preparedness activities, including mitigation opportunities. Additionally, the C-THIRA Report shall assess the Commonwealth's state of planning, organizing, training, equipping, exercising, evaluating, and ability to take corrective action as well as any shortfalls in these areas. The C-THIRA Report shall also serve as the Commonwealth's strategic approach to improving future preparedness and shall be delivered to the Chairmen of the Senate Committees on Finance and for Courts of Justice and the Chairmen of the House Committees on Appropriations and Militia, Police and Public Safety no later than November 1 of each year.~~

~~E.~~ The Secretary shall ensure that state agencies develop and maintain rigorously developed response plans in support of the Commonwealth of Virginia Emergency Operations Plan (COVEOP). The Secretary shall designate the Virginia Department of Emergency Management (VDEM) as the primary agent to ensure that state agencies are compliant with the COVEOP. The Secretary shall further require that VDEM ensure the development of state agency and local disaster response plans and procedures, and monitor the status and quality of those plans on a cyclical basis to establish that they are feasible and suitable and can be implemented with available resources.

~~F. E.~~ The Secretary shall be responsible for the coordination and development of state and local shelter, evacuation, traffic, and refuge of last resort planning. The Secretary shall ensure that jurisdictions and subdivisions of the Commonwealth have adequate shelter, evacuation, traffic, and refuge of last resort plans to support emergency evacuation in the event of a man-made or natural disaster. To that end, the Secretary shall direct VDEM to monitor, review, and evaluate on a cyclical basis all shelter, evacuation, traffic, and refuge of last resort plans to ensure they are feasible and suitable and can be implemented with available resources.

~~G. F.~~ The Secretary shall also ensure that plans for protecting public critical infrastructure are both developed and fully implemented by those state agencies, jurisdictions, and subdivisions of the Commonwealth with responsibility for critical infrastructure protection. ~~The Secretary shall report deficiencies in securing critical infrastructure annually as part of the Commonwealth's C-THIRA Report.~~

H. G. The Secretary is authorized, consistent with federal and state law and procurement regulations thereof, to contract for private and public sector services in homeland security and emergency management to enable, enhance, augment, or supplement state and local planning, organizing, training, equipping, exercising, evaluating, and corrective action capability as he deems necessary to meet Commonwealth security goals with such funds as may be made available to the Secretary or the Department of Emergency Management annually for such services.

**§ 2.2-222.3. Secure and Resilient Commonwealth Panel; membership; duties; compensation; staff.**

A. The Secure and Resilient Commonwealth Panel (the Panel) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Panel shall consist of 38 members as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates, one of whom shall be the Chairman of the House Committee on Militia, Police and Public Safety and one of whom shall be a member of the Subcommittee on Public Safety of the House Committee on Appropriations; two nonlegislative citizen members to be appointed by the Speaker of the House of Delegates; four members of the Senate of Virginia to be appointed by the Senate Committee on Rules, one of whom shall be the Chairman of the Senate Committee on General Laws and Technology and one of whom shall be a member of the Subcommittee on Public Safety of the Senate Committee on Finance; two nonlegislative citizen members to be appointed by the Senate Committee on Rules; the Lieutenant Governor, the Attorney General, the Executive Secretary of the Supreme Court of Virginia, the Secretaries of Administration, Commerce and Trade, Health and Human Resources, Transportation, Public Safety and Homeland Security, and Veterans and Defense Affairs, the State Coordinator of Emergency Management, the Superintendent of State Police, the Adjutant General of the Virginia National Guard, and the State Health Commissioner, or their designees; two local first responders; two local government representatives; two physicians with knowledge of public health; five members from the business or industry sector; and two nonlegislative citizen members from the Commonwealth at large. Except for appointments made by the Speaker of the House of Delegates and the Senate Committee on Rules, all appointments shall be made by the Governor. Additional ex officio members may be appointed to the Panel by the Governor. Legislative members shall serve terms coincident with their terms of office or until their successors shall qualify. Nonlegislative citizen members shall serve for terms of four years. ex officio members shall serve at the pleasure of the person or entity by whom they were appointed. The Secretary of Public Safety and Homeland Security shall be the chairman of the Panel.

B. The Panel shall have as its primary focus emergency management and homeland security within the Commonwealth to ensure that prevention, protection, mitigation, response, and recovery programs, initiatives, and activities, both at the state and local levels, are fully integrated, suitable, and effective in addressing risks from man-made and natural disasters. The Panel shall where necessary review, evaluate, and make recommendations concerning implementation of such initiatives. The Panel shall also make such recommendations as it deems necessary to enhance or improve the resiliency of public and private critical infrastructure to mitigate against man-made and natural disasters.

C. The Panel shall carry out the provisions of Title 3, ~~Public Law P.L.~~ 99-499. The Panel shall convene at least biennially to discuss (i) changing and persistent risks to the Commonwealth from threats, hazards, vulnerabilities, and consequences and (ii) plans and resources to address those risks.

~~D. On or before October 1 of each year, the Panel shall report to the Governor, the Senate Committee on Finance, the Senate Committee on General Laws and Technology, the House Committee on Appropriations, and the House Committee on Militia, Police and Public Safety concerning the state of the Commonwealth's emergency prevention, protection, mitigation, response, and recovery efforts and the resources necessary to implement them. Such report may, with the concurrence of the Governor, include sensitive information, which information is excluded from disclosure in accordance with subdivisions 2, 3, 4, and 6 of § 2.2-3705.2 and which, if revealed publicly, would jeopardize or compromise security plans and procedures in the Commonwealth designed to protect (i) the public or (ii) public or private critical infrastructure. Any sensitive information presented to any committee of the General Assembly shall be discussed in a closed meeting as provided in subdivision A 19 of § 2.2-3711.~~

E. The Panel shall designate an Emergency Management Awareness Group (the Group) consisting of the Secretary of Public Safety and Homeland Security, the Lieutenant Governor, the Attorney General, the Executive Secretary of the Supreme Court of Virginia, and the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on General Laws and Technology to facilitate communication between the executive, legislative, and judicial branches of state government. The Group shall convene at the call of the Secretary of Public Safety and Homeland Security during a state of emergency to share critical information concerning such situation and the impact on the Commonwealth and its branches of government. The Secretary of Public Safety and Homeland Security shall (i) advise the Panel whenever the Group meets and (ii) facilitate communication between the Group and the Panel. The Secretary of Public Safety and Homeland Security shall assist, to the extent provided by law, in obtaining access to classified information for the Group when such information is necessary to enable the Group to perform its duties.

F. E. Members of the Panel shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

G. F. Staff support for the Panel and funding for the costs of expenses of the members shall be provided by the Secretary of Public Safety and Homeland Security.

H. G. The Secretary shall facilitate cabinet-level coordination among the various agencies of state government related to emergency preparedness and shall facilitate private sector preparedness and communication.

**§ 44-146.17:2. Annual statewide drill.**

The Governor shall conduct an annual statewide drill on response to a large-scale disaster, including, ~~but not limited to,~~ electrical power outages. Such drill shall include the participation of local governments, affected state agencies, public utilities, law-enforcement agencies, and other entities as determined by the Governor. ~~The Governor shall submit a report to the General Assembly on the results of the drill by November 30 of each year. The report shall be delivered to the chairs of the House Committee on Militia, Police and Public Safety and the Senate Committee on General Laws.~~

**§ 44-146.18. Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.**

A. The State Office of Emergency Services is continued and shall hereafter be known as the Department of Emergency Management (*the Department*). Wherever the words "State Department of Emergency Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency Management. During a declared emergency this Department shall revert to the operational control of the Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

B. The Department of ~~Emergency Management~~ shall in the administration of emergency services and disaster preparedness programs:

1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-date assessments and preparedness plans to prevent, respond to, and recover from all disasters including acts of terrorism;

2. Conduct a statewide emergency management assessment in cooperation with political subdivisions, private industry, and other public and private entities deemed vital to preparedness, public safety, and security. The assessment shall include a review of emergency response plans, which include the variety of hazards, natural and man-made. The assessment shall be updated annually;

3. ~~Submit to the Governor and to the General Assembly, no later than the first day of each regular session of the General Assembly, an annual executive summary and report on the status of emergency management response plans throughout the Commonwealth and other measures taken or recommended to prevent, respond to and recover from disasters, including acts of terrorism. This report shall be made available to the Division of Legislative Automated Systems for the processing of legislative documents and reports. Information submitted in accordance with the procedures set forth in subdivision 14 of § 2.2-3705.2 shall not be disclosed unless:~~

~~a. It is requested by law enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;~~

~~b. The agency holding the record is served with a proper judicial order; or~~

~~e. The agency holding the record has obtained written consent to release the information from the Department of Emergency Management;~~

4. Promulgate plans and programs that are conducive to adequate disaster mitigation preparedness, response, and recovery programs;

5. 4. Prepare and maintain a State Emergency Operations Plan for disaster response and recovery operations that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations, and personnel as appropriate;

6. 5. Coordinate and administer disaster mitigation, preparedness, response, and recovery plans and programs with the proponent federal, state, and local government agencies and related groups;

7. 6. Provide guidance and assistance to state agencies and units of local government in developing and maintaining emergency management and continuity of operations (COOP) programs, plans, and systems;

8. 7. Make necessary recommendations to agencies of the federal, state, or local governments on preventive and preparedness measures designed to eliminate or reduce disasters and their impact;

9. 8. Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;

10. 9. Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information and education regarding emergency services and disaster preparedness activities;

11. 10. Consult with the Board of Education regarding the development and revision of a model school crisis and emergency management plan for the purpose of assisting public schools in establishing, operating, and maintaining emergency services and disaster preparedness activities;

12. 11. Consult with the State Council of Higher Education in the development and revision of a model institutional crisis and emergency management plan for the purpose of assisting public and private two-year and four-year institutions of higher education in establishing, operating, and maintaining emergency services and disaster preparedness activities and, as needed, in developing an institutional crisis and emergency management plan pursuant to § 23.1-804;

13. 12. Develop standards, provide guidance, and encourage the maintenance of local and state agency emergency operations plans, which shall include the requirement for a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of

Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies;

~~14.~~ 13. Prepare, maintain, coordinate, or implement emergency resource management plans and programs with federal, state, and local government agencies and related groups, and make such surveys of industries, resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the purposes of this chapter;

~~15.~~ 14. Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation, preparation, response, and recovery;

~~16.~~ 15. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as authorized by the Governor;

~~17.~~ 16. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency services intelligence pertaining to all probable hazards affecting the Commonwealth;

~~18.~~ 17. Coordinate intelligence activities relating to terrorism with the Department of State Police; and

~~19.~~ 18. Develop an emergency response plan to address the needs of individuals with household pets and service animals in the event of a disaster and assist and coordinate with local agencies in developing an emergency response plan for household pets and service animals.

The Department of Emergency Management shall ensure that all such plans, assessments, and programs required by this subsection include specific preparedness for, and response to, disasters resulting from electromagnetic pulses and geomagnetic disturbances.

C. The Department of Emergency Management shall during a period of impending emergency or declared emergency be responsible for:

1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual disaster;

2. Providing facilities from which state agencies and supporting organizations may conduct emergency operations;

3. Providing an adequate communications and warning system capable of notifying all political subdivisions in the Commonwealth of an impending disaster within a reasonable time;

4. Establishing and maintaining liaison with affected political subdivisions;

5. Determining requirements for disaster relief and recovery assistance;

6. Coordinating disaster response actions of federal, state and volunteer relief agencies; *and*

7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure orderly and timely response to and recovery from disaster effects.

D. The Department of Emergency Management shall be provided the necessary facilities and equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of the various federal, state, and other agencies during a state of emergency declaration by the Governor or following a major disaster declaration by the President.

E. The Department of Emergency Management is authorized to enter into all contracts and agreements necessary or incidental to performance of any of its duties stated in this section or otherwise assigned to it by law, including contracts with the United States, other states, agencies and government subdivisions of the Commonwealth, and other appropriate public and private entities.

F. The Department of Emergency Management shall encourage private industries whose goods and services are deemed vital to the public good to provide annually updated preparedness assessments to the local coordinator of emergency management on or before April 1 of each year, to facilitate overall Commonwealth preparedness. For the purposes of this section, "private industry" means companies, private hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency Management to be essential to the public safety and well-being of the citizens of the Commonwealth.

G. The Department of Emergency Management shall establish a Coordinator of Search and Rescue. Powers and duties of the Coordinator shall include:

1. Coordinating the search and rescue function of the Department of Emergency Management;

2. Coordinating with local, state, and federal agencies involved in search and rescue;

3. Coordinating the activities of search and rescue organizations involved in search and rescue;

4. Maintaining a register of search and rescue certifications, training, and responses;

5. Establishing a memorandum of understanding with the Virginia Search and Rescue Council and its respective member agencies regarding search and rescue efforts;

6. Providing on-scene search and rescue coordination when requested by an authorized person;

7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency managers, volunteer search and rescue responders, and others who might have a duty to respond to a search and rescue emergency;

8. Gathering and maintaining statistics on search and rescue in the Commonwealth;

9. Compiling, maintaining, and making available an inventory of search and rescue resources available in the Commonwealth; *and*

10. Periodically reviewing search and rescue cases and developing best professional practices; *and*

~~11. Providing an annual report to the Secretary of Public Safety and Homeland Security on the current readiness of Virginia's search and rescue efforts.~~

Nothing in this chapter shall be construed as authorizing the Department of Emergency Management to take direct operational responsibilities from local, state, or federal law enforcement in the course of search and rescue or missing person cases.

**§ 44-146.18:4. State Coordinator of Emergency Management responsible for annual Virginia Comprehensive Emergency Management Report.**

A. The Department of Emergency Management (the Department) shall create a comprehensive tabulated annual report, known as the Virginia Comprehensive Emergency Management Report (the Report), that shall include the annual Threat Hazard Identification Risk and Assessment (THIRA) report that the Department submits to the Federal Emergency Management Agency (FEMA), as well as information on the following:

1. The current readiness of Virginia's search and rescue efforts;
2. The jurisdictions that received financial assistance during the prior fiscal year because they were located in an area declared to be in a state of emergency, but not declared to be a major disaster area for which federal assistance was provided, and the amount each such jurisdiction received;
3. The status of the Commonwealth's emergency shelter capabilities and readiness;
4. All assets received during the prior fiscal year as a result of a law-enforcement seizure and subsequent forfeiture by either a state or federal court and their estimated net worth;
5. The forfeiture of federal grant funding by any state agency that is required to return such funding as a result of not fulfilling the specifications of a grant;
6. The results of the annual statewide drill conducted by the Governor in accordance with § 44-146.17:2 in preparation for a potential large-scale disaster;
7. The number and types of training and exercises related to man-made and natural disaster preparedness that were conducted by the Department, the costs associated with such training and exercises, and the challenges and barriers to ensuring that state and local agencies are able and ready to respond to emergencies and natural disasters;
8. The mandates administered by state agencies and imposed on local governments, an estimate of the fiscal impact of the mandates on the affected local governments, and a written justification as to why the mandate should or should not be eliminated;
9. The status of continuity of operations programs, plans, and systems of the Commonwealth's executive branch agencies. Such plans shall include a description of how the agency or institution of higher education will continue to provide essential services or perform mission essential functions during a disaster or other event that disrupts normal operations;
10. The state of the Commonwealth's emergency prevention, protection, mitigation, response, and recovery efforts and the resources necessary to implement them; and
11. The status of emergency management response plans throughout the Commonwealth and other measures taken or recommended to prevent, respond to, or recover from disasters, including acts of terrorism. Information submitted in accordance with the procedures set forth in subdivision 14 of § 2.2-3705.2 shall not be disclosed unless:
  - a. It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;
  - b. The agency holding the record is served with a proper judicial order; or
  - c. The agency holding the record has obtained written consent to release the information from the Department.

B. The State Coordinator of Emergency Management shall compile and submit the Report to the Secretary of Public Safety and Homeland Security, and shall provide copies to the Chairmen of the Senate Committee on Finance, the Senate Committee for Courts of Justice, the House Committee on Appropriations, and the House Committee on Militia, Police and Public Safety, by November 1 of each year. All state and local agencies of the Commonwealth shall provide information and assistance to the State Coordinator of Emergency Management, upon request.

C. The Report may, with the concurrence of the Governor, include sensitive information, which shall be excluded from disclosure in accordance with subdivisions 2, 3, 4, and 6 of § 2.2-3705.2 and which, if revealed publicly, would jeopardize or compromise security plans and procedures in the Commonwealth designed to protect (i) the public or (ii) public or private critical infrastructure. Any sensitive information presented to any committee of the General Assembly shall be discussed in a closed meeting as provided in subdivision A 19 of § 2.2-3711.

**§ 44-146.28. Authority of Governor and agencies under his control in declared state of emergency.**

(a) A. In the case of a declaration of a state of emergency as defined in § 44-146.16, the Governor is authorized to expend from all funds of the state treasury not constitutionally restricted, a sum sufficient. Allotments from such sum sufficient may be made by the Governor to any state agency or political subdivision of the Commonwealth to carry out disaster service missions and responsibilities. Allotments may also be made by the Governor from the sum sufficient to provide financial assistance to eligible applicants located in an area declared to be in a state of emergency, but not declared to be a major disaster area for which federal assistance might be forthcoming. This shall be considered as a program of last resort for those local jurisdictions that cannot meet the full cost.

The Virginia Department of Emergency Management shall establish guidelines and procedures for determining whether and to what extent financial assistance to local governments may be provided.

The guidelines and procedures shall include, but not be limited to, the following:

(1) 1. Participants may be eligible to receive financial assistance to cover a percentage of eligible costs if they demonstrate that they are incapable of covering the full cost. The percentage may vary, based on the Commission on Local Government's fiscal stress index. The cumulative effect of recent disasters during the preceding twelve months may also be considered for eligibility purposes.

(2) 2. Only eligible participants that have sustained an emergency or disaster as defined in § 44-146.16 with total eligible costs of ~~four dollars \$4~~ or more per capita may receive assistance, except that (i) any town with a total population of less than 3,500 shall be eligible for disaster assistance for incurred eligible damages of \$15,000 or greater and (ii) any town with a population of 3,500 or more, but less than 5,000 shall be eligible for disaster assistance for incurred eligible damages of \$20,000 or greater and (iii) any town with a population of 5,000 or greater with total eligible costs of ~~four dollars \$4~~ or more per capita may receive assistance. No site or facility may be included with less than \$1,000 in eligible costs. However, the total cost of debris clearance may be considered as costs associated with a single site.

(3) 3. Eligible participants shall be fully covered by all-risk property and flood insurance policies, including provisions for insuring the contents of the property and business interruptions, or shall be self-insured, in order to be eligible for this assistance. Insurance deductibles shall not be covered by this program.

(4) 4. Eligible costs incurred by towns, public service authorities, volunteer fire departments, and volunteer emergency medical services agencies may be included in a county's or city's total costs.

(5) 5. Unless otherwise stated in guidelines and procedures, eligible costs are defined as those listed in the Public Assistance component of ~~Public Law P.L. 93-288~~, as amended, excluding beach replenishment and snow removal.

(6) 6. State agencies, as directed by the Virginia Department of Emergency Management, shall conduct an on-site survey to validate damages and to document restoration costs.

(7) 7. Eligible participants shall maintain complete documentation of all costs in a manner approved by the Auditor of Public Accounts and shall provide copies of the documentation to the Virginia Department of Emergency Management upon request.

If a jurisdiction meets the criteria set forth in the guidelines and procedures, but is in an area that has neither been declared to be in a state of emergency nor been declared to be a major disaster area for which federal assistance might be forthcoming, the Governor is authorized, in his discretion, to make an allotment from the sum sufficient to that jurisdiction without a declaration of a state of emergency, in the same manner as if a state of emergency declaration had been made.

The Governor shall report to the Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the House Finance Committee within thirty days of authorizing the sum sufficient pursuant to this section. ~~The Virginia Department of Emergency Management shall report annually to the General Assembly on the local jurisdictions that received financial assistance and the amount each jurisdiction received.~~

(b) B. Public agencies under the supervision and control of the Governor may implement their emergency assignments without regard to normal procedures ~~(, except mandatory constitutional requirements)~~, pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds.

(c) C. Allotments may be made by the Governor from a sum sufficient to provide financial assistance to Virginia state agencies and political subdivisions responding to a declared state of emergency in another state as provided by § 44-146.17, whether or not a state of emergency is declared in the Commonwealth pursuant to § 44-146.16.

(d) D. Allotments may be made by the Governor from a sum sufficient for the deployment of personnel and materials for the Virginia National Guard and the Virginia Defense Force to prepare for a response to any of the circumstances set forth in subdivisions A 1 through ~~A 5~~ of § 44-75.1, whether or not a state of emergency is declared in the Commonwealth pursuant to § 44-146.16. However, preparation authorized by this subsection shall be limited to the deployment of no more than 300 personnel; and shall be limited to no more than five days, unless a state of emergency is declared.

**2. That § 2.2-613 of the Code of Virginia is repealed.**

## CHAPTER 616

*An Act to amend and reenact §§ 19.2-124, 19.2-130, and 19.2-132 of the Code of Virginia, relating to resetting bail, bond, and recognizance determinations; jurisdiction.*

[H 2320]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-124, 19.2-130, and 19.2-132 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-124. Appeal from bail, bond, or recognizance order.**

A. If a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal the decision of the judicial officer.

If the initial bail decision on a charge brought by a warrant or district court *capias* is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the district court in which the case is pending.

If the initial bail decision on a charge brought by direct indictment or presentment or circuit court *capias* is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the circuit court in which the case is pending.

If the appeal of an initial bail decision is taken on any charge originally pending in a district court after that charge has been appealed, certified, or transferred to a circuit court, the person shall first appeal to the circuit court in which the case is pending.

Any bail decision made by a judge of a court may be appealed successively by the person to the next higher court, up to and including the Supreme Court of Virginia, where permitted by law.

*The bail decision of the higher court on such appeal, unless the higher court orders otherwise, shall be remanded to the court in which the case is pending for enforcement and modification. The court in which the case is pending shall not modify the bail decision of the higher court, except upon a change in the circumstances subsequent to the decision of the higher court.*

B. The attorney for the Commonwealth may appeal a bail, bond, or recognizance decision to the same court to which the accused person is required to appeal under subsection A.

C. In a matter not governed by subsection B or C of § 19.2-120 or § 19.2-120.1, the court granting or denying such bail may, upon appeal thereof, and for good cause shown, stay execution of such order for so long as reasonably practicable for the party to obtain an expedited hearing before the next higher court. When a district court grants bail over the presumption against bail in a matter that is governed by subsection B or C of § 19.2-120 or § 19.2-120.1, and upon notice by the Commonwealth of its appeal of the court's decision, the court shall stay execution of such order for so long as reasonably practical for the Commonwealth to obtain an expedited hearing before the circuit court, but in no event more than five days, unless the defendant requests a hearing date outside the five-day limit.

No such stay under this subsection may be granted after any person who has been granted bail has been released from custody on such bail.

D. No filing or service fees shall be assessed or collected for any appeal taken pursuant to this section.

**§ 19.2-130. Bail in subsequent proceeding arising out of initial arrest.**

A. Any person admitted to bail by a judge or clerk of a district court or by a magistrate shall not be required to be admitted to bail in any subsequent proceeding arising out of the initial arrest unless the court having jurisdiction of such subsequent proceeding deems the initial amount of bond or security taken inadequate. When the court having jurisdiction of the proceeding believes the amount of bond or security inadequate or excessive, it may change the amount of such bond or security, require new and additional sureties, or set other terms of bail as are appropriate to the case, including, but not limited to, drug and alcohol monitoring. The court may, after notice to the parties, initiate a proceeding to alter the terms and conditions of bail on its own motion.

*B. Any motion to alter the terms and conditions of bail where the initial bail decision is made by a judge or clerk of a district court or by a magistrate on any charge originally pending in that district court shall be filed in that district court unless (i) a bail decision is on appeal, (ii) such charge has been transferred pursuant to § 16.1-269.1 to a circuit court, or (iii) such charge has been certified by a district court.*

**§ 19.2-132. Motion to increase amount of bond fixed by judicial officer; when bond may be increased.**

A. If the amount of any bond fixed by a judicial officer is subsequently deemed insufficient, or the security taken inadequate, or if it appears that bail should have been denied or that the person has violated a term or condition of his release, or has been convicted of or arrested for a felony or misdemeanor, the attorney for the Commonwealth of the county or city in which the person is held for trial may, on reasonable notice to the person and, if such person has been admitted to bail, to any surety on the bond of such person, move the appropriate judicial officer to increase the amount of such bond or to revoke bail. The court may grant such motion and may require new or additional sureties therefor, or both, or revoke bail. Any surety in a bond for the appearance of such person may take from his principal collateral or other security to indemnify such surety against liability. The failure to notify the surety will not prohibit the court from proceeding with the bond hearing.

The court ordering any increase in the amount of such bond, ordering new or additional sureties, *or both*, or revoking such bail may, upon appeal, and for good cause shown, stay execution of such order for so long as reasonably practicable for such person to obtain an expedited hearing before the court to which such order has been appealed.

*B. Any motion filed pursuant to subsection A where the initial bail decision is made by a judge or clerk of a district court or by a magistrate on any charge originally pending in that district court shall be filed in that district court unless (i) a bail decision is on appeal, (ii) such charge has been transferred pursuant to § 16.1-269.1 to a circuit court, or (iii) such charge has been certified by a district court.*

**CHAPTER 617**

*An Act to amend and reenact §§ 9.1-902, 17.1-805, 18.2-46.1, 18.2-347 through 18.2-350, 18.2-357.1, 18.2-513, 19.2-215.1, and 19.2-392.02, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to prostitution and sex trafficking; offenses involving a minor; penalties.*

[H 2586]

Approved March 19, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-902, 17.1-805, 18.2-46.1, 18.2-347 through 18.2-350, 18.2-357.1, 18.2-513, 19.2-215.1, and 19.2-392.02, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

**§ 9.1-902. Offenses requiring registration.**

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;

2. Criminal homicide;

3. Murder;

4. A sexually violent offense;

5. Any offense similar to those listed in subdivisions 1 through 4 under the laws of any foreign country or any political subdivision thereof; *or* the United States or any political subdivision thereof; and

6. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § 18.2-63 unless registration is required pursuant to subdivision E 1; § 18.2-64.1; former § 18.2-67.2:1; § 18.2-90 with the intent to commit rape; former § 18.1-88 with the intent to commit rape; any felony violation of § 18.2-346; any violation of subdivision (4) of § 18.2-355; any violation of subsection C of § 18.2-357.1; subsection B or C of § 18.2-374.1:1; former subsection D of § 18.2-374.1:1 as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § 18.2-374.3 as it was in effect on June 30, 2007; subsection B, C, or D of § 18.2-374.3; or a third or subsequent conviction of (i) § 18.2-67.4, (ii) § 18.2-67.4:2, (iii) subsection C of § 18.2-67.5, or (iv) § 18.2-386.1.

If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section; subsection A of § 18.2-374.1:1; or a felony under § 18.2-67.5:1.

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, clause (i) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, § 18.2-361, § 18.2-366, or a felony violation of former § 18.1-191.

3. § 18.2-370.6.

4. If the offense was committed on or after July 1, 2016, and where the perpetrator is 18 years of age or older and the victim is under the age of 13, any violation of § 18.2-51.2.

5. If the offense was committed on or after July 1, 2016, any violation of § 18.2-356 punishable as a Class 3 felony or any violation of § 18.2-357 punishable as a Class 3 felony.

6. *If the offense was committed on or after July 1, 2019, any felony violation of § 18.2-348 or 18.2-349.*

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § 18.2-371 or § 18.2-371.1, when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § 18.2-31 or § 18.2-32 where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section or a violation of former § 18.1-21 where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § 18.2-48, former § 18.1-38 with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § 18.1-39 that involves assisting or aiding in such an abduction, § 18.2-61, former § 18.1-44 when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § 18.2-63 where the perpetrator is more than five years older than the victim, § 18.2-67.1, § 18.2-67.2, § 18.2-67.3, former § 18.1-215 when the complaining witness is under 13 years of age, § 18.2-67.4 where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § 18.2-67.5, § 18.2-370, subdivision (1), (2), or (4) of former § 18.1-213, former § 18.1-214, § 18.2-370.1, or § 18.2-374.1; ~~or~~

2. § 18.2-63, § 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) of § 18.2-48, § 18.2-361, § 18.2-366, or subsection C of § 18.2-374.1:1. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. "Any offense listed in subsection B," "criminal homicide" as defined in this section, "murder" as defined in this section, and "sexually violent offense" as defined in this section includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof; *or* the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat, or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

H. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless, or mentally incapacitated, as defined in § 18.2-67.10, and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. When such a determination is required, the court shall advise the defendant of its determination and of the defendant's right to make a motion to withdraw a plea of guilty or nolo contendere pursuant to § 19.2-296. If the court grants the defendant's motion to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise. Failure to make such determination or so advise the defendant does not otherwise invalidate the underlying conviction.

#### **§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.**

A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which shall become effective on January 1, 1995. The initial recommended sentencing range for each felony offense shall be determined first, by computing the actual time-served distribution for similarly situated offenders, in terms of their conviction offense and prior criminal history, released from incarceration during the base period of calendar years 1988 through 1992, increased by 13.4 percent, and second, by eliminating from this range the upper and lower quartiles. The midpoint of each initial recommended sentencing range shall be the median time served for the middle two quartiles and subject to the following additional enhancements:

1. The midpoint of the initial recommended sentencing range for first degree murder, second degree murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and aggravated sexual battery; shall be further increased by (i) 125 percent in cases in which the defendant has no previous conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years; or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of 40 years or more, except that the recommended sentence for a defendant convicted of first degree murder who has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more shall be imprisonment for life;

2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery, aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or statutory burglary of a dwelling house or any burglary committed while armed with a deadly weapon or any statutory burglary committed while armed with a deadly weapon shall be further increased by (i) 100 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of less than 40 years, or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more;

3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled substance, shall be increased by (i) 200 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more; and

4. The midpoint of the initial recommended sentencing range for felony offenses not specified in subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years; and by 300 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more.

B. For purposes of this chapter, previous convictions shall include prior adult convictions and juvenile convictions and adjudications of delinquency based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, *or* the United States or its territories.

C. For purposes of this chapter, violent felony offenses shall include any felony violation of § 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of § 18.2-40 or 18.2-41; any violation of clause (c) (i) or (ii) of subsection B of § 18.2-46.3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony violation of § 18.2-48, 18.2-48.1, or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, or 18.2-55; any violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or 18.2-58.1; any felony violation of § 18.2-60.1, 18.2-60.3, or 18.2-60.4; any violation of § 18.2-61, 18.2-64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3, 18.2-67.5, or 18.2-67.5:1 involving a third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-85, 18.2-89, 18.2-90, 18.2-91, 18.2-92, or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of subsection A of § 18.2-282; any felony violation of § 18.2-282.1; any violation of § 18.2-286.1, 18.2-287.2, 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of subsection C of § 18.2-308.1 or 18.2-308.2; any violation of § 18.2-308.2:1 or subsection M or N of § 18.2-308.2:2; any violation of § 18.2-308.3 or 18.2-312; *any felony violation of § 18.2-346, 18.2-348, or 18.2-349*; any violation of ~~subdivision (2) or (3)~~ of § 18.2-355; ~~any violation of § 18.2-356, 18.2-357, or 18.2-357.1~~; any violation of former § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368, 18.2-370, or 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3 or 18.2-374.4; any second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; any felony violation of § 18.2-460, 18.2-474.1, or 18.2-477.1; any violation of § 18.2-477, 18.2-478, 18.2-480, 18.2-481, or 18.2-485; any violation of § 37.2-917; any violation of § 52-48; any violation of § 53.1-203; ~~or~~ any conspiracy or attempt to commit any offense specified in this subsection, ~~and~~ *or* any substantially similar offense under the laws of any state, the District of Columbia, *or* the United States or its territories.

#### **§ 18.2-46.1. Definitions.**

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

"Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

"Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, *18.2-346, 18.2-348, or 18.2-349*; (iv) a felony violation of § 18.2-248 or of 18.2-248.1 or a conspiracy to commit a felony violation of § 18.2-248 or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or territory of the United States, the District of Columbia, or the United States.

#### **§ 18.2-347. Keeping, residing in, or frequenting a bawdy place; "bawdy place" defined; penalty.**

It ~~shall be~~ *is* unlawful for any person to keep any bawdy place, or to reside in or at or visit, for immoral purposes, any such bawdy place. Each ~~and every~~ day such bawdy place ~~shall be~~ *is* kept, resided in, or visited, shall constitute a separate offense. In a prosecution under this section, the general reputation of the *bawdy* place may be proved. *A violation of this section is a Class 1 misdemeanor.*

As used in this Code, "bawdy place" ~~shall mean~~ *means* any place within or ~~without~~ *outside* any building or structure ~~which~~ *that* is used or is to be used for lewdness, assignation, or prostitution.

#### **§ 18.2-348. Aiding prostitution or illicit sexual intercourse, etc.; penalty.**

It is unlawful for any person or any officer, employee, or agent of any firm, association, or corporation, with knowledge of, or good reason to believe, the immoral purpose of such visit, to take or transport or assist in taking or transporting, or offer to take or transport on foot or in any way, any person to a place, whether within or ~~without~~ *outside* any building or structure, used or to be used for the purpose of lewdness, assignation, or prostitution within the Commonwealth;

or to procure or assist in procuring for the purpose of illicit sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act violative of § 18.2-361, or to give any information or direction to any person with intent to enable such person to commit an act of prostitution. *A violation of this section is a Class 1 misdemeanor. However, any adult who violates this section with a person under the age of 18 is guilty of a Class 6 felony.*

**§ 18.2-349. Using vehicles to promote prostitution or unlawful sexual intercourse; penalty.**

It ~~shall be~~ is unlawful for any owner or chauffeur of any vehicle, with knowledge or reason to believe the same is to be used for such purpose, to use the same or to allow the same to be used for the purpose of prostitution or unlawful sexual intercourse; or to aid or promote such prostitution or unlawful sexual intercourse by the use of any such vehicle. *A violation of this section is a Class 1 misdemeanor. However, any adult who violates this section by using a vehicle or allowing a vehicle to be used for or to aid or promote prostitution or unlawful sexual intercourse with a person under the age of 18 is guilty of a Class 6 felony.*

**§ 18.2-350. Confinement of convicted prostitutes and persons violating §§ 18.2-347 through 18.2-349.**

~~Every person convicted of being a prostitute and every person convicted of violating any of the provisions of §§ 18.2-347 through 18.2-349 shall be guilty of a Class 1 misdemeanor; provided, however, that in~~ *In any case in which a person is convicted of a violation of subsection A of § 18.2-346 or of a misdemeanor violation of § 18.2-347, 18.2-348, or 18.2-349 and where a city or county farm or hospital is available for the confinement of persons so convicted, confinement may be in such farm or hospital, in the discretion of the court or judge.*

**§ 18.2-357.1. Commercial sex trafficking; penalties.**

A. Any person who, with the intent to receive money or other valuable thing or to assist another in receiving money or other valuable thing from the earnings of a person from prostitution or unlawful sexual intercourse in violation of subsection A of § 18.2-346, solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to violate subsection A of § 18.2-346 is guilty of a Class 5 felony.

B. Any person who violates subsection A through the use of force, intimidation, or deception is guilty of a Class 4 felony.

C. Any adult who violates subsection A with a person under ~~the age of 18 years of age~~ is guilty of a Class 3 felony.

D. *Each violation of this section constitutes a separate and distinct felony.*

**§ 18.2-513. Definitions.**

As used in this chapter; ~~the term:~~

"Criminal street gang" ~~shall be~~ means the same as that term is defined in § 18.2-46.1.

"Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang, or other group of three or more individuals associated for the purpose of criminal activity.

"Proceeds" ~~shall be~~ means the same as that term is defined in § 18.2-246.2.

"Racketeering activity" means to commit, attempt to commit, or conspire to commit; or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 ~~of this title~~, § 18.2-460; a felony offense of §§ 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 ~~of this title~~, §§ 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-95, Article 4 (§ 18.2-111 et seq.) of Chapter 5 ~~of this title~~, Article 1 (§ 18.2-168 et seq.) of Chapter 6 ~~of this title~~, §§ 18.2-178; or 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6 ~~of this title~~, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 ~~of this title~~, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7 ~~of this title~~, §§ 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2.1, 18.2-328, 18.2-346, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9 ~~of this title~~, Article 1 (§ 18.2-434 et seq.) of Chapter 10 ~~of this title~~, Article 2 (§ 18.2-438 et seq.) of Chapter 10 ~~of this title~~, Article 3 (§ 18.2-446 et seq.) of Chapter 10 ~~of this title~~, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 ~~of this title~~, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other state, the District of Columbia, or the United States or its territories.

**§ 19.2-215.1. Functions of a multi-jurisdiction grand jury.**

The functions of a ~~multi-jurisdiction~~ multi-jurisdiction grand jury are:

1. To investigate any condition that involves or tends to promote criminal violations of:

- a. Title 10.1 for which punishment as a felony is authorized;
- b. § 13.1-520;
- c. §§ 18.2-47 and 18.2-48;
- d. §§ 18.2-111 and 18.2-112;
- e. Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2;
- f. Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2;
- g. Article 1 (§ 18.2-247 et seq.) and Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2;
- h. Article 1 (§ 18.2-325 et seq.) and Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or any other provision prohibiting, limiting, regulating, or otherwise affecting gaming or gambling activity;
- i. § 18.2-434, when violations occur before a ~~multi-jurisdiction~~ multi-jurisdiction grand jury;
- j. Article 2 (§ 18.2-438 et seq.) and Article 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2;

- k. § 18.2-460 for which punishment as a felony is authorized;
- l. Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2;
- m. Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1;
- n. Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1;
- o. Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2;
- p. Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
- q. Article 2.1 (§ 18.2-46.1 et seq.) and Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of Title 18.2;
- r. Article 5 (§ 18.2-186 et seq.) and Article 6 (§ 18.2-191 et seq.) of Chapter 6 of Title 18.2;
- s. Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1;
- t. § 18.2-178 where the violation involves insurance fraud;
- u. § 18.2-346, 18.2-348, or 18.2-349 for which punishment as a felony is authorized or § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1;
- v. Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2;
- w. Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2;
- x. Malicious felonious assault and malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
- y. Article 5 (§ 18.2-58 et seq.) of Chapter 4 of Title 18.2;
- z. Felonious sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
- aa. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;
- ~~bb.~~ *ab.* Chapter 13 (§ 18.2-512 et seq.) of Title 18.2;
- ~~cc.~~ *ac.* § 18.2-246.14 and Chapter 10 (§ 58.1-1000 et seq.) of Title 58.1; and
- ~~dd.~~ *ad.* Any other provision of law when such condition is discovered in the course of an investigation that a ~~multi-jurisdiction~~ *multi-jurisdiction* grand jury is otherwise authorized to undertake and to investigate any condition that involves or tends to promote any attempt, solicitation or conspiracy to violate the laws enumerated in this section.

2. To report evidence of any criminal offense enumerated in subdivision 1 and for which a court reporter has recorded all oral testimony as provided by § 19.2-215.9 to the attorney for the Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or investigated, or to the chief law-enforcement officer of any jurisdiction where such offense could be prosecuted or investigated, or to a sworn investigator designated pursuant to § 19.2-215.6, or, when appropriate, to the Attorney General.

3. To consider bills of indictment prepared by a special counsel to determine whether there is sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which allege an offense enumerated in subdivision 1 may be submitted to a ~~multi-jurisdiction~~ *multi-jurisdiction* grand jury.

4. The provisions of this section shall not abrogate the authority of an attorney for the Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

**§ 19.2-392.02. (Effective until July 1, 2019) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results

in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit or voluntary, except organizations exempt pursuant to subdivision A 10 of § 63.2-1715.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. (Expires July 1, 2020) Notwithstanding any provisions in this section to the contrary, a spouse of a birth parent or parent by adoption who is not the birth parent of a child and has filed a petition for adoption of such child in circuit court may request the Department of State Police to conduct a national criminal background check on such prospective adoptive parent at his cost for purposes of § 63.2-1242. Such background checks shall otherwise be conducted in accordance with the provisions of this section.

**§ 19.2-392.02. (Effective July 1, 2019) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § 63.2-1715.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

H. (Expires July 1, 2020) Notwithstanding any provisions in this section to the contrary, a spouse of a birth parent or parent by adoption who is not the birth parent of a child and has filed a petition for adoption of such child in circuit court may request the Department of State Police to conduct a national criminal background check on such prospective adoptive parent at his cost for purposes of § 63.2-1242. Such background checks shall otherwise be conducted in accordance with the provisions of this section.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 618

*An Act to amend and reenact §§ 19.2-298.01, 46.2-357, 46.2-391, 53.1-10, 53.1-67.6, 60.2-219, and 60.2-618 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 18 of Title 19.2 an article numbered 6, consisting of a section numbered 19.2-316.4, and by adding in Chapter 2 of Title 53.1 an article numbered 9, consisting of a section numbered 53.1-67.9; and to repeal Articles 3 (§ 19.2-316.1), 4 (§ 19.2-316.2), and 5 (§ 19.2-316.3) of Chapter 18 of Title 19.2 and Articles 5 (§ 53.1-67.1), 7 (§ 53.1-67.7), and 8 (§ 53.1-67.8) of Chapter 2 of Title 53.1 of the Code of Virginia, relating to community corrections alternative program; establishment.*

[H 2605]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-298.01, 46.2-357, 46.2-391, 53.1-10, 53.1-67.6, 60.2-219, and 60.2-618 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 18 of Title 19.2 an article numbered 6, consisting of a section numbered 19.2-316.4, and by adding in Chapter 2 of Title 53.1 an article numbered 9, consisting of a section numbered 53.1-67.9, as follows:**

**§ 19.2-298.01. Use of discretionary sentencing guidelines.**

A. In all felony cases, other than Class 1 felonies, the court shall (i) have presented to it the appropriate discretionary sentencing guidelines worksheets and (ii) review and consider the suitability of the applicable discretionary sentencing guidelines established pursuant to Chapter 8 (§ 17.1-800 et seq.) of Title 17.1. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In cases tried by a jury, the jury shall not be presented any information regarding sentencing guidelines.

B. In any felony case, other than Class 1 felonies, in which the court imposes a sentence which is either greater or less than that indicated by the discretionary sentencing guidelines, the court shall file with the record of the case a written explanation of such departure.

C. In felony cases, other than Class 1 felonies, tried by a jury and in felony cases tried by the court without a jury upon a plea of not guilty, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets. In felony cases tried upon a plea of guilty, including cases which are the subject of a plea agreement, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets, or, with the concurrence of the accused, the court and the attorney for the Commonwealth, the worksheets shall be prepared by the attorney for the Commonwealth.

D. Except as provided in subsection E, discretionary sentencing guidelines worksheets prepared pursuant to this section shall be subject to the same distribution as presentence investigation reports prepared pursuant to subsection A of § 19.2-299.

E. Following the entry of a final order of conviction and sentence in a felony case, the clerk of the circuit court in which the case was tried shall cause a copy of such order or orders, the original of the discretionary sentencing guidelines worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection B to be forwarded to the Virginia Criminal Sentencing Commission within five days. Similarly, the statement required by §§ 19.2-295 and 19.2-303 and regarding departure from or modification of a sentence fixed by a jury shall be forwarded to the Virginia Criminal Sentencing Commission.

F. The failure to follow any or all of the provisions of this section or the failure to follow any or all of the provisions of this section in the prescribed manner shall not be reviewable on appeal or the basis of any other post-conviction relief.

G. The provisions of this section shall apply only to felony cases in which the offense is committed on or after January 1, 1995, and for which there are discretionary sentencing guidelines. For purposes of the discretionary sentencing guidelines only, a person sentenced to a ~~boot camp incarceration program pursuant to § 19.2-316.1, a detention center incarceration program pursuant to § 19.2-316.2 or a diversion center incarceration program pursuant to § 19.2-316.3~~ community corrections alternative program pursuant to § 19.2-316.4 shall be deemed to be sentenced to a term of incarceration.

*Article 6.*

*Community Corrections Alternative Program.*

**§ 19.2-316.4. Eligibility for participation in community corrections alternative program; evaluation; sentencing; withdrawal or removal from program; payment of costs.**

A. As used in this article, unless the context requires a different meaning:

"Intractable behavior" means behavior that, in the determination of the Department of Corrections, (i) indicates an inmate's unwillingness or inability to conform his behavior to that necessary to his successful completion of the program or (ii) is so disruptive as to threaten the successful completion of the program by other participants.

"Nonviolent felony" means any felony except those considered an "act of violence" pursuant to § 19.2-297.1 or any attempt to commit any of those crimes.

B. A defendant (i) who otherwise would have been sentenced to incarceration for a nonviolent felony and whose identified risks and needs the court determines cannot be addressed by conventional probation supervision or (ii) whose suspension of sentence would otherwise be revoked after a finding that the defendant has violated the terms and conditions of probation for a nonviolent felony, may be considered for commitment to a community corrections alternative program established under § 53.1-67.9 as follows:

1. Following conviction and prior to imposition of sentence or following a finding that the defendant's probation should be revoked, upon motion of the defendant or the attorney for the Commonwealth or upon the court's own motion, the court may order such defendant referred to the Department of Corrections for a period not to exceed 45 days from the date of commitment for evaluation and diagnosis by the Department to determine eligibility and suitability for participation in the community corrections alternative program. The evaluation and diagnosis may be conducted by the Department at any state or local correctional facility, probation, parole office, or other location deemed appropriate by the Department. When a defendant who has not been charged with a new criminal offense and who may be subject to a revocation of probation scores incarceration on the probation violation guidelines and agrees to participate, the probation and parole officer, with the approval of the court, may refer the defendant to the Department for such evaluation, for a period not to exceed 45 days.

2. Upon determination that (i) such commitment is in the best interest of the Commonwealth and the defendant and (ii) facilities are available for the confinement of the defendant, the Department shall recommend to the court in writing that the defendant be committed to the community corrections alternative program. The Department shall have the final authority to determine an individual's eligibility and suitability for the program.

3. Upon receipt of such a recommendation and a determination by the court that the defendant will benefit from the community corrections alternative program and is capable of returning to society as a productive citizen following successful completion of the program, and if the defendant would otherwise be committed to the Department, the court (i) shall impose sentence, suspend the sentence, and place the defendant on probation pursuant to this section or (ii) following a finding that the defendant has violated the terms and conditions of his probation previously ordered, shall place the defendant on probation pursuant to this section. Such probation shall be conditioned upon the defendant's entry into and successful completion of the community corrections alternative program. The court shall order that, upon successful completion of the program, the defendant shall be released from confinement and be under probation supervision for a period of not less than one year. The court shall further order that the defendant, prior to release from confinement, shall (a) make reasonable efforts to secure and maintain employment; (b) comply with a plan of restitution or community service; (c) comply with a plan for payment of fines, if any, and costs of court; and (d) undergo substance abuse treatment, if necessary. The court may impose such other terms and conditions of probation as it deems appropriate to be effective on the defendant's successful completion of the community corrections alternative program. A sentence to the community corrections alternative program shall not be imposed in addition to an active sentence to a state correctional facility.

4. Upon the defendant's (i) voluntary withdrawal from the community corrections alternative program, (ii) removal from the program by the Department for intractable behavior, or (iii) failure to comply with the terms and conditions of probation, the court shall cause the defendant to show cause why his probation and suspension of sentence should not be revoked. Upon a finding that the defendant voluntarily withdrew from the program, was removed from the program by the Department for intractable behavior, or failed to comply with the terms and conditions of probation, the court may revoke all or part of the probation and suspended sentence and commit the defendant as otherwise provided in this chapter.

C. Any offender incarcerated for a nonviolent felony paroled under § 53.1-155 or mandatorily released under § 53.1-159 and for whom probable cause that a violation of parole or of the terms and conditions of mandatory release, other than the occurrence of a new felony or Class 1 or Class 2 misdemeanor, has been determined under § 53.1-165, may be considered by the Parole Board for commitment to a community corrections alternative program as established under § 53.1-67.9 as follows:

1. The Parole Board or its authorized hearing officer, with the violator's consent or upon receipt of a defendant's written voluntary agreement to participate form from the probation and parole officer, may order the violator to be evaluated and diagnosed by the Department of Corrections to determine suitability for participation in the community corrections alternative program. The evaluation and diagnosis may be conducted by the Department at any state or local correctional facility, probation or parole office, or other location deemed appropriate by the Department.

2. Upon determination that (i) such commitment is in the best interest of the Commonwealth and the violator and (ii) facilities are available for the confinement of the violator, the Department shall recommend to the Parole Board in writing that the violator be committed to the community corrections alternative program. The Department shall have the final authority to determine an individual's eligibility and suitability for the program.

3. Upon receipt of such a recommendation and a determination by the Parole Board that the violator will benefit from the program and is capable of returning to society as a productive citizen following successful completion of the program and if the violator would otherwise be committed to the Department, the Parole Board shall restore the violator to parole supervision conditioned upon entry into and successful completion of the community corrections alternative program. The Parole Board shall order that, upon successful completion of the program, the violator shall be placed under parole supervision for a period of not less than one year. The Parole Board may impose such other terms and conditions of parole or mandatory release as it deems appropriate to be effective on the defendant's successful completion of the community corrections alternative program. The time spent in the program shall not be counted as service of any part of a term of imprisonment for which he was sentenced upon his conviction.

4. Upon the violator's (i) voluntary withdrawal from the program, (ii) removal from the program by the Department for intractable behavior, or (iii) failure to comply with the terms and conditions of parole or mandatory release, the Parole Board may revoke parole or mandatory release and recommit the violator as provided in § 53.1-165.

D. A person sentenced pursuant to this article who receives payment for employment while in the community corrections alternative program shall be required to pay an amount to be determined by the Department of Corrections to defray the cost of his keep.

**§ 46.2-357. Operation of motor vehicle or self-propelled machinery or equipment by habitual offender prohibited; penalty; enforcement of section.**

A. It shall be unlawful for any person determined or adjudicated an habitual offender to drive any motor vehicle or self-propelled machinery or equipment on the highways of the Commonwealth while the revocation of the person's driving privilege remains in effect. However, the revocation determination shall not prohibit the person from operating any farm tractor on the highways when it is necessary to move the tractor from one tract of land used for agricultural purposes to another tract of land used for agricultural purposes, provided that the distance between the said tracts of land is no more than five miles.

B. Except as provided in subsection D, any person found to be an habitual offender under this article, who is thereafter convicted of driving a motor vehicle or self-propelled machinery or equipment in the Commonwealth while the revocation determination is in effect, shall be punished as follows:

1. If such driving does not of itself endanger the life, limb, or property of another, such person shall be guilty of a Class 1 misdemeanor punishable by a mandatory minimum term of confinement in jail of 10 days except in cases wherein such operation is necessitated in situations of apparent extreme emergency that require such operation to save life or limb, the sentence, or any part thereof, may be suspended.

2. If such driving of itself endangers the life, limb, or property of another or takes place while such person is in violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266 or § 46.2-341.24, irrespective of whether the driving of itself endangers the life, limb or property of another and the person has been previously convicted of a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266 or § 46.2-341.24, such person shall be guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than five years, one year of which shall be a mandatory minimum term of confinement or, in the discretion of the jury or the court trying the case without a jury, by mandatory minimum confinement in jail for a period of 12 months. However, in cases wherein such operation is necessitated in situations of apparent extreme emergency that require such operation to save life or limb, the sentence, or any part thereof, may be suspended. For the purposes of this section, an offense in violation of a valid local ordinance, or law of any other jurisdiction, which ordinance or law is substantially similar to any provision of law herein shall be considered an offense in violation of such provision of law.

3. If the offense of driving while a determination as an habitual offender is in effect is a second or subsequent such offense, such person shall be punished as provided in subdivision 2 of this subsection, irrespective of whether the offense, of itself, endangers the life, limb, or property of another.

C. For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle or self-propelled machinery or equipment while his license, permit, or privilege to drive is suspended or revoked or is charged with driving without a license, the court before hearing the charge shall determine whether the person has been determined an habitual offender and, by reason of this determination, is barred from driving a motor vehicle or self-propelled machinery or equipment on the highways in the Commonwealth. If the court determines the accused has been determined to be an habitual offender and finds there is probable cause that the alleged offense under this section is a felony, it shall certify the case to the circuit court of its jurisdiction for trial.

D. Notwithstanding the provisions of subdivisions 2 and 3 of subsection B, following conviction and prior to imposition of sentence with the consent of the defendant, the court may order the defendant to be evaluated for and to participate in the ~~Boot Camp Incarceration Program pursuant to § 19.2-316.1, or the Detention Center Incarceration Program pursuant to § 19.2-316.2, or the Diversion Center Incarceration Program pursuant to § 19.2-316.3~~ *community corrections alternative program pursuant to § 19.2-316.4.*

**§ 46.2-391. Revocation of license for multiple convictions of driving while intoxicated; exception; petition for restoration of privilege.**

A. The Commissioner shall forthwith revoke and not thereafter reissue for three years the driver's license of any person on receiving a record of the conviction of any person who (i) is adjudged to be a second offender in violation of the provisions of subsection A of § 46.2-341.24 (driving a commercial motor vehicle under the influence of drugs or intoxicants), or § 18.2-266 (driving under the influence of drugs or intoxicants), if the subsequent violation occurred within 10 years of the prior violation, or (ii) is convicted of any two or more offenses of § 18.2-272 (driving while the driver's license has been forfeited for a conviction under § 18.2-266) if the second or subsequent violation occurred within 10 years of the prior offense. However, if the Commissioner has received a copy of a court order authorizing issuance of a restricted license as provided in subsection E of § 18.2-271.1, he shall proceed as provided in the order of the court. For the purposes of this subsection, an offense in violation of a valid local ordinance, or law of any other jurisdiction, which ordinance or law is substantially similar to any provision of Virginia law herein shall be considered an offense in violation of such provision of Virginia law. Additionally, in no event shall the Commissioner reinstate the driver's license of any person convicted of a violation of § 18.2-266, or of a substantially similar valid local ordinance or law of another jurisdiction, until receipt of notification that such person has successfully completed an alcohol safety action program if such person was required by court order to do so unless the requirement for completion of the program has been waived by the court for good cause shown. A conviction includes a finding of not innocent in the case of a juvenile.

B. The Commissioner shall forthwith revoke and not thereafter reissue the driver's license of any person after receiving a record of the conviction of any person (i) convicted of a violation of § 18.2-36.1 or 18.2-51.4 or a felony violation of § 18.2-266 or (ii) convicted of three offenses arising out of separate incidents or occurrences within a period of 10 years in violation of the provisions of subsection A of § 46.2-341.24 or 18.2-266, or a substantially similar ordinance or law of any other jurisdiction, or any combination of three such offenses. A conviction includes a finding of not innocent in the case of a juvenile.

C. Any person who has had his driver's license revoked in accordance with subsection B of this section may petition the circuit court of his residence, or, if a nonresident of Virginia, any circuit court:

1. For restoration of his privilege to drive a motor vehicle in the Commonwealth after the expiration of five years from the date of his last conviction. On such petition, and for good cause shown, the court may, in its discretion, restore to the person the privilege to drive a motor vehicle in the Commonwealth on condition that such person install an ignition interlock system in accordance with § 18.2-270.1 on all motor vehicles, as defined in § 46.2-100, owned by or registered to him, in whole or in part, for a period of at least six months, and upon whatever other conditions the court may prescribe, subject to the provisions of law relating to issuance of driver's licenses, if the court is satisfied from the evidence presented that: (i) at the time of his previous convictions, the petitioner was addicted to or psychologically dependent on the use of

alcohol or other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and (iii) the defendant does not constitute a threat to the safety and welfare of himself or others with regard to the driving of a motor vehicle. However, prior to acting on the petition, the court shall order that an evaluation of the person, to include an assessment of his degree of alcohol abuse and the appropriate treatment therefor, if any, be conducted by a Virginia Alcohol Safety Action Program and recommendations therefrom be submitted to the court, and the court shall give the recommendations such weight as the court deems appropriate. The court may, in lieu of restoring the person's privilege to drive, authorize the issuance of a restricted license for a period not to exceed five years in accordance with the provisions of § 18.2-270.1 and subsection E of § 18.2-271.1. The court shall notify the Virginia Alcohol Safety Action Program which shall during the term of the restricted license monitor the person's compliance with the terms of the restrictions imposed by the court. Any violation of the restrictions shall be reported to the court, and the court may then modify the restrictions or revoke the license.

2. For a restricted license to authorize such person to drive a motor vehicle in the Commonwealth in the course of his employment and to drive a motor vehicle to and from his home to the place of his employment after the expiration of three years from the date of his last conviction. The court may order that a restricted license for such purposes be issued in accordance with the procedures of subsection E of § 18.2-271.1, if the court is satisfied from the evidence presented that (i) at the time of the previous convictions, the petitioner was addicted to or psychologically dependent on the use of alcohol or other drugs; (ii) at the time of the hearing on the petition, he is no longer addicted to or psychologically dependent on the use of alcohol or such other drugs; and (iii) the defendant does not constitute a threat to the safety and welfare of himself and others with regard to the driving of a motor vehicle. The court shall prohibit the person to whom a restricted license is issued from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system during all or any part of the term for which the restricted license is issued, in accordance with the provisions set forth in § 18.2-270.1. However, prior to acting on the petition, the court shall order that an evaluation of the person, to include an assessment of his degree of alcohol abuse and the appropriate treatment therefor, if any, be conducted by a Virginia Alcohol Safety Action Program and recommendations therefrom be submitted to the court, and the court shall give the recommendations such weight as the court deems appropriate. The Virginia Alcohol Safety Action Program shall during the term of the restricted license monitor the person's compliance with the terms of the restrictions imposed by the court. Any violation of the restrictions shall be reported to the court, and the court may then modify the restrictions or revoke the license.

The ignition interlock system installation requirement under subdivisions 1 and 2 of this subsection need only be satisfied once as to any single revocation under subsection B of this section for any person seeking restoration under subdivision 1 following the granting of a restricted license under subdivision 1 or 2.

D. Any person convicted of driving a motor vehicle or any self-propelled machinery or equipment (i) while his license is revoked pursuant to subsection A or B or (ii) in violation of the terms of a restricted license issued pursuant to subsection C shall, provided such revocation was based on at least one conviction for an offense committed after July 1, 1999, be punished as follows:

1. If such driving does not of itself endanger the life, limb, or property of another, such person shall be guilty of a Class 1 misdemeanor punishable by a mandatory minimum term of confinement in jail of 10 days except in cases wherein such operation is necessitated in situations of apparent extreme emergency that require such operation to save life or limb, the sentence, or any part thereof, may be suspended.

2. a. If such driving (i) of itself endangers the life, limb, or property of another or (ii) takes place while such person is in violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, subsection A of § 46.2-341.24, or a substantially similar law or ordinance of another jurisdiction, irrespective of whether the driving of itself endangers the life, limb or property of another and the person has been previously convicted of a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, subsection A of § 46.2-341.24, or a substantially similar local ordinance, or law of another jurisdiction, such person shall be guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than five years, one year of which shall be a mandatory minimum term of confinement or, in the discretion of the jury or the court trying the case without a jury, by mandatory minimum confinement in jail for a period of 12 months and no portion of such sentence shall be suspended or run concurrently with any other sentence.

b. However, in cases wherein such operation is necessitated in situations of apparent extreme emergency that require such operation to save life or limb, the sentence, or any part thereof, may be suspended.

3. If any such offense of driving is a second or subsequent violation, such person shall be punished as provided in subdivision 2 of this subsection, irrespective of whether the offense, of itself, endangers the life, limb, or property of another.

E. Notwithstanding the provisions of subdivisions 2 and 3 of subsection D, following conviction and prior to imposition of sentence with the consent of the defendant, the court may order the defendant to be evaluated for and to participate in the ~~Boot Camp Incarceration Program pursuant to § 19.2-316.1, or the Detention Center Incarceration Program pursuant to § 19.2-316.2, or the Diversion Center Incarceration Program pursuant to § 19.2-316.3~~ *community corrections alternative program pursuant to § 19.2-316.4.*

F. Any period of driver's license revocation imposed pursuant to this section shall not begin to expire until the person convicted has surrendered his license to the court or to the Department of Motor Vehicles.

G. Nothing in this section shall prohibit a person from operating any farm tractor on the highways when it is necessary to move the tractor from one tract of land used for agricultural purposes to another such tract of land when the distance between the tracts is no more than five miles.

H. Any person who operates a motor vehicle or any self-propelled machinery or equipment (i) while his license is revoked pursuant to subsection A or B, or (ii) in violation of the terms of a restricted license issued pursuant to subsection C, where the provisions of subsection D do not apply, shall be guilty of a violation of § 18.2-272.

**§ 53.1-10. Powers and duties of Director.**

The Director shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its system of state correctional facilities;
2. To implement the standards and goals of the Board as formulated for local and community correctional programs and facilities and lock-ups;
3. To employ such personnel and develop and implement such programs as may be necessary to carry out the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within the limits of appropriations made therefor by the General Assembly;
4. To establish and maintain a general system of schools for persons committed to the institutions and community-based programs for adults as set forth in §§ ~~53.1-67.7~~ and ~~53.1-67.8~~ 53.1-67.9. Such system shall include, as applicable, elementary, secondary, postsecondary, career and technical education, adult, and special education schools.
  - a. The Director shall employ a Superintendent who will oversee the operation of educational and vocational programs in all institutions and community-based programs for adults as set forth in §§ ~~53.1-67.7~~ and ~~53.1-67.8~~ 53.1-67.9 operated by the Department. The Department shall be designated as a local education agency (LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.
  - b. When the Department employs a teacher licensed by the Board of Education to provide instruction in the schools of the correctional centers, the Department of Human Resource Management shall establish salary schedules for the teachers which endeavor to be competitive with those in effect for the school division in which the correctional center is located.
  - c. The Superintendent shall develop a functional literacy program for inmates testing below a selected grade level, which shall be at least at the twelfth grade level. The program shall include guidelines for implementation and test administration, participation requirements, criteria for satisfactory completion, and a strategic plan for encouraging enrollment at an institution of higher education or an accredited vocational training program or other accredited continuing education program.
  - d. For the purposes of this section, the term "functional literacy" shall mean those educational skills necessary to function independently in society, including, but not limited to, reading, writing, comprehension, and arithmetic computation.
  - e. In evaluating a prisoner's educational needs and abilities pursuant to § 53.1-32.1, the Superintendent shall create a system for identifying prisoners with learning disabilities.
5. a. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of this Commonwealth, and contracts with corporations, partnerships, or individuals which include, but are not limited to, the purchase of water or wastewater treatment services or both as necessary for the expansion or construction of correctional facilities, consistent with applicable standards and goals of the Board;
  - b. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it shall be desirable to contract with a public or private entity for the provision of community-based residential services pursuant to Chapter 5 (§ 53.1-177 et seq.), the Director shall notify the local governing body of the jurisdiction in which the facility is to be located of the proposal and of the facility's proposed location and provide notice, where requested, to the chief law-enforcement officer for such locality when an offender is placed in the facility at issue;
  - c. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it is necessary to transport Virginia prisoners through or to another state and for other states to transport their prisoners within the Commonwealth, the Director may execute reciprocal agreements with other states' corrections agencies governing such transports that shall include provisions allowing each state to retain authority over its prisoners while in the other state.
6. To accept, hold and enjoy gifts, donations and bequests on behalf of the Department from the United States government and agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Director shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable, consistent with applicable standards and goals of the Board;
7. To collect data pertaining to the demographic characteristics of adults, and juveniles who are adjudicated as adults, incarcerated in state correctional institutions, including, but not limited to, the race or ethnicity, age, and gender of such persons, whether they are a member of a criminal gang, and the types of and extent to which health-related problems are prevalent among such persons. Beginning July 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor and the General Assembly at each regular session of the General Assembly thereafter. The report

shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports;

8. To make application to the appropriate state and federal entities so as to provide any prisoner who is committed to the custody of the state a Department of Motor Vehicles approved identification card that would expire 90 days from issuance, a copy of his birth certificate if such person was born in the Commonwealth, and a social security card from the Social Security Administration;

9. To forward to the Commonwealth's Attorneys' Services Council, updated on a monthly basis, a list of all identified criminal gang members incarcerated in state correctional institutions. The list shall contain identifying information for each criminal gang member, as well as his criminal record;

10. To give notice, to the attorney for the Commonwealth prosecuting a defendant for an offense that occurred in a state correctional facility, of that defendant's known gang membership. The notice shall contain identifying information for each criminal gang member as well as his criminal record;

11. To designate employees of the Department with internal investigations authority to have the same power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Such employees shall be subject to any minimum training standards established by the Department of Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision. Nothing in this section shall be construed to grant the Department any authority over the operation and security of local jails not specified in any other provision of law. The Department shall investigate allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. The Department shall not investigate any action falling within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2 unless specifically authorized by the Office of the State Inspector General;

12. To enforce and direct the Department to enforce regulatory policies promulgated by the Board prohibiting the possession of obscene materials, as defined in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities; and

13. To develop and administer a survey of each correctional officer, as defined in § 53.1-1, who resigns, is terminated, or is transitioned to a position other than correctional officer for the purpose of evaluating employment conditions and factors that contribute to or impede the retention of correctional officers.

#### **§ 53.1-67.6. Minimum programs.**

The Statewide Community-Based Corrections System shall include, but not be limited to, the following programs, services and facilities: regular and intensive probation supervision, regular and intensive parole supervision for those state-responsible offenders sentenced for an offense committed prior to January 1, 1995, home/electronic incarceration, ~~diversion center incarceration, boot camp incarceration, detention center incarceration~~ *community corrections alternative programs*, work release, pre-release centers, probation-violator and parole-violator centers, halfway houses and, for selected offenders, drug testing and treatment. The programs, facilities, and services required under this article shall be made available to each judicial circuit, but the manner in which such are provided shall be determined by the ~~Board~~ *Board Director*. Additional programs, services, and facilities may be established by the ~~Board~~ *Board Director*.

#### *Article 9.*

#### *Community Corrections Alternative Program.*

#### **§ 53.1-67.9. Establishment of community corrections alternative program; supervision upon completion.**

*The Department is authorized to establish and maintain a system of residential community corrections alternative facilities for probationers and parolees whose identified risks and needs cannot be addressed by conventional probation or parole supervision and who are committed to the Department under § 19.2-316.4. The program shall include components for providing access to counseling, substance abuse testing and treatment, remedial education, and career and occupational assessment; providing assistance in securing and maintaining employment; ensuring compliance with terms and conditions of probation or parole; ensuring restitution and performance of community service; payment of fines, if any, and costs of court; and providing other programs that will assist the probationer or parolee in returning to society as a productive citizen. The Department shall perform risk and needs assessments to establish a case plan for each probationer or parolee determining the appropriate program components and program duration for that probationer or parolee.*

*Upon completion of the program, the probationer or parolee shall be released from confinement and remain on probation or parole for a period of one year or for such other longer period as may be specified by the sentencing court or Parole Board. As a condition of such probation or parole following the community corrections alternative component, a probationer's or parolee's successful participation in employment, career and technical education, or other educational or treatment programs may be required.*

*Probation officers assigned to the program shall be authorized by the judges of the circuit court of the county or city in which the position is assigned. Any officer so appointed shall have the same powers and duties as specified in § 53.1-145, and such appointment shall be valid in any judicial circuit in the Commonwealth.*

#### **§ 60.2-219. Services not included in term "employment."**

The term "employment" shall not include:

1. Service performed in the employ of the United States government or of any instrumentality of the United States which is wholly or partially owned by the United States or which is exempt from the tax imposed by § 3301 of the Federal

Internal Revenue Code by virtue of any provision of law which specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

2. Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress, including service performed after June 30, 1939, for an employer determined to be subject to the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.) by the agency or agencies empowered to make such determination by an act of Congress, and service as an employer representative determined to be subject to such act by such agency or agencies. The Commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective 10 days after publication thereof, in the manner provided in § 60.2-111 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this title, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this title;

3. Agricultural labor as defined in § 60.2-201 except as provided for in § 60.2-214;

4. Domestic service in a private home, local college club or local chapter of a college fraternity or sorority except as provided for in § 60.2-215;

5. Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft by an employee, if the employee is employed on and in connection with such vessel or aircraft when outside the United States;

6. Service performed by an individual in, or as an officer or member of the crew of, a vessel while it is engaged in the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including service performed by any such individual as an ordinary incident to any such activity, except (i) service performed in connection with the catching or taking of salmon or halibut for commercial purposes and (ii) service performed on or in connection with a vessel of more than 10 net tons, determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States;

6a. Service performed by an individual on a boat engaged in catching fish or other forms of aquatic life under an arrangement with the owner or operator of such boat pursuant to which:

a. Such individual does not receive any cash remuneration, other than as provided in subdivision b;

b. Such individual receives a share of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, or a share of the proceeds from the sale of such catch; and

c. The amount of such individual's share depends on the amount of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, but only if the operating crew of such boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat is normally made up of fewer than 10 individuals;

7. Service performed by an individual in the employ of his son, daughter, or spouse and service performed by a child under the age of 21 in the employ of his father or mother;

8. Service performed in any calendar quarter in the employ of any organization exempt from income tax (i) under § 501(a) of the Federal Internal Revenue Code (26 U.S.C.), other than an organization described in § 401(a) of such Code, or (ii) under § 521 of the Federal Internal Revenue Code, if the remuneration for such service is less than \$50;

9. Service performed in the employ of a school or institution of higher education, if such service is performed by a student who is enrolled and is regularly attending classes at such school or institution;

10. Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law;

11. Service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

12. Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

13. Service performed by an individual for an employing unit as a real estate salesman, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

14. Service covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election are deemed to be performed entirely within such agency's state or under such federal law;

15. Service performed by an individual for an employing unit as an agent in the wholesale distribution and sale of gasoline and other petroleum products, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

16. Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's

trade or business, or (ii) such individual was regularly employed, as determined under clause (i) of this subdivision, by such employer in the performance of such service during the preceding calendar quarter;

17. a. Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on. In order for such services to be excluded from "employment":

- (1) The individual shall be enrolled as a student in a full-time program,
- (2) The program shall be taken for credit at such institution,
- (3) The program combines academic instruction with work experience, and
- (4) Such service shall be an integral part of such program.

b. Such institution shall certify to the employer that subdivisions 17 a (1) through 17 a (4) have been met.

c. This subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

18. Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in § 60.2-221;

19. Services provided by an individual pursuant to an agreement among the service recipient, a public human services agency as defined in § 15.2-2811, and such individual to an eligible service recipient in his own home or the home of the service provider, unless coverage of such services is required by the provisions of § 3304(a)(6)(A) of the Federal Unemployment Tax Act;

20. Services performed by an individual as a "direct seller" provided that:

a. Such person:

(1) Is engaged in the trade or business of selling, or soliciting the sale of, consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary of the Treasury prescribes by regulations for resale by the buyer or any other person in the home or otherwise than in a permanent retail establishment;

(2) Is engaged in the trade or business of selling, or soliciting the sale of, consumer products to a consumer in the home or otherwise than in a permanent retail establishment; or

(3) Is engaged in the trade or business of the delivery or distribution of newspapers or shopping news (including any delivery services directly related to such trade or business).

b. Substantially all of the remuneration for the services performed as a direct seller, whether or not paid in cash, is directly related to sales or output, including the performances of services, rather than to the number of hours worked;

c. The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for federal tax purposes;

21. Service performed after July 1, 1984, by an individual as a taxicab driver, or as a driver of an executive sedan as defined in § 46.2-2000, provided the Commission is furnished evidence that such individual is excluded from taxation by the Federal Unemployment Tax Act;

22. Services performed by an individual as a "contract carrier courier driver" provided the Commission is furnished evidence that such individual is excluded from taxation by the Federal Unemployment Tax Act;

23. Services performed by a full-time student in the employ of an organized camp if:

a. Such camp:

(1) Did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or

(2) Had average gross receipts for any six months in the preceding calendar year which were not more than 33- 1/3 percent of its average gross receipts for the other six months in the preceding calendar year; and

b. Such full-time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year;

24. Services performed by an individual as a court reporter for an employing unit if all such service performed by the individual for the employing unit is performed for remuneration solely by way of commission;

25. Services performed by an individual as a cosmetologist or as a barber provided the Commission is furnished evidence that such individual is excluded from taxation by the Federal Unemployment Tax Act;

26. Services performed by a licensed clinical social worker as defined in § 54.1-3700, licensed psychologist as defined in § 54.1-3600, licensed professional counselor as defined in § 54.1-3500, licensed psychiatrist, or licensed marriage and family therapist as defined in § 54.1-3500, if such individual:

a. Operates under a contract specifying that the individual is free from control or direction over the performance of such services;

b. Is licensed in the Commonwealth to perform independent clinical services;

c. Is compensated solely by way of fees charged for services rendered by such individual; and

d. Has a valid business license issued by the locality in which such individual performs such services; and

27. Services performed by an inmate for a penal or custodial institution or while participating in the ~~Incarceration Program pursuant to § 19.2-316.3~~ *community corrections alternative program pursuant to § 19.2-316.4* ~~Diversion Center~~

**§ 60.2-618. Disqualification for benefits.**

An individual shall be disqualified for benefits upon separation from the last employing unit for whom he has worked 30 days or 240 hours or from any subsequent employing unit:

1. (Effective until January 1, 2021) For any week benefits are claimed until he has performed services for an employer (i) during 30 days, whether or not such days are consecutive, or (ii) for 240 hours, and subsequently becomes totally or partially separated from such employment, if the Commission finds such individual is unemployed because he left work voluntarily without good cause.

If (a) at the time of commencing employment with such employing unit an individual is enrolled in an accredited academic program of study provided by an institution of higher education for students that have been awarded a baccalaureate degree, which academic program culminates in the awarding of a master's, doctoral, or professional degree; (b) the individual's employment with such employing unit commenced and ended during the period between spring and fall semesters of the academic program in which the individual is enrolled; and (c) the individual returned to such academic program following his separation from such employing unit, there shall be a rebuttable presumption that the individual left work voluntarily.

As used in this chapter, "good cause" shall not include (1) voluntarily leaving work with an employer to become self-employed or (2) voluntarily leaving work with an employer to accompany or to join his or her spouse in a new locality, except where an individual leaves employment to accompany a spouse to the location of the spouse's new duty assignment if (A) the spouse is on active duty in the military or naval services of the United States; (B) the spouse's relocation to a new military-related assignment is pursuant to a permanent change of station order; (C) the location of the spouse's new duty assignment is not readily accessible from the individual's place of employment; and (D) except for members of the Virginia National Guard relocating to a new assignment within the Commonwealth, the spouse's new duty assignment is located in a state that, pursuant to statute, does not deem a person accompanying a military spouse as a person leaving work voluntarily without good cause. An individual shall not be deemed to have voluntarily left work solely because the separation was in accordance with a seniority-based policy.

1. (Effective January 1, 2021) For any week benefits are claimed until he has performed services for an employer (i) during 30 days, whether or not such days are consecutive, or (ii) for 240 hours, and subsequently becomes totally or partially separated from such employment, if the Commission finds such individual is unemployed because he left work voluntarily without good cause.

If (a) at the time of commencing employment with such employing unit an individual is enrolled in an accredited academic program of study provided by an institution of higher education for students that have been awarded a baccalaureate degree, which academic program culminates in the awarding of a master's, doctoral, or professional degree; (b) the individual's employment with such employing unit commenced and ended during the period between spring and fall semesters of the academic program in which the individual is enrolled; and (c) the individual returned to such academic program following his separation from such employing unit, there shall be a rebuttable presumption that the individual left work voluntarily.

As used in this chapter, "good cause" shall not include (1) voluntarily leaving work with an employer to become self-employed or (2) voluntarily leaving work with an employer to accompany or to join his or her spouse in a new locality. An individual shall not be deemed to have voluntarily left work solely because the separation was in accordance with a seniority-based policy.

2. a. For any week benefits are claimed until he has performed services for an employer (i) during 30 days, whether or not such days are consecutive, or (ii) for 240 hours, and subsequently becomes totally or partially separated from such employment, if the Commission finds such individual is unemployed because he has been discharged for misconduct connected with his work.

b. For the purpose of this subdivision, "misconduct" includes, but shall not be limited to:

(1) An employee's confirmed positive test for a nonprescribed controlled substance, identified as such in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, where such test was conducted at the direction of his employer in conjunction with the employer's administration and enforcement of a known workplace drug policy. Such test shall have been performed, and a sample collected, in accordance with scientifically recognized standards by a laboratory accredited by the United States Department of Health and Human Services, or the College of American Pathology, or the American Association for Clinical Chemistry, or the equivalent, or shall have been a United States Department of Transportation-qualified drug screen conducted in accordance with the employer's bona fide drug policy. The Commission may consider evidence of mitigating circumstances in determining whether misconduct occurred.

(2) An employee's intentionally false or misleading statement of a material nature concerning past criminal convictions made in a written job application furnished to the employer, where such statement was a basis for the termination and the employer terminated the employee promptly upon the discovery thereof. The Commission may consider evidence of mitigating circumstances in determining whether misconduct occurred.

(3) A willful and deliberate violation of a standard or regulation of the Commonwealth, by an employee of an employer licensed or certified by the Commonwealth, which violation would cause the employer to be sanctioned or have its license or certification suspended by the Commonwealth. The Commission may consider evidence of mitigating circumstances in determining whether misconduct occurred.

(4) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence. The Commission may consider evidence of mitigating circumstances in determining whether misconduct occurred.

(5) An employee's loss of or failure to renew a license or certification that is a requisite of the position held by the employee, provided the employer is not at fault for the employee's loss of or failure to renew the license or certification. The Commission may consider evidence of mitigating circumstances in determining whether misconduct occurred.

3. a. If it is determined by the Commission that such individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commission or to accept suitable work when offered him. The disqualification shall commence with the week in which such failure occurred, and shall continue for the period of unemployment next ensuing until he has performed services for an employer (i) during 30 days, whether or not such days are consecutive, or (ii) for 240 hours, and subsequently becomes totally or partially separated from such employment.

b. In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience, his length of unemployment and the accessibility of the available work from his residence.

c. No work shall be deemed suitable and benefits shall not be denied under this title to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

d. No individual shall be qualified for benefits during any week that such individual, in connection with an offer of suitable work, has a confirmed positive test for a nonprescribed controlled substance, identified as such in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, if the test is required as a condition of employment and (i) performed, and a sample is collected, in accordance with scientifically recognized standards by a laboratory accredited by the United States Department of Health and Human Services, or the College of American Pathology, or the American Association for Clinical Chemistry, or the equivalent, or (ii) a United States Department of Transportation-qualified drug screen conducted in accordance with the employer's bona fide drug policy. The disqualification shall commence with the week in which such a test was conducted, and shall continue for the period of unemployment next ensuing until he has performed services for an employer (i) during 30 days, whether or not such days are consecutive, or (ii) for 240 hours, and subsequently becomes totally or partially separated from such employment.

4. For 52 weeks, beginning with the date of the determination or decision, if the Commission finds that such individual, within 36 calendar months immediately preceding such determination or decision, has made a false statement or representation knowing it to be false, or has knowingly failed to disclose a material fact, to obtain or increase any benefit or payment under this title, the unemployment compensation of any other state, or any other program of the federal government which is administered in any way under this title, either for himself or any other person. Overpayments that have been fraudulently obtained and any penalty assessed against the individual pursuant to § 60.2-636 shall be recoverable as provided in § 60.2-633.

5. If such separation arose as a result of an unlawful act which resulted in a conviction and after his release from prison or jail until he has performed services for an employer for (i) 30 days, whether or not such days are consecutive, or (ii) 240 hours, and subsequently becomes totally or partially separated from such employment.

6. If such separation arose as a condition of the individual's parole or release from a custodial or penal institution and such individual was participating in the ~~Diversion Center Incarceration Program pursuant to § 19.2-316.3~~ *community corrections alternative program pursuant to § 19.2-316.4*.

**2. That Articles 3 (§ 19.2-316.1), 4 (§ 19.2-316.2), and 5 (§ 19.2-316.3) of Chapter 18 of Title 19.2 and Articles 5 (§ 53.1-67.1), 7 (§ 53.1-67.7), and 8 (§ 53.1-67.8) of Chapter 2 of Title 53.1 of the Code of Virginia are repealed.**

## CHAPTER 619

*An Act to amend the Code of Virginia by adding a section numbered 56-585.1:8, relating to a pilot program for the provision of broadband capacity to unserved areas of the Commonwealth by certain electric utilities.*

[H 2691]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-585.1:8 as follows:**

**§ 56-585.1:8. Pilot program for broadband capacity to unserved areas of the Commonwealth.**

*A. The Commission shall establish pilot programs under which each Phase I Utility and each Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1, may submit one or more petitions to provide or make available broadband capacity to nongovernmental Internet service providers in areas of the Commonwealth unserved by broadband.*

Any such petitions that a Phase I Utility submits shall not exceed \$60 million in costs annually. Any such petitions that a Phase II Utility submits shall not exceed \$60 million in costs annually. The provision of such broadband capacity to nongovernmental Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section is in the public interest.

B. The incremental costs of providing broadband capacity pursuant to any such pilot program, net of revenue generated therefrom, shall be eligible for recovery from customers as an electric grid transformation project pursuant to clause (vi) of subdivision A 6 of § 56-585.1 filed on or after July 1, 2020.

C. Notwithstanding the provisions of § 13.1-620 or the articles of incorporation of an investor-owned utility, an investor-owned utility may, either directly or through an affiliate or subsidiary, pursuant to a pilot program that the Commissioner approves pursuant to this section, (i) own, manage, or control any broadband capacity equipment and electronics, including any plant, works, system, lines, facilities, or properties, or any part or parts thereof, together with all appurtenances thereto, used or useful in connection with the provision and extension of such broadband services; (ii) lease indefeasible rights of use in such broadband capacity equipment and electronics to nongovernmental Internet service providers in areas of the Commonwealth unserved by broadband pursuant to this section; and (iii) provide access points that are outside the utility's energized zone to allow connection between the utility's broadband capacity system and the nongovernmental Internet service provider's system.

D. Each petition to provide broadband capacity pursuant to this section that an investor-owned utility submits to the Commission shall identify the nongovernmental Internet service provider to which the utility shall lease such capacity, together with the area to be served using such capacity. The Commission shall, after notice and opportunity for hearing, initiate proceedings to review each petition submitted. In determining whether an area is unserved by broadband, the Commission shall take into account the impact of any grants or loans made to provide broadband access to the designated area. The Commission's final order regarding any such petition shall be entered by the Commission not more than six months after the date of the filing of such petition. The Commission shall condition any approval of such petition on the requirement that construction shall commence within three years of such approval. If the utility fails to commence construction within such period, the utility may resubmit the petition for Commission approval.

E. An investor-owned utility shall be responsible to obtain all necessary rights-of-way or other easements or real property rights to permit leasing of broadband capacity to nongovernmental Internet service providers. A nongovernmental Internet service provider shall be responsible to obtain all necessary rights-of-way or other easements or real property rights from utility access point to permit the provision of broadband services to end-user customers.

F. As used in this section:

"Broadband" means Internet access at speeds greater than 10 MBps download speed and one MBps upload speed, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline modify such speeds from time to time.

"Unserved by broadband" means a designated area in which less than 10 percent of residential and commercial units are capable of receiving broadband service, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guideline increase such percentage from time to time.

G. No investor-owned utility nor any affiliate thereof may offer broadband or Internet service provider services to residential or commercial end-user customers in the Commonwealth pursuant to this section. Nothing in this section shall be construed to prevent an investor-owned utility or an affiliate thereof from providing transport of or capacity for broadband or Internet service as a wholesaler or intermediate vendor, provided that an unaffiliated nongovernmental third party is the provider of broadband or Internet services to the end-user customer.

H. The provision and extension of broadband capacity by an incumbent electric utility to an area of the Commonwealth unserved by broadband pursuant to a pilot program that the Commission approves pursuant to this section, including any business activity related to the construction or leasing of broadband capacity facilities, shall be exempt from any rules and regulations that the Commission has promulgated or may promulgate governing functional separation of generation, retail transmission, and distribution of incumbent electric utilities. Investor-owned electric utilities may for the purposes of this section engage in such coordination between and among their various corporate divisions as necessary for the purposes of providing broadband capacity to an area of the Commonwealth unserved by broadband.

I. The pilot program established pursuant to this section shall continue for the three-year period ending three years following the date the Commission approves the first petition to provide broadband capacity pursuant to this section, unless the Commission extends the pilot program or makes the pilot program permanent. At the termination of the pilot program, a utility shall continue to provide broadband capacity pursuant to leases existing as of the date of such termination.

## CHAPTER 620

An Act to amend the Code of Virginia by adding a section numbered 19.2-388.1, relating to Central Criminal Records Exchange; background checks through Live Scan device.

[H 2746]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 19.2-388.1 as follows:**

**§ 19.2-388.1. Fingerprints submitted by Live Scan device.**

A. The Department of State Police (the Department) shall accept requests for background checks through the use of a Live Scan device certified by the Federal Bureau of Investigation by any agency or organization located within the Commonwealth that (i) is authorized to receive criminal history record information pursuant to § 19.2-392.02 and (ii) utilizes a fingerprint background check as a condition of licensure, certification, employment, or volunteer service. Any such agency or organization transmitting requests for background checks to the Department pursuant to this section shall be responsible for all costs associated with capturing, formatting, encrypting, and transmitting all required information in a manner prescribed by the Department.

B. The Department shall only provide the criminal history record information to the extent authorized by state or federal law, rules, and regulations. The Department may deny any such agency or organization access to criminal history record information if the Department finds that such agency or organization has failed to comply with state or federal law, rules, or regulations.

C. Participating agencies or organizations shall be required to enter into an agreement with the Department for the purposes of carrying out this section and may be required to submit other information or forms as prescribed by the Department.

## CHAPTER 621

*An Act to amend and reenact § 19.2-245.1 of the Code of Virginia, relating to forgery; venue.*

[S 1050]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-245.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-245.1. Forgery; where prosecuted.**

If any person commits forgery, that forgery may be prosecuted in any county or city (i) where the writing was forged, or where the same was used or passed, or attempted to be used or passed, or deposited or placed with another person, firm, association, or corporation either for collection or credit for the account of any person, firm, association, or corporation ~~or~~; (ii) where the writing is found in the possession of the defendant; or (iii) where an issuer, acquirer, or account holder sustained a financial loss as a result of the offense.

## CHAPTER 622

*An Act to amend and reenact §§ 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia, relating to alcoholic beverage control; local special events license.*

[S 1171]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-206. Alcoholic beverage licenses.**

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

17. *Local special events license, which may be issued only to a locality, business improvement district, or nonprofit organization and which shall authorize (i) the licensee to permit the consumption of alcoholic beverages within the area designated by the Board for the special event and (ii) any permanent retail on-premises licensee that is located within the area designated by the Board for the special event to sell alcoholic beverages within the permanent retail location for consumption in the area designated for the special event, including sidewalks and the premises of businesses not licensed to sell alcoholic beverages at retail, upon approval of such businesses. In determining the designated area for the special event, the Board shall consult with the locality. Local special events licensees shall be limited to 12 special events per year. Only alcoholic beverages purchased from permanent retail on-premises licensees located within the designated area may be consumed at the special event, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers that clearly display the name or logo of the retail on-premises licensee from which the alcoholic beverage was purchased. Alcoholic beverages shall not be sold or charged for in any way by the local special events licensee. The local special events licensee shall post appropriate signage clearly demarcating for the public the boundaries of the special event; however, no physical barriers shall be required for this purpose. The local special events licensee shall provide adequate security for the special event to ensure compliance with the applicable provisions of this title and Board regulations.*

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

#### **§ 4.1-231. Taxes on state licenses.**

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;

b. Fruit distiller's license, \$3,725;

c. Banquet facility license or museum license, \$190;

- d. Bed and breakfast establishment license, \$35;
  - e. Tasting license, \$40 per license granted;
  - f. Equine sporting event license, \$130;
  - g. Motor car sporting event facility license, \$130;
  - h. Day spa license, \$100;
  - i. Delivery permit, \$120 if the permittee holds no other license under this title;
  - j. Meal-assembly kitchen license, \$100;
  - k. Canal boat operator license, \$100;
  - l. Annual arts venue event license, \$100;
  - m. Art instruction studio license, \$100;
  - n. Commercial lifestyle center license, \$300; ~~and~~
  - o. Confectionery license, \$100; *and*
  - p. *Local special events license, \$300.*
2. Wine licenses. For each:
- a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
  - b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;
  - (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;
  - c. Wine importer's license, \$370;
  - d. Retail off-premises winery license, \$145, which shall include a delivery permit;
  - e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;
  - f. Wine shipper's license, \$230; and
  - g. Internet wine retailer license, \$150.
3. Beer licenses. For each:
- a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
  - b. Bottler's license, \$1,430;
  - c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
  - (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;
  - d. Beer importer's license, \$370;
  - e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;
  - f. Retail off-premises beer license, \$120, which shall include a delivery permit;
  - g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
  - h. Beer shipper's license, \$230;
  - i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and
  - j. Internet beer retailer license, \$150.
4. Wine and beer licenses. For each:
- a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;
  - b. Retail on-premises wine and beer license to a hospital, \$145;
  - c. Retail on-premises wine and beer license to a historic cinema house, \$200;
  - d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;
  - e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;

g. Gourmet brewing shop license, \$230;

h. Wine and beer shipper's license, \$230;

i. Annual banquet license, \$150;

j. Fulfillment warehouse license, \$120;

k. Marketing portal license, \$150; and

l. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

(iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

f. Mixed beverage club events licenses, \$35 for each day of each event;

g. Annual mixed beverage special events license, \$560;

h. Mixed beverage carrier license:

(i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$560 for each common carrier of passengers by boat;

(iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

i. Annual mixed beverage amphitheater license, \$560;

j. Annual mixed beverage motor sports race track license, \$560;

k. Annual mixed beverage banquet license, \$500;

l. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$460;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;

(iii) With a seating capacity at tables for more than 150 persons, \$1,330;

m. Annual mixed beverage motor sports facility license, \$560; and

n. Annual mixed beverage performing arts facility license, \$560.

6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the

wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

**§ 4.1-233. Taxes on local licenses.**

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

1. Alcoholic beverages. — For each:

a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Fruit distiller's license, \$1,500;

c. Bed and breakfast establishment license, \$40;

d. Museum license, \$10;

e. Tasting license, \$5 per license granted;

f. Equine sporting event license, \$10;

g. Day spa license, \$20;

h. Motor car sporting event facility license, \$10;

i. Meal-assembly kitchen license, \$20;

j. Canal boat operator license, \$20;

k. Annual arts venue event license, \$20;

l. Art instruction studio license, \$20;

m. Commercial lifestyle center license, \$60; ~~and~~

n. Confectionery license, \$20; *and*

*o. Local special events license, \$60.*

2. Beer. — For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;

b. Bottler's license, \$500;

c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

d. Retail on-premises beer license for a hotel, restaurant, club or other person and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and

e. Beer shipper's license, \$10.

3. Wine. — For each:

a. Winery license, \$50;

b. Wholesale wine license, \$50;

c. Farm winery license, \$50; and

d. Wine shipper's license, \$10.

4. Wine and beer. — For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

b. Hospital license, \$10;

c. Historic cinema house license, \$20;

d. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;

e. Gourmet brewing shop license, \$150;

f. Wine and beer shipper's license, \$10;

g. Annual banquet license, \$15; and

h. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.

5. Mixed beverages. — For each:

a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$200;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

(iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

c. Mixed beverage caterer's license, \$500;

d. Mixed beverage limited caterer's license, \$100;

e. Mixed beverage special events licenses, \$10 for each day of each event;

- f. Mixed beverage club events licenses, \$10 for each day of each event;
- g. Annual mixed beverage amphitheater license, \$300;
- h. Annual mixed beverage motor sports race track license, \$300;
- i. Annual mixed beverage banquet license, \$75;
- j. Limited mixed beverage restaurant license:
  - (i) With a seating capacity at tables for up to 100 persons, \$100;
  - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
  - (iii) With a seating capacity at tables for more than 150 persons, \$400;
- k. Annual mixed beverage motor sports facility license, \$300; and
- l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

**§ 4.1-308. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.**

A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he is guilty of a Class 4 misdemeanor.

B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license ~~or~~ mixed beverage special events license, or local special events license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the Board and which does not sell alcoholic beverages.

E. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any areas approved by the Board in a licensed commercial lifestyle center.

**CHAPTER 623**

*An Act to amend and reenact § 46.2-1052 of the Code of Virginia, relating to tinting films; exception for security canine handlers.*

[S 1174]

Approved March 19, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1052 of the Code of Virginia is amended and reenacted as follows:

**§ 46.2-1052. Tinting films, signs, decals, and stickers on windshields, etc.; penalties.**

A. As used in this article, unless the context requires a different meaning:

*"Front side windows"* means those windows located adjacent to and forward of the driver's seat;

*"Holographic effect"* means a picture or image that may remain constant or change as the viewing angle is changed;

*"Multipurpose passenger vehicle"* means any motor vehicle that is (i) designed to carry no more than 10 persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use;

*"Prism effect"* means a visual, iridescent, or rainbow-like effect that separates light into various colored components that may change depending on viewing angle;

*"Rear side windows"* means those windows located to the rear of the driver's seat;

*"Rear window" or "rear windows"* means those windows that are located to the rear of the passenger compartment of a motor vehicle and that are approximately parallel to the windshield.

B. Except as otherwise provided in this article or permitted by federal law, it shall be unlawful for any person to operate any motor vehicle on a highway with any sign, poster, colored or tinted film, sun-shading material, or other colored material on the windshield, front or rear side windows, or rear windows of such motor vehicle. This provision, however, shall not apply to any certificate or other paper required by law or permitted by the Superintendent to be placed on a motor vehicle's windshield or window.

The size of stickers or decals used by counties, cities, and towns in lieu of license plates shall be in compliance with regulations promulgated by the Superintendent. Such stickers shall be affixed on the windshield at a location designated by the Superintendent.

~~B-~~ C. Notwithstanding the foregoing provisions of this section, whenever a motor vehicle is equipped with a mirror on each side of such vehicle, so located as to reflect to the driver of such vehicle a view of the highway for at least 200 feet to the rear of such vehicle, any or all of the following shall be lawful:

1. To drive a motor vehicle equipped with one optically grooved clear plastic right-angle rear view lens attached to one rear window of such motor vehicle, not exceeding 18 inches in diameter in the case of a circular lens or not exceeding 11 inches by 14 inches in the case of a rectangular lens, which enables the driver of the motor vehicle to view below the line of sight as viewed through the rear window;

2. To have affixed to the rear side windows, rear window or windows of a motor vehicle any sticker or stickers, regardless of size; or

3. To drive a motor vehicle when the driver's clear view of the highway through the rear window or windows is otherwise obstructed.

~~C-~~ D. Except as provided in § 46.2-1053, but notwithstanding the foregoing provisions of this section, no sun-shading or tinting film may be applied or affixed to any window of a motor vehicle unless such motor vehicle is equipped with a mirror on each side of such motor vehicle, so located as to reflect to the driver of the vehicle a view of the highway for at least 200 feet to the rear of such vehicle, and the sun-shading or tinting film is applied or affixed in accordance with the following:

1. No sun-shading or tinting films may be applied or affixed to the rear side windows or rear window or windows of any motor vehicle operated on the highways of the Commonwealth that reduce the total light transmittance of such window to less than 35 percent;

2. No sun-shading or tinting films may be applied or affixed to the front side windows of any motor vehicle operated on the highways of the Commonwealth that reduce total light transmittance of such window to less than 50 percent;

3. No sun-shading or tinting films shall be applied or affixed to any window of a motor vehicle that (i) have a reflectance of light exceeding 20 percent or (ii) produce a holographic or prism effect.

Any person who operates a motor vehicle on the highways of the Commonwealth with sun-shading or tinting films that (i) have a total light transmittance less than that required by subdivisions 1 and 2, (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects is guilty of a traffic infraction but shall not be awarded any demerit points by the Commissioner for the violation.

Any person or firm who applies or affixes to the windows of any motor vehicle in Virginia sun-shading or tinting films that (i) reduce the light transmittance to levels less than that allowed in subdivisions 1 and 2, (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects is guilty of a Class 3 misdemeanor for the first offense and of a Class 2 misdemeanor for any subsequent offense.

~~D-~~ E. The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper standards for equipment or devices used to measure light transmittance through windows of motor vehicles. Law-enforcement officers shall use only such equipment or devices to measure light transmittance through windows that meet the standards established by the Division. Such measurements made by law-enforcement officers shall be given a tolerance of minus seven percentage points.

~~E-~~ F. No film or darkening material may be applied on the windshield except to replace the sunshield in the uppermost area as installed by the manufacturer of the vehicle.

~~F. G.~~ Nothing in this section shall prohibit the affixing to the rear window of a motor vehicle of a single sticker no larger than 20 square inches if such sticker is totally contained within the lower five inches of the glass of the rear window, nor shall subsection ~~B C~~ apply to a motor vehicle to which but one such sticker is so affixed.

~~G. H.~~ Nothing in this section shall prohibit applying to the rear side windows or rear window of any multipurpose passenger vehicle or pickup truck sun-shading or tinting films that reduce the total light transmittance of such window or windows below 35 percent.

~~H.~~ As used in this article:

"Front side windows" means those windows located adjacent to and forward of the driver's seat;

"Holographic effect" means a picture or image that may remain constant or change as the viewing angle is changed;

"Multipurpose passenger vehicle" means any motor vehicle that is (i) designed to carry no more than 10 persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use;

"Prism effect" means a visual, iridescent, or rainbow-like effect that separates light into various colored components that may change depending on viewing angle;

"Rear side windows" means those windows located to the rear of the driver's seat;

"Rear window" or "rear windows" means those windows which are located to the rear of the passenger compartment of a motor vehicle and which are approximately parallel to the windshield.

I. Notwithstanding the foregoing provisions of this section, sun-shading material which was applied or installed prior to July 1, 1987, in a manner and on which windows not then in violation of Virginia law, shall continue to be lawful, provided that it can be shown by appropriate receipts that such material was installed prior to July 1, 1987.

J. Where a person is convicted within one year of a second or subsequent violation of this section involving the operation of the same vehicle having a tinted or smoked windshield, the court, in addition to any other penalty, may order the person so convicted to remove such tinted or smoked windshield from the vehicle.

K. The provisions of this section shall not apply to law-enforcement vehicles.

L. The provisions of this section shall not apply to the rear windows or rear side windows of any emergency medical services vehicle used to transport patients.

M. *The provisions of subdivisions D 1, 2, and 3 shall not apply to vehicles operated in the performance of private security duties by a security canine handler as defined in § 9.1-138 and licensed in accordance with § 9.1-139.*

N. The provisions of subdivision ~~€ D~~ 1 shall not apply to sight-seeing carriers as defined in § 46.2-2000 and contract passenger carriers as defined in § 46.2-2000.

~~N. O.~~ For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

## CHAPTER 624

*An Act to amend and reenact § 18.2-308.02 of the Code of Virginia, relating to application for a resident concealed handgun permit; United States Armed Forces.*

[S 1179]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-308.02 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-308.02. Application for a concealed handgun permit; Virginia resident or domiciliary.**

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces *and stationed outside the Commonwealth*, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. Additionally, the application shall request but not require that the applicant provide an email or other electronic address where a notice of permit expiration can be sent pursuant to subsection C of § 18.2-308.010. The applicant shall present one valid form of photo identification issued by a governmental agency of the Commonwealth or by the U.S. Department of Defense or U.S. State Department (passport). No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

B. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, institution of higher education, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or online course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

C. The making of a materially false statement in an application under this article shall constitute perjury, punishable as provided in § 18.2-434.

D. The clerk of court shall withhold from public disclosure the applicant's name and any other information contained in a permit application or any order issuing a concealed handgun permit, except that such information shall not be withheld from any law-enforcement officer acting in the performance of his official duties or from the applicant with respect to his own information. The prohibition on public disclosure of information under this subsection shall not apply to any reference to the issuance of a concealed handgun permit in any order book before July 1, 2008; however, any other concealed handgun records maintained by the clerk shall be withheld from public disclosure.

E. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a concealed handgun permit as set forth in § 18.2-308.03, is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check.

F. For purposes of this section, a member of the United States Armed Forces is domiciled in the county or city where such member claims his home of record with the United States Armed Forces.

## CHAPTER 625

*An Act to amend and reenact § 56-585.3 of the Code of Virginia, relating to electric cooperatives; rates.*

[S 1346]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-585.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-585.3. Regulation of cooperative rates after rate caps.**

A. After the expiration or termination of capped rates, the rates, terms and conditions of distribution electric cooperatives subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1 of this title shall be regulated in accordance with the provisions of Chapters 9.1 (§ 56-231.15 et seq.) and 10 (§ 56-232 et seq.) of this title, as modified by the following provisions:

1. Except for energy related cost (fuel cost), the Commission shall not require any cooperative to adjust, modify, or revise its rates, by means of riders or otherwise, to reflect changes in wholesale power cost which occurred during the capped rate period, other than in a general rate proceeding;

2. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, increase or decrease all classes of its rates for distribution services at any time, provided, however, that such adjustments will not effect a cumulative net increase or decrease in excess of *five* percent in such rates in any ~~three year~~ *three-year* period. Such adjustments will not affect or be limited by any existing fuel or wholesale power cost adjustment provisions. The cooperative will promptly file any such revised rates with the Commission for informational purposes;

3. Each cooperative may, without Commission approval, upon an affirmative resolution of its board of directors, make any adjustment to its terms and conditions that does not affect the cooperative's revenues from the distribution or supply of electric energy. In addition, a cooperative may make such adjustments to any pass-through of third-party service charges and fees, and to any fees, charges and deposits set out in Schedule F of such cooperative's Terms and Conditions filed as of January 1, 2007. The cooperative will promptly file any such amended terms and conditions with the Commission for informational purposes;

4. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, make any adjustment to its rates reasonably calculated to collect any or all of the fixed costs of owning and operating its electric distribution system, including without limitation, such costs as are identified as customer-related costs in a cost of service study, through a new or modified fixed monthly charge, rather than through volumetric charges associated with the use of electric energy; however, such adjustments shall be revenue neutral based on the cooperative's determination of the proper intra-class allocation of the revenues produced by its then current rates. The cooperative may elect, but is not required, to implement such adjustments through incremental changes over the course of up to three years. The cooperative shall file promptly revised tariffs reflecting any such adjustments with the Commission for informational purposes; ~~and~~

5. A cooperative may, at any time after the expiration or termination of capped rates, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the costs described in subdivisions A 5 b and e of § 56-585.1;

6. *A cooperative that is not a current member of a utility aggregation cooperative may at any time petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery of cost from customers of (i) one or more generation facilities, (ii) one or more major unit modifications of generation facilities, or (iii) one or more pumped hydroelectricity generation and storage facilities. A cooperative seeking a rate adjustment clause pursuant to this subdivision shall have the right, after notice and the opportunity for a hearing, to recover the costs of a facility described in clauses (i), (ii), or (iii) in a rate adjustment clause including construction work in progress and allowance for funds during construction, planning, and development costs of infrastructure associated therewith. The costs of the facility other than projected construction work in progress and allowance for funds used during construction shall not be recovered prior to the date that the facility either (a) begins commercial operation or (b) comes under the ownership of the cooperative. For the purposes of this subdivision, the cooperative's cost of capital shall be recoverable in such a rate adjustment clause and shall be set as either the cooperative's long-term cost of debt or most recent rate of return authorized by the Commission in a rate proceeding. In any proceeding conducted pursuant to this subdivision, the Commission shall consider that all costs expended and revenues recovered arising out of the procurement of generation resources pursuant to this subdivision will inure to the benefit of the general membership of the cooperative. Nothing in this subdivision shall relieve a cooperative from any requirement to obtain a certificate of public convenience and necessity for purposes of constructing generation in the Commonwealth. The Commission's final order regarding any petition filed pursuant to this subdivision shall be entered not more than nine months after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order. Any petition filed pursuant to this subdivision shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the cooperative. Any costs incurred by a cooperative prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition, shall be deferred on the books and records of the cooperative until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clause, whichever is later; and*

7. *A cooperative may adopt any other cooperative's voluntary rate, voluntary program (including a pilot program), or voluntary tariff, and cost recovery therefor, by submitting the same to the Commission for administrative approval. The staff of the Commission shall have the authority to approve such administrative filing notwithstanding any other provision of law.*

B. None of the adjustments described in subdivisions A 2 through A 5 will apply to the rates paid by any customer that takes service by means of dedicated distribution facilities and had noncoincident peak demand in excess of 90 megawatts in calendar year 2006.

C. Nothing in this section shall be deemed to grant to a cooperative any authority to amend or adjust any terms and conditions of service or agreements regarding pole attachments or the use of the cooperative's poles or conduits.

## CHAPTER 626

*An Act to amend and reenact § 18.2-251.03 of the Code of Virginia, relating to safe reporting of overdoses.*

[S 1349]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 18.2-251.03 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 18.2-251.03. Safe reporting of overdoses.**

A. For purposes of this section, "overdose" means a life-threatening condition resulting from the consumption or use of a controlled substance, alcohol, or any combination of such substances.

B. It shall be an affirmative defense to prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol pursuant to § 4.1-305, possession of a controlled substance pursuant to § 18.2-250, possession of marijuana pursuant to § 18.2-250.1, intoxication in public pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

1. Such individual, in good faith, seeks or obtains emergency medical attention for himself, if he is experiencing an overdose, or for another individual, if such other individual is experiencing an overdose, by contemporaneously reporting

such overdose to a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in § 9.1-101, or an emergency 911 system;

2. Such individual remains at the scene of the overdose or at any alternative location to which he or the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

3. Such individual identifies himself to the law-enforcement officer who responds to the report of the overdose;

~~4. If requested by a law enforcement officer, such individual substantially cooperates in any investigation of any criminal offense reasonably related to the controlled substance, alcohol, or combination of such substances that resulted in the overdose; and~~

~~5- 4.~~ The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of the individual seeking or obtaining emergency medical attention.

C. No individual may assert the affirmative defense provided for in this section if the person sought or obtained emergency medical attention for himself or another individual during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

D. This section does not establish an affirmative defense for any individual or offense other than those listed in subsection B.

## CHAPTER 627

*An Act to amend and reenact §§ 38.2-1845.1, 38.2-1845.12, 38.2-1845.13, and 38.2-1846.16 of the Code of Virginia, relating to the regulation of public adjusters.*

[S 1415]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-1845.1, 38.2-1845.12, 38.2-1845.13, and 38.2-1846.16 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 38.2-1845.1. Definitions.**

As used in this article:

"Catastrophic disaster" means an event where the President of the United States or the Governor of the Commonwealth has declared a state of emergency.

"Home state" means the District of Columbia and any state or territory of the United States, except Virginia, or any province of Canada, in which a public adjuster maintains such person's principal place of residence or principal place of business and is licensed by that jurisdiction to act as a resident public adjuster.

"License" means a document issued by the Commission authorizing an individual or business entity to act as a public adjuster. The license itself does not create any authority, actual, apparent, or inherent, in the licensee to represent, commit, or bind an insurer.

"Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of public adjusting concerning any of the substantive benefits, terms, or conditions of the contract.

"Proof of compliance" means all documents, forms, and fees specified by the Commission for filing proof of completion of Commission-approved continuing education courses for the appropriate number of hours and for the appropriate content.

"Public adjuster" means an individual or business entity who receives, either directly or indirectly, a salary, fee, commission, or other compensation for engaging in public adjusting.

"Public adjusting" means *soliciting*, investigating, negotiating, adjusting, or providing advice to an insured in relation to first party claims arising under insurance contracts that insure the real or personal property of an insured for the purpose of effecting the settlement of a claim on behalf of the insured. Public adjusting includes advertising or representing oneself as a public adjuster; however, public adjusting does not include acting in any manner in relation to liability claims for personal injury or property damage, other third-party claims, or uninsured or underinsured bodily injury liability claims. A licensed insurance agent who only provides advice to an insured in relation to first party claims arising under insurance contracts sold, solicited, or negotiated by the agent that insure the real or personal property of an insured shall not be deemed to be engaged in public adjusting.

"Received by the Commission" means delivered into the possession of the Commission or its administrator at the business address of the Commission's administrator.

*"Soliciting" means attempting to persuade or asking or urging an insured to enter into a public adjusting contract by describing the terms of the contract, including any fees or commissions, and offering to negotiate a claim of loss on behalf of the insured.*

**§ 38.2-1845.12. Standards of conduct for public adjusters.**

A. A public adjuster shall be fair and honest in any and all respects in any communications with an insured and with an insurer or its representatives.

B. No person *except a public adjuster duly licensed under this article* shall ~~accept:~~

1. ~~Accept a commission, fee, or other compensation for investigating or settling claims if that person is required to be licensed under this article and is not licensed;~~

2. *Prepare, complete, or file an insurance claim on behalf of an insured;*

3. *Aid or act on behalf of an insured in negotiating for or effecting the settlement of a claim for loss or damage covered by an insurance contract;*

4. *Advertise for employment as a public adjuster; or*

5. *Solicit, investigate, or adjust a claim on behalf of a public adjuster or an insured.*

C. A public adjuster shall have no financial interest in any aspect of an insured's claim other than the salary, fee, commission, or compensation that may be established in the written contract between the insured and the public adjuster.

D. A public adjuster shall not refer or direct an insured needing repairs or other services in connection with a loss to any person in which the public adjuster has an ownership interest nor to any person who will or is reasonably anticipated to provide the public adjuster with any direct or indirect compensation for the referral of any resulting business; however, this subsection shall not be construed to prohibit the execution of a bona fide written repair agreement between an insured and a contractor pursuant to which the contractor undertakes to assume the insured's obligation to compensate a public adjuster pursuant to the terms of a preexisting agreement between the public adjuster and the insured meeting the requirements of this article, including §§ 38.2-1845.13 and 38.2-1845.14.

E. A public adjuster shall not prevent or attempt to dissuade an insured from communicating with an insurer, the insurer's adjuster, an independent adjuster representing the insurer, an attorney, or any other person regarding the settlement of the insured's claim.

F. The public adjuster's full consideration for the public adjuster's services shall be stated in the written contract with the insured. If the consideration is based on a share of the insurance proceeds, the exact percentage shall be specified.

G. Any choice of counsel to represent the insured shall be made solely by the insured.

H. A public adjuster may not settle a claim unless the terms and conditions of the settlement are approved by the insured in writing.

I. A public adjuster shall not acquire any interest in salvage property except with the express written permission of the insured after settlement with the insurer.

J. A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this article.

K. No public adjuster may represent or act as a company adjuster or independent adjuster on the same claim.

L. No public adjuster shall enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work.

M. A public adjuster shall not solicit or attempt to solicit a client during the progress of a loss producing occurrence as covered by the insurance contract.

N. Public adjusters may not solicit a client for employment from 8:00 p.m. to 8:00 a.m. daily.

O. A public adjuster shall notify, in writing, the insured or claimant in advance of the name and location of any proposed contractor, architect, engineer, or similar professional before any bid or proposal by any of these persons may be used by the public adjuster in estimating the loss. The insured or claimant may exercise veto power of any of these persons, in which case that person shall not be used in estimating costs.

P. A public adjuster shall ensure that any professional used in formulating estimates, the practice of whose profession in the Commonwealth requires a license issued pursuant to Title 54.1, including any architect or engineer as defined in § 54.1-400 and any contractor as defined in § 54.1-1100, holds a current license from the appropriate licensing authority of the Commonwealth.

Q. No person shall advertise or promise to pay or rebate all or any portion of any insurance deductible as an inducement to the sale of the services of a public adjuster. As used in this subsection, the term "promise to pay or rebate" includes (i) granting any allowance or offering any discount against the fees to be charged, including, but not limited to, an allowance or discount in return for displaying a sign or other advertisement at the insured's premises or (ii) paying the insured or any person directly or indirectly associated with the property any form of compensation, gift, prize, bonus, coupon, credit, referral fee, or other item of monetary value for any reason.

**§ 38.2-1845.13. Contract between public adjuster and insured.**

A. Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:

1. Legible full name of the public adjuster signing the contract, as specified in the records of the Commission;

2. Public adjuster's permanent home state business address and phone number;

3. Public adjuster's license number, as specified in the records of the Commission;

4. Title "Public Adjuster Contract";

5. The insured's full name and street address and the insurance company's name and policy number;

6. A description of the loss and a description of the location of the loss, if applicable;

7. A description of services to be provided to the insured by the public adjuster and all terms and conditions of the engagement;

8. Signatures of the public adjuster and the insured;

9. The date the contract was signed by the public adjuster and the date the contract was signed by the insured;

10. Attestation language stating that the public adjuster is fully bonded pursuant to state law;

11. The full salary, fee, commission, compensation, or other consideration the public adjuster is to receive for services, subject to the provisions of § 38.2-1845.14; and

12. The right to rescind the contract within three business days after the contract has been signed by the insured or, in the event of a catastrophic disaster, the right to rescind the contract within five business days after the contract has been signed by the insured. Such rescission shall be in writing and mailed or delivered to the public adjuster at the address shown in the contract. Within 15 business days following receipt of the notice to rescind, the public adjuster shall return to the insured anything of value given by the insured under the contract.

B. The public adjuster shall provide a separate disclosure document to the insured stating (i) the insured is not required to hire a public adjuster but has the right to do so; (ii) the public adjuster is not an employee or representative of the insurer; (iii) the salary, fee, commission, or other consideration is the obligation of the insured, not the insurer; (iv) property insurance policies obligate the insured to present a claim to the insurer for consideration; (v) the insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, the insurer's attorney, and any other person regarding the settlement of the insured's claim; and (vi) the insured may contact the Commission for the licensing status of the public adjuster.

C. A public adjuster shall provide the insurer with a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured's interest.

D. No public adjuster shall enter into a contract that prevents an insured from pursuing any civil remedy after the revocation or cancellation period set forth in subdivision A 12.

E. *Any contract for public adjusting services that is entered into by an insured with a person who is in violation of § 38.2-1845.2 may be voided at the option of the insured.*

#### **§ 38.2-1845.16. Escrow or trust accounts.**

All funds received by, accepted by, or held by a public adjuster on behalf of an insured ~~towards~~ *toward* the settlement of a claim shall be handled in a fiduciary capacity and submitted for collection to or deposited in a separate *noninterest-bearing* fiduciary trust account or accounts in a financial institution licensed to do business in the Commonwealth no later than the close of the second business day from the receipt or acceptance of such funds. *Such funds shall be held separately from any personal or nonbusiness funds, shall not be commingled or combined with other funds, and shall be reasonably ascertainable from the books of accounts and records of the public adjuster. The public adjuster shall maintain an accurate record and itemization of the funds deposited into this account.* Any such funds held by such public adjuster shall be disbursed within 30 calendar days of any invoice received by such public adjuster upon approval of the insured or claimant that the work has been satisfactorily completed.

## CHAPTER 628

*An Act to amend and reenact §§ 4.1-100, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; alcoholic beverage licenses.*

[S 1420]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 4.1-100, 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 4.1-100. Definitions.**

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as

long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

*"Bespoke clothier establishment" means a permanent retail establishment that offers, by appointment only, custom made apparel and that offers a membership program to customers. Such establishment shall be a permanent structure where measurements and fittings are performed on-site but apparel is produced offsite and delivered directly to the customer. Such establishment shall have facilities to properly secure any stock of alcoholic beverages.*

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

*"Coworking establishment" means a facility that has at least 100 members, a majority of whom are 21 years of age or older, to whom it offers shared office space and related amenities, including desks, conference rooms, Internet access, printers, copiers, telephones, and fax machines.*

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet beer retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

*"Member of a bespoke clothier establishment" means a person who maintains a membership in the bespoke clothier establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the bespoke clothier establishment. The minimum membership fee shall be not less than \$25 for any term of membership.*

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

*"Member of a coworking establishment" means a person who maintains a membership in the coworking establishment for a period of not less than one month by the payment of monthly, quarterly, or annual dues in the manner established by the rules of the coworking establishment. "Member of a coworking establishment" does not include an employee or any person with an ownership interest in the coworking establishment.*

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

~~The term shall~~ *"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.*

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities

and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. ~~The term "Wine"~~ includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### **§ 4.1-206. Alcoholic beverage licenses.**

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of

food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but

excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.

16. Confectionery license, which shall authorize the licensee to prepare and sell on the licensed premises for off-premises consumption confectionery that contains five percent or less alcohol by volume. Any alcohol contained in such confectionery shall not be in liquid form at the time such confectionery is sold.

17. *Coworking establishment license, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer between 4:00 p.m. and 8:00 p.m. on the premises of the licensee by any member and up to two guests of each member; provided that such member and guests are persons who may lawfully consume alcohol and an employee of the coworking establishment is present, and (ii) serve wine and beer on the premises of the licensee between 4:00 p.m. and 8:00 p.m. to any member and up to two guests of each member, provided that such member and guests are persons to whom alcoholic beverages may be lawfully served. However, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any person, nor shall it sell or otherwise charge a fee for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the coworking establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the coworking establishment, regularly occupied and utilized as such.*

18. *Bespoke clothier establishment license, which shall authorize the licensee to serve wine or beer for on-premises consumption upon the licensed premises approved by the Board to any member; however, the licensee shall not give more than (i) two five-ounce glasses of wine or (ii) two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. For purposes of this subdivision, the payment of membership dues by a member to the bespoke clothier establishment shall not constitute a sale or charge for alcohol, provided that the availability of alcohol is not a privilege for which the amount of membership dues increases. The privileges of this license shall be limited to the premises of the bespoke clothier establishment, regularly occupied and utilized as such.*

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Board in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

#### § 4.1-231. Taxes on state licenses.

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:
  - a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;
  - b. Fruit distiller's license, \$3,725;
  - c. Banquet facility license or museum license, \$190;
  - d. Bed and breakfast establishment license, \$35;
  - e. Tasting license, \$40 per license granted;
  - f. Equine sporting event license, \$130;
  - g. Motor car sporting event facility license, \$130;
  - h. Day spa license, \$100;
  - i. Delivery permit, \$120 if the permittee holds no other license under this title;
  - j. Meal-assembly kitchen license, \$100;
  - k. Canal boat operator license, \$100;
  - l. Annual arts venue event license, \$100;
  - m. Art instruction studio license, \$100;
  - n. Commercial lifestyle center license, \$300; ~~and~~
  - o. Confectionery license, \$100;
  - p. *Coworking establishment license, \$500; and*

q. *Bespoke clothier establishment license, \$100.*

2. Wine licenses. For each:

a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;

c. Wine importer's license, \$370;

d. Retail off-premises winery license, \$145, which shall include a delivery permit;

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;

f. Wine shipper's license, \$230; and

g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$120, which shall include a delivery permit;

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;

h. Beer shipper's license, \$230;

i. Retail off-premises brewery license, \$120, which shall include a delivery permit; and

j. Internet beer retailer license, \$150.

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;

b. Retail on-premises wine and beer license to a hospital, \$145;

c. Retail on-premises wine and beer license to a historic cinema house, \$200;

d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;

e. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$100 per license;

g. Gourmet brewing shop license, \$230;

h. Wine and beer shipper's license, \$230;

i. Annual banquet license, \$150;

j. Fulfillment warehouse license, \$120;

k. Marketing portal license, \$150; and

l. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

(iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

f. Mixed beverage club events licenses, \$35 for each day of each event;

g. Annual mixed beverage special events license, \$560;

h. Mixed beverage carrier license:

(i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$560 for each common carrier of passengers by boat;

(iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

i. Annual mixed beverage amphitheater license, \$560;

j. Annual mixed beverage motor sports race track license, \$560;

k. Annual mixed beverage banquet license, \$500;

l. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$460;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;

(iii) With a seating capacity at tables for more than 150 persons, \$1,330;

m. Annual mixed beverage motor sports facility license, \$560; and

n. Annual mixed beverage performing arts facility license, \$560.

6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

#### § 4.1-233. Taxes on local licenses.

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

1. Alcoholic beverages. — For each:

a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Fruit distiller's license, \$1,500;

- c. Bed and breakfast establishment license, \$40;
  - d. Museum license, \$10;
  - e. Tasting license, \$5 per license granted;
  - f. Equine sporting event license, \$10;
  - g. Day spa license, \$20;
  - h. Motor car sporting event facility license, \$10;
  - i. Meal-assembly kitchen license, \$20;
  - j. Canal boat operator license, \$20;
  - k. Annual arts venue event license, \$20;
  - l. Art instruction studio license, \$20;
  - m. Commercial lifestyle center license, \$60; ~~and~~
  - n. Confectionery license, \$20;
  - o. *Coworking establishment license, \$50; and*
  - p. *Bespoke clothier establishment license, \$20.*
2. Beer. — For each:
- a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;
  - b. Bottler's license, \$500;
  - c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
  - d. Retail on-premises beer license for a hotel, restaurant, club or other person and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and
  - e. Beer shipper's license, \$10.
3. Wine. — For each:
- a. Winery license, \$50;
  - b. Wholesale wine license, \$50;
  - c. Farm winery license, \$50; and
  - d. Wine shipper's license, \$10.
4. Wine and beer. — For each:
- a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;
  - b. Hospital license, \$10;
  - c. Historic cinema house license, \$20;
  - d. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215, which shall be \$20 per license;
  - e. Gourmet brewing shop license, \$150;
  - f. Wine and beer shipper's license, \$10;
  - g. Annual banquet license, \$15; and
  - h. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
5. Mixed beverages. — For each:
- a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:
    - (i) With a seating capacity at tables for up to 100 persons, \$200;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
    - (iii) With a seating capacity at tables for more than 150 persons, \$500.
  - b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
  - c. Mixed beverage caterer's license, \$500;
  - d. Mixed beverage limited caterer's license, \$100;
  - e. Mixed beverage special events licenses, \$10 for each day of each event;
  - f. Mixed beverage club events licenses, \$10 for each day of each event;
  - g. Annual mixed beverage amphitheater license, \$300;
  - h. Annual mixed beverage motor sports race track license, \$300;
  - i. Annual mixed beverage banquet license, \$75;
  - j. Limited mixed beverage restaurant license:
    - (i) With a seating capacity at tables for up to 100 persons, \$100;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
    - (iii) With a seating capacity at tables for more than 150 persons, \$400;
  - k. Annual mixed beverage motor sports facility license, \$300; and
  - l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

## CHAPTER 629

*An Act to amend and reenact § 2.2-3705.6 of the Code of Virginia, relating to the Freedom of Information Act; exclusions; proprietary records and trade secrets; Virginia Telecommunication Initiative.*

[S 1492]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 2.2-3705.6 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information

relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

28. Information relating to a grant or loan application, or accompanying a grant or loan application, submitted to the Virginia Research Investment Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. *Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by*

the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data, information, or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

## CHAPTER 630

An Act to amend and reenact § 46.2-1217 of the Code of Virginia, relating to police-requested towing; local regulation.

[S 1510]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1217 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1217. Local governing body may regulate certain towing.**

The governing body of any county, city, or town by ordinance may regulate services rendered pursuant to police towing requests by any business engaged in the towing or storage of unattended, abandoned, or immobile vehicles. The ordinance may include delineation of service areas for towing services, the limitation of the number of persons engaged in towing services in any area, including the creation of one or more exclusive service areas, and the specification of equipment to be used for providing towing service. The governing body of any county, city, or town may contract for services rendered pursuant to a police towing request with one or more businesses engaged in the towing or storage of unattended, abandoned, or immobile vehicles. The contract may specify the fees or charges to be paid by the owner or operator of a towed vehicle to the person undertaking its towing or storage and may prescribe the geographical area to be served by each person providing towing services. The county, city, or town may establish criteria for eligibility of persons to enter into towing services contracts and, in its discretion, may itself provide exclusive towing and storage service for police-requested towing of unattended, abandoned, or immobile vehicles. *Nothing herein shall prohibit the Department of State Police from entering into a memorandum of understanding with a county, city, or town to provide for towing services.*

Prior to adopting an ordinance or entering into a contract pursuant to this section, the local governing body shall appoint an advisory board to advise the governing body with regard to the appropriate provisions of the ordinance or terms of the contract. The advisory board shall include representatives of local law-enforcement agencies, towing and recovery operators, and the general public.

"Police-requested towing" or "police towing request," as used in this section, includes all requests made by a law-enforcement officer of the county, city, or town or ~~by a State Police officer within the county, city, or town~~ pursuant to this article or Article 2 (§ 46.2-1209 et seq.) and towing requests made by a law-enforcement officer *of the county, city, or town* at the request of the owner or operator of an unattended, abandoned, or immobile vehicle, when no specific service provider is requested by such owner or operator.

If an unattended, abandoned, or immobile vehicle is located so as to impede the free flow of traffic on a highway declared by resolution of the Commonwealth Transportation Board to be a portion of the interstate highway system and a law-enforcement officer determines, in his discretion, that the business or businesses authorized to undertake the towing or storage of the vehicle pursuant to an ordinance or contract adopted pursuant to this section cannot respond in a timely manner, the law-enforcement officer may request towing or storage service from a towing or storage business other than those authorized by such ordinance or contract.

If an unattended, abandoned, or immobile vehicle is towed as the result of a ~~police-towing request~~ (i) *police towing request* or (ii) *towing request made by a law-enforcement officer employed by the Department of State Police*, the owner or person having control of the business or property to which the vehicle is towed shall allow the owner of the vehicle or any other towing and recovery business, upon presentation of a written request therefor from the owner of the vehicle, to have access to the vehicle for the purpose of inspecting or towing the vehicle to another location for the purpose of repair, storage, or disposal. For the purpose of this section, "owner of the vehicle" means a person who ~~(i)~~ (a) has vested ownership, dominion, or title to the vehicle; ~~(ii)~~ (b) is the authorized agent of the owner as defined in clause ~~(i)~~ (a); or ~~(iii)~~ (c) is an employee, agent, or representative of an insurance company representing any party involved in a collision that resulted in a (1) *police-requested tow* or (2) *towing request made by a law-enforcement officer employed by the Department of State Police* who represents in writing that the insurance company has obtained the oral or written consent of the title owner or his agent or the lessee of the vehicle to obtain possession of the vehicle. It shall be unlawful for any towing and recovery business to refuse to release a vehicle to the owner as defined in this section upon tender of full payment for all lawful charges by cash, insurance company check, certified check, money order, at least one of two commonly used,

nationally recognized credit cards, or additional methods of payment approved by the Commonwealth Transportation Board. Thereafter, if a towing and recovery business refuses to release the vehicle, future charges related to storage or handling of the vehicle by such towing and recovery business shall be suspended and no longer payable.

The vehicle owner who has vested ownership, dominion, or title to the vehicle shall indemnify and hold harmless the towing and recovery operator from any and all liability for releasing the vehicle to any vehicle owner as defined in this section for inspecting or towing the vehicle to another location for the purpose of repair, storage, or disposal.

## CHAPTER 631

*An Act to amend and reenact § 16.1-241 of the Code of Virginia, relating to the jurisdiction of juvenile and domestic relations district courts; state or federal benefit.*

[S 1758]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 16.1-241 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 16.1-241. Jurisdiction; consent for abortion.**

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

##### A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244;

6. Who is charged with a traffic infraction as defined in § 46.2-100; or

7. Who is alleged to have refused to take a blood test in violation of § 18.2-268.2.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or

through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

*A1. Making specific findings of fact required by state or federal law to enable a child to apply for or receive a state or federal benefit.*

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental illness or judicial certification of eligibility for admission to a training center for persons with intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown, (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or is otherwise before the court pursuant to subdivision A 4; or

3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services that are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for a work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law that causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a juvenile.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.).

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

R. [Repealed.]

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.

W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to perform the abortion without consent of or notice to an authorized person.

Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has been obtained or the minor delivers to the physician a court order entered pursuant to this section and the physician or his agent provides such notice as such order may require. However, neither consent nor judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and the attending physician has reason to suspect that the minor may be an abused or neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's medical record.

For purposes of this subsection:

"Authorization" means the minor has delivered to the physician a notarized, written statement signed by an authorized person that the authorized person knows of the minor's intent to have an abortion and consents to such abortion being performed on the minor.

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the minor regularly and customarily resides and who has care and control of the minor. Any person who knows he is not an authorized person and

who knowingly and willfully signs an authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

"Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

"Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor children.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of § 17.1-272, or subsection B, D, M, or R.

Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of subsection W shall be guilty of a Class 3 misdemeanor.

## CHAPTER 632

*An Act to amend and reenact §§ 15.2-1128, 15.2-1130, 15.2-1201.1, 15.2-1212, 15.2-1228, 15.2-2257, 15.2-4602, 15.2-4701, 15.2-4702, 15.2-4801, 15.2-5118, and 15.2-5120 of the Code of Virginia, relating to Title 15.2 sections not set out in Code of Virginia.*

[H 2305]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-1128, 15.2-1130, 15.2-1201.1, 15.2-1212, 15.2-1228, 15.2-2257, 15.2-4602, 15.2-4701, 15.2-4702, 15.2-4801, 15.2-5118, and 15.2-5120 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 15.2-1128. City of Norfolk authorized to exchange information regarding criminal history.**

Applicants for employment as paramedics or emergency medical technicians making application to the personnel office of ~~any city having a population of not less than 260,000 nor more than 264,000 according to the 1990 United States Census~~ *the City of Norfolk* shall be required to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant; however, such applicants may be required, if required by local ordinance, to pay the cost of the fingerprinting or criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the ~~city~~ *City of Norfolk*. If an applicant is denied employment because of information appearing in his criminal history record, the ~~locality~~ *City of Norfolk* shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant. The information shall not be disseminated except as provided in this section.

#### **§ 15.2-1130. Liability for failure to provide adequate security or crowd control.**

~~Any city having a population between 100,000 and 110,000 or between 150,000 and 160,000~~ *The Cities of Chesapeake and Portsmouth* may provide by ordinance that any person who has negligently failed to provide adequate security or crowd control at a sporting event, restaurant, night club, or other business or commercial activity that draws large crowds of people may be liable in a separate civil action for the cost associated with any emergency response by the law-enforcement agency or emergency medical services personnel of such city caused by the sponsor, owner, or tenant of any sporting event, restaurant, night club, or other business or commercial establishment who negligently failed to provide adequate security or crowd control. Such person shall be liable to the city in an amount not to exceed \$1,000.

**§ 15.2-1201.1. Discharging employee for service on board prohibited; civil penalty.**

A board member of a county with a population between 31,000 and 31,500 in Buchanan County shall not be discharged from employment as a result of his absence from employment due to attendance at regular board meetings upon giving reasonable notice to his employer of such absence. Any employer violating the provisions of this section shall be subject to a civil penalty of up to \$2,500.

**§ 15.2-1212. Frederick County; resolution of board of supervisors; referendum; election.**

A. Upon resolution passed by the board of supervisors of Frederick County and filed with the circuit court asking for a referendum on the question of Frederick County being governed by a board of supervisors, one or more, elected from each magisterial district and a chairman elected from the county at large, the court shall by order entered of record, require the regular election officials at the November, ~~nineteen hundred seventy-four~~ 1974 regular election to open a poll and take the sense of the qualified voters of the county on the question submitted as herein provided. The clerk of the county shall cause a notice of such election to be published in a newspaper published in or having a general circulation in the county, once a week for three consecutive weeks, and shall post a copy of such notice at the door of the courthouse of the county.

B. The regular election officers of the county at the time designated in the order authorizing the vote shall open the polls at the various voting places in the county and conduct the election in such manner as is provided by law for other elections, insofar as the same is applicable. The election shall be by ballot, and the ballots shall be prepared by the electoral board and distributed to the various election precincts as in other elections. The ballots used shall be printed to read as follows:

"Do you approve the adoption of the county's board of supervisors being elected by magisterial districts and the chairman elected from the county at large?

Yes

No"

The squares to be printed in such ballots shall not be less than one quarter nor more than one-half inch in size.

Any person voting at such election shall place a ( ) or a cross (X) or (+) mark or a line (-) in the square before the appropriate word indicating how he desires to vote on the question submitted.

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the commissioners of election to the circuit court, *and the circuit court*, or the judge thereof in vacation, shall enter of record the results of the election. If it ~~shall appear~~ *appears* by the report of the commissioners of election that a majority of the qualified voters of the county voting approve the adoption of the county's board of supervisors being elected from magisterial districts and the chairman *being* elected from the county at large, the circuit court of the county, or the judge thereof in vacation, shall enter of record such fact.

C. At the next succeeding election, following approval of the plan provided for herein, at which the county's board of supervisors are to be elected, the form of organization of such county's board of supervisors shall be in accordance with the form provided for herein.

D. All county and district officers of such county, unless otherwise sooner removed, shall continue to hold office until their successors are elected and have qualified.

E. A referendum as described ~~hereinabove~~ *in this section* to revert to the former method of electing the chairman and supervisors may be conducted upon a resolution of the board of supervisors as provided ~~hereinabove~~ *in this section*. In lieu of such resolution by the board of supervisors, a referendum as described ~~hereinabove~~ *in this section* may be conducted upon a petition filed with the circuit court of the county, or the judge thereof in vacation, *and signed by ten* 10 percent of the qualified voters of such county requesting such referendum, *and the court of or the judge shall proceed as in the case of a resolution by the board of supervisors.*

**§ 15.2-1228. Repair of foundation damage in Chesterfield County.**

~~Any county having a county charter with a population between 200,000 and 215,000~~ *Chesterfield County* may by ordinance provide that the county may use public funds to repair existing residential dwellings damaged by foundation failures caused by high clay content soil subject to moisture-related shrinking and swelling. Such ordinance may place conditions on the use or expenditure of such public funds. The expenditure of such public funds by the county under this ~~subsection~~ *section* during a fiscal year shall not exceed two percent of the county's locally derived revenues from that fiscal year.

For purposes of this ~~subsection~~ *section*, the term "public funds" ~~shall include~~ *includes* only general tax revenues from real and personal property; and ~~shall does~~ not include any special fee assessment, or other tax or charge, however denominated.

The county shall keep funds collected for building permit fees and any funds received from any other fees collected under any special act in separate accounts, and separate from other locally derived revenues, and may not use fees collected for building permits or fees collected under any special act, directly or indirectly, for purposes authorized under this ~~subsection~~ *section*.

**§ 15.2-2257. Procedure to modify certain covenants in Shenandoah County.**

Upon a verified petition signed by the owners, other than the original subdivider, of ~~ten~~ 10 percent of the lots in any subdivision previously recorded, the circuit court for ~~any county with a 1980 population of more than 27,500 but less than 29,000~~ *Shenandoah County*, in which such subdivision lies, shall have authority to conduct a hearing and modify any and all covenant provisions of any previously recorded deed of dedication or other document relating to road maintenance fees as

to any roads located within the subdivision. Upon receipt of the petition, the court shall, if all owners of lots within such subdivision are not before the court, enter an order of publication under the provisions of subdivision A 3 of § 8.01-316, making the owners of all lots not owned by petitioners parties to the cause, which shall then be docketed and set for trial on the chancery side of the court. Should the court, after hearing evidence and argument of counsel, find that the streets and roads in the subdivision require maintenance in excess of that provided for with the road maintenance funds specified in the covenants to permit emergency vehicles ready access to the residents of the subdivision to ensure the public health, safety, and welfare, the court may increase the fees required for road maintenance to the extent reasonably necessary to permit emergency vehicles ready access to the residents of the subdivision. The funds collected shall be accounted for as provided in § 15.2-2256. Nothing herein shall be construed to prohibit the members of a subdivision association from proceeding under the provisions of subsection C of § 55-344 the Property Owners' Association Act (§ 55-508 et seq.).

**§ 15.2-4602. Definitions.**

As used in this chapter, unless the context indicates another meaning or intent:

"Commission" means the governing body of the local district.

"Cost" means all or any part of the cost of acquisition, construction, reconstruction, alteration, landscaping, or enlargement of a public mass transit system or highway ~~which that~~ is located in counties ~~which that~~ are authorized by this chapter to create a transportation improvement district, including the cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired for such construction, alteration or expansion, the cost of demolishing or removing any structure on land so acquired, including the cost of acquiring any lands to which such structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during construction and, if deemed advisable by the commission, for a reasonable period after completion of such construction, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications and other engineering and architectural services, legal expenses, studies, estimates of costs and revenues, administrative expenses, and such other expenses as may be necessary, or incident to, the construction of the project or, solely as to districts created pursuant to this chapter after July 1, 1990, the creation of the district (the costs of which creation shall not exceed \$150,000), and of such subsequent additions thereto or expansion thereof, and to determining the feasibility or practicability of such construction, the cost of financing such construction, additions, or expansion and placing the project and such additions or expansion in operation.

"County" means ~~any county having a population of more than 500,000 and any adjoining county~~ *Arlington, Fairfax, Loudoun, and Prince William Counties.*

"District" or "local district" means any transportation improvement district created under the provisions of § 15.2-4603.

"District advisory board" or "advisory board" means the board appointed by the commission in accordance with § 15.2-4605.

"Federal agency" means and includes the United States of America or any department, bureau, agency, or instrumentality thereof.

"Owner" or "landowner" means the person or entity ~~which that~~ has the usufruct, control, or occupation of the taxable real property as determined by the commissioner of *the* revenue of the jurisdiction in which the subject real property is located pursuant to § 58.1-3281.

"Revenues" means any or all fees, tolls, taxes, rents, notes, receipts, assessments, moneys, and income derived by the local district and includes any cash contributions or payments made to the local district by the Commonwealth or any agency, department, or political subdivision thereof or by any other source.

"Town" means any town having a population of more than 1,000.

"Transportation improvements" means any and all real or personal property utilized in constructing and improving (i) any mass transportation project and (ii) any primary highway or portion thereof, located within any district created pursuant § 15.2-4603. Such improvements include, without limitation, public mass transit systems, public highways, all buildings, structures, approaches, and other facilities and appurtenances thereto, rights-of-way, bridges, tunnels, transportation stations, terminals, areas for parking, and all related equipment and fixtures.

**§ 15.2-4701. Definitions.**

As used in this chapter, unless the context indicates another meaning or intent:

"Commission" means the governing body of the local district.

"Cost" means all or any part of the cost of acquisition, construction, reconstruction, alteration, landscaping, utilities, parking, or enlargement of a public mass transit system or highway ~~which that~~ is located in localities ~~which that~~ are authorized by this chapter to create a transportation improvement district, including the cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired for such construction, alteration, or expansion, the cost of demolishing or removing any structure on land so acquired, including the cost of acquiring any lands to which such structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during construction and, if deemed advisable by the commission, for a reasonable period after completion of such construction, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications, and other engineering and architectural services, legal expenses,

studies, estimates of costs and revenues, administrative expenses, and such other expenses as may be necessary or incident to the construction of the project; or creation of the district (which shall not exceed \$150,000), and of such subsequent additions thereto or expansion thereof, and to determining the feasibility or practicability of such construction, the cost of financing such construction, additions, or expansion and placing the project and such additions or expansion in operation.

"District" or "local district" means any transportation improvement district created under the provisions of § 15.2-4702.

"District advisory board" or "advisory board" means the board appointed by the commission in accordance with § 15.2-4704.

"Federal agency" means and includes the United States of America or any department, bureau, agency, or instrumentality thereof.

"Locality" means ~~(i) any county that has the county executive form of government and is located adjacent to a county with a population of more than 500,000 according to the 1980 or any subsequent census; (ii) any county that has been granted a county charter and has a population of more than 100,000 according to the 1980 or any subsequent census; and (iii) any city that is located adjacent to a county that has been granted a county charter and has a population of more than 100,000 according to the 1980 or any subsequent census~~ *Chesterfield and Prince William Counties and the City of Richmond.*

"Owner" or "landowner" means the person or entity ~~which~~ *that* has the usufruct, control, or occupation of the taxable real property as determined by the commissioner of *the* revenue of the jurisdiction in which the subject real property is located pursuant to § 58.1-3281.

"Revenues" means any or all fees, tolls, taxes, rents, notes, receipts, assessments, moneys, and income derived by the local district and includes any cash contributions or payments made to the local district by the Commonwealth or any agency, department, or political subdivision thereof or by any other source.

"Town" means any town having a population of more than 1,000, as determined by the 1980 census.

"Transportation improvements" means any and all real or personal property utilized in constructing and improving any public mass transit system or any highway or portion or interchange thereof, including utilities and parking facilities within the secondary, primary, or ~~interstate highway system~~ *Interstate Highway System* of the Commonwealth or any highway included in the county's land use and transportation plan located within the district created pursuant to § 15.2-4702. Such improvements include, without limitation, public mass transit systems or public highways, all buildings, structures, approaches, and other facilities and appurtenances thereto, rights-of-way, bridges, tunnels, transportation stations, terminals, areas for parking, and all related equipment and fixtures.

#### § 15.2-4702. Creation of district.

A. A transportation improvement district shall be created under this chapter only by the resolution of the local governing body of the locality in which the proposed district is located, upon the petition to the governing body (i) of the owners of at least ~~fifty-one~~ *51* percent of either the land area or assessed value of land ~~which~~ *that* is within the boundaries of the proposed district and ~~which~~ *that* has been zoned for commercial or industrial use or is used for such purposes or (ii) in a ~~county with a population of more than 100,000 according to the 1980 or any subsequent census which has been granted a county charter~~ *Chesterfield County*, of ~~fifty-one~~ *51* percent of the owners of land ~~which~~ *that* is designated for such purposes in the county's land use and transportation plan and is not zoned for residential use at the time the district is created.

The roads, intersections, and rights-of-way thereof ~~which~~ *that* form boundaries of these districts shall be considered as part of each respective district. Any proposed district may include any land within a town in such county. Such petitions ~~should~~ *shall*:

1. Set forth the name and describe the boundaries of the proposed district;
2. Describe the transportation facilities proposed within the district;
3. Describe a proposed plan for providing such transportation facilities within the district and describe specific terms and conditions with respect to all commercial and industrial zoning classifications and uses, densities, and criteria related thereto ~~which~~ *that* the petitioners request for the proposed district;
4. Describe the benefits ~~which~~ *that* can be expected from the provision of such transportation facilities within the district; and
5. Request the local governing body to establish the proposed district for the purposes set forth in the petition.

B. Upon the filing of such a petition, the governing body shall fix a day for a hearing on the question of whether the proposed district shall be created. The hearing shall consider whether the residents and owners of real property within the proposed district would benefit from the establishment of the proposed district. All interested persons who either reside in or who own taxable real property within the boundaries of the proposed district shall have the right to appear and show cause why any property or properties should not be included in the proposed district. If real property within a town is included in the proposed district, the governing body shall deliver a copy of the petition and notice of the public hearing thereon to the town council at least ~~thirty~~ *30* days prior to the public hearing, and the town council may, by resolution, determine if it wishes such property to be included within the proposed district; and shall deliver a copy of any such resolution to the board of supervisors at the public hearing required hereunder; the resolution shall be binding upon the governing body with respect to the inclusion or exclusion of such properties within the proposed district. The petition shall comply with the provisions of this section with respect to minimum acreage or assessed valuation. Notice of the hearing

shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation within the locality. At least ~~ten~~ 10 days shall intervene between the third publication and the date set for the hearing.

C. If the local governing body finds the creation of the proposed district would be in furtherance of the applicable comprehensive plan for the development of the area, in the best interests of the residents and owners of real property within the proposed district, and in furtherance of the public health, safety, and general welfare, the governing body of the qualifying locality may, at its option, pass a resolution, which shall be reasonably consistent with the petition, creating the district and providing for the appointment of an advisory board in accordance with § 15.2-4704. The resolution shall provide: (i) a description with specific terms and conditions of all commercial and industrial zoning classifications ~~which~~ *that* shall be in force in the district upon its creation, together with any related criteria, and a term of years, not to exceed ~~twenty~~ 20 years, as to which each such zoning classification and each related criteria set forth therein shall not be eliminated, reduced, or restricted, except upon the written request or approval of the owner of any property affected by a change, or as specifically required to comply with the Chesapeake Bay Preservation Act (§ ~~10.1-2100~~ 62.1-44.15:67 et seq.) or other state law and (ii) that the district shall expire either ~~thirty-five~~ 35 years from the date upon which the resolution is passed or when the district is abolished in accordance with § 15.2-4714.

After the public hearing, the local governing body shall deliver a true copy of its proposed resolution creating the district to the petitioning landowners or their attorney-in-fact. Any petitioning landowner may then withdraw his signature on the petition in writing at any time prior to the vote of the local governing body. If any signatures on the petition are withdrawn as provided herein, the local governing body may pass the proposed resolution in conformance herewith only upon certification that the petition continues to meet the provisions of subsection A ~~of this section~~ with respect to minimum acreage or assessed value, as the case may be. After the local governing body has adopted resolutions creating the district, the district shall be established and the name of the district shall be "The \_\_\_\_\_ Transportation Improvement District."

#### § 15.2-4801. Definitions.

As used in this chapter, unless the context indicates another meaning or intent:

"Board of supervisors" means the governing body of a county empowered to act under the provisions of this chapter.

"Commission" means the governing body of the district created under § 15.2-4802.

"Cost" means all or any part of the cost of acquisition, construction, reconstruction, alteration, landscaping, enlargement, conservation, remodeling, or equipping of a transportation facility or portion thereof, including the cost of the acquisition of land, rights-of-way, property rights, easements and interests acquired for such construction, alteration, or expansion, the cost of demolishing or removing any structure on land so acquired, including the cost of acquiring any lands to which such structures may be removed, the cost of all labor, materials, machinery and equipment, financing charges, insurance, interest on all bonds prior to and during construction and, if deemed advisable by the governing body, for a reasonable period after completion of such construction, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, provisions for working capital, the cost of surveys, engineering and architectural expenses, borings, plans and specifications, and other engineering and architectural services, legal expenses, studies, estimates of costs and revenues, administrative expenses, and such other expenses as may be necessary or incident to the creation of the district (which shall not exceed \$150,000), construction of the project, and the provision of equipment therefor, and of such subsequent additions thereto or expansion thereof, and to determining the feasibility or practicality of such construction, the cost of financing such construction, additions, or expansion, and placing the project and such additions or expansion in operation.

"County" means ~~(i) any county organized under the urban county executive form of government, (ii) any county adjoining a county organized under the urban county executive form of government, and (iii) any county with a population of at least 32,000 but not more than 36,000 according to the most recent United States census Arlington, Fairfax, James City, Loudoun, Prince William, Pulaski, and Smyth Counties.~~

"District" means any transportation service district created under the provisions of § 15.2-4802.

"District advisory board" means the board appointed by the board of supervisors in accordance with § 15.2-4804.

"Federal agency" means and includes the United States of America or any department, bureau, agency, or instrumentality thereof.

"Owner" or "landowner" means the person or entity ~~which~~ *that* has the usufruct, control, or occupation of the real property as determined annually by the county.

"Public highways" includes any public highways, roads, or streets, whether maintained by the Commonwealth or otherwise.

"Revenues" means any or all fees, tolls, rents, notes, receipts, assessments, taxes, moneys, and income derived by the district and includes any cash contributions or payments made to the district by the Commonwealth, any political subdivision thereof, or ~~by~~ any other source.

"Town" means any town having a population of more than 1,000, as determined by the 1980 census.

"Transportation facilities" means any real or personal property acquired, constructed or improved, or utilized in constructing or improving any public highway or portion thereof or any publicly owned mass transit systems situated or operated within the district created pursuant to appurtenances thereto, rights-of-way, bridges, tunnels, transportation stations, terminals, areas for parking, and all related equipment and fixtures.

**§ 15.2-5118. Powers of Authority; streetlights in King George County.**

Notwithstanding any contrary provision of law in this chapter, an authority may lease as lessee or otherwise contract for the provision of, operate, and maintain streetlights in a ~~county having a population between 13,200 and 14,000 according to the 1990 United States Census~~ *King George County*. The lessor or other contractual provider of such streetlights shall be a public service corporation ~~which that~~ holds a certificate of public convenience and necessity to provide retail electric service in the territory in which such streetlights are located. King George County may contribute funds to the authority by act of its governing body for use by the authority in carrying out the authority's powers listed in this section. In addition, the authority may fix, charge, and collect ~~fees, rates, fees~~ and charges for the use of the service described in this section or for such service furnished by the authority. Such ~~fees, rates, fees,~~ and charges shall be charged to and collected from any person contracting for the service, or lessee, or tenant, or any other person who uses or occupies any real estate served by or benefiting from the service.

**§ 15.2-5120. Powers of authority in certain counties and cities.**

An authority or authorities created pursuant to the provisions of this chapter by ~~counties that have adopted the county manager plan of government and a city contiguous thereto having a 1980 population of more than 100,000~~ *Arlington County and the City of Alexandria*, singularly or jointly, ~~two or all of such counties and cities~~ may enter into contracts relating to the furnishing of services and facilities for refuse collection and disposal and conversion of same to energy (system) with any person or partnership or corporation (entity). The contract shall not have a term in excess of ~~thirty~~ 30 years from the date on which service is first provided. It may make provisions for:

1. The use by the authority of all or a portion of the disposal capacity of such system for the authority's present or future requirements;;
2. The delivery by or for the account of the authority of specified quantities of refuse, whether or not the authority collects such refuse;;
3. The making of payments in respect of such quantities of refuse, whether or not the refuse is delivered, including payments in respect of revenues lost if such refuse is not delivered;;
4. Adjustments to payments to be made by the authority because of inflation, changes in energy prices or residue disposal costs, taxes imposed upon the system, or other events beyond the control of the entity or in respect of the actual costs of maintaining, repairing, or operating the system, including debt service or capital lease payments, capital costs, or other financing charges relating to the system; and
5. The collection by the entity of fees, rates, or charges from persons using disposal capacity for which the authority has contracted.

The authority may fix, charge, and collect fees, rates, and charges for services furnished or made available by the entity operating the system to provide sufficient funds at all times during the term of the contract, together with other funds available to the authority for such purposes, to pay all amounts due from time to time under such contract and to provide a margin of safety for such payment. The authority may covenant with the entity to establish and maintain fees, rates, and charges at such levels during the term of the contract for such purposes.

Such fees, rates, and charges shall not apply to refuse generated, purchased, or utilized by any enterprise located in the service area and engaged in the business of manufacturing, mining, processing, refining, or conversion; ~~which that~~ is not disposed at or through such system.

The ~~fees, rates, fees~~ and charges may be imposed upon the owners, tenants, or occupants of each occupied lot or parcel of land ~~which that~~ the authority determines (with the concurrence at the time of such determination of the local government in which such parcel is located) is in the service area, or portion thereof, of the system for which the authority has contracted, whether or not refuse generated from such parcel ~~are is~~ actually delivered to such system.

The ~~fees, rates, fees~~ and charges shall be fixed in accordance with the procedures set forth in ~~the~~ subsection D of § 15.2-5136. Such ~~fees, rates, fees~~ and charges may be allocated among the owners, tenants, or occupants of each lot or parcel of land ~~which that~~ the authority determines is in the service area, or portion thereof, of the system for which the authority has contracted. Such allocation may be based upon:

1. Waste generation estimates, the average number of persons residing, working in, or otherwise connected with such premises, the type and character of such premises, or upon any combination of the foregoing factors; ~~or;~~
2. The amount of refuse delivered to such system; ~~or;~~
3. The assessed value of such parcels; or
4. A combination of the foregoing.

There shall be a lien on real estate for the amount of such fees, rates, and charges as provided in § 15.2-5139. The authority is empowered by resolution or other lawful action to enforce the payment of the lien by means of the actions described in § 15.2-5138.

The power to establish such fees, rates, and charges shall be in addition to any other powers granted hereunder, and such fees, rates, and charges shall not be subject to the jurisdiction of any commission, authority, or other unit of government. The entity contracting with the authority, except to the extent ~~that~~ rights herein given may be restricted by the contract, either at law or in equity, by suit, mandamus, or other proceedings, may protect and enforce any and all rights granted under such contract and may face and compel the performance of all duties required by this chapter or by such contract to be performed by the authority or by any officer thereof, including without limitation the fixing, charging, and collecting of ~~fees, rates, fees~~ and charges in accordance with this chapter and such contract.

Such contract, with the irrevocable consent of the entity, may be made directly with the trustee for indebtedness issued to finance such system and provide for payment directly to such trustee. The authority may pledge fees, rates, and charges made in respect of the contract with the entity, and such pledge shall be valid and binding from the time ~~when~~ it is made. Fees, rates, and charges so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind, in tort, contract, or otherwise, irrespective of whether such parties have notice thereof. Neither the contract nor any assignment thereof need be filed or recorded except in the records of the authority.

The requirements and restrictions of § 15.2-5121 shall not apply to any contract of the authority with respect to the system if the entity for such system will not collect refuse from the generators of the same; and there are no such facilities located in the area served by the authority.

### CHAPTER 633

*An Act to amend and reenact §§ 4.03, as amended, 4.05, 4.07, as amended, 5.01, 5.02, 5.03, as amended, 7.02, as amended, 7.03, 7.04, 7.07, as amended, 7.08, as amended, 7.11, 8.04, as amended, and 15.03 of Chapter 542 of the Acts of Assembly of 1990, which provided a charter for the City of Bristol, and to amend Chapter 542 of the Acts of Assembly of 1990 by adding a section numbered 8.06:1, relating to city powers, council meetings, city manager, city departments, planning commission, and utility board.*

[H 2497]

Approved March 19, 2019

#### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.03, as amended, 4.05, 4.07, as amended, 5.01, 5.02, 5.03, as amended, 7.02, as amended, 7.03, 7.04, 7.07, as amended, 7.08, as amended, 7.11, 8.04, as amended, and 15.03 of Chapter 542 of the Acts of Assembly of 1990, which provided a charter for the City of Bristol, are amended and reenacted and that Chapter 542 of the Acts of Assembly of 1990 is amended by adding a section numbered 8.06:1 as follows:**

#### **§ 4.03. Meetings.**

At nine o'clock a.m. on July 1 following a regular municipal election, or if that should be Saturday, Sunday or a legal holiday, then on the first business day following, the council shall hold an inaugural meeting at the usual place for holding the meetings of the council.

At that meeting newly elected councilmen shall be sworn and assume the duties of their office, and then shall make such elections and appointments as are otherwise provided for in this charter.

At nine o'clock a.m. on July 1 in each year when no municipal election has been held, or if such day be Saturday, Sunday or a legal holiday, then the first business day following, the council shall have an organizational meeting for the purpose of making such appointments and transacting such other business as this charter shall provide shall be made or transacted on July 1 of each year.

Each July 1, at the inaugural or organizational meeting, council shall make such appointments of its own members to such boards, authorities, committees or commissions that require a representative from the members of the council. Additionally at the inaugural or organizational meeting, or as soon as possible thereafter, council shall also make such citizen appointments to the planning commission, board of zoning appeals, economic development committee, social services board, board of building code appeals, BVU Authority, Industrial Development Authority and any other boards to which the council makes appointments of members whose terms have expired as of midnight on the 30th day of June. Nothing herein is meant to preclude the filling of any vacancies on such boards, authorities, committees or commissions prior to July 1, if such opening exists prior to midnight on June 30th. The length of terms of all appointees to the BVU Authority are governed by the BVU Authority Act and not the Charter.

Council shall thereafter regularly meet at such times as may be prescribed by ordinance, provided that it shall meet not less than once each month.

The mayor, any member of the council, or the city manager may call a special meeting of the council at any time, upon twelve hours written notice stating the purpose of the meeting served upon each member personally, ~~or left at his usual place of business or residence~~ *by electronic service at their city-provided electronic mail address.* The called meeting may be held without written notice, provided all members of the council attend. At such special meeting, no business other than that mentioned in the call shall be considered.

All meetings of the council shall be public as provided for by the Virginia Freedom of Information Act, with executive sessions as permitted therein at the discretion of the majority of council. The council shall keep written minutes of its proceedings but does not have to keep minutes of its executive session. Citizens may have access to the minutes and records of all public meetings at any reasonable time.

#### **§ 4.05. Mayor and vice mayor.**

At each inaugural and each organizational meeting of council, council shall elect one of its members as chairman, who shall be entitled mayor and one of its members as vice chairman, who shall be entitled vice mayor, each of whom shall serve for a term of one year, or until his successor is elected.

The mayor shall preside over all meetings of the council and shall have the same right to vote and speak therein as other members. He shall be recognized as the head of city government for all ceremonial purposes, the purposes of military law and the service of civil process. ~~In times of public danger, or emergency, he may take command of the police and maintain order and enforce the laws, and for this purpose, may deputize such assistant policemen as may be necessary.~~ The mayor shall have no veto power. He shall authenticate by his signature such instruments as the council, this charter or the laws of the Commonwealth shall require.

The vice mayor shall, in the absence or disability of the mayor, perform the duties of the mayor. If a vacancy shall occur in the office of mayor, the vice mayor shall become mayor for the unexpired portion of the mayor's term. A replacement for the vice mayor may then be elected by a majority vote of the remaining council.

In the absence or disability of both the mayor and vice mayor, the council may, by majority vote of those present, choose one of their number to perform the duties of mayor and one to perform the duties of vice mayor.

#### § 4.07. Appointments and removals.

The council in making appointments and removals shall act only by affirmative vote of at least three members. It may remove any person appointed by it for an indefinite term, provided that the person to be removed shall have been served with written notice of the intention of the council to remove him at least ten days prior to the action becoming final. If two or more members of council shall be disabled to vote pursuant to the provisions of the Virginia State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq) or its successors, as the same may be amended from time to time, council may act by an affirmative vote of those members of city council not so disabled to vote. No hearing shall be required.

Any member of the council or any member of a board or commission, and any other person appointed by the council for a specified term may be removed during that term by the council but only for malfeasance or neglect of duty. The person to be removed shall be entitled to notice of the intention of the council to remove him, containing a clear statement of the grounds for such removal, and fixing the time and place, not less than ten days after the service of such notice, at which he shall be given an opportunity to be heard thereon. *The notice provided and all associated evidence shall be made public immediately after serving said notice to the person.* After the hearing, which shall be public ~~at the option of the person sought to be removed,~~ and at which ~~he~~ *the person sought to be removed* may be represented by counsel, the decision of the council shall be final. It shall be the duty of the council, at the request of the person sought to be removed, to subpoena witnesses whose testimony would be pertinent to the matter in hand. Any officer, elective or appointed, including councilmen, or an employee of the city who shall be convicted by a final judgment of any court from which no appeal has been taken, or which has been affirmed by a court of last resort, on a charge involving moral turpitude, whether felony or misdemeanor, shall forfeit his office or employment. Council shall also have the power to otherwise punish its own members and to compel their attendance.

#### § 5.01. Appointments and qualifications.

There shall be a city manager who shall be the administrative ~~and executive~~ head *and chief executive officer* of the city and shall be responsible to the council for the proper administration of the city government. He shall be chosen by the council solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or the Commonwealth of Virginia. He shall be appointed by council for a term of one year, unless sooner removed by council as herein provided. The city manager's term shall commence immediately upon election by council at a meeting to be held on July 1 of each year, or if such day be on Saturday, Sunday or a legal holiday, on the first business day following. Such term shall end on June 30 of the succeeding calendar year. Vacancies during the term may be filled by the council for the remainder of the term. During the absence or disability of the city manager, the council may, by general ordinance, or specific act, designate some properly qualified person to perform the duties of the office as acting city manager in the absence of an assistant city manager.

#### § 5.02. Power of appointment and removal.

The city manager shall appoint such city officers and employees as the council shall determine are necessary for the proper administration of the city and shall supervise such employees. ~~The~~ *All employees, including those in the police department and fire department,* may be removed by the city manager, except those employees in the clerical, legal and judicial departments and other attendants of the council. The council shall consent to the appointment or removal of all directors or heads of departments as hereinbefore provided before such appointment or removal shall become effective.

#### § 5.03. General powers and duties.

The city manager shall have the power and it shall be his duty:

1. To see to the enforcement of all laws and ordinances of the city.
2. To exercise supervision and control over all departments, now or hereafter created by council, except the legal, clerical, judicial departments and any other office or department directly attendant upon council.
3. To exercise supervision and control over all public improvements, works and undertakings, except as otherwise expressly provided in this charter.
4. To attend all public city council meetings with the right to speak, but not to vote.
5. To recommend for adoption such measures as are necessary for the health and safety of the city's citizens and the orderly and expedient operation of the city.
6. To prepare and submit the annual budget to council and be responsible for its administration after adoption by council.
7. To keep council regularly advised of the financial condition and future needs of the city.

8. To make all authorized contracts in behalf of the city.

9. To perform such other duties as may be prescribed by this charter or required of him by the general law of the Commonwealth or by ordinance, resolution or direction of the council.

10. To have prepared and submit to city council by its first meeting in December an audited report of the previous fiscal year's financial transactions and its financial condition as of the last day of the previous fiscal year.

11. *To serve as the local Director of Emergency Management in accordance with the Commonwealth of Virginia Emergency Services and Disaster Law of 2000 (§ 44-146.13 et seq. of the Code of Virginia).*

§ 7.02. Finance department.

A. Generally. There shall be a finance department headed by a department head known as the chief financial officer, who shall be in charge of the accounting and finances of the city. The chief financial officer shall function as budget director, which position shall require skill in public administration and the accepted practices and municipal budgetary procedure and shall compile, in cooperation with the various department heads, the departmental estimates and other data necessary or useful to the city manager in the preparation of the annual budget.

B. General powers and duties of chief financial officer. The chief financial officer shall have general management and control, subject to the direction and control of the city manager, of the administration of the financial affairs of the city and to that end shall have authority and be required to:

1. Keep books of account of the receipts from all sources and expenditures of all departments, courts, boards, commissions, offices and agencies of the city and prescribe the form of receipts, vouchers, bills or claims to be used and accounts to be kept by all departments, courts, boards, commissions, offices and agencies of the city. The chief financial officer in so doing shall consult with the retained public auditor for the city so that his books of account and other items mentioned herein produce the requisite information for auditing purposes;

2. Maintain suitable records to keep an accurate account with the city treasurer, making entries therein, where practical, on the same date which they occur, and said records shall be kept so that an examination of them will show the condition of the treasury;

3. Cooperate with the city manager in compiling estimates for the current expense and capital budgets;

4. Require daily, or at such intervals as he may deem expedient, report of receipts and a remission of the same from each department, court, board, commission, office and agency, and shall on the proper in-paying warrant remit the same to the treasurer;

5. Examine all contracts, purchase orders and other documents which create financial obligations against the city to determine that money has been appropriated and allotted therefor and that an unexpended and unencumbered balance is available and such appropriation and allotment to meet the same;

6. Audit before payment for legality and correctness all accounts, claims and demands against the city and no money shall be drawn from any bank account of the city except by warrant or check signed by the city manager and treasurer, based upon a voucher prepared by him;

7. Submit to the city manager for presentation to the council, not later than the 25th day of each month, a statement concerning the financial transactions of the city prepared in accordance with accepted principles in municipal accounting and budgetary procedure and showing:

(a) The amount of each appropriation with transfers to and from the same, the allotment thereof to the end of the preceding month, encumbrances and expenditures charged against such appropriation during the preceding month, the total of such charges for the fiscal year to the end of the preceding month and the unencumbered balance remaining in such appropriation; and

(b) The revenue estimated to be received from each source, the actual receipts from each source for the preceding month, the total receipts from each source for the fiscal year to the end of the preceding month, and the balance remaining to be collected;

8. Furnish the head of each department, court, board, commission, office or agency of the city a copy of such portion of the statement relating to such department, court, board, commission, office or agency;

9. Prepare and submit to the city manager at the end of each fiscal year, for the preceding year, a complete financial statement and report of the financial transactions of the city;

10. Protect the interest of the city by withholding the payment of any claim or demand by any person, firm or corporation against the city until any indebtedness or other liability due from such person, firm or corporation shall first have been settled and adjusted; and

11. *Develop and maintain financial policies, subject to the approval of city council. These policies shall include, but are not limited to, the following:*

(a) *Debt as a percentage of assessed value;*

(b) *Debt as a percentage of operating expenditures;*

(c) *Balanced budget;*

(d) *Capital improvement program; and*

(e) *Fund balance.*

*Compliance with financial policies developed and maintained under this subdivision shall be incorporated into the annual budget document so that city council is able to benchmark the city's progress.*

12. Perform such other duties as may be required of him by this charter, by the city manager or by the city council.

C. Annual audit. The council shall cause to be made annually an independent financial audit of all accounts, books, records and financial transactions of the city by the auditor of public accounts of the Commonwealth or by a firm of independent certified public accountants to be selected by council. The audit shall be of sufficient scope to express an opinion as to whether the books and records and the financial statements prepared therefrom as contained in the annual financial report of the city present fairly the fiscal affairs of the city in accordance with generally accepted accounting principles of municipal accounting and applicable government laws. The report of such audit shall be always available for public inspection in the office of the city clerk and in the office of the city manager during regular business hours and shall be posted on the city's website for public viewing. The chief financial officer shall cooperate with and provide the necessary information to the auditor for the purpose of producing the annual audit.

D. Other audits of accounts. Upon the death, resignation, removal or expiration of the term of any officer of the city, the chief financial officer, under the supervision of the city manager, shall audit the accounts of such officer and report the result of the audit to the council. The chief financial officer shall also audit the accounts of any office or department of the city upon the request of the council, under the supervision of the city manager. Any such audit, at the direction of the council, may be made by an independent certified public accountant rather than by the chief financial officer if they so direct.

E. Commissioner of revenue. There shall be elected, pursuant to Chapter 3 of this charter and the general law of the Commonwealth, a commissioner of revenue as provided for in the Constitution of the Commonwealth of Virginia who shall perform such duties as are not inconsistent with the laws of the Commonwealth in relation to the assessment of property and license taxes as may be required by the council for the purpose of levying city property and license taxes. He shall perform such other duties within the City of Bristol, Virginia, as are prescribed for him by the general law of the Commonwealth of Virginia and as may be prescribed for him by this charter or by the city council for the City of Bristol, Virginia, and are not inconsistent with his office. The commissioner of revenue shall have the power to administer oaths in the performance of his official duties.

F. City treasurer. There shall be elected, pursuant to Chapter 3 of this charter and the general law of the Commonwealth, a city treasurer, as provided for in the Constitution of Virginia who shall, except as otherwise provided in this charter, be the custodian of all funds of the city and the city's chief financial officer's bond, and pursuant thereto shall:

1. Deposit all funds coming into the treasurer's hands to the account of the city, in such separate accounts as may be provided for by council, in such banks as may be designated for that purpose by the council. However, the city manager may authorize any department or agency of the city to maintain a petty cash fund ~~not to exceed \$300~~ *in an amount approved by the chief financial officer*. Such fund authorized shall be reimbursed by the treasurer only upon presentation of vouchers approved by the chief financial officer;

2. Receive all moneys belonging to and received by the city and keep a correct account of all such receipts;

3. Be subject to the supervision of the council, perform such other duties not inconsistent with the office as council may from time to time direct, and have such powers and duties as are now or may hereafter be prescribed by the general law of the Commonwealth or ordinance of this city;

4. Make all such reports to the chief financial officer with respect to receipts and expenditures in the city treasury as may be required by the chief financial officer to properly keep the financial records of the city up to date;

5. Pay out no money from the city treasury except as may have been approved by the city manager and the chief financial officer on forms prescribed by the chief financial officer, all in accordance with the provisions of this charter;

6. Present annually to council the treasurer's account with the State Auditor;

7. Receive no money or permit the payment of the same into the treasury, except upon the presentation of a proper form authorizing such payment and receipt, which form shall show the source and amount of such money and shall be signed by the chief financial officer or his designee. No license, permit or other authorization for which the party receiving same is required to pay money to the city shall be valid unless and until the treasurer receipts the same giving the amount and date of such receipt; and

8. Report a list of delinquent real and personal property taxes for the next preceding year to the city manager and to city council no later than July 1 of each year.

#### § 7.03. Personnel department.

A. Generally. There shall be a personnel department which shall consist of the personnel director, and such employees as may be provided for by the council. Until the city council for the City of Bristol, Virginia, shall, by written resolution, direct that the office of personnel director shall be otherwise filled, the city manager shall serve as personnel director.

B. Powers and duties of the personnel director. The personnel director shall have the following powers and duties:

1. To formulate and propose a comprehensive personnel policy to the city council for adoption, and as the need may arise, to propose to the council amendments, additions and deletions to the comprehensive personnel policy, and to oversee and enforce the uniform application of the personnel policy to all the employees of the city. Nothing in this charter, nor in any policy manual promulgated pursuant to this charter, nor in any ordinance or act of the council of the City of Bristol, Virginia, shall be construed to create any contractual relationship between the City of Bristol, Virginia, and any of its employees or agents. The comprehensive personnel policy adopted pursuant to this provision shall not be a contract with the employees of the city and so may be amended from time to time as the needs of the city may require, no rights being vested in any city employee by virtue of this section or any policy adopted pursuant thereto.

2. To, with the cooperation of each department head, formulate and promulgate standard operating procedures in addition to a comprehensive personnel policy that may be needed and applicable to the individual departments and the

employees thereof as such requirements may exist and submit to the council for adoption and from time to time for amendment.

3. To oversee and aid each department head in the formulation and promulgation of competitive examinations for all original appointments to department jobs and for promotions within each department to provide for the hiring and promotion of the best qualified personnel available to the city.

4. To oversee the maintenance by each department of a list of eligible employees based upon examination and other hiring criteria for each department and to promulgate regulations to assure that such lists are kept current, that all vacancies are well publicized and that the best possible employees of the City of Bristol, Virginia, be hired for each such vacancy.

5. To formulate and recommend to the council for adoption such additions, deletions, and amendments of the current city pay plan covering all employees of the city as may from time to time be advisable.

6. To direct and enforce the maintenance by all departments, boards, commissions, offices and agencies of the city of such personnel records of employees of such departments, boards, etc., as the personnel director shall prescribe.

7. To establish a temporary employment list for filling positions which are temporarily vacant.

8. To oversee and advise the department heads in the promulgation of a systematic program of in-service training for all employees qualifying them for advancement in the service of the city.

9. To oversee and enforce the operation of an employee grievance procedure in accordance with the laws of the Commonwealth.

10. To investigate any and all matters relating to conditions of employment in the service of the city and to make at least annually a report of his findings to the council.

11. *To oversee and advise department heads in all cases of adverse employment decisions before any disciplinary actions are taken.*

12. Such other powers and duties as may be assigned him from time to time by council.

§ 7.04. Police department.

A. Generally. The police department shall consist of the chief of police and such other officers and employees at such ranks and grades as may be established by the council. The police department shall be responsible for the preservation of public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property and enforcement of the laws of the Commonwealth, the ordinances of the city and all rules and regulations made in accordance therewith. The chief of police and the other members of the police department of the city shall have all the powers and duties of police officers as provided by the general laws of the Commonwealth and more particularly, each police officer is invested with all the power and authority which formerly belonged to the office of the constable at common law in taking cognizance of, and in enforcing the criminal laws of the Commonwealth and ordinances and regulations of the city. Each of such policemen shall use his best endeavors to prevent the commission within the city of offenses against the laws of the Commonwealth and against the ordinances and regulations of the city; shall observe and enforce all such laws, ordinances and regulations; shall detect and arrest offenders against the same; shall preserve the good order of the city; and shall secure the inhabitants thereof from violence and the property therein from injury. Such policemen shall have no power or authority in civil matters, except that they may execute and serve a temporary detention pursuant to § 37.1-67.1 of the Code of Virginia and he shall in all other cases comply with the orders of any court of proper jurisdiction and execute such warrants or summons as may be placed in said police officer's hands by any clerk of the court, magistrate or trial judge of the city and shall make due return thereof. The criminal investigations of the department shall be under the ultimate authority of the attorney for the Commonwealth, who shall be the chief law-enforcement officer of the city.

B. Powers and duties of the chief of police. The head of the police department shall be the police chief. Under the supervision of the city manager, he shall be in direct command of the police department. He shall assign all members of the department to their respective posts, shifts, details and duties. He shall, with the approval of the city manager, make rules and regulations in conformity with this charter and the ordinances of the city concerning the operation of the department, the conduct of the officers and employees thereof, their uniforms, arms and other equipment, their training and the penalties to be imposed for infractions of such rules and regulations. *Upon notice of a complaint about an officer's conduct and determination that an internal affairs investigation shall be conducted, the city manager will be immediately notified of the internal affairs investigation in writing. The chief of police will investigate the matter and report the findings and recommended disposition to the city manager and city attorney within a reasonable period of time. If the city manager disputes the recommendation of the chief of police and an agreement is not made, a three-person panel will be convened to review allegations and proposed disposition. The panel will be made up of a captain or lieutenant from the police department that is not a direct supervisor of the officer involved, a city department head chosen by the city manager, and a city department head chosen by the chief of police. The panel will then make a recommendation to the city manager and chief of police. The decision of the panel will be final pending any other administrative or legal remedies the officer may have pursuant to the general laws of the Commonwealth or the City of Bristol. The chief of police shall maintain all records, recordings, and statements of the investigation.* The police chief shall be responsible for the efficiency, discipline and good conduct of the department. Orders of the city manager shall be transmitted in all cases through the police chief or in his absence from the city or incapacity, through an officer of the department designated as acting chief by the city manager. Disobedience to the lawful commands of the police chief or a violation of the rules and regulations made by him, shall be grounds for removal or other disciplinary action as provided in such rules and regulations.

C. Division of animal control. Within the police department, there shall be a division of animal control which shall consist of a city animal warden, appointed pursuant to § 3.1-796.104 of the Code of Virginia, by the city manager, who shall be supervised by the police chief. The animal warden shall serve at the will and pleasure of the city manager and shall not be considered a department head. The city animal warden shall be paid and otherwise compensated as the city council shall from time to time prescribe. The animal warden shall have such powers and duties and responsibilities as are set out in Chapter 27.3 (§ 3.1-796.66 et seq) of Title 3.1 of the Code of Virginia and all other acts and ordinances enacted by the Commonwealth or the city for the control and protection of animals. The city manager shall have the power to appoint one or more deputy animal wardens to assist the city animal warden as the council shall provide.

§ 7.07. Building code ~~department~~ *division*.

A. Building Code Division ~~Generally code division generally. There shall be a building code division which shall consist of the building code official and such other officers and employees as may be provided for by city council and the environs control official. The building code division~~ *The building code official and residential inspector* shall be part of the *community development* department of ~~planning~~ and supervised by the ~~planning~~ *community development* director. The building code official may be removed from office for cause after full opportunity to be heard on specific and relevant charges in a hearing before city council. The city manager is authorized to designate an employee as deputy who shall exercise all the powers of the building code official during the temporary absence or disability of the building code official.

B. Restriction of employees. Neither any building code official nor any employee connected with the building code division, except members of the board of survey or the board of appeals, shall be engaged in or directly or indirectly connected with the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or the specifications thereof built or to be built within the city, unless that person is the owner of the building. No officer and employee may engage in any work which conflicts with the official duties or interests of the building code division.

C. Personal liability. The building code ~~official~~ *division*, and any officer or employee ~~of the building code division~~, shall not, while acting for the jurisdiction, thereby be rendered liable personally for any damage accruing to persons or properties as a result of any act required or permitted in the discharge of their official duties, nor shall *any employee of the building code official or any subordinate of the building code official* be liable for costs in any action, suit or proceeding that is instituted pursuant to the provisions of the building and maintenance codes. They shall be free from liability for acts performed under any of the provisions of or by reason of any act or omission in the performance of their official duties in connection with the provisions of the Uniform Statewide Building Code. ~~This limitation of liability shall extend to the environs control division's enforcement of the Uniform Statewide Building Maintenance Code.~~

D. Functions. The building code division shall:

1. Enforce all the provisions of the Uniform Statewide Building Code and act on any question relative to the mode or manner of construction and the materials to be used in the erection, addition to, alteration, repair, removal, demolition, installation of service equipment and the location, use, occupancy and maintenance of all buildings and structures situate in the City of Bristol, Virginia;

2. Receive applications and issue permits for the erection and alteration of buildings and structures, including passing on whether a requested building permit may be issued in compliance with the zoning ordinances of the city, inspect the premises for which such permits have been issued and enforce compliance with the provisions of the Uniform Statewide Building Code;

3. Issue all necessary notices or orders to remove illegal or unsafe conditions and structures, require the necessary safeguards during construction, require adequate exit facilities in existing buildings and structures and insure compliance with all the code requirements for the health, safety and general welfare of the public;

4. Make all the required inspections, or accept reports of inspection by approved agencies on individuals in writing and certified by a responsible officer of such approved agency or by the responsible individual, and engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, if such engagement is approved by ~~council~~ *the community development director*;

5. Adopt and promulgate rules and regulations to interpret and implement the provisions of the Uniform Statewide Building Code, to secure the intent thereof and designate requirements applicable because of local climatic or other conditions, but such rules shall not have the effect of waiving structural or fire performance requirements specifically provided by the Uniform Statewide Building Code or violating accepted engineering practices involving public safety;

6. Keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued so long as the building to which they pertain remains in existence;

7. Report in writing annually to the ~~city manager~~ *community development director* a statement of operations as may be prescribed by the ~~city manager~~ *community development director*;

8. Perform such other duties as from time to time may be required of the building code official by the Uniform Statewide Building Code and the ~~city manager~~ *community development director*;

9. Enforce all local ordinances pertaining to buildings, unsafe structures, the abatement of nuisances created by unsafe structures and such other local ordinances as may from time to time be adopted and passed relative to buildings or structures situate in the city by the council, to the extent that such are not superseded and repealed by an act of the General Assembly; and

10. Perform such other duties as may from time to time be assigned to the building code division by ~~city council~~ *the city manager or community development director*.

E. ~~Enviroms control. The position of enviroms control official, whose duties shall be to enforce state law and local ordinances pertaining to garbage, trash, weeds, junk, and litter and the Statewide Uniform Building Maintenance Code within the City of Bristol, Virginia, shall be an employee of the building code division and shall be under the supervision of the building code official. The enviroms control official shall meet the requirements imposed for the position by state law.~~

§ 7.08. ~~Planning department~~ *Community development department.*

A. ~~Planning~~ *Community development* director. The *community development* department ~~of planning~~ shall consist of a ~~planning~~ *community development* director and such other officers and employees of the department as provided for by city council and the building code official and the employees of the building code division.

B. Department functions. The *community development* department ~~of planning~~ shall have the responsibility for:

1. Administration of all programs funded by federal, state or other monies as such be assigned to the *community development* department ~~of planning~~ by city council for administration;

2. Administration of the zoning ordinance and the subdivision ordinance and as such, the ~~planning~~ *community development* director shall ~~serve as provide~~ staff for the board of zoning appeals, the planning commission and city council on zoning matters that are before each of such entities. Nevertheless, it shall remain the duty of the building code ~~official to determine~~ *division, with the assistance of the zoning administrator, to insure* the proper zoning of all proposed developments for purpose of issuance of requisite building permits, site plan permits and other required permits;

3. Development of the comprehensive city plan and the amendments thereto for approval by city council;

4. ~~Transportation planning of road improvements on major thoroughfares;~~

5. ~~Serving as staff to the metropolitan planning organization board created by Bristol, Virginia; Bristol, Tennessee; Sullivan County, Tennessee and Washington County, Virginia;~~

6. ~~4. Serving as staff to the joint Bristol, Tennessee/Virginia Planning Commission;~~

5. ~~Enforcing state law and local ordinances pertaining to garbage, trash, weeds, junk and litter, and the Statewide Uniform Building Maintenance Code within the City of Bristol, Virginia;~~

7. ~~6. Supervise the operations and performance of the building code~~ *division officer, city planner, community development block grant coordinator, code compliance officer, residential inspector, community development administrative assistant; and*

8. ~~7. Such other duties as may from time to time be assigned to the~~ *planning community development* department ~~by the~~ city council or the city manager.

§ 7.11. Transit department.

A. Generally. The transit department shall consist of the ~~transit director~~ *transportation planner* and such other officers and employees of the department as the council shall approve.

B. Function. The transit department shall provide public bus service to the City of Bristol, Virginia, to the extent such provision is funded by city council. ~~The transit department shall operate the school bus system for the school board of the City of Bristol, Virginia, unless the Bristol, Virginia, school board shall take over the operation, management and maintenance of its own school bus system. The transit department shall operate the city mechanical garage and therein provide service to all city vehicles and to any other city equipment for which the garage is equipped with men and materials to perform maintenance thereon. The city transit garage shall also provide maintenance service to the Bristol, Virginia, sheriff's office vehicles and equipment.~~

C. *Duties of the transportation planner:*

1. *Administration and management of the transit system;*

2. *Coordination with state and federal transit agencies;*

3. *Transportation planning of road improvements on major thoroughfares;*

4. *Serve as staff to the metropolitan planning organization board created by Bristol, Virginia; Bristol, Tennessee; Sullivan County, Tennessee; and Washington County, Virginia;*

5. *Coordination of special events on city property and rights of way; and*

6. *Such other duties as may from time to time be assigned by city council or the city manager.*

§ 8.04. City planning commission.

There shall be a city planning commission consisting of seven members, one of whom shall be a member of the city council selected by the council for a term coincident with his term on the council; ~~one of whom shall be selected by the council for an indefinite term~~ and the remaining members shall be citizens appointed by city council for ~~three-year~~ *four-year* terms, *to be staggered beginning July 1, 2019.* All citizens of the City of Bristol, Virginia, owning real property shall be eligible for appointment to the planning commission, and all appointees shall take the oath of office before entering into their duties. Each appointee, other than the councilmanic and employee appointees, shall be eligible for only two consecutive terms.

The planning commission's duties shall be to:

1. Exercise general supervision of and make regulations for the administration of its affairs;

2. Prescribe rules pertaining to its investigations and hearings;

3. Supervise its physical affairs and responsibilities, under rules and regulations as prescribed by the governing body;

4. Keep a complete record of its proceedings and be responsible for the custody and preservation of its papers and documents;

5. Make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction;
6. Prepare, publish and distribute reports, ordinances and other material relating to its activities;
7. Prepare and submit an annual budget estimate in the manner prescribed by the city council;
8. Review, amend and recommend a comprehensive city plan to city council as provided for by state law and this charter and amendments thereto as needed;
9. Exercise such authority and perform such duties relative to zoning, subdivisions and other matters related to development within the City of Bristol, Virginia, as are provided for in the respective ordinances provided for the same by city council; and
10. Perform such other duties as council may from time to time assign to the planning commission.

The planning commission shall be staffed by the director of the department of planning and employees of that department until and unless the council shall by ordinance provide for a separate staff for the planning commission. The planning commission may, with the approval of the city manager, call upon the heads of other departments for staff functions as the need may arise.

*§ 8.06:1. Bristol Virginia Utilities Authority.*

*The Bristol Virginia Utilities Authority shall be organized and have the powers as set out in the BVU Authority Act (§ 15.2-7200 et seq. of the Code of Virginia).*

*§ 15.03. Investigation into city affairs.*

The council, the city manager, and any officer, board or commission authorized by them or either of them, shall have power to make investigation as to city affairs. For that purpose, the council, city manager or any such officer, board or commission shall have the power to subpoena witnesses, administer oaths and compel the production of ~~books and papers~~ *evidence*. Any person refusing or failing to attend or to testify or to produce such books and papers may be summoned by such board or officer before the judge of the General District Court for the City of Bristol, Virginia, by the board or official making such investigation, and upon failure to give satisfactory explanation of such failure or refusal, may be found guilty by the judge of the general district court of a Class 2 misdemeanor and fined or jailed accordingly. Such persons shall have the right to appeal to the circuit court of the city any conviction pursuant hereto. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury.

## CHAPTER 634

*An Act to amend and reenact §§ 6.2-1900, 6.2-1901, 6.2-1904.1, 6.2-1905, 6.2-1914, and 6.2-1917 of the Code of Virginia, relating to the licensure of money order sellers and money transmitters.*

[H 2690]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 6.2-1900, 6.2-1901, 6.2-1904.1, 6.2-1905, 6.2-1914, and 6.2-1917 of the Code of Virginia are amended and reenacted as follows:**

**§ 6.2-1900. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authorized delegate" means a person designated or appointed by a licensee to sell money orders or provide money transmission services on behalf of the licensee.

"Licensee" means a person licensed under this chapter to engage in the business of selling money orders or the business of money transmission, or both.

"Member" means a person who owns or controls a ~~five~~ *10* percent or greater interest in a limited liability company.

"Monetary value" means a medium of exchange, whether or not redeemable in money.

"Money order" means a check, traveler's check, draft, or other instrument for the transmission or payment of money or monetary value whether or not negotiable.

"Money order seller" means a person engaged in the business of selling money orders.

"Money transmission" means receiving money or monetary value for transmission by wire, facsimile, electronic means or other means or selling or issuing stored value.

"Money transmitter" means a person engaged in the business of money transmission.

*"Nationwide Multistate Licensing System and Registry" or "Registry" means the licensing and registration system operated by the State Regulatory Registry LLC.*

"Outstanding" means:

1. With respect to a money order, a money order that has been issued and sold directly by a licensee, or sold by an authorized delegate of the licensee and reported to the licensee, that has not yet been paid by or on behalf of the licensee; or

2. With respect to a money transmission transaction, a money transmission transaction for which the licensee, directly or through an authorized delegate of the licensee, has received money or monetary value from a customer for transmission, but has not yet (i) completed the money transmission transaction by delivering the money or monetary value to the person designated by the customer, or (ii) refunded the money or monetary value to the customer.

"Principal" means any person who, directly or indirectly, owns or controls a 10 percent or greater interest in any form of entity.

"Stored value" means monetary value that is evidenced by an electronic record.

**§ 6.2-1901. License required; exception.**

A. No person shall engage in the business of selling money orders or engage in the business of money transmission, whether or not the person has a location in the Commonwealth, unless the person obtains from the Commission a license issued pursuant to this chapter.

B. No license under this chapter shall be required of any authorized delegate of a licensee.

C. *Every person required to be licensed under this chapter shall register with the Registry and be subject to such registration and renewal requirements as may be established by the Registry, in addition to any requirements of this chapter. In adopting regulations pursuant to § 6.2-1913, the Commission shall include any terms, conditions, or requirements applicable to such registration and renewal. Any fees required by the Registry shall be separate and apart from any fees imposed by this chapter. The Commission, at its discretion, may collect any registration and renewal fees on behalf of the Registry and remit such fees to the Registry or permit the Registry to collect any fees imposed by this chapter and remit such fees to the Commission.*

*D. In connection with its implementation and administration of this chapter, the Commission may establish agreements or contracts with the Registry or other entities designated by the Registry to collect, distribute, and maintain information and records and process fees related to persons required to be licensed under this chapter. In establishing such agreements or contracts, the Commission shall not be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).*

**§ 6.2-1904.1. Investigation of applications.**

A. The Commissioner may make such investigations as he deems necessary to determine if the applicant has complied with all applicable provisions of law and regulations adopted thereunder.

B. For the purpose of investigating individuals who are members, senior officers, directors, and principals of an applicant, such individuals shall comply with one or both of the following, as applicable:

1. In the case of members, senior officers, directors, and principals who have resided in the United States at any time within the previous 10 years, such individuals shall consent to a national and state criminal history records check and submit to fingerprinting. Each member, senior officer, director, and principal shall pay for the cost of such fingerprinting and criminal records check. Such individuals shall cause their fingerprints, personal descriptive information, and records check fees to be submitted to *either of the following, as prescribed by the Commissioner, who:*

*a. The Bureau, which shall forward these items to the Central Criminal Records Exchange. The Central Criminal Records Exchange shall (i) conduct a search of its own criminal history records and forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individuals and (ii) forward the results of the state and national records search to the Commissioner or his designee, who shall be an employee of the Commission; or*

*b. The Registry, provided that it is capable of processing such criminal history records check.*

2. In the case of members, senior officers, directors, and principals who have resided outside of the United States at any time within the previous 10 years, such individuals shall cause an investigative background report to be submitted to the Commissioner. The report shall be prepared by an independent search firm that is acceptable to the Commissioner and be in the English language. Each member, senior officer, director, and principal shall pay for the cost of such report, and the report shall be sent directly by the search firm to the Commissioner or his designee, who shall be an employee of the Commission.

C. If any member, senior officer, director, or principal of an applicant fails to cause his fingerprints, personal descriptive information, records check fees, or investigative background report to be submitted in accordance with subsection B, the application for licensure shall be denied.

**§ 6.2-1905. Annual fees; expenses; annual reports; renewal.**

A. Each licensee shall pay to the Commission annually on or before ~~September 1~~ *December 31* a license renewal fee of \$750. All fees paid pursuant to this chapter shall be paid into the state treasury and credited to the "Financial Institutions Special Fund — State Corporation Commission."

B. In order to defray the costs of their examination and supervision, every licensee under this chapter shall pay an annual assessment calculated in accordance with a schedule set by the Commission. The schedule shall bear a reasonable relationship to the dollar volume of money orders sold and Virginia money transmission business conducted by licensees, either directly or through their authorized delegates, the costs of their examinations, and to other factors relating to their supervision and regulation. All such fees shall be assessed on or before August 1 for every calendar year. All such fees shall be paid by licensees to the State Treasurer on or before September 1 following each assessment.

C. In addition to the annual assessment prescribed in subsection B, when it becomes necessary to examine or investigate the affairs, business, premises, books, or records of a licensee or any of its authorized delegates at a location outside the Commonwealth, the licensee shall be liable for and shall pay to the Commission within 30 days of the presentation of an itemized statement, the actual travel and reasonable living expenses incurred on account of its examination or investigation, or shall pay a reasonable per diem rate approved by the Commission.

D. Each licensee under this chapter shall ~~annually, on or before April 15, file a periodic written report~~ *reports* with the Commissioner ~~along with~~ *or the Registry containing* such information as the Commissioner may require concerning the

licensee's business and operations, including audited financial statements. *Reports shall be in the form and be submitted with such frequency and by such dates as may be prescribed by the Commissioner.* If a licensee is unable to furnish copies of its audited financial statements by ~~April 15~~ *the dates prescribed by the Commissioner*, the licensee may request an extension, which may be granted by the Commissioner for good cause shown.

E. If a license has expired or has been surrendered or revoked, the former licensee shall immediately (i) cease selling money orders and engaging in the money transmission business, and (ii) instruct its authorized delegates to cease selling money orders and accepting funds for transmission on behalf of the licensee. The Commission may grant relief from this subsection for good cause shown.

F. A license issued under this chapter shall expire on ~~September 30~~ *December 31* of each year unless it is renewed by a licensee *prior to the expiration date*. A licensee may renew its license by ~~complying with the following:~~ (i) *requesting renewal through the Registry;* (ii) *complying with any requirements associated with such renewal request that are imposed by the Registry;* (iii) ~~paying its~~ *paying the license renewal fee in accordance with prescribed in* subsection A; ~~(ii)~~ (iv) ~~paying its~~ *paying the annual assessment in accordance with prescribed in* subsection B; ~~(iii)~~ (v) ~~filing its annual report~~ *the periodic written reports and audited financial statements in accordance with prescribed in* subsection D; and ~~(iv)~~ (vi) maintaining the minimum net worth specified in subsection B of § 6.2-1906, as evidenced by its audited financial statements. ~~Upon receiving a licensee's renewal fee, annual assessment, and the documents and other information required by this section~~ *If the Commissioner finds that the licensee has satisfied these requirements*, the Commissioner shall renew such person's license. If a license has expired, the former licensee may seek reinstatement ~~within three months after the license expiration date on or before the last day of February of the following calendar year.~~ *Upon receiving a former licensee's renewal fee, annual assessment, and the documents and other information required by this section, together with finding that the former licensee has complied with the renewal requirements set forth in this subsection and remitted payment of a reinstatement fee of \$1,000, the Commissioner shall reinstate such person's license.*

#### **§ 6.2-1914. Acquisition of control; application.**

A. Except as provided in this section, no person shall acquire directly or indirectly 25 percent or more of the voting shares of a corporation or 25 percent or more of the ownership of any other entity licensed to conduct business under this chapter unless such person first:

1. Files an application with the Commission in such form as the Commission may prescribe from time to time;

2. Delivers such information as the Commission may require concerning the financial responsibility, background, experience, and activities of the applicant, its directors, senior officers, principals, and members, and of any proposed new directors, senior officers, principals, or members of the licensee;

3. Furnishes to the Commissioner information concerning the identity of the directors, senior officers, principals, and members of the applicant, and of any proposed new directors, senior officers, principals, or members of the licensee. For the purpose of investigating these directors, senior officers, principals, and members, such individuals shall comply with one or both of the following, as applicable:

a. In the case of directors, senior officers, principals, and members who have resided in the United States at any time within the previous 10 years, such individuals shall consent to a national and state criminal history records check and submit to fingerprinting. Each director, senior officer, principal, and member shall pay for the cost of such fingerprinting and criminal records check. Such individuals shall cause their fingerprints, personal descriptive information, and records check fees to be submitted to *either of the following, as prescribed by the Commissioner, who:*

(1) *The Bureau, which shall forward these items to the Central Criminal Records Exchange. The Central Criminal Records Exchange shall (i) conduct a search of its own criminal history records and forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such individuals, and (ii) forward the results of the state and national records search to the Commissioner or his designee, who shall be an employee of the Commission; or*

(2) *The Registry, provided that it is capable of processing such criminal history records check.*

b. In the case of directors, senior officers, principals, and members who have resided outside of the United States at any time within the previous 10 years, such individuals shall cause an investigative background report to be submitted to the Commissioner. The report shall be prepared by an independent search firm that is acceptable to the Commissioner and be in the English language. Each director, senior officer, principal, and member shall pay for the cost of such report, and the report shall be sent directly by the search firm to the Commissioner or his designee, who shall be an employee of the Commission; and

4. Pays such application fee as the Commission may prescribe.

B. If any material information provided by the applicant changes during the investigation period, the applicant shall immediately notify the Commissioner.

C. Upon the filing and investigation of an application, the Commission shall permit the applicant to acquire the interest in the licensee if it finds that the applicant, its members if applicable, its directors, senior officers, and principals, and any proposed new directors, members, senior officers, and principals have the financial responsibility, character, reputation, experience, and general fitness to warrant belief that the business will be operated efficiently and fairly, in the public interest, and in accordance with the applicable laws and regulations. The Commission shall grant or deny the application within 90 days from the date a completed application, accompanied by the required fee, is filed unless the period is extended

by the Commission. If the application is denied, the Commission shall notify the applicant of the denial and the reasons for the denial.

D. The provisions of this section shall not apply to the acquisition of an interest in a licensee directly or indirectly by merger, consolidation, or otherwise, (i) by or with a person licensed under this chapter, (ii) by or with a person affiliated through common ownership with the licensee, or (iii) by bequest, descent, survivorship, or by operation of law. The person acquiring an interest in a licensee in a transaction which is exempt from filing an application by this subsection shall send written notice to the Commission of such acquisition within 30 days after its closing.

E. If any person acquires an ownership interest in a licensee without obtaining prior approval from the Commission as required by this section, the Commission may for good cause shown order such person to divest himself or itself of such ownership interest.

F. The Commission may not enter an order requiring divestiture pursuant to subsection E until it has given the person 21 days' notice in writing of the reasons for the proposed divestiture and has given the person an opportunity to introduce evidence and be heard. The notice shall be sent by certified mail to such person and shall state with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the person named therein may file with the clerk of the Commission a written request for a hearing. If a hearing is requested, the Commission shall not require divestiture except based upon findings made at such hearing.

**§ 6.2-1917. Other reporting requirements.**

A. A licensee or other person shall file a report with the Commissioner within 15 days after the licensee or other person becomes aware of any material changes in information previously provided in an application filed under § 6.2-1903 or 6.2-1914. This requirement shall be applicable only to material changes that occur within one year after the date the licensee begins business or the acquisition is consummated.

B. A licensee shall file with the Commissioner no later than 45 days after the end of each fiscal quarter its quarterly financial statements along with a current list of all authorized delegates and locations where the licensee or an authorized delegate of the licensee sells money orders or receives money for transmission. The licensee shall state the name, street address, and telephone number of each location and authorized delegate.

C. A licensee shall file a report with the Commissioner within one business day after the licensee becomes aware of the occurrence of any of the following events:

1. The filing of a petition by or against the licensee for bankruptcy or reorganization;
2. The filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;
3. The commencement of administrative or regulatory proceedings against the licensee by any governmental authority;
4. The cancellation or other impairment of the licensee's bond or other security;
5. Any felony indictment of the licensee or any of its members, partners, directors, officers, principals, or authorized delegates;
6. Any felony conviction of the licensee or any of its members, partners, directors, officers, principals, or authorized delegates; or
7. Such other events as the Commission may prescribe by regulation.

*D. Any reports or filings required by this section may be submitted to the Commissioner through the Registry, provided that the Registry is capable of receiving such reports or filings.*

**CHAPTER 635**

*An Act to amend and reenact § 8.01-324 of the Code of Virginia, relating to newspapers; legal notices and publications; requirements.*

[S 1638]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-324 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-324. Newspapers that may be used for legal notices and publications.**

A. *As used in this section and throughout the Code, the terms "newspaper of record" and "newspaper of general circulation" are interchangeable and identical in meaning.*

B. Whenever any ordinance, resolution, notice, or advertisement is required by law, regulation, or judicial order to be published in a newspaper, newspaper of record, or newspaper of general circulation, such newspaper, newspaper of record, or newspaper of general circulation, in addition to any qualifications otherwise required by law, shall:

1. Have a bona fide list of paying subscribers;
2. Have been published and circulated *in printed form* at least once a week for ~~twenty-four consecutive weeks without interruption for the dissemination of news of a general or legal character~~ *at least 50 of the preceding 52 weeks;*
3. ~~Have a general circulation in~~ *Provide general news coverage of the area in which the notice is required to be published;*

4. Be printed in the English language; and

5. Have a ~~second-class periodicals~~ mailing permit issued by the United States Postal Service (USPS). *If the newspaper has such a mailing permit, it must publish the USPS Statement of Ownership (Form 3526) in such newspaper at least once per calendar year and maintain a copy of such form that is available for public inspection during regular business hours.*

~~B- C. However, a newspaper which that does not have a second-class periodicals mailing permit issued by the USPS pursuant to subdivision B 5 may petition the circuit court for the jurisdiction in which the newspaper is located for authority to publish ordinances, resolutions, notices, or advertisements are required to be published to be certified as a newspaper of record for that jurisdiction. Prior to filing the petition, the newspaper shall publish a notice of intention to file a petition pursuant to this section subsection in a another newspaper published or having general circulation of record in the jurisdiction in which the petition will be filed. If no such newspaper exists, such notice of intent may be published in a newspaper in a neighboring jurisdiction. The court shall grant the authority for a period of one year upon finding that the newspaper (i) meets the requirements of subdivisions A B 2, A 3, and A 4; (ii) has been continually published for at least one year; employs a full-time local news staff, reports local current events and governmental meetings, has an editorial page, accepts letters to the editor, and is, in general, a news forum for the community jurisdiction in which it authority is circulated sought; (iii) has a circulation within the community to which the publication is directed and maintains permanent records of the fact and substance of the publication; and (iv) (iii) has an audit of printed circulation for a time period ending no more than 24 months prior to the filing of such petition certified by an independent auditing firm or a business recognized in the newspaper industry as a circulation auditor. Such audit shall provide a breakdown of such newspaper's circulation by zip code or jurisdiction. The authority shall be continued for successive one-year periods upon the filing of a copy of such newspaper's most recent audit of circulation, completed within the prior 24 months, and an affidavit certifying that the newspaper continues to meet the requirements of this subsection.~~

~~C- D. If a county with a population of less than 15,000 had regularly advertised its ordinances, resolutions, and notices in a newspaper published in the county which that had a general circulation in the county, a bona fide list of paying subscribers, and a second class mailing periodicals permit, and the newspaper continued to be published in the county and continued to have a general circulation in the county but failed to maintain its bona fide list of paying subscribers and its second class mailing periodicals permit, any advertisement of ordinances, resolutions, or notices in the newspaper by the county shall be deemed to have been in compliance with this section.~~

~~E. If a locality determines that no newspaper meets the requirements of subsection B or C with regard to its jurisdiction, such locality may petition the circuit court for its jurisdiction for authority to have such ordinances, resolutions, notices, or advertisements published in another printed medium. Such petition shall not be filed without a majority vote of approval by such locality's local governing body. The court shall grant such authority for good cause shown. Such authority shall be granted for one year and may be continued for successive one-year periods for good cause shown.~~

~~F. Any newspaper authorized by this section to publish ordinances, resolutions, notices, or advertisements shall (i) print such ordinances, resolutions, notices, or advertisements together under an identifying heading and such heading shall be in boldface letters no smaller than 24-point type and (ii) maintain at least three years' worth of print archives of such newspaper containing any such ordinance, resolution, notice, or advertisement and make such archives available to the public for inspection upon request.~~

~~G. In all cases in which an ordinance, resolution, notice, or advertisement is required to be published in a newspaper of general circulation, the newspaper shall (i) post the complete notice on the newspaper's website, if a website is published by such newspaper, where it shall be posted contemporaneously with the notice's first print publication and shall remain on the website for at least as long as the notice appears in such newspaper; (ii) include on its website homepage a link to its public notice section; and (iii) post the complete notice on a searchable, statewide repository website, established and maintained as a joint venture of the majority of Virginia newspapers as a repository for such notices, where it shall remain on such repository website for at least as long as it appears in the newspaper. Any notice published on a website pursuant to this section shall be accessible to the public at no charge.~~

~~H. An error in a notice placed on a newspaper website or statewide website, or temporary website outages or service interruptions prohibiting the posting or display of such notice, shall be considered harmless error, and proper legal notice requirements shall be considered met if the notice published in the newspaper otherwise complies with the requirements for publication.~~

## CHAPTER 636

*An Act to amend and reenact §§ 13.1-1002, 13.1-1004, 13.1-1005, 13.1-1012, 13.1-1051, 13.1-1061, 13.1-1062, 13.1-1064, 13.1-1065, and 13.1-1067 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 13.1 an article numbered 16, consisting of sections numbered 13.1-1088 through 13.1-1099.27, relating to limited liability companies; protected series; establishment of protected series by a limited liability company; limits on the liability of assets of a protected series.*

[H 2272]

Approved March 19, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-1002, 13.1-1004, 13.1-1005, 13.1-1012, 13.1-1051, 13.1-1061, 13.1-1062, 13.1-1064, 13.1-1065, and 13.1-1067 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 13.1 an article numbered 16, consisting of sections numbered 13.1-1088 through 13.1-1099.27, as follows:

**§ 13.1-1002. Definitions.**

As used in this chapter:

"Articles of organization" means all documents constituting, at any particular time, the articles of organization of a limited liability company. The articles of organization include the original articles of organization, the original certificate of organization issued by the Commission, and all amendments to the articles of organization. When the articles of organization have been restated pursuant to any articles of restatement, amendment, domestication, or merger, the articles of organization include only the restated articles of organization without the articles of restatement, amendment, domestication, or merger.

"Assignee" means a person to which all or part of a membership interest has been transferred, whether or not the transferor is a member.

"Bankruptcy" means, with respect to any person, being the subject of an order for relief under Title 11 of the United States Code.

"Commission" means the State Corporation Commission of Virginia.

"Contribution" means any cash, property or services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a member contributes to a limited liability company in his capacity as a member.

"Distribution" means a direct or indirect transfer of money or other property, or incurrence of indebtedness by a limited liability company, to or for the benefit of its members in respect of their interests.

"Domestic business trust" has the same meaning as specified in § 13.1-1201.

"Domestic corporation" has the same meaning as specified in § 13.1-603.

"Domestic limited partnership" has the same meaning as specified in § 50-73.1.

"Domestic nonstock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-803.

"Domestic other business entity" means a partnership, limited partnership, business trust, stock corporation, or nonstock corporation that is formed, organized, or incorporated under the laws of the Commonwealth.

"Domestic partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under § 50-73.88, or predecessor law of the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a registered limited liability partnership.

"Domestic stock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-603.

"Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by the recipient through an automated process. Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) shall have the meaning set forth in that section.

"Eligible interests" means, as to a partnership, partnership interest as specified in § 50-73.79; as to a limited partnership, partnership interest as specified in § 50-73.1; as to a business trust, the beneficial interest of a beneficial owner as specified in § 13.1-1226; as to a stock corporation, shares as specified in § 13.1-603; or, as to a nonstock corporation, membership interest as specified in § 13.1-803.

"Foreign business trust" has the same meaning as specified in § 13.1-1201.

"Foreign corporation" has the same meaning as specified in § 13.1-603.

"Foreign limited liability company" means an entity, excluding a foreign business trust, that is an unincorporated organization that is organized under laws other than the laws of the Commonwealth and that is denominated by that law as a limited liability company, and that affords to each of its members, pursuant to the laws under which it is organized, limited liability with respect to the liabilities of the entity.

"Foreign limited partnership" has the same meaning as specified in § 50-73.1.

"Foreign nonstock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-803.

"Foreign other business entity" means a partnership, limited partnership, business trust, stock corporation, or nonstock corporation that is formed, organized, or incorporated under the laws of a state or jurisdiction other than the Commonwealth.

"Foreign partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under the laws of any state or jurisdiction other than the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a foreign registered limited liability partnership.

"Foreign protected series" means a protected series established by a foreign series limited liability company and having attributes comparable to a protected series established under Article 16 (§ 13.1-1088 et seq.). The term applies whether or not the law under which the foreign series limited liability company is organized refers to "protected series" or "series."

"Foreign registered limited liability partnership" has the same meanings as specified in §§ 50-2 and 50-73.79.

*"Foreign series limited liability company" means a foreign limited liability company having at least one foreign protected series.*

"Foreign stock corporation" has the same meaning as "foreign corporation" as specified in § 13.1-603.

*"Jurisdiction," when used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.*

*"Jurisdiction of formation" means the jurisdiction whose law governs the internal affairs of a person.*

"Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated organization organized and existing under this chapter, or that has become a domestic limited liability company of the Commonwealth pursuant to § 13.1-1010.3 as it existed prior to its repeal, even though also being a non-United States entity organized under laws other than the laws of the Commonwealth, or that has become a domestic limited liability company of the Commonwealth pursuant to § 56-1, even though also being a non-United States entity organized under laws other than the laws of the Commonwealth, or that has become a domestic limited liability company of the Commonwealth pursuant to § 13.1-1010.1 as it existed prior to its repeal, or that has become a domestic limited liability company of the Commonwealth pursuant to Article 12.2 (§ 13.1-722.8 et seq.) of Chapter 9, Article 17.1 (§ 13.1-944.1 et seq.) of Chapter 10, Article 14 (§ 13.1-1074 et seq.) or Article 15 (§ 13.1-1081 et seq.) of this chapter, or Article 12 (§ 13.1-1264 et seq.) of Chapter 14. A limited liability company's status for federal tax purposes shall not affect its status as a distinct entity organized and existing under this chapter.

"Manager" or "managers" means a person or persons designated by the members of a limited liability company to manage the limited liability company as provided in the articles of organization or an operating agreement.

"Manager-managed limited liability company" means a limited liability company that is managed by a manager or managers as provided for in its articles of organization or an operating agreement.

"Member" means a person that has been admitted to membership in a limited liability company as provided in § 13.1-1038.1 and that has not ceased to be a member.

"Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

"Membership interest" or "interest" means a member's share of the profits and the losses of the limited liability company and the right to receive distributions of the limited liability company's assets.

"Non-United States entity" means a foreign limited liability company (other than one formed under the laws of a state), or a corporation, business trust or association, real estate investment trust, common-law trust, or any other unincorporated business, including a partnership, formed, incorporated, organized, created or that otherwise came into being under the laws of any foreign country or other foreign jurisdiction (other than any state).

"Operating agreement" means an agreement of the members as to the affairs of a limited liability company and the conduct of its business, or a writing or agreement of a limited liability company with one member that satisfies the requirements of subdivision A 2 of § 13.1-1023.

"Person" has the same meaning as specified in § 13.1-603. *"Person" includes a protected series.*

"Principal office" means the office, in or out of the Commonwealth, where the principal executive offices of a domestic or foreign limited liability company are located or, if there are no such offices, the office, in or out of the Commonwealth, so designated by the limited liability company. The designation of the principal office in the most recent statement of change filed pursuant to § 13.1-1018.1 shall be conclusive for the purpose of this chapter.

*"Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.*

*"Protected series," except in the term "foreign protected series," means a person established under § 13.1-1095.*

*"Record," when used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

*"Series limited liability company," except in the term "foreign series limited liability company," means a limited liability company having at least one protected series.*

*"Sign" means, with present intent to authenticate or adopt a record, to execute or adopt a tangible symbol or to attach to or logically associate with the record an electronic symbol, sound, or process.*

"State," when referring to a part of the United States, includes a state, commonwealth and the District of Columbia, and their agencies and governmental subdivisions; and a territory or insular possession, and their agencies and governmental subdivisions, of the United States.

*"Transfer" includes an assignment, a conveyance, a sale, a lease, an encumbrance including a mortgage or security interest, a gift, and a transfer by operation of law.*

"United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

#### **§ 13.1-1004. Issuance of certificate by Commission; recordation of documents.**

A. Whenever this chapter conditions the effectiveness of a document upon the issuance of a certificate by the Commission to evidence the effectiveness of the document, the Commission shall by order issue the certificate if it finds that the document complies with the provisions of this chapter and that all required fees have been paid. The Commission shall admit any such certificate to record in its office.

B. The existence of a limited liability company *or a protected series* shall begin at the time the Commission issues a certificate of organization *or certificate of protected series designation* unless a later date and time are specified as provided by subsection D ~~of this section~~. The certificate of organization shall be conclusive evidence that all conditions precedent required to be performed by the person(s) forming the limited liability company have been complied with and that the limited liability company has been formed under this chapter.

C. Whenever the Commission is directed to admit any document to record in its office, it shall cause it to be spread upon its record books or to be recorded or reproduced in any other manner the Commission may deem suitable. Except as otherwise provided by law, the Commission may furnish information from and provide access to any of its records by any means the Commission may deem suitable.

D. 1. A certificate issued by the Commission is effective at the time such certificate is issued, unless the certificate relates to articles filed with the Commission *or a statement filed with the Commission pursuant to Article 16 (§ 13.1-1088 et seq.)* and the articles ~~state or statement states~~ that the certificate shall become effective at a later time and date specified in the articles *or statement*. In that event, the certificate shall become effective at the earlier of the time and date so specified or 11:59 p.m. on the fifteenth day after the date on which the certificate is issued by the Commission. Any other document filed with the Commission shall be effective when accepted for filing unless otherwise provided for in this chapter.

2. Notwithstanding subdivision 1 ~~of this subsection~~, any certificate that has a delayed effective time and date shall not become effective if, prior to the effective time and date, the parties to the articles *or statement* to which the certificate relates file a request for cancellation with the Commission, and the Commission, by order, cancels the certificate.

3. Notwithstanding subdivision 1 ~~of this subsection~~, for purposes of §§ 13.1-1012 ~~and~~, 13.1-1054, *and 13.1-1096*, any certificate that has a delayed effective date shall be deemed to be effective when the certificate is issued.

E. Notwithstanding any other provision of law to the contrary, the Commission shall have the power to act upon a petition filed by a limited liability company *or protected series* at any time to correct Commission records so as to eliminate the effects of clerical errors and of filings made by a person without authority to act for the limited liability company.

#### § 13.1-1005. Fees.

The Commission shall charge and collect the following fees:

1. For filing any one of the following, the fee shall be \$100:
  - a. Articles of organization.
  - b. An application for registration as a foreign limited liability company.
  - c. Articles of entity conversion to convert ~~a domestic corporation to~~ a limited liability company *to a domestic business trust or to convert a domestic partnership or limited partnership to a limited liability company*.
  - d. Articles of domestication.
  - e. A statement of protected series designation.
  - f. An application for registration as a foreign protected series.
2. For filing any one of the following, the fee shall be \$25:
  - a. Articles of amendment.
  - b. Articles of cancellation.
  - c. Articles of correction referred to in § 13.1-1011.1, a copy of an amendment or correction referred to in § 13.1-1055, or an amended application for registration referred to in § 13.1-1055, provided that an amended application shall not require a separate fee when it is filed with a copy of an amendment or a correction referred to in § 13.1-1055.
  - d. A copy of an instrument of merger of a foreign limited liability company referred to in § 13.1-1060.
  - e. Articles of merger.
  - f. *Articles of entity conversion to convert a limited liability company to a domestic corporation, in addition to a charter fee ascertained in accordance with § 13.1-615.1.*
  - g. A copy of an instrument of entity conversion of a foreign limited liability company holding a certificate of registration to transact business in the Commonwealth.
  - ~~g.~~ h. Articles of restatement.
  - ~~h.~~ i. Articles of organization surrender.
  - ~~i.~~ j. An application for a certificate of cancellation ~~of~~ *to cancel a certificate of registration as a foreign limited liability company*.
  - k. *A statement of designation change pursuant to § 13.1-1095 or 13.1-1096.*
  - l. *A statement of designation cancellation.*
  - m. *An application for a certificate of cancellation to cancel a certificate of registration as a foreign protected series.*
3. For filing any one of the following, the fee shall be \$10:
  - a. An application to reserve or to renew the reservation of a name for use by a domestic or foreign limited liability company *or any protected series thereof*.
  - b. A notice of the transfer of a name reserved for use by a domestic or a foreign limited liability company *or any protected series thereof*.
4. For issuing a certificate pursuant to § 13.1-1067 *or 13.1-1099*, \$6 for each certificate.

#### § 13.1-1012. Name.

A. A limited liability company name shall contain the words "limited company" or "limited liability company" or their abbreviations "L.C.," "LC," "L.L.C.," or "LLC."

B. A limited liability company name shall not contain:

1. Any word, abbreviation, or combination of characters that states or implies the limited liability company is a corporation ~~or~~ a limited partnership, *or a protected series of a series limited liability company*; or
2. Any word or phrase the use of which is prohibited by law for such company.

C. Except as authorized by subsection D, a limited liability company name shall be distinguishable upon the records of the Commission from:

1. The name of a domestic limited liability company or a foreign limited liability company registered to transact business in the Commonwealth;
2. A limited liability company name reserved under § 13.1-1013;
3. The designated name adopted by a foreign limited liability company because its real name is unavailable for use in the Commonwealth;
4. The name of any corporation, whether issuing shares or not issuing shares, existing under the laws of the Commonwealth or authorized to transact business in the Commonwealth;
5. A corporate name reserved or registered under § 13.1-631, 13.1-632, 13.1-830 or 13.1-831;
6. The designated name adopted by a foreign corporation, whether issuing shares or not issuing shares, because its real name is unavailable for use in the Commonwealth;
7. The name of a domestic business trust or a foreign business trust registered to transact business in the Commonwealth;
8. A business trust name reserved under § 13.1-1215;
9. The designated name adopted by a foreign business trust because its real name is unavailable for use in the Commonwealth;
10. The name of a domestic limited partnership or a foreign limited partnership registered to transact business in the Commonwealth;
11. A limited partnership name reserved under § 50-73.3; and
12. The designated name adopted by a foreign limited partnership because its real name is unavailable for use in the Commonwealth.

D. A domestic limited liability company may apply to the Commission for authorization to use a name that is not distinguishable upon its records from one or more of the names described in subsection C. The Commission shall authorize use of the name applied for if the other entity consents to the use in writing and submits an undertaking in form satisfactory to the Commission to change its name to a name that is distinguishable upon the records of the Commission from the name of the applying limited liability company.

E. The use of assumed names or fictitious names, as provided for in Chapter 5 (§ 59.1-69 et seq.) of Title 59.1, is not affected by this chapter.

F. The Commission, in determining whether a limited liability company name is distinguishable upon its records from the name of any of the business entities listed in subsection C, shall not consider any word, phrase, abbreviation, or designation required or permitted under this section and § 13.1-544.1, subsection A of § 13.1-630, § 13.1-1104, subsection A of § 50-73.2, and subdivision A 2 of § 50-73.78 to be contained in the name of a business entity formed or organized under the laws of the Commonwealth or authorized or registered to transact business in the Commonwealth.

**§ 13.1-1051. Authority to transact business required; governing law.**

A. A foreign limited liability company may not transact business in the Commonwealth until it obtains a certificate of registration from the Commission.

B. Subject to the Constitution of the Commonwealth:

1. ~~The~~ *Except as provided in §§ 13.1-1099.8 and 13.1-1099.10, the laws of the state or other jurisdiction under which a foreign limited liability company is formed govern its formation and internal affairs and the liability of its members and managers; and*
2. A foreign limited liability company may not be denied a certificate of registration by reason of any difference between those laws and the laws of the Commonwealth.

However, a foreign limited liability company holding a valid certificate of registration to transact business in the Commonwealth shall have no greater rights and privileges than a domestic limited liability company. The certificate of registration shall not be deemed to authorize the foreign limited liability company to exercise any of its powers or purposes that a domestic limited liability company is forbidden by law to exercise in the Commonwealth.

**§ 13.1-1061. Annual registration fees to be assessed and collected by Commission; application of payment.**

The Commission shall assess and collect the annual registration fees imposed by this chapter. When the Commission receives payment of a registration fee assessed against a domestic or foreign limited liability company, *or any protected series thereof*, such payment shall be applied against any unpaid registration fees previously assessed against such limited liability company *or protected series*, including any penalties incurred thereon, beginning with the assessment that has remained unpaid for the longest period of time.

**§ 13.1-1062. Assessment of annual registration fees; annual registration fees to be paid by domestic and foreign limited liability companies.**

A. Each domestic limited liability company ~~and~~, *each protected series*, each foreign limited liability company registered to transact business in the Commonwealth, *and each foreign protected series registered to transact business in*

*the Commonwealth* shall pay into the state treasury on or before the last day of the twelfth month next succeeding the month in which it was organized, *established*, or registered to transact business in the Commonwealth, and by such date in each year thereafter, an annual registration fee of \$50, provided that the initial annual registration fee to be paid by a domestic limited liability company created by entity conversion shall be due in the year after the calendar year in which it converted.

The annual registration fee shall be imposed irrespective of any specific license tax or other tax or fee imposed by law upon the *domestic or foreign* limited liability company or *any protected series thereof* for the privilege of carrying on its business in the Commonwealth or upon its franchise, property or receipts.

B. Each year, the Commission shall ascertain from its records each domestic limited liability company ~~and~~, *each protected series*, each foreign limited liability company registered to transact business in the Commonwealth, *and each foreign protected series registered to transact business in the Commonwealth*, as of the first day of the second month next preceding the month in which it was organized, *established*, or registered to transact business in the Commonwealth, and, except as provided in subsection A, shall assess against each such limited liability company *and each such protected series* the annual registration fee herein imposed.

C. At the discretion of the Commission, the annual registration fee due date for a limited liability company may be extended, on a monthly basis for a period of not less than one month nor more than 11 months, at the request of its registered agent of record or as may be necessary to distribute annual registration fee due dates of limited liability companies as equally as practicable throughout the year on a monthly basis.

D. A statement of the assessment, when made, shall be forwarded by the clerk of the Commission to the Comptroller and to each domestic and foreign limited liability company *and each protected series thereof*.

E. Any domestic limited liability company that has ceased to exist in the Commonwealth because of the issuance of a certificate of cancellation of existence, certificate of organization surrender, or certificate of entity conversion, ~~or any protected series that has been canceled~~, any foreign limited liability company that has obtained a certificate of cancellation, *or any foreign protected series that has obtained a certificate of cancellation*, effective on or before its annual registration fee due date pursuant to subsection A in any year, shall not be required to pay the annual registration fee for that year. Any domestic or foreign limited liability company that has merged, effective on or before its annual registration fee due date pursuant to subsection A in any year, into a surviving domestic or foreign corporation, limited liability company, business trust, limited partnership, or partnership that files with the Commission an authenticated copy of the instrument of merger on or before such date, shall not be required to pay the annual registration fee for that year. Any foreign limited liability company that has converted, effective on or before its annual registration fee due date pursuant to subsection A in any year, to a different entity type that files with the Commission an authenticated copy of the instrument of entity conversion on or before such date, shall not be required to pay the annual registration fee for that year. The Commission shall cancel the annual registration fee assessments specified in this subsection that remain unpaid.

F. Registration fee assessments that have been paid shall not be refunded.

G. The fees paid into the state treasury under this section and the fees collected under § 13.1-1005 shall be set aside and paid into the special fund created under § 13.1-775.1, and shall be used only by the Commission as it deems necessary to defray the costs of the Commission and of the office of the clerk of the Commission in supervising, implementing, administering and enforcing the provisions of this chapter. The projected excess of fees collected over the costs of administration and enforcement so incurred shall be paid into the general fund prior to the close of each fiscal year, based on the unexpended balance of the special fund at the end of the prior fiscal year. An adjustment of this transfer amount to reflect actual fees collected shall occur during the first quarter of the succeeding fiscal year.

#### **§ 13.1-1064. Penalty for failure to timely pay annual registration fees.**

A. Any domestic or foreign limited liability company, *or any protected series thereof*, that fails to pay the annual registration fee into the state treasury within the time prescribed in § 13.1-1062 shall incur a penalty of \$25, which shall be added to the amount of the annual registration fee due. The penalty prescribed herein shall be in addition to any other penalty or liability imposed by law.

B. The Commission shall mail to each domestic and foreign limited liability company that fails to pay the annual registration fee within the time prescribed in § 13.1-1062 a notice of assessment of the penalty imposed herein and of the impending cancellation of its existence or certificate of registration, as the case may be.

C. *The Commission shall mail to each protected series and each foreign protected series that fails to pay the annual registration fee within the time prescribed in § 13.1-1062 a notice of assessment of the penalty imposed herein and of its impending cancellation or the impending cancellation of its certificate of registration, as the case may be.*

#### **§ 13.1-1065. Payment of fees, fines, penalties, and interest prerequisite to Commission action; refunds.**

A. The Commission shall not file or issue with respect to any domestic or foreign limited liability company any document or certificate specified in this chapter, except a statement of change pursuant to § 13.1-1016, a statement of resignation pursuant to § 13.1-1017, and a statement of change pursuant to § 13.1-1018.1, until all fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such limited liability company. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign limited liability company that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the limited liability company's annual registration fee payment in any year, provided that the Commission shall not issue a

certificate of domestication with respect to a foreign limited liability company until the annual registration fee has been paid by or on behalf of that limited liability company.

B. *The Commission shall not file or issue with respect to any protected series or foreign protected series any document or certificate specified in this chapter until all fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such protected series. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a protected series or foreign protected series that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the protected series' annual registration fee payment in any year.*

C. The Commission shall have authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment.

### **§ 13.1-1067. Property title records.**

A. Whenever the records in the office of the clerk of the Commission reflect that a domestic or foreign limited liability company, or any protected series thereof, has changed or corrected its name, merged into a domestic or foreign limited liability company, corporation, business trust, limited partnership or partnership, converted ~~into~~ to or from a domestic or foreign corporation, business trust, limited partnership or partnership, or domesticated in or from another jurisdiction, the clerk of the Commission, upon request, shall issue a certificate reciting such change, correction, merger, conversion or domestication. The certificate may be admitted to record in the deed books, in accordance with § 17.1-227, of any court's office within the jurisdiction of which any property of the limited liability company is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

B. Whenever a foreign limited liability company or foreign protected series has changed or corrected its name, merged into another business entity, converted into another type of business entity, or domesticated in another jurisdiction, and it cannot or chooses not to obtain a certificate reciting such change, correction, merger, conversion or domestication from the clerk of the Commission pursuant to subsection A, a similar certificate by any competent authority of the foreign limited liability company's or foreign protected series' jurisdiction of organization formation may be admitted to record in the deed books, in accordance with § 17.1-227, of any recording office within the jurisdiction of which any property of the limited liability company is located in order to maintain the continuity of title records. The person filing the certificate shall pay a fee of \$10 to the clerk of the court, but no tax shall be due thereon.

#### *Article 16.*

#### *Protected Series.*

### **§ 13.1-1088. Definitions.**

*As used in this article, unless the context requires a different meaning:*

*"After a merger" or "after the merger" means when a merger under § 13.1-1099.16 becomes effective and afterwards.*

*"Asset" means property:*

*1. In which a series limited liability company or protected series has rights; or*

*2. As to which the series limited liability company or protected series has the power to transfer rights.*

*"Associated asset" means an asset that meets the requirements stated in § 13.1-1099.2.*

*"Associated member" means, with respect to a protected series, a member that meets the requirements stated in § 13.1-1099.3.*

*"Before a merger" or "before the merger" means before a merger under § 13.1-1099.16 becomes effective.*

*"Continuing protected series" means a protected series of a surviving company that continues in uninterrupted existence after a merger under § 13.1-1099.16.*

*"Merging company" means a limited liability company that is party to a merger under § 13.1-1099.16.*

*"Non-associated asset" means:*

*1. An asset of a series limited liability company that is not an associated asset of the series limited liability company; or*

*2. Any asset of a protected series of the series limited liability company that is not an associated asset of the protected series.*

*"Non-surviving company" means a merging company whose separate existence ceases after a merger under § 13.1-1099.16.*

*"Principal office of the protected series" means the office, in or out of the Commonwealth, where the principal executive offices of a protected series of a domestic or foreign series limited liability company are located or, if there are no such offices, the office, in or out of the Commonwealth, so designated by the protected series. The designation of the principal office of a protected series in the most recent statement of change filed pursuant to § 13.1-1018.1 and subsection G of § 13.1-1095 shall be conclusive for the purpose of this chapter.*

*"Protected series assignee" means a person to which all or part of a protected series membership interest of a protected series of a series limited liability company has been transferred, other than the series limited liability company. "Protected series assignee" includes a person that owns a protected series membership interest as a result of ceasing to be an associated member of a protected series.*

*"Protected series manager" means a person under whose authority the powers of a protected series are exercised and under whose direction the activities and affairs of the protected series are managed pursuant to the operating agreement, this article, and other provisions of this chapter.*

"Protected series membership interest" means the share of the profits and losses of a protected series and the right to receive distributions.

"Relocated protected series" means a protected series of a non-surviving company which, after a merger under § 13.1-1099.16, continues in uninterrupted existence as a protected series of the surviving company.

"Surviving company" means a merging company that is the survivor of a merger under § 13.1-1099.16.

"Survivor" has the same meaning as specified in § 13.1-1069.1.

**§ 13.1-1089. Nature of protected series.**

A protected series of a series limited liability company is a person distinct from:

1. The series limited liability company, subject to subsection C of § 13.1-1090, subdivision 1 of § 13.1-1099.11, and § 13.1-1099.12;

2. Another protected series of the series limited liability company;

3. A member of the series limited liability company, whether or not the member is an associated member of the protected series;

4. A protected series assignee of any protected series of the series limited liability company; and

5. An assignee of a membership interest of the series limited liability company.

**§ 13.1-1090. Powers and duration of protected series.**

A. A protected series of a series limited liability company has the capacity to sue and be sued in its own name.

B. Except as otherwise provided in subsections C and D, a protected series of a series limited liability company has the same powers and purpose as the series limited liability company.

C. A protected series of a series limited liability company ceases to exist not later than when the series limited liability company ceases to exist.

D. A protected series of a series limited liability company shall not:

1. Be a member of the series limited liability company;

2. Establish a protected series; or

3. Except as permitted by a law of the Commonwealth other than this article, have any purpose or power that the law of the Commonwealth other than this article prohibits a limited liability company from doing or having.

**§ 13.1-1091. Governing law.**

The law of the Commonwealth governs:

1. The internal affairs of a protected series of a series limited liability company, including:

a. Relations among any associated members of the protected series;

b. Relations among the protected series and (i) any associated member, (ii) the protected series manager, or (iii) any protected series assignee;

c. Relations between any associated member and (i) the protected series manager or (ii) any protected series assignee;

d. The rights and duties of a protected series manager;

e. Governance decisions affecting the activities and affairs of the protected series and the conduct of those activities and affairs; and

f. Procedures and conditions for becoming an associated member or protected series assignee;

2. The relations between a protected series of a series limited liability company and each of the following:

a. The series limited liability company;

b. Another protected series of the series limited liability company;

c. A member of the series limited liability company that is not an associated member of the protected series;

d. A protected series manager that is not a protected series manager of the protected series; and

e. A protected series assignee that is not a protected series assignee of the protected series;

3. The liability of a person for a debt, obligation, or other liability of a protected series of a series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as:

a. An associated member, protected series assignee, or protected series manager of the protected series;

b. A member of the series limited liability company that is not an associated member of the protected series;

c. A protected series manager that is not a protected series manager of the protected series;

d. A protected series assignee that is not a protected series assignee of the protected series;

e. A manager of the series limited liability company; or

f. An assignee of a membership interest of the series limited liability company;

4. The liability of a series limited liability company for a debt, obligation, or other liability of a protected series of the series limited liability company if the debt, obligation, or liability is asserted solely by reason of the series limited liability company:

a. Having a statement of protected series designation or a statement of designation change filed with the Commission;

b. Being or acting as a protected series manager of the protected series;

c. Having the protected series be or act as a manager of the series limited liability company; or

d. Owning a protected series assignable interest of the protected series; and

5. The liability of a protected series of a series limited liability company for a debt, obligation, or other liability of the series limited liability company or of another protected series of the series limited liability company if the debt, obligation, or liability is asserted solely by reason of:

a. *The protected series:*

(1) *Being a protected series of the series limited liability company or having as a protected series manager the series limited liability company or another protected series of the series limited liability company; or*

(2) *Being or acting as a protected series manager of another protected series of the series limited liability company or a manager of the series limited liability company; or*

b. *The company owning a protected series membership interest of the protected series.*

**§ 13.1-1092. Relation of operating agreement, this article, and the other articles of this chapter.**

A. *Except as otherwise provided in this section and subject to §§ 13.1-1093 and 13.1-1094, the operating agreement of a series limited liability company governs:*

1. *The internal affairs of a protected series, including:*

a. *Relations among any associated members of the protected series;*

b. *Relations among the protected series and (i) any associated member of the protected series, (ii) any protected series manager, and (iii) any protected series assignee;*

c. *Relations between any associated member and (i) any protected series manager or (ii) any protected series assignee;*

d. *The rights and duties of a protected series manager;*

e. *Governance decisions affecting the activities and affairs of the protected series and the conduct of those activities and affairs; and*

f. *Procedures and conditions for becoming an associated member or protected series assignee;*

2. *The relations among the protected series of a series limited liability company, the series limited liability company, and any other protected series of the series limited liability company; and*

3. *Relations between:*

a. *The protected series, its protected series manager, any associated member of the protected series, or any protected series assignee of the protected series; and*

b. *A person in the person's capacity as:*

(1) *A member of the series limited liability company who is not an associated member of the protected series;*

(2) *A protected series assignee or protected series manager of another protected series; or*

(3) *An assignee of the series limited liability company.*

B. *If the provisions of this chapter other than in this article restrict the power of an operating agreement to affect a matter, the restriction applies to a matter under this article according to the rules stated in § 13.1-1094.*

C. *If the law of the Commonwealth other than this article contains a prohibition, limitation, requirement, condition, or other constraint pertaining to a limited liability company, a member, a manager, or other agent of the limited liability company, or an assignee of the limited liability company, except as otherwise provided in the law of the Commonwealth other than this article, the restriction applies according to the rules stated in § 13.1-1094.*

D. *Except as otherwise provided in § 13.1-1093, if the operating agreement of a series limited liability company does not provide for a matter described in subsection A in a manner permitted by this article, the matter is determined in accordance with the following rules:*

1. *To the extent that this article addresses the matter, this article governs; and*

2. *To the extent that this article does not address the matter, the provisions of this chapter other than in this article govern the matter according to the rules stated in § 13.1-1094.*

**§ 13.1-1093. Additional limitations on operating agreement.**

A. *An operating agreement shall not vary the effect of:*

1. *This section;*

2. *Section 13.1-1089;*

3. *Subsection A of § 13.1-1090;*

4. *Subsection B of § 13.1-1090 to provide a protected series a power in addition to the powers provided to a limited liability company under the other articles of this chapter;*

5. *The limitations stated in subsection C or D of § 13.1-1090;*

6. *Section 13.1-1091;*

7. *Section 13.1-1092;*

8. *Section 13.1-1094;*

9. *Section 13.1-1095, except to vary the manner in which a limited liability company approves establishing a protected series;*

10. *Section 13.1-1096;*

11. *Section 13.1-1099.2;*

12. *Section 13.1-1099.3;*

13. *Subsection A or B of § 13.1-1099.4;*

14. *Subsection C, F, or G of § 13.1-1099.5;*

15. *Section 13.1-1099.7, except to decrease or eliminate a limitation of liability stated in § 13.1-1099.7;*

16. *Section 13.1-1099.8;*

17. *Section 13.1-1099.9;*

18. *Section 13.1-1099.10;*

19. Subdivisions 1, 4, and 5 of § 13.1-1099.11;
20. Section 13.1-1099.12, except to designate a different person to manage winding up;
21. Section 13.1-1099.13;
22. Sections 13.1-1099.14 through 13.1-1099.20;
23. Sections 13.1-1099.21, 13.1-1099.22, and 13.1-1099.23;
24. Sections 13.1-1099.25 and 13.1-1099.26; or
25. A provision of this article pertaining to:

a. A registered office or registered agent; or  
 b. The Commission, including provisions pertaining to records authorized or required to be delivered to the Commission for filing under this article or chapter.

B. An operating agreement shall not unreasonably restrict the duties and rights under § 13.1-1099.6 but may impose reasonable restrictions on the availability and use of information obtained under § 13.1-1099.6 and may provide appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use.

**§ 13.1-1094. Rules for applying other articles of this chapter to specified provisions of this article.**

A. Except as otherwise provided in subsection B and § 13.1-1093, the following rules apply in applying § 13.1-1092, subsections C and F of § 13.1-1099.5, subdivision 4a of § 13.1-1099.11, subsection A of § 13.1-1099.12, and subdivision 2 of § 13.1-1099.13:

1. A protected series of a series limited liability company is deemed to be a limited liability company that is organized separately from the series limited liability company and distinct from the series limited liability company and any other protected series of the series limited liability company;

2. An associated member of the protected series is deemed to be a member of the series limited liability company;

3. A protected series assignee of the protected series is deemed to be an assignee of the series limited liability company;

4. A protected series membership interest of the protected series is deemed to be a membership interest of the series limited liability company;

5. A protected series manager is deemed to be a manager of the series limited liability company;

6. An asset of the protected series is deemed to be an asset of the series limited liability company, whether or not the asset is an associated asset of the protected series; and

7. Any creditor or other obligee of the protected series is deemed to be a creditor or obligee of the series limited liability company.

B. Subsection A does not apply if its application would:

1. Vary § 13.1-1023, subsection B or C of § 13.1-1092, or § 13.1-1093; or

2. Require the Commission to:

a. Accept for filing a type of record that this chapter expressly does not authorize or require a person to deliver to the Commission for filing; or

b. Make or deliver a record that neither this article nor any other provision of this chapter authorizes or requires the Commission to make or deliver.

**§ 13.1-1095. Protected series designation; amendment.**

A. A limited liability company may establish a protected series. A proposal to establish a protected series shall be approved by the affirmative vote or consent of all members.

B. To establish a protected series, a limited liability company shall deliver to the Commission for filing a statement of protected series designation setting forth:

1. The name of the limited liability company;

2. The name of the protected series being established;

3. The post office address of the principal office of the protected series; and

4. A statement that the establishment of the protected series was approved by the affirmative vote or consent of all members of the limited liability company.

C. If the Commission finds that the statement of protected series designation complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of protected series designation.

D. A series limited liability company may amend a statement of a protected series designation that has not been canceled. For an amendment to a statement of protected series designation to be adopted, the amendment shall be approved by the affirmative vote or consent of all members.

E. To amend a statement of protected series designation, a series limited liability company shall deliver to the Commission for filing a statement of designation change setting forth:

1. The name of the series limited liability company;

2. The name of the protected series to which the designation change applies;

3. The text of each change to the statement of protected series designation; and

4. A statement that the amendment was approved by the affirmative vote or consent of all members of the series limited liability company.

F. If the Commission finds that the statement of protected series designation change complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of designation change.

G. Notwithstanding subsection D, a series limited liability company may change the address of the principal office of a protected series of the series limited liability company on the records of the Commission by filing a statement of change pursuant to § 13.1-1018.1, except that the statement of change shall also set forth the name of the protected series and, in lieu of the address of the current and new principal office of the series limited liability company, the address of the current and new principal office of the protected series.

**§ 13.1-1096. Name.**

A. Except as otherwise provided in subsection B, the name of a protected series shall comply with the provisions of § 13.1-1012.

B. The name of a protected series of a series limited liability company shall:

1. Begin with the name of the series limited liability company, including any word or abbreviation required by subsection A of § 13.1-1012 to designate that the series limited liability company is a limited liability company; and

2. Contain the phrase "protected series" or the abbreviation "P.S." or "PS."

C. If a series limited liability company changes its name, the series limited liability company shall deliver to the Commission for filing a statement of designation change for each protected series of the series limited liability company pursuant to subsection D of § 13.1-1095.

**§ 13.1-1097. Registered office and registered agent.**

A. The registered office and registered agent in the Commonwealth for a series limited liability company are the registered office and registered agent in the Commonwealth for each protected series of the series limited liability company.

B. A person that ceases to be the registered agent for a series limited liability company ceases to be the registered agent for each protected series of the series limited liability company.

C. A person that ceases to be the registered agent for a protected series of a series limited liability company, other than a protected series that has been canceled, ceases to be the registered agent of the series limited liability company and of any other protected series of the series limited liability company.

D. Except as otherwise agreed by a series limited liability company and its registered agent, the agent is not obligated to distinguish between a process, notice, demand, or other record concerning the series limited liability company and a process, notice, demand, or other record concerning a protected series of the series limited liability company.

**§ 13.1-1098. Service of process, notice, or demand.**

A. A protected series of a series limited liability company may be served with any process, notice, or demand required or permitted by law by:

1. Serving the series limited liability company that established the protected series;
2. Serving the registered agent of the protected series; or
3. Other means authorized by any law of the Commonwealth other than as specified in this article.

B. Service of process, notice, or demand on a series limited liability company is notice to each protected series of the series limited liability company of service of the process, notice, or demand and the contents thereof.

C. Service of process, notice, or demand on a protected series of a series limited liability company is notice to the series limited liability company and any other protected series of the series limited liability company of service of the process, notice, or demand and the contents thereof.

D. Service of process, notice, or demand on a foreign series limited liability company is notice to each foreign protected series of the foreign series limited liability company of the process, notice, or demand and the contents thereof.

E. Service of a process, notice, or demand on a foreign protected series of a foreign series limited liability company is notice to the foreign series limited liability company and any other foreign protected series of the foreign series limited liability company of service of the process, notice, or demand and the contents thereof.

**§ 13.1-1099. Effectiveness of notice.**

Notice to a person under subsection B, C, D, or E of § 13.1-1098 is effective against the person whether or not the process, notice, or demand identifies the person if the process, notice, or demand identifies the person so long as the process, notice, or demand names as a party and identifies:

1. The series limited liability company or a protected series of the series limited liability company; or
2. The foreign series limited liability company or a foreign protected series of the foreign series limited liability company.

**§ 13.1-1099.1. Annual registration fees.**

The Commission shall assess and collect from each protected series and each foreign protected series whose existence or registration to transact business in Virginia has not been canceled an annual registration fee in accordance with Article 11 (§ 13.1-1061 et seq.). The provisions of §§ 13.1-1050.2, 13.1-1056.1, and 13.1-1066 shall apply to each protected series and each foreign protected series, as the case may be.

**§ 13.1-1099.2. Associated assets.**

A. Only an asset of a protected series may be an associated asset of the protected series. Only an asset of a series limited liability company may be an associated asset of the series limited liability company.

B. An asset of a protected series is an associated asset of the protected series only if the protected series creates and maintains records that state the name of the protected series and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to:

1. Identify the asset and distinguish it from any other assets of the protected series, any assets of the series limited liability company, and any assets of any other protected series of the series limited liability company;

2. Determine when and from what person the protected series acquired the asset or how the asset otherwise became an asset of the protected series; and

3. If the protected series acquired the asset from the series limited liability company or another protected series of the series limited liability company, determine any consideration paid, the payor, and the payee.

C. An asset of a series limited liability company is an associated asset of the series limited liability company only if the series limited liability company creates and maintains records that state the name of the series limited liability company and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to:

1. Identify the asset and distinguish it from any other assets of the series limited liability company and any assets of any protected series of the series limited liability company;

2. Determine when and from what person the series limited liability company acquired the asset or how the asset otherwise became an asset of the series limited liability company; and

3. If the series limited liability company acquired the asset from a protected series of the series limited liability company, determine any consideration paid, the payor, and the payee.

D. The records and recordkeeping required by subsections B and C may be organized by specific listing, category, type, quantity, or computational or allocational formula or procedure, including a percentage or share of any asset, or in any other reasonable manner.

E. To the extent permitted by the law of the Commonwealth other than this article, a series limited liability company or a protected series of the series limited liability company may hold an associated asset directly or indirectly, through a representative, nominee, or similar arrangement, except that:

1. A protected series shall not hold an associated asset in the name of the series limited liability company or another protected series of the series limited liability company; and

2. The series limited liability company may not hold an associated asset in the name of a protected series of the series limited liability company.

**§ 13.1-1099.3. Associated members.**

A. Only a member of a series limited liability company may be an associated member of a protected series of the series limited liability company.

B. A member of a series limited liability company becomes an associated member of a protected series of the series limited liability company if the operating agreement or a procedure established by the operating agreement states:

1. That the member is an associated member of the protected series;

2. The date on which the member became an associated member; and

3. Any protected series membership interest the associated member has in connection with becoming or being an associated member.

C. If a person that is an associated member of a protected series of a series limited liability company is dissociated from the series limited liability company, the person ceases to be an associated member of the protected series.

**§ 13.1-1099.4. Protected series membership interests.**

A. A protected series membership interest of a protected series of a series limited liability company shall be owned initially by an associated member of the protected series or the series limited liability company.

B. If a protected series of a series limited liability company has no associated members when established, the series limited liability company owns the protected series membership interests in the protected series.

C. In addition to acquiring a protected series membership interest under subsection B, a series limited liability company may acquire a protected series membership interest through a transfer from another person or as provided in the operating agreement.

D. Except for subdivision A 3 of § 13.1-1094, a provision of this article that applies to a protected series assignee of a protected series of a series limited liability company applies to the series limited liability company in its capacity as an owner of a protected series membership interest of the protected series. A provision of the operating agreement of a series limited liability company that applies to a protected series assignee of a protected series of the series limited liability company applies to the series limited liability company in its capacity as an owner of a protected series membership interest of the protected series.

**§ 13.1-1099.5. Management.**

A. A protected series may have more than one protected series manager.

B. If a protected series has no associated members, the series limited liability company is the protected series manager.

C. Section 13.1-1094 shall be applicable to the determination of any duties of a protected series manager of a protected series of a series limited liability company to:

1. The protected series;

2. Any associated member of the protected series; and

3. Any protected series assignee of the protected series.

D. Solely by reason of being or acting as a protected series manager of a protected series of a series limited liability company, a person owes no duty to:

1. The series limited liability company;

2. Another protected series of the series limited liability company; or

3. Another person in that person's capacity as:

a. A member of the series limited liability company that is not an associated member of the protected series;

b. A protected series assignee or protected series manager of another protected series; or

c. An assignee of the series limited liability company.

E. An associated member of a protected series of a series limited liability company has the same rights as any other member of the series limited liability company to vote on or consent to an amendment to the series limited liability company's operating agreement or any other matter being decided by the members, whether or not the amendment or matter affects the interests of the protected series or the associated member.

F. Sections 13.1-1042 through 13.1-1045 apply to a protected series in accordance with § 13.1-1094.

G. An associated member of a protected series is an agent for the protected series with power to bind the protected series to the same extent that a member of a limited liability company is under subdivision A 1 of § 13.1-1021.1 an agent for the series limited liability company with statutory power to bind the company.

**§ 13.1-1099.6. Right of person not associated member of protected series to information concerning protected series.**

A. A member of a series limited liability company that is not an associated member of a protected series of the series limited liability company has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a member that is not a manager of a manager-managed limited liability company has a right to information concerning the limited liability company under subsection B of § 13.1-1028 or other applicable law.

B. A person formerly an associated member of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a person dissociated as a member of a manager-managed limited liability company has a right to information concerning the limited liability company under subsection B of § 13.1-1028 or other applicable law.

C. If an associated member of a protected series dies, the legal representative of the deceased associated member has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that the legal representative of a deceased member has a right to information concerning the limited liability company under subsection B of § 13.1-1028 or other applicable law.

D. A protected series manager of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a manager of a manager-managed limited liability company has a right to information concerning the limited liability company under subsection B of § 13.1-1028 or other applicable law.

**§ 13.1-1099.7. Limitations on liability.**

A. A person is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of:

1. A protected series of a series limited liability company solely by reason of being or acting as:

a. An associated member, protected series manager, or protected series assignee of the protected series; or

b. A member, manager, or an assignee of the series limited liability company; or

2. A series limited liability company solely by reason of being or acting as an associated member, protected series manager, or protected series assignee of a protected series of the series limited liability company.

B. Subject to § 13.1-1099.10, the following rules apply:

1. A debt, obligation, or other liability of a series limited liability company is solely the debt, obligation, or liability of the series limited liability company.

2. A debt, obligation, or other liability of a protected series is solely the debt, obligation, or liability of the protected series.

3. A series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of a protected series of the series limited liability company solely by reason of the protected series being a protected series of the series limited liability company or the series limited liability company:

a. Being or acting as a protected series manager of the protected series;

b. Having the protected series manage the series limited liability company; or

c. Owning a protected series membership interest of the protected series.

4. A protected series of a series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the series limited liability company or another protected series of the series limited liability company solely by reason of:

a. Being a protected series of the series limited liability company;

b. Being or acting as a manager of the series limited liability company or a protected series manager of another protected series of the series limited liability company; or

c. Having the series limited liability company or another protected series of the series limited liability company be or act as a protected series manager of the protected series.

**§ 13.1-1099.8. Claim seeking to disregard limitation of liability.**

A. Except as otherwise provided in subsection B, a claim seeking to disregard a limitation in § 13.1-1099.7 is governed by the principles of law and equity, including a principle providing a right to a creditor or holding a person liable for a

debt, obligation, or other liability of another person, that would apply if each protected series of a series limited liability company were a limited liability company formed separately from the series limited liability company and distinct from the series limited liability company and any other protected series of the series limited liability company.

B. The failure of a series limited liability company or a protected series to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground to disregard a limitation in subsection A of § 13.1-1099.7 but may be a ground to disregard a limitation in subsection B of § 13.1-1099.7.

C. This section applies to a claim seeking to disregard a limitation of liability applicable to a foreign series limited liability company or foreign protected series and comparable to a limitation stated in § 13.1-1099.7, if:

1. The claimant is a resident of the Commonwealth or transacting business or registered to transact business in the Commonwealth; or

2. The claim is to establish or enforce a liability arising under a law of the Commonwealth other than this chapter or from an act or omission in the Commonwealth.

**§ 13.1-1099.9. Remedies of judgment creditor of associated member or protected series assignee.**

Any provision of § 13.1-1041.1 that provides or restricts remedies available to a judgment creditor of a member of a limited liability company or owner of a membership interest of the series limited liability company applies to a judgment creditor of:

1. An associated member or protected series assignee of a protected series; or

2. A series limited liability company, to the extent the series limited liability company owns a protected series membership interest of a protected series.

**§ 13.1-1099.10. Enforcement of claim against non-associated asset.**

A. As used in this section:

"Enforcement date" means 12:01 a.m. on the date on which a claimant first serves process on a series limited liability company or protected series of the series limited liability company in an action seeking to enforce under this section a claim against an asset of the series limited liability company or protected series by attachment, levy, or other action.

"Incurrence date" means, subject to subsection B of § 13.1-1099.20, the date on which a series limited liability company or protected series of the series limited liability company incurred the liability giving rise to a claim that a claimant seeks to enforce under this section.

B. If a claim against a series limited liability company or a protected series of the series limited liability company has been reduced to judgment, in addition to any other remedy provided by law or equity, the judgment may be enforced in accordance with the following rules:

1. A judgment against the series limited liability company may be enforced against an asset of a protected series of the series limited liability company if the asset:

a. Was a non-associated asset of the protected series on the incurrence date; or

b. Is a non-associated asset of the protected series on the enforcement date.

2. A judgment against a protected series may be enforced against an asset of the series limited liability company if the asset:

a. Was a non-associated asset of the series limited liability company on the incurrence date; or

b. Is a non-associated asset of the series limited liability company on the enforcement date.

3. A judgment against a protected series may be enforced against an asset of another protected series of the series limited liability company if the asset:

a. Was a non-associated asset of the other protected series on the incurrence date; or

b. Is a non-associated asset of the other protected series on the enforcement date.

C. In addition to any other remedy provided by law or equity, if a claim against a series limited liability company or a protected series of the series limited liability company has not been reduced to a judgment and law other than this article permits a prejudgment remedy by attachment, levy, or other action, the court may apply subsection B as a prejudgment remedy.

D. In a proceeding under this section, the party asserting that an asset is or was an associated asset of a series limited liability company or a protected series of the series limited liability company has the burden of proof on the issue.

E. This section applies to an asset of a foreign series limited liability company or foreign protected series of the foreign series limited liability company if:

1. The asset is real or tangible property located in the Commonwealth;

2. The claimant is a resident of the Commonwealth or transacting business or registered to transact business in the Commonwealth, or the claim under this section is to enforce a judgment, or to seek a pre-judgment remedy, pertaining to a liability arising from law of the Commonwealth other than this article or an act or omission in the Commonwealth; and

3. The asset is not identified in the records of the foreign series limited liability company or foreign protected series of the foreign series limited liability company in a manner comparable to the manner required by § 13.1-1099.2.

**§ 13.1-1099.11. Events causing dissolution of protected series.**

A protected series of a series limited liability company is dissolved, and its activities and affairs shall be wound up, upon the:

1. Dissolution of the series limited liability company;

2. Occurrence of an event or circumstance the operating agreement states causes dissolution of the protected series;

3. Affirmative vote or consent of all the members;
4. Entry of a court order dissolving the protected series on application by an associated member or protected series manager of the protected series:
  - a. In accordance with § 13.1-1094; and
  - b. To the same extent, in the same manner, and on the same grounds the court would enter an order dissolving a limited liability company on application by a member of or a person managing the limited liability company;
5. Entry by the court of an order dissolving the protected series on application by the series limited liability company or a member of the series limited liability company on the ground that the conduct of all or substantially all the activities and affairs of the protected series is illegal;
6. Automatic cancellation of its existence pursuant to §§ 13.1-1050.2 and 13.1-1099.1; or
7. Automatic or involuntary cancellation of the existence of the series limited liability company that established the protected series pursuant to § 13.1-1050.2 or 13.1-1050.3.

**§ 13.1-1099.12. Winding up dissolved protected series; voluntary cancellation.**

- A. Subject to subsection B and in accordance with § 13.1-1094:
  1. A dissolved protected series shall wind up its activities and affairs in the same manner that a limited liability company winds up its affairs under Article 9 (§ 13.1-1046 et seq.); and
  2. Judicial supervision or other judicial remedy is available in the winding up of the protected series to the same extent, in the same manner, and under the same conditions that apply under Article 9 (§ 13.1-1046 et seq.) in the winding up of a limited liability company.
- B. When the affairs of a protected series have been wound up, the series limited liability company that established the protected series shall deliver to the Commission for filing a statement of designation cancellation setting forth:
  1. The name of the protected series;
  2. The identification number issued by the Commission to the protected series;
  3. The name of the series limited liability company that established the protected series;
  4. The effective date of the certificate of protected series designation;
  5. A statement that the protected series has completed the winding up its affairs; and
  6. Any other information that the associated members of the protected series determine to include therein, including the reason for the filing of the statement of designation cancellation.
- C. If the Commission finds that the statement of designation cancellation complies with the requirements of law and that all required fees have been paid, it shall by order issue a certificate of designation cancellation, canceling the protected series' existence. Upon the effective date of such certificate, the existence of the protected series shall cease, except for the purpose of suits, other proceedings, and appropriate actions by members as provided in this chapter.
- D. A series limited liability company does not complete its winding up until each of its protected series has completed its winding up.

**§ 13.1-1099.13. Waiver of cancellation upon dissolution; reinstatement of series limited liability company.**

- A. If after dissolution the members of a series limited liability company waive the right to have the series limited liability company's affairs wound up and its existence canceled:
  1. Each protected series of the series limited liability company ceases winding up; and
  2. The provisions of § 13.1-1047.1 stating the results of the waiver apply to each protected series of the series limited liability company in accord with § 13.1-1094.
- B. A protected series that has ceased to exist may have its existence reinstated in accordance with § 13.1-1050.4 as if it were a limited liability company, provided that the series limited liability company that established the protected series is in existence.

**§ 13.1-1099.14. Protected series may not be party to entity transaction.**

- A protected series may not:
1. Be a party to a merger;
  2. Convert to a different type of entity;
  3. Domesticate as a protected series under the laws of a foreign jurisdiction; or
  4. Be a party to or be formed, organized, established, or created in a transaction substantially like a merger, interest exchange, conversion, or domestication.

**§ 13.1-1099.15. Restrictions on entity transaction involving a series limited liability company or a foreign series limited liability company.**

- A. A series limited liability company may not:
  1. Convert to a different type of entity;
  2. Domesticate as a foreign limited liability company pursuant to the provisions of Article 14 (§ 13.1-1074 et seq.); or
  3. Except as otherwise provided in § 13.1-1099.16, be a party to or the surviving company of a merger.
- B. A foreign series limited liability company may not domesticate as a Virginia limited liability company pursuant to the provisions of Article 14 (§ 13.1-1074 et seq.).

**§ 13.1-1099.16. Merger authorized; parties restricted.**

A series limited liability company may be party to a merger in accordance with Article 13 (§ 13.1-1069.1 et seq.), this section, and §§ 13.1-1099.17 through 13.1-1099.20 only if:

1. Each party to the merger is a limited liability company; and
2. The surviving company is not created in the merger.

**§ 13.1-1099.17. Plan of merger.**

In a merger under § 13.1-1099.16, the plan of merger shall:

1. Comply with § 13.1-1070;
2. Include the manner and basis of converting the protected series membership interests in the canceled protected series in the manner set forth in subdivisions C 4 and 5 of § 13.1-1070; and
3. State:
  - a. For any protected series of a non-surviving series limited liability company, whether after the merger the protected series will be a relocated protected series or be dissolved, wound up, and canceled;
  - b. For any protected series of the surviving series limited liability company that exists before the merger, whether after the merger the protected series will be a continuing protected series or be dissolved, wound up, and canceled;
  - c. For each relocated protected series, its new name; and
  - d. For any protected series to be established by the surviving company as a result of the merger, the name of the protected series and the post office address of its principal office.

**§ 13.1-1099.18. Articles of merger.**

In a merger under § 13.1-1099.16, the articles of merger shall:

1. Comply with § 13.1-1072 and include a plan of merger that complies with the provisions of § 13.1-1099.17;
2. Be accompanied by the following records, each to become effective when the merger becomes effective:
  - a. For a protected series of a merging company being canceled as a result of the merger, a statement of designation cancellation;
  - b. For a protected series of a non-surviving company which after the merger will be a relocated protected series:
    - (1) A statement of relocation that contains the name of the non-surviving company and the name of the protected series before and after the merger; and
    - (2) A statement of protected series designation; and
  - c. For a protected series being established by the surviving company as a result of the merger, a statement of protected series designation; and
3. A statement presented with articles of merger pursuant to this section may be filed with the Commission without payment of the fee specified in § 13.1-1005.

**§ 13.1-1099.19. Effect of merger.**

When a merger under § 13.1-1099.16 becomes effective, in addition to the effects stated in § 13.1-1073:

1. As provided in the plan of merger, each protected series of each merging company which was established before the merger:
  - a. Is a relocated protected series or continuing protected series; or
  - b. Is dissolved, wound up, and canceled;
2. Any protected series to be established as a result of the merger is established;
3. Any relocated protected series or continuing protected series is the same person without interruption as it was before the merger;
4. All property of a relocated protected series or continuing protected series continues to be vested in the protected series without transfer, reversion, or impairment;
5. All debts, obligations, and other liabilities of a relocated protected series or continuing protected series continue as debts, obligations, and other liabilities of the protected series;
6. Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of a relocated protected series or continuing protected series remain in the protected series;
7. The new name of a relocated protected series may be substituted for the former name of the protected series in any pending action or proceeding;
8. If provided in the plan of merger:
  - a. A person becomes an associated member or protected series assignee of a relocated protected series or continuing protected series;
  - b. A person becomes an associated member of a protected series established by the surviving company as a result of the merger;
  - c. Any change in the rights or obligations of a person in the person's capacity as an associated member or protected series assignee of a relocated protected series or continuing protected series takes effect; and
  - d. Any consideration to be paid to a person that before the merger was an associated member or protected series assignee of a relocated protected series or continuing protected series is due; and
9. Any person that is a member of a relocated protected series becomes a member of the surviving company, if not already a member.

**§ 13.1-1099.20. Application of § 13.1-1099.10 after merger.**

- A. A creditor's right that existed under § 13.1-1099.10 immediately before a merger under § 13.1-1099.16 may be enforced after the merger in accordance with the following rules:

1. A creditor's right that existed immediately before the merger against the surviving company, a continuing protected series, or a relocated protected series continues without change after the merger.

2. A creditor's right that existed immediately before the merger against a non-surviving company:

a. May be asserted against an asset of the non-surviving company that vested in the surviving company as a result of the merger; and

b. Does not otherwise change.

3. Subject to subsection B, the following rules apply:

a. In addition to the remedy stated in subdivision 1, a creditor with a right under § 13.1-1099.10 that existed immediately before the merger against a non-surviving company or a relocated protected series may assert the right against:

(1) An asset of the surviving company, other than an asset of the non-surviving company that vested in the surviving company as a result of the merger;

(2) An asset of a continuing protected series;

(3) An asset of a protected series established by the surviving company as a result of the merger;

(4) If the creditor's right was against an asset of the non-surviving company, an asset of a relocated protected series; or

(5) If the creditor's right was against an asset of a relocated protected series, an asset of a relocated protected series.

b. In addition to the remedy stated in subdivision 2, a creditor with a right that existed immediately before the merger against the surviving company or a continuing protected series may assert the right against:

(1) An asset of a relocated protected series; or

(2) An asset of a non-surviving company that vested in the surviving company as a result of the merger.

B. For the purposes of subdivision A 3 and subdivisions B 1a, B 2a, and B 3a of § 13.1-1099.10, the incurrence date is deemed to be the date on which the merger becomes effective.

C. A merger under § 13.1-1099.16 does not affect the manner in which § 13.1-1099.10 applies to a liability incurred after the merger.

**§ 13.1-1099.21. Governing law; foreign series limited liability companies and foreign protected series.**

The law of the jurisdiction of formation of a foreign series limited liability company governs:

1. The internal affairs of a foreign protected series of the foreign series limited liability company, including:

a. Relations among any associated members of the foreign protected series;

b. Relations between the foreign protected series and:

(1) Any associated member;

(2) The protected series manager; or

(3) Any protected series assignee;

c. Relations between any associated member and:

(1) The protected series manager; and

(2) Any protected series assignee;

d. The rights and duties of a protected series manager;

e. Governance decisions affecting the activities and affairs of the foreign protected series and the conduct of those activities and affairs; and

f. Procedures and conditions for becoming an associated member or protected series assignee;

2. Relations between the foreign protected series and:

a. The foreign series limited liability company;

b. Another foreign protected series of the foreign series limited liability company;

c. A member of the foreign series limited liability company that is not an associated member of the foreign protected series;

d. A foreign protected series manager that is not a protected series manager of the protected series;

e. A foreign protected series assignee that is not a foreign protected series assignee of the protected series; and

f. An assignee of a membership interest of the foreign series limited liability company;

3. Except as otherwise provided in §§ 13.1-1099.8 and 13.1-1099.10, the liability of a person for a debt, obligation, or other liability of a foreign protected series of a foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as:

a. An associated member, protected series assignee, or protected series manager of the foreign protected series;

b. A member of the foreign series limited liability company that is not an associated member of the foreign protected series;

c. A protected series manager of another foreign protected series of the foreign series limited liability company;

d. A protected series assignee of another foreign protected series of the foreign series limited liability company;

e. A manager of the foreign series limited liability company; or

f. An assignee of a membership interest of the foreign series limited liability company; and

4. Except as otherwise provided in §§ 13.1-1099.8 and 13.1-1099.10:

a. The liability of the foreign series limited liability company for a debt, obligation, or other liability of a foreign protected series of the foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason

of the foreign protected series being a foreign protected series of the foreign series limited liability company or the foreign series limited liability company:

- (1) Being or acting as a foreign protected series manager of the foreign protected series;
- (2) Having the foreign protected series manage the foreign series limited liability company; or
- (3) Owning a protected series membership interest of the foreign protected series; and

b. The liability of a foreign protected series for a debt, obligation, or other liability of the foreign series limited liability company or another foreign protected series of the foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason of the foreign protected series:

(1) Being a foreign protected series of the foreign series limited liability company or having the foreign series limited liability company or another foreign protected series of the foreign series limited liability company be or act as a foreign protected series manager of the foreign protected series; or

(2) Managing the foreign series limited liability company or being or acting as a foreign protected series manager of another foreign protected series of the foreign series limited liability company.

**§ 13.1-1099.22. No attribution of activities constituting transacting business or for establishing jurisdiction.**

In determining whether a foreign series limited liability company or foreign protected series of the foreign series limited liability company transacts business in the Commonwealth or is subject to the personal jurisdiction of the courts of the Commonwealth:

1. The activities and affairs of the foreign series limited liability company are not attributable to a foreign protected series of the foreign series limited liability company solely by reason of the foreign protected series being a foreign protected series of the foreign series limited liability company; and

2. The activities and affairs of a foreign protected series are not attributable to the foreign series limited liability company or another foreign protected series of the foreign series limited liability company solely by reason of the foreign protected series being a foreign protected series of the foreign series limited liability company.

**§ 13.1-1099.23. Registration of foreign series limited liability company and foreign protected series; amended application; voluntary cancellation; reinstatement.**

A. A foreign series limited liability company shall obtain from the Commission a certificate of registration to transact business in the Commonwealth before any foreign protected series of the foreign series limited liability company is registered to transact business in the Commonwealth. In addition to the requirements for registration in § 13.1-1052, the foreign series limited liability company shall include an attachment to its application that lists the name of each foreign protected series of the foreign series limited liability company and the jurisdiction under whose law each is established.

B. Except as otherwise provided in this section and subject to §§ 13.1-1099.8 and 13.1-1099.10, the provisions of Article 10 (§ 13.1-1051 et seq.) governing foreign limited liability companies apply to a foreign protected series as if the foreign protected series were a foreign limited liability company organized separately from the foreign series limited liability company that established the foreign protected series and distinct from the foreign series limited liability company and any other foreign protected series of the foreign series limited liability company.

C. An application by a foreign protected series for a certificate of registration to transact business in the Commonwealth shall meet the requirements of § 13.1-1052 and shall also include:

1. The name, jurisdiction of formation, and post office address of the principal office of the foreign protected series applying for registration; and

2. The name and jurisdiction of formation of the foreign series limited liability company that established the foreign protected series.

D. The registered agent and registered office of a foreign protected series shall be the same as the foreign series limited liability company that established the foreign protected series.

E. The name of a foreign protected series applying for a certificate of registration or registered to transact business in the Commonwealth shall comply with § 13.1-1096. A foreign protected series may comply with § 13.1-1096 pursuant to § 13.1-1054.

F. The requirement in § 13.1-1055 to amend an application for registration of a foreign limited liability company shall be applicable to a foreign protected series that has a certificate of registration to transact business in the Commonwealth.

G. Whenever the certificate of registration to transact business in the Commonwealth of a foreign series limited liability company is canceled, any certificate of registration to transact business in the Commonwealth issued to a foreign protected series of the foreign series limited liability company that established the foreign protected series shall thereupon be automatically canceled.

H. A foreign protected series whose certificate of registration to transact business in the Commonwealth has been canceled may have its certificate of registration reinstated in accordance with § 13.1-1056.3 as if it were a foreign limited liability company, provided that the foreign series limited liability company that established the foreign protected series has a certificate of registration in effect.

I. A foreign protected series registered to transact business in the Commonwealth may apply to the Commission for a certificate of cancellation to cancel its certificate of registration as a foreign protected series. The application shall be on a form prescribed and furnished by the Commission, which shall set forth:

1. The name of the foreign protected series, the name of the foreign series limited liability company that established the foreign protected series, the name of the jurisdiction of formation of the foreign series limited liability company, and the identification number issued by the Commission to the foreign series limited liability company;

2. If applicable, a statement that the foreign series limited liability company that established the foreign protected series was a party to a merger permitted by the laws of its jurisdiction of formation and that it was not the surviving entity of the merger, or has converted to another type of entity under the laws of its jurisdiction of formation;

3. That the foreign protected series is not transacting business in the Commonwealth and that it surrenders its registration to transact business in the Commonwealth;

4. That the foreign protected series revokes the authority of its registered agent to accept service on its behalf and appoints the clerk of the Commission as its agent for service of process in any proceeding based on a cause of action arising during the time it was registered to transact business in the Commonwealth;

5. A mailing address to which the clerk of the Commission may mail a copy of any process served on the clerk under subdivision 4; and

6. A commitment to notify the clerk of the Commission in the future of any change in the mailing address of the foreign protected series.

J. The Commission shall not issue a certificate of cancellation to any foreign protected series unless the foreign protected series files with the Commission a statement certifying that the foreign protected series has filed returns and has paid all state taxes to the time of the statement, or a statement that no returns are required to be filed or taxes are required to be paid. In that case the foreign protected series may file returns and pay taxes before they would otherwise be due. If the Commission finds that the application complies with the requirements of law and all required fees have been paid, it shall issue a certificate of cancellation canceling the certificate of registration.

K. Service of process on the clerk of the Commission is service of process on a foreign protected series whose certificate of registration has been canceled pursuant to this section. Service upon the clerk shall be made in accordance with § 12.1-19.1, and service upon the foreign protected series may be made in any other manner permitted by law.

**§ 13.1-1099.24. Disclosure required when foreign series limited liability company or foreign protected series subject to proceeding.**

A. Not later than 30 days after becoming a party to a proceeding before a civil, criminal, administrative, or other adjudicative tribunal of the Commonwealth or a tribunal of the United States located in the Commonwealth:

1. A foreign series limited liability company shall disclose to each other party the name and the street and mailing addresses of:

a. Each foreign protected series of the foreign series limited liability company; and

b. Each foreign protected series manager of and an agent for service of process for each foreign protected series of the foreign series limited liability company; and

2. A foreign protected series of a foreign series limited liability company shall disclose to each other party the name and the street and mailing addresses of:

a. The foreign series limited liability company that established the foreign protected series, each person managing the foreign series limited liability company, and an agent for service of process for the foreign series limited liability company; and

b. Any other foreign protected series of the foreign series limited liability company and each protected series manager of and an agent for service of process for the other protected series.

B. If a foreign series limited liability company or foreign protected series challenges the personal jurisdiction of the tribunal, the requirement that the foreign series limited liability company or foreign protected series make disclosure under subsection A is tolled until the tribunal determines whether it has personal jurisdiction.

C. If a foreign series limited liability company or foreign protected series does not comply with subsection A, a party to the proceeding may:

1. Request the tribunal to treat the noncompliance as a failure to comply with the tribunal's discovery rules; or

2. Bring a separate proceeding in the tribunal to enforce subsection A.

**§ 13.1-1099.25. Uniformity of application and construction.**

In applying and construing this article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Protected Series Act.

**§ 13.1-1099.26. Effect on certain actions.**

This article does not affect an action commenced, proceeding brought, or right accrued before July 1, 2020.

**§ 13.1-1099.27. Relation to Electronic Signatures in Global and National Commerce Act.**

This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.) but does not modify, limit, or supersede § 101 of that Act (15 U.S.C. § 7001(c)) or authorize electronic delivery of any of the notices described in § 103 of that Act (15 U.S.C. § 7003 (b)).

**2. That the provisions of this act shall become effective on July 1, 2020.**

## CHAPTER 637

*An Act to provide that certain school divisions in Planning District 16 may open prior to Labor Day.*

[H 2140]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *Notwithstanding the provisions of § 22.1-79.1 or any other provision of law, the school board of any school division located in Planning District 16 that was not granted a good cause waiver pursuant to § 22.1-79.1 for the 2018-2019 school year but would qualify for such a waiver pursuant to § 22.1-79.1 as it was in effect prior to July 1, 2019, for the 2019-2020 school year may set the school calendar so that the first day students are required to attend is earlier than Labor Day, including earlier than 14 days before Labor Day. Additionally, the school board of any school division located in Planning District 16 that is entirely surrounded by two school divisions that either were granted a waiver pursuant to Chapter 3 of the Acts of Assembly of 2012, Special Session 1, or would qualify for a good cause waiver pursuant to § 22.1-79.1 as it was in effect prior to July 1, 2019, for the 2019-2020 school year may open schools on the same opening date as either such surrounding school division.*

## CHAPTER 638

*An Act to amend and reenact § 2.2-3705.4 of the Code of Virginia and to amend the Code of Virginia by adding in Subtitle III of Title 23.1 a chapter numbered 12.1, consisting of sections numbered 23.1-1239 through 23.1-1243, relating to creation of the Tech Talent Investment Program.*

[H 2490]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3705.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Subtitle III of Title 23.1 a chapter numbered 12.1, consisting of sections numbered 23.1-1239 through 23.1-1243, as follows:**

**§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.**

A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia or the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related information pertaining to the operations of the

University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation, or the identity of the donor unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or (ii) the terms and conditions of such grants or contracts.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

9. *Records provided to the Governor or the designated reviewers by a qualified institution, as those terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure after it is agreed to and signed by the Governor.*

B. The custodian of a scholastic record shall not release the address, phone number, or email address of a student in response to a request made under this chapter without written consent. For any student who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher education, written consent of the student shall be required. For any other student, written consent of the parent or legal guardian of such student shall be required.

#### CHAPTER 12.1.

#### TECH TALENT INVESTMENT PROGRAM.

##### § 23.1-1239. Definitions.

*As used in this chapter, unless the context requires a different meaning:*

"Designated reviewers" means the Secretaries of Education and Finance, the director of the Department of Planning and Budget, the director of the Council, the president of the Virginia Economic Development Partnership, and the staff directors of the House Committee on Appropriations and the Senate Committee on Finance, or their designees.

"Eligible degree" means a new bachelor's or master's degree, or a certificate issued by a baccalaureate public institution of higher education in association with a bachelor's degree, in the field of computer science, computer engineering, or other closely related fields of study, or that otherwise aligns with traded-sector, technology-focused growth opportunities identified by the Virginia Economic Development Partnership Authority.

"Fund" means the Tech Talent Investment Fund.

"Grant" means a grant paid from the Tech Talent Investment Fund.

"Memorandum of understanding" means the negotiated instrument entered into by a qualified institution and the Commonwealth, regardless of whether the terms of the memorandum of understanding are encompassed or included within any other institutional partnership or performance agreement required by law. A memorandum of understanding shall contain criteria for eligible degrees, eligible expenses, and degree production goals for a period ending in 2039.

*"New bachelor's and master's degrees" means the awarding of eligible degrees produced by a qualified institution to meet the degree production goals set forth in a qualified institution's memorandum of understanding.*

*"Qualified institution" means (i) any associate-degree-granting public institution of higher education, as defined in § 23.1-100, that has a transfer plan that culminates in an eligible degree and (ii) any baccalaureate public institution of higher education, as defined in § 23.1-100.*

**§ 23.1-1240. Tech Talent Investment Fund created.**

A. *There is hereby created in the state treasury a special nonreverting fund to be known as the Tech Talent Investment Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to fund grants approved pursuant to the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.*

B. *Moneys in the Fund shall be used to support the efforts of qualified institutions to increase by fiscal year 2039 the number of new eligible degrees by at least 25,000 more degrees than the number of such degrees awarded in 2018 and to improve the readiness of graduates to be employed in technology-related fields and fields that align with traded-sector growth opportunities identified by the Virginia Economic Development Partnership. Funds from the Fund may be used to support admissions and advising programs designed to convey labor market information to students to guide decisions to enroll in eligible degree programs and academic programs and to fund facility construction, renovation, and enhancement and equipment purchases related to the initiative to increase the number of eligible degrees awarded.*

**§ 23.1-1241. Approval and update of memorandum of understanding.**

A. *In order to support the goal of the creation of at least 25,000 new eligible degrees by 2039, the amount of grants available under this chapter shall be calculated in accordance with a memorandum of understanding negotiated with each qualified institution. Each memorandum of understanding shall contain criteria for eligible degrees, eligible expenses, and degree production goals for the institution to reach by 2039.*

B. *Each memorandum of understanding shall be structured in accordance with and be consistent with the objectives and purposes of this chapter and the criteria and requirements developed by, and in the form and manner prescribed by, the Secretary of Finance in consultation with the other designated reviewers. Such criteria and requirements shall include:*

1. *The submission of an enrollment plan by the qualified institution detailing the number of eligible degrees produced between July 1, 2013, and June 30, 2018;*

2. *A detailed plan of (i) how the qualified institution proposes to materially increase the enrollment, retention, and graduation of students pursuing eligible degrees, (ii) the resources necessary to accomplish such increase in enrollment, retention, and graduation, and (iii) how the qualified institution plans to track new enrollment;*

3. *An accounting of the anticipated number of in-state and out-of-state students enrolling in eligible degree programs;*

4. *The existing capacity of current eligible degree programs, and an estimate of the amount of funding necessary to grow the qualified institution's enrollment capacity pursuant to the plan submitted pursuant to subdivision 2;*

5. *Where applicable, proposed plans to partner with other qualified institutions to provide courses or programs that will lead to the completion of an eligible degree;*

6. *Where applicable, existing or proposed articulation agreements with the Virginia Community College System to provide guaranteed admission for qualified students with an associate degree for transfer into an eligible degree program;*

7. *A proposed reallocation of existing funds held by or appropriated to the qualified institution to meet increased enrollment, retention, and graduation goals in eligible degree programs; and*

8. *Any other information deemed relevant.*

C. *The designated reviewers shall review each qualified institution's proposed memorandum of understanding, or amendments thereto; provide comments or affirmation to the qualified institution by September 1 of the applicable year; and forward the proposed memorandum of understanding and any comments or affirmations to the Governor for approval of specific funding recommendations.*

D. *The Secretary of Finance, in consultation with the other designated reviewers, shall make a recommendation regarding the amount of annual grant payments for which a qualified institution may be eligible pursuant to its memorandum of understanding. In determining the appropriate amount of such grants, the Secretary and designated reviewers shall consider (i) the actual cost of eligible degrees at the qualified institution, (ii) the number of students enrolled in qualified degree programs adjusted for actual graduation rates at the qualified institution, (iii) tuition revenues generated by in-state and out-of-state students in eligible degree programs at the qualified institution, and (iv) the reallocation of other funds held by or appropriated to the qualified institution for eligible new degree programs. A qualified institution shall be eligible to receive grants pursuant to this chapter, and subject to appropriation, upon signature of the memorandum of understanding by the Governor.*

E. *A qualified institution with an approved memorandum of understanding may request an update to its memorandum of understanding no more than once annually and no later than July 1 of each year. The designated reviewers shall review the request and determine if an update is warranted. The Secretary of Finance, in consultation with the other designated reviewers, may request that a qualified institution update its agreement at any point during the year. No amendment to a memorandum of understanding shall be final until signed by the Governor.*

*F. A new or amended memorandum of understanding shall be approved and signed pursuant to subsection D no later than November 1 in order for a qualified institution to apply for a grant in the next fiscal year.*

**§ 23.1-1242. Eligibility for grant payments.**

*A. A qualified institution with a memorandum of understanding approved and signed in accordance with the provisions of § 23.1-1241 shall be eligible to apply for a grant each fiscal year beginning with the Commonwealth's fiscal year beginning July 1, 2019, through the Commonwealth's fiscal year starting on July 1, 2038. Grants available under this chapter shall be paid to the qualified institution from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified institution's meeting the requirements set forth in its memorandum of understanding. If the total amount of moneys appropriated to the Fund in a fiscal year is less than anticipated, grants to all qualified institutions under this chapter may be prorated to reflect the actual amount appropriated.*

*B. To apply for a grant each year, a qualified institution shall report to the Secretary of Finance regarding the qualified institution's progress on increasing the number of eligible degrees and meeting the requirements pursuant to its memorandum of understanding. Such report shall include, at a minimum: (i) progress on increasing the number of eligible degrees, as set forth in the memorandum of understanding, including actual enrollment in qualified degree programs; (ii) the aggregate number of new eligible degrees created and maintained as of the last day of the calendar year that immediately precedes the date of the application, including information related to the retention of students who enrolled in the calendar year immediately preceding the application; and (iii) the average annual cost incurred in the production of the new eligible degrees described in clause (ii). For applications filed four years or more after the date of a qualified institution's original memorandum of understanding, the qualified institution shall also include actual graduation rates from qualified degree programs. The report shall be filed with the Secretary no later than May 1 of the year following the calendar year upon which the report is based, as an application for a grant in the fiscal year beginning on the immediately following July 1. Failure to meet the reporting deadline shall result in a deferral of a payment in the upcoming fiscal year.*

*C. A report received pursuant to subsection B shall be reviewed by the designated reviewers. Within 60 days of receipt of the report, the Secretary of Finance, in consultation with the other designated reviewers, shall certify to the Comptroller and the qualified institution the amount of the grant payment to be paid to the qualified institution, subject to appropriation. Payment of such grant shall be made by check issued by the State Treasurer on warrant of the Comptroller in the fiscal year immediately following the submission of such application, as provided in the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks for the grant installments under this section without a specific appropriation for the same.*

*D. As a condition of receipt of grant payments, a qualified institution shall make available for inspection to the designated reviewers all documents relevant and applicable to determining whether the qualified institution has met the requirements for the receipt of a grant as set forth in this chapter and subject to the memorandum of understanding.*

*E. Failure of a qualified institution to meet the goals, metrics, and requirements set forth in its memorandum of understanding shall result in the adjustment of any future awards to the qualified institution to reflect such discrepancy.*

**§ 23.1-1243. Annual report.**

*The Secretary of Finance, in consultation with the other designated reviewers, shall submit a report by December 1 of each year to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Such report shall provide an update as to the progress of each qualified institution in meeting the goals set forth in its memorandum of understanding and the aggregate amount of grants awarded to the qualified institution pursuant to this chapter.*

## CHAPTER 639

*An Act to amend and reenact § 2.2-3705.4 of the Code of Virginia and to amend the Code of Virginia by adding in Subtitle III of Title 23.1 a chapter numbered 12.1, consisting of sections numbered 23.1-1239 through 23.1-1243, relating to creation of the Tech Talent Investment Program.*

[S 1617]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3705.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Subtitle III of Title 23.1 a chapter numbered 12.1, consisting of sections numbered 23.1-1239 through 23.1-1243, as follows:**

**§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.**

*A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.*

*1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative*

personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia or the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation, or the identity of the donor unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or (ii) the terms and conditions of such grants or contracts.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

9. *Records provided to the Governor or the designated reviewers by a qualified institution, as those terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to a memorandum of*

understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure after it is agreed to and signed by the Governor.

B. The custodian of a scholastic record shall not release the address, phone number, or email address of a student in response to a request made under this chapter without written consent. For any student who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher education, written consent of the student shall be required. For any other student, written consent of the parent or legal guardian of such student shall be required.

#### CHAPTER 12.1.

#### TECH TALENT INVESTMENT PROGRAM.

##### § 23.1-1239. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Designated reviewers" means the Secretaries of Education and Finance, the director of the Department of Planning and Budget, the director of the Council, the president of the Virginia Economic Development Partnership, and the staff directors of the House Committee on Appropriations and the Senate Committee on Finance, or their designees.

"Eligible degree" means a new bachelor's or master's degree, or a certificate issued by a baccalaureate public institution of higher education in association with a bachelor's degree, in the field of computer science, computer engineering, or other closely related fields of study, or that otherwise aligns with traded-sector, technology-focused growth opportunities identified by the Virginia Economic Development Partnership Authority.

"Fund" means the Tech Talent Investment Fund.

"Grant" means a grant paid from the Tech Talent Investment Fund.

"Memorandum of understanding" means the negotiated instrument entered into by a qualified institution and the Commonwealth, regardless of whether the terms of the memorandum of understanding are encompassed or included within any other institutional partnership or performance agreement required by law. A memorandum of understanding shall contain criteria for eligible degrees, eligible expenses, and degree production goals for a period ending in 2039.

"New bachelor's and master's degrees" means the awarding of eligible degrees produced by a qualified institution to meet the degree production goals set forth in a qualified institution's memorandum of understanding.

"Qualified institution" means (i) any associate-degree-granting public institution of higher education, as defined in § 23.1-100, that has a transfer plan that culminates in an eligible degree and (ii) any baccalaureate public institution of higher education, as defined in § 23.1-100.

##### § 23.1-1240. Tech Talent Investment Fund created.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Tech Talent Investment Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to fund grants approved pursuant to the provisions of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

B. Moneys in the Fund shall be used to support the efforts of qualified institutions to increase by fiscal year 2039 the number of new eligible degrees by at least 25,000 more degrees than the number of such degrees awarded in 2018 and to improve the readiness of graduates to be employed in technology-related fields and fields that align with traded-sector growth opportunities identified by the Virginia Economic Development Partnership. Funds from the Fund may be used to support admissions and advising programs designed to convey labor market information to students to guide decisions to enroll in eligible degree programs and academic programs and to fund facility construction, renovation, and enhancement and equipment purchases related to the initiative to increase the number of eligible degrees awarded.

##### § 23.1-1241. Approval and update of memorandum of understanding.

A. In order to support the goal of the creation of at least 25,000 new eligible degrees by 2039, the amount of grants available under this chapter shall be calculated in accordance with a memorandum of understanding negotiated with each qualified institution. Each memorandum of understanding shall contain criteria for eligible degrees, eligible expenses, and degree production goals for the institution to reach by 2039.

B. Each memorandum of understanding shall be structured in accordance with and be consistent with the objectives and purposes of this chapter and the criteria and requirements developed by, and in the form and manner prescribed by, the Secretary of Finance in consultation with the other designated reviewers. Such criteria and requirements shall include:

1. The submission of an enrollment plan by the qualified institution detailing the number of eligible degrees produced between July 1, 2013, and June 30, 2018;

2. A detailed plan of (i) how the qualified institution proposes to materially increase the enrollment, retention, and graduation of students pursuing eligible degrees, (ii) the resources necessary to accomplish such increase in enrollment, retention, and graduation, and (iii) how the qualified institution plans to track new enrollment;

3. An accounting of the anticipated number of in-state and out-of-state students enrolling in eligible degree programs;

4. The existing capacity of current eligible degree programs, and an estimate of the amount of funding necessary to grow the qualified institution's enrollment capacity pursuant to the plan submitted pursuant to subdivision 2;

5. Where applicable, proposed plans to partner with other qualified institutions to provide courses or programs that will lead to the completion of an eligible degree;

6. Where applicable, existing or proposed articulation agreements with the Virginia Community College System to provide guaranteed admission for qualified students with an associate degree for transfer into an eligible degree program;

7. A proposed reallocation of existing funds held by or appropriated to the qualified institution to meet increased enrollment, retention, and graduation goals in eligible degree programs; and

8. Any other information deemed relevant.

C. The designated reviewers shall review each qualified institution's proposed memorandum of understanding, or amendments thereto; provide comments or affirmation to the qualified institution by September 1 of the applicable year; and forward the proposed memorandum of understanding and any comments or affirmations to the Governor for approval of specific funding recommendations.

D. The Secretary of Finance, in consultation with the other designated reviewers, shall make a recommendation regarding the amount of annual grant payments for which a qualified institution may be eligible pursuant to its memorandum of understanding. In determining the appropriate amount of such grants, the Secretary and designated reviewers shall consider (i) the actual cost of eligible degrees at the qualified institution, (ii) the number of students enrolled in qualified degree programs adjusted for actual graduation rates at the qualified institution, (iii) tuition revenues generated by in-state and out-of-state students in eligible degree programs at the qualified institution, and (iv) the reallocation of other funds held by or appropriated to the qualified institution for eligible new degree programs. A qualified institution shall be eligible to receive grants pursuant to this chapter, and subject to appropriation, upon signature of the memorandum of understanding by the Governor.

E. A qualified institution with an approved memorandum of understanding may request an update to its memorandum of understanding no more than once annually and no later than July 1 of each year. The designated reviewers shall review the request and determine if an update is warranted. The Secretary of Finance, in consultation with the other designated reviewers, may request that a qualified institution update its agreement at any point during the year. No amendment to a memorandum of understanding shall be final until signed by the Governor.

F. A new or amended memorandum of understanding shall be approved and signed pursuant to subsection D no later than November 1 in order for a qualified institution to apply for a grant in the next fiscal year.

#### **§ 23.1-1242. Eligibility for grant payments.**

A. A qualified institution with a memorandum of understanding approved and signed in accordance with the provisions of § 23.1-1241 shall be eligible to apply for a grant each fiscal year beginning with the Commonwealth's fiscal year beginning July 1, 2019, through the Commonwealth's fiscal year starting on July 1, 2038. Grants available under this chapter shall be paid to the qualified institution from the Fund, subject to appropriation by the General Assembly, during each such fiscal year, contingent upon the qualified institution's meeting the requirements set forth in its memorandum of understanding. If the total amount of moneys appropriated to the Fund in a fiscal year is less than anticipated, grants to all qualified institutions under this chapter may be prorated to reflect the actual amount appropriated.

B. To apply for a grant each year, a qualified institution shall report to the Secretary of Finance regarding the qualified institution's progress on increasing the number of eligible degrees and meeting the requirements pursuant to its memorandum of understanding. Such report shall include, at a minimum: (i) progress on increasing the number of eligible degrees, as set forth in the memorandum of understanding, including actual enrollment in qualified degree programs; (ii) the aggregate number of new eligible degrees created and maintained as of the last day of the calendar year that immediately precedes the date of the application, including information related to the retention of students who enrolled in the calendar year immediately preceding the application; and (iii) the average annual cost incurred in the production of the new eligible degrees described in clause (ii). For applications filed four years or more after the date of a qualified institution's original memorandum of understanding, the qualified institution shall also include actual graduation rates from qualified degree programs. The report shall be filed with the Secretary no later than May 1 of the year following the calendar year upon which the report is based, as an application for a grant in the fiscal year beginning on the immediately following July 1. Failure to meet the reporting deadline shall result in a deferral of a payment in the upcoming fiscal year.

C. A report received pursuant to subsection B shall be reviewed by the designated reviewers. Within 60 days of receipt of the report, the Secretary of Finance, in consultation with the other designated reviewers, shall certify to the Comptroller and the qualified institution the amount of the grant payment to be paid to the qualified institution, subject to appropriation. Payment of such grant shall be made by check issued by the State Treasurer on warrant of the Comptroller in the fiscal year immediately following the submission of such application, as provided in the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks for the grant installments under this section without a specific appropriation for the same.

D. As a condition of receipt of grant payments, a qualified institution shall make available for inspection to the designated reviewers all documents relevant and applicable to determining whether the qualified institution has met the requirements for the receipt of a grant as set forth in this chapter and subject to the memorandum of understanding.

E. Failure of a qualified institution to meet the goals, metrics, and requirements set forth in its memorandum of understanding shall result in the adjustment of any future awards to the qualified institution to reflect such discrepancy.

#### **§ 23.1-1243. Annual report.**

The Secretary of Finance, in consultation with the other designated reviewers, shall submit a report by December 1 of each year to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Such report

*shall provide an update as to the progress of each qualified institution in meeting the goals set forth in its memorandum of understanding and the aggregate amount of grants awarded to the qualified institution pursuant to this chapter.*

## CHAPTER 640

*An Act to amend and reenact § 22.1-253.13:4 of the Code of Virginia, relating to high school graduation requirements; work experience; capstone project.*

[H 2662]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 22.1-253.13:4 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.**

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who meet the requirements prescribed by the Board of Education and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. The standards for accreditation shall include provisions relating to the completion of graduation requirements through Virtual Virginia. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the requirements for graduation pursuant to the standards for accreditation and (ii) the requirements that have yet to be completed by the individual student.

B. Students identified as disabled who complete the requirements of their individualized education programs and meet certain requirements prescribed by the Board pursuant to regulations but do not meet the requirements for any named diploma shall be awarded Applied Studies diplomas by local school boards.

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the graduation requirements of the student's right to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

C. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board of Education-approved diploma.

Each local school board shall provide notification of the right to a free public education for students who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve graduation requirements as provided in the standards for accreditation. If such student who does not graduate or complete such requirements is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. (From Acts 2016, cc. 720 & 750: The graduation requirements established by the Board of Education pursuant to the provisions of subdivisions D 1, 2, and 3 shall apply to each student who enrolls in high school as (i) a freshman after July 1, 2018; (ii) a sophomore after July 1, 2019; (iii) a junior after July 1, 2020; or (iv) a senior after July 1, 2021) In establishing graduation requirements, the Board shall:

1. Develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship.

2. Emphasize the development of core skill sets in the early years of high school.

3. Establish multiple paths toward college and career readiness for students to follow in the later years of high school. Each such pathway shall include opportunities for internships, externships, and credentialing.

4. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation requirements, which shall include Standards of Learning testing, as necessary.

5. Require students to complete at least one course in fine or performing arts or career and technical education, one course in United States and Virginia history, and two sequential elective courses chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses that provides a foundation for further education or training or preparation for employment.

6. (Effective until July 1, 2019) Require that students either (i) complete an Advanced Placement, honors, or International Baccalaureate course or (ii) earn a career and technical education credential that has been approved by the Board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment.

6. (Effective July 1, 2019) Require that students either (i) complete an Advanced Placement, honors, or International Baccalaureate course or (ii) earn a career and technical education credential that has been approved by the Board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment. The Department of Education shall develop, maintain, and make available to each local school board a catalogue of the testing accommodations available to English language learners for each such certification, examination, assessment, and battery. Each local school board shall develop and implement policies to require each high school principal or his designee to notify each English language learner of the availability of such testing accommodations prior to the student's participation in any such certification, examination, assessment, or battery.

7. Beginning with first-time ninth grade students in the 2016-2017 school year, require students to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

8. Make provision in its regulations for students with disabilities to earn a diploma.

9. Require students to complete one virtual course, which may be a noncredit-bearing course.

10. Provide that students who complete elective classes into which the Standards of Learning for any required course have been integrated and achieve a passing score on the relevant Standards of Learning test for the relevant required course receive credit for such elective class.

11. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstrating mastery of the course content and objectives and receiving a passing score on the relevant Standards of Learning assessment. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

12. Provide for the award of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Armed Services Vocational Aptitude Battery assessments passed, and Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, appropriate credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

13. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

14. Consider all computer science course credits earned by students to be science course credits, mathematics course credits, or career and technical education credits. The Board of Education shall develop guidelines addressing how computer science courses can satisfy graduation requirements.

15. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.

16. Provide for the award of verified units of credit for a satisfactory score, as determined by the Board, on the Preliminary ACT (PreACT) or Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) examination.

17. Permit students to exceed a full course load in order to participate in courses offered by an institution of higher education that lead to a degree, certificate, or credential at such institution.

18. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction after the student has completed the course curriculum and relevant Standards of Learning end-of-course assessment, or Board-approved substitute, provided that such student subsequently receives instruction, coursework, or study toward an industry certification approved by the local school board.

19. Permit any English language learner who previously earned a sufficient score on an Advanced Placement or International Baccalaureate foreign language examination or an SAT II Subject Test in a foreign language to substitute computer coding course credit for any foreign language course credit required to graduate, except in cases in which such foreign language course credit is required to earn an advanced diploma offered by a nationally recognized provider of college-level courses.

20. *Require students to complete a senior capstone project, portfolio, performance-based assessment, or structured experiment that relates to a work-based learning, service-learning, or community engagement activity. Such capstone project, portfolio, performance-based assessment, or structured experiment shall align with and further develop the knowledge and skills attained through such work-based learning, service-learning, or community engagement activity. Local school boards shall develop and implement any such capstone project, portfolio, performance-based assessment, or structured experiment in accordance with Board guidelines.*

E. In the exercise of its authority to recognize exemplary performance by providing for diploma seals:

1. The Board shall develop criteria for recognizing exemplary performance in career and technical education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

2. The Board shall establish criteria for awarding a diploma seal for science, technology, engineering, and mathematics (STEM) for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) relevant coursework; (ii) technical writing, reading, and oral communication skills; (iii) relevant training; and (iv) industry, professional, and trade association national certifications.

3. The Board shall establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

4. The Board shall establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for the Board of Education-approved diplomas. The Board shall consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency examination approved by the Board of Education; (ii) successfully completed an education and training program designated by the Board of Education; (iii) earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the Armed Services Vocational Aptitude Battery, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, report, and make available to the public high school graduation and dropout data using a formula prescribed by the Board.

H. The Board shall also collect, analyze, report, and make available to the public high school graduation and dropout data using a formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. For the purposes of the Standards of Accreditation, the Board shall use the graduation rate required by this subsection.

I. The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data required by subsections G and H.

**2. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2020 Session of the General Assembly.**

**3. That the Board of Education shall develop and submit to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than November 1, 2019, guidelines for local school boards to develop and implement a senior capstone project, portfolio, performance-based assessment, or structured experiment. In developing such guidelines, the Board of Education shall consult with stakeholders representing a**

variety of local school divisions, industries, and education organizations and shall consider (i) the diversity of school divisions across the Commonwealth, (ii) the need for local flexibility, and (iii) the needs of communities and industries across the Commonwealth.

## CHAPTER 641

*An Act to amend and reenact § 2.2-3119 of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; school boards and school employees; hiring of relatives.*

[S 1491]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3119 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3119. Additional provisions applicable to school boards and employees of school boards; exceptions.**

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or

2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the inception of such relationship; or

3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B 1, B 2, and B 3 shall apply only if the prior employment has been in the same school divisions where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

E. The provisions of this section shall not apply to employment by any school district of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any member of the school board, provided that (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.

*F. The provisions of this section shall not apply to the employment by any school district of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any division superintendent, provided that (i) the superintendent certifies that he had no involvement with the hiring decision and (ii) the assistant superintendent certifies to the members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that the superintendent of the division had no involvement with the hiring decision.*

## CHAPTER 642

*An Act to amend and reenact § 23.1-1304 of the Code of Virginia, relating to public institutions of higher education; governing boards; educational programs.*

[S 1234]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-1304 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-1304. Governing boards; additional duties; educational programs.**

A. From such funds as are appropriated for such purpose, the Council shall develop, in consultation with public institutions of higher education and members of their governing boards, and annually deliver educational programs for the governing boards of such institutions. New members of such governing boards shall participate, at least once during their first two years of membership, in the programs, which shall be designed to address the role, duties, and responsibilities of the governing boards and may include in-service programs on current issues in higher education. In developing such programs, the Council may consider similar educational programs for institutional governing boards in other states.

B. Educational programs for the governing boards of public institutions of higher education shall include presentations relating to:

1. Board members' *primary* duty to the *citizens of the Commonwealth*;
2. Governing board committee structure and function;
3. The duties of the executive committee set forth in § 23.1-1306;
4. Professional accounting and reporting standards;
5. Methods for meeting the statutory, regulatory, and fiduciary obligations of the board;
6. The requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), developed and delivered in conjunction with the Freedom of Information Advisory Council;
7. Institutional ethics and conflicts of interest;
8. Creating and implementing regulations and institution policies;
9. Business operations, administration, budgeting, financing, financial reporting, and financial reserves, including a segment on endowment management;
10. Fixing student tuition, mandatory fees, and other necessary charges *and student debt trends*;
11. Overseeing planning, construction, maintenance, expansion, and renovation projects that affect the institution's consolidated infrastructure, physical facilities, and natural environment, including its lands, improvements, and capital equipment;
12. Workforce planning, strategy, and investment;
13. Institutional advancement, including philanthropic giving, fundraising initiatives, alumni programming, communications and media, government and public relations, and community affairs;
14. Student welfare issues, including academic studies; curriculum; residence life; student governance and activities; and the general physical and psychological well-being of undergraduate and graduate students;
15. Current national and state issues in higher education;
16. Future national and state issues in higher education;
17. Relations between the governing board and the chief executive officer of the institution, including perspectives from chief executive officers of public institutions of higher education;
18. Best practices for board governance, including perspectives from current board members; and
19. Any other topics that the Council, public institutions of higher education, and members of their governing boards deem necessary or appropriate.

C. The Council shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Council pursuant to this section no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

### CHAPTER 643

*An Act to amend and reenact § 23.1-1304 of the Code of Virginia, relating to governing boards of public institutions of higher education; educational programs; student debt trends.*

[H 2620]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-1304 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-1304. Governing boards; additional duties; educational programs.**

A. From such funds as are appropriated for such purpose, the Council shall develop, in consultation with public institutions of higher education and members of their governing boards, and annually deliver educational programs for the governing boards of such institutions. New members of such governing boards shall participate, at least once during their first two years of membership, in the programs, which shall be designed to address the role, duties, and responsibilities of the governing boards and may include in-service programs on current issues in higher education. In developing such programs, the Council may consider similar educational programs for institutional governing boards in other states.

B. Educational programs for the governing boards of public institutions of higher education shall include presentations relating to:

1. Board members' duty to the Commonwealth;
2. Governing board committee structure and function;
3. The duties of the executive committee set forth in § 23.1-1306;
4. Professional accounting and reporting standards;
5. Methods for meeting the statutory, regulatory, and fiduciary obligations of the board;
6. The requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), developed and delivered in conjunction with the Freedom of Information Advisory Council;
7. Institutional ethics and conflicts of interest;
8. Creating and implementing regulations and institution policies;
9. Business operations, administration, budgeting, financing, financial reporting, and financial reserves, including a segment on endowment management;
10. Fixing student tuition, mandatory fees, and other necessary charges, *including a review of student debt trends*;
11. Overseeing planning, construction, maintenance, expansion, and renovation projects that affect the institution's consolidated infrastructure, physical facilities, and natural environment, including its lands, improvements, and capital equipment;
12. Workforce planning, strategy, and investment;
13. Institutional advancement, including philanthropic giving, fundraising initiatives, alumni programming, communications and media, government and public relations, and community affairs;
14. Student welfare issues, including academic studies; curriculum; residence life; student governance and activities; and the general physical and psychological well-being of undergraduate and graduate students;
15. Current national and state issues in higher education;
16. Future national and state issues in higher education;
17. Relations between the governing board and the chief executive officer of the institution, including perspectives from chief executive officers of public institutions of higher education;
18. Best practices for board governance, including perspectives from current board members; and
19. Any other topics that the Council, public institutions of higher education, and members of their governing boards deem necessary or appropriate.

C. The Council shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Council pursuant to this section no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

## CHAPTER 644

*An Act to amend and reenact § 22.1-98 of the Code of Virginia, relating to length of school term; waiver for school closings resulting from evacuation.*

[H 2124]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 22.1-98 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 22.1-98. Reduction of state aid when length of school term below 180 days or 990 hours.**

A. For the purposes of this section:

1. "Declared state of emergency" means the declaration of an emergency before or after an event, by the Governor or by officials in a locality, that requires the closure of any or all schools within a school division.

2. "Severe weather conditions or other emergency situations" means those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, ~~but not limited to,~~ natural and man-made disasters, energy shortages, or power failures.

B. Except as provided in this section:

1. The length of every school's term in every school division shall be at least 180 teaching days or 990 teaching hours in any school year; and

2. If the length of the term of any school or the schools in a school division shall be less than 180 teaching days or 990 teaching hours in any school year, the amount paid by the Commonwealth from the Basic School Aid Fund shall, except as otherwise hereinafter provided or as otherwise provided by law, be reduced in the same proportion as the length of the school term has been reduced in any school or the schools in the school division from 180 teaching days or 990 teaching hours.

C. Notwithstanding the requirements of subsection B, in any case in which severe weather conditions or other emergency situations, as defined in this section, result in the closing of a school or the schools in a school division, the

amount paid by the Commonwealth from the Basic School Aid Fund shall not be reduced if the following schedule of make-up days is followed:

1. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for five or fewer days, the school or the schools in the school division shall make up all missed days by adding teaching days to the school calendar or extending the length of the school day;

2. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for six days or more, the school or the schools in the school division shall make up the first five days plus one day for each two days missed in excess of the first five by adding teaching days to the school calendar or extending the length of the school day; or

3. When severe weather conditions or other emergency situations have resulted in the closing of any school in a school division and such school has been unable to meet the 180 teaching day requirement, the school division may make up the missed teaching days by providing its students with instructional hours equivalent to such missed teaching days to meet the minimum 990 teaching hour requirement.

D. The local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall also not be proportionally reduced by any local governing body because of any reduction in the length of the term of any school or the schools in a school division authorized by subsection C.

E. The foregoing provisions of this section notwithstanding, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency or severe weather conditions or other emergency situations. If the local school board desires a waiver, it shall submit a request to the Board of Education. The request shall include evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted before requesting a waiver of this requirement. If the waiver is denied, the school division shall make up the missed instructional time in accordance with this section.

If the Board grants such a waiver, there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

*F. Notwithstanding the provisions of this section, the Board of Education shall waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from an evacuation directed and compelled by the Governor pursuant to § 44-146.17 for up to five teaching days. If the local school board desires such a waiver, it shall notify the Board of Education and provide evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted. After receiving such notification, the Board shall grant the waiver and there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.*

~~F. G.~~ If the professional personnel of any such school division actually render service for less than the contracted period for such school year and their compensation is reduced because of insufficient funds or other reason, the proportionate amount paid by the Commonwealth for the personnel component of the Basic School Aid Fund for such school year shall be reduced pro rata.

Notwithstanding any provision of law to the contrary, the school board of any school division in which the length of the term for any school or for the schools in the school division is reduced as provided in this section may pay its professional personnel such salary as they would have received if the term had not been so reduced.

~~G. H.~~ In developing the school calendar as provided for in § 22.1-79.1, each local school board shall establish such calendars and teaching contracts in accordance with applicable regulations of the Board of Education to include contingencies for making up teaching days and teaching hours missed for emergency situations described in this section. Historical data shall be used to determine the needs of the locality including scheduled holidays and breaks and work days.

~~H. I.~~ The Board of Education may authorize the Superintendent of Public Instruction to approve, in compliance with this section, reductions in the school term for a school or the schools in a school division without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

~~I. J.~~ With the exception of the Basic School Aid Fund as provided for above, the Commonwealth shall not distribute funds to a locality for costs not incurred when the school term is reduced below 180 teaching days or 990 teaching hours.

~~J. K.~~ As part of the annual report required by § 22.1-81, the division superintendent and local school board chairman shall certify the total number of teaching days and teaching hours each year.

## CHAPTER 645

*An Act to amend and reenact § 22.1-98 of the Code of Virginia, relating to length of school term; waiver for school closings resulting from evacuation.*

[S 1269]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-98 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-98. Reduction of state aid when length of school term below 180 days or 990 hours.**

A. For the purposes of this section:

1. "Declared state of emergency" means the declaration of an emergency before or after an event, by the Governor or by officials in a locality, that requires the closure of any or all schools within a school division.

2. "Severe weather conditions or other emergency situations" means those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, ~~but not limited to,~~ natural and man-made disasters, energy shortages, or power failures.

B. Except as provided in this section:

1. The length of every school's term in every school division shall be at least 180 teaching days or 990 teaching hours in any school year; and

2. If the length of the term of any school or the schools in a school division shall be less than 180 teaching days or 990 teaching hours in any school year, the amount paid by the Commonwealth from the Basic School Aid Fund shall, except as otherwise hereinafter provided or as otherwise provided by law, be reduced in the same proportion as the length of the school term has been reduced in any school or the schools in the school division from 180 teaching days or 990 teaching hours.

C. Notwithstanding the requirements of subsection B, in any case in which severe weather conditions or other emergency situations, as defined in this section, result in the closing of a school or the schools in a school division, the amount paid by the Commonwealth from the Basic School Aid Fund shall not be reduced if the following schedule of make-up days is followed:

1. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for five or fewer days, the school or the schools in the school division shall make up all missed days by adding teaching days to the school calendar or extending the length of the school day;

2. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for six days or more, the school or the schools in the school division shall make up the first five days plus one day for each two days missed in excess of the first five by adding teaching days to the school calendar or extending the length of the school day; or

3. When severe weather conditions or other emergency situations have resulted in the closing of any school in a school division and such school has been unable to meet the 180 teaching day requirement, the school division may make up the missed teaching days by providing its students with instructional hours equivalent to such missed teaching days to meet the minimum 990 teaching hour requirement.

D. The local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall also not be proportionally reduced by any local governing body because of any reduction in the length of the term of any school or the schools in a school division authorized by subsection C.

E. The foregoing provisions of this section notwithstanding, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency or severe weather conditions or other emergency situations. If the local school board desires a waiver, it shall submit a request to the Board of Education. The request shall include evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted before requesting a waiver of this requirement. If the waiver is denied, the school division shall make up the missed instructional time in accordance with this section.

If the Board grants such a waiver, there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

*F. Notwithstanding the provisions of this section, the Board of Education shall waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from an evacuation directed and compelled by the Governor pursuant to § 44-146.17 for up to five teaching days. If the local school board desires such a waiver, it shall notify the Board of Education and provide evidence of efforts that have been made by the school division to reschedule as many days as possible and certification by the division superintendent and chairman of the local school board that every reasonable effort for making up lost teaching days or teaching hours was exhausted. After receiving such notification, the Board shall grant the waiver and there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes*

necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

¶ G. If the professional personnel of any such school division actually render service for less than the contracted period for such school year and their compensation is reduced because of insufficient funds or other reason, the proportionate amount paid by the Commonwealth for the personnel component of the Basic School Aid Fund for such school year shall be reduced pro rata.

Notwithstanding any provision of law to the contrary, the school board of any school division in which the length of the term for any school or for the schools in the school division is reduced as provided in this section may pay its professional personnel such salary as they would have received if the term had not been so reduced.

¶ H. In developing the school calendar as provided for in § 22.1-79.1, each local school board shall establish such calendars and teaching contracts in accordance with applicable regulations of the Board of Education to include contingencies for making up teaching days and teaching hours missed for emergency situations described in this section. Historical data shall be used to determine the needs of the locality including scheduled holidays and breaks and work days.

¶ I. The Board of Education may authorize the Superintendent of Public Instruction to approve, in compliance with this section, reductions in the school term for a school or the schools in a school division without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

¶ J. With the exception of the Basic School Aid Fund as provided for above, the Commonwealth shall not distribute funds to a locality for costs not incurred when the school term is reduced below 180 teaching days or 990 teaching hours.

¶ K. As part of the annual report required by § 22.1-81, the division superintendent and local school board chairman shall certify the total number of teaching days and teaching hours each year.

## CHAPTER 646

*An Act to amend the Code of Virginia by adding in Article 7 of Chapter 31 of Title 23.1 a section numbered 23.1-3129.1, relating to the establishment of the Virginia Rural Information Technology Apprenticeship Grant Fund and Program.*

[S 1495]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 7 of Chapter 31 of Title 23.1 a section numbered 23.1-3129.1 as follows:**

**§ 23.1-3129.1. Virginia Rural Information Technology Apprenticeship Grant Fund and Program.**

A. As used in this section:

"Apprenticeship program" means an 18-month apprenticeship program for information technology workers hosted by a small, rural information technology business that combines mentorship and on-the-job training and that is established for the purpose of enhancing the experience and skills of such information technology workers.

"Information technology" means communications, telecommunications, automated data processing, applications, databases, data networks, the Internet, management information systems, and related information, equipment, goods, and services.

"Information technology worker" means any employee of a small, rural information technology business who is employed full-time on a salaried or wage basis and whose position is neither temporary nor provisional in nature.

"Qualified locality" means the Counties of Alleghany, Bland, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe and the Cities of Bristol, Danville, Galax, Martinsville, and Norton.

"Small, rural information technology business" means any corporation, partnership, sole proprietorship, firm, or enterprise that (i) provides information technology services to its clients, (ii) is headquartered and operated in a qualified locality, and (iii) employs fewer than 100 employees.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Rural Information Technology Apprenticeship Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) awarding grants on a competitive basis through the Virginia Rural Information Technology Apprenticeship Grant Program established pursuant to subsection C or (ii) implementing and administering the Virginia Rural Information Technology Apprenticeship Grant Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the executive director of the Center.

C. The Virginia Rural Information Technology Apprenticeship Grant Program (the Program) is hereby established for the purpose of awarding grants on a competitive basis from such funds as may be available from the Fund to small, rural information technology businesses to establish apprenticeship programs. The Program shall be administered by the Center.

*In administering the Program, the Center shall establish and publish guidelines and criteria for grant awards, including guidelines and criteria governing agreements between the Center and grant recipients relating to the employment of information technology workers who participate in apprenticeship programs. Such guidelines and criteria are subject to the approval of Chief Workforce Development Officer. The Center, in collaboration with the Chief Workforce Development Officer, shall oversee each grant awarded through the Program and ensure thorough annual reporting on each such grant.*

*D. Each small, rural information technology business that receives a grant pursuant to the Program is eligible to receive grant funding for no more than five years or until the business employs 100 individuals, whichever occurs first. The amount of each grant shall not exceed the entry-level salary to employ information technology workers pursuant to the apprenticeship program established by the business for a period of 18 months, in accordance with salary guidelines established and annually adjusted, as necessary, by the Center.*

## CHAPTER 647

*An Act to amend the Code of Virginia by adding in Article 7 of Chapter 31 of Title 23.1 a section numbered 23.1-3129.1, relating to the establishment of the Virginia Rural Information Technology Apprenticeship Grant Fund and Program.*

[H 2185]

Approved March 19, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 7 of Chapter 31 of Title 23.1 a section numbered 23.1-3129.1 as follows:**

**§ 23.1-3129.1. Virginia Rural Information Technology Apprenticeship Grant Fund and Program.**

A. As used in this section:

*"Apprenticeship program" means an 18-month apprenticeship program for information technology workers hosted by a small, rural information technology business that combines mentorship and on-the-job training and that is established for the purpose of enhancing the experience and skills of such information technology workers.*

*"Information technology" means communications, telecommunications, automated data processing, applications, databases, data networks, the Internet, management information systems, and related information, equipment, goods, and services.*

*"Information technology worker" means any employee of a small, rural information technology business who is employed full-time on a salaried or wage basis and whose position is neither temporary nor provisional in nature.*

*"Qualified locality" means the Counties of Alleghany, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Giles, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe and the Cities of Bristol, Danville, Galax, Martinsville, and Norton.*

*"Small, rural information technology business" means any corporation, partnership, sole proprietorship, firm, or enterprise that (i) provides information technology services to its clients, (ii) is headquartered and operated in a qualified locality, and (iii) employs fewer than 100 employees.*

*B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Rural Information Technology Apprenticeship Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) awarding grants on a competitive basis through the Virginia Rural Information Technology Apprenticeship Grant Program established pursuant to subsection C or (ii) implementing and administering the Virginia Rural Information Technology Apprenticeship Grant Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the executive director of the Center.*

*C. The Virginia Rural Information Technology Apprenticeship Grant Program (the Program) is hereby established for the purpose of awarding grants on a competitive basis from such funds as may be available from the Fund to small, rural information technology businesses to establish apprenticeship programs. The Program shall be administered by the Center. In administering the Program, the Center shall establish and publish guidelines and criteria for grant awards, including guidelines and criteria governing agreements between the Center and grant recipients relating to the employment of information technology workers who participate in apprenticeship programs. Such guidelines and criteria are subject to the approval of Chief Workforce Development Officer. The Center, in collaboration with the Chief Workforce Development Officer, shall oversee each grant awarded through the Program and ensure thorough annual reporting on each such grant.*

*D. Each small, rural information technology business that receives a grant pursuant to the Program is eligible to receive grant funding for no more than five years or until the business employs 100 individuals, whichever occurs first. The amount of each grant shall not exceed the entry-level salary to employ information technology workers pursuant to the apprenticeship program established by the business for a period of 18 months, in accordance with salary guidelines established and annually adjusted, as necessary, by the Center.*

## CHAPTER 648

*An Act to amend and reenact § 58.1-605, as it is currently effective and as it may become effective, of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 58.1-605.1 and 58.1-606.1, relating to an additional local sales and use tax in Halifax County; appropriations of Halifax County to incorporated towns for educational purposes.*

[H 1634]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-605, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 58.1-605.1 and 58.1-606.1 as follows:**

**§ 58.1-605. (Contingent expiration date) To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.**

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section *or* § 58.1-605.1.

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on a local sales tax.

C. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this section, and providing that such ordinance shall be effective on the first day of a month at least 60 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G above, that in any county wherein is situated any incorporated town not constituting a separate special school district ~~which~~ *that* has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the

school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county ~~which that~~ has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held; *however, Halifax County may appropriate any amount to any such incorporated town.*

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H ~~of this section~~ be located in a county ~~which that~~ does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

**§ 58.1-605. (Contingent effective date) To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.**

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section *or § 58.1-605.1.*

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on a local sales tax.

C. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this section, and providing that such ordinance shall be effective on the first day of a month at least 60 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

D. Prior to any change in the rate of the local sales and use tax, the Tax Commissioner shall provide remote sellers and single and consolidated providers with at least 30 days' notice. Any change in the rate of local sales and use tax shall only become effective on the first day of a calendar quarter. Failure to provide notice pursuant to this section shall require the Commonwealth and the locality to hold the remote seller or single or consolidated provider harmless for collecting the tax at the immediately preceding effective rate for any period of time prior to 30 days after notification is provided.

E. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

F. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

G. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

H. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental

purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection H, that in any county wherein is situated any incorporated town not constituting a separate special school district ~~which that~~ has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

J. Notwithstanding the provisions of subsection I, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county ~~which that~~ has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held; *however, Halifax County may appropriate any amount to any such incorporated town.*

K. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection H or I be located in a county ~~which that~~ does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

**§ 58.1-605.1. Additional local sales tax in Halifax County; use of revenues for construction or renovation of schools.**

*A. 1. In addition to the sales tax authorized under § 58.1-605, Halifax County may levy a general retail sales tax at a rate not to exceed one percent as determined by its governing body to provide revenue solely for capital projects for the construction or renovation of schools in Halifax County. Such tax shall be added to the rates of the state and local sales tax imposed by this chapter and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on this local sales tax.*

*2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the provisions of subdivision B 1. Such expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the provisions of subdivision B 1.*

*B. 1. This tax may be levied only if the tax is approved in a referendum within Halifax County held in accordance with § 24.2-684 and initiated by a resolution of the local governing body. Such resolution shall state (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, a specified date on which the sales tax shall expire.*

*2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in Halifax County once a week for three consecutive weeks prior to the election. The question on the ballot for the referendum shall include language stating (i) that the revenues from the sales tax shall be used solely for capital projects for the construction or renovation of schools and (ii) the date on which the sales tax shall expire.*

*C. The governing body of Halifax County, if it elects to impose a local sales tax under this section after approval at a referendum as provided in subsection B shall do so by the adoption of an ordinance stating its purpose and referring to this section and providing that such ordinance shall be effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on which the sales tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.*

*D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state sales tax; however, the local sales tax levied under this section shall not be levied on food purchased for human consumption, as defined in § 58.1-611.1.*

*E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books under the name "Collections of Additional Local Sales Taxes in Halifax County." The fund shall be administered as provided in § 58.1-605.*

*F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the proper amount in favor of Halifax County, and such payments shall be charged to the account of Halifax County under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payment for each of the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to Halifax County and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.*

*G. The revenues from this tax shall be used solely for capital projects for new construction or major renovation of schools in Halifax County, including bond and loan financing costs related to such construction or renovation.*

**§ 58.1-606.1. Additional local use tax in Halifax County; use of revenues for construction or renovation of schools.**

*A. 1. The governing body of Halifax County may levy a use tax at the rate of such sales tax under § 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in Halifax County. Such tax shall be added to the rates of the state and local use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.*

*2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the provisions of subsection B. Such expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the provisions of subsection B.*

*B. The governing body of Halifax County, if it elects to impose a local use tax under this section may do so only if it has previously imposed the local sales tax authorized by § 58.1-605.1, by the adoption of an ordinance stating its purpose and referring to this section and providing that the local use tax shall become effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on which the use tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.*

*C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state use tax; however, the local sales tax levied under this section shall not be levied on food purchased for human consumption, as defined in § 58.1-611.1.*

*D. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is the locality of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the locality of possible use by the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property purchased outside the Commonwealth for use or consumption within the locality imposing the local use tax, or stored within the locality for use or consumption, where the property would have been subject to the sales tax if it had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal property where the place of business of the lessor is outside the Commonwealth and such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.*

*E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax returns with the Tax Commissioner, break down their shipments into the Commonwealth by counties and cities so as to show the county or city of destination. If, however, the out-of-state dealer is unable accurately to assign any shipment to a particular county or city, the local use tax on the tangible personal property involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to any county or city.*

*F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of § 58.1-605.1. The Comptroller shall distribute the revenue to Halifax County.*

*G. All revenue from this local use tax revenue shall be used solely for capital projects for new construction or major renovation of schools in Halifax County, including bond and loan financing costs related to such construction or renovation.*

**CHAPTER 649**

*An Act to amend and reenact § 58.1-512 of the Code of Virginia, relating to land preservation tax credits; operation of facility on donated land; agreements between the Commonwealth and a third party related to donated land.*

[H 2482]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-512 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-512. Land preservation tax credits for individuals and corporations.**

A. 1. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by §§ 58.1-320 and 58.1-400, an amount equal to 50 percent of the fair market value of any land or interest in land located in Virginia ~~which~~ *that* is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. For such conveyances made on or after January 1, 2007, the tax credit shall be 40 percent of the fair market value of the land or interest in land so conveyed.

2. a. *If the Commonwealth or an instrumentality thereof operates a facility on a conveyance, including charging fees for the use of such facility, such operation shall not disqualify the conveyance from eligibility for the tax credit, so long as any fees are used for conservation or preservation purposes.*

b. *If the Commonwealth or an instrumentality thereof enters into an agreement with a third party to lease or manage a facility on a conveyance, the fact that such third party is operated primarily as a business with intent for profit shall not disqualify the conveyance from eligibility for the tax credit, so long as such agreement is for conservation or preservation purposes.*

B. The fair market value of qualified donations made under this section shall be determined in accordance with § 58.1-512.1 and substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions. The value of the donated interest in land that qualifies for credit under this section, as determined according to appropriate federal law and regulations, shall be subject to the limits established by United States Internal Revenue Code § 170(e). In order to qualify for a tax credit under this section, the qualified appraisal shall be signed by the qualified appraiser, who must be licensed in the Commonwealth of Virginia as provided in § 54.1-2011, and a copy of the appraisal shall be submitted to the Department. In the event that any appraiser falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has signed, the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § 54.1-2013, which may include, but need not be limited to, revocation of the appraiser's license. Any appraisal that, upon audit by the Department, is determined to be false or fraudulent, may be disregarded by the Department in determining the fair market value of the property and the amount of tax credit to be allowed under this section.

C. 1. The amount of the credit that may be claimed by each taxpayer, including credit claimed by applying unused credits as provided under subsection C of § 58.1-513, shall not exceed \$50,000 for 2000 taxable years; \$75,000 for 2001 taxable years; \$100,000 for each of 2002 through 2008 taxable years; \$50,000 for each of 2009, 2010, and 2011 taxable years; \$100,000 for each of 2012, 2013, and 2014 taxable years; \$20,000 for each of 2015, 2016, and 2017 taxable years; and \$50,000 for 2018 taxable years and for each taxable year thereafter. However, for any fee simple donation of land conveyed to the Commonwealth on or after January 1, 2015, the amount of the credit claimed shall not exceed \$100,000 for each taxable year, provided that no part of the charitable contributions deduction under § 170 of the Internal Revenue Code related to such fee simple donation is allowable by reason of a sale or exchange of property. In addition, for each taxpayer, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 10 consecutive taxable years following the taxable year in which the credit originated until fully expended. A credit shall not be reduced by the amount of unused credit that could have been claimed in a prior year by the taxpayer but was unclaimed. For taxpayers affected by the credit reduction for taxable years 2009, 2010, 2011, and 2015 and thereafter, any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 13 consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. Qualified donations shall include the conveyance of a fee interest in real property or the conveyance in perpetuity of a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170(h) of the United States Internal Revenue Code of 1986, as amended.

The Department of Conservation and Recreation shall compile an annual report on qualified donations of less-than-fee interests accepted by any public or private conservation agency in the respective calendar year and shall submit the report by December 1 of each year to the Chairmen of the House Committee on Appropriations, House Committee on Finance, and the Senate Committee on Finance. In preparing such report, the Department of Conservation and Recreation shall consult and coordinate with the Department of Taxation and the Departments of Forestry and Agriculture and Consumer Services to provide an estimate of the number of acres of land currently being used for "production agriculture and silviculture" as defined in § 3.2-300 that have been protected by qualified donations of less-than-fee interests. This report shall include information, when available, on land qualifying for credits being used for "production agriculture and silviculture" that have onsite operational best management practices, which are designed to reduce the amount of nutrients and sediment entering public waters. In addition, the report shall include information, when available, on riparian buffers, both vegetated/forested buffers and no-plow buffers, required by deed restriction on land qualifying for credits in order to protect water quality. This information shall be reported in summary fashion as appropriate to preserve confidentiality of

information. Qualified donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property by a charitable organization that (i) meets the definition of "holder" in § 10.1-1009 and (ii) holds one or more conservation easements acquired pursuant to the authority conferred on a "holder" by § 10.1-1010.

3. Any fee interest, or a less-than-fee interest, in real property that has been dedicated as open space within, or as part of, a residential subdivision or any other type of residential or commercial development; dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits shall not be a qualified donation under this article.

4. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509(a)(2) or (ii) meets the requirements of § 509(a)(3) and is controlled by an organization described in § 509(a)(2).

5. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity. In the case of conveyances of a fee interest to a charitable organization that is a "holder" as defined in § 10.1-1009, the credit shall not be allowed until the charitable organization agrees that subsequent conveyances of the fee interest in the property will be (i) subject to a previous conveyance in perpetuity of a conservation easement, as that term is defined in § 10.1-1009, or subject to the conveyance in perpetuity of an open-space easement, as that term is defined in § 10.1-1700, or (ii) conveyed to the Commonwealth of Virginia or to a federal conservation agency. No credit shall be allowed with respect to any subsequent conveyances by the charitable organization.

D. The issuance of tax credits under this article for donations made on and after January 1, 2007, shall be in accordance with procedures and deadlines established by the Department and shall be administered under the following conditions:

1. The taxpayer shall apply for a credit after completing the donation by submitting a form or forms prescribed by the Department in consultation with the Department of Conservation and Recreation. If the application requests a credit of \$1 million or more or if the donation meets the conditions of subdivision 3 c, then a copy of the application shall also be filed with the Department of Conservation and Recreation by the taxpayer. The application shall include, but not be limited to:

- a. A description of the conservation purpose or purposes being served by the donation;
- b. The fair market value of land being donated in the absence of any easement or other restriction;
- c. The public benefit derived from the donation;
- d. The extent to which water quality best management practices will be implemented on the property; and
- e. Whether the property is fully or partially forested and a forest management plan is included in the terms of the donation.

2. Applications for otherwise qualified donations of a less-than-fee interest shall be accompanied by an affidavit describing how the donated interest in land meets the requirements of § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder. The application with accompanying affidavit shall be submitted to the Department of Taxation, with a copy also provided to the Department of Conservation and Recreation.

3. a. No credit in the amount of \$1 million or more shall be issued with respect to a donation unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation, based on the criteria adopted by the Virginia Land Conservation Foundation for this purpose. Such criteria and subsequent amendments shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.), but the Virginia Land Conservation Foundation shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the proposed criteria. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action.

b. For purposes of determining whether a credit requires verification of the conservation value, the credits allowed under this article with respect to donations of any other portion of a recorded parcel of land within the preceding 11 years shall be aggregated with the credit claimed for the current donation. This subdivision shall not apply if (i) all owners of the parcel who have been allowed credit for a qualified donation are not affiliated with the person or entity seeking credit for the current donation of a different portion of the parcel and (ii) in the case of an individual seeking credit, the individual has not previously made a qualified donation for any portion of the parcel and is not an immediate family member of any such owners.

c. If (i) the real property that is the subject of the donation was partitioned from or part of another parcel of land and any other portion of such parcel, or any land partitioned from such parcel of land, has been allowed a tax credit under this article (or an application for tax credit is pending) within three years of such donation and (ii) the tax credit that would otherwise be allowed to the donor for such donation is at least \$250,000, then no credit under this article shall be issued with respect to such donation described in clause (i) unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action. Nothing in this subdivision shall be construed or interpreted (a) as allowing additional tax credit for any land or interest in land previously conveyed for which tax credit has already been allowed under this article or (b) affecting the validity of any tax credit allowed under this article for a prior conveyance of any land or interest in land.

4. a. Tax credits shall be issued on a calendar year basis, and in no case shall the Department issue more than the maximum allowed for the calendar year. The maximum amount of credits that may be issued in a calendar year shall be \$100 million plus any credits previously issued under this article but subsequently disallowed or invalidated by the

Department. Credits previously issued but subsequently disallowed or invalidated shall be reissued in a subsequent calendar year. All credits shall be issued in the order that each complete application is filed. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. If within 30 days after an application for credits has been filed the Tax Commissioner provides written notice to the donor that he has determined that the preparation of a second qualified appraisal is warranted, the application shall not be deemed complete until the fair market value of the donation has been finally determined by the Tax Commissioner. The Tax Commissioner shall make a final determination within 180 days of notifying the donor, unless the donor has filed an appeal. The donor shall have the right to appeal any decision of the Department in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.). If more than one complete application is filed at the same time, the credits with respect to those applications shall be issued in the order that the conveyances were recorded in the appropriate circuit court of the Commonwealth. In the event that a credit requires verification of the conservation value by the Department of Conservation and Recreation and such verification has not been received at the time the maximum \$100 million allowed is reached for the calendar year of the donation, such credit shall not be issued for that calendar year but shall be issued in the calendar year that the conservation value of the credit is verified by the Department of Conservation and Recreation.

No credit shall be allowed for any land or interest in land conveyed on or after July 1, 2015, unless a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the year following the calendar year of the conveyance. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. Solely for purposes of this condition, any application for which the Tax Commissioner has given written notice to the donor that the preparation of a second qualified appraisal is warranted shall be deemed timely filed, provided that the application was otherwise complete as of such filing deadline.

b. Beginning with calendar year 2008, the \$100 million amount contained in subdivision 4 a shall be increased by an amount equal to \$100 million multiplied by the percentage by which the consumer price index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31, 2006.

c. Beginning with calendar year 2015, the maximum amount of credits that may be issued in a calendar year shall not exceed \$75 million. In no case shall the Department issue any tax credit for a donation from any allocation or pool of tax credits attributable to a calendar year prior to the year in which the complete tax credit application for the donation was filed.

Beginning with the submission due on or before December 20, 2015, and in each year thereafter, the Governor shall include in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his amendments to the general appropriation act in effect submitted pursuant to subsection E of § 2.2-1509 a recommended appropriation from the general fund equal to the difference between the amount calculated pursuant to subdivision b and \$75 million, but not more than \$20 million, to be allocated as follows: 80 percent to the Virginia Land Conservation Fund to be used in accordance with § 10.1-1020, with no less than 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of easements with public access; 10 percent to the Virginia Battlefield Preservation Fund to be used in accordance with § 10.1-2202.4; and 10 percent to the Virginia Farmland Preservation Fund to be used in accordance with § 3.2-201.

5. a. Any taxpayer that has been issued a tax credit by the Department shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 10 consecutive taxable year carryforward provisions of this article, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 13 consecutive taxable year carryforward provisions of this article.

b. Any taxpayer to whom a credit has been transferred may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 11 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 14 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer.

6. Neither the verification of conservation value by the Department of Conservation and Recreation nor the issuance of a credit by the Department of Taxation shall in any way be construed or interpreted as prohibiting the Department of Taxation or the Tax Commissioner from auditing any credit claimed pursuant to the provisions of this article or from assessing tax relating to the claiming of any credit under this article.

E. In any review or appeal before the Tax Commissioner or in any court in the Commonwealth the burden of proof shall be on the taxpayer to show that the fair market value and conservation value at the time of the qualified donation is consistent with this section and that all requirements of this article have been satisfied.

## CHAPTER 650

An Act to allow closure of certain coal combustion residuals impoundments.

[H 2786]

Approved March 19, 2019

**Be it enacted by the General Assembly of Virginia:**

1. § 1. A. For the purposes of this section only:

"Carrying cost" means the cost associated with financing expenditures incurred but not yet recovered from the electric utility's customers, and shall be calculated by applying the electric utility's weighted average cost of debt and equity capital, as determined by the State Corporation Commission, with no additional margin or profit, to any unrecovered balances.

"CCR landfill" means an area of land or an excavation that receives CCR and is not a surface impoundment, underground injection well, salt dome formation, salt bed formation, underground or surface coal mine, or cave and that is owned or operated by an electric utility.

"CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area that (i) is designed to hold an accumulation of CCR and liquids; (ii) treats, stores, or disposes of CCR; and (iii) is owned or operated by an electric utility.

"CCR unit" means any CCR landfill, CCR surface impoundment, lateral expansion of a CCR unit, or combination of two or more such units that is owned by an electric utility. Notwithstanding the provisions of 40 C.F.R. Part 257, "CCR unit" also includes any CCR below the unit boundary of the CCR landfill or CCR surface impoundment.

"Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by an electric utility.

"Encapsulated beneficial use" means a beneficial use of CCR that binds the CCR into a solid matrix and minimizes its mobilization into the surrounding environment.

The above definitions shall be interpreted in a manner consistent with 40 C.F.R. Part 257, except as expressly provided herein.

B. The owner or operator of any CCR unit located within the Chesapeake Bay watershed at the Brema Power Station, Chesapeake Energy Center, Chesterfield Power Station, and Possum Point Power Station that ceased accepting CCR prior to July 1, 2019, shall complete closure of such unit by (i) removing all of the CCR in accordance with applicable standards established by Virginia Solid Waste Management Regulations (9VAC20-81) and (ii) either (a) beneficially reusing all such CCR in a recycling process for encapsulated beneficial use or (b) disposing of the CCR in a permitted landfill on the property upon which the CCR unit is located, adjacent to the property upon which the CCR unit is located, or off of the property on which the CCR unit is located, that includes, at a minimum, a composite liner and leachate collection system that meets or exceeds the federal Criteria for Municipal Solid Waste Landfills pursuant to 40 C.F.R. Part 258. The owner or operator shall beneficially reuse a total of no less than 6.8 million cubic yards in aggregate of such removed CCR from no fewer than two of the sites listed in this subsection where CCR is located.

C. The owner or operator shall complete the closure of any such CCR unit required by this section no later than 15 years after initiating the closure process at that CCR unit. During the closure process, the owner or operator shall, at its expense, offer to provide a connection to a municipal water supply, or where such connection is not feasible provide water testing, for any residence within one-half mile of the CCR unit.

D. Where closure pursuant to this section requires that CCR or CCR that has been beneficially reused be removed off-site, the owner or operator shall develop a transportation plan in consultation with any county, city, or town in which the CCR units are located and any county, city, or town within two miles of the CCR units that minimizes the impact of any transport of CCR on adjacent property owners and surrounding communities. The transportation plan shall include (i) alternative transportation options to be utilized, including rail and barge transport, if feasible, in combination with other transportation methods necessary to meet the closure timeframe established in subsection C, and (ii) plans for any transportation by truck, including the frequency of truck travel, the route of truck travel, and measures to control noise, traffic impact, safety, and fugitive dust caused by such truck travel. Once such transportation plan is completed, the owner or operator shall post it on a publicly accessible website. The owner or operator shall provide notice of the availability of the plan to the Department and the chief administrative officers of the consulting localities and shall publish such notice once in a newspaper of general circulation in such locality.

E. The owner or operator of any CCR unit subject to the provisions of subsection B shall accept and review proposals to beneficially reuse any CCR that are not subject to an existing contractual agreement to remove CCR pursuant to the provisions of subsection B every four years beginning July 1, 2022. Any entity submitting such a proposal shall provide information from which the owner or operator can determine (i) the amount of CCR that will be utilized for encapsulated beneficial use; (ii) the cost of such beneficial reuse of such CCR; and (iii) the guaranteed timeframe in which the CCR will be utilized.

F. In conducting closure activities described in subsection B, the owner or operator shall (i) identify options for utilizing local workers, (ii) consult with the Commonwealth's Chief Workforce Development Officer on opportunities to advance the Commonwealth's workforce goals, including furtherance of apprenticeship and other workforce training programs to develop the local workforce, and (iii) give priority to the hiring of local workers.

G. No later than October 1, 2022, and no less frequently than every two years thereafter until closure of all of its CCR units is complete, the owner or operator of any CCR unit subject to the provisions of subsection B shall compile the following two reports:

1. A report describing the owner's or operator's closure plan for all such CCR units; the closure progress to date, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be beneficially reused from such units, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be landfilled from such units, both per unit and in total; a detailed accounting of the utilization of transportation options and a transportation plan as required by subsection D; and a discussion of groundwater and surface water monitoring results and any measures taken to address such results as closure is being completed.

2. A report that contains the proposals and analysis for proposals required by subsection E.

The owner or operator shall post each such report on a publicly accessible website and shall submit each such report to the Governor, the Secretary of Natural Resources, the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources, the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources, the Chairman of the Senate Committee on Commerce and Labor, the Chairman of the House Committee on Commerce and Labor, and the Director.

H. All costs associated with closure of a CCR unit in accordance with this section shall be recoverable through a rate adjustment clause authorized by the State Corporation Commission (the Commission) under the provisions of subdivision A 5 e of § 56-585.1 of the Code of Virginia, provided that (i) when determining the reasonableness of such costs the Commission shall not consider closure in place of the CCR unit as an option; (ii) the annual revenue requirement recoverable through a rate adjustment clause authorized under this act, exclusive of any other rate adjustment clauses approved by the Commission under the provisions of subdivision A 5 e of § 56-585.1 of the Code of Virginia, shall not exceed \$225 million on a Virginia jurisdictional basis for the Commonwealth in any 12-month period, provided that any under-recovery amount of revenue requirements incurred in excess of \$225 million in a given 12-month period, limited to the under-recovery amount and the carrying cost, shall be deferred and recovered through the rate adjustment clause over up to three succeeding 12-month periods without regard to this limitation, and with the length of the amortization period being determined by the Commission; (iii) costs may begin accruing on July 1, 2019, but no approved rate adjustment clause charges shall be included in customer bills until July 1, 2021; (iv) any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer; and (v) any such costs that are allocated to the utility's system customers outside of the Commonwealth that are not actually recovered from such customers shall be included for cost recovery from jurisdictional customers in the Commonwealth through the rate adjustment clause.

I. Any electric public utility subject to the requirements of this section may, without regard for whether it has petitioned for any rate adjustment clause pursuant to subdivision A 5 e of § 56-585.1 of the Code of Virginia, petition the Commission for approval of a plan for CCR unit closure at any or all of its CCR unit sites listed in subsection B. Any such plan shall take into account site-specific conditions and shall include proposals to beneficially reuse no less than 6.8 million cubic yards of CCR in aggregate from no fewer than two of the sites listed in subsection B. The Commission shall issue its final order with regard to any such petition within six months of its filing, and in doing so shall determine whether the utility's plan for CCR unit closure, and the projected costs associated therewith, are reasonable and prudent, taking into account that closure in place of any CCR unit is not to be considered as an option. The Commission shall not consider plans that do not comply with subsection B of this act.

§ 2. Nothing in this act shall be construed to require additional beneficial reuse of CCR at any active coal-fired electric generation facility if such additional beneficial reuse results in a net increase in truck traffic on the public roads of the locality in which the facility is located as compared to such traffic during calendar year 2018.

§ 3. The Commonwealth shall not authorize any cost recovery by an owner or operator subject to the provisions of this act for any fines or civil penalties resulting from violations of federal and state law or regulation.

## CHAPTER 651

An Act to allow closure of certain coal combustion residuals impoundments.

[S 1355]

Approved March 19, 2019

### Be it enacted by the General Assembly of Virginia:

1. § 1. A. For the purposes of this section only:

"Carrying cost" means the cost associated with financing expenditures incurred but not yet recovered from the electric utility's customers, and shall be calculated by applying the electric utility's weighted average cost of debt and equity capital, as determined by the State Corporation Commission, with no additional margin or profit, to any unrecovered balances.

"CCR landfill" means an area of land or an excavation that receives CCR and is not a surface impoundment, underground injection well, salt dome formation, salt bed formation, underground or surface coal mine, or cave and that is owned or operated by an electric utility.

"CCR surface impoundment" means a natural topographic depression, man-made excavation, or diked area that (i) is designed to hold an accumulation of CCR and liquids; (ii) treats, stores, or disposes of CCR; and (iii) is owned or operated by an electric utility.

"CCR unit" means any CCR landfill, CCR surface impoundment, lateral expansion of a CCR unit, or combination of two or more such units that is owned by an electric utility. Notwithstanding the provisions of 40 C.F.R. Part 257, "CCR unit" also includes any CCR below the unit boundary of the CCR landfill or CCR surface impoundment.

"Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by an electric utility.

"Encapsulated beneficial use" means a beneficial use of CCR that binds the CCR into a solid matrix and minimizes its mobilization into the surrounding environment.

The above definitions shall be interpreted in a manner consistent with 40 C.F.R. Part 257, except as expressly provided herein.

B. The owner or operator of any CCR unit located within the Chesapeake Bay watershed at the Breomo Power Station, Chesapeake Energy Center, Chesterfield Power Station, and Possum Point Power Station that ceased accepting CCR prior to July 1, 2019, shall complete closure of such unit by (i) removing all of the CCR in accordance with applicable standards established by Virginia Solid Waste Management Regulations (9VAC20-81) and (ii) either (a) beneficially reusing all such CCR in a recycling process for encapsulated beneficial use or (b) disposing of the CCR in a permitted landfill on the property upon which the CCR unit is located, adjacent to the property upon which the CCR unit is located, or off of the property on which the CCR unit is located, that includes, at a minimum, a composite liner and leachate collection system that meets or exceeds the federal Criteria for Municipal Solid Waste Landfills pursuant to 40 C.F.R. Part 258. The owner or operator shall beneficially reuse a total of no less than 6.8 million cubic yards in aggregate of such removed CCR from no fewer than two of the sites listed in this subsection where CCR is located.

C. The owner or operator shall complete the closure of any such CCR unit required by this section no later than 15 years after initiating the closure process at that CCR unit. During the closure process, the owner or operator shall, at its expense, offer to provide a connection to a municipal water supply, or where such connection is not feasible provide water testing, for any residence within one-half mile of the CCR unit.

D. Where closure pursuant to this section requires that CCR or CCR that has been beneficially reused be removed off-site, the owner or operator shall develop a transportation plan in consultation with any county, city, or town in which the CCR units are located and any county, city, or town within two miles of the CCR units that minimizes the impact of any transport of CCR on adjacent property owners and surrounding communities. The transportation plan shall include (i) alternative transportation options to be utilized, including rail and barge transport, if feasible, in combination with other transportation methods necessary to meet the closure timeframe established in subsection C, and (ii) plans for any transportation by truck, including the frequency of truck travel, the route of truck travel, and measures to control noise, traffic impact, safety, and fugitive dust caused by such truck travel. Once such transportation plan is completed, the owner or operator shall post it on a publicly accessible website. The owner or operator shall provide notice of the availability of the plan to the Department and the chief administrative officers of the consulting localities and shall publish such notice once in a newspaper of general circulation in such locality.

E. The owner or operator of any CCR unit subject to the provisions of subsection B shall accept and review proposals to beneficially reuse any CCR that are not subject to an existing contractual agreement to remove CCR pursuant to the provisions of subsection B every four years beginning July 1, 2022. Any entity submitting such a proposal shall provide information from which the owner or operator can determine (i) the amount of CCR that will be utilized for encapsulated beneficial use; (ii) the cost of such beneficial reuse of such CCR; and (iii) the guaranteed timeframe in which the CCR will be utilized.

F. In conducting closure activities described in subsection B, the owner or operator shall (i) identify options for utilizing local workers, (ii) consult with the Commonwealth's Chief Workforce Development Officer on opportunities to advance the Commonwealth's workforce goals, including furtherance of apprenticeship and other workforce training programs to develop the local workforce, and (iii) give priority to the hiring of local workers.

G. No later than October 1, 2022, and no less frequently than every two years thereafter until closure of all of its CCR units is complete, the owner or operator of any CCR unit subject to the provisions of subsection B shall compile the following two reports:

1. A report describing the owner's or operator's closure plan for all such CCR units; the closure progress to date, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be beneficially reused from such units, both per unit and in total; a detailed accounting of the amounts of CCR that have been and are expected to be landfilled from such units, both per unit and in total; a detailed accounting of the utilization of transportation options and a transportation plan as required by subsection D; and a discussion of groundwater and surface water monitoring results and any measures taken to address such results as closure is being completed.

2. A report that contains the proposals and analysis for proposals required by subsection E.

The owner or operator shall post each such report on a publicly accessible website and shall submit each such report to the Governor, the Secretary of Natural Resources, the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources, the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources, the

*Chairman of the Senate Committee on Commerce and Labor, the Chairman of the House Committee on Commerce and Labor, and the Director.*

*H. All costs associated with closure of a CCR unit in accordance with this section shall be recoverable through a rate adjustment clause authorized by the State Corporation Commission (the Commission) under the provisions of subdivision A 5 e of § 56-585.1 of the Code of Virginia, provided that (i) when determining the reasonableness of such costs the Commission shall not consider closure in place of the CCR unit as an option; (ii) the annual revenue requirement recoverable through a rate adjustment clause authorized under this act, exclusive of any other rate adjustment clauses approved by the Commission under the provisions of subdivision A 5 e of § 56-585.1 of the Code of Virginia, shall not exceed \$225 million on a Virginia jurisdictional basis for the Commonwealth in any 12-month period, provided that any under-recovery amount of revenue requirements incurred in excess of \$225 million in a given 12-month period, limited to the under-recovery amount and the carrying cost, shall be deferred and recovered through the rate adjustment clause over up to three succeeding 12-month periods without regard to this limitation, and with the length of the amortization period being determined by the Commission; (iii) costs may begin accruing on July 1, 2019, but no approved rate adjustment clause charges shall be included in customer bills until July 1, 2021; (iv) any such costs shall be allocated to all customers of the utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of any such customer; and (v) any such costs that are allocated to the utility's system customers outside of the Commonwealth that are not actually recovered from such customers shall be included for cost recovery from jurisdictional customers in the Commonwealth through the rate adjustment clause.*

*I. Any electric public utility subject to the requirements of this section may, without regard for whether it has petitioned for any rate adjustment clause pursuant to subdivision A 5 e of § 56-585.1 of the Code of Virginia, petition the Commission for approval of a plan for CCR unit closure at any or all of its CCR unit sites listed in subsection B. Any such plan shall take into account site-specific conditions and shall include proposals to beneficially reuse no less than 6.8 million cubic yards of CCR in aggregate from no fewer than two of the sites listed in subsection B. The Commission shall issue its final order with regard to any such petition within six months of its filing, and in doing so shall determine whether the utility's plan for CCR unit closure, and the projected costs associated therewith, are reasonable and prudent, taking into account that closure in place of any CCR unit is not to be considered as an option. The Commission shall not consider plans that do not comply with subsection B of this act.*

*§ 2. Nothing in this act shall be construed to require additional beneficial reuse of CCR at any active coal-fired electric generation facility if such additional beneficial reuse results in a net increase in truck traffic on the public roads of the locality in which the facility is located as compared to such traffic during calendar year 2018.*

*§ 3. The Commonwealth shall not authorize any cost recovery by an owner or operator subject to the provisions of this act for any fines or civil penalties resulting from violations of federal and state law or regulation.*

## CHAPTER 652

*An Act for the relief of Gary Linwood Bush.*

[S 1477]

Approved March 19, 2019

Whereas, Gary Linwood Bush (Mr. Bush) spent almost 11 years in prison within the Virginia Department of Corrections for crimes he did not commit; and

Whereas, on October 6, 2006, a man wearing a baseball cap robbed the Bank of Southside Virginia on Crater Road in Petersburg, Virginia; and

Whereas, a bank teller and a bank manager both erroneously identified Mr. Bush as that man, with those identifications based on each glimpsing that man for a few seconds while he was looking down; and

Whereas, on November 8, 2006, a man robbed a BB&T bank at the Crossings Shopping Center in Prince George County; and

Whereas, a bank teller erroneously identified Mr. Bush as the man who robbed the bank, although she remembered that the man was wearing a baseball cap, and therefore she could only see the lower part of his face; and

Whereas, a construction worker who was working in the BB&T at the time of the robbery testified that he had seen Mr. Bush around town before and also erroneously identified Mr. Bush as the robber; and

Whereas, Mr. Bush denied any involvement in either robbery and testified at both trials that he was in other locations at the time of each robbery; and

Whereas, Mr. Bush provided a palm print sample that did not match the palm print found on the note used during the BB&T robbery; and

Whereas, Mr. Bush also provided a handwriting sample that could not be identified as the same handwriting found on the note used during the BB&T robbery; and

Whereas, in 2007, Mr. Bush was convicted of both robberies and sentenced to a combined 12 years' incarceration for the crimes; and

Whereas, on May 17, 2016, Christian Amos called the Prince George County police and asked to speak with someone about multiple bank robberies; and

Whereas, Christian Amos told a detective that he had robbed both the Bank of Southside Virginia in Petersburg and the BB&T in Prince George; and

Whereas, Christian Amos was unaware that another person had been convicted and incarcerated for those robberies; and

Whereas, Christian Amos at that time provided numerous details that matched those of the November 8, 2006, robbery of the BB&T in Prince George; and

Whereas, Christian Amos provided a handwriting sample that was strikingly similar to the handwriting found on the note used in the BB&T robbery; and

Whereas, Christian Amos pleaded guilty to the BB&T robbery on November 10, 2016, and his plea was accepted by the court; and

Whereas, Christian Amos was sentenced to 50 years' incarceration, with all but five years suspended, for the BB&T robbery; and

Whereas, on June 30, 2017, Christian Amos admitted in a declaration that he also committed the October 6, 2006, robbery of the Bank of Southside Virginia and provided accurate details of that robbery; and

Whereas, Mr. Bush filed petitions for actual innocence on December 15, 2017, based on newly discovered evidence and developments regarding the robberies in the form of the confession, guilty plea, conviction, and declaration of Christian Amos; and

Whereas, the Commonwealth of Virginia did not contest Mr. Bush's petitions before the Court of Appeals of Virginia and instead agreed that his petitions should be granted; and

Whereas, the Court of Appeals conducted an independent review of the petitions and evidence, notwithstanding the Commonwealth's concession of their merit; and

Whereas, the Court of Appeals found that Mr. Bush had proven his actual innocence claim by clear and convincing evidence as required by subsection A of § 19.2-327.11 of the Code of Virginia; and

Whereas, on May 22, 2018, the Court of Appeals granted both of Mr. Bush's petitions and issued writs of actual innocence for both robberies; and

Whereas, the Court of Appeals directed the circuit courts to immediately enter orders of expungement for both robberies; and

Whereas, Mr. Bush served almost the entirety of a combined 12-year sentence for robberies he did not commit; and

Whereas, Mr. Bush, as a result of his wrongful incarceration, lost almost 11 years of his freedom and countless life experiences and opportunities, including family relations, the opportunity to further his education, and the opportunity to earn potential income from gainful employment during his years of incarceration; and

Whereas, Mr. Bush has no other means to obtain adequate relief except by action of this body; now, therefore,

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That there is hereby appropriated from the general fund of the state treasury the sum of \$520,163 for the relief of Gary Linwood Bush, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of all claims Mr. Bush may have against the Commonwealth or any agency, instrumentality, office, employee, or political subdivision in connection with the aforesaid occurrence.*

*The compensation, subject to the execution of the release described herein, shall be paid as follows: (i) an initial lump sum of \$104,033 to be paid to Mr. Bush by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release and (ii) the sum of \$416,130 to purchase an annuity no later than September 30, 2019, for the primary benefit of Mr. Bush, the terms of such annuity structured in Mr. Bush's best interests based on consultation among Mr. Bush or his representatives, the State Treasurer, and other necessary parties.*

*The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated company authorized to sell annuities in the Commonwealth, including any A+ rated company from which the State Lottery Department may purchase an annuity. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of Mr. Bush's death.*

**§ 2.** *That Mr. Bush shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of \$10,000. The cost for the tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition benefit provided by this section shall expire on January 1, 2024.*

**2. That the provisions of § 8.01-195.12 of the Code of Virginia shall apply to any compensation awarded under this act.**

**CHAPTER 653**

*An Act to amend and reenact §§ 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 18.2-247, 54.1-3401, as it is currently effective and as it shall become effective, 54.1-3408.3, and 54.1-3446 of the Code of Virginia and to repeal §§ 3.2-4114.1 and 3.2-4117 of the Code of Virginia, relating to industrial hemp.*

[H 1839]

Approved March 21, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 18.2-247, 54.1-3401, as it is currently effective and as it shall become effective, 54.1-3408.3, and 54.1-3446 are amended and reenacted as follows:  
**§ 3.2-4112. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"*Cannabis sativa* product" means a product made from any part of the plant *Cannabis sativa*, including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

"Deal" means to buy industrial hemp grown in compliance with state or federal law and to sell such industrial hemp to a person who (i) processes industrial hemp in compliance with state or federal law or (ii) sells industrial hemp to a person who processes industrial hemp in compliance with state or federal law.

"Dealer" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial hemp. "Dealer" does not include (i) a grower, (ii) a processor, or (iii) any person who buys industrial hemp for personal use or retail sale in Virginia.

"Dealership" means the location at which a dealer stores or intends to store the industrial hemp in which he deals.

"Grow" means to plant, cultivate, or harvest a plant or crop.

"Grower" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

"Hemp product" means a any finished product made from that is otherwise lawful and that contains industrial hemp, including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil containing an industrial hemp extract, or food or food additives for human consumption.

~~"Higher education industrial hemp research program" means a research program established pursuant to subsection A of § 3.2-4114.1.~~

"Industrial hemp" means all parts and varieties any part of the plant *Cannabis sativa*, including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not, that contain with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.

"Process" means to convert industrial hemp into a marketable form hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower is growing or intends to grow industrial hemp.

~~"Virginia industrial hemp research program" means the research program established pursuant to subsection B of § 3.2-4114.1.~~

**§ 3.2-4113. Production of industrial hemp lawful.**

A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose, including the manufacture of a hemp product or scientific, agricultural, or other research related to other lawful applications for industrial hemp. No grower or his agent, dealer or his agent, or processor or his agent shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or 18.2-250.1 for the possession, growing, dealing, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation. ~~If any part of this chapter conflicts with a provision of federal law relating to industrial hemp, the federal provision shall control to the extent of the conflict.~~

C. No person shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or 18.2-250.1 for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, dealership, or process site.

**§ 3.2-4114. Regulations.**

The Board may adopt regulations pursuant to this chapter as necessary to register persons to grow, deal in, or process industrial hemp or implement the provisions of this chapter.

**§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.**

A. The Commissioner may charge a nonrefundable fee not to exceed \$50 for (†) any application for registration or renewal of registration allowed under this chapter and (††). ~~The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter.~~ All fees collected by the Commissioner shall be deposited in the state treasury.

~~B. The Commissioner may establish a minimum size for a production field that shall qualify a person for a Virginia industrial hemp research program grower registration.~~

C. The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp production fields, dealerships, and process sites.

~~D. C.~~ The Commissioner shall forward a copy or appropriate electronic record of each registration issued by the Commissioner under this chapter to the chief law-enforcement officer of the county or city where industrial hemp will be grown, *dealt*, or processed.

~~E. D.~~ The Commissioner shall be responsible for monitoring the industrial hemp grown, *dealt*, or processed by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random testing of the industrial hemp, at the cost of the grower, *dealer*, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, *dealership*, or process site during normal business hours without advance notice if he has reason to believe a violation of this chapter is occurring or has occurred.

~~F. E.~~ The Commissioner may require a grower, *dealer*, or processor to destroy, at the cost of the grower, *dealer*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows ~~or~~ in which the *dealer* deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.

*F. Notwithstanding the provisions of subsection E, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:*

*1. The Commissioner may require a grower, dealer, or processor to destroy, at the cost of the grower, dealer, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.*

*2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, dealer, or processor to request that the Cannabis sativa be sampled and tested again before he requires its destruction.*

~~G.~~ The Commissioner ~~may~~ shall advise the Attorney General of the United States and the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than negligence, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.

~~H.~~ The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of a higher education industrial hemp research program or the Virginia industrial hemp research program industry.

~~I.~~ The Commissioner may cooperatively seek funds from public and private sources to implement a higher education industrial hemp research program or the Virginia industrial hemp research program establish a corrective action plan to address a negligent violation of any provision of this chapter.

~~J.~~ By December 1 of each year, the Commissioner shall report on the status and progress of any higher education industrial hemp research program and the Virginia industrial hemp research program to the Governor and to the General Assembly and shall submit such report for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports.

### § 3.2-4115. Issuance of registrations.

A. The Commissioner shall establish a registration program to allow a person to grow, *deal in*, or process industrial hemp in the Commonwealth in a controlled fashion solely and exclusively as part of a higher education industrial hemp research program or the Virginia industrial hemp research program.

B. Any person seeking to grow, *deal in*, or process industrial hemp as part of a higher education industrial hemp research program or the Virginia industrial hemp research program in the Commonwealth shall apply to the Commissioner for a registration on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and mailing address of the applicant;

2. The legal description and geographic data sufficient for locating (i) the land on which the applicant intends to grow industrial hemp or (ii) the site at which the applicant intends to deal in industrial hemp, or (iii) the site at which the applicant intends to process industrial hemp. A registration shall authorize industrial hemp growth, *dealing in*, or processing only at the location specified in the registration;

3. A signed statement indicating whether the applicant has ever been convicted of a felony. A person with a prior felony drug conviction within 10 years of applying for a registration under this section shall not be eligible to be registered;

4. Written consent allowing the sheriff's office, police department, or Department of State Police, if a registration is ultimately issued to the applicant, to enter the premises on which the industrial hemp is grown, *dealt in*, or processed to conduct physical inspections of the industrial hemp and to ensure compliance with the requirements of this chapter. No more than two physical inspections shall be conducted under this subdivision per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction;

5. If the applicant intends to participate in a higher education industrial hemp research program, documentation of an agreement between an institution of higher education and the applicant that states that the applicant, if registered pursuant to

~~subsection A, will be a participant in the higher education industrial hemp research program managed by that institution of higher education;~~

~~6.~~ Written consent allowing the Commissioner or his designee to enter the premises on which the industrial hemp is grown, *dealt in*, or processed to conduct inspections and sampling of the industrial hemp to ensure compliance with the requirements of this chapter;

~~7. If the applicant intends to participate in the Virginia industrial hemp research program, a~~ 6. A statement of the approximate square footage and acreage of the location he intends to use as a production field, *dealership*, or process site ~~and a description of the research he plans to conduct to advance the industrial hemp industry;~~

~~8.~~ 7. Any other information required by the Commissioner; and

~~9.~~ 8. The payment of a nonrefundable application fee, in an amount set by the Commissioner not to exceed \$50.

C. Each registration issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a registration renewal fee, in an amount set by the Commissioner not to exceed \$50.

D. All records, data, and information filed in support of a registration application submitted pursuant to this section shall be considered proprietary and excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

### § 3.2-4116. Registration conditions.

A. A person shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, *dealing in*, or processing any industrial hemp in the Commonwealth.

B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1. Maintain records that reflect compliance with this chapter and with all other state *or federal* laws regulating the growing, *dealing in*, or processing of industrial hemp;

2. Retain all industrial hemp growing, *dealing*, or processing records for at least three years;

3. Allow his production field, *dealership*, or process site to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality in which the production field *or dealership* or process site exists;

4. Allow the Commissioner or his designee to monitor and test the grower's, *dealer's*, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, *dealer*, or processor; *and*

~~5. If the person is a participant in a higher education industrial hemp research program, maintain a current written agreement with an institution of higher education that states that the grower or processor is a participant in the higher education industrial hemp research program managed by that institution of higher education;~~

~~6.~~ If required by the Commissioner, destroy, at the cost of the grower, *dealer*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, *the dealer deals in*, or the processor processes that has been tested and, *following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2*, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law; ~~and, or any Cannabis sativa product that the processor produces~~

~~7. If the person is a participant in the Virginia industrial hemp research program, by October 1 of each year, submit a report to the Commissioner regarding his growing or processing activities for the previous year.~~

### § 3.2-4118. Forfeiture of industrial hemp grower, dealer, or processor registration; violations.

A. The Commissioner shall deny the application, or suspend or revoke the registration, of any person who, *with a culpable mental state greater than negligence*, violates any provision of this chapter. The Commissioner shall provide reasonable notice of an informal fact-finding conference pursuant to § 2.2-4019 to any person in connection with the denial, suspension, or revocation of a registration.

B. If a registration is revoked as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The grower, *dealer*, or processor may appeal a final order to the circuit court in accordance with the Administrative Process Act.

~~C. The Commissioner may revoke any registration of any grower or processor who has pled guilty to, or been convicted of, a felony. A person issued a registration pursuant to subsection A of § 3.2-4115 who negligently (i) fails to provide a description and geographic data sufficient for locating his production field, dealership, or process site; (ii) grows, deals in, or processes Cannabis sativa with a tetrahydrocannabinol concentration greater than that allowed by federal law; or (iii) produces a Cannabis sativa product shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E.~~

D. A person who grows, *deals in*, or processes industrial hemp and who negligently fails to register pursuant to subsection A of § 3.2-4115 shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E.

E. A corrective action plan established by the Commissioner in response to a negligent violation of a provision of this chapter shall identify a reasonable date by which the person who is the subject of the plan shall correct the negligent violation and shall require such person to report periodically for not less than two calendar years to the Commissioner on the person's compliance with the provisions of this chapter.

*F. No person who negligently violates the provisions of this chapter three times in a five-year period shall be eligible to grow, deal in, or process industrial hemp for a period of five years beginning on the date of the third violation.*

**§ 3.2-4119. Eligibility to receive tobacco settlement funds.**

Industrial hemp growers, *dealers*, or processors registered under this chapter may be eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 3.2-3106.

**§ 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.**

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse, and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the United States Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, or the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus *Cannabis*. *Marijuana shall not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.*

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

**§ 54.1-3401. (Effective until July 1, 2020) Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences

between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available

solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana shall not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent, or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt,

compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be

dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

#### **§ 54.1-3401. (Effective July 1, 2020) Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana shall not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent, or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca

leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

### **§ 54.1-3408.3. Certification for use of cannabidiol oil or THC-A oil for treatment.**

A. As used in this section:

"Cannabidiol oil" means a processed Cannabis plant extract that contains at least 15 percent cannabidiol but no more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol per milliliter but not more than five percent tetrahydrocannabinol. *"Cannabidiol oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.*

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine.

"THC-A oil" means a processed Cannabis plant extract that contains at least 15 percent tetrahydrocannabinol acid but not more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of tetrahydrocannabinol acid per milliliter but not more than five percent tetrahydrocannabinol.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabidiol oil or THC-A oil for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

H. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed physicians or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor involved in the treatment of a registered patient, or (v) a registered patient or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

**§ 54.1-3446. Schedule I.**

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);

Acetyl fentanyl (other name: desmethyl fentanyl);

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alpha-cetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxidine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;

Levophenacymorphan;

Morpheridine;

N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);

N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuranyl fentanyl);

N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);

N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);

N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidiny}-N-phenylpropanamide (other name: beta-hydroxythiofentany);  
 N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentany);  
 N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:  
 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentany);  
 N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidiny]-propanamide (other names: 2-fluorofentany,  
 ortho-fluorofentany);  
 N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidiny]-propanamide (other name: 3-fluorofentany);  
 N-[3-methyl-1-(2-hydroxy-2-phenylethyl)4-piperidyl]-N-phenylpropanamide (other name:  
 beta-hydroxy-3-methylfentany);  
 N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentany);  
 N-[3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide (other name: 3-methylthiofentany);  
 N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidiny] -propanamide (other name: para-fluoroisobutyryl  
 fentany);  
 N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidiny]-butanamide (other name: para-fluorobutyrylfentany);  
 N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidiny]-propanamide (other name: para-fluorofentany);  
 Noracymethadol;  
 Norlevorphanol;  
 Normethadone;  
 Norpipanone;  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-2-furancarboxamide (other name: Furanyl fentany);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-2-propenamide (other name: Acryl fentany);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-butanamide (other name: butyryl fentany);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]-pentanamide (other name: Pentanoyl fentany);  
 N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide (other name: thiofentany);  
 Phenadoxone;  
 Phenampromide;  
 Phenomorphan;  
 Phenoperidine;  
 Piritramide;  
 Proheptazine;  
 Properidine;  
 Propiram;  
 Racemoramide;  
 Tilidine;  
 Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;  
 Acetyldihydrocodeine;  
 Benzylmorphine;  
 Codeine methylbromide;  
 Codeine-N-Oxide;  
 Cyprenorphine;  
 Desomorphine;  
 Dihydromorphine;  
 Drotebanol;  
 Etorphine;  
 Heroin;  
 Hydromorphanol;  
 Methyldesorphine;  
 Methyldihydromorphine;  
 Morphine methylbromide;  
 Morphine methylsulfonate;  
 Morphine-N-Oxide;  
 Myorphine;  
 Nicocodeine;  
 Nicomorphine;  
 Normorphine;  
 Pholcodine;  
 Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:

2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in (i) *industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent;* (ii) *a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law;* (iii) *marijuana* ~~and~~; or (iv) *dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;*

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxy-methamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names:

N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxy-pyvalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxy-methcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

- 3,4-methylenedioxyethcathinone (other name: ethylone);  
Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);  
N,N-dimethylcathinone (other name: metamfepramone);  
Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);  
4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);  
3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);  
Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);  
6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);  
3-fluoromethcathinone (other name: 3-FMC);  
4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);  
4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);  
4-Methylethcathinone (other name: 4-MEC);  
4-Ethylmethcathinone (other name: 4-EMC);  
N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);  
Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);  
Alpha-methylamino-butyrophenone (other name: Buphedrone);  
Alpha-methylamino-valerophenone (other name: Pentedrone);  
3,4-Dimethylmethcathinone (other name: 3.4-DMMC);  
4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);  
4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);  
Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);  
4-Fluoromethamphetamine (other name: 4-FMA);  
4-Fluoroamphetamine (other name: 4-FA);  
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);  
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);  
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);  
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);  
2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);  
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);  
2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);  
(2-aminopropyl)benzofuran (other name: APB);  
(2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);  
4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);  
4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);  
Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);  
Benocyclidine (other names: BCP, BTCP);  
Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);  
3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);  
4-bromomethcathinone (other name: 4-BMC);  
4-chloromethcathinone (other name: 4-CMC);  
4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);  
Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);  
Alpha-Pyrrolidinoheptiophenone (other name: PV8);  
5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);  
Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);  
1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);  
1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);  
1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);  
4-Chloroethcathinone (other name: 4-CEC);  
3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);  
1-propionyl lysergic acid diethylamide (other name: 1P-LSD);  
(2-Methylaminopropyl)benzofuran (other name: MAPB);  
1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);  
1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9)  
3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);  
4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);  
4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);  
4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);

4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);  
4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);  
4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);  
4-methyl-alpha-ethylaminopentiophenone;  
4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);  
5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);  
5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);  
6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);  
6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);  
(N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Clonazolam;  
Etizolam;  
Flubromazepam;  
Flubromazolam;

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;  
Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);  
Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline);

4,5-dihydro-5-phenyl-2-oxazolamine);

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);  
Ethylamphetamine;  
Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);  
Fenethylamine;

Methcathinone (some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)-propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-trimethylphenethylamine).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

- 5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);
- 5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);
- 5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);
- 5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);
- 1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);
- 1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);
- 1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);
- 1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);
- 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);
- (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-ter ahydrobenzo[c]chromen-1-ol (other name: HU-210);
- 1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);
- 1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);
- 1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);
- 1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);
- 1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);
- 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);
- 1-(N-methylpiperidin-2-yl)methyl-3-(1-naphthoyl)indole (other name: AM-1220);
- 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);
- 1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);
- Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);
- 1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);
- 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);
- 1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);
- 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);
- N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);
- N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);
- 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);
- (8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);
- (8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);
- (8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);
- N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);
- N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);
- 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);
- N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);
- N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);
- N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);
- N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);
- Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);
- 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);
- 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);
- 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);
- N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);
- Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);
- Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);
- Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);
- N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);
- N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);

Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole -3-carboxamide (other name: AB-CHMICA);  
 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);  
 Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);  
 Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);  
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carbox amide (other name:

5-fluoro-ADB-PINACA).

2. That §§ 3.2-4114.1 and 3.2-4117 of the Code of Virginia are repealed.

3. That the Virginia Department of Agriculture and Consumer Services (the Department), by December 1, 2019, shall report to the General Assembly on (i) the fiscal impact of the growth of the industrial hemp industry in Virginia upon the Department's registration program and (ii) any need to alter the registration fee charged by the Department.

4. That the Virginia Department of Agriculture and Consumer Services, by December 1, 2019, shall report to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources on the viability of markets for Virginia industrial hemp growers, the types of products made from industrial hemp that can be produced in Virginia, and the economic benefits and costs of production of such products.

5. That the Secretary of Agriculture and Forestry and the Secretary of Health and Human Resources shall, by November 1, 2019, report to the General Assembly on the appropriate standards, if any, for the production of an oil with a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112 of the Code of Virginia.

6. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

7. That an emergency exists and this act is in force from its passage.

## CHAPTER 654

*An Act to amend and reenact §§ 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 18.2-247, 54.1-3401, as it is currently effective and as it shall become effective, 54.1-3408.3, and 54.1-3446 of the Code of Virginia and to repeal §§ 3.2-4114.1 and 3.2-4117 of the Code of Virginia, relating to industrial hemp.*

[S 1692]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 3.2-4112, 3.2-4113, 3.2-4114, 3.2-4114.2, 3.2-4115, 3.2-4116, 3.2-4118, 3.2-4119, 18.2-247, 54.1-3401, as it is currently effective and as it shall become effective, 54.1-3408.3, and 54.1-3446 are amended and reenacted as follows:

### § 3.2-4112. Definitions.

As used in this chapter, unless the context requires a different meaning:

"*Cannabis sativa product*" means a product made from any part of the plant *Cannabis sativa*, including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not, with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law.

"*Deal*" means to buy industrial hemp grown in compliance with state or federal law and to sell such industrial hemp to a person who (i) processes industrial hemp in compliance with state or federal law or (ii) sells industrial hemp to a person who processes industrial hemp in compliance with state or federal law.

"*Dealer*" means any person who is registered pursuant to subsection A of § 3.2-4115 to deal in industrial hemp.

"*Dealer*" does not include (i) a grower, (ii) a processor, or (iii) any person who buys industrial hemp for personal use or retail sale in Virginia.

"*Dealership*" means the location at which a dealer stores or intends to store the industrial hemp in which he deals.

"*Grow*" means to plant, cultivate, or harvest a plant or crop.

"*Grower*" means any person registered pursuant to subsection A of § 3.2-4115 to grow industrial hemp.

"*Hemp product*" means a any finished product made from that is otherwise lawful and that contains industrial hemp, including rope, building materials, automobile parts, animal bedding, animal feed, cosmetics, oil containing an industrial hemp extract, or food or food additives for human consumption.

"*Higher education industrial hemp research program*" means a research program established pursuant to subsection A of § 3.2-4114.1.

"*Industrial hemp*" means all parts and varieties any part of the plant *Cannabis sativa*, including seeds thereof and any derivative, extract, cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not, that contain with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.

"*Process*" means to convert industrial hemp into a marketable form hemp product.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 to process industrial hemp.

"Process site" means the location at which a processor processes or intends to process industrial hemp.

"Production field" means the land or area on which a grower is growing or intends to grow industrial hemp.

~~"Virginia industrial hemp research program" means the research program established pursuant to subsection B of § 3.2-4114.1.~~

**§ 3.2-4113. Production of industrial hemp lawful.**

A. It is lawful for a grower or his agent to grow, *a dealer or his agent to deal in*, or a processor or his agent to process industrial hemp in the Commonwealth for any lawful purpose, ~~including the manufacture of a hemp product or scientific, agricultural, or other research related to other lawful applications for industrial hemp.~~ No grower or his agent, *dealer or his agent*, or processor or his agent shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or 18.2-250.1 for the possession, growing, *dealing*, or processing of industrial hemp. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter or the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the defendant.

B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or regulation. ~~If any part of this chapter conflicts with a provision of federal law relating to industrial hemp, the federal provision shall control to the extent of the conflict.~~

C. No person shall be prosecuted under § 18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or 18.2-250.1 for the involuntary growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of proximity to a production field, *dealership*, or process site.

**§ 3.2-4114. Regulations.**

The Board may adopt regulations pursuant to this chapter as necessary to register persons to grow, *deal in*, or process industrial hemp or implement the provisions of this chapter.

**§ 3.2-4114.2. Authority of Commissioner; notice to law enforcement; report.**

A. The Commissioner may charge a nonrefundable fee not to exceed \$50 for ~~(i)~~ any application for registration or renewal of registration allowed under this chapter ~~and (ii).~~ *The Commissioner may charge a nonrefundable fee for the tetrahydrocannabinol testing allowed under this chapter.* All fees collected by the Commissioner shall be deposited in the state treasury.

~~B. The Commissioner may establish a minimum size for a production field that shall qualify a person for a Virginia industrial hemp research program grower registration.~~

~~C. The Commissioner shall notify the Superintendent of State Police of the locations of all industrial hemp production fields, *dealerships*, and process sites.~~

~~D. The Commissioner shall forward a copy or appropriate electronic record of each registration issued by the Commissioner under this chapter to the chief law-enforcement officer of the county or city where industrial hemp will be grown, *dealt*, or processed.~~

~~E. D. The Commissioner shall be responsible for monitoring the industrial hemp grown, *dealt*, or processed by a person registered pursuant to subsection A of § 3.2-4115 and shall provide for random testing of the industrial hemp, at the cost of the grower, *dealer*, or processor, for compliance with tetrahydrocannabinol limits and for other appropriate purposes established pursuant to § 3.2-4114. In addition to any routine inspection and sampling, the Commissioner may inspect and sample the industrial hemp at any production field, *dealership*, or process site during normal business hours without advance notice if he has reason to believe a violation of this chapter is occurring or has occurred.~~

~~F. E. The Commissioner may require a grower, *dealer*, or processor to destroy, at the cost of the grower, *dealer*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows ~~or~~ *in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa product that the processor produces.*~~

~~F. Notwithstanding the provisions of subsection E, if the provisions of subdivisions 1 and 2 are included in a plan that (i) is submitted by the Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L. 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp in the Commonwealth, and (iii) is approved by the U.S. Secretary of Agriculture:~~

~~1. The Commissioner may require a grower, *dealer*, or processor to destroy, at the cost of the grower, *dealer*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the processor processes that has been tested and is found to have a concentration of tetrahydrocannabinol that is greater than 0.6 percent.~~

~~2. If such a test of Cannabis sativa indicates a concentration of tetrahydrocannabinol that is greater than 0.6 percent but less than one percent, the Commissioner shall allow the grower, *dealer*, or processor to request that the Cannabis sativa be sampled and tested again before he requires its destruction.~~

~~G. The Commissioner ~~may~~ shall advise the Attorney General of the United States and the Superintendent of State Police or the chief law-enforcement officer of the appropriate county or city when, with a culpable mental state greater than~~

*negligence*, a grower grows, a dealer deals in, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol that is greater than that allowed by federal law *or a processor produces a Cannabis sativa product*.

H. The Commissioner may pursue any permits or waivers from the U.S. Drug Enforcement Administration or appropriate federal agency that he determines to be necessary for the advancement of a ~~higher education industrial hemp research program~~ or the Virginia industrial hemp research program industry.

I. The Commissioner may ~~cooperatively seek funds from public and private sources to implement a higher education industrial hemp research program or the Virginia industrial hemp research program~~ establish a corrective action plan to address a negligent violation of any provision of this chapter.

J. By December 1 of each year, the Commissioner shall report on the status and progress of any higher education industrial hemp research program and the Virginia industrial hemp research program to the Governor and to the General Assembly and shall submit such report for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports.

### § 3.2-4115. Issuance of registrations.

A. The Commissioner shall establish a registration program to allow a person to grow, *deal in*, or process industrial hemp in the Commonwealth in a controlled fashion ~~solely and exclusively as part of a higher education industrial hemp research program or the Virginia industrial hemp research program~~.

B. Any person seeking to grow, *deal in*, or process industrial hemp as part of a ~~higher education industrial hemp research program or the Virginia industrial hemp research program~~ in the Commonwealth shall apply to the Commissioner for a registration on a form provided by the Commissioner. At a minimum, the application shall include:

1. The name and mailing address of the applicant;
2. The legal description and geographic data sufficient for locating (i) the land on which the applicant intends to grow industrial hemp ~~or~~, (ii) *the site at which the applicant intends to deal in industrial hemp*, or (iii) the site at which the applicant intends to process industrial hemp. A registration shall authorize industrial hemp growth, *dealing in*, or processing only at the location specified in the registration;

3. A signed statement indicating whether the applicant has ever been convicted of a felony. A person with a prior felony drug conviction within 10 years of applying for a registration under this section shall not be eligible to be registered;

4. Written consent allowing the sheriff's office, police department, or Department of State Police, if a registration is ultimately issued to the applicant, to enter the premises on which the industrial hemp is grown, *dealt in*, or processed to conduct physical inspections of the industrial hemp and to ensure compliance with the requirements of this chapter. No more than two physical inspections shall be conducted under this subdivision per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction;

5. ~~If the applicant intends to participate in a higher education industrial hemp research program, documentation of an agreement between an institution of higher education and the applicant that states that the applicant, if registered pursuant to subsection A, will be a participant in the higher education industrial hemp research program managed by that institution of higher education;~~

6. Written consent allowing the Commissioner or his designee to enter the premises on which the industrial hemp is grown, *dealt in*, or processed to conduct inspections and sampling of the industrial hemp to ensure compliance with the requirements of this chapter;

7. ~~If the applicant intends to participate in the Virginia industrial hemp research program, a~~ 6. A statement of the approximate square footage or acreage of the location he intends to use as a production field, *dealership*, or process site ~~and a description of the research he plans to conduct to advance the industrial hemp industry;~~

8. 7. Any other information required by the Commissioner; and

9. 8. The payment of a nonrefundable application fee, in an amount set by the Commissioner not to exceed \$50.

C. Each registration issued pursuant to this section shall be valid for a period of one year from the date of issuance and may be renewed in successive years. Each annual renewal shall require the payment of a registration renewal fee, in an amount set by the Commissioner not to exceed \$50.

D. All records, data, and information filed in support of a registration application submitted pursuant to this section shall be considered proprietary and excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

### § 3.2-4116. Registration conditions.

A. A person shall obtain a registration pursuant to subsection A of § 3.2-4115 prior to growing, *dealing in*, or processing any industrial hemp in the Commonwealth.

B. A person issued a registration pursuant to subsection A of § 3.2-4115 shall:

1. Maintain records that reflect compliance with this chapter and with all other state *or federal* laws regulating the growing, *dealing in*, or processing of industrial hemp;

2. Retain all industrial hemp growing, *dealing*, or processing records for at least three years;

3. Allow his production field, *dealership*, or process site to be inspected by and at the discretion of the Commissioner or his designee, the Department of State Police, or the chief law-enforcement officer of the locality in which the production field *or dealership* or process site exists;

4. Allow the Commissioner or his designee to monitor and test the grower's, *dealer's*, or processor's industrial hemp for compliance with tetrahydrocannabinol levels and for other appropriate purposes established pursuant to § 3.2-4114, at the cost of the grower, *dealer*, or processor; and

5. ~~If the person is a participant in a higher education industrial hemp research program, maintain a current written agreement with an institution of higher education that states that the grower or processor is a participant in the higher education industrial hemp research program managed by that institution of higher education;~~

6. If required by the Commissioner, destroy, at the cost of the grower, *dealer*, or processor and in a manner approved of and verified by the Commissioner, any Cannabis sativa that the grower grows, *the dealer deals in*, or the processor processes that has been tested and, *following any re-sampling and retesting as authorized pursuant to the provisions of § 3.2-4114.2*, is found to have a concentration of tetrahydrocannabinol that is greater than that allowed by federal law; ~~and, or any Cannabis sativa product that the processor produces~~

7. ~~If the person is a participant in the Virginia industrial hemp research program, by October 1 of each year, submit a report to the Commissioner regarding his growing or processing activities for the previous year.~~

**§ 3.2-4118. Forfeiture of industrial hemp grower, dealer, or processor registration; violations.**

A. The Commissioner shall deny the application, or suspend or revoke the registration, of any person who, *with a culpable mental state greater than negligence*, violates any provision of this chapter. The Commissioner shall provide reasonable notice of an informal fact-finding conference pursuant to § 2.2-4019 to any person in connection with the denial, suspension, or revocation of a registration.

B. If a registration is revoked as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The grower, *dealer*, or processor may appeal a final order to the circuit court in accordance with the Administrative Process Act.

C. ~~The Commissioner may revoke any registration of any grower or processor who has pled guilty to, or been convicted of, a felony. A person issued a registration pursuant to subsection A of § 3.2-4115 who negligently (i) fails to provide a description and geographic data sufficient for locating his production field, dealership, or process site; (ii) grows, deals in, or processes Cannabis sativa with a tetrahydrocannabinol concentration greater than that allowed by federal law; or (iii) produces a Cannabis sativa product shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E.~~

D. ~~A person who grows, deals in, or processes industrial hemp and who negligently fails to register pursuant to subsection A of § 3.2-4115 shall comply with any corrective action plan established by the Commissioner in accordance with the provisions of subsection E.~~

E. ~~A corrective action plan established by the Commissioner in response to a negligent violation of a provision of this chapter shall identify a reasonable date by which the person who is the subject of the plan shall correct the negligent violation and shall require such person to report periodically for not less than two calendar years to the Commissioner on the person's compliance with the provisions of this chapter.~~

F. ~~No person who negligently violates the provisions of this chapter three times in a five-year period shall be eligible to grow, deal in, or process industrial hemp for a period of five years beginning on the date of the third violation.~~

**§ 3.2-4119. Eligibility to receive tobacco settlement funds.**

Industrial hemp growers, *dealers*, or processors registered under this chapter may be eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 3.2-3106.

**§ 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V and VI," "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.**

A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act (§ 54.1-3400 et seq.).

B. The term "imitation controlled substance" when used in this article means (i) a counterfeit controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance subject to abuse, and:

1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any other form whatsoever will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or

2. Which by express or implied representations purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the United States Food and Drug Administration.

C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an "imitation controlled substance," there shall be considered, in addition to all other relevant factors, comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the packaging of the drug and its appearance in overall finished dosage form, promotional materials or representations, oral or written, concerning the drug, and the methods of distribution of the drug and where and how it is sold to the public.

D. The term "marijuana" when used in this article means any part of a plant of the genus Cannabis, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or

its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, or the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus *Cannabis*. *Marijuana shall not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.*

E. The term "counterfeit controlled substance" means a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug.

**§ 54.1-3401. (Effective until July 1, 2020) Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person

supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana shall not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent, or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include,

unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

**§ 54.1-3401. (Effective July 1, 2020) Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship, including delivery of a Schedule VI prescription device to an ultimate user or consumer on behalf of a medical equipment supplier by a manufacturer, nonresident manufacturer, wholesale distributor, nonresident wholesale distributor, warehouse, nonresident warehouse, third-party logistics provider, or nonresident third-party logistics provider at the direction of a medical equipment supplier in accordance with § 54.1-3415.1.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic prescription" means a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana shall not include (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent, or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of (i) selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer and (ii) delivering Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means (i) distribution of prescription drugs to persons other than consumers or patients and (ii) delivery of Schedule VI prescription devices to the ultimate user or consumer pursuant to § 54.1-3415.1, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

**§ 54.1-3408.3. Certification for use of cannabidiol oil or THC-A oil for treatment.**

A. As used in this section:

"Cannabidiol oil" means a processed Cannabis plant extract that contains at least 15 percent cannabidiol but no more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol per milliliter but not more than five percent tetrahydrocannabinol. *"Cannabidiol oil" does not include industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.*

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine.

"THC-A oil" means a processed Cannabis plant extract that contains at least 15 percent tetrahydrocannabinol acid but not more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of tetrahydrocannabinol acid per milliliter but not more than five percent tetrahydrocannabinol.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabidiol oil or THC-A oil for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

H. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed physicians or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor involved in the treatment of a registered patient, or (v) a registered patient or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

**§ 54.1-3446. Schedule I.**

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);

2-methoxy-N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-acetamide (other name: Methoxyacetyl fentanyl);

3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);

3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);

Acetyl fentanyl (other name: desmethyl fentanyl);

Acetylmethadol;

Allylprodine;  
 Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);  
 Alphameprodine;  
 Alphamethadol;  
 Benzethidine;  
 Betacetylmethadol;  
 Betameprodine;  
 Betamethadol;  
 Betaprodine;  
 Clonitazene;  
 Dextromoramide;  
 Diampromide;  
 Diethylthiambutene;  
 Difenoxin;  
 Dimenoxadol;  
 Dimepheptanol;  
 Dimethylthiambutene;  
 Dioxaphetylbutyrate;  
 Dipipanone;  
 Ethylmethylthiambutene;  
 Etonitazene;  
 Etoxidine;  
 Furethidine;  
 Hydroxypethidine;  
 Ketobemidone;  
 Levomoramide;  
 Levophenacetylmorphan;  
 Morpheridine;  
 N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (other name: Cyclopropyl fentanyl);  
 N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (other name: Tetrahydrofuran fentanyl);  
 N-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl);  
 N-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl);  
 N-{1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl}-N-phenylpropanamide (other name: beta-hydroxythiofentanyl);  
 N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl);  
 N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:  
 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine, alpha-methylfentanyl);  
 N-(2-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other names: 2-fluorofentanyl,  
 ortho-fluorofentanyl);  
 N-(3-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);  
 N-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name:  
 beta-hydroxy-3-methylfentanyl);  
 N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl);  
 N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl);  
 N-(4-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluoroisobutyryl  
 fentanyl);  
 N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);  
 N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);  
 Noracymethadol;  
 Norlevorphanol;  
 Normethadone;  
 Norpipanone;  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-propenamide (other name: Acryl fentanyl);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);  
 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);  
 N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);  
 Phenadoxone;  
 Phenampromide;  
 Phenomorphan;  
 Phenoperidine;

Piritramide;  
 Proheptazine;  
 Properidine;  
 Propiram;  
 Racemoramide;  
 Tilidine;  
 Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;  
 Acetyldihydrocodeine;  
 Benzylmorphine;  
 Codeine methylbromide;  
 Codeine-N-Oxide;  
 Cyprenorphine;  
 Desomorphine;  
 Dihydromorphine;  
 Drotebanol;  
 Etorphine;  
 Heroin;  
 Hydromorphinol;  
 Methyl-desorphine;  
 Methyl-dihydromorphine;  
 Morphine methylbromide;  
 Morphine methylsulfonate;  
 Morphine-N-Oxide;  
 Myorphine;  
 Nicocodeine;  
 Nicomorphine;  
 Normorphine;  
 Pholcodine;  
 Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:

2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in (i) industrial hemp, as defined in § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent; (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law; (iii) marijuana ~~and~~; or (iv) dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxyamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names:

N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine;

4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypropylvalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxyethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);

Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);

N,N-dimethylcathinone (other name: metamfepramone);

Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);

4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);

3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);

Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);

6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);

3-fluoromethcathinone (other name: 3-FMC);

4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);

4-Methylethcathinone (other name: 4-MEC);

4-Ethylmethcathinone (other name: 4-EMC);

N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);

Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);

Alpha-methylamino-butyrophenone (other name: Buphedrone);

Alpha-methylamino-valerophenone (other name: Pentedrone);

3,4-Dimethylmethcathinone (other name: 3,4-DMMC);

4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);

4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);

Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);

4-Fluoromethamphetamine (other name: 4-FMA);

4-Fluoroamphetamine (other name: 4-FA);

2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);

2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);

2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);

2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);

2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);

- 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);  
 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);  
 (2-aminopropyl)benzofuran (other name: APB);  
 (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);  
 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethan amine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);  
 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethana mine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);  
 Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);  
 Benocyclidine (other names: BCP, BTCP);  
 Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);  
 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);  
 4-bromomethcathinone (other name: 4-BMC);  
 4-chloromethcathinone (other name: 4-CMC);  
 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethan am ine (other name: 25I-NBOH);  
 Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);  
 Alpha-Pyrrolidinoheptiophenone (other name: PV8);  
 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);  
 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);  
 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);  
 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);  
 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);  
 4-Chloroethcathinone (other name: 4-CEC);  
 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);  
 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);  
 (2-Methylaminopropyl)benzofuran (other name: MAPB);  
 1-(1,3-benzodioxol-5-yl)-2-(dimethylamino)-1-pentanone (other names: N,N-Dimethylpentylone, Dipentylone);  
 1-(4-methoxyphenyl)-2-(pyrrolidin-1-yl)octan-1-one (other name: 4-methoxy-PV9)  
 3,4-tetramethylene-alpha-pyrrolidinovalerophenone (other name: TH-PVP);  
 4-allyloxy-3,5-dimethoxyphenethylamine (other name: Allylescaline);  
 4-Bromo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25B-NBOH);  
 4-chloro-alpha-methylamino-valerophenone (other name: 4-chloropentedrone);  
 4-chloro-alpha-Pyrrolidinovalerophenone (other name: 4-chloro-alpha-PVP);  
 4-fluoro-alpha-Pyrrolidinoheptiophenone (other name: 4-fluoro-PV8);  
 4-hydroxy-N,N-diisopropyltryptamine (other name: 4-OH-DIPT);  
 4-methyl-alpha-ethylaminopentiophenone;  
 4-methyl-alpha-Pyrrolidinohexiophenone (other name: MPHP);  
 5-methoxy-N,N-dimethyltryptamine (other name: 5-MeO-DMT);  
 5-methoxy-N-ethyl-N-isopropyltryptamine (other name: 5-MeO-EIPT);  
 6-ethyl-6-nor-lysergic acid diethylamide (other name: ETH-LAD);  
 6-allyl-6-nor-lysergic acid diethylamide (other name: AL-LAD);  
 (N-methyl aminopropyl)-2,3-dihydrobenzofuran (other name: MAPDB).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- Clonazolam;
- Etizolam;
- Flubromazepam;
- Flubromazolam;
- Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
- Mecloqualone;
- Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

- 2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);
- Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;
- 4,5-dihydro-5-phenyl-2-oxazolamine);

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

Ethylamphetamine;

Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);

Fenethylamine;

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

N,N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-trimethylphenethylamine).

6. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-ter ahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-(N-methylpiperidin-2-ylmethyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);  
 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other names: XLR-11, 5-fluoro-UR-144);  
 N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);  
 N-adamantyl-1-pentylindazole-3-carboxamide (other names: AKB48, APINACA);  
 1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);  
 (8-quinolinyloxy)(1-pentylindol-3-yl)carboxylate (other name: PB-22);  
 (8-quinolinyloxy)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);  
 (8-quinolinyloxy)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);  
 1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);  
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA);  
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);  
 Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);  
 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);  
 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);  
 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name: MAM-2201);  
 N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);  
 Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);  
 Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);  
 Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);  
 N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48);  
 N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);  
 Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);  
 N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA);  
 1-pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide (other name: SDB-006);  
 Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (other name: FUB-PB-22);  
 Methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (other name: MMB-CHMICA);  
 N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-ADB-PINACA).

**2. That §§ 3.2-4114.1 and 3.2-4117 of the Code of Virginia are repealed.**

**3. That the Virginia Department of Agriculture and Consumer Services (the Department), by December 1, 2019, shall report to the General Assembly on (i) the fiscal impact of the growth of the industrial hemp industry in Virginia upon the Department's registration program and (ii) any need to alter the registration fee charged by the Department.**

**4. That the Virginia Department of Agriculture and Consumer Services, by December 1, 2019, shall report to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources on the viability of markets for Virginia industrial hemp growers, the types of products made from industrial hemp that can be produced in Virginia, and the economic benefits and costs of production of such products.**

**5. That the Secretary of Agriculture and Forestry and the Secretary of Health and Human Resources shall, by November 1, 2019, report to the General Assembly on the appropriate standards, if any, for the production of an oil with a tetrahydrocannabinol concentration of no greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112 of the Code of Virginia as amended by this act.**

**6. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

**7. That an emergency exists and this act is in force from its passage.**

## CHAPTER 655

An Act to amend and reenact § 38.2-4509 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3407.17:1, relating to contracts between carriers and providers of dental services; network access; payment and reimbursement practices.

[H 1682]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-4509 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3407.17:1 as follows:**

**§ 38.2-3407.17:1. Payment and reimbursement practices for dental services; network access.**

A. As used in this section, unless the context requires a different meaning:

"Brand licensing program" means the process of creating and managing contracts or agreements between a person who owns a brand and a third party who uses the brand in connection with the provision of insurance for dental services in a specific geographic territory.

"Carrier" means (i) any health carrier that proposes to issue individual or group health benefit plans that provide coverage for dental services, (ii) any nonstock corporation that offers or administers dental services plans as defined in § 38.2-4501, or (iii) a dental plan organization as defined in § 38.2-6101.

"Contracting entity" means a carrier or other person that enters into a provider contract with a provider.

"Enrollee" means any person entitled to coverage for dental services (i) under an individual or group health benefit plan that provides coverage for dental services, (ii) under a dental services plan, or (iii) under a dental plan organization.

"Health benefit plan" and "health carrier" have the meaning ascribed to those terms in § 38.2-3438.

"Network plan" means coverage by a carrier for dental services under which the financing and delivery of dental services are provided, in whole or in part, through a defined set of providers under contract with the carrier.

"Participating provider" means a provider that has entered into a provider contract with a contracting entity.

"Preferred provider organization" or "PPO" means a health benefit plan that contracts with providers to create a network of participating providers that have agreed to provide dental services at contracted rates to the PPO's enrollees.

"PPO network" means the multiple provider contracts available to a person pursuant to a PPO network arrangement.

"PPO network arrangement" means an arrangement under which the contracting entity or third-party administrator sells, conveys, or otherwise transfers to a person the ability to discount payments or reimbursements to a provider pursuant to the terms of multiple provider contracts to which the contracting entity or third-party administrator is a direct party.

"Provider" means a dentist or oral surgeon licensed to provide covered dental services to an enrollee.

"Provider contract" means an agreement between a contracting entity and a provider pursuant to which the provider agrees to provide dental services to an enrollee in exchange for payment or reimbursement of an agreed-upon amount.

"Third-party administrator" means a person that administers, processes, handles, or pays claims to providers on behalf of a carrier.

"Third-party carrier" means a carrier that is not a party to a provider contract. "Third-party carrier" includes a network plan under which the carrier is not a party to such provider contract.

B. A contracting entity or third-party administrator shall not sell, lease, assign, or otherwise grant to a third-party carrier access as provided in a provider contract unless:

1. The contracting entity or third-party administrator is expressly authorized to do so by the provider contract. A provider contract shall expressly authorize access as provided in a provider contract only if the provider contract explicitly states that the selling, leasing, assigning, or granting of access as provided in a provider contract is permitted; and

2. The contracting entity or third-party administrator has notified, pursuant to § 38.2-3407.15, all of the affected participating providers that a third-party carrier is being granted access as provided in a provider contract of the participating provider. Such notification shall be sent to the affected participating provider either (i) by first-class mail in an envelope not containing any other enclosure or (ii) if the participating provider has agreed in advance with the contracting entity or third-party administrator to authorize communication by electronic means, by such means.

C. If the requirements of subsection B are satisfied, the contracting entity or third-party administrator may sell, lease, assign, or otherwise grant to a third-party carrier access as provided in a provider contract.

D. Each third-party carrier that is granted access as provided in a provider contract in accordance with subdivision B 1 to have dental services provided by a participating provider to enrollees of the third-party carrier under the terms of a provider contract shall:

1. Abide by the fee schedule set forth in the provider contract applicable to the enrollee that is in effect on the date treatment was rendered to the third-party carrier's enrollee by the provider. However, if the provider has a contract directly with the entity to whom the contract is sold, leased, or assigned, then the fee schedule in such contract shall apply; and

2. Disclose the name of the participating provider in all directories, websites, or other forms of communications by which the third-party carrier advises or directs its enrollees to providers with which the third-party carrier contracted directly. Such disclosure shall be made in a manner that displays the same information and font size that the third-party

carrier makes available to its enrollees about the providers with which the third-party carrier contracted directly as it does about the providers for which it has been granted access as provided in a provider contract.

E. The contracting entity or carrier shall inform participating providers, upon request, which network plans have been granted access to the contract by the contracting entity.

F. A contracting entity or third-party administrator that sells, leases, assigns, or otherwise grants access as provided in a provider contract shall:

1. Maintain a website and a toll-free telephone number through which a participating provider may obtain information that identifies each third-party carrier or other person to which access has been granted as provided in a provider contract to which the participating provider is a party; and

2. Ensure that remittance advice furnished to the participating provider that delivers the dental services under the contract identifies the contract source relied upon to discount a payment or reimbursement to the provider. Such remittance advice shall also include (i) the name of the provider, contracting entity, and third-party administrator with whom the contract was originally negotiated and (ii) a calculation of how the payment or reimbursement was determined.

G. All third-party carriers that have contracted with the contracting entity to purchase, lease, be assigned, or otherwise be granted access as provided in a provider contract to the participating provider's services, payment, or reimbursement rate shall comply with the participating provider's contract, including all requirements to encourage enrollees to access the participating provider, or to pay or reimburse the participating provider pursuant to the rates and payment methodology at the time treatment is rendered as set forth in the contract, unless otherwise agreed to by the participating provider.

H. A third-party carrier may comply with this section by providing enrollees with an identification card that (i) identifies the carrier to be used to pay or reimburse the participating provider for the covered dental services and (ii) identifies the contracting entity through which the third-party carrier has obtained access. A contracting entity or third-party carrier or administrator may provide the information described in clauses (i) and (ii) through an electronic equivalent or provider portal if the participating provider has agreed to electronic communications as provided for in subdivision B 2. The remittance advice shall include the information described in clauses (i) and (ii).

I. This section shall not apply to access as provided in a provider contract that is granted or permitted to an entity operating under the same brand licensing program, including authorized affiliates, provided that the third-party carrier or third-party administrator adheres to all terms, provisions, and conditions of the provider contract and administers such terms, provisions, and conditions in accordance with the member's contract. A listing of all affiliates shall be available to the provider under the provisions of subsection E or subdivision F 1.

J. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

#### **§ 38.2-4509. Application of certain laws.**

A. No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-316, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-900 through 38.2-904, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, Articles 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), and 6 (§ 38.2-1335 et seq.) of Chapter 13, §§ 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3407.1, 38.2-3407.4, 38.2-3407.10, 38.2-3407.13, 38.2-3407.14, 38.2-3407.15, 38.2-3407.17, 38.2-3407.17:1, 38.2-3407.19, 38.2-3415, 38.2-3541, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, §§ 38.2-3600 through 38.2-3603, Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall apply to the operation of a plan.

B. The provisions of subsection A of § 38.2-322 shall apply to an optometric services plan. The provisions of subsection C of § 38.2-322 shall apply to a dental services plan.

C. The provisions of Article 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1 shall not apply to either an optometric or dental services plan.

D. The provisions of § 38.2-3407.1 shall apply to claim payments made on or after January 1, 2014. No optometric or dental services plan shall be required to pay interest computed under § 38.2-3407.1 if the total interest is less than \$5.

## **CHAPTER 656**

*An Act to amend and reenact § 54.1-2903 of the Code of Virginia, relating to physicians; advertising.*

[H 1826]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2903 of the Code of Virginia is amended and reenacted as follows:**

#### **§ 54.1-2903. What constitutes practice; advertising in connection with medical practice.**

A. Any person shall be regarded as practicing the healing arts who actually engages in such practice as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to the public in any manner a readiness to practice or who uses in connection with his name the words or letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word, letter or designation intending to designate or imply that he is a practitioner of the healing arts or that he is able to heal, cure or relieve those suffering from any injury, deformity or disease. ~~No person~~

regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses a clarifying title, initials, abbreviation or designation or language that identifies the type of practice for which he is licensed.

Signing a birth or death certificate, or signing any statement certifying that the person so signing has rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is practicing the healing arts within the meaning of this chapter except where persons other than physicians are required to sign birth certificates.

*B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an abbreviation or designation, or other language that identifies the type of practice for which he is licensed. No person regulated under this chapter shall include in any advertisement a reference to marijuana, as defined in § 18.2-247, unless such advertisement is for the treatment of addiction or substance abuse. However, nothing in this subsection shall prevent a person from including in any advertisement that such person is registered with the Board of Pharmacy to issue written certifications for the use of cannabidiol oil or THC-A oil, as defined in § 54.1-3408.3.*

## CHAPTER 657

*An Act to amend and reenact § 51.5-160 of the Code of Virginia, relating to auxiliary grants; supportive housing.*

[H 2017]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.5-160 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.5-160. Auxiliary grants program; administration of program.**

A. As used in this section:

"Qualified assessor" means an individual who is authorized to perform an assessment, reassessment, or change in level of care for an applicant to or resident of supportive housing or an assisted living facility. For public pay individuals, a "qualified assessor" is an employee of a public human services agency trained in the completion of the uniform assessment instrument. For individuals receiving services from a community services board or behavioral health authority, a "qualified assessor" is an employee or designee of the community services board or behavioral health authority.

"Supportive housing" means a residential setting with access to supportive services for an auxiliary grant recipient in which tenancy as described in subsection B of § 37.2-421.1 is provided or facilitated by a provider licensed to provide mental health community support services, intensive community treatment, programs of assertive community treatment, supportive in-home services, or supervised living residential services that has entered into an agreement with the Department of Behavioral Health and Developmental Services pursuant to § 37.2-421.1.

B. The Commissioner is authorized to prepare and implement, effective with repeal of Titles I, X, and XIV of the Social Security Act, a plan for a state and local funded auxiliary grants program to provide assistance to certain individuals who (i) are ineligible for benefits under Title XVI of the Social Security Act, as amended, or for whom benefits provided under Title XVI of the Social Security Act, as amended, are not sufficient to maintain the minimum standards of need established by regulations promulgated by the Commissioner and (ii) reside in supportive housing, an assisted living facility licensed by the Department of Social Services pursuant to Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2, or an adult foster care home approved by a local board of social services pursuant to § 63.2-1601. The plan shall be in effect in all political subdivisions in the Commonwealth and shall be administered in conformity with regulations of the Commissioner.

Nothing herein is to be construed to affect any such section as it relates to Temporary Assistance for Needy Families, general relief, or services to persons eligible for assistance under P.L. 92-603.

C. Auxiliary grant recipients shall be entitled to a personal needs allowance when computing the amount of the auxiliary grant. The amount of such personal needs allowance shall be set forth in the appropriation act.

D. The Commissioner shall adopt regulations for the administration of the auxiliary grants program that shall include the establishment of auxiliary grant rates for adult foster care homes and licensed assisted living facilities. Such regulations shall also include (i) the process for reporting and certification; (ii) the services to be provided to the auxiliary grant recipient and paid for by the auxiliary grant and not charged to the recipient's personal needs allowance; and (iii) the process for supportive housing providers, assisted living facilities, and adult foster care homes to report and certify maintenance of the personal needs allowance and compliance with regulations for administration of the auxiliary grants program.

E. In order to receive an auxiliary grant while residing in *supportive housing* or an assisted living facility, an individual shall have been evaluated by a case manager or other qualified assessor using the uniform assessment instrument to determine his need for residential living care upon admission and annually thereafter, or whenever there is a change in the individual's condition that appears to warrant a change in the resident's approved level of care. An individual may select, *subject to availability, supportive housing* or an assisted living facility pending evaluation and assessment or as allowed by regulations of the Commissioner. ~~At the time of the first or any subsequent annual reassessment, the individual may select supportive housing or an assisted living facility, subject to the evaluation and reassessment of the individual and availability of the selected housing option. In such cases, the individual may continue to receive an auxiliary grant while residing in~~

supportive housing as allowed by regulations of the Commissioner. However, in no event shall any public agency incur a financial obligation if the individual is determined ineligible for an auxiliary grant.

The Commissioner shall adopt regulations to implement the provisions of this subsection.

F. Provisions of Chapter 5 (§ 63.2-500 et seq.) of Title 63.2, relating to the administration of public assistance programs, shall govern operations of the auxiliary grant program established pursuant to this section.

G. Assisted living facilities, adult foster care homes, and supportive housing providers providing services to auxiliary grant recipients may accept payments made by third parties for services provided to an auxiliary grant recipient, and the Department shall not include such payments as income for the purpose of determining eligibility for or calculating the amount of an auxiliary grant, provided that the payment is made:

1. Directly to the assisted living facility, adult foster care home, or supportive housing provider by the third party on behalf of the auxiliary grant recipient;

2. Voluntarily by the third party, and not in satisfaction of a condition of admission, stay, or provision of proper care and services to the auxiliary grant recipient, unless the auxiliary grant recipient's physical needs exceed the services required to be provided by the assisted living facility or supportive housing provider as a condition of participation in the auxiliary grant program pursuant to subsection D; and

3. For specific goods and services provided to the auxiliary grant recipient other than food, shelter, or specific goods or services required to be provided by the assisted living facility, adult foster care home, or supportive housing provider as a condition of participation in the auxiliary grant program pursuant to subsection D.

H. Assisted living facilities, adult foster care homes, and supportive housing providers shall document all third-party payments received on behalf of an auxiliary grant recipient, including the source and amount of the payment and the goods and services for which such payments are to be used. Documentation related to the third-party payments shall be provided to the Department upon request.

I. Assisted living facilities, adult foster care homes, and supportive housing providers shall provide each auxiliary grant recipient with a written list of the goods and services that are covered by the auxiliary grant pursuant to subsection D, including a clear statement that the facility, home, or provider may not charge an auxiliary grant recipient or the recipient's family additional amounts for goods or services included on such list.

**2. That the Commissioner for Aging and Rehabilitative Services shall promulgate regulations to implement the provisions of this act to be effective within 180 days of its enactment.**

**3. That the Commissioner for Aging and Rehabilitative Services shall develop guidance documents for implementation of the provisions of this act no later than February 1, 2020. In developing such guidance documents, the Commissioner for Aging and Rehabilitative Services shall provide notice to the public and opportunity for public comment and participation.**

**4. That the provisions of this act shall not become effective if they conflict with any federal law or regulation or any guidance document provided by the U.S. Social Security Administration.**

**5. That the Department of Medical Assistance Services, if it deems an amendment is necessary, shall seek to amend the state plan for medical assistance under Title XIX of the Social Security Act, and any waivers thereof, to implement the necessary changes pursuant to the provisions of this act. The Department of Medical Assistance Services shall have authority to implement such changes upon approval by the Centers for Medicare and Medicaid Services and prior to the completion of the regulatory process.**

**6. That the number of auxiliary grant recipients in the supportive housing setting shall not exceed 90.**

**7. That notwithstanding the sixth enactment of this act, if the waiting list for supportive housing for auxiliary grant recipients maintained by the Department of Behavioral Health and Developmental Services consists of 30 individuals or more on October 1, 2020, then the maximum number of auxiliary grant recipients in supportive housing shall be increased to 120.**

## CHAPTER 658

*An Act to amend and reenact § 51.5-160 of the Code of Virginia, relating to persons with disabilities; auxiliary grants, supportive housing.*

[S 1286]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.5-160 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.5-160. Auxiliary grants program; administration of program.**

A. As used in this section:

"Qualified assessor" means an individual who is authorized to perform an assessment, reassessment, or change in level of care for an applicant to or resident of supportive housing or an assisted living facility. For public pay individuals, a "qualified assessor" is an employee of a public human services agency trained in the completion of the uniform assessment instrument. For individuals receiving services from a community services board or behavioral health authority, a "qualified assessor" is an employee or designee of the community services board or behavioral health authority.

"Supportive housing" means a residential setting with access to supportive services for an auxiliary grant recipient in which tenancy as described in subsection B of § 37.2-421.1 is provided or facilitated by a provider licensed to provide mental health community support services, intensive community treatment, programs of assertive community treatment, supportive in-home services, or supervised living residential services that has entered into an agreement with the Department of Behavioral Health and Developmental Services pursuant to § 37.2-421.1.

B. The Commissioner is authorized to prepare and implement, effective with repeal of Titles I, X, and XIV of the Social Security Act, a plan for a state and local funded auxiliary grants program to provide assistance to certain individuals who (i) are ineligible for benefits under Title XVI of the Social Security Act, as amended, or for whom benefits provided under Title XVI of the Social Security Act, as amended, are not sufficient to maintain the minimum standards of need established by regulations promulgated by the Commissioner and (ii) reside in supportive housing, an assisted living facility licensed by the Department of Social Services pursuant to Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2, or an adult foster care home approved by a local board of social services pursuant to § 63.2-1601. The plan shall be in effect in all political subdivisions in the Commonwealth and shall be administered in conformity with regulations of the Commissioner.

Nothing herein is to be construed to affect any such section as it relates to Temporary Assistance for Needy Families, general relief, or services to persons eligible for assistance under P.L. 92-603.

C. Auxiliary grant recipients shall be entitled to a personal needs allowance when computing the amount of the auxiliary grant. The amount of such personal needs allowance shall be set forth in the appropriation act.

D. The Commissioner shall adopt regulations for the administration of the auxiliary grants program that shall include the establishment of auxiliary grant rates for adult foster care homes and licensed assisted living facilities. Such regulations shall also include (i) the process for reporting and certification; (ii) the services to be provided to the auxiliary grant recipient and paid for by the auxiliary grant and not charged to the recipient's personal needs allowance; and (iii) the process for supportive housing providers, assisted living facilities, and adult foster care homes to report and certify maintenance of the personal needs allowance and compliance with regulations for administration of the auxiliary grants program.

E. In order to receive an auxiliary grant while residing in *supportive housing* or an assisted living facility, an individual shall have been evaluated by a case manager or other qualified assessor using the uniform assessment instrument to determine his need for residential living care upon admission and annually thereafter, or whenever there is a change in the individual's condition that appears to warrant a change in the resident's approved level of care. An individual may select, *subject to availability, supportive housing* or an assisted living facility pending evaluation and assessment or as allowed by regulations of the Commissioner. ~~At the time of the first or any subsequent annual reassessment, the individual may select supportive housing or an assisted living facility, subject to the evaluation and reassessment of the individual and availability of the selected housing option. In such cases, the individual may continue to receive an auxiliary grant while residing in supportive housing as allowed by regulations of the Commissioner. However, in~~ In no event shall any public agency incur a financial obligation if the individual is determined ineligible for an auxiliary grant.

The Commissioner shall adopt regulations to implement the provisions of this subsection.

F. Provisions of Chapter 5 (§ 63.2-500 et seq.) of Title 63.2, relating to the administration of public assistance programs, shall govern operations of the auxiliary grant program established pursuant to this section.

G. Assisted living facilities, adult foster care homes, and supportive housing providers providing services to auxiliary grant recipients may accept payments made by third parties for services provided to an auxiliary grant recipient, and the Department shall not include such payments as income for the purpose of determining eligibility for or calculating the amount of an auxiliary grant, provided that the payment is made:

1. Directly to the assisted living facility, adult foster care home, or supportive housing provider by the third party on behalf of the auxiliary grant recipient;

2. Voluntarily by the third party, and not in satisfaction of a condition of admission, stay, or provision of proper care and services to the auxiliary grant recipient, unless the auxiliary grant recipient's physical needs exceed the services required to be provided by the assisted living facility or supportive housing provider as a condition of participation in the auxiliary grant program pursuant to subsection D; and

3. For specific goods and services provided to the auxiliary grant recipient other than food, shelter, or specific goods or services required to be provided by the assisted living facility, adult foster care home, or supportive housing provider as a condition of participation in the auxiliary grant program pursuant to subsection D.

H. Assisted living facilities, adult foster care homes, and supportive housing providers shall document all third-party payments received on behalf of an auxiliary grant recipient, including the source and amount of the payment and the goods and services for which such payments are to be used. Documentation related to the third-party payments shall be provided to the Department upon request.

I. Assisted living facilities, adult foster care homes, and supportive housing providers shall provide each auxiliary grant recipient with a written list of the goods and services that are covered by the auxiliary grant pursuant to subsection D, including a clear statement that the facility, home, or provider may not charge an auxiliary grant recipient or the recipient's family additional amounts for goods or services included on such list.

**2. That the Commissioner for Aging and Rehabilitative Services shall promulgate regulations to implement the provisions of this act to be effective within 180 days of its enactment.**

**3. That the Commissioner for Aging and Rehabilitative Services shall develop guidance documents for implementation of the provisions of this act no later than February 1, 2020. In developing such guidance documents,**

the Commissioner for Aging and Rehabilitative Services shall provide notice to the public and opportunity for public comment and participation.

4. That the provisions of this act shall not become effective if they conflict with any federal law or regulation or any guidance document provided by the U.S. Social Security Administration.

5. That the Department of Medical Assistance Services, if it deems an amendment is necessary, shall seek to amend the state plan for medical assistance under Title XIX of the Social Security Act, and any waivers thereof, to implement the necessary changes pursuant to the provisions of this act. The Department of Medical Assistance Services shall have authority to implement such changes upon approval by the Centers for Medicare and Medicaid Services and prior to the completion of the regulatory process.

6. That the number of auxiliary grant recipients in the supportive housing setting shall not exceed 90.

7. That notwithstanding the sixth enactment of this act, if the waiting list for supportive housing for auxiliary grant recipients maintained by the Department of Behavioral Health and Developmental Services consists of 30 individuals or more on October 1, 2020, then the maximum number of auxiliary grant recipients in supportive housing shall be increased to 120.

## CHAPTER 659

*An Act to amend and reenact §§ 2.2-1130, 2.2-1153, 2.2-1156, 2.2-1157, 10.1-1122, and 36-139.1 of the Code of Virginia, relating to the Department of General Services; surplus property; opportunity for economic development entities to purchase prior to public sale.*

[H 2182]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1130, 2.2-1153, 2.2-1156, 2.2-1157, 10.1-1122, and 36-139.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1130. Care of Virginia War Memorial Carillon.**

A. Notwithstanding the provisions of subsections B and C of § 2.2-1129, the Director of the Department and the City of Richmond shall enter into an agreement that would allow the City to permit the use of or access to the Virginia War Memorial Carillon for such short-term events as the City deems appropriate. The agreement (i) may allow the City to charge and collect a fee for such use and to retain any such fee and (ii) shall require the City to provide a report by December 1 of each year to the Director of the Department, in a form approved by the Director, detailing (a) the funds collected by the City for use of the Carillon for the preceding year; (b) the funds made available to the City from all sources; and (c) the City's expenditures for upkeep, maintenance, and improvement of the facility.

B. Notwithstanding the provisions of subsection H J of § 2.2-1156 or any other law to the contrary, the proceeds from the lease or other conveyance of an interest in the Virginia War Memorial Carillon by the Department shall be paid to the City to be applied with other City funds for the cost of upkeep, maintenance, and improvement of the Virginia War Memorial Carillon. The proceeds are hereby appropriated and shall be paid by the Comptroller to the City as soon as practicable after receipt by the Commonwealth.

C. All funds retained by the City or transferred to the City in accordance with this section and all fees collected by the City from use of or access to the Virginia War Memorial Carillon shall be paid into the City's treasury to the credit of a special fund that shall be used by the City solely for the upkeep, maintenance, and improvement of the Virginia War Memorial Carillon. Use of the special fund for any other purpose is prohibited.

D. Nothing in this section shall abrogate the obligations of the City of Richmond to provide for the upkeep and maintenance of the Carillon.

**§ 2.2-1153. State agencies and institutions to notify Department of property not used or required; criteria.**

A. Whenever any department, agency or institution of state government possesses or has under its control state-owned or leased property that is not being used to full capacity or is not required for the programs of the department, agency or institution, it shall so notify the Department. Such notification shall be in a form and manner prescribed by the Department. Each department, agency and institution shall submit to the Department a land use plan for state-owned property it possesses or has under its control showing present and planned uses of such property. Such plan shall be approved by the cognizant board or governing body of the department, agency or institution holding title to or otherwise controlling the state-owned property or the agency head in the absence of a board or governing body, with a recommendation on whether any property should be declared surplus by the department, agency or institution. Development of such land use plans shall be based on guidelines promulgated by the Department. The guidelines shall provide that each land use plan shall be updated and copies provided to the Department by September 1 of each year. The Department may exempt properties that are held and used for conservation purposes from the requirements of this section. The Department shall review the land use plans, the records and inventory required pursuant to subsections B and C of § 2.2-1136 and such other information as may be necessary and determine whether the property or any portion thereof should be declared surplus to the needs of the Commonwealth. By October 1 of each year, the Department shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees setting forth the Department's findings, the sale or marketing of properties

identified pursuant to this section, and recommending any actions that may be required by the Governor and the General Assembly to identify and dispose of property not being efficiently and effectively utilized. The Department shall provide a listing of surplus properties on the Department's website. The description of surplus property shall include parcel identification consistent with national spatial data standards in addition to a street address.

Until permanent disposition of the property determined to be surplus is effected, the property shall continue to be maintained by the department, agency or institution possessing or controlling it, unless upon the recommendation of the Department, the Governor authorizes the transfer of the property to the possession or control of the Department. In this event, the department, agency or institution formerly possessing or controlling the property shall have no further interest in it.

B. The Department shall establish criteria for ascertaining whether property under the control of a department, agency or institution should be classified as "surplus" to its current or proposed needs. Such criteria shall provide that the cognizant board or governing body, if any, of the department, agency or institution holding the title to or otherwise controlling the state-owned property, or the agency head in the absence of a board or governing body, shall approve the designation of the property as surplus.

C. Notwithstanding the provisions of subsection A:

1. The property known as College Woods, which includes Lake Matoaka and is possessed and controlled by a college founded in 1693, regardless of whether such property has been declared surplus pursuant to this section, shall not be transferred or disposed of without the approval of the board of visitors of such college by a two-thirds vote of all board members at a regularly scheduled board meeting. The General Assembly shall also approve the disposal or transfer.

2. Surplus real property valued at less than \$5 million that is possessed and controlled by a public institution of higher education may be sold by such institution, provided that (i) at least 45 days prior to executing a contract for the sale of such property, the institution gives written notification to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees; and (ii) the Governor may postpone the sale at any time up to 10 days prior to the proposed date of sale. Such sale may be effected by public auction, sealed bids, or by marketing through one or more Virginia licensed real estate brokers after satisfying the public notice provisions of subsection ~~A~~ *D* of § 2.2-1156. The terms of all negotiations resulting in such sale shall be public information. The public institution of higher education may retain the proceeds from the sale of such property if the property was acquired by nongeneral funds. If the institution originally acquired the property through a mix of general and nongeneral funds, 50 percent of the proceeds shall be distributed to the institution and 50 percent shall be distributed to the State Park Conservation Resources Fund established under subsection A of § 10.1-202. The authority of a public institution of higher education to sell surplus real property described under this subdivision or to retain any proceeds from the sale of such property shall be subject to the institution meeting the conditions prescribed in subsection A of § 23.1-1002 and § 23.1-1019 (regardless of whether or not the institution has been granted any authority under Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1).

**§ 2.2-1156. Sale or lease of surplus property and excess building space.**

A. The Department shall identify real property assets that are surplus to the current and reasonably anticipated future needs of the Commonwealth and may dispose of surplus assets as provided in this section, except when a department, agency or institution notifies the Department of a need for property ~~which~~ *that* has been declared surplus, and the Department finds that stated need to be valid and best satisfied by the use of the property.

~~A.~~ *B.* After it determines the property to be surplus to the needs of the Commonwealth and that such property should be sold, the Department shall request the written opinion of the Secretary of Natural Resources as to whether the property is a significant component of the Commonwealth's natural or historic resources, and if so how those resources should be protected in the sale of the property. The Secretary of Natural Resources shall provide this review within 15 business days of receipt of full information from the Department. Within 120 days of receipt of the Secretary's review, the Department shall, with the prior written approval of the Governor, proceed to sell the property.

~~B.~~ *C.* *Upon receipt of the Secretary's review under subsection B and prior to offering the surplus property for sale to the public, the Department shall notify the chief administrative officer of the locality within which the property is located as well as any economic development entity for such locality of the pending disposition of such property. The chief administrative officer or local economic development entity shall have up to 180 days from the date of such notification to submit a proposal to the Department for the use by the locality or the local economic development entity of such property in conjunction with a bona fide economic development activity. The Department shall review such proposal, and if the Department determines that such proposal is viable and could benefit the Commonwealth, the Department may negotiate with the chief administrative officer or the local economic development entity for the sale of such property to the locality or economic development entity. If no agreement is reached between the Department and the chief administrative officer or the local economic development entity for the sale of the property, or if no proposal for the use of the property is submitted to the Department by the chief administrative officer or the local economic development entity within 180 days of notification of the pending disposition of the property, the Department may proceed to dispose of the property as provided in this section.*

~~The~~ *D.* *If the surplus property is not disposed of pursuant to subsection C, the sale shall be by public auction, or sealed bids, or by marketing through one or more real estate brokers licensed by the Commonwealth. Notice of the date, time and place of sale, if by public auction or sealed bids shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the county or city in*

which the property to be sold is located. At least ~~thirty~~ 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened.

~~C.~~ E. In instances where the appraised value of property proposed to be sold is determined to be a nominal amount or an amount insufficient to warrant statewide advertisement, but in no event in excess of \$250,000, the notice of sale may be placed in only one newspaper having general circulation in the county or city in which the property to be sold is located.

~~D.~~ F. The Department may reject any and all bids or offers when, in the opinion of the Department, the price is inadequate in relation to the value of the property, the proposed terms are unacceptable, or if a need has been found for the property.

~~E.~~ G. In lieu of the sale of any such property, or in the event the Department determines there is space within a building owned by the Commonwealth or any space leased by the Commonwealth in excess of current and reasonably anticipated needs, the Department may, with the approval of the Governor, lease or sublease such property or space to any responsible person, firm or corporation on such terms as shall be approved by the Governor, provided, however, that the authority herein to sublease space leased by the Commonwealth shall be subject to the terms of the original lease. The Department may with the approval of the Governor permit charitable organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code that provide addiction recovery services to lease or sublease such property or space at cost and on such terms as shall be approved by the Governor, provided such use is deemed appropriate.

The Department shall post reports from the Commonwealth's statewide electronic procurement system, known as eVA, on the Department's website. The report shall include, at a minimum, current leasing opportunities and sales of surplus real property posted on the eVA's Virginia Business Opportunities website. Such reports shall also be made available by electronic subscription. The provisions of this section requiring disposition of property through the medium of sealed bids, public auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although such procedures may be followed in the discretion of the Department.

~~F.~~ H. The deed, lease, or sublease conveying the property or excess space shall be executed in the name of the Commonwealth and shall be in a form approved by the Attorney General. Notwithstanding any law to the contrary and notwithstanding how title to the property was acquired, the deed or lease may be executed on behalf of the Commonwealth by the Director of the Department or his designee, and such action shall not create a cloud on the title to the property. The terms of the sale, lease, or sublease shall be subject to the written approval of the Governor.

~~G.~~ I. An exception to sale by sealed bids, public auction, or listing the property with a licensed real estate broker may be granted by the Governor if the property is landlocked and inaccessible from a public road or highway. In such cases, the Department shall notify all adjacent landowners of the Commonwealth's desire to dispose of the property. After the notice has been given, the Department may begin negotiations for the sale of the property with each interested adjacent landowner. The Department, with the approval of the Governor, may accept any offer ~~which~~ that it deems to be fair and adequate consideration for the property. In all cases, the offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

~~H.~~ J. Subject to any law to the contrary, 50 percent of the proceeds from all sales or leases, or from the conveyance of any interest in property under the provisions of this article, above the costs of the transaction, which costs shall include fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid into the State Park Acquisition and Development Fund, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining 50 percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of the transactions, shall be deposited in the general fund of the state treasury. The Department of Planning and Budget shall develop guidelines ~~which~~ that allow, with the approval of the Governor, any portion of the deposit in the general fund to be credited to the agency, department or institution having control of the property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited to an agency, department or institution may be used, upon appropriation, to supplement maintenance reserve funds or capital project appropriations, or for the acquisition, construction or improvement of real property or facilities. Net proceeds from sales or leases of special fund agency properties or property acquired through a gift for a specific purpose shall be retained by the agency or used in accordance with the original terms of the gift. Notwithstanding the foregoing, income from leases or subleases above the cost of the transaction shall first be applied to rent under the original lease and to the cost of maintenance and operation of the property. The remaining funds shall be distributed as provided herein.

~~I.~~ K. When the Department deems it to be in the best interests of the Commonwealth, it may, with the approval of the Governor, authorize the department, institution or agency in possession or control of the property to dispose of surplus property in accordance with the procedures set forth in this section.

### **§ 2.2-1157. Exploration for and extraction of minerals on state-owned uplands.**

A. The Department of Mines, Minerals and Energy, in cooperation with the Division, shall develop, with the assistance of affected state agencies, departments, and institutions, a State Minerals Management Plan (the Plan). The Plan shall include provisions for the holding of public hearings and the public advertising for competitive bids or proposals for mineral exploration, leasing, and extraction activities on state-owned uplands. Sales of mineral exploration permits and leases for these lands shall be administered by the Division, with the advice of the Department of Mines, Minerals and Energy.

B. Upon receiving the recommendation of both the Director of the Department of General Services and the Director of the Department of Mines, Minerals and Energy, the Governor shall determine whether the proposed mineral exploration,

leasing, or extraction of minerals on state-owned uplands is in the public interest. No state-owned uplands shall be approved for mineral exploration, leasing, or extraction without a public hearing in the locality where the affected land or the greater portion thereof is located and a competitive bid or proposal process as described in the Plan. The provisions of this section shall not apply to the extraction of minerals on state-owned uplands pursuant to an oil or gas pooling order unless the well through which the extraction will occur is situated on such land.

For purposes of this section, "state-owned uplands" means lands owned by the Commonwealth that (i) lie landward of the mean low water mark in tidal areas or (ii) have an elevation above the average surface water level in nontidal areas.

C. The agencies, departments, or institutions proposing or receiving applications for mineral exploration, leasing or extraction on state-owned uplands shall, through their boards or commissions, recommend ~~as specified in subsection D of § 2.2-1156~~ all such activities to the Division following guidelines set forth in the Plan. The Division and the Department of Mines, Minerals and Energy shall review and recommend to the Governor such proposed activities. Such agencies, departments or institutions, through their boards or commissions, may execute the leases or contracts that have been approved by the Governor.

D. The proceeds from all such sales or leases above the costs of the sale to the Department of Mines, Minerals and Energy or to the agency, department or institution sponsoring the sale shall be paid into the general fund of the state treasury, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund. Net proceeds from sales or leases of special-fund agency properties or property acquired through a gift shall be retained by such agency or institution or used in accordance with the original terms of the gift if so stated.

E. Mining, leasing, and extraction activities in state-owned submerged lands shall be authorized and administered by the Virginia Marine Resources Commission pursuant to *Title 28.5* (§ 28.2-100 et seq.).

**§ 10.1-1122. Management, harvesting, sale of timber on state-owned land.**

A. The Department in cooperation with the Division of Engineering and Buildings shall develop a forest management plan for state-owned lands with the assistance of affected state agencies, departments and institutions.

B. Prior to the sale of timber from state-owned lands, the proposed sale shall be first approved by the Department and by the Division of Engineering and Buildings. The Department shall make or arrange for all sales so approved and shall deposit all proceeds to the credit of the Fund, except that when sales are made from timber on land held by special fund agencies or the Department of Military Affairs, or from timber on land ~~which~~ *that* is gift property specified in subsection ~~H J~~ of § 2.2-1156, the Department shall deposit in the Fund only so much of the proceeds as are needed to defray the cost of the sale and to implement the forestry management plan on that particular tract of land. The remainder of the proceeds from such a sale shall then be paid over to the special fund agency concerned, the Department of Military Affairs, or the agency or institution holding the gift properties, to be used for the purposes of that agency, department, or institution.

**§ 36-139.1. Sale of real property for housing demonstration projects.**

The Director is authorized to sell surplus real property belonging to the Commonwealth ~~which~~ *that* is placed under the control of the Department for the purpose of establishing owner-occupied residential housing demonstration projects, with the prior written approval of the Governor or his designee, who shall first consider the written recommendation of the Director of the Department of General Services. The methods, terms and conditions of sale shall be developed in cooperation with the Department of General Services. Any contract of sale or deed of conveyance shall be approved as to form by the Attorney General or one of his deputies or assistant attorneys general. The proceeds from all such sales shall be handled in the manner prescribed in subsection ~~H J~~ of § 2.2-1156.

**CHAPTER 660**

*An Act to amend and reenact §§ 2.2-1130, 2.2-1153, 2.2-1156, 2.2-1157, 10.1-1122, and 36-139.1 of the Code of Virginia, relating to the Department of General Services; surplus property; opportunity for economic development entities to purchase prior to public sale.*

[S 1681]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1130, 2.2-1153, 2.2-1156, 2.2-1157, 10.1-1122, and 36-139.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1130. Care of Virginia War Memorial Carillon.**

A. Notwithstanding the provisions of subsections B and C of § 2.2-1129, the Director of the Department and the City of Richmond shall enter into an agreement that would allow the City to permit the use of or access to the Virginia War Memorial Carillon for such short-term events as the City deems appropriate. The agreement (i) may allow the City to charge and collect a fee for such use and to retain any such fee and (ii) shall require the City to provide a report by December 1 of each year to the Director of the Department, in a form approved by the Director, detailing (a) the funds collected by the City for use of the Carillon for the preceding year; (b) the funds made available to the City from all sources; and (c) the City's expenditures for upkeep, maintenance, and improvement of the facility.

B. Notwithstanding the provisions of subsection ~~H J~~ of § 2.2-1156 or any other law to the contrary, the proceeds from the lease or other conveyance of an interest in the Virginia War Memorial Carillon by the Department shall be paid to the

City to be applied with other City funds for the cost of upkeep, maintenance, and improvement of the Virginia War Memorial Carillon. The proceeds are hereby appropriated and shall be paid by the Comptroller to the City as soon as practicable after receipt by the Commonwealth.

C. All funds retained by the City or transferred to the City in accordance with this section and all fees collected by the City from use of or access to the Virginia War Memorial Carillon shall be paid into the City's treasury to the credit of a special fund that shall be used by the City solely for the upkeep, maintenance, and improvement of the Virginia War Memorial Carillon. Use of the special fund for any other purpose is prohibited.

D. Nothing in this section shall abrogate the obligations of the City of Richmond to provide for the upkeep and maintenance of the Carillon.

**§ 2.2-1153. State agencies and institutions to notify Department of property not used or required; criteria.**

A. Whenever any department, agency or institution of state government possesses or has under its control state-owned or leased property that is not being used to full capacity or is not required for the programs of the department, agency or institution, it shall so notify the Department. Such notification shall be in a form and manner prescribed by the Department. Each department, agency and institution shall submit to the Department a land use plan for state-owned property it possesses or has under its control showing present and planned uses of such property. Such plan shall be approved by the cognizant board or governing body of the department, agency or institution holding title to or otherwise controlling the state-owned property or the agency head in the absence of a board or governing body, with a recommendation on whether any property should be declared surplus by the department, agency or institution. Development of such land use plans shall be based on guidelines promulgated by the Department. The guidelines shall provide that each land use plan shall be updated and copies provided to the Department by September 1 of each year. The Department may exempt properties that are held and used for conservation purposes from the requirements of this section. The Department shall review the land use plans, the records and inventory required pursuant to subsections B and C of § 2.2-1136 and such other information as may be necessary and determine whether the property or any portion thereof should be declared surplus to the needs of the Commonwealth. By October 1 of each year, the Department shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees setting forth the Department's findings, the sale or marketing of properties identified pursuant to this section, and recommending any actions that may be required by the Governor and the General Assembly to identify and dispose of property not being efficiently and effectively utilized. The Department shall provide a listing of surplus properties on the Department's website. The description of surplus property shall include parcel identification consistent with national spatial data standards in addition to a street address.

Until permanent disposition of the property determined to be surplus is effected, the property shall continue to be maintained by the department, agency or institution possessing or controlling it, unless upon the recommendation of the Department, the Governor authorizes the transfer of the property to the possession or control of the Department. In this event, the department, agency or institution formerly possessing or controlling the property shall have no further interest in it.

B. The Department shall establish criteria for ascertaining whether property under the control of a department, agency or institution should be classified as "surplus" to its current or proposed needs. Such criteria shall provide that the cognizant board or governing body, if any, of the department, agency or institution holding the title to or otherwise controlling the state-owned property, or the agency head in the absence of a board or governing body, shall approve the designation of the property as surplus.

C. Notwithstanding the provisions of subsection A:

1. The property known as College Woods, which includes Lake Matoaka and is possessed and controlled by a college founded in 1693, regardless of whether such property has been declared surplus pursuant to this section, shall not be transferred or disposed of without the approval of the board of visitors of such college by a two-thirds vote of all board members at a regularly scheduled board meeting. The General Assembly shall also approve the disposal or transfer.

2. Surplus real property valued at less than \$5 million that is possessed and controlled by a public institution of higher education may be sold by such institution, provided that (i) at least 45 days prior to executing a contract for the sale of such property, the institution gives written notification to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees; and (ii) the Governor may postpone the sale at any time up to 10 days prior to the proposed date of sale. Such sale may be effected by public auction, sealed bids, or by marketing through one or more Virginia licensed real estate brokers after satisfying the public notice provisions of subsection A D of § 2.2-1156. The terms of all negotiations resulting in such sale shall be public information. The public institution of higher education may retain the proceeds from the sale of such property if the property was acquired by nongeneral funds. If the institution originally acquired the property through a mix of general and nongeneral funds, 50 percent of the proceeds shall be distributed to the institution and 50 percent shall be distributed to the State Park Conservation Resources Fund established under subsection A of § 10.1-202. The authority of a public institution of higher education to sell surplus real property described under this subdivision or to retain any proceeds from the sale of such property shall be subject to the institution meeting the conditions prescribed in subsection A of § 23.1-1002 and § 23.1-1019 (regardless of whether or not the institution has been granted any authority under Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1).

**§ 2.2-1156. Sale or lease of surplus property and excess building space.**

A. The Department shall identify real property assets that are surplus to the current and reasonably anticipated future needs of the Commonwealth and may dispose of surplus assets as provided in this section, except when a department,

agency or institution notifies the Department of a need for property ~~which~~ *that* has been declared surplus, and the Department finds that stated need to be valid and best satisfied by the use of the property.

~~A.~~ *B.* After it determines the property to be surplus to the needs of the Commonwealth and that such property should be sold, the Department shall request the written opinion of the Secretary of Natural Resources as to whether the property is a significant component of the Commonwealth's natural or historic resources, and if so how those resources should be protected in the sale of the property. The Secretary of Natural Resources shall provide this review within 15 business days of receipt of full information from the Department. Within 120 days of receipt of the Secretary's review, the Department shall, with the prior written approval of the Governor, proceed to sell the property.

~~B.~~ *C.* Upon receipt of the Secretary's review under subsection B and prior to offering the surplus property for sale to the public, the Department shall notify the chief administrative officer of the locality within which the property is located as well as any economic development entity for such locality of the pending disposition of such property. The chief administrative officer or local economic development entity shall have up to 180 days from the date of such notification to submit a proposal to the Department for the use by the locality or the local economic development entity of such property in conjunction with a bona fide economic development activity. The Department shall review such proposal, and if the Department determines that such proposal is viable and could benefit the Commonwealth, the Department may negotiate with the chief administrative officer or the local economic development entity for the sale of such property to the locality or economic development entity. If no agreement is reached between the Department and the chief administrative officer or the local economic development entity for the sale of the property, or if no proposal for the use of the property is submitted to the Department by the chief administrative officer or the local economic development entity within 180 days of notification of the pending disposition of the property, the Department may proceed to dispose of the property as provided in this section.

~~The~~ *D.* If the surplus property is not disposed of pursuant to subsection C, the sale shall be by public auction, or sealed bids, or by marketing through one or more real estate brokers licensed by the Commonwealth. Notice of the date, time and place of sale, if by public auction or sealed bids shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the county or city in which the property to be sold is located. At least ~~thirty~~ 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened.

~~E.~~ *E.* In instances where the appraised value of property proposed to be sold is determined to be a nominal amount or an amount insufficient to warrant statewide advertisement, but in no event in excess of \$250,000, the notice of sale may be placed in only one newspaper having general circulation in the county or city in which the property to be sold is located.

~~F.~~ *F.* The Department may reject any and all bids or offers when, in the opinion of the Department, the price is inadequate in relation to the value of the property, the proposed terms are unacceptable, or if a need has been found for the property.

~~G.~~ *G.* In lieu of the sale of any such property, or in the event the Department determines there is space within a building owned by the Commonwealth or any space leased by the Commonwealth in excess of current and reasonably anticipated needs, the Department may, with the approval of the Governor, lease or sublease such property or space to any responsible person, firm or corporation on such terms as shall be approved by the Governor; provided, however, that the authority herein to sublease space leased by the Commonwealth shall be subject to the terms of the original lease. The Department may with the approval of the Governor permit charitable organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code that provide addiction recovery services to lease or sublease such property or space at cost and on such terms as shall be approved by the Governor, provided such use is deemed appropriate.

The Department shall post reports from the Commonwealth's statewide electronic procurement system, known as eVA, on the Department's website. The report shall include, at a minimum, current leasing opportunities and sales of surplus real property posted on the eVA's Virginia Business Opportunities website. Such reports shall also be made available by electronic subscription. The provisions of this section requiring disposition of property through the medium of sealed bids, public auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although such procedures may be followed in the discretion of the Department.

~~F.~~ *H.* The deed, lease, or sublease conveying the property or excess space shall be executed in the name of the Commonwealth and shall be in a form approved by the Attorney General. Notwithstanding any law to the contrary and notwithstanding how title to the property was acquired, the deed or lease may be executed on behalf of the Commonwealth by the Director of the Department or his designee, and such action shall not create a cloud on the title to the property. The terms of the sale, lease, or sublease shall be subject to the written approval of the Governor.

~~G.~~ *I.* An exception to sale by sealed bids, public auction, or listing the property with a licensed real estate broker may be granted by the Governor if the property is landlocked and inaccessible from a public road or highway. In such cases, the Department shall notify all adjacent landowners of the Commonwealth's desire to dispose of the property. After the notice has been given, the Department may begin negotiations for the sale of the property with each interested adjacent landowner. The Department, with the approval of the Governor, may accept any offer ~~which~~ *that* it deems to be fair and adequate consideration for the property. In all cases, the offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

~~H.~~ *J.* Subject to any law to the contrary, 50 percent of the proceeds from all sales or leases, or from the conveyance of any interest in property under the provisions of this article, above the costs of the transaction, which costs shall include fees

or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid into the State Park Acquisition and Development Fund, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining 50 percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of the transactions, shall be deposited in the general fund of the state treasury. The Department of Planning and Budget shall develop guidelines ~~which~~ *that* allow, with the approval of the Governor, any portion of the deposit in the general fund to be credited to the agency, department or institution having control of the property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited to an agency, department or institution may be used, upon appropriation, to supplement maintenance reserve funds or capital project appropriations, or for the acquisition, construction or improvement of real property or facilities. Net proceeds from sales or leases of special fund agency properties or property acquired through a gift for a specific purpose shall be retained by the agency or used in accordance with the original terms of the gift. Notwithstanding the foregoing, income from leases or subleases above the cost of the transaction shall first be applied to rent under the original lease and to the cost of maintenance and operation of the property. The remaining funds shall be distributed as provided herein.

~~¶~~ K. When the Department deems it to be in the best interests of the Commonwealth, it may, with the approval of the Governor, authorize the department, institution or agency in possession or control of the property to dispose of surplus property in accordance with the procedures set forth in this section.

**§ 2.2-1157. Exploration for and extraction of minerals on state-owned uplands.**

A. The Department of Mines, Minerals and Energy, in cooperation with the Division, shall develop, with the assistance of affected state agencies, departments, and institutions, a State Minerals Management Plan (the Plan). The Plan shall include provisions for the holding of public hearings and the public advertising for competitive bids or proposals for mineral exploration, leasing, and extraction activities on state-owned uplands. Sales of mineral exploration permits and leases for these lands shall be administered by the Division, with the advice of the Department of Mines, Minerals and Energy.

B. Upon receiving the recommendation of both the Director of the Department of General Services and the Director of the Department of Mines, Minerals and Energy, the Governor shall determine whether the proposed mineral exploration, leasing, or extraction of minerals on state-owned uplands is in the public interest. No state-owned uplands shall be approved for mineral exploration, leasing, or extraction without a public hearing in the locality where the affected land or the greater portion thereof is located and a competitive bid or proposal process as described in the Plan. The provisions of this section shall not apply to the extraction of minerals on state-owned uplands pursuant to an oil or gas pooling order unless the well through which the extraction will occur is situated on such land.

For purposes of this section, "state-owned uplands" means lands owned by the Commonwealth that (i) lie landward of the mean low water mark in tidal areas or (ii) have an elevation above the average surface water level in nontidal areas.

C. The agencies, departments, or institutions proposing or receiving applications for mineral exploration, leasing or extraction on state-owned uplands shall, through their boards or commissions, recommend ~~as specified in subsection D of § 2.2-1156~~ all such activities to the Division following guidelines set forth in the Plan. The Division and the Department of Mines, Minerals and Energy shall review and recommend to the Governor such proposed activities. Such agencies, departments or institutions, through their boards or commissions, may execute the leases or contracts that have been approved by the Governor.

D. The proceeds from all such sales or leases above the costs of the sale to the Department of Mines, Minerals and Energy or to the agency, department or institution sponsoring the sale shall be paid into the general fund of the state treasury, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund. Net proceeds from sales or leases of special-fund agency properties or property acquired through a gift shall be retained by such agency or institution or used in accordance with the original terms of the gift if so stated.

E. Mining, leasing, and extraction activities in state-owned submerged lands shall be authorized and administered by the Virginia Marine Resources Commission pursuant to *Title 28.2* (§ 28.2-100 et seq.).

**§ 10.1-1122. Management, harvesting, sale of timber on state-owned land.**

A. The Department in cooperation with the Division of Engineering and Buildings shall develop a forest management plan for state-owned lands with the assistance of affected state agencies, departments and institutions.

B. Prior to the sale of timber from state-owned lands, the proposed sale shall be first approved by the Department and by the Division of Engineering and Buildings. The Department shall make or arrange for all sales so approved and shall deposit all proceeds to the credit of the Fund, except that when sales are made from timber on land held by special fund agencies or the Department of Military Affairs, or from timber on land ~~which~~ *that* is gift property specified in subsection ~~H~~ *J* of § 2.2-1156, the Department shall deposit in the Fund only so much of the proceeds as are needed to defray the cost of the sale and to implement the forestry management plan on that particular tract of land. The remainder of the proceeds from such a sale shall then be paid over to the special fund agency concerned, the Department of Military Affairs, or the agency or institution holding the gift properties, to be used for the purposes of that agency, department, or institution.

**§ 36-139.1. Sale of real property for housing demonstration projects.**

The Director is authorized to sell surplus real property belonging to the Commonwealth ~~which~~ *that* is placed under the control of the Department for the purpose of establishing owner-occupied residential housing demonstration projects, with the prior written approval of the Governor or his designee, who shall first consider the written recommendation of the Director of the Department of General Services. The methods, terms and conditions of sale shall be developed in

cooperation with the Department of General Services. Any contract of sale or deed of conveyance shall be approved as to form by the Attorney General or one of his deputies or assistant attorneys general. The proceeds from all such sales shall be handled in the manner prescribed in subsection *H J* of § 2.2-1156.

## CHAPTER 661

*An Act to amend and reenact §§ 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered 38.2-3407.20, relating to health plans; calculation of enrollee's contribution to out-of-pocket maximum or cost-sharing requirement.*

[H 2515]

Approved March 21, 2019

### Be it enacted by the General Assembly of Virginia:

**1. That §§ 38.2-4214 and 38.2-4319 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered 38.2-3407.20 as follows:**

**§ 38.2-3407.20. Calculation of enrollee's contribution to out-of-pocket maximum or cost-sharing requirement.**

A. As used in this section:

"Carrier" shall have the meaning set forth in § 38.2-3407.10; however, "carrier" also includes any person required to be licensed under this title that offers or operates a managed care health insurance plan subject to Chapter 58 (§ 38.2-5800 et seq.) or that provides or arranges for the provision of health care services, health plans, networks, or provider panels that are subject to regulation as the business of insurance under this title.

"Cost sharing" means any coinsurance, copayment, or deductible.

"Enrollee" means any person entitled to health care services from a carrier.

"Health care services" means items or services furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability.

"Health plan" means any individual or group health care plan, subscription contract, evidence of coverage, certificate, health services plan, medical or hospital services plan, accident and sickness insurance policy or certificate, managed care health insurance plan, or other similar certificate, policy, contract, or arrangement, and any endorsement or rider thereto, to cover all or a portion of the cost of persons receiving covered health care services, that is subject to state regulation and that is required to be offered, arranged, or issued in the Commonwealth by a carrier licensed under this title. "Health plan" does not mean (i) coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid) or Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE); or (ii) accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages.

B. To the extent permitted by federal law and regulation, when calculating an enrollee's overall contribution to any out-of-pocket maximum or any cost-sharing requirement under a health plan, a carrier shall include any amounts paid by the enrollee or paid on behalf of the enrollee by another person.

C. This section shall apply with respect to health plans that are entered into, amended, extended, or renewed on or after January 1, 2020.

D. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to implement this section.

**§ 38.2-4214. Application of certain provisions of law.**

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through ~~38.2-3407.19~~ 38.2-3407.20, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

**§ 38.2-4319. Statutory construction and relationship to other laws.**

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through

38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through ~~38.2-3407.19~~ 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

## CHAPTER 662

*An Act to amend and reenact §§ 38.2-4214 and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered 38.2-3407.20, relating to health plans; calculation of enrollee's contribution to out-of-pocket maximum or cost-sharing requirement.*

[S 1596]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-4214 and 38.2-4319 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 34 of Title 38.2 a section numbered 38.2-3407.20 as follows:**

**§ 38.2-3407.20. Calculation of enrollee's contribution to out-of-pocket maximum or cost-sharing requirement.**

*A. As used in this section:*

*"Carrier" shall have the meaning set forth in § 38.2-3407.10; however, "carrier" also includes any person required to be licensed under this title that offers or operates a managed care health insurance plan subject to Chapter 58 (§ 38.2-5800 et seq.) or that provides or arranges for the provision of health care services, health plans, networks, or provider panels that are subject to regulation as the business of insurance under this title.*

*"Cost sharing" means any coinsurance, copayment, or deductible.*

*"Enrollee" means any person entitled to health care services from a carrier.*

*"Health care services" means items or services furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability.*

*"Health plan" means any individual or group health care plan, subscription contract, evidence of coverage, certificate, health services plan, medical or hospital services plan, accident and sickness insurance policy or certificate, managed care health insurance plan, or other similar certificate, policy, contract, or arrangement, and any endorsement or rider thereto, to cover all or a portion of the cost of persons receiving covered health care services, that is subject to state regulation and that is required to be offered, arranged, or issued in the Commonwealth by a carrier licensed under this title. "Health plan" does not mean (i) coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid) or Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE); or (ii) accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages.*

*B. To the extent permitted by federal law and regulation, when calculating an enrollee's overall contribution to any out-of-pocket maximum or any cost-sharing requirement under a health plan, a carrier shall include any amounts paid by the enrollee or paid on behalf of the enrollee by another person.*

*C. This section shall apply with respect to health plans that are entered into, amended, extended, or renewed on or after January 1, 2020.*

*D. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to implement this section.*

**§ 38.2-4214. Application of certain provisions of law.**

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through ~~38.2-3407.19~~ 38.2-3407.20, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

**§ 38.2-4319. Statutory construction and relationship to other laws.**

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through ~~38.2-3407.19~~ 38.2-3407.20, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02,

subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

## CHAPTER 663

*An Act to amend and reenact § 54.1-2400.2 of the Code of Virginia, relating to Department of Health Professions and health regulatory boards; information obtained in an investigation or disciplinary proceeding; authorized disclosures.*

[H 2556]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2400.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary proceeding; penalty.**

A. Any reports, information or records received and maintained by the Department of Health Professions or any health regulatory board in connection with possible disciplinary proceedings, including any material received or developed by a board during an investigation or proceeding, shall be strictly confidential. The Department of Health Professions or a board may only disclose such confidential information:

1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;
2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession, including the coordinated licensure information system, as defined in § 54.1-3040.2;
3. To hospital committees concerned with granting, limiting or denying hospital privileges if a final determination regarding a violation has been made;
4. Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary circumstances being shown;
5. To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any person is first deleted. Such release shall be made pursuant to a written agreement to ensure compliance with this section; or

6. To the Health Practitioners' Monitoring Program within the Department of Health Professions in connection with health practitioners who apply to or participate in the Program.

B. In no event shall confidential information received, maintained or developed by the Department of Health Professions or any board, or disclosed by the Department of Health Professions or a board to others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence in any civil action. This section shall not, however, be construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any investigation or proceeding by any health regulatory board acting within the scope of its authority. The disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such privilege in any other proceeding.

D. This section shall not prohibit the Director of the Department of Health Professions, after consultation with the relevant health regulatory board president or his designee, from disclosing to the Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which indicates a possible violation of any provision of criminal law, including the laws relating to the manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

E. This section shall not prohibit the Director of the Department of Health Professions from disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information required to be made available to the public pursuant to § 54.1-2910.1.

F. This section shall not prohibit the Director of the Department of Health Professions, following consultation with the relevant health regulatory board president or his designee, from disclosing information about a suspected violation of state or federal law or regulation to other agencies within the Health and Human Resources Secretariat or to *state or federal law-enforcement agencies having jurisdiction over the suspected violation or requesting an inspection or investigation of a licensee by such state or federal agency when the Director has reason to believe that a possible violation of federal or state or federal law has occurred.* Such disclosure shall not exceed the minimum information necessary to permit the state or federal agency having jurisdiction over the suspected violation of state or federal law to conduct an inspection or investigation. Disclosures by the Director pursuant to this subsection shall not be limited to requests for inspections or investigations of licensees. Nothing in this subsection shall require the Director to make any disclosure. Nothing in this section shall permit any agency to which the Director makes a disclosure pursuant to this section to re-disclose any information, reports, records, or materials received from the Department.

G. Whenever a complaint or report has been filed about a person licensed, certified, or registered by a health regulatory board, the source and the subject of a complaint or report shall be provided information about the investigative and disciplinary procedures at the Department of Health Professions. Prior to interviewing a licensee who is the subject of a complaint or report, or at the time that the licensee is first notified in writing of the complaint or report, whichever shall occur first, the licensee shall be provided with a copy of the complaint or report and any records or supporting documentation, unless such provision would materially obstruct a criminal or regulatory investigation. If the relevant board concludes that a disciplinary proceeding will not be instituted, the board may send an advisory letter to the person who was the subject of the complaint or report. The relevant board may also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv), if appropriate, that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to the requirements of this section relating to confidentiality and discovery.

H. Orders and notices of the health regulatory boards relating to disciplinary actions, other than confidential exhibits described in subsection K, shall be disclosed. Information on the date and location of any disciplinary proceeding, allegations against the respondent, and the list of statutes and regulations the respondent is alleged to have violated shall be provided to the source of the complaint or report by the relevant board prior to the proceeding. The source shall be notified of the disposition of a disciplinary case.

I. This section shall not prohibit investigative staff authorized under § 54.1-2506 *or investigative staff of any other agency to which disclosure of information about a suspected violation of state or federal law or regulation is authorized by subsection F* from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses any portion of records or other supporting documentation necessary to refresh the fact witnesses' recollection.

J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.

K. In disciplinary actions in which a practitioner is or may be unable to practice with reasonable skill and safety to patients and the public because of a mental or physical disability, a health regulatory board shall consider whether to disclose and may decide not to disclose in its notice or order the practitioner's health records, as defined in § 32.1-127.1:03, or his health services, as defined in § 32.1-127.1:03. Such information may be considered by the relevant board in a closed hearing in accordance with subdivision A 16 of § 2.2-3711 and included in a confidential exhibit to a notice or order. The public notice or order shall identify, if known, the practitioner's mental or physical disability that is the basis for its determination. In the event that the relevant board, in its discretion, determines that this subsection should apply, information contained in the confidential exhibit shall remain part of the confidential record before the relevant board and is subject to court review under the Administrative Process Act (§ 2.2-4000 et seq.) and to release in accordance with this section.

## CHAPTER 664

*An Act to amend and reenact §§ 54.1-3408.02, as it shall become effective, and 54.1-3410 of the Code of Virginia, relating to electronic transmission of certain prescriptions; exceptions.*

[H 2559]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-3408.02, as it shall become effective, and 54.1-3410 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-3408.02. (Effective July 1, 2020) Transmission of prescriptions.**

A. Consistent with federal law and in accordance with regulations promulgated by the Board, prescriptions may be transmitted to a pharmacy as an electronic prescription or by facsimile machine and shall be treated as valid original prescriptions.

B. Any prescription for a controlled substance that contains an ~~opiate~~ opioid shall be issued as an electronic prescription.

C. *The requirements of subsection B shall not apply if:*

1. *The prescriber dispenses the controlled substance that contains an opioid directly to the patient or the patient's agent;*

2. *The prescription is for an individual who is residing in a hospital, assisted living facility, nursing home, or residential health care facility or is receiving services from a hospice provider or outpatient dialysis facility;*

3. *The prescriber experiences temporary technological or electrical failure or other temporary extenuating circumstance that prevents the prescription from being transmitted electronically, provided that the prescriber documents the reason for this exception in the patient's medical record;*

4. *The prescriber issues a prescription to be dispensed by a pharmacy located on federal property, provided that the prescriber documents the reason for this exception in the patient's medical record;*

5. *The prescription is issued by a licensed veterinarian for the treatment of an animal;*

6. *The FDA requires the prescription to contain elements that are not able to be included in an electronic prescription;*

7. *The prescription is for an opioid under a research protocol;*

8. *The prescription is issued in accordance with an executive order of the Governor of a declared emergency;*

9. *The prescription cannot be issued electronically in a timely manner and the patient's condition is at risk, provided that the prescriber documents the reason for this exception in the patient's medical record; or*

10. *The prescriber has been issued a waiver pursuant to subsection D.*

D. *The licensing health regulatory board of a prescriber may grant such prescriber, in accordance with regulations adopted by such board, a waiver of the requirements of subsection B, for a period not to exceed one year, due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber.*

**§ 54.1-3410. When pharmacist may sell and dispense drugs.**

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed, a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the prescription was written, except for those drugs dispensed to a patient in a hospital pursuant to a chart order; and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 of this section.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.

E. (Effective July 1, 2020) ~~No pharmacist shall dispense a controlled substance that contains an opiate unless the prescription for such controlled substance is issued as an electronic prescription. A dispenser who receives a non-electronic prescription for a controlled substance containing an opioid is not required to verify that one of the exceptions set forth in § 54.1-3408.02 applies and may dispense such controlled substance pursuant to such prescription and applicable law.~~

**2. That the Board of Medicine, the Board of Nursing, the Board of Dentistry, and the Board of Optometry shall promulgate regulations to implement the provisions of this act regarding prescriber waivers to be effective within 280 days of its enactment.**

**3. That the Secretary of Health and Human Resources shall convene a work group of interested stakeholders, including the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Dental Association, the Virginia Association of Health Plans, and the Virginia Pharmacists Association, to evaluate the implementation of the electronic prescription requirement for controlled substances and shall report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022. The work group's report shall identify the successes and challenges of implementing the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid.**

## CHAPTER 665

*An Act to amend and reenact § 38.2-3407.15:1 of the Code of Virginia, relating to carrier contracts with pharmacy providers; limitations on audits of pharmacy records.*

[H 2561]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3407.15:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-3407.15:1. Carrier contracts with pharmacy providers; required provisions; limit on termination or nonrenewal.**

A. As used in this section, unless the context requires a different meaning:

"Audit" includes any audit conducted or authorized by a carrier or its intermediary to determine whether the participating pharmacy provider has complied with the terms and conditions for reimbursement under the provider contract.

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Clerical error" means any clerical or recordkeeping error or omission, such as typographical errors, scrivener's errors, or computer errors, in the keeping, recording, handling, or transcribing of pharmacy records. "Clerical error" does not include any clerical or recordkeeping error or omission that results in an overpayment by a carrier or its intermediary or the dispensing of a prescription in breach of applicable law or regulation.

"Fraud" means a knowingly or willfully false act of misrepresentation or an act in deliberate ignorance of the truth or falsity of the information as evidenced by a review of claims data, evaluation of provider statements, physical review of pharmacy records, or use of similar investigative methods by the carrier or its intermediary.

"Onsite audit" means an audit conducted at the physical location of the pharmacy, the physical location of its corporate offices, or the physical location of its records.

"Overpayment" means a payment by the carrier or its intermediary to the pharmacy provider that is greater than the rate or amount the provider is entitled to under the provider contract or applicable fee schedule.

"Pharmacy record" means a patient record, signature or delivery log, or prescription, including written, phoned-in, faxed, or electronic prescriptions, whether original or substitute, that complies with applicable law and regulation.

"Provider contract" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

B. Any contract between a carrier and its intermediary, pursuant to which the intermediary has the right or obligation to conduct audits of participating pharmacy providers, and any provider contract between a carrier and a participating pharmacy provider or its contracting agent, pursuant to which the carrier has the right or obligation to conduct audits of participating pharmacy providers, shall contain specific provisions that prohibit the carrier or intermediary, in the absence of fraud, from recouping amounts calculated from or arising out of any of the following:

1. Probability sampling, extrapolation, or other mathematical or statistical methods that allegedly project an error;

2. Clerical errors by the participating pharmacy provider;

3. An act or omission of the participating pharmacy provider that was not specifically prohibited or required by the provider contract when the claim was adjudicated unless the act or omission was a violation of applicable law or regulation;

4. The refusal of a carrier or its intermediary to consider during an audit or audit appeal a pharmacy record in electronic form to validate a claim;

5. Dispensing fees or interest on the claim, except in the event of an overpayment, if the prescription was dispensed in accordance with applicable law or regulation;

6. Any claim authorized and dispensed more than 24 months prior to the date of the audit unless the claim is adjusted at the direction of the Commission, except that this time period shall be tolled while the denial of the claim is being appealed;

7. An alleged breach of auditing requirements if they are not the same as the requirements that the carrier or intermediary applies to other participating pharmacy providers in the same setting;

8. The refusal of the carrier or its intermediary to consider during an audit or audit appeal a pharmacy record, a prescriber or patient verification, or a prescriber record to validate a claim; or

9. The alleged failure of the participating pharmacy provider to supply during an audit or audit appeal a pharmacy record not specifically identified in the provider contract.

C. Any (i) contract between a carrier and its intermediary pursuant to which the intermediary has the right or obligation to conduct audits of participating pharmacy providers and (ii) provider contract between a carrier and a participating pharmacy provider or its contracting agent pursuant to which the carrier has the right or obligation to conduct audits of participating pharmacy providers, shall contain the following terms and provisions relating to audits, which shall apply in the absence of fraud:

1. The initial onsite audit shall give the pharmacy written notice at least 14 days before conducting the initial audit for each audit cycle and shall disclose the specific prescription numbers to be included in the audit. The carrier or intermediary may mask the last two digits of such numbers. A pharmacy shall have at least 72 hours after receiving the written notice of an onsite audit to request a five business-day extension of the proposed audit date. A pharmacy making such a request shall be granted at least five additional business days and shall cooperate with the auditor to establish an alternative date.

2. Unless otherwise consented to by the pharmacy, an onsite audit shall not be initiated or scheduled during the first five calendar days of any month, or on a Monday and shall not involve the auditing of more than one location of the pharmacy at any particular time.

3. No onsite audit of a particular pharmacy location on behalf of a particular carrier shall occur more than once in a 12-month period.

4. Each pharmacy shall be audited under the same standards and parameters as every other similarly situated pharmacy. Any documentation and records required by an auditor during an audit shall be of the same type as the documentation and records required for all other similarly situated pharmacies.

5. Any audit issues that involve clinical or professional judgment shall be conducted by a pharmacist who has available for consultation a pharmacist licensed by the Commonwealth.

6. Each audit shall be conducted by a field agent who possesses the requisite knowledge and experience in pharmacy practice.

7. Audits shall be conducted in the Commonwealth in compliance with federal and state laws, rules, and regulations, including regulations adopted by the Board of Pharmacy.

8. Prescriptions shall be considered valid prescriptions if they are compliant with the then-current Board of Pharmacy rules and regulations and have been successfully adjudicated upon a clean claim submission. Carrier restrictions shall be addressed during the claims adjudication process either through the rejection of the clean claim or a rejection of the clean claim with direction to obtain a prior authorization and shall not be the basis for a retrospective recoupment of a paid claim.

9. Electronic records, including electronic beneficiary signature logs, electronic tracking of prescriptions, electronic prescriber prescription transmissions and imagery of hard copy prescriptions, electronically scanned store and patient records maintained at or accessible to the offices of an audited pharmacy's central operations, and any other reasonably clear and accurate electronic documentation shall be acceptable for auditing under the same terms, conditions, and validation and for the same purposes as their paper analogs. Point of sale electronic register data shall qualify as proof of delivery to the patient, provided that the auditor can validate the receipt on the basis of the patient data included.

10. A pharmacy may use the historical records of a hospital, physician, or other authorized practitioner of the healing arts for drugs or medicinal supplies written and transmitted by any documented means of communication for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug.

11. Validation and documentation at the time of dispensing of appropriate days' supply and drug dosing shall be based on manufacturer guidelines and definitions or, in the case of topical products or titrated products, based on the professional judgment of the pharmacist in communication with the patient or prescriber.

12. A pharmacy's usual and customary price for compounded medications is considered the reimbursable cost unless the pricing methodology is published in the provider contract and signed by both parties or their agents.

13. A carrier or its intermediary shall not make charge backs or seek recoupment from a pharmacy, or assess or collect penalties from a pharmacy, until the time period for filing an appeal to an initial audit report has passed or until the appeals process has been exhausted, whichever is later. If the identified discrepancy for a single audit exceeds \$25,000, future payments in excess of that amount may be withheld pending adjudication of an appeal.

14. The preliminary audit report shall (i) be delivered to the pharmacy or its pharmacy corporate office within 60 calendar days, with reasonable extensions allowed, after conclusion of the audit and (ii) contain claim level information for any discrepancy found and total dollar amount of claims subject to recovery.

15. A pharmacy shall be allowed at least 60 calendar days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit or to file an appeal.

16. A final audit report containing claim level information for any discrepancy found and total dollar amount of claims subject to recovery shall be delivered to the pharmacy or its pharmacy corporate office (i) within 90 calendar days after the audited pharmacy's receipt of the preliminary audit report, if the audited pharmacy does not file an appeal or offers no documentation to address a discrepancy found during an audit, or (ii) within 60 calendar days after the auditing entity receives the audited pharmacy's appeal or documentation to address a discrepancy.

17. A carrier or its intermediary shall not recover from the pharmacy payment of claims that is identified through the audit process to be the responsibility of another payer.

18. No recoupment of amounts paid to a pharmacy for any claim shall be made solely on the basis of a prescriber's or patient's lack of response to a request made by a carrier or its intermediary.

19. A carrier or its intermediary shall issue its initial audit findings in conformity with the laws of the Commonwealth.

20. A carrier or its intermediary shall not retroactively deny a claim (i) more than one year after the date of payment of the claim if the reason for denial would be patient ineligibility or (ii) at any time if the carrier or its intermediary verified the patient's eligibility at the time of dispensing and provided an authentication number to the pharmacy.

D. Any contract between a carrier and its intermediary, pursuant to which the intermediary has the right or obligation to conduct audits of participating pharmacy providers, and any provider contract between a carrier and a participating pharmacy provider or its contracting agent, pursuant to which the carrier has the right or obligation to conduct audits of participating pharmacy providers, shall contain specific provisions that prohibit the carrier or intermediary, in the absence of fraud by the participating pharmacy provider, from terminating or failing to renew the contractual relationship with a participating pharmacy provider for invoking its rights under any contractual provision required to be contained in the contract pursuant to subsection B or C.

~~Ɖ~~ E. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

~~Ɖ~~ F. This section shall apply with respect to contracts described in subsection B or ~~Ɖ~~ D entered into, amended, extended, or renewed on or after January 1, 2015, *except that the provisions of subsection C shall apply with respect to contracts described in subsection B or D entered into, amended, extended, or renewed on or after January 1, 2020.*

## CHAPTER 666

An Act to amend and reenact §§ 38.2-4214, 38.2-4319, and 54.1-2910.01 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 34 of Title 38.2 an article numbered 8, consisting of sections numbered 38.2-3461 through 38.2-3464, relating to health care shared savings; required disclosures by health care providers; and health insurance incentive programs.

[H 2639]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-4214, 38.2-4319, and 54.1-2910.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 34 of Title 38.2 an article numbered 8, consisting of sections numbered 38.2-3461 through 38.2-3464, as follows:**

*Article 8.*

*Health Care Shared Savings.*

**§ 38.2-3461. Definitions.**

*As used in this article, unless the context requires a different meaning:*

*"Allowed amount" means the contractually agreed upon amount paid or payable by a health carrier to a health care provider participating in the health carrier's network.*

*"Average" means mean, median, or mode.*

*"Comparable health care service" means any (i) physical and occupational therapy service, (ii) radiology and imaging service, (iii) laboratory service, (iv) infusion therapy service, and (v) at the discretion of the health carrier, other health care service, provided that with respect to any service described in clauses (i) through (v) the service (a) is a covered non-emergency health care service or bundle of health care services provided by a network provider and (b) is a service for which the health carrier has not demonstrated that the allowed amount variation among participating providers is less than \$50.*

*"Covered person" means a policyholder, subscriber, participant, or other individual covered by a health benefit plan.*

*"Health benefit plan" means a policy, contract, certificate, or agreement offered by a health carrier in the small group market to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services. "Health benefit plan" does not include the "excepted benefits" as defined in § 38.2-3431. "Health benefit plan" does not include any health insurance plan administered by the Department of Human Resource Management, including the health coverage offered to state employees pursuant to § 2.2-2818; health insurance coverage offered to employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, local officers, teachers and retirees pursuant to § 2.2-1204; or health insurance coverage provided under the Line of Duty Act (§ 9.1-400 et seq.).*

*"Health care provider" means a health care professional or facility.*

"Health care service" means a service for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

"Health carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health services plan, or any other entity providing a plan of health insurance, health benefits, or health care services.

"Network" or "provider network" means the group of participating providers providing services to a health benefit plan under which the financing and delivery of health care services are provided, in whole or in part, through a defined set of health care providers.

"Network provider" means a health care provider that has contracted with the health carrier, or with its contractor or subcontractor, to provide health care services to covered persons as a member of a network.

"Out-of-pocket costs" means any copayment, deductible, or coinsurance that is the responsibility of the covered person with respect to a covered health care service.

"Program" means the comparable health care service incentive program established by a health carrier pursuant to this article.

"Small group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan maintained by a small employer.

**§ 38.2-3462. Comparable Health Care Service Incentive Program.**

A. Beginning with health benefit plans offered or renewed on or after January 1, 2021, each health carrier offering a health benefit plan in the Commonwealth shall develop and implement a program that provides incentives for covered persons in its health benefit plan who elect to receive a comparable health care service that is covered by the health benefit plan from health care providers that are paid less than the average in-network allowed amount paid or payable by that health carrier to network providers for that comparable health care service. A health carrier may base the average paid to a network provider on what that health carrier pays to providers in the network applicable to the covered person's specific health benefit plan, or across all of its health benefit plans offered in the Commonwealth.

B. Incentives may include, but are not limited to, cash payments, gift cards, or credits or reductions of premiums, copayments, or deductibles. Health carriers may let covered persons decide which method they prefer to receive the incentive.

C. The incentive program shall provide covered persons with an incentive for each service or category of comparable health care service resulting from comparison shopping by covered persons. A health carrier is not required to provide a payment or credit to a covered person when the health carrier's saved cost is \$25 or less.

D. A health carrier shall determine the allowed amount paid or payable by that health carrier to network providers for that comparable health care service on the basis of the average allowed amount for the procedure or service under the covered person's health benefit plan. Such determination shall be made on the basis of the average of the allowed amounts using data collected over a reasonable period not to exceed one year. A health carrier may determine an alternate methodology for calculating the average allowed amount if approved by the Commission. A health carrier shall, at minimum, inform covered persons of their eligibility for an incentive payment and the process to request the average allowed amount for a procedure or service on the health carrier's website and in health benefit plan materials.

E. Eligibility for an incentive payment may require a covered person to demonstrate, through reasonable documentation such as a quote from the health care provider, that the covered person shopped prior to receiving care from the health care provider who charges less for the comparable health care service than the average allowed amount paid or payable by that health carrier. Health carriers shall provide additional mechanisms for the covered person to satisfy this requirement by utilizing the health carrier's cost transparency website or toll-free number, established under this article.

F. Each health carrier shall make the program available as a component of all small group health benefit plans offered by the health carrier in the Commonwealth. Annually at enrollment or renewal, each health carrier shall provide to any covered person who is enrolled in a small group health benefit plan eligible for the program (i) notice about the availability of the program, (ii) a description of the incentives available to a covered person, (iii) instructions on how to earn such incentives, and (iv) notification that tax treatment of the shared savings amounts or awards will be compliant with the rules of the Internal Revenue Service and treated as taxable income.

G. A comparable health care service incentive payment made by a health carrier in accordance with this section shall not constitute an administrative expense of the health carrier for rate development or rate filing purposes.

H. Prior to offering the program to any covered person, a health carrier shall file with the Commission a description of the program in the manner determined by the Commission. The description shall include a demonstration by the health carrier that the program is cost-effective, including any data relied upon by the health carrier in making such determination. The Commission may review the filing made by the health carrier to determine if the health carrier's program complies with the requirements of this article.

I. A health carrier may petition the Commission to be excluded from participation in the program. The Commission shall exempt from the program a health plan with a limited provider network that demonstrates that the network is

*incompatible with a shared savings program. In making its determination, the Commission shall consider the impact on premiums related to the administration of the program.*

*J. Annually by April 1, each health carrier shall file with the Commission, for the most recent calendar year, the total number of comparable health care service incentive payments made pursuant to this article, the use of comparable health care services by category of service for which comparable health care service incentives are made, the total payments made to covered persons, the average amount of incentive payments made by service for such transactions, the total savings achieved below the average allowed amount by service for such transactions, and the total number and percentage of a health carrier's covered persons in small group health benefit plans that participated in such transactions.*

*K. Beginning no later than 18 months after implementation of comparable health care service incentive programs under this section and annually by November 1 of each year thereafter, the Commission shall submit an aggregate report for all health carriers filing the information required by this section to the chairs of the House and Senate Committees on Commerce and Labor.*

**§ 38.2-3463. Health care price transparency tools.**

*Beginning with health benefit plans offered or renewed on or after July 1, 2020, each health carrier offering a health benefit plan in the Commonwealth shall comply with the following requirements:*

*1. A health carrier shall establish an interactive mechanism on its website that enables a covered person to request and obtain from the health carrier the estimated out-of-pocket cost to the covered person for comparable health care services from network providers, as well as quality data for those providers, to the extent available. The interactive mechanism shall allow a covered person seeking information about the cost of a comparable health care service to compare estimated out-of-pocket costs applicable to that covered person's health benefit plan. The out-of-pocket estimate shall provide a good faith estimate of the amount the covered person will be responsible to pay out-of-pocket for a proposed comparable health care service or service that is a medically necessary covered benefit from a health carrier's network provider, including any copayment, deductible, coinsurance, or other out-of-pocket amount for any covered benefit, based on the information available to the health carrier at the time the request is made. A health carrier may contract with a third-party vendor to satisfy the requirements of this subdivision.*

*2. Nothing in this section shall prohibit a health carrier from imposing cost-sharing requirements disclosed in the covered person's covered benefit plan for unforeseen health care services that arise out of the comparable health care service or for a procedure or service provided to a covered person that was not included in an original estimate provided under subdivision 1.*

*3. A health carrier shall notify a covered person that an estimate provided under subdivision 1 is an estimate of costs and that the actual amount the covered person will be responsible to pay may vary due to the need for unforeseen services that arise out of the proposed comparable health care service.*

**§ 38.2-3464. Rules and regulations; orders.**

*The Commission, after notice and opportunity for all interested parties to be heard, may issue any rules and regulations necessary or appropriate for the administration and enforcement of this article.*

**§ 38.2-4214. Application of certain provisions of law.**

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3454, *Article 8 (§ 38.2-3461 et seq.) of Chapter 34*, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

**§ 38.2-4319. Statutory construction and relationship to other laws.**

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, *Article 8 (§ 38.2-3461*

*et seq.*) of Chapter 34, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 *et seq.*) of Chapter 35, Chapter 35.1 (§ 38.2-3556 *et seq.*), Chapter 52 (§ 38.2-5200 *et seq.*), Chapter 55 (§ 38.2-5500 *et seq.*), and Chapter 58 (§ 38.2-5800 *et seq.*) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 *et seq.*) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 *et seq.*), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 *et seq.*), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 *et seq.*), 4 (§ 38.2-1317 *et seq.*), 5 (§ 38.2-1322 *et seq.*), 5.1 (§ 38.2-1334.3 *et seq.*), and 5.2 (§ 38.2-1334.11 *et seq.*) of Chapter 13, Articles 1 (§ 38.2-1400 *et seq.*), 2 (§ 38.2-1412 *et seq.*), and 4 (§ 38.2-1446 *et seq.*) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 *et seq.*), Chapter 55 (§ 38.2-5500 *et seq.*), and Chapter 58 (§ 38.2-5800 *et seq.*) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 *et seq.*) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

#### **§ 54.1-2910.01. Practitioner information provided to patients.**

Upon request by a patient, doctors of medicine, osteopathy, and podiatry shall inform the patient about the following:

1. Procedures to access information on the doctor compiled by the Board of Medicine pursuant to § 54.1-2910.1; ~~and~~
2. If the patient is not covered by a health insurance plan that the doctor accepts or a managed care health insurance plan in which the doctor participates, the patient may be subject to the doctor's full charge which may be greater than the health plan's allowable charge; *and*
3. *For purposes of § 38.2-3463, licensees of the Board of Medicine or their designee shall provide a description of the elective procedure or test, or the applicable standard procedural terminology or medical codes used by the American Medical Association, sufficient to allow a patient to compare care options if the patient is being referred for an elective procedure or test.*

## **CHAPTER 667**

*An Act to amend and reenact § 63.2-1715, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to child day programs; licensure exemption.*

[H 2756]

Approved March 21, 2019

#### **Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1715, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

#### **§ 63.2-1715. (Effective until July 1, 2019) Exemptions from licensure.**

- A. The following child day programs shall not be required to be licensed:
1. A child day center that has obtained an exemption pursuant to § 63.2-1716.
  2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the

scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

6. Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

7. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

9. Practice or competition in organized competitive sports leagues.

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.

11. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.

12. A certified preschool or nursery school program operated by a private school that is accredited by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and complies with the provisions of § 63.2-1717.

13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

14. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

15. A child day program offered by a local school division, staffed by local school division employees, and attended by children who are at least four years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school board.

16. *Child-minding services offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and for no more than eight hours per day, provided that the parent or guardian of every child receiving care is an employee of the business who is on the premises of the business and can resume responsibility for the child's supervision within 30 minutes upon request.*

B. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

C. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

**§ 63.2-1715. (Effective July 1, 2019) Exemptions from licensure.**

A. The following programs are not child day programs and shall not be required to be licensed:

1. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

2. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

3. Instructional programs offered by private schools that serve school-age children and that satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

6. Practice or competition in organized competitive sports leagues.

7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified religious services or related activities to allow parents or guardians or their designees who are on site to attend such religious services and activities.

8. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. The following child day programs shall not be required to be licensed:

1. A child day program or child day center that has obtained an exemption pursuant to § 63.2-1716.

2. A program where, by written policy given to and signed by a parent or guardian, school-age children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by a private school that is accredited by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and complies with the provisions of § 63.2-1717.

6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

7. A program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by children who are at least four years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

8. *Child-minding services offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and for no more than eight hours per day, provided that the parent or guardian of every child receiving care is an employee of the business who is on the premises of the business and can resume responsibility for the child's supervision within 30 minutes upon request.*

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:

1. File with the Commissioner annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

2. Report to the Commissioner all incidents involving serious physical injury to or death of children attending the child day program. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and

3. Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.

D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;
2. Maintain daily attendance records that document the arrival and departure of all children;
3. Have an emergency preparedness plan in place;
4. Comply with all applicable laws and regulations governing transportation of children; and
5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

E. The Commissioner shall inspect child day programs that are exempt from licensure pursuant to subsection B to determine compliance with the provisions of this section only upon receipt of a complaint, except as otherwise provided by law.

F. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

G. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

### CHAPTER 668

*An Act to amend and reenact §§ 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703.1, 24.2-703.2, 24.2-706, 24.2-707, 24.2-709, and 24.2-1004 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-701.1, relating to absentee voting; no-excuse, in-person, beginning on second Saturday immediately preceding election.*

[H 2790]

Approved March 21, 2019

#### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703.1, 24.2-703.2, 24.2-706, 24.2-707, 24.2-709, and 24.2-1004 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-701.1 as follows:**

#### **§ 24.2-452. Definitions.**

As used in this chapter, unless the context requires a different meaning:

1. "Covered voter" means:
  - a. A uniformed-service voter or an overseas voter who is registered to vote in this state;
  - b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements, including subdivision A 2 of § 24.2-700;
  - c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
  - d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
  - e. An overseas voter who was born outside the United States, is not described in subdivision c or d, and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:
    - (1) The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within this state; and
    - (2) The voter has not previously registered to vote in any other state.
2. "Dependent" means an individual recognized as a dependent by a uniformed service.
3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301(b)(2).
4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20303, that may be used in all elections in which the voter is eligible to vote as provided in § 24.2-702.1.
5. "Military-overseas ballot" means:
  - a. A federal write-in absentee ballot;
  - b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title; or
  - c. A ballot cast by a covered voter in accordance with this title.
6. "Overseas voter" means a United States citizen who is outside the United States.
7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
8. "Uniformed service" means:
  - a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

b. The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

c. The Virginia National Guard.

9. "Uniformed-service voter" means an individual who is qualified to vote and is:

a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

c. A member on activated status of the National Guard; or

d. A spouse or dependent of a member referred to in this definition.

10. "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

**§ 24.2-612. List of offices and candidates filed with Department of Elections and checked for accuracy; when ballots printed; number required.**

Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each general registrar shall forward to the Department of Elections a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office. In addition, each general registrar shall forward the name of any candidate who failed to qualify with the reason for his disqualification. On that same day, the general registrar shall also provide a copy of the notice to each disqualified candidate. The notice shall be sent by email or regular mail to the address on the candidate's certificate of candidate qualification, and such notice shall be deemed sufficient. The Department of Elections shall promptly advise the general registrar of the accuracy of the list. The failure of any general registrar to send the list to the Department of Elections for verification shall not invalidate any election.

Each general registrar shall have printed the number of ballots he determines will be sufficient to conduct the election. Such determination shall be based on the number of active registered voters and historical election data, including voter turnout, and shall be subject to the approval by the electoral board.

Notwithstanding any other provisions of this title, the Department of Elections may print or otherwise provide one statewide paper ballot style for each paper ballot style in use for presidential and vice-presidential electors for use only by persons eligible to vote for those offices only under § 24.2-402 or only for federal elections under § 24.2-453. The Department of Elections may apportion or authorize the printer or vendor to apportion the costs for these ballots among the localities based on the number of ballots ordered. Any printer employed by the Department of Elections shall execute the statement required by § 24.2-616. The Department of Elections shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate general registrars pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board or the general registrar shall affix the seal of the electoral board. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the Department of Elections shall specifically direct.

The general registrar shall make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later. In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the general registrar shall make printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making printed ballots available includes mailing of such ballots or electronic transmission of such ballots pursuant to § 24.2-706 to a qualified absentee voter who is eligible for an absentee ballot under subdivision A 2 of § 24.2-700. Not later than five days after absentee ballots are made available, each general registrar shall report to the Department of Elections, in writing on a form approved by the Department of Elections, whether he has complied with the applicable deadline.

Only the names of candidates for offices to be voted on in a particular election district shall be printed on the ballots for that election district.

The general registrar shall send to the Department of Elections a statement of the number of ballots ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any general registrar is not sufficient, it may direct the general registrar to order the printing of a reasonable number of additional ballots.

**§ 24.2-700. Persons entitled to vote by absentee ballot.**

A. The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;

2. Any person who is (i) a member of a uniformed service, as defined in § 24.2-452, on active duty, (ii) temporarily residing outside of the United States, or (iii) the spouse or dependent residing with any person listed in clause (i) or (ii), and who will be absent on the day of the election from the county or city in which he is entitled to vote;

3. Any student attending a school or institution of higher education, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of election because of his disability, illness, or pregnancy;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion;

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603;

10. Any person who is a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1;

11. Any person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639; or

12. Any person granted a protective order issued by or under the authority of any court of competent jurisdiction.

*B. Any registered voter may vote by absentee ballot in person beginning on the second Saturday immediately preceding any election in which he is qualified to vote.*

**§ 24.2-701. Application for absentee ballot.**

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision A 2 of § 24.2-700.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all ~~general elections, except May general elections, and on the Saturday immediately preceding any primary election, May general election, or special election.~~

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be ~~made not less than three days prior to the election in which the applicant offers to vote and~~ completed only in the office of the general registrar. ~~The applicant shall sign the application and signed by the applicant~~ in the presence of a registrar. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision A 2 of § 24.2-700, may be on a federal postcard application prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name, the last four digits of the applicant's social security number, and the reason the applicant will be absent or cannot vote at his polling place on the day of the election. However, an applicant completing the application in person shall not be required to provide the last four digits of his social security number;
2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to him. Any person who makes application under subdivision A 2 of § 24.2-700 who is not a registered voter may file the applications to register and for a ballot simultaneously;
3. The complete address to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when the printed ballots for the election are available and the applicant chooses to vote in person at the time of completing his application. The address given shall be (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other person; and
4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the spouse belongs; or
5. In the case of a student, or the spouse of a student, who is attending a school or institution of higher education, the name of the school or institution of higher education; or
6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of the election because of his disability, illness, or pregnancy, that he is a person with a disability, illness, or pregnancy; or
7. In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name of the institution of confinement; or
8. In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or
9. In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or
10. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home, his relationship to the family member; or
11. In the case of a person who is unable to go to the polls on the day of election because of an obligation occasioned by his religion, that he has an obligation occasioned by his religion; or
12. In the case of a person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his business or employer and hours he will be at the workplace and commuting on election day; or
13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first responder; or
14. In the case of a person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so designated; or
15. In the case of a person who has been granted a protective order issued by or under the authority of any court of competent jurisdiction, the name of the county or city in Virginia or the state of the issuing court.

*D. An application shall not be required for any registered voter appearing in person to cast an absentee ballot during the period beginning on the second Saturday immediately preceding the election in which he is offering to vote.*

**§ 24.2-701.1. Absentee voting in person.**

*A. Absentee voting in person shall be available on the forty-fifth day prior to any election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election.*

*1. Any registered voter eligible to vote absentee pursuant to subsection A of § 24.2-700 may vote absentee in person beginning on the forty-fifth day prior to the election in which he is offering to vote and continuing until the second Friday immediately preceding such election. He shall complete the application for an absentee ballot required by § 24.2-701, and the general registrar shall process that application in accordance with the provisions of § 24.2-706.*

*2. Any registered voter may vote absentee in person on or after the second Saturday immediately preceding the election in which he is offering to vote. He shall provide his name and his residence address in the county or city in which he is offering to vote. After verifying that the voter is a registered voter of that county or city, the general registrar shall enroll the voter's name and address on the absentee voter applicant list maintained pursuant to § 24.2-706.*

*A registered voter voting by absentee ballot in person shall provide one of the forms of identification specified in subsection B of § 24.2-643. If he does not show one of the forms of identification specified in subsection B of § 24.2-643, he shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.*

*B. Absentee voting in person shall be available during regular business hours. The electoral board of each county and city shall provide for absentee voting in person in the office of the general registrar. For purposes of this chapter, such office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all elections.*

*C. Additional locations in the county or city approved by the electoral boards may be available for absentee voting in person. Any such location shall be in a public building owned or leased by the county, city, or town within the county and may be in a facility that is owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities or as an office of the general registrar. Any such location shall have adequate facilities for the protection of all elections materials produced in the process of absentee voting in person, the voted and unvoted absentee ballots, and any voting systems in use at the location.*

*D. The general registrar may provide for the casting of absentee ballots in person pursuant to this section on voting systems. The Department shall prescribe the procedures for use of voting systems. The procedures shall provide for absentee voting in person on voting systems that have been certified and are currently approved by the State Board. The procedures shall be applicable and uniformly applied by the Department to all localities using comparable voting systems.*

*E. At least two officers of election shall be present during all hours that absentee voting in person is available and shall represent the two major political parties, except in the case of a party primary, when they may represent the party conducting the primary. However, such requirement shall not apply when (i) voting systems that are being used pursuant to subsection D are located in the office of the general registrar and (ii) the general registrar or an assistant registrar is present.*

*F. The Department shall include absentee ballots voted in person in its instructions for the preparation, maintenance, and reporting of ballots, pollbooks, records, and returns.*

**§ 24.2-702.1. Federal write-in absentee ballots.**

A. Notwithstanding any other provision of this title, a qualified absentee voter who is eligible for an absentee ballot under subdivision A 2 of § 24.2-700 may use a federal write-in absentee ballot in any election. Such ballot shall be submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) and this article.

B. Notwithstanding any other provision of this title, a federal write-in absentee ballot submitted pursuant to subsection A shall be considered valid for purposes of simultaneously satisfying both an absentee ballot application and a completed absentee ballot, provided that the ballot is received no later than the deadline for the return of absentee ballots as provided in § 24.2-709 for the election in which the voter offers to vote, and the application contains the following information: (i) the voter's signature; however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature box; (ii) the voter's printed name; (iii) the county or city in which he is registered and offers to vote; (iv) the residence address at which he is registered to vote; (v) his current military or overseas address; and (vi) the signature of a witness who shall sign the same application.

C. This section shall not be construed to require that an absentee ballot be sent to the absentee voter on receipt of a federal write-in absentee ballot unless the voter has also submitted an absentee ballot application pursuant to § 24.2-701 or 24.2-703.

**§ 24.2-703.1. Special annual applications for absentee ballots for certain ill or disabled voters.**

Any person who is eligible for an absentee ballot under subdivision A 4 of § 24.2-700 because of a disability or illness and who is likely to remain so eligible for the remainder of the calendar year shall be eligible to file a special annual application to receive ballots for all elections in which he is eligible to vote in a calendar year. His first such application shall be accompanied by a statement, on a form prescribed by the State Board and signed by the voter and his physician, provider as defined in § 37.2-403, or accredited religious practitioner, that the voter is eligible for an absentee ballot under subdivision A 4 of § 24.2-700 and likely to remain so eligible for the remainder of the calendar year.

In accordance with procedures established by the State Board, the general registrar shall retain the application and form, enroll the applicant on a special absentee voter applicant list, and process the applicant's request for an absentee ballot for each succeeding election in the calendar year. The applicant shall specify by party designation the primary ballots he is requesting.

The general registrar shall send each such enrolled applicant a blank application by December 15 for each ensuing calendar year, and upon completion thereof, the applicant shall be eligible to receive ballots for all elections in which he is eligible to vote in that calendar year.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, or the general registrar knows that the applicant is no longer a qualified voter, no ballot for any subsequent election shall be sent to the voter until a new application is filed and accepted.

**§ 24.2-703.2. Replacement absentee ballots for certain disabled or ill voters; penalty.**

A voter seeking to cast an absentee ballot may obtain a replacement absentee ballot subject to the following conditions: (i) the voter applied for an absentee ballot under subdivision A 4 of § 24.2-700 because of a disability or illness; (ii) the application was approved and an absentee ballot mailed to the voter; and (iii) the voter did not receive or has lost the absentee ballot on or before the Saturday before the election. In such case, the voter may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before election day and designate, in writing, a representative to obtain a replacement absentee ballot on his behalf from the general registrar and to return the properly

completed ballot as directed by the general registrar no later than the close of polls on the day of election for which the absentee ballot is valid. The representative shall be age eighteen or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate. The voter and representative shall complete the form prescribed by the State Board to implement the provisions of this section. The form shall include a statement signed by the voter that he did not receive the ballot or has lost the ballot. Statements on the form shall be subject to felony penalties for making false statements pursuant to § 24.2-1016.

**§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications of the listed applicants received. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

B. The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is \_\_\_\_\_ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of \_\_\_\_\_ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter \_\_\_\_\_

Date \_\_\_\_\_

Signature of witness \_\_\_\_\_"

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

*When this statement has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.*

3. A properly addressed envelope for the return of the ballot to the general registrar by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be

counted as a provisional ballot under the provisions of § 24.2-653. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the Department of Elections.

C. If the applicant ~~makes completes~~ his application ~~to vote~~ in person under § 24.2-701 at a time when the printed ballots for the election are available, ~~the general registrar, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the general registrar he may request that the general registrar send to him by mail the items set forth in subdivisions B 1 through 4, instead of casting the ballot in person. On the request of the applicant, Such request shall be made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, and the general registrar may shall send the those items set forth in subdivisions 1 through 4 to the applicant by mail, obtaining a certificate or other evidence of mailing.~~

D. If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision A 2 of § 24.2-700, the general registrar, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions B 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic transmission, the general registrar, at the time when the printed ballots for the election are available but not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or fax number of the office of the general registrar published on the Department of Elections website. The State Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

~~When the statement prescribed in subdivision 2 has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.~~

E. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

#### § 24.2-707. How ballots marked and returned by mail.

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope and mail it to the office of the general registrar or deliver it personally to the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

~~An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar, or at another location or locations in the county or city approved by the electoral board, before a registrar, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar for the purpose of completing the application for an absentee ballot in person pursuant to §§ 24.2-701 and 24.2-706. On the request of the applicant, made no later than 5:00 p.m. on the seventh~~

day prior to the election in which the applicant offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 of § 24.2-706 to the applicant by mail, obtaining a certificate or other evidence of mailing.

Failure to follow the procedures set forth ~~above in this section~~ shall render the applicant's ballot void.

The general registrar of any county or city using a central absentee voting precinct may provide for the casting of absentee ballots on voting equipment prior to election day by applicants who are voting in person. The Department of Elections shall prescribe procedures for the use of voting equipment. The procedures shall provide for the casting of absentee ballots prior to election day by in-person applicants on voting equipment which has been certified, and is currently approved, by the Department of Elections. The procedures shall be applicable and uniformly applied by the Department of Elections to all jurisdictions using comparable voting equipment. At least two officers of election, one representing each political party, shall be present during all hours that absentee voting is available at any location at which absentee ballots are cast prior to election day.

The requirement that officers of election shall be present if ballots are cast on voting equipment prior to election day shall not be applicable when the voting equipment is located in the office of the general registrar and the general registrar or an assistant registrar is present.

#### § 24.2-709. Ballot to be returned in manner prescribed by law.

A. Any ballot returned to the office of the general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar before the closing of the polls. The registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed.

B. Notwithstanding the provisions of subsection A, absentee ballots (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by an absentee voter who is eligible for an absentee ballot under subdivision A 2 of § 24.2-700 shall be counted pursuant to the procedures set forth in this chapter and, if the voter is found entitled to vote, included in the election returns. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

C. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

#### § 24.2-1004. Illegal voting and registrations.

A. Any person who wrongfully deposits a ballot in the ballot container or casts a vote on any voting equipment, is guilty of a Class 1 misdemeanor.

B. Any person who intentionally (i) votes more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (ii) procures, assists, or induces another to vote more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (iii) votes knowing that he is not qualified to vote where and when the vote is to be given, or (iv) procures, assists, or induces another to vote knowing that such person is not qualified to vote where and when the vote is to be given is guilty of a Class 6 felony.

C. Any person who intentionally (i) registers to vote at more than one residence address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, or (ii) procures, assists, or induces another to register to vote at more than one address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, is guilty of a Class 6 felony. This subsection shall not apply to any person who, when registering to vote, changing the address at which he is registered, transferring his registration, or assisting another in registering, changing his address, or transferring his registration, provides the information required by § 24.2-418 on the applicant's place of last previous registration to vote.

D. Nothing in this section shall be construed to prohibit a person entitled to vote absentee under subdivision A 2 of § 24.2-700 from casting in the same election both a state ballot and a write-in absentee ballot that is processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.). If both ballots are received prior to the close of the polls on election day, the state ballot shall be counted.

**2. That the provisions of this act shall apply to elections beginning with the general election on November 3, 2020.**

**3. That the State Board of Elections, on or before December 1, 2019, shall submit a report to the Governor, the General Assembly, and the House and Senate Committees on Privileges and Elections on the procedures and instructions promulgated by it for conducting absentee voting pursuant to the provisions of this act. The report shall include recommendations to be considered by the General Assembly for any further legislation that may be necessary for implementation of the provisions of this act.**

## CHAPTER 669

*An Act to amend and reenact §§ 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703.1, 24.2-703.2, 24.2-706, 24.2-707, 24.2-709, and 24.2-1004 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-701.1, relating to absentee voting; no-excuse, in-person, beginning on second Saturday immediately preceding election.*

[S 1026]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703.1, 24.2-703.2, 24.2-706, 24.2-707, 24.2-709, and 24.2-1004 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-701.1 as follows:**

**§ 24.2-452. Definitions.**

As used in this chapter, unless the context requires a different meaning:

1. "Covered voter" means:
  - a. A uniformed-service voter or an overseas voter who is registered to vote in this state;
  - b. A uniformed-service voter defined in subdivision 9 a whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements, including subdivision A 2 of § 24.2-700;
  - c. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
  - d. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
  - e. An overseas voter who was born outside the United States, is not described in subdivision c or d, and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:
    - (1) The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within this state; and
    - (2) The voter has not previously registered to vote in any other state.
2. "Dependent" means an individual recognized as a dependent by a uniformed service.
3. "Federal postcard application" means the application prescribed under § 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301(b)(2).
4. "Federal write-in absentee ballot" means the ballot described in § 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20303, that may be used in all elections in which the voter is eligible to vote as provided in § 24.2-702.1.
5. "Military-overseas ballot" means:
  - a. A federal write-in absentee ballot;
  - b. A ballot specifically prepared or distributed for use by a covered voter in accordance with this title; or
  - c. A ballot cast by a covered voter in accordance with this title.
6. "Overseas voter" means a United States citizen who is outside the United States.
7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
8. "Uniformed service" means:
  - a. Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;
  - b. The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or
  - c. The Virginia National Guard.
9. "Uniformed-service voter" means an individual who is qualified to vote and is:
  - a. A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;
  - b. A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;
  - c. A member on activated status of the National Guard; or
  - d. A spouse or dependent of a member referred to in this definition.
10. "United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

**§ 24.2-612. List of offices and candidates filed with Department of Elections and checked for accuracy; when ballots printed; number required.**

Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each general registrar shall forward to the Department of Elections a list of the county, city, or town offices to be filled at the election and the names of all candidates

who have filed for each office. In addition, each general registrar shall forward the name of any candidate who failed to qualify with the reason for his disqualification. On that same day, the general registrar shall also provide a copy of the notice to each disqualified candidate. The notice shall be sent by email or regular mail to the address on the candidate's certificate of candidate qualification, and such notice shall be deemed sufficient. The Department of Elections shall promptly advise the general registrar of the accuracy of the list. The failure of any general registrar to send the list to the Department of Elections for verification shall not invalidate any election.

Each general registrar shall have printed the number of ballots he determines will be sufficient to conduct the election. Such determination shall be based on the number of active registered voters and historical election data, including voter turnout, and shall be subject to the approval by the electoral board.

Notwithstanding any other provisions of this title, the Department of Elections may print or otherwise provide one statewide paper ballot style for each paper ballot style in use for presidential and vice-presidential electors for use only by persons eligible to vote for those offices only under § 24.2-402 or only for federal elections under § 24.2-453. The Department of Elections may apportion or authorize the printer or vendor to apportion the costs for these ballots among the localities based on the number of ballots ordered. Any printer employed by the Department of Elections shall execute the statement required by § 24.2-616. The Department of Elections shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate general registrars pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board or the general registrar shall affix the seal of the electoral board. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the Department of Elections shall specifically direct.

The general registrar shall make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later. In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the general registrar shall make printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making printed ballots available includes mailing of such ballots or electronic transmission of such ballots pursuant to § 24.2-706 to a qualified absentee voter who is eligible for an absentee ballot under subdivision A 2 of § 24.2-700. Not later than five days after absentee ballots are made available, each general registrar shall report to the Department of Elections, in writing on a form approved by the Department of Elections, whether he has complied with the applicable deadline.

Only the names of candidates for offices to be voted on in a particular election district shall be printed on the ballots for that election district.

The general registrar shall send to the Department of Elections a statement of the number of ballots ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any general registrar is not sufficient, it may direct the general registrar to order the printing of a reasonable number of additional ballots.

#### **§ 24.2-700. Persons entitled to vote by absentee ballot.**

A. The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;

2. Any person who is (i) a member of a uniformed service, as defined in § 24.2-452, on active duty, (ii) temporarily residing outside of the United States, or (iii) the spouse or dependent residing with any person listed in clause (i) or (ii), and who will be absent on the day of the election from the county or city in which he is entitled to vote;

3. Any student attending a school or institution of higher education, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of election because of his disability, illness, or pregnancy;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion;

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603;

10. Any person who is a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1;

11. Any person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639; or

12. Any person granted a protective order issued by or under the authority of any court of competent jurisdiction.

*B. Any registered voter may vote by absentee ballot in person beginning on the second Saturday immediately preceding any election in which he is qualified to vote.*

**§ 24.2-701. Application for absentee ballot.**

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision A 2 of § 24.2-700.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all ~~general elections; except May general elections; and on the Saturday immediately preceding any primary election, May general election, or special election.~~

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be ~~made not less than three days prior to the election in which the applicant offers to vote and~~ completed only in the office of the general registrar. ~~The applicant shall sign the application and signed by the applicant~~ in the presence of a registrar. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision A 2 of § 24.2-700, may be on a federal postcard application prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name, the last four digits of the applicant's social security number, and the reason the applicant will be absent or cannot vote at his polling place on the day of the election. However, an applicant completing the application in person shall not be required to provide the last four digits of his social security number;

2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to him. Any person who makes application under subdivision A 2 of § 24.2-700 who is not a registered voter may file the applications to register and for a ballot simultaneously;

3. The complete address to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when the printed ballots for the election are available and the applicant chooses to vote in person at the time of completing his application. The address given shall be (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other person; and

4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the spouse belongs; or

5. In the case of a student, or the spouse of a student, who is attending a school or institution of higher education, the name of the school or institution of higher education; or

6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of the election because of his disability, illness, or pregnancy, that he is a person with a disability, illness, or pregnancy; or

7. In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name of the institution of confinement; or

8. In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or

9. In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

10. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home, his relationship to the family member; or

11. In the case of a person who is unable to go to the polls on the day of election because of an obligation occasioned by his religion, that he has an obligation occasioned by his religion; or

12. In the case of a person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his business or employer and hours he will be at the workplace and commuting on election day; or

13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first responder; or

14. In the case of a person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so designated; or

15. In the case of a person who has been granted a protective order issued by or under the authority of any court of competent jurisdiction, the name of the county or city in Virginia or the state of the issuing court.

*D. An application shall not be required for any registered voter appearing in person to cast an absentee ballot during the period beginning on the second Saturday immediately preceding the election in which he is offering to vote.*

**§ 24.2-701.1. Absentee voting in person.**

*A. Absentee voting in person shall be available on the forty-fifth day prior to any election and shall continue until 5:00 p.m. on the Saturday immediately preceding the election.*

*1. Any registered voter eligible to vote absentee pursuant to subsection A of § 24.2-700 may vote absentee in person beginning on the forty-fifth day prior to the election in which he is offering to vote and continuing until the second Friday immediately preceding such election. He shall complete the application for an absentee ballot required by § 24.2-701, and the general registrar shall process that application in accordance with the provisions of § 24.2-706.*

*2. Any registered voter may vote absentee in person on or after the second Saturday immediately preceding the election in which he is offering to vote. He shall provide his name and his residence address in the county or city in which he is offering to vote. After verifying that the voter is a registered voter of that county or city, the general registrar shall enroll the voter's name and address on the absentee voter applicant list maintained pursuant to § 24.2-706.*

*A registered voter voting by absentee ballot in person shall provide one of the forms of identification specified in subsection B of § 24.2-643. If he does not show one of the forms of identification specified in subsection B of § 24.2-643, he shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.*

*B. Absentee voting in person shall be available during regular business hours. The electoral board of each county and city shall provide for absentee voting in person in the office of the general registrar. For purposes of this chapter, such office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all elections.*

*C. Additional locations in the county or city approved by the electoral boards may be available for absentee voting in person. Any such location shall be in a public building owned or leased by the county, city, or town within the county and may be in a facility that is owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities or as an office of the general registrar. Any such location shall have adequate facilities for the protection of all elections materials produced in the process of absentee voting in person, the voted and unvoted absentee ballots, and any voting systems in use at the location.*

*D. The general registrar may provide for the casting of absentee ballots in person pursuant to this section on voting systems. The Department shall prescribe the procedures for use of voting systems. The procedures shall provide for absentee voting in person on voting systems that have been certified and are currently approved by the State Board. The procedures shall be applicable and uniformly applied by the Department to all localities using comparable voting systems.*

*E. At least two officers of election shall be present during all hours that absentee voting in person is available and shall represent the two major political parties, except in the case of a party primary, when they may represent the party*

conducting the primary. However, such requirement shall not apply when (i) voting systems that are being used pursuant to subsection D are located in the office of the general registrar and (ii) the general registrar or an assistant registrar is present.

F. The Department shall include absentee ballots voted in person in its instructions for the preparation, maintenance, and reporting of ballots, pollbooks, records, and returns.

**§ 24.2-702.1. Federal write-in absentee ballots.**

A. Notwithstanding any other provision of this title, a qualified absentee voter who is eligible for an absentee ballot under subdivision A 2 of § 24.2-700 may use a federal write-in absentee ballot in any election. Such ballot shall be submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) and this article.

B. Notwithstanding any other provision of this title, a federal write-in absentee ballot submitted pursuant to subsection A shall be considered valid for purposes of simultaneously satisfying both an absentee ballot application and a completed absentee ballot, provided that the ballot is received no later than the deadline for the return of absentee ballots as provided in § 24.2-709 for the election in which the voter offers to vote, and the application contains the following information: (i) the voter's signature; however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature box; (ii) the voter's printed name; (iii) the county or city in which he is registered and offers to vote; (iv) the residence address at which he is registered to vote; (v) his current military or overseas address; and (vi) the signature of a witness who shall sign the same application.

C. This section shall not be construed to require that an absentee ballot be sent to the absentee voter on receipt of a federal write-in absentee ballot unless the voter has also submitted an absentee ballot application pursuant to § 24.2-701 or 24.2-703.

**§ 24.2-703.1. Special annual applications for absentee ballots for certain ill or disabled voters.**

Any person who is eligible for an absentee ballot under subdivision A 4 of § 24.2-700 because of a disability or illness and who is likely to remain so eligible for the remainder of the calendar year shall be eligible to file a special annual application to receive ballots for all elections in which he is eligible to vote in a calendar year. His first such application shall be accompanied by a statement, on a form prescribed by the State Board and signed by the voter and his physician, provider as defined in § 37.2-403, or accredited religious practitioner, that the voter is eligible for an absentee ballot under subdivision A 4 of § 24.2-700 and likely to remain so eligible for the remainder of the calendar year.

In accordance with procedures established by the State Board, the general registrar shall retain the application and form, enroll the applicant on a special absentee voter applicant list, and process the applicant's request for an absentee ballot for each succeeding election in the calendar year. The applicant shall specify by party designation the primary ballots he is requesting.

The general registrar shall send each such enrolled applicant a blank application by December 15 for each ensuing calendar year, and upon completion thereof, the applicant shall be eligible to receive ballots for all elections in which he is eligible to vote in that calendar year.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, or the general registrar knows that the applicant is no longer a qualified voter, no ballot for any subsequent election shall be sent to the voter until a new application is filed and accepted.

**§ 24.2-703.2. Replacement absentee ballots for certain disabled or ill voters; penalty.**

A voter seeking to cast an absentee ballot may obtain a replacement absentee ballot subject to the following conditions: (i) the voter applied for an absentee ballot under subdivision A 4 of § 24.2-700 because of a disability or illness; (ii) the application was approved and an absentee ballot mailed to the voter; and (iii) the voter did not receive or has lost the absentee ballot on or before the Saturday before the election. In such case, the voter may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before election day and designate, in writing, a representative to obtain a replacement absentee ballot on his behalf from the general registrar and to return the properly completed ballot as directed by the general registrar no later than the close of polls on the day of election for which the absentee ballot is valid. The representative shall be age eighteen or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate. The voter and representative shall complete the form prescribed by the State Board to implement the provisions of this section. The form shall include a statement signed by the voter that he did not receive the ballot or has lost the ballot. Statements on the form shall be subject to felony penalties for making false statements pursuant to § 24.2-1016.

**§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications of the listed applicants received. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

No list or application containing an individual's social security number, or any part thereof, or the individual's day and month of birth, shall be made available for inspection or copying by anyone. The Department of Elections shall prescribe procedures for general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers or parts thereof, or an individual's day and month of birth.

B. The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other evidence of either first-class or expedited mailing or delivery from the United States Postal Service or other commercial delivery provider, or deliver to him in person in the office of the registrar, the following items and nothing else:

1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is \_\_\_\_\_ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of \_\_\_\_\_ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter \_\_\_\_\_

Date \_\_\_\_\_

Signature of witness \_\_\_\_\_ "

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

*When this statement has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.*

3. A properly addressed envelope for the return of the ballot to the general registrar by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the provisions of § 24.2-653. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the Department of Elections.

C. If the applicant ~~makes completes~~ his application ~~to vote~~ in person under § 24.2-701 at a time when the printed ballots for the election are available, ~~the general registrar, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the general registrar he may request that the general registrar send to him by mail the items set forth in subdivisions B 1 through 4, instead of casting the ballot in person. On the request of the applicant, Such request shall be made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, and the general registrar may shall send the those items set forth in subdivisions 1 through 4 to the applicant by mail, obtaining a certificate or other evidence of mailing.~~

D. If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision A 2 of § 24.2-700, the general registrar, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions B 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing shall not be required. If the applicant requests that such items be sent by electronic transmission, the general registrar, at the time when the printed ballots for the election are available but not later than the deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using the official email address or fax number of the office of the general registrar published on the Department of Elections website. The State Board of Elections may prescribe by regulation the format of the email address used for transmitting ballots to eligible voters. A general registrar may also use electronic transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be returned to the general registrar as otherwise required by this chapter.

~~When the statement prescribed in subdivision 2 has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.~~

E. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

#### § 24.2-707. How ballots marked and returned by mail.

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the general registrar, and (e) seal that envelope and mail it to the office of the general registrar or deliver it personally to the general registrar. A voter's failure to provide in the statement on the back of the envelope his full middle name or his middle initial shall not be a material omission, rendering his ballot void, unless the voter failed to provide in the statement on the back of the envelope his full first and last name. A voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope shall not be considered a material omission and shall not render his ballot void. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ 24.2-703.2 and 24.2-705.

~~An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar, or at another location or locations in the county or city approved by the electoral board, before a registrar, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar for the purpose of completing the application for an absentee ballot in person pursuant to §§ 24.2-701 and 24.2-706. On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar may send the items set forth in subdivisions 1 through 4 of § 24.2-706 to the applicant by mail, obtaining a certificate or other evidence of mailing.~~

~~Failure to follow the procedures set forth above in this section shall render the applicant's ballot void.~~

~~The general registrar of any county or city using a central absentee voting precinct may provide for the easting of absentee ballots on voting equipment prior to election day by applicants who are voting in person. The Department of Elections shall prescribe procedures for the use of voting equipment. The procedures shall provide for the easting of absentee ballots prior to election day by in-person applicants on voting equipment which has been certified, and is currently approved, by the Department of Elections. The procedures shall be applicable and uniformly applied by the Department of Elections to all jurisdictions using comparable voting equipment. At least two officers of election, one representing each political party, shall be present during all hours that absentee voting is available at any location at which absentee ballots are cast prior to election day.~~

~~The requirement that officers of election shall be present if ballots are cast on voting equipment prior to election day shall not be applicable when the voting equipment is located in the office of the general registrar and the general registrar or an assistant registrar is present.~~

**§ 24.2-709. Ballot to be returned in manner prescribed by law.**

A. Any ballot returned to the office of the general registrar in any manner except as prescribed by law shall be void. Absentee ballots shall be returned to the general registrar before the closing of the polls. The registrar receiving the ballot shall (i) seal the ballot in an envelope with the statement or declaration of the voter, or both, attached to the outside and (ii) mark on each envelope the date, time, and manner of delivery. No returned absentee ballot shall be deemed void because the inner envelope containing the voted ballot is imperfectly sealed so long as the outside envelope containing the ballot envelope is sealed.

B. Notwithstanding the provisions of subsection A, absentee ballots (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by an absentee voter who is eligible for an absentee ballot under subdivision A 2 of § 24.2-700 shall be counted pursuant to the procedures set forth in this chapter and, if the voter is found entitled to vote, included in the election returns. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

C. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

**§ 24.2-1004. Illegal voting and registrations.**

A. Any person who wrongfully deposits a ballot in the ballot container or casts a vote on any voting equipment, is guilty of a Class 1 misdemeanor.

B. Any person who intentionally (i) votes more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (ii) procures, assists, or induces another to vote more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, (iii) votes knowing that he is not qualified to vote where and when the vote is to be given, or (iv) procures, assists, or induces another to vote knowing that such person is not qualified to vote where and when the vote is to be given is guilty of a Class 6 felony.

C. Any person who intentionally (i) registers to vote at more than one residence address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, or (ii) procures, assists, or induces another to register to vote at more than one address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, is guilty of a Class 6 felony. This subsection shall not apply to any person who, when registering to vote, changing the address at which he is registered, transferring his registration, or assisting another in registering, changing his address, or transferring his registration, provides the information required by § 24.2-418 on the applicant's place of last previous registration to vote.

D. Nothing in this section shall be construed to prohibit a person entitled to vote absentee under subdivision A 2 of § 24.2-700 from casting in the same election both a state ballot and a write-in absentee ballot that is processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.). If both ballots are received prior to the close of the polls on election day, the state ballot shall be counted.

**2. That the provisions of this act shall apply to elections beginning with the general election on November 3, 2020.**  
**3. That the State Board of Elections, on or before December 1, 2019, shall submit a report to the Governor, the General Assembly, and the House and Senate Committees on Privileges and Elections on the procedures and instructions promulgated by it for conducting absentee voting pursuant to the provisions of this act. The report shall include recommendations to be considered by the General Assembly for any further legislation that may be necessary for implementation of the provisions of this act.**

**CHAPTER 670**

*An Act to amend and reenact § 32.1-137.05 of the Code of Virginia, relating to advance estimate of patient payment amount for elective medical procedure, test, or service.*

[H 2750]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-137.05 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-137.05. Advance estimate of patient payment amount for elective procedure, test, or service.**

Every hospital shall, upon request of a patient scheduled to receive an elective procedure, test, or service to be performed by the hospital, or upon request of such patient's legally authorized representative, made no less than three days in advance of the date on which such elective procedure, test, or service is scheduled to be performed, furnish the patient with an estimate of the payment amount for which the participant will be responsible for such elective procedure, test, or

service. *Every hospital shall provide written information about the patient's ability to request an estimate of the payment amount pursuant to this section. Such written information shall be posted conspicuously in public areas of the hospital, including admissions or registration areas, and included on any website maintained by the hospital.*

### CHAPTER 671

*An Act to amend and reenact § 32.1-137.05 of the Code of Virginia, relating to health care services; payment estimates.*

[S 1004]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-137.05 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-137.05. Advance disclosure of charge for elective procedure, test, or service.**

Every hospital shall, upon request of a patient scheduled to receive an elective procedure, test, or service to be performed by the hospital, or upon request of such patient's legally authorized representative, made no less than three days in advance of the date on which such elective procedure, test, or service is scheduled to be performed, furnish the patient with an estimate of the payment amount for which the participant will be responsible for such elective procedure, test, or service. *Every hospital shall provide written information about the patient's ability to request an estimate of the payment amount pursuant to this section. Such written information shall be posted conspicuously in public areas of the hospital, including admissions or registration areas, and on any website maintained by the hospital.*

### CHAPTER 672

*An Act to amend and reenact §§ 32.1-276.3 and 32.1-276.7:1 of the Code of Virginia, relating to the All-Payer Claims Database; penalty.*

[S 1216]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-276.3 and 32.1-276.7:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-276.3. Definitions.**

As used in this chapter:

*"Actual reimbursement amount" means reimbursement information included in the claims data submitted by data suppliers to the Virginia All-Payer Claims Database, whether such information is referred to in the claims data as "paid amounts," "allowed amounts," or another term having the same or similar meaning and whether in reference to the payer who paid the actual reimbursement amount or the provider who received the actual reimbursement amount.*

*"Board" means the Board of Health.*

*"Common data layout" means the national data collection standard adopted and maintained by the APCD Council.*

*"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.*

*"Covered lives" means subscribers, policyholders, members, enrollees, or dependents, as the case may be, under a policy or contract issued or issued for delivery in Virginia by a managed care health insurance plan licensee, insurer, health services plan, or preferred provider organization.*

*"ERISA plan" means any self-funded employee welfare benefit plan governed by the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1).*

*"Health care provider" means (i) a general hospital, ordinary hospital, outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title; (ii) a mental or psychiatric hospital licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2; (iii) a hospital operated by the Department of Behavioral Health and Developmental Services; (iv) a hospital operated by the University of Virginia or the Virginia Commonwealth University Health System Authority; (v) any person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; (vi) any person licensed to furnish health care policies or plans pursuant to Chapter 34 (§ 38.2-3400 et seq.), Chapter 42 (§ 38.2-4200), or Chapter 43 (§ 38.2-4300) of Title 38.2; or (vii) any person licensed to practice dentistry pursuant to Chapter 27 (§ 54.1-2700 et seq.) of Title 54.1 who is registered with the Board of Dentistry as an oral and maxillofacial surgeon and certified by the Board of Dentistry to perform certain procedures pursuant to § 54.1-2709.1. In no event shall such term be construed to include continuing care retirement communities which file annual financial reports with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 or any nursing care facility of a religious body which depends upon prayer alone for healing.*

"Health maintenance organization" means any person who undertakes to provide or to arrange for one or more health care plans pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2.

"Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title, a hospital licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, a hospital operated by the Department of Behavioral Health and Developmental Services for the care and treatment of individuals with mental illness, or a hospital operated by the University of Virginia or the Virginia Commonwealth University Health System Authority.

"Nonprofit organization" means a nonprofit, tax-exempt health data organization with the characteristics, expertise, and capacity to execute the powers and duties set forth for such entity in this chapter.

"Oral and maxillofacial surgeon" means, for the purposes of this chapter, a person who is licensed to practice dentistry in Virginia, registered with the Board of Dentistry as an oral and maxillofacial surgeon, and certified to perform certain procedures pursuant to § 54.1-2709.1.

"Oral and maxillofacial surgeon's office" means a place (i) owned or operated by a licensed and registered oral and maxillofacial surgeon who is certified to perform certain procedures pursuant to § 54.1-2709.1 or by a group of oral and maxillofacial surgeons, at least one of whom is so certified, practicing in any legal form whatsoever or by a corporation, partnership, limited liability company or other entity that employs or engages at least one oral and maxillofacial surgeon who is so certified, and (ii) designed and equipped for the provision of oral and maxillofacial surgery services to ambulatory patients.

"Outpatient surgery" means all surgical procedures performed on an outpatient basis in a general hospital, ordinary hospital, outpatient surgical hospital or other facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title or in a physician's office or oral and maxillofacial surgeon's office, as defined above. Outpatient surgery refers only to those surgical procedure groups on which data are collected by the nonprofit organization as a part of a pilot study.

"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

"Physician's office" means a place (i) owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever or by a corporation, partnership, limited liability company or other entity that employs or engages physicians; and (ii) designed and equipped solely for the provision of fundamental medical care, whether diagnostic, therapeutic, rehabilitative, preventive or palliative, to ambulatory patients.

"Surgical procedure group" means at least five procedure groups, identified by the nonprofit organization designated pursuant to § 32.1-276.4 in compliance with regulations adopted by the Board, based on criteria that include, but are not limited to, the frequency with which the procedure is performed, the clinical severity or intensity, and the perception or probability of risk. The nonprofit organization shall form a technical advisory group consisting of members nominated by its Board of Directors' nominating organizations to assist in selecting surgical procedure groups to recommend to the Board for adoption.

"System" means the Virginia Patient Level Data System.

**§ 32.1-276.7:1. All-Payer Claims Database created; purpose; reporting requirements.**

A. The Virginia All-Payer Claims Database is hereby created to facilitate data-driven, evidence-based improvements in access, quality, and cost of health care and to promote and improve the public health through the understanding of health care expenditure patterns and operation and performance of the health care system.

B. *The Commissioner shall ensure that the Department meets the requirements to be a health oversight agency as defined in 45 C.F.R. § 164.501.*

C. The Commissioner, in cooperation with the Bureau of Insurance, ~~may~~ shall collect paid claims data for covered benefits; ~~pursuant to data submission and use agreements as specified in subsection C, from entities electing to participate as from data suppliers, which may shall include:~~

1. Issuers of individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; corporations providing individual or group accident and sickness subscription contracts; and health maintenance organizations providing a health care plan for health care services, *for at least 1,000 covered lives in the most recent calendar year;*

2. Third-party administrators and any other entities that receive or collect charges, contributions, or premiums for, or adjust or settle health care claims for, *at least 1,000 Virginia residents covered lives on behalf of group health plans other than ERISA plans;*

3. *Third-party administrators, and any other entities, that receive or collect charges, contributions, or premiums for, or adjust or settle health care claims for, an employer that maintains an ERISA plan that has opted-in to data submission to the All-Payer Claims Database pursuant to subsection P;*

4. The Department of Medical Assistance Services with respect to services provided under programs administered pursuant to Titles XIX and XXI of the Social Security Act; ~~and~~

~~4. 5. State government health insurance plans;~~

6. *Local government health insurance plans, subject to their ability to provide such data and to the extent permitted by state and federal law; and*

7. Federal health insurance plans, ~~if available to the extent permitted by federal law, including but not limited to~~ Medicare, TRICARE, and the Federal Employees Health Benefits Plan.

*Such collection of paid claims data for covered benefits shall not include data related to Medigap, disability income, workers' compensation claims, standard benefits provided by long-term care insurance, disease specific health insurance, dental or vision claims, or other supplemental health insurance products;*

~~€~~ D. The Commissioner shall ensure that the nonprofit organization executes a standard data submission and use agreement with each entity listed in subsection B that submits paid claims data to the All-Payer Claims Database and each entity that subscribes to data products and reports. Such agreements shall include procedures for submission, collection, aggregation, and distribution of specified data. ~~and shall provide for, at a minimum:~~ *Additionally, the Commissioner shall ensure that the nonprofit organization:*

1. ~~Protection of~~ *Protects* patient privacy and data security pursuant to provisions of this chapter and state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq., as amended); Titles XIX and XXI of the Social Security Act; § 32.1-127.1:03; Chapter 6 (§ 38.2-600 et seq.) of Title 38.2; and the Health Information Technology for Economic and Clinical Health (HITECH) Act, as included in the American Recovery and Reinvestment Act (P.L. 111-5, 123 Stat. 115) *as if the nonprofit organization were covered by such laws;*

2. ~~Identification of~~ *Identifies* the type of paid claims to be collected by the All-Payer Claims Database, and the entities that are subject to the submission of such claims as well as identification of specific data elements from existing claims systems to be submitted and collected, including but not limited to patient demographics, diagnosis and procedure codes, provider information, plan payments, member payment responsibility, and service dates;

3. ~~Geographic~~ *Administers the All-Payer Claims Database in a manner to allow for geographic,* demographic, economic, and peer group comparisons;

4. ~~Identification and comparison of~~ *Develops public analyses identifying and comparing* health plans by public and private health care purchasers, providers, employers, consumers, health plans, health insurers, and data analysts, health insurers, and providers with regard to their provision of safe, cost-effective, and high-quality health care services;

5. ~~Use of existing~~ *Uses common data layout or other national data collection standards and methods; including the electronic Uniform Medical Claims Payer Reporting Standard, that utilize a standard set of core data elements for data submissions,* as adopted or endorsed by ~~The Accredited Standards Committee X12 (ASC X12) and the~~ APCD Council, to establish and maintain the database in a cost-effective manner and to facilitate uniformity among various all-payer claims databases of other states and specification of data fields to be included in the submitted claims, consistent with such national standards, allowing for exemptions when submitting entities do not collect the specified data or pay on a per-claim basis, such exemption process to be managed by the advisory committee created pursuant to subsection ~~€~~ E;

6. ~~Prohibition on disclosure or reporting of~~ *Does not disclose or report* provider-specific, facility-specific, or carrier-specific reimbursement information, ~~and of or~~ information capable of being reverse-engineered, combined, or otherwise used to calculate or derive such reimbursement information, from the All-Payer Claims Database;

7. ~~Responsible~~ *Promotes the responsible* use of claims data to improve health care value and preserve the integrity and utility of the All-Payer Claims Database; and

8. ~~Stipulation~~ *Requires that all public reports and analyses comparing providers or health plans using data from the All-Payer Claims Database use national standards, or, when such national standards are unavailable, provide full transparency to providers or health plans of the alternative methodology used.*

~~€~~ E. The Commissioner shall ~~appoint~~ *establish* an advisory committee to assist in the formation and operation of the All-Payer Claims Database. Such committee shall ~~include a balanced representation of all the stakeholders serving on the governing board of the nonprofit organization as well as individuals with expertise in public health and specific expertise in health care performance measurement and reporting. Each stakeholder on the board of the nonprofit organization shall nominate a member and an alternate member to serve on the committee consist of~~ (i) *a representative from each of the following: a statewide hospital association, a statewide association of health plans, a professional organization representing physicians, a professional organization representing pharmacists, an organization that processes insurance claims or certain aspects of employee benefits plans for a separate entity, a community mental health center who has experience in behavioral health data collection, a nursing home health care provider who has experience with medical claims data, a nonprofit health insurer, and a for-profit health insurer;* (ii) *up to two representatives with a demonstrated record of advocating health care issues on behalf of consumers;* (iii) *two representatives of hospitals or health systems;* (iv) *an individual with academic experience in health care data and cost-efficiency research;* (v) *a representative who is not a supplier or broker of health insurance from small employers that purchase group health insurance for employees;* (vi) *a representative who is not a supplier or broker of health insurance from large employers that purchase health insurance for employees, and* (vii) *a representative who is not a supplier or broker of health insurance from self-insured employers, all of whom shall be appointed by the Commissioner. The Commissioner, the chairman of the board of directors of the nonprofit organization, the Commissioner of Insurance, the Director of the Department of Medical Assistance Services, the Director of the Department of Human Resource Management, or their designees, shall serve ex officio.*

*In appointing members to the advisory committee, the Commissioner shall adopt reasonable measures to select representatives in a manner that provides balanced representation within and among the appointments and that any representative appointed is without any actual or apparent conflict of interest, including conflicts of interest created by virtue of the individual's employer's corporate affiliations or ownership interests.*

*The nonprofit organization shall provide the advisory committee with details at least annually on the use and disclosure of All-Payer Claims Database data, including reports developed by the nonprofit organization; details on methods used to extract, transform, and load data; and efforts to protect patient privacy and data security.*

The meetings of the advisory committee shall be open to ~~all nominating member organizations and to~~ the public.

~~E. F.~~ *The Commissioner shall establish a data release committee to review and approve requests for access to data. The data release committee shall consist of the Commissioner or his designee, and upon recommendation of the advisory committee, the Commissioner shall appoint an individual with academic experience in health care data and cost-efficiency research; a representative of a health insurer; a health care practitioner; a representative from a hospital with a background in administration, analytics, or research; and a representative with a demonstrated record of advocating health care issues on behalf of consumers. In making its recommendations, the advisory committee shall adopt reasonable measures to select representatives in a manner that provides balanced representation within and among the appointments and that any representative appointed is without any actual or apparent conflict of interest, including conflicts of interest created by virtue of the individual's employer's corporate affiliations or ownership interests. The data release committee shall ensure that (i) all data approvals are consistent with the purposes of the All-Payer Claims Database as provided in subsection A; (ii) all data approvals comply with applicable state and federal privacy laws and state and federal laws regarding the exchange of price and cost information to protect the confidentiality of the data and encourage a competitive marketplace for health care services; and (iii) the level of detail, as provided in subsection H, is appropriate for each request and is accompanied by a standardized data use agreement.*

G. The nonprofit organization shall implement the All-Payer Claims Database, consistent with the provisions of this chapter, to include:

1. The reporting of data that can be used to improve public health surveillance and population health, including reports on (i) injuries; (ii) chronic diseases, including but not limited to asthma, diabetes, cardiovascular disease, hypertension, arthritis, and cancer; (iii) health conditions of pregnant women, infants, and children; and (iv) geographic and demographic information for use in community health assessment, prevention education, and public health improvement. This data shall be developed in a format that allows comparison of information in the All-Payer Claims Database with other nationwide data programs and that allows employers to compare their employee health plans statewide and between and among regions of the Commonwealth and nationally.

2. The reporting of data that *payers, providers, and* health care purchasers, including employers and consumers, may use to compare quality and efficiency of health care, including development of information on utilization patterns and information that permits comparison of *health plans and* providers statewide between and among regions of the Commonwealth. The advisory committee created pursuant to subsection ~~D~~ E shall make recommendations to the nonprofit organization on the appropriate level of specificity of reported data in order to protect patient privacy and to accurately attribute services and resource utilization rates to providers.

3. The reporting of data that permits design and evaluation of alternative delivery and payment models.

4. *The reporting and release of data consistent with the purposes of the All-Payer Claims Database as set forth in subsection A as determined to be appropriate by the data release committee created pursuant to subsection F.*

H. *Except as provided in subsection O, the nonprofit organization shall not provide data or access to data without the approval of the data release committee. Upon approval, the nonprofit organization may provide data or access to data at levels of detail that may include (i) aggregate reports, which are defined as data releases with all observation counts greater than 10; (ii) de-identified data sets that meet the standard set forth in 45 C.F.R. § 164.514(a); and (iii) limited data sets that comply with the National Institutes of Health guidelines for release of personal health information.*

~~F. I.~~ Reporting of data shall not commence until such data has been processed and verified at levels of accuracy consistent with existing nonprofit organization data standards. Prior to *public* release of any report specifically naming any provider or payer, *or public reports in which an individual provider or payers represents 60 percent or more of the data*, the nonprofit organization shall provide affected entities with notice of the pending report and allow for a ~~60-day~~ 30-day period of review to ensure accuracy. During this period, affected entities may seek explanations of results and correction of data that they prove to be inaccurate. The nonprofit organization shall make these corrections prior to any *public* release of the report. At the end of the review period, upon completion of all necessary corrections, the report may be released. *For the purposes of this subsection, "public release" means the release of any report to the general public and does not include the preparation of reports for, or use of the All-Payer Claims Database by, organizations that have been approved for access by the data release committee and have entered into written agreements with the nonprofit organization.*

~~G.~~ ~~The Commissioner and the nonprofit organization shall develop recommendations for elimination of existing state health care data submission and reporting requirements, including those imposed by this chapter, that may be replaced by All-Payer Claims Database submissions and reports. In addition,~~ *The Commissioner and the nonprofit organization shall consider and recommend, as appropriate, integration of new data sources into the All-Payer Claims Database, based on the findings and recommendations of the workgroup established pursuant to § 32.1-276.9-1 advisory committee.*

~~H.~~ K. Information acquired pursuant to this section shall be confidential and shall be exempt from disclosure by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). *The reporting and release of data pursuant to this section shall comply with all state and federal privacy laws and state and federal laws regarding the exchange of price and cost information to protect the confidentiality of the data and encourage a competitive marketplace for health care services.*

~~⚭~~ L. No person shall assess costs or charge a fee to any health care practitioner related to formation or operation of the All-Payer Claims Database. However, a reasonable fee may be charged to health care practitioners who voluntarily subscribe to access the ~~database~~ All-Payer Claims Database for purposes other than data verification.

~~⚭~~ M. As used in this section, "provider" means a hospital or physician as defined in this chapter or any other health care practitioner licensed, certified, or authorized under state law to provide covered services represented in claims reported pursuant to this section.

~~⚭~~ N. The Commissioner, in consultation with the board of directors of the nonprofit organization, shall develop short-term and long-term funding strategies for the ~~creation and operation of the All-Payer Claims Database that may include public and private grant funding, subscriptions for access to data reports, and revenue for specific data projects~~ operation of the All-Payer Claims Database to provide necessary funding in excess of any budget appropriation by the Commonwealth.

~~⚭~~ O. The nonprofit organization, the Department of Health, the Department of Medical Assistance Services, and the Bureau of Insurance shall have access to data reported by the All-Payer Claims Database pursuant to this section at no cost for the purposes of public health improvement research and activities.

P. Each employer that maintains an ERISA plan may opt-in to allow a third-party administrator or other entity to submit data to the All-Payer Claims Database. For any such employer that opts-in, the third-party administrator or other entity shall (i) submit data for the next reporting period after the opt-in and all future reporting periods until the employer opts-out and (ii) include data from any such employer as part of its data submission, if any, otherwise required by this section. Such an employer may opt-out at any time but shall provide written notice to the third-party administrator or other entity of its decision at least 30 days prior to the start of the next reporting period. No employer that maintains an ERISA plan shall be required to opt-in to data submission to the All-Payer Claims Database, and no third-party administrator or other entity shall be required to submit claims processed before it was contracted to provide services. Each third-party administrator or other entity providing claim administration services for an employer shall submit annually to the nonprofit organization by January 31 of each year a list of the ERISA plans whose employer has opted-in to data submission to the All-Payer Claims Database and a list identifying all employers that maintain an ERISA plan with Virginia employees for which it provides claim administration services. Such information submitted shall be considered proprietary and shall be exempt from disclosure by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

Q. Any data release shall make use of a masked proxy reimbursement amount, for which the methodology is publicly available and approved by the data release committee except that the Department may request that the nonprofit organization generate the following reports based on actual reimbursement amounts: (i) the total cost burden of a disease, chronic disease, injury, or health condition across the state, health planning region, health planning district, county, or city, provided that the total cost shall be an aggregate amount encompassing costs attributable to all data suppliers and not identifying or attributable to any individual provider, and (ii) any analyses to determine the average reimbursement that is paid for health care services that may include inpatient and outpatient diagnostic services, surgical services or the treatment of certain conditions or diseases. Any additional report of analysis based on actual reimbursement amounts shall require the approval of the data release committee.

R. The nonprofit organization shall ensure the timely reporting of information by private data suppliers to meet the requirements of this section. The nonprofit organization shall notify private data suppliers of any applicable reporting deadlines. The nonprofit shall notify, in writing, a private data supplier of a failure to meet a reporting deadline, and that failure to respond within two weeks following receipt of the written notice may result in a penalty. The Board may assess a civil penalty of up to \$1,000 per week per violation, not to exceed a total of \$50,000 per violation, against a private data supplier that fails, within its determination, to make a good faith effort to provide the requested information within two weeks following receipt of the written notice required by this subsection. Civil penalties assessed under this subsection shall be maintained by the Department and used for the ongoing improvement of the All-Payer Claims Database.

## CHAPTER 673

An Act to amend and reenact §§ 32.1-276.3 and 32.1-276.7:1 of the Code of Virginia, relating to the All-Payer Claims Database; penalty.

[H 2798]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-276.3 and 32.1-276.7:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-276.3. Definitions.**

As used in this chapter:

"Actual reimbursement amount" means reimbursement information included in the claims data submitted by data suppliers to the Virginia All-Payer Claims Database, whether such information is referred to in the claims data as "paid amounts," "allowed amounts," or another term having the same or similar meaning and whether in reference to the payer who paid the actual reimbursement amount or the provider who received the actual reimbursement amount.

"Board" means the Board of Health.

*"Common data layout" means the national data collection standard adopted and maintained by the APCD Council.*

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

*"Covered lives" means subscribers, policyholders, members, enrollees, or dependents, as the case may be, under a policy or contract issued or issued for delivery in Virginia by a managed care health insurance plan licensee, insurer, health services plan, or preferred provider organization.*

*"ERISA plan" means any self-funded employee welfare benefit plan governed by the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1).*

"Health care provider" means (i) a general hospital, ordinary hospital, outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title; (ii) a mental or psychiatric hospital licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2; (iii) a hospital operated by the Department of Behavioral Health and Developmental Services; (iv) a hospital operated by the University of Virginia or the Virginia Commonwealth University Health System Authority; (v) any person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; (vi) any person licensed to furnish health care policies or plans pursuant to Chapter 34 (§ 38.2-3400 et seq.), Chapter 42 (§ 38.2-4200), or Chapter 43 (§ 38.2-4300) of Title 38.2; or (vii) any person licensed to practice dentistry pursuant to Chapter 27 (§ 54.1-2700 et seq.) of Title 54.1 who is registered with the Board of Dentistry as an oral and maxillofacial surgeon and certified by the Board of Dentistry to perform certain procedures pursuant to § 54.1-2709.1. In no event shall such term be construed to include continuing care retirement communities which file annual financial reports with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 or any nursing care facility of a religious body which depends upon prayer alone for healing.

"Health maintenance organization" means any person who undertakes to provide or to arrange for one or more health care plans pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2.

"Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title, a hospital licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, a hospital operated by the Department of Behavioral Health and Developmental Services for the care and treatment of individuals with mental illness, or a hospital operated by the University of Virginia or the Virginia Commonwealth University Health System Authority.

"Nonprofit organization" means a nonprofit, tax-exempt health data organization with the characteristics, expertise, and capacity to execute the powers and duties set forth for such entity in this chapter.

"Oral and maxillofacial surgeon" means, for the purposes of this chapter, a person who is licensed to practice dentistry in Virginia, registered with the Board of Dentistry as an oral and maxillofacial surgeon, and certified to perform certain procedures pursuant to § 54.1-2709.1.

"Oral and maxillofacial surgeon's office" means a place (i) owned or operated by a licensed and registered oral and maxillofacial surgeon who is certified to perform certain procedures pursuant to § 54.1-2709.1 or by a group of oral and maxillofacial surgeons, at least one of whom is so certified, practicing in any legal form whatsoever or by a corporation, partnership, limited liability company or other entity that employs or engages at least one oral and maxillofacial surgeon who is so certified, and (ii) designed and equipped for the provision of oral and maxillofacial surgery services to ambulatory patients.

"Outpatient surgery" means all surgical procedures performed on an outpatient basis in a general hospital, ordinary hospital, outpatient surgical hospital or other facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title or in a physician's office or oral and maxillofacial surgeon's office, as defined above. Outpatient surgery refers only to those surgical procedure groups on which data are collected by the nonprofit organization as a part of a pilot study.

"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

"Physician's office" means a place (i) owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever or by a corporation, partnership, limited liability company or other entity that employs or engages physicians; and (ii) designed and equipped solely for the provision of fundamental medical care, whether diagnostic, therapeutic, rehabilitative, preventive or palliative, to ambulatory patients.

"Surgical procedure group" means at least five procedure groups, identified by the nonprofit organization designated pursuant to § 32.1-276.4 in compliance with regulations adopted by the Board, based on criteria that include, but are not limited to, the frequency with which the procedure is performed, the clinical severity or intensity, and the perception or probability of risk. The nonprofit organization shall form a technical advisory group consisting of members nominated by its Board of Directors' nominating organizations to assist in selecting surgical procedure groups to recommend to the Board for adoption.

"System" means the Virginia Patient Level Data System.

**§ 32.1-276.7:1. All-Payer Claims Database created; purpose; reporting requirements.**

A. The Virginia All-Payer Claims Database is hereby created to facilitate data-driven, evidence-based improvements in access, quality, and cost of health care and to promote and improve the public health through the understanding of health care expenditure patterns and operation and performance of the health care system.

~~B. The Commissioner shall ensure that the Department meets the requirements to be a health oversight agency as defined in 45 C.F.R. § 164.501.~~

C. The Commissioner, in cooperation with the Bureau of Insurance, ~~may~~ shall collect paid claims data for covered benefits; ~~pursuant to data submission and use agreements as specified in subsection C, from entities electing to participate as from data suppliers, which may shall include:~~

1. Issuers of individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; corporations providing individual or group accident and sickness subscription contracts; and health maintenance organizations providing a health care plan for health care services, *for at least 1,000 covered lives in the most recent calendar year;*

2. Third-party administrators and any other entities that receive or collect charges, contributions, or premiums for, or adjust or settle health care claims for, *at least 1,000 Virginia residents covered lives on behalf of group health plans other than ERISA plans;*

3. *Third-party administrators, and any other entities, that receive or collect charges, contributions, or premiums for, or adjust or settle health care claims for, an employer that maintains an ERISA plan that has opted-in to data submission to the All-Payer Claims Database pursuant to subsection P;*

4. The Department of Medical Assistance Services with respect to services provided under programs administered pursuant to Titles XIX and XXI of the Social Security Act; ~~and~~

~~4. 5. State government health insurance plans;~~

6. *Local government health insurance plans, subject to their ability to provide such data and to the extent permitted by state and federal law; and*

7. *Federal health insurance plans, if available to the extent permitted by federal law, including but not limited to Medicare, TRICARE, and the Federal Employees Health Benefits Plan.*

*Such collection of paid claims data for covered benefits shall not include data related to Medigap, disability income, workers' compensation claims, standard benefits provided by long-term care insurance, disease specific health insurance, dental or vision claims, or other supplemental health insurance products;*

~~C. D. The Commissioner shall ensure that the nonprofit organization executes a standard data submission and use agreement with each entity listed in subsection B that submits paid claims data to the All-Payer Claims Database and each entity that subscribes to data products and reports. Such agreements shall include procedures for submission, collection, aggregation, and distribution of specified data. and shall provide for, at a minimum: Additionally, the Commissioner shall ensure that the nonprofit organization:~~

1. ~~Protection of~~ *Protects* patient privacy and data security pursuant to provisions of this chapter and state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq., as amended); Titles XIX and XXI of the Social Security Act; § 32.1-127.1:03; Chapter 6 (§ 38.2-600 et seq.) of Title 38.2; and the Health Information Technology for Economic and Clinical Health (HITECH) Act, as included in the American Recovery and Reinvestment Act (P.L. 111-5, 123 Stat. 115) *as if the nonprofit organization were covered by such laws;*

2. ~~Identification of~~ *Identifies* the type of paid claims to be collected by the All-Payer Claims Database; and the entities that are subject to the submission of such claims as well as identification of specific data elements from existing claims systems to be submitted and collected, including but not limited to patient demographics, diagnosis and procedure codes, provider information, plan payments, member payment responsibility, and service dates;

3. ~~Geographic~~ *Administers the All-Payer Claims Database in a manner to allow for geographic,* demographic, economic, and peer group comparisons;

4. ~~Identification and comparison of~~ *Develops public analyses identifying and comparing* health plans by public and private health care purchasers, providers, employers, consumers, health plans, health insurers, and data analysts, health insurers, and providers with regard to their provision of safe, cost-effective, and high-quality health care services;

5. ~~Use of existing~~ *Uses common data layout or other national data collection standards and methods; including the electronic Uniform Medical Claims Payer Reporting Standard, that utilize a standard set of core data elements for data submissions,* as adopted or endorsed by ~~The Accredited Standards Committee X12 (ASC X12) and the APCD Council,~~ to establish and maintain the database in a cost-effective manner and to facilitate uniformity among various all-payer claims databases of other states and specification of data fields to be included in the submitted claims, consistent with such national standards, allowing for exemptions when submitting entities do not collect the specified data or pay on a per-claim basis, such exemption process to be managed by the advisory committee created pursuant to subsection ~~D E;~~

6. ~~Prohibition on disclosure or reporting of~~ *Does not disclose or report* provider-specific, facility-specific, or carrier-specific reimbursement information, ~~and of or~~ information capable of being reverse-engineered, combined, or otherwise used to calculate or derive such reimbursement information, from the All-Payer Claims Database;

7. ~~Responsible~~ *Promotes the responsible* use of claims data to improve health care value and preserve the integrity and utility of the All-Payer Claims Database; and

8. ~~Stipulation~~ Requires that all public reports and analyses comparing providers or health plans using data from the All-Payer Claims Database use national standards; or, when such national standards are unavailable, provide full transparency to providers or health plans of the alternative methodology used.

~~D. E.~~ The Commissioner shall ~~appoint~~ establish an advisory committee to assist in the formation and operation of the All-Payer Claims Database. Such committee shall ~~include a balanced representation of all the stakeholders serving on the governing board of the nonprofit organization as well as individuals with expertise in public health and specific expertise in health care performance measurement and reporting.~~ Each stakeholder on the board of the nonprofit organization shall ~~nominate a member and an alternate member to serve on the committee~~ consist of (i) a representative from each of the following: a statewide hospital association, a statewide association of health plans, a professional organization representing physicians, a professional organization representing pharmacists, an organization that processes insurance claims or certain aspects of employee benefits plans for a separate entity, a community mental health center who has experience in behavioral health data collection, a nursing home health care provider who has experience with medical claims data, a nonprofit health insurer, and a for-profit health insurer; (ii) up to two representatives with a demonstrated record of advocating health care issues on behalf of consumers; (iii) two representatives of hospitals or health systems; (iv) an individual with academic experience in health care data and cost-efficiency research; (v) a representative who is not a supplier or broker of health insurance from small employers that purchase group health insurance for employees; (vi) a representative who is not a supplier or broker of health insurance from large employers that purchase health insurance for employees, and (vii) a representative who is not a supplier or broker of health insurance from self-insured employers, all of whom shall be appointed by the Commissioner. The Commissioner, the chairman of the board of directors of the nonprofit organization, the Commissioner of Insurance, the Director of the Department of Medical Assistance Services, the Director of the Department of Human Resource Management, or their designees, shall serve *ex officio*.

In appointing members to the advisory committee, the Commissioner shall adopt reasonable measures to select representatives in a manner that provides balanced representation within and among the appointments and that any representative appointed is without any actual or apparent conflict of interest, including conflicts of interest created by virtue of the individual's employer's corporate affiliations or ownership interests.

The nonprofit organization shall provide the advisory committee with details at least annually on the use and disclosure of All-Payer Claims Database data, including reports developed by the nonprofit organization; details on methods used to extract, transform, and load data; and efforts to protect patient privacy and data security.

The meetings of the advisory committee shall be open to ~~all nominating member organizations~~ and to the public.

~~E. F.~~ The Commissioner shall establish a data release committee to review and approve requests for access to data. The data release committee shall consist of the Commissioner or his designee, and upon recommendation of the advisory committee, the Commissioner shall appoint an individual with academic experience in health care data and cost-efficiency research; a representative of a health insurer; a health care practitioner; a representative from a hospital with a background in administration, analytics, or research; and a representative with a demonstrated record of advocating health care issues on behalf of consumers. In making its recommendations, the advisory committee shall adopt reasonable measures to select representatives in a manner that provides balanced representation within and among the appointments and that any representative appointed is without any actual or apparent conflict of interest, including conflicts of interest created by virtue of the individual's employer's corporate affiliations or ownership interests. The data release committee shall ensure that (i) all data approvals are consistent with the purposes of the All-Payer Claims Database as provided in subsection A; (ii) all data approvals comply with applicable state and federal privacy laws and state and federal laws regarding the exchange of price and cost information to protect the confidentiality of the data and encourage a competitive marketplace for health care services; and (iii) the level of detail, as provided in subsection H, is appropriate for each request and is accompanied by a standardized data use agreement.

G. The nonprofit organization shall implement the All-Payer Claims Database, consistent with the provisions of this chapter, to include:

1. The reporting of data that can be used to improve public health surveillance and population health, including reports on (i) injuries; (ii) chronic diseases, including but not limited to asthma, diabetes, cardiovascular disease, hypertension, arthritis, and cancer; (iii) health conditions of pregnant women, infants, and children; and (iv) geographic and demographic information for use in community health assessment, prevention education, and public health improvement. This data shall be developed in a format that allows comparison of information in the All-Payer Claims Database with other nationwide data programs and that allows employers to compare their employee health plans statewide and between and among regions of the Commonwealth and nationally.

2. The reporting of data that *payors, providers, and* health care purchasers, including employers and consumers, may use to compare quality and efficiency of health care, including development of information on utilization patterns and information that permits comparison of *health plans and* providers statewide between and among regions of the Commonwealth. The advisory committee created pursuant to subsection ~~D. E.~~ shall make recommendations to the nonprofit organization on the appropriate level of specificity of reported data in order to protect patient privacy and to accurately attribute services and resource utilization rates to providers.

3. The reporting of data that permits design and evaluation of alternative delivery and payment models.

4. The reporting and release of data consistent with the purposes of the All-Payer Claims Database as set forth in subsection A as determined to be appropriate by the data release committee created pursuant to subsection F.

*H. Except as provided in subsection O, the nonprofit organization shall not provide data or access to data without the approval of the data release committee. Upon approval, the nonprofit organization may provide data or access to data at levels of detail that may include (i) aggregate reports, which are defined as data releases with all observation counts greater than 10; (ii) de-identified data sets that meet the standard set forth in 45 C.F.R. § 164.514(a); and (iii) limited data sets that comply with the National Institutes of Health guidelines for release of personal health information.*

~~F. I.~~ Reporting of data shall not commence until such data has been processed and verified at levels of accuracy consistent with existing nonprofit organization data standards. Prior to public release of any report specifically naming any provider or payer, or public reports in which an individual provider or payers represents 60 percent or more of the data, the nonprofit organization shall provide affected entities with notice of the pending report and allow for a ~~60-day~~ 30-day period of review to ensure accuracy. During this period, affected entities may seek explanations of results and correction of data that they prove to be inaccurate. The nonprofit organization shall make these corrections prior to any public release of the report. At the end of the review period, upon completion of all necessary corrections, the report may be released. For the purposes of this subsection, "public release" means the release of any report to the general public and does not include the preparation of reports for, or use of the All-Payer Claims Database by, organizations that have been approved for access by the data release committee and have entered into written agreements with the nonprofit organization.

~~G. The Commissioner and the nonprofit organization shall develop recommendations for elimination of existing state health care data submission and reporting requirements, including those imposed by this chapter, that may be replaced by All-Payer Claims Database submissions and reports. In addition, the~~ *J. The Commissioner and the nonprofit organization shall consider and recommend, as appropriate, integration of new data sources into the All-Payer Claims Database, based on the findings and recommendations of the workgroup established pursuant to § 32.1-276.9-1 advisory committee.*

*H. K. Information acquired pursuant to this section shall be confidential and shall be exempt from disclosure by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The reporting and release of data pursuant to this section shall comply with all state and federal privacy laws and state and federal laws regarding the exchange of price and cost information to protect the confidentiality of the data and encourage a competitive marketplace for health care services.*

~~I. L.~~ No person shall assess costs or charge a fee to any health care practitioner related to formation or operation of the All-Payer Claims Database. However, a reasonable fee may be charged to health care practitioners who voluntarily subscribe to access the ~~database~~ All-Payer Claims Database for purposes other than data verification.

*J. M.* As used in this section, "provider" means a hospital or physician as defined in this chapter or any other health care practitioner licensed, certified, or authorized under state law to provide covered services represented in claims reported pursuant to this section.

~~K. N.~~ The Commissioner, in consultation with the board of directors of the nonprofit organization, shall develop short-term and long-term funding strategies for the ~~creation and operation of the All-Payer Claims Database that may include public and private grant funding, subscriptions for access to data reports, and revenue for specific data projects~~ operation of the All-Payer Claims Database to provide necessary funding in excess of any budget appropriation by the Commonwealth.

~~L. The~~ *O. The nonprofit organization, the Department of Health, the Department of Medical Assistance Services, and the Bureau of Insurance shall have access to data reported by the All-Payer Claims Database pursuant to this section at no cost for the purposes of public health improvement research and activities.*

*P. Each employer that maintains an ERISA plan may opt-in to allow a third-party administrator or other entity to submit data to the All-Payer Claims Database. For any such employer that opts-in, the third-party administrator or other entity shall (i) submit data for the next reporting period after the opt-in and all future reporting periods until the employer opts-out and (ii) include data from any such employer as part of its data submission, if any, otherwise required by this section. Such an employer may opt-out at any time but shall provide written notice to the third-party administrator or other entity of its decision at least 30 days prior to the start of the next reporting period. No employer that maintains an ERISA plan shall be required to opt-in to data submission to the All-Payer Claims Database, and no third-party administrator or other entity shall be required to submit claims processed before it was contracted to provide services. Each third-party administrator or other entity providing claim administration services for an employer shall submit annually to the nonprofit organization by January 31 of each year a list of the ERISA plans whose employer has opted-in to data submission to the All-Payer Claims Database and a list identifying all employers that maintain an ERISA plan with Virginia employees for which it provides claim administration services. Such information submitted shall be considered proprietary and shall be exempt from disclosure by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

*Q. Any data release shall make use of a masked proxy reimbursement amount, for which the methodology is publicly available and approved by the data release committee except that the Department may request that the nonprofit organization generate the following reports based on actual reimbursement amounts: (i) the total cost burden of a disease, chronic disease, injury, or health condition across the state, health planning region, health planning district, county, or city, provided that the total cost shall be an aggregate amount encompassing costs attributable to all data suppliers and not identifying or attributable to any individual provider; and (ii) any analyses to determine the average reimbursement that is paid for health care services that may include inpatient and outpatient diagnostic services, surgical services or the treatment of certain conditions or diseases. Any additional report of analysis based on actual reimbursement amounts shall require the approval of the data release committee.*

R. The nonprofit organization shall ensure the timely reporting of information by private data suppliers to meet the requirements of this section. The nonprofit organization shall notify private data suppliers of any applicable reporting deadlines. The nonprofit shall notify, in writing, a private data supplier of a failure to meet a reporting deadline, and that failure to respond within two weeks following receipt of the written notice may result in a penalty. The Board may assess a civil penalty of up to \$1,000 per week per violation, not to exceed a total of \$50,000 per violation, against a private data supplier that fails, within its determination, to make a good faith effort to provide the requested information within two weeks following receipt of the written notice required by this subsection. Civil penalties assessed under this subsection shall be maintained by the Department and used for the ongoing improvement of the All-Payer Claims Database.

## CHAPTER 674

An Act to amend and reenact § 38.2-3407.7 of the Code of Virginia, relating to health insurance; pharmacies; freedom of choice.

[S 1197]

Approved March 21, 2019

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 38.2-3407.7 of the Code of Virginia is amended and reenacted as follows:

##### § 38.2-3407.7. Pharmacies; freedom of choice.

A. Notwithstanding any provision of § 38.2-3407 to the contrary, no insurer proposing to issue *either* preferred provider policies or contracts or *exclusive provider policies or contracts* shall prohibit any person receiving pharmacy benefits furnished thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes any pharmacy that is a nonpreferred or *nonparticipating* provider and that has previously notified the insurer on its own behalf or through an intermediary, by facsimile or otherwise, of its agreement to accept reimbursement for its services at rates applicable to pharmacies that are preferred or *participating* providers, including any copayment consistently imposed by the insurer, as payment in full. Each insurer shall permit prompt electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure prompt verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered pharmacy benefit from a nonpreferred or *nonparticipating* provider which has submitted a reimbursement agreement be responsible for amounts that may be charged by the nonpreferred or *nonparticipating* provider in excess of the copayment and the insurer's reimbursement applicable to all of its preferred or *participating* pharmacy providers. If a pharmacy has provided notice pursuant to this subsection through an intermediary, the insurer or its intermediary may elect to respond directly to the pharmacy instead of the intermediary. Nothing in this subsection shall (i) require an insurer or its intermediary to contract with or to disclose confidential information to a pharmacy's intermediary or (ii) prohibit an insurer or its intermediary from contracting with or disclosing confidential information to a pharmacy's intermediary.

B. No such insurer shall impose upon any person receiving pharmaceutical benefits furnished under any such policy or contract:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are nonpreferred or *nonparticipating* providers;

2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or

3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are nonpreferred or *nonparticipating* providers.

C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i) denying immediate access to electronic claims filing to a pharmacy that is a nonpreferred or *nonparticipating* provider and that has complied with subsection D or (ii) requiring a person receiving pharmacy benefits to make payment at point of service, except to the extent such conditions and penalties are similarly imposed on preferred or *participating* providers.

D. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by an insurer, within 30 days of the pharmacy's receipt of the request, execute and deliver to the insurer the direct service agreement or preferred or *participating* provider agreement that the insurer requires all of its preferred or *participating* providers of pharmacy benefits to execute. Any pharmacy that fails to timely execute and deliver such agreement shall not be covered by this section with respect to that insurer unless and until the pharmacy executes and delivers the agreement.

E. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

F. Nothing in this section shall limit the authority of an insurer proposing to issue preferred provider policies or contracts or *exclusive provider policies or contracts* to select a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. The provisions of this section shall not apply to such contracts. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

## CHAPTER 675

*An Act to amend and reenact §§ 19.2-389, 38.2-1819, 38.2-1820, 38.2-1824, 38.2-1826, 38.2-1838, 38.2-1840, 38.2-1841, 38.2-1842, 38.2-1845.2, 38.2-1845.8, 38.2-1845.9, 38.2-1845.17, 38.2-1845.22, 38.2-1857.2, 38.2-1857.5, 38.2-1857.9, 38.2-1865.1, 38.2-1865.5, 38.2-1867, 38.2-1868.1, 38.2-1869, 38.2-1871, 38.2-1872, 38.2-1873, 38.2-1876, 38.2-1882, 38.2-1888, and 55-525.30 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 38.2-1825.1 and 38.2-1857.4:1; and to repeal §§ 38.2-1857.3, 38.2-1857.4, and 38.2-1870 of the Code of Virginia, relating to biennial insurance licensing; fingerprinting; criminal background checks; producer licensing standards; insurance agents; continuing education requirements.*

[S 1222]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-389, 38.2-1819, 38.2-1820, 38.2-1824, 38.2-1826, 38.2-1838, 38.2-1840, 38.2-1841, 38.2-1842, 38.2-1845.2, 38.2-1845.8, 38.2-1845.9, 38.2-1845.17, 38.2-1845.22, 38.2-1857.2, 38.2-1857.5, 38.2-1857.9, 38.2-1865.1, 38.2-1865.5, 38.2-1867, 38.2-1868.1, 38.2-1869, 38.2-1871, 38.2-1872, 38.2-1873, 38.2-1876, 38.2-1882, 38.2-1888, and 55-525.30 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 38.2-1825.1 and 38.2-1857.4:1 as follows:**

**§ 19.2-389. Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the

restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider,

or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; ~~and~~

45. *The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and*

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

**§ 38.2-1819. Application for license; fee required; fingerprints.**

A. Each applicant for a license shall make application to the Commission, in the form and containing the information the Commission prescribes. Each applicant shall, at the time of applying for a license, pay a nonrefundable application processing fee in an amount and in a manner prescribed by the Commission. The prescribed application processing fee shall not be less than ~~fifteen dollars~~ \$10 nor than ~~thirty dollars~~ \$20 *per line of authority*. The fee shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

B. *Each individual who is a resident of the Commonwealth shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an*

employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection.

C. No resident license requiring an examination shall be issued by the Commission later than 183 calendar days from the date the applicant satisfies the preclicensing examination requirements set forth in § 38.2-1817. Applicants failing to satisfy this requirement shall be required to satisfy all preclicensing requirements, including the examination, again before applying.

~~E. D.~~ Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in ~~this~~ the Commonwealth out of or in connection with the exercise of the license. Such appointment of the clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in ~~this~~ the Commonwealth. Service of process on the clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.) ~~of this title.~~

**§ 38.2-1820. Issuance of license.**

A. Each applicant who is at least 18 years of age and who has satisfied the Commission that he is of good character, has a good reputation for honesty, and has complied with the other requirements of this article is entitled to and shall receive a license in the form the Commission prescribes.

B. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application, or such other application acceptable to the Commission. Before approving the application, the Commission shall find that:

1. The business entity has paid the ~~fees~~ *nonrefundable application processing fee* set forth in § 38.2-1819; and

2. The business entity has designated an employee, officer, director, manager, member, or partner to serve as the licensed producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of the Commonwealth. However, with respect to a business entity applying for a limited lines license pursuant to Article 8 (§ 38.2-1875 et seq.) or 8.1 (§ 38.2-1881 et seq.), the licensed producer designated by the vendor or lessor is not required to be an employee, officer, director, manager, member, or partner of the vendor or lessor.

C. The Commission may require any documents reasonably necessary to verify the information contained in an application.

**§ 38.2-1824. Kinds of agents' licenses and appointments issued.**

A. 1. The Commission shall issue the following kinds of agents' licenses and appointments under this chapter: Life and annuities insurance agent; health agent; property and casualty insurance agent; personal lines agent; limited lines credit insurance agent; limited lines life and health insurance agent; limited lines property and casualty insurance agent; motor vehicle rental contract insurance agent; restricted nonresident life and annuities insurance agent; restricted nonresident health agent; restricted nonresident property and casualty insurance agent; restricted nonresident personal lines agent; public adjuster; surplus lines broker; title insurance agent; variable contract agent; and viatical settlement broker. For the purposes of nonresident reciprocal licensing as provided in § 38.2-1836, the Commission may issue a license for any other limited line of insurance that the Commission may deem it necessary to recognize.

2. The Commission shall permit insurers, within each insurer's authority, to make the following kinds of appointments: life and health insurance, property and casualty insurance, and title insurance. The appointed agent's authority is limited to that provided by his license and may not be expanded by his appointment or by his contractual agreement with an insurer.

B. The licenses of all individuals and business entities who on August 31, 2002, hold limited licenses to write accident and sickness insurance, or automobile insurance, or casualty insurance, or fidelity and surety bonds, or fire insurance, or life insurance and annuities, shall have such licenses automatically converted to the nearest equivalent license type provided in subsection A; and shall henceforth be subject to all preclicensing ~~and~~, *renewal*, and continuing education requirements applicable to such new license type.

~~C. All individuals and business entities who on July 1, 1999, held limited licenses to write bail (appearance) bonds may remain licensed under such limited licenses until September 1, 2003; but no such license which has lapsed or been revoked shall be reinstated; and no new or additional licenses of such type shall be issued. All such limited licenses shall terminate effective September 1, 2003.~~

~~D. All individuals and business entities who on August 31, 2002, hold any of the restricted licenses discontinued effective September 1, 2002, shall have any such licenses converted to the appropriate limited lines license or licenses effective September 1, 2002.~~

**§ 38.2-1825.1. Renewal application and fee; compliance with continuing education requirements; reinstatement; waiver.**

A. Beginning January 1, 2021, each individual agent shall submit biennially to the Commission a renewal application in a form and manner prescribed by the Commission, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Licenses shall be renewed biennially based on the agent's month and year of birth. The license for an agent born in an even-numbered year shall expire at the end of the agent's birth month in even-numbered years. The license for an agent born in an odd-numbered year shall expire at the end of the agent's

birth month in odd-numbered years. Any license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission in the manner prescribed by the Commission shall automatically be terminated.

B. Each individual agent who is not exempt under § 38.2-1871 shall submit to the Virginia Insurance Continuing Education Board or its administrator proof of compliance with the continuing education requirements set forth in Article 7 (§ 38.2-1866 et seq.) on a biennial basis in conjunction with the agent's license renewal. The agent's license shall not be renewed if the agent has failed to satisfy the applicable continuing education requirements.

C. On or before May 1, 2021, and biennially thereafter, each business entity shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

D. The nonrefundable renewal application processing fee shall be paid in a manner and in an amount prescribed by the Commission. The prescribed nonrefundable renewal application processing fee shall not be less than \$10 nor more than \$20 per line of authority. All fees shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

E. An individual agent whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license without the necessity of passing a precensing written examination by:

1. Submitting a renewal application;
2. Submitting a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee; and
3. Satisfying the relevant continuing education requirements.

F. A licensed agent who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Agents seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, agents who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subdivisions E 1 and 2 within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

#### **§ 38.2-1826. Requirement to report to Commission.**

A. Each licensed agent shall report within 30 calendar days to the Commission, and to every insurer for which he is appointed any change in his residence address, email address, or name.

B. Each licensed agent convicted of a felony shall report within 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

C. Each licensed agent shall report to the Commission within 30 calendar days of the final disposition of the matter any administrative action taken against him in another jurisdiction or by another governmental agency in the Commonwealth. Such report shall include a copy of the order, consent to order or other relevant legal documents.

D. The license authority of any licensed resident agent shall terminate immediately when such agent has moved his residence from the Commonwealth, whether or not the Commission has been notified of such move.

E. Each business entity acting as an insurance producer shall report within 30 calendar days to the Commission the removal, for any reason, of the designated licensed producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of the Commonwealth pursuant to subdivision B 2 of § 38.2-1820, along with the name of the new designated licensed producer.

#### **§ 38.2-1838. License required of consultants; fingerprinting.**

A. No person, unless he holds an appropriate license shall:

1. Represent to members of the public that he provides planning or consulting services beyond those within the normal scope of activities of a licensed insurance agent; or
2. Except as provided in § 38.2-1812.2, charge or receive, directly or indirectly, a fee or other compensation for insurance advice, other than commissions received in such person's capacity as a licensed insurance agent or surplus lines broker resulting from selling, soliciting, or negotiating insurance or health care services as allowed by his license.

B. Each individual applying for an insurance consultant's license shall apply to the Commission in a form acceptable to the Commission, and shall provide satisfactory evidence of having met the following requirements:

1. To be licensed as a property and casualty insurance consultant the applicant must pass, within 183 calendar days prior to the date of application for such license, the property and casualty examination as required in § 38.2-1817, except

that an applicant who, at the time of such application holds an active property and casualty insurance agent license, shall be exempt from the examination requirements;

2. To be licensed as a life and health insurance consultant, the applicant must pass, within 183 calendar days prior to the date of application for such license, both the life and annuities and the health examinations as required in § 38.2-1817, except that an applicant who, at the time of such application holds both an active life and annuities license and an active health agent license, shall be exempt from the examination requirements; ~~and~~

3. *Each individual applicant for an insurance consultant license shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection; and*

4. Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in the Commonwealth out of or in connection with the exercise of the license. Such appointment of the clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in the Commonwealth. Service of process on the clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.).

C. Any individual who acts as an insurance consultant as an officer, director, principal or employee of a business entity shall be required to hold an appropriate individual license as an insurance consultant.

D. A business entity acting as an insurance consultant is required to obtain an insurance consultant license. Application shall be made in a form and manner acceptable to the Commission. Before approving the application, the Commission shall find that:

1. The business entity has paid the fee set forth in this section; and

2. The business entity has designated an employee, officer, director, manager, member, or partner to serve as the licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of the Commonwealth.

E. The Commission may require any documents reasonably necessary to verify the information contained in an application.

F. Each applicant for an insurance consultant's license shall ~~submit, at the time of applying for a license, pay a nonrefundable application processing fee of \$50 at the time of initial application for such license in an amount and in a manner prescribed by the Commission.~~

**§ 38.2-1840. Renewal application and fee; compliance with continuing education requirements; reinstatement; waiver.**

A. ~~Before June 1 of each year Beginning January 1, 2021, each insurance consultant shall remit a renewal application in a form and manner acceptable submit biennially to the Commission a renewal application in a form and manner prescribed by the Commission, along with the a nonrefundable renewal application processing fee prescribed herein by the Commission, for the renewal of the license; unless the license has been terminated, suspended or revoked on or before June 30 of that year. Any consultant license for which the required renewal application and nonrefundable renewal application processing fee has been received by the Commission on or before June 1 shall be renewed for a one-year period beginning on July 1 and ending on the following June 30. Any consultant license for which the required renewal application and nonrefundable renewal application processing fee has not been received by the Commission by June 1 shall be terminated effective on June 30. Licenses shall be renewed biennially based on the insurance consultant's month and year of birth. The license for a consultant born in an even-numbered year shall expire at the end of the consultant's birth month in even-numbered years. The license for a consultant born in an odd-numbered year shall expire at the end of the consultant's birth month in odd-numbered years. Any consultant license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any consultant license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.~~

B. *Each individual insurance consultant who is not exempt under § 38.2-1871 shall submit to the Virginia Insurance Continuing Education Board or its administrator proof of compliance with the continuing education requirements set forth in Article 7 (§ 38.2-1866 et seq.) on a biennial basis in conjunction with the insurance consultant's license renewal. The insurance consultant's license shall not be renewed if the agent has failed to satisfy the applicable continuing education requirements.*

C. *On or before May 1, 2021, and biennially thereafter, each business entity licensed as a consultant shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any consultant license for which the renewal application and nonrefundable*

renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any consultant license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

D. The ~~annual~~ nonrefundable renewal processing fee for each insurance consultant's license shall be fifty dollars, which shall be paid in a manner and in an amount prescribed by the Commission. All fees shall be collected by the Commission and paid directly into the state treasury and ~~placed to the credit of~~ credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

E. An individual insurance consultant whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license without the necessity of passing a written examination by:

1. Submitting a renewal application;
2. Submitting a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee; and
3. Satisfying the relevant continuing education requirements.

F. An individual insurance consultant who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Insurance consultants seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, insurance consultants who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subdivisions E 1 and 2 within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof, and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

**§ 38.2-1841. Termination, suspension, or revocation of license.**

A. A license issued to an individual insurance consultant shall authorize him to act as an insurance consultant until his license is otherwise terminated, suspended, or revoked.

B. A license issued to a business entity shall authorize such business entity to act as an insurance consultant until such license is otherwise terminated, suspended, or revoked. The dissolution or discontinuance of a partnership, whether by intent or by operation of law, shall automatically terminate the insurance consultant's license issued to such partnership. The Bureau shall automatically terminate all insurance consultant licenses within 90 calendar days of receiving notification from the clerk of the Commission that the certificate of organization or charter of a domestic limited liability company or corporation respectively, whether by intent or by operation of law, has been terminated or that the certificate of registration or certificate of authority of a foreign limited liability company or corporation, respectively, has been revoked.

C. The termination of a ~~consultant's license~~ consultant as an insurance agent pursuant to subsection A of § 38.2-1825 shall not result in the termination of the consultant's license, provided that the ~~annual~~ renewal application and nonrefundable renewal application processing fee prescribed in § 38.2-1840 continues to be paid, the consultant license continues to be renewed as required by § 38.2-1840, and the license is not otherwise revoked, suspended, or terminated.

D. The license authority of any business entity licensed as a consultant shall terminate immediately if the designated licensed producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of the Commonwealth pursuant to subdivision D 2 of § 38.2-1838 is removed for any reason and a new responsible producer has not been designated and the Commission notified within 30 calendar days of such removal and of the new designated responsible producer.

**§ 38.2-1842. Requirement to report to Commission.**

A. Each licensed insurance consultant shall report within ~~thirty~~ 30 calendar days to the Commission any change in his residence address, email address, or name.

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity licensed as an insurance consultant in ~~this~~ the Commonwealth and operating under an assumed or fictitious name shall notify the Commission, at the earlier of the time the application for an insurance consultant license is filed or within ~~thirty~~ 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the insurance consultant intends to operate in Virginia. The Commission shall also be notified within ~~thirty~~ 30 calendar days from the date of cessation of the use of such assumed or fictitious name.

C. Each licensed insurance consultant convicted of a felony shall report within ~~thirty~~ 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

D. Each licensed insurance consultant shall report to the Commission within ~~thirty~~ 30 calendar days of the final disposition of the matter any administrative action taken against him in another jurisdiction or by another governmental agency in ~~this~~ the Commonwealth. Such report shall include a copy of the order, consent to order or other relevant legal documents.

E. The license authority of any licensed resident insurance consultant shall terminate immediately when such insurance consultant has moved his residence from ~~this~~ the Commonwealth, whether or not the Commission has been notified of such move.

**§ 38.2-1845.2. License required of resident public adjusters.**

A. No person shall engage in the business of public adjusting, ~~on or after January 1, 2013,~~ without first applying for and obtaining a license from the Commission, except as provided in § 38.2-1845.3. ~~Every license issued pursuant to this article shall be for a term expiring two years from the date of issuance and may be renewed for ensuing two-year periods.~~

B. Each individual applicant for a public adjuster license who is at least 18 years of age, who has satisfied the Commission that he (i) is of good character; (ii) has a reputation for honesty; (iii) has not committed any act that is a ground for ~~refusal the Commission to refuse to issue, denial deny, suspension suspend, or revocation of revoke~~ a public adjuster license as set forth in § 38.2-1845.10; and (iv) has complied successfully with the other requirements of this article is entitled to and shall receive a license under this chapter in the form and manner prescribed by the Commission. The Commission may require, for resident licensing, proof of residency as described in subsection B of § 38.2-1800.1.

C. Each individual applicant for a public adjuster license shall apply to the Commission in the form and manner prescribed by the Commission and shall provide satisfactory evidence of having met the following requirements:

1. Each applicant shall pass, within 183 calendar days prior to the date of application for such license, the public adjuster examination as required by the Commission pursuant to and in accordance with the requirements set forth in § 38.2-1845.4.

2. Each applicant for a public adjuster license shall submit a nonrefundable application processing fee *in an amount and in a manner* prescribed by the Commission at the time of initial application for such license. *The fee shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.*

3. Prior to issuance of a license, each applicant shall attest that the applicant has, and thereafter shall keep in force for as long as the license remains in effect, a bond in favor of the Commonwealth in the amount of \$50,000 with corporate sureties licensed by the Commission, on a form prescribed by the Commission. The bond shall be conditioned that the public adjuster will conduct business under the license in accordance with the laws of the Commonwealth. The bond shall not be terminated unless at least 60 calendar days' prior written notice of the termination is filed with the Commission. If, prior to the expiration date of the bond, the licensed public adjuster fails to file with the Commission a certification or attestation that a new bond satisfying the requirements of this section has been put into effect, the public adjuster license shall terminate, and the licensee shall be required to satisfy any and all preclicensing requirements in order to apply for a new public adjuster license. The Commission may ask for a copy of the bond or other evidence of financial responsibility at any time.

4. *Each individual applicant for a public adjuster license shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection.*

D. Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the Clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in the Commonwealth out of or in connection with the exercise of the license. Such appointment of the Clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in the Commonwealth. Service of process on the Clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.).

E. Any individual who acts as a public adjuster and who is also an officer, director, principal, or employee of a business entity acting as a public adjuster in the Commonwealth shall be required to hold an appropriate individual license as a public adjuster in the Commonwealth.

F. A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made in a form and manner acceptable to the Commission. Before approving the application, the Commission shall find that:

1. The business entity has paid the fee prescribed by the Commission;

2. The business entity has demonstrated proof of residency pursuant to subsection B of § 38.2-1800.1; and

3. The business entity has designated an individual employee, officer, director, manager, member, or partner licensed in Virginia as a public adjuster to be responsible for the business entity's compliance with the laws, rules, and regulations of the Commonwealth applicable to public adjusters.

G. Prior to issuance of a license, each entity shall attest that the entity has, and thereafter shall keep in force for as long as the license remains in effect, a bond in favor of the Commonwealth in the amount of \$50,000 with corporate sureties licensed by the Commission, on a form prescribed by the Commission. The bond shall be conditioned that the public adjuster will conduct business under the license in accordance with the laws of the Commonwealth. The bond shall not be terminated unless at least 60 calendar days' prior written notice of the termination is filed with the Commission. If, prior to the expiration date of the bond, the licensed public adjuster fails to file with the Commission a certification or attestation that a new bond satisfying the requirements of this section has been put into effect, the public adjuster license shall

terminate, and the entity shall be required to satisfy any and all precicensing requirements in order to apply for a new public adjuster license. The Commission may ask for a copy of the bond or other evidence of financial responsibility at any time.

H. The Commission may require any documents reasonably necessary to verify the information contained in an application.

**§ 38.2-1845.8. Renewal application and fee; reinstatement; waiver.**

A. ~~Each~~ *Beginning January 1, 2021, each individual licensed public adjuster shall ~~remit~~ submit biennially to the Commission a renewal application in a form and manner ~~acceptable to~~ prescribed by the Commission, along with the nonrefundable renewal application processing fee prescribed by the Commission for the renewal of the license. Licenses shall be renewed biennially based on the public adjuster's month and year of birth. The license for a public adjuster born in an even-numbered year shall expire at the end of the public adjuster's birth month in even-numbered years. The license for a public adjuster born in an odd-numbered year shall expire at the end of the public adjuster's birth month in odd-numbered years. Any public adjuster license for which the required renewal application and nonrefundable renewal application processing fee ~~has~~ have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked be renewed for a two-year period. Any public adjuster license for which the ~~required~~ renewal application and nonrefundable renewal application processing fee ~~has~~ have not been received by the Commission in the manner prescribed by the Commission shall automatically be terminated.*

B. *On or before May 1, 2021, and biennially thereafter, each business entity licensed as a public adjuster shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any public adjuster license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.*

C. The nonrefundable renewal processing fee for each public adjuster license shall be paid in a manner and in an amount prescribed by the Commission. All fees shall be collected by the Commission and paid *directly* into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

~~C.~~ D. No nonresident public adjuster license shall be renewed unless the applicant meets the requirements for initial licensure as set forth in § 38.2-1845.5.

E. *An individual public adjuster whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license without the necessity of passing a written examination by:*

1. *Submitting a renewal application;*
2. *Submitting a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee; and*
3. *Satisfying the relevant continuing education requirements.*

F. *An individual public adjuster who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Public adjusters seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, public adjusters who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subdivisions E 1 and 2 within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof, and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.*

**§ 38.2-1845.9. Continuing education; approval of credits; failure to satisfy requirements; termination of license.**

A. An individual who holds a public adjuster license and who is not exempt under subsection B shall satisfactorily complete a minimum of 24 hours of approved continuing education courses, including three hours of ethics, reported on a biennial basis in conjunction with his license renewal.

B. This section shall not apply to licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of the Commonwealth on the same basis.

C. 1. The Commission or its administrator shall approve all continuing education instructors, continuing education courses, and programs of instruction. The Commission shall establish and monitor standards for the education of public adjusters, approve courses, including evaluating credit hours for all courses or programs offered, and set minimum requirements for course instructors. The Commission shall have the authority to disapprove or withdraw approval of course sponsors, courses, or course instructors when the established standards are not satisfied or where such standards have been violated.

2. The number of credits for each self-study course, correspondence course, or program of classroom instruction shall be determined in a manner prescribed by the Commission. However, for an approved classroom course, a credit hour shall be equivalent to a classroom hour providing at least 50 minutes of continuous instruction or participation. No credits shall

be granted for approved classroom courses unless notice to the Commission or its administrator is accompanied by proof of attendance by the course provider. No credits shall be granted for any correspondence or self-study course that does not include a test of the subject matter, which shall be successfully completed by each public adjuster requesting credit. The Commission shall have the right to review and approve or disapprove the proposed test as part of the course approval process.

3. An instructor of an approved continuing education course shall be eligible to receive the same number of credits as a person enrolled in the course for the purpose of meeting the requirements. However, public adjusters and instructors may apply credits for attending or teaching the same course only once during any continuing education reporting period.

D. Each public adjuster holding a license subject to the continuing education requirements of this article shall complete all continuing education courses, pay a nonrefundable fee, and shall submit to the Commission or its administrator proof of compliance with continuing education requirements in the form and manner required by the Commission.

E. Any public adjuster subject to this article who fails to submit complete documentation, showing proof of compliance with continuing education requirements, as well as all specified forms and nonrefundable fees, to the Commission or its administrator shall be deemed to be in noncompliance with the requirements of this article.

F. 1. The license of the public adjuster shall not be renewed if the public adjuster has failed to satisfy the continuing education requirements of this section.

2. A public adjuster shall have 30 calendar days to appeal to the Commission or its administrator the decision to administratively terminate the license for failure to complete continuing education requirements as required by this section. A public adjuster wishing to contest the Commission's action in terminating a license shall adhere to the Commission's Rules of Practice and Procedure (5VAC5-20-10 et seq.) and the Rules of Supreme Court of Virginia. Failure by the public adjuster to initiate such contest within 30 calendar days following the date of license termination shall be deemed a waiver by the public adjuster of the right to contest such license termination.

G. A resident public adjuster whose license has been terminated under the terms of this section *and whose license is not reinstated pursuant to § 38.2-1845.8* shall be permitted to make application for a new license if all of the requirements of § 38.2-1845.2 are met.

H. Each public adjuster shall pay a nonrefundable continuing education processing fee in an amount prescribed by the Commission.

**§ 38.2-1845.17. Requirement to report to Commission.**

A. Each licensed public adjuster shall report within 30 calendar days to the Commission any change in his residence *address, email address, or name.*

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity licensed as a public adjuster in the Commonwealth and operating under an assumed or fictitious name shall provide notice to the Commission, at the earlier of the time the application for a public adjuster license is filed or within 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the public adjuster intends to operate in the Commonwealth. The Commission shall also be notified within 30 calendar days from the date of cessation of the use of such assumed or fictitious name.

C. Each licensed public adjuster shall report to the Commission any conviction involving a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust in another jurisdiction or in the Commonwealth within 30 calendar days of the final disposition of the matter. This report shall include a copy of the order and other relevant legal documents.

D. Each licensed public adjuster shall report to the Commission within 30 calendar days of the final disposition of the matter of any administrative action taken against him in another jurisdiction or by another governmental agency in the Commonwealth. Such report shall include a copy of the order, consent order, or other relevant legal documents.

**§ 38.2-1845.22. Power of Commission to investigate affairs of persons engaged in the business of public adjusting; penalties for refusal to permit investigation.**

The Commission shall have power to examine and investigate the business affairs of any person engaged or alleged to be engaged in the business of public adjusting in the Commonwealth to determine whether the person has engaged or is engaging in any violation of this title. The Commission shall have the right to examine all records relating to the business of public adjusting by any such person in the Commonwealth to determine whether the person is now or has been violating any of the provisions of this title. Any licensee under this article or any person purporting to be a licensee under this article or any person whose actions have led any person to believe that he is a licensee under this article who refuses to permit the Commission or any of its employees or agents, including employees of the Bureau of Insurance, to make an examination or who fails or refuses to comply with the provisions of this section, may, after notice and an opportunity to be heard, be subject to any of the penalties relating to licensees under this article, as provided in this title, including the *termination, denial, suspension, or revocation* of his license.

**§ 38.2-1857.2. Applications for surplus lines broker license; fee required; fingerprinting.**

A. Every original applicant for a surplus lines ~~broker's~~ *broker* license shall apply for such license in a form and manner prescribed by the Commission, and containing any information the Commission requires. *Each applicant shall, at the time of applying for a license, pay a nonrefundable application processing fee in an amount and in a manner prescribed by the Commission. The prescribed application fee shall be collected by the Commission and paid directly into the state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.*

B. Each applicant for a surplus lines broker license shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection.

C. Prior to issuance of a license, the applicant shall file with the Commission a certification or attestation that the applicant has, and thereafter shall keep in force for as long as the license remains in effect, a bond in favor of the Commonwealth in the amount of \$25,000 with corporate sureties licensed by the Commission. The bond shall be conditioned that the broker will conduct business under the license in accordance with the provisions of the surplus lines insurance law and that he will promptly remit the taxes provided by such law. The bond shall not be terminated unless at least 30 calendar days' prior written notice of the termination is filed with the Commission. If, prior to the expiration date of the bond, the licensed surplus lines broker fails to file with the Commission a certification or attestation that a new bond satisfying the requirements of this section has been put into effect, the surplus lines broker license shall terminate and the licensee shall be required to apply for a new surplus lines broker license.

~~C.~~ D. Notwithstanding any other provisions of this title, a person licensed as a surplus lines broker in his home state, as defined in § 38.2-1800, shall receive a nonresident surplus lines broker license subject to meeting the requirements set forth in § 38.2-1857.9.

~~D.~~ E. Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in the Commonwealth out of or in connection with the exercise of the license. Such appointment of the clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in the Commonwealth. Service of process on the clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.).

~~E.~~ F. A business entity acting as a surplus lines broker is required to obtain a surplus lines broker license. In addition to the other requirements in this section, and before approving the application, the Commission shall find that:

1. The business entity has paid the fee set forth in ~~§ 38.2-1857.3 subsection A~~; and

2. If:

a. A resident of the Commonwealth, the business entity has designated an employee, officer, director, manager, member, or partner to serve as the licensed Virginia Property and Casualty insurance agent to be responsible for the business entity's compliance with the insurance laws, rules and regulations of the Commonwealth; or

b. Not a resident of the Commonwealth, the business entity has designated an employee, officer, director, manager, member, or partner licensed in his home state to be responsible for the business entity's compliance with the insurance laws, rules and regulations of the Commonwealth.

~~F.~~ G. The Commission may require any documents reasonably necessary to verify the information contained in an application.

**§ 38.2-1857.4:1. Renewal application and fee; reinstatement; waiver.**

A. Beginning January 1, 2021, each individual surplus lines broker shall submit biennially to the Commission a renewal application in a form and manner prescribed by the Commission, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Licenses shall be renewed biennially based on the broker's month and year of birth. The license for a surplus lines broker born in an even-numbered year shall expire at the end of the broker's birth month in even-numbered years. The license for a surplus lines broker born in an odd-numbered year shall expire at the end of the broker's birth month in odd-numbered years. Any surplus lines broker license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any surplus lines broker license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

B. On or before May 1, 2021, and biennially thereafter, each business entity licensed as a surplus lines broker shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any surplus lines broker license for which the required renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any surplus lines broker license for which the required renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

C. The nonrefundable renewal application processing fee shall be paid in a manner and in an amount prescribed by the Commission. The nonrefundable renewal processing fee shall be collected by the Commission and paid directly into the

state treasury and credited to the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

D. An individual surplus lines broker whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license by submitting the renewal application and a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee and by complying with all other applicable licensing and renewal provisions in this chapter.

E. A licensed surplus lines broker's failure to file the maintenance assessment report required by § 38.2-406 or pay the maintenance assessment and any related fines, penalties, and interest required by § 38.2-403 on or before the first day of March of each year shall result in the termination of the surplus lines broker license.

F. An individual surplus lines broker who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Surplus lines brokers seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, surplus lines brokers who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subsection D within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof, and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

**§ 38.2-1857.5. Requirement to report to Commission.**

A. Each licensed surplus lines broker shall report within ~~thirty~~ 30 calendar days to the Commission any change in his residence address, email address, or name.

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity licensed as a surplus lines broker in ~~this~~ the Commonwealth and operating under an assumed or fictitious name shall notify the Commission, at the earlier of the time the application for a surplus lines broker license is filed or within ~~thirty~~ 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the surplus lines broker intends to operate in Virginia. The Commission shall also be notified within ~~thirty~~ 30 calendar days from the date of cessation of the use of such assumed or fictitious name.

C. Each licensed surplus lines broker convicted of a felony shall report within ~~thirty~~ 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

D. Each licensed surplus lines broker shall report to the Commission within ~~thirty~~ 30 calendar days of the final disposition of the matter any administrative action taken against him in another jurisdiction or by another governmental agency in ~~this~~ the Commonwealth. Such report shall include a copy of the order, consent to order or other relevant legal documents.

E. Any licensed resident surplus lines broker who has moved his residence from ~~this~~ the Commonwealth shall have all licenses immediately terminated by the Commission, whether or not the surplus lines broker has notified the Commission of such move. Nothing shall prohibit such surplus lines broker from applying for a license as a nonresident surplus lines broker.

F. The license authority of any business entity licensed as a surplus lines broker shall terminate immediately if the sole licensed responsible producer designated pursuant to subdivision ~~E~~ F 2 of § 38.2-1857.2 for the business entity's compliance with the insurance laws, rules and regulations of ~~this~~ the Commonwealth is removed for any reason, and a new responsible producer has not been designated and the Commission notified within 30 calendar days of such removal and of the newly designated responsible producer.

**§ 38.2-1857.9. Licensing nonresidents; clerk of the Commission to be appointed agent for service of process; reciprocal agreements with other states and Canadian provinces.**

A. An individual or business entity who is not a resident as defined in § 38.2-1800, but who is a resident of another state, territory, or province of Canada, shall receive a nonresident surplus lines broker license if:

1. The applicant presents proof in a form acceptable to the Commission that the applicant is currently licensed or otherwise authorized as a resident surplus lines broker and is in good standing in his home state;

2. The applicant has submitted the proper application for licensure, or in lieu thereof has submitted a copy of the application for a Surplus Lines Broker license submitted to the home state, and has paid the fees ~~required by § 38.2-1857.3~~ prescribed by the Commission; and

3. The applicant's home state issues nonresident surplus lines broker licenses to residents of ~~this~~ the Commonwealth on the same basis, or will permit a resident of ~~this~~ the Commonwealth to act as a surplus lines broker in such state without requiring a license.

B. For the purposes of this article, any individual whose place of residence and place of business are in a city or town located partly within the Commonwealth and partly within another state may be considered as meeting the requirements as a resident of ~~this~~ the Commonwealth, provided the other state has established by law or regulation similar requirements as to residence of such individuals.

C. The Commission may enter into a reciprocal agreement with an appropriate official of any other state or province of Canada if such an agreement is required in order for a Virginia resident to be similarly licensed as a nonresident in that state or province.

D. The Commission may verify the surplus lines broker's licensing status through the Producer Database maintained by the NAIC, its affiliates or subsidiaries.

E. A nonresident surplus lines broker who moves from one state or province to another state or province shall file a change of address within 30 calendar days of the change of legal residence. No fee or license application is required.

F. Any licenses issued to nonresidents pursuant to this section shall be terminated at any time that the nonresident's equivalent authority in his home state is terminated, suspended, or revoked.

G. As used in this section, "home state" has the same meaning that is ascribed to the term in § 38.2-1800.

**§ 38.2-1865.1. License required for viatical settlement brokers; Commission's authority; conditions; renewal application and fee; reinstatement; waiver; fingerprinting.**

A. No person shall act as a viatical settlement broker, or solicit a viatical settlement contract while acting as a viatical settlement broker, ~~on or after January 1, 1998,~~ without first obtaining a license from the Commission.

B. A resident or nonresident life and annuities insurance agent shall not be prohibited from obtaining a license, and subsequently acting as, a viatical settlement broker. Such licensed life and annuities agent applying for a license as a viatical settlement broker shall comply with all provisions of this chapter.

C. Application for a viatical settlement ~~broker's broker~~ license shall be made to the Commission in the manner, in the form, and accompanied by the nonrefundable license processing fee prescribed by the Commission.

D. *Each individual applicant for a viatical settlement broker license shall, at the time of applying for a new license, be fingerprinted in a form and manner prescribed by the Commission and shall provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The results of the state and national records search shall be forwarded to the Commissioner or the Commissioner's designee, who shall be an employee of the Commission. The cost of fingerprinting and the criminal history record check shall be paid by the applicant. If an applicant's application for a license is denied, the Commission shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant upon request. The information provided to the Commission shall not be disseminated except as provided in this subsection.*

E. A business entity acting as a viatical settlement broker is required to obtain a viatical settlement broker license. In addition to the other requirements in this section, and before approving the application, the Commission shall find that:

1. The business entity has paid the fee set forth in this section; and

2. The business entity has designated an employee, officer, director, manager, member, or partner who is a licensed viatical settlement broker as the individual responsible for the business entity's compliance with the insurance and other laws of this title, and related rules and regulations of the Commonwealth.

~~E. F.~~ The Commission may require any documents reasonably necessary to verify the information contained in an application.

~~F. G.~~ Except where prohibited by state or federal law, by submitting an application for license, the applicant shall be deemed to have appointed the clerk of the Commission as the agent for service of process on the applicant in any action or proceeding arising in the Commonwealth out of or in connection with the exercise of the license. Such appointment of the clerk of the Commission as agent for service of process shall be irrevocable during the period within which a cause of action against the applicant may arise out of transactions with respect to subjects of insurance in the Commonwealth. Service of process on the clerk of the Commission shall conform to the provisions of Chapter 8 (§ 38.2-800 et seq.).

~~G. H.~~ The license processing fee required by this section shall be collected by the Commission, paid directly into the state treasury, and credited to the "Bureau of Insurance Special Fund — State Corporation Commission" for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

~~H.~~ Before June 1 of each year, each viatical settlement broker shall remit the nonrefundable renewal fee and renewal application prescribed by the Commission for the renewal of the license effective July 1 of that year.

~~I.~~ *Viatical Beginning January 1, 2021, each individual settlement broker's licenses may be renewed for a one-year period ending on the following June 30 if the required renewal application and renewal fee have been received by the Commission on or before June 1, and the license has not been terminated, suspended or revoked on or before June 30 broker shall submit biennially to the Commission a renewal application in a form and manner prescribed by the Commission, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Licenses shall be renewed biennially based on the viatical settlement broker's month and year of birth. The license for a viatical settlement broker born in an even-numbered year shall expire at the end of the broker's birth month in even-numbered years. The license for a viatical settlement broker born in an odd-numbered year shall expire at the end of the broker's birth month in odd-numbered years. Any viatical settlement broker license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any viatical settlement broker license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.*

J. On or before May 1, 2021, and biennially thereafter, each business entity licensed as a viatical settlement broker shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any viatical settlement broker license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any viatical settlement broker license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

K. The nonrefundable renewal application processing fee shall be paid in a manner and in an amount prescribed by the Commission. The nonrefundable renewal application processing fee required by this section shall be collected by the Commission, and paid directly into the state treasury, and credited to the ~~"Bureau of Insurance Special Fund State Corporation Commission" fund~~ for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

L. An individual viatical settlement broker whose license terminates due to failure to renew may, within 12 months from the renewal date, reinstate the same license by submitting the renewal application and a nonrefundable reinstatement processing fee equivalent to double the nonrefundable renewal application processing fee.

M. An individual viatical settlement broker who is unable to comply with the license renewal requirements due to military service or another extenuating circumstance such as a long-term illness or incapacity may request a waiver of those requirements. Requests for waivers of renewal requirements shall be made in a form and manner prescribed by the Commission. Viatical settlement brokers seeking a waiver of renewal requirements shall submit all documentation specified by the Commission so as to be received by the Commission no later than the last day of the renewal period. After the renewal period, viatical settlement brokers who have failed to complete the renewal waiver requirements may request a waiver from the reinstatement requirements set forth in subsection L within the 12-month reinstatement period. The Commission shall approve or disapprove the waiver request within 30 calendar days of receipt thereof, and shall provide written notice of its decision to the applicant for waiver within five calendar days of rendering its decision. Any waiver granted pursuant to this section shall be valid only for the renewal period or reinstatement period for which the waiver request was made.

~~K.~~ N. Each applicant for a viatical settlement broker's broker license shall provide satisfactory evidence that no disciplinary action has resulted in the suspension or revocation of any federal or state license pertaining to the business of viatical settlements or to the insurance or other financial services business.

~~L.~~ O. In the absence of a written agreement making the broker the viator's agent, viatical settlement brokers are presumed to be agents of viatical settlement providers.

~~M.~~ P. A viatical settlement broker shall not, without the written agreement of the viator obtained before performing any services in connection with a viatical settlement, seek or obtain any compensation from the viator.

**§ 38.2-1865.5. Requirement to report to Commission.**

A. Each licensed viatical settlement broker shall report, in writing, any change in business or residence address, email address, or name within ~~thirty~~ 30 calendar days to the Commission.

B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity licensed as a viatical settlement broker in ~~this~~ the Commonwealth and operating under an assumed or fictitious name shall notify the Commission, at the earlier of the time the application for a viatical settlement broker license is filed or within 30 calendar days from the date the assumed or fictitious name is adopted, setting forth the name under which the viatical settlement broker intends to operate in Virginia. The Commission shall also be notified within 30 calendar days from the date of cessation of the use of such assumed or fictitious name.

C. Each licensed viatical settlement broker convicted of a felony shall report within 30 calendar days to the Commission the facts and circumstances regarding the criminal conviction.

D. Each licensed viatical settlement broker shall report to the Commission within 30 calendar days of the final disposition of the matter any administrative action taken against him in another jurisdiction or by another governmental agency in the Commonwealth. Such report shall include a copy of the order, consent to order, or other relevant legal documents.

E. The license authority of any licensed resident viatical settlement broker shall terminate immediately when such viatical settlement broker has moved his residence from the Commonwealth, whether or not the Commission has been notified of such move.

F. The license authority of any business entity licensed as a viatical settlement broker shall terminate immediately if the designated licensed viatical settlement broker responsible for the business entity's compliance with the insurance laws, rules, and regulations of the Commonwealth pursuant to subdivision ~~D~~ E 2 of § 38.2-1865.1 is removed for any reason and a new responsible viatical settlement broker has not been designated and the Commission notified within 30 calendar days of such removal and of the new designated responsible viatical settlement broker.

**§ 38.2-1867. Insurance continuing education board; approval of credits.**

A. An insurance continuing education board, hereinafter called the Board, appointed by the Commission, shall approve all continuing education instructors, ~~continuing education courses and~~ programs of instruction, ~~to include and courses, including~~ technical courses or agency management and operations courses, and shall evaluate credit hours for all programs or courses offered. The Board shall establish and monitor standards for the education of insurance agents; ~~approve courses~~

including evaluating credit hours for all courses or programs offered, and set minimum requirements for course instructors. The Board shall have the authority to disapprove or withdraw approval of course sponsors, courses, or course instructors when the established standards are not satisfied, or where such standards have been violated.

B. The number of credits for each self-study course, correspondence course, or program of classroom instruction shall be determined in a manner prescribed by the Board. However, for an approved classroom course, a credit hour shall be equivalent to a classroom hour providing at least 50 minutes of continuous instruction or participation. No credits shall be granted for approved classroom courses unless notice to the Board is accompanied by proof of attendance by the course provider. No credits shall be granted for any correspondence or self-study course that does not include a test of the subject matter which shall be successfully completed by each agent requesting credit. The Board shall have the right to review and approve or disapprove the proposed test as part of the course approval process.

C. An instructor of an approved continuing education course shall be eligible to receive the same number of credits as a person enrolled in the course for the purpose of meeting the *continuing education course* requirements of this article. However, agents and instructors may apply credits for attending or teaching the same course only once during ~~any biennium~~ *the two-year period set forth in subsection B of § 38.2-1868.1.*

D. Excess credit hours accumulated during ~~any biennium~~ *the two-year period set forth in subsection B of § 38.2-1868.1* may be carried forward to the next biennium only.

E. Members of the Board shall be appointed by the Commission as follows:

1. One ~~representative from~~ *active member of the Independent Insurance Agents of Virginia, as recommended by the Independent Insurance Agents of Virginia;*

2. One ~~representative from~~ *active member of the Professional Insurance Agents of Virginia and the District of Columbia, as recommended by the Professional Insurance Agents of Virginia and the District of Columbia;*

3. One ~~representative from~~ *active member of the Virginia National Association of Insurance and Financial Advisors of Virginia, as recommended by the National Association of Insurance and Financial Advisors of Virginia;*

4. One ~~representative of a licensed property and casualty insurance company writing business in the Commonwealth that operates through an exclusive agency force~~ *active member of the Virginia Land Title Association, as recommended by the Virginia Land Title Association;*

5. One ~~representative of a licensed life and health insurance company writing business in the Commonwealth that operates through an exclusive agency force~~ *active member of the Virginia Association of Health Underwriters, as recommended by the Virginia Association of Health Underwriters;*

6. One ~~representative of a licensed property and casualty insurance company domiciled and writing business in the Commonwealth~~ *Three representatives of the property and casualty insurance industry;*

7. One ~~representative of a licensed life and health insurance company domiciled and writing business in the Commonwealth~~ *Three representatives of the life and health insurance industry; and*

8. One ~~representative of a licensed life and health insurance company writing business in the Commonwealth;~~

9. One ~~representative of a licensed property and casualty insurance company writing business in the Commonwealth;~~

10. One ~~representative from the Virginia Land Title Association;~~

11. One ~~representative from~~ *of the adult education or higher education field; and*

12. One ~~representative from the Virginia Association of Health Underwriters.~~

F. ~~On and after July 1, 1996, no~~ *No* person shall be appointed to serve as a member of the Board if, in the opinion of the Commission; ~~other than as an incidental part of or unrelated to such person's employment,~~ such person (i) prepares, submits for approval, or teaches insurance continuing education courses in Virginia or in any other jurisdiction, ~~other than as an incidental part of such person's employment,~~ or (ii) ~~no longer meets the criteria on which the original appointment to the Board was based pursuant to subsection E.~~

G. No meeting of the Board or any subcommittee of the Board shall be held unless timely notice of such meeting has been provided to the Commission's Bureau of Insurance. At any such meeting of the Board or any subcommittee of the Board, one or more representatives from the Bureau of Insurance shall be permitted to attend and to participate in such meeting, except that such Bureau of Insurance representative or representatives shall not have the right to vote on any matters before the Board.

H. Actions of the Board shall be exempt from the application of the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 38.2-1868.1. Proof of compliance with continuing education requirements; waivers.**

A. As used in this article:

"Proof of compliance" ~~shall mean~~ *means* all fees prescribed by the Board and all documents, and forms and fees specified by the Board for ~~(i) filing proof of demonstrating~~ completion of Board-approved continuing education courses relevant to the license held and for the ~~appropriate required~~ number of hours and for the ~~appropriate content or (ii) filing proof of meeting the exemption requirements set forth in subsection B of § 38.2-1871.~~

"Received by the Board or its administrator" ~~shall mean~~ *means* delivered into the possession of the Board or its administrator at the business address of the Board's administrator in a form and manner prescribed by the Board.

B. Each agent holding one or more licenses subject to the continuing education requirements of this article shall complete all continuing education course, ~~exemption,~~ or waiver requirements and shall submit to the Board or its administrator proof of compliance with ~~or exemption from the continuing education such~~ requirements in the form and manner required by the Board ~~by no later than December 31, or the next working day thereafter if December 31 falls on a~~

weekend; of each even-numbered year biennially, based on the agent's month and year of birth. An agent born in an even-numbered year shall complete all continuing education course or waiver requirements and shall submit proof of compliance by the end of the agent's birth month in even-numbered years. An agent born in an odd-numbered year shall complete all continuing education course or waiver requirements and shall submit proof of compliance by the end of the agent's birth month in odd-numbered years.

C. Agents who have completed all continuing education course, exemption, or waiver requirements by December 31 but failed to demonstrate proof of compliance by failing to pay the filing fee imposed by the Board shall be permitted to pay such filing fee for an additional period of time, until the close of business on January 31, or the next working day thereafter if January 31 falls on a weekend, of the following year, but only if the agent pays, in addition to the filing fee, a late filing penalty of \$100, payable to the Board in such manner as may be prescribed by the Board. No agent whose proof of compliance is received during this period shall be considered in compliance with the continuing education requirements unless the filing fee and the late filing penalty described herein are paid by the close of business on January 31, or the next working day thereafter if January 31 falls on a weekend.

D. Failure of an agent to furnish proof of compliance by the dates specified in subsections B and C and pay any applicable filing penalty shall result in license termination as set forth in § 38.2-1869.

E. Agents seeking a waiver of some or all of the course credit requirements for a biennium pursuant to § 38.2-1870 shall submit all documentation, forms, and fees specified by the Board so as to be received by the Board or its administrator no later than the deadlines set forth in subsections B and C.

F. Any agent holding one or more licenses subject to this article who fails to submit complete documentation showing proof of compliance with continuing education requirements, as well as all specified forms and fees, so as to be received by the Board or its administrator by the close of business on the dates described in this section shall be deemed to be in noncompliance with the requirements of this article.

G. A licensed agent who is unable to comply with the continuing education requirements of this article due to military service or other extenuating circumstances including long-term illness or incapacity may request a waiver of such requirements. Requests for waivers of continuing education requirements shall be made in a form and manner prescribed by the Board. Agents seeking a waiver of some or all of the continuing education requirements shall submit all documentation, forms, and fees specified by the Board so as to be received by the Board or its administrator no later than the last day of the two-year period set forth in subsection B and in §§ 38.2-1825.1 and 38.2-1840. After the two-year period, agents who have failed to complete the continuing education requirements may request a waiver of the continuing education reinstatement requirements set forth in subsection E of § 38.2-1825.1 and subsection E of § 38.2-1840 within the 12-month reinstatement period described therein. The Board shall approve or disapprove the waiver request within 30 days of receipt thereof and shall provide written notice of its decision to the waiver applicant within five days of rendering its decision. Any waiver granted pursuant to this subsection shall be valid only for the biennium for which waiver application was made.

D. All fees specified by the Board shall be nonrefundable once received by the Commission, the Board, or its the Board's administrator, except that duplicate payments may be refunded.

#### **§ 38.2-1869. Failure to satisfy requirements; termination of license.**

A. Failure of an agent to satisfy the complete all continuing education course or waiver requirements of this article within the time period specified, pay any fee imposed by the Board, or otherwise furnish proof of compliance during the two-year period set forth in subsection B of § 38.2-1868.1 either by obtaining the continuing education credits required and furnishing evidence of same to the Board or its administrator as required by this article, or by furnishing to the Board acceptable evidence of exemption from the requirements of this article, or by obtaining, in a manner prescribed by the Board pursuant to this article, a waiver of the requirements for that biennium shall result, subsequent to notification by the Board to the Commission, in the administrative termination, or to complete the license renewal requirements set forth in § 38.2-1825.1 or 38.2-1840, shall result in the termination, pursuant to § 38.2-1825.1 or 38.2-1840, of each license held by the agent for which the requirement was requirements of this article were not satisfied.

B. The Board shall, on or about a date six months prior to the end of each biennium, provide a status report to each agent who has not yet fully satisfied the requirements of this article for such biennium. Such report shall inform the agent of his current compliance status for each license held that is subject to this article, and the consequences associated with noncompliance, and shall be sent by first-class mail to such agent at his last-known residence address as shown in the Commission's records. Failure of an agent to receive such notification shall not be grounds for contesting license termination.

C. No administrative termination pursuant to this section shall become effective until the Commission has provided 30 calendar days' written notice of such impending termination to the agent by first-class mail sent to the agent at the agent's last known residence address as shown in the Commission's records. The notice period shall commence on the date that the written notice is deposited in the United States mail and, if the 30th calendar day falls on a weekend, the end of the notice period shall be extended to the next business day. Failure of an agent to receive such notification shall not be grounds for contesting a license termination. Any agent who obtained the required number of continuing education credits in the time permitted for obtaining such credits and paid any required fees shall be permitted to submit proof of compliance during the 30 calendar day notice period.

D. Neither the Board, its administrator, nor the Commission shall have the power to grant an agent additional time for completing the continuing education credits required by § 38.2-1866, or additional time for seeking waivers or submitting

proof of compliance as required by § 38.2-1868.1; ~~or additional time for seeking waivers or exemption pursuant to § 38.2-1870 or 38.2-1871.~~

~~E. Immediately following December 31 of each even-numbered year, the Board shall provide a reasonable period of time for processing of appeals pursuant to § 38.2-1874. C. An agent whose license has been terminated pursuant to § 38.2-1825.1 or 38.2-1840 for failure to satisfy the continuing education requirements of this article may appeal the determination of noncompliance to the Board. However, failure of an agent to provide written notice of appeal in the form and manner required prescribed by the Board by the close of business on January 31, or the next working day thereafter if January 31 falls on a weekend, of the following year within 30 calendar days following expiration of the two-year period set forth in subsection B of § 38.2-1868.1 and in §§ 38.2-1825 and 38.2-1840 shall be deemed a waiver by such agent of the right to appeal the determination of noncompliance with the Board.~~

~~F. No more than 15 calendar days after the end of the appeal period set forth in subsection E, the Board or its administrator shall provide to the Commission a final updated record of those agents who complied with the requirements of this article, whereupon the Commission shall administratively terminate the licenses of those agents required to submit proof of compliance and by whom proof of compliance was not submitted in a proper or timely manner. Agents wishing to contest the Commission's action in terminating a license shall adhere to the Commission's Rules of Practice and Procedure (5VAC5-20-10 et seq.) and the Rules of the Supreme Court of Virginia. Failure by the agent to initiate such contest within 30 calendar days following the date the license was administratively terminated shall be deemed a waiver by the agent of the right to contest such license termination.~~

~~G. D. Pursuant to the requirements of subsection C of § 38.2-1815; and §§ 38.2-1857.1; and 55-525.19, respectively:~~

~~1. A resident variable contract agent whose life and annuities insurance agent license is administratively terminated for failure to satisfy the requirements of this article shall also have such variable contract license administratively terminated by the Commission;~~

~~2. A resident agent holding a license as a surplus lines broker whose property and casualty insurance agent license is administratively terminated for failure to satisfy the requirements of this article shall also have such surplus lines broker license administratively terminated by the Commission; and~~

~~3. An agent holding a registration as a title settlement agent whose title insurance agent license is administratively terminated for failure to satisfy the requirements of this article shall also have such registration as a title settlement agent administratively terminated by the Commission.~~

~~Any such license or registration so terminated may be applied for again after the agent has obtained, respectively, a new life and annuities insurance agent's license, a new property and casualty insurance agent's license, or a new title insurance agent's license and appointment, if appointment is required.~~

~~H. A resident agent whose license or licenses have been terminated under the terms of this section shall be permitted to make application for new licenses, provided that such agent has successfully completed, subsequent to the end of the biennium, the examination required by § 38.2-1817. In such an event, the examination requirements shall not be subject to waiver under any circumstances, including those set forth in § 38.2-1817.~~

~~I. A nonresident agent whose license or licenses have been terminated under the terms of this section and who is in good standing in the person's state of residence shall be permitted to make application for new licenses in the manner prescribed by § 38.2-1836.~~

~~J. A resident or nonresident agent who voluntarily surrenders his license without prejudice during a biennium or prior to the expiration of the appeal period for that biennium as described in subsection E, and who has not provided proof of compliance for such biennium, shall not be permitted to apply for a new license of the same type until such agent has complied with the requirements of subsection H or I.~~

~~K. A resident agent whose license terminates because, within 180 calendar days prior to the end of a biennium, or prior to the expiration of the appeal period for that biennium as described in subsection E, such agent moves his residence to another state, and who had not, prior to such relocation, provided proof of compliance for such biennium shall not be permitted to apply for a new license of the same type until such agent has complied with the requirements of subsection I.~~

~~L. E. An insurance consultant who fails to renew his insurance consultant license by the date specified in § 38.2-1840, but who obtains a new reinstates his insurance consultant license within 12 months following such renewal date shall be treated, for purposes of determining exemption from continuing education requirements pursuant to § 38.2-1871, as if such insurance consultant license had been renewed in a timely manner.~~

#### **§ 38.2-1871. Licensees not subject to the continuing education requirements of this article.**

~~A. Resident A resident or nonresident agents agent who have has been issued a license during the last 12 13 months of the biennium in which such licenses are issued, and who are not otherwise exempt from the continuing education requirements for that license, two-year period set forth in subsection B of § 38.2-1868.1 and in §§ 38.2-1825.1 and 38.2-1840 shall be exempt from fulfilling the continuing education credit course requirements set forth in this article for that license for that biennium.~~

~~B. The following licensees are exempt from fulfilling not subject to the continuing education credit course requirements set forth in this article:~~

~~1. Life and health insurance consultants who are also licensed both as life and annuities insurance agents and as health agents and who satisfy the continuing education course requirements needed for continuation of their life and annuities and health agent licenses;~~

2. Property and casualty insurance consultants who are also licensed as property and casualty agents and who satisfy the continuing education *course* requirements needed for continuation of their property and casualty agent license;

3. Nonresident agents who furnish evidence in the form and manner required by the Board of their current good standing in their home state, provided that the insurance supervisory official of the nonresident agent's home state will grant similar exemptions to Virginia residents; and

4. Agents who have applied for and received a permanent exemption from the continuing education ~~credit course~~ requirements set forth in this article by December 31, 2018.

**§ 38.2-1872. Administrative duties of Board; transfer to outside administrator.**

A. The Board shall have the authority to transfer all or part of its administrative duties to an outside administrator. The performance of the administrator shall be confirmed at least annually by the Board and appropriate corrective action shall be taken for any deficiencies. Such administrator shall maintain records reflecting the continuing education status of all licensed agents reporting credits to it, subject to the requirements of this article.

~~B. The Board or its administrator shall following the end of each biennium and on a date and in a form acceptable to the Commission but in no event later than fifteen calendar days following the end of the appeal period provided by the Board pursuant to § 38.2-1869 provide to the Commission a report of all licensees who satisfied the requirements of this article for such biennium. The Board or its administrator shall not, however, be required to include in such report those licensees exempt pursuant to subsection A of § 38.2-1871. The administrative termination of licenses, as required by § 38.2-1869, shall be carried out by operation of law.~~

~~C.~~ The Board or its administrator shall be provided such information from the Commission's records as the Board may reasonably require in order to carry out its duties, including, but not limited to, (i) requesting and receiving from the Commission computer-generated reports, mailing labels, or other computer-generated information containing the names, license identification numbers, license types, and residence addresses of all licensees subject to the requirements of this article; and (ii) direct on-line access to such automated system data as the Commission may deem appropriate.

**§ 38.2-1873. Continuing insurance education fees.**

The continuing insurance education program established by this article shall be self-supporting, and any costs incurred by the ~~Board, its members, its administrator, or the Commission; administrator, or the Board or its members, including legal fees and other legal expenses incurred during or as a result of~~ in connection with the good faith execution of their *respective duties; pertaining to the continuing education of insurance agents licensed in the Commonwealth* shall be borne by the continuing insurance education fees paid by agents, course sponsors, and course instructors, which fees, except for duplicate payments, shall be nonrefundable upon receipt.

**§ 38.2-1876. Licensure of vendors.**

A. A vendor is required to hold a limited lines property and casualty insurance agent license to sell or offer coverage under a policy of portable electronics insurance.

~~B. On or before May 1, 2021, and biennially thereafter, each vendor licensed as a limited lines property and casualty insurance agent shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any limited lines property and casualty insurance agent license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any limited lines property and casualty insurance agent license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.~~

C. A license issued under this article shall authorize any employee or authorized representative of a licensed vendor to sell or offer portable electronics insurance coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in portable electronics transactions.

~~C.~~ D. The acts of a licensed vendor's employee or authorized representative offering to sell coverage under a policy of portable electronics insurance shall be deemed to be the acts of the vendor for purposes of this article.

~~D.~~ E. Every licensed vendor shall maintain a list of all locations in the Commonwealth where the vendor offers coverage under a policy of portable electronics insurance and shall make the list available to the Commissioner for inspection upon request.

~~E.~~ F. Notwithstanding any other provision of law, a license issued pursuant to this article shall authorize the licensed vendor's employees and authorized representatives to engage only in those activities that are expressly permitted in this article.

**§ 38.2-1882. Licensure of lessors.**

A. A lessor is required to hold a limited lines property and casualty insurance agent license to sell or offer coverage under a policy of self storage insurance.

~~B. On or before May 1, 2021, and biennially thereafter, each lessor licensed as a limited lines property and casualty insurance agent shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any limited lines property and casualty insurance agent license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any limited lines property~~

and casualty insurance agent license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.

C. A license issued under this article shall authorize any employee or authorized representative of a licensed lessor to sell or offer self storage insurance coverage under a policy of self storage insurance to a customer at each location at which the lessor engages in self storage unit transactions.

~~C~~ D. The acts of a licensed lessor's employee or authorized representative offering to sell coverage under a policy of self storage insurance shall be deemed to be the acts of the lessor and the insurer for purposes of this article.

~~D~~ E. Every licensed lessor shall maintain a list of all locations in the Commonwealth where the lessor offers coverage under a policy of self storage insurance and shall make the list available to the Commissioner for inspection upon request.

~~E~~ F. Notwithstanding any other provision of law, a license issued pursuant to this article shall authorize the licensed lessor's employees and authorized representatives to engage only in those activities that are expressly permitted in this article.

**§ 38.2-1888. Requirements for sale of travel insurance.**

A. A travel retailer may offer and disseminate travel insurance under its own or another's limited lines travel insurance agent license only if the following conditions are met:

1. Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that:

a. Provide the identity and contact information of the insurer and the limited lines travel insurance agent;

b. Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

c. Explain that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage;

2. The limited lines travel insurance agent or travel retailer provides to purchasers of travel insurance:

a. A description of the material terms or the actual material terms of the insurance coverage;

b. A description of the process for filing a claim;

c. A description of the review or cancellation process for the travel insurance policy; and

d. The identity and contact information of the insurer and limited lines travel insurance agent;

3. At the time of licensure, the limited lines travel insurance agent shall establish and maintain a register on a form prescribed by the Commission of each travel retailer that offers travel insurance on the limited lines travel insurance agent's behalf. The register shall be maintained and updated by the limited lines travel insurance agent and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's Federal Tax Identification Number. The limited lines travel insurance agent shall submit such register to the Commission upon reasonable request. The limited lines travel insurance agent shall also certify that the travel retailer registered complies with 18 U.S.C. § 1033;

4. The limited lines travel insurance agent has designated a DRLP;

5. The DRLP, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance agent's insurance operations complies with a background check or fingerprinting requirements applicable to insurance agents;

6. The limited lines travel insurance agent has paid all applicable insurance agent licensing fees as set forth in this title; ~~and~~

7. The limited lines travel insurance agent requires each employee or authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the Commission. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers; *and*

8. *On or before May 1, 2021, and biennially thereafter, each travel retailer licensed as a limited lines travel insurance agent shall submit to the Commission a renewal application, along with a nonrefundable renewal application processing fee prescribed by the Commission, for the renewal of the license. Any limited lines travel insurance agent license for which the renewal application and nonrefundable renewal application processing fee have been received by the Commission and all other applicable licensing and renewal provisions in this chapter have been met shall, unless the license has been terminated, suspended, or revoked, be renewed for a two-year period. Any limited lines travel insurance agent license for which the renewal application and nonrefundable renewal application processing fee have not been received by the Commission shall automatically be terminated.*

B. A travel retailer's employee or authorized representative who is not licensed as an insurance agent may not:

1. Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

2. Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

3. Hold himself or itself out as a licensed insurer, licensed agent, or insurance expert.

C. A travel retailer whose insurance-related activities, and those of its employees or authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction and license of a limited lines travel insurance agent meeting the conditions stated in this article is authorized to conduct such activities and receive related

compensation, upon registration by the limited lines travel insurance agent as described in subdivision A 3. No travel retailer employee or authorized representative may be compensated based primarily on the number of customers who purchase travel insurance coverage; however, nothing in this article shall prohibit payment of compensation to a travel retailer or its employees or authorized representatives for activities under the limited lines travel insurance agent's license that are incidental to the travel retailer's or its employee's or authorized representative's overall compensation.

D. Travel insurance may be provided under an individual policy or under a group or master policy.

E. As the insurer designee, the limited lines travel insurance agent and the insurer (i) are responsible for the acts of a travel retailer who is not a limited lines travel insurance agent and (ii) shall use reasonable means to ensure compliance by the travel retailer with this article.

**§ 55-525.30. Settlement agent registration requirements and compliance with unauthorized practice of law guidelines.**

A. Every settlement agent subject to the provisions of this chapter shall be registered as such with the appropriate licensing authority. In conjunction therewith, settlement agents shall furnish (i) their names, business addresses, and telephone numbers and (ii) such other information as may be required. Each such registration (a) shall be accompanied by a nonrefundable fee ~~not to exceed \$100~~, prescribed by the appropriate licensing authority and (b) shall be renewed at least biennially thereafter. When the registration of a settlement agent is renewed, the appropriate authority shall notify the registrant of the provisions of § 17.1-223.

*B. The Commission shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this title and Title 38.2 against any person who is under investigation by the Commission for or charged with a violation of this title, even if the person's license or registration has been surrendered, terminated, suspended, or revoked or has lapsed by operation of law.*

C. The Virginia State Bar, in consultation with the Commission and the Virginia Real Estate Board, shall adopt regulations establishing guidelines for settlement agents designed to assist them in avoiding and preventing the unauthorized practice of law in conjunction with providing escrow, closing, and settlement services. Such guidelines shall be furnished by the appropriate licensing authority to (i) each settlement agent at the time of registration and any renewal thereof, (ii) state and federal agencies that regulate financial institutions, and (iii) members of the general public upon request. Such guidelines shall also be furnished by settlement agents to any party to a real estate transaction in which such agents are providing escrow, closing, or settlement services, upon request.

~~C. D.~~ D. The Virginia State Bar shall receive complaints concerning settlement agent or financial institution noncompliance with the guidelines established pursuant to subsection ~~B~~ C and shall (i) investigate the same to the extent they concern the unauthorized practice of law or any other matter within its jurisdiction, and (ii) refer all other matters or allegations to the appropriate licensing authority. The willful failure of any settlement agent to comply with the guidelines shall be considered a violation of this chapter, and such agent shall be subject to a penalty of up to \$5,000 for each such failure as the Virginia State Bar may determine.

**2. That §§ 38.2-1857.3, 38.2-1857.4, and 38.2-1870 of the Code of Virginia are repealed.**

**3. That the provisions of this act shall become effective on January 1, 2021.**

## CHAPTER 676

*An Act to amend and reenact § 63.2-905.2 of the Code of Virginia, relating to foster care; security freeze on credit report.*

[S 1253]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-905.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-905.2. Security freezes and annual credit checks for children in foster care.**

A. *Local departments shall request the placement of a security freeze pursuant to the provisions of § 59.1-444.3 on the credit report or record of any child who is less than 16 years of age and has been in foster care for at least six months in order to prevent cases of identity theft and misuse of personal identifying information. The local department shall request removal of the security freeze (i) upon the child's removal from foster care, (ii) upon the child's request if the child is 16 years of age or older, or (iii) upon a determination by the local department that removal of the security freeze is in the best interest of the child.*

B. *Local departments shall conduct annual credit checks on all children 14 years of age ~~and~~ or older but less than 18 years of age who are in foster care to identify cases of identity theft or misuse of personal identifying information of such children. Local departments shall resolve, to the greatest extent possible, cases of identity theft or misuse of personal identifying information of foster care children identified pursuant to this section.*

**ACTS  
OF THE  
GENERAL ASSEMBLY**



**2019 REGULAR SESSION**

**VOLUME I**

**VOLUME II**

**VOLUME III**



**ACTS**

**OF THE**

**GENERAL ASSEMBLY**

**OF THE**

**COMMONWEALTH OF VIRGINIA**

**2019 REGULAR SESSION**

**which met at the State Capitol, Richmond**

**Convened Wednesday, January 9, 2019**

**Adjourned sine die Sunday, February 24, 2019**

**Reconvened Wednesday, April 3, 2019**

**Adjourned sine die Wednesday, April 3, 2019**

**VOLUME II**

**CHAPTERS 677-854**

**COMMONWEALTH OF VIRGINIA**  
**RICHMOND**  
**2019**

**Compiled by the Clerk's Office**

**The House of Delegates**

**G. Paul Nardo**

**Clerk of the House of Delegates**

**and**

**Keeper of the Rolls of the Commonwealth**

**Jeffrey A. Finch**

**Deputy Clerk, Legislative Operations**

**Jacqueline D. Scott**

**Indexing and Enrolling Director**

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Deborah R. Passmore  
Zachery S. Villegas**

**in cooperation with the**

**Senate of Virginia,  
Division of Legislative Services,  
and  
Division of Legislative Automated Systems**

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## CHAPTER 677

*An Act to amend and reenact § 63.2-905.2 of the Code of Virginia, relating to foster care; security freeze on credit report.*

[H 1730]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-905.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-905.2. Security freezes and annual credit checks for children in foster care.**

A. Local departments shall request the placement of a security freeze pursuant to the provisions of § 59.1-444.3 on the credit report or record of any child who is less than 16 years of age and has been in foster care for at least six months in order to prevent cases of identity theft and misuse of personal identifying information. The local department shall request removal of the security freeze (i) upon the child's removal from foster care, (ii) upon the child's request if the child is 16 years of age or older, or (iii) upon a determination by the local department that removal of the security freeze is in the best interest of the child.

B. Local departments shall conduct annual credit checks on all children 14 years of age ~~and~~ or older but less than 18 years of age who are in foster care to identify cases of identity theft or misuse of personal identifying information of such children. Local departments shall resolve, to the greatest extent possible, cases of identity theft or misuse of personal identifying information of foster care children identified pursuant to this section.

## CHAPTER 678

*An Act to authorize the Commonwealth to convey property to Mount Rogers Community Services Board and to Smyth County.*

[S 1515]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Commonwealth, with approval of the Governor pursuant to § 2.2-1150 of the Code of Virginia, is hereby authorized to convey to the Mount Rogers Community Services Board, upon such terms and conditions as may be agreed to by the parties, a parcel of land consisting of approximately 7.095 acres (a portion of Tax Map Parcel 221-130-1) in the northeast corner of the campus, previously used by the Department of Behavioral Health and Developmental Services as the Southwestern Virginia Mental Health Institute. The conveyance shall be made without consideration.*

**§ 2.** *The Commonwealth, with approval of the Governor pursuant to § 2.2-1150 of the Code of Virginia, is hereby authorized to convey to Smyth County, upon such terms and conditions as may be agreed to by the parties, a parcel of land consisting of approximately 3.76 acres (a portion of Tax Map Parcel 221-130-1), containing a building and supporting parking currently leased to Smyth County. The terms of such conveyance shall include the provision of heating to the building by the Commonwealth for no more than two years at the current market price for such services. The conveyance shall be made without consideration.*

**§ 3.** *The conveyance shall be made in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.*

## CHAPTER 679

*An Act to amend and reenact § 54.1-2523 of the Code of Virginia, relating to Department of Corrections; disclosure of information; delivery of controlled substances to prisoners.*

[S 1516]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2523 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director.**

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 2 of § 2.2-3705.5. Records in possession of the Prescription Monitoring Program shall not be available for civil subpoena, nor shall such records be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

5. Information relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1 to a probation or parole officer as described in Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1 or a local community-based probation officer as described in § 9.1-176.1 who has completed the Virginia State Police Drug Diversion School designated by the Director of the Department of Corrections or his designee.

6. *Information relevant to a specific investigation of a specific individual into a possible delivery of a controlled substance in violation of § 18.2-474.1 to an investigator for the Department of Corrections who has completed the Virginia State Police Drug Diversion School and who has been designated by the Director of the Department of Corrections or his designee.*

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is consulting on or initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in (i) determining the validity of a prescription in accordance with § 54.1-3303 or (ii) providing clinical consultation on the care and treatment of the recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Program, to that prescriber.

9. Information about a specific recipient who is a member of a Virginia Medicaid managed care program to a physician or pharmacist licensed in the Commonwealth and employed by the Virginia Medicaid managed care program or to his clinical designee who holds a multistate licensure privilege to practice nursing or a license issued by a health regulatory board within the Department of Health Professions and is employed by the Virginia Medicaid managed care program. Such information shall only be used to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. Notice shall be given to recipients that information may be requested by

a licensed physician or pharmacist employed by the Virginia Medicaid managed care program from the Prescription Monitoring Program.

10. (Expires July 1, 2022) Information to the Board of Medicine about prescribers who meet a certain threshold for prescribing covered substances for the purpose of requiring relevant continuing education. The threshold shall be determined by the Board of Medicine in consultation with the Program.

11. Information about a specific recipient who is currently eligible for and receiving medical assistance from the Department of Medical Assistance Services to a physician or pharmacist licensed in the Commonwealth or to his clinical designee who holds a multistate licensure privilege to practice nursing or a license issued by a health regulatory board within the Department of Health Professions and is employed by the Department of Medical Assistance Services.

Such information shall be used only to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. Notice shall be given to recipients that information may be requested by a licensed physician or pharmacist employed by the Department of Medical Assistance Services from the Prescription Monitoring Program.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

## CHAPTER 680

*An Act to direct the Board of Health Professions to evaluate whether music therapists and the practice of music therapy should be regulated and the degree of regulation to be imposed.*

[S 1547]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

1. § 1. *That the Board of Health Professions shall, pursuant to subdivision 2 of § 54.1-2510 of the Code of Virginia, evaluate whether music therapists and the practice of music therapy should be regulated and the degree of regulation to be imposed. The Board of Health Professions shall report the results of its evaluation to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2019.*

## CHAPTER 681

*An Act to amend and reenact §§ 54.1-3408.3 and 54.1-3442.6 of the Code of Virginia, relating to Board of Pharmacy; cannabidiol oil and THC-A oil; regulation of pharmaceutical processors.*

[S 1557]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

1. **That §§ 54.1-3408.3 and 54.1-3442.6 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 54.1-3408.3. Certification for use of cannabidiol oil or THC-A oil for treatment.**

A. As used in this section:

"Cannabidiol oil" means ~~a~~ any formulation of processed Cannabis plant extract that contains at least 15 percent cannabidiol but no more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol per milliliter dose but not more than five percent tetrahydrocannabinol.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing.

"THC-A oil" means ~~a~~ any formulation of processed Cannabis plant extract that contains at least 15 percent tetrahydrocannabinol acid but not more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of tetrahydrocannabinol acid per milliliter dose but not more than five percent tetrahydrocannabinol.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabidiol oil or THC-A oil for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

H. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed physicians or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor involved in the treatment of a registered patient, or (v) a registered patient or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

#### **§ 54.1-3442.6. Permit to operate pharmaceutical processor.**

A. No person shall operate a pharmaceutical processor without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely and securely cultivating Cannabis plants intended for producing cannabidiol oil and THC-A oil, producing cannabidiol oil and THC-A oil, and dispensing and delivering in person cannabidiol oil and THC-A oil to a registered patient or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; (x) the secure disposal of plant remains; ~~and~~ (xi) a process for registering a cannabidiol oil and THC-A oil product; *and (xii) dosage limitations, which shall provide that each dispensed dose of cannabidiol oil or THC-A not exceed 10 milligrams of tetrahydrocannabinol.*

D. Every pharmaceutical processor shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor.

E. The Board shall require an applicant for a pharmaceutical processor permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

F. No person who has been convicted of a felony or of any offense in violation of Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 shall be employed by or act as an agent of a pharmaceutical processor.

**2. That the Secretary of Health and Human Resources and the Secretary of Agriculture and Forestry shall convene a work group to review and recommend an appropriate structure for oversight in Virginia. The work group shall**

report, by November 1, 2019, its findings and recommendations to the Chairmen of the Senate Committees on Agriculture, Conservation and Natural Resources and Education and Health and the House Committees on Agriculture, Chesapeake and Natural Resources and Health, Welfare and Institutions.

### CHAPTER 682

*An Act to direct the State Board of Elections to revise its regulations for reviewing and processing candidate petitions.*

[S 1564]

Approved March 21, 2019

#### **Be it enacted by the General Assembly of Virginia:**

1. § 1. *That the State Board of Elections, on or before January 1, 2020, shall revise its processes and associated regulations for reviewing and processing candidate petitions. Such revisions shall provide a process for checking petition signatures that includes a method for determining if a petition signature belongs to an individual whose prior registration has been canceled and the reason for such cancellation. The process shall provide for the tracking of such information associated with each petition. The process shall provide for the escalation of cases of suspected fraud to the electoral board, the State Board, or the office of the attorney for the Commonwealth, as appropriate.*

### CHAPTER 683

*An Act to amend and reenact §§ 38.2-3407.15 and 38.2-3407.15:2 of the Code of Virginia, relating to health insurance; carrier business practices; authorization of health care services.*

[S 1607]

Approved March 21, 2019

#### **Be it enacted by the General Assembly of Virginia:**

1. **That §§ 38.2-3407.15 and 38.2-3407.15:2 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 38.2-3407.15. Ethics and fairness in carrier business practices.**

A. As used in this section:

"Carrier," "enrollee" and "provider" shall have the meanings set forth in § 38.2-3407.10; however, a "carrier" shall also include any person required to be licensed under this title which offers or operates a managed care health insurance plan subject to Chapter 58 (§ 38.2-5800 et seq.) of this title or which provides or arranges for the provision of health care services, health plans, networks or provider panels which are subject to regulation as the business of insurance under this title.

"Claim" means any bill, claim, or proof of loss made by or on behalf of an enrollee or a provider to a carrier (or its intermediary, administrator or representative) with which the provider has a provider contract for payment for health care services under any health plan; however, a "claim" shall not include a request for payment of a capitation or a withhold.

"Clean claim" means a claim (i) that has no material defect or impropriety (including any lack of any reasonably required substantiation documentation) which substantially prevents timely payment from being made on the claim or (ii) with respect to which a carrier has failed timely to notify the person submitting the claim of any such defect or impropriety in accordance with this section.

"Health care services" means items or services furnished to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability.

"Health plan" means any individual or group health care plan, subscription contract, evidence of coverage, certificate, health services plan, medical or hospital services plan, accident and sickness insurance policy or certificate, managed care health insurance plan, or other similar certificate, policy, contract or arrangement, and any endorsement or rider thereto, to cover all or a portion of the cost of persons receiving covered health care services, which is subject to state regulation and which is required to be offered, arranged or issued in the Commonwealth by a carrier licensed under this title. Health plan does not mean (i) coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid) or Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE); or (ii) accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages.

"Provider contract" means any contract between a provider and a carrier (or a carrier's network, provider panel, intermediary or representative) relating to the provision of health care services.

"Retroactive denial of a previously paid claim" or "retroactive denial of payment" means any attempt by a carrier retroactively to collect payments already made to a provider with respect to a claim by reducing other payments currently owed to the provider, by withholding or setting off against future payments, or in any other manner reducing or affecting the future claim payments to the provider.

B. Subject to subsection H, every provider contract entered into by a carrier shall contain specific provisions which shall require the carrier to adhere to and comply with the following minimum fair business standards in the processing and payment of claims for health care services:

1. A carrier shall pay any claim within 40 days of receipt of the claim except where the obligation of the carrier to pay a claim is not reasonably clear due to the existence of a reasonable basis supported by specific information available for review by the person submitting the claim that:

a. The claim is determined by the carrier not to be a clean claim due to a good faith determination or dispute regarding (i) the manner in which the claim form was completed or submitted, (ii) the eligibility of a person for coverage, (iii) the responsibility of another carrier for all or part of the claim, (iv) the amount of the claim or the amount currently due under the claim, (v) the benefits covered, or (vi) the manner in which services were accessed or provided; or

b. The claim was submitted fraudulently.

Each carrier shall maintain a written or electronic record of the date of receipt of a claim. The person submitting the claim shall be entitled to inspect such record on request and to rely on that record or on any other admissible evidence as proof of the fact of receipt of the claim, including without limitation electronic or facsimile confirmation of receipt of a claim.

2. A carrier shall, within 30 days after receipt of a claim, request electronically or in writing from the person submitting the claim the information and documentation that the carrier reasonably believes will be required to process and pay the claim or to determine if the claim is a clean claim. Upon receipt of the additional information requested under this subsection necessary to make the original claim a clean claim, a carrier shall make the payment of the claim in compliance with this section. No carrier may refuse to pay a claim for health care services rendered pursuant to a provider contract which are covered benefits if the carrier fails timely to notify or attempt to notify the person submitting the claim of the matters identified above unless such failure was caused in material part by the person submitting the claims; however, nothing herein shall preclude such a carrier from imposing a retroactive denial of payment of such a claim if permitted by the provider contract unless such retroactive denial of payment of the claim would violate subdivision 6 of this subsection 7. Nothing in this subsection shall require a carrier to pay a claim which is not a clean claim.

3. Any interest owing or accruing on a claim under § 38.2-3407.1 or 38.2-4306.1 of this title, under any provider contract or under any other applicable law, shall, if not sooner paid or required to be paid, be paid, without necessity of demand, at the time the claim is paid or within 60 days thereafter.

4. a. Every carrier shall establish and implement reasonable policies to permit any provider with which there is a provider contract (i) to confirm in advance during normal business hours by free telephone or electronic means if available whether the health care services to be provided are medically necessary and a covered benefit and (ii) to determine the carrier's requirements applicable to the provider (or to the type of health care services which the provider has contracted to deliver under the provider contract) for (a) pre-certification or authorization of coverage decisions, (b) retroactive reconsideration of a certification or authorization of coverage decision or retroactive denial of a previously paid claim, (c) provider-specific payment and reimbursement methodology, coding levels and methodology, downcoding, and bundling of claims, and (d) other provider-specific, applicable claims processing and payment matters necessary to meet the terms and conditions of the provider contract, including determining whether a claim is a clean claim. If a carrier routinely, as a matter of policy, bundles or downcodes claims submitted by a provider, the carrier shall clearly disclose that practice in each provider contract. Further, such carrier shall either (1) disclose in its provider contracts or on its website the specific bundling and downcoding policies that the carrier reasonably expects to be applied to the provider or provider's services on a routine basis as a matter of policy or (2) disclose in each provider contract a telephone or facsimile number or e-mail address that a provider can use to request the specific bundling and downcoding policies that the carrier reasonably expects to be applied to that provider or provider's services on a routine basis as a matter of policy. If such request is made by or on behalf of a provider, a carrier shall provide the requesting provider with such policies within 10 business days following the date the request is received.

b. Every carrier shall make available to such providers within 10 business days of receipt of a request, copies of or reasonable electronic access to all such policies which are applicable to the particular provider or to particular health care services identified by the provider. In the event the provision of the entire policy would violate any applicable copyright law, the carrier may instead comply with this subsection by timely delivering to the provider a clear explanation of the policy as it applies to the provider and to any health care services identified by the provider.

5. Every carrier shall pay a claim if the carrier has previously authorized the health care service or has advised the provider or enrollee in advance of the provision of health care services that the health care services are medically necessary and a covered benefit, unless:

a. The documentation for the claim provided by the person submitting the claim clearly fails to support the claim as originally authorized; or

b. The carrier's refusal is because (i) another payor is responsible for the payment, (ii) the provider has already been paid for the health care services identified on the claim, (iii) the claim was submitted fraudulently or the authorization was based in whole or material part on erroneous information provided to the carrier by the provider, enrollee, or other person not related to the carrier, or (iv) the person receiving the health care services was not eligible to receive them on the date of service and the carrier did not know, and with the exercise of reasonable care could not have known, of the person's eligibility status; or

c. *During the post-service claims process, it is determined that the claim was submitted fraudulently.*

6. *In the case of an invasive or surgical procedure, if the carrier has previously authorized a health care service as medically necessary and during the procedure the health care provider discovers clinical evidence prompting the provider*

*to perform a less or more extensive or complicated procedure than was previously authorized, then the carrier shall pay the claim, provided that the additional procedures were (i) not investigative in nature, but medically necessary as a covered service under the covered person's benefit plan; (ii) appropriately coded consistent with the procedure actually performed; and (iii) compliant with a carrier's post-service claims process, including required timing for submission to carrier.*

~~6~~ 7. No carrier may impose any retroactive denial of a previously paid claim unless the carrier has provided the reason for the retroactive denial and (i) the original claim was submitted fraudulently, (ii) the original claim payment was incorrect because the provider was already paid for the health care services identified on the claim or the health care services identified on the claim were not delivered by the provider, or (iii) the time which has elapsed since the date of the payment of the original challenged claim does not exceed the lesser of (a) 12 months or (b) the number of days within which the carrier requires under its provider contract that a claim be submitted by the provider following the date on which a health care service is provided. Effective July 1, 2000, a carrier shall notify a provider at least 30 days in advance of any retroactive denial of a claim.

~~7~~ 8. Notwithstanding subdivision ~~6 of this subsection~~ 7, with respect to provider contracts entered into, amended, extended, or renewed on or after July 1, 2004, no carrier shall impose any retroactive denial of payment or in any other way seek recovery or refund of a previously paid claim unless the carrier specifies in writing the specific claim or claims for which the retroactive denial is to be imposed or the recovery or refund is sought. The written communication shall also contain an explanation of why the claim is being retroactively adjusted.

~~8~~ 9. No provider contract may fail to include or attach at the time it is presented to the provider for execution (i) the fee schedule, reimbursement policy or statement as to the manner in which claims will be calculated and paid which is applicable to the provider or to the range of health care services reasonably expected to be delivered by that type of provider on a routine basis and (ii) all material addenda, schedules and exhibits thereto and any policies (including those referred to in subdivision ~~4 of this subsection~~) applicable to the provider or to the range of health care services reasonably expected to be delivered by that type of provider under the provider contract.

~~9~~ 10. No amendment to any provider contract or to any addenda, schedule, exhibit or policy thereto (or new addenda, schedule, exhibit, or policy) applicable to the provider (or to the range of health care services reasonably expected to be delivered by that type of provider) shall be effective as to the provider, unless the provider has been provided with the applicable portion of the proposed amendment (or of the proposed new addenda, schedule, exhibit, or policy) at least 60 calendar days before the effective date and the provider has failed to notify the carrier within 30 calendar days of receipt of the documentation of the provider's intention to terminate the provider contract at the earliest date thereafter permitted under the provider contract.

~~10~~ 11. In the event that the carrier's provision of a policy required to be provided under subdivision ~~8 9 or 9 of this subsection~~ 10 would violate any applicable copyright law, the carrier may instead comply with this section by providing a clear, written explanation of the policy as it applies to the provider.

~~11~~ 12. All carriers shall establish, in writing, their claims payment dispute mechanism and shall make this information available to providers.

C. Without limiting the foregoing, in the processing of any payment of claims for health care services rendered by providers under provider contracts and in performing under its provider contracts, every carrier subject to regulation by this title shall adhere to and comply with the minimum fair business standards required under subsection B, and the Commission shall have the jurisdiction to determine if a carrier has violated the standards set forth in subsection B by failing to include the requisite provisions in its provider contracts and shall have jurisdiction to determine if the carrier has failed to implement the minimum fair business standards set out in subdivisions B 1 and ~~B~~ 2 in the performance of its provider contracts.

D. No carrier shall be in violation of this section if its failure to comply with this section is caused in material part by the person submitting the claim or if the carrier's compliance is rendered impossible due to matters beyond the carrier's reasonable control (such as an act of God, insurrection, strike, fire, or power outages) which are not caused in material part by the carrier.

E. Any provider who suffers loss as the result of a carrier's violation of this section or a carrier's breach of any provider contract provision required by this section shall be entitled to initiate an action to recover actual damages. If the trier of fact finds that the violation or breach resulted from a carrier's gross negligence and willful conduct, it may increase damages to an amount not exceeding three times the actual damages sustained. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such provider also may be awarded reasonable attorney's fees and court costs. Each claim for payment which is paid or processed in violation of this section or with respect to which a violation of this section exists shall constitute a separate violation. The Commission shall not be deemed to be a "trier of fact" for purposes of this subsection.

F. No carrier (or its network, provider panel or intermediary) shall terminate or fail to renew the employment or other contractual relationship with a provider, or any provider contract, or otherwise penalize any provider, for invoking any of the provider's rights under this section or under the provider contract.

G. This section shall apply only to carriers subject to regulation under this title.

H. This section shall apply with respect to provider contracts entered into, amended, extended or renewed on or after July 1, 1999.

I. Pursuant to the authority granted by § 38.2-223, the Commission may promulgate such rules and regulations as it may deem necessary to implement this section.

J. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

**§ 38.2-3407.15:2. Carrier contracts; required provisions regarding prior authorization.**

A. As used in this section, unless the context requires a different meaning:

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Prior authorization" means the approval process used by a carrier before certain drug benefits may be provided.

"Provider contract" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Supplementation" means a request communicated by the carrier to the prescriber or his designee, for additional information, limited to items specifically requested on the applicable prior authorization request, necessary to approve or deny a prior authorization request.

B. Any provider contract between a carrier and a participating health care provider *with prescriptive authority*, or its contracting agent, shall contain specific provisions that:

1. Require the carrier to, in a method of its choosing, accept telephonic, facsimile, or electronic submission of prior authorization requests that are delivered from e-prescribing systems, electronic health record systems, and health information exchange platforms that utilize the National Council for Prescription Drug Programs' SCRIPT standards;

2. Require that the carrier communicate to the prescriber or his designee within 24 hours, *including weekend hours*, of submission of an urgent prior authorization request to the carrier, if submitted telephonically or in an alternate method directed by the carrier, that the request is approved, denied, or requires supplementation;

3. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a fully completed prior authorization request, that the request is approved, denied, or requires supplementation;

4. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a properly completed supplementation from the prescriber or his designee, that the request is approved or denied;

5. Require that if the prior authorization request is denied, the carrier shall communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within the timeframes established by subdivision 3 or 4, as applicable, the reasons for the denial;

6. Require that prior authorization approved by another carrier be honored, *upon the carrier's receipt from the prescriber or his designee of a record demonstrating the previous carrier's prior authorization approval or any written or electronic evidence of the previous carrier's coverage of such drug*, at least for the initial 30 days of a member's prescription drug benefit coverage *under a new health plan*, subject to the provisions of the new carrier's evidence of coverage; ~~upon the carrier's receipt from the prescriber or his designee, of a record demonstrating the previous carrier's prior authorization approval;~~

7. Require that a tracking system be used by the carrier for all prior authorization requests and that the identification information be provided electronically, telephonically, or by facsimile to the prescriber or his designee, upon the carrier's response to the prior authorization request; ~~and~~

8. Require that the carrier's prescription drug formularies, all drug benefits subject to prior authorization by the carrier, all of the carrier's prior authorization procedures, and all prior authorization request forms accepted by the carrier be made available through one central location on the carrier's website and that such information be updated by the carrier within seven days of approved changes;

9. *Require a carrier to honor a prior authorization issued by the carrier for a drug, other than an opioid, regardless of changes in dosages of such drug, provided such drug is prescribed consistent with FDA labeled dosages;*

10. *Require a carrier to honor a prior authorization issued by the carrier for a drug regardless if the covered person changes plans with the same carrier and the drug is a covered benefit with the current health plan;*

11. *Require a carrier, when requiring a prescriber to provide supplemental information that is in the covered individual's health record or electronic health record, to identify the specific information required; and*

12. *Require that no prior authorization be required for at least one drug prescribed for substance abuse medication-assisted treatment, provided that (i) the drug is a covered benefit, (ii) the prescription does not exceed the FDA labeled dosages, and (iii) the drug is prescribed consistent with the regulations of the Board of Medicine.*

C. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

D. This section shall apply with respect to any contract between a carrier and a participating health care provider, or its contracting agent, that is entered into, amended, extended, or renewed on or after January 1, 2016.

E. Notwithstanding any law to the contrary, the provisions of this section shall not apply to:

1. Coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or 10 U.S.C. § 1071 et seq. (TRICARE);

2. The state employee health insurance plan established pursuant to § 2.2-2818;

3. Accident only, credit or disability insurance, long-term care insurance, TRICARE supplement, Medicare supplement, or workers' compensation coverages;

4. Any dental services plan or optometric services plan as defined in § 38.2-4501; or

5. Any health maintenance organization that (i) contracts with one multispecialty group of physicians who are employed by and are shareholders of the multispecialty group, which multispecialty group of physicians may also contract with health care providers in the community; (ii) provides and arranges for the provision of physician services by such multispecialty group physicians or by such contracted health care providers in the community; and (iii) receives and processes at least 85 percent of prescription drug prior authorization requests in a manner that is interoperable with e-prescribing systems, electronic health records, and health information exchange platforms.

## CHAPTER 684

*An Act to amend and reenact §§ 38.2-4214, 38.2-4319, and 54.1-2910.01 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 34 of Title 38.2 an article numbered 8, consisting of sections numbered 38.2-3461 through 38.2-3464, relating to health care shared savings; required disclosures by health care providers; and health insurance incentive programs.*

[S 1611]

Approved March 21, 2019

### Be it enacted by the General Assembly of Virginia:

**1. That §§ 38.2-4214, 38.2-4319, and 54.1-2910.01 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 34 of Title 38.2 an article numbered 8, consisting of sections numbered 38.2-3461 through 38.2-3464, as follows:**

#### *Article 8.*

#### *Health Care Shared Savings.*

##### **§ 38.2-3461. Definitions.**

*As used in this article, unless the context requires a different meaning:*

*"Allowed amount" means the contractually agreed upon amount paid or payable by a health carrier to a health care provider participating in the health carrier's network.*

*"Average" means mean, median, or mode.*

*"Comparable health care service" means any (i) physical and occupational therapy service, (ii) radiology and imaging service, (iii) laboratory service, (iv) infusion therapy service, and (v) at the discretion of the health carrier, other health care service, provided that with respect to any service described in clauses (i) through (v) the service (a) is a covered non-emergency health care service or bundle of health care services provided by a network provider and (b) is a service for which the health carrier has not demonstrated that the allowed amount variation among participating providers is less than \$50.*

*"Covered person" means a policyholder, subscriber, participant, or other individual covered by a health benefit plan.*

*"Health benefit plan" means a policy, contract, certificate, or agreement offered by a health carrier in the small group market to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services. "Health benefit plan" does not include the "excepted benefits" as defined in § 38.2-3431. "Health benefit plan" does not include any health insurance plan administered by the Department of Human Resource Management, including the health coverage offered to state employees pursuant to § 2.2-2818; health insurance coverage offered to employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, local officers, teachers and retirees pursuant to § 2.2-1204; or health insurance coverage provided under the Line of Duty Act (§ 9.1-400 et seq.).*

*"Health care provider" means a health care professional or facility.*

*"Health care service" means a service for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.*

*"Health carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health services plan, or any other entity providing a plan of health insurance, health benefits, or health care services.*

*"Network" or "provider network" means the group of participating providers providing services to a health benefit plan under which the financing and delivery of health care services are provided, in whole or in part, through a defined set of health care providers.*

*"Network provider" means a health care provider that has contracted with the health carrier, or with its contractor or subcontractor, to provide health care services to covered persons as a member of a network.*

*"Out-of-pocket costs" means any copayment, deductible, or coinsurance that is the responsibility of the covered person with respect to a covered health care service.*

*"Program" means the comparable health care service incentive program established by a health carrier pursuant to this article.*

*"Small group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan maintained by a small employer.*

**§ 38.2-3462. Comparable Health Care Service Incentive Program.**

A. Beginning with health benefit plans offered or renewed on or after January 1, 2021, each health carrier offering a health benefit plan in the Commonwealth shall develop and implement a program that provides incentives for covered persons in its health benefit plan who elect to receive a comparable health care service that is covered by the health benefit plan from health care providers that are paid less than the average in-network allowed amount paid or payable by that health carrier to network providers for that comparable health care service. A health carrier may base the average paid to a network provider on what that health carrier pays to providers in the network applicable to the covered person's specific health benefit plan, or across all of its health benefit plans offered in the Commonwealth.

B. Incentives may include, but are not limited to, cash payments, gift cards, or credits or reductions of premiums, copayments, or deductibles. Health carriers may let covered persons decide which method they prefer to receive the incentive.

C. The incentive program shall provide covered persons with an incentive for each service or category of comparable health care service resulting from comparison shopping by covered persons. A health carrier is not required to provide a payment or credit to a covered person when the health carrier's saved cost is \$25 or less.

D. A health carrier shall determine the allowed amount paid or payable by that health carrier to network providers for that comparable health care service on the basis of the average allowed amount for the procedure or service under the covered person's health benefit plan. Such determination shall be made on the basis of the average of the allowed amounts using data collected over a reasonable period not to exceed one year. A health carrier may determine an alternate methodology for calculating the average allowed amount if approved by the Commission. A health carrier shall, at minimum, inform covered persons of their eligibility for an incentive payment and the process to request the average allowed amount for a procedure or service on the health carrier's website and in health benefit plan materials.

E. Eligibility for an incentive payment may require a covered person to demonstrate, through reasonable documentation such as a quote from the health care provider, that the covered person shopped prior to receiving care from the health care provider who charges less for the comparable health care service than the average allowed amount paid or payable by that health carrier. Health carriers shall provide additional mechanisms for the covered person to satisfy this requirement by utilizing the health carrier's cost transparency website or toll-free number, established under this article.

F. Each health carrier shall make the program available as a component of all small group health benefit plans offered by the health carrier in the Commonwealth. Annually at enrollment or renewal, each health carrier shall provide to any covered person who is enrolled in a small group health benefit plan eligible for the program (i) notice about the availability of the program, (ii) a description of the incentives available to a covered person, (iii) instructions on how to earn such incentives, and (iv) notification that tax treatment of the shared savings amounts or awards will be compliant with the rules of the Internal Revenue Service and treated as taxable income.

G. A comparable health care service incentive payment made by a health carrier in accordance with this section shall not constitute an administrative expense of the health carrier for rate development or rate filing purposes.

H. Prior to offering the program to any covered person, a health carrier shall file with the Commission a description of the program in the manner determined by the Commission. The description shall include a demonstration by the health carrier that the program is cost-effective, including any data relied upon by the health carrier in making such determination. The Commission may review the filing made by the health carrier to determine if the health carrier's program complies with the requirements of this article.

I. A health carrier may petition the Commission to be excluded from participation in the program. The Commission shall exempt from the program a health plan with a limited provider network that demonstrates that the network is incompatible with a shared savings program. In making its determination, the Commission shall consider the impact on premiums related to the administration of the program.

J. Annually by April 1, each health carrier shall file with the Commission, for the most recent calendar year, the total number of comparable health care service incentive payments made pursuant to this article, the use of comparable health care services by category of service for which comparable health care service incentives are made, the total payments made to covered persons, the average amount of incentive payments made by service for such transactions, the total savings achieved below the average allowed amount by service for such transactions, and the total number and percentage of a health carrier's covered persons in small group health benefit plans that participated in such transactions.

K. Beginning no later than 18 months after implementation of comparable health care service incentive programs under this section and annually by November 1 of each year thereafter, the Commission shall submit an aggregate report for all health carriers filing the information required by this section to the chairs of the House and Senate Committees on Commerce and Labor.

**§ 38.2-3463. Health care price transparency tools.**

Beginning with health benefit plans offered or renewed on or after July 1, 2020, each health carrier offering a health benefit plan in the Commonwealth shall comply with the following requirements:

1. A health carrier shall establish an interactive mechanism on its website that enables a covered person to request and obtain from the health carrier the estimated out-of-pocket cost to the covered person for comparable health care services from network providers, as well as quality data for those providers, to the extent available. The interactive mechanism shall allow a covered person seeking information about the cost of a comparable health care service to compare estimated out-of-pocket costs applicable to that covered person's health benefit plan. The out-of-pocket estimate shall provide a good

*faith estimate of the amount the covered person will be responsible to pay out-of-pocket for a proposed comparable health care service or service that is a medically necessary covered benefit from a health carrier's network provider, including any copayment, deductible, coinsurance, or other out-of-pocket amount for any covered benefit, based on the information available to the health carrier at the time the request is made. A health carrier may contract with a third-party vendor to satisfy the requirements of this subdivision.*

2. *Nothing in this section shall prohibit a health carrier from imposing cost-sharing requirements disclosed in the covered person's covered benefit plan for unforeseen health care services that arise out of the comparable health care service or for a procedure or service provided to a covered person that was not included in an original estimate provided under subdivision 1.*

3. *A health carrier shall notify a covered person that an estimate provided under subdivision 1 is an estimate of costs and that the actual amount the covered person will be responsible to pay may vary due to the need for unforeseen services that arise out of the proposed comparable health care service.*

**§ 38.2-3464. Rules and regulations; orders.**

*The Commission, after notice and opportunity for all interested parties to be heard, may issue any rules and regulations necessary or appropriate for the administration and enforcement of this article.*

**§ 38.2-4214. Application of certain provisions of law.**

No provision of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-218 through 38.2-225, 38.2-230, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, 38.2-700 through 38.2-705, 38.2-900 through 38.2-904, 38.2-1017, 38.2-1018, 38.2-1038, 38.2-1040 through 38.2-1044, Articles 1 (§ 38.2-1300 et seq.) and 2 (§ 38.2-1306.2 et seq.) of Chapter 13, §§ 38.2-1312, 38.2-1314, 38.2-1315.1, 38.2-1317 through 38.2-1328, 38.2-1334, 38.2-1340, 38.2-1400 through 38.2-1442, 38.2-1446, 38.2-1447, 38.2-1800 through 38.2-1836, 38.2-3400, 38.2-3401, 38.2-3404, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3406.2, 38.2-3407.1 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 38.2-3409, 38.2-3411 through 38.2-3419.1, 38.2-3430.1 through 38.2-3454, *Article 8 (§ 38.2-3461 et seq.) of Chapter 34*, 38.2-3501, 38.2-3502, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, §§ 38.2-3516 through 38.2-3520 as they apply to Medicare supplement policies, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3541 through 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), §§ 38.2-3600 through 38.2-3607, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) of this title shall apply to the operation of a plan.

**§ 38.2-4319. Statutory construction and relationship to other laws.**

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.), of Chapter 14, Chapter 15 (§ 38.2-1500 et seq.), Chapter 17 (§ 38.2-1700 et seq.), §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, *Article 8 (§ 38.2-3461 et seq.) of Chapter 34*, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.),

Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

**§ 54.1-2910.01. Practitioner information provided to patients.**

Upon request by a patient, doctors of medicine, osteopathy, and podiatry shall inform the patient about the following:

1. Procedures to access information on the doctor compiled by the Board of Medicine pursuant to § 54.1-2910.1; ~~and~~  
 2. If the patient is not covered by a health insurance plan that the doctor accepts or a managed care health insurance plan in which the doctor participates, the patient may be subject to the doctor's full charge which may be greater than the health plan's allowable charge; *and*

3. *For purposes of § 38.2-3463, licensees of the Board of Medicine or their designee shall provide a description of the elective procedure or test, or the applicable standard procedural terminology or medical codes used by the American Medical Association, sufficient to allow a patient to compare care options if the patient is being referred for an elective procedure or test.*

**CHAPTER 685**

*An Act to require the Department of Behavioral Health and Developmental Services to convene a work group to develop a plan for sharing of health information between community services boards and local and regional jails.*

[S 1644]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1.** *§ 1. That the Department of Behavioral Health and Developmental Services shall convene a work group to include representatives of the Office of the Attorney General, community services boards, local and regional jails, and such other stakeholders as it deems necessary to study the issue of and develop a plan for sharing of protected health information of individuals with mental health treatment needs who have been confined to a local or regional jail in the Commonwealth and who have previously received mental health treatment from a community services board or behavioral health authority in the Commonwealth. Such plan shall include a mechanism for (i) determining if an individual confined in a local or regional jail has previously received treatment from a community services board or behavioral health authority in the Commonwealth and (ii) in cases in which such person has received such treatment, transferring protected health information related to such treatment from the identified community services board to the sheriff or superintendent of the local or regional jail in which the person is confined. The Department shall report by October 1, 2019, to the Governor and the General Assembly on (a) development of the plan, (b) the content of the plan, and (c) the steps necessary to implement the plan, including any statutory or regulatory changes and any appropriations.*

**CHAPTER 686**

*An Act to amend and reenact § 54.1-2522 of the Code of Virginia, relating to the Prescription Monitoring Program; veterinarians.*

[S 1653]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2522 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2522. Reporting exemptions.**

The dispensing of covered substances under the following circumstances shall be exempt from the reporting requirements set forth in § 54.1-2521:

1. Dispensing of manufacturers' samples of such covered substances or of covered substances dispensed pursuant to an indigent patient program offered by a pharmaceutical manufacturer.

2. Dispensing of covered substances by a practitioner of the healing arts to his patient in a bona fide medical emergency or when pharmaceutical services are not available.
  3. Administering of covered substances.
  4. Dispensing of covered substances within an appropriately licensed narcotic maintenance treatment program.
  5. Dispensing of covered substances to inpatients in hospitals or nursing facilities licensed by the Board of Health or facilities that are otherwise authorized by law to operate as hospitals or nursing homes in the Commonwealth.
  6. Dispensing of covered substances to inpatients in hospices licensed by the Board of Health.
  7. Dispensing of covered substances by veterinarians to animals within the usual course of their professional practice for a course of treatment to last seven days or less *or if such covered substance is feline buprenorphine or canine butorphanol*.
  8. Dispensing of covered substances as otherwise provided in the Department's regulations.
- 2. That every veterinary establishment licensed by the Board of Veterinary Medicine shall maintain records of the dispensing of feline buprenorphine and canine butorphanol, reconcile such records monthly, and make such records available for inspection upon request.**

### CHAPTER 687

*An Act to amend and reenact §§ 63.2-1508 and 63.2-1517 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-1506.1, relating to child abuse and neglect; report or complaint; victims of sex trafficking; taking child victim into custody.*

[S 1661]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-1508 and 63.2-1517 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1506.1 as follows:**

**§ 63.2-1506.1. Sex trafficking assessments by local departments.**

*A. If a report or complaint is based upon information and allegations that a child is a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22), the local department shall conduct a sex trafficking assessment, unless at any time during the sex trafficking assessment the local department determines that an investigation or family assessment is required pursuant to § 63.2-1505 or 63.2-1506.*

*B. A sex trafficking assessment requires the collection of information necessary to determine:*

- 1. The immediate safety needs of the child;*
- 2. The protective and rehabilitative services needs of the child and the child's family that will deter abuse and neglect; and*
- 3. Risk of future harm to the child.*

*C. When a local department responds to the report or complaint by conducting a sex trafficking assessment, the local department may:*

- 1. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and the child's family;*
- 2. Petition the court for services deemed necessary; or*
- 3. Commence an immediate investigation or family assessment, if at any time during the sex trafficking assessment the local department determines that an investigation or family assessment is required pursuant to § 63.2-1505 or 63.2-1506.*

*D. In the event that the parents or guardians of the child reside in a jurisdiction other than that in which the report or complaint was received, the local department that received the report or complaint and the local department where the child resides with his parents or guardians shall work jointly to complete the sex trafficking assessment.*

*E. Reports or complaints for which a sex trafficking assessment is completed shall not be entered into the central registry contained in § 63.2-1515.*

*F. The local department or departments shall notify the Child Protective Services Unit within the Department in writing whenever such a sex trafficking assessment is conducted.*

**§ 63.2-1508. Valid report or complaint.**

A. A valid report or complaint means the local department has evaluated the information and allegations of the report or complaint and determined that the local department shall conduct an investigation or family assessment because the following elements are present:

1. The alleged victim child or children are under ~~the age of eighteen~~ *18 years of age* at the time of the complaint or report;
2. The alleged abuser is the alleged victim child's parent or other caretaker;
3. The local department receiving the complaint or report has jurisdiction; and
4. The circumstances described allege suspected child abuse or neglect.

*B. A valid report or complaint regarding a child who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22) may be established if the alleged abuser is the alleged victim child's parent, other caretaker, or any other person suspected to have caused such abuse or neglect.*

*C. Nothing in this section shall relieve any person specified in § 63.2-1509 from making a report required by that section, regardless of the identity of the person suspected to have caused such abuse or neglect.*

**§ 63.2-1517. Authority to take child into custody.**

*A. A physician or child-protective services worker of a local department or law-enforcement official investigating a report or complaint of abuse and neglect may take a child into custody for up to 72 hours without prior approval of parents or guardians provided:*

*1. The circumstances of the child are such that continuing in his place of residence or in the care or custody of the parent, guardian, custodian or other person responsible for the child's care, presents an imminent danger to the child's life or health to the extent that severe or irremediable injury would be likely to result or if evidence of abuse is perishable or subject to deterioration before a hearing can be held;*

*2. A court order is not immediately obtainable;*

*3. The court has set up procedures for placing such children;*

*4. Following taking the child into custody, the parents or guardians are notified as soon as practicable. Every effort shall be made to provide such notice in person;*

*5. A report is made to the local department; and*

*6. The court is notified and the person or agency taking custody of such child obtains, as soon as possible, but in no event later than 72 hours, an emergency removal order pursuant to § 16.1-251; however, if a preliminary removal order is issued after a hearing held in accordance with § 16.1-252 within 72 hours of the removal of the child, an emergency removal order shall not be necessary. Any person or agency petitioning for an emergency removal order after four hours have elapsed following taking custody of the child shall state the reasons therefor pursuant to § 16.1-251.*

*B. If the 72-hour period for holding a child in custody and for obtaining a preliminary or emergency removal order expires on a Saturday, Sunday, or legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, or legal holiday or day on which the court is lawfully closed.*

*C. A child-protective services worker of a local department responding to a complaint or report of abuse and neglect for purposes of sex trafficking or severe forms of trafficking may take a child into custody and the local department may maintain custody of the child for up to 72 hours without prior approval of a parent or guardian, provided that the alleged victim child or children have been identified as a victim or victims of sex trafficking or a victim or victims of severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7101 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22). After taking the child into custody, the local department shall notify the parent or guardian of such child as soon as practicable. Every effort shall be made to provide such notice in person. The local department shall also notify the Child-Protective Services Unit within the Department whenever a child is taken into custody.*

*D. When a child is taken into custody by a child-protective services worker of a local department pursuant to subsection C, that child shall be returned as soon as practicable to the custody of his parent or guardian. However, the local department shall not be required to return the child to his parent or guardian if the circumstances are such that continuing in his place of residence or in the care or custody of such parent or guardian, or custodian or other person responsible for the child's care, presents an imminent danger to the child's life or health to the extent that severe or irremediable injury would be likely to result or if the evidence of abuse is perishable or subject to deterioration before a hearing can be held. If the local department cannot return the child to the custody of his parents or guardians within 72 hours, the local department shall obtain an emergency removal order pursuant to § 16.1-251.*

## CHAPTER 688

*An Act to amend and reenact §§ 16.1-228, 16.1-281 through 16.1-282.2, and 63.2-100 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-906.1, relating to statutory alignment with federal Family First Prevention Services Act.*

[S 1679]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-228, 16.1-281 through 16.1-282.2, and 63.2-100 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-906.1 as follows:**

**§ 16.1-228. Definitions.**

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk

of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile," or "minor" means a person less than 18 years of age.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such

conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

*"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.*

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

*"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.*

*"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.*

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

#### **§ 16.1-281. Foster care plan.**

A. In any case in which (i) a local board of social services places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody of a child is given to a local board of social services or a child welfare agency, the local department of social services or child welfare agency shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § 2.2-5208 may be accepted by the court as the foster care plan if it meets the requirements of this section.

The representatives of such department or agency shall involve the child's parent(s) in the development of the plan, except when parental rights have been terminated or the local department of social services or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board placed the child. The representatives of such department or agency shall involve a child who is 14 years of age or older in the development of the plan and, at the option of such child, up to two members of the case planning team who are chosen by the child and who are

not a foster parent of, or caseworker for, the child. A child under 14 years of age may be involved in the development of the plan if such involvement is consistent with the best interests of the child. In cases where either the parent(s) or child is not involved in the development of the plan, the department or agency shall include in the plan a full description of the reasons therefor.

The department or child welfare agency shall file the plan with the juvenile and domestic relations district court within 45 days following the transfer of custody or the board's placement of the child unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional 60 days. However, a foster care plan shall be filed in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. A foster care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within 45 days following transfer of custody to the board or agency or the board's placement of the child.

B. The foster care plan shall describe in writing (i) the programs, care, services and other support which will be offered to the child and his parents and other prior custodians; (ii) the participation and conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians, and between the child and his siblings; (iv) the nature of the placement or placements which will be provided for the child; (v) for school-age children, the school placement of the child; (vi) for children 14 years of age and older, the child's needs and goals in the areas of counseling, education, housing, employment, and money management skills development, along with specific independent living services that will be provided to the child to help him reach these goals; *and* (vii) for children 14 years and older, an explanation of the child's rights with respect to education, health, visitation, court participation, and the right to stay safe and avoid exploitation; ~~and (viii). The foster care plan shall include all documentation specified in 42 U.S.C. § 675(5)(l) and § 63.2-905.3. If the child in foster care is placed in a qualified residential treatment program as defined in § 16.1-228, the foster care plan shall also include the report and documentation set forth in subsection A of § 63.2-906.1. If the child in foster care is pregnant or is the parent of a child, the foster care plan shall also include (a) a list of the services and programs to be provided to or on behalf of the child to ensure parental readiness or capability and (b) a description of the foster care prevention strategy for any child born to the child in foster care. In cases in which a foster care plan approved prior to July 1, 2011, identifies independent living as the goal for the child, and in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living, the plan shall also describe the programs and services which will help the child prepare for the transition from foster care to independent living. If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process. For a child 14 years of age and older, the plan shall include a signed acknowledgment by the child that the child has received a copy of the plan and that the rights contained therein have been explained to the child in an age-appropriate manner.~~

If the department or child welfare agency concludes that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, the department, child welfare agency or team shall ~~(a)~~ (1) include a full description of the reasons for this conclusion; ~~(b)~~ (2) provide information on the opportunities for placing the child with a relative or in an adoptive home; ~~(c)~~ (3) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time; and (4) if neither of such placements is feasible; ~~(d)~~ explain why permanent foster care is the plan for the child or independent living is the plan for the child in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living.

**"Independent living" as used in this section has the meaning set forth in § 63.2-100.**

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent if the court finds that ~~(1)~~ (A) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; ~~(2)~~ (B) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; ~~(3)~~ (C) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or ~~(4)~~ (D) based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances which would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

*"Independent living" has the meaning set forth in § 63.2-100.*

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

Within 30 days of making a determination that reasonable efforts to reunite the child with the parents are not required, the court shall hold a permanency planning hearing pursuant to § 16.1-282.1.

C. A copy of the entire foster care plan shall be sent by the court to the child, if he is 12 years of age or older; the guardian ad litem for the child, the attorney for the child's parents or for any other person standing in loco parentis at the time the board or child welfare agency obtained custody or the board placed the child, to the parents or other person standing in loco parentis, and such other persons as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan shall be sent by the court to the foster parents. A hearing shall be held for the purpose of reviewing and approving the foster care plan. The hearing shall be held within 60 days of (i) the child's initial foster care placement, if the child was placed through an agreement between the parents or guardians and the local department of social services or a child welfare agency; (ii) the original preliminary removal order hearing, if the child was placed in foster care pursuant to § 16.1-252; (iii) the hearing on the petition for relief of custody, if the child was placed in foster care pursuant to § 16.1-277.02; or (iv) the dispositional hearing at which the child was placed in foster care and an order was entered pursuant to § 16.1-278.2, 16.1-278.3, 16.1-278.4, 16.1-278.5, 16.1-278.6, or 16.1-278.8. However, the hearing shall be held in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. If the judge makes any revision in any part of the foster care plan, a copy of the changes shall be sent by the court to all persons who received a copy of the original of that part of the plan.

C1. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

C2. Any order entered at the conclusion of the hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to clause (iv) of subsection A of § 16.1-282.1; or, in cases in which independent living was identified as the goal for a child in a foster care plan approved prior to July 1, 2011, or in which a child has been admitted to the United States as a refugee or asylee and is over 16 years of age and independent living has been identified as the permanency goal for the child, by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of 16 years, pursuant to clause (v) of subsection A of § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his parents or other persons standing in loco parentis at the time the board or agency obtained custody or the board placed the child.

E. 1. *In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, a hearing shall be held within 60 days of such placement. Prior to such hearing, the qualified residential treatment program shall file with the court the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 16.1-228. The court shall (i) consider the assessment report prepared by a qualified individual pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 16.1-228 and submitted pursuant to this subsection; (ii) consider the report and documentation required under subsection A of § 63.2-906.1 and filed with the foster care or permanency plan; (iii) determine whether the needs of the child can be met through placement in a foster home or, if not, whether placement in the qualified residential treatment program would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; and (iv) approve or deny the placement of the child in the qualified residential treatment program. The hearing required by this subsection may be held in conjunction with a dispositional hearing held pursuant to subsection C, a foster care review hearing held pursuant to § 16.1-282, a permanency planning hearing held pursuant to § 16.1-282.1, or an annual foster care review hearing held pursuant to § 16.1-282.2, provided that such hearing has already been scheduled by the court and is held within 60 days of the child's placement in the qualified residential treatment program.*

2. *If the child remains placed in the qualified residential treatment program during any subsequent hearings held pursuant to subsection C or § 16.1-282, 16.1-282.1, or 16.1-282.2, the local board of social services or licensed*

*child-placing agency shall present evidence at such hearing that demonstrates (i) that the ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster home and that the child's placement in the qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and is consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (ii) the specific treatment or service needs of the child that will be met in the qualified residential treatment program and the length of time the child is expected to need such treatment or services; and (iii) the efforts made by the local board of social services to prepare the child to return home or to be placed with a fit and willing relative, legal guardian, or adoptive parent, or in a foster home. The court shall review such evidence and approve or deny the continued placement of the child in the qualified residential treatment program.*

F. At the conclusion of the hearing at which the initial foster care plan is reviewed, the court shall schedule a foster care review hearing to be held within four months in accordance with § 16.1-282. However, if an order is entered pursuant to subsection C2, the court shall schedule a foster care review hearing to be held within 12 months of the entry of such order in accordance with the provisions of § 16.1-282.2. Parties who are present at the hearing at which the initial foster care plan is reviewed shall be given notice of the date set for the foster care review hearing and parties who are not present shall be summoned as provided in § 16.1-263.

F. G. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile court, upon order of the judge, to review the status of children in the custody of local boards of social services or placed by local boards of social services on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.

**§ 16.1-282. Foster care review.**

A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a foster care review hearing shall be held within four months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child: ~~(a)~~ (i) was placed through an agreement between the parents or guardians and the local board of social services where legal custody remains with the parents or guardians and such agreement has not been dissolved by court order; or ~~(b)~~ (ii) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights granted, filed or ordered to be filed on the child's behalf; has not been placed in permanent foster care; or is age 16 or over and the plan for the child is not independent living.

Any interested party, including the parent, guardian or person who stood in loco parentis prior to the board's placement of the child or the board's or child welfare agency's assumption of legal custody, may file with the court the petition for a foster care review hearing hereinafter described at any time after the initial foster care placement of the child. However, the board or child welfare agency shall file the petition within three months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281.

B. The petition shall:

1. Be filed in the court in which the foster care plan for the child was reviewed and approved. Upon the order of such court, however, the petition may be filed in the court of the county or city in which the board or child welfare agency having legal custody or having placed the child has its principal office or where the child resides;
2. State, if such is reasonably obtainable, the current address of the child's parents and, if the child was in the custody of a person or persons standing in loco parentis at the time the board or child welfare agency obtained legal custody or the board placed the child, of such person or persons;
3. Describe the placement or placements provided for the child while in foster care and the services or programs offered to the child and his parents and, if applicable, the persons previously standing in loco parentis;
4. Describe the nature and frequency of the contacts between the child and his parents and, if applicable, the persons previously standing in loco parentis;
5. Set forth in detail the manner in which the foster care plan previously filed with the court was or was not complied with and the extent to which the goals thereof have been met; and
6. Set forth the disposition sought and the grounds therefor; however, in the case of a child who has attained age 16 and for whom the plan is independent living, the foster care plan shall be included and shall address the services needed to assist the child to transition from foster care to independent living.

C. Upon receipt of the petition filed by the board, child welfare agency, or any interested party as provided in subsection B of this section, the court shall schedule a hearing to be held within 30 days if a hearing was not previously scheduled. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The child, if he is 12 years of age or older;
2. The attorney-at-law representing the child as guardian ad litem;
3. The child's parents and, if the child was in the custody of a person standing in loco parentis at the time the department obtained custody, such person or persons. No such notification shall be required, however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. If the parent or guardian of the child did not appear at the dispositional hearing and was not noticed to return for the foster care review hearing in accordance with subsection ~~E~~ F of

§ 16.1-281, the parent or guardian shall be summoned to appear at the foster care review hearing in accordance with § 16.1-263. The review hearing shall be held pursuant to this section although a parent or guardian fails to appear and is not represented by counsel, provided personal or substituted service was made on the parent or guardian, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort;

4. The foster parent or foster parents or other care providers of the child;

5. The petitioning board or child welfare agency; and

6. Such other persons as the court, in its discretion, may direct. The local board of social services or other child welfare agency shall identify for the court such other persons as have a legitimate interest in the hearing, including, but not limited to, preadoptive parents for a child in foster care.

*D. In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

*E. At the conclusion of the hearing, the court shall, upon the proof adduced in accordance with the best interests of the child and subject to the provisions of subsection ~~D~~ F, enter any appropriate order of disposition consistent with the dispositional alternatives available to the court at the time of the original hearing. The court order shall state whether reasonable efforts, if applicable, have been made to reunite the child with his parents, guardian or other person standing in loco parentis to the child. Any order entered at the conclusion of this hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to ~~subdivision clause (iv) of subsection A~~ ~~iv~~ of § 16.1-282.1; or, if the child has attained the age of 16 years and the plan for the child is independent living, directing the board or agency to provide the necessary services to transition from foster care, pursuant to ~~subdivision clause (v) of subsection A~~ ~~v~~ of § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.*

~~D~~ F. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide for, as appropriate, any terms and conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

~~E~~ G. The court shall possess continuing jurisdiction over cases reviewed under this section for so long as a child remains in a foster care placement or, when a child is returned to his prior family subject to conditions imposed by the court, for so long as such conditions are effective. After the hearing required pursuant to subsection C, the court shall schedule a permanency planning hearing on the case to be held five months thereafter in accordance with § 16.1-282.1 or within 30 days upon the petition of any party entitled to notice in proceedings under this section when the judge determines there is good cause shown for such a hearing. However, in the case of a child who is the subject of an order that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to ~~subdivision clause (iv) of subsection A~~ ~~iv~~ of § 16.1-282.1; or by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of 16 years, pursuant to ~~subdivision clause (v) of subsection A~~ ~~v~~ of § 16.1-282.1, a permanency planning hearing within five months shall not be required and the court shall schedule a foster care review hearing to be held within 12 months of the entry of such order in accordance with the provisions of § 16.1-282.2.

**§ 16.1-282.1. Permanency planning hearing for children in foster care.**

A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a permanency planning hearing shall be held within 10 months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child (a) was placed through an agreement between the parents or guardians and the local board of social services where legal custody remains with the parents or guardians and such agreement has not been dissolved by court order; or (b) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights filed on the child's behalf, has not been placed in permanent foster care, or is age 16 or over and the plan for the child is not independent living. The board or child welfare agency shall file a petition for a permanency planning hearing 30 days prior to the date of the permanency planning hearing scheduled by the court. The purpose of this hearing is to establish a permanent goal for the child and either to achieve the permanent goal or to defer such action through the approval of an interim plan for the child.

To achieve the permanent goal, the petition for a permanency planning hearing shall seek to (i) transfer the custody of the child to his prior family, or dissolve the board's placement agreement and return the child to his prior family; (ii) transfer custody of the child to a relative other than the child's prior family, subject to the provisions of subsection A1; (iii) terminate residual parental rights pursuant to § 16.1-277.01 or 16.1-283; (iv) place a child who is 16 years of age or older in permanent foster care pursuant to § 63.2-908; (v) if the child has been admitted to the United States as a refugee or asylee and has attained the age of 16 years or older and the plan is independent living, direct the board or agency to provide the child with

services to transition from foster care; or (vi) place a child who is 16 years of age or older in another planned permanent living arrangement in accordance with the provisions of subsection A2. In cases in which a foster care plan approved prior to July 1, 2011, includes independent living as the goal for a child who is not admitted to the United States as an asylee or refugee, the petition shall direct the board or agency to provide the child with services to transition from foster care.

For approval of an interim plan, the petition for a permanency planning hearing shall seek to continue custody with the board or agency, or continue placement with the board through a parental agreement; or transfer custody to the board or child welfare agency from the parents or guardian of a child who has been in foster care through an agreement where the parents or guardian retains custody.

Upon receipt of the petition, if a permanency planning hearing has not already been scheduled, the court shall schedule such a hearing to be held within 30 days. The permanency planning hearing shall be held within 10 months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection E G of § 16.1-282 shall apply to the scheduling and notice of proceedings under this section.

A1. The following requirements shall apply to the transfer of custody of the child to a relative other than the child's prior family in accordance with the provisions of *clause* (ii) of subsection A. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide, as appropriate, for any terms or conditions which would promote the child's interest and welfare.

A2. The following requirements shall apply to the selection and approval of placement in another planned permanent living arrangement as the permanent goal for the child in accordance with clause (vi) of subsection A:

1. The board or child welfare agency shall petition for alternative (vi) of subsection A only if the child has a severe and chronic emotional, physical or neurological disabling condition for which the child requires long-term residential treatment; and the board or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interests of the child. In a foster care plan filed with the petition pursuant to this section, the board or agency shall document the following: (i) the investigation conducted of the placement alternatives listed in clauses (i) through (v) of subsection A and why each of these is not currently in the best interest of the child; (ii) at least one compelling reason why none of the alternatives listed in clauses (i) through (v) is achievable for the child at the time placement in another planned permanent living arrangement is selected as the permanent goal for the child; (iii) the identity of the long-term residential treatment service provider; (iv) the nature of the child's disability; (v) the anticipated length of time required for the child's treatment; and (vi) the status of the child's eligibility for admission and long-term treatment. The court shall ensure that the local department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including through efforts that utilize search technology, including social media, to find the child's biological family members. The court shall ask the child about the child's desired permanency outcome and make a judicial determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue to not be in the best interest of the child.

2. Before approving alternative (vi) of subsection A as the plan for the child, the court shall find (i) that the child has a severe and chronic emotional, physical or neurological disabling condition; (ii) that the child requires long-term residential treatment for the disabling condition; and (iii) that none of the alternatives listed in clauses (i) through (v) of subsection A is achievable for the child at the time placement in another planned permanent living arrangement is approved as the permanent goal for the child. If the board or agency petitions for alternative (vi), alternative (vi) may be approved by the court for a period of six months at a time.

3. At the conclusion of the permanency planning hearing, if alternative (vi) of subsection A is the permanent plan, the court shall schedule a hearing to be held within six months to review the child's placement in another planned permanent living arrangement in accordance with subdivision A2 4 of subsection A2. All parties present at the hearing at which clause (vi) of subsection A is approved as the permanent plan for the child shall be given notice of the date scheduled for the foster care review hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, this subsection A2 shall govern the scheduling and notice for such hearings.

4. The court shall review a foster care plan for any child who is placed in another planned permanent living arrangement every six months from the date of the permanency planning hearing held pursuant to this subsection, so long as the child remains in the legal custody of the board or child welfare agency. The board or child welfare agency shall file such petitions for review pursuant to the provisions of § 16.1-282 and shall, in addition, include in the petition the information required by subdivision A2 1 of subsection A2 of this section. The petition for foster care review shall be filed no later than 30 days prior to the hearing scheduled in accordance with subdivision A2 3 of subsection A2. At the conclusion of the foster care review hearing, if alternative (vi) of subsection A remains the permanent plan, the court shall enter an order that states whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to monitor the child's status in another planned permanent living arrangement.

However, if at any time during the six-month approval periods permitted by this subsection, a determination is made by treatment providers that the child's need for long-term residential treatment for the child's disabling condition is eliminated, the board or agency shall immediately begin to plan for post-discharge services and shall, within 30 days of making such a determination, file a petition for a permanency planning hearing pursuant to subsection A ~~of this section~~. Upon receipt of the petition, the court shall schedule a permanency planning hearing to be held within 30 days. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection ~~E~~ G of § 16.1-282 shall apply to proceedings under this section.

A3. The following requirements shall apply to the selection and approval of permanent foster care pursuant to clause (iv) of subsection A:

1. The court shall ensure that the local department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including through efforts that utilize search technology, including social media, to find the child's biological family members.

2. The court shall ask the child about the child's desired permanency outcome and make a judicial determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue to not be in the best interest of the child.

B. The following requirements shall apply to the selection and approval of an interim plan for the child in accordance with subsection A:

1. The board or child welfare agency shall petition for approval of an interim plan only if the board or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interest of the child. If the board or agency petitions for approval of an interim plan, such plan may be approved by the court for a maximum period of six months. The board or agency shall also file a foster care plan that (i) identifies a permanent goal for the child that corresponds with one of the alternatives specified in clauses (i) through (v) of subsection A; (ii) includes provisions for accomplishing the permanent goal within six months; and (iii) summarizes the investigation conducted of the alternatives listed in clauses (i) through (v) of subsection A and why achieving each of these is not in the best interest of the child at this time. The foster care plan shall describe the child's placement, including the in-state and out-of-state placement options and whether the child's placement is in state or out of state. If the child's placement is out of state, the foster care plan shall provide the reason why the out-of-state placement is appropriate and in the best interests of the child.

2. Before approving an interim plan for the child, the court shall find:

a. When returning home remains the plan for the child, that the parent has made marked progress toward reunification with the child, the parent has maintained a close and positive relationship with the child, and the child is likely to return home within the near future, although it is premature to set an exact date for return at the time of this hearing; or

b. When returning home is not the plan for the child, that marked progress is being made to achieve the permanent goal identified by the board or child welfare agency and that it is premature to set an exact date for accomplishing the goal at the time of this hearing. The court shall consider the in-state and out-of-state placement options, and if the child has been placed out of state, determine whether the out-of-state placement is appropriate and in the best interests of the child.

3. Upon approval of an interim plan, the court shall schedule a hearing to be held within six months to determine that the permanent goal is accomplished and to enter an order consistent with alternative (i), (ii), (iii), (iv), or (v) of subsection A. All parties present at the initial permanency planning hearing shall be given notice of the date scheduled for the second permanency planning hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, subsection A shall govern the scheduling and notice for such hearings.

C. In each permanency planning hearing and in any hearing regarding the transition of the child from foster care to independent living, the court shall consult with the child in an age-appropriate manner regarding the proposed permanency plan or transition plan for the child, unless the court finds that such consultation is not in the best interests of the child.

D. *In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

E. At the conclusion of the permanency planning hearing held pursuant to this section, whether action is taken or deferred to achieve the permanent goal for the child, the court shall enter an order that states whether reasonable efforts have been made to reunite the child with the child's prior family, if returning home is the permanent goal for the child; or whether reasonable efforts have been made to achieve the permanent goal identified by the board or agency, if the goal is other than returning the child home.

In making this determination, the court shall give consideration to whether the board or agency has placed the child in a timely manner in accordance with the foster care plan and completed the steps necessary to finalize the permanent placement of the child.

**§ 16.1-282.2. Annual foster care review.**

A. The court shall review a foster care plan annually for any child who remains in the legal custody of a local board of social services or a child welfare agency and (i) on whose behalf a petition to terminate parental rights has been granted, filed or ordered to be filed, (ii) who is placed in permanent foster care, or (iii) who is age 16 or over and for whom the plan is independent living. The foster care review hearing shall be scheduled at the conclusion of a hearing held pursuant to

§ 16.1-281, 16.1-282, or 16.1-282.1 at which the order is entered: terminating parental rights, directing the filing of a petition for termination of parental rights by the board or agency, placing the child in permanent foster care, or directing the board or agency to provide the child who is age 16 or over and for whom the plan is independent living with services to transition from foster care. The foster care review hearing shall be held within 12 months of the date of such order, so long as the child remains in the custody of the board or agency.

The board or agency shall file the petition for a foster care review hearing, and the court shall provide notice of the foster care review hearing in accordance with the provisions of § 16.1-282. The board or agency shall file a written Adoption Progress Report with the juvenile court pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283, if applicable, with the petition required by this section. The court order entered at the conclusion of the hearing held on the petition shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the approved foster care plan that established a permanent goal for the child and to complete the steps necessary to finalize the permanent placement of the child.

B. At the foster care review hearing in the case of a child who is placed in permanent foster care, the court shall give consideration to the appropriateness of the services being provided to the child and permanent foster parents, to any change in circumstances since the entry of the order placing the child in permanent foster care, and to such other factors as the court deems proper.

C. At the foster care review hearing in the case of a child who meets the criteria of subdivisions A 1 through 4 of § 16.1-283.2, the court shall inquire of the guardian ad litem and the local board of social services whether the child has expressed a preference that the possibility of restoring the parental rights of his parent or parents be investigated. If the child expresses or has expressed such a preference, the court shall direct the local board of social services or the child's guardian ad litem to conduct an investigation of the parent or parents. If, following such investigation, the local board of social services or the child's guardian ad litem deems it appropriate to do so, either may file a petition for the restoration of parental rights. A hearing on such petition shall be held as provided by § 16.1-283.2.

*D. In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

#### **§ 63.2-100. Definitions.**

As used in this title, unless the context requires a different meaning:

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services providers, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;
2. An establishment required to be licensed as a summer camp by § 35.1-18; and
3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

*"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.*

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

*"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.*

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency.

"Foster home" means ~~the place of a residence of any natural person~~ licensed by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person and (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a relative child of whom they had been the foster parents.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

*"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.*

*"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.*

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from the Virginia Initiative for Employment Not Welfare (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

#### **§ 63.2-906.1. Qualified residential treatment programs.**

*A. In cases in which a child is placed by a local board or licensed child-placing agency in a qualified residential treatment program as defined in § 63.2-100, the foster care plan shall include (i) a description of the reasonable and good faith efforts made by the local department to identify and include on the child's family and permanency team all appropriate biological relatives, fictive kin, professionals, and, if the child is 14 years of age or older, members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281; (ii) contact information for all members of the child's family and permanency team and for other family members and fictive kin; (iii) evidence that all meetings of the family and permanency team are held at a time and place convenient for the child's family; (iv) if*

reunification is the goal for the child, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team; (v) the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 63.2-100 and evidence that such assessment was conducted in conjunction with the child's family and permanency team; (vi) the placement preferences of the child and the family and permanency team with recognition that the child should be placed with his siblings unless the court finds that such placement is contrary to the best interest of the child; and (vii) if the placement preferences of the child and the family and permanency team differ from the placement recommended in the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § 63.2-100, the reasons why the preferences of the child and the family and permanency team were not recommended.

B. In all cases in which a child is placed by a local board or licensed child-placing agency in a qualified residential treatment program as defined in § 63.2-100, a hearing shall be held in accordance with the provisions of subsection E of § 16.1-281 within 60 days of such placement.

C. If any child 13 years of age or older is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or any child 12 years of age or younger is placed in a qualified residential treatment program for more than six consecutive or nonconsecutive months, the Commissioner shall submit to the federal Secretary of Health and Human Services (i) the most recent versions of the evidence and documentation required under subdivision E 2 of § 16.1-281 and (ii) a written approval, signed by the Commissioner, for the continued placement of the child in the qualified residential treatment program.

## CHAPTER 689

An Act to amend and reenact § 38.2-3407.10:1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3407.10:2, relating to health insurance; credentialing; mental health services.

[S 1685]

Approved March 21, 2019

### Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407.10:1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3407.10:2 as follows:

§ 38.2-3407.10:1. Reimbursement for services rendered during pendency of physician's or mental health professional's credentialing application.

A. As used in this section:

"Carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services or *mental health services*, including an insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health services plan, or any other entity providing a plan of health insurance, health benefits, ~~or~~ health care services, or *mental health services*.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

"Mental health professional" has the meaning ascribed thereto in § 54.1-2400.1.

"Mental health services" means benefits with respect to items or services provided by mental health professionals for mental health conditions as defined under the terms of a health benefit plan.

"Network" means a group of participating physicians or *mental health professionals* who provide health care services under the carrier's health benefit plan that requires or creates incentives for a covered person to use the participating physicians or *mental health professionals*.

"New provider applicant" means a physician or *mental health professional* who has submitted a completed credentialing application to a carrier.

"Participating mental health professional" means a mental health professional who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Participating physician" means a physician who is managed, under contract with, or employed by a carrier and who has agreed to provide health care services or *mental health services* to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the carrier.

"Physician" means a doctor of medicine or osteopathic medicine holding an active license from the Board of Medicine.

B. A carrier that credentials the physicians or *mental health professionals* in its network shall establish reasonable protocols and procedures for reimbursing new provider applicants, after being credentialed by the carrier, for health care services or *mental health services* provided to covered persons during the period in which the applicant's completed credentialing application is pending. At a minimum, the protocols and procedures shall:

1. Apply only if the ~~physician's~~ *physician's* new provider applicant's credentialing application is approved by the carrier;

2. Permit ~~physician~~ reimbursement to a new provider applicant for services rendered from the date the ~~physician's new provider applicant's~~ completed credentialing application is received for consideration by the carrier;

3. Apply only if a contractual relationship exists between the carrier and the ~~physician new provider applicant~~ or entity for whom the ~~physician new provider applicant~~ is employed or engaged; and

4. Require that any reimbursement be paid at the in-network rate that the ~~physician new provider applicant~~ would have received had he been, at the time the covered health care services were provided, a credentialed participating physician or mental health professional in the network for the applicable health benefit plan.

C. Nothing in this section shall require reimbursement of ~~physician-rendered~~ the new provider applicant-rendered services that are not benefits or services covered by the carrier's health benefit plan.

D. Nothing in this section requires a carrier to pay reimbursement at the contracted in-network rate for any covered medical services provided by the new provider applicant if the new provider applicant's credentialing application is not approved or the carrier is otherwise not willing to contract with the new provider applicant.

E. Payments made or retroactive denials of payments made under this section shall be governed by § 38.2-3407.15.

F. If a payment is made by the carrier to a ~~physician new provider applicant~~ or any entity that employs or engages such ~~physician new provider applicant~~ under this section for a covered service, the patient shall only be responsible for any coinsurance, copayments, or deductibles permitted under the insurance contract with the carrier or participating provider agreement with the physician or mental health professional. If the new provider applicant is not credentialed by the carrier, the new provider applicant or any entity that employs or engages such physician or mental health professional shall not collect any amount from the patient for health care services or mental health services provided from the date the completed credentialing application was submitted to the carrier until the applicant received notification from the carrier that credentialing was denied.

G. New provider applicants, in order to submit claims to the carrier pursuant to this section, shall provide written or electronic notice to covered persons in advance of treatment that they have submitted a credentialing application to the carrier of the covered person, stating that the carrier is in the process of obtaining and verifying the following pursuant to credentialing regulations:

"Notice of Provider credentialing and re-credentialing.

Your health insurance carrier is required to establish and maintain a comprehensive credentialing verification program to ensure that its physicians and mental health professionals meet the minimum standards of professional licensure or certification. Written supporting documentation for (i) physicians or (ii) mental health professionals who have completed their residency or fellowship requirements for their specialty area more than 12 months prior to the credentialing decision shall include:

1. Current valid license and history of licensure or certification;
2. Status of hospital privileges, if applicable;
3. Valid U.S. Drug Enforcement Administration certificate, if applicable;
4. Information from the National Practitioner Data Bank, as available;
5. Education and training, including postgraduate training, if applicable;
6. Specialty board certification status, if applicable;
7. Practice or work history covering at least the past five years; and
8. Current, adequate malpractice insurance and malpractice history covering at least the past five years.

Your health insurance carrier is in the process of obtaining and verifying the above information in order to determine if your physician or mental health professional will be credentialed or not."

H. The provisions of this section shall not apply to coverages issued by a Medicare Advantage plan or, but shall apply to health maintenance organizations that issue coverage pursuant to Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid).

I. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

**§ 38.2-3407.10:2. Credentialing of private mental health agencies.**

A. As used in this section, "carrier," "covered person," and "health benefit plan," have the same meaning ascribed thereto in § 38.2-3407.10:1.

"Mental health professional" means a person who by education and experience is professionally qualified to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.

"Network" means a group of participating mental health professionals who provide mental health services under the carrier's health benefit plan that requires or creates incentives for a covered person to use the participating mental health professionals.

"Private mental health agency" means a practice group of mental health professionals at least one of whom is licensed under Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1.

B. A carrier that credentials the mental health professionals in its network may establish reasonable protocols and procedures for credentialing private mental health agencies. Upon approval by a carrier of a credentialing application made by a private mental health agency, any mental health professional employed or engaged by such agency shall be deemed credentialed pursuant to the approved credentialing application of the private mental health agency. If a carrier

*opts to credential a private mental health agency, at a minimum the protocols and procedures established by the carrier shall:*

- 1. Apply only if the private mental health agency's credentialing application is approved by the carrier; and*
  - 2. Require a private mental health agency to maintain minimum audit report requirements, as determined by the Department of Behavioral Health and Developmental Services.*
- C. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.*

## CHAPTER 690

*An Act to amend and reenact §§ 18.2-250.1, 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia, relating to cannabidiol oil and THC-A oil; registered agent; pharmaceutical processors.*

[S 1719]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-250.1, 54.1-3408.3, 54.1-3442.5, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-250.1. Possession of marijuana unlawful.**

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is guilty of a misdemeanor and shall be confined in jail not more than 30 days and fined not more than \$500, either or both; any person, upon a second or subsequent conviction of a violation of this section, is guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

C. In any prosecution under this section involving marijuana in the form of cannabidiol oil or THC-A oil as those terms are defined in § 54.1-3408.3, it shall be an affirmative defense that the individual possessed such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the individual's diagnosed condition or disease, ~~or~~ (ii) if such individual is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such individual has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease. If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.

**§ 54.1-3408.3. Certification for use of cannabidiol oil or THC-A oil for treatment.**

A. As used in this section:

"Cannabidiol oil" means a processed Cannabis plant extract that contains at least 15 percent cannabidiol but no more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of cannabidiol per milliliter but not more than five percent tetrahydrocannabinol.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine.

"Registered agent" means an individual designated by a patient who has been issued a written certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

"THC-A oil" means a processed Cannabis plant extract that contains at least 15 percent tetrahydrocannabinol acid but not more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least five milligrams of tetrahydrocannabinol acid per milliliter but not more than five percent tetrahydrocannabinol.

B. A practitioner in the course of his professional practice may issue a written certification for the use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to

subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabidiol oil or THC-A oil for the treatment or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. *A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian, may designate an individual to act as his registered agent for the purposes of receiving cannabidiol oil or THC-A oil pursuant to a valid written certification. Such designated individual shall register with the Board. The Board may set a limit on the number patients for whom any individual is authorized to act as a registered agent.*

H. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, *his registered agent*, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

~~H.~~ I. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed physicians or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor involved in the treatment of a registered patient, or (v) a registered patient, *his registered agent*, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

#### **§ 54.1-3442.5. Definitions.**

As used in this article:

"Cannabidiol oil" has the same meaning as specified in § 54.1-3408.3.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3408.3 and (ii) cultivates Cannabis plants intended only for the production of cannabidiol oil or THC-A oil, produces cannabidiol oil or THC-A oil, and dispenses cannabidiol oil or THC-A oil to a registered patient, *his registered agent*, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian.

"Practitioner" has the same meaning as specified in § 54.1-3408.3.

"Registered agent" has the same meaning as specified in § 54.1-3408.3.

"THC-A oil" has the same meaning as specified in § 54.1-3408.3.

#### **§ 54.1-3442.6. Permit to operate pharmaceutical processor.**

A. No person shall operate a pharmaceutical processor without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely and securely cultivating Cannabis plants intended for producing cannabidiol oil and THC-A oil, producing cannabidiol oil and THC-A oil, and dispensing and delivering in person cannabidiol oil and THC-A oil to a registered patient, *his registered agent*, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; (x) the secure disposal of plant remains; ~~and~~ (xi) a process for registering a cannabidiol oil and THC-A oil product; *and (xii) a process for the wholesale distribution of and the transfer of cannabidiol oil and THC-A oil products between pharmaceutical processors.*

D. Every pharmaceutical processor shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor.

E. The Board shall require an applicant for a pharmaceutical processor permit to submit to fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and the criminal history record search shall be paid by the applicant. The Central Criminal Records Exchange shall forward the results of the criminal history background check to the Board or its designee, which shall be a governmental entity.

F. *In addition to other employees authorized by the Board, a pharmaceutical processor may employ individuals who may have less than two years of experience (i) to perform cultivation-related duties under the supervision of an individual who has received a degree in horticulture or a certification recognized by the Board or who has at least two years of experience cultivating plants and (ii) to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.*

G. No person who has been convicted of a felony or of any offense in violation of Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 shall be employed by or act as an agent of a pharmaceutical processor.

**§ 54.1-3442.7. Dispensing cannabidiol oil and THC-A oil; report.**

A. A pharmaceutical processor shall dispense or deliver cannabidiol oil or THC-A oil only in person to (i) a patient who is a Virginia resident, has been issued a valid written certification, and is registered with the Board pursuant to § 54.1-3408.3, (ii) *such patient's registered agent*, or ~~(ii)~~ (iii) if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident and is registered with the Board pursuant to § 54.1-3408.3. Prior to the initial dispensing of each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor shall make and maintain for two years a paper or electronic copy of the written certification that provides an exact image of the document that is clearly legible; shall view a current photo identification of the patient, *registered agent*, parent, or legal guardian; and shall verify current board registration of the practitioner and the corresponding patient, *registered agent*, parent, or legal guardian. Prior to any subsequent dispensing of each written certification, the pharmacist, pharmacy technician, or delivery agent shall view the current written certification; a current photo identification of the patient, *registered agent*, parent, or legal guardian; and the current board registration issued to the patient, *registered agent*, parent, or legal guardian. No pharmaceutical processor shall dispense more than a 90-day supply for any patient during any 90-day period. The Board shall establish in regulation an amount of cannabidiol oil or THC-A oil that constitutes a 90-day supply to treat or alleviate the symptoms of a patient's diagnosed condition or disease.

B. A pharmaceutical processor shall dispense only cannabidiol oil and THC-A oil that has been cultivated and produced on the premises of ~~such~~ *a pharmaceutical processor permitted by the Board. A pharmaceutical processor may begin cultivation upon being issued a permit by the Board.*

C. The Board shall report annually by December 1 to the Chairmen of the House and Senate Committees for Courts of Justice on the operation of pharmaceutical processors issued a permit by the Board, including the number of practitioners, patients, *registered agents*, and parents or legal guardians of patients who have registered with the Board and the number of written certifications issued pursuant to § 54.1-3408.3.

D. ~~A pharmaceutical processor shall ensure that the~~ *The concentration of tetrahydrocannabinol in any THC-A oil on site is within may be up to 10 percent of greater than or less than the level of tetrahydrocannabinol measured for labeling and. A pharmaceutical processor shall ensure that such concentration in any THC-A onsite is within such range and shall establish a stability testing schedule of THC-A oil.*

**2. That the Board of Pharmacy shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

**CHAPTER 691**

*An Act to amend and reenact § 24.2-806 of the Code of Virginia, relating to contests of certain elections; location of proceeding to contest.*

[S 1781]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-806 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-806. Contest of other primaries and elections.**

In a primary for the United States House of Representatives, the Virginia Senate, the House of Delegates, or any county, city, town, or district office, or an election to any county, city, town, or district office, the proceeding to contest shall be in the circuit court of the county or city ~~in which~~ *that the challenged candidate resides listed as his residency on his certificate of candidate qualification.* The proceeding shall be before a special court composed of the chief judge of such circuit court and two circuit court judges of circuits remote from the county or city ~~in which~~ *that such candidate resides listed as his residency on his certificate of candidate qualification,* appointed by the Chief Justice of the Supreme Court of

Virginia, or, in the event of his inability to act, then by the next senior justice, who shall at the time of appointment set the date for trial.

If the chief judge of the circuit court of the city or county ~~in which that~~ the candidate ~~resides listed as his residency on his certificate of candidate qualification~~ is absent, unable to sit in the proceeding, or recuses himself, the clerk of the court shall at once certify that fact to the Chief Justice. Then the Chief Justice or the associate justice acting in his stead shall appoint a third judge, who shall be, if possible, a judge of the same or an adjoining circuit.

## CHAPTER 692

*An Act to amend and reenact §§ 38.2-1322 and 38.2-1333 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-1332.2, relating to insurance holding companies; supervision of internationally active insurance groups.*

[H 1759]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-1322 and 38.2-1333 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-1332.2 as follows:**

#### **§ 38.2-1322. Definitions.**

As used in this article:

"Acquiring person" means any person by whom or on whose behalf acquisition of control of any domestic insurer is to be effected.

"Affiliate" of a specific person or a person "affiliated" with a specific person means a person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person specified.

"Control," including the terms "controlling," "controlled by" and "under common control with," means direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, through (i) the ownership of voting securities, (ii) by contract other than a commercial contract for goods or nonmanagement services, or (iii) otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing collectively 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection K of § 38.2-1329 that control does not exist. After giving all interested persons notice and opportunity to be heard and making specific findings to support its determination, the Commission may determine that control exists, notwithstanding the absence of a presumption to that effect.

"Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in § 38.2-5503 or would cause the insurer to be in hazardous financial condition pursuant to 14VAC5-290-30 and 14VAC5-290-40 of the Virginia Administrative Code.

"Group-wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the Commission under § 38.2-1332.2 to have sufficient significant contacts with the internationally active insurance group.

"Insurance holding company system" means two or more affiliated persons, one or more of which is an insurer.

"Insurer" means an insurance company as defined in § 38.2-100.

"Internationally active insurance group" means an insurance holding company system that includes an insurer registered under § 38.2-1329 and that meets the following criteria: (i) premiums written in at least three countries; (ii) the percentage of gross premiums written outside the United States is at least 10 percent of the insurance holding company system's total gross written premiums; and (iii) based on a three year rolling average, (a) the total assets of the insurance holding company system are at least \$50 billion or (b) the total gross written premiums of the insurance holding company system are at least \$10 billion.

"Material transaction" means (i) any sale, purchase, exchange, loan or extension of credit, or investment; (ii) any dividend or distribution; (iii) any reinsurance treaty or risk-sharing arrangement; (iv) any management contract, service contract or cost-sharing arrangement; (v) any merger with or acquisition of control of any corporation; or (vi) any other transaction or agreement that the Commission by order, rule or regulation determines to be material. Any series of transactions occurring within a 12-month period that are sufficiently similar in nature as to be reasonably construed as a single transaction and that in the aggregate exceed any minimum limits shall be deemed a material transaction.

"NAIC" means the National Association of Insurance Commissioners.

"SEC" means the U.S. Securities and Exchange Commission.

"Subsidiary" of a specified person means an affiliate directly or indirectly controlled by that person through one or more intermediaries.

"Voting security" means any security that enables the owner to vote for the election of directors. "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

**§ 38.2-1332.2. Group-wide supervision of internationally active insurance groups.**

A. The Commission is authorized to act as the group-wide supervisor for any internationally active insurance group in accordance with the provisions of this section. However, the Commission may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:

1. Does not have substantial insurance operations in the United States;
2. Has substantial insurance operations in the United States but not in the Commonwealth; or
3. Has substantial insurance operations in the United States and the Commonwealth, but the Commission has determined pursuant to the factors set forth in subsections B and F that the other regulatory official is the appropriate group-wide supervisor.

An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the Commission make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.

B. In cooperation with other state, federal, and international regulatory agencies, the Commission shall identify a single group-wide supervisor for an internationally active insurance group. The Commission may determine that the Commission is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in the Commonwealth. However, the Commission may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The Commission shall consider the following factors when making a determination or acknowledgment under this subsection:

1. The place of domicile of the insurers within the internationally active insurance group that holds the largest share of the internationally active insurance group's written premiums, assets, or liabilities;
2. The place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group;
3. The location of the executive offices or largest operational offices of the internationally active insurance group;
4. Whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the Commission determines to be:
  - a. Substantially similar to the system of regulation provided under the laws of the Commonwealth; or
  - b. Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and
5. Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the Commission with reasonably reciprocal recognition and cooperation.

However, a regulatory official identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made after consideration of the factors listed in subdivisions 1 through 5, and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group and in consultation with the internationally active insurance group.

C. Notwithstanding any other provision of this section, the Commission's regulatory authority under this section shall not be impaired. To the extent that the Commission acknowledges a regulatory official from another jurisdiction as a group-wide supervisor and in the event of a material change in the internationally active insurance group that results in (i) the internationally active insurance group's insurers domiciled in the Commonwealth holding the largest share of the group's premiums, assets, or liabilities or (ii) the Commonwealth being the place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group, the Commission may make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to subsection B.

D. Pursuant to § 38.2-1332, the Commission is authorized to collect from any insurer registered pursuant to § 38.2-1329 all information necessary to determine whether the Commission may act as the group-wide supervisor of an internationally active insurance group or if the Commission may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the Commission, the Commission shall notify the insurer registered pursuant to § 38.2-1329 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have not less than 30 days to provide the Commission with additional information pertinent to the pending determination. The Commission shall publish in any manner it considers appropriate and on its website the identity of internationally active insurance groups that the Commission has determined are subject to group-wide supervision by the Commission.

E. If the Commission is the group-wide supervisor for an internationally active insurance group, the Commission is authorized to engage in any of the following group-wide supervision activities:

1. Assess the enterprise risks within the internationally active insurance group to ensure that:
  - a. The material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by management; and
  - b. Reasonable and effective mitigation measures are in place;

2. Request, from any member of an internationally active insurance group subject to the Commission's supervision, information necessary and appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding:

- a. Governance, risk assessment, and management;
- b. Capital adequacy; and
- c. Material intercompany transactions;

3. Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of such internationally active insurance group that are engaged in the business of insurance;

4. Communicate with other state, federal, and international regulatory agencies for members within the internationally active insurance group and share relevant information, subject to the confidentiality provisions of § 38.2-1333, through supervisory colleges as set forth in § 38.2-1332.1 or otherwise;

5. Enter into agreements with or obtain documentation from any insurer registered under § 38.2-1329, any member of the internationally active insurance group, and any other state, federal, or international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the Commission's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in the Commonwealth is doing business in the Commonwealth or is otherwise subject to jurisdiction in the Commonwealth; and

6. Engage in other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the Commission.

F. If the Commission acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the Commission is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that:

1. The Commission's cooperation is in compliance with the laws of the Commonwealth; and

2. The regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the Commission's activities as a group-wide supervisor for other internationally active insurance groups where applicable. Where such recognition and cooperation is not reasonably reciprocal, the Commission is authorized to refuse recognition and cooperation.

G. The Commission is authorized to enter into agreements with or obtain documentation from any insurer registered under § 38.2-1329, any affiliate of the insurer, and other state, federal, or international regulatory agencies for members of the internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

H. Each registered insurer subject to this section shall be liable for and shall pay the necessary traveling and other expenses incurred by the Commission for its participation in the administration of this section. The Commission may retain at the registered insurer's expense any attorneys, actuaries, accountants, and other experts reasonably necessary to assist in the administration of this section. Any persons so retained shall be under the direction and control of the Commission and shall act in a purely advisory capacity. The Commission may establish a regular assessment to the insurer for the payment of these expenses. If an assessment is required by this subsection, it shall be collected by the Commission and paid directly into the state treasury and credited to the "Bureau of Insurance Special Fund — State Corporation Commission" for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.

#### **§ 38.2-1333. Confidential treatment of information and documents.**

A. All documents, materials, or other information obtained by or disclosed to the Commission or any other person in the course of an examination or investigation made pursuant to § 38.2-1332, and all information reported or provided to the Commission pursuant to subdivisions A 12 and 13 of § 38.2-1324 and §§ 38.2-1329, 38.2-1330, and 38.2-1330.1, and 38.2-1332.2 shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commission is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commission's official duties. The Commission shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which they pertain. After an insurer and its affiliates have been given notice and opportunity to be heard, the Commission may publish all or any part of the documents, materials, or other information referred to in this section in any manner it considers appropriate if it determines that the interests of policyholders or the public will be served by the publication.

B. Neither the Commission nor any person who received documents, materials, or other information while acting under the authority of the Commission or with whom such documents, materials, or other information are shared pursuant to this article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection A.

C. In order to assist in the performance of the Commission's duties, the Commission:

1. May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection A, with other state, federal, and international regulatory agencies; with the

NAIC and its affiliates and subsidiaries; and with state, federal, and international law-enforcement authorities, including members of any supervisory college described in § 38.2-1332.1, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information and has verified in writing the legal authority to maintain confidentiality;

2. May, notwithstanding subdivision 1, only share confidential and privileged documents, materials, or information reported pursuant to subsection L of § 38.2-1329 with insurance commissioners in any states that have statutes or regulations substantially similar to subsection A and that have agreed in writing not to disclose such information;

3. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries and from regulatory and law-enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

4. Shall enter into written agreements with the NAIC governing sharing and use of information provided pursuant to this article consistent with this subsection that shall:

a. Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries pursuant to this article, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators;

b. Specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this article remains with the Commission and that the NAIC's use of the information is subject to the direction of the Commission;

c. Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC pursuant to this article is subject to a request or subpoena to the NAIC for disclosure or production; and

d. Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant to this article.

D. The sharing of information by the Commission pursuant to this article shall not constitute a delegation of regulatory authority or rulemaking, and the Commission is solely responsible for the administration, execution, and enforcement of the provisions of this article.

E. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commission under this section or as a result of sharing as authorized in subsection C.

F. Documents, materials, or other information in the possession or control of the NAIC pursuant to this article shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

### CHAPTER 693

*An Act to amend the Code of Virginia by adding a section numbered 38.2-2108.1, relating to commercial fire insurance policies or contracts; change in amount of coverage.*

[H 1836]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 38.2-2108.1 as follows:**

**§ 38.2-2108.1. Commercial fire insurance policies; changes to amount of coverage.**

*No insurer shall, after a new or renewal contract or policy of fire insurance or fire insurance in combination with other coverage that has been issued or delivered in the Commonwealth to insure commercial property located in the Commonwealth has been in effect for 60 days, initiate and issue any endorsement to the contract or policy that increases or decreases the amount of coverage on such property unless the first named insured has consented in writing to such proposed change in the amount of coverage.*

### CHAPTER 694

*An Act to amend and reenact § 1 of Article II and §§ 2, as amended, 7, 11, 13, and 15 of Article III of Chapter 366 of the Acts of Assembly of 1958, which provided a charter for the Town of Irvington in Lancaster County, relating to corporate limits, town council, and mayor.*

[H 1895]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1 of Article II and §§ 2, as amended, 7, 11, 13, and 15 of Article III of Chapter 366 of the Acts of Assembly of 1958 are amended and reenacted as follows:**

## Article II. Corporate Limits.

§ 1. The territory embraced within the limits of the town of Irvington is as follows:

Beginning at a point on the westerly side of Virginia State Highway # 3 (*renumbered as Virginia State Highway 200*), which leads from the Town of Irvington to the Town of Kilmarnock, Virginia, where the land now or formerly belonging to the Leland estate corners with the land of Thomas Banks, which said point of beginning is designated by a cement corner stone; thence running along the line separating the property of the Leland Estate from the Banks property South 82° 20' 20" West 340.11 feet to an old axle; thence continuing along said line South 81° 45' 50" West 153.14 feet to a pipe; thence continuing along said line South 81° 32' 50" West 749.20 feet to an old pipe; thence continuing along said line separating the said Leland and Banks properties South 80° 39' 50" West 940.52 feet to a marked Poplar tree, thence continuing along said line South 79° 54' 20" West 414.11 feet to a cement marker; thence continuing along the same course a distance of approximately 180 feet to the center of Church Branch of Carters Creek; thence running in a Southerly direction down the center of said Branch by the Leland property, property of Dew and Henderson, property of E. A. Stephens and others to a point opposite the property of Warner Moore; thence running in an easterly direction along with center line of the eastern branch of Carters Creek by a Black buoy, the old ferry slip, by the Yarbrough property, the James property to a point in the center of said Creek opposite the property of M. J. Alga; thence running in a Northerly direction along the center of said Eastern Branch of Carters Creek by the lands of Crosby Miller, T. D. McGinnes, through the center of a certain bridge located on Virginia State Highway # 3 (*renumbered as Virginia State Highway 200*) which leads from the Town of Irvington to the Town of White Stone, Virginia, and continuing in a Northerly direction up the center of said Branch, known as Old Mill Cove, and continuing in a general Northerly direction up the center of said swamp by the S. A. Buchan estate to the Southern boundary of the land of Earl M. Pittman; thence running North 85° 29' 30" West approximately sixty feet to a cement marker; thence continuing North 85° 20' 30" West 2948.16 feet to another cement marker on the Eastern edge of Virginia State Highway # 3 (*renumbered as Virginia State Highway 200*) which leads from the Town of Irvington to the town of Kilmarnock, Virginia, thence continuing same course approximately 110 feet across said highway to the Leland property; thence running along the western edge of Virginia State Highway # 3 (*renumbered as Virginia State Highway 200*) in a northerly direction approximately 955.50 feet to a cement marker, the point of beginning, the said property embraced within the Town of Irvington being shown on a certain plat of survey made by T. D. Wilkinson, III, Certified Surveyor, dated the 3rd day of May, 1956, which said plat is of record in the Clerk's Office of the Circuit Court of Lancaster County, Virginia, *Instrument number 180001509, and also shown on a certain plat of survey of a portion of the boundary of Irvington, made by Robert C. Buckley, Jr., Certified Surveyor, dated October 28, 1994, which said plat is of record in the Clerk's Office of the Circuit Court of Lancaster County, Virginia, Instrument number CLR 940000938.*

## Article III. Administration and Government.

~~§ 2. On the second Tuesday in June, 1962, and every two years thereafter, there shall be elected by the qualified voters of the town, one elector of the town, who shall be denominated mayor and six other such electors who shall be councilmen and constitute the town council. On the first Tuesday in May 2020, and every four years thereafter, there shall be elected by the qualified voters of the town one elector of the town who shall be denominated the mayor and three other such electors, all of whom shall serve terms of four years. On the first Tuesday in May 2022, and every four years thereafter, there shall be elected by the qualified voters of the town an additional three electors, who shall serve terms of four years. The six electors other than the mayor shall constitute the town council. They shall enter upon the duties of their offices on the first day of September~~ July next succeeding their election and shall continue in office until their successors are duly elected and qualified. Every person so elected shall take an oath faithfully to execute and discharge the duties of his office to the best of his judgment and the mayor shall take the oath prescribed by the law for State officers. The failure of any person elected or appointed under the provisions of this charter to qualify or to take the oath required, within the time prescribed for entering upon the discharge of the duties of the office to which he is elected or appointed, shall vacate such office, and the council shall proceed and is hereby vested with power to fill such vacancy in the manner herein prescribed.

§ 7. The mayor shall preside at the meetings of the council, *voting only in case of a tie*, and perform such other duties as are prescribed by this charter and by general law and such as may be imposed by the council consistent with his office. He shall take care and see that the by-laws, ordinances, acts and resolutions of the council are faithfully executed and obeyed. He shall be ex officio conservator of the peace within the town and within one mile of its corporate limits. He shall see that peace and good order are preserved and that persons and property within the town are protected. He shall authenticate by his signature such documents and instruments as the council, this charter, or the laws of the Commonwealth require. He shall from time to time recommend to the council such measures as he may deem needful for the welfare of the town.

§ 11. The council shall appoint at its first regular meeting in ~~September~~ July after its election, a clerk of the council who shall hold office at the pleasure of the council. He shall attend the meetings of the council and keep its minutes and records and have charge of the corporate seal and shall attest the same. He shall keep all papers required to be kept by the council, shall publish reports and ordinances as are required to be published and shall perform such other duties as the council may require. His compensation shall be fixed by the council. Any vacancy in this office shall be filled by the council.

§ 13. The council shall appoint at its first meeting in ~~September~~ July, or as soon as practicable thereafter, a treasurer who shall hold office for a term of two years. The council may provide a salary for the treasurer. He shall give such bond, with surety and in such penalty as the council prescribes. He shall receive all money belonging to the town, and keep correct

accounts of all receipts from all sources and of all expenditures of all departments. He shall be responsible for the collection of all taxes, license fees, levies and charges due to the town, and shall disburse the moneys of the town in the manner prescribed by the council as it may by ordinance direct. The treasurer shall make such reports and at such time as the council may prescribe. The books and accounts of the treasurer shall be examined and audited at such times as the council may direct, such examination and audit to be reported to the council.

§ 15. The council may appoint at its first regular meeting in ~~September~~ July or as soon as practicable thereafter, a town sergeant, who shall also be chief of police and have all the powers vested in town sergeants by general law. He shall hold office at the pleasure of the council. His duties shall be such as the council prescribes. He shall be vested with the powers of a conservator of the peace. His compensation shall be fixed by the council.

## CHAPTER 695

*An Act to amend and reenact § 53.1-5 of the Code of Virginia, relating to Board of Corrections; minimum standards for health care services in local correctional facilities.*

[H 1918]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 53.1-5 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-5. Powers and duties of Board.**

The Board shall have the following powers and duties:

1. To develop and establish operational and fiscal standards governing the operation of local, regional, and community correctional facilities;
2. To advise the Governor and Director on matters relating to corrections;
3. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth pertaining to local, regional, and community correctional facilities;
4. To ensure the development of programs to educate citizens and elicit public support for the activities of the Department;
5. To develop and implement policies and procedures for the review of the death of any inmate that the Board determines warrants review that occurs in any local, regional, or community correctional facility. Such policies and procedures shall incorporate the Board's authority under § 53.1-6 to ensure the production of evidence necessary to conduct a thorough review of any such death;
6. *To establish minimum standards for health care services, including medical, dental, pharmaceutical, and behavioral health services, in local, regional, and community correctional facilities and procedures for enforcing such minimum standards, with the advice of and guidance from the Commissioner of Behavioral Health and Developmental Services and State Health Commissioner or their designees. Such minimum standards shall require that each local, regional, and community correctional facility submit a standardized quarterly continuous quality improvement report documenting the delivery of health care services, along with any improvements made to those services, to the Board. The Board shall make such reports available to the public on its website. The Board may determine that any local, regional, or community correctional facility that is accredited by the American Correctional Association or National Commission on Correctional Health Care meets such minimum standards solely on the basis of such facility's accreditation status; however, without exception, the requirement that each local, regional, and community correctional facility submit a standardized quarterly continuous quality improvement report to the Board shall be a mandatory minimum standard;*
- ~~6~~ 7. To establish and promulgate regulations regarding the provision of educational and vocational programs within the Department; and
- ~~7~~ 8. To adopt and promulgate regulations and require the Director and Department to enforce regulations prohibiting the possession of obscene materials, as defined and described in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities.

## CHAPTER 696

*An Act to amend and reenact § 53.1-5 of the Code of Virginia, relating to Board of Corrections; minimum standards for health care services in local correctional facilities.*

[S 1598]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 53.1-5 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-5. Powers and duties of Board.**

The Board shall have the following powers and duties:

1. To develop and establish operational and fiscal standards governing the operation of local, regional, and community correctional facilities;
2. To advise the Governor and Director on matters relating to corrections;
3. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth pertaining to local, regional, and community correctional facilities;
4. To ensure the development of programs to educate citizens and elicit public support for the activities of the Department;
5. To develop and implement policies and procedures for the review of the death of any inmate that the Board determines warrants review that occurs in any local, regional, or community correctional facility. Such policies and procedures shall incorporate the Board's authority under § 53.1-6 to ensure the production of evidence necessary to conduct a thorough review of any such death;
6. *To establish minimum standards for health care services, including medical, dental, pharmaceutical, and behavioral health services, in local, regional, and community correctional facilities and procedures for enforcing such minimum standards, with the advice of and guidance from the Commissioner of Behavioral Health and Developmental Services and State Health Commissioner or their designees. Such minimum standards shall require that each local, regional, and community correctional facility submit a standardized quarterly continuous quality improvement report documenting the delivery of health care services, along with any improvements made to those services, to the Board. The Board shall make such reports available to the public on its website. The Board may determine that any local, regional, or community correctional facility that is accredited by the American Correctional Association or National Commission on Correctional Health Care meets such minimum standards solely on the basis of such facility's accreditation status; however, without exception, the requirement that each local, regional, and community correctional facility submit a standardized quarterly continuous quality improvement report to the Board shall be a mandatory minimum standard;*
- ~~6.~~ 7. To establish and promulgate regulations regarding the provision of educational and vocational programs within the Department; and
- ~~7.~~ 8. To adopt and promulgate regulations and require the Director and Department to enforce regulations prohibiting the possession of obscene materials, as defined and described in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities.

## CHAPTER 697

*An Act to amend and reenact § 54.1-113 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation; adjustment of fees by regulatory boards; distribution of excess fees to regulants.*

[H 1939]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-113 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-113. Regulatory boards to adjust fees; certain transfer of moneys collected on behalf of health regulatory boards prohibited.**

A. *Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation maintained under § 54.1-308 shows that unspent and unencumbered revenue exceeds \$100,000 or 20 percent of the total expenses allocated to the regulatory board for the past biennium, whichever is greater, the regulatory board shall (i) distribute all such excess revenue to current regulants and (ii) reduce the fees levied by it for certification, licensure, registration, or permit and renewal thereof so that the fees are sufficient but not excessive to cover expenses.*

B. ~~Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or 54.1-2505 shows expenses allocated to it for the past biennium to be more than 10 percent greater or less than moneys collected on behalf of the regulatory board, it shall revise the fees levied by it for certification, licensure, registration, or permit and renewal thereof so that the fees are sufficient but not excessive to cover expenses.~~

~~B.~~ C. *Nongeneral funds generated by fees collected on behalf of the health regulatory boards and accounted for and deposited into a special fund by the Director of the Department of Health Professions shall be held exclusively to cover the expenses of the health regulatory boards, the Health Practitioners' Monitoring Program, and the Department and Board of Health Professions and shall not be transferred to any agency other than the Department of Health Professions, except as provided in §§ 54.1-3011.1 and 54.1-3011.2.*

**2. That the provisions of the first enactment of this act shall become effective on July 1, 2022.**

## CHAPTER 698

*An Act to amend and reenact § 36-105 of the Code of Virginia, relating to the Uniform Statewide Building Code; issuance of building permits.*

[H 1966]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 36-105 of the Code of Virginia is amended and reenacted as follows:**

**§ 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants; inspection of elevators; issuance of permits.**

A. Enforcement generally. Enforcement of the provisions of the Building Code for construction and rehabilitation shall be the responsibility of the local building department. There shall be established within each local building department a local board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. Any person aggrieved by the local building department's application of the Building Code or refusal to grant a modification to the provisions of the Building Code may appeal to the local board of Building Code appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals. Whenever a county or a municipality does not have such a building department or board of Building Code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the Department for such enforcement and appeals resulting therefrom.

For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the Building Code; however, where the town does not elect to administer and enforce the Building Code, the county in which the town is situated shall administer and enforce the Building Code for the town. In the event that such town is situated in two or more counties, those counties shall administer and enforce the Building Code for that portion of the town situated within their respective boundaries. Additionally, the local governing body of a county or municipality may enter into an agreement with the governing body of another county or municipality for the provision to such county or municipality's local building department of technical assistance with administration and enforcement of the Building Code.

B. New construction. Any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. A building official may issue an annual permit for any construction regulated by the Building Code. The building official shall coordinate all reports of inspections for compliance with the Building Code, with inspections of fire and health officials delegated such authority, prior to issuance of an occupancy permit. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals. *With the exception of the levy imposed pursuant to § 36-137, any fees levied pursuant to this subsection shall be used only to support the functions of the local building department.*

C. Existing buildings and structures.

1. Inspections and enforcement of the Building Code. The local governing body may also inspect and enforce the provisions of the Building Code for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

2. Complaints by tenants. However, upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of the Building Code, the local building department shall enforce such provisions.

3. Inspection warrants. If the local building department receives a complaint that a violation of the Building Code exists that is an immediate and imminent threat to the health or safety of the owner, tenant, or occupants of any building or structure, or the owner, occupant, or tenant of any nearby building or structure, and the owner, occupant, or tenant of the building or structure that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject building or structure, the local building official or his agent may make an affidavit under oath before a magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject building or structure for the purpose of determining whether violations of the Building Code exist. After issuing a warrant under this section, the magistrate or judge shall file the affidavit in the manner prescribed by § 19.2-54. After executing the warrant, the local building official or his agents shall return the warrant to the clerk of the circuit court of the city or county wherein the inspection was made. The local building official or his agent shall make a reasonable effort to obtain consent from the owner, occupant, or tenant of the subject building or structure prior to seeking the issuance of an inspection warrant under this section.

4. Transfer of ownership. If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50 percent, the pending enforcement action shall continue to be enforced against the owner.

5. Elevator, escalator, or related conveyance inspections. The local governing body shall, however, inspect and enforce the Building Code for elevators, escalators, or related conveyances, except for elevators in single- and two-family homes and townhouses. Such inspection shall be carried out by an agency or department designated by the local governing body.

6. A locality may require by ordinance that any landmark, building or structure that contributes to a district delineated pursuant to § 15.2-2306 shall not be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board unless the local maintenance code official consistent with the Uniform Statewide Building Code, Part III Maintenance, determines that it constitutes such a hazard that it shall be razed, demolished or moved.

For the purpose of this subdivision, a contributing landmark, building or structure is one that adds to or is consistent with the historic or architectural qualities, historic associations, or values for which the district was established pursuant to § 15.2-2306, because it (i) was present during the period of significance, (ii) relates to the documented significance of the district, and (iii) possesses historic integrity or is capable of yielding important information about the period.

7. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals. For purposes of this section, "defray the cost" may include the fair and reasonable costs incurred for such enforcement during normal business hours, but shall not include overtime costs unless conducted outside of the normal working hours established by the locality. A schedule of such costs shall be adopted by the local governing body in a local ordinance. A locality shall not charge an overtime rate for inspections conducted during the normal business hours established by the locality. *With the exception of the levy imposed pursuant to § 36-137, any fees levied pursuant to this subdivision shall be used only to support the functions of the local building department.* Nothing herein shall be construed to prohibit a private entity from conducting such inspections, provided the private entity has been approved to perform such inspections in accordance with the written policy of the maintenance code official for the locality.

#### D. Issuance of permits.

1. Fees may be levied by the local governing body to be paid by the applicant for the issuance of a building permit as otherwise provided under this chapter; however, notwithstanding any provision of law, general or special, if the applicant for a building permit is a tenant or the owner of an easement on the owner's property, such applicant shall not be denied a permit under the Building Code solely upon the basis that the property owner has financial obligations to the locality that constitute a lien on such property in favor of the locality. If such applicant is the property owner, in addition to payment of the fees for issuance of a building permit, the locality may require full payment of any and all financial obligations of the property owner to the locality to satisfy such lien prior to issuance of such permit. For purposes of this ~~subsection~~ *subdivision*, "property owner" means the owner of such property as reflected in the land records of the circuit court clerk where the property is located, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent.

2. *In the event that a local building department denies an application for the issuance of a building permit, the local building department shall provide to the applicant a written explanation detailing the reasons for which the application was denied. The applicant may submit a revised application addressing the reasons for which the application was previously denied, and if the applicant does so, the local building department shall be encouraged, but not required, to limit its review of the revised application to only those portions of the application that were previously deemed inadequate and that the applicant has revised.*

## CHAPTER 699

*An Act to amend and reenact § 58.1-439 of the Code of Virginia, relating to major business facility job tax credit; sunset; reporting requirements.*

[H 2003]

Approved March 21, 2019

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 58.1-439 of the Code of Virginia is amended and reenacted as follows:

##### § 58.1-439. Major business facility job tax credit.

A. For taxable years beginning on and after January 1, 1995, but before ~~January 1, 2020~~ *July 1, 2022*, a taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 as set forth in this section.

B. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

C. A "major business facility" is a company that satisfies the following criteria:

1. Subject to the provisions of subsections K or L, the establishment or expansion of the company shall result in the creation of at least 50 jobs for qualified full-time employees; the first such 50 jobs shall be referred to as the "threshold amount"; and

2. The company is engaged in any business in the Commonwealth, except a retail trade business if such trade is the principal activity of an individual facility in the Commonwealth. Examples of types of major business facilities that are eligible for the credit provided under this section include, but are not limited to, a headquarters, or portion of such a facility, where company employees are physically employed, and where the majority of the company's financial, personnel, legal or planning functions are handled either on a regional or national basis. A company primarily engaged in the Commonwealth in the business of manufacturing or mining; agriculture, forestry or fishing; transportation or communications; or a public utility subject to the corporation income tax shall be deemed to have established or expanded a major business facility in the Commonwealth if it meets the requirements of subdivision 1 during a single taxable year and such facilities are not retail establishments. A major business facility shall also include facilities that perform central management or administrative activities, whether operated as a separate trade or business, or as a separate support operation of another business. Central management or administrative activities include, but are not limited to, general management; accounting; computing; tabulating; purchasing; transportation or shipping; engineering and systems planning; advertising; technical sales and support operations; central administrative offices and warehouses; research, development and testing laboratories; computer-programming, data-processing and other computer-related services facilities; and legal, financial, insurance, and real estate services. The terms used in this subdivision to refer to various types of businesses shall have the same meanings as those terms are commonly defined in the Standard Industrial Classification Manual.

D. For purposes of this section, the "credit year" is the first taxable year following the taxable year in which the major business facility commenced or expanded operations.

E. The Department of Taxation shall make all determinations as to the classification of a major business facility in accordance with the provisions of this section.

F. A "qualified full-time employee" means an employee filling a new, permanent full-time position in a major business facility in the Commonwealth. A "new, permanent full-time position" is a job of an indefinite duration, created by the company as a result of the establishment or expansion of a major business facility in the Commonwealth, requiring a minimum of 35 hours of an employee's time a week for the entire normal year of the company's operations, which "normal year" shall consist of at least 48 weeks, or a position of indefinite duration which requires a minimum of 35 hours of an employee's time a week for the portion of the taxable year in which the employee was initially hired for, or transferred to, the major business facility in the Commonwealth. Seasonal or temporary positions, or a job created when a job function is shifted from an existing location in the Commonwealth to the new major business facility and positions in building and grounds maintenance, security, and other such positions which are ancillary to the principal activities performed by the employees at a major business facility shall not qualify as new, permanent full-time positions.

G. For any major business facility, the amount of credit earned pursuant to this section shall be equal to \$1,000 per qualified full-time employee, over the threshold amount, employed during the credit year. The credit shall be allowed ratably, with one-third of the credit amount allowed annually for three years beginning with the credit year. However, for taxable years beginning on or after January 1, 2009, one-half of the credit amount shall be allowed each year for two years. The portion of the \$1,000 credit earned with respect to any qualified full-time employee who is employed in the Commonwealth for less than 12 full months during the credit year will be determined by multiplying the credit amount by a fraction, the numerator of which is the number of full months that the qualified full-time employee worked for the major business facility in the Commonwealth during the credit year, and the denominator of which is 12. A separate credit year and a three-year allowance period shall exist for each distinct major business facility of a single taxpayer, except for credits allowed for taxable years beginning on or after January 1, 2009, when a two-year allowance period shall exist for each distinct major business facility of a single taxpayer.

H. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. Any credit not usable for the taxable year the credit was allowed may be, to the extent usable, carried over for the next 10 succeeding taxable years. No credit shall be carried back to a preceding taxable year. In the event that a taxpayer who is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

I. No credit shall be earned pursuant to this section for any employee (i) for whom a credit under this section was previously earned by a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b); (ii) who was previously employed in the same job function in Virginia by a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b); (iii) whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b); or (iv) whose job function previously qualified for a credit under this section at a different major business facility on behalf of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b).

J. Subject to the provisions of subsections K or L, recapture of this credit, under the following circumstances, shall be accomplished by increasing the tax in any of the five years succeeding the taxable year in which a credit has been earned pursuant to this section if the number of qualified full-time employees decreases below the average number of qualified full-time employees employed during the credit year. Such tax increase amount shall be determined by (i) recomputing the

credit which would have been earned for the original credit year using the decreased number of qualified full-time employees and (ii) subtracting such recomputed credit from the amount of credit previously earned. In the event that the average number of qualifying full-time employees employed at a major business facility falls below the threshold amount in any of the five taxable years succeeding the credit year, all credits earned with respect to such major business facility shall be recaptured. No credit amount will be recaptured more than once pursuant to this subsection. Any recapture pursuant to this section shall reduce credits earned but not yet allowed, and credits allowed but carried forward, before the taxpayer's tax liability may be increased.

K. In the event that a major business facility is located in an economically distressed area or in an enterprise zone as defined in Chapter 49 (§ 59.1-538 et seq.) of Title 59.1 during a credit year, the threshold amount required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from 50 to 25 for purposes of subdivision C 1 and subsection J. An area shall qualify as economically distressed if it is a city or county with an unemployment rate for the preceding year of at least 0.5 percent higher than the average statewide unemployment rate for such year. The Virginia Economic Development Partnership shall identify and publish a list of all economically distressed areas at least annually.

L. For taxable years beginning on or after January 1, 2004, but before January 1, 2006, in the event that a major business facility is located in a severely economically distressed area, the threshold amount required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from 100 to 25 for purposes of subdivision C 1 and subsection J. However, the total amount of credit allowable under this subsection shall not exceed \$100,000 in aggregate. An area shall qualify as severely economically distressed if it is a city or county with an unemployment rate for the preceding year of at least twice the average statewide unemployment rate for such year. The Virginia Economic Development Partnership shall identify and publish a list of all severely economically distressed areas at least annually.

M. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), relating to (i) the computation, carryover, and recapture of the credit provided under this section; (ii) defining criteria for (a) a major business facility, (b) qualifying full-time employees at such facility, and (c) economically distressed areas; and (iii) the computation, carryover, recapture, and redemption of the credit by affiliated companies pursuant to subsection S.

N. The provisions of this section shall apply only in instances where an announcement of intent to establish or expand a major business facility is made on or after January 1, 1994. An announcement of intent to establish or expand a major business facility includes, but is not limited to, a press conference or extensive press coverage, providing information with respect to the impact of the project on the economy of the area where the major business facility is to be established or expanded and the Commonwealth as a whole.

O. The credit allowed pursuant to this section shall be granted to the person who pays taxes for the qualified full-time employees pursuant to Chapter 5 (§ 60.2-500 et seq.) of Title 60.2.

P. No person shall claim a credit allowed pursuant to this section and the credit allowed pursuant to § 58.1-439.2. Any qualified business firm receiving an enterprise zone job creation grant under § 59.1-547 shall not be eligible to receive a major business facility job tax credit pursuant to this section for any job used to qualify for the enterprise zone job creation grant.

Q. No person operating a business in the Commonwealth pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 shall claim a credit pursuant to this section.

R. Notwithstanding subsection O, a taxpayer may, for the purpose of determining the number of qualified full-time employees at a major business facility, include the employees of a contractor or a subcontractor if such employees are permanently assigned to the taxpayer's major business facility. If the taxpayer includes the employees of a contractor or subcontractor in its total of qualified full-time employees, it shall enter into a contractual agreement with the contractor or subcontractor prohibiting the contractor or subcontractor from also claiming these employees in order to receive a credit given under this section. The taxpayer shall provide evidence satisfactory to the Department of Taxation that it has entered into such a contract.

S. For purposes of satisfying the criteria of subdivision C 1, two or more affiliated companies may elect to aggregate the number of jobs created for qualified full-time employees as the result of the establishment or expansion by the individual companies in order to qualify for the credit allowed pursuant to this section. For purposes of this subsection, "affiliated companies" means two or more companies related to each other such that (i) one company owns at least 80 percent of the voting power of the other or others or (ii) at least 80 percent of the voting power of two or more companies is owned by the same interests.

T. The General Assembly of Virginia finds that modern business infrastructure allows businesses to locate their administrative or manufacturing facilities with minimal regard to the location of markets or the transportation of raw materials and finished goods, and that the economic vitality of the Commonwealth would be enhanced if such facilities were established in Virginia. Accordingly, the provisions of this section targeting the credit to major business facilities and limiting the credit to those companies which establish a major business facility in Virginia are integral to the purpose of the credit earned pursuant to this section and shall not be deemed severable.

*U. For taxable years beginning on and after January 1, 2019, and notwithstanding the provisions of § 58.1-3 or any other provision of law, the Department of Taxation, in consultation with the Virginia Economic Development Partnership, shall publish the following information by November 1 of each year for the 12-month period ending on the preceding December 31:*

1. The location of sites used for major business facilities for which a credit was claimed;
  2. The North American Industry Classification System codes used for the major business facilities for which a credit was claimed;
  3. The number of qualified full time employees for whom a credit was claimed; and
  4. The total cost to the Commonwealth's general fund of the credits claimed.
- Such information shall be published by the Department, regardless of how few taxpayers claimed the tax credit, in a manner that prevents the identification of particular taxpayers, reports, returns, or items.

## CHAPTER 700

*An Act to amend and reenact §§ 8.01-128, 8.01-129, 8.01-293, 8.01-470, 8.01-471, 16.1-69.40, 16.1-88.03, 17.1-272, 55-225.01, 55-225.1, 55-246.1, 55-248.3:1, 55-248.35, 55-248.38:1, 55-248.38:2, and 58.1-3947 of the Code of Virginia, relating to eviction; writs of possession and eviction.*

[H 2007]

Approved March 21, 2019

### Be it enacted by the General Assembly of Virginia:

**1. That §§ 8.01-128, 8.01-129, 8.01-293, 8.01-470, 8.01-471, 16.1-69.40, 16.1-88.03, 17.1-272, 55-225.01, 55-225.1, 55-246.1, 55-248.3:1, 55-248.35, 55-248.38:1, 55-248.38:2, and 58.1-3947 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 8.01-128. Verdict and judgment; damages.**

A. If it appears that the plaintiff was forcibly or unlawfully turned out of possession, or that it was unlawfully detained from him, the verdict or judgment shall be for the plaintiff for the premises, or such part thereof as may be found to have been so held or detained. The verdict or judgment shall also be for such damages as the plaintiff may prove to have been sustained by him by reason of such forcible or unlawful entry, or unlawful detention, of such premises, and such rent as he may prove to have been owing to him.

B. The plaintiff may, alternatively, receive a final, appealable judgment for possession of the property unlawfully entered or unlawfully detained and be issued ~~a writ~~ *an order* of possession at the initial hearing on a summons for unlawful detainer, upon evidence presented by the plaintiff to the court. At the initial hearing, upon request of the plaintiff, the court shall bifurcate the unlawful detainer case and set a continuance date no later than 120 days from the date of the initial hearing to determine final rent and damages. On such continuance date, the court shall permit amendment of the amount requested on the summons for unlawful detainer filed in court in accordance with the (i) notice of hearing to establish final rent and damages mailed to the last known address of the defendant and filed with the court at least 15 days prior to the continuance date as provided herein, (ii) evidence presented to the court, and (iii) amounts contracted for in the rental agreement. Nothing in this subsection shall preclude a defendant who appears in court at the initial court date from contesting an unlawful detainer action as otherwise provided by law.

If under this section an appeal is taken as to possession, the entire case shall be considered appealed. The plaintiff shall, in the instance of a continuance taken under this section, mail to the defendant at the defendant's last known address at least 15 days prior to the continuance date a notice advising (a) of the continuance date, (b) of the amounts of final rent and damages, and (c) that the plaintiff is seeking judgment for additional sums. A copy of such notice shall be filed with the court.

C. No verdict or judgment rendered under this section shall bar any separate concurrent or future action for any such damages or rent as may not be so claimed.

#### **§ 8.01-129. Appeal from judgment of general district court.**

A. An appeal shall lie from the judgment of a general district court, in any proceeding under this article, to the circuit court in the same manner and with like effect and upon like security as appeals taken under the provisions of § 16.1-106 et seq. except as specifically provided in this section. The appeal shall be taken within 10 days and the security approved by the court from which the appeal is taken. Notwithstanding the provisions of § 16.1-106 et seq., the bond shall be posted and the writ tax paid within 10 days of the date of the judgment.

B. In any unlawful detainer case filed under § 8.01-126, if a judge grants the plaintiff a judgment for possession of the premises, upon request of the plaintiff, the judge shall further order that the writ *of eviction* issue immediately upon entry of judgment for possession. In such case, the clerk shall deliver the writ *of eviction* to the sheriff, who shall then, at least 72 hours prior to execution of such writ, serve notice of intent to execute the writ, including the date and time of eviction, as provided in § 8.01-470. In no case, however, shall the sheriff evict the defendant from the dwelling unit prior to the expiration of the defendant's 10-day appeal period. If the defendant perfects an appeal, the sheriff shall return the writ to the clerk who issued it.

When the appeal is taken by the defendant, he shall be required to give security also for all rent which has accrued and may accrue upon the premises, but for not more than one year's rent, and also for all damages that have accrued or may accrue from the unlawful use and occupation of the premises for a period not exceeding three months. Trial by jury shall be had upon application of any party.

**§ 8.01-293. Authorization to serve process, capias or show cause order; execute writ of possession or eviction and levy upon property.**

A. The following persons are authorized to serve process:

1. The sheriff within such territorial bounds as described in § 8.01-295;

2. Any person of age 18 years or older and who is not a party or otherwise interested in the subject matter in controversy. For purposes of this subdivision, an investigator employed by an attorney for the Commonwealth or employed by the Indigent Defense Commission, who within 10 years immediately prior to being employed by the attorney for the Commonwealth or Indigent Defense Commission was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth and retired or resigned from his position as a law-enforcement officer in good standing, shall not be considered to be a party or otherwise interested in the subject matter in controversy while engaged in the performance of his official duties, provided that the sheriff in the jurisdiction where process is to be served has agreed that such investigators may serve process. If a sheriff has agreed that such investigators may serve process, then investigators employed by either an attorney for the Commonwealth or the Indigent Defense Commission may serve process. However, in any case in which custody or visitation of a minor child or children is at issue and a summons is issued for the attendance and testimony of a teacher or other school personnel who is not a party to the proceeding, if such summons is served on school property, it shall be served only by a sheriff or his deputy; or

3. A private process server. For purposes of this section, "private process server" means any person 18 years of age or older and who is not a party or otherwise interested in the subject matter in controversy, and who charges a fee for service of process.

Whenever in this Code the term "officer" or "sheriff" is used to refer to persons authorized to make, return or do any other act relating to service of process, such term shall be deemed to refer to any person authorized by this section to serve process.

B. Notwithstanding any other provision of law (i) only a sheriff or high constable may execute an order or writ of possession for personal, real or mixed property, including ~~an order or a writ of possession~~ *eviction* arising out of an action in unlawful entry and detainer or ejection; (ii) any sheriff, high constable or law-enforcement officer as defined in § 9.1-101 of the Code of Virginia may serve any capias or show cause order; and (iii) only a sheriff, the high constable for the City of Norfolk or Virginia Beach or a treasurer may levy upon property.

**§ 8.01-470. Writs on judgments for specific property.**

On a judgment for the recovery of specific property, ~~real or personal~~, a writ of possession *for personal property or a writ of eviction for real property* may issue for the specific property *pursuant to an order of possession entered by a court of competent jurisdiction*, which shall conform to the judgment as to the description of the property and the estate, title, and interest recovered, and there may also be issued a writ of fieri facias for the damages or profits and costs. In cases of unlawful entry and detainer and of ejection, the officer to whom a writ of ~~possession~~ *eviction* has been delivered to be executed shall, at least 72 hours before execution, serve notice of intent to execute, including the date and time of execution, as well as the rights afforded to tenants in §§ 55-237.1 and 55-248.38:2, together with a copy of the writ attached, on the defendant in person or, if the party to be served is not found at the specific property for which a writ of ~~possession~~ *eviction* has been issued, then service shall be effected by posting a copy of such process at the front door or at such other door as appears to be the main entrance of such property. The execution of the writ of ~~possession~~ *eviction* by the sheriff should occur within 15 calendar days from the date the writ of ~~possession~~ *eviction* is received by the sheriff, or as soon as practicable thereafter, but in no event later than 30 days from the date the writ of ~~possession~~ *eviction* is issued. *An order of possession shall remain valid for 180 days from the date granted by the court. If a plaintiff cancels a writ of eviction, such plaintiff may request other writs of eviction during such 180-day period.* In cases of unlawful entry and detainer and of ejection, whenever the officer to whom a writ of ~~possession~~ *eviction* has been delivered to be executed finds the premises locked, he may, after declaring at the door the cause of his coming and demanding to have the door opened, employ reasonable and necessary force to break and enter the door and put the plaintiff in possession. The execution of the writ of ~~possession~~ *eviction* shall be effective against the tenants named in the writ of ~~possession~~ *eviction* and their authorized occupants, guests or invitees, and any trespassers in the premises. And an officer having a writ of possession for specific personal property, if he finds locked or fastened the building or place wherein he has reasonable cause to believe the property specified in the writ is located, may in the daytime, after notice to the defendant, his agent or bailee, break and enter such building or place for the purpose of executing such writ.

**§ 8.01-471. Time period for issuing writs of eviction in unlawful entry and detainer; when returnable.**

Writs of ~~possession~~ *eviction*, in case of unlawful entry and detainer, shall be issued within ~~one year~~ *180 days* from the date of judgment for possession and shall be made returnable within 30 days from the date of issuing the writ. *Notwithstanding any other provision of law, a writ of eviction not executed within 30 days from the date of issuance shall be vacated as a matter of law without further order of the court that entered the order of possession, and no further action shall be taken by the clerk.* No writ shall issue, however, in cases under the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) if, following the entry of judgment *for possession*, the landlord has ~~accepted rent payments without reservation~~ *entered into a new written rental agreement with the tenant*, as described in § 55-248.34:1. A writ of ~~possession~~ *eviction* may be requested by the plaintiff or the plaintiff's attorney or agent.

**§ 16.1-69.40. Powers and duties of clerks; civil liability.**

The clerk and deputy clerks shall be conservators of the peace within the territory for which the court has jurisdiction, and may, within such judicial district, issue warrants, detention orders, and other processes, original, mesne and final, both civil and criminal, commit to jail or other detention facility, or admit to bail upon recognizance, persons charged with crimes or before the court on civil petition, subject to the limitations set forth by law, and issue subpoenas for witnesses, writs of fieri facias and writs of possession and *eviction*, attachments and garnishments and abstracts of judgments. A record made in the performance of the clerk's official duties may be authenticated as a true copy by the clerk or by a deputy clerk without additional authentication by the judge to whom the clerk reports, notwithstanding the provisions of subsection B of § 8.01-391.

No clerk or deputy clerk shall issue any warrant or process based on complaint of his spouse, child, grandchild, parent, grandparent, parent-in-law, child-in-law, brother, sister, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, first cousin, guardian or ward. They may take affidavits and administer oaths and affirmations, take and certify depositions in the same manner as a notary public, perform such other notarial acts as allowed under § 47.1-12, take acknowledgments to deeds or other writings for purposes of recordation, and issue all other legal processes which may be issued by the judge of such court and exercise such other powers and perform such other duties as are conferred or imposed upon them by law. The clerk may also issue to interested persons informational brochures authorized by a judge of such court explaining the legal rights of such persons.

No clerk or deputy clerk shall be civilly liable for providing information or assistance that is within the scope of his duties.

The clerk shall develop, implement and administer procedures necessary for the efficient operation of the clerk's office, keep the records and accounts of the court, supervise nonjudicial personnel and discharge such other duties as may be prescribed by the judge.

**§ 16.1-88.03. Pleadings and other papers by certain parties not represented by attorneys.**

A. Any corporation, partnership, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership or business trust and the Department of Military Affairs, when the amount claimed in any civil action pursuant to subdivision (1) or (3) of § 16.1-77 does not exceed the jurisdictional amounts authorized in such subsections, exclusive of interest, may prepare, execute, file, and have served on other parties in any proceeding in a general district court a warrant in debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, suggestion for summons in garnishment, garnishment summons, ~~writ~~ *order* of possession, *writ of eviction*, writ of fieri facias, interpleader and civil appeal notice without the intervention of an attorney. Such papers may be signed by a corporate officer, a manager of a limited liability company, a general partner of any form of partnership or a trustee of any business trust, or such corporate officer, with the approval of the board of directors, or manager, general partner or trustee may authorize in writing an employee, a person licensed under the provisions of § 54.1-2106.1, a property manager, or a managing agent of a landlord as defined in § 55-248.4 to sign such papers as the agent of the business entity. Only an agency employee designated in writing by the Adjutant General may sign such papers on behalf of the Department of Military Affairs. However, this section shall not apply to an action under subdivision (1) or (3) of § 16.1-77 which was assigned to a corporation, partnership, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership or business trust, or individual solely for the purpose of enforcing an obligation owed or right inuring to another.

B. Nothing in this section shall allow a nonlawyer to file a bill of particulars or grounds of defense or to argue motions, issue a subpoena, rule to show cause, or *capias*; file or interrogate at debtor interrogatories; or to file, issue or argue any other paper, pleading or proceeding not set forth in subsection A.

C. The provisions of § 8.01-271.1 shall apply to any pleading, motion or other paper filed or made pursuant to this section.

D. Parties not represented by counsel, and who have made an appearance in the case, shall promptly notify in writing the clerk of court wherein the litigation is pending, and any adverse party, of any change in the party's address necessary for accurate mailing or service of any pleadings or notices. In the absence of such notification, a mailing to or service upon a party at the most recent address contained in the court file of the case shall be deemed effective service or other notice.

**§ 17.1-272. Process and service fees generally.**

A. The fee for process and service in the following instances shall be \$12:

1. Service on any person, firm or corporation, an order, notice, summons or any other civil process, except as herein otherwise provided, and for service on any person, firm, or corporation any process when the body is not taken and making a return thereof, except that no fee shall be charged for service pursuant to § 2.2-4022.

2. Summoning a witness or garnishee on an attachment.

3. Service on any person of an attachment or other process under which the body is taken and making a return thereon.

4. Service of any order of court not otherwise provided for, except that no fees shall be charged for protective orders issued pursuant to Chapter 11 (§ 16.1-226 et seq.) of Title 16.1.

5. Making a return of a writ of fieri facias where no levy is made or forthcoming bond is taken.

6. Summoning a witness in any case in which custody or visitation of a minor child or children is at issue.

B. The fees for process and service in the following instances shall be \$25:

1. Service and publication of any notice of a publicly-advertised public sale.
2. Service of a writ of possession *or writ of eviction*, except that there shall be an additional fee of \$12 for each additional defendant.
3. Levying upon current money, bank notes, goods or chattels of a judgment debtor pursuant to § 8.01-478.
4. Service of a declaration in ejectment on any person, firm or corporation, except that there shall be an additional fee of \$12 for each additional defendant.
5. Levying distress warrant or an attachment.
6. Levying an execution.

C. The process and service fee for serving any papers returnable out of state shall be \$75, except no fees shall be charged for the service of papers in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protective order or a petition for a protective order. A victim of domestic violence, stalking, or sexual assault shall not bear the costs associated with the filing of criminal charges against the offender, and no victim shall bear the costs associated with the filing, issuance, registration, or service of a warrant, protective order, petition for a protective order, or witness subpoena, issued inside or outside the Commonwealth.

D. The fees set out in this section shall be allowable for services provided by such officers in the circuit and district courts.

**§ 55-225.01. Sections applicable only to certain residential tenancies.**

A. Residential tenancies. The Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) shall apply to occupancy in any single-family residential dwelling unit and any multifamily dwelling unit located in Virginia unless exempted pursuant to the provisions of this section. Occupancy in a public housing unit or other housing unit that is a residential dwelling unit is subject to this chapter, however, if the provisions of this chapter are inconsistent with the regulations of the Department of Housing and Urban Development, such regulations shall control.

B. Exempt residential dwelling units.

1. Where the landlord is a natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in its own name subject to a rental agreement, such landlord may opt out of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) by so stating in a rental agreement with a tenant. Such residential dwelling units shall be exempt from the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.), and the provisions of §§ 55-225.01 through 55-225.48 shall be applicable.

2. Where occupancy is under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

C. Tenancies and occupancies that are not residential tenancies. The following occupancies are not residential tenancies under this chapter:

1. Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;

2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

4. Occupancy in a campground as defined in § 35.1-1;

5. Occupancy by a tenant who is not required to pay rent pursuant to a rental agreement; or

6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is conditioned upon employment in and about the premises or a former employee whose occupancy continues less than 60 days.

D. Occupancy in hotel, motel, and extended stay facility.

1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a writ of ~~possession~~ *eviction* issued pursuant to such action, which would otherwise be required under this chapter.

2. A hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar transient lodging shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person for consideration if such person does not reside in such lodging as his primary residence.

3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for fewer than 90 consecutive days, such lodging shall not be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of the five-day period specified in the notice, may exercise self-help eviction if payment in full has not been received.

4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary

residence for more than 90 consecutive days or is subject to a written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.

5. Nothing herein shall be construed to preclude the owner of a lodging establishment that uses self-help eviction pursuant to this section from pursuing any civil or criminal remedies under the laws of the Commonwealth.

**§ 55-225.1. Recovery of possession limited.**

A landlord may not recover or take possession of a residential dwelling unit by (i) willful diminution of services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service required to be supplied by the landlord under a rental agreement or (ii) refusal to permit the tenant access to such unit unless such refusal is pursuant to an unlawful detainer action from a court of competent jurisdiction and the execution of a writ of ~~possession~~ *eviction* issued pursuant thereto. A provision included in a rental agreement for a dwelling unit authorizing action prohibited by this section is unenforceable.

**§ 55-246.1. Who may recover rent or possession.**

Notwithstanding any rule of court to the contrary, (i) any person licensed under the provisions of § 54.1-2106.1, (ii) any property manager, or a managing agent of a landlord as defined in § 55-248.4, or (iii) any employee, who is authorized in writing by a corporate officer with the approval of the board of directors, or by a manager, a general partner or a trustee, of a partnership, association, corporation, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership, business trust, or family trust to sign pleadings as the agent of the business entity may obtain a judgment (a) for possession in the general district court for the county or city wherein the premises, or part thereof, is situated or (b) for rent or damages, including actual damages for breach of the rental agreement, or for final rent and damages under § 8.01-128, in any general district court where venue is proper under § 8.01-259, against any defendant if the person seeking such judgment had a contractual agreement with the landlord to manage the premises for which rent or possession is due and may prepare, execute, file, and have served on other parties in any general district court a warrant in debt, suggestion for summons in garnishment, garnishment summons, ~~writ~~ *order* of possession, *writ of eviction*, or writ of fieri facias arising out of a landlord tenant relationship. However, the activities of any such person in court shall be limited by the provisions of § 16.1-88.03. However, nothing shall be construed as preventing a nonlawyer from requesting relief from the court as provided by law or statute when such nonlawyer is before the court on one of the actions specified herein.

**§ 55-248.3:1. Applicability of chapter.**

A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or otherwise modified, in whole or in part, by the governing body of any locality, its boards and commissions or other instrumentalities, or the courts of the Commonwealth. Occupancy in a public housing unit or other housing unit that is a residential dwelling unit is subject to this chapter, however, if the provisions of this chapter are inconsistent with the regulations of the Department of Housing and Urban Development, such regulations shall control.

B. The provisions of this chapter shall apply to occupancy in all single-family and multifamily residential dwelling units and multifamily dwelling unit located in the Commonwealth. However, where the landlord is a natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in its own name subject to a rental agreement, such landlord may opt out of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) by so stating in a rental agreement with a tenant. Such residential dwelling units shall be exempt from this chapter and the provisions of §§ 55-225.01 through 55-225.48 shall be applicable.

The provisions of this chapter shall not apply to instances where occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

C. Tenancies and occupancies that are not residential tenancies. The following occupancies are not residential tenancies under this chapter:

1. Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;
  2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;
  3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;
  4. Occupancy in a campground as defined in § 35.1-1;
  5. Occupancy by a tenant who pays no rent pursuant to a rental agreement; or
  6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is conditioned upon employment in and about the premises or ~~as~~ a former employee whose occupancy continues less than 60 days.
- D. Occupancy in hotel, motel, and extended stay facility.

1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a writ of ~~possession~~ *eviction* issued pursuant to such action, which would otherwise be required under this chapter.

2. A hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar transient lodging shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person for consideration if such person does not reside in such lodging as his primary residence.

3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for fewer than 90 consecutive days, such lodging shall not be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of the five-day period specified in the notice, may exercise self-help eviction if payment in full has not been received.

4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for more than 90 consecutive days or is subject to a written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.

5. Nothing herein shall be construed to preclude the owner of a lodging establishment that uses self-help eviction pursuant to this section from pursuing any civil or criminal remedies under the laws of the Commonwealth.

#### **§ 55-248.35. Remedy after termination.**

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement, reasonable attorney's fees as provided in § 55-248.31, and the cost of service of any notice under § 55-225 or § 55-248.31 or process by a sheriff or private process server which cost shall not exceed the amount authorized by § 55-248.31:1, which claims may be enforced, without limitation, by the institution of an action for unlawful entry or detainer. Actual damages for breach of the rental agreement may include a claim for such rent as would have accrued until the expiration of the term thereof or until a tenancy pursuant to a new rental agreement commences, whichever first occurs; provided that nothing herein contained shall diminish the duty of the landlord to mitigate actual damages for breach of the rental agreement. In obtaining post-possession judgments for actual damages as defined herein, the landlord shall not seek a judgment for accelerated rent through the end of the term of the tenancy.

In any unlawful detainer action brought by the landlord, this section shall not be construed to prevent the landlord from being granted by the court a simultaneous judgment for money due and for possession of the premises without a credit for any security deposit. Upon the tenant vacating the premises either voluntarily or by a writ of ~~possession~~ *eviction*, security deposits shall be credited to the tenants' account by the landlord in accordance with the requirements of § 55-248.15:1.

#### **§ 55-248.38:1. Disposal of property abandoned by tenants.**

If any items of personal property are left in the dwelling unit, the premises, or in any storage area provided by the landlord, after the rental agreement has terminated and delivery of possession has occurred, the landlord may consider such property to be abandoned. The landlord may dispose of the property so abandoned as the landlord sees fit or appropriate, provided he has: (i) given a termination notice to the tenant in accordance with this chapter, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after termination, (ii) given written notice to the tenant in accordance with § 55-248.33, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after expiration of the seven-day notice period, or (iii) given a separate written notice to the tenant, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within 24 hours after expiration of a 10-day period from the date such notice was given to the tenant. Any written notice to the tenant shall be given in accordance with § 55-248.6. The tenant shall have the right to remove his personal property from the dwelling unit or the premises at reasonable times during the 24-hour period after termination or at such other reasonable times until the landlord has disposed of the remaining personal property of the tenant.

During the 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided in this section, the tenant shall have a right to injunctive or other relief as provided by law. If the landlord received any funds from any sale of abandoned property as provided in this section, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in selling, storing or safekeeping such property. If any such funds are remaining after application, the remaining funds shall be treated as a security deposit under the provisions of § 55-248.15:1. The provisions of this section shall not be applicable if the landlord has been granted ~~a writ~~ *an order* of possession for the premises in accordance with Title 8.01 and execution of ~~such a writ of~~ *eviction* has been completed pursuant to § 8.01-470.

Nothing herein shall affect the right of a landlord to enforce an inchoate or perfected lien of the landlord on the personal property of a tenant in a dwelling unit or on the premises leased to such tenant and the right of a landlord to distress, levy, and seize such personal property as otherwise provided by law.

#### **§ 55-248.38:2. Authority of sheriffs to store and sell personal property removed from residential premises; recovery of possession by owner; disposition or sale.**

Notwithstanding the provisions of § 8.01-156, when personal property is removed from a dwelling unit, the premises, or from any storage area provided by the landlord pursuant to an action of unlawful detainer or ejection, or pursuant to any other action in which personal property is removed from the dwelling unit in order to restore the dwelling unit to the person entitled thereto, the sheriff shall oversee the removal of such personal property to be placed into the public way. The tenant

shall have the right to remove his personal property from the public way during the 24-hour period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the public way.

At the landlord's request, any personal property removed pursuant to this section shall be placed into a storage area designated by the landlord, which may be the dwelling unit. The tenant shall have the right to remove his personal property from the landlord's designated storage area at reasonable times during the 24 hours after eviction from the landlord's or at such other reasonable times until the landlord has disposed of the property as provided herein. During that 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided herein, the tenant shall have a right to injunctive or other relief as otherwise provided by law.

Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord in selling or storing such property. If any funds are remaining after application, the remaining funds shall be treated as security deposit under applicable law.

The notice posted by the sheriff *with the writ of eviction* setting the date and time of the eviction, pursuant to § 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and shall include in the said notice a copy of this statute attached to, or made a part of, this notice.

**§ 58.1-3947. Lease of real estate for collection of taxes.**

Any real estate in the county, city or town belonging to the person or estate assessed with taxes due on such real estate may be rented or leased by the treasurer, sheriff, constable or collector, privately or at public outcry, after due publication, in the discretion of such treasurer, sheriff, constable or collector, either at the front door of the courthouse or on the premises or at some public place in the community where the premises are situated, after giving not less than fifteen days' notice by printed or written notices posted at the front door of the courthouse and at three or more places in the neighborhood of the real estate to be leased. Such leasing shall be for a term not exceeding one year and for cash sufficient to pay the taxes due on the real estate so rented and the costs and charges of advertising and leasing. When a lease is effected, the treasurer, collector, sheriff or constable leasing such real estate shall put the lessee in possession thereof and for such purpose shall have like powers as those exercised by a sheriff acting under a writ of possession *or writ of eviction*.

**CHAPTER 701**

*An Act to amend and reenact § 15.2-2316.2 of the Code of Virginia, relating to transfer of development rights; specified sending and receiving areas.*

[H 2139]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2316.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2316.2. Localities may provide for transfer of development rights.**

A. Pursuant to the provisions of this article, the governing body of any locality by ordinance may, in order to conserve and promote the public health, safety, and general welfare, establish procedures, methods, and standards for the transfer of development rights within its jurisdiction. Any locality adopting or amending any such transfer of development rights ordinance shall give notice and hold a public hearing in accordance with § 15.2-2204 prior to approval by the governing body.

B. In order to implement the provisions of this act, a locality shall adopt an ordinance that shall provide for:

1. The issuance and recordation of the instruments necessary to sever development rights from the sending property, to convey development rights to one or more parties, or to affix development rights to one or more receiving properties. These instruments shall be executed by the property owners of the development rights being transferred, and any lien holders of such property owners. The instruments shall identify the development rights being severed, and the sending properties or the receiving properties, as applicable;

2. Assurance that the prohibitions against the use and development of the sending property shall bind the landowner and every successor in interest to the landowner;

3. The severance of transferable development rights from the sending property;

4. The purchase, sale, exchange, or other conveyance of transferable development rights, after severance, and prior to the rights being affixed to a receiving property;

5. A system for monitoring the severance, ownership, assignment, and transfer of transferable development rights;

6. A map or other description of areas designated as sending and receiving areas for the transfer of development rights between properties;

7. The identification of parcels, if any, within a receiving area that are inappropriate as receiving properties;

8. The permitted uses and the maximum increases in density in the receiving area;

9. The minimum acreage of a sending property and the minimum reduction in density of the sending property that may be conveyed in severance or transfer of development rights;

10. The development rights permitted to be attached in the receiving areas shall be equal to or greater than the development rights permitted to be severed from the sending areas;

11. An assessment of the infrastructure in the receiving area that identifies the ability of the area to accept increases in density and its plans to provide necessary utility services within any designated receiving area; and

12. The application to be deemed approved upon the determination of compliance with the ordinance by the agent of the planning commission, or other agent designated by the locality.

C. In order to implement the provisions of this act, a locality may provide in its ordinance for:

1. The purchase of all or part of such development rights, which shall retire the development rights so purchased;

2. The severance of development rights from existing zoned or subdivided properties as otherwise provided in subsection E;

3. The owner of such development rights to make application to the locality for a real estate tax abatement for a period up to 25 years, to compensate the owner of such development rights for the fair market value of all or part of the development rights, which shall retire the number of development rights equal to the amount of the tax abatement, and such abatement is transferable with the property;

4. The owner of a property to request designation by the locality of the owner's property as a "sending property" or a "receiving property";

5. The allowance for residential density to be converted to bonus density on the receiving property by (i) an increase in the residential density on the receiving property or (ii) an increase in the square feet of commercial, industrial, or other uses on the receiving property, which upon conversion shall retire the development rights so converted;

6. The receiving areas to include such urban development areas *or similarly defined areas* in the locality established pursuant to § 15.2-2223.1;

7. The sending properties, subsequent to severance of development rights, to generate one or more forms of renewable energy, as defined in § 56-576, subject to the provisions of the local zoning ordinance;

8. The sending properties, subsequent to severance of development rights, to produce agricultural products or forestal products, as defined in § 15.2-4302, and to include parks, campgrounds and related camping facilities; however, for purposes of this subdivision, "campgrounds" does not include use by travel trailers, motor homes, and similar vehicular type structures;

9. The review of an application by the planning commission to determine whether the application complies with the provisions of the ordinance;

10. Such other provisions as the locality deems necessary to aid in the implementation of the provisions of this act;

11. Approval of an application upon the determination of compliance with the ordinance by the agent of the planning commission; and

12. A requirement that development comply with any locality-adopted neighborhood design standards identified in the comprehensive plan for the receiving area in which the development shall occur, provided such design standard was adopted in the comprehensive plan and applied to the receiving area prior to the transfer of the development right.

D. The locality may, by ordinance, designate receiving areas or receiving properties, ~~or~~ add to, supplement, or amend its designations of receiving areas or receiving properties, *or designate receiving areas or receiving properties that shall receive development rights only from certain sending areas or sending properties specified by the locality*, so long as the development rights permitted to be attached in the receiving areas are equal to or greater than the development rights permitted to be severed in the sending areas.

E. Any proposed severance or transfer of development rights shall only be initiated upon application by the property owners of the sending properties, development rights, or receiving properties as otherwise provided herein.

F. A locality may not require property owners to sever or transfer development rights as a condition of the development of any property.

G. The owner of a property may sever development rights from the sending property, pursuant to the provisions of this act. An application to transfer development rights to one or more receiving properties, for the purpose of affixing such rights thereto, shall only be initiated upon application by the owner of such development rights and the owners of the receiving properties.

H. Development rights severed pursuant to this article shall be interests in real property and shall be considered as such for purposes of conveyance and taxation. Once a deed for transferable development rights, created pursuant to this act, has been recorded in the land records of the office of the circuit court clerk for the locality to reflect the transferable development rights sold, conveyed, or otherwise transferred by the owner of the sending property, the development rights shall vest in the grantee and may be transferred by such grantee to a successor in interest. Nothing herein shall be construed to prevent the owner of the sending property from recording a deed covenant against the sending property severing the development rights on said property, with the owner of the sending property retaining ownership of the severed development rights. Any transfer of the development rights to a property in a receiving area shall be in accordance with the provisions of the ordinance adopted pursuant to this article.

I. For the purposes of ad valorem real property taxation, the value of a transferable development right shall be deemed appurtenant to the sending property until the transferable development right is severed from and recorded as a distinct

interest in real property, or the transferable development right is used at a receiving property and becomes appurtenant thereto. Once a transferable development right is severed from the sending property, the assessment of the fee interest in the sending property shall reflect any change in the fair market value that results from the inability of the owner of the fee interest to use such property for such uses terminated by the severance of the transferable development right. Upon severance from the sending property and recordation as a distinct interest in real property, the transferable development right shall be assessed at its fair market value on a separate real estate tax bill sent to the owner of said development right as taxable real estate in accordance with Article 1 (§ 58.1-3200 et seq.) of Chapter 32 of Title 58.1. The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

J. The owner of a sending property from which development rights are severed shall provide a copy of the instrument, showing the deed book and page number, or instrument or GPIN, to the real estate tax assessor for the locality.

K. Localities, from time to time as the locality designates sending and receiving areas, shall incorporate the map identified in subdivision B 6 into the comprehensive plan.

L. No amendment to the zoning map, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or downzone the uses, or the density of uses permitted in the zoning district applicable to any property to which development rights have been transferred, shall be effective with respect to such property unless there has been mistake, fraud, or a material change in circumstances substantially affecting the public health, safety, or welfare.

M. A county adopting an ordinance pursuant to this article may designate eligible receiving areas in any incorporated town within such county, if the governing body of the town has also amended its zoning ordinance to designate the same areas as eligible to receive density being transferred from sending areas in the county. The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

N. Any county and an adjacent city may enter voluntarily into an agreement to permit the county to designate eligible receiving areas in the city if the governing body of the city has also amended its zoning ordinance to designate the same areas as eligible to receive density being transferred from sending areas in the county. The city council shall designate areas it deems suitable as receiving areas and shall designate the maximum increases in density in each such receiving area. However, if any such agreement contains any provision addressing any issue provided for in Chapter 32 (§ 15.2-3200 et seq.), 33 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), 39 (§ 15.2-3900 et seq.), or 41 (§ 15.2-4100 et seq.), the agreement shall be subject to the review and implementation process established by Chapter 34 (§ 15.2-3400 et seq.). The development right shall be taxed as taxable real estate by the local jurisdiction where the sending property is located, until such time as the development right becomes attached to a receiving property, at which time it shall be taxed as taxable real estate by the local jurisdiction where the receiving property is located.

1. The terms and conditions of the density transfer agreement as provided in this subsection shall be determined by the affected localities and shall be approved by the governing body of each locality participating in the agreement, provided the governing body of each such locality first holds a public hearing, which shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

2. The governing bodies shall petition a circuit court having jurisdiction in one or more of the localities for an order affirming the proposed agreement. The circuit court shall be limited in its decision to either affirming or denying the agreement and shall have no authority, without the express approval of each local governing body, to amend or change the terms or conditions of the agreement, but shall have the authority to validate the agreement and give it full force and effect. The circuit court shall affirm the agreement unless the court finds either that the agreement is contrary to the best interests of the Commonwealth or that it is not in the best interests of each of the parties thereto.

3. The agreement shall not become binding on the localities until affirmed by the court under this subsection. Once approved by the circuit court, the agreement shall also bind future local governing bodies of the localities.

## CHAPTER 702

*An Act to amend and reenact § 53.1-133.03 of the Code of Virginia, relating to exchange of medical and mental health information and records of person committed to jail; local probation officers.*

[H 2213]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 53.1-133.03 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-133.03. Exchange of medical and mental health information and records.**

Notwithstanding any other provision of law relating to disclosure and confidentiality of patient records maintained by a health care provider, whenever a person is committed to a local or regional correctional facility, the person in charge of the facility or his designee shall be entitled to obtain medical records concerning such person from a health care provider. In

addition, medical and mental health information and records of any person committed to jail, and transferred to another correctional facility, may be exchanged among the following:

1. Administrative personnel of the correctional facilities involved and of the administrative personnel within the holding facility when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the holding facility, its employees, or prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the safety and security of the facility.

2. Members of the Parole Board or its designees, as specified in § 53.1-138, in order to conduct the investigation required under § 53.1-155.

3. Probation and parole officers *and local probation officers* for use in parole and probation planning, release, and supervision.

4. Officials of the facilities involved and officials within the holding facility for the purpose of formulating recommendations for treatment and rehabilitative programs; classification, security and work assignments; and determining the necessity for medical, dental and mental health care, treatment and other such programs.

5. Medical and mental health hospitals and facilities, both public and private, including community service boards and health departments, for use in treatment while committed to jail or a correctional facility while under supervision of a probation or parole officer.

Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. § 2.11 et seq., shall not be subject to the provisions of this section. The disclosure of results of a test for human immunodeficiency virus shall not be permitted except as provided in §§ 32.1-36.1 and 32.1-116.3.

The release of medical and mental health information and records to any other agency or individual shall be subject to all regulations promulgated by the Board of Corrections which govern confidentiality of such records. Medical and mental health information concerning a prisoner which has been exchanged pursuant to this section may be used only as provided herein and shall otherwise remain confidential and protected from disclosure.

Nothing contained in this section shall prohibit the release of records to the Department of Health Professions or health regulatory boards consistent with Subtitle III (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia.

## CHAPTER 703

*An Act to amend and reenact § 15.2-2308 of the Code of Virginia, relating to local board of zoning appeals; membership.*

[H 2224]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 15.2-2308 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.**

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws, shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, *or in a town with a population of 3,500 or less, either three, five, or seven residents of the locality*, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality except that one may be a member of the local planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman twenty-four hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members

or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. Notwithstanding any other provision of law, general or special, for the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body. Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days' notice.

E. Notwithstanding any contrary provisions of this section, in the Cities of Portsmouth and Virginia Beach, members of the board shall be appointed by the governing body. The governing body shall also appoint at least one but not more than three alternates to the board.

## CHAPTER 704

*An Act to amend and reenact §§ 38.2-2126 and 38.2-2234 of the Code of Virginia, relating to property and motor vehicle insurance; use of credit scores; adverse actions.*

[H 2230]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-2126 and 38.2-2234 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-2126. Insurance credit score disclosure; use of credit information.**

A. Any insurer issuing or delivering a policy written to insure an owner-occupied dwelling or the personal property of a tenant's residential property risk that uses credit information contained in a consumer report for underwriting, tier placement or rating an applicant or insured, shall meet the following requirements:

1. Disclose, either on the insurance application or at the time the insurance application is taken (i) that it shall obtain credit information in connection with such application; (ii) that the insured may request that his credit information be updated; and (iii) that, if the insured questions the accuracy of the credit information, the insurer will, upon request of the insured, reevaluate the insured based on corrected credit information from a consumer reporting agency. The disclosure may be made by the insurer or its agent. Such disclosure shall be either written or provided to an applicant in the same medium as the application for insurance. The insurer need not provide the disclosure required under this subsection to any insured on a renewal policy if such insured has previously been provided a disclosure. Use of the following example disclosure constitutes compliance with this subsection: "In connection with this application for insurance, we shall review your credit report or obtain or use an insurance credit score based on the information contained in that credit report. We may use a third party in connection with the development of your insurance credit score. You may request that your credit information be updated and if you question the accuracy of the credit information, we will, upon your request, reevaluate you based on corrected credit information from a consumer reporting agency."

2. If an insurer takes an adverse action, based in whole or in part, upon credit information, the insurer ~~must~~ shall provide ~~notification~~ notice to the applicant or insured that the adverse action was based, in whole or in part, on credit information. Such ~~notification~~ notice shall also either include a statement advising the applicant or insured of the primary factors or characteristics that were used as the basis for the adverse action, or notify the applicant or insured that he may request such information. For the purposes of this section, adverse action means a denial, nonrenewal or cancellation of, an increase in any charge for or refusal to apply a discount, or placement in a less favorable tier, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting, tier placement or rating of insurance based on the applicant's or insured's credit information. Adverse action includes, ~~but is not limited to,~~ circumstances where *due to his credit information* the applicant or insured (i) ~~did not receive the company's most favorable~~ receives a higher rate, (ii) ~~was not~~ is placed in ~~the company's best~~ a less favorable tier, and (iii) when there are multiple companies available within a group of insurers, ~~the applicant or insured did not receive~~ receives coverage in ~~the group's most~~ a less favorably priced company of the group. *Notice is required when the effect of the credit information would put the applicant or insured in a worse position than if the credit information had not been considered.* In the case of renewals, the circumstances listed in clauses (i), (ii), and (iii) shall not be deemed adverse actions if, due to the insured's credit information, the insured is not receiving a less favorable rate or placed in a less favorable tier or company than during the policy period immediately preceding renewal.

B. If an insurer uses credit information from a consumer report for tier placement or rating of its renewal business for a policy insuring an owner-occupied dwelling or the personal property of a tenant's residential property risk, the insurer shall

be required to update the credit information at least once every three years, provided, however, that the insurer shall be required to update an insured's credit information within the three-year period if requested by the insured. If an update request is made by the insured at least 45 days prior to the end of the policy term, any adjustment to the premium required by the update of the insured's credit information shall take effect at the first renewal following the request for update of the insured's credit information. If an update request is made by the insured within 45 days of the end of the policy term, the insurer shall have the option of applying any adjustment to the premium required by the update of the insured's credit information to the first renewal or the second renewal following the request for update of the insured's credit information. An insurer need not update the credit information more frequently than once every policy term. Notwithstanding the requirements of this subsection, no insurer need obtain updated credit information if the insured has the most favorably priced tier or rate based on his credit information.

C. Notwithstanding the provisions of subdivision A 3 of § 38.2-1904, if an insurer issuing or delivering a policy to insure an owner-occupied dwelling or the personal property of a tenant's residential property risk is unable to obtain credit information from a consumer report or when an insured or applicant has insufficient credit to produce an insurance credit score, the insurer shall underwrite, tier, or rate the individual risk in one of the following ways: (i) as if the risk received a neutral or average insurance credit score, as defined by the insurer, (ii) by excluding the use of credit information as a factor and using only other underwriting, tiering, or rating criteria, or (iii) in accordance with established underwriting guidelines or filed tiering or rating rules. Any such established underwriting guidelines or filed tiering or rating rules shall consider other actuarially justified factors associated with the risk in addition to the inability to obtain credit information or the insufficiency of the credit information.

D. The following factors shall not be used as credit criteria or to determine an insurance credit score for underwriting, tier placement, or rating purposes for a policy insuring an owner-occupied dwelling or the personal property of a tenant's residential property risk:

1. Information that has been identified by the consumer reporting agency as disputed by the consumer and coded as such, if the use of such disputed information would result in an adverse action;
2. Information that has been identified by the consumer reporting agency as related to insurance inquiries or nonconsumer-initiated inquiries and coded as such;
3. Information that has been identified by the consumer reporting agency as related to collection accounts with a medical industry code;
4. Information that includes multiple lender inquiries, if coded by the consumer reporting agency as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered;
5. Information that includes multiple lender inquiries, if coded by the consumer reporting agency as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry is considered;
6. Income, gender, address, zip code, ethnic group, race, color, religion, marital status, or nationality of the consumer; or
7. The total available line of credit; however, an insurer may consider the total amount of outstanding debt in relation to the total available line of credit.

E. No insurer shall take an adverse action against an applicant for a policy insuring an owner-occupied dwelling or the personal property of a tenant's residential property risk based on credit information, unless an insurer obtains and uses a consumer report procured within 90 days from the date the policy is first written.

F. Notwithstanding anything to the contrary, for a policy insuring an owner-occupied dwelling or the personal property of a tenant's residential property risk, an insurer may, upon request, provide reasonable exceptions for an individual whose credit information is directly and adversely impacted by a catastrophic event, as determined by the insurer, including, ~~but not limited to,~~ catastrophic illness or injury or the death of a spouse or member of the same household. The insurer may require reasonable documentation of the event prior to granting an exception. No insurer shall be deemed out of compliance with its filed rules and rates as a result of granting an exception pursuant to this subsection.

G. Upon the request of an insured or applicant with a policy insuring an owner-occupied dwelling or the personal property of a tenant's residential property risk for a reevaluation as set forth in this section, the insurer shall reevaluate the individual based on corrected credit information from a consumer reporting agency. If the reevaluation results in a lower premium, the lower premium shall be applied retroactively to the effective date of the current policy term, and the insurer shall either refund or credit the amount to the insured. The insurer may require reasonable documentation of the corrected information from the consumer reporting agency prior to the reevaluation.

H. An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of an agent who obtains or uses credit information or insurance credit scores for an insurer, provided the agent follows the instructions or procedures established by the insurer and complies with any applicable law. Nothing in this subsection shall be construed to provide an applicant or insured with a cause of action that does not exist in the absence of this subsection.

I. No consumer reporting agency shall provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about an individual's credit information or a request for a consumer report or an insurance credit score. Such information includes, ~~but is not limited to,~~ the expiration dates of an insurance policy or any other information that may identify time periods during which an individual's insurance may expire and the terms and conditions of the individual's insurance coverage. The restrictions provided in this subsection do not apply to data or lists the consumer reporting agency supplies to the insurance agent from whom information was received or the insurer

on whose behalf such agent acted. Nothing in this subsection shall be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

J. For the purposes of this section, "insurance credit score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured for a policy insuring an owner-occupied dwelling or the personal property of a tenant's residential property risk.

~~K. The provisions set forth in this section shall apply to new policies insuring an owner-occupied dwelling or the personal property of a tenant's residential property risk not later than January 1, 2004, and to renewal policies insuring an owner-occupied dwelling or the personal property of a tenant's residential property risk not later than April 1, 2004.~~

**§ 38.2-2234. Insurance credit score disclosure; use of credit information.**

A. Any insurer issuing or delivering a policy of motor vehicle insurance in this Commonwealth, as defined in § 38.2-2212, that uses credit information contained in a consumer report for underwriting, tier placement or rating an applicant or insured shall meet the following requirements:

1. Disclose, either on the insurance application or at the time the insurance application is taken (i) that it shall obtain credit information in connection with such application, (ii) that the insured may request that his credit information be updated; and (iii) that, if the insured questions the accuracy of the credit information, the insurer will, upon request of the insured, reevaluate the insured based on corrected credit information from a consumer reporting agency. The disclosure may be made by the insurer or its agent. Such disclosure shall be either written or provided to an applicant in the same medium as the application for insurance. The insurer need not provide the disclosure required under this subsection to any insured on a renewal policy, if such insured has previously been provided a disclosure. Use of the following example disclosure constitutes compliance with this subsection: "In connection with this application for insurance, we shall review your credit report or obtain or use an insurance credit score based on the information contained in that credit report. We may use a third party in connection with the development of your insurance credit score. You may request that your credit information be updated and if you question the accuracy of the credit information, we will, upon your request, reevaluate you based on corrected credit information from a consumer reporting agency."

2. If an insurer takes an adverse action, based in whole or in part, upon credit information, the insurer ~~must~~ shall provide ~~notification~~ notice to the applicant or insured that the adverse action was based, in whole or in part, on credit information. Such ~~notification~~ notice shall also either include a statement advising the applicant or insured of the primary factors or characteristics that were used as the basis for the adverse action, or notify the applicant or insured that he may request such information. For the purposes of this section, adverse action means a denial, nonrenewal or cancellation of, an increase in any charge for or refusal to apply a discount, or placement in a less favorable tier, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with underwriting, tier placement or rating of insurance based on the applicant's or insured's credit information. Adverse action includes, ~~but is not limited to,~~ circumstances where due to his credit information the applicant or insured (i) ~~did not receive the company's most favorable~~ receives a higher rate, (ii) ~~was not~~ is placed in the company's best a less favorable tier, and (iii) when there are multiple companies available within a group of insurers, ~~the applicant or insured did not receive~~ receives coverage in the group's most a less favorably priced company of the group. Notice is required when the effect of the credit information would put the applicant or insured in a worse position than if the credit information had not been considered. In the case of renewals, the circumstances listed in clauses (i), (ii), and (iii) shall not be deemed adverse actions if, due to the insured's credit information, the insured is not receiving a less favorable rate or placed in a less favorable tier or company than during the policy period immediately preceding renewal.

B. If an insurer uses credit information from a consumer report for tier placement or rating of its renewal business for a policy of motor vehicle insurance, as defined in § 38.2-2212, issued or delivered in this Commonwealth the insurer shall be required to update the credit information at least once every three years, provided, however, that the insurer shall be required to update an insured's credit information within the three-year period if requested by the insured. If an update request is made by the insured at least 45 days prior to the end of the policy term, any adjustment to the premium required by the update of the insured's credit information shall take effect at the first renewal following the request for update of the insured's credit information. If an update request is made by the insured within 45 days of the end of the policy term, the insurer shall have the option of applying any adjustment to the premium required by the update of the insured's credit information to the first renewal or the second renewal following the request for update of the insured's credit information. An insurer need not update the credit information more frequently than once every policy term. Notwithstanding the requirements of this subsection, no insurer need obtain updated credit information if the insured has the most favorably priced tier or rate based on his credit information.

C. Notwithstanding the provisions of subdivision A 3 of § 38.2-1904, if an insurer issuing or delivering a policy of motor vehicle insurance, as defined in § 38.2-2212, in this Commonwealth is unable to obtain credit information from a consumer report or when an insured or applicant has insufficient credit to produce an insurance credit score, the insurer shall underwrite, tier, or rate the individual risk in one of the following ways: (i) as if the risk received a neutral or average insurance credit score, as defined by the insurer, (ii) by excluding the use of credit information as a factor and using only other underwriting, tiering, or rating criteria, or (iii) in accordance with established underwriting guidelines or filed tiering or rating rules. Any such established underwriting guidelines or filed tiering or rating rules shall consider other actuarially

justified factors associated with the risk in addition to the inability to obtain credit information or the insufficiency of the credit information.

D. The following factors shall not be used as credit criteria or to determine an insurance credit score for underwriting, tier placement, or rating purposes for a policy of motor vehicle insurance, as defined in § 38.2-2212, issued or delivered in this Commonwealth:

1. Information that has been identified by the consumer reporting agency as disputed by the consumer and coded as such, if the use of such disputed information would result in an adverse action;

2. Information that has been identified by the consumer reporting agency as related to insurance inquiries or nonconsumer-initiated inquiries and coded as such;

3. Information that has been identified by the consumer reporting agency as related to collection accounts with a medical industry code;

4. Information that includes multiple lender inquiries, if coded by the consumer reporting agency as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered;

5. Information that includes multiple lender inquiries, if coded by the consumer reporting agency as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry is considered;

6. Income, gender, address, zip code, ethnic group, race, color, religion, marital status, or nationality of the consumer; or

7. The total available line of credit; however, an insurer may consider the total amount of outstanding debt in relation to the total available line of credit.

E. No insurer shall take an adverse action against an applicant for a policy of motor vehicle insurance, as defined in § 38.2-2212, issued or delivered in this Commonwealth, based on credit information, unless an insurer obtains and uses a consumer report procured within 90 days from the date the policy is first written.

F. Notwithstanding anything to the contrary, for a policy of motor vehicle insurance, as defined in § 38.2-2212, issued or delivered in this Commonwealth, an insurer may, upon request, provide reasonable exceptions for an individual whose credit information is directly and adversely impacted by a catastrophic event, as determined by the insurer, including, ~~but not limited to,~~ catastrophic illness or injury or the death of a spouse or member of the same household. The insurer may require reasonable documentation of the event prior to granting an exception. No insurer shall be deemed out of compliance with its filed rules and rates as a result of granting an exception pursuant to this subsection.

G. Upon the request of an insured or applicant with respect to a policy of motor vehicle insurance, as defined in § 38.2-2212, issued or delivered in this Commonwealth, for a reevaluation as set forth in this section, the insurer shall reevaluate the individual based on corrected credit information from a consumer reporting agency. If the reevaluation results in a lower premium, the lower premium shall be applied retroactively to the effective date of the current policy term, and the insurer shall either refund or credit the amount to the insured. The insurer may require reasonable documentation of the corrected information from the consumer reporting agency prior to the reevaluation.

H. An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of an agent who obtains or uses credit information or insurance credit scores for an insurer, provided the agent follows the instructions or procedures established by the insurer and complies with any applicable law. Nothing in this subsection shall be construed to provide an applicant or insured with a cause of action that does not exist in the absence of this subsection.

I. No consumer reporting agency shall provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about an individual's credit information or a request for a consumer report or an insurance credit score. Such information includes, ~~but is not limited to,~~ the expiration dates of an insurance policy or any other information that may identify time periods during which an individual's insurance may expire and the terms and conditions of the individual's insurance coverage. The restrictions provided in this subsection do not apply to data or lists the consumer reporting agency supplies to the insurance agent from whom information was received or the insurer on whose behalf such agent acted. Nothing in this subsection shall be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

J. For the purposes of this section, "insurance credit score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured for or under a policy of motor vehicle insurance, as defined in § 38.2-2212, issued or delivered in this Commonwealth.

K. ~~The provisions set forth in this section shall apply to new policies of motor vehicle insurance, as defined in § 38.2-2212, issued or delivered in this Commonwealth, not later than January 1, 2004, and to renewal policies of motor vehicle insurance, as defined in § 38.2-2212, issued or delivered in this Commonwealth, not later than April 1, 2004.~~

~~L. The provisions of this section shall apply only to insurance purchased primarily for personal, family, or household purposes.~~

## CHAPTER 705

*An Act to amend and reenact § 15.2-3108 of the Code of Virginia, relating to voluntary boundary agreement; GIS maps.*

[H 2316]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-3108 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-3108. Petition and hearing; recordation of order; costs.**

Within a reasonable time after a voluntary boundary agreement is adopted by the affected localities, each affected locality shall petition the circuit court for one of the affected localities to approve the boundary agreement. The petition shall set forth the facts pertaining to the desire to relocate or change the boundary line between the localities, and the petition shall include or have attached to it either (i) a plat depicting the change in the boundaries of the localities as agreed; (ii) a metes and bounds description of the new boundary line as agreed upon by the two localities; or (iii) regarding the boundary between the Counties of Louisa and Goochland, between the County of Loudoun and any town therein, ~~or~~ between the Counties of Spotsylvania and Orange, *or between the Counties of Caroline and Essex*, a Geographic Information System (GIS) map depicting the change in the boundaries of the localities as agreed, having been established by Virginia State Plane Coordinates System, South Zone or North Zone, as applicable, meeting National Geodetic Survey standards. If the court finds that the procedures required by § 15.2-3107 have been complied with and that the petition is otherwise in proper order, the court shall enter an appropriate order establishing the new boundary. The order shall include a plat depicting the change in the boundaries of the locality, a metes and bounds description of the new boundary line of the locality, or, regarding the boundary between the Counties of Louisa and Goochland, between the County of Loudoun and any town therein, ~~or~~ between the Counties of Spotsylvania and Orange, *or between the Counties of Caroline and Essex*, a GIS map depicting the change in the boundaries of the localities that includes the Virginia State Plane, South Zone or North Zone coordinates, as applicable, and that order shall be entered in the land records of the court and indexed in the names of the localities which were involved. Costs shall be awarded as the court may determine. Whenever such an order is entered, a certified copy of the order shall be sent to the Secretary of the Commonwealth by the clerk of the court.

**CHAPTER 706**

*An Act to amend and reenact §§ 4.1-111, 4.1-204, and 4.1-212.1 of the Code of Virginia, relating to alcoholic beverage control; delivery permittees; regulations; penalties.*

[H 2367]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-111, 4.1-204, and 4.1-212.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-111. Regulations of Board.**

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.
2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.
3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.
4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.
5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.
6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.
7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.
8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55-526, but only in accordance with this title.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour but prohibit the advertising of any pricing related to such happy hour.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. *Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.*

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

**§ 4.1-204. Records of licensees; inspection of records and places of business.**

A. Manufacturers, bottlers or wholesalers. — Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or 4.1-236, if any.

B. Retailers. — Every retail licensee shall keep complete, accurate and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses which require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

Notwithstanding the provisions of subsection F, electronic records of retail licensees may be stored off site, provided that such records are readily retrievable and available for electronic inspection by the Board or its special agents at the licensed premises. However, in the case that such electronic records are not readily available for electronic inspection on the licensed premises, the retail licensee may obtain Board approval, for good cause shown, to permit the retail licensee to provide the records to a special agent of the Board within three business days or less, as determined by the Board, after a request is made to inspect the records.

C. Common carriers. — Common carriers of passengers by train, boat, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine shippers and beer shippers. — Every wine shipper licensee and every beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Delivery permittees. — Every holder of a delivery permit issued pursuant to § 4.1-212.1 shall keep complete, accurate, and separate records for a period of at least two years in accordance with Board regulations of all deliveries of wine or beer to persons in the Commonwealth. Such ~~permittees shall also remit on a monthly basis an accurate account that sets forth records shall include (i) the brands of wine and beer sold, (ii) the total quantities of wine and beer sold and (iii) the total price charged for such wine and beer. Such records shall include, and (iv) the names and, addresses, and signatures of the purchasers to whom the wine and beer is delivered. If no wine or beer was sold and delivered in any month, the permittee shall not be required to submit a report to the Board for that month; however, every permittee must submit a report to the Board no less frequently than once every 12 months even if no sales or deliveries have been made in the preceding 12 months. Such purchaser signatures may be in an electronic format. Permittees shall remit such records on a monthly basis for any month during which the permittee makes a delivery for which the permittee is required to collect and remit excise taxes due to the Authority pursuant to subsection D of § 4.1-212.1.~~

F. Inspection. — The Board and its special agents shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of both (i) every wine shipper licensee and beer shipper licensee and (ii) every delivery permittee wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine shipper licensee, a beer shipper licensee, or delivery permittee, or any applicant for such license or permit.

For purposes of a Board inspection of the records of any retail licensees, "reasonable hours" means the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public substantially during the same hours, "reasonable hours" shall mean the business hours when the licensee is open to the public. At any other time of day, if the retail licensee's records are not available for inspection, the retailer shall provide the records to a special agent of the Board within 24 hours after a request is made to inspect the records.

**§ 4.1-212.1. Permits; delivery of wine and beer; regulations of Board.**

A. Any brewery, winery, or farm winery located within or outside the Commonwealth that is authorized to engage in the retail sale of wine or beer for off-premises consumption may apply to the Board for issuance of a delivery permit that shall authorize the delivery of the brands of beer, wine, and farm wine produced by the same brewery, winery, or farm winery in closed containers to consumers within the Commonwealth for personal consumption.

B. Any person located within or outside the Commonwealth who is authorized to sell wine or beer at retail for off-premises consumption in their state of domicile, and who is not a brewery, winery, or farm winery, may apply for a delivery permit that shall authorize the delivery of any brands of beer, wine, and farm wine it is authorized to sell in its state of domicile, in closed containers, to consumers within the Commonwealth for personal consumption.

C. All such deliveries shall be to consumers within the Commonwealth for personal consumption only, and not for resale. All such deliveries of beer, wine, or farm wine shall be performed by *either (i) the owner or any agent, officer, director, shareholder or employee of the permittee or (ii) an independent contractor of the permittee, provided that (a) the permittee has entered into a written agreement with the independent contractor establishing that the permittee shall be vicariously liable for any administrative violations of this section or § 4.1-304 committed by the independent contractor relating to any deliveries of beer, wine, or farm wine made on behalf of the permittee and (b) only one individual takes possession of the beer, wine, or farm wine during the course of the delivery.* No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person in Virginia to whom alcoholic beverages may be lawfully sold, except that the permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Department in writing at least one business day in advance of any such delivery, which notice contains the name and address of the intended recipient. The Board may adopt such regulations as it reasonably deems necessary to implement the provisions of this section. Such regulations shall include provisions that require (i) the recipient to demonstrate, upon delivery, that he is at least 21 years of age; and (ii) the recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the Board.

D. For purposes of §§ 4.1-234 and 4.1-236 and Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, each delivery of wine or beer by a permittee shall constitute a sale in Virginia. The permittee shall collect the taxes due to the Commonwealth and remit any excise taxes monthly to the Authority and any sales taxes to the Department of Taxation, *if such taxes have not already been paid.*

**CHAPTER 707**

*An Act to grandfather certain nonconforming use.*

[H 2420]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1.** *§ 1. A wall built on residential property shall be grandfathered as a valid nonconforming use, and the wall shall not be subject to removal solely due to such nonconformity, in any instance where (i) a residential property owner sought local government approval prior to 2008 for construction of a wall on the owner's property, (ii) the property owner was informed by a local official that such wall required no permit and that the structure would comply with the zoning ordinance, (iii) the wall was thereafter constructed, (iv) the locality subsequently informed the property owner that the wall was illegal, and (v) such a wall, had it been constructed as described in clauses (ii) and (iii) after 2017, would be considered a valid nonconforming use not subject to removal.*

**CHAPTER 708**

*An Act to amend and reenact §§ 16.1-69.24 and 18.2-456 of the Code of Virginia, relating to contempt of court; failure to appear.*

[H 2452]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-69.24 and 18.2-456 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-69.24. Contempt of court.**

A. A judge of a district court shall have the same powers and jurisdiction as a judge of a circuit court to punish summarily for contempt, but in no case shall the fine exceed \$250 and imprisonment exceed ~~ten~~ 10 days for the same contempt. From any such fine or sentence, there shall be an appeal of right within the period prescribed in this title and to the court or courts designated therein for appeals in other cases, and the proceedings on such appeal shall conform in all respects to the provisions of §§ 18.2-456 through 18.2-459.

B. *Any person charged with a felony offense, misdemeanor offense, or released on a summons pursuant to § 19.2-73 or 19.2-74 who fails to appear before any court or judicial officer as required shall not be punished for contempt under this provision but may be punished for such contempt under subdivision A 6 of § 18.2-456.*

**§ 18.2-456. Cases in which courts and judges may punish summarily for contempt.**

A. The courts and judges may issue attachments for contempt, and punish them summarily, only in the *following* cases following:

- (1) 1. Misbehavior in the presence of the court, or so near thereto as to obstruct or interrupt the administration of justice;
- (2) 2. Violence, or threats of violence, to a judge or officer of the court, or to a juror, witness, or party going to, attending, or returning from the court, for or in respect of any act or proceeding had, or to be had, in such court;
- (3) 3. Vile, contemptuous, or insulting language addressed to or published of a judge for or in respect of any act or proceeding had, or to be had, in such court, or like language used in his presence and intended for his hearing for or in respect of such act or proceeding;
- (4) 4. Misbehavior of an officer of the court in his official character;
- (5) 5. Disobedience or resistance of an officer of the court, juror, witness, or other person to any lawful process, judgment, decree, or order of the court; *and*
- 6. *Willful failure to appear before any court or judicial officer as required after having been charged with a felony offense or misdemeanor offense or released on a summons pursuant to § 19.2-73 or 19.2-74.*

B. *The judge shall indicate, in writing, under which subdivision in subsection A a person is being charged and punished for contempt.*

C. *Nothing in subdivision A 6 shall be construed to prohibit prosecution under § 19.2-128.*

## CHAPTER 709

*An Act to amend and reenact § 2.2-2699.3 of the Code of Virginia and to amend and reenact the second enactment of Chapter 444 of the Acts of Assembly of 2008, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, and to repeal the third enactment of Chapter 818 of the Acts of Assembly of 2009, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, and the third enactment of Chapter 852 of the Acts of Assembly of 2009, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, relating to the Office of Telework Promotion and Broadband Assistance and the Broadband Advisory Council; expiration.*

[H 2541]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2699.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2699.3. (Expires July 1, 2019) Broadband Advisory Council; purpose; membership; compensation; chairman.**

A. The Broadband Advisory Council (the Council) is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to advise the Governor on policy and funding priorities to expedite deployment and reduce the cost of broadband access in the Commonwealth.

B. The Council shall have a total membership of ~~14~~ 17 members that shall consist of ~~six~~ seven legislative members, ~~four~~ six nonlegislative citizen members, and four ex officio members. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; ~~two~~ three members of the Senate to be appointed by the Senate Committee on Rules; and ~~four~~ six nonlegislative citizen members to be appointed by the Governor, of whom one shall be a representative of the Virginia Cable Telecommunications Association, one shall be a representative of the Virginia Telecommunications Industry Association, one shall be a representative from local government recommended by the Virginia Municipal League and Virginia Association of Counties, ~~and~~ one shall be a representative of the Virginia Wireless Internet Service Providers Association, *one shall be a representative of a wireless service authority, and one shall be a representative of the Virginia, Maryland and Delaware Association of Electric Cooperatives.* The ~~Secretaries of Agriculture and Forestry, Commerce and Trade, and Technology, or their designees, and the executive director of the Center for Rural Virginia and three Secretaries as defined in § 2.2-200 to be appointed by the Governor~~ shall serve ex officio. Legislative and ex officio members shall serve terms coincident with their terms of office. Other members shall be appointed for terms of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

C. Legislative members of the Council shall receive such compensation as provided in § 30-19.12. Nonlegislative citizen members shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for compensation and expenses of legislative members shall be provided by the operating budgets of the Clerk of the House of Delegates and the Clerk of the Senate upon approval of the Joint Rules Committee. ~~Funding for the~~ *The Governor shall designate the office of one of the secretaries appointed pursuant to subsection B to provide funding for the costs of expenses of the nonlegislative citizen members and all other expenses of the Council shall be provided by the Office of the Secretary of Technology.*

D. The Council shall elect a chairman and a vice-chairman annually from among its membership. A majority of the members shall constitute a quorum. The Council shall meet at such times as may be called by the chairman or a majority of the Council.

E. Staff to the Council shall be provided by the ~~Office of Telework Promotion and Broadband Assistance~~ *Secretary of Commerce and Trade*. The Division of Legislative Services shall provide additional staff support to legislative members serving on the Council.

**2. That the second enactment of Chapter 444 of the Acts of Assembly of 2008, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, is amended and reenacted as follows:**

**2. That the provisions of this act shall expire on July 1, ~~2019~~ 2021.**

**3. That the third enactment of Chapter 818 of the Acts of Assembly of 2009, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, is repealed.**

**4. That the third enactment of Chapter 852 of the Acts of Assembly of 2009, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, is repealed.**

## CHAPTER 710

*An Act to amend and reenact § 2.2-2699.3 of the Code of Virginia and to amend and reenact the second enactment of Chapter 444 of the Acts of Assembly of 2008, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, and to repeal the third enactment of Chapter 818 of the Acts of Assembly of 2009, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, and the third enactment of Chapter 852 of the Acts of Assembly of 2009, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, relating to the Office of Telework Promotion and Broadband Assistance and the Broadband Advisory Council; expiration.*

[S 1618]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2699.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2699.3. (Expires July 1, 2019) Broadband Advisory Council; purpose; membership; compensation; chairman.**

A. The Broadband Advisory Council (the Council) is established as an advisory council, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Council shall be to advise the Governor on policy and funding priorities to expedite deployment and reduce the cost of broadband access in the Commonwealth.

B. The Council shall have a total membership of ~~44~~ 17 members that shall consist of ~~six~~ seven legislative members, ~~four~~ six nonlegislative citizen members, and four ex officio members. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; ~~two~~ three members of the Senate to be appointed by the Senate Committee on Rules; and ~~four~~ six nonlegislative citizen members to be appointed by the Governor, of whom one shall be a representative of the Virginia Cable Telecommunications Association, one shall be a representative of the Virginia Telecommunications Industry Association, one shall be a representative from local government recommended by the Virginia Municipal League and Virginia Association of Counties, ~~and~~ one shall be a representative of the Virginia Wireless Internet Service Providers Association, *one shall be a representative of a wireless service authority, and one shall be a representative of the Virginia, Maryland and Delaware Association of Electric Cooperatives.* The ~~Secretaries of Agriculture and Forestry, Commerce and Trade, and Technology, or their designees, and the~~ executive director of the Center for Rural Virginia and *three Secretaries as defined in § 2.2-200 to be appointed by the Governor shall serve ex officio.* Legislative and ex officio members shall serve terms coincident with their terms of office. Other members shall be appointed for terms of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

C. Legislative members of the Council shall receive such compensation as provided in § 30-19.12. Nonlegislative citizen members shall serve without compensation. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for compensation and expenses of legislative members shall be provided by the operating budgets of the Clerk of the House of Delegates and the Clerk of the Senate upon approval of the Joint Rules Committee. ~~Funding for the~~ *The Governor shall designate the office of one of the secretaries appointed pursuant to subsection B to provide funding for the costs of expenses of the nonlegislative citizen members and all other expenses of the Council shall be provided by the Office of the Secretary of Technology.*

D. The Council shall elect a chairman and a vice-chairman annually from among its membership. A majority of the members shall constitute a quorum. The Council shall meet at such times as may be called by the chairman or a majority of the Council.

E. Staff to the Council shall be provided by the ~~Office of Telework Promotion and Broadband Assistance~~ *Secretary of Commerce and Trade*. The Division of Legislative Services shall provide additional staff support to legislative members serving on the Council.

**2. That the second enactment of Chapter 444 of the Acts of Assembly of 2008, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, is amended and reenacted as follows:**

**2. That the provisions of this act shall expire on July 1, ~~2019~~ 2021.**

**3. That the third enactment of Chapter 818 of the Acts of Assembly of 2009, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, is repealed.**

**4. That the third enactment of Chapter 852 of the Acts of Assembly of 2009, as amended by Chapters 759 and 760 of the Acts of Assembly of 2018, is repealed.**

## CHAPTER 711

*An Act to amend and reenact § 46.2-1220 of the Code of Virginia, relating to parking ordinances; enforcement.*

[S 1044]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1220 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1220. Parking, stopping, and standing regulations in counties, cities, or towns; parking meters; presumption as to violation of ordinances; penalty.**

The governing body of any county, city, or town may by ordinance provide for the regulation of parking, stopping, and standing of vehicles within its limits, including, but not limited to, the regulation of any vehicle blocking access to and preventing use of curb ramps, fire hydrants, and mailboxes on public or private property. Such ordinances may also include the installation and maintenance of parking meters. The ordinance may require the deposit of a coin of a prescribed denomination, determine the length of time a vehicle may be parked, and designate a department, official, or employee of the local government to administer the provisions of the ordinance. The ordinance may delegate to that department, official, or employee the authority to make and enforce any additional regulations concerning parking that may be required, including, but not limited to, penalties for violations, deadlines for the payment of fines, and late payment penalties for fines not paid when due. In a ~~city~~ *locality* having a population of at least 40,000, the ordinance may also provide that a summons or parking ticket for the violation of the ordinance or regulations may be issued by law-enforcement officers, other uniformed ~~city~~ *employees of the locality*, or by uniformed personnel serving under contract with the ~~city~~ *locality*. Notwithstanding the foregoing provisions of this section, the governing bodies of Augusta, Bath, and Rockingham Counties may by ordinance provide for the regulation of parking, stopping, and standing of vehicles within their limits, but no such ordinance shall authorize or provide for the installation and maintenance of parking meters.

No ordinance adopted under the provisions of this section shall prohibit the parking of two motorcycles in single parking spaces designated, marked, and sized for four-wheel vehicles. The governing body of any county, city, or town may, by ordinance, permit the parking of three or more motorcycles in single parking spaces designated, marked, and sized for four-wheel vehicles.

If any ordinance regulates parking on an interstate highway or any arterial highway or any extension of an arterial highway, it shall be subject to the approval of the Commissioner of Highways.

In any prosecution charging a violation of the ordinance or regulation, proof that the vehicle described in the complaint, summons, parking ticket citation, or warrant was parked in violation of the ordinance or regulation, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) ~~of this title~~, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. Violators of local ordinances adopted by Chesterfield County or James City County pursuant to this section shall be subject to a civil penalty not to exceed \$75, the proceeds from which shall be paid into the locality's general fund.

## CHAPTER 712

*An Act to amend and reenact §§ 54.1-2345 through 54.1-2354 of the Code of Virginia; to amend the Code of Virginia by adding in Title 1 a chapter numbered 6, containing sections numbered 1-600 through 1-610, by adding in Chapter 3 of Title 8.01 an article numbered 13.1, containing sections numbered 8.01-130.1 through 8.01-130.13, and an article numbered 15.1, containing sections numbered 8.01-178.1 through 8.01-178.4, by adding in Title 8.01 a chapter numbered 18.1, containing articles numbered 1 and 2, consisting of sections numbered 8.01-525.1 through 8.01-525.12, by adding in Title 32.1 a chapter numbered 20, containing sections numbered 32.1-373, 32.1-374, and 32.1-375, by adding in Title 36 a chapter numbered 12, containing sections numbered 36-171 through 36-175, by adding in Title 45.1 a chapter numbered 14.7:3, containing sections numbered 45.1-161.311:9, 45.1-161.311:10, and 45.1-161.311:11, by adding a section numbered 54.1-2345.1, by adding in Chapter 23.3 of Title 54.1 an article numbered 2, containing sections numbered*

54.1-2354.1 through 54.1-2354.5, by adding a title numbered 55.1, containing a subtitle numbered I, consisting of chapters numbered 1 through 5, containing sections numbered 55.1-100 through 55.1-506, a subtitle numbered II, consisting of chapters numbered 6 through 11, containing sections numbered 55.1-600 through 55.1-1101, a subtitle numbered III, consisting of chapters numbered 12 through 17, containing sections numbered 55.1-1200 through 55.1-1703, a subtitle numbered IV, consisting of chapters numbered 18 through 23, containing sections numbered 55.1-1800 through 55.1-2306, and a subtitle numbered V, consisting of chapters numbered 24 through 29, containing sections numbered 55.1-2400 through 55.1-2906, and by adding sections numbered 57-6.1 and 64.2-108.2; and to repeal § 18.2-324.1 and Title 55 (§§ 55-1 through 55-559) of the Code of Virginia, relating to real and personal property conveyances, recordation of deeds, rental property, common interest communities, escheats, and unclaimed property.

[S 1080]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2345 through 54.1-2354 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 1 a chapter numbered 6, containing sections numbered 1-600 through 1-610, by adding in Chapter 3 of Title 8.01 an article numbered 13.1, containing sections numbered 8.01-130.1 through 8.01-130.13, and an article numbered 15.1, containing sections numbered 8.01-178.1 through 8.01-178.4, by adding in Title 8.01 a chapter numbered 18.1, containing sections numbered 8.01-525.1 through 8.01-525.12, by adding in Title 32.1 a chapter numbered 20, containing sections numbered 32.1-373, 32.1-374, and 32.1-375, by adding in Title 36.1 a chapter numbered 12, containing sections numbered 36-171 through 36-175, by adding in Title 45.1 a chapter numbered 14.7:3, containing sections numbered 45.1-161.311:9, 45.1-161.311:10, and 45.1-161.311:11, by adding a section numbered 54.1-2345.1, by adding in Chapter 23.3 of Title 54.1 an article numbered 2, containing sections numbered 54.1-2354.1 through 54.1-2354.5, by adding a title numbered 55.1, containing a subtitle numbered I, consisting of chapters numbered 1 through 5, containing sections numbered 55.1-100 through 55.1-506, a subtitle numbered II, consisting of chapters numbered 6 through 11, containing sections numbered 55.1-600 through 55.1-1101, a subtitle numbered III, consisting of chapters numbered 12 through 17, containing sections numbered 55.1-1200 through 55.1-1703, a subtitle numbered IV, consisting of chapters numbered 18 through 23, containing sections numbered 55.1-1800 through 55.1-2306, and a subtitle numbered V, consisting of chapters numbered 24 through 29, containing sections numbered 55.1-2400 through 55.1-2906, and by adding sections numbered 57-6.1 and 64.2-108.2 as follows:**

*CHAPTER 6.*

*VIRGINIA COORDINATE SYSTEMS.*

**§ 1-600. Virginia coordinate systems designated.**

*The systems of plane coordinates that have been established by the National Ocean Service/National Geodetic Survey or its successors for defining and stating the positions or locations of points on the surface of the earth within the Commonwealth are to be known and designated as the "Virginia Coordinate System of 1927" and the "Virginia Coordinate System of 1983."*

**§ 1-601. North and South Zones.**

*For the purpose of the use of the Virginia Coordinate System of 1927 and the Virginia Coordinate System of 1983, the Commonwealth is divided into a "North Zone" and a "South Zone."*

*The area now included in the following counties and cities shall constitute the North Zone: Arlington, Augusta, Bath, Caroline, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Greene, Highland, King George, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, Warren, and Westmoreland Counties and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Harrisonburg, Manassas, Manassas Park, Staunton, Waynesboro, and Winchester.*

*The area now included in the following counties and cities shall constitute the South Zone: Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Bedford, Bland, Botetourt, Brunswick, Buchanan, Buckingham, Campbell, Carroll, Charles City, Charlotte, Chesterfield, Craig, Cumberland, Dickenson, Dinwiddie, Essex, Floyd, Fluvanna, Franklin, Giles, Gloucester, Goochland, Grayson, Greenville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King William, Lancaster, Lee, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Pulaski, Richmond, Roanoke, Rockbridge, Russell, Scott, Smyth, Southampton, Surry, Sussex, Tazewell, Washington, Wise, Wythe, and York Counties and the Cities of Bristol, Buena Vista, Charlottesville, Chesapeake, Colonial Heights, Covington, Danville, Emporia, Franklin, Galax, Hampton, Hopewell, Lexington, Lynchburg, Martinsville, Newport News, Norfolk, Norton, Petersburg, Poquoson, Portsmouth, Radford, Richmond, Roanoke, Salem, Suffolk, Virginia Beach, and Williamsburg.*

**§ 1-602. Designation of systems in land description.**

*A. As established for use in the North Zone, the Virginia Coordinate System of 1927 or the Virginia Coordinate System of 1983 shall be named, and in any land description in which it is used, it shall be designated the "Virginia Coordinate System of 1927, North Zone" or "Virginia Coordinate System of 1983, North Zone."*

B. As established for use in the South Zone, the Virginia Coordinate System of 1927 or the Virginia Coordinate System of 1983 shall be named, and in any land description in which it is used, it shall be designated the "Virginia Coordinate System of 1927, South Zone" or "Virginia Coordinate System of 1983, South Zone."

**§ 1-603. Plane coordinates used in systems.**

The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of such point in the appropriate zone of these systems, shall be expressed in U.S. survey feet and decimals of a foot. One of these distances, to be known as the "x-coordinate," shall give the position in an east-and-west direction; the other, to be known as the "y-coordinate," shall give the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to the coordinate values for the monumented points of the North American Horizontal Geodetic Control Network as published by the National Ocean Service/National Geodetic Survey, or its successors, and whose plane coordinates have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to either Virginia coordinate system.

When converting coordinates in the Virginia Coordinate System of 1983 from meters and decimals of a meter to feet and decimals of a foot, the U.S. survey foot conversion factor (one foot equals 1200/3937 meters) shall be used. This requirement does not preclude the continued use of the International foot conversion factor (one foot equals 0.3048 meters) in those counties and cities where this factor was in use prior to July 1, 1992. The plat or plan shall contain a statement of the conversion factor used and the coordinate values of a minimum of two project points in feet.

**§ 1-604. Tract of land lying in both coordinate zones.**

When any tract of land to be defined by a single description extends from one into the other of the two coordinate zones established in this chapter, the positions of all points on its boundaries may be referred to either of the two zones, with the zone that is used being specifically named in the description.

**§ 1-605. Definition of systems by National Ocean Service/National Geodetic Survey; adopted.**

A. For purposes of more precisely defining the Virginia Coordinate System of 1927, the following definition by the National Ocean Service/National Geodetic Survey is adopted:

The Virginia Coordinate System of 1927, North Zone, is a Lambert conformal projection of the Clarke spheroid of 1896, having standard parallels at north latitudes 38° 02' and 39° 12', along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 78° 30' west of Greenwich with the parallel 37° 40' north latitude, such origin being given the coordinates:  $x = 2,000,000'$ , and  $y = 0'$ .

The Virginia Coordinate System of 1927, South Zone, is a Lambert conformal projection of the Clarke spheroid of 1896, having standard parallels at north latitudes 36° 46' and 37° 58', along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 78° 30' west of Greenwich with the parallel 36° 20' north latitude, such origin being given the coordinates:  $x = 2,000,000'$ , and  $y = 0'$ .

B. For purposes of more precisely defining the Virginia Coordinate System of 1983, the following definition by the National Ocean Service/National Geodetic Survey is adopted:

The Virginia Coordinate System of 1983, North Zone, is a Lambert conformal conic projection based on the North American Datum of 1983, having standard parallels at north latitudes 38° 02' and 39° 12', along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 78° 30' west of Greenwich and the parallel 37° 40' north latitude, such origin being given the coordinates:  $x = 3,500,000$  meters and  $y = 2,000,000$  meters.

The Virginia Coordinate System of 1983, South Zone, is a Lambert conformal conic projection based on the North American Datum of 1983, having standard parallels at north latitudes 36° 46' and 37° 58', along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 78° 30' west of Greenwich and the parallel 36° 20' north latitude, such origin being given the coordinates:  $x = 3,500,000$  meters and  $y = 1,000,000$  meters.

**§ 1-606. Position of systems.**

The position of the Virginia coordinate systems shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards of accuracy and specifications for first-order and second-order geodetic surveying as prepared and published by the Federal Geodetic Control Subcommittee of the Federal Geographic Data Committee of the U.S. Department of Commerce. The geodetic position of stations defining the position of the Virginia Coordinate System of 1927 shall have been rigidly adjusted on the North American Datum of 1927, and the plane coordinates shall have been computed on the Virginia Coordinate System of 1927. The geodetic position of stations defining the position of the Virginia Coordinate System of 1983 shall have been rigidly adjusted on the North American Datum of 1983, and the plane coordinates shall have been computed on the Virginia Coordinate System of 1983. Any such station may be used for establishing a survey connection with the Virginia coordinate systems.

**§ 1-607. Limitation on use of systems.**

No coordinates based on the Virginia coordinate systems, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless such point is within two kilometers of a public or private monumented horizontal control station established in conformity with the standards of accuracy and specifications for second-order, class II or better geodetic surveying as prepared and published by the Federal Geodetic Control Subcommittee of the Federal Geographic Data Committee of the U.S. Department of Commerce. Standards and specifications of the Federal Geodetic Control Subcommittee or its successor in force on the date of such survey shall apply. The publishing of the existing control stations, or the acceptance with intent to publish the new established control stations, by the National Ocean Service/National Geodetic Survey constitutes evidence of adherence to

the Federal Geodetic Control Subcommittee specifications. The two kilometers' limitation may be modified by a duly authorized state agency to meet local conditions. Nothing contained in this chapter shall be interpreted as preventing the use of the Virginia coordinate systems in any unrecorded deeds, maps, or computations.

**§ 1-608. Limitation on use of name of systems.**

The use of the terms "Virginia Coordinate System of 1927" or "Virginia Coordinate System of 1983" on any map, report of survey, or other document shall be limited to coordinates based on the Virginia coordinate systems as defined in this chapter.

**§ 1-609. Use of system not compulsory.**

For purposes of describing the location of any survey station or land boundary corner in the Commonwealth, it shall be considered a complete, legal, and satisfactory description of such location to give the position of such survey station or land boundary corner on the system of plane coordinates defined in this chapter. Nothing contained in this chapter shall require any purchaser or mortgagee to rely on a description any part of which depends exclusively upon either Virginia coordinate system.

**§ 1-610. Old Dominion University designated as administrative agency.**

Old Dominion University is designated as the authorized state agency to collect and distribute information, to authorize such modifications as are referred to in § 1-607, and generally to advise with and assist appropriate state and federal agencies and individuals interested in the development of the provisions of this chapter.

Article 13.1.

Warrants in Distress.

**§ 8.01-130.1. Remedy for rent and for use and occupation.**

Rent of every kind may be recovered by distress or action. A landlord may also, by action, recover, when the agreement is not by deed, a reasonable satisfaction for the use and occupation of lands. On the trial of such action, if any parol demise or any agreement not by deed whereon a certain rent was reserved appears in evidence, the plaintiff shall not therefor be nonsuited, but may use the same as evidence of the amount of his debt or damages. In any action for rent, or for such use and occupation, interest shall be allowed as on other contracts.

**§ 8.01-130.2. Who may recover rent or compensation.**

If a person is entitled to rent or compensation, whether such person has the reversion or not, then his personal representative or assignee may recover it as provided in § 8.01-130.1, whatever the estate of the person owning it, or though his estate or interest in the land has ended. When the owner of real estate in fee, or holder of a term, yielding him rent dies, the rent due after such owner's or termholder's death shall be recoverable by such owner's heir or devisee or such termholder's personal representative. If the owner or holder alienates or assigns his estate or term, or the rent falls due after such alienation or assignment, the alienee or assignee may recover such rent.

**§ 8.01-130.3. Who is liable for rent.**

Rent may be recovered from the lessee or other person owing it, or his assignee, or the personal representative of either; however, no assignee shall be liable for rent that became due before his interest began. Nothing in this section shall impair or change the liability of heirs or devisees for rent, as for other debts of their ancestor or devisor.

**§ 8.01-130.4. When and by whom distress made.**

A distress action for rent may be brought no later than five years from the time the rent becomes due, whether the lease is ended or not. The distress shall be made by a sheriff of the county or city where the premises yielding the rent, or some part thereof, is located or the goods liable to distress may be found, under warrant from a judge of, or a magistrate serving, the judicial district. Such warrant shall be founded upon a sworn petition of the person claiming the rent, or his agent, that (i) the petitioner believes the amount of money or other thing by which the rent is measured, to be specified in the petition in accordance with § 8.01-130.6, is justly due to the claimant for rent reserved upon contract from the person of whom it is claimed, (ii) the petitioner alleges one or more of the grounds mentioned in § 8.01-534 and sets forth in the petition specific facts in support of such allegation, and (iii) the rent claimed is for rent due within five years from the time that it becomes due. The petition shall also specify the amount of the rent claimed and request either levy or seizure of the affected property prior to trial. The plaintiff shall, at the time of suing out a distress, give bond in conformity with the provisions of § 8.01-537.1. The plaintiff praying for a distress warrant shall, at the time that he files his petition, pay the proper costs, fees, and taxes, and in the event of his failure to do so, the distress warrant shall not be issued.

A judge or magistrate shall make an ex parte review of the petition and may receive evidence only in the form of a sworn petition, which shall be filed in the office of the clerks of court. The warrant may be issued in accordance with the prayer of the petition by a judge or magistrate only upon a determination that there appears from the petition that there is reasonable cause to believe that one of the grounds mentioned in § 8.01-534 exists, the allegations required to be in the petition are true, and bond that complies with § 8.01-537.1 has been posted.

Each copy of the distress warrant shall be issued and served on each defendant together with (a) a form for requesting a hearing of exemption from levy or seizure, as provided in § 8.01-546.1, and (b) a copy of the bond. The distress warrant may be issued or executed on any day, including a Saturday, Sunday, or other legal holiday. Service shall be made in accordance with the methods described in § 8.01-487.1. The provisions of § 8.01-546.2 shall govern claims for exemption.

The officer into whose hands the warrant is delivered shall levy or seize as directed in the warrant, except as may be provided by statute, the property found on the premises of the tenant as provided by § 8.01-130.6. The officer shall return

the warrant of distress to the court to which the warrant of distress is returnable by the return date unless otherwise notified by the court to make return by an earlier date.

**§ 8.01-130.5. Procedure for trial on warrant in distress.**

The distress warrant shall contain a return date and be tried in the same manner as an action on a warrant as prescribed in § 16.1-79, except that the case shall be returnable not more than 30 days from its date of issuance. The trial or hearing of the issues, except as otherwise provided, shall be the same, as near as may be, as in actions in personam.

**§ 8.01-130.6. On what goods levied; to what extent goods liable; priorities between landlord and other lienors.**

The distress may be levied on any goods of the lessee, his assignee, or any sublessee that are found on the premises or that may have been removed from the premises not more than 30 days prior to the levy. A levy within such 30 days shall have like effect as if the goods levied on had not been removed from the leased premises. If the goods of such lessee, assignee, or sublessee, when carried on the premises, are subject to a lien that is valid against his creditors, his interest only in such goods shall be liable to such distress. If any lien is created on such goods while they are upon the leased premises, or within 30 days after such lien is created, they are liable to distress, but for not more than six months' rent if the premises are used for residential purposes, and not for farming or agriculture, and for not more than 12 months' rent if the lands or premises are used for farming or agriculture, whether such rent has accrued before or after the creation of the lien. No other goods shall be liable to distress than such as are declared to be so liable in this section, nor shall the goods of the sublessee be liable to a greater amount than such sublessee owed the tenant at the time the distress was levied.

**§ 8.01-130.7. Procedure when distress levied and tenant unable to give forthcoming bond; what defense may be made.**

A. On affidavit by a tenant, whose property has been levied on under a warrant of distress, that (i) he is unable to give the bond required in § 8.01-526 and (ii) he has a valid defense under subsection B, the officer levying the warrant shall permit the property to remain in the possession and at the risk of the tenant, and shall return the warrant forthwith, together with the affidavit, to the court to which such warrant is returnable. Thereupon the landlord, after 10 days' notice in writing to the tenant, may make a motion for a judgment for the amount of the rent and for a sale of the property levied on. The tenant may make such defense as he is authorized to make, including defenses permitted under subsection B to an action or motion on the bond when one is given. Upon making such defense, the officer shall permit the property to remain in the possession of and at the risk of the tenant. If the property is perishable, or expensive to keep, the court may order it to be sold, and on the final trial of the cause, the court shall dispose of the property, or proceeds of sale, according to the rights of the parties.

B. In an action or motion on a forthcoming bond, when it is taken under a distress warrant, the defendants may make defense on the ground that the distress was for rent not due in whole or in part or was otherwise illegal.

**§ 8.01-130.8. Review of decision to issue ex parte order or process; claim of exemption.**

Promptly after levy on the property or promptly after possession of the property is taken by the officer pursuant to an ex parte order, or after denial of an application to issue such order by a magistrate, upon application of either party, and after reasonable notice, a judge of the general district court having jurisdiction shall conduct a hearing to review the decision to issue the ex parte order or process. In the event that the judge finds that the order or process should not have been issued, the court may dismiss the distraint or award actual damages and reasonable attorney fees to the person whose property was taken, or both. The provisions of § 8.01-546.2 shall govern claims for exemption.

**§ 8.01-130.9. On what terms purchasers and lienors inferior to landlord may remove goods; certain liens not affected.**

If, after the commencement of any tenancy, a lien is obtained or created by deed of trust, mortgage, or otherwise upon the interest or property in goods on premises leased or rented of any person liable for the rent, or such goods are sold, the party having such lien, or the purchaser of such goods, may remove them from the premises only on the following terms: On paying to the person entitled to the rent so much as is in arrear, and securing to him so much as to become due, what is so paid or secured not being more altogether than six months' rent if the premises are in a city or town, or in any subdivision of suburban and other lands divided into building lots for residential purposes, or of premises anywhere used for residential purposes, and not for farming or agriculture, and not being more altogether than 12 months' rent, if the lands or premises are used for farming or agriculture. If the goods are taken under legal process, the officer executing it shall, out of the proceeds of the goods, make such payment of what is in arrear, and as to what is to become due he shall sell a sufficient portion of the goods on a credit until then, taking from the purchasers bonds, with good security, payable to the person so entitled, and delivering such bonds to him. If the goods are not taken under legal process, such payment and security shall be made and given before their removal. Neither this section nor § 8.01-130.6 shall affect any lien for taxes, levies, or militia fines.

For the purpose of this section and § 8.01-130.6, a monthly or weekly tenancy shall not be construed as a new lease for every month or week of occupation of the premises by the tenant, but his tenancy shall be considered as a continuance of his original lease so long as he continues to occupy the property without making any new written lease.

**§ 8.01-130.10. When goods of a sublessee may be removed from leased premises.**

The following limitations shall apply to § 8.01-130.9: a sublessee, or a purchaser from him, or a creditor holding a deed of trust, mortgage, or other encumbrance created on his goods after they were carried on the leased premises, may remove the same upon payment of so much of the rent contracted to be paid by him as is in arrear, and securing the residue, not exceeding six months' rent, if the premises are in a city or town, or in any subdivision of suburban and other lands

divided into building lots for residential purposes, or of premises anywhere used for residential purposes, and not for farming or agriculture, and for not more than 12 months' rent if the lands or premises are used for farming or agriculture. If the goods are taken under legal process against him, the officer executing the same shall, out of the proceeds of his goods, make payment of so much of the rent as to which he is in arrear, and as to what is to become due from him shall sell sufficient of the goods upon credit until then, taking from the purchaser bonds with good security, payable to the party entitled to receive the same, and deliver them to him.

**§ 8.01-130.11. When officer may enter by force to levy distress or attachment.**

The officer having such distress warrant, or an attachment for rent, if there be need for it, may, in the daytime, break open and enter into any house or close in which there may be goods liable to the distress or attachment and may, either in the day or night, break open and enter any house or close wherein there may be any goods so liable that have been fraudulently or clandestinely removed from the demised premises. He may also levy such distress warrant or attachment on property liable for the rent found in the personal possession of the party liable therefor.

**§ 8.01-130.12. When distress not unlawful because of irregularity, etc.**

When distress is made for rent justly due and any irregularity or unlawful act is afterwards done by the party distraining, or his agent, the distress itself shall not be deemed to be unlawful, nor is the party making it therefore deemed a trespasser ab initio. The party aggrieved by such irregularity or unlawful act may, by action, recover full satisfaction for the special damage he has sustained thereby.

**§ 8.01-130.13. Return of execution; process of sale thereunder.**

The sheriff under writ of execution from the court after hearing and judgment for the landlord, except as otherwise provided by law, shall make return on his execution as may be placed in his hands for collection and file the same, within 90 days after the same may have come to his hands, with the clerk of the court in which the case was heard. Upon the return of such execution such clerk shall preserve such execution in his office as is now provided as to other executions. If such return shows that a levy has been made and that property levied on remains unsold, it shall be lawful for the clerk of the court in whose office such return is filed to issue a writ of venditioni exponas thereon just as if the return were upon writ of fieri facias.

Article 15.1.

Waste.

**§ 8.01-178.1. Waste; who is liable.**

A. Any tenant of land or any person who has aliened land who commits any waste while he is in possession of such land, unless he has special license to do so, shall be liable for damages.

B. Any tenant in common, joint tenant, or parcener who commits waste, shall be liable to his cotenants, jointly or severally, for damages.

C. Any guardian or conservator who commits waste of the estate of his ward shall be liable to the ward, at the expiration of his guardianship or conservatorship, for damages.

**§ 8.01-178.2. Civil action for waste; double damages.**

Any person who is injured due to another person's committing waste on his land may recover damages for such waste by initiating a civil action. If a jury finds that the waste was a result of wanton misconduct, judgment shall be for double the amount of damages assessed.

**§ 8.01-178.3. Waste for tenant to sell or remove manure from leased premises.**

If a tenant at will or for years, without a special license to do so, sells or otherwise removes manure made on such leased premises in the ordinary course of husbandry, consisting of (i) ashes leached or unleached; (ii) collections from the stables, barnyard, or cattle pens or other places on the leased premises; or (iii) composts formed by an admixture of any such manure with the soil or other substances, such removal shall be deemed waste for the purposes of the provisions of this article.

**§ 8.01-178.4. Waste committed during pendency of action.**

If a defendant who is a tenant in possession of land in an action initiated pursuant to § 8.01-178.2 commits any waste on the land, the court may, on petition of the plaintiff alleging such waste, verified by oath, and after reasonable notice to the tenant, prohibit the tenant from committing further waste on the land during the pendency of the action. Violation of such order by the tenant after he has been served with a copy may be punished as contempt. The order shall not be effective until the plaintiff gives bond with sufficient surety as prescribed by the court, with condition to pay to the tenant, in case the plaintiff does not succeed in recovering or charging the land, such damages as may accrue to the tenant as a consequence of such order. If the plaintiff succeeds in recovering or charging the land, he may recover three times the amount of the damages assessed for such waste.

CHAPTER 18.1.

ASSIGNMENTS FOR BENEFIT OF CREDITORS.

Article 1.

Assignment of Property.

**§ 8.01-525.1. Recordation; notice of sale; preferences prohibited.**

Whenever a deed of assignment for the benefit of creditors is executed, the deed shall be recorded. If no notice of the sale has previously been given, the trustee named in such deed, or the one substituted in the manner prescribed in this article, before selling under the deed of assignment, shall, at least 10 days before the sale, notify each of the creditors

named in the deed by certified mail, return receipt requested, advising of (i) the execution of such sale; (ii) when, where, and how the sale will be held; (iii) the terms of such sale; and (iv) whether or not the deed provides that acceptance shall be in full satisfaction. No creditor shall be preferred in the deed except those given a lien or preference by law, or those having a valid lien upon the property conveyed, or some part of such lien, and those having a lien shall be preferred only to the extent of the value of the property upon which they have a lien.

**§ 8.01-525.2. Substitution of another trustee by creditors.**

A majority of the unsecured creditors in number and amount of the assignor may agree in writing upon a trustee different from the one named in the deed of assignment, and upon petition to the court that would have jurisdiction if an action were brought against the assignor, such agreed trustee may be substituted in lieu of such named trustee with all of the rights, powers, and duties conferred upon such named trustee in the deed of assignment. The clerk of the court where the deed of assignment is recorded shall record such order presented by one of the parties and shall include a reference to the order book and page where such deed is recorded, together with the name of the substituted trustee, and shall make proper indexing. The substitute trustee shall reside in the county or city in which the property that is conveyed in the deed of assignment or the greater portion thereof in value is located.

**§ 8.01-525.3. Procedure to question claim of creditor.**

Any creditor of the assignor who questions the validity of any other creditor's claim, or the trustee if he questions the validity of any claim, may file, within 30 days after the recordation of the deed, a petition against the creditor whose claim is questioned in the court that would have jurisdiction if the action was brought by the creditor whose claim is questioned against the assignor, and the burden of proof shall be upon the creditor whose claim is questioned. Upon the filing of such petition, the court may order the party whose claim is questioned to appear to defend such claim and the court shall determine the matter in a summary way.

**§ 8.01-525.4. Provision to bar further claim by creditors who accept deed.**

Any deed of assignment may contain a provision to the effect that those creditors who accept such assignment do so in full satisfaction of their respective claims and shall be forever barred from further recovery of any balance.

**§ 8.01-525.5. Compensation of trustee.**

Every trustee referred to in this article shall receive reasonable compensation for services.

Article 2.

Assignment of Salary, Wages, or Income.

**§ 8.01-525.6. Petition for assignment of salary, wages, or income for the benefit of creditors.**

Upon petition of a debtor for the assignment of his salary, wages, or income to a trustee for the benefit of his creditors, a judge may appoint a trustee, subject to the supervision and order of the court, to receive such salary, wages, or income of such debtor and pay off the obligations due by such debtor as provided in this article, provided that a majority of the creditors have provided written consent of such assignment to the court. If the debtor is employed on a salary or for wages, the written consent of his employer is required.

**§ 8.01-525.7. Trustee; rights and duties; compensation.**

A trustee appointed pursuant to § 8.01-525.6 shall make written reports to the court as required by the court. The trustee may charge a fee of five percent of such salary, wages, or income received and disbursed by him; however, no public officer or employee who receives a full-time salary and who acts as trustee under this article shall retain such fee for his personal use.

The trustee, upon being appointed, shall give written notice to any person, firm, or corporation who may owe the debtor any salary, wages, or income, and upon receiving such notice such person, firm, or corporation shall pay to the trustee any salary, wages, or income that are owed to such debtor, at the time it would otherwise be due to the debtor.

The trustee may compromise and settle any claims against the debtor when he believes such compromise shall be for the benefit of all the creditors.

**§ 8.01-525.8. Resignation of trustee.**

The trustee may resign at any time after accounting for all funds in his possession, and the court may appoint another trustee.

**§ 8.01-525.9. Debts; order of payment.**

The trustee shall immediately upon receipt of such salary, wages, or income, or at such other time as the court may direct, disburse the funds as follows:

1. The trustee shall first pay to the debtor directly, or for his benefit as the court may direct, any amount the debtor may be entitled to as exempt by law if he is a householder and head of a family or, if he is not a householder or head of a family, then such amount for the necessities of life as may be agreed upon by the creditors in the assignment. Nothing in this subdivision shall prevent the trustee from paying to the debtor a greater amount than is exempt by law if agreed to by the creditors and approved by the court.

2. The trustee shall next pay, according to such funds as he has in his possession, a pro rata share of the balance to all the creditors on an equal basis or, in such proportions as the creditors may agree.

**§ 8.01-525.10. Exemption from garnishment, levy, or distress.**

When the assignment is executed and approved by the court and the trustee has been appointed and notice given to the creditors listed in the assignment, such assignment shall be deemed legal and binding upon all creditors and such salary, wages, or income shall be exempt from garnishment, levy, or distress during such time as the assignment is in existence.

Such assignment shall have priority over all liens subsequently obtained.

**§ 8.01-525.11. Termination of assignment by court.**

The court may, at any time, upon a motion stating that the terms of the assignment are not being complied with, order the debtor and trustee to appear before the court, and the court may, if the evidence justifies, or, in its discretion, declare the assignment null and void. When such action is taken by the court, a written notice shall be sent to all persons named in the assignment.

The court may, on its own motion, revoke the assignment whenever it determines that the ends of justice are not being attained.

When the assignment has been fully complied with, the court shall discharge the trustee and notify the employer of the debtor, if there is one, that the debtor is entitled to receive his entire salary, wages, or income directly.

**§ 8.01-525.12. Clerk to preserve assignment; fees.**

The clerk of the court wherein any assignment is filed, as otherwise provided by law, shall maintain the court records of such assignment, together with all reports of the trustee, and shall keep an index of all such assignments. For filing the assignment, the fee as prescribed in § 17.1-275 shall be charged.

CHAPTER 20.

DISPOSITION OF ASSETS BY NONPROFIT HEALTH CARE ENTITIES.

**§ 32.1-373. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Disposition of assets" means any action undertaken by a nonprofit entity to dispose of control of all or substantially all of its assets pursuant to an agreement of sale, transfer, lease, exchange, option, joint venture, or partnership, or to convert to a for-profit entity or to otherwise restructure the nonprofit entity or its assets, resulting in a change in control or governance of the entity or assets.

"Nonprofit entity" means (i) a foreign or domestic nonstock corporation licensed and subject to regulation under Chapter 42 (§ 38.2-4200 et seq.) of Title 38.2 or (ii) a person that is exempt from taxation under 26 U.S.C. § 501(c)(3) or (4) and is, or owns, one of the following: (a) a hospital licensed under Chapter 5 (§ 32.1-123 et seq.) of this title or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2; (b) a health maintenance organization licensed under Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2; (c) a nursing home, including a facility known by varying nomenclature or designation such as convalescent home, skilled nursing facility or skilled care facility, intermediate care facility, extended care facility, or certified nursing facility or nursing care facility, licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of Chapter 5; or (d) a facility for the provision of continuing care registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2.

**§ 32.1-374. Obligations of nonprofit entity.**

Prior to disposition of assets, any nonprofit entity shall provide to the Attorney General written notice, on a form provided by the Attorney General, of its intent to dispose of such assets, including the terms of the proposal. The notice shall be given at least 60 days in advance of the effective date of such proposed transaction in order that the Attorney General may exercise his common law and statutory authority over the activities of these organizations. The Attorney General may employ expert assistance in reviewing any proposed transaction, and such reasonable expenses incurred by the Attorney General shall be paid by a party to the proposed transaction.

Within 10 days of receipt of the notice from the entity, the Attorney General shall cause a public notice of the transaction to be published in a newspaper in which legal notices may be published in that jurisdiction.

No later than 40 days prior to any disposition of assets, the nonprofit entity shall convene a public meeting to set forth its expectations concerning how the health care needs of the community will be served following the proposed disposition of assets and to receive comments and respond to questions on the potential impact of the proposed disposition of assets on the community served by the nonprofit entity. Notice of the time and place of such meeting shall be published at least 10 days prior to the meeting in a newspaper in which legal notices may be published in that jurisdiction.

Notice to the Attorney General pursuant to this section shall be given for State Corporation Commission approval sought pursuant to Article 11 (§ 13.1-893.1) of Chapter 10 of Title 13.1 and §§ 38.2-203 and 38.2-1322 through 38.2-1328 and subdivision A 1 of § 38.2-4316. Such notice need not be given where the State Corporation Commission determines, in its sole discretion, that there is a reasonable expectation that the foreign or domestic nonstock corporation licensed and subject to regulation under Chapter 42 (§ 38.2-4200 et seq.) of Title 38.2 or health maintenance organization referenced in this chapter will not be able to meet its obligations to subscribers or enrollees.

The provisions of this section shall not apply to any disposition of assets subject to the provisions of § 38.2-4214.1 or any of the provisions of Chapter 15 (§ 38.2-1500 et seq.) of Title 38.2.

**§ 32.1-375. Applicability of chapter.**

This chapter shall apply to any disposition of assets proposed to take effect on or after July 1, 1997.

CHAPTER 12.

FIRST-TIME HOME BUYER SAVINGS PLAN ACT.

**§ 36-171. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Account holder" means an individual who establishes, individually or jointly with one or more other individuals, an account with a financial institution for which the account holder claims a first-time home buyer savings account status on

his Virginia income tax return.

"Allowable closing costs" means a disbursement listed on a settlement statement for the purchase of a single-family residence in the Commonwealth by a qualified beneficiary.

"Eligible costs" means the down payment and allowable closing costs for the purchase of a single-family residence in the Commonwealth by a qualified beneficiary.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, or credit union or any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in the Commonwealth.

"First-time home buyer savings account" or "account" means an account with a financial institution for which the account holder claims first-time home buyer savings account status on his Virginia income tax return for taxable year 2014 or any taxable year thereafter, pursuant to this chapter for the purpose of paying or reimbursing eligible costs for the purchase of a single-family residence in the Commonwealth by a qualified beneficiary. Financial institutions shall not be required to (i) designate an account as a first-time home buyer savings account, or designate the beneficiaries of such accounts, in the financial institutions' account contracts or systems or in any other way; (ii) track the use of funds withdrawn from such accounts; (iii) allocate funds in such accounts among joint account owners or multiple beneficiaries; or (iv) report any of the information stated in clause (i), (ii), or (iii) to the Department of Taxation or other governmental agency. Financial institutions shall not be responsible for or liable for (a) determining or ensuring that an account satisfies the requirements to be a first-time home buyer savings account, (b) determining or ensuring that costs are eligible costs, or (c) reporting or remitting taxes or penalties for such accounts.

"Qualified beneficiary" means only an individual who resides in the Commonwealth at the time of settlement on the purchase of a single-family residence in the Commonwealth who (i) has never owned or purchased under contract for deed, either individually or jointly, a single-family residence in the Commonwealth or outside of the Commonwealth; (ii) is designated as the beneficiary of an account designated by the account holder as a first-time home buyer savings account; and (iii) may apply moneys or funds held in such account for eligible costs. A qualified beneficiary may use the funds from such account for eligible costs regardless of whether such qualified beneficiary purchases the single-family residence as sole owner or jointly with another individual.

"Settlement statement" means the statement of receipts and disbursements for a transaction related to real estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 U.S.C. § 2601 et seq., as amended, and the regulations thereunder, or an executed sales agreement for the purchase of a manufactured home being conveyed as personal property.

"Single-family residence" means a single-family residence owned and occupied by a qualified beneficiary, including a manufactured home, trailer, mobile home, condominium unit, or cooperative.

**§ 36-172. Claiming first-time home buyer status.**

A. The account holder shall be responsible for the use or application of moneys or funds in an account for which the account holder claims first-time home buyer savings account status.

B. The account holder shall (i) not use moneys or funds held in an account to pay expenses of administering the account, except that a service fee may be deducted from the account by a financial institution; (ii) maintain documentation, which may include the settlement statement, of the segregation of moneys or funds in separate accounts and documentation of eligible costs for the purchase of a single-family residence in the Commonwealth; (iii) file, with the account holder's Virginia income tax return, forms developed by the Department of Taxation regarding treatment of the account as a first-time home buyer savings account under this chapter, along with the Form 1099 issued by the financial institution for such account; and (iv) remit to the Department of Taxation the tax on any amounts (a) added to individual income pursuant to subdivision 6 of § 58.1-322.01 or (b) recaptured pursuant to subdivision 25 of § 58.1-322.02.

C. The Tax Commissioner shall develop guidelines applicable to account holders to implement the provisions of this chapter. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such guidelines shall not apply to, or impose administrative, reporting, or other obligations or requirements on, financial institutions-related accounts for which first-time home buyer savings account status is claimed by the account holder.

**§ 36-173. Tax exemption; conditions.**

A. All interest or other income earned attributable to an account shall be excluded from the Virginia taxable income of the account holder as provided under subdivision 25 of § 58.1-322.02.

B. There shall be an aggregate limit of \$50,000 per account on the amount of principal for which the account holder may claim first-time home buyer savings account status. Only cash and marketable securities may be contributed to an account.

C. Subject to the aggregate limit on the amount of principal that may be contributed to an account pursuant to subsection B, there shall be a limitation of \$150,000 on the amount of principal and interest or other income on the principal that may be retained within an account.

D. An account holder shall be subject to Virginia income tax pursuant to subdivision 6 of § 58.1-322.01 to the extent of any loss deducted as a capital loss by the individual for federal income tax purposes attributable to the person's account.

E. Upon being furnished proof of the death of the account holder, a financial institution shall distribute the principal and accumulated interest or other income in the account in accordance with the terms of the contract governing the account.

**§ 36-174. Withdrawal of funds from account for purposes other than eligible costs for first-time home purchase.**

If moneys or funds are withdrawn from an account for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, there shall be imposed a penalty calculated using the Form 1099 showing the amount of income exempted from state income tax, and a five percent penalty shall be assessed on the amount of exempted income. The penalty shall be paid to the Department of Taxation. In addition, as provided under subdivision 25 of § 58.1-322.02, the account holder shall also be subject to recapture of income that was subtracted pursuant to that subdivision.

Such five percent penalty shall not apply to, and there shall be no recapture of income with regard to, the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to this chapter into another account established pursuant to this chapter for the benefit of another qualified beneficiary.

**§ 36-175. False claims prohibited; penalty.**

A person who knowingly prepares or causes to be prepared a false claim, receipt, statement, or billing to avoid or evade taxes or penalties upon the withdrawal of money or funds from an account for which the account holder claims first-time home buyer savings account status is guilty of a Class 1 misdemeanor.

CHAPTER 14.7:3.

MINERAL RIGHTS.

**§ 45.1-161.311:9. Presumption that no minerals, coals, oils, or ores exist in certain lands.**

In any case when a claim to minerals, coals, oils, ores, or subsurface substances, in, on, or under lands in the Commonwealth, it shall be prima facie presumed that no minerals, coals, oils, ores, or subsurface substances existing in, on, or under such lands, except lands lying west of the Blue Ridge Mountains other than in Amherst, Augusta, Bland, Botetourt, Craig, Giles, Nelson, Page, Rockingham, Roanoke, Shenandoah Counties or counties having a population of more than 16,500 but less than 16,900, of more than 32,000 but less than 32,940, of more than 30,000 but less than 31,000, of more than 15,700 but less than 16,000, of more than 60,000 but less than 70,000, of more than 5,000 but less than 5,350, and of more than 26,670 but less than 26,800, of more than 26,300 but less than 27,525, of more than 6,200 but less than 6,750, of 17,500 but less than 18,200, of 56,000 but less than 57,500, of 53,000 but less than 54,500, or in any county having population of more than 21,950 but less than 22,000, or in the case of manganese ores only in counties having a population of more than 21,300 and less than 21,900 or in any county having a population of more than 43,000 but less than 50,000, or the right to enter such land for the purpose of exploring, mining, boring, and sinking shafts for such minerals, coals, oils, ores, or subsurface substances is derived or reserved by any writing made 35 years or more prior to the institution of the action pursuant to § 45.1-161.311:11, and (i) such right to explore or mine has not for a like period been exercised and for a like period the person having such claim or right has never been charged with taxes thereon but all the taxes on the land have been charged to and paid by the person holding the land subject thereto, and for a like period no deed of bargain and sale of such claim or reservation in such mineral rights in the lands embraced in such claim has been recorded in the clerk's office of the county wherein the lands are located, or (ii) when the right to explore and mine has been exercised and the minerals, coals, oils, ores, and subsurface substances in or on the land have been exhausted and the right of mining or boring has been abandoned for a like period.

**§ 45.1-161.311:10. Presumption regarding estate of owner of mineral rights.**

A. Except as otherwise provided in the deed by which the owner of minerals derives title, the owner of minerals shall be presumed to be the owner of the shell, container chamber, passage, and space opened underground for the removal of the minerals, with full right to haul and transport minerals from other lands and to pass men, materials, equipment, water, and air through such space. No injunction shall lie to prohibit the use of any such shell, container chamber, passage, or space opened underground by the owner of minerals for the purposes herein described. The provisions of this subsection shall not affect contractual obligations and agreements entered into prior to July 1, 1981.

B. Notwithstanding the provisions of subsection A, with respect to the coal mineral estate, unless expressly excepted by the instrument creating the mineral ownership or lease interest, the owner or, if leased, the lessee of the coal mineral estate or its successor, assign, sublessee, or affiliate retains the right to any coal remaining in place after the removal of surrounding coal, as well as the right to use the shell, container chamber, passage, space, or void opened underground that was created by the removal of the coal.

1. Any such shell, container chamber, passage, space, or void opened underground that is within the boundaries of a mine permit issued under this title may be used consistent with state and federal regulations for any activity related to removal of coal from any lands for which a permit to mine coal has been approved, and no injunction shall lie to prohibit such use.

2. Any such shell, container chamber, passage, space, or void opened underground that is located in a sealed mine for which a mining permit no longer exists may be used consistent with state and federal regulations for any activity related to removal of coal from any lands for which a permit to mine coal has been approved only with the consent of the owner of such shell, container chamber, passage, space, or void. Such consent shall not be unreasonably withheld if the owner has been offered reasonable compensation for such use. In determining whether an offer of compensation is reasonable, a court shall be guided by the compensation set forth in other leases for the use of mine voids as is customary in the area.

C. The provisions of subdivisions B 1 and 2 (i) shall not affect any provision contained in any contract in effect as of July 1, 2012, expressly prohibiting the use of any shell, container chamber, passage, space, or void opened underground

that was created by the removal of the coal; (ii) shall not alter any contract entered into prior to July 1, 2012, that provides for the payment of compensation from the lessee to the lessor expressly for the use of any shell, container chamber, passage, space, or void opened underground that was created by the removal of the coal; and (iii) shall have no bearing on or application to any determination of ownership rights in natural gas or coalbed methane.

**§ 45.1-161.311:11. Actions to extinguish certain claims.**

The owner or owners of the land subject to such claim or right separately or jointly may bring an action praying for the extinguishment of such claim or right, to which action shall be made party defendant the person by whom such claim by such writing was derived or reserved, or his successors in title, by name so far as known, and as defendants unknown, so far as such successors in title are unknown. The venue for such action shall be as specified in subdivision 3 of § 8.01-261. The court shall allow a period of not less than six months from the time the cause is docketed and set for hearing to elapse within which time the defendant may explore and discover commercial minerals, coals, oils, ores, or subsurface substances, if any, and in the absence of satisfactory evidence to the contrary, it shall be presumed that there are no commercial minerals, coals, oils, ores, or subsurface substances in or on the land, and the court shall enter an order declaring the claim or right to be a cloud on the title and releasing the land therefrom and extinguishing the same; but if the defendant or defendants shall thereupon prove that there are commercial minerals, coals, oils, ores, or subsurface substances in or on the land, the court shall require such minerals, coals, oils, ores, or subsurface substances to be charged with taxes according to law.

CHAPTER 23.3.

COMMON INTEREST COMMUNITIES.

Article I.

Common Interest Community Board.

**§ 54.1-2345. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Association" ~~means the same as that term is defined in § 55-528~~ includes condominium, cooperative, or property owners' associations.

"Board" means the Common Interest Community Board.

"Common interest community" ~~means the same as that term is defined in § 55-528;~~ real estate subject to a declaration with respect to which a person, by virtue of the person's ownership of a lot subject to that declaration, is a member of the association and is obligated to pay assessments of common expenses, provided that for the purposes of this chapter only, a common interest community ~~shall~~ does not include any time-share project registered pursuant to the Virginia Real Estate Time-Share Act (~~§ 55-360~~ 55.1-2200 et seq.) or any additional land that is a part of such registration. "Common interest community" does not include an arrangement described in § 54.1-2345.1.

"Common interest community manager" means a person or business entity, including ~~but not limited to~~ a partnership, association, corporation, or limited liability company, ~~who~~ that, for compensation or valuable consideration, provides management services to a common interest community.

"Declaration" ~~means the same as that term is defined in § 55-528~~ any instrument, however denominated, recorded among the land records of the county or city in which the development or any part thereof is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area as a regular annual assessment or (ii) creates the authority in the association to impose on lots, or on the owners or occupants of such lots, or on any other entity any mandatory payment of money as a regular annual assessment in connection with the provision of maintenance or services or both for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition.

"Governing board" means the governing board of an association, including the executive organ of a condominium unit owners' association, the executive board of a cooperative proprietary lessees' association, and the board of directors or other governing body of a property owners' association.

"Lot" ~~means the same as that term is defined in § 55-528~~ (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative.

"Management services" means (i) acting with the authority of an association in its business, legal, financial, or other transactions with association members and nonmembers; (ii) executing the resolutions and decisions of an association or, with the authority of the association, enforcing the rights of the association secured by statute, contract, covenant, rule, or bylaw; (iii) collecting, disbursing, or otherwise exercising dominion or control over money or other property belonging to an association; (iv) preparing budgets, financial statements, or other financial reports for an association; (v) arranging, conducting, or coordinating meetings of an association or the governing body of an association; (vi) negotiating contracts or otherwise coordinating or arranging for services or the purchase of property and goods for or on behalf of an association; or (vii) offering or soliciting to perform any of the aforesaid acts or services on behalf of an association.

**§ 54.1-2345.1. Certain real estate arrangements and covenants not deemed to constitute a common interest community.**

A. An arrangement between the associations for two or more common interest communities to share the costs of real estate taxes, insurance premiums, services, maintenance, or improvements of real estate, or other activities specified in their arrangement or declarations does not create a separate common interest community, or an arrangement between an

*association and the owner of real estate that is not part of a common interest community to share the costs of real estate taxes, insurance premiums, services, maintenance, or improvements of real estate, or other activities specified in their arrangement does not create a separate common interest community. Assessments against the lots in the common interest community required by such arrangement shall be included in the periodic budget for the common interest community, and the arrangement shall be disclosed in all required public offering statements and disclosure packets.*

*B. A covenant requiring the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, driveway, well, or other similar use does not create a common interest community unless the owners otherwise agree to create such community.*

**§ 54.1-2346. License required; certification of employees; renewal; provisional license.**

A. Unless exempted by § 54.1-2347, any person, partnership, corporation, or other entity offering management services to a common interest community on or after January 1, 2009, shall hold a valid license issued in accordance with the provisions of this ~~chapter~~ *article* prior to engaging in such management services.

B. Unless exempted by § 54.1-2347, any person, partnership, corporation, or other entity offering management services to a common interest community without being licensed in accordance with the provisions of this ~~chapter~~ *article* shall be subject to the provisions of § 54.1-111.

C. On or after July 1, 2012, it shall be a condition of the issuance or renewal of the license of a common interest community manager that all employees of the common interest community manager who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community shall, within two years after employment with the common interest community manager, hold a certificate issued by the Board certifying the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community or shall be under the direct supervision of a certified employee of such common interest community manager. A common interest community manager shall notify the Board if a certificated employee is discharged or in any way terminates his active status with the common interest community manager.

D. It shall be a condition of the issuance or renewal of the license of a common interest community manager that the common interest community manager shall obtain and maintain a blanket fidelity bond or employee dishonesty insurance policy insuring the common interest community manager against losses resulting from theft or dishonesty committed by the officers, directors, and persons employed by the common interest community manager. Such bond or insurance policy shall include coverage for losses of clients of the common interest community manager resulting from theft or dishonesty committed by the officers, directors, and persons employed by the common interest community manager. Such bond or insurance policy shall provide coverage in an amount equal to the lesser of \$2 million or the highest aggregate amount of the operating and reserve balances of all associations under the control of the common interest community manager during the prior fiscal year. The minimum coverage amount shall be \$10,000.

E. It shall be a condition of the issuance or renewal of the license of a common interest community manager that the common interest community manager certifies to the Board (i) that the common interest community manager is in good standing and authorized to transact business in Virginia; (ii) that the common interest community manager has established a code of conduct for the officers, directors, and persons employed by the common interest community manager to protect against conflicts of interest; (iii) that the common interest community manager provides all management services pursuant to written contracts with the associations to which such services are provided; (iv) that the common interest community manager has established a system of internal accounting controls to manage the risk of fraud or illegal acts; and (v) that an independent certified public accountant reviews or audits the financial statements of the common interest community manager at least annually in accordance with standards established by the American Institute of Certified Public Accountants or by any successor standard-setting authorities.

~~F. The Board shall issue a provisional license to any person, partnership, corporation, or other entity offering management services to a common interest community on or before December 31, 2008, who makes application for licensure prior to January 1, 2009. Such provisional license shall expire on June 30, 2012, and shall not be renewed. This subsection shall not be construed to limit the powers and authority of the Board.~~

**§ 54.1-2347. Exceptions and exemptions generally.**

A. The provisions of this ~~chapter~~ *article* shall not be construed to prevent or prohibit:

1. An employee of a duly licensed common interest community manager from providing management services within the scope of the employee's employment by the duly licensed common interest community manager;

2. An employee of an association from providing management services for that association's common interest community;

3. A resident of a common interest community acting without compensation from providing management services for that common interest community;

4. A resident of a common interest community from providing bookkeeping, billing, or recordkeeping services for that common interest community for compensation, provided the blanket fidelity bond or employee dishonesty insurance policy maintained by the association insures the association against losses resulting from theft or dishonesty committed by such person;

5. A member of the governing board of an association acting without compensation from providing management services for that association's common interest community;

6. A person acting as a receiver or trustee in bankruptcy in the performance of his duties as such or any person acting under order of any court from providing management services for a common interest community;

7. A duly licensed attorney-at-law from representing an association or a common interest community manager in any business that constitutes the practice of law;

8. A duly licensed certified public accountant from providing bookkeeping or accounting services to an association or a common interest community manager;

9. A duly licensed real estate broker or agent from selling, leasing, renting, or managing lots within a common interest community; or

10. An association, exchange agent, exchange company, managing agent, or managing entity of a time-share project registered pursuant to the Virginia Real Estate Time-Share Act (§ ~~55-360~~ 55.1-2200 et seq.) from providing management services for such time-share project.

B. A licensee of the Board shall comply with the Board's regulations, notwithstanding the fact that the licensee would be otherwise exempt from licensure under subsection A. Nothing in this subsection shall be construed to require a person to be licensed in accordance with this ~~chapter~~ *article* if he would be otherwise exempt from such licensure.

**§ 54.1-2348. Common Interest Community Board; membership; meetings; quorum.**

There is hereby created the Common Interest Community Board (the Board) as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. Members of the Board shall be appointed by the Governor and consist of ~~eleven~~ *11* members as follows: three shall be representatives of Virginia common interest community managers, one shall be a Virginia attorney whose practice includes the representation of associations, one shall be a representative of a Virginia certified public accountant whose practice includes providing attest services to associations, one shall be a representative of the Virginia time-share industry, two shall be representatives of developers of Virginia common interest communities, and three shall be Virginia citizens, one of whom serves or who has served on the governing board of an association that is not professionally managed at the time of appointment and two of whom reside in a common interest community. Of the initial appointments, one representative of Virginia common interest community managers and one representative of developers of Virginia common interest communities shall serve terms of two years and one representative of Virginia common interest community managers and one representative of developers of Virginia common interest communities shall serve terms of three years; the Virginia attorney shall serve a term of three years; the Virginia certified public accountant shall serve a term of one year; the Virginia citizen who serves or who has served on the governing board of an association shall serve a term of two years, and the two Virginia citizens who reside in a common interest community shall serve terms of one year. All other initial appointments and all subsequent appointments shall be for terms of four years, except that vacancies may be filled for the remainder of the unexpired term. Each appointment of a representative of a Virginia common interest community manager to the Board may be made from nominations submitted by the Virginia Association of Community Managers, who may nominate no more than three persons for each manager vacancy. In no case shall the Governor be bound to make any appointment from such nominees. No person shall be eligible to serve for more than two successive four-year terms.

The Board shall meet at least once each year and at other such times as it deems necessary. The Board shall elect from its membership a chairman and a vice-chairman to serve for a period of one year. A majority of the Board shall constitute a quorum. The Board is vested with the powers and duties necessary to execute the purposes of this ~~chapter~~ *article*.

**§ 54.1-2349. Powers and duties of the Board.**

A. The Board shall administer and enforce the provisions of this ~~chapter~~ *article*. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this ~~chapter~~ *article* in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) ~~to include but not be limited to~~, including the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. The Board shall annually assess each common interest community manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest community management during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management *Information* Fund established pursuant to § ~~55-529~~ 54.1-2354.2;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by

the ~~National Board of Certification for~~ Community Association Managers *International Certification Board*, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § ~~55-529~~ 54.1-2354.2;

4. Approve the criteria for accredited common interest community manager training programs;
5. Approve accredited common interest community manager training programs;
6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this ~~chapter article~~;
7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this ~~chapter article~~; and
8. Issue a certificate of registration to each association that has properly filed in accordance with this chapter; and
9. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ ~~55-508~~ 55.1-1800 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this ~~chapter article~~ and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this ~~chapter article~~, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this ~~chapter article~~ with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this ~~chapter article~~ or ~~Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55 the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).~~

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

D. Notwithstanding the provisions of subsection E A of § ~~55-530~~ 54.1-2354.4, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within the time period required under § ~~55-79.97, 55-79.97:1, 55-484, 55-509.5, 55-509.6, or 55-509.7~~ 55.1-1809, 55.1-1810, 55.1-1811, 55.1-1900, 55.1-1992, or 55.1-2161.

#### **§ 54.1-2350. Annual report; form to accompany resale certificates and disclosure packets.**

In addition to the provisions of § 54.1-2349, the Board shall:

1. Administer the provisions of ~~Chapter 29 Article 2 (§ 55-528 54.1-2354.1 et seq.) of Title 55;~~
2. Develop and disseminate an association annual report form for use in accordance with §§ ~~55-79.93:1, 55-504.1, and 55-516.1~~ 55.1-1836, 55.1-1980, and 55.1-2182; and

3. Develop and disseminate a form to accompany resale certificates required pursuant to § ~~55-79.97~~ 55.1-1990 and association disclosure packets required pursuant to § ~~55-509.5~~ 55.1-1809, which form shall summarize the unique characteristics of common interest communities generally that may affect a prospective purchaser's decision to purchase a lot or unit located in a common interest community. The form shall include information on the following, which may or may not be applicable to a particular common interest community: (i) the obligation on the part of an owner to pay regular annual or special assessments to the association; (ii) the penalty for failure or refusal to pay such assessments; (iii) the purposes for which such assessments, if any, may be used; (iv) the importance the declaration of restrictive covenants or condominium instruments, as applicable, and other governing documents play in association living; (v) limitations on an owner's ability to rent his lot or unit; (vi) limitations on an owner's ability to park or store certain types of motor vehicles or boats within the common interest community; (vii) limitations on an owner's ability to maintain an animal as a pet within the lot or unit, or in common areas or common elements; (viii) architectural guidelines applicable to an owner's lot or unit; (ix) limitations on an owner's ability to operate a business within a dwelling unit on a lot or within a unit; (x) the period or length of declarant control; and (xi) that the purchase contract for a lot within an association is a legally binding document once it is signed by the prospective purchaser where the purchaser has not elected to cancel the purchase contract in accordance with law. The form shall also provide that (a) the purchaser remains responsible for his own examination of the materials that constitute the resale certificate or disclosure packet and of any table of contents that may be contained therein;

(b) the purchaser shall carefully review the entire resale certificate or disclosure packet; and (c) the contents of the resale certificate or disclosure packet shall control to the extent that there are any inconsistencies between the form and the resale certificate or disclosure packet.

**§ 54.1-2351. General powers and duties of Board concerning associations.**

A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this ~~chapter article~~, but the Board may not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this ~~chapter article~~ or of the chapter pursuant to which the association is created. The Board may prescribe forms and procedures for submitting information to the Board.

B. If it appears that any governing board has engaged, is engaging, or is about to engage in any act or practice in violation of this ~~chapter article~~, ~~Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55~~ *the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.)*, or any of the Board's regulations or orders, the Board without prior administrative proceedings may bring ~~suit~~ *an action* in the appropriate court to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

C. The Board may intervene in any action ~~or suit~~ involving a violation by a declarant or a developer of a time-share project of this ~~chapter article~~, ~~Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55~~ *the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.)*, or any of the Board's regulations or orders.

D. The Board may accept grants-in-aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions in furtherance of the objectives of this ~~chapter article~~.

E. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices, and may develop information that may be useful in the discharge of the Board's duties.

F. In issuing any cease and desist order, the Board shall state the basis for the adverse determination and the underlying facts.

G. Without limiting the remedies that may be obtained under this ~~chapter article~~, the Board, without compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the provisions of this section and may institute proceedings in equity to enjoin any person, partnership, corporation, or any other entity violating this ~~chapter article~~, ~~Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55~~ *the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.)*, or any of the Board's regulations or orders. Such proceedings shall be brought in the name of the Commonwealth by the Board in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

H. The Board may assess a monetary penalty to be paid to the Common Interest Community Management Information Fund of not more than \$1,000 per violation against any governing board that violates any provision of this ~~chapter article~~, ~~Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55~~ *the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.)*, or any of the Board's regulations or orders. In determining the amount of the penalty, the Board shall consider the degree and extent of harm caused by the violation. No monetary penalty may be assessed under this ~~chapter article~~, ~~Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55~~ *the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.)*, or any of the Board's regulations or orders unless the governing board has been given notice and an opportunity to be heard pursuant to the Administrative Process Act (§ 2.2-4000 et seq.). The penalty may be sued for and recovered in the name of the Commonwealth.

**§ 54.1-2352. Cease and desist orders.**

A. The Board may issue an order requiring the governing board of the association to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this ~~chapter article~~, if the Board determines after notice and hearing that the governing board of an association has:

1. Violated any statute or regulation of the Board governing the association regulated pursuant to this ~~chapter article~~, including engaging in any act or practice in violation of this ~~chapter article~~, ~~Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55~~ *the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.)*, or any of the Board's regulations or orders;

2. Failed to register as an association or to file an annual report as required by statute or regulation;

3. Materially misrepresented facts in an application for registration or an annual report; or

4. Willfully refused to furnish the Board information or records required or requested pursuant to statute or regulation.

B. If the Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the Board shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

**§ 54.1-2353. Protection of the interests of associations; appointment of receiver for common interest community manager.**

A. A common interest community manager owes a fiduciary duty to the associations to which it provides management services with respect to the manager's handling the funds or the records of each association. All funds deposited with the common interest community manager shall be handled in a fiduciary capacity and shall be kept in a separate fiduciary trust account or accounts in an FDIC-insured financial institution separate from the assets of the common interest community manager. The funds shall be the property of the association and shall be segregated for each depository in the records of the common interest community manager in a manner that permits the funds to be identified on an association basis. All records having administrative or fiscal value to the association that a common interest community manager holds, maintains, compiles, or generates on behalf of a common interest community are the property of the association. A common interest community manager may retain and dispose of association records in accordance with a policy contained in the contract between the common interest community manager and the association. Within a reasonable time after a written request for any such records, the common interest community manager shall provide copies of the requested records to the association at the association's expense. The common interest community manager shall return all association records that it retains and any originals of legal instruments or official documents that are in the possession of the common interest community manager to the association within a reasonable time after termination of the contract for management services without additional cost to the association. Records maintained in electronic format may be returned in such format.

B. If the Board has reasonable cause to believe that a common interest community manager is unable to properly discharge its fiduciary responsibilities to an association to which it provides management services, the Board may submit an ex parte petition to the circuit court of the city or county wherein the common interest community manager maintains an office or is doing business for the issuance of an order authorizing the immediate inspection by and production to representatives of the petitioner of any records, documents, and physical or other evidence belonging to the subject common interest community manager. The court may issue such order without notice to the common interest community manager if the petition, supported by affidavit of the petitioner and such other evidence as the court may require, shows reasonable cause to believe that such action is required to prevent immediate loss of property of one or more of the associations to which the subject common interest community manager provides management services. The court may also temporarily enjoin further activity by the common interest community manager and take such further action as shall be necessary to conserve, protect, and disburse the funds involved, including the appointment of a receiver. The papers filed with the court pursuant to this subsection shall be placed under seal.

C. If the Board has reasonable cause to believe that a common interest community manager is unable to properly discharge its fiduciary responsibilities to an association to which it provides management services, the Board may file a petition with the circuit court of the county or city wherein the subject common interest community manager maintains an office or is doing business. The petition may seek the following relief: (i) an injunction prohibiting the withdrawal of any bank deposits or the disposition of any other assets belonging to or subject to the control of the subject common interest community manager; and (ii) the appointment of a receiver for all or part of the funds or property of the subject common interest community manager. The subject common interest community manager shall be given notice of the time and place of the hearing on the petition and an opportunity to offer evidence. The court, in its discretion, may require a receiver appointed pursuant to this section to post bond, with or without surety. The papers filed with the court under this subsection shall be placed under seal until such time as the court grants an injunction or appoints a receiver. The court may issue an injunction, appoint a receiver, or provide such other relief as the court may consider proper if, after a hearing, the court finds that such relief is necessary or appropriate to prevent loss of property of one or more of the associations to which the subject common interest community manager provides management services.

D. In any proceeding under subsection C, any person or entity known to the Board to be indebted to or having in his possession property, real or personal, belonging to or subject to the control of the subject common interest community manager's business and which property the Board reasonably believes may become part of the receivership assets, shall be served with a copy of the petition and notice of the time and place of the hearing.

E. The court shall describe the powers and duties of the receiver in its appointing order, which may be amended from time to time. The receiver shall, unless otherwise ordered by the court in the appointing order, (i) prepare and file with the Board a list of all associations managed by the subject common interest community manager; (ii) notify in writing all of the associations to which the subject common interest community manager provides management services of the appointment, and take whatever action the receiver deems appropriate to protect the interests of the associations until such time as the associations have had an opportunity to obtain a successor common interest community manager; (iii) facilitate the transfer of records and information to such successor common interest community manager; (iv) identify and take control of all bank accounts, including without limitation trust and operating accounts, over which the subject common interest community manager had signatory authority in connection with its management business; (v) prepare and submit an accounting of receipts and disbursements and account balances of all funds under the receiver's control for submission to the

court within four months of the appointment and annually thereafter until the receivership is terminated by the court; (vi) attempt to collect any accounts receivable related to the subject common interest community manager's business; (vii) identify and attempt to recover any assets wrongfully diverted from the subject common interest community manager's business, or assets acquired with funds wrongfully diverted from the subject common interest community manager's business; (viii) terminate the subject common interest community manager's business; (ix) reduce to cash all of the assets of the subject common interest community manager; (x) determine the nature and amount of all claims of creditors of the subject common interest community manager, including associations to which the subject common interest community manager provided management services; and (xi) prepare and file with the court a report of such assets and claims proposing a plan for the distribution of funds in the receivership to such creditors in accordance with the provisions of subsection F.

F. Upon the court's approval of the receiver's report referenced in subsection E, at a hearing after such notice as the court may require to creditors, the receiver shall distribute the assets of the common interest community manager and funds in the receivership first to clients whose funds were or ought to have been held in a fiduciary capacity by the subject common interest community manager, then to the receiver for fees, costs, and expenses awarded pursuant to subsection G, and thereafter to the creditors of the subject common interest community manager, and then to the subject common interest community manager or its successors in interest.

G. A receiver appointed pursuant to this section shall be entitled, upon proper application to the court in which the appointment was made, to recover an award of reasonable fees, costs, and expenses. If there are not sufficient nonfiduciary funds to pay the award, then the shortfall shall be paid by the Common Interest Community Management Recovery Fund as a cost of administering the Fund pursuant to § ~~55-530.1~~ 54.1-2354.5, to the extent that the said Fund has funds available. The Fund shall have a claim against the subject common interest community manager for the amount paid.

H. The court may determine whether any assets under the receiver's control should be returned to the subject common interest community manager.

I. If the Board shall find that any common interest community manager is insolvent, that its merger into another common interest community manager is desirable for the protection of the associations to which such common interest community manager provides management services, and that an emergency exists, and, if the board of directors of such insolvent common interest community manager shall approve a plan of merger of such common interest community manager into another common interest community manager, compliance with the requirements of § 13.1-718 shall be dispensed with as to such insolvent common interest community manager and the approval by the Board of such plan of merger shall be the equivalent of approval by the holders of more than two-thirds of the outstanding shares of such insolvent common interest community manager for all purposes of Article 12 (§ 13.1-715.1 et seq.) of Chapter 9 of Title 13.1. If the Board finds that a common interest community manager is insolvent, that the acquisition of its assets by another common interest community manager is in the best interests of the associations to which such common interest community manager provides management services, and that an emergency exists, it may, with the consent of the boards of directors of both common interest community managers as to the terms and conditions of such transfer, including the assumption of all or certain liabilities, enter an order transferring some or all of the assets of such insolvent common interest community manager to such other common interest community manager, and no compliance with the provisions of §§ 13.1-723 and 13.1-724 shall be required, nor shall §§ 13.1-730 through 13.1-741 be applicable to such transfer. In the case either of such a merger or of such a sale of assets, the Board shall provide that prompt notice of its finding of insolvency and of the merger or sale of assets be sent to the stockholders of record of the insolvent common interest community manager for the purpose of providing such shareholders an opportunity to challenge the finding that the common interest community manager is insolvent. The relevant books and records of such insolvent common interest community manager shall remain intact and be made available to such shareholders for a period of 30 days after such notice is sent. The Board's finding of insolvency shall become final if a hearing before the Board is not requested by any such shareholder within such 30-day period. If, after such hearing, the Board finds that such common interest community manager was solvent, it shall rescind its order entered pursuant to this subsection and the merger or transfer of assets shall be rescinded. But if, after such hearing, the Board finds that such common interest community manager was insolvent, its order shall be final.

J. The provisions of this ~~chapter article~~ are declared to be remedial. The purpose of this ~~chapter article~~ is to protect the interests of associations adversely affected by common interest community managers who have breached their fiduciary duty. The provisions of this ~~chapter article~~ shall be liberally administered in order to protect those interests and thereby the public's interest in the quality of management services provided by Virginia common interest community managers.

#### **§ 54.1-2354. Variation by agreement.**

Except as expressly provided in this ~~chapter article~~, provisions of this ~~chapter article~~ may not be varied by agreement, and rights conferred by this ~~chapter article~~ may not be waived. All management agreements entered into by common interest community managers shall comply with the terms of this ~~chapter article~~ and the provisions of ~~Chapter 4-2~~ (§ ~~55-79.39 et seq.~~, 21 (§ ~~55-360 et seq.~~), 24 (§ ~~55-424 et seq.~~), or 26 (§ ~~55-508 et seq.~~)) of Title ~~55~~ the Property Owners' Association Act (§ 55.1-1800 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), as applicable.

#### *Article 2.*

*Common Interest Community Management Information Fund; Common Interest Community Ombudsman; Common Interest Community Management Recovery Fund.*

**§ 54.1-2354.1. Definitions.**

As used in this article, unless the context requires a different meaning:

"Balance of the fund" means cash, securities that are legal investments for fiduciaries under the provisions of subdivisions A 1, 2, and 4 of § 2.2-4519, and repurchase agreements secured by obligations of the United States government or any agency thereof, and shall not mean accounts receivable, judgments, notes, accrued interest, or other obligations to the fund.

"Claimant" means upon proper application to the Director, a receiver for a common interest community manager appointed pursuant to § 54.1-2353 in those cases in which there are not sufficient funds to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager or to pay an award of reasonable fees, costs, and expenses to the receiver.

"Director" means the Director of the Department of Professional and Occupational Regulation.

**§ 54.1-2354.2. Common Interest Community Management Information Fund.**

A. There is hereby created the Common Interest Community Management Information Fund, referred to in this section as "the Fund," to be used in the discretion of the Board to promote the improvement and more efficient operation of common interest communities through research and education. The Fund shall be established on the books of the Comptroller. The Fund shall consist of money paid into it pursuant to §§ 54.1-2349, 55.1-1835, 55.1-1980, and 55.1-2182, and such money shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but, at the discretion of the Board, shall remain in the Fund or shall be transferred to the Common Interest Community Management Recovery Fund established pursuant to § 54.1-2354.5.

B. Expenses for the operations of the Office of the Common Interest Community Ombudsman, including the compensation paid to the Common Interest Community Ombudsman, shall be paid first from interest earned on deposits constituting the Fund and the balance from the moneys collected annually in the Fund. The Board may use the remainder of the interest earned on the balance of the Fund and of the moneys collected annually and deposited in the Fund for financing or promoting the following:

1. Information and research in the field of common interest community management and operation;
2. Expeditious and inexpensive procedures for resolving complaints about an association from members of the association or other citizens;
3. Seminars and educational programs designed to address topics of concern to community associations; and
4. Other programs deemed necessary and proper to accomplish the purpose of this article.

**§ 54.1-2354.3. Common Interest Community Ombudsman; appointment; powers and duties.**

A. The Director in accordance with § 54.1-303 shall appoint a Common Interest Community Ombudsman (the Ombudsman) and shall establish the Office of the Common Interest Community Ombudsman (the Office). The Ombudsman shall be a member in good standing in the Virginia State Bar. All state agencies shall assist and cooperate with the Office in the performance of its duties under this article.

B. The Office shall:

1. Assist members in understanding rights and the processes available to them according to the laws and regulations governing common interest communities and respond to general inquiries;
2. Make available, either separately or through an existing website, information concerning common interest communities and such additional information as may be deemed appropriate;
3. Receive notices of final adverse decisions;
4. Upon request, assist members in understanding the rights and processes available under the laws and regulations governing common interest communities and provide referrals to public and private agencies offering alternative dispute resolution services, with a goal of reducing and resolving conflicts among associations and their members;
5. Ensure that members have access to the services provided through the Office and that the members receive timely responses from the representatives of the Office to the inquiries;
6. Maintain data on inquiries received, types of assistance requested, notices of final adverse decisions received, actions taken, and the disposition of each such matter;
7. Upon request to the Director by (i) any of the standing committees of the General Assembly having jurisdiction over common interest communities or (ii) the Housing Commission, provide to the Director for dissemination to the requesting parties assessments of proposed and existing common interest community laws and other studies of common interest community issues;
8. Monitor changes in federal and state laws relating to common interest communities;
9. Provide information to the Director that will permit the Director to report annually on the activities of the Office of the Common Interest Community Ombudsman to the standing committees of the General Assembly having jurisdiction over common interest communities and to the Housing Commission. The Director's report shall be filed by December 1 of each year and shall include a summary of significant new developments in federal and state laws relating to common interest communities each year; and
10. Carry out activities as the Board determines to be appropriate.

**§ 54.1-2354.4. Association complaint procedures; final adverse decisions; certificate of registration.**

A. The Board shall establish by regulation a requirement that each association shall establish reasonable procedures

for the resolution of written complaints from the members of the association and other citizens. Each association shall adhere to the written procedures established pursuant to this subsection when resolving association member and citizen complaints. The procedures shall include the following:

1. A record of each complaint shall be maintained for no less than one year after the association acts upon the complaint.

2. Such association shall provide complaint forms or written procedures to be given to persons who wish to register written complaints. The forms or procedures shall include the address and telephone number of the association or its common interest community manager to which complaints shall be directed and the mailing address, telephone number, and electronic mailing address of the Office. The forms and written procedures shall include a clear and understandable description of the complainant's right to give notice of adverse decisions pursuant to this section.

B. A complainant may give notice to the Board of any final adverse decision in accordance with regulations promulgated by the Board. The notice shall be filed within 30 days of the final adverse decision, shall be in writing on forms prescribed by the Board, shall include copies of all records pertinent to the decision, and shall be accompanied by a \$25 filing fee. The fee shall be collected by the Director and paid directly into the state treasury and credited to the Common Interest Community Management Information Fund pursuant to § 54.1-2354.2. The Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause undue financial hardship for the member. The Director shall provide a copy of the written notice to the association that made the final adverse decision.

C. The Director or his designee may request additional information concerning any notice of final adverse decision from the association that made the final adverse decision. The association shall provide such information to the Director within a reasonable time upon request. If the Director upon review determines that the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board, the Director may, in his sole discretion, provide the complainant and the association with information concerning such laws or regulations governing common interest communities or interpretations thereof by the Board. The determination of whether the final adverse decision may be in conflict with laws or regulations governing common interest communities or interpretations thereof by the Board shall be a matter within the sole discretion of the Director, whose decision is final and not subject to further review. The determination of the Director shall not be binding upon the complainant or the association that made the final adverse decision.

**§ 54.1-2354.5. Common Interest Community Management Recovery Fund.**

A. There is hereby created the Common Interest Community Management Recovery Fund, referred to in this section as "the Fund," to be used in the discretion of the Board to protect the interests of associations.

B. Each common interest community manager, at the time of initial application for licensure, and each association filing its first annual report after the effective date shall be assessed \$25, which shall be specifically assigned to the Fund. Initial payments may be incorporated in any application fee payment or annual filing fee and transferred to the Fund by the Director within 30 days.

All assessments, except initial assessments, for the Fund shall be deposited within three business days after their receipt by the Director, in one or more federally insured banks, savings and loan associations, or savings banks located in the Commonwealth. Funds deposited in banks, savings institutions, or savings banks in excess of insurance afforded by the Federal Deposit Insurance Corporation or other federal insurance agency shall be secured under the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.). The deposit of these funds in federally insured banks, savings and loan associations, or savings banks located in the Commonwealth shall not be considered investment of such funds for purposes of this section. Funds maintained by the Director may be invested in securities that are legal investments for fiduciaries under the provisions of § 64.2-1502.

Interest earned on the deposits constituting the Fund shall be used for administering the Fund. The remainder of this interest, at the discretion of the Board, may be transferred to the Common Interest Community Management Information Fund, established pursuant to § 54.1-2354.2, or accrue to the Fund.

C. On and after July 1, 2011, the minimum balance of the Fund shall be \$150,000. Whenever the Director determines that the principal balance of the Fund is or will be less than such minimum principal balance, the Director shall immediately inform the Board. At the same time, the Director may recommend that the Board transfer a fixed amount from the Common Interest Community Management Information Fund to the Fund to bring the principal balance of the Fund to the amount required by this subsection. Such transfer shall be considered by the Board within 30 days of the notification of the Director.

D. If any such transfer of funds is insufficient to bring the principal balance of the Fund to the minimum amount required by this section, or if a transfer to the Fund has not occurred, the Board shall assess each association and each common interest community manager, within 30 days of notification by the Director, a sum sufficient to bring the principal balance of the Fund to the required minimum amount. The amount of such assessment shall be allocated among the associations and common interest community managers in proportion to each payor's most recently paid annual assessment, or if an association or common interest community manager has not paid an annual assessment previously, in proportion to the average annual assessment most recently paid by associations or common interest community managers, respectively. The Board may order an assessment at any time in addition to any required assessment. Assessments made pursuant to this subsection may be issued by the Board (i) after a determination made by it or (ii) at the time of license renewal.

Notice to common interest community managers and the governing boards of associations of these assessments shall be by first-class mail, and payment of such assessments shall be made by first-class mail addressed to the Director within 45 days after the mailing of such notice.

E. If any common interest community manager fails to remit the required payment within 45 days of the mailing, the Director shall notify the common interest community manager by first-class mail at the latest address of record filed with the Board. If no payment has been received by the Director within 30 days after mailing the second notice, the license shall be automatically suspended. The license shall be restored only upon the actual receipt by the Director of the delinquent assessment.

F. If any association fails to remit the required payment within 45 days of the mailing, the Director shall notify the association by first-class mail at the latest address of record filed with the Board. If no payment has been received by the Director within 30 days after mailing the second notice, it shall be deemed a knowing and willful violation of this section by the governing board of the association.

G. At the close of each fiscal year, whenever the balance of the Fund exceeds \$5 million, the amount in excess of \$5 million shall be transferred to the Virginia Housing Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36. Except for payments of costs as set forth in this article and transfers pursuant to this subsection, there shall be no transfers out of the Fund, including transfers to the general fund, regardless of the balance of the Fund.

H. A claimant may seek recovery from the Fund subject to the following conditions:

1. A claimant may file a verified claim in writing to the Director for a recovery from the Fund.

2. Upon proper application to the Director, in those cases in which there are not sufficient funds to pay an award of reasonable fees, costs, and expenses to the receiver or to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager, the Director shall report to the Board the amount of any shortfall to the extent that there are not sufficient funds (i) to pay any award of fees, costs, and expenses pursuant to subsection G of § 54.1-2353 by the court appointing the receiver; or (ii) to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager, as certified by the court appointing the receiver.

3. If the Board finds there has been compliance with the required conditions, the Board shall issue a directive ordering payment of the amount of such shortfall to the claimant from the Fund, provided that in no event shall such payment exceed the balance in the Fund. When the Fund balance is not sufficient to pay the aggregate amount of such shortfall, the Board shall direct that payment be applied first in satisfaction of any award of reasonable fees, costs, and expenses to the receiver and second to restore the funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager. If the Board has reason to believe that there may be additional claims against the Fund, the Board may withhold any payment from the Fund for a period of not more than one year. After such one-year period, if the aggregate of claims received exceeds the Fund balance, the Fund balance shall be prorated by the Board among the claimants and paid in the above payment order from the Fund in proportion to the amounts of claims remaining unpaid.

4. The Director shall, subject to the limitations set forth in this subsection, pay to the claimant from the Fund such amount as shall be directed by the Board upon the execution and delivery to the Director by such claimant of an assignment to the Board of the claimant's rights on its behalf and on behalf of the associations receiving distributions from the Fund against the common interest community manager to the extent that such rights were satisfied from the Fund.

5. The claimant shall be notified in writing of the findings of the Board. The Board's findings shall be considered a case decision as defined in § 2.2-4001, and judicial review of these findings shall be in accordance with § 2.2-4025 of the Administrative Process Act (§ 2.2-4000 et seq.).

6. Notwithstanding any other provision of law, the Board shall have the right to appeal a decision of any court that is contrary to any distribution recommended or authorized by it.

7. Upon payment by the Director to a claimant from the Fund as provided in this subsection, the Board shall immediately revoke the license of the common interest community manager whose actions resulted in payment from the Fund. The common interest community manager whose license was so revoked shall not be eligible to apply for a license as a common interest community manager until he has repaid in full the amount paid from the Fund on his account, plus interest at the judgment rate of interest from the date of payment from the Fund.

8. Nothing contained in this subsection shall limit the authority of the Board to take disciplinary action against any common interest community manager for any violation of statute or regulation, nor shall the repayment in full by a common interest community manager of the amount paid from the Fund on such common interest community manager's account nullify or modify the effect of any disciplinary proceeding against such common interest community manager for any such violation.

TITLE 55.1.

PROPERTY AND CONVEYANCES.

SUBTITLE I.

PROPERTY CONVEYANCES.

CHAPTER 1.

CREATION AND LIMITATION OF ESTATES.

Article 1.

Creation and Transfer of Estates.

**§ 55.1-100. Aliens may acquire, hold, and transmit real estate; when reciprocity required.**

Any alien, not an enemy, may acquire by purchase or descent and hold real estate in the Commonwealth, and such real estate shall be transmitted in the same manner as real estate held by citizens. However, if, at the time of the transfer, a court of the Commonwealth determines that the laws of a foreign country or sovereignty effectively deny a Virginia resident, legatee, or distributee the benefit, use, or control of money or other property held in such foreign country or sovereignty, a judgment or order issued in the Commonwealth concerning the rights of a resident of that foreign country or sovereignty to the benefit, use, or control of money or property held in the Commonwealth may direct that the money or property be paid into the court for the benefit of the alien. The money or property paid into court shall be paid out only upon order of the court or pursuant to the order or judgment of a court of competent jurisdiction. Any of the money or property remaining with the court upon expiration of three years from the decedent's death shall be paid out by the court as if the alien had predeceased the decedent.

**§ 55.1-101. When deed or will necessary to convey estate; no parol partition or gift valid.**

No estate of inheritance or freehold or for a term of more than five years in lands shall be conveyed unless by deed or will, and no voluntary partition of lands by coparceners, having such an estate in such land, shall be made except by deed. In addition, no right to a conveyance of any such estate or term in land shall accrue to the donee of the land or those claiming under him, under a gift or promise of gift of such estate or term in land not in writing, even if such gift or promise is followed by possession and improvement of the land by the donee or those claiming under him.

**§ 55.1-102. When gift of personal property invalid.**

No gift of any personal property is valid (i) unless conveyed by deed or will or (ii) unless the donee or a person claiming under the donee has and remains in actual possession of such personal property. If the donor and donee reside together at the time of the gift, possession at the place of their residence is not a sufficient possession within the meaning of this section. This section shall not apply to personal paraphernalia used exclusively by the donee.

**§ 55.1-103. Suicide or attainder of felony.**

Neither suicide nor attainder of felony shall cause a corruption of blood or forfeiture of estate.

**§ 55.1-104. Estates to lie in grant as well as in livery.**

All real estate shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant as well as in livery.

**§ 55.1-105. Same estates may be created by deed as by will.**

Any interest in or claim to real estate, including easements in gross, may be transferred by deed or will. Any estate may be made to commence at a future date, by deed, in like manner as by will, and any estate that would be valid as an executory devise or bequest is valid if created by deed.

**§ 55.1-106. Power of disposal in life tenant not to defeat remainder unless exercised; power of disposal held by fiduciary.**

If any interest in or claim to real estate or personal property is disposed of by deed or will for life, with a limitation in remainder over, and the same instrument confers expressly or by implication a power upon the life tenant in his lifetime or by will to dispose absolutely of such property, the limitation in remainder over shall not fail, or be defeated, except to the extent that the life tenant lawfully exercised such power of disposal. A deed of trust or mortgage executed by the life tenant shall not be construed to be an absolute disposition of the estate, unless such estate is sold under the deed of trust or mortgage. A power of disposal held by any person in a fiduciary capacity under an express trust in writing shall not be deemed to be held by such fiduciary in a beneficial capacity and shall not be construed in any manner to enlarge the beneficial interest otherwise given to him under such trust.

**§ 55.1-107. Default or surrender of tenant for life not to prejudice remainderman.**

If any tenant for life of land make default or surrender, the heirs or those entitled to the remainder may, before judgment, be admitted to defend their right or, after judgment, may assert their right without prejudice from such default or surrender.

**§ 55.1-108. Conveyance of estate or interest in property by grantor to himself and another.**

Any person having an estate or interest in real or personal property may convey such estate or interest to himself or to himself and another or others, including to himself and his spouse as tenants by the entirety or otherwise, and the fact that one or more persons are both grantor or grantee or grantors and grantees in the same conveyance shall be no objection to the conveyance. The grantee or grantees in any such conveyance shall take title in like manner, and the estate vested in them shall be the same as if the conveyance had been made by one or more persons who are not also grantee or grantees.

All such conveyances made prior to July 1, 1986, are validated notwithstanding defects in the form thereof that do not affect vested rights.

**§ 55.1-109. Deed valid for grantor's right; operation of warranty.**

A writing that purports to pass or assure a greater right or interest in real estate than the person making it may lawfully pass or assure shall operate as an alienation of such right or interest in such real estate as such person might lawfully convey or assure; and when the deed of the alienor mentions that he and his heirs will warrant what it purports to pass or assure, if anything descends from him, his heirs shall be barred for the value of what is so descended or liable for such value.

**§ 55.1-110. Conveyance, devise, or grant without words of limitation.**

When any real estate is conveyed, devised, or granted to any person without any words of limitation, such conveyance,

devise, or grant shall be construed to pass the fee simple or other whole estate or interest that the testator or grantor has power to dispose of in such real estate, unless a contrary intention is apparent in the conveyance, devise, or grant.

**§ 55.1-111. Fee tail converted into fee simple.**

Every estate in lands so limited that, as the law was on October 7, 1776, such estate would have been an estate tail shall be deemed an estate in fee simple, and every limitation upon such an estate shall be held valid if the same would be valid when limited upon an estate in fee simple created by technical language.

**§ 55.1-112. Estate of freehold to one with remainder to heirs, etc.; rule in Shelley's Case abolished.**

Wherever any person by deed, will, or other writing takes an estate of freehold in land, or takes such an interest in personal property as would be an estate of freehold if it were an estate in land, and in the same deed, will, or writing an estate is afterwards limited by way of remainder to his heirs, or the heirs of his body, or his issue, the words "heirs," "heirs of his body," and "issue," or other words of like import used in the deed, will, or writing in the limitation therein by way of remainder shall not be construed as words of limitation carrying to such person the inheritance as to the land, or the absolute estate as to the personal property, but they shall be construed as words of purchase, creating a remainder in the heirs, heirs of the body, or issue.

**§ 55.1-113. Doctrine of worthier title abolished.**

The doctrine of worthier title is abolished in the Commonwealth as a rule of law and as a rule of construction.

**§ 55.1-114. When contingent remainder not to fail.**

A contingent remainder shall not fail for want of a particular estate to support it.

**§ 55.1-115. When remainders not defeated.**

The alienation of a particular estate on which a remainder depends, or the union of such estate with the inheritance by purchase or descent, shall not operate, by merger or otherwise, to defeat, impair, or otherwise affect such remainder.

**§ 55.1-116. In what conveyances possession transferred to the use.**

By deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seized to the use, or deed operating by way of covenant to stand seized to the use, the possession of the grantor shall be deemed transferred to the grantee or other person entitled to the use, for the estate or interest that such person has in the use, as perfectly as if the grantee or other person entitled to the use had been enfeoffed with livery of seisin of the land intended to be conveyed by such deed or covenant.

**§ 55.1-117. Land trusts not to fail because no beneficiaries are specified by name and no duties laid on trustee; when interest of beneficiaries deemed personal property; liens.**

No trust relating to real estate shall fail nor shall any use relating to real estate be defeated because no beneficiaries are specified by name in the recorded deed of conveyance to the trustee or because no duties are imposed upon the trustee. The power conferred by any such instrument on a trustee to sell, lease, encumber, or otherwise dispose of property described in such instrument shall be effective, and no person dealing with such a trustee shall be required to make further inquiry as to the right of such trustee to act, nor shall he be required to inquire as to the disposition of any proceeds.

In any case under this section where there is a recorded deed of conveyance to a trustee, the interest of the beneficiaries thereunder shall be deemed to be personal property. Judgments against a beneficiary and consensual liens against real property of a beneficiary do not attach to real property that is the subject of such a deed of conveyance unless the judgment is docketed or the lien recorded in the county or city where the property is located (i) before recordation of the deed creating the land trust and (ii) while the beneficiary has record title to the real property.

In any case under this section where there is a recorded deed of conveyance to a trustee and the trustee named in the deed declines to serve, resigns, is disqualified or removed, or is adjudicated incapacitated and there is (a) no successor trustee named in the deed, (b) no successor trustee designated by the terms of the trust instrument, or (c) no procedure set forth in the deed or trust instrument to designate a successor trustee, the beneficiaries of the trust, by majority decision, shall name a successor trustee. However, if the identities of the beneficiaries of the trust cannot be identified from the recorded deed of conveyance or a majority of the beneficiaries are unable to agree upon a successor trustee, the circuit court of the county or city in which the deed was recorded, upon the motion of any party interested in the administration of the trust, shall appoint a successor trustee whenever the court considers the appointment necessary for the administration of the trust. The name and address of any successor trustee so named or appointed shall be recorded with the clerk of the circuit court of the county or city in which the deed was recorded, and such successor trustee shall succeed to all the rights, powers, and privileges, and shall be subject to all the duties, liabilities, and responsibilities imposed upon, the original trustee unless the deed of conveyance expressly provides to the contrary.

Nothing in this section shall be construed to (1) affect any right that a creditor may otherwise have against a trustee or beneficiary except as provided in this section, (2) enlarge upon the power of a corporation to act as trustee under § 6.2-1001, or (3) affect the rule against perpetuities.

**§ 55.1-118. Deed of release effectual.**

Every deed of release of any estate or interest capable of passing by deed of lease or release shall be as effectual for the purposes expressed in such deed of release, without the execution of a lease, as if the same had been executed.

**§ 55.1-119. When person not a party, etc., may take or sue under instrument.**

An immediate estate or interest in or the benefit of a condition respecting any estate may be taken by a person under an instrument, although he is not a party to such instrument; and if a covenant or promise is made for the benefit, in whole or in part, of a person with whom it is not made, or with whom it is made jointly with others, such person, whether named in

the instrument or not, may maintain in his own name any action thereon that he might maintain as though it had been made with him only and the consideration had moved from him to the party making such covenant or promise. In such action, the covenantor or promisor shall be permitted to make all defenses he may have, not only against the covenantee or promisee, but also against such beneficiary.

**§ 55.1-120. Informalities in deeds made by attorneys-in-fact.**

If, in a deed made by one as attorney-in-fact for another, the words of conveyance or the signature is in the name of the attorney, it is as much the principal's deed as if the words of conveyance or the signature were in the name of the principal by the attorney, if it is manifest on the face of the deed that it should be construed to be that of the principal to give effect to its intent.

**§ 55.1-121. Time for objections to irregularities in advertising sales made by trustees.**

All deeds made and executed prior to January 1, 1940, by trustees conveying property sold under deeds of trust in which default was made in the debt secured and as to which irregularities in advertising such sales have occurred shall be held and the same are hereby declared valid in all respects, if otherwise valid according to law then in force, after the expiration of 15 years from the date on which such sale was made by such trustees.

**§ 55.1-122. Recovery at death of life tenant of taxes paid on life estate.**

When any person dies possessed of a life estate in real estate that was assessed with taxes in the name of such life tenant for the year in which such life tenant dies and such taxes are paid for that year by any person other than the remainderman entitled to such real estate, such person or his estate so paying such taxes shall be entitled to recover from such remainderman such proportionate part of the sum so paid as that part of the year following the death of the life tenant bears to the entire year, provided, however, that if upon the death of the life tenant the real estate shall come into the possession of another life tenant, such recovery shall be had from the subsequent life tenant and not from the remainderman.

**§ 55.1-123. Removal of a cloud on title; nature of plaintiff's title.**

When a petition is filed to remove a cloud on the title to real estate, relief shall not be denied the complainant because he has only an equitable title to such real estate and is out of possession, but the court shall grant to the complainant such relief as he would be entitled to if he held the legal title and was in possession. If an issue of fact is raised which but for this section would entitle either party to a trial by jury, the court shall, upon the request of the party so entitled, order such issue to be tried by a jury.

Article 2.

Rule Against Perpetuities.

**§ 55.1-124. Uniform Statutory Rule Against Perpetuities.**

A. A nonvested property interest is invalid unless:

1. When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

2. The interest either vests or terminates within 90 years after its creation.

B. A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

1. When the power is created, the condition precedent is certain to be satisfied or becomes impossible to satisfy no later than 21 years after the death of an individual then alive; or

2. The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

C. A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

1. When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

2. The power is irrevocably exercised or otherwise terminates within 90 years after its creation.

D. In determining whether a nonvested property interest or a power of appointment is valid under subdivision A 1, B 1, or C 1, the possibility that a child will be born to an individual after the individual's death is disregarded.

E. If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument (i) seeks to disallow the vesting or termination of any interest or trust beyond, (ii) seeks to postpone the vesting or termination of any interest or trust until, or (iii) seeks to operate in effect in any similar fashion upon, the later of (a) the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (b) the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

**§ 55.1-125. When nonvested property interest or power of appointment created.**

A. Except as provided in subsections B and C and in § 55.1-128, the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

B. For the purposes of §§ 55.1-124 through 55.1-129, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of (i) a nonvested property interest or (ii) a property interest subject to a power of appointment described in subsection B or C in § 55.1-124, the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

C. For the purposes of §§ 55.1-124 through 55.1-129, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the

nonvested property interest or power of appointment in the original contribution was created.

**§ 55.1-126. Reformation.**

Upon the petition of an interested person, a circuit court in the county or city in which the affected property or the greater part of such property is located shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the 90 years allowed by subdivision A 2, B 2, or C 2 of § 55.1-124 if:

1. A nonvested property interest or a power of appointment becomes invalid under § 55.1-124;
2. A class gift is not but might become invalid under § 55.1-124 and the time has arrived when the share of any class member is to take effect in possession or enjoyment; or
3. A nonvested property interest that is not validated by subdivision A 1 of § 55.1-124 can vest but not within 90 years after its creation.

**§ 55.1-127. Exclusions from statutory rule against perpetuities.**

A. Section 55.1-124 does not apply to:

1. A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of (i) a premarital or postmarital agreement; (ii) a separation or divorce settlement; (iii) a spouse's election; (iv) a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties; (v) a contract to make or not to revoke a will or trust; (vi) a contract to exercise or not to exercise a power of appointment; (vii) a transfer in satisfaction of a duty of support; or (viii) a reciprocal transfer;

2. A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

3. A power to appoint a fiduciary;

4. A discretionary power of trustee to distribute principal before termination of a trust to a beneficiary having an indefensibly vested interest in the income and principal;

5. A nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;

6. A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse;

7. A property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute of the Commonwealth; or

8. A nonvested interest in or power of appointment over personal property held in trust, or a power of appointment over personal property granted under a trust, if the trust instrument, by its terms, provides that § 55.1-124 shall not apply.

B. The exception to the Uniform Statutory Rule Against Perpetuities under subdivision A 8 shall not extend to real property held in trust. For purposes of this subsection, real property does not include an interest in a corporation, limited liability company, partnership, business trust, or other entity, even if such entity owns an interest in real property.

**§ 55.1-128. Prospective application.**

Sections 55.1-124 through 55.1-129 apply to a nonvested property interest or a power of appointment that is created on or after July 1, 2000. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

**§ 55.1-129. Uniformity of application and construction.**

Sections 55.1-124 through 55.1-129 shall be applied and construed to effectuate their general purpose to make the law uniform with respect to the rule against perpetuities among states enacting it.

**§ 55.1-130. Certain limitations construed.**

Every limitation in any deed or will contingent upon the dying of any person without heirs, heirs of the body, issue, issue of the body, children, offspring or descendants, or other relatives shall be construed a limitation to take effect when such person dies not having such heir, issue, child, offspring, descendant, or other relative, as the case may be, living at the time of his death, or born to him within 10 months after his death, unless the intention of such limitation be otherwise plainly declared on the face of the deed or will creating it.

**§ 55.1-131. Employee trusts.**

Pension, profit sharing, stock bonus, annuity, or other employee trusts established by employers for the purpose of distributing the income and principal of such trust to some or all of their employees, or the beneficiaries of such employees, shall not be invalid as violating any laws or rules against perpetuities or restraints on the power of alienation of title to property; but such trusts may continue for such period of time as may be required by their provisions to accomplish the purposes for which they are established.

**§ 55.1-132. Determination of "lives in being" for purpose of rule against perpetuities.**

A. For the purpose of determining whether the terms of an inter vivos trust provide for a duration in excess of that allowed under the rule against perpetuities, the determination of "lives in being" shall be made as of the death of the settlor,

if the settlor has at his death the unrestricted right, acting alone, to revoke the trust or to have transferred to himself the entire legal and beneficial interest in all property, both principal and income, held in the trust. In the event that the settlor surrenders both such rights at any time prior to his death, the determination of "lives in being" shall be made as of the time that the settlor, upon establishment of the trust or otherwise, surrenders the unrestricted right acting alone to revoke the trust and the unrestricted right acting alone to have transferred to himself the entire legal and beneficial interest in all property, both principal and income, held in the trust.

B. This section shall apply only to a nonvested property interest in an inter vivos trust created before July 1, 2000.

**§ 55.1-133. Application of the rule against perpetuities to nondonative transfers.**

A. Except for the transactions set forth in § 55.1-127, which are governed by the provisions of §§ 55.1-124 through 55.1-129, a nondonative transfer of an interest in property fails, if the interest does not vest, if it ever vests, within the period of the common-law rule against perpetuities.

B. The provisions of this section (i) in force on June 30, 2000, shall apply to all donative interests created on or after July 1, 1982, and before July 1, 2000, and (ii) in force on July 1, 2000, shall apply to all nondonative interests created on or after July 1, 1982.

Article 3.

Joint Ownership of Real or Personal Property.

**§ 55.1-134. Survivorship between joint tenants abolished.**

A. When any joint tenant dies, before or after the vesting of the estate, whether the estate is real or personal, or whether partition could have been compelled or not, his part shall descend to his heirs, pass by devise, or go to his personal representative, subject to debts or distribution, as if he had been a tenant in common.

B. This section shall not apply to any estate that joint tenants have as fiduciaries or to any real or personal property transferred to persons in their own right when it manifestly appears from the tenor of the instrument transferring such property or memorializing the existence of a chose in action that it was intended the part of the one dying should then belong to the others. This section does not affect the mode of proceeding on any joint judgment or order in favor of or on any contract with two or more one of whom dies.

**§ 55.1-135. Joint ownership in real and personal property.**

Any persons may own real or personal property as joint tenants with or without a right of survivorship. When any person causes any real or personal property, or any written memorial of a chose in action, to be titled, registered, or endorsed in the name of two or more persons "jointly," as "joint tenants," in a "joint tenancy," or other similar language, such persons shall own the property in a joint tenancy without survivorship as provided in § 55.1-134. If, in addition, the expression "with survivorship," or any equivalent language, is employed in such titling, registering, or endorsing, it shall be presumed that such persons are intended to own the property as joint tenants with the right of survivorship as at common law. This section is not applicable to multiple party accounts under Article 2 (§ 6.2-604 et seq.) of Chapter 6 of Title 6.2 or to any other matter specifically governed by another provision of the Code.

If any real or personal property is conveyed or devised to spouses, they shall take and hold such property by moieties in the same manner as if a distinct moiety had been given to each spouse by a separate conveyance, unless language as provided in this section or in § 55.1-136 is used that designates the tenancy as a joint tenancy or a tenancy by the entirety and all requirements for holding property by such tenancy are met.

**§ 55.1-136. Tenants by the entirety in real and personal property; certain trusts.**

A. Spouses may own real or personal property as tenants by the entirety for as long as they are married. Personal property may be owned as tenants by the entirety whether or not the personal property represents the proceeds of the sale of real property. An intent that the part of the one dying should belong to the other shall be manifest from a designation of the spouses as "tenants by the entireties" or "tenants by the entirety."

B. Except as otherwise provided by statute, no interest in real property held as tenants by the entirety shall be severed by written instrument unless the instrument is a deed signed by both spouses as grantors.

C. Notwithstanding any contrary provision of § 64.2-747, any property of spouses that is held by them as tenants by the entirety and conveyed to their joint revocable or irrevocable trusts, or to their separate revocable or irrevocable trusts, and any proceeds of the sale or disposition of such property, shall have the same immunity from the claims of their separate creditors as it would if it had remained a tenancy by the entirety, so long as (i) they remain married to each other, (ii) it continues to be held in the trust or trusts, and (iii) it continues to be their property, including where both spouses are current beneficiaries of one trust that holds the entire property or each spouse is a current beneficiary of a separate trust and the two separate trusts together hold the entire property, whether or not other persons are also current or future beneficiaries of the trust or trusts. The immunity from the claims of separate creditors under this subsection may be waived as to any specific creditor, including any separate creditor of either spouse, or any specifically described property, including any former tenancy by the entirety property conveyed into trust, by the trustee acting under the express provision of a trust instrument or with the written consent of both spouses.

Article 4.

Virginia Solar Easements Act.

**§ 55.1-137. Creation of solar easements.**

Any easement obtained for the purpose of exposure of solar energy equipment, facilities, or devices shall be created in writing and shall be subject to the same conveyancing and instrument recording requirements as other easements.

**§ 55.1-138. Contents of solar easement agreements.**

Any instrument creating a solar easement shall include, at a minimum:

1. The vertical and horizontal angles, expressed in degrees, at which the solar easement extends over the real property subject to the solar easement;
2. Any terms or conditions under which the solar easement is granted or will be terminated; and
3. Any provisions for compensation of the owner of the property subject to the solar easement.

#### CHAPTER 2.

#### PROPERTY RIGHTS OF MARRIED PERSONS.

##### **§ 55.1-200. How married persons may acquire and dispose of property.**

Married persons shall have the right to acquire, hold, use, control, and dispose of property as if they were unmarried. Such power of use, control, and disposition shall apply to all property of a married person. The marital rights of persons married to each other shall not entitle either spouse to the possession or use, or to the rents, issues, and profits, of such real estate of the other spouse during the coverture, nor shall the property of either spouse be subject to the debts or liabilities of the other spouse.

##### **§ 55.1-201. Contracts of, and actions by and against, married persons.**

A married person may contract and be contracted with and sue and be sued in the same manner and with the same consequences as if he were unmarried, regardless of the date on which the right or liability asserted by or against him accrued. In an action by a married person to recover for a personal injury inflicted on him, he may recover the entire damage sustained, including the personal injury and expenses arising out of the injury, whether chargeable to him or his spouse, notwithstanding that the spouse may be entitled to the benefit of his services about domestic affairs and consortium, and any sum recovered therein shall be chargeable with expenses arising out of the injury, including hospital, medical, and funeral expenses, and any person, including the spouse, partially or completely discharging such debts shall be reimbursed out of the sum recovered in the action, whensoever paid, to the extent that such payment was justified by services rendered or expenses incurred by the obligee, provided that written notice of such claim for reimbursement, and the amount and items thereof, shall be served on such married person and on the defendant prior to any settlement of the sum recovered by him, and no action for such injury, expenses, or loss of services or consortium shall be maintained by his spouse.

##### **§ 55.1-202. Spouse not responsible for other spouse's contracts, etc.; mutual liability for necessities; responsibility of personal representative.**

Except as otherwise provided in this section, a spouse shall not be responsible for the other spouse's contract or tort liability to a third party, whether such liability arose before or after the marriage. The doctrine of necessities as it existed at common law shall apply equally to both spouses, except where they are permanently living separate and apart, but shall in no event create any liability between such spouses as to each other. No lien arising out of a judgment under this section shall attach to the judgment debtors' principal residence held by them as tenants by the entirety or that was held by them as tenants by the entirety prior to the death of either spouse where the tenancy terminated as a result of the death of either spouse.

##### **§ 55.1-203. Spouse's right of entry into land not barred by certain judgments; when a spouse may defend his right in lands that are his inheritance.**

A spouse shall not be barred of his right of entry into land by a judgment in the other spouse's lifetime by default or collusion, but after the other spouse's death may prosecute the same by any proper action; or, in the lifetime of the other spouse, if the other spouse will not appear or, against the spouse's consent, will render the spouse's lands during the coverture in an action against both spouses for lands that are the spouse's inheritance, the spouse may come at any time before judgment and defend his right.

##### **§ 55.1-204. Rights of spouse not affected by other spouse's acts only.**

No conveyance or other act by one spouse only of any land that is the inheritance of the other spouse shall be or make any discontinuance thereof, or be prejudicial to the other spouse or his heirs or to any having right or title to the same by his death, but they may respectively enter into such land, according to their right and title in such land, as if no such conveyance or act had been done.

##### **§ 55.1-205. Conveyance from married persons; effect on right of either spouse.**

When persons married to each other have signed and delivered a writing purporting to convey any estate, real or personal, such writing, whether recorded or not, shall (i) if delivered prior to January 1, 1991, operate to convey from the spouse her right of dower or his right of curtesy in the real estate embraced in such writing and (ii) if delivered after December 31, 1990, operate to manifest the spouse's written consent or joinder, as contemplated in § 64.2-305 or 64.2-308.9 to the transfer embraced in such writing. In either case, the writing passes from such spouse and his representatives all right, title, and interest of every nature that at the date of such writing he may have in any estate conveyed thereby as effectually as if he were at such date an unmarried person. If, in either case, the writing is a deed conveying a spouse's land, no covenant or warranty in such land on behalf of the other spouse joining in the deed shall operate to bind him any further than to convey his interest in such land, unless it is expressly stated that such spouse enters into such covenant or warranty for the purpose of binding himself personally.

##### **§ 55.1-206. How infant spouse may release interests in spouse's property.**

Notwithstanding the disability of infancy, on or after January 1, 1991, an infant spouse, whether married before or after January 1, 1991, may release his marital rights in the other spouse's real or personal property by uniting in any contract, deed, or other instrument executed by the other spouse or by a commissioner of a court pursuant to an order

entered under §§ 8.01-67 through 8.01-77 or any other law with respect to the infant's property.

**§ 55.1-207. Appointment of attorney-in-fact by married person; effect of writing executed by such attorney.**

A married person, whether a resident of the Commonwealth or not, may, by power of attorney duly executed and acknowledged as prescribed in § 55.1-612 or 55.1-613, appoint an attorney-in-fact to execute and acknowledge, for him and in his name, any deed or other writing that he might execute. Every deed or other writing so executed by such attorney-in-fact in pursuance of such power of attorney while the same remains in force shall be valid and effectual, in all respects, to convey the interest and title of such married person in and to any real estate thereby conveyed or otherwise transferred.

**§ 55.1-208. How estate of a married person to pass at death.**

When a married person, having title to any estate, dies intestate, such estate, or any part of such estate, shall pass according to the provisions of Chapter 2 (§ 64.2-200 et seq.) of Title 64.2, subject to his debts.

**§ 55.1-209. Equitable separate estates abolished.**

The estate known as the equitable separate estate no longer exists and any language in any writing, whenever executed, that purports to convey real property to a person as an equitable separate estate has no legal or equitable significance after January 1, 1991, except as provided in § 64.2-301 or 64.2-308.2.

**§ 55.1-210. Tangible personal property.**

No presumption of ownership of tangible personal property shall arise by operation of law to prefer one spouse of a marriage over the other if such presumption is based solely on the sex of the spouse.

CHAPTER 3.

FORM AND EFFECT OF DEEDS AND COVENANTS; LIENS.

Article 1.

Form and Effect of Deeds; Easements.

**§ 55.1-300. Form of a deed.**

Every deed and corrected or amended deed may be made in the following form, or to the same effect: "This deed, made the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, between (here insert names of parties as grantors or grantees), witnesseth: that in consideration of (here state the consideration, nominal or actual), the said \_\_\_\_\_ does (or do) grant (or grant and convey) unto the said \_\_\_\_\_, all (here describe the property or interest therein to be conveyed, including the name of the city or county in which the property is located, and insert covenants or any other provisions). Witness the following signature (or signatures)."

**§ 55.1-301. How construed.**

Unless the deed provides otherwise, any deed conveying land shall be construed to include all the estate, right, title, and interest, both at law and in equity, of the grantor in or to such land.

**§ 55.1-302. Construction of generic terms.**

In the interpretation of deeds, adopted persons and persons born out of wedlock are included in class gift terminology or terms of relationship in accordance with rules for determining relationships for purposes of intestate succession unless a contrary intent appears on the face of the deed. In determining the intent of a grantor, adopted persons are presumptively included in such terms as "children," "issue," "kindred," "heirs," "relatives," "descendants," or similar words of classification and are presumptively excluded by such terms as "natural children," "issue of the body," "blood kindred," "heirs of the body," "blood relatives," "descendants of the body," or similar words of classification.

**§ 55.1-303. Appurtenances, etc., included in deed of land.**

Every deed conveying land shall be construed to include all buildings, privileges, and appurtenances of every kind belonging to such land unless an exception is made in the deed.

**§ 55.1-304. Relocation of easement.**

The owner of land that is subject to an easement for the purpose of ingress and egress may relocate the easement, on the servient estate, by recording in the office of the clerk of the circuit court of the county or city in which the easement or any part of such easement is located, a written agreement evidencing the consent of all affected persons and setting forth the new location of the easement. In the absence of such written agreement, the owner of the land that is subject to such easement may seek relocation of the easement on the servient estate upon petition to the circuit court and notice to all parties in interest. The petition shall be granted if, after a hearing held, the court finds that (i) the relocation will not result in economic damage to the parties in interest, (ii) there will be no undue hardship created by the relocation, and (iii) the easement has been in existence for not less than 10 years.

**§ 55.1-305. Enjoyment of easement.**

Unless otherwise provided for in the terms of an easement, the owner of a dominant estate shall not use an easement in a way that is not reasonably consistent with the uses contemplated by the grant of the easement, and the owner of the servient estate shall not engage in an activity or cause to be present any objects either upon the burdened land or immediately adjacent to such land that unreasonably interferes with the enjoyment of the easement by the owner of the dominant estate. For the purposes of this section, "object" does not include any fence, electric fence, cattle guard, gate, or division fence adjacent to such easement as those terms are defined in §§ 55.1-2800 through 55.1-2826. Any violation of this section may be deemed a private nuisance, provided, however, that the remedy for a violation of this section shall not in any manner impair the right to any other relief that may be applicable at law or in equity.

**§ 55.1-306. Utility easements.**

A. For the purposes of this section, "utility services" means any products, services, and equipment related to energy, telecommunications, water, and sewerage.

B. Where an easement, whether appurtenant or gross, is expressly granted by an instrument recorded on or after July 1, 2006, that imposes on a servient tract of land a covenant (i) to provide an easement in the future for the benefit of utility services; (ii) to relocate, construct, or maintain facilities owned by an entity that provides utility services; or (iii) to pay the cost of such relocation, construction, or maintenance, such covenant shall be deemed for all purposes to touch and concern the servient tract, to run with the servient tract, its successors, and assigns for the benefit of the entity providing utility services, its successors, and assigns.

**§ 55.1-307. Public road easements; maintenance and improvements.**

Whenever a public road that has never been abandoned but is no longer publicly maintained serves as access for more than one property owner and operates as the primary source of ingress and egress for that property, any one of the property owners may maintain, repair, or improve the road at his own expense without the express permission of the other property owners but only after administrative review by the local government. All other property owners shall be notified by mail of any pending maintenance, repair, or improvements prior to commencement of the work. Nothing in this section shall be construed as allowing the property owner who is doing the maintenance, repairs, or improvements to the road to interfere with the other property owners' use of the road for ingress and egress.

**§ 55.1-308. Private roads; public use; maintenance and improvements.**

Notwithstanding any provision of a recorded deed or plat to the contrary, a private road serving a subdivision of 50 or fewer lots may be dedicated for public use and may be taken into the secondary state highway system, subject to the provisions and requirements set forth in §§ 33.2-335 and 33.2-336, if the owner of the fee interest in such private road obtains the written consent of every lot owner in the subdivision whose lot is served by the private road and the holder of any restrictive covenant or easement rights over and concerning the private road prior to making such dedication and before requirements for acceptance of the road into the secondary state highway system are met. Such consent shall be recorded in the land records of the clerk's office of the circuit court of the county in which the private road is located.

**§ 55.1-309. Deeds good between parties.**

Any deed, or a part of a deed, that fails to take effect by virtue of this chapter shall, nevertheless, be as valid and effectual and as binding upon the parties, so far as the rules of law and equity permit, as if this chapter had not been enacted.

**§ 55.1-310. Conveyance of property not owned but subsequently acquired.**

When a deed purports to convey property, real or personal, describing it with reasonable certainty, that the grantor does not own at the time of the execution of the deed, but subsequently acquires, such deed shall, as between the parties, have the same effect as if the title that the grantor subsequently acquires were vested in him at the time of the execution of such deed and thereby conveyed.

**§ 55.1-311. Vendor's equitable lien abolished.**

If any person conveys any real estate and the purchase money or any part thereof remains unpaid at the time of the conveyance, he shall not thereby have a lien for such unpaid purchase money, unless such lien is expressly reserved on the face of the conveyance.

**§ 55.1-312. Certain deeds to county real estate validated.**

All deeds executed prior to January 1, 1920, by a county commissioner, county commissioners, or a board of supervisors that convey any part of the real estate previously acquired by such county for county purposes are hereby validated and declared to have effectually passed the title to the part so conveyed even though the conveyance thereof reduced the real estate of the county to an area less than the county was required by law to own at the time of such conveyance.

**§ 55.1-313. Validation of sales, etc., by county courts prior to 1860.**

All sales or leases made prior to the year 1860 by the county court, or court of monthly session, of any county of any land or building then owned by such county and situated within the limits of land previously acquired by such county as a site for its courthouse and other public buildings, when the consideration therefor has been fully paid and the purchaser, or lessee as the case may be, and those claiming through or under him, shall have held continuous possession of such land or building from January 1, 1860, until January 1, 1934, are hereby validated and declared to be forever binding upon such county.

**§ 55.1-314. Deeds and writings executed for persons in military service, etc., under defective powers.**

All deeds or other writings executed by an agent or attorney-in-fact for a person in the armed forces or military service of the United States, or for a person who after executing a power of attorney or agency agreement entered the armed forces or military service of the United States, or for a person who departed from the United States by permission or direction of any department or official of the United States in connection with work relating to the prosecution of the war, when the power of attorney or agency agreement under which the deed or other instrument was signed was not executed in such a manner as to be valid as a sealed instrument, shall be held, and the same are hereby declared, valid and effective in all respects if otherwise valid according to the law then in force.

The provisions of this section shall not operate to affect adversely intervening vested rights.

**§ 55.1-315. Effect of option; recording.**

A. Any option to purchase real estate, and any memorandum, renewal, or extension of such option, shall be void as to

(i) all purchasers for valuable consideration without notice who are not parties to such instrument and (ii) lien creditors, until such instrument is recorded in the county or city in which the property embraced in the option, memorandum, renewal, or extension is located.

B. Notwithstanding any rule of law or equity denominated "fettering," "clogging the equity of redemption" or "claiming a collateral advantage" or any similar rule:

1. A party secured by a mortgage or deed of trust, without adversely affecting his security interest, may acquire from a borrower any direct or indirect present or future ownership interest in the collateral encumbered thereby, including rights to any income, proceeds, or increase in value derived from such collateral; and

2. An option to acquire an interest in real estate granted to a party secured by a mortgage or deed of trust, other than an option granted to such party in connection with a mortgage loan as defined in § 6.2-1600, is effective according to its terms and takes priority as provided in subsection A if the right to exercise the option is not dependent upon the occurrence of a default under the mortgage or deed of trust.

#### Article 2.

#### Form and Effect of Deeds of Trust; Sales Thereunder; Assignments; Releases.

##### § 55.1-316. Form of deed of trust to secure debts, etc.

A deed of trust to secure debts or indemnify sureties may be in the following form, or to the same effect: "This deed, made the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, between \_\_\_\_\_ (the grantor) and \_\_\_\_\_ (the trustee), witnesseth: that the said \_\_\_\_\_ (the grantor) does (or do) grant (or grant and convey) unto the said \_\_\_\_\_ (the trustee), the following property (here describe it): In trust to secure (here describe the debts to be secured or the sureties to be indemnified and insert covenants or any other provisions the parties may agree upon). Witness the following signature (or signatures)."

##### § 55.1-317. Requirements for trustees.

A. No person may be named or act, in person or by agent or attorney, as the trustee of a deed of trust conveying property to secure the payment of money or the performance of an obligation, either individually or as one of several trustees, unless such person is a resident of the Commonwealth. No corporation, limited liability company, partnership, or other entity may be named or act as the trustee or as one of the trustees of a deed of trust conveying property to secure the payment of money or the performance of an obligation, unless it is organized under the laws of the Commonwealth or of the United States. However, the foregoing requirements shall not apply to any deed of trust conveying property lying partly in the Commonwealth and partly outside the Commonwealth or to a deed of trust conveying property in the Commonwealth to secure bonds or obligations that are also secured by one or more deeds of trust or mortgages conveying property outside of the Commonwealth.

B. A deed of trust conveying property to secure the payment of money or the performance of an obligation shall state the full residence or business address of the trustee named in such deed of trust, including street address and zip code, and such address shall be valid for purposes of all notices under the deed of trust to the trustee. Such address of the trustee may be changed by amendment of the deed of trust or by a separate instrument executed by the trustee, or by the beneficiary of such deed of trust, stating the changed address and otherwise in recordable form, and recorded in the office of the clerk of the circuit court where the deed of trust was recorded.

C. Notwithstanding any other provisions of this section, if any deed of trust is recorded by a clerk, it shall be conclusively presumed that such deed of trust complies with all the requirements of this section, and it shall be deemed to be validly recorded.

D. All deeds of trusts, mortgages, bonds, or other instruments recorded by a clerk prior to January 1, 1999, without the residence or business address of the trustee named in such deed of trust shall be valid for all purposes as if such address had been named if such recordation is otherwise valid according to the law then in force, provided that this section shall not affect any right or remedy of any third party that accrued after the recordation of such instrument or before July 1, 1960.

##### § 55.1-318. Credit line deed of trust defined; relative priority of credit line deed of trust and other instruments of judgment.

A. For the purpose of this section:

"Beneficiary" means the noteholder, lender, or other party or parties identified in the credit line deed of trust as secured thereby. In the case of a credit line deed of trust that identifies a party acting as agent for all of the lenders or parties secured by a credit line deed of trust, such agent shall be the beneficiary for purposes of this section.

"Credit line deed of trust" means any deed of trust, mortgage, bond, or other instrument entered into after July 1, 1982, in which title to real property located in the Commonwealth is conveyed, transferred, encumbered, or pledged to secure payment of money, including advances or other extensions of credit to be made in the future.

B. A credit line deed of trust shall set forth on the front page, either in capital letters or in language underscored, the words "THIS IS A CREDIT LINE DEED OF TRUST." Such phrase shall convey notice to all parties that advances or other extensions of credit are to be made or are contemplated to be made from time to time against the security described in the credit line deed of trust. Such credit line deed of trust shall specify the maximum aggregate amount of principal to be secured at any one time.

C. From the date and actual time of the recording of a credit line deed of trust, the lien shall have priority (i) as to all other deeds, conveyances, or other instruments, or contracts in writing, that are unrecorded as of such date and time of recording and of which the beneficiary has no knowledge or notice and (ii) as to judgment liens subsequently docketed,

except as provided in subsection D. Such priority shall extend to any advances or other extensions of credit made following the recordation of the credit line deed of trust. Amounts outstanding, together with interest, and other items provided by § 55.1-320, shall continue to have priority until paid or curtailed. Mechanics' liens created under Title 43 shall continue to enjoy the same priority as created by that title. Purchase money security interests in goods and fixtures shall have the same priority as provided in Subpart 3 (§ 8.9A-317 et seq.) of Part 3 of Title 8.9A.

D. Notwithstanding the provisions of subsections A, B, and C, if a judgment creditor gives written notice to the beneficiary of record at the address indicated in the credit line deed of trust, such credit line deed of trust shall have no priority as to such judgment for any advances or extensions of credit made under such credit line deed of trust from the day following receipt of that notice except those that have been unconditionally and irrevocably committed prior to such date.

E. In addition to the language specified in subsection B, the credit line deed of trust shall set forth the name of the beneficiary and the address at which communications may be mailed or delivered to the beneficiary. Such name or address may be changed or modified by duly recorded instrument executed by the beneficiary only. If the note or indebtedness secured by the credit line deed of trust is assigned or transferred, the name and address of the new beneficiary may be set forth in the certificate of transfer provided by § 55.1-336. Such original name or address, or if changed, such changed name or address, shall be the address for delivery of notices contemplated by this section. Receipt of notice at such address shall be deemed receipt by the beneficiary.

F. The grantor may require at any time a modification under the credit line deed of trust whereby any priority over subsequently recorded deeds of trust is surrendered as to future advances or other extensions of credit, which advances or extensions of credit are in the discretion of the party secured by the credit line deed of trust.

G. Notwithstanding the provisions of subsections A, B, and C, if a deed of trust under this section is a subordinate mortgage, as defined in subsection A of § 55.1-319, upon the recording of a refinance mortgage, as defined in subsection A of § 55.1-319, the credit line deed of trust shall retain the same subordinate position with respect to the refinance mortgage as it had with the prior mortgage, as defined in subsection A of § 55.1-319, provided that the refinance mortgage complies with the requirements of § 55.1-319.

**§ 55.1-319. Priority of residential refinance mortgage over subordinate mortgage.**

A. As used in this section:

"Prior mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an interest in residential real estate containing not more than one dwelling unit to secure a financing.

"Refinance mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an interest in residential real estate containing not more than one dwelling unit to secure a refinancing.

"Refinancing" means the replacement of a loan secured by a prior mortgage with a new loan secured by a refinance mortgage and the payment in full of the debt owed under the original loan secured by the prior mortgage.

"Subordinate mortgage" means a mortgage or deed of trust securing an original principal amount not exceeding \$150,000, encumbering or conveying an interest in residential real estate containing not more than one dwelling unit that is subordinate in priority (i) under subdivision A 1 of § 55.1-407 or (ii) as a result of a previous refinancing.

B. Upon the refinancing of a prior mortgage, a subordinate mortgage shall retain the same subordinate position with respect to a refinance mortgage as the subordinate mortgage had with the prior mortgage, provided that:

1. Such refinance mortgage states on the first page thereof in bold or capitalized letters: "THIS IS A REFINANCE OF A (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) RECORDED IN THE CLERK'S OFFICE, CIRCUIT COURT OF (NAME OF COUNTY OR CITY), VIRGINIA, IN DEED BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, IN THE ORIGINAL PRINCIPAL AMOUNT OF \_\_\_\_\_, AND WITH THE OUTSTANDING PRINCIPAL BALANCE WHICH IS \_\_\_\_\_.";

2. The principal amount secured by such refinance mortgage does not exceed the outstanding principal balance secured by the prior mortgage plus \$5,000; and

3. The interest rate is stated in the refinance mortgage at the time it is recorded and does not exceed the interest rate set forth in the prior mortgage.

C. The priorities among two or more subordinate mortgages shall be governed by subdivision A 1 of § 55.1-407.

D. The provisions of subsection B shall not apply to a subordinate mortgage securing a promissory note payable to any locality or any agency, authority, or political subdivision of the Commonwealth if such subordinate mortgage is financed pursuant to an affordable dwelling unit ordinance adopted pursuant to § 15.2-2304 or 15.2-2305, or pursuant to any program authorized by federal or state law or local ordinance or resolution, for (i) low-income and moderate-income persons or households or (ii) improvements to residential potable water supplies and sanitary sewage disposal systems made to address an existing or potential public health hazard, and which mortgage, if recorded on or after July 1, 2003, states on the first page thereof in bold or capitalized letters: "THIS (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) SHALL NOT, WITHOUT THE CONSENT OF THE SECURED PARTY HEREUNDER, BE SUBORDINATED UPON THE REFINANCING OF ANY PRIOR MORTGAGE."

**§ 55.1-320. How deed of trust construed; duties, rights, etc., of parties.**

Every deed of trust to secure debts or indemnify sureties is in the nature of a contract and shall be construed according to its terms to the extent not in conflict with the requirements of law. Unless the deed of trust provides otherwise, it shall be construed to impose and confer upon the parties and beneficiaries the following duties, rights, and obligations in like manner as if the same were expressly provided for by such deed of trust:

1. The deed shall be construed as given to secure the performance of each of the covenants entered into by the grantor as well as the payment of the primary obligation.

2. The grantor shall be deemed to covenant that he will pay all taxes, levies, assessments, and charges upon the property, including the fees and charges of such agents or attorneys as the trustee may deem advisable to employ at any time for the purpose of the trust, so long as any obligation upon the grantor under the deed of trust remains undischarged.

3. The grantor shall be deemed to covenant that he will keep the improvements on the property in tenable condition, whether such improvements were on the property when the deed of trust was given or were placed there at a later time.

4. The grantor shall be deemed to covenant that no waste shall be committed or suffered upon the property.

5. The grantor shall be deemed to covenant that in the event of his failure to meet any obligations imposed upon him, then the trustee or any beneficiary may, at his option, satisfy such obligations. The money so advanced, with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be otherwise recoverable from the grantor as a debt. In addition, to the extent not otherwise covered, the grantor shall be deemed to covenant that amount advanced or incurred by the trustee or any beneficiary under a deed of trust (i) with respect to an obligation secured by a lien or encumbrance prior to the lien of the deed of trust or (ii) for the protection of the lien secured by the deed of trust, together with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, to be paid next after expenses of executing the trust.

6. A covenant to pay interest shall be deemed a covenant to pay interest on the principal balance as such rate may vary or be modified from time to time by the parties under the original instruments or agreements or a written agreement of modification, whether or not recorded, and all the interest on the principal secured by the deed of trust shall be on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust.

Any covenant, otherwise authorized by law, that the lender shall be entitled to share in the gross income or the net income, or the gross rent or revenues, or net rents or revenues of the property, or in any portion of the proceeds or appreciation upon sale or appraisal or similar event, shall be on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be specified in the recorded deed of trust or other recorded document in order to be notice of record as against subsequent parties.

7. In the event of default in the payment of the debt secured, or any part thereof, at maturity, or in the payment of interest when due, or of the breach of any of the covenants entered into or imposed upon the grantor, then at the request of any beneficiary the trustee shall forthwith declare all the debts and obligations secured by the deed of trust at once due and payable and may take possession of the property and proceed to sell the same at auction at the premises or in the front of the circuit court building or at such other place in the county or city in which the property or the greater part thereof lies, or in the corporate limits of any city surrounded by or contiguous to such county, or in the case of annexed land, in the county of which the land was formerly a part, as the trustee may select upon such terms and conditions as the trustee may deem best.

8. If the sale is upon credit terms, the deferred purchase money shall bear interest from the day of sale and shall be secured by a deed of trust upon the property contemporaneous with the trustee's deed to the purchaser.

9. The party secured by the deed of trust, or the holders of greater than 50 percent of the monetary obligations secured thereby, shall have the right and power to appoint one or more substitute trustees for any reason and, regardless of whether such right and power is expressly granted in such deed of trust, by executing and acknowledging an instrument designating and appointing a substitute. When the instrument of appointment has been executed, the substitute trustee named therein shall be vested with all the powers, rights, authority, and duties vested in the trustee in the original deed of trust. The instrument of appointment shall be recorded in the office of the clerk in which the original deed of trust is recorded prior to or at the time of recordation of any instrument in which a power, right, authority, or duty conferred by the original deed of trust is exercised.

**§ 55.1-321. Notices required before sale by trustee to owners, lienors, etc.; if note lost.**

A. In addition to the advertisement required by § 55.1-322, the trustee or the party secured shall give written notice of the time, date, and place of any proposed sale in execution of a deed of trust, and such notice shall include either (i) the instrument number or deed book and page numbers of the instrument of appointment filed pursuant to § 55.1-320, or (ii) a copy of the executed and notarized appointment of substitute trustee by personal delivery or by mail to (a) the present owner of the property to be sold at his last known address as such owner and address appear in the records of the party secured; (b) any subordinate lienholder who holds a note against the property secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust; (c) any assignee of such a note secured by a deed of trust, provided that the assignment and address of assignee are likewise recorded at least 30 days prior to the proposed sale; (d) any condominium unit owners' association that has filed a lien pursuant to § 55.1-1966; (e) any property owners' association that has filed a lien pursuant to § 55.1-1833; and (f) any proprietary lessees' association that has filed a lien pursuant to § 55.1-2148. Written notice shall be given pursuant to clauses (d), (e), and (f) only if the lien is recorded at least 30 days prior to the proposed sale. If the secured party has received notification that the owner of the property to be sold is deceased, the notice required by clause (a) shall be given to (1) the last known address of such owner as such address appears in the records of the party secured; (2) any personal representative of the deceased's estate whose appointment is recorded among the records of the circuit court where the property is located, at the address of the personal representative that appears in such records; and (3) any heirs of the deceased who are listed on the list of heirs recorded among the records of the circuit court where the property is located, at the addresses of the heirs that appear in such

records. Mailing of a copy of the advertisement or a notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to lienholders, the property owners' association or proprietary lessees' association, their assigns, and the condominium unit owners' association, at the address noted in the memorandum of lien, by ordinary mail no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice. The written notice of proposed sale when given as provided in this subsection shall be deemed an effective exercise of any right of acceleration contained in such deed of trust or otherwise possessed by the party secured relative to the indebtedness secured. The inadvertent failure to give notice as required by this subsection shall not impose liability on either the trustee or the secured party.

B. If a note or other evidence of indebtedness secured by a deed of trust is lost or for any reason cannot be produced and the beneficiary submits to the trustee an affidavit to that effect, the trustee may nonetheless proceed to sale, provided that the beneficiary has given written notice to the person required to pay the instrument that the instrument is unavailable and a request for sale will be made of the trustee upon expiration of 14 days from the date of mailing of the notice. The notice shall be sent by certified mail, return receipt requested, to the last known address of the person required to pay the instrument as reflected in the records of the beneficiary and shall include the name and mailing address of the trustee. The notice shall further advise the person required to pay the instrument that if he believes he may be subject to a claim by a person other than the beneficiary to enforce the instrument, he may petition the circuit court of the county or city where the property or some part thereof lies for an order requiring the beneficiary to provide adequate protection against any such claim. If deemed appropriate by the court, the court may condition the sale on a finding that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means. If the trustee proceeds to sale, the fact that the instrument is lost or cannot be produced shall not affect the authority of the trustee to sell or the validity of the sale.

C. When the written notice of proposed sale is given as provided in this section, there is a rebuttable presumption that the lienholder has complied with any requirement to provide notice of default contained in a deed of trust. Failure to comply with the requirements of notice contained in this section shall not affect the validity of the sale, and a purchaser for value at such sale shall be under no duty to ascertain whether such notice was validly given.

D. In the event of postponement of sale, which may be done in the discretion of the trustee, no new or additional notice is required to be given pursuant to this section.

**§ 55.1-322. Advertisement required before sale by trustee.**

A. Advertisement of sale by a trustee or trustees in execution of a deed of trust shall be in a newspaper having a general circulation in the county or city in which the property to be sold, or any portion of such property, lies pursuant to the following provisions:

1. If the deed of trust itself provides for the number of publications of such newspaper advertisement, which may be done by using the words "advertisement required" or similar words followed by the number agreed upon, then no other or different advertisement shall be necessary, provided that, if such advertisement be inserted on a weekly basis, it shall be published not less than once a week for two weeks, and if such advertisement be inserted on a daily basis, it shall be published not less than once a day for three days, which may be consecutive days, and in either case shall be subject to the provisions of § 55.1-330 in the same manner as if the method were set forth in the deed of trust. Should the deed of trust provide for advertising on other than a weekly or daily basis, either of the foregoing provisions shall be complied with in addition to those provided in such deed of trust. Notwithstanding the provisions of the deed of trust, the sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement or more than 30 days following the last advertisement.

2. If the deed of trust does not provide for the number of publications of such newspaper advertisement, the trustee shall advertise once a week for four successive weeks, provided, however, that if the property or some portion of such property is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement or more than 30 days following the last advertisement.

B. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale.

C. In addition to the advertisement required by subsection A, the trustee shall give such other further and different advertisement as the deed of trust may require and in addition may give such additional advertisement as he may deem appropriate.

D. In the event of postponement of sale, which postponement shall be at the discretion of the trustee, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

E. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court.

**§ 55.1-323. Contents of advertisements of sale.**

A. The advertisement of sale under any deed of trust, in addition to such other matters as may be required by such deed of trust or by the trustee, in his discretion, shall set forth a description of the property to be sold. Such description need not be as extensive as that contained in the deed of trust, but it shall identify the property by street address, if any, or, if none, shall give the general location of the property with reference to streets, routes, or known landmarks. Where available, tax

map identification may be used but is not required. The advertisement shall also include the time, place, and terms of sale and shall give the name or names of the trustee or trustees. It shall set forth the name, address, and telephone number of a person, either a trustee or the party secured or his agent or attorney who may be able to respond to inquiries concerning the sale.

B. 1. If the property being sold is a time-share estate, the advertisement of sale required under subsection A of § 55.1-322 shall set forth, in addition to such other matters as the trustee finds appropriate, (i) a description of the specific time-share estate or estates to be sold, and such description shall also include (a) the name of the time-share project and (b) the street address of the time-share project or, if no street address, the general location of the time-share project with reference to streets, routes, or known landmarks; (ii) the date, time, place, and terms of sale; (iii) the name of the trustee; and (iv) the name, address, and telephone number of the representative, agent, or attorney who is authorized to respond to inquiries concerning the sale and shall give additional information concerning the time-share estate or estates to be sold.

2. In lieu of the requirements of subdivision 1, the advertisement shall set forth (i) the name of the time-share project in which the time-share estate or estates to be sold are contained; (ii) the street address of the time-share project in which the time-share estate or estates to be sold are contained or, if no street address, the general location of the time-share project with reference to streets, routes, or known landmarks; (iii) the date, time, place, and terms of sale; (iv) the name of the trustee; and (v) the name, address, and telephone number of the representative, agent, or attorney who is authorized to respond to inquiries concerning the sale and shall give additional information concerning the time-share estate or estates to be sold, including providing, upon request, in either hard copy or electronic form, a schedule of the time-share estate or estates to be sold. In addition, the advertisement shall contain a website address where a description of the specific time-share estate or estates to be sold is displayed.

**§ 55.1-324. Powers and duties of trustee in event of sale under or satisfaction of deed of trust.**

A. In the event of sale under a deed of trust, the trustee shall have the following powers and duties in addition to all others:

1. Written one-price bids may be made and shall be received by the trustee from the beneficiary or any other person for entry by announcement of the trustee at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Whenever the written bid of the beneficiary is the highest bid submitted at the sale, such document shall be filed by the trustee with his account of sale required under § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the beneficiary, its agent, or its attorney.

2. The trustee may require of any bidder at any sale a cash deposit of as much as 10 percent of the sale price, unless the deed of trust specifies a higher or lower maximum, which may be done by the words "bidder's deposit of not more than \_\_\_\_\_ dollars may be required" or similar words, before his bid is received, which shall be refunded to the bidder unless the property is sold to him, otherwise to be applied to his credit in settlement or, should he fail to complete his purchase promptly, to be applied to pay the costs and expense of sale and the balance, if any, to be retained by the trustee as his compensation in connection with that sale.

3. The trustee shall receive and receipt for the proceeds of sale, account for the same to the commissioner of accounts pursuant to § 64.2-1309 and apply the same, first, to discharge the expenses of executing the trust, including a reasonable commission to the trustee; secondly, to discharge all taxes, levies, and assessments, with costs and interest if they have priority over the lien of the deed of trust, including the due pro rata thereof for the current year; thirdly, to discharge in the order of their priority, if any, the remaining debts and obligations secured by the deed, and any liens of record inferior to the deed of trust under which sale is made, with lawful interest; and, fourthly, the residue of the proceeds shall be paid to the grantor or his assigns, provided, however, that the trustee as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the grantor's equity, without actual notice thereof prior to distribution, and provided further that such order of priorities shall not be changed or varied by the deed of trust. The trustee's deed shall show the trustee's mailing address.

B. Upon discharge, other than by sale by the trustee, of all debts, duties, and obligations imposed by the deed upon the grantor, including any expenses incurred preparatory to sale, then upon the grantor's request the trustee shall execute and deliver a good and sufficient deed of release at the grantor's own proper costs and charges.

**§ 55.1-325. Meaning of phrases that may be included in deed of trust.**

The following provisions may be incorporated in any deed of trust to secure debts or indemnify sureties in the respective short forms indicated, namely:

1. The words "identified by trustee's signature" or similar words shall be construed as if the deed set forth: "All of which said notes (or other obligations) bear the marginal signature of the trustee for the purpose of identification but for no other purpose whatever."

2. The words "deferred purchase money," "purchase money," or similar words shall be construed as if the deed set forth: "This deed of trust is a contemporaneous purchase money deed of trust and secures the payment of deferred purchase money due by the grantor upon the property hereby conveyed." Any deed of trust securing a loan, proceeds of which are used by the borrower to acquire the secured real property, shall be deemed to be a purchase money deed of trust.

3. The words "exemptions waived" or similar words shall be construed as if the deed set forth: "The grantor hereby waives the benefit of his exemptions as to the debt hereby secured and as to all other obligations that may be imposed upon him by the provisions of this deed of trust."

4. The words "subject to call upon default" or similar words shall be construed as if the deed set forth: "Should default be made in the payment of any part of the debt hereby secured, principal or interest, at the maturity of such part, or in the event of the breach of any of the covenants entered into or imposed upon the grantor, then the entire obligation of this deed of trust and the whole debt hereby secured shall, at the option of the beneficiaries, become forthwith due and payable."

5. The words "renewal or extension permitted" or similar words shall be construed as if the deed set forth: "The grantor hereby consents and agrees that the debt hereby secured, or any part thereof, may be renewed or extended beyond maturity as often as may be desired by agreement between the creditor and any subsequent owner of the property, and no such renewal or extension shall in any way affect the grantor's responsibility, whether as surety or otherwise."

6. The words "reinstatement permitted" or similar words shall be construed as if the deed set forth: "The grantor and any other party assuming liability hereunder hereby consent and agree that if the property conveyed hereby or a substantial portion thereof is transferred to any subsequent owner, and the creditor exercises the right to accelerate the debts secured hereby, the creditor may accept any delinquent payments or other cure of default giving rise to such acceleration from the then owner of the property or any other person and reinstate the indebtedness in accordance with the schedule of maturity as of the time of acceleration or upon such new schedule as may be agreed if renewal or extension are otherwise permitted and no such reinstatement shall in any way affect the liability of such prior parties, whether as surety or otherwise."

The words "renewal, extension, or reinstatement permitted" or similar words shall have the meaning ascribed to the individual words or phrases in this subdivision and in subdivision 5.

7. The words "right of anticipation reserved" or similar words shall be construed as if the deed set forth: "The grantor reserves the right to anticipate the payment of the debt hereby secured, or any part thereof which is represented by a separate note (or other obligation) at any interest period by the payment of principal and interest to the date of such anticipated payment only."

8. The words "priority in direct order of maturity" or similar words shall be construed as if the deed set forth: "The notes (or other obligations) hereby secured have priority amongst themselves in the direct order of their maturities, each having priority over all others falling due after its maturity." And the words "priority in inverse order of maturity" or similar words shall be construed as if the deed set forth: "The notes (or other obligations) hereby secured have priority amongst themselves in the inverse order of their maturities, each having priority over all others falling due before its maturity."

9. The words "insurance required \_\_\_\_\_ dollars" or similar words shall be construed as if the deed set forth: "The grantor covenants that he will keep the improvements on the property insured against fire in some solvent insurance company approved by the trustee for the benefit of the beneficiaries hereunder in the sum of at least \_\_\_\_\_ dollars, and will deposit with the trustee or beneficiary the policies, with standard loss payable clauses with full contribution in favor of the trustee as his interest may appear; and the grantor further covenants that in the event of his failure to keep the property so insured and the policies so deposited, then the trustee or any beneficiary may, at his option, effect such insurance and pay the premium thereon, and the money so paid, with interest thereon, shall become a part of the debt hereby secured, in the event of sale to be paid next after the expenses of executing this trust, and shall be otherwise recoverable from the grantor as a debt, but there shall be no obligation upon the trustee or beneficiary to effect such insurance."

10. The words "substitution of trustee permitted" or similar words shall be construed as if the deed set forth: "Grantor grants unto the beneficiary or beneficiaries or to a majority in amount of the holders of the obligations secured hereunder and to their assigns the right and power, under the provisions of § 55.1-320, to appoint a substitute trustee or trustees."

11. The words "any trustee may act" or similar words shall be construed as if the deed set forth: "The grantors, and all interested in the obligations hereby secured, by accepting the benefits hereof, agree that all authority, power, and discretion hereinabove granted to the trustees may be exercised by any of them, without any other, with the same effect as if exercised jointly by all of them."

12. The words "this is a credit line deed of trust" or similar words, if in capital letters or underscored and on the first page of the deed of trust and containing the name and address of the noteholder, shall have the meaning set forth in § 55.1-318.

#### **§ 55.1-326. Evidences of indebtedness placed on equal footing.**

When bonds, notes, or other evidences of indebtedness are secured by a deed of trust, mortgage, vendor's lien, or other lien, such bonds, notes, or other evidences of indebtedness shall, in the event the lien is executed or foreclosed, be secured on an equal footing and shall be paid ratably out of the proceeds of any sale of property subjected to the lien and shall have no priority, the one over the other, whether by priority of assignment or otherwise, unless the instrument creating the lien expressly provides otherwise.

#### **§ 55.1-327. Sales under deeds of trust that contain no maturity date or provision authorizing sale.**

When any property, real or personal, is conveyed by deed of trust to a trustee to secure the payment of a debt, money, notes, bonds, stocks, or other evidences of debt and there is no date fixed for the maturity thereof and such deed of trust contains no provision authorizing the trustee to make sale of such property, or any part thereof, and the reinvestment of the proceeds of sale in other property subject to the terms of such deed of trust, the circuit court, or such court having jurisdiction of the subject matter, upon a complaint filed by any one or more of the lien debtors, in which complaint all persons interested in such lien and all holders of the evidences of debt secured by the deed of trust thereon, and all other necessary or proper parties, except the plaintiffs, shall be made defendants, may order a sale of such property, or any part

thereof, and may invest the proceeds of sale under order of court subject to the terms of the deed of trust, provided that (i) the complaint sets forth facts that will justify the sale of the property, to be verified by the affidavit of at least one of the plaintiffs, (ii) no order shall be made authorizing such sale unless it is shown to the satisfaction of the court that the interests of the lien debtor or debtors will be promoted and the interests of no person holding the evidences of debt secured by the deed of trust will be violated thereby, and (iii) the plaintiff or the party for whose benefit the action is brought shall bear the cost.

**§ 55.1-328. Validation of conveyances of real property under trust instrument not authorizing sale.**

When any real property is conveyed by deed of trust or other trust instrument to a trustee and there is no provision authorizing the trustee to convey the property that is the subject of the deed of trust, or any part of such property, and the trustee conveys such property or any part of such property, such conveyance shall be valid after a period of 30 years from the date of such conveyance, provided that (i) there have been no adverse claims against the property so conveyed in the interim, and (ii) such conveyances to and from such trustee were properly recorded and indexed at the time of the conveyance, in the appropriate clerk's office in which deeds are recorded in the county or city in which the property lies.

**§ 55.1-329. Permissible form for notice of sale under deed of trust.**

Notice of sale under any deed of trust regardless of whether it conforms with § 55.1-320, in the absence of provision in such deed of trust requiring other or additional matter, may be substantially in the following form:

Trustee's Sale of

\_\_\_\_\_ (brief description or identification of property)

In execution of a deed of trust (name or names of grantor or grantors unless grantor or grantors request in writing that the same be omitted), dated \_\_\_\_\_, recorded in the Clerk's Office of the \_\_\_\_\_ court of \_\_\_\_\_ in Deed Book \_\_\_\_\_, page \_\_\_\_\_, \_\_\_\_\_, the undersigned trustee will offer for sale at public auction (a brief description of the property to include street number or, if none, the general location of property and place of sale) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (ante meridian) (noon) (post meridian), the property described in such deed.

Terms: (Cash) (\_\_\_\_\_)

\_\_\_\_\_  
Trustee(s)

FOR INFORMATION CONTACT:

\_\_\_\_\_  
(A trustee or the secured party or his agent)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

**§ 55.1-330. Construction of deeds requiring notice by advertisement in newspaper.**

A. Whenever any deed of trust to secure debts or indemnify sureties contains a provision requiring the giving of notice of sale thereunder for a specified number of days by advertisement in one or more newspapers and such advertisement is published in a newspaper published daily or in a newspaper published daily except Sunday, it shall be deemed a sufficient compliance with such provision if such notice is published in consecutive issues of such newspaper for the number of days specified, counting both the day of the first publication and the day of the last publication and intervening Sundays, whether or not such newspaper is published on Sunday. Both the first publication and the last publication may be on Sunday. The publication shall in all other respects comply with the provisions of §§ 55.1-322 and 55.1-323.

B. Whenever such deed of trust requires advertisement once a week for a specified number of weeks, sale may be had on the day after the last advertisement appears or any day thereafter, and all sales made in conformity with this section prior to January 1, 1972, and otherwise valid are hereby validated.

**§ 55.1-331. Disposition of surplus from trustee's sale after death of grantor.**

Whenever the grantor, or his successor in title, in any deed of trust by which any real property is conveyed in trust to secure debts or indemnify sureties dies prior to a trustee's sale held pursuant to the deed of trust and the deed of trust contains no definite provision for the distribution of any surplus in the event of the death of the grantor or his successors in title prior to the trustee's sale held pursuant to the deed of trust, or contains a provision that such surplus shall be paid to the grantor or his heirs or assigns or personal representative, then any surplus of the proceeds of the sale remaining in the possession of the trustee, after discharging the expenses of executing the trust, all tax liens upon the property sold, all debts and obligations secured by the deed of trust, and, in order of their priority, if any, the remaining subsequent debts and obligations secured by the deed, and any liens of record inferior to the deed of trust under which the sale is made, with lawful interest, shall be paid by the trustee to the personal representative of the decedent.

Any such funds possessed by the personal representative shall constitute assets for the payment by him of any debts and demands against the decedent's estate remaining unsatisfied after the personal estate has been exhausted. Any surplus of the funds so paid to the personal representative and remaining in his possession after the satisfaction of all debts and demands against the estate shall be paid over by him, if the decedent died intestate as to the real property embraced in the deed of trust, to the heirs at law of the decedent, or their successors in title, and if the decedent died testate as to the real property embraced in the deed of trust, then such surplus shall be paid to the persons entitled to the real property under the

terms of the decedent's will, or to their successors in title.

**§ 55.1-332. Title to real estate sold not affected by nonlisting of secured notes for taxation.**

The title to real estate sold under a deed of trust shall not be drawn in question upon the ground that the holder of the notes secured by such deed of trust did not list the same for taxation.

**§ 55.1-333. Validation of certain sales made under deeds of trust.**

All sales that have been made prior to January 1, 1972, under deeds of trust to secure debts and indemnify sureties containing a provision requiring the giving of notice of sale thereunder for a specified number of days by advertisement in one or more newspapers and that were made after publishing the advertisement of sale in a newspaper published daily or in a newspaper published daily except Sunday for the number of days specified in the deed of trust, counting both the day of the first publication and the day of the last publication and intervening Sundays, whether or not such paper was published on Sunday and whether or not such sales were held on the day of the last publication, provided that, in cases when the sale was held on the day of the last publication, the publication was in a newspaper the principal daily edition of which was delivered or publicly sold before the time fixed for the sale, and whether or not the first publication or the last publication, or both, appeared on Sunday, shall be held, and the same are hereby declared, to be valid and effective in all respects, if otherwise valid and effective according to the law then in force, provided, however, that nothing contained in this section shall be construed as affecting any final order entered prior to March 24, 1934, by any court of competent jurisdiction or as affecting any action now pending in any court of competent jurisdiction, and provided further, that nothing in this section shall be so construed as to affect intervening vested rights.

**§ 55.1-334. Validation of certain sales made under deeds of trust prior to October 1, 1977.**

All sales that were made prior to October 1, 1977, under deeds of trust to secure debts and indemnify sureties when the notice, advertisement, and conduct of the sale were in accordance with the law of the Commonwealth as it existed on June 30, 1977, are declared to be valid and effective in all respects, provided that nothing in this section shall be construed as affecting any final order entered prior to March 23, 1978, by any court of competent jurisdiction, or any action now pending in a court of competent jurisdiction, or as affecting intervening vested rights, and provided further that no action to vacate or set aside any such sale may be brought after March 23, 1978.

**§ 55.1-335. Validation of other sales under deeds of trust.**

All sales that were made prior to January 1, 1972, under deeds of trust to secure debts and indemnify sureties when the notice was not published once a week for four successive weeks or a specified number of successive weeks are declared to be valid and effective in all respects, if other reasonable advertisement of such sale was given and such sale was otherwise valid and effective, provided that nothing herein contained shall be construed as affecting any final order entered prior to March 1, 1944, by any court of competent jurisdiction, or any action now pending in a court of competent jurisdiction, or as affecting intervening vested rights, and provided further that no action may be brought after January 1, 1972, to vacate or set aside any such sale.

**§ 55.1-336. Protection of assignees or transferees of debts secured by real estate; form of certificate of transfer.**

Whenever a debt or other obligation secured by a deed of trust, mortgage, or vendor's lien on real estate has been assigned, the assignor or the assignee, at its option, may cause the instrument of assignment to be recorded in the clerk's office of the circuit court where such deed of trust, mortgage, or vendor's lien is recorded, provided that such instrument is otherwise in recordable form, or may cause a certificate of transfer signed by the assignor to be recorded in such clerk's office, and such instrument of assignment or certificate of transfer, upon recordation, shall operate as a notice of such assignment. The instrument of assignment or certificate of transfer shall be indexed in the name of the assignor and in the names of the obligor or maker, and the trustees, as applicable, all of whose names shall be set forth in such instrument or certificate. The certificate of transfer shall conform substantially to the following:

**CERTIFICATE OF TRANSFER**

Place of Record:

Clerk's Office of the Circuit Court of the \_\_\_\_\_ of \_\_\_\_\_, Virginia

Date of [Deed of Trust/Mortgage/Vendor's Lien]: \_\_\_\_\_,

Deed Book \_\_\_\_\_, Page \_\_\_\_\_

Name of Obligor or Maker: \_\_\_\_\_

Names(s) of Trustee(s) [if a Deed of Trust]: \_\_\_\_\_

Name of Original Payee or Obligee: \_\_\_\_\_

Original Amount Secured [if applicable]: \$ \_\_\_\_\_

The undersigned, the original payee or obligee [or the subsequent assignee] of the obligation secured by the above-mentioned [Deed of Trust/Mortgage/Vendor's Lien], hereby certifies that the obligations secured thereby have been assigned to \_\_\_\_\_

\_\_\_\_\_  
[If a credit line deed of trust, the name and address to which notice may be mailed or delivered to the Noteholder as provided by § 55.1-318 is as follows:

\_\_\_\_\_  
\_\_\_\_\_) ]  
Given under (my/our) hand(s) as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Assignor)

\_\_\_\_\_ of \_\_\_\_\_  
County/City of \_\_\_\_\_, to wit:

Subscribed, sworn to, and acknowledged before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Notary Registration Number: \_\_\_\_\_

For purposes of this section, the word "assigned" includes endorsed, pledged, hypothecated, or otherwise transferred. Nothing in this section shall be deemed to invalidate any other form or notice of assignment that may have been recorded prior to July 1, 1994. Nothing in this section shall imply that recordation of the instrument of assignment or a certificate of transfer is necessary in order to transfer to an assignee the benefit of the security provided by the deed of trust, mortgage, or vendor's lien.

**§ 55.1-337. Required notice of foreclosure or repossession of manufactured home.**

Whenever any assignee of an installment note secured by a security interest on a manufactured home determines that legal action is desirable to enforce the debt resulting in a potential foreclosure or repossession, he shall give prior notice by mail of any action to foreclose or repossess the collateral to any assignor who is liable under a recourse endorsement or by virtue of a reserve account at least 10 business days prior to the enforcement of the security interest or eviction. Assignment by way of pledge of the security interest granted by the assignor shall not be an assignment within the meaning of this section. The failure to so notify the assignor shall not affect any rights of the assignee as against the principal debtor or any party other than the assignor with recourse or a person with rights in a reserve account. Provisions of this section may not be waived by such assignor at the time of the original sale of the installment paper but only after the expiration of at least 30 days from such initial transfer. The assignee shall send such notice to the last known address of the assignor as it appears in the records of the assignee.

**§ 55.1-338. Release to person dead inures to successors.**

A release of a deed of trust or a conveyance of the property embraced in such deed of trust may in all cases be made to the original grantor, whether living or dead, and any release or reconveyance so made shall inure both in law and in equity to the successors in title of such grantor.

**§ 55.1-339. Release of deed of trust or other lien.**

A. As used in this section:

"Deed of trust" means any mortgage, deed of trust, or vendor's lien.

"Lien creditor" and "creditor" shall be construed as synonymous and mean the holder, payee, or obligee of a note, bond, or other evidence of debt and shall embrace the lien creditor or his successor in interest as evidenced by proper endorsement or assignment, general or restrictive, upon the note, bond, or other evidence of debt.

"Payoff letter" means a written communication from the lien creditor or servicer stating, at a minimum, the amount outstanding and required to be paid to satisfy the obligation.

"RESA" means Chapter 10 (§ 55.1-1000 et seq.), Real Estate Settlement Agents.

"Satisfactory evidence of the payment of the obligation secured by the deed of trust" means (i) any one of (a) the original canceled check or a copy of the canceled check, showing all endorsements, payable to the lien creditor or servicer, as applicable, (b) confirmation in written or electronic form of a wire transfer to the bank account of the lien creditor or servicer, as applicable, or (c) a bank statement in written or electronic form reflecting completion of the wire transfer or negotiation of the check, as applicable, and (ii) a payoff letter or other reasonable documentary evidence that the payment was to effect satisfaction of the obligation secured or evidenced by the deed of trust.

"Satisfied by payment" includes obtaining written confirmation from the lien creditor that the underlying obligation has a zero balance.

"Servicer" means a person or entity that collects loan payments on behalf of a lien creditor.

"Settlement agent" has the same meaning ascribed to it in § 55.1-1000, provided that a person shall not be a settlement agent unless he is registered pursuant to § 55.1-1014 and otherwise fully in compliance with the applicable provisions of RESA.

"Title insurance company" has the same meaning ascribed to it in § 38.2-4601, provided that the title insurance company seeking to release a lien by the process described in subsection E issued a policy of title insurance, through a title insurance agency or agent as defined in § 38.2-4601.1, for a real estate transaction wherein the loan secured by the lien was satisfied by payment made by the title insurance agency or agent also acting as the settlement agent.

B. 1. Except as provided in Article 3 (§ 55.1-346 et seq.), after full or partial payment or satisfaction has been made of a debt secured by a deed of trust, vendor's lien, or other lien, or any one or more obligations representing at least 25 percent of the total amount secured by such lien, but less than the total number of the obligations so secured, or the debt

secured is evidenced by two or more separate written obligations sufficiently described in the instrument creating the lien, has been fully paid, the lien creditor shall issue a certificate of satisfaction or certificate of partial satisfaction in a form sufficient for recordation reflecting such payment and release of lien. This requirement shall apply to a credit line deed of trust prepared pursuant to § 55.1-318 only when the obligor or the settlement agent has paid the debt in full and requested that the instrument be released.

If the lien creditor receives notice from a settlement agent at the address identified in its payoff statement requesting that the certificate be sent to such settlement agent, the lien creditor shall provide the certificate within 90 days after receipt of such notice to the settlement agent at the address specified in the notice received from the settlement agent.

If the notice is not received from a settlement agent, the lien creditor shall deliver, within 90 days after such payment, the certificate to the appropriate clerk's office with the necessary fee for recording by certified mail, return receipt requested, or when there is written proof of receipt from the clerk's office, by hand delivery, electronic delivery via the clerk's electronic filing system, or delivery by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained.

If the lien creditor has already delivered the certificate to the clerk's office by the time it receives notice from the settlement agent, the lien creditor shall deliver a copy of the certificate to the settlement agent within 90 days of the receipt of the notice at the address for notification set forth in the payoff statement.

If the lien creditor has not, within 90 days after payment, either provided the certificate of satisfaction to the settlement agent or delivered it to the clerk's office with the necessary fee for filing, the lien creditor shall forfeit \$500 to the lien obligor. No settlement agent or attorney may take an assignment of the right to the \$500 penalty or facilitate such an assignment to any third party designated by the settlement agent or attorney. Following the 90-day period, if the amount forfeited is not paid within 10 business days after written demand for payment is sent to the lien creditor by certified mail at the address for notification set forth in the payoff statement, the lien creditor shall pay any court costs and reasonable attorney fees incurred by the obligor in collecting the forfeiture.

2. If the note, bond, or other evidence of debt secured by such deed of trust, vendor's lien, or other lien referred to in subdivision 1 or any interest therein has been assigned or transferred to a party other than the original lien creditor, the subsequent holder shall be subject to the same requirements as a lien creditor for failure to comply with this subsection, as set forth in subdivision 1.

C. The certificate of satisfaction shall be signed by the creditor or his duly authorized agent, attorney, or attorney-in-fact or any person to whom the instrument evidencing the indebtedness has been endorsed or assigned for the purpose of effecting such release. An affidavit shall be filed or recorded with the certificate of satisfaction by the creditor, or his duly authorized agent, attorney, or attorney-in-fact, with such clerk, stating that the debt therein secured and intended to be released or discharged has been paid to such creditor or his agent, attorney, or attorney-in-fact, who was entitled and authorized to receive such debt when the debt was satisfied.

D. When the certificate of satisfaction has been signed and the affidavit required by subsection C has been duly filed or recorded with the certificate of satisfaction with such clerk, the certificate of satisfaction shall operate as a release of the encumbrance as to which such payment or satisfaction is entered and, if the encumbrance is by deed of trust, as a reconveyance of the legal title as fully and effectually as if such certificate of satisfaction were a formal deed of release duly executed and recorded.

E. Release of lien by settlement agent or title insurance company.

A settlement agent or title insurance company may release a deed of trust in accordance with the provisions of this subsection (i) if the obligation secured by the deed of trust has been satisfied by payment made by the settlement agent and (ii) whether or not the settlement agent or title insurance company is named as a trustee under the deed of trust or otherwise has received the authority to release the lien.

1. Notice to lienholder.

a. After or accompanying payment in full of the obligation secured by a deed of trust, a settlement agent or title insurance company intending to release a deed of trust pursuant to this subsection shall deliver to the lien creditor by certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt obtained, a notice of intent to release the deed of trust with a copy of the payoff letter and a copy of the release to be recorded as provided in this subsection.

b. The notice of intent to release shall contain (i) the name of the lien creditor, the name of the servicer if loan payments on the deed of trust are collected by a servicer, or both names; (ii) the name of the settlement agent; (iii) the name of the title insurance company if the title insurance company intends to release the lien; and (iv) the date of the notice. The notice of intent to release shall conform substantially to the following form:

#### NOTICE OF INTENT TO RELEASE

Notice is hereby given to you concerning the deed of trust described on the certificate of satisfaction, a copy of which is attached to this notice, as follows:

1. The settlement agent identified below has paid the obligation secured by the deed of trust described herein or obtained written confirmation from you that such obligation has a zero balance.

2. The undersigned will release the deed of trust described in this notice unless, within 90 days from the date this notice is mailed by certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt obtained, the undersigned has received by certified mail or commercial overnight delivery service or the United States

*Postal Service, and a receipt obtained, a notice stating that a release of the deed of trust has been recorded in the clerk's office or that the obligation secured by the deed of trust described herein has not been paid, or the lien creditor or servicer otherwise objects to the release of the deed of trust. Notice shall be sent to the address stated on this form.*

*(Name of settlement agent)*

*(Signature of settlement agent or title insurance company)*

*(Address of settlement agent or title insurance company)*

*(Telephone number of settlement agent or title insurance company)*

*(Virginia RESA registration number of settlement agent at the time the obligation was paid or confirmed to have a zero balance)*

2. *Certificate of satisfaction and affidavit of settlement agent or title insurance company.*

*a. If, within 90 days following the day on which the settlement agent or title insurance company mailed or delivered the notice of intent to release in accordance with this subsection, the lien creditor or servicer does not send by certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt obtained, to the settlement agent or title insurance company a notice stating that a release of the deed of trust has been recorded in the clerk's office or that the obligation secured by the deed of trust has not been paid in full or that the lien creditor or servicer otherwise objects to the release of the deed of trust, the settlement agent or title insurance company may execute, acknowledge, and file with the clerk of court of the jurisdiction in which the deed of trust is recorded a certificate of satisfaction, which shall include (i) the affidavit described in subdivision 2 b and (ii) a copy of the notice of intent to release that was sent to the lender, the servicer, or both. The certificate of satisfaction shall include the settlement agent's RESA registration number, issued by the Virginia State Bar or the Virginia State Corporation Commission, that was in effect at the time the settlement agent paid the obligation secured by the deed of trust or obtained written confirmation from the lien creditor that such obligation has a zero balance. The certificate of satisfaction shall note that the individual executing the certificate of satisfaction is doing so pursuant to the authority granted by this subsection. After filing or recording the certificate of satisfaction, the settlement agent or title insurance company shall mail a copy of the certificate of satisfaction to the lien creditor or servicer. The validity of a certificate of satisfaction otherwise satisfying the requirements of this subsection shall not be affected by the inaccuracy of the RESA registration number placed thereon or the failure to mail a copy of the recorded certificate of satisfaction to the lien creditor or servicer and shall nevertheless release the deed of trust described therein as provided in this subsection.*

*b. The certificate of satisfaction used by the settlement agent or title insurance company shall include an affidavit certifying (i) that the settlement agent has satisfied the obligation secured by the deed of trust described in the certificate, (ii) that the settlement agent or title insurance company possesses satisfactory evidence of payment of the obligation secured by the deed of trust described in the certificate or written confirmation from the lien creditor that such obligation has a zero balance, (iii) that the lien of the deed of trust may be released, (iv) that the person executing the certificate is the settlement agent or the title insurance company or is duly authorized to act on behalf of the settlement agent or title insurance company, and (v) that the notice of intent to release was delivered to the lien creditor or servicer and the settlement agent or title insurance company received evidence of receipt of such notice by the lien creditor or servicer. The affidavit shall be substantially in the following form:*

**AFFIDAVIT OF SETTLEMENT AGENT OR TITLE INSURANCE COMPANY**

*The undersigned hereby certifies that, in accordance with the provisions of § 55.1-339 of the Code of Virginia of 1950, as amended and in force on the date hereof (the Code), (a) the undersigned is a settlement agent or title insurance company as defined in subsection A of § 55.1-339 of the Code or a duly authorized officer, director, member, partner, or employee of such settlement agent or title insurance company; (b) the settlement agent has satisfied the obligation secured by the deed of trust; (c) the settlement agent or title insurance company possesses satisfactory evidence of the payment of the obligation secured by the deed of trust described in the certificate recorded herewith or written confirmation from the lien creditor that such obligation has a zero balance; (d) the settlement agent or title insurance company has delivered to the lien creditor or servicer in the manner specified in subdivision E 1 of § 55.1-339 of the Code the notice of intent to release and possesses evidence of receipt of such notice by the lien creditor or servicer; and (e) the lien of the deed of trust is hereby released.*

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*(Authorized signer)*

3. *Effect of filing.*

*When filed or recorded with the clerk's office, a certificate of satisfaction that is executed and notarized as provided in this subsection and accompanied by (i) the affidavit described in subdivision 2 b and (ii) a copy of the notice of intent to release that was sent to the lender, lien creditor, or servicer shall operate as a release of the encumbrance described therein and, if the encumbrance is by deed of trust, as a reconveyance of the legal title as fully and effectively as if such certificate of satisfaction were a formal deed of release duly executed and recorded.*

4. *Effect of wrongful or erroneous certificate; damages.*

*a. The execution and filing or recording of a wrongful or erroneous certificate of satisfaction by a settlement agent or title insurance agent does not relieve the party obligated to repay the debt, or anyone succeeding to or assuming the responsibility of the obligated party as to the debt, from any liability for the debt or other obligations secured by the deed of trust that is the subject of the wrongful or erroneous certificate of satisfaction.*

*b. A settlement agent or title insurance agent that wrongfully or erroneously executes and files or records a certificate*

of satisfaction is liable to the lien creditor for actual damages sustained due to the recording of a wrongful or erroneous certificate of satisfaction.

c. The procedure authorized by this subsection for the release of a deed of trust shall constitute an optional method of accomplishing a release of a deed of trust secured by property in the Commonwealth. The nonuse of the procedure authorized by this subsection for the release of a deed of trust shall not give rise to any liability or any cause of action whatsoever against a settlement agent or any title insurance company by any obligated party or anyone succeeding to or assuming the interest of the obligated party.

5. Applicability.

a. The procedure authorized by this subsection for the release of a deed of trust may be used to effect the release of a deed of trust after July 1, 2002, regardless of when the deed of trust was created, assigned, or satisfied by payment made by the settlement agent.

b. This subsection applies only to transactions involving the purchase of or lending on the security of real estate located in the Commonwealth that is either (i) unimproved real estate with a lien to be released of \$1 million or less or (ii) real estate containing at least one but not more than four residential dwelling units.

c. The procedure authorized by this subsection applies only to the full and complete release of a deed of trust. Nothing in this subsection shall be construed to authorize the partial release of property from a deed of trust or otherwise permit the execution or recordation of a certificate of partial satisfaction.

§ 55.1-340. Release by financial institution upon payment of debt placed with it for collection.

In any case where a note, bond, or other evidence of indebtedness placed by a creditor for collection with a bank, trust company, savings institution, small loan company, or credit union is fully paid at such financial institution, the financial institution, through its authorized agents, may execute all certificates, releases, and affidavits required of a creditor by this chapter to effectuate a release. The financial institution may execute and deliver to the clerk an affidavit to the effect that the financial institution had been acting as collecting agent for the creditor on the debt and that the debt has been paid in full at such institution.

§ 55.1-341. Partial satisfaction.

It is lawful for any lien creditor to record a certificate of partial satisfaction of any one or more of the separate pieces or parcels of property covered by such lien. It shall also be lawful for any such creditor to record a certificate of partial satisfaction of any part of the real estate covered by such lien if a plat of such part or a deed of such part is recorded in the clerk's office and a cross-reference is made in the certificate of partial satisfaction to the book and page where the plat or deed of such part is recorded. Such certificate of partial satisfaction may be accomplished in manner and form prescribed in this chapter for making certificates of satisfaction, except that the creditor, or his duly authorized agent, shall make an affidavit to the clerk or in such certificate that such creditor is at the time of making such satisfaction the legal holder of the obligation, note, bond, or other evidence of debt, secured by such lien, and when made in conformity with the provisions of this chapter such partial satisfaction shall be as valid and binding as a proper release deed duly executed for the same purpose.

Any and all partial marginal releases made prior to July 1, 1966, in any county or city of the Commonwealth, in conformity with the provisions of this chapter, either of one or more separate pieces or parcels of real estate or any part of the real estate covered by such lien, or as to one or more of the obligations secured by any such lien, or as to all of the real estate covered by such lien instrument, are hereby validated and declared to be binding upon all parties in interest, but this provision shall not be construed as intended to disturb or impair any vested right.

§ 55.1-342. Permissible form for certificate of satisfaction or certificate of partial satisfaction.

Any release by a certificate of satisfaction or certificate of partial satisfaction shall be in conformity with §§ 55.1-339, 55.1-340, and 55.1-341 and shall conform substantially with the following Certificate of Satisfaction or Certificate of Partial Satisfaction forms:

CERTIFICATE OF SATISFACTION

Place of Record \_\_\_\_\_

Date of Note/Deed of Trust \_\_\_\_\_

Face Amount Secured/Face Amount of Note: \_\_\_\_\_

Deed Book \_\_\_\_\_ Page \_\_\_\_\_

Name(s) of Grantor(s)/Maker(s); \_\_\_\_\_

Name(s) of Trustee(s) \_\_\_\_\_

Face Amount of Note(s) \$ \_\_\_\_\_

I/we, holder(s) of the above-mentioned note(s) secured by the above-mentioned deed of trust, do hereby certify that the same has/have been paid in full, and the lien therein created and retained is hereby released.

GIVEN UNDER MY/OUR HAND(S) THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

(NOTE HOLDERS)

Commonwealth of Virginia,

County/City of \_\_\_\_\_ to wit:

Subscribed, sworn to, and acknowledged before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

NOTARY PUBLIC

Notary Registration Number: \_\_\_\_\_

VIRGINIA;

IN THE CLERK'S OFFICE OF THE CIRCUIT COURT

This certificate was presented, and with the Certificate annexed, admitted to record on \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_m.

Clerk's fees: \$\_\_\_\_\_ have been paid.

Attest: \_\_\_\_\_, Deputy Clerk

CERTIFICATE OF PARTIAL SATISFACTION

Place of Record \_\_\_\_\_

Date of Deed of Trust \_\_\_\_\_

Deed Book \_\_\_\_\_ Page \_\_\_\_\_

Name(s) of Grantor(s) \_\_\_\_\_

Name(s) of Trustee(s) \_\_\_\_\_

Maker(s) of Note(s) \_\_\_\_\_

Date of Note(s) \_\_\_\_\_

Face Amount of Note(s) \$ \_\_\_\_\_

The lien of the above-mentioned deed of trust securing the above-mentioned note is released insofar as the same is applicable to \_\_\_\_\_ (description of property) recorded in deed book \_\_\_\_\_ at page \_\_\_\_\_ in the clerk's office of this court. The undersigned is/are the legal holder(s) of the obligation, note, bond, or other evidence of debt secured by said deed of trust.

Given under my/our hand(s) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(NOTE HOLDERS)

Commonwealth of Virginia,

County/City of \_\_\_\_\_ to wit:

Subscribed, sworn to, and acknowledged before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

NOTARY PUBLIC

Notary Registration Number: \_\_\_\_\_

The clerk shall satisfy the requirements of § 17.1-228.

Certificates conforming to this section prior to the amendment effective July 1, 1984, shall be deemed to be in substantial conformity to this section.

§ 55.1-343. Where certificates of satisfaction are to be indexed.

The clerk shall record a certificate of partial satisfaction or a certificate of satisfaction on the grantor index, both under the name of each grantor on the underlying deed of trust and under the name of the first-named trustee under which the deed of trust was indexed, all as identified on the certificate of satisfaction. The deed book and page number or the instrument number of the released deed of trust shall also be designated in the index. Any clerk using a separate index book or data file for grantees only shall also record in such book or file the name of each grantor on the underlying deed of trust as identified on the certificate of satisfaction.

§ 55.1-344. Releases made by court; costs and attorney fees.

A. Any person who owns or has any interest in real estate or personal property on which an encumbrance as described in § 55.1-339 exists may, after 20 days' notice to the person entitled to such encumbrance, apply to the circuit court of the county or city in which such encumbrance is recorded to have the same released or discharged. Upon proof that the encumbrance has been paid or discharged or upon a finding by the court that more than 15 years have elapsed since the maturity of the lien or encumbrance, raising a presumption of payment that is not rebutted at the hearing, such court shall order the clerk to record a certificate of satisfaction or a certificate of partial satisfaction that, when so recorded, shall operate as a release of such encumbrance.

All releases made prior to June 24, 1944, by any court under this section upon such presumption of payment so arising and not rebutted shall be validated.

B. If the court finds that the person entitled to such encumbrance cannot with due diligence be located, and that notice has been given such person in the manner provided by § 8.01-319 or 55.1-348, or that tender has been made of the sum due thereon but has been refused for any reason by the party to whom due, the court may in its discretion order the sum due to be paid into court, to be there held as provided by law, and to be paid upon demand to the person entitled thereto. The court shall order the same to be recorded as provided in subsection A, and such certificate of satisfaction or certificate of partial

satisfaction shall operate as a release of the encumbrance.

C. Upon a finding by the court that the holder of a mortgage or deed of trust that has been fully paid or discharged has unjustifiably and without good cause failed or refused to release such mortgage or deed of trust, the court may order that costs and reasonable attorney fees be paid to the petitioning party. This subsection shall not preclude a separate action by the petitioning party for actual damages sustained by reason of such failure or refusal to release the encumbrance.

**§ 55.1-345. Recordation of certificate of satisfaction, etc., required when release of lien recorded.**

Whenever a release of a deed of trust or other obligation is recorded in the office of the clerk of any circuit court, such clerk shall record a certificate of satisfaction or certificate of partial satisfaction, stating that such deed or other obligation is released. The fee charged by the clerk for recording such release shall be paid by the lien debtor. Such certificate shall be indexed in the name of the grantors and grantees of the instrument being released. If any clerk fails for 10 days to do anything required of him by this section, he shall be liable for any damage that any person may sustain by reason of such failure.

Article 3.

Satisfaction of Security Interest in Real Property.

**§ 55.1-346. Applicability.**

The procedure authorized by this article for the release of a security interest in real property using an automated electronic recording system may be used to effect the release of a security interest regardless of when the security interest was created, assigned, or satisfied by payment made by the settlement agent. The procedure authorized by this section for the release of a security interest shall constitute an optional method of accomplishing a release of a security interest secured by property in the Commonwealth.

**§ 55.1-347. Definitions.**

As used in this article, unless the context requires otherwise:

"Day" means calendar day.

"Document" means information that is:

1. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

2. Eligible to be recorded in the land records maintained by the clerk.

"Electronic," as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

"Real property" means real property that is used for residential or nonresidential purposes.

"Recording data" means the date, and deed book and page number or instrument number, that indicates where a document is recorded in the land records of the clerk of the circuit court pursuant to Chapter 6 (§ 55.1-600 et seq.).

"Secured creditor" means a person that holds or is the beneficiary of a security interest or that is authorized both to receive payments on behalf of a person that holds a security interest in real property and to record a satisfaction of the security instrument upon receiving full performance of the secured obligation. "Secured creditor" does not include a trustee under a security instrument. "Secured creditor" also includes "lender" as used in Chapter 10 (§ 55.1-1000 et seq.) and "lien creditor" and "servicer" as defined in § 55.1-339.

"Secured obligation" means an obligation the payment or performance of which is secured by a security interest.

"Security instrument" means an agreement, however denominated, that creates or provides for a security interest, whether or not it also creates or provides for a lien on personal property.

"Security interest" means an interest in real property created by a security instrument, securing payment, or performance of an obligation and includes a mortgage or deed of trust.

"Sign" means, with present intent to authenticate, accept, or adopt a document:

1. To execute or adopt a tangible symbol; or

2. To attach to or logically associate with the document an electronic sound, symbol, or process.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

"Submit for recording" means to deliver, with required fees and taxes, a document sufficient to be recorded under this article to the office of the clerk of the circuit court pursuant to Chapter 6 (§ 55.1-600 et seq.).

**§ 55.1-348. Document of rescission; effect; liability for wrongful recording.**

A. As used in this section, "document of rescission" means a document stating that an identified satisfaction, certificate of satisfaction, or affidavit of satisfaction of a security instrument was recorded erroneously or fraudulently, the secured obligation remains unsatisfied, and the security instrument remains in force.

B. If a person records a satisfaction, certificate of satisfaction, or affidavit of satisfaction of a security instrument in error or by fraud, the person may execute and record a document of rescission. Upon recording, the document rescinds an erroneously recorded satisfaction, certificate, or affidavit.

C. A recorded document of rescission has no effect on the rights of a person who:

1. Acquired an interest in the real property described in a security instrument after the recording of the satisfaction,

certificate of satisfaction, or affidavit of satisfaction of the security instrument and before the recording of the document of rescission; and

2. Would otherwise have priority over or take free of the lien created by the security instrument under the laws of the Commonwealth.

D. A person, other than the clerk of the circuit court or any of his employees or other governmental official in the course of the performance of his recordation duties, who erroneously, fraudulently, or wrongfully records a document of rescission is subject to liability under § 55.1-339.

**§ 55.1-349. Secured creditor to submit satisfaction for recording; liability for failure.**

A. A secured creditor shall submit for recording a satisfaction of a security instrument within 90 days after the creditor receives full payment or performance of the secured obligation in accordance with subsection B of § 55.1-339. If a security instrument secures a line of credit or future advances, the secured obligation is fully performed only if, in addition to full payment, the secured creditor has received a notification requesting the creditor to terminate the line of credit or containing a statement sufficient to terminate the effectiveness of the provision for future advances in the security instrument.

B. A secured creditor who is required to submit a satisfaction of a security instrument for recording and fails to do so by the end of the period specified in subsection A is subject to liability under § 55.1-339.

**§ 55.1-350. Form and effect of satisfaction.**

A. A document is sufficient to constitute a satisfaction of a security instrument if it conforms substantially in form and content to the requirements of § 55.1-342 and it:

1. Identifies the security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded;
2. States that the person signing the satisfaction is the secured creditor;
3. Contains a legal description of the real property identified in the security instrument, but only if a legal description is necessary for a satisfaction to be properly indexed; otherwise, the deed book and page number or instrument number is sufficient;
4. Contains language terminating the effectiveness of the security instrument; and
5. Is signed by the secured creditor and acknowledged as required by law for a conveyance of an interest in real property.

B. The clerk of the circuit court shall accept for recording a satisfaction document, unless:

1. An amount equal to or greater than the applicable recording fees and taxes is not tendered;
2. The document is submitted by a method or in a medium not authorized by the laws of the Commonwealth; or
3. The document is not signed by the secured creditor and acknowledged as required by law for a conveyance of an interest in real property.

**§ 55.1-351. Relation to Electronic Signatures in Global and National Commerce Act.**

To the extent permitted by law, this article modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., except that nothing in this article modifies, limits, or supersedes §§ 7001(c) and 7004 of that Act or authorizes electronic delivery of any of the notices described in § 7003(b) of that Act.

**§ 55.1-352. Uniform standards.**

In consultation with the circuit court clerks, the Executive Secretary of the Supreme Court, and interested citizens and businesses, the Virginia Information Technologies Agency shall develop standards to implement electronic recording of real property documents. The Virginia Information Technologies Agency shall consider standards and practices of other jurisdictions, the most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association, views of interested persons and other governmental entities, and needs of localities of varying sizes, population, and resources.

Article 4.

Effect of Certain Expressions in Deeds.

**§ 55.1-353. Effect of word "covenants."**

When a deed uses the words "the said \_\_\_\_\_ covenants," such covenant shall have the same effect as if it were expressed to be by the covenantor, for himself and his heirs, personal representatives, and assigns and shall be deemed to be with the covenantee and his heirs, personal representatives, and assigns.

**§ 55.1-354. Effect of covenant of general warranty.**

A covenant by the grantor in a deed "that he will warrant generally the property hereby conveyed" shall have the same effect as if the grantor had covenanted that he and his heirs and personal representatives will forever warrant and defend such property unto the grantee and his heirs, personal representatives, and assigns against the claims and demands of all persons.

**§ 55.1-355. Covenant of special warranty.**

A covenant by any such grantor "that he will warrant specially the property hereby conveyed" shall have the same effect as if the grantor has covenanted that he and his heirs and personal representatives will forever warrant and defend such property unto the grantee and his heirs, personal representatives, and assigns against the claims and demands of the grantor and all persons claiming or to claim by, through, or under him.

**§ 55.1-356. Words "with general warranty," "with special warranty," and "with English covenants of title" construed.**

The words "with general warranty" in the granting part of any deed shall be deemed to be a covenant by the grantor "that he will warrant generally the property hereby conveyed." The words "with special warranty" in the granting part of any deed shall be deemed to be a covenant by the grantor "that he will warrant specially the property hereby conveyed."

The words "with English covenants of title" or words of similar import in the granting part of any deed shall be deemed to be an expression by the grantor of those covenants set out in §§ 55.1-359 through 55.1-362, and in addition thereto the covenant that he is seized in fee simple of the property conveyed.

**§ 55.1-357. Implied warranties on new homes.**

A. As used in this section:

"New dwelling" means a dwelling or house that has not previously been occupied for a period of more than 60 days by anyone other than the vendor or the vendee or that has not been occupied by the original vendor or subsequent vendor for a cumulative period of more than 12 months, excluding dwellings constructed solely for lease. "New dwelling" does not include a condominium or condominium units created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.).

"Structural defects" means a defect or defects that reduce the stability or safety of the structure below accepted standards or that restrict the normal use of the structure.

B. In every contract for the sale of a new dwelling, the vendor shall be held to warrant to the vendee that, at the time of the transfer of record title or the vendee's taking possession, whichever occurs first, the dwelling with all of its fixtures is, to the best of the actual knowledge of the vendor or his agents, sufficiently (i) free from structural defects, so as to pass without objection in the trade, and (ii) constructed in a workmanlike manner, so as to pass without objection in the trade.

C. In addition, in every contract for the sale of a new dwelling, the vendor, if he is in the business of building or selling such dwellings, shall be held to warrant to the vendee that, at the time of transfer of record title or the vendee's taking possession, whichever occurs first, the dwelling together with all of its fixtures is sufficiently (i) free from structural defects, so as to pass without objection in the trade; (ii) constructed in a workmanlike manner, so as to pass without objection in the trade; and (iii) fit for habitation.

D. The warranties described in subsections B and C implied in the contract for sale shall be held to survive the transfer of title. Such warranties are in addition to, and not in lieu of, any other express or implied warranties pertaining to the dwelling or its materials or fixtures. A contract for sale may waive, modify, or exclude any or all express and implied warranties and sell a new home "as is" only if the words used to waive, modify, or exclude such warranties are conspicuous, as defined by subdivision (b) (10) of § 8.1A-201, set forth on the face of such contract in capital letters that are at least two points larger than the other type in the contract and only if the words used to waive, modify, or exclude the warranties state with specificity the warranty or warranties that are being waived, modified, or excluded. If all warranties are waived or excluded, a contract shall specifically set forth in capital letters that are at least two points larger than the other type in the contract that the dwelling is being sold "as is."

E. If there is a breach of warranty under this section, the vendee, or his heirs or personal representatives in case of his death, shall have a cause of action against his vendor for damages, provided, however, for any defect discovered after July 1, 2002, such vendee shall first provide the vendor, by certified mail at his last known address, or by commercial overnight delivery service or the United States Postal Service, and a receipt obtained, a written notice stating the nature of the warranty claim. Such notice also may be hand delivered to the vendor with the vendee retaining a receipt of such hand-delivered notice to the vendor or its authorized agent. After such notice, the vendor shall have a reasonable period of time, not to exceed six months, to cure the defect that is the subject of the warranty claim.

F. The warranty shall extend for a period of one year from the date of transfer of record title or the vendee's taking possession, whichever occurs first, except that the warranty pursuant to clause (i) of subsection C for the foundation of new dwellings shall extend for a period of five years from the date of transfer of record title or the vendee's taking possession, whichever occurs first. Any action for its breach shall be brought within two years after the breach thereof. For all warranty claims arising on or after January 1, 2009, sending the notice required by subsection E shall toll the limitations period for six months.

G. In the case of new dwellings where fire-retardant treated plywood sheathing or other roof sheathing materials are used in lieu of fire-retardant treated plywood, the vendor shall be deemed to have assigned the manufacturer's warranty, at settlement, to the vendee. The vendee shall have a direct cause of action against the manufacturer of such roof sheathing for any breach of such warranty. To the extent any such manufacturer's warranty purports to limit the right of third parties or prohibit assignment, such provision shall be unenforceable and of no effect.

**§ 55.1-358. Effect of certain transfer fee covenants.**

A. As used in this section, unless the context requires a different meaning:

"Transfer" means assignment, conveyance, gift, inheritance, sale, or other transfer of ownership interest in real property located in the Commonwealth.

"Transfer fee" means a fee or charge payable to a nongovernmental person or entity upon transfer or payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price of the property, or other consideration given for the transfer. "Transfer fee" does not include:

1. Any consideration that is payable by a grantee to a grantor for the interest in real property being transferred;

2. Any commission that is payable to a licensed real estate broker for a transfer under an agreement between the broker and the grantor or grantee;

3. Any amount, charge, fee, or interest that is payable by a borrower to a lender under a loan secured by a deed of trust or mortgage on real property, including (i) any fee that is payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the deed of trust or mortgage and (ii) any consideration allowed by law that is payable to the lender in connection with the loan;

4. Any amount, charge, fee, reimbursement, or rent that is payable by a lessee to a lessor under a lease, including any fee that is payable to the lessor for consenting to an assignment, sublease, encumbrance, or transfer of the lease;

5. Any consideration that is payable to the holder of an option to purchase an interest in real property, the holder of a right of first refusal, or the holder of a right of first offer to purchase an interest in real property for releasing, waiving, or not exercising the option or right upon the transfer of the property to a person other than the holder;

6. Any assessment, charge, or fee authorized by statute, the recorded condominium instrument, or the recorded declaration to be charged by, or payable to, a common interest community as defined in § 54.1-2345 or a cooperative as defined in § 55.1-2100; or

7. Any amount, assessment, charge, fee, fine, or tax that is payable to or imposed by a governmental authority.

"Transfer fee covenant" means a covenant or declaration that purports to affect real property and that requires or purports to require, upon a subsequent transfer of such property, the payment of a transfer fee to the declarant or other nongovernmental person or entity specified in the covenant or declaration or to the assigns or successors of such declarant or nongovernmental person or entity.

B. A transfer fee covenant recorded in the Commonwealth on or after July 1, 2011, shall not run with the title to real property and is not binding on, or enforceable at law or in equity against, any subsequent owner, purchaser, or mortgagee of any interest in real property as an equitable servitude or otherwise. Any lien purporting to secure the payment of a transfer fee under a transfer fee covenant recorded in the Commonwealth on or after July 1, 2011, is void and unenforceable.

**§ 55.1-359. Covenant of "right to convey."**

A covenant by the grantor in a deed for land "that he has the right to convey the said land to the grantee" shall have the same effect as if the grantor had covenanted that he has good right, full power, and absolute authority to convey the land, with all the buildings thereon and the privileges and appurtenances thereto belonging, unto the grantee, in the manner in which the same is conveyed or intended so to be by the deed, and according to its true intent.

**§ 55.1-360. Covenant for "quiet possession" and "free from all encumbrances."**

A covenant by any such grantor "that the grantee shall have quiet possession of the said land" shall have as much effect as if he covenanted that the grantee and his heirs and assigns might, at any and all times thereafter, peaceably and quietly enter upon and have, hold, and enjoy the land conveyed by the deed, or intended so to be, with all the buildings thereon and the privileges and appurtenances thereto belonging, and receive and take the rents and profits thereof, to and for his and their use and benefit, without any eviction, interruption, suit, claim, or demand whatever. If to such covenant there be added "free from all encumbrances," these words shall have as much effect as the words "and that freely and absolutely acquitted, exonerated, and forever discharged, or otherwise by the said grantor or his heirs saved harmless and indemnified of, from, and against any and every charge and encumbrance whatever."

**§ 55.1-361. Covenant for "further assurances."**

A covenant by any such grantor "that he will execute such further assurances of the said lands as may be requisite" shall have the same effect as if he covenanted that he, the grantor, and his heirs or personal representative will at any time, upon any reasonable request, at the charge of the grantee and his heirs or assigns, do, execute, or cause to be done or executed all such further acts, deeds, and things for the better, more perfectly and absolutely conveying and assuring the said lands and premises thereby conveyed or intended so to be unto the grantee and his heirs and assigns in manner aforesaid, as by the grantee and his heirs or assigns and his or their attorney, shall be reasonably devised, advised, or required.

**§ 55.1-362. Covenant of "no act to encumber."**

A covenant by any such grantor "that he has done no act to encumber the said lands" shall have the same effect as if he covenanted that he had not done or executed, or knowingly suffered, any act, deed, or thing whereby the lands and premises conveyed, or intended so to be, or any part thereof, are or will be charged, affected, or encumbered in title, estate, or otherwise.

**§ 55.1-363. Effect of certain words of release in a deed.**

Whenever any deed uses the words: "The said grantor (or the said \_\_\_\_\_) releases to the said grantee (or the said \_\_\_\_\_) all his claims upon the said lands," such deed shall be construed as if it set forth that the grantor (or releasor) has remised, released, and forever quitted claim and by these presents does remise, release, and forever quitclaim to the grantee (or releasee) and his heirs and assigns all right, title, and interest whatsoever, both at law and in equity, in or to the lands and premises granted (or released) or intended to be granted (or released), so that neither he nor his personal representative, heirs, or assigns shall at any time thereafter have any type of claim, challenge, or demand on the lands and premises or any part thereof.

## CHAPTER 4.

## FRAUDULENT AND VOLUNTARY CONVEYANCES; WRITINGS NECESSARY TO BE RECORDED.

**§ 55.1-400. Void fraudulent acts; bona fide purchasers not affected.**

Every (i) gift, conveyance, assignment, or transfer of, or charge upon, any estate, real or personal, (ii) action commenced or order, judgment, or execution suffered or obtained, and (iii) bond or other writing given with intent to delay, hinder, or defraud creditors, purchasers, or other persons of or from what they are or may be lawfully entitled to shall, as to such creditors, purchasers, or other persons or their representatives or assigns, be void. This section shall not affect the title of a purchaser for valuable consideration, unless it appears that he had notice of the fraudulent intent of his immediate grantor or of the fraud rendering void the title of such grantor.

**§ 55.1-401. Voluntary gifts, conveyances, assignments, transfers, or charges; void as to prior creditors.**

Every gift, conveyance, assignment, transfer, or charge that is not upon consideration deemed valuable in law, or that is upon consideration of marriage by an insolvent transferor or by a transferor who is thereby rendered insolvent, shall be void as to creditors whose debts were contracted at the time such gift, conveyance, assignment, transfer, or charge was made but shall not, on that account merely, be void as to creditors whose debts have been contracted, or as to purchasers who have purchased, after such gift, conveyance, assignment, transfer, or charge was made. Even though it is decreed to be void as to a prior creditor, because voluntary or upon consideration of marriage, it shall not, for that cause, be decreed to be void as to subsequent creditors or purchasers.

**§ 55.1-402. Creditor's action to avoid such gifts, conveyances, assignments, transfers, or charges.**

Before obtaining a judgment for his claim, a creditor may, whether such claim is due and payable or not, institute any action that he may institute after obtaining such judgment to avoid a gift, conveyance, assignment, or transfer of, or charge upon, the estate of his debtor declared void by either § 55.1-400 or 55.1-401. Such creditor may, in such action, have all the relief with respect to such estate to which he would be entitled after obtaining a judgment for the claim for which he may be entitled to recover. A creditor availing himself of this section shall have a lien from the time of bringing his action on all the estate, real and personal, and a petitioning creditor shall also be entitled to a lien from the time of filing his petition in the court in which the action is brought. If the proceeds of sale are insufficient to satisfy the claims of all the creditors whose liens were acquired at the same time, they shall be applied proportionately to such claims, and the court may issue an order against the debtor for any deficiency remaining on the claim of any creditor after applying his share of the proceeds of sale, or, if any creditor is not entitled to share in such proceeds, may issue an order against the debtor for the full amount of the creditor's claim. This section is subject to the provisions of §§ 8.01-268 and 8.01-269.

**§ 55.1-403. Creditor's action; attorney fees.**

In any action brought by a creditor pursuant to § 55.1-400, 55.1-401, or 55.1-402, where a (i) gift; (ii) deed; (iii) conveyance, assignment, or transfer of or charge upon the estate of a debtor; (iv) action commenced or judgment or execution suffered or obtained; or (v) bond or other writing is declared void, the court shall award counsel for the creditor reasonable attorney fees against the debtor. Upon a finding of fraudulent conveyance pursuant to § 55.1-400, the court may assess sanctions, including such attorney fees, against all parties over which it has jurisdiction who, with the intent to defraud and having knowledge of the judgment, participated in the conveyance. Should there be a resulting judicial sale, any award of attorney fees shall be paid out of the proceeds of the sale, as other costs are paid, provided that the award of attorney fees does not affect a prior lien creditor not represented by the attorney.

**§ 55.1-404. Authority of court to set aside.**

The court may set aside a fraudulent conveyance or voluntary transfer pursuant to § 55.1-400 or 55.1-401 during an action brought by a creditor to execute on a judgment, either on motion of the creditor or on its own motion, provided that all parties who have an interest in the property subject to the conveyance or transfer are given notice of the proceeding. The court, by order, may direct the clerk to issue the proper process against such parties and, upon the maturing of the case, proceed to make such orders as would have been proper if the new parties had been made parties at the commencement of the action.

**§ 55.1-405. Loans and reservations of a use or property to be recorded.**

When any loan of personal property is pretended to have been made to any person with whom, or with those claiming under him, possession has remained five years without demand made and pursued by due process of law on the part of the pretended lender, or when any reservation or limitation is pretended to have been made of a use or property by way of condition, reversion, remainder, or otherwise in personal property, the possession of which has so remained in another as aforesaid, the absolute property shall be taken to be with the possession and such loan, reservation, or limitation void as to creditors of, and purchasers from, the person so remaining in possession, unless such loan, reservation, or limitation is declared by will which, or a copy of which, or by deed or other writing which, is duly recorded within a period of five years in the circuit court of the county or city in which the personal property is located.

**§ 55.1-406. Certain recorded contracts as valid as deeds.**

Any such contract or bill of sale as is mentioned in § 11-1, if in writing and signed by the owner of the property, shall, from the time it is duly recorded, be, as against creditors and purchasers, as valid, so far as it affects real estate, as if the contract were a deed conveying the estate or interest embraced in the contract and, so far as it affects goods and chattels, as if possession had completely passed at the time of such recording, provided that, as to goods whose possession is retained by a merchant-seller, the provisions of subsection (2) of § 8.2-402 of the Uniform Commercial Code shall be controlling and provided further that, if any such contract or bill of sale as is mentioned in § 11-1 creates a security interest as defined

in the Uniform Commercial Code, its validity and enforceability shall be governed by the provisions of that Code.

**§ 55.1-407. Contracts, etc., void as to creditors and purchasers until recorded; priority of credit line deed of trust.**

A. 1. Every (i) contract in writing; (ii) deed conveying any estate or term; (iii) deed of gift, or deed of trust, or mortgage conveying real estate or personal property; and (iv) bill of sale, or contract for the sale of personal property, when the possession is allowed to remain with the grantor, shall be void as to all purchasers for valuable consideration without notice not parties thereto and lien creditors, until and except from the time it is recorded in the county or city in which the property subject to such contract, deed, or bill of sale is located. The fact that any such instrument is in the form of or contains the terms of a quit-claim or release shall not prevent the grantee from being a purchaser for valuable consideration without notice, nor be of itself notice to such grantee of any unrecorded conveyance of or encumbrance upon such real estate or personal property. The mere possession of real estate shall not, of itself, be notice to purchasers for value of any interest or estate therein of the person in possession. As to personal property whose possession is retained by a merchant-seller, the provisions of subsection (2) of § 8.2-402 of the Uniform Commercial Code shall control. This section shall not apply to any security interest in personal property under the Uniform Commercial Code. Any bill of sale or contract for the sale of personal property when possession is allowed to remain with the grantor shall be deemed to be duly recorded when it is filed in the same manner as Uniform Commercial Code financing statements are filed under the criteria and in the places established by § 8.9A-501 as if the grantor were a debtor and the grantee a secured party. A recordation under the provisions of this section shall, when any real estate subject to the lien of any such contract has been annexed to or merged with an adjoining city subsequent to such docketing, be deemed to have been recorded in the proper clerk's office of such city.

2. The clerk of each court in which any such instrument is by law required to be recorded shall keep a daily index of all such instruments admitted to record in his office, and, immediately upon recording such instrument, the clerk shall index the same either in the daily index or the appropriate general index of his office. All instruments indexed in the daily index shall be indexed by the clerk in the appropriate general index within 90 days after recording. During the period permitted for transfer from the daily index to the general index, indexing in the daily index shall be a sufficient compliance with the requirements of this section as to indexing.

3. a. In any circuit court in which any such instrument required to be recorded is not recorded on the same day as delivered, the clerk shall install a time stamp machine. The time stamp machine shall affix the current date and time of each delivery of any instrument delivered to the clerk for recording that is not immediately recorded and entered into the general or daily index.

b. In the event that a time stamp machine has not been installed or is not functioning, the clerk shall designate an employee to affix the current date and time of each delivery of any instrument delivered to the clerk for recording.

c. In any circuit court in which instruments required to be recorded are not recorded on the same day as delivered, for purposes of subdivision 1, the term "from the time it is recorded" shall be presumed to be the date and time affixed upon the instrument by the time stamp machine or affixed by the clerk in accordance with subdivision b unless the clerk determines that the applicable requirements for recordation of the instrument have not been satisfied.

d. The provisions of subdivision 3 shall not apply to certificates of satisfaction or partial satisfaction or assignments of deeds of trust delivered to the clerk's office other than by hand.

B. A credit line deed of trust, recorded pursuant to § 55.1-318, is valid and has priority over any (i) contract in writing, deed, conveyance, or other instrument conveying any such estate or term subsequently recorded or (ii) judgment subsequently docketed as to all advances made under such credit line deed of trust from the date of recordation of such credit line deed of trust, whether or not the particular advance or extension of credit has been made or unconditionally committed at the time of delivery or recordation of such contract in writing, deed, or other instrument or the docketing of such judgment. Any judgment creditor shall have the right to give the notice contemplated by § 55.1-318 and, from the day following receipt of such notice, the judgment as docketed shall have priority over all subsequent advances made pursuant to the credit line deed of trust except those that have been unconditionally and irrevocably committed prior to such date. Mechanics' liens created under Title 43 shall continue to have the same priority as created by that title. Purchase money security interests in goods and fixtures shall have the same priority as provided in Part 3 of Title 8.9A (§ 8.9A-317 et seq.).

**§ 55.1-408. Where to be recorded.**

Notwithstanding that any writing is recorded in one county or city in which there is real estate or personal property, it nevertheless is void as to such creditors and purchasers in respect to other real estate or personal property without such recording until it is duly recorded in the county or city in which such other real estate or personal property may be located, but it shall be sufficient to record a deed releasing the lien of a deed of trust, in whole or in part, either in the county or city in which the property thereby released is located or in the county or city in which the property so released was situated at the time of the recordation of the deed of trust, and any recordation thereof so made of any such release is hereby validated.

**§ 55.1-409. Recordation of instruments affecting civil aircraft of United States.**

No instrument that affects the title to or interest in any civil aircraft of the United States, as defined by federal law, or any portion of such aircraft, shall be valid in respect of such aircraft or portion of such aircraft against any person other than the person by whom the instrument is made or to whom the instrument is given, his heir or devisee, and any person having actual notice of such instrument, until such instrument is recorded in the office of the Administrator of the Federal Aviation Administration of the United States, or such other office as is designated by the laws of the United States as the one in which such instruments should be filed. Every such instrument so recorded in such office shall be valid as to all persons

without further recordation in any office in the Commonwealth, the provisions of any other recordation statute to the contrary notwithstanding. Any instrument for which recordation is required by the provisions of this section shall take effect from the date of its recordation and not from the date of its execution.

**§ 55.1-410. Priority of writings when admitted to record same day.**

Unless otherwise provided for in this chapter, when two or more writings pertaining to the same property are recorded in the same county or city on the same day and stamped with the identical time, the instrument number shall determine the writing that was first recorded. The instrument that was first recorded shall have priority with respect to the property in such county or city.

**§ 55.1-411. When writings to be recorded in county, and when in city.**

The provisions of this and any other chapter of the Code or of any subsequent statute, by virtue of which a writing is to be or may be recorded in the county or city in which the property embraced in such writing is located, shall be construed, in respect to the county, as relating only to property within the county and outside the corporate limits of the city having a court in which writings may be lawfully recorded, and, in respect to the city, as relating only to property within the corporate limits of such city having such a court.

**§ 55.1-412. Words "creditors" and "purchasers," how construed.**

The words "creditors" and "purchasers," when used in any previous section of this chapter, shall not be restricted to the protection of creditors of and purchasers from the grantor, but shall also extend to and embrace all creditors and purchasers who, but for the deed or writing, would have had title to the property conveyed or a right to subject it to their debts.

**§ 55.1-413. Lien of subsequent purchaser for purchase money paid before notice.**

As against any person claiming under the deed or other writing that has not been recorded before payment by a subsequent purchaser for valuable consideration of the whole or a part of his purchase money, such subsequent purchaser, notwithstanding such deed or other writing recorded before he becomes a complete purchaser, shall have a lien on the property purchased by him for so much of his purchase money as he may have paid before notice of such lien.

**§ 55.1-414. When purchaser not affected by record of deed or contract.**

A purchaser shall not, under this chapter, be affected by the record of a deed or contract made by a person under whom his title is not derived, nor by the record of a deed or contract made by any person under whom the title of such purchaser is derived, if it was made by such person before he acquired the legal title of record.

CHAPTER 5.

COMMUTATION AND VALUATION OF CERTAIN ESTATES AND INTERESTS.

**§ 55.1-500. Annuity table.**

When a party as tenant for life is entitled to the annual interests on a sum of money, or is entitled to the use of any estate, or a part thereof, and is willing to accept a gross sum in lieu thereof, or the party liable for such interest, or affected by such claim, has the right to pay a gross sum in lieu thereof, or if the court in any legal proceeding orders a gross sum to be paid in lieu thereof, the sum shall be estimated according to the then value of an annuity of eight percent on the principal sum during the probable life of such person, according to the following table, showing in Column I the present value, on the basis of eight percent interest, of an annuity of \$1, payable at the end of every year that a person of a given age may be living, for the ages therein stated:

PRESENT VALUE

Age last birthday	I life	II lives
Less than one year	12.060	11.670
1	12.291	12.124
2	12.291	12.127
3	12.286	12.120
4	12.278	12.107
5	12.267	12.091
6	12.256	12.071
7	12.242	12.049
8	12.227	12.024
9	12.211	11.996
10	12.192	11.965
11	12.171	11.930
12	12.149	11.892
13	12.125	11.852
14	12.102	11.812
15	12.078	11.773
16	12.055	11.736
17	12.032	11.701
18	12.010	11.666
19	11.988	11.632
20	11.964	11.596
21	11.939	11.559
22	11.913	11.521

23	11.886	11.480
24	11.857	11.437
25	11.824	11.389
26	11.789	11.336
27	11.751	11.278
28	11.709	11.215
29	11.664	11.148
30	11.615	11.075
31	11.564	10.998
32	11.510	10.917
33	11.452	10.831
34	11.391	10.741
35	11.326	10.645
36	11.258	10.545
37	11.186	10.440
38	11.110	10.331
39	11.031	10.217
40	10.948	10.098
41	10.861	9.975
42	10.770	9.847
43	10.675	9.714
44	10.576	9.576
45	10.473	9.434
46	10.365	9.288
47	10.254	9.138
48	10.138	8.983
49	10.018	8.824
50	9.893	8.661
51	9.764	8.493
52	9.631	8.322
53	9.493	8.147
54	9.352	7.970
55	9.207	7.790
56	9.057	7.608
57	8.904	7.423
58	8.747	7.237
59	8.586	7.048
60	8.421	6.856
61	8.252	6.662
62	8.078	6.466
63	7.900	6.267
64	7.718	6.067
65	7.532	5.865
66	7.343	5.663
67	7.150	5.460
68	6.954	5.256
69	6.755	5.052
70	6.552	4.847
71	6.345	4.640
72	6.134	4.431
73	5.920	4.222
74	5.705	4.015
75	5.491	3.812
76	5.279	3.615
77	5.069	3.424
78	4.861	3.239
79	4.654	3.057
80	4.448	2.879
81	4.244	2.706
82	4.044	2.538
83	3.846	2.376
84	3.652	2.217
85	3.459	2.061
86	3.272	1.911
87	3.097	1.774
88	2.934	1.651
89	2.780	1.537
90	2.630	1.426

91	2.485	1.319
92	2.350	1.220
93	2.227	1.131
94	2.118	1.053
95	2.024	0.986
96	1.943	0.931
97	1.873	0.885
98	1.811	0.845
99	1.754	0.810
100	1.701	0.779
101	1.651	0.751
102	1.602	0.726
103	1.550	0.703
104	1.492	0.682
105	1.420	0.661
106	1.322	0.637
107	1.178	0.602
108	0.955	0.535
109	0.595	0.383

**§ 55.1-501. Rule of calculation under § 55.1-500.**

A. Calculate the interest at eight percent upon the sum to the income of which, or upon the value of the property to the use of which, the person is entitled. Multiply this interest by the present value of an annuity of \$1, as set opposite the person's age in the table, and the product is the gross value of the life estate of such person.

B. Example: Suppose a person whose age is 42 is a tenant for life in the whole of an estate worth \$10,500. The annual interest on that sum at eight percent is \$840. The present value of an annuity of \$1 at the age of 42, as shown by the table, is \$10.77, which, multiplied by \$840, gives \$9,046.80 as the gross value of such life estate in the premises, or the proceeds of such life estate.

**§ 55.1-502. Table of uniform seniority.**

When any two parties, as joint tenants for life, are entitled to the annual interest on a sum of money, or are entitled to the use of any estate or a part thereof, and are willing to accept a gross sum in lieu thereof, or the party liable for such interest, or affected by such claim, has the right to pay a gross sum in lieu thereof, or if the court in any legal proceeding orders a gross sum to be paid in lieu thereof, the sum shall be estimated according to the then value of an annuity of eight percent on the principal sum during the probable joint lives of such persons (which probable joint lives shall be computed from the table in this section for computing uniform seniority) as set forth in Column II in the table in § 55.1-500, showing the present value, on the basis of eight percent interest, of an annuity of \$1 payable at the end of every year that two persons of given ages may both be living for the ages therein stated:

TABLE OF UNIFORM SENIORITY

Difference of age	Addition to younger age
1	1
2	1
3	2
4	2
5	3
6	4
7	4
8	5
9	6
10	7
11	7
12	8
13	9
14	10
15	11
16	12
17	13
18	14
19	14
20	15
21	16
22	17
23	18
24	19
25	20

26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	36
42	37
43	38
44	39
45	40
46	41
47	42
48	43
49	44
50	45
51	46
52	47
53	48
54	49
55	50
56	51
57	52
58	53
59	54
60	55
61	56
62	57
63	58
64	59
65	60
66	61
67	62
68	63
69	64
70	65
71	66
72	67
73	68
74	69
75	70

**§ 55.1-503. Rules of calculation under § 55.1-502.**

A. Calculate the interest at eight percent upon the sum to the income of which, or upon the value of the property to the use of which, the joint life tenants are entitled. Multiply this interest by the present value of an annuity of \$1, as shown in Column II of § 55.1-500, for the joint equal age of such joint life tenants. The joint equal age of such tenants shall be obtained as follows: Take the difference in age in years between such tenants and refer to the table in § 55.1-502 and add to the younger age the value opposite such difference, and the sum is the joint equal age; take this joint equal age and refer to the table in § 55.1-500 and find in Column II the value of an annuity of \$1 a year payable for life during such joint equal age. The product of the interest and the value of an annuity for a given joint equal age is the gross value of the joint life estate of such person therein.

B. Example: Doe, age 30, and Roe, age 40, are joint tenants for life in the whole of an estate worth \$10,500: The difference in ages is 10 and, as shown by the table in § 55.1-502, the value opposite age difference 10 is seven. Seven added to 30, Doe's age, gives 37; as shown by the table in § 55.1-500, the value in Column II for an annuity of \$1 for two joint lives at joint equal age 37 is \$10.44 and no mills, and this, multiplied by \$840 (the interest at eight percent on \$10,000), gives \$8,769.60 as the gross value of the joint life estate of such persons.

§ 55.1-504. *Makehamized mortality table.*

When more than two parties as joint tenants for life, or three or more parties as tenants in successive estates, are entitled to the annual interest on a sum of money, or are entitled to the use of any estate, or a part thereof, and are willing to accept a gross sum in lieu thereof, or the party liable for such interest, or affected by such claim, has the right to pay a gross sum in lieu thereof, or if the court in any legal proceeding orders a gross sum to be paid in lieu thereof, the sum shall be estimated according to the then value of an annuity of eight percent on the principal sum during the probable lives of such persons. Probable lives shall be computed from the Makehamized mortality table for total population in the United States, 1969-1971, published by the Bureau of the Census of the Department of Commerce.

<i>X</i>	<i>A<sub>x</sub></i>	<i>A<sub>xx</sub></i>	<i>A<sub>xxx</sub></i>	<i>A<sub>xxxx</sub></i>	<i>C<sub>x</sub></i>
0	12.060	11.670	11.305	10.958	1.000
1	12.291	12.124	11.973	11.832	1.147
2	12.291	12.127	11.979	11.843	1.315
3	12.286	12.120	11.971	11.834	1.508
4	12.278	12.107	11.956	11.816	1.730
5	12.267	12.091	11.934	11.791	1.984
6	12.256	12.071	11.909	11.760	2.275
7	12.242	12.049	11.879	11.724	2.609
8	12.227	12.024	11.846	11.684	2.992
9	12.211	11.996	11.809	11.638	3.431
10	12.192	11.965	11.766	11.587	3.935
11	12.171	11.930	11.720	11.529	4.512
12	12.149	11.892	11.668	11.466	5.175
13	12.125	11.852	11.615	11.401	5.935
14	12.102	11.812	11.562	11.336	6.806
15	12.078	11.773	11.510	11.274	7.805
16	12.055	11.736	11.462	11.215	8.951
17	12.032	11.701	11.416	11.162	10.265
18	12.010	11.666	11.373	11.111	11.772
19	11.988	11.632	11.330	11.062	13.501
20	11.964	11.596	11.286	11.011	15.483
21	11.939	11.559	11.240	10.959	17.756
22	11.913	11.521	11.193	10.905	20.362
23	11.886	11.480	11.144	10.850	23.352
24	11.857	11.437	11.091	10.789	26.780
25	11.824	11.389	11.032	10.723	30.712
26	11.789	11.336	10.968	10.649	35.221
27	11.751	11.278	10.896	10.567	40.392
28	11.709	11.215	10.818	10.478	46.321
29	11.664	11.148	10.734	10.382	53.122
30	11.615	11.075	10.645	10.279	60.921
31	11.564	10.998	10.550	10.171	69.865
32	11.510	10.917	10.450	10.056	80.122
33	11.452	10.831	10.344	9.936	91.885
34	11.391	10.741	10.233	9.809	105.375
35	11.326	10.645	10.117	9.677	120.845
36	11.258	10.545	9.995	9.539	138.586
37	11.186	10.440	9.868	9.396	158.932
38	11.110	10.331	9.735	9.247	182.266
39	11.031	10.217	9.599	9.094	209.024
40	10.948	10.098	9.457	8.936	239.712
41	10.861	9.975	9.311	8.773	274.904
42	10.770	9.847	9.159	8.605	315.263
43	10.675	9.714	9.002	8.432	361.548
44	10.576	9.576	8.841	8.256	414.627
45	10.473	9.434	8.677	8.076	475.500
46	10.365	9.288	8.508	7.893	545.309
47	10.254	9.138	8.336	7.707	625.367
48	10.138	8.983	8.160	7.517	717.178
49	10.018	8.824	7.979	7.234	822.468
50	9.893	8.661	7.796	7.129	943.217
51	9.764	8.493	7.608	6.930	1081.692
52	9.631	8.322	7.418	6.730	1240.497
53	9.493	8.147	7.226	6.529	1422.617
54	9.352	7.970	7.033	6.328	1631.475
55	9.207	7.790	6.838	6.127	1870.995
56	9.057	7.608	6.643	5.927	2145.679

57	8.904	7.423	6.447	5.727	2460.691
58	8.747	7.237	6.250	5.529	2821.950
59	8.586	7.048	6.053	5.331	3236.246
60	8.421	6.856	5.855	5.133	3711.365
61	8.252	6.662	5.656	4.936	4256.238
62	8.078	6.466	5.457	4.740	4881.105
63	7.900	6.267	5.257	4.544	5597.710
64	7.718	6.067	5.056	4.349	6419.521
65	7.532	5.865	4.857	4.157	7361.984
66	7.343	5.663	4.659	3.967	8442.811
67	7.150	5.460	4.462	3.780	9682.318
68	6.954	5.256	4.266	3.596	11103.798
69	6.755	5.052	4.072	3.414	12733.969
70	6.552	4.847	3.879	3.234	14603.468
71	6.345	4.640	3.685	3.055	16747.432
72	6.134	4.431	3.490	2.875	19206.157
73	5.920	4.222	3.296	2.697	22025.851
74	5.705	4.015	3.106	2.523	25259.510
75	5.491	3.812	2.922	2.356	28967.909
76	5.279	3.615	2.745	2.197	33220.746
77	5.069	3.424	2.577	2.047	38097.950
78	4.861	3.239	2.415	1.905	43691.186
79	4.654	3.057	2.258	1.768	50105.577
80	4.448	2.879	2.106	1.636	57461.677
81	4.244	2.706	1.959	1.509	65897.740
82	4.044	2.538	1.818	1.389	75572.319
83	3.846	2.376	1.684	1.276	86667.243
84	3.652	2.217	1.554	1.166	99391.034
85	3.459	2.061	1.425	1.058	113982.830
86	3.272	1.911	1.302	0.955	130716.878
87	3.097	1.774	1.192	0.863	149907.684
88	2.934	1.651	1.095	0.784	171915.931
89	2.780	1.537	1.007	0.713	197155.252
90	2.630	1.426	0.922	0.645	226100.009
91	2.485	1.319	0.839	0.579	259294.204
92	2.350	1.220	0.763	0.519	297361.704
93	2.227	1.131	0.695	0.465	341017.971
94	2.118	1.053	0.636	0.419	391083.501
95	2.024	0.986	0.586	0.380	448499.252
96	1.943	0.931	0.546	0.349	514344.324
97	1.873	0.885	0.512	0.324	589856.243
98	1.811	0.845	0.484	0.302	676454.218
99	1.754	0.810	0.459	0.284	775765.815
100	1.701	0.779	0.437	0.268	889657.545
101	1.651	0.751	0.417	0.254	1020269.949
102	1.602	0.726	0.400	0.241	1170057.821
103	1.550	0.703	0.385	0.230	1341836.349
104	1.492	0.682	0.372	0.221	1538834.028
105	1.420	0.661	0.359	0.212	1764753.329
106	1.322	0.637	0.348	0.205	2023840.295
107	1.178	0.602	0.335	0.197	2320964.336
108	0.955	0.535	0.312	0.188	2661709.752
109	0.595	0.383	0.246	0.158	3052480.684

Example: Three persons, ages 30, 40, and 45, are joint tenants for life in the whole of an estate worth \$10,500: the equivalent equal age,  $w$ , of these three persons is given by the following formula:

$$C_w = \frac{C_{30} + C_{40} + C_{45}}{3} = 258.711 \text{ where}$$

$C_{30}$ ,  $C_{40}$ , and  $C_{45}$  are found in column 6 of the above table.

A linear interpolation between  $x = 40$  and  $x = 41$  in the above table would yield the value of  $x = 40.540$ , which would be the equivalent equal age of the persons involved.

Finally, a linear interpolation between  $x = 40$  and  $x = 41$  would yield the value of  $A = 9.378$  40.540:40.540:40.540.

This figure multiplied by \$840 (the interest at eight percent on \$10,500) gives \$7,877.52 as the gross value of the joint life estate of such persons.

**§ 55.1-505. Commutation in case of persons under disability.**

In any case in which, under the laws of the Commonwealth, a provision is made for commutation in money of a life estate when all the parties interested are under no disability, such provision shall also apply when any of the parties interested are under disability. Where any of the parties interested are under disability, the court may, upon application of the guardian, conservator, committee, or trustee, if any, and, if not, by a guardian ad litem appointed by the clerk or judge of said court, of any such person, on behalf of his ward, and upon hearing evidence satisfactory to such court or judge, enter an order authorizing such guardian, conservator, committee, trustee, or guardian ad litem to consent on behalf of such person under disability to such commutation. Such consent shall be as valid and effective as if the person on whose behalf it was given were sui juris and had given such consent. All judicial orders and decrees entered prior to July 1, 1960, authorizing any such commutation where persons under disability were interested, are hereby validated and confirmed, provided that nothing in this section shall be construed as intended to impair any vested right.

**§ 55.1-506. Commutation of certain life estates.**

Whenever a party as tenant for life, or in any other manner, has a life interest in an estate that has been sold under an action for partition or has been reduced to money, stocks, bonds, or notes, susceptible of division and when the total cost of holding such money, stocks, bonds, or notes intact amounts to more than eight percent of the gross annual income, and when the party owning such life estate is willing to accept a lump sum in lieu of such annual income, upon the application of such person entitled to such annual income to any court of record having jurisdiction over the subject matter, the court may order that such party or parties having charge of such money, stocks, bonds, or notes shall pay to the party having the right to receive such annual income a lump sum in accordance with § 55.1-500. This section shall not affect any spendthrift trust.

## SUBTITLE II.

## REAL ESTATE SETTLEMENTS AND RECORDATION.

## CHAPTER 6.

## RECORDATION OF DOCUMENTS.

## Article 1.

## General Provisions.

**§ 55.1-600. When and where writings recorded.**

Except when it is otherwise provided, the circuit court of any county or city, or the clerk of any such court, or his duly qualified deputy, in his office, shall record any such writing as to any person whose name is signed thereto with an original signature, when it shall have been acknowledged by him, or proved by two witnesses as to him in such court, or before such clerk, or his duly qualified deputy, in his office, or the manner prescribed in Articles 2 (§ 55.1-612 et seq.), 3 (§ 55.1-616 et seq.), and 4 (§ 55.1-624 et seq.). When such writing is signed by a person acting on behalf of another, or in any representative capacity, the signature of such representative may be acknowledged or proved in the same manner.

**§ 55.1-601. Recording and indexing of certain documents showing changes of names.**

A duly authenticated copy of a marriage license with the certificate of the person celebrating the marriage or a duly authenticated copy of a final order of divorce showing a change of name of a woman shall be entitled to be recorded in the clerk's office in which deeds are recorded of the county or city in which any land, or an interest in any land, that is owned by such woman lies and shall be indexed by such clerk in the grantor and grantee indices in his office.

**§ 55.1-602. Presumption that recorded writings are in proper form.**

A writing that is not properly notarized in accordance with the laws of the Commonwealth shall not invalidate the underlying document; however, any such writing shall not be in proper form for recordation. All recorded writings shall be presumed to be in proper form for recording after having been recorded, and conclusively presumed to be in proper form for recording after having been recorded for a period of three years, except in cases of fraud.

**§ 55.1-603. Deed of real estate investment trust.**

Every deed that is to be recorded conveying property to or from a trust qualifying as a real estate investment trust shall include the complete address of the principal office of the trust. Failure to comply with the provisions of this section shall not invalidate any such deed.

**§ 55.1-604. When clerk may refuse document to be recorded.**

A clerk may refuse any document for recording in which the name of the person under which the document is to be indexed does not legibly appear or is not otherwise furnished.

**§ 55.1-605. Power of attorney; where recorded.**

A power of attorney may be recorded in any county or city.

**§ 55.1-606. Standards for writings to be docketed or recorded.**

Except as provided in Article 4.1 (§ 17.1-258.2 et seq.) of Title 17.1, all writings that are to be recorded or docketed in the clerk's office of courts of record shall be an original or first generation printed form, or legible copy thereof, pen and ink or typed ribbon copy, and shall meet the standards for instruments as adopted under §§ 17.1-227 and 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.).

If a writing that does not conform to the requirements of this section or the standards for instruments adopted under § 17.1-227 and under § 42.1-82 of the Virginia Public Records Act (§ 42.1-76 et seq.) is accepted for recordation, it shall be deemed validly recorded and the clerk shall have no liability for accepting such a writing that does not meet the enumerated criteria in all the particulars.

**§ 55.1-607. When original of writing once recorded is lost, how copy recorded elsewhere.**

If it is proper for any writing that has been recorded in a court of any county or city to be recorded in the court of another county or city and such writing, before being so recorded in such other court, is lost or mislaid, on affidavit of this fact, such court or the clerk of such court may record a copy of such writing from the records of another court, certified by its clerk, and the copy so recorded shall have the same effect as if the original had been recorded at the time the copy was recorded.

**§ 55.1-608. Certifications of recordation upon copies of certain instruments and subsequent recordation in other county or city.**

Whenever a mortgage or deed of trust instrument upon real or personal property located in more than one county or city is recorded in one such county or city, the party by whom it is so presented may deliver to the clerk of such court any number of executed and acknowledged copies of such instrument. The clerk shall fix to each such copy his certificate of recordation, certifying thereby the payment of the recordation tax levied by the Commonwealth, and shall return to the party presenting all such instruments all such copies except one, which shall be retained by the clerk for recordation in his office. Such certificate shall be conclusive evidence of the payment of the recordation tax indicated thereby, and the clerk in any other recording office in any other county or city shall accept for recordation in his office any such copy so certified.

**§ 55.1-609. Correcting errors in deeds, deeds of trust, and mortgages; affidavit.**

A. As used in this section, unless the context requires a different meaning:

"Attorney" means any person licensed as an attorney in Virginia by the Virginia State Bar.

"Corrective affidavit" means an affidavit of an attorney correcting an obvious description error.

"Obvious description error" means an error in a real property parcel description contained in a recorded deed, deed of trust, or mortgage where (i) such parcel is identified and shown as a separate parcel on a recorded subdivision plat; (ii) such error is apparent by reference to other information on the face of such deed, deed of trust, or mortgage or on an attachment to such deed, deed of trust, or mortgage or by reference to other instruments in the chain of title for the property conveyed thereby; and (iii) such deed, deed of trust, or mortgage recites elsewhere the parcel's correct address or tax map identification number. An "obvious description error" includes (a) an error transcribing courses and distances, including the omission of one or more lines of courses and distances or the omission of angles and compass directions; (b) an error incorporating an incorrect recorded plat or a deed reference; (c) an error in a lot number or designation; or (d) an omitted exhibit supplying the legal description of the real property thereby conveyed. An "obvious description error" does not include (1) missing or improper signatures or acknowledgments or (2) any designation of the type of tenancy by which the property is owned or whether or not a right of survivorship exists.

"Recorded subdivision plat" means a plat that has been prepared by a land surveyor licensed pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 and recorded in the clerk's office of the circuit court for the jurisdiction where the property is located.

"Title insurance company" has the same meaning as set forth in § 38.2-4601, provided that the title insurance company issued a policy of title insurance for the transaction in which the deed, deed of trust, or mortgage needing correction was recorded.

B. Obvious description errors in a recorded deed, deed of trust, or mortgage purporting to convey or transfer an interest in real property may be corrected by recording an affidavit in the land records of the circuit court for the jurisdiction where the property is located or where the deed, deed of trust, or mortgage needing correction was recorded. No correction of an obvious description error shall be inconsistent with the description of the property in any recorded subdivision plat.

C. Prior to recording a corrective affidavit, the attorney seeking to record the affidavit shall deliver a copy of the affidavit to all parties to the deed, deed of trust, or mortgage, including the current owner of the property; to the attorney who prepared the deed, deed of trust, or mortgage, if known and if possible; and to the title insurance company, if known, and give notice of the intent to record the affidavit and of each party's right to object to the affidavit. For an affidavit to correct an obvious description error in a deed as described in clause (a) of the definition of "obvious description error" in subsection A, notice and a copy of the affidavit shall also be provided to any owner of property adjoining a line to be corrected. The notice and a copy of the affidavit shall be delivered by personal service, sent by certified mail, return receipt requested, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained, to the last known address of each party to the deed, deed of trust, or mortgage to be corrected that (i) is contained in the land book maintained pursuant to § 58.1-3301 by the jurisdiction where the property is located and where the deed, deed of trust, or mortgage needing correction was recorded; (ii) is contained in the deed, deed of trust, or mortgage needing correction; (iii) has been provided to the attorney as a forwarding address; or (iv) has been established with reasonable certainty by other means, and to all other persons and entities to whom notice is required to be given. The notice and a copy of the affidavit shall be sent to the property address for the real property conveyed by the deed, deed of trust, or mortgage needing correction. If a locality is a party to the deed, deed of trust, or mortgage, the notice and a copy of the affidavit required by this subsection shall be sent to the county, city, or town attorney for the locality, if any, and if there is no such attorney, then to the chief executive for the locality. For the purposes of this section, the term "party" includes any locality that is a signatory. If the Commonwealth is a party to the deed, deed of trust, or mortgage, the notice and a copy of the affidavit required by this subsection shall be sent to the Attorney General and to the director, chief executive officer, or head of the state agency or chairman of the board of the state entity in possession or that had possession of the property.

D. If, within 30 days after personal service or receiving confirmation of delivery of the notice and a copy of the affidavit (i) to all parties to the deed, deed of trust, or mortgage, including the current owner of the property; (ii) to the attorney who prepared the deed, deed of trust, or mortgage, if known and if possible; (iii) to the title insurance company, if known; and (iv) to the adjoining property owners, if necessary, pursuant to subsection C, no written objection is received from any party disputing the facts recited in the affidavit or objecting to its recordation, the corrective affidavit may be recorded by the attorney, and all parties to the deed, deed of trust, or mortgage shall be bound by the terms of the affidavit. The corrective affidavit shall contain (a) a statement that no objection was received from any party within the period and (b) a copy of the notice sent to the parties. The notice shall contain the attorney's Virginia State Bar number. The corrective affidavit shall be notarized.

E. A corrective affidavit that is recorded pursuant to this section operates as a correction of the deed, deed of trust, or mortgage and relates back to the date of the original recordation of the deed, deed of trust, or mortgage as if the deed, deed of trust, or mortgage was correct when first recorded. A title insurance company, upon request, shall issue an endorsement to reflect the corrections made by the corrective affidavit and shall deliver a copy of the endorsement to all parties to the policy who can be found.

F. The clerk shall record the corrective affidavit in the deed book and, notwithstanding their designation in the deed, deed of trust, or mortgage needing correction, index the affidavit in the names of the parties to the deed, deed of trust, or mortgage as grantors and grantees as set forth in the affidavit. The costs associated with the recording of a corrective affidavit pursuant to this section shall be paid by the party that records the corrective affidavit. An affidavit recorded in compliance with this section shall be prima facie evidence of the facts stated in such affidavit. Any person who wrongfully or erroneously records a corrective affidavit is liable for actual damages sustained by any party due to such recordation, including reasonable attorney fees and costs.

G. The remedies under this section are not exclusive and do not abrogate any right or remedy under the laws of the Commonwealth other than this section.

H. An affidavit under this section may be made in the following form, or to the same effect:

Corrective Affidavit

This Affidavit, prepared pursuant to Virginia Code § 55.1-609, shall be indexed in the names of \_\_\_\_\_ (grantor) and \_\_\_\_\_ (grantee), whose addresses are \_\_\_\_\_. The undersigned affiant, being first duly sworn, deposes and states as follows:

1. That the affiant is a Virginia attorney.

2. That the deed, deed of trust, or mortgage needing correction was made in connection with a real estate transaction in which \_\_\_\_\_ purchased real estate from \_\_\_\_\_, as shown in a deed recorded in the Clerk's Office of the Circuit Court of \_\_\_\_\_, in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, or as Instrument Number \_\_\_\_\_; or in which real estate was encumbered, as shown in a deed recorded in the Clerk's Office of the Circuit Court of \_\_\_\_\_, in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, or as Instrument Number \_\_\_\_\_.

3. That the property description in the aforementioned deed, deed of trust, or mortgage contains an obvious description error.

4. That the property description containing the obvious description error reads:

\_\_\_\_\_

5. That the correct property description should read:

\_\_\_\_\_

6. That this affidavit is given pursuant to § 55.1-609 of the Code of Virginia to correct the property description in the aforementioned deed, deed of trust, or mortgage and such description shall be as stated in paragraph 5 above upon recordation of this affidavit in the Circuit Court of \_\_\_\_\_.

7. That notice of the intent to record this corrective affidavit and a copy of this affidavit was delivered to all parties to the deed, deed of trust, or mortgage being corrected pursuant to § 55.1-609 of the Code of Virginia and that no objection to the recordation of this affidavit was received within the applicable period of time as set forth in § 55.1-609 of the Code of Virginia.

\_\_\_\_\_  
(Name of attorney)

\_\_\_\_\_  
(Signature of attorney)

\_\_\_\_\_  
(Address of attorney)

\_\_\_\_\_  
(Telephone number of attorney)

\_\_\_\_\_  
(Bar number of attorney)

The foregoing affidavit was acknowledged before me

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_.

Notary Registration Number: \_\_\_\_\_.

I. Notice under this section may be made in the following form, or to the same effect:

Notice of Intent to Correct an Obvious Description Error

Notice is hereby given to you concerning the deed, deed of trust, or mortgage described in the corrective affidavit, a copy of which is attached to this notice, as follows:

1. The attorney identified below has discovered or has been advised of an obvious description error in the deed, deed of trust, or mortgage recorded as part of your real estate settlement. The error is described in the attached affidavit.

2. The undersigned will record an affidavit to correct such error unless the undersigned receives a written objection disputing the facts recited in the affidavit or objecting to the recordation of the affidavit. Your objections must be sent within 30 days of receipt of this notice to the following address:

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Name of attorney)

\_\_\_\_\_  
(Signature of attorney)

\_\_\_\_\_  
(Address of attorney)

\_\_\_\_\_  
(Telephone number of attorney)

\_\_\_\_\_  
(Bar number of attorney)

**§ 55.1-610. Recordation of copy of lost deed previously recorded in what is now West Virginia.**

In any case when any deed was duly recorded before the formation of the state of West Virginia in any county or city now within the limits of West Virginia and such deed, after diligent search, cannot be found, upon affidavit of that fact by any party in interest, his agent, or his attorney, any court of the Commonwealth in which, or the clerk's office of which, the original might be recorded, or the clerk of any such court, may record a copy of such deed from the records of the court of West Virginia, or the clerk's office of such court in which such deed is recorded, duly certified by the clerk of such court, under the seal of the court, and the recordation of such copy shall have the same effect as the recordation of the original.

**§ 55.1-611. Continuing in force acts establishing Torrens system.**

The act entitled "An act to provide for the settlement, registration, transfer, and assurance of titles to land, and to establish courts of land registration, with jurisdiction for such purposes, and to make uniform the laws of the State enacting the same," approved February 24, 1916, as amended by an act approved March 20, 1916, and last amended by Chapter 227 of the Acts of 1948, approved March 13, 1948, is continued in force.

Article 2.

Acknowledgments Generally.

**§ 55.1-612. Acknowledgment within the United States or its dependencies.**

A circuit court of any county or city, or the clerk of any such court, shall record any writing as is described in § 55.1-600 as to any person whose name is signed to such writing, except that acknowledgment of contracts for the sale of real property shall require the seller or grantor of such real property to acknowledge his signature as provided in this section, except for contracts recorded after the death of the seller pursuant to § 64.2-523.

1. Upon the certificate of such clerk or his deputy, a notary public, a commissioner in chancery, or a clerk of any court of record within the United States or in Puerto Rico or any territory or other dependency or possession of the United States that such writing had been acknowledged before him by such person. Such certificate shall be written upon or attached to such writing and shall be substantially to the following effect:

I, \_\_\_\_\_, clerk (or deputy clerk or a commissioner in chancery) of the \_\_\_\_\_ court, (or a notary public) for the county (or city) aforesaid, in the state (or territory or district) of \_\_\_\_\_, do certify that E.F., or E.F. and G.H., and so forth, whose name (or names) is (or are) signed to the writing above (or hereto attached) bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, has (or have) acknowledged the same before me in my county (or city) aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_.

2. Upon the certificate of acknowledgment of such person before any commissioner appointed by the Governor, within the United States, so written or attached, substantially to the following effect:

State (or territory or district) of \_\_\_\_\_:

I, \_\_\_\_\_, a commissioner appointed by the Governor of the Commonwealth of Virginia, for such state (or territory or district) of \_\_\_\_\_, do certify that E.F. (or E.F. and G.H., and so forth) whose name (or names) is (or are) signed to the writing above (or hereto attached) bearing date on the \_\_\_\_\_ day of \_\_\_\_\_ has (or have)

acknowledged the same before me in my state (or territory or district) aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_.

3. Or upon the certificate of such clerk or his deputy, a notary public, a commissioner in chancery, or a clerk of any court of record within the United States or in Puerto Rico or any territory or other possession or dependency of the United States, or of a commissioner appointed by the Governor, within the United States, that such writing was proved as to such person, before him, by two subscribing witnesses thereto. Such certificate shall be written upon or attached to such writing and shall be substantially to the following effect:

State (or territory or district) of \_\_\_\_\_; county (or city) of \_\_\_\_\_: I, \_\_\_\_\_, clerk (or deputy clerk or a commissioner in chancery) of the \_\_\_\_\_ court, (or a notary public) for the county (or city) aforesaid, in the state (or territory or district) of \_\_\_\_\_ (or a commissioner appointed by the Governor of the Commonwealth of Virginia for such state (or territory or district) of \_\_\_\_\_), do certify that the execution of the writing above (or hereto attached) bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, by A.B. (or A.B. and C.D., and so forth), whose name (or names) is (or are) signed thereto, was proved before me in my county (or city or state, territory, or district) aforesaid, by the evidence on oath of E.F. and G.H., subscribing witnesses to such writing.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_.

When authority is given in § 55.1-600 or in this section to the clerk of a court in or outside of the Commonwealth, but within the United States, such authority may be exercised by his duly qualified deputy.

**§ 55.1-613. Acknowledgments outside of the United States and its dependencies.**

A circuit court of any county or city, or the clerk of such court, shall also record any writing as is described in § 55.1-600 as to any person whose name is signed thereto upon the certificate under the official seal of any ambassador, minister plenipotentiary, minister resident, charge d'affaires, consul-general, consul, vice-consul, or commercial agent appointed by the government of the United States to any foreign country, or of the proper officer of any court of record of such country or of the mayor or other chief magistrate of any city, town, or corporation therein, that such writing was acknowledged by such person or proved as to him by two witnesses before any person having such appointment or before such court, mayor, or chief magistrate.

**§ 55.1-614. Acknowledgments by persons subject to Uniform Code of Military Justice; validation of certain acknowledgments.**

A circuit court of any county or city, or the clerk of such court, shall also record any writing as is described in § 55.1-600 as to any person whose name is signed thereto and who at the time of such acknowledgment:

1. Was a member of any of the Armed Forces of the United States, wherever they may have been;
2. Was employed by, or accompanying such armed forces outside the United States and outside the Canal Zone, Puerto Rico, Guam, and the Virgin Islands; or
3. Was subject to the Uniform Code of Military Justice of the United States outside of the United States, upon the certificate of any person authorized to take acknowledgments under 10 U.S.C. § 936(a), as amended.

Such certification shall be in substantially the same form as required by § 55.1-615.

Any acknowledgment taken before July 1, 1995, that is in substantial conformity with this section is hereby ratified, validated, and confirmed.

**§ 55.1-615. Acknowledgments taken before commissioned officers in military service.**

A circuit court of any county or city, or clerk of such court, shall also record any writing as is described in § 55.1-600 as to any person whose name is signed thereto who at the time of such acknowledgment was in active service in the Armed Forces of the United States, or as to the consort of such person, upon the certificate of any commissioned officer of the army, navy, marine corps, air force, coast guard, any state national guard that is federally recognized, or other branch of the service of which such person is a member, that such writing had been acknowledged before him by such person. Such certificate shall be written upon or attached to such writing and shall be substantially to the following effect:

In the army (or navy, etc.) of the United States.

I, \_\_\_\_\_, a commissioned officer of the army (or navy, marine corps, air force, coast guard, or other branch of service) of the United States with the rank of lieutenant (or ensign or other appropriate rank) whose home address is \_\_\_\_\_, do certify that E.F. (or E.F. and G.H., and so forth), whose name (or names) is (or are) signed to the writing above (or hereto attached), bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, and who, or whose consort, is a private (corporal, seaman, captain, or other grade or rank) in the army (or navy, etc.) of the United States, and whose home address is \_\_\_\_\_, has (or have) acknowledged the same before me.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_.

Such acknowledgment may be taken at any place where the officer taking the acknowledgment and the person whose name is signed to the writing may be. Such commissioned officer may take the acknowledgment of any person in any branch of the Armed Forces of the United States or the consort of such person.

Every acknowledgment executed prior to July 1, 1995, in substantial compliance with the provisions of this section is hereby validated, ratified, and confirmed, notwithstanding any error or omission with respect to any address, grade, or rank.

## Article 3.

*Uniform Recognition of Acknowledgments Act.***§ 55.1-616. "Notarial acts" defined; who may perform notarial acts outside the Commonwealth for use in the Commonwealth.**

A. For the purposes of this article, "notarial acts" means acts that the laws and regulations of the Commonwealth authorize notaries public of the Commonwealth to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents.

B. Notarial acts may be performed outside the Commonwealth for use in the Commonwealth with the same effect as if performed by a notary public of the Commonwealth by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of the Commonwealth:

1. A notary public authorized to perform notarial acts in the place in which the notarial act is performed;
2. A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;
3. An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the U.S. Department of State to perform notarial acts in the place in which the notarial act is performed;
4. A commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the Armed Forces of the United States, or any other person serving with or accompanying a member of the Armed Forces of the United States; or
5. Any other person authorized to perform notarial acts in the place in which the notarial act is performed.

**§ 55.1-617. Proof of authority of person performing notarial act.**

A. If the notarial act is performed by any of the persons described in subdivisions B 1 through 4 of § 55.1-616 other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the notarial act. Further proof of his authority is not required.

B. If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the notarial act, there is sufficient proof of the authority of that person to act if:

1. Either a foreign service officer of the United States resident in the country in which the notarial act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the notarial act;
2. The official seal of the person performing the notarial act is affixed to the document; or
3. The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

C. If the notarial act is performed by a person other than one described in subsections A and B, there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

D. The signature and title of the person performing the notarial act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

**§ 55.1-618. What person taking acknowledgment shall certify.**

The person taking an acknowledgment shall certify that:

1. The person acknowledging appeared before him and acknowledged he executed the instrument; and
2. The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

**§ 55.1-619. When form of certificate of acknowledgment accepted.**

The form of a certificate of acknowledgment used by a person whose authority is recognized under § 55.1-616 shall be accepted in the Commonwealth if:

1. The certificate is in a form prescribed by the laws or regulations of the Commonwealth;
2. The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or
3. The certificate contains the words "acknowledged before me" or their substantial equivalent.

**§ 55.1-620. Meaning of "acknowledged before me."**

For the purposes of this article, "acknowledged before me" means:

1. That the person acknowledging appeared before the person taking the acknowledgment;
2. That the person acknowledging acknowledged he executed the instrument;
3. That, in the case of:
  - a. A natural person acknowledging, he executed the instrument for the purposes stated in the instrument;
  - b. A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose stated in the instrument;
  - c. A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper

authority and he executed the instrument as the act of the partnership for the purposes stated in the instrument;

d. A person acknowledging as principal by an attorney-in-fact, he executed the instrument by proper authority as the act of the principal for the purposes stated in the instrument; or

e. A person acknowledging as a public officer, trustee, administrator, guardian, conservator, or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes stated in the instrument; and

4. That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

**§ 55.1-621. Statutory short forms of acknowledgment.**

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of the Commonwealth. The following forms shall be known as "Statutory Short Forms of Acknowledgment" and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

1. For an individual acting in his own right:

State of \_\_\_\_\_

County or city of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

2. For a corporation:

State of \_\_\_\_\_

County or city of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

3. For a partnership:

State of \_\_\_\_\_

County or city of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

4. For an individual acting as principal by an attorney-in-fact:

State of \_\_\_\_\_

County or city of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of attorney-in-fact) as attorney-in-fact on behalf of (name of principal).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

5. By any public officer, trustee, or personal representative:

State of \_\_\_\_\_

County or city of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

**§ 55.1-622. Application of article; article cumulative.**

A notarial act performed prior to June 26, 1970, is not affected by this article. This article provides an additional method of proving notarial acts. Nothing in this article diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of the Commonwealth.

**§ 55.1-623. Uniform interpretation.**

This article shall be so interpreted as to make uniform the laws of those states that enact it.

Article 4.

Deeds and Acknowledgments of Corporations.

**§ 55.1-624. Deeds of corporations; how to be executed and acknowledged.**

All deeds made by corporations shall be signed in the name of the corporation by the president or acting president, or any vice-president, or by such other person as may be authorized to do so by the board of directors of such corporation,

and, if such deed is to be recorded, the person signing the name of the corporation shall acknowledge such authority in the manner provided by § 55.1-625.

**§ 55.1-625. Acknowledgments on behalf of corporations and others.**

When any writing purports to have been signed on behalf or by authority of any person or corporation, or in any representative capacity whatsoever, the certificate of the acknowledgment by the person so signing the writing shall be sufficient for the purposes of this and §§ 55.1-600, 55.1-612, 55.1-613, and 55.1-615, and for the recordation of such writing as to the person or corporation on whose behalf it is signed, or as to the representative character of the person so signing the writing, as the case may be, without expressing that such acknowledgment was on behalf or by authority of such other person or corporation or was in a representative capacity. In the case of a writing signed on behalf or by authority of any person or corporation or in any representative capacity, a certificate to the following effect shall be sufficient:

State (or territory or district) of \_\_\_\_\_, county (or city) of \_\_\_\_\_; I, \_\_\_\_\_, a \_\_\_\_\_ (here insert the official title of the person certifying the acknowledgment) in and for the state (or territory or district) and county (or city) aforesaid, do certify that \_\_\_\_\_ (here insert the name or names of the persons signing the writing on behalf of the person or corporation, or the name of the person signing the writing in a representative capacity), whose name (or names) is (or are) signed to the writing above, bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, has (or have) acknowledged the same before me in my county (or city) aforesaid. Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_.

**§ 55.1-626. Corporate acknowledgment taken before officer or stockholder.**

Any notary or other officer duly authorized to take acknowledgments may take the acknowledgment to any deed or other writing executed by a company or to a company or for the benefit of a company, although he may be a stockholder, an officer, or both, in such company, provided that he is not otherwise interested in the property conveyed or disposed of by such deed or other writing, and nothing herein shall be construed to authorize any officer to take an acknowledgment to any deed or other writing executed by such company by and through him as an officer or stockholder of such company, or to him for the benefit of such company.

Article 5.

Validating Certain Acts, Deeds, and Acknowledgments.

**§ 55.1-627. Acts of notaries public, etc., who have held certain other offices.**

All certificates of acknowledgment to deeds and other writings, taken and certified by notaries public and commissioners in chancery, and all depositions taken, accounts and reports made, and decrees executed by any notary public, commissioner in chancery, or commissioner of accounts, who, since January 1, 1989, may have held the office of county treasurer, sheriff, attorney for the Commonwealth, county clerk, commissioner of the revenue, superintendent of the poor, county surveyor, or supervisor shall be held and are hereby declared valid and effective in all respects if otherwise valid and effective according to the law then in force.

**§ 55.1-628. Validation of acknowledgments when seal not affixed.**

When a certificate of acknowledgment was made prior to July 1, 1995, to any instrument in writing required by this chapter to be acknowledged and the notary or other official whether of this or some other state taking such acknowledgment failed to affix his official seal to such certificate of acknowledgment when a seal was necessary, the certificate of acknowledgment shall be as valid for all purposes as if such seal had been affixed, and the deed shall be, and shall since such date have been, notice to all persons as effectually as if such seal had been affixed, provided that such acknowledgment was in other respects sufficient.

**§ 55.1-629. Acknowledgment taken by trustee in deed of trust.**

All certificates of acknowledgment to deeds of trust made and certified prior to March 23, 1936, by persons being trustees in such deeds shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force, and each such deed of trust that has been recorded in any clerk's office in the Commonwealth upon such a certificate shall be held to be duly and regularly recorded if such recordation is otherwise valid according to the law then in force.

Nothing in this section shall affect or diminish the rights or remedies of any person who intervened after the recordation of any such deed of trust but prior to March 23, 1936.

**§ 55.1-630. Acknowledgment taken by trustee in deed of trust; later date.**

Any certificate of acknowledgment of any deed of trust, taken and certified prior to July 1, 1995, by a person named as trustee therein who was, at the time of taking the acknowledgment, an officer authorized by law to take acknowledgments of deeds, is declared to be as valid and of the same force and effect as if such person had not been a trustee in the deed of trust. Subject to the provisions of § 55.1-602, however, this section shall not affect any right or remedy of any third party that accrued after the recordation of the deed of trust and before July 1, 1995.

**§ 55.1-631. Certain acknowledgments taken and certified before July 1, 1995.**

All certificates of acknowledgments to deeds and other writings taken and certified prior to July 1, 1995, by commissioners of deeds of states other than the Commonwealth, appointed or commissioned by the governor of such state, and by notaries public appointed or commissioned by the Governor of the Commonwealth, or appointed or commissioned under the laws of any state other than the Commonwealth, or any other officer authorized under this chapter to take and certify acknowledgments of deeds and other writings, that omit the citation of the date of the deed or certificate where it is clear from the content of the entire certificate and the instrument that has been acknowledged that the identity of the

instrument or the certificate is the same, or if it can reasonably be inferred from the certificate of the person recording the instrument or other writing that the certificate refers to the same instrument, shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force, or otherwise appear valid upon their face, and all such deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to the law then in force.

**§ 55.1-632. Acknowledgments taken by certain justices of the peace, mayors, etc.**

All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by justices of the peace, mayors of cities or towns, police justices, and civil and police justices who by virtue of their offices had the powers and authority of justices of the peace, when such justices of the peace, mayors, police justices, or civil and police justices are designated in the certificates of acknowledgments as mayors, police justices, or civil and police justices shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force.

**§ 55.1-633. Acknowledgments taken by officers after expiration of terms.**

All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by commissioners of deeds of states other than the Commonwealth, appointed or commissioned by the governor of such state, and by notaries public appointed or commissioned by the Governor of the Commonwealth, or appointed or commissioned under the laws of any state other than the Commonwealth, or any other officer authorized under this chapter to take and certify acknowledgments to deeds and other writings who took and certified such acknowledgments after their term of office had expired, shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force or appear to be valid upon their face, and all such deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to the law then in force.

**§ 55.1-634. Acknowledgments taken by notaries in service during World War I.**

All certificates of acknowledgment to deeds and other writings taken and certified in the Commonwealth prior to June 18, 1920, by notaries public who served in the army, navy, or marine corps of the United States during World War I shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force.

**§ 55.1-635. Acknowledgments before foreign officials who failed to affix seals.**

All certificates of acknowledgment to deeds and other writings made and certified prior to July 1, 1995, before officials in any foreign country authorized by law to take and certify such acknowledgments, to which such officials failed to affix their official seals, shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force.

**§ 55.1-636. Acknowledgments taken by notaries in foreign countries.**

All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by notaries public residing in foreign countries shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force.

**§ 55.1-637. Acknowledgments taken by officer who was spouse of grantee.**

Any certificate of acknowledgment to a deed or other writings taken prior to July 1, 1995, by a notary public or other officer duly authorized to take acknowledgments who at the time of taking such acknowledgment was the spouse of the grantee in the deed or other instrument shall be held and is hereby declared valid and effective in all respects if otherwise valid according to the law then in force. All acknowledgments of conveyances to a fiduciary taken before an officer who is the husband or wife of such officer and who has no beneficial or monetary interest other than possible commissions or legal fees shall be conclusively presumed valid.

**§ 55.1-638. Acknowledgment when notary certifies erroneously as to expiration of commission.**

All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by a notary public appointed or commissioned by the Governor, or appointed or commissioned under the laws of any state other than the Commonwealth, who mistakenly or by error certified that his commission had expired at the time he made such certificate, when in fact his commission had not at that time expired, shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law of the Commonwealth then in force, and the date and life of the notary's commission may be proved aliunde his certificate in any proceeding in which the capacity or authority of such notary is or shall be questioned, and all such deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to the law then in force.

**§ 55.1-639. Acknowledgments before officer of city or county consolidating, etc., prior to expiration date of commission.**

All certificates of acknowledgment to deeds and other writings taken and certified by a notary public or other officer originally duly authorized to take acknowledgments in any city or county that consolidated with other political subdivisions or became a city, as the case may be, prior to the normal expiration date of the commission of such notary public or other officer are hereby declared to be valid to the same extent they would have been valid as if such notary public or other officer had been commissioned for such consolidated political subdivision or city to which any such county was transformed.

**§ 55.1-640. Acknowledgments taken before notary whose commission has expired.**

All certificates of acknowledgment to deeds and other writings taken and certified prior to March 22, 1930, by notaries

public appointed or commissioned by the Governor who took and certified such acknowledgments after their term of office had expired shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force, and all such deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to the law then in force.

**§ 55.1-641. Acknowledgments taken before notary whose commission has expired; later date; intervening vested rights saved.**

All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by notaries public appointed or commissioned by the Governor who took and certified such acknowledgments after their term of office had expired shall be held and are hereby declared valid and effective in all respects if otherwise valid according to the law then in force, and all such deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to the law then in force; however, nothing in this section shall be so construed as to affect any intervening vested rights.

**§ 55.1-642. Acknowledgments taken before notary who was appointed but failed to qualify; vested rights saved.**

All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by a person who was appointed as a notary public by the Governor but who failed to qualify as provided by law shall be held and are hereby declared valid and effective in all respects if otherwise valid, and all such deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to law; however, nothing in this section shall be so construed as to affect any intervening vested rights.

**§ 55.1-643. Acknowledgments taken before a notary at large who failed to cite the jurisdiction in which the acknowledgment was taken; vested rights saved.**

All certificates of acknowledgment to deeds and other writings taken and certified prior to July 1, 1995, by a person who was appointed a notary public for the Commonwealth at large by the Governor but who failed to include in such certificates of acknowledgment the county or city in which the notarial act was performed shall be held and are hereby declared valid and effective in all respects if otherwise valid, and all such deeds and other writings that have been recorded in any clerk's office in the Commonwealth upon such certificates shall be held to be duly and regularly recorded if such recordation is otherwise valid according to law; however, nothing in this section shall be so construed as to affect any intervening vested rights.

**§ 55.1-644. Deeds defectively executed by corporation.**

Any deed of conveyance of real estate executed in the Commonwealth prior to July 1, 1995, by a corporation of the Commonwealth, when the certificate of acknowledgment of such deed fails to state the representative capacity of the party signing such deed for the corporation, shall be held and is hereby declared a valid and effective conveyance in every respect if otherwise valid according to the law in force at the time the deed was executed if such corporation, since making such conveyance, has been dissolved or otherwise gone out of existence.

**§ 55.1-645. Deeds to which corporate seal not affixed or not attested.**

Any deed of conveyance of real estate executed within or outside of the Commonwealth by a corporation of the Commonwealth or any other state to which deed the seal of the corporation was not affixed, or to which the seal was affixed but was not attested to by the secretary or by some other authorized officer of the corporation, shall be held to be valid and is hereby declared a valid and effective conveyance in every respect if otherwise valid according to the law then in force.

**§ 55.1-646. Acknowledgments of corporations taken by officers or stockholders.**

No acknowledgment heretofore taken to any deed or any writing executed by a company, or for the benefit of a company, shall be held to be invalid by reason of the acknowledgment having been taken by a notary or other officer duly authorized to take acknowledgments who, at the time of taking the acknowledgment, was a stockholder, an officer, or both, in the company that executed the deed or writing, or for the benefit of which the deed or writing was executed, but who was not otherwise interested in the property conveyed or disposed of by such deed or writing, and such deed or other writing, and the recordation of such deed or other writing, shall be valid in all respects as if this section had been in force when it was executed.

**§ 55.1-647. Recordation certificate not signed by clerk.**

A. All deeds, orders of probate, fiduciary accounts, and all other papers and writings received prior to July 1, 1995, by any clerk of any court of the Commonwealth and transcribed, or purported to be transcribed, in the proper book in such clerk's office provided by law for the transcribing and recordation of such deeds, orders of probate, fiduciary accounts, or other papers and writings, the certificate of receipt and of recordation of which had not received the attesting signature of such clerk on the date aforesaid, and which had not on such date been verified as required by law, shall prima facie be, and be deemed to be, as truly received, recorded, and verified as if the same had been so attested by the signature of such clerk.

B. Every clerk of any court of the Commonwealth in whose office any such deed, order of probate, fiduciary account, or other paper or writing as is mentioned in subsection A has been transcribed upon the proper book in such office, provided by law therefor, and which transcription has not received the attesting signature of the clerk who recorded the same, upon production before such clerk of the original of such deed, order of probate, fiduciary account, or paper or writing shall verify the accuracy of such transcription by a careful examination and comparison of such transcription with the original paper so recorded, and thereupon the clerk shall attest such transcription by signing thereto the name of the

clerk who received the original paper for record and his own name as follows:

"Teste \_\_\_\_\_, former clerk per  
\_\_\_\_\_, his successor."

C. For such service the clerk shall receive a fee of 25 cents (\$0.25), to be paid by the person for whose benefit the service was performed, and the record, so certified and verified, shall have the same effect as if it had been properly certified and verified by the clerk who received the same and who should have so certified and verified the same.

D. This section shall have a retroactive effect.

**§ 55.1-648. Recordation certificate not signed by clerk; when clerk has died.**

Any deed or other instrument or writing recorded before July 1, 1995, upon the proper deed book in the clerk's office of the circuit court of any county or any court of record of any city, when the clerk of such court failed to sign the certificate of recordation thereof and afterwards died, and any will or other instrument or writing recorded before July 1, 1995, upon the proper will book in any such clerk's office, when such clerk failed to sign the certificate of probate and recordation thereof and afterwards died, shall be as valid and of the same force and effect as if such certificate of recordation or certificate of probate and recordation had been signed by such clerk at the time such deed, will, or other instrument or writing was so recorded.

Article 6.

United States Judgments; Bankruptcy.

**§ 55.1-649. Recordation of judgments affecting title to land.**

The clerk of the court of any county or city in which there is any partition of land under any order, or any recovery of land under judgment, shall transmit to the clerk of the court of each county or city in whose office deeds to such land or any part thereof are recorded a copy of such order or judgment, and of such partition or assignment, and of the order confirming the same, along with such description of the land as may appear in the papers of the cause. The clerk of the court of such county or city shall record the same in his deed book and index it in the name of the person who had the land before and also in the name of the person who became entitled under such partition, assignment, or recovery.

**§ 55.1-650. Judgments of United States courts affecting realty.**

A copy of any judgment or order of any United States court affecting the title to, boundary or possession of, or any interest in and to any real estate lying wholly or partly within the Commonwealth, when duly certified by the proper officer of any such court, may be filed with the clerk of the court in whose office deeds are recorded of the county or city in which the real estate so affected, or any part of such real estate, is situated, and when so filed shall be recorded by such clerk in the current deed book in his office and indexed in the names of the persons whose interests appear to be affected thereby, upon the payment of the same fee prescribed by law to be paid for the recordation of similar judgments or orders of state courts.

**§ 55.1-651. Orders in bankruptcy.**

Certified copies of orders of adjudication of bankruptcy made pursuant to the acts of Congress relating to bankruptcy, certified copies of orders of sale, orders confirming sales, and such other orders entered in bankruptcy proceedings as any party in interest may wish to have recorded in the appropriate clerk's office, or such orders as the referee or the judge having jurisdiction directs to be recorded, may be filed with the clerk of the court authorized to record deeds for the county or city in which any real estate owned by the bankrupt is situated. Such orders shall be recorded in the deed books and indexed in the name of the bankrupt. For each such recordation, the clerk shall be paid a fee as prescribed in subdivision A 2 of § 17.1-275.

**§ 55.1-652. Certificates of commencement of case in bankruptcy.**

Certificates of commencement of case signed by clerks of bankruptcy courts or clerks of United States district courts, issued pursuant to the acts of Congress relating to bankruptcy, may be filed with the clerk of the court authorized to record deeds for the county or city in which the property of the debtor, for which such certificate has been issued, is located. Such certificate shall be recorded in the deed books and properly indexed in the name of the trustee in bankruptcy in the grantee index and the debtor in the grantor index. For such recordation, the clerk shall receive a fee as prescribed in subdivision A 2 of § 17.1-275.

Article 7.

Uniform Federal Lien Registration Act.

**§ 55.1-653. Where notices and certificates affecting liens to be filed.**

A. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens shall be filed in accordance with this article.

B. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens, including certificates of redemption, shall be filed in the office of the clerk of the circuit court of the county or city in which the real property subject to the lien is situated.

C. Notices of liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

1. If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in the Commonwealth, as these entities are defined in the internal revenue laws of the United States, in the office of the clerk of the State Corporation Commission.

2. In all other cases, in the office of the clerk of the circuit court of the county or city (i) where the person against

whose interest the lien applies resides or (ii) in the case of a trust or a decedent's estate, having jurisdiction over the qualification of the trustee or probate of the will, at the time of filing of the notice of lien.

**§ 55.1-654. Certification of notices and certificates.**

Certification of notices of tax liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his delegate or by any official or entity of the United States responsible for filing or certifying notice of any lien other than a tax lien entitles them to be filed, and no other attestation, certification, or acknowledgment is necessary.

**§ 55.1-655. Duties of filing officers.**

A. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection B is presented to the filing officer and:

1. He is the clerk of the State Corporation Commission, he shall cause the notice to be marked, held, and indexed in accordance with the provisions of § 8.9A-519 as if the notice were a financing statement as defined in § 8.9A-102; or

2. He is any other officer described in § 55.1-653, he shall endorse thereon his identification and the date and time of receipt and file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the district director in the case of tax liens, and the total amount appearing on the notice of lien, and he shall index and record the same where judgments are indexed and recorded.

B. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the clerk of the State Corporation Commission for filing, he shall:

1. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of § 8.9A-513, except that the notice of lien to which the certificate relates shall not be removed from the files; and

2. Cause a certificate of discharge or subordination to be held, marked, and indexed as if the certificate were a release of collateral within the meaning of § 8.9A-512.

C. If a refiled notice of federal lien referred to in subsection A or any of the certificates or notices referred to in subsection B is presented for filing to any other filing officer specified in § 55.1-653, he shall permanently attach the refiled notice or the certificate to the original notice of lien and shall enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

D. Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this article, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is \$1. Upon request, the filing officer shall furnish a copy of any notice of federal tax lien or notice or certificate affecting a federal lien for a fee of 50 cents (\$0.50) per page.

**§ 55.1-656. Fees of filing officers other than clerk of State Corporation Commission.**

The fee to be paid to any officer other than the clerk of the State Corporation Commission for filing and indexing each notice of lien or certificate or notice affecting the lien or providing a copy of such notice or certificate of such notice is \$5.

The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them.

**§ 55.1-657. Fees of clerk of State Corporation Commission.**

Notwithstanding any other provisions of this article, the fees for filing, indexing, searching, or amending or for certificates of discharge or subordination or any other fee that may be chargeable by the clerk of the State Corporation Commission shall be the same as those permitted to be charged according to the schedule of fees maintained by the clerk of the State Corporation Commission.

**§ 55.1-658. Construction of article.**

This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.

**§ 55.1-659. Certificates and notices affecting liens filed on or before July 1, 1970.**

If a notice of lien was filed on or before July 1, 1970, any certificate or notice affecting the lien shall be filed in the same office.

**§ 55.1-660. No action to be brought against the State Corporation Commission or its staff.**

No action shall be brought against the State Corporation Commission or any member of the staff of the State Corporation Commission claiming damage for alleged errors or omissions in the performance of the duties imposed by this article on the State Corporation Commission.

Article 8.

Uniform Real Property Electronic Recording Act.

**§ 55.1-661. Definitions.**

As used in this article, unless the context requires a different meaning:

"Clerk" means a clerk of the circuit court.

"Document" means information that is:

1. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

2. Eligible to be recorded in the land records maintained by the clerk.

"Electronic," as defined in Uniform Electronic Transactions Act (§ 59.1-479 et seq.), means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic document" means a document received by the clerk in electronic form.

"Electronic notarization" means an official act by a notary public in accordance with the Virginia Notary Act (§ 47.1-1 et seq.) and § 55.1-618 with respect to an electronic document.

"Electronic signature," as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"eRecording System" is the automated electronic recording system implemented by the clerk for the recordation of electronic documents among the land records maintained by the clerk.

"Filer" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public body, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity that files an electronic document among the land records maintained by the clerk.

"Land records document" means any writing authorized by law to be recorded, whether made on paper or in electronic format, that the clerk records affecting title to real property.

**§ 55.1-662. Validity of electronically filed and recorded land records.**

A. If a law requires, as a condition for recording, that a land records document be an original, be on paper or another tangible medium, or be in writing, an electronic land records document satisfying this article satisfies the law.

B. If a law requires, as a condition for recording, that a land records document be signed, an electronic signature satisfies the law.

C. A requirement that a land records document or a signature associated with a land records document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic notarization of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the land records document or signature. A physical or electronic image of a stamp, impression, or seal of the notary is not required to accompany an electronic signature.

**§ 55.1-663. Recording of electronic documents among the land records.**

A. A clerk of a circuit court who implements an eRecording System shall do so in compliance with standards established by the Virginia Information Technologies Agency.

B. A clerk of a circuit court may receive, index, store, archive, and transmit electronic land records.

C. A clerk of a circuit court may provide for access to, and for search and retrieval of, land records by electronic means.

D. A clerk of a circuit court who accepts electronic documents for recording among the land records shall continue to accept paper land records and shall place entries for both types of land records in the same indices.

E. A clerk of a circuit court may convert paper records accepted for recording into electronic form. The clerk of circuit court may convert into electronic form land records documents recorded before the clerk of circuit court began to record electronic records.

F. Any fee or tax that a clerk of circuit court is authorized to collect may be collected electronically.

**§ 55.1-664. Uniform standards.**

In consultation with the circuit court clerks, the Executive Secretary of the Supreme Court, and interested citizens and businesses, the Virginia Information Technologies Agency shall develop standards to implement electronic recording of real property documents. The Virginia Information Technologies Agency shall consider standards and practices of other jurisdictions, the most recent standards promulgated by national standard-setting bodies, such as the Real Property Records Industry Association, the views of interested persons and other governmental entities, and the needs of localities of varying sizes, population, and resources.

**§ 55.1-665. Uniformity of application and construction.**

In applying and construing this article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**§ 55.1-666. Relation to Electronic Signatures in Global and National Commerce Act.**

To the extent allowed by law, this article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001, et seq.) but does not modify, limit, or supersede § 101(c) of that Act (15 U.S.C. § 7001(c)) or § 104 of that Act (15 U.S.C. § 7004), or authorize electronic delivery of any of the notices described in § 103(b) of that Act (15 U.S.C. § 7003(b)).

CHAPTER 7.

VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT.

**§ 55.1-700. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Electronic delivery," for purposes of delivery of the disclosures required by this chapter, means sending the required disclosures via the Internet, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.

"Notification" means a statement of the availability of any disclosures required by this chapter on the Real Estate Board's website or delivery of any such disclosures to the purchaser.

"Ratification" means the full execution of a real estate purchase contract by all parties.

"Real estate contract" means a contract for the sale, exchange, or lease with the option to buy of residential real estate subject to this chapter.

**§ 55.1-701. Applicability.**

The provisions of this chapter apply only with respect to transfers by sale, exchange, installment land sales contract, or lease with option to buy of residential real property consisting of not less than one nor more than four dwelling units, whether or not the transaction is with the assistance of a licensed real estate broker or salesperson.

**§ 55.1-702. Exemptions.**

A. The following are specifically excluded from the provisions of this chapter:

1. Transfers pursuant to court order including transfers ordered by a court in administration of an estate, transfers pursuant to a writ of execution, transfers by foreclosure sale or by a deed in lieu of a foreclosure, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a judgment for specific performance. Also, transfers by an assignment for the benefit of creditors pursuant to Chapter 18.1 (§ 8.01-525.1 et seq.) of Title 8.01 and transfers pursuant to escheats pursuant to Chapter 24 (§ 55.1-2400 et seq.).

2. Transfers to a beneficiary of a deed of trust pursuant to a foreclosure sale or by a deed in lieu of foreclosure, or transfers by a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a foreclosure sale under a deed of trust or has acquired the real property by a deed in lieu of foreclosure.

3. Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

4. Transfers from one or more co-owners solely to one or more other co-owners.

5. Transfers made solely to any combination of a spouse or one or more persons in the lineal line of consanguinity of one or more of the transferors.

6. Transfers between spouses resulting from a decree of divorce or a property settlement stipulation pursuant to the provisions of Title 20.

7. Transfers made by virtue of the record owner's failure to pay any federal, state, or local taxes.

8. Transfers to or from any governmental entity or public or quasi-public housing authority or agency.

9. Transfers involving the first sale of a dwelling, provided that this exemption shall not apply to the disclosures required by § 55.1-704.

B. Notwithstanding the provisions of subdivision A 9, the builder of a new dwelling shall disclose in writing to the purchaser all known material defects that would constitute a violation of any applicable building code. In addition, for property that is located wholly or partially in any locality comprising Planning District 15, the builder or owner, if the builder is not the owner of the property, shall disclose in writing whether the builder or owner has any knowledge of (i) whether mining operations have previously been conducted on the property or (ii) the presence of abandoned mines, shafts, or pits, if any. The disclosures required by this subsection shall be made by a builder or owner (a) when selling a completed dwelling, before ratification of the real estate purchase contract or (b) when selling a dwelling before or during its construction, after issuance of a certificate of occupancy. Such disclosure shall not abrogate any warranty or any other contractual obligations the builder or owner may have to the purchaser. The disclosure required by this subsection may be made on the disclosure form described in § 55.1-703. If no defects are known by the builder to exist, no written disclosure is required by this subsection.

**§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.**

A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

B. The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of (i) any

local ordinance creating such district, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, and purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any stormwater detention facilities located on the property, or any maintenance agreement for such facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any maintenance agreement for such facilities, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

8. The owner makes no representations with respect to the presence of any wastewater system, including the type or size of the wastewater system or associated maintenance responsibilities related to the wastewater system, located on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

9. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property;

10. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas, and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) reviewing any map depicting special flood hazard areas, and (iii) determining whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

11. The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract; and

12. The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event prior to settlement pursuant to such contract.

C. The residential property disclosure statement shall be delivered in accordance with § 55.1-709.

**§ 55.1-704. Required disclosures pertaining to a military air installation.**

The owner of residential real property located in any locality in which a military air installation is located shall disclose to the purchaser whether the subject parcel is located in a noise zone or accident potential zone, or both, if so designated on the official zoning map by the locality in which the property is located. Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website. Such disclosure shall state the specific noise zone or accident potential zone, or both, in which the property is located according to the official zoning map.

**§ 55.1-705. Required disclosures; defective drywall.**

Notwithstanding the exemptions in § 55.1-702, if the owner of a residential dwelling unit has actual knowledge of the existence of defective drywall in such dwelling unit, the owner shall provide to a prospective purchaser a written disclosure

that the property has defective drywall. Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website and otherwise in accordance with this chapter. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1.

**§ 55.1-706. Required disclosures; pending building or zoning violations.**

Notwithstanding the exemptions in § 55.1-702, if the owner of a residential dwelling unit has actual knowledge of any pending enforcement actions pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified in writing by the locality, or any pending violation of the local zoning ordinance that the violator has not abated or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, the owner shall provide to a prospective purchaser a written disclosure that so states. Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website and otherwise in accordance with this chapter.

**§ 55.1-707. Permissive disclosure; tourism activity zone.**

An owner of residential property located partially or wholly within a designated tourism activity zone established pursuant to § 15.2-982 may disclose in writing to any prospective purchaser or lessee of the property that the subject property is located within a tourism activity zone, with a description of potential impacts associated with the parcel's location in a tourism activity zone, including impacts caused by special events, parades, temporary street closures, and indoor and outdoor entertainment activities.

**§ 55.1-708. Required disclosures; property previously used to manufacture methamphetamine.**

Notwithstanding the exemptions in § 55.1-702, if the owner of a residential dwelling unit has actual knowledge that such residential property was previously used to manufacture methamphetamine and has not been cleaned up in accordance with the guidelines established pursuant to § 32.1-11.7 and the applicable licensing provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, the owner shall provide to a prospective purchaser a written disclosure that so states. Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website and otherwise in accordance with this chapter.

**§ 55.1-709. Time for disclosure; termination of contract.**

A. The owner of residential real property subject to this chapter shall provide notification to the purchaser of any disclosures required by this chapter prior to the ratification of a real estate purchase contract or otherwise be subject to the provisions of subsection B. The disclosures required by this chapter shall be provided by the Real Estate Board on its website.

B. If the disclosures required by this chapter are delivered to the purchaser after ratification of the real estate purchase contract, the purchaser's sole remedy shall be to terminate the real estate purchase contract upon or prior to the earliest of (i) three days after delivery of the disclosure statement in person or by electronic delivery; (ii) five days after the postmark if the disclosure statement is deposited in the United States mail, postage prepaid, and properly addressed to the purchaser; (iii) settlement upon purchase of the property; (iv) occupancy of the property by the purchaser; (v) the purchaser's making written application to a lender for a mortgage loan where such application contains a disclosure that the right of termination shall end upon the application for the mortgage loan; or (vi) the execution by the purchaser after receiving the disclosure statement required by this chapter of a written waiver of the purchaser's right of termination under this chapter contained in a writing separate from the real estate purchase contract. In order to terminate a real estate purchase contract when permitted by this chapter, the purchaser must, within the times required by this chapter, give written notice to the owner by one of the following methods:

1. Hand delivery;
2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing, which may be a certificate of service prepared by the sender confirming such mailing;
3. Electronic delivery; or
4. Overnight delivery using a commercial service or the United States Postal Service.

If the purchaser terminates a real estate purchase contract in compliance with this chapter, the termination shall be without penalty to the purchaser, and any deposit shall be promptly returned to the purchaser.

C. Notwithstanding the provisions of subsection B of § 55.1-713, no purchaser of residential real property located in a noise zone designated on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels shall have the right to terminate a real estate purchase contract pursuant to this section for failure of the property owner to timely provide any disclosure required by this chapter.

**§ 55.1-710. Owner liability.**

A. Except with respect to the disclosures required by § 55.1-704, the owner shall not be liable for any error, inaccuracy, or omission of any information delivered pursuant to this chapter if (i) the error, inaccuracy, or omission was not within the actual knowledge of the owner or was based on information provided by public agencies or by other persons providing information that is required to be disclosed pursuant to this chapter, or the owner reasonably believed the information to be correct, and (ii) the owner was not grossly negligent in obtaining the information from a third party and transmitting it. The owner shall not be liable for any error, inaccuracy, or omission of any information required to be disclosed by § 55.1-704 if the error, inaccuracy, or omission was the result of information provided by an officer or employee of the locality in which the property is located.

B. The delivery by a public agency or other person, as described in subsection C, of any information required to be

disclosed by this chapter to a prospective purchaser shall be deemed to comply with the requirements of this chapter and shall relieve the owner of any further duty under this chapter with respect to that item of information.

C. The delivery by the owner of a report or opinion prepared by a licensed engineer, land surveyor, geologist, wood-destroying insect control expert, contractor, or home inspection expert, dealing with matters within the scope of the professional's license or expertise, shall satisfy the requirements of this chapter if the information is provided to the prospective purchaser pursuant to a request for such information, whether written or oral. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of this chapter and, if so, shall indicate the required disclosures, or portions of such required disclosures, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information, or portions of items of information, other than those expressly set forth in the statement.

**§ 55.1-711. Change in circumstances.**

If information disclosed in accordance with this chapter is subsequently rendered or discovered to be inaccurate as a result of any act, occurrence, information received, circumstance, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this chapter. However, at or before settlement, the owner shall be required to disclose any material change in the disclosures made relative to the property. If, at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the owner, the owner may state that the information is unknown or may use an approximation of the information, provided that the approximation is clearly identified as such, is reasonable, is based on the actual knowledge of the owner, and is not used for the purpose of circumventing or evading this chapter.

**§ 55.1-712. Duties of real estate licensees.**

A real estate licensee representing an owner of residential real property as the listing broker has a duty to inform each such owner represented by that licensee of the owner's rights and obligations under this chapter. A real estate licensee representing a purchaser of residential real property or, if the purchaser is not represented by a licensee, the real estate licensee representing an owner of residential real estate and dealing with the purchaser has a duty to inform each such purchaser of the purchaser's rights and obligations under this chapter. Provided that a real estate licensee performs those duties, the licensee shall have no further duties to the parties to a residential real estate transaction under this chapter and shall not be liable to any party to a residential real estate transaction for a violation of this chapter or for any failure to disclose any information regarding any real property subject to this chapter.

**§ 55.1-713. Actions under this chapter.**

A. Notwithstanding any other provision of this chapter or any other statute or regulation, no cause of action shall arise against an owner or a real estate licensee for failure to disclose that the real property was the site of:

1. An act or occurrence that had no effect on the physical structure of the real property, its physical environment, or the improvements located thereon; or

2. A homicide, felony, or suicide.

B. The purchaser's remedies for failure of an owner to comply with the provisions of this chapter are as follows:

1. If the owner fails to provide any of the applicable disclosures required by this chapter, the contract may be terminated subject to the provisions of subsection B of § 55.1-709.

2. In the event that the owner fails to provide any of the applicable disclosures required by this chapter, or the owner misrepresents, willfully or otherwise, the information required in such disclosure, except as result of information provided by an officer or employee of the locality in which the property is located, the purchaser may maintain an action to recover his actual damages suffered as the result of such violation. Notwithstanding the provisions of this subdivision, no purchaser of residential real property located in a noise zone designated on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels shall have a right to maintain an action for damages pursuant to this section.

C. Any action brought under this section shall be commenced within one year of the date the purchaser received the applicable disclosures required by this chapter. If the disclosures required by this chapter were not delivered to the purchaser, an action shall be commenced within one year of the date of settlement, if by sale, or occupancy, if by lease with an option to purchase.

Nothing contained in this chapter shall prevent a purchaser from pursuing any remedies at law or equity otherwise available against an owner in the event of an owner's intentional or willful misrepresentation of the condition of the subject property.

**§ 55.1-714. Real Estate Board to develop form; when effective.**

An owner shall be required to make disclosures required by this chapter for real property subject to a real estate purchase contract that is fully executed by all parties. The Real Estate Board shall develop the form for signature by the parties advising the purchaser to review the residential property disclosure statement on the Board's website in accordance with § 54.1-2105.1. The Board may at any time amend the residential property disclosure statement and the form for signature by the parties as the Board deems necessary and appropriate.

CHAPTER 8.  
EXCHANGE FACILITATORS ACT.

**§ 55.1-800. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Affiliated with" means that a person directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the other specified person.

"Change in control" means any transfer within 12 months of more than 50 percent of the assets or ownership interests, direct or indirect, of the exchange facilitator.

"Commingle" means to mix together exchange funds with operating and other nonexchange funds belonging to or under control of the exchange facilitator in such a manner that a client's exchange funds cannot be distinguished from operating or other nonexchange funds belonging to or under control of the exchange facilitator.

"Deposit account" means a demand, time, savings, passbook, money market, certificate of deposit, or similar account maintained with a financial institution.

"Exchange Accommodation Titleholder" or "EAT" has the same meaning ascribed thereto in IRS Revenue Procedure 2000-37.

"Exchange client" means the taxpayer with whom the exchange facilitator enters into an agreement described in subdivision 1 of the definition of "exchange facilitator."

"Exchange facilitator" means a person that:

1. For a fee facilitates an exchange of like-kind property by entering into an agreement with a taxpayer:

a. By which the exchange facilitator acquires from such taxpayer the contractual rights to sell such taxpayer's relinquished property located in the Commonwealth and transfer a replacement property to such taxpayer as a qualified intermediary as that term is defined under Treasury Regulation § 1.1031(k)-1(g)(4);

b. To take title to a property located in the Commonwealth as an Exchange Accommodation Titleholder; or

c. To act as a qualified trustee or qualified escrow holder as those terms are defined under Treasury Regulation § 1.1031(k)-1(g)(3), except as otherwise provided in this definition; or

2. Maintains an office in the Commonwealth for the purpose of soliciting business as an exchange facilitator.

"Exchange facilitator" does not include (i) the taxpayer or disqualified person as that term is defined under Treasury Regulation § 1.1031(k)-1(k) seeking to qualify for the nonrecognition provisions of Internal Revenue Code § 1031; (ii) any financial institution or any title insurance company, underwritten title company, or escrow company that is merely acting as a depository for exchange funds or that is acting solely as a qualified escrow holder or qualified trustee as those terms are defined under Treasury Regulation § 1.1031(k)-1(g)(3), and is not otherwise facilitating exchanges; (iii) a person who advertises for and teaches seminars or classes or otherwise gives presentations to attorneys, accountants, real estate professionals, tax professionals, or other professionals where the primary purpose is to teach the professionals about tax deferred exchanges or train them to act as exchange facilitators; or (iv) an entity that is wholly owned by an exchange facilitator or that is wholly owned by the same person as the exchange facilitator and is used by such entity to facilitate exchanges or to take title to property in the Commonwealth as an EAT.

"Exchange funds" means the funds received by the exchange facilitator from or on behalf of the exchange client for the purpose of facilitating an exchange of like-kind property.

"Fee" means, for purposes of subdivision 1 of the definition of "exchange facilitator," compensation of any nature, direct or indirect, monetary or in-kind, that is received by a person or a related person as described in Internal Revenue Code § 267(b) or 707(b) for any services relating to or incidental to the exchange of like-kind property under Internal Revenue Code § 1031.

"Financial institution" means any bank, credit union, savings and loan association, savings bank, or trust company chartered under the laws of the Commonwealth or the United States whose accounts are insured by the full faith and credit of the United States of America, the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or other similar or successor programs and any direct or indirect subsidiary of such bank, credit union, savings and loan association, savings bank, or trust company.

"Person" means, in addition to the singular, persons, groups of persons, cooperative associations, limited liability companies, firms, partnerships, corporations, or other legal entities and includes the agents and employees of any such person.

"Transferee" means the party or parties to whom the ownership or control of the exchange facilitator has been transferred.

**§ 55.1-801. Change in control.**

An exchange facilitator shall notify all existing exchange clients whose relinquished property is located in the Commonwealth, or whose replacement property held under a Qualified Exchange Accommodation Agreement is located in the Commonwealth, of any change in control of the exchange facilitator. Such notification shall be made to the exchange facilitator's clients within 10 business days following the effective date of such change in control either by facsimile or email transmission, or by first-class mail, and by posting such notice of change in control on the exchange facilitator's website, if any, for a period ending not sooner than 90 days after the change in control. Such notification shall set forth the name, address, and other contact information of the transferees. Notwithstanding the above, if the exchange facilitator is a publicly traded company and remains a publicly traded company after a change in control, the publicly traded company

shall not be required to notify its existing clients of such change in control.

**§ 55.1-802. Separately identified accounts, or qualified escrows or qualified trusts.**

A. An exchange facilitator at all times shall:

1. Deposit the exchange funds in a deposit account that is a separately identified account, as defined in Treasury Regulation § 1.468B-6(c)(ii), and provide that any withdrawals from such separately identified account require the written authorization of the exchange client and written acknowledgment of the exchange facilitator. Authorization for withdrawals may be delivered by any commercially reasonable means, including (i) the exchange client's delivery to the exchange facilitator of the exchange client's authorization to disburse exchange funds and the exchange facilitator's delivery to the financial institution of the exchange facilitator's authorization to disburse exchange funds or (ii) delivery to the financial institution of both the exchange client's and the exchange facilitator's authorizations to disburse exchange funds; or

2. Deposit the exchange funds in a deposit account that is a qualified escrow or qualified trust as those terms are defined under Treasury Regulation § 1.1031(k)-1(g)(3).

B. The deposit account shall be with a financial institution, and the interest earned on such account shall accrue to the parties as provided in a written agreement between the exchange facilitator and the exchange client. However, the exchange client may expressly direct the exchange facilitator in writing to invest the exchange proceeds in an investment of the exchange client's choice, provided that the exchange facilitator provides written acknowledgment back to the exchange client that includes a confirmation of how the exchange proceeds will be invested.

**§ 55.1-803. Errors and omissions insurance; cash or letters of credit.**

A. An exchange facilitator at all times shall:

1. Maintain a policy of errors and omissions insurance in an amount not less than \$250,000 executed by an insurer authorized to do business in the Commonwealth; or

2. Deposit an amount of cash or provide irrevocable letters of credit equivalent to the sum of not less than \$250,000.

B. The exchange facilitator may maintain errors and omissions insurance, cash, or irrevocable letters of credit in excess of the amounts required in this section.

**§ 55.1-804. Accounting for moneys and property.**

A. Every exchange facilitator shall hold all property related to the exchange client, including the exchange funds, other property, and other consideration or instruments received by the exchange facilitator, on behalf of the client, except funds received as the exchange facilitator's compensation. Exchange funds shall be held in accordance with the requirements of § 55.1-802.

B. An exchange facilitator shall not:

1. Commingle exchange funds with the operating accounts of the exchange facilitator; or

2. Lend or otherwise transfer exchange funds to any person or entity affiliated with or related (as described in Internal Revenue Code § 267(b) or 707(b)) to the exchange facilitator, except that this subsection shall not apply to a transfer or loan made to a financial institution that is the parent of or related to the exchange facilitator or to a transfer from an exchange facilitator to an EAT as required under the exchange contract.

C. Exchange funds are not subject to execution or attachment on any claim against the exchange facilitator. An exchange facilitator shall not keep or cause to be kept any money in any financial institution under any name designating the money as belonging to an exchange client of the exchange facilitator unless the money equitably belongs to the exchange client and was actually entrusted to the exchange facilitator by the exchange client.

**§ 55.1-805. Prohibited acts.**

A. A person who engages in the business of an exchange facilitator is prohibited from:

1. Making any material misrepresentations concerning any exchange facilitator transaction that are intended to mislead another;

2. Pursuing a continued course of misrepresentation or making false statements through advertising or otherwise;

3. Failing, within a reasonable time, to account for any moneys or property belonging to others that may be in the possession or under the control of the exchange facilitator;

4. Engaging in any conduct constituting fraudulent or dishonest dealings;

5. Committing any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of funds, robbery, or other theft of property;

6. Materially failing to fulfill its contractual duties to the exchange client to deliver property or funds to the exchange client unless such failure is due to circumstances beyond the control of the exchange facilitator; or

7. Materially violating any of the provisions of this chapter.

B. A person who is an owner, officer, director, or employee of an exchange facilitator is prohibited from committing any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of funds, robbery, or other theft of property; however, the commission of such crime by an officer, director, or employee of an exchange facilitator shall not be considered a violation of this chapter if the employment or appointment of such officer, director, or employee has been terminated and no clients of the exchange facilitator were harmed or full restitution has been made to all harmed clients within a reasonable period of time.

**§ 55.1-806. Penalty; attorney fees.**

A. In any action brought under this chapter, if a court finds that a person has willfully engaged in an act or practice in violation of this chapter, the Attorney General, the attorney for the Commonwealth, or the attorney for the locality may

recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$2,500 per violation. For purposes of this section, prima facie evidence of a willful violation may be shown when the Attorney General, the attorney for the Commonwealth, or the attorney for the locality notifies the alleged violator by certified mail that an act or practice is a violation of this chapter and the alleged violator, after receipt of the notice, continues to engage in the act or practice.

B. In any action brought under this chapter, the Attorney General, the attorney for the Commonwealth, or the attorney for the locality may recover costs and reasonable expenses incurred by the state or local agency in investigating and preparing the case, and attorney fees.

CHAPTER 9.  
REAL ESTATE SETTLEMENTS.

**§ 55.1-900. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Disbursement of loan funds" means the delivery of the loan funds by the lender to the settlement agent in one or more of the following forms:

1. Cash;

2. Wired funds;

3. Certified check;

4. Checks issued by the Commonwealth or a political subdivision of the Commonwealth;

5. Cashier's check, or teller's check with equivalent funds availability in conformity with the federal Expedited Funds Availability Act (12 U.S.C. § 4001 et seq.);

6. Checks issued by a financial institution, the accounts of which are insured by an agency of the federal or state government, which checks are drawn on a financial institution located within the Fifth Federal Reserve District, the accounts of which are insured by an agency of the federal or state government;

7. Drafts issued by a state chartered or federally chartered credit union;

8. Checks issued by an insurance company licensed and regulated by the State Corporation Commission, which checks are drawn on a financial institution located within the Fifth Federal Reserve District, the accounts of which are insured by an agency of the federal government; or

9. Checks issued by a state or federal savings and loan association or savings bank operating in the Commonwealth, which checks are drawn on the Federal Home Loan Bank of Atlanta.

"Disbursement of settlement proceeds" means the payment of all proceeds of the transaction by the settlement agent to the persons entitled to such proceeds.

"Lender" means any person regularly engaged in making loans secured by mortgages or deeds of trust on real estate.

"Loan closing" means the time agreed upon by the borrower and lender, when the execution of the loan documents by the borrower occurs.

"Loan documents" means the note evidencing the debt due the lender, the deed of trust, or the mortgage securing the debt due the lender and any other documents required by the lender to be executed by the borrower as a part of the transaction.

"Loan funds" means the gross or net proceeds of the loan to be disbursed by the lender at loan closing.

"Settlement" means the time when the settlement agent has received the duly executed deed, loan funds, loan documents, and other documents and funds required to carry out the terms of the contract between the parties and the settlement agent reasonably determines that prerecordation conditions of such contracts have been satisfied. A determination by a settlement agent that prerecordation conditions have been satisfied shall not control the rights and obligations of the parties under the contract, including whether settlement has occurred under the terms and conditions of the contract. "Parties," as used in this definition, means the seller, purchaser, borrower, lender, and settlement agent.

"Settlement agent" means the person responsible for conducting the settlement and disbursement of the settlement proceeds and includes any individual, corporation, partnership, or other entity conducting the settlement and disbursement of loan proceeds.

"Settlement service provider" means any person providing settlement services, as that term is defined under the federal Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.).

"Thing of value" means any payment, advance, funds, loan, service, or other consideration.

**§ 55.1-901. Applicability; effect of noncompliance.**

A. This chapter applies only to transactions involving loans that (i) are made by lenders and (ii) will be secured by first deeds of trust or mortgages on real estate containing not more than four residential dwelling units.

B. Failure to comply with the provisions of this chapter shall not affect the validity or enforceability of any loan documents.

**§ 55.1-902. Duty of lender.**

The lender shall, at or before loan closing, cause disbursement of loan funds to the settlement agent. In the case of a refinancing or any other loan where a right of rescission applies, the lender shall, within one business day after the expiration of the rescission period required under the federal Truth in Lending Act (15 U.S.C. § 1601 et seq.), cause disbursement of loan funds to the settlement agent. The lender shall not be entitled to receive or charge any interest on the loan until disbursement of loan funds and loan closing has occurred.

**§ 55.1-903. Duty of settlement agent.**

The settlement agent shall cause recordation of the deed, the deed of trust, or the mortgage or other documents required to be recorded and shall cause disbursement of settlement proceeds within two business days of settlement. A settlement agent may not disburse any or all loan funds or other funds coming into its possession prior to the recordation of any instrument except (i) funds received that are overpayments to be returned to the provider of such funds, (ii) funds necessary to effect the recordation of instruments, or (iii) funds that the provider has by separate written instrument directed to be disbursed prior to recordation of any instrument. Additionally, in any transaction involving the purchase or sale of an interest in residential real property, the settlement agent shall provide notification to the purchaser of the availability of owner's title insurance as required under § 38.2-4616.

**§ 55.1-904. Prohibition against payment or receipt of settlement services kickbacks, rebates, commissions, and other payments; penalty.**

A. No person selling real property, or performing services as a real estate agent, attorney, lay settlement agent, or lender incident to any real estate settlement or sale, shall pay or receive, directly or indirectly, any kickback, rebate, commission, thing of value, or other payment pursuant to any agreement or understanding, oral or otherwise, that business incident to services required to complete a settlement be referred to any person.

B. Nothing in this section shall be construed to prohibit:

1. Expenditures for bona fide advertising and marketing promotions otherwise permissible under the provisions of the federal Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.);
2. The provision of educational materials or classes, if such materials or classes are provided to a group of persons or entities pursuant to a bona fide marketing or educational effort;
3. The payment to any person of a bona fide salary or compensation or other payment for services actually performed for the business of the settlement service provider; or
4. An employer's payment to its own bona fide employees for referrals of mortgage loan or insurance business. An employer's payment to its own employees for the referral of insurance business shall be subject to the requirements of subdivision B 8 of § 38.2-1821.1.

C. No person shall be in violation of this section solely by reason of ownership in a settlement service provider, where such person receives returns on investments arising from the ownership interest, provided that such person discloses in writing to the consumer an ownership interest in those settlement services, including such person's ownership percentage in the settlement service provider pursuant to the requirements of § 55.1-905.

D. Any person who knowingly and willfully violates this section is guilty of a Class 3 misdemeanor. Any criminal charge brought under this section shall be by indictment pursuant to Chapter 14 (§ 19.2-216 et seq.) of Title 19.2.

**§ 55.1-905. Disclosure of affiliated business by settlement service providers.**

Any person making a referral to an affiliated settlement service provider shall disclose the affiliation in accordance with the federal Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.). Such disclosure shall be provided regardless of the amount of the person's actual ownership interest in the affiliated provider. However, if the person's ownership interest is one percent or less of the capital stock of a corporation or entity with a class of securities registered under the federal Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), the disclosure shall not be required. If the person's ownership interest is greater than one percent, then the disclosure shall include the percentage of ownership, or, if the person making the referral owns more than 50 percent of the affiliated business, the disclosure shall state that the settlement service provider is a subsidiary of the person making the referral.

**§ 55.1-906. Disclosure of charges for appraisal or valuation using automated or other valuation mechanism.**

Any lender providing a loan secured by a first deed of trust or mortgage on real estate containing not more than four residential dwelling units shall disclose on the settlement statement or closing disclosure, as those terms are defined in § 55.1-1000, any fee charged to the borrower for an appraisal, as that term is defined in § 54.1-2009, and any fee charged to the borrower for a valuation or opinion of value of the property prepared using an automated or other mechanism prepared by a person who is not licensed as an appraiser under Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1.

**§ 55.1-907. Penalty.**

Any persons suffering losses due to the failure of the lender or the settlement agent to cause disbursement as required by this chapter shall be entitled to recover, in addition to other actual damages, double the amount of any interest collected in violation of § 55.1-902 plus reasonable attorney fees incurred in the collection of such damages and interest.

**CHAPTER 10.****REAL ESTATE SETTLEMENT AGENTS.****§ 55.1-1000. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Association" means the National Association of Insurance Commissioners.

"Closing disclosure" means the combined mortgage loan disclosure statement of final loan terms and closing costs prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA) (12 U.S.C. § 2601 et seq.) and Consumer Financial Protection Bureau Regulation X (12 C.F.R. Part 1024) and Regulation Z (12 C.F.R. Part 1026).

"Commission" means the State Corporation Commission.

"Escrow" means written instruments, money, or other items deposited by a party with a settlement agent for delivery to other persons upon the performance of specified conditions or the happening of a certain event.

"Escrow, closing, or settlement services" means the administrative and clerical services required to carry out the terms of contracts affecting real estate. These services include placing orders for title insurance, receiving and issuing receipts for money received from the parties, ordering loan checks and payoffs, ordering surveys and inspections, preparing settlement statements or closing disclosures, determining that all closing documents conform to the parties' contract requirements, setting the closing appointment, following up with the parties to ensure that the transaction progresses to closing, ascertaining that the lenders' instructions have been satisfied, conducting a closing conference at which the documents are executed, receiving and disbursing funds, completing form documents and instruments selected by and in accordance with instructions of the parties to the transaction, handling or arranging for the recording of documents, sending recorded documents to the lender, sending the recorded deed and the title policy to the buyer, and reporting federal income tax information for the real estate sale to the Internal Revenue Service.

"Lay real estate settlement agent" means a person who (i) is not licensed as an attorney under Chapter 39 (§ 54.1-3900 et seq.) of Title 54.1; (ii) is not a party to the real estate transaction; (iii) provides escrow, closing, or settlement services in connection with a transaction related to any real estate in the Commonwealth; and (iv) is listed as the settlement agent on the settlement statement or closing disclosure for such transaction.

"Licensing authority" means the (i) Commission acting pursuant to this chapter, Title 6.2, Title 12.1, or Title 38.2; (ii) the Virginia State Bar acting pursuant to this chapter or Chapter 39 (§ 54.1-3900 et seq.) of Title 54.1; or (iii) the Virginia Real Estate Board acting pursuant to this chapter or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1.

"Party to the real estate transaction" means, with respect to that real estate transaction, a lender, seller, purchaser, or borrower and, with respect to a corporate purchaser, any entity that is a subsidiary of or under common ownership with that corporate purchaser.

"Settlement agent" means a person, other than a party to the real estate transaction, that provides escrow, closing, or settlement services in connection with a transaction related to real estate in the Commonwealth and that is listed as the settlement agent on the settlement statement or closing disclosure for such transaction. Any person, other than a party to the transaction, who conducts the settlement conference and receives or handles money shall be deemed a "settlement agent" subject to the applicable requirements of this chapter.

"Settlement statement" means the statement of receipts and disbursements for a transaction related to real estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA) (12 U.S.C. § 2601 et seq.), as amended, and the regulations thereunder.

**§ 55.1-1001. Limitation on applicability of chapter.**

Nothing in this chapter shall be construed to prevent a person licensed under Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1, or such licensee's employees or independent contractors, from performing escrow, closing, or settlement services to facilitate the settlement of a transaction in which the licensee is involved without complying with the provisions of this chapter, so long as the licensee, the licensee's employees, or independent contractors are not named as the settlement agent on the settlement statement or closing disclosure and the licensee is otherwise not prohibited from performing such services by law or regulation.

**§ 55.1-1002. Scope of chapter; lay real estate settlement agents.**

A. Except as provided in subsection B, this chapter applies only to transactions involving the purchase of or lending on the security of real estate located in the Commonwealth containing not more than four residential dwelling units.

B. Notwithstanding any rule of court or other provision of this chapter to the contrary:

1. A lay real estate settlement agent may provide escrow, closing, and settlement services for any real property located within the Commonwealth, and receive compensation for such services, provided that he is registered pursuant to and is in compliance with the provisions of this chapter with the exception of subsection A; and

2. A party to a real estate transaction involving the purchase of or lending on the security of real estate located in the Commonwealth containing more than four residential dwelling units shall have the same authority as a party to a real estate transaction as is provided pursuant to subsection B of § 55.1-1003.

**§ 55.1-1003. Persons who may act as a settlement agent.**

A. A person shall not act in the capacity of a settlement agent, and a lender, seller, purchaser or borrower may not contract with any person to act in the capacity of a settlement agent, with respect to real estate settlements in the Commonwealth unless the person has not been convicted of a felony, unless such person has had his civil rights restored by the Governor or been granted a writ of actual innocence, and is either:

1. Licensed as an attorney under Chapter 39 (§ 54.1-3900 et seq.) of Title 54.1;
2. Licensed as a title insurance company under Title 38.2;
3. Licensed as a title insurance agent under Title 38.2 and is appointed by a title insurance company licensed in the Commonwealth pursuant to Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;
4. Licensed as a real estate broker under Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
5. A financial institution authorized to do business in the Commonwealth under any of the provisions of Title 6.2 or under federal law; or
6. A subsidiary or affiliate of a financial institution described in subdivision 5.

Any person described in subdivisions 1 through 6 not acting in the capacity of a settlement agent shall not be subject to the provisions of this chapter.

B. Notwithstanding any rule of court to the contrary, a settlement agent operating in compliance with the requirements

of this chapter or a party to the real estate transaction may provide escrow, closing, or settlement services and receive compensation for such services.

**§ 55.1-1004. Duties of settlement agents.**

A. A settlement agent shall exercise reasonable care and comply with all applicable requirements of this chapter and its licensing authority regarding licensing, financial responsibility, errors and omissions or malpractice insurance policies, fidelity bonds, employee dishonesty insurance policies, audits, escrow account analyses, and record retention.

B. A settlement agent who is not (i) a person described in subdivision A 5 of § 55.1-1003 or (ii) a title insurance company as defined in § 38.2-4601 shall maintain the following to the satisfaction of the appropriate licensing authority:

1. An errors and omissions or malpractice insurance policy providing a minimum of \$250,000 in coverage;

2. A blanket fidelity bond or employee dishonesty insurance policy covering persons employed by the settlement agent providing a minimum of \$100,000 in coverage. When the settlement agent has no employees except the owners, partners, shareholders, or members, the settlement agent may apply to the appropriate licensing authority for a waiver of this fidelity bond or employee dishonesty requirement; and

3. A surety bond of not less than \$200,000.

C. A settlement agent, other than an attorney or a title insurance company if such company's financial statements are audited annually by an independent certified public accountant, shall, at its expense, have an audit of its escrow accounts conducted by an independent certified public accountant at least once each consecutive 12-month period. The appropriate licensing authority shall require the settlement agent to provide a copy of its audit report to the licensing authority no later than 60 days after the date on which the audit is completed. A settlement agent that is a licensed title insurance agent under Title 38.2 shall also provide a copy of the audit report to each title insurance company that it represents. In lieu of such annual audit, a settlement agent that is licensed as a title insurance agent under Title 38.2 shall allow each title insurance company for which it has an appointment to conduct an analysis of its escrow accounts in accordance with regulations adopted by the Commission or guidelines issued by the Bureau of Insurance of the Commission, as appropriate, at least once each consecutive 12-month period, and each title insurance company conducting such analysis shall submit a copy of its analysis report to the appropriate licensing authority no later than 60 days after the date on which the analysis is completed. With the consent of the title insurance agent, a title insurance company may share the results of its analysis with other title insurance companies that will accept the same in lieu of conducting a separate analysis. A title insurance company shall retain a copy of the analysis or audit report, as applicable, for each title insurance agent it has appointed and such reports and other records of the insurance company's activities as a settlement agent shall be made available to the appropriate licensing authority when examinations are conducted pursuant to provisions in Title 38.2.

**§ 55.1-1005. Persons prohibited from assisting or being employed by settlement agents.**

A. A person who has been convicted of a felony involving fraud, deceit, or misrepresentation shall not assist a settlement agent in the performance of escrow, closing, or settlement services involving the receipt or disbursement of funds from real estate settlements in the Commonwealth.

B. A settlement agent shall not employ a person who has been convicted of a felony involving fraud, deceit, or misrepresentation in an administrative or clerical capacity that involves the receipt or disbursement of funds from real estate settlements in the Commonwealth.

**§ 55.1-1006. Choice of settlement agent.**

A purchaser or borrower in a transaction related to real estate in the Commonwealth shall have the right to select the settlement agent to provide escrow, closing, or settlement services in connection with the transaction. The seller in such a transaction may not require the use of a particular settlement agent as a condition of the sale of the property.

**§ 55.1-1007. Disclosure.**

All contracts involving the purchase of real estate containing not more than four residential dwelling units shall include in at least 10-point boldface type the following language:

"Choice of Settlement Agent: Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia provides that the purchaser or borrower has the right to select the settlement agent to handle the closing of this transaction. The settlement agent's role in closing this transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, the lender for the purchaser will instruct the settlement agent as to the signing and recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party.

"Variation by agreement: The provisions of Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia may not be varied by agreement, and rights conferred by this chapter may not be waived. The seller may not require the use of a particular settlement agent as a condition of the sale of the property.

"Escrow, closing, and settlement services guidelines: The Virginia State Bar issues guidelines to help settlement agents avoid and prevent the unauthorized practice of law in connection with furnishing escrow, settlement, or closing services. As a party to a real estate transaction, the purchaser or borrower is entitled to receive a copy of these guidelines from his settlement agent, upon request, in accordance with the provisions of Chapter 10 (§ 55.1-1000 et seq.) of Title 55.1 of the Code of Virginia."

**§ 55.1-1008. Conditions for providing escrow, closing, or settlement services and for maintaining escrow accounts.**

A. All funds deposited with the settlement agent in connection with an escrow, settlement, or closing shall be handled in a fiduciary capacity and submitted for collection to or deposited in a separate fiduciary trust account or accounts in a financial institution authorized to do business in the Commonwealth no later than the close of the second business day, in accordance with the following requirements:

1. The funds shall be the property of the person entitled to them under the provisions of the escrow, settlement, or closing agreement and shall be segregated for each depository by escrow, settlement, or closing in the records of the settlement agent in a manner that permits the funds to be identified on an individual basis; and

2. The funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds were accepted.

B. Funds held in an escrow account shall be disbursed only pursuant to a written instruction or agreement specifying how and to whom such funds may be disbursed. Funds payable to persons other than the settlement agent shall be disbursed in accordance with § 55.1-903, except:

1. Title insurance premiums payable to title insurers under § 38.2-1813 or to title insurance agents. Such title insurance premiums payable to title insurers and agents may be (i) held in the settlement agent's settlement escrow account, identified and itemized by file name or file number, as a file with a balance; (ii) disbursed in the form of a check drawn upon the settlement escrow account payable to the title insurer or agent but maintained within the settlement file of the settlement agent; or (iii) transferred within two business days into a separate title insurance premium escrow account, which account shall be identified as such and be separate from the business or personal funds of the settlement agent. These transferred title insurance premium funds shall be itemized and identified within the separate title insurance premium escrow account. All title insurance premiums payable to title insurers by title insurance agents serving as settlement agents shall be paid in the ordinary course of business as required by subsection A of § 38.2-1813; and

2. Escrows held by the settlement agent pursuant to written instruction or agreement. A settlement statement or closing disclosure that has been signed by the seller and the purchaser or borrower shall be deemed sufficient to satisfy the requirement of this subsection.

C. A settlement agent may not retain any interest received on funds deposited in connection with any escrow, settlement, or closing. An attorney settlement agent shall maintain escrow accounts in accordance with applicable rules of the Virginia State Bar and the Supreme Court of Virginia.

D. Nothing in this chapter shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction, provided that all parties consent to such recordation.

E. All settlement statements or closing disclosures for transactions related to real estate governed by this chapter shall be in writing and identify, by name and business address, the settlement agent.

F. Nothing in this section is intended to amend, alter, or supersede other sections of this chapter, or the laws of the Commonwealth or the United States, regarding the duties and obligations of the settlement agent in maintaining escrow accounts.

**§ 55.1-1009. Falsifying settlement statements prohibited.**

No settlement agent shall intentionally make any materially false or misleading statement or entry on a settlement statement or closing disclosure. An estimate of charges made in good faith by a settlement agent, and indicated as such on the settlement statement or closing disclosure, shall not be deemed to be a violation of this section.

**§ 55.1-1010. Separate charge for reporting transactions limited.**

No settlement agent shall charge any party to a real estate transaction, as a separate item on a settlement statement or closing disclosure, a sum exceeding \$10 for complying with any requirement imposed on the settlement agent by § 58.1-316 or 58.1-317.

**§ 55.1-1011. Record retention requirements.**

The settlement agent shall maintain sufficient records of its affairs so that the appropriate licensing authority may adequately ensure that the settlement agent is in compliance with all provisions of this chapter. The settlement agent shall retain records pertaining to each settlement handled for a minimum of five years after the settlement is completed. The appropriate licensing authority may prescribe the specific record entries and documents to be kept.

**§ 55.1-1012. Regulations and orders.**

Except as provided in § 55.1-1014, the appropriate licensing authority may issue summonses, subpoenas, rules, regulations, and orders, including educational requirements, consistent with and necessary to carry out the provisions of this chapter.

**§ 55.1-1013. Accounting by title insurance companies.**

A title insurance company domiciled in the Commonwealth or acting in the capacity of a settlement agent pursuant to this chapter shall account for funds held and income derived from escrow, closing, or settlement services in accordance with the applicable instructions of, and the accounting practices and procedures manuals adopted by, the Association when filing the annual statements and reports required under Chapter 13 (§ 38.2-1300 et seq.) of Title 38.2.

**§ 55.1-1014. Settlement agent registration requirements and compliance with unauthorized practice of law guidelines; civil penalty.**

A. Every settlement agent subject to the provisions of this chapter shall be registered as such with the appropriate licensing authority. In conjunction therewith, settlement agents shall furnish (i) their names, business addresses, and

telephone numbers and (ii) such other information as may be required. Each such registration (a) shall be accompanied by a nonrefundable fee not to exceed \$100 and (b) shall be renewed at least biennially thereafter. When the registration of a settlement agent is renewed, the appropriate licensing authority shall notify the registrant of the provisions of § 17.1-223.

B. The Virginia State Bar, in consultation with the Commission and the Virginia Real Estate Board, shall adopt regulations establishing guidelines for settlement agents designed to assist them in avoiding and preventing the unauthorized practice of law in conjunction with providing escrow, closing, and settlement services. Such guidelines shall be furnished by the appropriate licensing authority to (i) each settlement agent at the time of registration and any renewal thereof, (ii) state and federal agencies that regulate financial institutions, and (iii) members of the general public upon request. Such guidelines shall also be furnished by settlement agents to any party to a real estate transaction in which such agents are providing escrow, closing, or settlement services, upon request.

C. The Virginia State Bar shall receive complaints concerning settlement agent or financial institution noncompliance with the guidelines established pursuant to subsection B and shall (i) investigate such complaints to the extent they concern the unauthorized practice of law or any other matter within its jurisdiction and (ii) refer all other matters or allegations to the appropriate licensing authority. The willful failure of any settlement agent to comply with the guidelines shall be considered a violation of this chapter, and such agent shall be subject to a civil penalty not exceeding \$5,000 for each such failure as the Virginia State Bar may determine.

**§ 55.1-1015. Penalties and liabilities.**

A. If the appropriate licensing authority determines that the settlement agent licensed by it or any of its other licensees has violated this chapter, or any regulation or order adopted thereunder, after notice and opportunity to be heard, the appropriate licensing authority may do one or more of the following:

1. Impose a civil penalty not exceeding \$5,000 for each violation;
2. Revoke or suspend the applicable licenses;
3. Issue a restraining order requiring such person to cease and desist from engaging in such act or practice; or
4. Require restitution to be made by the person violating this chapter in the amount of any actual, direct financial loss.

B. The appropriate licensing authority may terminate administratively the registration of any settlement agent if the settlement agent (i) no longer holds a license, (ii) fails to renew its registration, or (iii) fails to comply with the financial responsibility requirements set forth in § 55.1-1004.

C. In addition to the authority given in subsection A, and pursuant to § 12.1-13, the Commission, after determining that any person who does not hold a license from the appropriate licensing authority has violated this chapter or any regulation or order adopted thereunder, may do one or more of the following:

1. Impose a civil penalty not exceeding \$5,000 for each violation;
2. Issue a temporary or permanent injunction, or restraining order requiring such person to cease and desist from engaging in such act or practice; or
3. Require restitution to be made by the person violating this chapter in the amount of any actual, direct financial loss.

D. Nothing in this section shall affect the right of the appropriate licensing authority to impose any other penalties provided by law or regulation. Notwithstanding any provision contained in this section to the contrary, as to that portion of any complaint by a party to the real estate transaction arising under this chapter or any regulation or order adopted thereunder relating to the unauthorized practice of law, the Virginia State Bar, after complying with applicable law and regulation relating to unauthorized practice of law complaints and concluding the activity was not authorized by statute or regulation, may refer that portion of such complaint to the Attorney General or an attorney for the Commonwealth. The Attorney General or attorney for the Commonwealth may, in addition to any other powers conferred on him by law, seek the issuance of a temporary or permanent injunction or restraining order against any person so violating this chapter or any regulation or order adopted thereunder.

E. A final order of the licensing authority imposing a civil penalty or ordering restitution may be recorded, enforced, and satisfied as orders of a circuit court upon certification of such order by the licensing authority.

**§ 55.1-1016. Confidentiality of information obtained by the Commission.**

A. Any documents, materials, or other information in the control or possession of the Commission that are furnished by a title insurance company or title insurance agent or an employee thereof acting on behalf of the title insurance company or title insurance agent, or obtained by the Commission in an investigation pursuant to this chapter, shall be confidential by law and privileged, shall not be subject to inspection or review by the general public, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The Commission is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commission's duties.

B. Neither the Commission nor any person who received documents, materials, or other information while acting under the authority of the Commission shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection A.

C. In order to assist in the performance of the Commission's duties under this chapter, the Commission:

1. May share documents, material, or other information, including the confidential and privileged documents, materials, or information subject to subsection A, with other state, federal, and international regulatory agencies, with the Association and its affiliates and subsidiaries, and with local, state, federal, and international law-enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other

information; and

2. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the Association or its affiliates or subsidiaries and from regulatory and law-enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

D. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commission under this section or as a result of sharing as authorized in subsection C.

E. Nothing in this chapter shall prohibit the Commission from releasing final, adjudicated actions, including for-cause terminations that are open to public inspection pursuant to Chapter 4 (§ 12.1-18 et seq.) of Title 12.1, to a database or other clearinghouse service maintained by the Association or its affiliates or subsidiaries.

#### CHAPTER 11.

#### COMMERCIAL REAL ESTATE BROKER'S LIEN ACT.

##### § 55.1-1100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Commercial real estate" means any real estate other than (i) real estate containing one to four residential units or (ii) real estate classified for assessment purposes under the provisions of Article 4 (§ 58.1-3230 et seq.) of Chapter 32 of Title 58.1. Commercial real estate does not include single-family residential units, including condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit-by-unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

"Principal broker" means the same as that term is defined in regulations promulgated by the Real Estate Board.

##### § 55.1-1101. Broker's lien.

A. Any principal broker who, either himself or through the principal broker's or associated broker's employees or independent contractors, has provided licensed services that result in the procuring of a tenant of commercial real estate upon the terms provided for in a written agreement signed by the owner of such commercial real estate, or that are otherwise acceptable to the owner as evidenced by a written agreement signed by the owner, shall have a lien, in the amount of the compensation agreed upon by and between the principal broker and the owner, upon rent paid by the tenant of the commercial real estate or by the successors or assigns of such tenant. The amount of the lien shall not exceed the lesser of (i) the amount of the rent to be paid during the term of the lease or (ii) the amount of the rent to be paid during the first 20 years of such lease.

B. The lien provided by this chapter shall not attach or be perfected until a memorandum of such lien signed under oath by the broker and meeting the requirements of this subsection has been recorded in the clerk's office of the circuit court of the county or city where the commercial real estate is located, from which date the lien shall have priority over all liens recorded subsequent thereto. The memorandum of lien shall state the name of the claimant, the name of the owner of the commercial real estate, a description of the commercial real estate, the name and address of the person against whom the broker's claim for compensation is made, the name and address of the tenant paying the rent against which the lien is being claimed, the amount for which the lien is being claimed, and the real estate license number of the principal broker claiming the lien. The lien provided by this chapter and the right to rents secured by such lien shall be subordinate to all liens, deeds of trust, mortgages, or assignments of the leases, rents, or profits recorded prior to the time the memorandum of lien is recorded and shall not affect a purchaser for valuable consideration without constructive or actual notice of the recorded lien.

However, a purchaser acquiring fee simple title to commercial real estate and having actual knowledge of terms of a lease agreement that provide for the payment of brokerage fees due and payable to a real estate broker shall be liable for payment of such brokerage fees, unless otherwise agreed to in writing by the parties at or before the time of sale regardless of whether the real estate broker has perfected the lien in accordance with this chapter. The term "purchaser" does not include a trustee under or a beneficiary of a deed of trust, a mortgagee under a mortgage, a secured party or any other assignee under an assignment as security, or successors, assigns, transferees, or purchasers from such persons or entities.

C. Nothing in this section shall be construed to prevent a subsequent purchaser of commercial real estate subject to a lien under this chapter from establishing an escrow fund at settlement sufficient to satisfy the lien that may otherwise affect transferability of title.

#### SUBTITLE III.

#### RENTAL CONVEYANCES.

#### CHAPTER 12.

#### VIRGINIA RESIDENTIAL LANDLORD AND TENANT ACT.

#### Article 1.

#### General Provisions.

##### § 55.1-1200. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Action" means any recoupment, counterclaim, setoff, or other civil action and any other proceeding in which rights are determined, including actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Application deposit" means any refundable deposit of money, however denominated, including all money intended to

be used as a security deposit under a rental agreement, or property, that is paid by a tenant to a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Application fee" means any nonrefundable fee that is paid by a tenant to a landlord or managing agent for the purpose of being considered as a tenant for a dwelling unit.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance, or governmental regulation concerning fitness for habitation or the construction, maintenance, operation, occupancy, use, or appearance of any structure or that part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Commencement date of rental agreement" means the date upon which the tenant is entitled to occupy the dwelling unit as a tenant.

"Community land trust" means a community housing development organization whose (i) corporate membership is open to any adult resident or organization of a particular geographic area specified in the bylaws of the organization and (ii) board of directors includes a majority of members who are elected by the corporate membership and are composed of tenants, corporate members who are not tenants, and any other category of persons specified in the bylaws of the organization and that:

1. Is not sponsored by a for-profit organization;
2. Acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;
3. Transfers ownership of any structural improvements located on such leased parcels to the tenant; and
4. Retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low-income and moderate-income families in perpetuity.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including a manufactured home, as defined in § 55.1-1300.

"Effective date of rental agreement" means the date on which the rental agreement is signed by the landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

"Essential service" includes heat, running water, hot water, electricity, and gas.

"Facility" means something that is built, constructed, installed, or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or an authorized occupant, who has the permission of the tenant to visit but not to occupy the premises.

"Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

"Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which such dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the name of such owner, lessor, or sublessor. Such managing agent shall be subject to the provisions of § 16.1-88.03. "Landlord" does not include a community land trust.

"Managing agent" means a person authorized by the landlord to act on behalf of the landlord under an agreement.

"Mold remediation in accordance with professional standards" means mold remediation of that portion of the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold, performed consistent with guidance documents published by the U.S. Environmental Protection Agency, the U.S. Department of Housing and Urban Development, or the American Conference of Governmental Industrial Hygienists (Bioaerosols: Assessment and Control); Standard and Reference Guides of the Institute of Inspection, Cleaning and Restoration Certification (IICRC) for Professional Water Damage Restoration and Professional Mold Remediation; or any protocol for mold remediation prepared by an industrial hygienist consistent with such guidance documents.

"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building. However, nothing in this definition shall be construed to apply to any nonresidential space in such building.

"Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered limited liability partnerships or limited liability companies, or any other lawful combination of natural persons permitted by law.

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice in the form of a certificate of service confirming such mailing prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has received a verbal notice of it, or, from all of the facts and circumstances known to him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform another person, whether or not the other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to show that the notice was given to the recipient of the notice.

"Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust,

partnership, or association; two or more persons having a joint or common interest; any combination thereof; and any other legal or commercial entity.

"Owner" means one or more persons or entities, jointly or severally, including a mortgagee in possession, in whom is vested:

1. All or part of the legal title to the property; or
2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

"Person" means any individual, group of individuals, corporation, partnership, business trust, association, or other legal entity, or any combination thereof.

"Premises" means a dwelling unit and the structure of which it is a part, facilities and appurtenances contained therein, and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

"Processing fee for payment of rent with bad check" means the processing fee specified in the rental agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn by the tenant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds.

"Readily accessible" means areas within the interior of the dwelling unit available for observation at the time of the move-in inspection that do not require removal of materials, personal property, equipment, or similar items.

"Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental agreement, including prepaid rent paid more than one month in advance of the rent due date.

"Rental agreement" or "lease agreement" means all agreements, written or oral, and valid rules and regulations adopted under § 55.1-1228 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

"Rental application" means the written application or similar document used by a landlord to determine if a prospective tenant is qualified to become a tenant of a dwelling unit.

"Residential tenancy" means a tenancy that is based on a rental agreement between a landlord and a tenant for a dwelling unit.

"Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. "Major facility" in the case of a bathroom means a toilet and either a bath or shower and in the case of a kitchen means a refrigerator, stove, or sink.

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the commencement date of the rental agreement. "Security deposit" does not include a damage insurance policy or renter's insurance policy, as those terms are defined in § 55.1-1206, purchased by a landlord to provide coverage for a tenant.

"Single-family residence" means a structure, other than a multifamily residential structure, maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or essential service with any other dwelling unit.

"Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

"Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to the exclusion of others and includes a roomer. "Tenant" does not include (i) an authorized occupant, (ii) a guest or invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental agreement but has no right to occupy a dwelling unit.

"Tenant records" means all information, including financial, maintenance, and other records about a tenant or prospective tenant, whether such information is in written or electronic form or any other medium.

"Utility" means electricity, natural gas, or water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2 or a ratio utility billing system as defined in § 55.1-1212.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the move-in inspection.

"Written notice" means notice given in accordance with § 55.1-1202, including any representation of words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or any other medium, retrievable in a perceivable form, and regardless of whether an electronic signature authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) is affixed.

**§ 55.1-1201. Applicability of chapter; local authority.**

A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or otherwise modified, in whole or in part, by the governing body of any locality or its boards or commissions or other instrumentalities or by the courts of the Commonwealth. Occupancy in a public housing unit or other housing unit that is a dwelling unit is subject to this chapter; however, if the provisions of this chapter are inconsistent with the regulations of the U.S. Department of Housing and Urban Development, such regulations shall control.

B. The provisions of this chapter shall apply to occupancy in all single-family and multifamily dwelling units and

*multifamily dwelling units located in the Commonwealth.*

*C. The following tenancies and occupancies are not residential tenancies under this chapter:*

- 1. Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;*
- 2. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;*
- 3. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;*
- 4. Occupancy in a campground as defined in § 35.1-1;*
- 5. Occupancy by a tenant who pays no rent pursuant to a rental agreement;*
- 6. Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is conditioned upon employment in and about the premises or a former employee whose occupancy continues less than 60 days; or*
- 7. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.*

*D. The following provisions apply to occupancy in a hotel, motel, extended stay facility, etc.:*

*1. A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a writ of possession issued pursuant to such action, which would otherwise be required under this chapter.*

*2. A hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient lodging shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person for consideration if such person does not reside in such lodging as his primary residence.*

*3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient lodging as his primary residence for 90 consecutive days or less, such lodging shall not be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of the five-day period specified in the notice, may exercise self-help eviction if payment in full has not been received.*

*4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), boardinghouse, or similar transient lodging as his primary residence for more than 90 consecutive days or is subject to a written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.*

*5. Nothing herein shall be construed to preclude the owner of a lodging establishment that uses self-help eviction pursuant to this section from pursuing any civil or criminal remedies under the laws of the Commonwealth.*

*E. Nothing in this chapter shall prohibit a locality from establishing a commission, reconciliatory in nature only, or designating an existing agency, which upon mutual agreement of the parties may mediate conflicts that may arise out of the application of this chapter, nor shall anything in this chapter be deemed to prohibit an ordinance designed to effect compliance with local property maintenance codes. This chapter shall supersede all other local ordinances or regulations concerning landlord and tenant relations and the leasing of residential property.*

**§ 55.1-1202. Notice.**

*A. If the rental agreement so provides, the landlord and tenant may send notices in electronic form; however, any tenant who so requests may elect to send and receive notices in paper form. If electronic delivery is used, the sender shall retain sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.*

*B. In the case of the landlord, notice is served on the landlord at his place of business where the rental agreement was made or at any place held out by the landlord as the place for receipt of the communication.*

*In the case of the tenant, notice is served at the tenant's last known place of residence, which may be the dwelling unit.*

*C. Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the person conducting that transaction, or from the time it would have been brought to his attention if the organization had exercised reasonable diligence.*

*D. No notice of termination of tenancy served upon a tenant by a public housing authority organized under the Housing Authorities Law (§ 36-1 et seq.) shall be effective unless it contains on its first page, in type no smaller or less legible than that otherwise used in the body of the notice, the name, address, and telephone number of the legal services program, if any, serving the jurisdiction in which the premises is located.*

*E. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third party the responsibility of providing any written notice under this chapter. The landlord may also engage an attorney at law to prepare or provide any written notice under this chapter or legal process under Title 8.01. Nothing herein shall be construed to preclude use of an electronic signature as defined in § 59.1-480, or an electronic notarization as defined in*

§ 47.1-2, in any written notice under this chapter or legal process under Title 8.01.

**§ 55.1-1203. Application deposit and application fee.**

A. Any landlord may require a refundable application deposit in addition to a nonrefundable application fee. If the applicant fails to rent the unit for which application was made, from the application deposit the landlord shall refund to the applicant within 20 days after the applicant's failure to rent the unit or the landlord's rejection of the application all sums in excess of the landlord's actual expenses and damages together with an itemized list of such expenses and damages. If, however, the application deposit was made by cash, certified check, cashier's check, or postal money order, such refund shall be made within 10 days of the applicant's failure to rent the unit if the failure to rent is due to the landlord's rejection of the application. If the landlord fails to comply with this section, the applicant may recover as damages suffered by him that portion of the application deposit wrongfully withheld and reasonable attorney fees.

B. A landlord may request that a prospective tenant provide information that will enable the landlord to determine whether each applicant may become a tenant. The landlord may photocopy each applicant's driver's license or other similar photo identification, containing either the applicant's social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not photocopy a U.S. government-issued identification so long as to do so is a violation of 18 U.S.C. § 701. The landlord may require, for the purpose of determining whether each applicant is eligible to become a tenant in the landlord's dwelling unit, that each applicant provide a social security number issued by the U.S. Social Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue Service.

C. An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant. However, where an application is being made for a dwelling unit that is a public housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban Development, an application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing background, credit, or other pre-occupancy checks on the applicant.

**§ 55.1-1204. Terms and conditions of rental agreement; payment of rent; copy of rental agreement for tenant.**

A. A landlord and tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, the term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.

B. In the absence of a rental agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

C. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the place designated by the landlord, and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

D. Unless the rental agreement fixes a definite term, the tenancy shall be week-to-week in the case of a tenant who pays weekly rent and month-to-month in all other cases. Terminations of tenancies shall be governed by § 55.1-1253 unless the rental agreement provides for a different notice period.

E. If the rental agreement contains any provision allowing the landlord to approve or disapprove a sublessee or assignee of the tenant, the landlord shall, within 10 business days of receipt of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days is evidence of his approval.

F. The landlord shall provide a copy of any written rental agreement signed by both the tenant and the landlord to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement shall not affect the validity of the agreement.

G. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

H. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the tenant pays rent in the form of cash or money order.

**§ 55.1-1205. Prepaid rent; maintenance of escrow account.**

A landlord and a tenant may agree in a rental agreement that the tenant pay prepaid rent. If a landlord receives prepaid rent, it shall be placed in an escrow account in a federally insured depository authorized to do business in Virginia by the end of the fifth business day following receipt and shall remain in the account until such time as the prepaid rent becomes due. Unless the landlord has otherwise become entitled to receive any portion of the prepaid rent, it shall not be removed from the escrow account required by this section without the written consent of the tenant.

**§ 55.1-1206. Landlord may obtain certain insurance for tenant.**

A. A landlord may require as a condition of tenancy that a tenant have commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and pay

for the cost of premiums for such insurance coverage obtained by the landlord, generally known as "damage insurance." As provided in § 55.1-1200, such payments shall not be deemed a security deposit, but shall be rent. However, as provided in § 55.1-1208, the landlord shall not require a tenant to pay both a security deposit and the cost of damage insurance premiums, if the total amount of any security deposit and damage insurance premiums exceeds the amount of two months' periodic rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with administration of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

B. A landlord may require as a condition of tenancy that a tenant have renter's insurance as specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in dwelling units not occupied by the owner. A landlord may require a tenant to pay for the cost of premiums for such insurance obtained by the landlord, in order to provide such coverage for the tenant as part of rent or as otherwise provided in this section. As provided in § 55.1-1200, such payments shall not be deemed a security deposit but shall be rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. If a tenant allows his renter's insurance policy required by the rental agreement to lapse for any reason, the landlord may provide any landlord's renter's insurance coverage to such tenant. The tenant shall be obligated to pay for the cost of premiums for such insurance as rent or as otherwise provided herein until the tenant has provided written documentation to the landlord showing that the tenant has reinstated his own renter's insurance coverage.

C. If the landlord requires that such premiums be paid prior to the commencement of the tenancy, the total amount of all security deposits and insurance premiums for damage insurance and renter's insurance shall not exceed the amount of two months' periodic rent. Otherwise, the landlord may add a monthly amount as additional rent to recover the costs of such insurance coverage.

D. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with the administration of a renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

E. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant, as part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided by the landlord relative to the premises, or the tenant's prorated share of a self-insurance program held in an escrow account by the landlord, including the landlord's administrative or other fees associated with the administration of such coverages. The landlord may apply such funds held in escrow to pay claims pursuant to the landlord's self-insurance plan.

**§ 55.1-1207. Effect of unsigned or undelivered rental agreement.**

If the landlord does not sign and deliver a written rental agreement signed and delivered to him by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord. If the tenant does not sign and deliver a written rental agreement signed and delivered to him by the landlord, acceptance of possession or payment of rent without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant. If a rental agreement given effect pursuant to this section provides for a term longer than one year, it is effective for only one year.

**§ 55.1-1208. Prohibited provisions in rental agreements.**

A. A rental agreement shall not contain provisions that the tenant:

1. Agrees to waive or forgo rights or remedies under this chapter;
2. Agrees to waive or forgo rights or remedies pertaining to the 120-day conversion or rehabilitation notice required in the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.) or under § 55.1-1410;
3. Authorizes any person to confess judgment on a claim arising out of the rental agreement;
4. Agrees to pay the landlord's attorney fees except as provided in this chapter;
5. Agrees to the exculpation or limitation of any liability of the landlord to the tenant arising under law or to indemnify the landlord for that liability or any associated costs;
6. Agrees as a condition of tenancy in public housing to a prohibition or restriction of any lawful possession of a firearm within individual dwelling units unless required by federal law or regulation; or

7. Agrees to both the payment of a security deposit and the provision of a bond or commercial insurance policy purchased by the tenant to secure the performance of the terms and conditions of a rental agreement, if the total of the security deposit and the bond or insurance premium exceeds the amount of two months' periodic rent.

B. Any provision prohibited by subsection A that is included in a rental agreement is unenforceable. If a landlord brings an action to enforce any such provision, the tenant may recover actual damages sustained by him and reasonable attorney fees.

**§ 55.1-1209. Confidentiality of tenant records.**

A. No landlord or managing agent shall release information about a tenant or prospective tenant in the possession of the landlord or managing agent to a third party unless:

1. The tenant or prospective tenant has given prior written consent;
2. The information is a matter of public record as defined in § 2.2-3701;
3. The information is a summary of the tenant's rent payment record, including the amount of the tenant's periodic rent payment;
4. The information is a copy of a material noncompliance notice that has not been remedied or a termination notice given to the tenant under § 55.1-1245 and the tenant did not remain in the premises after such notice was given;
5. The information is requested by a local, state, or federal law-enforcement or public safety official in the performance of his duties;
6. The information is requested pursuant to a subpoena in a civil case;
7. The information is requested by a local commissioner of the revenue in accordance with § 58.1-3901;
8. The information is requested by a contract purchaser of the landlord's property, provided that the contract purchaser agrees in writing to maintain the confidentiality of such information;
9. The information is requested by a lender of the landlord for financing or refinancing of the property;
10. The information is requested by the commanding officer, military housing officer, or military attorney of the tenant;
11. The third party is the landlord's attorney or the landlord's collection agency;
12. The information is otherwise provided in the case of an emergency;
13. The information is requested by the landlord to be provided to the managing agent or a successor to the managing agent; or
14. The information is requested by an employee or independent contractor of the United States to obtain census information pursuant to federal law.

B. A tenant may designate a third party to receive duplicate copies of a summons that has been issued pursuant to § 8.01-126 and of written notices from the landlord relating to the tenancy. Where such a third party has been designated by the tenant, the landlord shall mail the duplicate copy of any summons issued pursuant to § 8.01-126 or notice to the designated third party at the same time the summons or notice is mailed to or served upon the tenant. Nothing in this subsection shall be construed to grant standing to any third party designated by the tenant to challenge actions of the landlord in which notice was mailed pursuant to this subsection. The failure of the landlord to give notice to a third party designated by the tenant shall not affect the validity of any judgment entered against the tenant.

C. A landlord or managing agent may enter into an agreement with a third-party service provider to maintain tenant records in electronic form or other medium. In such case, the landlord and managing agent shall not be liable under this section in the event of a breach of the electronic data of such third-party service provider, except in the case of gross negligence or intentional act. Nothing in this section shall be construed to require a landlord or managing agent to indemnify such third-party service provider.

D. A tenant may request a copy of his tenant records in paper or electronic form. If the rental agreement so provides, a landlord may charge a tenant requesting more than one copy of his records the actual costs of preparing copies of such records. However, if the landlord makes available tenant records to each tenant by electronic portal, the tenant shall not be required to pay for access to such portal.

**§ 55.1-1210. Landlord and tenant remedies for abuse of access.**

If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case, the landlord may recover actual damages and reasonable attorney fees. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry that is otherwise lawful but that have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental agreement. In either case, the tenant may recover actual damages and reasonable attorney fees.

**§ 55.1-1211. Appointment of resident agent by nonresident property owner; service of process, etc., on such agent or on Secretary of the Commonwealth.**

Any nonresident person of the Commonwealth who owns and leases residential real property consisting of four or more units within the Commonwealth shall have and continuously maintain an agent who is a resident and maintains a business office within the Commonwealth. Every lease executed by or on behalf of nonresident property owners regarding any such real property shall specifically designate such agent and the agent's office address for the purpose of service of any process, notice, order, or demand required or permitted by law to be served upon such nonresident property owner.

Whenever any nonresident property owner fails to appoint or maintain an agent, as required in this section, or

whenever his agent cannot with reasonable diligence be found, then the Secretary of the Commonwealth shall be an agent of the nonresident property owner upon whom may be served any process, notice, order, or demand. Service may be made on the Secretary of the Commonwealth or any of his staff at his office who shall forthwith cause it to be sent by registered or certified mail addressed to the nonresident property owner at his address as shown on the official tax records maintained by the locality where the property is located.

The name and office address of the agent appointed as provided in this section shall be filed in the office of the clerk of the court in which deeds are recorded in the county or city in which the property lies. Recordation shall be in the same book as certificates of fictitious names are recorded as provided by § 59.1-74, for which the clerk shall be entitled to a fee of \$10.

No nonresident property owner shall maintain an action in the courts of the Commonwealth concerning property for which a designation is required by this section until such designation has been filed.

**§ 55.1-1212. Energy submetering, energy allocation equipment, sewer and water submetering equipment, and ratio utility billing systems; local government fees.**

A. As used in this section:

"Energy allocation equipment" means the same as that term is defined in § 56-245.2.

"Energy submetering equipment" has the same meaning ascribed to "submetering equipment" in § 56-245.2.

"Local government fees" means any local government charges or fees assessed against a residential building, including charges or fees for stormwater, recycling, trash collection, elevator testing, fire or life safety testing, or residential rental inspection programs.

"Ratio utility billing system" means a program that utilizes a mathematical formula for allocating, among the tenants in a residential building, the actual or anticipated water, sewer, electrical, oil, or natural gas billings billed to the residential building owner from a third-party provider of the utility service. Permitted allocation methods may include formulas based on square footage, occupancy, number of bedrooms, or some other specific method agreed to by the residential building owner and the tenant in the rental agreement or lease.

"Residential building" means all of the individual units served through the same utility-owned meter within a residential building that is defined in § 56-245.2 as an apartment building or house or all of the individual dwelling units served through the same utility-owned meter within a manufactured home park as defined in § 55.1-1300.

"Water and sewer submetering equipment" means equipment used to measure actual water or sewer usage in any residential building when such equipment is not owned or controlled by the utility or other provider of water or sewer service that provides service to the residential building.

B. Energy submetering equipment, energy allocation equipment, water and sewer submetering equipment, or a ratio utility billing system may be used in a residential building if clearly stated in the rental agreement or lease for the residential building. All energy submetering equipment and energy allocation equipment shall meet the requirements and standards established and enforced by the State Corporation Commission pursuant to § 56-245.3.

C. If energy submetering equipment, energy allocation equipment, or water and sewer submetering equipment is used in any residential building, the owner, manager, or operator of such residential building shall bill the tenant for electricity, oil, natural gas, or water and sewer for the same billing period as the utility serving the residential building, unless the rental agreement or lease expressly provides otherwise. The owner, manager, or operator of such residential building may charge and collect from the tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses and billing charged to the residential building owner, manager, or operator by a third-party provider of such services, provided that such charges are agreed to by the residential building owner and the tenant in the rental agreement or lease. The residential building owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section.

D. If a ratio utility billing system is used in any residential building, in lieu of increasing the rent, the owner, manager, or operator of such residential building may employ such a program that utilizes a mathematical formula for allocating, among the tenants in a residential building, the actual or anticipated water, sewer, electrical, oil, or natural gas billings billed to the residential building owner from a third-party provider of the utility service. The owner, manager, or operator of the residential building may charge and collect from the tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses and billings charged to the residential building owner, manager, or operator by a third-party provider of such services, provided that such charges are agreed to by the residential building owner and the tenant in the rental agreement or lease. The residential building owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section. The late charge shall be deemed rent (i) as defined in § 55.1-1200 if a ratio utility billing system is used in a residential multifamily dwelling unit subject to this chapter or (ii) as defined in § 55.1-1300 if a ratio utility billing system is used in a manufactured home park subject to the Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.).

E. Energy allocation equipment shall be tested periodically by the owner, manager, or operator of the residential building. Upon the request by a tenant, the owner shall test the energy allocation equipment without charge. The test conducted without charge to the tenant shall not be conducted more frequently than once in a 24-month period for the same tenant. The tenant or his designated representative may be present during the testing of the energy allocation equipment. A written report of the results of the test shall be made to the tenant within 10 working days after the completion of the test.

F. The owner of any residential building shall maintain adequate records regarding energy submetering equipment, energy allocation equipment, water and sewer submetering equipment, or a ratio utility billing system. A tenant may inspect and copy the records for the leased premises during reasonable business hours at a convenient location within or serving the residential building. The owner of the residential building may impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and labor for copying, prior to providing copies of the records to the tenant.

G. Notwithstanding any enforcement action undertaken by the State Corporation Commission pursuant to its authority under § 56-245.3, tenants and owners shall retain any private right of action resulting from any breach of the rental agreement or lease terms required by this section or § 56-245.3, if applicable, to the same extent as such actions may be maintained for breach of other terms of the rental agreement or lease under this chapter, if applicable. The use of energy submetering equipment, energy allocation equipment, water and sewer submetering equipment, or a ratio utility billing system is not within the jurisdiction of the Department of Agriculture and Consumer Services under Chapter 56 (§ 3.2-5600 et seq.) of Title 3.2.

H. In lieu of increasing the rent, the owner, manager, or operator of a residential building may employ a program that utilizes a mathematical formula for allocating the actual or anticipated local government fees billed to the residential building owner among the tenants in such residential building if clearly stated in the rental agreement or lease. Permitted allocation methods may include formulas based upon square footage, occupancy, number of bedrooms, or some other specific method agreed to by the residential building owner and the tenant in the rental agreement or lease. Such owner, manager, or operator of a residential building may also charge and collect from each tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses for administration of such a program. If the building is residential and is subject to (i) this chapter, such local government fees and administrative expenses shall be deemed to be rent as defined in § 55.1-1200 or (ii) the Manufactured Home Lot Rental Act (§ 55.1-1300 et seq.), such local government fees and administrative expenses shall be deemed to be rent as defined in § 55.1-1300.

I. Nothing in this section shall be construed to prohibit an owner, manager, or operator of a residential building from including water, sewer, electrical, natural gas, oil, or other utilities in the amount of rent as specified in the rental agreement or lease.

**§ 55.1-1213. Transfer of deposits upon purchase.**

The current owner of rental property shall transfer any security deposits and any accrued interest on the deposits in his possession to the new owner at the time of the transfer of the rental property. If the current owner has entered into a written property management agreement with a managing agent in accordance with the provisions of subsection E of § 54.1-2135, the current owner shall give written notice to the managing agent requesting payment of such security deposits to the current owner prior to settlement with the new owner. Upon receipt of the written notice, the managing agent shall transfer the security deposits to the current owner and provide written notice to each tenant that his security deposit has been transferred to the new owner in accordance with this section.

Article 2.

Landlord Obligations.

**§ 55.1-1214. Inspection of dwelling unit; report.**

A. The landlord shall, within five days after occupancy of a dwelling unit, submit a written report to the tenant itemizing damages to the dwelling unit existing at the time of occupancy, and the report shall be deemed correct unless the tenant objects to it in writing within five days after receipt of the report.

B. The landlord may adopt a written policy allowing the tenant to prepare the written report of the move-in inspection, in which case the tenant shall submit a copy to the landlord, and the report shall be deemed correct unless the landlord objects thereto in writing within five days after receipt of the report. Such written policy adopted by the landlord may also provide for the landlord and the tenant to prepare the written report of the move-in inspection jointly, in which case both the landlord and the tenant shall sign the written report and receive a copy of the report, at which time the inspection report shall be deemed correct.

C. If any damages are reflected on the written report, a landlord is not required to make repairs to address such damages unless required to do so under § 55.1-1215 or 55.1-1220.

**§ 55.1-1215. Disclosure of mold in dwelling units.**

As part of the written report of the move-in inspection required by § 55.1-1214, the landlord shall disclose whether there is any visible evidence of mold in areas readily accessible within the interior of the dwelling unit. If the landlord's written disclosure states that there is no visible evidence of mold in the dwelling unit, this written statement shall be deemed correct unless the tenant objects to it in writing within five days after receiving the report. If the landlord's written disclosure states that there is visible evidence of mold in the dwelling unit, the tenant shall have the option to terminate the tenancy and not take possession or remain in possession of the dwelling unit. If the tenant requests to take possession, or remain in possession, of the dwelling unit, notwithstanding the presence of visible evidence of mold, the landlord shall promptly remediate the mold condition but in no event later than five business days after the tenant's request to take possession or decision to remain in possession, reinspect the dwelling unit to confirm that there is no visible evidence of mold in the dwelling unit, and prepare a new report stating that there is no visible evidence of mold in the dwelling unit upon reinspection.

**§ 55.1-1216. Disclosure of sale of premises.**

A. For the purpose of service of process and receiving and issuing receipts for notices and demands, the landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the beginning of the tenancy the name and address of:

1. The person authorized to manage the premises; and
2. An owner of the premises or any other person authorized to act for and on behalf of the owner.

B. In the event of the sale of the premises, the landlord shall notify the tenant of such sale and disclose to the tenant the name and address of the purchaser and a telephone number at which such purchaser can be located.

C. With respect to a multifamily dwelling unit, if an application for registration of the rental property as a condominium or cooperative has been filed with the Real Estate Board, or if there is within six months an existing plan for tenant displacement resulting from (i) demolition or substantial rehabilitation of the property or (ii) conversion of the rental property to office, hotel, or motel use or planned unit development, the landlord or any person authorized to enter into a rental agreement on his behalf shall disclose that information in writing to any prospective tenant.

D. The information required to be furnished by this section shall be kept current, and the provisions of this section extend to and are enforceable against any successor landlord or owner. A person who fails to comply with this section becomes an agent of each person who is a landlord for the purposes of service of process and receiving and issuing receipts for notices and demands.

**§ 55.1-1217. Required disclosures for properties located adjacent to a military air installation; remedy for nondisclosure.**

A. The landlord of property in any locality in which a military air installation is located, or any person authorized to enter into a rental agreement on his behalf, shall provide to a prospective tenant a written disclosure that the property is located in a noise zone or accident potential zone, or both, as designated by the locality on its official zoning map. Such disclosure shall be provided prior to the execution by the tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant. The disclosure shall specify the noise zone or accident potential zone in which the property is located according to the official zoning map of the locality. A disclosure made pursuant to this section containing inaccurate information regarding the location of the noise zone or accident potential zone shall be deemed as nondisclosure unless the inaccurate information is provided by an officer or employee of the locality in which the property is located.

B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease agreement at any time during the first 30 days of the lease period by sending to the landlord by certified or registered mail, return receipt requested, a written notice of termination. Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or (ii) the date through which rent has been paid, whichever is later. In no event, however, shall the effective date of the termination exceed one month from the date of mailing. Termination of the lease agreement shall be the exclusive remedy for the failure to comply with the disclosure provisions of this section, and shall not affect any rights or duties of the landlord or tenant arising under this chapter, other applicable law, or the rental agreement.

**§ 55.1-1218. Required disclosures for properties with defective drywall; remedy for nondisclosure.**

A. If the landlord of a dwelling unit has actual knowledge of the existence of defective drywall in such dwelling unit that has not been remediated, the landlord shall provide to a prospective tenant a written disclosure that the property has defective drywall. Such disclosure shall be provided prior to the execution by the tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1.

B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease agreement at any time within 60 days of discovery of the existence of defective drywall by providing written notice to the landlord in accordance with the lease or as required by law. Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or (ii) the date through which rent has been paid, whichever is later. In no event, however, shall the effective date of the termination exceed one month from the date of mailing. Termination of the lease agreement shall be the exclusive remedy for the failure to comply with the disclosure provisions of this section, and shall not affect any rights or duties of the landlord or tenant arising under this chapter, other applicable law, or the rental agreement.

**§ 55.1-1219. Required disclosures for property previously used to manufacture methamphetamine; remedy for nondisclosure.**

A. If the landlord of a dwelling unit has actual knowledge that the dwelling unit was previously used to manufacture methamphetamine and has not been cleaned up in accordance with the guidelines established pursuant to § 32.1-11.7 and the applicable licensing provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, the landlord shall provide to a prospective tenant a written disclosure that states such information. Such disclosure shall be provided prior to the execution by the tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant.

B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease agreement at any time within 60 days of discovery that the property was previously used to manufacture methamphetamine and has not been cleaned up in accordance with the guidelines established pursuant to § 32.1-11.7 by providing written notice to the landlord in accordance with the lease or as required by law. Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or (ii) the date through which rent has been paid, whichever is later. In no event, however,

shall the effective date of the termination exceed one month from the date of mailing. Termination of the lease agreement shall be the exclusive remedy for the failure to comply with the disclosure provisions required by this section and shall not affect any rights or duties of the landlord or tenant arising under this chapter, other applicable law, or the rental agreement.

**§ 55.1-1220. Landlord to maintain fit premises.**

A. The landlord shall:

1. Comply with the requirements of applicable building and housing codes materially affecting health and safety;

2. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

3. Keep all common areas shared by two or more dwelling units of a multifamily premises in a clean and structurally safe condition;

4. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him;

5. Maintain the premises in such a condition as to prevent the accumulation of moisture and the growth of mold and promptly respond to any notices from a tenant as provided in subdivision A 10 of § 55.1-1227. Where there is visible evidence of mold, the landlord shall promptly remediate the mold conditions in accordance with the requirements of subsection E of § 8.01-226.12 and reinspect the dwelling unit to confirm that there is no longer visible evidence of mold in the dwelling unit. The landlord shall provide a tenant with a copy of a summary of information related to mold remediation occurring during that tenancy and, upon request of the tenant, make available the full package of such information and reports not protected by attorney-client privilege. Once the mold has been remediated in accordance with professional standards, the landlord shall not be required to make disclosures of a past incidence of mold to subsequent tenants;

6. Provide and maintain appropriate receptacles and conveniences for the collection, storage, and removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of dwelling units and arrange for the removal of same;

7. Supply running water and reasonable amounts of hot water at all times and reasonable air conditioning if provided and heat in season except where the dwelling unit is so constructed that heat, air conditioning, or hot water is generated by an installation within the exclusive control of the tenant or supplied by a direct public utility connection; and

8. Provide a certificate to the tenant stating that all smoke alarms are present, have been inspected, and are in good working order no more than once every 12 months. The landlord, his employee, or an independent contractor may perform the inspection to determine that the smoke alarm is in good working order.

B. The landlord shall perform the duties imposed by subsection A in accordance with law; however, the landlord shall only be liable for the tenant's actual damages proximately caused by the landlord's failure to exercise ordinary care.

C. If the duty imposed by subdivision A 1 is greater than any duty imposed by any other subdivision of that subsection, the landlord's duty shall be determined by reference to subdivision A 1.

D. The landlord and tenant may agree in writing that the tenant perform the landlord's duties specified in subdivisions A 3, 6, and 7 and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord and if the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

**§ 55.1-1221. Landlord to provide locks and peepholes.**

The governing body of any locality may require by ordinance that any landlord who rents five or more dwelling units in any one multifamily building shall install:

1. Dead-bolt locks that meet the requirements of the Uniform Statewide Building Code (§ 36-97 et seq.) for new multifamily construction and peepholes in any exterior swinging entrance door to any such unit; however, any door having a glass panel shall not require a peephole;

2. Manufacturer's locks that meet the requirements of the Uniform Statewide Building Code (§ 36-97 et seq.) and removable metal pins or charlie bars in accordance with the Uniform Statewide Building Code on exterior sliding glass doors located in a building at any level designated in the ordinance; and

3. Locking devices that meet the requirements of the Uniform Statewide Building Code (§ 36-97 et seq.) on all exterior windows.

Any ordinance adopted pursuant to this section shall further provide that any landlord subject to the ordinance shall have a reasonable time as determined by the governing body in which to comply with the requirements of the ordinance.

**§ 55.1-1222. Access of tenant to cable, satellite, and other television facilities.**

No landlord of a multifamily dwelling unit shall demand or accept payment of any fee, charge, or other thing of value from any provider of cable television service, cable modem service, satellite master antenna television service, direct broadcast satellite television service, subscription television service, or service of any other television programming system in exchange for granting a television service provider mere access to the landlord's tenants or giving the tenants of such landlord mere access to such service. A landlord may enter into a service agreement with a television service provider to provide marketing and other services to the television service provider designed to facilitate the television service provider's delivery of its services. Under such a service agreement, the television service provider may compensate the landlord for the reasonable value of the services provided and for the reasonable value of the landlord's property used by the television service provider.

No landlord shall demand or accept any such payment from any tenants in exchange for such service unless the landlord is itself the provider of the service, nor shall any landlord discriminate in rental charges between tenants who

receive any such service and those who do not. Nothing contained in this section shall prohibit a landlord from (i) requiring that the provider of such service and the tenant bear the entire cost of the installation, operation, or removal of the facilities incident to such service or (ii) demanding or accepting reasonable indemnity or security for any damages caused by such installation, operation, or removal.

**§ 55.1-1223. Notice to tenants for insecticide or pesticide use.**

A. The landlord shall give written notice to the tenant no less than 48 hours prior to his application of an insecticide or pesticide in the tenant's dwelling unit unless the tenant agrees to a shorter notification period. If a tenant requests the application of the insecticide or pesticide, the 48-hour notice is not required. Tenants who have concerns about specific insecticides or pesticides shall notify the landlord in writing no less than 24 hours before the scheduled insecticide or pesticide application. The tenant shall prepare the dwelling unit for the application of insecticides or pesticides in accordance with any written instructions of the landlord and, if insects or pests are found to be present, follow any written instructions of the landlord to eliminate the insects or pests following the application of insecticides or pesticides.

B. In addition, the landlord shall post notice of all insecticide or pesticide applications in areas of the premises other than the dwelling units. Such notice shall consist of conspicuous signs placed in or upon such premises where the insecticide or pesticide will be applied at least 48 hours prior to the application.

C. A violation by the tenant of this section may be remedied by the landlord in accordance with § 55.1-1248 or by notice given by the landlord requiring the tenant to remedy in accordance with § 55.1-1245, as applicable.

**§ 55.1-1224. Limitation of liability.**

Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to notice to the tenant of the conveyance. Unless otherwise agreed, a managing agent of premises that includes a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of his management.

**§ 55.1-1225. Tenancy at will; effect of notice of change of terms or provisions of tenancy.**

A notice of any change by a landlord or tenant in any terms or provisions of a tenancy at will shall constitute a notice to vacate the premises, and such notice of change shall be given in accordance with the terms of the rental agreement, if any, or as otherwise required by law.

**§ 55.1-1226. Security deposits.**

A. No landlord may demand or receive a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. Upon termination of the tenancy, such security deposit, whether it is property or money held by the landlord as security as provided in this section, may be applied by the landlord solely to (i) the payment of accrued rent, including the reasonable charges for late payment of rent specified in the rental agreement; (ii) the payment of the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with § 55.1-1227, less reasonable wear and tear; (iii) other damages or charges as provided in the rental agreement; or (iv) actual damages for breach of the rental agreement pursuant to § 55.1-1251. The security deposit and any deductions, damages, and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due to the tenant, within 45 days after the termination date of the tenancy. As of the date of the termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last, the tenant shall be required to deliver possession of the dwelling unit to the landlord. If the termination date is prior to the expiration of the rental agreement or any renewal thereof, or the tenant has not given proper notice of termination of the rental agreement, the tenant shall be liable for actual damages pursuant to § 55.1-1251, in which case, the landlord shall give written notice of security deposit disposition within the 45-day period but may retain any security balance to apply against any financial obligations of the tenant to the landlord pursuant to this chapter or the rental agreement. If the tenant fails to vacate the dwelling unit as of the termination of the tenancy, the landlord may file an unlawful detainer action pursuant to § 8.01-126.

B. Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the security deposit disposition within the 45-day time period required by subsection A, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name; social security number, if known; and last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this subsection shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

C. Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period required by subsection A. However, provided that the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within

10 days, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (i) a termination notice to the tenant in accordance with this chapter, (ii) a written notice to the tenant confirming the vacating date in accordance with this section, or (iii) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55.1-1202.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period required by subsection A. If the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

D. Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period required by subsection A and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

E. The landlord shall notify the tenant in writing of any deductions provided by this section to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection F. No such notification shall be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period required by subsection A. If notice is given as prescribed in this subsection, the landlord shall have an additional 15-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

F. The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section that the landlord has made by reason of a tenant's noncompliance with § 55.1-1227, or for any other reason set out in this section, during the preceding two years; and

2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

G. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall, in writing, so advise the landlord, who in turn shall notify the tenant of the date and time of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing in this section shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

H. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

### Article 3.

#### Tenant Obligations.

#### § 55.1-1227. Tenant to maintain dwelling unit.

A. In addition to the provisions of the rental agreement, the tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

2. Keep that part of the dwelling unit and the part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

3. Keep that part of the dwelling unit and the part of the premises that he occupies free from insects and pests, as those terms are defined in § 3.2-3900, and promptly notify the landlord of the existence of any insects or pests;

4. Remove from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner and in the appropriate receptacles provided by the landlord;

5. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

6. Use in a reasonable manner all utilities and all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including an elevator in a multifamily premises, and keep all utility services paid for by the tenant to the utility service provider or its agent on at all times during the term of the rental agreement;

7. Not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or permit any person, whether known by the tenant or not, to do so;

8. Not remove or tamper with a properly functioning smoke alarm installed by the landlord, including removing any working batteries, so as to render the alarm inoperative. The tenant shall maintain the smoke alarm in accordance with the uniform set of standards for maintenance of smoke alarms established in the Statewide Fire Prevention Code (§ 27-94 et seq.) and subdivision C 6 of § 36-105, Part III of the Uniform Statewide Building Code (§ 36-97 et seq.);

9. Not remove or tamper with a properly functioning carbon monoxide alarm installed by the landlord, including the removal of any working batteries, so as to render the carbon monoxide alarm inoperative. The tenant shall maintain the carbon monoxide alarm in accordance with the uniform set of standards for maintenance of carbon monoxide alarms established in the Statewide Fire Prevention Code (§ 27-94 et seq.) and subdivision C 6 of § 36-105, Part III of the Uniform Statewide Building Code (§ 36-97 et seq.);

10. Use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies in such a condition as to prevent accumulation of moisture and the growth of mold and promptly notify the landlord of any moisture accumulation that occurs or of any visible evidence of mold discovered by the tenant;

11. Not paint or disturb painted surfaces or make alterations in the dwelling unit without the prior written approval of the landlord, provided that (i) the dwelling unit was constructed prior to 1978 and therefore requires the landlord to provide the tenant with lead-based paint disclosures and (ii) the landlord has provided the tenant with such disclosures and the rental agreement provides that the tenant is required to obtain the landlord's prior written approval before painting, disturbing painted surfaces, or making alterations in the dwelling unit;

12. Be responsible for his conduct and the conduct of other persons, whether known by the tenant or not, who are on the premises with his consent, to ensure that his neighbors' peaceful enjoyment of the premises will not be disturbed;

13. Abide by all reasonable rules and regulations imposed by the landlord;

14. Be financially responsible for the added cost of treatment or extermination due to the tenant's unreasonable delay in reporting the existence of any insects or pests and be financially responsible for the cost of treatment or extermination due to the tenant's fault in failing to prevent infestation of any insects or pests in the area occupied; and

15. Use reasonable care to prevent any dog or other animal in possession of the tenant, authorized occupants, or guests or invitees from causing personal injuries to a third party in the dwelling unit or on the premises, or property damage to the dwelling unit or the premises.

B. If the duty imposed by subdivision A 1 is greater than any duty imposed by any other subdivision of that subsection, the tenant's duty shall be determined by reference to subdivision A 1.

**§ 55.1-1228. Rules and regulations.**

A. A landlord, from time to time, may adopt rules or regulations, however described, concerning the tenant's use and occupancy of the dwelling unit and premises. Any such rule or regulation is enforceable against the tenant only if:

1. Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

2. It is reasonably related to the purpose for which it is adopted;

3. It applies to all tenants in the premises in a fair manner;

4. It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he is required to do or is prohibited from doing to comply;

5. It is not for the purpose of evading the obligations of the landlord; and

6. The tenant has been provided with a copy of the rules and regulations or changes to such rules and regulations at the time he enters into the rental agreement or when they are adopted.

B. A rule or regulation adopted, changed, or provided to the tenant after the tenant enters into the rental agreement shall be enforceable against the tenant if reasonable notice of its adoption or change has been given to the tenant and it does not constitute a substantial modification of his bargain. If a rule or regulation adopted or changed after the tenant enters into the rental agreement does constitute a substantial modification of his bargain, it shall not be valid unless the tenant consents to it in writing.

C. Any court enforcing this chapter shall consider violations of the reasonable rules and regulations imposed under this section as a breach of the rental agreement and grant the landlord appropriate relief.

**§ 55.1-1229. Access; consent; correction of nonemergency conditions; relocation of tenant; security systems.**

A. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises; make necessary or agreed-upon repairs, decorations, alterations, or improvements; supply necessary or agreed-upon services; or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors. If, upon inspection of a dwelling unit during the term of a tenancy, the landlord determines there is a violation by the tenant of § 55.1-1227 or the rental agreement materially affecting health and safety that can be remedied by repair,

replacement of a damaged item, or cleaning in accordance with § 55.1-1248, the landlord may make such repairs and send the tenant an invoice for payment. If, upon inspection of the dwelling unit during the term of a tenancy, the landlord discovers a violation of the rental agreement, this chapter, or other applicable law, the landlord may send a written notice of termination pursuant to § 55.1-1245. If the rental agreement so provides and if a tenant without reasonable justification declines to permit the landlord or managing agent to exhibit the dwelling unit for sale or lease, the landlord may recover damages, costs, and reasonable attorney fees against such tenant.

The landlord may enter the dwelling unit without consent of the tenant in case of emergency. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impractical to do so, the landlord shall give the tenant notice of his intent to enter and may enter only at reasonable times. Unless impractical to do so, the landlord shall give the tenant at least 24 hours' notice of routine maintenance to be performed that has not been requested by the tenant. If the tenant makes a request for maintenance, the landlord is not required to provide notice to the tenant. During the pendency of an unlawful detainer filed by the landlord against the tenant, the landlord may request the court to enter an order requiring the tenant to provide the landlord with access to such dwelling unit.

B. Upon the sole determination by the landlord of the existence of a nonemergency property condition in the dwelling unit that requires the tenant to temporarily vacate the dwelling unit in order for the landlord to properly remedy such property condition, the landlord may, upon at least 30 days' written notice to the tenant, require the tenant to temporarily vacate the dwelling unit for a period not to exceed 30 days to a comparable dwelling unit, or hotel, as selected by the landlord and at no expense or cost to the tenant. The landlord shall not be required to pay for any other expenses of the tenant that arise after the temporary relocation period. The landlord and tenant may agree for the tenant to temporarily vacate the dwelling unit in less than 30 days. For purposes of this subsection, "nonemergency property condition" means (i) a condition in the dwelling unit that, in the determination of the landlord, is necessary for the landlord to remedy in order for the landlord to be in compliance with § 55.1-1220; (ii) the condition does not need to be remedied within a 24-hour period, with any condition that needs to be remedied within 24 hours being defined as an "emergency condition"; and (iii) the condition can only be effectively remedied by the temporary relocation of the tenant pursuant to the provisions of this subsection.

The tenant shall continue to be responsible for payment of rent under the rental agreement during the period of any temporary relocation. The landlord shall pay all costs of repairs or remediation required to address the nonemergency property condition. Refusal of the tenant to cooperate with a temporary relocation pursuant to this subsection shall be deemed a breach of the rental agreement, unless the tenant agrees to vacate the unit and terminate the rental agreement within the 30-day notice period. If the landlord properly remedies the nonemergency property condition within the 30-day period, nothing in this section shall be construed to entitle the tenant to terminate the rental agreement. Further, nothing in this section shall be construed to limit the landlord from taking legal action against the tenant for any noncompliance that occurs during the period of any temporary relocation pursuant to this subsection. During the pendency of an unlawful detainer filed by the landlord against the tenant, the landlord may request the court to enter an order requiring the tenant to provide the landlord with access to such dwelling unit.

C. The landlord has no other right to access except by court order or that permitted by §§ 55.1-1248 and 55.1-1249 or if the tenant has abandoned or surrendered the premises.

D. The tenant may install within the dwelling unit new security systems that the tenant may believe necessary to ensure his safety, including chain latch devices approved by the landlord and fire detection devices, provided that:

1. Installation does no permanent damage to any part of the dwelling unit;
2. A duplicate of all keys and instructions for the operation of all devices are given to the landlord; and
3. Upon termination of the tenancy, the tenant is responsible for payment to the landlord for reasonable costs incurred for the removal of all such devices and repairs to all damaged areas.

E. Upon written request of a tenant in a dwelling unit, the landlord shall install a carbon monoxide alarm in the tenant's dwelling unit within 90 days. The landlord may charge the tenant a reasonable fee to recover the costs of the equipment and labor for such installation. The landlord's installation of a carbon monoxide alarm shall be in compliance with the Uniform Statewide Building Code (§ 36-97 et seq.).

**§ 55.1-1230. Access following entry of certain court orders.**

A. A tenant or authorized occupant who has obtained an order from a court pursuant to § 16.1-279.1 or subsection B of § 20-103 granting such tenant possession of the premises to the exclusion of one or more co-tenants or authorized occupants may provide the landlord with a copy of that court order and request that the landlord either (i) install a new lock or other security devices on the exterior doors of the dwelling unit at the landlord's actual cost or (ii) permit the tenant or authorized occupant to do so, provided that:

1. Installation of the new lock or security devices does no permanent damage to any part of the dwelling unit; and
2. A duplicate copy of all keys and instructions for the operation of all devices are given to the landlord.

Upon termination of the tenancy, the tenant shall be responsible for payment to the landlord of the reasonable costs incurred for the removal of all such devices installed and repairs to all damaged areas.

B. A person who is not a tenant or authorized occupant of the dwelling unit and who has obtained an order from a court pursuant to § 16.1-279.1 or subsection B of § 20-103 granting such person possession of the premises to the exclusion of one or more co-tenants or authorized occupants may provide a copy of such order to the landlord and submit a rental application to become a tenant of such dwelling unit within 10 days of the entry of such order. If such person's rental

application meets the landlord's tenant selection criteria, such person may become a tenant of such dwelling unit under a written rental agreement. If such person submits a rental application and does not meet the landlord's tenant selection criteria, such person shall vacate the dwelling unit no later than 30 days after the date the landlord gives such person written notice that his rental application has been rejected. If such person does not provide a copy of the protective order to the landlord and submit a rental application to the landlord within 10 days as required by this section, such person shall vacate the dwelling unit no later than 30 days after the date of the entry of such order. Such person shall be liable to the landlord for failure to vacate the dwelling unit as required in this section.

Any tenant obligated on a rental agreement shall pay the rent and otherwise comply with any and all requirements of the rental agreement and any applicable laws and regulations. The landlord may pursue all of its remedies under the rental agreement and applicable laws and regulations, including filing an unlawful detainer action pursuant to § 8.01-126 to obtain a money judgment and to evict any persons residing in such dwelling unit.

C. A landlord who has received a copy of a court order in accordance with subsection A shall not provide copies of any keys to the dwelling unit to any person excluded from the premises by such order.

D. This section shall not apply when the court order excluding a person was issued *ex parte*.

**§ 55.1-1231. Relocation of tenant where mold remediation needs to be performed in the dwelling unit.**

Where a mold condition in the dwelling unit materially affects the health or safety of any tenant or authorized occupant, the landlord may require the tenant to temporarily vacate the dwelling unit in order for the landlord to perform mold remediation in accordance with professional standards as defined in § 55.1-1200 for a period not to exceed 30 days. The landlord shall provide the tenant with either (i) a comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant or (ii) a hotel room, as selected by the landlord, at no expense or cost to the tenant. The landlord shall not be required to pay for any other expenses of the tenant that arise after the relocation period. The tenant shall continue to be responsible for payment of rent under the rental agreement during the period of any temporary relocation and for the remainder of the term of the rental agreement following the remediation. Nothing in this section shall be construed as entitling the tenant to a termination of a tenancy where the landlord has remediated a mold condition in accordance with professional standards as defined in § 55.1-1200. The landlord shall pay all costs of the relocation and the mold remediation, unless the mold is a result of the tenant's failure to comply with § 55.1-1227.

**§ 55.1-1232. Use and occupancy by tenant.**

Unless otherwise agreed, the tenant shall occupy his dwelling unit only as a residence.

**§ 55.1-1233. Tenant to surrender possession of dwelling unit.**

At the termination of the term of tenancy, whether by expiration of the rental agreement or by reason of default by the tenant, the tenant shall promptly vacate the premises, removing all items of personal property and leaving the premises in good and clean order, reasonable wear and tear excepted. If the tenant fails to vacate, the landlord may bring an action for possession and damages, including reasonable attorney fees.

Article 4.

Tenant Remedies.

**§ 55.1-1234. Noncompliance by landlord.**

Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with any provision of this chapter, materially affecting health and safety, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if such breach is not remedied in 21 days.

If the landlord commits a breach that is not remediable, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

If the landlord has been served with a prior written notice that required the landlord to remedy a breach, and the landlord remedied such breach, where the landlord intentionally commits a subsequent breach of a like nature as the prior breach, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

If the breach is remediable by repairs and the landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, an authorized occupant, or a guest or invitee of the tenant. In addition, the tenant may recover damages and obtain injunctive relief for noncompliance by the landlord with the provisions of the rental agreement or of this chapter. The tenant shall be entitled to recover reasonable attorney fees unless the landlord proves by a preponderance of the evidence that the landlord's actions were reasonable under the circumstances. If the rental agreement is terminated due to the landlord's noncompliance, the landlord shall return the security deposit in accordance with § 55.1-1226.

**§ 55.1-1235. Early termination of rental agreement by military personnel.**

A. Any member of the Armed Forces of the United States or a member of the National Guard serving on full-time duty or as a civil service technician with the National Guard may, through the procedure detailed in subsection B, terminate his rental agreement if the member (i) has received permanent change of station orders to depart 35 miles or more (radius) from the location of the dwelling unit, (ii) has received temporary duty orders in excess of three months' duration to depart

35 miles or more (radius) from the location of the dwelling unit, (iii) is discharged or released from active duty with the Armed Forces of the United States or from his full-time duty or technician status with the National Guard, or (iv) is ordered to report to government-supplied quarters resulting in the forfeiture of basic allowance for quarters.

B. Tenants who qualify to terminate a rental agreement pursuant to subsection A shall do so by serving on the landlord a written notice of termination to be effective on a date stated in such written notice, such date to be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. The termination date shall be no more than 60 days prior to the date of departure necessary to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer. Prior to the termination date, the tenant shall furnish the landlord with a copy of the official notification of the orders or a signed letter, confirming the orders, from the tenant's commanding officer.

C. The landlord may not charge any liquidated damages.

D. Nothing in this section shall affect the tenant's obligations established by § 55.1-1227.

**§ 55.1-1236. Early termination of rental agreements by victims of family abuse, sexual abuse, or criminal sexual assault.**

A. Any tenant who is a victim of (i) family abuse as defined by § 16.1-228, (ii) sexual abuse as defined by § 18.2-67.10, or (iii) other criminal sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 may terminate such tenant's obligations under a rental agreement under the following circumstances:

1. The victim has obtained an order of protection pursuant to § 16.1-279.1 and has given written notice of termination in accordance with subsection B during the period of the protective order or any extension thereof; or

2. A court has entered an order convicting a perpetrator of any crime of sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, sexual abuse as defined by § 18.2-67.10, or family abuse as defined by § 16.1-228 against the victim and the victim gives written notice of termination in accordance with subsection B. A victim may exercise a right of termination under this section to terminate a rental agreement in effect when the conviction order is entered and one subsequent rental agreement based upon the same conviction.

B. A tenant who qualifies to terminate such tenant's obligations under a rental agreement pursuant to subsection A shall do so by serving on the landlord a written notice of termination to be effective on a date stated in such written notice, such date to be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. When the tenant serves the termination notice on the landlord, the tenant shall also provide the landlord with a copy of (i) the order of protection issued or (ii) the conviction order.

C. The rent shall be payable at such time as would otherwise have been required by the terms of the rental agreement through the effective date of the termination as provided in subsection B.

D. The landlord may not charge any liquidated damages.

E. The victim's obligations as a tenant under § 55.1-1227 shall continue through the effective date of the termination as provided in subsection B. Any co-tenants on the lease with the victim shall remain responsible for the rent for the balance of the term of the rental agreement. If the perpetrator is the remaining sole tenant obligated on the rental agreement, the landlord may terminate the rental agreement and collect actual damages for such termination against the perpetrator pursuant to § 55.1-1251.

**§ 55.1-1237. Notice to tenant in event of foreclosure.**

A. The landlord of a dwelling unit used as a single-family residence shall give written notice to the tenant or any prospective tenant of such dwelling unit that the landlord has received a notice of a mortgage default, mortgage acceleration, or foreclosure sale relative to the loan on the dwelling unit within five business days after written notice from the lender is received by the landlord. This requirement shall not apply (i) to any managing agent who does not receive a copy of such written notice from the lender or (ii) if the tenant or prospective tenant provides a copy of the written notice from the lender to the landlord or the managing agent.

B. If the landlord fails to provide the notice required by this section, the tenant shall have the right to terminate the rental agreement upon written notice to the landlord at least five business days prior to the effective date of termination. If the tenant terminates the rental agreement, the landlord shall make disposition of the tenant's security deposit in accordance with law or the provisions of the rental agreement, whichever is applicable.

C. If there is in effect at the date of the foreclosure sale a tenant in a dwelling unit foreclosed upon, the foreclosure shall act as a termination of the rental agreement by the owner. In such case, the tenant may remain in possession of such dwelling unit as a month-to-month tenant on the terms of the terminated rental agreement until the successor owner gives a notice of termination of such month-to-month tenancy. If the successor owner elects to terminate the month-to-month tenancy, written notice of such termination shall be given in accordance with the rental agreement or the provisions of § 55.1-1202 or 55.1-1410, as applicable.

D. Unless or until the successor owner terminates the month-to-month tenancy, the terms of the terminated rental agreement remain in effect except that the tenant shall make rental payments (i) to the successor owner as directed in a written notice to the tenant in this subsection; (ii) to the managing agent of the owner, if any, or successor owner; or (iii) into a court escrow account pursuant to the provisions of § 55.1-1244; however, there is no obligation of a tenant to file a tenant's assertion and pay rent into escrow. Where there is not a managing agent designated in the terminated rental agreement, the tenant shall remain obligated for payment of the rent but shall not be held to be delinquent or assessed a late charge until the successor owner provides written notice identifying the name, address, and telephone number of the party

to which the rent should be paid.

E. The successor owner may enter into a new rental agreement with the tenant in the dwelling unit, in which case, upon the commencement date of the new rental agreement, the month-to-month tenancy shall terminate.

**§ 55.1-1238. Failure to deliver possession.**

If the landlord willfully fails to deliver possession of the dwelling unit to the tenant, then rent abates until possession is delivered, and the tenant may (i) terminate the rental agreement upon at least five days' written notice to the landlord, upon which termination the landlord shall return all prepaid rent and security deposits, or (ii) demand performance of the rental agreement by the landlord. If the tenant elects, he may file an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him. If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person the actual damages sustained by him and reasonable attorney fees.

**§ 55.1-1239. Wrongful failure to supply an essential service.**

A. If contrary to the rental agreement or provisions of this chapter the landlord willfully or negligently fails to supply an essential service, the tenant shall serve a written notice on the landlord specifying the breach, if acting under this section, and, in such event and after allowing the landlord reasonable time to correct such breach, may:

1. Recover damages based upon the diminution in the fair rental value of the dwelling unit; or

2. Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance, as determined by the court.

B. If the tenant proceeds under this section, he shall be entitled to recover reasonable attorney fees; however, he may not proceed under § 55.1-1234 as to that breach. The rights of the tenant under this section shall not arise until he has given written notice to the landlord; however, no rights arise if the condition was caused by the deliberate or negligent act or omission of the tenant, an authorized occupant, or a guest or invitee of the tenant.

**§ 55.1-1240. Fire or casualty damage.**

If the dwelling unit or premises is damaged or destroyed by fire or casualty to an extent that the tenant's enjoyment of the dwelling unit is substantially impaired or required repairs can only be accomplished if the tenant vacates the dwelling unit, either the tenant or the landlord may terminate the rental agreement. The tenant may terminate the rental agreement by vacating the premises and within 14 days thereafter, serving on the landlord a written notice of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating. If continued occupancy is lawful, § 55.1-1411 shall apply.

The landlord may terminate the rental agreement by giving the tenant 14 days' notice of his intention to terminate the rental agreement on the basis of the landlord's determination that such damage requires the removal of the tenant and that the use of the premises is substantially impaired, in which case the rental agreement terminates as of the expiration of the notice period.

If the rental agreement is terminated, the landlord shall return all security deposits in accordance with § 55.1-1226 and prepaid rent, plus accrued interest, recoverable by law unless the landlord reasonably believes that the tenant, an authorized occupant, or a guest or invitee of the tenant was the cause of the damage or casualty, in which case the landlord shall provide a written statement to the tenant for the security and prepaid rent, plus accrued interest based upon the damage or casualty, and may recover actual damages sustained pursuant to § 55.1-1251. Proration for rent in the event of termination or apportionment shall be made as of the date of the casualty.

**§ 55.1-1241. Landlord's noncompliance as defense to action for possession for nonpayment of rent.**

A. In an action for possession based upon nonpayment of rent or in an action for rent by a landlord when the tenant is in possession, the tenant may assert as a defense that there exists upon the leased premises a condition that constitutes, or will constitute, a fire hazard or a serious threat to the life, health, or safety of the occupants of the dwelling unit, including (i) a lack of heat, running water, light, electricity, or adequate sewage disposal facilities; (ii) an infestation of rodents; or (iii) a condition that constitutes material noncompliance on the part of the landlord with the rental agreement or provisions of law. The assertion of any defense provided for in this section shall be conditioned upon the following:

1. Prior to the commencement of the action for rent or possession, the landlord or his agent refused or, having a reasonable opportunity to do so, failed to remedy the condition for which he was served a written notice of the condition by the tenant or was notified of such condition by a violation or condemnation notice from an appropriate state or local agency. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court, except that there shall be a rebuttable presumption that a period in excess of 30 days from receipt of the notification by the landlord is unreasonable; and

2. The tenant, if in possession, has paid into court the amount of rent found by the court to be due and unpaid, to be held by the court pending the issuance of an order under subsection C.

B. It shall be a sufficient answer to such a defense provided for in this section if the landlord establishes that (i) the conditions alleged in the defense do not in fact exist; (ii) such conditions have been removed or remedied; (iii) such conditions have been caused by the tenant, his guest or invitee, members of the family of such tenant, or a guest or invitee of such family member; or (iv) the tenant has unreasonably refused entry to the landlord to the premises for the purposes of correcting such conditions.

C. The court shall make findings of fact upon any defense raised under this section or the answer to any defense and shall issue any order as may be required, including any one or more of the following:

1. Reducing rent in such amount as the court determines to be equitable to represent the existence of any condition set forth in subsection A;

2. Terminating the rental agreement or ordering the surrender of the premises to the landlord; or

3. Referring any matter before the court to the proper state or local agency for investigation and report and granting a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court any rents that will become due during the period of continuance, to be held by the court pending its further order, or, in its discretion, the court may use such funds to (i) pay a mortgage on the property in order to stay a foreclosure, (ii) pay a creditor to prevent or satisfy a bill to enforce a mechanic's or materialman's lien, or (iii) remedy any condition set forth in subsection A that is found by the court to exist.

D. If it appears that the tenant has raised a defense under this section in bad faith or has caused the violation or has unreasonably refused entry to the landlord for the purpose of correcting the condition giving rise to the violation, the court may impose upon the tenant the reasonable costs of the landlord, including court costs, the costs of repair where the court finds the tenant has caused the violation, and reasonable attorney fees.

**§ 55.1-1242. Rent escrow required for continuance of tenant's case.**

A. Where a landlord has filed an unlawful detainer action seeking possession of the premises as provided by this chapter and the tenant seeks to obtain a continuance of the action or to set it for a contested trial, the court shall, upon request of the landlord, order the tenant to pay an amount equal to the rent that is due as of the initial court date into the court escrow account prior to granting the tenant's request for a delayed court date. However, if the tenant asserts a good faith defense, and the court so finds, the court shall not require the rent to be escrowed. If the landlord requests a continuance or to set the case for a contested trial, the court shall not require the rent to be escrowed.

B. If the court finds that the tenant has not asserted a good faith defense, the tenant shall be required to pay an amount determined by the court to be proper into the court escrow account in order for the case to be continued or set for contested trial. The court may grant the tenant a continuance of no more than one week to make full payment of the court-ordered amount into the court escrow account. If the tenant fails to pay the entire amount ordered, the court shall, upon request of the landlord, enter judgment for the landlord and enter an order of possession of the premises.

C. The court shall further order that should the tenant fail to pay future rents due under the rental agreement into the court escrow account, the court shall, upon the request of the landlord, enter judgment for the landlord and enter an order of possession of the premises.

D. Upon motion of the landlord, the court may disburse the moneys held in the court escrow account to the landlord for payment of his mortgage or other expenses relating to the dwelling unit.

E. Except as provided in subsection D, no rent required to be escrowed under this section shall be disbursed within 10 days of the date of the judgment unless otherwise agreed to by the parties. If an appeal is taken by the plaintiff, the rent held in escrow shall be transmitted to the clerk of the circuit court to be held in such court escrow account pending the outcome of the appeal.

**§ 55.1-1243. Tenant's remedies for landlord's unlawful ouster, exclusion, or diminution of service.**

If a landlord unlawfully removes or excludes a tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of an essential service to the tenant, the tenant may obtain an order from a general district court to recover possession, require the landlord to resume any such interrupted essential service, or terminate the rental agreement and, in any case, recover the actual damages sustained by him and reasonable attorney fees. If the rental agreement is terminated, the landlord shall return all of the security deposit in accordance with § 55.1-1226.

**§ 55.1-1244. Tenant's assertion; rent escrow.**

A. The tenant may assert that there exists upon the leased premises a condition that constitutes a material noncompliance by the landlord with the rental agreement or with provisions of law or that, if not promptly corrected, will constitute a fire hazard or serious threat to the life, health, or safety of occupants of the premises, including (i) a lack of heat or hot or cold running water, except where the tenant is responsible for payment of the utility charge and where the lack of such heat or hot or cold running water is the direct result of the tenant's failure to pay the utility charge; (ii) a lack of light, electricity, or adequate sewage disposal facilities; (iii) an infestation of rodents; or (iv) the existence of paint containing lead pigment on surfaces within the dwelling, provided that the landlord has notice of such paint. The tenant may file such an assertion in a general district court in which the premises is located by a declaration setting forth such assertion and asking for one or more forms of relief as provided for in subsection D.

B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court that:

1. Prior to the commencement of the action, the landlord or his agent refused or, having a reasonable opportunity to do so, failed to remedy the condition for which he was served a written notice of the condition by the tenant or was notified of such condition by a violation or condemnation notice from an appropriate state or local agency. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court, except that there shall be a rebuttable presumption that a period in excess of 30 days from receipt of the notification by the landlord is unreasonable; and

2. The tenant has paid into court the amount of rent called for under the rental agreement, within five days of the date due under the rental agreement, unless or until such amount is modified by subsequent order of the court under this chapter.

C. It shall be sufficient answer or rejoinder to an assertion made pursuant to subsection A if the landlord establishes to the satisfaction of the court that (i) the conditions alleged by the tenant do not in fact exist; (ii) such conditions have been

removed or remedied; (iii) such conditions have been caused by the tenant, his guest or invitee, members of the family of such tenant, or a guest or invitee of such family member; or (iv) the tenant has unreasonably refused entry to the landlord to the premises for the purpose of correcting such conditions.

D. Any court shall make findings of fact on the issues before it and shall issue any order that may be required. Such an order may include any one or more of the following:

1. Terminating the rental agreement upon the request of the tenant or ordering the surrender of the premises to the landlord if the landlord prevails on a request for possession pursuant to an unlawful detainer properly filed with the court;

2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in accordance with this chapter;

3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;

4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated as determined by the court in such an amount as may be equitable to represent the existence of any condition found by the court to exist. In all cases where the court deems that the tenant is entitled to relief under this chapter, the burden shall be upon the landlord to show cause why there should not be an abatement of rent;

5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in order to make repairs or to otherwise remedy the condition. In either case, the court shall in its order insure that moneys thus disbursed will be in fact used for the purpose of making repairs or effecting a remedy;

6. Referring any matter before the court to the proper state or local agency for investigation and report and granting a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court, within five days of date due under the rental agreement, subject to any abatement under this section, rents that become due during the period of the continuance, to be held by the court pending its further order;

7. Ordering escrow funds disbursed to pay a mortgage on the property in order to stay a foreclosure; or

8. Ordering escrow funds disbursed to pay a creditor to prevent or satisfy a bill to enforce a mechanic's or materialman's lien.

E. Notwithstanding any provision of subsection D, where an escrow account is established by the court and the condition is not fully remedied within six months of the establishment of such account, and the landlord has not made reasonable attempts to remedy the condition, the court shall award all moneys accumulated in escrow to the tenant. In such event, the escrow shall not be terminated, but shall begin upon a new six-month period with the same result if, at the end of the period, the condition has not been remedied.

F. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be held within 15 calendar days from the date of service of process on the landlord as authorized by § 55.1-1216, except that the court shall order an earlier hearing where emergency conditions are alleged to exist upon the premises, such as failure of heat in winter, lack of adequate sewage disposal facilities, or any other condition that constitutes an immediate threat to the health or safety of the inhabitants of the leased premises. The court, on motion of either party or on its own motion, may hold hearings subsequent to the initial proceeding in order to further determine the rights and obligations of the parties. Distribution of escrow moneys may only occur by order of the court after a hearing of which both parties are given notice as required by law or upon motion of both the landlord and tenant or upon certification by the appropriate inspector that the work required by the court to be done has been satisfactorily completed. If the tenant proceeds under this subsection, he may not proceed under any other section of this article as to that breach.

#### Article 5.

##### Landlord Remedies.

#### § 55.1-1245. Noncompliance with rental agreement; monetary penalty.

A. Except as otherwise provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or a violation of § 55.1-1227 materially affecting health and safety, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in 21 days and that the rental agreement shall terminate as provided in the notice.

B. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.

C. If the tenant commits a breach that is not remediable, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice. Notwithstanding anything to the contrary, when a breach of the tenant's obligations under this chapter or the rental agreement involves or constitutes a criminal or a willful act that is not remediable and that poses a threat to health or safety, the landlord may terminate the rental agreement immediately and proceed to obtain possession of the premises. For purposes of this subsection, any illegal drug activity involving a controlled substance, as used or defined by the Drug Control Act (§ 54.1-3400 et seq.), or any activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety, by the tenant, an authorized occupant, or a guest or invitee of the tenant shall constitute an immediate nonremediable violation for which the landlord may proceed to terminate the tenancy without the necessity of waiting for a conviction of any criminal offense that may arise out of the same

actions. In order to obtain an order of possession from a court of competent jurisdiction terminating the tenancy for illegal drug activity or for any other activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety, the landlord shall prove any such violations by a preponderance of the evidence. However, where the illegal drug activity or any activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety is engaged in by an authorized occupant or a guest or invitee of the tenant, the tenant shall be presumed to have knowledge of such activities unless the presumption is rebutted by a preponderance of the evidence. The initial hearing on the landlord's action for immediate possession of the premises shall be held within 15 calendar days from the date of service on the tenant; however, the court shall order an earlier hearing when emergency conditions are alleged to exist upon the premises that constitute an immediate threat to the health or safety of the other tenants. After the initial hearing, if the matter is scheduled for a subsequent hearing or for a contested trial, the court, to the extent practicable, shall order that the matter be given priority on the court's docket. Such subsequent hearing or contested trial shall be heard no later than 30 calendar days from the date of service on the tenant. During the interim period between the date of the initial hearing and the date of any subsequent hearing or contested trial, the court may afford any further remedy or relief as is necessary to protect the interests of parties to the proceeding or the interests of any other tenant residing on the premises. Failure by the court to hold either of the hearings within the time limits set out in this section shall not be a basis for dismissal of the case.

D. If the tenant is a victim of family abuse as defined in § 16.1-228 that occurred in the dwelling unit or on the premises and the perpetrator is barred from the dwelling unit pursuant to § 55.1-1246 on the basis of information provided by the tenant to the landlord, or by a protective order from a court of competent jurisdiction pursuant to § 16.1-253.1 or 16.1-279.1 or subsection B of § 20-103, the lease shall not terminate solely due to an act of family abuse against the tenant. However, these provisions shall not be applicable if (i) the tenant fails to provide written documentation corroborating the tenant's status as a victim of family abuse and the exclusion from the dwelling unit of the perpetrator no later than 21 days from the alleged offense or (ii) the perpetrator returns to the dwelling unit or the premises, in violation of a bar notice, and the tenant fails to promptly notify the landlord within 24 hours that the perpetrator has returned to the dwelling unit or the premises, unless the tenant proves by a preponderance of the evidence that the tenant had no actual knowledge that the perpetrator violated the bar notice, or it was not possible for the tenant to notify the landlord within 24 hours, in which case the tenant shall promptly notify the landlord, but in no event later than seven days. If the provisions of this subsection are not applicable, the tenant shall remain responsible for the acts of the other co-tenants, authorized occupants, or guests or invitees pursuant to § 55.1-1227 and is subject to termination of the tenancy pursuant to the lease and this chapter.

E. If the tenant has been served with a prior written notice that required the tenant to remedy a breach, and the tenant remedied such breach, where the tenant intentionally commits a subsequent breach of a like nature as the prior breach, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

F. If rent is unpaid when due, and the tenant fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment, and of the landlord's intention to terminate the rental agreement if the rent is not paid within the five-day period, the landlord may terminate the rental agreement and proceed to obtain possession of the premises as provided in § 55.1-1251. If a check for rent is delivered to the landlord drawn on an account with insufficient funds, or if an electronic funds transfer has been rejected because of insufficient funds or a stop-payment order has been placed in bad faith by the authorizing party, and the tenant fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment and of the landlord's intention to terminate the rental agreement if the rent is not paid by cash, cashier's check, certified check, or a completed electronic funds transfer within the five-day period, the landlord may terminate the rental agreement and proceed to obtain possession of the premises as provided in § 55.1-1251. Nothing shall be construed to prevent a landlord from seeking an award of costs or attorney fees under § 8.01-27.1 or civil recovery under § 8.01-27.2, as a part of other damages requested on the unlawful detainer filed pursuant to § 8.01-126, provided that the landlord has given notice in accordance with § 55.1-1202, which notice may be included in the five-day termination notice provided in accordance with this section.

G. Except as otherwise provided in this chapter, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or § 55.1-1227. In the event of a breach of the rental agreement or noncompliance by the tenant, the landlord shall be entitled to recover from the tenant the following, regardless of whether a lawsuit is filed or an order is obtained from a court: (i) rent due and owing as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, (v) costs of the proceeding as contracted for in the rental agreement or as provided by law only if court action has been filed, and (vi) damages to the dwelling unit or premises as contracted for in the rental agreement.

H. In a case where a lawsuit is pending before the court upon a breach of the rental agreement or noncompliance by the tenant and the landlord prevails, the court shall award a money judgment to the landlord and against the tenant for the relief requested, which may include the following: (i) rent due and owing as of the court date as contracted for in the rental agreement; (ii) other charges and fees as contracted for in the rental agreement; (iii) late charges contracted for in the rental agreement; (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, unless in any such action the tenant proves by a preponderance of the evidence that the tenant's failure to pay rent or vacate was reasonable; (v) costs of the proceeding as contracted for in the rental agreement or as provided by law; and (vi) damages to the dwelling unit or premises.

**§ 55.1-1246. Barring guest or invitee of a tenant.**

A. A guest or invitee of a tenant may be barred from the premises by the landlord upon written notice served personally upon the guest or invitee of the tenant for conduct on the landlord's property where the premises are located that violates the terms and conditions of the rental agreement, a local ordinance, or a state or federal law. A copy of the notice shall be served upon the tenant in accordance with this chapter. The notice shall describe the conduct of the guest or invitee that is the basis for the landlord's action.

B. In addition to the remedies against the tenant authorized by this chapter, a landlord may apply to the magistrate for a warrant for trespass, provided that the guest or invitee has been served in accordance with subsection A.

C. The tenant may file a tenant's assertion, in accordance with § 55.1-1244, requesting that the general district court review the landlord's action to bar the guest or invitee.

**§ 55.1-1247. Sheriffs authorized to serve certain notices; fee for service.**

The sheriff of any county or city, upon request, may deliver any notice to a tenant on behalf of a landlord or lessor under the provisions of § 55.1-1245 or 55.1-1415. For this service, the sheriff shall be allowed a fee not to exceed \$12.

**§ 55.1-1248. Remedy by repair, etc.; emergencies.**

If there is a violation by the tenant of § 55.1-1227 or the rental agreement materially affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning, the landlord shall send a written notice to the tenant specifying the breach and stating that the landlord will enter the dwelling unit and perform the work in a workmanlike manner and submit an itemized bill for the actual and reasonable cost for such work to the tenant, which shall be due as rent on the next rent due date or, if the rental agreement has terminated, for immediate payment.

In case of emergency the landlord may, as promptly as conditions require, enter the dwelling unit, perform the work in a workmanlike manner, and submit an itemized bill for the actual and reasonable cost for such work to the tenant, which shall be due as rent on the next rent due date or, if the rental agreement has terminated, for immediate payment.

The landlord may perform the repair, replacement, or cleaning or may engage a third party to do so.

**§ 55.1-1249. Remedies for absence, nonuse, and abandonment.**

If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days and the tenant fails to do so, the landlord may recover actual damages from the tenant. During any absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary to protect his possessions and property. The rental agreement is deemed to be terminated by the landlord as of the date of abandonment by the tenant. If the landlord cannot determine whether the premises has been abandoned by the tenant, the landlord shall serve written notice on the tenant in accordance with § 55.1-1202 requiring the tenant to give written notice to the landlord within seven days that the tenant intends to remain in occupancy of the premises. If the tenant gives such written notice to the landlord, or if the landlord otherwise determines that the tenant remains in occupancy of the premises, the landlord shall not treat the premises as having been abandoned. Unless the landlord receives written notice from the tenant or otherwise determines that the tenant remains in occupancy of the premises, upon the expiration of seven days from the date of the landlord's notice to the tenant, there shall be a rebuttable presumption that the premises has been abandoned by the tenant, and the rental agreement shall be deemed to terminate on that date. The landlord shall mitigate damages in accordance with § 55.1-1251.

**§ 55.1-1250. Landlord's acceptance of rent with reservation.**

A. The landlord may accept full or partial payment of all rent and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55.1-1255, provided that the landlord has stated in a written notice to the tenant that any and all amounts owed to the landlord by the tenant, including payment of any rent, damages, money judgment, award of attorney fees, and court costs, would be accepted with reservation and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. Such notice may be included in a written termination notice given by the landlord to the tenant in accordance with § 55.1-1245, and if so included, nothing herein shall be construed by a court of law or otherwise as requiring such landlord to give the tenant subsequent written notice. If the dwelling unit is a public housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban Development, nothing in this section shall be construed to require that written notice be given to any public agency paying a portion of the rent under the rental agreement. If a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable.

B. The tenant may pay or present to the court a redemption tender for payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, at or before the first return date on an action for unlawful detainer. For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of such return date.

C. If the tenant presents a redemption tender to the court at the return date, the court shall continue the action for unlawful detainer for 10 days following the return date for payment to the landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, and dismiss the action upon such payment. Should the landlord not receive full payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, within 10 days of the return date, the court shall, without further evidence, grant to the landlord judgment for all amounts due and immediate possession of the premises.

*D. In cases of unlawful detainer, a tenant may pay the landlord or his attorney or pay into court all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, and (v) costs of the proceeding as provided by law, at which time the unlawful detainer proceeding shall be dismissed. A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental agreement or any renewal term of the rental agreement.*

**§ 55.1-1251. Remedy after termination.**

*If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement, reasonable attorney fees as provided in § 55.1-1245, and the cost of service of any notice under § 55.1-1245 or 55.1-1415 or process by a sheriff or private process server, which cost shall not exceed the amount authorized by § 55.1-1247, and such claims may be enforced, without limitation, by initiating an action for unlawful entry or detainer. Actual damages for breach of the rental agreement may include a claim for rent that would have accrued until the expiration of the term of the rental agreement or until a tenancy pursuant to a new rental agreement commences, whichever occurs first, provided that nothing contained in this section shall diminish the duty of the landlord to mitigate actual damages for breach of the rental agreement. In obtaining post-possession judgments for actual damages as defined in this section, the landlord shall not seek a judgment for accelerated rent through the end of the term of the tenancy.*

*In any unlawful detainer action brought by the landlord, this section shall not be construed to prevent the landlord from being granted by the court a simultaneous judgment for money due and for possession of the premises without a credit for any security deposit. Upon the tenant vacating the premises either voluntarily or by a writ of possession, security deposits shall be credited to the tenant's account by the landlord in accordance with the requirements of § 55.1-1226.*

**§ 55.1-1252. Recovery of possession limited.**

*A landlord may not recover or take possession of the dwelling unit (i) by willful diminution of services to the tenant by interrupting or causing the interruption of an essential service required by the rental agreement or (ii) by refusal to permit the tenant access to the unit unless such refusal is pursuant to a court order for possession.*

**§ 55.1-1253. Periodic tenancy; holdover remedies.**

*A. The landlord or the tenant may terminate a week-to-week tenancy by serving a written notice on the other at least seven days prior to the next rent due date. The landlord or the tenant may terminate a month-to-month tenancy by serving a written notice on the other at least 30 days prior to the next rent due date, unless the rental agreement provides for a different notice period. The landlord and the tenant may agree in writing to an early termination of a rental agreement. In the event that no such agreement is reached, the provisions of § 55.1-1251 shall control.*

*B. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and may also recover actual damages, reasonable attorney fees, and court costs, unless the tenant proves by a preponderance of the evidence that the failure of the tenant to vacate the dwelling unit as of the termination date was reasonable. The landlord may include in the rental agreement a reasonable liquidated damage penalty, not to exceed an amount equal to 150 percent of the per diem of the monthly rent, for each day the tenant remains in the dwelling unit after the termination date specified in the landlord's notice. However, if the dwelling unit is a public housing unit or other housing unit subject to regulation by the U.S. Department of Housing and Urban Development, any liquidated damage penalty shall not exceed an amount equal to the per diem of the monthly rent set out in the lease agreement. If the landlord consents to the tenant's continued occupancy, § 55.1-1204 applies.*

*C. In the event of termination of a rental agreement where the tenant remains in possession with the agreement of the landlord either as a hold-over tenant or a month-to-month tenant and no new rental agreement is entered into, the terms of the terminated agreement shall remain in effect and govern the hold-over or month-to-month tenancy, except that the amount of rent shall be either as provided in the terminated rental agreement or the amount set forth in a written notice to the tenant, provided that such new rent amount shall not take effect until the next rent due date coming 30 days after the notice.*

**§ 55.1-1254. Disposal of property abandoned by tenants.**

*If any items of personal property are left in the dwelling unit, the premises, or any storage area provided by the landlord after the rental agreement has terminated and delivery of possession has occurred, the landlord may consider such property to be abandoned. The landlord may dispose of the property so abandoned as the landlord sees fit or appropriate, provided that he has given (i) a termination notice to the tenant in accordance with this chapter, including a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after termination; (ii) written notice to the tenant in accordance with § 55.1-1249, including a statement that any items of personal property left in the dwelling unit, the premises, or the storage area would be disposed of within the 24-hour period after expiration of the seven-day notice period; or (iii) a separate written notice to the tenant, including a statement that any items of personal property left in the dwelling unit, the premises, or the storage area would be disposed of within 24 hours after expiration of a 10-day period from the date such notice was given to the tenant. Any written notice to the tenant shall be given in accordance with § 55.1-1202. The tenant shall have the right to remove his personal property from the dwelling unit, the premises, or the storage area at reasonable times during the 24-hour period after termination or at such other*

reasonable times until the landlord has disposed of the remaining personal property of the tenant.

During the 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided in this section, the tenant shall have a right to injunctive or other relief as provided by law. If the landlord received any funds from any sale of abandoned property as provided in this section, the landlord shall pay such funds to the account of the tenant and apply the funds to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in selling, storing, or safekeeping such property. If any such funds are remaining after application, the remaining funds shall be treated as a security deposit under the provisions of § 55.1-1226. The provisions of this section shall not be applicable if the landlord has been granted a writ of possession for the premises in accordance with Title 8.01 and execution of such writ has been completed pursuant to § 8.01-470.

Nothing in this section shall affect the right of a landlord to enforce an inchoate or perfected lien of the landlord on the personal property of a tenant in a dwelling unit or on the premises leased to such tenant and the right of a landlord to distress, levy, and seize such personal property as otherwise provided by law.

**§ 55.1-1255. Authority of sheriffs to store and sell personal property removed from residential premises; recovery of possession by owner; disposition or sale.**

Notwithstanding the provisions of § 8.01-156, when personal property is removed from a dwelling unit, the premises, or any storage area provided by the landlord pursuant to an action of unlawful detainer or ejection, or pursuant to any other action in which personal property is removed from the dwelling unit in order to restore the dwelling unit to the person entitled to such dwelling unit, the sheriff shall oversee the removal of such personal property to be placed into the public way. The tenant shall have the right to remove his personal property from the public way during the 24-hour period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the public way.

At the landlord's request, any personal property removed pursuant to this section shall be placed into a storage area designated by the landlord, which may be the dwelling unit. The tenant shall have the right to remove his personal property from the landlord's designated storage area at reasonable times during the 24 hours after eviction or at such other reasonable times until the landlord has disposed of the property as provided in this section. During that 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided in this section, the tenant shall have a right to injunctive or other relief as otherwise provided by law.

Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant and apply the funds to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord in selling or storing such property. If any funds are remaining after application, the remaining funds shall be treated as a security deposit under the provisions of § 55.1-1226.

The notice posted by the sheriff setting the date and time of the eviction, pursuant to § 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and shall include a copy of this statute attached to, or made a part of, the notice.

**§ 55.1-1256. Disposal of property of deceased tenants.**

A. If a tenant who is the sole tenant under a written rental agreement still residing in the dwelling unit dies, and there is no person authorized by order of the circuit court to handle probate matters for the deceased tenant, the landlord may dispose of the personal property left in the dwelling unit or upon the premises. However, the landlord shall give at least 10 days' written notice to (i) the person identified in the rental application, lease agreement, or other landlord document as the authorized person to contact in the event of the death or emergency of the tenant or (ii) the tenant in accordance with § 55.1-1202 if no such person is identified in the rental application, lease agreement, or other landlord document as the authorized contact person. The notice given under clause (i) or (ii) shall include a statement that any items of personal property left in the premises would be treated as abandoned property and disposed of in accordance with the provisions of § 55.1-1254, if not claimed within 10 days. Authorized occupants, or guests or invitees, are not allowed to occupy the dwelling unit after the death of the sole remaining tenant and shall vacate the dwelling unit prior to the end of the 10-day period.

B. The landlord may request that such authorized contact person provide reasonable proof of identification. Thereafter, the authorized contact person identified in the rental application, lease agreement, or other landlord document may (i) have access to the dwelling unit or the premises and to the tenant records maintained by the landlord and (ii) rightfully claim the personal property of the deceased tenant and otherwise handle the affairs of the deceased tenant with the landlord.

C. The rental agreement is deemed to be terminated by the landlord as of the date of death of the tenant who is the sole tenant under a written rental agreement still residing in the dwelling unit, and the landlord shall not be required to seek an order of possession from a court of competent jurisdiction. The estate of the tenant shall remain liable for actual damages under § 55.1-1251, and the landlord shall mitigate such damages.

**§ 55.1-1257. Who may recover rent or possession.**

Notwithstanding any rule of court to the contrary, (i) any person licensed under the provisions of § 54.1-2106.1, (ii) any property manager, or a managing agent of a landlord as defined in § 55.1-1200, or (iii) any employee, who is authorized in writing by a corporate officer with the approval of the board of directors, or by a manager, a general partner, or a trustee, of a partnership, association, corporation, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership, business trust, or family trust to sign pleadings as the agent of the business entity may obtain a judgment (a) for possession in the general district court for the county or city in which the premises, or part thereof, is situated or (b) for rent or damages, including actual damages for breach of the rental agreement, or for final rent and damages under § 8.01-128, in any general district court where venue is proper under Chapter 5 (§ 8.01-257 et seq.) of Title 8.01, against any defendant if the person seeking such judgment had a contractual agreement with the landlord to manage the premises for which rent or possession is due and may prepare, execute, file, and have served on other parties in any general district court a warrant in debt, suggestion for summons in garnishment, garnishment summons, writ of possession, or writ of fieri facias arising out of a landlord-tenant relationship. However, the activities of any such person in court shall be limited by the provisions of § 16.1-88.03. However, nothing shall be construed as preventing a nonlawyer from requesting relief from the court as provided by law or statute when such nonlawyer is before the court on one of the actions specified herein.

Article 6.

Retaliatory Action.

**§ 55.1-1258. Retaliatory conduct prohibited.**

A. Except as provided in this section or as otherwise provided by law, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession or by causing a termination of the rental agreement pursuant to § 55.1-1253 or 55.1-1410 after he has knowledge that (i) the tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health or safety, (ii) the tenant has made a complaint to or filed an action against the landlord for a violation of any provision of this chapter, (iii) the tenant has organized or become a member of a tenant's organization, or (iv) the tenant has testified in a court proceeding against the landlord. However, the provisions of this subsection shall not be construed to prevent the landlord from increasing rent to that which is charged for similar market rentals nor decreasing services that apply equally to all tenants.

B. If the landlord acts in violation of this section, the tenant is entitled to the applicable remedies provided for in this chapter, including recovery of actual damages, and may assert such retaliation as a defense in any action against him for possession. The burden of proving retaliatory intent shall be on the tenant.

C. Notwithstanding subsections A and B, a landlord may terminate the rental agreement pursuant to § 55.1-1253 or 55.1-1410 and bring an action for possession if:

1. Violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant, an authorized occupant, or a guest or invitee of the tenant;
2. The tenant is in default in rent;
3. Compliance with the applicable building or housing code requires alteration, remodeling, or demolition that would effectively deprive the tenant of use of the dwelling unit; or
4. The tenant is in default of a provision of the rental agreement materially affecting the health and safety of himself or others. The maintenance of the action provided in this section does not release the landlord from liability under § 55.1-1226.

D. The landlord may also terminate the rental agreement pursuant to § 55.1-1253 or 55.1-1410 for any other reason not prohibited by law unless the court finds that the reason for the termination was retaliation.

**§ 55.1-1259. Actions to enforce chapter.**

In addition to any other remedies in this chapter, any person adversely affected by an act or omission prohibited under this chapter may institute an action for injunction and damages against the person responsible for such act or omission in the circuit court in the county or city in which such act or omission occurred. If the court finds that the defendant was responsible for such act or omission, it shall enjoin the defendant from continuance of such practice, and in its discretion award the plaintiff damages as provided in this section.

CHAPTER 13.

MANUFACTURED HOME LOT RENTAL ACT.

**§ 55.1-1300. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Abandoned manufactured home" means a manufactured home occupying a manufactured home lot pursuant to a written agreement under which (i) the tenant has defaulted in rent or (ii) the landlord has the right to terminate the written rental agreement pursuant to § 55.1-1249.

"Guest or invitee" means a person, other than the tenant, who has the permission of the tenant to visit but not to occupy the premises.

"Landlord" means the manufactured home park owner or the lessor or sublessor of a manufactured home park. "Landlord" also means a manufactured home park operator who fails to disclose the name of such owner, lessor, or

sublessor as provided in § 55.1-1216.

"Manufactured home" means a structure, transportable in one or more sections, that in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

"Manufactured home lot" means a parcel of land within the boundaries of a manufactured home park provided for the placement of a single manufactured home and the exclusive use of its occupants.

"Manufactured home owner" means the owner of a manufactured home.

"Manufactured home park" means a parcel of land under single or common ownership upon which five or more manufactured homes are located on a continual, nonrecreational basis together with any structure, equipment, road, or facility intended for use incidental to the occupancy of the manufactured homes. "Manufactured home park" does not include a premises used solely for storage or display of uninhabited manufactured homes or a premises occupied solely by a landowner and members of his family.

"Manufactured home park operator" means a person employed or contracted by a manufactured home park owner or landlord to manage a manufactured home park.

"Manufactured home park owner" means a person who owns land that accommodates a manufactured home park.

"Owner" means one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title to the property or (ii) all or part of the beneficial ownership and right to present use and enjoyment of the premises. "Owner" includes a mortgagee in possession.

"Reasonable charges in addition to rent" means any routine maintenance and utility charges for which the tenant is liable under the rental agreement.

"Rent" means payments made by the tenant to the landlord for use of a manufactured home lot and other facilities or services provided by the landlord.

"Rental agreement" means any agreement, written or oral, and valid rules and regulations adopted in conformance with § 55.1-1228 embodying the terms and conditions concerning the use and occupancy of a manufactured home lot and premises and other facilities or services provided by the landlord.

"Secured party" means the same as that term is defined in § 8.9A-102.

"Security interest" means the same as that term is defined in § 8.1A-201.

"Tenant" means a person entitled as under a rental agreement to occupy a manufactured home lot to the exclusion of others.

**§ 55.1-1301. Written rental agreement required.**

A. Before the tenancy begins, all parties shall sign and date a written rental agreement that includes all terms governing the rental and occupancy of a manufactured home lot. The landlord shall give the tenant a copy of the signed and dated written rental agreement and a copy of this chapter or a clear and simple description of the obligations of landlords and tenants under this chapter within seven days after the tenant signs the written rental agreement. The written rental agreement shall not contain any provisions contrary to the provisions of this chapter and shall not contain a provision prohibiting the tenant from selling his manufactured home. A notice of any change by a landlord in any terms or provisions of the written rental agreement shall constitute a notice to vacate the premises, and such notice shall be given in accordance with the terms of the written rental agreement or as otherwise required by law. The written rental agreement shall not provide that the tenant pay any recurring charges except fixed rent, utility charges, or reasonable incidental charges for services or facilities supplied by the landlord. The landlord shall post a copy of this chapter, including the full text of the sections referenced in § 55.1-1311, in the manufactured home park.

B. In the event that any party has a secured interest in the manufactured home, the written rental agreement or rental application shall include the name and address of such party and the name and address of the dealer from whom the manufactured home was purchased. In addition, the written rental agreement shall require the tenant to notify the landlord within 10 days of any new security interest, change of existing security interest, or settlement of security interest.

**§ 55.1-1302. Term of rental agreement; renewal; security deposits.**

A. A landlord shall offer all current and prospective year-round residents a rental agreement with a rental period of not less than one year. Such offer shall contain the same terms and conditions as are offered with shorter term leases, except that rental discounts may be offered by a landlord to residents who enter into a rental agreement for a period of not less than one year.

B. Upon the expiration of a rental agreement, the agreement shall be automatically renewed for a term of one year with the same terms unless the landlord provides written notice to the tenant of any change in the terms of the agreement at least 60 days prior to the expiration date. In the case of an automatic renewal of a rental agreement for a year-round resident, the security deposit initially furnished by the tenant shall not be increased by the landlord, nor shall an additional security deposit be required.

C. Except as limited by subsection B, the provisions of § 55.1-1226 shall govern the terms and conditions of security deposits for rental agreements under this chapter.

**§ 55.1-1303. Landlord's obligations.**

The landlord shall:

1. Comply with applicable laws governing health, zoning, safety, and other matters pertaining to manufactured home parks;

2. Make all repairs and do whatever is necessary to put and keep the manufactured home park in a fit and habitable condition, including maintaining in a clean and safe condition all facilities and common areas provided by the landlord for use by the tenants of two or more manufactured home lots;

3. Maintain in good and working order and condition all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied or required to be supplied by the landlord;

4. Provide and maintain appropriate receptacles as a manufactured home park facility, except when door-to-door garbage and waste pickup is available within the manufactured home park for the collection and storage of garbage and other waste incidental to the occupancy of the manufactured home park, and arrange for the removal of the garbage and other waste; and

5. Provide reasonable access to electric, water, and sewage disposal connections for each manufactured home lot. In the event of a planned disruption by the landlord in electric, water, or sewage disposal services, the landlord shall give written notice to tenants no less than 48 hours prior to the planned disruption in service.

**§ 55.1-1304. Tenant's obligations.**

In addition to the provisions of the rental agreement, the tenant shall:

1. Comply with applicable laws affecting manufactured home owners and tenants;

2. Keep and maintain the exterior of the tenant's manufactured home and manufactured home lot as clean and safe as conditions permit;

3. Place all garbage and other waste in the appropriate receptacles, which shall be provided by the tenant when door-to-door garbage and waste pickup is provided;

4. Use in a reasonable and orderly manner all facilities and appliances in the manufactured home park and require any guest or invitee to do so;

5. Conduct himself and require any guest or invitee to conduct himself in a manner that will not disturb the tenant's neighbors' peaceful enjoyment of the premises;

6. Abide by all reasonable rules and regulations imposed by the landlord; and

7. In the absence of express written agreement to the contrary, occupy the tenant's manufactured home only as a dwelling unit.

**§ 55.1-1305. Rent; liability of secured party taking possession of an abandoned manufactured home.**

A. A secured party shall have no liability for rent or other charges to a landlord except as provided in this section.

B. In the event that a manufactured home subject to a security interest becomes an abandoned manufactured home, the landlord shall send notice of abandonment to the manufactured home owner, the secured party, and the dealer as provided for in § 55.1-1202 at the addresses shown in the written rental agreement or rental application. The notice of abandonment shall state the amount of rent and the amount and nature of any reasonable charges in addition to rent for which the secured party will be liable. The notice shall include any written rental agreement previously signed by the tenant and the landlord.

C. A secured party that has a security interest in an abandoned manufactured home, and that has a right to possession of the manufactured home under § 8.9A-609 or under the applicable security agreement, is liable to the landlord under the same payment terms as the tenant prior to the secured party's accrual of the right of possession and for any other reasonable charges in addition to rent incurred. Such liability is for the period that begins 15 days from receipt of the notice of abandonment by the secured party and ends upon the earlier to occur of the removal of the abandoned manufactured home from the manufactured home park or disposition of the abandoned manufactured home under §§ 8.9A-610 through 8.9A-624 or under the applicable security agreement.

D. This section shall not affect the availability of the landlord's lien as provided in § 55.1-1316, nor shall this section impact the priority of the secured party's lien as provided in § 46.2-640.

E. Any rent or reasonable charges in addition to rent owed by the secured party to the landlord pursuant to this section shall be paid to the landlord prior to the removal of the manufactured home from the manufactured home park.

F. If a secured party that has a secured interest in an abandoned manufactured home becomes liable to the landlord pursuant to this section, then the relationship between the secured party and the landlord shall be governed by the rental agreement previously signed by the tenant and the landlord unless otherwise agreed, except that the term of the rental agreement shall convert to a month-to-month tenancy. No waiver is required to convert the rental agreement to a month-to-month tenancy. Either the landlord or the secured party may terminate the month-to-month tenancy upon giving written notice of at least 30 days. The secured party and the landlord are not required to execute a new rental agreement. Nothing in this section shall be construed to be a waiver of any rights by the tenant.

**§ 55.1-1306. Demands and charges prohibited; access by tenant's guest or invitee; purchases by manufactured home owner not restricted; exception; conditions of occupancy.**

A. A landlord shall not demand or collect:

1. An entrance fee for the privilege of leasing or occupying a manufactured home lot;

2. A commission on the sale of a manufactured home located in the manufactured home park, unless the tenant expressly employs him to perform a service in connection with such sale, but no such employment of the landlord by the tenant shall be a condition or term of the initial sale or rental;

3. A fee for improvements or installations on the interior of a manufactured home, unless the tenant expressly employs him to perform a service in connection with such improvements or installations;

4. A fee, charge, or other thing of value from any provider of cable television service, cable modem service, satellite master antenna television service, direct broadcast satellite television service, subscription television service, or service of any other television programming system in exchange for granting a television service provider mere access to the landlord's tenants or giving the tenants of such landlord mere access to such service. A landlord may enter into a service agreement with a television service provider to provide marketing and other services to the television service provider designed to facilitate the television service provider's delivery of its services. Under such a service agreement, the television service provider may compensate the landlord for the reasonable value of the services provided and for the reasonable value of the landlord's property used by the television service provider.

No landlord shall demand or accept any such payment from any tenants in exchange for such services, unless the landlord is itself the provider of the service, nor shall any landlord discriminate in rental charges between tenants who receive any such service and those who do not. Nothing in this subdivision shall prohibit a landlord from requiring that the provider of such service and the tenant bear the entire cost of the installation, operation, or removal of the facilities incident to such installation, operation, or removal or prohibit a landlord from demanding or accepting reasonable indemnity or security for any damages caused by such installation, operation, or removal; or

5. An exit fee for moving a manufactured home from a manufactured home park.

B. A guest or invitee of the tenant shall have free access to the tenant's manufactured home site without charge or registration.

C. A manufactured home owner shall not be restricted in his choice of vendors from whom he may purchase his (i) manufactured home, except in connection with the initial leasing or renting of a newly constructed lot not previously leased or rented to any other person, or (ii) goods and services. However, nothing in this chapter shall prohibit a landlord from prescribing reasonable requirements governing, as a condition of occupancy, the style, size, or quality of the manufactured home or other structures placed on the manufactured home lot.

**§ 55.1-1307. Charge for utility service.**

Norwithstanding the provisions of § 56-245.3, a landlord who purchases from a publicly regulated utility any electricity, gas, or other utility service, including water and sewer services, for resale or pass-through to a tenant may not charge for the resale or pass-through of such service an amount that exceeds the amount permitted under the provisions of § 55.1-1212.

**§ 55.1-1308. Termination of tenancy.**

A. Either party may terminate a rental agreement with a term of 60 days or more by giving written notice to the other at least 60 days prior to the termination date; however, the rental agreement may require a longer period of notice. Notwithstanding the provisions of this section, where a landlord and seller of a manufactured home have in common (i) one or more owners, (ii) immediate family members, or (iii) officers or directors, the rental agreement shall be renewed except for reasons that would justify a termination of the rental agreement or eviction by the landlord as authorized by this chapter. A landlord may not cause the eviction of a tenant by willfully interrupting gas, electricity, water, or any other essential service, or by removal of the manufactured home from the manufactured home lot, or by any other willful self-help measure.

B. If the termination is due to rehabilitation or a change in the use of all or any part of a manufactured home park by the landlord, a 180-day written notice is required to terminate a rental agreement. As used in this subsection, "change" includes conversion to hotel, motel, or other commercial use; planned unit development; rehabilitation; demolition; or sale to a contract purchaser. This 180-day notice requirement shall not be waived; however, a period of less than 180 days may be agreed upon by both the landlord and tenant in a written agreement separate from the rental agreement executed after such notice is given and applicable only to the 180-day notice period.

**§ 55.1-1309. Waiver of landlord's right to terminate.**

Unless the landlord accepts the rent with reservation, and gives a written notice to the tenant of such acceptance within five business days of receipt of the rent, acceptance of periodic rent payments with knowledge in fact of a material noncompliance by the tenant shall constitute a waiver of the landlord's right to terminate the rental agreement. Except as provided in § 55.1-1423, if the landlord has given the tenant written notice that the rent payments have been accepted with reservation, the landlord may accept full payment of all rent payments and still be entitled to receive an order of possession terminating the rental agreement.

**§ 55.1-1310. Sale or lease of manufactured home by manufactured home owner.**

No landlord shall unreasonably refuse or restrict the sale or rental of a manufactured home located in his manufactured home park by a tenant. No landlord shall prohibit the manufactured home owner from placing a "for sale" sign on or in the owner's home except that the size, placement, and character of all signs are subject to the rules and regulations of the manufactured home park. Prior to selling or leasing the manufactured home, the tenant shall give notice to the landlord, including the name of the prospective vendee or lessee if the prospective vendee or lessee intends to occupy the manufactured home in that manufactured home park. The landlord shall have the burden of proving that his refusal or restriction regarding the sale or rental of a manufactured home was reasonable. The refusal or restriction of the sale or rental of a manufactured home exclusively or predominantly based on the age of the home shall be considered unreasonable. Any refusal or restriction based on race, color, religion, national origin, familial status, elderliness,

handicap, or sex shall be conclusively presumed to be unreasonable.

**§ 55.1-1311. Other provisions of law applicable.**

Sections 55.1-1202, 55.1-1207, 55.1-1208, 55.1-1216, 55.1-1224, 55.1-1226, 55.1-1228, 55.1-1234 through 55.1-1249, 55.1-1251, 55.1-1252, and 55.1-1259 shall, insofar as they are not inconsistent with this chapter, apply, *mutatis mutandis*, to the rental and occupancy of a manufactured home lot.

**§ 55.1-1312. Authority of local governments over manufactured home parks.**

The governing body of any locality may adopt ordinances to enforce the obligations imposed on landlords by § 55.1-1303.

**§ 55.1-1313. Notice of uncorrected violations.**

If a landlord does not remedy a violation of an ordinance that pertains to the health and safety of tenants in a manufactured home park within seven days of receiving notice from the locality of such violation, the locality shall notify tenants of the manufactured home park who are affected by the violation. Such notification may consist of posting the notice of violation in a conspicuous place in the manufactured home park or mailing copies of the notice to affected tenants.

**§ 55.1-1314. Retaliatory conduct prohibited.**

A. Except as provided in this section, or as otherwise provided by law, a landlord shall not retaliate by selectively increasing rent or decreasing services or by bringing or threatening to bring an action for possession after the landlord has knowledge that (i) the tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health or safety, (ii) the tenant has made a complaint to or filed an action against the landlord for a violation of any provision of this chapter, (iii) the tenant has organized or become a member of a tenant's organization, or (iv) the tenant has testified in a court proceeding against the landlord.

B. The landlord shall be deemed to have knowledge of a fact if he has actual knowledge of it, he has received a notice or notification of it, or, from all the facts and circumstances known to him at the time in question, he has reason to know that it exists.

C. Notwithstanding the provisions of subsections A and B, a landlord may terminate the rental agreement pursuant to subsection A of § 55.1-1308 and bring an action for possession if:

1. Violation of the applicable building and housing code was caused by lack of reasonable care by the tenant, a member of the tenant's household, or a guest or invitee of the tenant;
2. The tenant is in default in rent; or
3. The tenant is in default of a provision of the rental agreement materially affecting the health and safety of the tenant or others.

**§ 55.1-1315. Eviction of tenant.**

A landlord may evict a tenant only for:

1. Nonpayment of rent;
2. Violation of the applicable building and housing code caused by a lack of reasonable care by the tenant, a member of the tenant's household, or a guest or invitee of the tenant;
3. Violation of a federal, state, or local law or ordinance that is detrimental to the health, safety, and welfare of other tenants in the manufactured home park;
4. Violation of any rule or provisions of the rental agreement materially affecting the health, safety, and welfare of the tenant or others; or
5. Two or more violations of any rule or provision of the rental agreement occurring within a six-month period.

**§ 55.1-1316. Right to sell manufactured home upon eviction.**

A tenant who has been evicted from a manufactured home park shall have 90 days after judgment has been entered in which to sell the manufactured home or remove the manufactured home from the manufactured home park. Such tenant shall be responsible for paying the rental amount and for regular maintenance of the manufactured home lot during the period between the date of eviction and the sale of the manufactured home or the removal of the manufactured home from the manufactured home park. Such right to keep the manufactured home in the manufactured home park shall be conditioned upon the payment of all rent accrued prior to the date of judgment and prospective monthly rent as it becomes due. During such term, a secured party shall be liable for such charges as provided in § 55.1-1305. The manufactured home park owner shall have a lien on the manufactured home to the extent that such rental payments are not made. Any sale of the manufactured home shall be subject to the rights of any secured party having a security interest in the home, and the lien granted to the manufactured home park owner under this section shall be subject to any such security interest.

**§ 55.1-1317. Transfer of deposits upon purchase.**

The manufactured home park owner shall transfer any security deposits and any accrued interest on the deposits in his possession to the new manufactured home park owner at the time of the transfer of the rental property. If the current manufactured home park owner has entered into a written property management agreement with a managing agent in accordance with the provisions of subsection E of § 54.1-2135, the current manufactured home park owner shall give written notice to the managing agent requesting payment of such security deposits to the current manufactured home park owner prior to settlement with the new manufactured home park owner. Upon receipt of the written notice, the managing agent shall transfer the security deposits to the current manufactured home park owner and provide written notice to each tenant that his security deposit has been transferred to the new manufactured home park owner in accordance with this section.

**§ 55.1-1318. Penalties for violation of chapter.**

If the landlord acts in willful violation of § 55.1-1303, 55.1-1306, 55.1-1310, or 55.1-1314 or if the landlord fails to provide a written, dated rental agreement, the tenant is entitled to recover from the landlord an amount equal to the greater of either the tenant's monthly rental payment at the time of the violation or actual damages and reasonable attorney fees.

**§ 55.1-1319. Injunctive relief.**

The attorney for any locality may file an action for injunctive relief for violations of this chapter.

## CHAPTER 14.

## NONRESIDENTIAL TENANCIES.

## Article 1.

## General Provisions.

**§ 55.1-1400. Applicability; right to terminate tenant.**

A. As used in this chapter, unless the context requires a different meaning, "nonresidential tenancy" means the rental of any real estate for purposes other than residential use, including business, industrial, or agricultural purposes.

B. The provisions of this chapter shall apply to all nonresidential tenancies. The lease or rental agreement controls the landlord-tenant relationship unless such lease or rental agreement is silent, in which case the provisions of this chapter apply. The right to evict a tenant whose right of possession has been terminated in any commercial or other nonresidential tenancy under this chapter may be effectuated by self-help eviction without further legal process so long as such eviction does not incite a breach of the peace. However, nothing in this chapter shall be construed to preclude termination of any commercial or other nonresidential tenancy by the filing of an unlawful detainer action, entry of an order of possession, and eviction pursuant to § 55.1-1416.

**§ 55.1-1401. Appointment of resident agent by nonresident property owner; service of process, etc., on such agent or on Secretary of the Commonwealth.**

Any nonresident person as the term "person" is defined in § 55.1-1200 of the Commonwealth who owns and leases nonresidential real property within the Commonwealth shall have and continuously maintain an agent who is a resident and maintains a business office within the Commonwealth. Every lease executed by or on behalf of nonresident property owners regarding any such real property shall specifically designate such agent and the agent's office address for the purpose of service of any process, notice, order, or demand required or permitted by law to be served upon such nonresident property owner.

Whenever any nonresident property owner fails to appoint or maintain an agent, as required in this section, or whenever his agent cannot with reasonable diligence be found, then the Secretary of the Commonwealth shall be an agent of the nonresident property owner upon whom may be served any process, notice, order, or demand. Service may be made on the Secretary of the Commonwealth or any of his staff at his office who shall forthwith cause it to be sent by registered or certified mail addressed to the nonresident property owner at his address as shown on the official tax records maintained by the locality where the property is located.

The name and office address of the agent appointed as provided in this section shall be filed in the office of the clerk of the court in which deeds are recorded in the county or city in which the property lies. Recordation shall be in the same book as certificates of fictitious names are recorded as provided by § 59.1-74 for which the clerk shall be entitled to a fee of \$10.

No nonresident property owner shall maintain an action in the courts of the Commonwealth concerning property for which a designation is required by this section until such designation has been filed.

**§ 55.1-1402. Apportionment on purchase of part of land by holder of rent.**

When the holder of a rent purchases part of the land out of which the rent issues, such rent shall be apportioned in like manner as if the land had come to him by descent, and when the holder of land that is part of land out of which rent issues purchases such rent or part of it, the rent so purchased shall be apportioned as in like manner as if the land had come to him by descent.

**§ 55.1-1403. Perfection of lien or interest in leases, rents, and profits.**

The recordation pursuant to § 55.1-600, in the county or city in which the real property is located, of any deed, deed of trust, or other instrument granting, transferring, or assigning the interest of the grantor, transferor, assignor, pledgor, or lessor in leases, rents, or profits arising from the real property described in such deed, deed of trust, or other instrument shall fully perfect the interest of the grantee, transferee, assignee, or pledgee as to the assignor and all third parties without the necessity of (i) furnishing notice to the assignor or lessee, (ii) obtaining possession of the real property, (iii) impounding the rents, (iv) securing the appointment of a receiver, or (v) taking any other affirmative action. The lessee is authorized to pay the assignor until the lessee receives written notification that rents due or to become due have been assigned and that payment is to be made to the assignee.

**§ 55.1-1404. Energy submetering, energy allocation equipment, sewer and water submetering equipment, ratio utility billings systems; local government fees.**

A. As used in this section:

"Building" means all of the individual units served through the same utility-owned meter within a building that is used as a nonresidential tenancy, including a building used as an office building or shopping center as those terms are defined in § 56-245.2.

"Campground" means the same as that term is defined in § 35.1-1.

"Campsite" means the same as that term is defined in § 35.1-1.

*"Energy allocation equipment" means the same as that term is defined in § 56-245.2.*

*"Energy submetering equipment" has the same meaning ascribed to "submetering equipment" in § 56-245.2.*

*"Local government fees" means any local government charges or fees assessed against a building or campground, including stormwater, recycling, trash collection, elevator testing, or fire or life safety testing.*

*"Ratio utility billing system" means a program that utilizes a mathematical formula for allocating, among the tenants in a building or campground, the actual or anticipated water, sewer, electrical, oil, or natural gas billings billed to the building or campground owner from a third-party provider of the utility service. Permitted allocation methods may include formulas based on square footage, occupancy, number of bedrooms, or some other specific method agreed to by the building or campground owner and the tenant in the rental agreement or lease.*

*"Water and sewer submetering equipment" means equipment used to measure actual water or sewer usage in any nonresidential rental unit, as defined in § 56-245.2, when such equipment is not owned or controlled by the utility or other provider of water or sewer service that provides service to the building in which the nonresidential rental unit is located or campground where the campsite is located.*

*B. Energy submetering equipment, energy allocation equipment, water and sewer submetering equipment, or a ratio utility billing system may be used in a building or campground if clearly stated in the rental agreement or lease for the leased premises. All energy submetering equipment and energy allocation equipment shall meet the requirements and standards established and enforced by the State Corporation Commission pursuant to § 56-245.3.*

*C. If energy submetering equipment, water and sewer submetering equipment, or energy allocation equipment is used in any building or campground, the owner, manager, or operator of the building or campground shall bill the tenant for electricity, oil, natural gas, or water and sewer for the same billing period as the utility serving the building or campground, unless the rental agreement or lease expressly provides otherwise. The owner, manager, or operator of the building or campground may charge and collect from the tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses and billing charged to the building or campground owner, manager, or operator by a third-party provider of such services, provided that such charges are agreed to by the building or campground owner and the tenant in the rental agreement or lease. The building or campground owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section.*

*D. If a ratio utility billing system is used in any building or campground, in lieu of increasing the rent, the owner, manager, or operator of the building or campground may employ such a program that utilizes a mathematical formula for allocating, among the tenants in a building or campground, the actual or anticipated water, sewer, electrical, oil, or natural gas billings billed to the building or campground owner from a third-party provider of the utility service. The owner, manager, or operator of the building or campground may charge and collect from the tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses and billings charged to the building or campground owner, manager, or operator by a third-party provider of such services, provided that such charges are agreed to by the building or campground owner and the tenant in the rental agreement or lease. The building or campground owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section.*

*E. Energy allocation equipment shall be tested periodically by the owner, manager, or operator of the building or campground. Upon the request by a tenant, the owner shall test the energy allocation equipment without charge. The test conducted without charge to the tenant shall not be conducted more frequently than once in a 24-month period for the same tenant. The tenant or his designated representative may be present during the testing of the energy allocation equipment. A written report of the results of the test shall be made to the tenant within 10 working days after the completion of the test.*

*F. The owner of any building or campground shall maintain adequate records regarding energy submetering equipment, water and sewer submetering equipment, energy allocation equipment, or a ratio utility billing system. A tenant may inspect and copy the records for the leased premises during reasonable business hours at a convenient location within the building or campground. The owner of the building or campground may impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and labor for copying, prior to providing copies of the records to the tenant.*

*G. Notwithstanding any enforcement action undertaken by the State Corporation Commission pursuant to its authority under § 56-245.3, tenants and owners shall retain any private right of action resulting from any breach of the rental agreement or lease terms required by this section or § 56-245.3, if applicable, to the same extent as such actions may be maintained for breach of other terms of the rental agreement or lease under this chapter, if applicable. The use of energy submetering equipment, water and sewer submetering equipment, energy allocation equipment, or a ratio utility billing system is not within the jurisdiction of the Department of Agriculture and Consumer Services under Chapter 56 (§ 3.2-5600 et seq.) of Title 3.2.*

*H. In lieu of increasing the rent, the owner, manager, or operator of a building or campground may employ a program that utilizes a mathematical formula for allocating the actual or anticipated local government fees billed to the building or campground owner among the tenants in such building or campground if clearly stated in the rental agreement or lease for the leased premises. Permitted allocation methods may include formulas based upon square footage, occupancy, number of bedrooms, or some other specific method agreed to by the building or campground owner and the tenant in the rental*

agreement or lease. Such owner, manager, or operator of a building or campground may also charge and collect from each tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses for administration of such a program.

I. Nothing in this section shall be construed to prohibit an owner, manager, or operator of a building or campground from including water, sewer, electrical, natural gas, oil, or other utilities in the amount of rent as specified in the rental agreement or lease.

**§ 55.1-1405. Transfer of deposits upon purchase.**

The current owner of nonresidential rental property shall transfer any security deposits and any accrued interest on the deposits in his possession to the new owner at the time of the transfer of the rental property. If the current owner has entered into a written property management agreement with a managing agent in accordance with the provisions of subsection E of § 54.1-2135, the current owner shall give written notice to the managing agent requesting payment of such security deposits to the current owner prior to settlement with the new owner. Upon receipt of the written notice, the managing agent shall transfer the security deposits to the current owner and provide written notice to each tenant that his security deposit has been transferred to the new owner in accordance with this section.

Article 2.

Assignments.

**§ 55.1-1406. Grantees and assignees have same rights against lessees as lessors.**

A grantee or assignee of any land leased, or of the reversion thereof, and his heirs, personal representative, or assigns, shall enjoy against the lessee, and his heirs, personal representative, or assigns, the like advantage, by action or entry for any forfeiture or by action upon any covenant or promise in the lease that the grantor, assignor, or lessor, or his heirs, might have enjoyed.

**§ 55.1-1407. Lessees have same rights against grantees as against lessors.**

A lessee, his personal representative, or his assigns may have against a grantee or alienee of the reversion, or of any part of such reversion, his heirs, or his assigns the like benefit of any condition, covenant, or promise in the lease as he could have had against the lessor himself and his heirs and assigns, except the benefit of any warranty, in deed or law.

**§ 55.1-1408. What powers to pass to grantee or devisee; when attornment unnecessary.**

In conveyances or devises of rents in fee, with powers of distress and reentry, or either of them, such powers shall pass to the grantee or devisee without express words. A grant or devise of a rent, or of a reversion or remainder, is good and effectual without attornment of the tenant, but no tenant who, before notice of the grant, paid the rent to the grantor shall suffer any damage as a result of such payment.

**§ 55.1-1409. When attornment void.**

The attornment of a tenant to any stranger is void, unless it is with the consent of the landlord of such tenant or pursuant to or in consequence of the judgment or order of a court.

Article 3.

Landlord Obligations.

**§ 55.1-1410. Notice to terminate a tenancy in nonresidential rental property; notice of change in use of multifamily residential building.**

A. A year-to-year tenancy in a nonresidential rental property may be terminated by either party giving three months' notice, in writing, prior to the end of any year of the tenancy, of his intention to terminate the same. A month-to-month tenancy may be terminated by either party giving 30 days' notice in writing, prior to the next rent due date, of his intention to terminate the same, unless the rental agreement provides for a different notice period. Written notice of termination shall be given in accordance with this chapter or the lease agreement.

B. In addition to the termination rights set forth in subsection A, and notwithstanding the terms of the lease, the landlord may terminate a lease agreement in a multifamily residential building due to rehabilitation or a change in the use of all or any part of such building that contains at least four residential units, upon 120 days' prior written notice to the tenant. Changes in use shall include conversion to hotel, motel, apartment hotel, or other commercial use, planned unit development, substantial rehabilitation, demolition, or sale to a contract purchaser requiring an empty building. This 120-day notice requirement shall not be waived except in the case of a month-to-month tenancy, which may be terminated by the landlord by giving the tenant 30 days' written notice prior to the next rent due date of the landlord's intention to terminate the tenancy.

The written notice required by this section to terminate a tenancy shall not be contained in the rental agreement or lease, but shall be a separate writing.

**§ 55.1-1411. Nonresidential buildings destroyed or lessee deprived of possession; covenant to pay rent or repair; reduction of rent.**

No covenant or promise by a lessee of nonresidential property to pay the rent, or that he will keep or leave the premises in good repair, shall have the effect, if the buildings on the premises are destroyed by fire or otherwise, in whole or in part, without fault or negligence on his part, or if he is deprived of the possession of the premises by the public enemy, of binding him to make such payment or repair or erect such buildings again, unless there are other words showing it to be the intent of the parties that he should be so bound. But in case of such destruction there shall be a reasonable reduction of the rent for such time as may elapse until there are again upon the premises buildings of as much value to the tenant for his purposes as what may have been so destroyed, and, in case of such deprivation of possession, a like reduction until

possession of the premises is restored to him.

**§ 55.1-1412. Security systems for nonresidential rental property.**

No landlord of a premises used for nonresidential purposes shall unreasonably withhold or delay consent for the tenant to install security systems within such premises.

Article 4.

Landlord Remedies.

**§ 55.1-1413. Effect of failure of tenant in nonresidential rental property to vacate premises at expiration of term.**

A tenant from year-to-year, month-to-month, or other definite term in a nonresidential rental property shall not, by his mere failure to vacate the premises upon the expiration of the lease, be held as tenant for another term when such failure is not due to his willfulness, negligence, or other avoidable cause, but such tenant shall be liable to the lessor for use and occupation of the premises and also for any loss or damage sustained by the lessor because of such failure to surrender possession at the time stipulated.

**§ 55.1-1414. Abandonment of nonresidential rental property.**

If any tenant from whom rent is owing and unpaid abandons a nonresidential rental property and leaves such premises unoccupied, and if the tenant's personal property that is subject to distress is not sufficient to satisfy the rent owed, the lessor or his agent may post a written notice on a conspicuous part of the premises requiring the tenant to pay the rent within 10 days from the date of such notice, in the case of a monthly tenant, or within one month from the date of such notice, in the case of a yearly tenant. If the owed rent is not paid within the time specified in the notice, the lessor shall be entitled to possession of the premises and may enter the premises, and the right of such tenant to possess the premises shall terminate, but the landlord may recover the rent up to such termination.

**§ 55.1-1415. Failure to pay certain rents after five days' notice forfeits right of possession.**

If any tenant or lessee of nonresidential rental property who is in default in the payment of rent continues to be in default five days after receipt of written notice that requires possession of the premises or the payment of rent, such tenant or lessee forfeits his right to possession of the premises. In such case, the possession of the defendant may, at the option of the landlord or lessor, be deemed unlawful, and he may proceed to recover possession of the premises.

The right to evict a tenant whose right of possession has been terminated in any nonresidential tenancy under this chapter may be effectuated by self-help eviction without further legal process so long as such eviction does not incite a breach of the peace. However, nothing in this section shall be construed to preclude termination of any nonresidential tenancy by the filing of an unlawful detainer action as provided by Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, entry of an order of possession, and eviction pursuant to § 55.1-1416.

**§ 55.1-1416. Authority of sheriffs to store and sell personal property removed from nonresidential premises; recovery of possession by owner; disposition or sale.**

Notwithstanding the provisions of § 8.01-156, when personal property is removed from any nonresidential rental property pursuant to an action of unlawful detainer or ejectment, or pursuant to any other action in which personal property is removed from the premises in order to restore such premises to the person entitled to such premises, the sheriff shall oversee the removal of such personal property to be placed into the public way. The tenant shall have the right to remove his personal property from the public way during the 24-hour period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the public way.

At the landlord's request, any personal property removed pursuant to this section shall be placed into a storage area designated by the landlord, which may be the leased or rented premises. The tenant shall have the right to remove his personal property from the landlord's designated storage area at reasonable times during the 24 hours after eviction from the premises or at such other reasonable times until the landlord has disposed of the property as provided in this section. During that 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the loss of such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided in this section, the tenant shall have a right to injunctive relief and such other relief as may be provided by law.

Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant and apply such funds to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord in selling or storing such property. If any funds are remaining after application, the remaining funds shall be treated as security deposit under applicable law.

The notice posted by the sheriff setting the date and time of the eviction, pursuant to § 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and shall include in the notice a copy of this statute attached to, or made a part of, this notice.

Nothing in this section shall affect the right of a landlord to enforce an inchoate or perfected lien of the landlord on the personal property of a tenant in a nonresidential premises leased to such tenant or the right of a landlord to distress, levy, and seize such personal property as otherwise provided by law.

**§ 55.1-1417. Who may recover rent or possession.**

Notwithstanding any rule of court to the contrary, (i) any person licensed under the provisions of § 54.1-2106.1, (ii) any property manager, or a managing agent of a landlord as defined in § 55.1-1200, or directors, or by a manager, a

general partner, or a trustee, of a partnership, association, corporation, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership, business trust, or family trust to sign pleadings as the agent of the business entity, may obtain a judgment (a) for possession in the general district court for the county or city in which the premises, or part thereof, is situated or (b) for rent or damages, including actual damages for breach of the rental agreement, or for final rent and damages under § 8.01-128, in any general district court where venue is proper under Chapter 5 (§ 8.01-257 et seq.) of Title 8.01, against any defendant if the person seeking such judgment had a contractual agreement with the landlord to manage the premises for which rent or possession is due and may prepare, execute, file, and have served on other parties in any general district court a warrant in debt, suggestion for summons in garnishment, garnishment summons, writ of possession, or writ of fieri facias arising out of a landlord-tenant relationship. However, the activities of any such person in court shall be limited by the provisions of § 16.1-88.03. However, nothing shall be construed as preventing a nonlawyer from requesting relief from the court as provided by law or statute when such nonlawyer is before the court on one of the actions specified herein.

Article 5.

Miscellaneous Provisions.

**§ 55.1-1418. Remedy when rent is to be paid in other thing than money.**

When goods are distrained or attached for rent reserved in a share of the crop, or in anything other than money, the claimant of the rent shall give the tenant 10 days' notice, and the claimant may then apply to the court to which the attachment is returnable, or the circuit court of the county or city in which the distress is made, to ascertain the value in money of the rent reserved and to order a sale of the goods distrained or attached. The tenant may make the same defenses that he could to a motion on a forfeited forthcoming bond given for rent and may also contest the value of what was reserved for the rent. The court shall ascertain, either by its own judgment or, if either party requires it, by the verdict of a jury impaneled without the formality of pleading, the extent of the liability of the tenant for rent and the value in money of such rent and if the tenant has been served with notice shall enter judgment against him for the amount so ascertained. It shall also order the goods distrained or attached, or so much thereof as may be necessary, to be sold to pay the amount so ascertained. The officer charged with the execution of such warrant or attachment shall return such warrant or attachment to the clerk's office of the court, showing how he has executed such warrant or attachment. If the goods so directed to be sold prove insufficient to pay the amount of the rent so ascertained, an execution may be issued on the judgment as in case of other judgments, which may be levied on such property as would be leviable under an execution issued on a judgment in an action brought to recover the rent.

**§ 55.1-1419. Proceedings to establish right of reentry; judgment.**

Any person who has a right of reentry into lands by reason of any rent issuing thereout being in arrear, or by reason of the breach of any covenant or condition, may serve a declaration in ejectment on the tenant in possession, if any, or, if the possession is vacant, by posting the declaration upon the front door of the building, or at any other notorious place on the premises, and such service shall be in lieu of a demand and reentry. Upon proof to the court, by affidavit in case of judgment by default or upon proof on the trial, that the rent claimed was due and no sufficient distress was upon the premises, or that the covenant or condition was broken before the service of the declaration and that the plaintiff had power to reenter, he shall recover judgment and have execution for such lands.

**§ 55.1-1420. When defendant barred of relief.**

Should the defendant to a proceeding filed pursuant to § 55.1-1419, or other person on his behalf, not pay the rent in arrear, with interest and costs, nor file a complaint for relief against such forfeiture, within 12 months after execution executed, he shall be barred of all right to be restored to such lands or tenements.

**§ 55.1-1421. How trustee or mortgagee relieved from the forfeiture.**

Any mortgagee or trustee of lands subject to a proceeding filed pursuant to § 55.1-1419 may, within 12 months after execution executed, pay the rent and all arrears, with interest and costs, or file a complaint for relief against such forfeiture; and thereupon may be relieved against it, on the same terms and conditions as the owner of such lands or tenements would be entitled to.

**§ 55.1-1422. How owner relieved in court.**

If the owner of lands subject to a proceeding filed pursuant to § 55.1-1419, or any person having right or claim to such land, files within the appropriate time his complaint for relief, he shall not have or continue any injunction against the proceedings at law on the ejectment, unless, within 30 days following a full and perfect answer filed by the plaintiff in ejectment, he brings into court, or deposits in a bank within the Commonwealth to the credit of the cause, such money as the plaintiff in ejectment, in his answers, swears to be due and in arrear, over and above all just allowances and also the costs taxed in the action, there to remain until the hearing of the cause, or to be paid out to the plaintiff on good security, subject to the order of the court. If the complaint is filed within the appropriate time, and after execution executed, the plaintiff shall be accountable for no more than he, really and bona fide, without fraud, deceit, or willful neglect, makes of the premises from the time of his entering into the actual possession of the premises, and if it is less than the rent payable, then the possession shall not be restored until the plaintiff is paid the balance of the rent for the time he so held the lands.

**§ 55.1-1423. How judgment of forfeiture prevented.**

If any party having right or claim to lands subject to a proceeding filed pursuant to § 55.1-1419, at any time before the trial in such ejectment, pays to the party entitled to such rent, or to his attorney, or pays into court, all the rent and arrears

owed, along with any reasonable attorney fees and late charges contracted for in a written rental agreement, interest, and costs, all further proceedings in the ejectment shall cease. If the person claiming the land is relieved, he is entitled to hold the land in the same manner as he was prior to the commencement of the proceedings, without a new lease or conveyance. If the parties dispute the amount of rent and other charges owed, the court shall take evidence on the issue and make orders for the tender, payment, or refund of any appropriate amounts.

**§ 55.1-1424. When action for reentry brought.**

Proceedings for ejectment shall not be initiated until the time for reentry of the premises specified in the rental agreement has lapsed.

**§ 55.1-1425. Written act of reentry to be returned and recorded and certificate of reentry published.**

When actual reentry is made, the party by or for whom the reentry is made shall return a written act of reentry, sworn to by the sheriff or another authorized officer, to the clerk of the circuit court of the county or city in which the lands or tenements are located. The clerk shall record the written act of reentry in the deed book and shall deliver to the party making the reentry a certificate setting forth the substance of such written act. Such certificate shall be published at least once a week for two months successively in a newspaper published in or nearest to such county or city. Such publication shall be proved by affidavit to the satisfaction of the clerk, who shall record such affidavit in the deed book. Such affidavit shall reference the book and page where the original written act of reentry was recorded. The clerk shall return the original act of reentry to the party entitled to it. The written act of reentry, when recorded, and the record of such written act, or a duly certified copy from such record, shall be evidence, in all cases, of the facts contained therein.

**§ 55.1-1426. Fee of clerk.**

The clerk shall be paid for recording, granting certificate, and noting publication, as required by § 55.1-1425, the fee prescribed in subdivision A 2 of § 17.1-275 and shall collect and account for the same tax upon every such act of reentry offered for record as is levied by law upon deeds of conveyance.

**§ 55.1-1427. How person entitled to lands may be restored to his possession.**

If the person entitled to lands subject to a proceeding filed pursuant to § 55.1-1419 at the time of reentry made, or having claim to such lands, does not pay the rent and all arrears owed, with interest and all reasonable expenses incurred about such reentry, within one year from the first day of publication pursuant to § 55.1-1425, he shall be forever barred from all right to the lands. If any party who has the right of possession pays the rent and arrears owed, with interest and expenses pursuant to this section, to the party making reentry, within the required time, he shall be reinstated in his possession to hold as if the reentry had not been made.

**§ 55.1-1428. Limitation of action against person in possession by reentry.**

No person who, or who with his predecessor in title under whom he claims, has possessed lands by virtue of a reentry for the term of two years shall be disturbed therein by action or otherwise for any defect of proceedings in such entry.

CHAPTER 15.

RESIDENTIAL GROUND RENT ACT.

**§ 55.1-1500. Definitions.**

As used in this chapter:

"Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both upper and lower boundaries, as well as parcels extending *ab solo usque ad coelum*. Parcels of airspace constitute land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient description shall be deemed to include a requirement that the upper and lower boundaries, if any, of the parcel in question be identified with reference to established data.

"Obligee" means any person or entity to whom a residential ground rent is owed.

"Obligor" means one or more individuals who are obligated to pay a residential ground rent.

"Residential ground rent" means a rent or charge paid for the use of land, whether or not title to such land is transferred to the user, or a lease of land, for personal residential purposes, (i) which is assignable by the obligor without the obligee's consent; (ii) which is for a term in excess of 15 years, including any rights of renewal at the option of the obligor; (iii) where the obligor has a present or future right to terminate such ground rent and to acquire the entire interest of the obligee in the land by the payment of a determined or determinable amount; and (iv) where the obligee's interest in the land is primarily a security interest to protect his right to be paid the rent or charge.

**§ 55.1-1501. Form of instrument.**

Any agreement in which a residential ground rent is created shall:

1. Be reduced to writing;
2. Be in recordable form; and
3. Disclose the date, the names of the parties, the ground rent and any future adjustments to the ground rent, when such rent is payable, the duration of the agreement, and the value of the land at the time the agreement is made. If the parties agree to the amount for which the ground rent may be redeemed, such amount shall also be included in the agreement. Such agreement shall be included as a part of the deed or other instrument of transfer.

**§ 55.1-1502. Changes in amount of rent.**

The amount of a residential ground rent may be changed on demand of either the obligor or obligee at the end of five years from the date of the agreement, and every five years thereafter, by giving notice to the other party by certified mail or overnight delivery using a commercial service or the United States Postal Service between 90 and 60 days prior to such fifth anniversary. Unless the parties agree otherwise, such change in ground rent shall not exceed the percentage

change for the preceding three years in the Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor or such other instrument or agency of the United States or of the Commonwealth as may be designated by the General Assembly. The first of such years shall constitute the base year.

**§ 55.1-1503. Encumbrance on real property.**

A residential ground rent shall constitute a lien against the real estate from the time it is recorded. Any deed of trust or mortgage may provide that a default in payment of ground rent shall constitute a default in such deed of trust or mortgage, that the trustee or beneficiary of the deed of trust or mortgage may satisfy such obligation for rent, and that the money used to satisfy such obligation, along with interest, shall be a part of the debt secured, to be repaid as provided in § 55.1-320 et seq.

**§ 55.1-1504. Redemption rights.**

The obligor shall have the right to redeem a residential ground rent at any time after three years from the date the ground rent agreement is made. The redemption shall be effected for the amount agreed upon by the obligor and the obligee or, in the absence of such an agreement, shall be determined by capitalizing the ground rent in effect at the time of redemption, using the average rate on long-term business loans charged by commercial banks in the southeast, as published by the Federal Reserve Board. Upon tender of such amount by the obligor, together with any lawfully collectible arrearages of rent and interest thereon, the obligor may redeem the land from, and shall be entitled to a release from, all obligation to pay ground rent. Such release shall be in recordable form and the cost of recording the same, together with any other charges incidental to it, other than the state transfer tax, shall be paid by the obligor.

**§ 55.1-1505. Incorporation of agreement into deed.**

A ground rent agreement made pursuant to the provisions of this chapter may be incorporated into the deed or other instrument of transfer in the following form:

This deed is subject to annual ground rent or charge as follows:

1. Date of agreement: \_\_\_\_\_;
2. Parties:
  - a. Obligor: \_\_\_\_\_; and
  - b. Obligee: \_\_\_\_\_;
3. Ground rent and any future adjustments to it: \_\_\_\_\_;
4. When payable: \_\_\_\_\_;
5. Duration: \_\_\_\_\_;
6. Original value of land: \_\_\_\_\_; and
7. Redemption price, if agreed on: \_\_\_\_\_.

**CHAPTER 16.  
DEEDS OF LEASE.**

**§ 55.1-1600. Form of a lease.**

A deed of lease may be made in a form substantially similar to the following: "This deed, made the \_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, between (herein insert the names of parties), witnesseth: that the said \_\_\_\_\_ doth (or do) demise unto the said \_\_\_\_\_, his personal representative and assigns, all (here describe the property) from the \_\_\_\_ day of \_\_\_\_\_, for the term of \_\_\_\_\_, thence ensuing, yielding therefor during the said term the rent of (here state the rent and mode of payment). Witness the following signature and seal (or signatures and seals)."

**§ 55.1-1601. Memoranda of leases and options.**

A. In lieu of the recording of a lease, a memorandum of such lease may be recorded, executed by the lessor and the lessee in the manner that would entitle a conveyance to be recorded. Such memorandum of lease shall contain at least the following information with respect to the lease:

1. The name of the lessor;
2. The name of the lessee and a reference to the lease;
3. The addresses, if any, set forth in the lease as addresses of such parties;
4. The date of the memorandum of such lease;
5. A description of the leased premises; and
6. A statement of the term, commencement date or termination date, and rights of extension or renewal, if any, to the extent required to determine the period for which or date to which the lease may be in effect.

B. In lieu of the recording of an option to purchase real estate, a memorandum of such option may be recorded, executed by the grantor of the option in the manner that would entitle a conveyance to be recorded. Such memorandum of option to purchase real estate shall contain at least the following information with respect to the option:

1. The name of the person granting the option;
2. The name of the optionee and a reference to the option;
3. The addresses, if any, set forth in the agreement as addresses of such parties;
4. The date of the memorandum of the option;
5. A description of the optioned premises;
6. The option price or reference to the document containing the method with regard to how the option price is computed; and
7. The statement of the term, commencement date or termination date, and rights of extension or renewal, if any, to the

extent required to determine the period during which or date to which the option may be in effect.

**§ 55.1-1602. Certain covenants of lessee "to pay the rent" and "to pay the taxes."**

In a deed of lease, (i) a covenant by the lessee "to pay the rent" shall have the effect of a covenant that the rent reserved by the deed shall be paid to the lessor, or those entitled under the lessor, in the manner stated in the deed, and (ii) a covenant by the lessee "to pay the taxes" shall have the effect of a covenant that all the taxes, levies, and assessments upon the demised premises, or upon the lessor on account thereof, shall be paid by the lessee or those claiming under the lessee.

**§ 55.1-1603. Certain covenants of lessee that "he will not assign without leave" and that "he will leave the premises in good repair."**

In a deed of lease, (i) a covenant by the lessee that "he will not assign without leave" shall have the same effect as a covenant that the lessee will not, during the term, assign, transfer, or set over the premises, or any part of such premises, to any person without the consent, in writing, of the lessor or the lessor's representative or assigns, and (ii) a covenant by the lessee that "he will leave the premises in good repair" shall, subject to the qualifications of § 55.1-1411, have the same effect as a covenant that the demised premises will, at the expiration or other sooner determination of the term, be peaceably surrendered and yielded to the lessor or the lessor's representatives or assigns in good and substantial repair and condition, reasonable wear and tear excepted.

**§ 55.1-1604. Covenant of lessor "for lessee's quiet enjoyment."**

A covenant by a lessor "for the lessee's quiet enjoyment of his term" shall have the same effect as a covenant that the lessee, or the lessee's personal representative or lawful assigns, paying the rent reserved and performing his covenants, shall peaceably possess and enjoy the demised premises, for the term granted, without any interruption or disturbance from any person.

**§ 55.1-1605. Effect of provision for reentry by lessor.**

If a deed of lease provides that "the lessor may reenter for default of \_\_\_\_\_ days in the payment of rent, or for the breach of covenants," it has the effect of an agreement that if the rent reserved, or any part of such rent, is unpaid for such number of days after the day on which it was due, or if any of the other covenants on the part of the lessee or his personal representative or assigns is broken, then, in either of such cases, the lessor, or those entitled in the lessor's place, at any time afterwards may reenter into and upon the demised premises, or any part of such premises, in the name of the whole, and the same again have, repossess, and enjoy, as of his former estate.

CHAPTER 17.  
EMBLEMETS.

**§ 55.1-1700. Law of emblements.**

In all cases, the right to emblements shall be as at common law, provided, however, that in any sale of land under a deed of trust or mortgage, such sale shall be made subject to the right and interest of a tenant in any crop planted by him under a bona fide lease for no more than one year, entered into by him with the mortgagor after the execution of such deed of trust or mortgage, but during such time as the mortgagor is allowed to remain in possession of the mortgaged premises and before the premises is advertised for sale under such deed of trust, or under an order in an action brought for the foreclosure of such deed of trust or mortgage.

**§ 55.1-1701. What rent tenant entitled to emblements to pay.**

The tenant who is entitled to emblements, or his personal representative, shall pay a reasonable rent for the land occupied by the emblements in the same proportion as such land bears in quantity and value to the entire premises. Such rent shall be apportioned among the owners of the reversion, if there is more than one, according to their respective interests.

**§ 55.1-1702. Compensation to outgoing tenant for preparation of land for crop.**

In the case of an outgoing tenant, those who succeed to the land shall pay such outgoing tenant reasonable compensation for any preparation of such land by the tenant for the purpose of planting a crop if the outgoing tenant, or his personal representative, would have been entitled to emblements had the crop been planted by him.

**§ 55.1-1703. Lessee of life tenant may hold land through end of year on death of tenant; apportionment of rent.**

If there is a tenant for life or other uncertain interest in land that is leased to another, upon the death of such tenant for life or termination of such other uncertain interest, the lessee may hold the land through the end of the current year of the tenancy, paying rent. The rent, if it is reserved in money, shall be apportioned between the tenant for life or other uncertain interest, or his personal representative, and those who succeed to the land. If rent is reserved in kind, it shall be paid to the tenant for life or other uncertain interest, or his personal representative, and the tenant or his personal representative, as the case may be, shall pay to those who succeed to the land a reasonable rent, in money, from the expiration of the life estate or other uncertain interest to the end of the current year of the tenancy. The rent to be paid to those who succeed to the land shall be a charge in preference to other claims on the rent received in kind by such tenant or his personal representative.

SUBTITLE IV.  
COMMON INTEREST COMMUNITIES.  
CHAPTER 18.  
PROPERTY OWNERS' ASSOCIATION ACT.  
Article I.  
General Provisions.

**§ 55.1-1800. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association or a committee that is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement, or restoration and for which the board of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased, or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as a common area in the declaration.

"Common interest community" means the same as that term is defined in § 54.1-2345.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part of such development is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area or (ii) creates the authority in the association to impose on lots, on the owners or occupants of such lots, or on any other entity any mandatory payment of money in connection with the provision of maintenance or services for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition. "Declaration" does not include a declaration of a condominium, real estate cooperative, time-share project, or campground.

"Development" means real property located within the Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

"Disclosure packet update" means an update of the financial information referenced in subdivisions A 2 through 9 of § 55.1-1809. The update shall include a copy of the original disclosure packet.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act shall have the meaning set forth in such section.

"Financial update" means an update of the financial information referenced in subdivisions A 2 through 7 of § 55.1-1809.

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or cooperative is a part of a development.

"Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a foreclosure sale, regardless of whether the deed is recorded in the land records where the lot is located. "Lot owner" does not include any person holding an interest in a lot solely as security for a debt.

"Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community.

"Property owners' association" or "association" means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in the declaration.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

**§ 55.1-1801. Applicability.**

A. This chapter applies to developments subject to a declaration initially recorded after January 1, 1959, associations incorporated or otherwise organized after such date, and all subdivisions created under the Subdivided Land Sales Act (§ 55.1-2300 et seq.). For the purposes of this chapter, as used in the Subdivided Land Sales Act, the terms:

"Covenants," "deed restrictions," or "other recorded instruments" for the management, regulation, and control of a development are deemed to correspond with the term "declaration."

"Developer" is deemed to correspond with the term "declarant."

"Subdivision" is deemed to correspond with the term "development."

B. This chapter supersedes the Subdivided Land Sales Act (§ 55.1-2300 et seq.), and no development shall be subject to the Subdivided Land Sales Act on or after July 1, 1998.

This chapter shall not be construed to affect the validity of any provision of any declaration recorded prior to July 1, 1998, provided, however, that this chapter shall be applicable to any development established prior to the enactment of the Subdivided Land Sales Act (§ 55.1-2300 et seq.) (i) located in a county with an urban county executive form of government, (ii) containing 500 or more lots, (iii) each lot of which is located within the boundaries of a watershed

improvement district established pursuant to Article 3 (§ 10.1-614 et seq.) of Chapter 6 of Title 10.1, and (iv) each lot of which is subject to substantially similar deed restrictions, which shall be considered a declaration under this chapter.

In addition, any development established prior to July 1, 1978, may specifically provide for the applicability of the provisions of this chapter.

C. This chapter shall not be construed to affect the validity of any provision of any prior declaration; however, to the extent that the declaration is silent, the provisions of this chapter shall apply. If any one lot in a development is subject to the provisions of this chapter, all lots in the development shall be subject to the provisions of this chapter notwithstanding the fact that such lots would otherwise be excluded from the provisions of this chapter. Notwithstanding any provisions of this chapter, a declaration may specifically provide for the applicability of the provisions of this chapter. The granting of rights in this chapter shall not be construed to imply that such rights did not exist with respect to any development created in the Commonwealth before July 1, 1989.

D. This chapter shall not apply to the (i) provisions of documents of, (ii) operations of any association governing, or (iii) relationship of a member to any association governing condominiums created pursuant to the Condominium Act (§ 55.1-1900 et seq.), cooperatives created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), time-shares created pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), or membership campgrounds created pursuant to the Virginia Membership Camping Act (§ 59.1-311 et seq.). This chapter shall not apply to any nonstock, nonprofit, taxable corporation with nonmandatory membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public.

**§ 55.1-1802. Developer to register and file annual report; payment of real estate taxes attributable to the common area.**

A. (Effective July 1, 2019) Unless control of the association has been transferred to the members, the developer shall register the association with the Common Interest Community Board within 30 days after recordation of the declaration and thereafter shall ensure that the report required pursuant to § 55.1-1835 has been filed.

B. Upon the transfer of the common area to the association, the developer shall pay all real estate taxes attributable to the open or common space as defined in § 58.1-3284.1 through the date of the transfer to the association.

**§ 55.1-1803. Limitation on certain contracts and leases by declarant.**

A. If entered into any time prior to the expiration of the period of declarant control contemplated by the declaration, no contract or lease entered into with the declarant or any entity controlled by the declarant, management contract, or employment contract that is directly or indirectly made by or on behalf of the association, its board of directors, or the lot owners as a group shall be entered into for a period in excess of five years. Any such contract or agreement may be terminated without penalty by the association or its board of directors upon not less than 90 days' written notice to the other party given no later than 60 days after the expiration of the period of declarant control contemplated by the declaration.

B. If entered into any time prior to the expiration of the period of declarant control contemplated by the declaration, any contract or lease entered into with the declarant or any entity controlled by the declarant, management contract, or employment contract that is directly or indirectly made by or on behalf of the association, its board of directors, or the lot owners as a group may be renewed for periods not in excess of five years; however, at the end of any five-year period, the association or its board of directors may terminate any further renewals or extensions of such contract or lease.

C. If entered into at any time prior to the expiration of the period of declarant control contemplated by the declaration, any contract, lease, or agreement, other than those subject to the provisions of subsection A or B, may be entered into by or on behalf of the association, its board of directors, or the lot owners as a group if such contract, lease, or agreement is bona fide and is commercially reasonable to the association at the time entered into under the circumstances.

D. This section shall be strictly construed to protect the rights of the lot owners.

**§ 55.1-1804. Documents to be provided by declarant upon transfer of control.**

Unless previously provided to the board of directors of the association, once the majority of the members of the board of directors other than the declarant are owners of improved lots in the association and the declarant no longer holds a majority of the votes in the association, the declarant shall provide to the board of directors or its designated agent the following: (i) all association books and records held by or controlled by the declarant, including minute books and rules and regulations and all amendments to such rules and regulations that may have been promulgated; (ii) a statement of receipts and expenditures from the date of the recording of the association documents to the end of the regular accounting period immediately succeeding the first election of the board of directors by the lot owners, not to exceed 60 days after the date of the election, such statement being prepared in an accurate and complete manner, utilizing the accrual method of accounting; (iii) the number of lots subject to the declaration; (iv) the number of lots that may be subject to the declaration upon completion of development; (v) a copy of the latest available approved plans and specifications for all improvements in the project or as-built plans if available; (vi) all association insurance policies that are currently in force; (vii) written unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers, if any, relative to all common area improvements; (viii) any contracts in which the association is a contracting party; (ix) a list of manufacturers of paints, roofing materials, and other similar materials if specified for use on the association property; and (x) the number of members of the board of directors and number of such directors appointed by the declarant together with names and contact information of members of the board of directors.

If the association is managed by a common interest community manager in which the declarant, or its principals, has no pecuniary interest or management role, then such common interest community manager shall have the responsibility to

provide the documents and information required by clauses (i), (ii), (vi), and (viii).

**§ 55.1-1805. Association charges.**

Except as expressly authorized in this chapter, in the declaration, or otherwise provided by law, no association shall (i) make an assessment or impose a charge against a lot or a lot owner unless the charge is a fee for services provided or related to use of the common area or (ii) charge a fee related to the provisions set out in § 55.1-1810 or 55.1-1811 that is not expressly authorized in those sections. Nothing in this chapter shall be construed to authorize an association or common interest community manager to charge an inspection fee for an unimproved or improved lot except as provided in § 55.1-1810 or 55.1-1811. The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) association pursuant to § 54.1-2351 or (b) common interest community manager pursuant to § 54.1-2349, and may issue a cease and desist order against the violator pursuant to § 54.1-2349 or 54.1-2352, as applicable.

**§ 55.1-1806. Rental of lots.**

A. Except as expressly authorized in this chapter, in the declaration, or as otherwise provided by law, no association shall:

1. Condition or prohibit the rental to a tenant of a lot by a lot owner or make an assessment or impose a charge except as provided in § 55.1-1805;

2. Charge a rental fee, application fee, or other processing fee of any kind in excess of \$50 during the term of any lease;

3. Charge an annual or monthly rental fee or any other fee not expressly authorized in § 55.1-1805;

4. Require the lot owner to use a lease or an addendum to the lease prepared by the association;

5. Charge any deposit from the lot owner or the tenant of the lot owner; or

6. Have the authority to evict a tenant of any lot owner or to require any lot owner to execute a power of attorney authorizing the association to evict such a tenant. However, if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative with respect to any lease, the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization signed by the lot owner designating such representative. Notwithstanding the foregoing, the requirements of § 55.1-1828 and the declaration shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.

B. The association may require the lot owner to provide the association with (i) the names and contact information of and vehicle information for the tenants and authorized occupants under such lease and (ii) the name and contact information of any authorized agent of the lot owner. The association may require the lot owner to provide the association with the tenant's acknowledgment of and consent to any rules and regulations of the association.

C. The provisions of this section shall not apply to lots owned by the association.

**§ 55.1-1807. Statement of lot owner rights.**

Every lot owner who is a member in good standing of a property owners' association shall have the following rights:

1. The right of access to all books and records kept by or on behalf of the association according to and subject to the provisions of § 55.1-1815, including records of all financial transactions;

2. The right to cast a vote on any matter requiring a vote by the association's membership in proportion to the lot owner's ownership interest, unless the declaration provides otherwise;

3. The right to have notice of any meeting of the board of directors, to make a record of any such meeting by audio or visual means, and to participate in any such meeting in accordance with the provisions of subsection G of § 55.1-1815 and § 55.1-1816;

4. The right to have (i) notice of any proceeding conducted by the board of directors or other tribunal specified in the declaration against the lot owner to enforce any rule or regulation of the association and (ii) the opportunity to be heard and represented by counsel at such proceeding, as provided in § 55.1-1819, and the right of due process in the conduct of that hearing; and

5. The right to serve on the board of directors if duly elected and a member in good standing of the association, unless the declaration provides otherwise.

The rights enumerated in this section shall be enforceable by any such lot owner pursuant to the provisions of § 55.1-1828.

Article 2.

Disclosure Requirements; Authorized Fees.

**§ 55.1-1808. Contract disclosure statement; right of cancellation.**

A. For purposes of this article, unless the context requires a different meaning:

"Delivery" means that the disclosure packet is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives," "received," or "receiving" the disclosure packet means that the purchaser or purchaser's authorized agent has received the disclosure packet by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and

*sale of residential real property or other writing designating such agent.*

*B. Subject to the provisions of subsection A of § 55.1-1814, an owner selling a lot shall disclose in the contract that (i) the lot is located within a development that is subject to the Property Owners' Association Act (§ 55.1-1800 et seq.); (ii) the Property Owners' Association Act (§ 55.1-1800 et seq.) requires the seller to obtain from the property owners' association an association disclosure packet and provide it to the purchaser; (iii) the purchaser may cancel the contract within three days after receiving the association disclosure packet or being notified that the association disclosure packet will not be available; (iv) if the purchaser has received the association disclosure packet, the purchaser has a right to request an update of such disclosure packet in accordance with subsection H of § 55.1-1810 or subsection D of § 55.1-1811, as appropriate; and (v) the right to receive the association disclosure packet and the right to cancel the contract are waived conclusively if not exercised before settlement.*

*For purposes of clause (iii), the association disclosure packet shall be deemed not to be available if (a) a current annual report has not been filed by the association with either the State Corporation Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55.1-1835, (b) the seller has made a written request to the association that the packet be provided and no such packet has been received within 14 days in accordance with subsection A of § 55.1-1809, or (c) written notice has been provided by the association that a packet is not available.*

*C. If the contract does not contain the disclosure required by subsection B, the purchaser's sole remedy is to cancel the contract prior to settlement.*

*D. The information contained in the association disclosure packet shall be current as of a date specified on the association disclosure packet prepared in accordance with this section; however, a disclosure packet update or financial update may be requested in accordance with subsection G of § 55.1-1810 or subsection D of § 55.1-1811, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract if, on or before the date that the purchaser signs the contract, the purchaser receives the association disclosure packet or is notified that the association disclosure packet will not be available; (ii) within three days after receiving the association disclosure packet if the association disclosure packet or notice that the association disclosure packet will not be available is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt is obtained; or (iii) within six days after the postmark date if the association disclosure packet or notice that the association disclosure packet will not be available is sent to the purchaser by United States mail. The purchaser also may cancel the contract at any time prior to settlement if the purchaser has not been notified that the association disclosure packet will not be available and the association disclosure packet is not delivered to the purchaser.*

*Notice of cancellation shall be provided to the lot owner or his agent by one of the following methods:*

- 1. Hand delivery;*
- 2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing in the form of a certificate of service prepared by the sender confirming such mailing;*
- 3. Electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be in the form of an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or*
- 4. Overnight delivery using a commercial service or the United States Postal Service.*

*In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the seller shall cause any deposit to be returned promptly to the purchaser.*

*E. Whenever any contract is canceled based on a failure to comply with subsection B or D or pursuant to subsection C, any deposit or escrowed funds shall be returned within 30 days of the cancellation, unless the parties to the contract specify in writing a shorter period.*

*F. Any rights of the purchaser to cancel the contract provided by this chapter are waived if not exercised prior to settlement.*

*G. Except as expressly provided in this chapter, the provisions of this section and § 55.1-1809 may not be varied by agreement, and the rights conferred by this section and § 55.1-1809 may not be waived.*

*H. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the disclosure packet may be made by the lot owner or the lot owner's authorized agent.*

*I. If the lot is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last disclosure packet or resale certificate.*

**§ 55.1-1809. Contents of association disclosure packet; delivery of packet.**

*A. Within 14 days after receipt of a written request and instructions by a seller or the seller's authorized agent, the association shall deliver an association disclosure packet as directed in the written request. The information contained in the association disclosure packet shall be current as of a date specified on the association disclosure packet. If hand or electronically delivered, the written request is deemed received on the date of delivery. If sent by United States mail, the request is deemed received six days after the postmark date. An association disclosure packet shall contain the following:*

- 1. The name of the association and, if incorporated, the state in which the association is incorporated and the name and address of its registered agent in the Commonwealth;*
- 2. A statement of any expenditure of funds approved by the association or the board of directors that requires an assessment in addition to the regular assessment during the current year or the immediately succeeding fiscal year;*

3. A statement, including the amount of all assessments and any other mandatory fees or charges currently imposed by the association, together with any post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition, and maintenance of the lot and to the right of use of common areas, and the status of the account;

4. A statement of whether there is any other entity or facility to which the lot owner may be liable for fees or other charges;

5. The current reserve study report or summary of such report, a statement of the status and amount of any reserve or replacement fund, and any portion of the fund allocated by the board of directors for a specified project;

6. A copy of the association's current budget or a summary of such budget, prepared by the association, and a copy of its statement of income and expenses or statement of its financial position (balance sheet) for the last fiscal year for which such statement is available, including a statement of the balance due of any outstanding loans of the association;

7. A statement of the nature and status of any pending action or unpaid judgment (i) to which the association is a party and (ii) that could or would have a material impact on the association or its members or that relates to the lot being purchased;

8. A statement setting forth the insurance coverage that is provided for all lot owners by the association, including the fidelity coverage maintained by the association, and any additional insurance that is required or recommended for each lot owner;

9. A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned to such lot, is or is not in violation of the declaration, bylaws, rules and regulations, architectural guidelines, and articles of incorporation, if any, of the association;

10. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale;

11. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot, including reasonable restrictions as to the size, place, and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;

12. A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install or use solar energy collection devices on the owner's property;

13. A copy of the current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;

14. A copy of any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet;

15. A copy of the notice given to the lot owner by the association of any current or pending rule or architectural violation;

16. A copy of the fully completed form developed by the Common Interest Community Board pursuant to § 54.1-2350;

17. Certification that the association has filed with the Common Interest Community Board the annual report required by § 55.1-1835. Such certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing; and

18. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies.

B. Failure to receive copies of an association disclosure packet shall not excuse any failure to comply with the provisions of the declaration, articles of incorporation, bylaws, or rules or regulations.

C. The disclosure packet shall be delivered in accordance with the written request and instructions of the seller or the seller's authorized agent, including whether the disclosure packet shall be delivered electronically or in hard copy, and shall specify the complete contact information for the parties to whom the disclosure packet shall be delivered. The disclosure packet required by this section shall not, in and of itself, be deemed a security as defined in § 13.1-501.

D. The seller or the seller's authorized agent may request that the disclosure packet be provided in hard copy or in electronic form. An association or common interest community manager may provide the disclosure packet electronically; however, the seller or the seller's authorized agent shall have the right to request that the association disclosure packet be provided in hard copy. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the disclosure packet in person at the principal place of business of the association. If the seller or the seller's authorized agent requests that the disclosure packet be provided in electronic format, neither the association nor its common interest community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The disclosure packet shall not be delivered in hard copy if the requester has requested delivery of such disclosure packet electronically. If the disclosure packet is provided electronically by a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another fee during the subsequent 12-month period, except that the preparer may charge an update fee for a financial update or for an inspection as provided in § 55.1-1810. If the seller or the seller's authorized agent asks that the disclosure packet be provided in electronic format, the seller or the seller's authorized agent may request that an electronic copy be provided to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. If so requested, the property owners' association or its common interest community manager may require the seller or the seller's authorized agent to pay the fee specified in

§ 55.1-1810. Regardless of whether the disclosure packet is delivered in paper form or electronically, the preparer of the disclosure packet shall provide such disclosure packet directly to the persons designated by the requester to the addresses or, if applicable, the email addresses provided by the requester.

**§ 55.1-1810. Fees for disclosure packet; professionally managed associations.**

A. A professionally managed association or its common interest community manager may charge certain fees as authorized by this section for the inspection of the property, the preparation and issuance of the disclosure packet required by § 55.1-1809, and for such other services as set out in this section. The seller or the seller's authorized agent shall specify in writing whether the disclosure packet shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the disclosure packet shall be delivered.

B. A reasonable fee may be charged by the preparer as follows:

1. For the inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration and as required to prepare the association disclosure packet, a fee not to exceed \$100;

2. For the preparation and delivery of the disclosure packet in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. The preparer of the disclosure packet shall provide the disclosure packet directly to the designated persons. Only one fee shall be charged for the preparation and delivery of the disclosure packet;

3. At the option of the seller or the seller's authorized agent, with the consent of the association or the common interest community manager, for expediting the inspection, preparation, and delivery of the disclosure packet, an additional expedite fee not to exceed \$50;

4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the disclosure packet, a fee not to exceed \$25 per hard copy;

5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the overnight disclosure packet, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service; and

6. A post-closing fee to the purchaser of the property, collected at settlement, for the purpose of establishing the purchaser as the owner of the property in the records of the association, a fee not to exceed \$50.

Except as otherwise provided in subsection E, neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request for the disclosure packet is made. The disclosure packet shall state that all fees and costs for the disclosure packet shall be the personal obligation of the lot owner and shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55.1-1833, if not paid at settlement or within 60 days of the delivery of the disclosure packet, whichever occurs first.

For purposes of this section, an expedite fee shall be charged only if the inspection and preparation of delivery of the disclosure packet are completed within five business days of the request for a disclosure packet.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the association or its common interest community manager for compliance with the duties and responsibilities of the association under this chapter. No additional fee shall be charged for access to the association's or common interest community manager's website. The association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so the seller or the seller's authorized agent will know such fees at the time of requesting the packet.

D. Any fees charged pursuant to this section shall be collected at the time of settlement on the sale of the lot and shall be due and payable out of the settlement proceeds in accordance with this section. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. The seller shall be responsible for all costs associated with the preparation and delivery of the association disclosure packet, except for the costs of any disclosure packet update or financial update, which costs shall be the responsibility of the requester, payable at settlement. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the association disclosure packet.

E. If settlement does not occur within 60 days of the delivery of the disclosure packet, or funds are not collected at settlement and disbursed to the association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the disclosure packet against the lot owner, (ii) the personal obligation of the lot owner, and (iii) an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55.1-1834. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association. The association shall pay the common interest community manager the amount due from the lot owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the

U.S. Department of Labor.

G. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requester shall specify whether the disclosure packet update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the disclosure packet update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the association or the common interest community manager perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. Neither the association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the association. If the requester asks that the specified update be provided in electronic format, neither the association nor its common interest community manager may require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When an association disclosure packet has been delivered as required by § 55.1-1809, the association shall, as to the purchaser, be bound by the statements set forth in the disclosure packet as to the status of the assessment account and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations, architectural guidelines, and articles of incorporation, if any, of the association as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

L. If the association or its common interest community manager has been requested in writing to furnish the association disclosure packet required by § 55.1-1809, failure to provide the association disclosure packet substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The preparer of the association disclosure packet shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the date of the settlement of the sale.

M. The Common Interest Community Board may assess a monetary penalty for failure to deliver the association disclosure packet within 14 days against any (i) property owners' association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.

N. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board, (ii) is current in filing the most recent annual report with the Common Interest Community Board, (iii) is current in paying the annual payment to the Common Interest Community Board pursuant to § 55.1-1835 and any assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5, and (iv) provides the disclosure packet electronically if so requested by the requester.

**§ 55.1-1811. Fees for disclosure packet; associations not professionally managed.**

A. An association that is not professionally managed may charge a fee for the preparation and issuance of the association disclosure packet required by § 55.1-1809. Any fee shall reflect the actual cost of the preparation of the association disclosure packet, but shall not exceed \$0.10 per page of copying costs or a total of \$100 for all costs incurred in preparing the association disclosure packet. The seller or his authorized agent shall specify whether the association disclosure packet shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the disclosure packet shall be delivered. If the seller or his authorized agent specifies that delivery shall be made to the purchaser or his authorized agent, the preparer shall provide the disclosure packet directly to the designated persons at the same time it is delivered to the seller or his authorized agent. The association shall advise the requester if electronic delivery of the disclosure packet or the disclosure packet update or financial update is not available, if electronic delivery has been requested by the seller or his authorized agent.

B. At the option of the seller or the seller's authorized agent, with the consent of the association, a reasonable fee may be charged for (i) expediting the inspection, preparation, and delivery of the disclosure packet, if completed within five business days of the request, not to exceed \$50; (ii) an additional hard copy of the disclosure packet not to exceed \$25 per hard copy; and (iii) third-party commercial delivery service for hand delivery or overnight delivery of the

association disclosure packet not to exceed an amount equal to the actual cost paid.

C. No fees other than those specified in this section shall be charged by the association for compliance with duties and responsibilities under this section. Any fees charged pursuant to this section shall be collected at the time of delivery of the disclosure packet. If unpaid, any such fees shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55.1-1833. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association.

D. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or his authorized agent, including the seller or his authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requester shall specify whether the disclosure packet update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the specified update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request for such disclosure packet update.

E. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request for such financial update.

F. A reasonable fee for the disclosure packet update or a financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or his authorized agent, the requester may request that the association perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$50. Any fees charged for the specified update shall be collected at the time of delivery of the update. The association shall not require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requester may request that the specified update be provided in hard copy or in electronic form.

G. No association may require the requester to request the specified update electronically. The seller or his authorized agent shall continue to have the right to request a hard copy of the specified update in person at the association's principal place of business. If the requester asks that the specified update be provided in electronic format, the association shall not require the requester to pay any fees to use the provider's electronic network or system. If the requester asks that the specified update be provided in electronic format, the requester may designate no more than two additional recipients to receive the specified update in electronic format at no additional charge. A copy of the specified update shall be provided to the seller or his authorized agent.

H. When a disclosure packet has been delivered as required by § 55.1-1809, the association shall, as to the purchaser, be bound by the statements set forth in the disclosure packet as to the status of the assessment account and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations, architectural guidelines, and articles of incorporation, if any, of the association as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

I. If the association has been requested to furnish the association disclosure packet required by this section, failure to provide the association disclosure packet substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The association shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$500. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the date of the settlement of the sale.

J. No association may collect fees authorized by this section unless the association (i) is registered with the Common Interest Community Board, (ii) is current in filing the most recent annual report with the Common Interest Community Board, and (iii) is current in paying the annual payment to the Common Interest Community Board pursuant to § 55.1-1835 and any assessment made by the Common Interest Community Board pursuant to § 54.1-2354.5.

K. An association that is not professionally managed may charge and collect fees for inspection of the property, the preparation and issuance of an association disclosure packet, and such other services as set out in § 55.1-1810, provided that the association provides the disclosure packet electronically if so requested by the requester and otherwise complies with § 55.1-1810.

**§ 55.1-1812. Properties subject to more than one declaration.**

If the lot is subject to more than one declaration, the association or its common interest community manager may charge the fees authorized by § 55.1-1810 or 55.1-1811 for each of the applicable associations, provided, however, that no association shall charge inspection fees unless the association has architectural control over the lot.

**§ 55.1-1813. Requests by settlement agents.**

A. The settlement agent may request a financial update from the preparer of the disclosure packet. The preparer of the disclosure packet shall, upon request from the settlement agent, provide the settlement agent with written escrow instructions directing the amount of any funds to be paid from the settlement proceeds to the association or the common interest community manager. There shall be no fees charged for a response by the association or its common interest community manager to a request from the settlement agent for written escrow instructions. However, a fee may be charged for a financial update pursuant to this chapter.

B. The settlement agent, when transmitting funds to the association or the common interest community manager, shall,

unless otherwise directed in writing, provide the preparer of the disclosure packet with (i) the complete record name of the seller, (ii) the address of the subject lot, (iii) the complete name of the purchaser, (iv) the date of settlement, and (v) a brief explanation of the application of any funds transmitted or by providing a copy of a settlement statement, unless otherwise prohibited.

**§ 55.1-1814. Exceptions to disclosure requirements.**

A. The contract disclosures required by § 55.1-1808 and the association disclosure packet required by § 55.1-1809 shall not be provided in the case of:

1. A disposition of a lot by gift;
2. A disposition of a lot pursuant to court order if the court so directs;
3. A disposition of a lot by foreclosure or deed in lieu of foreclosure;
4. A disposition of a lot by a sale at an auction, where the association disclosure packet was made available as part of an auction package for prospective purchasers prior to the auction sale; or

5. A disposition of a lot to a person or entity who is not acquiring the lot for his own residence or for the construction thereon of a dwelling unit to be occupied as his own residence, unless requested by such person or entity. If such disclosures are not requested, a statement in the contract of sale that the purchaser is not acquiring the lot for such purpose shall be conclusive and may be relied upon by the seller of the lot. The person or entity acquiring the lot shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters.

B. In any transaction in which an association disclosure packet is required and a trustee acts as the seller in the sale or resale of a lot, the trustee shall obtain the association disclosure packet from the association and provide the packet to the purchaser.

C. In the case of an initial disposition of a lot by the declarant, the association disclosure packet required by § 55.1-1809 need not include the information referenced in subdivisions A 2, 3, 5, or 9 of § 55.1-1809, and it shall include the information referenced in subdivision A 17 of § 55.1-1809 only if the association has filed an annual report prior to the date of such disclosure packet.

Article 3.

Operation and Management of Association.

**§ 55.1-1815. Access to association records; association meetings; notice.**

A. The association shall keep detailed records of receipts and expenditures affecting the operation and administration of the association. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C and so long as the request is for a proper purpose related to his membership in the association, all books and records kept by or on behalf of the association shall be available for examination and copying by a member in good standing or his authorized agent, including:

1. The association's membership list and addresses, which shall not be used for purposes of pecuniary gain or commercial solicitation; and
2. The actual salary of the six highest compensated employees of the association earning over \$75,000 and aggregate salary information of all other employees of the association; however, individual salary information shall not be available for examination and copying during the declarant control period.

Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for an association managed by a common interest community manager and 10 business days' written notice for a self-managed association, which notice reasonably identifies the purpose for the request and the specific books and records of the association requested.

C. Books and records kept by or on behalf of an association may be withheld from inspection and copying to the extent that they concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;
2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;
3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those instances where there has been a specific threat of litigation from a person having standing to bring legal action or the legal counsel of such person;
4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to § 55.1-1819;
5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;
6. Disclosure of information in violation of law;
7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55.1-1816;
8. Documentation, correspondence, or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or

9. Individual lot owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.

D. Books and records kept by or on behalf of an association shall be withheld from inspection and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.

E. Prior to providing copies of any books and records to a member in good standing under this section, the association may impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs of such materials and labor. Charges may be imposed only in accordance with a cost schedule adopted by the board of directors in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all members in good standing, and (iii) be provided to such requesting member at the time the request is made.

F. Notwithstanding the provisions of subsections B and C, all books and records of the association, including individual salary information for all employees and payments to independent contractors, shall be available for examination and copying upon request by a member of the board of directors in the discharge of his duties as a director.

G. Meetings of the association shall be held in accordance with the provisions of the bylaws at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 14 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each member notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

Notice shall be sent by United States mail to all members at the address of their respective lots unless the member has provided to such officer or his agent an address other than the address of the member's lot. Notice may instead be hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the member. Except as provided in subdivision C 7, draft minutes of the board of directors shall be open for inspection and copying (i) within 60 days from the conclusion of the meeting to which such minutes appertain or (ii) when such minutes are distributed to board members as part of an agenda package for the next meeting of the board of directors, whichever occurs first.

**§ 55.1-1816. Meetings of the board of directors.**

A. All meetings of the board of directors, including any subcommittee or other committee of the board of directors, where the business of the association is discussed or transacted shall be open to all members of record. The board of directors shall not use work sessions or other informal gatherings of the board of directors to circumvent the open meeting requirements of this section. Minutes of the meetings of the board of directors shall be recorded and shall be available as provided in subsection B of § 55.1-1815.

B. Notice of the time, date, and place of each meeting of the board of directors or of any subcommittee or other committee of the board of directors shall be published where it is reasonably calculated to be available to a majority of the lot owners.

A lot owner may make a request to be notified on a continual basis of any such meetings. Such request shall be made at least once a year in writing and include the lot owner's name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any lot owner requesting notice (i) by first-class mail or email in the case of meetings of the board of directors or (ii) by email in the case of meetings of any subcommittee or other committee of the board of directors.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the association's board of directors or any subcommittee or other committee of the board of directors conducting the meeting.

Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of an association's board of directors or subcommittee or other committee of the board of directors for a meeting shall be made available for inspection by the membership of the association at the same time such documents are furnished to the members of the board of directors or any subcommittee or committee of the board of directors.

Any member may record any portion of a meeting that is required to be open. The board of directors or subcommittee or other committee of the board of directors conducting the meeting may adopt rules (a) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (b) requiring the member recording the meeting to provide notice that the meeting is being recorded.

If a meeting is conducted by telephone conference or video conference or similar electronic means, at least two members of the board of directors shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any member of the board of directors participating in the meeting who is not physically present.

Except for the election of officers, voting by secret or written ballot in an open meeting shall be a violation of this chapter.

C. The board of directors or any subcommittee or other committee of the board of directors may (i) convene in executive session to consider personnel matters; (ii) consult with legal counsel; (iii) discuss and consider contracts, pending or probable litigation, and matters involving violations of the declaration or rules and regulations adopted pursuant to such declaration for which a member or his family members, tenants, guests, or other invitees are responsible; or (iv) discuss and consider the personal liability of members to the association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The board of directors shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the board of directors or subcommittee or other committee of the board of directors, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.

D. Subject to reasonable rules adopted by the board of directors, the board of directors shall provide a designated period of time during a meeting to allow members an opportunity to comment on any matter relating to the association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the board of directors may limit the comments of members to the topics listed on the meeting agenda.

**§ 55.1-1817. Distribution of information by members.**

The board of directors shall establish a reasonable, effective, and free method, appropriate to the size and nature of the association, for lot owners to communicate among themselves and with the board of directors regarding any matter concerning the association.

**§ 55.1-1818. Common areas; notice of pesticide application.**

The association shall post notice of all pesticide applications in or upon the common areas. Such notice shall consist of conspicuous signs placed in or upon the common areas where the pesticide will be applied at least 48 hours prior to the application.

**§ 55.1-1819. Adoption and enforcement of rules.**

A. Except as otherwise provided in this chapter, the board of directors shall have the power to establish, adopt, and enforce rules and regulations with respect to use of the common areas and with respect to such other areas of responsibility assigned to the association by the declaration, except where expressly reserved by the declaration to the members. Rules and regulations may be adopted by resolution and shall be reasonably published or distributed throughout the development. A majority of votes cast, in person or by proxy, at a meeting convened in accordance with the provisions of the association's bylaws and called for that purpose shall repeal or amend any rule or regulation adopted by the board of directors. Rules and regulations may be enforced by any method normally available to the owner of private property in Virginia, including application for injunctive relief or actual damages, during which the court may award to the prevailing party court costs and reasonable attorney fees.

B. The board of directors shall also have the power, to the extent the declaration or rules and regulations duly adopted pursuant to such declaration expressly so provide, to (i) suspend a member's right to use facilities or services, including utility services, provided directly through the association for nonpayment of assessments that are more than 60 days past due, to the extent that access to the lot through the common areas is not precluded and provided that such suspension shall not endanger the health, safety, or property of any owner, tenant, or occupant, and (ii) assess charges against any member for any violation of the declaration or rules and regulations for which the member or his family members, tenants, guests, or other invitees are responsible.

C. Before any action authorized in this section is taken, the member shall be given a reasonable opportunity to correct the alleged violation after written notice of the alleged violation to the member at the address required for notices of meetings pursuant to § 55.1-1815. If the violation remains uncorrected, the member shall be given an opportunity to be heard and to be represented by counsel before the board of directors or other tribunal specified in the documents.

Notice of a hearing, including the actions that may be taken by the association in accordance with this section, shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association at least 14 days prior to the hearing. Within seven days of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at the address of record with the association.

D. The amount of any charges so assessed shall not be limited to the expense or damage to the association caused by the violation, but shall not exceed \$50 for a single offense or \$10 per day for any offense of a continuing nature, and shall be treated as an assessment against the member's lot for the purposes of § 55.1-1833. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days.

E. The board of directors may file or defend legal action in general district or circuit court that seeks relief, including injunctive relief arising from any violation of the declaration or duly adopted rules and regulations.

F. After the date an action is filed in the general district or circuit court by (i) the association, by and through its counsel, to collect the charges or obtain injunctive relief and correct the violation or (ii) the lot owner challenging any such

charges, no additional charges shall accrue. If the court rules in favor of the association, the association shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed pursuant to this section against the lot owner prior to the action. In addition, if the court finds that the violation remains uncorrected, the court may order the lot owner to abate or remedy the violation.

G. In any action filed in general district court pursuant to this section, the court may enter default judgment against the lot owner on the association's sworn affidavit.

**§ 55.1-1820. Display of the flag of the United States; necessary supporting structures; affirmative defense.**

A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. 109-243), no association shall prohibit any lot owner from displaying upon property to which the lot owner has a separate ownership interest or a right to exclusive possession or use the flag of the United States whenever such display is in compliance with Chapter 1 of Title 4 of the United States Code (4 U.S.C. § 1 et seq.), or any rule or custom pertaining to the proper display of the flag. The association may, however, establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag on such property, provided that such restrictions are necessary to protect a substantial interest of the association.

B. The association may restrict the display of such flag in the common areas.

C. In any action brought by the association under § 55.1-1819 for violation of a flag restriction, the association shall bear the burden of proof that the restrictions as to the size, place, duration, and manner of placement or display of such flag are necessary to protect a substantial interest of the association.

D. In any action brought by the association under § 55.1-1819, the lot owner shall be entitled to assert as an affirmative defense that the required disclosure of any limitations pertaining to the display of flags or any flagpole or similar structure necessary to display such flags was not contained in the disclosure packet required pursuant to § 55.1-1809.

**§ 55.1-1821. Home-based businesses permitted; compliance with local ordinances.**

Except to the extent that the declaration provides otherwise, no association shall prohibit any lot owner from operating a home-based business within his personal residence. The association may, however, establish (i) reasonable restrictions as to the time, place, and manner of the operation of a home-based business and (ii) reasonable restrictions as to the size, place, duration, and manner of the placement or display of any signs on the owner's lot related to such home-based business. Any home-based business shall comply with all applicable local ordinances.

**§ 55.1-1822. Use of for sale signs in connection with sale.**

Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no property owners' association shall require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Virginia Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Virginia Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed.

**§ 55.1-1823. Designation of authorized representative.**

Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no property owners' association shall require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative, and the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization signed by the lot owner designating such representative. Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.

**§ 55.1-1824. Assessments; late fees.**

Except to the extent that the declaration or any rules or regulations promulgated pursuant to such declaration provide otherwise, the board may impose a late fee that does not exceed the penalty provided in § 58.1-3915 for any assessment or installment that is not paid within 60 days of the due date for payment of such assessment.

**§ 55.1-1825. Authority to levy special assessments.**

A. In addition to all other assessments that are authorized in the declaration, the board of directors shall have the power to levy a special assessment against its members if (i) the purpose in so doing is found by the board to be in the best interests of the association and (ii) the proceeds of the assessment are used primarily for the maintenance and upkeep of the common area and such other areas of association responsibility expressly provided for in the declaration, including capital expenditures. A majority of votes cast, in person or by proxy, at a meeting of the membership convened in accordance with the provisions of the association's bylaws within 60 days of promulgation of the notice of the assessment shall rescind or reduce the special assessment. No director or officer of the association shall be liable for failure to perform his fiduciary duty if a special assessment for the funds necessary for the director or officer to perform his fiduciary duty is rescinded by the owners pursuant to this section, and the association shall indemnify such director or officer against any damage

resulting from any such claimed breach of fiduciary duty.

B. The failure of a member to pay the special assessment allowed by subsection A shall entitle the association to the lien provided by § 55.1-1833 as well as any other rights afforded a creditor under law.

C. The failure of a member to pay the special assessment allowed by subsection A will provide the association with the right to deny the member access to any or all of the common areas. However, the member shall not be denied direct access to the member's lot over any road within the development that is a common area.

**§ 55.1-1826. Reserves for capital components.**

A. Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements, the board of directors shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components;

2. Review the results of that study at least annually to determine if reserves are sufficient; and

3. Make any adjustments the board of directors deems necessary to maintain reserves, as appropriate.

B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore capital components and the amount of the expected contribution to the reserve fund for that year; and

3. A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to this section and the extent to which the association is funding its reserve obligations consistent with the study currently in effect.

**§ 55.1-1827. Deposit of funds; fidelity bond.**

A. All funds deposited with a managing agent shall be handled in a fiduciary capacity and shall be kept in a fiduciary trust account in a federally insured financial institution separate from other assets of the managing agent. The funds shall be the property of the association and shall be segregated for each account in the managing agent's records in a manner that permits the funds to be identified on an individual association basis.

B. Any association collecting assessments for common expenses shall obtain and maintain a blanket fidelity bond or employee dishonesty insurance policy insuring the association against losses resulting from theft or dishonesty committed by the officers, directors, or persons employed by the association or committed by any managing agent or employees of the managing agent. Such bond or insurance policy shall provide coverage in an amount equal to the lesser of \$1 million or the amount of the reserve balances of the association plus one-fourth of the aggregate annual assessment income of such association. The minimum coverage amount shall be \$10,000. The board of directors or managing agent may obtain such bond or insurance on behalf of the association.

**§ 55.1-1828. Compliance with declaration.**

A. Every lot owner, and all those entitled to occupy a lot, shall comply with all lawful provisions of this chapter and all provisions of the declaration. Any lack of such compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the association or by its board of directors or any managing agent on behalf of such association or, in any proper case, by one or more aggrieved lot owners on their own behalf or as a class action. Except as provided in subsection B, the prevailing party shall be entitled to recover reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in § 8.01-382. This section shall not preclude an action against the association and authorizes the recovery by the prevailing party in any such action of reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in § 8.01-382 in such actions.

B. In actions against a lot owner for nonpayment of assessments in which the lot owner has failed to pay assessments levied by the association on more than one lot or in which such lot owner has had legal actions taken against him for nonpayment of any prior assessment, and the prevailing party is the association or its board of directors or any managing agent on behalf of the association, the prevailing party shall be awarded reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in subsection A, even if the proceeding is settled prior to judgment. The delinquent owner shall be personally responsible for reasonable attorney fees and costs expended in the matter by the association, whether any judicial proceedings are filed.

C. A declaration may provide for arbitration of disputes or other means of alternative dispute resolution. Any such arbitration held in accordance with this subsection shall be consistent with the provisions of this chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any such arbitration or alternative dispute resolution shall be in the county or city in which the development is located, or as mutually agreed to by the parties.

**§ 55.1-1829. Amendment to declaration and bylaws; consent of mortgagee.**

A. In the event that any provision in the declaration requires the written consent of a mortgagee in order to amend the bylaws or the declaration, the association shall be deemed to have received the written consent of a mortgagee if the association sends the text of the proposed amendment by certified mail, return receipt requested, or by regular mail with proof of mailing to the mortgagee at the address supplied by such mortgagee in a written request to the association to

receive notice of proposed amendments to the declaration and receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of amendment is sent by the association, unless the declaration expressly provides otherwise. If the mortgagee has not supplied an address to the association, the association shall be deemed to have received the written consent of a mortgagee if the association sends the text of the proposed amendment by certified mail, return receipt requested, to the mortgagee at the address filed in the land records or with the local tax assessor's office and receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of amendment is sent by the association, unless the declaration expressly provides otherwise.

B. Subsection A shall not apply to amendments that alter the priority of the lien of the mortgagee or that materially impair or affect a lot as collateral or the right of the mortgagee to foreclose on a lot as collateral.

C. Where the declaration is silent on the need for mortgagee consent, no mortgagee consent shall be required if the amendment to the declaration does not specifically affect mortgagee rights.

D. Except as otherwise provided in the declaration, a declaration may be amended by a two-thirds vote of the lot owners.

E. An action to challenge the validity of an amendment adopted by the association may not be brought more than one year after the amendment is effective.

F. Agreement of the required majority of lot owners to any amendment of the declaration adopted pursuant to subsection D shall be evidenced by their execution of the amendment, or ratifications of such amendment, and the same shall become effective when a copy of the amendment is recorded together with a certification, signed by the principal officer of the association or by such other officer or officers as the declaration may specify, that the requisite majority of the lot owners signed the amendment or ratifications of such amendment.

G. Subsections D and F shall not be construed to affect the validity of any amendment recorded prior to July 1, 2017.

**§ 55.1-1830. Validity of declaration; corrective amendments.**

A. All provisions of a declaration shall be deemed severable, and any unlawful provision of the declaration shall be void.

B. No provision of a declaration shall be deemed void by reason of the rule against perpetuities.

C. No restraint on alienation shall discriminate or be used to discriminate on any basis prohibited under the Virginia Fair Housing Law (§ 36-96.1 et seq.).

D. Subject to the provisions of subsection C, the rule of property law known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of a declaration restraining the alienation of lots other than such lots as may be restricted to residential use only.

E. The rule of property law known as the doctrine of merger shall not apply to any easement included in or granted pursuant to a right reserved in a declaration.

F. The declarant may unilaterally execute and record a corrective amendment or supplement to the declaration to correct a mathematical mistake, an inconsistency, or a scrivener's error or clarify an ambiguity in the declaration with respect to an objectively verifiable fact, including recalculating the liability for assessments or the number of votes in the association appertaining to a lot, within five years after the recordation of the declaration containing or creating such mistake, inconsistency, error, or ambiguity. No such amendment or supplement may materially reduce what the obligations of the declarant would have been if the mistake, inconsistency, error, or ambiguity had not occurred. Regardless of the date of recordation of the declaration, the principal officer of the association may also unilaterally execute and record such a corrective amendment or supplement upon a vote of two-thirds of the members of the board of directors. All corrective amendments and supplements recorded prior to July 1, 1997, are hereby validated to the extent that such corrective amendments and supplements would have been permitted by this subsection.

**§ 55.1-1831. Reformation of declaration; judicial procedure.**

A. An association may petition the circuit court in the county or city in which the development or the greater part of the development is located to reform a declaration where the association, acting through its board of directors, has attempted to amend the declaration regarding ownership of legal title of the common areas or real property using provisions outlined in such declaration to resolve (i) ambiguities or inconsistencies in the declaration that are the source of legal and other disputes pertaining to the legal rights and responsibilities of the association or individual lot owners or (ii) scrivener's errors, including incorrectly identifying the association, incorrectly identifying an entity other than the association, or errors arising from oversight or from an inadvertent omission or mathematical mistake.

B. The court shall have jurisdiction over matters set forth in subsection A regarding ownership of legal title of the common areas or real property to:

1. Reform, in whole or in part, any provision of a declaration; and

2. Correct any mistake or other error in the declaration that may exist with respect to the declaration for any other purpose.

C. A petition filed by the association with the court setting forth any inconsistency or error made in the declaration, or the necessity for any change in the declaration, shall be deemed sufficient basis for the reformation, in whole or in part, of the declaration, provided that:

1. The association has made three good faith attempts to convene a duly called meeting of the association to present for consideration amendments to the declaration for the reasons specified in subsection A, which attempts have proven unsuccessful as evidenced by an affidavit verified by oath of the principal officer of the association;

2. There is no adequate remedy at law as practical and effective to attain the ends of justice as may be accomplished in the circuit court;

3. Where the declarant of the development still owns a lot or other property in the development, the declarant joins in the petition of the association;

4. A copy of the petition is sent to all owners at least 30 days before the petition is filed as evidenced by an affidavit verified by oath of the principal officer of the association; and

5. A copy of the petition is sent to all mortgagees at least 30 days before the petition is filed as evidenced by an affidavit verified by oath of the principal officer of the association.

D. Any mortgagee of a lot in the development shall have standing to participate in the reformation proceedings before the court. No reformation pursuant to this section shall affect mortgagee rights, alter the priority of the lien of any mortgage, materially impair or affect any lot as collateral for a mortgage, or affect a mortgagee's right to foreclose on a lot as collateral without the prior written consent of the mortgagee. Consent of a mortgagee required by this section may be deemed received pursuant to § 55.1-1829.

**§ 55.1-1832. Use of technology.**

A. Unless the declaration expressly provides otherwise, (i) any notice required to be sent or received or (ii) any signature, vote, consent, or approval required to be obtained under any declaration or bylaw provision or any provision of this chapter may be accomplished using electronic means.

B. The association, the lot owners, and those entitled to occupy a lot may perform any obligation or exercise any right under any declaration or bylaw provision or any provision of this chapter by use of electronic means.

C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a signature under any declaration or bylaw provision or any provision of this chapter.

D. Voting on, consent to, and approval of any matter under any declaration or bylaw provision or any provision of this chapter may be accomplished by electronic means, provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in nonelectronic form.

E. Subject to other provisions of law, no action required or permitted by any declaration or bylaw provision or any provision of this chapter need be acknowledged before a notary public if the identity and signature of such person can otherwise be authenticated to the satisfaction of the executive board.

F. If any person does not have the capability or desire to conduct business using electronic means, the association shall make reasonable accommodation, at its expense, for such person to conduct business with the association without use of such electronic means.

G. This section shall not apply to any notice related to an enforcement action by the association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

**§ 55.1-1833. Lien for assessments.**

A. The association shall have a lien, once perfected, on every lot for unpaid assessments levied against that lot in accordance with the provisions of this chapter and all lawful provisions of the declaration. The lien, once perfected, shall be prior to all other subsequent liens and encumbrances except (i) real estate tax liens on that lot, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of such lien. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens. Notice of a memorandum of lien to a holder of a credit line deed of trust under § 55.1-318 shall be given in the same fashion as if the association's lien were a judgment.

B. The association, in order to perfect the lien given by this section, shall file, before the expiration of 12 months from the time the first such assessment became due and payable in the clerk's office of the circuit court in the county or city in which such development is situated, a memorandum, verified by the oath of the principal officer of the association or such other officer or officers as the declaration may specify, which contains the following:

1. The name of the development;

2. A description of the lot;

3. The name or names of the persons constituting the owners of that lot;

4. The amount of unpaid assessments currently due or past due relative to such lot together with the date when each fell due;

5. The date of issuance of the memorandum;

6. The name of the association and the name and current address of the person to contact to arrange for payment or release of the lien; and

7. A statement that the association is obtaining a lien in accordance with the provisions of the Property Owners' Association Act as set forth in Chapter 18 (§ 55.1-1800 et seq.) of Title 55.1.

It shall be the duty of the clerk in whose office such memorandum is filed as provided in this section to record and index the same as provided in subsection D, in the names of the persons identified in such memorandum as well as in the name of the association. The cost of recording and releasing the memorandum shall be taxed against the person found liable in any judgment or order enforcing such lien.

C. Prior to filing a memorandum of lien, a written notice shall be sent to the property owner by certified mail, at the property owner's last known address, informing the property owner that a memorandum of lien will be filed in the circuit court clerk's office of the applicable county or city. The notice shall be sent at least 10 days before the actual filing date of

the memorandum of lien.

D. Notwithstanding any other provision of this section or any other provision of law requiring documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after July 1, 1989, all memoranda of liens arising under this section shall be recorded in the deed books in the clerk's office. Any memorandum shall be indexed in the general index to deeds, and the general index shall identify the lien as a lien for lot assessments.

E. No action to enforce any lien perfected under subsection B shall be brought or action to foreclose any lien perfected under subsection I shall be initiated after 36 months from the time when the memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any action in which the petition may be properly filed shall be regarded as the institution of an action under this section. Nothing in this subsection shall extend the time within which any such lien may be perfected.

F. The judgment or order in an action brought pursuant to this section shall include reimbursement for costs and reasonable attorney fees of the prevailing party. If the association prevails, it may also recover interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.

G. When payment or satisfaction is made of a debt secured by the lien perfected by subsection B, the lien shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of § 55.1-339, the principal officer of the association, or any other officer or officers as the declaration may specify, shall be deemed the duly authorized agent of the lien creditor.

H. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection A creates a lien, maintainable pursuant to § 55.1-1828.

I. At any time after perfecting the lien pursuant to this section, the property owners' association may sell the lot at public sale, subject to prior liens. For purposes of this section, the association shall have the power both to sell and convey the lot and shall be deemed the lot owner's statutory agent for the purpose of transferring title to the lot. A nonjudicial foreclosure sale shall be conducted in compliance with the following:

1. The association shall give notice to the lot owner prior to advertisement required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the lot owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the lot. The notice shall further inform the lot owner of the right to bring a court action in the circuit court of the county or city where the lot is located to assert the nonexistence of a debt or any other defense of the lot owner to the sale.

2. After expiration of the 60-day notice period specified in subdivision 1, the association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which such development is situated. It shall be the duty of the clerk in whose office such appointment is filed to record and index the same as provided in subsection D, in the names of the persons identified in such appointment as well as in the name of the association. The association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If the lot owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale, the lot owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the lot. Those conditions are that the lot owner (i) satisfy the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (ii) pay all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

4. In addition to the advertisement required by subdivision 5, the association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, including the name, address, and telephone number of the trustee, by hand delivery or by mail to (i) the present owner of the property to be sold at his last known address as such owner and address appear in the records of the association, (ii) any lienholder who holds a note against the property secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust, provided that the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to lienholders and their assigns, at the addresses noted in the memorandum of lien, by United States mail, postage prepaid, no less than 14 days prior to such sale, shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the county or city in which the property to be sold, or any portion of such property, is located pursuant to the following provisions:

a. The association shall advertise once a week for four successive weeks; however, if the property or some portion of such property is located in a city or in a county immediately contiguous to a city, publication of the advertisement on five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the

association finds appropriate, shall set forth a description of the property to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify the property by street address, if any, or, if none, shall give the general location of the property with reference to streets, routes, or known landmarks. Where available, tax map identification may be used but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name of the association. It shall set forth the name, address, and telephone number of the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

c. In addition to the advertisement required by subdivisions a and b, the association may further advertise as the association finds appropriate.

6. In the event of postponement of sale, which postponement shall be at the discretion of the association, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court.

8. The association shall have the following powers and duties upon a sale:

a. Written one-price bids may be made and shall be received by the trustee from the association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the declaration, the association may bid to purchase the lot at a foreclosure sale. The association may own, lease, encumber, exchange, sell, or convey the lot. Whenever the written bid of the association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision I 10 and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the association, its agent, or its attorney.

b. The association may require any bidder at any sale to post a cash deposit of as much as 10 percent of the sale price before his bid is received, which shall be refunded to him if the property is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or, if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the association in connection with that sale.

c. The property owners' association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and apply the same in the following order: first, to the reasonable expenses of sale, including attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the owner or his assigns, provided, however, that, as to the payment of such residue, the association shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the owner's equity, without actual notice thereof prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the lot with special warranty of title. The trustee shall not be required to take possession of the property prior to the sale of such property or to deliver possession of the lot to the purchaser at the sale.

10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § 64.2-1309, and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the accounting shall be made available for inspection and copying pursuant to § 55.1-1815 upon the written request of the prior lot owner, the current lot owner, or any holder of a recorded lien against the lot at the time of the sale. The association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.

11. If the sale of a lot is made pursuant to subsection I and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the accounting by the commissioner of accounts the sale is set aside by the court or an appeal is allowed by the Supreme Court of Virginia and an order is entered requiring such sale to be set aside.

#### **§ 55.1-1834. Notice of sale under deed of trust.**

In accordance with the provisions of § 15.2-979, the association shall be given notice whenever a lot becomes subject to a sale under a deed of trust. Upon receipt of such notice, the board of directors, on behalf of the association, shall exercise whatever due diligence it deems necessary with respect to the lot subject to a sale under a deed of trust to protect the interests of the association.

#### **§ 55.1-1835. Annual report by association.**

A. The association shall file an annual report in a form and at such time as prescribed by regulations of the Common Interest Community Board. The annual report shall be accompanied by a fixed fee in an amount established by the Board.

B. The association shall also remit to the agency an annual payment as follows:

1. The lesser of:

a. \$1,000 or such other amount as established by agency regulation; or

b. Five hundredths of one percent (0.05%) of the association's gross assessment income during the preceding year.

2. For the purposes of subdivision 1 b, no minimum payment shall be less than \$10.

C. The annual payment shall be remitted to the State Treasurer and shall be credited to the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

**§ 55.1-1836. Condemnation of common area; procedure.**

When any portion of the common area is taken or damaged under the power of eminent domain, any award or payment for such portion shall be paid to the association, which shall be a party in interest in the condemnation proceeding. The common area that is affected shall be valued on the basis of the common area's highest and best use as though it were free from restriction to sole use as a common area.

Except to the extent that the declaration or any rules and regulations duly adopted pursuant to such declaration otherwise provide, the board of directors shall have the authority to negotiate with the condemning authority, agree to an award or payment amount with the condemning authority without instituting condemnation proceedings, and, upon such agreement, convey the subject common area to the condemning authority. Thereafter, the president of the association may unilaterally execute and record the deed of conveyance to the condemning authority.

A member of the association, by virtue of his membership, shall be estopped from contesting the action of the association in any proceeding held pursuant to this section.

**CHAPTER 19.****VIRGINIA CONDOMINIUM ACT.****Article 1.****General Provisions.****§ 55.1-1900. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Capital components" means those items, whether or not a part of the common elements, for which the unit owners' association has the obligation for repair, replacement, or restoration and for which the executive board determines funding is necessary.

"Common elements" means all portions of the condominium other than the units.

"Common expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners' association, together with all funds lawfully assessed for the creation or maintenance of reserves pursuant to the provisions of the condominium instruments.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Condominium" means real property, and any incidents to or interests in such real property, lawfully subject to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in the common elements are vested in the unit owners.

"Condominium instruments" means, collectively, the declaration, bylaws, and plats and plans recorded pursuant to the provisions of this chapter. Any exhibit, schedule, or certification recorded with a condominium instrument shall be deemed an integral part of that condominium instrument. Once recorded, any amendment or certification of any condominium instrument shall be deemed an integral part of the affected condominium instrument if such amendment or certification was made in accordance with the provisions of this chapter.

"Condominium unit" means a unit together with the undivided interest in the common elements appertaining to that unit.

"Contractable condominium" means a condominium from which one or more portions of the submitted land may be withdrawn in accordance with the provisions of the declaration and of this chapter. If such withdrawal can occur only by the expiration or termination of one or more leases, then the condominium shall not be deemed a contractable condominium.

"Conversion condominium" means a condominium containing structures that before the recording of the declaration were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

"Convertible land" means a portion of the common elements within which additional units or limited common elements may be created in accordance with the provisions of this chapter.

"Convertible space" means a portion of a structure within the condominium that a declarant may convert into one or more units or common elements, including limited common elements, in accordance with the provisions of the declaration and this chapter.

"Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of its interest in a condominium unit not previously disposed of, including an institutional lender that may not have succeeded to or accepted any special declarant rights pursuant to § 55.1-1947; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of the condominium. However, for the purposes of clauses (i) and (iii), "declarant" does not include an institutional lender that acquires title by foreclosure or deed in lieu of foreclosure unless such lender offers to dispose of its interest in a condominium unit not previously disposed of to anyone not in the business of selling real estate for his own account, except as otherwise provided in § 55.1-1947. "Declarant" does not include an individual who acquires title to a condominium unit at a foreclosure sale.

"Dispose" or "disposition" refers to any voluntary transfer of a legal or equitable interest in a condominium unit to a purchaser, but does not include the transfer or release of security for a debt.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act has the meaning set forth in that section.

"Executive board" means an executive and administrative entity, by whatever name denominated, designated in the condominium instruments as the governing body of the unit owners' association.

"Expandable condominium" means a condominium to which additional land may be added in accordance with the provisions of the declaration and this chapter.

"Future common expenses" means common expenses for which assessments are not yet due and payable.

"Identifying number" means one or more letters or numbers that identify only one unit in the condominium.

"Institutional lender" means one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts, including real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination of any of the foregoing entities.

"Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both upper and lower boundaries, as well as parcels extending *ab solo usque ad coelum*. Parcels of airspace constitute land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient description shall be deemed to include a requirement that the upper or lower boundaries, if any, of the parcel in question be identified with reference to established datum.

"Leasehold condominium" means a condominium in all or any portion of which each unit owner owns an estate for years in his unit, or in the land within which that unit is situated, or both, with all such leasehold interests due to expire naturally at the same time. A condominium including leased land, or an interest in such land, within which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

"Limited common element" means a portion of the common elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the units.

"Nonbinding reservation agreement" means an agreement between the declarant and a prospective purchaser that is in no way binding on the prospective purchaser and that may be canceled without penalty at the sole discretion of the prospective purchaser.

"Offer" means any inducement, solicitation, or attempt to encourage any person to acquire any legal or equitable interest in a condominium unit, except as security for a debt. Nothing that expressly states that the condominium has not been registered with the Common Interest Community Board and that no unit in the condominium can or will be offered for sale until such time as the condominium has been so registered shall be considered an "offer."

"Officer" means any member of the executive board or official of the unit owners' association.

"Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value may be considered substantially identical within the meaning of §§ 55.1-1917 and 55.1-1918.

"Person" means a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof.

"Purchaser" means any person, other than a declarant, that acquires by means of a voluntary transfer a legal or equitable interest in a condominium unit, other than (i) a leasehold interest, including renewal options, of less than 20 years or (ii) as security for a debt.

"Settlement agent" means the same as that term is defined in § 55.1-1000.

"Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the plat and plans and rounded to the nearest whole number. Certain spaces within the units, including attic, basement, or garage space, may be omitted from such calculation or partially discounted by the use of a ratio, so long as the same basis of calculation is employed for all units in the condominium and so long as that basis is described in the declaration.

"Special declarant rights" means any right reserved for the benefit of a declarant, or of a person or group of persons that becomes a declarant, to (i) expand an expandable condominium; (ii) contract a contractable condominium; (iii) convert convertible land or convertible space or both; (iv) appoint or remove any officers of the unit owners' association or the executive board pursuant to subsection A of § 55.1-1943; (v) exercise any power or responsibility otherwise assigned by any condominium instrument or by this chapter to the unit owners' association, any officer, or the executive board; or (vi) maintain sales offices, management offices, model units, and signs pursuant to § 55.1-1929.

"Unit" means a portion of the condominium designed and intended for individual ownership and use. For the purposes of this chapter, a convertible space shall be treated as a unit in accordance with subsection D of § 55.1-1925.

"Unit owner" means one or more persons that own a condominium unit or, in the case of a leasehold condominium, whose leasehold interest in the condominium extends for the entire balance of the unexpired term. "Unit owner" includes any purchaser of a condominium unit at a foreclosure sale, regardless of whether the deed is recorded in the land records where the unit is located. "Unit owner" does not include any person holding an interest in a condominium unit solely as security for a debt.

#### **§ 55.1-1901. Application and construction of chapter.**

A. This chapter applies to all condominiums and to all horizontal property regimes or condominium projects. This chapter supersedes the Horizontal Property Act (§ 55.1-2000 *et seq.*), and no condominium shall be established under the Horizontal Property Act on or after July 1, 1974. This chapter shall not be construed to affect the validity of any provision of any condominium instrument recorded prior to July 1, 1974. For the purposes of this chapter, as used in the Horizontal

Property Act (§ 55.1-2000 et seq.):

"Apartment" corresponds to the term "unit."

"Co-owner" corresponds to the term "unit owner."

"Council of co-owners" corresponds to the term "unit owners' association."

"Developer" corresponds to the term "declarant."

"General common elements" corresponds to the term "common elements."

"Horizontal property regime" and "condominium project" correspond to the term "condominium."

"Master deed" and "master lease" correspond to the term "declaration" and are included in the term "condominium instruments."

B. This chapter does not apply to condominiums located outside the Commonwealth. Sections 55.1-1971, 55.1-1974 through 55.1-1982, and 55.1-1985 through 55.1-1989 apply to all contracts for the disposition of condominium units signed in the Commonwealth by any person, unless exempt under § 55.1-1972.

C. Subsection B of § 55.1-1955 and § 55.1-1982 do not apply to the declarant of a conversion condominium if that declarant is a proprietary lessees' association that, immediately before the creation of the condominium, owned fee simple title to or a fee simple reversionary interest in the real estate described pursuant to subdivision A 3 of § 55.1-1916.

**§ 55.1-1902. Variation by agreement.**

Except as expressly provided in this chapter, provisions of this chapter shall not be varied by agreement, and rights conferred by this chapter shall not be waived. A declarant shall not act under power of attorney or use any other device to evade the limitations or prohibitions of this chapter or of the condominium instruments.

**§ 55.1-1903. Separate assessments, titles, and taxation.**

Except as otherwise provided in this section, each condominium unit constitutes a separate parcel of real estate. If there is any unit owner other than the declarant, each unit, together with its common element interest, but excluding its common element interest in convertible land and in any withdrawable land within which the declarant has the right to create units or limited common elements, shall be separately assessed and taxed. Each convertible land and withdrawable land within which the declarant has the right to create units or limited common elements shall be separately assessed and taxed against the declarant.

**§ 55.1-1904. Association charges.**

Except as expressly authorized in this chapter, in the condominium instruments, or as otherwise provided by law, no unit owners' association may make an assessment or impose a charge against a unit owner unless the charge is (i) authorized under § 55.1-1964, (ii) a fee for services provided, or (iii) related to the provisions set out in § 55.1-1992. The Common Interest Community Board may assess a monetary penalty for a violation of this section against any (a) unit owners' association pursuant to § 54.1-2351 or (b) common interest community manager pursuant to § 54.1-2349 and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.

**§ 55.1-1905. Local ordinances; nonconforming conversion condominiums; applicability of Uniform Statewide Building Code; other regulations.**

A. No zoning or other land use ordinance shall prohibit condominiums solely on the basis of the form of ownership, nor shall any condominium be treated differently by any zoning or other land use ordinance that would permit a physically identical project or development under a different form of ownership. Except as provided in subsection E, no local government may require further review or approval to record condominium instruments when a property has previously complied with subdivision, site plan, zoning, or other applicable land use regulations.

B. Subdivision and site plan ordinances in any locality shall apply to any condominium in the same manner as such ordinances would apply to a physically identical project or development under a different form of ownership; however, the declarant need not apply for or obtain subdivision approval to record condominium instruments if site plan approval for the land being submitted to the condominium has first been obtained.

C. During development of a condominium containing additional land or withdrawable land, phase lines created by the condominium instruments shall not be considered property lines for purposes of subdivision. If the condominium can no longer be expanded by the addition of additional land, then the owner of the land not part of the condominium shall subdivide such land prior to its conveyance, unless such land is subject to an approved site plan as provided in subsection B, or prior to modification of such approved site plan. In the event of any conveyance of land within phase lines of the condominium, the condominium and any lot created by such conveyance shall be deemed to comply with the local subdivision ordinance, provided that such land is subject to an approved site plan.

D. During the period of declarant control and as long as the declarant has the right to create additional units or to complete the common elements, the declarant has the authority to execute, file, and process any subdivision, site plan, zoning, or other land use applications or disclosures, including related conditional zoning proffers and agreements that do not create an affirmative obligation on the unit owners' association without its consent, with respect to the common elements or applications affecting more than one unit, notwithstanding that the declarant is not the owner of the land.

In accordance with subsection B of § 55.1-1956, once the declarant no longer has such authority, the executive board of the unit owners' association, if any, and if not, then a representative duly appointed by the unit owners' association, shall have the authority to execute, file, and process any subdivision, site plan, zoning, or other land use applications or disclosures, including related conditional zoning proffers and agreements that do not create an affirmative obligation on the declarant without its consent, with respect to the common elements or applications affecting more than one unit,

*notwithstanding that the unit owners' association is not the owner of the land. Such applications shall not adversely affect the rights of the declarant to develop additional land. For purposes of obtaining building and occupancy permits, the unit owner, including the declarant if the declarant is the unit owner, shall apply for permits for the unit, and the unit owners' association shall apply for permits for the common elements, except that the declarant shall apply for permits for convertible land.*

*E. Localities may provide by ordinance that the declarant of a proposed conversion condominium that does not conform to the zoning, land use, and site plan regulations of the respective locality in which the property is located shall secure a special use permit, a special exception, or a variance, as the case may be, prior to such property's becoming a conversion condominium. The local authority shall grant a request for such a special use permit, special exception, or variance filed on or after July 1, 1982, if the applicant can demonstrate to the reasonable satisfaction of the local authority that the nonconformities are not likely to be adversely affected by the proposed conversion. The local authority shall not unreasonably delay action on any such request. In the event of an approved conversion to condominium ownership, a locality, sanitary district, or other political subdivision may impose such charges and fees as are lawfully imposed by such locality, sanitary district, or political subdivision as a result of construction of new structures to the extent that such charges and fees, or portions of such charges and fees, imposed upon property subject to such conversions may be reasonably related to greater or additional services provided by the locality, sanitary district, or political subdivision as a result of the conversion.*

*F. Nothing in this section shall be construed to permit application of any provision of the Uniform Statewide Building Code (§ 36-97 et seq.) or any local ordinances regulating design and construction of roads, sewer and water lines, stormwater management facilities, and other public infrastructure to a condominium in a manner different from the manner in which such provision is applied to other buildings of similar physical form and nature of occupancy.*

**§ 55.1-1906. Eminent domain.**

*A. If any portion of the common elements is taken by eminent domain, the award for such taking shall be paid to the unit owners' association, provided, however, that the portion of the award attributable to the taking of any permanently assigned limited common element shall be allocated by the order to the unit owner of the unit to which that limited common element was so assigned at the time of the taking. If that limited common element was permanently assigned to more than one unit at the time of the taking, then the portion of the award attributable to the taking of such limited common element shall be allocated in equal shares to the unit owners of the units to which it was so assigned or in such other shares as the condominium instruments may specify for this express purpose. A permanently assigned limited common element is a limited common element that cannot be reassigned or that can be reassigned only with the consent of the unit owner of the unit to which it is assigned in accordance with § 55.1-1919.*

*B. If one or more units are taken by eminent domain, the undivided interest in the common elements appertaining to any such unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common elements. The court shall enter an order reflecting the reallocation of undivided interests produced by such taking, and the award shall include just compensation to the unit owner of any unit taken for his undivided interest in the common elements as well as for his unit.*

*C. 1. If portions of any unit are taken by eminent domain, the court shall determine the fair market value of the portions of such unit not taken, and the undivided interest in the common elements appertaining to any such units shall be reduced, in the case of each such unit, in proportion to the diminution in the fair market value of such unit resulting from the taking.*

*2. The portions of undivided interest in the common elements thereby divested from the unit owners of any such units shall be reallocated among those units and the other units in the condominium in proportion to their respective undivided interests in the common elements, with any units partially taken participating in such reallocation on the basis of their undivided interests as reduced in accordance with subdivision 1.*

*3. The court shall enter an order reflecting the reallocation of undivided interests produced thereby, and the award shall include just compensation to the unit owner of any unit partially taken for that portion of his undivided interest in the common elements divested by operation of subdivision 1 and not divested by operation of subdivision 2, as well as for that portion of his unit taken by eminent domain.*

*D. If, however, the taking of a portion of any unit makes it impractical to use the remaining portion of that unit for any lawful purpose permitted by the condominium instruments, then the entire undivided interest in the common elements appertaining to that unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common elements, and the remaining portion of that unit shall thenceforth be a common element. The court shall enter an order reflecting the reallocation of undivided interests produced thereby, and the award shall include just compensation to the unit owner of such unit for his entire undivided interest in the common elements and for his entire unit.*

*E. Votes in the unit owners' association, rights to future common profits, and liabilities for future common expenses not specially assessed, appertaining to any unit taken or partially taken by eminent domain, shall thenceforth appertain to the remaining units, being allocated to them in proportion to their relative voting strength in the unit owners' association, with any units partially taken participating in such reallocation as though their voting strength in the unit owners' association had been reduced in proportion to the reduction in their undivided interests in the common elements, and the order of the court shall provide accordingly.*

*F. The order of the court shall require the recordation of such order among the land records of the county or city in which the condominium is located.*

*Article 2.*

*Creation, Alteration, and Termination of Condominiums.*

**§ 55.1-1907. How condominium may be created.**

*No condominium shall come into existence except by the recordation of condominium instruments pursuant to the provisions of this chapter. No condominium instruments shall be recorded unless all units located or to be located on any portion of the submitted land, other than within the boundaries of any convertible lands, are depicted on plats and plans that comply with the provisions of subsections A and B of § 55.1-1920.*

**§ 55.1-1908. Release of liens.**

*A. At the time of the conveyance to the first purchaser of a condominium unit following the recordation of the declaration, every mortgage, deed of trust, any other perfected lien, or any mechanics' or materialmen's liens affecting all of the condominium or a greater portion of the condominium than the condominium unit conveyed shall be paid and satisfied of record, or the declarant shall forthwith have such condominium unit released of record from all such liens not so paid and satisfied. The provisions of this subsection shall not apply, however, to any withdrawable land in a contractable condominium, nor shall any provision of this subsection be construed to prohibit the unit owners' association from mortgaging or causing a deed of trust to be placed on any portion of the condominium within which no units are located, so long as the period of declarant control specified in § 55.1-1943 has expired and so long as the bylaws authorize such action. This subsection does not apply to any lien on more than one condominium unit in a condominium in which all units are restricted to nonresidential use and in which all unit owners whose condominium units will be subject to such lien expressly agree to assume or take subject to such lien.*

*B. If any lien, other than a deed of trust or mortgage, becomes effective against two or more condominium units subsequent to the creation of the condominium, any unit owner may remove his condominium unit from that lien by payment of the amount attributable to his condominium unit. Such amount shall be computed by reference to the liability for common expenses appertaining to that condominium unit pursuant to subsection D of § 55.1-1964. Subsequent to such payment, discharge, or other satisfaction, the unit owner of that condominium unit shall be entitled to have that lien released as to his condominium unit in accordance with the provisions of § 55.1-341, and the unit owners' association shall not assess, or have a valid lien against, that condominium unit for any portion of the common expenses incurred in connection with that lien, notwithstanding anything to the contrary in §§ 55.1-1964 and 55.1-1966.*

**§ 55.1-1909. Description of condominium units.**

*After the creation of the condominium, no description of a condominium unit shall be deemed vague, uncertain, or otherwise insufficient or infirm if it sets forth the identifying number of that unit, the name of the condominium, the name of the county or city in which the condominium is situated, and either the deed book and page number where the first page of the declaration is recorded or the document number assigned to the declaration by the clerk. Any such description shall be deemed to include the undivided interest in the common elements appertaining to such unit even if such interest is not defined or referred to in the description.*

**§ 55.1-1910. Execution of condominium instruments.**

*The declaration and bylaws, and any amendments to either made pursuant to § 55.1-1934, shall be duly executed by or on behalf of all of the owners and lessees of the submitted land. The phrase "owners and lessees" in this section and in § 55.1-1926 does not include, in their capacity as such, any mortgagee, any trustee or beneficiary under a deed of trust, any other lien holder, any person having an equitable interest under any contract for the sale or lease of a condominium unit, any lessee whose leasehold interest does not extend to any portion of the common elements, any person whose land is subject to an easement included in the condominium, or, in the case of a leasehold condominium subject to any lease executed before July 1, 1962, any lessor of the submitted land who is not a declarant.*

**§ 55.1-1911. Recordation of condominium instruments.**

*All amendments and certifications of condominium instruments shall set forth the name of the county or city in which the condominium is located and the deed book and page number where the first page of the declaration is recorded. All condominium instruments and all amendments and certifications of such condominium instruments shall be recorded in every county and city in which any portion of the condominium is located. The condominium instruments, amendments, and certifications shall set forth the name of the condominium and either the deed book and page number where the first page of the declaration is recorded or the document number assigned to the declaration by the clerk.*

**§ 55.1-1912. Construction of condominium instruments.**

*Except to the extent otherwise provided by the condominium instruments:*

*1. The terms defined in § 55.1-1900 shall be deemed to have the meanings therein specified wherever they appear in the condominium instruments unless the context requires a different meaning.*

*2. To the extent that walls, floors, or ceilings are designated as the boundaries of the units or of any specified units, all lath, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished flooring and any other materials constituting any part of the finished surfaces of such walls, floors, or ceilings are part of such units, while all other portions of such walls, floors, or ceilings are a part of the common elements.*

*3. If any chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, or other apparatus lies partially within and partially outside of the designated boundaries of a unit, any portions serving only that unit are a part of that unit, while*

any portions serving more than one unit or any portion of the common elements are a part of the common elements.

4. Subject to the provisions of subdivision 3, all space, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of that unit.

5. Any shutters, awnings, doors, windows, window boxes, doorsteps, porches, balconies, patios, or other apparatus designed to serve a single unit, but located outside the boundaries of such unit, are limited common elements appertaining to that unit exclusively, except that if a single unit's electrical master switch is located outside the designated boundaries of the unit, the switch and its cover are a part of the common elements.

**§ 55.1-1913. Complementarity of condominium instruments; controlling construction.**

The condominium instruments shall be construed together and shall be deemed to incorporate one another to the extent that any requirement of this chapter as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the others. In the event of any conflict between the condominium instruments, the declaration shall control; but particular provisions shall control more general provisions, except that a construction consistent with the statute shall in all cases control over any inconsistent construction.

**§ 55.1-1914. Validity of condominium instruments; discrimination prohibited.**

A. All provisions of the condominium instruments shall be deemed severable, and any unlawful provision of such condominium instruments shall be void.

B. No provision of the condominium instruments shall be deemed void by reason of the rule against perpetuities.

C. No restraint on alienation shall discriminate or be used to discriminate on any basis prohibited under the Virginia Fair Housing Law (§ 36-96.1 et seq.).

D. Subject to the provisions of subsection C, the rule of property law known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium instruments restraining the alienation of condominium units other than such units as may be restricted to residential use only.

**§ 55.1-1915. Compliance with condominium instruments.**

A. The declarant, every unit owner, and all those entitled to occupy a unit shall comply with all lawful provisions of this chapter and all provisions of the condominium instruments. Any lack of such compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the unit owners' association or by its executive board or any managing agent on behalf of such association or, in any proper case, by one or more aggrieved unit owners on their own behalf or as a class action. A unit owners' association shall have standing to sue in its own name for any claims or actions related to the common elements as provided in subsection B of § 55.1-1956. Except as provided in subsection B, the prevailing party shall be entitled to recover reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in § 8.01-382. This section does not preclude an action against the unit owners' association and authorizes the recovery, by the prevailing party in any such action, of reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in § 8.01-382 in such actions.

B. In actions against a unit owner for nonpayment of assessments in which the unit owner has failed to pay assessments levied by the unit owners' association on more than one unit or such unit owner has had legal actions taken against him for nonpayment of any prior assessment and the prevailing party is the association or its executive board or any managing agent on behalf of the association, the prevailing party shall be awarded reasonable attorney fees, costs expended in the matter, and interest on the judgment as provided in subsection A, even if the proceeding is settled prior to judgment. The delinquent unit owner shall be personally responsible for reasonable attorney fees and costs expended in the matter by the unit owners' association, whether any judicial proceedings are filed.

C. The condominium instruments may provide for arbitration of disputes or other means of alternative dispute resolution. Any such arbitration held in accordance with this subsection shall be consistent with the provisions of this chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any such arbitration or alternative dispute resolution shall be in the county or city in which the condominium is located or as mutually agreed by the parties.

**§ 55.1-1916. Contents of declaration.**

A. The declaration for every condominium shall contain the following:

1. The name of the condominium, which name shall include the word "condominium" or be followed by the words "a condominium."

2. The name of the county or city in which the condominium is located.

3. A legal description by metes and bounds of the land submitted in accordance with this chapter.

4. A description or delineation of the boundaries of the units, including the horizontal (upper and lower) boundaries, if any, as well as the vertical (lateral or perimetric) boundaries.

5. A description or delineation of any limited common elements, other than those that are limited common elements by virtue of subdivision 5 of § 55.1-1912, showing or designating the unit or units to which each is assigned.

6. A description or delineation of all common elements not within the boundaries of any convertible lands that may subsequently be assigned as limited common elements, together with a statement that (i) they may be so assigned and a description of the method by which any such assignments shall be made in accordance with the provisions of § 55.1-1919 or (ii) once assigned, the conditions under which they may be unassigned and converted to common elements in accordance with § 55.1-1919.

7. The allocation to each unit of an undivided interest in the common elements in accordance with the provisions

of § 55.1-1917.

8. A statement of the extent of the declarant's obligation to complete improvements labeled "NOT YET COMPLETED" or to begin and complete improvements labeled "NOT YET BEGUN" on plats recorded pursuant to the requirements of this chapter. Such statement shall be specific as to the type and quality of materials to be used, the size or capacity of the improvements when material, and the time by which such improvements shall be completed.

9. Such other matters as the declarant deems appropriate.

B. If the condominium contains any convertible land, the declaration shall also contain the following:

1. A legal description by metes and bounds of each convertible land within the condominium.

2. A statement of the maximum number of units that may be created within each such convertible land.

3. A statement, with respect to each such convertible land, of the maximum percentage of the aggregate land and floor area of all units that may be created in such convertible land that may be occupied by units not restricted exclusively to residential use. Such statement is not required if none of the units on other portions of the submitted land are restricted exclusively to residential use.

4. A statement of the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the submitted land in terms of quality of construction, the principal materials to be used, and architectural style.

5. A description of all other improvements that may be made on each convertible land within the condominium.

6. A statement that any units created within each convertible land will be substantially identical to the units on other portions of the submitted land, or a statement describing in detail what other types of units may be created in such convertible land.

7. A description of the declarant's reserved right, if any, to create limited common elements within any convertible land or to designate common elements in such convertible land that may subsequently be assigned as limited common elements, in terms of the types, sizes, and maximum number of such elements within each such convertible land.

Plats and plans may be recorded as exhibits to the declaration to supplement information furnished pursuant to subdivisions 1, 4, 5, 6, and 7.

C. If the condominium is an expandable condominium, the declaration shall also contain the following:

1. The explicit reservation of an option to expand the condominium.

2. A statement of any limitations on that option, including a statement as to whether the consent of any unit owners shall be required, and, if so, a statement as to the method by which such consent shall be ascertained, or a statement that there are no such limitations.

3. A time limit, not exceeding 10 years after the recording of the declaration, upon which the option to expand the condominium shall expire, together with a statement of the circumstances, if any, that will terminate that option prior to the expiration of the time limit so specified. After the expiration of any period of declarant control reserved pursuant to subsection A of § 55.1-1943, such time limit may be extended by an amendment to the declaration made pursuant to § 55.1-1934.

4. A legal description by metes and bounds of all land that may be added to the condominium, henceforth referred to as "additional land."

5. A statement as to whether, if any of the additional land is added to the condominium, all of it or any particular portion of it must be added and, if not, a statement of any limitations as to what portions may be added, or a statement that there are no such limitations.

6. A statement as to whether portions of the additional land may be added to the condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds of such portions or regulating the order in which they may be added to the condominium.

7. A statement of any limitations as to the locations of any improvements that may be made on any portions of the additional land added to the condominium, or a statement that no assurances are made in that regard.

8. A statement of the maximum number of units that may be created on the additional land. If portions of the additional land may be added to the condominium and the boundaries of those portions are fixed in accordance with subdivision 6, the declaration shall also state the maximum number of units that may be created on each such portion added to the condominium. If portions of the additional land may be added to the condominium and the boundaries of those portions are not fixed in accordance with subdivision 6, then the declaration shall also state the maximum number of units per acre that may be created on any such portion added to the condominium.

9. A statement, with respect to the additional land and to any portion of such additional land that may be added to the condominium, of the maximum percentage of the aggregate land and floor area of all units that may be created on such additional land that may be occupied by units not restricted exclusively to residential use. Such statement is not required if none of the units on the submitted land are restricted exclusively to residential use.

10. A statement of the extent to which any structures erected on any portion of the additional land added to the condominium will be compatible with structures on the submitted land in terms of quality of construction, the principal materials to be used, and architectural style, or a statement that no assurances are made in those regards.

11. A description of all other improvements that will be made on any portion of the additional land added to the condominium, or a statement of any limitations as to what other improvements may be made on such additional land, or a statement that no assurances are made in that regard.

12. A statement that any units created on any portion of the additional land added to the condominium will be substantially identical to the units on the submitted land, or a statement of any limitations as to what types of units may be created on such additional land, or a statement that no assurances are made in that regard.

13. A description of the declarant's reserved right, if any, to create limited common elements within any portion of the additional land added to the condominium or to designate common elements in such additional land that may subsequently be assigned as limited common elements, in terms of the types, sizes, and maximum number of such elements within each such portion, or a statement that no assurances are made in those regards.

Plats and plans may be recorded as exhibits to the declaration to supplement information furnished pursuant to subdivisions 4, 5, 6, 7, 10, 11, 12, and 13.

D. If the condominium is a contractable condominium, the declaration shall also contain the following:

1. The explicit reservation of an option to contract the condominium.

2. A statement of any limitations on that option, including a statement as to whether the consent of any unit owners shall be required, and, if so, a statement as to the method whereby such consent shall be ascertained, or a statement that there are no such limitations.

3. A time limit, not exceeding 10 years after the recording of the declaration, upon which the option to contract the condominium shall expire, together with a statement of the circumstances, if any, that will terminate that option prior to the expiration of the time limit so specified.

4. A legal description by metes and bounds of all land that may be withdrawn from the condominium, hereinafter referred to as "withdrawable land."

5. A statement as to whether portions of the withdrawable land may be withdrawn from the condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds or regulating the order in which they may be withdrawn from the condominium.

6. A legal description by metes and bounds of all of the submitted land to which the option to contract the condominium does not extend. This subdivision shall not be construed in derogation of any right the declarant may have to terminate the condominium in accordance with the provisions of § 55.1-1937.

Plats may be recorded as exhibits to the declaration to supplement information furnished pursuant to subdivisions 4, 5, and 6.

E. If the condominium is a leasehold condominium, then with respect to any ground lease or other leases the expiration or termination of which will or may terminate or contract the condominium, the declaration shall set forth the county or city in which such lease is recorded and the deed book and page number where the first page of each such lease is recorded, and the declaration shall also contain the following:

1. The date upon which each such lease is due to expire.

2. A statement as to whether any land or improvements will be owned by the unit owners in fee simple and, if so, either (i) a description of the same, including a legal description by metes and bounds of any such land, or (ii) a statement of any rights the unit owners shall have to remove such improvements within a reasonable time after the expiration or termination of the lease involved, or a statement that they shall have no such rights.

3. A statement of the rights the unit owners shall have to redeem any reversion, or a statement that they shall have no such rights.

After the recording of the declaration, no lessor who executed such declaration, and no successor in interest to such lessor, shall have any right or power to terminate any part of the leasehold interest of any unit owner who makes timely payment of his share of the rent to the person designated in the declaration for the receipt of such rent and who otherwise complies with all covenants that, if violated, would entitle the lessor to terminate the lease. Acquisition or reacquisition of such a leasehold interest by the owner of the reversion or remainder does not cause a merger of the leasehold and fee simple interests unless all leasehold interests in the condominium are thus acquired or reacquired.

F. Wherever this section requires a legal description by metes and bounds of land that is submitted pursuant to this chapter or that may be added to or withdrawn from the condominium, such requirement shall be deemed satisfied by any legally sufficient description and shall be deemed to require a legally sufficient description of any easements that are submitted pursuant to this chapter or that may be added to or withdrawn from the condominium, as appropriate. In the case of each such easement, the declaration shall contain the following:

1. A description of the permitted use or uses.

2. If less than all of those entitled to the use of all of the units may utilize such easement, a statement of the relevant restrictions and limitations on utilization.

3. If any persons other than those entitled to the use of the units may utilize such easement, a statement of the rights of others to utilization of the easement.

G. Wherever this section requires a legal description by metes and bounds of land that is submitted pursuant to this chapter or that may be added to or withdrawn from the condominium, an added requirement shall be a separate legally sufficient description of all lands in which the unit owners shall or may be tenants in common or joint tenants with any other persons and a separate legally sufficient description of all lands in which the unit owners shall or may be life tenants. No units shall be situated on any such lands, however, and the declaration shall describe the nature of the unit owners' estate in such lands. No such lands shall be shown on the same plat or plats showing other portions of the condominium but shall be shown instead on separate plats.

**§ 55.1-1917. Allocation of interests in the common elements.**

A. The declaration may allocate to each unit depicted on plats and plans that comply with subsections A and B of § 55.1-1920 an undivided interest in the common elements proportionate to either the size or par value of each unit. If par value is stated in terms of dollars, that statement shall not be deemed to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure shall affect the par value of any unit or any undivided interest in the common elements, voting rights in the unit owners' association, or liability for common expenses assigned on the basis of such par value.

B. If the basis for allocation provided in subsection A is not used, then the declaration shall allocate to each such unit an equal undivided interest in the common elements, subject to the following exception: Each convertible space so depicted shall be allocated an undivided interest in the common elements proportionate to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining undivided interest in the common elements shall be allocated equally to the other units so depicted.

C. The undivided interests in the common elements allocated in accordance with subsection A or B shall add up to 1 if stated as fractions or 100 percent if stated as percentages.

D. If, in accordance with subsection A or B, an equal undivided interest in the common elements is allocated to each unit, the declaration may state that fact and need not express the fraction or percentage so allocated.

E. Unless an equal undivided interest in the common elements is allocated to each unit, the undivided interest allocated to each unit in accordance with subsection A or B shall be reflected by a table in the declaration, or by an exhibit to the declaration, containing three columns. The first column shall identify the units, listing them serially or grouping them together in the case of units to which identical undivided interests are allocated. Corresponding figures in the second and third columns shall set forth the respective areas or par values of those units and the fraction or percentage of undivided interest in the common elements allocated to such units.

F. Except to the extent otherwise expressly provided by this chapter, the undivided interest in the common elements allocated to any unit shall not be altered, and any purported transfer, encumbrance, or other disposition of that interest without the unit to which it appertains is void.

G. The common elements shall not be subject to any action for partition until and unless the condominium is terminated.

**§ 55.1-1918. Reallocation of interests in common elements.**

A. If a condominium contains any convertible land or is an expandable condominium, then the declaration shall not allocate undivided interests in the common elements on the basis of par value unless the declaration:

1. Prohibits the creation of any units not substantially identical to the units depicted on the plats and plans recorded pursuant to subsections A and B of § 55.1-1920; or

2. Prohibits the creation of any units not described pursuant to subdivision B 6 of § 55.1-1916, in the case of convertible lands, and subdivision C 12 of § 55.1-1916, in the case of additional land, and contains from the outset a statement of the par value that shall be assigned to every such unit that may be created.

B. Interests in the common elements shall not be allocated to any units to be created within any convertible land or within any additional land until plats and plans depicting the same are recorded pursuant to subsection C of § 55.1-1920. But simultaneously with the recording of such plats and plans, the declarant shall execute and record an amendment to the declaration reallocating undivided interests in the common elements so that the units depicted on such plats and plans shall be allocated undivided interests in the common elements on the same basis as the units depicted on the plats and plans recorded simultaneously with the declaration pursuant to subsections A and B of § 55.1-1920.

C. If all of a convertible space is converted into common elements, including limited common elements, then the undivided interest in the common elements appertaining to such space shall then appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common elements. The principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interests produced by such conversion.

D. In the case of a leasehold condominium, if the expiration or termination of any lease causes a contraction of the condominium that reduces the number of units, then the undivided interest in the common elements appertaining to any units withdrawn from the condominium shall then appertain to the remaining units, being allocated among them in proportion to their undivided interests in the common elements. The principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall forthwith prepare, execute, and record an amendment to the declaration reflecting the reallocation of undivided interests produced by such contraction.

**§ 55.1-1919. Assignments of limited common elements; conversion to common element.**

A. All assignments and reassignments of limited common elements shall be reflected by the condominium instruments. No limited common element shall be assigned or reassigned except in accordance with the provisions of this chapter. No amendment to any condominium instrument shall alter any rights or obligations with respect to any limited common elements without the consent of all unit owners adversely affected by such amendment as evidenced by their execution of such amendment, except to the extent that the condominium instruments expressly provided otherwise prior to the first assignment of that limited common element.

B. Unless expressly prohibited by the condominium instruments, a limited common element may be reassigned or converted to a common element upon written application of the unit owners concerned to the principal officer of the unit

owners' association, or to such other officer as the condominium instruments may specify. The officer to whom such application is duly made shall forthwith prepare and execute an amendment to the declaration reassigning all rights and obligations with respect to the limited common element involved. Such amendment shall be executed by all of the unit owners concerned and recorded by an officer of the unit owners' association or his agent following payment by the unit owners of the units concerned of all reasonable costs for the preparation, acknowledgment, and recordation of such amendment. The amendment is effective when recorded.

C. A common element not previously assigned as a limited common element shall be so assigned only pursuant to subdivision A 6 of § 55.1-1916. The amendment to the declaration making such an assignment shall be prepared and executed by the declarant, the principal officer of the unit owners' association, or by such other officer as the condominium instruments may specify. Such amendment shall be recorded by the declarant or his agent, without charge to any unit owner, or by an officer of the unit owners' association or his agent following payment by all of the unit owners of the units concerned of all reasonable costs for the preparation, acknowledgment, and recordation of such amendment. The amendment is effective when recorded, and the recordation of such amendment shall be conclusive evidence that the method prescribed pursuant to subdivision A 6 of § 55.1-1916 was adhered to. A copy of the amendment shall be delivered to the unit owners of the units concerned. If executed by the declarant, such an amendment recorded prior to July 1, 1983, shall not be invalid because it was not prepared by an officer of the unit owners' association.

D. If the declarant does not prepare and record an amendment to the declaration to effect the assignment of common elements as limited common elements in accordance with rights reserved in the condominium instruments, but has reflected an intention to make such assignments in deeds conveying units, then the principal officer of the unit owners' association may prepare, execute, and record such an amendment at any time after the declarant ceases to be a unit owner.

E. The declarant may unilaterally record an amendment to the declaration converting a limited common element appurtenant to a unit owned by the declarant into a common element as long as the declarant continues to own the unit.

#### **§ 55.1-1920. Contents of plats and plans.**

A. There shall be recorded simultaneously with the declaration one or more plats of survey showing the location and dimensions of the submitted land, the location and dimensions of any convertible lands within the submitted land, the location and dimensions of any existing improvements, the intended location and dimensions of any contemplated improvements that are to be located on any portion of the submitted land other than within the boundaries of any convertible lands, and, to the extent feasible, the location and dimensions of all easements appurtenant to the submitted land or otherwise subject to this chapter as a part of the common elements. If the submitted land is not contiguous, then the plats shall indicate the distances between the parcels constituting the submitted land. The plats shall label every convertible land as a convertible land, and if there is more than one such land, the plats shall label each such land with one or more letters or numbers different from those designating any other convertible land and different also from the identifying number of any unit. The plats shall show the location and dimensions of any withdrawable lands and shall label each such land as a withdrawable land. The plats shall show the location and dimensions of any additional lands and shall label each such land as an additional land. If, with respect to any portion, but less than all, of the submitted land, the unit owners are to own only an estate for years, the plats shall show the location and dimensions of any such portion, and shall label each such portion as a leased land. If there is more than one withdrawable land, or more than one leased land, the plats shall label each such land with one or more letters or numbers different from those designating any convertible land or other withdrawable or leased land, and different also from the identifying number of any unit. The plats shall show all easements to which the submitted land or any portion of such submitted land is subject and shall show the location and dimensions of all such easements to the extent feasible. The plats shall also show all encroachments by or on any portion of the condominium. In the case of any improvements located or to be located on any portion of the submitted land other than within the boundaries of any convertible lands, the plats shall indicate which, if any, have not been begun by the use of the phrase "NOT YET BEGUN" and which, if any, have been begun but have not been substantially completed by the use of the phrase "NOT YET COMPLETED." In the case of any units the vertical boundaries of which lie wholly or partially outside of structures for which plans pursuant to subsection B are simultaneously recorded, the plats shall show the location and dimensions of such vertical boundaries to the extent that they are not shown on such plans, and the units or portions thereof thus depicted shall bear their identifying numbers. Each plat shall be certified in a recorded document as to its accuracy and compliance with the provisions of this subsection by a licensed land surveyor, and the surveyor shall certify in such document or on the face of the plat that all units or portions of such units depicted on such plat pursuant to the preceding sentence of this subsection have been substantially completed. The specification within this subsection of items that shall be shown on the plats shall not be construed to mean that the plats shall not also show all other items customarily shown or hereafter required for land title surveys.

B. Plans shall also be recorded with the declaration. Such plans shall show every structure that contains or constitutes all or part of any unit and that is located on any portion of the submitted land other than within the boundaries of any convertible lands. The plans shall show the location and dimensions of the vertical boundaries of each unit to the extent that such boundaries lie within or coincide with the boundaries of such structures, and the units or portions of the submitted units so depicted shall bear their identifying numbers. In addition, each convertible space so depicted shall be labeled as convertible space. The horizontal boundaries of each unit having horizontal boundaries shall be identified on the plans with reference to established datum. Unless the condominium instruments expressly provide otherwise, it shall be presumed that in the case of any unit not wholly contained within or constituting one or more such structures, the horizontal boundaries

thus identified extend, in the case of each such unit, at the same elevation with regard to any part of such unit, lying outside of such structures, subject to the following exception: In the case of any such unit that does not lie over any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of such structures. The plans shall be certified on their face or in another recorded document as to their accuracy and compliance with the provisions of this subsection by a licensed architect, licensed engineer, or licensed land surveyor, and such architect, engineer, or land surveyor shall certify on the plans or in the recorded document that all units or portions of the submitted units depicted on such plans have been substantially completed.

C. When converting all or any portion of any convertible land, or adding additional land to an expandable condominium, the declarant shall record, with regard to any structures on the land being converted or added, either plats of survey conforming to the requirements of subsection A and plans conforming to the requirements of subsection B, or certifications conforming to the certification requirements of such subsections of plats and plans previously recorded pursuant to § 55.1-1922.

D. Notwithstanding the provisions of subsections A and B, a time-share interest in a unit that has been subjected to a time-share instrument pursuant to § 55.1-2208 may be conveyed prior to substantial completion of that unit if (i) a completion bond has been filed in compliance with subsection B of § 55.1-1921 and remains in full force and effect until the unit is certified as substantially complete in accordance with subsections A and B and (ii) the settlement agent or title insurance company insuring the time-share estate in the unit certifies to the purchaser in writing, based on information provided by the Common Interest Community Board, that the bond has been filed with the Common Interest Community Board.

E. When converting all or any portion of any convertible space into one or more units or limited common elements, the declarant shall record, with regard to the structure or portion of such structure constituting that convertible space, plans showing the location and dimensions of the vertical boundaries of each unit or limited common elements formed out of such space. Such plans shall be certified as to their accuracy and compliance with the provisions of this subsection by a licensed architect, licensed engineer, or licensed land surveyor.

F. For the purposes of subsections A, B, and C, all provisions and requirements relating to units shall be deemed equally applicable to limited common elements. The limited common elements shall be labeled as such, and each limited common element depicted on the plats and plans shall show the identifying number of the unit to which it is assigned, if it has been assigned, unless the provisions of subdivision 5 of § 55.1-1912 make such designations unnecessary.

**§ 55.1-1921. Bond to insure completion of improvements.**

A. The declarant shall file with the Common Interest Community Board a bond entered into by the declarant in the sum of 100 percent of the estimated cost of completion, to the extent of the declarant's obligation as stated in the declaration, of all improvements to the common elements of the condominium labeled in the plat or plats as "NOT YET COMPLETED" or "NOT YET BEGUN" located upon submitted land and which the declarant reasonably believes will not be substantially complete at the time of conveyance of the first condominium unit. Such bond shall be conditioned upon the faithful performance of the declarant's obligation to complete such improvements in strict conformity with the plans and specifications for the same as described in the declaration.

B. The declarant shall file with the Common Interest Community Board a bond entered into by the declarant in the sum of 100 percent of the estimated cost of completion of a unit in which a time-share interest is conveyed before the unit has been certified as substantially complete in accordance with subsections A and B of § 55.1-1920. The bond required by this subsection shall be conditioned upon the faithful performance of the declarant's obligation to complete such improvements in strict conformity with the plans and specifications for the same as described in the declaration.

C. All bonds required in this section shall be executed by a surety company authorized to transact business in the Commonwealth or by such other surety as is satisfactory to the Board.

D. The Board may promulgate reasonable regulations that govern the return of bonds submitted in accordance with this section.

**§ 55.1-1922. Preliminary recordation of plats and plans.**

Plats and plans previously recorded pursuant to subsections A, B, and C of § 55.1-1916 may be used in lieu of new plats and plans to satisfy in whole or in part the requirements of subsection B of § 55.1-1918, subsection B of § 55.1-1924, or § 55.1-1926 if certifications of such plats and plans are recorded by the declarant in accordance with subsections A and B of § 55.1-1920; and if such certifications are recorded, the plats and plans that they certify shall be deemed recorded pursuant to subsection C of § 55.1-1920 within the meaning of §§ 55.1-1918, 55.1-1924, and 55.1-1926. All condominium instruments for condominiums created prior to July 1, 1991, are hereby validated notwithstanding that the plats were prerecorded as if in compliance with this section and not recorded with amendments converting convertible land or adding additional land if the plats or subsequent amendments contained the required certifications.

**§ 55.1-1923. Easement for encroachments.**

To the extent that any unit or common element encroaches on any other unit or common element, whether by reason of any deviation from the plats and plans in the construction, repair, renovation, restoration, or replacement of any improvement or by reason of the settling or shifting of any land or improvement, a valid easement for such encroachment shall exist. The purpose of this section is to protect the unit owners, except in cases of willful and intentional misconduct by them or their agents or employees, and not to relieve the declarant or any contractor, subcontractor, or materialman of any

liability which any of them may have by reason of any failure to adhere strictly to the plats and plans.

**§ 55.1-1924. Conversion of convertible lands.**

A. The declarant may convert all or any portion of any convertible land into one or more units or limited common elements subject to any restrictions and limitations that the condominium instruments may specify. Any such conversion shall be deemed to have occurred at the time of the recordation of appropriate instruments pursuant to subsection B of this section and subsection C of § 55.1-1920.

B. Simultaneously with the recording of plats and plans pursuant to subsection C of § 55.1-1920, the declarant shall prepare, execute, and record an amendment to the declaration describing the conversion. Such amendment shall assign an identifying number to each unit formed out of a convertible land and shall reallocate undivided interests in the common elements in accordance with subsection B of § 55.1-1918. Such amendment shall describe or delineate any limited common elements formed out of the convertible land, showing or designating the unit to which each is assigned.

C. All convertible lands shall be deemed a part of the common elements except for such portions of such convertible lands as are converted in accordance with the provisions of this section. Until the expiration of the period during which conversion may occur or until actual conversion, whichever occurs first, the declarant alone shall be liable for real estate taxes assessed against the convertible land and any improvements on such convertible land and all other expenses in connection with that real estate, and no other unit owner and no other portion of the condominium shall be subject to a claim for payment of those taxes or expenses, and, unless the declaration provides otherwise, any income or proceeds from the convertible land and any improvements on such convertible land shall inure to the declarant. No such conversion shall occur after 10 years from the recordation of the declaration, or such shorter period of time as the declaration may specify.

**§ 55.1-1925. Conversion of convertible spaces.**

A. The declarant may convert all or any portion of any convertible space into one or more units or common elements, including limited common elements, subject to any restrictions and limitations that the condominium instruments may specify. Any such conversion shall be deemed to have occurred at the time of the recordation of appropriate instruments pursuant to subsection B and subsection B of § 55.1-1920.

B. Simultaneously with the recording of plats and plans pursuant to subsection E of § 55.1-1920, the declarant shall prepare, execute, and record an amendment to the declaration describing the conversion. Such amendment shall assign an identifying number to each unit formed out of a convertible space and shall allocate to each unit a portion of the undivided interest in the common elements appertaining to that space. Such amendment shall describe or delineate any limited common elements formed out of the convertible space, showing or designating the unit to which each is assigned.

C. If all or any portion of any convertible space is converted into one or more units in accordance with this section, the declarant shall prepare and execute, and record simultaneously with the amendment to the declaration, an amendment to the bylaws. The amendment to the bylaws shall reallocate votes in the unit owners' association, rights to future common profits, and liabilities for future common expenses not specially assessed, all as in the case of the subdivision of a unit in accordance with subsection D of § 55.1-1933.

D. Any convertible space not converted in accordance with the provisions of this section, or any portion of such convertible space not so converted, shall be treated for all purposes as a single unit until and unless it is so converted, and the provisions of this chapter shall be deemed applicable to any such convertible space, or portion of such convertible space, as though the same were a unit.

**§ 55.1-1926. Expansion of condominium.**

No condominium shall be expanded except in accordance with the provisions of the declaration and of this chapter. Any such expansion shall be deemed to have occurred at the time of the recordation of plats and plans pursuant to subsection C of § 55.1-1920, together with an amendment to the declaration, duly executed by the declarant, including all of the owners and lessees of the additional land added to the condominium. Such amendment shall contain a legal description by metes and bounds of the land added to the condominium and shall reallocate undivided interests in the common elements in accordance with the provisions of subsection B of § 55.1-1918. Such amendment may create convertible or withdrawable lands or both within the land added to the condominium, but this provision shall not be construed in derogation of the time limits imposed by or pursuant to subdivision D 3 of § 55.1-1916 and subsection C of § 55.1-1924.

**§ 55.1-1927. Contraction of condominium.**

No condominium shall be contracted except in accordance with the provisions of the declaration and of this chapter. Any such contraction shall be deemed to have occurred at the time of the recordation of an amendment to the declaration, executed by the declarant, containing a legal description by metes and bounds of the land withdrawn from the condominium. If portions of the withdrawable land were described pursuant to subdivision D 5 of § 55.1-1916, then no such portion shall be so withdrawn after the conveyance of any unit on such portion. If no such portions were described, then none of the withdrawable land shall be withdrawn after the first conveyance of any unit.

**§ 55.1-1928. Easement to facilitate conversion and expansion.**

Subject to any restrictions and limitations the condominium instruments may specify, the declarant shall have a transferable easement over and on the common elements for the purpose of making improvements on the submitted land and any additional land pursuant to the provisions of those instruments and of this chapter and for the purpose of doing all things reasonably necessary and proper in connection with making such improvements.

**§ 55.1-1929. Easement to facilitate sales.**

The declarant and his duly authorized agents, representatives, and employees may maintain sales offices or model units on the submitted land if and only if the condominium instruments provide for maintaining such sales offices or model units and specify the rights of the declarant with regard to the number, size, location, and relocation of such sales offices or model units. Any such sales office or model unit that is not designated a unit by the condominium instruments shall become a common element as soon as the declarant ceases to be a unit owner, and the declarant shall cease to have any rights with regard to such sales office or model unit unless it is removed forthwith from the submitted land in accordance with a right reserved in the condominium instruments to make such removal.

**§ 55.1-1930. Declarant's obligation to complete and restore.**

A. No covenants, restrictions, limitations, or other representations or commitments in the condominium instruments with regard to anything that is or is not to be done on the additional land, the withdrawable land, or any portion of either shall be binding as to any portion of either lawfully withdrawn from the condominium or never added to the condominium, except to the extent that the condominium instruments so provide. But in the case of any covenant, restriction, limitation, or other representation or commitment in the condominium instruments or in any other agreement requiring the declarant to add all or any portion of the additional land or to withdraw any portion of the withdrawable land, or imposing any obligations with regard to anything that is or is not to be done on such land or with regard to such land, or imposing any obligations with regard to anything that is or is not to be done on or with regard to the condominium or any portion of such condominium, this subsection shall not be construed to nullify, limit, or otherwise affect any such obligation.

B. The declarant shall complete all improvements labeled "NOT YET COMPLETED" on plats recorded pursuant to the requirements of this chapter unless the condominium instruments expressly exempt the declarant from such obligation and shall, in the case of every improvement labeled "NOT YET BEGUN" on such plats, state in the declaration either the extent of the obligation to complete the same or that there is no such obligation.

C. To the extent that damage is inflicted on any part of the condominium by any person utilizing the easements reserved by the condominium instruments or created by §§ 55.1-1928 and 55.1-1929, the declarant together with any person causing the same shall be jointly and severally liable for the prompt repair of such damage and for the restoration of the same to a condition compatible with the remainder of the condominium.

**§ 55.1-1931. Alterations within units.**

A. Except to the extent prohibited, restricted, or limited by the condominium instruments, any unit owner may make any improvements or alterations within his unit that do not impair the structural integrity of any structure or otherwise lessen the support of any portion of the condominium. However, no unit owner shall do anything that would change the exterior appearance of his unit or of any other portion of the condominium except to such extent and subject to such conditions as the condominium instruments may specify.

B. If a unit owner acquires an adjoining unit, or an adjoining part of an adjoining unit, then such unit owner shall have the right to remove all or any part of any intervening partition or to create doorways or other apertures in such unit, notwithstanding the fact that such partition may in whole or in part be a common element, so long as no portion of any bearing wall or bearing column is weakened or removed and no portion of any common element other than that partition is damaged, destroyed, or endangered. Such creation of doorways or other apertures shall not be deemed an alteration of boundaries within the meaning of § 55.1-1932.

**§ 55.1-1932. Relocation of boundaries between units.**

A. If the condominium instruments expressly permit the relocation of boundaries between adjoining units, then the boundaries between such units may be relocated in accordance with (i) the provisions of this section and (ii) any restrictions and limitations not otherwise unlawful that the condominium instruments may specify. The boundaries between adjoining units shall not be relocated unless the condominium instruments expressly permit it.

B. If the unit owners of adjoining units whose mutual boundaries may be relocated desire to relocate such boundaries, then the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall, upon written application of such unit owners, forthwith prepare and execute appropriate instruments pursuant to subsections C, D, and E.

C. An amendment to the declaration shall identify the units involved and shall state that the boundaries between those units are being relocated by agreement of the unit owners of such units, and the amendment shall contain conveyancing between those unit owners. If the unit owners of the units involved have specified in their written application a reasonable reallocation as between the units involved of the aggregate undivided interest in the common elements appertaining to those units, the amendment to the declaration shall reflect that reallocation.

D. If the unit owners of the units involved have specified in their written application a reasonable reallocation as between the units involved of the aggregate number of votes in the unit owners' association allocated to those units, an amendment to the bylaws shall reflect that reallocation and a proportionate reallocation of liability for common expenses as between those units.

E. Such plats and plans as may be necessary to show the altered boundaries between the units involved together with their other boundaries shall be prepared, and the units depicted on such plats and plans shall bear their identifying numbers. Such plats and plans shall indicate the new dimensions of the units involved, and any change in the horizontal boundaries of either as a result of the relocation of their boundaries shall be identified with reference to established datum. Such plats and plans shall be certified as to their accuracy and compliance with the provisions of this subsection (i) by a

licensed land surveyor in the case of any plat and (ii) by a licensed architect, licensed engineer, or licensed land surveyor in the case of any plan.

F. When appropriate instruments in accordance with this section have been prepared, executed, and acknowledged, they shall be recorded by an officer of the unit owners' association following payment by the unit owners of the units involved of all reasonable costs for the preparation, acknowledgment, and recordation of such instruments. Such instruments are effective when executed by the unit owners of the units involved and recorded, and the recordation of such instruments is conclusive evidence that the relocation of boundaries so effectuated did not violate any restrictions or limitations specified by the condominium instruments and that any reallocations made pursuant to subsections C and D were reasonable.

G. Any relocation of boundaries between adjoining units shall be governed by this section and not by § 55.1-1933. Section 55.1-1933 shall apply only to such subdivisions of units as are intended to result in the creation of two or more new units in place of the subdivided unit.

**§ 55.1-1933. Subdivision of units.**

A. If the condominium instruments expressly permit the subdivision of any units, then such units may be subdivided in accordance with (i) the provisions of this section and (ii) any restrictions and limitations not otherwise unlawful that the condominium instruments may specify. No unit shall be subdivided unless the condominium instruments expressly permit it.

B. If the unit owner of any unit that may be subdivided desires to subdivide such unit, then the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall, upon written application of the subdivider, as such unit owner shall hereinafter be referred to in this section, forthwith prepare and execute appropriate instruments pursuant to subsections C, D, and E.

C. An amendment to the declaration shall assign new identifying numbers to the new units created by the subdivision of a unit and shall allocate to those units, on a reasonable basis acceptable to the subdivider, all of the undivided interest in the common elements appertaining to the subdivided unit. The new units shall jointly share all rights, and shall be equally liable jointly and severally for all obligations, with regard to any limited common elements assigned to the subdivided unit except to the extent that the subdivider may have specified in his written application that all or any portions of any limited common element assigned to the subdivided unit exclusively should be assigned to one or more, but less than all of the new units, in which case the amendment to the declaration shall reflect the desires of the subdivider as expressed in such written application.

D. An amendment to the bylaws shall allocate to the new units, on a reasonable basis acceptable to the subdivider, the votes in the unit owners' association allocated to the subdivided unit and shall reflect a proportionate allocation to the new units of the liability for common expenses formerly appertaining to the subdivided unit.

E. Such plats and plans as may be necessary to show the boundaries separating the new units together with their other boundaries shall be prepared, and the new units depicted on such plats and plans shall bear their new identifying numbers. Such plats and plans shall indicate the dimensions of the new units, and the horizontal boundaries of such units, if any, shall be identified on such plats and plans with reference to established datum. Such plats and plans shall be certified as to their accuracy and compliance with the provisions of this subsection (i) by a licensed land surveyor in the case of any plat and (ii) by a licensed architect, licensed engineer, or licensed land surveyor in the case of any plan.

F. When appropriate instruments in accordance with this section have been prepared, executed, and acknowledged, they shall be recorded by an officer of the unit owners' association following payment by the subdivider of all reasonable costs for the preparation, acknowledgment, and recordation of such instruments. Such instruments are effective when executed by the subdivider and recorded, and the recordation of such instruments is conclusive evidence that the subdivision so effectuated did not violate any restrictions or limitations specified by the condominium instruments and that any reallocations made pursuant to subsections C and D were reasonable.

G. Notwithstanding the definition of "unit" found in § 55.1-1900 and the provisions of subsection D of § 55.1-1925, this section shall have no application to convertible spaces, and no such space shall be deemed a unit for the purposes of this section. However, this section shall apply to any units formed by the conversion of all or any portion of any such convertible space, and any such unit shall be deemed a unit for the purposes of this section.

**§ 55.1-1934. Amendment of condominium instruments.**

A. If there is no unit owner other than the declarant, the declarant may unilaterally amend the condominium instruments, and an amendment signed by the declarant is effective upon recordation. This section shall not be construed to nullify, limit, or otherwise affect the validity of enforceability of any agreement renouncing or to renounce, in whole or in part, the right hereby conferred.

B. If any of the units in the condominium is restricted exclusively to residential use and there is any unit owner other than the declarant, the condominium instruments shall be amended only by agreement of unit owners of units to which two-thirds of the votes in the unit owners' association appertain, or such larger majority as the condominium instruments may specify, except in cases for which this chapter provides different methods of amendment. If none of the units in the condominium is restricted exclusively to residential use, the condominium instruments may specify a majority smaller than the minimum specified in the preceding sentence.

C. An action to challenge the validity of an amendment adopted by the unit owners' association pursuant to this section may not be brought more than one year after the amendment is recorded.

D. Agreement of the required majority of unit owners to any amendment of the condominium instruments shall be

evidenced by their execution of the amendment, or ratifications of such amendment, and the same is effective when a copy of the amendment is recorded together with a certification, signed by the principal officer of the unit owners' association or by such other officer as the condominium instruments may specify, that the requisite majority of the unit owners signed the amendment or ratifications of such amendment.

E. Except to the extent expressly permitted or expressly required by other provisions of this chapter or agreed to by 100 percent of the unit owners, no amendment to the condominium instruments shall change (i) the boundaries of any unit, (ii) the undivided interest in the common elements, (iii) the liability for common expenses, or (iv) the number of votes in the unit owners' association that appertains to any unit.

F. Notwithstanding any other provision of this section, the declarant may unilaterally execute and record a corrective amendment or supplement to the condominium instruments to correct a mathematical mistake, an inconsistency, or a scrivener's error or clarify an ambiguity in the condominium instruments with respect to an objectively verifiable fact, including recalculating the undivided interest in the common elements, the liability for common expenses or the number of votes in the unit owners' association appertaining to a unit, within five years after the recordation of the condominium instrument containing or creating such mistake, inconsistency, error, or ambiguity. No such amendment or supplement may materially reduce what the obligations of the declarant would have been if the mistake, inconsistency, error, or ambiguity had not occurred. Regardless of the date of recordation of the condominium instruments, the principal officer of the unit owners' association may also unilaterally execute and record such a corrective amendment or supplement upon a vote of two-thirds of the members of the executive board. All corrective amendments and supplements recorded prior to July 1, 1986, are hereby validated to the extent that such corrective amendments and supplements would have been permitted by this subsection.

**§ 55.1-1935. Use of technology.**

A. Unless the condominium instruments expressly provide otherwise, (i) any notice required to be sent or received or (ii) any signature, vote, consent, or approval required to be obtained under any condominium instrument or any provision of this chapter may be accomplished using electronic means.

B. The unit owners' association, unit owners, and other persons entitled to occupy a unit may perform any obligation or exercise any right under any condominium instrument or any provision of this chapter by use of electronic means.

C. An electronic signature meeting the requirements of applicable law shall satisfy any requirement for a signature under any condominium instrument or any provision of this chapter.

D. Voting, consent to, and approval of any matter under any condominium instrument or any provision of this chapter may be accomplished by electronic means provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in nonelectronic form.

E. Subject to other provisions of law, no action required or permitted by any condominium instrument or any provision of this chapter need be acknowledged before a notary public if the identity and signature of such person can otherwise be authenticated to the satisfaction of the executive board.

F. If any person does not have the capability or desire to conduct business using electronic means, the unit owners' association shall make reasonable accommodation, at its expense, for such person to conduct business with the unit owners' association without use of such electronic means.

G. This section shall not apply to any notice related to an enforcement action by the unit owners' association, an assessment lien, or foreclosure proceedings in enforcement of an assessment lien.

**§ 55.1-1936. Merger or consolidation of condominiums; procedure.**

A. Any two or more condominiums, by agreement of the unit owners as provided in subsection B, may be merged or consolidated into a single condominium. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant condominium shall be the legal successor, for all purposes, of all of the preexisting condominiums, and the operations and activities of all unit owners' associations of the preexisting condominiums shall be merged or consolidated into a single unit owners' association that holds all powers, rights, obligations, assets, and liabilities of all preexisting unit owners' associations.

B. An agreement to merge or consolidate two or more condominiums pursuant to subsection A shall be evidenced by an agreement prepared, executed, recorded, and certified by the principal officer of the unit owners' association of each of the preexisting condominiums following approval by owners of units to which are allocated the percentage of votes in each condominium required to terminate that condominium. The agreement shall be recorded in every locality in which a portion of the condominium is located and shall not be effective until recorded.

C. Every merger or consolidation agreement shall provide for the reallocation of the allocated interests in the new unit owners' association among the units of the resultant condominium either (i) by stating the reallocations or the formulas upon which they are based or (ii) by stating the percentage of the overall allocated interests of the condominium that are allocated to all of the units comprising each of the preexisting condominiums, provided that the portion of the percentages allocated to each unit formerly comprising a part of the preexisting condominium shall be equal to the percentages of allocated interests allocated to that unit by the declaration of the preexisting condominium.

D. If the condominium instruments of a condominium to be merged or consolidated require a vote or consent of mortgagees in order to amend the condominium instruments or terminate the condominium, the same vote or consent of mortgagees shall be required before such merger or consolidation is effective. No merger or consolidation shall affect mortgagee rights, alter the priority of the lien of any mortgage, materially impair or affect any condominium unit as

collateral for a mortgage, or affect a mortgagee's right to foreclose on a condominium unit as collateral without the prior written consent of the mortgagee. A vote or consent of a mortgagee required by this section may be deemed received pursuant to § 55.1-1941.

**§ 55.1-1937. Termination of condominium.**

A. If there is no unit owner other than the declarant, the declarant may unilaterally terminate the condominium. An instrument terminating a condominium signed by the declarant is effective upon recordation of such instrument. But this section shall not be construed to nullify, limit, or otherwise affect the validity or enforceability of any agreement renouncing or to renounce, in whole or in part, the right hereby conferred.

B. Except in the case of a taking of all the units by eminent domain, if any of the units in the condominium is restricted exclusively to residential use and there is any unit owner other than the declarant, the condominium may be terminated only by the agreement of unit owners of units to which four-fifths of the votes in the unit owners' association appertain, or such larger majority as the condominium instruments may specify. If none of the units in the condominium is restricted exclusively to residential use, the condominium instruments may specify a majority smaller than the minimum specified in this subsection.

C. Agreement of the required majority of unit owners to termination of the condominium shall be evidenced by their execution of a termination agreement, or ratifications of such agreement, and such agreement is effective when a copy of the termination agreement is recorded together with a certification, signed by the principal officer of the unit owners' association or by such other officer as the condominium instruments may specify, that the requisite majority of the unit owners signed the termination agreement or ratifications. Unless the termination agreement otherwise provides, prior to recordation of the termination agreement, a unit owner's prior agreement to terminate the condominium may be revoked only with the approval of unit owners of units to which a majority of the votes in the unit owners' association appertain. The termination agreement shall specify a date after which the termination agreement is void if the termination agreement is not recorded. For the purposes of this section, an instrument terminating a condominium and any ratification of such instrument shall be deemed a condominium instrument subject to the provisions of § 55.1-1911.

D. In the case of a condominium that contains only units having horizontal boundaries described in the condominium instruments, a termination agreement may provide that all of the common elements and units of the condominium shall be sold following termination. If, pursuant to the termination agreement, any property in the condominium is sold following termination, the termination agreement shall set forth the minimum terms of the sale.

E. In the case of a condominium that contains any units not having horizontal boundaries described in the condominium instruments, a termination agreement may provide for sale of the common elements. The termination agreement may not require that the units be sold following termination, unless the condominium instruments as originally recorded provide otherwise or all the unit owners consent to the sale. In the case of a master condominium that contains a unit that is a part of another condominium, a termination agreement for the master condominium shall not terminate the other condominium.

F. On behalf of the unit owners, the unit owners' association may contract for the disposition of property in the condominium, but the contract shall not be binding on the unit owners until approved pursuant to subsections B and C. If the termination agreement requires that any property in the condominium be sold following termination, title to the property, upon termination, shall vest in the unit owners' association as trustee for the holders of all interest in the units. Thereafter, the unit owners' association shall have powers necessary and appropriate to effect the sale. Until the termination has been concluded and the proceeds have been distributed, the unit owners' association shall continue in existence with all the powers the unit owners' association had before termination. Proceeds of the sale shall be distributed to unit owners and lien holders as their interests may appear, in proportion to the respective interests of the unit owners as provided in subsection I. Unless otherwise specified in the termination agreement, for as long as the unit owners' association holds title to the property, each unit owner or his successor in interest shall have an exclusive right to occupancy of the portion of the property that formerly constituted his unit. During the period of occupancy by the unit owner or his successor in interest, each unit owner or his successor in interest shall remain liable for any assessment or other obligation imposed on the unit owner by this chapter or the condominium instruments.

G. If the property that constitutes the condominium is not sold following termination, title to the common elements and, in the case of a condominium containing only units that have horizontal boundaries described in the condominium instruments, title to all the property in the condominium shall vest in the unit owners, upon termination, as tenants in common in proportion to the unit owners' respective interests as provided in subsection I. Any liens on the units shall shift accordingly. While the tenancy in common exists, each unit owner or his successor in interest shall have the exclusive right to occupancy of the portion of the property that formerly constituted the unit owner's unit.

H. Following termination of the condominium, the proceeds of any sale of property, together with the assets of the unit owners' association, shall be held by the unit owners' association as trustee for unit owners or lien holders on the units as their interests may appear. Following termination, any creditor of the unit owners' association who holds a lien on the unit that was recorded before termination may enforce the lien in the same manner as any lien holder. Any other creditor of the unit owners' association shall be treated as if he had perfected a lien on the units immediately before termination.

I. Unless the condominium instruments as originally recorded or as amended by 100 percent of the unit owners provide otherwise, the respective interests of unit owners referred to in subsections F, G, and H shall be as follows:

1. Except as provided in subdivision 2, the respective interests of the unit owners shall be the fair market values of their

units, limited common elements, and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the unit owners' association. The decision of the independent appraisers shall be distributed to the unit owners and become final unless disapproved within 30 days after distribution by unit owners of units to which one quarter of the votes in the unit owners' association appertain. The proportion of any unit owner's interest to the interest of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and their common element interests.

2. If any unit or limited common element is destroyed to the extent that an appraisal of the fair market value of such unit or limited common element before destruction cannot be made, the interests of all unit owners are the unit owners' respective common element interests immediately before the termination.

J. Except as provided in subsection K, foreclosure or enforcement of a lien or encumbrance against the entire condominium shall not alone terminate the condominium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium, other than withdrawable land, shall not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable land shall not alone withdraw the land from the condominium, but the person who takes title to the withdrawable land shall have the right to require from the unit owners' association, upon request, an amendment that excludes the land from the condominium.

K. If a lien or encumbrance against a portion of the property that comprises the condominium has priority over the condominium instruments and the lien or encumbrance has not been partially released, upon foreclosure, the parties foreclosing the lien or encumbrance may record an instrument that excludes the property subject to the lien or encumbrance from the condominium.

L. The foreclosure of any mortgage, deed of trust, or other lien shall not be deemed, *ex proprio vigore*, to terminate the condominium.

**§ 55.1-1938. Rights of mortgagees.**

No provision of this chapter shall be construed in derogation of any requirement of the condominium instruments that all or a specified number of the beneficiaries of mortgages or deeds of trust encumbering the condominium units approve specified actions contemplated by the unit owners' association.

**§ 55.1-1939. Statement of unit owner rights.**

Every unit owner who is a member in good standing of a unit owners' association shall have the following rights:

1. The right of access to all books and records kept by or on behalf of the unit owners' association according to and subject to the provisions of § 55.1-1945, including records of all financial transactions;

2. The right to cast a vote on any matter requiring a vote by the unit owners' association membership in proportion to the unit owner's ownership interest, except to the extent that the condominium instruments provide otherwise;

3. The right to have notice of any meeting of the executive board, to make a record of such meetings by audio or visual means, and to participate in such meeting in accordance with the provisions of § 55.1-1949;

4. The right to have (i) notice of any proceeding conducted by the executive board or other tribunal specified in the condominium instruments against the unit owner to enforce any rule or regulation of the unit owners' association and (ii) the opportunity to be heard and represented by counsel at the proceeding, as provided in § 55.1-1959, and the right of due process in the conduct of that hearing; and

5. The right to serve on the executive board if duly elected and a member in good standing of the unit owners' association, except to the extent that the condominium instruments provide otherwise.

The rights enumerated in this section shall be enforceable by any unit owner pursuant to the provisions of § 55.1-1915.

Article 3.

Management of Condominium.

**§ 55.1-1940. Bylaws to be recorded with declaration; contents; unit owners' association; executive board; amendment of bylaws.**

A. Bylaws providing for governance of the condominium by an association of all of the unit owners shall be recorded simultaneously with the declaration. The unit owners' association may be incorporated.

B. The bylaws shall provide whether or not the unit owners' association shall elect an executive board. If there is to be such a board, the bylaws shall specify the powers and responsibilities of the board and the number and terms of its members. Except to the extent the condominium instruments provide otherwise, any vacancy occurring in the executive board shall be filled by a vote of a majority of the remaining members of the executive board at a meeting of the executive board, even though the members of the executive board present at such meeting may constitute less than a quorum because a quorum is impossible to obtain. Each person so elected shall serve until the next annual meeting of the unit owners' association at which time a successor shall be elected by a vote of the unit owners. The bylaws may delegate to such board, *inter alia*, any of the powers and responsibilities assigned by this chapter to the unit owners' association. The bylaws shall also specify which, if any, of its powers and responsibilities the unit owners' association or its executive board may delegate to a managing agent.

C. The bylaws may provide for arbitration of disputes or other means of alternative dispute resolution in accordance with subsection C of § 55.1-1915.

D. In any case where an amendment to the declaration is required by subsection B, C, or D of § 55.1-1918, the person required to execute such amendment shall also prepare and execute, and record simultaneously with such amendment, an amendment to the bylaws. The amendment to the bylaws shall allocate votes in the unit owners' association to new units on

the same basis as was used for the allocation of such votes to the units depicted on plats and plans recorded pursuant to subsections A and B of § 55.1-1920 or shall abolish the votes appertaining to former units, as appropriate. The amendment to the bylaws shall also reallocate rights to future common profits, and liabilities for future common expenses not specially assessed, in proportion to relative voting strengths as reflected by the amendment.

**§ 55.1-1941. Amendment to condominium instruments; consent of mortgagee.**

A. If any provision in the condominium instruments requires the written consent of a mortgagee in order to amend the condominium instruments, the unit owners' association shall be deemed to have received the written consent of a mortgagee if the unit owners' association sends the text of the proposed amendment by certified mail, return receipt requested, to the mortgagee at the address supplied by such mortgagee in a written request to the unit owners' association to receive notice of proposed amendments to the condominium instruments and receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of amendment is sent by the unit owners' association, unless the condominium instruments expressly provide otherwise. If the mortgagee has not supplied an address to the unit owners' association, the unit owners' association shall be deemed to have received the written consent of a mortgagee if the unit owners' association sends the text of the proposed amendment by certified mail, return receipt requested, to the mortgagee at the address filed in the land records or with the local tax assessor's office and receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of amendment is sent by the unit owners' association, unless the condominium instruments expressly provide otherwise.

B. Subsection A shall not apply to amendments that alter the priority of the lien of the mortgagee or that materially impair or affect the unit as collateral or the right of the mortgagee to foreclose on a unit as collateral.

C. Where the condominium instruments are silent on the need for mortgagee consent, no mortgagee consent shall be required if the amendment to the condominium instruments does not specifically affect mortgagee rights.

**§ 55.1-1942. Reformation of declaration; judicial procedure.**

A. A unit owners' association may petition the circuit court in the county or city in which the condominium or the greater part of the condominium is located to reform the condominium instruments where the unit owners' association, acting through its executive board, has attempted to amend the condominium instruments regarding ownership of legal title of the common elements or real property using provisions outlined in the condominium instruments to resolve (i) ambiguities or inconsistencies in the condominium instruments that are the source of legal and other disputes pertaining to the legal rights and responsibilities of the unit owners' association or individual unit owners or (ii) scrivener's errors, including incorrectly identifying the unit owners' association, incorrectly identifying an entity other than the unit owners' association, or errors arising from oversight or from an inadvertent omission or mathematical mistake.

B. The court shall have jurisdiction over matters set forth in subsection A regarding ownership of legal title of the common elements or real property to:

1. Reform, in whole or in part, any provision of the condominium instruments; and

2. Correct mistakes or any other error in the condominium instruments that may exist with respect to the declaration for any other purpose.

C. A petition filed by the unit owners' association with the court setting forth any inconsistency or error made in the condominium instruments, or the necessity for any change in such instruments, shall be deemed sufficient basis for the reformation, in whole or in part, of the condominium instruments, provided that:

1. The unit owners' association has made three good faith attempts to convene a duly called meeting of the unit owners' association to present for consideration amendments to the condominium instruments for the reasons specified in subsection A, which attempts have proven unsuccessful as evidenced by an affidavit verified by oath of the principal officer of the unit owners' association;

2. There is no adequate remedy at law as practical and effective to attain the ends of justice as may be accomplished in the circuit court;

3. Where the declarant of the condominium still owns a unit or continues to have any special declarant rights in the condominium, the declarant joins in the petition of the unit owners' association;

4. A copy of the petition is sent to all unit owners at least 30 days before the petition is filed as evidenced by an affidavit verified by oath of the principal officer of the unit owners' association; and

5. A copy of the petition is sent to all mortgagees at least 30 days before the petition is filed as evidenced by an affidavit verified by oath of the principal officer of the unit owners' association.

D. Any mortgagee of a condominium unit in the condominium shall have standing to participate in the reformation proceedings before the court. No reformation pursuant to this section shall affect mortgagee rights, alter the priority of the lien of any mortgage, materially impair or affect any condominium unit as collateral for a mortgage, or affect a mortgagee's right to foreclose on a condominium unit as collateral without the prior written consent of the mortgagee. Consent of a mortgagee required by this section may be deemed received pursuant to § 55.1-1941.

**§ 55.1-1943. Control of condominium by declarant.**

A. The condominium instruments may authorize the declarant, or a managing agent or some other person selected or to be selected by the declarant, to appoint and remove some or all of the officers of the unit owners' association or its executive board, or to exercise powers and responsibilities otherwise assigned by the condominium instruments and by this chapter to the unit owners' association, the officers, or the executive board. The declarant, managing agent, or other person selected by the declarant to so appoint and remove officers or the executive board or to exercise such powers and

responsibilities otherwise assigned to the unit owners' association, the officers, or the executive board shall be subject to liability as fiduciaries of the unit owners for their action or omissions during the period of declarant control as specified in the condominium instruments or, if not so specified, within such period as defined in this section. But no amendment to the condominium instruments shall increase the scope of such authorization if there is any unit owner other than the declarant, and no such authorization shall be valid after the time limit set by the condominium instruments or after units to which three-fourths of the undivided interests in the common elements appertain have been conveyed, whichever occurs first. For the purposes of the preceding sentence only, the calculation of the fraction of undivided interest shall be based upon the total undivided interests assigned or to be assigned to all units registered with the Common Interest Community Board pursuant to subsection B of § 55.1-1978 and described pursuant to subdivision A 4, B 2, or C 8 of § 55.1-1916.

B. The time limit initially set by the condominium instruments shall not exceed five years in the case of an expandable condominium; three years in the case of a condominium other than an expandable condominium, containing any convertible land; or two years in the case of any other condominium. Such time period shall begin upon settlement of the first unit to be sold in any portion of the condominium.

Notwithstanding the foregoing, at the request of the declarant, such time limits may be extended for a period not to exceed 15 years from the settlement of the first unit to be sold in any portion of the condominium or after units to which three-fourths of the undivided interests in the common elements appertain have been conveyed, whichever occurs first, provided that (i) a special meeting is held prior to the expiration of the initial period of declarant control; (ii) at such special meeting, the extension of such time limits is approved by a two-thirds affirmative vote of the unit owners other than the declarant; and (iii) at such special meeting, there is an election of a warranty review committee consisting of no fewer than three persons unaffiliated with the declarant.

Prior to any such vote, the declarant shall furnish to the unit owners in the notice of such special meeting made in accordance with § 55.1-1949 a written statement in a form provided by the Common Interest Community Board that discloses that an affirmative vote extends the right of the declarant, or a managing agent or some other person selected by the declarant, to (a) appoint and remove some or all of the officers of the unit owners' association or its executive board and (b) exercise powers and responsibilities otherwise assigned by the condominium instruments and by this chapter. In addition, such statement shall contain both a notice of the effect of the extension of declarant control on the enforcement of the warranty against structural defects provided by the declarant in accordance with § 55.1-1955 and a statement that a unit owner is advised to exercise whatever due diligence the unit owner deems necessary to protect his interest.

C. If entered into any time prior to the expiration of the period of declarant control, no contract or lease entered into with the declarant or any entity controlled by the declarant, management contract, employment contract, or lease of recreational or parking areas or facilities, which is directly or indirectly made by or on behalf of the unit owners' association, its executive board, or the unit owners as a group, shall be entered into for a period in excess of two years. Any such contract or agreement entered into on or after July 1, 1978, may be terminated without penalty by the unit owners' association or its executive board upon not less than 90 days' written notice to the other party given not later than 60 days after the expiration of the period of declarant control. Any such contract or agreement may be renewed for periods not in excess of two years; however, at the end of any two-year period the unit owners' association or its executive board may terminate any further renewals or extensions of such contract or agreement. The provisions of this subsection shall not apply to any lease referred to in § 55.1-1910 or subject to subsection E of § 55.1-1916.

D. If entered into at any time prior to the expiration of the period of declarant control, any contract, lease, or agreement, other than those subject to the provisions of subsection C, may be entered into by or on behalf of the unit owners' association, its executive board, or the unit owners as a group, if such contract, lease, or agreement is bona fide and is commercially reasonable to the unit owners' association at the time entered into under the circumstances.

E. This section does not apply to any contract, incidental to the disposition of a condominium unit, to provide to a unit owner for the duration of such unit owner's life, or for any term in excess of one year, nursing services, medical services, other health-related services, board and lodging and care as necessary, or any combination of such services. The rule of property law known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium instruments requiring that the unit owners be parties to such contracts.

F. If the unit owners' association is not in existence or does not have officers at the time of the creation of the condominium, the declarant shall, until there is such an association with such officers, have the power and the responsibility to act in all instances where this chapter requires action by the unit owners' association, its executive board, or any officer.

G. Thirty days prior to the expiration of the period of declarant control, the declarant shall notify the governing body of the locality in which the condominium is located of the forthcoming termination of declarant control. Prior to the expiration of the 30-day period, the local governing body or an agency designated by the local governing body shall advise the principal elected officer of the condominium unit owners' association of any outstanding violations of applicable building codes or local ordinances or other deficiencies of record.

H. Within 45 days from the expiration of the period of declarant control, the declarant shall deliver to the president of the unit owners' association or his designated agent (i) all unit owners' association books and records held by or controlled by the declarant, including minute books and all rules, regulations, and amendments to such rules and regulations that may have been promulgated; (ii) an accurate and complete statement of receipts and expenditures prepared using the accrual method of accounting from the date of the recording of the condominium instruments to the end of the regular accounting

period immediately succeeding the first annual meeting of the unit owners, not to exceed 60 days from the date of the election; (iii) a copy of the latest available approved plans and specifications for all improvements in the project or as-built plans, if available; (iv) all association insurance policies that are currently in force; (v) written unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers, if any; (vi) contracts in which the association is a contracting party, if any; and (vii) a list of manufacturers of paints, roofing materials, and other similar materials if specified for use on the condominium property.

If the unit owners' association is managed by a management company in which the declarant, or its principals, have no pecuniary interest or management role, then such management company shall have the responsibility to provide the documents and information required by clauses (i), (ii), (iv), and (vi).

1. This section shall be strictly construed to protect the rights of the unit owners.

**§ 55.1-1944. Deposit of funds.**

All funds deposited with a managing agent shall be handled in a fiduciary capacity and shall be kept in a fiduciary trust account in a federally insured financial institution separate from other assets of the managing agent. The funds shall be the property of the unit owners' association and shall be segregated for each account in the records of the managing agent in a manner that permits the funds to be identified on an individual unit owners' association basis.

**§ 55.1-1945. Books, minutes, and records; inspection.**

A. The declarant, managing agent, unit owners' association, or person specified in the bylaws of the association shall keep detailed records of the receipts and expenditures affecting the operation and administration of the condominium and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the association. Subject to the provisions of subsections B, C, and E, upon request, any unit owner shall be provided a copy of such records and minutes. All financial books and records shall be kept in accordance with generally accepted accounting practices.

B. Subject to the provisions of subsection C, all books and records kept by or on behalf of the unit owners' association, including the unit owners' association membership list, and addresses and aggregate salary information of unit owners' association employees, shall be available for examination and copying by a unit owner in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the unit owners' association and not for pecuniary gain or commercial solicitation. Notwithstanding any provision of law to the contrary, this right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five business days' written notice for a unit owner association managed by a common interest community manager and 10 business days' written notice for a self-managed unit owners' association, which notice shall reasonably identify the purpose for the request and the specific books and records of the unit owners' association requested.

C. Books and records kept by or on behalf of a unit owners' association may be withheld from examination or copying by unit owners and contract purchasers to the extent that they are drafts not yet incorporated into the books and records of the unit owners' association or if such books and records concern:

1. Personnel matters relating to specific, identified persons or a person's medical records;

2. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation;

3. Pending or probable litigation. For purposes of this subdivision, "probable litigation" means those instances where there has been a specific threat of litigation from a person having standing to bring legal action or the legal counsel of such person;

4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the condominium instruments or rules and regulations promulgated by the executive board;

5. Communications with legal counsel that relate to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;

6. Disclosure of information in violation of law;

7. Meeting minutes or other confidential records of an executive session of the executive board held pursuant to subsection C of § 55.1-1949;

8. Documentation, correspondence or management or executive board reports compiled for or on behalf of the unit owners' association or the executive board by its agents or committees for consideration by the executive board in executive session; or

9. Individual unit owner or member files, other than those of the requesting unit owner, including any individual unit owner's files kept by or on behalf of the unit owners' association.

D. Books and records kept by or on behalf of a unit owners' association shall be withheld from examination and copying in their entirety only to the extent that an exclusion from disclosure under subsection C applies to the entire content of such books and records. Otherwise, only those portions of the books and records containing information subject to an exclusion under subsection C may be withheld or redacted, and all portions of the books and records that are not so excluded shall be available for examination and copying, provided that the requesting member shall be responsible to the association for paying or reimbursing the association for any reasonable costs incurred by the association in responding to the request for the books and records and review for redaction of the same.

E. Prior to providing copies of any books and records, the unit owners' association may impose and collect a charge,

not to exceed the reasonable costs of materials and labor, incurred to provide such copies. Charges may be imposed only in accordance with a cost schedule adopted by the executive board in accordance with this subsection. The cost schedule shall (i) specify the charges for materials and labor, (ii) apply equally to all unit owners in good standing, and (iii) be provided to such requesting unit owner at the time the request is made.

**§ 55.1-1946. Management office.**

Unless the condominium instruments expressly provide otherwise, the unit owners' association shall not be prohibited from maintaining a management office on common elements or in one or more units in the condominium.

**§ 55.1-1947. Transfer of special declarant rights.**

A. For the purposes of this section, "affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. A person controls a declarant if the person (i) is a general partner, officer, director, or employer of the declarant; (ii) directly or indirectly, or acting in concert with one or more persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than 20 percent of the voting interests in the declarant; (iii) controls in any manner the election of a majority of the directors of the declarant; or (iv) has contributed more than 20 percent of the capital of the declarant. A person is controlled by a declarant if the declarant (a) is a general partner, officer, director, or employer of the person; (b) directly or indirectly, or acting in concert with one or more other persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than 20 percent of the voting interest in the person; (c) controls in any manner the election of a majority of the directors of the person; or (d) has contributed more than 20 percent of the capital of the person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

B. No special declarant right may be transferred except by a document evidencing the transfer recorded in every county and city in which any portion of the condominium is located. The instrument shall not be effective unless executed by the transferee.

C. Upon transfer of any special declarant right, the liability of a transferor declarant shall be as follows:

1. The transferor shall not be relieved of any obligation or liability arising before the transfer and shall remain liable for warranty obligations imposed upon him by subsection B of § 55.1-1955. Lack of privity shall not deprive any unit owner of standing to bring an action to enforce any obligation of the transferor.

2. If the successor to any special declarant right is an affiliate of a declarant, the transferor shall also be jointly and severally liable with the successor for any obligation or liability of the successor that relates to the condominium.

3. If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor shall also be liable for all obligations and liabilities relating to the retained special declarant rights and imposed on a declarant by this chapter or by the condominium instruments.

4. A transferor shall have no liability for any breach of a contractual or warranty obligation or for any other act or omission, arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.

D. Except as otherwise provided by the mortgage or deed of trust, in case of foreclosure of a mortgage, sale by a trustee under a deed of trust, tax sale, judicial sale, or sale under receivership proceedings or the Bankruptcy Code as codified in Title 11 of the United States Code of any unit owned by a declarant or land subject to development rights:

1. A person acquiring title to all the land being foreclosed or sold shall, but only upon his request, succeed to all special declarant rights related to that land reserved by that declarant, or only to any rights reserved in the declaration pursuant to § 55.1-1929 and held by that declarant to maintain sales offices, management offices, model units, or signs.

2. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights requested.

For the purposes of this subsection, "development rights" means any right or combination of rights to expand an expandable condominium, contract a contractable condominium, convert convertible land, or convert convertible space.

E. Upon foreclosure, sale by a trustee under a deed of trust, tax sale, judicial sale, or sale under receivership proceedings or the Bankruptcy Code as codified in Title 11 of the United States Code of all units and other land in the condominium owned by a declarant, (i) that declarant ceases to have any special declarant rights and (ii) any period of declarant control reserved under subsection A of § 55.1-1943 shall terminate, unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant.

F. The liabilities and obligations of any person who succeed to any special declarant right shall be as follows:

1. A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or by the condominium instruments.

2. A successor to any special declarant right, other than a successor described in subdivisions 3 and 4, who is not an affiliate of a declarant shall be subject to all obligations and liabilities imposed by this chapter or the condominium instruments on a declarant that relate to his exercise or nonexercise of special declarant rights, or on his transferor, except for (i) misrepresentations by any prior declarant, (ii) warranty obligations as provided in subsection B of § 55.1-1955 on improvements made by any previous declarant or made before the condominium was created, (iii) breach of any fiduciary obligation by any previous declarant or his appointees to the executive board, or (iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

3. Unless he is an affiliate of a declarant, a successor to only a right reserved in the declaration to maintain sales offices, management offices, model units, or signs shall not exercise any other special declarant right and shall not be subject to any liability or obligation as a declarant, except the liabilities and obligations arising under Article 4

(§ 55.1-1970 et seq.) as to disposition by that successor.

4. A successor to all special declarant rights held by his transferor who is not an affiliate of that transferor and who succeeded to those rights pursuant to a deed in lieu of foreclosure or a judgment or instrument conveying title to units under subsection D may declare his intention in a recorded instrument to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right reserved by his transferor pursuant to subsection A of § 55.1-1943. Any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, he shall not be subject to any liability or obligation as a declarant other than liability for his acts and omissions relating to the exercise of rights reserved under subsection A of § 55.1-1943.

G. Nothing in this section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter or the condominium instruments.

**§ 55.1-1948. Declarants not succeeding to special declarant rights.**

A declarant who does not succeed to any special declarant rights shall be liable only to the extent of his actions for claims and obligations arising under this chapter or the condominium instruments.

**§ 55.1-1949. Meetings of unit owners' association and executive board.**

A. 1. Meetings of the unit owners' association shall be held in accordance with the provisions of the condominium instruments at least once each year after the formation of the association. The bylaws shall specify an officer or his agent who shall, at least 21 days in advance of any annual or regularly scheduled meeting and at least seven days in advance of any other meeting, send to each unit owner notice of the time, place, and purposes of such meeting. In the event of cancellation of any annual meeting of the unit owners' association at which directors are elected, the seven-day notice of any subsequent meeting scheduled to elect such directors shall include a statement that the meeting is scheduled for the purpose of the election of directors.

2. Notice shall be sent by United States mail to all unit owners of record at the address of their respective units, unless the unit owner has provided to such officer or his agent an address other than the address of the unit, or notice may be hand delivered by the officer or his agent, provided that the officer or his agent certifies in writing that notice was delivered to the person of the unit owner.

3. In lieu of delivering notice as specified in subdivision 2, such officer or his agent may, to the extent that the condominium instruments or the condominium's rules and regulations expressly provide, send notice by electronic means if consented to by the unit owner to whom the notice is given, provided that the officer or his agent certifies in writing that notice was sent.

B. 1. Except as otherwise provided in the condominium instruments, the provisions of this subsection shall apply to executive board meetings at which business of the unit owners' association is transacted or discussed. All meetings of the unit owners' association or the executive board, including any subcommittee or other committee of such association or board, shall be open to all unit owners of record. The executive board shall not use work sessions or other informal gatherings of the executive board to circumvent the open meeting requirements of this section. The unit owners' association may, to the extent that the condominium instruments or adopted rules expressly provide, send notice by electronic means if consented to by the officer to whom the notice is given. Minutes of the meetings of the executive board shall be recorded and shall be available as provided in § 55.1-1945.

2. Notice of the time, date, and place of each meeting of the executive board or of any subcommittee or other committee of the executive board, and of each meeting of a subcommittee or other committee of the unit owners' association, shall be published where it is reasonably calculated to be available to a majority of the unit owners.

A unit owner may make a request to be notified on a continual basis of any such meetings, which request shall be made at least once a year in writing and include the unit owners' name, address, zip code, and any email address as appropriate. Notice of the time, date, and place shall be sent to any unit owner requesting notice (i) by first-class mail or email in the case of meetings of the executive board or (ii) by email in the case of meetings of any subcommittee or other committee of the executive board or of a subcommittee or other committee of the unit owners' association.

Notice, reasonable under the circumstances, of special or emergency meetings shall be given contemporaneously with the notice provided to members of the (i) executive board or any subcommittee or other committee of such board or (ii) subcommittee or other committee of the unit owners' association conducting the meeting.

3. Unless otherwise exempt as relating to an executive session pursuant to subsection C, at least one copy of all agenda packets and materials furnished to members of the executive board or subcommittee or other committee of the executive board for a meeting shall be made available for inspection by the membership of the unit owners' association at the same time such documents are furnished to the members of the executive board.

4. Any unit owner may record any portion of a meeting required to be open. The executive board or subcommittee or other committee of the executive board conducting the meeting may adopt rules (i) governing the placement and use of equipment necessary for recording a meeting to prevent interference with the proceedings and (ii) requiring the unit owner recording the meeting to provide notice that the meeting is being recorded.

If a meeting of the executive board is conducted by telephone conference or video conference or similar electronic means, at least two board members shall be physically present at the meeting place included in the notice. The audio equipment shall be sufficient for any member in attendance to hear what is said by any board member participating in the

meeting who is not physically present.

5. Voting by secret or written ballot in an open meeting is a violation of this chapter except for the election of officers.

C. The executive board or any subcommittee or other committee of the executive board may convene in executive session to consider personnel matters; consult with legal counsel; discuss and consider contracts, probable or pending litigation, and matters involving violations of the condominium instruments or rules and regulations promulgated pursuant to such condominium instruments for which a unit owner, his family members, tenants, guests, or other invitees are responsible; or discuss and consider the personal liability of unit owners to the unit owners' association, upon the affirmative vote in an open meeting to assemble in executive session. The motion shall state specifically the purpose for the executive session. Reference to the motion and the stated purpose for the executive session shall be included in the minutes. The executive board shall restrict the consideration of matters during such portions of meetings to only those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in executive session shall become effective unless the executive board or subcommittee or other committee of the executive board, following the executive session, reconvenes in open meeting and takes a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the open meeting. The requirements of this section do not require the disclosure of information in violation of law.

D. Subject to reasonable rules adopted by the executive board, the executive board shall provide a designated period of time during a meeting to allow unit owners an opportunity to comment on any matter relating to the unit owners' association. During a meeting at which the agenda is limited to specific topics or at a special meeting, the executive board may limit the comments of unit owners to the topics listed on the meeting agenda.

**§ 55.1-1950. Distribution of information by members.**

A. The executive board shall establish a reasonable, effective, and free method, appropriate to the size and nature of the condominium, for unit owners to communicate among themselves and with the executive board regarding any matter concerning the unit owners' association.

B. Except as otherwise provided in the condominium instruments, the executive board shall not require prior approval of the dissemination or content of any material regarding any matter concerning the unit owners' association.

**§ 55.1-1951. Display of the flag of the United States; necessary supporting structures; affirmative defense.**

A. In accordance with the federal Freedom to Display the American Flag Act of 2005 (P.L. 109-243), no unit owners' association shall prohibit or otherwise adopt or enforce any policy restricting a unit owner from displaying upon property to which the unit owner has a separate ownership interest or a right to exclusive possession or use the flag of the United States whenever such display is in compliance with Chapter 1 of Title 4 of the United States Code (4 U.S.C. § 1 et seq.) or any rule or custom pertaining to the proper display of the flag. A unit owners' association may, however, establish reasonable restrictions as to the size, place, duration, and manner of placement or display of the flag on such property, provided that such restrictions are necessary to protect a substantial interest of the unit owners' association.

B. The unit owners' association may restrict the display of such flags in the common elements.

C. In any action brought by the unit owners' association under § 55.1-1959 for a violation of a flag restriction, the unit owners' association shall bear the burden of proof that the restrictions as to the size, place, duration, and manner of placement or display of such flag are necessary to protect a substantial interest of the unit owners' association.

D. In any action brought by the unit owners' association under § 55.1-1959, the unit owner shall be entitled to assert as an affirmative defense that the required disclosure of any limitation pertaining to the flag of the United States or any flagpole or similar structure necessary to display the flag of the United States was not contained in the public offering statement or resale certificate, as appropriate, required pursuant to § 55.1-1976 or 55.1-1991.

**§ 55.1-1952. Meetings of unit owners' associations and executive board; quorums.**

A. Unless the condominium instruments otherwise provide or as specified in subsection G of § 55.1-1953, a quorum shall be deemed to be present throughout any meeting of the unit owners' association until adjourned if persons entitled to cast more than one-third of the votes are present at the beginning of such meeting. The bylaws may provide for a larger percentage, or for a smaller percentage not less than 10 percent.

B. Unless the condominium instruments specify a larger majority, a quorum shall be deemed to be present throughout any meeting of the executive board if persons entitled to cast one-half of the votes in that body are present at the beginning of such meeting.

C. On petition of the unit owners' association or any unit owner entitled to vote, the circuit court of the county or city in which the condominium or the greater part of such condominium is located may order an annual meeting of the unit owners' association be held for the purpose of the election of members of the executive board, provided that:

1. No annual meeting as required by § 55.1-1949 has been held due to the failure to obtain a quorum of unit owners as specified in the condominium instruments; and

2. The unit owners' association has made good faith attempts to convene a duly called annual meeting of the unit owners' association in three successive years, which attempts have proven unsuccessful due to the failure to obtain a quorum.

The court may set the quorum for the meeting and enter other orders necessary to convene the meeting.

A unit owner filing a petition under this subsection shall provide a copy of the petition to the executive board at least 10 business days prior to filing.

**§ 55.1-1953. Meetings of unit owners' associations and executive board; voting by unit owners; proxies.**

A. The bylaws may allocate to each unit depicted on plats and plans that comply with subsections A and B of § 55.1-1920 a number of votes in the unit owners' association proportionate to the undivided interest in the common elements appertaining to each such unit.

B. Otherwise, the bylaws shall allocate to each such unit an equal number of votes in the unit owners' association, subject to the following exception: Each convertible space so depicted shall be allocated a number of votes in the unit owners' association proportionate to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining votes in the unit owners' association shall be allocated equally to the other units so depicted.

C. Since a unit owner may be more than one person, if only one of such persons is present at a meeting of the unit owners' association, that person shall be entitled to cast the votes appertaining to that unit. If more than one of such persons is present, the vote appertaining to that unit shall be cast only in accordance with their unanimous agreement unless the condominium instruments expressly provide otherwise, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that unit without protest being made forthwith by any of the others to the person presiding over the meeting. For purposes of this subsection, "person" is deemed to include any natural person having authority to execute deeds on behalf of any person, excluding natural persons, that is, either alone or in conjunction with another person, a unit owner.

D. The votes appertaining to any unit may be cast pursuant to a proxy duly executed by or on behalf of the unit owner, or, in cases where the unit owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the unit owner or by any of such persons, that it be revoked. Except to the extent otherwise provided in the condominium instruments, any proxy is void if it is not dated, or if it purports to be revocable without the required notice. A proxy is void if not signed by a person having authority, at the time of execution, to execute deeds on behalf of that person. Any proxy shall terminate after the first meeting held on or after the date of that proxy or any recess or adjournment of that meeting. The proxy shall include a brief explanation of the effect of leaving the proxy uninstructed. To the extent the condominium instruments or the condominium's rules and regulations expressly so provide, a vote or proxy may be submitted by electronic means, provided that any such electronic means shall either set forth or be submitted with information from which it can be determined that the electronic means was authorized by the unit owner or the unit owner's proxy.

E. If 50 percent or more of the votes in the unit owners' association appertain to 25 percent or less of the units, then in any case where a majority vote is required by the condominium instruments or by this chapter, the requirement for such a majority shall be deemed to include, in addition to the specified majority of the votes, assent by the unit owners of a like majority of the units.

F. All votes appertaining to units owned by the unit owners' association shall be deemed present for quorum purposes at all duly called meetings of the unit owners' association and shall be deemed cast in the same proportions as the votes cast by unit owners other than the unit owners' association.

G. Except to the extent that the condominium instruments provide otherwise, the voting interest allocated to the unit or member that has been suspended by the unit owners' association or the executive board pursuant to the condominium instruments shall not be counted in the total number of voting interests used to determine the quorum for any meeting or vote under the condominium instruments.

**§ 55.1-1954. Officers.**

A. If the condominium instruments provide that any officer must be a unit owner, then any such officer who disposes of all of his units in fee shall be deemed to have disqualified himself from continuing in office unless the condominium instruments otherwise provide, or unless he acquires or contracts to acquire another unit in the condominium under terms giving him a right of occupancy effective on or before the termination of his right of occupancy under such disposition.

B. If the condominium instruments provide that any officer must be a unit owner, then notwithstanding the provisions of subdivision 1 of § 55.1-1912, the term "unit owner" in such context shall, unless the condominium instruments otherwise provide, be deemed to include any director, officer, partner in, or trustee of any person that is, either alone or in conjunction with another person, a unit owner. Any officer who would not be eligible to serve as such were he not a director, officer, partner in, or trustee of such a person, shall be deemed to have disqualified himself from continuing in office if he ceases to have any such affiliation with that person, or if that person would itself have been deemed to have disqualified itself from continuing in such office under subsection A were it a natural person holding such office.

**§ 55.1-1955. Upkeep of condominiums; warranty against structural defects; statute of limitations for warranty; warranty review committee.**

A. Except to the extent otherwise provided by the condominium instruments, all powers and responsibilities, including financial responsibility, with regard to maintenance, repair, renovation, restoration, and replacement of the condominium shall belong (i) to the unit owners' association in the case of the common elements and (ii) to the individual unit owner in the case of any unit or any part of such unit, except to the extent that the need for repairs, renovation, restoration, or replacement arises from a condition originating in or through the common elements or any apparatus located within the common elements, in which case the unit owners' association shall have such powers and responsibilities. Each unit owner shall afford to the other unit owners and to the unit owners' association and to any agents or employees of either such access through his unit as may be reasonably necessary to enable them to exercise and discharge their respective powers and responsibilities. To the extent that damage is inflicted on the common elements or any unit through which access is

taken, the unit owner causing the same, or the unit owners' association if it caused the damage, shall be liable for the prompt repair of such damage.

B. Notwithstanding anything in this section to the contrary, the declarant shall warrant or guarantee against structural defects each of the units for two years from the date each is conveyed and all of the common elements for two years. For each unit, the declarant shall also warrant that the unit is fit for habitation in the case of a residential unit and constructed in a workmanlike manner so as to pass without objection in the trade. The two-year warranty as to each of the common elements begins whenever that common element has been completed or, if later, (i) as to any common element within any additional land or portion of the additional land, at the time the first unit in that additional land is conveyed; (ii) as to any common element within any convertible land or portion of the convertible land, at the time the first unit in the convertible land is conveyed; and (iii) as to any common element within any other portion of the condominium, at the time the first unit in that portion is conveyed. For the purposes of this subsection, no unit shall be deemed conveyed unless conveyed to a bona fide purchaser. Any conveyance of a condominium unit transfers to the purchaser all of the declarant's warranties against structural defects imposed by this subsection. For the purposes of this subsection, structural defects shall be those defects in components constituting any unit or common element that reduce the stability or safety of the structure below accepted standards or restrict the normal intended use of all or part of the structure and that require repair, renovation, restoration, or replacement. Nothing in this subsection shall be construed to make the declarant responsible for any items of maintenance relating to the units or common elements.

C. An action for breach of any warranty prescribed by this section shall begin within (i) five years after the date such warranty period began or (ii) one year after the formation of any warranty review committee pursuant to subsection B of § 55.1-1943, whichever occurs last. However, no such action shall be maintained against the declarant unless a written statement by the claimant, or his agent, attorney, or representative, of the nature of the alleged defect has been sent to the declarant by registered or certified mail at his last known address, as reflected in the records of the Common Interest Community Board, more than six months prior to the beginning of the action giving the declarant an opportunity to cure the alleged defect within a reasonable time, not to exceed five months. Sending the notice required by this subsection shall toll the statute of limitations for beginning a breach of warranty action for a period not to exceed six months.

D. If the initial period of declarant control has been extended in accordance with subsection B of § 55.1-1943, the warranty review committee, referred to in this section as "the committee," shall have (i) subject to the provisions of subdivision 3, the irrevocable power as attorney-in-fact on behalf of the unit owners' association to assert or settle in the name of the unit owners' association any claims involving the declarant's warranty against structural defects with respect to all of the common elements and (ii) the authority to levy an additional assessment against all of the units in proportion to their respective undivided interests in the common elements pursuant to § 55.1-1964 if the committee determines that the assessments levied by the unit owners' association are insufficient to enable the committee reasonably to perform its functions pursuant to this subsection. The committee or the declarant shall notify the governing body of the locality in which the condominium is located of the formation of the committee within 30 days of its formation. Within 30 days after such notice, the local governing body or an agency designated by the local governing body shall advise the chair of the committee of any outstanding violations of applicable building codes, local ordinances, or other deficiencies of record. Members of the committee shall be insured, indemnified, and subject to liability to the same extent as officers or directors under the condominium instruments or applicable law. The unit owners' association shall provide sufficient funds reasonably necessary for the committee to perform the functions set out in this subsection and to:

1. Engage an independent architect, engineer, legal counsel, and such other experts as the committee may reasonably determine;

2. Investigate whether there exists any breach of the warranty as to any of the common elements. The committee shall document its findings and the evidence that supports such findings. Such findings and evidence shall be confidential and shall not be disclosed to the declarant without the consent of the committee; and

3. Assert or settle in the name of the unit owners' association any claims involving the declarant's warranty on the common elements, provided that (i) the committee sends the declarant at least six months prior to the expiration of the statute of limitations a written statement pursuant to subsection C of the alleged nature of any defect in the common elements giving the declarant an opportunity to cure the alleged defect; (ii) the declarant fails to cure the alleged defect within a reasonable time; and (iii) the declarant control period or the statute of limitations has not expired.

E. Within 45 days after the formation of the committee, the declarant shall deliver to the chair of the committee (i) a copy of the latest available approved plans and specifications for all improvements in the project or as-built plans if available; (ii) all association insurance policies that are currently in force; (iii) any written unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers applicable to the condominium; and (iv) a list of manufacturers of paints, roofing materials, and other similar materials if specified for use on the condominium property.

#### **§ 55.1-1956. Control of common elements.**

A. Except to the extent prohibited, restricted, or limited by the condominium instruments, the unit owners' association shall have the power to:

1. Employ, dismiss, and replace agents and employees to exercise and discharge the powers and responsibilities of the association arising under § 55.1-1955;

2. Make or cause to be made additional improvements on and as a part of the common elements;

3. Grant or withhold approval of any action by one or more unit owners or other persons entitled to the occupancy of

any unit that would change the exterior appearance of any unit or of any other portion of the condominium, or elect or provide for the appointment of an architectural control committee, the members of which must have the same qualifications as officers, to grant or withhold such approval; and

4. Acquire, hold, convey, and encumber title to real property, including condominium units, whether or not the association is incorporated.

B. Except to the extent prohibited, restricted, or limited by the condominium instruments, the executive board of the unit owners' association, if any, and if not, then the unit owners' association itself, has the irrevocable power as attorney-in-fact on behalf of all the unit owners and their successors in title with respect to the common elements, including the right, in the name of the unit owners' association, to (i) grant easements through the common elements and accept easements benefiting all or any portion of the condominium; (ii) assert, through litigation or otherwise, defend against, compromise, adjust, and settle any claims or actions related to common elements, other than claims against or actions involving the declarant during any period of declarant control reserved pursuant to subsection A of § 55.1-1943; and (iii) apply for any governmental approvals under state and local law.

C. This section shall not be construed to prohibit the grant by the condominium instruments of other powers and responsibilities to the unit owners' association or its executive board.

**§ 55.1-1957. Common elements; notice of pesticide application.**

The unit owners' association shall post notice of all pesticide applications in or upon the common elements. Such notice shall consist of conspicuous signs placed in or upon the common elements where the pesticide will be applied at least 48 hours prior to the application.

**§ 55.1-1958. Tort and contract liability; judgment lien.**

A. An action for tort alleging a wrong done (i) by any agent or employee of the declarant or of the unit owners' association or (ii) in connection with the condition of any portion of the condominium that the declarant or the association has the responsibility to maintain shall be brought against the declarant or the association, as appropriate. No unit owner shall be precluded from bringing such an action by virtue of his ownership of an undivided interest in the common elements or by reason of his membership in the association or his status as an officer.

B. Unit owners other than the declarant shall not be liable for torts caused by agents or employees of the declarant within any convertible land or using any easement reserved in the declaration or created by § 55.1-1928 or 55.1-1929.

C. An action arising from a contract made by or on behalf of the unit owners' association or its executive board or the unit owners as a group shall be brought against the association, or against the declarant if the cause of action arose during the exercise by the declarant of control reserved pursuant to subsection A of § 55.1-1943. No unit owner shall be precluded from bringing such an action by reason of his membership in the association or his status as an officer.

D. A judgment for money against the unit owners' association shall be a lien against any property owned by the association, and against each of the condominium units in proportion to the liability of each unit owner for common expenses as established pursuant to subsection D of § 55.1-1964, but not against any other property of any unit owner. A unit owner who pays a percentage of the total amount due under such judgment equal to such unit owner's liability for common expenses fixed pursuant to subsection D of § 55.1-1964 shall be entitled to a release of any such judgment lien, and the association shall not be entitled to assess the unit for payment of the remaining amount due. Such judgment shall be otherwise subject to the provisions of § 8.01-458.

**§ 55.1-1959. Suspension of services for failure to pay assessments; corrective action; assessment of charges for violations; notice; hearing; adoption and enforcement of rules and regulations.**

A. The unit owners' association shall have the power, to the extent the condominium instruments or the condominium's rules and regulations expressly provide, to (i) suspend a unit owner's right to use facilities or services, including utility services, provided directly through the unit owners' association for nonpayment of assessments that are more than 60 days past due, to the extent that access to the unit through the common elements is not precluded and provided that such suspension does not endanger the health, safety, or property of any unit owner, tenant, or occupant and (ii) assess charges against any unit owner for any violation of the condominium instruments or of the rules or regulations promulgated pursuant thereto for which such unit owner or his family members, tenants, guests, or other invitees are responsible.

B. Before any action authorized in this section is taken, the unit owner shall be given a reasonable opportunity to correct the alleged violation after written notice of the alleged violation to the unit owner at the address required for notices of meetings pursuant to § 55.1-1949. If the violation remains uncorrected, the unit owner shall be given an opportunity to be heard and to be represented by counsel before the executive board or such other tribunal as the condominium instruments or its adopted rules and regulations specify.

Notice of such hearing, including the actions that may be taken by the unit owners' association in accordance with this section, shall, at least 14 days in advance, be hand delivered or mailed by registered or certified United States mail, return receipt requested, to such unit owner at the address required for notices of meetings pursuant to § 55.1-1949. Within seven days of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to such unit owner at the address required for notices of meetings pursuant to § 55.1-1949.

C. The amount of any charges assessed shall not exceed \$50 for a single offense, or \$10 per diem for any offense of a continuing nature, and shall be treated as an assessment against such unit owner's condominium unit for the purpose of § 55.1-1966. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days.

D. The unit owners' association may file or defend legal action in general district or circuit court that seeks relief, including injunctive relief, arising from any violation of the condominium instruments or the condominium's adopted rules and regulations.

E. After the date an action is filed in the general district or circuit court by (i) the unit owners' association, by and through its counsel, to collect the charges or obtain injunctive relief and correct the violation or (ii) the unit owner challenging any such charges, no additional charges shall accrue.

If the court rules in favor of the unit owners' association, it shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed pursuant to this section against the unit owner prior to the action. In addition, if the court finds that the violation remains uncorrected, the court may order the unit owner to abate or remedy the violation.

In any action filed in general district court pursuant to this section, the court may enter default judgment against the unit owner on the sworn affidavit of the unit owners' association.

F. This section shall not be construed to prohibit the grant by the condominium instruments of other powers and responsibilities to the unit owners' association or its executive board.

**§ 55.1-1960. Limitation of occupancy of a unit.**

To the extent expressly provided in the condominium instruments, the unit owners' association may limit the number of persons who may occupy a unit as a dwelling. Such limitation shall be reasonable and shall comply with the provisions of applicable law, including the Virginia Fair Housing Law (§ 36-96.1 et seq.), the Uniform Statewide Building Code (§ 36-97 et seq.), and local ordinances.

**§ 55.1-1961. Use of for sale sign in connection with resale.**

Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided by law, no unit owners' association shall require the use of any for sale sign that is (i) a unit owners' association sign or (ii) a real estate sign that does not comply with the requirements of the Virginia Real Estate Board. A unit owners' association may, however, prohibit the placement of signs in the common elements and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Virginia Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed.

**§ 55.1-1962. Designation of authorized representative.**

Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided by law, no unit owners' association shall require any unit owner to execute a formal power of attorney if the unit owner designates a person licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized representative, and the unit owners' association shall recognize such representation without a formal power of attorney, provided that the unit owners' association is given a written authorization signed by the unit owner designating such representative. Notwithstanding the foregoing, the requirements of § 55.1-1953 and the condominium instruments shall be satisfied before any such representative may exercise a vote on behalf of a unit owner as a proxy.

**§ 55.1-1963. Insurance.**

A. The condominium instruments may require the unit owners' association, or the executive board or managing agent on behalf of such association, to obtain:

1. A master casualty policy affording fire and extended coverage in an amount consonant with the full replacement value of the structures within the condominium, or of such structures that in whole or in part comprise portions of the common elements;

2. A master liability policy, in an amount specified by the condominium instruments, covering the unit owners' association, the executive board, if any, the managing agent, if any, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the condominium, and all unit owners and other persons entitled to occupy any unit or other portion of the condominium; and

3. Such other policies as may be required by the condominium instruments, including workers' compensation insurance, liability insurance on motor vehicles owned by the unit owners' association, and specialized policies covering lands or improvements in which the unit owners' association has or shares ownership or other rights.

B. Any unit owners' association collecting assessments for common expenses shall obtain and maintain a blanket fidelity bond or employee dishonesty insurance policy insuring the unit owners' association against losses resulting from theft or dishonesty committed by the officers, directors, or persons employed by the unit owners' association, or committed by any common interest community manager or employees of the common interest community manager. Such bond or insurance policy shall provide coverage in an amount equal to the lesser of \$1 million or the amount of reserve balances of the unit owners' association plus one-fourth of the aggregate annual assessment of such unit owners' association. The minimum coverage amount shall be \$10,000. The executive board or common interest community manager may obtain such bond or insurance on behalf of the unit owners' association.

C. When any policy of insurance has been obtained by or on behalf of the unit owners' association, written notice of such obtainment and of any subsequent changes in or termination of the policy shall be promptly furnished to each unit

owner by the officer required to send notices of meetings of the unit owners' association. Such notices shall be sent in accordance with the provisions of subsection A of § 55.1-1949.

**§ 55.1-1964. Liability for common expenses; late fees.**

A. Except to the extent that the condominium instruments provide otherwise, any common expenses associated with the maintenance, repair, renovation, restoration, or replacement of any limited common element shall be specially assessed against the condominium unit to which that limited common element was assigned at the time such expenses were made or incurred. If the limited common element involved was assigned at that time to more than one condominium unit, however, such expenses shall be specially assessed against each such condominium unit equally so that the total of such special assessments equals the total of such expenses, except to the extent that the condominium instruments provide otherwise.

B. To the extent that the condominium instruments expressly so provide, any other common expenses benefiting less than all of the condominium units, or caused by the conduct of less than all those entitled to occupy the same or by their licensees or invitees, shall be specially assessed against any condominium unit involved, in accordance with such reasonable provisions as the condominium instruments may make for such cases. The executive board may impose reasonable user fees.

C. To the extent that the condominium instruments expressly so provide, (i) any common expenses paid or incurred in making available the same off-site amenities or paid subscription television service to some or all of the unit owners shall be assessed equally against the condominium units involved and (ii) any common expenses paid or incurred in providing metered utility services to some or all of the units shall be assessed against each condominium unit involved based on its actual consumption of such services.

D. The amount of all common expenses not specially assessed pursuant to subsection A, B, or C shall be assessed against the condominium units in proportion to the number of votes in the unit owners' association appertaining to each such unit, or, if such votes were allocated as provided in subsection B of § 55.1-1953, those common expense assessments shall be either in proportion to those votes or in proportion to the units' respective undivided interests in the common elements, whichever basis the condominium instruments specify. Such assessments shall be made by the unit owners' association annually, or more often if the condominium instruments so provide. No change in the number of votes in the unit owners' association appertaining to any condominium unit shall enlarge, diminish, or otherwise affect any liabilities arising from assessments made prior to such change.

E. Except to the extent otherwise provided in the condominium instruments, if the executive board determines that the assessments levied by the unit owners' association are insufficient to cover the common expenses of the unit owners' association, the executive board may levy an additional assessment against all of the units in proportion to their respective undivided interests in the common elements. The executive board shall give written notice to the unit owners stating the amount of, the reasons for, and the due date for payment of any additional assessment. If the additional assessment is to be paid in a lump sum, payment shall be due and payable no earlier than 90 days after delivery or mailing of the notice.

All unit owners shall be obligated to pay the additional assessment unless the unit owners by a majority of votes cast, in person or by proxy, at a meeting of the unit owners' association convened in accordance with the provisions of the condominium instruments within 60 days of the delivery or mailing of the notice required by this subsection, rescind or reduce the additional assessment. No director or officer of the unit owners' association shall be liable for failure to perform his fiduciary duty if an additional assessment for the funds necessary for the director or officer to perform his fiduciary duty is rescinded by the unit owners' association in accordance with this subsection. The unit owners' association shall indemnify such director or officer against any damage resulting from any claimed breach of fiduciary duty due to the assessment for the necessary funds rescinded by the unit owners' association in accordance with this subsection.

F. Neither a unit owned by the declarant nor any other unit may be exempted from assessments made pursuant to this section by reason of the identity of the unit owner.

G. All condominium instruments for condominiums created prior to January 1, 1981, are hereby validated notwithstanding noncompliance with the first sentence of subsection D if they provide instead that the amount of all common expenses not specially assessed pursuant to subsection A, B, or C shall be assessed against the condominium units in proportion to their respective undivided interests in the common elements.

H. Except to the extent that the condominium instruments or the association's rules or regulations provide otherwise, an executive board may impose a late fee, not to exceed the penalty provided for in § 58.1-3915, for any assessment or installment that is not paid within 60 days of the due date for payment of such assessment or installment.

**§ 55.1-1965. Reserves for capital components.**

A. Except to the extent otherwise provided in the condominium instruments and unless the condominium instruments impose more stringent requirements, the executive board shall:

1. Conduct a study at least once every five years to determine the necessity and amount of reserves required to repair, replace, and restore the capital components;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the unit owners' association budget shall include:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; and

3. A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to this section and the extent to which the unit owners' association is funding its reserve obligations consistent with the study currently in effect.

**§ 55.1-1966. Lien for assessments.**

A. The unit owners' association shall have a lien on each condominium unit for unpaid assessments levied against that condominium unit in accordance with the provisions of this chapter and all lawful provisions of the condominium instruments. The lien, once perfected, shall be prior to all other liens and encumbrances except (i) real estate tax liens on that condominium unit, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on any first mortgages or first deeds of trust recorded prior to the perfection of such lien for assessments and securing institutional lenders. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens.

B. Notwithstanding any other provision of this section, or any other provision of law requiring documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after July 1, 1974, all memoranda of liens arising under this section shall, in the discretion of the clerk, be recorded in the miscellaneous lien books or the deed books in such clerk's office. Any such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for condominium assessments.

C. In order to perfect the lien given by this section, the unit owners' association shall file a memorandum verified by the oath of the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, before the expiration of 90 days from the time the first such assessment became due and payable. The memorandum shall be filed in the clerk's office of the circuit court in the county or city in which such condominium is situated. The memorandum shall contain the following:

1. A description of the condominium unit in accordance with the provisions of § 55.1-1909.
2. The name or names of the persons constituting the unit owners of that condominium unit.
3. The amount of unpaid assessments currently due or past due together with the date when each fell due.
4. The date of issuance of the memorandum.

The clerk in whose office such memorandum is filed shall record and index the memorandum as provided in subsection B, in the names of the persons identified in such memorandum as well as in the name of the unit owners' association. The cost of recording such memorandum shall be taxed against the person found liable in any judgment enforcing such lien.

D. No action to enforce any lien perfected under subsection C shall be brought or action to foreclose any lien perfected under subsection I shall be initiated after 36 months from the time when the memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any action in which such petition may be properly filed shall be regarded as the institution of an action under this section. Nothing in this subsection shall extend the time within which any such lien may be perfected.

E. The judgment in an action brought pursuant to this section shall include reimbursement for costs and attorney fees of the prevailing party. If the association prevails, it may also recover interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.

F. When payment or satisfaction is made of a debt secured by the lien perfected by subsection C, such lien shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of that section, the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall be deemed the duly authorized agent of the lien creditor.

G. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection A creates a lien, maintainable pursuant to § 55.1-1915.

H. Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of such condominium unit, shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal officer of the unit owners' association or to such other officer as the condominium instruments may specify. Failure to furnish or make available such a statement within 10 days of the receipt of such request shall extinguish the lien created by subsection A as to the condominium unit involved. Such statement shall be binding on the unit owners' association, the executive board, and every unit owner. Payment of a fee not exceeding \$10 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

I. At any time after perfecting the lien pursuant to this section, the unit owners' association may sell the unit at public sale, subject to prior liens. For purposes of this section, the unit owners' association shall have the power both to sell and convey the unit and shall be deemed the unit owner's statutory agent for the purpose of transferring title to the unit. A nonjudicial foreclosure sale shall be conducted in compliance with the following:

1. The unit owners' association shall give notice to the unit owner prior to advertisement required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the

perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the unit owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the unit. The notice shall further inform the unit owner of the right to bring a court action in the circuit court of the county or city where the condominium is located to assert the nonexistence of a debt or any other defense of the unit owner to the sale.

2. After expiration of the 60-day notice period provided in subdivision 1, the unit owners' association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which the condominium is located. The clerk in whose office such appointment is filed shall record and index the appointment as provided in subsection C, in the names of the persons identified therein as well as in the name of the unit owners' association. The unit owners' association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If the unit owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale, the unit owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the unit. Those conditions are that the unit owner (a) satisfy the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (b) pays all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

4. In addition to the advertisement required by subdivision 5, the unit owners' association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, and shall include the name, address, and telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the condominium unit to be sold at his last known address as such owner and address appear in the records of the unit owners' association, (ii) any lienholder who holds a note against the condominium unit secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust provided the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to the lienholders and their assigns, at the addresses noted in the memorandum of lien, by ordinary mail no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the unit owners' association shall be in a newspaper having a general circulation in the locality in which the condominium unit to be sold, or any portion of such unit, is located pursuant to the following provisions:

a. The unit owners' association shall advertise once a week for four successive weeks; however, if the condominium unit or some portion of such unit is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the unit owners' association finds appropriate, shall set forth a description of the condominium unit to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify the condominium unit by street address, if any, or, if none, shall give the general location of the condominium unit with reference to streets, routes, or known landmarks. Where available, tax map identification may be used but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name of the unit owners' association. The advertisement shall set forth the name, address, and telephone number of the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

c. In addition to the advertisement required by subdivisions a and b, the unit owners' association may give such other further and different advertisement as the association finds appropriate.

6. In the event of postponement of a sale, which postponement shall be at the discretion of the unit owners' association, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the condominium unit voidable by the court.

8. In the event of a sale, the unit owners' association shall have the following powers and duties:

a. Written one-price bids may be made and shall be received by the trustee from the unit owners' association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the condominium instruments, the unit owners' association may bid to purchase the unit at a foreclosure sale. The unit owners' association may own, lease, encumber, exchange, sell, or convey the unit. Whenever the written bid of the unit owners' association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision 10 of this subsection and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the unit owners' association or its agent or attorney.

b. The unit owners' association may require of any bidder at any sale a cash deposit of as much as 10 percent of the

sale price before his bid is received, which shall be refunded to him if the condominium unit is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the unit owners' association in connection with that sale.

c. The unit owners' association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and apply the same in the following order: first, to the reasonable expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the unit owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the unit owner or his assigns, provided, however, that the association as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the unit owner's equity, without actual notice of such encumbrance prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the unit with special warranty of title. The trustee shall not be required to take possession of the condominium unit prior to the sale or to deliver possession of the unit to the purchaser at the sale.

10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § 64.2-1309 and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the accounting shall be made available for inspection and copying pursuant to § 55.1-1945 upon the written request of the prior unit owner, current unit owner, or any holder of a recorded lien against the unit at the time of the sale. The unit owners' association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.

11. If the sale of a unit is made pursuant to this subsection and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the accounting by the commissioner of accounts, the sale is set aside by the court or an appeal is allowed by the Supreme Court of Virginia and an order is entered requiring such sale to be set aside.

**§ 55.1-1967. Notice of sale under deed of trust.**

In accordance with the provisions of § 15.2-979, the unit owners' association shall be given notice whenever a condominium unit becomes subject to a sale under a deed of trust. Upon receipt of such notice, the executive board, on behalf of the unit owners' association, shall exercise whatever due diligence it deems necessary with respect to the unit subject to a sale under a deed of trust to protect the interests of the unit owners' association.

**§ 55.1-1968. Bond to be posted by declarant.**

A. The declarant of a condominium containing units that are required by this chapter to be registered with the Common Interest Community Board shall post a bond in favor of the unit owners' association with good and sufficient surety, in a sum equal to \$1,000 per unit, except that such sum shall not be less than \$10,000, nor more than \$100,000. Such bond shall be filed with the Common Interest Community Board and shall be maintained for so long as the declarant owns more than 10 percent of the units in the condominium or, if the declarant owns less than 10 percent of the units in the condominium, until the declarant is current in the payment of assessments. However, the Board shall return a bond where the declarant owns one unit in a condominium containing less than 10 units, provided that such declarant is current in the payment of assessments.

B. No bond shall be accepted for filing unless it is with a surety company authorized to do business in the Commonwealth or by such other surety as is satisfactory to the Board, and such bond shall be conditioned upon the payment of all assessments levied against condominium units owned by the declarant. The Board may accept a letter of credit in lieu of the bond contemplated by this section.

The Board may promulgate reasonable regulations that govern the return of bonds submitted in accordance with this section.

**§ 55.1-1969. Restraints on alienation.**

If the condominium instruments create any rights of first refusal or other restraints on free alienability of the condominium units, such rights and restraints are void unless the condominium instruments make provision for promptly furnishing to any unit owner or purchaser requesting such rights and restraints a recordable statement certifying to any waiver of, or failure or refusal to exercise, such rights and restraints, in all cases where such waiver, failure, or refusal does in fact occur. Failure or refusal to furnish promptly such a statement in such circumstances in accordance with the provisions of the condominium instruments make all such rights and restraints inapplicable to any disposition of a condominium unit in contemplation of which such statement was requested. Any such statement shall be binding on the unit owners' association, the executive board, and every unit owner. Payment of a fee not exceeding \$25 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

Article 4.

Administration of Chapter; Sale, Etc., of Condominium Units.

**§ 55.1-1970. Common Interest Community Board.**

This chapter shall be administered by the Common Interest Community Board.

**§ 55.1-1971. General powers and duties of the Common Interest Community Board.**

A. The Common Interest Community Board shall prescribe reasonable regulations, which shall be adopted, amended, or repealed in compliance with law applicable to the administrative procedure of agencies of government. The regulations shall include provisions for advertising standards to assure full and fair disclosure, provisions for operating procedures,

and other regulations as are necessary and proper to accomplish the purpose of this chapter.

B. The Common Interest Community Board by regulation or by an order, after reasonable notice and hearing, may require the filing of advertising material relating to condominiums prior to its distribution.

C. If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter or Common Interest Community Board regulation or order, the Common Interest Community Board, with or without prior administrative proceedings, may bring an action in the circuit court of the county or city in which any portion of the condominium is located to enjoin the acts or practices and to enforce compliance with this chapter or any Common Interest Community Board regulation or order. Upon proper showing, injunctive relief or temporary restraining orders shall be granted. The Common Interest Community Board is not required to post a bond in any court proceedings or prove that no other adequate remedy at law exists.

D. With respect to any lawful process served upon the Common Interest Community Board pursuant to the appointment made in accordance with subdivision A 1 of § 55.1-1975, the Common Interest Community Board shall forthwith cause the same to be sent by registered or certified mail to any of the principals, officers, directors, partners, or trustees of the declarant listed in the application for registration at the last address listed in such application or the most recent annual report.

E. The Common Interest Community Board may intervene in any action involving the declarant. In any action by or against a declarant involving a condominium, the declarant shall promptly furnish the Common Interest Community Board notice of the action and copies of all pleadings.

F. The Common Interest Community Board may:

1. Accept registrations filed in other states or with the federal government;
2. Contract with similar agencies in the Commonwealth or other jurisdictions to perform investigative functions; and
3. Accept grants in aid from any governmental source.

G. The Common Interest Community Board shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, regulations, and common administrative practices.

**§ 55.1-1972. Exemptions from certain provisions of article.**

A. Unless the method of offer or disposition is adopted for the purpose of evasion of this chapter, the provisions of §§ 55.1-1974 through 55.1-1979, subsections B and D of § 55.1-1982, and §§ 55.1-1990 and 55.1-1991 do not apply to:

1. Dispositions pursuant to court order;
2. Dispositions by any government or government agency;
3. Offers by the declarant on nonbinding reservation agreements;
4. Dispositions in a residential condominium in which there are three or fewer units, so long as the condominium instruments do not reserve to the declarant the right to create additional condominium units; or
5. A disposition of a unit by a sale at an auction where a current public offering statement or resale certificate was made available as part of an auction package for prospective purchasers prior to the auction sale.

B. In cases of dispositions in a condominium where all units are restricted to nonresidential use, the provisions of §§ 55.1-1974 through 55.1-1983 shall not apply, unless the method of offer or disposition is adopted for the purpose of evasion of this chapter.

**§ 55.1-1973. Rental of units.**

A. Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided by law, no unit owners' association shall:

1. Condition or prohibit the rental of a unit to a tenant by a unit owner or make an assessment or impose a charge except as provided in § 55.1-1904;
2. Charge a rental fee, application fee, or other processing fee of any kind in excess of \$50 during the term of any lease;
3. Charge an annual or monthly rental fee or any other fee not expressly authorized in § 55.1-1904;
4. Require the unit owner to use a lease or an addendum to the lease prepared by the unit owners' association;
5. Charge any deposit from the unit owner or the tenant of the unit owner; or
6. Have the authority to evict a tenant of any unit owner or to require any unit owner to execute a power of attorney authorizing the unit owners' association to so evict. However, if the unit owner designates a person licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized representative with respect to any lease, the unit owners' association shall recognize such representation without a formal power of attorney, provided that the unit owners' association is given a written authorization signed by the unit owner designating such representative. Notwithstanding any other provision of this subdivision, the requirements of § 55.1-1953 and the condominium instruments shall be satisfied before any such representative may exercise a vote on behalf of a unit owner as a proxy.

B. The unit owners' association may require the unit owner to provide the unit owners' association with the names and contact information of the tenants and authorized occupants under such lease and of any authorized agent of the unit owner and vehicle information for such tenants or authorized occupants. The unit owners' association may require the unit owner to provide the unit owners' association with the tenant's acknowledgment of and consent to any rules and regulations of the unit owners' association.

C. The provisions of this section shall not apply to units owned by the unit owners' association.

**§ 55.1-1974. Limitations on dispositions of units.**

Unless exempt by § 55.1-1972:

1. No declarant may offer or dispose of any interest in a condominium unit located in the Commonwealth, nor offer or dispose of in the Commonwealth any interest in a condominium unit located outside of the Commonwealth prior to the time the condominium including such unit is registered in accordance with this chapter.

2. No declarant may dispose of any interest in a condominium unit unless he delivers to the purchaser a current public offering statement by the time of such disposition and such disposition is expressly and without qualification or condition subject to cancellation by the purchaser within five calendar days from the contract date of the disposition or delivery of the current public offering statement, whichever is later. If the purchaser elects to cancel, he may do so by notice of such cancellation hand-delivered or sent by United States mail, return receipt requested, to the declarant. Such cancellation shall be without penalty, and any deposit made by the purchaser shall be promptly refunded in its entirety.

3. The purchaser's right to cancel the purchase contract pursuant to subdivision 2 shall be set forth on the first page of the purchase contract in boldface print of not less than 12-point type.

4. The prospective purchaser may cancel by written notice, hand-delivered or sent by United States mail, return receipt requested, to the declarant or to any sales agent of the declarant at any time prior to the formation of a contract for the sale or lease of a condominium unit or an interest in such unit. Such agreement shall not contain any provision for waiver or any other provision in derogation of the rights of the prospective purchaser as contemplated by this section, nor shall any such provision be a part of any ancillary agreement.

**§ 55.1-1975. Application for registration; fee.**

A. The application for registration of the condominium shall be filed as prescribed by the Common Interest Community Board's regulations and shall contain the following documents and information:

1. An irrevocable appointment of the Common Interest Community Board to receive service of any lawful process in any noncriminal proceeding arising under this chapter against the applicant or his personal representative if nonresidents of the Commonwealth;

2. The states or jurisdictions in which an application for registration or similar document has been filed and any adverse order or judgment entered in connection with the condominium by the regulatory authorities in each jurisdiction or by any court;

3. The applicant's name and address; the form, date, and jurisdiction of organization; and the address of each of its offices in the Commonwealth;

4. The name, address, and principal occupation for the past five years of every officer of the applicant or person occupying a similar status or performing similar functions and the extent and nature of his interest in the applicant or the condominium, as of a specified date within 30 days of the filing of the application;

5. A statement, in a form acceptable to the Common Interest Community Board, of the condition of the title to the condominium project, including encumbrances, as of a specified date within 30 days of the date of application by a title opinion of a licensed attorney not a salaried employee, officer, or director of the applicant or owner, or by other evidence of title acceptable to the Common Interest Community Board;

6. Copies of the instruments that will be delivered to a purchaser to evidence his interest in the unit and of the contracts and other agreements that a purchaser will be required to agree to or sign;

7. Copies of any management agreements, employment contracts, or other contracts or agreements affecting the use, maintenance, or access of all or a part of the condominium;

8. A statement of the zoning and other governmental regulations affecting the use of the condominium, including the site plans and building permits and their status, and also of any existing tax and existing or proposed special taxes or assessments that affect the condominium;

9. A narrative description of the promotional plan for the disposition of the units in the condominium;

10. Plats and plans of the condominium that comply with the provisions of § 55.1-1920 other than the certification requirements, and that show all units and buildings containing units to be built anywhere within the submitted land other than within the boundaries of any convertible lands, except that the Common Interest Community Board may establish by regulation or order requirements in lieu of the provisions of § 55.1-1920 for plats and plans of a condominium located outside the Commonwealth;

11. The proposed public offering statement;

12. Any bonds required to be posted pursuant to the provisions of this chapter;

13. A current financial statement or other documentation to demonstrate the declarant's financial ability to complete all proposed improvements on the condominium; and

14. Any other information that the Common Interest Community Board's regulations require for the protection of purchasers.

B. If the declarant registers additional units to be offered for disposition in the same condominium, he may consolidate the subsequent registration with any earlier registration offering units in the condominium for disposition under the same promotional plan.

C. The declarant shall immediately report any material changes in the information contained in an application for registration.

D. Each application shall be accompanied by a fee in an amount established by the Common Interest Community

Board pursuant to § 54.1-113. All fees shall be remitted by the Common Interest Community Board to the State Treasurer and shall be credited to the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

**§ 55.1-1976. Public offering statement; condominium securities.**

A. A public offering statement shall disclose fully and accurately the characteristics of the condominium and the units being offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the condominium. The proposed public offering statement submitted to the Common Interest Community Board shall be in a form prescribed by its regulations and shall include the following:

1. The name and principal address of the declarant and the condominium;
2. A general narrative description of the condominium stating the total number of units in the offering, the total number of units planned to be sold and rented, and the total number of units that may be included in the condominium by reason of future expansion or merger of the project by the declarant;
3. Copies of the declaration and bylaws, with a brief narrative statement describing each and including information on declarant control; a projected budget for at least the first year of the condominium's operation, including projected common expense assessments for each unit; and provisions for reserves for capital expenditures and restraints on alienation;
4. Copies of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the condominium with a brief narrative statement of the effect of each such agreement upon a purchaser, and a statement of the relationship, if any, between the declarant and the managing agent or firm;
5. A general description of the status of construction, zoning, site plan approval, issuance of building permits, or compliance with any other state or local statute or regulation affecting the condominium;
6. The significant terms of any encumbrances, easements, liens, and matters of title affecting the condominium;
7. The significant terms of any financing offered by the declarant to the purchaser of units in the condominium;
8. Provisions of any warranties provided by the declarant on the units and the common elements, other than the warranty prescribed by subsection B of § 55.1-1955;
9. A statement that, pursuant to subdivision 2 of § 55.1-1974, the purchaser may cancel the disposition within five calendar days of delivery of the current public offering statement or within five calendar days of the contract date of the disposition, whichever is later;
10. A statement of the declarant's obligation to complete improvements of the condominium that are planned but not yet begun or begun but not yet completed. Such statement shall include a description of the quality of the materials to be used, the size or capacity of the improvements when material, and the time by which the improvements shall be completed. Any limitations on the declarant's obligation to begin or complete any such improvements shall be expressly stated;
11. If the units in the condominium are being subjected to a time-share instrument pursuant to § 55.1-1108, the information required to be disclosed by § 55.1-2217;
12. A statement listing the facilities or amenities that are defined as common elements or limited common elements in the condominium instruments that are available to a purchaser for use. Such statement shall also include whether there are any fees or other charges for the use of such facilities or amenities that are not included as part of any assessment and the amount of such fees or charges, if any, a purchaser may be required to pay;
13. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;
14. A statement setting forth any restrictions, limitation, or prohibition on the right of a unit owner to display the flag of the United States, including reasonable restrictions as to the size, place, and manner of placement or display of such flag; and
15. Additional information required by the Common Interest Community Board to assure full and fair disclosure to prospective purchasers.

B. The public offering statement shall not be used for any promotional purposes before registration of the condominium project and shall be used afterwards only if it is used in its entirety. No person may advertise or represent that the Common Interest Community Board approves or recommends the condominium or disposition of any unit in the condominium. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the Common Interest Community Board requires it.

C. The Common Interest Community Board may require the declarant to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the condominium may be made after registration without notifying the Common Interest Community Board and without making appropriate amendment of the public offering statement. A public offering statement is not current unless all amendments are incorporated.

D. If an interest in a condominium is currently registered with the U.S. Securities and Exchange Commission, a declarant satisfies all requirements relating to the preparation of a public offering statement in this chapter if he delivers to the purchaser and files with the Common Interest Community Board a copy of the public offering statement filed with the Securities and Exchange Commission. An interest in a condominium is not a security under the provisions of the Securities Act (§ 13.1-501 et seq.).

**§ 55.1-1977. Inquiry and examination.**

Upon receipt of an application for registration, the Common Interest Community Board shall conduct an examination of the material submitted to determine that:

1. The declarant can convey or cause to be conveyed the units offered for disposition if the purchaser complies with the terms of the offer;
2. There is reasonable assurance that all proposed improvements will be completed as represented;
3. The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the Common Interest Community Board in its regulations and afford full and fair disclosure;
4. The declarant has not, or if a corporation its officers and principals have not, been convicted of a crime involving condominium unit dispositions or any aspect of the land sales business in the Commonwealth, United States, or any other state or foreign country within the past 10 years and has not been subject to any injunction or administrative order restraining a false or misleading promotional plan involving land dispositions;
5. The public offering statement requirements of this chapter have been satisfied; and
6. All other requirements of this chapter and the Common Interest Community Board's regulations have been satisfied.

**§ 55.1-1978. Notice of filing and registration.**

A. Upon receipt of the application for registration, the Common Interest Community Board shall issue a notice of filing to the applicant within five business days. In the case of receipt of an application for a condominium that is a conversion condominium, the Common Interest Community Board shall also issue within five business days a notice of filing to the chief administrative officer of the county or city in which the proposed condominium is located, and the notice shall include the name and address of the applicant and the name and address or location of the proposed condominium. Within 60 days from the date of the notice of filing, the Common Interest Community Board shall enter an order registering the condominium or rejecting the registration. If no order of rejection is entered within 60 days from the date of notice of filing, the condominium shall be deemed registered unless the applicant has consented in writing to a delay.

B. If the Common Interest Community Board affirmatively determines, upon inquiry and examination, that the requirements of this chapter and the Common Interest Community Board's regulations have been met, it shall enter an order registering the condominium and shall designate the form of the public offering statement.

C. If the Common Interest Community Board determines upon inquiry and examination that any of the requirements of this chapter and the Common Interest Community Board's regulations have not been met, the Common Interest Community Board shall notify the applicant that the application for registration must be corrected in the particulars specified within 20 days. If the requirements are not met within the time allowed, the Common Interest Community Board shall enter an order rejecting the registration, and such order shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for 20 days after issuance of the order. During this 20-day period, the applicant may petition for reconsideration and shall be entitled to a hearing to correct the particulars specified in the Common Interest Community Board's notice. Such order of rejection shall not take effect, in any event, until such time as the hearing, once requested, is given to the applicant.

**§ 55.1-1979. Annual report by declarant.**

The declarant shall file a report in the form prescribed by the regulations of the Common Interest Community Board within 30 days of each anniversary date of the order registering the condominium. The report shall reflect any material changes in information contained in the original application for registration.

**§ 55.1-1980. Annual report by unit owners' association.**

A. The unit owners' association shall file an annual report in a form and at such time as prescribed by regulations of the Common Interest Community Board. The filing of the annual report required by this section shall begin upon the termination of the declarant control period pursuant to § 55.1-1943. The annual report shall be accompanied by a fixed fee in an amount established by the Common Interest Community Board.

B. The unit owners' association shall also remit to the Common Interest Community Board an annual payment as follows:

1. The lesser of:
  - a. \$1,000 or such other amount as established by Common Interest Community Board regulation; or
  - b. Five hundredths of one percent (0.05%) of the gross assessment income of the unit owners' association during the preceding year.
2. For the purposes of subdivision B 1 b, no minimum payment shall be less than \$10.

C. The annual payment shall be remitted to the State Treasurer and shall be credited to the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

**§ 55.1-1981. Termination of registration.**

A. In the event that all of the units in the condominium have been disposed of and that all periods for conversion or expansion have expired, the Common Interest Community Board shall issue an order terminating the registration of the condominium.

B. Notwithstanding any other provision of this chapter, the Common Interest Community Board may administratively terminate the registration of a condominium if:

1. The declarant has not filed an annual report in accordance with § 55.1-1979 for three or more consecutive years; or
2. The declarant's registration with the State Corporation Commission, if applicable, has not been active for five or

more consecutive years.

**§ 55.1-1982. Conversion condominiums; special provisions.**

**A. For the purposes of this section:**

"Affordable rent" means a monthly rent that does not exceed the greater of 30 percent of the annual gross income of the tenant household or 30 percent of the imputed income limit applicable to such unit size, as published by the Virginia Housing Development Authority for compliance with the Low Income Housing Tax Credit program.

"Certified nonprofit housing corporation" means a nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that has been certified by a locality as actively engaged in producing or preserving affordable housing as determined by criteria established by the locality.

"Disabled" means a person suffering from a severe, chronic physical or mental impairment that results in substantial functional imitations.

"Elderly" means a person not less than 62 years of age.

**B. Any declarant of a conversion condominium shall include in his public offering statement in addition to the requirements of § 55.1-1976 the following:**

1. A specific statement of the amount of any initial or special condominium fee due from the purchaser on or before settlement of the purchase contract and the basis of such fee;

2. Information on the actual expenditures made on all repairs, maintenance, operation, or upkeep of the subject building within the last three years, set forth in a tabular format with the proposed budget of the condominium and cumulatively broken down on a per unit basis in proportion to the relative voting strengths allocated to the units by the bylaws. If such building has not been occupied for a period of three years, then the information shall be set forth for the maximum period such building has been occupied;

3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves, or, if no provision is made for such reserves, a statement to that effect;

4. A statement of the declarant as to the present condition of all structural components and major utility installations in the condominium, including the approximate dates of construction, installation, and major repairs and the expected useful life of each such item, together with the estimated cost of replacing each such item;

5. If any building included or that may be included in the condominium was substantially completed prior to July 1, 1978, a statement that each such building has been inspected for asbestos in accordance with standards in effect at the time of inspection, or that an asbestos inspection will be conducted, and whether asbestos requiring response actions has been found and, if found, that response actions have been or will be completed in accordance with applicable standards prior to the conveyance of any unit in such building. Any asbestos management program or response action undertaken by the building owner shall comply with the standards promulgated pursuant to § 2.2-1164.

**C. In the case of a conversion condominium, the declarant shall give, at the time specified in subsection D, formal notice to each of the tenants of the building that the declarant has submitted or intends to submit to the provisions of this chapter. This notice shall advise each tenant of (i) the offering price of the unit he occupies; (ii) the projected common expense assessments against that unit for at least the first year of the condominium's operation; (iii) any relocation services or assistance, public or private, of which the declarant is aware; (iv) any measures taken or to be taken by the declarant to reduce the incidence of tenant dislocation; and (v) the details of the relocation plan, if any is provided by the declarant, to assist tenants in relocating. During the first 60 days after such notice is mailed or hand delivered, each of the tenants shall have the exclusive right to purchase the unit he occupies, but only if such unit is to be retained in the conversion condominium without substantial alteration in its physical layout. If the conversion condominium is subject to local ordinances that have been adopted pursuant to subsections G and H, any tenant who is disabled or elderly may assign the exclusive right to purchase his unit to a governmental agency, housing authority, or certified nonprofit housing corporation, which shall then offer the tenant a lease at an affordable rent, following the provisions of subsection G. The acquisition of such units by the governmental agency, housing authority, or certified nonprofit housing corporation shall not (a) exceed the greater of one unit or five percent of the total number of units in the condominium or (b) impede the condominium conversion process. In determining which, if any, units shall be acquired pursuant to this subsection, preference shall be given to elderly or disabled tenants.**

*The notice required in this subsection shall be hand delivered or sent by first-class mail, return receipt requested, and shall inform the tenants of the conversion to condominium. Such notice may also constitute the notice to terminate the tenancy as provided for in § 55.1-1410, except that, despite the provisions of § 55.1-1410, a tenancy from month-to-month may only be terminated upon 120 days' notice when such termination is in regard to the creation of a conversion condominium. If, however, a tenant so notified remains in possession of the unit he occupies after the expiration of the 120-day period with the permission of the declarant, in order to then terminate the tenancy, such declarant shall give the tenant a further notice as provided in § 55.1-1410. Until the expiration of the 120-day period, the declarant shall have no right of access to the unit except as provided by subsection A of § 55.1-1229 and except that, upon 45 days' written notice to the tenant, the declarant may enter the unit in order to make additional repairs, decorations, alterations, or improvements, provided that (i) the making of the same does not constitute an actual or constructive eviction of the tenant and (ii) such entry is made either with the consent of the tenant or only at times when the tenant is absent from the unit. The declarant shall also provide general notice to the tenants of the condominium or proposed condominium at the time of application to the Common Interest Community Board in addition to the formal notice required by this subsection.*

D. The declarant of a conversion condominium shall, in addition to the requirements of § 55.1-1975, include with the application for registration a copy of the formal notice set forth in subsection C and a certified statement that such notice, fully complying with the provisions of subsection C, shall be at the time of the registration of such condominium mailed or delivered to each of the tenants in the building for which registration is sought. The price and projected common expense assessments for each unit need not be filed with the Common Interest Community Board until such notice is mailed to the tenants.

E. Notwithstanding the provisions of § 55.1-1901, in the case of any conversion condominium created under the provisions of the Horizontal Property Act (§ 55.1-2000 et seq.) for which a final report has not been issued by the Common Interest Community Board pursuant to former § 55-79.21 prior to June 1, 1975, the provisions of subsections B and C shall apply and the declarant shall be required to furnish evidence of full compliance with subsections B and C prior to the issuance by the Common Interest Community Board of a final report for such conversion condominium.

F. Any locality may require by ordinance that the declarant of a conversion condominium file with that governing body all information that is required by the Common Interest Community Board pursuant to § 55.1-1975 and a copy of the formal notice required by subsection C. Such information shall be filed with that governing body when the application for registration is filed with the Common Interest Community Board, and such copy of the formal notice shall be filed with that governing body. There shall be no fees for such filings.

G. The governing body of any locality may enact an ordinance requiring that elderly or disabled tenants occupying as their residence, at the time of issuance of the general notice required by subsection C, apartments or units in a conversion condominium be offered leases or extensions of leases on the apartments or units they then occupied, or on other apartments or units of at least equal size and overall quality. The terms and conditions of such leases or extensions shall be as agreed upon by the lessor and the lessee, provided that the rent for such apartment or unit shall not be in excess of reasonable rent for comparable apartments or units in the same market area as such conversion condominium and such lease shall include or incorporate by reference the bylaws or rules and regulations, if any, of the association. No such ordinance shall require that such leases or extensions be offered on more than 20 percent of the apartments or units in such conversion condominium, nor shall any such ordinance require that such leases or extensions extend beyond three years from the date of such notice. Such leases or extensions shall not be required, however, in the case of any apartments or units that will in the course of the conversion be substantially altered in the physical layout, restricted exclusively to nonresidential use, or be converted in such a manner as to require relocation of the tenant in premises outside of the project being converted.

H. The governing body of any county utilizing the optional urban county executive form of government (§ 15.2-800 et seq.) or the optional county manager plan of government (§ 15.2-702 et seq.), or of any city or town adjoining any such county, may require by ordinance that the declarant of any residential condominium converted from multi-family rental use shall reimburse any tenant displaced by the conversion for amounts actually expended to relocate as a result of such dislocation. The reimbursement shall not be required to exceed the amount that the tenant would have been entitled to receive under §§ 25.1-407 and 25.1-415 if the real estate comprising the condominium had been condemned by the Department of Transportation.

**§ 55.1-1983. Escrow of deposits.**

A. Any deposit made in regard to any disposition of a unit, including a nonbinding reservation agreement, shall be held in escrow until delivered at settlement. Such escrow funds shall be deposited in a separate account designated for this purpose that is federally insured and located in the Commonwealth, except where such deposits are being held by a real estate broker or attorney licensed under the laws of the Commonwealth, in which case such funds may be placed in that broker's or attorney's regular escrow account and need not be placed in a separate designated account. Such escrow funds shall not be subject to attachment by the creditors of either the purchaser or the declarant.

B. In lieu of escrowing deposits as provided in subsection A, the declarant of a condominium consisting of more than 50 units may:

1. Obtain and maintain a corporate surety bond issued by a surety authorized to do business in the Commonwealth, in the form and amount set forth below; or
2. Obtain and maintain an irrevocable letter of credit issued by a financial institution whose accounts are insured by the FDIC, in the form and amount set forth below.

The surety bond or letter of credit shall be maintained until (i) the granting of a deed to the unit, (ii) the purchaser's default under a purchase contract for the unit entitling the declarant to retain the deposit, or (iii) the refund of the deposit to the purchaser, whichever occurs first.

C. The surety bond shall be payable to the Commonwealth for the use and benefit of every person protected under the provisions of this chapter. The declarant shall file the bond with the Common Interest Community Board. The surety bond may be either in the form of an individual bond for each deposit accepted by the declarant or, if the total amount of the deposits accepted by the declarant under this chapter exceeds \$10,000, it may be in the form of a blanket bond. If the bond is a blanket bond, the amount shall be as follows. If the amount of such deposits is:

1. \$75,000 or less, the blanket bond shall be \$75,000;
2. More than \$75,000 but less than \$200,000, the blanket bond shall be \$200,000;
3. \$200,000 or more but less than \$500,000, the blanket bond shall be \$500,000;
4. \$500,000 or more but less than \$1 million, the blanket bond shall be \$1 million; and

5. \$1 million or more, the blanket bond shall be 100 percent of the amount of such deposits.

D. The letter of credit shall be payable to the Commonwealth for use and benefit of every person protected under this chapter. The declarant shall file the letter of credit with the Common Interest Community Board. The letter of credit may be either in the form of an individual letter of credit for each deposit accepted by the declarant or, if the total amount of the deposits accepted by the declarant under this chapter exceeds \$10,000, it may be in the form of a blanket letter of credit. If the letter of credit is a blanket letter of credit, the amount shall be as follows. If the amount of such deposits is:

1. \$75,000 or less, the blanket letter of credit shall be \$75,000;
2. More than \$75,000 but less than \$200,000, the blanket letter of credit shall be \$200,000;
3. \$200,000 or more but less than \$500,000, the blanket letter of credit shall be \$500,000;
4. \$500,000 or more but less than \$1 million, the blanket letter of credit shall be \$1 million; and
5. \$1 million or more, the blanket letter of credit shall be 100 percent of the amount of such deposits.

For the purposes of determining the amount of any blanket letter of credit that a declarant maintains in any calendar year, the total amount of deposits considered held by the declarant shall be determined as of May 31 in each calendar year and the amount of the letter of credit shall be in accordance with the amount of deposits held as of May 31.

**§ 55.1-1984. Declarant to deliver declaration to purchaser.**

The declarant shall within 10 days of recordation of the condominium instruments as provided for in §§ 55.1-1907 and 55.1-1911 forward to each purchaser at his last known address by first-class mail, return receipt requested, an exact copy of the recorded declaration and bylaws.

**§ 55.1-1985. Investigations and proceedings.**

A. Whenever the Common Interest Community Board receives a written complaint that appears to state a valid claim, the Common Interest Community Board shall make necessary public or private investigations in accordance with law within or outside of the Commonwealth to determine whether any declarant or its agents, employees, or other representatives have violated or are about to violate this chapter or any Common Interest Community Board regulation or order, or to aid in the enforcement of this chapter or in the prescribing of Common Interest Community Board regulations and forms. The Common Interest Community Board may also in like manner and with like authority investigate written complaints against persons other than the declarant or its agents, employees, or other representatives.

B. For the purpose of any investigation or proceeding under this chapter, the Common Interest Community Board or any officer designated by regulation may administer oaths or affirmations and upon its own motion or upon request of any party shall subpoena witnesses, compel their attendance, take evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

C. Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected by such failure, the Common Interest Community Board may apply to the Circuit Court of the County of Henrico for an order compelling compliance.

**§ 55.1-1986. Cease and desist orders.**

A. The Common Interest Community Board may issue an order requiring a person to cease and desist from any of the unlawful practices enumerated in subdivisions 1 through 5 and to take such affirmative action as in the judgment of the Common Interest Community Board will carry out the purposes of this chapter if the Common Interest Community Board determines after notice and hearing that such person has:

1. Violated any provision of this chapter;
2. Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of a unit;
3. Made any substantial change in the plan of disposition and development of the condominium subsequent to the order of registration without notifying the Common Interest Community Board;
4. Disposed of any units that have not been registered with the Common Interest Community Board; or
5. Violated any lawful order or regulation of the Common Interest Community Board.

B. If the Common Interest Community Board makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the Common Interest Community Board shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether it becomes permanent.

**§ 55.1-1987. Revocation of registration.**

A. A registration may be revoked by the Common Interest Community Board after notice and hearing upon a written finding of fact in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that the declarant has:

1. Failed to comply with the terms of a cease and desist order;
2. Been convicted in any court subsequent to the filing of the application for registration for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;
3. Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of unit purchasers;
4. Failed faithfully to perform any stipulation or agreement made with the Common Interest Community Board as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering

statement; or

5. Made intentional misrepresentations or concealed material facts in an application for registration.

B. If the Common Interest Community Board finds after notice and a hearing that the developer has been guilty of a violation for which revocation could be ordered, it may issue a cease and desist order instead.

**§ 55.1-1988. Judicial review.**

Proceedings for judicial review shall be in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 55.1-1989. Penalties.**

Any person who willfully violates any provision of § 55.1-1972, 55.1-1974, 55.1-1975, 55.1-1976, 55.1-1979, 55.1-1982, or 55.1-1983 or any regulation adopted under or order issued pursuant to § 55.1-1971, or any person who willfully in an application for registration makes any untrue statement of a material fact or omits to state a material fact is guilty of a misdemeanor and may be fined not less than \$1,000 or double the amount of gain from the transaction, whichever is the larger, but not more than \$50,000, or he may be imprisoned for not more than six months, or both, for each offense.

Article 5.

Disclosure Requirements; Authorized Fees.

**§ 55.1-1990. Resale by purchaser; contract disclosure; right of cancellation.**

A. For purposes of this article:

"Delivery" means that the resale certificate is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this article.

"Financial update" means an update of the financial information referenced in subdivisions A 2 through 7 of § 55.1-1991.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives," "received," or "receiving" the resale certificate means that the purchaser or purchaser's authorized agent has received the resale certificate by one of the methods specified in this article.

"Resale certificate update" means an update of the financial information referenced in subdivisions A 2 through 9 and 12 of § 55.1-1991. The update shall include a copy of the original resale certificate.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

B. In the event of any resale of a condominium unit by a unit owner other than the declarant, and subject to the provisions of subsection F and subsection A of § 55.1-1972, the unit owner shall disclose in the contract that (i) the unit is located within a development that is subject to the Condominium Act; (ii) the Condominium Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the purchaser; (iii) the purchaser may cancel the contract within three days after receiving the resale certificate or being notified that the resale certificate will not be available; (iv) if the purchaser has received the resale certificate, the purchaser has a right to request a resale certificate update or financial update in accordance with § 55.1-1992, as appropriate; and (v) the right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the resale certificate shall be deemed not to be available if (a) a current annual report has not been filed by the unit owners' association with either the State Corporation Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55.1-1980, (b) the seller has made a written request to the unit owners' association that the resale certificate be provided and no such resale certificate has been received within 14 days in accordance with subsection C of § 55.1-1991, or (c) written notice has been provided by the unit owners' association that a resale certificate is not available.

C. If the contract does not contain the disclosure required by subsection B, the purchaser's sole remedy is to cancel the contract prior to settlement.

D. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. A resale certificate update or a financial update may be requested as provided in § 55.1-1992, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract, if the purchaser receives the resale certificate or is notified that the resale certificate will not be available on or before the date that the purchaser signs the contract; (ii) within three days after receiving the resale certificate if the resale certificate or notice that the resale certificate will not be available is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt is obtained; or (iii) within six days after the postmark date if the resale certificate or notice that the resale certificate will not be available is sent to the purchaser by United States mail. The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the resale certificate will not be available and the resale certificate is not delivered to the purchaser.

Notice of cancellation shall be provided to the unit owner or his agent by one of the following methods:

1. Hand delivery;

2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing in the form of a certificate of service prepared by the sender confirming such mailing;

3. Electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the

sender confirming the electronic delivery; or

4. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be returned promptly to the purchaser.

**§ 55.1-1991. Contents of resale certificate; delivery.**

A. A resale certificate shall include the following:

1. An appropriate statement pursuant to subsection H of § 55.1-1966, which need not be notarized, and, if applicable, an appropriate statement pursuant to § 55.1-1969;

2. A statement of any expenditure of funds approved by the unit owners' association or the executive board that requires an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;

3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association, together with any known post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition, and maintenance of the condominium unit and the use of the common elements, and the status of the account;

4. A statement of whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;

5. The current reserve study report or a summary of such report and a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the executive board;

6. A copy of the unit owners' association's current budget or a summary of such budget prepared by the unit owners' association and a copy of the statement of its financial position (balance sheet) for the last fiscal year for which a statement is available, including a statement of the balance due of any outstanding loans of the unit owners' association;

7. A statement of the nature and status of any pending actions or unpaid judgments to which the unit owners' association is a party that either could or would have a material impact on the unit owners' association or the unit owners or that relates to the unit being purchased;

8. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association, including the fidelity bond maintained by the unit owners' association, and what additional insurance coverage would normally be secured by each individual unit owner;

9. A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, are or are not in violation of the condominium instruments;

10. A copy of the current bylaws, rules and regulations, and architectural guidelines adopted by the unit owners' association and the amendments to any such documents;

11. A statement of whether any portion of the condominium is located within a development subject to the Property Owners' Association Act (§ 55.1-1800 et seq.);

12. A copy of the notice given to the unit owner by the unit owners' association of any current or pending rule or architectural violation;

13. A copy of any approved minutes of the executive board and unit owners' association meetings for the six calendar months preceding the request for the resale certificate;

14. Certification that the unit owners' association has filed with the Common Interest Community Board the annual report required by § 55.1-1980, the filing number assigned by the Common Interest Community Board, and the expiration date of such filing;

15. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;

16. A statement setting forth any restrictions, limitation, or prohibition on the right of a unit owner to display the flag of the United States, including reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;

17. A statement setting forth any restriction, limitation, or prohibition on the right of a unit owner to install or use solar energy collection devices on the unit owner's property;

18. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies; and

19. A copy of the fully completed form developed by the Common Interest Community Board pursuant to § 54.1-2350.

B. Failure to receive a resale certificate shall not excuse any failure to comply with the provisions of the condominium instruments, articles of incorporation, or rules or regulations.

C. The resale certificate shall be delivered in accordance with the written request and instructions of the seller or the seller's authorized agent, including whether the resale certificate shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the resale certificate shall be delivered. The resale certificate shall be delivered within 14 days of receipt of such request. The resale certificate shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

D. The seller or the seller's authorized agent may request that the resale certificate be provided in hard copy or in electronic form. A unit owners' association or common interest community manager may provide the resale certificate electronically; however, the seller or the seller's authorized agent shall have the right to request that the resale certificate be provided in hard copy. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the resale certificate in person at the principal place of business of the unit owners' association. If the seller or the

*seller's authorized agent requests that the resale certificate be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The resale certificate shall not be delivered in hard copy if the requester has requested delivery of such resale certificate electronically. If the resale certificate is provided electronically by a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another fee during the subsequent 12-month period, except that the preparer may charge an update fee for a financial update or for an inspection as provided in § 55.1-1992. If the seller or the seller's authorized agent asks that the resale certificate be provided in electronic format, the seller or the seller's authorized agent may request that an electronic copy be provided to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. If so requested, the unit owners' association or its common interest community manager may require the seller or the seller's authorized agent to pay the fee specified in § 55.1-1992. Regardless of whether the resale certificate is delivered in paper form or electronically, the preparer of the resale certificate shall provide such resale certificate directly to the persons designated by the requester to the addresses or, if applicable, the email addresses provided by the requester.*

*E. Subject to the provisions of § 55.1-1972, but notwithstanding any other provisions of this chapter, the provisions and requirements of this section shall apply to any such resale of a condominium unit created under the provisions of the Horizontal Property Act (§ 55.1-2000 et seq.).*

*F. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the resale certificate may be made by the unit owner or the seller's authorized agent.*

*G. If the unit is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last resale certificate or disclosure packet.*

**§ 55.1-1992. Fees for resale certificate.**

*A. The unit owners' association may charge fees as authorized by this section for the inspection of the property, for the preparation and issuance of the resale certificate required by §§ 55.1-1990 and 55.1-1991, and for such other services as are set out in this section. Nothing in this chapter shall be construed to authorize the unit owners' association or common interest community manager to charge an inspection fee for a unit except as provided in this section.*

*B. A reasonable fee may be charged by the preparer of the resale certificate as follows:*

*1. For the inspection of the unit, as authorized in the declaration and as required to prepare the resale certificate, a fee not to exceed \$100;*

*2. For preparation and delivery of the resale certificate in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125, for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. Only one fee shall be charged for the preparation and delivery of the resale certificate;*

*3. At the option of the seller or the seller's authorized agent, with the consent of the unit owners' association or the common interest community manager, for expediting the inspection, preparation, and delivery of the resale certificate, an additional expedite fee not to exceed \$50;*

*4. At the option of the seller or the seller's authorized agent, for an additional hard copy of the resale certificate, a fee not to exceed \$25 per hard copy;*

*5. At the option of the seller or the seller's authorized agent, for hand delivery or overnight delivery of the resale certificate, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service; and*

*6. A post-closing fee to the purchaser of the unit, collected at settlement, for the purpose of establishing the purchaser as the owner of the unit in the records of the unit owners' association, a fee not to exceed \$50.*

*Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request for the resale certificate is made. The resale certificate shall state that all fees and costs for the resale certificate shall be the personal obligation of the unit owner and shall be an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § 55.1-1964, if not paid at settlement or within 60 days of the delivery of the resale certificate, whichever occurs first.*

*For purposes of this section, an expedite fee shall be charged only if the inspection and preparation of delivery of the resale certificate are completed within five business days of the request for a resale certificate.*

*C. No fees other than those specified in this section, and as limited by this section, shall be charged by the unit owners' association or its common interest community manager for compliance with the duties and responsibilities of the unit owners' association under this section. No additional fee shall be charged for access to the unit owners' association's or common interest community manager's website. The unit owners' association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so that the seller or the seller's authorized agent will know such fees at the time of requesting the resale certificate.*

*D. Any fees charged pursuant to this section shall be collected at the time settlement occurs on the sale of the unit and shall be due and payable out of the settlement proceeds in accordance with this section. The seller shall be responsible for all costs associated with the preparation and delivery of the resale certificate, except for the costs of any resale certificate update or financial update, which costs shall be the responsibility of the requester, payable at settlement. The settlement*

agent shall escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate.

E. If settlement does not occur within 60 days of the delivery of the resale certificate, or funds are not collected at settlement and disbursed to the unit owners' association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the resale certificate against the unit owner, (ii) the personal obligation of the unit owner, and (iii) an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § 55.1-1964. The seller may pay the unit owners' association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the unit owners' association. The unit owners' association shall pay the common interest community manager the amount due from the unit owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If a resale certificate has been issued within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent or the purchaser or the purchaser's authorized agent, may request a resale certificate update. The requester shall specify whether the resale certificate update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The resale certificate update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the resale certificate update or financial update may be charged by the preparer, not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the unit owners' association or the common interest community manager perform an additional inspection of the unit, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No unit owners' association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the unit owners' association. If the requester asks that the specified update be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When a resale certificate has been delivered as required by § 55.1-1991, the unit owners' association shall, as to the purchaser, be bound by the statements set forth in the certificate as to the status of the assessment account and the status of the unit with respect to any violation of the condominium instruments as of the date of the statement unless the purchaser had actual knowledge that the contents of the resale certificate were in error.

L. If the unit owners' association or its common interest community manager has been requested in writing to furnish the resale certificate required by § 55.1-1991, failure to provide the resale certificate substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject unit. The preparer of the resale certificate shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the condominium instruments, rules and regulations, and architectural guidelines of the unit owners' association as to all matters arising after the date of the settlement of the sale.

M. The Common Interest Community Board may assess a monetary penalty for failure to deliver the resale certificate within 14 days against any (i) unit owners' association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.

**§ 55.1-1993. Properties subject to more than one declaration.**

If the unit is subject to more than one declaration, the unit owners' association or its common interest community manager may charge the fee authorized by § 55.1-1992 for each of the applicable associations, provided, however, that no association shall charge an inspection fee unless the association has architectural control over the unit.

**§ 55.1-1994. Requests by settlement agents.**

A. The settlement agent may request a financial update from the preparer of the resale certificate. The preparer of the resale certificate shall, upon request from the settlement agent, provide the settlement agent with written escrow

instructions directing the amount of any funds to be paid from the settlement proceeds to the association or the common interest community manager. There shall be no fees charged for a response by the association or its common interest community manager to a request from the settlement agent for written escrow instructions; however, a fee may be charged for a financial update pursuant to this chapter.

B. The settlement agent, when transmitting funds to the unit owners' association or the common interest community manager, shall, unless otherwise directed in writing, provide the preparer of the resale certificate with (i) the complete record name of the seller, (ii) the address of the subject unit, (iii) the complete name of the purchaser, (iv) the date of settlement, and (v) a brief explanation of the application of any funds transmitted or by providing a copy of a settlement statement, unless otherwise prohibited.

**§ 55.1-1995. Exceptions to disclosure requirements.**

A. The resale certificate required by this article need not be provided in the case of:

1. A disposition of a unit by gift;
2. A disposition of a unit pursuant to court order if the court so directs;
3. A disposition of a unit by foreclosure or deed in lieu of foreclosure; or
4. A disposition of a unit by a sale at auction when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction.

B. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the resale certificate to the purchaser.

CHAPTER 20.  
HORIZONTAL PROPERTY ACT.

Article I.

General Provisions.

**§ 55.1-2000. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Apartment" means a dwelling that is an enclosed space consisting of one or more rooms occupying all or part of one or more floors in a building of one or more floors regardless of whether it is designed or used for residence, for office, for the operation of any industry or business, or for any other type of independent use, or combination of uses, provided that the dwelling has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare. "Apartment" also includes such accessories as may be appurtenant to such dwelling.

"Condominium" means the ownership of a single unit in a multiple-unit structure with common elements in a condominium project.

"Condominium project" means a plan or project whereby four or more apartments, rooms, office spaces, or other units existing or proposed, whether the unit involves a single structure, attached to or detached from other units, or is in one or more multiple-unit structures, on contiguous parcels of real estate are offered or proposed to be offered for sale.

"Co-owner" means a person, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof, that owns an apartment within the building.

"Council of co-owners" means all of the co-owners acting as a group in accordance with the bylaws of the horizontal property regime.

"Developer" means a person that undertakes to develop a real estate condominium project.

"General common elements," unless otherwise provided in the master deed or lease, means and includes:

1. The land, whether leased or in fee simple, on which the building stands;
2. The foundations, main walls, roofs, halls, lobbies, stairways, and entrances and exits or communication ways;
3. The basements, flat roofs, yards, and gardens, except as otherwise provided or stipulated;
4. The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;
5. The compartments or installations of central services, including power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks, and pumps;
6. The elevators, garbage incinerators, and all other devices or installations existing for common use; and
7. All other elements of the property rationally of common use or necessary to its existence, upkeep, and safety.

"Limited common elements" means those common elements that are agreed upon by all of the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, including special corridors, stairways and elevators, and sanitary services common to the apartments of a particular floor.

"Majority of co-owners" means more than 50 percent of the votes of the co-owners computed in accordance with the bylaws of the horizontal property regime.

"Master deed" or "master lease" means the deed or lease recording the property of the horizontal property regime.

"Person" means an individual, firm, corporation, partnership, association, trust, or other legal entity or any combination thereof.

"Property" means the land, whether leased or in fee simple, the building, all improvements and structures on such land, and all easements, rights, and appurtenances belonging to such land.

"To record" means to record pursuant to the laws of the Commonwealth relating to the recordation of deeds.

**§ 55.1-2001. Property taxes assessed on individual apartments.**

*Property taxes assessed by the Commonwealth or by any locality shall be assessed on and collected on the individual apartments and not on the property as a whole, or on the common elements.*

**§ 55.1-2002. Chapter additional and supplemental.**

*The provisions of this chapter shall be in addition and supplemental to all other provisions of law, provided that wherever the application of the provisions of this chapter conflict with the application of such other provisions, this chapter shall prevail.*

## Article 2.

*Creation and Alteration of Horizontal Property Regimes.***§ 55.1-2003. Establishment of horizontal property regime.**

*A. A horizontal property regime is established when a developer, the sole owner, or the co-owners of one or more buildings record a master deed or lease, which includes the particulars enumerated in § 55.1-2008.*

*B. Pursuant to § 55.1-1901, this chapter is superseded by the Virginia Condominium Act (§ 55.1-1900 et seq.) as of July 1, 1974. No new developments may be established under the provisions of this chapter after that date.*

**§ 55.1-2004. Partition.**

*A. The common elements, both general and limited, shall remain undivided. No apartment owner, or any other person, shall bring any action or other proceeding for partition or division of the co-ownership of the common elements as provided under § 55.1-2007.*

*B. Nothing contained in this section shall be construed as a limitation on partition by the owners of one or more apartments in a horizontal property regime as to the individual ownership of such apartment or apartments without terminating the regime or as to the ownership of property outside the regime, provided that upon partition of any such individual apartment it shall be sold as an entity and shall not be partitioned in kind.*

## Article 3.

*Management of Horizontal Property Regimes.***§ 55.1-2005. Apartments subject to individual titles and interests; recording; transfer of garage unit.**

*Once the property is established as a horizontal property regime, an apartment in the building is a separate parcel of real property and may be individually conveyed and encumbered, independent of the other apartments in the building, and the corresponding individual titles and interests shall be recordable. A garage unit sold to a co-owner as a limited common element may be sold or transferred by him to another co-owner in the same horizontal property regime independently of and separately from his apartment.*

**§ 55.1-2006. Joint or common ownership.**

*Any apartment may be jointly or commonly owned by more than one person.*

**§ 55.1-2007. Exclusive and common rights of owners.**

*An apartment owner has an exclusive right to his apartment and has a common right to a share, with other co-owners, in the common elements of the property.*

**§ 55.1-2008. Master deed or lease; recordation; particulars.**

*A master deed or lease shall be recorded in the same manner and subject to the same provisions of law as are other deeds, provided that no state or local recordation tax upon the value of the property transferred shall apply to any such deed recorded solely for the purpose of complying with the provisions of § 55.1-2003.*

*The master deed or lease required pursuant to § 55-2003 shall include the following particulars:*

*1. The description of the land, whether leased or in fee simple, and the building, expressing their respective areas;*

*2. The general description and the number of each apartment, expressing its area, location, and any other data necessary for its identification;*

*3. The description of the general common elements of the building; and*

*4. The provisions requiring the council of co-owners to maintain insurance on the horizontal property regime.*

**§ 55.1-2009. Deeds of individual apartments.**

*The deed of each individual apartment shall express the particulars prescribed under subdivisions 1 and 2 of § 55.1-2008 relative to the apartments concerned and shall also express all encumbrances on such apartments.*

**§ 55.1-2010. Regrouping or merger of estates with principal property.**

*All of the co-owners or such lesser percentage as may be authorized in the master deed, or the sole owner of a building constituted into a horizontal property regime, may by deed waive this regime and regroup, amend the master deed, or merge the records of the filial estates with the principal property, provided that the filial estates are unencumbered, or if they are encumbered, that the creditors on whose behalf the encumbrances are recorded accept as security the undivided portions of the property owned by the debtors.*

**§ 55.1-2011. Merger not to bar subsequent condominium.**

*The merger provided for in § 55.1-2010 shall not bar the subsequent constitution of the property into a condominium whenever so desired, provided that the requirements of the Virginia Condominium Act (§ 55.1-1900 et seq.) are met.*

**§ 55.1-2012. Bylaws governing administration of buildings.**

*The administration of every building established as a horizontal property regime shall be governed by bylaws approved and adopted by the council of co-owners. The bylaws may be amended from time to time by the council or the governing board provided for in the council's bylaws.*

**§ 55.1-2013. Books and records; inspection; audit.**

The administrator, board of administration, or person appointed by the bylaws of the regime shall keep a book with a detailed account of the receipts and expenditures affecting the building and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the regime. Both the book and vouchers accrediting the entries made in the book shall be available for examination by all the co-owners during business hours that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good accounting procedures and be audited at least once a year by an auditor outside of the organization.

**§ 55.1-2014. Contributions by co-owners.**

All co-owners are bound to contribute pro rata toward the expenses of administration and of maintenance and repairs of the general common elements, and, in the appropriate case, of the limited common elements of the building, and toward any other expenses lawfully agreed upon by the council of co-owners.

If a co-owner fails to contribute his share as provided in this section, the manager or board of directors of the council of co-owners, or in a proper case, an aggrieved co-owner, may maintain an action at law on behalf of the council of co-owners to recover sums due for damages or in equity for injunctive relief.

No co-owner shall be exempt from contributing toward such expenses by waiver or nonuse of the use or enjoyment of the common elements, both general and limited, or by abandonment of the apartment belonging to him.

Such contributions may be determined and a lien, as the master deed may provide upon default in the payment of any such contribution, may be perfected by filing in the clerk's office in which the master deed is recorded a memorandum showing the name of the delinquent co-owner, the name of the council of co-owners as claimant of the lien, the amount of the claim, and a description of the property on which a lien is claimed verified by oath of the agent of the council of co-owners. The clerk shall record and index such lien as provided in § 43-4.1 and shall charge such fees as are provided by law. Such lien shall be released as provided in §§ 55.1-339 through 55.1-345 upon payment by the co-owner of his contributions.

**§ 55.1-2015. Payment of assessments upon conveyance of apartment; priority.**

Upon the sale or conveyance of an apartment, all unpaid assessments against a co-owner for his pro rata share in the expenses provided for in § 55.1-2014 shall first be paid out of the sale price or by the purchaser in priority over any other assessments or charges of whatever nature except the following:

1. Assessments, liens, and charges in favor of the Commonwealth or any locality for taxes past due and unpaid on the apartment; and
2. Payments due under mortgages duly recorded.

**§ 55.1-2016. Liens or encumbrances.**

A. Subsequent to establishment of a horizontal property regime as provided in this chapter, and while the property remains subject to this chapter, no lien shall arise or be effective against the property as a whole or against the common elements. During such period, liens or encumbrances shall arise or be created and enforced only against each apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership, provided that no labor performed or materials furnished with the consent or at the request of an apartment owner or such owner's agent, contractor, or subcontractor shall be the basis for the filing of a mechanic's lien against the apartment or any other property of any other apartment owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs to such apartment. Labor performed or materials furnished for the common elements and facilities, if duly authorized by the council of co-owners, the manager, or the board of directors in accordance with this chapter, the master deed, or the bylaws, shall be deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis for the filing of a mechanic's lien against each of the apartments and shall be subject to the provisions of subsection B. Notice of such lien may be served on the manager or the board of directors of the council of co-owners.

B. If a lien is filed against two or more apartments and their respective percentage interest in the common elements, the apartment owners of the separate apartments may remove their apartments and their percentage interests in the common elements appurtenant to such apartments from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected, or they may file a written undertaking with surety approved by the court. Such individual payment, or amount of bond, shall be computed by reference to the percentage established pursuant to the bylaws of the horizontal property regime. After such partial payment, filing of bond, partial discharge, or release, or other satisfaction, the apartment and its percentage interest in the common elements shall be free and clear of such lien. Such partial payment, indemnity, satisfaction, or discharge shall not prevent the lienor from proceeding to enforce its rights against any apartment and its percentage interest in the common elements not so paid, indemnified, satisfied, or discharged.

**§ 55.1-2017. Rule against perpetuities; rule restricting unreasonable restraints on alienation.**

The rules of property law known as the rule against perpetuities and the rule restricting unreasonable restraints on alienation shall not be applied to defeat any of the provisions of this chapter or of any provisions of any master deed or lease, bylaws, or other document executed in accordance with this chapter as to the horizontal property regime. This exemption shall not apply to estates in the individual apartments.

**§ 55.1-2018. Liability of owner.**

A. The liability of the owner of an apartment for pro rata expenses shall be limited to the amounts assessed from time to time in accordance with this chapter, the master deed or lease, or the bylaws.

B. The owner of an apartment shall not be personally liable with respect to the negligence of any other co-owner except insofar as the negligent co-owner is acting for the council of co-owners.

**§ 55.1-2019. Compliance by co-owner with bylaws and administrative rules and regulations.**

Each co-owner shall comply with the bylaws of the horizontal property regime and with the administrative rules and regulations adopted pursuant to such bylaws, as may be amended from time to time, and with the covenants, conditions, or restrictions set forth in the deed to the individual apartment. Failure to comply with any such bylaws, rules and regulations, or covenants, conditions, or restrictions is grounds for an action by the manager or board of directors of the council of co-owners, or in a proper case, an aggrieved owner, on behalf of the council of co-owners to recover sums due for damages and for injunctive relief.

## Article 4.

## Protection of Purchasers.

**§ 55.1-2020. Deposits to be held in escrow.**

Any deposit made with a reservation to purchase or a contract to purchase shall be held in escrow in a separate fund for such deposits designated as such until the deed for which a deposit was made is delivered to the depositor.

## CHAPTER 21.

## VIRGINIA REAL ESTATE COOPERATIVE ACT.

## Article 1.

## General Provisions.

**§ 55.1-2100. Definitions.**

As used in this chapter or in the declaration and bylaws, unless provided otherwise or unless the context requires a different meaning:

"Affiliate of a declarant" means any person that controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant; (iii) controls in any manner the election of a majority of the directors of the declarant; or (iv) has contributed more than 20 percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant (a) is a general partner, officer, director, or employer of the person; (b) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person; (c) controls in any manner the election of a majority of the directors of the person; or (d) has contributed more than 20 percent of the capital of the person. Control does not exist if the powers described in this definition are held solely as security for an obligation and are not exercised.

"Allocated interests" means the common expense liability and the ownership interest and votes in the association allocated to each cooperative interest.

"Association" or "proprietary lessees' association" means the proprietary lessees' association organized under § 55.1-2132.

"Capital components" means those items, whether or not a part of the common elements, for which the association has the obligation for repair, replacement, or restoration and for which the executive board determines funding is necessary.

"Common elements" means all portions of a cooperative other than the units of such cooperative.

"Common expenses" means any expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.

"Common reserve liability" means liability for common expenses allocated to each cooperative interest pursuant to § 55.1-2118.

"Conversion building" means a building that at any time before creation of the cooperative was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

"Cooperative" means real estate owned by an association, each of the members of which is entitled, by virtue of his ownership interest in the association, to exclusive possession of a unit.

"Cooperative interest" means an ownership interest in the association coupled with a possessory interest in a unit under a proprietary lease. For purposes of this chapter, a declarant is treated as the owner of any cooperative interests or potential cooperative interests to which allocated interests have been allocated pursuant to § 55.1-2118 until that cooperative interest has been created and conveyed to another person.

"Declarant" means any person or group of persons acting in concert that (i) as part of a common promotional plan, offers to dispose of its cooperative interest not previously disposed of; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of a cooperative under Article 5 (§ 55.1-2173 et seq.).

"Declaration" means any instruments, however denominated, that create a cooperative and any amendments to those instruments.

"Development rights" means any right or combination of rights reserved by a declarant in the declaration to (i) add real estate to a cooperative; (ii) create units, common elements, or limited common elements within a cooperative;

(iii) subdivide units or convert units into common elements; or (iv) withdraw real estate from a cooperative.

"Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a cooperative interest, but does not include the transfer or release of a security interest.

"Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.

"Identifying number" means a symbol or address that identifies only one unit in a cooperative.

"Leasehold cooperative" means a cooperative in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the cooperative or reduce its size.

"Limited common element" means a portion of the common elements allocated by the declaration or by operation of subdivision 2 or 4 of § 55.1-2113 for the exclusive use of at least one unit but fewer than all of the units.

"Master association" means an organization described in § 55.1-2130, whether or not it is also an association described in § 55.1-2132.

"Offering" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a cooperative interest, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a cooperative not located in the Commonwealth is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the cooperative is located.

"Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity. In the case of a land trust, however, "person" means the beneficiary of the trust rather than the trust or the trustee.

"Proprietary lease" means an agreement with the association pursuant to which a proprietary lessee has a possessory interest in a unit.

"Proprietary lessee" means a person that owns a cooperative interest, other than as security for an obligation, and the declarant with respect to cooperative interests or potential cooperative interests to which allocated interests have been allocated pursuant to § 55.1-2118 until that cooperative interest has been created and conveyed to another person.

"Purchaser" means any person, other than a declarant or a person in the business of selling cooperative interests for his own account, that, by means of a voluntary transfer, acquires or contracts to acquire a cooperative interest other than as security for an obligation.

"Real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that, by custom, usage, or law, pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes (i) parcels with or without upper or lower boundaries and (ii) spaces that may be filled with air or water.

"Residential purposes" means use for dwelling or recreational purposes, or both.

"Security interest" means an interest in real or personal property, created by contract or conveyance, that secures payment or performance of an obligation. "Security interest" includes a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

"Special declarant rights" means rights reserved for the benefit of a declarant to (i) complete improvements described in the public offering statement pursuant to subdivision A 2 of § 55.1-2155; (ii) exercise any development right pursuant to § 55.1-2120; (iii) maintain sales offices, management offices, signs advertising the cooperative, and models; (iv) use easements through the common elements for the purpose of making improvements within the cooperative or within real estate that may be added to the cooperative; (v) make the cooperative part of a larger cooperative or group of cooperatives; (vi) make the cooperative subject to a master association as specified in § 55.1-2130; or (vii) appoint or remove any officer of the association, any master association, or any executive board member during any period of declarant control.

"Time share" means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with an estate or interest in a cooperative or a specified portion of such estate or interest.

"Unit" means a physical portion of the cooperative designated for separate occupancy under a proprietary lease.

#### **§ 55.1-2101. Applicability.**

A. This chapter applies to all cooperatives created within the Commonwealth after July 1, 1982. Unless the declaration provides that the entire chapter is applicable, such a cooperative is subject only to §§ 55.1-2104 and 55.1-2105 if the cooperative contains only units restricted to nonresidential use or contains no more than three units and is not subject to any development rights.

B. Except as provided in subsection C, §§ 55.1-2100, 55.1-2104, 55.1-2105, 55.1-2109, 55.1-2114, and 55.1-2131, subdivisions A 1 through 6 and 11 through 17 of § 55.1-2133, and §§ 55.1-2143, 55.1-2148, 55.1-2151, 55.1-2161, 55.1-2169, and 55.1-2170 apply to all cooperatives created in the Commonwealth before July 1, 1982. Those sections apply only with respect to events and circumstances occurring after July 1, 1982, and do not invalidate existing provisions of the cooperative documents of those cooperatives. With regard to any cooperative created before July 1, 1982, § 55.1-2104 applies only to real estate acquired by that cooperative's association on or after that date. For the purposes of this section, a cooperative was created before July 1, 1982, if the cooperative was conveyed to the association before that date.

C. If a cooperative created within the Commonwealth before July 1, 1982, contains no more than three units and is not subject to any development rights, it is subject only to §§ 55.1-2104 and 55.1-2105, unless the declaration is amended to make any or all of the sections enumerated in subsection B apply to that cooperative.

D. This chapter does not apply to cooperatives or cooperative interests located outside the Commonwealth, but the public offering statement provisions as given in §§ 55.1-2153 through 55.1-2160 apply to all contracts for the disposition of cooperative interests signed in the Commonwealth by any party, unless exempt under subsection B of § 55.1-2153. The Common Interest Community Board regulations provisions under Article 5 (§ 55.1-2173 et seq.) apply to any such offering in the Commonwealth.

E. This chapter does not apply to any cooperatives that receive federal funding pursuant to the public housing or Section 8 program under the United States Housing Act of 1937, as amended.

F. This chapter does not apply to any cooperative that, when acquired by an association, is subject to a mortgage or deed of trust securing an indebtedness owed to any government or governmental authority to which the association has contractual obligations in addition to those set forth in such mortgage or deed of trust.

**§ 55.1-2102. Variation by agreement.**

Except as expressly provided in this chapter, provisions of this chapter shall not be varied by agreement, and rights conferred by this chapter shall not be waived. A declarant shall not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.

**§ 55.1-2103. Property classification of cooperative interests; taxation.**

A. A cooperative interest is real estate for all purposes. Unless waived by a proprietary lessee, a cooperative interest is subject to the provisions of Title 34 (§ 34-1 et seq.), regarding the homestead exemption.

B. Any portion of the common elements for which the declarant has reserved any development right shall be separately taxed and assessed against the declarant, and the declarant alone is liable for the payment of those taxes.

C. When the highest and best use of any parcel improved by a multi-unit cooperative apartment complex is achieved by sale of the cooperative apartment units as individual units, the fair market value of the parcel shall be determined by aggregating the fair market value of all taxable real estate that is part of the parcel, including each cooperative apartment unit and common elements. The fair market value of each such cooperative apartment unit shall be established by determining its fair market value for sale as an individual unit, determined in the same manner, mutatis mutandis, as the fair market value of condominium units. Tax bills shall be issued for each individual cooperative apartment unit.

No assessment of any parcel improved by a multi-unit cooperative apartment complex, whether the assessment was made before or after the adoption of this subsection, shall be held to be invalid because of the use of the method described in this subsection to determine the assessment.

D. Any duly authorized real estate assessor, board of assessors, or department of real estate assessments may require that all declarants, associations, master associations, and proprietary lessees' associations in the county or city subject to local taxation furnish to such assessor, board, or department on or before a time specified a statement listing all transfers of the cooperative apartment units over a specified period of time and a statement listing all owners and proprietary lessees of the cooperative apartment units as of a specified date. Each such statement shall be certified as to its accuracy by the declarant, association, master association, or proprietary lessees' association for which the statement is furnished or by a duly authorized agent of such declarant or association. Any statement required by this subsection shall be kept confidential in accordance with the provisions of § 58.1-3.

E. Subsections C and D apply to all cooperatives created in the Commonwealth, whether created before, on, or after July 1, 1982. However, subsections C and D do not apply to any multi-unit cooperative apartment complex the cooperative apartment units of which have been continually in use as such since December 31, 1967.

F. Any residential cooperative association the members of which are owners of cooperative interests in a cooperative under this chapter shall not be deemed to be a business for any state and local purposes, including liability for payment of sales, meals, hotel, motel, or gross receipts taxes and business licenses, to the extent that such residential cooperative association collects payments from residents of such cooperative.

G. Any tangible personal property owned by a residential cooperative association that would be considered household goods and personal effects if owned and used by an individual or by a family or household incident to maintaining an abode shall be considered household goods and personal effects owned and used by an individual or by a family or household incident to maintaining an abode for the purposes of § 58.1-3504 and any local ordinance authorized pursuant to § 58.1-3504.

**§ 55.1-2104. Applicability of local ordinances, regulations, and building codes; local authority.**

A. No zoning or other land use ordinance shall prohibit cooperatives as such by reason of their form of ownership. No cooperative shall be treated differently by any zoning or other land use ordinance that would permit a physically identical project or development under a different form of ownership.

B. Subdivision and site plan ordinances in any locality shall apply to any cooperative in the same manner as such ordinances would apply to a physically identical project or development under a different form of ownership. Nevertheless, the declarant need not apply for or obtain subdivision approval to record cooperative instruments against a portion of the land that may be submitted to the cooperative if the site plan approval for the land being submitted to the cooperative has first been obtained.

C. During development of a cooperative containing additional land or withdrawable land, phase lines created by the

cooperative instruments shall not be considered property lines for purposes of subdivision. If the cooperative may no longer be expanded by the addition of additional land, the owner of the land not part of the cooperative shall subdivide such land prior to its conveyance, unless such land is subject to an approved site plan as provided in subsection B, or prior to modification of such approved site plan. In the event of any conveyance of land within phase lines of the cooperative, the cooperative and any lot created by such conveyance shall be deemed to comply with the local subdivision ordinance, provided that such land is subject to an approved site plan.

D. Localities may provide by ordinance that proposed cooperatives comprising conversion buildings and the use of such conversion buildings that do not conform to the zoning, land use, and site plan regulations of the respective county or city in which the property is located shall secure a special use permit, a special exception, or variance, as applicable, prior to such property's becoming a cooperative. The local authority shall grant a request for such a special use permit, special exception, or variance filed on or after July 1, 1982, if the applicant can demonstrate to the reasonable satisfaction of the local authority that the nonconformities are not likely to be adversely affected by the proposed conversion. The local authority shall not unreasonably delay action on any such request. In the event of an approved conversion, a locality, sanitary district, or other political subdivision may impose such charges and fees as are lawfully imposed by such locality, sanitary district, or other political subdivision as a result of construction of new structures to the extent that such charges and fees, or portions of such charges and fees, imposed upon property subject to such conversions may be reasonably related to greater or additional services provided by the locality, sanitary district, or political subdivision as a result of the conversion.

E. Nothing in this section shall be construed to permit application of any provision of the Uniform Statewide Building Code (§ 36-97 et seq.), or any local ordinances regulating the design and construction of roads, sewer and water lines, stormwater management facilities, or other public infrastructure, that is not expressly applicable to cooperatives by reason of their form of ownership to a cooperative in a manner different from the manner in which such provision is applied to other buildings of similar physical form and nature of occupancy.

#### **§ 55.1-2105. Eminent domain.**

A. If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the proprietary lessee with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award for such unit shall include compensation to the proprietary lessee for the value of his cooperative interest. Upon acquisition, unless the order otherwise provides, that cooperative interest's allocated interests are automatically reallocated to the remaining cooperative interests in proportion to the respective allocated interests of those cooperative interests before the taking, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

B. Except as provided in subsection A, if part of a unit is acquired by eminent domain, the award for such unit shall compensate the proprietary lessee for the reduction in value of his cooperative interest. Unless the order provides otherwise, upon acquisition (i) that cooperative interest's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration, and (ii) the portion of the allocated interests divested from the cooperative interest of which the partially acquired unit is a part is automatically reallocated to that cooperative interest and the remaining units in proportion to the respective allocated interests of those cooperative interests before the taking, with the cooperative interest of which the partially acquired unit is a part participating in the reallocation on the basis of its reduced allocated interests.

C. If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken shall be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element shall be equally divided among the proprietary lessees of the units to which that limited common element was allocated at the time of acquisition.

D. The court order shall be recorded in every county or city in which any portion of the cooperative is located.

#### **§ 55.1-2106. General principles of law applicable.**

The principles of law and equity, including the law of corporations and unincorporated associations, the law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performances, or other validating or invalidating cause supplement the provisions of this chapter, except to the extent inconsistent with this chapter.

#### **§ 55.1-2107. Construction against implicit repeal.**

This chapter, being a general act intended as a unified coverage of its subject matter, shall not be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

#### **§ 55.1-2108. Uniformity of application and construction.**

This chapter shall be applied and construed so as to effectuate its general purpose to make uniform the law with respect to cooperatives in the Commonwealth.

#### **§ 55.1-2109. Unconscionable agreement or term of contract.**

A. The court, upon finding as a matter of law that a contract or contract clause was unconscionable at the time the contract was made, may (i) refuse to enforce the contract, (ii) enforce the remainder of the contract without the unconscionable clause, or (iii) limit the application of any unconscionable clause in order to avoid an unconscionable result.

B. Whenever it is claimed, or appears to the court, that a contract or any contract clause is or may be unconscionable,

the parties, in order to aid the court in making the determination, shall be afforded a reasonable opportunity to present evidence as to:

1. The commercial setting of the negotiations;
2. Whether a party has knowingly taken advantage of the inability of the other party to reasonably protect his interests by reason of physical or mental infirmity, illiteracy, or inability to understand the language of the agreement or similar factors;
3. The effect and purpose of the contract or clause; and
4. If a sale, any gross disparity at the time of contracting between the amount charged for the cooperative interest and the value of the cooperative interest measured by the price at which similar cooperative interests were readily obtainable in similar transactions; however, a disparity between the contract price and the value of the cooperative interest measured by the price at which similar cooperative interests were readily obtainable in similar transactions does not, of itself, render the contract unconscionable.

**§ 55.1-2110. Obligation of good faith.**

Every contract or duty governed by this chapter imposes an obligation of good faith in its performance or enforcement.

**§ 55.1-2111. Remedies to be liberally administered.**

A. The remedies provided by this chapter shall be liberally administered to the end that the aggrieved party is put in a position as good as its position had the other party fully performed. However, consequential, special, or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

B. Any right or obligation declared by this chapter is enforceable by judicial proceeding.

Article 2.

Creation, Alteration, and Termination of Cooperatives.

**§ 55.1-2112. Creation of cooperative ownership.**

A cooperative may be created pursuant to this chapter only by recording a declaration executed in the same manner as a deed and by conveying to the association the real estate subject to that declaration. The declaration shall be recorded in every county or city in which any portion of the cooperative is located, indexed in the grantee's index in the name of the cooperative and the association, and indexed in the grantor's index in the name of each person executing the declaration.

**§ 55.1-2113. Unit boundaries.**

Except as otherwise provided by the declaration:

1. If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished flooring and any other materials constituting any part of the finished surfaces of such walls, floors, or ceilings are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.

2. If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture lies partially within and partially outside of the designated boundaries of a unit, any portion of such fixture serving only that unit is a limited common element allocated solely to that unit, and any portion of such fixture serving more than one unit or any portion of the common elements is a part of the common elements.

3. Subject to the provisions of subdivision 2, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

4. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, or patios and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

**§ 55.1-2114. Construction and validity of declaration and bylaws.**

A. All provisions of the declaration and bylaws are severable.

B. The rule against perpetuities shall not be applied to defeat any provision of the declaration, bylaws, or rules and regulations adopted pursuant to subdivision A 1 of § 55.1-2133.

C. In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent that the declaration is inconsistent with this chapter.

D. Title to a cooperative interest is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

**§ 55.1-2115. Description of units.**

A description of a unit that sets forth the name of the cooperative, the recording data for the declaration, the county or city in which the cooperative is located, and the identifying number of the unit is a legally sufficient description of that unit and all rights, obligations, and interests appurtenant to that unit that were created by the declaration or bylaws.

**§ 55.1-2116. Contents of declaration.**

A. The declaration shall contain:

1. The name of the cooperative, which shall include the word "cooperative" or be followed by the words "a cooperative," and the association;
2. The name of every county or city in which any part of the cooperative is situated;
3. A legally sufficient description of the real estate included in the cooperative;
4. A statement of the maximum number of units that the declarant reserves the right to create;

5. A description, which may be by plats or plans, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

6. A description of any limited common elements, other than those specified in subdivisions 2 and 4 of § 55.1-2113;

7. A description of any real estate, except real estate subject to development rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in subdivisions 2 and 4 of § 55.1-2113, together with a statement that they may be so allocated;

8. A description of any development rights and other special declarant rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies, and a time limit within which each of those rights are required to be exercised;

9. If any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with (i) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right or a statement that no assurances are made in those regards and (ii) a statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right is required to be exercised in all or in any other portion of the remainder of that real estate;

10. Any other conditions or limitations under which the rights described in subdivision 8 may be exercised or will lapse;

11. An allocation to each cooperative interest of the allocated interests in the manner described in § 55.1-2118;

12. Any restrictions on (i) use and occupancy of the units, (ii) alienation of the cooperative interests, and (iii) the amount for which a cooperative interest may be sold or the amount that may be received by a proprietary lessee upon sale of, condemnation of, or casualty loss to the unit or the cooperative or termination of the cooperative;

13. The recording data for recorded easements and licenses appurtenant to, or included in, the cooperative or to which any portion of the cooperative is or may become subject by virtue of a reservation in the declaration; and

14. All matters required by §§ 55.1-2117, 55.1-2118, 55.1-2119, 55.1-2125, and 55.1-2126 and subsection D of § 55.1-2134.

B. The declaration may contain any other matters the declarant deems appropriate.

**§ 55.1-2117. Leasehold cooperatives.**

A. The expiration or termination of any lease that may terminate the cooperative or reduce its size, or a memorandum of such lease, shall be recorded. The declaration shall state:

1. The recording data for the lease or a statement of where the complete lease may be inspected;

2. The date on which the lease is scheduled to expire;

3. A legally sufficient description of the real estate subject to the lease;

4. Any right of the proprietary lessees to redeem the reversion and how those rights may be exercised, or a statement that they do not have those rights;

5. Any right of the proprietary lessees to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

6. Any rights of the proprietary lessees to renew the lease and the conditions, if any, of any renewal, or a statement that they do not have those rights.

B. Acquisition of the leasehold interest of any proprietary lessee by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all proprietary lessees subject to that reversion or remainder are acquired.

C. If the expiration or termination of a lease decreases the number of units in a cooperative, the allocated interests shall be reallocated in accordance with subsection A of § 55.1-2118 as though those units had been taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared, executed, and recorded by the association.

**§ 55.1-2118. Allocation of ownership interests, votes, and common expense liabilities.**

A. The declaration shall allocate an ownership interest in the association a fraction or percentage of the common expenses of the association and a portion of the votes in the association, or to each cooperative interest in the cooperative, and state the formulas used to establish those allocations. Those allocations shall not discriminate in favor of cooperative interests owned by the declarant or an affiliate of the declarant.

B. If units may be added to or withdrawn from the cooperative, the declaration shall state the formulas to be used to reallocate the allocated interests among all cooperative interests included in the cooperative after the addition or withdrawal.

C. The declaration may provide (i) that different allocations of votes shall be made to the cooperative interests on particular matters specified in the declaration, (ii) for cumulative voting only for the purpose of electing members of the executive board, and (iii) for class voting on specified issues affecting the class if necessary to protect valid interests of the class. No declarant shall utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this chapter, nor shall cooperative interests constitute a class because they are owned by a declarant.

D. Except for minor variations due to rounding, the sum of the common expense liabilities allocated at any time to all the cooperative interests must equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of a

discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

E. Any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of the ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

**§ 55.1-2119. Limited common elements.**

A. Except for the limited common elements described in subdivisions 2 and 4 of § 55.1-2113, the declaration shall specify to which of the units each limited common element is allocated. That allocation may not be altered without the consent of the proprietary lessees whose units are affected.

B. Unless the declaration provides otherwise, a limited common element may be reallocated by an amendment to the declaration executed by the proprietary lessees between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy to the association, which shall record it. The amendment shall be recorded in the names of the parties and the cooperative.

C. A common element not previously allocated as a limited common element shall not be so allocated except pursuant to provisions in the declaration made in accordance with subdivision A 7 of § 55.1-2116. The allocations shall be made by amendments to the declaration.

**§ 55.1-2120. Exercise of development rights.**

A. To exercise any development right reserved under subdivision A 8 of § 55.1-2116, the declarant shall prepare, execute, and record an amendment to the declaration as specified in § 55.1-2127. The amendment to the declaration must assign an identifying number to each new unit created and, except in the case of subdivision or conversion of units described in subsection B, reallocate the allocated interests among all cooperative interests. The amendment must describe any common elements and any limited common elements created by such amendment and, in the case of limited common elements, designate to which of the units each is allocated to the extent required by § 55.1-2119.

B. Development rights may be reserved within any real estate added to the cooperative if the amendment adding that real estate includes all matters required by § 55.1-2116 or 55.1-2117, as appropriate. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to subdivision A 8 of § 55.1-2116.

C. Whenever a declarant exercises a development right to subdivide or convert a unit previously created into additional units, common elements, or both:

1. If the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of the cooperative interest of which that unit is a part among the other cooperative interests as if that unit had been taken by eminent domain.

2. If the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration must reallocate all the allocated interests of the cooperative interest of which that unit is a part among the cooperative interests created by the subdivision in any reasonable manner prescribed by the declarant.

D. If the declaration provides, pursuant to subdivision A 8 of § 55.1-2116, that all of or a portion of the real estate is subject to the development right of withdrawal:

1. If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a cooperative interest has been conveyed to a purchaser; and

2. If a portion or portions are subject to withdrawal, no portion may be withdrawn after a cooperative interest in that portion has been conveyed to a purchaser.

**§ 55.1-2121. Alterations of units.**

Subject to the provisions of the declaration and other provisions of law, a proprietary lessee:

1. May make any improvements or alterations to his unit that do not impair the structural integrity or the electrical or mechanical systems of any portion of the cooperative;

2. Shall not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the cooperative, other than the interior of the unit, without permission of the association;

3. After acquiring a cooperative interest of which an adjoining unit or an adjoining part of an adjoining unit is a part, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or electrical or mechanical systems of any portion of the cooperative. Removal of partitions or creation of apertures under this subdivision is not an alteration of boundaries.

**§ 55.1-2122. Relocation of boundaries between adjoining units.**

A. Subject to the provisions of the declaration and other provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration upon application to the association by the proprietary lessees of those units. If the proprietary lessees of the adjoining units have specified a reallocation between their cooperative interests of their allocated interests, the application shall state the proposed reallocations. Unless the executive board determines within 30 days that the reallocations are unreasonable, the association shall prepare an amendment that identifies the units involved, states the reallocations, is executed by those proprietary lessees, contains words of conveyance between them, and upon recordation is indexed in the name of the grantor and the grantee.

B. The association shall prepare and record amendments to the declaration, including any plans necessary to show or describe the altered boundaries between adjoining units and their sizes and identifying numbers. All costs for such

preparation and recordation shall be borne by the proprietary lessees involved.

**§ 55.1-2123. Subdivision of units.**

A. If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to the provisions of the declaration and other provisions of law, upon application of a proprietary lessee to subdivide a unit, the association shall prepare, execute, and record an amendment to the declaration subdividing that unit. All costs for such preparation, execution, and recordation shall be borne by the proprietary lessees involved.

B. The amendment to the declaration must (i) be executed by the proprietary lessee of the unit to be subdivided, (ii) assign an identifying number to each unit created, and (iii) reallocate the allocated interests formerly allocated to the cooperative interest of which the subdivided unit is a part to the new cooperative interests in any reasonable manner prescribed by the proprietary lessee of the cooperative interest of which the subdivided unit is a part.

**§ 55.1-2124. Easement for encroachments.**

To the extent that any unit or common element encroaches on any other unit or common element, a valid easement for the encroachment exists. The easement does not relieve a proprietary lessee of liability in case of his willful misconduct or relieve a declarant or any other person of liability for failure to adhere to any representation in the public offering statement.

**§ 55.1-2125. Use for sales purposes.**

A declarant may maintain sales offices, management offices, and models in units or on common elements in the cooperative only if the declaration so provides and specifies the rights of a declarant with regard to the number, size, location, and relocation of such offices or models. Any sales office, management office, or model not designated a unit by the declaration is a common element, and if a declarant ceases to have an ownership interest in the association, he ceases to have any rights with regard to such offices or models, unless it is removed promptly from the cooperative in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the cooperative. The provisions of this section are subject to the provisions of other state law and to local ordinances.

**§ 55.1-2126. Easement rights.**

Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special declarant rights, whether arising under this chapter or reserved in the declaration.

**§ 55.1-2127. Amendment of declaration.**

A. Except in cases of amendments that may be executed by a declarant under § 55.1-2120, the association under § 55.1-2105, subsection C of § 55.1-2117, subsection C of § 55.1-2119, subsection A of § 55.1-2122, or § 55.1-2123, or certain proprietary lessees under subsection B of § 55.1-2119, subsection A of § 55.1-2122, subsection B of § 55.1-2123, or subsection B of § 55.1-2128 and except as limited by subsection D, the declaration may be amended only by vote or agreement of proprietary lessees of cooperative interests to which at least two-thirds of the votes in the association are allocated, or a larger percentage if the declaration so specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential use.

B. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

C. Every amendment to the declaration must be recorded in every county or city in which any portion of the cooperative is located and is effective only upon recordation. An amendment shall be indexed in the grantee's index in the name of the cooperative and the association and in the grantor's index in the name of the parties executing the amendment.

D. The declaration may be amended to extend the time limit within which special declarant rights imposed by the declaration pursuant to subdivision A 8 of § 55.1-2116 may be exercised only by vote or agreement of proprietary lessees of cooperative interests to which at least two-thirds of the votes in the association are allocated to cooperative interests not owned by a declarant, or any larger percentage the declaration specifies. Except to the extent expressly permitted or required by this subsection or other provisions of this chapter, no amendment may create or increase special declarant rights, increase the number of units, or change the boundaries of any unit, the allocated interests of a cooperative interest, or the uses to which any unit is restricted, in the absence of unanimous consent of the proprietary lessees.

E. If the time limit specified in the declaration for the creation of cooperative interests or the exercise of special declarant rights has expired, with the approval of the persons entitled to cast at least two-thirds of the votes in the association, other than any votes allocated to cooperative interests owned by the declarant, or any larger percentage as the declaration specifies, the declaration may be amended to (i) revive and reinstate any or all of the expired rights to create additional cooperative interests and any or all of the expired special declarant rights and (ii) vest in any person, including the original declarant, any or all of the powers, rights, privileges, and authority to which a declarant is entitled under this chapter regarding the exercise of the revived and reinstated rights with respect to any parcel of real estate that is a common element or any additional real estate that such amendment permits to be added to the cooperative. In no event, however, shall any such amendment extend or renew a period of declarant control of the association or provide a new period of declarant control.

F. Amendments to the declaration required by this chapter to be recorded by the association shall be prepared, executed, recorded, and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of such designation, by the president of the association.

**§ 55.1-2128. Termination of cooperative ownership.**

A. Except in the case of a taking of all the units by eminent domain, or in the case of foreclosure of a security interest against the entire cooperative that has priority over the declaration, cooperative ownership may be terminated only by agreement of proprietary lessees of cooperative interests to which at least four-fifths of the votes in the association are allocated or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units in the cooperative are restricted exclusively to nonresidential uses.

B. An agreement to terminate must be evidenced by the execution of a termination agreement or ratification of such agreement in the same manner as a deed by the requisite number of proprietary lessees. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all such ratifications must be recorded in every county or city in which a portion of the cooperative is situated and is effective only upon recordation.

C. The association, on behalf of the proprietary lessees, may contract for the sale of real estate in the cooperative, but the contract is not binding until approved pursuant to subsections A and B. After such approval, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded, and the proceeds of such sale are distributed, the association continues in existence with all powers it had before termination. Except to the extent that any provisions in the declaration limit the amount that may be received by a proprietary lessee upon termination, as set forth in subdivision A 12 of § 55.1-2116, proceeds of the sale must be distributed to holders of liens against the association and against the cooperative interests and to proprietary lessees, all as their interests may appear, in accordance with subsections D and E. Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each proprietary lessee and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit. During the period of such occupancy, each proprietary lessee and his successors in interest remain liable for all assessments and other obligations imposed on proprietary lessees by this chapter or the declaration.

D. Following termination of the cooperative, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for proprietary lessees and holders of liens against the association and the cooperative interests, as their interests may appear. The declaration may provide that all creditors of the association have priority over any interests of proprietary lessees and creditors of proprietary lessees. Where the declaration provides such a priority, following termination, creditors of the association holding liens on the cooperative that were recorded or docketed before termination may enforce their liens in the same manner as any lienholder, and all other creditors of the association are to be treated as if they had perfected liens against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have such priority:

1. The lien of each creditor of the association that was perfected against the association before termination becomes a lien against each cooperative interest upon termination as of the date the lien was perfected;

2. All other creditors of the association are to be treated as if they had perfected liens against the cooperative interests immediately before termination;

3. The amounts of the liens of the association's creditors described in subdivisions 1 and 2 against each of the cooperative interests must be proportionate to the ratio that that cooperative interest's common expense liability bears to the common expense liability of all the cooperative interests;

4. The lien of each creditor of each proprietary lessee that was perfected before termination continues as a lien against that proprietary lessee's cooperative interest as of the date the lien was perfected; and

5. The assets of the association shall be distributed to all proprietary lessees and all lienholders against their cooperative interests as their interests may appear in the order described in subdivisions 1 through 4, and creditors of the association are not entitled to payment from any proprietary lessee in excess of the amount of the creditor's lien against that proprietary lessee's cooperative interest.

E. The respective interests of proprietary lessees referred to in subsections C and D are as follows:

1. Except as provided in subdivision 2, the respective interests of proprietary lessees are the fair market values of their cooperative interests immediately before the termination, as determined by one or more independent appraisers selected by the association. Appraisers selected shall hold a designation awarded by a major, nationwide testing or certifying professional appraisal society or association. The decision of the independent appraisers shall be distributed to the proprietary lessees and becomes final unless disapproved within 30 days after distribution by proprietary lessees of cooperative interests to which 25 percent of the votes in the association are allocated. The proportion of any proprietary lessee's interest to that of all proprietary lessees is determined by dividing the fair market value of that proprietary lessee's cooperative interest by the total fair market values of all the cooperative interests.

2. If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value of the unit or limited common element before destruction cannot be made, the interests of all proprietary lessees are their respective ownership interests in the association immediately before the termination.

**§ 55.1-2129. Rights of secured lenders.**

The declaration may require that all or a specified number or percentage of the lenders holding security interests encumbering the cooperative interests approve specified actions of the proprietary lessees or the association as a condition to the effectiveness of those actions, but no requirement for approval shall operate to (i) deny or delegate control over the general administrative affairs of the association by the proprietary lessees or the executive board; (ii) prevent the

association or the executive board from commencing, intervening in, or settling any litigation or proceeding; or (iii) receive and distribute any insurance proceeds except pursuant to § 55.1-2145.

**§ 55.1-2130. Master associations.**

A. If the declaration provides that any of the powers described in § 55.1-2134 are to be exercised by or may be delegated to a for-profit or nonprofit corporation or unincorporated association that exercises those or other powers on behalf of one or more cooperatives or for the benefit of the proprietary lessees of one or more cooperatives, all provisions of this chapter applicable to associations apply to any such corporation or unincorporated association, except as modified by this section.

B. Unless a master association is acting in the capacity of an association described in § 55.1-2132, it may exercise the powers set forth in subdivision A 2 of § 55.1-2133 only to the extent expressly permitted in the declarations of the cooperatives that are part of the master association or expressly described in the delegations of power from those cooperatives to the master association.

C. If the declaration of any cooperative provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to the delegated powers.

D. The rights and responsibilities of proprietary lessees with respect to the association set forth in §§ 55.1-2134, 55.1-2140, 55.1-2141, 55.1-2142, and 55.1-2144 apply in the conduct of the affairs of a master association only to those persons who elect the board of a master association, whether or not those persons are otherwise proprietary lessees within the meaning of this chapter.

E. Notwithstanding the provisions of subsection F of § 55.1-2134, with respect to the election of the executive board of an association by all proprietary lessees after the period of declarant control ends, and even if a master association is also an association as described in § 55.1-2132, the certificate of incorporation or other instrument creating the master association and the declaration of each cooperative, the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association must be elected after the period of declarant control in any of the following ways:

1. All proprietary lessees of all cooperatives subject to the master association may elect all members of that executive board.

2. All members of the executive boards of all cooperatives subject to the master association may elect all members of that executive board.

3. All proprietary lessees of each cooperative subject to the master association may elect specified members of that executive board.

4. All proprietary lessees of the executive board of each cooperative subject to the master association may elect specified members of that executive board.

**§ 55.1-2131. Merger or consolidation of cooperatives.**

A. Any two or more cooperatives, by agreement of the proprietary lessees as provided in subsection B, may be merged or consolidated into a single cooperative. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant cooperative is, for all purposes, the legal successor of all of the preexisting cooperatives. The operations and activities of all associations of the preexisting cooperatives shall be merged or consolidated into a single association, which shall hold all powers, rights, obligations, assets, and liabilities of all preexisting associations.

B. An agreement of two or more cooperatives to merge or consolidate pursuant to subsection A must be evidenced by an agreement prepared, executed, recorded, and certified by the president of the association of each of the preexisting cooperatives following approval by proprietary lessees of cooperative interests to which are allocated the percentage of votes in each cooperative required to terminate that cooperative. Any such agreement must be recorded in every county or city in which a portion of the cooperative is located and is not effective until recorded.

C. Every merger or consolidation agreement must provide for the reallocation of the allocated interests in the new association among the cooperative interests of the resultant cooperative either (i) by stating the reallocations or the formulas upon which they are based or (ii) by stating the percentage of overall allocated interest of the new cooperative that are allocated to all of the cooperative interests comprising each of the preexisting cooperatives and providing that the portion of the percentages allocated to each cooperative interest formerly comprising a part of the preexisting cooperative must be equal to the percentages of allocated interests allocated to that cooperative interest by the declaration of the preexisting cooperative.

Article 3.

Management of Cooperatives.

**§ 55.1-2132. Organization of the association.**

An association must be organized no later than the date the first cooperative interest in the cooperative is conveyed. The membership of the association at all times shall consist exclusively of all the proprietary lessees or, following termination of the cooperative, of all former proprietary lessees entitled to distributions of proceeds under § 55.1-2128 or their heirs, successors, or assigns. The association shall be organized as a stock or nonstock corporation, trust, trustee, unincorporated association, or partnership.

**§ 55.1-2133. Powers of the association.**

A. Except as provided in subsection B, and subject to the provisions of the declaration, the association, even if

unincorporated, may:

1. Adopt and amend bylaws and rules and regulations;
2. Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from proprietary lessees;
3. Hire and discharge managing agents and other employees, agents, and independent contractors;
4. Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more proprietary lessees on matters affecting the cooperative;
5. Make contracts and incur liabilities;
6. Regulate the use, maintenance, repair, replacement, and modification of common elements;
7. Cause additional improvements to be made as a part of the common elements;
8. Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but part of the cooperative may be conveyed, or all or part of the cooperative may be subjected to, a security interest only pursuant to § 55.1-2144;
9. Grant easements, leases, licenses, and concessions through or over the common elements;
10. Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in subdivisions 2 and 4 of § 55.1-2113, and for services provided to proprietary lessees;
11. Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy fines not to exceed \$50 for each instance for violations of the declaration, bylaws, and rules and regulations of the association;
12. Impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required by § 55.1-2161, or statements of unpaid assessments;
13. Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;
14. Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;
15. Exercise any other powers conferred by the declaration or bylaws;
16. Exercise all other powers that may be exercised in the Commonwealth by legal entities of the same type as the association; and
17. Exercise any other powers necessary and proper for the governance and operation of the association.

B. The declaration shall not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons.

**§ 55.1-2134. Executive board members and officers.**

A. Except as provided in the declaration, the bylaws, subsection B, or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are required to exercise (i) the care required of fiduciaries of the proprietary lessees if appointed by the declarant and (ii) ordinary and reasonable care if elected by the proprietary lessees.

B. The executive board may not act on behalf of the association to amend the declaration; to terminate the cooperative; to elect members of the executive board, except as provided in the declaration pursuant to subsection F; or to determine the qualifications, powers, and duties or terms of office of executive board members. The executive board may fill vacancies in its membership for the unexpired portion of any term.

C. Within 30 days after adoption of any proposed budget for the cooperative, the executive board shall provide a summary of the budget to all the proprietary lessees and shall set a date for a meeting of the proprietary lessees to consider ratification of the budget. Such meeting shall be held not less than 14 nor more than 30 days after mailing of the summary. The meeting place, date, and time shall be provided with the budget summary. Unless at that meeting a majority of all the proprietary lessees or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the proprietary lessees shall be continued until such time as the proprietary lessees ratify a subsequent budget proposed by the executive board.

D. Subject to subsection E, the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of (i) 60 days after conveyance of 75 percent of the cooperative interests that may be created to proprietary lessees other than a declarant, (ii) two years after all declarants have ceased to offer cooperative interests for sale in the ordinary course of business, or (iii) two years after any development right to add new units was last exercised. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event he may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

E. No later than 60 days after conveyance of 25 percent of the cooperative interests that may be created to proprietary lessees other than a declarant, at least one member and at least 25 percent of the members of the executive board must be elected by proprietary lessees other than the declarant. No later than 60 days after conveyance of 50 percent of the cooperative interests that may be created to proprietary lessees other than a declarant, at least one-third of the members of

*the executive board must be elected by proprietary lessees other than the declarant.*

*F. Unless the declaration provides for the selection of one or more independent members of the executive board, no later than the termination of any period of declarant control the proprietary lessees shall elect an executive board of at least three members, at least a majority of whom must be proprietary lessees. To the extent that the declaration so provides, the members of the executive board appointed by the declarant may continue to serve out their terms, and the declarant may continue to appoint a minority of the members of the executive board until all of the development rights reserved by the declarant have been exercised or have expired. In addition, the declaration may provide for the selection of one or more independent members of the executive board, who are neither proprietary lessees nor affiliated directly or indirectly in any way with the declarant, by a vote of two-thirds of the members of the executive board. The executive board shall elect the officers. The executive board members and officers shall take office upon election.*

*G. Notwithstanding any provision of the declaration or bylaws to the contrary, the proprietary lessees, by a two-thirds vote of all persons entitled to vote at any meeting of the proprietary lessees at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.*

**§ 55.1-2135. Transfer of special declarant rights.**

*A. No special declarant rights created or reserved under this chapter may be transferred except by an instrument evidencing the transfer recorded in every county or city in which any portion of the cooperative is located. The instrument is not effective unless executed by the transferee.*

*B. Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:*

*1. A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed upon him by this chapter. Lack of privity does not deprive any proprietary lessee of standing to maintain an action to enforce any obligation of the transferor.*

*2. If a successor to any special declarant right is an affiliate of a declarant, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the cooperative.*

*3. If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant rights and arising after the transfer.*

*4. A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an affiliate of the transferor.*

*C. Unless otherwise provided in a security agreement, in case of foreclosure of a security agreement, tax sale, judicial sale, sale by a trustee under a security agreement or sale under receivership proceedings or the Bankruptcy Code as codified in Title 11 of the United States Code, of any cooperative interests owned by a declarant or of real estate in a cooperative subject to development rights:*

*1. A person acquiring all the cooperative interests or real estate being foreclosed or sold shall succeed, but only upon his request, to all special declarant rights related to that property held by that declarant or only to any rights reserved in the declaration pursuant to § 55.1-2125 and held by that declarant to maintain models, sales offices, and signs.*

*2. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights requested.*

*D. Upon foreclosure, tax sale, judicial sale, sale by a trustee under a security agreement, or sale under receivership proceedings or the Bankruptcy Code as codified in Title 11 of the United States Code, of all cooperative interests or real estate in a cooperative owned by a declarant:*

*1. The declarant ceases to have any special declarant rights, and*

*2. The period of declarant control as provided in subsection D of § 55.1-2134 terminates unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant.*

*E. The liabilities and obligations of a person who succeeds to special declarant rights are as follows:*

*1. A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or by the declaration.*

*2. A successor to any special declarant right, other than a successor described in subdivision 3 or 4, who is not an affiliate of a declarant is subject to all obligations and liabilities imposed by this chapter or the declaration:*

*a. On a declarant that relate to his exercise or non-exercise of special declarant rights; or*

*b. On his transferor, other than:*

*(1) Misrepresentations by any previous declarant;*

*(2) Warranty obligations on improvements made by any previous declarant or made before the cooperative was created;*

*(3) Breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or*

*(4) Any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.*

*3. A successor to only a right reserved in the declaration to maintain models, sales offices, and signs pursuant to § 55.1-2125, if he is not an affiliate of a declarant, may not exercise any other special declarant right and is not subject to any liability or obligation as a declarant, except the obligation to provide a current public offering statement, any liability arising as a result of providing a public offering statement, and obligations under Article 5 (§ 55.1-2173 et seq.).*

*4. A successor to all special declarant rights held by his transferor who is not an affiliate of that declarant and who*

succeeded to those rights pursuant to a deed or other instrument of conveyance in lieu of foreclosure or a judgment or instrument conveying title to cooperative interests or real estate subject to development rights under subsection C may declare his intention in a recorded instrument to hold those rights solely for transfer to another person. After declaring such an intention in a recorded instrument, until transferring all special declarant rights to any person acquiring title to any cooperative interest or real estate subject to development rights owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his transferor to control the executive board in accordance with the provisions of subsection D of § 55.1-2134 for the duration of any period of declarant control, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under subsection D of § 55.1-2134.

F. Nothing in this section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter or the declaration.

**§ 55.1-2136. Termination of contracts and leases of declarant.**

If entered into before the executive board elected by the proprietary lessees pursuant to subsection F of § 55.1-2134 takes office, (i) any management contract, employment contract, or lease of recreational or parking areas or facilities, (ii) any other contract or lease between the association and a declarant or an affiliate of a declarant, or (iii) any contract or lease that is not bona fide or was unconscionable to the proprietary lessees at the time entered into under the circumstances then prevailing may be terminated without penalty by the association at any time after the executive board elected by the proprietary lessees pursuant to subsection F of § 55.1-2134 takes office after giving at least 90 days' notice to the other party. However, a management contract that is not unconscionable between an association directly or indirectly providing assisted living or nursing services to proprietary lessees and a declarant or an affiliate of a declarant may not be terminated while a member of the executive board appointed by the declarant continues to serve unless such termination is approved by a vote of a majority of the members of the executive board and a majority vote of the proprietary lessees, other than the declarant.

This section does not apply to any proprietary lease or any lease the termination of which would terminate the cooperative or reduce its size, unless the real estate subject to that lease was included in the cooperative for the purpose of avoiding the right of the association to terminate a lease under this section. This section does not apply to any contract, incidental to the disposition of a cooperative interest, to provide to a proprietary lessee for the duration of such proprietary lessee's life, or for any term in excess of one year, nursing services, medical services, other health-related services, board and lodging, and care as necessary, or any combination of such services. The rule of property law known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the declaration, bylaws, or proprietary leases requiring that the proprietary lessees be parties to such contracts.

**§ 55.1-2137. Bylaws.**

A. The bylaws of the association shall provide for:

1. The number of members of the executive board and the titles of the officers of the association;
2. Election by the executive board of a president, treasurer, secretary, and any other officers of the association the bylaws specify;
3. The qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;
4. Which, if any, of its powers and responsibilities the executive board or officers may delegate to other persons or to a managing agent;
5. Which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and
6. The method of amending the bylaws.

B. Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate, including a provision for the arbitration of disputes or other means of alternative dispute resolution in accordance with subsection B of § 55.1-2169.

**§ 55.1-2138. Upkeep of cooperative.**

A. Except to the extent otherwise provided by the declaration, by subsection B, or by subsection G of § 55.1-2145, the association is responsible for maintenance, repair, and replacement of the common elements, and each proprietary lessee is responsible for maintenance, repair, and replacement of his unit. Each proprietary lessee shall afford to the association and the other proprietary lessees, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the proprietary lessee responsible for the damage, or the association if it is responsible, is liable for the prompt repair and all costs associated with such repair.

B. In addition to the liability that a declarant as a proprietary lessee has under this chapter, the declarant alone is liable for all expenses in connection with real estate subject to development rights. No other proprietary lessee and no other portion of the cooperative is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the declarant.

**§ 55.1-2139. Common elements; notice of pesticide application.**

Associations shall post notification of all pesticide applications in or upon the common elements. Such notice shall

consist of conspicuous signs placed in or upon the common elements where the pesticide will be applied at least 48 hours prior to the application.

**§ 55.1-2140. Meetings.**

A meeting of the association must be held at least once each year. Special meetings of the association may be called by (i) the president, (ii) a majority of the executive board, or (iii) 20 percent, or any lower percentage if so specified in the bylaws, of the proprietary lessees. No less than 10 or more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the proprietary lessee. The notice of any meeting shall state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.

**§ 55.1-2141. Quorums.**

A. Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast 20 percent of the votes that may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.

B. Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast 50 percent of the votes on that board are present at the beginning of the meeting.

**§ 55.1-2142. Voting; proxies.**

A. If only one of the multiple proprietary lessees of a unit is present at a meeting of the association, he is entitled to cast all the votes allocated to the cooperative interest of which that unit is a part. If more than one of the multiple proprietary lessees are present, the votes allocated to that cooperative interest may be cast only in accordance with the agreement of a majority in interest of the multiple proprietary lessees, unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple proprietary lessees casts the votes allocated to that cooperative interest without protest being made promptly to the person presiding over the meeting by any of the other proprietary lessees of the cooperative interest.

B. Votes allocated to a cooperative interest may be cast pursuant to a proxy duly executed by a proprietary lessee. If there is more than one proprietary lessee of a unit, each proprietary lessee of the unit may vote or register protest to the casting of votes by the other proprietary lessees of the unit through a duly executed proxy. A proprietary lessee may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless a shorter term is specified.

C. If the declaration requires that votes on specified matters affecting the cooperative be cast by lessees other than proprietary lessees of leased units: (i) the provisions of subsections A and B apply to lessees as if they were proprietary lessees; (ii) proprietary lessees who have leased their units to other persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were proprietary lessees. Proprietary lessees must also be given notice, in the manner provided in § 55.1-2140, of all meetings at which such lessees may be entitled to vote.

D. All votes allocated to a cooperative interest owned by the association shall be deemed present for quorum purposes at all duly called meetings of the association and shall be deemed cast in the same proportions as the votes cast by proprietary lessees, other than the association.

**§ 55.1-2143. Tort and contract liability.**

Neither the association nor any proprietary lessee except the declarant is liable for that declarant's torts in connection with any part of the cooperative that that declarant has the responsibility to maintain. Otherwise, an action alleging wrongdoing by the association shall be brought against the association and not against any proprietary lessee. If such wrongdoing occurred during any period of declarant control, and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any proprietary lessee (i) for all tort losses not covered by insurance suffered by the association or that proprietary lessee and (ii) for all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission. Whenever the declarant is liable to the association under this section, the declarant is also liable for all litigation expenses, including reasonable attorney fees, incurred by the association. Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates.

A proprietary lessee is not precluded from bringing an action contemplated by this section because he is a proprietary lessee or a member or officer of the association. Liens resulting from judgments against the association are governed by § 55.1-2151.

**§ 55.1-2144. Conveyance or encumbrance of the cooperative.**

A. Part of the cooperative may be conveyed, and all or part of the cooperative may be subjected to a security interest, by the association if persons entitled to cast at least 80 percent of the votes in the association, including a simple majority of the votes allocated to cooperative interests not owned by a declarant, or any larger percentage the declaration specifies, agree to that action. If fewer than all the units or limited common elements are to be conveyed or subjected to a security interest, then all the proprietary lessees of those units, or the units to which those limited common elements are allocated, must agree in order to convey those units or limited common elements or subject them to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Proceeds of the

*sale are an asset of the association.*

*B. An agreement to convey a part of the cooperative or subject it to a security interest must be evidenced by the execution of an agreement, or ratifications of such an agreement, in the same manner as a deed, by the requisite number of proprietary lessees. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and such ratifications must be recorded in every county or city in which a portion of the cooperative is situated and is effective only upon recordation.*

*C. The association, on behalf of the proprietary lessees, may contract to convey a part of the cooperative or subject it to a security interest, but the contract is not enforceable against the association until approved pursuant to subsections A and B. After such approval, the association has all powers necessary and appropriate to effect the conveyance or encumbrance including the power to execute deeds or other instruments.*

*D. Any purported conveyance, encumbrance, or other voluntary transfer of the cooperative, unless made pursuant to this section or pursuant to subsection C of § 55.1-2128, is void.*

*E. A conveyance or encumbrance of the cooperative pursuant to this section does not deprive any unit of its rights of access and support.*

**§ 55.1-2145. Insurance.**

*A. Commencing not later than the time of the first conveyance of a cooperative interest to a person other than a declarant, the association shall maintain to the extent reasonably available:*

*1. Property insurance on the common elements and units insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion building, against fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than 80 percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and*

*2. Liability insurance, including medical payments insurance, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements and units.*

*B. If the insurance described in subsection A is not reasonably available, the association shall notify all proprietary lessees by hand delivery or by United States mail, sent prepaid. The declaration may require the association to carry any other insurance, and the association may carry any other insurance it deems appropriate to protect the association or the proprietary lessees.*

*C. Insurance policies carried pursuant to subsection A must provide that:*

*1. Each proprietary lessee is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;*

*2. The insurer waives its right to subrogation under the policy against any proprietary lessee or member of his household;*

*3. No act or omission by any proprietary lessee, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and*

*4. If, at the time of a loss under the policy, there is other insurance in the name of a proprietary lessee covering the same risk covered by the policy, the association's policy provides primary insurance.*

*D. Any loss covered by the property policy under subdivision A 1 must be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the association shall hold any insurance proceeds in trust for the association, proprietary lessees, and lien holders as their interests may appear. Subject to the provisions of subsection G, the proceeds must be disbursed first for the repair or restoration of the damaged property. The association, proprietary lessees, and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the cooperative is terminated.*

*E. An insurance policy issued to the association does not prevent a proprietary lessee from obtaining insurance for his own benefit.*

*F. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any proprietary lessee or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each proprietary lessee, and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known address.*

*G. Any portion of the cooperative for which insurance is required under this section that is damaged or destroyed shall be repaired or replaced promptly by the association unless (i) the cooperative is terminated; (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (iii) 80 percent of the proprietary lessees, including every proprietary lessee of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire cooperative is not repaired or replaced, (a) the insurance proceeds attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the cooperative and (b) except to the*

extent that other persons will be distributees, the insurance proceeds attributable to units and limited common elements that are not rebuilt must be distributed to the proprietary lessees of those units and the proprietary lessees of the units to which those limited common elements were allocated, or to lien holders, as their interests may appear, and the remainder of the proceeds must be distributed to all the proprietary lessees or lien holders, as their interests may appear, in proportion to the common expense liabilities of all the cooperative interests. If the proprietary lessees vote not to rebuild any unit, the allocated interests of the cooperative interest of which that unit is a part are automatically reallocated upon the vote as if the unit had been condemned under subsection A of § 55.1-2105, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, § 55.1-2128 governs the distribution of insurance proceeds if the cooperative is terminated.

H. The provisions of this section may be varied or waived in the case of a cooperative whose units are all restricted to nonresidential use.

**§ 55.1-2146. Assessments for common expenses.**

A. Until the association makes a common expense assessment, the declarant shall pay all common expenses. After any assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association.

B. Except for assessments under subsections C, D, E, and F, all common expenses shall be assessed against all the cooperative interests in accordance with the allocations set forth in the declaration pursuant to subsection A of § 55.1-2118.

Any past-due common expense assessment or installment bears interest at the rate established by the association not exceeding 18 percent per year.

C. To the extent required by the declaration:

1. Any common expense associated with the maintenance, repair, or replacement of a limited common element must be assessed equally against the cooperative interests for the units to which that limited common element is assigned, or in any other proportion that the declaration provides;

2. Any common expense or portion benefiting fewer than all of the units must be assessed exclusively against the cooperative interests for the units benefited; and

3. The costs of insurance must be assessed in proportion to risk, and the costs of utilities must be assessed in proportion to usage.

D. Assessments to pay a judgment against the association may be made only against the cooperative interests in the cooperative at the time the judgment was entered, in proportion to their common expense liabilities.

E. If any common expense is caused by the negligence or other misconduct of any proprietary lessee, or of his family members, tenants, or other invitees, the association may assess that expense exclusively against his cooperative interest.

F. Notwithstanding any other provision in this section, in any cooperative where permanent residency is, in general, restricted to individuals age 55 and over, and the primary purpose of the association is to provide services and amenities to the residents of the cooperative that are consistent with the services and amenities typically provided to residents of full service senior housing communities in the United States, the declaration may provide, or may be amended to provide by vote or agreement of proprietary lessees of cooperative interests to which at least two-thirds of the votes in the association are allocated, or any larger percentage if so specified in the declaration, that:

1. Common expenses may be assessed against all cooperative interests in accordance with the standards in general use from time to time among full-service senior housing communities in the United States for the purpose of fairly and equitably establishing the fees and charges imposed on their residents to pay for all common expenses of such senior housing communities, including the expenses of providing services and amenities, such standards to be determined by the executive board of the association, acting reasonably;

2. Common expenses may be assessed against any cooperative interest that has been created pursuant to the declaration but as to which construction of the unit appurtenant to such cooperative interest has not been completed, provided that nothing contained in this subdivision shall relieve the declarant of its obligations under subsection B of § 55.1-2138; and

3. Common expenses may be assessed against any cooperative interest as to which the unit appurtenant to such cooperative interest has been completed until the unit is initially permanently occupied, provided, however, that all such cooperative interests shall pay all direct expenses of the association related to such cooperative interests and any common expenses that directly benefit such cooperative interest, in each case, determined in accordance with the provisions set forth in the declaration or the association's bylaws, provided, however, that if neither the declaration nor the bylaws contain such provisions, then such expenses shall be paid in accordance with the allocations set forth in the declaration pursuant to subsection A of § 55.1-2118.

G. If common expense liabilities are reallocated, common expense assessments and any installment not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

**§ 55.1-2147. Reserves for capital components.**

A. Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements, the executive board shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components;

2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

B. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components;

2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year; and

3. A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to this section and the extent to which the association is funding its reserve obligations consistent with the study currently in effect.

**§ 55.1-2148. Remedies for nonpayment of assessments.**

A. The association has a lien on a cooperative interest for any assessment levied against that cooperative interest or fines imposed against its owner from the time the assessment or fines become due. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to subdivisions A 11 and 12 of § 55.1-2133 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due. Upon nonpayment of the assessment, the proprietary lessee may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided by this section. The association's lien may be foreclosed (i) by judicial sale in like manner as a mortgage on real estate or (ii) by power of sale as provided in subsection I.

B. A lien under this section is prior to all other liens and encumbrances on a cooperative interest except (i) liens and encumbrances on the cooperative that the association creates, assumes, or takes subject to; (ii) any first security interest encumbering only the cooperative interest of a proprietary lessee and perfected before the date on which the assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the cooperative or the cooperative interest. The lien is also prior to the security interests described in clause (ii) to the extent of the common expense assessments based on the periodic budget adopted by the association pursuant to subsection A of § 55.1-2133 that would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the association. The lien under this section is not subject to homestead or other exemptions.

C. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

D. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation or filing of any claim of lien for assessment under this section is required.

E. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessment becomes due.

F. This section does not prohibit actions to recover sums for which subsection A creates a lien or prohibit an association from taking a transfer in lieu of foreclosure.

G. A judgment in any action brought under this section shall include costs and reasonable attorney fees for the prevailing party.

H. Upon written request, the association shall furnish to a proprietary lessee a statement setting forth the amount of unpaid assessments against his cooperative interest. The statement shall be in recordable form. The statement shall be furnished within 10 business days after receipt of the request and is binding on the association, the executive board, and every proprietary lessee.

I. The association, upon nonpayment of assessments and compliance with this subsection, may sell the cooperative interest. Sale may be at a public sale or by private negotiation and at any time and place, but every aspect of the sale, including the method, advertising, time, place, and terms, must be reasonable. The association shall give to the proprietary lessee and any sublessees of the proprietary lessee reasonable written notice of the time and place of any public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time after which a private disposition may be made. The same notice must also be sent to any other person who has a recorded interest in the cooperative interest that would be cut off by the sale, but only if the interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required by this subsection may be sent to any address reasonable in the circumstances. Sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

J. The proceeds of a sale under subsection I shall be applied in the following order:

1. The reasonable expenses of sale;

2. The reasonable expenses of securing possession before sale; holding, maintaining, and preparing the cooperative interest for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by agreement between the association and the proprietary lessee, reasonable attorney fees

and other legal expenses incurred by the association;

3. Satisfaction in the order of priority of any prior claims of record;

4. Satisfaction of the association's lien;

5. Satisfaction in the order of priority of any subordinate claim of record; and

6. Remittance of any excess to the proprietary lessee. Unless otherwise agreed, the proprietary lessee is liable for any deficiency.

K. If a cooperative interest is sold under subsection I, a good faith purchaser for value acquires the proprietary lessee's interest in the cooperative interest free of the association's debt that gave rise to the lien under which the sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with the requirements of this section. The person conducting the sale under subsection I shall execute a conveyance to the purchaser sufficient to convey the cooperative interest that states that the conveyance is executed by him, after a foreclosure by power of sale of the association's lien and that he has power to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of nonpayment of the assessment and of the giving of the notices required by subsection I are sufficient proof of the facts recited and of his authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.

L. At any time before the association has disposed of the cooperative interest or entered into a contract for its disposition under the power of sale, the proprietary lessee or the holder of any subordinate security interest may cure the proprietary lessee's default and prevent sale or other disposition by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorney fees of the creditor.

**§ 55.1-2149. Other liens affecting the cooperative.**

A. Regardless of whether his cooperative interest is subject to the claims of the association's creditors, no property of a proprietary lessee other than his cooperative interest is subject to those claims.

B. If the association receives notice of an impending foreclosure on all or any portion of the association's real estate, the association shall promptly transmit a copy of that notice to each proprietary lessee of a unit located within the real estate to be foreclosed. Failure of the association to transmit the notice does not affect the validity of the foreclosure.

**§ 55.1-2150. Limitation of assumption of debt and encumbrances.**

Unless approved by persons entitled to cast at least 80 percent of the votes in the association, including a simple majority of the votes allocated to cooperative interests not owned by a declarant or any larger percentage the declaration specifies, (i) the association shall not assume or take subject to any debt, inclusive of any principal and interest accrued thereon, incurred in the original acquisition, development, or construction of or the conversion of or the cooperative in excess of the amounts disclosed in the public offering statement pursuant to § 55.1-2155 or 55.1-2156, nor shall the cooperative or any proprietary lessee's interest be encumbered by a security interest for any greater amount incurred for such purposes, and (ii) the declarant shall not amend the public offering statement to change the amounts disclosed after conveyance of the first unit to a proprietary lessee. However, the amounts disclosed shall not be subject to adjustment such that the association or the proprietary lessees are subjected to the construction or market risks of the declarant.

**§ 55.1-2151. Association records.**

The association shall keep financial records sufficiently detailed to enable the association to comply with § 55.1-2161. All financial and other records shall be made reasonably available for examination by any proprietary lessee and his authorized agents.

**§ 55.1-2152. Association as trustee.**

With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

Article 4.

Protection of Cooperative Purchasers.

**§ 55.1-2153. Applicability; waiver.**

A. This article applies to all cooperative interests subject to this chapter, except as provided in subsection B or as modified or waived by agreement of purchasers of cooperative interests in a cooperative in which all units are restricted to nonresidential use.

B. Neither a public offering statement nor a resale certificate need be prepared or delivered in the case of:

1. A gratuitous disposition of a cooperative interest;

2. A disposition pursuant to court order;

3. A disposition by a government or governmental agency;

4. A disposition by foreclosure or transfer in lieu of foreclosure;

5. A disposition to a person in the business of selling cooperative interests who intends to offer those cooperative interests to purchasers; or

6. A disposition that may be canceled at any time and for any reason by the purchaser without penalty.

**§ 55.1-2154. Liability for public offering statement; requirements.**

A. Except as provided in subsection B, a declarant, prior to the offering of any cooperative interest to the public, shall prepare a public offering statement conforming to the requirements of §§ 55.1-2155, 55.1-2156, 55.1-2157, and 55.1-2158.

B. A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant or to a person in the business of selling cooperative interests who intends to offer cooperative interests in the cooperative for his own account. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection A.

C. Any declarant or other person in the business of selling cooperative interests who offers a cooperative interest for his own account to a purchaser shall deliver a public offering statement in the manner prescribed in subsection A of § 55.1-2160. The person who prepared all or a part of the public offering statement is liable under §§ 55.1-2160, 55.1-2169, 55.1-2178, and 55.1-2179 for any false or misleading statement set forth in such public offering statement or for any omission of material fact from such public offering statement with respect to that portion of the public offering statement that he prepared. If a declarant did not prepare any part of a public offering statement that he delivers, he is not liable for any false or misleading statement set forth in such public offering statement or for any omission of material fact from such public offering statement unless he had actual knowledge of the statement or omission or, in the exercise of reasonable care, should have known of the statement or omission.

D. If a unit is part of a cooperative and is part of any other real estate regime in connection with the sale of which the delivery of a public offering statement is required under the laws of the Commonwealth, a single public offering statement, conforming to the requirements of §§ 55.1-2155, 55.1-2156, 55.1-2157, and 55.1-2158 as those requirements relate to each regime in which the unit is located and to any other requirements imposed under the laws of the Commonwealth, may be prepared and delivered in lieu of providing two or more public offering statements.

**§ 55.1-2155. Public offering statement; general provisions.**

A. Except as provided in subsection B, a public offering statement shall contain or fully and accurately disclose:

1. The name and principal address of the declarant and of the cooperative;

2. A general description of the cooperative, including to the extent possible the types, number, declarant's schedule of commencement, and completion of construction of buildings and amenities that the declarant anticipates including in the cooperative;

3. The number of units in the cooperative;

4. Copies and a brief narrative description of the significant features of the declaration and any other recorded covenants, conditions, restrictions, and reservations affecting the cooperative; the bylaws and any rules or regulations of the association; copies of any contracts and leases to be signed by purchasers at closing; and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under § 55.1-2136;

5. Any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for one year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget shall include:

a. A description of provisions made in the budget for reserves for repairs and replacement;

b. A statement of any other reserves;

c. The projected common expense assessment by category of expenditures for the association;

d. The projected monthly common expense assessment for each type of unit; and

e. The projected debt, inclusive of principal and any accrued interest, loan fees, and other similar charges, assumed or to be assumed by the association and an estimate of the payments necessary to service such debt.

6. Any services not reflected in the budget that the declarant provides, or expenses that he pays and that he expects may become at any subsequent time a common expense of the association, and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;

7. Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;

8. A description of any liens, defects, or encumbrances on or affecting the title to the cooperative;

9. A description of any financing offered or arranged by the declarant;

10. The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement of such warranties or on damages;

11. A statement that:

a. Within 10 days after receipt of a public offering statement a purchaser, before conveyance, may cancel any contract for purchase of a cooperative interest from a declarant; and

b. If a declarant fails to provide a public offering statement to a purchaser before conveying a cooperative interest, that purchaser may recover from the declarant 10 percent of the sales price of the cooperative interest, plus 10 percent of the share, proportionate to his common expense liability, of the indebtedness of the association secured by mortgages or deeds of trust encumbering the cooperative;

12. A statement of any unsatisfied judgments or pending actions against the association and the status of any pending actions material to the cooperative of which a declarant has actual knowledge;

13. A statement that any deposit made in connection with the purchase of a cooperative interest will be held in an

escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to § 55.1-2160, together with the name and address of the escrow agent;

14. Any restrictions on (i) use and occupancy of the units; (ii) alienation of the cooperative interests; (iii) the amount for which a cooperative interest may be sold; or (iv) the amount that may be received by a proprietary lessee upon sale, condemnation, or casualty loss to the unit or the cooperative or termination of the cooperative;

15. A description of the insurance coverage provided for the benefit of proprietary lessees;

16. Any current or expected fees or charges to be paid by proprietary lessees for the use of the common elements and other facilities related to the cooperative;

17. The extent to which financial arrangements have been provided for completion of all improvements labeled "MUST BE BUILT" pursuant to § 55.1-2171;

18. A brief narrative description of any zoning and other land use requirements affecting the cooperative;

19. A specified or maximum amount, if any, of acquisition, development, or construction debt, inclusive of principal and any accrued interest, loan fees, and other similar charges, assumed or to be assumed by the association and whether there will be a security interest encumbering the cooperative to secure repayment;

20. All unusual and material circumstances, features, and characteristics of the cooperative and the units;

21. Whether the proprietary lessees will be entitled, for federal, state, and local income tax purposes, to a pass-through of deductions for payments made by the association for real estate taxes and interest paid the holder of a security interest encumbering the cooperative; and

22. A statement as to the effect on every proprietary lessee if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative.

B. If a cooperative composed of not more than three units is not subject to any development rights, and no power is reserved to a declarant to make the cooperative part of a larger cooperative, a group of cooperatives, or other real estate, a public offering statement may include the information otherwise required by subdivisions A 9 and 10 and 15 through 19 and the narrative descriptions of documents required by subdivision A 4.

C. A declarant promptly shall amend the public offering statement to report any material change in the information required by this section.

D. The declarant shall provide a copy of the public offering statement and all amendments to the association, and the association shall maintain them in its records.

**§ 55.1-2156. Public offering statement; cooperatives subject to development rights.**

If the declaration provides that a cooperative is subject to any development rights, the public offering statement shall disclose, in addition to the information required by § 55.1-2155:

1. The maximum number of units and the maximum number of units per acre that may be created;

2. A statement of how many or what percentage of the units that may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding use restrictions;

3. If any of the units that may be built within real estate subject to development rights are not to be restricted exclusively to residential use, a statement, with respect to each portion of that real estate, of the maximum percentage of the real estate areas and the maximum percentage of the floor areas of all units that may be created therein that are not restricted exclusively to residential use;

4. A brief narrative description of any development rights reserved by a declarant and of any conditions relating to or limitations upon the exercise of development rights;

5. A statement of the maximum extent to which each cooperative interest's allocated interests may be changed by the exercise of any development right described in subdivision 4;

6. A statement of the extent to which any buildings may be erected or other improvements that may be made pursuant to any development right in any part of the cooperative will be compatible with existing buildings and improvements in the cooperative in terms of architectural style, quality of construction, and size, or a statement that no assurances are made in those regards;

7. General descriptions of all other improvements that may be made, and limited common elements that may be created within any part of the cooperative pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;

8. A statement of any limitations as to the locations of any building or other improvement that may be made within any part of the cooperative pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;

9. A statement that any limited common elements created pursuant to any development right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the cooperative, a statement of the types and sizes planned, or a statement that no assurances are made in that regard;

10. A statement that the proportion of limited common elements to units created pursuant to any development right reserved by the declarant will be approximately equal to the proportion existing within other parts of the cooperative, a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;

11. A statement that all restrictions in the declaration affecting use and occupancy of units and alienation of cooperative interests will apply to any units and cooperative interests created pursuant to any development right reserved by the declarant, a statement of any differentiations that may be made as to those units and cooperative interests, or a

statement that no assurances are made in that regard;

12. A specified or maximum amount, if any, of acquisition, development, or construction debt, inclusive of principal and any accrued interest, loan fees, and other similar charges, assumed or to be assumed by the association for each phase of the development and whether there will be a security interest encumbering the cooperative to secure repayment. If no such amount can be specified, a statement that no amount may be assumed unless approved by persons entitled to cast at least 80 percent of the votes in the association, including a simple majority of the votes allocated to cooperative interests not owned by a declarant, or any larger percentage the declaration specifies; and

13. A statement of the extent to which any assurances made pursuant to this section apply or do not apply in the event that any development right is not exercised by the declarant.

**§ 55.1-2157. Public offering statement; time-shares.**

If the declaration provides that ownership of cooperative interests or occupancy of any units is or may be in time-shares, the public offering statement shall disclose, in addition to the information required by § 55.1-2155:

1. The number and identity of units in which time-shares may be created;

2. The total number of time-shares that may be created;

3. The minimum duration of any time-shares that may be created; and

4. The extent to which the creation of time-shares will or may affect the enforceability of the association's lien for assessments provided in § 55.1-2149.

**§ 55.1-2158. Public offering statement; cooperatives containing conversion building.**

A. In addition to the information required by § 55.1-2155, the public offering statement of a cooperative containing any conversion building shall contain:

1. A statement by the declarant, based on a report prepared by an independent, registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the building;

2. A statement by the declarant of the expected useful life of each item reported on in subdivision 1, or a statement that no representations are made in that regard; and

3. A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations.

B. This section applies only to buildings containing units that may be occupied for residential use.

**§ 55.1-2159. Public offering statement; cooperative securities.**

If an interest in a cooperative is currently registered with the Securities and Exchange Commission of the United States, a declarant satisfies all requirements relating to the preparation of a public offering statement of this chapter if he delivers to the purchaser and files with the agency a copy of the public offering statement filed with the Securities and Exchange Commission. A cooperative interest is not a security under the provisions of the Securities Act, §§ 13.1-501 through 13.1-527.3.

**§ 55.1-2160. Purchaser's right to cancel.**

A. A person required to deliver a public offering statement pursuant to subsection C of § 55.1-2154 shall provide a purchaser with a copy of the public offering statement and all amendments to the public offering statement before conveyance of that cooperative interest and not later than the date of any contract of sale. The purchaser may cancel the contract within 10 days after signing the contract.

B. If a purchaser elects to cancel a contract pursuant to subsection A, he may do so by hand delivering notice of such cancellation to the offeror or by mailing notice of such cancellation by prepaid United States mail to the offeror or to his agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly.

C. If a person required to deliver a public offering statement pursuant to subsection C of § 55.1-2154 fails to provide to a purchaser to whom a cooperative interest is conveyed that public offering statement and all amendments as required by subsection A, the purchaser, in addition to any rights to damages or other relief, is entitled to receive from that person an amount equal to 10 percent of the sales price of the cooperative interest, plus 10 percent of the share, proportionate to his common expense liability, of the indebtedness of the association secured by mortgages or deeds of trust encumbering the cooperative. Execution of a purchase agreement for a cooperative interest that makes reference to the public offering statement and in which the purchaser acknowledges receipt of the public offering statement shall be sufficient proof that the declarant has fully satisfied this requirement.

**§ 55.1-2161. Resales of cooperative interests.**

A. Except in the case of a sale where delivery of a public offering statement is required, or unless exempt under subsection B of § 55.1-2153, a proprietary lessee shall furnish to a purchaser before execution of any contract for sale of a cooperative interest, or otherwise before conveyance, a copy of the declaration, the bylaws, the rules and regulations of the association, and a certificate containing:

1. A statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the cooperative interest;

2. A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling proprietary lessee;

3. A statement of any other fees payable by proprietary lessees;

4. A statement of any capital expenditures anticipated by the association for the current and next two succeeding fiscal years;

5. The current reserve study report or a summary of such report and a statement of the status and amount of any reserve or replacement fund and of any portions of those reserves designated by the association for any specified projects;

6. The most recent regularly prepared balance sheet and income and expense statement, if any, of the association, including the amount of any debt owed by the association or to be assumed by the association, inclusive of principal and any accrued interest, loan fees, and other similar charges;

7. The current operating budget of the association;

8. A statement of any unsatisfied judgments against the association and the status of any pending actions in which the association is a defendant;

9. A statement describing any insurance coverage provided for the benefit of proprietary lessees;

10. A statement as to whether the executive board has knowledge that any alterations or improvements to the unit or to the limited common elements assigned to such unit violate any provision of the declaration;

11. A statement as to whether the executive board has knowledge of any violations of the health or building codes with respect to the unit, the limited common elements assigned to such unit, or any other portion of the cooperative;

12. A statement of the remaining term of any leasehold estate affecting the cooperative and the provisions governing any extension or renewal of such leasehold;

13. Except where no public offering statement was prepared, a statement that the public offering statement and any amendments to the public offering statement are records of the association available for inspection by the purchaser;

14. An accountant's statement, if any was prepared, as to the deductibility for federal income taxes purposes by the proprietary lessee of real estate taxes and interest paid by the association;

15. A statement of any restrictions in the declaration affecting the amount that may be received by a proprietary lessee upon sale, condemnation, or loss to the unit or the cooperative on termination of the cooperative; and

16. Certification, if applicable, that the proprietary lessees' association has filed with the Common Interest Community Board the annual report required by § 55.1-2182; such certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing.

B. The association, within 10 days after a request by a proprietary lessee, shall furnish a certificate containing the information necessary to enable the proprietary lessee to comply with this section. A proprietary lessee providing a certificate pursuant to subsection A is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

C. A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. A proprietary lessee is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until five days after the certificate is provided or until conveyance, whichever occurs first.

**§ 55.1-2162. Escrow of deposits.**

A. Any deposit made in connection with the purchase or reservation of a cooperative interest from a person required to deliver a public offering statement pursuant to subsection C of § 55.1-2154 shall be placed in escrow and held either in the Commonwealth or in the state in which the unit that is a part of that cooperative interest is located in an account designated solely for that purpose by a title insurance company, attorney, or real estate broker licensed under the laws of the Commonwealth, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until (i) delivered to the declarant at closing, (ii) delivered to the declarant because of the purchaser's default under a contract to purchase the cooperative interest, or (iii) refunded to the purchaser.

B. Any deposit made in connection with the purchase of a cooperative interest from a person not required to deliver a public offering statement shall be placed in escrow in the same manner as prescribed in subsection A. Upon receipt of the certificate called for in § 55.1-2161, should the purchaser elect to void the contract, the seller may deduct the actual charges by the association for preparation of the certificate. Otherwise, the deposit shall be promptly returned to the purchaser.

**§ 55.1-2163. Release of liens.**

A. In the case of a sale of a cooperative interest where delivery of a public offering statement is required pursuant to subsection C of § 55.1-2154, a seller shall, before conveying a cooperative interest, record or furnish to the purchaser releases of all liens affecting the unit that is a part of that cooperative interest and any limited common element assigned to such unit, except liens solely against the unit and any limited common element assigned to such unit, that the purchaser expressly agrees to take subject to or assume. Releases of liens shall be made pursuant to §§ 55.1-339 through 55.1-345. This subsection does not apply to any real estate that a declarant has the right to withdraw.

B. Before conveying real estate to the association, the declarant shall have that real estate released from (i) all liens the foreclosure of which would deprive proprietary lessees of any right of access to or easement of support of their units and (ii) all other liens on such real estate unless the public offering statement describes certain real estate that may be conveyed subject to liens in specified amounts.

**§ 55.1-2164. Conversion buildings.**

A. For the purposes of this section:

"Disabled" means suffering from a severe, chronic physical or mental impairment that results in substantial functional limitations.

"Elderly" means not less than 62 years of age.

B. A declarant of a cooperative containing conversion buildings shall give each of the tenants of a conversion building formal notice of the conversion at the time the cooperative is registered by the Common Interest Community Board. This notice shall advise each tenant of (i) the offering price of the cooperative interests for the unit he occupies; (ii) the projected common expense assessments against that cooperative interest for at least the first year of the cooperative's operation; (iii) any relocation services, public or private, of which the declarant is aware; (iv) any measure taken or to be taken by the declarant to reduce the incidence of tenant dislocation; and (v) the details of the relocation plan, if any is provided by the declarant, to assist tenants in relocating. No tenant or subtenant may be required to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste, or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Until the expiration of the 120-day period, the declarant shall have no right of access to the unit except as provided in this section and in subsection A of § 55.1-1229 except that, upon 45 days' written notice to the tenant, the declarant may enter the unit in order to make additional repairs, decorations, alterations, or improvements, provided that (a) the making of the same does not constitute an actual or constructive eviction of the tenant and (b) such entry is made either with the consent of the tenant or only at times when the tenant is absent from the unit. Failure to give notice as required by this section is a defense to an action for possession. The declarant shall also provide general notice to the tenants of the cooperative or proposed cooperative at the time of application to the Common Interest Community Board, in addition to the formal notice required by this subsection.

C. For 60 days after delivery or mailing of the formal notice described in subsection B, the person required to give the notice shall offer to convey the cooperative interest for each unit or proposed unit occupied for residential use to the tenant who leases the unit associated with that cooperative interest. A specific statement of the purchase price and the amount of any initial or special cooperative fee due from the purchaser on or before settlement of the purchase contract and the basis of such fee shall be given to the tenant. If a tenant fails to purchase the cooperative interest during that 60-day period, the offeror shall not offer to dispose of an interest in that cooperative interest during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any cooperative interest in a conversion building if the unit that is part of that cooperative interest will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

D. If a seller, in violation of subsection C, conveys a cooperative interest to a purchaser for value who has no knowledge of the violation, that conveyance extinguishes any right a tenant may have under subsection C to purchase that cooperative interest if the deed states that the seller has complied with subsection C but does not affect the right of a tenant to recover damages from the seller for a violation of subsection C.

E. If a notice of conversion specifies a date by which a unit or proposed unit must be vacated, and otherwise complies with the provisions of §§ 55.1-1202 and 55.1-1225, the notice also constitutes a notice to vacate as specified by §§ 55.1-1410, 55.1-1202, and 55.1-1225. The details of the relocation plan, if any is provided by the declarant for assisting tenants in relocating, shall also be provided to the tenant.

F. Any locality may require by ordinance that the declarant of a conversion cooperative file with that governing body all information required by the Common Interest Community Board pursuant to § 55.1-2176 and a copy of the formal notice required by subsection B. Such information shall be filed with that governing body when the application for registration is filed with the Common Interest Community Board, and such copy of the formal notice shall be filed with that governing body whenever it is sent to tenants. No fee shall be imposed for such filings with a governing body.

G. The governing body of any county utilizing the urban county executive form of optional government (§§ 15.2-800 through 15.2-858) or the county manager plan of optional government (§§ 15.2-702 through 15.2-749), or of any city or town adjoining any such county, may require by ordinance that the declarant of any residential cooperative containing conversion buildings converted from multi-family rental use shall reimburse any tenant displaced by the conversion for amounts actually expended to relocate as a result of such dislocation. The reimbursement shall not be required to exceed the amount that the tenant would have been entitled to receive under §§ 25.1-407 and 25.1-415 if the real estate comprising the condominium had been condemned by the Department of Highways and Transportation.

H. Any locality may require by ordinance that elderly or disabled tenants, occupying as their residence up to 20 percent of the apartments or units in a cooperative containing conversion buildings at the time of issuance of the general notice required by subsection B, be offered leases or extensions of leases on the apartments or units they occupy or on other apartments or units of at least equal size and overall quality for up to three years beyond the date of such notice.

The terms and conditions of such leases or extensions of leases shall be as agreed upon by the lessor and the lessee, provided that the rent for such apartment or unit shall not be in excess of reasonable rent for comparable apartments or units in the same market area as such conversion building.

Such leases or extensions shall not be required, however, in the case of any apartments or units that will, in the course of the conversion, be substantially altered in physical layout, restricted exclusively to nonresidential use, or be converted in such a manner as to require relocation of the tenant in premises outside of the project being converted.

I. Nothing in this section permits termination of a lease by a declarant in violation of its terms.

**§ 55.1-2165. Express warranties of quality.**

A. Express warranties made by any seller to a purchaser of a cooperative interest, if relied upon by the purchaser, are created as follows:

1. Any affirmation of fact or promise that relates to the unit, its use, or rights appurtenant to such unit, area improvements to the cooperative that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the cooperative creates an express warranty that the unit and related rights and uses will conform to the affirmation or promise;

2. Any model or description of the physical characteristics of the cooperative, including plans and specifications of or for improvements, creates an express warranty that the cooperative will conform to the model or description;

3. Any description of the quantity or extent of the real estate comprising the cooperative, including plats or surveys, creates an express warranty that the cooperative will conform to the description, subject to customary tolerances; and

4. A provision that a buyer of a cooperative interest may put a unit that is part of that cooperative interest only to a specified use is an express warranty that the specified use is lawful.

B. Neither formal words, such as "warranty" or "guarantee," nor a specific intention to make a warranty is necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real estate or its value does not create a warranty.

C. Any conveyance of a cooperative interest transfers to the purchaser all express warranties of quality made by previous sellers.

**§ 55.1-2166. Implied warranties of quality.**

A. A declarant and any person in the business of selling cooperative interests for his own account warrant that a unit will be in at least as good condition at the earlier of the time of the conveyance of a cooperative interest or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

B. A declarant and any person in the business of selling cooperative interests for his own account impliedly warrant that a unit and the common elements in the cooperative are suitable for the ordinary uses of real estate of its type and that any improvements made or contracted for by him or made by any person before the creation of the cooperative will be:

1. Free from defective materials; and

2. Constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.

C. In addition, a declarant and any person in the business of selling cooperative interests for his own account warrant to a purchaser of a cooperative interest for a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

D. Warranties imposed by this section may be excluded or modified as specified in § 55.1-2167.

E. For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

F. Any conveyance of a cooperative interest transfers to the purchaser all of the declarant's implied warranties of quality.

**§ 55.1-2167. Exclusion or modification of implied warranties of quality.**

A. Except as limited by subsection B with respect to a purchaser of a cooperative interest for a unit that may be used for residential use, implied warranties of quality (i) may be excluded or modified by agreement of the parties and (ii) are excluded by expression of disclaimer, such as "as is," "with all faults," or other language that in common understanding calls the buyer's attention to the exclusion of warranties.

B. With respect to a purchaser of a cooperative interest for a unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, nor shall any disclaimer of implied warranties of quality be effective as to defects in materials or construction as to any unit, brought to the attention of the declarant within two years from the date of the first conveyance of the cooperative interest associated with such unit, or as to any such defect in the common elements brought to the attention within two years (i) after that common element has been completed or, if later, (ii) after the first cooperative interest has been conveyed in the cooperative. The first conveyance of a cooperative interest associated with a unit situated in real estate subject to development rights shall be treated as the first conveyance of a cooperative interest in the cooperative for the purposes of the preceding sentence as to any such defects in the common elements within that real estate. A declarant, and any person in the business of selling cooperative interests for his own account, may disclaim liability in an instrument signed by the purchaser for a specified defect or specified failure to comply with applicable law, if the defect or failure entered into became a part of the basis of the bargain.

**§ 55.1-2168. Statute of limitations for warranties.**

A. A judicial proceeding for breach of any obligation arising under § 55.1-2165 or 55.1-2166 must be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by a separate instrument executed by the purchaser of the cooperative interest for that unit.

B. Subject to subsection C, a cause of action for breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

1. As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory

interest was conveyed, or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

2. As to each common element, at the time the common element is completed or, if later, (i) as to a common element that may be added to the cooperative or portion of the cooperative, at the time the first cooperative interest for a unit in such cooperative interest is conveyed to a bona fide purchaser, or (ii) as to a common element within any other portion of the cooperative, at the first time a cooperative interest in the cooperative is conveyed to a bona fide purchaser.

C. If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the cooperative, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

**§ 55.1-2169. Effect of violation on rights of action; attorney fees; arbitration of disputes.**

A. If a declarant or any other person subject to this chapter fails to comply with any provision of this chapter or any provision of the declaration or bylaws, any person or class of persons adversely affected by the failure to comply has a claim for appropriate relief. Punitive damages may be awarded for a willful failure to comply with this chapter. The court, in an appropriate case, may award reasonable attorney fees.

B. A declaration may provide for the arbitration of disputes or other means of alternative dispute resolution. Any such arbitration held in accordance with this subsection shall be consistent with the provisions of this chapter and Chapter 21 (§ 8.01-577 et seq.) of Title 8.01. The place of any such arbitration or alternative dispute resolution shall be held in the county or city in which the development is located or as mutually agreed by the parties.

**§ 55.1-2170. Labeling of promotional material.**

No promotional material may be displayed or delivered to prospective purchasers that describes or portrays improvements that are not in existence, unless the description or portrayal of the improvement in the promotional material is conspicuously labeled or identified either as "MUST BE BUILT" or "NEED NOT BE BUILT."

**§ 55.1-2171. Declarant's obligation to complete and restore.**

A. The declarant shall complete all improvements depicted on any site plan or other graphic representation included in the public offering statement or in any promotional material distributed by or for the declarant unless that improvement is labeled "NEED NOT BE BUILT."

B. The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the cooperative, of any portion of the cooperative affected by the exercise of rights reserved pursuant to or created by §§ 55.1-2120, 55.1-2121, 55.1-2122, 55.1-2123, 55.1-2125, and 55.1-2126.

**§ 55.1-2172. Substantial completion of units.**

In the case of a sale of a cooperative interest where delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that cooperative interest may be conveyed, except pursuant to subsection B of § 55.1-2176, until the declaration is recorded and the unit that is a part of that cooperative interest is substantially completed, as evidenced by a recorded certificate of substantial completion executed by an independent, registered architect, surveyor, or engineer or by issuance of a certificate of occupancy authorized by law.

Article 5.

Administration and Registration of Cooperatives.

**§ 55.1-2173. Common Interest Community Board.**

This chapter shall be administered by the Common Interest Community Board.

**§ 55.1-2174. General powers and duties of the Common Interest Community Board.**

A. The Common Interest Community Board may adopt, amend, and repeal regulations and issue orders consistent with and in furtherance of the objectives of this chapter, but the Common Interest Community Board shall not intervene in the internal activities of an association except to the extent necessary to prevent or cure violations of this chapter. The Common Interest Community Board may prescribe forms and procedures for submitting information to the Common Interest Community Board.

B. If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in violation of this chapter or any of the Common Interest Community Board's regulations or orders, the Common Interest Community Board without prior administrative proceedings may bring an action in the appropriate court to enjoin that act or practice or for other appropriate relief. The Common Interest Community Board is not required to post a bond or prove that no adequate remedy at law exists.

C. The Common Interest Community Board may intervene in any action involving the powers or responsibilities of a declarant in connection with any cooperative for which an application for registration is on file.

D. The Common Interest Community Board may accept grants-in-aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions in furtherance of the objectives of this chapter.

E. The Common Interest Community Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices and may develop information that may be useful in the discharge of the agency's duties.

F. In issuing any cease and desist order or order rejecting or revoking registration of a cooperative, the Common Interest Community Board shall state the basis for the adverse determination and the underlying facts.

G. The Common Interest Community Board, in its sound discretion, may require bonding, escrow of portions of sales proceeds, or other safeguards it may prescribe by its regulations to guarantee completion of all improvements labeled

"MUST BE BUILT" pursuant to § 55.1-2171.

**§ 55.1-2175. Registration required.**

A declarant shall not offer or dispose of a cooperative interest intended for residential use unless the cooperative and the cooperative interest are registered with the Common Interest Community Board. A cooperative consisting of no more than three units that is not subject to development rights is exempt from the requirements of this section.

**§ 55.1-2176. Application for registration; approval of uncompleted unit.**

A. An application for registration must contain the information and be accompanied by any reasonable fees required by the Common Interest Community Board's regulations. A declarant promptly shall file amendments to report any factual or expected material change in any document or information contained in his application.

B. If a declarant files with the Common Interest Community Board a declaration or proposed declaration, or an amendment or proposed amendment to a declaration, creating units for which he proposes to convey cooperative interests before the units are substantially completed in the manner required by § 55.1-2172, the declarant shall also file with the Common Interest Community Board:

1. A verified statement showing all costs involved in completing the buildings containing those units;
2. A verified estimate of the time of completion of construction of the buildings containing those units;
3. Satisfactory evidence of sufficient funds to cover all costs to complete the buildings containing those units;
4. A copy of the executed construction contract and any other contracts for the completion of the buildings containing those units;
5. A 100 percent payment and performance bond covering the entire cost of construction of the buildings containing those units;
6. Plans for the units;
7. If purchasers' funds are to be utilized for the construction of the cooperative, an executed copy of the escrow agreement with an escrow company or financial institution authorized to do business within the state that provides:
  - a. That disbursements of purchasers' funds may be made from time to time to pay for construction of the cooperative, architectural, and engineering costs, finance and legal fees, and other costs for the completion of the cooperative in proportion to the value of the work completed by the contractor as certified by an independent, registered architect or engineer, on bills submitted and approved by the lender of construction funds or the escrow agent;
  - b. That disbursement of the balance of purchasers' funds remaining after completion of the cooperative shall be made only when the escrow agent or lender receives satisfactory evidence that the period for filing mechanic's and materialman's liens has expired, or that the right to claim those liens has been waived, or that adequate provision has been made for satisfaction of any claimed mechanic's or materialman's lien; and
  - c. Any other restriction relative to the retention and disbursement of purchasers' funds required by the Common Interest Community Board; and
8. Any other materials or information the agency may require by its regulations.

The Common Interest Community Board shall not register the units described in the declaration or the amendment unless the Common Interest Community Board determines, on the basis of the material submitted by the declarant and any other information available to the Common Interest Community Board, that there is a reasonable basis to expect that the cooperative interests to be conveyed will be completed by the declarant following conveyance.

**§ 55.1-2177. Receipt of application; order or registration.**

A. The Common Interest Community Board shall acknowledge receipt of an application for registration within five business days after receiving it. Within 60 days after receiving the application, the Common Interest Community Board shall determine whether:

1. The application and the proposed public offering statement satisfy the requirements of this chapter and the Common Interest Community Board's regulations;
2. The declaration and bylaws comply with this chapter; and
3. It is likely that the improvements the declarant has undertaken to make can be completed as represented.

B. If the Common Interest Community Board makes a favorable determination, it shall issue promptly an order registering the cooperative. Otherwise, unless the declarant has consented in writing to a delay, the Common Interest Community Board shall issue promptly an order rejecting registration.

**§ 55.1-2178. Cease and desist order.**

If the Common Interest Community Board determines, after notice and hearing, that any person has disseminated or caused to be disseminated orally or in writing any false or misleading promotional materials in connection with a cooperative or that any person has otherwise violated any provision of this chapter or the Common Interest Community Board's regulations or orders, the Common Interest Community Board may issue an order to cease and desist from that conduct to comply with the provisions of this chapter and the Common Interest Community Board's regulations and orders or to take affirmative action to correct conditions resulting from that conduct or failure to comply.

**§ 55.1-2179. Revocation of registration.**

A. The Common Interest Community Board, after providing notice stating the deficiency complained of and holding a hearing, may issue an order revoking the registration of a cooperative upon determination that a declarant or any officer or principal of a declarant has:

1. Failed to comply with a cease and desist order issued by the Common Interest Community Board affecting that

cooperative;

2. Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of cooperative interests in that cooperative;

3. Failed to perform any stipulation or agreement made to induce the Common Interest Community Board to issue an order relating to that cooperative;

4. Intentionally misrepresented or failed to disclose a material fact in the application for registration; or

5. Failed to meet any of the conditions described in §§ 55.1-2176 and 55.1-2177 necessary to qualify for registration.

B. Without the consent of the Common Interest Community Board, a declarant shall not convey, cause to be conveyed, or contract for the conveyance of any cooperative interest while an order revoking the registration of the cooperative is in effect.

C. In appropriate cases, the Common Interest Community Board may issue a cease and desist order in lieu of an order of revocation.

**§ 55.1-2180. Investigative powers of the Common Interest Community Board.**

A. The Common Interest Community Board may initiate public or private investigations within or outside the Commonwealth to determine whether any representation in any document or information filed with the Common Interest Community Board is false or misleading or whether any person has engaged, is engaging, or is about to engage in any unlawful act or practice.

B. In the course of any investigation or hearing, the Common Interest Community Board may subpoena witnesses and documents, administer oaths and affirmations, and adduce evidence. If a person fails to comply with a subpoena or to answer questions propounded during the investigation or hearing, the Common Interest Community Board may apply to the appropriate court for a contempt order or for injunctive or other appropriate relief to secure compliance.

**§ 55.1-2181. Annual report and amendments.**

A. A declarant, within 30 days after the anniversary date of the order of registration, shall file annually a report to bring up to date the material contained in the application for registration and the public offering statement. This provision does not relieve the declarant of the obligation to file amendments pursuant to subsection B.

B. A declarant shall file promptly amendments to the public offering statement with the Common Interest Community Board.

C. If an annual report reveals that a declarant owns or controls cooperative interests representing less than 25 percent of the voting power in the association and that a declarant has no power to increase the number of units in the cooperative or to cause a merger or confederation of the cooperative with other cooperatives, the Common Interest Community Board shall issue an order relieving the declarant of any further obligation to file annual reports. After such order is issued, so long as the declarant is offering any cooperative interests for sale, the Common Interest Community Board has jurisdiction over the declarant's activities but has no other authority to regulate the cooperative.

**§ 55.1-2182. Annual report by associations.**

A. The association shall file an annual report in a form and at such time as prescribed by regulations of the Common Interest Community Board. The filing of the annual report required by this section shall commence upon the termination of any declarant control period reserved pursuant to § 55.1-2134. The annual report shall be accompanied by a fixed fee in an amount established by the Common Interest Community Board.

B. The agency may accept copies of forms submitted to other state agencies to satisfy the requirements of this section if such forms contain substantially the same information required by the Common Interest Community Board.

C. The association shall also remit to the Common Interest Community Board an annual payment as follows:

1. The lesser of:

a. \$1,000 or such other amount as established by Common Interest Community Board regulation; or

b. Five hundredths of one percent (0.05%) of the association's gross assessment income during the preceding year.

2. For the purposes of subdivision 1 b, no minimum payment shall be less than \$10.

D. The annual payment shall be remitted to the State Treasurer and shall be credited to the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

**§ 55.1-2183. Common Interest Community Board regulation of public offering statement.**

A. The Common Interest Community Board at any time may require a declarant to alter or supplement the form or substance of a public offering statement to assure adequate and accurate disclosure to prospective purchasers.

B. The public offering statement shall not be used for any promotional purpose before registration and shall be used afterwards only if it is used in its entirety. No person shall advertise or represent that the Common Interest Community Board has approved or recommended the cooperative, the disclosure statement, or any of the documents contained in the application for registration.

C. In the case of a cooperative situated wholly outside of the Commonwealth, no application for registration or proposed public offering statement filed with the Common Interest Community Board that has been approved by an agency in the state where the cooperative is located and substantially complies with the requirements of this chapter shall be rejected by the Common Interest Community Board on the grounds of noncompliance with any different or additional requirements imposed by this chapter or by the Common Interest Community Board's regulations. However, the Common Interest Community Board may require additional documents or information in particular cases to assure adequate and accurate disclosure to prospective purchasers.

**§ 55.1-2184. Penalties.**

Any person who willfully violates § 55.1-2155, 55.1-2158, 55.1-2159, 55.1-2162, 55.1-2164, 55.1-2176, or 55.1-2181 or any regulation adopted under, or order issued pursuant to, § 55.1-2174, or any person who willfully in an application for registration makes any untrue statement of a material fact or omits to state a material fact, is guilty of a misdemeanor and may be (i) fined not less than \$1,000 or double the amount of gain from the transaction, whichever is larger, but not more than \$50,000 or (ii) imprisoned for not more than six months, or both, for each offense.

## CHAPTER 22.

## VIRGINIA REAL ESTATE TIME-SHARE ACT.

## Article I.

## General Provisions.

**§ 55.1-2200. Definitions.**

As used in this chapter, or in a time-share instrument, unless the context requires a different meaning:

"Additional land" means all land that a time-share developer has identified as land that may be added to a time-share project.

"Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified.

"Alternative purchase" means anything valued in excess of \$100 that is offered to a potential purchaser by the developer during the developer's sales presentation and that is purchased by such potential purchaser for more than \$100, even though the purchaser did not purchase a time-share. An alternative purchase is not a time-share. A membership camping contract as defined in § 59.1-313 is not an alternative purchase. An alternative purchase shall be registered with the Board unless it is otherwise registered as a travel service under the Virginia Travel Club Act (§ 59.1-445 et seq.) and shall include vacation packages, however denominated, and exit programs, however denominated.

"Association" means the association organized under the provisions of § 55.1-2209.

"Board" means the Common Interest Community Board.

"Board of directors" means an executive and administrative entity, by whatever name denominated, designated in a time-share instrument as the governing body of the time-share estate owners' association.

"Common elements" means the real estate, improvements on such real estate, and the personalty situated within the time-share project that are subject to the time-share program. "Common elements" does not include the units and the time-shares.

"Consumer documents" means the aggregate of the following documents: the reverter deed, the note, the deed of trust, and any document that is to be provided to consumers in connection with an offering.

"Contact information" means any information that can be used to contact an owner, including the owner's name, address, telephone number, email address, or user identity on any electronic networking service.

"Contract," "sales contract," "purchase contract," "contract of purchase," or "contract to purchase," which shall be interchangeable throughout this chapter, means any legally binding instrument executed by the developer and a purchaser by which the developer is obligated to sell and the purchaser is obligated to purchase either a time-share and its incidental benefits or an alternative purchase registered under this chapter.

"Conversion time-share project" means a real estate improvement that, prior to the disposition of any time-share, was wholly or partially occupied by persons as their permanent residence or on a transient pay-as-you-go basis other than those who have contracted for the purchase of a time-share and those who occupy with the consent of such purchasers.

"Cost of ownership" means all of the owner's expenses related to a resale time-share due between the date of a resale transfer contract and the transfer of the resale time-share.

"Deed" means the instrument by which title to a time-share estate is transferred from one person to another person.

"Deed of trust" means the instrument conveying the time-share estate that is given as security for the payment of the note.

"Default" means either a failure to have made any payment in full and on time or a violation of a performance obligation required by a consumer document for a period of no less than 60 days.

"Developer" means any person or group of persons acting in concert that (i) offers to dispose of a time-share or its interest in a time-share unit for which there has not been a previous disposition or (ii) applies for registration of the time-share program.

"Developer control period" means a period of time during which the developer or a managing agent selected by the developer manages and controls the time-share project and the common elements and units it comprises.

"Development right" means any right reserved by the developer to create additional units that may be dedicated to the time-share program.

"Dispose" or "disposition" means a transfer of a legal or equitable interest in a time-share, other than a transfer or release of security for a debt.

"Exchange agent" or "exchange company" means a person that exchanges or offers to exchange time-shares in an exchange program with other time-shares.

"Exchange program" means any opportunity or procedure for the assignment or exchange of time-shares among owners in other time-share programs as evidenced by a past or present written agreement executed between an exchange company and the developer or the time-share estate association; however, an "exchange program" shall not be either an

*incidental benefit or an opportunity or procedure by which a time-share owner can exchange his time-share for another time-share within either the same time-share or another time-share project owned in part by the developer.*

*"Guest" means (i) a person who is on the project, additional land, or development at the request of an owner, developer, association, or managing agent or (ii) a person otherwise legally entitled to be on such project, additional land, or development. "Guest" includes family members of owners; time-share exchange participants; merchants, purveyors, or vendors; and employees of such merchants, purveyors, and vendors; the developer; or the association.*

*"Incidental benefit" means anything valued in excess of \$100 provided by the developer that is acquired by a purchaser upon acquisition of a time-share and includes exchange rights, travel insurance, bonus weeks, upgrade entitlements, travel coupons, referral awards, and golf and tennis packages. An incidental benefit is not a time-share or an exchange program. An incidental benefit shall not be registered with the Board.*

*"Inherent risks of project activity" means those dangers or conditions that are an integral part of a project activity, including certain hazards, such as surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in association or time-share operations. "Inherent risks of project activity" also includes the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the project professional or failing to exercise reasonable caution while engaging in the project activity.*

*"Lead dealer" means a person that sells or otherwise provides to any other person contact information concerning five or more owners to be used for a resale service. "Lead dealer" does not mean developers, managing entities, or exchange companies to the extent that such entities are providing other persons with personal contact information about time-share owners in their own time-share plans or members of their own exchange program.*

*"Lien holder" means either a person that holds an interest in an encumbrance that is not released of record as to a purchaser or such person's successor in interest that acquires title to the time-share project at foreclosure, by deed in lieu of foreclosure, or by any other instrument however denominated.*

*"Managing agent" means a person that undertakes the duties, responsibilities, and obligations of the management of a time-share project.*

*"Managing entity" means the managing agent or, if there is no managing agent, the time-share owners' association in a time-share estate project and the developer in a time-share use project.*

*"Material change" means a change in any information or document disclosed in or attached to the public offering statement that renders inaccurate, incomplete, or misleading any information or document in such a way as to affect substantially a purchaser's rights or obligations, but does not include a change (i) in the real estate tax assessment or rate, utility charges or deposits, maintenance fees, association dues, assessments, special assessments, or any recurring time-share expense item, provided that such change is made known (a) immediately to the prospective purchaser by a written addendum in the public offering statement and (b) to the Board by filing with the developer's annual report copies of the updated changes occurring over the immediately preceding 12 months; (ii) that is an aspect or result of the orderly development of the time-share project in accordance with the time-share instrument; (iii) resulting from new, updated, or amended information contained in the annual report prepared and distributed pursuant to § 55.1-2213; (iv) correcting spelling, grammar, omissions, or other similar errors not affecting the substance of the public offering statement; or (v) occurring in the issuance of an exchange company's updated annual report or disclosure document, provided that, upon its receipt by the developer, it shall be distributed in lieu of all others in order to satisfy § 55.1-2217.*

*"Note" means the instrument that evidences the debt occasioned by the deferred purchase of a time-share.*

*"Offering" or "offer" means any act that originates in the Commonwealth to sell, solicit, induce, or advertise, whether by radio, television, telephone, newspaper, magazine, or mail, during which a person is given an opportunity to acquire a time-share.*

*"Participant" means any person, other than a project professional, that engages in a project activity.*

*"Person" means one or more natural persons, corporations, partnerships, associations, trustees of a trust, limited liability companies, or other entities, or any combination thereof, capable of holding title to real property.*

*"Possibility of reverter" means a provision contained in a reverter deed by which the time-share estate automatically reverts or transfers back to the developer upon satisfaction of the requirements imposed by § 55.1-2222.*

*"Product" means each time-share and its incidental benefits and all alternative purchases that are registered with the Board pursuant to this chapter.*

*"Project activity" means any activity carried out or conducted on a common element, within a time-share unit or elsewhere in the project, additional land, or development, that allows owners, their guests, and members of the general public to view, observe, participate, or enjoy activities. "Project activity" includes swimming pools, spas, sporting venues, and cultural, historical, or harvest-your-own activities; other amenities and events; or natural activities and attractions for recreational, entertainment, educational, or social purposes. Such activity is a project activity whether or not the participant paid to participate in the activity.*

*"Project professional" means any person that is engaged in the business of providing one or more project activities, whether or not for compensation. For the purposes of this definition, the developer, association, and managing entity shall each be deemed a project professional.*

*"Public offering statement" means the statement required by § 55.1-2217.*

*"Purchaser" means any person other than a developer or lender that owns or acquires a product or that otherwise*

enters into a contract for the purchase of a product.

"Resale cost of ownership" means all of the owner's expenses related to a resale time-share due between the date of a resale transfer contract and the transfer of such resale time-share.

"Resale purchase contract" means an agreement negotiated by a reseller by which an owner or a reseller agrees to sell, and a subsequent purchaser agrees to buy, a resale time-share.

"Resale service" means engaging, directly or indirectly, for compensation, in any of the following either in person or by any medium of communication: (i) selling or offering to sell or list for sale for the owner a resale time-share, (ii) buying or offering to buy a resale time-share for transfer to a subsequent purchaser, (iii) transferring a resale time-share acquired from an owner to a subsequent purchaser or offering to assist in such transfer, (iv) invalidating or offering to invalidate for an owner the title of a resale time-share, or (v) advertising or soliciting to advertise or promote the transfer or invalidation of a resale time-share. Resale service does not include an individual's selling or offering to sell his own time-share unit.

"Resale time-share" means a time-share, wherever located, that has previously been sold to an owner who is a natural person for personal, family, or household use and that is transferred, or is intended to be transferred, through a resale service.

"Resale transfer contract" means an agreement between a reseller and the owner by which the reseller agrees to transfer or assist in the transfer of the owner's resale time-share.

"Reseller" means any person who, directly or indirectly, engages in a resale service.

"Reverter deed" means the deed from a developer to a grantee that contains a possibility of reverter.

"Sales person" means a person who sells or offers to sell time-share interests in a time-share program.

"Situs" means the place outside the Commonwealth where a developer's time-share project is located.

"Subsequent purchaser" means the purchaser or transferee of a resale time-share.

"Time-share" means either a time-share estate or a time-share use plus its incidental benefits.

"Time-share estate" means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, coupled with a freehold estate or an estate for years in a time-share project or a specified portion of such time-share project.

"Time-share estate occupancy expense" means all costs and expenses incurred in (i) the formation, organization, operation, and administration, including capital contributions thereto, of the association and both its board of directors and its members and (ii) all owners' use and occupancy of the time-share estate project, including without limitation its completed and occupied time-share estate units and common elements available for use. Such costs and expenses include maintenance and housekeeping charges; repairs; refurbishing costs; insurance premiums, including the premium for comprehensive general liability insurance required by subdivision 8 of § 55.1-2209; taxes; properly allocated labor, operational, and overhead costs; general and administrative expenses; the managing agent's fee; utility charges and deposits; the cost of periodic repair and replacement of walls and window treatments and furnishings, including furniture and appliances; filing fees and annual registration charges of the State Corporation Commission and the Board; attorney fees and accountant charges; and reserves for any of the foregoing.

"Time-share estate subject to reverter" means a time-share estate (i) entitling the holder thereof to occupy units not more than four weeks in any one-year period and (ii) for which the down payment is not more than 20 percent of the total purchase price of the time-share estate.

"Time-share expense" means (i) expenditures, fees, charges, or liabilities incurred with respect to the operation, maintenance, administration, or insuring of the time-shares, units, and common elements comprising the entire time-share project, whether or not incurred for the repair, renovation, upgrade, refurbishing, or capital improvements, and (ii) any allocations of reserves.

"Time-share instrument" or "project instrument" means any document, however denominated, that creates the time-share project and program and that may contain restrictions or covenants regulating the use, occupancy, or disposition of time-shares in a project.

"Time-share owner" or "owner" means a person that is an owner or co-owner of a time-share other than as security for an obligation.

"Time-share program" or "program" means any arrangement of time-shares in one or more time-share projects by which the use, occupancy, or possession of real property has been made subject to either a time-share estate or time-share use in which such use, occupancy, or possession circulates among owners of the time-shares according to a fixed or floating time schedule on a periodic basis occurring over any period of time in excess of five years.

"Time-share project" or "project" means all of the real property subject to a time-share program created by the execution of a time-share instrument.

"Time-share unit" or "unit" means the real property or real property improvement in a project that is divided into time-shares and designated for separate occupancy and use.

"Time-share use" means a right to occupy a time-share unit or any of several time-share units during five or more separated time periods over a period of at least five years, including renewal options, not coupled with a freehold estate or an estate for years in a time-share project or a specified portion of such time-share project. "Time-share use" does not mean a right to use that is subject to a first-come, first-served, space-available basis as might exist in a country club, motel, hotel, health spa, campground, or membership or resort facility.

"Transfer" means a voluntary conveyance of a resale time-share to a person other than the developer, association, or

managing entity of the time-share program of which the resale time-share is a part or to a person taking ownership by gift, foreclosure, or deed in lieu of foreclosure.

**§ 55.1-2201. Applicability.**

A. This chapter shall have exclusive jurisdiction and shall apply to any product offering or disposition made within the Commonwealth after July 1, 1985, in a time-share project located within the Commonwealth. Sections 55.1-2200, 55.1-2201, 55.1-2202, 55.1-2203, 55.1-2204, 55.1-2206, 55.1-2210, 55.1-2211, 55.1-2213, 55.1-2215, 55.1-2216, 55.1-2220, 55.1-2227, 55.1-2229, 55.1-2230, 55.1-2232, 55.1-2233, 55.1-2237, and 55.1-2252 shall apply to a time-share project within the Commonwealth that was created prior to July 1, 1985.

B. This chapter shall not affect rights or obligations created by preexisting provisions of any time-share instrument that transfers an estate or interest in real property.

C. This chapter shall apply to any product offering or disposition in a time-share project located outside the Commonwealth and offered for sale in the Commonwealth with the exception that Articles 2 (§ 55.1-2207 et seq.), 3 (§ 55.1-2217 et seq.), and 4 (§ 55.1-2235 et seq.) shall apply only to the extent permitted by the laws of the situs.

**§ 55.1-2202. Administrative agency.**

The Common Interest Community Board shall administer this chapter.

**§ 55.1-2203. Status of time-share estates with respect to real property interests.**

A. A document transferring or encumbering a time-share estate shall not be rejected for recordation within the Commonwealth because of the nature or duration of that estate or interest, provided that the document complies with all other recordation requirements.

B. Each time-share estate constitutes for purposes of title a separate estate or interest in a unit.

C. For purposes of local real property taxation, each time-share unit, other than a unit operated for time-share use, shall be valued in the same manner as if such unit were owned by a single taxpayer. The total cumulative purchase price paid by the time-share owners for a unit shall not be utilized by the commissioner of revenue or other local assessing officer as a factor in determining the assessed value of such unit. A unit operated as a time-share use, however, may be assessed the same as other income-producing and investment property. The commissioner of revenue or other local assessing officer shall list in the land book a time-share unit in the name of the association.

**§ 55.1-2204. Applicability of local ordinances, regulations, and building codes.**

A zoning, subdivision, or other ordinance or regulation shall not impose any requirement upon a time-share project that it would not otherwise impose upon a similar project under a different form of ownership.

**§ 55.1-2205. Use of terms.**

A developer in its offering or disposition of a time-share may use interchangeably any term recognized in the industry, including "time-share," "time-share interest," "interval ownership," "interval ownership interest," "vacation ownership," "vacation ownership interest," and "product." A developer shall not use the term "incidental benefit" or "alternative purchase" except in the proper context.

**§ 55.1-2206. Severability of provisions of time-share instruments.**

All provisions of the time-share instruments shall be deemed severable, and any unlawful provision of such instrument shall be void.

Article 2.

Creation, Termination, and Management.

**§ 55.1-2207. Time-sharing permitted.**

A time-share project shall be permitted on any land or improvement on such land lying within the Commonwealth unless prohibited by zoning then in effect or by the express language of any legally enforceable covenant, condition, or restriction, however denominated, contained in the governing documents of record for such land, including condominium instruments under the Condominium Act (§ 55.1-1900 et seq.), a time-share instrument under this chapter, a declaration under the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or a master deed under the Horizontal Property Act (§ 55.1-2000 et seq.). This chapter shall not be construed to affect the validity of any provision of any time-share program or any expansion of such a program or time-share instrument recorded or in existence prior to July 1, 1981.

**§ 55.1-2208. Instruments.**

A. In order to create a time-share program for a time-share estate project, the developer shall execute a time-share instrument prepared and executed in accordance with this chapter and record it in the clerk's office where such time-share project is located. The time-share instrument shall contain the following:

1. The name of the time-share project, which shall include or be followed by a qualifying adjective or term outlined in § 55.1-2205;
2. The name of the locality and the state or situs in which the time-share project is situated;
3. The legal description, street address, or other description sufficient to identify the time-share project;
4. A legally sufficient description of the real estate constituting the time-share project;
5. A statement of the form of time-share program, i.e., whether it is a time-share estate or time-share use;
6. Identification of time periods by letter, name, number, or combination thereof;
7. Identification of time-shares and, where applicable, the method by which additional time-shares may be created or withdrawn;
8. The formula, fraction, or percentage of the common expenses and any voting rights assigned to each time-share;

9. Any restrictions on the use, occupancy, enjoyment, alteration, or alienation of time-shares;
  10. The ownership interest, if any, in personal property available to time-share owners;
  11. The program by which the managing entity, if any, will provide management of the project;
  12. The period for which units are designated and committed to the time-share program and the property classification of the units at the expiration of such period;
  13. Any provision for amending the time-share instrument;
  14. A description of the events, including condemnation and damage or destruction, upon which the time-share program may or shall be terminated before the expiration of its full term and the consequences of such termination, including the manner in which the time-share project or the proceeds from the disposition of such project shall be held or distributed among owners;
  15. A statement of whether or not the developer reserves the right to add to or delete any incidental benefit;
  16. A statement of whether or not the developer reserves the right to add to or delete any alternative purchase; and
  17. Such other matters as the developer deems appropriate.
- B. In order to create a time-share program for a time-share use project, the developer shall (i) execute and record a time-share instrument as required by subsection A or (ii) execute a time-share instrument that takes the form of and is a part of the contract that contains the information required by subsection A.
- C. If the developer explicitly reserves the right to develop additional time-shares, the time-share instrument shall also contain the following:
1. A legally sufficient description of all land that may be added to the time-share project, which shall be referred to as "additional land";
  2. A statement outlining the order in which portions of the additional land may be subjected to the exercise of each development right or a statement that no assurances are made in that regard;
  3. A statement of the time limit upon which the option to develop shall expire, together with a statement of the circumstances, if any, that will terminate that option prior to the expiration of the specified time limit;
  4. A statement of the maximum number of units that may be added to the time-share project, if known, or, if the maximum number of units that may be added to the time-share project is not known, a statement to that effect; and
  5. A statement of the property classification of the additional land if the developer fails to exercise the development rights as reserved in the time-share instrument.

**§ 55.1-2209. Time-share instrument for time-share estate project.**

In addition to the requirements of § 55.1-2208, the time-share instrument for a time-share estate project shall outline or prescribe reasonable arrangements for the management and operation of the time-share estate program and for the maintenance, repair, and furnishing of units it comprises, which shall include provisions for the following:

1. Creation of an association, the members of which shall be the time-share estate owners. The association may be formed pursuant to the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.); however, the association shall be formed prior to the time the project and program are registered with the Board. Nothing shall affect the validity of the association, once formed, and the rights applicable to it as granted by this chapter, notwithstanding the time when such association was formed;
2. Payment of costs and expenses of operating the time-share estate program and owning and maintaining the units it comprises;
3. Employment and termination of employment of the managing agent for the project. Any agreement pertaining to the employment of the managing agent and executed during the developer control period shall be voidable by the association at any time after termination of the developer control period for the time-share project, and any provision in such agreement to the contrary is hereby declared to be void;
4. Termination of leases and contracts for goods and services for the time-share estate project that are entered into during the developer control period. Any such lease or contract shall become voidable at the option of the association upon termination of the developer control period for the entire time-share project, or sooner if the provisions of such lease or contract so state;
5. Preparation and dissemination to time-share estate owners of the annual report required by § 55.1-2213;
6. Adoption of standards and rules of conduct for the use, enjoyment, and occupancy of units by the time-share estate owners;
7. Collection of regular assessments, fees or dues, or special assessments from time-share estate owners to defray all time-share expenses;
8. Comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use and enjoyment of the project by time-share estate owners, their guests, and other users. The costs associated with securing and maintaining such insurance shall be a time-share expense. Nothing in this subdivision shall be construed to obligate the managing entity to secure insurance on the conduct of the time-share estate owners, their guests, and other users or the personal effects or property of such owners, guests, and users;
9. Methods for providing compensation or alternate use periods or monetary compensation to a time-share estate owner if his contracted-for unit cannot be made available for the period to which the owner is entitled by schedule or by confirmed reservation;
10. Procedures for imposing a monetary penalty or suspension of a time-share estate owner's rights and privileges in

the time-share estate program or time-share project for failure of such owner to comply with provisions of the time-share instrument or the rules and regulations of the association with respect to the use and enjoyment of the units and the time-share project. Under these procedures, a time-share estate owner shall be given reasonable notice and reasonable opportunity to be heard and explain the charges against him in person or in writing to the board of directors of the association before a decision to impose discipline is rendered; and

11. Employment of attorneys, accountants, and other professional persons as necessary to assist in the management of the time-share estate program and the units it comprises.

**§ 55.1-2210. Developer control in time-share estate program.**

A. The time-share instrument for a time-share estate program shall provide for a developer control period. All costs associated with the control, management, and operation of the time-share estate project during the developer control period shall belong to the developer, except for time-share estate occupancy expenses that shall, if required by the developer in the time-share instrument, be allocated only to and paid by time-share estate owners other than the developer. Nothing shall preclude the developer, during the developer control period and at any time after the lapse of a purchaser's right of cancellation and without regard to the recordation of the deed, provided that the deed has been delivered to the purchaser or the purchaser's agent, from collecting an annual or specially assessed charge from each time-share estate owner for the payment of the time-share estate occupancy expenses by way of a maintenance fee. However, any such funds received and not spent, or any other funds received and allocated to the benefit of the association, shall be transferred to the association by the developer at the termination of the developer control period.

B. Except to the extent that the purchase contract or time-share instrument expressly provides otherwise, fee simple title to the common elements shall be transferred to the time-share estate owners' association, free of charge, no later than at such time as the developer (i) transfers to purchasers legal or equitable ownership of at least 90 percent of the time-share estates, excluding any reacquisitions by the developer; (ii) is no longer the beneficiary on deeds of trust secured on at least 20 percent of the time-share estates; or (iii) has completed all of the promised common elements and facilities that the time-share estate project comprises, whichever occurs last. The developer may make such transfer when the period has ended for a phase or portion of the time-share estate project. The transfer required of the developer by this subsection shall not exonerate the developer from the responsibility of completion of the promised and incomplete common elements once the transfer occurs. Upon transfer of the time-share project or portion to the association, the developer control period for such project or portion of such project shall terminate.

**§ 55.1-2211. Time-share estate owners' association control liens.**

A. The board of directors of the association shall have the authority to adopt regular annual assessments and to levy periodic special assessments against each of the time-share estate unit owners and to collect the same from such owners according to law if the purpose in so doing is determined by the board of directors to be in the best interest of the time-share project or time-share program and the proceeds are used to either pay common expenses or fund a reserve. In addition, the board of directors of the association shall have the authority to collect, on behalf of the developer or on its own account, the maintenance fee imposed by the developer pursuant to § 55.1-2210. The authority hereby granted and conferred upon the association shall exist notwithstanding any covenants and restrictions of record applicable to the project stated to the contrary, and any such covenants and restrictions are hereby declared void.

B. The developer may provide that it not be obligated to pay all or a portion of any assessment, dues, or other charges of the association, however denominated, passed, or adopted, pursuant to subsection A, if such developer so provides, in bold type, in the time-share instrument for the time-share estate project. If no such provision exists, the developer shall be responsible to pay the same assessment, dues, or other charges that a time-share estate owner is obligated to pay for each of its unsold time-shares existing at the end of the fiscal year of the association and no more if the board of directors of the association so determines. In no event shall either a time-share expense or the dues, assessment, or charges of the association discriminate against the developer.

C. The association shall have a lien on every time-share estate within its project for unpaid and past due regular or special assessments levied against that estate in accordance with the provisions of this chapter and for all unpaid and past due maintenance fees. The exemption created by § 34-4 shall not be claimed against the debt or lien of the association created by this section.

The association, in order to perfect the lien given by this subsection, shall file, before the expiration of four years from the time such special or regular assessment or maintenance fee became due, in the clerk's office of the county or city in which the project is situated, a memorandum verified by the oath of any officer of the association or its managing agent and containing the following information:

1. The name and location of the project;
2. The name and address of each owner of the time-share on which the lien exists and a description of the unit in which the time-share is situated;
3. The amount of past due special or regular assessments or past due maintenance fees applicable to the time-share, together with the date when each became due;
4. The amount of any other charges owing occasioned by the failure of the owner to pay the assessments or maintenance fees, including late charges, interest, postage and handling, attorney fees, recording costs, and release fees;
5. The name, address, and telephone number of the association's trustee, if known at the time, who will be called upon by the association to foreclose on the lien upon the owner's failure to pay as provided in this subsection; and

6. The date of issuance of the memorandum.

Notwithstanding any other provision of this chapter, or any other provision of law requiring documents to be recorded in the deed books of the clerk's office of any court, from July 1, 1981, all memoranda of liens arising under this subsection shall be recorded in the deed books in such clerk's office. Any such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for time-share estate regular or special assessments or maintenance fees.

The clerk in whose office such memorandum is filed as provided in this subsection shall record and index such memorandum as provided in this subsection, in the names of the persons identified in such memorandum as well as in the name of the time-share estates owners' association. The cost of recording such memorandum shall be taxed against the owner of the time-share on which the lien is placed. The filing with the clerk of one memorandum on which is listed two or more delinquent time-share estate unit owners is permitted in order to perfect the lien hereby allowed, and the cost of filing in this event shall be the clerk's fee as prescribed in subdivision A 2 of § 17.1-275.

D. At any time after perfecting the lien pursuant to this section, the association may sell the time-share estate at a public sale, subject to prior liens. For purposes of this section, the association shall have the power both to sell and convey the time-share estate and shall be deemed the time-share estate owner's statutory agent for the purpose of transferring title to the time-share estate. A nonjudicial foreclosure sale shall be conducted by a trustee and in accordance with the following:

1. The association shall give notice to the time-share estate owner, prior to advertisement, as required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the time-share estate owner, by which the debt secured by the lien shall be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the time-share estate. The notice shall further inform the time-share estate owner of the right to bring a court action in the circuit court of the county or city where the time-share project is located to assert the nonexistence of a debt or any other defenses of the time-share estate owner to the sale.

2. After expiration of the 60-day notice period provided in subdivision 1, the association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which the time-share project is located. It shall be the duty of the clerk in whose office such appointment is filed to record and index the same, as provided in this subsection, in the names of the persons identified therein as well as in the name of the association. The association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If, prior to the date of the foreclosure sale, the time-share estate owner (i) satisfies the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (ii) pays all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees, the time-share estate owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the time-share estate.

4. In addition to the advertisement required by subdivision 5, the association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, including the name, address, and telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the time-share estate to be sold at his last known address as such owner and address appear in the records of the association, (ii) any lienholder that holds a note against the time-share estate secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust, provided that the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to the lienholders and their assigns, at the addresses noted in the memorandum of lien, by regular mail no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the county or city wherein the time-share estate to be sold and the time-share project, or any portion of such project, lies pursuant to the following provisions:

a. The association shall advertise once a week for four successive weeks; however, if the time-share estate and the time-share project or some portion of such project is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of time-share estate being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the association finds appropriate, shall set forth:

(1) A description of the time-share estate to be sold, which description need not be as extensive as that contained in the deed of trust, but shall identify the time-share project by street address, if any, or, if none, shall give the general location of such time-share project with reference to streets, routes, or known landmarks with further identification of the time-share estate to be sold. Where available, tax map identification may be used. The advertisement shall also include the date, time, place, and terms of sale and the name of the association. It shall set forth the name, address, and telephone number of the representative, agent, or attorney who is authorized to respond to inquiries concerning the sale; or

(2) In lieu of the requirements of subdivision (1), the advertisement shall set forth the date, time, place, and terms of

sale and the name of the association; the street address of the time-share estate to be sold, if any, or, if none, the general location of the time-share project; and the name, address, and telephone number of the representative, agent, or attorney who is authorized to respond to inquiries and give additional information concerning the time-share estate to be sold, including providing in hard copy or electronic form a description of the time-share estate to be sold by street address, if any, or, if none, by the general location of the time-share project with reference to streets, routes, or known landmarks, and, where available, tax map identification. The advertisement under this subdivision (2) shall also include a website address where the information contained in subdivision (1) is displayed for the time-share estate to be sold.

c. In addition to the advertisement required by subdivisions 5 a and b, the association may give such other further and different advertisement as the association finds appropriate.

6. In the event of postponement of the sale, which postponement shall be at the discretion of the association, advertisement of the postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court. Such petition shall be filed within 60 days of the sale or the right to do so shall lapse.

8. In the event of a sale, the association shall have the following powers and duties:

a. The association may sell two or more time-share estates at the sale. Written one-price bids may be made and shall be received by the trustee from the association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person that has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the time-share instrument, the association may bid to purchase the time-share estate at a foreclosure sale. The association may own, lease, encumber, exchange, sell, or convey the time-share estate. Whenever the written bid of the association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision 10 of this subsection and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the association, its agent, or its attorney.

b. The association may require of any bidder at any sale a cash deposit of as much as one-third of the sale price before his bid is received, which shall be refunded to him if the time-share estate is not sold to him through action of the trustee. The deposit of the successful bidder shall be applied to his credit at settlement; if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the association in connection with that sale.

c. The association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and shall apply such proceeds in the following order: first, to the reasonable expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the time-share estate owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the time-share estate owner or his assigns, provided, however, that the association as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the unit owner's equity, without actual notice thereof prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the time-share estate with special warranty of title. The trustee shall not be required to take possession of the time-share estate prior to the sale of such estate or deliver possession of the time-share estate to the purchaser at the sale.

10. If the sale of a time-share estate is made pursuant to this subsection and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless, within six months from the date of foreclosure, the sale is set aside by the court or an appeal is allowed by the Supreme Court of Virginia and an order is entered requiring such sale to be set aside.

When payment or satisfaction is made of a debt secured by the lien perfected by this subsection, such lien shall be released in accordance with the provisions of § 55.1-339. For the purposes of § 55.1-339, any officer of the time-share estate owners' association or its managing agent shall be deemed the duly authorized agent of the lien creditor.

E. The commissioner of accounts to whom an account of sale is returned in connection with the foreclosure of either a lien under subsection C or a purchase money deed of trust taken back by the developer in the sale of a time-share in order to satisfy § 64.2-1309 shall be entitled to a fee, not to exceed \$70, on each foreclosure of a lien under subsection C and not to exceed \$125 on each foreclosure of a purchase money deed of trust taken back by the developer.

F. Any time-share owner within the project having executed a contract for the disposition of the time-share shall be entitled, upon request, to a recordable statement setting forth the amount of unpaid regular or special assessments or maintenance fees currently levied against that time-share. Such request shall be in writing, directed to the president of the time-share estate owners' association, and delivered to the principal office of the association. Failure of the association to furnish or make available such statement within 20 days from the actual receipt of such written request shall extinguish the lien created by subsection C as to the time-share involved. Payment of a fee reflecting the reasonable cost of materials and labor, not to exceed the actual cost of such materials and labor, may be required as a prerequisite to the issuance of such a statement.

**§ 55.1-2212. Time-share owners' association books and records; meetings; use of email.**

A. Subject to the provisions of subsection B, all books and records, or copies of such books and records, kept by or on

behalf of the association shall be maintained so that such books and records, or copies of such books and records, are reasonably available for inspection after written request by a member in good standing or his authorized agent. The association may charge such member or his agent a reasonable fee for copying the requested information. No books or records shall be removed from their location by the examining member or his agent. The right of inspection shall exist without reference to the duration of membership and may be exercised only during reasonable business hours and at a mutually convenient time and location, under the supervision of the custodian, and upon 15 days' written notice.

For purposes of this subsection, the requested books and records shall be considered "reasonably available" if copies of such books and records are delivered to the requesting member or his agent within seven business days of the date the association receives the written request. However, the requesting member or his agent shall be permitted to inspect the books and records wherever located at any reasonable time, under reasonable conditions, and under the supervision of the custodian of the records. The custodian shall supply copies of the records where requested and upon payment of the copying fee.

The association shall provide members of the association with the location of the books and records, along with the name and address of the custodian, by any reasonable method, which may include posting in a reasonable location at the situs of the time-share project or in the annual report required by § 55.1-2213.

B. Books and records kept by or on behalf of an association may be withheld from inspection to the extent that they concern:

1. Personnel records;
2. An individual's medical records;
3. Records relating to business transactions that are currently in negotiation;
4. Privileged communications with legal counsel;
5. Complaints against an individual member of the association;
6. Agreements containing confidentiality requirements;
7. Pending litigation;
8. The name, address, phone number, electronic mail address, or other personal information of time-share owners or members of the association, unless such owner or member first approves of the disclosure in writing;
9. Disclosure of information in violation of law; or
10. Meeting minutes or other records of an executive session of the board of directors held in accordance with subsection D.

The association shall be under no obligation to provide requested records to the extent that they are matters of public record or are otherwise readily obtainable from another source.

C. The association shall maintain among its records a complete, up-to-date list of the names and addresses of all current members in good standing who are owners of time-share estates in the time-share project. The association shall not publish such list or provide a copy of it to any time-share owner or to any third party except the board of directors or the developer. However, the association shall mail to those persons named on the list materials provided by any member in good standing, upon written request of that member, if the purpose of the mailing is to advance legitimate association business. The use of any proxies solicited in this manner shall comply with the provisions of the time-share instrument and this chapter. A mailing requested for the purpose of advancing legitimate association business shall occur within 45 days after receipt of a request from a member in good standing. The board of directors of the association shall be responsible for determining the appropriateness of any mailing requested pursuant to this subsection whose decision in this regard shall be final. The association shall be paid in advance for the association's actual costs in performing the mailing, including postage, supplies, reasonable labor, and attorney fees.

D. Meetings of the board of directors shall be open to all members of record who are eligible to vote and who are in good standing. Minutes shall be recorded and shall be available as provided in subsection A. The board of directors may convene in closed session to consider personnel matters; consult with legal counsel; discuss and consider contracts, potential or pending litigation, and matters involving violations of the time-share instrument or rules and regulations adopted pursuant to such instrument for which a member, his family members, tenants, or guests, or other invitees are responsible; or discuss and consider the personal liability of members to the association upon the affirmative vote in open meeting to assemble in closed session. The motion shall state specifically the purpose for the closed session. Reference to the motion and the stated purpose for the closed session shall be included in the minutes. The board of directors shall restrict the consideration of matters during the closed portions of meetings only to those purposes specifically exempted and stated in the motion. No contract, motion, or other action adopted, passed, or agreed to in closed session shall become effective unless the board of directors, following the closed session, reconvenes in an open meeting and takes a vote on such contract, motion, or other action, which shall have its substance reasonably identified in the open meeting. The requirements of this section shall not require the disclosure of information in violation of law.

E. Notwithstanding any provisions of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) to the contrary:

1. The bylaws of the association may prescribe different quorum requirements for meetings of its members; and
2. A director of the association may be removed from the office pursuant to any procedure provided in its articles of incorporation and, if none is provided, may be removed at a meeting called expressly for that purpose, with or without cause, by such vote as would suffice for his election.

F. Whenever this chapter requires communication between the board of directors and a member of the association by

mail, any electronic means may be used in the alternative, including email, provided that such electronic communication is personal and only between such board and such member.

G. Filings with the board may be made by any electronic means, provided that such board is willing to accept such format.

**§ 55.1-2213. Time-share estate owners' association annual report.**

A. Commencing with the time-share estate program and within 180 days after the close of each fiscal year thereafter, an annual report shall be prepared and distributed to all time-share estate owners. Such annual report shall be prepared and distributed for each time-share estate project registered with the Board. During the developer control period, the annual report shall be prepared and distributed to all time-share purchasers by the developer or its designated managing entity. After the developer control period, such annual report shall be prepared and distributed by the association.

B. The annual report shall contain the following:

1. The full legal name of the time-share project and its address;
2. The full legal name of the association;
3. A list of the names and mailing addresses of the members of the association's board of directors and the name of the person who prepared the report;
4. The managing entity's name, address, and contact person, if any, for the project;
5. A statement of whether or not the developer control period has terminated for the time-share estate project;
6. Financial statements of the association audited by an independent certified public accounting firm of the association that contain at least the following:
  - a. A balance sheet as of the end of the fiscal year;
  - b. An income statement as of the end of the fiscal year; and
  - c. A statement of the net changes in the financial position of the association for the fiscal year just ended;
7. A statement of the time-share estates occupancy expenses, the regular assessment, and any special assessments or other charges due for the current year from each time-share estate owner;
8. A copy of the current budget reflecting the anticipated time-share estate occupancy expenses along with:
  - a. A statement as to who prepared the budget;
  - b. A statement of the budgetary assumptions concerning occupancy factors;
  - c. A description of any provision made in the budget for reserves for repairs and replacement;
  - d. A statement of any other reserves;
  - e. The projected financial liability for each time-share estate owner, including a statement of (i) the nature of all charges, assessments, maintenance fees, and other expenses that may be assessed; (ii) the current amounts assessed; and (iii) the method and formula for changing any such assessments; and
  - f. A statement of any services not reflected in the budget that the developer provides, or expenses that it pays, that the association expects may become a time-share expense at any subsequent time, and the projected time-share expense assessment attributable to each of those services or expenses for the association and for each time-share; and
9. A statement of the location of the books and records of the association along with the name and contact address of the custodian of such books and records.

C. In lieu of the annual report required by subsection A, during the first 12 months of the time-share program, the developer or the association shall prepare a budget that shall contain the information contained in subdivision B 8.

**§ 55.1-2214. Time-share instrument for project.**

In addition to the requirements of § 55.1-2208, the time-share instrument for a time-share use program shall prescribe and outline reasonable arrangements for the management and operation of the time-share use program and for the maintenance, repair, and furnishing of time-share use units it comprises. Such arrangements shall include provisions for the following:

1. Standards and procedures for upkeep, repair, and interior furnishing of time-share use units, for the replacements of such furnishings, and for providing maid, cleaning, linen, and similar services to the units during use and occupancy periods;
2. Adoption of standards and rules of conduct governing the use, enjoyment, and occupancy of time-share use units by owners;
3. Payment by the developer of the costs and expenses of operating the time-share use program and owning and maintaining the time-share use units it comprises;
4. Selection of a managing agent to act for and on behalf of the developer should the developer elect not to undertake the duties, responsibilities, and obligations of the management of the time-share use program;
5. Procedures for establishing the rights of time-share use owners to occupancy, use, and enjoyment of time-share use units by prearrangement or under a first-reserved, first-served priority system;
6. Procedures for imposing and collecting regular or special assessments, maintenance fees, or use fees from time-share use owners as necessary to defray all time-share expenses and in providing materials and services to the units, as required of the developer in this chapter;
7. Comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the occupancy, use, and enjoyment of time-share use units by time-share use owners, their guests, and other users. The costs associated with securing and maintaining such insurance shall be a time-share expense. Nothing in

*this subdivision shall be construed to obligate the developer to secure insurance on the conduct of the time-share use owners, their guests, and other users or the personal effects or property of such owners, guests, and users;*

8. *Methods for providing compensating or alternate use periods or monetary compensation to a time-share use owner if a time-share use unit cannot be made available for the period to which the owner is entitled by schedule or by a confirmed reservation; and*

9. *Procedures for imposing a monetary penalty or suspension of a time-share use owner's rights and privileges in the time-share use program or project or termination of the time-share use itself for failure of the time-share use owner to (i) comply with the provisions of the time-share use instrument; (ii) comply with the rules and regulations established by the developer with respect to the occupancy, use, and enjoyment of the time-share use units; or (iii) pay the charges imposed by the developer against the time-share use owner for providing the materials and services as required of the developer in this chapter. Except in matters where the time-share use owner has failed to pay the charge imposed by the developer for a period of less than 60 days after it has become due and payable, the owner shall be given notice and the opportunity to be heard.*

**§ 55.1-2215. Partition.**

*No action for partition of a unit may be maintained except as permitted by the time-share instrument or by subsection C of § 55.1-2216.*

**§ 55.1-2216. Termination of certain time-shares.**

A. *This section applies to all time-share estate programs and, when provided by the time-share instrument, to time-share use programs.*

B. *A time-share project may be terminated in whole by the developer at any time and for any reason if such developer is the sole owner of all time-shares within the time-share project. Such termination shall be accomplished by the developer executing and recording a termination document where the time-share instrument is recorded. Time-shares subject to this section also may be terminated by written agreement of the time-share owners having at least 51 percent of the time-shares or by written agreement of such larger percentage of the time-share owners as may otherwise be provided in the time-share instrument. The termination agreement shall specify a date upon which it shall become void, unless it is recorded before that date in the clerk's office of the appropriate court where the time-share project is located.*

C. *If the termination agreement sets forth the material terms of a contract or proposed contract under which an estate or interests equal to the sum of the time-shares are to be sold and designates a trustee to effect the sale, the termination agreement becomes effective upon recordation, and title to that estate or interest vests upon termination in the trustee for the benefit of the time-share owners, to be transferred pursuant to the contract. If the termination agreement does not set forth the material terms of a contract or proposed contract under which an estate or interests equal to the sum of the time-shares are to be sold and designates a trustee to effect the sale, the termination agreement becomes effective upon recordation, and title to an estate or interests equal to the sum of the time-shares therein vests upon termination in the time-share owners in proportion to their respective interests as provided in subsection F. Liens on the time-shares shall accordingly encumber the respective interests; and in this instance, any co-owner of that estate or interest may maintain an action for partition or for allotment or sale in lieu of partition pursuant to the laws of the Commonwealth.*

D. *Except as otherwise specified in the termination agreement, so long as the former time-share owners or their trustee holds title to the estate or interests equal to the sum of the time-shares, each former time-share owner and his successor in interest have the same rights with respect to the use, enjoyment, and occupancy in the former time-share unit that such former time-share owner and his successor in interest would have had if termination had not occurred, together with the same liabilities and other obligations imposed by this act or the time-share instrument.*

E. *After termination of all time-shares in a time-share project and adequate provision for payment of the claims of the creditors for time-share expenses, distribution shall be made, in proportion to their respective interests as provided in subsection F, to the former time-share owners and their successors in interest of (i) the proceeds of any sale pursuant to this section, (ii) the proceeds of any personalty held for the use and benefit of the former time-share owners, and (iii) any other funds held for the use and benefit of the former time-share owners.*

F. *The time-share instrument may specify the respective fractional or percentage interest that will be owned by each former time-share owner after termination, in accordance with the provisions of this section. Otherwise, not more than 180 days prior to the termination, an appraisal shall be made of the fair market value of each time-share by one or more impartial qualified appraisers selected either by the trustee designated in the termination agreement or by the managing entity if no trustee was so designated. The appraisal shall also state the corresponding fractional or percentage interests calculated in proportion to those values and in accordance with this subsection. A notice stating all of those values and corresponding interests and the return address of the sender shall be sent by certified or registered mail, by the managing entity or the trustee designated in the termination agreements, to all of the time-share owners. The appraisal governs the magnitude of each interest unless (i) at least 25 percent of the time-share owners deliver, within 60 days after the date the notices were mailed, written disapprovals to the return address of the sender of the notice or (ii) the final judgment of a court of competent jurisdiction, entered during or after that period, holds that the appraisal should be set aside. The appraisal and the calculation of interests shall be made in accordance with the following:*

1. *If the termination agreement sets forth the material terms of a contract or proposed contract for the sale of the estate or interests equal to the sum of the time-shares, each time-share conferring a right of occupancy during a limited number of time periods shall be appraised as if the time until the date specified for the conveyance of the property had already elapsed. Otherwise, each time-share of that kind shall be appraised as if the time until the date specified pursuant to*

subsection B had already elapsed.

2. The interest of each time-share owner is the value of the time-share he owned divided by the sum of the values of all time-shares in the unit or units to which his time-share applies.

G. Foreclosure or enforcement of a lien or encumbrance against all of the time-shares in a time-share project does not of itself terminate those time-shares.

Article 3.

Protection of Purchasers.

**§ 55.1-2217. Public offering statement.**

A. Prior to the execution of a contract for the purchase of a time-share, the developer shall prepare and distribute to each prospective purchaser a copy of the current public offering statement regarding the time-share. The public offering statement shall (i) fully and accurately disclose the material characteristics of the time-share project registered under this chapter and such time-share offered and (ii) make known to each prospective purchaser all material circumstances affecting such time-share project. A developer need not make joint disclosures concerning two or more time-share projects owned by the developer or any related entity unless such projects are included in the same time-share program and marketed jointly at any of the time-share projects. The proposed public offering statement shall be filed with the Board and shall be in a form prescribed by its regulations. The public offering statement may limit the information provided for the specific time-share project to which the developer's registration relates. The public offering statement shall include the following only to the extent that a given disclosure is applicable:

1. The name and principal address of the developer and the time-share project registered with the Board about which the public offering statement relates, including:

a. The name, principal occupation, and address of every director, partner, limited liability company manager, or trustee of the developer;

b. The name and address of each person owning or controlling an interest of 20 percent or more in each time-share project registered with the Board;

c. The particulars of any indictment, conviction, judgment, or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local, or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements, or any similar or related activity;

d. The nature of each unsatisfied judgment, if any, against the developer or the managing entity, the status of each pending action involving the sale or management of real estate to which the developer, the managing entity, or any general partner, executive officer, director, limited liability company manager, or majority stockholder thereof is a defending party, and the status of each pending action, if any, of significance to any time-share project registered with the Board; and

e. The name and address of the developer's agent for service of any notice permitted by this chapter.

2. A general description of the time-share project registered with the Board and the units and common elements promised available to purchasers, including the developer's estimated schedule of commencement and completion of all promised and incomplete units and common elements.

3. As to all time-shares offered by the developer:

a. The form of time-share ownership offered in the project registered with the Board;

b. The types, duration, and number of units and time-shares in the project registered with the Board;

c. Identification of units that are subject to the time-share program;

d. The estimated number of units that may become subject to the time-share program;

e. Provisions, if any, that have been made for public utilities in the time-share project including water, electricity, telephone, and sewerage facilities;

f. A statement to the effect of whether or not the developer has reserved the right to add to or delete from the time-share program a time-share project or any incidental benefit or alternative purchase; and

g. If the developer utilizes the possibility of reverter, a statement to that effect referring the purchaser to the reverter deed for an explanation of such possibility of reverter.

4. In a time-share estate program, a copy of the annual report or budget required by § 55.1-2213, which copy may take the form of an exhibit to the public offering statement. In the case where multiple time-share projects are registered with the Board, the copy or exhibit may be in summary form.

5. In a time-share use program where the developer's net worth is no more than \$250,000, a current audited balance sheet and, where the developer's net worth exceeds such amount, a statement by such developer that its equity in the time-share program exceeds that amount.

6. Any initial or special fee due from the purchaser at settlement together with a description of the purpose and method of calculating the fee.

7. A description of any liens, defects, or encumbrances affecting the time-share project and in particular the time-share offered to the purchaser.

8. A general description of any financing offered by or available through the developer.

9. A statement that the purchaser has a nonwaivable right of cancellation, referring such purchaser to that portion of the contract in which such right may be found.

10. If the time-share interest in a condominium unit may be conveyed before that unit is certified as substantially

complete in accordance with § 55.1-1920, a statement of the developer's obligation to complete the unit. Such statement shall include the approximate date by which the condominium unit shall be completed, together with the form and amount of the bond filed in accordance with subsection B of § 55.1-1921.

11. Any restraints on alienation of any number or portion of any time-shares.

12. A description of the insurance coverage provided for the benefit of time-share owners.

13. The extent to which financial arrangements, if any, have been provided for completion of any incomplete but promised time-share unit or common element being then offered for sale, including a statement of the developer's obligation to complete the promised units and common elements that the time-share project comprises that have not begun or that have begun but have not yet been completed.

14. The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit.

15. The name and address of the managing entity for the project.

16. Copies of the project instrument and the association's articles of incorporation and bylaws, each of which may be a supplement to the public offering statement.

17. Any services that the developer provides or expense it pays and that it expects may become at any subsequent time a time-share expense of the owners, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

18. A description of the terms of the deposit escrow requirements, including a statement that deposits may be removed from escrow at the termination of the cancellation period.

19. A description of the facilities, if any, provided by the developer to the association in a time-share estate project for the management of the project.

20. Any other information required by the Board to assure full and fair meaningful disclosure to prospective purchasers.

B. If any prospective purchaser is offered the opportunity to subscribe to or participate in any exchange program, the public offering statement shall include, as an exhibit or supplement, the disclosure document prepared by the exchange company in accordance with § 55.1-2219 and a brief narrative description of the exchange program, which shall include the following:

1. A statement of whether membership or participation in the program is voluntary or mandatory;

2. The name and address of the exchange company together with the names of its top three officers and directors;

3. A statement of whether the exchange company or any of its top three officers, directors, or holders of a 10 percent or greater interest in the exchange company has any interest in the developer, the managing entity, or the time-share project;

4. A statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the developer; and

5. A brief narrative description of the procedure by which exchanges are conducted.

C. The public offering statement of a conversion time-share project shall also include the following, which may take the form of an exhibit to the public offering statement:

1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the project is a conversion time-share project;

2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or upkeep of any building in the project within the last three years. This information shall be set forth in a tabular manner within the proposed budget of the project. If any such building has not been occupied for a period of three years, the information shall be set forth for the period during which such building was occupied;

3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share project, or, if no provision is made for such reserves, a statement to that effect; and

4. A statement of the present condition of all structural components and major utility installations in the building, which statement shall include the approximate dates of construction, installations, and major repairs as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of replacing each such component.

D. In the case of a conversion project, the developer shall give at least 90 days' notice to each of the tenants of any building that the developer intends to submit to the provisions of this chapter. During the first 60 days of such 90-day period, each of these tenants shall have the exclusive right to contract for the purchase of a time-share from the unit he occupies, but only if such unit is to be retained in the conversion project without substantial alteration in its physical layout. Such notice shall be hand delivered or sent by first-class mail, return receipt requested, and shall inform the tenants of the developer's intent to create a conversion project. Such notice may also constitute the notice to terminate the tenancy as provided for in § 55.1-1410, except that, despite the provisions of § 55.1-1410, a tenancy from month to month may only be terminated upon 120 days' notice as set forth in this subsection when such termination is in regard to the creation of a conversion project. If, however, a tenant so notified remains in possession of the unit he occupies after the expiration of the 120-day period with the permission of the developer, in order to then terminate the tenancy, such developer shall give the tenant a further notice as provided in § 55.1-1410.

The developer of a conversion project shall, in addition to the requirements of § 55.1-2239, include with the application for registration a copy of the notice required by this subsection and a certified statement that such notice fully complies with the provisions of this subsection shall be, at the time of the registration of the conversion project, mailed or delivered to each of the tenants in any building for which registration is sought.

E. The developer shall amend the public offering statement to reflect any material change in the time-share program or time-share project. If the developer has reserved in the time-share instrument the right to add to or delete incidental benefits or alternative purchases, the addition or deletion of such benefits or purchases shall not constitute a material change. Prior to distribution, the developer shall file with the Board the public offering statement amended to reflect any material change.

F. The Board may at any time require a developer to alter or supplement the form or substance of the public offering statement to assure full and fair disclosure to prospective purchasers. A developer may prepare and distribute a public offering statement for each product offered or one public offering statement for all products offered.

G. In the case of a time-share project located outside the Commonwealth, (i) the developer may amend the public offering statement to reflect any additions or deletions of a time-share project to the existing time-share program registered in the Commonwealth and (ii) similar disclosure statements required by other situs laws governing time-sharing may be acceptable alternative disclosure statements.

H. The public offering statement may be in any format, including any electronic format, provided that the prospective buyer has available for review, along with ample time for any questions and answers, a copy of the public offering statement prior to his execution of a contract.

**§ 55.1-2218. Certain advertising practices regulated.**

A. Any offering that includes a gift or prize shall disclose in such offering, with the same prominence as such offer:

1. The retail value of each gift or prize;
2. The approximate odds against any given person obtaining each gift or prize if all persons to whom the advertisement is disseminated do what is necessary to qualify for the award of the gift or prize;
3. If the number of gifts or prizes to be awarded is limited, a statement of the number of gifts or prizes to be awarded or, in lieu of such statement, the nature of such limitation;
4. All rules, terms, requirements, and conditions that shall be fulfilled before a prospective purchaser may claim any gift or prize, including whether the prospective purchaser is required to attend a sales presentation in order to receive the gift or prize;
5. The date upon which the offer expires; and
6. A statement to the effect that the offer is being made for the purpose of soliciting the purchase of a time-share, time-share interest, interval ownership, interval ownership interest, vacation ownership, vacation ownership interest, or product, as appropriate.

B. Any gift or prize offered in connection with an offering shall be delivered to the prospective purchaser no later than the day the purchaser attends a sales presentation, if required, and if not, on the day the purchaser appears to claim it, whether or not he purchases a time-share. In the event that the supply of gifts or prizes is exhausted at the time required for delivery, the developer shall give the prospective purchaser a written, unconditional promise to deliver such gift or prize no later than 30 days from the date required for delivery. If such gift or prize is not obtainable, the developer shall deliver an item of equal or greater value.

C. The offering or sale of any product registered with the Board is exempt from the Virginia Securities Act (§ 13.1-501 et seq.), Chapter 9 (§ 55.1-900 et seq.), the Virginia Condominium Act (§ 55.1-1900 et seq.), the Subdivided Land Sales Act (§ 55.1-2300 et seq.), the Virginia Home Solicitation Sales Act (§ 59.1-21.1 et seq.), the Prizes and Gifts Act (§ 59.1-415 et seq.), and the Virginia Travel Club Act (§ 59.1-445 et seq.).

**§ 55.1-2219. Exchange programs.**

A. Any exchange company that offers an exchange program in the Commonwealth shall prepare and register with the Board a disclosure document including the following:

1. The name and address of the exchange company;
2. The names and addresses of the top three officers and all directors of the exchange company and, if the exchange company is privately held, all shareholders owning five percent or more interest in the exchange company;
3. Whether the exchange company or any of its officers or directors has any legal or beneficial interest in any developer or managing agent for any time-share program participating in the exchange program and, if so, the name and location of the time-share project and the nature of the interest;
4. Unless the exchange company is also the developer or an affiliate, a statement that the purchaser's contract with the exchange company is a contract separate and distinct from the sales contract;
5. Whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the time-share project with the exchange program;
6. Whether the purchaser's membership or participation, or both, in the exchange program is voluntary or mandatory;
7. A complete and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange company and the procedure by which changes in the terms and conditions of the exchange contract may be made;
8. A complete and accurate description of the procedure to qualify for and effectuate exchanges;
9. A complete and accurate description of all limitations, restrictions, or priorities employed in the operation of the

exchange program, including limitations on exchanges based on seasonality, unit size, or levels of occupancy, expressed in boldface type, and, in the event that such limitations, restrictions, or priorities are not uniformly applied by the exchange program, a clear description of the manner in which they are applied;

10. Whether exchanges are arranged on a space available basis and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange program;

11. Whether and under what circumstances an owner, in dealing with the exchange company, may lose the use of occupancy of his time-share in any properly-applied-for exchange, without being provided with substitute accommodations by the exchange company;

12. The fees or range of fees for participation by owners in the exchange program, a statement of whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made;

13. The name and address of the site of each time-share property, accommodation, or facility participating in the exchange program;

14. The number of units in each property participating in the exchange program that are available for occupancy and that qualify for participation in the exchange program, expressed within the following numerical groupings: 1-5, 6-10, 11-20, 21-50, and 51 and over;

15. The number of owners with respect to each time-share program or other property who are eligible to participate in the exchange program, expressed within the numerical groupings 1-100, 101-249, 250-499, 500-999, and 1,000 and over, and a statement of the criteria used to determine those owners currently eligible to participate in the exchange program;

16. The disposition made by the exchange company of time-shares deposited with the exchange program by owners eligible to participate in the exchange program and not used by the exchange company in effecting exchanges;

17. The following information, which, except as provided in subsection B, shall be independently audited by a certified public accountant or accounting firm in accordance with the standards of the Auditing Standards Board of the American Institute of Certified Public Accountants and reported for each year no later than July 1 of the succeeding year:

a. The number of owners enrolled in the exchange program. Such numbers shall disclose the relationship between the exchange company and owners as being either fee paying or gratuitous in nature;

b. The number of time-share properties, accommodations, or facilities eligible to participate in the exchange program;

c. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the exchange company divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange request was properly applied for;

d. The number of time-shares for which the exchange company has an outstanding obligation to provide an exchange to an owner who relinquished a time-share during the year in exchange for a time-share in any future year; and

e. The number of exchanges confirmed by the exchange company during the year.

18. A statement in boldface type to the effect that the percentage described in subdivision 17 c is a summary of the exchange requests entered with the exchange company in the period reported and that the percentage does not indicate a purchaser's or owner's probabilities of being confirmed to any specific choice or range of choices, since availability at individual locations may vary.

B. The information required by subsection A shall be accurate as of a date that is no more than 30 days prior to the date on which the information is delivered to the purchaser, except that the information required by subdivisions A 2, 12, 13, 14, 15, and 16 shall be accurate as of December 31 of the preceding year if the information is delivered between July 1 and December 31 of any year; information delivered between January 1 and June 30 of any year shall be accurate as of December 31 of the year prior to the preceding year. At no time shall such information be accurate as of a date that is more than 18 months prior to the date of delivery. As used in this section, "year" means calendar year.

C. In the event that an exchange company offers an exchange program directly to the purchaser, the exchange company shall deliver to such purchaser, simultaneously with such offering and prior to the execution of any contract between the purchaser and the exchange company, the information set forth in subsection A. The requirements of this subsection shall not apply to any renewal of a contract between a purchaser and an exchange company.

D. Each exchange company shall include the statement set forth in subdivision A 18 on all promotional brochures, pamphlets, advertisements, or other materials disseminated by the exchange company that also contain the percentage of confirmed exchanges described in subdivision A 17 c.

E. An exchange company shall, on or before July 1 of each year, file with the Board and the association for the time-share program in which the time-shares are offered or disposed the information required by this section with respect to the preceding year. If the Board determines that any of the information supplied fails to meet the requirements of this section, the Board may undertake enforcement action against the exchange company in accordance with the provisions of Article 6 (§ 55.1-2247 et seq.). No developer shall have any liability arising out of the use, delivery, or publication by the developer of written information provided to it by the exchange company pursuant to this section. Except for written information provided to the developer by the exchange company, no exchange company shall have any liability with respect to (i) any representation made by the developer relating to the exchange program or exchange company or (ii) the use, delivery, or publication by the developer of any information relating to the exchange program or exchange company. The failure of the exchange company to observe the requirements of this section, or the use by it of any unfair or deceptive act or practice in connection with the operation of the exchange program, shall be a violation of this section.

F. The Board may establish by regulation reasonable fees for registration of the exchange company disclosure

document. All fees shall be remitted by the Board to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

**§ 55.1-2220. Escrow of deposits; use of corporate surety bond or irrevocable letter of credit.**

A. Any deposit made in connection with the purchase or reservation of a product shall be held in escrow. All deposits shall be held in escrow until (i) delivered to the developer upon expiration of the purchaser's cancellation period provided the purchaser's right of cancellation has not been exercised, (ii) delivered to the developer because of the purchaser's default under a contract to purchase a time-share, or (iii) refunded to the purchaser. Such funds shall be deposited in a separate account designated for this purpose that is federally insured and located in the Commonwealth; except where such deposits are being held by a real estate broker or attorney licensed under the laws of the Commonwealth, such funds may be placed in that broker's or attorney's regular escrow account and need not be placed in a separate designated account. Such escrow funds shall not be subject to attachment by the creditors of either the purchaser or the developer.

B. In lieu of escrowing deposits as provided in subsection A, the developer of a time-share project consisting of more than 25 units may:

1. Obtain and maintain a corporate surety bond issued by a surety authorized to do business in the Commonwealth, in the form and amount set forth in subsection C; or

2. Obtain and maintain an irrevocable letter of credit issued by a financial institution whose accounts are insured by the FDIC, in the form and amount set forth in subsection D.

The surety bond or letter of credit shall be maintained until (i) the expiration of the purchaser's cancellation period, (ii) the purchaser's default under a purchase contract for the time-share estate entitling the developer to retain the deposit, or (iii) the refund of the deposit to the time-share purchaser, whichever occurs first.

C. The surety bond shall be payable to the Commonwealth for the use and benefit of every person protected under the provisions of this chapter. The developer shall file the bond with the Board. The surety bond may be either in the form of an individual bond for each deposit accepted by the developer or, if the total amount of the deposits accepted by the developer under this chapter exceeds \$10,000, it may be in the form of a blanket bond. If the bond is a blanket bond, the amount shall be as follows. If the amount of such deposits is:

1. More than \$10,000 but not more than \$75,000, the blanket bond shall be \$75,000;

2. More than \$75,000 but less than \$200,000, the blanket bond shall be \$200,000;

3. \$200,000 or more but less than \$500,000, the blanket bond shall be \$500,000;

4. \$500,000 or more but less than \$1 million, the blanket bond shall be \$1 million; and

5. \$1 million or more, the blanket bond shall be 100 percent of the amount of such deposits.

D. The letter of credit shall be payable to the Commonwealth for the use and benefit of every person protected under this chapter. The developer shall file the letter of credit with the Board. The letter of credit may be either in the form of an individual letter of credit for each deposit accepted by the developer or, if the total amount of the deposits accepted by the developer under this chapter exceeds \$10,000, it may be in the form of a blanket letter of credit. If the letter of credit is a blanket letter of credit, the amount shall be as follows. If the amount of such deposits is:

1. More than \$10,000 but not more than \$75,000, the blanket letter of credit shall be \$75,000;

2. More than \$75,000 but less than \$200,000, the blanket letter of credit shall be \$200,000;

3. \$200,000 or more but less than \$500,000, the blanket letter of credit shall be \$500,000;

4. \$500,000 or more but less than \$1 million, the blanket letter of credit shall be \$1 million; and

5. \$1 million or more, the blanket letter of credit shall be 100 percent of the amount of such deposits.

For the purposes of determining the amount of any blanket letter of credit that a developer maintains in any calendar year, the total amount of deposits considered held by the developer shall be determined as of May 31 in each calendar year and the amount of the letter of credit shall be in accordance with the amount of deposits held as of May 31.

E. The developer shall disclose in the contract or in the public offering that the deposit may not be held in escrow or protected by a surety bond or letter of credit after expiration of the cancellation period and that such deposit is not protected as an escrow after expiration of the cancellation period. This disclosure shall include a statement of whether or not the developer reserves the option to sell or assign any promissory note given by a purchaser to another entity, whether or not such entity is affiliated with the developer. Both disclosures shall appear in boldface type of a minimum size of 10 points.

**§ 55.1-2221. Purchaser's rights of cancellation.**

A. A purchaser shall have the right to cancel the contract until midnight of the seventh calendar day following the execution of such contract. If the seventh calendar day falls on a Sunday or legal holiday, then the right to cancel the contract shall expire on the day immediately following that Sunday or legal holiday. Cancellation shall be without penalty, and all payments made by the purchaser before cancellation shall be refunded within 45 days after receipt of the notice of cancellation.

B. If the purchaser elects to cancel a contract pursuant to subsection A, he shall do so only (i) by hand-delivering the notice to the developer at its principal office or at the project or (ii) by mailing the notice by certified United States mail, return receipt requested, to the developer or its agent designated in the contract. Any such notice sent by certified mail shall be effective on the date postmarked.

C. If, because of the occurrence of a material change, the public offering statement is amended between the time of contracting to purchase a time-share and the time of settlement, the developer shall provide the amended public offering

statement to the purchaser and the right of cancellation shall renew from the date of delivery of such amended public offering statement. This subsection shall not apply if the public offering statement is amended by the developer because of a change that is not material or to disclose any change that is an aspect or result of the orderly development of the time-share project in accordance with the project instrument.

D. The right to cancel the contract as provided by this section shall not be waivable by the time-share purchaser and any provision in the contract or time-share documents indicating a waiver shall be void.

E. A statement of the purchaser's right of cancellation as set forth in subsections A and B shall appear in the contract above the purchaser's signature line. Such statement shall appear in type no smaller than any other provisions of the contract, and the caption "PURCHASER'S NONWAIVABLE RIGHT TO CANCEL" shall appear immediately preceding it in conspicuous, boldface type.

**§ 55.1-2222. Possibility of reverter.**

A. A possibility of reverter contained in a reverter deed for a time-share estate subject to reverter is valid, is enforceable in law and in equity, and shall operate to transfer title to the time-share estate from each grantee in such deed back to the developer, provided that the following conditions are satisfied:

1. The reverter deed from the developer contains the possibility of reverter by insertion of the language required by subsection E;

2. A grantee in the reverter deed is in default and has been provided after such default with at least two written notices to this effect with no less than a 10-calendar day right to cure in each notice;

3. A grantee in the reverter deed has been provided with no less than 30 calendar days within which to cure the default before exercise of the possibility of reverter occurs;

4. At the time of exercise of the possibility of reverter, the developer is the sole holder of the note and the sole beneficiary under the deed of trust;

5. The exercise by the developer of the possibility of reverter is evidenced by an affidavit duly recorded where the reverter deed was recorded that contains the following information:

a. A description of the time-share project and time-share estate and a statement that, upon recordation of the affidavit, title to such time-share estate reverts back to the developer;

b. A description and recitation of the reverter deed that contained the possibility of reverter and a reference of when and where such deed was recorded and its recording information;

c. A recitation that the purchaser defaulted in or violated a consumer document and failed to cure such default or violation within a period of no less than 30 calendar days;

d. A description of the note and deed of trust with a recitation that (i) the developer is the sole holder of the note and the sole beneficiary under the deed of trust, (ii) such note is canceled and declared void, and (iii) such deed of trust is automatically released;

e. A recitation that such purchaser's rights and entitlements in the time-share estate, the time-share project, and the time-share program are extinguished effective the date of recordation of the affidavit;

f. The signature of a duly authorized representative of the developer verified under oath as to its truth of the statements contained in such affidavit; and

6. A copy of the recorded affidavit described in subdivision A 5 is sent by the developer to each purchaser at his address as maintained by the developer or the association, along with the statement from the developer explaining the consequences of such affidavit with emphasis on subdivisions A 5 a, d, and e.

B. The recordation of the affidavit referred to in subdivision A 5 shall automatically:

1. Transfer title to the time-share estate from each grantee in the reverter deed to the developer without the need of a deed to the developer or consent from such grantee;

2. Declare null and void and act as an automatic release of the deed of trust or mortgage given by such grantee to finance a portion of the purchase price of the time-share estate with no deficiency resulting;

3. Void and act as an automatic release of any debt from such grantee to the developer arising out of the purchase or financing of the time-share estate as evidenced by the note; and

4. Extinguish any ownership or other property right or entitlements such grantee has in and to the time-share estate, the time-share project, and the time-share program.

C. The clerk of the court shall record such affidavit in the land books where the time-share project is located, indexing the purchaser in the grantor indices and the developer in the grantee indices. For indexing purposes only, the purchaser shall be referred to as the grantor and the developer as the grantee. The cost of recording the affidavit shall be limited to the clerk's fee only.

D. In the exercise of the possibility of reverter, the developer shall be liable to the purchaser for the developer's failure to comply with the provisions of this section; however, such failure shall not operate to defeat or diminish the transfer of title to the time-share estate from each grantee in the reverter deed to the developer upon recordation of the affidavit referred to in subdivision A 5. The developer's liability shall be limited to the amount paid by such purchaser toward the purchase price of the time-share estate, exclusive of interest and closing costs but without offset for the purchaser's utilization of the time-share program. The court shall award court costs and reasonable attorney fees to the prevailing party.

E. The reverter deed shall contain the following statement in order to possess the possibility of reverter. The opening phrase shall be in 10-point boldface type as follows:

"Loss of Time-Share Estate. Developer has inserted into this deed a "possibility of reverter." By this concept, should a grantee of this reverter deed default in or violate an obligation imposed by a consumer document for a period of at least 60 days and fail to cure such violation or default within no less than 30 calendar days thereafter, title to the time-share will revert back to the developer upon the developer recording an affidavit to this effect where this reverter deed is recorded. Only the developer can elect to exercise the possibility of reverter. Each grantee in this reverter deed will be sent at least two notices of default or violation within the 30-day period with no less than 10 days to cure in each instance. The notice will be sent to the address of each grantee maintained at the office of the developer or the association. After the cure period has lapsed and the developer records the affidavit, title to the time-share estate will automatically vest in the developer and any note executed by the grantee will be deemed canceled and any recorded deed of trust securing such note shall be automatically released. The possibility of reverter will itself lapse and become null and void at the soonest to occur of the following: (i) the deed of trust is released of record, (ii) a statement that the deed of trust is released of record is executed and recorded by the developer with a date of when the possibility of reverter was or is to lapse, or (iii) when the time-share program terminates pursuant to either the Virginia Real Estate Time-Share Act or the time-share instrument which created such program."

F. The filing of the affidavit referred to in subdivision A 5 shall not result in the requirement of any filing under Chapter 12 (§ 64.2-1200 et seq.) of Title 64.2.

G. Any possibility of reverter not otherwise exercised by the developer pursuant to this section shall itself lapse and become null and void at the soonest to occur of the following: (i) the deed of trust is released of record, (ii) a statement that the deed of trust is released of record is executed and recorded by the developer with a date of when the possibility of reverter was or is to lapse, or (iii) when the time-share program terminates pursuant to either this chapter or the time-share instrument.

H. In exercising the possibility of reverter, the developer shall be entitled to retain as liquidated damages all moneys paid by the purchaser in conformity with any consumer document.

I. The exercise of the possibility of reverter shall not operate to diminish or eliminate (i) any debt of the purchaser to the time-share association or other third party occasioned by ownership of the time-share estate or participation in the time-share program or (ii) any recorded lien junior in priority to the deed of trust lien referred to in this section.

#### **§ 55.1-2223. Recording and delivery of deed.**

At such time as the time-share estate purchaser has fulfilled all of his obligations under the contract and is entitled to a deed for his time-share estate, the developer shall file or cause to be filed within 180 days after such date, with the clerk of the circuit court where the time-share project is located, such deed for recordation. Upon receipt of the recorded deed returned from the clerk's office, the developer shall, within 45 days after such receipt, send or cause to be sent the original deed to the time-share estate purchaser.

#### **§ 55.1-2224. Liability limited; liability actions prohibited.**

A. Except as provided in subsection B, a project professional is not liable for injury to or death of a participant resulting from the inherent risks of project activity, so long as the warning contained in § 55.1-2225 is posted as required. Except as provided in subsection B, no participant or participant's representative may maintain an action against or recover from a project professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of project activity, provided that in any action for damages against a project professional for a project activity, the project professional shall plead the affirmative defense of assumption of the inherent risks of project activity by the participant.

B. Nothing in subsection A shall prevent or limit the liability of a project professional if the project professional does any one or more of the following:

1. Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant;

2. Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the project activity, or the dangerous propensity of a particular animal used in such activity, and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant; or

3. Intentionally injures the participant.

C. Any limitation on legal liability afforded by this section to a project professional is in addition to any other limitations of legal liability otherwise provided by law.

#### **§ 55.1-2225. Warning required.**

A. The developer, association, or other project professional shall post and maintain signs that contain the warning notice specified in subsection B. One sign shall be placed in a clearly visible location at the entrance to the project and another at the site of the project activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by a project professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves project activities on or off the time-share project or at the site of the project activity, shall contain in clearly readable print the warning notice specified in subsection B.

B. The signs and contracts described in subsection A shall contain the following notice of warning:

"WARNING: Under Virginia law, there is no liability for an injury to or death of a participant in a project activity

conducted at this location if such injury or death results from the inherent risks of project activity. Inherent risks of project activity include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the inherent risks of participating in this project activity."

C. Failure to comply with the requirements concerning warning signs and notices provided in this section shall prevent a project professional from invoking the privileges of immunity provided by this chapter.

**§ 55.1-2226. Buyer's Acknowledgment.**

A. Prior to the execution of a purchase contract, a purchaser shall be given a separate written document, titled "Buyer's Acknowledgment," to be signed by the purchaser and a representative of the developer other than the salesperson for the transaction.

B. The Buyer's Acknowledgment shall contain the following:

1. The name and address of the developer;
2. The name and address of the time-share project;
3. Whether the developer currently offers a resale or rental program or a buy-back program; and
4. The following statement in at least 10-point boldface type:

"There is no assurance that a purchaser may resell a time-share for a certain price or on particular terms. By signing below, purchaser acknowledges that this purchase is (i) for personal use and enjoyment and not for commercial or investment purposes and (ii) not being made based upon any representation that the time-share has any future market value or resale potential."

**§ 55.1-2227. Resale of time-shares.**

A. In the event of any resale of a time-share by a time-share owner, other than the developer, such owner shall obtain from the developer or managing agent in the case of a time-share use program or from the time-share estate owners' association in the case of a time-share estate program, and furnish to the purchaser prior to settlement on an executed agreement to purchase the time-share, a certificate of resale that shall include the following:

1. A statement disclosing the effect on the proposed transfer of any right of first refusal or other restraint on transfer of the time-share or any portion of such time-share;
2. A copy of the time-share instrument;
3. A copy of the current bylaws and rules and regulations of the time-share estate owners' association, if any, and the amendments to such bylaws, rules, or regulations;
4. A copy of the current annual report prepared pursuant to § 55.1-2213;
5. A statement setting forth the amount of any expense liability and unpaid time-share expense or special assessment currently due and payable from the selling time-share owner, including the disclosures of any liens against the time-share due to the nonpayment of such fees or charges;
6. A statement of the nature and status of any known and pending actions or judgments against the developer, managing entity, or time-share owners' association with reference to the time-share project; and
7. A copy of a Buyer's Acknowledgment form required by § 55.1-2226.

B. The developer, managing agent, or such officer of the time-share owners' association as the bylaws may specify shall furnish the certificate of resale prescribed by subsection A upon the written request of any purchaser within 30 days of the receipt of such request. Payment of the reasonable costs of preparing the certificate may be required as a prerequisite to the issuance of the certificate, but such fee shall not exceed \$50.

C. A time-share owner providing a certificate pursuant to subsection A is not liable to the purchaser for any erroneous information included in the certificate, other than for judgment liens against the time-share being sold.

D. A purchaser is not liable for any unpaid time-share expense liability or fee greater than the amount set forth in the certificate prepared in conformity with subsection A. A time-share owner is not liable to a purchaser for the failure or delay of the provider to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until the certificate has been provided and for five days after the certificate has been provided or until transfer, whichever occurs first.

E. All rights of redress of a purchaser against a selling time-share owner, the developer, the managing agent, or the association for the failure to obtain or receive the statement required by subsection A are conclusively waived upon settlement on the time-share occurring.

F. The responsibilities imposed by this section on the developer, managing agent, time-share estate owners' association, or selling time-share owner shall not be waived.

**§ 55.1-2228. Required resale disclosures.**

A. In addition to the requirements of § 55.1-2242, before receiving anything of value for providing or offering to provide a resale service, a reseller shall disclose in writing to the owner of a resale time-share:

1. The name and permanent business address of the reseller;
2. A commencement and transaction date for such resale service;
3. The names and addresses of any affiliates and the primary website address used by the reseller and such affiliates to be used to promote the resale time-share;
4. Whether the reseller's rights are exclusive and, if so, the scope of such rights and length of the exclusivity period;
5. Whether any person, other than the owner, may occupy, rent, exchange, or use the resale time-share during the resale service;

6. The name of any person other than the owner who will receive any rent or other consideration from the use of the resale time-share during the resale service;
  7. A description of each resale service to be provided and the fees, costs, or commissions for each;
  8. A description sufficient to identify the resale time-share;
  9. The jurisdiction issuing the license for any services by a licensed real estate broker or salesperson; and
  10. The following in at least 10-point boldface type:
    - a. The ratio of (i) the number of resale time-shares listed for sale to the number of resale time-shares actually sold by the reseller for each of the past two calendar years or (ii) the total amount of advance fees collected compared with the total amount of fees and commissions received by the reseller upon sale of resale time-shares for the past two calendar years, followed by this statement: "Do not rely on past performance as an indicator of the likelihood of sale of your time-share."; and
    - b. If the retail service is limited to the placement of advertisements, this statement: "There is no guarantee that you will sell your time-share at all or within any period of time by placing this advertisement. Our only obligation to you is to post your advertisement on our website for the agreed length of time and forward all inquiries we receive to you."
- B. A resale transfer contract shall include the following disclosures by the reseller:
1. The disclosures required by subdivisions A 1 through 7;
  2. A description legally sufficient for the transfer of the resale time-share;
  3. A description of the document by which the owner is to (i) grant rights in the resale time-share to the reseller or any other person, including a power of attorney or similar document, and (ii) transfer the resale time-share to a subsequent purchaser;
  4. Any fees or costs the time-share owner is required to pay or reimburse to the reseller or transfer company to complete the transfer;
  5. The date by which the transfer of the resale time-share from the owner to the reseller, a third person, or a subsequent purchaser will be completed, not to exceed 180 days from the effective date of the resale transfer contract;
  6. If the resale time-share will be transferred to a transferee other than a subsequent purchaser, the contact information of such transferee;
  7. A statement that the reseller will (i) provide the owner written evidence of transfer of the resale time-share to a subsequent purchaser within 30 days of such transfer and (ii) send notice of the transfer to the association and managing entity of the time-share program for the resale transfer and any exchange company in which the resale time-share was enrolled; and
  8. The following statements in 10-point boldface type:
    - a. "No later than 180 days from the date of this agreement, we will transfer your time-share to another person. If transfer does not occur within that period, we will pay or reimburse to you the cost of ownership of your time-share for that period. If we breach our agreement, you will continue to be responsible for such cost of ownership."; and
    - b. "Your time-share may be sold at any price by us without your approval. If sold for a price in excess of our fee, we have no obligation to send you the excess."
- C. A resale purchase contract shall require the reseller to obtain the certificate of resale described in subsection A of § 55.1-2227 and shall also include the following:
1. A description legally sufficient for transfer of the resale time-share;
  2. The name and address of the developer or managing agent for a time-share use project or the association for a time-share estate project;
  3. Identification of the party responsible for notifying the developer, managing entity, association, or exchange company, as the case may be, of the transfer of the resale time-share;
  4. Identification of the first year in which the subsequent purchaser is entitled to use and occupy the resale time-share; and
  5. The following statement in 10-point boldface type: "A certificate of resale is required to be provided to you containing important documents concerning the time-share project for your review. Settlement waives the right to receipt of such information."

**§ 55.1-2229. Liens.**

A. In the case of time-share estate transfers, unless the purchaser expressly agrees to take subject to or assume a lien prior to transferring a time-share estate other than by deed in lieu of foreclosure, the developer shall either (i) record or furnish to the purchaser as part of settlement releases of all liens affecting that time-share estate, or (ii) provide a surety bond or title insurance against the lien, as provided for liens on real estate in the Commonwealth.

B. Unless a time-share owner or his predecessor in title agrees otherwise with the lienor, if a lien other than an underlying mortgage or deed of trust becomes effective against more than one time-share in a time-share project, any time-share owner is entitled to a release of a time-share from the lien upon payment of the amount of the lien attributable to the time-share. The amount of the payment shall be proportionate to the ratio that the time-share owner's liability bears to the liabilities of all time-share owners whose interests are subject to the lien. Upon receipt of payment, the lien-holder shall promptly deliver to the time-share owner a release of the lien covering that time-share. After payment, the managing entity may not assess or have a lien against that time-share for any portion of the expenses incurred in connection with that lien.

**§ 55.1-2230. Effect of violations on rights of action; attorney fees; prior determination of Common Interest Community Board required for certain violations.**

A. If a developer or any other person subject to this chapter violates any provision of this chapter or any provision of the time-share instrument, any person or class of persons adversely affected by the violation has a claim for appropriate relief. The court may also award reasonable attorney fees to the prevailing party.

B. Prior to the commencement of any action alleging a failure to comply with the provisions of § 55.1-2220 or 55.1-2234, however, an aggrieved owner shall first seek a determination from the Board as to whether compliance with § 55.1-2220 or 55.1-2234 has occurred. The Board shall make such determination within 120 days of the request for a determination.

**§ 55.1-2231. Statute of limitations; actions; limitation on rescission rights.**

A. Except as otherwise provided in § 55.1-2237, a judicial proceeding where the sufficiency of the time-share instrument, the accuracy of the public offering statement, or validity of any contract of purchase is in issue and a rescission of the contract or damages is sought shall be commenced within two years after the date of the contract of purchase, notwithstanding that the purchaser's terms of payments may extend beyond this period of limitation; however, with respect to the enforcement of provisions in the contract of purchase that require the continued furnishing of services and the reciprocal payments to be made by the purchaser, the period of bringing a judicial proceeding shall continue for a period of two years for each breach.

Rescission of the contract shall not be granted by the court unless (i) the inaccuracy of the public offering statement or the insufficiency of the time-share instrument directly and adversely affected the purchaser's right to participate in the time-share program or to own his time-share or (ii) at the time of the contract, the developer has sold more time-shares than there are time-share units that have been completed or bonded to accommodate such sales. Further, if damages are awarded, the amount of the damages shall be limited to actual damages sustained.

B. If a developer has substantially complied in good faith with the provisions of this chapter, a nonmaterial error or omission shall not be actionable. A nonmaterial error or omission shall not be sufficient to permit a purchaser to cancel a contract after the cancellation period provided by § 55.1-2221 has expired.

**§ 55.1-2232. Class actions.**

A. No time-share owner can bring an action on behalf of other time-share owners unless he has received the written authorization to represent all other time-share owners within the project.

B. Notwithstanding the provisions of subsection A, the association may bring an action on behalf of the time-share owners with the authorization of the time-share owners within the project upon the two-thirds majority vote of the board of directors, if such action is found to be in the best interest of the association.

C. For purposes of this section, the developer shall not be deemed a time-share owner and his written permission shall not be required.

**§ 55.1-2233. Financial records.**

The person or entity responsible for either making or collecting common expense assessments or maintenance assessments shall keep detailed financial records. All financial and other records shall be made reasonably available at such person's or entity's office for examination by any time-share owner and his authorized agents.

**§ 55.1-2234. Developer's obligation to complete.**

A. The developer shall complete all promised and incomplete units and common elements being offered and described in the time-share instrument and the public offering statement. The developer shall be excused for any period of delay in the completion of such promised units and common elements when delayed, hindered, or prevented from doing so by causes beyond the developer's control, which shall include (i) labor disputes not caused by the developer; (ii) riots; (iii) civil commotion or insurrection; (iv) war or warlike operations; (v) governmental restrictions, regulations, or control; (vi) inability to obtain any materials or services; (vii) fire or other casualties; (viii) acts of God; or (ix) forces not under the control or supervision of the developer.

B. The developer shall file with the Board a payment and performance bond in the sum equal to 100 percent of the estimated cost of completing all promised and incomplete units and common elements comprising the time-share project described in the time-share instrument and the public offering statement. Such bond shall be conditioned upon the completion of such units and common elements in conformity with the plans and specifications for such improvements. The bond shall be with a surety company authorized to do business in the Commonwealth. The Board may accept cash or an irrevocable letter of credit in lieu of the bond required by this section. The Board shall be the sole determiner of the form, amount, content, obligee, and conditions of the letter of credit. Should it become necessary for the Board to call upon the letter of credit in order to assure completion of the improvements, the Board shall have the authority to petition a court of competent jurisdiction to appoint a receiver to administer such completion.

Article 4.

Financing.

**§ 55.1-2235. Financing of time-share programs.**

In the developer's financing of a time-share program, the developer shall retain financial records of the schedule of payments required to be made and the payments made by it to any person or entity that is the holder of an underlying blanket mortgage, deed of trust, contract of sale, or other lien or encumbrance.

**§ 55.1-2236. Purchaser's rights under developer's foreclosure.**

The developer whose project is subject to an underlying blanket lien or encumbrance shall protect a nondefaulting purchaser from foreclosure or cancellation by the lien holder by securing from such lien holder or recording of a nondisturbance clause, subordination agreement, or partial release of the lien as to that time-share sold to such purchaser.

**§ 55.1-2237. Protection of lien holder.**

Any lien holder of a time-share interest in any time-share program shall have the following rights:

1. The lien holder shall have its lien rights preserved as against any purchaser of a time-share who claims that the time-share instrument is invalid, void, or voidable, 30 days after written notice by certified mail or personal delivery has been given by the developer or lien holder to the purchaser. The notice shall state that the developer has assigned the receivables to the lien holder and that the purchaser has 30 days within which to object and specify the invalidity or defect contained within such time-share instrument. The notice required by this section may be included in the blanket encumbrance, in the contract, or in any note, deed of trust, or mortgage executed by the purchaser in connection with the purchaser's deferred purchase of a time-share.

2. Any purchaser who fails to indicate that the time-share instrument is invalid, void, or voidable as provided in subdivision 1 waives, or is estopped to raise, the same in any subsequent enforcement of the collection of the receivable by the lien holder.

**Article 5.****Registration.****§ 55.1-2238. Registration of time-share program required.**

A. A developer may not offer or dispose of any interest in a time-share program unless the time-share project and its program have been properly registered with the Board. A developer may accept a nonbinding reservation together with a deposit if the deposit is placed in an escrow account with an institution having trust powers within the Commonwealth and is refundable at any time at the purchaser's option. In all cases, the reservation shall require a subsequent affirmative act by the purchaser via a separate instrument to create a binding obligation. A developer may not dispose of or transfer a time-share while an order revoking or suspending the registration of the time-share program is in effect. In the case of a time-share project located outside the Commonwealth and properly registered in the situs, the Board may accept a substitute application for registration.

B. The developer shall maintain records of names and addresses of current independent contractors employed by it for time-share sales purposes.

**§ 55.1-2239. Application for registration.**

A. The application for registration shall be filed in a form prescribed by the Board's regulations and shall include the following:

1. An irrevocable appointment to the Board to receive service of process in any proceeding arising under this chapter against the developer or the developer's agent if nonresidents of the Commonwealth;

2. The states or jurisdictions in which an application for registration or similar document has been filed and any adverse order or judgment entered in connection with the time-share project by the regulatory authorities in each jurisdiction or by any court;

3. The applicant's name, address, and the organizational form, including the date and jurisdiction under which the applicant was organized, and the address of its principal office and each of its sales offices in the Commonwealth;

4. The name, address, and principal occupation for the past five years of every officer of the applicant or person occupying a similar status or performing similar functions and the extent and nature of his interest in the applicant or the time-share project as of a specified date within 30 days of the filing of the application;

5. A statement, in a form acceptable to the Board, of the condition of the title to the time-share project, including encumbrances as of a specified date within 30 days of the date of application, by a title opinion of a licensed attorney not a salaried employee, officer, or director of the applicant or owner, or by other evidence of a title acceptable to the Board;

6. A copy of the instruments that will be delivered to a purchaser to evidence his interest in the time-share and copies of the contracts and other agreements that a purchaser will be required to agree to or sign;

7. A copy of any management agreements, employment contracts, or other contracts or agreements affecting the use, maintenance, or access of all or any part of the time-share project;

8. A statement of the zoning and other governmental regulations affecting the use of the time-share, including the site plans and building permits and their status and any existing tax and existing or proposed special taxes or assessments that affect the time-share;

9. A narrative description of the promotional plan for the disposition of the time-shares;

10. The proposed public offering statement and its exhibits;

11. Any bonds required to be posted pursuant to the provisions of this chapter;

12. The time-share owners' annual report or budget required by § 55.1-2213 to the extent available;

13. A description of each product the developer seeks to register with the Board; and

14. Any other information that the Board believes necessary to assure full and fair disclosure.

B. The developer shall immediately report to the Board any material changes in the information contained in an application for registration.

C. Nothing shall prevent a developer from registering with the Board a time-share project where construction is yet to

begin or, if construction has begun, where construction is not yet complete.

**§ 55.1-2240. Filing fee.**

The Board may by regulation establish reasonable fees for registration. All fees shall be remitted by the Board to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

**§ 55.1-2241. Receipt of application; effectiveness of registration.**

A. Upon receipt of the application for registration in proper form, the Board, within five business days, shall issue a notice of filing to the applicant. Within 20 days after receipt of the application, the Board shall review the application to determine whether the application and supporting documents satisfy the requirements of this chapter and the Board's regulations. Within 60 days from the date of the notice of filing, the Board shall enter an order registering or rejecting the application. If no order of rejection is entered within 60 days from the date of the notice of filing, the time-share project shall be deemed registered unless the applicant has consented in writing to a delay.

B. If the Board determines after review of the application and documents provided by the applicant that the requirements of § 55.1-2239 have been met, it shall issue an order registering the time-share project and shall designate the form of the public offering statement.

C. If the Board determines that any of the requirements of § 55.1-2239 have not been met, the Board shall notify the applicant that the application for registration shall be corrected in the particulars specified within 20 days. If the requirements are not met within the time allowed, the Board shall enter an order rejecting the registration, which shall include the findings of fact upon which the order is based. The order rejecting the registration shall become effective 20 days after issuance. During this 20-day period, the applicant may petition for reconsideration and shall be entitled to a hearing or to correct the particulars specified in the Board's notice. Such order of rejection shall not take effect, in any event, until such time as the hearing, if requested, is given to the applicant.

**§ 55.1-2242. Annual report; amendments.**

A. The developer shall file a report in the form prescribed by the Board's regulations by June 30 of each year the registration is effective. The developer of any time-share project initially registered with the Board between January and June shall not be required to file an annual report for the year in which it was initially registered. The report shall reflect any material changes in information contained in the original application for registration or in the immediately preceding annual report, whichever is later, and shall be accompanied by the appropriate fee established by the Board's regulations or pursuant to § 55.1-2240.

B. During the developer control period in a time-share estate program, the developer shall file a copy of the unit owners' association annual report required by § 55.1-2213 along with the annual report required by this section.

C. The developer shall amend or supplement its registration with the Board to report any material change in the information required by §§ 55.1-2217 and 55.1-2239. Such amendments or supplemental information shall be filed with the Board within 20 business days after the occurrence of the material change.

**§ 55.1-2243. Termination of registration.**

A. In a time-share estate program, if the annual report indicates that the developer has transferred title to the time-share owners' association and that no further development rights exist, the Board shall issue an order terminating the registration of the time-share project.

B. The Board shall issue an order terminating the registration of a time-share project upon application by the developer in which the developer states that no further development right of the project is anticipated and that the developer has ceased sales of time-shares at the project.

C. Notwithstanding any other provisions of this chapter, the Board may administratively terminate the registration of a time-share project if:

1. The developer has not filed an annual report in accordance with § 55.1-2242 for three or more consecutive years; or
2. The developer's registration with the State Corporation Commission, if applicable, has not been active for five or more consecutive years.

**§ 55.1-2244. Registration required for time-share resellers; exemptions; prohibited practices.**

A. A reseller shall not provide or offer to provide any resale service unless he is registered with the Board.

B. The application for registration shall be filed in a form prescribed by the Board's regulations and shall include such information as required by the Board. A reseller shall immediately report to the Board any material changes in the information contained in an application for registration. The Board may by regulation establish reasonable fees for registration under this section. All fees shall be remitted by the Board to the Treasurer of Virginia, and shall be placed to the credit of the Common Interest Community Management Information Fund established pursuant to § 54.1-2354.2.

C. The registration requirements shall not apply to:

1. A person who solely or with affiliates engages in a resale service with respect to an aggregate of no more than 12 resale time-shares per calendar year;
2. A person who owns or acquires more than 12 resale time-shares and who subsequently transfers all such resale time-shares to a single purchaser in a single transaction;
3. The owner, its agents, and employees of a regularly published newspaper, magazine, or other periodical publication of general circulation; broadcast station; website; or billboard, to the extent their activities are limited to solicitation and publication of advertisements and the transmission of responses to the persons who place the advertisements. Any person

who would otherwise be exempt from this chapter pursuant to this section shall not be exempt if the person (i) solicits the placement of the advertisement by representing that the advertisement will generate cash, a certain price, or a similar type of representation for the time-share owner's resale time-share; (ii) makes a recommendation as to the sales price for which to advertise the resale time-share; (iii) makes any representations to the person placing the advertisement regarding the success rate for selling resale time-shares advertised with such person; or (iv) makes any misrepresentations as described in this chapter;

4. Sale by a developer or a party acting on its behalf of a resale time-share under a current registration of the time-share program in which the resale time-share is included;

5. Sale by an association, a managing entity, or a party acting on its behalf of a resale time-share owned by the association, provided that the sale is in compliance with subsection C of § 55.1-2228; or

6. Attorneys, title agents, title companies, or escrow companies providing closing services in connection with the transfer of a resale time-share.

*D. No reseller shall:*

1. Fail to disclose information in writing concerning the marketing, sale, or transfer of resale time-shares required by this chapter prior to accepting any consideration or with the expectation of receiving consideration from any time-share owner, seller, or buyer.

2. Make false or misleading statements concerning offers to buy or rent; the value, pricing, timing, or availability of resale time-shares; or numbers of sellers, renters, or buyers when engaged in time-share resale activities.

3. Misrepresent the likelihood of selling a resale time-share interest.

4. Misrepresent the method by or source from which the reseller or lead dealer obtained the contact information of any time-share owner.

5. Misrepresent price or value increases or decreases, assessments, special assessments, maintenance fees, or taxes.

6. Guarantee sales or rentals in order to obtain money or property.

7. Make false or misleading statements concerning the identity of the reseller or any of its affiliates or the time-share resale entity's or any of its affiliate's experience, performance, guarantees, services, fees, or commissions, availability of refunds, length of time in business, or endorsements by or affiliations with developers, management companies, or any other third parties.

8. Misrepresent whether or not the reseller or its affiliates, employees, or agents hold, in any state or jurisdiction, a current real estate sales or broker's license or other government-required license.

9. Misrepresent how funds will be utilized in any time-share resale activity conducted by the reseller.

10. Misrepresent that the reseller or its affiliates, employees, or agents have specialized education, professional affiliations, expertise, licenses, certifications, or other specialized knowledge or qualifications.

11. Make false or misleading statements concerning the conditions under which a time-share owner, seller, or buyer may exchange or occupy the resale time-share interest.

12. Represent that any gift, prize, membership, or other benefit or service will be provided to any time-share owner, seller, or buyer without providing such gift, prize, membership, or other benefit or service in the manner represented.

13. Misrepresent the nature of any resale time-share interest or the related time-share plan.

14. Misrepresent the amount of the proceeds, or fail to pay the proceeds, of any rental or sale of a resale time-share interest as offered by a potential renter or buyer to the time-share owner who made such resale time-share interest available for rental or sale through the reseller.

15. Fail to transfer any resale time-share interests as represented and required by this chapter or to provide written evidence to the time-share owner of the recording or transfer of such time-share owner's resale time-share interest as required by this chapter.

16. Fail to pay any annual assessments, special assessments, personal property or real estate taxes, or other fees relating to an owner's resale time-share interest as represented or required by this chapter.

17. Misrepresent or misuse the intended purpose of a power of attorney or similar document to the detriment of any grantor of such power of attorney.

**§ 55.1-2245. Recordkeeping by resellers.**

A. If contact information has been obtained by a reseller from any source, including a lead dealer, the reseller and lead dealer shall maintain the following records for a period of five years from the last date of contact between the reseller and the owner:

1. The name; home address; work address, if different; telephone number; email address, if any; and a copy of a current government-issued photographic identification (e.g., driver's license, passport, or military identification card) of the lead dealer who provided the contact information;

2. The date, time, and place of the transaction at which the contact information was obtained, along with the amount of consideration paid and a signed receipt from the lead dealer or copy of a canceled check; and

3. A copy of the contact information obtained in the exact form and media in which received.

B. A reseller shall maintain records for at least five years after each transaction involving resale service including resale transfer agreements and resale purchase agreements.

C. In any civil or criminal action based on a violation of this section, there shall be a presumption that contact information was wrongfully obtained if a reseller or lead dealer fails to produce the records required by this section.

*D. Any person who establishes that a reseller or lead dealer wrongfully obtained or wrongfully used contact information with respect to time-share owners or members of an exchange program shall, in addition to any other remedies that may be available in law or equity, be entitled to recover from such reseller or lead dealer an amount equal to \$1,000 for each time-share owner or member about whom contact information was wrongfully obtained or used. The prevailing person in any such action shall also be entitled to recover reasonable attorney fees and costs.*

**§ 55.1-2246. Alternative purchase; registration.**

*A. The application for registration of an alternative purchase shall be filed in a form prescribed by the Board and shall include the following:*

- 1. A general description of the types of alternative purchases offered;*
- 2. A copy of the terms and conditions applicable to the alternative purchases; and*
- 3. The name, address, and contact information of the developer offering the alternative purchases.*

*B. Any material change to the standard terms and conditions applicable to an alternative purchase shall be filed with the Board within 30 days of such change being effective. Changes to the length of stay, location, or price shall not require an amendment of the registration, provided that the terms and conditions applicable to such alternative purchases are on file with the Board.*

*C. The provisions of §§ 55.1-2217 and 55.1-2220 shall not apply to alternative purchases registered under this section.*

*Article 6.*

*Administration.*

**§ 55.1-2247. General powers and duties of Board.**

*A. The Board may adopt, amend, and repeal rules and regulations and issue orders consistent with and in furtherance of the objectives of this chapter. The Board may prescribe forms and procedures for submitting information to the Board.*

*B. The Board may accept grants in aid from any governmental source and may contract with agencies charged with similar functions in this or other jurisdictions, in furtherance of the objectives of this chapter.*

*C. The Board may cooperate with agencies performing similar functions in this and other jurisdictions to develop uniform filing procedures and forms, uniform disclosure standards, and uniform administrative practices and may develop information that may be useful in the discharge of the Board's duties.*

*D. 1. The Board may issue an order requiring the developer or reseller to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the Board will carry out the purposes of this chapter if it determines after legal notice and opportunity for hearing that a developer or reseller or an agent of a developer or reseller has:*

- a. Made any representation in any document or information filed with the Board that is false or misleading;*
- b. Engaged or is engaging in any unlawful act or practice;*
- c. Disseminated or caused to be disseminated orally, or in writing, any false or misleading promotional materials in connection with a time-share program;*
- d. Concealed, diverted, or disposed of any funds or assets of any person in a manner impairing rights of purchasers of time-shares in the time-share program;*
- e. Failed to perform any stipulation or agreement made to induce the Board to issue an order relating to that time-share program;*
- f. Otherwise violated any provision of this chapter or any of the Board's rules and regulations or orders; or*
- g. Disposed of any time-share in a project without first complying with the requirements of this chapter.*

*2. If the Board makes a finding of fact at a hearing that the public interest will be irreparably harmed by delay in issuing an order, as prescribed in subdivision 1, it may issue a temporary cease and desist order. The Board shall not issue more than one temporary cease and desist order with reference to such finding of fact as prescribed in this subsection. With the issuance of a temporary cease and desist order, the Board, by registered mail or other personal written service, shall give notice of the issuance to the developer or the reseller. Every temporary cease and desist order shall include in its terms:*

- a. A provision clearly stating the reasons for issuing such cease and desist order, the date of the hearing on its issuance, and the nature and extent of the facts and findings on which the order was based;*
- b. A provision that a hearing by the Board may be held, after due notice but not more than 15 days from the date such temporary cease and desist order is effective, to determine whether or not a cease and desist order as called for in subdivision 1 shall be issued;*
- c. A provision that such temporary cease and desist order may remain in full force for a period of not more than 15 days from the date of its issuance or the date on which the Board has determined that an order as prescribed in subdivision 1 is to be issued, whichever shall occur first; and*
- d. A provision that a failure to comply with such temporary cease and desist order will be a violation of this chapter.*

*E. The Board may also issue a cease and desist order if the developer has not registered the time-share program as required by this chapter or if a reseller has not registered as required by this chapter.*

*F. The Board, after notice and hearing, may issue an order revoking the registration of the developer's time-share program or the registration of a reseller upon determination that such developer, reseller, or agent of such developer or reseller has failed to comply with a cease and desist order issued by the Board affecting the developer's time-share program or the reseller.*

*G. If it appears that any person has engaged, is engaging, or is about to engage in any act or practice in violation of this chapter or any of the Board's rules, regulations, or orders applicable to this chapter, the Board, without prior*

administrative proceedings, may bring an action in the circuit court of the county or city in which any portion of the time-share project is located to enjoin that act or practice or for other appropriate relief. The Board is not required to post a bond or prove that no adequate remedy at law exists.

H. Upon request of a time-share owner, the Board shall, in accordance with subsection B of § 55.1-2230, issue its determination whether compliance with § 55.1-2220 or 55.1-2234 has occurred.

**§ 55.1-2248. Cancellation of cease and desist order; reinstatement of registration of developer.**

A. The Board shall stipulate to the developer or reseller the reason for any cease and desist order, or revocation of registration as outlined in § 55.1-2247, by no later than the time such order or revocation is to become effective.

B. Should the developer or reseller satisfy the Board that it has corrected the reasons for the cease and desist order or revocation of registration, then the Board shall promptly cancel such order or reinstate the registration, and thereafter the developer or reseller may continue its offering or disposition of time-shares.

**§ 55.1-2249. Board regulation of public offering statement.**

The Board may at any time require a developer to alter or supplement the form or substance of a public offering statement to assure adequate and accurate disclosure to prospective purchasers.

**§ 55.1-2250. Investigations.**

A. The Board may:

1. Make necessary public or private investigations within or outside the Commonwealth to determine whether any person has violated or is about to violate any provision of this chapter or any rule, regulation, or order issued pursuant to this chapter, or to aid in the enforcement of this chapter in prescribing rules, regulations, and forms under this chapter; and

2. Require or permit any person to file a statement in writing, under oath or otherwise as the Board determines, as to all facts and circumstances concerning the matter to be investigated.

B. For the purpose of any investigation or proceeding under the chapter, the Board may administer oaths or affirmations, and upon motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

C. Any proceeding or hearing of the Board under this chapter, in which witnesses are subpoenaed and their attendance required for evidence to be taken, or any matter is to be produced to ascertain material evidence, shall take place within the County of Henrico and such proceeding shall be held before the Board sitting in regular session, but not less frequently than monthly.

D. Upon failure to obey a subpoena or to answer questions propounded by the Board, and upon reasonable notice to all persons affected thereby, the Board may apply to the Circuit Court of the County of Henrico for an order compelling compliance.

E. Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 55.1-2251. Proceedings before the Board.**

A. Any proceeding or hearing of the Board under this chapter in which witnesses are subpoenaed and their attendance required for the taking of evidence or the production of documents to ascertain material evidence shall take place in the County of Henrico.

B. Except as otherwise provided in this chapter, all hearings under this chapter shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall be conducted by a hearing officer in accordance with § 2.2-4024.

**§ 55.1-2252. Penalties.**

A. Any person who willfully violates any of the provisions of § 55.1-2217, 55.1-2218, 55.1-2219, 55.1-2220, 55.1-2221, 55.1-2229, 55.1-2233, or 55.1-2238, or any order issued pursuant to §§ 55.1-2247 through 55.1-2250 is guilty of a Class 5 felony.

Any person who willfully violates any of the provisions of § 55.1-2226, 55.1-2228, or 55.1-2244 or any order issued pursuant to §§ 55.1-2247 through 55.1-2250 regarding a violation of § 55.1-2226, 55.1-2228, or 55.1-2244 is guilty of a Class 1 misdemeanor.

Each violation shall be deemed a separate offense.

B. Any developer, member, agent or affiliate of any developer of time-shares registered pursuant to § 55.1-2241, or any reseller, who violates any provision of this chapter or regulations promulgated pursuant to this chapter, and who is not criminally prosecuted, may be subject to a civil penalty. If it has been determined by the Board upon or after a hearing that a respondent has violated this chapter or the Board's rules and regulations, the Board shall proceed to determine the amount of the civil penalty for such violation, which shall not exceed \$2,000 for each violation. Such penalty may be sued for and recovered in the name of the Commonwealth.

CHAPTER 23.

SUBDIVIDED LAND SALES ACT.

**§ 55.1-2300. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Agent" means any person who represents or acts for or on behalf of a developer in the disposition of any lot in a

subdivision, but does not include an attorney whose representation of another person consists solely of rendering legal services.

"Blanket encumbrance" means a trust, deed, mortgage, judgment, or any other lien or encumbrance, securing or evidencing the payment of money and affecting the land comprising the subdivision to be offered and sold or leased or affecting more than 10 lots or parcels of such lands, or an agreement affecting more than 10 lots or parcels of such lands by which the developer holds such subdivision under option, contract, sale, or trust agreement. "Blanket encumbrance" does not include mechanics' liens, taxes, or assessments levied by a public authority, or easements granted to public utilities or governmental agencies for the purpose of bringing services to the lot or parcel within the subdivision.

"Developer" means any person who offers, directly or indirectly, for disposition, any lot in a subdivision, but does not include a trustee under a deed of trust securing an indebtedness or other obligation who sells lots within such subdivision under foreclosure proceedings, provided that the purpose in so doing is not to evade the provisions of this chapter.

"Disposition" or "sale" means any lease, assignment, or exchange, or any interest in any lot that is a part of or included in a subdivision.

"Land sales installment contract" means any installment contract for the sale or disposition of land by which the purchaser does not receive a deed conveying the property purchased until some or all installment payments have been made as called for in the contract and record title to such property remains in another pending full performance of the contract.

"Lot" means any unit, parcel, division, piece of land, or interest in land except utility easements if such interest carries with it the exclusive right to use a specific portion of property.

"Offer" means any inducement, solicitation, media advertisement, or attempt performed by or on behalf of a developer that has as its objective the disposition of a lot in a subdivision.

"Person" means any individual, corporation, government or governmental agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

"Purchaser" means a person who acquires or attempts to acquire any lot in a subdivision.

"Subdivision" means:

1. Any subdivision of land into 100 or more lots, whether contiguous or not, where any such lots are, from July 1, 1978, sold or disposed of by land sales installment contracts and pursuant to a common promotional plan, where lot purchasers within such subdivision have use of and access to the facilities and amenities within such subdivision for which the lot owners are assessed on a regular or special basis for the use and enjoyment of such lot; and

2. Any existing subdivision of land of 30 or more lots in which the developer has concluded its sales effort for a period of six consecutive months and has transferred to the association described in subdivision A 1 of § 55.1-2305 all the title, control, and maintenance responsibilities of the common areas and common facilities.

#### **§ 55.1-2301. Exemptions.**

Unless the method of disposition is adopted for the purposes of evasion of this chapter, the provisions of this chapter shall not apply to:

1. The sale of a subdivision to a single purchaser for his own account in a single or isolated transaction;
2. The disposition of lots in a subdivision if each lot in the subdivision is at least five acres in size;
3. The disposition of a lot on which there is a residential, commercial, or industrial building, or as to a lot upon which there is a legal obligation on the part of the seller to construct such a building within a period of two years from the date of disposition;
4. The disposition of land pursuant to court order, provided that the court reviews and approves the disposition on an individual basis;
5. The disposition of cemetery lots;
6. Offers or dispositions of evidence of indebtedness secured by a mortgage or deed of trust on real estate;
7. Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;
8. Offers or dispositions of any interest in real estate, oil, gas, or other minerals or any royalty interest in such real estate, oil, gas, or other minerals if the offers or dispositions of such interests are regulated as securities by the United States or by the Commonwealth;
9. The disposition of a lot to any person whose purpose in acquiring the land is to engage in the business of constructing residential, commercial, or industrial buildings on such land;
10. The lease of a lot where the right to possession or the rental term does not exceed one year in the aggregate and where the conditions of the lease do not obligate the lessee to renew;
11. The sale or lease of condominium units registered pursuant to the Virginia Condominium Act (§55.1-1900 et seq.); or
12. The disposition of real estate that is zoned or otherwise designated by the appropriate governmental authority for, or restricted by a valid recorded declaration of covenants to, commercial or industrial use.

#### **§ 55.1-2302. Transfer of ownership.**

It is unlawful for the developer to transfer fee simple ownership of a lot or parcel within a subdivision to a purchaser by any other means than by a general or special warranty deed or other deed complying with Chapter 3 (§ 55.1-300 et seq.).

**§ 55.1-2303. Blanket encumbrances.**

A. It is unlawful for any developer or agent to sell or lease a lot in a subdivision that is subject to a blanket encumbrance unless the blanket encumbrance or effective supplemental agreement contains a release provision permitting legal title to individual lots or other interest contracted for to be obtained free and clear of the blanket encumbrance. Nothing in this section shall be construed to limit either the conditions upon which such release may be premise or the modification or amendment of such release provision as to (i) any purchaser other than a purchaser under an installment sales contract or (ii) any purchaser under an installment sales contract that is executed subsequent to the recordation of the amendment or modification.

B. Unless blanket encumbrance release provisions provide that the lien of the blanket encumbrance is subordinate to the rights of persons purchasing from the developer or agent and that those purchasers have the unconditional right to obtain legal title or other interest contracted for free and clear of the blanket encumbrance upon compliance with the terms and conditions of the purchase or lease, it is unlawful for a developer or agent to sell or lease lots except in compliance with one of the following conditions:

1. Any earnest money deposit or advance or other payment made by the purchaser on account of the purchase of a lot is placed in an escrow account that is a trust account maintained in a federally insured depository located in the Commonwealth and that fully protects the interest of the purchaser until:

a. Fee title or other interest contracted for is conveyed to the purchaser free and clear of the blanket encumbrance;

b. Either the developer or purchaser defaults under the contract and a final determination as to the disbursement of sums paid is made by a court of competent jurisdiction; or

c. The developer voluntarily orders the return of the money to the purchaser; or

2. Title to the subdivision is held in trust under a trust agreement until a proper release is obtained and legal title or other interest contracted for is conveyed to the purchaser.

**§ 55.1-2304. Restraints on alienation.**

Provided that selling or leasing a lot is not specifically prohibited by recorded covenant, it is unlawful to restrain the owner of a lot in a subdivision from offering such lot for sale or lease or from selling or leasing such lot. Any deed restriction or recorded covenant that creates a right of first refusal in excess of 30 days or creates a sales restraint that denies lot owners the right to post for-sale signs of reasonable size is null and void.

**§ 55.1-2305. Management, regulation, and control of subdivisions with common facilities or property owners' associations.**

A. The covenants, deed restrictions, articles of incorporation, bylaws, or other instruments for the management, regulation, and control of subdivisions that include facilities or amenities for which the lot owners are assessed on a regular or special basis for the use, enjoyment, and maintenance of such facilities or amenities shall provide for at a minimum:

1. Formation of an association to be composed of lot owners within the subdivision, such formation occurring prior to the sale of the first lot within the subdivision by the developer;

2. A description of the areas or interests to be owned or controlled by the association, including those facilities or amenities for which the lot owners are subject to regular or special assessments;

3. The transfer of title, control, and maintenance responsibilities of common areas and common facilities to the association, which transfer is to take place no later than at such time as the developer transfers legal or equitable ownership of at least 75 percent of the lots within the subdivision to purchasers of such lots or when all of the amenities and facilities are completed, whichever occurs first, but in no event any sooner than two years from the date the developer sells his first lot within the subdivision should the developer elect to retain title to the common areas and common facilities for such period. The transfer of such title, control, and maintenance responsibilities required of the developer shall not exonerate the developer from the responsibility of completion of the common areas and facilities once the transfer takes place.

Nothing in this section shall preclude the developer from transferring the common areas and common facilities for consideration, provided that (i) such consideration does not exceed the lesser of the fair market value of such common areas and common facilities at the time of transfer or the actual cost expended by the developer for such common areas and common facilities and (ii) the developer affirmatively discloses the following information to the purchaser, in writing, at the time the initial contract of purchase is signed:

a. That the common areas and common facilities will be transferred only upon payment of consideration by the association;

b. The terms upon which such transfer will be made; and

c. An estimate of the amount of consideration to be paid by the association.

In the event the developer seeks payment for the areas or facilities transferred, the association shall have the option of deferring such payment, evidence by a deed of trust note covering a period of not less than five years at the legal rate of interest allowed in the Commonwealth and secured by a deed of trust covering the areas or facilities transferred;

4. Procedures for determining and collecting regular assessments to defray expenses attributable to the ownership, use, enjoyment, and operation of common areas and facilities transferred to the association;

5. Procedures for establishing and collecting special assessments for capital improvements or other purposes;

6. Procedures to be employed upon the annexation of additional land to the existing subdivision that shall disclose whether or not per capita assessments on account of such annexation shall be subject to an increase, in the event additional

amenities or common facilities are provided lot owners within the subdivision;

7. Such procedures and restrictions, if any, that apply to the voluntary or involuntary resale of a lot within a subdivision by a purchaser or his agent, which shall be established prior to the sale of the first lot by the developer within the subdivision;

8. Monetary penalties or use privilege and voting suspension of members for breaches of the restrictions, bylaws, or other instruments for management and control of the subdivision, or for nonpayment of regular or special assessments, with procedures for hearings for the disciplined members;

9. Creation of a board of directors or other governing body for the association with the members of the board or body to be elected by a vote of members of the association in good standing at an annual meeting or special meeting to be held not later than six months after the transfer of the areas of facilities provided for in subdivision 3;

10. Enumeration of the power of the board of directors or governing body that is consistent with and not otherwise provided by law;

11. The preparation of an annual balance sheet and operating statement for each fiscal year with provision for distribution of a copy of the reports to each member of the association in good standing within 90 days after the end of the fiscal year;

12. Quorum requirements for meetings of members of the association who are in good standing; and

13. Such other provisions as may be required by the Virginia Nonstock Corporation Act (§ 13.1-801 *et seq.*) if the association is a Virginia nonstock corporation.

B. Any developer of a subdivision, successor or otherwise, when such subdivision is subject to the provisions of this chapter, shall be obligated to complete the facilities and amenities as promised and outlined in subsection A by the initial developer of the subdivision subject to the transfer of title, control, and maintenance responsibilities of common areas and common facilities to the lot owners' association. The foregoing shall not be deemed to apply to any purchaser at foreclosure or grantee in a deed in lieu of foreclosure, provided that the purchaser or grantee is a financial institution and the mortgagee, creditor, or beneficiary under the instrument being foreclosed or giving rise to the deed in lieu of foreclosure. For the purposes of this subsection, "financial institution" means a bank, savings institution, real estate investment trust, insurance company, pension or profit sharing trust, or other institution regularly engaged in the business of making real estate loans. For purposes of this subsection, the lot owners' association shall not be deemed a developer if at a meeting of its members in good standing a vote is taken and at least 50 percent of the members vote to be exempt from the requirements of this subsection.

C. The association, once formed and in existence, and the title owner of the common areas and common facilities within the subdivision and which has been in existence for a period of at least five years shall have the authority to pass special assessments against and raise the annual assessments of the members of the association and to collect such assessments from such members according to law, if the purpose in so doing is for the maintenance of such common areas and common facilities. The authority granted and conferred upon the association by this subsection exists only where the restrictions and covenants of record do not contain specific language that precludes the adoption of special assessments or increases the annual dues or assessments.

D. The association shall have a lien on every lot within its subdivision for unpaid regular or special assessments levied against such lot in accordance with the provisions of this chapter. The lien, once perfected, shall be prior to all other liens and encumbrances except (i) real estate tax liens on such lot, (ii) liens and encumbrances recorded prior to the perfected lien, and (iii) any sums unpaid on any first mortgages or first deeds of trust recorded prior to the perfection of the lien for regular or special assessments and securing institutional lenders. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens.

Notwithstanding any other provision of this chapter, or any other provisions of law requiring documents to be recorded in the miscellaneous lien books or the deed books of the clerk's office of any court, from July 1, 1978, all memoranda of liens arising under this subsection shall, in the discretion of the clerk, be recorded in the miscellaneous lien books or the deed books in such clerk's office. Any memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for subdivision regular or special assessments.

The association, in order to perfect the lien given by this subsection, shall file before the expiration of 90 days from the time such regular or special assessment became due and payable in the clerk's office of the county or city in which the subdivision is situated a memorandum, verified by the oath of the president of the association, which shall contain:

1. A description of the subdivision;

2. The name or names of the owners of the lot;

3. The amount of unpaid regular or special assessments currently due or past due applicable to the lot, together with the date when each fell due; and

4. The date of issuance of the memorandum.

The clerk in whose office the memorandum is filed shall record and index such memorandum as provided in this subsection, in the names of the persons identified in such memorandum, as well as in the name of the association. The cost of recording the memorandum shall be taxed against the person found liable for any judgment or order enforcing such lien. It is lawful for the memorandum to be filed as one statement listing the information required in subdivisions 1 through 4 and each of the lot owners whose property within the subdivision is liened. The cost of filing shall be as provided in subdivision A 2 of § 17.1-275.

*No action to enforce any lien perfected under this subsection shall be brought after one year from the time when the memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any action in which such petition may be properly filed shall be regarded as the institution of an action under this subsection. Nothing in this subsection shall be construed to extend the time within which any such lien may be perfected. Nothing shall preclude the association from filing a single action listing all unpaid delinquent and enumerated lot owners as defendants and obtaining judgment against those so adjudicated by the court hearing the action.*

*The judgment in an action brought pursuant to this subsection shall include, without limitation, reimbursement for costs and attorney fees, together with the interest at the maximum lawful rate for the sums secured by the lien from the time each sum became due and payable.*

*When payment or satisfaction is made of a debt secured by the lien perfected by this subsection, the lien shall be released in accordance with the provisions of § 55.1-339. For the purposes of § 55.1-339, the president or secretary of the association is the duly authorized agent of the lien creditor.*

*Nothing in this subsection shall be construed to prohibit the recovery of sums for which this subsection creates a lien.*

*Any lot owner within the subdivision having executed a contract for the disposition of the lot is entitled, upon request, to a recordable statement setting forth the amount of unpaid regular or special assessments currently levied against that lot. Such request shall be in writing, directed to the president of the association, and delivered to the principal office of the association. Failure of the association to furnish or make available such a statement within five business days from the receipt of such written request shall extinguish the lien created by this subsection as to the lot involved. Payment of a fee not exceeding \$15 may be required as a prerequisite to the issuance of such a statement if the bylaws of the association so provide.*

*E. If, upon July 1, 1978, and a subdivision becoming subject to the terms and requirements outlined in subdivisions A 1 through 8 have not been performed, then the requirements shall have to be fully complied with within a period of 90 days from July 1, 1978, and upon failure to fully perform all of such requirements within the 90-day period the failure so to do shall constitute a violation of this subsection.*

*F. Each lot owner within a subdivision that falls within the scope of this chapter shall be responsible for his pro rata share of the cost of maintaining the common facilities and common areas owned by the association. For purposes of this subsection, "common facilities and common areas" means only the roads and lakes within the subdivision, and "maintaining" includes any orderly program for the continued upkeep and improvement of such roads and lakes. The association has the responsibility of determining the pro rata share assessed against each lot owner, and such amount assessed shall be in addition to the annual or special assessment otherwise obligated by each member of the association.*

*G. If a subdivision of land meets the requirement in subdivision 2 of the definition of subdivision as provided in § 55.1-2300, then the property owners' association of the subject subdivision has the powers and duties enumerated in subsections C, D, and F as well as the rights and authority to establish those procedures outlined in subdivisions A 4, 5, and 6 and the penalties in subdivision A 8, and also has the obligations imposed by such subdivisions and those of subdivisions A 9 through 12.*

**§ 55.1-2306. Penalties.**

*Any person violating any of the provisions of §§ 55.1-2302 through 55.1-2305 is guilty of a Class 2 misdemeanor. At the discretion of the court, any imprisonment may run concurrently with imprisonment imposed by any court for violation of any law similar to the provisions of this chapter.*

SUBTITLE V.  
MISCELLANEOUS.  
CHAPTER 24.  
ESCHEATS.

**§ 55.1-2400. Definition.**

*As used in this chapter, "known" in terms of determining whether an owner is "known" includes inspection of tax records and any other inquiry deemed to be reasonable. It need not include inspection of the premises or inspection of title records in the clerk's office in the county or city in which the land is located.*

**§ 55.1-2401. Appointment of escheators.**

*The Governor shall appoint one escheator for every judicial circuit as set forth in § 17.1-506, to serve at the pleasure of the Governor. Such escheator shall reside within the circuit to which he is appointed.*

**§ 55.1-2402. Bond of escheator.**

*Each escheator shall give bond for the judicial circuit for which he is appointed in the circuit court for the locality in which he resides, in the penalty of \$3,000, without surety, and may continue in office until removed or until a successor is duly appointed and qualified. If property in another locality within the appointed judicial circuit escheats to the Commonwealth at the inquest hearing, the escheator shall give bond within that locality as determined by the clerk of the circuit court in the locality and in a penalty of a percentage of the assessed value of the property according to the records of the commissioner of the revenue. The bond shall be obtained within 10 days following the inquest hearing.*

**§ 55.1-2403. Increase or reduction of penalty of escheator's bond; effect.**

*The court may, at any time, with reasonable notice to the escheator, increase or reduce the penalty of the bond, provided that in no case shall such penalty be reduced to less than \$1,000. Upon bond being given under an order increasing or reducing the penalty of a former bond, the sureties in such former bond and their estates shall be discharged*

from all liability for any breach of official duty committed by such escheator after that time.

**§ 55.1-2404. Annual report to escheator; lands not liable.**

Each treasurer shall, every May, furnish to the escheator of his county or city a list of all lands within his district owned by any person who has died in possession of an estate of inheritance (i) intestate and without any known heir or (ii) testate without disposing of all property by will and without leaving any surviving heir to inherit the property. No land shall be liable to escheat that has been held for 15 years under adverse possession as at common law by the person claiming such land, or those under whom he holds, but only if taxes were paid throughout that period by the claimant or those under whom he holds.

**§ 55.1-2405. Escheator to hold inquest; notice of inquest.**

On receiving a list compiled pursuant to § 55.1-2404, or upon information from any person, in writing and under oath, that any of the conditions described in § 55.1-2404 exists, the escheator shall proceed to hold his inquest to determine whether any land identified has escheated to the Commonwealth. He shall (i) post notice of the time of taking such inquest at the front door of the courthouse for 30 days prior to the inquest and (ii) advertise once in a newspaper of general circulation within the county or city at least seven but not more than 30 days prior to the inquest. Notice shall also be mailed to the last owner of record, if any, as it appears in the tax records of the local treasurer. The escheator shall send a copy of the newspaper advertisement to the State Treasurer prior to the date of the inquest. The inquest shall be held in the same calendar year in which the list or information is received by the escheator. The attorney for the Commonwealth shall act as attorney for this proceeding.

**§ 55.1-2406. Jury of inquest; presentation of evidence.**

The sheriff of the county or city shall summon and return 10 qualified jurors for the inquest, of whom at least seven shall be impaneled as a jury. They shall meet at the courthouse and sit in public and may be adjourned by the escheator from day to day. Every person competent to testify as a witness shall be required to give evidence openly in the presence of the jurors.

**§ 55.1-2407. Attendance of jurors; compensation.**

If any person summoned or adjourned as a juror fails to attend according to the summons or adjournment, the escheator shall report such failure to the circuit court having jurisdiction over the county or city in which the land that is the subject of the inquest is located. Such court may fine such person an amount not to exceed \$50.

Jurors shall be compensated as provided for jurors in civil cases.

**§ 55.1-2408. How verdict signed; where returned and recorded.**

When the inquest is concluded and the verdict concurred in by at least seven of the jurors impaneled such verdict shall be signed by those so concurring and by the escheator. The escheator shall, within 10 days, return the verdict to the clerk's office of the circuit court. After receiving the verdict, the clerk of such court shall record it in accordance with § 17.1-266 and shall provide copies within 10 days to the commissioner of the revenue and the local treasurer or the person performing those duties. This escheat verdict shall be recorded in the grantor index of the record books in the clerk's office.

**§ 55.1-2409. Proceedings to claim land escheated.**

When the verdict on an inquest is for the Commonwealth, any person claiming any interest in the lands, whether legal or equitable, may, before the sale of such land, petition the circuit court for redress. The petition shall be accompanied by a bond with good security to pay the Commonwealth all past due real estate taxes, penalties, and interest on such lands. The escheator shall be the sole defendant on behalf of the Commonwealth, and may appear on his own behalf. The escheator shall file an answer stating the objections to the claim. The cause shall be heard, without any unnecessary delay, upon the petition and answer and the evidence. Upon a judgment in favor of the claimant, he shall pay all past due taxes, penalties, and interest. Upon entry of such judgment, the court may award attorney fees to the escheator. For real estate assessment purposes, the commissioner of the revenue or assessor shall continue to assess any escheated property.

**§ 55.1-2410. Trial by jury; judgment of court.**

Upon a petition filed pursuant to § 55.1-2409, the court may impanel a jury to ascertain any facts that may be disputed and may set aside the verdict. The escheator may initiate a new inquest in accordance with § 55.1-2405.

**§ 55.1-2411. Facts or evidence to be certified.**

If witnesses are sworn before the court or jury, the court shall, upon request of either party, certify what facts are proved by such witnesses. If the facts cannot be certified, the court shall then certify the evidence of the witnesses. In either case, such certificate shall be a part of the record.

**§ 55.1-2412. Lands may be committed to claimant while claim pending.**

Pending the petition, the court may commit the lands, or any part thereof, to the claimant, after he has given bond with good security to pay the Commonwealth the rents and profits of such land, if judgment is subsequently entered for the Commonwealth.

**§ 55.1-2413. Disposition of lands while claim is pending, if not committed to claimant.**

If the escheator leases property remaining in his hands, he shall notify and transmit a copy of such lease, if in written form, to the State Treasurer within 30 days and remit the rent proceeds to the State Treasurer as they are received. The escheator shall be answerable to the claimant or to the Commonwealth, as determined by the court, for the rents and profits of such land and the escheator shall ensure that such land be kept free from waste and destruction. Where the escheator deems that reasonable business practice would require that insurance be obtained on such income-producing property, he shall obtain insurance coverage on the escheated property after having first obtained the approval of the State Treasurer.

**§ 55.1-2414. Escheator to notify State Treasurer of claim and decision.**

The escheator shall certify to the State Treasurer, within 60 days after the end of a year from the date of such inquest, whether any petition has been filed claiming an interest in the property pursuant to § 55.1-2409, and if such claim is made, he shall certify the decision on such petition within 60 days after such decision.

**§ 55.1-2415. Escheators to certify lands escheated.**

Every escheator shall, within 60 days after an inquest that finds on behalf of the Commonwealth, transmit to the State Treasurer a certificate showing the number of tracts or lots escheated, the reputed quantity of each parcel, a description sufficient to identify each parcel, and the names of the persons found to have died in possession of such parcel, or from whom the land escheated.

**§ 55.1-2416. Removal of parcels from the certificate.**

If the escheator finds that the escheat of a parcel was improper, for whatever reason, he shall remove the parcel from the certificate transmitted to the State Treasurer pursuant to § 55.1-2415 at any time prior to sale pursuant to § 55.1-2419. The escheator shall state in writing his reasons for such removal to the satisfaction of the State Treasurer. Thereafter, unless a petition has been filed in accordance with § 55.1-2409, the escheator shall petition the circuit court to correct the verdict returned to the clerk of court pursuant to § 55.1-2408. A copy of this petition shall be sent to the State Treasurer. The escheator shall notify in writing the local treasurer or the local official performing these duties of any such error and improper escheat. The escheator shall be reimbursed the costs incurred by him for filing such a petition with the circuit court. The escheator shall file, and the clerk of court shall record, any such corrected verdict in the appropriate deed books.

**§ 55.1-2417. Escheat of property with hazardous materials.**

In addition to any other remedy provided by law, the Virginia Waste Management Board, pursuant to its authority granted in § 10.1-1402, or the Department of Environmental Quality, shall have recourse against any prior owner or the estate of any prior owner for the costs of cleanup of escheated property in or upon which any hazardous material as defined in § 44-146.34 is found.

**§ 55.1-2418. Publication of escheator's certificate.**

The State Treasurer shall cause the contents of the certificate transmitted pursuant to § 55.1-2415 to be published once each week for four consecutive weeks in a newspaper of general circulation in the county or city where the inquest was held.

**§ 55.1-2419. Order of sale by Governor.**

Not less than six months after the publication of the escheator's certificate pursuant to § 55.1-2418, the State Treasurer shall present to the Governor the escheator's certificate and proof of publication, and, if a claim has not been made pursuant to § 55.1-2409, or, if made, has been decided in favor of the Commonwealth, the Governor shall order the escheated land to be sold upon such terms, at such time, and at such place within the county or city in which the property is located, or if the property is located within a city that is located wholly within a county, then the sale may take place in the city, or a contiguous county or city as he deems proper. The order of sale shall be delivered to the State Treasurer, to be transmitted to the escheator, who shall proceed to sell according to such order.

**§ 55.1-2420. Form of sale agreement; notice of right to refund.**

A sale agreement for the purchase of escheated property shall include a statement of the purchaser's right to claim a refund pursuant to § 55.1-2438 upon submission to the State Treasurer within 120 days of the sale of satisfactory evidence that the escheated property does not exist or was improperly escheated. The following form may be used:

*Sale Agreement of Escheated Property*

This agreement of sale made in triplicate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_, Escheator (hereinafter known as Seller), and \_\_\_\_\_ (hereinafter known as Purchaser) and \_\_\_\_\_ (hereinafter known as Agent).

**WITNESS**

That for and in consideration of the full purchase price of \$\_\_\_\_\_ by cash/check in hand paid, receipt of which is hereby acknowledged, the Seller agrees to sell and the Purchaser agrees to buy all that certain lot or parcel of land with all the appurtenances (if any) thereunto belonging and described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Seller agrees to obtain a state grant. It is hereby understood that GRANTS for lots, parcels and acreage sold pursuant to this agreement shall be WITHOUT WARRANTY and in accordance with § 55.1-2422 of the Code of Virginia. The recovery of proceeds of each sale from the Commonwealth, less the expenses of sale and the escheator's commission, may be obtained if the Purchaser, pursuant to § 55.1-2438 of the Code of Virginia, submits satisfactory evidence to the State Treasurer within 120 days of the sale that the escheated property does not exist or was improperly escheated.

WITNESS the following signatures and seals made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

Agent

\_\_\_\_\_  
(SEAL)

Purchaser

\_\_\_\_\_  
(SEAL)

Escheator for

\_\_\_\_\_, Virginia,

Seller

**§ 55.1-2421. When grant to issue to purchaser; reimbursable expenses.**

A. When the escheator sells for cash, he shall certify the purchase and the price to the State Treasurer, who, after determining that such price, deducting the expenses, has been paid into the state treasury and that the expenses of the inquest and sale have been paid to the escheator, shall have a grant issued and executed for the lands so sold. At the time of sale, the escheator shall require the purchaser to sign an authorization for recordation prior to distribution. A clerk's fee per parcel purchased in accordance with subdivision A 2 of § 17.1-275 shall be collected by the escheator in addition to the purchase price. The fee shall be forwarded to the State Treasurer, together with the names and addresses of the purchasers of the escheated property and the sale proceeds as required in § 55.1-2426, who shall send the fee with the grants to the local clerk's office for recording. The fee in effect at the time of sale shall be in lieu of all fees and costs. Grants of escheated property shall be exempt from all recording taxes. After recording the grants, the local clerk shall forward the grants to the escheator, who shall be responsible for notifying the purchasers of the recordation and the distribution of the grants to the purchaser.

B. Expenses reimbursable by the State Treasurer under subsection A shall include an auctioneer's fee, which shall not exceed five percent of the sale proceeds. The State Treasurer, by regulation, shall detail other appropriate reimbursable expenses.

**§ 55.1-2422. Form of grant of escheated property.**

A grant of escheated property shall be without warranty and to the following effect:

"In consideration of the sum of \$\_\_\_\_\_ paid by \_\_\_\_\_, the Purchaser, into the treasury of the Commonwealth, etc., there is granted without warranty by the Commonwealth to \_\_\_\_\_, the Purchaser, a certain tract or parcel of land, containing \_\_\_\_\_ acres, lying in the county (or city) of \_\_\_\_\_, etc., (describing the bounds of the land and date of the survey or other description sufficient to identify the parcel) with its appurtenances, to \_\_\_\_\_, the Purchaser, and his heirs forever. In witness whereof, \_\_\_\_\_, the Governor of the Commonwealth, has set his hand and caused the lesser seal of the Commonwealth to be affixed hereunto, at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_."

**§ 55.1-2423. Governor to sign and seal grant; Librarian of Virginia to record it; delivery to and by State Treasurer.**

The State Treasurer shall deliver such grant of escheated property to the Governor, by whom it shall be signed and caused to be affixed with the lesser seal of the Commonwealth. The grant shall then be delivered by the Governor to the Librarian of Virginia, who shall record it, and the plat and certificate of survey, if provided, or other description sufficient to identify the parcel on which the grant is founded, by a procedural microphotographic process that meets archival standards. The Librarian of Virginia shall certify to the State Treasurer that the grant has been recorded and then deliver the grant to the State Treasurer, who shall in turn mail it to the party to whom it is made, or another person, as directed by such party.

**§ 55.1-2424. Recordation of certified copy of grant.**

The clerk shall accept for recordation a copy of the grant of escheated property from the Commonwealth that is certified as a true copy by the Librarian of Virginia under § 55.1-2423.

**§ 55.1-2425. Resale in case of default.**

If the purchaser does not pay the purchase money into the state treasury within a reasonable time, any deposit is forfeited, and the State Treasurer may rescind the contract and order a new sale.

**§ 55.1-2426. Reports by escheators to State Treasurer.**

The escheator shall file reports with the State Treasurer as required by the State Treasurer by agency directive.

**§ 55.1-2427. Reports by State Treasurer to the Governor; penalty on escheators for failure of duty.**

The State Treasurer shall, every May 1, file a report with the Governor containing the name of any escheator who fails to perform any duty required of him by this chapter. If any escheator fails to report to and account with the State Treasurer, or fails to pay into the state treasury the proceeds of any sale made by him, or any such rents and profits, in the manner and within the time prescribed by law, he shall be fined no more than \$200 for every 60 days such failure continues. If any escheator fails to perform any other duty required of him by this chapter and no specific penalty for such failure is provided, he shall be fined no more than \$50. Any action for any fine under this chapter may be instituted, at the discretion of the State Treasurer or of the Attorney General, in the Circuit Court of the City of Richmond, after 15 days' notice.

**§ 55.1-2428. State Treasurer may examine records of any escheator, commissioner of the revenue, or treasurer.**

The State Treasurer may at reasonable times and upon reasonable notice examine the records of any escheator, commissioner of the revenue, treasurer, or other person charged with his duties.

**§ 55.1-2429. When State Treasurer to issue grant to purchaser.**

The State Treasurer shall not request that the Governor issue a grant for the lands sold to the purchaser, or his heirs or assigns, until the purchase money has been fully paid.

**§ 55.1-2430. Escheator's pay.**

Except as otherwise provided in this section, the escheator shall be entitled to a commission of 10 percent on all proceeds of sales made by him of escheated lands that are paid to him or into the state treasury. Where an escheator is replaced by the appointment and qualification of a successor and where such escheator held an inquest provided for in

§ 55.1-2405 but the sale provided for in § 55.1-2419 has not been held, the 10 percent commission on the proceeds of the sales of the escheated lands so advertised shall be divided equally between such escheator and his successor. For each parcel that escheats, the escheator shall be paid \$10 out of any money in the state treasury belonging to the Literary Fund.

**§ 55.1-2431. Escheat of estates in trust and equitable titles.**

An estate vested in a person solely by mortgage or deed of trust shall not escheat or be forfeited to the Commonwealth by reason of the mortgagee or trustee dying without heirs, but any equitable title to lands shall escheat or be forfeited, as the case may be, if the person having the equitable title also had the legal title.

**§ 55.1-2432. Provision in favor of tenant of escheated land.**

If any person holds any escheated land under a lease or has right to any rent or other profit out of such land, he shall hold and enjoy his lease, rent, or other profit, whether such lease or right to rent or other profit is found in the inquest or not.

**§ 55.1-2433. In favor of creditor of decedent.**

If any debt of a person who died in possession of such lands that escheated to the Commonwealth, remains unpaid after all the personal estate of such person has been applied to the payment of his debts, the creditor may file his complaint, accompanied with an affidavit that the debt is bona fide due, to recover such debt in the circuit court to which the inquest of escheat was returned and make the escheator defendant. If the court orders that the debt or any part thereof is due, the amount ordered to be due shall be paid by the escheator, if the escheator has enough of the proceeds of sale remaining to cover the amount, or out of the state treasury, if enough of the proceeds that have been paid into the state treasury still remain in the state treasury, or to the credit of the Literary Fund.

**§ 55.1-2434. Escheators to defend on behalf of Commonwealth.**

The escheator shall answer and defend on the part of the Commonwealth any action against him or any petition filed under § 55.1-2409 and shall be allowed the costs incurred by him in such defense.

**§ 55.1-2435. Recovery by escheator of decedent's escheated residue and of property abandoned or derelict; fee.**

The residue of a decedent's estate consisting of real property belonging to the Commonwealth, or subject to escheat to the Commonwealth, and any such property abandoned or derelict, or having no rightful owner, may be recovered from any person in possession thereof by an escheator by a complaint in the name of the Commonwealth. For his services in such recovery, the escheator shall be entitled to such fee as may be approved by the State Treasurer, but in no event shall such fee exceed 10 percent of the value of such recovered property.

**§ 55.1-2436. Publication of action; what to state and require.**

When any action is instituted pursuant to § 55.1-2435, the court shall cause a publication to be made once each week for four consecutive weeks in a newspaper of general circulation in the county or city in which the proceedings are held, setting forth the nature of the claim, the name and place of birth, when known, of the deceased person, or of the former owner of the property, if known, as the case may be, and a description of the property or estate claimed and requiring all persons claiming an interest in such property to appear and assert their interests in such property.

**§ 55.1-2437. Order of the court.**

If no person appears and shows that he has title to the property, the court shall order that the residue or other property belongs to the Commonwealth and enforce the collection thereof or of the proceeds of the sale of such property, provided, however, that if the residue or other property was given, bequeathed, or devised by will to a charitable institution in the Commonwealth and such gift, bequest, or devise failed by reason of insufficient witnessing of such will and would otherwise escheat to the Commonwealth, and the court finds that it is in the public interest, the court may order such residue or other property, or so much thereof as was subject to such gift, bequest, or devise, to be paid to such charitable institution.

**§ 55.1-2438. How money paid into state treasury from escheats may be recovered.**

A. If within 120 days from the date of sale, a purchaser submits evidence satisfactory to the State Treasurer that the property described in the grant does not exist or was improperly escheated, the State Treasurer may refund the purchase price, less the expenses of sale and the escheator's fee. Before any such refund is made, the purchaser shall return the grant to the State Treasurer, who shall inform the Librarian of Virginia of its return. Both of these officials shall note the grant's return in their records. When the Commonwealth has recorded the grant, the purchaser shall record a quitclaim deed and send proof thereof to the State Treasurer prior to the issuance of any refund.

B. After any sale of escheated lands and upon certification verified by oath of the local treasurer or other officer charged with the collection of local real estate taxes that the land so sold was, at the time of escheat to the Commonwealth, subject to the lien of unpaid local real estate taxes or that the land so sold was, at any time prior to sale, subject to other assessments, including liens for demolition, cutting or removing weeds, or abating any nuisance on the escheated land, all of which assessments were validly assessed, levied, or imposed by the locality on the lands within 20 years preceding the date of the escheat or inquest, the State Treasurer shall, upon receipt of the proceeds of sale, deduct the escheator's commission and costs of the inquest and sale. The State Treasurer shall then pay to the local treasurer out of the net proceeds of such sale, if any, the amount of the local real estate taxes and assessments, including accrued penalties and interest, up to but not exceeding the amount of the funds remaining in the hands of the State Treasurer from the proceeds of the sale. To the extent that local taxes and other appropriate local charges exceed the proceeds obtained for such escheated land at the escheat sale, such local taxes and other charges are exonerated. Any other liens on property that was escheated and sold shall shift to the proceeds of the sale and shall no longer remain a lien on the property.

C. Any person who had not asserted a claim before the sale of escheated property, being entitled to any property so escheated and sold, may recover so much of the net proceeds as remain after deduction of the escheator's commission, costs

of the inquest and sale, and allowance of claims for unpaid real estate taxes and assessments due on the land or from any creditors of the decedent. The same may be allowed by the State Treasurer or, if a claim in any such case is rejected by him, a petition for recovery may be made in the manner provided in § 8.01-192 for recovering claims against the Commonwealth, but subject to the limitation in § 8.01-255.

**§ 55.1-2439. Regulations of the State Treasurer.**

The State Treasurer shall adopt any necessary regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to carry out the provisions of this chapter.

**§ 55.1-2440. Continuation of certain statutes.**

The first section of Chapter 114 of the Code of 1849, and the sections following that to the seventeenth section, inclusive, of such chapter; the act passed April 12, 1852 (Chapter 18, Acts 1852); the act passed April 7, 1858 (Chapter 39, Acts 1858); and the Acts of 1857-8, as amended by the act passed March 30, 1860 (Acts of 1859-60) are continued in force.

**§ 55.1-2441. Pendency of escheat proceedings no bar to condemnation proceedings.**

Notwithstanding any provision contained in this chapter, the Commissioner of Highways or any locality or other political subdivision or agency of the Commonwealth possessing the power of eminent domain, for a public purpose in accordance with the law and notwithstanding the pendency of any proceeding brought for the escheat of any land wanted and needed by such Commissioner of Highways or such locality or other political subdivision or agency of the Commonwealth for such purpose, may institute, maintain, and conduct to final judgment condemnation proceedings to acquire in fee simple such land or such lesser estate, title, or interest therein as is wanted and needed for such public purpose, provided, however, that the escheator in whose name such escheat proceedings is pending and the Commonwealth are made codefendants to such condemnation proceedings, together with the owner, if known, of the land proposed to be condemned in such proceeding. The pendency of such escheat proceedings shall not constitute a bar or defense to such condemnation proceedings, nor to any proceeding therein seeking a right of entry as provided in § 25.1-223, in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1, or in Article 1 (§ 33.2-1000 et seq.) of Chapter 10 of Title 33.2. No escheator, after being served with notice of the filing of any such condemnation proceeding, shall sell or dispose of any land sought to be acquired in such condemnation proceeding except upon order entered by the court in which such condemnation proceeding is pending. The funds paid into court as compensation or damages for the land so taken or damaged shall, after payment of taxes and other claims constituting valid liens against the land so taken, be ordered distributed to the party entitled thereto or be ordered paid to the escheator of such land, or to the State Treasurer, as the court may direct.

CHAPTER 25.

VIRGINIA DISPOSITION OF UNCLAIMED PROPERTY ACT.

Article 1.

Definitions; Property Abandoned or Assumed Abandoned.

**§ 55.1-2500. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.).

"Administrator" means the State Treasurer or his designee.

"Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

"Banking organization" means any bank, trust company, savings bank (industrial bank, land bank, safe deposit company), or private banker or any other organization defined by law as a bank or banking organization.

"Business association" means any corporation, joint-stock company, investment company, business trust, partnership, limited liability company, cooperative, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.

"Credit balance" means an item of intangible property resulting from or attributable to the sale of goods or services, including an overpayment, credit memo, refund, discount, rebate, unidentified remittance, or deposit.

"Domicile" means (i) the state of incorporation, in the case of a corporation incorporated under the laws of a state; (ii) the state of organization, in the case of an unincorporated business association formed under the laws of a state; (iii) the state of the principal place of business, in the case of a nonnatural person not incorporated or formed under the laws of a state; and (iv) the state of principal residency, in the case of a natural person.

"Due diligence" includes the mailing of a letter by first-class mail to the last known address of the owner as indicated on the records of the holder.

"Financial organization" means any savings and loan association (cooperative bank), building and loan association, or credit union.

"Gift certificate" means a certificate, electronic card, or other medium that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, services, credit, or money of an equal value.

"Holder" means a person, wherever organized or domiciled, that is (i) in possession of property belonging to another; (ii) a trustee, in the case of a trust; or (iii) indebted to another on an obligation.

"Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, that is engaged in providing insurance coverage, including accident, burial, casualty, contract performance, credit life, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice,

marine, mortgage, surety, and wage protection insurance.

"Intangible property" includes (i) moneys, checks, drafts, deposits, interest, and dividend income; (ii) credits, customer overpayments, gift certificates, security deposits, refunds, unpaid wages, and unidentified remittances; (iii) stocks and other intangible ownership interests in business associations; (iv) moneys deposited to redeem stocks, bonds, coupons, and other securities or to make distributions; (v) amounts due and payable under the terms of insurance policies; and (vi) amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefit.

"Last known address" means a description of the location of the apparent owner sufficient to identify the state of residence of the apparent owner for the purpose of the delivery of mail.

"Owner" means (i) a depositor, in the case of a deposit; (ii) a beneficiary, in the case of a trust, other than a deposit in trust; (iii) a creditor, claimant, or payee, in the case of other intangible property; or (iv) a person having a legal or equitable interest in property subject to this chapter or his legal representative.

"Payable" means the earliest date upon which the owner of property could become entitled to the payments, possession, delivery, or distribution of such property from a holder.

"Person" means an individual; a business association; a government or governmental subdivision or agency, public corporation, or public authority; an estate; a trust; two or more persons having a joint or common interest; or any other legal or commercial entity.

"Promotional incentive" means a coupon, rebate, or other promotional device offered to induce a consumer to purchase goods, food, or services and for which (i) no direct consideration is given by the consumer or (ii) the consideration given is less than the value of the goods, food, or services to be received.

"State," when applied to a part of the United States, includes any state, district, commonwealth, territory, and insular possession and any other area subject to the legislative authority of the United States.

"Unclaimed property" means property for which the owner, as shown by the records of the holder of his property, has ceased, failed, or neglected, within the times provided in this chapter, to make presentment and demand for payment and satisfaction or to do any other act in relation to or concerning such property. As used in this definition, "act" excludes any act of a holder of unclaimed property not done at the express request or authorization of the owner.

"Utility" means a person that owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

#### **§ 55.1-2501. Property presumed abandoned; general rule.**

All tangible and intangible property, including any income or increment thereon, less any lawful charges, that is held, issued, or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years after it became payable is presumed abandoned, except as otherwise provided by this chapter. Property is payable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

#### **§ 55.1-2502. Taking custody of intangible unclaimed property; general rules.**

Unless otherwise provided in this chapter or by other law of the Commonwealth, intangible property is subject to the custody of the Commonwealth as unclaimed property if the conditions leading to a presumption of abandonment as described in §§ 55.1-2501, 55.1-2503, and 55.1-2505 through 55.1-2521 are satisfied and:

1. The last known address, as shown on the records of the holder, of the apparent owner is in the Commonwealth;
  2. The records of the holder do not reflect the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in the Commonwealth;
  3. The records of the holder do not reflect the last known address of the apparent owner, and it is established that (i) the last known address of the person entitled to the property is in the Commonwealth or (ii) the holder is a domiciliary or a government or governmental subdivision or agency of the Commonwealth and has not previously paid the property to the state of the last known address of the apparent owner or other person entitled to the property;
  4. The last known address, as shown on the records of the holder, of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property, and the holder is a domiciliary or a government or governmental subdivision or agency of the Commonwealth;
  5. The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation, and the holder is a domiciliary or a government or governmental subdivision or agency of the Commonwealth; or
6. a. The transaction out of which the property arose occurred in the Commonwealth, and (i) the last known address of the apparent owner or other person entitled to the property is unknown or (ii) the last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property; and
  - b. The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property.

#### **§ 55.1-2503. Bank deposits and funds in financial organizations.**

A. Any demand, savings, or matured time deposit with a banking or financial organization, including deposits that are

automatically renewable, and any funds paid toward the purchase of shares, a mutual investment certificate, or any other interest in a banking or financial organization is presumed abandoned unless the owner has, within five years:

1. In the case of a deposit or ownership of shares, increased or decreased the amount of the deposit or the number of shares owned, or presented the passbook or other similar evidence of the deposit or ownership of shares for the crediting of interest or dividends, or negotiated a check in payment of interest or dividends on a time deposit or ownership of shares;

2. Communicated in writing with the banking or financial organization concerning the property;

3. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;

4. Owned other property to which subdivision 1, 2, or 3 is applicable if the banking or financial organization communicated in writing with the owner with regard to the property that would otherwise be presumed abandoned under this section at the address to which communications regarding the other property regularly are sent;

5. Had another relationship with the banking or financial organization concerning which the owner has (i) communicated in writing with the banking or financial organization, or (ii) otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this section at the address to which communications regarding the other relationship regularly are sent; or

6. A deposit made with or purchase of shares in a banking or financial organization by a court or by a guardian pursuant to an order of a court or by any other person for the benefit of a person who was an infant at the time of the making of such deposit or purchase of shares, which deposit or ownership of shares is subject to withdrawal or transfer only upon the further order of such court or such guardian or other person, shall not be subject to the provisions of this chapter until one year after such infant attains the age of 18 years or until one year after the death of such infant, whichever occurs sooner. These accounts are not subject to dormant service charges.

B. Notwithstanding any other provision of this section, share accounts of a member of a state or federally chartered credit union that is subject to or covered by life savings insurance provided by the credit union at no additional charge to the member shall be presumed abandoned five years after the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or five years after the date the credit union discontinued the mailings to the member, whichever occurs earlier. Funds held or owing under the life savings insurance policy are presumed abandoned pursuant to § 55.1-2507.

C. For purposes of this section, "property" includes any interest or dividends thereon. No banking or financial organization may deduct any service charge or cease to accrue interest on any account from the date the account is declared dormant or inactive by such organization except in conformity with cessation of interest or service charges generally assessed upon active accounts and except as provided in this section. With respect to any property described in this section, a holder may not impose any charges due to dormancy or inactivity that differ from charges imposed on active accounts or cease to pay interest due to dormancy or inactivity that differs from the cessation of payment of interest on active accounts unless:

1. There is an enforceable contract between the holder and the owner of the property pursuant to which the holder may impose those charges or cease payment of interest;

2. For property in excess of \$100, the holder, no more than three months prior to the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease; however, such notice need not be given with respect to charges imposed or interest ceased before July 1, 1984;

3. When the holder receives a request from the owner of the property to reverse or cancel dormancy charges or retroactively credit interest with respect to such property, the holder may at its option either:

a. Reverse or cancel dormancy charges or retroactively credit interest with respect to any such property, in which event the holder shall reverse or cancel dormancy charges or retroactively credit interest for all such property that becomes subject to the reporting requirements in § 55.1-2524 for the Department of the Treasury; or

b. Not reverse or cancel dormancy charges or retroactively credit interest with respect to any such property, in which event the holder shall not be required to reverse or cancel dormancy charges or retroactively credit interest for any such property that becomes subject to the reporting requirements in § 55.1-2524 for the Department of the Treasury; and

4. The holder may at its option reverse or cancel dormancy charges or retroactively credit interest with respect to any or all such property to correct a documented internal error without becoming required to reverse or cancel dormancy charges or retroactively credit interest for all such property that becomes subject to the reporting requirements in § 55.1-2524 for the Department of the Treasury.

Notwithstanding any provision of this subsection to the contrary, a holder that is a state-chartered credit union may refund charges or reverse or cancel those charges or retroactively credit interest with respect to such property to the same extent that a federally chartered credit union is authorized to do so pursuant to applicable provisions of federal law.

D. Any automatically renewable property to which this section applies is matured upon the expiration of its initial time period. However, in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicates consent as specified in subsection A, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in subsection D of § 55.1-2524, a penalty or forfeiture in the payment of interest would result from the delivery of

the property, the time for delivery is extended until the time when no penalty or forfeiture would result. Notwithstanding any other provision of this section to the contrary, any automatically renewable time deposit that has matured shall be presumed abandoned five years after the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or five years after the date the holder discontinued the mailings to the apparent owner, whichever occurs earlier. However, any automatically renewable time deposit for which no such statement or other notification or mailing is required to be sent by the banking or financial organization shall be presumed abandoned as otherwise provided in this section.

**§ 55.1-2504. Traveler's checks and money orders.**

A. Except as otherwise provided in this section, any sum payable on a traveler's check that has been outstanding for more than 15 years after its issuance is presumed abandoned unless the owner, within 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

Except as otherwise provided in this section, any sum payable on a money order or similar written instrument, other than a third-party bank check, that has been outstanding for more than seven years after its issuance is presumed abandoned unless the owner, within seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

B. No holder may deduct from the amount of any traveler's check or money order any charges imposed by reason of the failure to present those instruments for payment unless (i) there is a valid and enforceable written contract between the issuer and the owner of the property pursuant to which the issuer may impose those charges and (ii) the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel those charges with respect to such property.

C. Any sum payable on a traveler's check, money order, or similar written instrument, other than a third-party bank check, described in this section shall not be subjected to the custody of the Commonwealth as unclaimed property unless:

1. The records of the issuer show that the traveler's check, money order, or similar written instrument was purchased in the Commonwealth;

2. The issuer has its principal place of business in the Commonwealth, and the records of the issuer do not show the state in which the traveler's check, money order, or similar written instrument was purchased; or

3. The issuer has its principal place of business in the Commonwealth, the records of the issuer show the state in which the traveler's check, money order, or similar written instrument was purchased, and the laws of the state of purchase do not provide for the escheat or custodial taking of the property, or its escheat or unclaimed property law is not applicable to the property.

D. Notwithstanding any other provision of this chapter, the provisions of subsection C relating to the requirements for subjecting certain written instruments to the custody of the Commonwealth apply to sums payable on traveler's checks, money orders, and similar written instruments presumed abandoned on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

**§ 55.1-2505. Checks, drafts, and similar instruments issued or certified by banking and financial organizations.**

Any sum payable on a check, draft, or similar instrument, except money orders, traveler's checks, and other similar instruments subject to § 55.1-2504, on which a banking or financial organization is directly liable, including cashier's checks and certified checks, that has been outstanding for more than five years after it was payable, or after its issuance if payable on demand, is presumed abandoned unless the owner, within five years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization.

A holder may not deduct from the amount of any instrument subject to this section any charges imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose those charges and the holder regularly imposes those charges and does not regularly reverse or otherwise cancel those charges with respect to such instruments.

**§ 55.1-2506. Contents of safe deposit box or other safekeeping repository.**

All tangible and intangible property held in a safe deposit box or any other safekeeping repository in the Commonwealth in the ordinary course of the holder's business and all proceeds resulting from the lawful sale of this property shall be presumed abandoned if unclaimed by the owner for more than five years after the lease or rental period on the box or other repository has expired.

**§ 55.1-2507. Funds owing under life insurance policies.**

A. Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than five years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, except that property described in subdivision C 2 is presumed abandoned if unclaimed for more than two years.

B. If a person other than the insured or annuitant is entitled to the funds and no address of the person is known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company.

C. For purposes of this section, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company is deemed matured and the proceeds due

and payable if:

1. The company knows that the insured or annuitant has died; or  
 2. (i) The insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based; (ii) the policy was in force at the time the insured attained, or would have attained, the limiting age specified in clause (i); and (iii) neither the insured nor any other person appearing to have an interest in the policy within the preceding two years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

D. For purposes of this section, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection A if the insured has died or the insured or the beneficiaries of the policy otherwise have become entitled to the proceeds thereof before the depletion of the cash surrender value of the policy by the application of those provisions.

E. Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to locate the beneficiary and pay the proceeds to the beneficiary.

F. Commencing July 1, 1986, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of the Commonwealth shall request the following information:

1. The name of each beneficiary or, if the class of beneficiaries is named, the name of each current beneficiary in the class;

2. The address of each beneficiary; and

3. The relationship of each beneficiary to the insured.

**§ 55.1-2508. Intangible personal property held by insurance corporation subject to § 55.1-2501.**

An insurance corporation holding any other intangible personal property not covered by subsection A of § 55.1-2507 or § 55.1-2509 shall be otherwise subject to § 55.1-2501.

**§ 55.1-2509. Unclaimed demutualization proceeds.**

Unclaimed property payable or distributable in the course of the demutualization of an insurance company is presumed abandoned five years after the earlier of (i) the date of last contact with the policyholder or (ii) the date the property became payable or distributable. The report filed on November 1, 2003 will include demutualization distribution property for which there has been no policyholder contact for the five years prior to June 30, 2003.

**§ 55.1-2510. Deposits held by utilities.**

Any deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one year after termination of the services for which the deposit or advance payment was made is presumed abandoned.

**§ 55.1-2511. Intangible interest in business association.**

A. Any intangible interest in a business association, as evidenced by the stock records or membership records of the association, is presumed abandoned five years after the date of the most recent dividend or other distribution unclaimed by the apparent owner with respect to the stock or other interest or, if a dividend or other distribution has not been paid on the stock or other interest, or the stock or other interest is held pursuant to a plan that provides for the automatic reinvestment of dividends or other distributions, five years after the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or five years after the date the holder discontinued the mailings to the apparent owner, whichever occurs earlier. With respect to such interest, the business association shall be deemed the holder.

B. Any dividend or other distribution held for or owing to a person at the time the stock or other security to which such dividend or other distribution attaches is considered abandoned at the same time.

**§ 55.1-2512. Refunds held by business associations.**

Except to the extent otherwise ordered by a court or administrative agency of competent jurisdiction, any sum that a business association has been ordered to refund by a court or administrative agency that has remained unclaimed by the owner for more than one year after it became payable in accordance with the final determination or order providing for the refund, regardless of whether the final determination or order requires any person entitled to a refund to make a claim for it, is presumed abandoned.

**§ 55.1-2513. Property of business associations held in course of dissolution.**

All intangible property distributable in the course of a voluntary or involuntary dissolution of a business association that remains unclaimed by the owner for more than one year after the date for specified final distribution is presumed abandoned.

**§ 55.1-2514. Intangible personal property held in fiduciary capacity.**

A. All intangible personal property, and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within five years after it became payable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with and prepared by the fiduciary or an employee of the fiduciary.

*B. Funds in an individual retirement account, a retirement plan for self-employed individuals, or a similar account or plan established pursuant to the Internal Revenue laws of the United States are not payable under this section unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.*

*C. For the purpose of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association alone, unless such person's agreement with the business association provides otherwise. A person who is so deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.*

**§ 55.1-2515. Gift certificates and credit balances.**

*A. Except as described in subsection B, a gift certificate or credit balance issued in the ordinary course of the issuer's business that has remained unclaimed by the owner for more than five years after such gift certificate or credit balance became payable is presumed abandoned.*

*B. The following property is exempt from the provisions of this chapter and shall not be assessed by the administrator as unclaimed property: (i) credit balances payable to a business association; (ii) outstanding checks resulting from or attributable to the sale of goods or services to a business association; (iii) promotional incentives; and (iv) credits, gift certificates, coupons, layaways, and similar items, provided that such credits, gift certificates, coupons, layaways, and similar items are redeemable in merchandise, in services, or through future purchases.*

**§ 55.1-2516. Wages.**

*Unpaid wages, including wages represented by un-presented payroll checks owing in the ordinary course of the holder's business, that have remained unclaimed by the owner for more than one year after such unpaid wages became payable are presumed abandoned.*

**§ 55.1-2517. Intangible property held for owner by public agency.**

*All intangible property held for the owner by any government or governmental subdivision or agency, public corporation, or public authority that has remained unclaimed by the owner for more than one year after it became payable is presumed abandoned.*

**§ 55.1-2518. Property held by courts.**

*All intangible property held for the owner by any state or federal court that has remained unclaimed by the owner for more than one year after it became payable is presumed abandoned.*

**§ 55.1-2519. Responsibilities of general receiver and clerk.**

*The general receiver, if one has been appointed, and the clerk of each circuit court shall be responsible for identifying moneys held by them in their respective accounts that have remained unclaimed by the owner for more than one year after such moneys became payable and for petitioning the court to remit such money to the administrator. There shall be no obligation to report or remit funds deposited as compensation and damages in condemnation proceedings pursuant to § 25.1-237 prior to a final court order or pursuant to § 33.2-1019.*

**§ 55.1-2520. Employee benefit trust distribution.**

*A. All employee benefit trust distributions and any income or other increment thereon are abandoned to the Commonwealth under the provisions of this chapter if the owner has not, within 10 years after it became payable, accepted such distribution, corresponded in writing concerning such distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or custodial fund or administrator of the plan under which such trust or fund is established.*

*B. An employee benefit trust distribution and any income or other increment thereon shall not be presumed abandoned to the Commonwealth under the provisions of this chapter if, at the time such distribution becomes payable to a participant in an employee benefit plan, (i) such plan contains a provision for forfeiture or expressly authorizes the trustee to declare a forfeiture of a distribution to a beneficiary thereof who cannot be found after a period of time specified in such plan and (ii) the trust or fund established under the plan has not terminated prior to the date on which such distribution would become forfeitable in accordance with such provision.*

**§ 55.1-2521. Holder of tangible or intangible personal property may voluntarily report such property.**

*Any holder of tangible or intangible personal property the owner of which is unlocatable may voluntarily report the property to the administrator, prior to the statutory due dates, whereupon the property shall be presumed abandoned under this chapter.*

Article 2.

*Reciprocity for Property Presumed Abandoned or Escheated under Laws of Another State.*

**§ 55.1-2522. Certain property not presumed abandoned in the Commonwealth.**

*If specific property that is subject to the provisions of §§ 55.1-2501, 55.1-2503, 55.1-2507, 55.1-2511, 55.1-2513, 55.1-2514, 55.1-2520, and 55.1-2521 is payable to an owner whose last known address is in another state by a holder that is subject to the jurisdiction of that state, the specific property is not presumed abandoned in the Commonwealth and subject to this chapter if:*

*1. It may be claimed as abandoned or escheated under the laws of such other state; and*

*2. The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such other state when payable to an owner whose last known address is within the Commonwealth by a*

holder that is subject to the jurisdiction of the Commonwealth.

**§ 55.1-2523. Interstate agreements and cooperation.**

A. The administrator may enter into agreements with other states to exchange information needed to enable the Commonwealth or another state to audit or otherwise determine unclaimed property to which the Commonwealth or another state may be entitled subject to a claim of custody. The administrator may by rule require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

B. To avoid conflicts between the administrator's procedures and the procedures of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act, the administrator shall, so far as is consistent with the purposes, policies, and provisions of this chapter, before adopting, amending, or repealing rules, advise and consult with administrators in other jurisdictions that enact substantially the Act and take into consideration the rules of administrators in other jurisdictions that enact the Act.

C. The administrator may join with other states to seek enforcement of the Act against any person who is or may be holding property reportable under the Act. At the request of another state, the Attorney General of the Commonwealth may bring an action in the name of the administrator of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in the Commonwealth of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in bringing the action.

Similarly, the administrator may request that the Attorney General of another state, or any other person, bring an action in the other state in the name of the administrator. The Commonwealth shall pay all expenses, including attorney fees, in any such action, and such expenses shall not be deducted from the amount that is subject to the claim by the owner under this chapter.

Article 3.

Procedural and Administrative Matters.

**§ 55.1-2524. Report and remittance to be made by holder of funds or property presumed abandoned; holder to exercise due diligence to locate owner.**

A. Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report and remit to the administrator with respect to the property as provided in this article. Reports containing 25 or more items shall be remitted in an electronic format as prescribed by the administrator. The administrator may waive this requirement when he determines that it creates an undue hardship.

B. The report shall be verified and shall include:

1. The name and social security or federal identification number, if known, and last known address, including zip code, if any, of each person appearing from the records of the holder to be the owner of any property of the value of \$100 or more presumed abandoned under this chapter;

2. In the case of unclaimed funds of insurance corporations, the full name of the insured or annuitant and any beneficiary, if known, and the last known address according to the insurance corporation's records;

3. In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator and any amounts owing to the holder;

4. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under \$100 each may be reported in aggregate;

5. The date when the property became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the property; and

6. Other information that the administrator prescribes by rule as reasonably necessary for the administration of this chapter.

C. If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

D. The report and remittance, including the remittance of unclaimed demutualization proceeds made pursuant to § 55.1-2509, shall be filed before November 1 of each year for the period ending June 30 of such year, but the report and remittance of insurance corporations shall be filed before May 1 of each year for the period ending December 31 of the previous year. When property is evidenced by certificate of ownership as set forth in § 55.1-2511, the holder shall deliver to the administrator a duplicate of any such certificate registered in the name "Treasurer of Virginia" or the Treasurer's designated nominee at the time of report and remittance. The administrator may postpone the reporting and remittance date upon written request by any person required to file a report.

E. If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. All holders shall exercise due diligence, as defined in § 55.1-2500, at least 60 days prior to the submission of the report to ascertain the whereabouts of the owner if (i) the holder has in its records an address for the apparent owner that the holder's records do not disclose to be inaccurate and (ii) the property has a value of \$100 or more.

F. Verification shall be executed (i) if made by a partnership, by a partner; (ii) if made by an unincorporated association or private corporation, by an officer; and (iii) if made by a public corporation, by its chief fiscal officer.

**§ 55.1-2525. Notices to be published by administrator.**

A. The administrator shall cause to be published notice of the report filed under subsection D of § 55.1-2524 once each year in a newspaper of general circulation in the area in which the last known address of any person to be named in the notice is located. If no address is listed or if the address is outside of the Commonwealth, the notice shall be published in the area in which the holder of the abandoned property has his principal place of business.

B. The published notice shall be entitled "Commonwealth of Virginia Unclaimed Property List" and shall contain:

1. The names in alphabetical order and account numbers of persons listed in the report and entitled to notice within the area as specified in subsection A; and

2. A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the administrator.

C. The administrator is not required to publish in such notice any item of less than \$100 unless he deems such publication to be in the public interest.

**§ 55.1-2526. Holder relieved of liability for property paid or delivered to administrator; payment to owner by holder; proceedings against prior holder; notice to administrator and Attorney General; reimbursement of holder.**

A. Upon the payment or delivery of abandoned property to the administrator, the Commonwealth shall assume custody and shall be responsible for the safekeeping of such property. Any person who pays or delivers abandoned property to the administrator under this chapter is relieved of all liability to the extent of the value of the property so paid or delivered for any claim that then exists or that thereafter may arise or be made in respect to the property. Any holder that has paid moneys to the administrator pursuant to this chapter may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the administrator shall forthwith reimburse the holder for the payment.

B. In the event that legal proceedings are instituted against a prior holder in a court of the Commonwealth, or in any other state or federal court, by any other state claiming to be entitled to unclaimed funds or abandoned property previously paid or delivered to the administrator, such holder shall give written notice to the administrator and the Attorney General of the Commonwealth of such proceedings (i) within 10 days after service of process or (ii) at least 10 days before the return date on which an answer or similar pleading is required to be filed. The Attorney General may intervene or take such other action as he deems appropriate or necessary to protect the interests of the Commonwealth.

C. If the notice provided in subsection B is given by the holder and thereafter a judgment is entered against the holder for any amount paid to the administrator pursuant to the terms of this chapter, the administrator shall, upon being furnished with proof thereof, return to the holder the amount of such judgment, not to exceed, however, the amount of the abandoned property paid to the administrator.

D. Property removed from a safe deposit box or other safekeeping repository that is received by the administrator shall be subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The administrator shall make the reimbursement to the holder out of the proceeds remaining after the deduction of the administrator's selling cost.

**§ 55.1-2527. Crediting of dividends, interest, or increments to owner's account.**

Whenever property other than money is paid or delivered to the administrator under this chapter, the owner is entitled to receive from the administrator any dividends, interest, or other increments realized or accruing on the property at or before liquidation or conversion of such property into money.

**§ 55.1-2528. Periods of limitation.**

A. The expiration of any period of time specified by statute or court order during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property shall not prevent the money or property from being presumed abandoned property or affect any duty to file a report required by this chapter or to pay or deliver abandoned property to the administrator.

B. Except as provided in subsection C, an action or proceeding shall not be maintained by the administrator to enforce this chapter more than five years after the earlier of (i) the date on which the holder identified the property on a report filed with the administrator, (ii) the date on which the holder first filed a report with the administrator wherein the holder should have but failed to report the property, or (iii) the date on which the holder filed a report with the administrator giving reasonable notice to the administrator of a dispute regarding the property.

C. An action or proceeding shall not be maintained by the administrator to enforce this chapter with respect to any property more than 10 years following the date on which such property first became reportable if the holder (i) filed a materially false or fraudulent report with the intent to evade delivery of property otherwise subject to this chapter or (ii) failed to file a report with the administrator.

**§ 55.1-2529. Sale of abandoned property by administrator.**

A. Except as provided in subsection C, all abandoned property other than money or other certificate of ownership delivered to the administrator under this chapter shall be sold by him to the highest bidder at public sale (i) in such city, within or outside the Commonwealth, as affords in his judgment the most favorable market for the property involved or (ii) through the use of electronic media in a format approved by the administrator. The administrator may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

B. Any sale held under this section within the Commonwealth shall be preceded by a single publication of notice of

such sale at least three weeks in advance of the sale. Such notice shall be published in a newspaper of general circulation in the county or city where the property is to be sold. If any sale is to occur outside the Commonwealth, then the administrator may use such forms of notice or advertising as he deems necessary to constitute reasonable notice, including post, print, visual, telecommunications, electronic media, or any combination thereof. For the purposes of this section, any sale through the use of electronic media, including the Internet, shall be deemed to be a sale outside of the Commonwealth.

C. Securities listed on an established stock exchange shall be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator deems advisable.

Unless the administrator deems it to be in the best interest of the Commonwealth to do otherwise, all securities delivered to the administrator shall be held for at least one year before the securities may be sold. If the administrator sells any securities before the expiration of the one-year period, any person making a claim pursuant to this chapter before the end of the one-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater. Any person making a claim pursuant to this chapter after the expiration of the one-year period is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds of the sale, but no person has any claim under this chapter against the Commonwealth, the holder, or any transfer agent, registrar, or other person acting for or on behalf of the holder for any appreciation in the value of the property occurring after delivery by the holder to the Commonwealth.

D. The purchaser of property at any sale conducted by the administrator pursuant to this chapter shall receive title to property purchased pursuant to subsections A or B and is entitled to ownership of property purchased pursuant to subsection C, free from all claims of the owner or previous holder thereof and of all persons claiming through or under such owner or previous holder. The administrator shall execute all documents necessary to complete the transfer of ownership.

E. If the administrator determines after investigation that any property delivered to him pursuant to this chapter has insubstantial commercial value, he may destroy or otherwise dispose of the property at any time. No action or proceeding may be maintained against the Commonwealth or any officer or against the holder for or on account of any action taken by the administrator with respect to the property pursuant to this subsection.

**§ 55.1-2530. Securities received in name of owner.**

Whenever the administrator receives securities under this chapter in the name of the owner, he shall take appropriate action to transfer the record of ownership of such securities into the title of the State Treasurer of the Commonwealth of Virginia as soon as practical.

**§ 55.1-2531. Disposition of funds received under chapter; records to be kept by administrator.**

A. All funds received under this chapter, including the proceeds from the sale of abandoned property under § 55.1-2529, shall be deposited by the administrator in the Literary Fund of the Commonwealth as soon as practical, except that the administrator shall retain in a separate trust fund a sum sufficient from which he shall make prompt payment of claims duly allowed by him as provided by subsection B. Before making the deposit, he shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property, the name and last known address of each insured person or annuitant, and, with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of the corporation, and the amount due.

B. Before making any deposit to the credit of the Literary Fund, the administrator may deduct (i) any costs in connection with the sale of abandoned property, (ii) any costs of mailing and publication in connection with any abandoned property, (iii) operating expenses, and (iv) amounts required to make payments to other states, during the next fiscal year, through reciprocity agreements.

**§ 55.1-2532. Filing claim to property or proceeds of sale of such property.**

A. Any person claiming an interest in any property delivered to the Commonwealth under this chapter may file a claim to such property or to the proceeds from the sale of such property on a form prescribed by the administrator.

B. Notwithstanding any other provision of law, any person claiming an interest in any property delivered to the Commonwealth under this chapter for a reported owner who is deceased shall submit evidence of the claimant's entitlement to payment together with a form prescribed by the administrator. In order of preference, such evidence may include (i) a certificate of qualification as the executor or an order of appointment as the administrator or personal representative of the decedent's estate under the laws of the state of the decedent's domicile; (ii) if applicable, an affidavit authorizing the claimant to be the designated successor under the Virginia Small Estate Act (§ 64.2-600 et seq.), or its equivalent under the laws of the state of the decedent's domicile that names the claimant as the designated successor; or (iii) the order of distribution or the final accounting for a closed estate that reflects payment due in whole or in part to the claimant. When, in the absence of any such evidence, (a) the death of the reported owner occurred at least one year prior to filing the claim and (b) the amount claimed is \$25,000 or less, exclusive of any interest owed pursuant to subsection C of § 55.1-2533, the administrator may allow the claimant to submit an affidavit stating the claimant's entitlement to payment in the absence of sufficient documentation, and the administrator may approve the claim in his discretion, returning or paying all or the appropriate share of the deceased owner's property to the claimant. The administrator may pay or deliver all of the deceased owner's property to a claimant who submits the prescribed affidavit evidencing his agreement to receive and distribute the property to the other rightful heirs or beneficiaries and acknowledging his assumption of liability to those beneficiaries or heirs for failure to do so.

C. Notwithstanding any other provision of law, when paying or delivering unclaimed property under subsection B to a claimant who is not authorized to represent the decedent's estate as the personal representative or the designated successor or the equivalent, the administrator is discharged and released to the same extent as if the administrator dealt with the authorized representative or designated successor for the decedent's estate. The administrator shall deny any subsequent claim to the same property. Any person subsequently claiming an equal or superior right to the deceased owner's property whose claim is denied by the administrator for this reason may seek redress from the claimant to whom payment was made.

D. The administrator shall develop and make available a plain English explanation of a person's right to make a claim, in accordance with the provisions of this section, for property delivered to the Commonwealth in cases where the reported owner of the property is deceased. The administrator shall also post such document on the Department of the Treasury's website.

**§ 55.1-2533. Consideration of and hearing on claim by administrator; payment; interest.**

A. The administrator shall consider any claim for property held by the administrator pursuant to the provisions of this chapter that is filed under this chapter and may hold a hearing and receive evidence concerning such claim. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

B. If the claim is allowed, the administrator shall make payment as soon as practical. The administrator is authorized to deduct from the claim the costs for notices, sales, and other related incurred expenses.

C. The administrator shall add interest at the rate of five percent or such lesser rate as the property earned while in the possession of the holder, compounded annually, to the amount of any claim paid to the owner, if the property claimed was interest-bearing to the owner while in the possession of the holder. If the holder fails to report an applicable rate of interest, the interest rate will be set at five percent or such lesser rate as determined by the one-year Treasury Constant Maturity Rate as published by the Board of Governors of the Federal Reserve System as of November 1 of the report year. Such interest shall begin to accumulate on the date the property is delivered to the administrator and shall cease on the date on which payment is made to the owner. No interest shall be payable for any period prior to July 1, 1981.

**§ 55.1-2534. Judicial review of decision of administrator.**

Any person aggrieved by an act or decision of the administrator with respect to a claim for property held by the administrator pursuant to the provisions of this chapter may commence an action in the circuit court of the county or city in which the property claimed is situated to establish his claim. The proceeding shall be brought within three years after the decision of the administrator or, if the administrator fails to act, within three years from the filing of the claim.

**§ 55.1-2535. Election of administrator not to receive property or to postpone taking possession of funds.**

The administrator, after receiving reports of property deemed abandoned pursuant to this chapter, may decline to receive any property reported that he deems to have a value less than the cost of giving notice and holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within 120 days after filing the report required under § 55.1-2524, the administrator shall be deemed to have elected to receive the custody of the property.

**§ 55.1-2536. Requests for verified reports and examinations of records.**

A. Except as otherwise provided in this chapter, the administrator may require any person that has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.

B. Except as otherwise provided in this chapter, the administrator may at reasonable times and upon reasonable notice examine the records of any person to determine whether the person has complied with the provisions of this chapter. The administrator may conduct the examination even if the person believes it is not in possession of any property reportable or deliverable under this chapter. The administrator may examine all necessary records to determine the amount, if any, of property that would have been reportable or deliverable under this chapter for the 10 years prior to the fiscal year end preceding the opening of the examination; however, for any holder that has not previously filed any report under this chapter, the administrator may examine property presumed abandoned for report year 1985 and subsequent years.

C. If a holder fails to maintain the records required by § 55.1-2537 and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the holder shall be required to report and pay such amounts as may reasonably be estimated from any available records.

D. The administrator may contract with a person who is not an employee of the Commonwealth to perform an audit or examination under this article; however, with respect to any holder that is domiciled in the Commonwealth or that maintains its principal place of business in the Commonwealth, no such contract shall (i) be on a contingency fee basis or (ii) permit statistical estimation without the consent of the holder.

**§ 55.1-2537. Retention of records.**

A. Every holder required to file a report under § 55.1-2524, shall retain all books, records, and documents necessary to establish the accuracy and compliance of such report for five years after the report is filed pursuant to subsection B of § 55.1-2524. If no report is filed, the holder shall retain such books, records, and documents for 10 years after the property becomes reportable, except to the extent that shorter time is provided in accordance with the Virginia Public Records Act (§ 42.1-76 et seq.), in accordance with subsection B, or by rule of the administrator. As to any property for which it has obtained the last known address of the owner, the holder shall maintain a record of the name and last known address of the owner for the same retention period.

B. Any business association that sells in the Commonwealth its traveler's checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in the Commonwealth, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

**§ 55.1-2538. Confidentiality of information and records.**

Any information or records required to be furnished to the Division of Unclaimed Property shall be confidential except as is otherwise necessary in the proper administration of this chapter.

**§ 55.1-2539. Enforcement of chapter.**

The administrator may bring an action in a court of competent jurisdiction to enforce this chapter. The administrator shall commence enforcement for compliance with the provisions of this chapter within the period specified in § 55.1-2528. The holder may waive in writing the protection of this section.

**§ 55.1-2540. Interest and penalties.**

A. Any person who fails to pay or deliver property within the time prescribed by this chapter shall be required to pay to the administrator interest at the same annual rate as is applicable to delinquent taxes under § 58.1-1812 on the property or value thereof from the date the property should have been paid or delivered. Such interest rate shall vary with the rate specified in § 58.1-1812.

B. Any person who does not exercise due diligence as defined in § 55.1-2500 shall pay a civil penalty not to exceed \$50 for each account upon which due diligence was not performed.

C. Except as otherwise provided in subsection D, a holder that (i) fails to report, pay, or deliver property within the time prescribed by this chapter; (ii) files a false report; or (iii) fails to perform other duties imposed by this chapter without good cause shall pay to the administrator, in addition to interest as provided in subsection A, a civil penalty of \$100 for each day the report, payment, or delivery is withheld or the duty is not performed, up to a maximum of the lesser of \$10,000 or 25 percent of the value of the property that should have been but was not reported.

D. A holder that (i) willfully fails to report, pay, or deliver property within the time prescribed by this chapter; (ii) willfully fails to perform other duties imposed by this chapter without good cause; or (iii) makes a fraudulent report to the administrator shall pay to the administrator, in addition to interest as provided in subsection A, a civil penalty of \$1,000 for each day the report, payment, or delivery is withheld or the duty is not performed, up to a maximum of the lesser of \$50,000 or 100 percent of the value of the property that should have been but was not reported.

E. The administrator for good cause may waive, in whole or in part, interest under subsection A and penalties under subsections B, C, and D. All civil penalties shall be payable to the State Treasurer and credited to the Literary Fund.

**§ 55.1-2541. Determinations; appeal procedures; regulations of administrator.**

A. For the purposes of this section, "jeopardized by delay" means a finding that the applicant intends to undertake a wrongful act with the intent to prejudice, or to render ineffectual, future proceedings to enforce this chapter.

B. The administrator may adopt necessary regulations to carry out the provisions of this chapter.

C. If the administrator ascertains that any person has failed to pay or deliver abandoned property in accordance with the provisions of this chapter, he shall issue a written notice to such person demanding remittance of the property and payment of any penalties and interest prescribed by law. Every such notice shall be accompanied by a detailed explanation of the holder's right to secure an administrative or judicial review. The abandoned property, together with penalties and interest, if any, shall be remitted to the administrator within 90 days from the date notice is received by the holder unless the holder requests (i) an administrative review in accordance with regulations promulgated pursuant to subsection D or (ii) a judicial review in accordance with § 55.1-2534.

D. The administrator shall promulgate regulations pursuant to which any person (i) asserting ownership of property remitted to the Commonwealth under this chapter, (ii) required to pay or deliver abandoned property pursuant to this chapter, or (iii) otherwise aggrieved by a decision of the administrator may file an application for administrative appeal and correction of the administrator's determination.

E. On receipt of the application as provided in regulations promulgated pursuant to subsection D, or if regulations promulgated thereunder are not in effect, on receipt of an application requesting an administrative review by the State Treasurer, the administrator shall suspend collection activity until a final determination is issued by the State Treasurer, unless the administrator determines that collection would be jeopardized by delay. Interest shall continue to accrue in accordance with the provisions of § 55.1-2540, but no further penalty shall be imposed while collection activity is suspended.

F. If the State Treasurer is satisfied, by evidence submitted or otherwise, that there has been an erroneous or improper demand for the remittance of property, the State Treasurer shall order that the applicant be exonerated from the remittance of such portion as is erroneously or improperly demanded, if not already collected, and that it be returned or refunded to the applicant, if already collected. The State Treasurer shall refrain from collecting a contested charge until he has made a final determination under this section unless he determines that collection may be jeopardized by delay.

G. Except as otherwise provided in regulations promulgated pursuant to subsection D, the State Treasurer shall issue a written determination to the applicant within 90 days of receipt of an application for correction, unless the applicant is notified that a longer period will be required. All determinations of the State Treasurer shall include a written finding of fact and supporting law, and all such determinations shall be publicly reported.

H. Following a determination by the State Treasurer, the applicant may apply (i) in the case of a claim for property by

a purported owner, to the appropriate circuit court pursuant to § 55.1-2534 and (ii) in the case of a dispute between a holder and the State Treasurer, to the Circuit Court of the City of Richmond, within the time period established in § 55.1-2534.

**§ 55.1-2542. Agreements to locate reported property; penalty.**

A. It is unlawful for any person to seek or receive from another person or contract with another person for a fee or compensation for locating property that he knows has been reported or paid or delivered to the administrator pursuant to this chapter prior to 36 months after the date of delivery of the property by the holder to the administrator as required by this chapter.

B. No agreement entered into after 36 months from the required date of delivery of the property by the holder to the administrator is valid if a person thereby undertakes to locate property included in a report for a fee or other compensation exceeding 10 percent of the value of the recoverable property. Nothing in this section shall be construed to prevent an owner from asserting at any time that an agreement to locate property is based upon an excessive or unjust consideration.

C. State warrants that may be issued in payment and redemption of previously abandoned property or the liquidation proceeds of previously abandoned property may be issued in the discretion of the administrator directly to the person entitled to the money as the owner, heir, or legatee, or as fiduciary of the estate of the deceased owner, heir, or legatee, and not to a named attorney-in-fact, agent, or assignee or any other person regardless of a written instruction to the contrary. The administrator need not recognize nor is the administrator bound by any terms of a purported power of attorney or assignment that may be presented as having been executed by a person as the purported owner, heir, legatee, or fiduciary of the estate of a deceased owner of such abandoned property.

D. A person who violates subsection A or B is guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.

**§ 55.1-2543. Property presumed abandoned or escheated under laws of another state.**

This chapter shall not apply to any property that has been presumed abandoned or escheated under the laws of another state prior to January 1, 1961.

**§ 55.1-2544. Property held or payable pursuant to Title 51.1.**

This chapter shall not apply to any funds or other property, tangible or intangible, held or payable pursuant to Title 51.1.

**§ 55.1-2545. Construction of chapter.**

This chapter shall be construed so as to effectuate its general purpose to make uniform the law of those states that enact it.

CHAPTER 26.

PROPERTY LOANED TO MUSEUMS.

**§ 55.1-2600. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Loaned property" means all museum property deposited on or after July 1, 2002, with a museum not accompanied by a transfer of title to the property.

"Museum" means an institution located in the Commonwealth and operated by a nonprofit corporation or public agency whose primary purpose is educational, scientific, or aesthetic and that owns, borrows, or cares for and studies, archives, or exhibits museum property.

"Museum property" means all tangible objects, animate and inanimate, under a museum's care that have intrinsic value to science, history, art, or culture, except for botanical or zoological specimens loaned to a museum for scientific research.

**§ 55.1-2601. Status of loaned property; statute of limitations on recovery.**

A. Except as may be otherwise provided in a written agreement between a lender and a museum, no action shall be brought against a museum to recover loaned property when more than five years have passed from (i) the receipt by the museum of written communication concerning the loaned property or (ii) any display of interest in the property by the lender as evidenced by a memorandum or other record on file prepared by an employee of the museum.

B. Loaned property shall be deemed to have been donated to the museum if no action to recover the property is initiated within one year after the museum gives notice of termination of the loan as provided in §§ 55.1-2604 and 55.1-2605.

C. Loaned property shall not be delivered to the Commonwealth, and shall be exempt from the provisions of Chapter 25 (§ 55.1-2500 et seq.), but shall pass to the museum if no person takes action under Chapter 2 (§ 64.2-200 et seq.) of Title 64.2.

**§ 55.1-2602. Notice to lenders of the provisions of this chapter.**

When a museum accepts a loan of property, the museum shall inform the lender in writing of the provisions of this chapter.

**§ 55.1-2603. Status of title to property acquired from museum.**

Any person who purchases property from a museum acquires good title to the property if the museum represents that it has acquired title to the property pursuant to § 55.1-2601.

**§ 55.1-2604. Notice of termination of loan; content of notice.**

A. If the property was loaned to the museum for an indefinite time, the museum may provide notice of termination of a loan of property at any time on the museum's website or by providing written notice of such termination to the lender, if

known. If the property was loaned to the museum for a specified term, the museum may provide notice of termination of the loan in the same manner at any time after the expiration of the specified term.

B. Notices given under this section shall contain:

1. The name and address, if known, of the lender;
2. The date of the loan;
3. The name, address, and telephone number of the appropriate office or official to be contacted at the museum for information regarding the loan; and
4. Any other information deemed necessary by the museum.

**§ 55.1-2605. Procedure for giving notice of termination of a loan of property; responsibility of owner of loaned property.**

A. To give notice of termination of a loan of property, the museum shall mail a notice to the lender at the most recent address of the lender as shown on the museum's records pertaining to the loaned property. If the museum has no address in its records, or the museum does not receive written proof of receipt of the mailed notice within 30 days of the date the notice was mailed, the museum shall cause to be published notice at least once a week for three consecutive weeks in a newspaper of general circulation in the county or city in which the museum is located and in a newspaper of general circulation in the county or city of the lender's last known address if different from the county or city in which the museum is located.

B. For purposes of this section, if the loan of property was made to a branch of the museum, the museum shall be deemed to be located in the county or city where the branch is located. In all other cases, the museum shall be deemed to be located in the county or city in which its principal place of business is located.

C. The owner of property loaned to a museum shall notify the museum promptly in writing of any change of address or change in ownership of the property.

**§ 55.1-2606. Acquiring title to undocumented property.**

A. A museum shall have the authority to acquire legal title to undocumented property if the museum can verify through written records that it has held such property for five years or longer, during which period no valid claim to the property has been asserted and no person has contacted the museum regarding the property, by complying with the following procedure:

1. The museum shall cause to be published a notice once a week for two consecutive weeks in a newspaper of general circulation in the county or city in which the museum is located and in a newspaper of general circulation in the county or city of the lender's last known address if different from the county or city in which the museum is located. The notice shall include:

- a. A brief and general description of the undocumented property;
- b. The date or approximate date of the loan or acquisition of the property by the museum, if known;
- c. Notice of the museum's intent to claim title to the property if no valid claims are made within 65 days following the date of the first publication of the notice under this subdivision 1;
- d. The name, address, and telephone number of the representative of the museum to contact for more information or to make a claim; and
- e. If known, the name and last known address of the lender.

2. If no valid claims have been made by the end of the 65-day period following the date of the first publication of the notice under subdivision 1 c, the museum shall cause to be published a second notice once a week for two consecutive weeks in a newspaper of general circulation in the county or city in which the museum is located and in a newspaper of general circulation in the county or city of the lender's last known address if different from the county or city in which the museum is located. The second notice shall include:

- a. A brief and general description of the undocumented property;
- b. The date or approximate date of the loan or acquisition of the property by the museum, if known;
- c. Notice that the museum claims title to the property as of the date of the end of the 65-day period following the date of the first publication of the notice under subdivision 1; and
- d. If known, the name and last known address of the lender.

B. Upon compliance with the requirements set forth in subsection A, clear and unrestricted title is transferred, as of the date specified in subdivision A 1 c, to the museum and not to the Commonwealth.

**§ 55.1-2607. Status of property loaned to or deposited with museum prior to July 1, 2002.**

Except as otherwise provided in a written agreement between a lender and a museum, property loaned to or deposited with a museum prior to July 1, 2002, may be discarded or transferred to another museum located in Virginia, provided that (i) the notice provisions of §§ 55.1-2604 and 55.1-2605 have been complied with and (ii) such property is held by the museum receiving the transfer for at least three years before it sells or disposes of such property.

#### CHAPTER 27.

#### DRIFT PROPERTY.

**§ 55.1-2700. Who is entitled to drift property.**

When any property other than abandoned watercraft has drifted on any of the waters of the Commonwealth and is deposited and left on the lands of any person other than the owner of such property, and there is no indicia of ownership, the owner of such land shall, as against all persons other than the owner of such property, be deemed and treated, and have the same rights and remedies relating thereto, as such owner of such property.

**§ 55.1-2701. Conditions on which owner may remove drift property.**

The owner of property described in § 55.1-2700, after he has paid to the owner of the land a just compensation for any proper care, labor, or expense bestowed, done, or incurred by him for such property, may enter upon the land and, doing as little injury as possible, remove the property, but shall pay the owner of the land for any damage caused to him by such entry and removal.

**§ 55.1-2702. When owner of land may sell drift property; owner of property entitled to proceeds after payment of expenses, etc.**

If the owner of drift property described in § 55.1-2700 does not, within three months from the time the property was so deposited, remove or demand the property from the owner of the land, the owner of the land may sell the property or otherwise convert it to his own use, provided that the owner of the land, after deducting a just compensation for any proper care, labor, or expense bestowed, done, or incurred by him for the property from the amount received by him as the price thereof, or the actual value thereof at the time of such sale or other conversion, shall pay to the owner of the property, if he elects to receive it, the residue of the price or of the actual value, as the case may be. The owner of the property, after he has demanded such residue and proved by the affidavit of some other person, or by a competent witness, his right thereto, or offered to prove such right, and if the owner of the land has refused or declined to inspect or hear the evidence thereof, (i) may recover such residue, when the property has been sold, as money received for his use; (ii) may recover such residue, when the property has not been sold, as the price of goods sold by the owner of the property to the owner of the land; or (iii) may have his action of trover to the extent of such residue.

**§ 55.1-2703. Right of property to be proved.**

In any action relating to the ownership of any property described in § 55.1-2700, the person, other than the owner of such land, claiming to be the owner of the property must prove his ownership in order to sustain his claim.

## CHAPTER 28.

## TRESPASSES; FENCES.

## Article 1.

## Electric Fences.

**§ 55.1-2800. Definition.**

As used in this article, "electric fence" means a fence designed to conduct electric current along one or more wires of such fence so that a person or animal touching any such wire or wires will receive an electric shock.

**§ 55.1-2801. Unlawful to sell, distribute, construct, install, maintain, or use certain electric fences upon agricultural land.**

A. It is unlawful for any person to sell, distribute, construct, install, maintain, or use upon any land used for agricultural purposes or, for any person exercising supervision or control over any such land, to permit any other person to construct, install, maintain, or use any electric fence energized with an electric charge unless the charge is regulated by a controlling device. Except as otherwise provided in this article, such controlling device shall display the approved label of and shall conform to the safety standards promulgated by the Underwriters Laboratories, Inc., in its publication number UL69, dated June 30, 2009, and entitled "Standard for Safety for Electric-Fence Controllers," as the same may from time to time be supplemented, or shall display the approved label of and meet the safety standards promulgated by the International Electrotechnical Commission in its publication IEC 60335-2-76, second edition (BS EN 69335-2-76), as the same may from time to time be supplemented.

B. No metallic continuous fence or set of electrically connected fences shall be supplied by more than one controlling device.

C. Any controlling device shall be suitably grounded when placed in service.

**§ 55.1-2802. Unlawful to sell other controlling devices unless they meet certain standards.**

A. A controlling device that does not conform to the requirements of § 55.1-2801 shall not be sold, distributed, constructed, installed, maintained, or used unless it meets the following standards:

1. A peak-discharge-output type controlling device that delivers intermittent current of a value not in excess of four milliamperes-seconds for a maximum "on" period of two-tenths second and a minimum "off" period of three-quarters second. The mean value of the peak output from such device shall progressively decrease from four milliamperes-seconds at maximum "on" periods of both two-tenths and one-tenth second to three and two-tenths milliamperes-seconds at six-hundredths second, one and nine-tenths milliamperes-seconds at three-hundredths second, and consequently to shorter "on" periods as output current increases.

2. A sinusoidal-output type controlling device that delivers an intermittent current of a value not in excess of five milliamperes for a maximum "on" period of two-tenths second and a minimum "off" period of nine-tenths second. The effective value of the output from such device may increase as the "on" period decreases, increasing from 40 milliamperes for one-tenth second to 57 milliamperes for five-hundredths second, and 65 milliamperes for twenty-seven thousandths second.

3. Any other type of controlling device that delivers a maximum intermittent current output of a value not in excess of four milliamperes-seconds for a maximum "on" period of two-tenths second and a minimum "off" period of nine-tenths second.

B. Notwithstanding the provisions of subsection A, no electric fence controlling device shall be sold, distributed, constructed, installed, maintained, or used that will permit for longer than one second an uninterrupted electric current on

the fence with an effective value in excess of five milliamperes when the load, including the measuring device, is not less than 450 ohms nor more than 550 ohms.

**§ 55.1-2803. Penalty.**

Any person who violates any provision of this article is guilty of a Class 1 misdemeanor.

Article 2.

What Constitutes Lawful Fence.

**§ 55.1-2804. Description of lawful fence.**

Every fence shall be deemed a lawful fence as to any domesticated livestock that could not creep through such fence, if it is:

1. At least five feet high, including, if the fence is on a mound, the mound to the bottom of the ditch;
2. Made of barbed wire, at least 42 inches high, consisting of at least four strands of barbed wire, firmly fixed to posts, trees, or other supports substantially set in the ground, spaced no farther than 12 feet apart unless a substantial stay or brace is installed halfway between such posts, trees, or other supports to which such wires are also fixed;
3. Made of boards, planks, or rails, at least 42 inches high, consisting of at least three boards firmly attached to posts, trees, or other supports substantially set in the ground;
4. At least three feet high, if such fence is within the limits of any town whose charter neither prescribes, nor gives to the town council power to prescribe, what shall constitute a lawful fence within such corporate limits; or
5. Any other fence, except as otherwise described in this section, if it is:
  - a. At least 42 inches high;
  - b. Constructed from materials sold for fencing or consisting of systems or devices based on technology generally accepted as appropriate for the confinement or restriction of domesticated livestock; and
  - c. Installed pursuant to generally acceptable standards so that applicable domesticated livestock cannot creep through the same.

A cattle guard reasonably sufficient to turn all kinds of livestock shall also be deemed a lawful fence as to any domesticated livestock.

Nothing contained in this section shall affect the right of any such town to regulate or forbid the running at large of cattle and other domestic animals within its corporate limits.

The Board of Agriculture and Consumer Services may adopt regulations regarding lawful fencing consistent with this section to provide greater specificity as to the requirements of lawful fencing. The absence of any such regulation shall not affect the validity or applicability of this section as it relates to what constitutes lawful fencing.

**§ 55.1-2805. Proceeding to declare stream of water or canal a lawful fence.**

A. The circuit court of any county, upon a petition of any owner or tenant of lands on any stream of water or canal, may declare and establish such stream or canal, or any part of either within the limits and jurisdiction of the county, a lawful fence as to any domesticated livestock. Notice of the application shall be given by posting a copy of the petition at the front door of the courthouse and at two or more public places at or near the stream or canal to which the petition applies, for 30 days, and by publishing such notice once a week for four successive weeks in a newspaper of general circulation in such county. At or before the trial of the cause, any person interested may enter himself a defendant.

B. The court may, upon petition and notice of any person interested, revoke or alter any order made under subsection A, but such order shall not be made within one year from the date of the original and shall not take effect until six months after it is made.

**§ 55.1-2806. Boundary lines of certain low grounds on James River a lawful fence.**

The owners and occupants of low grounds on either side of the James River in Albemarle, Buckingham, and Goochland Counties, enclosed by lawful fences on the back and hill lands, need not keep up any fence on the boundary lines running across the low grounds to the river, and such boundary lines shall be deemed a lawful fence, except where public roads cross the river or run parallel with its banks.

**§ 55.1-2807. Statutes declaring watercourses lawful fences continued.**

All acts declaring any river, stream, or watercourse, or any part thereof, or any boundary in any county, a lawful fence, or authorizing any court so to declare the same, or enacting a special fence law for any county or any part thereof, and all acts relating to the making or repairing of division fences in any county or in any part thereof that may be in force on the day before the Code of 1887 took effect, shall continue in force.

Article 3.

Cattle Guards and Gates Across Rights-of-Way.

**§ 55.1-2808. Property owner may place cattle guards or gates across right-of-way.**

Any owner of property on which there is a road or way, not a public road, a highway, a street, or an alley, over which an easement exists for ingress and egress of others may place cattle guards or gates across such way when required for the protection of livestock.

**§ 55.1-2809. Persons having easement may replace gate with cattle guard; maintenance and use thereof; deemed lawful gate.**

Any person having an easement of right-of-way across the lands of another may, at his own expense, replace any gate thereon with a substantial cattle guard sufficient to turn livestock. Such cattle guards shall be maintained by the owner of the easement, who shall be responsible for keeping such cattle guards at all times in sufficient condition to turn livestock. If

a cattle guard is rendered inoperative by inclement weather, the easement owner shall utilize and maintain any reasonable alternative method sufficient to turn livestock from the inoperative cattle guard until such cattle guard is rendered operative again. If the gate to be replaced is needed or used for the orderly ingress and egress of equipment or animals thereover, then such persons acting under the authority of this section shall construct such cattle guards so as to allow such ingress and egress or, if such easement is of sufficient width, may place such cattle guard adjacent to such gate.

Such a cattle guard shall be deemed a lawful gate and not an interference with such easement.

Article 4.

Trespass in Crossing Lawful Fence.

**§ 55.1-2810. Damages for trespass by animals; punitive and double damages.**

A. If any domesticated livestock enters into any grounds enclosed by a lawful fence, as defined in §§ 55.1-2804 through 55.1-2807, the owner or manager of any such animal shall be liable for the actual damages sustained.

B. Punitive damages may be awarded but shall not exceed \$20 in any case.

C. For every second and subsequent trespass, the owner or manager of such animal shall be liable for double damages, both actual and punitive.

**§ 55.1-2811. Lien on animals.**

If the court enters judgment for the owner or tenant of the grounds enclosed by a lawful fence pursuant to § 55.1-2810, the landowner shall have a lien upon such animal. Upon entry of the judgment, the court shall issue a writ of fieri facias pursuant to § 8.01-478, and the animal found to have trespassed shall be levied upon by the officer to whom such execution was issued, who shall sell such animal, as provided in Chapter 18 (§ 8.01-466 et seq.) of Title 8.01.

**§ 55.1-2812. Impounding animals.**

Whenever any animal is found trespassing upon any grounds enclosed by a lawful fence, the owner or tenant of such enclosed grounds shall have the right to take up and impound such animal until the damages provided for pursuant to this article have been paid, or until such animal is taken under execution by the officer as provided by § 55.1-2811. The costs of taking up and impounding such animal shall be estimated as a part of the actual damage.

**§ 55.1-2813. Duty to issue warrant when animal impounded.**

An owner or tenant of lands trespassed upon by any domesticated livestock, within three days after the taking up and impounding such animal unless the damages are otherwise settled, shall apply to a person authorized to issue warrants of the county or city in which such land is situated for a warrant for the amount of damages claimed by him. The court, or the clerk thereof, shall issue such warrant, to be made returnable at as early a date, but not less than three days after such issuance, as shall be deemed best by him; and upon the hearing of the case the judge shall give such judgment as is deemed just and right.

Article 5.

No-Fence Law.

**§ 55.1-2814. How governing body of county may make local fence law.**

The board of supervisors or other governing body in any county, after publishing notice as required by subsection F of § 15.2-1427, may, by ordinance, declare the boundary line of each lot or tract of land or any stream in such county, any magisterial district of such county, or any selected portion of such county, to be a lawful fence as to any or all domesticated livestock, or may declare any other kind of fence for such county, magisterial district, or selected portion of the county than as prescribed by § 55.1-2804 to be a lawful fence, as to any or all of such animals.

**§ 55.1-2815. Effect of such law on certain fences.**

A declaration made by ordinance adopted pursuant to § 55.1-2814 shall not apply to relieve the adjoining landowners from making and maintaining their division fences, as defined by § 55.1-2804; however, Article 6 (§ 55.1-2821 et seq.) shall apply to such division fences.

**§ 55.1-2816. Application to railroad companies.**

No action taken under the provisions of § 55.1-2814 shall relieve any railroad company of any duty or obligation imposed on every such company by § 56-429, or imposed by any other statute now in force, in reference to fencing their lines of railway and rights-of-way.

**§ 55.1-2817. No authority to adopt more stringent fence laws.**

Nothing in § 55.1-2814 shall authorize or require the boards of supervisors or other governing bodies of counties to declare a more stringent fence as a lawful fence for any county, magisterial district, or selected portion of any county than as prescribed by § 55.1-2804.

**§ 55.1-2818. Effect on existing fence laws or no-fence laws.**

Nothing in § 55.1-2814 shall repeal the existing fence laws in any county, magisterial district, or selected portion of any county, until changed by the board of supervisors or other governing body, by ordinance and in accordance with the provisions thereof, nor shall the provisions of § 55.1-2814 apply to any county, magisterial district, or selected portion of any county in which the no-fence law is now in force, if such no-fence law exists otherwise than in an ordinance adopted by the board of supervisors or other governing body of such county entered pursuant to § 55.1-2814.

**§ 55.1-2819. Lands under quarantine.**

The boundary line of each lot or tract of land in any county in the Commonwealth that is under quarantine shall be a lawful fence as to any and all domesticated livestock.

**§ 55.1-2820. When unlawful for animals to run at large.**

It is unlawful for the owner or manager of any domesticated livestock to permit any such animal, as to which the boundaries of lots or tracts of land have been or may be constituted a lawful fence, to run at large beyond the limits of his own lands within the county, magisterial district, or portion of such county in which such boundaries have been constituted and are a lawful fence.

Article 6.

Division Fences.

**§ 55.1-2821. Obligation to provide division fences.**

Adjoining landowners shall build and maintain, at their joint and equal expense, division fences between their lands, unless one of them chooses to let his land lie open or unless they agree otherwise.

**§ 55.1-2822. When no division fence has been built.**

If no division fence has been built, either one of the adjoining landowners may give notice in writing of his desire and intention to build such fence to the landowner of the adjoining land, or to his agent, and require him to build his half of such fence. The landowner so notified may, within 10 days after receiving such notice, give notice in writing to the person so desiring to build such fence, or to his agent, of his intention to let his land lie open. If the landowner giving the original notice subsequently builds such division fence and the landowner who has so chosen to let his land lie open, or his successors in title, subsequently encloses his land, he, or his successors, shall be liable to the landowner who built such fence, or to his successors in title, for one-half of the value of such fence at the time such land was so enclosed, and such fence shall thereafter be deemed a division fence between such lands.

If, however, the person so notified fails to give notice of his intention to let his land lie open, and fails to agree, within 30 days after being so notified, to build his half of such fence, he shall be liable to the person who builds the fence for one-half of the expense, and such fence shall thereafter be deemed a division fence between such lands.

Notwithstanding the provisions of this section, no successor in title shall be liable for any amount prior to the recordation and proper recordation of the notice in the clerk's office of the county in which the land is located.

**§ 55.1-2823. When division fence already built.**

When any fence (i) that has been built and used by adjoining landowners as a division fence, or any fence that has been built by one landowner and the other landowner is afterwards required to pay half of the value or expense of such fence under the provisions contained in this article, and (ii) that has thereby become a division fence between such lands, becomes out of repair to the extent that it is no longer a lawful fence, either one of such adjoining landowners may give written notice to the other, or to his agent, of his desire and intention to repair such fence and require him to repair his half of such fence. If the landowner receiving written notice fails to repair his half within 30 days after being so notified, the one giving such notice may then repair the entire fence so as to make it a lawful fence, and the other shall be liable to him for one-half of the expense of such repairs.

**§ 55.1-2824. Recovery of amount due in connection with division fence.**

Any sum that may be due and payable by one adjoining landowner to another in pursuance of any of the provisions of §§ 55.1-2822 and 55.1-2823 may be recovered by action or warrant in debt, according to the jurisdictional amount.

**§ 55.1-2825. Requirements for agreement to bind successors in title; subsequent owners.**

No agreement made between adjoining landowners, with respect to the construction or maintenance of the division fence between their lands, shall be binding on their successors in title unless it (i) is in writing and specifically so state, (ii) is recorded in the deed book in the clerk's office of the county in which the land is located, and (iii) is properly indexed as deeds are required by law to be indexed.

If any notice, as required by § 55.1-2822 or 55.1-2823 is recorded in the deed book in the clerk's office of the county in which the land is located and is properly indexed as deeds are required by law to be indexed, then any subsequent owners of such land shall be liable for any sum that may be due pursuant to § 55.1-2824.

**§ 55.1-2826. How notice given.**

Any notice required to be given pursuant to this article shall be given to the landowner, if he resides in the county in which the land lies; otherwise, it may be given to such person as, under the laws of the Commonwealth, would be his agent or to any person occupying such land as tenant of the landowner, who shall, for the purposes of this article, be deemed the agent of such landowner.

Article 7.

Special Provisions for Unincorporated Communities.

**§ 55.1-2827. Courts to fix boundaries of villages to prevent animals from running at large.**

The circuit court of any county in which is situated any village or unincorporated community having within defined boundaries a population of 300 or more shall have jurisdiction to fix the boundaries of such village or unincorporated community for the purpose of preventing domesticated livestock from running at large within such boundaries.

**§ 55.1-2828. Petition for action to fix boundaries of village or unincorporated community.**

Twenty or more landowners residing within the boundaries referred to in § 55.1-2827 may file a petition signed by them requesting that the boundaries of such village or unincorporated community be fixed for the purposes of § 55.1-2827. Notice of the intention to file such petition, stating the date on which the petition will be filed, and such notice shall be (i) posted at the front door of the courthouse of such county, and at three or more conspicuous places within such boundaries and (ii) published once a week for two successive weeks in a newspaper having a general circulation in the

county where the village or unincorporated community is located, at least 10 days before the day on which such petition is to be presented. Such petition shall state with reasonable certainty the boundaries within which it is desired to prohibit such animals from running at large, that at least 300 persons reside within such boundaries, and that a majority of the landowners residing therein are in favor of prohibiting such animals from running at large.

**§ 55.1-2829. Entry of order if petition not contested.**

A petition filed pursuant to § 55.1-2828, if verified by the oath of one or more of the petitioners, shall be prima facie evidence of the facts stated therein, and the court without further evidence shall proceed to enter the order fixing the boundaries of the village or unincorporated community unless such petition is contested.

**§ 55.1-2830. Procedure in case of contest.**

Any person having a lawful interest in any land within the boundaries referred to in any petition to fix the boundaries of a village or unincorporated community who wishes to contest such petition may intervene in such action as a defendant. In case of such contest, the judge shall hear the evidence and, if in doubt as to the facts, may appoint one or more persons to canvass such community and report to the court the number of persons residing within such boundaries, the names of all the landowners residing therein, and whether such landowners are for or against the petition.

**§ 55.1-2831. Order of court.**

The court shall enter an order fixing the boundaries of any village or unincorporated community having within defined boundaries a population of 300 or more for the purpose of preventing domesticated livestock from running at large within such boundaries if (i) in the case of a contested petition, it appears from the evidence or from a report, if any is required pursuant to § 55.1-2830, that at least 300 persons reside within the boundaries referred to in a petition filed pursuant to § 55.1-2828 and that a majority of the landowners residing therein are in favor of prohibiting domesticated livestock from running at large or (ii) in the case of an uncontested petition, on the basis of the evidence presented in the petition itself.

**§ 55.1-2832. Animals shall not run at large after entry of order.**

After the expiration of 10 days from the date of entering an order pursuant to § 55.1-2831, it is unlawful for any domesticated livestock to run at large within such boundaries, and any person owning or having charge of any such animal who permits such livestock to run at large within such boundaries is guilty of a Class 4 misdemeanor. Each day such animal is permitted to run at large constitutes a separate offense, and any such animal found running at large upon any street, alley, road, or other public ground within such boundaries may be taken up and impounded by any person who may retain such animal in his custody until the expense of keeping such animal is paid.

**§ 55.1-2833. Costs.**

If the petition is uncontested, the costs shall be borne by the petitioner; if it is contested, costs shall be awarded to the prevailing party.

**§ 55.1-2834. Owner of domesticated livestock liable for trespasses.**

If any domesticated livestock, as to which the boundaries of the lots or tracts of land in any county, magisterial district, or selected portion of such county constitute a lawful fence, are found going at large within such county, district, or portion of such county, or upon the lands of any person other than the owner, the owner or manager of such animals shall be liable for all damage or injury done by such animals to the owner of the crops or lands upon which they trespass, whether the animals wander from the premises of their owner in the county in which the trespass was committed or from another county, provided that when the boundaries of lots or tracts of land in only one of two adjoining counties constitutes a lawful fence, and any of such animals escapes across the line or boundary of the two counties, the owner of such animal shall not be liable to the fine imposed by subsection B of § 55.1-2810, nor for any trespass committed by such animal upon the lands lying next to such line or boundary, nor to a forfeiture of the animal, unless the land upon which the trespass is alleged to have been committed is enclosed, as provided in § 55.1-2804.

Article 8.

Cutting Timber.

**§ 55.1-2835. Damages recoverable for timber cutting.**

If any person, firm, or corporation encroaches and cuts timber, except when acting prudently and under bona fide claim of right, the owner of such timber shall, in addition to all other remedies afforded by law, have the benefit of a right to, and a summary remedy for recovery of, damages in an amount as specified in this article and recovered as provided for in this article.

If the trespass is proven, the defendant shall have the burden of proving that he acted prudently and under a bona fide claim of right.

**§ 55.1-2836. Procedure for determination of damage.**

A. The owner of the land on which a trespass as described in § 55.1-2835 was committed shall have the right, within 30 days after the discovery of such trespass and the identity of the trespasser, to notify the trespasser and to appoint an experienced timber estimator to determine the amount of damages. For the purposes of determining damages, the value of the timber cut shall be calculated by first determining the value of the timber on the stump. Within 30 days after receiving notice of the alleged trespass and of the appointment of such estimator, the alleged trespasser, if he does not deny the fact of trespass, shall appoint an experienced timber estimator to participate with the one already so appointed in the estimation of damages. If the two estimators cannot agree, they shall select a third person, experienced and disinterested, who shall make a decision that shall be final and conclusive and not subject to appeal. The estimation of damages and the rendition of statement must be effected within 30 days from the receipt of notice of appointment, by the trespasser, of an estimator.

If the alleged trespasser fails to appoint an estimator within the prescribed time, or to notify within such time that the allegation of the fact of trespass is disputed, the estimator appointed by the injured party may make an estimate, and collection or recovery may be had accordingly.

B. Any person who (i) severs or removes any timber from the land of another without legal right or permission or (ii) authorizes or directs the severing or removal of timber or trees from the land of another without legal right or permission shall be liable to pay to the rightful owner of the timber three times the value of the timber on the stump and shall pay to the rightful owner of the property the reforestation costs incurred not to exceed \$450 per acre, the costs of ascertaining the value of the timber, any directly associated legal costs, and reasonable attorney fees incurred by the owner of the timber as a result of the trespass.

**§ 55.1-2837. When person damaged may proceed in court.**

If the amount specified in subsection B of § 55.1-2836 is not paid within 30 days after rendition of statement, the person upon whose land the trespass occurred may proceed for judgment in the amount of payment as specified in § 55.1-2836.

If upon receiving notice of the alleged trespass and of the appointment of an estimator, the person so receiving notice does not admit the fact of trespass, he may decline to appoint an estimator and notify the other party to such effect, together with his reason for refusing to appoint an estimator, and in such case the aggrieved party may proceed in the appropriate court.

**§ 55.1-2838. Larceny of timber; penalty.**

A. Any person who knowingly and willfully takes, steals, and removes from the lands of another any timber growing, standing, or lying on the lands is guilty of larceny. Any person so convicted shall be ordered to pay restitution calculated pursuant to § 55.1-2836.

B. In a criminal prosecution pursuant to subsection A, it shall be prima facie evidence of the intent to steal the timber if the timber was harvested or removed from property marked with readily visible paint marks not more than 100 feet apart on trees or posts along the property line, where the paint marks were vertical lines at least two inches in width and at least eight inches in length and the center of the mark was not less than three feet nor more than six feet from the ground or normal water surface.

**§ 55.1-2839. Effect of article.**

Nothing in this article shall have the effect of precluding any compromise or agreed settlement that the parties in dispute may effect as to the civil remedies provided by this article, nor of barring any other remedy provided for by law.

CHAPTER 29.

VIRGINIA SELF-SERVICE STORAGE ACT.

**§ 55.1-2900. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Default" means the failure to perform on time any obligation or duty set forth in the rental agreement or this chapter.

"Last known address" means that address or electronic mail address provided by the occupant in the rental agreement or the address or electronic mail address provided by the occupant in a subsequent written notice of a change of address.

"Leased space" means the individual storage space at the self-service facility that is leased or rented to an occupant pursuant to a rental agreement.

"Occupant" means a person, his sublessee, successor, or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement.

"Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his agent, or any other person authorized to manage the facility or to receive rent from any occupant under a rental agreement.

The owner of a self-service storage facility is not a warehouseman as defined in § 8.7-102, unless the owner issues a warehouse receipt, bill of lading, or other document of title for the personal property stored, in which event, the owner and the occupant are subject to the provisions of Title 8.7 dealing with warehousemen.

"Personal property" means movable property not affixed to land and includes goods, wares, merchandise, and household items and furnishings.

"Rental agreement" means any agreement or lease that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility.

"Self-service storage facility" means any real property designed and used for renting or leasing individual storage spaces, other than storage spaces that are leased or rented as an incident to the lease or rental of residential property or dwelling units, to which the occupants thereof have access for storing or removing their personal property. No occupant shall use a self-service storage facility for residential purposes.

"Verified mail" means any method of mailing that is offered by the United States Postal Service or private delivery service that provides evidence of mailing.

**§ 55.1-2901. Lien on personal property stored within a leased space.**

A. The owner shall have a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in its sale pursuant to this chapter. Such lien shall attach as of the date the personal property is stored within each leased space and, to the extent that the property remains stored within such leased space, as provided in this subsection, shall be superior to any other existing liens or security interests to the extent of \$250 or, if the leased space is a climate-controlled facility, \$500. In addition, such lien shall extend to the proceeds, if any,

remaining after the satisfaction of any perfected liens, and the owner may retain possession of such proceeds until the balance, if any, of such charges is paid.

B. In the case of any watercraft that is subject to a lien, previously recorded on the certificate of title, the owner, so long as the watercraft remains stored within such leased space, shall have a lien on such watercraft as provided in this subsection to the extent of \$250 or, if the leased space is a climate-controlled facility, \$500. In addition, such lien shall extend to the proceeds, if any, remaining after the satisfaction of any recorded liens, and the owner may retain possession of such proceeds until the balance, if any, of such charges is paid.

C. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of such lien and that the personal property stored within the leased space may be sold to satisfy the lien if the occupant is in default.

D. In the case of any motor vehicle that is subject to a lien, previously recorded on the certificate of title, the owner, so long as the motor vehicle remains stored within such leased space, shall have a lien on such vehicle in accordance with § 46.2-644.01.

**§ 55.1-2902. Enforcement of lien.**

A. 1. If any occupant is in default under a rental agreement, the owner shall notify the occupant of such default by regular mail at his last known address, or, if expressly provided for in the rental agreement, such notice may be given by electronic means. If such default is not cured within 10 days after its occurrence, then the owner may proceed to enforce such lien by selling the contents of the occupant's unit at public auction, for cash, and apply the proceeds to satisfaction of the lien, with the surplus, if any, to be disbursed as provided in this section. Before conducting such a public auction, the owner shall notify the occupant as prescribed in subsection C and shall advertise the time, place, and terms of such auction in such manner as to give the public notice.

2. In the case of personal property having a fair market value in excess of \$1,000, and against which a creditor has filed a financing statement in the name of the occupant at the State Corporation Commission or in the county or city where the self-service storage facility is located or in the county or city in the Commonwealth shown as the last known address of the occupant, or if such personal property is a watercraft required by the laws of the Commonwealth to be registered and the Department of Game and Inland Fisheries shows a lien on the certificate of title, the owner shall notify the lienholder of record, by certified mail, at the address on the financing statement or certificate of title, at least 10 days prior to the time and place of the proposed public auction.

If the owner of the personal property cannot be ascertained, the name of "John Doe" shall be substituted in the proceedings provided for in this section and no written notice shall be required. Whenever a watercraft is sold pursuant to this subsection, the Department of Game and Inland Fisheries shall issue a certificate of title and registration to the purchaser of such watercraft upon his application containing the serial or motor number of the watercraft purchased, together with an affidavit by the lienholder, or by the person conducting the public auction, evidencing compliance with the provisions of this subsection.

B. Whenever the occupant is in default, the owner shall have the right to deny the occupant access to the leased space.

C. After the occupant has been in default for a period of 10 days, and before the owner can sell the occupant's personal property in accordance with this chapter, the owner shall send a further notice of default, by verified mail, postage prepaid, to the occupant at his last known address, or, if expressly provided for in the rental agreement, such notice may be given by electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. Such notice of default shall include:

1. An itemized statement of the owner's claim, indicating the charges due on the date of the notice and the date when the charges became due;

2. A demand for payment of the charges due within a specified time not less than 20 days after the date of the notice;

3. A statement that the contents of the occupant's leased space are subject to the owner's lien;

4. A conspicuous statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at public auction at a specified time and place; and

5. The name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to the notice.

D. At any time prior to the public auction pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and thereby redeem the personal property.

E. In the event of a public auction pursuant to this section, the owner may satisfy his lien from the proceeds of the public auction and shall hold the balance, if any, for delivery on demand to the occupant or other lienholder referred to in this chapter. However, the owner shall not be obligated to hold any balance for a lienholder of record notified pursuant to subdivision A 2, or any other lien creditor, that fails to claim an interest in the balance within 30 days of the public auction. So long as the owner complies with the provisions of this chapter, the owner's liability to the occupant under this chapter shall be limited to the net proceeds received from the public auction of any personal property and, as to other lienholders, shall be limited to the net proceeds received from the public auction of any personal property covered by such superior lien.

F. Any public auction of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored. An advertisement shall be published in a newspaper of general circulation in the locality in which the public auction is to be held at least once prior to the public auction. The advertisement shall state (i) the fact that it is a public auction; (ii) the date, time, and location of the public auction; and

(iii) the form of payment that will be accepted.

G. A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this chapter takes such property free and clear of any rights of persons against whom the lien was valid.

H. Any notice made pursuant to this section shall be presumed delivered when it is (i) deposited with the United States Postal Service and properly addressed to the occupant's last known address with postage prepaid or (ii) sent by electron means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of default.

I. In the case of any motor vehicle, so long as the motor vehicle remains stored within such leased space, the owner shall have a lien on such vehicle in accordance with § 46.2-644.01.

**§ 55.1-2903. Other legal remedies may be used.**

The provisions of this chapter shall not preempt or limit the owner's use of any additional remedy otherwise allowed by law.

**§ 55.1-2904. Care, custody, and control of property.**

Unless the rental agreement specifically provides otherwise, the exclusive care, custody, and control of all personal property stored in the leased space shall remain vested in the occupant.

**§ 55.1-2905. Savings clause.**

All rental agreements, entered into prior to July 1, 1981, that have not been extended or renewed after that date, shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of the Commonwealth.

**§ 55.1-2906. Effective date and application of chapter.**

The provisions of this chapter shall apply to all rental agreements entered into or extended or renewed after July 1, 1981.

**§ 57-6.1. Validity of literary, educational, and charitable gifts, grants, devises, or bequests.**

Every gift, grant, devise, or bequest made on or after April 2, 1839, for literary or educational purposes, and every gift, grant, devise, or bequest made on or after April 6, 1976, for charitable purposes, whether made in any case to any type of entity or to a natural person, shall be as valid as if made to or for the benefit of a certain natural person, except such devises or bequests, if any, that have failed or become void by virtue of the seventh section of the Act of the General Assembly passed on April 2, 1839, entitled "an act concerning devises made to schools, academies, and colleges." Nothing in this section shall be construed so as to give validity to any devise or bequest to or for the use of any unincorporated theological seminary. Every gift, grant, devise, or bequest made for literary, educational, or charitable purposes before April 6, 1976, is hereby validated.

**§ 64.2-108.2. Provision in certain trust void.**

A. For purposes of this section, "medical assistance" and "medical assistance benefits" mean benefits payable under the state plan for medical assistance services.

B. Except as provided in subsection C, a provision in any inter vivos trust created for the benefit of the grantor that provides directly or indirectly for the suspension, termination, or diversion of the principal, income, or other beneficial interest of the grantor in the event that he should apply for medical assistance or require medical, hospital, or nursing care or long-term custodial, nursing, or medical care shall be against public policy and ineffective as against the Commonwealth. The assets of the trust, both principal and interest, shall be distributed as though no such application had been made. The provisions of this subsection shall apply without regard to the irrevocability of the trust or the purpose for which the trust was created.

C. Subsection B shall not apply to any trust with a corpus of \$25,000 or less. If the corpus of any such trust exceeds \$25,000, \$25,000 of the trust shall be exempt from the provisions of subsection B. However, if the grantor has created more than one trust as described in subsection B, the \$25,000 exemption shall be prorated among the trusts. Further, if the grantor made uncompensated transfers, as defined in § 20-88.02, within 30 months of applying for Medicaid benefits and no payments were ordered pursuant to subsection D of § 20-88.02, the \$25,000 exemption under this subsection shall not apply.

D. The exemption provided by subsection C shall not apply to any trust created on or after August 11, 1993.

E. To the extent any trust created between August 11, 1993, and July 1, 1994 would but for subsection D be entitled to the exemption provided by subsection C, the grantor may revoke such trust notwithstanding any irrevocability in the terms of such trust. Nothing contained in this subsection shall be construed to authorize the grantor to effect the vested rights of any beneficiary of such trust without the express written consent of such beneficiary.

F. The provisions of subsection B shall not apply to an irrevocable inter vivos trust to the extent it is created for the purpose of paying the grantor's funeral and burial expenses and is funded in an amount and manner allowable as a resource in determining eligibility for medical assistance benefits. In the event any amount remains in the trust upon payment of the funeral or burial arrangements provided to or on behalf of such individual, the Commonwealth shall receive all amounts remaining in such trust up to an amount equal to the total medical assistance paid on behalf of the individual.

**2. That whenever any of the conditions, requirements, provisions, or contents of any section or chapter of Title 55 or any other title of the Code of Virginia as such titles existed prior to October 1, 2019, are transferred in the same or modified form to a new section or chapter of Title 55.1 or any other title of the Code of Virginia and whenever any**

such former section or chapter is given a new number in Title 55.1 or any other title, all references to any such former section or chapter of Title 55.1 or other title appearing in this Code shall be construed to apply to the new or renumbered section or chapter containing such conditions, requirements, provisions, contents, or portions thereof.

3. That the regulations of any department or agency affected by the revision of Title 55 or such other titles in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations adopted under this act.

4. That the provisions of § 30-152 of the Code of Virginia shall apply to the revision of Title 55.1 so as to give effect to other laws enacted by the 2019 Session of the General Assembly, notwithstanding the delay in the effective date of this act.

5. That the repeal of Title 55 and § 18.2-324.1, effective as of October 1, 2019, shall not affect any act or offense done or committed, or any penalty incurred, or any right established, accrued, or accruing on or before such date, or any proceeding, prosecution, suit, or action pending on that day. Except as otherwise provided in this act, neither the repeal of Title 55 nor the enactment of Title 55.1 shall apply to offenses committed prior to October 1, 2019, and prosecution for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purposes of this enactment, an offense was committed prior to October 1, 2019, if any of the essential elements of the offense occurred prior thereto.

6. That any notice given, recognizance taken, or process or writ issued before October 1, 2019, shall be valid although given, taken, or to be returned to a day after such date, in like manner as if Title 55.1 had been effective before the same was given, taken, or issued.

7. That if any clause, sentence, paragraph, subdivision, or section of Title 55.1 shall be adjudged in any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or section thereof directly involved in the controversy in which the judgment shall have been rendered, and to this end the provisions of Title 55.1 are declared severable.

8. That the repeal of Title 55, effective as of October 1, 2019, shall not affect the validity, enforceability, or legality of any loan agreement or other contract, or any right established or accrued under such loan agreement or other contract, that existed prior to such repeal.

9. That the repeal of Title 55, effective October 1, 2019, shall not affect the validity, enforceability, or legality of any properly recorded deed that was recorded prior to such repeal.

10. That the repeal of Title 55, effective as of October 1, 2019, shall not affect the validity, enforceability, or legality of any bond or other debt obligation authorized, issued, or outstanding prior to such repeal.

11. That § 18.2-324.1 and Title 55 (§§ 55-1 through 55-559) of the Code of Virginia are repealed.

12. That the provisions of this act shall not affect the existing terms of persons currently serving as members of any agency, board, authority, commission, or other entity and that appointees currently holding positions shall maintain their terms of appointment and continue to serve until such time as the existing terms might expire or become renewed. However, any new appointments made on or after October 1, 2019, shall be made in accordance with the provisions of this act.

13. That the provisions of this act shall become effective on October 1, 2019.

## CHAPTER 713

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 9 of Title 15.2 a section numbered 15.2-926.4, relating to regulation of smoking in outdoor amphitheater or concert venue; civil penalty.*

[S 1304]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 15.2-926.4 as follows:**

**§ 15.2-926.4. Regulation of smoking in outdoor amphitheater or concert venue; civil penalty.**

*A. Any locality, by ordinance, may designate reasonable no-smoking areas within an outdoor amphitheater or concert venue owned by that locality.*

*B. An ordinance adopted pursuant to this section shall:*

*1. Require the locality to install adequate signs within each outdoor amphitheater or concert venue that designate the no-smoking areas within such outdoor amphitheater or concert venue;*

*2. Provide that no person shall smoke in any area or place designated as a no-smoking area and that any person who continues to smoke in such area or place after having been asked to refrain from smoking shall be subject to a civil penalty of not more than \$25; and*

*3. Provide that any law-enforcement officer may issue a summons regarding a violation of the ordinance.*

*C. Civil penalties assessed under this section shall be paid into the treasury of the locality where the offense occurred and shall be expended solely for public health purposes.*

## CHAPTER 714

*An Act to provide a new charter for the Town of Luray in Page County and to repeal Chapter 338, as amended, of the Acts of Assembly of 1928, which provided a charter for the Town of Luray.*

[S 1424]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1.

*CHARTER  
FOR THE  
TOWN OF LURAY.  
Chapter 1.*

*Incorporation and Boundaries.*

*§ 1.1. Incorporation; general powers.*

*Be it enacted by the General Assembly of Virginia, that the inhabitants of the territory in the County of Page, contained within the boundaries prescribed and defined in the section immediately following, shall continue to be, and they are hereby declared to be, a body politic and corporate, in fact and in name, under the name and style of the Town of Luray, and as such shall have and exercise all the powers conferred by and be subject to all the laws of the Commonwealth of Virginia now in force or that may hereafter be enacted for the government of towns, so far as the same are not inconsistent with the provisions herein.*

*§ 1.2. Town boundaries.*

*The boundaries of the town shall remain as now established unless changed in accordance with applicable law.*

*Chapter 2.*

*General Powers.*

*§ 2.1. General grant of powers.*

*(a) Powers authorized in Code of Virginia.*

*The town shall have and may exercise any or all powers now or subsequently authorized for exercise by towns in Title 15.2 of or elsewhere in the Code of Virginia of 1950, as amended, regardless of whether such powers are set out or incorporated by reference in this charter. All ordinances in force in the Town of Luray as of July 1, 2019, not inconsistent with this charter, shall be and remain in force until altered, amended, or repealed by the town council.*

*(b) Powers exercised by governing body.*

*All powers vested in the town by this charter shall be exercised by its governing body unless expressly provided to the contrary. Such powers shall include those not expressly prohibited by the Constitution and general law of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the town's inhabitants and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce, and industry of the town and the town's inhabitants, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant of power, but shall be construed and held to be in addition to any general grant of power. The exercise of the powers conferred under this section is specifically limited to the area within the corporate limits of the town, unless otherwise conferred in the applicable sections of the Constitution of Virginia and the general laws of the Commonwealth, as amended.*

*§ 2.2. Financial powers.*

*(a) Generally.*

*In accordance with the Constitution of Virginia and the United States Constitution, the town may raise through annual taxes and assessments on property, persons, and other subjects of taxation that are not prohibited by law such sums of money as in the judgment of the town are necessary to pay the debts, defray the expenses, accomplish the purposes, and perform the functions of the town, in such manner as the town council deems necessary or expedient. The town shall impose no tax on its bonds.*

*(b) Assessments for local improvements.*

*The town may impose special or local assessments for local improvements and enforce payment thereof, subject, however, to such limitations prescribed by the Constitution of Virginia as may be in force at the time of the imposition of such special or local assessments.*

*(c) Water, electricity, and sewerage rates; rates and charges for public utilities or services, etc., operated, etc., by town.*

*The town may establish, impose, and enforce water, electricity, and sewerage rates and rates and charges for public utilities, or other services, products, or conveniences, operated, rendered, or furnished by the town and assess, or cause to be assessed, water, electricity, sewerage, and other public utility rates and charges directly against the owner or owners of the buildings, or against the proper tenant or tenants, and in the event that such rates and charges shall be assessed against a tenant, then the town council may, by ordinance, require of such tenant a deposit of such reasonable amount as may be by such ordinance prescribed before furnishing such services to such tenant.*

*§ 2.3. Contractual powers; gifts; grants.*

*(a) Acquisition of property generally; holding, selling, leasing, etc., town property.*

*The town may acquire, by purchase, gift, devise, condemnation, or otherwise, property, real and personal, or any estate or interest therein, within or without the town or the Commonwealth of Virginia and for any of the purposes of the town.*

*(b) Debts and evidence of indebtedness.*

*The town may contract debts, borrow money, and make and issue evidence of indebtedness.*

*(c) Gifts.*

*The town may accept or refuse gifts, grants, bequests, or donations of any kind from any source, absolutely or in trust, that are related to the town's powers, duties, and functions, or for educational, charitable, or other public purposes, and do all the things and acts necessary to carry out the purposes of such gifts, grants, bequests, and devises, with power to manage, maintain, operate, sell, lease, or otherwise handle or dispose of the same, in accordance with terms and conditions of such gifts, grants, bequests, and devises.*

*§ 2.4. Operational powers.*

*(a) Generally.*

*The town may provide for the organization, conduct, and operation of all departments, offices, boards, commissions, and agencies of the town, subject to such limitations as may be imposed by this charter or otherwise by law, and may establish, consolidate, abolish, or change departments, offices, boards, commissions, and agencies of the municipal corporation and prescribe the powers, duties, and functions thereof, except where such departments, offices, boards, commissions, and agencies or the powers, duties, and functions thereof are specifically established or prescribed by charter or otherwise by law.*

*(b) Records and accounts.*

*The town shall provide for the control and management of the town's affairs and shall prescribe and require the adoption and keeping of such books, records, accounts, and systems of accounting by the departments, boards, commissions, or other agencies of the local government necessary to give full and true accounts of the affairs, resources, and revenues of the municipal corporation and the handling, use, and disposal thereof.*

*(c) Expenditure of money.*

*The town may expend money of the town for all lawful purposes.*

*(d) Construction, maintenance, etc., of improvements, buildings, etc., for use and operation of town departments.*

*The town may construct, maintain, regulate, and operate public improvements of all kinds, including municipal and other buildings, comfort stations, markets, and all buildings and structures necessary or appropriate for the use and proper operation of the various departments of the town, and may acquire by condemnation or otherwise all land, riparian, and other rights and easements necessary for such improvements, or any of them.*

*§ 2.5. Utilities; public improvements.*

*(a) Water works and water supply.*

*The town may own, operate, and maintain water works and acquire in any lawful manner in any county of the Commonwealth of Virginia such water, lands, property rights, and riparian rights as the town council may deem necessary for the purpose of providing the town with an adequate water supply and of piping or conducting the same; lay all necessary mains and service lines, either within or without the corporate limits of the town, and charge and collect water rents therefor; erect and maintain all necessary dams, pumping stations, and other works in connection therewith; make reasonable rules and regulations for promoting the purity of the town water supply and protecting it from pollution and for this purpose exercise full police powers and sanitary patrol over all lands comprised within the limits of the watershed tributary to any such water supply wherever such lands may be located in the Commonwealth of Virginia; impose and enforce adequate penalties for the violation of any such rules and regulations and prevent by injunction any pollution or threatened pollution of such water supply and any and all acts likely to impair the purity thereof; and, for the purpose of acquiring lands, interest in lands, property rights, and riparian rights or materials for any such use, exercise all powers of eminent domain provided by the laws of the Commonwealth of Virginia. For any of the purposes aforesaid, said town may, if the town council shall so determine, acquire by condemnation, purchase, or otherwise any estate or interest in such lands or any of them in fee.*

*(b) Streets; parks, playgrounds, etc.; infrastructure; vehicles.*

*The town may establish, maintain, improve, alter, vacate, regulate, and otherwise manage its streets, alleys, parks, and playgrounds, and all of its public infrastructure and public works, in such manner as best serves the public interest, safety, and convenience; regulate, limit, restrict, and control the services and routes of and rates charged by vehicles for the carrying of passengers and property in accordance with general law; permit or prohibit poles and wires for electricity, telephone, telegraph, television, and other purposes to be erected and gas pipes to be laid in the streets and alleys and prescribe and collect an annual charge for such privileges; and, subject to the provisions of franchise agreements, require the owner or lessees of any such poles or wires now in use or hereafter used to place such wires, cables, and accoutrements in conduits underground in accordance with the town's prescribed requirements.*

*(c) Public utilities.*

*Subject to the provisions of the Constitution of Virginia, this charter, and general law, the town may grant franchises for public utilities, reserving rights of transfer, renewal, extension, and amendment thereof.*

*(d) Collection and disposition of sewage, garbage, ashes, refuse, etc.; reduction and disposal plant.*

*The town may collect and dispose of sewage, ashes, garbage, carcasses of dead animals, and other refuse; make reasonable charges therefor; acquire and operate reduction or any other plants for the utilization or destruction of such*

materials, or any of them; contract for and regulate the collection and disposal thereof; and require and regulate the collection and disposal thereof.

§ 2.6. Nuisances; sanitary conditions, etc.

The town may compel the abatement and removal of all nuisances within the town; require all lands, lots, and other premises within the town to be kept clean; regulate the keeping of animals, poultry, and other fowl therein; regulate the exercise of any dangerous or unwholesome business, trade, or employment therein; regulate the transportation of all articles through the streets of the town; compel the abatement of smoke, dust, and unnecessary noise; compel the removal of grass and weeds from private and public property and snow from sidewalks; require the covering or removal of offensive, unwholesome, unsanitary, or unhealthy substances allowed to accumulate in or on any place or premises; require the filling in to the street level of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; require the raising or draining of the grounds subject to be covered by stagnant water and the razing or repair of all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures; and remedy, repair, and secure any blighted or derelict building or structure within the town in accordance with applicable law.

§ 2.7. Police powers.

(a) The town may exercise full police powers as provided by general law and establish and maintain a department or division of police.

(b) The town may also do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce, or industries of the town or its inhabitants; prescribe any penalty for the violation of any town ordinance, rule, or regulation or of any provisions of this charter, not exceeding the fine or sentence imposed by the laws of the Commonwealth of Virginia; pass and enforce all bylaws, rules, regulations, and ordinances that it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, and the peace, comfort, convenience, order, morals, health, and protection of its citizens or their property; and do such other things and pass such other laws as may be necessary or proper to carry into full effect any power, authority, capacity, or jurisdiction that is or shall be granted to or vested in said town, or in the town council, court, or offices thereof, or which may be necessarily incident to a municipal corporation.

§ 2.8. Miscellaneous powers.

(a) Removal or reconstruction of unsafe buildings, etc.; protection of public gatherings.

The town may regulate the size, height, materials, and construction of buildings, fences, walls, retaining walls, and other structures hereafter erected in such manner as the public safety and conveniences may require; remove or require to be removed or reconstructed any building, structure, or addition thereto, that by reason of dilapidation, defect of structure, or other causes may have become dangerous to life or property or that may have been erected contrary to law; and enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments, or amusements.

(b) Fees for permits, etc.

The town may charge and collect fees for permits to use public facilities and for public services and privileges.

(c) Cemeteries.

The town may provide in or near the town lands to be used as burial places for the dead; improve and care for the same and the approaches thereto; charge for and regulate the use of ground therein; and provide for the perpetual upkeep and care of any plot or burial lot therein. The town is authorized to take and receive sums of money by gift, bequest, or otherwise, to be kept invested, and the income thereof is to be used for the perpetual upkeep and care of the said lot or plot for which the said donation, gift, or bequest shall have been made.

(d) Injunctive relief.

The town may maintain a suit to restrain by injunction the violation of any ordinance, notwithstanding any punishment that may be provided for the violation of such ordinance.

Chapter 3.  
Elected Officers.

§ 3.1. Vesting of government.

The government of the Town of Luray shall be vested in a mayor and town council of six council members.

§ 3.2. Election and terms of officers; town council as continuing body.

The mayor and town council members shall each be a qualified voter within the town, elected at large, and hold office for a term of four years. The town council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of the term of office or removal of any or all of the members. The mayor and town council members in office at the time of adoption of this charter shall continue in office until the expiration of the terms to which they were elected or until their successors are elected and qualified. Accordingly, at the time of the U.S. presidential election in November 2020, there shall be an election for mayor and three town council positions, and on the date of the November 2022 general election, there shall be an election for the other three town council positions.

§ 3.3 Mayor.

The mayor shall be the chief executive officer of the town and shall have the following powers and duties:

(a) The mayor shall see that the bylaws and ordinances of the town are fully executed and enforced and shall preside over the meetings of the town council, voting only in case of a tie.

(b) The mayor shall authenticate with his or her signature every ordinance and resolution adopted by the town council.

(c) *The mayor shall see that the duties of the various town officers, agents, and employees are faithfully performed. The mayor shall have power to investigate their accounts and have access to all of their books and documents in their office.*

§ 3.4. *Vice-mayor.*

*A vice-mayor shall be elected by a majority of the town council at its biennial organizational meeting for a term of two years. The vice-mayor shall discharge the municipal duties of the mayor during any period of absence or disability of the mayor. If the vice-mayor is also absent or unable to act, the town council may choose another town council member to discharge the mayor's duties during the period of the vice-mayor and mayor's absence or disability. The town council may provide reasonable compensation to the vice-mayor or other town council member discharging the duties of the mayor pursuant to this section. Upon the adoption of this charter, the current president pro tempore of the town council shall serve as vice-mayor until the next organizational meeting of the town council.*

§ 3.5. *Town Council.*

(a) *Regular meetings.*

*The town council shall by ordinance fix the time of their regular meetings, and they shall meet at least once a month. The town council may convene at such additional times as it may deem necessary in accordance with applicable law.*

(b) *Special meetings.*

*A special meeting may be called by the mayor or by two or more town council members. No business shall be transacted at a special meeting except that for which it is called unless all members of the town council are present. In addition, no vote shall be reconsidered or rescinded at a special meeting unless the same or a greater number of town council members is present at the special meeting as was present when the vote was taken.*

(c) *Quorum.*

*Four members of the town council, which may include the mayor, shall constitute a quorum for the transaction of business.*

(d) *Procedural rules.*

*The town council may adopt rules of procedure that govern meetings of the town council.*

§ 3.6. *Vacancies.*

*Any vacancy occurring in the office of mayor or a town council member shall be filled in accordance with general law.*

Chapter 4.

Officers Appointed by Town Council.

§ 4.1. *Appointments.*

*The town council may appoint the following officers:*

(a) *Town manager.*

*The town manager shall be responsible to the town council for the proper administration of all affairs of the town; for the control and management of all town departments and property; for the appointment, supervision, and dismissal of town employees; for the preparation and implementation of an annual budget; and for any other duties as prescribed by the town council.*

(b) *Town treasurer.*

*The town treasurer shall keep the town's books and accounts and collect all the taxes, revenues, and assessments that may be levied by the town council and is vested with all the powers provided by the general laws of the Commonwealth of Virginia. The town treasurer shall also perform other duties and receive such compensation as the town council may prescribe.*

(c) *Town clerk.*

*The town clerk shall attend the meetings of the town council, keep a record of its proceedings, and shall generally perform such other acts and duties as the town council may from time to time prescribe and require. The town clerk shall receive such compensation as the town council may prescribe and may also hold the office of town treasurer so long as he or she is not a member of the town council.*

(d) *Town attorney.*

*The town attorney shall be an attorney at law licensed to practice under the laws of the Commonwealth of Virginia. The town attorney shall receive such compensation as may be determined by the town council and shall have such duties as prescribed by the town council.*

(e) *Other officers.*

*The town council may appoint such other officers as may be necessary to conduct the business of the town, prescribe their duties, and fix their compensation.*

§ 4.2. *Removal of appointed officers.*

*Any officer appointed by the town council may be removed at its pleasure. The town council may fill any vacancy in any appointed office.*

Chapter 5.

Miscellaneous Provisions.

§ 5.1. *Severability.*

*If any clause, sentence, paragraph, or part of this charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the charter but shall be*

confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 5.2. *Continuation of ordinances in effect.*

All ordinances now in force in the town, not inconsistent with this charter, shall be and remain in force until altered, amended, or repealed by the town council.

§ 5.3. *Repeal of conflicting acts and charters.*

All acts and parts of acts in conflict with this charter are hereby repealed, insofar as they affect the provisions of this charter, provided, however, that nothing contained in this act shall be construed to invalidate or to in any manner affect the present existing indebtedness and liabilities of the town, whether evidenced by bonded obligations or otherwise, or to relieve it of any part of its present obligation or liability on account of bond issues, liabilities, or debts of whatsoever nature or kind.

**2. That Chapter 338, as amended, of the Acts of Assembly of 1928 is repealed.**

## CHAPTER 715

An Act to amend the Code of Virginia by adding a section numbered 56-264.3, relating to water and sewerage companies; cost allocation and rate design.

[S 1427]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-264.3 as follows:**

**§ 56-264.3. Cost allocation and rate design.**

A. The provisions of this section shall apply in any proceeding in which the Commission is required to determine, pursuant to § 56-234, if (i) rates charged by water and sewerage companies with fewer than 10,000 customer accounts, inclusive of their subsidiaries, are reasonable and just and (ii) customers using water and sewerage services under like conditions are being charged uniformly for such services.

B. Any rate application or proposal submitted to the Commission that would allocate the revenue requirement of a water or sewerage company with fewer than 10,000 customer accounts, inclusive of their subsidiaries, among more than one class of customers shall be supported by a class cost-of-service study that is designed to allocate revenues on the basis of cost causation and to assign credit for contributions in aid of construction, not previously addressed in a utility acquisition transaction or the most recent approved rate case application, to the customer class that made the contributions.

C. In setting rates, the Commission shall not find that any allocation of the revenue requirement to a particular class of customers that is greater than the portion of the revenue requirement that can be attributed to that class on the basis of a cost-of-service study of the type described in subsection B is just and reasonable unless the allocation is otherwise supported by substantial evidence.

D. In any proceeding pursuant to § 56-234 regarding the rates charged by water and sewerage companies, the revenues to be produced by rates as designed for any particular class of customers shall not provide an anticipated return on equity more than 25 percent greater or less than the return on equity used to set rates for the company as a whole, unless otherwise supported by clear and convincing evidence. The effect of this provision on class rate design shall not be considered in establishing the return on equity used to set rates for the company as a whole.

## CHAPTER 716

An Act to amend and reenact § 16.1-245.1 of the Code of Virginia, relating to medical evidence admissible in juvenile and domestic relations district court; preliminary protective order hearings.

[S 1429]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-245.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-245.1. Medical evidence admissible in juvenile and domestic relations district court.**

In any civil case heard in a juvenile and domestic relations district court involving allegations of child abuse or neglect or family abuse, any party may present evidence, by a report from the treating or examining health care provider as defined in § 8.01-581.1 or the records of a hospital, medical facility or laboratory at which the treatment, examination or laboratory analysis was performed, or both, as to the extent, nature, and treatment of any physical condition or injury suffered by a person and the examination of the person or the result of the laboratory analysis.

A medical report shall be admitted if the party intending to present such evidence at trial or hearing gives the opposing party or parties a copy of the evidence and written notice of intention to present it at least ~~ten~~ 10 days, or in the case of a preliminary removal hearing under § 16.1-252 or in preliminary protective order hearings under § 16.1-253 or 16.1-253.1

at least ~~twenty-four~~ 24 hours, prior to the trial or hearing and if attached to such evidence is a sworn statement of the treating or examining health care provider or laboratory analyst who made the report that (i) the information contained therein is true, accurate, and fully describes the nature and extent of the physical condition or injury and (ii) the patient named therein was the person treated or examined by such health care provider; or, in the case of a laboratory analysis, that the information contained therein is true and accurate.

A hospital or other medical facility record shall be admitted if attached to it is a sworn statement of the custodian thereof that the same is a true and accurate copy of the record of such hospital or other medical facility. If thereafter a party summons the health care provider or custodian making such statement to testify in proper person or by deposition taken de bene esse, the court shall determine which party shall pay the fees and costs for such appearance or depositions, or may apportion the same among the parties in such proportion as the ends of justice may require. If such health care provider or custodian is not subject to subpoena for cross-examination in court or by a deposition de bene esse, then the court shall allow a reasonable opportunity for the party seeking the subpoena for such health care provider or custodian to obtain his testimony as the ends of justice may require.

## CHAPTER 717

*An Act to amend and reenact § 18.2-31 of the Code of Virginia, relating to capital murder; law-enforcement officers and fire marshals; reduction of charges.*

[S 1501]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 18.2-31 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 18.2-31. Capital murder defined; punishment.**

A. The following offenses shall constitute capital murder, punishable as a Class 1 felony:

1. The willful, deliberate, and premeditated killing of any person in the commission of abduction, as defined in § 18.2-48, when such abduction was committed with the intent to extort money or a pecuniary benefit or with the intent to defile the victim of such abduction;
2. The willful, deliberate, and premeditated killing of any person by another for hire;
3. The willful, deliberate, and premeditated killing of any person by a prisoner confined in a state or local correctional facility as defined in § 53.1-1, or while in the custody of an employee thereof;
4. The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery;
5. The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape, forcible sodomy, or attempted forcible sodomy or object sexual penetration;
6. The willful, deliberate, and premeditated killing of a law-enforcement officer as defined in § 9.1-101, a fire marshal appointed pursuant to § 27-30 or a deputy or an assistant fire marshal appointed pursuant to § 27-36, when such fire marshal or deputy or assistant fire marshal has police powers as set forth in §§ 27-34.2 and 27-34.2:1, an auxiliary police officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, an auxiliary deputy sheriff appointed pursuant to § 15.2-1603, or any law-enforcement officer of another state or the United States having the power to arrest for a felony under the laws of such state or the United States, when such killing is for the purpose of interfering with the performance of his official duties;
7. The willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction;
8. The willful, deliberate, and premeditated killing of more than one person within a three-year period;
9. The willful, deliberate, and premeditated killing of any person in the commission of or attempted commission of a violation of § 18.2-248, involving a Schedule I or II controlled substance, when such killing is for the purpose of furthering the commission or attempted commission of such violation;
10. The willful, deliberate, and premeditated killing of any person by another pursuant to the direction or order of one who is engaged in a continuing criminal enterprise as defined in subsection I of § 18.2-248;
11. The willful, deliberate, and premeditated killing of a pregnant woman by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth;
12. The willful, deliberate, and premeditated killing of a person under the age of ~~fourteen~~ 14 by a person age ~~twenty-one~~ 21 or older;
13. The willful, deliberate, and premeditated killing of any person by another in the commission of or attempted commission of an act of terrorism as defined in § 18.2-46.4;
14. The willful, deliberate, and premeditated killing of a justice of the Supreme Court, a judge of the Court of Appeals, a judge of a circuit court or district court, a retired judge sitting by designation or under temporary recall, or a substitute judge appointed under § 16.1-69.9:1 when the killing is for the purpose of interfering with his official duties as a judge; and
15. The willful, deliberate, and premeditated killing of any witness in a criminal case after a subpoena has been issued for such witness by the court, the clerk, or an attorney, when the killing is for the purpose of interfering with the person's duties in such case.

*B. For a violation of subdivision A 6 where the offender was 18 years of age or older at the time of the offense, the punishment shall be no less than a mandatory minimum term of confinement for life.*

C. If any one or more subsections, sentences, or parts of this section shall be judged unconstitutional or invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 718

*An Act to amend and reenact §§ 16.1-112, 16.1-253.1, 16.1-296, and 19.2-152.9 of the Code of Virginia, relating to protective orders; contents of preliminary protective orders; docketing of an appeal.*

[S 1540]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-112, 16.1-253.1, 16.1-296, and 19.2-152.9 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-112. All papers transmitted to appellate court; further proceedings.**

The judge or clerk of any court from which an appeal is taken under this article shall promptly transmit to the clerk of the appellate court the case papers, which shall include the original warrant or warrants or other notices or pleadings with the judgment endorsed thereon, together with all pleadings, exhibits, and other papers filed in the trial of the case. The required bond, and, if applicable, the money deposited to secure such bond and the writ tax and costs paid pursuant to § 16.1-107 shall also be submitted, along with the fees for service of process of the notice of appeal in the circuit court. Upon receipt of the foregoing by the clerk of the appellate court, the case shall then be docketed, *except that an appeal from an order of protection issued pursuant to § 19.2-152.10 shall be assigned a case number within two business days upon receipt of such appeal.*

When such case has been docketed, the clerk of such appellate court shall by writing to be served, as provided in §§ 8.01-288, 8.01-293, 8.01-296, and 8.01-325, or by certified mail, with certified delivery receipt requested, notify the appellee, or by regular mail to his attorney, that such an appeal has been docketed in his office, provided that upon affidavit by the appellant or his agent in conformity with § 8.01-316 being filed with the clerk, the clerk shall post such notice at the front door of his courtroom and shall mail a copy thereof to the appellee at his last known address or place of abode or to his attorney, and he shall file a certificate of such posting and mailing with the papers in the case. No such appeal shall be heard unless it appears that the appellee or his attorney has had such notice, or that such certificate has been filed, 10 days before the date fixed for trial, or has in person or by attorney waived such notice.

**§ 16.1-253.1. Preliminary protective orders in cases of family abuse; confidentiality.**

A. Upon the filing of a petition alleging that the petitioner is or has been, within a reasonable period of time, subjected to family abuse, the court may issue a preliminary protective order against an allegedly abusing person in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. *If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 16.1-253.4 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings.* Immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred shall constitute good cause. Evidence that the petitioner has been subjected to family abuse within a reasonable time and evidence of immediate and present danger of family abuse may be established by a showing that (i) the allegedly abusing person is incarcerated and is to be released from incarceration within 30 days following the petition or has been released from incarceration within 30 days prior to the petition, (ii) the crime for which the allegedly abusing person was convicted and incarcerated involved family abuse against the petitioner, and (iii) the allegedly abusing person has made threatening contact with the petitioner while he was incarcerated, exhibiting a renewed threat to the petitioner of family abuse.

A preliminary protective order may include any one or more of the following conditions to be imposed on the allegedly abusing person:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property.
2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons.
3. Granting the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession shall affect title to any real or personal property.

4. Enjoining the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to such premises.

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner.

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the allegedly abusing person; however, no such grant of possession or use shall affect title to the vehicle.

7. Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member and, where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided.

8. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

9. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order. If the respondent fails to appear at this hearing because the respondent was not personally served, or if personally served was incarcerated and not transported to the hearing, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served forthwith on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary law-enforcement agency, and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the allegedly abusing person. Except as otherwise provided in § 16.1-253.2, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 16.1-279.1 if the court finds that the petitioner has proven the allegation of family abuse by a preponderance of the evidence.

E. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

F. As used in this section, "copy" includes a facsimile copy.

G. No fee shall be charged for filing or serving any petition or order pursuant to this section.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

**§ 16.1-296. Jurisdiction of appeals; procedure.**

A. From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its jurisdiction, an appeal may be taken to the circuit court within 10 days from the entry of a final judgment, order or conviction and shall be heard de novo. However, in a case arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to this section within 30 days from entry of a final order or judgment. Protective orders issued pursuant to § 16.1-279.1 in cases of family abuse and orders entered pursuant to § 16.1-278.2 are final orders from which an appeal may be taken.

B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or 16.1-273.

C1. In any hearing held upon an appeal taken by a child on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except in the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to this subsection, any records or portions thereof relating to such closed proceedings shall remain confidential.

C2. Where an appeal is taken by a juvenile on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8 and the juvenile is in a secure facility pending the appeal, the circuit court, when practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the appeal. Upon receipt of the notice of appeal from the juvenile court, the circuit court shall provide a copy of the order and a copy of the notice of appeal to the attorney for the Commonwealth within seven days after receipt of notice of an appeal. The time limitations shall be tolled during any period in which the juvenile has escaped from custody. A juvenile held continuously in secure detention shall be released from confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon good cause shown, provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal. An appeal of the case to the Court of Appeals shall take precedence on the docket of the Court.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In all other cases on appeal, proceedings in the circuit court shall be heard without a jury; however, hearing of an issue by an advisory jury may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts; ~~but and shall otherwise be docketed and processed as other civil cases assigned a case number within two business days of receipt of such appeal.~~

G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the circuit court, except that the appeal to circuit court of any case in which a fee either was or could have been assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.

H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic relations district court except for that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall be allowed until the party applying for the same or someone for him gives bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the court in which it was rendered. Upon appeal from a conviction for failure to support or from a finding of civil or criminal contempt involving a failure to support, the juvenile and domestic relations district court may require the party applying for the appeal or someone for him to give bond, with or without surety, to insure his appearance and may also require bond in an amount and with sufficient surety to secure the payment of prospective support accruing during the

pendency of the appeal. An appeal will not be perfected unless such appeal bond as may be required is filed within 30 days from the entry of the final judgment or order. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the interest of a county, city or town.

If bond is furnished by or on behalf of any party against whom judgment has been rendered for money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against the party on appeal, and for the payment of all damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery, the bond shall be conditioned for the payment of any damages as may be awarded against him on the appeal. The provisions of § 16.1-109 shall apply to bonds required pursuant to this subsection.

This subsection shall not apply to release on bail pursuant to other subsections of this section or § 16.1-298.

I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers and authority granted by the chapter to the juvenile and domestic relations district court. Unless otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint counsel for the parties and compensate such counsel in accordance with the provisions of Article 6 (§ 16.1-266 et seq.) of this chapter.

J. In any case which has been referred or transferred from a circuit court to a juvenile court and an appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit court in the same locality as the juvenile court to which the case had been referred or transferred.

#### **§ 19.2-152.9. Preliminary protective orders.**

A. Upon the filing of a petition alleging that (i) the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat, or (ii) a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat, the court may issue a preliminary protective order against the alleged perpetrator in order to protect the health and safety of the petitioner or any family or household member of the petitioner. The order may be issued in an ex parte proceeding upon good cause shown when the petition is supported by an affidavit or sworn testimony before the judge or intake officer. *If an ex parte order is issued without an affidavit or a completed form as prescribed by subsection D of § 19.2-152.8 being presented, the court, in its order, shall state the basis upon which the order was entered, including a summary of the allegations made and the court's findings.* Immediate and present danger of any act of violence, force, or threat or evidence sufficient to establish probable cause that an act of violence, force, or threat has recently occurred shall constitute good cause.

A preliminary protective order may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;
2. Prohibiting such other contacts by the respondent with the petitioner or the petitioner's family or household members as the court deems necessary for the health and safety of such persons;
3. Such other conditions as the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and
4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. The court shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court. A copy of a preliminary protective order containing any such identifying information shall be forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264, and due return made to the court. However, if the order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the alleged perpetrator in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. The preliminary order shall specify a date for the full hearing. The hearing shall be held within 15 days of the issuance of the preliminary order. If the respondent fails to appear at this hearing because the respondent was not personally served, the court may extend the protective order for a period not to exceed six months. The extended protective order shall be served as soon as possible on the respondent. However, upon motion of the respondent and for good cause shown, the court may continue the hearing. The preliminary order shall remain in effect until the hearing. Upon request after the order is issued, the clerk shall provide the petitioner with a copy of the order and

information regarding the date and time of service. The order shall further specify that either party may at any time file a motion with the court requesting a hearing to dissolve or modify the order. The hearing on the motion shall be given precedence on the docket of the court.

Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-264, the clerk shall forthwith forward an attested copy of the preliminary protective order to primary law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary into the Virginia Criminal Information Network as described above. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

C. The preliminary order is effective upon personal service on the alleged perpetrator. Except as otherwise provided, a violation of the order shall constitute contempt of court.

D. At a full hearing on the petition, the court may issue a protective order pursuant to § 19.2-152.10 if the court finds that the petitioner has proven the allegation that the petitioner is or has been, within a reasonable period of time, subjected to an act of violence, force, or threat by a preponderance of the evidence.

E. No fees shall be charged for filing or serving petitions pursuant to this section.

F. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

G. As used in this section, "copy" includes a facsimile copy.

H. Upon issuance of a preliminary protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

## CHAPTER 719

*An Act to direct the Virginia Center for School and Campus Safety to convene a work group to develop guidelines and best practices for the sharing of certain information between a local school board or public institution of higher education and law enforcement.*

[S 1591]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

1. § 1. *The Virginia Center for School and Campus Safety (the Center), shall convene a work group to develop guidelines and best practices for the sharing of information between a local school board or public institution of higher education and law enforcement regarding a student whose behavior may pose a threat to the safety of a school or institution or the community, including information regarding such student's disciplinary history, medical conditions, or other relevant characteristics. Such guidelines and best practices shall seek to balance the interests of safety and student privacy and shall be consistent with the provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as applicable. Such work group shall include representatives from the Department of Education, the State Council of Higher Education for Virginia, the Department of Behavioral Health and Developmental Services, the Office of the Attorney General, the Virginia School Boards Association, the Virginia Association of Chiefs of Police, the Virginia Sheriffs' Association, the Virginia Association of Campus Law Enforcement Administrators, and other interested shareholders. The Center shall develop such guidelines and best practices, report to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health, and make such guidelines available to local school boards, public institutions of higher education, law enforcement, and the public by October 1, 2019.*

## CHAPTER 720

*An Act to amend and reenact § 27-95 of the Code of Virginia, relating to the Statewide Fire Prevention Code; definition of permissible fireworks.*

[S 1625]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

1. That § 27-95 of the Code of Virginia is amended and reenacted as follows:

**§ 27-95. Definitions.**

As used in this chapter, unless the context or subject matter requires otherwise, the following words or terms shall have the meaning herein ascribed to them:

"Board" means the Board of Housing and Community Development.

"Code provisions" means the provisions of the Fire Prevention Code as adopted and promulgated by the Board, and the amendments thereof as adopted and promulgated from time to time by such Board.

"Enforcement agency" means the agency or agencies of any local governing body or the State Fire Marshal charged with the administration or enforcement of the Fire Prevention Code.

"Fire Prevention Code" or "Code" means the Statewide Fire Prevention Code.

"Fire prevention regulation" means any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, wherever located, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions or other agencies.

"Fire Services Board" means the Virginia Fire Services Board as provided for in § 9.1-202.

"Fireworks" means any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known as fireworks, and which explodes, rises into the air or travels laterally, or fires projectiles into the air.

"Fireworks operator" or "pyrotechnician" means any person engaged in the design, setup, and firing of any fireworks other than permissible fireworks either inside a building or structure or outdoors.

"Inspection warrant" means an order in writing, made in the name of the Commonwealth, signed by any judge or magistrate whose territorial jurisdiction encompasses the building, structure or premises to be inspected or entered, and directed to a state or local official, commanding him to enter and to conduct any inspection, examination, testing or collection of samples for testing required or authorized by the Virginia Statewide Fire Prevention Code.

"Local government" means the governing body of any city, county or town in this Commonwealth.

"Permissible fireworks" means any ~~sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels commonly known as whirligigs or spinning jennies~~ fountains that do not emit sparks or other burning effects to a distance greater than five meters (16.4 feet); wheels that do not emit a flame radius greater than one meter (39 inches); crackling devices and flashers or strobes that do not emit sparks or other burning effects to a distance greater than two meters (78.74 inches); and sparkling devices or other fireworks devices that (i) do not explode or produce a report, (ii) do not travel horizontally or vertically under their own power, (iii) do not emit or function as a projectile, (iv) do not produce a continuous flame longer than 20 inches, (v) are not capable of being reloaded, and (vi) if designed to be ignited by a fuse, have a fuse that is protected to resist side ignition and a burning time of not less than four seconds and not more than eight seconds.

"State Fire Marshal" means the State Fire Marshal as provided for by § 9.1-206.

**CHAPTER 721**

*An Act to amend and reenact § 15.2-1129.2 of the Code of Virginia, relating to local economic revitalization zones.*

[S 1634]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 15.2-1129.2 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-1129.2. Creation of local economic revitalization zones.**

A. Any city or town may establish by ordinance one or more economic revitalization zones for the purpose of providing incentives to private entities to purchase real property and interests in real property to assemble parcels suitable for economic development. Each city or town establishing an economic revitalization zone may grant incentives and provide regulatory flexibility. Such zones shall be reasonably compact, shall not encompass the entire city or town, and shall constitute one or more tax parcels not commonly owned. Properties that are acquired through the use of eminent domain shall not be eligible for the incentives and regulatory flexibility provided by the ordinance.

B. The incentives may include, but not be limited to: (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipts tax, and (iv) waiver of tax liens to facilitate the sale of property.

C. Incentives established pursuant to this section may extend for a period of up to 10 years from the date of initial establishment of the economic revitalization zone; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

D. The regulatory flexibility provided in an economic revitalization zone may include (i) special zoning for the district, (ii) the use of a special permit process, (iii) exemption from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act

(§ 62.1-44.15:24 et seq.), and (iv) any other incentives adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

E. The governing body may establish a service district for the provision of additional public services pursuant to Chapter 24 (§ 15.2-2400 et seq.) of Title 15.2.

F. This section shall not authorize any local government powers that are not expressly granted herein.

G. Prior to adopting or amending any ordinance pursuant to this section, a locality shall provide for notice and public hearing in accordance with subsection A of § 15.2-2204.

## CHAPTER 722

*An Act to repeal the second enactment of Chapter 913 of the Acts of Assembly of 2000, as amended by Chapter 719 of the Acts of Assembly of 2007, relating to volunteer assistant attorneys for the Commonwealth.*

[S 1686]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the second enactment of Chapter 913 of the Acts of Assembly of 2000, as amended by Chapter 719 of the Acts of Assembly of 2007, is repealed.**

## CHAPTER 723

*An Act to direct the Department of Housing and Community Development to develop proposals for changes to the Uniform Statewide Building Code (USBC) and the Statewide Fire Prevention Code (SFPC) with the goal of assisting in the provision of safety and security measures for public or private elementary schools, secondary schools, and institutions of higher education for active shooter or hostile threats.*

[S 1755]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Department of Housing and Community Development is directed to convene stakeholders representing entities that enforce the Uniform Statewide Building Code (USBC) (§ 36-97 et seq. of the Code of Virginia) and the Statewide Fire Prevention Code (SFPC) (§ 27-94 et seq. of the Code of Virginia) and other law-enforcement organizations to develop proposals for changes to the USBC and SFPC for submission to the Board of Housing and Community Development. Such proposals shall have the goal of assisting in the provision of safety and security measures for the Commonwealth's public or private elementary and secondary schools and public or private institutions of higher education for active shooter or hostile threats. The review of the stakeholders shall include the examination of (i) locking devices, (ii) barricade devices, and (iii) other safety measures that may be utilized in an active shooter or hostile threat situation that occurs in any classroom or other area where students are located for a finite period of time.*

## CHAPTER 724

*An Act to amend and reenact §§ 55-79.74 and 55-509.2 of the Code of Virginia, relating to the Condominium and Virginia Property Owners' Association Acts; stormwater facilities.*

[S 1756]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-79.74 and 55-509.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-79.74. Control of condominium by declarant.**

A. The condominium instruments may authorize the declarant, or a managing agent or some other person or persons selected or to be selected by the declarant, to appoint and remove some or all of the officers of the unit owners' association and/or its executive organ, or to exercise powers and responsibilities otherwise assigned by the condominium instruments and by this chapter to the unit owners' association, the officers, or the executive organ. The declarant or the managing agent or such other person or persons selected by the declarant to so appoint and remove officers and/or the executive organ or to exercise such powers and responsibilities otherwise assigned to the unit owners' association, the officers, or the executive organ shall be subject to liability as fiduciaries of the unit owners for their action or omissions during the period of declarant control as specified in the condominium instruments or if not so specified, within such period as defined in this section. But no amendment to the condominium instruments shall increase the scope of such authorization if there is any unit owner other than the declarant, and no such authorization shall be valid after the time limit set by the condominium instruments or after units to which three-fourths of the undivided interests in the common elements appertain have been conveyed, whichever occurs first. For the purposes of the preceding sentence only, the calculation of the fraction of undivided interest shall be based upon the total undivided interests assigned or to be assigned to all units registered with the Common Interest

Community Board pursuant to subsection B of § 55-79.92 hereof and described pursuant to subdivision (4) of subsection (a), subdivision (2) of subsection (b), or subdivision (8) of subsection (c), of § 55-79.54.

B. The time limit initially set by the condominium instruments shall not exceed five years in the case of an expandable condominium, three years in the case of a condominium (other than an expandable condominium) containing any convertible land, or two years in the case of any other condominium. Such time period shall commence upon settlement of the first unit to be sold in any portion of the condominium.

Notwithstanding the foregoing, at the request of the declarant, such time limits may be extended for a period not to exceed 15 years from the settlement of the first unit to be sold in any portion of the condominium or after units to which three-fourths of the undivided interests in the common elements appertain have been conveyed, whichever occurs first, provided that (i) a special meeting is held prior to the expiration of the initial period of declarant control; (ii) at such special meeting, the extension of such time limits is approved by a two-thirds affirmative vote of the unit owners other than the declarant; and (iii) at such special meeting, there is an election of a warranty review committee consisting of no fewer than three persons unaffiliated with the declarant.

Prior to any such vote, the declarant shall furnish to the unit owners in the notice of such special meeting made in accordance with § 55-79.75 a written statement in a form provided by the Common Interest Community Board that discloses that an affirmative vote extends the right of the declarant, or a managing agent or some other person selected by the declarant, to (a) appoint and remove some or all of the officers of the unit owners' association or its executive organ and (b) exercise powers and responsibilities otherwise assigned by the condominium instruments and by this chapter. In addition, such statement shall contain both a notice of the effect of the extension of declarant control on the enforcement of the warranty against structural defects provided by the declarant in accordance with § 55-79.79 and a statement that a unit owner is advised to exercise whatever due diligence the unit owner deems necessary to protect his interest.

C. If entered into any time prior to the expiration of the period of declarant control, no contract or lease entered into with the declarant or any entity controlled by the declarant, management contract, employment contract or lease of recreational or parking areas or facilities, which is directly or indirectly made by or on behalf of the unit owners' association, its executive organ, or the unit owners as a group, shall be entered into for a period in excess of two years. Any such contract or agreement entered into on or after July 1, 1978, may be terminated without penalty by the unit owners' association or its executive organ upon not less than 90 days' written notice to the other party given not later than 60 days after the expiration of the period of declarant control. Any such contract or agreement may be renewed for periods not in excess of two years; however, at the end of any two-year period the unit owners' association or its executive organ may terminate any further renewals or extensions thereof. The provisions of this subsection shall not apply to any lease or leases which are referred to in § 55-79.48 or which are subject to subsection (e) of § 55-79.54.

D. If entered into at any time prior to the expiration of the period of declarant control, any contract, lease or agreement, other than those subject to the provisions of subsection C, may be entered into by or on behalf of the unit owners' association, its executive organ, or the unit owners as a group, if such contract, lease or agreement is bona fide and is commercially reasonable to the unit owners' association at the time entered into under the circumstances.

E. This section does not apply to any contract, incidental to the disposition of a condominium unit, to provide to a unit owner for the duration of such unit owner's life, or for any term in excess of one year, nursing services, medical services, other health-related services, board and lodging and care as necessary, or any combination of such services. The rule of property law known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium instruments requiring that the unit owners be parties to such contracts.

F. If the unit owners' association is not in existence or does not have officers at the time of the creation of the condominium, the declarant shall, until there is such an association with such officers, have the power and the responsibility to act in all instances where this chapter requires action by the unit owners' association, its executive organ, or any officer or officers.

G. Thirty days prior to the expiration of the period of declarant control, the declarant shall notify the governing body of the city, county or town in which the condominium is located of the forthcoming termination of declarant control. Prior to the expiration of the 30-day period, the local governing body or an agency designated by the local governing body shall advise the principal elected officer of the condominium unit owners' association of any outstanding violations of applicable building codes, local ordinances or other deficiencies of record.

H. Within 45 days from the expiration of the period of declarant control, the declarant shall deliver to the president of the unit owners' association or his designated agent (i) all unit owners' association books and records held by or controlled by the declarant including, without limitation, the following items: minute books and all rules, regulations and amendments thereto which may have been promulgated; (ii) a statement of receipts and expenditures from the date of the recording of the condominium instruments to the end of the regular accounting period immediately succeeding the first election of the board of directors by the unit owners not to exceed 60 days from the date of the election, such statement being prepared in an accurate and complete manner, utilizing the accrual method of accounting; (iii) a copy of the latest available approved plans and specifications for all improvements in the project or as-built plans if available; (iv) all association insurance policies ~~which~~ *that* are currently in force; (v) written unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers, if any; (vi) any contracts in which the association is a contracting party, if any; ~~and~~ (vii) a list of manufacturers of paints, roofing materials, and other similar materials if specified for use on the condominium property; *and (viii) an inventory and description of stormwater facilities located on the common elements or which otherwise serve*

*the condominium and for which the unit owners' association has, or subsequently may have, maintenance, repair, or replacement responsibility, together with the requirements for maintenance thereof.*

*The requirement for delivery of stormwater facility information required by clause (viii) shall be deemed satisfied by delivery to the association of a final site plan or final construction drawing showing stormwater facilities as approved by a local government jurisdiction and applicable recorded easements, or agreements if any, containing requirements for the maintenance, repair, or replacement of the stormwater facilities.*

In the event that the unit owners' association is managed by a management company in which the declarant, or its principals, have no pecuniary interest or management role, then such management company shall have the responsibility to provide the documents and information as required by clauses (i), (ii), (iv), and (vi) of this subsection.

I. This section shall be strictly construed to protect the rights of the unit owners.

**§ 55-509.2. Documents to be provided by declarant upon transfer of control.**

Unless previously provided to the board of directors of the association, once the majority of the members of the board of directors other than the declarant are owners of improved lots in the association and the declarant no longer holds a majority of the votes in the association, the declarant shall provide to the board of directors or its designated agent the following: (i) all association books and records held by or controlled by the declarant, including without limitation, minute books and rules and regulations and all amendments thereto which may have been promulgated; (ii) a statement of receipts and expenditures from the date of the recording of the association documents to the end of the regular accounting period immediately succeeding the first election of the board of directors by the home owners, not to exceed 60 days after the date of the election, such statement being prepared in an accurate and complete manner, utilizing the accrual method of accounting; (iii) the number of lots subject to the declaration; (iv) the number of lots that may be subject to the declaration upon completion of development; (v) a copy of the latest available approved plans and specifications for all improvements in the project or as-built plans if available; (vi) all association insurance policies ~~which~~ that are currently in force; (vii) written unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers, if any, relative to all common area improvements, *including stormwater facilities*; ~~and~~ (viii) any contracts in which the association is a contracting party; (ix) a list of manufacturers of paints, roofing materials and other similar materials if specified for use on the association property; (x) the number of members of the board of directors and number of such directors appointed by the declarant together with names and contact information of members of the board of directors; *and (xi) an inventory and description of stormwater facilities located on the common area or which otherwise serve the development and for which the association has, or subsequently may have, maintenance, repair, or replacement responsibility, together with the requirements for maintenance thereof.*

*The requirement for delivery of stormwater facility information required by clause (xi) shall be deemed satisfied by delivery to the association of a final site plan or final construction drawings showing stormwater facilities as approved by a local government jurisdiction and applicable recorded easements or agreements, if any, containing requirements for the maintenance, repair, or replacement of the stormwater facilities.*

If the association is managed by a common interest community manager in which the declarant, or its principals, has no pecuniary interest or management role, then such common interest community manager shall have the responsibility to provide the documents and information required by clauses (i), (ii), (vi), and (viii).

## CHAPTER 725

*An Act to require the Board of Corrections to review its standards related to allowable restraint practices for pregnant prisoners.*

[S 1772]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. § 1. *That the Board of Corrections shall review its standards related to allowable restraint practices for pregnant prisoners to ensure that (i) pregnant prisoners are treated humanely and restrained in a manner that accounts for their specific health needs and (ii) such restraint procedures provide adequate protection for the safety of correctional staff and others who may be in close proximity to such prisoners.*

## CHAPTER 726

*An Act to amend and reenact §§ 54.1-1100, 54.1-1106, 54.1-1108, and 54.1-1108.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 11 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-1147 and 54.1-1148, relating to the Board for Contractors; requirements for licensure; certification of automatic fire sprinkler inspectors.*

[S 1774]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 54.1-1100, 54.1-1106, 54.1-1108, and 54.1-1108.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 11 of Title 54.1 an article numbered 6, consisting of sections numbered 54.1-1147 and 54.1-1148, as follows:

**§ 54.1-1100. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board for Contractors.

"Class A contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is \$120,000 or more, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any 12-month period is \$750,000 or more.

"Class B contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is \$10,000 or more, but less than \$120,000, or (ii) the total value of all such construction, removal, repair or improvements undertaken by such person within any 12-month period is \$150,000 or more, but less than \$750,000.

"Class C contractors" perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over \$1,000 but less than \$10,000, or (ii) the total value of all such construction, removal, repair, or improvements undertaken by such person within any 12-month period is less than \$150,000. The Board shall require a master tradesmen license as a condition of licensure for electrical, plumbing and heating, ventilation and air conditioning contractors.

"Contractor" means any person, that for a fixed price, commission, fee, or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing, managing, or superintending in whole or in part, the construction, removal, repair or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by him or another person or any other improvements to such real property. For purposes of this chapter, "improvement" shall include (i) remediation, cleanup, or containment of premises to remove contaminants or (ii) site work necessary to make certain real property usable for human occupancy according to the guidelines established pursuant to § 32.1-11.7.

"Department" means the Department of Professional and Occupational Regulation.

"Designated employee" means the contractor's full-time employee, or a member of the contractor's responsible management, who is at least 18 years of age and who has successfully completed the oral or written examination required by the Board on behalf of the contractor.

"Director" means the Director of the Department of Professional and Occupational Regulation.

*"Fire sprinkler contractor" means a contractor that provides for the installation, repair, alteration, addition, testing, maintenance, inspection, improvement, or removal of sprinkler systems using water as a means of fire suppression when annexed to real property. "Fire sprinkler contracting" does not include the installation, repair, or maintenance of other types of fire suppression systems.*

"Owner-developer" means any person who, for a third party purchaser, orders or supervises the construction, removal, repair, or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by the owner-developer, or any other improvement to such property and who contracts with a person licensed in accordance with this chapter for the work undertaken.

"Person" means any individual, firm, corporation, association, partnership, joint venture, or other legal entity.

"Value" means fair market value. When improvements are performed or supervised by a contractor, the contract price shall be prima facie evidence of value.

**§ 54.1-1106. Application for Class A license; fees; examination; issuance.**

A. Any person desiring to be licensed as a Class A contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment, and business address of the proposed designated employee, and information on the knowledge, skills, abilities, and financial position of the applicant. The Board shall determine whether the past performance record of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purposes and intent of this chapter. The Board shall also determine whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations and all other laws affecting those engaged in the practice of contracting as set forth in this chapter.

B. As proof of financial responsibility, the applicant shall demonstrate compliance with the minimum net worth requirement fixed by the Board in regulation by providing either:

1. A financial statement on a form prescribed by the Board, subject to additional verification if the Board determines that sufficient questions or ambiguities exist in the applicant's presentation of financial information; or

2. A balance sheet reviewed by a certified public accountant licensed in accordance with § 54.1-4409.1.

C. In lieu of compliance with subsection B, an applicant may demonstrate financial responsibility by electing to obtain and maintain a bond in the amount of \$50,000. Proof of current bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General and shall be filed with the Department.

D. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of the general partners of the partnership. If the applicant is a member of an association, he shall furnish to the Board the names and addresses of all of the

members of the association. If the applicant is a corporation, it shall furnish to the Board the names and addresses of all officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership, member of any association, or officer of any corporation who is a member of the joint venture. The applicant shall thereafter keep the Board advised of any changes in the above information.

E. If the application is satisfactory to the Board, the proposed designated employee shall be required by Board regulations to take an oral or written examination to determine his general knowledge of contracting, including the statutory and regulatory requirements governing contractors in the Commonwealth. If the proposed designated employee successfully completes the examination and the applicant meets or exceeds the other entry criteria established by Board regulations, a Class A contractor license shall be issued to the applicant. The license shall permit the applicant to engage in contracting only so long as the designated employee is in the full-time employment of the contractor or is a member of the contractor's responsible management. No examination shall be required where the licensed Class A contractor changes his form of business entity provided he is in good standing with the Board. In the event the designated employee leaves the full-time employ of the licensed contractor or is no longer a member of the contractor's responsible management, no additional examination shall be required of such designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days of that departure provide to the Board the name of the new designated employee.

F. The Board may grant a Class A license in any of the following classifications: (i) residential building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical contractor, (v) plumbing contractor, (vi) heating, ventilation, and air conditioning contractor, ~~and~~ (vii) *fire sprinkler contractor*, and (viii) specialty contractor.

**§ 54.1-1108. Application for Class B license; fees; examination; issuance.**

A. Any person desiring to be licensed as a Class B contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment, and business address of the proposed designated employee; information on the knowledge, skills, abilities, and financial position of the applicant; and evidence of holding a current local license pursuant to local ordinances adopted pursuant to § 54.1-1117. The Board shall determine whether the past performance record of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purpose and intent of this chapter. The Board shall also determine whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations and all other laws affecting those engaged in the practice of contracting as set forth in this chapter.

B. As proof of financial responsibility, the applicant shall demonstrate compliance with the minimum net worth requirement fixed by the Board in regulation by providing either:

1. A financial statement on a form prescribed by the Board, subject to additional verification if the Board determines that sufficient questions or ambiguities exist in the applicant's presentation of financial information; or

2. A balance sheet reviewed by a certified public accountant licensed in accordance with § 54.1-4409.1.

C. In lieu of compliance with subsection B, an applicant may demonstrate financial responsibility by electing to obtain and maintain a bond in the amount of \$50,000. Proof of current bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General and shall be filed with the Department.

D. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of the general partners of that partnership. If the applicant is a member of an association, he shall furnish to the Board the names and addresses of all of the members of the association. If the applicant is a corporation, it shall furnish to the Board the name and address of all officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership, member of any association, or officer of any corporation who is a member of the joint venture. The applicant shall thereafter keep the Board advised of any changes in the above information.

E. If the application is satisfactory to the Board, the proposed designated employee shall be required by Board regulations to take an oral or written examination to determine his general knowledge of contracting, including the statutory and regulatory requirements governing contractors in the Commonwealth. If the proposed designated employee successfully completes the examination and the applicant meets or exceeds the other entry criteria established by Board regulations, a Class B contractor license shall be issued to the applicant. The license shall permit the applicant to engage in contracting only so long as the designated employee is in the full-time employment of the contractor and only in the counties, cities, and towns where such person has complied with all local licensing requirements and for the type of work to be performed. No examination shall be required where the licensed Class B contractor changes his form of business entity provided he is in good standing with the Board. In the event the designated employee leaves the full-time employ of the licensed contractor, no additional examination shall be required of such designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days of that departure provide to the Board the name of the new designated employee.

F. The Board may grant a Class B license in any of the following classifications: (i) residential building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical contractor, (v) plumbing contractor, (vi) HVAC contractor, ~~and~~ (vii) *fire sprinkler contractor*, and (viii) specialty contractor.

**§ 54.1-1108.2. Application for Class C license; fees; issuance.**

A. Any person desiring to be licensed as a Class C contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain information concerning the name, location, nature, and operation of the business, and information demonstrating that the applicant possesses the character and minimum skills to properly engage in the occupation of contracting.

B. The Board may grant a Class C license in any of the following classifications: (i) residential building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical contractor, (v) plumbing contractor, (vi) heating, ventilation, and air conditioning contractor, ~~and~~ (vii) fire sprinkler contractor, and (viii) specialty contractor.

Article 6.

*Certification of Automatic Fire Sprinkler Inspectors.*

**§ 54.1-1147. Certified automatic fire sprinkler inspector.**

A. No person may perform or offer to perform inspections of automatic fire sprinkler systems in the Commonwealth unless he is certified under the provisions of this section.

B. The Board shall certify as an automatic fire sprinkler inspector any person who receives (i) a Level II or higher Inspection and Testing of Water-Based Systems certificate issued through the National Institute for Certification in Engineering Technologies or (ii) a substantially similar certification from a nationally recognized training program approved by the Board. The Board may suspend or revoke certification as an automatic fire sprinkler inspector for any person that does not maintain a certification required under this subsection.

C. Notwithstanding the provisions of subsection A, a person lacking certification under this section but participating in a training or apprenticeship program may perform automatic fire sprinkler inspections so long as (i) such person is accompanied by a certified automatic fire sprinkler inspector and (ii) any required inspection forms are signed by the certified automatic fire sprinkler inspector.

**§ 54.1-1148. Continuing education.**

The Board shall establish in the regulations requirements for continuing education as a prerequisite to renewal of a certificate issued under this article. The Board shall require evidence of knowledge of changes to the Virginia Statewide Fire Prevention Code as a prerequisite to renewal of any certificate issued under this article. In addition, the Board may require continuing education for any individual who is found to be in violation of law or regulations governing automatic fire sprinkler inspectors certified under this article.

2. That the provisions of subsections A and C of § 54.1-1147 of the Code of Virginia, as created by this act, shall become effective on July 1, 2021.

3. That the Board for Contractors (the Board) shall promulgate regulations to implement (i) the provisions of this act that shall become effective in due course, with such regulations to become effective no later than December 1, 2019, and (ii) the provisions of this act that shall become effective on July 1, 2021, with such regulations to become effective no later than July 1, 2021. The Board's initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption.

CHAPTER 727

*An Act to amend and reenact § 3.1, as amended, of Chapter 352 of the Acts of Assembly of 1975, which provided a charter for the Town of Keysville in Charlotte County, relating to elections.*

[H 2807]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.1, as amended, of Chapter 352 of the Acts of Assembly of 1975 is amended and reenacted as follows:**

§ 3.1. (a) The town shall be governed by a town council composed of six ~~councilmen~~ councilmembers and a mayor. ~~Beginning with the 1998 elections, the councilmen and mayor shall serve for terms of four years, or until their successors are duly elected and qualified. Beginning in 2020, three councilmembers and the mayor shall be elected by the qualified voters of the town on the Tuesday following the first Monday in November. In 2022, the mayor and the three remaining councilmembers shall be elected by the qualified voters of the town on the Tuesday following the first Monday in November. The councilmembers shall serve a term of four years, or until their successors are duly elected and qualified. The mayor shall serve a term of two years, or until his or her successor is duly elected and qualified. The term of the mayor elected in 2016 and the terms of the three councilmembers elected in 2016 shall expire December 31, 2020. The terms of the three remaining councilmembers shall expire December 31, 2022. Elections thereafter shall be held on the Tuesday following the first Monday in November in even-numbered years.~~

(b) ~~The councilmen~~ councilmembers and mayor shall be elected and qualify for office as provided by general law. The ~~councilmen~~ councilmembers and mayor in office at the time of the passage of this act or any subsequent change in general law shall continue until the expiration of ~~the their terms for which they were elected~~ or until their successors are duly elected and qualified, whichever may be later. A change in general law may, if need be, abbreviate the term of councilmen and the mayor initially elected following such change.

(c) The mayor shall preside over meetings of the town council and shall be the chief official of the town for ceremonial purposes. He shall have the same powers and duties as other members of the council with a vote only in the event of a tie. The mayor may receive a salary as such, the amount also to be fixed by the council, but in no event to exceed one thousand five hundred dollars per year.

### CHAPTER 728

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.4 and by adding sections numbered 16.1-69.48:6 and 17.1-275.13, relating to Virginia Prevention of Sex Trafficking Fund; fees for offenses related to sex trafficking.*

[H 2651]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.4 and by adding sections numbered 16.1-69.48:6 and 17.1-275.13 as follows:**

**§ 9.1-116.4. Virginia Prevention of Sex Trafficking Fund; purpose; guidelines.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Prevention of Sex Trafficking Fund (the Fund). The Fund shall be established on the books of the Comptroller. All moneys accruing to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the purpose of promoting prevention and awareness of sex trafficking. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

B. The Fund shall be administered by the Department, and the Department shall adopt guidelines to make funds available to agencies of the state and local governments for the purpose of promoting awareness of and preventative training and education related to sex trafficking.

**§ 16.1-69.48:6. Fees for offenses related to sex trafficking.**

The court shall order any person convicted of a misdemeanor violation of subsection B of § 18.2-346 or of § 18.2-348 or 18.2-349 to pay a \$100 fee, which shall be deposited into the Virginia Prevention of Sex Trafficking Fund to be used in accordance with § 9.1-116.4.

**§ 17.1-275.13. Additional fee for offenses related to sex trafficking.**

In addition to the fees provided for by §§ 17.1-275.1, 17.1-275.2, 17.1-275.7, 17.1-275.10, and 17.1-275.12, any person convicted of a misdemeanor violation of subsection B of § 18.2-346 or of § 18.2-348 or 18.2-349 shall be ordered to pay a \$100 fee, and any person convicted of a violation of clause (ii), (iii), or (iv) of § 18.2-48, or of § 18.2-368, or any felony violation of the laws pertaining to commercial sex trafficking or prostitution offenses pursuant to Article 3 (§ 18.2-344 et seq.) of Chapter 8, with the exception of § 18.2-361, shall be ordered to pay a \$500 fee. All fees collected pursuant to this section shall be deposited into the Virginia Prevention of Sex Trafficking Fund to be used in accordance with § 9.1-116.4.

### .CHAPTER 729

*An Act to amend and reenact §§ 2.2-3703, 2.2-3705.7, and 2.2-3711 of the Code of Virginia, relating to the Virginia Freedom of Information Act; applicability; sexual assault response teams and multidisciplinary child sexual abuse response teams.*

[S 1184]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3703, 2.2-3705.7, and 2.2-3711 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board providing the number of inmates considered by the Board for discretionary parole, the number of inmates granted or denied parole, and the number of parolees returned to the custody of the Department of Corrections solely as a result of a determination by the Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704; (ii) all guidance documents, as defined in § 2.2-4101, shall be public records and subject to the provisions of this chapter; and (iii) all records concerning the finances of the Virginia Parole Board shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information. The

information required by clause (ii) shall include all documents establishing the policy of the Board or any change in or clarification of such policy with respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process for consideration thereof, and shall be clearly and conspicuously posted on the Board's website. However, such information shall not include any portion of any document reflecting the application of any policy or policy change or clarification of such policy to an individual inmate;

2. Petit juries and grand juries;

3. Family assessment and planning teams established pursuant to § 2.2-5207;

4. *Sexual assault response teams established pursuant to § 15.2-1627.4, except that records relating to (i) protocols and policies of the sexual assault response team and (ii) guidelines for the community's response established by the sexual assault response team shall be public records and subject to the provisions of this chapter;*

5. *Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;*

6. The Virginia State Crime Commission; and

7. The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such records shall be requested in accordance with the provisions of §§ 16.1-69.54:1 and 17.1-208, as appropriate. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

#### **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's

financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which ~~(i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5.~~ ~~any such~~ ~~the~~ team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

~~49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.~~

~~50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.~~

~~51- 50. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.~~

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

## CHAPTER 730

*An Act to amend and reenact § 17.1-606 of the Code of Virginia, relating to civil actions; determination of indigency.*

[S 1542]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-606 of the Code of Virginia is amended and reenacted as follows:**

**§ 17.1-606. Persons allowed services without fees or costs.**

Any person who is (i) a plaintiff in a civil action in a court of the Commonwealth and a resident of the Commonwealth or (ii) a defendant in a civil action in a court of the Commonwealth, and who is on account of his poverty unable to pay fees or costs, may be allowed by a court to sue or defend a suit therein, without paying fees or costs; whereupon he shall have, from any counsel whom the court may assign him, and from all officers, all needful services and process, without any fees, except what may be included in the costs recovered from the opposite party. In determining a person's inability to pay fees or costs on account of his poverty, the court shall consider the factors set forth in subsection B of § 19.2-159, *provided that, in the case of a no-fault divorce proceeding under subdivision A (9) of § 20-91, a person who is a current recipient of a state or federally funded public assistance program for the indigent shall not be subject to fees and costs. In such no-fault divorce proceeding, such person shall certify to the receipt of such benefits under oath.*

## CHAPTER 731

*An Act to amend and reenact § 30-133 of the Code of Virginia, relating to Auditor of Public Accounts; Commonwealth Data Point; employee compensation information.*

[S 1556]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-133 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-133. Duties and powers generally.**

A. The Auditor of Public Accounts shall audit all the accounts of every state department, officer, board, commission, institution, or other agency handling any state funds as determined necessary by the Auditor of Public Accounts. In the performance of such duties and the exercise of such powers he may employ the services of certified public accountants, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office.

B. The Auditor of Public Accounts shall review the information required in § 2.2-1501 to determine that state agencies are providing and reporting appropriate information on financial and performance measures, and the Auditor shall review the accuracy of the management systems used to accumulate and report the results. The Auditor shall report to the General Assembly the results of such audits and make recommendations, if indicated, for new or revised accountability or performance measures to be implemented for the agencies audited.

C. The Auditor of Public Accounts shall prepare, by November 1, a summary of the results of all of the audits and other oversight responsibilities performed for the most recently ended fiscal year. The Auditor of Public Accounts shall present this summary to the Senate Finance, House Appropriations, and House Finance Committees on the day the Governor presents to the General Assembly the Executive Budget in accordance with §§ 2.2-1508 and 2.2-1509 or at the direction of the respective Chairman of the Senate Finance, House Appropriations, or House Finance Committees at one of their committee meetings prior to the meeting above.

D. As part of his normal oversight responsibilities, the Auditor of Public Accounts shall incorporate into his audit procedures and processes a review process to ensure that the Commonwealth's payments to counties, cities, and towns under Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1 are consistent with the provisions of § 58.1-3524. The Auditor of Public Accounts shall report to the Governor and the Chairman of the Senate Finance Committee annually any material failure by a locality or the Commonwealth to comply with the provisions of Chapter 35.1 of Title 58.1.

E. The Auditor of Public Accounts when called upon by the Governor shall examine the accounts of any institution maintained in whole or in part by the Commonwealth and, upon the direction of the Comptroller, shall examine the accounts of any officer required to settle his accounts with him; and upon the direction of any other state officer at the seat of government he shall examine the accounts of any person required to settle his accounts with such officer.

F. Upon the written request of any member of the General Assembly, the Auditor of Public Accounts shall furnish the requested information and provide technical assistance upon any matter requested by such member.

G. In compliance with the provisions of the federal Single Audit Act Amendments of 1996, Public Law 104-156, the Joint Legislative Audit and Review Commission may authorize the Auditor of Public Accounts to audit biennially the accounts pertaining to federal funds received by state departments, officers, boards, commissions, institutions, or other agencies.

H. 1. The Auditor of Public Accounts shall compile and maintain on its Internet website a searchable database providing certain state expenditure, revenue, and demographic information as described in this subsection. In maintaining the database, the Auditor of Public Accounts shall work with and coordinate his efforts with the Joint Legislative Audit and Review Commission in obtaining, summarizing, and compiling the information to avoid duplication of efforts. The database shall be updated each year by October 15 to provide the information required in this subsection for the 10 most recently ended fiscal years of the Commonwealth.

The online database shall be made available to citizens of the Commonwealth to allow public access to historical revenue collections and appropriations with related demographic information, to the extent that the information is available and provided to the Auditor of Public Accounts. All state departments, courts officers, boards, commissions, institutions, or other agencies of the Commonwealth shall furnish all information requested by the Auditor of Public Accounts and shall cooperate with him to the fullest extent.

For purposes of reporting information and implementing the database pursuant to this subsection, the Auditor of Public Accounts shall include all appropriated funds and other sources under the control of public institutions of higher education, except for the activity of private gifts, including endowment funds and unrestricted gifts referenced in § 23.1-101. The exclusion of this activity does not affect the public access to these records unless otherwise specifically exempted by law.

2. The database shall contain the following for each of the 10 most recently ended fiscal years of the Commonwealth:

a. Major categories of spending by each secretariat and each agency and institution, including each independent agency, and including within each major category a register of all funds expended, showing vendor name, date of payment, amount, and a description of the type of expense, including credit card purchases with the same information to the extent that the information exists. The database shall include the name, phone number, and email address for a contact at the agency or institution who may be contacted for additional information;

b. (Effective until July 1, 2019) The number of full-time state employees and a listing of the positions and salary of each such position, organized by agency;

b. (Effective July 1, 2019) The number of full-time state employees ~~and a listing of the positions for whom the annual rate of pay is more than \$10,000, an identifier associated with each such employee, and the actual salary, bonuses, and total compensation of each such position; and the identifier associated with each position for which the annual rate of pay is more than \$10,000 paid during the fiscal year to the employee associated with each identifier,~~ organized by agency;

c. Total fiscal year revenues from state taxes, fees, and other charges, and total fiscal year revenues from state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income in the Commonwealth;

d. With regard to state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income, a comparison of such statistics for Virginia with the same statistics for other states;

e. Total fiscal year revenues from federal sources, including the major categories of spending for such revenues;

f. Total population and total population by various age groups including; ~~but not limited to,~~ school-age population and the population of persons 65 years of age and older;

g. Student enrollment in grades K through 12;

- h. Enrollment in public institutions of higher education of the Commonwealth;
  - i. Enrollment in private institutions of higher education in the Commonwealth;
  - j. The annual prison population;
  - k. Virginia adjusted gross income and Virginia taxable income by various age groups;
  - l. The number of citizens in the Commonwealth receiving food stamps;
  - m. The number of driver's licenses issued;
  - n. The number of registered motor vehicles;
  - o. The number of full-time private sector employees;
  - p. The number of households;
  - q. The number of prepaid tuition contracts outstanding pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 and the estimated total liability under such contracts;
  - r. Any state audit or report relating to the programs or activities of an agency;
  - s. Information on capital outlay payments including, ~~but not limited to,~~ project title, funding date, completion date, appropriations, year-to-date expenditures, and unexpended appropriations;
  - t. Annual bonded indebtedness that shall include, ~~but not be limited to,~~ the amount of the total original obligation stated in terms of principal and interest, the term of the obligation, the amounts of principal and interest previously paid to reduce the obligation, the balance remaining of the obligation, and any refinancing of the obligation; and
  - u. Other data as the Auditor deems appropriate relating to the Commonwealth of Virginia.
3. The Auditor of Public Accounts shall incorporate into the database the following additional elements as they become available through improved enterprise applications or other systems:
- a. Commodities including, ~~but not limited to,~~ line item expenditures;
  - b. Virginia Performs data as it directly relates to funding actions or expenditures;
  - c. Descriptive purpose for funding action or expenditure;
  - d. Statute or act of General Assembly authorizing the issuance of bonds; and
  - e. Copies of actual grants and contracts.
4. The Auditor of Public Accounts shall incorporate in the database the following enhancements:
- a. Graphs, charts, or other visual displays of aggregated data showing (i) current state spending by expense category, (ii) year-to-year state spending, and (iii) other data deemed appropriate by the Auditor, including display of available line item expenditures; and
  - b. Frequently asked questions and their responses.
5. By October 15 of each year, the Auditor shall also produce a paper copy or a computer file containing the information described in this subsection and shall distribute the copy or file to newspapers of general circulation in the Commonwealth. The distribution shall include the address of the Internet website for the searchable database.
- I. As a part of audits conducted pursuant to subsection A, the Auditor of Public Accounts shall review compliance with requirements established pursuant to the provisions of § 2.2-519 and the requirements of the Virginia Debt Collection Act (§ 2.2-4800 et seq.).

## CHAPTER 732

*An Act to amend the Code of Virginia by adding a section numbered 8.01-379.2:1, relating to spoliation of evidence.*

[S 1619]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That the Code of Virginia is amended by adding a section numbered 8.01-379.2:1 as follows:**

##### **§ 8.01-379.2:1. Spoliation of evidence.**

*A. A party or potential litigant has a duty to preserve evidence that may be relevant to reasonably foreseeable litigation. In determining whether and at what point such a duty to preserve arose, the court shall include in its consideration the totality of the circumstances, including the extent to which the party or potential litigant was on notice that specific and identifiable litigation was likely and that the evidence would be relevant.*

*B. If evidence that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, or is otherwise disposed of, altered, concealed, destroyed, or not preserved, and it cannot be restored or replaced through additional discovery, the court (i) upon finding prejudice to another party from such loss, disposal, alteration, concealment, or destruction of the evidence, may order measures no greater than necessary to cure the prejudice, or (ii) only upon finding that the party acted recklessly or with the intent to deprive another party of the evidence's use in the litigation, may (a) presume that the evidence was unfavorable to the party, (b) instruct the jury that it may or shall presume that the evidence was unfavorable to the party, or (c) dismiss the action or enter a default judgment.*

*C. Nothing in this section shall be interpreted as creating an independent cause of action for negligent or intentional spoliation of evidence.*

## CHAPTER 733

*An Act to amend and reenact § 8.01-413.1 of the Code of Virginia, relating to employment records; written request from employee; subpoena duces tecum; penalty for failure to provide.*

[S 1724]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-413.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-413.1. Certain copies of employment records or papers admissible; right of employee or his attorney to copies of such records or papers; subpoena; damages, costs and attorney's fees.**

A. In any case where the original wage or salary records or papers of any employee are admissible or would be admissible as evidence, any typewritten copy, photograph, photostatic copy, or microphotograph thereof shall be admissible as evidence in any court of this Commonwealth in like manner as the original, provided the typewritten copy, photograph, photostatic copy or microphotograph is properly authenticated by the individual who would have authority to release or produce in court the original records. Any employer whose records or papers relating to any such employee are subpoenaed for production may comply with the subpoena by a timely mailing to the clerk issuing the subpoena properly authenticated copies, photographs or microphotographs in lieu of the originals. The court whose clerk issued the subpoena may, after notice to such employer, enter an order requiring production of the originals, if available, of any records or papers whose copies, photographs or microphotographs are not sufficiently legible. The party requesting the subpoena shall be liable for the reasonable charges of the employer for copying and mailing the items produced.

B. Every employer shall, upon receipt of a written request from a current or former employee or employee's attorney, furnish a copy of all records or papers retained by the employer in any format, reflecting (i) the employee's dates of employment with the employer; (ii) the employee's wages or salary during the employment; (iii) the employee's job description and job title during the employment; and (iv) any injuries sustained by the employee during the course of the employment with the employer. Such records or papers shall be provided within 30 days of receipt of such a written request.

If the employer is unable to provide such records or papers within 30 days, the employer shall notify the requester of such records or papers in writing of the reason for the delay and shall have no more than 30 days after the date of such written notice to comply with such request. If the records or papers are kept in paper or hard copy format, the employer may charge a reasonable fee per page for copying. If the records or papers are kept in electronic format, the employer may charge a reasonable fee for the electronic records.

C. Upon failure of any employer to comply with a written request made in accordance with subsection B, the employee or his attorney may cause a subpoena duces tecum to be issued. The subpoena may be issued (i) upon filing a request therefor with the clerk of the circuit court wherein any eventual suit would be required to be filed and upon payment of the fees required by subdivision A 18 of § 17.1-275 and fees for service or (ii) by the employee's attorney in a pending civil case in accordance with § 8.01-407 without payment of the fees established in subdivision A 23 of § 17.1-275.

D. If the court finds that an employer willfully refused to comply with a written request made in accordance with subsection B, either (i) by failing to respond to a second or subsequent written request, properly submitted by the employee in writing, without good cause or (ii) by imposing a charge in excess of the reasonable expense of making the copies and processing the request for records or papers, the court may award damages for all expenses incurred by the employee to obtain such copies, including a refund of fees if payment has been made for such copies, court costs, and reasonable attorney fees.

E. The provisions of this section shall not require copies of an employee's records or papers to be furnished to such employee when the employee's treating physician or clinical psychologist, in the exercise of his professional judgment, has made a part of the employee's records or papers a written statement that in his opinion the furnishing to or review by the employee of such records or papers would be reasonably likely to endanger the life or physical safety of the employee or another person, or that such records or papers make reference to a person, other than a health care provider, and the access requested would be reasonably likely to cause substantial harm to such referenced person. In any such case, if requested by the employee or his attorney or authorized insurer, such records or papers shall be furnished within 30 days of the date of such request to the employee's attorney or authorized insurer, rather than to the employee.

## CHAPTER 734

*An Act to amend and reenact §§ 13.1-603, 13.1-604, 13.1-604.1, 13.1-606 through 13.1-612, 13.1-614 through 13.1-616, 13.1-619, 13.1-623, 13.1-624, 13.1-625, 13.1-627, 13.1-629 through 13.1-632, 13.1-634, 13.1-635, 13.1-636, 13.1-638 through 13.1-649, 13.1-651 through 13.1-670, 13.1-671.1, 13.1-672.1 through 13.1-680, 13.1-682, 13.1-685, 13.1-687 through 13.1-690.1, 13.1-692 through 13.1-699, 13.1-700.1 through 13.1-711, 13.1-713 through 13.1-721.1, 13.1-722.2, 13.1-722.3, 13.1-722.5, 13.1-722.6, 13.1-722.8 through 13.1-722.13, 13.1-723, 13.1-724, 13.1-725, 13.1-727, 13.1-728.1, 13.1-728.4 through 13.1-728.7, 13.1-728.9 through 13.1-734, 13.1-735.1, 13.1-737 through 13.1-746.1, 13.1-746.3, 13.1-747, 13.1-748, 13.1-749.1, 13.1-750, 13.1-751, 13.1-755, 13.1-757 through 13.1-761,*

and 13.1-763 through 13.1-775 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 9 of Title 13.1 an article numbered 1.1, consisting of sections numbered 13.1-614.1 through 13.1-614.8, by adding in Article 8.1 of Chapter 9 of Title 13.1 a section numbered 13.1-672.7, by adding sections numbered 13.1-681.1 and 13.1-712.1, by adding in Article 12.1 of Chapter 9 of Title 13.1 sections numbered 13.1-722.1:1 and 13.1-722.7:1, and by adding sections numbered 13.1-722.12:1 and 13.1-768.1; and to repeal §§ 13.1-722.4, 13.1-722.7, and 13.1-722.14 of the Code of Virginia, relating to the Virginia Stock Corporation Act.

[H 2478]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 13.1-603, 13.1-604, 13.1-604.1, 13.1-606 through 13.1-612, 13.1-614 through 13.1-616, 13.1-619, 13.1-623, 13.1-624, 13.1-625, 13.1-627, 13.1-629 through 13.1-632, 13.1-634, 13.1-635, 13.1-636, 13.1-638 through 13.1-649, 13.1-651 through 13.1-670, 13.1-671.1, 13.1-672.1 through 13.1-680, 13.1-682, 13.1-685, 13.1-687 through 13.1-690.1, 13.1-692 through 13.1-699, 13.1-700.1 through 13.1-711, 13.1-713 through 13.1-721.1, 13.1-722.2, 13.1-722.3, 13.1-722.5, 13.1-722.6, 13.1-722.8 through 13.1-722.13, 13.1-723, 13.1-724, 13.1-725, 13.1-727, 13.1-728.1, 13.1-728.4 through 13.1-728.7, 13.1-728.9 through 13.1-734, 13.1-735.1, 13.1-737 through 13.1-746.1, 13.1-746.3, 13.1-747, 13.1-748, 13.1-749.1, 13.1-750, 13.1-751, 13.1-755, 13.1-757 through 13.1-761, and 13.1-763 through 13.1-775 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9 of Title 13.1 an article numbered 1.1, consisting of sections numbered 13.1-614.1 through 13.1-614.8, by adding in Article 8.1 of Chapter 9 of Title 13.1 a section numbered 13.1-672.7, by adding sections numbered 13.1-681.1 and 13.1-712.1, by adding in Article 12.1 of Chapter 9 of Title 13.1 sections numbered 13.1-722.1:1 and 13.1-722.7:1, and by adding sections numbered 13.1-722.12:1 and 13.1-768.1 as follows:

**§ 13.1-603. Definitions.**

*As used in this chapter:*

"Articles of incorporation" means all documents constituting, at any particular time, the charter of a corporation. It includes the original charter issued by the General Assembly, a court or the Commission and all amendments including certificates of consolidation, serial designation, reduction, correction, and merger. It excludes articles of share exchange filed by an acquiring corporation. When the articles of incorporation have been restated pursuant to any articles of restatement, amendment, domestication, or merger, it includes only the restated articles of incorporation, including any articles of serial designation, without the accompanying articles of restatement, amendment, domestication, or merger. *When used with respect to a foreign corporation, the "articles of incorporation" of such entity means the document that is equivalent to the articles of incorporation of a domestic corporation.*

"Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

"Beneficial shareholder" means a person that owns the beneficial interest in shares, which may be a record shareholder or a person on whose behalf shares are registered in the name of an intermediary as nominee.

"Certificate," when relating to articles filed with the Commission, means the order of the Commission that makes the articles effective, together with the articles.

"Commission" means the State Corporation Commission of Virginia.

"Conspicuous" means so written, displayed, or presented that a reasonable person against whom the writing is to operate should have noticed it. For example, text that is italicized, is in boldface, contrasting colors, or capitals, or is underlined, is conspicuous.

"Corporation" or "domestic corporation" means a corporation authorized by law to issue shares, irrespective of the nature of the business to be transacted, organized under this chapter or existing pursuant to the laws of the Commonwealth on January 1, 1986, or which, by virtue of articles of incorporation, amendment, or merger, has become a domestic corporation of the Commonwealth, even though also being a corporation organized under laws other than the laws of the Commonwealth, or that has become a domestic corporation of the Commonwealth pursuant to Article 12.1 (§ ~~13.1-722.2~~ 13.1-722.1:1 et seq.) or Article 12.2 (§ 13.1-722.8 et seq.) of this chapter or Article 15 (§ 13.1-1081 et seq.) of Chapter 12.

"Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized in accordance with § 13.1-610, electronic transmission.

"Derivative proceeding" means a civil suit in the right of a domestic corporation or, to the extent provided in Article 8.1 (§ 13.1-672.1 et seq.) of Chapter 9 of this title, a foreign corporation.

"Disinterested director" means, except with respect to Article 14 (§ 13.1-725 et seq.) of this chapter, a director who, at the time action is to be taken under *subdivision B 5 of § 13.1-619*, § 13.1-672.4, 13.1-691, 13.1-699, or 13.1-701, does not have (i) a financial interest in a matter that is the subject of such action or (ii) a familial, financial, professional, employment, or other relationship with a person who has a financial interest in the matter, either of which would reasonably be expected to ~~adversely~~ *impair* the objectivity of the ~~director~~ *director's judgment* when participating in the action, and if the action is to be taken under § 13.1-699 or 13.1-701, is also not a party to the proceeding. The presence of one or more of the following circumstances shall not by itself prevent a person from being a disinterested director: (i) nomination or election of the director to the ~~current~~ board by any ~~person~~ *director who is not a disinterested director with respect to the matter or by any person that has a material relationship with that director*, acting alone or participating with others, ~~who is so interested in the matter~~; (ii) service as a director of another corporation of which ~~an interested person~~ *a director who is*

~~also~~ not a disinterested director with respect to the matter, or any person that has a material relationship with that director, is or was also a director; or (iii) at the time action is to be taken under § 13.1-672.4, status as a named defendant, as a director against whom action is demanded, or as a director who approved the act being challenged.

"Distribution" means a direct or indirect transfer of ~~money~~ cash or other property, except ~~its~~ the corporation's own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a ~~declaration~~ or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness of the corporation; *a distribution in liquidation*; or otherwise. Distribution does not include *an* acquisition by a corporation of its shares from the estate or personal representative of a deceased shareholder, or any other shareholder, but only to the extent the acquisition is effected using the proceeds of insurance on the life of such deceased shareholder and the board of directors approved the policy and the terms of the redemption prior to the shareholder's death.

"Document" means (i) any tangible medium on which information is inscribed, and includes ~~any writing or written instrument~~ handwritten, typed, printed, or similar instruments and copies of such instruments, or (ii) an electronic record.

"Domestic" with respect to an entity, means an entity governed as to its internal affairs by the organic law of the Commonwealth.

"Domestic business trust" has the same meaning as specified in § 13.1-1201.

"Domestic limited liability company" has the same meaning as specified in § 13.1-1002.

"Domestic limited partnership" has the same meaning as specified in § 50-73.1.

"Domestic nonstock corporation" has the same meaning as "domestic corporation" as specified in § 13.1-803.

"Domestic partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under § 50-73.88, or predecessor law of the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a registered limited liability partnership.

"Effective date," when referring to a document for which effectiveness is contingent upon issuance of a certificate by the Commission, means the time and date determined in accordance with § 13.1-606.

"Effective date of notice" is defined in *subdivision 9* of § 13.1-610.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic record" means information that is stored in an electronic or other *nontangible* medium and is retrievable in paper form through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with ~~subsection 7~~ *subdivision 10* of § 13.1-610.

"Electronic transmission" or "electronically transmitted" means any form or process of communication, not directly involving the physical transfer of paper or ~~other~~ another tangible medium, that (i) is suitable for the retention, retrieval, and reproduction of information by the recipient, and (ii) is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with ~~subsection 7~~ *subdivision 10* of § 13.1-610.

"Eligible entity" means a domestic or foreign unincorporated entity or a domestic or foreign nonstock corporation.

"Eligible interests" means interests or memberships.

"Employee" includes, unless otherwise provided in the bylaws, an officer but not a director. A director may accept duties that make ~~him~~ the director also an employee.

"Entity" includes any domestic or foreign corporation; any domestic or foreign nonstock corporation; any domestic or foreign unincorporated entity; any estate or trust; and any state, the United States and any foreign government.

"Expenses" means reasonable expenses of any kind that are incurred in connection with a matter.

"Filing entity" means an unincorporated entity other than a general partnership.

"Foreign," with respect to an entity, means an entity governed as to its internal affairs by the organic law of a jurisdiction other than the Commonwealth.

"Foreign business trust" has the same meaning as specified in § 13.1-1201.

"Foreign corporation" means a corporation authorized by law to issue shares, organized under laws other than the laws of the Commonwealth.

"Foreign limited liability company" has the same meaning as specified in § 13.1-1002.

"Foreign limited partnership" has the same meaning as specified in § 50-73.1.

"Foreign nonstock corporation" ~~has the same meaning as "foreign corporation" as specified in § 13.1-803~~ means a corporation that is incorporated under a law other than the law of the Commonwealth and would, based on its public organic record, be a nonstock corporation if incorporated under the law of the Commonwealth.

"Foreign partnership" means an association of two or more persons to carry on as co-owners of a business for profit formed under the laws of any state or jurisdiction other than the Commonwealth, and includes, for all purposes of the laws of the Commonwealth, a foreign registered limited liability partnership.

"Foreign registered limited liability partnership" has the same meaning as specified in § 50-73.79.

"Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by ~~an~~ the organic law of a jurisdiction other than the Commonwealth.

"Government subdivision" includes authority, county, district, and municipality.

"Governor" means any person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law governing the entity and its organic rules.

"Includes" ~~denotes~~ and "including" denote a partial definition as a nonexclusive list.

"Individual" means a natural person.

"Interest" means either or both of the following rights under the organic law ~~of governing~~ an unincorporated entity:

1. The right to receive distributions from the entity either in the ordinary course or upon liquidation; or
2. The right to receive notice or to vote on issues involving its internal affairs, other than as an agent, assignee, proxy or person responsible for managing its business and affairs.

"Interest holder" means a person who holds of record an interest.

"Interest holder liability" means:

1. Personal liability for a debt, obligation, or other liability of a domestic or foreign corporation or domestic or foreign eligible entity that is imposed on a person:

- a. Solely by reason of the person's status as a shareholder, member, or interest holder; or
- b. By the articles of incorporation of the domestic corporation or the organic rules of the eligible entity or foreign corporation that make one or more specified shareholders, members, or interest holders, or categories of shareholders, members, or interest holders, liable in their capacity as shareholders, members, or interest holders for all or specified liabilities of the corporation or eligible entity; or

2. An obligation of a shareholder, member, or interest holder under the articles of incorporation of a domestic corporation or the organic rules of an eligible entity or foreign corporation to contribute to the entity.

For purposes of the foregoing, except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of an eligible entity or a foreign corporation, interest holder liability arises under subdivision 1 when the corporation or eligible entity incurs the liability.

"Jurisdiction of formation" means the state or country the law of which includes the organic law governing a domestic or foreign corporation or eligible entity.

"Means" denotes an exhaustive definition.

"Membership" means the rights of a member in a domestic or foreign nonstock corporation or limited liability company.

"Merger" means a transaction pursuant to § 13.1-716 or 13.1-766.1.

"Notice" is defined in § 13.1-610.

~~"Organic document" means the document, if any, that is filed of public record to create an unincorporated entity. Where an organic document has been amended or restated, the term means the organic document as last amended or restated.~~

"Organic law" means the statute governing the internal affairs of a domestic or foreign corporation or eligible entity.

"Organic rules" means the public organic record and private organic rules of a domestic or foreign corporation or eligible entity.

"Partnership" has the same meaning as specified in § 50-73.79.

"Person" includes an individual and an entity.

"Principal office" means the office, in or out of the Commonwealth, where the principal executive offices of a domestic or foreign corporation are located, or, if there are no such offices, the office, in or out of the Commonwealth, so designated by the board of directors. The designation of the principal office in the most recent annual report filed pursuant to § 13.1-775 shall be conclusive for purposes of this chapter.

"Private organic rules" means (i) the bylaws of a domestic or foreign corporation or nonstock corporation or (ii) the rules, regardless of whether in writing, that govern the internal affairs of an unincorporated entity, are binding on all its interest holders, and are not part of its public organic record. Where private organic rules have been amended or restated, the term means the private organic rules as last amended or restated.

~~"Proceeding" includes civil suit and criminal, administrative, and investigatory action conducted by a governmental agency.~~

"Public corporation" means a corporation that has shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association.

~~"Public organic record" means (i) the articles of incorporation of a domestic or foreign corporation or nonstock corporation or (ii) the document, the filing of which is required to create an unincorporated entity. Where a public organic record has been amended or restated, the term means the public organic record as last amended or restated.~~

~~"Record date" means the date established under Article 7 (§ 13.1-638 et seq.) or Article 8 (§ 13.1-654 et seq.) of this chapter on which a corporation determines fixed for determining the identity of its the corporation's shareholders and their shareholdings for purposes of this chapter. The determination determinations shall be made as of the close of business at the principal office of the corporation on the record date unless another time for doing so is specified when the record date is fixed.~~

~~"Record shareholder" means (i) the person in whose name shares are registered in the records of the corporation or (ii) the person identified as the beneficial owner of shares in a beneficial ownership certificate pursuant to § 13.1-664 on file with the corporation to the extent of the rights granted by such certificate.~~

~~"Registered limited liability partnership" has the same meaning as specified in § 50-73.79.~~

"Secretary" means the corporate officer or other individual to whom the board of directors has delegated responsibility under subsection C of § 13.1-693 for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

"Share exchange" means a transaction pursuant to § 13.1-717.

"Shareholder" means the person in whose name shares are registered in the records of the corporation, the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation, or the beneficial owner of shares held in a voting trust a record shareholder.

"Shares" means the units into which the proprietary interests in a corporation are divided.

"Sign" or "signature" means, with present intent to authenticate or adopt a document: (i) to execute or adopt a tangible symbol to a document, and includes any manual, facsimile, or conformed signature; or (ii) to attach to or logically associate with an electronic transmission an electronic sound, symbol, or process, and includes an electronic signature in an electronic transmission.

"State" when referring to a part of the United States, includes a state, commonwealth, and the District of Columbia, and their agencies and governmental subdivisions; and a territory or insular possession, and their agencies and governmental subdivisions, of the United States.

"Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

"Subsidiary" means, as to any corporation, any other corporation of which it owns, directly or indirectly, voting shares entitled to cast a majority of the votes entitled to be cast generally in an election of directors of such other corporation.

"Unincorporated entity" or "domestic unincorporated entity" means a domestic partnership, limited liability company, limited partnership or business trust.

"United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

"Unrestricted voting trust beneficial owner" means, with respect to any shareholder rights, a voting trust beneficial owner whose entitlement to exercise the shareholder right in question is not inconsistent with the voting trust agreement.

"Voting group" means all shares of one or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

"Voting power" means the current power to vote in the election of directors.

"Voting trust beneficial owner" means an owner of a beneficial interest in shares of the corporation held in a voting trust established pursuant to subsection A of § 13.1-670.

"Writing" or "written" means any information in the form of a document.

### § 13.1-604. Filing requirements.

A. A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to be filed with the Commission.

B. ~~The~~ To be entitled to be filed with the Commission, this chapter shall require or permit the document ~~shall be one that this chapter requires or permits~~ to be filed with the Commission.

C. The document shall contain the information required by this chapter. ~~It~~ and may contain other information as well.

D. The document shall be typewritten or printed or, if electronically transmitted, shall be in a format that can be retrieved or reproduced in typewritten or printed form. The typewritten or printed portion shall be in black. Photocopies, or other reproduced copies, of typewritten or printed documents may be filed. In every case, information in the document shall be legible and the document shall be capable of being reformatted and reproduced in copies of archival quality.

E. The document shall be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals. The articles of incorporation, duly authenticated by the official having custody of corporate records in the state or country under whose law the jurisdiction of formation of the foreign corporation is incorporated, ~~which that~~ are required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

F. The document shall be signed in the name of the domestic or foreign corporation:

1. By the chairman or any vice-chairman of the board of directors, the president, or any other of its officers ~~authorized to act on behalf of the corporation;~~

2. If directors have not been selected or the corporation has not been formed, by an incorporator; or

3. If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

G. Any annual report required to be filed by § 13.1-775 shall be signed in the name of the corporation by an officer or director listed in the report or, if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

H. The person ~~signing~~ ~~executing~~ the document shall ~~sign it and~~ state beneath or opposite his signature his name and the capacity in which ~~he signs the document is signed. Any signature may be a facsimile.~~ The document may but need not contain a corporate seal, attestation, acknowledgment, or verification.

I. If, pursuant to any provision of this chapter, the Commission has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

J. The document shall be delivered to the Commission for filing and shall be accompanied by the ~~required~~ *correct* filing fee, and any franchise tax, charter or entrance fee ~~or~~ registration fee, *or penalty* required by this chapter *to be paid at the time of delivery for filing.*

K. The Commission may accept the electronic ~~filing~~ *transmission* of any *document or other* information required or permitted to be filed by this chapter and may prescribe the methods of execution, recording, reproduction and certification of electronically ~~filed~~ *transmitted* information pursuant to § 59.1-496.

L. Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

1. The plan or filed document shall specify the nationally recognized news or information medium in which the facts can be found or otherwise state the manner in which the facts can be objectively ascertained. The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

2. The facts may include:

a. Any of the following that ~~are~~ *is* available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;

b. A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

c. The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

3. As used in this subsection:

a. "Filed document" means a document filed with the Commission under § 13.1-619 or Article 11 (§ 13.1-705 et seq.) ~~or~~ 12 (§ 13.1-715.1 et seq.) ~~of this chapter~~, 12.1 (§ 13.1-722.1:1 et seq.), 12.2 (§ 13.1-722.8 et seq.), 16 (§ 13.1-742 et seq.), or 22 (§ 13.1-782 et seq.); and

b. "Plan" means a plan of *domestication, conversion, merger, or share exchange.*

4. The following terms of a plan or filed document may not be made dependent on facts outside the plan or filed document:

a. The name and address of any person required in a filed document;

b. The registered office of any entity required in a filed document;

c. The registered agent of any entity required in a filed document;

d. The number of authorized shares and designation of each class or series of shares;

e. The effective date of a filed document; and

f. Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

5. If a term of a filed document is made dependent on a fact objectively ascertainable outside of the filed document, and that fact is not objectively ascertainable by reference to a source described in subdivision 2 ~~a of this subsection~~ or a document that is a matter of public record, ~~or the affected shareholders have not received nor has~~ notice of the fact ~~from been given by the corporation to the affected shareholders~~, then the corporation shall file with the Commission articles of amendment setting forth the fact promptly after the time when the fact referred to is first ~~objectively~~ ascertainable or thereafter changes. Articles of amendment under this subdivision are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

6. The provisions of subdivisions 1, 2, and 5 ~~of this subsection~~ shall not be considered by the Commission in deciding whether the terms of a plan or filed document comply with the requirements of law.

#### **§ 13.1-604.1. Filings with the Commission pursuant to reorganization.**

A. Notwithstanding anything to the contrary contained in § 13.1-604, 13.1-619, ~~13.1-710, 13.1-711, 13.1-720, 13.1-722.12, 13.1-743~~ 13.1-707, 13.1-718, 13.1-722.4, 13.1-722.11, or ~~13.1-750~~ 13.1-742, whenever, pursuant to any applicable statute of the United States relating to reorganizations of corporations, a plan of reorganization of a corporation has been confirmed by the decree or order of a court of competent jurisdiction, the corporation may put into effect and carry out the plan and decrees of the court relative thereto, (i) through one or more amendments to the corporation's articles of incorporation containing terms and conditions permitted by this chapter; (ii) through a plan of merger, share exchange, *domestication*, or ~~entity~~ conversion; or (iii) through dissolution or termination, without action by the board of directors or shareholders to carry out the plan of reorganization ordered or decreed by such court of competent jurisdiction under federal statute.

B. The individual or individuals designated by the court shall file with the Commission articles of amendment, merger, share exchange, ~~entity~~ *domestication*, conversion, dissolution, or termination, which, in addition to the matters otherwise required or permitted by law to be set forth therein, shall set forth:

1. The name of the corporation;

2. Any provision relating to the amendment or amendments; plan of merger, share exchange, *domestication*, or ~~entity~~ conversion; or dissolution or termination approved by the court;

3. The name of the court and the date of the court's order or decree approving the amendment, plan of merger, share exchange, ~~or entity~~ *domestication*, conversion; ~~or~~ dissolution, or termination;

4. The title and case number, if any, of the reorganization proceeding in which the order or decree was entered; and

5. A statement that the court had jurisdiction of the proceeding under federal statute.

C. If the Commission finds that the articles of amendment, merger, share exchange, ~~entity domestication~~, conversion, dissolution, or termination comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of amendment, merger, share exchange, ~~entity domestication~~, conversion, dissolution, or termination.

D. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

**§ 13.1-606. Effective time and date of document.**

A. ~~A~~ Except as otherwise provided in § 13.1-607 and Article 1.1 (§ 13.1-614.1 et seq.), a certificate issued by the Commission is effective at the time such certificate is issued, unless the certificate relates to articles filed with the Commission and the articles state that the certificate shall become effective at a later time ~~and~~ or date specified in the articles. In that event, the certificate shall become effective at the earlier of the time and date so specified or 11:59 p.m. on the fifteenth day after the date on which the certificate is issued by the Commission. *If a delayed effective date is specified, but no time is specified, the effective time shall be 12:01 a.m. on the date specified.* Any other document filed with the Commission shall be effective when accepted for filing unless otherwise provided for in this chapter.

B. Notwithstanding subsection A ~~of this section~~, any certificate that has a delayed effective time ~~and~~ or date shall not become effective if, prior to the effective time and date, ~~the parties~~ a statement of cancellation signed by each party to the articles to which the certificate relates ~~file a request for cancellation with~~ is delivered to the Commission ~~and for filing~~. *If the Commission finds that the statement of cancellation complies with the requirements of law, it shall, by order, ~~cancel~~ cancel the certificate.*

C. A statement of cancellation shall contain:

1. The name of the corporation;

2. The name of the articles and the date on which the articles were filed with the Commission;

3. The time and date on which the Commission's certificate becomes effective; and

4. A statement that the articles are being canceled in accordance with this section.

D. Notwithstanding subsection A ~~of this section~~, for purposes of §§ 13.1-630 and 13.1-762, any certificate that has a delayed effective date shall be deemed to be effective when the certificate is issued.

E. For articles with a delayed effective date and time, the effective date and time shall be Eastern time.

**§ 13.1-607. Correcting filed articles.**

A. ~~The board of directors of a corporation may authorize correction of any articles~~ Articles filed with the Commission may be corrected if (i) the articles contain an inaccuracy; (ii) the articles were not properly authorized or defectively ~~executed~~ signed, attested, sealed, verified, or acknowledged; or (iii) the electronic transmission of the articles to the Commission was defective.

B. Articles are corrected by filing with the Commission articles of correction ~~setting forth that~~:

1. ~~The~~ Set forth the name of the corporation prior to filing;

2. ~~A description of~~ Describe the articles to be corrected, including their effective date;

3. ~~Each inaccurate or defective matter that is~~ Specify the inaccuracy or defect to be corrected;

4. ~~The correction of each inaccurate or defective matter~~ Correct the inaccuracy or defect; and

5. ~~A statement~~ State that the ~~board of directors~~ corporation authorized the correction and the date of such authorization.

C. *If the Commission finds that the articles of correction comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of correction.* Upon the issuance of a certificate of correction by the Commission, the articles of correction shall become effective as of the effective date and time of the articles they correct except as to persons relying on the uncorrected articles and adversely affected by the correction. As to those persons, articles of correction are effective upon the issuance of the certificate of correction.

D. No articles of correction shall be accepted by the Commission when received more than 30 days after the effective date of the certificate relating to the articles to be corrected.

**§ 13.1-608. Evidentiary effect of copy of filed document.**

A certificate ~~attached to~~ delivered with a copy of any document admitted to the records of the Commission, bearing the signature of the clerk of the Commission or a member of the staff of the office of the clerk, which in either case may be in facsimile, and the seal of the Commission, which may be in facsimile, is conclusive evidence that the document has been admitted to the records of the Commission.

**§ 13.1-609. Certificate of good standing.**

A. Anyone may apply to the Commission to furnish a certificate of good standing for a domestic or foreign corporation.

B. The certificate of good standing shall state that the corporation is in good standing in this Commonwealth and shall set forth:

1. The domestic corporation's corporate name or the foreign corporation's corporate name used in this Commonwealth;

2. That (i) the domestic corporation is duly incorporated under the law of ~~this~~ the Commonwealth, the date of its incorporation, *which is the original date of incorporation of the domesticated corporation if the corporation was*

domesticated from a foreign jurisdiction, and the period of its duration if less than perpetual, or ~~that~~ (ii) the foreign corporation is authorized to transact business in the Commonwealth; and

3. If requested, a list of all certificates relating to articles filed with the Commission that have been issued by the Commission with respect to such corporation and their respective effective dates.

C. A domestic corporation or a foreign corporation authorized to transact business in ~~this~~ the Commonwealth shall be deemed to be in good standing if:

1. All fees, fines, penalties and interest assessed, imposed, charged or to be collected by the Commission pursuant to this chapter have been paid *except for any annual registration fee that is not due*;

2. An annual report required by § 13.1-775 has been delivered to and accepted by the Commission; and

3. No certificate of dissolution, certificate of withdrawal, or order of reinstatement prohibiting the domestic corporation from engaging in business until it changes its corporate name has been issued or such certificate or prohibition *has not become effective or no longer is in effect*.

D. The certificate may state any other facts of record in the office of the clerk of the Commission that may be requested by the applicant.

E. Subject to any qualification stated in the certificate, a certificate of good standing issued by the Commission may be relied upon as conclusive evidence that the domestic or foreign corporation is in good standing in the Commonwealth.

### § 13.1-610. Notices and other communications.

For purposes of this chapter, except for notice to or from the Commission:

~~A. Notice 1.~~ A notice shall be in writing except that oral notice of any meeting of the board of directors may be given if expressly authorized by the articles of incorporation or bylaws.

~~B. 2.~~ Unless otherwise agreed between the sender and the recipient, words in a notice or other communication *under this chapter* shall be in the English language. A notice or other communication may be given ~~or sent~~ by any method of delivery, except that ~~an~~ electronic ~~transmission~~ *transmissions* shall be in accordance with this section. If ~~these~~ the methods of delivery are impracticable, a notice or other communication may be ~~communicated by publication~~ *given by a broad non-exclusionary dissemination to the public, which may include a newspaper of general circulation in the area where the notice is intended to be given, or by radio, television, or other form of public communication in the area where the notice is intended to be given or other methods of distribution that the corporation has previously identified to its shareholders.*

~~C. Notice 3.~~ A notice or other communication to a domestic or foreign corporation authorized to transact business in the Commonwealth may be delivered to ~~its~~ the corporation's registered agent at its registered office or to the secretary ~~of~~ at the corporation ~~at its~~ corporation's principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.

~~D. Notice 4.~~ A notice or other communication may be delivered by electronic transmission if consented to by the recipient or if *otherwise authorized by subsection K subdivision II.*

~~E. 5.~~ Any consent under ~~subsection D~~ *subdivision 4* may be revoked by the person who consented by written or electronic notice to the person to whom the consent was delivered. Any such consent is deemed revoked if (i) the corporation is unable to deliver two consecutive electronic transmissions given by the corporation in accordance with such consent and (ii) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent or other person responsible for the giving of notice or other communications: ~~The~~; *however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.*

~~F. 6.~~ Unless otherwise agreed between the sender and the recipient, an electronic transmission is received when:

~~1. a.~~ It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission; and

~~2. b.~~ It is in a form capable of being processed by that system.

~~G. 7.~~ Receipt of an electronic acknowledgment from an information processing system described in ~~subdivision F 1 a~~ *subdivision 6 a* establishes that an electronic transmission was received. However, such receipt of an electronic acknowledgment, by itself, does not establish that the content sent corresponds to the content received.

~~H. 8.~~ An electronic transmission is received under this section even if no individual is aware of its receipt.

~~I. Notice 9.~~ A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

~~1. a.~~ If in physical form, the earliest of when it is actually received or when it is left at:

~~a. (1)~~ A shareholder's address shown on the corporation's record of shareholders maintained by the corporation pursuant to subsection C of § 13.1-770;

~~b. (2)~~ A director's residence or usual place of business;

~~c. (3)~~ The corporation's ~~principal place of business~~ *office*; or

~~d. (4)~~ The corporation's registered office when left with the corporation's registered agent;

~~2. b.~~ If mailed postage prepaid and correctly addressed to a shareholder, upon deposit in the United States mail;

~~3. c.~~ If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of when it is actually received or: (i) if sent by registered or certified mail return receipt requested, the date shown on the *return* receipt, signed by or on behalf of the addressee; or (ii) five days after it is deposited in the *United States* mail;

~~4. d.~~ If an electronic transmission, when it is received as provided in ~~subsection F~~ *subdivision 7*; and

~~§~~. *e.* If oral, when communicated.

~~10.~~ A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if (i) the electronic transmission is otherwise retrievable in perceivable form, and (ii) the sender and the recipient have consented in writing to the use of such form of electronic transmission.

~~11.~~ If this chapter prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications not inconsistent with this section or other provisions of this chapter, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

~~12.~~ Without limiting the manner by which notice otherwise may be given effectively to shareholders, any notice to shareholders given by a public corporation, under any provision of this chapter, the articles of incorporation, or the bylaws, shall be effective if given in a manner permitted by the rules and regulations under the *federal* Securities Exchange Act of 1934, provided that the corporation has first received any affirmative written consent or implied consent required under those rules and regulations.

*13. If any provisions of this chapter are deemed to modify, limit, or supersede the federal General Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by § 102(a)(2) of that federal act or any successor provision of that federal act.*

**§ 13.1-610.1. Householdings.**

A. A corporation shall be deemed to have delivered written notice or any other report or statement under this chapter, the articles of incorporation or the bylaws to all shareholders who share a common address as shown on the corporation's current record of shareholders if:

1. The corporation delivers one copy of the notice, report or statement to the common address;
2. The corporation addresses the notice, report or statement to those shareholders either as a group or to each of those shareholders individually or to the shareholders in a form to which each of those shareholders has consented; and
3. Each of those shareholders consents, including any implied consent pursuant to subsection B, to delivery of a single copy of such notice, report or statement to the shareholders' common address.

B. Any shareholder who fails to object by written notice to the corporation, within 60 days of written notice by the corporation of its intention to ~~send~~ deliver single copies of notices, reports, or statements to shareholders who share a common address as permitted by subsection A, shall be deemed to have consented to receiving such single copy at the common address, *provided that the notice of intention states that consent may be revoked and the method for revoking such consent.*

C. Any consent pursuant to this section shall be revocable by any shareholder who delivers written notice of revocation to the corporation. If such written notice of revocation is delivered, the corporation shall begin providing individual notices, reports, or other statements to the revoking shareholder no later than 30 days after delivery of the written notice of revocation.

**§ 13.1-611. Number of shareholders.**

A. For purposes of this chapter, the following identified as a shareholder in a corporation's current record of shareholders constitutes one shareholder:

1. ~~Two or more~~ Three or fewer co-owners;
2. A corporation, limited liability company, partnership, limited partnership, business trust, trust, estate, or other entity; or
3. The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

B. For purposes of this chapter, shareholdings registered in substantially similar names constitute one shareholder if it is reasonable to believe that the names represent the same person.

**§ 13.1-612. Penalty for signing false document.**

A. It shall be unlawful for any person to sign a document ~~he~~ that the person knows is false in any material respect with intent that the document be delivered to the Commission for filing.

B. Anyone who violates the provisions of this section shall be guilty of a Class 1 misdemeanor.

**§ 13.1-614. Hearing and finality of Commission action; injunctions.**

A. The Commission shall have no power to grant a hearing with respect to any certificate issued by the Commission with respect to any articles filed with the Commission except on a petition by a shareholder filed with the Commission and delivered to the corporation within 30 days after the effective date of the certificate, in which the shareholder asserts that the certification of corporate action contained in the articles contains a misstatement of a material fact as to compliance with statutory requirements, specifying the particulars thereof. After hearing, on notice in writing to the corporation and the shareholder, the Commission shall determine the issues and revoke or refuse to revoke its order accordingly.

B. No court ~~within in or without~~ outside of the Commonwealth shall have jurisdiction to enjoin or delay the holding of any meeting of directors or shareholders for the purpose of authorizing or consummating any amendment, *correction*, merger, share exchange, domestication, conversion, *dissolution*, or termination of corporate existence or the execution or filing with the Commission of any articles or other documents for such purpose, except pursuant to subsection D of § 13.1-661 or for fraud. No court ~~within in or without~~ outside of the Commonwealth, except the Supreme Court by way of appeal as authorized by law, shall have jurisdiction to review, reverse, correct, or annul any action of the Commission,

within the scope of its authority, with regard to any articles, certificate, order, objection, or petition, or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the Commission in the performance of its official duties.

C. Notwithstanding any provision of subsection A to the contrary, the Commission shall have the power to act upon *articles of correction filed by the corporation pursuant to § 13.1-607 or upon a petition filed by a corporation at any time to correct Commission records so as to eliminate the effects of clerical errors and of filings made by a person or persons without authority to act for the corporation, or of its on the Commission's own motion to correct Commission records so as to eliminate the effects of clerical errors committed by its staff.*

*Article 1.1.*

*Ratification of Defective Corporate Actions.*

**§ 13.1-614.1. Definitions.**

*As used in this article:*

*"Corporate action" means any action taken by or on behalf of the corporation, including any action taken by the incorporator; the board of directors, a committee, an officer or agent of the corporation, or the shareholders.*

*"Date of the defective corporate action" means the date, or the approximate date if the exact date is unknown, the defective corporate action was purported to have been taken.*

*"Defective corporate action" means (i) any corporate action purportedly taken that is, and at the time such corporate action was purportedly taken would have been, within the power of the corporation, but is void or voidable due to a failure of authorization, or (ii) an over-issuance of shares.*

*"Failure of authorization" means the failure to authorize, approve, or otherwise effect a corporate action in compliance with the provisions of this chapter, the articles of incorporation or bylaws, a corporate resolution, or any plan or agreement to which the corporation is a party, if and to the extent such failure would render such corporate action voidable.*

*"Over-issuance of shares" means the purported issuance of:*

*1. Shares of a class or series in excess of the number of shares of the class or series the corporation had the power to issue under § 13.1-638 at the time of such issuance; or*

*2. Shares of any class or series that was not then authorized for issuance by the articles of incorporation.*

*"Putative shares" means the shares of any class or series of the corporation, including shares issued upon exercise of rights, options, warrants, or other securities convertible into shares of the corporation, or interests with respect to such shares, that were created or issued as a result of a defective corporate action, that (i) but for any failure of authorization would constitute valid shares or (ii) cannot be determined by the board of directors to be valid shares.*

*"Valid shares" means the shares of any class or series of the corporation that have been duly authorized and validly issued in accordance with this chapter, including as a result of ratification or validation under this article.*

*"Validation effective time" with respect to any defective corporate action ratified under this article means the later of:*

*1. The time at which the ratification of the defective corporate action is approved by the shareholders or, if approval of shareholders is not required, the time at which the notice required by § 13.1-614.5 becomes effective in accordance with § 13.1-610; and*

*2. The time at which any document filed in accordance with § 13.1-614.7 becomes effective.*

*The validation effective time shall not be affected by the filing or pendency of a proceeding under § 13.1-614.8 or otherwise, unless ordered by the court.*

**§ 13.1-614.2. Defective corporate actions.**

*A. A defective corporate action shall not be void or voidable if ratified in accordance with § 13.1-614.3 or validated in accordance with § 13.1-614.8.*

*B. Ratification under § 13.1-614.3 or validation under § 13.1-614.8 shall not be deemed to be the exclusive means of ratifying or validating any defective corporate action, and the absence or failure of ratification in accordance with this article shall not, of itself, affect the validity or effectiveness of any corporate action properly ratified under this chapter, common law, or otherwise, nor shall it create a presumption that any such corporate action is or was a defective corporate action or void or voidable.*

*C. In the case of an over-issuance of shares, putative shares shall be valid shares effective as of the date originally issued or purportedly issued upon:*

*1. The effectiveness under this article and under Article 11 (§ 13.1-705 et seq.) of an amendment of the articles of incorporation authorizing, designating, or creating such shares; or*

*2. The effectiveness of any other corporate action under this article ratifying the authorization, designation, or creation of such shares.*

**§ 13.1-614.3. Ratification of defective corporate actions.**

*A. To ratify a defective corporate action under this section, other than the ratification of an election of the initial board of directors under subsection B, the board of directors shall adopt resolutions ratifying the action in accordance with § 13.1-614.4, stating:*

*1. The defective corporate action to be ratified and, if the defective corporate action involved the issuance of putative shares, the number and type of putative shares purportedly issued;*

*2. The date of the defective corporate action;*

3. The nature of the failure of authorization with respect to the defective corporate action to be ratified; and

4. That the board of directors approves the ratification of the defective corporate action.

B. In the event that a defective corporate action to be ratified relates to the election of the initial board of directors of the corporation under subdivision A 2 of § 13.1-623, a majority of the persons who, at the time of the ratification, are exercising the powers of directors may take an action stating:

1. The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation;

2. The earlier of the date on which such persons first took such action or were purported to have been elected as the initial board of directors; and

3. That the ratification of the election of such person or persons as the initial board of directors is approved.

C. If any provision of this chapter, the articles of incorporation or bylaws, any corporate resolution or any plan or agreement to which the corporation is a party in effect at the time action under subsection A is taken requires shareholder approval or would have required shareholder approval at the date of the occurrence of the defective corporate action, the ratification of defective corporate action approved in the action taken by the directors under subsection A shall be submitted to the shareholders for approval in accordance with § 13.1-614.4.

D. Unless otherwise provided in the action taken by the board of directors under subsection A, after the action by the board of directors has been taken and, if required, approved by the shareholders, the board of directors may abandon the ratification at any time before the validation effective time without further action of the shareholders.

#### **§ 13.1-614.4. Action of ratification.**

A. The quorum and voting requirements applicable to a ratifying action by the board of directors under subsection A of § 13.1-614.3 shall be the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time such ratifying action is taken.

B. If the ratification of the defective corporate action requires approval by the shareholders under subsection C of § 13.1-614.3, and if the approval is to be given at a meeting, the corporation shall notify each holder of valid and putative shares, regardless of whether entitled to vote, as of the record date for notice of the meeting and as of the date of the occurrence of defective corporate action, provided that notice shall not be required to be given to holders of valid or putative shares whose identities or addresses for notice cannot be determined from the records of the corporation. The notice shall state that the purpose, or one of the purposes, of the meeting, is to consider ratification of a defective corporate action and shall be accompanied by (i) either a copy of the action taken by the board of directors in accordance with subsection A of § 13.1-614.3 or the information required by subdivisions A 1 through A 4 of § 13.1-614.3 and (ii) a statement that any claim that the ratification of such defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within 120 days from the applicable validation effective time.

C. Except as provided in subsection D with respect to the voting requirements to ratify the election of a director, the quorum and voting requirements applicable to the approval by the shareholders required by subsection C of § 13.1-614.3 shall be the quorum and voting requirements applicable to the corporate action proposed to be ratified at the time of such shareholder approval.

D. The approval by shareholders to ratify the election of a director requires that the votes cast within the voting group favoring such ratification exceed the votes cast opposing such ratification of the election at a meeting at which a quorum is present.

E. Putative shares on the record date for determining the shareholders entitled to vote on any matter submitted to shareholders under subsection C of § 13.1-614.3, and without giving effect to any ratification of putative shares that becomes effective as a result of such vote, shall neither be entitled to vote nor counted for quorum purposes in any vote to approve the ratification of any defective corporate action.

F. If the approval under this section of putative shares would result in an over-issuance of shares, in addition to the approval required by § 13.1-614.3, the corporation shall approve an amendment of the articles of incorporation under Article 11 (§ 13.1-705 et seq.) to increase the number of shares of an authorized class or series or to authorize the creation of a class or series of shares so there is no over-issuance of shares.

#### **§ 13.1-614.5. Notice.**

A. Unless shareholder approval is required under subsection C of § 13.1-614.3, prompt notice of an action taken under § 13.1-614.3 shall be given to each holder of valid and putative shares, regardless of whether entitled to vote, as of (i) the date of such action by the board of directors and (ii) the date of the defective corporate action ratified, provided that notice shall not be required to be given to holders of valid and putative shares whose identities or addresses for notice cannot be determined from the records of the corporation.

B. The notice shall contain (i) either a copy of the action taken by the board of directors in accordance with subsection A or B of § 13.1-614.3 or the information required by subdivisions A 1 through 4 or B 1, 2, and 3 of § 13.1-614.3, as applicable, and (ii) a statement that any claim that the ratification of the defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought within 120 days from the applicable validation effective time.

C. No notice under this section is required with respect to any action required to be submitted to shareholders for approval under subsection C of § 13.1-614.3 if notice is given in accordance with § 13.1-614.4.

*D. A notice required by this section may be given in any manner permitted by § 13.1-610 and for any public corporation may be given by means of a filing or furnishing of such notice with the U.S. Securities and Exchange Commission.*

**§ 13.1-614.6. Effect of ratification.**

*From and after the validation effective time, and without regard to the 120-day period during which a claim may be brought under § 13.1-614.8:*

*1. Each defective corporate action ratified in accordance with § 13.1-614.3 shall not be void or voidable as a result of the failure of authorization identified in the action taken under subsection A or B of § 13.1-614.3 and shall be deemed a valid corporate action effective as of the date of the defective corporate action;*

*2. The issuance of each putative share or fraction of a putative share purportedly issued pursuant to a defective corporate action identified in the action taken under § 13.1-614.3 shall not be void or voidable, and each such putative share or fraction of a putative share shall be deemed to be an identical share or fraction of a valid share as of the time it was purportedly issued; and*

*3. Any corporate action taken subsequent to the defective corporate action ratified in accordance with this article in reliance on such defective corporate action having been validly effected and any subsequent defective corporate action resulting directly or indirectly from such original defective corporate action shall be valid as of the time taken.*

**§ 13.1-614.7. Filings.**

*A. If the defective corporate action ratified under this article would have required under any other section of this chapter a filing with the Commission in accordance with this chapter, then, regardless of whether a filing was previously made in respect of such defective corporate action and in lieu of a filing otherwise required by this chapter, the corporation shall make the required filing or, as appropriate, an amended filing in accordance with this section, and such filing shall serve to amend or substitute for any other filing with the Commission with respect to such defective corporate action required by the chapter.*

*B. The filed document shall set forth:*

*1. The defective corporate action that is the subject of the filed document, including, in the case of any defective corporate action involving the issuance of putative shares, the number and type of putative shares issued and the date or dates upon which such putative shares were purported to have been issued;*

*2. The date of the defective corporate action;*

*3. The nature of the failure of authorization in respect of the defective corporate action;*

*4. A statement that the defective corporate action was ratified in accordance with § 13.1-614.3, including the date on which the board of directors ratified such defective corporate action and the date, if any, on which the shareholders approved the ratification of such defective corporate action; and*

*5. The information required by subsection C.*

*C. The filed document shall also contain the following information:*

*1. If a filing with the Commission was previously made in respect of the defective corporate action and no changes to such filing are required to give effect to the ratification of such defective corporate action in accordance with § 13.1-614.3, the filed document shall set forth (i) the name, title and filing date of the filing previously made and any articles of correction to that filing and (ii) a statement that a copy of the filing previously made, together with any articles of correction to that filing, is attached as an exhibit;*

*2. If a filing was previously made in respect of the defective corporate action and such filing requires any change to give effect to the ratification of such defective corporate action in accordance with § 13.1-614.3, the filed document shall set forth (i) the name, title, and filing date of the filing previously made and any articles of correction to that filing and (ii) a statement that a filing containing all of the information required to be included under the applicable section or sections of the chapter to give effect to such defective corporate action is attached as an exhibit, and (iii) the date and time that such filing is deemed to have become effective; or*

*3. If a filing was not previously made in respect of the defective corporate action and the defective corporate action ratified under § 13.1-614.3 would have required a filing under any other section of the chapter, the filed document shall set forth (i) a statement that a filing containing all of the information required to be included under the applicable section or sections of the chapter to give effect to such defective corporate action is attached as an exhibit and (ii) the date and time that such filing is deemed to have become effective.*

*D. If the Commission finds that the filed document complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of ratification of defective corporate action.*

**§ 13.1-614.8. Commission proceedings regarding validity of corporate actions.**

*A. Upon application by the corporation, any successor entity to the corporation, a director of the corporation, any shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner of the corporation, including any such shareholder, beneficial shareholder, or unrestricted voting trust beneficial owner as of the date of the defective corporate action ratified under § 13.1-614.3, or any other person claiming to be substantially and adversely affected by a ratification under § 13.1-614.3, the Commission may:*

*1. Determine the validity and effectiveness of any corporate action or defective corporate action;*

*2. Determine the validity and effectiveness of any ratification under § 13.1-614.3;*

*3. Determine the validity of any putative shares; and*

4. *Modify or waive any of the procedures specified in § 13.614.3 or 13.1-614.4 to ratify a defective corporate action.*

*B. In connection with an action under this section, the Commission may make such findings or orders and take into account any factors or considerations regarding such matters as it deems proper under the circumstances.*

*C. Service of process of the application under subsection A on the corporation may be made in any manner provided by statutes of the Commonwealth or by rule of the Commission for service on the corporation, and no other party need be joined in order for the Commission to adjudicate the matter. In an action filed by the corporation, the Commission may require notice of the action be provided to other persons specified by the Commission and permit such other persons to intervene in the action.*

*D. Notwithstanding any other provision of this section or otherwise under applicable law, any action asserting that the ratification of any defective corporate action and any putative shares issued as a result of such defective corporate action should not be effective, or should be effective only on certain conditions, shall be brought in a petition filed within 120 days of the validation effective time.*

**§ 13.1-615. Fees to be collected by Commission; application of payment; payment of fees prerequisite to Commission action; exceptions.**

A. The Commission shall assess the registration fees and shall charge and collect the filing fees, charter fees, and entrance fees imposed by law. The Commission shall have authority to certify to the Comptroller directing refund of any overpayment of a fee, or of any fee collected for a document that is not accepted for filing, at any time within one year from the date of its payment. When the Commission receives payment of an annual registration fee assessed against a domestic or foreign corporation, such payment shall be applied against any unpaid annual registration fees previously assessed against such corporation, including any penalties incurred thereon, beginning with the assessment or penalty that has remained unpaid for the longest period of time.

B. The Commission shall not file or issue with respect to any domestic or foreign corporation any document or certificate specified in this chapter, except the annual report required by § 13.1-775, a statement of change pursuant to § 13.1-635 or 13.1-764, and a statement of resignation pursuant to § 13.1-636 or 13.1-765, until all fees, fines, penalties, and interest assessed, imposed, charged, or to be collected by the Commission pursuant to this chapter or Title 12.1 have been paid by or on behalf of such corporation. Notwithstanding the foregoing, the Commission may file or issue any document or certificate with respect to a domestic or foreign corporation that has been assessed an annual registration fee if the document or certificate is filed or issued with an effective date that is on or before the due date of the corporation's annual registration fee payment in any year, provided that the Commission shall not issue a certificate of domestication with respect to a foreign corporation until the annual registration fee has been paid by or on behalf of that corporation.

C. A domestic or foreign corporation shall not be required to pay the annual registration fee assessed against it pursuant to subsection B of § 13.1-775.1 in any year if (i) the Commission issues or files any of the following types of certificate or instrument and (ii) the certificate or instrument is effective on or before the annual registration fee due date:

1. A certificate of termination of corporate existence, a certificate of incorporation surrender, or a certificate of ~~entity~~ conversion for a domestic corporation;

2. A certificate of withdrawal for a foreign corporation;

3. A certificate of merger or an authenticated copy of an instrument of merger for a domestic or foreign corporation that has merged into a surviving domestic corporation or eligible entity or into a surviving foreign corporation or eligible entity; or

4. An authenticated copy of an instrument of ~~entity~~ conversion for a foreign corporation that has converted to a different entity type.

The Commission shall cancel the annual registration fee assessments specified in this subsection that remain unpaid.

D. A foreign corporation that has amended its articles of incorporation to reduce the number of shares it is authorized to issue, effective prior to its annual registration fee assessment date pursuant to subsection B of § 13.1-775.1 of a given year, and has timely filed an authenticated copy of the amendment with the Commission pursuant to § 13.1-760 after its annual registration fee assessment date pursuant to subsection B of § 13.1-775.1 shall have its annual registration fee reassessed to reflect the new number of authorized shares.

E. Annual registration fee assessments that have been paid shall not be refunded.

**§ 13.1-615.1. Charter and entrance fees for corporations.**

A. Every domestic corporation, upon the granting of its charter or upon *its incorporation by domestication or conversion*, shall pay a charter fee into the state treasury, and every foreign corporation, when it obtains from the State Corporation Commission a certificate of authority to transact business in the Commonwealth, shall pay an entrance fee into the state treasury. The fee in each case is to be ascertained and fixed as follows:

For any domestic or foreign corporation whose number of authorized shares is 1,000,000 or fewer shares —: \$50 for each 25,000 shares or fraction thereof;

For any domestic or foreign corporation whose number of authorized shares is more than 1,000,000 shares —: \$2,500.

B. For any foreign corporation that files articles of domestication and that had authority to transact business in the Commonwealth at the time of such filing, the charter fee to be charged upon domestication shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as an entrance fee by such corporation.

C. For any foreign corporation that files an application for a certificate of authority to transact business in the Commonwealth and that had previously surrendered its articles of incorporation as a domestic corporation, the entrance fee to be charged upon obtaining a certificate of authority to transact business in the Commonwealth shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as a charter fee by such corporation.

D. Whenever by articles of amendment or articles of merger, the number of authorized shares of any domestic or foreign corporation or of the surviving corporation is increased, the charter or entrance fee to be charged shall be an amount equal to the difference between the amount already paid as a charter or entrance fee by such corporation and the amount that would be required by this section to be paid if the increased number of authorized shares were being stated at that time in the original articles of incorporation.

E. For any domestic limited liability company that files articles of ~~entity~~ conversion to become a domestic corporation and that had previously converted from a domestic corporation, the charter fee to be charged upon ~~entity~~ conversion shall be an amount equal to the difference between the amount that would be required by this section and the amount already paid as a charter fee by the domestic limited liability company when it was a domestic corporation.

F. *For any domestic nonstock corporation that files articles of restatement to become a domestic corporation, the charter fee to be charged shall be an amount equal to the difference between the amount already paid as a charter fee by the domestic nonstock corporation upon its incorporation and the amount that would be required by this section to be paid in accordance with the number of authorized shares in the corporation's amended and restated articles of incorporation.*

G. If no charter or entrance fee has been heretofore paid to the Commonwealth, the amount to be paid shall be the same as would have to be paid on original incorporation or application for authority to transact business.

**§ 13.1-616. Fees for filing documents or issuing certificates.**

The Commission shall charge and collect the following fees, except as provided in § 12.1-21.2:

1. *For filing of articles of conversion to convert a corporation to an eligible entity, the fee shall be \$100.*
2. For filing any one of the following, the fee shall be \$25:
  - a. Articles of incorporation; or domestication; ~~or incorporation surrender.~~
  - b. Articles of ~~entity~~ conversion to convert a ~~domestic limited liability company~~ *an eligible entity* to a corporation.
  - c. Articles of amendment or restatement.
  - d. Articles of merger or share exchange.
  - e. Articles of correction.
  - f. An application of a foreign corporation for a certificate of authority to transact business in the Commonwealth.
  - g. An application of a foreign corporation for an amended certificate of authority to transact business in the Commonwealth.
  - h. A copy of an amendment ~~to~~ of the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in the Commonwealth.
  - i. A copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in the Commonwealth.
  - j. A copy of an instrument of ~~entity~~ conversion of a foreign corporation holding a certificate of authority to transact business in the Commonwealth.

*k. An application to register or to renew the registration of a corporate name.*

~~2-3.~~ For filing any one of the following, the fee shall be \$10:

- a. An application to reserve or to renew the reservation of a corporate name.
- b. A notice of transfer of a reserved corporate name.
- c. An application for use of an indistinguishable name.
- d. Articles of dissolution.
- e. Articles of revocation of dissolution.
- f. Articles of termination of corporate existence.
- g. An application for a certificate of withdrawal of a foreign corporation.
- h. *A notice of release of a registered name.*

~~3-4.~~ For issuing a certificate pursuant to § 13.1-781, the fee shall be \$6.

**§ 13.1-619. Articles of incorporation.**

A. The articles of incorporation shall set forth:

1. A corporate name for the corporation that satisfies the requirements of § 13.1-630;
2. The number of shares the corporation is authorized to issue;
3. If more than one class or series of shares is authorized, the number of authorized shares of each class or series and a distinguishing designation for each class or series; and
4. The address of the corporation's initial registered office (including both (i) the post-office address with street and number, if any, and (ii) the name of the city or county in which it is located), and the name of its initial registered agent at that office, and that the agent is either (i) an individual who is a resident of Virginia and either a director of the corporation or a member of the Virginia State Bar or (ii) a domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in the Commonwealth.

B. The articles of incorporation may set forth:

1. The names and addresses of the individuals who are to serve as the initial directors;
2. Any provision defining or denying the preemptive right of shareholders to acquire unissued shares of the corporation;
3. Provisions not inconsistent with law *regarding*:
  - a. ~~Stating the~~ *The* purpose or purposes for which the corporation is organized;
  - b. ~~Regarding the~~ *The* management of the business and regulation of the affairs of the corporation;
  - c. Defining, limiting, and regulating the powers of the corporation, its *board of directors*, and shareholders;
  - d. ~~Establishing a~~ *A* par value for authorized shares or classes or series of shares; ~~and~~ *or*
  - e. *Imposing interest holder liability on shareholders*;
4. Any provision that under this chapter is required or permitted to be set forth in the bylaws; *and*
5. *A provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one or more classes or categories of, business opportunities, before the pursuit or taking of the opportunity by the director or other person, provided that any application of such a provision to an officer or a related person of that officer (i) also requires approval of that application by the board of directors, subsequent to the effective date of the provision, by action of disinterested directors taken in compliance with the same procedures as are set forth in § 13.1-691, and (ii) may be limited by the approving action of the board of directors.*

C. The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

D. Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with subsection L of § 13.1-604.

### § 13.1-623. Organization of corporation.

A. After incorporation:

1. If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting; or

2. If initial directors are not named in the articles of *incorporation*, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators:

- a. To elect a board of directors and complete the organization of the corporation; or
- b. To elect *a board of directors* who shall complete the organization of the corporation.

B. Action required or permitted by this ~~Act~~ *chapter* to be taken by incorporators *or the initial directors* at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator *or initial director*.

C. An organizational meeting may be held in or out of ~~this~~ *the* Commonwealth.

### § 13.1-624. Bylaws.

A. The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

B. The bylaws of a corporation may contain any provision that is not inconsistent with law or the articles of incorporation.

C. The bylaws may contain one or more of the following provisions:

1. A requirement that if the corporation solicits proxies or consents with respect to an election of directors, the corporation include in its proxy statement and any form of its proxy or consent, to the extent and subject to such procedures or conditions as are provided in the bylaws, one or more individuals nominated by a shareholder in addition to individuals nominated by the board of directors; *and*

2. ~~A requirement that the corporation reimburse the expenses incurred by a shareholder in soliciting proxies or consents in connection with an election of directors, to the extent and subject to such procedures or conditions as are provided in the bylaws, provided that no bylaw so adopted shall apply to elections for which any record date precedes its adoption; and~~

3. ~~A requirement that any or all internal corporate claims shall be brought exclusively in a circuit court or a federal district court in the Commonwealth or the jurisdiction and, if so specified, in any additional courts in the Commonwealth or in any other jurisdictions with which the corporation has maintains its principal office shall be the sole and exclusive forum for~~ *As used in this subdivision, "internal corporate claims" means (i) any derivative action or proceeding brought on behalf of the corporation; (ii) any action for breach of duty to the corporation or the corporation's shareholders by any current or former officer or director, or shareholder of the corporation; or (iii) any action against the corporation or any current or former officer or director of the corporation asserting a claim arising pursuant to this chapter or the corporation's articles of incorporation or bylaws; or (iv) any action asserting a claim governed by the internal affairs doctrine that is not included in clause (i), (ii), or (iii). Notwithstanding any other provision of this chapter to the contrary, to the extent any provision of this chapter allows or requires an action or proceeding to be brought in the circuit court of the county or city where the corporation's principal office or registered office is located or in any other specified court location, such action or proceeding shall instead be brought in a court in the Commonwealth specified in a bylaw, if any, authorized by this subdivision and adopted prior to the commencement of such action or proceeding.*

D. *A provision of the bylaws adopted under subdivision C 2 shall not have the effect of conferring jurisdiction on any court or over any person or claim, and shall not apply if none of the courts specified by such provision has the requisite personal and subject matter jurisdiction. If the court or courts specified in a provision adopted under subdivision C 2 do not*

have the requisite personal and subject matter jurisdiction and another court of the Commonwealth does have such jurisdiction, then the internal corporate claim may be brought in such other court of the Commonwealth, notwithstanding that such other court of the Commonwealth is not specified in such provision, and in any other court specified in such provision that has the requisite jurisdiction. No provision of the articles of incorporation or the bylaws may prohibit bringing an internal corporate claim in the courts of the Commonwealth or require any such claim to be determined by arbitration.

E. Notwithstanding subdivision B 2 of § 13.1-714, the shareholders in amending, repealing, or adopting a bylaw described in ~~subsection~~ *subdivision C 1* may not limit the authority of the board of directors to amend or repeal any condition or procedure set forth in, or to add any procedure or condition to, such a bylaw ~~in order~~ to provide for a reasonable, practicable, and orderly process.

**§ 13.1-625. Emergency bylaws.**

A. Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection D of this section. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

1. Procedures for calling a meeting of the board of directors;
2. Quorum requirements for the meeting; and
3. Designation of additional or substitute directors.

B. All provisions of the regular bylaws ~~consistent~~ *not inconsistent* with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

C. Corporate action taken in good faith in accordance with the emergency bylaws:

1. Binds the corporation; and
2. May not be used to impose liability on a ~~corporate~~ director, officer, employee, or agent of the corporation.

D. An emergency exists for purposes of this section if a quorum of the ~~corporation's~~ board of directors cannot readily be assembled because of some catastrophic event.

**§ 13.1-627. General powers.**

A. Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including, without limitation, power:

1. To sue and be sued, complain and defend in its corporate name;
2. To have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;
3. To make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the Commonwealth;
4. To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;
5. To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
6. To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity;
7. To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other *securities and* obligations, which may be convertible into or include the option to purchase other securities or property of the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
8. To lend money, invest, and reinvest its funds, and receive and hold real and personal property as security for repayment;
9. To conduct its business, locate offices, and exercise the powers granted by this chapter ~~within in or without~~ *outside* of the Commonwealth;
10. To elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;
11. To pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, share purchase plans and benefit and incentive plans for any or all of the current or former directors, officers, employees, and agents of the corporation or any of its subsidiaries;
12. To make donations for the public welfare or for religious, charitable, scientific, literary or educational purposes, except that corporations subject to regulation as to rates by the Commission shall not have power to make donations in excess of five percent of net income computed before federal and state taxes on income and without taking into account any deduction for gifts;
13. *Except as otherwise provided in subsection B, to be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;*
14. To make payments or donations, or do any other act, not inconsistent with this section or any other applicable law, that furthers the business and affairs of the corporation;

~~14-15.~~ To pay compensation, or to pay additional compensation, to any or all directors, officers and employees on account of services previously rendered to the corporation, whether or not an agreement to pay such compensation was made before such services were rendered;

~~15-16.~~ To insure for its benefit the life of any of its directors, officers or employees, to insure the life of any shareholder for the purpose of acquiring at his death shares owned by such shareholder and to continue such insurance after the relationship terminates;

~~16-17.~~ To cease its corporate activities and surrender its corporate franchise; and

~~17-18.~~ To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

B. Each corporation other than a public service company, a banking corporation, an insurance corporation, a savings institution, or a credit union shall have power to enter into partnership agreements, joint ventures, or other associations of any kind with any person or persons. The foregoing limitations on public service companies, banking corporations, insurance corporations, savings institutions, and credit unions shall not apply to the purchase by any such entity of any security of a limited liability company. The term "public service company" as used in this subsection shall not apply to railroads, which shall have the power given other corporations generally by this subsection. The foregoing limitation on public service companies shall not apply to partnership agreements, joint ventures, or other associations where the purposes of such partnerships, joint ventures, or other associations are activities that the public service company could lawfully engage in without participation in a partnership, joint venture, or association and will require an equity investment by the public service company and debt with recourse to the public service company of an amount not more than one percent of its net equity as measured at the end of the most recent fiscal year so long as all such partnerships, joint ventures, and associations collectively will require an equity investment by the public service company and debt with recourse to the public service company of less than five percent of the net equity of the public service company as measured at the end of the most recent fiscal year. Upon application by the public service company, the Commission may approve any partnership agreements, joint ventures, or other associations that exceed the equity investment criteria set forth above. The foregoing limitation on public service companies shall not apply to partnership agreements, joint ventures, or other associations between telephone companies and telephone companies, whether in corporate or other form, or between telephone companies and commonly owned affiliates of telephone companies for the purpose of providing domestic cellular radio telecommunication service.

C. Privileges and powers conferred and restrictions and requirements imposed by other titles of the Code on railroads or other public service companies, banking corporations, insurance corporations, savings and loan associations, credit unions, industrial loan associations, or other special types of corporations, shall not be deemed repealed or amended by any provision of this chapter except where specifically so provided.

D. Each corporation ~~which~~ *that* is deemed a private foundation, as defined in § 509 of the Internal Revenue Code, unless its articles of incorporation expressly provide otherwise, shall distribute its income and, if necessary, principal, for each taxable year at such time and in such manner as not to subject such corporation to tax under § 4942 of the Internal Revenue Code. Such corporation shall not engage in any act of self-dealing, as defined in § 4941(d) of the Internal Revenue Code, retain any excess business holdings, as defined in § 4943(c) of the Internal Revenue Code, make any investments in such manner as to give rise to liability for the tax imposed by § 4944 of the Internal Revenue Code, or make any taxable expenditures, as defined in § 4945(d) of the Internal Revenue Code. This subsection shall apply to any corporation organized after December 31, 1969, under this chapter or under the Virginia Stock Corporation Act (§ 13.1-601 et seq.) enacted by Chapter 428 of the 1956 Acts of General Assembly; and to any corporation organized before January 1, 1970, only for its taxable years beginning on and after January 1, 1972, unless the exceptions provided in § 508(e)(2)(A) or (B) of the Internal Revenue Code shall apply or unless the board of directors of such corporation shall elect that such restrictions as contained in this subsection shall not apply by filing written notice of such election with the Attorney General and the clerk of the Commission on or before December 31, 1971. Each reference to a section of the Internal Revenue Code made in this subsection shall include future amendments to such Code sections and corresponding provisions of future internal revenue laws.

### § 13.1-629. Lack of power to act.

A. Except as provided in subsection B ~~of this section~~, *the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.*

B. A corporation's power to act may be challenged:

1. In a proceeding by a shareholder against the corporation to enjoin the act;
2. In a proceeding by the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation; or
3. In a proceeding against ~~a~~ *the* corporation before the Commission.

C. In a shareholder's proceeding under subdivision 1 of subsection B ~~of this section~~ to enjoin an unauthorized corporate act, *if equitable and if all affected persons are parties to the proceeding*, the court may enjoin or set aside the act and may award damages for loss, except anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

**§ 13.1-630. Corporate name.**

A. A corporate name shall contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd." Such words and their corresponding abbreviations may be used interchangeably for all purposes.

B. A corporate name shall not contain:

1. Any language stating or implying that ~~it~~ *the corporation* will ~~transact or~~ *conduct any* of the special kinds of businesses listed in § 13.1-620 unless it proposes in fact to engage in such special kind of business;

2. The word "redevelopment" unless the corporation is organized as an urban redevelopment corporation pursuant to Chapter 190 of the 1946 Acts of Assembly, as amended;

3. Any word, abbreviation, or combination of characters that states or implies the corporation is a limited liability company or a limited partnership; or

4. Any word or phrase that is prohibited by law for such corporation.

C. Except as authorized by subsection D, a corporate name shall be distinguishable upon the records of the Commission from:

1. The name of any corporation, whether issuing shares or not issuing shares, existing under the laws of the Commonwealth or authorized to transact business in the Commonwealth;

2. A corporate name reserved or registered under § 13.1-631, 13.1-632, 13.1-830 or 13.1-831;

3. The designated name adopted by a foreign corporation, whether issuing shares or not issuing shares, because its real name is unavailable for use in the Commonwealth;

4. The name of a domestic limited liability company or a foreign limited liability company registered to transact business in the Commonwealth;

5. A limited liability company name reserved under § 13.1-1013;

6. The designated name adopted by a foreign limited liability company because its real name is unavailable for use in the Commonwealth;

7. The name of a domestic business trust or a foreign business trust registered to transact business in the Commonwealth;

8. A business trust name reserved under § 13.1-1215;

9. The designated name adopted by a foreign business trust because its real name is unavailable for use in the Commonwealth;

10. The name of a domestic limited partnership or a foreign limited partnership registered to transact business in the Commonwealth;

11. A limited partnership name reserved under § 50-73.3; and

12. The designated name adopted by a foreign limited partnership because its real name is unavailable for use in the Commonwealth.

D. A domestic corporation may apply to the Commission for authorization to use a name that is not distinguishable upon the Commission's records from one or more of the names described in subsection C. The Commission shall authorize use of the name applied for if the other entity consents to the use in writing and submits an undertaking in a form satisfactory to the Commission to change its name to a name that is distinguishable upon the records of the Commission from the name of the applying corporation.

E. The use of assumed names or fictitious names, as provided for in Chapter 5 (§ 59.1-69 et seq.) of Title 59.1, is not affected by this chapter.

F. The Commission, in determining whether a corporate name is distinguishable upon its records from the name of any of the business entities listed in subsection C, shall not consider any word, phrase, abbreviation, or designation required or permitted under this section and § 13.1-544.1, subsection A of § 13.1-1012, § 13.1-1104, subsection A of § 50-73.2, and subdivision A 2 of § 50-73.78 to be contained in the name of a business entity formed or organized under the laws of the Commonwealth or authorized or registered to transact business in the Commonwealth.

**§ 13.1-631. Reserved name.**

A. A person may apply to the Commission to reserve the exclusive use of a corporate name, including a designated name for a foreign corporation. The corporate name applied for need not comply with subsection A of § 13.1-630. If the Commission finds that the corporate name applied for is distinguishable upon the records of the Commission, it shall reserve the name for the applicant's exclusive use for a 120-day period.

B. The owner of a reserved corporate name may renew the reservation for successive periods of 120 days each by filing with the Commission, during the 45-day period preceding the date of expiration of the reservation, a renewal application.

C. The owner of a reserved corporate name may transfer the reservation to another person by delivering to the Commission a notice of the transfer, signed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

D. A reserved corporate name may be used by its owner in connection with (i) the formation *of*, or an amendment to change the name of, a domestic stock or nonstock corporation, limited liability company, business trust, or limited partnership; (ii) an application for a certificate of authority or registration to transact business in the Commonwealth as a foreign stock or nonstock corporation, limited liability company, business trust, or limited partnership; or (iii) an amended

application for such authority or registration, provided that the proposed name complies with the provisions of § 13.1-630, 13.1-762, 13.1-829, 13.1-924, 13.1-1012, 13.1-1054, 13.1-1214, 13.1-1244, 50-73.2, or 50-73.56, as the case may be.

**§ 13.1-632. Registered name.**

A. A foreign corporation may register its corporate name, or its corporate name with any addition required by § 13.1-762, if the name is distinguishable upon the records of the Commission ~~from the corporate names that are not available under subsection C of § 13.1-630.~~

B. A foreign corporation registers its corporate name, or its corporate name with any addition required by § 13.1-762, by: ~~1. Filing~~ filing with the Commission (i) an application setting forth its corporate name, or its corporate name with any addition required by § 13.1-762, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and (ii) a certificate setting forth that such corporation is in good standing, or a document of similar import, from the state or country of incorporation, executed by the official who has custody of the records pertaining to corporations; ~~and~~

~~2. Paying to the Commission a registration fee in the amount of \$20.~~

C. Except as provided in subsection ~~E F~~, registration is effective for one year after the date an application is filed.

~~C D~~. If the Commission finds that the corporate name applied for is available, it shall register the name for the applicant's exclusive use.

~~D E~~. A foreign corporation whose registration is effective may renew it for the succeeding year by filing with the Commission, during the 60-day period preceding the date of expiration of the registration, a renewal application that complies with the requirements of subsection B; ~~and paying a renewal fee of \$20.~~ The renewal application is effective when filed in accordance with this section and, except as provided in subsection ~~E F~~, renews the registration for one year after the date the registration would have expired if such subsequent renewal of the registration had not occurred.

~~E F~~. A foreign corporation whose registration is effective may thereafter obtain a certificate of authority to transact business in the Commonwealth under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in the Commonwealth. The registration terminates when the domestic corporation is incorporated or the foreign corporation obtains a certificate of authority to transact business in the Commonwealth or consents to the authorization of another foreign corporation to transact business in the Commonwealth under the registered name.

~~F G~~. A foreign corporation that has in effect a registration of its corporate name may release such name by filing a notice of release of a registered name with the Commission ~~and by paying a fee of \$10.~~

**§ 13.1-634. Registered office and registered agent.**

A. Each corporation shall continuously maintain in ~~this the~~ the Commonwealth:

1. A registered office that may be the same as any of its places of business; and

2. A registered agent, who shall be:

a. An individual who is a resident of ~~this the~~ the Commonwealth and (i) either an officer or director of the corporation or (ii) a member of the Virginia State Bar; and whose business office is identical with the registered office; or

b. A domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in ~~this the~~ the Commonwealth, the business office of which is identical with the registered office; provided such a registered agent (i) shall not be its own registered agent and (ii) shall designate by instrument in writing, acknowledged before a notary public, one or more natural persons at the office of the registered agent upon whom any process, notice or demand may be served and shall continuously maintain at least one such person at that office. Whenever any such person accepts service, a photographic copy of such instrument shall be attached to the return.

B. The sole duty of the registered agent is to forward to the corporation at its last known address any process, notice, or demand that is served on the registered agent.

**§ 13.1-635. Change of registered office or registered agent.**

A. A corporation may change its registered office or registered agent, ~~or both, upon~~ by filing with the Commission a statement of change on a form prescribed and furnished by the Commission that sets forth:

1. The name of the corporation;

2. The address of its current registered office;

3. If the current registered office is to be changed, the post office address, including the street and number, if any, of the new registered office, and the name of the city or county in which it is to be located;

4. The name of its current registered agent;

5. If the current registered agent is to be changed, the name of the new registered agent; and

6. That after the change or changes are made, the corporation will be in compliance with the requirements of § 13.1-634.

B. A statement of change shall forthwith be filed with the Commission by a corporation whenever its registered agent dies, resigns or ceases to satisfy the requirements of § 13.1-634.

C. A corporation's registered agent may sign a statement of change as required above if (i) the business address of the registered agent changes to another post office address within the Commonwealth or (ii) the name of the registered agent has been legally changed. A corporation's new registered agent may sign and submit for filing a statement of change as required above if (a) the former registered agent is a business entity that has been merged into the new registered agent, (b) the instrument of merger is on record in the office of the clerk of the Commission, and (c) the new registered agent is an

entity that is qualified to serve as a registered agent pursuant to § 13.1-634. In either instance, the registered agent or surviving entity shall forthwith file a statement of *change* as required above, which shall recite that a copy of the statement of *change* shall be mailed to the principal office address of the corporation on or before the business day following the day on which the statement of *change* is filed.

**§ 13.1-636. Resignation of registered agent.**

A. A registered agent may resign ~~the agency appointment~~ *as agent for the corporation* by signing and filing with the Commission a statement of resignation stating (i) *the name of the corporation, (ii) the name of the agent, and (iii) that the agent resigns from serving as registered agent for the corporation.* The statement of resignation shall be accompanied by a certification that the registered agent ~~shall mail~~ *will have a copy thereof of the statement mailed* to the principal office of the corporation by certified mail on or before the business day following the day on which the statement is filed. The statement of resignation may include a statement that the registered office is also discontinued.

B. ~~The agency appointment is terminated, and the registered office discontinued if so provided;~~ *A statement of resignation takes effect on the earlier of (i) 12:01 a.m. on the thirty-first day after the date on which the statement was filed with the Commission or (ii) the date on which a statement of change in accordance with § 13.1-635 is filed with the Commission.*

**§ 13.1-638. Authorized shares.**

A. The articles of incorporation shall set forth any classes of shares and series of shares within a class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one class or series of shares is authorized, the articles of incorporation shall prescribe a distinguishing designation for each class or series and ~~shall describe, prior to, before~~ *describe* the terms, including the preferences, rights and limitations of that class or series. Except to the extent varied as permitted by this section or by subsection B of § 13.1-646, all shares of a class or series shall have terms, including preferences, rights, and limitations, that are identical with those of other shares of the same class or series.

B. The articles of incorporation shall authorize:

1. One or more classes or series of shares that together have ~~unlimited~~ *full* voting rights; and

2. One or more classes or series of shares, which may be the same class or classes or series as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

C. The articles of incorporation may authorize one or more classes or series of shares that:

1. Have special, conditional, or limited voting rights, or no right to vote, except to the extent otherwise provided by this chapter;

2. Are redeemable or convertible as specified in the articles of incorporation:

- a. At the option of the corporation, the shareholder, or another person or upon the occurrence of a specified event;
- b. For cash, indebtedness, securities, or other property; and
- c. At prices and in amounts specified or determined in accordance with a formula;

3. Entitle the holders to distributions, calculated in any manner, including ~~dividends~~ *distributions* that may be cumulative, noncumulative or partially cumulative;

4. Have preference over any other class or series of shares with respect to distributions, including distributions upon the dissolution of the corporation; or

5. Entitle the holders to other specified rights, including a right that no transaction of a specified nature shall be consummated while any such shares remain outstanding except upon the assent of *the holders* of all or a specified portion of such shares.

D. Any of the terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with subsection L of § 13.1-604.

E. Any of the terms of shares may vary among holders of the same class or series so long as such variations are expressly set forth in the articles of incorporation.

F. The description of the preferences, rights, and limitations of classes or series of shares in subsection C is not exhaustive.

**§ 13.1-639. Terms of class or series determined by board of directors.**

A. If the articles of incorporation so provide, the board of directors, without shareholder action, may, by adoption of an amendment of the articles of incorporation:

- 1. Classify any unissued shares into one or more classes or into one or more series within one or more classes;
- 2. Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or
- 3. Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within one or more classes.

B. If the board of directors acts pursuant to subsection A, it shall determine the terms, including the preferences, rights and limitations, to the same extent permitted under § 13.1-638, of:

- 1. Any class of shares before the issuance of any shares of that class, or
- 2. Any series within a class before the issuance of any shares of that series.

C. Unless the articles of incorporation otherwise provide, the board of directors, without shareholder action, may, by adoption of an amendment of the articles of incorporation, delete from the articles of incorporation any provisions originally

adopted by the board of directors without shareholder action fixing the *terms*, including the preferences, limitations, and rights of any class of shares or series within a class, provided there are no shares of such class or series then outstanding.

D. Unless the articles of incorporation otherwise provide, the board of directors of a corporation that is registered as an open-end management investment company under the *federal* Investment Company Act of 1940, without shareholder action, may, by adoption of an amendment of the articles of incorporation:

1. Classify any unissued shares into one or more classes or into one or more series within one or more classes; or
2. Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or
3. Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within one or more classes.

E. When the board of directors has adopted an amendment of the articles of incorporation pursuant to subsection A, C, or D, the corporation shall file with the Commission articles of amendment ~~that set forth:~~

- ~~1. The name of the corporation;~~
- ~~2. The text of the amendment, including any determination made pursuant to subsection B;~~
- ~~3. The date it was adopted; and~~
4. A statement that the amendment was duly adopted by the board of directors pursuant to § 13.1-710 with the addition, when the board of directors has acted pursuant to subsection A, of any determination made pursuant to subsection B.

If the Commission finds that the articles of amendment comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of amendment. Shares of any class or series that are ~~the subject of classified or reclassified~~ under this section by the articles of amendment shall not be issued until the certificate of amendment is effective.

#### § 13.1-640. Issued and outstanding shares.

A. A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted, or canceled.

B. The reacquisition, redemption or conversion of outstanding shares is subject to the limitations of subsection C of this section and to § 13.1-653.

C. At all times that shares of the corporation are issued and outstanding, one or more shares that together have ~~unlimited~~ full voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution shall be outstanding.

#### § 13.1-641. Fractional shares.

A. ~~A~~ Unless the articles of incorporation provide otherwise, a corporation may, if authorized by its board of directors, issue fractions of a share or in lieu of doing so may:

1. Issue fractions of a share or pay in money Pay in cash the value of fractions of a share;
2. Arrange for disposition of fractional shares by the shareholders; or
- ~~3. Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share; or~~
3. Arrange for disposition of fractional shares held by the shareholders.

B. Each certificate representing scrip shall be conspicuously labeled "Scrip" and shall contain the applicable information required by subsection B of § 13.1-647.

C. The holder of a fractional share is entitled to exercise the rights of a shareholder, including the ~~right~~ rights to vote; and to receive dividends, and to participate in the assets of the corporation distributions, including distributions upon dissolution. The holder of scrip is not entitled to any ~~of these~~ rights of a shareholder unless the scrip provides for them.

D. The board of directors may authorize the issuance of scrip subject to any condition ~~considered desirable~~, including that:

1. ~~That the~~ The scrip will become void if not exchanged for full shares before a specified date; and
2. ~~That the~~ The shares for which the scrip is exchangeable may be sold by the corporation and the proceeds paid to the scrip holders scrip holders.

E. When a corporation is to pay in ~~money~~ cash the value of fractions of a share such value shall be determined by the board of directors. A good faith judgment of the board of directors as to the value of a fractional share is conclusive.

#### § 13.1-642. Subscription for shares before incorporation.

A. A subscription for shares entered into before incorporation is irrevocable for six months unless the subscription agreement provides otherwise a longer or shorter period or all the subscribers agree to revocation.

B. The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors must be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

C. Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

D. If a subscriber defaults in payment of ~~money~~ cash or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. The articles of incorporation, bylaws, or the subscription agreement may prescribe other penalties for nonpayment but a subscription and the installments already paid

on it may not be forfeited unless the corporation demands the amount due by written notice to the subscriber and it remains unpaid for at least 20 days after the effective date of the notice.

E. If a subscription for unissued shares is forfeited for nonpayment under subsection D, the corporation may sell the shares subscribed for. If the shares are sold by reason of any forfeiture for more than the amount due on the subscription, the corporation shall pay the excess, after deducting the expense of sale, to the subscriber or the subscriber's representative.

F. A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to § 13.1-643.

**§ 13.1-643. Issuance of shares.**

A. The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

B. Any issuance of shares must be authorized by the board of directors. Shares may be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.

C. ~~A good faith determination by~~ *Before the corporation issues shares, the board of directors, or if authorized by subdivision D 7 of § 13.1-689, a committee of the board of directors or a senior executive officer, shall determine that the consideration received or to be received for the shares to be issued is adequate. That determination is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid and nonassessable. When the board of directors has made such a determination has been made and the corporation has received the consideration, the shares issued therefor are fully paid and nonassessable.*

D. The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the benefits are received or the note is paid. If the services are not performed, the benefits are not received, or the note is not paid, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

E. Where it cannot be determined that outstanding shares are fully paid and nonassessable, there shall be a conclusive presumption that such shares are fully paid and nonassessable if the board of directors makes a good faith determination that there is no substantial evidence that the full consideration for such shares has not been paid.

**§ 13.1-644. Liability of shareholders and others.**

A. A purchaser from a corporation of ~~its~~ *the corporation's* own shares is not liable to the corporation or ~~its~~ *the corporation's* creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued as provided in § 13.1-643 or specified in the subscription agreement ~~under § 13.1-642~~.

B. A person who becomes a transferee of shares in good faith and without knowledge that the consideration determined for the shares pursuant to § 13.1-643 or specified in the subscription agreement ~~pursuant to § 13.1-642~~ has not been paid is not personally liable for any unpaid portion of the consideration, but the initial transferor remains liable therefor.

C. An executor, administrator, conservator, guardian, trustee, assignee for the benefit of creditors, or receiver shall not, in any event, be personally liable to the corporation as transferee of a purchaser from the corporation of ~~its~~ *the corporation's* own shares but the estate of the purchaser and ~~his~~ *the purchaser's* assets in the hands of such personal representative shall be so liable.

D. *A shareholder is not personally liable for any liabilities of the corporation, including liabilities arising from the acts of the corporation, except to the extent provided in a provision of the articles of incorporation permitted by subdivision B 3 (e) of § 13.1-619.*

E. No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.

**§ 13.1-645. Share dividends.**

A. Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of one or more classes or series of *shares*. An issuance of shares under this subsection is a share dividend.

B. Shares of one class or series may not be issued as a share dividend in respect of shares of another class or series unless (i) the articles of incorporation so authorize, (ii) a majority of the votes entitled to be cast by the class or series to be issued approve the issue, or (iii) there are no outstanding shares of the class or series to be issued. For purposes of this subsection, if a security convertible into or carrying a right to subscribe for or acquire shares of the class or series to be issued is outstanding, the holders shall be deemed to be holders of the class or series.

C. If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, it is the date the board of directors authorizes the share dividend.

**§ 13.1-646. Share rights, options, warrants, and other awards.**

A. Subject to the provisions of § 13.1-651, a corporation may issue rights, options or warrants for the purchase of shares or other securities of the corporation. Unless reserved to the shareholders in the articles of incorporation, the board of directors *or, if authorized pursuant to subdivision D 7 of § 13.1-689, a committee of the board of directors or a senior executive officer,* may authorize the issuance of rights, options, or warrants and determine (i) the terms *and conditions* upon which the rights, options, or warrants are issued and (ii) the terms, including the consideration for which the shares or other

securities are to be issued. The authorization for the corporation to issue such rights, options, or warrants constitutes authorization of the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

B. Notwithstanding the provisions of subsection A of § 13.1-638, the terms *and conditions* of rights, options, or warrants issued by a corporation may include, without limitation, restrictions or conditions that (i) preclude or limit the exercise, transfer, or receipt thereof by designated persons or classes of persons or ~~that by any transferee or transferees of such persons or classes of persons or~~ (ii) invalidate or void such rights, options, or warrants held by designated persons or classes of persons or ~~by any transferee or transferees of such persons or classes of persons~~. Any action or determination by the board of directors or, if authorized pursuant to subdivision D 7 of § 13.1-689, a committee of the board of directors, with respect to the issuance, the terms *and conditions* of or the redemption of rights, options, or warrants shall be subject to the provisions of § 13.1-690 and shall be valid if taken or determined in compliance therewith.

C. The board of directors may, *subject to such limitations as the board of directors may establish*, authorize one or more officers to (i) designate the recipients of rights, options, warrants, or other equity compensation awards that involve the issuance of shares and (ii) determine, within an amount and subject to any other limitations established by the board of directors and, if applicable, the shareholders, the number of such rights, options, warrants, or other equity compensation awards and the terms *and conditions* thereof to be received by the recipients, provided that an officer may not use such authority to designate himself, ~~or any other person specified by the board of directors~~, as a recipient of such rights, options, warrants, or other equity compensation awards.

**§ 13.1-647. Form and content of certificates evidencing shares.**

A. Shares may but need not be represented by certificates. Unless this chapter or another statute expressly provides otherwise, the rights and obligations of shareholders are identical *regardless of whether* ~~or not~~ their shares are represented by certificates.

B. At a minimum each share certificate shall state on its face:

1. The name of the ~~issuing~~ corporation and that it is organized under the law of ~~this~~ *the* Commonwealth;
2. The name of the person to whom issued; and
3. The number and class of shares and the designation of the series, if any, the certificate represents.

C. If the ~~issuing~~ corporation is authorized to issue different classes of shares or ~~different~~ series of shares within a class, (i) the designations, rights, preferences, and limitations applicable to each class and ~~the series~~; (ii) any variations in rights, preferences, and limitations ~~determined for each among the holders of the same class or series~~; and (iii) the authority of the board of directors to determine variations for future series) shall be summarized on the front or back of each certificate for shares of such class or series. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

D. Each share certificate ~~(i)~~ shall be signed by two officers, *who may be the same individual*, designated in the bylaws or by the board of directors ~~and (ii) may bear the corporate seal or its facsimile~~. Unless otherwise provided in the articles of incorporation or bylaws, any or all of the signatures on the certificate may be facsimile. ~~In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.~~

E. ~~On any bond, note or debenture issued by a corporation that is countersigned or otherwise authenticated by the manual signature of a trustee, the signatures of the officers of the corporation and its seal may be facsimiles.~~

F. If the person who signed, ~~either manually or in facsimile~~, a share certificate or bond, note or debenture no longer holds office when the certificate or bond, note or debenture is issued, the certificate or bond, note or debenture is nevertheless valid.

**§ 13.1-648. Shares without certificates.**

A. Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the ~~issue~~ *issuance* of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the corporation.

B. Within a reasonable time after the ~~issue~~ *issuance* or transfer of shares without certificates, the corporation shall ~~send~~ *deliver* to the shareholder a written statement of the information required on certificates by subsections B and C of § 13.1-647, and, if applicable, § 13.1-649.

**§ 13.1-649. Restriction on transfer of shares and other securities.**

A. The articles of incorporation, *the* bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction does not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

B. A restriction on the transfer or registration of *transfer* of shares is valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or *is contained* in the information statement required by subsection B of § 13.1-648. Unless so noted or *contained*, a restriction is not enforceable against a person without knowledge of the restriction.

C. A restriction on the transfer or registration of transfer of shares is authorized:

1. To maintain the corporation's status when it is dependent on the number or identity of its shareholders;
2. To preserve exemptions under federal or state securities law; ~~and~~ *or*

3. For any other reasonable purpose.

D. A restriction on the transfer or registration of transfer of shares may:

1. Obligate the shareholder first to offer the corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;

2. Obligate the corporation or other persons (separately, consecutively, or simultaneously) to acquire the restricted shares;

3. Require the corporation, the holders of any class *or series* of its shares, or ~~another person~~ *other persons* to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

4. Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

E. For purposes of this section, "shares" includes any warrants, rights, or options to acquire any ~~such~~ shares or any security or other obligation of the corporation convertible into *or carrying a right to subscribe for or acquire* any such shares or ~~into~~ warrants, rights, or options to acquire any such shares.

**§ 13.1-651. Shareholders' preemptive rights.**

A. Unless limited or denied in the articles of incorporation and subject to the limitations in ~~subsections D through G~~ *subsection C*, the shareholders of a corporation incorporated on or before December 31, 2005, have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

B. Unless otherwise provided for in the articles of incorporation, the shareholders of a corporation incorporated after December 31, 2005, *do not have* ~~no~~ a preemptive right to acquire the corporation's unissued shares ~~upon the decision of the board of directors to issue them~~.

C. Except to the extent that the articles of incorporation expressly provide otherwise, ~~a~~ *when there are preemptive rights, the following apply:*

1. *The shareholders of the corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.*

2. A shareholder may waive the shareholder's preemptive right. A waiver evidenced by a writing is irrevocable even though it is not supported by consideration.

~~D. Unless expressly conferred in the articles of incorporation, there~~ 3. There is no preemptive right with respect to:

~~1. a. Shares issued as compensation to officers or employees, or agents of the corporation or of its subsidiaries pursuant to a plan approved by the shareholders, or affiliates;~~

~~b. Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, employees, or agents of the corporation, its subsidiaries, or affiliates;~~

~~c. Shares that are issued within six months from the effective date of the certificate of incorporation; or~~

~~2. d. Shares sold issued for consideration other than for money cash.~~

~~E. 4. Holders of shares of any class with preferential rights to distributions or assets have no preemptive rights with respect to shares of any other class.~~

~~F. 5. Holders of shares of any class without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into, or carry a right to subscribe for or acquire, shares without preferential rights.~~

~~G. 6. Holders of shares of any class without general voting rights and without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with general voting rights but without preferential rights to distributions or assets.~~

~~H. Except to the extent that the articles of incorporation expressly provide otherwise, shares~~ 7. Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

~~I. D. For purposes of this section, "shares" includes any warrants, rights, or options to acquire any such shares or any security or other obligation of the corporation convertible into or carrying a right to subscribe for or acquire any such shares or into~~ warrants, rights, or options to acquire any such shares.

**§ 13.1-652. Corporation's acquisition of its own shares.**

A. A corporation may acquire its own shares, and shares so acquired constitute authorized but unissued shares of the same class, if any, but undesignated as to series.

B. If the articles of incorporation prohibit the ~~reissue~~ *reissuance* of acquired shares *or if the board of directors has authorized the reduction in the number of authorized shares by the number of shares acquired*, the number of authorized shares ~~is shall be~~ reduced by the number of shares acquired; effective ~~upon~~ *when the issuance of a certificate of amendment is effective*. The corporation shall ~~file with~~ *deliver to* the Commission for filing articles of amendment ~~setting that shall set forth:~~

1. The name of the corporation;

2. The reduction in the number of authorized shares, itemized by class and series;
3. The total number of authorized shares, itemized by class and series, remaining after reduction of the shares; and
4. A statement that the reduction in the number of authorized shares was ~~authorized~~ *required by the articles of incorporation or was adopted* by the board of directors with the date of adoption.

C. The articles of amendment may be adopted by the board of directors without shareholder action.

~~C~~ D. If the Commission finds that the articles of amendment comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of amendment.

**§ 13.1-653. Distributions to shareholders.**

A. ~~A~~ The board of directors may authorize and the corporation may make distributions to its shareholders, subject to restriction by the articles of incorporation and the limitation in subsection C.

B. *The board of directors may fix the record date for determining shareholders entitled to a distribution.* If the board of directors does not fix the record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption, or other acquisition of the corporation's shares, ~~#~~ *the record date* is the date the board of directors authorizes the distribution.

C. No distribution may be made if, after giving it effect:

1. The corporation would not be able to pay its debts as they become due in the usual course of business; or
2. The corporation's total assets would be less than the sum of its total liabilities plus (unless the articles of incorporation permit otherwise) the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

D. The board of directors may base a determination that a distribution is not prohibited under subsection C either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances. For any public corporation, reliance upon the most recent financial statements that have been prepared in accordance with ~~accounting principles~~ *generally accepted accounting principles* in the United States shall be deemed to be reasonable in the circumstances if the financial statements have been audited by independent certified public accountants whose certification does not include a going concern qualification.

E. Except as provided in subsection G, the effect of a distribution under subsection C is measured:

1. In the case of a distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of (i) the date ~~money~~ *cash* or other property is transferred or debt *to a shareholder* incurred by the corporation or (ii) the date the shareholder ceases to be a shareholder with respect to the acquired shares;
2. In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and
3. In all other cases, as of (i) the date the distribution is authorized if the payment occurs within 120 days after the date of authorization or (ii) the date payment is made if it occurs more than 120 days after the date of authorization.

F. A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

G. Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection C if its terms provide that ~~payments~~ *payment* of principal and interest ~~are~~ *is* made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If ~~the~~ *such* indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.

H. This section shall not apply to distributions in liquidation under Article 16 (§ 13.1-742 et seq.) ~~of this chapter.~~

**§ 13.1-654. Annual meeting.**

A. Unless directors are elected by written consent in lieu of an annual meeting as permitted by § 13.1-657, a corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws, except that a corporation registered under the *federal* Investment Company Act of 1940 is not required to hold an annual meeting in any year in which the election of directors is not required to be held under the *federal* Investment Company Act of 1940 unless the articles of incorporation or bylaws of the corporation require an annual meeting to be held.

B. Except as otherwise determined by the board of directors acting pursuant to subsection C of § 13.1-660.2, ~~shareholders' annual meetings may be held at such place, in or out outside of the Commonwealth, as may be provided in the bylaws or, where not inconsistent at the place stated in or fixed in accordance with the bylaws, in the notice of the meeting or, if not inconsistent with the bylaws, in the notice of the meeting.~~

C. The failure to hold an annual meeting at the time stated in or fixed in accordance with ~~#~~ *the* corporation's bylaws does not affect the validity of any corporate action.

**§ 13.1-655. Special meeting.**

A. A corporation shall hold a special meeting of shareholders:

1. On call of the chairman of the board of directors, the president, the board of directors, or the person or persons authorized to do so by the articles of incorporation or bylaws; or
2. In the case of a corporation that is not a public corporation and that has 35 or fewer shareholders of record, if the holders of at least 20 percent of all *the* votes entitled to be cast on ~~any~~ *an* issue proposed to be considered at the special

meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held. ~~The~~ *For such a corporation, the articles of incorporation may provide for an increase or decrease in the percentage stated in this subdivision or may prohibit shareholders from calling a special meeting.*

B. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing, including an electronic transmission, to that effect received by the ~~corporation prior to the receipt by the corporation of demands sufficient in number to require the holding of a corporation's secretary before the start of the special meeting.~~

C. If not otherwise fixed under § 13.1-656 or 13.1-660, the record date for determining shareholders entitled to demand a special meeting ~~is the~~ *shall be the first date the first on which a signed shareholder signs the demand is delivered to the corporation's secretary. No written demand for a special meeting shall be effective unless, within 60 days of the earliest date on which such a demand delivered to the corporation's secretary as required by this section was signed, written demands signed by shareholders that satisfy the requirements of subsection A have been delivered to the corporation's secretary.*

D. Except as otherwise determined by the board of directors acting pursuant to subsection C of § 13.1-660.2, ~~shareholders' special meetings of shareholders may be held at such place in or out outside of this the Commonwealth as may be provided in the bylaws or, where not inconsistent at the place stated in or fixed in accordance with the bylaws, in the notice of the meeting. If no place is so stated or fixed, special meetings shall be held at the corporation's principal office.~~

E. Only business within the purpose or purposes described in the meeting notice required by subsection C of § 13.1-658 may be conducted at a special ~~shareholders'~~ *meeting of shareholders.*

#### **§ 13.1-656. Court-ordered meeting.**

A. The circuit court of the city or county where a corporation's principal office is located or, if none in the Commonwealth, where its registered office is located, may, after notice to the corporation, order a meeting of shareholders to be held:

1. On petition of any shareholder of the corporation ~~entitled to participate in an annual meeting~~ *if an annual meeting was not held or action by written consent in lieu thereof of an annual meeting did not become effective within 15 months after its last annual meeting or, if there has been no annual meeting, the date of its incorporation; or*

2. On petition of a ~~shareholder one or more shareholders~~ *who signed a demand for a special meeting that satisfies the requirements of valid under subsection A of § 13.1-655 if:*

a. Notice of the special meeting was not given within 30 days after the ~~date the demand was~~ *first day on which the requisite number of such demands have been delivered to the corporation's secretary; or*

b. The special meeting was not held in accordance with the notice.

B. The court may fix the *date*, time, and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date or dates for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, *fix the quorum required for specific matters to be considered at the meeting, or direct that the shares represented at the meeting constitute a quorum for action on those matters*, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

#### **§ 13.1-657. Action without meeting.**

A. Action required or permitted by this chapter to be ~~adopted or taken~~ *at a shareholders' meeting may be adopted or taken without a meeting if the action is adopted or taken by all the shareholders entitled to vote on the action, in which case no action by the board of directors shall be required. The adoption or taking of the action shall be evidenced by one or more written consents bearing the date of signature and describing the action taken, signed by all the shareholders entitled to vote on the action; bearing the date of each signature, and delivered to the corporation's secretary for filing by the corporation for inclusion in the minutes or filing with the minutes of the meeting or corporate records.*

B. The articles of incorporation may authorize action by shareholders by less than unanimous written consent, provided that the taking of such action is consistent with any requirements that may be set forth in the ~~corporation's~~ *articles of incorporation, the bylaws, or this section; however, unless the articles of incorporation of a public corporation authorized action by shareholders by less than unanimous written consent as of April 1, 2018, the shareholders of the public corporation shall not be entitled to act by less than unanimous written consent even if so authorized by the articles of incorporation if the articles of incorporation or bylaws of such public corporation allow the holders of 30 percent or fewer of all votes entitled to be cast to demand the calling of a special meeting of shareholders. For action by shareholders by less than unanimous written consent to be valid:*

1. It shall be an action that this chapter requires or permits to be ~~adopted or taken~~ *at a shareholders' meeting;*

2. The ~~corporation's~~ *articles of incorporation shall authorize action by shareholders by less than unanimous written consent and, if a public corporation at the time of such authorization and in addition to the other limitations in this subsection B, the inclusion of the authorization in the articles of incorporation shall be was approved by each voting group entitled to vote by the greater of:*

a. The vote of that voting group required by the ~~corporation's~~ *articles of incorporation to amend the articles of incorporation; and*

b. More than two-thirds of all votes that the voting group is entitled to cast on the amendment;

3. ~~Before~~ At least 10 days before the holders of more than 10 percent of the outstanding shares of any voting group entitled to vote on the action to be ~~adopted or~~ taken have ~~executed~~ signed the written consent, the corporation's secretary shall have received a copy of the form of written consent setting forth the action to be ~~adopted or~~ taken; ~~and~~

4. *If required by this chapter, the articles of incorporation, or the bylaws, the board of directors shall have approved this action; and*

5. The holders of not less than the minimum number of outstanding shares of each voting group entitled to vote on the action that would be required to ~~adopt or~~ take the action at a shareholders' meeting at which all shares of each voting group entitled to vote on the action were present and voted shall have signed written consents setting forth the action to be ~~adopted or~~ taken.

~~The~~ C. A written consent shall bear the date on which each shareholder signed the consent and be delivered to the ~~corporation~~ corporation's secretary for inclusion in the minutes or filing with the corporate records.

~~C.~~ D. If not otherwise fixed under § 13.1-656 or 13.1-660 and if prior ~~board~~ action by the board of directors is not required respecting the action to be ~~adopted or~~ taken without a meeting, the record date for determining the shareholders entitled to ~~adopt or~~ take action without a meeting shall be the first date on which a signed written consent is delivered to the ~~corporation~~ corporation's secretary. If not otherwise fixed under § 13.1-656 or 13.1-660 and if prior ~~board~~ action by the board of directors is required respecting the action to be ~~adopted or~~ taken without a meeting, the record date shall be the close of business on the day the ~~resolution~~ action of the board ~~taking such prior action is adopted~~ is taken. No written consent shall be effective to ~~adopt or~~ take the action referred to therein in such consent unless, within 60 days of the earliest date on which a consent delivered to the ~~corporation~~ corporation's secretary as required by this section was signed, written consents signed by the holders of shares having sufficient votes to ~~adopt or~~ take the corporate action have been delivered to the ~~corporation~~ corporation's secretary. A written consent may be revoked by a writing to that effect delivered to the ~~corporation~~ corporation's secretary before unrevoked written consents sufficient in number to ~~adopt or~~ take the corporate action are delivered to the corporation.

~~D.~~ E. A consent signed pursuant to the provisions of this section has the effect of a vote taken at a meeting and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action ~~adopted or~~ taken by written consent shall be effective when (i) written consents signed by the holders of shares having sufficient votes to adopt or take the action are delivered to the ~~corporation~~ corporation's secretary or (ii) if an effective date is specified therein, as of such date provided such consent states the date of execution by the consenting shareholder.

F. *For purposes of this section, a written consent and the signing thereof may be accomplished by one or more electronic transmissions.*

E. G. Any person, whether or not then a shareholder, may provide that a consent in writing as a shareholder shall be effective at a future time, including the time when an event occurs, but such future time shall not be more than 60 days after such provision is made. Any such consent shall be deemed to have been made for purposes of this section at the future time so specified for the consent to be effective, provided that (i) the person is a shareholder at such future time and (ii) the person did not revoke the consent prior to such future time. Any such consent may be revoked, in the manner provided in subsection ~~E~~ D, prior to its becoming effective.

~~F.~~ H. If this chapter requires that notice of a proposed action be given to nonvoting shareholders and the action is to be ~~adopted or~~ taken by written consent of the voting shareholders, the corporation shall give its nonvoting shareholders written notice of the action not more than 10 days after (i) written consents sufficient to ~~adopt or~~ take the action have been delivered to the ~~corporation~~ corporation's secretary, or (ii) such later date that tabulation of consents is completed pursuant to an authorization under subsection ~~D~~ E. The notice shall reasonably describe the action ~~adopted or~~ taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

~~G.~~ I. If action is ~~adopted or~~ taken by less than unanimous written consent of the voting shareholders, the corporation shall give its nonconsenting voting shareholders written notice of the action not more than 10 days after (i) written consents sufficient to ~~adopt or~~ take the action have been delivered to the ~~corporation~~ corporation's secretary or (ii) such later date that tabulation of consents is completed pursuant to an authorization under subsection ~~D~~ E. The notice shall reasonably describe the action ~~adopted or~~ taken and contain or be accompanied by the same material that under any provision of this chapter would have been required to be sent to voting shareholders in a notice of a meeting at which the action would have been submitted to the shareholders for action.

J. *The notice requirements in subsections H and I shall not delay the effectiveness of actions taken by written consent, and a failure to comply with such notice requirements shall not invalidate actions taken by written consent, provided that this subsection shall not be deemed to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice within the required time period.*

### § 13.1-658. Notice of meeting.

A. ~~A~~ Except as otherwise provided in subsection F, a corporation shall notify shareholders of the date, time, and place, if any, of each annual and special shareholders' meeting. ~~Such notice shall be given~~ no less fewer than 10 nor more than 60 days before the meeting date except that notice of a shareholders' meeting to act on an amendment of the articles of incorporation, a plan of merger, share exchange, domestication, or ~~entity~~ conversion, a proposed sale of assets pursuant to

§ 13.1-724, or the dissolution of the corporation shall be given not ~~less~~ fewer than 25 nor more than 60 days before the meeting date. *If the board of directors has authorized participation by means of remote communication pursuant to § 13.1-660.2 for holders of any class or series of shares, the notice to the holders of such class or series of shares shall describe the means of remote communication to be used.* The notice shall include the record date for determining the shareholders entitled to vote at the meeting, if such date is different ~~than~~ from the record date for determining shareholders entitled to notice of the meeting. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

B. Unless the articles of incorporation or this chapter requires otherwise, notice of an annual meeting *of shareholders* need not state the purpose or purposes for which the meeting is called.

C. Notice of a special meeting *of shareholders* shall state the purpose or purposes for which the meeting is called.

D. If not otherwise fixed under § 13.1-656 or 13.1-660, the record date for determining shareholders entitled to notice of and to vote at an annual or special *shareholders'* meeting is the day before the ~~effective date of the~~ *first notice is delivered* to shareholders.

E. Unless the bylaws require otherwise, if an annual or special *shareholders'* meeting is adjourned to a different date, time, or place, notice need not be given *of the new date, time, or place* if the new date, time, or place, if any, is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or shall be fixed under § 13.1-660, however, ~~not less than 10 days before the meeting date~~ notice of the adjourned meeting shall be given ~~under this section~~ *not fewer than 10 days before the meeting date* to shareholders entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

F. Notwithstanding the foregoing, no notice of a shareholders' meeting need be given to a shareholder if (i) an annual report and proxy statements for two consecutive annual meetings of shareholders or (ii) all, and at least two, checks in payment of dividends or interest on securities during a 12-month period, have been sent by first-class United States mail, addressed to the shareholder at the shareholder's address as it appears on the share transfer books of the corporation, and returned undeliverable. The obligation of the corporation to give notice of shareholders' meetings to any such shareholder shall be reinstated once the corporation has received a new address for such shareholder for entry on its share transfer books.

#### § 13.1-659. Waiver of notice.

A. A shareholder may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time of ~~the meeting that is the subject of such~~ *stated in the* notice. The waiver shall be in writing, be signed by the shareholder entitled to the notice, and be delivered to the *corporation's* secretary ~~of for filing by~~ the corporation ~~for inclusion in~~ *with* the minutes or ~~filing with~~ the corporate records.

B. A shareholder's attendance at a meeting:

1. Waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

2. Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

#### § 13.1-660. Record date for meeting.

A. The bylaws may fix or provide the manner of fixing in advance the record date or dates for one or more voting groups ~~in order to make a determination of shareholders for any purpose to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote or take action by written consent, or to take any other action.~~ If the bylaws do not fix or provide ~~for the manner of fixing a record date, the board of directors of the corporation may fix as in advance~~ the record date ~~the date on which it takes such action or a future date or dates.~~

B. A record date fixed under this section may not be more than 70 days before the meeting or action requiring a determination of shareholders.

C. A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date or dates, which it shall do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

D. If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date or dates continue in effect or it may fix a new record date or dates.

E. The record ~~date~~ *dates* for a shareholders' meeting fixed by or in the manner provided in the bylaws or by the board of directors shall be the record date for determining shareholders entitled ~~to both~~ *to* notice of and to vote at the shareholders' meeting, unless in the case of a record date fixed by the board of directors and to the extent not prohibited by the bylaws, the board *of directors*, at the time it fixes the record date for shareholders entitled to notice of the meeting, fixes a later record date on or before the date of the meeting to determine the shareholders entitled to vote at the meeting.

#### § 13.1-660.1. Conduct of the meeting.

A. At each meeting of shareholders, a chairman shall preside. The chairman shall be appointed as provided in the articles of incorporation, bylaws, or, in the absence of such ~~a~~ provision, by the board of directors.

B. Unless the articles of incorporation or bylaws provide otherwise, the chairman shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting.

C. The chairman of the meeting shall announce at the meeting when the polls open and close for each matter voted upon. If no announcement is made, the polls shall be deemed to have opened at the beginning of the meeting and closed upon the final adjournment of the meeting.

**§ 13.1-660.2. Remote participation in shareholders' meetings.**

A. Shareholders of any class or series of shares may participate in any meeting of shareholders by means of remote communication to the extent the board of directors authorizes such participation for such class or series. Participation as a shareholder by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts; ~~and shall be in conformity with subsection B.~~

B. Shareholders participating in a shareholders' meeting by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures to:

1. Verify that each person participating remotely as a shareholder is a shareholder or a shareholder's proxy; and

2. Provide such shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

C. Unless the articles of incorporation or bylaws require the meeting of shareholders to be held at a place, the board of directors may determine that any meeting of shareholders shall not be held at any place and shall instead be held solely by means of remote communication in conformity with subsection B.

**§ 13.1-661. Shareholders' list for meeting.**

A. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. If the board of directors fixes a different record date under subsection E of § 13.1-660 to determine the shareholders entitled to vote at the meeting, a corporation ~~shall~~ also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list shall be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. *Nothing contained in this subsection shall require the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.*

B. The shareholders' list for notice shall be available for inspection by any shareholder, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the county or city where the meeting will be held. A shareholders' list for voting shall be similarly available for inspection promptly after the record date for voting. The original share transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or to vote at any meeting of shareholders. A shareholder, or the shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements set forth in of subsection D of § 13.1-771, to copy a list, during the regular business hours and at the shareholder's expense, during the period it is available for inspection.

C. ~~If the meeting is to be held at a place, the~~ The corporation shall make the list of shareholders entitled to vote available at the meeting, and any shareholder, or the shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting or any adjournment.

D. If the corporation refuses to allow a shareholder; or the shareholder's agent; or the shareholder's attorney to inspect a shareholders' list before or at the meeting as provided in subsections B and C, or to copy a list as permitted by subsection B, the circuit court of the county or city where the corporation's principal office, or if none in the Commonwealth its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

E. Refusal or failure to prepare or make available a the shareholders' list does not affect the validity of action taken at the meeting.

**§ 13.1-662. Voting entitlement of shares.**

A. Except as provided in subsections B, C, D, and E or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class or series, is entitled to one vote on each matter voted on at a shareholders' meeting. *Only shares are entitled to vote.*

B. Unless the articles of incorporation provide otherwise, in the election of directors each outstanding share, regardless of class or series, is entitled to one vote for as many persons as there are directors to be elected at that time and for whose election the shareholder has a right to vote.

C. ~~Shares that have been called for redemption~~ Redeemable shares are not entitled to vote on any matter and; except as to any right of conversion; shall not be deemed outstanding shares after delivery of written notice of redemption is mailed to the holders effective and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution with under an irrevocable instruction and authority obligation to pay the holders the redemption price on surrender of the shares. ~~Such instruction may provide that the amount so deposited and any interest thereon not claimed within a specified period, not less than two years, after the redemption date shall be repaid to the corporation whose shares are so redeemed; and the persons entitled thereto shall thereafter have only the right to receive the redemption price as unsecured creditors of such corporation.~~

D. ~~The shares~~ Shares of a corporation are not entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to

~~vote for directors of the second through an entity of which a majority of the voting power is held directly or indirectly by the corporation or that is otherwise controlled by the corporation.~~

E. If a corporation holds in a fiduciary capacity its own shares ~~or shares of a second corporation that owns directly, or indirectly through an entity of which a majority of the voting power is held~~ directly or indirectly ~~a majority of shares entitled to vote for directors of the first by the corporation or that is otherwise controlled by the corporation~~, such shares shall not be deemed to be outstanding and entitled to vote unless:

1. The corporation has authority to vote the shares only in accordance with directions of the principal or beneficiary; or
2. A co-fiduciary exists, pursuant to § 6.2-1011 or otherwise, in which event the co-fiduciary may vote the shares.

F. Shares standing in the name of another corporation, domestic or foreign, may be voted by such ~~officer~~ *officers*, agent, or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provision, as the board of directors of such corporation may determine.

G. Shares standing in the name of a partnership may be voted by any partner. Shares standing in the name of a limited liability company may be voted as the articles of organization or an operating agreement may prescribe, or in the absence of any such provision as the managers, or if there are no managers, the members of the limited liability company may determine.

H. Shares held by ~~two three~~ or ~~more fewer~~ persons as joint tenants or tenants in common or tenants by the entirety may be voted by any of such persons. If more than one of such tenants votes such shares, the vote shall be divided among them in proportion to the number of such tenants voting.

I. Shares held by an administrator, executor, guardian, conservator, committee, or curator representing the shareholder may be voted by such person without a transfer of such shares into such person's name. Shares standing in the name of a trustee may be voted by the trustee, but no trustee is entitled to vote shares held by the trustee without a transfer of such shares into the trustee's name.

J. Shares standing in the name of a receiver or a trustee in proceedings under the *federal* Bankruptcy Reform Act of 1978 may be voted by such person. Shares held by or under the control of a receiver or a trustee in proceedings under the *federal* Bankruptcy Reform Act of 1978 may be voted by such person without the transfer thereof into such person's name if authority to do so is contained in an order of the court by which such person was appointed.

K. Nothing herein contained shall prevent trustees or other fiduciaries holding shares registered in the name of a nominee pursuant to § 6.2-1010 from causing such shares to be voted by such nominee as the trustee or other fiduciary may direct. Such nominee may vote shares as directed by a trustee or other fiduciary without the necessity of transferring the shares to the name of the trustee or other fiduciary.

L. A shareholder whose shares are pledged is entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee is entitled to vote the shares so transferred.

M. The articles of incorporation may provide that the holders of bonds or debentures shall be entitled to vote on specified matters and such right shall not be terminated except upon consent of the holders of two-thirds in aggregate principal amount.

N. Subject to the provisions of § 13.1-665, when shares are held by more than one of the fiduciaries referred to in this section, the shares shall be voted as determined by a majority of such fiduciaries, except that: (i) if they are equally divided as to a vote, the vote of the shares is divided equally and (ii) if only one of such fiduciaries is present in person or by proxy at a meeting, the fiduciary shall be entitled to vote all the shares. A proxy apparently executed by one of several of such fiduciaries shall be presumed to be valid until challenged and the burden of proving invalidity shall rest on the challenger.

### § 13.1-663. Proxies.

A. A shareholder may vote the shareholder's shares in person or by proxy.

B. A shareholder, or the shareholder's agent or attorney-in-fact, may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form or by an electronic transmission. ~~Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to this subsection may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or~~ *An electronic transmission shall contain or be accompanied by information from which the recipient can determine the date of the transmission and that the transmission was authorized by the sender or the sender's agent or attorney-in-fact.*

C. An appointment of a proxy is effective when a signed appointment form or an electronic transmission of the appointment is received by the inspectors of election or the officer or agent of the corporation authorized to ~~tabulate count~~ votes. An appointment is valid for ~~11 months unless a longer period is expressly~~ *the term* provided in the appointment form ~~and, if no term is provided, is valid for 11 months unless the appointment is irrevocable under subsection D.~~

D. An appointment of a proxy is revocable unless the appointment form or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

1. A pledgee;
2. A person who purchased or agreed to purchase the shares;
3. A creditor of the corporation who extended it credit under terms requiring the appointment;
4. An employee of the corporation whose employment contract requires the appointment; or

5. A party to a voting agreement created under § 13.1-671.

E. The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the *corporation's* secretary or other officer or agent authorized to ~~tabulate count~~ votes before the proxy exercises ~~his~~ authority under the appointment.

F. An appointment made irrevocable under subsection D is revoked when the interest with which it is coupled is extinguished.

G. ~~A~~ *Unless it otherwise provides, an appointment made irrevocable under subsection D continues in effect after a transfer of the shares and a transferee takes subject to the appointment, except that a transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when ~~the transferee acquired~~ acquiring the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.*

H. Subject to § 13.1-665 and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

~~I. Any fiduciary who is entitled to vote any shares may vote such shares by proxy.~~

### § 13.1-664. Shares held by intermediaries and nominees.

A. ~~A corporation~~ *corporation's board of directors may establish a procedure by under which the beneficial owner of a person on whose behalf shares that are registered in the name of a an intermediary or nominee is recognized may elect to be treated by the corporation as the record shareholder. The extent of this recognition may be determined by filing with the corporation's secretary a beneficial ownership certificate. The terms, conditions, and limitations of this treatment shall be specified in the procedure. To the extent such person is treated under such procedure as having rights or privileges that the record shareholder otherwise would have, the record shareholder shall not have those rights or privileges.*

B. The procedure ~~may set forth~~ shall specify:

1. The types of *intermediaries or nominees* to which it applies;
2. The rights or privileges that the corporation recognizes in a *person with respect to whom a beneficial owner ownership certificate is filed*;
3. The manner in which the procedure is selected ~~by the nominee~~, which shall include that the beneficial ownership certificate be signed or assented to by or on behalf of the record shareholder and the person on whose behalf the shares are held;
4. The information that must be provided when the procedure is selected;
5. The period for which selection of the procedure is effective; ~~and~~
6. ~~Other aspects of the rights and duties created~~ *Requirements for notice to the corporation with respect to the arrangement; and*
7. *The form and contents of the beneficial ownership certificate.*

C. *The procedure may specify any other aspects of the rights and duties that may be included in a beneficial ownership certificate.*

#### § 13.1-664.1. Inspectors of election.

A. A public corporation shall, and any other corporation may, appoint one or more inspectors to act at a *shareholders' meeting of shareholders* in connection with determining voting results. Each inspector, ~~before entering upon the discharge of his duties~~, shall ~~certify~~ *verify* in writing that the inspector will faithfully execute the duties of inspector with strict impartiality and according to the best of ~~his~~ *the inspector's* ability. *An inspector may be an officer or employee of the corporation. An inspector may appoint or retain other persons to assist the inspector in the performance of the inspector's duties under subsection B, and may rely on information provided by such persons and other persons, including those appointed to count votes, unless the inspectors believe reliance is unwarranted.*

B. The inspectors shall ~~(i) ascertain~~:

1. *Ascertain* the number of shares outstanding and the voting power of each; ~~(ii) determine~~;
2. *Determine* the shares represented at a meeting ~~and the~~;
3. *Determine* the validity of proxy appointments and ballots; ~~(iii) count~~;
4. *Count* all votes; ~~(iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify in; and~~
5. *Make* a written report ~~their determination of the number of shares represented at the meeting and their count of the votes results. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors and may rely on information provided by such persons and other persons, including those appointed to tabulate votes, unless the inspectors believe reliance is unwarranted. In any court proceeding there shall be a rebuttable presumption that the report of the inspectors is correct.~~

C. No ~~ballot~~ *ballots*, proxies, or votes, nor any revocations thereof or changes thereto, shall ~~may~~ be accepted by the ~~inspectors~~ after the closing of the polls unless the circuit court of the city or county where the corporation's principal office is located or, if none in ~~this~~ *the* Commonwealth, where its registered office is located, upon application by a shareholder, shall determine otherwise.

D. In performing their duties, the inspectors may examine (i) the proxy appointment forms *or electronic transmissions* and any other information provided in accordance with subsection B of § 13.1-663, (ii) any envelope or related writing

submitted with those appointment forms, (iii) any ballots, (iv) any evidence or other information specified in § 13.1-665, and (v) the relevant books and records of the corporation relating to its shareholders and their entitlement to vote, including any securities position list provided by a depository clearing agency.

E. The inspectors also may consider other information that they believe is relevant and reliable for the purpose of performing any of the duties assigned to them pursuant to subsection B, including for the purpose of evaluating inconsistent, incomplete, or erroneous information and reconciling information submitted *by or* on behalf of banks, brokers, their nominees, or similar persons that indicates more votes being cast than a proxy is authorized by ~~the record shareholder to cast or more votes being cast than~~ the record shareholder is entitled to cast. If the inspectors consider other information allowed by this subsection, they shall ~~specify~~ in their report under subsection B *specify* the information considered by them, including the purpose or purposes for which the information was considered, the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained, and the basis for the inspectors' belief that such information is relevant and reliable.

F. Determinations of law by the inspectors shall ~~be~~ *are* subject to de novo review by a court in a proceeding under § 13.1-669.1 or other judicial proceeding.

~~G. If authorized by the board of directors, any shareholder vote to be taken by written ballot may be satisfied by a ballot submitted by electronic transmission by the shareholder or the shareholder's proxy, provided that any such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the shareholder or the shareholder's proxy. A share that is voted by a ballot submitted by electronic transmission is deemed present at the meeting of shareholders.~~

### § 13.1-665. Corporation's acceptance of votes.

A. If the name signed on a vote, ballot, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, is entitled to accept the vote, ballot, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

B. If the name signed on a vote, ballot, consent, waiver, or proxy appointment does not correspond to the name of ~~its~~ *the* shareholder, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, ballot, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

1. The shareholder is an entity and the name signed purports to be that of an officer, ~~partner,~~ or agent of the entity;
2. The name signed purports to be that of an administrator, executor, guardian, ~~or~~ conservator, *committee, or curator* representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, ballot, consent, waiver, or proxy appointment;
3. The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence *of this status* acceptable to the corporation ~~that such receiver or trustee has been authorized to vote the shares in an order of the court by which such person was appointed~~ has been presented with respect to the vote, ballot, consent, waiver, or proxy appointment;
4. The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, ballot, consent, waiver, or proxy appointment; or

5. ~~Two or more~~ *Three or fewer* persons are the shareholder as *co-tenants or* fiduciaries and the name signed purports to be the name of at least one of the ~~fiduciaries~~ *co-owners* and the person signing appears to be acting on behalf of all the ~~fiduciaries~~ *co-owners*.

C. Notwithstanding the provisions of subdivisions B 2 and B 5, in any case in which the will, trust agreement, or other instrument under which a fiduciary purports to act contains directions for the voting of shares in any corporation, or for the execution and delivery of proxies for the voting thereof, such directions shall be binding upon the fiduciary and upon the corporation if a copy thereof has been furnished to the corporation.

D. The corporation is entitled to reject a vote, ballot, consent, waiver, or proxy appointment if the ~~secretary or other officer or agent~~ *person* authorized to *accept or reject such instrument or* count votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

E. Neither the corporation nor the person authorized to count votes, including an inspector of *election* under § 13.1-664.1, ~~who that~~ accepts or rejects a vote, ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or subsection B of § 13.1-663 is liable in damages to the shareholder for the consequences of the acceptance or rejection.

F. Corporate action based on the acceptance or rejection of a vote, ballot, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

*G. If an inspector of election has been appointed under § 13.1-664.1, the inspector of election also has the authority to request information and make determinations under subsections A, B, C, and D.*

*H. If authorized by the board of directors, any shareholder vote to be taken at a shareholders' meeting may be voted upon by a ballot submitted by electronic transmission by the shareholder or the shareholder's proxy, provided that any such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the shareholder or the shareholder's proxy. A share that is voted by a ballot submitted by electronic transmission as permitted by this subsection is deemed present at the shareholders' meeting.*

**§ 13.1-666. Quorum and voting requirements for voting groups.**

A. Shares entitled to vote as a separate voting group may take action ~~on a matter~~ at a meeting only if a quorum of those shares exists ~~with respect to that matter for the meeting~~. Unless the articles of incorporation or this chapter provides otherwise, *shares representing a majority of the votes entitled to be cast on at the matter meeting* by the voting group constitutes a quorum of that voting group for ~~action on that matter the meeting~~. *Whenever this chapter requires a particular quorum for a specified action, the articles of incorporation may not provide for a lower quorum. Less than a quorum may adjourn a meeting.*

B. Once a share is represented for any purpose at a meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or shall be set for that adjourned meeting.

C. If a quorum exists, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or this chapter requires a greater number of affirmative votes. An abstention or an election by a shareholder not to vote on the action because of the failure to receive voting instructions from the beneficial owner of the shares shall not be considered a vote cast.

D. ~~Less than a quorum may adjourn a meeting~~ *An amendment of the articles of incorporation adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection A or C is governed by section § 13.1-668.*

E. The election of directors is governed by § 13.1-669.

F. *Whenever a provision of this chapter provides for voting of classes or series of shares as separate voting groups, the rules provided in subsection C of § 13.1-708 for amendments of the articles of incorporation apply to that provision.*

**§ 13.1-667. Action by single and multiple voting groups.**

A. If the articles of incorporation or this chapter provides for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in ~~§ 13.1-665~~ *13.1-666*.

B. If the articles of incorporation or this chapter provides for voting by two or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in § 13.1-666. Action may be taken by ~~one different voting group groups~~ on a matter ~~even though no action is taken by another voting group entitled to vote on the matter at different times~~.

**§ 13.1-668. Modifying quorum or voting requirements.**

A. The articles of incorporation may provide for (i) a lesser or greater quorum requirement for shareholders *or voting groups of shareholders*, but in each case not less than ~~one third~~ *one third* of the shares eligible to vote; ~~or voting groups of shareholders~~; or (ii) a greater voting requirement for shareholders, or voting groups of shareholders, than is provided by this chapter.

B. An amendment ~~to~~ of the articles of incorporation that adds, changes, or deletes a quorum or voting requirement shall meet the *same* quorum requirement and be adopted by the *same* vote and voting groups required to take action under the quorum and voting requirements then in effect.

**§ 13.1-669. Voting for directors; cumulative voting.**

A. Unless otherwise provided in the articles of incorporation or the bylaws, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

B. Shareholders do not have a right to cumulate their votes for directors unless the articles of incorporation so provide.

C. A statement included in the articles of incorporation that "[all of] or [a designated voting group of] shareholders are entitled to cumulate their votes for directors," or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two or more candidates.

D. Shares otherwise entitled to vote cumulatively may not be voted cumulatively at a particular meeting unless:

~~1. The the meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized; or~~

~~2. A shareholder who has the right to cumulate his votes gives notice to the secretary of the corporation not less than 48 hours before the time set for the meeting of the shareholder's intent to cumulate his votes during the meeting. If one shareholder gives such a notice all other shareholders in the same voting group participating in the election are entitled to cumulate their votes without giving further notice.~~

E. If a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors, directors may not be elected by written consent pursuant to § 13.1-657 unless it is unanimous.

**§ 13.1-669.1. Judicial determination of corporate offices and review of elections and shareholder votes.**

A. Upon application of, or in a proceeding commenced by, a person specified in subsection B, the circuit court in the county or city in which the principal office of the corporation is located, or, if none in the Commonwealth, in the county or city in which its registered office is located may determine:

1. The *result or* validity of the election, appointment, removal, or resignation of a director or officer of the corporation;
2. The right of an individual to hold the office of director or officer of the corporation;
3. The result or validity of ~~an election or~~ any vote by the shareholders of the corporation;
4. The right of a director to membership on a committee of the board of directors; and

5. The right of a person to nominate, or an individual to be nominated as, a candidate for election or appointment as a director of the corporation, and any right under a bylaw adopted pursuant to subsection C of § 13.1-624 or any comparable right under any provision of the articles of incorporation, a contract, or applicable law.

B. Any application or proceeding pursuant to subsection A may be filed or commenced by any of the following persons:

1. The corporation;
  2. A *record* shareholder, *beneficial shareholder* or *unrestricted voting trust beneficial owner* of the corporation;
  3. A director of the corporation, an individual claiming the office of director, or a director whose membership on a committee of the board of directors is contested, who, in each case, is seeking a determination of ~~his~~ *the individual's* right to such office or membership;
  4. An officer of the corporation or an individual claiming to be an officer of the corporation, in each case who is seeking a determination of ~~his~~ *the individual's* right to such office; or
  5. A person claiming a right covered by subdivision A 5 and who is seeking a determination of such right.
- C. In connection with any application or proceeding ~~pursuant to~~ *under* subsection A, the following shall be named as defendants, unless such person made the application or commenced the proceeding:

1. The corporation;
  2. An individual whose right to office or membership on a committee of the board of directors is contested;
  3. Any individual claiming the office or membership at issue; and
  4. Any person claiming a right covered by subdivision A 5 that is at issue.
- D. In connection with any application or proceeding under subsection A, service of process may be made upon each of the persons specified in subsection C either by:

1. Serving on the corporation process addressed to such person in any manner provided by statute of the Commonwealth or by rule of the applicable court for service of process on the corporation; or
2. Serving on such person process in any manner provided by statute of the Commonwealth or by rule of the applicable court.

E. When service of process is made upon a person other than the corporation by service upon the corporation pursuant to subdivision D 1, the plaintiff and the corporation promptly shall provide written notice of such service, together with copies of all process and the application or complaint, to such person at the person's last known residence or business address, or as permitted by statute of the Commonwealth, *or by rule of the applicable court*.

F. In connection with any application or proceeding under subsection A, the court shall dispose of the application or proceeding on an expedited basis and also may:

1. Order such additional or further notice as the court deems proper under the circumstances;
2. Order that additional persons be joined as parties to the proceeding if the court determines that such joinder is necessary for a just adjudication of matters before the court;
3. Order an election or meeting be held in accordance with the provisions of § 13.1-656 or otherwise;
4. Appoint a master to conduct an election or meeting;
5. Enter temporary, preliminary, or permanent injunctive relief;
6. Resolve solely for the ~~purposes~~ *purpose* of the proceeding any legal or factual issues necessary for the resolution of any of the matters specified in subsection A, including the right and power of persons claiming to own shares to vote at any meeting of the shareholders; and
7. Order such relief as the court determines is equitable, just, and proper.

G. It shall not be necessary to make shareholders parties to a proceeding or application pursuant to this section unless the shareholder is a required defendant under subdivision C 4, relief is sought against the shareholder individually, or the court orders joinder pursuant to subdivision F 2.

H. Nothing in this section limits, restricts, or abolishes the subject matter jurisdiction or powers of the court ~~as existed prior to July 1, 2015~~. An application or proceeding pursuant to this section is not the exclusive remedy or proceeding available with respect to the matters specified in subsection A.

#### **§ 13.1-670. Voting trusts.**

A. One or more shareholders may create a voting trust, conferring on a trustee ~~or trustees~~ the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee ~~or trustees~~. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all *voting trust beneficial* owners ~~of beneficial interests in the trust~~, together with the number and class *or series* of shares each transferred to the trust, and deliver copies of the list and agreement to the ~~corporation's~~ *corporation* at its principal office.

B. A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name.

C. ~~The~~ *Limits, if any, on the* duration of a voting trust shall be as set forth in the voting trust, except that a voting trust that became effective prior to July 1, 2015, is valid for not more than 10 years after its effective date unless some or all of the parties to the voting trust extend it by signing a written consent to the extension.

D. Any consent to an extension ~~pursuant to subsection C~~ signed by less than all of the parties to the voting trust binds only the parties signing it.

~~E.~~ The voting trustee shall deliver copies of any consent to extension and the list of beneficial owners to the corporation's secretary at the corporation's principal office.

**§ 13.1-671.1. Shareholder agreements.**

A. An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation, even though it is inconsistent with one or more other provisions of this chapter in that it:

1. Eliminates the board of directors or, subject to the requirements of subsection D of § 13.1-647 and subsection A of § 13.1-693, one or more officers or restricts the discretion or powers of the board of directors ~~or one or more officers~~;

2. Governs the authorization or making of distributions, *regardless of whether* ~~or not they are~~ in proportion to ownership of shares, subject to the limitations in § 13.1-653;

3. Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

4. Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;

5. Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer or employee of the corporation; or among any of them;

6. Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders;

7. Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency; or

8. Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors and the corporation, or among any of them, and is not contrary to public policy.

B. An agreement authorized by this section shall be:

1. ~~a. Set~~ As set forth (i) in the articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement; or

~~b. Set forth~~ (ii) in a written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation; and

2. Subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise.

C. The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by subsection B of § 13.1-648. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the agreement shall be entitled to rescission of the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or ~~prior to~~ before the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection must be commenced within the earlier of 90 days after discovery of the existence of the agreement or two years after the time of purchase of the shares.

D. An agreement authorized by this section shall cease to be effective when the corporation becomes a public corporation. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment ~~to~~ of the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

E. An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

F. The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

G. Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares ~~were~~ have been issued when the agreement ~~was~~ is made.

H. No action taken pursuant to this section shall change any requirement to file articles or other documents with the Commission or affect the rights of any creditors or other third parties.

I. ~~The~~ Limits, if any, on the duration of an agreement authorized by this section shall be as set forth in the agreement, except that the duration of an agreement that became effective prior to July 1, 2015, remains 10 years unless the agreement provided otherwise or is subsequently amended to provide otherwise.

J. An agreement among shareholders of a corporation that is consistent with the other provisions of this chapter that does not comply with the provisions of this section shall nonetheless be effective among the shareholders and the corporation.

**§ 13.1-672.1. Standing; condition precedent; stay of proceedings.**

A. A shareholder shall not commence or maintain a derivative proceeding unless the shareholder:

1. Was a shareholder of the corporation at the time of the act or omission complained of;
- ~~2. Became, became~~ a shareholder through transfer by operation of law from one who was a shareholder at that time, or
- ~~3. Became became~~ a shareholder before public disclosure and without knowledge of the act or omission complained of; ~~and~~
2. Was a shareholder at the time the shareholder made the written demand required by subdivision B 1; and
- 4-3. Fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

B. No shareholder may commence a derivative proceeding until:

1. A written demand has been made on the corporation to take suitable action; and
2. Ninety days have expired from the date delivery of the written demand was made on the corporation unless (i) the shareholder has earlier been notified before the expiration of 90 days that the demand has been rejected by the corporation or (ii) irreparable injury to the corporation would result by waiting until for the end expiration of the 90-day period.

C. If the corporation commences a review and evaluation an inquiry into of the allegations made in the demand or complaint, the court may stay any derivative proceeding for such period as the court deems appropriate.

**§ 13.1-672.2. Discontinuance or settlement.**

A. A derivative proceeding shall may not be settled or discontinued without the court's approval. If the court determines that the a proposed discontinuance or settlement will substantially and adversely affect the interests of the corporation's shareholders or a class or series of the corporation's shareholders, the court shall direct that notice be given to the shareholders affected.

B. Notice required under this section by subsection A shall be given in such manner as the court shall determine, and the costs of such notice shall be borne in such manner as the court shall direct.

**§ 13.1-672.3. Foreign corporations.**

Notwithstanding the provisions of §§ 13.1-672.1 and 13.1-672.4, in any derivative proceeding in the right of a foreign corporation, subject to the court's determination of whether the courts of the Commonwealth are a convenient forum for such a proceeding, determinations of (i) standing and satisfaction of conditions precedent to commencing and maintaining derivative proceedings and (ii) grounds for dismissal of derivative proceedings, the matters covered by this article shall be governed by the laws of the jurisdiction of formation of the foreign corporation's state of incorporation corporation except for matters covered by subsection C of § 13.1-672.1 and §§ 13.1-672.2 and 13.1-672.5.

**§ 13.1-672.4. Dismissal.**

A. A derivative proceeding shall be dismissed by the court on motion by the corporation if one of the groups specified in subsection B or E has:

1. Conducted a review and evaluation, adequately informed in the circumstances, of the allegations made in the demand or complaint;
2. Determined in good faith on the basis of that review and evaluation that the maintenance of the derivative proceeding is not in the best interests of the corporation; and
3. Submitted in support of the motion a short and concise statement of the reasons for its determination.

B. Unless a panel is appointed pursuant to subsection E, the determination in subsection A shall be made by:

1. A majority vote of disinterested directors present at a meeting of the board of directors if the disinterested directors constitute a quorum; or
2. A majority vote of a committee consisting of two or more disinterested directors appointed by a majority vote of disinterested directors present at a meeting of the board of directors, regardless of whether or not such disinterested directors constituted a quorum.

C. If a derivative proceeding has been is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing that the requirements of subsection A or B have not been met. ~~The~~ With respect to any allegation that the requirements of subsection A or B have not been met, the plaintiff shall be entitled to discovery if, and only with respect to the issues presented by the motion only if and to the extent that the complaint alleges such, facts that are alleged in the complaint with particularity.

D. The plaintiff shall have the burden of proving that the requirements of subsection A or B have not been met, except that the corporation shall have the burden with respect to the issue of independence disinterestedness under subsection B if the complaint alleges with particularity facts raising a substantial question as to such independence disinterestedness.

E. ~~The~~ Upon motion by the corporation, the court may appoint a panel of independent disinterested persons upon motion by the corporation to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation.

**§ 13.1-672.5. Payment of and security for expenses.**

On termination of a derivative proceeding, the court shall may:

1. Order the corporation to pay the plaintiff's reasonable expenses (including counsel fees) incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation; or

2. Order the plaintiff or the plaintiff's attorney to pay *the corporation's* or any defendant's ~~reasonable~~ expenses (including counsel fees) incurred in defending the proceeding if it finds that the proceeding was commenced or maintained arbitrarily, vexatiously, or not in good faith.

**§ 13.1-672.6. Shareholder action to appoint a custodian or receiver for a public corporation.**

A. The circuit court in any city or county where a public corporation's principal office is or was last located, or, if none in the Commonwealth, where its registered office is or was last located may appoint one or more persons to be custodians, or, if the corporation is insolvent, to be receivers, of and for a public corporation in a proceeding by a shareholder where it is established that:

1. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered; or

2. The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

B. The court:

1. May issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held;

2. Shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

3. Has jurisdiction over the corporation and all of its property, wherever located.

C. The court may appoint an individual or domestic or foreign corporation, authorized to transact business in the Commonwealth, as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

D. The court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended from time to time. Among other powers:

1. A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the business and affairs of the corporation; and

2. A receiver (i) may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and (ii) may sue and defend in the receiver's own name as receiver in all courts of the Commonwealth.

E. The court during a custodianship may ~~designate~~ *redesignate* the custodian a receiver, and during a receivership may redesignate the receiver a custodian, if doing so is in the best interests of the corporation.

F. The court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

**§ 13.1-672.7. Shareholder defined.**

*As used in this article, "shareholder" means a record shareholder, a beneficial shareholder, and a voting trust beneficial owner whose entitlement to bring the proceeding under this article is not inconsistent with the voting trust agreement.*

**§ 13.1-673. Requirement for and duties of board of directors.**

A. Except as provided in an agreement authorized by § 13.1-671.1, each corporation shall have a board of directors.

B. All corporate powers shall be exercised by or under the authority of the *board of directors*, and the business and affairs of the corporation managed under the direction ~~of its~~, *and subject to the oversight, of the board of directors*, subject to any limitation set forth in the articles of incorporation *permitted by subdivision B 3 of § 13.1-619* or in an agreement authorized under § 13.1-671.1.

**§ 13.1-674. Qualifications for directors or for nominees for director.**

A. The articles of incorporation or bylaws may prescribe qualifications for directors or ~~to be nominated as directors~~ *for nominees for director*.

B. A requirement that is based on a past, current, or prospective action, or on an expression of an opinion, by a nominee or director that (i) relates to the discharge of a director's duties and (ii) could limit the ability of the nominee or director to discharge his duties as a director is not a permissible qualification for a nominee or director under this section. Permissible qualifications for a nominee or director under this section include the person's not being or having been subject to specified criminal, civil, or regulatory sanctions or not having been removed as a director by judicial action or for cause.

C. A director need not be a resident of ~~his~~ *the* Commonwealth or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe.

D. A qualification for nomination for director that is prescribed before a person's nomination shall apply to the person at the time of his nomination. A qualification for nomination for director that is prescribed after a person's nomination shall not apply to ~~the~~ *that* person with respect to such nomination.

E. A qualification for directors that is prescribed before a person's nomination for director may provide that it applies (i) only at the start of the director's term or (ii) during that person's term as director. A qualification for directors prescribed during a director's term shall not apply to that director prior to the end of that director's term.

**§ 13.1-675. Number and election of directors.**

A. A board of directors shall consist of one or more individuals, with the number specified in or fixed in accordance with the ~~bylaws, or if not specified in or fixed in accordance with the bylaws, with the number specified in or fixed in accordance with the~~ articles of incorporation ~~or bylaws~~. The number of directors may be increased or decreased from time to time by amendment to the ~~bylaws, unless of, or in the manner provided in,~~ articles of incorporation ~~provide that a change in the number of directors shall be made only by amendment of the articles of incorporation or bylaws~~.

~~B. The shareholders may adopt a bylaw fixing the number of directors and may direct that such bylaw not be amended by the board of directors.~~

~~C. The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or by the board of directors. After shares are issued, only the shareholders may change the range for the size of the board of directors or change from a fixed to a variable range size board or vice versa.~~

~~D. C. Directors are elected at the first annual shareholders' meeting and at each annual meeting thereafter unless elected by written consent in lieu of an annual meeting as permitted by § 13.1-657 or unless their terms are staggered under § 13.1-678.~~

~~E. D. No individual shall be named or elected as a director without his prior consent.~~

**§ 13.1-676. Election of directors by certain classes or series of shares.**

If the articles of incorporation authorize dividing the shares into classes *or series*, the articles of *incorporation* may also authorize the election of all or a specified number of directors by the holders of one or more authorized classes *or series* of shares. ~~Each~~ A class, *or series, or multiple classes or series*, of shares entitled to elect one or more directors is a separate voting group for purposes of the election of directors.

**§ 13.1-677. Terms of directors generally.**

A. The terms of the initial directors of a corporation expire at the first shareholders' meeting at which directors are elected, unless their terms are staggered pursuant to § 13.1-678, in which case the term shall expire at the applicable second or third annual shareholders' meeting.

B. The terms of all other directors expire at the next, or if the terms are staggered ~~in accordance with~~ pursuant to § 13.1-678, at the applicable second or third, annual shareholders' meeting following their election, *except to the extent a shorter term is specified in the articles of incorporation in the event of a director nominee failing to receive a specified vote for election*.

C. A decrease in the number of directors does not shorten an incumbent director's term.

D. The term of a director elected by the board of directors to fill a vacancy expires at the next shareholders' meeting at which directors are elected.

~~E. Despite~~ *Except to the extent otherwise provided in the articles of incorporation, despite* the expiration of a director's term, the director continues to serve until the director's successor is elected and qualifies or until there is a decrease in the number of directors; ~~if any~~.

F. Notwithstanding the foregoing provisions, the terms of the directors of a corporation registered under the *federal* Investment Company Act of 1940 shall expire according to, and otherwise be governed by, the provisions of the *federal* Investment Company Act of 1940.

**§ 13.1-678. Staggered terms for directors.**

~~A.~~ The articles of incorporation may provide for staggering the terms of directors by dividing the total number of directors into two or three groups, with each group containing one-half or one-third of the total, as near as may be *practicable*. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be ~~chosen~~ *elected* for a term of two years or three years, as the case may be, to succeed those whose terms expire.

~~B. If the articles of incorporation permit cumulative voting, any provision establishing staggered terms of directors shall provide that at least three directors shall be elected at each annual shareholders' meeting.~~

**§ 13.1-679. Resignation of directors.**

A. A director may resign at any time by delivering a written *notice of resignation* to the board of directors or its chairman, or to the secretary of the corporation.

B. A resignation is effective ~~when the resignation is delivered~~ as provided in subdivision 9 of § 13.1-610 unless the resignation ~~specifies a later effective date or an effective date~~ *provides for a delayed effectiveness including effectiveness determined upon the occurrence of one or more a future event or events*. If a resignation is ~~made effective at a later date~~ *provides for a delayed effectiveness*, the board of directors may fill the pending vacancy before the ~~effective date~~ *effectiveness of the resignation* if the board of directors provides that the successor does not take office until the ~~effective date~~ *effectiveness of the resignation*. A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.

C. Any person who has resigned as a director of a corporation, or whose name is incorrectly on file with of record in the office of the clerk of the Commission as a director of a corporation, and who has resigned or whose name is incorrectly of record, may file a statement to that effect with the Commission.

D. Upon the resignation of a director, the corporation may file an amended annual report with the Commission indicating the resignation of the director and the successor in office, if any.

**§ 13.1-680. Removal of directors by shareholders.**

A. The shareholders may remove one or more directors with or without cause, unless the articles of incorporation provide that directors may be removed only with for cause.

B. If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove the director.

C. If cumulative voting in the election of directors is authorized by the articles of incorporation, a director may not be removed if, in the case of a shareholders' meeting, the number of votes sufficient to elect him under cumulative voting is voted against his removal and, if action is taken by less than unanimous consent, voting shares entitled to the number of votes sufficient to elect the director under cumulative voting do not consent to the removal. If cumulative voting in the election of directors is not authorized by the articles of incorporation, unless the articles of incorporation or bylaws require a greater vote, a director may be removed if the number of votes cast to remove him the director constitutes a majority of the votes entitled to be cast at an election of directors of the voting group or voting groups by which the director was elected.

D. A director may be removed by the shareholders only at a shareholders' meeting if the meeting is called for the purpose of removing the director. The meeting notice shall state that the purpose, or one of the purposes of the meeting, is removal of the director.

E. Upon the removal of a director, the corporation may file an amended annual report with the Commission indicating the removal of the director and the successor in office, if any.

**§ 13.1-681.1. Removal of directors by judicial proceeding.**

A. The circuit court in the county or city in which the principal office of the corporation is located, or, if none in the Commonwealth, in the county or city in which its registered office is located, may remove a director from office, and may bar the director from reelection for a period prescribed by the court, in a proceeding commenced by or in the right of the corporation if the court finds that (i) the director engaged in fraudulent conduct with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation and (ii) considering the director's course of conduct and the inadequacy of other available remedies, removal would be in the best interest of the corporation.

B. A shareholder proceeding on behalf of the corporation under subsection A shall comply with all of the requirements of Article 8.1 (§ 13.1-672.1 et seq.) except for those set forth in subdivisions A 1 and 2 of § 13.1-672.1.

**§ 13.1-682. Vacancy on board of directors.**

A. Unless the articles of incorporation provide otherwise, if a vacancy occurs on the board of directors, including a vacancy resulting from an increase in the number of directors:

1. The shareholders may fill the vacancy;

2. The board of directors may fill the vacancy; or

3. If the directors remaining in office constitute fewer are less than a quorum of the board of directors, they may fill the vacancy by the affirmative vote of a majority of the directors remaining in office.

B. Unless the articles of incorporation provide otherwise, if the vacant office was held by a director elected by a voting group of shareholders, only the shareholders of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders and only the remaining directors elected by that voting group, even if less than a quorum of the board of directors, are entitled to fill the vacancy if it is filled by the board of remaining directors.

C. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under subsection B of § 13.1-679 or otherwise, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

D. The corporation may file an amended annual report with the Commission indicating the filling of a vacancy.

**§ 13.1-685. Action without meeting of board of directors.**

A. Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent describing the action to be taken and delivers it to the corporation corporation's secretary.

B. Action taken under this section is effective as the act of the board of directors when the last director signs the consent unless the consent specifies a different effective date, in which event the action taken is effective as of the date specified therein, provided that if such date precedes the date when the last director signs the consent states the date of execution by each director.

C. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation prior to corporation's secretary before delivery to the corporation corporation's secretary of unrevoked written consents signed by all the directors.

D. Any person, whether or not then a director, may provide that a consent to action as a director shall be effective at a future time, including the time when an event occurs, but such future time shall not be more than 60 days after such

provision is made. Any such consent shall be deemed to have been made for purposes of this section at the future time so specified for the consent to be effective, provided that (i) the person is a director at such future time and (ii) the person did not revoke the consent prior to such future time. Any such consent may be revoked, in the manner provided in subsection C, prior to its becoming effective.

E. For purposes of this section, a written consent *or revocation* and the signing thereof may be accomplished by one or more electronic transmissions.

F. A consent signed under this section has the effect of action taken at a meeting of the board of directors and may be described as such in any document.

**§ 13.1-687. Waiver of notice by director.**

A. A director may waive any notice required by this ~~Act~~ *chapter*, the articles of incorporation, or bylaws before or after the date and time stated in the notice, and such waiver shall be equivalent to the giving of such notice. Except as provided in subsection B ~~of this section~~, the waiver shall be in writing, signed by the director entitled to the notice, and ~~filed delivered to the corporation's secretary for filing by the corporation with the minutes of the meeting~~ or corporate records.

B. A director's attendance at or participation in a meeting waives any required notice to ~~him~~ *the director* of the meeting unless the director at the beginning of the meeting or promptly upon ~~his~~ *the director's* arrival objects to holding the meeting or transacting business at the meeting and does not ~~thereafter~~ *after objecting* vote for or assent to action taken at the meeting.

**§ 13.1-688. Quorum and voting by directors.**

A. Unless the articles of incorporation or bylaws require a greater *or lesser* number for the transaction of all business or any particular business, or unless otherwise specifically provided in this chapter, a quorum of ~~a~~ *the* board of directors consists of:

1. A majority of the fixed number of directors if the corporation has a fixed board size; or
2. A majority of the number of directors prescribed, or if no number is prescribed the number in office immediately before the meeting begins, if the corporation has a variable-range size board.

B. The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no fewer than one-third of the *specified* or fixed ~~or prescribed~~ number of directors determined under subsection A.

C. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors *or unless otherwise expressly provided in this chapter*.

D. A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is deemed to have assented to the action taken unless:

1. The director objects at the beginning of the meeting, or promptly upon ~~his~~ *the director's* arrival, to holding it or transacting specified business at the meeting; ~~or~~
2. The ~~director votes against, or abstains~~ *director's dissent or abstention* from; the action taken: ~~is entered in the minutes of the meeting; or~~
3. ~~The director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the secretary of the corporation or meeting immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.~~

E. Except as *may be* provided in an agreement authorized by § 13.1-671.1, a director shall not vote by proxy.

F. Whenever this chapter requires the board of directors to take any action or to recommend or approve any proposed corporate act, such action, recommendation, or approval shall not be required if the proposed action or corporate act is adopted by the unanimous consent of shareholders.

**§ 13.1-689. Committees.**

A. Unless the articles of incorporation or bylaws provide otherwise, a board of directors may ~~create~~ *establish* one or more committees *of the board of directors to perform functions of the board of directors* and appoint ~~members~~ *two or more directors* of the board of directors to serve on ~~them~~ *each committee*. ~~Each committee shall have two or more members, who serve~~ *While non-board members may also be appointed to a committee, they may not vote on any matter for which the committee is performing a function of the board of directors. Each committee member serves* at the pleasure of the board of directors.

~~B. The creation~~ *Unless the articles of incorporation or bylaws provide otherwise, the establishment* of a committee and appointment of members to it shall be approved by the greater number of (i) a majority of all the directors in office when the action is taken; or (ii) the number of directors required by the articles of incorporation or bylaws to take action under § 13.1-688.

C. Sections 13.1-684 through 13.1-688, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, apply to committees and their members as well.

D. To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the authority of the board of directors under § 13.1-673, except that a committee may not:

1. Approve or ~~recommend~~ *propose* to shareholders action that this chapter requires to be approved by shareholders;
2. Fill vacancies on the board *of directors* or, *subject to subsection E*, on any ~~of its committees~~ *committee*;
3. Amend *the* articles of incorporation pursuant to § 13.1-706;
4. Adopt, amend, or repeal the bylaws;

5. Approve a plan of merger not requiring shareholder approval;
6. Authorize or approve a distribution, except according to a ~~general~~ formula or method, *or within limits*, prescribed by the board of directors; or
7. Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and rights, preferences, and limitations of a class or series of shares, except that the board of directors may (i) authorize a committee to do so subject to such limits, if any, as may be prescribed by the board of directors, and (ii) authorize a senior executive officer of the corporation to do so subject to such limits, if any, as may be prescribed by the board of directors or by subsection C of § 13.1-646.

~~E. The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in § 13.1-690.~~

~~F. The board of directors may appoint one or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification. Unless the articles of incorporation or the bylaws or the resolution creating resolutions of the board of directors establishing the committee provide otherwise, in the event of the absence or disqualification of a member of a committee and there are no alternate members appointed by the board of directors, the member or members of the committee present at any meeting and not disqualified from voting, ~~unanimously~~ may by unanimous action appoint another director to act in place of the absent or disqualified member during that member's absence or disqualification.~~

### **§ 13.1-690. General standards of conduct for director.**

A. A director shall discharge his duties as a director, including his duties as a member of a committee, in accordance with his good faith business judgment of the best interests of the corporation.

B. Unless ~~he~~ a director has knowledge or information concerning the matter in question that makes reliance unwarranted, ~~a~~ the director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One or more officers or employees of the corporation whom the director believes, in good faith, to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, or other persons as to matters the director believes, in good faith, are within the person's professional or expert competence; or
3. A committee of the board of directors of which he is not a member if the director believes, in good faith, that the committee merits confidence.

C. A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section.

D. A person alleging a violation of this section has the burden of proving the violation.

#### **§ 13.1-690.1. Director of open-end management investment company deemed disinterested.**

A director of a corporation that is an open-end management investment company, as defined by the *federal* Investment Company Act of 1940, who with respect to the corporation is not an interested person, as defined by the *federal* Investment Company Act of 1940, shall be deemed to be ~~independent and~~ disinterested when making any determination or taking any action as a director of the corporation.

#### **§ 13.1-692. Liability for unlawful distributions.**

A. A director who votes for or assents to a distribution ~~made in violation~~ *in excess of what may be authorized and made pursuant to* this chapter or the articles of incorporation is personally liable to the corporation and its creditors for the amount of the distribution that exceeds what could have been distributed without violating this chapter or the articles of incorporation if the party asserting liability establishes that when taking the action the director did not comply with § 13.1-690.

B. A director held liable for an unlawful distribution under subsection A is entitled to:

1. Contribution from every other director who could be held liable under subsection A for the unlawful distribution; and
2. Recoupment from the shareholders who received the unlawful distribution in proportion to the amounts of such unlawful distribution received by them respectively.

C. No suit shall be brought against any director for any liability imposed by subsection A except within two years after the right of action shall accrue.

D. Contribution or recoupment under subsection B is barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection A.

#### **§ 13.1-692.1. Limitation on liability of officers and directors; exception.**

A. In any proceeding brought by or in the right of a corporation or brought by or on behalf of shareholders of the corporation, the damages assessed against an officer or director arising out of a single transaction, occurrence or course of conduct shall not exceed the lesser of:

1. The monetary amount, including the elimination of liability, specified in the articles of incorporation or, if approved by the shareholders, in the bylaws as a limitation on or elimination of the liability of the officer or director; or
2. The greater of (i) \$100,000 or (ii) the amount of cash compensation received by the officer or director from the corporation during the ~~twelve~~ 12 months immediately preceding the act or omission for which liability was imposed.

B. The liability of an officer or director shall not be limited as provided in this section if the officer or director engaged in willful misconduct or a knowing violation of the criminal law or of any federal or state securities law, including, without limitation, any claim of unlawful insider trading or manipulation of the market for any security.

~~C. No limitation on or elimination of liability adopted pursuant to this section may be affected by any amendment of the articles of incorporation or bylaws with respect to any act or omission occurring before such amendment.~~

**§ 13.1-693. Required officers.**

A. Except as provided in an agreement authorized by § 13.1-671.1, a corporation shall have such officers with such titles and duties as shall be ~~stated~~ *described* in the bylaws or in a resolution of the board of directors that is ~~not inconsistent~~ *in accordance* with the bylaws and as may be necessary to enable it to execute documents that comply with subsection F of § 13.1-604.

~~B. The Officers shall be elected by the board of directors may elect individuals to fill one or more offices of the corporation. An, except that an officer may appoint one or more officers or assistant officers if authorized by the bylaws or the board of directors.~~

C. The secretary ~~or any other officer as designated in the bylaws or by resolution of the board~~ *corporation* shall have the responsibility for preparing ~~and maintaining custody of the~~ minutes of the directors' and shareholders' meetings and for ~~maintaining and authenticating the records of the corporation required to be kept under subsection E of § 13.1-770.~~

D. The same individual may simultaneously hold more than one office in a corporation.

E. *Election or appointment of an officer does not of itself create any contract rights in the officer or the corporation.*

**§ 13.1-694. Duties of officers.**

A. Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

*B. In discharging his duties, an officer who does not have knowledge that makes reliance unwarranted is entitled to rely on:*

*1. The performance of properly delegated responsibilities by one or more employees of the corporation whom the officer believes in good faith to be reliable and competent in performing the responsibilities delegated; or*

*2. Information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by one or more employees of the corporation whom the officer believes in good faith to be reliable and competent in the matters presented or by legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer believes in good faith are matters (i) within the particular person's professional or expert competence or (ii) as to which the particular person merits confidence.*

**§ 13.1-695. Resignation and removal of officers.**

A. An officer may resign at any time by delivering a written notice to the ~~corporation~~ *board of directors, its chairman, the appointing officer, if any, or the corporation's secretary*. A resignation is effective ~~when the notice is delivered as provided in subdivision 9 of § 13.1-610 unless the notice specifies a later effective time provides for a delayed effectiveness. If a resignation is made effective at a later time, the corporation effectiveness of a resignation is stated to be delayed and the board of directors or the appointing officer, if any, accepts the delay, the board of directors or the appointing officer, if any, may fill the pending vacancy before the effective time if the successor does delayed effectiveness but the new officer may not take office until the effective time vacancy occurs.~~

~~B. A board of directors may remove any An officer may be removed at any time with or without cause and any officer or assistant officer, if appointed by another officer, may likewise be removed by such officer by (i) the board of directors; (ii) the appointing officer, if any, unless the bylaws or the board of directors provides otherwise; or (iii) any other officer, if authorized by the bylaws or the board of directors. Election or appointment of an officer shall not of itself create any contract rights in the officer or the corporation. An officer's removal does not affect such officer's contract rights, if any, with the corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.~~

C. Any person who has resigned as an officer of a corporation, or whose name is ~~incorrectly on file with~~ *of record in the office of the clerk of the Commission as an officer of a corporation*, may file a statement to that effect with the Commission.

D. Upon the resignation or removal of an officer, the corporation may file an amended annual report with the Commission indicating the resignation or removal of the officer and the successor in office, if any.

*E. As used in this section "appointing officer" means the officer, including any successor to that officer, who, in accordance with subsection B of § 13.1-693, appointed the officer who is resigning or being removed.*

**§ 13.1-696. Definitions.**

~~In~~ *As used in this article:*

"Corporation" includes any ~~domestic~~ corporation and any domestic or foreign predecessor entity of a ~~domestic~~ corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

"Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, manager, partner, trustee, employee, or agent of another ~~foreign or domestic corporation, limited liability company, partnership, joint venture, trust, entity or employee benefit plan, or other entity.~~

A director or officer is considered to be serving an employee

benefit plan at the corporation's request if ~~his~~ *the individual's* duties to the corporation also impose duties on, or otherwise involve services by, ~~him~~ *the individual* to the plan or to participants in or beneficiaries of the plan. "Director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

~~"Expenses" includes counsel fees.~~

"Liability" means the obligation to pay a judgment, settlement, penalty, fine, including any excise tax assessed with respect to an employee benefit plan, or ~~reasonable~~ expenses incurred with respect to a proceeding.

"Official capacity" means: (i) when used with respect to a director, the office of director in a corporation; ~~or and~~ (ii) when used with respect to an officer, as contemplated in § 13.1-702, the office in a corporation held by the officer. "Official capacity" does not include service for any other ~~foreign or domestic corporation or any partnership, joint venture, trust, entity or employee benefit plan; or other entity.~~

"Party" means an individual who was, is, or is threatened to be made a ~~named~~ defendant or respondent in a proceeding.

"Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative and whether formal or informal.

### § 13.1-697. Authority to indemnify.

A. Except as provided in subsection D, a corporation may indemnify an individual ~~made~~ *who is* a party to a proceeding because ~~he~~ *the individual* is or was a director against liability incurred in the proceeding if ~~the director~~:

1. ~~Conducted~~ *The director*:

*a. Conducted* himself in good faith; and

~~2. b.~~ *Believed*:

~~a.~~ (1) In the case of conduct in his official capacity with the corporation, that his conduct was in its best interests; and

~~b.~~ (2) In all other cases, that his conduct was at least not opposed to its best interests; and

~~3. c.~~ In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful; *or*

2. *The director engaged in conduct for which broader indemnification has been made permissible or obligatory as authorized by subsection C of § 13.1-704.*

B. A director's conduct with respect to an employee benefit plan for a purpose he believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subdivision A ~~2~~ 1 b (2).

C. The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

D. Unless ordered by a court under subsection C of § 13.1-700.1 *or broader indemnification has been made permissible or obligatory as authorized by subsection C of § 13.1-704*, a corporation may not indemnify a director under this section:

1. In connection with a proceeding by or in the right of the corporation except for ~~reasonable~~ expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard under subsection A; or

2. In connection with any other proceeding charging improper personal benefit to the director, whether or not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

### § 13.1-698. Mandatory indemnification.

Unless limited by its articles of incorporation, a corporation shall indemnify a director who ~~entirely prevails~~ *was wholly successful, on the merits or otherwise*, in the defense of any proceeding to which ~~he~~ *the director* was a party because ~~he~~ *the director* is or was a director of the corporation against ~~reasonable~~ expenses incurred by ~~him~~ *the director* in connection with the proceeding.

### § 13.1-699. Advance for expenses.

A. A corporation may, *before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred in connection with the proceeding by a director who is a party to a proceeding in advance of final disposition of the proceeding because the individual is a director if the director furnishes* ~~delivers~~ to the corporation a signed written undertaking, ~~executed personally or on his behalf~~, to repay any funds advanced if (i) the director is not entitled to mandatory indemnification under § 13.1-698 and (ii) it is ultimately determined under § 13.1-700.1 or 13.1-701 that the director ~~has not met the relevant standard of conduct~~ *is not entitled to indemnification*.

B. The undertaking required by subsection A shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to *the financial ability of the director to make repayment*.

C. Authorizations ~~of payments~~ under this section shall be made by:

1. The board of directors:

a. If there are two or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee *consisting solely* of two or more disinterested directors appointed by such a vote; or

b. If there are fewer than two disinterested directors, by the vote necessary for action by the board of directors in accordance with subsection C of § 13.1-688, in which authorization directors who do not qualify as disinterested directors may participate; or

2. By the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the authorization.

**§ 13.1-700.1. Court orders for advance, reimbursement, or indemnification.**

A. An individual who is ~~made~~ a party to a proceeding because he is a director of the corporation may apply ~~to a court for an order directing the corporation to make advances or reimbursement for expenses or to provide indemnification. Such application may be made for indemnification or an advance of expenses~~ to the court conducting the proceeding or to another court of competent jurisdiction. *After receipt of an application and after giving any notice it considers necessary, the court shall:*

1. *Order indemnification if the court determines that the director is entitled to mandatory indemnification under § 13.1-698;*

2. *Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by § 13.1-704; or*

3. *Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable (i) to indemnify the director or (ii) to advance expenses to the director; even if, in the case of clause (i) or (ii), the director has not met the relevant standard of conduct set forth in subsection A of § 13.1-697, failed to comply with § 13.1-699, or was adjudged liable in a proceeding referred to in subsection D of § 13.1-697, but if the director was adjudged so liable, indemnification shall be limited to expenses incurred in connection with the proceeding.*

~~B. The court shall order the corporation to make advances and/or reimbursement for expenses or to provide indemnification if it~~ If the court determines that the director is entitled to ~~such advances, reimbursement or and indemnification under subdivision A 1 or to indemnification or advance for expenses under subdivision A 2, it shall also order the corporation to pay the director's reasonable expenses incurred to obtain the order.~~

~~C. With respect to a proceeding by or in the right of the corporation, the court may (i) order indemnification of the director to the extent of his reasonable expenses if it in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that, considering all the relevant circumstances, the director is entitled to indemnification even though he was adjudged liable to the corporation and (ii) or advance for expenses under subdivision A 3, it may also order the corporation to pay the director's reasonable expenses incurred to obtain the order of court-ordered indemnification or advance for expenses.~~

~~D. C. Neither (i) the failure of the corporation, including its board of directors, its independent legal counsel and its shareholders, to have made an independent a determination prior to the commencement of any action permitted by this section that the applying director is entitled to receive advances and/or an advance, reimbursement, or indemnification nor (ii) the determination by the corporation, including its board of directors, its independent legal counsel and its shareholders, that the applying director is not entitled to receive advances and/or an advance, reimbursement, or indemnification shall create a presumption to that effect or otherwise of itself be a defense to that director's application for advances an advance for expenses, reimbursement, or indemnification.~~

**§ 13.1-701. Determination and authorization of indemnification.**

A. A corporation may not indemnify a director under § 13.1-697 unless authorized ~~in the for a specific case proceeding~~ after a determination has been made that indemnification of the director is permissible because ~~he the director~~ has met the relevant standard of conduct set forth in § 13.1-697.

B. The determination shall be made:

1. If there are two or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote;

2. By special legal counsel:

a. Selected in the manner prescribed in subdivision 1 ~~of this subsection;~~ or

b. If there are fewer than two disinterested directors, selected by the board of directors, in which selection directors who do not qualify as disinterested directors may participate; or

3. By the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the determination.

C. Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled ~~to select special legal counsel under subdivision B 2 to select counsel.~~

**§ 13.1-702. Advance for expenses and indemnification for officers.**

Unless limited by a corporation's articles of incorporation:

1. An officer of the corporation *who is a party to a proceeding because he is an officer* is entitled to mandatory indemnification under § 13.1-698; and is entitled to apply for court-ordered *advance or reimbursement of expenses and indemnification* under § 13.1-700.1, in each case to the same extent as a director; and

2. The corporation may indemnify and advance expenses under this article to an officer ~~of the corporation who is a party to a proceeding because the individual is an officer~~ to the same extent as to a director.

**§ 13.1-703. Insurance.**

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director or officer of the corporation, or who, while a director or officer of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another ~~foreign or domestic corporation, limited liability company,~~

partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by him the individual in that capacity or arising from his the individual's status as a director or officer, regardless of whether or not the corporation would have power to indemnify him or advance expenses to the individual against the same liability under § 13.1-697 or 13.1-698 this article.

**§ 13.1-704. Application of article.**

A. Unless the articles of incorporation or bylaws expressly provide otherwise, any authorization of indemnification or advances or reimbursement of expenses in the articles of incorporation or bylaws shall not be deemed to prevent the corporation from providing indemnity or advances or reimbursement of expenses permitted or mandated by this article.

B. A corporation, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by ~~its~~ the board of directors or shareholders, may obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with § 13.1-697 or subsection C and advance funds to pay for or reimburse expenses in accordance with § 13.1-699. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in subsection C of § 13.1-699 and subsection C of § 13.1-701.

~~B.~~ C. Any corporation shall have power to make any further indemnity, including indemnity with respect to a proceeding by or in the right of the corporation, and to make additional provision for advances and reimbursement of expenses, to any director or officer that may be authorized by the articles of incorporation or any bylaw made by the shareholders or any resolution adopted, before or after the event, by the shareholders, except an indemnity against (i) his willful misconduct; or (ii) a knowing violation of ~~the~~ criminal law. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed, unless the articles of incorporation or any such bylaw or resolution expressly provides otherwise, also to obligate the corporation to advance funds to pay for or reimburse expenses to the fullest extent permitted by law in accordance with § 13.1-699 except that the applicable standard shall be conduct that does not constitute willful misconduct or a knowing violation of criminal law, rather than the standard of conduct prescribed in § 13.1-697. Unless the articles of incorporation, or any such bylaw or resolution expressly provide otherwise, any determination as to the right to any further indemnity shall be made in accordance with subsection B of § 13.1-701. Each such indemnity may continue as to a person who has ceased to have the capacity referred to above and may inure to the benefit of the heirs, executors, and administrators of such a person.

~~C.~~ D. A right ~~provided to any person pursuant to this section~~ ~~may~~ of indemnification or advance for expenses created under this article or under subsection B and in effect at the time of an act or omission shall not be reduced ~~or~~, eliminated, or impaired by any amendment of the articles of incorporation or bylaws with respect to any or a resolution of the board of directors or shareholders adopted after the occurrence of such act or omission unless, in the case of a right created under subsection B, the provision creating such right and in effect at the time of such act or omission explicitly authorizes such reduction, elimination, or impairment after such act or omission ~~occurring before such amendment~~ has occurred.

~~D.~~ E. Any provision pursuant to subsection B shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise expressly provided. Any provision for indemnification or advance for expenses in the articles of incorporation or bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by subdivision A 4 of § 13.1-721.

F. This article does not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with his or her appearance as a witness in a proceeding at a time when he or she is not a party.

~~E.~~ G. This article does not limit a corporation's power to provide indemnity to, advance or reimburse expenses incurred by, or provide or maintain insurance on behalf of an agent or an employee who is not a director or officer.

**§ 13.1-705. Authority to amend articles of incorporation.**

A. A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles ~~or to delete a provision not required in the articles. Whether a provision is required or permitted in the articles of incorporation is determined~~ as of the effective date of the amendment ~~or to delete a provision that is not required to be contained in the articles of incorporation.~~

B. A shareholder of the corporation does not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend entitlement, purpose, or duration of the corporation.

**§ 13.1-706. Amendment of articles of incorporation by the board of directors.**

A. Where no shares of the corporation are issued and outstanding, a corporation's board of directors may adopt an amendment of the corporation's articles of incorporation without shareholder approval.

B. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt ~~one or more~~ amendments ~~to~~ of the corporation's articles of incorporation without shareholder ~~action~~ approval:

1. To delete the names and addresses of the initial directors;
2. To delete the name of the initial registered agent or the address of the initial registered office, if a statement of change described in § 13.1-635 is on file with the Commission;
3. If the corporation has only one class of shares outstanding:
  - a. To change each issued and unissued authorized share of the class into a greater number of whole shares of that class; or

b. To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend;

4. To eliminate or change the par value of the shares of any class or series;

5. To change the corporate name by substituting the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co." or "ltd.," or a similar word or abbreviation in the name, or by adding, deleting, or changing a geographic attribution for the name;

6. If the corporation has or will become a holding company under § 13.1-719.1, to change the corporate name to the former name of the constituent corporation;

7. If the corporation is registered as an open-end management investment company under the *federal* Investment Company Act of 1940, to increase or decrease the aggregate number of shares or the number of shares of any class or series within any class that the corporation is authorized to issue; or

8. *To delete a class or series of shares from the articles of incorporation when there are no shares of the class or series, including any rights to any such shares, outstanding; or*

9. To make any other change expressly permitted by this chapter to be made without shareholder ~~action~~ approval.

**§ 13.1-707. Amendment of articles of incorporation by the board of directors and shareholders.**

A. Except where shareholder approval of an amendment of the articles of incorporation is not required by this chapter, an amendment ~~to~~ of the articles of incorporation shall be adopted in the following manner:

1. The proposed amendment shall *first* be adopted by the board of directors.

2. After adopting the proposed amendment the board of directors shall submit the amendment to the shareholders for their approval. The board of directors shall also ~~transmit to the shareholders a recommendation~~ *recommend* that the shareholders approve the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors shall ~~transmit to inform~~ the shareholders of the basis for that determination; and

3. The shareholders entitled to vote on the amendment shall approve the amendment as provided in subsection D.

B. The board of directors may ~~condition its submission of the proposed~~ *set conditions for the approval of the* amendment ~~on any basis by the shareholders or the effectiveness of the amendment.~~

C. ~~The~~ *If shareholder approval is to be sought at a shareholders' meeting, the* corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with § 13.1-658. The notice ~~of meeting~~ shall also state that the purpose, or one of the purposes, of the meeting is to consider the ~~proposed~~ amendment and shall contain or be accompanied by a copy of the amendment.

D. Unless this chapter, *the articles of incorporation*, or the board of directors, acting pursuant to subsection B, requires a greater vote, ~~approval of the amendment to be adopted shall be approved by~~ *requires the approval of* each voting group entitled to vote on the amendment by more than two-thirds of all the votes entitled to be cast by that voting group. The articles of incorporation may provide for a greater or lesser vote than that provided for in this subsection or a vote by separate voting groups so long as the vote provided for is not less than a majority of all the votes cast on the amendment by each voting group entitled to vote on the amendment at a meeting at which a quorum of the voting group exists.

E. *If as a result of an amendment of the articles of incorporation one or more shareholders of a domestic corporation would become subject to new interest holder liability, approval of the amendment requires the signing in connection with the amendment, by each such shareholder, of a separate written consent to become subject to such new interest holder liability, unless in the case of a shareholder that already has interest holder liability the terms and conditions of the new interest holder liability (i) are substantially identical to those of the existing interest holder liability or (ii) are substantially identical to those of the existing interest holder liability other than changes that eliminate or reduce such interest holder liability.*

F. *For purposes of subsection E, "new interest holder liability" means interest holder liability of a person resulting from an amendment of the articles of incorporation if (i) the person did not have interest holder liability before the amendment becomes effective or (ii) the person had interest holder liability before the amendment becomes effective, the terms and conditions of which are changed when the amendment becomes effective.*

G. When an exchange, reclassification, or change of shares is effected by amendment of the articles of incorporation, and a material difference in right results, or the ~~par value of the shares is changed or~~ the corporate name is changed, the action of the *board of directors* or shareholders authorizing the amendment may prescribe a time after which the holders of the old shares shall no longer be entitled to receive distributions or to vote or to exercise any other rights as shareholders until certificates, *if any*, representing the old shares are surrendered in exchange for certificates representing the new shares. But upon such surrender all distributions not paid because of this provision shall be paid without interest.

H. *An amendment of the articles of incorporation may be further amended prior to the effective date of the certificate of amendment of the articles of incorporation; however, if the shareholders of the corporation are required by any provision of this chapter or the articles of incorporation to vote on the amendment of the articles of incorporation, the amendment of the articles of incorporation may not be further amended subsequent to approval of the amendment by such shareholders without the approval of the shareholders.*

**§ 13.1-708. Voting on amendments by voting groups.**

A. Except as otherwise provided in the articles of incorporation, if a corporation has more than one class of shares outstanding, the *holders of the* outstanding shares of a class are entitled to vote as a separate voting group on a proposed

amendment of the articles of incorporation if shareholder voting is otherwise required by this chapter and if the amendment would:

1. ~~Increase or decrease the aggregate number of authorized shares of the class;~~
2. Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;
3. ~~2.~~ Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;
4. ~~3.~~ Change the rights, preferences, or limitations of all or part of the shares of the class, but such class shall not be entitled to vote as a separate voting group on an amendment increasing the number of authorized shares of a subordinate class solely because both such classes vote on some or all matters as a single voting group;
5. ~~4.~~ Change the shares of all or part of the class into a different number of shares of the same class;
6. ~~5.~~ Create a new class of shares or change a class of shares with subordinate and inferior rights into a class of shares, having rights or preferences with respect to distributions ~~or to dissolution~~ that are prior or superior to the shares of the class, ~~or increase;~~
6. *Increase* the rights, preferences, or number of authorized shares of any class that after giving effect to the amendment, have rights or preferences with respect to distributions ~~or to dissolution~~ that are prior or superior to the shares of the class;
7. ~~In the case of a class of shares with preferential rights, divide the shares into a series, designate the series, and determine, or, unless authority was conferred at the time the class was created, authorize the board of directors to determine, variations in the rights, preferences and limitations among the shares of the respective series;~~
8. ~~Limit or deny an existing preemptive right of all or part of the shares of the class; or~~
9. ~~8.~~ Cancel or otherwise affect rights to distributions that have accumulated but not yet been ~~declared authorized~~ on all or part of the shares of the class.

B. If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection A, the holders of shares of that series are entitled to vote as a separate voting group on the proposed amendment.

C. If a proposed amendment that entitles *the holders of* two or more classes or series of shares to vote as separate voting groups under this section would affect those two or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected shall vote together as a single voting group on the proposed amendment, unless *otherwise provided in the articles of incorporation provide for different voting rights for shares of the different classes or series or added as a condition by the board of directors pursuant to subsection B of § 13.1-707.*

D. Except as otherwise provided in the articles of incorporation, shares that are convertible into shares of another class or series shall not have any right, prior to conversion, to vote on any matter because it affects the class or series into which such shares are convertible.

#### **§ 13.1-709. Amendment of articles of incorporation by incorporators.**

If a corporation has not yet issued shares, ~~its board of directors or incorporators, in the event that there is and it has no~~ board of directors, *its incorporators* may adopt one or more amendments ~~to~~ of the corporation's articles of incorporation.

#### **§ 13.1-710. Articles of amendment.**

A. ~~A corporation amending its~~ *After an amendment of the articles of incorporation shall file with* ~~has been adopted and approved as required by this chapter, the corporation shall deliver to the Commission for filing articles of amendment setting that shall set forth:~~

1. The name of the corporation;
2. The text of each amendment adopted or the information required by subdivision L 5 of § 13.1-604;
3. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, which may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with subsection L of § 13.1-604;
4. The date of each amendment's adoption *or approval*;
5. If an amendment *(i)* was adopted by the board of directors or the incorporators without shareholder approval, a statement that the amendment was duly ~~approved~~ *adopted* by the board of directors or by a majority of the incorporators, as the case may be, including the reason *that* shareholder and, if applicable, ~~director board of directors'~~ approval was not required; ~~and~~
6. ~~If an amendment was approved by the shareholders, either:~~
  - a. ~~A; (ii) was approved by the shareholders, either a statement that the amendment was adopted by unanimous consent of the shareholders, or~~
  - b. ~~A statement that the amendment was proposed adopted by the board of directors and, was submitted to the shareholders in accordance with this article, and was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation; or (iii) is being filed pursuant to subdivision L 5 of § 13.1-604, a statement of:~~
    - (1) ~~The designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the amendment;~~
    - (2) ~~Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group to that effect.~~

B. If the Commission finds that the articles of amendment comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of amendment.

**§ 13.1-711. Restated articles of incorporation.**

A. A corporation's board of directors may restate its articles of incorporation at any time with or without shareholder approval.

B. The restatement may include one or more new amendments to the articles of incorporation. If the restatement includes one or more new amendments requiring shareholder approval, the new amendment or amendments shall be adopted and approved as provided in § 13.1-707.

~~C. If the board of directors submits a restatement for shareholder approval, the corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with § 13.1-658. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy of the restatement that identifies any new amendment it would make in the articles.~~

~~D.~~ A corporation restating its articles of incorporation shall file with the Commission articles of restatement setting forth:

1. The name of the corporation immediately prior to restatement;
2. Whether the restatement contains a new amendment ~~to~~ of the articles of incorporation;
3. The text of the restated articles of incorporation ~~or amended and restated articles of incorporation, as the case may be;~~
4. If the restatement includes a new amendment that provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment, which may be made dependent upon facts objectively ascertainable outside the articles of restatement in accordance with subsection L of § 13.1-604;
5. The date of the restatement's adoption;

6. If the restatement does not contain a new amendment ~~to~~ of the articles, a statement that the restatement was adopted by the board of directors ~~adopted the restatement or approved by the shareholders;~~

7. If the restatement contains a new amendment ~~to~~ of the articles not requiring shareholder approval, the information required by a statement that the restatement was adopted by the board of directors without shareholder approval pursuant to § 13.1-706 or subdivision ~~A 5 L 5 of § 13.1-710~~ 13.1-604, as the case may be; and

8. If the restatement contains a new amendment ~~to~~ of the articles requiring shareholder approval, the information required by subdivision ~~A 6 of § 13.1-710~~ a statement that the restatement (i) was adopted by the unanimous consent of the shareholders or (ii) was adopted by the board of directors, was submitted to the shareholders in accordance with this article, and was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

~~E. D.~~ If the Commission finds that the articles of restatement comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of restatement. When the certificate of restatement is effective the restated articles of incorporation ~~or amended and restated articles of incorporation~~ supersede the original or previously restated articles of incorporation and all amendments ~~to~~ of them.

~~E. E.~~ The Commission may certify restated articles of incorporation or amended and restated articles of incorporation as the articles of incorporation currently in effect.

**§ 13.1-712.1. Abandonment of amendment or restatement of articles of incorporation.**

A. After an amendment or restatement of the articles of incorporation has been adopted and approved as required by this article, and at any time before the certificate of amendment or restatement has become effective, the amendment or restatement of the articles of incorporation may be abandoned by the corporation without action by its shareholders in the manner determined by the board of directors.

B. If articles of amendment or restatement of the articles of incorporation are abandoned after they have been filed with the Commission but before the certificate of amendment or restatement of the articles of incorporation has become effective, a statement of abandonment shall be signed by the corporation and delivered to the Commission for filing prior to the effective time and date of the certificate of amendment or restatement of the articles of incorporation. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the amendment or restatement of the articles of incorporation shall be deemed abandoned and shall not become effective.

C. The statement of abandonment shall contain:

1. The name of the corporation;
2. The date on which the articles of amendment or restatement of the articles of incorporation were filed with the Commission;
3. The date and time on which the Commission's certificate of abandonment or restatement becomes effective; and
4. A statement that the amendment or restatement of the articles of incorporation is being abandoned in accordance with this section.

**§ 13.1-713. Effect of amendment of articles of incorporation.**

A. An amendment ~~to~~ of the articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than the shareholders of the corporation. An amendment changing a corporation's name does not ~~abate~~ affect a proceeding brought by or against the corporation in its former name.

B. A shareholder who becomes subject to new interest holder liability in respect of the corporation as a result of an amendment of the articles of incorporation shall have that new interest holder liability only in respect of interest holder liabilities that arise after the amendment becomes effective.

C. Except as otherwise provided in the articles of incorporation, the interest holder liability of a shareholder who had interest holder liability in respect of the corporation before the amendment becomes effective and has new interest holder liability after the amendment becomes effective shall be as follows:

1. The amendment does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the amendment becomes effective.

2. The provisions of the articles of incorporation relating to interest holder liability as in effect immediately prior to the amendment shall continue to apply to the collection or discharge of any interest holder liabilities preserved by subdivision 1, as if the amendment had not occurred.

3. The shareholder shall have such rights of contribution from other persons as are provided by the articles of incorporation relating to interest holder liability as in effect immediately prior to the amendment with respect to any interest holder liabilities preserved by subdivision 1, as if the amendment had not occurred.

4. The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the amendment becomes effective.

C. As used in this section, "new interest holder liability" has the same meaning as provided in § 13.1-707.

#### **§ 13.1-714. Amendment of bylaws by board of directors or shareholders.**

A. A corporation's shareholders may amend or repeal the corporation's bylaws.

B. A corporation's board of directors may amend or repeal the corporation's bylaws except to the extent that:

1. The articles of incorporation or this chapter § 13.1-715 reserves that power exclusively to the shareholders; or

2. Except as provided in subsection D E of § 13.1-624, the shareholders in amending, repealing, or adopting a bylaw expressly provide that the board of directors may not amend, repeal, or reinstate that bylaw.

C. A shareholder of the corporation does not have a vested property right resulting from any provision in the bylaws.

#### **§ 13.1-715. Bylaw provisions increasing quorum or voting requirements for the board of directors.**

A. A bylaw that increases a quorum or voting requirement for the board of directors may be amended or repealed:

1. If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides; or

2. If adopted by the board of directors, either by the shareholders or by the board of directors.

B. A bylaw adopted or amended by the shareholders that increases a quorum or voting requirement for the board of directors may provide that it shall may be amended or repealed only by a specified vote of either the shareholders or the board of directors.

C. Action by the board of directors under subsection A to amend or repeal a bylaw that changes the quorum or voting requirement applicable to meetings of for the board of directors must meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect.

#### **§ 13.1-715.1. Definitions.**

As used in this article:

"Acquired entity" means the domestic or foreign corporation or eligible entity that will have all of one or more classes or series of shares or eligible interests acquired in a share exchange.

"Acquiring entity" means the domestic or foreign corporation or eligible entity that will acquire all of one or more classes or series of shares or eligible interests of the acquired entity in a share exchange.

"Merger" means a business combination pursuant to § 13.1-716.

"New interest holder liability" means interest holder liability of a person, resulting from a merger or share exchange, that is (i) in respect of an entity which is different from the entity in which the person held shares or eligible interests immediately before the merger or share exchange became effective or (ii) in respect of the same entity as the one in which the person held shares or eligible interests immediately before the merger or share exchange became effective if (a) the person did not have interest holder liability immediately before the merger or share exchange became effective or (b) the person had interest holder liability immediately before the merger or share exchange became effective, the terms and conditions of which were changed when the merger or share exchange became effective.

"Party to a merger" or "party to a share exchange" means any domestic or foreign corporation or eligible entity that will:

1. Merge under a plan of merger;

2. Acquire shares of another domestic or foreign corporation or eligible interests in an eligible entity in a share exchange; or

3. Have all of its shares or eligible interests or all of one or more classes or series of its shares or eligible interests acquired in a share exchange. "Party to a merger" does not include a survivor created by the merger.

"Party to a share exchange" means any domestic or foreign corporation or eligible entity that is an acquired entity or an acquiring entity under a plan of share exchange.

"Share exchange" means a business combination pursuant to § 13.1-717.

"Survivor" in a merger means the domestic or foreign corporation or the eligible entity into which one or more other domestic or foreign corporations or eligible entities are merged. A survivor of a merger may preexist the merger or be created by the merger.

**§ 13.1-716. Merger.**

A. One or more domestic corporations may merge with one or more domestic or foreign corporations or eligible entities pursuant to a plan of merger, or two or more foreign corporations or domestic or foreign eligible entities may merge ~~into a new, resulting in a survivor that is a domestic or foreign corporation or eligible entity to be created in the merger.~~ When a domestic corporation is the survivor of a merger with a domestic nonstock corporation, it may become, pursuant to subdivision ~~€~~ § C 6, a domestic nonstock corporation, provided that the only parties to the merger are domestic corporations and domestic nonstock corporations.

B. A foreign corporation or a foreign eligible entity may be a party to a merger with a domestic corporation, or may be created ~~pursuant to the terms of the plan of merger, as the survivor of a merger in which a domestic corporation is a party, but~~ only if the merger is permitted by the laws under which organic law of the foreign corporation or eligible entity is organized or by which it is governed.

C. The plan of merger shall include:

1. ~~The As to each party to the merger, its name of each domestic or foreign corporation or eligible entity that will merge and the name of the domestic or foreign corporation or eligible entity that will be the survivor of the merger, jurisdiction of formation, and type of entity;~~

2. ~~The survivor's name, jurisdiction of formation, and type of entity and, if the survivor is to be created in the merger, a statement to that effect;~~

3. The terms and conditions of the merger;

~~4.~~ 4. The manner and basis of converting the shares of each merging domestic or foreign corporation and eligible interests of each merging domestic or foreign eligible entity into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property or any combination of the foregoing;

~~5.~~ 5. The manner and basis of converting any rights to acquire the shares of each merging domestic or foreign corporation and eligible interests of each merging domestic or foreign eligible entity into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property or any combination of the foregoing;

~~5. The articles of incorporation of any domestic or foreign corporation or nonstock corporation, or the organic document of any domestic or foreign unincorporated entity, to be created by the merger, or if a new domestic or foreign corporation or nonstock corporation or unincorporated entity is not to be created by the merger, any amendments to the survivor's articles of incorporation or organic document; and~~

6. ~~Any amendment of the articles of incorporation of the survivor that is a domestic corporation or if the articles of incorporation are amended and restated, as an attachment to the plan, the survivor's restated articles of incorporation, or if a new domestic corporation is to be created by the merger, as an attachment to the plan, the survivor's articles of incorporation; and~~

7. Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organic ~~document~~ rules of any such party.

D. ~~In addition to the requirements of subsection C, a plan of merger may contain any other provision not prohibited by law.~~

E. Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with subsection L of § 13.1-604.

~~E.~~ F. ~~Unless the plan of merger may also include a provision that provides otherwise, the plan of merger may be amended prior to the effective date of the certificate of merger, but if the shareholders of a domestic corporation that is a party to the merger are required by any provision of this chapter to vote on the plan, the plan may not be amended subsequent to approval of the plan by such shareholders to change any of the following, unless the amendment is approved by subject to the approval of the shareholders:~~

1. The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash or other property to be received under the plan by the shareholders of or owners of eligible interests in any party to the merger;

2. ~~The articles of incorporation of any domestic or foreign corporation or nonstock corporation, or the organic document of any unincorporated entity, that will survive or be created as a result that will be the survivor of the merger, except for changes permitted by § 13.1-706; or~~

3. Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

~~F.~~ G. One or more domestic corporations may merge pursuant to this section into another domestic corporation if the articles of incorporation of each of them could lawfully contain all the corporate powers and purposes of all of them.

~~G.~~ H. Any corporation authorized by its articles of incorporation to engage in a special kind of business enumerated in § 13.1-620 may be merged with another corporation authorized by its articles of incorporation to engage in the same special kind of business, including mergers authorized under § 6.2-1146, whether or not either or both of such corporations are actually engaged in the transaction of such business, and the shareholders of the corporations parties to the merger may receive shares of a corporation not authorized by its articles of incorporation to engage in such special kind of business.

**§ 13.1-717. Share exchange.**

A. Through a share exchange:

1. A domestic corporation may acquire all of the shares of one or more classes or series of shares of another domestic or foreign corporation, or all of the eligible interests of one or more classes or series of eligible interests of a domestic or foreign eligible entity, as well as rights to acquire any such shares or eligible interests, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property or any combination of the foregoing, pursuant to a plan of share exchange; or

2. All of the shares of one or more classes or series of shares of a domestic corporation, as well as rights to acquire any such shares ~~or eligible interests~~, may be acquired by another domestic or foreign corporation or other eligible entity, in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property or any combination of the foregoing, pursuant to a plan of share exchange.

B. A foreign corporation or eligible entity may be a party to a share exchange only if the share exchange is permitted by the ~~laws~~ *organic law* under which the corporation or eligible entity is organized or by which it is governed.

C. If the organic law *or organic rules* of a domestic eligible entity ~~does do~~ not provide procedures for the approval of a share exchange, a plan of share exchange may be adopted and approved, and the share exchange effectuated, in accordance with the procedures, if any, for a merger.

D. The plan of share exchange shall include:

1. The name of ~~each domestic or foreign corporation or eligible entity whose shares or eligible interests will be acquired and the name of the domestic or foreign corporation or other eligible entity that will acquire those shares or eligible interests~~, *jurisdiction of formation, and type of entity of each acquired entity and the name, jurisdiction of formation, and type of entity of the acquiring entity*;

2. The terms and conditions of the share exchange;

3. The manner and basis of exchanging shares of a domestic or foreign corporation or eligible interests in ~~an~~ *a domestic or foreign* eligible entity whose shares or eligible interests will be acquired under the share exchange into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property or any combination of the foregoing;

4. The manner and basis for exchanging any rights to acquire shares of a domestic or foreign corporation or eligible interests in ~~an~~ *a domestic or foreign* eligible entity whose shares or eligible interests will be acquired under the share exchange into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property or any combination of the foregoing; and

5. Any other provisions required by the ~~laws under which any~~ *organic law governing any foreign corporation or eligible entity that is a party to the share exchange is organized or by the its* articles of incorporation or organic ~~document of any such party rules~~.

E. *In addition to the requirements of subsection D, the plan of share exchange may contain any other provision not prohibited by law.*

F. Terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with subsection L of § 13.1-604.

~~F. The~~ *G. Unless the plan of share exchange provides otherwise, the plan of share exchange may also include a provision that the plan may be amended prior to the effective date of the certificate of share exchange, but if the shareholders of a domestic corporation that is a party to the share exchange are required by any provision of this chapter to vote on the plan, the plan may not be amended subsequent to approval of the plan by such shareholders to change any of the following, unless the amendment is approved by subject to the approval of the shareholders:*

1. The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property or any combination of the foregoing to be issued by the corporation or to be received under the plan by the shareholders, ~~of or owners of eligible interests in any party to the share exchange the acquired entity; or~~

2. Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

~~G. H.~~ This section does not limit the power of a domestic corporation to acquire shares of another domestic or foreign corporation or eligible interests in an eligible entity in a transaction other than a share exchange.

### **§ 13.1-718. Action on a plan of merger or share exchange.**

A. ~~In~~ *Subject to the provisions of subdivision F 4, in the case of a domestic corporation that is (i) a party to a merger or, (ii) an acquired entity in a share exchange, or (iii) the acquiring entity in a share exchange:*

1. The plan of merger or share exchange shall *first* be adopted by the board of directors.

2. Except as provided in subsections F and ~~H~~ *G* and in §§ 13.1-719 and 13.1-719.1, after adopting the plan of merger or share exchange the board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan *or, in the case of an offer referred to in subsection G, that the shareholders tender their shares to the offeror in response to the offer*, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors shall ~~transmit to inform~~ *the shareholders of the basis for that determination.*

B. The board of directors may ~~condition its submission~~ *set conditions for the approval of the plan of merger or share exchange to by the shareholders on any basis or the effectiveness of the plan of merger or share exchange.*

C. If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing domestic or foreign corporation or eligible entity and its shareholders are to receive shares or other *eligible* interests or the right to receive shares or other *eligible* interests in the ~~surviving corporation or eligible entity survivor~~, the notice shall also include or be accompanied by a copy or summary of the articles of incorporation ~~and bylaws~~ or organic document of that corporation or eligible entity ~~rules of the survivor~~. If the corporation is to be merged into a domestic or foreign corporation or eligible entity ~~that and a new domestic or foreign corporation or eligible entity~~ is to be created pursuant to the merger and its shareholders are to receive shares or other interests or the right to receive shares or other interests in the surviving corporation or eligible entity, the notice shall include or be accompanied by a copy or a summary of the articles of incorporation ~~and bylaws~~ or organic document ~~rules of the new domestic or foreign corporation or eligible entity~~.

D. Unless the articles of incorporation, or the board of directors acting pursuant to subsection B, require a greater vote, ~~approval of the plan of merger or share exchange to be authorized shall be approved by~~ *requires the approval of* each voting group entitled to vote on the plan by more than two-thirds of all the votes entitled to be cast by that voting group. The articles of incorporation may provide for a greater or lesser vote than that provided for in this subsection or a vote by separate voting groups so long as the vote provided for is not less than a majority of all the votes cast on the plan by each voting group entitled to vote on the ~~transaction plan of merger or share exchange~~ at a meeting at which a quorum of the voting group exists.

E. Separate voting by voting groups is required:

1. Except as otherwise provided in the articles of incorporation, on a plan of merger by each class or series of shares that:

a. Is to be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing, or is proposed to be eliminated without being converted into any of the foregoing; or

b. Would be entitled to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 13.1-708;

2. Except as otherwise provided in the articles of incorporation, on a plan of share exchange, by each class or series of shares included in the exchange, with each class or series constituting a separate voting group;

3. On a plan of merger, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger; and

4. On a plan of share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of share exchange.

F. Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger or share exchange is not required if:

1. The corporation will survive the merger or is the acquiring corporation in a share exchange;

2. Except for amendments permitted by § 13.1-706, its articles of incorporation will not be changed;

3. Each shareholder of the corporation whose shares were outstanding immediately before the effective time of the merger or share exchange will hold the same number of shares, with identical preferences, limitations, and rights immediately after the effective time of the merger or share exchange; and

4. With respect to shares of the surviving corporation in a merger *or the shares of the acquiring entity in a share exchange* that are entitled to vote unconditionally in the election of directors, the number of shares outstanding immediately after the merger *or share exchange*, plus the number of shares issuable as a result of the merger *or share exchange*, either by the conversion of securities issued pursuant to the merger *or share exchange* or the exercise of options, rights, and warrants issued pursuant to the merger *or share exchange*, will not exceed by more than 20 percent the total number of shares of the surviving corporation outstanding immediately before the merger *or share exchange*.

G. Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger or share exchange is not required if:

1. ~~The corporation is a public corporation;~~

~~2. The plan of merger or share exchange expressly (i) permits or requires such a merger or share exchange to be effected under this subsection and (ii) provides that such merger or share exchange be effected as soon as practicable following the consummation of the offer referred to in subdivision 3 if such merger or share exchange is effected under this subsection;~~

~~3. A corporation or limited liability company irrevocably accepts for payment shares tendered pursuant to a tender or exchange offer for any and all of the outstanding shares of a constituent corporation, as defined in § 13.1-719.1, on the terms provided in such plan of merger or share exchange that, absent this subsection, would be entitled to vote on the adoption of the plan of merger or share exchange; however, the offer may exclude shares of the constituent corporation that are owned at the commencement of the offer by:~~

~~a. The corporation or limited liability company making the offer;~~

~~b. Any person that owns, directly or indirectly, all of the outstanding shares or eligible interests of the corporation or limited liability company making the offer; or~~

e. Any direct or indirect wholly owned subsidiary of any corporation or limited liability company described in subdivision a or person described in subdivision b;

4. Following the acceptance of shares referred to in this subsection, the shares irrevocably accepted for payment pursuant to the offer and received by the depository prior to expiration of the offer, plus the shares otherwise owned by the corporation or limited liability company consummating the offer, equals at least the percentage of the shares, and of each class or series thereof; that, absent this subsection, would be required to adopt a plan of merger or share exchange under this chapter and by the articles of incorporation of the constituent corporation;

5. The corporation or limited liability company accepting the shares referred to in subdivision 3 merges with or into the constituent corporation or acquires all of the outstanding shares of the constituent corporation pursuant to the plan; and

6. 2. Another party to the merger, the acquiring entity in the share exchange, or a parent of another party to the merger or the acquiring entity in the share exchange, makes an offer to purchase, on the terms provided in the plan of merger or share exchange, any and all of the outstanding shares of the corporation that, absent this subsection, would be entitled to vote on the plan of merger or share exchange, except that the offer may exclude shares of the corporation that are owned at the commencement of the offer by the corporation, the offeror, or any parent of the offeror, or by any wholly owned subsidiary of any of the foregoing;

3. The offer discloses that the plan of merger or share exchange provides that the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirement set forth in subdivision 7 and that the shares of the corporation that are not tendered in response to the offer will be treated as set forth in subdivision 8;

4. The offer remains open for at least 10 business days;

5. The offeror purchases all shares properly tendered in response to the offer and not properly withdrawn;

6. The shares listed below are collectively entitled to cast at least the minimum number of votes on the merger or share exchange that, absent this subsection, would be required by this chapter and by the articles of incorporation for the approval of the merger or share exchange by the shareholders and by any other voting group entitled to vote on the merger or share exchange at a meeting at which all shares entitled to vote on the approval were present and voted:

a. Shares purchased by the offeror in accordance with the offer;

b. Shares otherwise owned by the offeror or by any parent of the offeror or any wholly owned subsidiary of any of the foregoing; and

c. Shares subject to an agreement that they are to be transferred, contributed, or delivered to the offeror, any parent of the offeror, or any wholly owned subsidiary of any of the foregoing in exchange for shares or eligible interests in such offeror, parent, or subsidiary;

7. The offeror or a wholly owned subsidiary of the offeror merges with or into, or effects a share exchange in which it acquires shares of, the corporation; and

8. Each outstanding share of each class or series of stock shares of the constituent corporation that is the subject of, and is not irrevocably accepted for payment in, the offer referred to in subdivision 3 is either:

a. To the offeror is offering to purchase in accordance with the offer, and that is not purchased in accordance with the offer, is to be converted in such the merger into, or into the right to receive, or is to be exchanged in the share exchange for, or for the right to receive, the same amount and kind of consideration securities, eligible interests, obligations, rights, cash, or other property to be paid for shares of such or exchanged in accordance with the offer for each share of that class or series of stock of such constituent corporation irrevocably accepted for payment in the offer; or

b. Exchanged in such share exchange for, or for the right to receive, the same amount and kind of consideration to be paid for shares of such class or series of stock of such constituent corporation irrevocably accepted for payment in the offer shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in subdivision G 6 a or c need not be converted into or exchanged for the consideration described in this subdivision.

9. As used in this subsection:

"Depository" means an agent appointed in connection with an offer referred to in subdivision 3 by the corporation or limited liability company consummating the offer.

"Offer" means the offer referred to in subdivision 3.

"Offeror" means the person making the offer.

"Parent" of any entity means a person that owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or eligible interests in that entity.

"Person" means any individual, corporation, partnership, limited liability company, unincorporated association, or other entity.

"Received" means (i) with respect to certificated shares, the physical receipt of a stock certificate and (ii) with respect to uncertificated shares, (a) the transfer into the depository's account or (b) the receipt by the depository of an agent's message.

"Wholly owned subsidiary" of a person means an entity of or in which that person owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or eligible interests.

H. If a corporation has not yet issued shares and its articles of incorporation do not otherwise provide, its board of directors may adopt and approve a plan of merger or share exchange on behalf of the corporation without shareholder action.

I. If as a result of a merger or share exchange one or more shareholders of a domestic corporation would become subject to ~~owner new interest holder liability for the debts, obligations, or liabilities of any other person or entity~~, approval of the plan of merger or share exchange ~~shall require the execution~~ *requires the signing in connection with the transaction*, by each *such* shareholder, of a separate written consent to become subject to such ~~owner new interest holder liability~~, *unless in the case of a shareholder that already has interest holder liability with respect to such domestic corporation, (i) the new interest holder liability is with respect to a domestic or foreign corporation, which may be a different or the same domestic corporation in which the person is a shareholder, and (ii) the terms and conditions of the new interest holder liability are substantially identical to those of the existing interest holder liability, other than for changes that eliminate or reduce such interest holder liability.*

J. *Shares tendered in response to an offer shall be deemed, for purposes of this section, to have been purchased in accordance with the offer at the earliest time as of which the offeror has irrevocably accepted those shares for payment and either (i) in the case of shares represented by certificates, the offeror, or the offeror's designated depository or other agent, has physically received the certificates representing those shares or (ii) in the case of shares without certificates, those shares have been transferred into the account of the offeror or its designated depository or other agent, or an agent's message relating to those shares has been received by the offeror or its designated depository or other agent.*

**§ 13.1-719. Merger between parent and subsidiary or between subsidiaries.**

A. ~~As used in this section:~~

*"Parent entity" means a domestic ~~parent~~ or foreign corporation or eligible entity that owns shares of a domestic ~~or foreign subsidiary~~ corporation that possess at least 90 percent of the voting power of each class and series of the outstanding shares of the ~~subsidiary domestic corporation~~ that have voting power ~~may merge the subsidiary into itself or into another such subsidiary, or merge itself into the subsidiary, without the approval of the board of directors or shareholders of the subsidiary, unless the articles of incorporation of any of the corporations otherwise provide, and unless, in the case of a foreign subsidiary, approval by the subsidiary's board of directors or shareholders is required by the laws under which the subsidiary is organized.~~*

*"Subsidiary" means the domestic corporation whose outstanding shares are owned by a parent entity.*

B. ~~A foreign parent corporation that owns shares of a domestic subsidiary corporation that possess at least 90 percent of the voting power of each class and series of the outstanding shares of the subsidiary that have voting power may merge the parent entity may merge (i) a subsidiary into itself or into another domestic or foreign subsidiary, or merge (ii) itself into the a subsidiary if permitted by the laws under which any such foreign parent or subsidiary without the approval of the board of directors or the shareholders of any subsidiary and, if the parent entity is a domestic corporation is organized or by which it is governed, without the approval of the board of directors or shareholders of the subsidiary parent entity, unless the articles of incorporation of any of the corporations, or in the case of a foreign corporation, its equivalent governing document, subsidiary or the articles of incorporation or the organic rules of the parent entity otherwise provide.~~

C. ~~A foreign corporation may be a party to a merger pursuant to this subsection~~ *parent entity may be a foreign corporation or eligible entity only if the merger is permitted by under the laws under by which the foreign corporation or eligible entity is organized.*

~~C. If under subsection A or B approval of the merger by the subsidiary's shareholders is not required, the D. The parent corporation entity shall, within 10 days after the effective date of the merger, notify each of the subsidiary's shareholders that the merger has become effective.~~

~~D. E. Except as provided in subsections A, B, and C, a merger between a parent and a subsidiary under this section shall be governed by the provisions of this article applicable to mergers generally, including subsection I of § 13.1-718.~~

~~E. F. The articles of incorporation of the survivor shall not be altered or amended by a merger pursuant to this section, except for amendments permitted by § 13.1-706.~~

~~F. G. Two or more ~~subsidiaries domestic corporations~~ may be merged into a parent ~~corporation entity~~ pursuant to this section.~~

**§ 13.1-719.1. Formation of a holding company.**

A. As used in this section:

*"Constituent corporation" means a corporation which, from the incorporation of the holding company until consummation of a merger governed by this section, was at all times the sole direct parent of the holding company and whose shares are converted into shares of the holding company in such merger.*

*"Holding company" means a corporation which, from its incorporation until consummation of a merger governed by this section, was at all times a direct wholly owned subsidiary of the constituent corporation and whose shares are issued in such merger in exchange for the shares of the constituent corporation.*

*"Indirect subsidiary" means a corporation which, from its incorporation until consummation of a merger governed by this section, was at all times a direct wholly owned subsidiary of the holding company.*

B. Unless its articles of incorporation otherwise provide, a constituent corporation may merge an indirect subsidiary into itself, or may merge itself into an indirect subsidiary, without the approval of the shareholders of the constituent corporation or the board of directors or shareholders of the indirect subsidiary, if:

1. Such constituent corporation and indirect subsidiary are the only parties to the merger;

2. The provisions in the articles of incorporation and bylaws of the constituent corporation and the holding company ~~at immediately before~~ the effective time of the merger are identical as they relate to:

- a. The designation, number, and par value of each class and series of shares that are authorized, and the preferences, rights, and limitations of each class and series of shares;
  - b. Any terms of the shares that are dependent upon facts objectively ascertainable outside of the articles of incorporation or that vary among the holders of the same class or series;
  - c. The preemptive right of the shareholders to acquire unissued shares, provided, however, that if the constituent corporation was formed on or before December 31, 2005, and its articles of incorporation do not deny the preemptive right of its shareholders, and the holding company was formed after December 31, 2005, the articles of incorporation of the holding company must provide that its shareholders have the preemptive right to acquire the holding company's unissued shares to the same extent the shareholders of the constituent corporation had a preemptive right to acquire unissued shares of the constituent corporation;
  - d. The definition, limitation, and regulation of the powers of the corporation, its directors, and shareholders;
  - e. The management of the business and regulation of the affairs of the corporation; and
  - f. For purposes of subdivision 2 c of this subsection, shares include any warrants, rights, or options to acquire any such shares or any security or other obligation of the corporation convertible into any such shares or into warrants, rights, or options to acquire any such shares;
3. Each share or fraction of a share of the constituent corporation outstanding immediately prior to the effective time of the merger is converted in the merger into a share or equal fraction of a share of the holding company having the same preferences, rights, and limitations as the share or fraction of a share of the constituent corporation being converted in the merger;
4. Each right to acquire shares of the constituent corporation outstanding immediately prior to the effective time of the merger is converted in the merger into a right to acquire shares of the holding company having the same preferences, rights, and limitations as the right to acquire shares of the constituent corporation being converted in the merger; and
5. The directors of the constituent corporation become or remain the directors of the holding company upon the effective time of the merger.
- C. Notwithstanding any provision in this chapter to the contrary, a plan of merger adopted pursuant to this section may include:
1. If the indirect subsidiary is the survivor:
    - a. An amendment or restatement of the indirect subsidiary's articles of incorporation to change the name of the indirect subsidiary to a name that satisfies the requirements of this chapter; and
    - b. A provision that the shares of the holding company into which the shares of the constituent corporation are converted in the merger may be represented by the share certificates that previously represented shares of the constituent corporation, if the holding company adopts the former name of the constituent corporation by filing articles of amendment that are effective immediately following consummation of the merger; and
  2. If the constituent corporation is the survivor:
    - a. An amendment or restatement of the constituent corporation's articles of incorporation:
      - (1) To change the name of the constituent corporation to a name that satisfies the requirements of this chapter;
      - (2) To delete any existing provisions that authorize the issuance of or relate to multiple classes or series of shares and to add one or more provisions that authorize a new, single class of shares with unlimited voting rights in lieu thereof;
      - (3) To delete any existing provision that provides for staggering the terms of directors pursuant to § 13.1-678; or
      - (4) To make any change permitted by § 13.1-706;
    - b. A provision that one or more of the directors of the constituent corporation immediately prior to the effective time of the merger will no longer be directors of the constituent corporation immediately following the effective time of the merger; and
    - c. A provision that the shares of the holding company into which the shares of the constituent corporation are converted in the merger may be represented by the share certificates that previously represented shares of the constituent corporation, if the constituent corporation adopts a new name in the merger that is distinguishable upon the records of the Commission and if the board of directors of the holding company, acting pursuant to § 13.1-706, adopts the former name of the constituent corporation by filing articles of amendment that are effective immediately following consummation of the merger.
- D. Articles of merger filed with respect to a merger authorized by this section shall include a statement that the plan of merger did not require approval by the shareholders of the constituent corporation or by the board of directors or shareholders of the indirect subsidiary because the merger was authorized by this section and that the conditions specified in subsection B have been satisfied.
- E. Except as provided in this section, a merger governed by this section shall comply with the provisions of this article applicable to mergers generally.
- F. From and after the effective time of a merger adopted by a constituent corporation pursuant to this section:
1. To the extent the restrictions of § 13.1-725.1 or § 13.1-728.2 applied to the constituent corporation and its shareholders immediately prior to the merger, such restrictions shall apply to the holding company and its shareholders immediately after the effective time of the merger as though it were the constituent corporation, and all shares of the holding company acquired in the merger shall for purposes of §§ 13.1-725.1 and 13.1-728.2 be deemed to have been acquired at the time that the shares of the constituent corporation converted in the merger were acquired, and provided further that:

a. Any shareholder who immediately prior to the effective time of the merger was not an interested shareholder within the meaning of § 13.1-725 shall not solely by reason of the merger become an interested shareholder of the holding company; and

b. Any shares which immediately prior to the effective time of the merger were not interested shares within the meaning of § 13.1-728.1 shall not solely by reason of the merger become interested shares of the holding company; ~~and.~~

2. To the extent a shareholder of the constituent corporation immediately prior to the effective time of the merger had standing to institute or maintain a derivative proceeding on behalf of the constituent corporation, consummation of the merger shall not be deemed to limit or extinguish such standing.

3. To the extent a voting trust authorized by § 13.1-670, a voting agreement authorized by § 13.1-671, a shareholder agreement authorized by § 13.1-671.1, a proxy or any similar agreement or instrument applied to the constituent corporation, its shares or its shareholders immediately prior to the merger, such voting trust, voting agreement, shareholder agreement, proxy or other agreement or instrument shall apply to the holding company and its shares and shareholders immediately following consummation of the merger to the same extent that it applied to the constituent corporation and its shares and shareholders immediately prior to consummation of the merger.

**§ 13.1-720. Articles of merger or share exchange.**

A. After a plan of merger or share exchange has been adopted and approved as required by this chapter, *the corporation shall deliver to the Commission for filing articles of merger or share exchange shall be signed on behalf of each party to the merger or share exchange. The articles, that shall set forth:*

1. The plan of merger or share exchange; ~~the names of the parties to the merger or share exchange and, for each party that is a foreign corporation or eligible entity, the name of the state or country under whose law it is incorporated or formed;~~

2. ~~If the articles of incorporation of a domestic corporation that is the survivor of a merger are amended, or if a new domestic corporation is created as a result of a merger, as an attachment to the articles of merger or share exchange, the amendments to the survivor's articles of incorporation or the articles of incorporation of the new corporation;~~

~~3.~~ The date the plan of merger or share exchange was adopted *or approved* by each domestic corporation that was a party to the merger or share exchange;

4. 3. If the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, either:

a. A statement that the plan was approved by the unanimous consent of the shareholders; or

b. A statement that the plan was submitted to the shareholders by the board of directors in accordance with this chapter; ~~and a statement of:~~

~~(1) The designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan; and~~

~~(2) Either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation;~~

~~5.~~ 4. If the plan of merger or share exchange was adopted by the *board of directors* without approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan of merger or share exchange was duly approved by the *board of directors* including the reason shareholder approval was not required and, in the case of a merger pursuant to § 13.1-719.1, the additional statements required by subsection D of § 13.1-719.1; and

~~6.~~ 5. As to each foreign corporation or *foreign* eligible entity that was a party to the merger or share exchange, a statement that the participation of the foreign corporation or *foreign* eligible entity was duly authorized as required by ~~the its organic law of the corporation or eligible entity.~~

B. Articles of merger or share exchange shall be ~~filed with~~ *delivered to* the Commission *for filing* by the survivor of the merger or the acquiring corporation in a share exchange. If the Commission finds that the articles of merger or share exchange comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of merger or share exchange. Articles of merger or share exchange filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.

C. In the case of a merger pursuant to § 13.1-719 or § 13.1-719.1:

1. The articles shall recite that the merger is being effected pursuant to § 13.1-719 or § 13.1-719.1, as the case may be; and

2. The articles need only be signed on behalf of the parent corporation or the constituent corporation, as the case may be.

**§ 13.1-721. Effect of merger or share exchange.**

A. When a merger becomes effective:

1. The domestic or foreign corporation or eligible entity that is designated in the plan of merger as the survivor continues or comes into existence as the case may be;

2. The separate existence of every domestic or foreign corporation or eligible entity that is merged into the survivor ceases;

3. ~~Property~~ All property owned by, and, ~~except to the extent that assignment would violate a contractual prohibition on assignment by operation of law,~~ every contract right possessed by, each domestic or foreign corporation or eligible entity that merges into the survivor is vested in the survivor without *transfer*, reversion or impairment;

4. All *debts, obligations, and liabilities* of each domestic or foreign corporation or eligible entity that is merged into the survivor are ~~vested in debts, obligations, or liabilities~~ of the survivor;

5. The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

6. ~~The~~ If the survivor is a domestic corporation, the articles of incorporation ~~or organic document~~ and bylaws of the survivor is ~~are~~ amended to the extent provided in the plan of merger;

7. The articles of incorporation ~~or organic document~~ and bylaws of a survivor that is a domestic corporation created by the merger ~~becomes~~ become effective; ~~and~~

8. The shares of each domestic or foreign corporation that is a party to the merger, and the eligible interests in ~~an~~ a domestic or foreign eligible entity that is a party to the merger, that are to be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire ~~securities~~ shares, other securities, or eligible interests, cash, other property or any combination of the foregoing, are converted, and the former holders of such shares or eligible interests are entitled only to the rights provided to them in the plan of merger or to any rights they may have under Article 15 (§ 13.1-729 et seq.) of this chapter or the organic law ~~of governing the foreign corporation or domestic or foreign~~ eligible entity;

9. Except as provided by law or the plan of merger, all the rights, privileges, franchises, and immunities of each entity that was a party to the merger, other than the survivor, are the rights, privileges, franchises, and immunities of the survivor; and

10. If the survivor existed before the merger:

a. All the property and contract rights of the survivor remain its property and contract rights without transfer, reversion, or impairment;

b. The survivor remains subject to all its debts, obligations, and other liabilities; and

c. Except as provided by law or the plan of merger, the survivor continues to hold all of its rights, privileges, franchises, and immunities.

B. When a share exchange becomes effective, the shares of each domestic or foreign corporation or eligible interests in the acquired entity that are to be exchanged for shares and other securities, eligible interests, obligations, rights to acquire shares, other securities, eligible interests, cash, other property, or any combination of the foregoing, are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under Article 15 (§ 13.1-729 et seq.) of this chapter or under the organic law governing the acquired entity.

C. Except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law governing or organic rules of a foreign corporation or a domestic or foreign eligible entity, the effect of a merger or share exchange on interest holder liability is as follows:

1. A person who becomes subject to a new interest holder liability in respect of an entity as a result of a merger or share exchange shall have that new interest holder liability only in respect of interest holder liabilities that arise after the merger or share exchange becomes effective.

2. If a person had interest holder liability with respect to a party to the merger or the acquired entity before the merger or share exchange becomes effective with respect to shares or eligible interests of such party or acquired entity that were (i) exchanged in the merger or share exchange, (ii) were canceled in the merger, or (iii) the terms and conditions of which relating to interest holder liability were amended pursuant to the merger:

a. The merger or share exchange does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the merger or share exchange becomes effective.

b. The provisions of the organic law governing any entity for which the person had that prior interest holder liability shall continue to apply to the collection or discharge of any interest holder liabilities preserved by subdivision C 2 a, as if the merger or share exchange had not occurred.

c. The person shall have such rights of contribution from other persons as are provided by the organic law governing the entity for which the person had that prior interest holder liability with respect to any interest holder liabilities preserved by subdivision C 2 a, as if the merger or share exchange had not occurred.

d. The person shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the merger or share exchange becomes effective.

3. If a person has interest holder liability both before and after a merger becomes effective with unchanged terms and conditions with respect to the entity that is the survivor by reason of owning the same shares or eligible interests before and after the merger becomes effective, the merger has no effect on such interest holder liability.

4. A share exchange has no effect on interest holder liability related to shares or eligible interests of the acquired entity that were not exchanged in the share exchange.

D. Upon a merger becoming effective, a foreign corporation or a foreign eligible entity that is the survivor of the merger is deemed to:

1. Appoint the clerk of the Commission as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that ~~is~~ was a party to the merger who exercise appraisal rights, *which service of process shall be made on the clerk in accordance with § 12.1-19.1; and*

2. Agree that it will promptly pay the amount, if any, to which such shareholders are entitled under Article 15 (§ 13.1-729 et seq.) ~~of this chapter.~~

~~D.~~ E. No corporation that is required by law to be a domestic corporation, may, by merger, cease to be a domestic corporation, but every such corporation, even though a corporation of some other state, the United States or another country, shall also be a domestic corporation of the Commonwealth.

*F. Except as provided in the organic law governing a party to a merger or in its articles of incorporation or organic rules, the merger does not give rise to any rights that a third party would have upon a dissolution, liquidation, or winding up of that party. The merger does not require a party to the merger to wind up the affairs of that party and does not constitute or cause its dissolution, termination, or cancellation.*

*G. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to an entity that is a party to a merger that is not the survivor and that takes effect or remains payable after the merger inures to the survivor.*

*H. A trust obligation that would govern property if transferred to a nonsurviving entity applies to property that is transferred to the survivor after a merger becomes effective.*

**§ 13.1-721.1. Abandonment of a merger or share exchange.**

A. Unless otherwise provided in a plan of merger or share exchange or in the laws under which a foreign corporation or a domestic or foreign eligible entity that is a party to a merger or a share exchange is organized or by which it is governed, after ~~the~~ a plan of merger or share exchange has been adopted and approved as required by this article, and at any time before the certificate of merger or share exchange has become effective, ~~it~~ the plan may be abandoned by a domestic corporation that is a party thereto without action by shareholders in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject to any contractual rights of other parties to the plan of merger or share exchange.

B. If a merger or share exchange is abandoned ~~under subsection A~~ after the articles of merger or share exchange have been filed with the Commission but before the certificate of merger or share exchange has become effective, a ~~statement that the~~ in order for the certificate of merger or share exchange has been abandoned in accordance with this section, signed on behalf of a party to the to be canceled, all parties to the plan of merger or share exchange, shall be delivered to sign a request for a certificate of cancellation and deliver it with the Commission for filing prior to the effective time and date of the certificate of merger or share exchange. ~~Upon filing, the statement shall take effect and~~ If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the merger or share exchange shall be deemed abandoned and shall not become effective.

C. The statement of cancellation shall contain:

1. The name of the corporation;
2. The date on which the articles of merger or share exchange were filed with the Commission;
3. The date and time on which the Commission's certificate of merger or share exchange becomes effective; and
4. A statement that the merger or share exchange is being abandoned in accordance with this section.

**§ 13.1-722.1:1. Definitions.**

As used in this article:

"Domesticated corporation" means the domesticating corporation as it continues in existence after a domestication.

"Domesticating corporation" means the domestic corporation that approves a plan of domestication pursuant to § 13.1-722.3 or the foreign corporation that approves a domestication pursuant to the organic law of the foreign corporation.

"Domestication" means a transaction pursuant to this article, including domestication of a foreign corporation as a domestic corporation or domestication of a domestic corporation in another jurisdiction, where the other jurisdiction authorizes such a transaction even if by another name.

**§ 13.1-722.2. Domestication.**

A. ~~A~~ By complying with the provisions of this article applicable to foreign corporations, a foreign corporation may become a domestic corporation if the laws of the jurisdiction in which the domestication is permitted by the organic law of the foreign corporation is incorporated authorize it to domesticate in another jurisdiction. The laws of the Commonwealth shall govern the effect of domesticating in the Commonwealth pursuant to this article.

B. ~~A~~ By complying with the provisions of this article, a domestic corporation not required by law to be a domestic corporation may become a foreign corporation if the jurisdiction in which the corporation intends to domesticate allows for the domestication. Regardless of whether the laws of the foreign jurisdiction require the adoption of pursuant to a plan of domestication; if the domestication shall be approved in the manner provided in this article. The laws of the jurisdiction in which the corporation domesticates shall govern the effect of domesticating in that jurisdiction is permitted by the organic law of the foreign corporation resulting from the domestication.

C. The plan of domestication shall ~~set forth~~ include:

1. ~~A statement of the~~ *The jurisdiction in which of formation and name of the domesticating corporation is to be domesticated;*

2. ~~The terms and conditions of the domestication, provided that such terms and conditions may not alter the designation, rights, preferences or limitations of all or part of the authorized shares except to the extent required to conform to the requirements of this chapter name and jurisdiction of formation of the domesticated corporation; and~~

3. ~~For a foreign corporation that is to become a domestic corporation, as a referenced attachment, amended and restated articles of incorporation that comply with~~ *The manner and basis of reclassifying the shares and any rights to acquire shares of the domesticating corporation into shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, if any;*

4. ~~If the domesticated corporation will be a domestic corporation, (i) the proposed amended and restated articles of incorporation of the domesticated corporation that satisfy the requirements of § 13.1-619 as they will be in effect upon consummation of the domestication, provided that provisions not required to be included in restated articles of incorporation may be omitted, and (ii) the proposed bylaws of the domesticated corporation, which shall not be included with the articles of domestication delivered to the Commission for filing; and~~

5. ~~The other terms and conditions of the domestication.~~

~~D. The~~ *In addition to the requirements of subsection C, a plan of domestication may include contain any other provision relating to the domestication not prohibited by law.*

~~E. The terms of a plan of domestication may also include a provision that the board of directors may amend the plan at any time prior to issuance of the certificate of domestication or such other document required by the laws of the other jurisdiction to consummate the domestication. An amendment made subsequent to the submission of the plan to the shareholders of the corporation shall not alter or change any of the terms or conditions of the plan if the change would adversely affect the shares of any class or series of the corporation be made dependent upon facts objectively ascertainable outside the plan in accordance with subsection L of § 13.1-604.~~

**§ 13.1-722.3. Action on a plan of domestication of a domestic corporation.**

*In the case of a domestication of a domestic corporation into a foreign jurisdiction, the plan of domestication shall be adopted in the following manner:*

~~A. 1. The board of directors of the corporation shall adopt the plan of domestication shall first be adopted by the board of directors.~~

~~B. 2. After adopting the plan of domestication the board of directors shall submit the plan of domestication for approval by to the shareholders for their approval.~~

~~C. For the plan of domestication to be approved:~~

~~1. The~~ *In submitting the plan of domestication to the shareholders for approval, the board of directors shall recommend the plan to that the shareholders approve the plan, unless the board of directors determines makes a determination that because of conflicts of interest or other special circumstances it should not make no such a recommendation and communicates the basis of its determination to, in which case the board of directors shall inform the shareholders with the plan; and*

~~2. The shareholders shall approve the plan as provided in subsection F of the basis for that determination.~~

~~D. 3. The board of directors may condition its submission set conditions for approval of the plan of domestication to by the shareholders on any basis or the effectiveness of the plan of domestication.~~

~~E. The~~ *4. If the approval of the shareholders is to be sought at a shareholders meeting, the corporation shall notify each shareholder, regardless of whether or not entitled to vote, of the proposed shareholders' meeting in accordance with § 13.1-658 of shareholders at which the plan of domestication is to be submitted for approval. The notice shall state that a the purpose, or one of the purposes, of the meeting is to consider the plan of domestication and shall contain or be accompanied by a copy or summary of the plan. The notice shall include or be accompanied by a copy of the plan articles of incorporation and the bylaws as they will be in effect immediately after the domestication.*

~~F. 5. Unless this chapter the articles of incorporation or the board of directors, acting pursuant to subsection D subdivision 3, requires require a greater vote, approval of the plan of domestication shall be approved by each voting group entitled to vote on the plan by requires (i) the approval of the shareholders at a meeting at which a quorum exists consisting of more than two-thirds of all the votes entitled to be cast on the plan and (ii) except as provided in subdivision 6, the approval of each class or series of shares voting as a separate voting group at the meeting at which a quorum of the voting group exists consisting of more than two-thirds of the votes entitled to be cast on the plan by that voting group. The articles of incorporation may provide for a greater or lesser vote than that provided for in this subsection or a vote by separate voting groups section so long as the vote provided for is not less than a majority of all the votes cast on the plan by each voting group entitled to vote on the plan at a meeting at which a quorum of the voting group exists.~~

*6. The articles of incorporation may expressly limit or eliminate the separate voting rights provided in clause (ii) of subdivision 5 as to any class or series of shares, except when the articles of incorporation of the foreign corporation resulting from the domestication include what would be in effect an amendment that would entitle the class or series to vote as a separate group under § 13.1-708 if it were a proposed amendment of the articles of incorporation of the domestic domesticating corporation.*

*7. If as a result of a domestication one or more shareholders of a domestic domesticating corporation would become subject to interest holder liability, approval of the plan of domestication shall require the signing in connection with the*

domestication, by each such shareholder, of a separate written consent to become subject to such interest holder liability, unless in the case of a shareholder that already has interest holder liability with respect to the domesticating corporation, the terms and conditions of the interest holder liability with respect to the domesticated corporation are substantially identical to those of the existing interest holder liability, other than for changes that eliminate or reduce such interest holder liability.

**§ 13.1-722.5. Articles of domestication; effectiveness.**

~~A. Whenever~~ After (i) a plan of domestication of a domestic corporation has been adopted and approved; ~~in the manner as required by this article, a plan of chapter or~~ (ii) a foreign corporation that is the domesticating corporation has approved a domestication ~~providing for the~~ as required under its organic law, articles of domestication shall be signed in the name of the domesticating corporation to be domesticated under the laws of another jurisdiction; ~~the corporation shall file with the Commission articles of incorporation surrender setting.~~ The articles shall set forth:

1. The name of the domesticating corporation and its jurisdiction of formation;
2. The original name, date of formation, jurisdiction in which the corporation is to be domesticated and the name of the of formation of the domesticating corporation upon its domestication under the laws of that and its name, jurisdiction of formation, and entity type upon each subsequent domestication or conversion;
3. The plan of domestication;
4. A statement that the articles of incorporation surrender are being filed in connection with the domestication of the corporation as a foreign corporation to be incorporated under the laws of another jurisdiction and that the corporation is surrendering its charter under the laws of this Commonwealth;
5. A statement If the domesticating corporation is a domestic corporation:
  - a. That The date the plan was adopted by the unanimous consent of the shareholders of domestication was approved; or
  - b. That A statement that the plan was submitted to the shareholders by the board of directors of domestication was approved in accordance with this chapter; and a statement of:
    - (1) The designation, number of outstanding shares and number of votes entitled to be cast by each voting group entitled to vote separately on the plan; and
    - (2) Either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group;
6. c. A statement that the corporation revokes the authority of its registered agent to accept service on its behalf and appoints the clerk of the Commission as its an agent for service of process in any proceeding based on a cause of action arising during the time it was incorporated in the Commonwealth;
7. d. A mailing address to which the clerk may mail a copy of any process served on the clerk under subdivision 6 c; and
8. e. A commitment by the corporation to notify the clerk of the Commission in the future of any change in the mailing address of the corporation; and

5. If the domesticating corporation is a foreign corporation, a statement that the domestication is permitted by and was approved in accordance with the organic law of the foreign corporation.

B. The articles of domestication shall be delivered to the Commission for filing. If the Commission finds that the articles of incorporation surrender domestication comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of incorporation surrender domestication.

C. ~~The~~ If the domesticating corporation shall automatically cease to be a domestic is a foreign corporation when the that has a certificate of incorporation surrender authority to transact business in the Commonwealth under Article 17 (§ 13.1-757 et seq.), its certificate of authority shall be deemed withdrawn automatically when the domestication becomes effective.

D. If the former domestic corporation intends to continue to transact business in the Commonwealth, then, within 30 days after the effective date of the certificate of incorporation surrender, it shall deliver to the Commission an application for a certificate of authority to transact business in the Commonwealth pursuant to § 13.1-759 together with a copy of its instrument of domestication and articles of incorporation and all amendments thereto, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose laws it is incorporated or domesticated.

E. Service of process on the clerk of the Commission is service of process on a former domestic corporation that has surrendered its charter pursuant to this section. Service on the clerk shall be made in accordance with § 12.1-19.1 and service on the former domestic corporation may be made in any other manner permitted by law.

**§ 13.1-722.6. Amendment of plan of domestication; abandonment.**

A. When a foreign corporation's certificate A plan of domestication in this Commonwealth becomes effective, with respect to that of a domestic corporation may be amended:

1. The title to all real estate and other property remains in the corporation without reversion or impairment;
2. The liabilities remain the liabilities of the corporation;
3. A proceeding pending may be continued by or against the corporation as if the domestication did not occur;
4. The articles of incorporation attached to the articles of domestication constitute the articles of incorporation of the corporation; and
5. The corporation is deemed to:

a. Be incorporated under the laws of this Commonwealth for all purposes;  
 b. Be the same corporation as the corporation that existed under the laws of the jurisdiction or jurisdictions in which it was originally incorporated or formerly domiciled; and  
 e. Have been incorporated on the date it was originally incorporated or organized.  
 B. ~~Any shareholder of a foreign corporation that domesticates into this Commonwealth who, prior to the domestication, was liable for the liabilities or obligations of the corporation is not released from those liabilities or obligations by reason of the domestication~~ *In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or*

2. *In the manner provided in the plan, except that a shareholder that was entitled to vote on or consent to approval of the plan is entitled to vote on or consent to any amendment of the plan that will change:*

a. *The amount or kind of shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the domesticating corporation under the plan;*

b. *The articles of incorporation or bylaws of the domesticated corporation that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the shareholders of the domesticated corporation under its organic law or its proposed article of incorporation or bylaws as set forth in the plan; or*

c. *Any of the other terms or conditions of the plan, if the change would adversely affect the shareholder in any material respect.*

B. *Unless otherwise provided in the plan of domestication, after the plan of domestication has been adopted and approved by a domestic corporation as required by this article, and at any time before the certificate of domestication has become effective, the plan may be abandoned by the corporation without action by its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.*

C. *If a domestication is abandoned after the articles of domestication have been filed with the Commission but before the certificate of domestication has become effective, a statement of abandonment signed by the domesticating corporation shall be delivered to the Commission for filing prior to the effective time and date of the certificate of domestication. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the domestication shall be deemed abandoned and shall not become effective.*

D. *The statement of abandonment shall contain:*

1. *The name of the domesticating corporation;*

2. *The date on which the articles of domestication were filed with the Commission;*

3. *The date and time on which the Commission's certificate of domestication becomes effective; and*

4. *A statement that the domestication is being abandoned in accordance with this section.*

**§ 13.1-722.7:1. Effect of domestication.**

A. *When a domestication of a foreign corporation into a domestic corporation becomes effective:*

1. *All property owned by, and every contract right possessed by, the domesticating corporation are the property and contract rights of the domesticated corporation without transfer, reversion, or impairment;*

2. *All debts, obligations, and other liabilities of the domesticating corporation are the debts, obligations, and other liabilities of the domesticated corporation;*

3. *The name of the domesticated corporation may, but need not, be substituted for the name of the domesticating corporation in any pending proceeding;*

4. *The articles of incorporation and bylaws of the domesticated corporation become effective;*

5. *The shares of the domesticating corporation are reclassified into shares or other securities, obligations, rights to acquire shares or other securities, cash, or other property in accordance with the terms of the domestication, and the shareholders of the domesticating corporation are entitled only to the rights provided to them by those terms and to any appraisal rights they may have under the organic law of the domesticating corporation; and*

6. *The domesticated corporation is:*

a. *Incorporated under and subject to the organic law of the domesticated corporation;*

b. *The same corporation without interruption as the domesticating corporation; and*

c. *Deemed to have been incorporated on the date the domesticating corporation was originally incorporated.*

B. *When a domestication of a domestic corporation into a foreign jurisdiction becomes effective, the domesticated corporation is deemed to:*

1. *Appoint the clerk of the Commission as an agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the domestication; and*

2. *Agree that it will promptly pay the amount, if any, to which such shareholders are entitled under Article 15 (§ 13.1-729 et seq.).*

C. *Except as otherwise provided in the organic law or organic rules of a domesticating foreign corporation, the interest holder liability of a shareholder in a foreign corporation that is domesticated into the Commonwealth who had interest holder liability in respect of such domesticating corporation before the domestication becomes effective shall be as follows:*

1. The domestication does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the domestication becomes effective.

2. The provisions of the organic law of the domesticating corporation shall continue to apply to the collection or discharge of any interest holder liabilities preserved by subdivision 1, as if the domestication had not occurred.

3. The shareholder shall have such rights of contribution from other persons as are provided by the organic law of the domesticating corporation with respect to any interest holder liabilities preserved by subdivision 1, as if the domestication had not occurred.

4. The shareholder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities preserved that arise after the domestication becomes effective.

D. A shareholder who becomes subject to interest holder liability in respect of the domesticated corporation as a result of the domestication shall have such interest holder liability only in respect of interest holder liabilities that arise after the domestication becomes effective.

E. A domestication does not constitute or cause the dissolution of the domesticating corporation.

F. Property held for charitable purposes under the laws of the Commonwealth by a domestic or foreign corporation immediately before a domestication shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and to the extent permitted by or pursuant to the laws of the Commonwealth addressing *cy pres* or dealing with nondiversion of charitable assets.

G. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to the domesticating corporation and which takes effect or remains payable after the domestication inures to the domesticated corporation.

H. A trust obligation that would govern property if transferred to the domesticating corporation applies to property that is transferred to the domesticated corporation after the domestication takes effect.

#### **§ 13.1-722.8. Definitions.**

As used in this article, ~~unless the context requires a different meaning:~~

~~"Articles of organization" has the same meaning specified in § 13.1-1002.~~

~~"Conversion" means a transaction pursuant to this article.~~

~~"Converted entity" means the converting entity as it continues in existence after a conversion.~~

"Converting entity" means the domestic corporation or eligible entity that ~~adopts~~ approves a plan of entity conversion pursuant to ~~this article § 13.1-722.11~~ or the foreign eligible entity that approves a conversion pursuant to the organic law of the foreign eligible entity.

~~"Corporation" has the same meaning specified in § 13.1-603.~~

~~"Limited liability company" has the same meaning specified in § 13.1-1002.~~

~~"Member" has the same meaning specified in § 13.1-1002.~~

~~"Membership interest" or "interest" has the same meaning specified in § 13.1-1002.~~

~~"Resulting entity" means the limited liability company that is in existence upon consummation of an entity conversion pursuant to this article.~~

#### **§ 13.1-722.9. Conversion.**

A. ~~By complying with this article, a domestic corporation may become (i) a domestic limited liability company pursuant to a plan of entity conversion that is adopted and approved by the corporation in accordance with the provisions of this article eligible entity or (ii) a foreign eligible entity if the conversion is permitted by the organic law of the foreign entity.~~

B. ~~A domestic limited liability company may become~~ By complying with this article and applicable provisions of its organic law, a domestic corporation pursuant to a plan of entity conversion that is approved by the limited liability company in accordance with the provisions of Article 15 (§ 13.1-1081 et seq.) of Chapter 12 eligible entity may become a domestic corporation. If procedures for the approval of a conversion are not provided by the organic law or organic rules of a domestic eligible entity, the conversion shall be adopted and approved in the same manner as a merger of that eligible entity. If the organic law or organic rules of a domestic eligible entity do not provide procedures for the approval of either a conversion or a merger, a plan of conversion may nonetheless be adopted and approved by the unanimous consent of all the interest holders of such eligible entity. In either such case, the conversion thereafter may be effected as provided in the other provisions of this article, and for purposes of applying this article in such a case:

1. The eligible entity, its members or interest holders, eligible interests, and organic rules taken together, shall be deemed to be a domestic corporation, shareholders, shares, and articles of incorporation, respectively and vice versa, as the context may require; and

2. If the business and affairs of the eligible entity are managed by a person or persons that are not identical to the members or interest holders, that person or persons shall be deemed to be the board of directors.

C. By complying with the provisions of this article applicable to foreign entities, a foreign eligible entity may become a domestic corporation if the organic law of the foreign eligible entity permits it to become a corporation in another jurisdiction and it has complied with said law in effecting the conversion.

D. Unless otherwise provided for in Chapter 2.2 (§ 50-73.79 et seq.) of Title 50, a domestic partnership that has filed either a statement of partnership authority or a statement of registration as a registered limited liability partnership with the Commission that is not canceled may become a domestic corporation pursuant to a plan of conversion that is approved by the domestic partnership in accordance with the provisions of this article.

**§ 13.1-722.10. Plan of conversion.**

A. ~~To become a domestic limited liability company, a~~ A domestic corporation ~~shall adopt~~ *may convert to a domestic or foreign eligible entity under this article by approving a plan of entity conversion setting forth. The plan of conversion shall include:*

1. ~~A statement of the corporation's intention to convert to a limited liability company~~ *The name of the converting corporation;*

2. ~~The terms and conditions of the conversion, including the manner and basis of converting the shares of the corporation into interests of the resulting entity preserving the ownership proportion and relative rights, preferences, and limitations of each such share name, jurisdiction of formation, and type of entity of the converted entity;~~

3. ~~As a separate attachment to the plan, the full text of the articles of organization of the resulting entity as they will be in effect upon consummation of the conversion~~ *The manner and basis of converting the shares and any rights to acquire shares of the domestic corporation into eligible interests or other securities, obligations, rights to acquire eligible interests or other securities, cash, other property, or any combination of the foregoing; and*

4. ~~Any other provision relating to the conversion that may be desired~~ *If the converted entity will be a domestic corporation, (i) the proposed articles of incorporation of the converted entity that satisfy the requirements of § 13.1-619 and (ii) the proposed bylaws of the converted entity, which shall not be included with the articles of conversion delivered to the Commission for filing;*

5. *If the converted entity will be a domestic eligible entity and a filing entity, the full text, as it will be in effect immediately after the conversion becomes effective, of the organic rules of the converted entity, provided that the private organic rules shall not be included with the articles of conversion delivered to the Commission for filing; and*

6. *The other terms and conditions of the conversion.*

B. ~~The~~ *In addition to the requirements of subsection A, a plan of entity conversion may also include a provision that the board of directors may amend the plan before the effective time and date of the certificate of entity conversion. An amendment made after the submission of the plan to the shareholders shall not alter or change any of the terms or conditions of the plan if the change would adversely affect the shares of any class or series of the converting entity, unless the amendment has been approved by the shareholders in the manner set forth in § 13.1-722.11 contain any other provision not prohibited by law.*

C. *The terms of a plan of conversion may be made dependent upon facts objectively ascertainable outside the plan in accordance with subsection L of § 13.1-604.*

**§ 13.1-722.11. Action on plan of conversion.**

A. ~~Except as provided in subsection B~~ *In the case of a conversion of a domestic corporation to a domestic or foreign eligible entity, the plan of entity conversion shall be adopted by the corporation in the following manner:*

1. *The plan of conversion shall first be adopted by the board of directors shall adopt the plan of entity conversion.*

2. *After adopting the plan of entity conversion, the board of directors shall submit the plan to the shareholders for their approval. The* ~~In submitting the plan of conversion to the shareholders for their approval, the board of directors shall also transmit to the shareholders a recommendation~~ *recommend that the shareholders approve the plan of entity conversion, unless the board of directors determines makes a determination that because of conflicts of interest or other special circumstances it should not make no such a recommendation and communicates the basis of its determination to, in which case the board of directors shall inform the shareholders with of the plan basis for that determination.*

3. *The board of directors may condition its submission set conditions for approval of the plan of entity conversion to by the shareholders on any basis or the effectiveness of the plan of conversion.*

4. ~~The~~ *If the approval of the shareholders is to be sought at a shareholders meeting, the corporation shall notify each shareholder, regardless of whether or not entitled to vote, of the proposed shareholders' meeting in accordance with § 13.1-658 of shareholders at which the plan of entity conversion is to be submitted for approval. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the plan of conversion and shall contain or be accompanied by a copy or summary of the plan. The notice must include or be accompanied by a copy of the plan organic rules of the converted entity, which are to be in writing as they will be in effect immediately after the conversion.*

5. ~~Unless this chapter~~ *the articles of incorporation or the board of directors, acting pursuant to subdivision 3, requires a greater vote, approval of the plan of entity conversion shall be approved by each voting group entitled to vote on the plan by more than two-thirds of all requires (i) the approval of the shareholders at a meeting at which a quorum exists consisting of more than two thirds of the votes entitled to be cast on the plan and (ii) the approval of each class or series of shares voting as a separate voting group at a meeting at which a quorum of the voting group exists consisting of more than two thirds of the votes entitled to be cast on the plan by that voting group. The articles of incorporation may provide for a greater or lesser vote than that provided for in this subsection or a vote by separate voting groups so long as the vote provided for is not less than a majority of all the votes cast on the plan by each voting group entitled to vote on the plan at a meeting at which a quorum of the voting group exists.*

B. ~~If a corporation has not yet issued shares, a majority of its initial board of directors or incorporators, in the event that there is no board of directors, may adopt the plan of entity conversion. If as a result of the conversion one or more shareholders of the converting domestic corporation would become subject to interest holder liability, approval of the plan of conversion shall require the signing in connection with the transaction, by each such shareholder, of a separate written consent to become subject to such interest holder liability.~~

**§ 13.1-722.12. Articles of conversion; effectiveness.**

A. After ~~the~~ (i) a plan of ~~entity~~ conversion of a domestic corporation ~~into a limited liability company~~ has been adopted and approved as required by this article; or (ii) a domestic or foreign eligible entity that is the converting entity ~~shall deliver to the Commission for filing~~ has approved a conversion as required under its organic law, articles of ~~entity~~ conversion ~~setting~~ shall be signed in the name of the converting entity. The articles of conversion shall set forth:

1. The name of the ~~corporation immediately before the filing of the articles of converting entity conversion and the name to which the name of the corporation is to be changed;~~ which name shall satisfy the requirements of the laws of this Commonwealth, its jurisdiction of formation, and entity type;

2. The ~~date on which the corporation was originally incorporated, organized, or formed;~~ its original name, date of formation, jurisdiction of formation, and entity type; ~~and of the converted entity and its name, jurisdiction of incorporation, organization, or formation;~~ and; for entity type upon each subsequent change of entity type or jurisdiction of incorporation, organization, or formation made before the filing of the articles of entity conversion; the effective date of the change and the corporation's name, entity type, and jurisdiction of incorporation, organization, or formation upon consummation of the change domestication or conversion;

3. The plan of entity conversion; including the full text of the articles of organization of the resulting entity that comply with the requirements of Chapter 12 (§ 13.1-1000 et seq.); as they will be in effect upon consummation of the conversion;

4. If the converting entity is a domestic corporation:

a. The date the plan of entity conversion was approved;

5. If the plan of entity conversion was adopted by the board of directors or the incorporators without shareholder approval, a statement that the plan was duly approved by the board of directors or by a majority of the incorporators, as the case may be, including the reason shareholder and, if applicable, director approval was not required; and

6. If the plan of entity conversion was approved by the shareholders, either:

a. A statement that the plan was adopted by the unanimous consent of the shareholders; or

b. A statement that the plan of conversion was submitted to the shareholders by the board of directors approved in accordance with this chapter; and a statement of:

(1) The designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan; and

(2) Either the total number of votes east for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes east for the plan separately by each voting group and a statement that the number east for the plan by each voting group was sufficient for approval by that voting group;

c. A statement that the corporation revokes the authority of its registered agent to accept service on its behalf and appoints the clerk of the Commission as an agent for service of process in any proceeding based on a cause of action arising during the time it was incorporated in the Commonwealth;

d. A mailing address to which the clerk may mail a copy of any process served on the clerk under subdivision c; and

e. A commitment by the foreign eligible entity to notify the clerk of the Commission in the future of any change in the mailing address of the foreign eligible entity; and

5. If the converting entity is a foreign eligible entity and the converted entity is a domestic corporation, a statement that the conversion is permitted by and was approved in accordance with the organic law of the foreign eligible entity.

6. If the converting entity is a domestic nonstock corporation, limited partnership, partnership, or business trust and the converted entity is a domestic corporation:

a. The date the plan of conversion was approved; and

b. A statement that the plan of conversion was approved in accordance with this chapter.

B. The articles of conversion shall be delivered to the Commission for filing. If the Commission finds that the articles of ~~entity~~ conversion comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of ~~entity~~ conversion.

C. Articles of conversion under this section may be combined with any required conversion filing under the organic law of a domestic eligible entity or a foreign eligible entity that is authorized or registered to transact business in the Commonwealth that is the converting entity or converted entity if the combined filing satisfies the requirements of both this section and the other organic law.

D. If the converting entity is a foreign eligible entity that is authorized or registered to transact business in the Commonwealth, its certificate of authority or registration shall be deemed withdrawn on the effective date of its conversion.

**§ 13.1-722.12:1. Amendment of plan of conversion; abandonment.**

A. A plan of conversion of a converting entity that is a domestic corporation may be amended:

1. In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

2. In the manner provided in the plan, except that shareholders that were entitled to vote on or consent to approval of the plan are entitled to vote on or consent to any amendment of the plan that will change:

a. The amount or kind of eligible interests or other securities, obligations, rights to acquire eligible interests or other securities, cash, other property, or any combination of the foregoing, to be received by any of the shareholders of the converting corporation under the plan;

b. The organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the eligible interest holders of the converted entity under its organic law or organic rules; or

c. Any other terms or conditions of the plan, if the change would adversely affect such shareholders in any material respect.

B. Unless otherwise provided in the plan of conversion, after the plan of conversion has been approved by a converting entity that is a domestic corporation in the manner required by this article and at any time before the certificate of conversion has become effective, the plan may be abandoned by the corporation without action by its shareholders in accordance with any procedures set forth in the plan or, if no such procedures are set forth in the plan, in the manner determined by the board of directors.

C. If a conversion is abandoned after articles of conversion have been filed with the Commission but before the certificate of conversion has become effective, a statement of abandonment shall be signed on behalf of the converting domestic corporation and delivered to the Commission for filing prior to the effective time and date of the certificate of conversion. If the Commission finds that the statement of abandonment complies with the requirements of law, it shall issue a certificate of abandonment, effective as of the date and time the statement of abandonment was received by the Commission, and the conversion shall be deemed abandoned and shall not become effective.

D. The statement of abandonment shall contain:

1. The name of the converting entity;
2. The date on which the articles of conversion were filed with the Commission;
3. The date and time on which the Commission's certificate of conversion becomes effective; and
4. A statement that the conversion is being abandoned in accordance with this section.

**§ 13.1-722.13. Effect of conversion.**

A. When ~~an entity~~ a conversion under this article becomes effective, ~~with respect to that entity:~~

1. ~~The title to all real estate and other property remains in the resulting~~ All property owned by, and every contract right possessed by, the converting entity remains the property and contract rights of the converted entity without reversion or impairment;

2. ~~The liabilities remain the~~ All debts, obligations, and other liabilities of the ~~resulting~~ converting entity remain the debts, obligations, and other liabilities of the converted entity;

3. ~~A pending proceeding may be continued by or against the resulting entity as if the conversion did not occur~~ The name of the converted entity may, but need not, be substituted for the name of the converting entity in any pending action or proceeding;

4. ~~The articles of organization attached to the articles of entity conversion constitute the articles of organization of the resulting entity~~ If the converted entity is a filing entity or a domestic corporation or a domestic or foreign nonstock corporation, its public organic record and its private organic rules become effective;

5. If the converted entity is not a filing entity, its private organic rules become effective;

6. If the converted entity is a registered limited liability partnership, the filing required to become a registered limited liability partnership and its private organic rules become effective;

7. The shares or eligible interests of the converting entity are reclassified into shares, eligible interests, or other securities, obligations, rights to acquire shares, eligible interests or other securities, cash, or other property in accordance with the ~~plan of entity terms of the conversion~~, and the shareholders or interest holders of the converting entity are entitled only to the rights provided ~~in the plan of entity conversion or to the~~ to them by those terms and to any appraisal rights; ~~if any~~; they may have under ~~subdivision A 5 of § 13.1-730~~ the organic law of the converting entity;

6-8. The ~~resulting~~ converted entity is deemed to:

a. ~~Be a limited liability company for all purposes~~ Incorporated or organized under and subject to the organic law of the converted entity;

b. ~~Be the~~ The same entity without interruption as the converting entity ~~that existed before the conversion~~; and

c. ~~Have~~ Deemed to have been incorporated or otherwise organized on the date that the converting entity was originally incorporated; or organized; or formed; and

7. ~~The converting entity shall cease to be a corporation when the certificate of entity conversion becomes effective.~~

B. ~~Any shareholder of a converting entity who, before the~~ When a conversion, was liable for the liabilities or obligations of the converting of a domestic corporation to a foreign eligible entity is not released from those liabilities or obligations by reason of the conversion becomes effective, the converted entity is deemed to:

1. Appoint the clerk of the Commission as an agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion; and

2. Agree that it will promptly pay the amount, if any, to which such shareholders are entitled under Article 15 (§ 13.1-729 et seq.).

C. Except as otherwise provided in the articles of incorporation of a domestic corporation or the organic law or organic rules of a foreign corporation or a domestic or a foreign eligible entity, a shareholder or eligible interest holder who becomes subject to interest holder liability in respect of a domestic corporation or eligible entity as a result of the conversion shall have such interest holder liability only in respect of interest holder liabilities that arise after the conversion becomes effective.

D. Except as otherwise provided in the organic law or the organic rules of the eligible entity, the interest holder liability of an interest holder in a converting eligible entity that converts to a domestic corporation who had interest holder liability in respect of such converting eligible entity before the conversion becomes effective shall be as follows:

1. The conversion does not discharge that prior interest holder liability with respect to any interest holder liabilities that arose before the conversion became effective.

2. The provisions of the organic law of the eligible entity shall continue to apply to the collection or discharge of any interest holder liabilities preserved by subdivision 1, as if the conversion had not occurred.

3. The eligible interest holder shall have such rights of contribution from other persons as are provided by the organic law of the eligible entity with respect to any interest holder liabilities preserved by subdivision 1, as if the conversion had not occurred.

4. The eligible interest holder shall not, by reason of such prior interest holder liability, have interest holder liability with respect to any interest holder liabilities that arise after the conversion becomes effective.

E. A conversion does not require the converting entity to wind up its affairs and does not constitute or cause the dissolution, termination, or cancellation of the entity.

F. Property held for charitable purposes under the laws of the Commonwealth by a corporation or a domestic or foreign eligible entity immediately before a conversion shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred except and to the extent permitted by or pursuant to the laws of the Commonwealth addressing *cy pres* or dealing with nondiversion of charitable assets.

G. A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance which is made to the converting entity and which takes effect or remains payable after the conversion inures to the converted entity.

H. A trust obligation that would govern property if transferred to the converting entity applies to property that is transferred to the converted entity after the conversion takes effect.

#### **§ 13.1-723. Disposition of assets not requiring shareholder approval.**

Unless the articles of incorporation otherwise provide, no approval of the shareholders of a corporation is required:

1. To sell, lease, exchange, or otherwise dispose of any or all of the corporation's assets in the usual and regular course of business;

2. To mortgage, pledge or dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of the corporation's assets, whether or not in the usual and regular course of business;

3. To transfer any or all of the corporation's assets to one or more domestic or foreign corporations or eligible entities all the shares or eligible interests of which are owned by the corporation; or

4. To distribute assets pro rata to the holders of one or more classes or series of the corporation's shares.

#### **§ 13.1-724. Shareholder approval of certain dispositions.**

A. A sale, lease, exchange or other disposition of the corporation's assets, other than a disposition described in § 13.1-723, requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. ~~Unless the articles of incorporation or a shareholder approved by law otherwise provide, if a~~ The corporation will conclusively be deemed to have retained a significant continuing business activity if it retains a business activity that represented, for the corporation and its subsidiaries on a consolidated basis, (i) at least 20 percent of total assets at the end of the most recently completed fiscal year, and (ii) at least 20 percent of either ~~(+) (a)~~ (a) income from continuing operations before taxes or ~~(+) (b)~~ (b) revenues from continuing operations for that fiscal year, in each case of the corporation and any of its subsidiaries that are consolidated for purposes of federal income taxes, the corporation will conclusively be deemed to have retained a significant continuing business activity for the most recently completed fiscal year.

B. A disposition that requires approval of the shareholders under subsection A shall be initiated by adoption of a resolution by the board of directors authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also submit to the shareholders a recommendation that the shareholders approve the proposed disposition, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors shall ~~transmit to inform~~ the shareholders of the basis for that determination.

C. The board of directors may ~~condition its submission of the proposed~~ set conditions for the approval of a disposition by the shareholders or the effectiveness of the disposition on any basis.

D. If a disposition is required to be approved by the shareholders and if the approval is to be given sought at a shareholders' meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting at which the disposition is to be submitted for approval in accordance with § 13.1-658. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the disposition and shall contain or be accompanied by a copy or summary of the agreement pursuant to which the disposition will be effected. If only a summary of the agreement is sent to shareholders, the corporation also shall send a copy of the agreement to any shareholder who requests it.

E. Unless the articles of incorporation or board of directors, acting pursuant to subsection C, requires a greater vote or a greater quorum, the approval of a disposition to be authorized shall be approved by the shareholders shall require at a

meeting at which a quorum exists the approval of the holders of more than two-thirds of all the votes entitled to be cast on the disposition. The articles of incorporation may provide for a greater or lesser vote than that provided for in this subsection or a vote by separate voting groups so long as the vote provided for is not less than a majority of all the votes cast on the disposition by each voting group entitled to vote on the disposition at a meeting at which a quorum of the voting group exists.

F. Unless the parties to the disposition have agreed otherwise, after a disposition has been approved by the shareholders, and at any time before the disposition has been consummated, it may be abandoned *without action by the shareholders*, subject to any contractual rights, ~~without further shareholder action in accordance with the procedure set forth in the resolution proposing of the parties to the disposition or, if none is set forth, by the board of directors.~~

G. A disposition of assets in the course of dissolution under Article 16 (§ 13.1-742 et seq.) is not governed by this section.

H. The assets of a *direct or indirect* consolidated subsidiary shall be deemed *to be* the assets of the parent corporation for the purposes of this section.

I. Notwithstanding any other provision of this section, no corporation organized to conduct the business of a railroad or other public service or a banking business, or a savings institution, an industrial loan association or a credit union may sell, lease or exchange its properties for the conduct of such business in the Commonwealth except to a corporation of the Commonwealth organized for the same purpose or in the case of a bank to a savings and loan association or a corporation of the United States, and in the case of a savings and loan association to a bank or a corporation of the United States.

### § 13.1-725. Definitions.

For purposes of this article:

An "affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified.

An "affiliated transaction" means any of the following transactions:

1. Any merger of the corporation or any of its subsidiaries with any interested shareholder or with any other corporation that immediately after the merger would be an affiliate of an interested shareholder that was an interested shareholder immediately before the merger;

2. Any share exchange pursuant to § 13.1-717 in which any interested shareholder acquires one or more classes or series of voting shares of the corporation or any of its subsidiaries;

3. Except for transactions in the ordinary course of business, (i) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with any interested shareholder of any assets of the corporation or of any of its subsidiaries having an aggregate fair market value in excess of five percent of the corporation's consolidated net worth as of the date of the *corporation's* most recently available financial statements, or (ii) any guaranty by the corporation or any of its subsidiaries (in one transaction or a series of transactions) of indebtedness of any interested shareholder in an amount in excess of five percent of the corporation's consolidated net worth as of the date of the *corporation's* most recently available financial statements;

4. The sale or other disposition by the corporation or any of its subsidiaries to an interested shareholder (in one transaction or a series of transactions) of any voting shares of the corporation or any of its subsidiaries having an aggregate market value in excess of five percent of the aggregate market value of all outstanding voting shares of the corporation except pursuant to a share dividend or the exercise of rights or warrants distributed or offered on a basis affording substantially proportionate treatment to all holders of the same class or series of voting shares;

5. The dissolution, *domestication*, or *conversion* of the corporation if proposed by or on behalf of an interested shareholder; or

6. Any reclassification of securities, including any reverse stock split, or recapitalization of the corporation, or any merger of the corporation with any of its subsidiaries or any distribution or other transaction, whether or not with or into or otherwise involving an interested shareholder, which has the effect, directly or indirectly (in one transaction or a series of transactions), of increasing by more than five percent the percentage of the outstanding voting shares of the corporation or any of its subsidiaries beneficially owned by any interested shareholder.

The "announcement date" means the date of the first general public announcement of the proposed affiliated transaction or of the intention to propose an affiliated transaction or the date on which the proposed affiliated transaction or the intention to propose an affiliated transaction is first communicated generally to shareholders of the corporation, whichever is earlier.

An "associate" means as to any specified person:

1. Any entity, other than the corporation and any of its subsidiaries, of which such person is an officer, director, manager, or general partner or is the beneficial owner of 10 percent or more of any class of voting shares or other interests;

2. Any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and

3. Any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is an officer or director of the corporation or any of its affiliates.

A person is deemed to be a "beneficial owner" of voting shares as to which such person and such person's affiliates and associates, individually or in the aggregate, have or share directly, or indirectly through any contract, arrangement, understanding, relationship, or otherwise:

1. Voting power, which includes the power to vote or to direct the voting of the voting shares, unless such power results solely from a revocable proxy given in response to a proxy solicitation made to ~~10 or~~ more than 10 persons by way of a solicitation statement filed with the U.S. Securities and Exchange Commission and in accordance with the federal Securities Exchange Act of 1934;

2. Investment power, which includes the power to dispose or to direct the disposition of the voting shares; or

3. The right to acquire voting power or investment power, whether such right is exercisable immediately or only after the passage of time, pursuant to any contract, arrangement, or understanding, upon the exercise of conversion rights, exchange rights, warrants, or options, or otherwise; provided, that (i) a person shall not be deemed to be a beneficial owner of voting shares tendered pursuant to a tender or exchange offer made by such person or such person's affiliates or associates until such tendered voting shares are accepted for purchase or exchange, (ii) a member of a national securities exchange shall not be deemed to be a beneficial owner of shares held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and, pursuant to the rules of such exchange may direct the vote of such shares, without instructions, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the shares to be voted but is otherwise precluded by the rules of such exchange from voting without instructions and (iii) a director of the corporation shall not be deemed to be a beneficial owner of voting shares beneficially owned by another director of the corporation solely by reason of actions undertaken by such persons in their capacity as directors of the corporation.

"Control" means the possession, directly or indirectly, through the ownership of voting securities, by contract, arrangement, understanding, relationship or otherwise, of the power to direct or cause the direction of the management and policies of a person. The beneficial ownership of 10 percent or more of a corporation's voting shares shall be deemed to constitute control.

The "determination date" means the date on which an interested shareholder became an interested shareholder.

Unless otherwise specified in the articles of incorporation initially filed with the Commission, for purposes of this article a "disinterested director" means as to any particular interested shareholder (i) any member of the board of directors of the corporation who was a member of the board of directors before the later of January 1, 1988, and the determination date and (ii) any member of the board of directors of the corporation who was recommended for election by, or was elected to fill a vacancy and received the affirmative vote of, a majority of the disinterested directors then on the board of directors.

"Fair market value" means:

1. In the case of shares, the highest closing sale price of a share quoted during the 30-day period immediately preceding the date in question on the composite tape for shares listed on the New York Stock Exchange, or, if such shares are not quoted on the composite tape on the New York Stock Exchange, on the principal United States securities exchange registered under the federal Securities Exchange Act of 1934 on which such shares are listed, or, if such shares are not listed on any such exchange, the highest closing bid quotation with respect to a share during the 30-day period preceding the date in question on the National Association of Securities Dealers, Inc., NASDAQ stock market automated quotations system or any similar system then in general use, or, if no such quotations are available, the fair market value of a share on the date in question as determined by a majority of the disinterested directors; and

2. In the case of property other than cash or shares, the fair market value of such property on the date in question as determined by a majority of the disinterested directors.

An "interested shareholder" means any person that is:

1. The beneficial owner of more than 10 percent of any class of the outstanding voting shares of the corporation; however, the term "interested shareholder" shall not include the corporation or any of its subsidiaries, any savings, employee stock ownership, or other employee benefit plan of the corporation or any of its subsidiaries, or any fiduciary with respect to any such plan when acting in such capacity. For the purpose of determining whether a person is an interested shareholder, the number of voting shares deemed to be outstanding shall include shares deemed owned by the interested shareholder through application of subdivision 3 under the definition of "beneficial owner" but shall not include any other voting shares that may be issuable pursuant to any contract, arrangement, or understanding, upon the exercise of any conversion right, exchange right, warrant, or option, or otherwise; or

2. An affiliate or associate of the corporation and at any time within the preceding three years was an interested shareholder of such corporation.

"Valuation date" means, if the affiliated transaction is voted upon by shareholders, the day before the date of the vote of shareholders or, if the affiliated transaction is not voted upon by shareholders, the date of the consummation of the transaction.

"Voting shares" means the outstanding shares of all classes or series of the corporation entitled to vote generally in the election of directors.

#### **§ 13.1-727. Exceptions.**

A. The voting requirements set forth in § 13.1-726 do not apply to a particular affiliated transaction if the conditions specified in either of the following subdivisions are met:

1. The affiliated transaction has been approved by a majority of the disinterested directors; or

2. In the affiliated transaction consideration will be paid to the holders of each class or series of voting shares and the following conditions will be met:

a. The aggregate amount of the cash and the fair market value as of the valuation date of consideration other than cash to be received per share by holders of each class or series of voting shares in such affiliated transaction is at least equal to the highest of the following:

(1) If applicable, the highest per share price, including any brokerage commissions, transfer taxes, and soliciting dealers' fees paid by the interested shareholder for any shares of such class or series acquired by it (i) within the two-year period immediately preceding the determination date or (ii) in the transaction in which it became an interested shareholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which such highest per share acquisition price was paid, being the "share acquisition date," through the date the affiliated transaction is effected at the rate for one-year United States Treasury obligations from time to time in effect, less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of such class or series, since the share acquisition date, up to the amount of such interest;

(2) The fair market value per share of such class or series on the announcement date or on the determination date, whichever is higher being the "measuring date," plus, in either case, interest compounded annually from the measuring date through the date the affiliated transaction is effected at the rate for one-year United States Treasury obligations from time to time in effect, less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of such class or series, since the measuring date, up to the amount of such interest;

(3) If applicable, the price per share equal to the per share amount determined pursuant to subdivision 2 a (2) ~~of this subsection~~, multiplied by the ratio of (i) the highest per share price including any brokerage commissions, transfer taxes and soliciting dealers' fees paid by the interested shareholder for any shares of such class or series acquired by it within the two-year period immediately preceding the determination date to (ii) the fair market value per share of such class or series on the first day in such two-year period on which the interested shareholder acquired any shares of such class or series; and

(4) If applicable, the highest preferential amount, if any, per share to which the holders of such class or series are entitled in the event of any voluntary or involuntary dissolution of the corporation;

b. The consideration to be received by holders of outstanding shares shall be in cash or in the same form as the interested shareholder has previously paid for shares of the same class or series and if the interested shareholder has paid for shares with varying forms of consideration, the form of the consideration will be either cash or the form used to acquire the largest number of shares of such class or series previously acquired by the interested shareholder;

c. During such portion of the three-year period preceding the announcement date that such interested shareholder has been an interested shareholder, except as approved by a majority of the disinterested directors:

(1) There shall have been no failure to declare and pay at the regular date therefor any full periodic dividends, whether or not cumulative, on any outstanding shares of the corporation;

(2) There shall have been (i) no reduction in the annual rate of dividends paid on any class or series of voting shares, except as necessary to reflect any subdivision of the class or series, and (ii) an increase in such annual rate of dividends as necessary to reflect any reclassification, including any reverse stock split, recapitalization, reorganization, or similar transaction that has the effect of reducing the number of outstanding shares of the class or series; and

(3) Such interested shareholder shall not have become the beneficial owner of any additional voting shares except as part of the transaction that results in such interested shareholder becoming an interested shareholder;

d. During such portion of the three-year period preceding the announcement date that such interested shareholder has been an interested shareholder, except as approved by a majority of the disinterested directors, such interested shareholder shall not have received the benefit, directly or indirectly (except proportionately as a shareholder), of any loans, advances, guarantees, pledges, or other financial assistance or any tax credits or other tax advantages provided by the corporation, whether in anticipation of or in connection with such affiliated transaction or otherwise; and

e. Except as otherwise approved by a majority of the disinterested directors, a proxy or information statement describing the affiliated transaction and complying with the requirements of the *federal Securities Exchange Act of 1934* and the rules and regulations thereunder (or any subsequent provisions replacing such Act, rules, or regulations) is mailed to holders of voting shares of the corporation at least 25 days before the consummation of such affiliated transaction, whether or not such proxy or information statement is required to be mailed pursuant to such Act, rules, regulations, or subsequent provisions.

B. The provisions of this article do not apply to a particular affiliated transaction if the conditions specified in any one of the following subdivisions are met:

1. The affiliated transaction is with (i) an interested shareholder who has been an interested shareholder continuously or who would have been such but for the unilateral action of the corporation since the latest of (a) January 26, 1988, (b) the date the corporation first became subject to this article by virtue of its *becoming a public corporation* or having 300 shareholders of record, or (c) the date such person became an interested shareholder with the prior or contemporaneous approval of a majority of the disinterested directors, (ii) any person who becomes an interested shareholder as a result of acquiring shares from a person specified in (i) of this subdivision by gift, testamentary bequest or the laws of descent and distribution or in a transaction in which consideration was not exchanged and who continues thereafter to be an interested shareholder, or who would have so continued but for the unilateral action of the corporation, (iii) a person who became an interested shareholder inadvertently or as a result of the unilateral action of the corporation and who, as soon as practicable thereafter, divested beneficial ownership of sufficient shares so that such person ceased to be an interested shareholder, and who would not, at any time within the three-year period immediately preceding the announcement date have been an

interested shareholder but for such inadvertency or the unilateral action of the corporation, or (iv) an interested shareholder whose acquisition of voting shares making such person an interested shareholder was approved by a majority of the disinterested directors prior to such shareholder's determination date.

2. The corporation (i) *is not a public corporation and* (ii) does not have more than 300 shareholders of record, unless ~~the foregoing~~ *its loss of that status* results from action taken by or on behalf of an interested shareholder or a transaction in which a person becomes an interested shareholder.

3. The corporation is an investment company registered under the *federal* Investment Company Act of 1940.

4. The corporation's articles of incorporation initially filed with the Commission expressly provide that the corporation shall not be governed by this article *and such provision in the articles of incorporation has not subsequently been amended to be eliminated.*

5. The corporation, by action of its shareholders, adopts an amendment ~~to~~ *of* its articles of incorporation or bylaws expressly electing not to be governed by this article, provided that, in addition to any other vote required by law, such amendment ~~to~~ *of* the articles of incorporation or bylaws shall be approved by the affirmative vote of a majority of the shares entitled to vote that are not *beneficially* owned by an interested shareholder. An amendment adopted pursuant to this subdivision shall not be effective until 18 months after the date such amendment was approved by the shareholders and shall not apply to any affiliated transaction between ~~such~~ *the* corporation and any person who became an interested shareholder of such corporation on or prior to the date of such amendment. A bylaw amendment adopted pursuant to this subdivision shall not be further amended by the board of directors. In the event the articles of incorporation or bylaws are subsequently amended to eliminate a prior amendment electing not to be governed by this article, such subsequent amendment shall not restrict an affiliated transaction between the corporation and any person who became an interested shareholder at a time after such prior amendment became effective and who continued to be an interested shareholder immediately before and immediately after the adoption of such subsequent amendment, provided such person thereafter remains an interested shareholder continuously, or would have so remained but for the unilateral action of the corporation.

#### **§ 13.1-728.1. Definitions.**

As used in this article:

"Acquiring person," with respect to any public corporation, means any person who has made or proposes to make a control share acquisition of shares of such public corporation.

"Beneficial ownership" means the sole or shared power to dispose or direct the disposition of shares, or the sole or shared power to vote or direct the voting of shares, or the sole or shared power to acquire shares, including any such power ~~which~~ *that* is not immediately exercisable, whether such power is direct or indirect or through any contract, arrangement, understanding, relationship or otherwise. A person shall not be deemed to be a beneficial owner of shares tendered pursuant to a tender or exchange offer made by such person until the tendered shares are accepted for purchase or exchange. A person shall not be deemed to be a beneficial owner of shares as to which such person may exercise voting power solely by virtue of a revocable proxy conferring the right to vote. A member of a national securities exchange shall not be deemed to be a beneficial owner of shares held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and, pursuant to the rules of such exchange, may direct the vote of such shares, without instructions, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the shares to be voted but is otherwise precluded by the rules of such exchange from voting without instructions.

"Control share acquisition" means the direct or indirect acquisition, other than in an excepted acquisition, by any person of beneficial ownership of shares of a public corporation that, except for this article, would have voting rights and would, when added to all other shares of such public corporation which then have voting rights and are beneficially owned by such person, would cause such person to become entitled, immediately upon acquisition of such shares, to vote or direct the vote of, shares having voting power within any of the following ranges of the votes entitled to be cast in an election of directors: (i) one-fifth or more but less than one-third of such votes; (ii) one-third or more but less than a majority of such votes; or (iii) a majority or more of such votes. If voting rights are granted pursuant to this article in respect of any such range to shares so acquired by any person, any acquisition by such person of additional shares shall not, for purposes of the preceding sentence, constitute a control share acquisition unless, as a result of such acquisition, the voting power of the shares beneficially owned by such person would be in excess of such range in respect of which voting rights had previously been granted. If this article applies to acquisitions of shares of a public corporation at the time of a control share acquisition of any shares of such corporation, then shares acquired by the same person within 90 days before or after such control share acquisition and shares acquired by the same person pursuant to a plan to make a control share acquisition are deemed to have been acquired in the same control share acquisition for the purposes of this article, regardless of the applicability of this article at the time of any other acquisitions of shares during such periods or pursuant to such a plan.

"Excepted acquisition" means the acquisition of shares of a public corporation in any of the following circumstances:

1. Before January 26, 1988;
2. Pursuant to a binding contract in effect before January 26, 1988;
3. Pursuant to the laws of wills and decedents' estates;
4. Pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing this article;

5. Pursuant to a merger or plan of *merger or* share exchange effected in compliance with Article 12 (§ 13.1-715.1 et seq.) ~~of this chapter~~ if the public corporation is a party to the ~~agreement~~ *plan* of merger or plan of share exchange;

6. Pursuant to a tender or exchange offer that is made pursuant to an agreement to which the public corporation is a party;

7. Directly from the public corporation, or from any of its wholly owned subsidiaries, or from any corporation having beneficial ownership of shares of the public corporation having at least a majority, before such transaction, of the votes entitled to be cast in the election of directors of such public corporation; or

8. In good faith and not for the purpose of circumventing this chapter by or from any person (a "transferor") whose voting rights had previously been authorized by shareholders in compliance with this article, or whose previous acquisition of beneficial ownership of shares would have constituted a control share acquisition but for any of subdivisions 1 through 7 in this definition; however, any acquisition described in this subdivision 8 shall constitute a control share acquisition if as a result thereof any person acquires beneficial ownership of shares of such issuing public corporation having voting power in the election of directors in excess of the range of votes within which the transferor was authorized by this article to exercise voting power immediately before such acquisition.

"Interested shares" means the shares of a public corporation the voting of which in an election of directors may be exercised or directed by any of the following persons: (i) an acquiring person with respect to a control share acquisition; (ii) any officer of such public corporation; or (iii) any employee of such public corporation who is also a director of the corporation.

"Person" includes an associate of any person. For this purpose, "associate" shall mean (i) any other person who directly or indirectly controls, or is controlled by or under common control with, any such person or who is acting or intends to act jointly or in concert with any such person in connection with the acquisition of or exercise of beneficial ownership over shares; (ii) any corporation or organization of which any such person is an officer, director, manager or partner or as to which any such person performs a similar function; (iii) any other person having direct or indirect beneficial ownership of 10 percent or more of any class of equity securities of any such person; (iv) any trust or estate in which any such person has a beneficial interest or as to which any such person serves as trustee or in a similar fiduciary capacity; and (v) any relative or spouse of any such person, or any relative of such spouse, any one of whom has the same residence as any such person. For this purpose, "control" shall mean the possession, direct or indirect, of the power to direct or to cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, arrangement or understanding, or otherwise.

The "votes" entitled to be cast by any share shall, if any voting group is entitled to vote for less than the total number of directors to be elected at any election, be determined by multiplying the number of votes entitled to be cast by the holder of such share by the number of directors for whom such holder is entitled to vote; however, beneficial ownership of a majority of the shares comprising any such voting group shall be deemed to entitle such beneficial owner to cast all the votes of the shares in such voting group.

#### § 13.1-728.4. Control share acquisition statement.

Any acquiring person may, after any control share acquisition or before any proposed one, deliver a control share acquisition statement to the public corporation at its principal office. The control share acquisition statement shall set forth all of the following:

1. The identity of the acquiring person and each other member of any group of which the person is a part for purposes of determining the shares owned or to be owned, beneficially, by the acquiring person.

2. A statement that the control share acquisition statement is given pursuant to this article.

3. The number of shares of the issuing public corporation beneficially owned by the acquiring person and each other member of the group.

4. The range of voting power under which the control share acquisition falls or would, if consummated, fall.

5. A description in reasonable detail of the terms of the control share acquisition or the proposed control share acquisition, including but not limited to:

a. The source of funds or other consideration and the material terms of the financial arrangements for the control share acquisition;

b. Any plans or proposals of the acquiring person to liquidate the public corporation, to sell all or substantially all of its *or its subsidiaries'* assets, to merge it or exchange its shares *or the interests in its subsidiaries* with any other person, to change the location of its principal executive office or a material portion of its business activities, to change materially its management or policies of employment, to alter materially its relations with suppliers or customers or the communities in which it operates, or to make any other material change in its business, corporate structure, management or personnel;

c. Any plans or proposals of the acquiring person to acquire additional shares (including additional shares within the range set forth in the statement) or to dispose of any shares; and

d. Such other information which could reasonably be expected to affect materially the decision of a shareholder with respect to granting voting rights to shares acquired or proposed to be acquired in the control share acquisition.

6. If the control share acquisition has not taken place, representations of the acquiring person, together with a statement in reasonable detail of the facts upon which they are based, that the control share acquisition, if consummated, will not be contrary to law, and that the acquiring person has the financial capacity to make the proposed control share acquisition. For this purpose, financial capacity shall only be deemed to include (i) cash and cash equivalents in excess of normal working capital requirements and (ii) funds to be provided under legally binding commitments from financial institutions having the capability to advance such funds. If the funds to be provided under such commitments are included in the demonstration of financial capacity, the control share acquisition statement shall be accompanied by complete copies of all such

commitments and a written description of all oral understandings concerning the terms and conditions of such commitments.

**§ 13.1-728.5. Meeting of shareholders.**

A. If the acquiring person so requests at the time of delivery of a control share acquisition statement and gives an undertaking to pay the corporation's expenses of a special meeting, within 10 days thereafter the directors of the public corporation shall call a special meeting of shareholders for the purpose of considering the voting rights to be granted the shares acquired or to be acquired in the control share acquisition.

B. Unless the acquiring person agrees in writing to another date, the special meeting of shareholders shall be held within 50 days after receipt by the public corporation of the request.

C. If the acquiring person so requests in writing at the time of delivery of the control share acquisition statement, the special meeting shall not be held sooner than 30 days after receipt by the public corporation of the acquiring person's statement.

D. If the acquiring person makes no request under subsection A but delivers, no later than ~~30~~ 60 days before the intended date of notice of an annual meeting of shareholders, a control share acquisition statement with respect to shares acquired in a control share acquisition, the voting rights to be granted such shares shall be considered by any such annual meeting.

E. Notwithstanding any contrary provision of this chapter, an appointment of a proxy that confers authority to vote on the granting of voting rights pursuant to this article shall be solicited separately from any offer to purchase, or from any solicitation of an offer to sell, shares of the public corporation, and may not be solicited sooner than 30 days before the meeting unless otherwise agreed to in writing by the acquiring person and the public corporation. No such appointment may be solicited or voted unless the appointment expressly provides that it is revocable at all times until the completion of the vote.

F. Notwithstanding subsection A, the *board of* directors of the public corporation may decline to call a special meeting of shareholders requested under such subsection if they determine that, at the time of such request, the acquiring person does not beneficially own shares having at least five percent of the votes entitled to be cast at an election of directors. If the directors so decline and if the control share acquisition statement accompanying such request was delivered no later than ~~30~~ 60 days before the intended date of notice of an annual meeting of shareholders, the voting rights to be granted shares acquired or to be acquired in the control share acquisition described in the control share acquisition statement shall be considered at such annual meeting.

G. The control share acquisition statement required pursuant to subsections A, C, D, and E shall be delivered under and meet the requirements of § 13.1-728.4.

**§ 13.1-728.6. Notice to shareholders.**

A. If a special meeting of shareholders is required to be called pursuant to § 13.1-728.5, notice of the special meeting shall be given ~~as promptly as reasonably practicable~~ by the public corporation to all shareholders of record as of the record date set for the meeting, whether or not entitled to vote at the meeting.

B. Notice of the special or annual shareholders' meeting at which the voting rights are to be considered shall include or be accompanied by the following:

1. A copy of the control share acquisition statement delivered pursuant to this article; *and*

2. A statement by the board of directors of ~~the corporation, authorized by its directors,~~ of its position or recommendation, or that it is taking no position or making no recommendation, with respect to the granting of voting rights to shares acquired in the control share acquisition or the proposed control share acquisition.

**§ 13.1-728.7. Redemption.**

A. If authorized in a corporation's articles of incorporation or bylaws before a control share acquisition has occurred, the shares acquired in such control share acquisition with respect to which no control share acquisition statement has been filed with the public corporation may, at any time during the period ending 60 days after the last acquisition of such shares by the acquiring person, be redeemed by the corporation at the redemption price specified in subsection C.

B. If authorized in a corporation's articles of incorporation or bylaws before a control share acquisition has occurred, shares acquired in such control share acquisition with respect to which the shareholders have failed to grant voting rights at a special meeting or, if no special meeting for such purpose has been convened, at an annual meeting may, at any time during the period ending 60 days after such meeting, be redeemed by the corporation at the redemption price specified in subsection C.

C. The redemption price for shares to be redeemed under this section shall be the number of such shares multiplied by the dollar amount (rounded to the nearest cent) equal to the average per share price, including any brokerage commissions, transfer taxes and soliciting dealer's fees, paid by the acquiring person for such shares. The corporation may rely conclusively on public announcements by, or filings with the U.S. Securities and Exchange Commission by, the acquiring person as to the prices so paid.

**§ 13.1-728.9. Nonexclusivity.**

Except as expressly provided in this article, neither the provisions of this article nor their application to any acquiring person shall limit actions that may be taken, or require the taking of any action, by the board of directors or shareholders with respect to any potential changes in control of any public corporation. ~~It~~ *Regardless of the applicability of this article,* in the case of any action taken or not taken by directors, the provisions of § 13.1-690 shall apply, and, in determining the

best interests of the corporation, a director may consider the possibility that those interests may best be served by the continued independence of the corporation.

**§ 13.1-729. Definitions.**

~~In~~ As used in this article:

"Affiliate" means a person who directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive officer ~~thereof of such person~~. For purposes of subdivision B 4 of § 13.1-730, a person is deemed to be an affiliate of its senior executives.

"Beneficial shareholder" means a person who is the beneficial owner of shares held in a voting trust or by a nominee on the beneficial owner's behalf.

"Corporation" means the *domestic corporation that is the issuer of the shares held by a shareholder demanding appraisal and, for matters covered by §§ 13.1-734 through 13.1-740, includes the surviving entity survivor* in a merger.

"Fair value" means the value of the corporation's shares determined:

- ~~a.~~ 1. Immediately before the ~~effectuation~~ effectiveness of the corporate action to which the shareholder objects;
- ~~b.~~ 2. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and
- ~~c.~~ 3. Without discounting for lack of marketability or minority status except, if appropriate, for amendments to the articles of incorporation pursuant to subdivision A 5 of § 13.1-730.

"Interest" means interest from the ~~effective~~ date of the corporate action *becomes effective* until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

"Interested transaction" means a corporate action described in subsection A of § 13.1-730, other than a merger pursuant to § 13.1-719 or 13.1-719.1, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted. As used in this definition:

1. "Beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because the member is the record holder of the securities if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby is deemed to have acquired beneficial ownership, as of the date of the agreement, of all voting shares of the corporation beneficially owned by any member of the group.

2. "Interested person" means a person, or an affiliate of a person, who at any time during the one-year period immediately preceding approval by the board of directors of the corporate action:

a. Was the beneficial owner of ~~20%~~ 20 percent or more of the voting power of the corporation, excluding any shares acquired pursuant to an offer for all shares of the corporation having voting power if the offer was made within one year prior to the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action;

b. ~~Had~~ Excluding the voting power of any shares of the corporation acquired pursuant to an offer for all shares having voting power if the offer was made within the previous one year for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action, had the power, contractually or otherwise, to cause the appointment or election of ~~25%~~ 25 percent or more of the directors to the board of directors of the corporation; or

c. Was a senior executive officer or director of the corporation or a senior executive officer of any affiliate ~~thereof of the corporation~~, and that senior executive officer or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:

(1) Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action;

(2) Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in § 13.1-691; or

(3) In the case of a director of the corporation who will, in the corporate action, become a director of the acquiring entity in the corporate action or one of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

"Preferred shares" means a class or series of shares whose holders have preference over any other class or series of shares with respect to distributions.

~~"Record shareholder" means the person in whose name shares are registered in the records of the corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the corporation.~~

"Senior executive officer" means the chief executive officer, chief operating officer, chief financial officer and anyone in charge of a principal business unit or function.

"Shareholder" means ~~both~~ a record shareholder ~~and~~, a beneficial shareholder, and a voting trust beneficial owner.

**§ 13.1-730. Right to appraisal.**

A. A shareholder is entitled to appraisal rights, and to obtain payment of the fair value of that shareholder's shares, in the event of any of the following corporate actions:

1. Consummation of a merger to which the corporation is a party (i) if shareholder approval is required for the merger by § 13.1-718, or would be required but for the provisions of subsection G of § 13.1-718; ~~however, except that~~ appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger or (ii) if the corporation is a subsidiary and the merger is governed by § 13.1-719;

2. Consummation of a share exchange ~~to~~ in which the corporation is a party ~~as the corporation whose shares will be the acquired entity~~, except that appraisal rights shall not be available to any shareholder of the corporation with respect to ~~shares of any class or series of shares of the corporation that is are not exchanged~~ *acquired in the share exchange*;

3. Consummation of a disposition of assets pursuant to § 13.1-724 ~~if shareholder approval is required for the disposition, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series if:~~

~~a. Under the terms of the corporate action approved by the shareholders there is to be distributed to the shareholders in each the corporation's net assets; in excess of a reasonable amount reserved to meet claims of the type described in § 13.1-746 or 13.1-746.1;~~

~~(1) Within one year after the shareholders' approval of the action; and~~

~~(2) In accordance with their respective interests determined at the time of distribution; and~~

~~b. The the disposition of assets is not an interested transaction;~~

4. An amendment of the articles of incorporation with respect to a class or series of shares that reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created;

5. Any other ~~merger, share exchange, disposition of assets, or amendment to~~ of the articles of incorporation, ~~or any other merger, share exchange or disposition of assets in each case to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors; or~~

6. Consummation of a domestication in which a domestic corporation becomes a foreign corporation if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest in the total voting rights of the outstanding shares of the ~~domestic foreign~~ corporation, as the shares held by the shareholder immediately before the domestication; *or*

7. *Consummation of a conversion to an unincorporated entity pursuant to Article 12.2 (§ 13.1-722.8 et seq.).*

B. Notwithstanding subsection A, the availability of appraisal rights under subdivisions A 1 through A 4, A 6, and A 7 shall be limited in accordance with the following provisions:

1. Appraisal rights shall not be available for the holders of shares of any class or series of shares that is:

a. A covered security under § 18(b)(1)(A) or (B) of the federal Securities Act of 1933; ~~as amended;~~

b. Traded in an organized market and has at least 2,000 shareholders and a market value of at least \$20 million, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, and directors and ~~by any beneficial shareholders shareholder or any voting trust beneficial owner~~ owning more than 10 percent of such shares; or

c. Issued by an open end management investment company registered with the ~~United States~~ U.S. Securities and Exchange Commission under the *federal* Investment Company Act of 1940 and *that* may be redeemed at the option of the holder at net asset value.

2. The applicability of subdivision 1 shall be determined as of:

a. The record date fixed to determine the shareholders entitled to receive notice of the meeting of shareholders to act upon the corporate action requiring appraisal rights *or in the case of an offer made pursuant to subsection G of § 13.1-718, the date of such offer*; or

b. The day before the effective date of such corporate action if there is no meeting of shareholders *and no offer made pursuant to subsection G of § 13.1-718.*

3. Subdivision 1 shall not be applicable and appraisal rights shall be available pursuant to subsection A for the holders of any class or series of shares who are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subdivision 1 at the time the corporate action becomes effective.

4. Subdivision 1 shall not be applicable and appraisal rights shall be available pursuant to subsection A for the holders of any class or series of shares where the corporate action is an interested transaction.

C. Notwithstanding any other provision of this section, the articles of incorporation as originally filed or any amendment ~~thereto~~ *to the articles of incorporation* may limit or eliminate appraisal rights for any class or series of preferred shares, ~~but except that~~ *(i) no such limitation or elimination shall be effective if the class or series does not have the right to vote separately as a voting group, alone or as a part of a group, on the action, and (ii) any such limitation or elimination contained in an amendment to of the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately prior to the effective date of such amendment or that the corporation is or may be required*

to issue or sell thereafter pursuant to any conversion, exchange or other right existing immediately before the effective date of such amendment shall not apply to any corporate action that becomes effective within one year ~~of that~~ *after the effective date of such amendment* if such action would otherwise afford appraisal rights.

**§ 13.1-731. Assertion of rights by nominees and beneficial owners.**

A. A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder's name but owned by a beneficial shareholder *or a voting trust beneficial owner* only if the record shareholder objects with respect to all shares of the class or series owned by the beneficial shareholder *or the voting trust beneficial owner* and notifies the corporation in writing of the name and address of each beneficial shareholder *or voting trust beneficial owner* on whose behalf appraisal rights are being asserted. The rights of a record shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection shall be determined as if the shares as to which the record shareholder objects and the record shareholder's other shares were registered in the names of different record shareholders.

B. A beneficial shareholder *or a voting trust beneficial owner* may assert appraisal rights as to shares of any class or series held on behalf of the shareholder only if such shareholder:

1. Submits to the corporation the record shareholder's written consent to the assertion of such rights no later than the date referred to in subdivision B 2 b of § 13.1-734; and

2. Does so with respect to all shares of the class or series that are beneficially owned by the beneficial shareholder *or the voting trust beneficial owner*.

**§ 13.1-732. Notice of appraisal rights.**

A. Where any corporate action specified in subsection A of § 13.1-730 is to be submitted to a vote at a shareholders' meeting and the corporation has concluded that shareholders are or may be entitled to assert appraisal rights under this article, the meeting notice, *or when no approval of such action is required pursuant to subsection G of § 13.1-718, the offer made pursuant to subsection G of § 13.1-718* shall state the corporation's position as to the availability of appraisal rights.

~~A~~ *If the corporation concludes that appraisal rights are or may be available, a copy of this article shall accompany the meeting notice or offer sent to those record shareholders who are or may be entitled to exercise appraisal rights.*

B. In a merger pursuant to § 13.1-719, the parent ~~corporation~~ *entity* shall notify in writing all record shareholders of the subsidiary who are entitled to assert appraisal rights that the corporate action became effective. Such notice shall be sent within 10 days after the corporate action became effective and include the materials described in § 13.1-734.

C. Where any corporate action specified in subsection A of § 13.1-730 is to be approved by written consent of the shareholders pursuant to § 13.1-657 *and the corporation has concluded that shareholders are or may be entitled to assert appraisal rights under this article:*

1. Written notice ~~that stating the corporation's position as to the availability of appraisal rights are, are not, or may be available must~~ *shall be given to each record shareholder from whom a consent is solicited at the time consent of such shareholder is first solicited and; if the corporation has concluded that appraisal rights are or may be available, must shall be accompanied by a copy of this article; and*

2. Written notice ~~that stating the corporation's position as to the availability of appraisal rights are, are not, or may be available must~~ *shall be delivered together with the notice to nonconsenting and nonvoting shareholders required by subsections F H and G I of § 13.1-657, may include the materials described in § 13.1-734, and; if the corporation has concluded that appraisal rights are or may be available, must shall be accompanied by a copy of this article.*

D. Where corporate action described in subsection A of § 13.1-730 is proposed, or a merger pursuant to § 13.1-719 is effected, the notice referred to in subsection A, B, or C; ~~if the corporation concludes that appraisal rights are or may be available, and in subsection B~~ *shall be accompanied by:*

1. The annual financial statements specified in subsection A of § 13.1-774 of the corporation that issued the shares that may be subject to appraisal, which shall be as of a date ending not more than 16 months before the date of the notice and shall comply with subsection B of § 13.1-774; provided that, if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information; and

2. The latest available quarterly financial statements of such corporation, if any.

E. A public corporation, or a corporation that ceased to be a public corporation as a result of the corporate action specified in subsection A of § 13.1-730, may fulfill its responsibilities under subsection D by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable rules and regulations of the U.S. Securities and Exchange Commission if the corporation was a public corporation as of the date of the specified financial statements.

F. The right to receive the information described in subsection D may be waived in writing by a shareholder before or after the corporate action.

**§ 13.1-733. Notice of intent to demand payment.**

A. If a corporate action specified in subsection A of § 13.1-730 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares:

1. Must deliver to the ~~corporation~~ *corporation's secretary* before the vote is taken written notice of the shareholder's intent to demand payment if the proposed action is effectuated; and

2. Must not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

B. If a corporate action specified in subsection A of § 13.1-730 is to be approved by shareholders by written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares:

1. Shall deliver to the ~~corporation~~ *corporation's secretary* before the proposed action becomes effective written notice of the shareholder's intent to demand payment if the proposed action is effectuated, except that such written notice is not required if the notice required by subsection C of § 13.1-732 is given less than 25 days prior to the date such proposed action is effectuated; and

2. Shall not sign a consent in favor of the proposed action with respect to that class or series of shares.

C. *If a corporate action specified in subsection A of § 13.1-730 does not require shareholder approval pursuant to subsection G of § 13.1-718, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares (i) shall deliver to the secretary of the corporation before the shares are purchased pursuant to the offer written notice of the shareholder's intent to demand payment if the proposed action is effectuated; and (ii) shall not tender, or cause or permit to be tendered, any shares of such class or series in response to such offer.*

D. A shareholder who fails to satisfy the requirements of subsection A ~~or~~ B, or C is not entitled to payment under this article.

#### **§ 13.1-734. Appraisal notice and form.**

A. If ~~proposed~~ a corporate action requiring appraisal rights under § 13.1-730 becomes effective, the corporation shall deliver ~~on a written~~ appraisal notice and the form required by subdivision B 1 to all shareholders who ~~satisfied~~ *satisfy* the requirements of § 13.1-733. In the case of a merger under § 13.1-719, the parent corporation shall deliver an appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

B. The appraisal notice shall be ~~sent delivered~~ no earlier than the date the corporate action specified in subsection A of § 13.1-730 became effective and no later than 10 days after such date and shall:

1. Supply a form that (i) specifies the first date of any announcement to shareholders made prior to the date the corporate action became effective of the principal terms of the proposed corporate action, (ii) if such announcement was made, requires the shareholder asserting appraisal rights to certify whether beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date, and (iii) requires the shareholder asserting appraisal rights to certify that such shareholder did not vote for or consent to the transaction *as to the class or series of shares for which appraisal is sought*;

2. State:

a. Where the form must be ~~sent delivered~~ and where certificates for certificated shares ~~must are required to be~~ deposited and the date by which those certificates must be deposited, which date may not be earlier than the date ~~for receiving~~ *by which the corporation must receive* the required form under subdivision 2 b of ~~this subsection~~;

b. A date by which the corporation must receive the form, which date may not be fewer than 40 nor more than 60 days after the date the subsection A appraisal notice ~~and form were sent~~ *is delivered*, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date;

c. The corporation's estimate of the fair value of the shares;

d. That, if requested in writing, the corporation will provide, to the shareholder so requesting, within 10 days after the date specified in subdivision 2 b of ~~this subsection~~, the number of shareholders who ~~returned~~ *return* the ~~form~~ *forms* by the specified date and the total number of shares owned by them; and

e. The date by which the notice to withdraw under § 13.1-735.1 must be received, which date must be within 20 days after the date specified in subdivision 2 b of ~~this subsection~~; and

3. Be accompanied by a copy of this article.

#### **§ 13.1-735.1. Perfection of rights; right to withdraw.**

A. A shareholder who receives notice pursuant to § 13.1-734 and who wishes to exercise appraisal rights must complete, sign, and return the form ~~sent delivered~~ by the corporation and, in the case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to subdivision B 2 b of § 13.1-734. ~~If the form requires~~ *In addition, if applicable, the shareholder shall certify on the form whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to subdivision B 1 of § 13.1-734; and the. If a shareholder fails to make the this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under § 13.1-738. Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the signed form, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection B.*

B. A shareholder who has complied with subsection A may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the *secretary of the corporation* in writing by the date set forth in the appraisal notice pursuant to subdivision B 2 e of § 13.1-734. A shareholder who fails to withdraw from the appraisal process may not thereafter withdraw without the corporation's written consent.

C. A shareholder who does not sign and return the form and, in the case of certificated shares, deposit that shareholder's share certificates where required, each by the date set forth in the notice described in subsection B of § 13.1-734, shall not be entitled to payment under this article.

**§ 13.1-737. Payment.**

A. Except as provided in § 13.1-738, within 30 days after the form required by subsection B 2 b of § 13.1-734 is due, the corporation shall pay in cash to those shareholders who complied with subsection A of § 13.1-735.1 the amount the corporation estimates to be the fair value of their shares plus interest.

B. The payment to each shareholder pursuant to subsection A shall be accompanied by:

1. The (i) annual financial statements specified in subsection A of § 13.1-774 of the corporation that issued the shares to be appraised, which shall be as of a date ending not more than 16 months before the date of payment and shall comply with subsection B of § 13.1-774; provided that, if such annual financial statements are not available, the corporation shall provide reasonably equivalent *financial* information, and (ii) the latest available quarterly financial statements of such corporation, if any;

2. A statement of the corporation's estimate of the fair value of the shares, which estimate shall equal or exceed the corporation's estimate given pursuant to subdivision B 2 c of § 13.1-734; and

3. A statement that shareholders described in subsection A have the right to demand further payment under § 13.1-739 and that if any such shareholder does not do so within the time period specified ~~therein~~ *in subsection B of § 13.1-739*, such shareholder shall be deemed to have accepted such payment *under subsection A* in full satisfaction of the corporation's obligations under this article.

C. A public corporation, or a corporation that ceased to be a public corporation as a result of the corporate action specified in subsection A of § 13.1-730, may fulfill its responsibilities under subdivision B 1 by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable rules and regulations of the U.S. Securities and Exchange Commission if the corporation was a public corporation as of the date of the specified financial statements.

**§ 13.1-738. After-acquired shares.**

A. A corporation may elect to withhold payment required by § 13.1-737 from any shareholder who was required to, but did not certify that beneficial ownership of all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to subdivision B 1 of § 13.1-734.

B. If the corporation elected to withhold payment under subsection A, it shall, within 30 days after the form required by subdivision B 2 b of § 13.1-734 is due, notify all shareholders who are described in subsection A:

1. Of the information required by subdivision B 1 of § 13.1-737;

2. Of the corporation's estimate of fair value pursuant to subdivision B 2 of § 13.1-737 and its offer to pay such value plus interest;

3. That they may accept the corporation's estimate of fair value plus interest in full satisfaction of their demands or demand for appraisal under § 13.1-739;

4. That those shareholders who wish to accept such offer must so notify the ~~corporation~~ *corporation's secretary* of their acceptance of the corporation's offer within 30 days after receiving the offer; and

5. That those shareholders who do not satisfy the requirements for demanding appraisal under § 13.1-739 shall be deemed to have accepted the corporation's offer.

C. Within 10 days after receiving a shareholder's acceptance pursuant to subsection B, the corporation shall pay in cash the amount it offered under subdivision B 2, *plus interest*, to each shareholder who agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.

D. Within 40 days after ~~sending~~ *delivering* the notice described in subsection B, the corporation shall pay in cash the amount it offered to pay under subdivision B 2, *plus interest*, to each shareholder described in subdivision B 5.

**§ 13.1-739. Procedure if shareholder dissatisfied with payment or offer.**

A. A shareholder paid pursuant to § 13.1-737 who is dissatisfied with the amount of the payment must notify the ~~corporation~~ *corporation's secretary* in writing of that shareholder's ~~stated~~ estimate of the fair value of the shares and demand payment of that estimate plus interest ~~€, less any payment under § 13.1-737~~. A shareholder offered payment under § 13.1-738 who is dissatisfied with that offer must reject the offer and demand payment of the shareholder's *stated* estimate of the fair value of the shares plus interest.

B. A shareholder who fails to notify the ~~corporation~~ *corporation's secretary* in writing of that shareholder's demand to be paid the shareholder's stated estimate of the fair value plus interest under subsection A within 30 days after receiving the corporation's payment or offer of payment under § 13.1-737 or 13.1-738, respectively, waives the right to demand payment under this section and shall be entitled only to the payment made or offered pursuant to those respective sections.

**§ 13.1-740. Court action.**

A. If a shareholder makes a demand for payment under § 13.1-739 that remains unsettled, the corporation shall commence a proceeding within 60 days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the 60-day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to § 13.1-737 plus interest.

B. The corporation shall commence the proceeding in the circuit court of the city or county where the corporation's principal office, or, if none in the Commonwealth, where its registered office, is located. If the corporation is a foreign corporation without a registered office in the Commonwealth, it shall commence the proceeding in the circuit court of the city or county in the Commonwealth where the principal office, or, if none in the Commonwealth, where the registered

office of the domestic corporation merged with the foreign corporation was located at the time the transaction became effective.

C. The corporation shall make all shareholders, *regardless of whether ~~or not they are~~* residents of the Commonwealth, whose demands remain unsettled parties to the proceeding as in an action against their shares, and all parties shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

D. The corporation may join as a party to the proceeding any shareholder who claims to have demanded an appraisal but who has not, in the opinion of the corporation, complied with the provisions of this article. If the court determines that a shareholder has not complied with the provisions of this article, that shareholder shall be dismissed as a party.

E. The jurisdiction of the court in which the proceeding is commenced under subsection B is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The shareholders demanding appraisal *rights* are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

F. Each shareholder made a party to the proceeding is entitled to judgment (i) for the amount, if any, by which the court finds the fair value of the shareholder's shares ~~plus interest~~ exceeds the amount paid by the corporation to the shareholder for such shares, *plus interest* or (ii) for the fair value plus interest of the shareholder's shares for which the corporation elected to withhold payment under § 13.1-738.

**§ 13.1-741. Court costs and counsel fees.**

A. The court in an appraisal proceeding commenced under § 13.1-740 shall determine all *court* costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess *court* costs against all or some of the shareholders demanding appraisal, in amounts *that* the court finds equitable, to the extent the court finds such shareholders acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

B. The court in an appraisal proceeding may also assess the ~~fees and~~ expenses of ~~counsel and experts for~~ the respective parties, in amounts the court finds equitable:

1. Against the corporation and in favor of any or all shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of § 13.1-732, 13.1-734, 13.1-737 or 13.1-738; or

2. Against either the corporation or a shareholder demanding appraisal, in favor of any other party, if the court finds that the party against whom the ~~fees and~~ expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by this article.

C. If the court in an appraisal proceeding finds that the ~~services of counsel for~~ *expenses incurred* by any shareholder were of substantial benefit to other shareholders similarly situated, and that ~~the fees for those services such~~ *expenses* should not be assessed against the corporation, the court may ~~award to direct that such counsel reasonable fees to~~ *expenses* be paid out of the amounts awarded the shareholders who were benefited.

D. To the extent the corporation fails to make a required payment pursuant to § 13.1-737, 13.1-738 or 13.1-739, the shareholder may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the corporation all ~~costs and~~ expenses of the suit; ~~including counsel fees.~~

**§ 13.1-741.1. Limitations on other remedies for fundamental transactions.**

A. Except for action taken before the Commission pursuant to § 13.1-614 or as provided in subsection B, the legality of a proposed or completed corporate action described in subsection A of § 13.1-730 may not be contested, nor may the corporate action be enjoined, set aside or rescinded, in a legal or equitable proceeding by a shareholder after the shareholders have approved the corporate action.

B. Subsection A does not apply to a corporate action that:

1. Was not authorized and approved in accordance with the applicable provisions of:

a. Article 11 (§ 13.1-705 et seq.), Article 12 (§ 13.1-715.1 et seq.), *Article 12.1 (§ 13.1-722.1:1 et seq.), Article 12.2 (§ 13.1-722.8 et seq.),* or Article 13 (§ 13.1-723 et seq.);

b. The articles of incorporation or bylaws; or

c. The ~~resolutions~~ *resolution* of the board of directors authorizing the corporate action;

2. Was procured as a result of fraud, a material misrepresentation, or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading;

3. Is an interested transaction, unless it has been ~~authorized, approved or ratified~~ *recommended* by the board of directors in the same manner as is provided in subsection B of § 13.1-691 ~~and or~~ has been ~~authorized, approved or ratified~~ by the shareholders in the same manner as is provided in subsection C of § 13.1-691 as if the interested transaction were a director's conflict of interests transaction; or

4. Is adopted or taken by less than unanimous consent of the voting shareholders pursuant to § 13.1-657 if:

a. The challenge to the corporate action is brought by a shareholder who did not consent to the corporate action *and as to whom notice of the approval of the corporate action was not effective at least 10 days before the corporate action was effected*; and

b. The proceeding challenging the corporate action is commenced within 10 days after notice of the adoption or taking of the corporate action is effective as to the shareholder bringing the proceeding.

C. Any remedial action with respect to corporate action described in subsection A of § 13.1-730 shall not limit the scope of, or be inconsistent with, any provision of § 13.1-614.

**§ 13.1-742. Dissolution by directors and shareholders.**

A. ~~A corporation's~~ The board of directors may propose dissolution for submission to the shareholders *by first adopting a resolution authorizing the dissolution.*

B. For a proposal to dissolve to be ~~adopted~~ approved:

1. The board of directors shall recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interests or other special circumstances it should make no recommendation ~~and communicates, in which case the board of directors shall inform the shareholders of the basis for its that determination to the shareholders;~~ and

2. The shareholders entitled to vote shall approve the proposal to dissolve as provided in subsection E.

C. The board of directors may ~~condition its submission~~ *set conditions for the approval* of the proposal for dissolution ~~on any basis by shareholders or on the effectiveness of the dissolution.~~

D. ~~The~~ *If the approval of the shareholders is to be sought at a shareholders' meeting, the corporation shall notify each shareholder, regardless of whether or not entitled to vote, of the proposed shareholders' meeting in accordance with § 13.1-658 of shareholders at which dissolution will be submitted for approval.* The notice shall ~~also~~ state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

E. Unless *the articles of incorporation or the board of directors, acting pursuant to subsection C, requires a greater vote, a greater quorum, or a vote by voting groups,* dissolution to be authorized must be approved *at a shareholders' meeting at which a quorum exists* by the holders of more than two-thirds of all votes entitled to be cast on the proposal to dissolve. The articles of incorporation may provide for a greater or lesser vote than that provided for in this subsection or a vote by separate voting groups so long as the vote provided for is not less than a majority of all the votes cast by each voting group entitled to vote on the proposed dissolution at a meeting at which a quorum of the voting group exists.

**§ 13.1-743. Articles of dissolution.**

A. At any time after dissolution is ~~approved by the shareholders authorized,~~ the corporation may dissolve by ~~filing with~~ *delivering to the Commission for filing* articles of dissolution setting forth:

1. The name of the corporation;

2. The date *that* dissolution was authorized;

3. Either (i) a statement that dissolution was authorized by unanimous consent of the shareholders, or (ii) a statement that the proposed dissolution was submitted to the shareholders by the board of directors ~~in accordance with and was approved by the shareholders in the manner required by this article; and a statement of:~~

~~a. The designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on dissolution; and~~

~~b. Either the total number of votes east for and against dissolution by each voting group entitled to vote separately on dissolution or the total number of undisputed votes east for dissolution separately by each voting group and a statement that the number east for dissolution by each voting group was sufficient for approval by that voting group the articles of incorporation.~~

B. If the Commission finds that the articles of dissolution comply with the requirements of law and that the corporation has paid all fees and taxes, and delinquencies thereof, imposed by laws administered by the Commission, it shall issue a certificate of dissolution.

C. A corporation is dissolved upon the effective date of the certificate of dissolution.

D. For purposes of §§ 13.1-742 through 13.1-746.2, "dissolved corporation" means a corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

**§ 13.1-744. Revocation of dissolution.**

A. A corporation may revoke its dissolution at any time prior to the effective date of its certificate of termination of corporate existence.

B. Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action ~~by~~ of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

C. After the revocation of dissolution is authorized, the corporation may revoke the dissolution by ~~filing with~~ *delivering to the Commission for filing* articles of revocation of dissolution that set forth:

1. The name of the corporation;

2. The effective date of the dissolution that was revoked;

3. The date that the revocation of dissolution was authorized;

4. If the corporation's board of directors revoked ~~a~~ *the* dissolution, *a statement to that effect and if dissolution was authorized by the shareholders, a statement that revocation was permitted by action by* of the board of directors alone pursuant to that authorization; and

5. If shareholder action was required to revoke the dissolution, the information required by subdivision 3 of subsection A of § 13.1-743.

D. If the Commission finds that the articles of revocation of dissolution comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of revocation of dissolution.

E. When the *certificate of revocation of dissolution* is effective, it relates back to and takes effect as of the effective date of the *certificate of dissolution* and the corporation resumes carrying on its business as if the dissolution had never occurred.

**§ 13.1-745. Effect of dissolution.**

A. A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

1. Collecting its assets;
2. Disposing of its properties that will not be distributed in kind to its shareholders;
3. Discharging or making provision for discharging its liabilities;
4. ~~Distributing~~ *Making distributions* of its remaining ~~property assets~~ among its shareholders according to their interests; and
5. Doing every other act necessary to wind up and liquidate its business and affairs.

B. Dissolution of a corporation does not:

1. Transfer title to the corporation's property;
2. Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;
3. Subject its directors to standards of conduct different from those prescribed in Article 9 (§ 13.1-673 et seq.);
4. Change (i) quorum or voting requirements for its board of directors or shareholders; ~~change~~ (ii) provisions for selection, resignation, or removal of its directors or officers; or ~~change~~ (iii) provisions for amending its bylaws;
5. Prevent commencement of a proceeding by or against the corporation in its corporate name;
6. Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or
7. Terminate the authority of the registered agent of the corporation.

C. *A distribution in liquidation under this section may only be made by a dissolved corporation. For purposes of determining the shareholders entitled to receive a distribution in liquidation, the board of directors may fix a future date as a record date. If the board of directors does not fix a record date for the determination, the record date is the date the board of directors authorizes the distribution.*

**§ 13.1-746. Known claims against dissolved corporation.**

A. A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

B. The dissolved corporation shall deliver to each of its known claimants written notice of the dissolution at any time after its effective date. The written notice shall:

1. Provide a reasonable description of the claim that the claimant may be entitled to assert;
2. State whether the claim is admitted, or not admitted, and if admitted (i) the amount that is admitted, which may be as of a given date, and (ii) any interest obligation if fixed by an instrument of indebtedness;
3. Provide a mailing address where a claim may be ~~sent~~ *delivered*;
4. State the *claim* deadline, which may not be fewer than 120 days from the effective date of the written notice, by which *written* confirmation of the claim must be delivered to the dissolved corporation, *and if the claimant's claim is not admitted, the proceeding deadline, which may not be fewer than 180 days from the effective date of the written notice, by which the claimant must commence a proceeding to enforce the claim*; and
5. State that, ~~except to the extent that any claim is admitted~~, the claim will be barred if written confirmation of the claim is not delivered by the *claim* deadline, or, *if the claim is not admitted, if the claimant does not commence a proceeding to enforce the claim by the proceeding deadline.*

C. A claim against the dissolved corporation is barred to the extent that it is not admitted:

1. If the dissolved corporation delivered written notice to the claimant in accordance with subsection B and the claimant does not deliver written confirmation of the claim to the dissolved corporation by the *claim* deadline; or
2. If the dissolved corporation delivered written notice to the claimant that ~~his~~ *the claimant's* claim is not admitted, in whole or in part, and the claimant does not commence a proceeding to enforce the claim ~~within 90 days from the effective date of such notice~~ *by the proceeding deadline.*

D. For purposes of this section, "claim" does not include (i) a contingent liability or a claim based on an event occurring after the effective date of dissolution or (ii) a liability or claim the ultimate maturity of which is more than 60 days after the delivery of written notice to the claimant pursuant to subsection B. Nothing in this section shall prevent acceleration of liability for an unmatured claim or liability by operation of the agreement under which it was created or exercise of any discretionary right of the claimant thereunder.

E. If a liability exists but the full extent of any damages is *not* or may not be ascertainable, and a proceeding to enforce the claim is commenced pursuant to subdivision C 2, the claimant may amend the pleadings after filing to include any damages that occurred or are alleged to have occurred after filing, and the court having jurisdiction of such claim may continue such proceeding during its pendency if it appears that further damages are or may be still occurring.

**§ 13.1-746.1. Other claims against dissolved corporation.**

A. A dissolved corporation may ~~also~~ ~~(i)~~ deliver notice of its dissolution to any known claimant with a liability or claim that pursuant to subsection D of § 13.1-746 is not treated as a claim for purposes of § 13.1-746 ~~and~~ ~~(ii)~~. *A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the dissolved*

corporation present them in accordance with the notice. The notice shall (i) be published one time in a newspaper of general circulation in the city or county where the dissolved corporation's principal office, or, if none in the Commonwealth, its registered office, is or was last located or (ii) be posted conspicuously for at least 30 days on the dissolved corporation's website. The notice of dissolution shall request that persons with claims against the dissolved corporation present them in accordance with the notice.

B. The notice shall:

1. Describe the information that is required to be included in a claim and provide a mailing address where the claim may be ~~sent~~ delivered; and

2. State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced prior to the earlier of the expiration of any applicable statute of limitations or three years after the date of delivery of notice to the claimant, or the date of publication of the notice, as appropriate.

C. If the dissolved corporation provides notice of its dissolution in accordance with this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation prior to the earlier of the expiration of any applicable statute of limitations or three years after the ~~date on which notice was delivered to the claimant or published, as appropriate~~ publication of the notice:

1. A claimant who was not given written notice under § 13.1-746; and

2. ~~A claimant whose claim was timely sent to the dissolved corporation but not acted on; and~~

~~3. A claimant whose claim pursuant to subsection D of § 13.1-746 is not treated as a claim for purposes of § 13.1-746.~~

D. A claim that is not barred by subsection C of § 13.1-746 or subsection C of this section may be enforced:

1. Against the dissolved corporation, to the extent of its undistributed assets; or

2. Except as provided in subsection D of § 13.1-746.2, if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section may not exceed the total amount of assets distributed to the shareholder.

### § 13.1-746.3. Director duties.

A. ~~The board of directors~~ Directors shall cause the dissolved corporation to apply its remaining assets to discharge or make reasonable provision for the payment of claims and make distributions *in liquidation* of assets to shareholders after payment or provision for claims.

B. Directors of a dissolved corporation that has disposed of claims under § 13.1-746, 13.1-746.1 or 13.1-746.2 shall not be liable for breach of subsection A with respect to claims against the dissolved corporation that are barred or satisfied under § 13.1-746, 13.1-746.1 or 13.1-746.2.

### § 13.1-747. Grounds for judicial dissolution.

A. The circuit court in any city or county described in subsection C may dissolve a corporation:

1. In a proceeding by a shareholder of a corporation that is not a public corporation if it is established that:

a. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the business and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock; ~~or~~

b. The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent; ~~or~~

c. The shareholders are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired; or

d. The corporate assets are being misapplied or wasted;

2. In a proceeding by a creditor if it is established that:

a. The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

b. The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent;

3. In a proceeding by the corporation to have its voluntary dissolution continued under court supervision;

4. In a proceeding by a shareholder if the corporation has abandoned its business and has failed within a reasonable time to liquidate and distribute its assets and terminate its corporate existence;

5. Upon application by the board of directors when it is established that circumstances make it impossible to obtain a representative vote by shareholders on the question of dissolution and that the continuation of the business of the corporation is not in the interest of the shareholders but it is in their interest that the assets and business be liquidated; or

6. When the Commission has instituted a proceeding for the involuntary termination of corporate existence and entered an order finding that the corporate existence of the corporation should be terminated but that liquidation of its business and affairs should precede the entry of an order of termination of corporate existence.

B. The circuit court in the city or county named in subsection C shall have full power to liquidate the assets and business of the corporation at any time after the termination of corporate existence, pursuant to the provisions of this article upon the application of any person, for good cause, with regard to any assets or business that may remain. The jurisdiction conferred by this clause may also be exercised by any such court in any city or county where any property may be situated whether of a domestic or a foreign corporation that ceased to exist.

C. Venue for a proceeding brought under this section lies in the city or county where the corporation's principal office is or was located, or, if none in the Commonwealth, where its registered office is or was last located.

D. It is not necessary to make directors or shareholders parties to a proceeding to be brought under this section unless relief is sought against them individually.

E. A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with such powers and duties as the court may direct, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

*F. Within 15 days of the commencement of a proceeding to dissolve a corporation under subdivision A 1, the corporation shall deliver to all shareholders, other than the petitioner, a notice stating that the corporation and the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under § 13.1-749.1 and accompanied by a copy of that section.*

**§ 13.1-748. Receivership or custodianship.**

A. Unless an election to purchase has been filed under § 13.1-749.1, a court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage while the proceeding is pending, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all its property wherever located.

B. The court may appoint *as a receiver or custodian* an individual, a domestic corporation or *eligible entity*, or a foreign corporation or *eligible entity* authorized to transact business in the Commonwealth; ~~as a receiver or custodian~~. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

C. The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

1. The receiver (i) may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale; ~~if authorized by the court~~; and (ii) may sue and defend in ~~his~~ *the receiver's* own name as receiver of the corporation in all courts of the Commonwealth; and

2. The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interest of its shareholders and creditors.

D. The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver; ~~if doing so is in the best interest of the corporation, its shareholders, and creditors.~~

E. The court from time to time during the receivership or custodianship may order compensation paid and ~~expense disbursements or reimbursements made~~ *expenses paid or reimbursed* to the receiver or custodian ~~and the custodian's counsel~~ from the assets of the corporation or proceeds from the sale of the assets.

**§ 13.1-749.1. Election to purchase in lieu of dissolution.**

A. Unless otherwise provided in the articles of incorporation, in a proceeding under subdivision A 1 of § 13.1-747 to dissolve a corporation, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

B. An election to purchase pursuant to this section may be filed with the court at any time within 90 days after the filing of the petition under subdivision A 1 of § 13.1-747 or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within 10 days thereafter, give written notice to all shareholders, other than the petitioner. The notice shall state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and shall advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders who wish to participate shall file notice of their intention to join in the purchase no later than 30 days after the ~~effective date~~ *effectiveness* of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of *outstanding* shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under subdivision A 1 of § 13.1-747 may not be discontinued or settled, nor may the petitioning shareholder sell or otherwise dispose of the petitioner's shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

C. If, within 60 days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner's shares, the court shall enter an order directing the purchase of petitioner's shares upon the terms and conditions agreed to by the parties.

D. If the parties are unable to reach an agreement as provided for in subsection C, the court, upon application of any party, shall stay the proceedings under subdivision A 1 of § 13.1-747 and determine the fair value of the petitioner's shares as of the day before the date on which the petition under subdivision A 1 of § 13.1-747 was filed or as of such other date as the court deems appropriate under the circumstances. The determination of fair value shall include consideration of all relevant facts and circumstances, including, unless the court determines it would be unjust or inequitable to do so, (i) the petitioner's minority status, (ii) the marketability of the petitioner's shares, (iii) the relevant terms of any shareholders'

agreement, and (iv) if the court finds that the value of the corporation has been diminished by the wrongful conduct of controlling shareholders, the petitioner's proportionate claim for any compensable corporate injury. In determining the fair value, the court may, in its discretion, select an appraiser to appraise the fair value of the petitioner's shares and shall assess the cost of any such appraisal to the parties, to the corporation, or both, as the equities may appear to the court.

E. Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional costs, fees and expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating petitioner's shares among holders of different classes of shares, the court should attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under subdivision A 1 b or d of § 13.1-747, it may award *expenses* to the petitioning shareholder ~~reasonable fees and expenses of counsel and of any experts employed by the shareholder.~~

F. Upon entry of an order under subsection C or E, the court shall dismiss the petition to dissolve the corporation under subdivision A 1 of § 13.1-747 and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded to him by the order of the court, which shall be enforceable in the same manner as any other judgment.

G. The purchase ordered pursuant to subsection E shall be made within 10 days after the date the order becomes final.

H. Any payment by the corporation pursuant to an order under subsection C or E, other than an award of ~~fees and~~ expenses pursuant to subsection E, is subject to the provisions of § 13.1-653.

#### § 13.1-750. Articles of termination of corporate existence.

A. When a corporation has distributed all of its assets to its creditors and shareholders and voluntary dissolution proceedings have not been revoked, it shall ~~file~~ *deliver to the Commission for filing* articles of termination of corporate existence ~~with the Commission.~~ The articles shall set forth:

1. The name of the corporation;
2. That all the assets of the corporation have been distributed to its creditors and shareholders; and
3. That the dissolution of the corporation has not been revoked.

B. With the articles of termination of corporate existence, the corporation shall file a statement certifying that the corporation has filed returns and has paid all state taxes to the time of the ~~certificate~~ *statement*. In contemplation of submitting the required statement, the corporation may file returns and pay taxes before such returns and taxes would otherwise be due.

C. If the Commission finds that the articles of termination of corporate existence comply with the requirements of law and that all required fees have been paid, it shall by order issue a certificate of termination of corporate existence. ~~Upon the issuance of such~~ *When the certificate is effective*, the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by shareholders, directors and officers as provided in this chapter.

D. The statement "that all the assets of the corporation have been distributed to its creditors and shareholders" means that the corporation has divested itself of all its assets by the payment of claims or liquidating dividends or by assignment to a trustee or trustees for the benefit of claimants or shareholders. If any shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative who is entitled to a share in the distribution of the assets cannot be found, the corporation may thereupon, and without awaiting the one year mentioned in § 55-210.7, pay such person's share to the State Treasurer as abandoned property on complying with all applicable requirements of § 55-210.12 except subdivision B 4.

#### § 13.1-751. Termination of corporate existence by incorporators or initial directors.

A majority of the initial directors, or, if initial directors were not named in the articles of incorporation and have not been elected, *a majority of the incorporators* of a corporation that has not issued shares or has not commenced business may dissolve the corporation and terminate its corporate existence by filing with the Commission articles of termination of corporate existence that set forth:

1. The name of the corporation;
2. ~~[Repealed.]~~ *The date of its incorporation;*
3. Either (i) that none of the corporation's shares have been issued or (ii) that the corporation has not commenced business;
4. That no debt of the corporation remains unpaid;
5. That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and
6. That a majority of the initial directors authorized the dissolution or that initial directors were not named in the articles of incorporation and have not been elected and a majority of the incorporators authorized the dissolution.

#### § 13.1-755. Survival of remedy after termination of corporate existence.

The termination of corporate existence shall not take away or impair any remedy available to or against the corporation; ~~or its directors, officers, or shareholders;~~ for any right or claim existing or any liability incurred; ~~prior to such~~

termination. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right, or claim.

**§ 13.1-757. Authority to transact business required.**

A. A foreign corporation may not transact business in the Commonwealth until it obtains a certificate of authority from the Commission.

B. The following activities, among others, do not constitute transacting business within the meaning of subsection A:

1. Maintaining, defending, *mediating, arbitrating,* or settling any proceeding;
2. Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;
3. Maintaining ~~bank~~ accounts *in financial institutions;*
4. Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities;
5. Selling through independent contractors;
6. Soliciting or obtaining orders, ~~whether by mail or through employees or agents or otherwise by any means,~~ if the orders require acceptance outside ~~this the~~ Commonwealth before they become contracts;
7. Creating or acquiring indebtedness, deeds of trust, ~~and or~~ security interests in ~~real or personal~~ property;
8. Securing or collecting debts or enforcing deeds of trust ~~and or~~ security interests in property securing the debts, *and holding, protecting, or maintaining property so acquired;*
9. Owning, ~~without more, real or personal~~ *protecting, and maintaining* property;
10. Conducting an isolated transaction that is completed within 30 *consecutive* days and that is not one in the course of ~~repeated similar transactions of a like nature;~~
11. For a period of less than 90 consecutive days, producing, directing, filming, crewing, or acting in motion picture feature films, television series, or commercials, or promotional films ~~which that~~ are sent outside of the Commonwealth for processing, editing, marketing, and distribution: ~~The term "transacting business" as used in this subsection shall have no effect on personal jurisdiction under § 8.01-328.1; or~~

12. Serving, without more, as a general partner of, or as a partner in a partnership which is a general partner of, a domestic or foreign limited partnership that does not otherwise transact business in the Commonwealth; *or*

13. *Transacting business in interstate commerce.*

C. The list of activities in subsection B is not exhaustive.

D. *This section does not apply in determining the contacts or activities that may subject a foreign corporation to service of process, taxation, or regulation under the laws of the Commonwealth other than this chapter.*

E. *The term "transacting business" as used in this section shall have no effect on personal jurisdiction under § 8.01-328.1.*

**§ 13.1-758. Consequences of transacting business without authority.**

A. A foreign corporation transacting business in the Commonwealth without a certificate of authority may not maintain a proceeding in any court in the Commonwealth until it obtains a certificate of authority.

B. The successor to a foreign corporation that transacted business in the Commonwealth without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in the Commonwealth until the foreign corporation or its successor obtains a certificate of authority.

C. A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court shall further stay the proceeding until the foreign corporation or its successor obtains the certificate.

D. If a foreign corporation transacts business in the Commonwealth without a certificate of authority, each officer, director, and employee who does any of such business in the Commonwealth knowing that a certificate of authority is required shall be liable for a penalty of not less than \$500 and not more than \$5,000. Any such penalty may be imposed by the Commission or by any court in the Commonwealth before which an action against the corporation may lie, after the corporation and the individual have been given notice and an opportunity to be heard.

E. Notwithstanding subsections A and B, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in the Commonwealth.

F. Suits, actions, and proceedings may be begun against a foreign corporation that transacts business in the Commonwealth without a certificate of authority by serving process on any director, officer, or agent of the corporation doing such business, or, if none can be found, on the clerk of the Commission or on the corporation in any other manner permitted by law. If any foreign corporation transacts business in the Commonwealth without a certificate of authority, it shall by transacting such business be deemed to have thereby appointed the clerk of the Commission ~~its attorney as an agent~~ for service of process *upon the foreign corporation*. Service upon the clerk shall be made in accordance with § 12.1-19.1.

**§ 13.1-759. Application for certificate of authority.**

A. ~~A foreign corporation may apply to the Commission for~~ *To obtain* a certificate of authority to transact business in the Commonwealth, *a foreign corporation shall deliver an application to the Commission*. The application shall be made on

~~forms~~ a form prescribed and furnished by the Commission. The application shall *be signed in the name of the foreign corporation and set forth:*

1. The name of the *foreign* corporation, and if the *foreign* corporation is prevented by § 13.1-762 from using its name in the Commonwealth, a designated name that satisfies the requirements of subsection B of § 13.1-762;

2. The ~~name of the state or other~~ *foreign corporation's* jurisdiction ~~under whose law it is incorporated~~ of formation, and if the *foreign* corporation was previously authorized or registered to transact business in the Commonwealth as a foreign corporation, limited liability company, business trust, limited partnership, or registered limited liability partnership, with respect to every such prior authorization or registration, (i) the name of the entity; (ii) the entity type; (iii) the state or other jurisdiction of incorporation, organization, or formation; and (iv) the entity identification number issued to it by the Commission;

3. The date of incorporation and period of duration *of the foreign corporation;*

4. The street address of the foreign corporation's principal office;

5. The address of the proposed registered office of the foreign corporation in the Commonwealth (including both (i) the post office address with street and number, if any, and (ii) the name of the county or city in which it is located) and the name of its proposed registered agent in the Commonwealth at such address and that the registered agent is either (a) an individual who is a resident of Virginia and either an officer or director of the corporation or a member of the Virginia State Bar or (b) a domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in the Commonwealth, the business office of which is identical with the registered office;

6. The names and ~~usual~~ business addresses of the ~~current~~ *foreign corporation's* directors and principal officers ~~of the foreign corporation;~~ and

7. The number of shares the *foreign* corporation is authorized to issue, itemized by class.

B. The foreign corporation shall deliver with the completed application a copy of its articles of incorporation and all amendments thereto duly authenticated by the Secretary of State or other official having custody of corporate records in ~~the state or other~~ *its* jurisdiction ~~under whose law it is incorporated~~ of formation.

C. A *foreign corporation is not precluded from receiving a certificate of authority to transact business in the Commonwealth because of any difference between the law of the foreign corporation's jurisdiction of formation and the law of the Commonwealth.*

D. If the Commission finds that the application complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of authority to transact business in the Commonwealth.

#### **§ 13.1-760. Amended certificate of authority.**

A. A foreign corporation authorized to transact business in ~~this~~ *the* Commonwealth shall obtain an amended certificate of authority from the Commission *if it:*

1. ~~If it changes~~ *Changes* its corporate name ~~or in the state or other~~ jurisdiction of its ~~incorporation~~ formation; ~~or~~

2. ~~To abandon or change~~ *Changes* its jurisdiction of formation; ~~or~~

3. *Abandons or changes* the designated name adopted by the *foreign* corporation for use in the Commonwealth pursuant to subsection B of § 13.1-762.

B. The requirements of § 13.1-759 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

C. Whenever the articles of incorporation of a foreign corporation that is authorized to transact business in the Commonwealth are amended, within 30 days after the amendment becomes effective, the foreign corporation shall file with the Commission a copy of such amendment duly authenticated by the Secretary of State or other official having custody of corporate records in ~~the state or other~~ *its* jurisdiction ~~under whose law it is incorporated~~ of formation.

#### **§ 13.1-761. Effect of certificate of authority.**

A. A certificate of authority authorizes the foreign corporation to which it is issued to transact business in ~~this~~ *the* Commonwealth subject, however, to the right of the Commonwealth to revoke the certificate as provided in this ~~Act~~ *chapter.*

B. A foreign corporation holding a valid certificate of authority shall have no greater rights and privileges than a domestic corporation. The certificate of authority shall not be deemed to authorize ~~it~~ *the foreign corporation* to exercise any of its corporate powers or purposes that a foreign corporation is forbidden by law to exercise in ~~this~~ *the* Commonwealth.

C. This chapter does not authorize ~~this~~ *the* Commonwealth to regulate the organization or internal affairs of a foreign corporation authorized to transact business in ~~this~~ *the* Commonwealth.

#### **§ 13.1-763. Registered office and registered agent of foreign corporation.**

A. Each foreign corporation authorized to transact business in ~~this~~ *the* Commonwealth shall continuously maintain in ~~this~~ *the* Commonwealth:

1. A registered office ~~that~~, which may be the same as any of its places of business; and

2. A registered agent, who shall be:

a. An individual who is a resident of Virginia and either an officer or director of the corporation or a member of the Virginia State Bar, and whose business office is identical with the registered office; or

b. A domestic or foreign stock or nonstock corporation, limited liability company or registered limited liability partnership authorized to transact business in ~~this~~ *the* Commonwealth, the business office of which is identical with the registered office; provided such a registered agent (i) shall not be its own registered agent and (ii) shall designate by

instrument in writing, acknowledged before a notary public, one or more natural persons at the office of the registered agent upon whom any process, notice or demand may be served and shall continuously maintain at least one such person at that office. Whenever any such person accepts service, a photographic copy of such instrument shall be attached to the return.

B. The sole duty of the registered agent is to forward to the *foreign* corporation at its last known address any process, notice, or demand that is served on the registered agent.

**§ 13.1-764. Change of registered office or registered agent of a foreign corporation.**

A. A foreign corporation authorized to transact business in the Commonwealth may change its registered office or registered agent, or both, upon filing with the Commission a statement of change on a form prescribed and furnished by the Commission that sets forth:

1. The name of the foreign corporation;
2. The address of its current registered office;
3. If the current registered office is to be changed, the post office address, including the street and number, if any, of the new registered office, and the name of the city or county in which it is to be located;
4. The name of its current registered agent;
5. If the current registered agent is to be changed, the name of the new registered agent; and
6. That after the change or changes are made, the corporation will be in compliance with the requirements of § 13.1-763.

B. A statement of change shall ~~forthwith~~ be filed with the Commission by a foreign corporation ~~whenever~~ if its registered agent dies, resigns, or ceases to satisfy the requirements of § 13.1-763.

C. A foreign corporation's registered agent may sign a statement as required above if (i) the business address of the registered agent changes to another post office address within the Commonwealth or (ii) the name of the registered agent has been legally changed. A foreign corporation's new registered agent may sign and submit for filing a statement as required above if (a) the former registered agent is a business entity that has been merged into the new registered agent, (b) the instrument of merger is on record ~~in the office of the clerk of~~ with the Commission, and (c) the new registered agent is an entity that is qualified to serve as a registered agent pursuant to § 13.1-763. In either instance, the registered agent or surviving entity shall forthwith file a statement as required above, which shall recite that a copy of the statement shall be mailed to the principal office of the foreign corporation on or before the business day following the day on which the statement is filed *with the Commission*.

**§ 13.1-765. Resignation of registered agent of foreign corporation.**

A. The registered agent of a foreign corporation may resign the agency appointment by signing and filing with the Commission a statement of resignation accompanied by a certification that the registered agent shall mail a copy thereof to the principal office of the *foreign* corporation by certified mail on or before the business day following the day on which the statement is filed. The statement of resignation may include a statement that the registered office is also discontinued.

B. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

**§ 13.1-766. Service of process on foreign corporation.**

A. The registered agent of a foreign corporation authorized to transact business ~~in this the~~ Commonwealth shall be an agent of ~~such the~~ *foreign* corporation upon whom any process, notice, order, or demand required or permitted by law to be served upon the corporation may be served. The registered agent may by instrument in writing, acknowledged before a notary public, designate a natural person or persons in the office of the registered agent upon whom any such process, notice, order, or demand may be served. Whenever any such person accepts service of process, a photographic copy of such instrument shall be attached to the return.

B. Whenever a foreign corporation authorized to transact business ~~in this the~~ Commonwealth fails to appoint or maintain a registered agent ~~in this the~~ Commonwealth, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the clerk of the Commission shall be an agent of the *foreign* corporation upon whom service may be made in accordance with § 12.1-19.1.

C. Nothing in this section shall limit or affect the right to serve any process, notice, order, or demand, required or permitted by law to be served upon a *foreign* corporation in any other manner now or hereafter permitted by law.

**§ 13.1-766.1. Merger of foreign corporation authorized to transact business in Commonwealth.**

A. Whenever a foreign corporation authorized to transact business in the Commonwealth is a party to a merger permitted by the laws of ~~the state or other its jurisdiction under whose laws it is incorporated~~ of formation, and such *foreign* corporation is the surviving entity of the merger, it shall, within 30 days after such merger becomes effective, file with the Commission a copy of the instrument of merger duly authenticated by the Secretary of State or other official having custody of corporate records in ~~the state or other its jurisdiction under whose law it is incorporated~~ of formation; however, the filing shall not be required when a foreign corporation merges with a domestic corporation or eligible entity, the foreign corporation's articles of incorporation are not amended by said merger, and the articles or statement of merger filed on behalf of the domestic corporation or eligible entity pursuant to § 13.1-720, 13.1-1072, 13.1-1261, 50-73.48:3, or 50-73.131 contains a statement that the ~~merger is permitted under the laws of the state or other jurisdiction in which the foreign corporation is incorporated and that participation of the foreign corporation has complied with that law in effecting the merger or eligible entity was duly authorized as required by its organic law.~~

B. Whenever a foreign corporation authorized to transact business in the Commonwealth is a party to a merger permitted by the laws of the state or other its jurisdiction under the laws of which it is incorporated of formation, and such corporation is not the surviving entity of the merger or, whenever such a foreign corporation is a party to a consolidation so permitted, the surviving or resulting domestic or foreign corporation, limited liability company, business trust, partnership or limited partnership or eligible entity, if there is one, shall, if not continuing to transact business in the Commonwealth, within 30 days after such merger or consolidation becomes effective, deliver to the Commission a copy of the instrument of merger or consolidation duly authenticated by the Secretary of State or other official having custody of corporate records in the state or other foreign corporation's jurisdiction under whose law it was incorporated of formation, and comply in behalf of the predecessor corporation with the provisions of § 13.1-767. If a However, if the surviving or resulting foreign corporation or limited liability company, business trust, registered limited liability partnership or limited partnership eligible entity is to continue to transact business in the Commonwealth and has not received obtained a certificate of authority or a certificate of registration to transact business in the Commonwealth or registered as a foreign limited liability company under § 13.1-1052, as a foreign business trust under § 13.1-1242, as a foreign registered limited liability partnership under § 50-73-138, or as a foreign limited partnership under § 50-73-54, then, within such 30 days, it shall deliver to the Commission an application; if a foreign corporation, for a certificate of authority or a certificate of registration to transact business in the Commonwealth, if a foreign limited liability company, for registration as a foreign limited liability company, if a foreign business trust, for registration as a foreign business trust, if a foreign registered limited liability partnership, for registration as a foreign registered limited liability partnership, or, if a foreign limited partnership, for registration as a foreign limited partnership, together with a duly authenticated copy of the instrument of merger or consolidation and also, in case of a merger, a copy of its articles of incorporation, certificate of limited partnership, partnership certificate, statement of registered limited liability partnership, articles of trust, or articles of organization and all amendments thereto, duly authenticated by the Secretary of State or other official having custody of corporate, limited partnership, registered limited liability partnership, business trust, or limited liability company records in the state or other jurisdiction under whose laws it is incorporated, formed, registered, or organized pursuant to and in compliance with § 13.1-759, 13.1-921, 13.1-1052, 13.1-1242, 50-73-54, or 50-73-138, as applicable.

C. Upon the merger or consolidation of a foreign corporation with one or more foreign corporations, partnerships, limited partnerships, business trusts, or limited liability companies or eligible entities, all property in the Commonwealth owned by any of the foreign corporations, partnerships, limited partnerships, business trusts, or limited liability companies or eligible entities shall pass to the surviving or resulting foreign corporation, limited liability company, business trust, or limited partnership or eligible entity except as otherwise provided by the laws of the state or other its jurisdiction by which it is governed of formation, but only from and after the time when a duly authenticated copy of the instrument of merger or consolidation is filed with the Commission.

### § 13.1-766.2. Conversion of foreign corporation authorized to transact business in Commonwealth.

A. Whenever a foreign corporation that is authorized to transact business in the Commonwealth converts to another type of entity, the surviving or resulting entity shall, within 30 days after such entity conversion becomes effective, file with the Commission a copy of the instrument of entity conversion duly authenticated by the Secretary of State or other official having custody of corporate records in the state or other jurisdiction under whose laws such entity conversion was effected; and

1. If the surviving or resulting entity is not continuing to transact business in the Commonwealth or is not a foreign limited liability company, business trust, limited partnership, or registered limited liability partnership, then, within 30 days after such entity conversion, it shall comply on behalf of the predecessor corporation with the provisions of § 13.1-767; or

2. If the surviving or resulting entity is a foreign limited liability company, business trust, limited partnership, or registered limited liability partnership and is to continue to transact business in the Commonwealth, then, within such 30 days, it shall deliver to the Commission an application for a certificate of registration to transact business in the Commonwealth or, in the case of a foreign registered limited liability partnership, a statement of registration.

B. Upon the entity conversion of a foreign corporation that is authorized to transact business in the Commonwealth, all property in the Commonwealth owned by the foreign corporation shall pass to the surviving or resulting entity except as otherwise provided by the laws of the state or other its jurisdiction by which it is governed of formation, but only from and after the time when a duly authenticated copy of the instrument of entity conversion is filed with the Commission.

### § 13.1-767. Withdrawal of foreign corporation.

A. A foreign corporation authorized to transact business in the Commonwealth may not withdraw from the Commonwealth until it obtains a its certificate of withdrawal from the Commission.

B. A foreign corporation authorized to transact business in the Commonwealth may apply authority by applying to the Commission for a certificate of withdrawal. The application shall be on a form prescribed and furnished by the Commission, which shall set forth:

1. The name of the foreign corporation and the name of the state or other its jurisdiction under whose law it is incorporated of formation;

2. If applicable, a statement that the foreign corporation was a party to a merger permitted by the laws of the state or other its jurisdiction under whose law it was incorporated of formation and that it was not the surviving entity of the merger, has consolidated with another entity, or has converted to another type of entity under the laws of the state or other its jurisdiction under whose law it was incorporated of formation;

3. That the foreign corporation is not transacting business in the Commonwealth and that it surrenders its authority to transact business in the Commonwealth;

4. That the foreign corporation revokes the authority of its registered agent to accept service on its behalf and appoints the clerk of the Commission as ~~its~~ *an agent for service of process upon the foreign corporation* in any proceeding based on a cause of action arising during the time it was authorized to transact business in the Commonwealth;

5. A mailing address to which the clerk of the Commission may mail a copy of any process served on the clerk under subdivision 4; and

6. A commitment to notify the clerk of the Commission in the future of any change in the mailing address of the corporation.

~~E. B.~~ The Commission shall not allow any foreign corporation to withdraw ~~from the Commonwealth~~ *its certificate of authority* unless such corporation files with the Commission a statement certifying that the corporation has filed returns and has paid all state taxes to the time of the ~~certificate~~ *statement* or a statement that no such returns are required to be filed or taxes are required to be paid. In such case the corporation may file returns and pay taxes before they would otherwise be due. If the Commission finds that the application complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of withdrawal.

~~D. C.~~ Before any foreign corporation authorized to transact business in the Commonwealth terminates its corporate existence, it shall file with the Commission an application for withdrawal. Whether or not such application is filed, the termination of the corporate existence of such foreign corporation shall not take away or impair any remedy available against such corporation for any right or claim existing or any liability incurred prior to such termination. Any such action or proceeding against such foreign corporation may be defended by such corporation in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. The right of a foreign corporation that has terminated its corporate existence to institute and maintain in its corporate name actions, suits or proceedings in the courts of the Commonwealth shall be governed by the ~~law~~ *laws of the state jurisdiction of its incorporation formation*.

~~E. D.~~ Service of process on the clerk of the Commission is service of process on a foreign corporation that has withdrawn *its certificate of authority* pursuant to this section. Service upon the clerk shall be made in accordance with § 12.1-19.1 and service upon the foreign corporation may be made in any other manner permitted by law.

**§ 13.1-768. Automatic revocation of certificate of authority.**

A. If any foreign corporation fails to file its annual report or pay its annual registration fee in a timely manner as required by this chapter, the Commission shall mail to each such corporation a notice of the impending revocation of its certificate of authority to transact business in the Commonwealth. Whether or not such notice is mailed, if any foreign corporation fails to file its annual report or pay its annual registration fee on or before the last day of the fourth month immediately following its annual report or annual registration fee due date each year, such foreign corporation shall automatically cease to be authorized to transact business in the Commonwealth and its certificate of authority shall be automatically revoked as of that day.

B. Every foreign corporation authorized to transact business in the Commonwealth shall pay the annual registration fee required by law on or before the foreign corporation's annual registration fee due date determined in accordance with subsection A of § 13.1-775.1 of each year.

C. If any foreign corporation whose registered agent has filed with the Commission a statement of resignation pursuant to § 13.1-765 fails to file a statement of change pursuant to § 13.1-764 within 31 days after the date on which the statement of resignation was filed, the Commission shall mail notice to the foreign corporation of the impending revocation of its certificate of authority. If the foreign corporation fails to file the statement of change before the last day of the second month immediately following the month in which the impending revocation notice was mailed, the corporation shall automatically cease to be authorized to transact business in the Commonwealth and its certificate of authority shall be automatically revoked as of that day.

D. The automatic revocation of a foreign corporation's certificate of authority pursuant to this section constitutes the appointment of the clerk of the Commission as ~~the foreign corporation's~~ *an agent for service of process upon the foreign corporation* in any proceeding based on a cause of action arising during the time the foreign corporation was authorized to transact business in the Commonwealth. Service of process on the clerk of the Commission under this subsection is service on the foreign corporation and shall be made on the clerk in accordance with § 12.1-19.1.

E. Revocation of a foreign corporation's certificate of authority pursuant to this section does not terminate the authority of the registered agent of the corporation.

**§ 13.1-768.1. Deemed withdrawal upon domestication of a foreign corporation.**

*A foreign corporation authorized to transact business in the Commonwealth that domesticates to a domestic corporation is deemed to have withdrawn its certificate of authority when the certificate of domestication becomes effective.*

**§ 13.1-769. Involuntary revocation of certificate of authority.**

A. The certificate of authority to ~~do~~ *transact* business in the Commonwealth of any foreign corporation may be revoked by order of the Commission when it finds that ~~the~~ *such foreign* corporation:

1. Has continued to exceed the authority conferred upon it by law;
2. Has failed to maintain a registered office or a registered agent in the Commonwealth as required by law;
3. Has failed to file any document required by this chapter to be filed with the Commission;

4. No longer exists under the laws of the ~~state or country~~ *jurisdiction* of its ~~incorporation formation~~;

5. Has been convicted for a violation of 8 U.S.C. § 1324a(f), as amended, for actions of its officers and directors constituting a pattern or practice of employing unauthorized aliens in the Commonwealth.

A certificate of authority revoked pursuant to subdivision A 5 shall not be eligible for reinstatement for a period of not less than one year.

B. ~~Any~~ A foreign corporation convicted of the offense listed in subdivision A 5 shall immediately report such conviction to the Commission and file with the Commission an authenticated copy of the judgment or record of conviction.

C. Before entering ~~any such~~ an order *revoking the certificate of authority of a foreign corporation under subsection A*, the Commission shall issue a rule against the *foreign* corporation giving it an opportunity to be heard and show cause why such an order should not be entered. The Commission may issue the rule on its own motion or on motion of the Attorney General.

D. The authority of a foreign corporation to transact business in the Commonwealth ceases on the date shown on the order revoking its certificate of authority.

E. The Commission's revocation of a foreign corporation's certificate of authority appoints the clerk of the Commission *as an agent* of the foreign ~~corporation's agent~~ *corporation* for service of process in any proceeding based on a cause of action arising during the time the foreign corporation was authorized to transact business in the Commonwealth. Service of process on the clerk of the Commission under this subsection is service on the foreign corporation and shall be made on the clerk in accordance with § 12.1-19.1.

F. Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

**§ 13.1-769.1. Reinstatement of a foreign corporation's certificate of authority that has been withdrawn or revoked.**

A. A foreign corporation whose certificate of authority to transact business in the Commonwealth has been withdrawn or revoked may be relieved of the withdrawal or revocation and have its certificate of authority reinstated by the Commission within five years after the date of withdrawal or revocation unless the certificate of authority was revoked by order of the Commission pursuant to subdivision A 1 of § 13.1-769.

B. To have its certificate of authority reinstated, a foreign corporation shall provide the Commission with the following:

1. An application for reinstatement, which shall include the identification number issued by the Commission to the corporation, and which may be in the form of a letter signed by an officer or director of the corporation, or which may be by affidavit signed by an agent of any shareholder's interests stating that after diligent search by such agent, no officer or director can be found;

2. A reinstatement fee of \$100;

3. All annual registration fees and penalties that were due before the certificate of withdrawal was issued or the certificate of authority was revoked and that would have been assessed or imposed to the date of reinstatement if the corporation had not withdrawn or had its certificate of authority revoked;

4. An annual report for the calendar year that corresponds to the calendar year of the latest annual registration fee that was assessed or that would have been assessed to the date of reinstatement;

5. A duly authenticated copy of any amendments or corrections made to the articles of incorporation or other constituent documents of the foreign corporation and any ~~mergers merger, conversion, or domestication transaction~~ entered into by the foreign corporation from the date of withdrawal or revocation of its certificate of authority to the date of its application for reinstatement, along with an application for an amended certificate of authority if required as a result of ~~an~~ *any such amendment or a correction, or transaction* and all fees required by this chapter for the filing of such instruments;

6. If the name of the foreign corporation does not comply with the provisions of § 13.1-762 at the time of reinstatement, an application for an amended certificate of authority to adopt a designated name for use in the Commonwealth that satisfies the requirements of § 13.1-762, with the fee required by this chapter for the filing of an application for an amended certificate of authority; and

7. If the foreign corporation's registered agent has filed a statement of resignation and a new registered agent has not been appointed, a statement of change pursuant to § 13.1-764.

C. If the foreign corporation complies with the provisions of this section, the Commission shall enter an order of reinstatement, reinstating the foreign corporation's certificate of authority to transact business in the Commonwealth.

**§ 13.1-770. Corporate records.**

A. A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

B. A corporation shall maintain ~~appropriate~~ accounting records *in a form that permits preparation of its financial statements*.

C. A corporation ~~or its agent~~ shall maintain a record of its *current* shareholders, ~~in a form that permits preparation of a list of the names and addresses of all shareholders~~, in alphabetical order by class and series, if any, of shares showing the *address of, and the number and class and series, if any, of shares held by each shareholder*. ~~However, the~~ *The* foregoing shall not require the corporation ~~or its agent~~ to maintain, as part of such record of shareholders, beneficial owners whose

shares are held by a nominee on the shareholder's behalf except to the extent that the corporation has established and maintains a procedure for registration of such rights under § 13.1-664. *Nothing contained in this subsection shall require the corporation to include in such record the electronic mail address or other electronic contact information of a shareholder.*

D. A corporation shall maintain its records in the form of a document, including an electronic record, or in another form capable of conversion into paper form within a reasonable time.

E. A corporation shall ~~keep a copy of~~ maintain the following records:

1. ~~Its A copy of its articles or restated articles of incorporation; all amendments to them~~ as currently in effect, and any notices to shareholders referred to in subdivision L 5 of § 13.1-604 ~~regarding~~ specifying facts on which a filed document is dependent ~~if those facts are not included in the articles of incorporation or otherwise available as specified in subdivision L 5 of § 13.1-604;~~

2. Its bylaws ~~or restated bylaws and all amendments to them~~ as currently in effect;

3. Resolutions adopted by its board of directors creating one or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;

4. The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three years;

5. All written communications ~~to shareholders generally~~ within the past three years ~~to shareholders generally~~, including the financial statements furnished for the past three years under § 13.1-774;

6. A list of the names and business addresses of its current directors and officers; and

7. ~~Its A copy of its~~ most recent annual report ~~delivered to~~ filed with the Commission under § 13.1-775.

#### **§ 13.1-771. Inspection of records by shareholders.**

A. Subject to subsection ~~E~~ D of § 13.1-772, a shareholder ~~of a corporation~~ is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in subsection E of § 13.1-770 if the shareholder ~~gives the corporation~~ delivers a signed written notice ~~to the corporation's secretary~~ of the shareholder's demand at least ~~five~~ 10 business days before the date on which the shareholder wishes to inspect and copy.

B. For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different than the record date for notice of the meeting, any person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting, unless the corporation has made such information generally available to shareholders by posting it on its website or by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of action taken at the meeting.

C. A shareholder ~~of a corporation~~ is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection D and ~~gives the corporation~~ delivers a signed written notice ~~to the corporation's secretary~~ of the shareholder's demand at least ~~five~~ 10 business days before the date on which the shareholder wishes to inspect and copy:

1. Excerpts from minutes of any meeting of, ~~or records of any actions taken without a meeting by,~~ the board of directors or a committee of the board of director while acting in place of the board of directors on behalf of the corporation; ~~minutes of any meeting of the shareholders, and records of action taken by the shareholders, board of directors, or a committee of the board without a meeting, to the extent not subject to inspection under subsection A;~~

2. Accounting ~~records of the corporation~~ ledgers and related work papers used in the preparation of the corporation's most recent annual financial statements; and

3. The record of shareholders of record ~~maintained in accordance with subsection C of § 13.1-770.~~

D. A shareholder may inspect and copy the records ~~identified~~ described in subsection C only if:

1. The shareholder (i) has been a shareholder for at least six months immediately preceding ~~delivery of~~ the shareholder's demand or (ii) is the holder of record or beneficial owner of at least five percent of ~~all of~~ the outstanding shares ~~entitled to vote generally in the election of directors;~~

2. The shareholder's demand is made in good faith and for a proper purpose;

3. The ~~shareholder~~ shareholder's demand describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect and copy; and

4. The records are directly connected with the shareholder's purpose.

E. ~~The corporation may enforce reasonable restrictions on the confidentiality, use, or distribution of records described in subsection C.~~

F. The right of inspection granted by this section may not be abolished or limited by a corporation's articles of incorporation or bylaws.

~~F.~~ G. This section does not affect:

1. The right of a shareholder to inspect records under § 13.1-661 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or

2. ~~The~~ For any corporation that is not a public corporation, the power of a court, independently of this chapter, to compel the production of ~~corporate~~ such records for examination ~~as the court shall order after finding that the shareholder has established that the shareholder has satisfied the requirements of subsection D and that (i) the records that the~~

shareholder seeks are material to the protection of the shareholder's rights as a shareholder and (ii) the disclosure of the records will not adversely affect the corporation's interest.

~~G. H.~~ For purposes of this section, other than subdivision C 3, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on the shareholder's behalf.

**§ 13.1-772. Scope of inspection right.**

A. ~~A shareholder's shareholder may appoint an agent or attorney has the same to exercise the shareholder's inspection and copying rights as the shareholder the agent or attorney represents under § 13.1-771.~~

B. ~~The right to copy records under § 13.1-771 includes corporation may, if reasonable, satisfy the right to receive of a shareholder to copy records by furnishing the shareholder copies by xerographic photocopy or other means chosen by the corporation, including furnishing copies through an electronic transmission if available and so requested by the shareholder.~~

C. ~~The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge may not exceed the estimated cost of production, reproduction, and transmission of the records.~~

~~D.~~ The corporation may comply with a shareholder's demand to inspect the record of shareholders under subdivision C 3 of § 13.1-771 by providing the shareholder with a list of its shareholders that was compiled no earlier than the date of delivery of the shareholder's demand.

~~D.~~ The corporation may impose a reasonable charge to cover the costs of providing copies of documents to the shareholder, which may be based on an estimate of such costs.

**§ 13.1-773. Court-ordered inspection.**

A. If a corporation does not allow a shareholder who complies with subsection A of § 13.1-771 to inspect and copy any records required by that subsection to be available for inspection, the circuit court in the city or county where the corporation's principal office is located, or, if none in ~~this~~ the Commonwealth, where its registered office is located, may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

B. If a corporation does not within a reasonable time allow a shareholder to ~~inspect and copy any other record, the shareholder~~ who complies with subsections C and D of § 13.1-771 to inspect and copy the records required by subsection C, the shareholder may apply to the circuit court in the city or county where the corporation's principal office is located, or, if none in ~~this~~ the Commonwealth, where its registered office is located, for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

C. ~~If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on their confidentiality, use, or distribution by the demanding shareholder. If the court orders inspection and copying of the records demanded, it may also order the corporation to pay the shareholder's costs, including reasonable counsel fees, expenses incurred to obtain the order if the shareholder proves that the corporation (i) refused inspection without a reasonable basis for doubt about the right of the shareholder to inspect the records demanded or (ii) imposed unreasonable restrictions on the confidentiality, use, or distribution of the records demanded.~~

~~D. If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.~~

**§ 13.1-773.1. Inspection of records by directors.**

A. A director of a corporation is entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee of the board of directors, but not for any other purpose or in any manner that would violate any duty to the corporation.

B. The circuit court of the city or county where the corporation's principal office, or if none in the Commonwealth, its registered office, is located may order inspection and copying of the books, records and documents at the corporation's expense upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

C. If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's ~~reasonable costs, including reasonable counsel fees, expenses~~ incurred in connection with the application if the director proves that the corporation refused inspection without a reasonable basis for doubt about the director's right to inspect the books, records, and documents demanded.

**§ 13.1-774. Financial statements for shareholders.**

A. ~~If requested in writing by any~~ Upon the written request of a shareholder, a corporation shall ~~furnish the deliver or make available to the requesting shareholder with the by posting on its website or by other generally recognized means~~ financial statements for the most recent fiscal year, for which annual financial statements have been prepared for the corporation. The financial statements may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the corporation's fiscal year, an income statement for that year, and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements. If financial statements ~~are~~ for the specified period have been prepared for the corporation on the basis

of generally accepted accounting principles, the ~~annual~~ corporation shall deliver or make available such financial statements ~~must also be prepared on that basis to the requesting shareholder.~~

B. If the annual financial statements are *audited or otherwise* reported upon by a ~~certified~~ public accountant, the accountant's report must accompany them. If the annual financial statements are not reported upon by a ~~certified~~ public accountant, the president or the person responsible for the corporation's accounting records shall provide the shareholder with a statement of the basis of accounting used in preparation of the annual financial statements and a description of any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

C. *A public corporation may fulfill its responsibilities under this section by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable rules and regulations of the U.S. Securities and Exchange Commission.*

D. *Notwithstanding the provisions of subsections A and B:*

1. *As a condition to delivering or making available financial statements to a requesting shareholder, the corporation may require the requesting shareholder to agree to reasonable restrictions on the confidentiality, use, and distribution of such financial statements; and*

2. *The corporation may, if it reasonably determines that the shareholder's request is not made in good faith or for a proper purpose, decline to deliver or make available such financial statements to that shareholder.*

E. If a corporation does not ~~comply with~~ respond to a shareholder's request for financial statements pursuant to subsection A within 30 days of delivery of such request to the ~~corporation,~~ corporation's secretary:

1. *The requesting shareholder may apply to the circuit court in the city or county where the corporation's principal office is located, or, if none in the Commonwealth, where its registered office is located ~~may, upon application of the shareholder, summarily order the corporation to furnish such~~ for an order requiring delivery of or access to the requested financial statements. The court shall dispose of an application under this subsection on an expedited basis.*

2. *If the court orders delivery or access to the requested financial statements, it may impose reasonable restrictions on their confidentiality, use, or distribution.*

3. *In such proceeding, if the corporation has declined to deliver or make available such financial statements because the requesting shareholder had been unwilling to agree to restrictions proposed by the corporation on the confidentiality, use, or distribution of such financial statements, the corporation shall have the burden of demonstrating that the restrictions proposed by the corporation were reasonable.*

4. *In such proceeding, if the corporation has declined to deliver or make available such financial statements pursuant to subdivision D 2 of § 13.1-774, the corporation shall have the burden of demonstrating that it had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.*

5. *If the court orders delivery or access to the requested financial statements, it may order the corporation to pay the shareholder's expenses incurred to obtain such order unless the corporation establishes that it had refused delivery or access to the requested financial statements because the shareholder had refused to agree to reasonable restrictions on the confidentiality, use, or distribution of the financial statements or that the corporation had reasonably determined that the shareholder's request was not made in good faith or for a proper purpose.*

~~D. A public corporation may fulfill its responsibilities under this section by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable rules and regulations of the United States Securities and Exchange Commission.~~

### **§ 13.1-775. Annual report of domestic and foreign corporations.**

A. Each domestic corporation, and each foreign corporation authorized to transact business in the Commonwealth, shall file, within the time prescribed by this section, an annual report setting forth:

1. The name of the corporation, the address of its principal office, and the ~~state or country under whose laws it is incorporated~~ jurisdiction of its formation;

2. The address of the registered office of the corporation in the Commonwealth, including both (i) the post office address with street and number, if any, and (ii) the name of the county or city in which it is located, and the name of its registered agent in the Commonwealth at such address;

3. The names and post office addresses of the directors and the principal officers of the corporation; and

4. A statement of the aggregate number of shares that the corporation has authority to issue.

B. The report shall be made on ~~forms~~ a form prescribed and furnished by the Commission and shall supply the information as of the date of the report.

C. Except as otherwise provided in this subsection, the annual report of a domestic or foreign corporation shall be filed with the Commission on or before the last day of the twelfth month next succeeding the month in which it was incorporated or authorized to transact business in the Commonwealth, and on or before such date in each year thereafter. The report shall be filed no earlier than three months prior to its due date each year. If the report appears to be incomplete or inaccurate, the Commission shall return it for correction or explanation. Otherwise the Commission shall file it in the clerk's office. At the discretion of the Commission, the annual report due date for a corporation may be extended, on a monthly basis for a period of not less than one month nor more than 11 months, at the request of its registered agent of record or as may be necessary to distribute annual report due dates of corporations as equally as practicable throughout the year on a monthly basis.

**2. That §§ 13.1-722.4, 13.1-722.7, and 13.1-722.14 of the Code of Virginia are repealed.**

3. That the provisions of this act (i) amending and reenacting §§ 13.1-615, 13.1-615.1, 13.1-616, 13.1-632, 13.1-721.1, and 13.1-722.2 through 13.1-722.13 of the Code of Virginia; (ii) amending the Code of Virginia by adding in Chapter 9 of Title 13.1 an article numbered 1.1, consisting of sections numbered 13.1-614.1 through 13.1-614.8, and by adding sections numbered 13.1-712.1, 13.1-722.1:1, 13.1-722.7:1, and 13.1-722.12:1; and (iii) repealing §§ 13.1-722.4, 13.1-722.7, and 13.1-722.14 of the Code of Virginia shall become effective on July 1, 2020.

4. That until July 1, 2020, the term "conversion," when used in any provision of the first enactment of this act, shall be construed to mean "entity conversion."

## CHAPTER 735

*An Act to amend and reenact § 28.2-618 of the Code of Virginia and to repeal the second enactment of Chapter 365 and the second enactment of Chapter 529 of the Acts of Assembly of 2017, relating to oyster grounds; dredging projects; sunset.*

[H 2047]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-618 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-618. Commonwealth guarantees rights of renter subject to right of fishing.**

A. The Commonwealth shall guarantee to any person who has complied with ground assignment requirements the absolute right to continue to use and occupy the ground for the term of the lease;

B. *The right described in subsection A is subject to:*

1. ~~Section~~ *The provisions of § 28.2-613;*

2. Riparian rights;

3. The right of fishing in waters above the bottoms, provided (i) that no person exercising the right of fishing shall use any device which is fixed to the bottom, or which, in any way, interferes with the renter's rights or damages the bottoms, or the oysters planted thereon, and (ii) that crab pots and gill nets which are not staked to the bottom shall not be considered devices which are fixed to the bottom unless the crab pots and gill nets are used over planted oyster beds in waters of less than four feet at mean low water on the seaside of Northampton and Accomack Counties;

4. Established fishing stands, but only if the fishing stand license fee is timely received from the existing licensee of the fishing stand and no new applicant shall have priority over the oyster lease. However, a fishing stand location assigned prior to the lease of the oyster ground is a vested interest, a chattel real, and an inheritable right which may be transferred or assigned whenever the current licensee complies with all existing laws; and

5. (Expires July 1, 2019) Municipal dredging projects located in the Lynnhaven River or its creeks and tributaries, including dredging projects to restore existing navigation channels in areas approved by the Commission. ~~Such projects shall be limited to~~

C. *When a municipal dredging project of the type described in subdivision B 5 proposes to impact grounds that are condemned, restricted, or otherwise nonproductive not subject to beneficial use as oyster-planting ground, the Commissioner shall notify, by certified letter, the holder of any such lease within the footprint of the proposed navigation channel, requesting a response within 60 days.* The locality shall compensate the lessee for the use of the ground, and if the parties cannot agree on a compensation amount, a court of competent jurisdiction shall determine the value of the ground as of the date it is first disturbed.

D. *When a municipal dredging project of the type described in subdivision B 5 proposes to impact grounds that are subject to beneficial use as oyster-planting ground, the following process shall apply:*

1. *The Commissioner shall review any such proposed project to ensure that the project, in addition to meeting the considerations established in § 28.2-1205, avoids impacting grounds that are subject to beneficial use as oyster-planting ground to the maximum extent practicable. Upon determining that the project meets such standard, the Commissioner shall notify, by certified letter, the holder of any such lease within the footprint of the proposed navigation channel requesting a response within 60 days.*

2. *After the Commissioner sends such notice, the locality shall compensate the lessee for the use of the ground. If the lessee and the locality are able to agree on a compensation amount within 90 days from the date the Commissioner's notice is sent, no additional action is necessary on the part of the locality. Otherwise, the locality shall offer in writing to enter with the lessee into mediation, as defined in § 8.01-581.21, at the expense of the locality. If the lessee refuses such offer, or if the locality and the lessee reach no agreement within nine months of such offer, a court of competent jurisdiction shall determine and order fair compensation to the lessee.*

3. *The Commission shall hold a hearing on any such project prior to approval. Any objector, the locality, and the lessee shall each have an opportunity to be heard at such hearing. If the Commission approves the project and compensation for the lease has been determined pursuant to the provisions of this subsection, the Commissioner shall issue the permit for the project.*

4. *The provisions of any compensation agreement or order made pursuant to this section may include terms establishing a timeline by which the lessee shall vacate the impacted portion of the leased ground. The process of*

*transferring a lease as a result of the completion of the process established in this subsection shall not extend or otherwise affect any timeline established in this subsection.*

**2. That the second enactment of Chapter 365 and the second enactment of Chapter 529 of the Acts of Assembly of 2017 are repealed.**

**3. That the first enactment of this act shall expire on July 1, 2035.**

### CHAPTER 736

*An Act to amend and reenact § 58.1-3210 of the Code of Virginia, relating to real property tax exemption for the elderly and disabled; improvements to a dwelling.*

[H 2150]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3210 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly and handicapped persons.**

A. The governing body of any county, city or town may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least 65 years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by a husband and wife, with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i) held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible person" does not include any interest held under a leasehold or term of years.

C. For purposes of this article, any reference to ~~real~~:

*"Dwelling" shall include an improvement to real estate exempt pursuant to this article and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to subdivisions A 3 through 10 of § 58.1-3503; household goods classified pursuant to subdivision A 14 of § 58.1-3503; or household goods exempted from personal property tax pursuant to § 58.1-3504.*

*"Real estate" shall include manufactured homes.*

### CHAPTER 737

*An Act to amend and reenact § 58.1-3210 of the Code of Virginia, relating to real property tax exemption for the elderly and disabled; improvements to a dwelling.*

[S 1196]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3210 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly and handicapped persons.**

A. The governing body of any county, city or town may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least 65 years of age or if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax which represents the increase in tax liability since the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by a husband and wife, with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i) held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible person" does not include any interest held under a leasehold or term of years.

C. For purposes of this article, any reference to ~~real~~:

*"Dwelling" shall include an improvement to real estate exempt pursuant to this article and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to subdivisions A 3 through 10 of § 58.1-3503; household goods classified pursuant to subdivision A 14 of § 58.1-3503; or household goods exempted from personal property tax pursuant to § 58.1-3504.*

*"Real estate" shall include manufactured homes.*

## CHAPTER 738

*An Act to amend and reenact §§ 46.2-1569.1 and 46.2-1570 of the Code of Virginia, relating to motor vehicle dealers and manufacturers.*

[H 2174]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1569.1 and 46.2-1570 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-1569.1. Manufacturer or distributor right of first refusal.**

A. Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the new vehicle dealer's assets or ownership, if such sale or transfer is conditioned upon the manufacturer's or dealer's entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:

1. To exercise its right of first refusal, the manufacturer or distributor must notify the dealer in writing within 45 days of its receipt of the completed proposal for the proposed sale or transfer;

2. The exercise of the right of first refusal will result in the dealer's and dealer's owner's receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer; *and*

3. ~~The proposed sale or transfer of the dealership's assets does not involve the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership, limited liability company, corporation, or other entity controlled by such persons; and~~

~~4. The manufacturer or distributor agrees to pay the reasonable expenses, including attorney's fees which do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, incurred by the proposed new owner and transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Notwithstanding the foregoing, no payment of such expenses and attorney's fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 30 days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. Such accounting may be requested by a manufacturer or distributor before exercising its right of first refusal.~~

*B. A manufacturer or distributor shall not exercise or enforce a right of first refusal if (i) the proposed sale or transfer is to a dealer licensed in the United States as a dealer holding a franchise from any manufacturer or distributor licensed as a manufacturer or distributor in the Commonwealth unless the manufacturer or distributor has a formal written program to increase the number of minority dealers and a minority dealer will obtain at least 51 percent ownership and control of the dealership's assets after the exercise of the right of first refusal consistent with subdivision 2 of § 46.2-1572 or (ii) the proposed sale or transfer of the dealership's assets involves the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership, limited liability company, corporation, or other entity controlled by such persons.*

*C. The provisions of clause (i) of subsection B shall not apply to any manufacturer or distributor, together with any of its parents, subsidiaries or affiliates that as of January 1, 2019, (i) produced or distributed at least 1,000 motor vehicles in the immediately preceding 12 months, at least 51 percent of which had a gross vehicle weight rating of at least 16,000 pounds and (ii) was on January 1, 2019 a party, including that party's parents, subsidiaries and affiliates, to federal litigation arising from rights and obligations created by Virginia Code § 46.2-1569.1.*

**§ 46.2-1570. Discontinuation of distributors.**

A. If the contract between a distributor and a manufacturer or importer is terminated or otherwise discontinued, all franchises granted to motor vehicle dealers in Virginia by that distributor shall continue in full force and shall not be affected by the discontinuance, except that the manufacturer, factory branch, distributor, representative, or other person who

undertakes to distribute motor vehicles of the same line-make or the same motor vehicles of a ~~re named~~ *renamed* line-make shall be substituted for the discontinued distributor under the existing motor vehicle dealer franchises and those franchises shall be modified accordingly.

*B. If a manufacturer or factory branch (i) (a) discontinues its right to manufacture a line-make of motor vehicles or (b) sells or otherwise transfers its right to manufacture a line-make of motor vehicles to another manufacturer or factory branch that will manufacture motor vehicles of the same line-make and (ii) the acquiring manufacturer or factory branch does not honor the existing franchise agreements of motor vehicle dealers in Virginia of the same line-make, such discontinuation, sale, or transfer shall constitute a termination of the franchise pursuant to subdivisions 5b and 5c of § 46.2-1569 and such motor vehicle dealers shall be entitled to compensation pursuant to those subdivisions.*

## CHAPTER 739

*An Act to amend and reenact § 46.2-1569.1 of the Code of Virginia, relating to manufacturer or distributor right of first refusal.*

[S 1464]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1569.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1569.1. Manufacturer or distributor right of first refusal.**

A. Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the new vehicle dealer's assets or ownership, if such sale or transfer is conditioned upon the manufacturer's or dealer's entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:

1. To exercise its right of first refusal, the manufacturer or distributor must notify the dealer in writing within 45 days of its receipt of the completed proposal for the proposed sale or transfer;

2. The exercise of the right of first refusal will result in the dealer's and dealer's owner's receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer; *and*

3. ~~The proposed sale or transfer of the dealership's assets does not involve the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership, limited liability company, corporation, or other entity controlled by such persons; and~~

4. The manufacturer or distributor agrees to pay the reasonable expenses, including attorney's fees which do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, incurred by the proposed new owner and transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Notwithstanding the foregoing, no payment of such expenses and attorney's fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 30 days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. Such accounting may be requested by a manufacturer or distributor before exercising its right of first refusal.

*B. A manufacturer or distributor shall not exercise or enforce a right of first refusal if (i) the proposed sale or transfer is to a dealer licensed in the United States as a dealer holding a franchise from any manufacturer or distributor licensed as a manufacturer or distributor in the Commonwealth unless the manufacturer or distributor has a formal written program to increase the number of minority dealers and a minority dealer will obtain at least 51 percent ownership and control of the dealership's assets after the exercise of the right of first refusal consistent with subdivision 2 of § 46.2-1572 or (ii) the proposed sale or transfer of the dealership's assets involves the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership, limited liability company, corporation, or other entity controlled by such persons.*

*C. The provisions of clause (i) of subsection B shall not apply to any manufacturer or distributor, together with any of its parents, subsidiaries or affiliates that as of January 1, 2019, (i) produced or distributed at least 1,000 motor vehicles in the immediately preceding 12 months, at least 51 percent of which had a gross vehicle weight rating of at least 16,000 pounds and (ii) was on January 1, 2019 a party, including that party's parents, subsidiaries and affiliates, to federal litigation arising from rights and obligations created by Virginia Code § 46.2-1569.1.*

## CHAPTER 740

*An Act to amend and reenact §§ 6.2-1700, 6.2-1701, 6.2-1706, 6.2-1707, 6.2-1708, and 6.2-1712.1 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 6.2-1701.3, and to repeal § 6.2-1701.2 of the Code of Virginia, relating to the licensing of mortgage loan originators.*

[H 2251]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 6.2-1700, 6.2-1701, 6.2-1706, 6.2-1707, 6.2-1708, and 6.2-1712.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 6.2-1701.3 as follows:**

**§ 6.2-1700. Definitions.**

As used in this chapter:

"Act" means the federal Secure and Fair Enforcement for Mortgage Licensing Act, Title V (§ 1501 et seq.) of the Housing and Economic Recovery Act of 2008, P.L. 110-289.

"Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a residential mortgage loan in the mortgage industry and communication with the consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

"Covered financial institution" has the same meaning as that term is defined in 12 C.F.R. § 1007.102.

" Dwelling" means a residential structure or mobile home that contains one to four family housing units, or individual units of condominiums or cooperatives.

"Employee" means an individual (i) whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person and (ii) whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person.

"Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

"Licensee" means an individual licensed under this chapter, ~~including an individual who has been issued a transitional mortgage loan originator license.~~

"Loan processor or underwriter" means an individual who, with respect to the origination of a residential mortgage loan, performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensee or a registered mortgage loan originator. For the purposes of this definition, clerical or support duties include (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan and (ii) communication with a consumer to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

"Mortgage loan originator" means an individual who (i) takes an application for or offers or negotiates the terms of a residential mortgage loan in which the dwelling is or will be located in the Commonwealth or (ii) represents to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual can or will perform any of the activities described in clause (i).

"Nationwide ~~Mortgage~~ Multistate Licensing System and Registry" or "Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators.

"Nontraditional mortgage product" means any mortgage product other than a 30-year fixed rate mortgage.

"Real estate brokerage activities" means any activity that involves offering or providing real estate brokerage services to the public, including (i) acting as a real estate broker, real estate agent, or real estate salesperson for a buyer, seller, lessor, or lessee of real property; (ii) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property; (iii) negotiating any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to any such transaction; (iv) engaging in any activity for which a person is required to be licensed or registered as a real estate broker, real estate agent, or real estate salesperson; and (v) offering to engage in any activity or act in any capacity described in clauses (i) through (iv).

"Registered mortgage loan originator" means any individual who (i) takes an application for or offers or negotiates the terms of a residential mortgage loan in which the dwelling is or will be located in the Commonwealth, (ii) is an employee of a covered financial institution, and (iii) is registered with, and maintains a unique identifier through, the Registry.

"Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling.

~~"Transitional mortgage loan originator license" means a license issued under this chapter to engage in business as a mortgage loan originator for a period of no more than 120 days, during which time the individual may fulfill the pre-licensing education and written test requirements described in §§ 6.2-1708 and 6.2-1709 and apply for a mortgage loan originator license.~~

"Unique identifier" means a number or other identifier assigned by protocols established by the Registry that permanently identifies a mortgage loan originator.

**§ 6.2-1701. License requirement.**

A. Except as otherwise provided in ~~§ 6.2-1701.2~~ 6.2-1701.3, no individual shall engage in the business of a mortgage loan originator unless such individual has first obtained and maintains annually a license under this chapter.

B. The following shall be exempt from licensing and other provisions of this chapter:

1. Any individual engaged solely as a loan processor or underwriter. Except as otherwise provided in this subsection, an individual acting as an independent contractor may not engage in residential mortgage loan origination activities as a

loan processor or underwriter unless such individual has first obtained and maintains annually a mortgage loan originator license;

2. Any individual who only performs administrative or clerical tasks on behalf of a mortgage loan originator;

3. Any individual who only performs real estate brokerage activities and is licensed or registered in accordance with applicable law, unless the individual is compensated directly or indirectly by the lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator;

4. Any individual solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101 (53D);

5. A registered mortgage loan originator;

6. Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

7. Any individual who acts as a loan originator in providing financing for the sale of that individual's own residence;

8. A licensed attorney, provided that the attorney's mortgage loan origination activities are: (i) considered by the Supreme Court of Virginia to be part of the authorized practice of law within the Commonwealth, (ii) carried out within an attorney-client relationship, and (iii) accomplished by the attorney in compliance with all applicable laws, rules, ethics, and standards;

9. Any employee of federal, state, or local government, or a housing finance agency, who acts as a mortgage loan originator only pursuant to his official duties of employment. For the purposes of this subdivision, "local government" means any county, city, or town or other local or regional political subdivision; and

10. Any employee of a bona fide nonprofit organization, as determined by the Commission in accordance with § 6.2-1701.1, who acts as a mortgage loan originator only (i) pursuant to his official duties of employment and (ii) with respect to residential mortgage loans with terms that are favorable to a borrower.

**§ 6.2-1701.3. Temporary authority to act as a mortgage loan originator.**

A. An individual shall be deemed to have temporary authority to act as a mortgage loan originator in the Commonwealth to the extent authorized by, and subject to the terms and conditions prescribed in, § 1518 of the Act.

B. A mortgage lender or mortgage broker that employs an individual who is deemed to have temporary authority to act as a mortgage loan originator in the Commonwealth pursuant to this section shall be subject to the requirements of this chapter and Chapter 16 (§ 6.2-1600 et seq.) to the same extent that such mortgage lender or mortgage broker would be subject to such requirements if such individual were a licensed mortgage loan originator under this chapter.

C. An individual who is deemed to have temporary authority to act as a mortgage loan originator in the Commonwealth pursuant to this section and acts as a mortgage loan originator shall be subject to the requirements of this chapter to the same extent as if such individual was a licensed mortgage loan originator under this chapter.

**§ 6.2-1706. Qualifications.**

Upon the filing and investigation of an application for a license, ~~including an application for a transitional mortgage loan originator license~~, and compliance by the applicant with all applicable provisions of this chapter, the Commission shall issue and deliver to the applicant the license applied for to engage in business under this chapter if it finds that the financial responsibility, character, and general fitness of the applicant are such as to warrant belief that the licensee will act as a mortgage loan originator efficiently and fairly, in the public interest, and in accordance with law. If the Commission fails to make such findings, no license shall be issued and the Commissioner shall notify the applicant of the denial and the reasons for such denial. The Commission shall not base a license denial, in whole or in part, on an applicant's credit score, nor shall it use a credit report as the sole basis for license denial.

**§ 6.2-1707. Other conditions for mortgage loan originator licensing.**

~~A.~~ In addition to the findings required by § 6.2-1706, the Commission shall not issue a mortgage loan originator license unless it finds that:

1. The applicant has never had a mortgage loan originator license revoked by any governmental authority;

2. The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the seven-year period preceding the application for licensing and registration; or (ii) at any time preceding such date of application if such felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

3. The applicant has completed the pre-licensing education requirement described in § 6.2-1708;

4. The applicant has passed a written test that meets the test requirement described in § 6.2-1709; and

5. The applicant has become registered through, and obtained a unique identifier from, the Registry.

~~B. In addition to the findings required by § 6.2-1706, the Commission shall not issue a transitional mortgage loan originator license unless it (i) makes the findings set forth in subdivisions A 1, A 2, and A 5 and (ii) finds that the applicant is employed by a person licensed under Chapter 16 (§ 6.2-1600 et seq.).~~

**§ 6.2-1708. Pre-licensing education of mortgage loan originators.**

A. In order to meet the pre-licensing education requirement referred to in subdivision 3 of § 6.2-1707, an applicant shall complete at least 20 hours of pre-licensing education courses, approved in accordance with subsection B, which shall include at least (i) three hours of federal law and regulations; (ii) three hours of ethics, which shall include instruction about fraud, consumer protection, and fair lending issues; and (iii) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

B. Pre-licensing education courses shall be reviewed and approved by the Registry based upon reasonable standards. Review and approval of a course shall include review and approval of the course provider.

C. Nothing in this section shall preclude the provision of any pre-licensing education course that has been approved by the Registry by: (i) the employer of the applicant; (ii) an entity that is affiliated with the applicant by any agency contract; or (iii) a subsidiary or affiliate of such employer or entity.

D. Pre-licensing education courses may be offered in a classroom, online, or by any other means approved by the Registry.

*E. Except as otherwise provided by the Commission, pre-licensing education courses shall be subject to such expiration rules as may be established by the Registry. Expired courses shall not count toward the minimum number of hours of pre-licensing education required by subsection A.*

**§ 6.2-1712.1. Inactive mortgage loan originator licenses.**

A. Notwithstanding any other provision of this chapter, if the Commission finds that an individual has applied for a mortgage loan originator license and meets all applicable requirements for licensure except § 6.2-1703, then the Commission shall issue a mortgage loan originator license to the applicant. However, the license issued by the Commission shall be inactive by operation of law until the Commission has updated the licensee's status in the Registry pursuant to subsection D.

B. Notwithstanding any other provision of this chapter, if the Commission finds that an individual has requested renewal of his mortgage loan originator license in accordance with subsection C of § 6.2-1711 and meets all applicable requirements for license renewal except § 6.2-1703, then the Commission shall renew the individual's mortgage loan originator license. However, the license renewed by the Commission shall be inactive by operation of law until the Commission has updated the licensee's status in the Registry pursuant to subsection D.

C. If at any time a licensee ceases to be covered by a surety bond meeting the requirements of § 6.2-1703, then the individual's license shall be inactive by operation of law until the Commission has updated the licensee's status in the Registry pursuant to subsection D.

D. If a licensee's mortgage loan originator license or ~~transitional mortgage loan originator license~~ is inactive by operation of law pursuant to this section, then the licensee shall not engage in the business of a mortgage loan originator until (i) the Commission has determined that the licensee is covered by a surety bond meeting the requirements of § 6.2-1703 and (ii) based upon its determination, the Commission has updated the licensee's status in the Registry to indicate that the licensee may engage in the business of a mortgage loan originator.

**2. That § 6.2-1701.2 of the Code of Virginia is repealed.**

## CHAPTER 741

*An Act to amend and reenact §§ 56-576 and 56-585.1 of the Code of Virginia, relating to electric utilities; energy efficiency programs.*

[H 2292]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 56-576 and 56-585.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 56-576. Definitions.**

As used in this chapter:

"Affiliate" means any person that controls, is controlled by, or is under common control with an electric utility.

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585; (v) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

"Combined heat and power" means a method of using waste heat from electrical generation to offset traditional processes, space heating, air conditioning, or refrigeration.

"Commission" means the State Corporation Commission.

"Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

"Covered entity" means a provider in the Commonwealth of an electric service not subject to competition but shall not include default service providers.

"Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving stock, securities, voting interests or assets by which one or more persons obtains control of a covered entity.

"Curtailement" means inducing retail customers to reduce load during times of peak demand so as to ease the burden on the electrical grid.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric energy from any supplier licensed and seeking to sell electric energy to that customer.

"Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy through a retail distribution system to a retail customer.

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric distribution grid transformation project" means a project associated with electric distribution infrastructure, including related data analytics equipment, that is designed to accommodate or facilitate the integration of utility-owned or customer-owned renewable electric generation resources with the utility's electric distribution grid or to otherwise enhance electric distribution grid reliability, electric distribution grid security, customer service, or energy efficiency and conservation, including advanced metering infrastructure; intelligent grid devices for real time system and asset information; automated control systems for electric distribution circuits and substations; communications networks for service meters; intelligent grid devices and other distribution equipment; distribution system hardening projects for circuits, other than the conversion of overhead tap lines to underground service, and substations designed to reduce service outages or service restoration times; physical security measures at key distribution substations; cyber security measures; energy storage systems and microgrids that support circuit-level grid stability, power quality, reliability, or resiliency or provide temporary backup energy supply; electrical facilities and infrastructure necessary to support electric vehicle charging systems; LED street light conversions; and new customer information platforms designed to provide improved customer access, greater service options, and expanded access to energy usage information.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity implemented after the expiration of capped rates. Energy efficiency programs include equipment, physical, or program change designed to produce measured and verified reductions in the amount of electricity required to perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems; and (iii) customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency programs include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. Utilities shall be authorized to install and operate such advanced metering technology and equipment on a customer's premises; however, nothing in this chapter establishes a requirement that an energy efficiency program be implemented on a customer's premises and be connected to a customer's wiring on the customer's side of the inter-connection without the customer's expressed consent.

"Generate," "generating," or "generation of" electric energy means the production of electric energy.

"Generator" means a person owning, controlling, or operating a facility that produces electric energy for sale.

"Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the Commission.

"Independent system operator" means a person that may receive or has received, by transfer pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"In the public interest," for purposes of assessing energy efficiency programs, describes an energy efficiency program if the Commission determines that the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test (also referred to as the Program Administrator Test); (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests. *If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program, including testimony relied upon by the Commission's staff, that has bearing upon the Commission's decision. If the Commission reduces the proposed budget for a program or portfolio of programs, its final order shall include an analysis of the impact such budget reduction has upon the cost-effectiveness of such program or portfolio of programs. An order by the*

*Commission (a) finding that a program or portfolio of programs is not in the public interest or (b) reducing the proposed budget for any program or portfolio of programs shall adhere to existing protocols for extraordinarily sensitive information.* In addition, an energy efficiency program may be deemed to be "in the public interest" if the program provides measurable and verifiable energy savings to low-income customers or elderly customers.

"Measured and verified" means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

"Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

"New underground facilities" means facilities to provide underground distribution service. "New underground facilities" includes underground cables with voltages of 69 kilovolts or less, pad-mounted devices, connections at customer meters, and transition terminations from existing overhead distribution sources.

"Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

"Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas, or nuclear power. Renewable energy shall also include the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass.

"Renewable thermal energy" means the thermal energy output from (i) a renewable-fueled combined heat and power generation facility that is (a) constructed, or renovated and improved, after January 1, 2012, (b) located in the Commonwealth, and (c) utilized in industrial processes other than the combined heat and power generation facility or (ii) a solar energy system, certified to the OG-100 standard of the Solar Ratings and Certification Corporation or an equivalent certification body, that (a) is constructed, or renovated and improved, after January 1, 2013, (b) is located in the Commonwealth, and (c) heats water or air for residential, commercial, institutional, or industrial purposes.

"Renewable thermal energy equivalent" means the electrical equivalent in megawatt hours of renewable thermal energy calculated by dividing (i) the heat content, measured in British thermal units (BTUs), of the renewable thermal energy at the point of transfer to a residential, commercial, institutional, or industrial process by (ii) the standard conversion factor of 3.413 million BTUs per megawatt hour.

"Renovated and improved facility" means a facility the components of which have been upgraded to enhance its operating efficiency.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or nonmetered points of delivery located in the Commonwealth.

"Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

"Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

"Rooftop solar installation" means a distributed electric generation facility, storage facility, or generation and storage facility utilizing energy derived from sunlight, with a rated capacity of not less than 50 kilowatts, that is installed on the roof structure of an incumbent electric utility's commercial or industrial class customer, including host sites on commercial buildings, multifamily residential buildings, school or university buildings, and buildings of a church or religious body.

"Solar energy system" means a system of components that produces heat or electricity, or both, from sunlight.

"Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not mean a generator that produces electric energy exclusively for its own consumption or the consumption of an affiliate.

"Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail customer.

"Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a retail customer.

"Transmission system" means those facilities and equipment that are required to provide for the transmission of electric energy.

#### **§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10

(§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such triennial review, nor shall the Commission set such return more than 300 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall first remove from such group the two utilities within such group that have the lowest reported returns of the group, as well as the two utilities within such group that have the highest reported returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at

least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined

as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision 2. *Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program.* The Commission shall only approve such a petition if it finds that the program is in the public interest. *If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's decision. Such order shall adhere to existing protocols for extraordinarily sensitive information.* As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

None of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, shall be assigned to any large general service customer. A large general service customer is a customer that has a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery. A utility shall not charge such large general service customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of participation in a renewable energy portfolio standard program pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs as are provided for in a program approved pursuant to § 56-585.2;

e. Projected and actual costs of projects that the Commission finds to be necessary to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations; and

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility.

*Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program.* The Commission shall have the authority to determine the duration or amortization period for any *other rate* adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis

from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility described in clause (i) or (ii) shall demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process. The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to

calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 5,000 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 50 megawatts, that use energy derived from sunlight or from wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of \$20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of \$750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

For generating facilities other than those utilizing nuclear power constructed pursuant to clause (ii) or those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such facilities shall continue to be eligible for an enhanced rate of return on common equity during the construction phase of the facility and the approved first portion of its service life of between 12 and 25 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1, 2013, the enhanced return for such facilities constructed pursuant to clause (ii) shall be 100 basis points, which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new nuclear generation facility or facilities are in the public interest.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from wind with an aggregate capacity of 5,000 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 50 megawatts, together with a new test or demonstration project for a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 16 megawatts, are in the public interest. To the extent that a utility elects to recover the costs of any such new generation facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation

facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that:

a. The utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in

subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed \$50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial

review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to

its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

## CHAPTER 742

*An Act to amend and reenact §§ 56-585.1:3, 56-585.3, and 56-594 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 56-585.4 and 56-594.01, relating to electric utilities; net energy metering by electric cooperatives; community solar development.*

[H 2547]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 56-585.1:3, 56-585.3, and 56-594 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 56-585.4 and 56-594.01 as follows:**

#### **§ 56-585.1:3. Pilot programs for community solar development.**

A. As used in this section:

"Eligible generation facility" means an electrical generation facility that:

1. Exclusively uses energy derived from sunlight;
2. Is placed in service on or after July 1, 2017;
3. Is not constructed by an investor-owned utility and either (i) is acquired by an investor-owned utility through an asset purchase agreement or (ii) is subject to a power purchase agreement under which an investor-owned utility purchases the facility's output from a third party; and

4. Has a generating capacity of:

- a. Not more than two megawatts; or
- b. More than two megawatts if not more than two megawatts of the output from the electrical generation facility is selected in an investor-owned utility's RFP for dedication to its pilot program.

"Generating capacity" means an electrical generation facility's nameplate rated capacity measured in direct current megawatts.

"Investor-owned utility" means an electric utility that is a Phase I Utility or a Phase II Utility.

"Participating generating facility" means an eligible generation facility that is selected by an investor-owned utility through its RFP for inclusion in its pilot program.

"Participating third party" means, for investor-owned utilities, a Virginia nonresidential-class customer, an affiliate, a solar development entity, or a nonjurisdictional customer that takes on the obligation, as part of a variable-output contract, of pilot program costs not recovered through the voluntary companion rate schedule as specified in subdivision B 8.

"Participating utility" means (i) each investor-owned utility and (ii) any utility consumer services cooperative that elects to conduct a pilot program under subsection C.

"Phase I Utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Phase II Utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Pilot program" means a community solar pilot program conducted by a participating utility pursuant to this section following approval by the Commission, under which the participating utility sells electric power to subscribing customers under a voluntary companion rate schedule and the participating utility generates or purchases electric power from participating generation facilities selected by the participating utility.

"Pilot program costs" means all of a participating utility's identified, projected, and actual costs of its pilot program, including costs for (i) purchased power; (ii) renewable and other environmental attributes; (iii) transmission and distribution services; (iv) generating capacity and energy balancing; (v) RFP process costs; (vi) administrative and marketing charges; (vii) capital costs and operations and maintenance expenses related to building, owning, and operating eligible generating facilities; and (viii) a reasonable margin, which margin shall be the weighted average cost of capital.

"Pilot program period" means the three-year period ending three years following the date the first subscription is entered into by a customer.

"RFP" means the request for proposal process conducted by an investor-owned utility.

"Small eligible generation facility" means an eligible generation facility with a generating capacity of less than 0.5 megawatt.

"Solar development entity" means a business entity organized primarily for the purpose of proposing, developing, constructing, purchasing, or selling at wholesale all or part of the output of an eligible generation facility. A solar development entity may be organized in any form and may be a special purpose entity.

"Utility aggregation cooperative" has the same meaning ascribed to "cooperative" in § 56-231.38.

"Utility consumer services cooperative" has the same meaning ascribed to "cooperative" in § 56-231.15.

"Voluntary companion rate schedule" means a rate schedule approved by the Commission upon application by a participating utility that provides for the recovery of the pilot program costs by the participating utility.

B. Notwithstanding the provisions of subsection B of § 56-234 and §§ 56-249.6 and 56-585.1, each investor-owned utility shall conduct a pilot program for retail customers as follows:

1. Each investor-owned utility shall design its own pilot program and within six months of receiving Commission approval shall make subscriptions for participation in its pilot program available to its retail customers on a voluntary basis.

2. An investor-owned utility shall select eligible generating facilities for dedication to its pilot program through an RFP process, under which process:

a. Each investor-owned utility shall have issued one or more public RFPs for eligible generating facilities and the purchase of all energy output and associated renewable energy certificates and other environmental attributes.

b. Each RFP shall:

(1) State the price and non-price criteria used by the investor-owned utility in selecting proposals for dedication to its pilot program; and

(2) Require as a criterion for selection that eligible generating facilities with a combined generating capacity of not less than two megawatts, and any eligible generating facility with a generating capacity of more than two megawatts, be first placed in service on or after July 1, 2017.

c. Each investor-owned utility is authorized to select, under an asset purchase or power purchase agreement, small eligible generating facilities for dedication to its pilot program without regard to whether price criteria are satisfied by their selection if the selection of the small eligible generating facilities materially advances non-price criteria, including a criterion favoring geographic distribution of eligible generating facilities, provided that the generating capacity of small eligible generating facilities does not exceed 25 percent of the utility's pilot program's minimum generating capacity specified in subdivision 3.

d. An investor-owned utility shall not select through its RFP an electrical generation facility with a generating capacity of more than two megawatts for its pilot program unless (i) the costs can be appropriately documented for the portion of the facility's output, which portion shall not exceed two megawatts, that is dedicated to the pilot program and (ii) for a Phase II Utility only, the portion of the facility's generating capacity selected pursuant to this subdivision does not exceed 50 percent of the investor-owned utility's pilot program's minimum generating capacity specified in subdivision 3. The portion of the facility's generating capacity that exceeds the portion of the facility's generating capacity that is selected pursuant to this subdivision shall not be applied in determining whether the pilot program satisfies requirements of subdivision 3 regarding a pilot program's minimum generating capacity.

e. In selecting eligible generating facilities for dedication to its pilot program, an investor-owned utility shall give due consideration to relative costs, economic development benefits, and geographic diversity of eligible generating facilities.

f. The investor-owned utility's application to the Commission shall include a description of the application of the price and non-price criteria in the investor-owned utility's selection of participating generating facilities from among the proposals submitted in response to the RFP.

3. The amount of generating capacity of the eligible generating facilities in an investor-owned utility's pilot program shall not be less than (i) 0.5 megawatt if the pilot program is conducted by a Phase I Utility or (ii) 10 megawatts if the pilot program is conducted by a Phase II Utility.

4. The amount of generating capacity of the eligible generating facilities in an investor-owned utility's pilot program shall not exceed (i) 10 megawatts if the pilot program is conducted by a Phase I Utility or (ii) 40 megawatts if the pilot program is conducted by a Phase II Utility.

5. An investor-owned utility shall have the option of increasing the amount of generating capacity of the eligible generating facilities in its pilot program above the amount most recently approved by the Commission, in such increments as the investor-owned utility elects, as follows:

a. Any such increase shall not result in an amount of generating capacity that exceeds the cap specified for the investor-owned utility's pilot program under subdivision 4;

b. No such increase shall be authorized until such time that 90 percent of the amount of generating capacity of the eligible generating facilities then approved for its pilot program has been subscribed by customers through the investor-owned utility's voluntary companion rate schedule;

c. An investor-owned utility may seek any number of increases in the amount of generating capacity of the eligible generating facilities in its pilot program, subject to the conditions in subdivisions a and b; and

d. The investor-owned utility shall select eligible generating facilities for any increase in the generating capacity of its pilot program through an RFP process that complies with the requirements of subdivision 2.

6. Each pilot program shall expire at the end of its pilot program period, unless renewed or made permanent by appropriate legislation as provided in subsection G.

7. The renewable energy certificates and other environmental attributes associated with the voluntary companion rate schedule shall be retired by the investor-owned utility on the subscribing customer's behalf.

8. An investor-owned utility shall recover all its pilot program costs primarily through its voluntary companion rate schedule. However, pilot program costs that are not recovered through the voluntary companion rate schedule shall be

recoverable from a participating third party and not from the investor-owned utility's Virginia jurisdictional customers. To the extent participating third parties are obligated for pilot program costs not recovered through the voluntary companion rate schedule, variable-output contracts between participating third parties other than affiliates and investor-owned utilities shall be negotiated at arm's length and shall not be reviewable by the Commission and shall require no further Commission approvals pursuant to Chapter 4 (§ 56-76 et seq.) or other applicable law.

9. At the conclusion of the pilot program period, to the extent that the pilot program is not made permanent or extended, each participating generating facility shall cease to be part of the pilot program and shall return to operation under the variable-output contract with a participating third party.

10. Any fixed generation costs and fixed purchased power costs shall remain fixed for subscribing customers throughout the duration of the subscribing customers' continuous and uninterrupted participation in the voluntary companion rate schedule. A subscribing customer's participation in the voluntary companion rate schedule shall be deemed to be continuous and uninterrupted notwithstanding a change in the location where the customer receives service if the new location continues to be within the investor-owned utility's service territory and the customer provides the investor-owned utility with notice of the change prior to or within 90 days following the change. Investor-owned utilities are authorized to decrease the generation or purchased power rate, or both, at any time to reflect cost reductions, if any, subject to Commission review. If, pursuant to subdivision 9, the pilot program is not made permanent or continued, the subscribing customers' subscriptions to the voluntary companion rate schedule shall survive the termination of the pilot program.

11. A subscribing customer's usage that exceeds the amount subscribed for under the voluntary companion rate schedule shall be billed under the customer's applicable standard rate.

12. An investor-owned utility shall not require a subscribing customer to enter an agreement or subscription for participation in a pilot program of more than 12 months' duration unless the subscribing customer's subscription exceeds 100 kW, or its equivalent in kWh, at the time the customer initially enters into the agreement or subscription.

13. As part of an arrangement with a solar development entity, a utility may enter into an agreement that provides for risk sharing and collaboration in marketing a utility's pilot program if the solar development entity is a participating third party.

14. An investor-owned utility shall have the ability to close its pilot program to new subscribers according to the terms of the voluntary companion rate schedule upon notice to the Commission. This option shall be exercisable once per year, upon the anniversary date of the Commission's order approving the voluntary companion rate schedule.

C. Notwithstanding the provisions of subsection B of § 56-234 and §§ 56-249.6 and 56-585.1, upon application of a utility consumer services cooperative the Commission shall review a proposal submitted by the cooperative for a voluntary companion rate schedule. If the Commission finds that the proposal is reasonable and prudent, it shall approve the voluntary companion rate schedule for the cooperative to conduct a pilot program pursuant to this section. No utility consumer services cooperative shall be required to conduct a pilot program pursuant to this section. In making an application to the Commission pursuant to this subsection, a utility consumer services cooperative shall have flexibility to design its voluntary companion rate schedule in a manner that, notwithstanding anything to the contrary in this section, provides the cooperative the ability to:

1. Construct or purchase its generating facilities, or dedicate a portion of its existing power supply portfolio, for its community solar pilot program along with one or more other utility consumer services cooperatives, one or both Phase I or Phase II Utilities, or a utility aggregation cooperative, through requests for proposal or through a contract with a third party or a utility aggregation cooperative;

2. If constructing or purchasing its generating facilities, or dedicating a portion of its existing power supply portfolio, for its pilot program through a utility aggregation cooperative, include generating facilities that may be already in service or may be first placed into service at any time;

3. Utilize generating facilities of any generating capacity for its pilot program;

4. Physically locate the generating facilities used for the pilot program inside or outside of its certificated service territory;

5. Design its voluntary companion rate schedule in coordination with one or more utility consumer services cooperatives, such that participating subscribers from both cooperatives subscribe to an identical rate schedule;

6. Permanently end its pilot program for all subscribers according to the terms of the voluntary companion rate schedule; and

7. Recover pilot program costs that are not recovered through the voluntary companion rate schedule by including unrecovered purchased power expense in the cooperative's cost of purchased power and through a regulatory asset for unrecovered costs that are not purchased power expense, subject to the oversight of the cooperative's board of directors, which regulatory asset shall be approved by the Commission.

D. The participation of retail customers in a pilot program administered by a participating utility in the Commonwealth is in the public interest. Voluntary companion rate schedules approved by the Commission pursuant to this section are necessary in order to acquire information which is in furtherance of the public interest. The Commission shall approve the recovery of pilot program costs that it deems to be reasonable and prudent. The Commission shall also approve the pilot program design, the voluntary companion rate schedule, and the portfolio of participating generating facilities. No Commission review or approval of individual participating generating facilities, agreements, sites, or RFPs shall be required pursuant to this section or any other section of the Code.

E. Any voluntary companion rate schedule approved by the Commission pursuant to this section shall not be considered a tariff for electric energy provided 100 percent from renewable energy pursuant to § 56-577.

F. Each participating utility shall report on the status of its pilot program, including the number of subscribing customers, to the Governor, the Commission, and the Chairmen of the House and Senate Commerce and Labor Committees. The report shall be filed the earlier of (i) three years after the date a customer of the participating utility first subscribes to its pilot program or (ii) July 1, 2022. If a participating utility closes its pilot program to new subscribers pursuant to subdivision B 14, it shall notify the Governor, the Commission, and the Chairmen of the House and Senate Commerce and Labor Committees not later than three months after such closure, which notification shall (a) describe the reasons for the closure and (b) be provided in lieu of the status report otherwise required by this subsection.

G. *At any time after filing its report on the status of its pilot program as required by subsection F, a participating utility may, in its application proceeding, move the Commission to make its pilot program permanent. The motion shall include a compliance filing with conforming changes to the participating utility's applicable rate schedules. Upon the Commission's granting of the motion, the pilot program shall become a regular rate schedule of the participating utility.*

### **§ 56-585.3. Regulation of cooperative rates after rate caps.**

A. After the expiration or termination of capped rates, the rates, terms and conditions of distribution electric cooperatives subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1 ~~of this title~~ shall be regulated in accordance with the provisions of Chapters 9.1 (§ 56-231.15 et seq.) and 10 (§ 56-232 et seq.) ~~of this title~~, as modified by the following provisions:

1. Except for energy related cost (fuel cost), the Commission shall not require any cooperative to adjust, modify, or revise its rates, by means of riders or otherwise, to reflect changes in wholesale power cost which occurred during the capped rate period, other than in a general rate proceeding;

2. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, increase or decrease all classes of its rates for distribution services at any time, provided, however, that such adjustments will not effect a cumulative net increase or decrease in excess of ~~five~~ percent in such rates in any ~~three year~~ three-year period. Such adjustments will not affect or be limited by any existing fuel or wholesale power cost adjustment provisions. The cooperative will promptly file any such revised rates with the Commission for informational purposes;

3. Each cooperative may, without Commission approval, upon an affirmative resolution of its board of directors, make any adjustment to its terms and conditions that does not affect the cooperative's revenues from the distribution or supply of electric energy. In addition, a cooperative may make such adjustments to any pass-through of third-party service charges and fees, and to any fees, charges and deposits set out in Schedule F of such cooperative's Terms and Conditions filed as of January 1, 2007. The cooperative will promptly file any such amended terms and conditions with the Commission for informational purposes;

4. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, make any adjustment to its rates reasonably calculated to collect any or all of the fixed costs of owning and operating its electric distribution system, including without limitation, such costs as are identified as customer-related costs in a cost of service study, through a new or modified fixed monthly charge, rather than through volumetric charges associated with the use of electric energy *or demand, or to rebalance among any of the fixed monthly charge, distribution demand, and distribution energy*; however, such adjustments shall be revenue neutral based on the cooperative's determination of the proper intra-class allocation of the revenues produced by its then current rates. *If a rate class contains a supply demand charge, the cooperative may rebalance its rate for electricity supply service pursuant to this subdivision.* The cooperative may elect, but is not required, to implement such adjustments through incremental changes over the course of up to three years. The cooperative shall file promptly revised tariffs reflecting any such adjustments with the Commission for informational purposes; and

5. A cooperative may, at any time after the expiration or termination of capped rates, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the costs described in subdivisions A 5 b and e of § 56-585.1.

B. None of the adjustments described in subdivisions A 2 through A 5 will apply to the rates paid by any customer that takes service by means of dedicated distribution facilities and had noncoincident peak demand in excess of 90 megawatts in calendar year 2006.

C. Nothing in this section shall be deemed to grant to a cooperative any authority to amend or adjust any terms and conditions of service or agreements regarding pole attachments or the use of the cooperative's poles or conduits.

### **§ 56-585.4. Net energy metering transition provisions for electric cooperatives.**

*Distribution electric cooperatives subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1 shall be regulated in accordance with the provisions of Chapters 9.1 (§ 56-231.15 et seq.) and 10 (§ 56-232 et seq.), as amended by relevant sections of this chapter and by the following provisions:*

1. *Notwithstanding anything to the contrary in this title, each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon the adoption by its board of directors of a resolution so providing, make adjustments in the cooperative's rates, terms, conditions, and rate schedules governing net energy metering as provided in this section by electing to subject itself to the provisions of this section. The cooperative promptly shall (i) file such resolution and notice with the Commission for informational purposes and (ii) place a notice of*

its board of directors' adoption of such resolution (the Cooperative Net Energy Metering Transition Notice) on the cooperative's website. The Cooperative Net Energy Metering Transition Notice shall contain an initial election date and a date upon which, for each class of net energy metering customer, the transition shall become effective upon the first to occur of (a) the date the cooperative reaches the cap set forth in subsection F of § 56-594.01 or (b) five years following the date of the initial Cooperative Net Energy Metering Transition Notice. If a cooperative transitions a given class of customers as a result of reaching a cap set forth in subsection F of § 56-594.01, the effectiveness of such transition shall be permanent, regardless of future changes in the cooperative's system peak. A Cooperative Net Energy Metering Transition Notice may be amended and refiled as the cooperative deems appropriate at any time. Any eligible customer-generator as defined in § 56-594 that was interconnected prior to a transition start date enumerated in a Cooperative Net Energy Metering Transition Notice may continue to participate in net energy metering pursuant to the terms of § 56-594.01 until July 1, 2039.

2. After the transition date for a class of customers, any standby charges implemented by the cooperative pursuant to subsection H of § 56-594.01 shall be eliminated and are prohibited. The cooperative may make any necessary changes to rate schedules or terms and conditions and shall promptly file the same with the Commission for informational purposes.

3. Whenever the cooperative's transition date occurs, the cooperative may establish and publish, without Commission approval or the requirement of any filing other than as provided in this subdivision, a new rate schedule or rider for purposes of its new net energy metering program established pursuant to this section and shall promptly file the same with the Commission for informational purposes.

4. The new rate schedule or rider described in subdivision 3 may contain a demand charge or charges for distribution, supply, or both, based upon a customer's monthly, ratcheted, or 60-minute absolute value noncoincident peak demand for customers that were not previously subject to demand charges in each rate class; however, such demand charges shall be revenue neutral based on the cooperative's determination of the proper intra-class allocation of the revenues produced by its then-current rates serving the same rate class of customer. The cooperative shall implement such new demand charge through the provisions of subdivision 5. The cooperative shall file promptly revised tariffs reflecting any such new demand charges with the Commission for informational purposes. The demand charge component of any net energy metering rate class derived from a rate class with a preexisting demand charge shall remain fixed for a period of five years. The fixed monthly customer charge of any net energy metering rate class derived from a preexisting rate class having a fixed monthly customer charge less than or equal to \$20 as of the transition date shall not exceed \$20 for the duration of the five-year period described in subdivision 5. During the five-year period described in subdivision 5, a cooperative may not increase the monthly customer charge of any net energy metering rate class derived from a preexisting rate class having a fixed monthly customer charge greater than \$20 as of the transition date. Demand charges included in a new rate schedule or rider shall apply to net energy metering customers, regardless of whether a customer uses a third-party partial requirements power purchase agreement or not.

5. For purposes of implementing subdivision 4, a cooperative shall, after the published transition date for a given class of customers, close its existing net energy metering rate schedule rider to new customers and open a new tariff pursuant to subdivision 3. Demand charges shall be implemented over a five-year period. In the first year of the five-year period, the demand charges shall be set to zero. In the second year of the five-year period, implementation of the demand rates may begin, and demand charges shall not exceed \$0.25 per kilowatt of distribution demand and \$0.25 per kilowatt of supply demand. In the third year of the five-year period, the demand charges shall not exceed \$0.50 per kilowatt of distribution demand and \$0.50 per kilowatt of supply demand. In the fourth year of the five-year period, the demand charges shall not exceed \$0.75 per kilowatt of distribution demand and \$0.75 per kilowatt of supply demand. In the fifth year of the five-year period, the demand charges shall not exceed \$1 per kilowatt of distribution demand and \$1 per kilowatt of supply demand. Following the expiration of the five-year period, the cooperative is authorized to rebalance its rates. In any filing for informational purposes, the cooperative shall clearly set forth to the Commission the schedule for the five-year period.

6. After the transition date for a given class of customers, the following caps, which shall be in lieu of the caps established by subsection F of § 56-594.01, shall apply to net energy metering for that class of customer. The caps shall be calculated as described in subsection F of § 56-594.01 except that the caps shall be adjusted as follows, expressed in alternating current nameplate capacity of the generators: three percent of system peak for residential customers, four percent of system peak for not-for-profit and nonjurisdictional customers, and two percent for other nonresidential customers.

7. After the transition date for a given class of customers, only the following restrictions shall apply to the capacity of a net energy metering electrical generating facility:

a. For nonresidential customers, the maximum capacity shall not exceed the least of:

(1) 1.2 megawatts alternating current;

(2) One percent of the cooperative's system peak calculated according to the methodology described in subsection F of § 56-594.01; or

(3) The expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available; and

b. For residential customers, the maximum capacity shall not exceed 125 percent of the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

8. After the transition date for a given class of customers, third-party partial requirements power purchase agreements entered into with registered providers shall be permitted for that class of customer pursuant to subsection K of § 56-594.01.

**§ 56-594. Net energy metering provisions.**

A. The Commission shall establish by regulation a program that affords eligible customer-generators the opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2014, for customers of investor-owned utilities and to begin no later than July 1, 2015, and to end July 1, 2019, for customers of electric cooperatives as provided in subsection G, to afford eligible agricultural customer-generators the opportunity to participate in net energy metering. The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible agricultural customer-generators; or (vi) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest. On and after July 1, 2017, small agricultural generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions of this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible agricultural customer-generators may elect to become small agricultural generators, but may not revert to being eligible agricultural customer-generators after such election. On and after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. For electric cooperatives, eligible agricultural customer-generators whose renewable energy generating facilities were interconnected before July 1, 2019, may continue to participate in net energy metering pursuant to this section for a period not to exceed 25 years from the date of their renewable energy generating facility's original interconnection.

B. For the purpose of this section:

"Eligible agricultural customer-generator" means a customer that operates a renewable energy generating facility as part of an agricultural business, which generating facility (i) uses as its sole energy source solar power, wind power, or aerobic or anaerobic digester gas, (ii) does not have an aggregate generation capacity of more than 500 kilowatts, (iii) is located on land owned or controlled by the agricultural business, (iv) is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (v) is interconnected and operated in parallel with an electric company's transmission and distribution facilities, and (vi) is used primarily to provide energy to metered accounts of the agricultural business. An eligible agricultural customer-generator may be served by multiple meters that are located at separate but contiguous sites, such that the eligible agricultural customer-generator may aggregate in a single account the electricity consumption and generation measured by the meters, provided that the same utility serves all such meters. The aggregated load shall be served under the appropriate tariff.

"Eligible customer-generator" means a customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers on an electrical generating facility placed in service after July 1, 2015; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements. In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator or eligible agricultural customer-generator.

"Net metering period" means the 12-month period following the date of final interconnection of the eligible customer-generator's or eligible agricultural customer-generator's system with an electric service provider, and each 12-month period thereafter.

"Small agricultural generator" has the same meaning that is ascribed to that term in § 56-594.2.

C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility. The electric distribution company shall have 30 days from the date of notification for residential facilities, and 60 days from the date of notification for nonresidential facilities, to determine whether the interconnection requirements have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system, and each electrical generating system of an eligible agricultural customer-generator, shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section and to ensure public safety, power quality, and reliability of the supplier's electric distribution system, an eligible customer-generator or eligible agricultural customer-generator whose electrical generating system meets those standards and rules shall bear all reasonable costs of

equipment required for the interconnection to the supplier's electric distribution system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests, and (c) purchase additional liability insurance.

D. The Commission shall establish minimum requirements for contracts to be entered into by the parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or eligible agricultural customer-generator against discrimination by virtue of its status as an eligible customer-generator or eligible agricultural customer-generator, and permit customers that are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators or eligible agricultural customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator over the net metering period exceeds the electricity consumed by the eligible customer-generator or eligible agricultural customer-generator, the customer-generator or eligible agricultural customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator or eligible agricultural customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator or eligible agricultural customer-generator, the supplier that serves the eligible customer-generator or eligible agricultural customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator or eligible agricultural customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator or eligible agricultural customer-generator owns any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the eligible customer-generator or eligible agricultural customer-generator shall have a one-time option to sell the renewable energy certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator or eligible agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible customer-generator or eligible agricultural customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators or eligible agricultural customer-generators shall be recoverable through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator or eligible agricultural customer-generator for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's or eligible agricultural customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators or eligible agricultural customer-generators on a first-come, first-served basis in each electric distribution company's Virginia service area until the rated generating capacity owned and operated by eligible customer-generators, eligible agricultural customer-generators, and small agricultural generators in the ~~state~~ *Commonwealth* reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year (*the systemwide cap*), and shall require the supplier to pay the eligible customer-generator or eligible agricultural customer-generator for such excess electricity in a timely manner at a rate to be established by the Commission.

F. Any residential eligible customer-generator or eligible agricultural customer-generator who owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges authorized by law, a monthly standby charge. The amount of the standby charge and the terms and conditions under which it is assessed shall be in accordance with a methodology developed by the supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby charge methodology if it finds that the standby charges collected from all such eligible customer-generators and eligible agricultural customer-generators allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated with serving such eligible customer-generators or eligible agricultural customer-generators. Such an eligible customer-generator or eligible agricultural customer-generator shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.

*G. On and after the later of July 1, 2019, or the effective date of regulations that the Commission is required to adopt pursuant to § 56-594.01, (i) net energy metering in the service territory of each electric cooperative shall be conducted as provided in a program implemented pursuant to § 56-594.01 and (ii) the provisions of this section shall not apply to net energy metering in the service territory of an electric cooperative except as provided in § 56-594.01.*

**§ 56-594.01. Net energy metering provisions for electric cooperative service territories.**

A. The Commission shall establish by regulation a program that affords eligible customer-generators the opportunity to participate in net energy metering in the service territory of each electric cooperative, which program shall commence on the later of July 1, 2019, or the effective date of such regulations. Such regulations shall be similar to existing regulations promulgated pursuant to § 56-594. In lieu of adopting new regulations, the Commission may amend such existing regulations to apply to electric cooperatives with such revisions as are required to comply with the provisions of this section. The regulations may include requirements applicable to (i) retail sellers, (ii) owners or operators of distribution or transmission facilities, (iii) providers of default service, (iv) eligible customer-generators, or (v) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest.

B. As used in this section:

"Eligible customer-generator" means a customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers on an electrical generating facility placed in service after July 1, 2015; (ii) uses as its total source of fuel renewable energy as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements. In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to an eligible customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator.

"Net metering period" means the 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and each 12-month period thereafter.

C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility. The Commission shall publish a form for such prior notice and such notice shall be processed promptly by the supplier prior to any construction activity taking place. After construction, inspection and documentation thereof shall be required prior to interconnection. The electric distribution company shall have 30 days from the date of each notification for residential facilities, and 60 days from the date of each notification for nonresidential facilities, to determine whether the interconnection requirements have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. In addition to the requirements set forth in this section and to ensure public safety, power quality, and reliability of the supplier's electric distribution system, an eligible customer-generator whose electrical generating system meets those standards and rules shall bear all reasonable costs of equipment required for the interconnection to the supplier's electric distribution system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests, and (c) purchase additional liability insurance. An electric cooperative may publish and use its own forms, including an electronic form, for purposes of implementing the regulations described herein so long as the information collected on the Commission's form is also collected by the cooperative and submitted to the Commission.

D. The Commission shall establish minimum requirements for contracts to be entered into by the parties to net metering arrangements. Such requirements shall protect the eligible customer-generator against discrimination by virtue of its status as an eligible customer-generator and permit customers that are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariffs to participate as an eligible customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

E. If electricity generated by an eligible customer-generator over the net metering period exceeds the electricity consumed by the eligible customer-generator, the customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator, the supplier that serves the eligible customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator owns any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator enters into a power purchase agreement with its supplier, the eligible customer-generator shall have a one-time option to sell the renewable energy

*certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually agreed upon prices if the eligible customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators shall be recoverable through its fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators on a first-come, first-served basis, subject to the provisions of subsection F, and shall require the supplier to pay the eligible customer-generator for such excess electricity in a timely manner at a rate to be established by the Commission.*

*F. Net energy metering shall be open to customers on a first-come, first-served basis until such time as the total capacity of the generation facilities, expressed in alternating current nameplate, reaches two percent of system peak for residential customers, two percent of system peak for not-for-profit and nonjurisdictional customers, and one percent of system peak for other nonresidential customers, which are herein referred to as the electric cooperative's caps. As used in this subsection, "percent of system peak" refers to a percentage of the electric cooperative's highest total system peak, based on the noncoincident peak of the electric cooperative or the coincident peak of all of the electric cooperative's customers, within the past three years as listed in Part O, Line 20 of Form 7 filed with the Rural Utilities Service or its equivalent, less any portion of the cooperative's total load that is served by a competitive service provider or by a market-based rate. Such caps shall not decrease but may increase if the system peak in any year exceeds the previous year's system peak. Nothing in this subsection shall amend or confer new rights upon any existing nonjurisdictional contract or arrangement or work to submit any nonjurisdictional customer, contract, or arrangement to the jurisdiction of the Commission. For purposes of calculating the caps established in this subsection, all net energy metering shall be counted, whenever interconnected, and shall include net energy metering interconnected pursuant to § 56-594, agricultural net energy metering, and any net energy metering entered into with a third-party provider registered pursuant to subsection K. Net energy metering with nonjurisdictional customers entered into prior to July 1, 2019, may be counted toward the caps, in the discretion of the cooperative, as net energy metering if the nonjurisdictional customer takes service pursuant to a cooperative's net energy metering rider. Net energy metering with nonjurisdictional customers entered into on or after July 1, 2019, shall be counted toward the caps by default unless the cooperative has reason to exclude such net energy metering as subject to a separate contract or arrangement. Each electric cooperative governed by this section shall publish information regarding the calculation and status of its caps pursuant to this subsection, or the electric cooperative's systemwide cap established in § 56-585.4 if applicable, on the electric cooperative's website.*

*G. An electric cooperative may, without Commission approval or the requirement of any filing other than as provided in this subsection, upon the adoption by its board of directors of a resolution so providing, raise the caps established in subsection F up to a cumulative total of seven percent of system peak, calculated according to the methodology described in subsection F, with any increase allocated among residential, not-for-profit and nonjurisdictional, and other nonresidential customers as the board of directors may find to be in the interests of the electric cooperative's membership. The electric cooperative shall promptly file a revised net energy metering compliance filing with the Commission for informational purposes.*

*H. Any residential eligible customer-generator who owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges authorized by law, a monthly standby charge. The amount of the standby charge and the terms and conditions under which it is assessed shall be in accordance with a methodology developed by the supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby charge methodology if it finds that the standby charges collected from all such eligible customer-generators allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated with serving such eligible customer-generators. Such an eligible customer-generator shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.*

*I. Any eligible agricultural customer-generator interconnected in an electric cooperative service territory prior to July 1, 2019, shall continue to be governed by § 56-594 and the regulations adopted pursuant thereto throughout the grandfathering period described in subsection A of § 56-594.*

*J. Any eligible customer-generator served by a competitive service provider pursuant to the provisions of § 56-577 shall engage in net energy metering only with such supplier and pursuant only to tariffs filed by such supplier. Such an eligible customer-generator shall pay the full portion of its distribution charges, without offset or netting, to its electric cooperative.*

*K. After the conclusion of the Commission's rulemaking proceeding pursuant to subsection L, third-party partial requirements power purchase agreements, the purpose of which is to finance the purchase of renewable generation facilities by eligible customer-generators through the sale of electricity, shall be permitted pursuant to the provisions of this section only for those retail customers and nonjurisdictional customers of the electric cooperative that are exempt from federal*

income taxation, unless otherwise permitted by § 56-585.4. No person shall offer a third-party partial requirements power purchase agreement in the service territory of an electric cooperative without fulfilling the registration requirements set forth in this section and complying with applicable Commission rules, including those adopted pursuant to subdivision L 2.

L. After August 1, 2019, but before January 1, 2020, the Commission shall initiate a rulemaking proceeding to promulgate the regulations necessary to implement this section as follows:

1. In conducting such a proceeding, the Commission may require notice to be given to current eligible customer-generators and eligible agricultural customer-generators but shall not require general publication of the notice. An opportunity to request a hearing shall be afforded, but a hearing is not required. In the rulemaking proceeding, the electric cooperatives governed by this section shall be required to submit compliance filings, but no other individual proceedings shall be required or conducted.

2. In promulgating regulations to govern third-party power purchase agreement providers as retail sellers, the Commission shall:

a. Direct the staff to administer a registration system for such providers;

b. Enumerate in its regulations the jurisdiction of the Commission over providers, generally limited in scope to the behavior of providers, customer complaints, and their compliance with the registration requirements and stating clearly that civil contract disputes and claims for damages against providers shall not be subject to the jurisdiction of the Commission;

c. Establish enumerate in its regulations the maximum extent of its authority over the providers, to be limited to any or all of:

(1) Monetary penalties against registered providers not to exceed \$30,000 per provider registration;

(2) Orders for providers to cease or desist from a certain practice, act, or omission;

(3) Debarment of registered providers;

(4) The issuance of orders to show cause; and

(5) Authority incident to subdivisions (1) through (4);

d. Delineate in its regulations two classes of providers, one for residential customers and one for nonresidential customers;

e. Direct the staff to set up a self-certification system as described in this subdivision;

f. Establish business practice and consumer protection standards from a national renewable energy association whose business is germane to the businesses of the providers;

g. Require providers to comply with other applicable Commission regulations governing interconnection and safety, including utility procedures governing the same;

h. Require minimum capitalization or other bond or surety that, in the judgment of the Commission, is necessary for adequate consumer protection and in the public interest;

i. Require the payment of a fee of \$250 for residential and nonresidential provider registration; and

j. Provide that no registered provider, by virtue of that status alone, shall be considered a public utility or competitive service provider for purposes of this title.

3. The self-certification system described in this subdivision shall require a provider to affirm to the staff, under the penalty of revocation of registration, (i) that it is licensed to do business in Virginia; (ii) the names of the responsible officers of the provider entity; (iii) that its named officers have no felony convictions or convictions for crimes of moral turpitude; (iv) that it will abide by all applicable Commission regulations promulgated under this section or for purposes of interconnections and safety; (v) that it will appoint an officer to be a primary liaison to the staff; (vi) that it will appoint an employee to be a primary contact for customer complaints; (vii) that it will have and disclose to customers a dispute resolution procedure; (viii) that it has specified in its registration materials in which territories it intends to offer power purchase agreements; (ix) that it, and each of its named officers, agree to submit themselves to the jurisdiction of the Commission as described in this subdivision; and (x) that, once registered, the provider shall report any material changes in its registration materials to the staff, as a continuing obligation of registration. The staff shall send a copy of the registration materials to each cooperative in whose territory the provider intends to offer power purchase agreements. The staff, once satisfied that the certifications required pursuant to this subdivision are complete, and not more than 30 days following the initial and complete submittal of the registration materials, shall enter the provider onto the official register of providers. No formal Commission proceeding is required for registration but may be initiated if the staff (a) has reason to doubt the veracity of the certifications of the provider or (b) in any other case, if, in the judgment of the staff, extenuating or extraordinary circumstances exist that warrant a proceeding. The staff shall not investigate the corporate structure, financing, bookkeeping, accounting practices, contracting practices, prices, or terms and conditions in a third-party partial requirements power purchase agreement. Nothing in this section shall abridge the right of any person, including the Office of Attorney General, from proceeding in a cause of action under the Virginia Consumer Protection Act, § 59.1-196 et seq.

4. The Commission shall complete such rulemaking procedure within 12 months of its initiation.

**2. That no later than 60 days after the effective date of this act each Phase II Utility, as such term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall convene a stakeholder process to make recommendations to the utility concerning (i) the development of retail rate schedules designed to offer time-varying pricing that take advantage of advanced metering technology and related investments in customer information systems; (ii) the development of incentive programs for the installation of equipment to develop electric energy derived from sunlight**

for customers using advanced metering technology served under such time-varying rate schedules; (iii) the possible transition of net metering customers using advanced metering technology to the time-varying rate schedules; (iv) peak shaving programs; (v) the provision of on-site distributed renewable generation to multifamily dwellings; and (vi) related system effects and requirements arising from distributed generation resources. An independent facilitator with expertise in rate design, cost recovery, and solar markets, compensated by the utility, offset by such contributions from members of the stakeholder group as the members deem appropriate, shall facilitate such stakeholder process. The utility shall consult with the stakeholder group and the State Corporation Commission prior to engaging the independent facilitator. Such stakeholder process shall include representatives from the utility, the State Corporation Commission, the office of Consumer Counsel of the Attorney General, the Department of Mines, Minerals and Energy, net-metering program administrators, customer-generators, agricultural customer-generators, solar energy program implementers, solar energy providers, energy efficiency advocates, other residential and small business customers, and any other interested stakeholder who the utility deems appropriate for inclusion in such process. The utility shall report on the status of the work of the stakeholder group and the programs developed in conjunction with such stakeholder group, including the petitions filed and the determination thereon, to the Governor, the State Corporation Commission, and the Chairmen of the House and Senate Committees on Commerce and Labor on January 1, 2020, and thereafter on January 1 of each successive year. The scope of the work of the stakeholder group convened pursuant to this enactment shall include the following:

1. In developing the retail rate schedules designed to offer time-varying pricing that take advantage of advanced metering technology, the stakeholder group shall include at least one non-demand schedule.

2. In developing incentive programs for the installation of equipment to develop electric energy derived from sunlight for customers using advanced metering technology served under such time-varying rate schedules, the stakeholder group shall seek to accelerate solar development without adversely impacting other non-solar customers and to establish appropriate incentives to sustain the program, including consideration of the expiration of federal tax incentives available. Any such incentive program shall be limited to net-metering customers until other customers receive advanced metering technology.

3. In developing recommendations for the possible transition of net metering customers to the time-varying rate schedules, the stakeholder group shall (i) recommend the timing and increases in the net-metering cap to take advantage of the deployment of advanced metering technology and the approval of time-varying rate schedules, in a range estimated to be between two percent and four percent, and (ii) recommend appropriate increases in customer class caps, aligned with potential system cap increases, and the timing of deployment of advanced metering technology, taking into consideration infrastructure costs and rate impacts of higher solar distributed generation capacity. The stakeholder group shall recommend capacity and market milestones for growth of solar distributed generation capacity.

4. The stakeholder group shall develop recommendations related to distributed generation resources, including rate design options for the possible transition from retail net metering to successor time-varying rate schedules, recognizing the dependency of such rate design to the deployment of advanced metering technology. The stakeholder group design shall encourage rate stability and allow sufficient transition time for customer education. The stakeholder group shall seek to encourage voluntary transition to time-varying rate schedules and shall provide mechanisms to gather data from such early adopters in order to minimize program impacts on existing net metering customers and other ratepayers. The stakeholder group shall make recommendations about the appropriate grandfathering of existing net metering customers who elect not to be served under the time-varying rate schedules.

5. The stakeholder group may address the availability of power purchase agreements, standby and demand charges, Schedule 19 PURPA contracts, distributed generation storage deployment, and other topics that the facilitator deems appropriate.

3. That on or before March 1, 2020, a Phase II Utility, as such term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall develop and submit to the State Corporation Commission for approval retail rate schedules designed to offer time-varying pricing, including at least one non-demand rate schedule. Customer-generators or agricultural customer-generators participating in net metering may elect to be served under such time-varying rate schedule at such time as the customer-generator or agricultural customer-generator is served by advanced-metering technology equipment satisfactory to the utility.

4. That on or before March 1, 2020, a Phase II Utility, as such term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall develop and submit to the State Corporation Commission for approval an incentive program for the installation of equipment to develop electric energy derived from sunlight for customers served under time-varying retail rate schedules that have advanced-metering technology equipment satisfactory to the utility.

## CHAPTER 743

*An Act to amend the Code of Virginia by adding a section numbered 15.2-2241.2, relating to rezoning and site plan approval; decommissioning solar energy equipment, facilities, or devices.*

Approved March 21, 2019

[H 2621]

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 15.2-2241.2 as follows:**

**§ 15.2-2241.2. Bonding provisions for decommissioning of solar energy equipment, facilities, or devices.**

A. As used in this section, unless the context requires a different meaning:

*"Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the locality to be subject to § 15.2-2232 and therefore subject to this section. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.*

*"Solar energy equipment, facilities, or devices" means any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.*

B. As part of the local legislative approval process or as a condition of approval of a site plan, any locality shall require an owner, lessee, or developer of real property subject to this section to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions: (i) if the party that enters into such written agreement with the locality defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning and (ii) such owner, lessee, or developer provides financial assurance of such performance to the locality in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the locality; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.

## CHAPTER 744

*An Act to amend the Code of Virginia by adding a section numbered 15.2-2241.2, relating to rezoning and site plan approval; decommissioning solar energy equipment, facilities, or devices.*

[S 1091]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 15.2-2241.2 as follows:**

**§ 15.2-2241.2. Bonding provisions for decommissioning of solar energy equipment, facilities, or devices.**

A. As used in this section, unless the context requires a different meaning:

*"Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the locality to be subject to § 15.2-2232 and therefore subject to this section. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.*

*"Solar energy equipment, facilities, or devices" means any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.*

B. As part of the local legislative approval process or as a condition of approval of a site plan, a locality shall require an owner, lessee, or developer of real property subject to this section to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions: (i) if the party that enters into such written agreement with the locality defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning, and (ii) such owner, lessee, or developer provides financial assurance of such performance to the locality in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the locality; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.

## CHAPTER 745

An Act to amend and reenact § 46.2-325 of the Code of Virginia, relating to Virginia Driver's Manual course; computer-based mediums.

[H 2717]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-325 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-325. Examination of applicants; waiver of Department's examination under certain circumstances; behind-the-wheel and knowledge examinations.**

A. The Department shall examine every applicant for a driver's license before issuing any license to determine (i) his physical and mental qualifications and his ability to drive a motor vehicle without jeopardizing the safety of persons or property and (ii) if any facts exist which would bar the issuance of a license under §§ 46.2-311 through 46.2-316, 46.2-334, or 46.2-335. The examination, however, shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter. No applicant otherwise competent shall be required to demonstrate ability to park any motor vehicle except in an adequate parking space between horizontal markers, and not between flags or sticks simulating parked vehicles. Except as provided for in § 46.2-337, applicants for licensure to drive motor vehicles of the classifications referred to in § 46.2-328 shall submit to examinations which relate to the operation of those vehicles. The motor vehicle to be used by the applicant for the behind-the-wheel examination shall meet the safety and equipment requirements specified in Chapter 10 (§ 46.2-1000 et seq.) and possess a valid inspection sticker as required pursuant to § 46.2-1157. An autocycle shall not be used by the applicant for a behind-the-wheel examination.

Prior to taking the examination, the applicant shall either (a) present evidence that the applicant has completed a state-approved driver education class pursuant to the provisions of § 46.2-324.1 or 46.2-334 or (b) submit to the examiner a behind-the-wheel maneuvers checklist, on a form provided by the Department, that describes the vehicle maneuvers the applicant may be expected to perform while taking the behind-the-wheel examination, that has been signed by a licensed driver, certifying that the applicant has practiced the driving maneuvers contained and described therein, and that has been signed by the applicant certifying that, at all times while holding a learner's permit, the applicant has complied with the provisions of § 46.2-335 while operating a motor vehicle.

Except for applicants subject to § 46.2-312, if the Commissioner is satisfied that an applicant has demonstrated the same proficiency as required by the Department's examination through successful completion of either (1) the driver education course approved by the Department of Education or (2) a driver training course offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.), he may waive those parts of the Department's examination provided for in this section that require the applicant to drive and park a motor vehicle.

B. Any person who fails the behind-the-wheel examination for a driver's license administered by the Department shall wait two days before being permitted to take another such examination. No person who fails the behind-the-wheel examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the driver knowledge examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the classroom component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education or, for (i) persons at least 18 years old or (ii) persons less than 18 years old who have previously completed the classroom component of driver instruction, a course of instruction based on the Virginia Driver's Manual, *which may be conducted in a classroom or online*, offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) ~~and~~ or a comparable course approved by the Department or the Department of Education. *Any driver training school authorized to provide the Virginia Driver's Manual course online shall be a computer-based driver education provider as defined in § 46.2-1700. Providers of the Virginia Driver's Manual course online shall ensure that the certificate of completion is issued to the same person who took the course in a manner prescribed by the Department.* All persons required to complete the in-vehicle component of driver instruction or the classroom component of driver instruction pursuant to this section shall be required after successful completion of the necessary courses to have the applicable examination administered by the Department.

The provisions of this subsection shall not apply to persons placed under medical control by the Department pursuant to § 46.2-322.

## CHAPTER 746

An Act to amend the Code of Virginia by adding a section numbered 56-585.1:8, relating to a pilot program for municipal net energy metering.

[H 2792]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-585.1:8 as follows:**

**§ 56-585.1:8. Pilot program for municipal net energy metering.**

A. As used in this section:

"Municipal customer-generator" means a single municipality metered account that owns and operates an electrical generating facility that (i) uses as its total source of fuel renewable energy as defined in § 56-576, (ii) has a generating capacity of not more than two megawatts, (iii) is located on the municipality's premises and is connected to the municipality's wiring on the municipality's side of its interconnection with the utility, (iv) is interconnected and operated in parallel with the utility's transmission and distribution facilities, and (v) is intended primarily to offset all or part of the customer account's own electricity requirements. The capacity of any generating facility installed under this section, other than a generating facility located on airports, landfills, parking lots, parks, post-mine land, or a reservoir that is owned, operated, or leased by the municipality, shall not exceed the same limitation established with respect to an eligible customer-generator as set forth in the definition of such term in subsection B of § 56-594.

"Municipality" means any county, city, or town in the Commonwealth, other than a municipality that owns and operates its own electric utility.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to a municipal customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the municipal customer-generator.

"Net metering period" means the 12-month period following the date of final interconnection of the municipal customer-generator's system with its utility and each 12-month period thereafter.

"Utility" means Phase I Utility or Phase II Utility, as such terms are defined in § 56-585.1:3.

B. The Commission shall require each utility to submit a proposal to the Commission to conduct a pilot program for municipal net energy metering in accordance with the following terms, conditions, and restrictions:

1. A pilot program shall be conducted within the service territory of each utility. The pilot program shall allow any municipal customer-generator that generates electricity from a renewable energy generation facility in amounts that exceed the amount of the utility's electricity consumed by the host municipal customer-generator account to credit one or more of the municipality's target metered accounts or, if the pilot program is conducted by a Phase I Utility, also to metered accounts of the public school division of the municipality. In each utility's pilot program, the target accounts may be at one or more other separately utility-metered public buildings or facilities at contiguous or noncontiguous sites owned by the municipality and used for a public purpose; however, if the pilot program is conducted by a Phase I Utility, target accounts may also be at one or more other separately utility-metered buildings or facilities of the public school division of the municipality. In each utility's pilot program, excess electricity shall be credited to the metered account of the target municipal customer in the same municipality, such that the generation energy charges on the electric bills of such target's metered accounts shall be reduced by the amount of the excess generation kilowatt-hours apportioned to the metered accounts multiplied by the applicable generation energy rate of the target's accounts. The generation energy rate of the target's accounts includes all applicable kilowatt-hour-based rate adjustment clauses with the exception of any non-fuel-related or non-generation-related kilowatt-hour-based rate adjustment clauses. The netting of the amount of electricity generated and the amount of electricity consumed, and the crediting for the amount of any excess generation determined as a result of such netting, shall occur in the twelfth month following the commencement of the host municipal customer-generator's generation of electricity under a pilot program and annually thereafter, regardless of the municipal customer-generator's regular billing period.

2. The pilot program shall not limit the current authority of any municipality to participate in any other net energy metering program.

3. The amount of generating capacity of the generating facilities that are the subject of a pilot program under this section shall not exceed:

a. If the pilot program is conducted by a Phase I Utility, five megawatts although the Phase I Utility may, in its discretion, increase the generating capacity that is part of the program up to 10 megawatts; or

b. If the pilot program is conducted by a Phase II Utility, 25 megawatts.

4. The aggregated capacity of all generation facilities that are the subject of each utility's pilot program under this section shall constitute a portion of the existing limit of the utility's adjusted Virginia peak-load forecast of the previous year that is available to (i) municipal customer-generators under this section, (ii) eligible customer-generators and eligible agricultural customer-generators under § 56-594, and (iii) small agricultural generators under § 56-594.2 in the utility's service area. Municipal customer-generators shall be eligible to participate in a utility's pilot program implemented under

this section on a first-come, first-served basis in each utility's Virginia service area until the limits set forth in subdivision 3 are met.

5. Any pilot program conducted under this section shall require that:

a. If conducted by a Phase I Utility or Phase II Utility, each participating municipality shall be responsible for all administrative costs associated with implementing the pilot program, including administrative costs associated with crediting excess generation to target accounts; and

b. If conducted by a Phase I Utility, the credit for excess energy, to the extent possible, shall be prioritized to be directed to accounts at buildings or facilities of the public school division of the municipality before the credit is directed to any of the municipality's target accounts.

6. Any pilot program conducted pursuant to this section shall not limit the current authority of any municipality to participate in any other net energy metering program.

7. Neither jurisdictional customers nor non-jurisdictional customers, including those that are members of a joint powers association representing member units of a political subdivision of the Commonwealth, that do not participate in a pilot program under this section shall bear any costs associated with participation in such pilot program by a participating host municipal customer-generator and participating target municipal customer.

C. The duration of any pilot program approved by the Commission pursuant to this section shall be six years. If the pilot program is not extended beyond such initial term, host and target accounts participating at the end of the initial term shall be permitted to continue to participate under the terms of the pilot program that existed during the initial term. The terms of the pilot program shall be included in future contracts for each municipality that elects to continue its program.

D. The Commission shall review the pilot programs established pursuant to this section in 2021 and every two years thereafter for the duration of the pilot program.

2. That the State Corporation Commission shall, by December 1, 2019, adopt such rules or establish such guidelines as may be necessary for its general administration of the pilot program established under this act.

3. That any electric utility participating in the pilot program established under this act shall report to the General Assembly by December 1 of each year the pilot program is in effect, commencing in 2020, regarding the status of the pilot program's enrollment and any other information that may be appropriate.

## CHAPTER 747

An Act to amend the Code of Virginia by adding a section numbered 56-585.1:8, relating to a pilot program for municipal net energy metering.

[S 1779]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-585.1:8 as follows:**

**§ 56-585.1:8. Pilot program for municipal net energy metering.**

A. As used in this section:

"Municipal customer-generator" means a single municipality metered account that owns and operates an electrical generating facility that (i) uses as its total source of fuel renewable energy as defined in § 56-576, (ii) has a generating capacity of not more than two megawatts, (iii) is located on the municipality's premises and is connected to the municipality's wiring on the municipality's side of its interconnection with the utility, (iv) is interconnected and operated in parallel with the utility's transmission and distribution facilities, and (v) is intended primarily to offset all or part of the customer account's own electricity requirements. The capacity of any generating facility installed under this section, other than a generating facility located on airports, landfills, parking lots, parks, post-mine land, or a reservoir that is owned, operated, or leased by the municipality, shall not exceed the same limitation established with respect to an eligible customer-generator as set forth in the definition of such term in subsection B of § 56-594.

"Municipality" means any county, city, or town in the Commonwealth, other than a municipality that owns and operates its own electric utility.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to a municipal customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the municipal customer-generator.

"Net metering period" means the 12-month period following the date of final interconnection of the municipal customer-generator's system with its utility and each 12-month period thereafter.

"Utility" means Phase I Utility or Phase II Utility, as such terms are defined in § 56-585.1:3.

B. The Commission shall require each utility to submit a proposal to the Commission to conduct a pilot program for municipal net energy metering in accordance with the following terms, conditions, and restrictions:

1. A pilot program shall be conducted within the service territory of each utility. The pilot program shall allow any municipal customer-generator that generates electricity from a renewable energy generation facility in amounts that exceed the amount of the utility's electricity consumed by the host municipal customer-generator account to credit one or more of the municipality's target metered accounts or, if the pilot program is conducted by a Phase I Utility, also to metered

accounts of the public school division of the municipality. In each utility's pilot program, the target accounts may be at one or more other separately utility-metered public buildings or facilities at contiguous or noncontiguous sites owned by the municipality and used for a public purpose; however, if the pilot program is conducted by a Phase I Utility, target accounts may also be at one or more other separately utility-metered buildings or facilities of the public school division of the municipality. In each utility's pilot program, excess electricity shall be credited to the metered account of the target municipal customer in the same municipality, such that the generation energy charges on the electric bills of such target's metered accounts shall be reduced by the amount of the excess generation kilowatt-hours apportioned to the metered accounts multiplied by the applicable generation energy rate of the target's accounts. The generation energy rate of the target's accounts includes all applicable kilowatt-hour-based rate adjustment clauses with the exception of any non-fuel-related or non-generation-related kilowatt-hour-based rate adjustment clauses. The netting of the amount of electricity generated and the amount of electricity consumed, and the crediting for the amount of any excess generation determined as a result of such netting, shall occur in the twelfth month following the commencement of the host municipal customer-generator's generation of electricity under a pilot program and annually thereafter, regardless of the municipal customer-generator's regular billing period.

2. The pilot program shall not limit the current authority of any municipality to participate in any other net energy metering program.

3. The amount of generating capacity of the generating facilities that are the subject of a pilot program under this section shall not exceed:

a. If the pilot program is conducted by a Phase I Utility, five megawatts although the Phase I Utility may, in its discretion, increase the generating capacity that is part of the program up to 10 megawatts; or

b. If the pilot program is conducted by a Phase II Utility, 25 megawatts.

4. The aggregated capacity of all generation facilities that are the subject of each utility's pilot program under this section shall constitute a portion of the existing limit of the utility's adjusted Virginia peak-load forecast of the previous year that is available to (i) municipal customer-generators under this section, (ii) eligible customer-generators and eligible agricultural customer-generators under § 56-594, and (iii) small agricultural generators under § 56-594.2 in the utility's service area. Municipal customer-generators shall be eligible to participate in a utility's pilot program implemented under this section on a first-come, first-served basis in each utility's Virginia service area until the limits set forth in subdivision 3 are met.

5. Any pilot program conducted under this section shall require that:

a. If conducted by a Phase I Utility or Phase II Utility, each participating municipality shall be responsible for all administrative costs associated with implementing the pilot program, including administrative costs associated with crediting excess generation to target accounts; and

b. If conducted by a Phase I Utility, the credit for excess energy, to the extent possible, shall be prioritized to be directed to accounts at buildings or facilities of the public school division of the municipality before the credit is directed to any of the municipality's target accounts.

6. Any pilot program conducted pursuant to this section shall not limit the current authority of any municipality to participate in any other net energy metering program.

7. Neither jurisdictional customers nor non-jurisdictional customers, including those that are members of a joint powers association representing member units of a political subdivision of the Commonwealth, that do not participate in a pilot program under this section shall bear any costs associated with participation in such pilot program by a participating host municipal customer-generator and participating target municipal customer.

C. The duration of any pilot program approved by the Commission pursuant to this section shall be six years. If the pilot program is not extended beyond such initial term, host and target accounts participating at the end of the initial term shall be permitted to continue to participate under the terms of the pilot program that existed during the initial term. The terms of the pilot program shall be included in future contracts for each municipality that elects to continue its program.

D. The Commission shall review the pilot programs established pursuant to this section in 2021 and every two years thereafter for the duration of the pilot program.

2. That the State Corporation Commission shall, by December 1, 2019, adopt such rules or establish such guidelines as may be necessary for its general administration of the pilot program established under this act.

3. That any electric utility participating in the pilot program established under this act shall report to the General Assembly by December 1 of each year the pilot program is in effect, commencing in 2020, regarding the status of the pilot program's enrollment and any other information that may be appropriate.

## CHAPTER 748

*An Act to direct the establishment of energy conservation measures providing incentives for the development of electric energy delivered from sunlight.*

[H 2789]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. *§ 1. Energy conservation measures providing incentives for the development of electric energy derived from sunlight.*
  - A. *Each Phase I and Phase II Utility, as such terms are defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall submit a petition for approval to design, implement and operate a three-year program of energy conservation measures providing:*
    1. *Incentives to low income, elderly and disabled individuals in an amount not to exceed \$25 million in the aggregate for the installation of measures that reduce residential heating and cooling costs and enhance the health and safety of residents, including repairs and improvements to home heating and cooling systems and installation of energy-saving measures in the house, such as insulation and air sealing. In developing such incentive program, each utility shall utilize the stakeholder process set forth in § 56-596.2 of the Virginia Code. The utility may provide such incentives directly to customers or to organizations that assist low income, elderly and disabled individuals. Such incentive program shall be deemed to be a part of the \$140 million in energy efficiency programs that a Phase I utility is required to develop pursuant to § 56-596.2 of the Virginia Code and a part of the \$870 million in energy efficiency programs that a Phase II utility is required to develop pursuant to § 56-596.2 of the Virginia Code; provided that no portion of such incentive programs shall be deemed to be a part of the required five percent of such energy conservation measures set aside for low income, elderly and disabled individuals.*
    2. *Incentives to low income, elderly and disabled individuals, who also participate in the incentive program described above for the installation of measures that reduce residential heating and cooling costs, in an amount not to exceed \$25 million in the aggregate for the installation of equipment to develop electric energy derived from sunlight. The utility may provide such incentives directly to customers or to organizations that assist low income, elderly and disabled individuals. Such incentive program shall not be deemed to be a part of the \$140 million in energy efficiency programs that a Phase I utility is required to develop pursuant to § 56-596.2 of the Virginia Code nor a part of the \$870 million in energy efficiency programs that a Phase II utility is required to develop pursuant to § 56-596.2 of the Virginia Code.*
  - B. *In developing such incentive programs, each utility shall give consideration to low income, elderly and disabled persons residing in housing that a redevelopment and housing authority owns or controls.*

**CHAPTER 749**

*An Act to amend and reenact §§ 33.2-214.3, 33.2-501, 33.2-2500, 33.2-2505, and 33.2-2510 of the Code of Virginia and to repeal § 33.2-257 of the Code of Virginia, relating to the analysis of transportation projects in the Northern Virginia Transportation District.*

[S 1468]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. **That §§ 33.2-214.3, 33.2-501, 33.2-2500, 33.2-2505, and 33.2-2510 of the Code of Virginia are amended and reenacted as follows:**
  - § 33.2-214.3. **Transparency in project selection in Planning District 8.**

At least annually, the Northern Virginia Transportation Authority, the Northern Virginia Transportation Commission, the Virginia Railway Express, and the Commonwealth Transportation Board shall conduct a joint public meeting for the purposes of presenting to the public, and receiving public comments on, the transportation projects proposed and conducted by each entity in Planning District 8. Such presentation shall include documentation regarding how the combined project selection, timing, and revenue sources employed by the entities represents the most efficient use of revenue sources. Such presentation shall include any evaluations or analyses conducted by such entities pursuant to § 33.2-214.1 or ~~33.2-257 subdivision 2~~ of § 33.2-2500 that relate to Planning District 8. Each entity shall have at least one designee physically assembled at such joint public meeting. Nothing herein shall require a quorum of each such entity to participate in such joint public meeting.
  - § 33.2-501. **Designation of HOV lanes; use of such lanes; penalties.**

A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during peak traffic periods, the Board may designate one or more lanes of any highway in the Interstate System, primary state highway system, or secondary state highway system as HOV lanes. When lanes have been so designated and have been appropriately marked with signs or other markers as the Board may prescribe, they shall be reserved during periods designated by the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes and impose and enforce restrictions on the use of such lanes. Any highway for which the locality receives highway maintenance funds pursuant to § 33.2-319 shall be deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as determined by the Board or, for HOV lanes designated by a local governing body, by that local governing body. However, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use of any such lanes by:
    1. Emergency vehicles such as firefighting vehicles and emergency medical services vehicles;
    2. Law-enforcement vehicles;

3. Motorcycles;
4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver;
- b. Any vehicle operating under a certificate issued under § 46.2-2075, 46.2-2080, 46.2-2096, 46.2-2099.4, or 46.2-2099.44;
5. Vehicles of public utility companies operating in response to an emergency call;
6. Vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-749.3, provided such use is in compliance with federal law;
7. Taxicabs having two or more occupants, including the driver; or
8. (Contingent effective date) Any active duty military member in uniform who is utilizing Interstate 264 and Interstate 64 for the purposes of traveling to or from a military facility in the Hampton Roads Planning District.

In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of highway.

The Commissioner of Highways shall implement a program of the HOV facilities in the Hampton Roads Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected to be blocked for 10 minutes or longer. The HOV restrictions for the facility shall be reinstated when the general lane is no longer blocked and is available for use.

The Commissioner of Highways shall maintain necessary records to evaluate the effects of such openings on the operation of the general lanes and the HOV lanes. This program will terminate if the Federal Highway Administration requires repayment of any federal highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.

B. In designating any lane or lanes of any highway as HOV lanes, the Board or local governing body shall specify the hour or hours of each day of the week during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a designated HOV lane in violation of this section is guilty of a traffic infraction, which shall not be a moving violation, and on conviction shall be fined \$100. However, violations committed within the boundaries of Planning District 8 shall be punishable as follows:

1. For a first offense, by a fine of \$125;
2. For a second offense within a period of five years from a first offense, by a fine of \$250;
3. For a third offense within a period of five years from a first offense, by a fine of \$500; and
4. For a fourth or subsequent offense within a period of five years from a first offense, by a fine of \$1,000.

Upon a conviction under this section, the court shall furnish to the Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction, which shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this section, except that persons convicted of second, third, fourth, or subsequent violations within five years of a first offense committed in Planning District 8 shall be assessed three demerit points for each such violation.

C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in open court under oath that he was not the operator of the vehicle at the time of the violation. A summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or leasing company.

D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section is served in any locality, it may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his failure to appear on the return date of the summons.

E. Notwithstanding § 33.2-613, high-occupancy vehicles having three or more occupants (HOV-3) may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without paying a toll.

F. (Effective until January 1, 2020) Notwithstanding the contrary provisions of this section, the HOV-2 designation of Interstate 66 shall not be changed to HOV-3 or any more restrictive designation.

F. (Effective January 1, 2020) Notwithstanding the contrary provisions of this section, the following conditions shall be met before the HOV-2 designation of Interstate 66 can be changed to HOV-3 or any more restrictive designation:

1. The Department of Transportation shall publish a notice of its intent to change the existing designation and also immediately provide similar notice of its intent to all members of the General Assembly representing districts that touch or are directly impacted by traffic on Interstate 66.

2. The Department of Transportation shall hold public hearings in the corridor to receive comments from the public.

3. The Department of Transportation shall make a finding of the need for a change in such designation, based on public hearings and its internal data, and present this finding to the Board for approval.

4. The Board shall make written findings and a decision based upon the following criteria:

a. Is changing the HOV-2 designation to HOV-3 in the public interest?

b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate the flow of traffic on Interstate 66?

c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act Amendments of 1990?

d. Has the change in designation been screened and evaluated by the ~~Department of Transportation~~ *Northern Virginia Transportation Authority* according to the process established pursuant to ~~§ 33.2-257 subdivision 2 of § 33.2-2500?~~

**§ 33.2-2500. Northern Virginia Transportation Authority created.**

There is hereby created a political subdivision of the Commonwealth known as the Northern Virginia Transportation Authority, for purposes of this chapter referred to as "the Authority."

In addition to such other powers vested in the Authority by this chapter, the Authority shall have the following powers and functions:

1. The Authority shall prepare a regional transportation plan for Planning District 8 that includes transportation improvements of regional significance and those improvements necessary or incidental thereto and shall revise and amend the plan. The provisions of Article 7 (§ 33.2-1928 et seq.) of Chapter 19 shall apply, mutatis mutandis, to preparation of such transportation plan.

2. *The Authority shall evaluate all significant transportation projects, including highway, mass transit, and technology projects, in and near Planning District 8, to the extent that funds are available for such purpose. The evaluation shall provide an objective, quantitative rating for each project according to the degree to which the project is expected to reduce congestion and, to the extent feasible, the degree to which the project is expected to improve regional mobility in the event of a homeland security emergency. Such evaluation shall rely on analytical techniques and transportation modeling, including those that employ computer simulations currently and customarily employed in transportation planning. The Authority may rely on the results of transportation modeling performed by other entities, including the Department of Transportation and private entities contracted for this purpose, provided that such modeling is in accordance with this section. The Authority shall publicize the quantitative ratings determined for each project on its website and complete the evaluation at least once every four years, with interim progress reports provided on the website at least once every six months.*

a. *For purposes of this section, the significant transportation projects to be evaluated may include:*

(1) *Projects included in the version of the Financially Constrained Long-Range Transportation Plan of the National Capital Region Transportation Planning Board in effect when the evaluation is made, plus additional projects in the plan adopted according to subdivision 1; and*

(2) *Other highway, rail, bus, and technology projects that could make a significant impact on mobility in the region, including additional Potomac River crossings west and south of Washington, D.C.; extension of the Metro Orange Line, Metro Yellow Line, and Metro Blue Line; bus rapid transit on Interstate 66; vehicle capacity and mass transit improvements on the U.S. Route 1 corridor; and implementation of relevant portions of the Statewide Transportation Plan established pursuant to § 33.2-353.*

3. The Authority may, when a transportation plan is adopted according to subdivision 1, construct or acquire, by purchase, lease, contract, or otherwise, the transportation facilities specified in such transportation plan.

~~3-4.~~ The Authority may enter into agreements or leases with public or private entities for the operation of its facilities or may operate such facilities itself.

~~4-5.~~ The Authority may enter into contracts or agreements with the counties and cities embraced by the Authority, with other transportation commissions of transportation districts adjoining any county or city embraced by the Authority, with any transportation authority, or with any federal, state, local, or private entity to provide, or cause to be provided, transportation facilities and services to the area embraced by the Authority. Such contracts or agreements, together with any agreements or leases for the operation of such facilities, may be used by the Authority to finance the construction and operation of transportation facilities and such contracts, agreements, or leases shall inure to the benefit of any creditor of the Authority.

Notwithstanding subdivisions 1 through ~~4~~ 5, the Authority shall not have the power to regulate services provided by taxicabs, either within municipalities or across municipal boundaries; such regulation is expressly reserved to the municipalities within which taxicabs operate.

~~5-6.~~ Notwithstanding any other provision of law to the contrary, the Authority may:

a. Acquire land or any interest therein by purchase, lease, or gift and provide transportation facilities thereon for use in connection with any transportation service;

b. Acquire land or any interest therein by purchase, lease, or gift in advance of the need for sale or contribution to an agency, for use by that agency in connection with an adopted transportation plan; and

c. Prepare a plan for mass transportation services with persons, counties, cities, agencies, authorities, or transportation commissions and may further contract with any such person or entity to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to such plan.

**§ 33.2-2505. Allocation of certain Authority expenses among component counties and cities.**

~~The~~ *Notwithstanding the provisions of subdivision C 1 of § 33.2-2510, the administrative and operating expenses of the Authority as shall be provided in an annual budget adopted by the Authority, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component counties and cities on the basis of the relative population, as determined pursuant to § 33.2-2504 paid from the Fund.* Such budget shall be limited solely to the administrative and operating expenses of the Authority and shall not include any funds for construction or acquisition of transportation facilities or for the performance of any transportation service.

**§ 33.2-2510. Use of certain revenues by the Authority.**

A. All moneys received by the Authority and the proceeds of bonds issued pursuant to § 33.2-2511 shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority.

B. 1. Except as provided in subdivision 2, 30 percent of the revenues received by the Authority under subsection A shall be distributed on a pro rata basis, with each locality's share being the total of such fee and taxes received by the Authority that are generated or attributable to the locality divided by the total of such fee and taxes received by the Authority. Of the revenues distributed pursuant to this subsection, as determined solely by the applicable locality, such revenues shall be used for additional urban or secondary highway construction, for other capital improvements that reduce congestion, for other transportation capital improvements that have been approved by the most recent long-range transportation plan adopted by the Authority, or for public transportation purposes. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2013. Each locality shall create a separate, special fund in which all revenues received pursuant to this subsection and from the tax imposed pursuant to § 58.1-3221.3 shall be deposited. Each locality shall provide annually to the Authority sufficient documentation as required by the Authority showing that the funds distributed under this subsection were used as required by this subsection.

2. If a locality has not deposited into its special fund (i) revenues from the tax collected under § 58.1-3221.3 pursuant to the maximum tax rate allowed under that section or (ii) an amount, from sources other than moneys received from the Authority, that is equivalent to the revenue that the locality would receive if it was imposing the maximum tax authorized by § 58.1-3221.3, then the amount of revenue distributed to the locality pursuant to subdivision 1 shall be reduced by the difference between the amount of revenue that the locality would receive if it was imposing the maximum tax authorized by such section and the amount of revenue deposited into its special fund pursuant to clause (i) or (ii), as applicable. The amount of any such reduction in revenue shall be redistributed according to subsection C. The provisions of this subdivision shall be ongoing and apply over annual periods as determined by the Authority.

C. 1. The remaining 70 percent of the revenues received by the Authority under subsection A, plus the amount of any revenue to be redistributed pursuant to subsection B, shall be used by the Authority solely to fund transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with *subdivision 1 of § 33.2-2500* and that have been rated in accordance with ~~§ 33.2-257~~ *subdivision 2 of § 33.2-2500*. For only those regional funds received in fiscal year 2014, the requirement for rating in accordance with ~~§ 33.2-257~~ *subdivision 2 of § 33.2-2500* shall not apply. The Authority shall give priority to selecting projects that are expected to provide the greatest congestion reduction relative to the cost of the project and shall document this information for each project selected. Such projects selected by the Authority for funding shall be located (i) only in localities embraced by the Authority or (ii) in adjacent localities but only to the extent that such extension is an insubstantial part of the project and is essential to the viability of the project within the localities embraced by the Authority.

2. Not less than 15 days prior to any decision by the Authority for the expenditure of funds pursuant to subdivision 1 for any project to create or improve any transportation facility, the Authority shall make the following publicly available: (i) the project evaluation pursuant to ~~§ 33.2-257~~ *subdivision 2 of § 33.2-2500*, (ii) the total amount of funds from the Authority to be used for the project, (iii) the total amount of funds from sources other than the Authority to be used for the project, and (iv) any other rating or scoring of other factors to be taken into account by the Authority related to each such transportation facility.

3. All transportation projects undertaken by the Authority shall be completed by private contractors accompanied by performance measurement standards, and all contracts shall contain a provision granting the Authority the option to terminate the contract if contractors do not meet such standards. Notwithstanding the foregoing, any locality may provide engineering services or right-of-way acquisition for any project with its own forces. The Authority shall avail itself of the strategies permitted under the Public-Private Transportation Act (§ 33.2-1800 et seq.) whenever feasible and advantageous. The Authority is independent of any state or local entity, including the Department and the Commonwealth Transportation Board, but the Authority, the Department, and the Commonwealth Transportation Board shall consult with one another to avoid duplication of efforts and, at the option of the Authority, may combine efforts to complete specific projects. Notwithstanding the foregoing, at the request of the Authority, the Department may provide the Authority with engineering services or right-of-way acquisition for the project with its own forces.

4. With regard to the revenues distributed under subdivision 1, each locality's total long-term benefit shall be approximately equal to the proportion of the total of the fees and taxes received by the Authority that are generated by or attributable to the locality divided by the total of such fees and taxes received by the Authority.

D. For road construction and improvements pursuant to subsection B, the Department may, on a reimbursement basis, provide the locality with planning, engineering, right-of-way, and construction services for projects funded in whole by the revenues provided to the locality by the Authority.

**2. That § 33.2-257 of the Code of Virginia is repealed.**

## CHAPTER 750

*An Act to amend and reenact §§ 46.2-324.1, 46.2-341.4, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:01, 46.2-341.14:1, 46.2-341.19, 46.2-341.22, 46.2-380, 46.2-382, 46.2-1700, and 46.2-1701.1 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 17 of Title 46.2 an article numbered 2, consisting of sections numbered 46.2-1708 through 46.2-1711, relating to commercial driver's licenses; entry-level driver training.*

[S 1481]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-324.1, 46.2-341.4, 46.2-341.10, 46.2-341.12, 46.2-341.14, 46.2-341.14:01, 46.2-341.14:1, 46.2-341.19, 46.2-341.22, 46.2-380, 46.2-382, 46.2-1700, and 46.2-1701.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 17 of Title 46.2 an article numbered 2, consisting of sections numbered 46.2-1708 through 46.2-1711, as follows:**

**§ 46.2-324.1. Requirements for initial licensure of certain applicants.**

A. No driver's license shall be issued to any applicant unless he either (i) provides written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or *the* Department of Education or (ii) has held a learner's permit issued by the Department for at least 60 days prior to his first behind-the-wheel examination by the Department when applying for a noncommercial driver's license.

The provisions of this section shall only apply to persons who are at least 18 years old and who either (a) have never held a driver's license issued by Virginia or any other state or territory of the United States or foreign country or (b) have never been licensed or held the license endorsement or classification required to operate the type of vehicle which they now propose to operate. Completion of a course of driver instruction approved by the Department or the Department of Education at a driver training school may include the final behind-the-wheel examination for a driver's license; however, a driver training school shall not administer the behind-the-wheel examination to any applicant who is under medical control pursuant to § 46.2-322. Applicants completing a course of driver instruction approved by the Department or the Department of Education at a driver training school retain the option of having the behind-the-wheel examination administered by the Department.

B. No commercial driver's license shall be issued to any applicant unless he (i) is 18 years old or older ~~and~~, (ii) has complied with the requirements of subsection A of § 46.2-341.9, (iii) *has completed both the theory and the behind-the-wheel portions of the training course within one year from the date instruction was first commenced, and (iv) has completed both the range and the public road portions of the behind-the-wheel curriculum with the same training provider.* Applicants for a commercial driver's license who have never before held a commercial driver's license shall apply for a commercial learner's permit ~~and either (i) provide written evidence of having satisfactorily completed a course of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or Department of Education~~ and hold the commercial learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license ~~or (ii) hold the commercial learner's permit for a minimum of 30 days before taking the behind-the-wheel examination for the commercial driver's license.~~

Holders of a commercial driver's license who have never held the license endorsement or classification required to operate the type of commercial motor vehicle which they now propose to operate must (a) *complete an entry-level driver training course applicable to the license, classification, or endorsement for the type of commercial motor vehicle they propose to operate* and (b) apply for a commercial learner's permit if the upgrade requires a skills test and hold the permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.

C. Nothing in this section shall be construed to prohibit the Department from requiring any person to complete the skills examination as prescribed in § 46.2-325 and the written or automated examinations as prescribed in § 46.2-335.

~~D. Notwithstanding the provisions of subsection B, applicants~~ *Applicants* for a commercial driver's license who have never before held a commercial driver's license who are members of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary and provide written evidence of having satisfactorily completed a military commercial driver training program shall hold the commercial learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license, *provided that the program complies with the requirements provided in Article 2 (§ 46.2-1708 et seq.) of Chapter 17, unless such entity is otherwise exempted from such requirements under federal law or regulation.*

~~E. Notwithstanding the provisions of subsection B, applicants for a commercial driver's license who have never before held a commercial driver's license who are employed by a public school division as a bus driver and provide written evidence of having satisfactorily completed a commercial driver training program with a public school division shall hold the commercial learner's permit for a minimum of 14 days prior to taking the behind-the-wheel examination for the commercial driver's license.~~

**§ 46.2-341.4. Definitions.**

The following definitions shall apply to *As used in this article*, unless a different meaning is clearly required by the context requires a different meaning:

"Air brake" means any braking system operating fully or partially on the air brake principle.

"Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a commercial driver's license or to obtain or renew a commercial learner's permit.

"Automatic transmission" means, for the purposes of the skills test and the restriction, any transmission other than a manual transmission.

"CDLIS driver record" means the electronic record of the individual commercial driver's status and history stored by the State of Record as part of the Commercial Driver's License Information System (CDLIS).

"Commercial driver's license" means any driver's license issued to a person in accordance with the provisions of this article, or if the license is issued by another state, any license issued to a person in accordance with the federal Commercial Motor Vehicle Safety Act, which authorizes such person to drive a commercial motor vehicle of the class and type and with the restrictions indicated on the license.

"Commercial driver's license information system" (~~or "CDLIS"~~) means the ~~CDLIS~~ *commercial driver's license information system* established by the Federal Motor Carrier Safety Administration pursuant to § 12007 of the Commercial Motor Vehicle Safety Act of 1986.

"Commercial learner's permit" means a permit issued to an individual in accordance with the provisions of this article or, if issued by another state, a permit issued in accordance with the standards contained in the Federal Motor Carrier Safety Regulations, which, when carried with a valid driver's license issued by the same state or jurisdiction, authorizes the individual to operate a class of commercial motor vehicle when accompanied by a holder of a valid commercial driver's license for purposes of behind-the-wheel training. When issued to a commercial driver's license holder, a commercial learner's permit serves as authorization for accompanied behind-the-wheel training in a commercial motor vehicle for which the holder's current commercial driver's license is not valid.

"Commercial motor vehicle" means, except for those vehicles specifically excluded in this definition, every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; ~~or~~ (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds; ~~or~~ (iii) is designed to transport 16 or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity.

The following ~~shall be~~ *are* excluded from the definition of commercial motor vehicle: ~~any~~

1. Any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities; ~~or any~~

2. Any vehicle ~~which that~~ (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and ~~which that~~ is used exclusively for farm use, as provided in §§ 46.2-649.3 and 46.2-698; (ii) is used to transport either agricultural products, farm machinery, or farm supplies to or from a farm; (iii) is not used in the operation of a common or contract motor carrier; and (iv) is used within 150 miles of the farmer's farm; ~~or any~~

3. Any vehicle operated for military purposes by ~~(a)~~ (i) active duty military personnel; ~~(b)~~ (ii) members of the military reserves; ~~(c)~~ (iii) members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians; and ~~(d)~~ (iv) active duty U.S. Coast Guard personnel; or ~~emergency~~

4. Emergency equipment operated by a member of a firefighting, rescue, or emergency entity in the performance of his official duties.

"Commercial Motor Vehicle Safety Act" means the federal Commercial Motor Vehicle Safety Act of 1986, Title XII of ~~Public Law~~ *P.L.* 99-570, as amended.

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bond, bail, or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs in lieu of trial, a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated, or, for the purposes of alcohol or drug-related offenses involving the operation of a motor vehicle, a civil or an administrative determination of a violation. For the purposes of this definition, an administrative determination ~~shall include~~ *includes* an unvacated certification or finding by an administrative or authorized law-enforcement official that a person has violated a provision of law.

"Disqualification" means a prohibition against driving, operating, or being in physical control of a commercial motor vehicle for a specified period of time, imposed by a court or a magistrate, or by an authorized administrative or law-enforcement official or body.

"Domicile" means a person's true, fixed, and permanent home and principal residence, to which he intends to return whenever he is absent.

"Employee" means a payroll employee or person employed under lease or contract, or a person who has applied for employment and whose employment is contingent upon obtaining a commercial driver's license.

"Employer" means a person who owns or leases commercial motor vehicles and assigns employees to drive such vehicles.

"Endorsement" means an authorization to an individual's commercial driver's license or commercial learner's permit required to permit the individual to operate certain types of commercial motor vehicles.

"Entry-level driver" means an individual who (i) must complete the commercial driver's license skills test requirements under FMCSA regulations prior to receiving a commercial driver's license for the first time, (ii) is upgrading to a Class A or Class B commercial driver's license for the first time, or (iii) is obtaining a hazardous materials, passenger, or school bus endorsement for the first time. This definition does not include individuals exempt from such requirements under 49 C.F.R. § 380.603.

"Entry-level driver training" means training an entry-level driver receives from an entity listed on the FMCSA's Training Provider Registry, as provided for in 49 C.F.R. § 380.700 et seq., prior to taking the (i) commercial driver's license skills test required to (a) receive a commercial driver's license for the first time, (b) receive the Class A or Class B commercial driver's license for the first time, (c) upgrade to a Class A or B commercial driver's license for the first time, or (d) obtain a passenger or school bus endorsement for the first time or (ii) commercial driver's license knowledge test required to obtain a hazardous materials endorsement for the first time.

"FMCSA" means the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation.

"Full air brake" means any braking system operating fully on the air brake principle.

"Gross combination weight rating" means the value specified by the manufacturers of an articulated vehicle or combination of vehicles as the maximum loaded weight of such vehicles. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross combination weight rating shall be the greater of (i) the gross vehicle weight rating of the power units of the combination vehicle plus the total weight of the towed units, including any loads thereon, or (ii) the gross weight at which the articulated vehicle or combination of vehicles is registered in its state of registration; however, the registered gross weight shall not be applicable for determining the classification of an articulated vehicle or combination of vehicles for purposes of skills testing pursuant to § 46.2-341.14 or 46.2-341.16.

"Gross vehicle weight rating" means the value specified by the manufacturer of the vehicle as the maximum loaded weight of a single vehicle. In the absence of such a value specified by the manufacturer, for law-enforcement purposes, the gross vehicle weight rating shall be the greater of (i) the actual gross weight of the vehicle, including any load thereon, or (ii) the gross weight at which the vehicle is registered in its state of registration; however, the registered gross weight of the vehicle shall not be applicable for determining the classification of a vehicle for purposes of skills testing pursuant to § 46.2-341.14 or 46.2-341.16.

"Hazardous materials" means materials designated to be hazardous in accordance with § 103 of the federal Hazardous Materials Transportation Act, ~~as amended, (49 U.S.C. § 5101 et seq.),~~ *as amended*, and which require placarding when transported by motor vehicle as provided in the federal Hazardous Materials Regulations (49 C.F.R. Part 172, Subpart F); it also includes any quantity of any material listed as a select agent or toxin in federal Public Health Service Regulations at 42 C.F.R. Part 73.

"Manual transmission," ~~(also known as a stick shift, stick, straight drive, or standard transmission),~~ means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gear-shift mechanism operated by either hand or foot.

~~"Non-commercial~~ "Noncommercial driver's license" means any other type of motor vehicle license, such as an automobile driver's license, a chauffeur's license, or a motorcycle license.

"Nondomiciled commercial learner's permit" or "nondomiciled commercial driver's license" means a commercial learner's permit or commercial driver's license, respectively, issued to a person in accordance with the provisions of this article or, if issued by another state, under either of the following two conditions: (i) to an individual domiciled in a foreign jurisdiction that does not test drivers and issue commercial driver's licenses in accordance with, or under standards similar to, the standards contained in subparts F, G, and H of Part 383 of the Federal Motor Carrier Safety Regulations or (ii) to an individual domiciled in another state while that state is prohibited from issuing commercial driver's licenses in accordance with decertification requirements of 49 C.F.R. § 384.405.

"Out-of-service order" or "out-of-service declaration" means an order by a judicial officer pursuant to § 46.2-341.26:2 or 46.2-341.26:3 or an order or declaration by an authorized law-enforcement officer under § 46.2-1001 or regulations promulgated pursuant to § 52-8.4 relating to Motor Carrier Safety, and including similar actions by authorized judicial officers or enforcement officers acting pursuant to similar laws of other states, the United States, the Canadian Provinces, Canada, Mexico, and localities within them, and also including actions by federal or other jurisdictions' officers pursuant to Federal Motor Carrier Safety Regulations, that a driver, a commercial motor vehicle, or a motor carrier is out of service. Such order or declaration as to a driver means that the driver is prohibited from operating a commercial motor vehicle for the duration of the out-of-service period. Such order or declaration as to a vehicle means that such vehicle cannot be operated until the hazardous condition that resulted in the order or declaration has been removed and the vehicle has been cleared for further operation. Such order or declaration as to a motor carrier means that no vehicle may be operated for or on behalf of such carrier until the out-of-service order or declaration has been lifted. For purposes of this article, the provisions of the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 397), including such regulations or any substantially similar regulations as may have been adopted by any state of the United States, the Provinces of Canada, Canada, Mexico, or any locality shall be considered laws similar to the laws of the Commonwealth referenced herein.

"Person" means a natural person, firm, partnership, association, corporation, or a governmental entity including a school board.

"Restriction" means a prohibition on a commercial driver's license or commercial learner's permit that prohibits the holder from operating certain commercial motor vehicles.

"Seasonal restricted commercial driver's license" means a commercial driver's license issued under the authority of the waiver promulgated by the federal Department of Transportation (49 C.F.R. § 383.3) by the Commonwealth or any other jurisdiction; to an individual who has not passed the knowledge or skills tests required of other commercial driver's license holders. This license authorizes operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a farm service business, within 150 miles of the place of business or the farm currently being served.

"State" means one of the 50 states of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons and an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 C.F.R. Part 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons as provided in 49 C.F.R. Part 383. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

"Third party examiner" means an individual who is an employee of a third party tester and who is certified by the Department to administer tests required for a commercial driver's license.

*"Third party instructor" means an individual who is an employee of a third party tester or a training provider and who (i) is authorized by the Department to provide entry-level driver training required for a commercial driver's license and (ii) meets the requirements for either a theory or behind-the-wheel instructor as defined in § 46.2-1700.*

"Third party tester" means a person (including another state, a motor carrier, a private institution, the military, a government entity, including each comprehensive community college in the Virginia Community College System established by the State Board for Community Colleges pursuant to Chapter 29 (§ 23.1-2900 et seq.) of Title 23.1, or a department, agency, or instrumentality of a local government) certified by the Department to employ third party examiners to administer a test program for testing commercial driver's license applicants in accordance with this article.

*"Training provider" means a person that provides entry-level driver training and that is (i) a Virginia licensed Class A driver training school or a Virginia certified third party tester and is listed on the federal Training Provider Registry or (ii) an entity that is otherwise licensed, certified, registered, or authorized to provide training in accordance with the laws of the Commonwealth or the applicable laws of another state and is listed on the federal Training Provider Registry.*

"VAMCSR" means the Virginia Motor Carrier Safety Regulations (19VAC30-20) adopted by the Department of State Police pursuant to § 52-8.4.

#### **§ 46.2-341.10. Special provisions relating to commercial learner's permit.**

A. The Department, upon receiving an application on forms prescribed by the Commissioner and upon the applicant's satisfactory completion of the vision and knowledge tests required for the class and type of commercial motor vehicle to be driven by the applicant may, in its discretion, issue to such applicant a commercial learner's permit. Such permit shall be valid for no more than ~~180 days~~ *one year* from the date of issuance. ~~The Department may renew the commercial learner's permit for an additional 180 days without requiring the commercial learner's permit holder to retake the general and endorsement knowledge tests. No additional renewals are permitted.~~ A commercial learner's permit shall entitle the applicant to drive a commercial motor vehicle of the class and type designated on the permit, but only when accompanied by a person licensed to drive the class and type of commercial motor vehicle driven by the applicant. The person accompanying the permit holder shall occupy the seat closest to the driver's seat for the purpose of giving instruction to the permit holder in driving the commercial motor vehicle.

B. No person shall be issued a commercial learner's permit unless he possesses a valid Virginia driver's license or has satisfied all the requirements necessary to obtain such a license.

C. A commercial learner's permit holder with a passenger (P) endorsement (i) must have taken and passed the P endorsement knowledge test and (ii) is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial learner's permit holder. The P endorsement must be class specific.

D. A commercial learner's permit holder with a school bus (S) endorsement (i) must have taken and passed the S endorsement knowledge test and (ii) is prohibited from operating a school bus with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial learner's permit holder. No person shall be issued a commercial learner's permit to drive school buses or to drive any commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the Virginia Department of Social Services during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

E. A commercial learner's permit holder with a tank vehicle (N) endorsement (i) must have taken and passed the N endorsement knowledge test and (ii) may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

F. The issuance of a commercial learner's permit is a precondition to the initial issuance of a commercial driver's license and to the upgrade of a commercial driver's license if the upgrade requires a skills test. The commercial learner's permit holder is not eligible to take the commercial driver's license skills test until he has held the permit for the required period of time specified in § 46.2-324.1.

G. Any commercial learner's permit holder who operates a commercial motor vehicle without being accompanied by a licensed driver as provided in this section is guilty of a Class 2 misdemeanor.

H. The Department shall charge a fee of \$3 for each commercial learner's permit issued under the provisions of this section.

**§ 46.2-341.12. Application for commercial driver's license or commercial learner's permit.**

A. *No entry-level driver shall be eligible to (i) apply for a Virginia Class A or Class B commercial driver's license for the first time, (ii) upgrade to a Class A or Class B commercial driver's license for the first time, or (iii) apply for a hazardous materials, passenger, or school bus endorsement for the first time, unless he has completed an entry-level driver training course related to the license, classification, or endorsement he is applying for and the training is provided by a training provider. An individual is not required to complete an entry-level driver training course related to the license, classification, or endorsement he is applying for if he is exempted from such requirements under 49 C.F.R. § 380.603.*

B. Every application to the Department for a commercial driver's license or commercial learner's permit shall be made upon a form approved and furnished by the Department, and the applicant shall write his usual signature in ink in the space provided. The applicant shall provide the following information:

1. Full legal name;
2. Current mailing and residential addresses;
3. Physical description including sex, height, weight, and eye and hair color;
4. Year, month, and date of birth;
5. Social security number;
6. Domicile or, if not domiciled in the Commonwealth, proof of status as a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary pursuant to 49 U.S.C. § 31311(a)(12); and

7. Any other information required on the application form.

The applicant's social security number shall be provided to the Commercial Driver's License Information System as required by 49 C.F.R. § 383.153.

~~B-~~ C. Every applicant for a commercial driver's license or commercial learner's permit shall also submit to the Department the following:

1. A consent to release driving record information;
2. Certifications that:
  - a. He either meets the federal qualification requirements of 49 C.F.R. Parts 383 and 391, or he is exempt from or is not subject to such federal requirements;
  - b. He either meets the state qualification requirements established pursuant to § 52-8.4, or he is exempt from or is not subject to such requirements;
  - c. The motor vehicle in which the applicant takes the skills test is representative of the class and, if applicable, the type of motor vehicle for which the applicant seeks to be licensed;
  - d. He is not subject to any disqualification, suspension, revocation or cancellation of his driving privileges;
  - e. He does not have more than one driver's license;
3. Other certifications required by the Department;
4. Any evidence required by the Department to establish proof of identity, citizenship or lawful permanent residency, domicile, and social security number notwithstanding the provisions of § 46.2-328.1 and pursuant to 49 C.F.R. Part 383;

5. A statement indicating whether (i) the applicant has previously been licensed to drive any type of motor vehicle during the previous 10 years and, if so, all states that licensed the applicant and the dates he was licensed, and (ii) whether or not he has ever been disqualified, or his license suspended, revoked or ~~cancelled~~ *canceled* and, if so, the date of and reason therefor; and

6. An unexpired employment authorization document (EAD) issued by the U.S. Citizenship and Immigration Services (USCIS) or an unexpired foreign passport accompanied by an approved Form I-94 documenting the applicant's most recent admittance into the United States for persons applying for a nondomiciled commercial driver's license or nondomiciled commercial learner's permit.

~~C-~~ D. Every application for a commercial driver's license shall include a photograph of the applicant supplied under arrangements made therefor by the Department in accordance with § 46.2-323.

~~D-~~ E. The Department shall disqualify any commercial driver for a period of one year when the records of the Department clearly show to the satisfaction of the Commissioner that such person has made a material false statement on any application or certification made for a commercial driver's license or commercial learner's permit. The Department shall take such action within 30 days after discovering such falsification.

~~E-~~ F. The Department shall review the driving record of any person who applies for a Virginia commercial driver's license or commercial learner's permit, for the renewal or reinstatement of such license or permit or for an additional commercial classification or endorsement, including the driving record from all jurisdictions where, during the previous

10 years, the applicant was licensed to drive any type of motor vehicle. Such review shall include checking the photograph on record whenever the applicant or holder appears in person to renew, upgrade, transfer, reinstate, or obtain a duplicate commercial driver's license or to renew, upgrade, reinstate, or obtain a duplicate commercial learner's permit. If appropriate, the Department shall incorporate information from such other jurisdictions' records into the applicant's Virginia driving record, and shall make a notation on the applicant's driving record confirming that such review has been completed and the date it was completed. The Department's review shall include (i) research through the Commercial Driver License Information System established pursuant to the Commercial Motor Vehicle Safety Act and the National Driver Register Problem Driver Pointer System in addition to the driver record maintained by the applicant's previous jurisdictions of licensure and (ii) requesting information from the Drug and Alcohol Clearinghouse in accordance with 49 C.F.R. § 382.725. This research shall be completed prior to the issuance, renewal, transfer, or reinstatement of a commercial driver's license or additional commercial classification or endorsement.

The Department shall verify the name, date of birth, and ~~Social Security~~ social security number provided by the applicant with the information on file with the Social Security Administration for initial issuance of a commercial learner's permit or transfer of a commercial driver's license from another state. The Department shall make a notation in the driver's record confirming that the necessary verification has been completed and noting the date it was done. The Department shall also make a notation confirming that proof of citizenship or lawful permanent residency has been presented and the date it was done.

~~F.~~ G. Every new applicant for a commercial driver's license or commercial learner's permit, including any person applying for a commercial driver's license or permit after revocation of his driving privileges, who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" on the record of the driver on the Commercial Driver's License Information System. Any new applicant for a commercial driver's license or commercial learner's permit who fails to comply with the requirements of this subsection shall be denied the issuance of a commercial driver's license or commercial learner's permit by the Department.

~~G.~~ H. Every existing holder of a commercial driver's license or commercial learner's permit who certifies that he will operate a commercial motor vehicle in non-excepted interstate or intrastate commerce shall provide the Department with an original or certified copy of a medical examiner's certificate prepared by a medical examiner as defined in 49 C.F.R. § 390.5. Upon receipt of an appropriate medical examiner's certificate, the Department shall post a certification status of "certified" and any other necessary information on the record of the driver on the Commercial Driver's License Information System. If an existing holder of a commercial driver's license fails to provide the Department with a medical certificate as required by this subsection, the Department shall post a certification status of "noncertified" on the record of the driver on the Commercial Driver's License Information System and initiate a downgrade of his commercial driver's license as defined in 49 C.F.R. § 383.5.

~~H.~~ I. Any person who provides a medical certificate to the Department pursuant to the requirements of subsections ~~F~~ and G and H shall keep the medical certificate information current and shall notify the Department of any change in the status of the medical certificate. If the Department determines that the medical certificate is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

~~I.~~ J. If the Department receives notice that the holder of a commercial driver's license has been issued a medical variance as defined in 49 C.F.R. § 390.5, the Department shall indicate the existence of such medical variance on the commercial driver's license document of the driver and on the record of the driver on the Commercial Driver's License Information System using the restriction code "V."

~~J.~~ K. Any holder of a commercial driver's license who has been issued a medical variance shall keep the medical variance information current and shall notify the Department of any change in the status of the medical variance. If the Department determines that the medical variance is no longer valid, the Department shall initiate a downgrade of the driver's commercial driver's license as defined in 49 C.F.R. § 383.5.

~~K.~~ L. Any applicant applying for a hazardous materials endorsement must comply with Transportation Security Administration requirements in 49 C.F.R. Part 1572. A lawful permanent resident of the United States requesting a hazardous materials endorsement must additionally provide his U.S. Citizenship and Immigration Services (USCIS) alien registration number.

#### **§ 46.2-341.14. Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.**

A. The Department shall conduct an examination of every applicant for a commercial driver's license, which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

*No skills test shall be conducted by the Department for a first-time applicant for a Class A or Class B commercial driver's license, a passenger endorsement, or a school bus endorsement, or knowledge test for a first-time applicant for a hazardous materials endorsement, until (i) the Department has verified that the applicant has completed the appropriate entry-level driver training course administered by a training provider required for that skills or knowledge test, if the applicant is so required, or (ii) the applicant has certified that he is exempted from such requirement under § 46.2-341.12.*

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

C. The Commissioner may designate such persons as he deems fit, including private or governmental entities, including comprehensive community colleges in the Virginia Community College System, to administer the knowledge and skills tests required of applicants for a commercial driver's license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such tests.

The Commissioner shall require all state and third party test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. All state and third party test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state and third party commercial driver's license test examiners.

The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.

The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.

D. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a copy of the vision examination report ~~which~~ *that* was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

E. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. All persons required to attend a driver training school, a comprehensive community college, or a comparable course pursuant to this section shall be required, after successful completion of necessary courses, to have the applicable examination administered by the Department.

Comprehensive community colleges offering courses pursuant to this section shall meet course curriculum requirements established and made available by the Department and be comparable to the curriculum offered by Class A licensed schools. A course curriculum meeting the established requirements shall be submitted to the Department and shall be approved by the Department prior to the beginning of course instruction.

The Department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the Department. The Department shall notify the affected schools and comprehensive community colleges if new relevant topics are added to the course curriculum. Schools and comprehensive community colleges shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the Department in a format prescribed by the Department that the school or comprehensive community college has added the new topics to the course curriculum.

The provisions of this subsection shall not apply to persons placed under medical control pursuant to § 46.2-322.

F. Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

G. Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

H. Skills tests may be administered to an applicant who has taken training in the Commonwealth at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education, and is to be licensed in another state. Such test results shall be electronically transmitted directly from the Commonwealth to the licensing state in an efficient and secure manner. The Department may charge a fee of not more than \$85 to any such applicant.

I. The Department shall accept the results of skills tests administered to applicants by any other state in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.

J. *The Department may administer skills performance evaluations in accordance with its agreement with the FMCSA. Notwithstanding the provisions of § 46.2-208, any medical information that is collected as part of the evaluation may be released to and inspected by the FMCSA.*

**§ 46.2-341.14:01. Military third party testers and military third party examiners; substitute for knowledge and driving skills tests for drivers with military commercial motor vehicle experience.**

A. Pursuant to § 46.2-341.14, the Commissioner shall permit military bases that have entered into an agreement with the Department to serve as third party testers in administering state knowledge and skills tests for issuing commercial driver's licenses. Military third party testers and military third party examiners shall comply with the requirements set forth in §§ 46.2-341.14:1 through 46.2-341.14:9 with respect to knowledge and skills tests.

B. Pursuant to 49 C.F.R. § 383.77, the Commissioner ~~may~~ shall waive the driving skills test *required by 49 C.F.R. § 383.23 and as specified in 49 C.F.R. § 383.113* for a commercial motor vehicle driver with military commercial motor vehicle experience who is currently licensed at the time of his application for a commercial driver's license and substitute an applicant's driving record in combination with certain driving experience for the skills test.

C. To obtain a skills test waiver, the following conditions and limitations must be met:

1. An applicant must certify that, during the two-year period immediately prior to applying for a commercial driver's license, he:

- a. Has not ~~had~~ *simultaneously held* more than one license except for a military license;
- b. Has not had any license suspended, revoked, canceled, or disqualified;
- c. Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this article;
- d. Has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in this article; and
- e. Has not had any conviction for a violation of military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic crash and has no record of a crash in which he was at fault; and

2. An applicant must provide evidence and certify that he:

- a. Is regularly employed or was regularly employed within the last ~~90 days~~ *year* or any other period authorized by the FMCSA in a military position requiring operation of a commercial motor vehicle;
- b. Was exempted from the commercial driver's license requirements in 49 C.F.R. § 383.3(c); and
- c. Was operating a vehicle representative of the commercial motor vehicle the driver applicant operates, or expects to operate, for at least the two years immediately preceding discharge from the military.

D. *The Commissioner shall waive the knowledge test for certain current or former military service members applying for a commercial learner's permit or commercial driver's license as permitted by 49 C.F.R. § 383.77, provided that such current or former military service member meets the conditions and limitations provided by 49 C.F.R. § 383.77.*

E. *The Commissioner shall waive the knowledge test and driving skills test for certain current or former military service members applying for certain endorsements as permitted by 49 C.F.R. § 383.77, provided that such current or former military service member meets the conditions and limitations provided by 49 C.F.R. § 383.77.*

**§ 46.2-341.14:1. Requirements for third party testers.**

A. Pursuant to § 46.2-341.14, third party testers will be authorized to issue skills test certificates, which will be accepted by the Department as evidence of satisfaction of the skills test component of the commercial driver's license examination. Authority to issue skills test certificates will be granted only to third party testers certified by the Department.

B. To qualify for certification, a third party tester shall:

1. Make application to and enter into an agreement with the Department as provided in § 46.2-341.14:3;
2. Maintain a place of business in the Commonwealth;
3. Have at least one certified third party examiner in his employ;
4. Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ 46.2-341.14:2 and 46.2-341.14:7;

5. Permit the Department and the FMCSA of the U.S. Department of Transportation to conduct random examinations, inspections, and audits of its records, facilities, and operations that relate to the third party testing program without prior notice;

6. Maintain at the principal place of business a copy of the state certificate authorizing the third party tester to administer a commercial driver's license testing program and current third party agreement;

7. Maintain at a location in the Commonwealth, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether the driver passes or fails the test. Each such record shall include:

- a. The complete name of the driver;
- b. The driver's ~~Social Security~~ *social security* number or other driver's license number and the name of the state or jurisdiction that issued the license held by the driver at the time of the test;
- c. The date the driver took the skills test;
- d. The test score sheet or sheets showing the results of the skills test and a copy of the skills test certificate, if issued;

e. The name and certification number of the third party examiner conducting the skills test;  
 f. Evidence of the driver's employment with the third party tester at the time the test was taken. If the third party tester is a school board that tests drivers who are trained but not employed by the school board, evidence that (i) the driver was employed by a school board at the time of the test and (ii) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide; and

g. Notwithstanding the provisions of subdivision f, evidence of the student's enrollment in a commercial driver training course offered by a community college at the time the test was taken if the third party tester is a comprehensive community college in the Virginia Community College System.

8. Maintain at a location in the Commonwealth a record of each third party examiner in the employ of the third party tester. Each record shall include:

- a. Name and ~~Social Security~~ social security number;
- b. Evidence of the third party examiner's certification by the Department;
- c. A copy of the third party examiner's current training and driving record, which must be updated annually;
- d. Evidence that the third party examiner is an employee of the third party tester; and
- e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction issued by the Department of Education;

9. Retain the records required in subdivision 8 for at least two years after the third party examiner leaves the employ of the third party tester;

10. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of §§ 46.2-341.14:8 and 46.2-341.14:9 and the instructions provided by the Department;

11. Maintain compliance with all applicable provisions of this article and the third party tester agreement executed pursuant to § 46.2-341.14:3; and

12. Maintain a copy of the third party tester's road test route or routes approved by the Department.

C. In addition to the requirements listed in subsection B, all third party testers who are not governmental entities, including a comprehensive community college in the Virginia Community College System, shall:

1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in the Commonwealth for a minimum of one year;

2. Employ at least 75 drivers of commercial motor vehicles licensed in the Commonwealth, during the 12-month period preceding the application, including part-time and seasonal drivers. This requirement may be waived by the Department pursuant to § 46.2-341.14:10;

3. If subject to the FMCSA regulations and rated by the U.S. Department of Transportation, maintain a rating of "satisfactory";

4. Comply with the Virginia Motor Carrier Safety Regulations; and

5. Initiate and maintain a bond in the amount of \$5,000 to pay for retesting drivers in the event that the ~~third party~~ *third party* tester or one or more of its examiners are involved in fraudulent activities related to conducting knowledge or skills testing for applicants.

*D. Certified third party testers are authorized to provide entry-level driver training to individuals in their employ or applicants for employment. If a certified third party tester elects to provide entry-level driver training, the third party tester shall (i) employ and utilize third party instructors, as defined in § 46.2-341.4, to provide all training and instruction to entry-level driver trainees; (ii) develop an entry-level driver training curriculum that complies with requirements prescribed by the Department and submit such curriculum to the Department for approval; (iii) upon notification by the Department that curriculum requirements have been updated, certify, in a format prescribed by the Department, that the third party tester has added the new topics to the course curriculum; and (iv) comply with the requirements provided in §§ 46.2-1708 through 46.2-1710. Notwithstanding the provisions of § 46.2-1708, no third party tester or third party instructor shall be required to be licensed by the Department. A certified third party tester may not provide entry-level driver training to driver trainees until such tester has been issued a unique training provider number and appears on the federal Training Provider Registry.*

**§ 46.2-341.19. Controlled substance felony; disqualification.**

A. No person shall use a commercial motor vehicle in the commission of any felony involving manufacturing, distributing, or dispensing a controlled substance or possession with intent to manufacture, distribute, or dispense such controlled substance. *No person who holds a commercial learner's permit or commercial driver's license shall use a noncommercial motor vehicle in the commission of any felony involving manufacturing, distributing, or dispensing a controlled substance or possession with intent to manufacture, distribute, or dispense such controlled substance.* For the purpose of this section, a controlled substance ~~shall be~~ is defined as provided in § 102(6) of the federal Controlled Substances Act (21 U.S.C. § 802(6)) and includes all substances listed on Schedules I through V of 21 C.F.R. Part 1308 as they may be revised from time to time.

B. Violation of this section shall constitute a separate and distinct offense and any person violating this section ~~shall be~~ is guilty of a Class 1 misdemeanor. Punishment for a violation of this section shall be separate and apart from any punishment received from the commission of the primary felony.

C. The Commissioner shall, upon receiving a record of a conviction of a violation of this section, disqualify for life any person who is convicted of such violation.

**§ 46.2-341.22. Requirements upon disqualification.**

Any person who has been disqualified pursuant to any provision of this ~~Act~~ *article* shall be subject to the provisions of §§ 46.2-370 and 46.2-414, and shall be required to comply with the provisions of §§ 46.2-370 and 46.2-411 as conditions to the reinstatement of his privilege to drive a commercial motor vehicle.

Any person who has been disqualified pursuant to the provisions of § 46.2-341.18 ~~or § 46.2-341.19~~ shall be required as further conditions to reinstatement of his privilege to operate a commercial motor vehicle, to (i) apply for such license; (ii) pass the knowledge and skills tests required for the class and type of commercial motor vehicle for which he seeks to be licensed; and (iii) satisfy all other applicable licensing requirements, including the payment of licensing fees, imposed by the laws of the Commonwealth.

The provisions of this section shall not apply to out-of-service orders issued pursuant to §§ 46.2-341.26:2 and 46.2-341.26:3.

**§ 46.2-380. Reports made under certain sections open to inspection by certain persons; copies; maintenance of reports and photographs for three-year period.**

A. Any report of an accident made pursuant to § 46.2-372, 46.2-373, 46.2-375, or 46.2-377 shall be maintained by the Department in either hard copy or electronic form for a period of at least 36 months from the date of the accident and shall be open to the inspection of (i) any person involved or injured in the accident or as a result thereof, or his attorney ~~or~~ (ii) any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or to which the person has applied for issuance or renewal of a policy of automobile insurance, *or (iii) the FMCSA or any authorized agent thereof.* The Commissioner shall, on written request ~~of the person or attorney or any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or to which the person has applied for issuance or renewal of a policy of automobile insurance,~~ furnish a copy of the report, in either hard copy or electronic form, at the expense of the ~~person, attorney, or representative requester.~~ Any such report shall also be open to inspection by the personal representative of any person injured or killed in the accident, including his guardian, conservator, executor, committee, next of kin as defined in § 54.1-2800, or administrator, or, if the person injured or killed is under 18 years of age, his parent or guardian. The Commissioner shall only be required to furnish under this section copies of reports required by the provisions of this article to be made directly to the Commissioner. The Commissioner may set a reasonable fee for furnishing a copy of any report, provide to whom payment shall be made, and establish a procedure for payment.

B. The Commissioner or Superintendent of State Police having a copy of any photograph taken by a law-enforcement officer relating to a nonfatal accident; shall maintain the negatives for *or an electronic record of* such photographs in their records for at least 36 months from the date of the accident.

**§ 46.2-382. Courts to keep full records of certain cases.**

Every general district court or circuit court or the clerk thereof shall keep a full record of every case in which:

1. A person is charged with (i) a violation of any law of the Commonwealth pertaining to the operator or operation of a motor vehicle *or commercial motor vehicle*; (ii) a violation of any ordinance of any county, city, or town pertaining to the operator or operation of any motor vehicles, except parking regulations; (iii) any theft of a motor vehicle or unauthorized use thereof or theft of any part attached to it; ~~or~~ (iv) a violation of § 18.2-36.2, subsection B of § 29.1-738, or § 29.1-738.02, 29.1-738.2, or 29.1-738.4; *or (v) a violation or offense involving the use of a motor vehicle or commercial motor vehicle by a person holding a commercial learner's permit or commercial driver's license in the commission of any felony involving manufacturing, distributing, or dispensing a controlled substance or possession with intent to manufacture, distribute, or dispense such controlled substance;*

2. A person is charged with manslaughter or any other felony in the commission of which a motor vehicle was used; or

3. There is rendered a judgment for damages, the rendering and nonpayment of which under the terms of this title require the Commissioner to suspend the driver's license and registration in the name of the judgment debtor.

*Article 1.*

*Driver Training Schools, Generally.*

**§ 46.2-1700. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"*Behind-the-wheel instructor*" means an individual who meets the requirements for licensure under § 46.2-1708 and is employed by a training provider who provides behind-the-wheel training involving the actual operation of a commercial motor vehicle by an entry-level driver on a range or a public road.

"*Behind-the-wheel training*" means training provided by a licensed behind-the-wheel instructor when an entry-level driver has actual control of the power unit during a driving lesson conducted on a range or on a public road. "*Behind-the-wheel training*" does not include time an entry-level driver spends observing the operation of a commercial motor vehicle when he is not in control of the vehicle.

"Class A licensee" means a driver training school that provides training in the operation of commercial motor vehicles as defined in § 46.2-341.4.

"Class B licensee" means a driver training school that provides training in the operation of any type of motor vehicle other than motorcycles and commercial motor vehicles as defined in § 46.2-341.4.

"Computer-based driver education course" means the classroom portion of driver education offered by a computer-based driver education provider through the Internet or other electronic means approved by the Department whose content and quality is comparable to that of courses offered in the Commonwealth's public schools.

"Computer-based driver education provider" means a driver training school licensed by the Department in accordance with this chapter to conduct computer-based driver education courses.

"Driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services. "Driver training school" or "school" does not mean any institution of higher education, school established pursuant to § 46.2-1314, school maintained or classes conducted by employers for their own employees where no fee or tuition is charged, schools or classes owned and operated by or under the authority of bona fide religious institutions, or by the Commonwealth or any political subdivision thereof, training programs for school bus operators established pursuant to § 22.1-181, driver education programs established pursuant to § 22.1-205, or schools accredited by accrediting associations approved by the Department of Education; however, if any such entity or program excluded from the definition of "driver training school" offers driver education and training through a contractual arrangement with another person for consideration, then that other person shall be considered a driver training school subject to the requirements of this chapter.

*"Entry-level driver" means the same as defined in § 46.2-341.4.*

*"Entry-level driver training" means the same as defined in § 46.2-341.4.*

*"FMCSA" means the same as defined in § 46.2-341.4.*

"Instructor" means any person, whether acting for himself as operator of a driver training school or for such school for compensation, who teaches, conducts classes, gives demonstrations, or supervises persons learning to operate or drive a motor vehicle.

*"Key information" means the training provider name, address, phone number, type or types of training offered, training provider status, and any change in state licensure, certification, or accreditation status.*

*"Range" means an area that is free of obstructions, enables the driver to maneuver safely and free from interference from other vehicles and hazards, and has adequate sight lines.*

*"Theory instruction" means knowledge instruction on the operation of a commercial motor vehicle and related matters provided by a licensed theory instructor through lectures, demonstrations, audio-visual presentations, computer-based instruction, driving simulation devices, online training, or similar means.*

*"Theory instructor" means an individual who meets the requirements for licensure under § 46.2-1708 and is employed by a training provider and who provides knowledge instruction on the operation of a commercial motor vehicle.*

*"Training provider" means the same as defined in § 46.2-341.4.*

#### **§ 46.2-1701.1. Bond of applicants.**

The applicant shall file a surety bond in the amount of \$100,000 for a Class A licensee and \$5,000 for a Class B licensee. The bond shall be payable to the Commonwealth of Virginia and conditioned to protect the contractual rights of students. The bonding requirement for a Class A license may be reduced, at the discretion of the Department, on a showing by the school that no course of study for which tuition is collected lasts longer than thirty days or that the school collects no advance tuition other than equal monthly installments based on the length of the course of study. The minimum bond for any school shall be \$5,000. *The Department may collect against this bond in the case that the driver training school violates applicable state or federal law or regulation.*

### Article 2.

#### Entry-Level Driver Training Providers.

#### **§ 46.2-1708. Licenses required for school and instructors.**

A. *If a Class A driver training school elects to provide entry-level driver training to driver trainees, that Class A driver training school shall not provide such training until it has (i) been licensed to provide training in the Commonwealth pursuant to this section; (ii) electronically transmitted an Entry-Level Driver Training Provider Registration Form through the federal Training Provider Registry website, maintained by FMCSA, which attests under the penalty of perjury that the training provider meets all of the applicable requirements under 49 C.F.R. § 380.703 for every campus or training location to obtain a unique Training Provider Registry number; and (iii) provided the Commissioner with its unique Training Provider Registry number issued by FMCSA pursuant to 49 C.F.R. § 380.703 in a form prescribed by the Department.*

B. *If a Class A driver training school elects to provide entry-level driver training, upon application for a Class A license by such driver training school the applicant driver training school shall also provide evidence that:*

*1. The curriculum used for theory instruction and behind-the-wheel training complies with the curriculum requirements prescribed by the Department;*

*2. The facilities used for entry-level driver training for both theory instruction and behind-the-wheel training comply with all federal and state safety requirements;*

*3. The instructors employed by the applicant driver training school are licensed under this section;*

*4. The applicant driver training school (i) uses written assessments that comply with the requirements prescribed by the Department to determine the driver trainee's proficiency in the knowledge objectives of each unit of instruction in the curriculum and (ii) requires driver trainees to achieve an overall minimum score of 80 percent for passage of the theory instruction portion of the course; and*

5. The applicant driver training school instructors evaluate and document the driver trainee's proficiency in the behind-the-wheel skills in accordance with the curriculum requirements prescribed by the Department.

C. The Commissioner shall not license a behind-the-wheel instructor or theory instructor unless the applicant provides evidence that his commercial driver's license has not been disqualified, canceled, suspended, or revoked due to any of the disqualifying offenses identified in 49 C.F.R. § 383.51, unless his commercial driver's license was reinstated more than two years prior to the application date, and that he either:

1. Currently holds a commercial driver's license of the same class or higher with all endorsements necessary to operate the commercial motor vehicle for which training will be provided and has at least two years of experience driving a commercial motor vehicle requiring a commercial driver's license of the same or higher class or the same endorsement; or

2. Currently holds a commercial driver's license of the same class or higher with all endorsements necessary to operate the commercial motor vehicle for which training will be provided, and has at least two years of experience as a behind-the-wheel commercial motor vehicle instructor.

D. The Commissioner may issue an order suspending, revoking, cancelling, or denying renewal of a training provider's license, certification, or authorization to provide training effective immediately if the order is based upon the removal of the school from the federal Training Provider Registry pursuant to 49 C.F.R. § 380.723. Notice of such order shall be in writing and mailed to the training provider by registered mail to the address as shown on the training provider's most recent application and shall be considered served when mailed. Upon receipt of a request for a hearing appealing such order, the training provider shall be afforded the opportunity for a hearing as soon as practicable, but in no case later than 30 days from receipt of the hearing request. The order shall remain in effect pending the outcome of the hearing.

**§ 46.2-1709. Business and equipment requirements.**

A. A training provider shall:

1. Permit the Department and FMCSA to conduct random examinations, inspections, and audits of its records, facilities, and operations that relate to the entry-level driver training program without prior notice;

2. Use vehicles that comply with all federal and state safety requirements and are in the same group and type that the driver trainees intend to operate for the commercial driver's license skills test;

3. Require all driver trainees to certify that they will comply with state and federal laws and regulations and local laws related to alcohol and controlled substances testing, age requirements for driving commercial vehicles, medical certifications, licensing, and driver records;

4. Verify that all accepted behind-the-wheel applicants hold a valid commercial learner's permit or commercial driver's license;

5. Electronically transmit, by midnight of the second business day after the driver trainee completes the training, the driver trainee's certification information through the federal Training Provider Registry website including:

a. Driver-trainee name, license or permit number, and state of licensure;

b. Type of class or endorsement training the driver trainee completed;

c. Total number of clock hours the driver trainee spent to complete the behind-the-wheel training, if applicable;

d. Name of the training provider and its unique Training Provider Registry number; and

e. Date or dates of successful training completion.

6. Update the Entry-Level Driver Training Provider Registration Form once every two years;

7. Electronically report to FMCSA changes to key information on the Entry-Level Driver Training Provider Registration Form within 30 days of such changes;

8. Maintain documentation of the school's licensure, registration, certification or authorization to provide training in Virginia;

9. Ensure that all records specified in § 46.2-1710 are available to FMCSA or its authorized representative, upon request, and provide such records to FMCSA within 48 hours of such request; and

10. Administer both the range and public road portion of the behind-the-wheel curriculum.

B. If a training provider receives notice of proposed removal from FMCSA pursuant to 49 C.F.R. § 380.723, the training provider shall (i) notify all current driver trainees and driver trainees scheduled for future training of such receipt and (ii) provide a copy of the notice to the Department within one business day of receiving such notice.

C. If a training provider is removed from the federal Training Provider Registry by FMCSA pursuant to 49 C.F.R. § 380.723, such training provider shall (i) cease providing entry-level driver training upon receipt and in accordance with FMCSA guidance and (ii) provide the Department with a copy of the notice of proposed removal within one business day of receipt. No training conducted after the date of removal from the federal Training Provider Registry shall be considered valid.

**§ 46.2-1710. Records to be maintained.**

Each training provider shall retain, in addition to any other records that entity is required to retain by Virginia law or regulation, the following records:

1. Self-certifications by all accepted applicants for behind-the-wheel training attesting that they will comply with state and federal laws and regulations and local laws related to alcohol and controlled substances testing, age requirements for driving commercial vehicles, medical certifications, licensing, and driver records, as required by subdivision A 3 of § 46.2-1709;

2. A copy of all driver trainee commercial learner's permits or commercial driver's licenses;

3. Instructor qualification documentation indicating driving or training experience for each instructor and copies of commercial driver's licenses and applicable endorsements held by behind-the-wheel instructors or theory instructors;

4. The Training Provider Registration Form submitted to the federal Training Provider Registry pursuant to 49 C.F.R. § 380.703;

5. Lesson plans for theory instruction and behind-the-wheel training curricula; and

6. Records of individual entry-level driver training assessments completed pursuant to 49 C.F.R. § 380.715.

Such records shall be maintained for at least three years from the date the record was generated or received by the training provider. If any document or record has expired or been canceled, the most recent, valid record shall be maintained.

**§ 46.2-1711. Government entities authorized to provide entry-level driver training.**

Any government entity, including the military, any comprehensive community college in the Virginia Community College System established by the State Board for Community Colleges pursuant to Chapter 29 (§ 23.1-2900 et seq.) of Title 23.1, or any department, agency, or instrumentality of a local government, is authorized to provide entry-level driving training to driver trainees, provided that such government entity complies with the requirements of this article. Notwithstanding the provisions of § 46.2-1708, no government entity or trainer employed by a government entity will be required to be licensed by the Department to provide entry-level driver training.

**2. That the provision in § 46.2-341.12 relating to the Drug and Alcohol Clearinghouse shall become effective the later of February 6, 2020, or at such time as the Federal Motor Carrier Safety Administration makes the Drug and Alcohol Clearinghouse available to the Department of Motor Vehicles, as certified by the Secretary of Transportation.**

**3. That the provisions of §§ 46.2-324.1, 46.2-341.4, 46.2-341.12 relating to eligibility for application to the Department for a Class A or Class B commercial driver's license or a school bus, passenger, or hazardous materials endorsement, 46.2-341.14, 46.2-341.14:1, 46.2-1700, 46.2-1708, 46.2-1709, 46.2-1710, and 46.2-1711 shall become effective the later of February 7, 2020, or at such time as the Federal Motor Carrier Safety Administration has made available to the Department of Motor Vehicles the information necessary to comply with such provisions through the Commercial Driver's License Information System, as certified by the Secretary of Transportation.**

## CHAPTER 751

*An Act to amend and reenact § 46.2-1573 of the Code of Virginia, relating to the Department of Motor Vehicles hearings; motor vehicle dealers.*

[S 1499]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1573 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1573. Hearings and other remedies; civil penalties.**

A. In every case of a hearing before the Commissioner authorized under this article, the Commissioner shall give reasonable notice of each hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2. In every case of a hearing before the Commissioner authorized under this article based on a request or petition of a motor vehicle dealer, the manufacturer, factory branch, distributor, or distributor branch shall have the burden of proving by a preponderance of the evidence that the manufacturer, factory branch, distributor, or distributor branch has good cause to take the action or actions for which the dealer has filed the petition for a hearing or that such actions are reasonable if required under the relevant provision.

B. The hearing process before the Commissioner under this article shall commence within 90 days of the request for a hearing by prehearing conference between the hearing officer and the parties in person, by telephone, or by other electronic means designated by the Commissioner. The hearing officer will set the hearing on a date or dates consistent with the rights of due process of the parties. The Commissioner's decision shall be rendered within 60 days from the receipt of the hearing officer's recommendation. Hearings authorized under this article shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court of Virginia within 60 days following the request for a hearing. Reasonable efforts shall be made to ensure that a hearing officer shall have at least five years of experience as a hearing officer in administrative hearings in the Commonwealth, shall have telephone and email capability, and shall be an active member of the Virginia State Bar. On request of the Commissioner, the Executive Secretary will name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. The hearing officer shall provide recommendations to the Commissioner within 90 days of the conclusion of the hearing.

C. Notwithstanding any contrary provision of this article, the Commissioner shall initiate investigations, conduct hearings, and determine the rights of parties under this article whenever he is provided information by the Motor Vehicle Dealer Board or any other person indicating a possible violation of any provision of this article. *The Commissioner shall issue a response to the Motor Vehicle Dealer Board or person reporting the alleged violation and any other party to the investigation providing an explanation of action taken under this section and the reason for such action.*

D. For purposes of any matter brought to the Commissioner under subdivisions 3, 4, 5, 6 and 7b of § 46.2-1569 with respect to which the Commissioner is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the Commissioner shall consider:

1. The volume of the affected dealer's business in the relevant market area;
2. The nature and extent of the dealer's investment in its business;
3. The adequacy of the dealer's capitalization to the franchisor's standards and the adequacy of the dealer's facilities, equipment, parts, supplies, and personnel;
4. The effect of the proposed action on the community;
5. The extent and quality of the dealer's service under motor vehicle warranties;
6. The dealer's performance under the terms of its franchise;
7. Other economic and geographical factors reasonably associated with the proposed action; and
8. The recommendations, if any, from a three-member panel composed of members of the Board who are franchised dealers not of the same line-make involved in the hearing and who are appointed to the panel by the Commissioner.

E. An interested party in a hearing held pursuant to subsection A of this section shall comply with the effective date of compliance established by the Commissioner in his decision in such hearing, unless a stay or extension of such date is granted by the Commissioner or the Commissioner's decision is under judicial review and appeal as provided in subsection A of this section. If, after notice to such interested party and an opportunity to comment, the Commissioner finds an interested party has not complied with his decision by the designated date of compliance, unless a stay or extension of such date has been granted by the Commissioner or the Commissioner's decision is under judicial review and appeal, the Commissioner may assess such interested party a civil penalty not to exceed \$1,000 per day of noncompliance. Civil penalties collected under this subsection shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524.

F. During the hearing process, parties may obtain documents and materials by discovery pursuant to Rules 4:9 and 4:9A of the Supreme Court of Virginia. The parties shall exchange reports of experts, which shall meet the standard of Rule 4:1 of the Supreme Court of Virginia, at times to be established by the hearing officer. The parties may utilize any other form of discovery provided under the Rules of Supreme Court of Virginia if allowed by the hearing officer based on good cause shown. For discovery permitted under the Rules of Supreme Court of Virginia, a party may object to the discovery sought or seek to limit the discovery sought on any grounds permitted by the Rules or applicable law.

**2. That the Commissioner of the Department of Motor Vehicles shall report to the Chairmen of the House and Senate Committees on Transportation by December 1, 2019, and December 1, 2020, as to the volume and nature of the alleged violations received by the Department and the resulting actions taken by the Commissioner as contemplated in subsection C of § 46.2-1573 of the Code of Virginia, as amended by this act.**

## CHAPTER 752

*An Act to amend and reenact § 59.1-207.8 of the Code of Virginia, relating to agricultural equipment; time frame for reporting nonconformities.*

[S 1513]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-207.8 of the Code of Virginia is amended and reenacted as follows:**

**§ 59.1-207.8. Protection against defective agricultural equipment; applicability of chapter.**

A. If agricultural equipment does not conform to all applicable express written warranties, and the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of such express written warranties or during the period of one year following the date of original delivery of the equipment to the first consumer, whichever is the ~~earlier~~ later date, the manufacturer, its agent, or its authorized dealers shall make such repairs as are necessary to conform the equipment to such express written warranties, notwithstanding the fact that such repairs are made after the expiration of such term or such one-year period.

B. If the manufacturer or its authorized dealers do not conform the equipment to any applicable express written warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the equipment to the consumer after a reasonable number of attempts, the manufacturer or its authorized dealer shall replace the equipment with comparable equipment acceptable to the consumer, charging the consumer only a reasonable allowance for the consumer's prior use of the equipment, or accept the return of the equipment from the consumer and refund to the consumer the cash purchase price, including sales tax, license fees, registration fees, and any similar governmental charges, less such a reasonable allowance for prior use. Refunds shall be made to the consumer and lien holder or holder of a security interest, if any, as their interests may appear.

The reasonable allowance for prior use, which shall be no less than the fair rental value of the equipment, shall be the sum of (i) that amount attributable to use by the consumer or others prior to the consumer's first report of the nonconformity to the manufacturer or its authorized dealers, (ii) that amount attributable to use by the consumer or others during any period subsequent to such report when the vehicle is not out of service by reason of repair of the reported nonconformity, and

(iii) that amount attributable to use by the consumer of equipment provided by the manufacturer or its authorized dealers while the equipment is out of service by reason of repair of the reported nonconformity.

C. For purposes of this chapter, it shall be presumed that a reasonable number of attempts have been undertaken to conform equipment to the applicable express written warranties if, within the express written warranty term or during the period of one year following the date of the original delivery of the equipment to the first consumer, whichever is the ~~earlier~~ *later* date, (i) the same nonconformity has been subject to repair four or more times by the manufacturer or its authorized dealers, but such nonconformity continues to exist or (ii) the equipment is out of service by reason of repair for a cumulative total of ~~thirty~~ *30* or more calendar days. However, those days shall not be counted when the consumer has been provided by the manufacturer or its authorized dealers with the use of other equipment which performs the same function or has been offered the use of such equipment.

The term of an express written warranty, such one-year period, and such ~~thirty-day~~ *30-day* period shall be extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood, or other natural disasters.

D. In no event shall the presumption provided in this section apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer and been offered an opportunity to cure the alleged defect. If the address of the manufacturer is not readily available to the consumer, such written notification shall be mailed to an authorized dealer. The authorized dealer shall upon receipt forward such notification to the manufacturer.

E. It shall be an affirmative defense to any claim under this chapter that (i) an alleged nonconformity does not substantially impair such use and market value or (ii) a nonconformity is the result of abuse or neglect, or of modifications or alterations of the equipment not authorized by the manufacturer.

F. Any action brought under this chapter shall be commenced within six months following (i) expiration of the express written warranty term, or (ii) ~~eighteen~~ *18* months following the date of the original delivery of the equipment to the consumer, whichever is the later date.

G. This chapter shall apply to agricultural equipment sold after January 1, 1985.

H. Nothing in this chapter shall in any way limit or impair the rights or remedies which are otherwise available to a consumer under any other law.

I. Any consumer who suffers a loss by reason of a violation of any provision of this chapter may bring a civil action to enforce such provision.

## CHAPTER 753

*An Act to amend and reenact § 15.2-958.3 of the Code of Virginia, relating to C-PACE loans; resiliency improvements.*

[S 1559]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 15.2-958.3 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 15.2-958.3. Financing clean energy and resiliency programs.**

A. Any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy *or resiliency* improvements with free and willing property owners of both existing properties and new construction. Such an ordinance shall include but not be limited to the following:

1. The kinds of renewable energy production and distribution facilities, energy usage efficiency improvements, *resiliency improvements*, or water usage efficiency improvements for which loans may be offered. *Resiliency improvements may include mitigation of flooding or the impacts of flooding or stormwater management improvements with a preference for natural or nature-based features and living shorelines as defined in § 28.2-104.1;*

2. The proposed arrangement for such loan program, including (i) a statement concerning the source of funding that will be used to pay for work performed pursuant to the contracts; (ii) the interest rate and time period during which contracting property owners would repay the loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality;

3. (i) A minimum and maximum aggregate dollar amount ~~which~~ *that* may be financed *with respect to a property and (ii) if a locality or other public body is originating the loan, a maximum aggregate dollar amount that may be financed with respect to loans originated by the locality or other public body;*

4. ~~A~~ *In the case of a loan program described in clause (ii) of subdivision 3, a method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;*

5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a third party for professional services to administer such loan program;

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as (i) a program application fee

paid by the property owner requesting to participate in the program, (ii) a component of the interest rate on the assessment in the written contract between the locality and the property owner, or (iii) a combination of *clauses* (i) and (ii); and

7. A draft contract specifying the terms and conditions proposed by the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. The locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

D. In order to secure the loan authorized pursuant to this section, the locality shall be authorized to place a voluntary special assessment lien equal in value to the loan against any property where such clean energy systems *or resiliency improvements* are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans.

E. A voluntary special assessment lien on real property other than a residential dwelling with fewer than five dwelling units or a condominium project as defined in § 55-79.2:

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of trust lien on the property and recorded with the special assessment lien in the land records where the property is located, and (ii) evidence that the property owner is current on payments on loans secured by a mortgage or deed of trust lien on the property and on property tax payments, that the property owner is not insolvent or in bankruptcy proceedings, and that the title of the ~~benefited~~ benefited property is not in dispute is submitted to the locality prior to recording of the special assessment lien;

2. Shall run with the land, and that portion of the assessment under the assessment contract that has not yet become due is not eliminated by foreclosure of a property tax lien;

3. May be enforceable by the local government in the same manner that a property tax lien against real property may be enforced by the local government. A local government shall be entitled to recover costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment in the same manner as in a suit to collect a delinquent property tax; and

4. May incur interest and penalties for delinquent installments of the assessment in the same manner as delinquent property taxes.

F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at which interested persons may object to or inquire about the proposed loan program or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

## CHAPTER 754

*An Act to amend the Code of Virginia by adding in Article 3 of Chapter 32 of Title 58.1 a section numbered 58.1-3228.1, relating to partial exemption from real property taxes for flood mitigation efforts.*

[S 1588]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 3 of Chapter 32 of Title 58.1 a section numbered 58.1-3228.1 as follows:**

**§ 58.1-3228.1. *Partial exemption from real property taxes for flood mitigation efforts.***

*A. As used in this section, unless the context requires a different meaning:*

*"Impervious area" means any man-made area that significantly impedes or prevents natural infiltration of water into the soil, including roofs, buildings, streets, driveways, parking areas, and any concrete, asphalt, or compacted gravel surface.*

*"Living shoreline" has the same meaning as provided in § 28.2-104.1.*

*"Qualifying flood improvements" means flooding abatement, mitigation, or resiliency improvements that do not increase the size of any impervious area and are made either to qualifying structures or to land. For improvements made to land, the improvements must be made primarily for the benefit of one or more qualifying structures.*

*"Qualifying structure" means a structure that was completed prior to July 1, 2018, or a structure that was completed more than 10 years prior to the completion of the qualifying flood improvements.*

*B. The governing body of any county, city, or town may, by ordinance, provide a partial tax exemption for improved real estate that is subject to recurrent flooding and upon which qualifying flood improvements have been made. No exemption shall be granted for any improvements made prior to July 1, 2018.*

C. The ordinance may also (i) establish flood protection standards that qualifying flood improvements must meet in order to be eligible for the exemption; (ii) determine the amount of the exemption; (iii) set income or property value limitations regarding eligibility for the exemption; (iv) provide that the exemption shall last for only a specified number of years; (v) determine, based upon flood risk, zones or districts within the locality in which the exemption shall be available, such as those established by the Virginia Flood Risk Information System; and (vi) establish preferred actions that qualify for the exemption, including the use of living shorelines as the preferred alternative for stabilizing tidal shorelines in the Commonwealth pursuant to § 28.2-104.1.

## CHAPTER 755

An Act to amend and reenact § 62.1-255 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 62.1-262.1, relating to ground water withdrawal; Eastern Shore Groundwater Management Area; incentives for use.

[S 1599]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-255 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 62.1-262.1 as follows:**

### § 62.1-255. Definitions.

As used in this chapter, unless the context requires otherwise:

"Beneficial use" includes, ~~but is not limited to,~~ domestic (including public water supply), agricultural, commercial, and industrial uses.

"Board" means the State Water Control Board.

"Department" means the Department of Environmental Quality.

"Eastern Shore Groundwater Management Area" means the ground water management area declared by the Board encompassing the Counties of Accomack and Northampton.

"Ground water" means any water, except capillary moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water wholly or partially within the boundaries of ~~this~~ the Commonwealth, whatever the subsurface geologic structure in which such water stands, flows, percolates or otherwise occurs.

"Ground water withdrawal permit" means a certificate issued by the Board permitting the withdrawal of a specified quantity of ground water in a ground water management area.

"Person" means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, or private or public corporations organized under the laws of ~~this~~ the Commonwealth or any other state or country.

"Surficial aquifer" means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

### § 62.1-262.1. Permits for withdrawals from Eastern Shore Groundwater Management Area.

The Board shall adopt regulations to provide incentives for the withdrawal of ground water from the surficial aquifer in the Eastern Shore Groundwater Management Area rather than from the deep aquifer in such management area. Notwithstanding the provisions of subsection C of § 62.1-266, such incentives may include extended permit terms of as long as 20 years, an accelerated permit process, discounted permit fees, other subsidies, or other incentives.

## CHAPTER 756

An Act to amend and reenact § 59.1-167.1 of the Code of Virginia, relating to the labeling of motor fuels.

[S 1600]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-167.1 of the Code of Virginia is amended and reenacted as follows:**

### § 59.1-167.1. Labeling of motor fuels; notification to reseller.

A. Every dispensing device used in the retail sale of any motor fuel shall be plainly and conspicuously labeled with:

1. ~~The brand name, trademark or trade name of the motor fuel it contains;~~
2. ~~The grade, blend or mixture of the motor fuel it contains;~~
3. ~~The octane or cetane rating of the motor fuel it contains; and~~
4. ~~If the product contains one percent or more ethanol or methanol, information identifying the kind of alcohol and the percentage of each at the time of blending, in letters not less than one inch in height identify the motor fuel and be labeled in accordance with Section 3 of the Uniform Fuels and Automotive Lubricants Regulation published by the National Institute of Standards and Technology in Handbook 130, titled "Uniform Laws and Regulations in the Areas of Legal Metrology and~~

*Fuel Quality," as the same now are or may be hereafter amended, unless the Board of Agriculture and Consumer Services, by regulation, amends or rejects identification or labeling requirements established in such publication.*

B. Every person delivering gasoline at wholesale to a reseller which contains one percent or more of ethanol or methanol shall provide a written manifest or invoice which conspicuously identifies the gasoline containing one percent or more of ethanol or methanol, and the percentage of ethanol or methanol contained therein. The Board of Agriculture and Consumer Services may, by regulation, establish what additional disclosure shall be made about a motor fuel by a person delivering the motor fuel at wholesale to a retailer, so that the retailer may comply with the requirements of subsection A of ~~this section.~~

## CHAPTER 757

*An Act to amend and reenact § 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia, relating to recordation tax; exemption for property transferred by deed of distribution.*

[S 1610]

Approved March 21, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted as follows:**

#### **§ 58.1-811. (Contingent expiration dates) Exemptions.**

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;

3. To the United States, the Commonwealth, or to any county, city, town, district, or other political subdivision of the Commonwealth;

4. To the Virginia Division of the United Daughters of the Confederacy;

5. To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit;

6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;

7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal Revenue Code as it exists at the time of liquidation;

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;

10. To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;

11. From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; ~~and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;~~

13. ~~When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor; other than a deed of trust conveying property to secure the payment of money or the performance of an obligation; and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument;~~

14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

~~45- 14.~~ When it is a deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

~~46- 15.~~ When it is a deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision;

5. Securing a loan made by an organization described in subdivision A ~~4~~ 13;

6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; or

7. Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

C. The tax imposed by § 58.1-802 and the fee imposed by § 58.1-802.3 shall not apply to any:

1. Transaction described in subdivisions A 6 through ~~13~~, ~~15~~ 12, 14, and ~~16~~ 15;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district, or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802 or subject to the fee under § 58.1-802.3; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.3, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

J. No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

*K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any deed of distribution when no consideration has passed between the parties. Such deed shall state therein on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution" means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from the trustees holding title under a deed in trust; (ii) the purpose of which is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; (iii) that carries out the exercise of a power of appointment; or (iv) is pursuant to the exercise of the power under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).*

**§ 58.1-811. (Contingent effective dates) Exemptions.**

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;

3. To the United States, the Commonwealth, or to any county, city, town, district, or other political subdivision of the Commonwealth;

4. To the Virginia Division of the United Daughters of the Confederacy;

5. To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit;

6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;

7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal Revenue Code as it exists at the time of liquidation;

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;

10. To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;

11. From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; ~~and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;~~

~~13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to secure the payment of money or the performance of an obligation, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument;~~

14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

~~15.~~ 14. Pursuant to any deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

~~16.~~ 15. Pursuant to any deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision;

5. Securing a loan made by an organization described in subdivision A 44 13;

6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; or

7. Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

C. The tax imposed by § 58.1-802 shall not apply to any:

1. Transaction described in subdivisions A 6 through ~~13~~, ~~15~~ 12, 14, and ~~16~~ 15;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district, or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

J. No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

*K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any deed of distribution when no consideration has passed between the parties. Such deed shall state therein on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution" means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from the trustees holding title under a deed in trust; (ii) the purpose of which is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; (iii) that carries out the exercise of a power of appointment; or (iv) is pursuant to the exercise of the power under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).*

## CHAPTER 758

*An Act to amend the Code of Virginia by adding a section numbered 58.1-626.1, and to repeal § 58.1-626, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to retail sales and use tax; absorption of tax by a dealer.*

[S 1615]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 58.1-626.1 as follows:**

**§ 58.1-626.1. Absorption of tax permitted.**

*A. A dealer may absorb and assume payment of all or any part of the sales or use tax otherwise due from the purchaser, consumer, or lessee.*

*B. A dealer shall separately state the sales price of an item and the full amount of sales and use tax due on such item at the point of the sale or transaction, even if the dealer intends to absorb and assume the amount of tax due.*

*C. For each sale for which the dealer absorbs and assumes all or any part of the sales and use tax due, the dealer shall remit to the Department the full amount of tax due with the return that covers the period in which the dealer completed the sale or transaction.*

**2. That § 58.1-626 of the Code of Virginia, as it is currently effective and as it shall become effective, is repealed.**

## CHAPTER 759

*An Act to amend and reenact § 58.1-439.12:10 of the Code of Virginia, relating to Virginia port volume increase tax credit; transfer of credits.*

[S 1652]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-439.12:10 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-439.12:10. Virginia port volume increase tax credit.**

A. As used in this section, unless the context indicates otherwise:

"Agricultural entity" means a person engaged in growing or producing wheat, grains, fruits, nuts, crops; tobacco, nursery, or floral products; forestry products excluding raw wood fiber or wood fiber processed or manufactured for use as fuel for the generation of electricity; or seafood, meat, dairy, or poultry products.

"Base year port cargo volume" means the total amount of (i) net tons of noncontainerized cargo, (ii) TEUs of cargo, or (iii) units of roll-on/roll-off cargo actually transported by way of a waterborne ship or vehicle through a port facility during the period from (i) January 1, 2010, through December 31, 2010, for manufacturing-related entities or (ii) January 1, 2012, through December 31, 2012, for agricultural entities and mineral and gas entities. Base year port cargo volume must be at least 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo for a taxpayer to be eligible for the credits provided in this section. For a taxpayer that does not ship that amount in the year ending December 31, 2010, or December 31, 2012, as applicable, including a taxpayer who locates in Virginia after such periods, its base cargo volume will be measured by the initial January 1 through December 31 calendar year in which it meets the requirements of 75 net tons of noncontainerized cargo, 10 loaded TEUs, or 10 units of roll-on/roll-off cargo. Base year port cargo volume must be recalculated each calendar year after the initial base year.

"Major facility" means a new facility to be located in Virginia that is projected to import or export cargo through a port in excess of 25,000 TEUs in its first calendar year.

"Manufacturing-related entity" means a person engaged in the manufacturing of goods or the distribution of manufactured goods.

"Mineral and gas entity" means a person engaged in severing minerals or gases from the earth.

"Port cargo volume" means the total amount of net tons of noncontainerized cargo, net units of roll-on/roll-off cargo, or containers measured in TEUs of cargo transported by way of a waterborne ship or vehicle through a port facility.

"Port facility" means any publicly or privately owned facility located within the Commonwealth through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside the Commonwealth and which handles cargo owned by third parties in addition to cargo owned by the port facility's owner.

"TEU" or "20-foot equivalent unit" means a volumetric measure based on the size of a container that is 20 feet long by eight feet wide by eight feet, six inches high.

B. 1. For taxable years beginning on and after January 1, 2011, but before January 1, 2022, a taxpayer that is an agricultural entity, manufacturing-related entity, or mineral and gas entity that uses port facilities in the Commonwealth and increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume is eligible to claim a credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 in an amount determined by the Virginia Port Authority. The Virginia Port Authority may waive the requirement that port cargo volume be increased by a minimum of five percent over base year port cargo volume for any taxpayer that qualifies as a major facility.

2. Qualifying taxpayers that increase their port cargo volume by a minimum of five percent in a qualifying calendar year shall receive a \$50 credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 for each TEU, unit of roll-on/roll-off cargo, or 16 net tons of noncontainerized cargo, as applicable, above the base year port cargo volume. A qualifying taxpayer that is a major facility as defined in this section shall receive a \$50 credit against the tax levied pursuant to §§ 58.1-320 and 58.1-400 for each TEU, unit of roll-on/roll-off cargo, or 16 net tons of noncontainerized cargo, as applicable, transported through a port facility during the major facility's first calendar year. A qualifying taxpayer may not receive more than \$250,000 for each calendar year except as provided for in subdivision C 2. The maximum amount of credits allowed for all qualifying taxpayers pursuant to this section shall not exceed \$3.2 million for each calendar year. The Virginia Port Authority shall allocate the credits pursuant to the provisions in subdivisions C 1 and C 2.

3. If the credit exceeds the taxpayer's tax liability for the taxable year, the excess amount may be carried forward and claimed against income taxes in the next five succeeding taxable years.

4. The credit may be claimed by the taxpayer as provided in subdivision 1 only if the taxpayer owns the cargo at the time the port facilities are used.

C. 1. For every year in which a taxpayer claims the credit, the taxpayer shall submit an application to the Virginia Port Authority by March 1 of the calendar year after the calendar year in which the increase in port cargo volume occurs. The taxpayer shall attach a schedule to the taxpayer's application to the Virginia Port Authority with the following information and any other information requested by the Virginia Port Authority or the Department:

a. A description of how the base year port cargo volume and the increase in port cargo volume were determined;

b. The amount of the base year port cargo volume;

c. The amount of the increase in port cargo volume for the taxable year stated both as a percentage increase and as a total increase in net tons of noncontainerized cargo, TEUs of cargo, and units of roll-on/roll-off cargo, as applicable, including information that demonstrates an increase in port cargo volume in excess of the minimum amount required to claim the tax credits pursuant to this section;

d. Any tax credit utilized by the taxpayer in prior years; and

e. The amount of tax credit carried over from prior years.

2. If on March 15 of each year the \$3.2 million amount of credit is not fully allocated among qualifying taxpayers, then those taxpayers who have been allocated a credit for the prior year shall be allowed a pro rata share of the remaining allocated credit up to \$3.2 million. If on March 15 of each year, the cumulative amount of tax credits requested by qualifying taxpayers for the prior year exceeds \$3.2 million, then the \$3.2 million in credits shall be prorated among the qualifying taxpayers who requested the credit.

3. The taxpayer shall claim the credit on its income tax return in a manner prescribed by the Department. The Department may require a copy of the certification form issued by the Virginia Port Authority be attached to the return or otherwise provided. Qualifying taxpayers may also claim the credit pursuant to § 58.1-439.12:09 for the same containers, noncontainerized cargo, or roll-on/roll-off units of cargo for which a credit is claimed under this section provided such taxpayer meets the applicable criteria set forth therein.

*D. 1. Any taxpayer holding a credit under this section may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of credit under this section shall file a notification of such transfer to the Department in accordance with procedures and forms prescribed by the Tax Commissioner. The transferred credits may be retroactively applied from the date such credits were originally issued, and the transferee may file an amended return under this chapter to claim such transferred credit for a prior tax year. However, nothing in this section shall be construed to extend the statute of limitations for filing an amended return under § 58.1-1823 or any other provision of law.*

*2. No transfer of tax credits pursuant to the provisions of this subsection shall be allowed unless such transfer occurs within one calendar year of the credit holder earning such credit.*

*3. Only tax credits issued in taxable years beginning on and after January 1, 2018, but before January 1, 2022, shall be transferable pursuant to the provisions of this subsection.*

*E. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership interests in such business entities.*

## CHAPTER 760

*An Act to amend and reenact § 65.2-605.1 of the Code of Virginia, relating to workers' compensation; payment of claims.*

[S 1729]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-605.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 65.2-605.1. Prompt payment; limitation on claims.**

A. Payment for health care services that the employer does not contest, deny, or consider incomplete shall be made to the health care provider within 60 days after receipt of each separate itemization of the health care services provided.

B. If the itemization or a portion thereof is contested, denied, or considered incomplete, the employer or the employer's workers' compensation insurance carrier shall notify the health care provider within 45 days after receipt of the itemization that the itemization is contested, denied, or considered incomplete. The notification shall include the following information:

1. The reasons for contesting or denying the itemization, or the reasons the itemization is considered incomplete;
2. If the itemization is considered incomplete, all additional information required to make a decision; and
3. The remedies available to the health care provider if the health care provider disagrees.

Payment or denial shall be made within 60 days after receipt from the health care provider of the information requested by the employer or employer's workers' compensation carrier for an incomplete claim under this subsection.

C. Payment due for any properly documented health care services that are neither contested within the 45-day period nor paid within the 60-day period, as required by this section, shall be increased by interest at the judgment rate of interest as provided in § 6.2-302 retroactive to the date payment was due under this section.

D. An employer's liability to a health care provider under this section shall not affect its liability to an employee.

E. No employer or workers' compensation carrier may seek recovery of a payment made to a health care provider for health care services rendered after July 1, 2014, to a claimant, unless such recovery is sought less than one year from the date payment was made to the health care provider, except in cases of fraud. The Commission shall have jurisdiction over any disputes over recoveries.

F. No health care provider shall submit a claim to the Commission contesting the sufficiency of payment for health care services rendered to a claimant after July 1, 2014, unless (i) such claim is filed within one year of the date the last payment is received by the health care provider pursuant to this section or (ii) if the employer denied or contested payment for any portion of the health care services, then, as to that service or portion thereof, such claim is filed within one year of the date the medical award covering such date of service for a specific item or treatment in question becomes final.

*G. No health care provider shall submit, nor shall the Commission adjudicate, any claim to the Commission seeking additional payment for medical services rendered to a claimant before July 1, 2014, if the health care provider has previously accepted payment for the same medical services pursuant to the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 901 et seq.*

H. The Commission, by January 1, 2016, shall establish a schedule pursuant to which employers, employers' workers' compensation insurance carriers, and providers of workers' compensation medical services shall be required, by a date determined by the Commission that is no earlier than July 1, 2016, and no later than December 31, 2018, to adopt and implement infrastructure under which (i) providers of workers' compensation medical services (providers) shall submit their billing, claims, case management, health records, and all supporting documentation electronically to employers or employers' workers' compensation insurance carriers, as applicable (payers) and (ii) payers shall return actual payment, claim status, and remittance information electronically to providers that submit their billing and required supporting documentation electronically. The Commission shall establish standards and methods for such electronic submissions and transactions that are consistent with International Association of Industrial Accident Boards and Commission Medical Billing and Payment guidelines. The Commission shall determine the date by which payers and providers shall be required to adopt and implement the infrastructure, which determinations shall be based on the volume and complexity of workers' compensation cases in which the payer or provider is involved, the resources of the payer or provider, and such other criteria as the Commission determines to be appropriate.

## CHAPTER 761

*An Act to amend and reenact § 18.2-325 of the Code of Virginia, relating to illegal gambling; definition.*

[S 1738]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-325 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-325. Definitions.**

1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other *consideration* or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other *consideration* or thing of value shall include the purchase of a product, Internet access, or other thing; ~~which purchase credits the purchaser with free points or other measurable units that may be (i) risked by the purchaser for an opportunity to win additional points or other measurable units that are redeemable by the purchaser for money or (ii) redeemed by the purchaser for money; and but for the free points or other measurable units, with regard to clauses (i) and (ii), the purchase of the product, Internet access, or other thing (a) would be of insufficient value in and of itself to justify the purchase or (b) is merely incidental to the chance to win money made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3b, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.~~

2. "Interstate gambling" means the conduct of an enterprise for profit which engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity; and

b. Any machine, apparatus, implement, instrument, contrivance, board or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices within the meaning of this subsection.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm or association of persons, who conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operation.

## CHAPTER 762

*An Act to amend the Code of Virginia by adding a section numbered 58.1-4018.2, relating to the Virginia Lottery; ticket discounting; civil penalties.*

[S 1752]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 58.1-4018.2 as follows:**

**§ 58.1-4018.2. Ticket discounting; civil penalties.**

A. As used in this section, "ticket discounting" means reselling or having a person other than the prize winner claim a winning lottery ticket or buying or claiming a winning lottery ticket for the purpose of assisting the original prize winner with concealing his identity as a prize winner.

B. No person shall engage in the practice of ticket discounting.

C. Any person found to have engaged in the practice of ticket discounting shall be fined as determined by the Director (i) for prizes of less than \$1,000, not more than \$250; (ii) for prizes of \$1,000 or more but less than \$5,000, more than \$250 but not more than \$500; and (iii) for prizes of \$5,000 or more, no less than \$1,000. All fines recovered for violations of this section shall be paid into the state treasury to the credit of the Literary Fund, in accordance with § 19.2-353.

## CHAPTER 763

*An Act to amend and reenact §§ 56-585.1:3, 56-585.3, and 56-594 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 56-585.4 and 56-594.01, relating to electric utilities; net energy metering by electric cooperatives; community solar development.*

[S 1769]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 56-585.1:3, 56-585.3, and 56-594 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 56-585.4 and 56-594.01 as follows:**

**§ 56-585.1:3. Pilot programs for community solar development.**

A. As used in this section:

"Eligible generation facility" means an electrical generation facility that:

1. Exclusively uses energy derived from sunlight;
2. Is placed in service on or after July 1, 2017;
3. Is not constructed by an investor-owned utility and either (i) is acquired by an investor-owned utility through an asset purchase agreement or (ii) is subject to a power purchase agreement under which an investor-owned utility purchases the facility's output from a third party; and
4. Has a generating capacity of:
  - a. Not more than two megawatts; or
  - b. More than two megawatts if not more than two megawatts of the output from the electrical generation facility is selected in an investor-owned utility's RFP for dedication to its pilot program.

"Generating capacity" means an electrical generation facility's nameplate rated capacity measured in direct current megawatts.

"Investor-owned utility" means an electric utility that is a Phase I Utility or a Phase II Utility.

"Participating generating facility" means an eligible generation facility that is selected by an investor-owned utility through its RFP for inclusion in its pilot program.

"Participating third party" means, for investor-owned utilities, a Virginia nonresidential-class customer, an affiliate, a solar development entity, or a nonjurisdictional customer that takes on the obligation, as part of a variable-output contract, of pilot program costs not recovered through the voluntary companion rate schedule as specified in subdivision B 8.

"Participating utility" means (i) each investor-owned utility and (ii) any utility consumer services cooperative that elects to conduct a pilot program under subsection C.

"Phase I Utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Phase II Utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Pilot program" means a community solar pilot program conducted by a participating utility pursuant to this section following approval by the Commission, under which the participating utility sells electric power to subscribing customers under a voluntary companion rate schedule and the participating utility generates or purchases electric power from participating generation facilities selected by the participating utility.

"Pilot program costs" means all of a participating utility's identified, projected, and actual costs of its pilot program, including costs for (i) purchased power; (ii) renewable and other environmental attributes; (iii) transmission and distribution services; (iv) generating capacity and energy balancing; (v) RFP process costs; (vi) administrative and marketing charges; (vii) capital costs and operations and maintenance expenses related to building, owning, and operating eligible generating facilities; and (viii) a reasonable margin, which margin shall be the weighted average cost of capital.

"Pilot program period" means the three-year period ending three years following the date the first subscription is entered into by a customer.

"RFP" means the request for proposal process conducted by an investor-owned utility.

"Small eligible generation facility" means an eligible generation facility with a generating capacity of less than 0.5 megawatt.

"Solar development entity" means a business entity organized primarily for the purpose of proposing, developing, constructing, purchasing, or selling at wholesale all or part of the output of an eligible generation facility. A solar development entity may be organized in any form and may be a special purpose entity.

"Utility aggregation cooperative" has the same meaning ascribed to "cooperative" in § 56-231.38.

"Utility consumer services cooperative" has the same meaning ascribed to "cooperative" in § 56-231.15.

"Voluntary companion rate schedule" means a rate schedule approved by the Commission upon application by a participating utility that provides for the recovery of the pilot program costs by the participating utility.

B. Notwithstanding the provisions of subsection B of § 56-234 and §§ 56-249.6 and 56-585.1, each investor-owned utility shall conduct a pilot program for retail customers as follows:

1. Each investor-owned utility shall design its own pilot program and within six months of receiving Commission approval shall make subscriptions for participation in its pilot program available to its retail customers on a voluntary basis.

2. An investor-owned utility shall select eligible generating facilities for dedication to its pilot program through an RFP process, under which process:

a. Each investor-owned utility shall have issued one or more public RFPs for eligible generating facilities and the purchase of all energy output and associated renewable energy certificates and other environmental attributes.

b. Each RFP shall:

(1) State the price and non-price criteria used by the investor-owned utility in selecting proposals for dedication to its pilot program; and

(2) Require as a criterion for selection that eligible generating facilities with a combined generating capacity of not less than two megawatts, and any eligible generating facility with a generating capacity of more than two megawatts, be first placed in service on or after July 1, 2017.

c. Each investor-owned utility is authorized to select, under an asset purchase or power purchase agreement, small eligible generating facilities for dedication to its pilot program without regard to whether price criteria are satisfied by their selection if the selection of the small eligible generating facilities materially advances non-price criteria, including a criterion favoring geographic distribution of eligible generating facilities, provided that the generating capacity of small eligible generating facilities does not exceed 25 percent of the utility's pilot program's minimum generating capacity specified in subdivision 3.

d. An investor-owned utility shall not select through its RFP an electrical generation facility with a generating capacity of more than two megawatts for its pilot program unless (i) the costs can be appropriately documented for the portion of the facility's output, which portion shall not exceed two megawatts, that is dedicated to the pilot program and (ii) for a Phase II Utility only, the portion of the facility's generating capacity selected pursuant to this subdivision does not exceed 50 percent of the investor-owned utility's pilot program's minimum generating capacity specified in subdivision 3. The portion of the facility's generating capacity that exceeds the portion of the facility's generating capacity that is selected pursuant to this subdivision shall not be applied in determining whether the pilot program satisfies requirements of subdivision 3 regarding a pilot program's minimum generating capacity.

e. In selecting eligible generating facilities for dedication to its pilot program, an investor-owned utility shall give due consideration to relative costs, economic development benefits, and geographic diversity of eligible generating facilities.

f. The investor-owned utility's application to the Commission shall include a description of the application of the price and non-price criteria in the investor-owned utility's selection of participating generating facilities from among the proposals submitted in response to the RFP.

3. The amount of generating capacity of the eligible generating facilities in an investor-owned utility's pilot program shall not be less than (i) 0.5 megawatt if the pilot program is conducted by a Phase I Utility or (ii) 10 megawatts if the pilot program is conducted by a Phase II Utility.

4. The amount of generating capacity of the eligible generating facilities in an investor-owned utility's pilot program shall not exceed (i) 10 megawatts if the pilot program is conducted by a Phase I Utility or (ii) 40 megawatts if the pilot program is conducted by a Phase II Utility.

5. An investor-owned utility shall have the option of increasing the amount of generating capacity of the eligible generating facilities in its pilot program above the amount most recently approved by the Commission, in such increments as the investor-owned utility elects, as follows:

a. Any such increase shall not result in an amount of generating capacity that exceeds the cap specified for the investor-owned utility's pilot program under subdivision 4;

b. No such increase shall be authorized until such time that 90 percent of the amount of generating capacity of the eligible generating facilities then approved for its pilot program has been subscribed by customers through the investor-owned utility's voluntary companion rate schedule;

c. An investor-owned utility may seek any number of increases in the amount of generating capacity of the eligible generating facilities in its pilot program, subject to the conditions in subdivisions a and b; and

d. The investor-owned utility shall select eligible generating facilities for any increase in the generating capacity of its pilot program through an RFP process that complies with the requirements of subdivision 2.

6. Each pilot program shall expire at the end of its pilot program period, unless renewed or made permanent by appropriate legislation as provided in subsection G.

7. The renewable energy certificates and other environmental attributes associated with the voluntary companion rate schedule shall be retired by the investor-owned utility on the subscribing customer's behalf.

8. An investor-owned utility shall recover all its pilot program costs primarily through its voluntary companion rate schedule. However, pilot program costs that are not recovered through the voluntary companion rate schedule shall be recoverable from a participating third party and not from the investor-owned utility's Virginia jurisdictional customers. To the extent participating third parties are obligated for pilot program costs not recovered through the voluntary companion rate schedule, variable-output contracts between participating third parties other than affiliates and investor-owned utilities shall be negotiated at arm's length and shall not be reviewable by the Commission and shall require no further Commission approvals pursuant to Chapter 4 (§ 56-76 et seq.) or other applicable law.

9. At the conclusion of the pilot program period, to the extent that the pilot program is not made permanent or extended, each participating generating facility shall cease to be part of the pilot program and shall return to operation under the variable-output contract with a participating third party.

10. Any fixed generation costs and fixed purchased power costs shall remain fixed for subscribing customers throughout the duration of the subscribing customers' continuous and uninterrupted participation in the voluntary companion rate schedule. A subscribing customer's participation in the voluntary companion rate schedule shall be deemed to be continuous and uninterrupted notwithstanding a change in the location where the customer receives service if the new location continues to be within the investor-owned utility's service territory and the customer provides the investor-owned utility with notice of the change prior to or within 90 days following the change. Investor-owned utilities are authorized to decrease the generation or purchased power rate, or both, at any time to reflect cost reductions, if any, subject to Commission review. If, pursuant to subdivision 9, the pilot program is not made permanent or continued, the subscribing customers' subscriptions to the voluntary companion rate schedule shall survive the termination of the pilot program.

11. A subscribing customer's usage that exceeds the amount subscribed for under the voluntary companion rate schedule shall be billed under the customer's applicable standard rate.

12. An investor-owned utility shall not require a subscribing customer to enter an agreement or subscription for participation in a pilot program of more than 12 months' duration unless the subscribing customer's subscription exceeds 100 kW, or its equivalent in kWh, at the time the customer initially enters into the agreement or subscription.

13. As part of an arrangement with a solar development entity, a utility may enter into an agreement that provides for risk sharing and collaboration in marketing a utility's pilot program if the solar development entity is a participating third party.

14. An investor-owned utility shall have the ability to close its pilot program to new subscribers according to the terms of the voluntary companion rate schedule upon notice to the Commission. This option shall be exercisable once per year, upon the anniversary date of the Commission's order approving the voluntary companion rate schedule.

C. Notwithstanding the provisions of subsection B of § 56-234 and §§ 56-249.6 and 56-585.1, upon application of a utility consumer services cooperative the Commission shall review a proposal submitted by the cooperative for a voluntary companion rate schedule. If the Commission finds that the proposal is reasonable and prudent, it shall approve the voluntary companion rate schedule for the cooperative to conduct a pilot program pursuant to this section. No utility consumer services cooperative shall be required to conduct a pilot program pursuant to this section. In making an application to the Commission pursuant to this subsection, a utility consumer services cooperative shall have flexibility to design its voluntary companion rate schedule in a manner that, notwithstanding anything to the contrary in this section, provides the cooperative the ability to:

1. Construct or purchase its generating facilities, or dedicate a portion of its existing power supply portfolio, for its community solar pilot program along with one or more other utility consumer services cooperatives, one or both Phase I or Phase II Utilities, or a utility aggregation cooperative, through requests for proposal or through a contract with a third party or a utility aggregation cooperative;

2. If constructing or purchasing its generating facilities, or dedicating a portion of its existing power supply portfolio, for its pilot program through a utility aggregation cooperative, include generating facilities that may be already in service or may be first placed into service at any time;

3. Utilize generating facilities of any generating capacity for its pilot program;

4. Physically locate the generating facilities used for the pilot program inside or outside of its certificated service territory;

5. Design its voluntary companion rate schedule in coordination with one or more utility consumer services cooperatives, such that participating subscribers from both cooperatives subscribe to an identical rate schedule;

6. Permanently end its pilot program for all subscribers according to the terms of the voluntary companion rate schedule; and

7. Recover pilot program costs that are not recovered through the voluntary companion rate schedule by including unrecovered purchased power expense in the cooperative's cost of purchased power and through a regulatory asset for unrecovered costs that are not purchased power expense, subject to the oversight of the cooperative's board of directors, which regulatory asset shall be approved by the Commission.

D. The participation of retail customers in a pilot program administered by a participating utility in the Commonwealth is in the public interest. Voluntary companion rate schedules approved by the Commission pursuant to this section are necessary in order to acquire information which is in furtherance of the public interest. The Commission shall approve the recovery of pilot program costs that it deems to be reasonable and prudent. The Commission shall also approve the pilot program design, the voluntary companion rate schedule, and the portfolio of participating generating facilities. No Commission review or approval of individual participating generating facilities, agreements, sites, or RFPs shall be required pursuant to this section or any other section of the Code.

E. Any voluntary companion rate schedule approved by the Commission pursuant to this section shall not be considered a tariff for electric energy provided 100 percent from renewable energy pursuant to § 56-577.

F. Each participating utility shall report on the status of its pilot program, including the number of subscribing customers, to the Governor, the Commission, and the Chairmen of the House and Senate Commerce and Labor Committees. The report shall be filed the earlier of (i) three years after the date a customer of the participating utility first subscribes to its pilot program or (ii) July 1, 2022. If a participating utility closes its pilot program to new subscribers pursuant to subdivision B 14, it shall notify the Governor, the Commission, and the Chairmen of the House and Senate Commerce and Labor Committees not later than three months after such closure, which notification shall (a) describe the reasons for the closure and (b) be provided in lieu of the status report otherwise required by this subsection.

*G. At any time after filing its report on the status of its pilot program as required by subsection F, a participating utility may, in its application proceeding, move the Commission to make its pilot program permanent. The motion shall include a compliance filing with conforming changes to the participating utility's applicable rate schedules. Upon the Commission's granting of the motion, the pilot program shall become a regular rate schedule of the participating utility.*

### **§ 56-585.3. Regulation of cooperative rates after rate caps.**

A. After the expiration or termination of capped rates, the rates, terms and conditions of distribution electric cooperatives subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1 ~~of this title~~ shall be regulated in accordance with the provisions of Chapters 9.1 (§ 56-231.15 et seq.) and 10 (§ 56-232 et seq.) ~~of this title~~, as modified by the following provisions:

1. Except for energy related cost (fuel cost), the Commission shall not require any cooperative to adjust, modify, or revise its rates, by means of riders or otherwise, to reflect changes in wholesale power cost which occurred during the capped rate period, other than in a general rate proceeding;

2. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, increase or decrease all classes of its rates for distribution services at any time, provided, however, that such adjustments will not effect a cumulative net increase or decrease in excess of ~~5~~ five percent in such rates in any ~~three year~~ three-year period. Such adjustments will not affect or be limited by any existing fuel or wholesale power cost adjustment provisions. The cooperative will promptly file any such revised rates with the Commission for informational purposes;

3. Each cooperative may, without Commission approval, upon an affirmative resolution of its board of directors, make any adjustment to its terms and conditions that does not affect the cooperative's revenues from the distribution or supply of electric energy. In addition, a cooperative may make such adjustments to any pass-through of third-party service charges and fees, and to any fees, charges and deposits set out in Schedule F of such cooperative's Terms and Conditions filed as of January 1, 2007. The cooperative will promptly file any such amended terms and conditions with the Commission for informational purposes;

4. Each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon an affirmative resolution of its board of directors, make any adjustment to its rates reasonably calculated to collect any or all of the fixed costs of owning and operating its electric distribution system, including without limitation, such costs as are identified as customer-related costs in a cost of service study, through a new or modified fixed monthly charge, rather than through volumetric charges associated with the use of electric energy *or demand, or to rebalance among any of the fixed monthly charge, distribution demand, and distribution energy*; however, such adjustments shall be revenue neutral based on the cooperative's determination of the proper intra-class allocation of the revenues produced by its then current rates. *If a rate class contains a supply demand charge, the cooperative may rebalance its rate for electricity supply service pursuant to this subdivision.* The cooperative may elect, but is not required, to implement such adjustments through incremental changes over the course of up to three years. The cooperative shall file promptly revised tariffs reflecting any such adjustments with the Commission for informational purposes; and

5. A cooperative may, at any time after the expiration or termination of capped rates, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the costs described in subdivisions A 5 b and e of § 56-585.1.

B. None of the adjustments described in subdivisions A 2 through A 5 will apply to the rates paid by any customer that takes service by means of dedicated distribution facilities and had noncoincident peak demand in excess of 90 megawatts in calendar year 2006.

C. Nothing in this section shall be deemed to grant to a cooperative any authority to amend or adjust any terms and conditions of service or agreements regarding pole attachments or the use of the cooperative's poles or conduits.

**§ 56-585.4. Net energy metering transition provisions for electric cooperatives.**

*Distribution electric cooperatives subject to Article 1 (§ 56-231.15 et seq.) of Chapter 9.1 shall be regulated in accordance with the provisions of Chapters 9.1 (§ 56-231.15 et seq.) and 10 (§ 56-232 et seq.), as amended by relevant sections of this chapter and by the following provisions:*

1. *Notwithstanding anything to the contrary in this title, each cooperative may, without Commission approval or the requirement of any filing other than as provided in this subdivision, upon the adoption by its board of directors of a resolution so providing, make adjustments in the cooperative's rates, terms, conditions, and rate schedules governing net energy metering as provided in this section by electing to subject itself to the provisions of this section. The cooperative promptly shall (i) file such resolution and notice with the Commission for informational purposes and (ii) place a notice of its board of directors' adoption of such resolution (the Cooperative Net Energy Metering Transition Notice) on the cooperative's website. The Cooperative Net Energy Metering Transition Notice shall contain an initial election date and a date upon which, for each class of net energy metering customer, the transition shall become effective upon the first to occur of (a) the date the cooperative reaches the cap set forth in subsection F of § 56-594.01 or (b) five years following the date of the initial Cooperative Net Energy Metering Transition Notice. If a cooperative transitions a given class of customers as a result of reaching a cap set forth in subsection F of § 56-594.01, the effectiveness of such transition shall be permanent, regardless of future changes in the cooperative's system peak. A Cooperative Net Energy Metering Transition Notice may be amended and refiled as the cooperative deems appropriate at any time. Any eligible customer-generator as defined in § 56-594 that was interconnected prior to a transition start date enumerated in a Cooperative Net Energy Metering Transition Notice may continue to participate in net energy metering pursuant to the terms of § 56-594.01 until July 1, 2039.*

2. *After the transition date for a class of customers, any standby charges implemented by the cooperative pursuant to subsection H of § 56-594.01 shall be eliminated and are prohibited. The cooperative may make any necessary changes to rate schedules or terms and conditions and shall promptly file the same with the Commission for informational purposes.*

3. *Whenever the cooperative's transition date occurs, the cooperative may establish and publish, without Commission approval or the requirement of any filing other than as provided in this subdivision, a new rate schedule or rider for purposes of its new net energy metering program established pursuant to this section and shall promptly file the same with the Commission for informational purposes.*

4. *The new rate schedule or rider described in subdivision 3 may contain a demand charge or charges for distribution, supply, or both, based upon a customer's monthly, ratcheted, or 60-minute absolute value noncoincident peak demand for customers that were not previously subject to demand charges in each rate class; however, such demand charges shall be revenue neutral based on the cooperative's determination of the proper intra-class allocation of the revenues produced by its then-current rates serving the same rate class of customer. The cooperative shall implement such new demand charge through the provisions of subdivision 5. The cooperative shall file promptly revised tariffs reflecting any such new demand charges with the Commission for informational purposes. The demand charge component of any net energy metering rate class derived from a rate class with a preexisting demand charge shall remain fixed for a period of five years. The fixed monthly customer charge of any net energy metering rate class derived from a preexisting rate class having a fixed monthly customer charge less than or equal to \$20 as of the transition date shall not exceed \$20 for the duration of the five-year period described in subdivision 5. During the five-year period described in subdivision 5, a cooperative may not increase the monthly customer charge of any net energy metering rate class derived from a preexisting rate class having a fixed monthly customer charge greater than \$20 as of the transition date. Demand charges included in a new rate schedule or rider shall apply to net energy metering customers, regardless of whether a customer uses a third-party partial requirements power purchase agreement or not.*

5. *For purposes of implementing subdivision 4, a cooperative shall, after the published transition date for a given class of customers, close its existing net energy metering rate schedule rider to new customers and open a new tariff pursuant to subdivision 3. Demand charges shall be implemented over a five-year period. In the first year of the five-year period, the demand charges shall be set to zero. In the second year of the five-year period, implementation of the demand rates may begin, and demand charges shall not exceed \$0.25 per kilowatt of distribution demand and \$0.25 per kilowatt of supply demand. In the third year of the five-year period, the demand charges shall not exceed \$0.50 per kilowatt of distribution demand and \$0.50 per kilowatt of supply demand. In the fourth year of the five-year period, the demand charges shall not exceed \$0.75 per kilowatt of distribution demand and \$0.75 per kilowatt of supply demand. In the fifth year of the five-year period, the demand charges shall not exceed \$1 per kilowatt of distribution demand and \$1 per kilowatt of supply demand. Following the expiration of the five-year period, the cooperative is authorized to rebalance its rates. In any filing for informational purposes, the cooperative shall clearly set forth to the Commission the schedule for the five-year period.*

6. *After the transition date for a given class of customers, the following caps, which shall be in lieu of the caps established by subsection F of § 56-594.01, shall apply to net energy metering for that class of customer. The caps shall be calculated as described in subsection F of § 56-594.01 except that the caps shall be adjusted as follows, expressed in*

*alternating current nameplate capacity of the generators: three percent of system peak for residential customers, four percent of system peak for not-for-profit and nonjurisdictional customers, and two percent for other nonresidential customers.*

7. *After the transition date for a given class of customers, only the following restrictions shall apply to the capacity of a net energy metering electrical generating facility:*

*a. For nonresidential customers, the maximum capacity shall not exceed the least of:*

*(1) 1.2 megawatts alternating current;*

*(2) One percent of the cooperative's system peak calculated according to the methodology described in subsection F of § 56-594.01; or*

*(3) The expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available; and*

*b. For residential customers, the maximum capacity shall not exceed 125 percent of the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.*

8. *After the transition date for a given class of customers, third-party partial requirements power purchase agreements entered into with registered providers shall be permitted for that class of customer pursuant to subsection K of § 56-594.01.*

#### **§ 56-594. Net energy metering provisions.**

A. The Commission shall establish by regulation a program that affords eligible customer-generators the opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2014, for customers of investor-owned utilities and to begin no later than July 1, 2015, and to end July 1, 2019, for customers of electric cooperatives as provided in subsection G, to afford eligible agricultural customer-generators the opportunity to participate in net energy metering. The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible agricultural customer-generators; or (vi) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest. On and after July 1, 2017, small agricultural generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions of this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible agricultural customer-generators may elect to become small agricultural generators, but may not revert to being eligible agricultural customer-generators after such election. On and after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. For electric cooperatives, eligible agricultural customer-generators whose renewable energy generating facilities were interconnected before July 1, 2019, may continue to participate in net energy metering pursuant to this section for a period not to exceed 25 years from the date of their renewable energy generating facility's original interconnection.

B. For the purpose of this section:

"Eligible agricultural customer-generator" means a customer that operates a renewable energy generating facility as part of an agricultural business, which generating facility (i) uses as its sole energy source solar power, wind power, or aerobic or anaerobic digester gas, (ii) does not have an aggregate generation capacity of more than 500 kilowatts, (iii) is located on land owned or controlled by the agricultural business, (iv) is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (v) is interconnected and operated in parallel with an electric company's transmission and distribution facilities, and (vi) is used primarily to provide energy to metered accounts of the agricultural business. An eligible agricultural customer-generator may be served by multiple meters that are located at separate but contiguous sites, such that the eligible agricultural customer-generator may aggregate in a single account the electricity consumption and generation measured by the meters, provided that the same utility serves all such meters. The aggregated load shall be served under the appropriate tariff.

"Eligible customer-generator" means a customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers on an electrical generating facility placed in service after July 1, 2015; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements. In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator or eligible agricultural customer-generator.

"Net metering period" means the 12-month period following the date of final interconnection of the eligible customer-generator's or eligible agricultural customer-generator's system with an electric service provider, and each 12-month period thereafter.

"Small agricultural generator" has the same meaning that is ascribed to that term in § 56-594.2.

C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility. The electric distribution company shall have 30 days from the date of notification for residential facilities, and 60 days from the date of notification for nonresidential facilities, to determine whether the interconnection requirements have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system, and each electrical generating system of an eligible agricultural customer-generator, shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section and to ensure public safety, power quality, and reliability of the supplier's electric distribution system, an eligible customer-generator or eligible agricultural customer-generator whose electrical generating system meets those standards and rules shall bear all reasonable costs of equipment required for the interconnection to the supplier's electric distribution system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests, and (c) purchase additional liability insurance.

D. The Commission shall establish minimum requirements for contracts to be entered into by the parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or eligible agricultural customer-generator against discrimination by virtue of its status as an eligible customer-generator or eligible agricultural customer-generator, and permit customers that are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators or eligible agricultural customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator over the net metering period exceeds the electricity consumed by the eligible customer-generator or eligible agricultural customer-generator, the customer-generator or eligible agricultural customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator or eligible agricultural customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator or eligible agricultural customer-generator, the supplier that serves the eligible customer-generator or eligible agricultural customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator or eligible agricultural customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator or eligible agricultural customer-generator owns any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the eligible customer-generator or eligible agricultural customer-generator shall have a one-time option to sell the renewable energy certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator or eligible agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible customer-generator or eligible agricultural customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators or eligible agricultural customer-generators shall be recoverable through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator or eligible agricultural customer-generator for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's or eligible agricultural customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators or eligible agricultural customer-generators on a first-come, first-served basis in each electric distribution company's Virginia service area until the rated generating capacity owned and operated by eligible customer-generators, eligible agricultural customer-generators, and small agricultural generators in the ~~state~~ Commonwealth reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year (*the systemwide cap*), and shall require the supplier to pay the eligible customer-generator or eligible agricultural customer-generator for such excess electricity in a timely manner at a rate to be established by the Commission.

F. Any residential eligible customer-generator or eligible agricultural customer-generator who owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges authorized by law, a monthly standby charge. The

amount of the standby charge and the terms and conditions under which it is assessed shall be in accordance with a methodology developed by the supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby charge methodology if it finds that the standby charges collected from all such eligible customer-generators and eligible agricultural customer-generators allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated with serving such eligible customer-generators or eligible agricultural customer-generators. Such an eligible customer-generator or eligible agricultural customer-generator shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.

*G. On and after the later of July 1, 2019, or the effective date of regulations that the Commission is required to adopt pursuant to § 56-594.01, (i) net energy metering in the service territory of each electric cooperative shall be conducted as provided in a program implemented pursuant to § 56-594.01 and (ii) the provisions of this section shall not apply to net energy metering in the service territory of an electric cooperative except as provided in § 56-594.01.*

**§ 56-594.01. Net energy metering provisions for electric cooperative service territories.**

*A. The Commission shall establish by regulation a program that affords eligible customer-generators the opportunity to participate in net energy metering in the service territory of each electric cooperative, which program shall commence on the later of July 1, 2019, or the effective date of such regulations. Such regulations shall be similar to existing regulations promulgated pursuant to § 56-594. In lieu of adopting new regulations, the Commission may amend such existing regulations to apply to electric cooperatives with such revisions as are required to comply with the provisions of this section. The regulations may include requirements applicable to (i) retail sellers, (ii) owners or operators of distribution or transmission facilities, (iii) providers of default service, (iv) eligible customer-generators, or (v) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest.*

*B. As used in this section:*

*"Eligible customer-generator" means a customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers on an electrical generating facility placed in service after July 1, 2015; (ii) uses as its total source of fuel renewable energy as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements. In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.*

*"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to an eligible customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator.*

*"Net metering period" means the 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and each 12-month period thereafter.*

*C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility. The Commission shall publish a form for such prior notice and such notice shall be processed promptly by the supplier prior to any construction activity taking place. After construction, inspection and documentation thereof shall be required prior to interconnection. The electric distribution company shall have 30 days from the date of each notification for residential facilities, and 60 days from the date of each notification for nonresidential facilities, to determine whether the interconnection requirements have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. In addition to the requirements set forth in this section and to ensure public safety, power quality, and reliability of the supplier's electric distribution system, an eligible customer-generator whose electrical generating system meets those standards and rules shall bear all reasonable costs of equipment required for the interconnection to the supplier's electric distribution system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests, and (c) purchase additional liability insurance. An electric cooperative may publish and use its own forms, including an electronic form, for purposes of implementing the regulations described herein so long as the information collected on the Commission's form is also collected by the cooperative and submitted to the Commission.*

*D. The Commission shall establish minimum requirements for contracts to be entered into by the parties to net metering arrangements. Such requirements shall protect the eligible customer-generator against discrimination by virtue of its status as an eligible customer-generator and permit customers that are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariffs to participate as an eligible customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.*

*E. If electricity generated by an eligible customer-generator over the net metering period exceeds the electricity consumed by the eligible customer-generator, the customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator, the supplier that serves the eligible customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator owns any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator enters into a power purchase agreement with its supplier, the eligible customer-generator shall have a one-time option to sell the renewable energy certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually agreed upon prices if the eligible customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators shall be recoverable through its fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators on a first-come, first-served basis, subject to the provisions of subsection F, and shall require the supplier to pay the eligible customer-generator for such excess electricity in a timely manner at a rate to be established by the Commission.*

*F. Net energy metering shall be open to customers on a first-come, first-served basis until such time as the total capacity of the generation facilities, expressed in alternating current nameplate, reaches two percent of system peak for residential customers, two percent of system peak for not-for-profit and nonjurisdictional customers, and one percent of system peak for other nonresidential customers, which are herein referred to as the electric cooperative's caps. As used in this subsection, "percent of system peak" refers to a percentage of the electric cooperative's highest total system peak, based on the noncoincident peak of the electric cooperative or the coincident peak of all of the electric cooperative's customers, within the past three years as listed in Part O, Line 20 of Form 7 filed with the Rural Utilities Service or its equivalent, less any portion of the cooperative's total load that is served by a competitive service provider or by a market-based rate. Such caps shall not decrease but may increase if the system peak in any year exceeds the previous year's system peak. Nothing in this subsection shall amend or confer new rights upon any existing nonjurisdictional contract or arrangement or work to submit any nonjurisdictional customer, contract, or arrangement to the jurisdiction of the Commission. For purposes of calculating the caps established in this subsection, all net energy metering shall be counted, whenever interconnected, and shall include net energy metering interconnected pursuant to § 56-594, agricultural net energy metering, and any net energy metering entered into with a third-party provider registered pursuant to subsection K. Net energy metering with nonjurisdictional customers entered into prior to July 1, 2019, may be counted toward the caps, in the discretion of the cooperative, as net energy metering if the nonjurisdictional customer takes service pursuant to a cooperative's net energy metering rider. Net energy metering with nonjurisdictional customers entered into on or after July 1, 2019, shall be counted toward the caps by default unless the cooperative has reason to exclude such net energy metering as subject to a separate contract or arrangement. Each electric cooperative governed by this section shall publish information regarding the calculation and status of its caps pursuant to this subsection, or the electric cooperative's systemwide cap established in § 56-585.4 if applicable, on the electric cooperative's website.*

*G. An electric cooperative may, without Commission approval or the requirement of any filing other than as provided in this subsection, upon the adoption by its board of directors of a resolution so providing, raise the caps established in subsection F up to a cumulative total of seven percent of system peak, calculated according to the methodology described in subsection F, with any increase allocated among residential, not-for-profit and nonjurisdictional, and other nonresidential customers as the board of directors may find to be in the interests of the electric cooperative's membership. The electric cooperative shall promptly file a revised net energy metering compliance filing with the Commission for informational purposes.*

*H. Any residential eligible customer-generator who owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges authorized by law, a monthly standby charge. The amount of the standby charge and the terms and conditions under which it is assessed shall be in accordance with a methodology developed by the supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby charge methodology if it finds that the standby charges collected from all such eligible customer-generators allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated with serving such eligible customer-generators. Such an eligible customer-generator shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.*

I. Any eligible agricultural customer-generator interconnected in an electric cooperative service territory prior to July 1, 2019, shall continue to be governed by § 56-594 and the regulations adopted pursuant thereto throughout the grandfathering period described in subsection A of § 56-594.

J. Any eligible customer-generator served by a competitive service provider pursuant to the provisions of § 56-577 shall engage in net energy metering only with such supplier and pursuant only to tariffs filed by such supplier. Such an eligible customer-generator shall pay the full portion of its distribution charges, without offset or netting, to its electric cooperative.

K. After the conclusion of the Commission's rulemaking proceeding pursuant to subsection L, third-party partial requirements power purchase agreements, the purpose of which is to finance the purchase of renewable generation facilities by eligible customer-generators through the sale of electricity, shall be permitted pursuant to the provisions of this section only for those retail customers and nonjurisdictional customers of the electric cooperative that are exempt from federal income taxation, unless otherwise permitted by § 56-585.4. No person shall offer a third-party partial requirements power purchase agreement in the service territory of an electric cooperative without fulfilling the registration requirements set forth in this section and complying with applicable Commission rules, including those adopted pursuant to subdivision L 2.

L. After August 1, 2019, but before January 1, 2020, the Commission shall initiate a rulemaking proceeding to promulgate the regulations necessary to implement this section as follows:

1. In conducting such a proceeding, the Commission may require notice to be given to current eligible customer-generators and eligible agricultural customer-generators but shall not require general publication of the notice. An opportunity to request a hearing shall be afforded, but a hearing is not required. In the rulemaking proceeding, the electric cooperatives governed by this section shall be required to submit compliance filings, but no other individual proceedings shall be required or conducted.

2. In promulgating regulations to govern third-party power purchase agreement providers as retail sellers, the Commission shall:

a. Direct the staff to administer a registration system for such providers;

b. Enumerate in its regulations the jurisdiction of the Commission over providers, generally limited in scope to the behavior of providers, customer complaints, and their compliance with the registration requirements and stating clearly that civil contract disputes and claims for damages against providers shall not be subject to the jurisdiction of the Commission;

c. Establish enumerate in its regulations the maximum extent of its authority over the providers, to be limited to any or all of:

(1) Monetary penalties against registered providers not to exceed \$30,000 per provider registration;

(2) Orders for providers to cease or desist from a certain practice, act, or omission;

(3) Debarment of registered providers;

(4) The issuance of orders to show cause; and

(5) Authority incident to subdivisions (1) through (4);

d. Delineate in its regulations two classes of providers, one for residential customers and one for nonresidential customers;

e. Direct the staff to set up a self-certification system as described in this subdivision;

f. Establish business practice and consumer protection standards from a national renewable energy association whose business is germane to the businesses of the providers;

g. Require providers to comply with other applicable Commission regulations governing interconnection and safety, including utility procedures governing the same;

h. Require minimum capitalization or other bond or surety that, in the judgment of the Commission, is necessary for adequate consumer protection and in the public interest;

i. Require the payment of a fee of \$250 for residential and nonresidential provider registration; and

j. Provide that no registered provider, by virtue of that status alone, shall be considered a public utility or competitive service provider for purposes of this title.

3. The self-certification system described in this subdivision shall require a provider to affirm to the staff, under the penalty of revocation of registration, (i) that it is licensed to do business in Virginia; (ii) the names of the responsible officers of the provider entity; (iii) that its named officers have no felony convictions or convictions for crimes of moral turpitude; (iv) that it will abide by all applicable Commission regulations promulgated under this section or for purposes of interconnections and safety; (v) that it will appoint an officer to be a primary liaison to the staff; (vi) that it will appoint an employee to be a primary contact for customer complaints; (vii) that it will have and disclose to customers a dispute resolution procedure; (viii) that it has specified in its registration materials in which territories it intends to offer power purchase agreements; (ix) that it, and each of its named officers, agree to submit themselves to the jurisdiction of the Commission as described in this subdivision; and (x) that, once registered, the provider shall report any material changes in its registration materials to the staff, as a continuing obligation of registration. The staff shall send a copy of the registration materials to each cooperative in whose territory the provider intends to offer power purchase agreements. The staff, once satisfied that the certifications required pursuant to this subdivision are complete, and not more than 30 days following the initial and complete submittal of the registration materials, shall enter the provider onto the official register of providers. No formal Commission proceeding is required for registration but may be initiated if the staff (a) has reason to

*doubt the veracity of the certifications of the provider or (b) in any other case, if, in the judgment of the staff, extenuating or extraordinary circumstances exist that warrant a proceeding. The staff shall not investigate the corporate structure, financing, bookkeeping, accounting practices, contracting practices, prices, or terms and conditions in a third-party partial requirements power purchase agreement. Nothing in this section shall abridge the right of any person, including the Office of Attorney General, from proceeding in a cause of action under the Virginia Consumer Protection Act, § 59.1-196 et seq.*

*4. The Commission shall complete such rulemaking procedure within 12 months of its initiation.*

2. That no later than 60 days after the effective date of this act each Phase II Utility, as such term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall convene a stakeholder process to make recommendations to the utility concerning (i) the development of retail rate schedules designed to offer time-varying pricing that take advantage of advanced metering technology and related investments in customer information systems; (ii) the development of incentive programs for the installation of equipment to develop electric energy derived from sunlight for customers using advanced metering technology served under such time-varying rate schedules; (iii) the possible transition of net metering customers using advanced metering technology to the time-varying rate schedules; (iv) peak shaving programs; (v) the provision of on-site distributed renewable generation to multifamily dwellings; and (vi) related system effects and requirements arising from distributed generation resources. An independent facilitator with expertise in rate design, cost recovery, and solar markets, compensated by the utility, offset by such contributions from members of the stakeholder group as the members deem appropriate, shall facilitate such stakeholder process. The utility shall consult with the stakeholder group and the State Corporation Commission prior to engaging the independent facilitator. Such stakeholder process shall include representatives from the utility, the State Corporation Commission, the office of Consumer Counsel of the Attorney General, the Department of Mines, Minerals and Energy, net-metering program administrators, customer-generators, agricultural customer-generators, solar energy program implementers, solar energy providers, other residential and small business customers, and any other interested stakeholder who the utility deems appropriate for inclusion in such process. The utility shall report on the status of the work of the stakeholder group and the programs developed in conjunction with such stakeholder group, including the petitions filed and the determination thereon, to the Governor, the State Corporation Commission, and the Chairmen of the House and Senate Committees on Commerce and Labor on January 1, 2020, and thereafter on January 1 of each successive year. The scope of the work of the stakeholder group convened pursuant to this enactment shall include the following:

1. In developing the retail rate schedules designed to offer time-varying pricing that take advantage of advanced metering technology, the stakeholder group shall include at least one non-demand schedule.

2. In developing incentive programs for the installation of equipment to develop electric energy derived from sunlight for customers using advanced metering technology served under such time-varying rate schedules, the stakeholder group shall seek to accelerate solar development without adversely impacting other non-solar customers and to establish appropriate incentives to sustain the program, including consideration of the expiration of federal tax incentives available. Any such incentive program shall be limited to net-metering customers until other customers receive advanced metering technology.

3. In developing recommendations for the possible transition of net metering customers to the time-varying rate schedules, the stakeholder group shall (i) recommend the timing and increases in the net-metering cap to take advantage of the deployment of advanced metering technology and the approval of time-varying rate schedules, in a range estimated to be between two percent and four percent, and (ii) recommend appropriate increases in customer class caps, aligned with potential system cap increases, and the timing of deployment of advanced metering technology, taking into consideration infrastructure costs and rate impacts of higher solar distributed generation capacity. The stakeholder group shall recommend capacity and market milestones for growth of solar distributed generation capacity.

4. The stakeholder group shall develop recommendations related to distributed generation resources, including rate design options for the possible transition from retail net metering to successor time-varying rate schedules, recognizing the dependency of such rate design to the deployment of advanced metering technology. The stakeholder group design shall encourage rate stability and allow sufficient transition time for customer education. The stakeholder group shall seek to encourage voluntary transition to time-varying rate schedules and shall provide mechanisms to gather data from such early adopters in order to minimize program impacts on existing net metering customers and other ratepayers. The stakeholder group shall make recommendations about the appropriate grandfathering of existing net metering customers who elect not to be served under the time-varying rate schedules.

5. The stakeholder group may address the availability of power purchase agreements, standby and demand charges, Schedule 19 PURPA contracts, distributed generation storage deployment, and other topics that the facilitator deems appropriate.

3. That on or before March 1, 2020, a Phase II Utility, as such term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall develop and submit to the State Corporation Commission for approval retail rate schedules designed to offer time-varying pricing, including at least one non-demand rate schedule. Customer-generators or agricultural customer-generators participating in net metering may elect to be served under such time-varying rate schedule at such time as the customer-generator or agricultural customer-generator is served by advanced-metering technology equipment satisfactory to the utility.

4. That on or before March 1, 2020, a Phase II Utility, as such term is defined in subdivision A 1 of § 56-585.1 of the Code of Virginia, shall develop and submit to the State Corporation Commission for approval an incentive program for the installation of equipment to develop electric energy derived from sunlight for customers served under time-varying retail rate schedules that have advanced-metering technology equipment satisfactory to the utility.

#### CHAPTER 764

*An Act to designate the bridge on Interstate 81 in Smyth County over Whitetop Road the "Trooper Lucas B. Dowell Bridge."*  
[S 1789]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. § 1. *The bridge on Interstate 81 in Smyth County over Whitetop Road is hereby designated the "Trooper Lucas B. Dowell Bridge." The Department of Transportation shall place and maintain appropriate markers indicating the designation of this bridge. This designation shall not affect any other designation heretofore or hereafter applied to this bridge.*

#### CHAPTER 765

*An Act to amend and reenact the fifth enactments of Chapters 689 and 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, and the first enactment of Chapter 326 of the Acts of Assembly of 2015, and to amend and reenact the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapters 607 and 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, and the second enactment of Chapter 326 of the Acts of Assembly of 2015, relating to retirement allowance for and rehiring retired teachers and administrators.*

[S 1227]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That the fifth enactments of Chapters 689 and 700 of the Acts of Assembly of 2001, as amended by the second enactment of Chapter 211 of the Acts of Assembly of 2003, Chapter 609 of the Acts of Assembly of 2005, the first enactment of Chapter 590 of the Acts of Assembly of 2009, and the first enactment of Chapter 326 of the Acts of Assembly of 2015, are amended and reenacted as follows:

5. That the provisions of this act shall expire on July 1, ~~2020~~ 2025.

2. That the third enactment of Chapter 563 of the Acts of Assembly of 2004, as amended by Chapters 607 and 608 of the Acts of Assembly of 2005, the second enactment of Chapter 590 of the Acts of Assembly of 2009, and the second enactment of Chapter 326 of the Acts of Assembly of 2015, is amended and reenacted as follows:

3. That the provisions of this act shall expire on July 1, ~~2020~~ 2025.

#### CHAPTER 766

*An Act to amend and reenact § 23.1-3127 of the Code of Virginia, relating to the Southwest Virginia Higher Education Center; powers and duties of board.*

[S 1511]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That § 23.1-3127 of the Code of Virginia is amended and reenacted as follows:

**§ 23.1-3127. Powers of the board.**

A. The board has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, it is confined to corporations created under that title. The board may accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

B. The board may establish and administer agreements with (i) public institutions of higher education and private institutions of higher education to provide undergraduate-level and graduate-level instructional programs at the Center and (ii) Virginia Highlands Community College and other public institutions of higher education and private institutions of higher education to provide freshman-level and sophomore-level courses and associate degrees. *The board shall seek opportunities to collaborate with local comprehensive community colleges to meet specialized noncredit workforce training needs identified by industry. However, if local community colleges are unable to meet identified industry needs, then the board may seek to collaborate with other education providers or may provide Center-delivered specialized noncredit workforce training independent of local comprehensive community colleges.*

C. The board may, on behalf of the Center, apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives.

## CHAPTER 767

*An Act to amend and reenact § 22.1-305.2 of the Code of Virginia, relating to teacher licensure; Advisory Board on Teacher Education and Licensure; certain instructors at institutions of higher education.*

[S 1575]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-305.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-305.2. Advisory Board on Teacher Education and Licensure.**

There is hereby established the Advisory Board on Teacher Education and Licensure (*the Advisory Board*), which shall consist of three legislative members to be appointed as follows: ~~Two~~ *two* members of the House of Delegates to be appointed by the Speaker of the House of Delegates, one member of the Senate to be appointed by the Senate Committee on Rules, and 21 nonlegislative citizen members to be appointed by the Board of Education. Ten nonlegislative citizen members of the Advisory Board shall be classroom teachers, with at least the following representation: three elementary school teachers, three middle school teachers, and three high school teachers. Three nonlegislative citizen members of the Advisory Board shall be school administrators, one of whom shall be a school principal, one of whom shall be a division superintendent, and one of whom shall be a school personnel administrator. Four nonlegislative citizen members of the Advisory Board shall be faculty members in teacher preparation programs in public or private institutions of higher education, who may represent the arts and sciences. One nonlegislative citizen member of the Advisory Board shall be a member of a school board. One nonlegislative citizen member of the Advisory Board shall be a member of a parent-teacher association. One nonlegislative citizen member of the Advisory Board shall be a representative of the business community, and one nonlegislative citizen member shall be a citizen at large. *The Chancellor of the Virginia Community College System or his designee shall serve as an ex officio member of the Advisory Board.* The Superintendent of Public Instruction or his designee and the Director of the State Council of Higher Education *for Virginia* or his designee ~~and the Chancellor of the Virginia Community College System or his designee~~ shall serve as nonvoting ex officio members of the Advisory Board.

The Superintendent of Public Instruction shall designate a staff liaison to coordinate the activities of the Advisory Board. The Advisory Board shall meet five times per year or upon the request of its chairman or the Board of Education. The Advisory Board shall annually elect a chairman from its membership. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the Advisory Board shall be compensated as provided in § 30-19.12. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as members of the Advisory Board as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by the Department of Education.

The nonlegislative citizen members of the Advisory Board shall be appointed for three-year terms. Legislative members shall serve terms coincident with their terms of office. No person may be appointed to serve for more than two consecutive terms. Members shall hold office after expiration of their terms until their successors are duly appointed. Appointments to fill vacancies of members, other than by expiration of a term, shall be for the unexpired terms. Such vacancies shall be filled in the same manner as the original appointments.

The Advisory Board on Teacher Education and Licensure shall advise the Board of Education and submit recommendations on policies applicable to the qualifications, examination, licensure, and regulation of school personnel including revocation, suspension, denial, cancellation, reinstatement, and renewals of licensure, fees for processing applications, standards for the approval of preparation programs, reciprocal approval of preparation programs, and other related matters as the Board of Education may request or the Advisory Board may deem necessary. The final authority for licensure of school personnel shall remain with the Board of Education.

**2. That, notwithstanding any provision of law to the contrary, the Board of Education shall provide for the issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth to any individual who (i) is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, (ii) is teaching in the specific career and technical education or dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and (iii) complies with the requirements set forth in subdivisions D 1 and 3 of § 22.1-298.1 of the Code of Virginia. The Board of Education shall require any such instructor to maintain continuous employment in such position at the institution of higher education as a condition of continued licensure. The provisions of this enactment shall expire on July 1, 2021, however, any license issued pursuant to this act prior to July 1, 2021, shall remain in effect for three years from the date it was issued unless such license is revoked by the Board of Education.**

**3. That the Advisory Board on Teacher Education and Licensure (the Advisory Board) shall make recommendations relating to licensure qualifications for individuals employed by an institution of higher education (i) to teach career and technical education courses in a high school setting and (ii) to teach dual enrollment courses in a high school setting. In making its recommendations, the Advisory Board shall consider the plan, process, and criteria developed**

by the State Board for Community Colleges pursuant to subdivision 7 of § 23.1-2904 of the Code of Virginia and criteria used by nationally recognized regional higher education accreditation bodies. The Advisory Board shall report its recommendations to the Board of Education and the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than December 1, 2019.

### CHAPTER 768

*An Act to amend the Code of Virginia by adding a section numbered 22.1-23.2, relating to the Superintendent of Public Instruction; consolidation of surveys.*

[S 1586]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 22.1-23.2 as follows:**

**§ 22.1-23.2. Consolidation of surveys, etc.**

*The Superintendent of Public Instruction shall identify any survey, questionnaire, inquiry, or other communication that requires a response from a school board or division superintendent as required by this title, Board regulations, the Superintendent, the Department, or other state agencies and shall, in collaboration with any identified requesting entity, work to consolidate, as much as practicable, all such surveys, questionnaires, inquiries, and other communications in order to reduce the administrative burden of such response.*

### CHAPTER 769

*An Act to amend and reenact § 22.1-181 of the Code of Virginia, relating to school bus operators; training.*

[S 1713]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-181 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-181. Training program for school bus operators.**

A. ~~The Board of Education shall develop a training program for~~ promulgate regulations requiring persons applying for employment, and employed, to operate school buses and shall promote its implementation to complete a training program developed by the Board.

B. For applicants not currently possessing a commercial driver's license, such regulations shall require (i) a minimum of 24 hours of classroom training administered pursuant to this section and (ii) six hours of behind-the-wheel training on a school bus that contains no pupil passengers. For applicants currently possessing a commercial driver's license, such regulations shall require (a) a minimum of four hours of classroom training administered pursuant to this section and (b) three hours of behind-the-wheel training on a school bus that contains no pupil passengers. Behind-the-wheel training shall be administered under the direct on-board supervision of a designated school bus driver trainer.

C. *The training program developed by the Board shall include safety protocols for responding to adverse weather conditions, unsafe conditions during loading and unloading of students, students on the wrong bus, and other circumstances, as determined by the Board, where student safety is at risk.*

### CHAPTER 770

*An Act to require the Department of Education to develop and submit a plan relating to additional reading diagnostic tools.*

[S 1718]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Department of Education, in consultation with appropriate stakeholders, including a parent of a currently-enrolled public school student diagnosed with dyslexia, shall develop a plan to implement a pilot program to incorporate additional diagnostic tools into reading diagnostic tests used for screening students in kindergarten through grade three. Such plan shall consider the appropriate interventions and services for students identified through such additional diagnostic tools and the resources that are necessary for the implementation of such interventions and services. The Department of Education shall submit such plan to the Chairmen of the House Committee on Education, the Senate Committee on Education and Health, the House Committee on Appropriations, and the Senate Committee on Finance no later than December 1, 2019.*

## CHAPTER 771

*An Act to amend and reenact § 2.2-2101 of the Code of Virginia, and to repeal § 22.1-253.13:10 of the Code of Virginia, relating to the Standards of Learning Innovation Committee; repeal.*

[S 1728]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-2101 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-2101. Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.**

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute, who shall be appointed as provided for in § 23.1-3112; to members of the Advisory Board on Teacher Education and Licensure, who shall be appointed as provided for in § 22.1-305.2; to members of the Virginia Interagency Coordinating Council, who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23.1-3117; to members of the Board of Trustees of the Online Virginia Network Authority, who shall be appointed as provided in § 23.1-3136; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; ~~to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10;~~ to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure and Resilient Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2485; or to members of the Henrietta Lacks Commission, who shall be appointed as provided in § 2.2-2538.

**2. That § 22.1-253.13:10 of the Code of Virginia is repealed.**

## CHAPTER 772

*An Act to direct the Department of Education to encourage school boards of school divisions that have a significant number of enrolled military-connected students to partner with the National Math and Science Initiative.*

[S 1746]

Approved March 21, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Department of Education shall encourage school boards of school divisions that have a significant number of enrolled military-connected students to partner with the National Math and Science Initiative to provide such students with the tools and resources necessary to advance science, technology, engineering, and mathematics learning opportunities and career readiness. The Department shall provide technical assistance to any school board seeking to enter into such a partnership, upon request.*

## CHAPTER 773

*An Act to amend and reenact § 56-585.1 of the Code of Virginia, relating to electric utilities; energy efficiency programs.*

[S 1662]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-585.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase I Utility in 2020, utilizing the three successive 12-month test periods beginning January 1, 2017, and ending December 31, 2019. Thereafter, reviews for a Phase I Utility will be on a triennial basis with subsequent proceedings utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. Pursuant to subsection A of § 56-585.1:1, the Commission shall conduct a review for a Phase II Utility in 2021, utilizing the four successive 12-month test periods beginning January 1, 2017, and ending December 31, 2020, with subsequent reviews on a triennial basis utilizing the three successive 12-month test periods ending December 31 immediately preceding the year in which such review proceeding is conducted. All such reviews occurring after December 31, 2017, shall be referred to as triennial reviews. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, the fair rate of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, and for any rate adjustment clauses approved under subdivision 5 or 6, shall be determined by the Commission during each such triennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility

subject to such triennial review, nor shall the Commission set such return more than 300 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall first remove from such group the two utilities within such group that have the lowest reported returns of the group, as well as the two utilities within such group that have the highest reported returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such triennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such triennial review, and (iv) it is not an affiliate of the utility subject to such triennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section. The provisions of this subdivision are subject to the provisions of subdivision 8.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent triennial review.

3. Each such utility shall make a triennial filing by March 31 of every third year, with such filings commencing for a Phase I Utility in 2020, and such filings commencing for a Phase II Utility in 2021, consisting of the schedules contained in the Commission's rules governing utility rate increase applications. Such filing shall encompass the three successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, except that the filing for a Phase II Utility in 2021 shall encompass the four successive 12-month test periods ending December 31, 2020, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future triennial review proceedings. In a triennial filing under this subdivision that does not result in an overall rate change a utility may propose an adjustment to one or more tariffs that are revenue neutral to the utility.

4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision 2. *Any such petition shall include a proposed budget for the design, implementation, and operation of the energy efficiency program.* The Commission shall only approve such a petition if it finds that the program is in the public interest. *If the Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted by the Commission's staff in relation to that program that has bearing upon the Commission's determination. Such order shall adhere to existing protocols for extraordinarily sensitive information.* As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

None of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, shall be assigned to any large general service customer. A large general service customer is a customer that has a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery. A utility shall not charge such large general service customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of participation in a renewable energy portfolio standard program pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs as are provided for in a program approved pursuant to § 56-585.2;

e. Projected and actual costs of projects that the Commission finds to be necessary to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations. The

Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations; and

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility.

*Any rate adjustment clause approved under subdivision 5 c by the Commission shall remain in effect until the utility exhausts the approved budget for the energy efficiency program.* The Commission shall have the authority to determine the duration or amortization period for any *other rate* adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power, (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, or (vi) one or more electric distribution grid transformation projects; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv) or (vi), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv) or (vi), as applicable. As of December 1, 2028, any costs recovered by a utility pursuant to clause (iv) shall be limited to any remaining costs associated with conversions of overhead distribution facilities to underground facilities that have been previously approved or are pending approval by the Commission through a petition by the utility under this subdivision. Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs or makes modifications to any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility described in clause (i) or (ii) shall demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process. The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service.

Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), (iii) or (v) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities or new electric distribution grid transformation projects are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 5,000 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 50 megawatts, that use energy derived from sunlight or from wind and are located in the Commonwealth or off the Commonwealth's Atlantic shoreline, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest. In determining whether to approve petitions for rate adjustment clauses for such new underground facilities that meet this criteria, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title.

The conversion of any such facilities on or after September 1, 2016, is deemed to provide local and system-wide benefits and to be cost beneficial, and the costs associated with such new underground facilities are deemed to be reasonably and prudently incurred and, notwithstanding the provisions of subsection C or D, shall be approved for recovery by the Commission pursuant to this subdivision, provided that the total costs associated with the replacement of any subset of existing overhead distribution tap lines proposed by the utility with new underground facilities, exclusive of financing costs, shall not exceed an average cost per customer of \$20,000, with such customers, including those served directly by or downline of the tap lines proposed for conversion, and, further, such total costs shall not exceed an average cost per mile of tap lines converted, exclusive of financing costs, of \$750,000. A utility shall, without regard for whether it has petitioned for any rate adjustment clause pursuant to clause (vi), petition the Commission, not more than once annually, for approval of a plan for electric distribution grid transformation projects. Any plan for electric distribution grid transformation projects shall include both measures to facilitate integration of distributed energy resources and measures to enhance physical electric distribution grid reliability and security. In ruling upon such a petition, the Commission shall consider whether the utility's plan for such projects, and the projected costs associated therewith, are reasonable and prudent. Such petition shall be considered on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility; without regard to whether the costs associated with such projects will be recovered through a rate adjustment clause under this subdivision or through the utility's rates for generation and distribution services; and without regard to whether such costs will be the subject of a customer credit offset, as applicable, pursuant to subdivision 8 d. The Commission's final order regarding any such petition for approval of an electric distribution grid transformation plan shall be entered by the Commission not more than six months after the date of filing such petition. The Commission shall likewise enter its final order with respect to any petition by a utility for a certificate to construct and operate a generating facility or facilities utilizing energy derived from sunlight, pursuant to subsection D of § 56-580, within six months after the date of filing such petition. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years

Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

For generating facilities other than those utilizing nuclear power constructed pursuant to clause (ii) or those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such facilities shall continue to be eligible for an enhanced rate of return on common equity during the construction phase of the facility and the approved first portion of its service life of between 12 and 25 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1, 2013, the enhanced return for such facilities constructed pursuant to clause (ii) shall be 100 basis points, which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new nuclear generation facility or facilities are in the public interest.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from onshore or offshore wind are in the public interest.

Construction, purchasing, or leasing activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight or from wind with an aggregate capacity of 5,000 megawatts, including rooftop solar installations with a capacity of not less than 50 kilowatts, and with an aggregate capacity of 50 megawatts, together with a new test or demonstration project for a utility-owned and utility-operated generating facility or facilities utilizing energy derived from offshore wind with an aggregate capacity of not more than 16 megawatts, are in the public interest. To the extent that a utility elects to recover the costs of any such new generation facility or facilities through its rates for generation and distribution services and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (ii), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding pursuant to subsection D of § 56-580 or in a triennial review proceeding.

Electric distribution grid transformation projects are in the public interest. To the extent that a utility elects to recover the costs of such electric distribution grid transformation projects through its rates for generation and distribution services, and does not petition and receive approval from the Commission for recovery of such costs through a rate adjustment clause described in clause (vi), the Commission shall, upon the request of the utility in a triennial review proceeding, provide for a customer credit reinvestment offset, as applicable, pursuant to subdivision 8 d with respect to all costs deemed reasonable and prudent by the Commission in a proceeding for approval of a plan for electric distribution grid transformation projects pursuant to subdivision 6 or in a triennial review proceeding.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the

utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission for such utility pursuant to subdivision 2.

Notwithstanding any other provision of this subdivision, if the Commission finds during the triennial review conducted for a Phase II Utility in 2021 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

Notwithstanding any other provision of this subdivision, if a Phase II utility obtains approval from the Commission of a rate adjustment clause pursuant to subdivision 6 associated with a test or demonstration project involving a generation facility utilizing energy from offshore wind, and such utility has not, as of July 1, 2023, commenced construction as defined for federal income tax purposes of an offshore wind generation facility or facilities with a minimum aggregate capacity of 250 megawatts, then the Commission, if it finds it in the public interest, may direct that the costs associated with any such rate adjustment clause involving said test or demonstration project shall thereafter no longer be recovered through a rate adjustment clause pursuant to subdivision 6 and shall instead be recovered through the utility's rates for generation and distribution services, with no change in such rates for generation and distribution services as a result of the combination of such costs with the other costs, revenues, and investments included in the utility's rates for generation and distribution services. Any such costs shall remain combined with the utility's other costs, revenues, and investments included in its rates for generation and distribution services until such costs are fully recovered.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61,012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with

respect to triennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any triennial review proceeding, for the purposes of reviewing earnings on the utility's rates for generation and distribution services, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review and deemed fully recovered in the period recorded: costs associated with asset impairments related to early retirement determinations made by the utility for utility generation facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters; costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause pursuant to subdivision 5 e; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such triennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a triennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such triennial review that:

a. The utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, the Commission may not order a rate increase, and in all triennial reviews of a Phase I or Phase II utility, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof; and provided that, solely in connection with making its determination concerning the necessity for such a rate increase or the amount thereof, the Commission shall, in any triennial review proceeding conducted prior to July 1, 2028, exclude from this most recently ended 12-month test period any remaining investment levels associated with a prior customer credit reinvestment offset pursuant to subdivision d.

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivisions 8 d and 9, direct that 60 percent of the amount of such earnings

that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. In any triennial review proceeding conducted after January 1, 2020, for a Phase I Utility or after January 1, 2021, for a Phase II Utility in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, and the combined aggregate level of capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test periods under review in that triennial review proceeding in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and in electric distribution grid transformation projects, as determined pursuant to subdivision 8 d, does not equal or exceed 100 percent of the earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the combined test periods under review in that triennial review proceeding, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, in the first triennial review proceeding conducted after January 1, 2021, for a Phase II Utility, any reduction to the utility's rates ordered by the Commission pursuant to this subdivision shall not exceed \$50 million in annual revenues, with any reduction allocated to the utility's rates for generation services, and in each triennial review of a Phase I or Phase II Utility, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof; and

d. (Expires July 1, 2028) In any triennial review proceeding conducted after December 31, 2017, upon the request of the utility, the Commission shall determine, prior to directing that 70 percent of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services for the test period or periods under review be credited to customer bills pursuant to subdivision 8 b, the aggregate level of prior capital investment that the Commission has approved other than those capital investments that the Commission has approved for recovery pursuant to a rate adjustment clause pursuant to subdivision 6 made by the utility during the test period or periods under review in both (i) new utility-owned generation facilities utilizing energy derived from sunlight, or from onshore or offshore wind, and (ii) electric distribution grid transformation projects, as determined by the utility's plant in service and construction work in progress balances related to such investments as recorded per books by the utility for financial reporting purposes as of the end of the most recent test period under review. Any such combined capital investment amounts shall offset any customer bill credit amounts, on a dollar for dollar basis, up to the aggregate level of invested or committed capital under clauses (i) and (ii). The aggregate level of qualifying invested or committed capital under clauses (i) and (ii) is referred to in this subdivision as the customer credit reinvestment offset, which offsets the customer bill credit amount that the utility has invested or will invest in new solar or wind generation facilities or electric distribution grid transformation projects for the benefit of customers, in amounts up to 100 percent of earnings that are more than 70 basis points above the utility's fair rate of return on its generation and distribution services, and thereby reduce or eliminate otherwise incremental rate adjustment clause charges and increases to customer bills, which is deemed to be in the public interest. If 100 percent of the amount of earnings that are more than 70 basis points above the utility's fair combined rate of return on its generation and distribution services, as determined in subdivision 2, exceeds the aggregate level of invested capital in new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, and electric distribution grid transformation projects, as provided in clauses (i) and (ii), during the test period or periods under review, then 70 percent of the amount of such excess shall be credited to customer bills as provided in subdivision 8 b in connection with the triennial review proceeding. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is the subject of any customer credit reinvestment offset pursuant to this subdivision shall not thereafter be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall not thereafter be included in the utility's costs, revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 and shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. The portion of any costs associated with new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that is not the subject of any customer credit reinvestment offset pursuant to this subdivision may be recovered through the utility's rates for generation and distribution services over the service life of such facilities and shall be included in the utility's costs,

revenues, and investments in future triennial review proceedings conducted pursuant to subdivision 2 until such costs are fully recovered, and if such costs are recovered through the utility's rates for generation and distribution services, they shall not be the subject of a rate adjustment clause petition pursuant to subdivision 6. Only the portion of such costs of new utility-owned generation facilities utilizing energy derived from sunlight, or from wind, or electric distribution grid transformation projects that has not been included in any customer credit reinvestment offset pursuant to this subdivision, and not otherwise recovered through the utility's rates for generation and distribution services, may be the subject of a rate adjustment clause petition by the utility pursuant to subdivision 6.

The Commission's final order regarding such triennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such triennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire three successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent triennial review filing under subdivision 3 and shall apply to applicable rate adjustment clauses under subdivisions 5 and 6 prospectively from the date the Commission's final order in the triennial review proceeding, utilizing rate adjustment clause true-up protocols as the Commission in its discretion may determine.

9. If, as a result of a triennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c, provided that no credits shall be provided pursuant to this subdivision in connection with any triennial review unless such bill credits would be payable pursuant to the provisions of subdivision 8 d, and any credits under this subdivision shall be calculated net of any customer credit reinvestment offset amounts under subdivision 8 d. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, excluding any debt associated with securitized bonds that are the obligation of non-Virginia jurisdictional customers, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by customers.

E. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

## CHAPTER 774

*An Act to amend and reenact §§ 2.2-3803, 23.1-402, 37.2-712, and 66-25 of the Code of Virginia, relating to the Government Data Collection and Dissemination Practices Act; collection or dissemination of information concerning religious preferences and affiliations.*

[H 2494]

Approved March 22, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3803, 23.1-402, 37.2-712, and 66-25 of the Code of Virginia are amended and reenacted as follows: § 2.2-3803. Administration of systems including personal information; Internet privacy policy; exceptions.**

A. Any agency maintaining an information system that includes personal information shall:

1. Collect, maintain, use, and disseminate only that personal information permitted or required by law to be so collected, maintained, used, or disseminated, or necessary to accomplish a proper purpose of the agency;
2. Collect information to the greatest extent feasible from the data subject directly, or through the sharing of data with other agencies, in order to accomplish a proper purpose of the agency;
3. Establish categories for maintaining personal information to operate in conjunction with confidentiality requirements and access controls;
4. Maintain information in the system with accuracy, completeness, timeliness, and pertinence as necessary to ensure fairness in determinations relating to a data subject;
5. Make no dissemination to another system without (i) specifying requirements for security and usage including limitations on access thereto, and (ii) receiving reasonable assurances that those requirements and limitations will be observed. This subdivision shall not apply, however, to a dissemination made by an agency to an agency in another state, district or territory of the United States where the personal information is requested by the agency of such other state, district or territory in connection with the application of the data subject therein for a service, privilege or right under the laws thereof, nor shall this apply to information transmitted to family advocacy representatives of the United States Armed Forces in accordance with subsection N of § 63.2-1503;
6. Maintain a list of all persons or organizations having regular access to personal information in the information system;
7. Maintain for a period of three years or until such time as the personal information is purged, whichever is shorter, a complete and accurate record, including identity and purpose, of every access to any personal information in a system, including the identity of any persons or organizations not having regular access authority but excluding access by the personnel of the agency wherein data is put to service for the purpose for which it is obtained;
8. Take affirmative action to establish rules of conduct and inform each person involved in the design, development, operation, or maintenance of the system, or the collection or use of any personal information contained therein, about all the requirements of this chapter, the rules and procedures, including penalties for noncompliance, of the agency designed to assure compliance with such requirements;
9. Establish appropriate safeguards to secure the system from any reasonably foreseeable threat to its security; and
10. Collect no personal information concerning the political or religious beliefs, affiliations, and activities of data subjects that is maintained, used, or disseminated in or by any information system operated by any agency unless authorized explicitly by statute or ordinance. *Nothing in this subdivision shall be construed to allow an agency to disseminate to*

*federal government authorities information concerning the religious beliefs and affiliations of data subjects for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity, unless such dissemination is specifically required by state or federal law.*

B. Every public body, as defined in § 2.2-3701, that has an Internet website associated with that public body shall develop an Internet privacy policy and an Internet privacy policy statement that explains the policy to the public. The policy shall be consistent with the requirements of this chapter. The statement shall be made available on the public body's website in a conspicuous manner. The Secretary of Technology or his designee shall provide guidelines for developing the policy and the statement, and each public body shall tailor the policy and the statement to reflect the information practices of the individual public body. At minimum, the policy and the statement shall address (i) what information, including personally identifiable information, will be collected, if any; (ii) whether any information will be automatically collected simply by accessing the website and, if so, what information; (iii) whether the website automatically places a computer file, commonly referred to as a "cookie," on the Internet user's computer and, if so, for what purpose; and (iv) how the collected information is being used or will be used.

C. Notwithstanding the provisions of subsection A, the Virginia Retirement System may disseminate information as to the retirement status or benefit eligibility of any employee covered by the Virginia Retirement System, the Judicial Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System, to the chief executive officer or personnel officers of the state or local agency by which he is employed.

D. Notwithstanding the provisions of subsection A, the Department of Social Services may disseminate client information to the Department of Taxation for the purposes of providing specified tax information as set forth in clause (ii) of subsection C of § 58.1-3.

E. Notwithstanding the provisions of subsection A, the State Council of Higher Education for Virginia may disseminate student information to agencies acting on behalf or in place of the U.S. government to gain access to data on wages earned outside the Commonwealth or through federal employment, for the purposes of complying with § 23.1-204.1.

**§ 23.1-402. Collection and dissemination of information concerning religious preferences and affiliations.**

A. Notwithstanding any provision of law to the contrary, any public institution of higher education may collect and disseminate information concerning the religious preferences and affiliations of its students, provided that no such institution shall (i) require any student to indicate his religious preference or affiliation or (ii) disseminate such information without the student's consent.

*B. No consent given pursuant to this section shall be construed to allow any public institution of higher education to disseminate to federal government authorities information concerning the religious preferences and affiliations of its students for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity, unless such dissemination is specifically required by state or federal law.*

**§ 37.2-712. Collection and dissemination of information concerning religious preferences and affiliations.**

A. Notwithstanding any provision of law to the contrary, any state facility may collect and disseminate information concerning the religious preferences and affiliations of individuals receiving services, provided that no individual may be required to indicate his religious preference or affiliation and that no dissemination of the information shall be made except to categories of persons as to whom the individual or his guardian or other legally authorized representative or other fiduciary has given his authorization that dissemination may be made.

*B. No authorization given pursuant to this section shall be construed to allow any state facility to disseminate to federal government authorities information concerning the religious preferences and affiliations of individuals receiving services for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity, unless such dissemination is specifically required by state or federal law.*

**§ 66-25. Collection of information concerning religious preferences by correctional facilities.**

A. Notwithstanding any provision of law to the contrary, any correctional facility established pursuant to this chapter or Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 may collect and disseminate information concerning the religious preferences and affiliations of persons committed to its custody. No person shall be required to indicate his religious preference or affiliation, and no dissemination of the information shall be made except to categories of persons designated by the person who has given his consent to such dissemination.

*B. No consent given pursuant to this section shall be construed to allow any correctional facility established pursuant to this chapter or Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 to disseminate to federal government authorities information concerning the religious preferences and affiliations of persons committed to its custody for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity, unless such dissemination is specifically required by state or federal law.*

## CHAPTER 775

*An Act to amend and reenact §§ 2.2-3705.7, 2.2-3711, 15.2-1627.5, and 63.2-1605 of the Code of Virginia, relating to protective services; adult abuse, neglect, and exploitation; multidisciplinary teams.*

[S 1224]

Approved March 22, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.7, 2.2-3711, 15.2-1627.5, and 63.2-1605 of the Code of Virginia are amended and reenacted as follows:

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or

the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the

disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault *response* team established pursuant to § 15.2-1627.4 ~~or~~, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child *sexual* abuse *response* teams established pursuant to § 15.2-1627.5, or (iii) *individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605.* The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the

government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a

local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to

deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault *response* team established pursuant to § 15.2-1627.4 ~~or~~, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child *sexual* abuse *response* team established pursuant to § 15.2-1627.5, or (iii) *individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.*

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

**§ 15.2-1627.5. Coordination of multidisciplinary response to child sexual abuse and the abuse, neglect, and exploitation of adults.**

A. The attorney for the Commonwealth in each jurisdiction in the Commonwealth shall establish a multidisciplinary child sexual abuse response team, which may be an existing multidisciplinary team. The multidisciplinary team shall conduct regular reviews of new and ongoing reports of felony sex offenses in the jurisdiction involving a child and the investigations thereof and, at the request of any member of the team, may conduct reviews of any other reports of child abuse and neglect or sex offenses in the jurisdiction involving a child and the investigations thereof. The multidisciplinary team shall meet frequently enough to ensure that no new or ongoing reports go more than 60 days without being reviewed by the team.

B. The following individuals, or their designees, shall participate in review meetings of the multidisciplinary team established pursuant to subsection A: the attorney for the Commonwealth; law-enforcement officials responsible for the investigation of sex offenses involving a child in the jurisdiction; a representative of the local child protective services unit; a representative of a child advocacy center serving the jurisdiction, if one exists; and a representative of an Internet Crimes Against Children task force affiliate agency serving the jurisdiction, if one exists. In addition, the attorney for the Commonwealth may invite other individuals, or their designees, including the school superintendent of the jurisdiction; a representative of any sexual assault crisis center serving the jurisdiction, if one exists; the director of the victim/witness program serving the jurisdiction, if one exists; and a health professional knowledgeable in the treatment and provision of services to children who have been sexually abused.

*C. The attorney for the Commonwealth in each jurisdiction may also establish a multidisciplinary adult abuse, neglect, and exploitation response team to review cases of abuse, neglect, and exploitation of adults as defined in § 63.2-1603. The multidisciplinary team may be established separately or in conjunction with any already existing multidisciplinary team.*

**§ 63.2-1605. Protective services for adults by local departments.**

A. Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of such report and shall initiate an investigation within 24 hours of the time the report is received in the local department. Local departments shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

C. The local department or the adult protective services hotline shall immediately refer the matter and all relevant documentation to the local law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon determining, during the course of an investigation pursuant to this article, the occurrence of any of the following:

1. Sexual abuse as defined in § 18.2-67.10;
2. Death that is believed to be the result of abuse or neglect;
3. Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect;
4. Suspected financial exploitation of an adult; or
5. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.

Local law-enforcement agencies shall provide local departments and the adult protective services hotline with a preferred point of contact for referrals.

D. The local department shall refer any appropriate matter and all relevant documentation, to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

E. If a local department is denied access to an adult for whom there is reason to suspect the need for adult protective services, then the local department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may enter an order permitting such access or entry.

F. In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings, or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the investigation and do not conflict with

§ 18.2-386.1. However, if the adult is determined to be incapable of making an informed decision and of giving informed consent and either has no legal representative or the legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be given by an agent appointed under an advance medical directive or medical power of attorney, or by a person authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately available, then consent shall be deemed to be given.

G. Local departments shall foster the development, implementation, and coordination of adult protective services to prevent adult abuse, neglect, and exploitation.

H. Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults incarcerated in state correctional facilities.

I. The report and evidence received by the local department and any written findings, evaluations, records, and recommended actions shall be confidential and shall be exempt from disclosure requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be disclosed to persons having a legitimate interest in the matter in accordance with §§ 63.2-102 and 63.2-104 and pursuant to official interagency agreements or memoranda of understanding between state agencies.

J. All written findings and actions of the local department or its director regarding adult protective services investigations are final and shall not be (i) appealable to the Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

K. *Each local department may foster, when practicable, the creation, maintenance, and coordination of community-based multidisciplinary teams that shall include, where possible, members of the medical, mental health, social work, nursing, education, legal, and law-enforcement professions. Such teams shall:*

1. *Assist the local department in identifying abused, neglected, and exploited adults as defined in § 63.2-1603.*
2. *Coordinate medical, social, and legal services for abused, neglected, and exploited adults and their families.*
3. *Develop innovative programs for detection and prevention of the abuse, neglect, and exploitation of adults.*
4. *Promote community awareness and action to address the abuse, neglect, and exploitation of adults.*
5. *Disseminate information to the general public regarding the problem of abuse, neglect, and exploitation of adults, strategies and methods for preventing such abuse, neglect, and exploitation, and treatment options for abused, neglected, and exploited adults.*

*Such multidisciplinary teams may share information among the parties in the performance of their duties but shall be bound by confidentiality and shall execute a sworn statement to honor the confidentiality of the information they share. A violation of this subsection is punishable as a Class 3 misdemeanor. All such information and records shall be used by the team only in the exercise of its proper function and shall not be disclosed. No person who participated in the team and no member of the team shall be required to make any statement as to what transpired during a meeting or what information was collected during the meeting. Upon the conclusion of a meeting, all information and records concerning the adult shall be returned to the originating agency or destroyed. Any information exchanged in accordance with the multidisciplinary review team shall not be considered to be a violation of any of the provisions of § 63.2-102, 63.2-104, or 63.2-105.*

## CHAPTER 776

*An Act to amend regulations governing licensed providers; Board of Behavioral Health and Developmental Services to require disclosure of certain information.*

[H 2652]

Approved March 22, 2019

### **Be it enacted by the General Assembly of Virginia:**

1. § 1. *That the Board of Behavioral Health and Developmental Services shall amend regulations governing licensed providers to require that every licensed provider provide a statement regarding a current or past employee or other individual currently or previously associated with the provider in a capacity that requires a criminal history background check pursuant to § 37.2-416 or 37.2-506 of the Code of Virginia to any other licensed provider with which the current or past employee has applied for employment or to fill a role that requires a criminal history background check pursuant to § 37.2-416 or 37.2-506 of the Code of Virginia. The statement shall address the character, ability, and fitness for employment in or to otherwise fill the role for which the person has applied and shall be provided upon receipt of a request for such information from the other licensed provider and written consent to the disclosure of such information executed by the current or past employee or other individual currently or previously associated with the provider in a capacity that requires a criminal history background check pursuant to § 37.2-416 or 37.2-506 of the Code of Virginia. Nothing in the amended regulations shall require disclosure of information subject to privilege or confidentiality pursuant to § 8.01-581.16, 8.01-581.17, or 32.1-127.1:03 of the Code of Virginia or federal law.*

## CHAPTER 777

*An Act to amend and reenact §§ 24.2-304.3, 24.2-306, and 30-264 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-103.1, relating to redistricting; Geographic Information System maps required; review by the Department of Elections.*

[H 2760]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-304.3, 24.2-306, and 30-264 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-103.1 as follows:**

**§ 24.2-103.1. Duties of Department of Elections related to redistricting.**

A. Upon receipt of any ordinance and Geographic Information System (GIS) map sent pursuant to § 24.2-304.3 or 24.2-306, the Department shall promptly review the ordinance and map and compare the boundaries contained within with the information in the voter registration system in order to ensure voters have been assigned to the correct districts. The Department shall notify the locality of any corrections that may be necessary.

B. The Department shall maintain and make available on its official website maps showing the current election district and precinct boundaries of each county and city.

**§ 24.2-304.3. Recording reapportionment ordinance; notice requirements.**

A copy of the ordinance reapportioning representation in the governing body of a county, city, or town, including a description of the boundaries and a map showing the boundaries of the districts or wards, shall be recorded in the official minutes of the governing body.

The clerk of the county, city, or town shall send a certified copy of the ordinance, including a description of the boundaries and a *Geographic Information System (GIS)* map showing the boundaries of the districts or wards, to the local electoral board, the Secretary of the Commonwealth, ~~State Board~~ the Department of Elections, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the districts or wards as set out in the ordinance, and the Department of Elections shall create such a map.

**§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.**

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-264, and send copies of enacted changes, including a *Geographic Information System (GIS)* map showing the new boundaries of the districts or precincts, to the local electoral board, the ~~State Board~~ Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

**§ 30-264. Staff to Joint Reapportionment Committee; census liaison.**

A. The Division of Legislative Services (*the Division*) shall serve as staff to the Joint Reapportionment Committee. The Director of the Division, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to United States Public Law 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.

B. The Division shall maintain the current election district and precinct boundaries of each county and city as a part of the General Assembly's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance ~~which~~ that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with *Geographic Information System (GIS)* maps and other evidence documenting the boundary, to the Division.

C. The Division shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2. The descriptions shall identify each district boundary, insofar as practicable, by reference to political subdivision boundaries or to physical

features such as named roads and streets. The Division shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2, including the statistical reports referred to in Article 2, shall be controlling in any legal determination of a district boundary.

## CHAPTER 778

*An Act to amend and reenact §§ 24.2-304.3, 24.2-306, and 30-264 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-103.1, relating to redistricting; Geographic Information System maps required; review by the Department of Elections.*

[S 1018]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-304.3, 24.2-306, and 30-264 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-103.1 as follows:**

**§ 24.2-103.1. Duties of Department of Elections related to redistricting.**

A. Upon receipt of any ordinance and Geographic Information System (GIS) map sent pursuant to § 24.2-304.3 or 24.2-306, the Department shall promptly review the ordinance and map and compare the boundaries contained within with the information in the voter registration system in order to ensure voters have been assigned to the correct districts. The Department shall notify the locality of any corrections that may be necessary.

B. The Department shall maintain and make available on its official website maps showing the current election district and precinct boundaries of each county and city.

**§ 24.2-304.3. Recording reapportionment ordinance; notice requirements.**

A copy of the ordinance reapportioning representation in the governing body of a county, city, or town, including a description of the boundaries and a map showing the boundaries of the districts or wards, shall be recorded in the official minutes of the governing body.

The clerk of the county, city, or town shall send a certified copy of the ordinance, including a description of the boundaries and a Geographic Information System (GIS) map showing the boundaries of the districts or wards, to the local electoral board, the Secretary of the Commonwealth, ~~State Board~~ the Department of Elections, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the districts or wards as set out in the ordinance, and the Department of Elections shall create such a map.

**§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.**

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-264, and send copies of enacted changes, including a Geographic Information System (GIS) map showing the new boundaries of the districts or precincts, to the local electoral board, the ~~State Board~~ Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

**§ 30-264. Staff to Joint Reapportionment Committee; census liaison.**

A. The Division of Legislative Services (*the Division*) shall serve as staff to the Joint Reapportionment Committee. The Director of the Division, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to United States Public Law 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.

B. The Division shall maintain the current election district and precinct boundaries of each county and city as a part of the General Assembly's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance ~~which~~ that changes an election district or precinct boundary, the local governing body shall provide a

copy of its ordinance, along with *Geographic Information System (GIS)* maps and other evidence documenting the boundary, to the Division.

C. The Division shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2. The descriptions shall identify each district boundary, insofar as practicable, by reference to political subdivision boundaries or to physical features such as named roads and streets. The Division shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2, including the statistical reports referred to in Article 2, shall be controlling in any legal determination of a district boundary.

## CHAPTER 779

*An Act to amend and reenact § 38.2-2206 of the Code of Virginia, relating to uninsured motorist insurance coverage; settlement and release.*

[S 1293]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-2206 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-2206. Uninsured motorist insurance coverage.**

A. Except as provided in subsection J ~~of this section~~, no policy or contract of bodily injury or property damage liability insurance relating to the ownership, maintenance, or use of a motor vehicle shall be issued or delivered in this Commonwealth to the owner of such vehicle or shall be issued or delivered by any insurer licensed in this Commonwealth upon any motor vehicle principally garaged or used in this Commonwealth unless it contains an endorsement or provisions undertaking to pay the insured all sums that he is legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle, within limits not less than the requirements of § 46.2-472. Those limits shall equal but not exceed the limits of the liability insurance provided by the policy, unless any one named insured rejects the additional uninsured motorist insurance coverage by notifying the insurer as provided in subsection B of § 38.2-2202. This rejection of the additional uninsured motorist insurance coverage by any one named insured shall be binding upon all insureds under such policy as defined in subsection B ~~of this section~~. The endorsement or provisions shall also obligate the insurer to make payment for bodily injury or property damage caused by the operation or use of an underinsured motor vehicle to the extent the vehicle is underinsured, as defined in subsection B ~~of this section~~. The endorsement or provisions shall also provide for at least \$20,000 coverage for damage or destruction of the property of the insured in any one accident but may provide an exclusion of the first \$200 of the loss or damage where the loss or damage is a result of any one accident involving an unidentifiable owner or operator of an uninsured motor vehicle.

B. As used in this section, ~~the term "bodily~~:

"Bodily injury" includes death resulting from bodily injury.

"Insured," as used in subsections A, D, G, and H ~~of this section~~, means the named insured and, while resident of the same household, the spouse of the named insured, and relatives, wards or foster children of either, while in a motor vehicle or otherwise, and any person who uses the motor vehicle to which the policy applies, with the expressed or implied consent of the named insured, and a guest in the motor vehicle to which the policy applies or the personal representative of any of the above.

"Uninsured motor vehicle" means a motor vehicle for which (i) there is no bodily injury liability insurance and property damage liability insurance in the amounts specified by § 46.2-472, (ii) there is such insurance but the insurer writing the insurance denies coverage for any reason whatsoever, including failure or refusal of the insured to cooperate with the insurer, (iii) there is no bond or deposit of money or securities in lieu of such insurance, (iv) the owner of the motor vehicle has not qualified as a self-insurer under the provisions of § 46.2-368, or (v) the owner or operator of the motor vehicle is immune from liability for negligence under the laws of the Commonwealth or the United States, in which case the provisions of subsection F shall apply and the action shall continue against the insurer. A motor vehicle shall be deemed uninsured if its owner or operator is unknown.

A motor vehicle is "underinsured" when, and to the extent that, the total amount of bodily injury and property damage coverage applicable to the operation or use of the motor vehicle and available for payment for such bodily injury or property damage, including all bonds or deposits of money or securities made pursuant to Article 15 (§ 46.2-435 et seq.) of Chapter 3 of Title 46.2, is less than the total amount of uninsured motorist coverage afforded any person injured as a result of the operation or use of the vehicle.

"Available for payment" means the amount of liability insurance coverage applicable to the claim of the injured person for bodily injury or property damage reduced by the payment of any other claims arising out of the same occurrence.

If an injured person is entitled to underinsured motorist coverage under more than one policy, the following order of priority of policies applies and any amount available for payment shall be credited against such policies in the following order of priority:

1. The policy covering a motor vehicle occupied by the injured person at the time of the accident;
2. The policy covering a motor vehicle not involved in the accident under which the injured person is a named insured;

3. The policy covering a motor vehicle not involved in the accident under which the injured person is an insured other than a named insured.

Where there is more than one insurer providing coverage under one of the payment priorities set forth, their liability shall be proportioned as to their respective underinsured motorist coverages.

Recovery under the endorsement or provisions shall be subject to the conditions set forth in this section.

C. There shall be a rebuttable presumption that a motor vehicle is uninsured if the Commissioner of the Department of Motor Vehicles certifies that, from the records of the Department of Motor Vehicles, it appears that: (i) there is no bodily injury liability insurance and property damage liability insurance in the amounts specified by § 46.2-472 covering the owner or operator of the motor vehicle; ~~or~~ (ii) no bond has been given or cash or securities delivered in lieu of the insurance; or (iii) the owner or operator of the motor vehicle has not qualified as a self-insurer in accordance with the provisions of § 46.2-368.

D. If the owner or operator of any motor vehicle that causes bodily injury or property damage to the insured is unknown, and if the damage or injury results from an accident where there has been no contact between that motor vehicle and the motor vehicle occupied by the insured, or where there has been no contact with the person of the insured if the insured was not occupying a motor vehicle, then for the insured to recover under the endorsement required by subsection A ~~of this section~~, the accident shall be reported promptly to either (i) the insurer or (ii) a law-enforcement officer having jurisdiction in the county or city in which the accident occurred. If it is not reasonably practicable to make the report promptly, the report shall be made as soon as reasonably practicable under the circumstances.

E. If the owner or operator of any vehicle causing injury or damages is unknown, an action may be instituted against the unknown defendant as "John Doe" and service of process may be made by delivering a copy of the motion for judgment or other pleadings to the clerk of the court in which the action is brought. Service upon the insurer issuing the policy shall be made as prescribed by law as though the insurer were a party defendant. The provisions of § 8.01-288 shall not be applicable to the service of process required in this subsection. The insurer shall have the right to file pleadings and take other action allowable by law in the name of John Doe.

F. If any action is instituted against the owner or operator of an uninsured or underinsured motor vehicle by any insured intending to rely on the uninsured or underinsured coverage provision or endorsement of this policy under which the insured is making a claim, then the insured shall serve a copy of the process upon this insurer in the manner prescribed by law, as though the insurer were a party defendant. The provisions of § 8.01-288 shall not be applicable to the service of process required in this subsection. The insurer shall then have the right to file pleadings and take other action allowable by law in the name of the owner or operator of the uninsured or underinsured motor vehicle or in its own name. Notwithstanding the provisions of subsection A, the immunity from liability for negligence of the owner or operator of a motor vehicle shall not be a bar to the insured obtaining a judgment enforceable against the insurer for the negligence of the immune owner or operator, and shall not be a defense available to the insurer to the action brought by the insured, which shall proceed against the named defendant although any judgment obtained against an immune defendant shall be entered in the name of "Immune Defendant" and shall be enforceable against the insurer and any other nonimmune defendant as though it were entered in the actual name of the named immune defendant. Nothing in this subsection shall prevent the owner or operator of the uninsured motor vehicle from employing counsel of his own choice and taking any action in his own interest in connection with the proceeding.

G. Any insurer paying a claim under the endorsement or provisions required by subsection A ~~of this section~~ shall be subrogated to the rights of the insured to whom the claim was paid against the person causing the injury, death, or damage and that person's insurer, although it may deny coverage for any reason, to the extent that payment was made. The bringing of an action against the unknown owner or operator as John Doe or the conclusion of such an action shall not bar the insured from bringing an action against the owner or operator proceeded against as John Doe, or against the owner's or operator's insurer denying coverage for any reason, if the identity of the owner or operator who caused the injury or damages becomes known. The bringing of an action against an unknown owner or operator as John Doe shall toll the statute of limitations for purposes of bringing an action against the owner or operator who caused the injury or damages until his identity becomes known. In no event shall an action be brought against an owner or operator who caused the injury or damages, previously filed against as John Doe, more than three years from the commencement of the action against the unknown owner or operator as John Doe in a court of competent jurisdiction. Any recovery against the owner or operator, or the insurer of the owner or operator shall be paid to the insurer of the injured party to the extent that the insurer paid the named insured in the action brought against the owner or operator as John Doe. However, the insurer shall pay its proportionate part of all reasonable costs and expenses incurred in connection with the action, including reasonable attorney's fees. Nothing in an endorsement or provisions made under this subsection nor any other provision of law shall prevent the joining in an action against John Doe of the owner or operator of the motor vehicle causing the injury as a party defendant, and the joinder is hereby specifically authorized. No action, verdict or release arising out of a suit brought under this subsection shall give rise to any defenses in any other action brought in the subrogated party's name, including res judicata and collateral estoppel.

H. No endorsement or provisions providing the coverage required by subsection A ~~of this section~~ shall require arbitration of any claim arising under the endorsement or provisions, nor may anything be required of the insured except the establishment of legal liability, nor shall the insured be restricted or prevented in any manner from employing legal counsel or instituting legal proceedings.

I. Except as provided in § 65.2-309.1, the provisions of subsections A and B of § 38.2-2204 and the provisions of subsection A ~~of this section~~ shall not apply to any policy of insurance to the extent that it covers the liability of an employer under any workers' compensation law, or to the extent that it covers liability to which the Federal Tort Claims Act applies. No provision or application of this section shall limit the liability of an insurer of motor vehicles to an employee or other insured under this section who is injured by an uninsured motor vehicle; provided that in the event an employee of a self-insured employer receives a workers' compensation award for injuries resulting from an accident with an uninsured motor vehicle, such award shall be set off against any judgment for damages awarded pursuant to this section for personal injuries resulting from such accident.

J. Policies of insurance whose primary purpose is to provide coverage in excess of other valid and collectible insurance or qualified self-insurance may include uninsured motorist coverage as provided in subsection A ~~of this section~~. Insurers issuing or providing liability policies that are of an excess or umbrella type or which provide liability coverage incidental to a policy and not related to a specifically insured motor vehicle, shall not be required to offer, provide or make available to those policies uninsured or underinsured motor vehicle coverage as defined in subsection A ~~of this section~~.

K. An injured person, or in the case of death or disability his personal representative, may settle a claim with (i) a liability insurer ~~or insurers~~, including any insurer providing liability coverage through an excess or umbrella insurance policy or contract and (ii) the liability insurer's ~~or insurers'~~ insured for the available limits of the liability insurer's coverage. Upon settlement with the liability insurer ~~or insurers~~, the injured party or personal representative shall proceed to execute a full release in favor of the underinsured motorist's liability insurer and its insured and finalize the proposed settlement without prejudice to any underinsured motorist benefits or claim. *Any such release that states that it is being executed pursuant to or consistent with this subsection shall not operate to release any parties other than the liability insurer and underinsured motorist, regardless of the identities of the released parties set forth in the release, and any terms contained in the release that are inconsistent with, or in violation of, this section are null and void.* Upon payment of the liability insurer's available limits to the injured person or personal representative or his attorney, the liability insurer shall thereafter have no further duties to its insured, including the duty to defend its insured if an action has been or is brought against the liability insurer's insured, and the insurer providing applicable underinsured motorist coverage shall have no right of subrogation or claim against the underinsured motorist. However, if the underinsured motorist unreasonably fails to cooperate with the underinsured motorist benefits insurer in the defense of any lawsuit brought by the injured person or his personal representative, he may again be subjected to a claim for subrogation by the underinsured motorist benefits insurer pursuant to § 8.01-66.1:1. *Nothing in this section or § 8.01-66.1:1 shall create any duty on the part of any underinsured motorist benefits insurer to defend any underinsured motorist. No attorney-client relationship is created between the underinsured motorist and counsel for the underinsured motorist benefits insurer without the express intent and agreement of the underinsured motorist, the underinsured motorist benefits insurer, and counsel for the underinsured motorist benefits insurer.* This section provides an alternative means by which the parties may resolve claims and does not eliminate or restrict any other available means.

L. Any settlement between the injured person or his personal representative, any insurer providing liability coverage applicable to the claim, and the underinsured motorist described in subsection K shall be in writing, signed by both the injured person or his personal representative and the underinsured motorist, and shall include the following notice to the underinsured motorist, which must be initialed by the underinsured motorist:

"NOTICE TO RELEASED PARTY: Your insurance company has agreed to pay the available limits of its insurance to settle certain claims on your behalf. This settlement secures a full release of you for all claims the claimant/plaintiff has against you arising out of the subject accident, as well as ensures that no judgment can ever be entered against you by the claimant/plaintiff. In order to protect yourself from subrogation by any underinsured motorist insurer, you are agreeing to cooperate with the underinsured motorist benefits insurer(s). *The underinsured motorist benefits insurer is not your insurer and has no duty to defend you.*

Under this manner of settlement, the underinsured motorist benefits insurer(s) that is/are involved in this case has/have no right of subrogation against you unless you fail to reasonably cooperate in its/their defense of the claim by not (i) attending your deposition and trial, if subpoenaed, (ii) assisting in responding to discovery, (iii) meeting with defense counsel at reasonable times after commencement of this suit and before your testimony at a deposition and/or trial, and (iv) notifying *the underinsured motorist benefits insurer or its defense counsel* of any change in your address, *provided that the underinsured motorist benefits insurer or its defense counsel has notified you of its existence and provided you with their contact information.*

Upon payment of the agreed settlement amount by your insurance company(ies), such company shall no longer owe you any duties, including the duty to hire and pay for an attorney for you. You are not required to consent to settlement in this manner. If you do not consent to settlement in this manner, your insurance company will still defend you in any lawsuit brought against you by the claimant/plaintiff, but you will not have the protections of a full release from the claimant/plaintiff, judgment could be entered against you and may exceed your available insurance coverage, and any underinsured motorist benefits insurer would have a right of subrogation against you to recover any moneys it pays to the claimant/plaintiff.

You are encouraged to discuss your rights and obligations related to settlement in this manner with your insurance company and/or an attorney. By signing this document, you agree to consent to this settlement and to reasonably cooperate with the underinsured motorist benefits insurer in the defense of any lawsuit brought by the claimant/plaintiff.

\_\_\_\_\_ (initial)"

In the alternative *to having the underinsured motorist sign the release and initial the notice*, the liability insurer may send the notice *and release* to the ~~released party~~ *underinsured motorist* by certified mail return receipt requested to ~~the underinsured motorist~~ *at his last known address, which will be deemed to have satisfied the requirements of this subsection.*

M. Any action brought by the injured person or his personal representative to recover underinsured motorist benefits after payment of the liability insurer's available limits pursuant to subsection K shall be brought against the released defendant ~~or defendants~~, and a copy of the complaint shall be served on any insurer providing underinsured motorist benefits. If an action is pending at the time the liability insurer's available limits are paid to the injured person or personal representative or his attorney, then the action shall remain pending against the named defendant or defendants who have been released. If such action results in a verdict in favor of the injured person or his personal representative against a released defendant, then judgment as to that defendant shall be entered in the name of "Released Defendant" and shall be enforceable against the underinsured motorist benefits insurer ~~or insurers~~, not to exceed the underinsured motorist benefits limits, and against any unreleased defendant, as though it were entered in the actual name of the released defendant.

N. Any proposed settlement between a liability insurer and a person under a disability or a personal representative as permitted in subsection K that compromises in part a claim for personal injuries by the person under a disability or for death by wrongful act pursuant to § 8.01-50 may be, but is not required to be, approved pursuant to § 8.01-424 or 8.01-55, as applicable. If the personal representative elects not to have the settlement with the liability insurer approved pursuant to § 8.01-55, then any payment made to the personal representative by the liability insurer shall be made payable to the personal representative's attorney, to be held in trust, or paid into the court pursuant to § 8.01-600 if the personal representative is not represented by an attorney, with no disbursements made therefrom until the compromise is approved by the court pursuant to § 8.01-55. Approval by the court of a settlement between the liability insurer and a person under a disability or the personal representative pursuant to this subsection shall not prejudice the person's or personal representative's claim for underinsured motorist benefits.

## CHAPTER 780

*An Act to amend and reenact §§ 46.2-100, 46.2-800, 46.2-849, 46.2-903, 46.2-904, 46.2-905, 46.2-908.1, 46.2-1015, 46.2-1041, and 46.2-1081 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 46.2 a section numbered 46.2-1315, relating to motorized skateboards or scooters; operation; local authority.*

[H 2752]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-100, 46.2-800, 46.2-849, 46.2-903, 46.2-904, 46.2-905, 46.2-908.1, 46.2-1015, 46.2-1041, and 46.2-1081 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 46.2 a section numbered 46.2-1315 as follows:**

**§ 46.2-100. Definitions.**

As used in this title, unless the context requires a different meaning:

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles on their power unit, designed and used exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, *motorized skateboards or scooters*, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or auticycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric personal delivery device" means an electrically powered device that (i) is operated on sidewalks, shared-use paths, and crosswalks and intended primarily to transport property; (ii) weighs less than 50 pounds, excluding cargo; (iii) has a maximum speed of 10 miles per hour; and (iv) is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

"Electric personal delivery device operator" means an entity or its agent who exercises direct physical control or monitoring over the navigation system and operation of an electric personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating an electric personal delivery device. "Electric personal delivery device operator" does not include (i) an entity or person who requests the services of an electric personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of an electric personal delivery device.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider *and ceases to provide assistance when the bicycle reaches a speed of no more than 20 miles per hour*. For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

"Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by or under the direction of the United States Armed Forces for off-road use and subsequently authorized for sale to civilians. "Military surplus motor vehicle" does not include specialized mobile equipment as defined in § 46.2-700, trailers, or semitrailers.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. *"Moped" does not include a motorized skateboard or scooter.* For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, *motorized skateboard or scooter*, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or ~~foot scooter~~ scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or ~~foot scooter~~ scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) ~~has no seat, but is designed to be stood upon by the operator~~ *is designed to allow an operator to sit or stand*, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered in whole or in part by an electric motor ~~having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters~~, (iv) *weighs less than 100 pounds, and (v) has a speed of no more than 20 miles per hour on a paved level surface when powered solely by the electric motor.* "Motorized skateboard or ~~foot scooter~~ scooter" includes vehicles with or without handlebars but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to

possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and electric personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, *motorized skateboards or scooters*, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except electric personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, *motorized skateboards or scooters*, and mopeds shall be vehicles while operated on a highway.

"Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport watercraft on their power unit, designed and used exclusively for the transportation of watercraft.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

**§ 46.2-800. Riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorized skateboards or scooters; riding or driving animals.**

Every person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, *motorized skateboard or scooter*, or ~~an~~ animal or driving an animal on a highway shall be subject to the provisions of this chapter and shall have all of the rights and duties applicable to the driver of a vehicle, unless the context of the provision clearly indicates otherwise.

The provisions of subsections A and C of § 46.2-920 applicable to operation of emergency vehicles under emergency conditions shall also apply, mutatis mutandis, to bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, ~~and~~ mopeds, *and motorized skateboards or scooters* operated under similar emergency conditions by law-enforcement officers.

**§ 46.2-849. How signals given.**

A. Signals required by § 46.2-848 shall be given by means of the hand and arm or by some mechanical or electrical device approved by the Superintendent, in the manner specified in this section. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop, turn, or partly turn by extending the hand and arm beyond the left side of the vehicle in the manner following:

1. For left turn or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder;

2. For right turn or to pull to the right, the arm shall be extended upward;

3. For slowing down or stopping, the arm shall be extended downward.

B. Wherever the lawful speed is more than 35 miles per hour, such signals shall be given continuously for a distance of at least 100 feet, and in all other cases at least 50 feet, before slowing down, stopping, turning, or partly turning.

C. A person riding a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, ~~or~~ moped, *or motorized skateboard or scooter* shall signal his intention to stop or turn. Such signals, however, need not be given continuously if both hands are needed in the control or operation of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, ~~or~~ moped, *or motorized skateboard or scooter*.

D. Notwithstanding the foregoing provisions of this section, a person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, ~~or~~ moped, *or motorized skateboard or scooter* may signal a right turn or pull to the right by extending the right hand and arm in a horizontal position straight from and level with the shoulder beyond the right side of the bicycle, electric personal assistive mobility device, electric power-assisted bicycle, ~~or~~ moped, *or motorized skateboard or scooter* and may signal slowing down or stopping by extending the right arm downward.

**§ 46.2-903. Riding or driving vehicles on sidewalks; exceptions.**

No person shall ride or drive any vehicle other than (i) an emergency vehicle, as defined in § 46.2-920, (ii) a vehicle engaged in snow or ice removal and control operations, (iii) a wheel chair or wheel chair conveyance, whether self-propelled or otherwise, (iv) a bicycle, (v) an electric personal assistive mobility device, ~~or~~ (vi) an electric power-assisted bicycle, *or (vii) unless otherwise prohibited by ordinance, a motorized skateboard or scooter* on the sidewalks of any county, city, or town of the Commonwealth.

**§ 46.2-904. Use of roller skates and skateboards on sidewalks and shared-use paths; operation of bicycles and certain motorized and electric items and devices on sidewalks, crosswalks, and shared-use paths; local ordinances.**

The governing body of any county, city, or town may by ordinance prohibit the use of roller skates, skateboards, and electric personal delivery devices and/or the riding of bicycles, electric personal assistive mobility devices, motorized skateboards or ~~foot-scooters~~ *scooters*, motor-driven cycles, or electric power-assisted bicycles on designated sidewalks or crosswalks, including those of any church, school, recreational facility, or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be ~~conspicuously~~ posted in general areas where use of roller skates, skateboards, and electric personal delivery devices, and/or bicycle, electric personal assistive mobility devices, motorized skateboards or ~~foot-scooters~~ *scooters*, motor-driven cycles, or electric power-assisted bicycle riding is prohibited. Unless otherwise prohibited, electric personal delivery devices may be operated on the sidewalks and shared-use paths and across the roadway on a crosswalk of any locality of the Commonwealth.

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or ~~foot-scooter~~ *scooter*, motor-driven cycle, or electric power-assisted bicycle on a sidewalk or shared-use path or across a roadway on a crosswalk shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian. An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall yield the right-of-way to any pedestrian.

No person shall ride a bicycle, electric personal assistive mobility device, motorized skateboard or ~~foot-scooter~~ *scooter*, motor-driven cycle, or electric power-assisted bicycle or operate an electric personal delivery device on a sidewalk, or across a roadway on a crosswalk, where such use of bicycles, electric personal assistive mobility devices, electric personal delivery devices, motorized skateboards or ~~foot-scooters~~ *scooters*, motor-driven cycles, or electric power-assisted bicycles is prohibited by official traffic control devices. *No person shall park a bicycle, electric power-assisted bicycle, or motorized skateboard or scooter in a manner that impedes the normal movement of pedestrian or other traffic or where such parking is prohibited by official traffic control devices.*

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or ~~foot-scooter~~ *scooter*, motor-driven cycle, or electric power-assisted bicycle on a sidewalk or shared-use path or across a roadway on a crosswalk shall have all the rights and duties of a pedestrian under the same circumstances. An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall have all the rights and duties of a pedestrian under the same circumstances.

A violation of any ordinance adopted pursuant to this section *or any provision of this section* shall be punishable by a civil penalty of not more than \$50.

**§ 46.2-905. Riding bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds on roadways and bicycle paths.**

Any person operating a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, *motorized skateboard or scooter*, or moped on a roadway at less than the normal speed of traffic at the time and place under conditions then existing shall ride as close as safely practicable to the right curb or edge of the roadway, except under any of the following circumstances:

1. When overtaking and passing another vehicle proceeding in the same direction;
2. When preparing for a left turn at an intersection or into a private road or driveway;
3. When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right curb or edge;
4. When avoiding riding in a lane that must turn or diverge to the right; and
5. When riding upon a one-way road or highway, a person may also ride as near the left-hand curb or edge of such roadway as safely practicable.

For purposes of this section, a "substandard width lane" is a lane too narrow for a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or ~~foot scooter~~ *scooter*, or moped and another vehicle to pass safely side by side within the lane.

Persons riding bicycles, electric personal assistive mobility devices, ~~or~~ electric power-assisted bicycles, *or motorized skateboards or scooters* on a highway shall not ride more than two abreast. Persons riding two abreast shall not impede the normal and reasonable movement of traffic, shall move into a single file formation as quickly as is practicable when being overtaken from the rear by a faster moving vehicle, and, on a laned roadway, shall ride in a single lane.

Notwithstanding any other provision of law to the contrary, the Department of Conservation and Recreation shall permit the operation of electric personal assistive mobility devices on any bicycle path or trail designated by the Department for such use.

**§ 46.2-908.1. Electric personal assistive mobility devices, electric personal delivery devices, electrically powered toy vehicles, electric power-assisted bicycles, and motorized skateboards or scooters.**

All electric personal assistive mobility devices, electric personal delivery devices, electrically powered toy vehicles, and electric power-assisted bicycles shall be equipped with spill-proof, sealed, or gelled electrolyte batteries. No person shall at any time or at any location *operate* (i) ~~drive~~ an electric personal assistive mobility device or an electric power-assisted bicycle *at a speed* faster than 25 miles per hour ~~or~~ (ii) ~~operate~~ *operate* a motorized skateboard or scooter *at a speed faster than 20 miles per hour*, or (iii) an electric personal delivery device at a speed faster than 10 miles per hour. *No person shall operate a skateboard or scooter that would otherwise meet the definition of a motorized skateboard or scooter but is capable of speeds greater than 20 miles per hour at a speed greater than 20 miles per hour.* No person less than 14 years old shall drive any electric personal assistive mobility device, motorized skateboard or ~~foot scooter~~ *scooter*, or electric power-assisted bicycle unless under the immediate supervision of a person who is at least 18 years old.

An electric personal assistive mobility device ~~or motorized skateboard or foot scooter~~ may be operated on any highway with a maximum speed limit of 25 miles per hour or less. An electric personal assistive mobility device shall only operate on any highway authorized by this section if a sidewalk is not provided along such highway or if operation of the electric personal assistive mobility device on such sidewalk is prohibited pursuant to § 46.2-904. Nothing in this section shall prohibit the operation of an electric personal assistive mobility device, electric personal delivery device, or motorized skateboard or ~~foot scooter~~ *scooter* in the crosswalk of any highway where the use of such crosswalk is authorized for pedestrians, bicycles, or electric power-assisted bicycles.

Operation of electric personal assistive mobility devices, *motorized skateboards or scooters*, electrically powered toy vehicles, bicycles, and electric power-assisted bicycles is prohibited on any Interstate Highway System component except as provided by the section.

The Commonwealth Transportation Board may authorize the use of bicycles *or motorized skateboards or scooters* on an Interstate Highway System Component provided the operation is limited to bicycle or pedestrian facilities that are barrier separated from the roadway and automobile traffic and such component meets all applicable safety requirements established by federal and state law.

**§ 46.2-1015. Lights on bicycles, electric personal assistive mobility devices, electric personal delivery devices, electric power-assisted bicycles, mopeds, and motorized skateboards or scooters.**

A. Every bicycle, electric personal assistive mobility device, electric personal delivery device, electric power-assisted bicycle, ~~and~~ moped, *and motorized skateboard or scooter with handlebars* when in use between sunset and sunrise shall be equipped with a headlight on the front emitting a white light visible in clear weather from a distance of at least 500 feet to the front and a red reflector visible from a distance of at least 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. Such lights and reflector shall be of types approved by the Superintendent.

In addition to the foregoing provisions of this section, a bicycle or its rider may be equipped with lights or reflectors. These lights may be steady burning or blinking.

B. Every bicycle, or its rider, shall be equipped with a taillight on the rear emitting a red light plainly visible in clear weather from a distance of at least 500 feet to the rear when in use between sunset and sunrise and operating on any highway with a speed limit of 35 mph or greater. Any such taillight shall be of a type approved by the Superintendent.

**§ 46.2-1041. Restrictions as to solid rubber tires.**

Every tire, other than a pneumatic tire, made of rubber on a *motor* vehicle moved on any highway shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery. No *motor* vehicle equipped with such tires shall be operated on any highway in the Commonwealth unless a permit therefor is first secured from the Department of Transportation.

**§ 46.2-1081. Slow-moving vehicle emblems.**

A. Every farm tractor, self-propelled unit of farm equipment or implement of husbandry, and any other vehicle designed for operation at speeds not in excess of 25 miles per hour or normally operated at speeds not in excess of 25 miles per hour, shall display a triangular slow-moving vehicle emblem on the rear of the vehicle when traveling on a public highway at any time of the day or night.

B. Should a slow-moving vehicle tow a unit on a public highway, then the towing vehicle or the towed unit shall be equipped with the slow-moving vehicle emblem as follows:

1. If the towed unit or any load thereon obscures the slow-moving vehicle emblem on the towing vehicle, the towed unit shall be equipped with a slow-moving vehicle emblem, in which case the towing vehicle need not display such emblem.

2. If the slow-moving vehicle emblem on the towing vehicle is not obscured by the towed unit or any load thereon, then either or both such vehicles may be equipped with such emblem.

C. The standards and specifications for the slow-moving vehicle emblem and the position of mounting of the emblem shall conform to standards and specifications adopted by the American Society of Agricultural Engineers, the Society of Automotive Engineers, the American National Standards Institute, Inc., or the federal Department of Transportation.

D. The use of the slow-moving vehicle emblem shall be restricted to the uses specified in this title.

E. The provisions of this section shall not apply to bicycles, electric power-assisted bicycles, ~~or~~ mopeds, *or motorized skateboards or scooters*. Display of a slow-moving vehicle emblem on a bicycle, electric power-assisted bicycle, ~~or~~ moped, *or motorized skateboard or scooter* shall not be deemed a violation of this section.

**§ 46.2-1315. Powers of localities to regulate use of motorized skateboards or scooters, bicycles, or electric power-assisted bicycles for hire.**

*Any county, city, town, or political subdivision may (i) by ordinance regulate or (ii) by any governing body action or administrative action establish a demonstration project or pilot program regulating the operation of motorized skateboards or scooters, bicycles, or electric power-assisted bicycles for hire, provided that such regulation or other governing body or administrative action is consistent with this title. Such ordinance or other governing body or administrative action may require persons offering motorized skateboards or scooters, bicycles, or electric power-assisted bicycles for hire to be licensed, provided that on or after January 1, 2020, in the absence of any licensing ordinance, regulation, or other action, a person may offer motorized skateboards or scooters, bicycles, or electric power-assisted bicycles for hire.*

**2. That the provisions of this act adding § 46.2-1315 to the Code of Virginia shall not be construed to impact any existing regulations, ordinances, or pilot projects currently being implemented by a locality or political subdivision as authorized by existing law.**

**3. That the provisions of this act amending § 46.2-903 of the Code of Virginia shall become effective January 1, 2020.**

**CHAPTER 781**

*An Act to amend and reenact § 19.2-60.1 of the Code of Virginia, relating to use of unmanned aircraft systems by law-enforcement officers; persons sought for arrest.*

[S 1507]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-60.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-60.1. Use of unmanned aircraft systems by public bodies; search warrant required.**

A. As used in this section, unless the context requires a different meaning:

"Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

"Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links, sensing devices, and the components that control the unmanned aircraft.

B. No state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police, and no department of law enforcement as defined in § 15.2-836 of any county, city, or town shall utilize an unmanned aircraft system except during the execution of a search warrant issued pursuant to this chapter or an administrative or inspection warrant issued pursuant to law.

C. Notwithstanding the prohibition in this section, an unmanned aircraft system may be deployed without a warrant (i) when an Amber Alert is activated pursuant to § 52-34.3; (ii) when a Senior Alert is activated pursuant to § 52-34.6; (iii) when a Blue Alert is activated pursuant to § 52-34.9; (iv) where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person; (v) by a law-enforcement officer following an accident where a

report is required pursuant to § 46.2-373, to survey the scene of such accident for the purpose of crash reconstruction and record the scene by photographic or video images; (vi) by the Department of Transportation when assisting a law-enforcement officer to prepare a report pursuant to § 46.2-373; (vii) for training exercises related to such uses; ~~or~~ (viii) if a person with legal authority consents to the warrantless search; *or (ix) by a law-enforcement officer to (a) aerially survey a primary residence of the subject of the arrest warrant to formulate a plan to execute an existing arrest warrant or capias for a felony offense or (b) locate a person sought for arrest when such person has fled from a law-enforcement officer and a law-enforcement officer remains in hot pursuit of such person.*

D. The warrant requirements of this section shall not apply when such systems are utilized to support the Commonwealth or any locality for purposes other than law enforcement, including damage assessment, traffic assessment, flood stage assessment, and wildfire assessment. Nothing herein shall prohibit use of unmanned aircraft systems for private, commercial, or recreational use or solely for research and development purposes by institutions of higher education and other research organizations or institutions.

E. Evidence obtained through the utilization of an unmanned aircraft system in violation of this section is not admissible in any criminal or civil proceeding.

F. In no case may a weaponized unmanned aircraft system be deployed in the Commonwealth or its use facilitated in the Commonwealth by a state or local government department, agency, or instrumentality or department of law enforcement in the Commonwealth except in operations at the Space Port and Naval/Aegis facilities at Wallops Island.

G. Nothing herein shall apply to the Armed Forces of the United States or the Virginia National Guard while utilizing unmanned aircraft systems during training required to maintain readiness for its federal mission or when facilitating training for other U.S. Department of Defense units.

## CHAPTER 782

*An Act to amend and reenact §§ 9.1-101, 9.1-176.1, 18.2-57.3, 18.2-251, 19.2-74, 19.2-232, 19.2-303, 19.2-303.2, 19.2-305.1, 19.2-388, 19.2-390, 19.2-392, 53.1-23, 53.1-145, and 53.1-165 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 19.2-303.02 and 19.2-390.03, relating to reports to Central Criminal Records Exchange; duties and authority of the Central Criminal Records Exchange; unapplied criminal history record information.*

[S 1602]

Approved March 22, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-101, 9.1-176.1, 18.2-57.3, 18.2-251, 19.2-74, 19.2-232, 19.2-303, 19.2-303.2, 19.2-305.1, 19.2-388, 19.2-390, 19.2-392, 53.1-23, 53.1-145, and 53.1-165 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 19.2-303.02 and 19.2-390.03 as follows:**

#### **§ 9.1-101. Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for

all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students

violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

*"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.*

**§ 9.1-176.1. Duties and responsibilities of local community-based probation officers.**

A. Each local community-based probation officer, for the localities served, shall:

1. Supervise and assist all local-responsible adult offenders, residing within the localities served and placed on local community-based probation by any judge of any court within the localities served;
2. Ensure offender compliance with all orders of the court, including the requirement to perform community service;
3. Conduct, when ordered by a court, substance abuse screenings, or conduct or facilitate the preparation of assessments pursuant to state approved protocols;
4. Conduct, at his discretion, random drug and alcohol tests on any offender whom the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol or prescribed medication;
5. Facilitate placement of offenders in substance abuse education or treatment programs and services or other education or treatment programs and services based on the needs of the offender;
6. Seek a capias from any judicial officer in the event of failure to comply with conditions of local community-based probation or supervision on the part of any offender provided that noncompliance resulting from intractable behavior presents a risk of flight, or a risk to public safety or to the offender;
7. Seek a motion to show cause for offenders requiring a subsequent hearing before the court;
8. Provide information to assist any law-enforcement officer with the return to custody of defendants placed on supervision for which a capias has been sought;
9. Keep such records and make such reports as required by the Department of Criminal Justice Services;
10. Determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if no sample has been taken, require an offender to submit a sample for DNA analysis; ~~and~~
11. Monitor the collection and payment of restitution to the victims of crime for offenders placed on local supervised probation; *and*

*12. Determine by reviewing the offender's criminal history record at least 60 days prior to discharge whether all offenses for which the offender is being supervised appear on such record and, if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) order the offender to report to the law-enforcement agency that made the arrest for such offense or to the Department of State Police and submit to having his fingerprints and photograph taken for each such offense, (ii) provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the offense does not appear on the offender's criminal history record, and (iii) verify that such fingerprints and photograph have been taken.*

B. Each local probation officer may provide the following optional services, as appropriate and when available resources permit:

1. Supervise local-responsible adult offenders placed on home incarceration with or without home electronic monitoring as a condition of local community-based probation;
2. Investigate and report on any local-responsible adult offender and prepare or facilitate the preparation of any other screening, assessment, evaluation, testing or treatment required as a condition of probation;
3. Monitor placements of local-responsible adults who are required to perform court-ordered community service at approved work sites;
4. Assist the courts, when requested, by monitoring the collection of court costs and fines for offenders placed on local probation; *and*
5. Collect supervision and intervention fees pursuant to § 9.1-182 subject to local approval and the approval of the Department of Criminal Justice Services.

**§ 18.2-57.3. Persons charged with first offense of assault and battery against a family or household member may be placed on local community-based probation; conditions; education and treatment programs; costs and fees; violations; discharge.**

A. When a person is charged with a simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household member of the person or a violation of § 18.2-57.2, the court may defer the proceedings against such person, without a finding of guilt, and place him on probation under the terms of this section.

B. For a person to be eligible for such deferral, the court shall find that (i) the person was an adult at the time of the commission of the offense; (ii) the person has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any ordinance of any local government relating to an assault or assault and battery against a family or household member; (iii) (a) the person has not previously been convicted of an act of violence as defined in § 19.2-297.1 or (b) if such person has been previously convicted of such an act of violence, the attorney for the Commonwealth does not object to the deferral; (iv) the person has not previously had a proceeding against him for violation

of such an offense dismissed as provided in this section; (v) the person pleads guilty to, or enters a plea of not guilty or nolo contendere and the court finds the evidence is sufficient to find the person guilty of, simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household member of the person or a violation of § 18.2-57.2; and (vi) the person consents to such deferral and to a waiver of his right to appeal a finding of facts sufficient to justify a finding of guilt under this section entered pursuant to subsection F for a violation of a term or condition of his probation. *If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.* A person may file a motion to withdraw his consent to the deferral and waiver of his right to appeal within 10 days of the entry of the order deferring proceedings on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. The court shall schedule a hearing within 30 days of receipt of the motion and shall provide reasonable notice to the attorney for the Commonwealth and to the person and his attorney, if any. If the person appears at the hearing and requests to withdraw his consent, the court shall grant such request, enter a final order adjudicating guilt, and sentence the person accordingly. If the person does not appear at the hearing, the court shall deny his request to withdraw his consent.

C. The court shall (i) where a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1 is available, order that the eligible person be placed with such agency and require, as a condition of local community-based probation, the person to successfully complete all treatment, education programs, or services, or any combination thereof, indicated by an assessment or evaluation obtained by the local community-based probation services agency if such assessment, treatment, or education services are available; or (ii) require successful completion of treatment, education programs, or services, or any combination thereof, such as, in the opinion of the court, may be best suited to the needs of the person.

D. The court shall require the person entering such education or treatment program or services under the provisions of this section to pay all or part of the costs of the program or services, including the costs of any assessment, evaluation, testing, education, and treatment, based upon the person's ability to pay. Such programs or services shall offer a sliding-scale fee structure or other mechanism to assist participants who are unable to pay the full costs of the required programs or services.

The court shall order the person to be of good behavior for a total period of not less than two years following the deferral of proceedings, including the period of supervised probation, if available.

~~The court shall, unless done at arrest, order the person to report to the original arresting law enforcement agency to submit to fingerprinting.~~

E. Upon fulfillment of the terms and conditions specified in the court order, *and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person*, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. No charges dismissed pursuant to this section shall be eligible for expungement under § 19.2-392.2.

F. Upon violation of a term or condition of supervised probation or of the period of good behavior, the court may enter an adjudication of guilt and proceed as otherwise provided by law. Any person placed on probation pursuant to this section who is subsequently adjudicated guilty upon a violation of a term or condition of his probation shall have no right of appeal on such adjudication.

G. Notwithstanding any other provision of this section, whenever a court places a person on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7.

**§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.**

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. *If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.*

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of

Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. In addition to any community service required by the court pursuant to clause (d), if the court does not suspend or revoke the accused's license as a term or condition of probation for a violation of § 18.2-250.1, the court shall require the accused to comply with a plan of 50 hours of community service. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

~~The court shall, unless done at arrest, order the accused to report to the original arresting law enforcement agency to submit to fingerprinting.~~

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, *and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person*, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§ 18.2-259.1, 22.1-315, and 46.2-390.1, and the driver's license forfeiture provisions of those sections shall be imposed. However, if the court places an individual on probation upon terms and conditions for a violation of § 18.2-250.1, such action shall not be treated as a conviction for purposes of § 18.2-259.1 or 46.2-390.1, provided that a court (1) may suspend or revoke an individual's driver's license as a term or condition of probation and (2) shall suspend or revoke an individual's driver's license as a term or condition of probation for a period of six months if the violation of § 18.2-250.1 was committed while such person was in operation of a motor vehicle. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

**§ 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case; issuance of summons by special conservators of the peace.**

A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any violation committed in such officer's presence which offense is a violation of any county, city or town ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or for offenses listed in subsection D of § 19.2-81, or an arrest on a warrant charging an offense for which a summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this subsection, or if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of § 19.2-82.

2. Whenever any person is detained by or is in the custody of an arresting officer for a violation of any county, city, or town ordinance or of any provision of this Code, punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise provided in Title 46.2, or to the offense of public drunkenness as defined in § 18.2-388, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving of such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

3. ~~Any~~ *Unless otherwise authorized by law*, any person so summoned shall not be held in custody after the issuance of such summons for the purpose of complying with the requirements of Chapter 23 (§ 19.2-387 et seq.) ~~of this title~~. Reports to the Central Criminal Records Exchange concerning such persons shall be made ~~after a disposition of guilt is entered as provided for in § 19.2-390 pursuant to subdivision A 2 of § 19.2-390 and subsection C of § 19.2-390.~~

Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting or other police officer before a magistrate or other issuing authority having jurisdiction, who shall proceed according to provisions of § 19.2-82.

Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

Any person charged with committing any violation of § 18.2-407 may be arrested and immediately brought before a magistrate who shall proceed as provided in § 19.2-82.

B. Conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) may issue summonses pursuant to this section, if such officers are in uniform or displaying a badge of office. On application, the chief law-enforcement officer of the county or city shall supply each officer with a supply of summons forms, for which such officer shall account pursuant to regulation of such chief law-enforcement officer.

C. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388.

**§ 19.2-232. What process to be awarded against accused on indictment, etc.**

When an indictment or presentment is found or made, or information filed, the court, or the judge thereof, shall award process against the accused to answer the same, if he be not in custody. Such process, if the prosecution be for a felony, shall be a *capias*; if it be for a misdemeanor, for which imprisonment may be imposed, it may be a *capias* or summons, in the discretion of the court or judge; in all other cases, it shall be, in the first instance a summons, but if a summons be returned executed and the defendant does not appear, or be returned not found, the court or judge may award a *capias*. The officer serving the summons or *capias* shall also serve a copy of the indictment, presentment, or information therewith.

*If the accused is in custody when an indictment or presentment is found or made, or information is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the time of first appearance for each indictment, presentment, or information for which a report is required upon arrest pursuant to subsection A of § 19.2-390, and the court shall order that the fingerprints and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each offense pursuant to subsection A of § 19.2-390.*

**§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.**

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of a ~~felony~~ *any offense for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390*, shall determine whether a copy of the defendant's fingerprints ~~are on file at the Central Criminal Records Exchange~~ *or fingerprint identification information has been provided by a law-enforcement officer to the clerk of court for each such offense*. In any case where fingerprints ~~are not on file~~ *or fingerprint identification information has not been provided by a law-enforcement officer to the clerk of court*, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition of probation *or of the suspension of the imposition or execution of any sentence for such offense*. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation for such time as the court shall determine, or otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections but has not actually been transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The court may place the person on probation for such time as the court shall determine.

**§ 19.2-303.02. Modification of conditions of suspended sentence or probation to require fingerprinting.**

*In any case where the court has suspended the imposition or execution of a sentence or placed the defendant on probation, the court may modify the sentence or conditions of probation at any time within the period of suspension or supervision to require that the fingerprints and photograph of the defendant be taken by a law-enforcement officer as a condition of that suspended sentence or probation, but only upon a hearing after reasonable notice to both the defendant and the attorney for the Commonwealth.*

**§ 19.2-303.2. Persons charged with first offense may be placed on probation.**

Whenever any person who has not previously been convicted of any felony pleads guilty to or enters a plea of not guilty to any crime against property constituting a misdemeanor, under Articles 5, 6, 7 and 8 of Chapter 5 (§ 18.2-119 et seq.) of Title 18.2, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation subject to terms and conditions, which may include restitution for losses caused, set by the court. *If the court defers further proceedings for an offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the accused, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the accused be taken by a law-enforcement officer.* Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, *and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person for an offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390,* the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purpose of applying this section in subsequent proceedings.

**§ 19.2-305.1. Restitution for property damage or loss; community service.**

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police,

shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. The clerk shall record receipt of restitution payments in an automated financial management system operated and maintained by the Executive Secretary of the Supreme Court or such other system established and maintained by a circuit court clerk pursuant to § 17.1-502. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. At the time of sentencing, the court shall enter the amount of restitution to be repaid by the defendant, the date by which all restitution is to be paid, the terms and conditions of such repayment, and the victim's name and contact information, including the victim's home address, telephone number, and email address, on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the attorney for the Commonwealth participated in the prosecution of the defendant, the attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant and the terms and conditions of such repayment. If the attorney for the Commonwealth did not participate in the prosecution of the defendant, the court or the clerk shall complete the form. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge. Except as provided in this section or otherwise required by law, the victim's contact information shall be confidential, and the clerk shall not disclose such confidential information to any person.

F. 1. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that includes a period of active supervision, the probation agency supervising the defendant shall notify the court and the attorney for the Commonwealth of the amount of any restitution that remains unsatisfied and the last known address for the defendant (i) 60 days prior to the defendant's release from supervision pursuant to the terms of the sentencing order or (ii) if the agency requests that the defendant be released from supervision, at the time the agency submits its request to the court. Such notice shall be in writing and the attorney for the Commonwealth shall, if practicable, provide a copy of the notice to the victim. If any amount of restitution remains unsatisfied, the court shall conduct a hearing prior to the defendant's release from supervision after providing notice of the hearing to the defendant and the attorney for the Commonwealth. If the court finds that the defendant is not in compliance with the restitution order, the court may (a) release the defendant from supervision, (b) modify the period or terms of supervision pursuant to § 19.2-304, (c) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (d) proceed in accordance with subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. Any defendant who is released from supervision shall be subject to the provisions of subdivision 3.

2. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that does not include a period of active supervision, the court shall include in the order a date, not to exceed two years from the date of the entry of the order or, if the court has sentenced the defendant to an active term of incarceration, from the date of the defendant's release from incarceration, on which the defendant's compliance with the restitution order shall be reviewed and the court shall schedule a hearing for such date. The court may, on its own motion, cancel the hearing if the amount of restitution has been satisfied. If at the hearing the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2

unless such order has previously been docketed. After the hearing conducted pursuant to this subdivision, the defendant shall be subject to the provisions of subdivision 3.

3. If any amount of restitution remains unsatisfied at the time of a hearing conducted pursuant to subdivision 1 or 2, the court shall continue to schedule hearings to review the defendant's compliance with the restitution order until the amount of restitution has been satisfied and provide notice of such hearings to the defendant. The court may, on its own motion, cancel any such hearing if the amount of restitution has been satisfied or if the defendant is in compliance with the restitution order. If at any hearing conducted pursuant to this subdivision the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall follow the procedures set forth in this subdivision for the purpose of reviewing compliance with a restitution order by a defendant (a) until the amount of restitution has been satisfied or (b) if any amount of restitution remains unsatisfied, for the longer of 10 years from the date of the hearing held pursuant to subdivision 1 or 2 or the period of probation ordered by the court.

4. If the court determines at any hearing conducted pursuant to this subsection that the defendant is unable to pay restitution and will remain unable to pay restitution for the duration of the review period set forth in subdivision 3, the court may discontinue any further hearings to review a defendant's compliance with the restitution order.

5. If the court determines that a defendant would be incarcerated on the date of any hearing scheduled pursuant to this subsection, the court may remove the case from the docket, reschedule such hearing to a date after the defendant's release from incarceration, and provide notice of the hearing to the defendant and the attorney for the Commonwealth. If the defendant who is on probation that includes a period of active supervision is incarcerated, the probation agency supervising the defendant shall notify the court when the defendant has been released from incarceration.

6. No provision of this subsection shall be construed to prohibit the court from exercising any authority otherwise granted by law over a defendant during any period of probation ordered by the court.

7. *At every hearing conducted pursuant to subdivision 1 where the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. The probation officer for the defendant shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the probation officer shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record prior to his release from supervision.*

8. *At every hearing conducted pursuant to subdivision 2 where the attorney for the Commonwealth participated in the prosecution and the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. If the attorney for the Commonwealth participated in the prosecution of the offense, the attorney for the Commonwealth shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the attorney for the Commonwealth shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record.*

G. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

H. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, "victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

I. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims by November 1 of each year. If a clerk does not have any such restitution to deposit, the clerk shall provide a statement to that effect to the Fund by November 1 of each year. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment directly to the victim for any proper claims. When depositing such restitution to the Fund, the clerk shall report the victim's last known contact information, including the victim's home address, telephone number, and email address, and the amount of restitution being deposited for that victim. Before making the deposit, the administrator shall record the name, contact information, and amount of restitution being deposited for each

victim appearing from the clerk's report to be entitled to restitution. The victim's contact information reported to the Fund shall be confidential and shall not be disseminated further except as otherwise required by law.

J. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth the amount of payments made by the Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim's behalf.

K. Whenever a defendant is ordered to pay restitution, any sums collected shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any fine, forfeiture, penalty, or cost assessed against the defendant.

#### **§ 19.2-388. Duties and authority of Exchange.**

A. It shall be the duty of the Central Criminal Records Exchange to receive, classify, and file criminal history record information as defined in § 9.1-101 and other records required to be reported to it by §§ 16.1-299 and 19.2-390. The Exchange is authorized to prepare and furnish to all state and local law-enforcement officials and agencies; to clerks of circuit courts, general district courts, and juvenile and domestic relations district courts; and to corrections and penal officials, forms ~~which~~ that shall be used for the making of such reports.

B. Juvenile records received pursuant to § 16.1-299 shall be maintained separately from adult records.

C. *The Exchange shall submit periodic reports to the Office of the Executive Secretary of the Supreme Court of Virginia, the clerk of each circuit court and district court, attorneys for the Commonwealth, and law-enforcement agencies containing a list of offenses with unapplied criminal history record information. Reports to the Office of the Executive Secretary of the Supreme Court of Virginia shall be quarterly and shall include all such offenses within the Commonwealth identified by jurisdiction and by court. Reports to the clerk of each circuit court and district court shall be quarterly and shall include only such offenses that were submitted by the respective clerk of court. Reports to attorneys for the Commonwealth shall be quarterly and shall include only such offenses that were submitted by law-enforcement agencies and courts in the county or city served by the respective attorney for the Commonwealth. Reports to law-enforcement agencies shall be monthly and shall include only such offenses for which the respective law-enforcement agency executed the arrest or issued the summons. For each offense, the report shall include, if known, the name and any other identifying information of the defendant, any identifying court case information, the date of submission to the Exchange, and the reason the offense could not be applied to the criminal history record.*

D. *The Exchange shall review offenses containing unapplied criminal history record information and shall make reasonable efforts to ensure that such information, including any offense of which the Exchange is notified pursuant to subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1, subsection B of § 53.1-23, or subdivision 13 or 14 of § 53.1-145, is applied to criminal history records. The Exchange may request and shall receive from the clerk of each circuit court and district court, attorneys for the Commonwealth, law-enforcement agencies, the Department of Corrections, the Department of Forensic Science, and local probation and community corrections agencies cooperation and assistance to obtain positive identification or to reconcile any inconsistencies, errors, or omissions within such unapplied criminal history record information.*

E. *The Exchange shall submit a report to the Governor and General Assembly on or before November 1 of each year on the status of unapplied criminal history record information and any updates to fingerprinting policies and procedures. The report shall include the following, if known: (i) the total number of offenses submitted to the Exchange, identified by the year of the offense and the year the charge was filed for such offense, that contain unapplied criminal history record information and cannot be applied to criminal history records; (ii) the number of such offenses submitted to the Exchange without fingerprints or positive identification and the law-enforcement agencies that submitted those offenses; (iii) the number of such offenses submitted to the Exchange with an inconsistency, error, or omission and, for those offenses, the jurisdiction from which the offense was submitted; and (iv) efforts made by the Exchange to ensure that unapplied criminal history record information is applied to criminal history records, including any offenses of which the Exchange was notified pursuant to subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1, subsection B of § 53.1-23, or subdivision 13 or 14 of § 53.1-145.*

#### **§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.**

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on capias or warrant for failure to appear, and the service of a warrant for another jurisdiction, *for each charge when any person is arrested* on any of the following charges:

- a. Treason;
- b. Any felony;
- c. Any offense punishable as a misdemeanor under Title 54.1; ~~or~~

d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or

e. Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, 63.2-1509, or 63.2-1727.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

2. For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court *defers* or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed for each charge after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

3. For persons arrested on a *capias* for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

4. For any person served with a *show cause* for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such person is found to be in violation of the terms or conditions of a suspended sentence or probation for such felony offense. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

5. If the accused is in custody when an indictment or presentment is found or made, or information is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the time of first appearance for each indictment, presentment, or information for which a report is required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each offense.

B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or *capias* may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or *capias* to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his post-release supervision or probation, the law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

C. ~~The~~ For offenses not charged on a summons in accordance with § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental

incompetency or incapacity, *deferral*, *nolle prosequi*, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action ~~which~~ *that* may have resulted from an indictment, presentment or information, *or any finding that the person is in violation of the terms or conditions of a suspended sentence or probation for a felony offense* and (ii) any adjudication of delinquency based upon an act ~~which~~ *that*, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. *For offenses listed in subsection A and charged on a summons in accordance with § 19.2-74, such electronic report by the clerk of each circuit court and district court to the Central Criminal Records Exchange may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court shall make an electronic report to the Central Criminal Records Exchange of any finding that a person charged on a summons is in violation of the terms or conditions of a suspended sentence or probation for a felony offense.* In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.2-1722. Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases ~~which~~ *that* he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, *and* last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A ~~of this section~~, the Central Criminal Records Exchange may receive, classify, and file any other fingerprints, photographs, and records of arrest or confinement submitted to it by any law-enforcement agency or any correctional institution or the Department of Corrections. *Unless otherwise prohibited by law, any such fingerprints, photographs, and records received by the Central Criminal Records Exchange from any correctional institution or the Department of Corrections may be classified and filed as criminal history record information.*

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

I. As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

**§ 19.2-390.03. Development and dissemination of model policy on fingerprinting and reports to the Central Criminal Records Exchange.**

*The Department of State Police shall develop a model policy on the collection of fingerprints and reporting of criminal history record information to the Central Criminal Records Exchange as required by § 19.2-390. The Department shall disseminate such policy to all law-enforcement agencies within the Commonwealth.*

**§ 19.2-392. Fingerprints and photographs by police authorities.**

A. All duly constituted police authorities having the power of arrest may take the fingerprints and photographs of: (i) any person arrested by them and charged with a felony or a misdemeanor an arrest for which is to be reported by them to the Central Criminal Records Exchange, ~~or~~ (ii) any person who pleads guilty or is found guilty after being summoned in accordance with § 19.2-74, *or* (iii) any person charged with an offense that has been deferred by the court pursuant to §§ 18.2-57.3, 18.2-251, *or* 19.2-303.2. Such authorities shall make such records available to the Central Criminal Records Exchange. Such authorities are authorized to provide, on the request of duly appointed law-enforcement officers, copies of any fingerprint records they may have, and to furnish services and technical advice in connection with the taking, classifying and preserving of fingerprints and fingerprint records.

B. Such police authorities may establish and collect a reasonable fee not to exceed \$10 for the first card and \$5 for each successive card for the taking of fingerprints when voluntarily requested by any person for purposes other than criminal violations.

**§ 53.1-23. Fingerprints, photographs and description.**

A. Photographs, fingerprints, and a description of each person received by the Department shall be taken and filed for identification purposes. *If the person is serving a sentence for an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, such photographs, fingerprints, and description of such person received by the Department shall be provided to the Central Criminal Records Exchange and, unless otherwise prohibited by law, may be classified and filed as part of the criminal history record information of that person.* Subject to the provisions of §§ 19.2-387 through 19.2-392, the Department shall cooperate with federal, state, county, and city law-enforcement agencies, insofar as it may deem proper, in disclosing information concerning such persons and in the taking of fingerprints and photographs of persons charged with the commission of a felony ~~an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390.~~

B. *The Department shall review each person's criminal history record at least 60 days prior to his scheduled release from a state correctional facility to determine whether all offenses for which that person has been committed appear on such record and, if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) take and provide fingerprints and a photograph of the person to the Central Criminal Records Exchange to be classified and filed as part of the criminal history record information pursuant to subsection D of § 19.2-390 and (ii) provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that such offense does not appear on the offender's criminal history record.*

**§ 53.1-145. Powers and duties of probation and parole officers.**

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation and instruct him therein; if any such person has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services, and that he follow all of the terms of his treatment plan;

3. Supervise and assist all persons within his territory released on parole or postrelease supervision, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole, postrelease supervision, or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he was authorized;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the officer's exercise of this authority shall be promulgated by the Board;

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the Board and upon the certification of appropriate training and specific authorization by a judge of a circuit court;

8. Provide services in accordance with any contract entered into between the Department of Corrections and the Department of Behavioral Health and Developmental Services pursuant to § 37.2-912;

9. Pursuant to any contract entered into between the Department of Corrections and the Department of Behavioral Health and Developmental Services, probation and parole officers shall have the power to provide intensive supervision services to persons placed on conditional release, regardless of whether the person has any time remaining to serve on any criminal sentence, pursuant to Chapter 9 (§ 37.2-900 et seq.);

10. Determine by reviewing the Local Inmate Data System upon intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA analysis for each person placed on probation or parole required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if no sample has been taken, require a person placed on probation or parole to submit a sample for DNA analysis;

11. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult Offenders (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia, would be considered a felony, take a sample or verify that a sample has been taken and accepted into the data bank for DNA analysis in the Commonwealth; ~~and~~

12. Monitor the collection and payment of restitution to the victims of crime for offenders placed on supervised probation;

13. *Prior to the release from supervision of any offender on probation as of July 1, 2019, review the criminal history record of the offender at least 60 days prior to release from supervision, or immediately if the offender is scheduled to be released from supervision within less than 60 days, to determine whether all offenses for which the offender is being supervised appear on such record and, if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) take and provide fingerprints and a photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of the criminal history record information pursuant to subsection D of § 19.2-390 and (ii) provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that such offense does not appear on the offender's criminal history record; and*

14. *Upon intake of any offender on or after July 1, 2019, (i) take and provide fingerprints and a photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of the criminal history record information pursuant to subsection D of § 19.2-390, (ii) review the criminal history record of the offender to determine whether all offenses for which the offender is being supervised appear on such record, and (iii) if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that such offense does not appear on the offender's criminal history record.*

Nothing in this article shall require probation and parole officers to investigate or supervise cases before general district or juvenile and domestic relations district courts.

**§ 53.1-165. Revocation of parole or postrelease supervision; hearing; procedure for parolee or felon serving period of postrelease supervision in another state; appointment of attorney.**

A. Whenever any parolee or felon serving a period of postrelease supervision is arrested and recommitted as provided herein, a preliminary hearing to determine probable cause that such parolee has violated one or more of the terms or conditions upon which he was released on parole or postrelease period of supervision shall be held by any hearing officer who has been designated as such by the Director of the Department to conduct such hearings. However, if a nolle prosequi is to be entered in a case where a parole violation is alleged, no preliminary hearing shall be required.

Upon request of the hearing officer, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of such jurisdiction to appoint one or more discreet attorneys-at-law to represent parolees in any proceedings held before him. Each attorney so appointed shall be available to serve upon request of the hearing officer. The term of each attorney's appointment shall continue until such time as a successor may be appointed. A hearing officer shall be authorized to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before him and to administer oaths and to take testimony thereunder.

Upon a finding of probable cause by the hearing officer, the Board or its authorized representative shall conduct a hearing, consider the case and act with reference thereto within a reasonable time thereafter. Upon request of the Board, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of that jurisdiction to appoint one or more discreet attorneys-at-law to represent parolees in proceedings held or to be held before the Board. Each attorney shall be available to serve upon request of the Board. The term of each attorney's appointment shall continue until such time as a successor may be appointed. The Board, in its discretion, may revoke the parole and order the reincarceration of the prisoner for the unserved portion of the term of imprisonment originally imposed upon him, or it may reinstate the parole either upon such terms and conditions as were originally prescribed, or as may be prescribed in addition thereto or in lieu thereof. When a parole violation is based on a new felony conviction for which the individual has been sentenced to two or more years, excluding any time of said sentence which has been suspended, any individual Board member, so authorized by the Board, may after such hearing revoke the individual's parole as otherwise provided herein.

*Upon revocation of parole for any felony offense, the Board or its authorized representative shall order that the Department of Corrections take fingerprints and a photograph of the person for each offense and transmit such information to the Central Criminal Records Exchange pursuant to subsection D of § 19.2-390.*

B. In cases in which a parolee or felon serving a period of postrelease supervision is in another state, any hearing officer who has been designated as such by the Director of the Department may be sent to that state to conduct a preliminary hearing to determine probable cause that the parolee has violated one or more of the terms and conditions upon which he was released upon parole.

C. Any attorney-at-law appointed pursuant to this section shall be paid as directed by the court making the appointment, from funds appropriated for court costs and expenses, reasonable compensation on an hourly basis and necessary expenses, based upon a report to be furnished to it by such attorney. In the event an attorney-at-law is appointed in another state, he shall be paid out of funds appropriated to the Department.

**2. § 1.** *The Department of State Police shall make reasonable efforts to ensure that criminal history record information that was reported to the Central Criminal Records Exchange pursuant to § 19.2-390 of the Code of Virginia prior to July 1, 2019, and not applied to the criminal history record of a person be applied to the criminal history record of that person. Such efforts shall prioritize identifying any felony convictions that have not been applied to criminal history records and providing such information to the law-enforcement agency that made the arrest and to the attorney for the Commonwealth in the jurisdiction where the conviction was entered. All state and local government agencies shall provide such assistance as may be requested by the Department of State Police to aid in the successful and timely completion of these efforts. Notwithstanding any other provision of law to the contrary, the Department of State Police and other state and local government agencies may receive from and disseminate to individuals, state agencies, and local government agencies any information that may be necessary for the successful and timely completion of these efforts. The Department of State Police shall report on the progress of these efforts to the Governor and the Chairman of the Virginia State Crime Commission by November 1, 2019.*

**3.** **That the Department of State Police, in coordination with the Department of Criminal Justice Services, shall develop a form to be used by local community-based probation officers when ordering an offender to report to a law-enforcement agency or to the Department of State Police and submit to having his fingerprints and photograph taken pursuant to the provisions of subdivision A 12 of § 9.1-176.1 of the Code of Virginia, as amended by this act. Such form shall include information necessary for that law-enforcement agency or the Department of State Police to ensure that the fingerprints and photograph of the offender can be applied to his criminal history record for each offense that does not appear on the criminal history record. Such form shall include a portion that is returnable to the local community-based probation office by the law-enforcement agency or Department of State Police and a portion to be provided to the offender after fingerprints and a photograph have been taken.**

## CHAPTER 783

*An Act to amend and reenact §§ 9.1-101, 9.1-176.1, 18.2-57.3, 18.2-251, 19.2-74, 19.2-232, 19.2-303, 19.2-303.2, 19.2-305.1, 19.2-388, 19.2-390, 19.2-392, 53.1-23, 53.1-145, and 53.1-165 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 19.2-303.02 and 19.2-390.03, relating to reports to Central Criminal Records Exchange; duties and authority of the Central Criminal Records Exchange; unapplied criminal history record information.*

[H 2343]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-101, 9.1-176.1, 18.2-57.3, 18.2-251, 19.2-74, 19.2-232, 19.2-303, 19.2-303.2, 19.2-305.1, 19.2-388, 19.2-390, 19.2-392, 53.1-23, 53.1-145, and 53.1-165 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 19.2-303.02 and 19.2-390.03 as follows:**

**§ 9.1-101. Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy

created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

*"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.*

**§ 9.1-176.1. Duties and responsibilities of local community-based probation officers.**

A. Each local community-based probation officer, for the localities served, shall:

1. Supervise and assist all local-responsible adult offenders, residing within the localities served and placed on local community-based probation by any judge of any court within the localities served;

2. Ensure offender compliance with all orders of the court, including the requirement to perform community service;

3. Conduct, when ordered by a court, substance abuse screenings, or conduct or facilitate the preparation of assessments pursuant to state approved protocols;

4. Conduct, at his discretion, random drug and alcohol tests on any offender whom the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol or prescribed medication;

5. Facilitate placement of offenders in substance abuse education or treatment programs and services or other education or treatment programs and services based on the needs of the offender;

6. Seek a *capias* from any judicial officer in the event of failure to comply with conditions of local community-based probation or supervision on the part of any offender provided that noncompliance resulting from intractable behavior presents a risk of flight, or a risk to public safety or to the offender;

7. Seek a motion to show cause for offenders requiring a subsequent hearing before the court;

8. Provide information to assist any law-enforcement officer with the return to custody of defendants placed on supervision for which a *capias* has been sought;

9. Keep such records and make such reports as required by the Department of Criminal Justice Services;

10. Determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if no sample has been taken, require an offender to submit a sample for DNA analysis; ~~and~~

11. Monitor the collection and payment of restitution to the victims of crime for offenders placed on local supervised probation; *and*

12. *Determine by reviewing the offender's criminal history record at least 60 days prior to discharge whether all offenses for which the offender is being supervised appear on such record and, if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) order the offender to report to the law-enforcement agency that made the arrest for such offense or to the Department of State Police and submit to having his fingerprints and photograph taken for each such offense, (ii) provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the offense does not appear on the offender's criminal history record, and (iii) verify that such fingerprints and photograph have been taken.*

B. Each local probation officer may provide the following optional services, as appropriate and when available resources permit:

1. Supervise local-responsible adult offenders placed on home incarceration with or without home electronic monitoring as a condition of local community-based probation;

2. Investigate and report on any local-responsible adult offender and prepare or facilitate the preparation of any other screening, assessment, evaluation, testing or treatment required as a condition of probation;

3. Monitor placements of local-responsible adults who are required to perform court-ordered community service at approved work sites;

4. Assist the courts, when requested, by monitoring the collection of court costs and fines for offenders placed on local probation; *and*

5. Collect supervision and intervention fees pursuant to § 9.1-182 subject to local approval and the approval of the Department of Criminal Justice Services.

**§ 18.2-57.3. Persons charged with first offense of assault and battery against a family or household member may be placed on local community-based probation; conditions; education and treatment programs; costs and fees; violations; discharge.**

A. When a person is charged with a simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household member of the person or a violation of § 18.2-57.2, the court may defer the proceedings against such person, without a finding of guilt, and place him on probation under the terms of this section.

B. For a person to be eligible for such deferral, the court shall find that (i) the person was an adult at the time of the commission of the offense; (ii) the person has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any ordinance of any local government relating to an assault or assault and battery against a family or household member; (iii) (a) the person has not previously been convicted of an act of violence as defined in § 19.2-297.1 or (b) if such person has been previously convicted of such an act of violence, the attorney for the Commonwealth does not object to the deferral; (iv) the person has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section; (v) the person pleads guilty to, or enters a plea of not guilty or nolo contendere and the court finds the evidence is sufficient to find the person guilty of, simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household member of the person or a violation of § 18.2-57.2; and (vi) the person consents to such deferral and to a waiver of his right to appeal a finding of facts sufficient to justify a finding of guilt under this section entered pursuant to subsection F for a violation of a term or condition of his probation. *If the court defers further proceedings, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.* A person may file a motion to withdraw his consent to the deferral and waiver of his right to appeal within 10 days of the entry of the order deferring proceedings on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. The court shall schedule a hearing within 30 days of receipt of the motion and shall provide reasonable notice to the attorney for the Commonwealth and to the person and his attorney, if any. If the person appears at the hearing and requests to withdraw his consent, the court shall grant such request, enter a final order adjudicating guilt, and sentence the person accordingly. If the person does not appear at the hearing, the court shall deny his request to withdraw his consent.

C. The court shall (i) where a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1 is available, order that the eligible person be placed with such agency and require, as a condition of local community-based probation, the person to successfully complete all treatment, education programs, or services, or any combination thereof, indicated by an assessment or evaluation obtained by the local community-based probation services agency if such assessment, treatment, or education services are available; or (ii) require successful completion of treatment, education programs, or services, or any combination thereof, such as, in the opinion of the court, may be best suited to the needs of the person.

D. The court shall require the person entering such education or treatment program or services under the provisions of this section to pay all or part of the costs of the program or services, including the costs of any assessment, evaluation, testing, education, and treatment, based upon the person's ability to pay. Such programs or services shall offer a sliding-scale fee structure or other mechanism to assist participants who are unable to pay the full costs of the required programs or services.

The court shall order the person to be of good behavior for a total period of not less than two years following the deferral of proceedings, including the period of supervised probation, if available.

~~The court shall, unless done at arrest, order the person to report to the original arresting law-enforcement agency to submit to fingerprinting.~~

E. Upon fulfillment of the terms and conditions specified in the court order, *and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person*, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. No charges dismissed pursuant to this section shall be eligible for expungement under § 19.2-392.2.

F. Upon violation of a term or condition of supervised probation or of the period of good behavior, the court may enter an adjudication of guilt and proceed as otherwise provided by law. Any person placed on probation pursuant to this section who is subsequently adjudicated guilty upon a violation of a term or condition of his probation shall have no right of appeal on such adjudication.

G. Notwithstanding any other provision of this section, whenever a court places a person on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7.

**§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.**

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. *If the court defers further proceedings, at that time the court shall determine whether*

*the clerk of court has been provided with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement officer.*

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused (a) to successfully complete treatment or education program or services, (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. In addition to any community service required by the court pursuant to clause (d), if the court does not suspend or revoke the accused's license as a term or condition of probation for a violation of § 18.2-250.1, the court shall require the accused to comply with a plan of 50 hours of community service. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

~~The court shall, unless done at arrest, order the accused to report to the original arresting law enforcement agency to submit to fingerprinting.~~

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, *and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person*, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§ 18.2-259.1, 22.1-315, and 46.2-390.1, and the driver's license forfeiture provisions of those sections shall be imposed. However, if the court places an individual on probation upon terms and conditions for a violation of § 18.2-250.1, such action shall not be treated as a conviction for purposes of § 18.2-259.1 or 46.2-390.1, provided that a court (1) may suspend or revoke an individual's driver's license as a term or condition of probation and (2) shall suspend or revoke an individual's driver's license as a term or condition of probation for a period of six months if the violation of § 18.2-250.1 was committed while such person was in operation of a motor vehicle. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

**§ 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case; issuance of summons by special conservators of the peace.**

A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any violation committed in such officer's presence which offense is a violation of any county, city or town ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or for offenses listed in subsection D of § 19.2-81, or an arrest on a warrant charging an offense for which a summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under the provisions of this subsection, or if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of § 19.2-82.

2. Whenever any person is detained by or is in the custody of an arresting officer for a violation of any county, city, or town ordinance or of any provision of this Code, punishable as a Class 3 or Class 4 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise provided in Title 46.2, or to the offense of public drunkenness as defined in § 18.2-388, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving of such person of his written promise to appear at such time and place, the officer shall forthwith release him

from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of § 19.2-82.

3. ~~Any~~ *Unless otherwise authorized by law, any person so summoned shall not be held in custody after the issuance of such summons for the purpose of complying with the requirements of Chapter 23 (§ 19.2-387 et seq.) of this title. Reports to the Central Criminal Records Exchange concerning such persons shall be made after a disposition of guilt is entered as provided for in § 19.2-390 pursuant to subdivision A 2 of § 19.2-390 and subsection C of § 19.2-390.*

Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting or other police officer before a magistrate or other issuing authority having jurisdiction, who shall proceed according to provisions of § 19.2-82.

Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

Any person charged with committing any violation of § 18.2-407 may be arrested and immediately brought before a magistrate who shall proceed as provided in § 19.2-82.

B. Conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) may issue summonses pursuant to this section, if such officers are in uniform or displaying a badge of office. On application, the chief law-enforcement officer of the county or city shall supply each officer with a supply of summons forms, for which such officer shall account pursuant to regulation of such chief law-enforcement officer.

C. The summons used by a law-enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388.

#### **§ 19.2-232. What process to be awarded against accused on indictment, etc.**

When an indictment or presentment is found or made, or information filed, the court, or the judge thereof, shall award process against the accused to answer the same, if he be not in custody. Such process, if the prosecution be for a felony, shall be a *caapias*; if it be for a misdemeanor, for which imprisonment may be imposed, it may be a *caapias* or summons, in the discretion of the court or judge; in all other cases, it shall be, in the first instance a summons, but if a summons be returned executed and the defendant does not appear, or be returned not found, the court or judge may award a *caapias*. The officer serving the summons or *caapias* shall also serve a copy of the indictment, presentment, or information therewith.

*If the accused is in custody when an indictment or presentment is found or made, or information is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the time of first appearance for each indictment, presentment, or information for which a report is required upon arrest pursuant to subsection A of § 19.2-390, and the court shall order that the fingerprints and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each offense pursuant to subsection A of § 19.2-390.*

#### **§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.**

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of a ~~felony~~ *any offense for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390*, shall determine whether a copy of the defendant's fingerprints ~~are on file at the Central Criminal Records Exchange~~ *or fingerprint identification information has been provided by a law-enforcement officer to the clerk of court for each such offense*. In any case where fingerprints ~~are not on file~~ *or fingerprint identification information has not been provided by a law-enforcement officer to the clerk of court*, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the

order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation for such time as the court shall determine, or otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections but has not actually been transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The court may place the person on probation for such time as the court shall determine.

**§ 19.2-303.02. Modification of conditions of suspended sentence or probation to require fingerprinting.**

*In any case where the court has suspended the imposition or execution of a sentence or placed the defendant on probation, the court may modify the sentence or conditions of probation at any time within the period of suspension or supervision to require that the fingerprints and photograph of the defendant be taken by a law-enforcement officer as a condition of that suspended sentence or probation, but only upon a hearing after reasonable notice to both the defendant and the attorney for the Commonwealth.*

**§ 19.2-303.2. Persons charged with first offense may be placed on probation.**

Whenever any person who has not previously been convicted of any felony pleads guilty to or enters a plea of not guilty to any crime against property constituting a misdemeanor, under Articles 5, 6, 7 and 8 of Chapter 5 (§ 18.2-119 et seq.) of Title 18.2, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation subject to terms and conditions, which may include restitution for losses caused, set by the court. *If the court defers further proceedings for an offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390, at that time the court shall determine whether the clerk of court has been provided with the fingerprint identification information or fingerprints of the accused, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the accused be taken by a law-enforcement officer.* Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, *and upon determining that the clerk of court has been provided with the fingerprint identification information or fingerprints of such person for an offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390,* the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purpose of applying this section in subsequent proceedings.

**§ 19.2-305.1. Restitution for property damage or loss; community service.**

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon

presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. The clerk shall record receipt of restitution payments in an automated financial management system operated and maintained by the Executive Secretary of the Supreme Court or such other system established and maintained by a circuit court clerk pursuant to § 17.1-502. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. At the time of sentencing, the court shall enter the amount of restitution to be repaid by the defendant, the date by which all restitution is to be paid, the terms and conditions of such repayment, and the victim's name and contact information, including the victim's home address, telephone number, and email address, on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the attorney for the Commonwealth participated in the prosecution of the defendant, the attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant and the terms and conditions of such repayment. If the attorney for the Commonwealth did not participate in the prosecution of the defendant, the court or the clerk shall complete the form. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge. Except as provided in this section or otherwise required by law, the victim's contact information shall be confidential, and the clerk shall not disclose such confidential information to any person.

F. 1. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that includes a period of active supervision, the probation agency supervising the defendant shall notify the court and the attorney for the Commonwealth of the amount of any restitution that remains unsatisfied and the last known address for the defendant (i) 60 days prior to the defendant's release from supervision pursuant to the terms of the sentencing order or (ii) if the agency requests that the defendant be released from supervision, at the time the agency submits its request to the court. Such notice shall be in writing and the attorney for the Commonwealth shall, if practicable, provide a copy of the notice to the victim. If any amount of restitution remains unsatisfied, the court shall conduct a hearing prior to the defendant's release from supervision after providing notice of the hearing to the defendant and the attorney for the Commonwealth. If the court finds that the defendant is not in compliance with the restitution order, the court may (a) release the defendant from supervision, (b) modify the period or terms of supervision pursuant to § 19.2-304, (c) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (d) proceed in accordance with subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. Any defendant who is released from supervision shall be subject to the provisions of subdivision 3.

2. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that does not include a period of active supervision, the court shall include in the order a date, not to exceed two years from the date

of the entry of the order or, if the court has sentenced the defendant to an active term of incarceration, from the date of the defendant's release from incarceration, on which the defendant's compliance with the restitution order shall be reviewed and the court shall schedule a hearing for such date. The court may, on its own motion, cancel the hearing if the amount of restitution has been satisfied. If at the hearing the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall also docket the restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. After the hearing conducted pursuant to this subdivision, the defendant shall be subject to the provisions of subdivision 3.

3. If any amount of restitution remains unsatisfied at the time of a hearing conducted pursuant to subdivision 1 or 2, the court shall continue to schedule hearings to review the defendant's compliance with the restitution order until the amount of restitution has been satisfied and provide notice of such hearings to the defendant. The court may, on its own motion, cancel any such hearing if the amount of restitution has been satisfied or if the defendant is in compliance with the restitution order. If at any hearing conducted pursuant to this subdivision the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall follow the procedures set forth in this subdivision for the purpose of reviewing compliance with a restitution order by a defendant (a) until the amount of restitution has been satisfied or (b) if any amount of restitution remains unsatisfied, for the longer of 10 years from the date of the hearing held pursuant to subdivision 1 or 2 or the period of probation ordered by the court.

4. If the court determines at any hearing conducted pursuant to this subsection that the defendant is unable to pay restitution and will remain unable to pay restitution for the duration of the review period set forth in subdivision 3, the court may discontinue any further hearings to review a defendant's compliance with the restitution order.

5. If the court determines that a defendant would be incarcerated on the date of any hearing scheduled pursuant to this subsection, the court may remove the case from the docket, reschedule such hearing to a date after the defendant's release from incarceration, and provide notice of the hearing to the defendant and the attorney for the Commonwealth. If the defendant who is on probation that includes a period of active supervision is incarcerated, the probation agency supervising the defendant shall notify the court when the defendant has been released from incarceration.

6. No provision of this subsection shall be construed to prohibit the court from exercising any authority otherwise granted by law over a defendant during any period of probation ordered by the court.

7. *At every hearing conducted pursuant to subdivision 1 where the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. The probation officer for the defendant shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the probation officer shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record prior to his release from supervision.*

8. *At every hearing conducted pursuant to subdivision 2 where the attorney for the Commonwealth participated in the prosecution and the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. If the attorney for the Commonwealth participated in the prosecution of the offense, the attorney for the Commonwealth shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the attorney for the Commonwealth shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record.*

G. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

H. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, "victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

I. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims by November 1 of each year. If a clerk does not have any such restitution to deposit, the clerk shall provide a statement to that effect to the Fund by November 1 of each year. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment directly to the victim for any proper claims. When depositing such restitution to the Fund, the clerk shall report the victim's last known contact information, including the victim's home address, telephone number, and email address, and the amount of restitution being deposited for that victim. Before making the deposit, the administrator shall record the name, contact information, and amount of restitution being deposited for each victim appearing from the clerk's report to be entitled to restitution. The victim's contact information reported to the Fund shall be confidential and shall not be disseminated further except as otherwise required by law.

J. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth the amount of payments made by the Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim's behalf.

K. Whenever a defendant is ordered to pay restitution, any sums collected shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any fine, forfeiture, penalty, or cost assessed against the defendant.

#### **§ 19.2-388. Duties and authority of Exchange.**

A. It shall be the duty of the Central Criminal Records Exchange to receive, classify, and file criminal history record information as defined in § 9.1-101 and other records required to be reported to it by §§ 16.1-299 and 19.2-390. The Exchange is authorized to prepare and furnish to all state and local law-enforcement officials and agencies; to clerks of circuit courts, general district courts, and juvenile and domestic relations district courts; and to corrections and penal officials, forms ~~which~~ that shall be used for the making of such reports.

B. Juvenile records received pursuant to § 16.1-299 shall be maintained separately from adult records.

C. *The Exchange shall submit periodic reports to the Office of the Executive Secretary of the Supreme Court of Virginia, the clerk of each circuit court and district court, attorneys for the Commonwealth, and law-enforcement agencies containing a list of offenses with unapplied criminal history record information. Reports to the Office of the Executive Secretary of the Supreme Court of Virginia shall be quarterly and shall include all such offenses within the Commonwealth identified by jurisdiction and by court. Reports to the clerk of each circuit court and district court shall be quarterly and shall include only such offenses that were submitted by the respective clerk of court. Reports to attorneys for the Commonwealth shall be quarterly and shall include only such offenses that were submitted by law-enforcement agencies and courts in the county or city served by the respective attorney for the Commonwealth. Reports to law-enforcement agencies shall be monthly and shall include only such offenses for which the respective law-enforcement agency executed the arrest or issued the summons. For each offense, the report shall include, if known, the name and any other identifying information of the defendant, any identifying court case information, the date of submission to the Exchange, and the reason the offense could not be applied to the criminal history record.*

D. *The Exchange shall review offenses containing unapplied criminal history record information and shall make reasonable efforts to ensure that such information, including any offense of which the Exchange is notified pursuant to subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1, subsection B of § 53.1-23, or subdivision 13 or 14 of § 53.1-145, is applied to criminal history records. The Exchange may request and shall receive from the clerk of each circuit court and district court, attorneys for the Commonwealth, law-enforcement agencies, the Department of Corrections, the Department of Forensic Science, and local probation and community corrections agencies cooperation and assistance to obtain positive identification or to reconcile any inconsistencies, errors, or omissions within such unapplied criminal history record information.*

E. *The Exchange shall submit a report to the Governor and General Assembly on or before November 1 of each year on the status of unapplied criminal history record information and any updates to fingerprinting policies and procedures. The report shall include the following, if known: (i) the total number of offenses submitted to the Exchange, identified by the year of the offense and the year the charge was filed for such offense, that contain unapplied criminal history record information and cannot be applied to criminal history records; (ii) the number of such offenses submitted to the Exchange without fingerprints or positive identification and the law-enforcement agencies that submitted those offenses; (iii) the number of such offenses submitted to the Exchange with an inconsistency, error, or omission and, for those offenses, the jurisdiction from which the offense was submitted; and (iv) efforts made by the Exchange to ensure that unapplied criminal history record information is applied to criminal history records, including any offenses of which the Exchange was notified pursuant to subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1, subsection B of § 53.1-23, or subdivision 13 or 14 of § 53.1-145.*

**§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.**

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall

make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on *capias* or warrant for failure to appear, and the service of a warrant for another jurisdiction, *for each charge when any person is arrested* on any of the following charges:

- a. Treason;
- b. Any felony;
- c. Any offense punishable as a misdemeanor under Title 54.1; ~~or~~
- d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; *or*
- e. *Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, 63.2-1509, or 63.2-1727.*

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested *for each charge*. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

2. For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court *defers or* dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, *or* 19.2-303.2; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed *for each charge* after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

3. *For persons arrested on a capias for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.*

4. *For any person served with a show cause for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such person is found to be in violation of the terms or conditions of a suspended sentence or probation for such felony offense. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.*

5. *If the accused is in custody when an indictment or presentment is found or made, or information is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the time of first appearance for each indictment, presentment, or information for which a report is required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each offense.*

B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or *capias* may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or *capias* to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his post-release supervision or probation, the

law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

C. ~~The~~ For offenses not charged on a summons in accordance with § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, deferral, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action ~~which~~ that may have resulted from an indictment, presentment or information, or any finding that the person is in violation of the terms or conditions of a suspended sentence or probation for a felony offense and (ii) any adjudication of delinquency based upon an act ~~which~~ that, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A and charged on a summons in accordance with § 19.2-74, such electronic report by the clerk of each circuit court and district court to the Central Criminal Records Exchange may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court shall make an electronic report to the Central Criminal Records Exchange of any finding that a person charged on a summons is in violation of the terms or conditions of a suspended sentence or probation for a felony offense. In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.2-1722. Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases ~~which~~ that he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, and last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A ~~of this section~~, the Central Criminal Records Exchange may receive, classify, and file any other fingerprints, photographs, and records of arrest or confinement submitted to it by any law-enforcement agency or any correctional institution or the Department of Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and records received by the Central Criminal Records Exchange from any correctional institution or the Department of Corrections may be classified and filed as criminal history record information.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

I. As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases

which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

**§ 19.2-390.03. Development and dissemination of model policy on fingerprinting and reports to the Central Criminal Records Exchange.**

*The Department of State Police shall develop a model policy on the collection of fingerprints and reporting of criminal history record information to the Central Criminal Records Exchange as required by § 19.2-390. The Department shall disseminate such policy to all law-enforcement agencies within the Commonwealth.*

**§ 19.2-392. Fingerprints and photographs by police authorities.**

A. All duly constituted police authorities having the power of arrest may take the fingerprints and photographs of: (i) any person arrested by them and charged with a felony or a misdemeanor an arrest for which is to be reported by them to the Central Criminal Records Exchange, ~~or~~ (ii) any person who pleads guilty or is found guilty after being summoned in accordance with § 19.2-74, *or* (iii) *any person charged with an offense that has been deferred by the court pursuant to §§ 18.2-57.3, 18.2-251, or 19.2-303.2.* Such authorities shall make such records available to the Central Criminal Records Exchange. Such authorities are authorized to provide, on the request of duly appointed law-enforcement officers, copies of any fingerprint records they may have, and to furnish services and technical advice in connection with the taking, classifying and preserving of fingerprints and fingerprint records.

B. Such police authorities may establish and collect a reasonable fee not to exceed \$10 for the first card and \$5 for each successive card for the taking of fingerprints when voluntarily requested by any person for purposes other than criminal violations.

**§ 53.1-23. Fingerprints, photographs and description.**

A. Photographs, fingerprints, and a description of each person received by the Department shall be taken and filed for identification purposes. *If the person is serving a sentence for an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, such photographs, fingerprints, and description of such person received by the Department shall be provided to the Central Criminal Records Exchange and, unless otherwise prohibited by law, may be classified and filed as part of the criminal history record information of that person.* Subject to the provisions of §§ 19.2-387 through 19.2-392, the Department shall cooperate with federal, state, county, and city law-enforcement agencies, insofar as it may deem proper, in disclosing information concerning such persons and in the taking of fingerprints and photographs of persons charged with the commission of a ~~felony~~ *an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390.*

B. *The Department shall review each person's criminal history record at least 60 days prior to his scheduled release from a state correctional facility to determine whether all offenses for which that person has been committed appear on such record and, if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) take and provide fingerprints and a photograph of the person to the Central Criminal Records Exchange to be classified and filed as part of the criminal history record information pursuant to subsection D of § 19.2-390 and (ii) provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that such offense does not appear on the offender's criminal history record.*

**§ 53.1-145. Powers and duties of probation and parole officers.**

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation and instruct him therein; if any such person has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services, and that he follow all of the terms of his treatment plan;

3. Supervise and assist all persons within his territory released on parole or postrelease supervision, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole, postrelease supervision, or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he was authorized;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the officer's exercise of this authority shall be promulgated by the Board;

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the Board and upon the certification of appropriate training and specific authorization by a judge of a circuit court;

8. Provide services in accordance with any contract entered into between the Department of Corrections and the Department of Behavioral Health and Developmental Services pursuant to § 37.2-912;

9. Pursuant to any contract entered into between the Department of Corrections and the Department of Behavioral Health and Developmental Services, probation and parole officers shall have the power to provide intensive supervision services to persons placed on conditional release, regardless of whether the person has any time remaining to serve on any criminal sentence, pursuant to Chapter 9 (§ 37.2-900 et seq.);

10. Determine by reviewing the Local Inmate Data System upon intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA analysis for each person placed on probation or parole required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if no sample has been taken, require a person placed on probation or parole to submit a sample for DNA analysis;

11. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult Offenders (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia, would be considered a felony, take a sample or verify that a sample has been taken and accepted into the data bank for DNA analysis in the Commonwealth; ~~and~~

12. Monitor the collection and payment of restitution to the victims of crime for offenders placed on supervised probation;

*13. Prior to the release from supervision of any offender on probation as of July 1, 2019, review the criminal history record of the offender at least 60 days prior to release from supervision, or immediately if the offender is scheduled to be released from supervision within less than 60 days, to determine whether all offenses for which the offender is being supervised appear on such record and, if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) take and provide fingerprints and a photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of the criminal history record information pursuant to subsection D of § 19.2-390 and (ii) provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that such offense does not appear on the offender's criminal history record; and*

*14. Upon intake of any offender on or after July 1, 2019, (i) take and provide fingerprints and a photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of the criminal history record information pursuant to subsection D of § 19.2-390, (ii) review the criminal history record of the offender to determine whether all offenses for which the offender is being supervised appear on such record, and (iii) if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that such offense does not appear on the offender's criminal history record.*

Nothing in this article shall require probation and parole officers to investigate or supervise cases before general district or juvenile and domestic relations district courts.

**§ 53.1-165. Revocation of parole or postrelease supervision; hearing; procedure for parolee or felon serving period of postrelease supervision in another state; appointment of attorney.**

A. Whenever any parolee or felon serving a period of postrelease supervision is arrested and recommitted as provided herein, a preliminary hearing to determine probable cause that such parolee has violated one or more of the terms or conditions upon which he was released on parole or postrelease period of supervision shall be held by any hearing officer who has been designated as such by the Director of the Department to conduct such hearings. However, if a nolle prosequi is to be entered in a case where a parole violation is alleged, no preliminary hearing shall be required.

Upon request of the hearing officer, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of such jurisdiction to appoint one or more discreet attorneys-at-law to represent parolees in any proceedings held before him. Each attorney so appointed shall be available to serve upon request of the hearing officer. The term of each attorney's appointment shall continue until such time as a successor may be appointed. A hearing officer shall be authorized to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before him and to administer oaths and to take testimony thereunder.

Upon a finding of probable cause by the hearing officer, the Board or its authorized representative shall conduct a hearing, consider the case and act with reference thereto within a reasonable time thereafter. Upon request of the Board, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of that jurisdiction to appoint one or more discreet attorneys-at-law to represent parolees in proceedings held or to be held before the Board. Each attorney shall be available to serve upon request of the Board. The term of each attorney's appointment shall continue until such time as a successor may be appointed. The Board, in its discretion, may revoke the parole and order the reincarceration of the prisoner for the unserved portion of the term of imprisonment originally imposed upon him, or it may reinstate the parole either upon such terms and conditions as were originally prescribed, or as may be

prescribed in addition thereto or in lieu thereof. When a parole violation is based on a new felony conviction for which the individual has been sentenced to two or more years, excluding any time of said sentence which has been suspended, any individual Board member, so authorized by the Board, may after such hearing revoke the individual's parole as otherwise provided herein.

*Upon revocation of parole for any felony offense, the Board or its authorized representative shall order that the Department of Corrections take fingerprints and a photograph of the person for each offense and transmit such information to the Central Criminal Records Exchange pursuant to subsection D of § 19.2-390.*

B. In cases in which a parolee or felon serving a period of postrelease supervision is in another state, any hearing officer who has been designated as such by the Director of the Department may be sent to that state to conduct a preliminary hearing to determine probable cause that the parolee has violated one or more of the terms and conditions upon which he was released upon parole.

C. Any attorney-at-law appointed pursuant to this section shall be paid as directed by the court making the appointment, from funds appropriated for court costs and expenses, reasonable compensation on an hourly basis and necessary expenses, based upon a report to be furnished to it by such attorney. In the event an attorney-at-law is appointed in another state, he shall be paid out of funds appropriated to the Department.

**2. § 1.** *The Department of State Police shall make reasonable efforts to ensure that criminal history record information that was reported to the Central Criminal Records Exchange pursuant to § 19.2-390 of the Code of Virginia prior to July 1, 2019, and not applied to the criminal history record of a person be applied to the criminal history record of that person. Such efforts shall prioritize identifying any felony convictions that have not been applied to criminal history records and providing such information to the law-enforcement agency that made the arrest and to the attorney for the Commonwealth in the jurisdiction where the conviction was entered. All state and local government agencies shall provide such assistance as may be requested by the Department of State Police to aid in the successful and timely completion of these efforts. Notwithstanding any other provision of law to the contrary, the Department of State Police and other state and local government agencies may receive from and disseminate to individuals, state agencies, and local government agencies any information that may be necessary for the successful and timely completion of these efforts. The Department of State Police shall report on the progress of these efforts to the Governor and the Chairman of the Virginia State Crime Commission by November 1, 2019.*

**3.** **That the Department of State Police, in coordination with the Department of Criminal Justice Services, shall develop a form to be used by local community-based probation officers when ordering an offender to report to a law-enforcement agency or to the Department of State Police and submit to having his fingerprints and photograph taken pursuant to the provisions of subdivision A 12 of § 9.1-176.1 of the Code of Virginia, as amended by this act. Such form shall include information necessary for that law-enforcement agency or the Department of State Police to ensure that the fingerprints and photograph of the offender can be applied to his criminal history record for each offense that does not appear on the criminal history record. Such form shall include a portion that is returnable to the local community-based probation office by the law-enforcement agency or Department of State Police and a portion to be provided to the offender after fingerprints and a photograph have been taken.**

## CHAPTER 784

*An Act to amend and reenact § 2.2-2001.3 of the Code of Virginia and to amend the Code of Virginia by adding in Article 23 of Chapter 24 of Title 2.2 a section numbered 2.2-2469.1, relating to the Virginia War Memorial Board; transfer of duties and sunset.*

[S 1705]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2001.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 23 of Chapter 24 of Title 2.2 a section numbered 2.2-2469.1 as follows:**

**§ 2.2-2001.3. Virginia War Memorial division.**

A. The Virginia War Memorial is established as a division within the Department of Veterans Services. The Virginia War Memorial, its grounds, and all its contents, furnishings, funds, endowments, and other property, now owned or hereafter acquired, are and shall remain property of the Commonwealth. The Commissioner shall maintain administrative and financial control of the Virginia War Memorial and its subsidiaries, including adopting regulations for the use of and visitation to the Memorial. Regulations of the Commissioner shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

B. The mission of the Virginia War Memorial shall be to honor patriotic Virginians who rendered faithful service and sacrifice in the cause of freedom and liberty for the Commonwealth and the nation in time of war, honor all of Virginia's veterans, preserve their history, educate the public, and inspire patriotism in all Virginians.

C. The Department shall, with the advice of the ~~Virginia War Memorial~~ *Virginia War Memorial Board of Veterans Services*, adopt policies governing (i) the programs and activities that may and should be carried out at the Memorial, (ii) the use of and visitation to the Memorial, and (iii) fees for the use of the Memorial.

D. The names and homes of record designation of all Virginians "Missing in Action" as a result of the Vietnam War and all Virginians "Killed in Action" (i) as a result of military operations against terrorism, (ii) as a result of a terrorist act, or (iii) in any armed conflict after December 6, 1941, shall be placed on the Virginia War Memorial after July 1, 2018. In the case of a Virginian "Killed in Action," the name and home of record designation shall be placed on the Virginia War Memorial within one year of the date of confirmed death.

E. To preserve the dignity of military medals authorized by the U.S. Department of Defense and the memory of those who have rendered faithful service and sacrifice in the cause of freedom and liberty, the Virginia War Memorial division of the Department shall be vested with the full authority to take possession of military medals, ribbons, or certificates that come into the possession of the Commonwealth for which the ownership is unknown until such time as the true owner is able to take possession. The Virginia War Memorial division of the Department shall make reasonable efforts, based on available resources, to determine the rightful owner and return any military medal, ribbon, or certificate that comes into its possession pursuant to this section.

F. The Commissioner shall provide supervision of the Virginia War Memorial Education Foundation and any other nonprofit corporation established as an instrumentality to provide fundraising for the Memorial and assist in the details of administering the affairs of the Memorial.

**§ 2.2-2469.1. Sunset.**

*The provisions of this article shall expire on January 1, 2020.*

**2. That the provisions of this act amending § 2.2-2001.3 of the Code of Virginia shall become effective on January 1, 2020.**

## CHAPTER 785

*An Act to amend and reenact § 16.1-107 of the Code of Virginia, relating to unlawful detainer; appeal bond.*

[S 1626]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-107 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-107. Requirements for appeal.**

A. No appeal shall be allowed unless and until the party applying for the same or someone for him shall give bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, or in an amount sufficient to satisfy the judgment of the court in which it was rendered. Either such amount shall include the award of attorney fees, if any. Such bond shall be posted within 30 days from the date of judgment, except for an appeal from the judgment of a general district court on an unlawful detainer pursuant to § 8.01-129. However, no appeal bond shall be required of a plaintiff in a civil case where the defendant has not asserted a counterclaim, the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict, or an insane person, or the interest of a county, city, town or transportation district created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2. No appeal bond shall be required of a defendant with indemnity coverage through a policy of liability insurance sufficient to satisfy the judgment if the defendant's insurer provides a written irrevocable confirmation of coverage in the amount of the judgment. If defendant's insurer does not provide a written irrevocable confirmation of coverage in the amount of the judgment then an appeal bond will be required.

B. In all civil cases, except trespass, ejectment, unlawful detainer against a former owner based upon a foreclosure against that owner, or any action involving the recovering rents, no indigent person shall be required to post an appeal bond. In cases of unlawful detainer against a former owner based upon a foreclosure against that owner, a person who has been determined to be indigent pursuant to the guidelines set forth in § 19.2-159 shall post an appeal bond within 30 days from the date of judgment.

C. *In cases of unlawful detainer for a residential dwelling unit, notwithstanding the provisions of § 8.01-129, an appeal bond shall be posted by the defendant with payment into the general district court in the amount of outstanding rent, late charges, attorney fees, and any other charges or damages due, as contracted for in the rental agreement, and as amended on the unlawful detainer by the court. If such amount is not so paid, any such appeal shall not be perfected as a matter of law. Upon perfection of an appeal, the defendant shall pay the rental amount as contracted for in the rental agreement to the plaintiff on or before the fifth day of each month. If any such rental payment is not so paid, upon written motion of the plaintiff with a copy of such written motion mailed by regular mail to the tenant, the judge of the circuit court shall, without hearing, enter judgment for the amount of outstanding rent, late charges, attorney fees, and any other charges or damages due as of that date, subtracting any payments made by such tenant as reflected in the court accounts and on a written affidavit submitted by the plaintiff, plaintiff's managing agent, or plaintiff's attorney with a copy of such affidavit mailed by regular mail to the tenant, and an order of possession without further hearings or proceedings in such court. Any funds held in a court account shall be released to the plaintiff without further hearing or proceeding of the court unless the defendant has filed a motion to retain some or all of such funds and the court, after a hearing, enters an order finding that the defendant is likely to succeed on the merits of a counterclaim alleging money damages against the plaintiff, in which case funds shall be held by order of such court.*

D. If such bond is furnished by or on behalf of any party against whom judgment has been rendered for money or property or both, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against such party on appeal, and for the payment of all costs and damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery except for costs, the bond shall be conditioned for the payment of such costs and damages as may be awarded against him on the appeal.

E. In addition to the foregoing, any party applying for appeal shall, within 30 days from the date of the judgment, pay to the clerk of the court from which the appeal is taken the amount of the writ tax of the court to which the appeal is taken and costs as required by subdivision A 13 of § 17.1-275, including all fees for service of process of the notice of appeal in the circuit court pursuant to § 16.1-112.

## CHAPTER 786

*An Act to amend and reenact §§ 19.2-310.2 and 58.1-3 of the Code of Virginia and to repeal § 55-112 of the Code of Virginia, relating to clerks of court; collection of DNA sample for certain offenses; disclosure of tax information; Torrens system.*

[S 1166]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-310.2 and 58.1-3 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-310.2. Blood, saliva, or tissue sample required for DNA analysis upon conviction of certain crimes; fee.**

A. Every person convicted of a felony on or after July 1, 1990, every person convicted of a felony offense under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 who was incarcerated on July 1, 1989, and every person convicted of a misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-60.3, 18.2-60.4, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-102, 18.2-119, 18.2-121, 18.2-130, 18.2-370.6, 18.2-387, or 18.2-387.1 or subsection E of § 18.2-460 or of any similar ordinance of any locality shall have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The Department of Forensic Science shall provide to LIDS the most current information submitted to the DNA data bank on a weekly basis and shall remove from LIDS and the data bank persons no longer eligible to be in the data bank. A fee of \$53 shall be charged for the withdrawal of this sample. The fee shall be taxed as part of the costs of the criminal case resulting in the conviction and \$15 of the fee shall be paid into the general fund of the locality where the sample was taken and \$38 of the fee shall be paid into the general fund of the state treasury. This fee shall only be taxed one time regardless of the number of samples taken. The assessment provided for herein shall be in addition to any other fees prescribed by law. The analysis shall be performed by the Department of Forensic Science or other entity designated by the Department. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the Department in a DNA data bank and shall be made available only as provided in § 19.2-310.5.

B. After July 1, 1990, the blood, saliva, or tissue sample shall be taken prior to release from custody. Notwithstanding the provisions of § 53.1-159, any person convicted of an offense listed in subsection A who is in custody after July 1, 1990, shall provide a blood, saliva, or tissue sample prior to his release. Every person so convicted after July 1, 1990, who is not sentenced to a term of confinement shall provide a blood, saliva, or tissue sample as a condition of such sentence. A person required under this section to submit a sample for DNA analysis is not relieved from this requirement regardless of whether no blood, saliva, or tissue sample has been taken from the person or, if a sample has been taken, whether the sample or the results from the analysis of a sample cannot be found in the DNA data bank maintained by the Department of Forensic Science.

C. Nothing in this section shall prevent the Department of Forensic Science from including the identification characteristics of an individual's DNA profile in the DNA data bank as ordered by a circuit court pursuant to a lawful plea agreement.

D. A collection or placement of a sample for DNA analysis that was taken or retained in good faith does not invalidate the sample's use in the data bank pursuant to the provisions of this article. The detention, arrest, or conviction of a person based upon a data bank match or data bank information is not invalidated if it is determined that the sample was obtained, placed, or retained in the data bank in good faith, or if the conviction or juvenile adjudication that resulted in the collection of the DNA sample was subsequently vacated or otherwise altered in any future proceeding, including but not limited to post-trial or post-fact-finding motions, appeals, or collateral attacks.

E. The Virginia Department of Corrections and the Department of Forensic Science shall, on a quarterly basis, compare databases of offenders under the custody or supervision of the Department of Corrections with the DNA data bank of the Department of Forensic Science. The Virginia Department of Corrections shall require a DNA sample of those offenders under its custody or supervision if they are not identified in the DNA data bank.

F. The Department of State Police shall verify that a DNA sample required to be taken for the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-903 has been received by the Department of Forensic Science. In any instance

where a DNA sample has not been received, the Department of State Police or its designee shall obtain from the person required to register a sample for DNA analysis.

G. Each community-based probation services agency established pursuant to § 9.1-174 shall determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

H. The sheriff or regional jailer shall determine by reviewing the Local Inmate Data System upon intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

**§ 58.1-3. Secrecy of information; penalties.**

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent *or by the commissioner of accounts making a settlement of accounts filed in such estate*;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from

local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to

any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; and (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

**2. That § 55-112 of the Code of Virginia is repealed.**

## CHAPTER 787

*An Act to amend and reenact §§ 8.01-195.4 and 16.1-77 of the Code of Virginia, relating to jurisdiction of claim; plaintiff's motion to amend claim amount; transfer of matter.*

[H 2289]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-195.4 and 16.1-77 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-195.4. Jurisdiction of claims under this article; right to jury trial; service on Commonwealth or locality; amending amount of claim.**

The general district courts shall have exclusive original jurisdiction to hear, determine, and render judgment on any claim against the Commonwealth or any transportation district cognizable under this article when the amount of the claim does not exceed \$4,500, exclusive of interest and any attorneys' fees. Jurisdiction shall be concurrent with the circuit courts when the amount of the claim exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and such attorneys' fees. Jurisdiction of claims when the amount exceeds \$25,000 shall be limited to the circuit courts of the Commonwealth. The parties to any such action in the circuit courts shall be entitled to a trial by jury.

*While a matter is pending in a general district court or a circuit court, upon motion of the plaintiff seeking to increase or decrease the amount of the claim, the court shall order transfer of the matter to the general district court or circuit court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Where such a matter is pending, if the plaintiff is seeking to increase or decrease the amount of the claim to an amount wherein the general district court and the circuit court would have concurrent jurisdiction, the court shall transfer the matter to either the general district court or the circuit court, as directed by the plaintiff, provided that such court otherwise has jurisdiction over the matter. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.*

In all actions against the Commonwealth commenced pursuant to this article, the Commonwealth shall be a proper party defendant, and service of process shall be made on the Attorney General. The notice of claim shall be filed pursuant to § 8.01-195.6 on the Director of the Division of Risk Management or the Attorney General. In all such actions against a transportation district, the district shall be a proper party and service of process and notices shall be made on the chairman of the commission of the transportation district.

**§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.**

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$4,500 exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees. However, this \$25,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. *While a matter is pending in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the court shall order transfer of the matter to the circuit court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.*

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$25,000 exclusive of interest and any attorney fees.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease or guarantee of such lease.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code.

(5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the

general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.

(8) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.

(9) Jurisdiction to try and decide any cases pursuant to § 55-79.80:2 of the Condominium Act (§ 55-79.39 et seq.) or § 55-513 of the Property Owners' Association Act (§ 55-508 et seq.).

(10) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional limits of the general district court. Any party that disagrees with an order by a general district court granting an application to compel arbitration may appeal such decision to the circuit court pursuant to § 8.01-581.016.

## CHAPTER 788

*An Act to amend and reenact §§ 25.1-203, 25.1-230, 25.1-230.1, 25.1-312, 25.1-419, 33.2-1011, and 33.2-1024 of the Code of Virginia, relating to eminent domain; entry upon private property; calculation of just compensation; damages.*

[S 1421]

Approved March 22, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 25.1-203, 25.1-230, 25.1-230.1, 25.1-312, 25.1-419, 33.2-1011, and 33.2-1024 of the Code of Virginia are amended and reenacted as follows:**

**§ 25.1-203. Authority of certain condemnors to inspect property; reimbursement for damages; notice prior to entry.**

A. In connection with any project wherein the power of eminent domain may be exercised, any locality or any petitioner exercising the procedure set forth in Chapter 3 (§ 25.1-300 et seq.) ~~of this title~~, acting through its duly authorized officers, agents or employees, may enter upon any property without the written permission of its owner if (i) the petitioner has requested the owner's permission to inspect the property as provided in subsection B, (ii) the owner's written permission is not received prior to the date entry is proposed, and (iii) the petitioner has given the owner notice of intent to enter as provided in subsection C.

B. 1. A request for permission to inspect shall (i) be sent to the owner by certified mail, return receipt requested, delivered by guaranteed overnight courier, or otherwise delivered to the owner in person with proof of delivery; and (ii) be made not less than 15 days prior to the first date of the proposed inspection. A request for permission to inspect shall be deemed to be made on the date of mailing, if mailed, or otherwise on the date of delivery.

2. A request for permission to inspect shall include: (i) the specific date or dates such inspection is proposed to be made; (ii) the name of the entity entering the property; (iii) *the number of persons for whom permission is sought*; (iv) the purpose for which entry is made; and ~~(iv)~~ (v) the testing, appraisals, or examinations to be performed and other actions to be taken.

C. *If the owner's written permission is not received within 15 days of the request for permission, then the petitioner shall provide notice of intent to enter.* Notice of intent to enter shall be sent to the owner by certified mail and be (i) posted at the entryway to the property or at the front door or such other door that appears to be the main entrance of the residence or business located on the parcel upon which the property to be entered is located, if the parcel contains a residence or business; (ii) delivered by guaranteed overnight courier; or (iii) otherwise delivered to the owner in person with evidence of receipt. The notice of intent to enter shall include a copy of the request for permission to inspect and shall be made not less than 15 days prior to the date of intended entry. *The notice of intent to enter shall include (a) the specific date or dates of such intended entry; (b) the name of the entity entering the property; (c) the number of persons intending to enter the property; (d) the purpose for which entry is made; and (e) the testing, appraisals, or examinations to be performed and other actions to be taken, which in no way shall exceed those set forth in the request for permission pursuant to subdivision B 2.* Notice of intent to enter shall be deemed made on the earlier of ~~(a)~~ (1) the date of mailing, if mailed, or ~~(b)~~ (2) on the date of delivery or posting. Any individuals entering the property shall carry identification and shall present such identification upon request of the landowner or his authorized representative.

D. Any entry authorized by this section (i) shall be for the purpose of making surveys, tests, appraisals or examinations thereof in order to determine the suitability of such property for the project, and (ii) shall not be deemed a trespass.

E. The petitioner shall make reimbursement for any actual damages resulting from entry upon the property. In any action filed under this section, the court may award the owner his reasonable (i) ~~attorneys' attorney~~ fees, (ii) court costs, and (iii) fees for ~~no more than three expert witnesses testifying at trial~~ up to three experts or as many experts as are called by the petitioner, whichever is greater, who testified at trial if: ~~(a) the court finds that the petitioner maliciously, willfully, or~~

recklessly damaged the owner's property; or (b) the court awards the owner actual damages in an amount 30 percent or more greater than the petitioner's final written offer made no later than 30 days after the filing of an answer in circuit court or the return date in general district court. A proceeding under this subsection shall not preclude the owner from pursuing any additional remedies available at law or equity.

F. The requirements of this section shall not apply to the practice of land surveying, as defined in § 54.1-400, when such surveying is not involved in any eminent domain or any proposed eminent domain matter.

**§ 25.1-230. Measure of just compensation; oaths of members of body determining just compensation.**

A. The body determining just compensation shall in each case ascertain the amount of just compensation to which a party is entitled as follows:

1. If the condemnation proceeding is brought utilizing the procedure set forth in Chapter 3 (§ 25.1-300 et seq.) of this title or §§ 33.2-1018 through 33.2-1029, the body determining just compensation shall ascertain (i) the value of the property to be taken and (ii) the damages, if any, which that may accrue to the residue beyond the specific enhancement in value, if any, to such residue caused by reason of such the taking and public use by the petitioner; however, (i) such enhancement in value shall not be offset against the value of the property taken, and (ii) if such for which it is condemned. Such enhancement in value shall exceed not be offset against the value of the property taken, and if such enhancement in value exceeds the damage damages, there shall be no recovery against the landowner for such excess; and

2. In any other condemnation proceeding, the body determining just compensation shall ascertain the value of the property to be taken and the damages, if any, to any other property beyond the peculiar benefits, if any, to such other property, by reason of such taking and use by the petitioner.

*In determining the market value of the property before the taking, the body determining just compensation may consider everything a buyer and seller in the marketplace would reasonably consider, but may not consider any increase or decrease in the fair market value of the property caused by the public use for which the property is being acquired, or by the likelihood that the property would be acquired for such public use, other than that due to physical deterioration within the reasonable control of the owner.*

*In determining the market value of the residue after the taking, the body determining just compensation may consider everything a buyer and seller in the marketplace would reasonably consider, including the public use for which the property is being acquired, but may not consider any general enhancement the residue experiences in common with surrounding properties as a result of the public use.*

*Nothing in this subsection shall make evidence of tax assessments admissible as proof of value in an eminent domain proceeding.*

B. Before executing their duties, each member of the body determining just compensation shall take an oath before an officer authorized by the laws of this the Commonwealth to administer an oath that he will faithfully and impartially ascertain the amount of just compensation to which a party is entitled.

**§ 25.1-230.1. Lost access and lost profits.**

A. For purposes of this section:

"Business" shall have the same meaning as set forth in § 25.1-400.

"Business profit" means the average net income for federal income tax purposes for the three years immediately prior to the later of (i) the date of valuation or (ii) the date the state agency or its contractor prevents the owner from using the land or any of the owner's other property rights are taken, for a business or farm operation located on the property taken.

"Direct access" means ingress or egress on or off a public road, street, or highway at a location where the property adjoins that road, street, or highway.

"Farm operation" shall have the same meaning as set forth in § 25.1-400.

B. The body determining just compensation shall include in its determination of damage to the residue any loss in market value of the remaining property from lost access caused by the taking or damaging of the property. The body determining just compensation shall ascertain any reduction in value for lost access, if any, that may accrue to the residue (i) beyond the enhancement in value, if any, to such residue as provided in subdivision A 1 of § 25.1-230, or (ii) beyond the peculiar benefits, if any, to such other property as provided in subdivision A 2 of as provided in subsection A of § 25.1-230, by reason of the taking and use by the petitioner. If such peculiar benefit or enhancement in value shall exceed the reduction in value, there shall be no recovery against the landowner for such excess. The body determining just compensation may not consider an injury or benefit that the property owner experiences in common with the general community, including off-site circuitry of travel and diversion of traffic, arising from an exercise of the police power. The body determining just compensation shall ensure that any compensation awarded for lost access shall not be duplicated in the compensation otherwise awarded to the owner of the property taken or damaged.

C. The body determining just compensation shall include in its determination of just compensation lost profits to the owner of a business or farm operation conducted on the property taken only if the owner proves with reasonable certainty the amount of the loss and that the loss is directly and proximately caused by the taking of the property through the exercise of eminent domain and the following conditions are met:

1. The loss cannot be reasonably prevented by a relocation of the business or farm operation, or by taking steps and adopting procedures that a reasonably prudent person would take and adopt;

2. The loss will not be included in relocation assistance provided pursuant to Chapter 4 (§ 25.1-400 et seq.);

3. Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner of the property taken or damaged; and

4. The loss shall be determined in accordance with generally accepted accounting principles applied on a consistent basis.

D. Any and all liability for lost access shall be established and made a part of the award of just compensation for damage to the residue of the property taken or damaged, and any and all liability for lost profits shall be set forth specifically in the award. In a partial acquisition, in the event that the owner of the property being condemned and the owner of the business or farm operation claiming lost profits are the same, then any enhancement or peculiar benefit shall be offset against both damage to the residue and lost profits.

E. It shall not be a requirement of any bona fide effort to purchase the property pursuant to § 25.1-204 or 33.2-1001 that the petitioner include any liability for lost profits in a written offer to purchase the property.

F. In any proceeding in which the owner of a business or farm operation seeks to recover lost profits, the owner shall provide the condemning authority with all federal income tax returns, if any, relating to the business or farm operation for which the owner seeks lost profits for a period of three years prior to the later of (i) the valuation date or (ii) the date the state agency or its contractor prevents the owner from using the land or any of the owner's other property rights are taken, and for each year thereafter during the pendency of the condemnation proceeding. The condemning authority shall not divulge the information provided pursuant to this subsection except in connection with the condemnation proceeding. Additionally, unless already named in the petition for condemnation, the owner may intervene in the proceeding by filing a motion to intervene accompanied by a petition for intervention setting forth the basis for the lost profits claim under this chapter. Proceedings to adjudicate lost profits may be bifurcated from the other proceedings to determine just compensation if the lost profits claim period will not expire until one year or later from the date of the filing of the petition for condemnation, but such bifurcation shall not prevent the entry of an order confirming indefeasible title to the land interests acquired by the condemning authority.

G. Nothing in this section is intended to provide for compensation for inverse condemnation claims for temporary interference with or interruption of a business or farm operation other than that which is directly and proximately caused by a taking or damaging of property through the exercise of eminent domain.

**§ 25.1-312. Reformation, alteration, revision, amendment, or invalidation of certificate.**

A. No reformation, alteration, revision, amendment, or invalidation shall be made to a recorded certificate for any purpose without the prior consent of the court wherein such certificate is recorded.

B. The court shall have jurisdiction to:

1. Reform, alter, revise, amend, or invalidate, in whole or in part, any certificate; and

2. Correct mistakes in the description of the property affected by such certificate, the name or names of the owner or owners in the certificate, or any other error that may exist with respect to such certificate for any other purpose.

C. A petition filed by the authorized condemnor with the court setting forth any error made in such certificate, or the necessity of any change therein, shall be deemed sufficient basis for the reformation, alteration, revision, amendment, or invalidation in whole or in part of such certificate.

D. The court may enter an order permitting the reformation, alteration, revision, amendment or invalidation, in whole or in part, of the certificate. Such order, together with any revised certificate that may be necessary, shall be recorded in the clerk's office in the same manner required for the recordation of a certificate. The filing of any certificate pursuant to the provisions of this section shall not alter the date of taking as established by the recordation of the original certificate pursuant to § 25.1-307 as to any property that is included in the amended certificate. An amended certificate shall not include any property not included in the original certificate.

E. Nothing in this section shall be construed to prohibit or preclude any person ~~damaged by reason of a mistake in, or the invalidation of, a certificate from showing the damage suffered by reason of such mistake or invalidation from recovering damages in a condemnation proceeding resulting from such reformation, alteration, revision, amendment, or invalidation.~~

**§ 25.1-419. Reimbursement of owner for costs when taking is abandoned or denied.**

The court ~~having jurisdiction of in which~~ a condemnation proceeding is instituted by a state agency to acquire real property by condemnation shall award the owner of any right, title, or interest in such real property such sum as will, in the opinion of the court, reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if (i) the final judgment is that the state agency cannot acquire the real property by condemnation or (ii) ~~the proceeding taking~~ is abandoned by the state agency, *in full or in part*. The award of such sums ~~will~~ shall be paid by the state agency that sought to condemn the property.

**§ 33.2-1011. Right to enter on land to ascertain its suitability for highway and other transportation purposes; damage resulting from such entry.**

A. The Commissioner of Highways, through his duly authorized officers, agents, or employees, may enter upon any land in the Commonwealth for the purposes of making examination and survey thereof, including photographing; testing, including soil borings or testing for contamination; making appraisals; and taking such actions as may be necessary or desirable to determine its suitability for highway and other transportation purposes or for any other purpose incidental thereto. Such officers, agents, or servants shall exercise care to protect any improvements, growing crops, or timber in

making such examination or survey. *Such officers, agents, or servants may enter upon any property without the written permission of its owners if (i) the Commissioner has requested the owner's permission to inspect the property as provided in subsection B, (ii) the owner's written permission is not received prior to the date entry is proposed, and (iii) the Commissioner has given the owner notice of intent to enter as provided in subsection C.*

*B. Notice shall be sent to the owner by mail, at the address recorded in the tax records, not less than 15 days prior to the first date of the proposed entry. Notice of intent to enter shall be deemed made on the date of mailing.*

*C. The notice shall include the anticipated date such entry is proposed to be made and the purpose of such entry. Any entry authorized by this section shall be for the purposes of making examination and survey thereof, including photographing; testing, including soil borings or testing for contamination; making appraisals; and taking such other actions as may be necessary or desirable to determine the suitability of such property for highway and transportation purposes; and shall not be deemed a trespass.*

*D. Notwithstanding the provisions in subsections A and B, nothing shall preclude entry prior to the anticipated date of entry specified in the notice if the property owner or his designated representative agrees to or requests a date of entry prior to the date of entry specified in the notice.*

*E. The Commissioner of Highways, through his duly authorized officers, agents, or servants, shall make reimbursement for any actual damages to real or personal property resulting from entry upon the property. In any action filed under this section, the court may award the owner his reasonable attorney fees, court costs, and fees for no more than three expert witnesses testifying at trial if (i) the court finds that the Commissioner of Highways maliciously, willfully, or recklessly damaged the owner's property and (ii) the court awards the owner actual damages in an amount 30 percent or more greater than the final written offer of the Commissioner of Highways made no later than 30 days after the filing of an answer in circuit court or the return date in general district court. A proceeding under this subsection shall not preclude the owner from pursuing any additional remedies available to the landowner. 1. A request for permission to inspect shall (i) be sent to the owner by certified mail, return receipt requested, delivered by guaranteed overnight courier, or otherwise delivered to the owner in person with proof of delivery and (ii) be made not less than 15 days prior to the first date of the proposed inspection. A request for permission to inspect shall be deemed to be made on the date of mailing, if mailed, or otherwise on the date of delivery.*

*2. A request for permission to inspect shall include (i) the specific date or dates such inspection is proposed to be made; (ii) the name of the entity entering the property; (iii) the number of persons for whom permission is sought; (iv) the purpose for which entry is made; and (v) the testing, appraisals, or examinations to be performed and other actions to be taken.*

*C. If the owner's written permission is not received within 15 days of the request for permission, then the Commissioner shall provide notice of intent to enter. Notice of intent to enter shall be sent to the owner by certified mail and be (i) posted at the entryway to the property or at the front door or such other door that appears to be the main entrance of the residence or business located on the parcel upon which the property to be entered is located, if the parcel contains a residence or business; (ii) delivered by guaranteed overnight courier; or (iii) otherwise delivered to the owner in person with evidence of receipt. The notice of intent to enter shall include a copy of the request for permission to inspect and shall be made not less than 15 days prior to the date of intended entry. The notice of intent to enter shall include (a) the specific date or dates of such intended entry; (b) the name of the entity entering the property; (c) the number of persons intending to enter the property; (d) the purpose for which entry is made; and (e) the testing, appraisals, or examinations to be performed and other actions to be taken, which in no way shall exceed those set forth in the request for permission pursuant to subdivision B 2. Notice of intent to enter shall be deemed made on the earlier of (1) the date of mailing, if mailed, or (2) the date of delivery or posting. Any individuals entering the property shall carry identification and shall present such identification upon request of the landowner or his authorized representative.*

*D. Any entry authorized by this section (i) shall be for the purpose of making surveys, tests, appraisals, or examinations thereof in order to determine the suitability of such property for the project and (ii) shall not be deemed a trespass.*

*E. The Commissioner shall make reimbursement for any actual damages resulting from entry upon the property. In any action filed under this section, the court may award the owner his reasonable (i) attorney fees, (ii) court costs, and (iii) fees for up to three experts or as many experts as are called by the condemnor, whichever is greater, who testified at trial if the court finds that the Commissioner damaged the owner's property. A proceeding under this subsection shall not preclude the owner from pursuing any additional remedies available at law or equity.*

*F. The requirements of this section shall not apply to the practice of land surveying, as defined in § 54.1-400, when such surveying is not involved in any eminent domain or any proposed eminent domain matter.*

**§ 33.2-1024. Reformation, alteration, revision, amendment, or invalidation of certificate.**

Upon the recordation of such certificate, no reformation, alteration, revision, amendment, or invalidation shall be made for any purpose without the prior consent of the court wherein such certificate is recorded. The court shall have jurisdiction to reform, alter, revise, amend, or invalidate in whole or in part any certificate; to correct mistakes in the description of the property affected by such certificate; to correct the name of the owner in the certificate; to correct any other error that may exist with respect to such certificate; or for any other purpose. A petition filed by the Commissioner of Highways with the court setting forth any error made in such certificate, or the necessity of any change therein, shall be deemed sufficient basis for the reformation, alteration, revision, amendment, or invalidation in whole or in part of such certificate. The court may enter an order permitting the reformation, alteration, revision, amendment, or invalidation in whole or in part, and such

order, together with any revised certificate that may be necessary, shall be recorded in the current deed book. The filing of any certificate pursuant to the provisions of this section shall not alter the date of taking as established by the filing of the original certificate pursuant to § 33.2-1021 as to any land that is included in the amended certificate, and no such amended certificate shall include any land not in the original certificate. Nothing in this section shall be construed to prohibit or preclude any person ~~damaged thereby from showing in the proper proceeding the damage suffered by reason of such mistake or the invalidation of a certificate of deposit as provided in this section from recovering any damages in a condemnation proceeding resulting from such reformation, alteration, revision, amendment, or invalidation.~~

**2. That the provisions of this act shall not apply to condemnation proceedings in which the petitioner filed, prior to July 1, 2019, (i) a petition in condemnation pursuant to Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 of the Code of Virginia or (ii) a certificate of take or deposit pursuant to Title 33.2 or Chapter 3 (§ 25.1-300 et seq.) of Title 25.1 of the Code of Virginia. Any condemnation proceedings in which the petitioner filed a petition or certificate described in clause (i) or (ii) on or after July 1, 2005, and prior to July 1, 2019, shall be governed by the provisions of the Code of Virginia in effect prior to July 1, 2019.**

## CHAPTER 789

*An Act to amend and reenact §§ 2.2-3711, 19.2-389, 58.1-4002, 58.1-4006, and 59.1-364 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, and by adding in Title 58.1 a chapter numbered 41, consisting of sections numbered 58.1-4100 and 58.1-4101, relating to regulation of casino gaming by Virginia Lottery Board.*

[S 1126]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3711, 19.2-389, 58.1-4002, 58.1-4006, and 59.1-364 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding a section numbered 18.2-334.5, and by adding in Title 58.1 a chapter numbered 41, consisting of sections numbered 58.1-4100 and 58.1-4101, as follows:**

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision

shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. *Discussion, consideration, or review of matters by the Virginia Lottery Board related to investigations exempted from disclosure under subdivision 1 of § 2.2-3705.3.*

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

**§ 11-16.1. Exemption from the chapter.**

*This chapter shall not apply to any bet, wager, or casino gaming permitted by Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.*

**§ 18.2-334.5. Exemptions to article; certain gaming operations.**

*Nothing in this article shall be construed to make it illegal to participate in any casino gaming operation conducted in accordance with Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1.*

**§ 19.2-389. Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and *casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1*, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member

of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

45. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

**§ 58.1-4002. Definitions.**

~~For the purposes of~~ As used in this chapter and Chapter 41, unless the context requires a different meaning:

"Board" means the Virginia Lottery Board established by this chapter.

"Casino gaming" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, sports betting, roulette wheels, Klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, push cards, jar tickets, pull tabs, online gaming, and any other activity that is authorized by the Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.).

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in this chapter.

"Director" means the Director of the Virginia Lottery.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

"Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.

**§ 58.1-4006. Powers of the Director.**

A. The Director shall supervise and administer ~~the~~:

1. The operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder; and

2. The regulation of casino gaming as defined in § 58.1-4002 and in accordance with Chapter 41 (§ 58.1-4100 et seq.).

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery and the regulation of casino gaming; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery and the regulation of casino gaming.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

8. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate *Committee on Finance Committee*, House *Committee on Finance Committee*, and House *Committee on Appropriations Committee* the total lottery revenues, prize disbursements, and other expenses for the preceding month; and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, as well as a separate financial statement of the expenses incurred in the regulation of casino operations, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters ~~which~~ that require immediate changes in the laws of ~~this~~ the Commonwealth in order to prevent abuses and evasions of this chapter and Chapter 41 (§ 58.1-4100 et seq.) or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

10. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of \$600 in the manner required by the lottery rules and regulations.

11. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,001.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents ~~which~~ that he determines will be cost effective and support increased sales of lottery products.

CHAPTER 41.  
CASINO GAMING.

**§ 58.1-4100. Conduct of casino gaming; limitation.**

A. The conduct of casino gaming shall be limited to:

1. Any city (i) in which at least 40 percent of the assessed value of all real estate in such locality is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2017, and (ii) that experienced a population decrease of at least seven percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;

2. Any city that had (i) an unemployment rate of at least five percent in November 2017, according to data provided by the U.S. Bureau of Labor Statistics; (ii) a poverty rate of at least 20 percent in 2016, according to data provided by the U.S. Census Bureau; and (iii) a population decrease of at least 20 percent from 1990 to 2016, according to data provided by the U.S. Census Bureau;

3. Any city that (i) had an unemployment rate of at least four percent in November 2017, according to data provided by the U.S. Bureau of Labor Statistics; (ii) had a poverty rate of at least 20 percent in 2016, according to data provided by the

U.S. Census Bureau; (iii) experienced a population decrease of at least four percent from 1990 to 2016, according to data provided by the U.S. Census Bureau; and (iv) is located adjacent to a state that has adopted a Border Region Retail Tourism Development District Act; and

4. Any city (i) with a population greater than 200,000 according to the 2017 population estimates from the Weldon Cooper Center for Public Service of the University of Virginia and (ii) in which at least 24 percent of the assessed value of all real estate in such locality is exempt from local property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2017, provided that such casino gaming is conducted by a Virginia Indian tribe recognized in House Joint Resolution No. 54 (1983) and acknowledged by the United States Assistant Secretary-Indian Affairs as an Indian tribe within the meaning of federal law that has the authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*).

B. The Board shall be limited to the issuance of a single operator's license for each city described in subsection A.

C. An operator's license shall only be issued pursuant to this chapter for a casino gaming project that involves a minimum capital investment of \$200 million, which may include investments in land, facilities, infrastructure, equipment, or furnishings.

**§ 58.1-4101. Local referendum required.**

A. The Department shall not grant any initial license to operate a gaming operation until a referendum approving the question is held in each city in which such casino gaming operation is to be located.

B. The governing body of any city meeting the requirements of § 58.1-4100 shall petition the court, by resolution, asking that a referendum be held on the question of whether casino gaming be permitted within the city. The court, by order entered of record in accordance with Article 5 (§ 24.2-681 *et seq.*) of Chapter 6 of Title 24.2, shall require the regular election officials of the county to open the polls and take the sense of the voters on the question as herein provided.

C. The clerk of such court of record of such city shall publish notice of such election in a newspaper of general circulation in such city once a week for three consecutive weeks prior to such election.

D. The regular election officers of such city shall open the polls at the various voting places in such city on the date specified in such order and conduct such election in the manner provided by law. The election shall be by ballot, which shall be prepared by the electoral board of the city and on which shall be printed the following question:

"Shall casino gaming be permitted at a casino gaming establishment in \_\_\_\_\_ (name of city and location) as may be approved by the Virginia Lottery Board?

[ ] Yes

[ ] No"

In the blank shall be inserted the name of the city in which such election is held and the proposed location of the casino gaming establishment. Any voter desiring to vote "Yes" shall mark in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark in the square provided for such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.

E. The ballots shall be counted, the returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering such election. Thereupon, such court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the Board and to the governing body of such city.

F. A subsequent local referendum shall be required if a license has not been granted by the Board within five years of the court order proclaiming the results of the election.

**§ 59.1-364. Control of racing with pari-mutuel wagering.**

A. Horse racing with pari-mutuel wagering as licensed herein shall be permitted in the Commonwealth for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people. The Virginia Racing Commission is vested with control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary power to prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices and to maintain in such racing complete honesty and integrity. The Virginia Racing Commission shall encourage participation by local individuals and businesses in those activities associated with horse racing.

B. The conduct of any horse racing with pari-mutuel wagering participation in such racing or wagering and entrance to any place where such racing or wagering is conducted is a privilege which may be granted or denied by the Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this chapter.

C. The award of any prize money for any pari-mutuel wager placed at a racetrack or satellite facility licensed by the Commission shall not be deemed to be a part of any gaming contract within the purview of § 11-14.

D. This section shall not apply to any sports betting or related activity that is lawful under Chapter 41 (§ 58.1-4100 *et seq.*) of Title 58.1.

2. That the Joint Legislative Audit and Review Commission shall conduct a review of casino gaming laws in other states. For purposes of the review, "casino gaming" shall have the same meaning as set forth in § 58.1-4002 of the Code of Virginia, and shall also include the lottery, historical horseracing, and horse racing and pari-mutuel wagering. The Joint Legislative Audit and Review Commission shall report any findings and recommendations to the Chairmen of the Senate Committee on General Laws and Technology and the House Committee on General Laws on or before December 1, 2019.

3. That no referendum shall be authorized pursuant to this act unless § 58.1-4101 of the Code of Virginia is reenacted by the 2020 Session of the General Assembly.
4. That no referendum shall be held pursuant to § 58.1-4101 of the Code of Virginia prior to the publication of the Joint Legislative Audit and Review Commission's findings and recommendations regarding casino gaming pursuant to the second enactment of this act, and no referendum shall be held after January 1, 2021.
5. That the Virginia Lottery Board promulgate regulations to implement the provisions of this act beginning January 1, 2020, and shall complete work on such regulations by June 30, 2020.
6. That the Virginia Lottery Board shall not issue a license to operate a gaming operation before July 1, 2020.
7. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2020 Session of the General Assembly.

## CHAPTER 790

*An Act to amend and reenact §§ 58.1-1000 and 58.1-1021.01 of the Code of Virginia and to amend and reenact Item 3-5.17 of Chapter 2 of the Acts of Assembly, Special Session I, of 2018, relating to cigarette tax; definitions of noncombustible tobacco products; tobacco tax study.*

[S 1371]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-1000 and 58.1-1021.01 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-1000. Definitions.**

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Authorized holder" means (i) a manufacturer; (ii) a wholesale dealer who is not duly qualified as a wholesale dealer stamping agent, but who possesses, or whose affiliate possesses, a valid cigarette exemption certificate issued pursuant to § 58.1-623.2; (iii) a stamping agent; (iv) a retail dealer who possesses, or whose affiliate possesses, a valid cigarette exemption certificate issued pursuant to § 58.1-623.2; (v) an exclusive distributor; (vi) an officer, employee, or other agent of the United States or a state, or any department, agency, or instrumentality of the United States, a state, or a political subdivision of a state, having possession of cigarettes in connection with the performance of official duties; (vii) a person properly holding cigarettes that do not require stamps or tax payment pursuant to § 58.1-1010; or (viii) a common or contract carrier transporting cigarettes under a proper bill of lading or other documentation indicating the true name and address of the consignor or seller and the consignee or purchaser of the brands and the quantities being transported. Any person convicted of (a) any criminal offense under this chapter; (b) any offense involving the forgery of any documents, forms, invoices, or receipts related to the purchase or sale of cigarettes or the purchase or sale of tobacco products as defined in § 58.1-1021.01; (c) any offense involving evasion or failure to pay a cigarette or tobacco product excise tax; or (d) any similar violation of an ordinance of any county, city, or town in the Commonwealth or the laws of any other state or of the United States is ineligible to be an authorized holder. For the purposes of this definition, "affiliate" means any entity that is a member of the same affiliated group, as such term is defined in § 58.1-3700.1.

"Carton" means 10 packs of cigarettes, each containing 20 cigarettes or eight packs, each containing 25 cigarettes.

"Cigarette" means any product that contains nicotine, is intended to be burned ~~or heated~~ and produces smoke from combustion under ordinary conditions of use, and consists of or contains (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is *burned and* functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (i) of this definition. The term "cigarette" includes "roll-your-own" tobacco, which means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

"Exclusive distributor" means any individual, corporation, limited liability company, or limited liability partnership with its principal place of business in the Commonwealth that has the sole and exclusive rights to sell to wholesale dealers in the Commonwealth a brand family of cigarettes manufactured by a tobacco product manufacturer as defined in § 3.2-4200.

"Manufacturer" means any tobacco product manufacturer as defined in § 3.2-4200.

"Pack" means a package containing either 20 or 25 cigarettes.

"Retail dealer" includes every person other than a wholesale dealer, as defined in this section, who sells or offers for sale any cigarettes and who is properly registered as a retail trade with the Commonwealth in accordance with the Virginia Department of Taxation Business Registration Application (Form R-1).

"Retail sale" or "sale at retail" includes all sales except sales by wholesale dealers to retail dealers or other wholesale dealers for resale.

"Stamping agent" has the same meaning as provided in § 3.2-4204. For the purposes of provisions relating to "roll-your-own" tobacco, "stamping agent" includes "distributor" as that term is defined in § 58.1-1021.01.

"Stamps" means the stamp or stamps by the use of which the tax levied under this chapter is paid and shall be officially designated as Virginia revenue stamps. The Department is hereby authorized to provide for the use of any type of stamp that will effectuate the purposes of this chapter, including but not limited to decalcomania and metering devices.

"Storage" means any keeping or retention in the Commonwealth of cigarettes for any purpose except sale in the regular course of business or subsequent use solely outside the Commonwealth.

"Tax-paid cigarettes" means cigarettes that (i) bear valid Virginia stamps to evidence payment of excise taxes or (ii) were purchased outside of the Commonwealth and either (a) bear a valid tax stamp for the state in which the cigarettes were purchased or (b) when no tax stamp is required by the state, proper evidence can be provided to establish that applicable excise taxes have been paid.

"Use" means the exercise of any right or power over cigarettes incident to the ownership thereof or by any transaction where possession is given, except that it does not include the sale of cigarettes in the regular course of business.

"Wholesale dealer" includes persons who are properly registered as tobacco product merchant wholesalers with the Commonwealth in accordance with the Virginia Department of Taxation Business Registration Application (Form R-1) and who (i) sell cigarettes at wholesale only to retail dealers for the purpose of resale only or (ii) sell at wholesale to institutional, commercial, or industrial users. "Wholesale dealer" also includes chain store distribution centers or houses that distribute cigarettes to their stores for sale at retail.

#### **§ 58.1-1021.01. Definitions.**

As used in this article, unless the context clearly shows otherwise, the term or phrase:

*"Alternative nicotine product" means any noncombustible product containing nicotine that is not made of tobacco and is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product or any product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.*

"Distributor" means (i) any person engaged in the business of selling tobacco products in the Commonwealth who brings, or causes to be brought, into the Commonwealth from outside the Commonwealth any tobacco products for sale; (ii) any person who makes, manufactures, fabricates, or stores tobacco products in the Commonwealth for sale in the Commonwealth; (iii) any person engaged in the business of selling tobacco products outside the Commonwealth who ships or transports tobacco products to any person in the business of selling tobacco products in the Commonwealth; or (iv) any retail dealer in possession of untaxed tobacco products in the Commonwealth.

*"Heated tobacco product" means a product containing tobacco that produces an inhalable aerosol (i) by heating the tobacco by means of an electronic device without combustion of the tobacco or (ii) by heat generated from a combustion source that only or primarily heats rather than burns the tobacco.*

*"Liquid nicotine" means a liquid or other substance containing nicotine in any concentration that is sold, marketed, or intended for use in a nicotine vapor product.*

"Loose leaf tobacco" means any leaf tobacco that is not intended to be smoked, but shall not include moist snuff. Loose leaf tobacco weight unit categories shall be as follows:

1. "Loose leaf tobacco half pound-unit" means a consumer sized unit, pouch, or package containing at least 4 ounces but not more than 8 ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

2. "Loose leaf tobacco pound-unit" means a consumer sized unit, pouch, or package containing more than 8 ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

3. "Loose leaf tobacco single-unit" means a consumer sized unit, pouch, or package containing less than 4 ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

"Manufacturer" means a person who manufactures or produces tobacco products and sells tobacco products to a distributor.

"Manufacturer's representative" means a person employed by a manufacturer to sell or distribute the manufacturer's tobacco products.

"Manufacturer's sales price" means the actual price for which a manufacturer, manufacturer's representative, or any other person sells tobacco products to an unaffiliated distributor.

"Moist snuff" means a tobacco product consisting of finely cut, ground, or powdered tobacco that is not intended to be smoked but shall not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

*"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other*

container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Retail dealer" means every person who sells or offers for sale any tobacco product to consumers.

"Tobacco product" or "tobacco products" means (i) "cigar" as defined in § 5702(a) of the Internal Revenue Code, and as such section may be amended; (ii) "smokeless tobacco" as defined in § 5702(m) of the Internal Revenue Code, and as such section may be amended; or (iii) "pipe tobacco" as defined in § 5702(n) of the Internal Revenue Code, and as such section may be amended. "Tobacco products" shall also include loose leaf tobacco.

**2. That Item 3-5.17 of Chapter 2 of the Acts of Assembly, Special Session I, of 2018, is amended and reenacted as follows:**

Item 3-5.17

§ 3-5.17 TOBACCO TAX STUDY

The Joint Subcommittee to Evaluate Tax Preferences is hereby directed to ~~study~~ *continue studying* options for the modernization of § 58.1-1001(A), Code of Virginia, to reflect advances in science and technology in the area of tobacco harm reduction, and the role innovative non-combustible tobacco products can play in reducing harm, including products that produce vapor or aerosol from heating tobacco or liquid nicotine. In addition, the Joint Subcommittee shall study possible reforms to the taxation of tobacco products that will provide fairness and equity for all local governments and also ensure stable tax revenues for the Commonwealth. The Joint Subcommittee shall complete its study and submit a final report with recommended reforms to the Finance Committees of the Virginia Senate and Virginia House of Delegates by November 1, ~~2018~~ 2019. All agencies of the Commonwealth shall provide assistance for this study, upon request.

## CHAPTER 791

*An Act to amend the Code of Virginia by adding a section numbered 58.1-3715.1, relating to local license tax; mobile food units.*

[S 1425]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 58.1-3715.1 as follows:**

**§ 58.1-3715.1. License requirements for mobile food units.**

*A. For purposes of this section, unless the context requires a different meaning:*

*"Mobile food unit" means a restaurant that is mounted on wheels and readily moveable from place to place at all times during operation.*

*"New business" means a business that locates for the first time to do business in a locality. A business shall not be deemed to be a new business based on a merger, acquisition, similar business combination, name change, or change to its business form.*

*B. If the owner of a new business that operates a mobile food unit pays the license tax required by the locality in which the mobile food unit is registered, such owner shall not be required to pay any further license tax imposed by any other locality for conducting business from such mobile food unit in the confines of such other locality. The exemption from paying the license tax in other localities shall expire two years after the payment of the initial license tax in the locality in which the mobile food unit is registered, and during the two-year period, the owner shall be entitled to exempt up to three mobile food units from license taxation in other localities.*

*C. The owner of a mobile food unit shall be required to register with the commissioner of the revenue or director of finance in any locality in which he conducts business from such mobile food unit, regardless of whether the owner is exempt from paying license tax in the locality pursuant to the provisions of this section.*

## CHAPTER 792

*An Act to establish a pilot program to place electric distribution lines underground in areas of transit-oriented development in certain localities.*

[S 1759]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That there is hereby established a pilot program under which the governing body of any locality operating under the urban county executive form of government may request an electric utility to place underground electric distribution lines in transportation projects to serve and facilitate the creation of transit-oriented development in such locality in conjunction with a transportation infrastructure improvement project that the Commonwealth Transportation Board identifies that reduces congestion, improves mobility, incorporates transit systems, and improves safety. Such pilot program shall further an understanding of such underground electric distribution lines in regard to electric reliability, construction methods and**

related cost and timeline estimating, and the probability of meeting such projections. The pilot program shall consist of the approval to convert qualifying electric distribution lines in whole or in part underground in areas of transit-oriented developments in conjunction with a transportation infrastructure project the Commonwealth Transportation Board identifies. The pilot program shall terminate on July 1, 2022, after which date no agreement shall be entered into pursuant to § 2 of this act. The termination of the pilot program shall not affect any such agreement entered into prior to such date or any of the terms of such an agreement, including any additional levy imposed pursuant to such an agreement.

§ 2. The locality operating under the urban county executive form of government and the utility shall enter into an agreement that provides that (i) the locality shall pay to the utility its full additional costs of relocating and converting that portion of the line located in the locality underground rather than overhead that are not recoverable under applicable rates, net of relocation credits, which costs shall include associated feasibility costs, or any smaller portion of such costs as the utility and the locality may agree; (ii) the locality shall impose an additional levy on electric utility customers in the locality pursuant to § 58.1-3814 of the Code of Virginia in an amount sufficient to cover the utility's additional costs, which additional levy shall be collected by the utility on behalf of the locality; (iii) the utility shall convert, operate, and maintain the agreed portion of the line underground; and (iv) other terms and conditions on which the parties may agree shall be included in the agreement.

§ 3. If the locality operating under the urban county executive form of government and the utility enter into an agreement as described in § 2 of this act, the locality shall by ordinance fix the amount of such additional levy, which shall not exceed \$1 per month on residential customers. Any levy imposed pursuant to this act shall be in addition to the limit for any utility consumer tax prescribed in § 58.1-3814 of the Code of Virginia.

§ 4. Upon presentation of the agreement to the Commonwealth Transportation Board, the Commissioner of Highways shall be responsible for securing the necessary easements and permits for the utility for the conversion of the existing distribution lines, based upon plans that the electric utility provides. The electric utility shall take such other actions as it deems appropriate in furtherance of the conversion of the approved distribution line, including acquiring the materials necessary for the underground installation.

§ 5. If the provisions of this act are inconsistent with the provisions of any other law or local ordinance, the provisions of this act shall be controlling.

## CHAPTER 793

An Act to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 59.2, consisting of sections numbered 15.2-5928 through 15.2-5934, relating to City of Virginia Beach; sports or entertainment project.

[S 1790]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 59.2, consisting of sections numbered 15.2-5928 through 15.2-5934, as follows:**

### CHAPTER 59.2.

#### VIRGINIA BEACH SPORTS OR ENTERTAINMENT PROJECT.

##### § 15.2-5928. Definitions.

As used in this chapter, unless the context requires a different meaning:

"City" or "City of Virginia Beach" means the City of Virginia Beach or the City of Virginia Beach Development Authority.

"Sales and use tax revenues" means tax collections under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein, generated by transactions taking place upon the premises of a sports or entertainment project, including transactions generating revenues in connection with the development and construction of such project that would not be generated but for the existence of such project. For purposes of this chapter, "sales and use tax revenues" does not include the revenue generated by (i) the one-half percent sales and use tax increase enacted by Chapters 11, 12, and 15 of the Acts of Assembly of 1986, Special Session I, which shall be paid into the Transportation Trust Fund as defined in § 33.2-1524; (ii) the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school-age population; and (iii) the additional state sales and use tax in certain counties and cities assessed pursuant to Chapter 766 of the Acts of Assembly of 2013 and any amendments thereto.

"Sports and entertainment district" means the geographic area in the City of Virginia Beach located south of 21st Street, north of Norfolk Avenue, east of Birdneck Road, and west of Atlantic Avenue.

"Sports or entertainment project" means a project including sports facilities, entertainment facilities, or both, representing at least \$100 million of investment in the sports and entertainment district of the City of Virginia Beach, including any office, restaurant, concessions, retail, residential, and lodging facilities that are owned and operated adjacent to or in connection with such sports or entertainment project; film and sound studios and any other sports or entertainment-related infrastructure; and any other directly related properties, including onsite and offsite parking lots,

garages, and other properties. "Sports or entertainment project" includes multiple facilities located on multiple properties, provided that such facilities share a nexus of ownership or management.

**§ 15.2-5929. Powers.**

In addition to all other powers it possesses, the City of Virginia Beach may:

1. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain a sports or entertainment project to the extent necessary to accomplish the purposes of this chapter;
2. Operate, enter into contracts for the operation of, and regulate the use and operation of a sports or entertainment project developed under the provisions of this chapter;
3. Fix and revise from time to time and charge and collect rates, rents, fees, ticket surcharges, or other charges for the use of a sports or entertainment project or for services rendered in connection with a sports or entertainment project;
4. Issue bonds under this chapter; and
5. Do all things necessary or convenient to carry out the powers granted by this chapter.

**§ 15.2-5930. Public hearings; notice; reports.**

A. At least 30 days before execution of a binding development agreement for a sports or entertainment project, the City of Virginia Beach shall submit to the General Assembly a detailed written report and findings of the City on the proposed agreement. The report and findings shall include a detailed plan of the method of funding and the economic benefits of the proposed agreement.

B. The State Treasurer shall be provided with copies of all documents relating to the proposed issuance of any bonds pursuant to § 15.2-5931 sufficiently in advance of such bond issue to conduct such reviews as the State Treasurer deems necessary. Such reviews shall be completed within 120 days after the date that the Treasurer is provided such documents. In the event that the Commonwealth is an obligated person determined to be material to an evaluation of the offering for which financial information will be included or referenced in the offering document in accordance with Securities and Exchange Commission Rule 15c 2-12 under the federal Securities Exchange Act of 1934, or in the event that in the opinion of the State Treasurer, with the concurrence of the Debt Capacity Advisory Committee established under Article 5 (§ 2.2-2712 et seq.) of Chapter 27 of Title 2.2, such bond issue will be considered tax-supported debt of the Commonwealth or have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, such bond issue must be authorized by the General Assembly.

**§ 15.2-5931. Bond issues.**

A. The City of Virginia Beach may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. As used in this chapter, "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the City of Virginia Beach, or other security specifically pledged by the City of Virginia Beach to the payment thereof, including, but not limited to:

1. Taxes, fees, charges, or other revenues;
2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;
3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement;
4. Sales and use tax revenues remitted to the City of Virginia Beach by the State Comptroller pursuant to § 15.2-5933; and
5. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the City of Virginia Beach and may be secured by a trust agreement by and between the City of Virginia Beach and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding 20 years from their respective dates of issue;
2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;
3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;
4. Be payable in lawful money of the United States at a designated place;
5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides; and
6. Be sold in the manner and upon the terms determined by the City of Virginia Beach, including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions that shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the City of Virginia Beach or proceeds or benefits of any contract and conveying or otherwise securing any property rights;
2. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts, and sinking funds, and the regulation, investment, and disposition thereof;

3. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;

4. Limitations on the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;

5. The refunding or refinancing of outstanding bonds;

6. The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;

7. Defining the acts or omissions that shall constitute a default in the duties of the City of Virginia Beach to bondholders and providing the rights or remedies of such holders in the event of a default, which may include provisions restricting individual right of action by bondholders;

8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of bondholders; and

9. Any other matter relating to the bonds that the City of Virginia Beach determines appropriate.

E. No member of the governing body of the City of Virginia Beach nor any person executing the bonds on behalf of the City of Virginia Beach shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. The City of Virginia Beach may enter into agreements with agents, banks, insurers, any political subdivision of the Commonwealth, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by the City of Virginia Beach of its revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract, or otherwise against the City of Virginia Beach, irrespective of whether the person has notice.

No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by the City of Virginia Beach need be filed or recorded in any public record other than the records of the City of Virginia Beach in order to perfect the lien against third persons, regardless of any contrary provision of public general or public local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of the Commonwealth or by any applicable resolution or trust agreement.

I. The City of Virginia Beach may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

**§ 15.2-5932. Sports or Entertainment Project Financing Fund; use.**

A. The City of Virginia Beach may, in its discretion, create a Sports or Entertainment Project Financing Fund, hereafter referred to as "the Fund." The City of Virginia Beach may use the Fund as a non-lapsing revolving fund for the purposes of carrying out the provisions of this chapter and providing security for any bonds issued under this chapter.

B. All of the following receipts of the City of Virginia Beach may be placed in the Fund: (i) proceeds from the sale of bonds, (ii) revenues collected or received from any source under the provisions of this chapter, (iii) sales and use tax revenues remitted to the City of Virginia Beach by the State Comptroller pursuant to § 15.2-5933, and (iv) any other revenues under the jurisdiction of the City of Virginia Beach.

C. The City of Virginia Beach may pay expenses and make expenditures from the Fund. To the extent deemed appropriate by the City of Virginia Beach, the receipts of the Fund may be pledged to and charged with the payment of debt service on City of Virginia Beach bonds and all reasonable charges and expenses related to the City borrowing and the management of the City's obligations.

**§ 15.2-5933. Entitlement to tax revenues derived from the operation of facilities.**

A. 1. Upon execution of a binding development agreement for a sports or entertainment project, the City of Virginia Beach shall be entitled, subject to appropriation, to sales and use tax revenues defined in this chapter. The State Comptroller shall remit such sales and use tax revenues to the City of Virginia Beach on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation. The State Comptroller shall make such remittances to the City of Virginia Beach, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

2. Any entitlement of the City of Virginia Beach to receive sales and use tax revenues pursuant to the provisions of this chapter shall expire on July 1, 2039.

B. The local governing body of the City of Virginia Beach may, by ordinance or resolution, fix and revise from time to time and charge and collect rates, rents, fees, ticket surcharges, or other charges for a sports or entertainment project and any temporary sports or entertainment project developed under the provisions of this chapter.

*C. If a sports and entertainment project qualifies for entitlement to sales and use tax revenues pursuant to the provisions of § 58.1-3851.1 or 58.1-3851.2, the City of Virginia Beach shall remain eligible to receive sales and use tax revenues pursuant to the provisions of this chapter; however, the amount received pursuant to this chapter shall be reduced by the amount received pursuant to the provisions of § 58.1-3851.1 or 58.1-3851.2.*

**§ 15.2-5934. Tax revenues of the Commonwealth or any other political subdivision not pledged.**

*Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth, or the faith and credit of any other political subdivision of the Commonwealth, for the payment of any bonds. No bonds issued pursuant to § 15.2-5931 shall pledge the full faith and credit of the Commonwealth, nor shall such bonds constitute a debt of the Commonwealth, and the bonds shall so state on their face. Bondholders shall have no recourse whatsoever against the Commonwealth for the payment of principal, interest, or redemption premium, if any, on such bonds.*

**2. That the Tax Commissioner shall report to the Chairmen of the Senate Committee on Finance, the House Committee on Finance, and the House Committee on Appropriations, annually prior to July 1, the amount of the entitlement pursuant to § 15.2-5933 of the Code of Virginia, as created by this act, provided that the City of Virginia Beach has executed a binding development agreement for a sports or entertainment project pursuant to § 15.2-5930 of the Code of Virginia, as created by this act.**

## CHAPTER 794

*An Act to amend and reenact § 23.1-306 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 9 of Title 23.1 a section numbered 23.1-903.4, relating to public institutions of higher education; innovation.*

[H 2653]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-306 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 9 of Title 23.1 a section numbered 23.1-903.4 as follows:**

**§ 23.1-306. Public institutions of higher education; six-year plans; institutional partnership performance agreements.**

A. The governing board of each public institution of higher education shall (i) develop and adopt biennially in odd-numbered years and amend or affirm biennially in even-numbered years a six-year plan for the institution; (ii) submit a preliminary version of such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than July 1 of each odd-numbered year; and (iii) submit preliminary amendments to or a preliminary affirmation of each such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than July 1 of each even-numbered year. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall include a report of the institution's active contributions to efforts to stimulate the economic development of the Commonwealth, the area in which the institution is located, and, for those institutions subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10, the areas that lag behind the Commonwealth in terms of income, employment, and other factors. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. No such preliminary plan, amendments, or affirmation shall be posted on the General Assembly's website.

B. The Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations, and the Staff Director of the Senate Committee on Finance, or their designees, shall review each institution's preliminary plan, amendments, or affirmation and provide comments to the institution on such plan, amendments, or affirmation by September 1 of the relevant year. Each institution shall respond to any such comments by October 1 of that year and submit a finalized version of such plan, amendments, or affirmation to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than December 1 of that year. Each such finalized version shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

C. Each plan shall be structured in accordance with, and be consistent with, the objective and purposes of this chapter set forth in § 23.1-301 and the criteria developed pursuant to § 23.1-309 and shall be in a form and manner prescribed by the Council, in consultation with the Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations, and the Staff Director of the Senate Committee on Finance, or their designees.

D. Each six-year plan shall (i) address the institution's academic, financial, and enrollment plans, including the number of Virginia and non-Virginia students, for the six-year period; (ii) indicate the planned use of any projected increase in general fund, tuition, or other nongeneral fund revenues; (iii) be based upon any assumptions provided by the Council,

following consultation with the Department of Planning and Budget and the staffs of the House Committee on Appropriations and the Senate Committee on Finance, for funding relating to state general fund support pursuant to §§ 23.1-303, 23.1-304, and 23.1-305 and subdivision 9; (iv) be aligned with the institution's six-year enrollment projections; and (v) include:

1. Financial planning reflecting the institution's anticipated level of general fund, tuition, and other nongeneral fund support for each year of the next biennium;

2. The institution's anticipated annual tuition and educational and general fee charges required by (i) degree level and (ii) domiciliary status, as provided in § 23.1-307;

3. Plans for providing financial aid to help mitigate the impact of tuition and fee increases on low-income and middle-income students and their families as described in subdivision 9, including the projected mix of grants and loans;

4. Degree conferral targets for undergraduate Virginia students;

5. Plans for optimal year-round use of the institution's facilities and instructional resources;

6. Plans for the development of an instructional resource-sharing program with other public institutions of higher education and private institutions of higher education;

7. Plans with regard to any other incentives set forth in § 23.1-305 or any other matters the institution deems appropriate;

8. The identification of (i) new programs or initiatives including quality improvements and (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, as provided in subsection C of § 23.1-307; and

9. An institutional student financial aid commitment that, in conjunction with general funds appropriated for that purpose, provides assistance to students from both low-income and middle-income families and takes into account the information and recommendations resulting from the review of federal and state financial aid programs and institutional practices conducted pursuant to subdivisions B 2 and C 1 of § 23.1-309.

E. In developing such plans, each public institution of higher education shall consider potential future impacts of tuition increases on the Virginia College Savings Plan and ABLE Savings Trust Accounts (§ 23.1-700 et seq.) and shall discuss such potential impacts with the Virginia College Savings Plan. The chief executive officer of the Virginia College Savings Plan shall provide to each institution the Plan's assumptions underlying the contract pricing of the program.

*F. 1. In conjunction with the plans included in the six-year plan as set forth in subsection D, each public institution of higher education, Richard Bland College, and the Virginia Community College System may submit one innovative proposal with clearly defined performance measures, including any request for necessary authority or support from the Commonwealth, for a performance pilot. If the General Assembly approves the proposed performance pilot, it shall include approval language in the general appropriation act. A performance pilot shall advance the objectives of this chapter by addressing innovative requests related to college access, affordability, cost predictability, enrollment management subject to specified commitments regarding undergraduate in-state student enrollment, alternative tuition and fee structures and affordable pathways to degree attainment, internships and work study, employment pathways for undergraduate Virginia students, strategic talent development, state or regional economic development, pathways to increase timely degree completion, or other priorities set out in the general appropriation act.*

*2. A performance pilot may include or constitute an institutional partnership performance agreement, which shall be set forth in a memorandum of understanding that includes mutually dependent commitments by the institution, the Commonwealth, and identified partners, if any, related to one or more of the priorities set forth in subdivision 1 or set forth in a general appropriation act. No such institutional partnership performance agreement shall create a legally enforceable obligation of the Commonwealth.*

*3. No more than six performance pilots shall be approved in a single session of the General Assembly.*

*4. Development and approval of any performance pilot proposal shall proceed in tandem with consideration of the institution's six-year plan, as follows:*

*a. An institution that intends to propose a performance pilot shall communicate that intention as early as practicable, but not later than April 1 of the year in which the performance pilot will be proposed, to the reviewers listed in subsection B, the co-chairmen of the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education, and the Governor. In developing a proposed performance pilot, the institution shall consider the Commonwealth's educational and economic policies and priorities, including those reflected in the Virginia Plan for Higher Education issued by the Council, the economic development policy developed pursuant to § 2.2-205, the strategic plan developed pursuant to § 2.2-2237.1, relevant regional economic growth and diversification plans prepared by regional councils pursuant to the Virginia Growth and Opportunity Act (§ 2.2-2484 et seq.), and any additional guidance provided by the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education and the Governor.*

*b. An institution that submits a performance pilot shall include the one innovative proposal with clearly defined performance measures, and any corresponding authority and support requested from the Commonwealth, with its submission of the preliminary version of its six-year plan pursuant to clause (ii) of subsection A or with its preliminary amendment or affirmation submission pursuant to clause (iii) of subsection A.*

*c. The reviewers listed in subsection B, or their designees, shall review and comment on any proposed performance pilot in accordance with the six-year plan review and comment process established in subsection B and may expedite such review and comment process to facilitate the executive and legislative budget process or for other reasons. No later than*

October 15 of the relevant year, the reviewers shall communicate to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance their recommendations regarding each performance pilot proposal. Such recommendations shall include the reviewers' comments regarding how the proposed performance pilots, individually and collectively, support the strategic educational and economic policies of the Commonwealth.

d. Each performance pilot proposal shall include evidence of its approval by the institution's governing board and, if accepted, shall be referenced in the general appropriation act.

**§ 23.1-903.4. Innovative Internship Fund and Program.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Innovative Internship Fund (the Fund). The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of the Innovative Internship Program established pursuant to subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Council.

B. There is hereby established the Innovative Internship Program (the Program). The purpose of the Program is to expand paid or credit-bearing student internship and other work-based learning opportunities in collaboration with Virginia employers. The Program comprises institutional grants and a statewide initiative to facilitate the readiness of students, employers, and institutions of higher education to participate in internship and other work-based learning opportunities.

1. In administering the statewide initiative, the Council shall (i) engage stakeholders from business and industry, secondary and higher education, economic development, and state agencies and entities that are successfully engaging employers or successfully operating internship programs; (ii) explore strategies in Virginia and elsewhere on successful institutional, regional, statewide or sector-based internship programs; (iii) gather data on current institutional internship practices, scale, and outcomes; (iv) develop internship readiness educational resources, delivery methods, certification procedures, and outreach and awareness activities for employer partners, students, and institutional career development personnel; (v) pursue shared services or other efficiency initiatives, including technological solutions; and (vi) create a process to track key measures of performance.

2. The Council shall establish eligibility criteria, including requirements for matching funds, for institutional grants. Such grants shall be used to accomplish one or more of the following goals: (i) support state or regional workforce needs; (ii) support initiatives to attract and retain talent in the Commonwealth; (iii) support research and research commercialization in sectors and clusters targeted for development; (iv) support regional economic growth and diversification plans; (v) enhance the job readiness of students; (vi) enhance higher education affordability and timely completion for Virginia students; or (vii) further the objectives of increasing the tech talent pipeline.

## CHAPTER 795

An Act to amend and reenact § 23.1-306 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 9 of Title 23.1 a section numbered 23.1-903.4, relating to public institutions of higher education; innovation.

[S 1628]

Approved March 22, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-306 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 9 of Title 23.1 a section numbered 23.1-903.4 as follows:**

**§ 23.1-306. Public institutions of higher education; six-year plans; institutional partnership performance agreements.**

A. The governing board of each public institution of higher education shall (i) develop and adopt biennially in odd-numbered years and amend or affirm biennially in even-numbered years a six-year plan for the institution; (ii) submit a preliminary version of such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than July 1 of each odd-numbered year; and (iii) submit preliminary amendments to or a preliminary affirmation of each such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than July 1 of each even-numbered year. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall include a report of the institution's active contributions to efforts to stimulate the economic development of the Commonwealth, the area in which the institution is located, and, for those institutions subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10, the areas that lag behind the Commonwealth in terms of income, employment, and other factors. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative

documents and reports. No such preliminary plan, amendments, or affirmation shall be posted on the General Assembly's website.

B. The Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations, and the Staff Director of the Senate Committee on Finance, or their designees, shall review each institution's preliminary plan, amendments, or affirmation and provide comments to the institution on such plan, amendments, or affirmation by September 1 of the relevant year. Each institution shall respond to any such comments by October 1 of that year and submit a finalized version of such plan, amendments, or affirmation to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance no later than December 1 of that year. Each such finalized version shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

C. Each plan shall be structured in accordance with, and be consistent with, the objective and purposes of this chapter set forth in § 23.1-301 and the criteria developed pursuant to § 23.1-309 and shall be in a form and manner prescribed by the Council, in consultation with the Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations, and the Staff Director of the Senate Committee on Finance, or their designees.

D. Each six-year plan shall (i) address the institution's academic, financial, and enrollment plans, including the number of Virginia and non-Virginia students, for the six-year period; (ii) indicate the planned use of any projected increase in general fund, tuition, or other nongeneral fund revenues; (iii) be based upon any assumptions provided by the Council, following consultation with the Department of Planning and Budget and the staffs of the House Committee on Appropriations and the Senate Committee on Finance, for funding relating to state general fund support pursuant to §§ 23.1-303, 23.1-304, and 23.1-305 and subdivision 9; (iv) be aligned with the institution's six-year enrollment projections; and (v) include:

1. Financial planning reflecting the institution's anticipated level of general fund, tuition, and other nongeneral fund support for each year of the next biennium;

2. The institution's anticipated annual tuition and educational and general fee charges required by (i) degree level and (ii) domiciliary status, as provided in § 23.1-307;

3. Plans for providing financial aid to help mitigate the impact of tuition and fee increases on low-income and middle-income students and their families as described in subdivision 9, including the projected mix of grants and loans;

4. Degree conferral targets for undergraduate Virginia students;

5. Plans for optimal year-round use of the institution's facilities and instructional resources;

6. Plans for the development of an instructional resource-sharing program with other public institutions of higher education and private institutions of higher education;

7. Plans with regard to any other incentives set forth in § 23.1-305 or any other matters the institution deems appropriate;

8. The identification of (i) new programs or initiatives including quality improvements and (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, as provided in subsection C of § 23.1-307; and

9. An institutional student financial aid commitment that, in conjunction with general funds appropriated for that purpose, provides assistance to students from both low-income and middle-income families and takes into account the information and recommendations resulting from the review of federal and state financial aid programs and institutional practices conducted pursuant to subdivisions B 2 and C 1 of § 23.1-309.

E. In developing such plans, each public institution of higher education shall consider potential future impacts of tuition increases on the Virginia College Savings Plan and ABLE Savings Trust Accounts (§ 23.1-700 et seq.) and shall discuss such potential impacts with the Virginia College Savings Plan. The chief executive officer of the Virginia College Savings Plan shall provide to each institution the Plan's assumptions underlying the contract pricing of the program.

*F. 1. In conjunction with the plans included in the six-year plan as set forth in subsection D, each public institution of higher education, Richard Bland College, and the Virginia Community College System may submit one innovative proposal with clearly defined performance measures, including any request for necessary authority or support from the Commonwealth, for a performance pilot. If the General Assembly approves the proposed performance pilot, it shall include approval language in the general appropriation act. A performance pilot shall advance the objectives of this chapter by addressing innovative requests related to college access, affordability, cost predictability, enrollment management subject to specified commitments regarding undergraduate in-state student enrollment, alternative tuition and fee structures and affordable pathways to degree attainment, internships and work study, employment pathways for undergraduate Virginia students, strategic talent development, state or regional economic development, pathways to increase timely degree completion, or other priorities set out in the general appropriation act.*

*2. A performance pilot may include or constitute an institutional partnership performance agreement, which shall be set forth in a memorandum of understanding that includes mutually dependent commitments by the institution, the Commonwealth, and identified partners, if any, related to one or more of the priorities set forth in subdivision 1 or set forth*

*in a general appropriation act. No such institutional partnership performance agreement shall create a legally enforceable obligation of the Commonwealth.*

*3. No more than six performance pilots shall be approved in a single session of the General Assembly.*

*4. Development and approval of any performance pilot proposal shall proceed in tandem with consideration of the institution's six-year plan, as follows:*

*a. An institution that intends to propose a performance pilot shall communicate that intention as early as practicable, but not later than April 1 of the year in which the performance pilot will be proposed, to the reviewers listed in subsection B, the co-chairmen of the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education, and the Governor. In developing a proposed performance pilot, the institution shall consider the Commonwealth's educational and economic policies and priorities, including those reflected in the Virginia Plan for Higher Education issued by the Council, the economic development policy developed pursuant to § 2.2-205, the strategic plan developed pursuant to § 2.2-2237.1, relevant regional economic growth and diversification plans prepared by regional councils pursuant to the Virginia Growth and Opportunity Act (§ 2.2-2484 et seq.), and any additional guidance provided by the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education and the Governor.*

*b. An institution that submits a performance pilot shall include the one innovative proposal with clearly defined performance measures, and any corresponding authority and support requested from the Commonwealth, with its submission of the preliminary version of its six-year plan pursuant to clause (ii) of subsection A or with its preliminary amendment or affirmation submission pursuant to clause (iii) of subsection A.*

*c. The reviewers listed in subsection B, or their designees, shall review and comment on any proposed performance pilot in accordance with the six-year plan review and comment process established in subsection B and may expedite such review and comment process to facilitate the executive and legislative budget process or for other reasons. No later than October 15 of the relevant year, the reviewers shall communicate to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance their recommendations regarding each performance pilot proposal. Such recommendations shall include the reviewers' comments regarding how the proposed performance pilots, individually and collectively, support the strategic educational and economic policies of the Commonwealth.*

*d. Each performance pilot proposal shall include evidence of its approval by the institution's governing board and, if accepted, shall be referenced in the general appropriation act.*

#### **§ 23.1-903.4. Innovative Internship Fund and Program.**

*A. There is hereby created in the state treasury a special nonreverting fund to be known as the Innovative Internship Fund (the Fund). The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of the Innovative Internship Program established pursuant to subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Council.*

*B. There is hereby established the Innovative Internship Program (the Program). The purpose of the Program is to expand paid or credit-bearing student internship and other work-based learning opportunities in collaboration with Virginia employers. The Program comprises institutional grants and a statewide initiative to facilitate the readiness of students, employers, and institutions of higher education to participate in internship and other work-based learning opportunities.*

*1. In administering the statewide initiative, the Council shall (i) engage stakeholders from business and industry, secondary and higher education, economic development, and state agencies and entities that are successfully engaging employers or successfully operating internship programs; (ii) explore strategies in Virginia and elsewhere on successful institutional, regional, statewide or sector-based internship programs; (iii) gather data on current institutional internship practices, scale, and outcomes; (iv) develop internship readiness educational resources, delivery methods, certification procedures, and outreach and awareness activities for employer partners, students, and institutional career development personnel; (v) pursue shared services or other efficiency initiatives, including technological solutions; and (vi) create a process to track key measures of performance.*

*2. The Council shall establish eligibility criteria, including requirements for matching funds, for institutional grants. Such grants shall be used to accomplish one or more of the following goals: (i) support state or regional workforce needs; (ii) support initiatives to attract and retain talent in the Commonwealth; (iii) support research and research commercialization in sectors and clusters targeted for development; (iv) support regional economic growth and diversification plans; (v) enhance the job readiness of students; (vi) enhance higher education affordability and timely completion for Virginia students; or (vii) further the objectives of increasing the tech talent pipeline.*

## CHAPTER 796

*An Act to amend and reenact §§ 22.1-227.1, 22.1-253.13:2, 22.1-253.13:10, and 22.1-290.01 of the Code of Virginia, relating to school boards; staffing ratios; guidance counselors.*

[S 1406]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-227.1, 22.1-253.13:2, 22.1-253.13:10, and 22.1-290.01 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-227.1. Career and technical education.**

A. The Board of Education shall incorporate into career and technical education the Standards of Learning for mathematics, science, English, and social studies, including history, and other subject areas as may be appropriate. The Board may also authorize, in its regulations for accrediting public schools in Virginia, the substitution of industry certification and state licensure examinations for Standards of Learning assessments for the purpose of awarding credit for career and technical education courses, where appropriate.

B. The Board shall also develop a plan for increasing the number of students receiving industry certification and state licensure as part of their career and technical education. The plan shall include an annual goal for school divisions. Where there is an accepted national industry certification for career and technical education instructional personnel and programs for automotive technology, such certification shall be mandatory.

C. With such funds as may be appropriated for such purpose, there shall be established, within the Department of Education, a unit of specialists in career and technical education. The unit shall (i) assist in developing and revising local career and technical curriculum to integrate the Standards of Learning, (ii) provide professional development for career and technical instructional personnel to improve the quality of career and technical education, (iii) conduct site visits to the schools providing career and technical education, and (iv) seek the input of business and industry representatives regarding the content and direction of career and technical education programs in the public schools of the Commonwealth.

D. The Board shall develop guidelines for the establishment of High School to Work Partnerships, hereafter referred to as "Partnerships," between public high schools and local businesses to create opportunities for high school students to (i) participate in an apprenticeship, internship, or job shadow program in a variety of trades and skilled labor positions or (ii) tour local businesses and meet with owners and employees. These guidelines shall include a model waiver form to be used by high schools and local businesses in connection with Partnership programs to protect both the students and the businesses from liability.

Each local school board may establish Partnerships or delegate the authority to establish Partnerships to the local school division's career and technical education administrator or his designee, in collaboration with the ~~guidance~~ school counselor office of each public high school in the school division, and shall educate high school students about opportunities available through such Partnerships.

Students who miss a partial or full day of school while participating in Partnership programs shall not be counted as absent for the purposes of calculating average daily membership, but each local school board shall develop policies and procedures for students to make up missed work and may determine the maximum number of school days per academic year that a student may spend participating in a Partnership program.

**§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools.

School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers or dual language teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to the type of school and student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. ~~Guidance~~ School counselors:

a. *Effective with the 2019-2020 school year*, in elementary schools, one hour per day per ~~400~~ 75 students, one full-time at ~~500~~ 375 students, one hour per day additional time per ~~400~~ 75 students or major fraction thereof; ~~guidance counselors~~ in

middle schools, one period per ~~80~~ 65 students, one full-time at ~~400~~ 325 students, one additional period per ~~80~~ 65 students or major fraction thereof; ~~guidance counselors~~ in high schools, one period per ~~70~~ 60 students, one full-time at ~~350~~ 300 students, one additional period per ~~70~~ 60 students or major fraction thereof.

b. Local school divisions that employ a sufficient number of ~~guidance~~ school counselors to meet ~~this~~ the school counselor staffing ~~requirement~~ requirements set forth in this subdivision may assign ~~guidance~~ school counselors to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or ~~secondary~~ high schools.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for ~~guidance~~ school counselors, and shall be based on the school's total enrollment; ~~guidance~~ school counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social workers and social work administrative positions; (ii) ~~guidance~~ school counselor administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including school nurses and school psychologists;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

P. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

**§ 22.1-253.13:10. Standards of Learning Innovation Committee.**

The Secretary of Education, upon receiving recommendations for appointments from the Virginia Parent Teacher Association, Virginia Education Association, Virginia School Boards Association, Virginia Association of Secondary School Principals, Virginia Association of Elementary School Principals, Virginia Association of School Superintendents, Virginia State Reading Association, Virginia School Counselor Association, and Virginia Association for Supervision and Curriculum Development, shall establish and appoint nonlegislative citizen members to the Standards of Learning Innovation Committee (Committee). The Committee shall consist of (i) four members of the Virginia House of Delegates, appointed by the Speaker of the House of Delegates; (ii) three members of the Virginia Senate, appointed by the Senate Committee on Rules on the recommendation of the Chair of the Senate Committee on Education and Health; and (iii) at least one parent of a currently enrolled public school student, public elementary school teacher, public secondary school teacher, public secondary school guidance counselor, school board member, public school principal, division superintendent, curriculum and instruction specialist, higher education faculty member, representative of a four-year public institution of higher education in the Commonwealth, representative of a two-year public institution of higher education in the Commonwealth, and representative of the business community in the Commonwealth and such other stakeholders as the Secretary deems appropriate, appointed by the Secretary. Members of the Committee should reflect geographic diversity and rural and urban school systems as far as practicable. The Superintendent of Public Instruction, the President of the Board of Education or his designee, and the Secretary of Education or his designee shall serve ex officio. All other members shall be appointed for terms of two years. The Committee, under the direction of the Secretary, shall periodically make recommendations to the Board of Education on (a) the Standards of Learning assessments, (b) authentic individual student growth measures, (c) alignment between the Standards of Learning and assessments and the School Performance Report Card, and (d) ideas on innovative teaching in the classroom. An affirmative vote by a majority of the legislative members in attendance and a majority of nonlegislative members in attendance shall be required for the Committee to adopt any recommendations. The Board of Education shall review the recommendations of the Committee and submit to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health, in advance of the next regular session of the General Assembly, any comments on such recommendations that the Board of Education deems appropriate.

**§ 22.1-290.01. Virginia Teaching Scholarship Loan Program established; purpose; Board of Education to administer Program; eligibility requirements for scholarship and awards; collaboration and consultation with State Council of Higher Education; repayment of scholarship required.**

A. With such funds as may be appropriated for this purpose and any gifts, donations, grants, bequests, and other funds that may be received on behalf of the Program by the Board of Education, there is hereby established the Virginia Teaching Scholarship Loan Program, hereinafter referred to as the "Program," to: (i) increase the number of teacher candidates pursuing careers in critical teacher shortage areas as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas; (ii) expand eligibility to teacher candidates, including graduate students and paraprofessionals from Virginia school divisions who are enrolled full-time or part-time in an approved teacher education program; (iii) increase the diversity of persons pursuing careers in teaching, including male teacher candidates enrolled in an elementary or middle school education program and minority teacher candidates enrolled in any teaching endorsement area; and (iv) increase the number of teacher candidates pursuing careers in career and technical education.

B. The Board of Education shall establish, in regulation, criteria for determining critical teacher shortage areas for awarding scholarships pursuant to this section. The criteria shall include such factors as the needs in teaching endorsement areas among the several school divisions of the Commonwealth, teacher shortages at the elementary and secondary grade levels, and teacher shortages in rural and urban regions of the Commonwealth.

C. The Program shall be administered by the Board of Education. The Board may promulgate such regulations as may be necessary for the implementation of the Program. The Board shall consult with the State Council of Higher Education in the implementation of the Program.

The Program shall consist of scholarships awarded annually to teacher candidates, including graduate students and paraprofessionals from Virginia school divisions at an accredited baccalaureate private institution of higher education in the Commonwealth or baccalaureate public institution of higher education in the Commonwealth, who (i) are enrolled full-time or part-time in an approved teacher education program or are participants in another approved teacher education program; (ii) have maintained a cumulative grade point average of at least 2.7 on a 4.0 scale or its equivalent; and (iii) are nominated

for such scholarship by the institution where they are enrolled. In addition, the candidates must meet one or more of the following criteria: (a) be enrolled in a program leading to an endorsement in a critical shortage area as established by the Board of Education; (b) be a male teacher candidate in an elementary or middle school education program; (c) be a minority teacher candidate enrolled in any teacher endorsement area; or (d) be a student in an approved teacher education program leading to an endorsement in career and technical education.

D. Before any teaching scholarship is awarded in accordance with the provisions of this section, the scholarship recipient shall sign a promissory note agreeing (i) to pursue an approved teacher education program full-time or part-time at an accredited baccalaureate private institution of higher education in the Commonwealth or baccalaureate public institution of higher education in the Commonwealth or another approved teacher education program and (ii) upon graduation, to begin teaching in the public schools of the Commonwealth in a critical teaching shortage discipline or in a career and technical education discipline or, regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch or in a rural or urban region of the Commonwealth with a teacher shortage.

Upon program completion, the scholarship recipient shall begin teaching in the public schools of the Commonwealth in the first full academic year after becoming eligible for a teaching license, and shall fulfill the teaching obligation in accordance with the promissory note by teaching continuously in Virginia for the same number of years that he was the beneficiary of such scholarship. Such scholarship recipient may fulfill the teaching obligation by accepting a teaching position (i) in one of the critical teacher shortage disciplines as established by the Board of Education; or (ii) in a career and technical education discipline; or (iii) regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch; or (iv) in any discipline or at any grade level within a school division with a shortage of teachers, as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas; or (v) in a rural or urban region of the state with a teacher shortage.

E. The Board of Education may recover the total amount of funds awarded as a scholarship, or the appropriate proportion thereof, including any accrued interest, if the scholarship recipient fails to honor the teaching obligation.

F. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Virginia Teaching Scholarship Loan Fund, hereinafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. The Fund shall consist of such moneys as may be appropriated for the Virginia Teaching Scholarship Loan Program and such gifts, donations, grants, bequests, and other funds as may be received on its behalf by the Board of Education. The Fund shall be used solely to fund the Virginia Teaching Scholarship Loan Program. Interest earned on such moneys shall remain in the Fund and be credited to it. Moneys in the Fund shall be used solely to award scholarships pursuant to the Virginia Teaching Scholarship Loan Program as provided in this section. Disbursements from the Fund for such scholarships shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the President of the Board of Education.

G. The Board of Education and the State Council of Higher Education shall make available to parents, students, teachers, high school ~~guidance~~ counselors, and academic advisors and financial aid administrators at public and private institutions of higher education information concerning the Virginia Teacher Scholarship Loan Program, eligibility for the loans, and the terms and conditions under which such loans are awarded, in order that students interested in pursuing careers in the teaching profession may be advised of the availability of such financial assistance.

## CHAPTER 797

*An Act to amend and reenact § 19.2-169.3 of the Code of Virginia, relating to disposition of unrestorably incompetent defendants; capital murder.*

[S 1231]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-169.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-169.3. Disposition of the unrestorably incompetent defendant; capital murder charge; sexually violent offense charge.**

A. If, at any time after the defendant is ordered to undergo treatment pursuant to subsection A of § 19.2-169.2, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee concludes that the defendant is likely to remain incompetent for the foreseeable future, he shall send a report to the court so stating. The report shall also indicate whether, in the board, authority, or inpatient facility director's or his designee's opinion, the defendant should be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 in the event he is found to be unrestorably incompetent. Upon receipt of the report, the court shall make a competency determination according to the procedures specified in subsection E of § 19.2-169.1. If the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future, it shall order that he be (i) released, (ii) committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or (iii) certified pursuant to § 37.2-806. However, if the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future and the

defendant has been charged with a sexually violent offense, as defined in § 37.2-900, he shall be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904. If the court finds the defendant incompetent but restorable to competency in the foreseeable future, it may order treatment continued until six months have elapsed from the date of the defendant's initial admission under subsection A of § 19.2-169.2.

B. At the end of six months from the date of the defendant's initial admission under subsection A of § 19.2-169.2 if the defendant remains incompetent in the opinion of the board, authority, or inpatient facility director or his designee, the director or his designee shall so notify the court and make recommendations concerning disposition of the defendant as described in subsection A. The court shall hold a hearing according to the procedures specified in subsection E of § 19.2-169.1 and, if it finds the defendant unrestorably incompetent, shall order one of the dispositions described in subsection A. If the court finds the defendant incompetent but restorable to competency, it may order continued treatment under subsection A of § 19.2-169.2 for additional six-month periods, provided a hearing pursuant to subsection E of § 19.2-169.1 is held at the completion of each such period and the defendant continues to be incompetent but restorable to competency in the foreseeable future.

C. If any defendant has been charged with a misdemeanor in violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or Article 5 (§ 18.2-119 et seq.) of Chapter 5 of Title 18.2, other than a misdemeanor charge pursuant to § 18.2-130 or Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, and is being treated pursuant to subsection A of § 19.2-169.2, and after 45 days has not been restored to competency, the director of the community service board, behavioral health authority, or the director of the treating inpatient facility, or any of their designees, shall send a report indicating the defendant's status to the court. The report shall also indicate whether the defendant should be released or committed pursuant to § 37.2-817 or certified pursuant to § 37.2-806. Upon receipt of the report, if the court determines that the defendant is still incompetent, the court shall order that the defendant be released, committed, or certified, and may dismiss the charges against the defendant.

D. Unless an incompetent defendant is charged with capital murder or the charges against an incompetent criminal defendant have been previously dismissed, charges against an unrestorably incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner.

E. If the court orders an unrestorably incompetent defendant to be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904, it shall order the attorney for the Commonwealth in the jurisdiction wherein the defendant was charged and the Commissioner of Behavioral Health and Developmental Services to provide the Director of the Department of Corrections with any information relevant to the review, including, but not limited to: (i) a copy of the warrant or indictment, (ii) a copy of the defendant's criminal record, (iii) information about the alleged crime, (iv) a copy of the competency report completed pursuant to § 19.2-169.1, and (v) a copy of the report prepared by the director of the defendant's community services board, behavioral health authority, or treating inpatient facility or his designee pursuant to this section. The court shall further order that the defendant be held in the custody of the Department of Behavioral Health and Developmental Services for secure confinement and treatment until the Commitment Review Committee's and Attorney General's review and any subsequent hearing or trial are completed. If the court receives notice that the Attorney General has declined to file a petition for the commitment of an unrestorably incompetent defendant as a sexually violent predator after conducting a review pursuant to § 37.2-905, the court shall order that the defendant be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or certified pursuant to § 37.2-806.

F. In any case when an incompetent defendant is charged with capital murder and *has been determined to be unrestorably incompetent*, notwithstanding any other provision of this section, the charge shall not be dismissed and the court having jurisdiction over the capital murder case may order that the defendant receive continued treatment under subsection A of § 19.2-169.2 ~~for additional six-month periods without limitation in a secure facility determined by the Commissioner of the Department of Behavioral Health and Developmental Services where the defendant shall remain until further order of the court~~, provided that (i) a hearing pursuant to subsection E of § 19.2-169.1 is held ~~at the completion of each such period~~ *yearly intervals for five years and at biennial intervals thereafter, or at any time that the director of the treating facility or his designee submits a competency report to the court in accordance with subsection D of § 19.2-169.1 that the defendant's competency has been restored*, (ii) the defendant remains incompetent, (iii) the court finds continued treatment to be medically appropriate, and (iv) the defendant presents a danger to himself or others. *No unrestorably incompetent defendant charged with capital murder shall be released except pursuant to a court order.*

G. The attorney for the Commonwealth may bring charges that have been dismissed against the defendant when he is restored to competency.

## CHAPTER 798

*An Act to amend and reenact §§ 3.4 and 4.1 of Chapters 654 and 693 of the Acts of Assembly of 2005, which provided a charter for the Town of Onley in Accomack County, and to amend Chapters 654 and 693 of the Acts of Assembly of 2005 by adding a section numbered 4.1:1, relating to town council; town manager.*

[S 1558]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.4 and 4.1 of Chapters 654 and 693 of the Acts of Assembly of 2005 are amended and reenacted and that Chapters 654 and 693 of the Acts of Assembly of 2005 are amended by adding a section numbered 4.1:1 as follows:**

§ 3.4. Mayor.

The mayor shall be the chief executive and administrative officer of the town *in the event that there is no appointed town manager*. He shall have and exercise all the privileges and authority conferred by general law not inconsistent with this charter. He shall preside over the meetings of the town council and shall have the right to speak therein as members of the council but shall not vote except in the case of a tie vote. He shall be the head of the town government for all ceremonial purposes and shall perform such other duties consistent with his office as may be imposed by the town council. He ~~shall see that the duties of the various town officers are faithfully performed~~ and shall authenticate his signature on such documents or instruments as the council, this charter, or the laws of the Commonwealth shall require.

§ 4.1. Appointments.

At the first meeting in ~~July~~ *January* following each election or as soon thereafter as practicable, the council shall appoint or reappoint the following officers whose duties shall be as prescribed by the council not inconsistent or in conflict with general law: *a town manager*; a town treasurer, a town clerk ~~who may also be the town treasurer~~, and a town attorney who shall be an attorney-at-law licensed to practice under the laws of the Commonwealth of Virginia and who shall be actively practicing in Accomack County. *The town manager may also be appointed to serve as the town treasurer.*

§ 4.1:1. Duties of the town manager.

*The town manager shall be the executive officer of the town and shall be responsible to the town council for the proper administration of the town government. It shall be the duty of the town manager to:*

- 1. Attend all meetings of the town council, with the right to speak but not to vote;*
- 2. Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration and make such recommendations as may seem to him desirable;*
- 3. Prepare and submit the annual budget of the town council and be responsible for its administration after its adoption;*
- 4. Prepare in suitable form for publication and submit to the town council at the next regular meeting following the end of each fiscal year a concise, comprehensive report of the financial transactions and administrative activities of the town government during the immediately preceding fiscal year;*
- 5. Present adequate financial and activity reports as required by the town council;*
- 6. Arrange for an annual audit by a certified public accountant, the selection of whom shall be subject to the approval of the town council; and*
- 7. Perform such other duties as may be prescribed by this charter, required of him in accordance therewith by the town council, or required of the chief executive officer of a town by the general laws of the Commonwealth.*

*All employees of the town, except those appointed by the town council, pursuant to this charter or the general laws of the Commonwealth, shall be appointed and may be removed by the town manager, who shall report each appointment or removal to the town council at the next meeting thereof following any such appointment or removal. The town council shall designate by ordinance a person to act as town manager in the case of the absence, incapacity, death, or resignation of the town manager, until his return to duty or the appointment of his successor. Until such time as the town council appoints any such town manager, the duties and powers outlined herein shall be given to the mayor, or such other persons as may be designated by the town council. All employees and officers of the town, including those appointed by the town council, shall be under the management, control, and supervision of the town manager.*

## CHAPTER 799

*An Act to amend the Code of Virginia by adding in Title 38.2 a chapter numbered 64, consisting of sections numbered 38.2-6400 through 38.2-6407, relating to guaranteed asset protection waivers.*

[H 2109]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 38.2 a chapter numbered 64, consisting of sections numbered 38.2-6400 through 38.2-6407, as follows:**

### CHAPTER 64.

#### GUARANTEED ASSET PROTECTION WAIVERS.

§ 38.2-6400. *Definitions.*

*As used in this chapter, unless the context requires another meaning:*

*"Administrator" means a person, other than an insurer or creditor, that performs administrative or operational functions pursuant to a guaranteed asset protection waiver program.*

*"Borrower" means a debtor, retail buyer, or lessee, under a finance agreement.*

*"Commercial transaction" means a transaction entered into primarily for a purpose other than personal, family, or household purposes.*

"Creditor" means:

1. The lender in a loan or credit transaction;
2. The lessor in a lease transaction;
3. The seller in a commercial retail installment transaction; or
4. The assignees of any person described in subdivision 1, 2, or 3 to whom the credit obligation is payable.

"Finance agreement" means (i) a loan secured by a lien on a motor vehicle or (ii) a lease or retail installment sales contract for the lease or purchase of a motor vehicle.

"Free look period" means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the borrower's finance agreement without penalty, fees, or costs to the borrower. This period of time shall not be shorter than 30 days.

"Guaranteed asset protection waiver" or "GAP waiver" means a contractual agreement wherein a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss or unrecovered theft of a motor vehicle, which agreement is part of, or a separate addendum to, the finance agreement.

"Insurer" means an insurance company licensed, registered, or otherwise authorized to do business under the laws of the Commonwealth.

"Motor vehicle" means any self-propelled or towed vehicle designed for personal or commercial use, including any automobile, truck, motorcycle, off-road vehicle, all-terrain vehicle, recreational vehicle, snowmobile, camper, boat, personal watercraft, and motorcycle, boat, camper, or personal watercraft trailer.

"Retail buyer" means a person who buys motor vehicles not principally for the purpose of resale.

"Retail seller" means person that is regularly engaged in the selling of motor vehicles to retail buyers and that holds any necessary license to sell a motor vehicle to a retail buyer.

**§ 38.2-6401. Requirements for offering guaranteed asset protection waivers.**

A. Guaranteed asset protection waivers may be offered, sold, or provided to borrowers in the Commonwealth in compliance with this chapter.

B. GAP waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

C. Notwithstanding any other provision of law, any cost to the borrower for a GAP waiver entered into in compliance with the federal Truth in Lending Act, 15 U.S.C. § 1601 et seq., and its implementing regulations, as they may be amended from time to time, shall be separately stated and shall not be considered a finance charge or interest.

D. A retail seller shall insure its GAP waiver obligations under a contractual liability or other insurance policy issued by an insurer. A creditor, other than a retail seller, may insure its GAP waiver obligations under a contractual liability policy or other policy issued by an insurer as provided in § 38.2-6402. Any such insurance policy may be directly obtained by a creditor or retail seller or may be procured by an administrator to cover a creditor's or retail seller's obligations. However, retail sellers that are lessors on motor vehicles are not required to insure obligations related to GAP waivers on the leased vehicles.

E. The GAP waiver shall remain a part of the finance agreement upon the assignment, sale, or transfer of the finance agreement by the creditor.

F. Neither the extension of credit, the term of credit, nor the term of the related motor vehicle sale or lease may be conditioned upon the purchase of a GAP waiver.

G. Any creditor that offers a GAP waiver shall report the sale of GAP waivers and shall forward funds received on all GAP waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

H. Funds received or held by a creditor or administrator and belonging to an insurer, creditor, or administrator pursuant to the terms of a written agreement shall be held by the creditor or administrator in a fiduciary capacity.

**§ 38.2-6402. Contractual liability or other insurance policies.**

A. Contractual liability or other insurance policies insuring GAP waivers shall state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the GAP waivers issued by the creditor and purchased or held by the borrower.

B. Coverage under a contractual liability or other insurance policy insuring a GAP waiver shall also cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

C. Coverage under a contractual liability or other insurance policy insuring a GAP waiver shall remain in effect unless canceled or terminated in compliance with applicable insurance laws of the Commonwealth.

D. The cancellation or termination of a contractual liability or other insurance policy shall not reduce the insurer's responsibility for GAP waivers issued by the creditor prior to the date of cancellation or termination and for which a premium has been received by the insurer.

**§ 38.2-6403. Disclosures.**

Guaranteed asset protection waivers shall disclose, as applicable, in writing and in clear, understandable language that is easy to read the following:

1. The name and address of the initial creditor and the borrower at the time of sale;
2. The identity of any administrator if different from the creditor;

3. The purchase price and the terms of the GAP waiver, including the requirements for protection, conditions, or exclusions associated with the GAP waiver;

4. That the borrower may cancel the GAP waiver within a free look period as specified in the waiver and that the borrower is entitled to a full refund of the purchase price if no benefits have been provided;

5. The procedure the borrower is required to follow, if any, to obtain GAP waiver benefits under the terms and conditions of the waiver, including a telephone number and address where the borrower may apply for waiver benefits;

6. Whether or not the GAP waiver is cancelable after the free look period and the conditions under which it may be canceled or terminated, including the procedures for requesting any refund due;

7. That in order to receive any refund due in the event of a borrower's cancellation of the GAP waiver agreement or early termination of the finance agreement after the free look period of the GAP waiver, the borrower, in accordance with terms of the waiver, is required to provide a written request to cancel to the creditor, administrator, or such other party. If the GAP waiver is canceled as a result of the early termination of the finance agreement, the borrower shall provide the request within 90 days of the occurrence of the event terminating the finance agreement;

8. The methodology for calculating any refund of the unearned purchase price of the GAP waiver due, in the event of cancellation of the GAP waiver or early termination of the finance agreement; and

9. That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease may be conditioned upon the purchase of the GAP waiver.

**§ 38.2-6404. Cancellation.**

A. Guaranteed asset protection waiver agreements may be cancelable or non-cancelable after the free look period. GAP waivers shall provide that if a borrower cancels a waiver within the free look period, the borrower will be entitled to a full refund of the purchase price, if no benefits have been provided.

B. In the event of a borrower's cancellation of the GAP waiver or early termination of the finance agreement, after the agreement has been in effect beyond the free look period, the borrower may be entitled to a refund of any unearned portion of the purchase price of the waiver unless the waiver provides otherwise. In order to receive any refund due in the event of a borrower's cancellation of the GAP waiver agreement or early termination of the finance agreement after the free look period of the GAP waiver, the borrower, in accordance with the terms of the waiver, is required to provide a written request to cancel to the creditor, administrator, or such other party. If the GAP waiver is canceled as a result of the early termination of the finance agreement, the borrower shall provide the request within 90 days of the occurrence of the event terminating the finance agreement.

C. If the cancellation of a GAP waiver occurs as a result of a default under the finance agreement or the repossession of the motor vehicle associated with the finance agreement, or any other termination of the finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in subsection D.

D. Any cancellation refund under subsection A, B, or C may be applied by the creditor as a reduction of the amount owed under the finance agreement unless the borrower can show that the finance agreement has been paid in full.

**§ 38.2-6405. Commercial transactions.**

Subsection C of § 38.2-6401 and § 38.2-6403 do not apply to a guaranteed asset protection waiver offered in connection with a lease or retail installment sale associated with a commercial transaction.

**§ 38.2-6406. GAP waivers not insurance.**

GAP waivers governed under this chapter are not insurance and are exempt from the insurance laws of the Commonwealth. Persons marketing, soliciting, negotiating, selling, or offering to sell GAP waivers that comply with this chapter are exempt from the Commonwealth's licensing requirements.

**§ 38.2-6407. Exemptions from chapter.**

This chapter does not apply to:

1. Any insurance policy offered by an insurer under the insurance laws of the Commonwealth; or
2. A debt cancellation or debt suspension contract offered (i) by a bank or credit union regulated pursuant to Title 6.2 or (ii) in compliance with 12 C.F.R. Part 37, 12 C.F.R. Part 721, or other federal law.

## CHAPTER 800

An Act to amend the Code of Virginia by adding in Title 38.2 a chapter numbered 64, consisting of sections numbered 38.2-6400 through 38.2-6407, relating to guaranteed asset protection waivers.

[S 1325]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 38.2 a chapter numbered 64, consisting of sections numbered 38.2-6400 through 38.2-6407, as follows:**

*CHAPTER 64.*

*GUARANTEED ASSET PROTECTION WAIVERS.*

**§ 38.2-6400. Definitions.**

As used in this chapter, unless the context requires another meaning:

"Administrator" means a person, other than an insurer or creditor, that performs administrative or operational functions pursuant to a guaranteed asset protection waiver program.

"Borrower" means a debtor, retail buyer, or lessee, under a finance agreement.

"Commercial transaction" means a transaction entered into primarily for a purpose other than personal, family, or household purposes.

"Creditor" means:

1. The lender in a loan or credit transaction;
2. The lessor in a lease transaction;
3. The seller in a commercial retail installment transaction; or
4. The assignees of any person described in subdivision 1, 2, or 3 to whom the credit obligation is payable.

"Finance agreement" means (i) a loan secured by a lien on a motor vehicle or (ii) a lease or retail installment sales contract for the lease or purchase of a motor vehicle.

"Free look period" means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the borrower's finance agreement without penalty, fees, or costs to the borrower. This period of time shall not be shorter than 30 days.

"Guaranteed asset protection waiver" or "GAP waiver" means a contractual agreement wherein a creditor agrees for a separate charge to cancel or waive all or part of amounts due on a borrower's finance agreement in the event of a total physical damage loss or unrecovered theft of a motor vehicle, which agreement is part of, or a separate addendum to, the finance agreement.

"Insurer" means an insurance company licensed, registered, or otherwise authorized to do business under the laws of the Commonwealth.

"Motor vehicle" means any self-propelled or towed vehicle designed for personal or commercial use, including any automobile, truck, motorcycle, off-road vehicle, all-terrain vehicle, recreational vehicle, snowmobile, camper, boat, personal watercraft, and motorcycle, boat, camper, or personal watercraft trailer.

"Retail buyer" means a person who buys motor vehicles not principally for the purpose of resale.

"Retail seller" means person that is regularly engaged in the selling of motor vehicles to retail buyers and that holds any necessary license to sell a motor vehicle to a retail buyer.

**§ 38.2-6401. Requirements for offering guaranteed asset protection waivers.**

A. Guaranteed asset protection waivers may be offered, sold, or provided to borrowers in the Commonwealth in compliance with this chapter.

B. GAP waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

C. Notwithstanding any other provision of law, any cost to the borrower for a GAP waiver entered into in compliance with the federal Truth in Lending Act, 15 U.S.C. § 1601 et seq., and its implementing regulations, as they may be amended from time to time, shall be separately stated and shall not be considered a finance charge or interest.

D. A retail seller shall insure its GAP waiver obligations under a contractual liability or other insurance policy issued by an insurer. A creditor, other than a retail seller, may insure its GAP waiver obligations under a contractual liability policy or other policy issued by an insurer as provided in § 38.2-6402. Any such insurance policy may be directly obtained by a creditor or retail seller or may be procured by an administrator to cover a creditor's or retail seller's obligations. However, retail sellers that are lessors on motor vehicles are not required to insure obligations related to GAP waivers on the leased vehicles.

E. The GAP waiver shall remain a part of the finance agreement upon the assignment, sale, or transfer of the finance agreement by the creditor.

F. Neither the extension of credit, the term of credit, nor the term of the related motor vehicle sale or lease may be conditioned upon the purchase of a GAP waiver.

G. Any creditor that offers a GAP waiver shall report the sale of GAP waivers and shall forward funds received on all GAP waivers to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

H. Funds received or held by a creditor or administrator and belonging to an insurer, creditor, or administrator pursuant to the terms of a written agreement shall be held by the creditor or administrator in a fiduciary capacity.

**§ 38.2-6402. Contractual liability or other insurance policies.**

A. Contractual liability or other insurance policies insuring GAP waivers shall state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the GAP waivers issued by the creditor and purchased or held by the borrower.

B. Coverage under a contractual liability or other insurance policy insuring a GAP waiver shall also cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

C. Coverage under a contractual liability or other insurance policy insuring a GAP waiver shall remain in effect unless canceled or terminated in compliance with applicable insurance laws of the Commonwealth.

D. The cancellation or termination of a contractual liability or other insurance policy shall not reduce the insurer's responsibility for GAP waivers issued by the creditor prior to the date of cancellation or termination and for which a premium has been received by the insurer.

**§ 38.2-6403. Disclosures.**

Guaranteed asset protection waivers shall disclose, as applicable, in writing and in clear, understandable language that is easy to read the following:

1. The name and address of the initial creditor and the borrower at the time of sale;
2. The identity of any administrator if different from the creditor;
3. The purchase price and the terms of the GAP waiver, including the requirements for protection, conditions, or exclusions associated with the GAP waiver;
4. That the borrower may cancel the GAP waiver within a free look period as specified in the waiver and that the borrower is entitled to a full refund of the purchase price if no benefits have been provided;
5. The procedure the borrower is required to follow, if any, to obtain GAP waiver benefits under the terms and conditions of the waiver, including a telephone number and address where the borrower may apply for waiver benefits;
6. Whether or not the GAP waiver is cancelable after the free look period and the conditions under which it may be canceled or terminated, including the procedures for requesting any refund due;
7. That in order to receive any refund due in the event of a borrower's cancellation of the GAP waiver agreement or early termination of the finance agreement after the free look period of the GAP waiver, the borrower, in accordance with terms of the waiver, is required to provide a written request to cancel to the creditor, administrator, or such other party. If the GAP waiver is canceled as a result of the early termination of the finance agreement, the borrower shall provide the request within 90 days of the occurrence of the event terminating the finance agreement;
8. The methodology for calculating any refund of the unearned purchase price of the GAP waiver due, in the event of cancellation of the GAP waiver or early termination of the finance agreement; and
9. That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease may be conditioned upon the purchase of the GAP waiver.

**§ 38.2-6404. Cancellation.**

A. Guaranteed asset protection waiver agreements may be cancelable or non-cancelable after the free look period. GAP waivers shall provide that if a borrower cancels a waiver within the free look period, the borrower will be entitled to a full refund of the purchase price, if no benefits have been provided.

B. In the event of a borrower's cancellation of the GAP waiver or early termination of the finance agreement, after the agreement has been in effect beyond the free look period, the borrower may be entitled to a refund of any unearned portion of the purchase price of the waiver unless the waiver provides otherwise. In order to receive any refund due in the event of a borrower's cancellation of the GAP waiver agreement or early termination of the finance agreement after the free look period of the GAP waiver, the borrower, in accordance with the terms of the waiver, is required to provide a written request to cancel to the creditor, administrator, or such other party. If the GAP waiver is canceled as a result of the early termination of the finance agreement, the borrower shall provide the request within 90 days of the occurrence of the event terminating the finance agreement.

C. If the cancellation of a GAP waiver occurs as a result of a default under the finance agreement or the repossession of the motor vehicle associated with the finance agreement, or any other termination of the finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in subsection D.

D. Any cancellation refund under subsection A, B, or C may be applied by the creditor as a reduction of the amount owed under the finance agreement unless the borrower can show that the finance agreement has been paid in full.

**§ 38.2-6405. Commercial transactions.**

Subsection C of § 38.2-6401 and § 38.2-6403 do not apply to a guaranteed asset protection waiver offered in connection with a lease or retail installment sale associated with a commercial transaction.

**§ 38.2-6406. GAP waivers not insurance.**

GAP waivers governed under this chapter are not insurance and are exempt from the insurance laws of the Commonwealth. Persons marketing, soliciting, negotiating, selling, or offering to sell GAP waivers that comply with this chapter are exempt from the Commonwealth's licensing requirements.

**§ 38.2-6407. Exemptions from chapter.**

This chapter does not apply to:

1. Any insurance policy offered by an insurer under the insurance laws of the Commonwealth; or
2. A debt cancellation or debt suspension contract offered (i) by a bank or credit union regulated pursuant to Title 6.2 or (ii) in compliance with 12 C.F.R. Part 37, 12 C.F.R. Part 721, or other federal law.

**CHAPTER 801**

An Act to amend and reenact §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3219.14 of the Code of Virginia, relating to real property tax exemption for disabled veterans; surviving spouses; ability to move to a different residence.

[S 1270]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 58.1-3219.5, 58.1-3219.9, and 58.1-3219.14 of the Code of Virginia are amended and reenacted as follows:

**§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.**

A. Pursuant to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2011, the General Assembly hereby exempts from taxation the real property, including the joint real property of husband and wife, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his principal place of residence. If the veteran's disability rating occurs after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the exemption for him under this section begins on the date of such rating. However, no county, city, or town shall be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's filing of the affidavit or written statement required by § 58.1-3219.6. If the qualified veteran acquires the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, *and the surviving spouse does not remarry; and the surviving spouse continues to occupy the real property as his. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.*

C. A county, city, or town shall provide for the exemption from real property taxes the qualifying dwelling pursuant to this section and shall provide for the exemption from real property taxes the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. If the veteran owns a house that is his residence, including a manufactured home as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, such house or manufactured home shall be exempt even if the veteran does not own the land on which the house or manufactured home is located. If such land is not owned by the veteran, then the land is not exempt. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a business purpose.

D. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (a) held by the veteran's spouse as tenant for life, (b) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (c) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a denominator, 100 percent.

**§ 58.1-3219.9. Exemption from taxes on property of surviving spouses of members of the armed forces killed in action.**

A. Pursuant to subdivision (b) of Section 6-A of Article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2015, the General Assembly hereby exempts from taxation the real property described in subsection B of the surviving spouse (i) of any member of the armed forces of the United States who was killed in action as determined by the U.S. Department of Defense and (ii) who occupies the real property as his principal place of residence. For purposes of this section, such determination of "killed in action" includes a determination by the U.S. Department of Defense of "died of wounds received in action." If such member of the armed forces of the United States is killed in action after January 1, 2015, and the surviving spouse has a qualified principal residence on the date that such member of the armed forces is killed in action, then the exemption for the surviving spouse shall begin on the date that such member of the armed forces is killed in action. However, no county, city, or town shall be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by § 58.1-3219.10. If the surviving spouse acquires the property after January 1, 2015, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

B. Those dwellings in the locality with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single family residential shall qualify for a total exemption from real property taxes under this article. If the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single family homes, condominiums, town homes, manufactured homes as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet this requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

For purposes of determining whether a dwelling, or a portion of its value, is exempt from county and town real property taxes, the average assessed value shall be such average for all dwellings located within the county that are situated on property zoned as single family residential.

C. The surviving spouse of a member of the armed forces killed in action shall qualify for the exemption so long as the surviving spouse does not remarry ~~and continues to occupy the real property as his principal place of residence~~. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.

D. A county, city, or town shall provide for the exemption from real property taxes (i) the qualifying dwelling, or the portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection B, and (ii) except land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a business purpose.

E. For purposes of this exemption, real property of any surviving spouse of a member of the armed forces killed in action includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has 1 as a numerator and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the principal residence is jointly owned by two or more individuals including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by the surviving spouse, and as a denominator, 100 percent.

**§ 58.1-3219.14. Exemption from taxes on property of surviving spouses of certain persons killed in the line of duty.**

A. Pursuant to Article X, Section 6-B of the Constitution of Virginia, for tax years beginning on or after January 1, 2017, any county, city, or town may exempt from taxation the real property described in subsection B of the surviving spouse of any covered person who occupies the real property as his principal place of residence. If the covered person's death occurred on or prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360. No county, city, or town shall be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by § 58.1-3219.15.

B. Those dwellings, in any locality that provides the exemption pursuant to this article, with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single-family residential shall qualify for a total exemption from real property taxes under this

article. If the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet this requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

For purposes of determining whether a dwelling, or a portion of its value, is exempt from county and town real property taxes, the average assessed value shall be such average for all dwellings located within the county that are situated on property zoned as single-family residential.

C. The surviving spouse shall qualify for the exemption so long as the surviving spouse does not remarry ~~and continues to occupy the real property as his principal place of residence~~. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.

D. A county, city, or town shall provide for the exemption from real property taxes of (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection B, and (ii) with the exception of land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (a) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (b) for other than a business purpose.

E. For purposes of this exemption, real property of any surviving spouse of a covered person includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. Such real property does not include any interest held under a leasehold or term of years.

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is 1 and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.

2. In the event that the principal residence is jointly owned by two or more individuals including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is the percentage of ownership interest in the dwelling held by the surviving spouse and the denominator of which is 100.

**2. That the provisions of this act shall apply to taxable years beginning on and after January 1, 2019.**

**3. That if a surviving spouse was eligible for an exemption pursuant to the provisions of § 58.1-3219.5 of the Code of Virginia prior to January 1, 2019, but became ineligible for such exemption prior to January 1, 2019, solely because he moved to a different principal place of residence, then he shall be eligible to claim such exemption for taxable years beginning on and after January 1, 2019, so long as he is eligible for such exemption pursuant to the provisions of § 58.1-3219.5 of the Code of Virginia, as amended by this act.**

## CHAPTER 802

*An Act to amend and reenact § 33.2-213 of the Code of Virginia, relating to naming highways, bridges, interchanges, and other transportation facilities; cost of signage.*

[S 1505]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-213 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-213. Naming highways, bridges, interchanges, and other transportation facilities.**

The Board shall have the power and duty to give suitable names to state highways, bridges, interchanges, and other transportation facilities and change the names of any highways, bridges, interchanges, or other transportation facilities

forming a part of the systems of state highways. The names of private entities, as defined in § 33.2-1800, located within the Commonwealth shall not be used for such purposes unless such private entity pays the Department an annual naming rights fee as determined by the Board. The Department shall place and maintain appropriate signs indicating the names of highways, bridges, interchanges, and other transportation facilities named by the Board or by the General Assembly. The costs of producing, placing, and maintaining these signs shall be paid by the localities in which they are located or by the private entity whose name is attached to the highway, bridge, interchange, or other transportation facility. *However, for a highway, bridge, interchange, or other transportation facility named after a state official killed during the performance of his official duties, the costs of producing, placing, and maintaining these signs shall be paid from Commonwealth Transportation Funds. For purposes of this section, "state official" includes law-enforcement officers employed by the Department of State Police and state highway transportation workers.* No name shall be given to any state highway, bridge, interchange, or other transportation facility by the Board unless and until the Board receives (i) for a naming after a state official, a letter or resolution from the head of the state agency by which the state official was employed requesting such naming or (ii) for a naming other than after a state official, a resolution from the governing body of the locality within which a portion of the facility to be named is located ~~a resolution of that governing body~~ requesting such naming, except in such cases where a private entity has requested the naming. No highway, bridge, interchange, or other transportation facility previously named by the Board or the General Assembly shall be eligible for renaming by a private entity, unless such naming incorporates the previous name. The Board shall develop and approve guidelines governing the naming of highways, bridges, interchanges, and other transportation facilities by private entities and the applicable fees for such naming rights. Such fees shall be deposited in the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530.

No name shall be eligible for the naming rights under this section if it in any way reasonably connotes anything that (i) is profane, obscene, or vulgar; (ii) is sexually explicit or graphic; (iii) is excretory related; (iv) is descriptive of intimate body parts or genitals; (v) is descriptive of illegal activities or substances; (vi) condones or encourages violence; or (vii) is socially, racially, or ethnically offensive or disparaging.

## CHAPTER 803

*An Act to amend and reenact §§ 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, and 23.1-711 of the Code of Virginia, relating to the Virginia College Savings Plan.*

[H 1972]

Approved March 25, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, and 23.1-711 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 23.1-700. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"ABLE savings trust account" means an account established pursuant to this chapter to assist individuals and families to save private funds to support individuals with disabilities to maintain health, independence, and quality of life, with such account used to apply distributions for qualified disability expenses for an eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Board" means the governing board of the Plan.

"College savings trust account" means an account established pursuant to this chapter to assist individuals and families to enhance the accessibility and affordability of higher education, with such account used to apply distributions from the account toward qualified higher education expenses at eligible educational institutions, as both such terms are that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Contributor" means a person who contributes money to a savings trust account established pursuant to this chapter on behalf of a qualified beneficiary and who is listed as the owner of the savings trust account.

"Non-Virginia public and accredited nonprofit independent or private institutions of higher education" means public and accredited nonprofit independent or private institutions of higher education that are located outside the Commonwealth.

"Plan" means the Virginia College Savings Plan.

"Prepaid tuition contract" means the contract *or account* entered into by the board and a purchaser pursuant to this chapter for the advance payment of tuition at a fixed, guaranteed level for a qualified beneficiary to attend any public institution of higher education to which the qualified beneficiary is admitted.

"Public institution of higher education" has the same meaning as provided in § 23.1-100.

"Purchaser" means a person who makes or is obligated to make advance payments in accordance with a prepaid tuition contract and who is listed as the owner of the prepaid tuition contract.

"Qualified beneficiary" or "beneficiary" means (i) a resident of the Commonwealth, as determined by the board, who is the beneficiary of a prepaid tuition contract and who may apply advance tuition payments to tuition as set forth in this chapter; (ii) a beneficiary of a prepaid tuition contract purchased by a resident of the Commonwealth, as determined by the

board, who may apply advance tuition payments to tuition as set forth in this chapter; or (iii) a beneficiary of a savings trust account established pursuant to this chapter.

"Savings trust account" means an ABLE savings trust account or a college savings trust account.

"Savings trust agreement" means the agreement entered into by the board and a contributor that establishes a savings trust account.

"Tuition" means the quarter, semester, or term charges imposed for undergraduate tuition by any public institution of higher education and all mandatory fees required as a condition of enrollment of all students. At the discretion of the board, a beneficiary may apply benefits under a prepaid tuition contract and distributions from a *college* savings trust account (i) toward graduate-level tuition and (ii) toward ~~tuition costs at such eligible educational institutions~~ *qualified higher education expenses*, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as amended.

**§ 23.1-701. Plan established; moneys; governing board.**

A. To enhance the accessibility and affordability of higher education for all citizens of the Commonwealth, and assist families and individuals to save for qualified disability expenses, the Virginia College Savings Plan is established as a body politic and corporate and an independent agency of the Commonwealth.

B. Moneys of the Plan that are contributions to savings trust accounts made pursuant to this chapter, except as otherwise authorized or provided in this chapter, shall be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. The savings program moneys in such accounts shall be paid out on checks, drafts payable on demand, electronic wire transfers, or other means authorized by officers or employees of the Plan.

C. All other moneys of the Plan, including payments received pursuant to prepaid tuition contracts, bequests, endowments, grants from the United States government or its agencies or instrumentalities, and any other available public or private sources of funds shall be first deposited in the state treasury in a special nonreverting fund (the Fund). Such moneys shall then be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Benefits relating to prepaid tuition contracts and Plan operating expenses shall be paid from the Fund. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in the Fund and be credited to it.

D. *The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition contract benefits and, in connection with such system, open and maintain a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Such independent disbursement system and any related procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall be construed to relieve the Plan of its duty to provide prepaid tuition contract benefit transactions to the Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802.*

E. The Plan shall be administered by an 11-member board that consists of (i) the director of the Council or his designee, the Chancellor of the Virginia Community College System or his designee, the State Treasurer or his designee, and the State Comptroller or his designee, all of whom shall serve ex officio with voting privileges, and (ii) seven nonlegislative citizen members, four of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, two of whom shall be appointed by the Speaker of the House of Delegates, and all of whom shall have significant experience in finance, accounting, law, ~~or~~ investment management, *higher education, or disability advocacy*.

~~E.~~ F. Members appointed to the board shall serve terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed to the board shall serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

~~F.~~ G. ex officio members of the board shall serve terms coincident with their terms of office.

~~G.~~ H. Members of the board shall receive no compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

~~H.~~ I. The board shall elect from its membership a chairman and a vice-chairman annually.

~~I.~~ J. A majority of the members of the board shall constitute a quorum.

**§ 23.1-704. Powers and duties of the board.**

The board shall:

1. Administer the Plan established by this chapter;

2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in § 23.1-700, at a fixed, guaranteed level for application at a public institution of higher education; (ii) contributions to college savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in order to apply distributions from the account toward qualified higher education expenses ~~at eligible educational institutions~~, *as both such terms are that term is*

defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law; and (iii) contributions to ABLE savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in order to apply distributions from the account toward qualified disability expenses for an eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

3. Invest moneys in the Plan in any instruments, obligations, securities, or property deemed appropriate by the board;
4. Develop requirements, procedures, and guidelines regarding prepaid tuition contracts and savings trust accounts, including residency and other eligibility requirements; the number of participants in the Plan; the termination, withdrawal, or transfer of payments under a prepaid tuition contract or savings trust account; time limitations for the use of tuition benefits or savings trust account distributions; and payment schedules;
5. Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services and contracts with other states to provide savings trust accounts for residents of contracting states;
6. Procure insurance as determined appropriate by the board (i) against any loss in connection with the Plan's property, assets, or activities and (ii) indemnifying board members from personal loss or accountability from liability arising from any action or inaction as a board member;
7. Make arrangements with public institutions of higher education to fulfill obligations under prepaid tuition contracts and apply college savings trust account distributions, including (i) payment from the Plan of the ~~then actual in-state undergraduate~~ *appropriate amount of tuition cost* on behalf of a qualified beneficiary of a prepaid tuition contract to the institution to which the beneficiary is admitted and at which the beneficiary is enrolled and (ii) application of such benefits ~~towards~~ *toward* graduate-level tuition and toward ~~tuition costs at such eligible educational institutions~~ *qualified higher education expenses*, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as amended, as determined by the ~~Board~~ *board* in its sole discretion;
8. Develop and implement scholarship or matching grant programs, or both, as the board may deem appropriate, to further its goal of making higher education more affordable and accessible to all citizens of the Commonwealth;
9. Apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives;
10. Adopt regulations and procedures and perform any act or function consistent with the purposes of this chapter; and
11. Reimburse, at its option, all or part of the cost of employing legal counsel and such other costs as are demonstrated to have been reasonably necessary for the defense of any board member, officer, or employee of the Plan upon the acquittal, dismissal of charges, nolle prosequi, or any other final disposition concluding the innocence of such member, officer, or employee who is brought before any regulatory body, summoned before any grand jury, investigated by any law-enforcement agency, arrested, indicted, or otherwise prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties that alleges a violation of state or federal securities laws. The board shall provide for the payment of such legal fees and expenses out of funds appropriated or otherwise available to the board.

**§ 23.1-706. Standard of care; investment and administration of the Plan.**

A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of the Plan, the board, and any person, investment manager, or committee to whom the board delegates any of its investment authority, shall act as trustee and shall exercise the judgment of care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but to the permanent disposition of funds, considering the probable income and the probable safety of their capital.

If the annual accounting and audit required by § 23.1-710 reveal that there are insufficient funds to ensure the actuarial soundness of the Plan, the board may adjust the terms of subsequent prepaid tuition contracts, arrange refunds for current purchasers to ensure actuarial soundness, or take such other action the board deems appropriate.

B. The assets of the Plan shall be preserved, invested, and expended solely pursuant to and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the Commonwealth for any other purpose. Within the standard of care set forth in subsection A, the board and any person, investment manager, or committee to whom the board delegates any of its investment authority, may acquire and retain any kind of property and any kind of investment, including (i) debentures and other corporate obligations of foreign or domestic corporations; (ii) common or preferred stocks traded on foreign or domestic stock exchanges; (iii) not less than all of the stock or 100 percent ownership of a corporation or other entity organized by the board under the laws of the Commonwealth for the purposes of acquiring and retaining real property that the board may acquire and retain under this chapter; and (iv) securities of any open-end or closed-end management type investment company or investment trust registered under the federal Investment Company Act of 1940, as amended, including investment companies or investment trusts that, in turn, invest in the securities of such investment companies or investment trusts that persons of prudence, discretion, and intelligence acquire or retain for their own account. The board may retain property properly acquired without time limitation and without regard to its suitability for original purchase.

All provisions of this subsection shall *also* apply to the portion of the Plan assets attributable to savings trust account contributions and the earnings on such contributions.

C. The selection of services relating to the operation and administration of the Plan, including contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, recordkeeping, or consulting services, are governed by the standard of care set forth in subsection A and are not subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

D. No board member or person, investment manager, or committee to whom the board delegates any of its investment authority who acts in accordance with the standard of care set forth in subsection A shall be held personally liable for losses suffered by the Plan on investments made pursuant to this chapter.

E. To the extent necessary to lawfully administer the Plan and in order to comply with federal, state, and local tax reporting requirements, the Plan may obtain all necessary social security account or tax identification numbers and such other data as the Plan deems necessary for such purposes, whether from a contributor, a purchaser, or another state agency.

F. This section shall not be construed to prohibit the Plan's investment, by purchase or otherwise, in bonds, notes, or other obligations of the Commonwealth or its agencies and instrumentalities.

**§ 23.1-707. Prepaid tuition contracts and college and ABLE savings trust agreements.**

A. Each prepaid tuition contract made pursuant to this chapter shall include the following terms and provisions:

1. The amount of payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary;
2. The terms and conditions under which purchasers shall remit payments, including the dates of such payments;
3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;
4. The name and date of birth of the qualified beneficiary on whose behalf the contract is made;
5. Terms and conditions for a substitution for the qualified beneficiary originally named;
6. Terms and conditions for termination of the contract, including any refunds, withdrawals, or transfers of tuition prepayments, and the name of the person entitled to terminate the contract;
7. The time period during which the qualified beneficiary is required to claim benefits from the Plan;
8. The number of credit hours or quarters, semesters, ~~or~~ terms, *or units* contracted for by the purchaser, *as applicable*;
9. All other rights and obligations of the purchaser and the trust; and
10. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the contract with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, which specifies the requirements for qualified state tuition programs.

B. Each college savings trust agreement made pursuant to this chapter shall include the following terms and provisions:

1. The maximum and minimum contribution allowed on behalf of each qualified beneficiary for the payment of qualified higher education expenses ~~at eligible institutions~~, as ~~both such terms are~~ *that term* is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law;
2. Provisions for withdrawals, refunds, transfers, and any penalties;
3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;
4. Terms and conditions for a substitution for the qualified beneficiary originally named;
5. Terms and conditions for termination of the account, including any refunds, withdrawals, or transfers, and applicable penalties, and the name of the person entitled to terminate the account;
6. The time period during which the qualified beneficiary is required to use benefits from the savings trust account;
7. All other rights and obligations of the contributor and the Plan; and
8. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

C. Each ABLE savings trust agreement made pursuant to this chapter shall include the following terms and provisions:

1. The maximum and minimum annual contribution and maximum account balance allowed on behalf of each qualified beneficiary for the payment of qualified disability expenses, as defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law;
2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any penalties;
3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;
4. Terms and conditions for a substitution for the qualified beneficiary originally named;
5. Terms and conditions for termination of the account, including any transfers to the state upon the death of the qualified beneficiary, refunds, withdrawals, transfers, applicable penalties, and the name of the person entitled to terminate the account;
6. The time period during which the qualified beneficiary is required to use benefits from the savings trust account;
7. All other rights and obligations of the contributor and the Plan; and
8. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

D. In addition to the provisions required by subsection A, each prepaid tuition contract *entered into prior to July 1, 2019*, shall include provisions for the application of tuition prepayments (i) at accredited nonprofit independent or private institutions of higher education, including actual interest and income earned on such prepayments, and (ii) at non-Virginia public and accredited nonprofit independent or private institutions of higher education, including principal and reasonable return on such principal as determined by the board. Payments authorized for accredited nonprofit independent

or private institutions of higher education shall not exceed the projected highest payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. Payments authorized for non-Virginia public and accredited nonprofit independent or private institutions of higher education shall not exceed the projected average payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. *In no event, however, shall the benefit paid on any prepaid tuition contract entered into prior to July 1, 2019, be less than the sum of tuition prepayments made and a reasonable return on such prepayments to be determined by the board, less any fees determined by the board.*

*E. In addition to the provisions required by subsection A, each prepaid tuition contract entered into on or after July 1, 2019, shall include provisions for the application of tuition prepayments, at a rate equal to the percentage of enrollment-weighted average tuition at public institutions of higher education to be determined by the board, at (i) public institutions of higher education, (ii) accredited nonprofit independent or private institutions of higher education, and (iii) non-Virginia public and accredited nonprofit independent or private institutions of higher education. In no event, however, shall the benefit paid on any prepaid tuition contract entered into on or after July 1, 2019, be less than tuition prepayments made, less any fees as determined by the board.*

*F. All prepaid tuition contracts and savings trust agreements shall specifically provide that if after a specified period of time the contract or savings trust agreement has not been terminated and the qualified beneficiary's rights have not been exercised, the board, after making a reasonable effort to contact the purchaser or contributor and the qualified beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant to § 55-210.12.*

~~¶~~ *G. Notwithstanding any provision of law to the contrary, money in the Plan is exempt from creditor process, is not liable to attachment, garnishment, or other process, and shall not be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of any purchaser, contributor, or beneficiary, except that the state of residence of the beneficiary of an ABLE savings trust account shall be a creditor of such account in the event of the death of the beneficiary.*

~~¶~~ *H. Notwithstanding any other provision of state law that requires consideration of one or more financial circumstances of an individual for the purpose of determining (i) the individual's eligibility to receive any assistance or benefit pursuant to such provision of state law or (ii) the amount of any such assistance or benefit that such individual is eligible to receive pursuant to such provision of state law, any (a) moneys in an ABLE savings trust account for which such individual is the beneficiary, including any interest on such moneys, (b) contributions to an ABLE savings trust account for which such individual is the beneficiary, and (c) distribution for qualified disability expenses for such individual from an ABLE savings trust account for which such individual is the beneficiary shall be disregarded for such purpose with respect to any period during which such individual remains the beneficiary of, makes contributions to, or receives distributions for qualified disability expenses from such ABLE savings trust account.*

~~¶~~ *I. No prepaid tuition contract or savings trust account shall be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge.*

~~¶~~ *J. The board's decision on any dispute, claim, or action arising out of or relating to a prepaid tuition contract or savings trust agreement made or entered into pursuant to this chapter or benefits under such prepaid tuition contract or savings trust agreement shall be considered a case decision as defined in § 2.2-4001 and all proceedings related to such dispute, claim, or action shall be conducted pursuant to Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act. Judicial review shall be provided exclusively pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.*

**§ 23.1-711. Admission to institutions not guaranteed; coverage limitations.**

Nothing in this chapter or in any prepaid tuition contract or savings trust agreement entered into pursuant to this chapter shall be construed as a promise or guarantee:

1. By the board or the Commonwealth of any admission to, continued enrollment at, or graduation from any public institution of higher education;

2. That the beneficiary's cost of tuition at an institution of higher education ~~other than a public institution of higher education~~ will be covered in full by the proceeds of the beneficiary's ~~tuition credits~~ *prepaid tuition contract, provided, however, that a prepaid tuition contract will cover that portion of tuition that is required under the terms of any such contract based on the tuition prepayments made; or*

3. That any qualified higher education expense will be covered in full by contributions to or earnings on any savings trust account.

**CHAPTER 804**

*An Act to amend and reenact §§ 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, and 23.1-711 of the Code of Virginia, relating to the Virginia College Savings Plan.*

[S 1315]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, and 23.1-711 of the Code of Virginia are amended and reenacted as follows:**

**§ 23.1-700. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"ABLE savings trust account" means an account established pursuant to this chapter to assist individuals and families to save private funds to support individuals with disabilities to maintain health, independence, and quality of life, with such account used to apply distributions for qualified disability expenses for an eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Board" means the governing board of the Plan.

"College savings trust account" means an account established pursuant to this chapter to assist individuals and families to enhance the accessibility and affordability of higher education, with such account used to apply distributions from the account toward qualified higher education expenses at eligible educational institutions, as both such terms are that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Contributor" means a person who contributes money to a savings trust account established pursuant to this chapter on behalf of a qualified beneficiary and who is listed as the owner of the savings trust account.

"Non-Virginia public and accredited nonprofit independent or private institutions of higher education" means public and accredited nonprofit independent or private institutions of higher education that are located outside the Commonwealth.

"Plan" means the Virginia College Savings Plan.

"Prepaid tuition contract" means the contract *or account* entered into by the board and a purchaser pursuant to this chapter for the advance payment of tuition at a fixed, guaranteed level for a qualified beneficiary to attend any public institution of higher education to which the qualified beneficiary is admitted.

"Public institution of higher education" has the same meaning as provided in § 23.1-100.

"Purchaser" means a person who makes or is obligated to make advance payments in accordance with a prepaid tuition contract and who is listed as the owner of the prepaid tuition contract.

"Qualified beneficiary" or "beneficiary" means (i) a resident of the Commonwealth, as determined by the board, who is the beneficiary of a prepaid tuition contract and who may apply advance tuition payments to tuition as set forth in this chapter; (ii) a beneficiary of a prepaid tuition contract purchased by a resident of the Commonwealth, as determined by the board, who may apply advance tuition payments to tuition as set forth in this chapter; or (iii) a beneficiary of a savings trust account established pursuant to this chapter.

"Savings trust account" means an ABL savings trust account or a college savings trust account.

"Savings trust agreement" means the agreement entered into by the board and a contributor that establishes a savings trust account.

"Tuition" means the quarter, semester, or term charges imposed for undergraduate tuition by any public institution of higher education and all mandatory fees required as a condition of enrollment of all students. At the discretion of the board, a beneficiary may apply benefits under a prepaid tuition contract and distributions from a college savings trust account (i) toward graduate-level tuition and (ii) toward ~~tuition costs at such eligible educational institutions~~ *qualified higher education expenses*, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as amended.

**§ 23.1-701. Plan established; moneys; governing board.**

A. To enhance the accessibility and affordability of higher education for all citizens of the Commonwealth, and assist families and individuals to save for qualified disability expenses, the Virginia College Savings Plan is established as a body politic and corporate and an independent agency of the Commonwealth.

B. Moneys of the Plan that are contributions to savings trust accounts made pursuant to this chapter, except as otherwise authorized or provided in this chapter, shall be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. The savings program moneys in such accounts shall be paid out on checks, drafts payable on demand, electronic wire transfers, or other means authorized by officers or employees of the Plan.

C. All other moneys of the Plan, including payments received pursuant to prepaid tuition contracts, bequests, endowments, grants from the United States government or its agencies or instrumentalities, and any other available public or private sources of funds shall be first deposited in the state treasury in a special nonreverting fund (the Fund). Such moneys shall then be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Benefits relating to prepaid tuition contracts and Plan operating expenses shall be paid from the Fund. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in the Fund and be credited to it.

D. *The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition contract benefits and, in connection with such system, open and maintain a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Such independent disbursement system and any related procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall be construed to relieve the Plan of its duty to provide prepaid tuition contract*

*benefit transactions to the Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802.*

*E.* The Plan shall be administered by an 11-member board that consists of (i) the director of the Council or his designee, the Chancellor of the Virginia Community College System or his designee, the State Treasurer or his designee, and the State Comptroller or his designee, all of whom shall serve ex officio with voting privileges, and (ii) seven nonlegislative citizen members, four of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, two of whom shall be appointed by the Speaker of the House of Delegates, and all of whom shall have significant experience in finance, accounting, law, ~~or~~ investment management, *higher education, or disability advocacy.*

~~*F.*~~ *F.* Members appointed to the board shall serve terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed to the board shall serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

~~*G.*~~ *G.* ex officio members of the board shall serve terms coincident with their terms of office.

~~*H.*~~ *H.* Members of the board shall receive no compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

~~*I.*~~ *I.* The board shall elect from its membership a chairman and a vice-chairman annually.

~~*J.*~~ *J.* A majority of the members of the board shall constitute a quorum.

**§ 23.1-704. Powers and duties of the board.**

The board shall:

1. Administer the Plan established by this chapter;

2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in § 23.1-700, at a fixed, guaranteed level for application at a public institution of higher education; (ii) contributions to college savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in order to apply distributions from the account toward qualified higher education expenses ~~at eligible educational institutions, as both such terms are that term is~~ defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law; and (iii) contributions to ABLE savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in order to apply distributions from the account toward qualified disability expenses for an eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

3. Invest moneys in the Plan in any instruments, obligations, securities, or property deemed appropriate by the board;

4. Develop requirements, procedures, and guidelines regarding prepaid tuition contracts and savings trust accounts, including residency and other eligibility requirements; the number of participants in the Plan; the termination, withdrawal, or transfer of payments under a prepaid tuition contract or savings trust account; time limitations for the use of tuition benefits or savings trust account distributions; and payment schedules;

5. Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services and contracts with other states to provide savings trust accounts for residents of contracting states;

6. Procure insurance as determined appropriate by the board (i) against any loss in connection with the Plan's property, assets, or activities and (ii) indemnifying board members from personal loss or accountability from liability arising from any action or inaction as a board member;

7. Make arrangements with public institutions of higher education to fulfill obligations under prepaid tuition contracts and apply college savings trust account distributions, including (i) payment from the Plan of the ~~then actual in-state undergraduate~~ *appropriate amount of* tuition ~~cost~~ on behalf of a qualified beneficiary of a prepaid tuition contract to the institution to which the beneficiary is admitted and at which the beneficiary is enrolled and (ii) application of such benefits ~~towards~~ *toward* graduate-level tuition and toward ~~tuition costs at such eligible educational institutions~~ *qualified higher education expenses*, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as amended, as determined by the ~~Board~~ *board* in its sole discretion;

8. Develop and implement scholarship or matching grant programs, or both, as the board may deem appropriate, to further its goal of making higher education more affordable and accessible to all citizens of the Commonwealth;

9. Apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives;

10. Adopt regulations and procedures and perform any act or function consistent with the purposes of this chapter; and

11. Reimburse, at its option, all or part of the cost of employing legal counsel and such other costs as are demonstrated to have been reasonably necessary for the defense of any board member, officer, or employee of the Plan upon the acquittal, dismissal of charges, nolle prosequi, or any other final disposition concluding the innocence of such member, officer, or employee who is brought before any regulatory body, summoned before any grand jury, investigated by any law-enforcement agency, arrested, indicted, or otherwise prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties that alleges a violation of state or federal securities laws. The board shall provide for the payment of such legal fees and expenses out of funds appropriated or otherwise available to the board.

**§ 23.1-706. Standard of care; investment and administration of the Plan.**

A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of the Plan, the board, and any person, investment manager, or committee to whom the board delegates any of its investment

authority, shall act as trustee and shall exercise the judgment of care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but to the permanent disposition of funds, considering the probable income and the probable safety of their capital.

If the annual accounting and audit required by § 23.1-710 reveal that there are insufficient funds to ensure the actuarial soundness of the Plan, the board may adjust the terms of subsequent prepaid tuition contracts, arrange refunds for current purchasers to ensure actuarial soundness, or take such other action the board deems appropriate.

B. The assets of the Plan shall be preserved, invested, and expended solely pursuant to and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the Commonwealth for any other purpose. Within the standard of care set forth in subsection A, the board and any person, investment manager, or committee to whom the board delegates any of its investment authority, may acquire and retain any kind of property and any kind of investment, including (i) debentures and other corporate obligations of foreign or domestic corporations; (ii) common or preferred stocks traded on foreign or domestic stock exchanges; (iii) not less than all of the stock or 100 percent ownership of a corporation or other entity organized by the board under the laws of the Commonwealth for the purposes of acquiring and retaining real property that the board may acquire and retain under this chapter; and (iv) securities of any open-end or closed-end management type investment company or investment trust registered under the federal Investment Company Act of 1940, as amended, including investment companies or investment trusts that, in turn, invest in the securities of such investment companies or investment trusts that persons of prudence, discretion, and intelligence acquire or retain for their own account. The board may retain property properly acquired without time limitation and without regard to its suitability for original purchase.

All provisions of this subsection shall *also* apply to the portion of the Plan assets attributable to savings trust account contributions and the earnings on such contributions.

C. The selection of services relating to the operation and administration of the Plan, including contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, recordkeeping, or consulting services, are governed by the standard of care set forth in subsection A and are not subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

D. No board member or person, investment manager, or committee to whom the board delegates any of its investment authority who acts in accordance with the standard of care set forth in subsection A shall be held personally liable for losses suffered by the Plan on investments made pursuant to this chapter.

E. To the extent necessary to lawfully administer the Plan and in order to comply with federal, state, and local tax reporting requirements, the Plan may obtain all necessary social security account or tax identification numbers and such other data as the Plan deems necessary for such purposes, whether from a contributor, a purchaser, or another state agency.

F. This section shall not be construed to prohibit the Plan's investment, by purchase or otherwise, in bonds, notes, or other obligations of the Commonwealth or its agencies and instrumentalities.

### **§ 23.1-707. Prepaid tuition contracts and college and ABLÉ savings trust agreements.**

A. Each prepaid tuition contract made pursuant to this chapter shall include the following terms and provisions:

1. The amount of payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary;
2. The terms and conditions under which purchasers shall remit payments, including the dates of such payments;
3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;
4. The name and date of birth of the qualified beneficiary on whose behalf the contract is made;
5. Terms and conditions for a substitution for the qualified beneficiary originally named;
6. Terms and conditions for termination of the contract, including any refunds, withdrawals, or transfers of tuition prepayments, and the name of the person entitled to terminate the contract;
7. The time period during which the qualified beneficiary is required to claim benefits from the Plan;
8. The number of credit hours or quarters, semesters, ~~or~~ terms, *or units* contracted for by the purchaser, *as applicable*;
9. All other rights and obligations of the purchaser and the trust; and
10. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the contract with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, which specifies the requirements for qualified state tuition programs.

B. Each college savings trust agreement made pursuant to this chapter shall include the following terms and provisions:

1. The maximum and minimum contribution allowed on behalf of each qualified beneficiary for the payment of qualified higher education expenses at eligible institutions, as ~~both such terms are~~ *that term* is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law;
2. Provisions for withdrawals, refunds, transfers, and any penalties;
3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;
4. Terms and conditions for a substitution for the qualified beneficiary originally named;
5. Terms and conditions for termination of the account, including any refunds, withdrawals, or transfers, and applicable penalties, and the name of the person entitled to terminate the account;
6. The time period during which the qualified beneficiary is required to use benefits from the savings trust account;
7. All other rights and obligations of the contributor and the Plan; and

8. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

C. Each ABLÉ savings trust agreement made pursuant to this chapter shall include the following terms and provisions:

1. The maximum and minimum annual contribution and maximum account balance allowed on behalf of each qualified beneficiary for the payment of qualified disability expenses, as defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any penalties;

3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;

4. Terms and conditions for a substitution for the qualified beneficiary originally named;

5. Terms and conditions for termination of the account, including any transfers to the state upon the death of the qualified beneficiary, refunds, withdrawals, transfers, applicable penalties, and the name of the person entitled to terminate the account;

6. The time period during which the qualified beneficiary is required to use benefits from the savings trust account;

7. All other rights and obligations of the contributor and the Plan; and

8. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

D. In addition to the provisions required by subsection A, each prepaid tuition contract *entered into prior to July 1, 2019*, shall include provisions for the application of tuition prepayments (i) at accredited nonprofit independent or private institutions of higher education, including actual interest and income earned on such prepayments, and (ii) at non-Virginia public and accredited nonprofit independent or private institutions of higher education, including principal and reasonable return on such principal as determined by the board. Payments authorized for accredited nonprofit independent or private institutions of higher education shall not exceed the projected highest payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. Payments authorized for non-Virginia public and accredited nonprofit independent or private institutions of higher education shall not exceed the projected average payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. *In no event, however, shall the benefit paid on any prepaid tuition contract entered into prior to July 1, 2019, be less than the sum of tuition prepayments made and a reasonable return on such prepayments to be determined by the board, less any fees determined by the board.*

E. *In addition to the provisions required by subsection A, each prepaid tuition contract entered into on or after July 1, 2019, shall include provisions for the application of tuition prepayments, at a rate equal to the percentage of enrollment-weighted average tuition at public institutions of higher education to be determined by the board, at (i) public institutions of higher education, (ii) accredited nonprofit independent or private institutions of higher education, and (iii) non-Virginia public and accredited nonprofit independent or private institutions of higher education. In no event, however, shall the benefit paid on any prepaid tuition contract entered into on or after July 1, 2019, be less than tuition prepayments made, less any fees as determined by the board.*

F. All prepaid tuition contracts and savings trust agreements shall specifically provide that if after a specified period of time the contract or savings trust agreement has not been terminated and the qualified beneficiary's rights have not been exercised, the board, after making a reasonable effort to contact the purchaser or contributor and the qualified beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant to § 55-210.12.

~~F. G.~~ Notwithstanding any provision of law to the contrary, money in the Plan is exempt from creditor process, is not liable to attachment, garnishment, or other process, and shall not be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of any purchaser, contributor, or beneficiary, except that the state of residence of the beneficiary of an ABLÉ savings trust account shall be a creditor of such account in the event of the death of the beneficiary.

~~G. H.~~ Notwithstanding any other provision of state law that requires consideration of one or more financial circumstances of an individual for the purpose of determining (i) the individual's eligibility to receive any assistance or benefit pursuant to such provision of state law or (ii) the amount of any such assistance or benefit that such individual is eligible to receive pursuant to such provision of state law, any (a) moneys in an ABLÉ savings trust account for which such individual is the beneficiary, including any interest on such moneys, (b) contributions to an ABLÉ savings trust account for which such individual is the beneficiary, and (c) distribution for qualified disability expenses for such individual from an ABLÉ savings trust account for which such individual is the beneficiary shall be disregarded for such purpose with respect to any period during which such individual remains the beneficiary of, makes contributions to, or receives distributions for qualified disability expenses from such ABLÉ savings trust account.

~~H. I.~~ No prepaid tuition contract or savings trust account shall be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge.

~~H. J.~~ The board's decision on any dispute, claim, or action arising out of or relating to a prepaid tuition contract or savings trust agreement made or entered into pursuant to this chapter or benefits under such prepaid tuition contract or savings trust agreement shall be considered a case decision as defined in § 2.2-4001 and all proceedings related to such

dispute, claim, or action shall be conducted pursuant to Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act. Judicial review shall be provided exclusively pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

**§ 23.1-711. Admission to institutions not guaranteed; coverage limitations.**

Nothing in this chapter or in any prepaid tuition contract or savings trust agreement entered into pursuant to this chapter shall be construed as a promise or guarantee:

1. By the board or the Commonwealth of any admission to, continued enrollment at, or graduation from any public institution of higher education;

2. That the beneficiary's cost of tuition at an institution of higher education ~~other than a public institution of higher education~~ will be covered in full by the proceeds of the beneficiary's ~~tuition credits~~ *prepaid tuition contract, provided, however, that a prepaid tuition contract will cover that portion of tuition that is required under the terms of any such contract based on the tuition prepayments made; or*

3. That any qualified higher education expense will be covered in full by contributions to or earnings on any savings trust account.

## CHAPTER 805

*An Act to amend the Code of Virginia by adding a section numbered 23.1-707.1, relating to the Virginia College Savings Plan; prepaid tuition contracts; pricing reserves.*

[S 1368]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-707.1 as follows:**

**§ 23.1-707.1. Prepaid tuition contracts; pricing reserves; limitations.**

A. As used in this section:

*"Funded status" means the ratio of the assets of the Plan to the obligations of the Plan, expressed as a percentage.*

*"Pricing reserve" means the percentage by which the sum of advanced payments to be made pursuant to each prepaid tuition contract exceeds the amount estimated to be required to provide tuition at the fixed, guaranteed level that is specified in such prepaid tuition contract.*

*B. In the event that the funded status of the Plan meets or exceeds 105 percent, the pricing reserve shall not exceed five percent.*

*C. In the event that the funded status of the Plan does not meet or exceed 105 percent, the pricing reserve may exceed five percent but shall not exceed 10 percent.*

*D. The board shall provide to the House Committee on Appropriations, the Senate Committee on Finance, and the Joint Legislative Audit and Review Commission written notification and a detailed explanation of any change to the pricing reserve within 30 days of such change.*

## CHAPTER 806

*An Act to amend the Code of Virginia by adding a section numbered 23.1-707.1, relating to the Virginia College Savings Plan; prepaid tuition contracts; pricing reserves.*

[H 1611]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-707.1 as follows:**

**§ 23.1-707.1. Prepaid tuition contracts; pricing reserves; limitations.**

A. As used in this section:

*"Funded status" means the ratio of the assets of the Plan to the actuarially estimated value of tuition obligations of the Plan, expressed as a percentage.*

*"Pricing reserve" means the percentage by which the actuarially determined prepaid tuition contract price exceeds the amount estimated to meet the actuarially determined tuition obligation for such prepaid tuition contract.*

*B. In the event that the funded status of the Plan meets or exceeds 105 percent, the pricing reserve shall not exceed five percent.*

*C. In the event that the funded status of the Plan does not meet or exceed 105 percent, the pricing reserve may exceed five percent but shall not exceed 10 percent.*

*D. The board shall provide to the House Committee on Appropriations, the Senate Committee on Finance, and the Joint Legislative Audit and Review Commission written notification and a detailed explanation of any change to the pricing reserve within 30 days of such change.*

## CHAPTER 807

*An Act to amend the Code of Virginia by adding a section numbered 22.1-146.1, relating to the Literary Fund; school modernization.*

[S 1093]

Approved March 25, 2019

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 22.1-146.1 as follows:****§ 22.1-146.1. School modernization loan interest rate subsidy payments.**

A. The Board of Education shall establish a program to subsidize interest payments on certain loans made by the Virginia Public School Authority to local governing bodies and school boards for the design and construction of new school buildings and facilities or the modernization and maintenance of existing school buildings and facilities as follows:

1. For school divisions with a composite index of local ability-to-pay that is greater than 0.2500 but less than 0.4000 at the time an application to the program is made, the Board may subsidize up to 50 percent of the interest due on such loan; or

2. For school divisions with a composite index of local ability-to-pay that is 0.2500 or less at the time an application to the program is made, the Board may subsidize up to 100 percent of the interest rate on such loan.

B. The aggregate amount of subsidies provided pursuant to this section shall not exceed the allocation specified in the general appropriation act for each fiscal year.

C. For each loan, the annual subsidy amount shall not include both:

1. Interest or other loan-related costs related to any part of the loan that exceed \$7.5 million in loan value; and

2. Interest on any part of the loan that exceeds the rate that the local governing body or school board would have obtained for such loan under the provisions of §§ 22.1-146 and 22.1-150.

## CHAPTER 808

*An Act to amend and reenact §§ 58.1-439.25 and 58.1-439.28 of the Code of Virginia, relating to Education Improvement Scholarships tax credits; benefits and eligibility requirements; eligible student with a disability.*

[S 1365]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-439.25 and 58.1-439.28 of the Code of Virginia are amended and reenacted as follows:****§ 58.1-439.25. Definitions.**

As used in this article, unless the context requires a different meaning:

"Eligible student with a disability" means a ~~student~~ <sup>(i) child</sup> who is a resident of Virginia for whom an ~~individualized educational program~~ Individualized Education Plan (IEP) has been written and finalized in accordance with the federal Individuals with Disabilities Education Act (IDEA), regulations promulgated pursuant to IDEA, and regulations of the Board of Education; ~~(ii) whose family's annual household income is not in excess of 400 percent of the current poverty guidelines; and (iii) who otherwise is a student as defined in this section.~~ For purposes of this article, an eligible student with a disability need not qualify as a student as defined in this section.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"Qualified educational expenses" means school-related tuition and instructional fees and materials, including textbooks, workbooks, and supplies used solely for school-related work.

"Scholarship foundation" means a nonstock, nonprofit corporation that is (i) exempt from taxation under § 501(c)(3) of the Internal Revenue Code of 1954, as amended or renumbered; (ii) approved by the Department of Education in accordance with the provisions of § 58.1-439.27; and (iii) established to provide financial aid for the education of students or eligible students with a disability residing in the Commonwealth.

"Student" means a child who is a resident of Virginia and (i) in the current school year has enrolled and attended a public school in the Commonwealth for at least one-half of the year, (ii) for the school year that immediately preceded his receipt of a scholarship foundation scholarship was enrolled and attended a public school in the Commonwealth for at least one-half of the year, (iii) is a prior recipient of a scholarship foundation scholarship, (iv) is eligible to enter kindergarten or first grade, or (v) for the school year that immediately preceded his receipt of a scholarship foundation scholarship was domiciled in a state other than the Commonwealth and did not attend a nonpublic school in the Commonwealth for more than one-half of the school year.

**§ 58.1-439.28. Guidelines for scholarship foundations.**

A. As a condition for qualification by the Department of Education, a scholarship foundation, as defined in § 58.1-439.25 and included on the list published annually by the Department of Education pursuant to this section, shall disburse an amount at least equal to 90 percent of the value of the donations it receives (for which tax credits were issued

under this article) during each 12-month period ending on June 30 by the immediately following June 30 for qualified educational expenses through scholarships to ~~eligible students~~ *or eligible students with a disability*. Tax-credit-derived funds not used for such scholarships may only be used for the administrative expenses of the scholarship foundation. Any scholarship foundation that fails to meet such disbursement requirement shall, for the first offense, be required to pay a civil penalty equal to 200 percent of the difference between 90 percent of the value of the tax-credit-derived donations it received in the applicable 12-month period and the amount that was actually disbursed. Such civil penalty shall be remitted by the scholarship foundation to the Department of Education within 30 days after the end of the one-year period and deposited to the general fund. For a second offense within a five-year period, the scholarship foundation shall be removed from the annual list published pursuant to this section and shall not be entitled to request preauthorization for additional tax credits, nor shall it be entitled to receive and administer additional tax-credit-derived funds for two years. After two years, the scholarship foundation shall be eligible to reapply to be included on the annual list to receive and administer tax-credit derived funds. If a scholarship foundation is authorized to be added to the annual list after such reapplication, the scholarship foundation shall not be considered to have any previous offenses for purposes of this subsection. The required disbursement under this section shall begin with donations received for the period January 1, 2013, through June 30, 2014.

B. By September 30 of each year beginning in 2016, the scholarship foundation shall provide the following information to the Department of Education: (i) the total number and value of donations received by the foundation during the 12-month period ending on June 30 of the prior calendar year for which tax credits were issued by the Superintendent of Public Instruction, (ii) the dates when such donations were received, and (iii) the total number and dollar amount of qualified educational expenses scholarships awarded from tax-credit-derived donations and disbursed by the scholarship foundation during the 24-month period ending on June 30 of the current calendar year. Any scholarship foundation that fails to provide this report by September 30 shall, for the first offense, be required to pay a \$1,000 civil penalty. Such civil penalty shall be remitted by the scholarship foundation to the Department of Education by November 1 of the same year and deposited to the general fund. For a second offense within a five-year period, the scholarship foundation shall be removed from the annual list published pursuant to this section and shall not be entitled to request preauthorization for additional tax credits, nor shall it be entitled to receive and administer additional tax-credit-derived funds. After two years, the scholarship foundation shall be eligible to reapply to be included on the annual list to receive and administer tax-credit derived funds. If a scholarship foundation is authorized to be added to the annual list after such reapplication, the scholarship foundation shall not be considered to have any previous offenses for purposes of this subsection.

C. In awarding scholarships from tax-credit-derived funds, the scholarship foundation shall (i) provide scholarships for qualified educational expenses only to students whose family's annual household income is not in excess of 300 percent of the current poverty guidelines or eligible students with a disability *whose family's annual household income is not in excess of 400 percent of the current poverty guidelines*, (ii) not limit scholarships to students or eligible students with a disability of one school, and (iii) comply with Title VI of the Civil Rights Act of 1964, as amended. Payment of scholarships from tax-credit-derived funds by the eligible scholarship foundation shall be by individual warrant or check made payable to and mailed to the eligible school that the ~~student's~~ *parent or legal guardian of the student or eligible student with a disability* indicates. In mailing such scholarship payments, the eligible scholarship foundation shall include a written notice to the eligible school that the source of the scholarship was donations made by persons receiving tax credits for the same pursuant to this article.

D. Scholarship foundations shall ensure that schools selected by students *or eligible students with a disability* to which tax-credit-derived funds may be paid (i) are in compliance with the Commonwealth's and locality's health and safety laws and codes; (ii) hold a valid occupancy permit as required by the locality; (iii) comply with Title VI of the Civil Rights Act of 1964, as amended; and (iv) are nonpublic schools that comply with nonpublic school accreditation requirements as set forth in § 22.1-19 and administered by the Virginia Council for Private Education or nonpublic schools that maintain an assessment system that annually measures ~~scholarship students'~~ *the progress of scholarship students or eligible students with a disability* in reading and math using a national norm-referenced achievement test, including but not limited to the Stanford Achievement Test, California Achievement Test, and Iowa Test of Basic Skills.

Eligible schools shall compile the results of any national norm-referenced achievement test for each of its students *or eligible students with a disability* receiving tax-credit-derived scholarships and shall provide the respective parents or legal guardians of such students *or eligible students with a disability* with a copy of the results on an annual basis, beginning with the first year of testing of the student *or eligible student with a disability*. Such schools also shall annually provide to the Department of Education for each such student *or eligible student with a disability* the achievement test results, beginning with the first year of testing of the student *or eligible student with a disability*, and ~~student~~ information that would allow the Department to aggregate the achievement test results by grade level, gender, family income level, number of years of participation in the scholarship program, and race. Beginning with the third year of testing ~~of each such student~~ and test-related data collection, the Department of Education shall ensure that the achievement test results and associated learning gains are published on the Department of Education's website in accordance with such classifications and in an aggregate form as to prevent the identification of any student *or eligible student with a disability*. Eligible schools shall annually provide to the Superintendent of Public Instruction graduation rates of its students *or eligible students with a disability* participating in the scholarship program in a manner consistent with nationally recognized standards. In publishing and disseminating achievement test results and other information, the Superintendent of Public Instruction and the Department of Education shall ensure compliance with all student privacy laws.

E. 1. The aggregate amount of scholarships provided to each student *or eligible student with a disability who does not meet the requirements of subdivision 2* for any single school year by all eligible scholarship foundations from eligible donations shall not exceed the lesser of (i) the actual qualified educational expenses of the student or (ii) 100 percent of the per-pupil amount distributed to the local school division (in which the student resides) as the state's share of the standards of quality costs using the composite index of ability to pay as defined in the general appropriation act.

2. a. *Except as provided in subdivision 1, the aggregate amount of scholarships provided to each eligible student with a disability for any single school year by all eligible scholarship foundations from eligible donations shall not exceed the lesser of (i) the actual qualified educational expenses of the student or (ii) 300 percent of the per pupil amount distributed to the local school division (in which the eligible student with a disability resides) as the state's share of the standards of quality costs using the composite index of ability to pay as defined in the general appropriation act.*

b. *Except as provided in subdivision 1, scholarships may only be provided to an eligible student with a disability who is attending a school for students with disabilities, as defined in § 22.1-319, that (i) is licensed by the Department of Education to serve students with disabilities, (ii) complies with the nonpublic school accreditation requirements of the Virginia Association of Independent Schools, (iii) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, and (iv) does not receive public funds to supplement the cost of the education of the eligible student with a disability that is receiving the scholarship pursuant to this section.*

F. Scholarship foundations shall develop procedures for disbursing scholarships in quarterly or semester payments throughout the school year to ensure scholarships are portable.

G. Scholarship foundations that receive donations of marketable securities for which tax credits were issued under this article shall be required to sell such securities and convert the donation into cash immediately, but in no case more than 21 days after receipt of the donation.

H. Each scholarship foundation with total revenues (including the value of all donations) (i) in excess of \$100,000 for the foundation's most recent fiscal year ended shall have an audit or review performed by an independent certified public accountant of the foundation's donations received in such year for which tax credits were issued under this article or (ii) of \$100,000 or less for the foundation's most recent fiscal year ended shall have a compilation performed by an independent certified public accountant of the foundation's donations received in such year for which tax credits were issued under this article. A summary report of the audit, review, or compilation shall be made available to the public and the Department of Education upon request.

I. The Department of Education shall publish annually on its website a list of each scholarship foundation qualified under this article. Once a foundation has been qualified by the Department of Education, it shall remain qualified until the Department removes the foundation from its annual list. The Department of Education shall remove a foundation from the annual list if it no longer meets the requirements of this article. The Department of Education may periodically require a qualified foundation to submit updated or additional information for purposes of determining whether or not the foundation continues to meet the requirements of this article.

J. Actions of the Superintendent of Public Instruction or the Department of Education relating to the awarding of tax credits under this article and the qualification of scholarship foundations shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the Superintendent of Public Instruction or the Department of Education shall be final and not subject to review or appeal.

**2. That the provisions of this act shall apply to taxable years beginning on and after January 1, 2019, but before January 1, 2024.**

## CHAPTER 809

*An Act to amend and reenact §§ 17.1-406, 17.1-410, and 37.2-803 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 3 of Title 53.1 sections numbered 53.1-133.04 and 53.1-133.05, relating to medical and mental health treatment of prisoners incapable of giving consent.*

[H 1933]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 17.1-406, 17.1-410, and 37.2-803 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 3 of Title 53.1 sections numbered 53.1-133.04 and 53.1-133.05 as follows:**

**§ 17.1-406. Petitions for appeal; cases over which Court of Appeals does not have jurisdiction.**

A. Any aggrieved party may present a petition for appeal to the Court of Appeals from (i) any final conviction in a circuit court of a traffic infraction or a crime, except where a sentence of death has been imposed, (ii) any final decision of a circuit court on an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (iii) any final order of a circuit court involving involuntary treatment of prisoners pursuant to § 53.1-40.1 *or* 53.1-133.04, or (iv) any final order for declaratory or injunctive relief under § 57-2.02. The Commonwealth or any county, city or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party

previously could have petitioned the Supreme Court for a writ of error under § 19.2-317. The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § 19.2-398.

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court from a conviction in which a sentence of death is imposed, from a final decision, judgment or order of a circuit court involving a petition for a writ of habeas corpus, from any final finding, decision, order, or judgment of the State Corporation Commission, and from proceedings under §§ 54.1-3935 and 54.1-3937. Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

**§ 17.1-410. Disposition of appeals; finality of decisions.**

A. Each appeal of right taken to the Court of Appeals and each appeal for which a petition for appeal has been granted shall be considered by a panel of the court.

When the Court of Appeals has (i) rejected a petition for appeal, (ii) dismissed an appeal in any case in accordance with the Rules of Court, or (iii) decided an appeal, its decision shall be final, without appeal to the Supreme Court, in:

1. Traffic infraction and misdemeanor cases where no incarceration is imposed;
2. Cases originating before any administrative agency or the Virginia Workers' Compensation Commission;
3. Cases involving the affirmance or annulment of a marriage, divorce, custody, spousal or child support or the control or disposition of a juvenile and other domestic relations cases arising under Title 16.1 or Title 20, or involving adoption under Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2;
4. Appeals in criminal cases pursuant to §§ 19.2-398 and 19.2-401. Such finality of the Court of Appeals' decision shall not preclude a defendant, if he is convicted, from requesting the Court of Appeals or Supreme Court on direct appeal to reconsider an issue which was the subject of the pretrial appeal; and
5. Appeals involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04.

B. Notwithstanding the provisions of subsection A, in any case other than an appeal pursuant to § 19.2-398, in which the Supreme Court determines on a petition for review that the decision of the Court of Appeals involves a substantial constitutional question as a determinative issue or matters of significant precedential value, review may be had in the Supreme Court in accordance with the provisions of § 17.1-411.

**§ 37.2-803. Special justices to perform duties of judge.**

The chief judge of each judicial circuit may appoint one or more special justices, for the purpose of performing the duties required of a judge by this chapter, Chapter 11 (§ 37.2-1100 et seq.), and §§ 16.1-69.28, 16.1-335 through 16.1-348, 19.2-169.6, 19.2-174.1, 19.2-182.9, 53.1-40.1, 53.1-40.2, and 53.1-40.9, and 53.1-133.04. Each special justice shall be a person licensed to practice law in the Commonwealth or a retired or substitute judge in good standing and shall have all the powers and jurisdiction conferred upon a judge. The special justice shall serve under the supervision and at the pleasure of the chief judge of the judicial circuit for a period of up to six years. The special justice may be reappointed and may serve additional periods of up to six years, at the pleasure of the chief judge. Within six months of appointment, each special justice appointed on or after January 1, 1996, shall complete a minimum training program prescribed by the Executive Secretary of the Supreme Court. Special justices shall collect the fees prescribed in this chapter for their service and shall retain those fees, unless the governing body of the county or city in which the services are performed provides for the payment of an annual salary for the services, in which case the fees shall be collected and paid into the treasury of that county or city.

**§ 53.1-133.04. Medical and mental health treatment of prisoners incapable of giving consent.**

A. *The sheriff or administrator in charge of a local or regional correctional facility or his designee may petition the circuit court or any district court judge or any special justice, as defined in § 37.2-100, herein referred to as the court, of the county or city in which the prisoner is located for an order authorizing treatment of a prisoner confined in the local or regional correctional facility. Upon filing the petition, the petitioner or the court shall serve a certified copy of the petition to the person for whom treatment is sought and, if the identity and whereabouts of the person's next of kin are known, to the person's next of kin. The court shall authorize such treatment in a facility designated by the sheriff or administrator upon finding, on the basis of clear and convincing evidence, that the prisoner is incapable, either mentally or physically, of giving informed consent to such treatment; that the prisoner does not have a relevant advanced directive, guardian, or other substitute decision maker; that the proposed treatment is in the best interests of the prisoner; and that the jail has sufficient medical and nursing resources available to safely administer the treatment and respond to any adverse side effects that might arise from the treatment. The facility designated for treatment by the sheriff or administrator may be located within a local or regional correctional facility if such facility is licensed to provide the treatment authorized by the court order.*

B. *Prior to the court's authorization of such treatment, the court shall appoint an attorney to represent the interests of the prisoner. Evidence shall be presented concerning the prisoner's condition and proposed treatment, which evidence may, in the court's discretion and in the absence of objection by the prisoner or the prisoner's attorney, be submitted by affidavit.*

C. *Any order authorizing treatment pursuant to subsection A shall describe the treatment authorized and authorize generally such examinations, tests, medications, and other treatments as are in the best interests of the prisoner but may not authorize nontherapeutic sterilization, abortion, or psychosurgery. Such order shall require the licensed physician, psychiatrist, clinical psychologist, professional counselor, or clinical social worker acting within his area of expertise who is treating the prisoner to report to the court and the prisoner's attorney any change in the prisoner's condition resulting in restoration of the prisoner's capability to consent prior to completion of the authorized treatment and related services. Upon*

receipt of such report, the court may enter such order withdrawing or modifying its prior authorization as it deems appropriate. Any petition or order under this section may be orally presented or entered, provided that a written order is subsequently executed.

D. Prior to authorizing treatment pursuant to this section, the court shall find that there is no available person with legal authority under the Health Care Decisions Act (§ 54.1-2981 et seq.) or under other applicable law to authorize the proposed treatment.

E. Any order of a judge under subsection A may be appealed de novo within 10 days to the circuit court for the jurisdiction where the prisoner is located, and any order of a circuit court hereunder, either originally or on appeal, may be appealed within 10 days to the Court of Appeals, which shall give such appeal priority and hear the appeal as soon as possible.

F. Whenever the director of any hospital or facility reasonably believes that treatment is necessary to protect the life, health, or safety of a prisoner, such treatment may be given during the period allowed for any appeal unless prohibited by order of a court of record wherein the appeal is pending.

G. Upon the advice of a licensed physician, psychiatrist, or clinical psychologist acting within his area of expertise who has attempted to obtain consent and upon a finding of probable cause to believe that a prisoner is incapable, due to any physical or mental condition, of giving informed consent to treatment and that the medical standard of care calls for testing, observation, or other treatment within the next 12 hours to prevent death, disability, or a serious irreversible condition, the court or, if the court is unavailable, a magistrate shall issue an order authorizing temporary admission of the prisoner to a hospital or other health care facility and authorizing such testing, observation, or other treatment. Such order shall expire after a period of 12 hours unless extended by the court as part of an order authorizing treatment under subsection A.

H. Any licensed health or mental health professional or licensed facility providing services pursuant to the court's or magistrate's authorization as provided in this section shall have no liability arising out of a claim to the extent that it is based on lack of consent to such services, except with respect to injury or death resulting from gross negligence or willful and wanton misconduct. Any such professional or facility providing services with the consent of the prisoner receiving treatment shall have no liability arising out of a claim to the extent that it is based on lack of capacity to consent, except with respect to injury or death resulting from gross negligence or willful and wanton misconduct, if a court or a magistrate has denied a petition hereunder to authorize such services and such denial was based on an affirmative finding that the prisoner was capable of making an informed decision regarding the proposed services.

I. Nothing in this section shall be deemed to limit or repeal any common law rule relating to consent for medical treatment or the right to apply or the authority conferred by any other applicable statute or regulation relating to consent.

**§ 53.1-133.05. Place of hearing on medical or mental health treatment of prisoners incapable of giving consent; fees and expenses.**

A. Any hearing held by a court pursuant to § 53.1-133.04 may be held in any courtroom available within the county or city wherein the prisoner is located or any appropriate place that may be made available by the sheriff or administrator in charge of a local or regional correctional facility and approved by the judge. Nothing herein shall be construed as prohibiting holding the hearing on the grounds of a correctional facility or a hospital or a facility for the care and treatment of individuals with mental illness.

B. Any special justice, as defined in § 37.2-100, and any district court substitute judge who presides over hearings pursuant to the provisions of § 53.1-133.04 shall receive a fee as provided in § 37.2-804 for each proceeding under § 53.1-133.04 and his necessary mileage. However, if a commitment hearing under § 19.2-169.6 and the proceeding under § 53.1-133.04 are combined for hearing or are heard on the same day, only one fee shall be allowed.

C. Every physician or clinical psychologist who is not regularly employed by the Commonwealth who is required to serve as a witness for the Commonwealth in any proceeding under § 53.1-133.04 shall receive a fee as provided in § 37.2-804. Other witnesses regularly summoned before a judge shall receive such compensation for their attendance and mileage as is allowed witnesses summoned to testify before grand juries.

D. Every attorney appointed under § 53.1-133.04 shall receive a fee as provided in § 37.2-804 for each proceeding under § 53.1-133.04 for which he is appointed. However, if a commitment hearing under § 19.2-169.6 and the proceeding under § 53.1-133.04 are combined for hearing or are heard on the same day, only one fee shall be allowed.

E. Except as hereinafter provided, all expenses incurred, including the fees, attendance, and mileage aforesaid, shall be paid by the Commonwealth. Any such fees, costs, and expenses incurred in connection with a proceeding under § 53.1-133.04, when paid by the Commonwealth, shall be recoverable by the Commonwealth from the prisoner who is the subject of the examination, hearing, or proceeding or from his estate. No such fees or costs shall be recovered, however, from the prisoner or his estate when no good cause for his admission exists or when the recovery would create an undue financial hardship.

## CHAPTER 810

An Act to amend and reenact §§ 4.1-119 and 4.1-120 of the Code of Virginia, relating to alcoholic beverage control; Sunday store hours; distiller commission.

[H 1770]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-119 and 4.1-120 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-119. Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. *The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold.*

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. (Effective until July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

E. (Effective July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed

pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**§ 4.1-120. When government stores closed.**

A. Except as provided in subsection B, no sale or delivery of alcoholic beverages shall be made at any government store, nor shall any such store be kept open for the sale of alcoholic beverages:

1. On Sunday;
2. On Thanksgiving Day, Christmas Day and New Year's Day; or
3. During such other periods and on such other days as the Board may direct.

B. Certain government stores, as determined by the Board, may be open on Sunday for the sale of alcoholic beverages after ~~1:00 p.m.~~ 10:00 a.m.

**2. That notwithstanding any other provision of law, the Board of Directors (the Board) of the Virginia Alcoholic Beverage Control Authority (the Authority) shall have the power to employ or retain in-house legal counsel to advise or represent the Authority in hearings, controversies, or other matters involving the interests of the Authority; however, upon request by the Board, the Attorney General shall provide legal services for the Authority in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2.**

## CHAPTER 811

*An Act to amend and reenact §§ 4.1-119 and 4.1-120 of the Code of Virginia, relating to alcoholic beverage control; Sunday store hours; distiller commission.*

[S 1668]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-119 and 4.1-120 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-119. Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. *The Authority shall pay a licensed distiller making sales pursuant to an agreement authorized by this subsection a commission of not less than 20 percent of the retail price of the goods sold.*

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. (Effective until July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

E. (Effective July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**§ 4.1-120. When government stores closed.**

A. Except as provided in subsection B, no sale or delivery of alcoholic beverages shall be made at any government store, nor shall any such store be kept open for the sale of alcoholic beverages:

1. On Sunday;
2. On Thanksgiving Day, Christmas Day and New Year's Day; or
3. During such other periods and on such other days as the Board may direct.

B. Certain government stores, as determined by the Board, may be open on Sunday for the sale of alcoholic beverages after ~~1:00 p.m.~~ 10:00 a.m.

**2. That notwithstanding any other provision of law, the Board of Directors (the Board) of the Virginia Alcoholic Beverage Control Authority (the Authority) shall have the power to employ or retain in-house legal counsel to advise or represent the Authority in hearings, controversies, or other matters involving the interests of the Authority; however, upon request by the Board, the Attorney General shall provide legal services for the Authority in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2.**

**CHAPTER 812**

*An Act to amend the Code of Virginia by adding a section numbered 30-19.03:1.3, relating to legislation increasing or beginning regulation of an occupation; evaluation required.*

[H 2028]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 30-19.03:1.3 as follows:**

**§ 30-19.03:1.3. Evaluations to be prepared for legislation increasing or beginning regulation of an occupation.**

A. For the purposes of this section, "regulation" means any statement of general application, having the force of law and affecting the rights or conduct of any person, adopted by an agency in accordance with the authority conferred on it by the Constitution and applicable statutes of the Commonwealth.

B. When any legislative bill requiring the Department of Professional and Occupational Regulation to increase or begin regulation of an occupation is filed during any session of the General Assembly, the Board for Professional and Occupational Regulation (the Board) shall prepare an evaluation of the legislation using the criteria outlined in § 54.1-311.

C. The Division of Legislative Services shall examine all bills filed during any legislative session for the purpose of identifying and forwarding to the Board those bills requiring an evaluation pursuant to this section.

As soon thereafter as may be practicable, the Board shall forward copies of such evaluations to the Clerk of the House of Delegates for House bills and to the Clerk of the Senate for Senate bills for transmittal to each patron of the legislation and to the chairman of each committee of the General Assembly to consider the same.

All departments, agencies of government, and the Division of Legislative Services are directed to make available such information and assistance as the Board may request in preparing the evaluations required by this section.

**CHAPTER 813**

*An Act to provide a new charter for the Town of Eastville in Northampton County and to repeal Chapter 247, as amended, of the Acts of Assembly of 1896, which provided a charter for the Town of Eastville.*

[S 1562]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1.**

*CHARTER  
FOR THE  
TOWN OF EASTVILLE.  
Chapter 1.  
Incorporation and Boundaries.*

**§ 1.1. Incorporation.**

*Be it enacted by the General Assembly of Virginia, that the Town of Eastville in the County of Northampton, as the same has heretofore been or may hereafter be, and as set forth and described in this act, shall be, and the same hereby is, made a town corporate by the name of the Town of Eastville, and by that name shall have and exercise the powers conferred upon towns by the forty-fourth chapter of the Code of Virginia, edition 1887. The inhabitants of the territory comprised within the present limits of the Town of Eastville, as such limits are now or may hereafter be altered and established by law, shall constitute and continue a body politic and corporate, to be known and designated as the Town of Eastville, and as such shall have a perpetual succession, may sue and be sued, implead and be impleaded, contract, and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure by proper ordinance.*

§ 1.2. *Boundaries.*

*The territory embraced within the Town of Eastville is that territory in the County of Northampton, Virginia, established in Chapter 44 of the Acts of Assembly of 1896, and that territory added by the Boundary Agreement entered the 14th day of April, 2017, and depicted on a survey plat by Michael A. Starling, Land Surveyor, with Shoreline Surveyors dated February 28th, 2017, and recorded in the Clerk's Office of Northampton County as Instrument Number 170000517.*

*Chapter 2.*

*Powers.*

§ 2.1. *General Grant of Powers.*

*The Town of Eastville shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this Charter shall be held to be exclusive, and the town shall have, exercise, and enjoy all rights, immunities, powers, and privileges, and be subject to all duties and obligations, now appertaining to and incumbent on the town as a municipal corporation.*

§ 2.2. *Adoption of Certain Sections of the Code of Virginia.*

*The powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2 of the Code of Virginia, as in force on January one, two thousand eighteen, and as may hereafter be amended, are hereby conferred on and vested in the town.*

§ 2.3. *Eminent Domain.*

*The powers of eminent domain set forth in Title 15.2 (§ 15.2-100 et seq.), Title 25 (§ 25.1-100 et seq.), and § 33.2-1020 of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the town.*

*Chapter 3.*

*Mayor and Council.*

§ 3.1. *Election, Qualifications, and Term of Office of Council Persons and Mayor.*

*(a) The Town of Eastville shall be governed by a town council composed of six Council Persons and a Mayor; all of whom shall be qualified voters of the town to be elected from the town at large.*

*(b) The Mayor and Council Persons in office at the time of the passage of this act shall continue in office until their successors are elected and qualified. An election for Mayor and Council Persons shall be held at the next designated elections; the Mayor so elected shall serve a term of two years, with subsequent town elections to be held at two-year intervals thereafter. Terms of office for Mayor and Council Persons shall begin the first day of January next following their elections.*

§ 3.2. *Vacancies on Town Council.*

*Vacancies on the Town Council shall be filled for the unexpired portion of the term by a majority vote of the members of the Town Council within 45 days after the vacancy occurs. The person so elected to fill the vacancy must be a qualified voter and resident of the town.*

§ 3.3. *Vacancies in Office of Mayor.*

*A vacancy in the office of Mayor shall be filled for the unexpired portion of the term by a majority vote of the Town Council; the person so elected to fill the vacancy must be a qualified voter and resident of the town.*

§ 3.4. *Town Council a Continuing Body.*

*The Town Council shall be a continuing body, and no measures pending before such body or any contract or obligation incurred shall abate or be discontinued by reasons of the expiration of the term of office or removal of any of its members.*

§ 3.5. *Powers and Duties of the Mayor.*

*The Mayor shall be the chief executive officer of the town. He shall have and exercise all power and authority conferred by general law not inconsistent with this Charter. He shall preside over the meetings of the Town Council and shall have the same right to speak therein as members of the Town Council, but shall not vote except in the case of a tie vote. He shall have the powers of veto over the ordinances and resolutions of the Town Council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the Council Persons present and voting. He shall be recognized as the head of the town government for all ceremonial purposes. He shall perform such other duties consistent with his office that may be imposed by the Town Council. He shall see that the duties of various officers of the town are faithfully performed. He shall authenticate by his signature such documents or instruments as the Town Council, this Charter, or the laws of the Commonwealth shall require.*

*In the event that there is no chief administrative officer, it shall be the duty of the Mayor to see that the functions set forth in § 15.2-1541 of the Code of Virginia are carried out if the governing body has not acted otherwise.*

§ 3.6. *Vice Mayor.*

*The Town Council shall elect from its members every two years, by a majority of the members present, a Vice Mayor. During the absence or inability of the Mayor to act, the Vice Mayor shall possess the powers and discharge the duties of the Mayor. He shall also have any other duties assigned to him by the Mayor. While serving in the place of the Mayor, the Vice Mayor may vote as member of the Town Council.*

§ 3.7. *Meetings of Town Council.*

*The Town Council shall fix the time of its stated meetings and shall set a meeting at least once a month. A journal shall be kept of its official proceedings, and its meetings shall be open to the public. Four members of the Town Council shall constitute a quorum for the transaction of business at any meeting. Special meetings may be called at any time by the Mayor*

or by any three members of the Town Council, provided that the Mayor and all Council Persons are duly notified in writing a reasonable period of time prior to such meeting, and no business shall be transacted at a special meeting thereof, except that for which it shall be called. If all members are present, this provision may be waived by majority vote of the Town Council at said meeting.

§ 3.8. Town Council to Fix Salaries.

The Town Council is hereby authorized to fix the salary of the Mayor, members of the Town Council, members of the boards of commissions, and employees of the town. The Town Council is authorized to approve the salary of appointed officials of the town, at a sum not to exceed any limitations placed thereon by the laws of the Commonwealth of Virginia.

§ 3.9. Acting Mayor.

In the absence or inability to act of both the Mayor and Vice Mayor, any member of the Town Council may act with all the powers of the Mayor upon the request to do so by the full Town Council, but only during the period of such dual absence and inability.

§ 3.10. General Grant of Powers of Town Council.

The Town Council shall have all power and authority that are now or may hereafter be granted to councils of towns by the general laws of the Commonwealth and by this Charter, and the recital of special powers and authorities herein shall not be taken to exclude the exercise of any power and authority granted by the general laws of the Commonwealth to town councils, but not herein specified.

Chapter 4.

Appointive Officers.

§ 4.1. Appointment.

The Town Council shall appoint such officers of the town as they deem necessary. Such officers may include, but shall not be limited to, a Town Administrator, Chief of Police, Town Clerk, Town Treasurer, and Town Attorney. The enumeration of officers in this section shall not be construed to require the appointment of any of such officers herein named. Officers appointed by the Town Council shall perform such duties as may be specified in this Charter, by the laws of the Commonwealth, or by the Town Council.

§ 4.2. Deputies and Assistants.

The Town Council shall appoint such deputies and assistants to appointive offices as it deems necessary.

§ 4.3. Terms of Office.

Officers, deputies, and assistants appointed by the Town Council shall serve at the will of the Town Council.

§ 4.4. Appointment of One Person to More than One Office.

The Town Council may appoint the same person to more than one appointive office, at the discretion of the Town Council, subject to limitations set forth in the Constitution of Virginia and Title 15.2 (§ 15.2-100 et seq.) of the Code of Virginia, as amended from time to time.

§ 4.5. Duties of Town Administrator.

The Town Administrator shall be the executive officer of the town and shall be responsible to the Town Council and Mayor for the proper administration of the town government. It shall be the duties of the Town Administrator to:

- (a) Attend all meetings of the Town Council, with the right to speak when recognized but not to vote;
- (b) Keep the Mayor and Town Council advised of the financial condition, with advice from the Town Treasurer, and the future needs of the town and all matters pertaining to its proper administration, and make such recommendations as may seem desirable with the assistance of other Charter officers to the Mayor and Town Council;
- (c) Prepare and submit, with the assistance of the Town Treasurer and other town officers, the annual budget of the town and be responsible for its administration after its adoption;
- (d) Submit adequate reports as required by Town Council and Mayor; and
- (e) Perform such other duties as may be prescribed by this Charter, or required in accordance therewith by the Mayor and Town Council, or which may be required by the chief executive officer of a town by the general laws of the Commonwealth.

All employees of the town, except those appointed by the Town Council pursuant to this Charter or the general laws of the Commonwealth, shall be appointed and may be removed by the Town Administrator, who shall report each appointment or removal to the Mayor and Town Council immediately. The Town Council shall designate a person to act as Town Administrator in case of the absence, incapacity, death, or resignation of the Town Administrator, until his return to duty or appointment of a successor. Until such time as the Town Council appoints any such Town Administrator, the duties and powers outlined herein shall be given to the Mayor or such other person as may be designated by the Town Council. The removal of such Town Administrator shall be by majority vote of the Town Council.

§ 4.6. Powers and Duties of Chief of Police.

The Chief of Police shall work closely with the Town Administrator and other town officers and shall report to the Town Council and the Mayor as needed. The removal of the Chief of Police shall be by majority vote of the Town Council.

§ 4.7. Duties of Town Clerk.

The Town Clerk shall be the clerk of the Town Council. The clerk shall keep the journal of the proceedings and shall record all ordinances and resolutions in a book or books kept for this purpose. The clerk shall record the vote of each Council Person on any question submitted to the Town Council as required by law or the Town Council. The clerk shall be the custodian of the corporate seal of the town and shall be the officer authorized to use and authenticate it. The clerk shall

perform such other duties and keep such other records as the Town Council may specify or general laws of the Commonwealth may require of town clerks. All records in the Town Clerk's office shall be public records and open to inspection at any time during regular business hours, subject to such limitations and exceptions as are set forth in the Code of Virginia, as amended from time to time. The Town Clerk shall work with the other officers of the town and shall report to the Mayor and Town Council as needed. The removal of the Town Clerk shall be by majority vote of the Town Council.

§ 4.8. Duties of Town Treasurer.

The Town Treasurer shall collect the town taxes and license fees and shall have the power to levy and sell property for collection of delinquent taxes and fees as given to county treasurers. The Town Treasurer shall work cooperatively with the Town Administrator to provide full financial disclosure and reporting as requested by the Town Council. The Town Treasurer shall work cooperatively with the Town Administrator and other town officers to prepare and assist in the administration of the annual budget, and arrange for an annual audit by a certified public accountant as directed by Town Council, with the approval of the Town Council. The Town Treasurer shall perform such other duties, not inconsistent with the office, as the Mayor and Town Council may direct. The removal of the Town Treasurer shall be by majority vote of the Town Council.

§ 4.9. Duties of Town Attorney.

The Town Attorney shall be the legal advisor of the Town Council and Mayor. The Town Attorney shall represent the town in all legal affairs as may be requested by the Mayor, by the Town Council, or by an officer of the town appointed under provisions of this Charter. The Town Attorney shall serve at the will and pleasure of the Town Council.

§ 4.10. Bonds.

Officers, deputies, and assistants appointed by the Town Council shall execute such bonds as may be required by resolution of the Town Council.

§ 4.11. Vacancies in Office.

The Town Council may fill any vacancy in any appointive office.

§ 4.12. Residence of Officers and Employees.

Any appointive officers or employees of the town may be appointed and serve whether or not the officer or employee is a resident of the town.

§ 4.13. Emergency Management Organizations Management.

The Town of Eastville reserves the right to operate its own emergency management services separate from the County of Northampton if it is deemed necessary by the Town Council at any time. The Town of Eastville recognizes the Town Police Department, as well as the Eastville Volunteer Fire Co. Inc., as an integral part of the official safety program. The management of emergency services shall be under the control and direction of the Chief of Police.

Chapter 5.

Raising of Revenue.

§ 5.1. Assessment of Taxes.

The Town Council shall have the power to assess and tax real or personal property within the town, levy taxes, impose license requirements, and collect the same to any extent not prohibited by laws of the Commonwealth of Virginia.

§ 5.2. Other Revenue-Generating Activity.

The Town Council shall have the power to engage in other revenue-generating activities to any extent not prohibited by the laws of the Commonwealth of Virginia.

Chapter 6.

Financial Provisions.

§ 6.1. Fiscal Year.

The fiscal year of the town shall begin on July one of each year and end on June thirtieth of the year following.

Chapter 7.

Miscellaneous.

§ 7.1. Elections Governed by State Law.

All town elections shall be conducted in the manner prescribed by the laws of the Commonwealth of Virginia.

§ 7.2. Applicability outside Town.

All ordinances of the town, so far as they are applicable, shall apply on, in, or to all land, buildings, and structures owned by or leased or rented to the town and located outside the town.

§ 7.3. Present Officers to Continue.

The present elected officers of the town shall be and remain in office until expiration of their several terms and until their successors have been duly elected and qualified.

§ 7.4. Ordinances Continued in Force.

All ordinances now in force in the Town of Eastville not inconsistent with this Charter shall be and remain in force until altered, amended, or repealed by the Town Council.

§ 7.5. Severability of Provisions.

If any clause, sentence, paragraph, or part of this Charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Charter, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgement shall have been rendered.

§ 7.6. *Disclosure of Interest.*

*The Town Council is hereby empowered to adopt a conflict of interest and disclosure ordinance to govern elected or appointed town officials, or both, not inconsistent with the general laws of the Commonwealth of Virginia.*

**2. That Chapter 247, as amended, of the Acts of Assembly of 1896 is repealed.**

## CHAPTER 814

*An Act to amend and reenact § 4.1-119 of the Code of Virginia, relating to alcoholic beverage control; distiller licensees; commissions and fees.*

[S 1709]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-119 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-119. Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine or cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine or cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller. *Monthly revenue transfers from the licensed distiller to the Board (a) may be submitted electronically and through other methods approved by the Board and (b) notwithstanding the provisions of §§ 2.2-1802 and 4.1-116, shall be limited to the amount due to the Board in applicable taxes and markups.*

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. (Effective until July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

E. (Effective July 1, 2022) No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine or cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage. Such mixed beverage samples may contain spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery, provided that at least 75 percent of the alcohol used in such samples is manufactured on the licensed premises or on contiguous premises of the licensed distillery. An agent of the Board appointed pursuant to subsection D may keep on the licensed premises no more than 10 varieties of spirits or vermouth not manufactured on the licensed premises or on contiguous premises of the licensed distillery. Any spirits or vermouth used in such samples that are not manufactured on the licensed premises or on contiguous premises of the licensed distillery shall be purchased from the Board.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

*Any case fee charged to a licensed distiller by the Board for moving spirits from the production and bailment area to the tasting area of a government store established by the Board on the distiller's licensed premises shall be waived if such spirits are moved by employees of the licensed distiller.*

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**2. That the provisions of this act shall become effective on July 1, 2020.**

## CHAPTER 815

*An Act to amend and reenact §§ 58.1-601 and 58.1-602, as they are currently effective, 58.1-604, as it is currently effective and as it may become effective, 58.1-605, as it is currently effective, 58.1-612, 58.1-615, as it is currently effective, 58.1-625, as it is currently effective and as it shall become effective, and 58.1-635, as it is currently effective, of the Code of Virginia and the fourth enactment of Chapter 766 of the Acts of Assembly of 2013; to amend the Code of Virginia by adding a section numbered 58.1-612.1; and to repeal the provisions of Chapter 766 of the Acts of Assembly of 2013 amending §§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, 58.1-615, and 58.1-635, as they may become effective, and to repeal the seventh and fifteenth enactments of Chapter 766 of the Acts of Assembly of 2013 and the twelfth enactment of Chapter 684 of the Acts of Assembly of 2015, as amended by Chapters 854 and 856 of the Acts of Assembly of 2018, relating to remote sales and use tax collection and sufficient activity by dealers and marketplace facilitators as to require registration for sales and use tax collection.*

[H 1722]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-601 and 58.1-602, as they are currently effective, 58.1-604, as it is currently effective and as it may become effective, 58.1-605, as it is currently effective, 58.1-612, 58.1-615, as it is currently effective, 58.1-625, as it is currently effective and as it shall become effective, and 58.1-635, as it is currently effective, of the Code of Virginia and the fourth enactment of Chapter 766 of the Acts of Assembly of 2013 are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-612.1 as follows:**

**§ 58.1-601. (Contingent expiration date) Administration of chapter.**

A. The Tax Commissioner shall administer and enforce the assessment and collection of the taxes and penalties imposed by this chapter, *including the collection of state and local sales and use taxes from remote sellers.*

B. In administering the collection of state and local sales and use taxes from remote sellers, the Tax Commissioner shall:

1. Provide adequate information to remote sellers to enable them to identify state and local sales and use tax rates and exemptions;

2. Provide adequate information to software providers to enable them to make software and services available to remote sellers;

3. Ensure that if the Department requires a periodic audit the remote seller may complete a single audit that covers the state and local sales and use taxes in all localities; and

4. Require no more than one sales and use tax return per month be filed with the Department by any remote seller or any software provider on behalf of such remote seller.

C. For purposes of evaluating the fiscal, economic and policy impact of sales and use tax exemptions, the Tax Commissioner may require from any person information relating to the evaluation of exempt purchases or sales, information relating to the qualification for exempt purchases, and information relating to direct or indirect government financial assistance ~~which~~ that the person receives. Such information shall be filed on forms prescribed by the Tax Commissioner.

**§ 58.1-602. (Contingent expiration date) Definitions.**

As used in this chapter, unless the context clearly shows otherwise, ~~the term or phrase:~~

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined ~~herein~~ in this section shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program ~~which~~ that is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person ~~who~~ that has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" ~~shall~~ does not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, ~~such term shall~~ "integrated process" does not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected ~~world-wide~~ worldwide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. ~~The term "manufacturing" shall "Manufacturing"~~ also ~~include~~ *includes* the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination *of* whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" ~~shall include~~ *includes*, but *is not be* limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but ~~shall is not be~~ limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a "modular building" ~~shall~~ *does* not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person ~~or corporation who~~ *that* owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person ~~who that~~ purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which ~~he it~~ is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided *that* such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, ~~shall also include~~ *includes* Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of ~~such term shall mean~~ *"person" means* the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

*"Remote seller" means any dealer deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of § 58.1-612 or any software provider acting on behalf of such dealer.*

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" ~~shall~~ specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when

because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also ~~shall~~ specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

The term "transient" ~~shall~~ does not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient, provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" ~~shall~~ do not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" ~~shall~~ does not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property ~~which~~ that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. ~~The term "tangible~~ "Tangible personal property" ~~shall~~ does not include stocks, bonds, notes, insurance or other obligations or securities. ~~The term "tangible~~ "Tangible personal property" ~~shall~~

~~include~~ *includes* (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. ~~The term "Use"~~ does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. ~~The term "Use"~~ does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as ~~herein~~ defined in this section.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities ~~which that~~ are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, ~~it shall refer~~ "used directly" refers to the activities specified ~~above~~, in this definition and, in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person ~~or entity~~ that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator, including, but not limited to, Internet service.

#### **§ 58.1-604. (Contingent expiration date) Imposition of use tax.**

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of 4.3 percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property that has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

~~5. (Contingent repeal date — see note) The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.~~

#### **§ 58.1-604. (Contingent effective date) Imposition of use tax.**

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

~~5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.~~

**§ 58.1-605. (Contingent expiration date) To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.**

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section.

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on a local sales tax.

C. 1. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this section, and providing that such ordinance shall be effective on the first day of a month at least 60 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

2. *Prior to any change in the rate of any local sales and use tax, the Tax Commissioner shall provide remote sellers with at least 30 days' notice. Any change in the rate of any local sales and use tax shall only become effective on the first day of a calendar quarter. Failure to provide notice pursuant to this section shall require the Commonwealth and the locality to apply the preceding effective rate until 30 days after notification is provided.*

D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G above, that in any county wherein is situated any incorporated town not constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H of this section be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

**§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.**

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons ~~who that~~ are dealers, as ~~hereinafter~~ defined in *this section*, and ~~who that~~ have sufficient contact with the Commonwealth to qualify under (i) subsections ~~(+) B~~ and C or (ii) subsections B and D.

B. ~~The term "dealer," as~~ As used in this chapter, ~~shall include "dealer" includes~~ every person ~~who that~~:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

3. Sells at retail, or ~~who that~~ offers for sale at retail, or ~~who that~~ has in ~~his its~~ possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible personal property;

4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this Commonwealth, tangible personal property and ~~who that~~ cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal property;

5. Leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;

6. Is the lessee or rentee of tangible personal property and ~~who that~~ pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;

7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or

8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether ~~he it~~ holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if ~~he it~~:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;

2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;

3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than 12 times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; ~~or~~

9. Owns tangible personal property that is for sale located in this Commonwealth, or that is rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth;

10. *Receives more than \$100,000 in gross revenue, or other minimum amount as may be required by federal law, from retail sales in the Commonwealth in the previous or current calendar year; provided that in determining the amount of a dealer's gross revenues, the sales made by all commonly controlled persons as defined in subsection D shall be aggregated; or*

11. *Engages in 200 or more separate retail sales transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year; provided that in determining the total number of a*

*dealer's retail sales transactions, the sales made by all commonly controlled persons as defined in subsection D shall be aggregated.*

D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its customers. The presumption in this subsection may be rebutted by demonstrating that the activities conducted by the commonly controlled person in the Commonwealth are not significantly associated with the dealer's ability to establish or maintain a market in the Commonwealth for the dealer's sales. For purposes of this subsection, a "commonly controlled person" means any person that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the dealer as a corporation that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered.

E. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person ~~who~~ *that* has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;
2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;
3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and
4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained ~~herein~~ *(in this chapter other than in subsection E)* shall limit any authority ~~which~~ *that* this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer ~~who~~ *that* regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

~~G. (Contingent effective date) Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax, the Commonwealth is authorized, as permitted by such federal legislation, to require collection of sales and use tax by any remote seller, or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount, then in determining such amount, the sales made by all persons related within the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.~~

**§ 58.1-612.1. Tax collectible from marketplace facilitators; "marketplace facilitator" defined.**

A. As used in this chapter:

"Marketplace facilitator" means a person that contracts with a marketplace seller to facilitate, for consideration and regardless of whether such consideration is deducted as fees from transactions, the sale of such marketplace seller's products through a physical or electronic marketplace operated by such person. "Marketplace facilitator" does not include a payment processor business appointed by a merchant to handle payment transactions from various channels, such as credit cards and debit cards, and whose sole activity with respect to marketplace sales is to handle transactions between two parties. "Marketplace facilitator" does not include a platform or forum that exclusively provides internet advertising services, including any advertisements that may list products for sale, so long as such platform or forum does not also engage directly or indirectly through one or more commonly controlled persons, as defined in subsection D of § 58.1-612, in the activities described in subsection C.

"Marketplace seller" means a person that is not a commonly controlled person, as defined in subsection D of § 58.1-612, to a marketplace facilitator and that makes sales through any physical or electronic marketplace operated by such marketplace facilitator, even if such seller would not have been required to collect and remit sales and use tax had the sale not been made through such marketplace.

B. The tax levied under this chapter shall be collectible from all persons that are marketplace facilitators that have sufficient contact with Virginia to require registration under subsection C.

C. A marketplace facilitator shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if it meets at least one requirement in each of subdivisions 1, 2, and 3:

1. It engages, either directly or indirectly, through a commonly controlled person as defined in subsection D of § 58.1-612 in any of the following activities:

- a. Transmitting or communicating an offer or acceptance between a purchaser and a marketplace seller;

*b. Owning or operating the infrastructure, whether electronic or physical, or technology that brings purchasers and marketplace sellers together; or*

*c. Providing a virtual currency that purchasers are allowed or required to use to purchase products from the marketplace seller;*

*2. It engages in any of the following activities with respect to a marketplace seller's products:*

*a. Payment processing;*

*b. Fulfillment or storage;*

*c. Listing products for sale;*

*d. Setting prices;*

*e. Branding sales as those of the marketplace facilitator; or*

*f. Providing customer service or accepting or assisting with returns or exchanges; and*

*3. It establishes economic nexus through either of the following activities:*

*a. Facilitating sales in Virginia that, in the aggregate, generate more than \$100,000 in gross revenue, or other minimum amount as may be required by federal law, for such marketplace facilitator. A marketplace facilitator may exceed this threshold based on sales for either the previous or current calendar year. In determining the amount of a marketplace facilitator's gross revenues, the sales made by all commonly controlled persons, as defined in subsection D of § 58.1-612, shall be aggregated; or*

*b. Facilitating 200 or more separate retail sale transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year. In determining the total number of retail sales transactions attributable to a marketplace facilitator, the sales made by all commonly controlled persons, as defined in subsection D of § 58.1-612, shall be aggregated.*

*D. 1. A marketplace facilitator shall be considered a dealer for purposes of this chapter and shall collect the tax imposed by this chapter on all transactions that it facilitates through its marketplace.*

*2. No marketplace seller shall collect sales and use tax on a transaction made through a marketplace facilitator's marketplace.*

*3. Notwithstanding the provisions of subdivisions 1 and 2, the Department shall allow for a waiver from the requirements of subdivisions 1 and 2 if a marketplace facilitator demonstrates, to the satisfaction of the Commissioner, that either (i) all of its marketplace sellers already are registered dealers under § 58.1-613 or (ii) the marketplace seller has sufficient nexus to require registration under § 58.1-613 and that collection of the tax by the marketplace facilitator for such marketplace seller would create an undue burden or hardship for either party. If such waiver is granted, the tax levied under this chapter shall be collectible from the marketplace seller. The Department shall develop guidelines that establish (a) the criteria for obtaining a waiver pursuant to this section, (b) the process and procedure for a marketplace facilitator to apply for a waiver, and (c) the process for providing notice to an affected marketplace facilitator and marketplace seller of a waiver obtained pursuant to this subdivision.*

*E. A marketplace facilitator shall be relieved from liability, including penalties and interest, for the incorrect collection or remittance of sales and use tax on transactions it facilitates or for which it is the seller if the error is due to reasonable reliance on (i) an invalid exemption certificate provided by the marketplace seller or the purchaser; (ii) incorrect or insufficient information provided by the Commonwealth; or (iii) incorrect or insufficient information provided by the marketplace seller or purchaser regarding the tax classification or proper sourcing of an item or transaction, provided that the marketplace facilitator can demonstrate it made a reasonable effort to obtain accurate information from the marketplace seller or purchaser. The relief from liability afforded to the marketplace facilitator pursuant to this subsection shall not exceed the total amount of tax due from the marketplace facilitator on the incorrect transaction independent of any penalties or interest that would have otherwise applied. Any deficiency resulting from incorrect information provided by the marketplace seller or as the result of an audit shall be the liability of the marketplace seller.*

*F. A marketplace facilitator is the sole entity subject to audit by the Department for sales and use tax collection for all transactions facilitated by the marketplace facilitator unless (i) the marketplace facilitator can demonstrate that its failure to collect the proper tax was due to incorrect information provided by the marketplace seller or (ii) the marketplace seller is subject to a waiver granted pursuant to subdivision D 3.*

*G. If a marketplace facilitator lacks physical presence in the Commonwealth and has both facilitated and made direct sales into the Commonwealth, both types of sales shall be considered in determining whether it has established economic nexus.*

*H. When a marketplace seller that is not otherwise required to register for the collection of the tax under any of the provisions contained in subdivisions C 1 through 9 of § 58.1-612 makes both direct sales and sales on a marketplace facilitator's marketplace, only the marketplace seller's direct sales shall be considered in determining whether the marketplace seller is required to register for the collection of the tax under subdivision C 10 or 11 of § 58.1-612.*

*I. No class action shall be brought against a marketplace facilitator in any court of the Commonwealth on behalf of customers arising from or in any way related to an overpayment of sales and use tax collected on sales facilitated by the marketplace facilitator, regardless of whether such claim is characterized as a tax refund claim. Nothing in this subsection shall affect a customer's right to seek a refund on an individual basis.*

**§ 58.1-615. (Contingent expiration date) Returns by dealers.**

A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day of the month following the month in which the tax shall become effective, transmit to the Tax Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be, arising from all transactions taxable under this chapter during the preceding calendar month, and thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or before the twentieth day of each month, for the preceding calendar month. In the case of dealers regularly keeping books and accounts on the basis of an annual period which varies 52 to 53 weeks, the Tax Commissioner may make rules and regulations for reporting consistent with such accounting period.

Notwithstanding any other provision of this chapter, a dealer may be required by the Tax Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when, in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or before the twentieth day of the month following the close of the period. Each such return shall contain all information required for monthly returns.

A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable to remit to the Tax Commissioner any tax for the period covered by the return.

*The Tax Commissioner shall not require that more than one sales and use tax return per month be filed with the Department by any remote seller or any software provider on behalf of such remote seller.*

B. [Expired.]

C. Any return required to be filed with the Tax Commissioner under this section shall be deemed to have been filed with the Tax Commissioner on the date that such return is delivered by the dealer to the commissioner of the revenue or the treasurer for the locality in which the dealer is located and receipt is acknowledged by the commissioner of the revenue or treasurer. The commissioner of the revenue or the treasurer shall stamp such date on the return, and shall mail the return to the Tax Commissioner no later than the following business day. The commissioner of the revenue or the treasurer may collect from the dealer the cost of postage for such mailing.

D. Every dealer ~~who that~~ elects to file a consolidated sales tax return for any taxable period and ~~who that~~ is required to remit payment by electronic funds transfer pursuant to subsection B of § 58.1-202.1 beginning on and after July 1, 2010, shall file ~~his its~~ monthly return using an electronic medium prescribed by the Tax Commissioner. A waiver of this requirement may be granted if the Tax Commissioner determines that it creates an unreasonable burden on the dealer.

**§ 58.1-625. (Effective until July 1, 2022) Collection of tax.**

A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter may be maintained in this Commonwealth by any dealer ~~who that~~ is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until ~~he it~~ can affirmatively show that the tax has since been refunded to the purchaser or credited to ~~his its~~ account.

D. 1. Any dealer ~~who that~~ neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by ~~him it, his its~~ agents, or employees shall be liable for and pay the tax ~~himself itself~~, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer ~~who that~~ neglects, fails, or refuses to pay or collect the tax herein provided, either by ~~himself itself~~ or through ~~his its~~ agents or employees, ~~shall be is~~ guilty of a Class 1 misdemeanor.

2. *Notwithstanding subdivision 1, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

E. ~~(Contingent effective date) Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.~~

~~F. All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.~~

F. Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in §§ 58.1-611.2 and 58.1-611.3 or subdivision 18 of § 58.1-609.1 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax ~~himself itself~~. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as ~~he it~~ is for tax collected from a purchaser pursuant to this section.

**§ 58.1-625. (Effective July 1, 2022) Collection of tax.**

A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter may be maintained in this Commonwealth by any dealer ~~who that~~ is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until ~~he it~~ can affirmatively show that the tax has since been refunded to the purchaser or credited to ~~his its~~ account.

D. 1. Any dealer ~~who that~~ neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by ~~him it~~, ~~his its~~ agents, or employees shall be liable for and pay the tax ~~himself itself~~, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer ~~who that~~ neglects, fails, or refuses to pay or collect the tax herein provided, either by ~~himself itself~~ or through ~~his its~~ agents or employees, ~~shall be is~~ guilty of a Class 1 misdemeanor.

2. *Notwithstanding subdivision 1, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

E. ~~(Contingent effective date — see Editor's note) Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.~~

F. All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

F. Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in § 58.1-611.2 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax ~~himself itself~~. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as ~~he it~~ is for tax collected from a purchaser pursuant to this section.

**§ 58.1-635. (Contingent expiration date) Failure to file return; fraudulent return; civil penalties.**

A. When any dealer fails to make any return and pay the full amount of the tax required by this chapter, there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed ~~thirty~~ 30 percent in the aggregate. In no case, however, shall the penalty be less than ~~ten dollars~~ \$10 and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the Tax Commissioner, such return with or without remittance may be accepted exclusive of penalties. In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any tax due under this chapter, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of ~~fifty~~ 50 percent of the amount of the proper tax shall be assessed. All penalties and interest imposed by this chapter shall be payable by the dealer and collectible by the Tax Commissioner in the same manner as if they were a part of the tax imposed.

B. It shall be prima facie evidence of intent to defraud the Commonwealth of any tax due under this chapter when any dealer reports ~~his its~~ gross sales, gross proceeds or cost price, as the case may be, at ~~fifty~~ 50 percent or less of the actual amount.

C. Interest at a rate determined in accordance with § 58.1-15, shall accrue on the tax until the same is paid, or until an assessment is made, pursuant to § 58.1-15, after which interest shall accrue as provided therein.

D. *Notwithstanding any other provision of this section, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

2. That the provisions of Chapter 766 of the Acts of Assembly of 2013 amending §§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, 58.1-615, and 58.1-635, as they may become effective, of the Code of Virginia are repealed.

3. That the fourth enactment of Chapter 766 of the Acts of Assembly of 2013 is amended and reenacted as follows:

4. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia, §§ ~~58.1-609-13~~, 58.1-2289, as it may become effective, 58.1-2290, and 58.1-2701, as it may become effective, of the Code of Virginia and the second enactment of Chapter 822 of the Acts of Assembly of 2009, as amended by Chapter 535 of the Acts of Assembly of 2012, are repealed.

4. That the seventh and fifteenth enactments of Chapter 766 of the Acts of Assembly of 2013 and the twelfth enactment of Chapter 684 of the Acts of Assembly of 2015, as amended by Chapters 854 and 856 of the Acts of Assembly of 2018, are repealed.
5. That nothing in this act shall be construed to appropriate or transfer any transportation revenues for nontransportation purposes pursuant to the twenty-second enactment of Chapter 896 of the Acts of Assembly of 2007 or the fourteenth enactment of Chapter 766 of the Acts of Assembly of 2013.
6. That the provisions of this act requiring remote sales and use tax collection by remote sellers and marketplace facilitators shall not apply to any retail sales transactions occurring before July 1, 2019; however, transactions occurring before July 1, 2019, may be included in the calculation of gross revenue or retail transactions pursuant to the provisions of subdivisions C 10 and 11 of § 58.1-612 of the Code of Virginia, as amended by this act. Upon written application and for good cause shown, in order to ensure the accurate and timely collection of taxes due, the Department of Taxation may temporarily suspend or delay the collection or reporting requirements, or both, of a marketplace facilitator for a period not to exceed 90 days after collection is required.
7. That the Department of Taxation shall develop guidelines implementing the provisions of this act, including guidelines implementing the provisions of subsection D of § 58.1-612.1 of the Code of Virginia, as created by this act, creating a waiver. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).
8. That should any portion of this act be held unconstitutional by a court of competent jurisdiction, the remaining portions of this act shall remain in effect.

### CHAPTER 816

*An Act to amend and reenact §§ 58.1-601 and 58.1-602, as they are currently effective, 58.1-604, as it is currently effective and as it may become effective, 58.1-605, as it is currently effective, 58.1-612, 58.1-615, as it is currently effective, 58.1-625, as it is currently effective and as it shall become effective, and 58.1-635, as it is currently effective, of the Code of Virginia and the fourth enactment of Chapter 766 of the Acts of Assembly of 2013; to amend the Code of Virginia by adding a section numbered 58.1-612.1; and to repeal the provisions of Chapter 766 of the Acts of Assembly of 2013 amending §§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, 58.1-615, and 58.1-635, as they may become effective, and to repeal the seventh and fifteenth enactments of Chapter 766 of the Acts of Assembly of 2013 and the twelfth enactment of Chapter 684 of the Acts of Assembly of 2015, as amended by Chapters 854 and 856 of the Acts of Assembly of 2018, relating to remote sales and use tax collection and sufficient activity by dealers and marketplace facilitators as to require registration for sales and use tax collection.*

[S 1083]

Approved March 26, 2019

#### **Be it enacted by the General Assembly of Virginia:**

1. That §§ 58.1-601 and 58.1-602, as they are currently effective, 58.1-604, as it is currently effective and as it may become effective, 58.1-605, as it is currently effective, 58.1-612, 58.1-615, as it is currently effective, 58.1-625, as it is currently effective and as it shall become effective, and 58.1-635, as it is currently effective, of the Code of Virginia and the fourth enactment of Chapter 766 of the Acts of Assembly of 2013 are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-612.1 as follows:

#### **§ 58.1-601. (Contingent expiration date) Administration of chapter.**

A. The Tax Commissioner shall administer and enforce the assessment and collection of the taxes and penalties imposed by this chapter, *including the collection of state and local sales and use taxes from remote sellers.*

B. *In administering the collection of state and local sales and use taxes from remote sellers, the Tax Commissioner shall:*

1. *Provide adequate information to remote sellers to enable them to identify state and local sales and use tax rates and exemptions;*
2. *Provide adequate information to software providers to enable them to make software and services available to remote sellers;*
3. *Ensure that if the Department requires a periodic audit the remote seller may complete a single audit that covers the state and local sales and use taxes in all localities; and*
4. *Require no more than one sales and use tax return per month be filed with the Department by any remote seller or any software provider on behalf of such remote seller.*

C. For purposes of evaluating the fiscal, economic and policy impact of sales and use tax exemptions, the Tax Commissioner may require from any person information relating to the evaluation of exempt purchases or sales, information relating to the qualification for exempt purchases, and information relating to direct or indirect government financial assistance ~~which~~ that the person receives. Such information shall be filed on forms prescribed by the Tax Commissioner.

#### **§ 58.1-602. (Contingent expiration date) Definitions.**

As used in this chapter, unless the context clearly shows otherwise, ~~the term or phrase:~~

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined ~~herein~~ *in this section* shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program ~~which~~ *that* is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person ~~who~~ *that* has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" ~~shall~~ *does* not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, ~~such term shall~~ *"integrated process" does* not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected ~~world-wide~~ *worldwide* network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. ~~The term "manufacturing" shall~~ *"Manufacturing" also include* ~~includes~~ the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination *of* whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" ~~shall include~~ *includes*, but ~~is not be~~ limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but ~~shall is not be~~ limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property,

primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a "modular building ~~shall~~" *does* not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person ~~or corporation who that~~ owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person ~~who that~~ purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which ~~he it~~ is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided *that* such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, ~~shall also include~~ *includes* Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of ~~such term shall mean~~ "person" means the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Remote seller" *means any dealer deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of § 58.1-612 or any software provider acting on behalf of such dealer.*

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" ~~shall~~ specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also ~~shall~~ specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

The term "transient" ~~shall~~ *does* not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to

use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient, provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall do not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall does not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. ~~The term "tangible "Tangible personal property" shall does not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible "Tangible personal property" shall include includes~~ (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. ~~The term "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term "Use" does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.~~

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as ~~herein~~ defined in this section.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities ~~which that~~ are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, ~~it shall refer~~ "used directly" refers to the activities specified ~~above~~, in this definition and, in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person ~~or entity~~ that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator, including, but not limited to, Internet service.

**§ 58.1-604. (Contingent expiration date) Imposition of use tax.**

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of 4.3 percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property that has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

~~5. (Contingent repeal date — see note) The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.~~

**§ 58.1-604. (Contingent effective date) Imposition of use tax.**

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

~~5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.~~

**§ 58.1-605. (Contingent expiration date) To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.**

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section.

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on a local sales tax.

C. 1. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this section, and providing that such ordinance shall be effective on the first day of a month at least 60 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

2. *Prior to any change in the rate of any local sales and use tax, the Tax Commissioner shall provide remote sellers with at least 30 days' notice. Any change in the rate of any local sales and use tax shall only become effective on the first day of a calendar quarter. Failure to provide notice pursuant to this section shall require the Commonwealth and the locality to apply the preceding effective rate until 30 days after notification is provided.*

D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G above, that in any county wherein is situated any incorporated town not constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H of this section be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

**§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.**

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons ~~who that~~ are dealers, as hereinafter defined in this section, and ~~who that~~ have sufficient contact with the Commonwealth to qualify under (i) subsections (i) B and C or (ii) subsections B and D.

B. ~~The term "dealer,"~~ as used in this chapter, shall include "dealer" includes every person ~~who that~~:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

3. Sells at retail, or ~~who that~~ offers for sale at retail, or ~~who that~~ has in ~~his its~~ possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible personal property;

4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this Commonwealth, tangible personal property and ~~who that~~ cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal property;

5. Leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;

6. Is the lessee or rentee of tangible personal property and ~~who that~~ pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;

7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or

8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether ~~he it~~ holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if ~~he it~~:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;

2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;

3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than 12 times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; ~~or~~

9. Owns tangible personal property that is for sale located in this Commonwealth, or that is rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth;

10. *Receives more than \$100,000 in gross revenue, or other minimum amount as may be required by federal law, from retail sales in the Commonwealth in the previous or current calendar year, provided that in determining the amount of a dealer's gross revenues, the sales made by all commonly controlled persons as defined in subsection D shall be aggregated; or*

11. *Engages in 200 or more separate retail sales transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year, provided that in determining the total number of a dealer's retail sales transactions, the sales made by all commonly controlled persons as defined in subsection D shall be aggregated.*

D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its customers. The presumption in this subsection may be rebutted by demonstrating that the activities conducted by the commonly controlled person in the Commonwealth are not significantly associated with the dealer's ability to establish or maintain a market in the Commonwealth for the dealer's sales. For purposes of this subsection, a "commonly controlled person" means any person that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the dealer as a corporation that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered.

E. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person ~~who that~~ has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;

2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained ~~herein~~ *(in this chapter* other than *in* subsection E) shall limit any authority ~~which~~ *that* this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer ~~who~~ *that* regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

G. ~~(Contingent effective date) Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax, the Commonwealth is authorized, as permitted by such federal legislation, to require collection of sales and use tax by any remote seller, or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount, then in determining such amount, the sales made by all persons related within the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.~~

**§ 58.1-612.1. Tax collectible from marketplace facilitators; "marketplace facilitator" defined.**

A. As used in this chapter:

"Marketplace facilitator" means a person that contracts with a marketplace seller to facilitate, for consideration and regardless of whether such consideration is deducted as fees from transactions, the sale of such marketplace seller's products through a physical or electronic marketplace operated by such person. "Marketplace facilitator" does not include a payment processor business appointed by a merchant to handle payment transactions from various channels, such as credit cards and debit cards, and whose sole activity with respect to marketplace sales is to handle transactions between two parties. "Marketplace facilitator" does not include a platform or forum that exclusively provides internet advertising services, including any advertisements that may list products for sale, so long as such platform or forum does not also engage directly or indirectly through one or more commonly controlled persons, as defined in subsection D of § 58.1-612, in the activities described in subsection C.

"Marketplace seller" means a person that is not a commonly controlled person, as defined in subsection D of § 58.1-612, to a marketplace facilitator and that makes sales through any physical or electronic marketplace operated by such marketplace facilitator, even if such seller would not have been required to collect and remit sales and use tax had the sale not been made through such marketplace.

B. The tax levied under this chapter shall be collectible from all persons that are marketplace facilitators that have sufficient contact with Virginia to require registration under subsection C.

C. A marketplace facilitator shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if it meets at least one requirement in each of subdivisions 1, 2, and 3:

1. It engages, either directly or indirectly, through a commonly controlled person as defined in subsection D of § 58.1-612 in any of the following activities:

- a. Transmitting or communicating an offer or acceptance between a purchaser and a marketplace seller;
- b. Owning or operating the infrastructure, whether electronic or physical, or technology that brings purchasers and marketplace sellers together; or
- c. Providing a virtual currency that purchasers are allowed or required to use to purchase products from the marketplace seller;

2. It engages in any of the following activities with respect to a marketplace seller's products:

- a. Payment processing;
- b. Fulfillment or storage;
- c. Listing products for sale;
- d. Setting prices;
- e. Branding sales as those of the marketplace facilitator; or
- f. Providing customer service or accepting or assisting with returns or exchanges; and

3. It establishes economic nexus through either of the following activities:

- a. Facilitating sales in Virginia that, in the aggregate, generate more than \$100,000 in gross revenue, or other minimum amount as may be required by federal law, for such marketplace facilitator. A marketplace facilitator may exceed this threshold based on sales for either the previous or current calendar year. In determining the amount of a marketplace facilitator's gross revenues, the sales made by all commonly controlled persons, as defined in subsection D of § 58.1-612, shall be aggregated; or

*b. Facilitating 200 or more separate retail sale transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year. In determining the total number of retail sales transactions attributable to a marketplace facilitator, the sales made by all commonly controlled persons, as defined in subsection D of § 58.1-612, shall be aggregated.*

*D. 1. A marketplace facilitator shall be considered a dealer for purposes of this chapter and shall collect the tax imposed by this chapter on all transactions that it facilitates through its marketplace.*

*2. No marketplace seller shall collect sales and use tax on a transaction made through a marketplace facilitator's marketplace.*

*3. Notwithstanding the provisions of subdivisions 1 and 2, the Department shall allow for a waiver from the requirements of subdivisions 1 and 2 if a marketplace facilitator demonstrates, to the satisfaction of the Commissioner, that either (i) all of its marketplace sellers already are registered dealers under § 58.1-613 or (ii) the marketplace seller has sufficient nexus to require registration under § 58.1-613 and that collection of the tax by the marketplace facilitator for such marketplace seller would create an undue burden or hardship for either party. If such waiver is granted, the tax levied under this chapter shall be collectible from the marketplace seller. The Department shall develop guidelines that establish (a) the criteria for obtaining a waiver pursuant to this section, (b) the process and procedure for a marketplace facilitator to apply for a waiver, and (c) the process for providing notice to an affected marketplace facilitator and marketplace seller of a waiver obtained pursuant to this subdivision.*

*E. A marketplace facilitator shall be relieved from liability, including penalties and interest, for the incorrect collection or remittance of sales and use tax on transactions it facilitates or for which it is the seller if the error is due to reasonable reliance on (i) an invalid exemption certificate provided by the marketplace seller or the purchaser; (ii) incorrect or insufficient information provided by the Commonwealth; or (iii) incorrect or insufficient information provided by the marketplace seller or purchaser regarding the tax classification or proper sourcing of an item or transaction, provided that the marketplace facilitator can demonstrate it made a reasonable effort to obtain accurate information from the marketplace seller or purchaser. The relief from liability afforded to the marketplace facilitator pursuant to this subsection shall not exceed the total amount of tax due from the marketplace facilitator on the incorrect transaction independent of any penalties or interest that would have otherwise applied. Any deficiency resulting from incorrect information provided by the marketplace seller or as the result of an audit shall be the liability of the marketplace seller.*

*F. A marketplace facilitator is the sole entity subject to audit by the Department for sales and use tax collection for all transactions facilitated by the marketplace facilitator unless (i) the marketplace facilitator can demonstrate that its failure to collect the proper tax was due to incorrect information provided by the marketplace seller or (ii) the marketplace seller is subject to a waiver granted pursuant to subdivision D 3.*

*G. If a marketplace facilitator lacks physical presence in the Commonwealth and has both facilitated and made direct sales into the Commonwealth, both types of sales shall be considered in determining whether it has established economic nexus.*

*H. When a marketplace seller that is not otherwise required to register for the collection of the tax under any of the provisions contained in subdivisions C 1 through 9 of § 58.1-612 makes both direct sales and sales on a marketplace facilitator's marketplace, only the marketplace seller's direct sales shall be considered in determining whether the marketplace seller is required to register for the collection of the tax under subdivision C 10 or 11 of § 58.1-612.*

*I. No class action shall be brought against a marketplace facilitator in any court of the Commonwealth on behalf of customers arising from or in any way related to an overpayment of sales and use tax collected on sales facilitated by the marketplace facilitator, regardless of whether such claim is characterized as a tax refund claim. Nothing in this subsection shall affect a customer's right to seek a refund on an individual basis.*

**§ 58.1-615. (Contingent expiration date) Returns by dealers.**

A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day of the month following the month in which the tax shall become effective, transmit to the Tax Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be, arising from all transactions taxable under this chapter during the preceding calendar month, and thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or before the twentieth day of each month, for the preceding calendar month. In the case of dealers regularly keeping books and accounts on the basis of an annual period which varies 52 to 53 weeks, the Tax Commissioner may make rules and regulations for reporting consistent with such accounting period.

Notwithstanding any other provision of this chapter, a dealer may be required by the Tax Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when, in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or before the twentieth day of the month following the close of the period. Each such return shall contain all information required for monthly returns.

A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable to remit to the Tax Commissioner any tax for the period covered by the return.

*The Tax Commissioner shall not require that more than one sales and use tax return per month be filed with the Department by any remote seller or any software provider on behalf of such remote seller.*

B. [Expired.]

C. Any return required to be filed with the Tax Commissioner under this section shall be deemed to have been filed with the Tax Commissioner on the date that such return is delivered by the dealer to the commissioner of the revenue or the treasurer for the locality in which the dealer is located and receipt is acknowledged by the commissioner of the revenue or treasurer. The commissioner of the revenue or the treasurer shall stamp such date on the return, and shall mail the return to the Tax Commissioner no later than the following business day. The commissioner of the revenue or the treasurer may collect from the dealer the cost of postage for such mailing.

D. Every dealer ~~who that~~ elects to file a consolidated sales tax return for any taxable period and ~~who that~~ is required to remit payment by electronic funds transfer pursuant to subsection B of § 58.1-202.1 beginning on and after July 1, 2010, shall file ~~his its~~ monthly return using an electronic medium prescribed by the Tax Commissioner. A waiver of this requirement may be granted if the Tax Commissioner determines that it creates an unreasonable burden on the dealer.

**§ 58.1-625. (Effective until July 1, 2022) Collection of tax.**

A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter may be maintained in this Commonwealth by any dealer ~~who that~~ is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until ~~he it~~ can affirmatively show that the tax has since been refunded to the purchaser or credited to ~~his its~~ account.

D. 1. Any dealer ~~who that~~ neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by ~~him it, his its~~ agents, or employees shall be liable for and pay the tax ~~himself itself~~, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer ~~who that~~ neglects, fails, or refuses to pay or collect the tax herein provided, either by ~~himself itself~~ or through ~~his its~~ agents or employees, ~~shall be is~~ guilty of a Class 1 misdemeanor.

2. *Notwithstanding subdivision 1, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

E. ~~(Contingent effective date) Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.~~

F. All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

F. Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in §§ 58.1-611.2 and 58.1-611.3 or subdivision 18 of § 58.1-609.1 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax ~~himself itself~~. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as ~~he it~~ is for tax collected from a purchaser pursuant to this section.

**§ 58.1-625. (Effective July 1, 2022) Collection of tax.**

A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter may be maintained in this Commonwealth by any dealer ~~who that~~ is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until ~~he it~~ can affirmatively show that the tax has since been refunded to the purchaser or credited to ~~his its~~ account.

D. 1. Any dealer ~~who that~~ neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by ~~him it, his its~~ agents, or employees shall be liable for and pay the tax ~~himself itself~~, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer ~~who that~~ neglects, fails, or refuses to pay or collect the tax herein provided, either by ~~himself itself~~ or through ~~his its~~ agents or employees, ~~shall be is~~ guilty of a Class 1 misdemeanor.

2. *Notwithstanding subdivision 1, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

E. ~~(Contingent effective date — see Editor's note) Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.~~

F. All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

F. Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in § 58.1-611.2 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax ~~himself~~ *itself*. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as ~~he~~ *it* is for tax collected from a purchaser pursuant to this section.

**§ 58.1-635. (Contingent expiration date) Failure to file return; fraudulent return; civil penalties.**

A. When any dealer fails to make any return and pay the full amount of the tax required by this chapter, there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed ~~thirty~~ *thirty* 30 percent in the aggregate. In no case, however, shall the penalty be less than ~~ten dollars~~ *\$10* and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the Tax Commissioner, such return with or without remittance may be accepted exclusive of penalties. In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any tax due under this chapter, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of ~~thirty~~ *fifty* 50 percent of the amount of the proper tax shall be assessed. All penalties and interest imposed by this chapter shall be payable by the dealer and collectible by the Tax Commissioner in the same manner as if they were a part of the tax imposed.

B. It shall be prima facie evidence of intent to defraud the Commonwealth of any tax due under this chapter when any dealer reports ~~his~~ *its* gross sales, gross proceeds or cost price, as the case may be, at ~~thirty~~ *fifty* 50 percent or less of the actual amount.

C. Interest at a rate determined in accordance with § 58.1-15, shall accrue on the tax until the same is paid, or until an assessment is made, pursuant to § 58.1-15, after which interest shall accrue as provided therein.

*D. Notwithstanding any other provision of this section, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

2. That the provisions of Chapter 766 of the Acts of Assembly of 2013 amending §§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, 58.1-615, and 58.1-635, as they may become effective, of the Code of Virginia are repealed.

3. That the fourth enactment of Chapter 766 of the Acts of Assembly of 2013 is amended and reenacted as follows:

4. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia, §§ ~~58.1-609-13~~, 58.1-2289, as it may become effective, 58.1-2290, and 58.1-2701, as it may become effective, of the Code of Virginia and the second enactment of Chapter 822 of the Acts of Assembly of 2009, as amended by Chapter 535 of the Acts of Assembly of 2012, are repealed.

4. That the seventh and fifteenth enactments of Chapter 766 of the Acts of Assembly of 2013 and the twelfth enactment of Chapter 684 of the Acts of Assembly of 2015, as amended by Chapters 854 and 856 of the Acts of Assembly of 2018, are repealed.

5. That nothing in this act shall be construed to appropriate or transfer any transportation revenues for nontransportation purposes pursuant to the twenty-second enactment of Chapter 896 of the Acts of Assembly of 2007 or the fourteenth enactment of Chapter 766 of the Acts of Assembly of 2013.

6. That the provisions of this act requiring remote sales and use tax collection by remote sellers and marketplace facilitators shall not apply to any retail sales transactions occurring before July 1, 2019; however, transactions occurring before July 1, 2019, may be included in the calculation of gross revenue or retail transactions pursuant to the provisions of subdivisions C 10 and 11 of § 58.1-612 of the Code of Virginia, as amended by this act. Upon written application and for good cause shown, in order to ensure the accurate and timely collection of taxes due, the Department of Taxation may temporarily suspend or delay the collection or reporting requirements, or both, of a marketplace facilitator for a period not to exceed 90 days after collection is required.

7. That the Department of Taxation shall develop guidelines implementing the provisions of this act, including guidelines implementing the provisions of subsection D of § 58.1-612.1 of the Code of Virginia, as created by this act, creating a waiver. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

8. That should any portion of this act be held unconstitutional by a court of competent jurisdiction, the remaining portions of this act shall remain in effect.

## CHAPTER 817

*An Act to amend and reenact §§ 58.1-439.25 and 58.1-439.28 of the Code of Virginia, relating to Education Improvement Scholarships; pre-kindergarten eligibility; payout penalty.*

[S 1015]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-439.25 and 58.1-439.28 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-439.25. Definitions.**

As used in this article, unless the context requires a different meaning:

*"Eligible pre-kindergarten child" means a child who is (i) a resident of Virginia; (ii) an at-risk four-year-old unable to obtain services through Head Start or Virginia Preschool Initiative programs; and (iii) enrolled in, eligible to attend, or attending a nonpublic pre-kindergarten program and whose family (a) does not have an annual household income in excess of 300 percent of the current poverty guidelines or 400 percent of such guidelines in cases in which an individualized education program has been written and finalized for the child in accordance with the federal Individuals with Disabilities Education Act (IDEA), regulations promulgated pursuant to IDEA, and regulations of the Board of Education; (b) is homeless as defined in 42 U.S.C. § 11302; or (c) includes a parent or guardian of the child who did not graduate from high school, and whose parent or guardian certifies to the scholarship foundation that the child was unable to obtain services through the Virginia Preschool Initiative in the public school division in which the child resides.*

*"Eligible student with a disability" means a student (i) for whom an individualized educational program has been written and finalized in accordance with the federal Individuals with Disabilities Education Act (IDEA), regulations promulgated pursuant to IDEA, and regulations of the Board of Education; (ii) whose family's annual household income is not in excess of 400 percent of the current poverty guidelines; and (iii) who otherwise is a student as defined in this section.*

*"Nonpublic pre-kindergarten program" means a pre-kindergarten program that is not operated, directly or indirectly, by a federal, state, or local government entity and that is (i) a preschool program designed for child development and kindergarten preparation that complies with nonpublic school accreditation requirements administered by the Virginia Council for Private Education pursuant to § 22.1-19; (ii) participating in Virginia Quality with a current designation of at least Level 3 under such quality rating system; or (iii) a child day center, as defined in § 63.2-100, that is licensed by the Department of Social Services pursuant to Subtitle IV (§ 63.2-1700 et seq.) of Title 63.2 and implements a curriculum, professional development program, and coaching model developed and endorsed by a baccalaureate public institution of higher education, as defined in § 23.1-100.*

*"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.*

*"Qualified educational expenses" means school-related tuition and instructional fees and materials, including textbooks, workbooks, and supplies used solely for school-related work.*

*"Scholarship foundation" means a nonstock, nonprofit corporation that is (i) exempt from taxation under § 501(c)(3) of the Internal Revenue Code of 1954, as amended or renumbered; (ii) approved by the Department of Education in accordance with the provisions of § 58.1-439.27; and (iii) established to provide financial aid for the education of students residing in the Commonwealth.*

*"Student" means a child who is a resident of Virginia and (i) in the current school year has enrolled and attended a public school in the Commonwealth for at least one-half of the year, (ii) for the school year that immediately preceded his receipt of a scholarship foundation scholarship was enrolled and attended a public school in the Commonwealth for at least one-half of the year, (iii) is a prior recipient of a scholarship foundation scholarship, (iv) is eligible to enter kindergarten or eligible to enter first grade, or (v) for the school year that immediately preceded his receipt of a scholarship foundation scholarship was domiciled in a state other than the Commonwealth and did not attend a nonpublic school in the Commonwealth for more than one-half of the school year. "Student" does not include an eligible pre-kindergarten child.*

*"Virginia Quality" means a quality rating and improvement system for early childhood programs administered in partnership between the Virginia Early Childhood Foundation and the Office of Early Childhood Development of the Department of Social Services.*

**§ 58.1-439.28. Guidelines for scholarship foundations.**

A. As a condition for qualification by the Department of Education, a scholarship foundation, as defined in § 58.1-439.25 and included on the list published annually by the Department of Education pursuant to this section, shall disburse an amount at least equal to 90 percent of the value of the donations it receives (for which tax credits were issued under this article) during each 12-month period ending on June 30 by the immediately following June 30 for qualified educational expenses through scholarships to eligible students. Tax-credit-derived funds not used for such scholarships may only be used for the administrative expenses of the scholarship foundation. Any scholarship foundation that fails to meet

such disbursement shall, for the first offense, be required to pay a civil penalty equal to ~~200 percent~~ of the difference between 90 percent of the value of the tax-credit-derived donations it received in the applicable 12-month period and the amount that was actually disbursed. Such civil penalty shall be remitted by the scholarship foundation to the Department of Education within 30 days after the end of the one-year period and deposited to the general fund. For a second offense within a five-year period, the scholarship foundation shall be removed from the annual list published pursuant to this section and shall not be entitled to request preauthorization for additional tax credits, nor shall it be entitled to receive and administer additional tax-credit-derived funds for two years. After two years, the scholarship foundation shall be eligible to reapply to be included on the annual list to receive and administer tax-credit derived funds. If a scholarship foundation is authorized to be added to the annual list after such reapplication, the scholarship foundation shall not be considered to have any previous offenses for purposes of this subsection. The required disbursement under this section shall begin with donations received for the period January 1, 2013, through June 30, 2014.

B. By September 30 of each year beginning in 2016, the scholarship foundation shall provide the following information to the Department of Education: (i) the total number and value of donations received by the foundation during the 12-month period ending on June 30 of the prior calendar year for which tax credits were issued by the Superintendent of Public Instruction, (ii) the dates when such donations were received, and (iii) the total number and dollar amount of qualified educational expenses scholarships awarded from tax-credit-derived donations and disbursed by the scholarship foundation during the 24-month period ending on June 30 of the current calendar year. Any scholarship foundation that fails to provide this report by September 30 shall, for the first offense, be required to pay a \$1,000 civil penalty. Such civil penalty shall be remitted by the scholarship foundation to the Department of Education by November 1 of the same year and deposited to the general fund. For a second offense within a five-year period, the scholarship foundation shall be removed from the annual list published pursuant to this section and shall not be entitled to request preauthorization for additional tax credits, nor shall it be entitled to receive and administer additional tax-credit-derived funds. After two years, the scholarship foundation shall be eligible to reapply to be included on the annual list to receive and administer tax-credit derived funds. If a scholarship foundation is authorized to be added to the annual list after such reapplication, the scholarship foundation shall not be considered to have any previous offenses for purposes of this subsection.

C. In awarding scholarships from tax-credit-derived funds, the scholarship foundation shall (i) provide scholarships for qualified educational expenses only to students whose family's annual household income is not in excess of 300 percent of the current poverty guidelines ~~or~~ eligible students with a disability, *or eligible pre-kindergarten children*; (ii) not limit scholarships to students of one school; and (iii) comply with Title VI of the Civil Rights Act of 1964, as amended. Payment of scholarships from tax-credit-derived funds by the eligible scholarship foundation shall be by individual warrant or check made payable to and mailed to the eligible school that the student's parent or legal guardian indicates. In mailing such scholarship payments, the eligible scholarship foundation shall include a written notice to the eligible school that the source of the scholarship was donations made by persons receiving tax credits for the same pursuant to this article.

D. 1. Scholarship foundations shall ensure that schools selected by students to which tax-credit-derived funds may be paid (i) are in compliance with the Commonwealth's and locality's health and safety laws and codes; (ii) hold a valid occupancy permit as required by the locality; (iii) comply with Title VI of the Civil Rights Act of 1964, as amended; and (iv) are (a) *for students in grades K through 12*, nonpublic schools that comply with nonpublic school accreditation requirements as set forth in § 22.1-19 and administered by the Virginia Council for Private Education or nonpublic schools that maintain an assessment system that annually measures scholarship students' progress in reading and math using a national norm-referenced achievement test, including but not limited to the Stanford Achievement Test, California Achievement Test, and Iowa Test of Basic Skills and (b) *for eligible pre-kindergarten children, nonpublic pre-kindergarten programs*.

2. *Each nonpublic pre-kindergarten program shall (i) provide to the eligible pre-kindergarten child a curriculum that is aligned with Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds as published by the Department of Education, or any successor standards published by the Department of Education; (ii) have maximum class sizes of 20 students with a teacher-student ratio of not fewer than two teachers for every 20 students; (iii) provide at least half-day services and operate for at least the school year; (iv) agree to provide the Department of Education with student information for each eligible pre-kindergarten child receiving a scholarship foundation scholarship for purposes of allowing the Department of Education to conduct studies comparing the academic performance of such children while attending primary or secondary school with other children attending primary or secondary school who have attended a pre-kindergarten program, including programs funded under the Virginia Preschool Initiative; and (v) require professional development of program teachers, which enables such teachers to engage in high-quality interactions with eligible pre-kindergarten children and provide high-quality instruction in accordance with the curriculum described under clause (i). Each nonpublic pre-kindergarten program teacher at a minimum shall have earned a certificate from a nationally recognized early childhood education certificate program, including but not limited to any early childhood education program provided or sponsored by the Virginia Community College System.*

*In awarding scholarships to eligible pre-kindergarten children, scholarship foundations shall award scholarships from tax-credit-derived funds only to such children who are enrolled in or attending nonpublic pre-kindergarten programs that meet the conditions of this subdivision as certified by the Virginia Council for Private Education or the Virginia Early Childhood Foundation.*

3. Eligible schools shall compile the results of any national norm-referenced achievement test for each of its students receiving tax-credit-derived scholarships and shall provide the respective parents or legal guardians of such students with a copy of the results on an annual basis, beginning with the first year of testing of the student. Such schools also shall annually provide to the Department of Education for each such student the achievement test results, beginning with the first year of testing of the student, and student information that would allow the Department to aggregate the achievement test results by grade level, gender, family income level, number of years of participation in the scholarship program, and race. Beginning with the third year of testing of each such student and test-related data collection, the Department of Education shall ensure that the achievement test results and associated learning gains are published on the Department of Education's website in accordance with such classifications and in an aggregate form as to prevent the identification of any student. Eligible schools shall annually provide to the Superintendent of Public Instruction graduation rates of its students participating in the scholarship program in a manner consistent with nationally recognized standards. In publishing and disseminating achievement test results and other information, the Superintendent of Public Instruction and the Department of Education shall ensure compliance with all student privacy laws.

*The provisions of this subdivision shall not apply to eligible pre-kindergarten children.*

E. 1. The aggregate amount of scholarships provided to each student for any single school year by all eligible scholarship foundations from eligible donations shall not exceed the lesser of (i) the actual qualified educational expenses of the student or (ii) 100 percent of the per-pupil amount distributed to the local school division (in which the student resides) as the state's share of the standards of quality costs using the composite index of ability to pay as defined in the general appropriation act.

2. *In the case of eligible pre-kindergarten children, the aggregate amount of scholarships provided to each child for any single school year by all eligible scholarship foundations from eligible donations shall not exceed the lesser of the actual qualified educational expenses of the child or the state share of the grant per child under the Virginia Preschool Initiative for the locality in which the eligible pre-kindergarten child resides.*

F. Scholarship foundations shall develop procedures for disbursing scholarships in quarterly or semester payments throughout the school year to ensure scholarships are portable.

G. Scholarship foundations that receive donations of marketable securities for which tax credits were issued under this article shall be required to sell such securities and convert the donation into cash immediately, but in no case more than 21 days after receipt of the donation.

H. Each scholarship foundation with total revenues (including the value of all donations) (i) in excess of \$100,000 for the foundation's most recent fiscal year ended shall have an audit or review performed by an independent certified public accountant of the foundation's donations received in such year for which tax credits were issued under this article or (ii) of \$100,000 or less for the foundation's most recent fiscal year ended shall have a compilation performed by an independent certified public accountant of the foundation's donations received in such year for which tax credits were issued under this article. A summary report of the audit, review, or compilation shall be made available to the public and the Department of Education upon request.

I. The Department of Education shall publish annually on its website a list of each scholarship foundation qualified under this article. Once a foundation has been qualified by the Department of Education, it shall remain qualified until the Department removes the foundation from its annual list. The Department of Education shall remove a foundation from the annual list if it no longer meets the requirements of this article. The Department of Education may periodically require a qualified foundation to submit updated or additional information for purposes of determining whether or not the foundation continues to meet the requirements of this article.

J. Actions of the Superintendent of Public Instruction or the Department of Education relating to the awarding of tax credits under this article and the qualification of scholarship foundations shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the Superintendent of Public Instruction or the Department of Education shall be final and not subject to review or appeal.

## CHAPTER 818

*An Act to amend and reenact §§ 2.2-2279 and 15.2-4901 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 9 of Title 22.1 an article numbered 3, consisting of sections numbered 22.1-141.1 and 22.1-141.2, and by adding a section numbered 56-589.1, relating to the modernization of public school buildings and facilities.*

[S 1331]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2279 and 15.2-4901 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9 of Title 22.1 an article numbered 3, consisting of sections numbered 22.1-141.1 and 22.1-141.2, and by adding a section numbered 56-589.1 as follows:**

**§ 2.2-2279. Short title; definitions.**

A. This article shall be known and may be cited as the "Virginia Small Business Financing Act."

B. As used in this article, unless the context requires a different meaning:

"Business enterprise" means any (i) industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing, or selling of any products of agriculture, mining, or industry or professional services; (ii) commercial enterprise making sales or providing services to industries described in clause (i); (iii) enterprise for research and development, including ~~but not limited to~~ scientific laboratories; (iv) not-for-profit entity operating in the Commonwealth; (v) entity acquiring, constructing, improving, maintaining, or operating a qualified transportation facility under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.); (vi) entity acquiring, constructing, improving, maintaining, or operating a qualified energy project; (vii) entity acquiring, constructing, improving, maintaining, or operating a qualified pollution control project; ~~or~~ (viii) *entity that modernizes public school buildings or facilities pursuant to Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1; or* (ix) other business as will be in furtherance of the public purposes of this article.

"Cost," as applied to the eligible business, means the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements, and other property rights and interests; the cost of demolishing, removing, rehabilitating, or relocating any buildings or structures on lands acquired, including the cost of acquiring any such lands to which such buildings or structures may be moved, rehabilitated, or relocated; the cost of all labor, materials, machinery and equipment, financing charges, letter of credit or other credit enhancement fees, insurance premiums, interest on all bonds prior to and during construction or acquisition and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction or acquisition, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, commissions, guaranty fees, other expenses necessary or incidental to determining the feasibility or practicality of constructing, financing, or operating a project of an eligible business; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions, improvements and replacements, and such other expenses as may be necessary or incidental to the construction or acquisition of a project of an eligible business or the financing of such construction, acquisition, or expansion and the placing of a project of an eligible business in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the Authority for studies, surveys, borings, preparation of plans and specifications, or other work or materials in connection with the construction or acquisition of a project of an eligible business may be regarded as a part of the cost of a project of an eligible business and may be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued therefor.

"Eligible business" means any person engaged in one or more business enterprises in the Commonwealth that satisfies one or more of the following requirements: (i) is a for-profit enterprise that (a) has received \$10 million or less in annual gross income under generally accepted accounting principles for each of its last three fiscal years or lesser time period if it has been in existence less than three years, (b) has fewer than 250 employees, (c) has a net worth of \$2 million or less, (d) exists for the sole purpose of developing or operating a qualified transportation facility under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), (e) exists for the primary purpose of developing or operating a qualified energy project, (f) is required by state or federal law to develop or operate a qualified pollution control project, or (g) meets such other satisfactory requirements as the Board shall determine from time to time if it finds and determines such person is in need of its assistance or (ii) is a not-for-profit entity granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating in the Commonwealth.

"Federal Act" means the Small Business Investment Act of 1958, 15 U.S.C. § 661 et seq., as amended from time to time.

"Indenture" means any trust agreement, deed of trust, mortgage, or other security agreement under which bonds authorized pursuant to this article shall be issued or secured.

"Internal Revenue Code" means the federal Internal Revenue Code of 1986, as amended.

"Lender" means any federal- or state-chartered bank, federal land bank, production credit association, bank for cooperatives, federal- or state-chartered savings institution, building and loan association, small business investment company, or any other financial institution qualified within the Commonwealth to originate and service loans, including ~~but not limited to~~ insurance companies, credit unions, investment banking or brokerage companies, and mortgage loan companies.

"Loan" means any lease, loan agreement, or sales contract ~~as hereinafter~~ defined as follows:

(i) 1. "Lease" means any lease containing an option to purchase the project or projects of the eligible business being financed for a nominal sum upon payment in full, or provision thereof, of all bonds issued in connection with the eligible business and all interest thereon and principal of and premium, if any, thereon and all other expenses in connection therewith.

(ii) 2. "Loan agreement" means an agreement providing for a loan of proceeds from the sale and issuance of bonds by the Authority or by a lender with which the Authority has contracted to loan such proceeds to one or more contracting parties to be used to pay the cost of one or more projects of an eligible business and providing for the repayment of such loan including ~~but not limited to~~ all interest thereon, and principal of and premium, if any, thereon and all other expenses in connection therewith, by such contracting party or parties and which may provide for such loans to be secured or evidenced by one or more notes, debentures, bonds, or other secured or unsecured debt obligations of such contracting party or parties, delivered to the Authority or to a trustee under an indenture pursuant to which the bonds were issued.

(iii) 3. "Sales contract" means a contract providing for the sale of one or more projects of an eligible business to one or more contracting parties and includes ~~but is not limited to~~ a contract providing for payment of the purchase price including ~~but not limited to~~ all interest thereon, and principal of and premium, if any, thereon and all other expenses in connection

therewith, in one or more installments. If the sales contract permits title to a project being sold to an eligible business to pass to such contracting party or parties prior to payment in full of the entire purchase price, it also shall provide for such contracting party or parties to deliver to the Authority or to the trustee under the indenture pursuant to which the bonds were issued, one or more notes, debentures, bonds, or other secured or unsecured debt obligations of such contracting party or parties providing for timely payments of the purchase price thereof.

"Municipality" means any county or incorporated city or town in the Commonwealth.

"Preferred lender" means a bank that is subject to continuing supervision and examination by state or federal chartering, licensing, or similar regulatory authority satisfactory to the Authority and that meets the eligibility requirements established by the Authority.

"Qualified energy project" means a solar-powered or wind-powered electricity generation facility located in the Commonwealth on premises owned or leased by an eligible customer-generator, as defined in § 56-594, the electricity generated from which is sold exclusively to the eligible customer-generator under a power purchase agreement used to provide third party financing of the costs of such a renewable generation facility (third party power purchase agreement) pursuant to a pilot program established under Chapter 382 of the Acts of Assembly of 2013.

"Qualified pollution control project" means environmental pollution control and prevention equipment certified by the business enterprise or eligible business as being needed to comply with the federal Clean Air Act (42 U.S.C. § 7401 et seq.), the federal Clean Water Act (33 U.S.C. § 1251 et seq.), or the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.).

"Revenues" means any and all fees, rates, rentals, profits, and receipts collected by, payable to, or otherwise derived by, the Authority, and all other moneys and income of whatsoever kind or character collected by, payable to, or otherwise derived by, the Authority in connection with loans to any eligible business in furtherance of the purposes of this article.

"Statewide Development Company" means the corporation chartered under this article for purposes of qualification as a state development company as such term is defined in the Federal Act.

#### **§ 15.2-4901. Purpose of chapter.**

It is the intent of the legislature by the passage of this chapter to authorize the creation of industrial development authorities by the localities in the Commonwealth so that such authorities may acquire, own, lease, and dispose of properties and make loans to the end that such authorities may be able to promote industry and develop trade by inducing manufacturing, industrial, governmental, nonprofit and commercial enterprises, and institutions of higher education to locate in or remain in the Commonwealth and further the use of its agricultural products and natural resources, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience, or prosperity. Such authority shall not itself be authorized to operate any such manufacturing, industrial, nonprofit or commercial enterprise, or any facility of an institution of higher education.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to pollution control facilities to the end that such authorities may protect and promote the health of the inhabitants of the Commonwealth and the conservation, protection, and improvement of its natural resources by exercising such powers for the control or abatement of land, sewer, water, air, noise, and general environmental pollution derived from the operation of any industrial or medical facility and to vest such authorities with all powers that may be necessary to enable them to accomplish such purpose, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience, or prosperity.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to medical facilities and facilities for the residence or care of the aged to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of medical facilities and facilities for the residence or care of the aged in order to provide modern and efficient medical services to the inhabitants of the Commonwealth and care of the aged of the Commonwealth in accordance with their special needs and also by assisting in the refinancing of medical facilities and facilities for the residence or care of the aged owned and operated by organizations which are exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code of 1954, as amended, in order to reduce the costs to residents of the Commonwealth of utilizing such facilities and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health and welfare. It is not intended hereby that any such authority shall itself be authorized to operate any such medical facility or facility for the residence or care of the aged.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for use by organizations (other than institutions organized and operated exclusively for religious purposes) which are described in § 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which are exempt from federal income taxation pursuant to § 501(a) of the Internal Revenue Code of 1954, as amended, to the end that such authorities may protect or promote the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of the aforesaid entities and organizations in order to provide

operations, recreational, activity centers, and other facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience, or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for accredited nonprofit private institutions of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of facilities of aforesaid institutions in order to provide improved educational facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such educational facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to facilities for a locality, the Commonwealth and its agencies, and governmental and nonprofit organizations and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or prosperity.

It is further the intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for museums and historical education, demonstration, and interpretation, together with any and all buildings, structures, or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit organizations in order to promote tourism and economic development in the Commonwealth, to promote the knowledge of and appreciation by the citizens of the Commonwealth of the historical and cultural development and heritage of the Commonwealth and the United States and to promote thereby their health, welfare, convenience, and prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities devoted to the staging of equine events and activities (other than racing) for use by governmental or nonprofit, nonreligious organizations and operated by such governmental or nonprofit, nonreligious organizations in order to promote the equine industry and equine-related activities (other than racing) which are integral to the Commonwealth's economy and heritage and to promote thereby the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to acquiring, developing, owning, and operating an industrial park and any utilities that are intended primarily to serve the park and to issue bonds for such purposes. The bonds may be secured by revenues generated by the industrial park or the utilities being financed or by any other funds of the authority.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities created by one or more municipalities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1, in addition to the powers previously or hereafter granted in this chapter, the powers contained herein with respect to facilities used primarily for single or multi-family residences in order to promote safe and affordable housing in the Commonwealth and to benefit thereby the safety, health, welfare, and prosperity of the inhabitants of the Commonwealth. It is not intended hereby that any such authority shall itself be authorized to operate any such facility or exercise any powers of eminent domain set forth in § 36-27.

*It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to public school buildings and facilities to promote the safety, health, welfare, convenience, and prosperity of the school children of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of school boards in order to provide for the modernization of public school buildings or facilities pursuant to Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1.*

In any instance in this chapter where an industrial development authority may issue bonds through its authority to finance, the authority may also refinance such bonds.

This chapter shall be liberally construed in conformity with these intentions.

*Article 3.*

*Public School Building and Facilities Modernization.*

**§ 22.1-141.1. Standards for buildings and facilities.**

*It is the intent of the General Assembly that new public school buildings and facilities and improvements and renovations to existing public school buildings and facilities be designed, constructed, maintained, and operated to generate more electricity than consumed and that such energy-positive building design be based on industry standards (i) contained in the design guide of the American Society of Heating, Refrigeration and Air-Conditioning Engineers*

(ASHRAE), entitled "Achieving Zero Energy—Advanced Energy Design Guide for K-12 School Buildings," dated February 1, 2018, and any subsequent updates or (ii) similar industry standards.

**§ 22.1-141.2. Authority to modernize public school lease agreements.**

A. Prior to undertaking the design, construction, maintenance, and operation of a new public school building or facility or the improvement or renovation of an existing school building or facility, a local school board may evaluate whether entering into a lease with a private entity will assist the school board in meeting the standards set forth in § 22.1-141.1.

B. In order to meet the design, construction, maintenance, and operation standards set forth in § 22.1-141.1, a school board may enter into a lease with a private entity that may include the following: (i) design of the building and facilities; (ii) construction of the building and facilities; (iii) financing of the project as defined in § 15.2-1815; (iv) operation of the heating, cooling, and renewable energy systems, including interconnect agreements with the regulated electric utility, maintenance of all such systems, responding to comfort complaints, and any other operational or maintenance-related issues during the lease term; and (v) such other terms as mutually agreed upon by the local school board and the private entity. Such lease may (a) be for the real property primarily used by the local school board and owned by the private entity, (b) be a capital or operating lease, (c) be exempt from real property taxation pursuant to subdivision (a) (1) of Article X, Section 6 of the Constitution of Virginia, and (d) contain a covenant that the rent shall not be reduced from the rent stated in the lease. Such lease shall not exceed 35 years in duration. The Virginia Public Procurement Act (§ 2.2-4300 et seq.) or the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.) shall apply to any lease agreement solicited by a local school board pursuant to this section.

**§ 56-589.1. Energy generation by public school buildings and facilities.**

A. A school board of a school division located in a locality that is a non-jurisdictional customer of a utility pursuant to § 56-234 and that owns or operates a public school building or facility that has been modernized consistent with Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1 and generates energy derived from sunlight and the solar generating facility is interconnected pursuant to § 56-594 may enter into a contract to generate such energy on terms and conditions negotiated between the customer and the utility.

B. The solar-powered renewable energy generation facilities associated with a public school building or facility owned or operated by a school board shall be located on the same real property upon which the public school buildings and facilities are located. The solar facilities shall be located on the rooftops of the public school buildings and facilities, however up to 20 percent of the capacity may come from ground mounted solar facilities.

C. Neither jurisdictional customers nor non-jurisdictional customers that do not participate in a school modernization project consistent with Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1 shall bear any costs associated with such school modernization project by a participating non-jurisdictional customer.

## CHAPTER 819

An Act to amend and reenact §§ 2.2-2279 and 15.2-4901 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 9 of Title 22.1 an article numbered 3, consisting of sections numbered 22.1-141.1 and 22.1-141.2, and by adding a section numbered 56-589.1, relating to the modernization of public school buildings and facilities.

[H 2192]

Approved March 26, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2279 and 15.2-4901 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9 of Title 22.1 an article numbered 3, consisting of sections numbered 22.1-141.1 and 22.1-141.2, and by adding a section numbered 56-589.1 as follows:**

**§ 2.2-2279. Short title; definitions.**

A. This article shall be known and may be cited as the "Virginia Small Business Financing Act."

B. As used in this article, unless the context requires a different meaning:

"Business enterprise" means any (i) industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing, or selling of any products of agriculture, mining, or industry or professional services; (ii) commercial enterprise making sales or providing services to industries described in clause (i); (iii) enterprise for research and development, including ~~but not limited to~~ scientific laboratories; (iv) not-for-profit entity operating in the Commonwealth; (v) entity acquiring, constructing, improving, maintaining, or operating a qualified transportation facility under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.); (vi) entity acquiring, constructing, improving, maintaining, or operating a qualified energy project; (vii) entity acquiring, constructing, improving, maintaining, or operating a qualified pollution control project; ~~or~~ (viii) entity that modernizes public school buildings or facilities pursuant to Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1; or (ix) other business as will be in furtherance of the public purposes of this article.

"Cost," as applied to the eligible business, means the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements, and other property rights and interests; the cost of demolishing, removing, rehabilitating, or relocating any buildings or structures on lands acquired, including the cost of acquiring any such lands to

which such buildings or structures may be moved, rehabilitated, or relocated; the cost of all labor, materials, machinery and equipment, financing charges, letter of credit or other credit enhancement fees, insurance premiums, interest on all bonds prior to and during construction or acquisition and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction or acquisition, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, commissions, guaranty fees, other expenses necessary or incident to determining the feasibility or practicality of constructing, financing, or operating a project of an eligible business; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions, improvements and replacements, and such other expenses as may be necessary or incidental to the construction or acquisition of a project of an eligible business or the financing of such construction, acquisition, or expansion and the placing of a project of an eligible business in operation. Any obligation or expense incurred by the Commonwealth or any agency thereof, with the approval of the Authority for studies, surveys, borings, preparation of plans and specifications, or other work or materials in connection with the construction or acquisition of a project of an eligible business may be regarded as a part of the cost of a project of an eligible business and may be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued therefor.

"Eligible business" means any person engaged in one or more business enterprises in the Commonwealth that satisfies one or more of the following requirements: (i) is a for-profit enterprise that (a) has received \$10 million or less in annual gross income under generally accepted accounting principles for each of its last three fiscal years or lesser time period if it has been in existence less than three years, (b) has fewer than 250 employees, (c) has a net worth of \$2 million or less, (d) exists for the sole purpose of developing or operating a qualified transportation facility under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), (e) exists for the primary purpose of developing or operating a qualified energy project, (f) is required by state or federal law to develop or operate a qualified pollution control project, or (g) meets such other satisfactory requirements as the Board shall determine from time to time if it finds and determines such person is in need of its assistance or (ii) is a not-for-profit entity granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating in the Commonwealth.

"Federal Act" means the Small Business Investment Act of 1958, 15 U.S.C. § 661 et seq., as amended from time to time.

"Indenture" means any trust agreement, deed of trust, mortgage, or other security agreement under which bonds authorized pursuant to this article shall be issued or secured.

"Internal Revenue Code" means the federal Internal Revenue Code of 1986, as amended.

"Lender" means any federal- or state-chartered bank, federal land bank, production credit association, bank for cooperatives, federal- or state-chartered savings institution, building and loan association, small business investment company, or any other financial institution qualified within the Commonwealth to originate and service loans, including ~~but not limited to~~ insurance companies, credit unions, investment banking or brokerage companies, and mortgage loan companies.

"Loan" means any lease, loan agreement, or sales contract ~~as hereinafter~~ defined as follows:

(i) 1. "Lease" means any lease containing an option to purchase the project or projects of the eligible business being financed for a nominal sum upon payment in full, or provision thereof, of all bonds issued in connection with the eligible business and all interest thereon and principal of and premium, if any, thereon and all other expenses in connection therewith.

(ii) 2. "Loan agreement" means an agreement providing for a loan of proceeds from the sale and issuance of bonds by the Authority or by a lender with which the Authority has contracted to loan such proceeds to one or more contracting parties to be used to pay the cost of one or more projects of an eligible business and providing for the repayment of such loan including ~~but not limited to~~ all interest thereon, and principal of and premium, if any, thereon and all other expenses in connection therewith, by such contracting party or parties and which may provide for such loans to be secured or evidenced by one or more notes, debentures, bonds, or other secured or unsecured debt obligations of such contracting party or parties, delivered to the Authority or to a trustee under an indenture pursuant to which the bonds were issued.

(iii) 3. "Sales contract" means a contract providing for the sale of one or more projects of an eligible business to one or more contracting parties and includes ~~but is not limited to~~ a contract providing for payment of the purchase price including ~~but not limited to~~ all interest thereon, and principal of and premium, if any, thereon and all other expenses in connection therewith, in one or more installments. If the sales contract permits title to a project being sold to an eligible business to pass to such contracting party or parties prior to payment in full of the entire purchase price, it also shall provide for such contracting party or parties to deliver to the Authority or to the trustee under the indenture pursuant to which the bonds were issued, one or more notes, debentures, bonds, or other secured or unsecured debt obligations of such contracting party or parties providing for timely payments of the purchase price thereof.

"Municipality" means any county or incorporated city or town in the Commonwealth.

"Preferred lender" means a bank that is subject to continuing supervision and examination by state or federal chartering, licensing, or similar regulatory authority satisfactory to the Authority and that meets the eligibility requirements established by the Authority.

"Qualified energy project" means a solar-powered or wind-powered electricity generation facility located in the Commonwealth on premises owned or leased by an eligible customer-generator, as defined in § 56-594, the electricity generated from which is sold exclusively to the eligible customer-generator under a power purchase agreement used to

provide third party financing of the costs of such a renewable generation facility (third party power purchase agreement) pursuant to a pilot program established under Chapter 382 of the Acts of Assembly of 2013.

"Qualified pollution control project" means environmental pollution control and prevention equipment certified by the business enterprise or eligible business as being needed to comply with the federal Clean Air Act (42 U.S.C. § 7401 et seq.), the federal Clean Water Act (33 U.S.C. § 1251 et seq.), or the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.).

"Revenues" means any and all fees, rates, rentals, profits, and receipts collected by, payable to, or otherwise derived by, the Authority, and all other moneys and income of whatsoever kind or character collected by, payable to, or otherwise derived by, the Authority in connection with loans to any eligible business in furtherance of the purposes of this article.

"Statewide Development Company" means the corporation chartered under this article for purposes of qualification as a state development company as such term is defined in the Federal Act.

#### **§ 15.2-4901. Purpose of chapter.**

It is the intent of the legislature by the passage of this chapter to authorize the creation of industrial development authorities by the localities in the Commonwealth so that such authorities may acquire, own, lease, and dispose of properties and make loans to the end that such authorities may be able to promote industry and develop trade by inducing manufacturing, industrial, governmental, nonprofit and commercial enterprises, and institutions of higher education to locate in or remain in the Commonwealth and further the use of its agricultural products and natural resources, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience, or prosperity. Such authority shall not itself be authorized to operate any such manufacturing, industrial, nonprofit or commercial enterprise, or any facility of an institution of higher education.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to pollution control facilities to the end that such authorities may protect and promote the health of the inhabitants of the Commonwealth and the conservation, protection, and improvement of its natural resources by exercising such powers for the control or abatement of land, sewer, water, air, noise, and general environmental pollution derived from the operation of any industrial or medical facility and to vest such authorities with all powers that may be necessary to enable them to accomplish such purpose, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience, or prosperity.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to medical facilities and facilities for the residence or care of the aged to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of medical facilities and facilities for the residence or care of the aged in order to provide modern and efficient medical services to the inhabitants of the Commonwealth and care of the aged of the Commonwealth in accordance with their special needs and also by assisting in the refinancing of medical facilities and facilities for the residence or care of the aged owned and operated by organizations which are exempt from taxation pursuant to § 501(c)(3) of the Internal Revenue Code of 1954, as amended, in order to reduce the costs to residents of the Commonwealth of utilizing such facilities and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health and welfare. It is not intended hereby that any such authority shall itself be authorized to operate any such medical facility or facility for the residence or care of the aged.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for use by organizations (other than institutions organized and operated exclusively for religious purposes) which are described in § 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which are exempt from federal income taxation pursuant to § 501(a) of the Internal Revenue Code of 1954, as amended, to the end that such authorities may protect or promote the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of the aforesaid entities and organizations in order to provide operations, recreational, activity centers, and other facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their safety, health, welfare, convenience, or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for accredited nonprofit private institutions of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education to the end that such authorities may protect and promote the health and welfare of the inhabitants of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, and improvement of facilities of aforesaid institutions in order to provide improved educational facilities for the use of the inhabitants of the Commonwealth and to vest such authorities with all powers that may be necessary to enable them to

accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such educational facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to facilities for a locality, the Commonwealth and its agencies, and governmental and nonprofit organizations and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth and for the promotion of their health, welfare, convenience, or prosperity.

It is further the intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities for museums and historical education, demonstration, and interpretation, together with any and all buildings, structures, or other facilities necessary or desirable in connection with the foregoing, for use by nonprofit organizations in order to promote tourism and economic development in the Commonwealth, to promote the knowledge of and appreciation by the citizens of the Commonwealth of the historical and cultural development and heritage of the Commonwealth and the United States and to promote thereby their health, welfare, convenience, and prosperity. It is not intended hereby that any such authority shall itself be authorized to operate any such facility.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to facilities devoted to the staging of equine events and activities (other than racing) for use by governmental or nonprofit, nonreligious organizations and operated by such governmental or nonprofit, nonreligious organizations in order to promote the equine industry and equine-related activities (other than racing) which are integral to the Commonwealth's economy and heritage and to promote thereby the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities the powers contained herein with respect to acquiring, developing, owning, and operating an industrial park and any utilities that are intended primarily to serve the park and to issue bonds for such purposes. The bonds may be secured by revenues generated by the industrial park or the utilities being financed or by any other funds of the authority.

It is the further intent of the legislature and shall be the policy of the Commonwealth to grant to industrial development authorities created by one or more municipalities whose housing authorities have not been activated as provided by §§ 36-4 and 36-4.1, in addition to the powers previously or hereafter granted in this chapter, the powers contained herein with respect to facilities used primarily for single or multi-family residences in order to promote safe and affordable housing in the Commonwealth and to benefit thereby the safety, health, welfare, and prosperity of the inhabitants of the Commonwealth. It is not intended hereby that any such authority shall itself be authorized to operate any such facility or exercise any powers of eminent domain set forth in § 36-27.

*It is the further intent of the legislature and shall be the policy of the Commonwealth to grant industrial development authorities the powers contained herein with respect to public school buildings and facilities to promote the safety, health, welfare, convenience, and prosperity of the school children of the Commonwealth by assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of school boards in order to provide for the modernization of public school buildings or facilities pursuant to Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1.*

In any instance in this chapter where an industrial development authority may issue bonds through its authority to finance, the authority may also refinance such bonds.

This chapter shall be liberally construed in conformity with these intentions.

*Article 3.*

*Public School Building and Facilities Modernization.*

**§ 22.1-141.1. Standards for buildings and facilities.**

*It is the intent of the General Assembly that new public school buildings and facilities and improvements and renovations to existing public school buildings and facilities be designed, constructed, maintained, and operated to generate more electricity than consumed and that such energy-positive building design be based on industry standards (i) contained in the design guide of the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE), entitled "Achieving Zero Energy—Advanced Energy Design Guide for K-12 School Buildings," dated February 1, 2018, and any subsequent updates or (ii) similar industry standards.*

**§ 22.1-141.2. Authority to modernize public school lease agreements.**

*A. Prior to undertaking the design, construction, maintenance, and operation of a new public school building or facility or the improvement or renovation of an existing school building or facility, a local school board may evaluate whether entering into a lease with a private entity will assist the school board in meeting the standards set forth in § 22.1-141.1.*

*B. In order to meet the design, construction, maintenance, and operation standards set forth in § 22.1-141.1, a school board may enter into a lease with a private entity that may include the following: (i) design of the building and facilities; (ii) construction of the building and facilities; (iii) financing of the project as defined in § 15.2-1815; (iv) operation of the heating, cooling, and renewable energy systems, including interconnect agreements with the regulated electric utility, maintenance of all such systems, responding to comfort complaints, and any other operational or maintenance-related*

issues during the lease term; and (v) such other terms as mutually agreed upon by the local school board and the private entity. Such lease may (a) be for the real property primarily used by the local school board and owned by the private entity, (b) be a capital or operating lease, (c) be exempt from real property taxation pursuant to subdivision (a) (1) of Article X, Section 6 of the Constitution of Virginia, and (d) contain a covenant that the rent shall not be reduced from the rent stated in the lease. Such lease shall not exceed 35 years in duration. The Virginia Public Procurement Act (§ 2.2-4300 et seq.) or the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.) shall apply to any lease agreement solicited by a local school board pursuant to this section.

**§ 56-589.1. Energy generation by public school buildings and facilities.**

A. A school board of a school division located in a locality that is a non-jurisdictional customer of a utility pursuant to § 56-234 and that owns or operates a public school building or facility that has been modernized consistent with Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1 and generates energy derived from sunlight and the solar generating facility is interconnected pursuant to § 56-594 may enter into a contract to generate such energy on terms and conditions negotiated between the customer and the utility.

B. The solar-powered renewable energy generation facilities associated with a public school building or facility owned or operated by a school board shall be located on the same real property upon which the public school buildings and facilities are located. The solar facilities shall be located on the rooftops of the public school buildings and facilities, however up to 20 percent of the capacity may come from ground mounted solar facilities.

C. Neither jurisdictional customers nor non-jurisdictional customers that do not participate in a school modernization project consistent with Article 3 (§ 22.1-141.1 et seq.) of Chapter 9 of Title 22.1 shall bear any costs associated with such school modernization project by a participating non-jurisdictional customer.

## CHAPTER 820

### HOUSE JOINT RESOLUTION NO. 591

*Proposing an amendment to Section 6 of Article II of the Constitution of Virginia, relating to apportionment; technical adjustments permitted.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 18, 2019

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article II of the Constitution of Virginia as follows:

#### ARTICLE II

#### FRANCHISE AND OFFICERS

##### Section 6. Apportionment.

Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established by the General Assembly. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 2011 and every ten years thereafter.

Any such decennial reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.

*Subsequent to the enactment of any decennial reapportionment law, the General Assembly may make technical adjustments to legislative electoral district boundaries solely for the purpose of causing such district boundaries to coincide with the boundaries of voting precincts established in the counties and cities. Such adjustments shall change legislative electoral district boundaries only to the extent necessary to accomplish this purpose, and any change made shall be consistent with any criteria for legislative electoral districts adopted for the preceding decennial redistricting.*

The districts delineated in the decennial reapportionment law shall be implemented for the November general election for the United States House of Representatives, Senate, or House of Delegates, respectively, that is held immediately prior to the expiration of the term being served in the year that the reapportionment law is required to be enacted. A member in office at the time that a decennial redistricting law is enacted shall complete his term of office and shall continue to represent the district from which he was elected for the duration of such term of office so long as he does not move his residence from the district from which he was elected. Any vacancy occurring during such term shall be filled from the same district that elected the member whose vacancy is being filled.

## CHAPTER 821

### HOUSE JOINT RESOLUTION NO. 615

*Proposing an amendment to Section 6 of Article II of the Constitution of Virginia and proposing an amendment to the Constitution of Virginia by adding in Article II a section numbered 6-A, relating to apportionment; Virginia Redistricting Commission.*

Agreed to by the House of Delegates, February 23, 2019

Agreed to by the Senate, February 23, 2019

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article II of the Constitution of Virginia and amend the Constitution of Virginia by adding in Article II a section numbered 6-A as follows:

ARTICLE II  
FRANCHISE AND OFFICERS

Section 6. Apportionment.

Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established by the General Assembly pursuant to Section 6-A of this Constitution. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. *Every electoral district shall be drawn in accordance with the requirements of federal and state laws that address racial and ethnic fairness, including the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and provisions of the Voting Rights Act of 1965, as amended, and judicial decisions interpreting such laws. Districts shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.*

The General Assembly shall reapportion the Commonwealth shall be reapportioned into electoral districts in accordance with this section and Section 6-A in the year ~~2011~~ 2021 and every ten years thereafter.

Any such decennial reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.

The districts delineated in the decennial reapportionment law shall be implemented for the November general election for the United States House of Representatives, Senate, or House of Delegates, respectively, that is held immediately prior to the expiration of the term being served in the year that the reapportionment law is required to be enacted. A member in office at the time that a decennial redistricting law is enacted shall complete his term of office and shall continue to represent the district from which he was elected for the duration of such term of office so long as he does not move his residence from the district from which he was elected. Any vacancy occurring during such term shall be filled from the same district that elected the member whose vacancy is being filled.

*Section 6-A. Virginia Redistricting Commission.*

*(a) In the year 2020 and every ten years thereafter, the Virginia Redistricting Commission (the Commission) shall be convened for the purpose of establishing districts for the United States House of Representatives and for the Senate and the House of Delegates of the General Assembly pursuant to Article II, Section 6 of this Constitution.*

*(b) The Commission shall consist of sixteen commissioners who shall be selected in accordance with the provisions of this subsection.*

*(1) Eight commissioners shall be legislative members, four of whom shall be members of the Senate of Virginia and four of whom shall be members of the House of Delegates. These commissioners shall be appointed no later than December 1 of the year ending in zero and shall continue to serve until their successors are appointed.*

*(A) Two commissioners shall represent the political party having the highest number of members in the Senate of Virginia and shall be appointed by the President pro tempore of the Senate of Virginia.*

*(B) Two commissioners shall represent the political party having the next highest number of members in the Senate of Virginia and shall be appointed by the leader of that political party.*

*(C) Two commissioners shall represent the political party having the highest number of members in the House of Delegates and shall be appointed by the Speaker of the House of Delegates.*

*(D) Two commissioners shall represent the political party having the next highest number of members in the House of Delegates and shall be appointed by the leader of that political party.*

*(2) Eight commissioners shall be citizen members who shall be selected in accordance with the provisions of this subdivision and in the manner determined by the General Assembly by general law.*

*(A) There shall be a Redistricting Commission Selection Committee (the Committee) consisting of five retired judges of the circuit courts of Virginia. By November 15 of the year ending in zero, the Chief Justice of the Supreme Court of Virginia shall certify to the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of Virginia of the political party having the next highest number of members in the Senate a list of retired judges of the circuit courts of Virginia who are willing to serve on the Committee, and these members shall each select a judge from the list. The four judges selected to serve on the Committee shall select, by a majority vote, a judge from the list prescribed herein to serve as the fifth member of the Committee and to serve as the chairman of the Committee.*

(B) By January 1 of the year ending in one, the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of the political party having the next highest number of members in the Senate shall each submit to the Committee a list of at least sixteen citizen candidates for service on the Commission. Such citizen candidates shall meet the criteria established by the General Assembly by general law.

The Committee shall select, by a majority vote, two citizen members from each list submitted. No member or employee of the Congress of the United States or of the General Assembly shall be eligible to serve as a citizen member.

(c) By February 1 of the year ending in one, the Commission shall hold a public meeting at which it shall select a chairman from its membership. The chairman shall be a citizen member and shall be responsible for coordinating the work of the Commission.

(d) The Commission shall submit to the General Assembly plans for districts for the Senate and the House of Delegates of the General Assembly no later than 45 days following the receipt of census data and shall submit to the General Assembly plans for districts for the United States House of Representatives no later than 60 days following the receipt of census data or by the first day of July of that year, whichever occurs later.

(1) To be submitted as a proposed plan for districts for members of the United States House of Representatives, a plan shall receive affirmative votes of at least six of the eight legislative members and six of the eight citizen members.

(2) To be submitted as a proposed plan for districts for members of the Senate, a plan shall receive affirmative votes of at least six of the eight legislative members, including at least three of the four legislative members who are members of the Senate, and at least six of the eight citizen members.

(3) To be submitted as a proposed plan for districts for members of the House of Delegates, a plan shall receive affirmative votes of at least six of the eight legislative members, including at least three of the four legislative members who are members of the House of Delegates, and at least six of the eight citizen members.

(e) Plans for districts for the Senate and the House of Delegates shall be embodied in and voted on as a single bill. The vote on any bill embodying a plan for districts shall be taken in accordance with the provisions of Article IV, Section 11 of this Constitution, except that no amendments shall be permitted. Such bills shall not be subject to the provisions contained in Article V, Section 6 of this Constitution.

(f) Within fifteen days of receipt of a plan for districts, the General Assembly shall take a vote on the bill embodying that plan in accordance with the provisions of subsection (e). If the General Assembly fails to adopt such bill by this deadline, the Commission shall submit a new plan for districts to the General Assembly within fourteen days of the General Assembly's failure to adopt the bill. The General Assembly shall take a vote on the bill embodying such plan within seven days of receipt of the plan. If the General Assembly fails to adopt such bill by this deadline, the districts shall be established by the Supreme Court of Virginia.

(g) If the Commission fails to submit a plan for districts by the deadline set forth in subsection (d), the Commission shall have fourteen days following its initial failure to submit a plan to the General Assembly. If the Commission fails to submit a plan for districts to the General Assembly by this deadline, the districts shall be established by the Supreme Court of Virginia.

If the Commission submits a plan for districts within fourteen days following its initial failure to submit a plan, the General Assembly shall take a vote on the bill embodying such plan within seven days of its receipt. If the General Assembly fails to adopt such bill by this deadline, the districts shall be established by the Supreme Court of Virginia.

(h) All meetings of the Commission shall be open to the public. Prior to proposing any redistricting plans and prior to voting on redistricting plans, the Commission shall hold at least three public hearings in different parts of the Commonwealth to receive and consider comments from the public.

(i) All records and documents of the Commission, or any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, shall be considered public information.

## CHAPTER 822

### HOUSE JOINT RESOLUTION NO. 676

*Proposing an amendment to Section 6 of Article X of the Constitution of Virginia, relating to personal property tax exemption; motor vehicle owned by a disabled veteran.*

Agreed to by the House of Delegates, February 22, 2019

Agreed to by the Senate, February 22, 2019

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article X of the Constitution of Virginia as follows:

ARTICLE X  
TAXATION AND FINANCE

## Section 6. Exempt property.

(a) Except as otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local, including inheritance taxes:

(1) Property owned directly or indirectly by the Commonwealth or any political subdivision thereof, and obligations of the Commonwealth or any political subdivision thereof exempt by law.

(2) Real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers.

(3) Private or public burying grounds or cemeteries, provided the same are not operated for profit.

(4) Property owned by public libraries or by institutions of learning not conducted for profit, so long as such property is primarily used for literary, scientific, or educational purposes or purposes incidental thereto. This provision may also apply to leasehold interests in such property as may be provided by general law.

(5) Intangible personal property, or any class or classes thereof, as may be exempted in whole or in part by general law.

(6) Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, as may be provided by classification or designation by an ordinance adopted by the local governing body and subject to such restrictions and conditions as provided by general law.

(7) Land subject to a perpetual easement permitting inundation by water as may be exempted in whole or in part by general law.

(8) *One motor vehicle owned and used primarily by or for a veteran of the armed forces of the United States or the Virginia National Guard who has been rated by the United States Department of Veterans Affairs or its successor agency pursuant to federal law with a one hundred percent service-connected, permanent, and total disability. For purposes of this subdivision, the term "motor vehicle" shall include only automobiles and pickup trucks. Any such motor vehicle owned by a married person may qualify if either spouse is a veteran who is one hundred percent disabled pursuant to this subdivision. This exemption shall be applicable on the date the motor vehicle is acquired or the effective date of this subdivision, whichever is later; but shall not be applicable for any period of time prior to the effective date.*

(b) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for the exemption from local property taxation, or a portion thereof, within such restrictions and upon such conditions as may be prescribed, of real estate and personal property designed for continuous habitation owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age or persons permanently and totally disabled as established by general law. A local governing body may be authorized to establish either income or financial worth limitations, or both, in order to qualify for such relief.

(c) Except as to property of the Commonwealth, the General Assembly by general law may restrict or condition, in whole or in part, but not extend, any or all of the above exemptions.

(d) The General Assembly may define as a separate subject of taxation any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth or for the purpose of transferring or storing solar energy, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(e) The General Assembly may define as a separate subject of taxation household goods, personal effects and tangible farm property and products, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(f) Exemptions of property from taxation as established or authorized hereby shall be strictly construed; provided, however, that all property exempt from taxation on the effective date of this section shall continue to be exempt until otherwise provided by the General Assembly as herein set forth.

(g) The General Assembly may by general law authorize any county, city, town, or regional government to impose a service charge upon the owners of a class or classes of exempt property for services provided by such governments.

(h) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, (i) of real estate whose improvements, by virtue of age and use, have undergone substantial renovation, rehabilitation or replacement or (ii) of real estate with new structures and improvements in conservation, redevelopment, or rehabilitation areas.

(i) The General Assembly may by general law allow the governing body of any county, city, or town to exempt or partially exempt from taxation any generating equipment installed after December thirty-one, nineteen hundred seventy-four, for the purpose of converting from oil or natural gas to coal or to wood, wood bark, wood residue, or to any other alternate energy source for manufacturing, and any co-generation equipment installed since such date for use in manufacturing.

(j) The General Assembly may by general law allow the governing body of any county, city, or town to have the option to exempt or partially exempt from taxation any business, occupational or professional license or any merchants' capital, or both.

(k) The General Assembly may by general law authorize the governing body of any county, city, or town to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, of improved real estate subject to recurrent flooding upon which flooding abatement, mitigation, or resiliency efforts have been undertaken.

## CHAPTER 823

### SENATE JOINT RESOLUTION NO. 278

*Proposing an amendment to Section 6 of Article X of the Constitution of Virginia, relating to personal property tax exemption; motor vehicle owned by a disabled veteran.*

Agreed to by the Senate, February 22, 2019

Agreed to by the House of Delegates, February 22, 2019

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article X of the Constitution of Virginia as follows:

#### ARTICLE X TAXATION AND FINANCE

Section 6. Exempt property.

(a) Except as otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local, including inheritance taxes:

(1) Property owned directly or indirectly by the Commonwealth or any political subdivision thereof, and obligations of the Commonwealth or any political subdivision thereof exempt by law.

(2) Real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers.

(3) Private or public burying grounds or cemeteries, provided the same are not operated for profit.

(4) Property owned by public libraries or by institutions of learning not conducted for profit, so long as such property is primarily used for literary, scientific, or educational purposes or purposes incidental thereto. This provision may also apply to leasehold interests in such property as may be provided by general law.

(5) Intangible personal property, or any class or classes thereof, as may be exempted in whole or in part by general law.

(6) Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, as may be provided by classification or designation by an ordinance adopted by the local governing body and subject to such restrictions and conditions as provided by general law.

(7) Land subject to a perpetual easement permitting inundation by water as may be exempted in whole or in part by general law.

(8) *One motor vehicle owned and used primarily by or for a veteran of the armed forces of the United States or the Virginia National Guard who has been rated by the United States Department of Veterans Affairs or its successor agency pursuant to federal law with a one hundred percent service-connected, permanent, and total disability. For purposes of this subdivision, the term "motor vehicle" shall include only automobiles and pickup trucks. Any such motor vehicle owned by a married person may qualify if either spouse is a veteran who is one hundred percent disabled pursuant to this subdivision. This exemption shall be applicable on the date the motor vehicle is acquired or the effective date of this subdivision, whichever is later, but shall not be applicable for any period of time prior to the effective date.*

(b) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for the exemption from local property taxation, or a portion thereof, within such restrictions and upon such conditions as may be prescribed, of real estate and personal property designed for continuous habitation owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age or persons permanently and totally disabled as established by general law. A local governing body may be authorized to establish either income or financial worth limitations, or both, in order to qualify for such relief.

(c) Except as to property of the Commonwealth, the General Assembly by general law may restrict or condition, in whole or in part, but not extend, any or all of the above exemptions.

(d) The General Assembly may define as a separate subject of taxation any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth or for the purpose of transferring or storing solar energy, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(e) The General Assembly may define as a separate subject of taxation household goods, personal effects and tangible farm property and products, and by general law may allow the governing body of any county, city, town, or regional

government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(f) Exemptions of property from taxation as established or authorized hereby shall be strictly construed; provided, however, that all property exempt from taxation on the effective date of this section shall continue to be exempt until otherwise provided by the General Assembly as herein set forth.

(g) The General Assembly may by general law authorize any county, city, town, or regional government to impose a service charge upon the owners of a class or classes of exempt property for services provided by such governments.

(h) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, (i) of real estate whose improvements, by virtue of age and use, have undergone substantial renovation, rehabilitation or replacement or (ii) of real estate with new structures and improvements in conservation, redevelopment, or rehabilitation areas.

(i) The General Assembly may by general law allow the governing body of any county, city, or town to exempt or partially exempt from taxation any generating equipment installed after December thirty-one, nineteen hundred seventy-four, for the purpose of converting from oil or natural gas to coal or to wood, wood bark, wood residue, or to any other alternate energy source for manufacturing, and any co-generation equipment installed since such date for use in manufacturing.

(j) The General Assembly may by general law allow the governing body of any county, city, or town to have the option to exempt or partially exempt from taxation any business, occupational or professional license or any merchants' capital, or both.

(k) The General Assembly may by general law authorize the governing body of any county, city, or town to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, of improved real estate subject to recurrent flooding upon which flooding abatement, mitigation, or resiliency efforts have been undertaken.

## CHAPTER 824

### SENATE JOINT RESOLUTION NO. 306

*Proposing an amendment to Section 6 of Article II of the Constitution of Virginia and proposing an amendment to the Constitution of Virginia by adding in Article II a section numbered 6-A, relating to apportionment; Virginia Redistricting Commission.*

Agreed to by the Senate, February 23, 2019

Agreed to by the House of Delegates, February 23, 2019

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article II of the Constitution of Virginia and amend the Constitution of Virginia by adding in Article II a section numbered 6-A as follows:

#### ARTICLE II FRANCHISE AND OFFICERS

##### Section 6. Apportionment.

Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established ~~by the General Assembly~~ *pursuant to Section 6-A of this Constitution*. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. *Every electoral district shall be drawn in accordance with the requirements of federal and state laws that address racial and ethnic fairness, including the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and provisions of the Voting Rights Act of 1965, as amended, and judicial decisions interpreting such laws. Districts shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.*

~~The General Assembly shall reapportion the Commonwealth~~ *shall be reapportioned* into electoral districts in accordance with this section *and Section 6-A* in the year ~~2011~~ 2021 and every ten years thereafter.

Any such decennial reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.

The districts delineated in the decennial reapportionment law shall be implemented for the November general election for the United States House of Representatives, Senate, or House of Delegates, respectively, that is held immediately prior to the expiration of the term being served in the year that the reapportionment law is required to be enacted. A member in office at the time that a decennial redistricting law is enacted shall complete his term of office and shall continue to represent the district from which he was elected for the duration of such term of office so long as he does not move his

residence from the district from which he was elected. Any vacancy occurring during such term shall be filled from the same district that elected the member whose vacancy is being filled.

*Section 6-A. Virginia Redistricting Commission.*

(a) *In the year 2020 and every ten years thereafter, the Virginia Redistricting Commission (the Commission) shall be convened for the purpose of establishing districts for the United States House of Representatives and for the Senate and the House of Delegates of the General Assembly pursuant to Article II, Section 6 of this Constitution.*

(b) *The Commission shall consist of sixteen commissioners who shall be selected in accordance with the provisions of this subsection.*

(1) *Eight commissioners shall be legislative members, four of whom shall be members of the Senate of Virginia and four of whom shall be members of the House of Delegates. These commissioners shall be appointed no later than December 1 of the year ending in zero and shall continue to serve until their successors are appointed.*

(A) *Two commissioners shall represent the political party having the highest number of members in the Senate of Virginia and shall be appointed by the President pro tempore of the Senate of Virginia.*

(B) *Two commissioners shall represent the political party having the next highest number of members in the Senate of Virginia and shall be appointed by the leader of that political party.*

(C) *Two commissioners shall represent the political party having the highest number of members in the House of Delegates and shall be appointed by the Speaker of the House of Delegates.*

(D) *Two commissioners shall represent the political party having the next highest number of members in the House of Delegates and shall be appointed by the leader of that political party.*

(2) *Eight commissioners shall be citizen members who shall be selected in accordance with the provisions of this subdivision and in the manner determined by the General Assembly by general law.*

(A) *There shall be a Redistricting Commission Selection Committee (the Committee) consisting of five retired judges of the circuit courts of Virginia. By November 15 of the year ending in zero, the Chief Justice of the Supreme Court of Virginia shall certify to the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of Virginia of the political party having the next highest number of members in the Senate a list of retired judges of the circuit courts of Virginia who are willing to serve on the Committee, and these members shall each select a judge from the list. The four judges selected to serve on the Committee shall select, by a majority vote, a judge from the list prescribed herein to serve as the fifth member of the Committee and to serve as the chairman of the Committee.*

(B) *By January 1 of the year ending in one, the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of the political party having the next highest number of members in the Senate shall each submit to the Committee a list of at least sixteen citizen candidates for service on the Commission. Such citizen candidates shall meet the criteria established by the General Assembly by general law.*

*The Committee shall select, by a majority vote, two citizen members from each list submitted. No member or employee of the Congress of the United States or of the General Assembly shall be eligible to serve as a citizen member.*

(c) *By February 1 of the year ending in one, the Commission shall hold a public meeting at which it shall select a chairman from its membership. The chairman shall be a citizen member and shall be responsible for coordinating the work of the Commission.*

(d) *The Commission shall submit to the General Assembly plans for districts for the Senate and the House of Delegates of the General Assembly no later than 45 days following the receipt of census data and shall submit to the General Assembly plans for districts for the United States House of Representatives no later than 60 days following the receipt of census data or by the first day of July of that year, whichever occurs later.*

(1) *To be submitted as a proposed plan for districts for members of the United States House of Representatives, a plan shall receive affirmative votes of at least six of the eight legislative members and six of the eight citizen members.*

(2) *To be submitted as a proposed plan for districts for members of the Senate, a plan shall receive affirmative votes of at least six of the eight legislative members, including at least three of the four legislative members who are members of the Senate, and at least six of the eight citizen members.*

(3) *To be submitted as a proposed plan for districts for members of the House of Delegates, a plan shall receive affirmative votes of at least six of the eight legislative members, including at least three of the four legislative members who are members of the House of Delegates, and at least six of the eight citizen members.*

(e) *Plans for districts for the Senate and the House of Delegates shall be embodied in and voted on as a single bill. The vote on any bill embodying a plan for districts shall be taken in accordance with the provisions of Article IV, Section 11 of this Constitution, except that no amendments shall be permitted. Such bills shall not be subject to the provisions contained in Article V, Section 6 of this Constitution.*

(f) *Within fifteen days of receipt of a plan for districts, the General Assembly shall take a vote on the bill embodying that plan in accordance with the provisions of subsection (e). If the General Assembly fails to adopt such bill by this deadline, the Commission shall submit a new plan for districts to the General Assembly within fourteen days of the General Assembly's failure to adopt the bill. The General Assembly shall take a vote on the bill embodying such plan within seven days of receipt of the plan. If the General Assembly fails to adopt such bill by this deadline, the districts shall be established by the Supreme Court of Virginia.*

(g) If the Commission fails to submit a plan for districts by the deadline set forth in subsection (d), the Commission shall have fourteen days following its initial failure to submit a plan to the General Assembly. If the Commission fails to submit a plan for districts to the General Assembly by this deadline, the districts shall be established by the Supreme Court of Virginia.

If the Commission submits a plan for districts within fourteen days following its initial failure to submit a plan, the General Assembly shall take a vote on the bill embodying such plan within seven days of its receipt. If the General Assembly fails to adopt such bill by this deadline, the districts shall be established by the Supreme Court of Virginia.

(h) All meetings of the Commission shall be open to the public. Prior to proposing any redistricting plans and prior to voting on redistricting plans, the Commission shall hold at least three public hearings in different parts of the Commonwealth to receive and consider comments from the public.

(i) All records and documents of the Commission, or any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, shall be considered public information.

## CHAPTER 825

An Act to amend and reenact §§ 24.2-945 and 24.2-947.1 of the Code of Virginia, relating to Campaign Finance Disclosure Act of 2006; applicability to certain candidates for town offices.

[H 1719]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-945 and 24.2-947.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 24.2-945. Elections to which chapter applicable; chapter exclusive.**

A. The provisions of this chapter shall apply to all elections held in Virginia, including referenda, and to nominating conventions, mass meetings, and other methods to nominate a political party candidate for public office, except nominations and elections for (i) members of the United States Congress, (ii) President and Vice President of the United States, (iii) town office in a town with a population of less than 25,000, (iv) directors of soil and water conservation districts, or (v) political party committees.

The provisions of this chapter shall be applicable to a candidate for a town office in a town with a population of less than 25,000 if (a) such candidate accepts contributions or makes expenditures in excess of \$25,000 within the candidate's election cycle, as set forth in § 24.2-947, or (b) the governing body of any such town with a population of less than 25,000 may provide provides, by ordinance, that the such provisions of this chapter shall be applicable to elections for town offices in the town so apply.

B. This chapter shall constitute the exclusive and entire campaign finance disclosure law of the Commonwealth, and elections to which the chapter applies shall not be subject to further regulation by local law.

**§ 24.2-947.1. Statement of organization.**

A. Any individual seeking or campaigning for an office of the Commonwealth or one of its governmental units in a party nomination process or general, primary, or special election; shall file a statement of organization within 10 days of meeting any one of the following conditions:

1. Acceptance of a contribution;
2. Expenditure of any funds;
3. The payment of a filing fee for any party nomination method;
4. The filing of a candidate statement of qualification pursuant to § 24.2-501; or
5. The appointment of a campaign treasurer, designation of a campaign committee, or designation of a campaign depository; or

6. In the case of a candidate for a town office in a town with a population of less than 25,000 that has not otherwise adopted the provisions of this chapter by ordinance, acceptance of a contribution or expenditure of funds that brings the total amount of contributions accepted or funds expended to more than \$25,000 within the candidate's election cycle, as set forth in § 24.2-947.

B. Candidates for statewide office shall file the statement with the State Board. Candidates for the General Assembly shall file the statement with the State Board and a copy of the statement with the general registrar of the locality of the candidate's residence. Candidates for local or constitutional office shall file the statement with the general registrar and, if the statement indicates that the candidate committee will be filing electronically, a copy with the State Board.

C. The statement of organization shall include the following information:

1. The full name and residence address of the candidate;
2. The full name and mailing address for the campaign committee;
3. The full name, residence address, and daytime phone number of the treasurer;
4. The office being sought and district, if any, for the office;
5. The recognized political party affiliation of the candidate for statewide office or the General Assembly. In the absence of any political party affiliation, independent shall be used;

6. The name of the financial institution for his campaign depository; and

7. Such other information as shall be required by the State Board except that the account number for a designated depository account shall not be required.

D. In the case of any candidate who seeks election for successive terms in the same office, the statement of organization filed by the candidate shall continue in effect for such successive elections, but the candidate shall file notice of any changes in the information provided on the form within 10 days of the change with the State Board, general registrar, or both, as appropriate.

## CHAPTER 826

*An Act to amend and reenact §§ 38.2-3559 through 38.2-3562 of the Code of Virginia, relating to health carriers; expedited reviews of adverse coverage determinations; exhaustion of internal reviews; cancer patients.*

[H 1915]

Approved April 3, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 38.2-3559 through 38.2-3562 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 38.2-3559. Notice of right to external review.**

A. A health carrier shall notify the covered person in writing of an adverse determination or final adverse determination and the covered person's right to request an external review. The notice of the right to request an external review shall include the following, or substantially similar, language: "We have denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care, or effectiveness of the health care service or treatment you requested by submitting a request for external review to the Commission."

B. The notice of the right to request an external review of an adverse determination shall include the following statements informing the covered person that:

1. If the covered ~~person has~~ *person's adverse determination involves (i) cancer or (ii) a medical condition where the time frame for completion of an expedited internal appeal of an adverse determination would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or his authorized representative may file a request for an expedited external review pursuant to § 38.2-3562;*

2. If the adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment would be significantly less effective if not promptly initiated, the covered person or his authorized representative may file a request for an expedited external review pursuant to § 38.2-3563;

3. If the covered person or his authorized representative files a request for an expedited internal appeal with the health carrier, he may file at the same time a request for an expedited external review of an adverse determination pursuant to § 38.2-3562 or 38.2-3563. The independent review organization assigned to conduct the expedited external review will determine whether the covered person shall be required to complete the expedited internal appeal prior to conducting the expedited external review; and

4. If the covered person or his authorized representative files a standard appeal with the health carrier's internal appeal process, and the health carrier does not issue a written decision within 30 days following the date the appeal requesting a review is filed and the covered person or his authorized representative did not request or agree to a delay, the covered person or his authorized representative may file a request for external review and shall be considered to have exhausted the health carrier's internal appeal process.

C. The notice of the right to request an external review of a final adverse determination shall include the following statements informing the covered person that:

1. If the covered person has a medical condition where the time frame for completion of a standard external review would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or his authorized representative may file a request for an expedited external review pursuant to § 38.2-3562;

2. If the final adverse determination involves an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility, the covered person or his authorized representative may request an expedited external review pursuant to § 38.2-3562; and

3. If the final adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational, the covered person or his authorized representative may file a request for a standard external review pursuant to § 38.2-3563; or if the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment would be significantly less effective if not promptly initiated, the covered person or his authorized representative may request an expedited external review pursuant to subsection B of § 38.2-3563.

D. The health carrier shall include the standard and expedited external review procedures and any forms with the notice of the right to an external review.

**§ 38.2-3560. Exhaustion of internal appeal process.**

A. A request for an external review shall not be made until the covered person has exhausted the health carrier's internal appeal process, *provided that a covered person's exhaustion of the health carrier's internal appeal process shall not be required if the adverse determination relates to the treatment of a cancer of the covered person.*

B. A covered person shall be considered to have exhausted the health carrier's internal appeal process if the covered person or his authorized representative has filed an appeal requesting a review of an adverse determination, and, except to the extent the covered person or his authorized representative requested or agreed to a delay, has not received a written decision from the health carrier within 30 days following the date the appeal was filed with the health carrier.

C. If a covered person or his authorized representative files a request for an expedited internal appeal of an adverse determination with the health carrier, the covered person or his authorized representative is deemed to have exhausted the internal appeal process and may file a request for an expedited external review of the adverse determination at the same time. Upon receipt of a request for an expedited external review of an adverse determination, the independent review organization conducting the external review shall determine whether the covered person shall be required to complete the health carrier's expedited internal appeal process before it conducts the expedited external review. The independent review organization shall promptly notify the covered person and his authorized representative, if any, of this determination, and either proceed with the expedited external review or wait until completion of the internal expedited appeal process.

D. A request for an external review of an adverse determination may be made before the covered person has exhausted the health carrier's internal appeal process whenever the health carrier agrees to waive the exhaustion requirement. If the exhaustion requirement is waived, the covered person or his authorized representative may file a request in writing for a standard external review.

**§ 38.2-3561. Standard external review.**

A. Within 120 days after the date of receipt of a notice of the right to an external review of a final adverse determination or an adverse determination if the internal appeal process has been deemed to be exhausted or waived, a covered person or his authorized representative may file a request for an external review in writing with the Commission. Within one business day after the date of receipt of a request for external review, the Commission shall send a copy of the request to the health carrier.

B. Within five business days following the date of receipt of the external review request from the Commission, the health carrier shall complete a preliminary review of the request to determine whether:

1. The individual is or was a covered person at the time the health care service was requested or, in the case of a retrospective review, was a covered person at the time the health care service was provided;

2. The health care service is a covered service, except as excluded for not meeting the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness;

3. The covered person has exhausted or is deemed to have exhausted the health carrier's internal appeal process, *provided that a covered person's exhaustion of the health carrier's internal appeal process shall not be required if the adverse determination relates to the treatment of a cancer of the covered person;* and

4. All the information and forms required to process the external review are complete.

C. Within one business day after completion of the preliminary review, the health carrier shall notify in writing the Commission, the covered person, and his authorized representative, if any, whether the request is complete and eligible for external review and, if ineligible, the reasons for ineligibility. If the request is not complete, the notice shall include what information or materials are needed to make the request complete. Such notice shall include a statement informing the covered person and his authorized representative, if any, that the health carrier's determination of ineligibility may be appealed to the Commission. If the health carrier makes an ineligibility determination, the Commission may determine that a request is eligible for external review and require that it be referred for external review. In making this determination, the Commission's decision shall be made in accordance with the terms of the covered person's health benefit plan and the requirements of subsection B.

D. Within one business day after the date of receipt of the notice described in subsection C, the Commission shall assign an independent review organization to conduct the external review and notify in writing the health carrier, the covered person, and his authorized representative, if any, of the request's eligibility and acceptance for external review and the name of the assigned independent review organization. The Commission shall include in such notice a statement that the covered person or his authorized representative may submit in writing to the assigned independent review organization, within five business days following the date of receipt, additional information that the independent review organization shall consider when conducting the external review.

E. Within five business days after the date of receipt of the notice from the Commission, the health carrier or its designee utilization review entity shall provide to the assigned independent review organization the documents and any information considered in making the adverse determination or final adverse determination. Failure by the health carrier or its utilization review entity to provide the documents and information within the time specified shall not delay the conduct of the external review. If the health carrier or its utilization review entity fails to provide the documents and information within the time specified, the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination. Within one business day after making such

decision, the independent review organization shall notify the covered person, his authorized representative, if any, the health carrier, and the Commission.

F. The assigned independent review organization shall review all of the information and documents timely received from the health carrier and any other information submitted in writing by the covered person or his authorized representative. The independent review organization is not required to, but may, accept and consider information submitted late from the covered person or his authorized representative, if any. Upon receipt of any information submitted by the covered person or his authorized representative, the assigned independent review organization shall within one business day forward the information to the health carrier.

G. Upon receipt of the information from the assigned independent review organization, the health carrier may reconsider its adverse determination or final adverse determination. Reconsideration by the health carrier of its adverse determination or final adverse determination shall not delay or terminate the external review. The external review may only be terminated if the health carrier decides to reverse its adverse determination or final adverse determination and provide coverage or payment for the health care service. Within one business day after making the decision to reverse its adverse determination or final adverse determination, the health carrier shall notify the covered person, his authorized representative, if any, the assigned independent review organization, and the Commission in writing of its decision. Upon receipt of the notice of the health carrier's decision to reverse its adverse determination or final adverse determination, the assigned independent review organization shall terminate the external review.

H. The assigned independent review organization, to the extent the information or documents are available and the independent review organization considers them appropriate, shall also consider the following in reaching a decision:

1. The covered person's medical records;
2. The attending health care professional's recommendation;
3. Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, his authorized representative, or the covered person's treating provider;
4. The terms of coverage under the covered person's health benefit plan;
5. The most appropriate practice guidelines, which shall include applicable evidence-based standards and may include any other practice guidelines developed by the federal government or national or professional medical societies, boards, and associations;
6. Any applicable clinical review criteria developed and used by the health carrier or its designee utilization review entity; and
7. The opinion of the independent review organization's clinical reviewer or reviewers after considering the information or documents described in subdivisions 1 through 6 to the extent the information or documents are available and the clinical reviewer or reviewers consider appropriate.

In reaching a decision, the assigned independent review organization shall not be bound by any decisions or conclusions reached during the health carrier's utilization review process or the internal appeal process.

I. Within 45 days after the date of receipt of the request for an external review, the assigned independent review organization shall provide written notice of its decision to uphold or reverse the adverse determination or the final adverse determination to the covered person, his authorized representative, if any, the health carrier, and the Commission. The independent review organization shall include in such notice: a general description of the reason for the request for external review; the date the independent review organization received the assignment from the Commission to conduct the external review; the date the external review was conducted; the date of its decision; the principal reason or reasons for its decision, including what applicable, if any, evidence-based standards were a basis for its decision; the rationale for its decision; and references to the evidence or documentation, including evidence-based standards, considered in reaching its decision.

J. Upon receipt of a notice reversing the adverse determination or final adverse determination, the health carrier promptly shall approve the coverage.

#### **§ 38.2-3562. Expedited external review.**

A. A covered person or his authorized representative may make a request for an expedited external review with the Commission at the time the covered person receives:

1. An adverse determination if the adverse determination involves (i) *cancer* or (ii) a medical condition of the covered person for which the time frame for completion of an expedited internal appeal involving an adverse determination would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, and the covered person or his authorized representative has filed a request for an expedited internal appeal of the adverse determination; or

2. A final adverse determination if the covered person has (i) *cancer* or (ii) a medical condition where the time frame for completion of a standard external review would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, or if the final adverse determination concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility.

B. Upon receipt of a request for an expedited external review, the Commission shall promptly send a copy of the request to the health carrier. Promptly upon receipt of such request, the health carrier shall determine whether the request meets the eligibility requirements in subsection B of § 38.2-3561. The health carrier shall promptly notify the Commission, the covered person, and his authorized representative, if any, of its eligibility determination. Such notice shall include a

statement informing the covered person and his authorized representative, if any, that the health carrier's determination of ineligibility may be appealed to the Commission. If the health carrier makes an ineligibility determination, the Commission may determine that a request is eligible for external review and require that it be referred for external review. In making such determination, the Commission decision shall be made in accordance with the terms of the covered person's health benefit plan and the requirements of subsection B of § 38.2-3561.

Upon receipt of the notice that the request meets the eligibility requirements, the Commission shall promptly assign an independent review organization to conduct the expedited external review. The Commission shall promptly notify the health carrier of the name of the assigned independent review organization.

C. Promptly upon receipt of the notice from the Commission of the name of the independent review organization assigned, the health carrier or its designee utilization review entity shall provide or transmit all necessary documents and information considered in making the adverse determination or final adverse determination to the assigned independent review organization electronically, by telephone, facsimile, or any other available expeditious method.

D. The assigned independent review organization, to the extent the information or documents are available and the independent review organization considers them appropriate, shall also consider the following in reaching a decision:

1. The covered person's pertinent medical records;
2. The attending health care professional's recommendation;
3. Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, his authorized representative, or the covered person's treating provider;
4. The terms of coverage under the covered person's health benefit plan;
5. The most appropriate practice guidelines, which shall include evidence-based standards, and may include any other practice guidelines developed by the federal government or national or professional medical societies, boards, and associations;
6. Any applicable clinical review criteria developed and used by the health carrier or its designee utilization review entity in making adverse determinations; and

7. The opinion of the independent review organization's clinical reviewer or reviewers after considering the information and documents described in clauses 1 through 6 to the extent the information and documents are available and the clinical reviewer or reviewers consider appropriate.

In reaching a decision, the assigned independent review organization is not bound by any decisions or conclusions reached during the health carrier's utilization review process or internal appeal process.

E. As expeditiously as the covered person's medical condition or circumstances requires, but in no event more than 72 hours after the date of receipt of an eligible request for an expedited external review, the assigned independent review organization shall make a decision to uphold or reverse the adverse determination or final adverse determination and notify the covered person, his authorized representative, if any, the health carrier, and the Commission. If such decision was not in writing, within 48 hours after the date of providing such decision, the assigned independent review organization shall provide written confirmation of the decision to the covered person, his authorized representative, if any, the health carrier, and the Commission and include the information set forth in subsection I of § 38.2-3561.

F. Upon receipt of a decision reversing the adverse determination or final adverse determination, the health carrier shall promptly approve the coverage.

G. An expedited external review shall not be available for retrospective adverse determinations or retrospective final adverse determinations.

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 827

*An Act to amend and reenact §§ 53.1-40.10, 53.1-68, and 53.1-133.03 of the Code of Virginia, relating to behavioral health services; exchange of medical and mental health information and records; correctional facilities.*

[H 1942]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 53.1-40.10, 53.1-68, and 53.1-133.03 of the Code of Virginia are amended and reenacted as follows:**

**§ 53.1-40.10. Exchange of medical and mental health information and records.**

A. Whenever a person is committed to a state correctional facility, the *following shall be entitled to obtain medical and mental health information and records concerning such person from a health care provider, even when such person does not provide consent or consent is not readily obtainable:*

*1. The person in charge of the facility, or his designee shall be entitled to obtain medical records concerning such person from a health care provider. In addition, medical and mental health information and records of any person committed to the Department of Corrections may be exchanged among the following:*

*1. Administrative personnel for the facility in which the prisoner is imprisoned when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the facility, its employees, or other prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to*

~~ensure the safety and security of the facility, when such information and records are necessary (i) for the provision of health care to the person committed, (ii) to protect the health and safety of the person committed or other residents or staff of the facility, or (iii) to maintain the security and safety of the facility. Such information and records may be exchanged among administrative personnel for the facility in which the person is imprisoned as necessary to maintain the security and safety of the facility, its employees, or other prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the security and safety of the facility.~~

2. Members of the Parole Board, as specified in § 53.1-138, in order to conduct the investigation required under § 53.1-155.

3. Probation and parole officers for use in parole and probation planning, release and supervision.

4. Officials within the Department for the purpose of formulating recommendations for treatment and rehabilitative programs; classification, security and work assignments; and determining the necessity for medical, dental and mental health care, treatment and programs.

5. Medical and mental health hospitals and facilities, both public and private, including community ~~service~~ *services* boards, for use in planning for and supervision of post-incarceration medical and mental health care, treatment, and programs.

6. The Department for Aging and Rehabilitative Services, the Department of Social Services, and any local department of social services in the Commonwealth for the purposes of reentry planning and post-incarceration placement and services.

B. Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. § 2.11 et seq., shall not be subject to the provisions of this section. The disclosure of results of a test for human immunodeficiency virus shall not be permitted except as provided in § 32.1-36.1.

C. The release of medical and mental health information and records to any other agency or individual shall be subject to all regulations promulgated by the Department ~~which~~ *that* govern confidentiality of such records. Medical and mental health information concerning a prisoner ~~which~~ *that* has been exchanged pursuant to this section may be used only as provided herein and shall otherwise remain confidential and protected from disclosure.

**§ 53.1-68. Minimum standards for local correctional facilities and lock-ups; health inspections, behavioral health services inspections, and personnel.**

A. The Board shall establish minimum standards for the construction, equipment, administration, and operation of local correctional facilities, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards. The Board or its agents shall conduct at least one unannounced inspection of each local facility annually. However, in those years in which a certification audit of a facility is performed and the facility is in compliance with all the standards, the Board may elect to suspend the unannounced inspection based upon that certification audit and the history of compliance of the facility with the standards promulgated in accordance with this section, except in any year in which there is a change in the administration of a local or regional jail. The Board shall also establish minimum standards for the construction, equipment, and operation of lock-ups, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards.

B. Standards concerning sanitation in local correctional facilities and procedures for enforcing these standards shall be promulgated by the Board with the advice and guidance of the State Health Commissioner. The Board, in conjunction with the Board of Health, shall establish a procedure for the conduct of at least one unannounced annual health inspection by the State Health Commissioner or his agents of each local correctional facility. The Board and the State Health Commissioner may authorize such other announced or unannounced inspections as they consider appropriate.

C. *The Board shall establish minimum standards for behavioral health services in local correctional facilities and procedures for enforcing such minimum standards, with the advice of and guidance from the Commissioner of Behavioral Health and Developmental Services and the State Inspector General.*

*Such standards shall include:*

1. *Requirements for behavioral health services provided in jails, including requirements for behavioral health screening and assessment of individuals committed to local correctional facilities and the provision of behavioral health services in local correctional facilities, as well as regulations directing the sharing of medical and mental health information and records in accordance with § 53.1-133.03;*

2. *Requirements for discharge planning for individuals with serious mental illness assessed as requiring behavioral health services upon release from the local correctional facility, which shall include (i) creation of a discharge plan, as soon as practicable after completion of the assessment required pursuant to subdivision 1, and (ii) coordination of services and care with community providers, community supervision agencies, and, as appropriate, the individual's family in accordance with the discharge plan until such time as the individual has begun to receive services in accordance with the discharge plan or for a period of 30 days following release from the local correctional facility, whichever occurs sooner. Discharge plans shall ensure access to the full continuum of care for the individual upon release from the local correctional facility and shall include provisions for (a) linking the individual for whom the discharge plan has been prepared to the community services board in the jurisdiction in which he will reside following release and to other supports and services necessary to meet his service needs and (b) communication of information regarding the individual's treatment needs and exchange of treatment records among service providers;*

3. A requirement for at least one unannounced annual inspection of each local correctional facility by the Board or its agents to determine compliance with the standards for behavioral health services established pursuant to this subsection and such other announced or unannounced inspections as the Board may deem necessary to ensure compliance with the standards for behavioral health services established pursuant to this subsection; and

4. Provisions for the billing of the sheriff in charge of a local correctional facility or superintendent of a regional correctional facility by and payment by such sheriff or superintendent to a community services board that provides behavioral health services in the local correctional facility, in accordance with § 53.1-126.

D. The Department of Criminal Justice Services, in accordance with § 9.1-102, shall establish minimum training standards for persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120 and for persons employed as jail officers or custodial officers under the provisions of this title. The sheriff shall establish minimum performance standards and management practices to govern the employees for whom the sheriff is responsible.

~~D.~~ E. The superintendent of a regional jail or jail farm shall establish minimum performance standards and management practices to govern the employees for whom the superintendent is responsible.

**§ 53.1-133.03. Exchange of medical and mental health information and records.**

~~Notwithstanding any other provision of law relating to disclosure and confidentiality of patient records maintained by a health care provider, whenever~~ A. Whenever a person is committed to a local or regional correctional facility, the following shall be entitled to obtain medical and mental health information and records concerning such person from a health care provider, even when such person does not provide consent or consent is not readily obtainable:

1. The person in charge of the facility, or his designee ~~shall be entitled to obtain medical records concerning such person from a health care provider. In addition, medical and mental health information and records of any person committed to jail, and transferred to another correctional facility, may be exchanged among the following:~~

~~1. Administrative personnel of the correctional facilities involved and of the administrative personnel within the holding facility when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the holding facility, its employees, or prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the safety and security of the facility, when such information and records are necessary (i) for the provision of health care to the person committed, (ii) to protect the health and safety of the person committed or other residents or staff of the facility, or (iii) to maintain the security and safety of the facility. Such information and records of any person committed to jail and transferred to another correctional facility may be exchanged among administrative personnel of the correctional facilities involved and of the administrative personnel within the holding facility when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the holding facility, its employees, or prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the security and safety of the facility.~~

2. Members of the Parole Board or its designees, as specified in § 53.1-138, in order to conduct the investigation required under § 53.1-155.

3. Probation and parole officers for use in parole and probation planning, release and supervision.

4. Officials of the facilities involved and officials within the holding facility for the purpose of formulating recommendations for treatment and rehabilitative programs; classification, security and work assignments; and determining the necessity for medical, dental and mental health care, treatment and other such programs.

5. Medical and mental health hospitals and facilities, both public and private, including community ~~service services~~ boards and health departments, for use in treatment while committed to jail or a correctional facility while under supervision of a probation or parole officer.

B. Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. § 2.11 et seq., shall not be subject to the provisions of this section. The disclosure of results of a test for human immunodeficiency virus shall not be permitted except as provided in §§ 32.1-36.1 and 32.1-116.3.

C. The release of medical and mental health information and records to any other agency or individual shall be subject to all regulations promulgated by the Board of Corrections ~~which that~~ govern confidentiality of such records. Medical and mental health information concerning a prisoner ~~which that~~ has been exchanged pursuant to this section may be used only as provided herein and shall otherwise remain confidential and protected from disclosure.

D. Nothing contained in this section shall prohibit the release of records to the Department of Health Professions or health regulatory boards consistent with Subtitle III (§ 54.1-2400 et seq.) of Title 54.1 ~~of the Code of Virginia.~~

**2. That the provisions of subdivision C 2 of § 53.1-68 of the Code of Virginia, as amended by this act, relating to requirements for discharge planning for individuals committed to local correctional facilities shall become effective on July 1, 2020.**

**3. That the Chairman of the Board of Corrections shall convene a work group to include representatives of sheriffs, superintendents of regional correctional facilities, community services boards, the Department of Behavioral Health and Developmental Services, the Department of Medical Assistance Services, the Virginia Association of Counties, the Virginia Municipal League, and such other stakeholders as the Director shall deem appropriate to determine the cost of implementing provisions of this act. The work group shall report its findings and conclusions to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee for Courts of Justice, the House Committee on Health, Welfare and Institutions, the Senate Committee on Finance, the Senate Committee for**

Courts of Justice, the Senate Committee on Education and Health, and the Senate Committee on Rehabilitation and Social Services by November 1, 2019.

## CHAPTER 828

*An Act to amend and reenact § 15.2-2403 of the Code of Virginia, relating to local service districts; broadband and telecommunications services.*

[H 2141]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2403 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2403. Powers of service districts.**

After adoption of an ordinance or ordinances or the entry of an order creating a service district, the governing body or bodies shall have the following powers with respect to the service districts:

1. To construct, maintain, and operate such facilities and equipment as may be necessary or desirable to provide additional, more complete, or more timely governmental services within a service district, including but not limited to general government facilities; water supply, dams, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks; economic development services; promotion of business and retail development services; beautification and landscaping; beach and shoreline management and restoration; dredging of creeks and rivers to maintain existing uses; control of infestations of insects that may carry a disease that is dangerous to humans, gypsy moths, cankerworms or other pests identified by the Commissioner of the Department of Agriculture and Consumer Services in accordance with the Virginia Pest Law (§ 3.2-700 et seq.); public parking; extra security, street cleaning, snow removal and refuse collection services; sponsorship and promotion of recreational and cultural activities; upon petition of over 50 percent of the property owners who own not less than 50 percent of the property to be served, construction, maintenance, and general upkeep of streets and roads; construction, maintenance, and general upkeep of streets and roads through creation of urban transportation service districts pursuant to § 15.2-2403.1; and other services, events, or activities that will enhance the public use and enjoyment of and the public safety, public convenience, and public well-being within a service district. Such services, events, or activities shall not be undertaken for the sole or dominant benefit of any particular individual, business or other private entity. Any transportation service, system, facility, roadway, or roadway appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department.

2. Notwithstanding the provisions of § 33.2-326, to provide, in addition to services authorized by subdivision 1, transportation and transportation services within a service district, regardless of whether the facilities subject to the services are or will be operated or maintained by the Virginia Department of Transportation, including, but not limited to: public transportation systems serving the district; transportation management services; road construction, including any new roads or improvements to existing roads; rehabilitation and replacement of existing transportation facilities or systems; and sound walls or sound barriers. However, any transportation service, system, facility, roadway, or roadway appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department. The proceeds from any annual tax or portion thereof collected for road construction pursuant to subdivision 6 may be accumulated and set aside for such reasonable period of time as is necessary to finance such construction; however, the governing body or bodies shall make available an annual disclosure statement, which shall contain the amount of any such proceeds accumulated and set aside to finance such road construction.

3. To acquire in accordance with § 15.2-1800, any such facilities and equipment and rights, title, interest or easements therefor in and to real estate in such district and maintain and operate the same as may be necessary and desirable to provide the governmental services authorized by subdivisions 1 and 2.

4. To contract with any person, municipality or state agency to provide the governmental services authorized by subdivisions 1 and 2 and to construct, establish, maintain, and operate any such facilities and equipment as may be necessary and desirable in connection therewith.

5. To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The owners or tenants shall have the right of appeal to the circuit court within 10 days from action by the governing body.

6. To levy and collect an annual tax upon any property in such service district subject to local taxation to pay, either in whole or in part, the expenses and charges for providing the governmental services authorized by subdivisions 1, 2 and 11 and for constructing, maintaining, and operating such facilities and equipment as may be necessary and desirable in connection therewith; however, such annual tax shall not be levied for or used to pay for schools, police, or general government services not authorized by this section, and the proceeds from such annual tax shall be so segregated as to enable the same to be expended in the district in which raised. Such tax may be levied on taxable real estate zoned for residential, commercial, industrial or other uses, or any combination of such use classification, within the geographic

boundaries of the service district; however, such tax shall only be levied upon the specific classification of real estate that the local governing body deems the provided governmental services to benefit. In addition to the tax on property authorized herein, in the City of Virginia Beach, the city council shall have the power to impose a tax on the base transient room rentals, excluding hotels, motels, and travel campgrounds, within such service district at a rate or percentage not higher than five percent which is in addition to any other transient room rental tax imposed by the city. The proceeds from such additional transient room rental tax shall be deposited in a special fund to be used only for the purpose of beach and shoreline management and restoration. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the service district, notwithstanding any special use value assessment of property within the service district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent. In addition to the taxes and assessments described herein, a locality creating a service district may contribute from its general fund any amount of funds it deems appropriate to pay for the governmental services authorized by subdivisions 1, 2, and 11 of this section.

7. To accept the allocation, contribution or funds of, or to reimburse from, any available source, including, but not limited to, any person, authority, transportation district, locality, or state or federal agency for either the whole or any part of the costs, expenses and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, expansion, and the operation or maintenance of any facilities and services in the district.

8. To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment may be necessary or desirable to provide the governmental services authorized by subdivisions 1, 2 and 11 or for the construction, operation, or maintenance of any such facilities and equipment as may be necessary or desirable in connection therewith.

9. To create and terminate a development board or other body to which shall be granted and assigned such powers and responsibilities with respect to a special service district as are delegated to it by ordinance adopted by the governing body of such locality or localities. Any such board or alternative body created shall be responsible for control and management of funds appropriated for its use by the governing body or bodies, and such funds may be used to employ or contract with, on such terms and conditions as the board or other body shall determine, persons, municipal or other governmental entities or such other entities as the development board or alternative body deems necessary to accomplish the purposes for which the development board or alternative body has been created. If the district was created by court order, the ordinance creating the development board or alternative body may provide that the members appointed to the board or alternative body shall consist of a majority of the landowners who petitioned for the creation of the district, or their designees or nominees.

10. To negotiate and contract with any person or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the district.

11. To acquire by purchase, gift, devise, bequest, grant, or otherwise title to or any interests or rights of not less than five years' duration in real property that will provide a means for the preservation or provision of open-space land as provided for in the Open-Space Land Act (§ 10.1-1700 et seq.). Notwithstanding the provisions of subdivision 3, the governing body shall not use the power of condemnation to acquire any interest in land for the purposes of this subdivision.

12. To contract with any state agency or state or local authority for services within the power of the agency or authority related to the financing, construction, or operation of the facilities and services to be provided within the district; however, nothing in this subdivision shall authorize a locality to obligate its general tax revenues, or to pledge its full faith and credit.

13. In the Town of Front Royal, to construct, maintain, and operate facilities, equipment, and programs as may be necessary or desirable to control, eradicate, and prevent the infestation of rats and removal of skunks and the conditions that harbor them.

14. In Accomack County, to construct, maintain, and operate in the Wallops Research Park, consistent with all applicable federal, state, and local laws and regulations, such infrastructure, services, or amenities as may be necessary or desirable to provide access for aerospace-related economic development to the NASA/Wallops Flight Facility runway and related facilities, and to create and terminate a Wallops Research Park Partnership body, which shall consist of one representative of the NASA/Wallops Research Flight Facility, one representative of the U.S. Navy Surface Combat Systems Center, one representative of the Marine Science Consortium, one representative of the Accomack County government, the Chancellor of the Virginia Community College System, and one representative of the Virginia Economic Development Partnership. The Partnership body shall have all of the powers enumerated in § 15.2-2403. Federal appointees to the Partnership body shall maintain their absolute duties of loyalty to the U.S. government.

*15. To contract with a nongovernmental broadband service provider who will construct, maintain, and own communications facilities and equipment required to facilitate delivery of last-mile broadband services to unserved areas of the service district, provided that the locality documents that less than 10 percent of residential and commercial units within the project area are capable of receiving broadband service at the time the construction project is approved by the locality.*

*As used in this subdivision:*

*"Area unserved by broadband" means a designated area in which less than 10 percent of residential and commercial units are capable of receiving broadband service, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guidelines modify such percentage from time to time.*

*"Broadband" means Internet access at speeds greater than 10 Mbps download speed and one Mbps upload speed, provided that the Department of Housing and Community Development for its Virginia Telecommunication Initiative may by guidelines modify such speeds from time to time.*

## CHAPTER 829

*An Act to amend the Code of Virginia by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1210, relating to parental leave.*

[H 2234]

Approved April 3, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1210 as follows:**

**§ 2.2-1210. Parental leave.**

A. As used in this section:

*"Eligible employee" means a classified or at-will state employee who has been employed by the Commonwealth for a minimum of 12 consecutive months.*

*"Parental leave" means paid leave provided at 100 percent of an eligible employee's regular salary.*

B. *The Department shall implement and administer parental leave for eligible employees. Following the birth, adoption, or foster placement of a child younger than age 18, an eligible employee shall receive eight weeks (320 hours) of parental leave. If both parents of such child are eligible employees, each shall receive parental leave, which may be taken concurrently, consecutively, or at different times.*

C. *Parental leave shall be taken within six months following the birth, adoption, or foster placement of the child. Parental leave shall be taken only once in a 12-month period and only once per child.*

D. *Parental leave shall be in addition to other leave benefits available to state employees, including the Virginia Sickness and Disability Program under Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, sick leave under Article 2 (§ 51.1-1104) of Chapter 11 of Title 51.1, annual leave, and leave under the Family and Medical Leave Act (29 U.S.C. § 2601 et seq.), and shall not be counted against leave under such programs. Parental leave shall run concurrently with any leave provided to an eligible employee under the Family and Medical Leave Act. Parental leave may run concurrently or sequentially with leave provided under the Virginia Sickness and Disability Program if an eligible employee is eligible for such leave. All legal holidays designated pursuant to § 2.2-3300 shall not be counted against parental leave.*

E. *On July 1, 2020, and every July 1 thereafter, each state agency's human resource manager shall submit to the Department, in a form and containing such data as prescribed by the Department, a report on the use of parental leave by agency employees for the preceding fiscal year.*

F. *The Department shall develop and publish guidelines on parental leave that shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).*

## CHAPTER 830

*An Act to amend the Code of Virginia by adding a section numbered 29.1-528.3, relating to firearms ordinances; property located in multiple localities.*

[H 2252]

Approved April 3, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 29.1-528.3 as follows:**

**§ 29.1-528.3. Firearms ordinances; property in multiple localities.**

*When one or more contiguous parcels of land owned by a particular landowner span two or more localities whose firearms ordinances differ, the landowner may elect to have the firearms ordinances of the locality in which the largest portion of the contiguous parcel of land lies to apply to anyone hunting on any portion of the property, and shall notify the Department of Game and Inland Fisheries of such election.*

**2. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2020 Session of the General Assembly.**

**3. That the Department of Game and Inland Fisheries shall study issues related to the application of inconsistent local firearm ordinances in situations where a single parcel of property or two or more contiguous parcels under the same ownership are located in more than one locality and shall report its findings to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources by the first day of the 2020 Regular Session.**

## CHAPTER 831

*An Act to amend and reenact §§ 9.1-301 and 9.1-302 of the Code of Virginia, relating to Firefighters and Emergency Medical Technicians Procedural Guarantee Act; breach of procedures.*

[H 2263]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-301 and 9.1-302 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-301. Conduct of interrogation.**

The provisions of this section shall apply whenever a firefighter or emergency medical services personnel are subjected to an interrogation that could lead to dismissal, demotion, or suspension for punitive reasons:

1. The interrogation shall take place at the facility where the investigating officer is assigned, or at the facility that has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating officer.

2. No firefighter or emergency medical services personnel shall be subjected to interrogation without first receiving written notice of sufficient detail of the investigation in order to reasonably apprise the firefighter or emergency medical services personnel of the nature of the investigation.

3. All interrogations shall be conducted at a reasonable time of day, preferably when the firefighter or ~~individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1~~ is on duty, unless the matters being investigated are of such a nature that immediate action is required.

4. The firefighter or emergency medical services personnel under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interrogators, and all persons present during any interrogation.

5. Interrogation sessions shall be of reasonable duration, and the firefighter or emergency medical services personnel shall be permitted reasonable periods for rest and personal necessities. The firefighter or emergency medical services personnel may have an observer of his choice present during the interrogation, as long as the interview is not unduly delayed. This observer may not participate or represent the employee, may not be involved in the investigation, and must be an active or retired member of the department, for purposes of confidentiality.

6. The firefighter or emergency medical services personnel being interrogated shall not be subjected to offensive language or offered any incentive as an inducement to answer any questions.

7. If a recording of any interrogation is made, and if a transcript of the interrogation is made, the firefighter or emergency medical services personnel under investigation shall be entitled to a copy without charge. Such record may be electronically recorded.

8. No firefighter or emergency medical services personnel shall be discharged, disciplined, demoted, denied promotion or seniority, or otherwise disciplined or discriminated against in regard to his employment, or be threatened with any such treatment as retaliation for his exercise of any of the rights granted or protected by this chapter.

Nothing contained in this section shall prohibit a local governing body from granting its employees rights greater than those contained herein.

**§ 9.1-302. Breach of procedures.**

~~Any breach of the procedures required by this chapter shall not exclude any evidence from being presented. Evidence gathered through the conduct of an interrogation that violates the provisions of this chapter shall not be admissible in any ease administrative hearing against a firefighter or individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 and shall not cause any charge to be dismissed unless the firefighter or emergency medical services personnel demonstrates that the breach prejudiced his ease.~~

## CHAPTER 832

*An Act to amend and reenact § 46.2-345 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7 of Chapter 3 of Title 46.2 a section numbered 46.2-345.2, relating to special identification cards without photographs; fee; confidentiality; penalties.*

[H 2441]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-345 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7 of Chapter 3 of Title 46.2 a section numbered 46.2-345.2 as follows:**

**§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.**

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person, provided *that*:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address;

2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;

3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and

4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, ~~or~~ motorcycle learner's permit, *or special identification card without a photograph.*

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original, duplicate, reissue, or renewal special identification card is \$2 per year, with a \$10 minimum fee. Persons 21 years old or older may be issued a scenic special identification card for an additional fee of \$5.

C. Every special identification card shall expire on the applicant's birthday at the end of the period of years for which a special identification card has been issued. At no time shall any special identification card be issued for less than three nor more than eight years, except under the provisions of subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii) the card was not issued as a temporary special identification card under the provisions of subsection B of § 46.2-328.1. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions. Any special identification card issued to a person required to register pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years which the applicant attains an age equally divisible by five. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each such person shall appear for each renewal or the requirement to obtain a photograph in accordance with subsection C of § 46.2-323.

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card shall appear in person before the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. Special identification cards for persons under age 15 shall bear a full face photograph. The special identification card issued to persons under age 15 shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Unless otherwise prohibited by law, a valid Virginia driver's license ~~may~~ *shall* be surrendered *upon application* for a special identification card without the applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card shall be considered a reissue and the expiration date shall be the last day of the month of the surrendered driver's license's month of expiration.

H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

I. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

J. ~~The Department may promulgate regulations necessary for the effective implementation of the provisions of this section:~~

~~K.~~ The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

~~K.~~ K. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application for the special identification card.

~~M.~~ L. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card that the applicant has any condition listed in subsection K of § 46.2-342.

**§ 46.2-345.2. Issuance of special identification cards without photographs; fee; confidentiality; penalties.**

A. *On the application of any person with a sincerely held religious belief prohibiting the taking of a photograph who is a resident of the Commonwealth and who is at least 15 years of age, the Department shall issue a special identification card without a photograph to the person, provided that:*

1. *Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address;*

2. *The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;*

3. *The applicant presents an approved and signed U.S. Department of the Treasury Internal Revenue Service (IRS) Form 4029 or if such applicant is a minor, the applicant's parent or legal guardian presents an approved and signed IRS Form 4029; and*

4. *The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, motorcycle learner's permit, or special identification card.*

B. *The fee for the issuance of an original, duplicate, or reissue special identification card without a photograph is \$10 per year, with a \$20 minimum fee.*

C. *Every special identification card without a photograph shall expire on the applicant's birthday at the end of the period of years for which a special identification card without a photograph has been issued. At no time shall any special identification card without a photograph be issued for more than eight years. Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for re-issue due to circumstances beyond its control or (ii) the extension has been authorized under a directive from the Governor. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions.*

D. *A special identification card without a photograph issued under this section may be similar in size, shape, and design to a driver's license and shall not include a photograph of its holder. The card shall be readily distinguishable from a driver's license and shall clearly state that federal limits apply, that the card is not valid identification to vote, and that the card does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card without a photograph shall appear in person before the Department to apply for a duplicate or reissue unless specifically permitted by the Department to apply in another manner.*

E. *Unless otherwise prohibited by law, a valid Virginia driver's license or special identification card shall be surrendered for a special identification card without a photograph without the applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's license or special identification card is unexpired and has not been revoked, suspended, or canceled. The special identification card without a photograph shall be considered a reissue, and the expiration date shall be the last day of the month of the surrendered driver's license's or special identification card's month of expiration.*

F. *Any personal information, as identified in § 2.2-3801, that is retained by the Department from an application for the issuance of a special identification card without a photograph is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.*

G. *Any person who uses a false or fictitious name or gives a false or fictitious address in any application for a special identification card without a photograph or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application is guilty of a Class 2 misdemeanor. However, where the special identification card without a photograph is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.*

H. *When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card without a photograph that the applicant has any condition listed in subsection K of § 46.2-342.*

*1. Unless the Code specifies that a photograph is required, a special identification card without a photograph shall be treated as a special identification card.*

**2. That until January 1, 2020, when an applicant who is deemed eligible for a special identification card without a photograph surrenders a Virginia driver's license or special identification card, the Department of Motor Vehicles is authorized to remove the applicant's photograph on file with the Department of Motor Vehicles, if the applicant requests such removal.**

**3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 833

*An Act to amend and reenact §§ 56-577 and 56-587 of the Code of Virginia, relating to electric utility regulation; competitive suppliers.*

[H 2477]

Approved April 3, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 56-577 and 56-587 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 56-577. Schedule for transition to retail competition; Commission authority; exemptions; pilot programs.**

A. Retail competition for the purchase and sale of electric energy shall be subject to the following provisions:

1. Each incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity shall join or establish a regional transmission entity, which entity may be an independent system operator, to which such utility shall transfer the management and control of its transmission system, subject to the provisions of § 56-579.

2. The generation of electric energy shall be subject to regulation as specified in this chapter.

3. ~~From January 1, 2004, until the expiration or termination of capped rates, all retail customers of electric energy within the Commonwealth, regardless of customer class, shall be permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth. After the expiration or termination of capped rates, and subject~~ *Subject* to the provisions of subdivisions 4 and 5, only individual retail customers of electric energy within the Commonwealth, regardless of customer class, whose demand during the most recent calendar year exceeded five megawatts but did not exceed one percent of the customer's incumbent electric utility's peak load during the most recent calendar year unless such customer had noncoincident peak demand in excess of 90 megawatts in calendar year 2006 or any year thereafter, shall be permitted to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth, except for any incumbent electric utility other than the incumbent electric utility serving the exclusive service territory in which such a customer is located, subject to the following conditions:

a. If such customer does not purchase electric energy from licensed suppliers ~~after that date~~, such customer shall purchase electric energy from its incumbent electric utility.

b. Except as provided in subdivision 4, the demands of individual retail customers may not be aggregated or combined for the purpose of meeting the demand limitations of this provision, any other provision of this chapter to the contrary notwithstanding. For the purposes of this section, each noncontiguous site will nevertheless constitute an individual retail customer even though one or more such sites may be under common ownership of a single person.

c. If such customer does purchase electric energy from licensed suppliers after the expiration or termination of capped rates, it shall not thereafter be entitled to purchase electric energy from the incumbent electric utility without giving five years' advance written notice of such intention to such utility, except where such customer demonstrates to the Commission, after notice and opportunity for hearing, through clear and convincing evidence that its supplier has failed to perform, or has anticipatorily breached its duty to perform, or otherwise is about to fail to perform, through no fault of the customer, and that such customer is unable to obtain service at reasonable rates from an alternative supplier. If, as a result of such proceeding, the Commission finds it in the public interest to grant an exemption from the five-year notice requirement, such customer may thereafter purchase electric energy at the costs of such utility, as determined by the Commission pursuant to subdivision 3 d hereof, for the remainder of the five-year notice period, after which point the customer may purchase electric energy from the utility under rates, terms and conditions determined pursuant to § 56-585.1. However, such customer shall be allowed to individually purchase electric energy from the utility under rates, terms, and conditions determined pursuant to § 56-585.1 if, upon application by such customer, the Commission finds that neither such customer's incumbent electric utility nor retail customers of such utility that do not choose to obtain electric energy from alternate suppliers will be adversely affected in a manner contrary to the public interest by granting such petition. In making such determination, the Commission shall take into consideration, without limitation, the impact and effect of any and all other previously approved petitions of like type with respect to such incumbent electric utility. Any customer that returns to purchase electric energy from its incumbent electric utility, before or after expiration of the five-year notice period, shall be subject to minimum stay periods equal to those prescribed by the Commission pursuant to subdivision C 1.

d. The costs of serving a customer that has received an exemption from the five-year notice requirement under subdivision 3 c hereof shall be the market-based costs of the utility, including (i) the actual expenses of procuring such electric energy from the market, (ii) additional administrative and transaction costs associated with procuring such energy, including, but not limited to, costs of transmission, transmission line losses, and ancillary services, and (iii) a reasonable margin as determined pursuant to the provisions of subdivision A 2 of § 56-585.1. The methodology established by the Commission for determining such costs shall ensure that neither utilities nor other retail customers are adversely affected in a manner contrary to the public interest.

4. ~~After the expiration or termination of capped rates, two~~ Two or more individual nonresidential retail customers of electric energy within the Commonwealth, whose individual demand during the most recent calendar year did not exceed five megawatts, may petition the Commission for permission to aggregate or combine their demands, for the purpose of meeting the demand limitations of subdivision 3, so as to become qualified to purchase electric energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth under the conditions specified in subdivision 3. The Commission may, after notice and opportunity for hearing, approve such petition if it finds that:

- a. Neither such customers' incumbent electric utility nor retail customers of such utility that do not choose to obtain electric energy from alternate suppliers will be adversely affected in a manner contrary to the public interest by granting such petition. In making such determination, the Commission shall take into consideration, without limitation, the impact and effect of any and all other previously approved petitions of like type with respect to such incumbent electric utility; and
- b. Approval of such petition is consistent with the public interest.

If such petition is approved, all customers whose load has been aggregated or combined shall thereafter be subject in all respects to the provisions of subdivision 3 and shall be treated as a single, individual customer for the purposes of said subdivision. In addition, the Commission shall impose reasonable periodic monitoring and reporting obligations on such customers to demonstrate that they continue, as a group, to meet the demand limitations of subdivision 3. If the Commission finds, after notice and opportunity for hearing, that such group of customers no longer meets the above demand limitations, the Commission may revoke its previous approval of the petition, or take such other actions as may be consistent with the public interest.

5. ~~After the expiration or termination of capped rates, individual~~ Individual retail customers of electric energy within the Commonwealth, regardless of customer class, shall be permitted:

- a. To purchase electric energy provided 100 percent from renewable energy from any supplier of electric energy licensed to sell retail electric energy within the Commonwealth, other than any incumbent electric utility that is not the incumbent electric utility serving the exclusive service territory in which such a customer is located, if the incumbent electric utility serving the exclusive service territory does not offer an approved tariff for electric energy provided 100 percent from renewable energy; and
- b. To continue purchasing renewable energy pursuant to the terms of a power purchase agreement in effect on the date there is filed with the Commission a tariff for the incumbent electric utility that serves the exclusive service territory in which the customer is located to offer electric energy provided 100 percent from renewable energy, for the duration of such agreement.

6. *To the extent that an incumbent electric utility has elected as of February 1, 2019, the Fixed Resource Requirement alternative as a Load Serving Entity in the PJM Region and continues to make such election and is therefore required to obtain capacity for all load and expected load growth in its service area, any customer of a utility subject to that requirement that purchases energy pursuant to subdivision 3 or 4 from a supplier licensed to sell retail electric energy within the Commonwealth shall continue to pay its incumbent electric utility for the non-fuel generation capacity and transmission related costs incurred by the incumbent electric utility in order to meet the customer's capacity obligations, pursuant to the incumbent electric utility's standard tariff that has been approved by and is on file with the Commission. In the case of such customer, the advance written notice period established in subdivisions 3 c and d shall be three years. This subdivision shall not apply to the customers of licensed suppliers that (i) had an agreement with a licensed supplier entered into before February 1, 2019, or (ii) had aggregation petitions pending before the Commission prior to January 1, 2019, unless and until any customer referenced in clause (i) or (ii) has returned to purchase electric energy from its incumbent electric utility, pursuant to the provisions of subdivision 3 or 4, and is receiving electric energy from such incumbent electric utility.*

~~6~~ 7. A tariff for one or more classes of residential customers filed with the Commission for approval by a cooperative on or after July 1, 2010, shall be deemed to offer a tariff for electric energy provided 100 percent from renewable energy if it provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates equal to 100 percent of the electric energy provided pursuant to such tariff. A tariff for one or more classes of nonresidential customers filed with the Commission for approval by a cooperative on or after July 1, 2012, shall be deemed to offer a tariff for electric energy provided 100 percent from renewable energy if it provides undifferentiated electric energy and the cooperative retires a quantity of renewable energy certificates equal to 100 percent of the electric energy provided pursuant to such tariff. For purposes of this section, "renewable energy certificate" means, with respect to cooperatives, a tradable commodity or instrument issued by a regional transmission entity or affiliate or successor thereof in the United States that validates the generation of electricity from renewable energy sources or that is certified under a generally recognized renewable energy certificate standard. One renewable energy certificate equals 1,000 kWh or one MWh of electricity generated from renewable energy. A cooperative offering electric energy provided 100 percent from renewable energy pursuant to this subdivision that involves the retirement of renewable energy certificates shall disclose to its retail customers

who express an interest in purchasing energy pursuant to such tariff (i) that the renewable energy is comprised of the retirement of renewable energy certificates, (ii) the identity of the entity providing the renewable energy certificates, and (iii) the sources of renewable energy being offered.

B. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

C. 1. By January 1, 2002, the Commission shall promulgate regulations establishing whether and, if so, for what minimum periods, customers who request service from an incumbent electric utility pursuant to subsection D of § 56-582 or a default service provider, after a period of receiving service from other suppliers of electric energy, shall be required to use such service from such incumbent electric utility or default service provider, as determined to be in the public interest by the Commission.

2. Subject to (i) the availability of capped rate service under § 56-582, and (ii) the transfer of the management and control of an incumbent electric utility's transmission assets to a regional transmission entity after approval of such transfer by the Commission under § 56-579, retail customers of such utility (a) purchasing such energy from licensed suppliers and (b) otherwise subject to minimum stay periods prescribed by the Commission pursuant to subdivision 1, shall nevertheless be exempt from any such minimum stay obligations by agreeing to purchase electric energy at the market-based costs of such utility or default providers after a period of obtaining electric energy from another supplier. Such costs shall include (i) the actual expenses of procuring such electric energy from the market, (ii) additional administrative and transaction costs associated with procuring such energy, including, but not limited to, costs of transmission, transmission line losses, and ancillary services, and (iii) a reasonable margin. The methodology of ascertaining such costs shall be determined and approved by the Commission after notice and opportunity for hearing and after review of any plan filed by such utility to procure electric energy to serve such customers. The methodology established by the Commission for determining such costs shall be consistent with the goals of (a) promoting the development of effective competition and economic development within the Commonwealth as provided in subsection A of § 56-596, and (b) ensuring that neither incumbent utilities nor retail customers that do not choose to obtain electric energy from alternate suppliers are adversely affected.

3. Notwithstanding the provisions of subsection D of § 56-582 and subsection C of § 56-585, however, any such customers exempted from any applicable minimum stay periods as provided in subdivision 2 shall not be entitled to purchase retail electric energy thereafter from their incumbent electric utilities, or from any distributor required to provide default service under subsection B of § 56-585, at the capped rates established under § 56-582, unless such customers agree to satisfy any minimum stay period then applicable while obtaining retail electric energy at capped rates.

4. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection, which rules and regulations shall include provisions specifying the commencement date of such minimum stay exemption program.

#### **§ 56-587. Licensure of retail electric energy suppliers and persons providing other competitive services.**

A. As a condition of doing business in the Commonwealth, each person except a default service provider seeking to sell, offering to sell, or selling electric energy to any retail customer in the Commonwealth, on and after January 1, 2002, shall obtain a license from the Commission to do so. A license shall not be required solely for the leasing or financing of property used in the sale of electricity to any retail customer in the Commonwealth.

The license shall authorize that person to engage in the activities authorized by such license until the license expires or is otherwise terminated, suspended or revoked.

B. 1. As a condition of obtaining, retaining and renewing any license issued pursuant to this section, a person shall satisfy such reasonable and nondiscriminatory requirements as may be specified by the Commission, which may include requirements that such person (i) demonstrate, in a manner satisfactory to the Commission, financial responsibility; (ii) post a bond as deemed adequate by the Commission to ensure that financial responsibility; (iii) pay an annual license fee to be determined by the Commission; and (iv) pay all taxes and fees lawfully imposed by the Commonwealth or by any municipality or other political subdivision of the Commonwealth. In addition, as a condition of obtaining, retaining and renewing any license pursuant to this section, a person shall satisfy such reasonable and nondiscriminatory requirements as may be specified by the Commission, including but not limited to requirements that such person demonstrate (i) technical capabilities as the Commission may deem appropriate; (ii) in the case of a person seeking to sell, offering to sell, or selling electric energy to any retail customer in the Commonwealth, access to generation and generation reserves; and (iii) adherence to minimum market conduct standards.

2. Any license issued by the Commission pursuant to this section to a person seeking to sell, offering to sell, or selling electric energy to any retail customer in the Commonwealth may be conditioned upon the licensee furnishing to the Commission prior to the provision of electric energy to consumers proof of adequate access to generation and generation reserves.

C. ~~The Commission shall:~~

1. ~~Shall~~ establish a reasonable period within which any retail customer may cancel, without penalty or cost, any contract entered into with any person licensed pursuant to this section; *and*

2. ~~The Commission may~~ *May* adopt other rules and regulations governing the requirements for obtaining, retaining, and renewing a license issued pursuant to this section, and may, as appropriate, refuse to issue a license to, or suspend, revoke, or refuse to renew the license of, any person that does not meet those requirements.

D. Each licensed supplier serving customers of a Phase I Utility, as defined in subdivision A 1 of § 56-585.1, shall file a report, verified by the president or the equivalent executive of such supplier, with the Commission by March 31 of each year that contains:

1. Copies of all marketing materials and other public information conveyed to potential customers regarding the services offered by the supplier;
2. Usage and revenue data for the most recent year submitted to the U.S. Energy Information Administration;
3. Copies of all agreements entered into during the previous calendar year with such customers taking service under subdivision A 3 of § 56-577. Such agreements may be filed under seal, and if so will be afforded confidential treatment and will not be disclosed beyond the Commission or its staff; and
4. A statement that the agreements submitted comply with the Commission's Rules Governing Retail Access to Competitive Energy Services (20VAC5-312-10 et seq.).

Failure to provide such report may be grounds for suspension or revocation of the supplier's license to sell retail electric energy within the Commonwealth.

E. Notwithstanding the provisions of § 13.1-620, a public service company may, through an affiliate or subsidiary, conduct one or more of the following businesses, even if such business is not related to or incidental to its stated business as a public service company: (i) become licensed as a retail electric energy supplier pursuant to this section, or for purposes of participation in an approved pilot program encompassing retail customer choice of electric energy suppliers; (ii) become licensed as an aggregator pursuant to § 56-588, or for purposes of participation in an approved pilot program encompassing retail customer choice of electric energy suppliers; or (iii) own, manage or control any plant or equipment or any part of a plant or equipment used for the generation of electric energy.

## CHAPTER 834

An Act to amend and reenact §§ 2.2-3705.5, 2.2-3711, and 2.2-4002 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-283.8, relating to the Maternal Mortality Review Team; penalty.

[H 2546]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3705.5, 2.2-3711, and 2.2-4002 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-283.8 as follows:**

**§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such

information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-141 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review ~~team~~ *Team* established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6; ~~or~~ (iv) by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.7; or (v) *during a review of any death conducted by the Maternal Mortality Review Team to the extent that such information is made confidential by § 32.1-283.8.*

8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. Records of and information held by the Emergency Department Care Coordination Program required to be kept confidential pursuant to § 32.1-372.

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher

shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review

of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review ~~team~~ *Team* established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, ~~and~~ those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, *and those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.*

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have

requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the

sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

#### **§ 2.2-4002. Exemptions from chapter generally.**

A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the following agencies shall be exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

1. The General Assembly.

2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

4. The Virginia Housing Development Authority.

5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.

6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031, such educational institutions shall be exempt from the publication requirements only with respect to regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of students.

7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.

8. The Virginia Resources Authority.
9. Agencies expressly exempted by any other provision of this Code.
10. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.2-1164.
11. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23.1-207.
12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.
13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection A of § 3.2-5406.
14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to § 2.2-2001.3.
16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-203.2.
17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.
18. The Virginia Small Business Financing Authority.
19. The Virginia Economic Development Partnership Authority.
20. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.
21. The Insurance Continuing Education Board pursuant to § 38.2-1867.
22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.
23. The Commissioner of the Marine Resources Commission in setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-1000.2.
24. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.
25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.
26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.
  - B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:
    1. Money or damage claims against the Commonwealth or agencies thereof.
    2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
    3. The location, design, specifications or construction of public buildings or other facilities.
    4. Grants of state or federal funds or property.
    5. The chartering of corporations.
    6. Customary military, militia, naval or police functions.
    7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
    8. The conduct of elections or eligibility to vote.
    9. Inmates of prisons or other such facilities or parolees therefrom.
    10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
    11. Traffic signs, markers or control devices.
    12. Instructions for application or renewal of a license, certificate, or registration required by law.
    13. Content of, or rules for the conduct of, any examination required by law.
    14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).
    15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and posted.
    16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
    17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1 ~~and~~, any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5, *and any operating procedures for review of adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.*

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

24. Any rules adopted by the Charitable Gaming Board for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.

**§ 32.1-283.8. Maternal Mortality Review Team; duties; membership; confidentiality; penalties; report; etc.**

A. As used in this section, "maternal death" means the death of a woman who was pregnant at the time of death or within one year prior to the time of death, regardless of the outcome of the pregnancy, including any death determined to be a natural death, unnatural death, or violent death or for which no cause of death was determined.

B. There is hereby created the Maternal Mortality Review Team (the Team), which shall develop and implement procedures to ensure that certain maternal deaths occurring in the Commonwealth are analyzed in a systematic way. The Team shall review every maternal death in the Commonwealth. The Team shall not initiate a maternal death review until the conclusion of any law-enforcement investigation or criminal prosecution. The Team shall (i) develop and revise as necessary operating procedures for maternal death reviews, including identification of cases to be reviewed and procedures for coordinating among the agencies and professionals involved; (ii) improve the identification of and data collection and record keeping related to causes of maternal deaths; (iii) recommend components of programs to increase awareness and prevention of and education about maternal deaths; and (iv) recommend training to improve the review of maternal deaths. Such operating procedures shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.

C. The Team shall consist of the following persons or their designees: the Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, and the Commissioner of Behavioral Health and Developmental Services. In addition, the Governor shall appoint one representative of each of the following entities: local law enforcement, local fire departments, local emergency medical services providers, local departments of social services, community services boards, attorneys for the Commonwealth, the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia College of Emergency Physicians, the Virginia Section of the American College of Obstetricians and Gynecologists, the Virginia Affiliate of the American College of Nurse-Midwives, the Virginia Chapter of the Association of Women's Health, Obstetric and Neonatal Nurses, the Virginia Neonatal Perinatal Collaborative, the Virginia Midwives Alliance, and the Virginia Academy of Nutrition and Dietetics. The Chief Medical Examiner and the Director of the Office of Family Health of the Department of Health shall serve as co-chairs of the Team and may appoint additional members of the Team as may be needed to complete maternal death reviews pursuant to this section.

After the initial staggering of terms, members other than the Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of Criminal Justice Services shall be appointed for a term of three years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. The Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of Criminal Justice Services shall serve terms coincident with their terms of office.

D. Upon the request of the Chief Medical Examiner in his capacity as a co-chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, the Chief Medical Examiner or his designee may inspect and copy information and records regarding a maternal death, including (i) any report of the circumstances of the maternal death maintained by any state or local law-enforcement agency or medical examiner, and (ii) information or records about the woman maintained by any social services agency or court. Information, records, or reports maintained by any attorney for the Commonwealth shall be made available for inspection and copying by the Chief Medical Examiner or his designee pursuant to procedures that shall be developed by the Chief Medical Examiner and the Commonwealth's Attorneys' Services Council established by § 2.2-2617. Any presentence report prepared pursuant to § 19.2-299 for any person convicted of a crime that led to the death of the woman shall be made available for inspection and copying by the Chief Medical Examiner or his designee. In addition, the Chief Medical Examiner or his designee may inspect and copy from any health care provider in the Commonwealth, on behalf of the Team, (a) without obtaining consent, subject to any limitations on disclosure under applicable federal and state law, the health and mental health records of the woman and those prenatal

medical records relating to any child born to the woman and (b) upon obtaining consent, from each adult regarding his records.

E. All information and records obtained or created by the Team or on behalf of the Team regarding a review shall be confidential and excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 7 of § 2.2-3705.5. All such information and records shall be used by the Team only in the exercise of its proper purpose and function and shall not be disclosed. In preparing information and records for review by the Team, the Department shall remove any individually identifiable information or information identifying a health care provider, as those terms are defined in 45 C.F.R. § 160.103. Such information shall not be subject to subpoena, subpoena duces tecum, or discovery, be admissible in any civil or criminal proceeding, or be used as evidence in any disciplinary proceeding or regulatory or licensure action of the Department of Health Professions or any health regulatory board. If available from other sources, however, such information and records shall not be immune from subpoena, discovery, or introduction into evidence when obtained through such other sources solely because the information and records were presented to the Team during a maternal death review. The findings of the Team may be disclosed or published in statistical or other form, but shall not identify any individual. Upon conclusion of the maternal death review, all information and records concerning the woman and the woman's family shall be shredded or otherwise destroyed by the Office of the Chief Medical Examiner in order to ensure confidentiality.

The portions of meetings in which individual maternal deaths are discussed by the Team shall be closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all Team members and other persons attending closed Team meetings, including any persons presenting information or records on specific maternal deaths to the Team during closed meetings, shall execute a sworn statement to (i) honor the confidentiality of the information, records, discussions, and opinions disclosed during meetings at which the Team reviews a specific maternal death and (ii) not use any such information, records, discussions, or opinions disclosed during meetings at which the Team reviews a specific maternal death for any purpose other than the exercise of the proper purpose and function of the Team. Violations of this subsection are punishable as a Class 3 misdemeanor.

F. Upon notification of a maternal death, any state or local government agency maintaining records on the woman or the woman's family that are periodically purged shall retain such records for the longer of 12 months or until such time as the Team has completed its review of the case.

G. The Team shall compile triennial statistical data, which shall be made available to the Governor and the General Assembly. Any statistical compilations prepared by the Team shall be public record and shall not contain any personal identifying information.

H. Members of the Team, as well as their agents and employees, shall be immune from civil liability for any act or omission made in connection with participation in a review by the Team, unless such act or omission was the result of gross negligence or willful misconduct. Any organization, institution, or person furnishing information, data, testimony, reports, or records to the Team as part of such review shall be immune from civil liability for any act or omission in furnishing such information, unless such act or omission was the result of gross negligence or willful misconduct.

**2. That the initial appointments of members of the Maternal Mortality Review Team other than the Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of Criminal Justice Services, who shall serve terms coincident with their respective terms in office, shall be staggered as follows: five members shall be appointed for a term of one year, five members shall be appointed for a term of two years, and five members shall be appointed for a term of three years.**

## CHAPTER 835

*An Act to amend and reenact § 18.2-31 of the Code of Virginia, relating to capital murder; punishment.*

[H 2615]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-31 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-31. Capital murder defined; punishment.**

A. The following offenses shall constitute capital murder, punishable as a Class 1 felony:

1. The willful, deliberate, and premeditated killing of any person in the commission of abduction, as defined in § 18.2-48, when such abduction was committed with the intent to extort money or a pecuniary benefit or with the intent to defile the victim of such abduction;

2. The willful, deliberate, and premeditated killing of any person by another for hire;

3. The willful, deliberate, and premeditated killing of any person by a prisoner confined in a state or local correctional facility as defined in § 53.1-1, or while in the custody of an employee thereof;

4. The willful, deliberate, and premeditated killing of any person in the commission of robbery or attempted robbery;

5. The willful, deliberate, and premeditated killing of any person in the commission of, or subsequent to, rape or attempted rape, forcible sodomy, or attempted forcible sodomy or object sexual penetration;

6. The willful, deliberate, and premeditated killing of a law-enforcement officer as defined in § 9.1-101, a fire marshal appointed pursuant to § 27-30 or a deputy or an assistant fire marshal appointed pursuant to § 27-36, when such fire marshal or deputy or assistant fire marshal has police powers as set forth in §§ 27-34.2 and 27-34.2:1, an auxiliary police officer appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, an auxiliary deputy sheriff appointed pursuant to § 15.2-1603, or any law-enforcement officer of another state or the United States having the power to arrest for a felony under the laws of such state or the United States, when such killing is for the purpose of interfering with the performance of his official duties;

7. The willful, deliberate, and premeditated killing of more than one person as a part of the same act or transaction;

8. The willful, deliberate, and premeditated killing of more than one person within a three-year period;

9. The willful, deliberate, and premeditated killing of any person in the commission of or attempted commission of a violation of § 18.2-248, involving a Schedule I or II controlled substance, when such killing is for the purpose of furthering the commission or attempted commission of such violation;

10. The willful, deliberate, and premeditated killing of any person by another pursuant to the direction or order of one who is engaged in a continuing criminal enterprise as defined in subsection I of § 18.2-248;

11. The willful, deliberate, and premeditated killing of a pregnant woman by one who knows that the woman is pregnant and has the intent to cause the involuntary termination of the woman's pregnancy without a live birth;

12. The willful, deliberate, and premeditated killing of a person under the age of ~~fourteen~~ 14 by a person age ~~twenty one~~ 21 or older;

13. The willful, deliberate, and premeditated killing of any person by another in the commission of or attempted commission of an act of terrorism as defined in § 18.2-46.4;

14. The willful, deliberate, and premeditated killing of a justice of the Supreme Court, a judge of the Court of Appeals, a judge of a circuit court or district court, a retired judge sitting by designation or under temporary recall, or a substitute judge appointed under § 16.1-69.9:1 when the killing is for the purpose of interfering with his official duties as a judge; and

15. The willful, deliberate, and premeditated killing of any witness in a criminal case after a subpoena has been issued for such witness by the court, the clerk, or an attorney, when the killing is for the purpose of interfering with the person's duties in such case.

*B. For a violation of subdivision A 6 where the offender was 18 years of age or older at the time of the offense, the punishment shall be no less than a mandatory minimum term of confinement for life.*

*C. If any one or more subsections, sentences, or parts of this section shall be judged unconstitutional or invalid, such adjudication shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.*

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 836

*An Act to amend and reenact § 40.1-29 of the Code of Virginia, relating to payment of wages; statement of earnings.*

[H 2664]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 40.1-29 of the Code of Virginia is amended and reenacted as follows:**

**§ 40.1-29. Time and medium of payment; withholding wages; written statement of earnings; agreement for forfeiture of wages; proceedings to enforce compliance; penalties.**

A. 1. All employers operating a business shall establish regular pay periods and rates of pay for employees except executive personnel. All such employers shall pay salaried employees at least once each month and employees paid on an hourly rate at least once every two weeks or twice in each month, except that (i) a student who is currently enrolled in a work-study program or its equivalent administered by any secondary school, institution of higher education or trade school, and (ii) employees whose weekly wages total more than 150 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500, upon agreement by each affected employee, may be paid once each month if the institution or employer so chooses. Upon termination of employment an employee shall be paid all wages or salaries due him for work performed prior thereto; such payment shall be made on or before the date on which he would have been paid for such work had his employment not been terminated.

2. Any such employer who knowingly fails to make payment of wages in accordance with this section shall be subject to a civil penalty not to exceed \$1,000 for each violation. The Commissioner shall notify any employer who he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall

consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final.

B. Payment of wages or salaries shall be (i) in lawful money of the United States, (ii) by check payable at face value upon demand in lawful money of the United States, (iii) by electronic automated fund transfer in lawful money of the United States into an account in the name of the employee at a financial institution designated by the employee, or (iv) by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds with full written disclosure by the employer of any applicable fees and affirmative consent thereto by the employee. However, an employer that elects not to pay wages or salaries in accordance with clause (i) or (ii) to an employee who is hired after January 1, 2010, shall be permitted to pay wages or salaries by credit to a prepaid debit card or card account in accordance with clause (iv), even though such employee has not affirmatively consented thereto, if the employee fails to designate an account at a financial institution in accordance with clause (iii) and the employer arranges for such card or card account to be issued through a network system through which the employee shall have the ability to make at least one free withdrawal or transfer per pay period, which withdrawal may be for any sum in such card or card account as the employee may elect, using such card or card account at financial institutions participating in such network system.

C. No employer shall withhold any part of the wages or salaries of any employee except for payroll, wage or withholding taxes or in accordance with law, without the written and signed authorization of the employee. ~~At~~ *On each regular pay date, each employer other than an employer engaged in agricultural employment including agribusiness and forestry, upon request of his employee, shall furnish the latter provide to each employee a written statement of, by a paystub or online accounting, that shows the name and address of the employer, the number of hours worked during the pay period, the rate of pay, the gross wages earned by the employee during any the pay period, and the amount and purpose of any deductions therefrom. An employer engaged in agricultural employment including agribusiness and forestry, upon request of its employee, shall furnish the employee a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom.*

D. No employer shall require any employee, except executive personnel, to sign any contract or agreement which provides for the forfeiture of the employee's wages for time worked as a condition of employment or the continuance therein, except as otherwise provided by law.

E. An employer who willfully and with intent to defraud fails or refuses to pay wages in accordance with this section:

1. To an employee or employees is guilty of a Class 1 misdemeanor if the value of the wages earned and not paid by the employer is less than \$10,000; and

2. To an employee or employees is guilty of a Class 6 felony (i) if the value of the wages earned and not paid is \$10,000 or more or (ii) regardless of the value of the wages earned and not paid, if the conviction is a second or subsequent conviction under this section.

For purposes of this section, the determination as to the "value of the wages earned" shall be made by combining all wages the employer failed or refused to pay pursuant to this section.

F. The Commissioner may require a written complaint of the violation of this section and, with the written and signed consent of an employee, may institute proceedings on behalf of an employee to enforce compliance with this section, and to collect any moneys unlawfully withheld from such employee which shall be paid to the employee entitled thereto. In addition, following the issuance of a final order by the Commissioner or a court, the Commissioner may engage private counsel, approved by the Attorney General, to collect any moneys owed to the employee or the Commonwealth. Upon entry of a final order of the Commissioner, or upon entry of a judgment, against the employer, the Commissioner or the court shall assess attorney's fees of one-third of the amount set forth in the final order or judgment.

G. In addition to being subject to any other penalty provided by the provisions of this section, any employer who fails to make payment of wages in accordance with subsection A shall be liable for the payment of all wages due, plus interest at an annual rate of eight percent accruing from the date the wages were due.

H. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner, the general district courts or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

**2. That the provisions of this act shall become effective on January 1, 2020.**

## CHAPTER 837

*An Act to amend and reenact §§ 46.2-698, 58.1-2299.20, as it is currently effective and as it may become effective, and § 58.1-2701 of the Code of Virginia, and to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 36, consisting of sections numbered 33.2-3600 through 33.2-3605, and by adding sections numbered 46.2-697.2, 46.2-702.1:1, 58.1-2217.1, and 58.1-2295.1, relating to the Interstate 81 corridor; Interstate 81 Corridor Improvement Fund; report.*

[H 2718]

Approved April 3, 2019

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-698, 58.1-2299.20, as it is currently effective and as it may become effective, and § 58.1-2701 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 36, consisting of sections numbered 33.2-3600 through 33.2-3605, and by adding sections numbered 46.2-697.2, 46.2-702.1:1, 58.1-2217.1, and 58.1-2295.1, as follows:

CHAPTER 36.

INTERSTATE 81 CORRIDOR IMPROVEMENT PROGRAM AND FUND.

§ 33.2-3600. *Definitions.*

As used in this chapter, unless the context requires a different meaning:

"Committee" means the Interstate 81 Committee established pursuant to § 33.2-3603.

"Fund" means the Interstate 81 Corridor Improvement Fund.

"Interstate 81 corridor" means Interstate 81, Route 11, and other parallel highways, parallel railways, and related transportation facilities that help move people and goods.

"Plan" means the Interstate 81 Corridor Improvement Plan adopted by the Board on December 5, 2018, and any updates or amendments made thereto in accordance with the provisions of this chapter.

"Program" means an Interstate 81 Corridor Improvement Program.

§ 33.2-3601. *Interstate 81 Corridor Improvement Fund.*

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Interstate 81 Corridor Improvement Fund. The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 46.2-702.1:1, 58.1-2217.1, 58.1-2299.20, and 58.1-2701, any other funds that may be appropriated by the General Assembly, and any funds that may be received for credit to the Fund from any other sources shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. Moneys in the Fund shall be used only for capital, operating, and other improvement costs identified in the Plan.

C. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to jurisdictions along the Interstate 81 corridor. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

§ 33.2-3602. *Interstate 81 Corridor Improvement Program; report.*

A. The Board shall adopt an Interstate 81 Corridor Improvement Program. The Program shall, at a minimum:

1. Allocate year by year the revenues, if any, from the Fund and bond proceeds, if any, backed by the Fund to projects and strategies identified in the Plan adopted by the Board;

2. Include a financing plan to support such allocation; and

3. Include a schedule for all new projects and strategies identified in the Plan adopted by the Board.

B. Prior to the adoption of such Program, the Board shall review the recommendations of and consult with the Committee.

C. The Board shall update the Program annually by July 1.

D. By December 15 of each year, the Board shall report to the General Assembly regarding the status and progress of implementation of the Program. The report shall be submitted to the Chairmen of the House Committees on Appropriations and Transportation and the Senate Committees on Finance and Transportation. Prior to the submission of such report each year, the Board shall consult with the Committee. The report shall include, at a minimum:

1. The safety and performance of the Interstate 81 corridor; including the number of incidents, the average duration of incidents, the number and average duration of incidents involving lane closures, and the person-hours of delay along the Interstate 81 corridor;

2. An assessment of the effectiveness of the operational strategies and capital projects implemented and funded through the Program;

3. The status of capital projects funded through the Program; and

4. The current and projected balances of the Fund.

§ 33.2-3603. *Interstate 81 Committee.*

A. The Board shall establish an Interstate 81 Committee.

B. The purpose of the Committee shall be to provide advice and recommendations to the Board regarding (i) the development of the Program pursuant to § 33.2-3602 and (ii) updates to the Plan pursuant to § 33.2-3604.

C. The Committee shall hold at least four meetings each year and consult with interested stakeholders. The Committee's meetings shall rotate among locations in Planning Districts 3, 4, 5, 6, and 7.

D. The Committee shall be composed of 15 voting members and two ex officio members as follows:

1. The chairs of planning district commissions for Planning Districts 3, 4, 5, 6, and 7, or in the discretion of a chairman, his designee, who shall be a current elected official serving on such commission;

2. Four members of the House of Delegates, each of whom resides in Planning District 3, 4, 5, 6, or 7, to be appointed by the Speaker of the House of Delegates. None of the four members shall live in the same planning district;

3. Three members of the Senate, each of whom resides in Planning District 3, 4, 5, 6, or 7, to be appointed by the Senate Committee on Rules. None of the three members shall live in the same planning district;

4. The three members of the Board representing the Bristol, Salem, and Staunton highway construction districts; and

5. The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall serve ex officio with nonvoting privileges.

E. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.

F. All members of the Committee shall serve terms coincident with their terms in office or position. Vacancies shall be filled in the same manner as the original appointment.

G. The Office of Intermodal Planning and Investment, the Department of Transportation, and the Department of Rail and Public Transportation shall support the Committee, as appropriate.

**§ 33.2-3604. Updates to the Interstate 81 Corridor Improvement Plan; requirements.**

A. The Board, in consultation with the Committee and with the support of the Office of Intermodal Planning and Investment, shall regularly update the Plan. In updating the Plan, the Board and Committee shall, at a minimum:

1. Analyze existing conditions of the Interstate 81 corridor to identify key needs related to safety, congestion, and incident-related delays;

2. Identify potential improvements to address the needs identified pursuant to subdivision 1, including roadway improvements, multimodal improvements, speed enforcement strategies, operational strategies, and upgrades to adjacent and parallel transportation facilities;

3. Prioritize potential improvements in a manner consistent with § 33.2-214.1;

4. Identify corridor-wide incident management strategies;

5. Analyze and review truck parking needs along the Interstate 81 corridor;

6. Hold public meetings throughout the Interstate 81 corridor; and

7. Consider any other items deemed appropriate by the Board.

B. Technical assistance shall be provided to the Board by the Department of Transportation, the Department of Motor Vehicles, and the Department of State Police. All agencies of the Commonwealth shall provide assistance to the Board to fulfill the requirements of this section, upon request.

**§ 33.2-3605. Continuing responsibilities of the Commonwealth Transportation Board and Department of Transportation.**

The Board shall allocate funding to, and the Department shall perform or cause to be performed, all maintenance and operation of bridges, tunnels, and roadways and shall perform such other required services and activities with respect to such bridges, tunnels, and roadways as were being performed on July 1, 2019.

**§ 46.2-697.2. Additional fees for vehicles not designed or used for transportation of passengers.**

A. In addition to the fees imposed pursuant to § 46.2-697, there is hereby imposed an additional fee for the registration of all motor vehicles not designed and used for the transportation of passengers. The additional fee shall be determined per thousand pounds by the gross weight of the vehicle or combination of vehicles in the same manner as the fees imposed pursuant to § 46.2-697, as follows:

1. For vehicles with a gross weight of 10,001 through 15,000 pounds, \$6.00 per 1,000 pounds;

2. For vehicles with a gross weight of 15,001 through 25,000 pounds, \$7.00 per 1,000 pounds;

3. For vehicles with a gross weight of 25,001 through 29,000 pounds, \$9.00 per 1,000 pounds;

4. For vehicles with a gross weight of 29,001 through 40,000 pounds, \$10.00 per 1,000 pounds; and

5. For vehicles with a gross weight of 40,001 pounds or more, an amount equal to the per 1,000 pound rate for for-rent or for-hire vehicles for such vehicle pursuant to § 46.2-697, provided that the total rate, including any base fees charged pursuant to § 46.2-697, shall not exceed \$23.25 per 1,000 pounds.

B. The fee imposed by this section shall not be applicable to farm motor vehicles used exclusively for farm use, as defined in § 46.2-698.

C. Beginning July 1, 2019, the fee per thousand pounds of gross weight charged pursuant to § 46.2-697 for both private carriers and for-rent or for-hire carriers shall be based on the rate schedule for for-rent or for-hire carriers.

**§ 46.2-698. Fees for farm vehicles.**

A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more, when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of § 46.2-697, as in effect on January 1, 2019 and notwithstanding the provisions of subsection C of § 46.2-697.2, and one-half of the fee for overload permits under § 46.2-1128, but the annual registration fee to be paid for each farm vehicle shall not be less than \$15.

B. A farm motor vehicle is used exclusively for farm use:

1. When owned by a person who is engaged either as an owner, renter, or operator of a farm of a size reasonably requiring the use of such vehicle or vehicles and when such vehicle is:

a. Used in the transportation of agricultural products of the farm he is working to market, or to other points for sale or processing, or when used to transport materials, tools, equipment, or supplies which are to be used or consumed on the farm he is working, or when used for any other transportation incidental to the regular operation of such farm;

b. Used in transporting forest products, including forest materials originating on a farm or incident to the regular operation of a farm, to the farm he is working or transporting for any purpose forest products which originate on the farm he is working; or

c. Used in the transportation of farm produce, supplies, equipment, or materials to a farm not worked by him, pursuant to a mutual cooperative agreement.

2. When the nonfarm use of such motor vehicle is limited to the personal use of the owner and his immediate family in attending church or school, securing medical treatment or supplies, or securing other household or family necessities.

C. As used in this section, the term "farm" means one or more areas of land used for the production, cultivation, growing, or harvesting of agricultural products, but does not include a tree farm that is not also a nursery or Christmas tree farm, unless it is part of what otherwise is a farm. As used in this section, the term "agricultural products" means any nursery plants; Christmas trees; horticultural, viticultural, and other cultivated plants and crops; aquaculture; dairy; livestock; poultry; bee; or other farm products.

D. The first application for registration of a vehicle under this section shall be made on forms provided by the Department and shall include:

1. The location and acreage of each farm on which the vehicle to be registered is to be used;

2. The type of agricultural commodities, poultry, dairy products or livestock produced on such farms and the approximate amounts produced annually;

3. A statement, signed by the vehicle's owner, that the vehicle to be registered will only be used for one or more of the purposes specified in subsection B; and

4. Other information required by the Department.

The above information is not required for the renewal of a vehicle's registration under this section.

E. The Department shall issue appropriately designated license plates for those motor vehicles registered under this section. The manner in which such license plates are designated shall be at the discretion of the Commissioner.

F. The owner of a farm vehicle shall inform the Commissioner within 30 days or at the time of his next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the operation of any farm motor vehicle for which the fee for registration and license plates is herein prescribed on any highway in the Commonwealth without first having paid the prescribed registration fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for purposes other than as provided under subsection B; or (iii) operate as a for-hire vehicle.

G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under §§ 46.2-664 through 46.2-670.

H. Notwithstanding other provisions of this section, vehicles licensed under this section may be used by volunteer emergency medical services personnel and volunteer firefighters in responding to emergency calls, in reporting for regular duty, and in attending emergency medical services agency or fire company meetings and drills.

**§ 46.2-702.1:1. Distribution of certain other revenues.**

A. Except as provided in subsection B, net additional revenues shall be deposited as follows: (i) an amount equal to such net additional revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net additional revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net additional revenues to the Commonwealth Transportation Board for use for operational improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway.

B. In the case of vehicles registered under the International Registration Plan, an amount that is approximately equal to the net additional revenues attributable to such vehicles shall be deposited as follows: (i) an amount equal to such net additional revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net additional revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net additional revenues to the Commonwealth Transportation Board for use for operational

improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway.

C. For purposes of this section, "net additional revenues" means the additional revenues, minus any refunds or remittances required to be paid, generated by (i) the additional fee imposed pursuant to subsection A of § 46.2-697.2 and (ii) increases in the registration fees under § 46.2-697 made pursuant to subsection B of § 46.2-697.2.

**§ 58.1-2217.1. Additional taxes levied; rate.**

A. In addition to all other taxes imposed by this chapter, there is hereby levied an additional tax per gallon on diesel fuel. Beginning July 1, 2021, the rate of such tax shall be 2.03 percent of the statewide average wholesale price of a gallon of diesel fuel for the applicable base period, excluding federal and state excise taxes, as determined by the Commissioner.

B. The Commissioner shall use the period from December 1 through May 31 as the base period for such determination for the immediately following period beginning July 1 and ending December 31, inclusive. The period from June 1 through November 30 shall be the next base period for the immediately following period beginning January 1 and ending June 30, inclusive. In no case shall the average wholesale price computed for purposes of this section be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013.

C. Blended fuel that contains diesel fuel shall be taxed at the rate levied on diesel fuel.

D. The tax imposed by this section shall be collected in the same manner as other taxes imposed pursuant to this chapter.

E. The revenues generated by the tax imposed by this section shall be distributed as follows: (i) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net revenues to the Commonwealth Transportation Board for use for operational improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway.

**§ 58.1-2295.1. Levy of tax in Interstate 81 Corridor; payment of tax.**

A. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in any county or city in Planning District 3, 4, 5, 6, or 7, as established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2.

B. 1. The tax shall be imposed on each gallon of fuel, other than diesel fuel, sold by a distributor to a retail dealer for retail sale in any such county or city described in subsection A at a rate of 2.1 percent of the statewide average distributor price of a gallon of unleaded regular gasoline as determined by the Commissioner pursuant to subdivision C 1. For alternative fuels other than liquid alternative fuels, the Commissioner shall determine an equivalent tax rate based on gasoline gallon equivalency.

2. The tax shall be imposed on each gallon of diesel fuel sold by a distributor to a retail dealer for retail sale in any such county or city described in subsection A at a rate of 2.1 percent of the statewide average distributor price of a gallon of diesel fuel as determined by the Commissioner pursuant to subdivision C 2.

C. 1. To determine the statewide average distributor price of a gallon of unleaded regular gasoline, the Commissioner shall use the period from June 1 through November 30, inclusive, as the base period for such determination for the immediately following period beginning January 1 and ending June 30, inclusive. The Commissioner shall use the period from December 1 through May 31, inclusive, as the base period for the determination of the rate of tax for the immediately following period beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor price of a gallon of unleaded regular gasoline determined for purposes of this section be less than the statewide average wholesale price of a gallon of unleaded regular gasoline on February 20, 2013, plus a distributor charge calculated by the Commissioner for that date.

2. To determine the statewide average distributor price of a gallon of diesel fuel, the Commissioner shall use the period from June 1 through November 30, inclusive, as the base period for such determination for the immediately following period beginning January 1 and ending June 30, inclusive. The Commissioner shall use the period from December 1 through May 31, inclusive, as the base period for the determination of the rate of tax for the immediately following period beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor price of a gallon of diesel fuel determined for purposes of this section be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013, plus a distributor charge calculated by the Commissioner for that date.

D. The tax levied under this section shall be imposed at the time of sale by the distributor to the retail dealer.

*E. The tax imposed by this section shall be paid by the distributor, but the distributor shall separately state the amount of the tax and add such tax to the price or charge. Thereafter, such tax shall be debt from the retail dealer to the distributor until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter shall be maintained in the Commonwealth by any distributor who is not registered under § 58.1-2299.2 or is delinquent in the payment of taxes imposed under this chapter.*

*F. Nothing in this section shall be construed to exempt the imposition and remittance of tax pursuant to this section in a sale to a retail dealer in which the distributor and the retail dealer are the same person.*

*G. Notwithstanding any other provision of law, no tax shall be imposed by the provisions of subdivision A 2 of § 58.1-2295 on any fuel upon which a tax is paid pursuant to this section.*

**§ 58.1-2299.20. (Contingent expiration date) Disposition of tax revenues.**

A. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (i) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500;

2. a. Until June 30, 2019, an amount equal to the increase in taxes, interest, and civil penalties paid to the Commissioner each month, compared with the same month for fiscal year 2018, minus any amounts deposited pursuant to subdivision 1, shall be deposited into the Washington Metropolitan Area Transit Capital Fund established pursuant to § 33.2-3401; and

b. Beginning on July 1, 2019, an amount equal to one-twelfth of the increase in taxes, interest, and civil penalties paid to the Commissioner in fiscal year 2019 compared to fiscal year 2018, minus any amounts deposited pursuant to subdivision A 1, shall be deposited in the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401; and

3. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district which was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

B. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (ii) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500; and

2. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district that was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

C. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in subdivision A 2 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited into special funds established by law. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

D. *All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.1, after subtraction of the direct costs of administration by the Department, shall be deposited into the Interstate 81 Corridor Improvement Fund established pursuant to Chapter 36 (§ 33.2-3600) of Title 33.2.*

E. The direct cost of administration of this section shall be credited to the funds appropriated to the Department.

**§ 58.1-2299.20. (Contingent effective date) Disposition of tax revenues.**

~~AA~~ A. Except as provided in subsection B, all taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter, after subtraction of the direct costs of administration by the Department, shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district which was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction. The direct costs of administration shall be credited to the funds appropriated to the Department.

B. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.1, after subtraction of the direct costs of administration by the Department, shall be deposited into the Interstate 81 Corridor Improvement Fund established pursuant to Chapter 36 (§ 33.2-3600) of Title 33.2.

**§ 58.1-2701. Amount of tax.**

A. Except as provided in subsection ~~B~~ C, every motor carrier shall pay a road tax per gallon equivalent to the cents per gallon credit for diesel fuel as determined under subsection A of § 58.1-2706 for the relevant period plus an additional ~~\$0.035~~ amount per gallon, as determined by subsection B, calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

B. The additional amount per gallon shall be determined by the Commissioner annually, effective July 1 of each year. On July 1, 2019, the additional amount per gallon shall be calculated by multiplying the average fuel economy by \$0.01125. On July 1, 2020, and each July 1 thereafter, the additional amount per gallon shall be calculated by multiplying the average fuel economy by \$0.0225. The additional amount per gallon shall be rounded to the nearest one-tenth of a cent. For purposes of this subsection, "average fuel economy" shall be calculated by dividing the total taxable miles driven in the Commonwealth by the total taxable gallons of fuel consumed in the Commonwealth, as reported in IFTA returns in the preceding taxable year.

C. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of \$150 per year for each qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's IFTA return. For the period of July 1, 2019, through June 30, 2020, the fee shall be adjusted based on the percent change in the road tax imposed pursuant to subsection A from June 30, 2019, to July 1, 2019. The Commissioner shall adjust the fee annually on July 1 of every year thereafter based on the percentage change in the road tax imposed pursuant to subsection A for the previous fiscal year as compared to the current fiscal year. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

~~CA~~ D. 1. Except as provided in subdivision 2, all taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, a special fund within the Commonwealth Transportation Fund.

2. The net additional revenues generated by this section pursuant to enactments of the 2019 Session of the General Assembly shall be deposited as follows: (i) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net revenues to the Commonwealth Transportation Board for use for operational improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway. For purposes of this subdivision, "net additional revenues" means the additional revenues generated by this section pursuant to enactments of the 2019 Session of the General Assembly, minus any refunds or remittances required to be paid.

2. That the General Assembly finds that (i) an adequate, efficient, and safe Interstate 81 corridor is essential to the economic well-being of the communities located along the corridor and for the Commonwealth; (ii) Interstate 81 carries 42 percent of interstate truck vehicle miles traveled in the Commonwealth; (iii) trucks make up 20 to 30 percent of all traffic on Interstate 81; (iv) there are more than 2,000 traffic accidents each year on Interstate 81, and 30 of those accidents require more than six hours to clear; (v) the lack of parallel routes and automated traffic management systems on Interstate 81 increases the impact of traffic accidents on Interstate 81; (vi) due to these conditions and the high volume of truck traffic, the Interstate 81 corridor does not meet the needs of the surrounding communities; and (vii) current statewide transportation revenues are insufficient to implement necessary improvements to the Interstate 81 corridor.
3. That the Interstate 81 Committee (the Committee) created by this act shall review the Interstate 81 Corridor Improvement Plan adopted by the Commonwealth Transportation Board on December 5, 2018, as it relates to funding options for improvements to the Interstate 81 corridor and the prioritization of projects in the Interstate 81 corridor. The Committee shall conduct regional public meetings on options for funding and improvements and seek input from the public and stakeholder organizations. The Committee shall report to the Governor and the General Assembly by December 15, 2019, regarding its recommendations for funding and prioritization of projects.
4. That the provisions of this act that generate additional revenue through state taxes or fees for transportation throughout the Commonwealth and in Planning Districts 3, 4, 5, 6, and 7 shall expire on December 31 of any year in which the General Assembly appropriates or transfers any of such additional revenues for any non-transportation-related purpose or transfers any of such additional revenues that are to be deposited into the Commonwealth Transportation Fund or any subfund thereof pursuant to general law for a non-transportation-related purpose. In the event a local government of any county or city wherein the additional taxes and fees are levied appropriates or allocates any of such additional revenues to a non-transportation-related purpose, such locality shall not be the direct beneficiary of any of the revenues generated by the taxes or fees in the year immediately succeeding the year in which revenues were appropriated or allocated to a non-transportation-related purpose. For purposes of this act, any use that is consistent with a duly adopted Interstate 81 Corridor Improvement Plan shall be considered a transportation-related purpose.
5. That the provisions of this act adding § 58.1-2217.1 to the Code of Virginia shall become effective July 1, 2021.
6. That no funds deposited into the Northern Virginia Transportation Authority Fund pursuant to this act shall be used to support bonds or other debt.
7. That for purposes of making the calculation pursuant to subdivision C 4 of § 33.2-2510, any revenues deposited into the Northern Virginia Transportation Authority Fund pursuant to this act shall be determined to be attributable to each locality based on the percentage of all other taxes generated by or attributable to each such locality for purposes of such subdivision.
8. That should any portion of this act be held unconstitutional by a court of competent jurisdiction, the remaining portions of this act shall remain in effect.

## CHAPTER 838

*An Act to amend the Code of Virginia by adding a section numbered 9.1-207.1, relating to firefighting foam management.*

[H 2762]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

1. That the Code of Virginia is amended by adding a section numbered 9.1-207.1 as follows:

**§ 9.1-207.1. Firefighting foam management.**

A. For purposes of this section, unless the context requires a different meaning:

"Class B firefighting foam" means a foam designed for flammable liquid fires.

"Local government" includes any locality, fire district, regional fire protection authority, or other special purpose district that provides firefighting services.

"PFAS chemicals" means, for the purposes of firefighting agents, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom and designed to be fully functional in class B firefighting foam formulations, including perfluoroalkyl and polyfluoroalkyl substances.

"Testing" includes calibration testing, conformance testing, and fixed system testing.

B. Beginning July 1, 2021, no person, local government, or agency of the Commonwealth shall discharge or otherwise use class B firefighting foam that contains intentionally added PFAS chemicals (i) for testing purposes, unless otherwise required by law or by the agency having jurisdiction over the testing facility, and with the condition that the testing facility has implemented appropriate containment, treatment, and disposal measures to prevent uncontrolled releases of foam to the environment or (ii) for training purposes, where such foam shall be replaced by nonfluorinated training foams.

C. No provision of this section shall restrict (i) the manufacture, sale, or distribution of class B firefighting foam that contains intentionally added PFAS chemicals or (ii) the discharge or other use of such foams in emergency firefighting or fire prevention operations.

## CHAPTER 839

*An Act to amend and reenact §§ 32.1-102.2, as it is currently effective and as it shall become effective, and 32.1-102.4 of the Code of Virginia, relating to certificate of public need; charity care.*

[H 2766]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-102.2, as it is currently effective and as it shall become effective, and 32.1-102.4 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-102.2. (Effective until July 1, 2019) Regulations.**

A. The Board shall promulgate regulations which are consistent with this article and:

1. Shall establish concise procedures for the prompt review of applications for certificates consistent with the provisions of this article which may include a structured batching process which incorporates, but is not limited to, authorization for the Commissioner to request proposals for certain projects. In any structured batching process established by the Board, applications, combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy and proton beam therapy, and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, and nuclear medicine imaging;

2. May classify projects and may eliminate one or more or all of the procedures prescribed in § 32.1-102.6 for different classifications;

3. May provide for exempting from the requirement of a certificate projects determined by the Commissioner, upon application for exemption, to be subject to the economic forces of a competitive market or to have no discernible impact on the cost or quality of health services;

4. Shall establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole;

5. May establish, on or after July 1, 1999, a schedule of fees for applications for certificates to be applied to expenses for the administration and operation of the certificate of public need program. Such fees shall not be less than \$1,000 nor exceed the lesser of one percent of the proposed expenditure for the project or \$20,000. Until such time as the Board shall establish a schedule of fees, such fees shall be one percent of the proposed expenditure for the project; however, such fees shall not be less than \$1,000 or more than \$20,000; ~~and~~

6. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision 8 of the definition of "project" in § 32.1-102.1. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6; *and*

7. *Shall require every medical care facility subject to the requirements of this article, other than a nursing home, that is not a medical care facility for which a certificate with conditions imposed pursuant to subsection F of § 32.1-102.4 has been issued and that provides charity care, as defined in § 32.1-102.1, to annually report the amount of charity care provided.*

B. The Board shall promulgate regulations providing for time limitations for schedules for completion and limitations on the exceeding of the maximum capital expenditure amount for all reviewable projects. The Commissioner shall not approve any such extension or excess unless it complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval of a certificate on the agreement of the applicant to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the Commissioner to condition the issuing or renewing of any license for any applicant whose certificate was approved upon such condition on whether such applicant has complied with any agreement to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.

**§ 32.1-102.2. (Effective July 1, 2019) Regulations.**

The Board shall promulgate regulations that are consistent with this article and:

1. Shall establish concise procedures for the prompt review of applications for certificates consistent with the provisions of this article which may include a structured batching process which incorporates, but is not limited to, authorization for the Commissioner to request proposals for certain projects. In any structured batching process established by the Board, applications, combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging

(MRI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy and proton beam therapy, and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, and nuclear medicine imaging;

2. May classify projects and may eliminate one or more or all of the procedures prescribed in § 32.1-102.6 for different classifications;

3. May provide for exempting from the requirement of a certificate projects determined by the Commissioner, upon application for exemption, to be subject to the economic forces of a competitive market or to have no discernible impact on the cost or quality of health services;

4. Shall establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole;

5. May establish, on or after July 1, 1999, a schedule of fees for applications for certificates to be applied to expenses for the administration and operation of the certificate of public need program. Such fees shall not be less than \$1,000 nor exceed the lesser of one percent of the proposed expenditure for the project or \$20,000. Until such time as the Board shall establish a schedule of fees, such fees shall be one percent of the proposed expenditure for the project; however, such fees shall not be less than \$1,000 or more than \$20,000; ~~and~~

6. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision 8 of the definition of "project" in § 32.1-102.1. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6; *and*

7. *Shall require every medical care facility subject to the requirements of this article, other than a nursing home, that is not a medical care facility for which a certificate with conditions imposed pursuant to subsection F of § 32.1-102.4 has been issued and that provides charity care, as defined in § 32.1-102.1, to annually report the amount of charity care provided.*

B. The Board shall promulgate regulations providing for time limitations for schedules for completion and limitations on the exceeding of the maximum capital expenditure amount for all reviewable projects. The Commissioner shall not approve any such extension or excess unless it complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval of a certificate on the agreement of the applicant to provide a level of charity care to indigent persons or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the Commissioner to condition the issuing or renewing of any license for any applicant whose certificate was approved upon such condition on whether such applicant has complied with any agreement to provide a level of charity care to indigent persons or accept patients requiring specialized care. Except in the case of nursing homes, the value of charity care provided to individuals pursuant to this subsection shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

#### **§ 32.1-102.4. Conditions of certificates; monitoring; revocation of certificates.**

A. A certificate shall be issued with a schedule for the completion of the project and a maximum capital expenditure amount for the project. The schedule may not be extended and the maximum capital expenditure may not be exceeded without the approval of the Commissioner in accordance with the regulations of the Board.

B. The Commissioner shall monitor each project for which a certificate is issued to determine its progress and compliance with the schedule and with the maximum capital expenditure. The Commissioner shall also monitor all continuing care retirement communities for which a certificate is issued authorizing the establishment of a nursing home facility or an increase in the number of nursing home beds pursuant to § 32.1-102.3:2 and shall enforce compliance with the conditions for such applications which are required by § 32.1-102.3:2. Any willful violation of a provision of § 32.1-102.3:2 or conditions of a certificate of public need granted under the provisions of § 32.1-102.3:2 shall be subject to a civil penalty of up to \$100 per violation per day until the date the Commissioner determines that such facility is in compliance.

C. A certificate may be revoked when:

1. Substantial and continuing progress towards completion of the project in accordance with the schedule has not been made;

2. The maximum capital expenditure amount set for the project is exceeded;

3. The applicant has willfully or recklessly misrepresented intentions or facts in obtaining a certificate; or

4. A continuing care retirement community applicant has failed to honor the conditions of a certificate allowing the establishment of a nursing home facility or granting an increase in the number of nursing home beds in an existing facility which was approved in accordance with the requirements of § 32.1-102.3:2.

D. Further, the Commissioner shall not approve an extension for a schedule for completion of any project or the exceeding of the maximum capital expenditure of any project unless such extension or excess complies with the limitations provided in the regulations promulgated by the Board pursuant to § 32.1-102.2.

E. Any person willfully violating the Board's regulations establishing limitations for schedules for completion of any project or limitations on the exceeding of the maximum capital expenditure of any project shall be subject to a civil penalty of up to \$100 per violation per day until the date of completion of the project.

F. (Effective until July 1, 2019) The Commissioner may condition, pursuant to the regulations of the Board, the approval of a certificate (i) upon the agreement of the applicant to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care or (ii) upon the agreement of the applicant to facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area.

The certificate holder shall provide documentation to the Department demonstrating that the certificate holder has satisfied the conditions of the certificate. If the certificate holder is unable or fails to satisfy the conditions of a certificate, the Department may approve alternative methods to satisfy the conditions pursuant to a plan of compliance. The plan of compliance shall identify a timeframe within which the certificate holder will satisfy the conditions of the certificate, and identify how the certificate holder will satisfy the conditions of the certificate, which may include ~~(i)~~ (a) making direct payments to an organization authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, ~~(ii)~~ (b) making direct payments to a private nonprofit foundation that funds basic insurance coverage for indigents authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, or ~~(iii)~~ (c) other documented efforts or initiatives to provide primary or specialized care to underserved populations. In cases in which the certificate holder holds more than one certificate with conditions pursuant to this subsection, and the certificate holder is unable to satisfy the conditions of one certificate, such plan of compliance may provide for satisfaction of the conditions on that certificate by providing care at a reduced rate to indigent individuals in excess of the amount required by another certificate issued to the same holder, in an amount approved by the Department provided such care is offered at the same facility. Nothing in the preceding sentence shall prohibit the satisfaction of conditions of more than one certificate among various affiliated facilities or certificates subject to a system-wide or all-inclusive charity care condition established by the Commissioner. In determining whether the certificate holder has met the conditions of the certificate pursuant to a plan of compliance, only such direct payments, efforts, or initiatives made or undertaken after issuance of the conditioned certificate shall be counted towards satisfaction of conditions.

Any person willfully refusing, failing, or neglecting to honor such agreement shall be subject to a civil penalty of up to \$100 per violation per day until the date of compliance.

F. (Effective July 1, 2019) The Commissioner may condition, pursuant to the regulations of the Board, the approval of a certificate (i) upon the agreement of the applicant to provide a level of charity care to indigent persons or accept patients requiring specialized care or (ii) upon the agreement of the applicant to facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area. Except in the case of nursing homes, the value of charity care provided to individuals pursuant to this subsection shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.

The certificate holder shall provide documentation to the Department demonstrating that the certificate holder has satisfied the conditions of the certificate, including documentation of the amount of charity care provided to patients. If the certificate holder is unable or fails to satisfy the conditions of a certificate, the Department may approve alternative methods to satisfy the conditions pursuant to a plan of compliance. The plan of compliance shall identify a timeframe within which the certificate holder will satisfy the conditions of the certificate, and identify how the certificate holder will satisfy the conditions of the certificate, which may include (a) making direct payments to an organization authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, (b) making direct payments to a private nonprofit foundation that funds basic insurance coverage for indigents authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, or (c) other documented efforts or initiatives to provide primary or specialized care to underserved populations. In cases in which the certificate holder holds more than one certificate with conditions pursuant to this subsection, and the certificate holder is unable to satisfy the conditions of one certificate, such plan of compliance may provide for satisfaction of the conditions on that certificate by providing care at a reduced rate to indigent individuals in excess of the amount required by another certificate issued to the same holder, in an amount approved by the Department provided such care is offered at the same facility. Nothing in the preceding sentence shall prohibit the satisfaction of conditions of more than one certificate among various affiliated facilities or certificates subject to a system-wide or all-inclusive charity care condition established by the Commissioner. In determining whether the certificate holder has met the conditions of the certificate pursuant to a plan of compliance, only such direct payments, efforts, or initiatives made or undertaken after issuance of the conditioned certificate shall be counted towards satisfaction of conditions.

Any person willfully refusing, failing, or neglecting to honor such agreement shall be subject to a civil penalty of up to \$100 per violation per day until the date of compliance.

G. *The Commissioner shall (i) review every certificate of public need upon which conditions were imposed pursuant to subsection F at least once every three years to determine whether such conditions continue to be appropriate or should be*

revised and (ii) notify each certificate holder of his conclusions regarding (a) the appropriateness of conditions imposed on the certificate and whether such conditions should be revised and (b) the process by which the certificate holder may request amendments to conditions imposed on a certificate in accordance with subsection H.

H. Pursuant to regulations of the Board, the Commissioner may accept requests for and approve amendments to conditions of existing certificates related to the provision of care at reduced rates or to patients requiring specialized care or related to the development and operation of primary medical care services in designated medically underserved areas of the certificate holder's service area.

~~H. I.~~ For the purposes of this section, "completion" means conclusion of construction activities necessary for the substantial performance of the contract.

## CHAPTER 840

*An Act to amend and reenact §§ 38.2-3559 through 38.2-3562 of the Code of Virginia, relating to health carriers; expedited reviews of adverse coverage determinations; exhaustion of internal reviews; cancer patients.*

[S 1161]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-3559 through 38.2-3562 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-3559. Notice of right to external review.**

A. A health carrier shall notify the covered person in writing of an adverse determination or final adverse determination and the covered person's right to request an external review. The notice of the right to request an external review shall include the following, or substantially similar, language: "We have denied your request for the provision of or payment for a health care service or course of treatment. You may have the right to have our decision reviewed by health care professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care, or effectiveness of the health care service or treatment you requested by submitting a request for external review to the Commission."

B. The notice of the right to request an external review of an adverse determination shall include the following statements informing the covered person that:

1. If the covered ~~person has~~ *person's adverse determination involves (i) cancer or (ii) a medical condition where the time frame for completion of an expedited internal appeal of an adverse determination would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or his authorized representative may file a request for an expedited external review pursuant to § 38.2-3562;*

2. If the adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment would be significantly less effective if not promptly initiated, the covered person or his authorized representative may file a request for an expedited external review pursuant to § 38.2-3563;

3. If the covered person or his authorized representative files a request for an expedited internal appeal with the health carrier, he may file at the same time a request for an expedited external review of an adverse determination pursuant to § 38.2-3562 or 38.2-3563. The independent review organization assigned to conduct the expedited external review will determine whether the covered person shall be required to complete the expedited internal appeal prior to conducting the expedited external review; and

4. If the covered person or his authorized representative files a standard appeal with the health carrier's internal appeal process, and the health carrier does not issue a written decision within 30 days following the date the appeal requesting a review is filed and the covered person or his authorized representative did not request or agree to a delay, the covered person or his authorized representative may file a request for external review and shall be considered to have exhausted the health carrier's internal appeal process.

C. The notice of the right to request an external review of a final adverse determination shall include the following statements informing the covered person that:

1. If the covered person has a medical condition where the time frame for completion of a standard external review would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or his authorized representative may file a request for an expedited external review pursuant to § 38.2-3562;

2. If the final adverse determination involves an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility, the covered person or his authorized representative may request an expedited external review pursuant to § 38.2-3562; and

3. If the final adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational, the covered person or his authorized representative may file a request for a standard external review pursuant to § 38.2-3563; or if the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment would be significantly less

effective if not promptly initiated, the covered person or his authorized representative may request an expedited external review pursuant to subsection B of § 38.2-3563.

D. The health carrier shall include the standard and expedited external review procedures and any forms with the notice of the right to an external review.

**§ 38.2-3560. Exhaustion of internal appeal process.**

A. A request for an external review shall not be made until the covered person has exhausted the health carrier's internal appeal process, *provided that a covered person's exhaustion of the health carrier's internal appeal process shall not be required if the adverse determination relates to the treatment of a cancer of the covered person.*

B. A covered person shall be considered to have exhausted the health carrier's internal appeal process if the covered person or his authorized representative has filed an appeal requesting a review of an adverse determination, and, except to the extent the covered person or his authorized representative requested or agreed to a delay, has not received a written decision from the health carrier within 30 days following the date the appeal was filed with the health carrier.

C. If a covered person or his authorized representative files a request for an expedited internal appeal of an adverse determination with the health carrier, the covered person or his authorized representative is deemed to have exhausted the internal appeal process and may file a request for an expedited external review of the adverse determination at the same time. Upon receipt of a request for an expedited external review of an adverse determination, the independent review organization conducting the external review shall determine whether the covered person shall be required to complete the health carrier's expedited internal appeal process before it conducts the expedited external review. The independent review organization shall promptly notify the covered person and his authorized representative, if any, of this determination, and either proceed with the expedited external review or wait until completion of the internal expedited appeal process.

D. A request for an external review of an adverse determination may be made before the covered person has exhausted the health carrier's internal appeal process whenever the health carrier agrees to waive the exhaustion requirement. If the exhaustion requirement is waived, the covered person or his authorized representative may file a request in writing for a standard external review.

**§ 38.2-3561. Standard external review.**

A. Within 120 days after the date of receipt of a notice of the right to an external review of a final adverse determination or an adverse determination if the internal appeal process has been deemed to be exhausted or waived, a covered person or his authorized representative may file a request for an external review in writing with the Commission. Within one business day after the date of receipt of a request for external review, the Commission shall send a copy of the request to the health carrier.

B. Within five business days following the date of receipt of the external review request from the Commission, the health carrier shall complete a preliminary review of the request to determine whether:

1. The individual is or was a covered person at the time the health care service was requested or, in the case of a retrospective review, was a covered person at the time the health care service was provided;

2. The health care service is a covered service, except as excluded for not meeting the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness;

3. The covered person has exhausted or is deemed to have exhausted the health carrier's internal appeal process, *provided that a covered person's exhaustion of the health carrier's internal appeal process shall not be required if the adverse determination relates to the treatment of a cancer of the covered person;* and

4. All the information and forms required to process the external review are complete.

C. Within one business day after completion of the preliminary review, the health carrier shall notify in writing the Commission, the covered person, and his authorized representative, if any, whether the request is complete and eligible for external review and, if ineligible, the reasons for ineligibility. If the request is not complete, the notice shall include what information or materials are needed to make the request complete. Such notice shall include a statement informing the covered person and his authorized representative, if any, that the health carrier's determination of ineligibility may be appealed to the Commission. If the health carrier makes an ineligibility determination, the Commission may determine that a request is eligible for external review and require that it be referred for external review. In making this determination, the Commission's decision shall be made in accordance with the terms of the covered person's health benefit plan and the requirements of subsection B.

D. Within one business day after the date of receipt of the notice described in subsection C, the Commission shall assign an independent review organization to conduct the external review and notify in writing the health carrier, the covered person, and his authorized representative, if any, of the request's eligibility and acceptance for external review and the name of the assigned independent review organization. The Commission shall include in such notice a statement that the covered person or his authorized representative may submit in writing to the assigned independent review organization, within five business days following the date of receipt, additional information that the independent review organization shall consider when conducting the external review.

E. Within five business days after the date of receipt of the notice from the Commission, the health carrier or its designee utilization review entity shall provide to the assigned independent review organization the documents and any information considered in making the adverse determination or final adverse determination. Failure by the health carrier or its utilization review entity to provide the documents and information within the time specified shall not delay the conduct of the external review. If the health carrier or its utilization review entity fails to provide the documents and information

within the time specified, the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination. Within one business day after making such decision, the independent review organization shall notify the covered person, his authorized representative, if any, the health carrier, and the Commission.

F. The assigned independent review organization shall review all of the information and documents timely received from the health carrier and any other information submitted in writing by the covered person or his authorized representative. The independent review organization is not required to, but may, accept and consider information submitted late from the covered person or his authorized representative, if any. Upon receipt of any information submitted by the covered person or his authorized representative, the assigned independent review organization shall within one business day forward the information to the health carrier.

G. Upon receipt of the information from the assigned independent review organization, the health carrier may reconsider its adverse determination or final adverse determination. Reconsideration by the health carrier of its adverse determination or final adverse determination shall not delay or terminate the external review. The external review may only be terminated if the health carrier decides to reverse its adverse determination or final adverse determination and provide coverage or payment for the health care service. Within one business day after making the decision to reverse its adverse determination or final adverse determination, the health carrier shall notify the covered person, his authorized representative, if any, the assigned independent review organization, and the Commission in writing of its decision. Upon receipt of the notice of the health carrier's decision to reverse its adverse determination or final adverse determination, the assigned independent review organization shall terminate the external review.

H. The assigned independent review organization, to the extent the information or documents are available and the independent review organization considers them appropriate, shall also consider the following in reaching a decision:

1. The covered person's medical records;
2. The attending health care professional's recommendation;
3. Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, his authorized representative, or the covered person's treating provider;
4. The terms of coverage under the covered person's health benefit plan;
5. The most appropriate practice guidelines, which shall include applicable evidence-based standards and may include any other practice guidelines developed by the federal government or national or professional medical societies, boards, and associations;
6. Any applicable clinical review criteria developed and used by the health carrier or its designee utilization review entity; and
7. The opinion of the independent review organization's clinical reviewer or reviewers after considering the information or documents described in subdivisions 1 through 6 to the extent the information or documents are available and the clinical reviewer or reviewers consider appropriate.

In reaching a decision, the assigned independent review organization shall not be bound by any decisions or conclusions reached during the health carrier's utilization review process or the internal appeal process.

I. Within 45 days after the date of receipt of the request for an external review, the assigned independent review organization shall provide written notice of its decision to uphold or reverse the adverse determination or the final adverse determination to the covered person, his authorized representative, if any, the health carrier, and the Commission. The independent review organization shall include in such notice: a general description of the reason for the request for external review; the date the independent review organization received the assignment from the Commission to conduct the external review; the date the external review was conducted; the date of its decision; the principal reason or reasons for its decision, including what applicable, if any, evidence-based standards were a basis for its decision; the rationale for its decision; and references to the evidence or documentation, including evidence-based standards, considered in reaching its decision.

J. Upon receipt of a notice reversing the adverse determination or final adverse determination, the health carrier promptly shall approve the coverage.

#### **§ 38.2-3562. Expedited external review.**

A. A covered person or his authorized representative may make a request for an expedited external review with the Commission at the time the covered person receives:

1. An adverse determination if the adverse determination involves (i) *cancer* or (ii) a medical condition of the covered person for which the time frame for completion of an expedited internal appeal involving an adverse determination would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, and the covered person or his authorized representative has filed a request for an expedited internal appeal of the adverse determination; or

2. A final adverse determination if the covered person has (i) *cancer* or (ii) a medical condition where the time frame for completion of a standard external review would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, or if the final adverse determination concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility.

B. Upon receipt of a request for an expedited external review, the Commission shall promptly send a copy of the request to the health carrier. Promptly upon receipt of such request, the health carrier shall determine whether the request

meets the eligibility requirements in subsection B of § 38.2-3561. The health carrier shall promptly notify the Commission, the covered person, and his authorized representative, if any, of its eligibility determination. Such notice shall include a statement informing the covered person and his authorized representative, if any, that the health carrier's determination of ineligibility may be appealed to the Commission. If the health carrier makes an ineligibility determination, the Commission may determine that a request is eligible for external review and require that it be referred for external review. In making such determination, the Commission decision shall be made in accordance with the terms of the covered person's health benefit plan and the requirements of subsection B of § 38.2-3561.

Upon receipt of the notice that the request meets the eligibility requirements, the Commission shall promptly assign an independent review organization to conduct the expedited external review. The Commission shall promptly notify the health carrier of the name of the assigned independent review organization.

C. Promptly upon receipt of the notice from the Commission of the name of the independent review organization assigned, the health carrier or its designee utilization review entity shall provide or transmit all necessary documents and information considered in making the adverse determination or final adverse determination to the assigned independent review organization electronically, by telephone, facsimile, or any other available expeditious method.

D. The assigned independent review organization, to the extent the information or documents are available and the independent review organization considers them appropriate, shall also consider the following in reaching a decision:

1. The covered person's pertinent medical records;
2. The attending health care professional's recommendation;
3. Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, his authorized representative, or the covered person's treating provider;
4. The terms of coverage under the covered person's health benefit plan;
5. The most appropriate practice guidelines, which shall include evidence-based standards, and may include any other practice guidelines developed by the federal government or national or professional medical societies, boards, and associations;
6. Any applicable clinical review criteria developed and used by the health carrier or its designee utilization review entity in making adverse determinations; and
7. The opinion of the independent review organization's clinical reviewer or reviewers after considering the information and documents described in clauses 1 through 6 to the extent the information and documents are available and the clinical reviewer or reviewers consider appropriate.

In reaching a decision, the assigned independent review organization is not bound by any decisions or conclusions reached during the health carrier's utilization review process or internal appeal process.

E. As expeditiously as the covered person's medical condition or circumstances requires, but in no event more than 72 hours after the date of receipt of an eligible request for an expedited external review, the assigned independent review organization shall make a decision to uphold or reverse the adverse determination or final adverse determination and notify the covered person, his authorized representative, if any, the health carrier, and the Commission. If such decision was not in writing, within 48 hours after the date of providing such decision, the assigned independent review organization shall provide written confirmation of the decision to the covered person, his authorized representative, if any, the health carrier, and the Commission and include the information set forth in subsection I of § 38.2-3561.

F. Upon receipt of a decision reversing the adverse determination or final adverse determination, the health carrier shall promptly approve the coverage.

G. An expedited external review shall not be available for retrospective adverse determinations or retrospective final adverse determinations.

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 841

*An Act to amend and reenact § 9.1-302 of the Code of Virginia, relating to Firefighters and Emergency Medical Technicians Procedural Guarantee Act; breach of procedures.*

[S 1494]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-302 of the Code of Virginia is amended and reenacted as follows:**

**§ 9.1-302. Breach of procedures.**

~~Any breach of the procedures required by this chapter shall not exclude any evidence from being presented. Evidence gathered through the conduct of an interrogation that violates the provisions of this chapter shall not be admissible in any ease administrative hearing against a firefighter or individual who meets the definition of "emergency medical services personnel" in § 32-1-111.1 and shall not cause any charge to be dismissed unless the firefighter or emergency medical services personnel demonstrates that the breach prejudiced his ease.~~

## CHAPTER 842

*An Act to amend and reenact § 46.2-882 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-882.1, relating to handheld photo speed monitoring devices.*

[S 1521]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-882 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-882.1 as follows:**

**§ 46.2-882. Determining speed with various devices; certificate as to accuracy of device; arrest without warrant.**

The speed of any motor vehicle may be determined by the use of (i) a laser speed determination device, (ii) radar, (iii) a microcomputer device that is physically connected to an odometer cable and both measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle, ~~or~~ (iv) a microcomputer device that is located aboard an airplane or helicopter and measures and records distance traveled and elapsed time to determine the average speed of a motor vehicle being operated on highways within the Interstate System of highways as defined in § 33.2-100, *or* (v) *a handheld photo speed monitoring device as defined in § 46.2-882.1.* The results of such determinations shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceeding where the speed of the motor vehicle is at issue.

In any court or legal proceeding in which any question arises about the calibration or accuracy of any laser speed determination device, radar, ~~or~~ microcomputer device, *or handheld photo speed monitoring device* as described in this section used to determine the speed of any motor vehicle, a certificate, or a true copy thereof, showing the calibration or accuracy of (i) the speedometer of any vehicle, (ii) any tuning fork employed in calibrating or testing the radar or other speed determination device or (iii) any other method employed in calibrating or testing any laser speed determination device *or handheld photo speed monitoring device*, and when and by whom the calibration was made, shall be admissible as evidence of the facts therein stated. No calibration or testing of such device *or system* shall be valid for longer than six months.

The driver of any such motor vehicle may be arrested without a warrant under this section if the arresting officer is in uniform and displays his badge of authority and if the officer has observed the registration of the speed of such motor vehicle by the laser speed determination device, radar, or microcomputer device as described in this section, or has received a radio message from the officer who observed the speed of the motor vehicle registered by the laser speed determination device, radar, or microcomputer device as described in this section. However, in case of an arrest based on such a message, such radio message shall have been dispatched immediately after the speed of the motor vehicle was registered and furnished the license number or other positive identification of the vehicle and the registered speed to the arresting officer.

Neither State Police officers nor local law-enforcement officers shall use laser speed determination devices or radar, as described herein in airplanes or helicopters for the purpose of determining the speed of motor vehicles.

State Police officers may use laser speed determination devices, radar, ~~and/or~~ microcomputer devices, *or handheld photo speed monitoring devices* as described in this section. All localities may use radar and laser speed determination devices to measure speed. The Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within such counties may use microcomputer devices as described in this section.

The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper equipment used to determine the speed of motor vehicles and shall advise the respective law-enforcement officials of the same. Police chiefs and sheriffs shall ensure that all such equipment and devices purchased on or after July 1, 1986, meet or exceed the standards established by the Division.

**§ 46.2-882.1. Use of handheld photo speed monitoring devices in highway work zones; penalty.**

*A. For the purposes of this section:*

*"Handheld photo speed monitoring device" means handheld equipment that uses LIDAR-based speed detection that produces one or more photographs, microphotographs, videotapes, or other recorded images of vehicles.*

*"Highway work zone" has the same meaning ascribed to it in § 46.2-878.1.*

*B. The Department of State Police may operate a handheld photo speed monitoring device in highway work zones for the purposes of recording violations of § 46.2-878.1.*

*1. A handheld photo speed monitoring device may be used only by a law-enforcement officer employed by the Department of State Police who is physically present in or around the highway work zone where a law-enforcement vehicle is present and displaying lighted blue or blue combination lights to record images of vehicles that are traveling at speeds of at least 12 miles per hour above the posted highway work zone speed limit within such highway work zone.*

*2. The operator of a vehicle shall be liable for a monetary civil penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a handheld photo speed monitoring device, to be traveling at speeds of at least 12 miles per hour above the posted highway work zone speed limit within such highway work zone. Such civil penalty shall not exceed \$125, and any prosecution shall be instituted and conducted in the same manner as prosecution for traffic infractions. Civil penalties collected under this section shall be paid into the state treasury and allocated to the*

Department of State Police. For any fiscal year, if the total amount collected from the penalties pursuant to this section is greater than 10 percent of the budget of the Department of State Police for the fiscal year after the costs of implementing and administering handheld photo speed monitoring devices are recovered, the state treasury shall allocate such moneys that exceed 10 percent of the total budget of the Department of State Police to the Literary Fund.

3. If a handheld photo speed monitoring device is used, proof of a violation of § 46.2-878.1 shall be evidenced by information obtained from such device. A certificate, or a facsimile thereof, sworn to or affirmed by a Virginia State Police officer, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a handheld photo speed monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation of § 46.2-878.1.

4. In the prosecution for a violation of § 46.2-878.1 in which a summons was issued pursuant to this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of § 46.2-878.1, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of § 46.2-878.1, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

5. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

6. A summons for a violation of § 46.2-878.1 issued pursuant to this section shall be executed by mailing by first-class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of or accessible to the Department; in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subdivision 4 and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. If the summons is issued to an owner, lessee, or renter of a vehicle with a registration outside the Commonwealth and such person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons will be eligible for all legal collections activities. Any summons executed for a violation of § 46.2-878.1 issued pursuant to this section shall provide to the person summoned at least 30 days from the mailing of the summons to inspect information collected by a handheld photo speed monitoring device in connection with the violation. If the Department of State Police does not execute a summons for a violation of § 46.2-878.1 issued pursuant to this section within 14 days from the date of the violation, all information collected pertaining to that suspected violation shall be purged within 16 days from the date of the violation.

7. Information collected by a handheld photo speed monitoring device operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of highway work zone speeding violations. Information provided to the operator of a handheld photo speed monitoring device shall be protected in a database with security comparable to that of the Department's system and used only for enforcement against individuals who violate the provisions of this section or § 46.2-878.1. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a handheld photo speed monitoring device shall be used exclusively for enforcing highway work zone speed limits and shall not be (i) open to the public; (ii) sold or used for sales, solicitation, or marketing purposes; (iii) disclosed to any other entity except as may be necessary for the enforcement of highway work zone speed limits or to a vehicle owner or operator as part of a challenge to the violation; or (iv) used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or § 46.2-878.1, or such information is requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. Any Virginia State Police division using handheld photo speed monitoring devices shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure.

8. A conspicuous sign shall be placed within 1,000 feet of any highway work zone at which a handheld photo speed monitoring device is used, indicating the use of the device. There shall be a rebuttable presumption that such sign was in place at the time of the commission of the speed limit violation.

2. That a private entity may enter into an agreement with the Department of State Police to be compensated for providing a handheld photo speed monitoring device and all related support services, including consulting, operations, and administration. However, only a law-enforcement officer employed by the Department of State Police may operate a handheld photo speed monitoring device and only a law-enforcement officer employed by the Department of State Police may swear to or affirm the certificate required by subdivision B 3 of § 46.2-882.1 of the Code of Virginia, as created by this act. The Department of State Police shall enter into an agreement for compensation based on the value of the goods and services provided, not on the number of violations paid or monetary penalties imposed.

3. That the provisions of the first and second enactments of this act shall not become effective unless reenacted by the 2020 Session of the General Assembly.

4. The Secretary of Public Safety and Homeland Security, in consultation with the Virginia State Police, the Virginia Sheriffs' Association, and the Virginia Association of Chiefs of Police, shall review the proposed use of handheld photo speed monitoring devices and consider legal and constitutional implications of dedicating civil penalties to any fund other than the Literary Fund. The Secretary of Public Safety and Homeland Security shall report the results of such review to the Chairmen of the Senate Committee for Courts of Justice, the Senate Committee on Finance, the House Committee for Courts of Justice, and the House Committee on Appropriations by November 1, 2019.

### CHAPTER 843

*An Act to amend and reenact § 2.2-3714 of the Code of Virginia, relating to the Virginia Freedom of Information Act; civil penalties.*

[S 1554]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3714 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3714. Violations and penalties.**

A. In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through 2.2-3705.7, 2.2-3706, 2.2-3707, 2.2-3708.2, 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the ~~State~~ Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

B. In addition to any penalties imposed pursuant to subsection A, if the court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of this chapter because such officer, employee, or member altered or destroyed the requested public records with the intent to avoid the provisions of this chapter with respect to such request prior to the expiration of the applicable record retention period set by the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court may impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund.

C. In addition to any penalties imposed pursuant to subsections A and B, if the court finds that a public body voted to certify a closed meeting in accordance with subsection D of § 2.2-3712 and such certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of § 2.2-3712, the court may impose on the public body, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$1,000, which amount shall be paid into the Literary Fund. In determining whether a civil penalty is appropriate, the court shall consider mitigating factors, including reliance of members of the public body on (i) opinions of the Attorney General, (ii) court cases substantially supporting the rationale of the public body, and (iii) published opinions of the Freedom of Information Advisory Council.

### CHAPTER 844

*An Act to amend the Code of Virginia by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1210, relating to parental leave.*

[S 1581]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1210 as follows:**

**§ 2.2-1210. Parental leave.**

A. *As used in this section:*

"Eligible employee" means a classified or at-will state employee who has been employed by the Commonwealth for a minimum of 12 consecutive months.

"Parental leave" means paid leave provided at 100 percent of an eligible employee's regular salary.

B. The Department shall implement and administer parental leave for eligible employees. Following the birth, adoption, or foster placement of a child younger than age 18, an eligible employee shall receive eight weeks (320 hours) of parental leave. If both parents of such child are eligible employees, each shall receive parental leave, which may be taken concurrently, consecutively, or at different times.

C. Parental leave shall be taken within six months following the birth, adoption, or foster placement of the child. Parental leave shall be taken only once in a 12-month period and only once per child.

D. Parental leave shall be in addition to other leave benefits available to state employees, including the Virginia Sickness and Disability Program under Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, sick leave under Article 2 (§ 51.1-1104) of Chapter 11 of Title 51.1, annual leave, and leave under the Family and Medical Leave Act (29 U.S.C. § 2601 et seq.), and shall not be counted against leave under such programs. Parental leave shall run concurrently with any leave provided to an eligible employee under the Family and Medical Leave Act. Parental leave may run concurrently or sequentially with leave provided under the Virginia Sickness and Disability Program if an eligible employee is eligible for such leave. All legal holidays designated pursuant to § 2.2-3300 shall not be counted against parental leave.

E. On July 1, 2020, and every July 1 thereafter, each state agency's human resource manager shall submit to the Department, in a form and containing such data as prescribed by the Department, a report on the use of parental leave by agency employees for the preceding fiscal year.

F. The Department shall develop and publish guidelines on parental leave that shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

## CHAPTER 845

An Act to amend and reenact § 40.1-29 of the Code of Virginia, relating to payment of wages; statement of earnings.

[S 1696]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 40.1-29 of the Code of Virginia is amended and reenacted as follows:**

**§ 40.1-29. Time and medium of payment; withholding wages; written statement of earnings; agreement for forfeiture of wages; proceedings to enforce compliance; penalties.**

A. 1. All employers operating a business shall establish regular pay periods and rates of pay for employees except executive personnel. All such employers shall pay salaried employees at least once each month and employees paid on an hourly rate at least once every two weeks or twice in each month, except that (i) a student who is currently enrolled in a work-study program or its equivalent administered by any secondary school, institution of higher education or trade school, and (ii) employees whose weekly wages total more than 150 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500, upon agreement by each affected employee, may be paid once each month if the institution or employer so chooses. Upon termination of employment an employee shall be paid all wages or salaries due him for work performed prior thereto; such payment shall be made on or before the date on which he would have been paid for such work had his employment not been terminated.

2. Any such employer who knowingly fails to make payment of wages in accordance with this section shall be subject to a civil penalty not to exceed \$1,000 for each violation. The Commissioner shall notify any employer who he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final.

B. Payment of wages or salaries shall be (i) in lawful money of the United States, (ii) by check payable at face value upon demand in lawful money of the United States, (iii) by electronic automated fund transfer in lawful money of the United States into an account in the name of the employee at a financial institution designated by the employee, or (iv) by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds with full written disclosure by the employer of any applicable fees and affirmative consent thereto by the employee. However, an employer that elects not to pay wages or salaries in accordance with clause (i) or (ii) to an employee who is hired after January 1, 2010, shall be permitted to pay wages or salaries by credit to a prepaid debit card or card account in accordance with clause (iv), even though such employee has not affirmatively consented thereto, if the employee fails to designate an account at a financial institution in accordance with clause (iii) and the employer arranges for such card or card account to be issued through a network system through which the employee shall have the ability to make at least one free withdrawal or transfer per pay period, which withdrawal may be for any sum in such card or card account as the employee may elect, using such card or card account at financial institutions participating in such network system.

C. No employer shall withhold any part of the wages or salaries of any employee except for payroll, wage or withholding taxes or in accordance with law, without the written and signed authorization of the employee. ~~An~~ *On each regular pay date, each employer other than an employer engaged in agricultural employment including agribusiness and forestry, upon request of his employee, shall furnish the latter provide to each employee a written statement of, by a paystub or online accounting, that shows the name and address of the employer, the number of hours worked during the pay period, the rate of pay, the gross wages earned by the employee during any the pay period, and the amount and purpose of any deductions therefrom. An employer engaged in agricultural employment including agribusiness and forestry, upon request of its employee, shall furnish the employee a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom.*

D. No employer shall require any employee, except executive personnel, to sign any contract or agreement which provides for the forfeiture of the employee's wages for time worked as a condition of employment or the continuance therein, except as otherwise provided by law.

E. An employer who willfully and with intent to defraud fails or refuses to pay wages in accordance with this section:

1. To an employee or employees is guilty of a Class 1 misdemeanor if the value of the wages earned and not paid by the employer is less than \$10,000; and

2. To an employee or employees is guilty of a Class 6 felony (i) if the value of the wages earned and not paid is \$10,000 or more or (ii) regardless of the value of the wages earned and not paid, if the conviction is a second or subsequent conviction under this section.

For purposes of this section, the determination as to the "value of the wages earned" shall be made by combining all wages the employer failed or refused to pay pursuant to this section.

F. The Commissioner may require a written complaint of the violation of this section and, with the written and signed consent of an employee, may institute proceedings on behalf of an employee to enforce compliance with this section, and to collect any moneys unlawfully withheld from such employee which shall be paid to the employee entitled thereto. In addition, following the issuance of a final order by the Commissioner or a court, the Commissioner may engage private counsel, approved by the Attorney General, to collect any moneys owed to the employee or the Commonwealth. Upon entry of a final order of the Commissioner, or upon entry of a judgment, against the employer, the Commissioner or the court shall assess attorney's fees of one-third of the amount set forth in the final order or judgment.

G. In addition to being subject to any other penalty provided by the provisions of this section, any employer who fails to make payment of wages in accordance with subsection A shall be liable for the payment of all wages due, plus interest at an annual rate of eight percent accruing from the date the wages were due.

H. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner, the general district courts or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

**2. That the provisions of this act shall become effective on January 1, 2020.**

## CHAPTER 846

*An Act to amend and reenact §§ 46.2-698, 58.1-2299.20, as it is currently effective and as it may become effective, and § 58.1-2701 of the Code of Virginia, and to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 36, consisting of sections numbered 33.2-3600 through 33.2-3605, and by adding sections numbered 46.2-697.2, 46.2-702.1:1, 58.1-2217.1, and 58.1-2295.1, relating to the Interstate 81 corridor; Interstate 81 Corridor Improvement Fund; report.*

[S 1716]

Approved April 3, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-698, 58.1-2299.20, as it is currently effective and as it may become effective, and § 58.1-2701 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 36, consisting of sections numbered 33.2-3600 through 33.2-3605, and by adding sections numbered 46.2-697.2, 46.2-702.1:1, 58.1-2217.1, and 58.1-2295.1, as follows:**

### CHAPTER 36.

#### INTERSTATE 81 CORRIDOR IMPROVEMENT PROGRAM AND FUND.

##### § 33.2-3600. Definitions.

*As used in this chapter, unless the context requires a different meaning:*

*"Committee" means the Interstate 81 Committee established pursuant to § 33.2-3603.*

*"Fund" means the Interstate 81 Corridor Improvement Fund.*

"Interstate 81 corridor" means Interstate 81, Route 11, and other parallel highways, parallel railways, and related transportation facilities that help move people and goods.

"Plan" means the Interstate 81 Corridor Improvement Plan adopted by the Board on December 5, 2018, and any updates or amendments made thereto in accordance with the provisions of this chapter.

"Program" means an Interstate 81 Corridor Improvement Program.

**§ 33.2-3601. Interstate 81 Corridor Improvement Fund.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Interstate 81 Corridor Improvement Fund. The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 46.2-702.1:1, 58.1-2217.1, 58.1-2299.20, and 58.1-2701, any other funds that may be appropriated by the General Assembly, and any funds that may be received for credit to the Fund from any other sources shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. Moneys in the Fund shall be used only for capital, operating, and other improvement costs identified in the Plan.

C. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to jurisdictions along the Interstate 81 corridor. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

**§ 33.2-3602. Interstate 81 Corridor Improvement Program; report.**

A. The Board shall adopt an Interstate 81 Corridor Improvement Program. The Program shall, at a minimum:

1. Allocate year by year the revenues, if any, from the Fund and bond proceeds, if any, backed by the Fund to projects and strategies identified in the Plan adopted by the Board;
2. Include a financing plan to support such allocation; and
3. Include a schedule for all new projects and strategies identified in the Plan adopted by the Board.

B. Prior to the adoption of such Program, the Board shall review the recommendations of and consult with the Committee.

C. The Board shall update the Program annually by July 1.

D. By December 15 of each year, the Board shall report to the General Assembly regarding the status and progress of implementation of the Program. The report shall be submitted to the Chairmen of the House Committees on Appropriations and Transportation and the Senate Committees on Finance and Transportation. Prior to the submission of such report each year, the Board shall consult with the Committee. The report shall include, at a minimum:

1. The safety and performance of the Interstate 81 corridor, including the number of incidents, the average duration of incidents, the number and average duration of incidents involving lane closures, and the person-hours of delay along the Interstate 81 corridor;
2. An assessment of the effectiveness of the operational strategies and capital projects implemented and funded through the Program;
3. The status of capital projects funded through the Program; and
4. The current and projected balances of the Fund.

**§ 33.2-3603. Interstate 81 Committee.**

A. The Board shall establish an Interstate 81 Committee.

B. The purpose of the Committee shall be to provide advice and recommendations to the Board regarding (i) the development of the Program pursuant to § 33.2-3602 and (ii) updates to the Plan pursuant to § 33.2-3604.

C. The Committee shall hold at least four meetings each year and consult with interested stakeholders. The Committee's meetings shall rotate among locations in Planning Districts 3, 4, 5, 6, and 7.

D. The Committee shall be composed of 15 voting members and two *ex officio* members as follows:

1. The chairs of planning district commissions for Planning Districts 3, 4, 5, 6, and 7, or in the discretion of a chairman, his designee, who shall be a current elected official serving on such commission;
2. Four members of the House of Delegates, each of whom resides in Planning District 3, 4, 5, 6, or 7, to be appointed by the Speaker of the House of Delegates. None of the four members shall live in the same planning district;
3. Three members of the Senate, each of whom resides in Planning District 3, 4, 5, 6, or 7, to be appointed by the Senate Committee on Rules. None of the three members shall live in the same planning district;
4. The three members of the Board representing the Bristol, Salem, and Staunton highway construction districts; and
5. The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall serve *ex officio* with nonvoting privileges.

E. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.

F. All members of the Committee shall serve terms coincident with their terms in office or position. Vacancies shall be filled in the same manner as the original appointment.

G. The Office of Intermodal Planning and Investment, the Department of Transportation, and the Department of Rail and Public Transportation shall support the Committee, as appropriate.

**§ 33.2-3604. Updates to the Interstate 81 Corridor Improvement Plan; requirements.**

A. The Board, in consultation with the Committee and with the support of the Office of Intermodal Planning and Investment, shall regularly update the Plan. In updating the Plan, the Board and Committee shall, at a minimum:

1. Analyze existing conditions of the Interstate 81 corridor to identify key needs related to safety, congestion, and incident-related delays;

2. Identify potential improvements to address the needs identified pursuant to subdivision 1, including roadway improvements, multimodal improvements, speed enforcement strategies, operational strategies, and upgrades to adjacent and parallel transportation facilities;

3. Prioritize potential improvements in a manner consistent with § 33.2-214.1;

4. Identify corridor-wide incident management strategies;

5. Analyze and review truck parking needs along the Interstate 81 corridor;

6. Hold public meetings throughout the Interstate 81 corridor; and

7. Consider any other items deemed appropriate by the Board.

B. Technical assistance shall be provided to the Board by the Department of Transportation, the Department of Motor Vehicles, and the Department of State Police. All agencies of the Commonwealth shall provide assistance to the Board to fulfill the requirements of this section, upon request.

**§ 33.2-3605. Continuing responsibilities of the Commonwealth Transportation Board and Department of Transportation.**

The Board shall allocate funding to, and the Department shall perform or cause to be performed, all maintenance and operation of bridges, tunnels, and roadways and shall perform such other required services and activities with respect to such bridges, tunnels, and roadways as were being performed on July 1, 2019.

**§ 46.2-697.2. Additional fees for vehicles not designed or used for transportation of passengers.**

A. In addition to the fees imposed pursuant to § 46.2-697, there is hereby imposed an additional fee for the registration of all motor vehicles not designed and used for the transportation of passengers. The additional fee shall be determined per thousand pounds by the gross weight of the vehicle or combination of vehicles in the same manner as the fees imposed pursuant to § 46.2-697, as follows:

1. For vehicles with a gross weight of 10,001 through 15,000 pounds, \$6.00 per 1,000 pounds;

2. For vehicles with a gross weight of 15,001 through 25,000 pounds, \$7.00 per 1,000 pounds;

3. For vehicles with a gross weight of 25,001 through 29,000 pounds, \$9.00 per 1,000 pounds;

4. For vehicles with a gross weight of 29,001 through 40,000 pounds, \$10.00 per 1,000 pounds; and

5. For vehicles with a gross weight of 40,001 pounds or more, an amount equal to the per 1,000 pound rate for for-rent or for-hire vehicles for such vehicle pursuant to § 46.2-697, provided that the total rate, including any base fees charged pursuant to § 46.2-697, shall not exceed \$23.25 per 1,000 pounds.

B. The fee imposed by this section shall not be applicable to farm motor vehicles used exclusively for farm use, as defined in § 46.2-698.

C. Beginning July 1, 2019, the fee per thousand pounds of gross weight charged pursuant to § 46.2-697 for both private carriers and for-rent or for-hire carriers shall be based on the rate schedule for for-rent or for-hire carriers.

**§ 46.2-698. Fees for farm vehicles.**

A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more, when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of § 46.2-697, as in effect on January 1, 2019 and notwithstanding the provisions of subsection C of § 46.2-697.2, and one-half of the fee for overload permits under § 46.2-1128, but the annual registration fee to be paid for each farm vehicle shall not be less than \$15.

B. A farm motor vehicle is used exclusively for farm use:

1. When owned by a person who is engaged either as an owner, renter, or operator of a farm of a size reasonably requiring the use of such vehicle or vehicles and when such vehicle is:

a. Used in the transportation of agricultural products of the farm he is working to market, or to other points for sale or processing, or when used to transport materials, tools, equipment, or supplies which are to be used or consumed on the farm he is working, or when used for any other transportation incidental to the regular operation of such farm;

b. Used in transporting forest products, including forest materials originating on a farm or incident to the regular operation of a farm, to the farm he is working or transporting for any purpose forest products which originate on the farm he is working; or

c. Used in the transportation of farm produce, supplies, equipment, or materials to a farm not worked by him, pursuant to a mutual cooperative agreement.

2. When the nonfarm use of such motor vehicle is limited to the personal use of the owner and his immediate family in attending church or school, securing medical treatment or supplies, or securing other household or family necessities.

C. As used in this section, the term "farm" means one or more areas of land used for the production, cultivation, growing, or harvesting of agricultural products, but does not include a tree farm that is not also a nursery or Christmas tree farm, unless it is part of what otherwise is a farm. As used in this section, the term "agricultural products" means any nursery plants; Christmas trees; horticultural, viticultural, and other cultivated plants and crops; aquaculture; dairy; livestock; poultry; bee; or other farm products.

D. The first application for registration of a vehicle under this section shall be made on forms provided by the Department and shall include:

1. The location and acreage of each farm on which the vehicle to be registered is to be used;
2. The type of agricultural commodities, poultry, dairy products or livestock produced on such farms and the approximate amounts produced annually;
3. A statement, signed by the vehicle's owner, that the vehicle to be registered will only be used for one or more of the purposes specified in subsection B; and
4. Other information required by the Department.

The above information is not required for the renewal of a vehicle's registration under this section.

E. The Department shall issue appropriately designated license plates for those motor vehicles registered under this section. The manner in which such license plates are designated shall be at the discretion of the Commissioner.

F. The owner of a farm vehicle shall inform the Commissioner within 30 days or at the time of his next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the operation of any farm motor vehicle for which the fee for registration and license plates is herein prescribed on any highway in the Commonwealth without first having paid the prescribed registration fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for purposes other than as provided under subsection B; or (iii) operate as a for-hire vehicle.

G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under §§ 46.2-664 through 46.2-670.

H. Notwithstanding other provisions of this section, vehicles licensed under this section may be used by volunteer emergency medical services personnel and volunteer firefighters in responding to emergency calls, in reporting for regular duty, and in attending emergency medical services agency or fire company meetings and drills.

**§ 46.2-702.1:1. Distribution of certain other revenues.**

A. Except as provided in subsection B, net additional revenues shall be deposited as follows: (i) an amount equal to such net additional revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net additional revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net additional revenues to the Commonwealth Transportation Board for use for operational improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway.

B. In the case of vehicles registered under the International Registration Plan, an amount that is approximately equal to the net additional revenues attributable to such vehicles shall be deposited as follows: (i) an amount equal to such net additional revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net additional revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net additional revenues to the Commonwealth Transportation Board for use for operational improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway.

C. For purposes of this section, "net additional revenues" means the additional revenues, minus any refunds or remittances required to be paid, generated by (i) the additional fee imposed pursuant to subsection A of § 46.2-697.2 and (ii) increases in the registration fees under § 46.2-697 made pursuant to subsection B of § 46.2-697.2.

**§ 58.1-2217.1. Additional taxes levied; rate.**

A. In addition to all other taxes imposed by this chapter, there is hereby levied an additional tax per gallon on diesel fuel. Beginning July 1, 2021, the rate of such tax shall be 2.03 percent of the statewide average wholesale price of a gallon of diesel fuel for the applicable base period, excluding federal and state excise taxes, as determined by the Commissioner.

*B. The Commissioner shall use the period from December 1 through May 31 as the base period for such determination for the immediately following period beginning July 1 and ending December 31, inclusive. The period from June 1 through November 30 shall be the next base period for the immediately following period beginning January 1 and ending June 30, inclusive. In no case shall the average wholesale price computed for purposes of this section be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013.*

*C. Blended fuel that contains diesel fuel shall be taxed at the rate levied on diesel fuel.*

*D. The tax imposed by this section shall be collected in the same manner as other taxes imposed pursuant to this chapter.*

*E. The revenues generated by the tax imposed by this section shall be distributed as follows: (i) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net revenues to the Commonwealth Transportation Board for use for operational improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway.*

**§ 58.1-2295.1. Levy of tax in Interstate 81 Corridor; payment of tax.**

*A. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in any county or city in Planning District 3, 4, 5, 6, or 7, as established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2.*

*B. 1. The tax shall be imposed on each gallon of fuel, other than diesel fuel, sold by a distributor to a retail dealer for retail sale in any such county or city described in subsection A at a rate of 2.1 percent of the statewide average distributor price of a gallon of unleaded regular gasoline as determined by the Commissioner pursuant to subdivision C 1. For alternative fuels other than liquid alternative fuels, the Commissioner shall determine an equivalent tax rate based on gasoline gallon equivalency.*

*2. The tax shall be imposed on each gallon of diesel fuel sold by a distributor to a retail dealer for retail sale in any such county or city described in subsection A at a rate of 2.1 percent of the statewide average distributor price of a gallon of diesel fuel as determined by the Commissioner pursuant to subdivision C 2.*

*C. 1. To determine the statewide average distributor price of a gallon of unleaded regular gasoline, the Commissioner shall use the period from June 1 through November 30, inclusive, as the base period for such determination for the immediately following period beginning January 1 and ending June 30, inclusive. The Commissioner shall use the period from December 1 through May 31, inclusive, as the base period for the determination of the rate of tax for the immediately following period beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor price of a gallon of unleaded regular gasoline determined for purposes of this section be less than the statewide average wholesale price of a gallon of unleaded regular gasoline on February 20, 2013, plus a distributor charge calculated by the Commissioner for that date.*

*2. To determine the statewide average distributor price of a gallon of diesel fuel, the Commissioner shall use the period from June 1 through November 30, inclusive, as the base period for such determination for the immediately following period beginning January 1 and ending June 30, inclusive. The Commissioner shall use the period from December 1 through May 31, inclusive, as the base period for the determination of the rate of tax for the immediately following period beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor price of a gallon of diesel fuel determined for purposes of this section be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013, plus a distributor charge calculated by the Commissioner for that date.*

*D. The tax levied under this section shall be imposed at the time of sale by the distributor to the retail dealer.*

*E. The tax imposed by this section shall be paid by the distributor, but the distributor shall separately state the amount of the tax and add such tax to the price or charge. Thereafter, such tax shall be debt from the retail dealer to the distributor until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter shall be maintained in the Commonwealth by any distributor who is not registered under § 58.1-2299.2 or is delinquent in the payment of taxes imposed under this chapter.*

*F. Nothing in this section shall be construed to exempt the imposition and remittance of tax pursuant to this section in a sale to a retail dealer in which the distributor and the retail dealer are the same person.*

*G. Notwithstanding any other provision of law, no tax shall be imposed by the provisions of subdivision A 2 of § 58.1-2295 on any fuel upon which a tax is paid pursuant to this section.*

**§ 58.1-2299.20. (Contingent expiration date) Disposition of tax revenues.**

A. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (i) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500;

2. a. Until June 30, 2019, an amount equal to the increase in taxes, interest, and civil penalties paid to the Commissioner each month, compared with the same month for fiscal year 2018, minus any amounts deposited pursuant to subdivision 1, shall be deposited into the Washington Metropolitan Area Transit Capital Fund established pursuant to § 33.2-3401; and

b. Beginning on July 1, 2019, an amount equal to one-twelfth of the increase in taxes, interest, and civil penalties paid to the Commissioner in fiscal year 2019 compared to fiscal year 2018, minus any amounts deposited pursuant to subdivision A 1, shall be deposited in the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401; and

3. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district which was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

B. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (ii) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500; and

2. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district that was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

C. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in subdivision A 2 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited into special funds established by law. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

D. *All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.1, after subtraction of the direct costs of administration by the Department, shall be deposited into the Interstate 81 Corridor Improvement Fund established pursuant to Chapter 36 (§ 33.2-3600) of Title 33.2.*

E. The direct cost of administration of this section shall be credited to the funds appropriated to the Department.

**§ 58.1-2299.20. (Contingent effective date) Disposition of tax revenues.**

~~AA~~ A. *Except as provided in subsection B, all taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter, after subtraction of the direct costs of administration by the Department, shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district which was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction. The direct costs of administration shall be credited to the funds appropriated to the Department.*

*B. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.1, after subtraction of the direct costs of administration by the Department, shall be deposited into the Interstate 81 Corridor Improvement Fund established pursuant to Chapter 36 (§ 33.2-3600) of Title 33.2.*

**§ 58.1-2701. Amount of tax.**

A. Except as provided in subsection ~~B~~ C, every motor carrier shall pay a road tax per gallon equivalent to the cents per gallon credit for diesel fuel as determined under subsection A of § 58.1-2706 for the relevant period plus an additional ~~\$0.035~~ amount per gallon, as determined by subsection B, calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

*B. The additional amount per gallon shall be determined by the Commissioner annually, effective July 1 of each year. On July 1, 2019, the additional amount per gallon shall be calculated by multiplying the average fuel economy by \$0.01125. On July 1, 2020, and each July 1 thereafter, the additional amount per gallon shall be calculated by multiplying the average fuel economy by \$0.0225. The additional amount per gallon shall be rounded to the nearest one-tenth of a cent. For purposes of this subsection, "average fuel economy" shall be calculated by dividing the total taxable miles driven in the Commonwealth by the total taxable gallons of fuel consumed in the Commonwealth, as reported in IFTA returns in the preceding taxable year.*

C. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of \$150 per year for each qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's IFTA return. *For the period of July 1, 2019, through June 30, 2020, the fee shall be adjusted based on the percent change in the road tax imposed pursuant to subsection A from June 30, 2019, to July 1, 2019. The Commissioner shall adjust the fee annually on July 1 of every year thereafter based on the percentage change in the road tax imposed pursuant to subsection A for the previous fiscal year as compared to the current fiscal year.* The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

~~C.~~ *D. 1. Except as provided in subdivision 2, all taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, a special fund within the Commonwealth Transportation Fund.*

*2. The net additional revenues generated by this section pursuant to enactments of the 2019 Session of the General Assembly shall be deposited as follows: (i) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net revenues to the Commonwealth Transportation Board for use for operational improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway. For purposes of this subdivision, "net additional revenues" means the additional revenues generated by this section pursuant to enactments of the 2019 Session of the General Assembly, minus any refunds or remittances required to be paid.*

**2. That the General Assembly finds that (i) an adequate, efficient, and safe Interstate 81 corridor is essential to the economic well-being of the communities located along the corridor and for the Commonwealth; (ii) Interstate 81 carries 42 percent of interstate truck vehicle miles traveled in the Commonwealth; (iii) trucks make up 20 to 30 percent of all traffic on Interstate 81; (iv) there are more than 2,000 traffic accidents each year on Interstate 81, and 30 of those accidents require more than six hours to clear; (v) the lack of parallel routes and automated traffic management systems on Interstate 81 increases the impact of traffic accidents on Interstate 81; (vi) due to these conditions and the high volume of truck traffic, the Interstate 81 corridor does not meet the needs of the surrounding communities; and (vii) current statewide transportation revenues are insufficient to implement necessary improvements to the Interstate 81 corridor.**

**3. That the Interstate 81 Committee (the Committee) created by this act shall review the Interstate 81 Corridor Improvement Plan adopted by the Commonwealth Transportation Board on December 5, 2018, as it relates to**

funding options for improvements to the Interstate 81 corridor and the prioritization of projects in the Interstate 81 corridor. The Committee shall conduct regional public meetings on options for funding and improvements and seek input from the public and stakeholder organizations. The Committee shall report to the Governor and the General Assembly by December 15, 2019, regarding its recommendations for funding and prioritization of projects.

4. That the provisions of this act that generate additional revenue through state taxes or fees for transportation throughout the Commonwealth and in Planning Districts 3, 4, 5, 6, and 7 shall expire on December 31 of any year in which the General Assembly appropriates or transfers any of such additional revenues for any non-transportation-related purpose or transfers any of such additional revenues that are to be deposited into the Commonwealth Transportation Fund or any subfund thereof pursuant to general law for a non-transportation-related purpose. In the event a local government of any county or city wherein the additional taxes and fees are levied appropriates or allocates any of such additional revenues to a non-transportation-related purpose, such locality shall not be the direct beneficiary of any of the revenues generated by the taxes or fees in the year immediately succeeding the year in which revenues were appropriated or allocated to a non-transportation-related purpose. For purposes of this act, any use that is consistent with a duly adopted Interstate 81 Corridor Improvement Plan shall be considered a transportation-related purpose.

5. That the provisions of this act adding § 58.1-2217.1 to the Code of Virginia shall become effective July 1, 2021.

6. That no funds deposited into the Northern Virginia Transportation Authority Fund pursuant to this act shall be used to support bonds or other debt.

7. That for purposes of making the calculation pursuant to subdivision C 4 of § 33.2-2510, any revenues deposited into the Northern Virginia Transportation Authority Fund pursuant to this act shall be determined to be attributable to each locality based on the percentage of all other taxes generated by or attributable to each such locality for purposes of such subdivision.

8. That should any portion of this act be held unconstitutional by a court of competent jurisdiction, the remaining portions of this act shall remain in effect.

#### CHAPTER 847

*An Act to provide civil relief for citizens of the Commonwealth who are employees or contractors of the United States government who have been furloughed or otherwise are or were not receiving wages or payments as a result of the partial closure of federal government.*

[S 1737]

Approved April 3, 2019

#### **Be it enacted by the General Assembly of Virginia:**

1. § 1. Notwithstanding any provision of law to the contrary, any tenant as defined in § 55-225.02 or 55-248.4 who is a defendant in an unlawful detainer for nonpayment of rent pursuant to § 55-248.31 for rent due after December 22, 2018, seeking a judgment for the payment of money or possession of the premises shall be granted a 30-day continuance of such unlawful detainer action from the initial court date if the tenant appears on such court date and provides written proof that he was furloughed or otherwise was or is not currently receiving wages or payments as a result of the partial closure of the United States government beginning on December 22, 2018, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government. The provisions of this section shall not apply if the landlord has filed a material noncompliance notice for a non-rent violation of the rental agreement or of the Code of Virginia.

§ 2. Notwithstanding any provision of law to the contrary, any homeowner who, after December 22, 2018, defaults on a note that is secured by a one-family to four-family residential property located in the Commonwealth and is subject to a foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust shall be granted a 30-day stay of such proceeding if the homeowner requests a stay and provides written proof to his lender that he was furloughed or otherwise was or is not currently receiving wages or payments as a result of the partial closure of the United States government beginning on December 22, 2018, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government.

§ 3. Notwithstanding any provision of law to the contrary, any owner who rents a one-family to four-family residential dwelling unit located in the Commonwealth to a tenant as defined in § 55-225.02 or 55-248.4 and who, after December 22, 2018, defaults on a note that is secured by such dwelling unit and is subject to a foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust shall be granted a 30-day stay of such proceeding if the owner requests a stay and provides written proof to his lender that his tenant was furloughed or otherwise was or is not currently receiving wages or payments as a result of the partial closure of the United States government beginning on December 22, 2018, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government.

§ 4. As used in this act, "written proof" means (i) a paystub issued by a federal government agency showing zero dollars in earnings for a pay period within the period of the partial closure of the United States government beginning on

December 22, 2018, (ii) a copy of a furlough notification letter or essential employee status letter indicating the employee's status as nonessential, or (iii) a letter from a company under contract with the United States government issued and signed by an officer or owner of the company or by the company's human resources director stating that the employee's not receiving payment from the contractor is directly attributable to the partial closure of the United States government beginning on December 22, 2018.

2. That the provisions of this act shall not apply in any instance where a separate, signed legal agreement exists between a landlord and tenant or homeowner and mortgage holder to stay legal action or defer the filing of an unlawful detainer motion for nonpayment of rent or foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust for a term of 30 days or greater.
3. That the provisions of this act shall not affect any other terms of a valid rental agreement or note secured by a one-family to four-family residential property, mortgage, or deed of trust.
4. That the provisions of this act shall expire on September 30, 2019.
5. That an emergency exists and this act is in force from its passage.

## CHAPTER 848

*An Act to amend and reenact § 3.2-6500 of the Code of Virginia, relating to companion animals; adequate shelter and space.*

[S 1025]

Approved April 29, 2019

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 3.2-6500 of the Code of Virginia is amended and reenacted as follows:

##### § 3.2-6500. Definitions.

As used in this chapter unless the context requires a different meaning:

"Abandon" means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.2-6503 for a period of four consecutive days.

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

"Adequate feed" means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; *during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of straw, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat;* and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals' feet to pass through the openings; (ii) sag under the animals' weights; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

"Adequate space" means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means ~~a~~ *that the tether that to which the animal is attached* permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness *that is* configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; ~~and~~ *is at least ten feet in length or three times the length of the animal, as measured from the tip of its nose to the base of its tail, whichever is greater, except when the animal is being walked on a leash or is attached by a tether to a lead line; does not, by its material, size, or weight or any other characteristic, cause injury or pain to the animal; does not weigh more than one-tenth of the animal's body weight; and does not have weights or other heavy objects attached to it.*

*The walking of an animal on a leash by its owner shall not constitute the tethering of the animal for the purpose of this definition. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space. The provisions of this definition that relate to tethering shall not apply to agricultural animals.*

"Adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

"Adoption" means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

"Agricultural animals" means all livestock and poultry.

"Ambient temperature" means the temperature surrounding the animal.

"Animal" means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, animal means any species susceptible to rabies. For the purposes of § 3.2-6570, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

"Animal control officer" means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.2-6555.

"Boarding establishment" means a place or establishment other than a public or private animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee. "Boarding establishment" shall not include any private residential dwelling that shelters, feeds, and waters fewer than five companion animals not owned by the proprietor.

"Collar" means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

"Commercial dog breeder" means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

"Consumer" means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term "consumer" shall not include a business or corporation engaged in sales or services.

"Dealer" means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of business as a common carrier or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

"Direct and immediate threat" means any clear and imminent danger to an animal's health, safety or life.

"Dump" means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

"Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

"Enclosure" means a structure used to house or restrict animals from running at large.

"Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

"Exhibitor" means any person who has animals for or on public display, excluding an exhibitor licensed by the U.S. Department of Agriculture.

"Facility" means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

"Farming activity" means, consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

"Foster care provider" means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization.

"Foster home" means a private residential dwelling and its surrounding grounds, or any facility other than a public or private animal shelter, at which site through an affiliation with a public or private animal shelter, home-based rescue, releasing agency, or other animal welfare organization care or rehabilitation is provided for companion animals.

"Groomer" means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

"Home-based rescue" means an animal welfare organization that takes custody of companion animals for the purpose of facilitating adoption and houses such companion animals in a foster home or a system of foster homes.

"Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being.

"Humane investigator" means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.2-6558.

"Humane society" means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

"Incorporated" means organized and maintained as a legal entity in the Commonwealth.

"Kennel" means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

"Law-enforcement officer" means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"Livestock" includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; raites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

"New owner" means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574, and who adopts or receives a dog or cat from a releasing agency.

"Ordinance" means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

"Other officer" includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

"Owner" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

"Pet shop" means a retail establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

"Poultry" includes all domestic fowl and game birds raised in captivity.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

"Private animal shelter" means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned or operated by an incorporated, nonprofit, and nongovernmental entity, including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization.

"Properly cleaned" means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

"Properly lighted" when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

"Properly lighted" when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

"Public animal shelter" means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality.

"Releasing agency" means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

"Research facility" means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

"Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

"Sore" means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any

limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. Part 11.2.

"Sterilize" or "sterilization" means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

"Treasurer" includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

"Treatment" or "adequate treatment" means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

"Veterinary treatment" means treatment by or on the order of a duly licensed veterinarian.

"Weaned" means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species and has ingested such food, without nursing, for a period of at least five days.

## CHAPTER 849

*An Act to amend and reenact § 46.2-1078.1 of the Code of Virginia, relating to use of handheld personal communications devices; highway work zones; penalty.*

[S 1768]

Approved April 29, 2019

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 46.2-1078.1 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 46.2-1078.1. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.**

A. It is unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:

1. Manually enter multiple letters or text in the device as a means of communicating with another person; or
2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored within the device nor to any caller identification information.

B. *It is unlawful for any person while driving a moving motor vehicle in a highway work zone to hold in his hand a handheld personal communications device.*

C. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;
2. An operator who is lawfully parked or stopped;
3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or
4. Any person using a handheld personal communications device to report an emergency.

~~C. D. A violation of this section subsection A is a traffic infraction punishable, for a first offense, by a fine of \$125 and, for a second or subsequent offense, by a fine of \$250. If the violation of this section occurs in a highway work zone, it shall be a violation of subsection B is punishable by a mandatory fine of \$250. For the purposes of this section, "highway work zone" means a construction or maintenance area that is located on or beside a highway and marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.~~

E. For the purposes of this section, "emergency:

"Emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer;
2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;
3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;
4. Any emergency medical services vehicle designed or used for the principal purpose of emergency medical services where human life is endangered;
5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;
6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and

7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § 46.2-1029.2.

*"Highway work zone" means a construction or maintenance area that is located on or beside a highway and is marked by appropriate warning signs with attached flashing lights or other traffic control devices indicating that work is in progress.*

~~D. F.~~ Distracted driving shall be included as a part of the driver's license knowledge examination.

## CHAPTER 850

*An Act to amend the Code of Virginia by adding a section numbered 46.2-861.1 and to repeal § 46.2-921.1 of the Code of Virginia, relating to duties of drivers of vehicles approaching stationary vehicles displaying certain warning lights; penalty.*

[H 1911]

Approved April 29, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 46.2-861.1 as follows:**

**§ 46.2-861.1. Drivers to yield right-of-way or reduce speed when approaching stationary vehicles displaying certain warning lights on highways; penalties.**

A. The driver of any motor vehicle, upon approaching a stationary vehicle that is displaying a flashing, blinking, or alternating blue, red, or amber light or lights as provided in § 46.2-1022, 46.2-1023, or 46.2-1024 or subsection B of § 46.2-1026 shall (i) on a highway having at least four lanes, at least two of which are intended for traffic proceeding as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or (ii) if changing lanes would be unreasonable or unsafe, proceed with due caution and maintain a safe speed for highway conditions. A violation of any provision of this subsection is reckless driving.

B. The driver of any motor vehicle, upon approaching a stationary vehicle that is displaying a flashing, blinking, or alternating amber light or lights as provided in subdivision A 1 or 2 of § 46.2-1025 shall (i) on a highway having at least four lanes, at least two of which are intended for traffic proceeding as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or (ii) if changing lanes would be unreasonable or unsafe, proceed with due caution and maintain a safe speed for highway conditions. A violation of any provision of this subsection shall be punishable as a traffic infraction.

C. If the violation resulted in damage to property of another person, the court may, in addition, order the suspension of the driver's privilege to operate a motor vehicle for not more than one year. If the violation resulted in injury or death to another person, the court may, in addition to any other penalty imposed, order the suspension of the driver's privilege to operate a motor vehicle for not more than two years.

D. The provisions of this section shall not apply in highway work zones as defined in § 46.2-878.1.

**2. That § 46.2-921.1 of the Code of Virginia is repealed.**

**3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 851

*An Act to amend and reenact § 51.5-169.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 10 of Chapter 14 of Title 51.5 a section numbered 51.5-169.2, relating to Long-Term Employment Support Services and Extended Employment Services.*

[H 2306]

Approved April 29, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.5-169.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 10 of Chapter 14 of Title 51.5 a section numbered 51.5-169.2 as follows:**

**§ 51.5-169.1. Long-Term Employment Support Services and Extended Employment Services.**

A. Long-Term Employment Support Services and Extended Employment Services shall be provided in the Commonwealth to assist individuals with a significant disability or most significant disability with maintaining

employment. The Department shall administer and make referrals for such services in accordance with the provisions of this section.

B. Long-Term Employment Support Services shall be provided to individuals with a most significant disability, as defined in 29 U.S.C. § 705, to assist such individuals with maintaining group-supported employment or individual center-based, facility-based, or community-based employment through an employment services organization.

All employment services organizations that provide group-supported, center-based, facility-based, or community-based employment services to individuals with a most significant disability shall be eligible to receive funding for Long-Term Employment Support Services.

C. Extended Employment Services shall be provided to individuals with a most significant disability and individuals with a significant disability, as those terms are defined in 29 U.S.C. § 705, to assist such individuals with maintaining group-supported employment or individual center-based or facility-based employment through an employment services organization. Extended Employment Services funds may also be used to support such individuals that transition from group-supported, center-based, or facility-based employment into community-based employment. Extended Employment Services shall be provided upon the informed choice of the individual being served and in accordance with the Commonwealth's Employment First initiative, federal law and regulation, and the Commonwealth's August 23, 2012, settlement agreement with the U.S. Department of Justice.

All employment services organizations that provide group-supported, center-based, or facility-based employment services to individuals with a most significant disability or individuals with a significant disability, or that provide community-based employment services to such individuals transitioning from group-supported, center-based, or facility-based employment, shall be eligible to receive funding for Extended Employment Services.

D. The Department shall make referrals to any ~~such~~ employment services organization that provides competitive or commensurate wages and is eligible to receive state-funded Long-Term Employment Support Services pursuant to subsection B or Extended Employment Services pursuant to subsection C. The Department shall develop and implement a referral process to refer individuals to employment services organizations for services described in subsections B and C. Such referral process shall require that whenever an individual makes an informed choice to pursue an employment outcome that is not considered a competitive integrated employment setting by the Department, the Department shall refer the individual to eligible employment services organizations that provide the employment services sought by the individual within 15 days. Upon making such referrals, the Department shall provide to the employment services organization, in writing, (i) a referral letter that includes the skills, likes, dislikes, and desired outcome of the individual seeking services; (ii) certification that the individual made an informed choice to pursue an employment outcome that is not considered a competitive integrated employment setting by the Department; and (iii) the contact information of the individual seeking services. The Department shall also provide to the individual seeking services, in writing, (a) the contact information of the employment services organizations to which the individual is referred and (b) information and advice regarding the services available at such employment services organizations that will help the individual to prepare for, secure, maintain, or regain employment in accordance with the provisions of this section and applicable federal law and regulations. The Department shall provide training to all vocational rehabilitation counselors immediately upon employment and annually thereafter regarding the referral process established by the Department pursuant to this subsection.

~~D. E.~~ In allocating funds for Long-Term Employment Support Services and Extended Employment Services, the Department shall consider recommendations made by the Employment Service Organization Steering Committee established in § 51.5-169.2.

**§ 51.5-169.2. Employment Service Organization Steering Committee; membership; terms.**

A. The Employment Service Organization Steering Committee (the Committee) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Committee shall be to report to and advise the Commissioner on policy, funding, and the allocation of funds to employment services organizations for Long-Term Employment Support Services and Extended Employment Services pursuant to § 51.5-169.1.

B. The Committee shall consist of 11 nonlegislative citizen members who shall be appointed as follows: four members to be appointed by the Senate Committee on Rules, two of whom shall be representatives of the Virginia Association of Community Rehabilitation Programs, one of whom shall be a representative of the Virginia Goodwill Network, and one of whom shall be a representative of the Virginia Association of People Supporting Employment First; five members to be appointed by the Speaker of the House of Delegates, two of whom shall be representatives of the Virginia Association of Community Rehabilitation Programs, one of whom shall be a representative of the Virginia Goodwill Network, one of whom shall be a representative of the Virginia Association of People Supporting Employment First, and one of whom shall be an individual who has a family member receiving services in an employment services organization that is eligible to receive funding pursuant to § 51.5-169.1; and two at-large members to be appointed by the Governor. No employee, agent, or representative of the Commonwealth may serve as a member of the Committee.

C. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No member shall serve more than two consecutive three-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. Each year, the Committee shall elect a chairman and a vice-chairman from among its members. Five members of the Committee shall constitute a quorum. The Committee shall meet no more than four times per year.

*E. Members shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.*

## CHAPTER 852

*An Act to amend and reenact § 51.5-169.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 10 of Chapter 14 of Title 51.5 a section numbered 51.5-169.2, relating to Long-Term Employment Support Services and Extended Employment Services.*

[S 1485]

Approved April 29, 2019

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 51.5-169.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 10 of Chapter 14 of Title 51.5 a section numbered 51.5-169.2 as follows:**

#### **§ 51.5-169.1. Long-Term Employment Support Services and Extended Employment Services.**

A. Long-Term Employment Support Services and Extended Employment Services shall be provided in the Commonwealth to assist individuals with a significant disability or most significant disability with maintaining employment. The Department shall administer and make referrals for such services in accordance with the provisions of this section.

B. Long-Term Employment Support Services shall be provided to individuals with a most significant disability, as defined in 29 U.S.C. § 705, to assist such individuals with maintaining group-supported employment or individual center-based, facility-based, or community-based employment through an employment services organization.

All employment services organizations that provide group-supported, center-based, facility-based, or community-based employment services to individuals with a most significant disability shall be eligible to receive funding for Long-Term Employment Support Services.

C. Extended Employment Services shall be provided to individuals with a most significant disability and individuals with a significant disability, as those terms are defined in 29 U.S.C. § 705, to assist such individuals with maintaining group-supported employment or individual center-based or facility-based employment through an employment services organization. Extended Employment Services funds may also be used to support such individuals that transition from group-supported, center-based, or facility-based employment into community-based employment. Extended Employment Services shall be provided upon the informed choice of the individual being served and in accordance with the Commonwealth's Employment First initiative, federal law and regulation, and the Commonwealth's August 23, 2012, settlement agreement with the U.S. Department of Justice.

All employment services organizations that provide group-supported, center-based, or facility-based employment services to individuals with a most significant disability or individuals with a significant disability, or that provide community-based employment services to such individuals transitioning from group-supported, center-based, or facility-based employment, shall be eligible to receive funding for Extended Employment Services.

D. The Department shall make referrals to any ~~such~~ employment services organization that provides competitive or commensurate wages and is eligible to receive state-funded Long-Term Employment Support Services pursuant to subsection B or Extended Employment Services pursuant to subsection C. The Department shall develop and implement a referral process to refer individuals to employment services organizations for services described in subsections B and C. Such referral process shall require that whenever an individual makes an informed choice to pursue an employment outcome that is not considered a competitive integrated employment setting by the Department, the Department shall refer the individual to eligible employment services organizations that provide the employment services sought by the individual within 15 days. Upon making such referrals, the Department shall provide to the employment services organization, in writing, (i) a referral letter that includes the skills, likes, dislikes, and desired outcome of the individual seeking services; (ii) certification that the individual made an informed choice to pursue an employment outcome that is not considered a competitive integrated employment setting by the Department; and (iii) the contact information of the individual seeking services. The Department shall also provide to the individual seeking services, in writing, (a) the contact information of the employment services organizations to which the individual is referred and (b) information and advice regarding the services available at such employment services organizations that will help the individual to prepare for, secure, maintain, or regain employment in accordance with the provisions of this section and applicable federal law and regulations. The Department shall provide training to all vocational rehabilitation counselors immediately upon employment and annually thereafter regarding the referral process established by the Department pursuant to this subsection.

~~D.~~ E. In allocating funds for Long-Term Employment Support Services and Extended Employment Services, the Department shall consider recommendations made by the Employment Service Organization Steering Committee established in § 51.5-169.2.

#### **§ 51.5-169.2. Employment Service Organization Steering Committee; membership; terms.**

A. The Employment Service Organization Steering Committee (the Committee) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Committee shall be to

report to and advise the Commissioner on policy, funding, and the allocation of funds to employment services organizations for Long-Term Employment Support Services and Extended Employment Services pursuant to § 51.5-169.1.

B. The Committee shall consist of 11 nonlegislative citizen members who shall be appointed as follows: four members to be appointed by the Senate Committee on Rules, two of whom shall be representatives of the Virginia Association of Community Rehabilitation Programs, one of whom shall be a representative of the Virginia Goodwill Network, and one of whom shall be a representative of the Virginia Association of People Supporting Employment First; five members to be appointed by the Speaker of the House of Delegates, two of whom shall be representatives of the Virginia Association of Community Rehabilitation Programs, one of whom shall be a representative of the Virginia Goodwill Network, one of whom shall be a representative of the Virginia Association of People Supporting Employment First, and one of whom shall be an individual who has a family member receiving services in an employment services organization that is eligible to receive funding pursuant to § 51.5-169.1; and two at-large members to be appointed by the Governor. No employee, agent, or representative of the Commonwealth may serve as a member of the Committee.

C. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No member shall serve more than two consecutive three-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. Each year, the Committee shall elect a chairman and a vice-chairman from among its members. Five members of the Committee shall constitute a quorum. The Committee shall meet no more than four times per year.

E. Members shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

### CHAPTER 853

An Act to amend and reenact § 58.1-3 of the Code of Virginia, relating to the Department of Taxation; sharing information with the Department of Social Services.

[H 2339]

Approved April 29, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3. Secrecy of information; penalties.**

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General

for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon *entering into a written request agreement, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2;* (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the

Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; and (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the

administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

**CHAPTER 854**

An Act for all amendments to Chapter 2 of the 2018 Acts of Assembly, Special Session I, which appropriated funds for the 2018-20 Biennium, and to provide a portion of revenues for the two years ending, respectively, on the thirtieth day of June, 2019, and the thirtieth day of June, 2020; and an Act to amend and reenact §§ 33.2-1904, 33.2-1907, 33.2-2502, 58.1-601 and 58.1-602, as they are currently effective, 58.1-604, as it is currently effective and as it may become effective, 58.1-605, as it is currently effective, 58.1-612, 58.1-615, as it is currently effective, 58.1-625, as it is currently effective and as it shall become effective, 58.1-635, as it is currently effective, and 58.1-638 of the Code of Virginia and the fourth enactment of Chapter 766 of the Acts of Assembly of 2013; to amend the Code of Virginia by adding a section numbered 58.1-612.1; to repeal § 58.1-638.2 of the Code of Virginia; to repeal the provisions of Chapter 766 of the Acts of Assembly of 2013 amending §§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, 58.1-615, and 58.1-635, as they may become effective; and to repeal the seventh and fifteenth enactments of Chapter 766 of the Acts of Assembly of 2013 and the twelfth enactment of Chapter 684 of the Acts of Assembly of 2015, as amended by Chapters 854 and 856 of the Acts of Assembly of 2018; submitted by the Governor of Virginia to the presiding officer of each house of the General Assembly of Virginia in accordance with the provisions of § 2.2-1509, Code of Virginia.

[H 1700]

**Approved May 2, 2019**

Be it enacted by the General Assembly of Virginia:

1. That Items 1, 2, 4, 6, 11, 30, 31, 34, 35, 38, 39, 40, 41, 42, 47, 49, 54, 56, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 80, 81, 82, 83, 84, 84.20, 84.30, 84.50, 84.60, 84.70, 87, 98, 102, 103, 105, 106, 107, 116, 117, 119, 121, 122, 126, 128, 129, 130, 132, 133, 134, 135, 136, 141, 143, 147, 148, 151, 152, 153, 154, 155, 156, 159, 162, 163, 164, 167, 170, 171, 174, 175, 178, 179, 180, 181, 183, 187, 192, 193, 194, 195, 197, 200, 201, 204, 205, 206, 207, 208, 210, 211, 213, 214, 216, 217, 221, 222, 224, 226, 227, 228, 232, 234, 238, 241, 242, 243, 244, 251, 252, 255, 258, 259, 264, 265, 266, 272, 273, 275, 276, 277, 279, 281, 282, 283, 289, 290, 291, 292, 293, 295, 297, 299, 302, 303, 305, 306, 307, 308, 309, 310, 311, 312, 316, 317, 322, 329, 332, 334, 335, 337, 338, 339, 340, 341, 342, 343, 344, 346, 347, 348, 351, 355, 357, 358, 359, 361, 362, 363, 364, 366, 368, 369, 370, 371, 373, 374, 376, 380, 381, 385, 387, 389, 390, 391, 392, 393, 395, 400, 402, 407, 419, 420, 433, 434, 436, 439, 440, 443, 445, 448, 449, 450, 451, 452, 453, 454, 455, 457, 458, 464, 466, 471, 474, 475, 477, 478, 480, 482, 485, 486, 487, 488, 490, 491, § 2-0, C-13, C-16.10, C-20, C-25, C-26, C-27, C-33, C-39, C-42, C-43, C-45, C-49, C-50, C-51.50, C-52, C-53, § 3-1.01, § 3-2.03, § 3-5.03, § 3-5.06, § 3-5.15, § 3-5.16, § 3-5.17, § 4-2.01, § 4-2.02, § 4-5.04, § 4-5.10, § 4-6.01, § 4-9.02, § 4-9.03, § 4-14, of Chapter 2 of the 2018 Acts of Assembly, Special Session I, be hereby amended and reenacted and that the cited chapter be further amended by adding Items 184.10, 253.50, 387.10, 475.10, 475.20, C-1.10, C-2.10, C-3.10, C-6.10, C-8.10, C-8.60, C-10.20, C-11.10, C-11.20, C-11.60, C-13.10, C-13.20, C-20.10, C-20.20, C-21.10, C-21.50, C-21.75, C-22.10, C-22.50, C-27.10, C-27.20, C-32.50, C-34.10, C-34.20, C-34.30, C-34.50, C-44.10, C-44.20, C-46.10, C-48.10, C-49.10, C-49.20, § 3-5.20, § 3-5.21, § 3-5.22, § 4-5.11, § 4-5.12, and that the cited chapter be further amended by striking therefrom § 3-3.02.

±2. §1. The following are hereby appropriated, for the current biennium, as set forth in succeeding parts, sections and items, for the purposes stated and for the years indicated:

A. The balances of appropriations made by previous acts of the General Assembly which are recorded as unexpended, as of the close of business on the last day of the previous biennium, on the final records of the State Comptroller; and

B. The public taxes and arrears of taxes, as well as moneys derived from all other sources, which shall come into the state treasury prior to the close of business on the last day of the current biennium. The term "moneys" means nontax revenues of all kinds, including but not limited to fees, licenses, services and contract charges, gifts, grants, and donations, and projected revenues derived from proposed legislation contingent upon General Assembly passage.

§ 2. Such balances, public taxes, arrears of taxes, and monies derived from all other sources as are not segregated by law to other funds, which funds are defined by the State Comptroller, pursuant to § 2.2-803, Code of Virginia, shall establish and constitute the general fund of the state treasury.

§ 3. The appropriations made in this act from the general fund are based upon the following:

	First Year	Second Year	Total
Unreserved Balance, June 30,			
2018	\$212,160,796	\$0	\$212,160,796
	\$1,229,941,000		\$1,229,941,000
Additions to Balance	-\$22,032,299	(-\$500,000)	-\$21,532,299

	<i>(\$723,275,506)</i>	<i>\$336,198,952</i>	<i>(\$387,076,554)</i>
Official Revenue Estimates	<i>\$20,173,667,750</i>	<i>-\$20,976,167,750</i>	<i>-\$41,149,835,500</i>
	<i>\$20,528,667,750</i>	<i>\$21,556,728,000</i>	<i>\$42,085,395,750</i>
Transfer	<i>\$620,975,902</i>	<i>-\$631,035,083</i>	<i>-\$1,252,010,985</i>
	<i>\$639,095,037</i>	<i>\$635,773,381</i>	<i>\$1,274,868,418</i>
Total General Fund Resources Available for			
Appropriation	<i>-\$21,028,836,747</i>	<i>\$21,606,702,833</i>	<i>\$42,635,539,580</i>
	<i>\$21,674,428,281</i>	<i>\$22,528,700,333</i>	<i>\$44,203,128,614</i>

The appropriations made in this act from nongeneral fund revenues are based upon the following:

	First Year	Second Year	Total
Balance, June 30, 2018	<i>\$5,314,589,535</i>	<i>\$0</i>	<i>\$5,314,589,535</i>
	<i>\$6,342,196,144</i>		<i>\$6,342,196,144</i>
Official Revenue Estimates	<i>\$31,061,074,096</i>	<i>\$32,309,426,263</i>	<i>\$63,370,500,359</i>
	<i>\$31,403,525,053</i>	<i>\$35,070,229,412</i>	<i>\$66,473,754,465</i>
Lottery Proceeds Fund	<i>\$592,533,186</i>	<i>\$598,393,186</i>	<i>\$1,190,926,372</i>
	<i>\$632,398,647</i>	<i>\$628,830,501</i>	<i>\$1,261,229,148</i>
Internal Service Fund	<i>\$2,098,949,919</i>	<i>\$2,208,679,991</i>	<i>\$4,307,629,910</i>
	<i>\$2,099,646,770</i>	<i>\$2,071,214,416</i>	<i>\$4,170,861,186</i>
Bond Proceeds	<i>\$1,079,456,936</i>	<i>\$128,566,436</i>	<i>\$1,208,023,372</i>
	<i>\$1,112,897,936</i>	<i>\$1,243,269,436</i>	<i>\$2,356,167,372</i>
Total Nongeneral Fund Revenues Available for			
Appropriation	<i>\$40,146,603,672</i>	<i>\$35,245,065,876</i>	<i>\$75,391,669,548</i>
	<i>\$41,590,664,550</i>	<i>\$39,013,543,765</i>	<i>\$80,604,208,315</i>
<b>TOTAL PROJECTED REVENUES</b>	<i>\$61,175,440,419</i>	<i>\$56,851,768,709</i>	<i>\$118,027,209,128</i>
	<i>\$63,265,092,831</i>	<i>\$61,542,244,098</i>	<i>\$124,807,336,929</i>

§ 4. Nongeneral fund revenues which are not otherwise segregated pursuant to this act shall be segregated in accordance with the acts respectively establishing them.

§ 5. The sums herein appropriated are appropriated from the fund sources designated in the respective items of this act.

§ 6. When used in this act the term:

A. "Current biennium" means the period from the first day of July two thousand eighteen, through the thirtieth day of June two thousand twenty, inclusive.

B. "Previous biennium" means the period from the first day of July two thousand sixteen, through the thirtieth day of June two thousand eighteen, inclusive.

C. "Next biennium" means the period from the first day of July two thousand twenty, through the thirtieth day of June two thousand twenty-two, inclusive.

D. "State agency" means a court, department, institution, office, board, council or other unit of state government located in the legislative, judicial, or executive departments or group of independent agencies, or central appropriations, as shown in this act, and which is designated in this act by title and a three-digit agency code.

E. "Nonstate agency" means an organization or entity as defined in § 2.2-1505 C, Code of Virginia.

F. "Authority" sets forth the general enabling statute, either state or federal, for the operation of the program for which appropriations are shown.

G. "Discretionary" means there is no continuing statutory authority which infers or requires state funding for programs for which the appropriations are shown.

H. "Appropriation" shall include both the funds authorized for expenditure and the corresponding level of full-time equivalent employment.

I. "Sum sufficient" identifies an appropriation for which the Governor is authorized to exceed the amount shown in the Appropriation

Act if required to carry out the purpose for which the appropriation is made.

J. "Item Details" indicates that, except as provided in § 6 H above, the numbers shown under the columns labeled Item Details are for information reference only.

K. Unless otherwise defined, terms used in this act dealing with budgeting, planning and related management actions are defined in the instructions for preparation of the Executive Budget.

§ 7. The total appropriations from all sources in this act have been allocated as follows:

<b>BIENNIUM 2018-20</b>			
	<b>General Fund</b>	<b>Nongeneral Fund</b>	<b>Total</b>
OPERATING EXPENSES	\$42,632,882,857 \$44,190,797,183	\$73,233,365,916 \$76,379,925,389	\$115,866,248,773 \$120,570,722,572
LEGISLATIVE DEPARTMENT	-\$185,087,878 \$195,122,878	\$7,364,978 \$7,878,620	\$192,452,856 \$203,001,498
JUDICIAL DEPARTMENT	\$1,000,762,335 \$1,002,962,598	\$67,346,128	\$1,068,108,463 \$1,070,308,726
EXECUTIVE DEPARTMENT	\$41,446,564,951 \$42,992,244,014	\$71,197,742,713 \$74,322,965,586	\$112,664,307,664 \$117,315,209,600
INDEPENDENT AGENCIES	\$467,693	\$1,960,912,097 \$1,981,735,055	\$1,961,379,790 \$1,982,202,748
STATE GRANTS TO NONSTATE AGENCIES	\$0	\$0	\$0
CAPITAL OUTLAY EXPENSES	\$120,000 \$4,704,000	\$1,447,327,372 \$2,798,237,302	\$1,447,447,372 \$2,802,941,302
TOTAL	\$42,633,002,857 \$44,195,501,183	\$74,680,693,288 \$79,178,162,691	\$117,313,696,145 \$123,373,663,874

§ 8. This chapter shall be known and may be cited as the "2019 Appropriation Act."

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

**PART 1: OPERATING EXPENSES**

**LEGISLATIVE DEPARTMENT**

**§ 1-1. GENERAL ASSEMBLY OF VIRGINIA (101)**

1.	Enactment of Laws (78200)				
	a sum sufficient, estimated at.....			\$46,981,541	\$46,981,541
				\$51,231,541	\$51,331,541
	Legislative Sessions (78204).....	\$46,981,541	\$46,981,541		
		\$51,231,541	\$51,331,541		
	Fund Sources: General.....	\$46,981,541	\$46,981,541		
		\$51,231,541	\$51,331,541		

Authority: Article IV, Constitution of Virginia.

A. Out of this appropriation, the House of Delegates is funded ~~\$26,282,859~~ \$28,282,859 the first year and ~~\$27,291,062~~ \$29,362,062 the second year from the general fund. The Senate is funded ~~\$14,888,527~~ \$17,138,527 the first year and ~~\$15,799,993~~ \$18,078,993 the second year from the general fund.

B. Out of this appropriation shall be paid:

1. The salaries of the Speaker of the House of Delegates and other members, and personnel employed by each House; the mileage of members, officers and employees, including salaries and mileage of members of legislative committees sitting during recess; public printing and related expenses required by or for the General Assembly; and the incidental expenses of the General Assembly (§§ 30-19.11 through 30-19.20, inclusive, and § 30-19.4, Code of Virginia). The salary of the Speaker of the House of Delegates shall be \$36,321 per year. The salaries of other members of the House of Delegates shall be \$17,640 per year. The salaries of the members of the Senate shall be \$18,000 per year.

2. Expenses of the Speaker of the House of Delegates not otherwise reimbursed, \$16,200 each year, to be paid in equal monthly installments during the year.

3. In accordance with § 30-19.4, Code of Virginia, and subject to all other conditions of that section except as otherwise provided in the following paragraphs:

a. \$101,757 per calendar year for the compensation of one or more secretaries of the Speaker of the House of Delegates. Salary increases shall be governed by the provisions of Item 474 of this act.

b. ~~\$152,635~~ \$277,635 per calendar year for the compensation of one or more legislative assistants of the Speaker of the House of Delegates. Salary increases shall be governed by the provisions of Item 474 of this act.

c. \$193,125 per calendar year for the compensation of one or more secretaries or legislative assistants for the Senate majority and minority leadership, as determined by the Majority Leader in consultation with the Chairman of the Senate Committee on Rules. Salary increases shall be governed by the provisions of Item 474 of this act.

d.1. \$42,024 per calendar year for the compensation of legislative assistants for each member of the House of Delegates and \$47,277 for the compensation of legislative assistants for each member of the Senate. Salary increases granted shall be governed by the provisions of Item 474 of this act.

2. In addition, \$15,759 per calendar year for each member of the House of Delegates and \$10,506 per calendar year for each member of the Senate to provide compensation for additional legislative assistant support costs incurred during the legislative session and in the operation of legislative offices within members' districts. Salary increases granted shall be governed by the provisions of Item 474 of this act.

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
e.	<p>The per diem for each legislative assistant of each member of the General Assembly, including the Speaker of the House of Delegates. Such per diem shall equal the amount authorized per session day for General Assembly members in paragraph B.5, if such legislative assistant maintains a temporary residence during the legislative session or an extension thereof and if the establishment of such temporary residence results from the person's employment by the member. The per diem for a legislative assistant who is domiciled in the City of Richmond or whose domicile is within twenty miles of the Capitol shall equal thirty-five percent of the amount paid to a legislative assistant who maintains a temporary residence during such session. For purposes of this paragraph, (i) a session day shall include such days as shall be established by the Rules Committee of each respective House and (ii) a temporary residence is defined as a residence certified by the member served by the legislative assistant as occupied only by reason of employment during the legislative session or extension thereof. Notwithstanding the provisions of (i) of the preceding sentence, if the House from which the legislative assistant is paid is in adjournment during a regular or special session, he must show to the satisfaction of the Clerk that he worked each day during such adjournment for which such per diem is claimed.</p>			
f.	<p>A mileage allowance as provided in § 2.2-2823 A, Code of Virginia, and as certified by the member. Such mileage allowance shall be paid to a legislative assistant for one round trip between the City of Richmond and such person's home each week during the legislative session or an extension thereof when such person is maintaining a temporary residence.</p>			
g.	<p>Per diem and mileage shall be paid only to a person who is paid compensation pursuant to § 30-19.4, Code of Virginia.</p>			
h.	<p>Not more than one person shall be paid per diem or mileage during a single weekly pay period for serving a member as legislative assistant during a legislative session or extension thereof.</p>			
i.	<p>No person, by virtue of concurrently serving more than one member, shall be paid mileage or per diem in excess of the daily rates specified in this Item.</p>			
j.	<p><del>\$20,885</del> \$67,217 per calendar year additional allowance for secretaries or legislative assistants to the Majority and Minority Leaders of the House of Delegates and the Senate and for secretaries or legislative assistants to the President Pro Tempore of the Senate , and to the Chairmen of the House Appropriations and Senate Finance Committees. Salary increases shall be governed by the provisions of Item 474 of this act.</p>			
4.a	<p>All compensation and reimbursement of expenses to members of the General Assembly and non-General Assembly members for attending a meeting described in paragraphs B.4.c., B.4.d., B.5., and B.6. shall be paid solely as provided pursuant to this item.</p>			
b.	<p>The provisions of paragraphs B.4.c. and B.4.d. of this item shall not apply during any regular session of the General Assembly or extension thereof, or during any special session of the General Assembly; provided, however, that the provisions of such paragraphs shall apply during any recess of the same.</p>			
c.	<p>Notwithstanding any other provision of law, each General Assembly member shall receive compensation for each day, or portion thereof, of attendance at an official meeting of any joint subcommittee, board, commission, authority, council, compact, or other body that has been created or established by the General Assembly or by resolution of a house of the General Assembly, provided that the member has been appointed to, or designated an official member of, such joint subcommittee, board, commission, authority, council, compact, or other body pursuant to an act of the General Assembly or a resolution of a house of the General Assembly that provides for the appointment or designation.</p>			
	<p>Notwithstanding any other provision of law, each General Assembly member shall also receive compensation for each day, or portion thereof, of attendance at an official meeting of (i) any standing committee or subcommittee thereof of the House of Delegates to which the member has been appointed, (ii) any standing committee or subcommittee thereof or Committee on Rules of the Senate to which the member has been appointed, or (iii) the</p>			

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Joint Rules Committee of the General Assembly. Any official meeting of a subcommittee of any of the committees described in clauses (i), (ii), or (iii) shall also be an official meeting for which the member shall receive compensation.				
Notwithstanding any other provision of law, any General Assembly member whose attendance, in the written opinion of the chairman of (a) any joint subcommittee, board, commission, authority, council, or other body that has been created or established in the legislative branch of state government by the General Assembly or by resolution of a house of the General Assembly; (b) any such standing committee of the House of Delegates or of the Senate; (c) the Committee on Rules of the Senate; or (d) the Joint Rules Committee of the General Assembly, is required at an official meeting of the body shall also receive compensation for each day, or portion thereof, of attendance at such official meeting.				
Any General Assembly member receiving compensation pursuant to this paragraph for attending an official meeting shall be reimbursed for his or her reasonable and necessary expenses incurred in attending such meeting. Notwithstanding any other provision of law, the reimbursement shall be provided by the respective body holding the meeting or by the entity that supports the work of the body.				
d. Compensation to General Assembly members for attendance at any official meeting described under B.4.c. of this item may be at a rate equal to \$300 for each day, or portion thereof, of attendance. <del>In no case shall a member be paid more than an aggregate of \$300 in compensation for each day, or portion thereof, regardless of whether the member attends more than one official meeting during the day.</del> <i>If the member attends two or more official meetings during the same day, and at least one of which occurs in the morning and one of which occurs in the afternoon, then the member shall be compensated at a rate of \$400 for the entire day, otherwise compensation is capped at the \$300 per day.</i> The payment of such compensation shall be subject to the restrictions and limitations set forth in subsections B., C., and G. of § 30-19.12, Code of Virginia. Notwithstanding any other provision of law, compensation to General Assembly members for attendance at such official meetings shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. The body holding the meeting shall as soon as practicable report the member's attendance at any official meeting of such body to the Clerk of the House of Delegates or the Clerk of the Senate, as applicable, in order to facilitate payment of the compensation. Such body shall report the member's attendance in such manner as prescribed by the respective Clerk.				
5. Notwithstanding any other provision of law, whenever any General Assembly member is required to travel for official attendance as a representative of the General Assembly at any meeting, conference, seminar, workshop, or conclave, which is not conducted by the Commonwealth of Virginia or any of its agencies or instrumentalities, such member shall be entitled to (i) compensation in an amount not to exceed the per day rate set forth in paragraph B.4.d., and (ii) reimbursement for reasonable and necessary expenses incurred. Such compensation and reimbursement for expenses shall be set by the Speaker of the House of Delegates for members of the House of Delegates and by the Senate Committee on Rules for members of the Senate.				
6. The provisions of this paragraph shall apply only to non-General Assembly members (hereinafter, "citizen members") of any (i) board, commission, authority, council, or other body created or established in the legislative branch of state government by the General Assembly or by resolution of a house of the General Assembly, or (ii) joint legislative committee or subcommittee.				
Notwithstanding any other provision of law, any citizen member of any body described in this paragraph who is appointed at the state level, or designated an official member of such body, pursuant to an act of the General Assembly or a resolution of a house of the General Assembly that provides for the appointment or designation, shall receive compensation solely for each day, or portion thereof, of attendance at an official meeting of the same. In no event shall any citizen member be paid compensation for attending a meeting of an advisory committee or other advisory body. Subject to any contrary law that provides for a higher amount of compensation to be paid, compensation shall be paid at the rate of \$50 for each day, or portion thereof, of attendance at an official meeting.				
Such citizen members shall also be reimbursed for reasonable and necessary expenses incurred in attending (i) an official meeting of any body described in this paragraph, or (ii) a				

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
meeting of an advisory committee or advisory body of any body described in this paragraph.				
Compensation and reimbursement of expenses to such citizen members shall be paid by the body holding the meeting (or for meetings of advisory committees or advisory bodies, the body on whose behalf the meeting is being held) or by the entity that supports the work of the body.				
A citizen member, however, who is a full-time employee of the Commonwealth or any of its local political subdivisions, including any full-time faculty member of a public institution of higher education, shall not be entitled to compensation under this paragraph and shall be limited to reimbursement for his reasonable and necessary expenses incurred, which shall be reimbursed by his employer. If such full-time employee who is a citizen member is required by his employer to take annual, family and personal, or other paid leave or unpaid leave to attend an official meeting under this paragraph, then such person shall be reimbursed for his reasonable and necessary expenses incurred by the body holding the meeting, or for meetings of advisory committees or advisory bodies, the body on whose behalf the meeting is being held, or by the entity that supports the work of the body. For the purposes of this paragraph, reasonable and necessary expenses shall exclude the reimbursement for leave taken by a citizen member who is a full-time employee of the Commonwealth.				
A citizen member who is also currently a treasurer, sheriff, clerk of court, commissioner of the revenue, or attorney for the Commonwealth by reason of election of the qualified county or city voters shall not be entitled to compensation under this paragraph and shall be limited to reimbursement for his reasonable and necessary expenses incurred, which shall be reimbursed within the budget already established by the Compensation Board and in the same manner as other reasonable and necessary expenses of his office are reimbursed. Full-time employees of one of the foregoing constitutional offices shall also not be entitled to compensation under this paragraph and shall be limited to reimbursement for their reasonable and necessary expenses incurred, which shall be reimbursed within the budget already established by the Compensation Board and in the same manner as other reasonable and necessary expenses of the constitutional office are reimbursed.				
7. Pursuant to § 30-19.13, Code of Virginia, allowances for expenses of members of the General Assembly during any regular session of the General Assembly or extension thereof or during any special session of the General Assembly shall be paid in an amount not to exceed the maximum daily amount permitted by the Internal Revenue Service under rates established by the U.S. General Services Administration.				
8. Allowance for office expenses and supplies of members of the General Assembly, in the amount of \$1,250 for each month of each calendar year. An additional \$500 for each month of each calendar year shall be paid to the Majority and Minority Leaders of the House of Delegates and the Senate and to the President Pro Tempore of the Senate, the Chairman or Chairs of the Senate Finance Committee, and the Chairman of the House Appropriations Committee.				
C. One legislative assistant of a member of the General Assembly regularly employed on a twelve (12) consecutive month salary basis receiving 60 percent or more of the salary allotted pursuant to paragraph B.3.d.1, may, for the purposes of §§ 51.1-124.3 and 51.1-152, Code of Virginia, be deemed a "state employee" and as such will be eligible for participation in the Virginia Retirement System, the group life insurance plan, the VRS short and long term disability plans, and the state health insurance plan. Upon approval by the Joint Rules Committee, legislative assistants shall be eligible to participate in the short and long-term disability plans sponsored by the Virginia Retirement System pursuant to Chapter 11 of Title 51.1, Code of Virginia. Such legislative assistants shall not receive sick leave and family and personal leave benefits under this plan. Short-term disability benefits shall be payable from the Legislative Reversion Clearing Account.				
D. Out of this appropriation the Clerk of the House of Delegates shall pay the routine maintenance and operating expenses of the General Assembly Building as apportioned to the Senate, House of Delegates, Division of Legislative Services, Joint Legislative Audit and Review Commission, or other legislative agencies. The funds appropriated to each				

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	agency in the Legislative Department for routine maintenance and operating expenses during the current biennium shall be transferred to the account established for this purpose.			
	E. An amount of up to \$10,000 per year shall be transferred from Item 34 of this act, to reflect equivalent compensation allowances for the Lieutenant Governor as were authorized by the 1994 General Assembly. The Lieutenant Governor shall report such increases to the Speaker of the House and the Chairman of the House Appropriations Committee and the Chairman of the Senate Finance Committee.			
	F.1. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint four members from their respective committees to a joint subcommittee to review public higher education funding policies and to make recommendations to their respective committees. The objective of the review is to develop policies and formulas to provide the public institutions of higher education with an equitable funding methodology that: (a) recognizes differences in institutional mission; (b) provides incentives for achievement and productivity; (c) recognizes enrollment growth; and (d) establishes funding objectives in areas such as faculty salaries, financial aid, and the appropriate share of educational and general costs that should be borne by resident students. In addition, the review shall include the development of comparable cost data concerning the delivery of higher education through an analysis of the relationship of each public institution to its national peers. The public institutions of higher education and the staff of the State Council of Higher Education for Virginia are directed to provide technical assistance, as required, to the joint subcommittee.			
	2. The Joint Subcommittee on Higher Education Funding Policies shall conduct an assessment of the adequacy of the current educational and general funding levels for Virginia's public institutions of higher education. The assessment shall be used to develop guidelines against which to measure funding requests for higher education. The assessment shall include, but not be limited to, the following components:			
	a) Updated student-to-faculty ratios based on current practice or industry norms.			
	b) Consideration of support staff needs and the changing requirements of support staff due to technology and privatization of services previously performed by the institutions.			
	c) Costs of instruction, such as equipment, utilities, facilities maintenance, and other nonpersonal services expenses.			
	d) Recognition of the individual mission of the institution, student characteristics, location, or other factors that may influence the costs of instruction.			
	e) Benchmarking of the funding guidelines against a group of peer institutions, or other appropriate comparator group, to assess the validity of the guidelines.			
	f) Means by which measures of institutional performance can be assessed and incorporated into funding and policy guidelines for higher education.			
	3. The Joint Subcommittee on Higher Education Funding Policies shall develop a more precise methodology for determining funding needs at Virginia's public institutions of higher education related to enrollment growth. The methodology should take into consideration that support staff and operations may need to be expanded when enrollment growth reaches certain levels.			
	4. The Joint Subcommittee may seek support from the staff of the Senate Finance and House Appropriations Committees, the public institutions of higher education, or other higher education or state agency representatives, as requested by the Joint Subcommittee. At its discretion, the Joint Subcommittee may contract for consulting services.			
	5. The Joint Subcommittee is hereby continued to provide direction and oversight of higher education funding policies. The Joint Subcommittee shall review and articulate policies and funding methodologies on: (a) the appropriate share of educational and general costs that should be borne by students; (b) student financial aid; (c) undergraduate medical education funding; (d) the mix of full-time and part-time faculty; (e) the mix of in-state and out-of-state students as it relates to tuition policy; and (f) the viability of statewide articulation agreements between four-year and two-year public institutions.			

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
6. a.	It is the objective of the General Assembly that funding for Virginia's public colleges and universities shall be based primarily on the funding guidelines outlined in the November, 2001 report of the Joint Subcommittee on Higher Education Funding Policies.			
b.	Based on the findings and recommendations of its November, 2001 report, the Joint Subcommittee shall coordinate with the State Council of Higher Education, the Secretary of Education, and the Department of Planning and Budget in incorporating the higher education funding guidelines into the development of budget recommendations.			
c.	As part of its responsibilities to ensure the fair and equitable distribution and use of public funds among the public institutions of higher education, the State Council of Higher Education shall incorporate the funding guidelines established by the Joint Subcommittee into its budget recommendations to the Governor and the General Assembly.			
G.	The Chairmen of the Senate Finance and House Appropriations Committees shall each appoint four members from their respective committees to a joint subcommittee to review compensation of state agency heads and cabinet secretaries. The Department of Human Resource Management, the Virginia Retirement System and all other agencies and institutions of the Commonwealth are directed to provide technical assistance, as required, to the joint subcommittee.			
H. 1.	The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint up to five members from their respective committees to a joint subcommittee to provide on-going direction and oversight of Standards of Quality funding cost policies and to make recommendations to their respective committees.			
2.	The Joint Subcommittee on Elementary and Secondary Education Funding shall: a) study the Commonwealth's use of the prevailing salary and cost approaches to funding the Standards of Quality, as compared with alternative approaches, such as a fixed point in time salary base that is increased annually by some minimum percentage or funding the national average teacher salary; and b) review the "federal revenue deduct" methodology, including the current use of a cap on the deduction; and c) review the methodology for establishing a consistent funding cap process for all state funded instructional and certain support positions.			
3.	The school divisions, the staff of the Virginia Department of Education, and staff of the Joint Legislative Audit and Review Commission, are directed to provide technical assistance, as required, to the joint subcommittee.			
I.	The Speaker of the House shall establish the salary for the Clerk of the House of Delegates.			
J.	The Senate Committee on Rules shall establish the salary for the Clerk of the Senate.			
K.	Notwithstanding the salaries set out in Items 2, 4, 5, and 6, the Committee on Joint Rules may establish salary ranges for such agency heads consistent with the provisions and salary ranges included in § 4-6.01 of this act.			
L.	Included within this appropriation is \$15,400 each year from the general fund for expenses related to the Joint Subcommittee on Tax Preferences, pursuant to House Bill 777 of the 2012 Session. This includes \$6,622 each year to be allocated by the Clerk of the Senate and \$8,778 each year to be allocated by the Clerk of the House of Delegates.			
M.	Included in the appropriations for this item is \$25,000 the first year and \$25,000 the second year from the general fund for the operations of the Virginia Indian Commemorative Commission and the development of a monument commemorating the life, achievements, and legacy of Native Americans in the Commonwealth.			
N.1.	The Special Joint Subcommittee to Consult on the Plan to Close State Training Centers shall continue to conduct a review of the assumptions behind the cost and cost savings of implementing the U.S. Department of Justice (DOJ) settlement agreement including but not limited to a review of the cost of providing care in the state intellectual disability (ID) training centers and in the community and an explanation of the difference in costs.			

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
2. The Joint Subcommittee to Consult on the Plan to Close State Training Centers, in collaboration with the Department of Behavioral Health and Developmental Services, shall develop and evaluate a plan for consideration of operating a smaller state training center to serve those individuals for which care in a training center is appropriate. The Joint Subcommittee shall evaluate and determine the operating costs, capital costs, and consider all other relevant factors in developing the plan for consideration.				
O. The Joint Commission on Transportation Accountability shall regularly review, and provide oversight of the usage of funding generated pursuant to the provisions of House Bill 2313, 2013 Session of the General Assembly. To this end, by November 15 the Secretary of Transportation, the Northern Virginia Transportation Authority and the Hampton Roads Transportation Accountability Commission shall each prepare a report on the uses of the Intercity Passenger Rail Operating and Capital Funds, the Northern Virginia Transportation Authority Fund, and the Hampton Roads Transportation Fund, respectively, each year to be presented to the Joint Commission on Transportation Accountability.				
P.1. There is hereby created in the legislative branch the Virginia World War I and World War II Commemoration Commission. The Commission shall plan, develop, and carry out programs and activities appropriate to commemorate the 100th anniversary of World War I and the 75th anniversary of World War II.				
2. The Commission shall have a total membership of ten members consisting of six legislative members, two nonlegislative citizen members, and two ex officio members. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate of Virginia to be appointed by the Senate Committee on Rules, one nonlegislative citizen member who shall be a World War II historian, to be appointed by the Speaker of the House of Delegates; one nonlegislative citizen member who shall be a World War II veteran or a family member of a World War II veteran, to be appointed by the Senate Committee on Rules; and two ex-officio members, to include the Commissioner of the Virginia Department of Veterans Services or his designee and the Executive Director of the Virginia War Memorial. The nonlegislative and ex-officio members shall be non-voting members. The nonlegislative citizen members shall be citizens of the Commonwealth, unless otherwise approved in writing by the chairman of the committee and the respective Clerk, and shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. The voting members of the Commission shall elect a Chairman and Vice-Chairman from among its membership, who shall be members of the Virginia General Assembly.				
3. Legislative members of the Commission and Advisory Council shall receive such compensation as provided in § 30-19.12, Code of Virginia, and nonlegislative citizen members of the Commission shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Compensation to members of the General Assembly for attendance at official meetings of the Commission shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. All other compensation and expenses shall be paid from existing appropriations to the Commission.				
4. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia World War I and World War II Commemoration Commission Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts, grants, donations, bequests, or other funds from any source as may be received by the Commission for its work. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of enabling the Commission to perform its duties. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the chairman of the Commission.				
5. The Virginia Department of Veterans Services and the Virginia War Memorial shall				

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	FY2019	FY2020	FY2019	FY2020

provide technical assistance to the Commission. The Division of Legislative Services shall act as the fiscal agent for the Commission. Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the Commission shall be provided by the Division of Legislative Services, and by other state agencies and institutions as may be requested by the Commission. The Director of the Division of Legislative Services is authorized to fund the operations of the Virginia World War I and World War II Commemoration Commission from the appropriations to the Division and to provide full reimbursement to the Division from the unexpended balances of such Commission, once allotted.

6. The Commission may appoint and establish an Advisory Council composed of nonlegislative citizens at large and public officials who have knowledge of World War I and World War II and their respective anniversary commemorations, to serve in a consultative capacity to assist the Commission in its work. Nonlegislative citizen members of the Advisory Council shall serve without compensation but may be reimbursed for travel expenses to attend a meeting of the Advisory Council within the Commonwealth of Virginia. The Advisory Council shall have a Chairman and Vice-Chairman, one of whom shall be a member of the House of Delegates, to be appointed by the Speaker of the House of Delegates, and one of whom shall be a member of the Senate, to be appointed by the Senate Committee on Rules.

Q.1. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint up to five members from their respective committees to a Joint Subcommittee to provide recommendations for reforming the Virginia Preschool Initiative. The goals and objectives of the Joint Subcommittee will be to consider increasing accountability, flexibility, innovation, clarification of the state's role and policy relating to providing a preschool for economically disadvantaged children, and to further develop the facilitation of partnerships between school divisions and private providers for the Virginia Preschool Initiative. The Subcommittee will also review and consider possible recommendations regarding the development of a competency-based professional development framework for early childhood teachers in public schools and early learning practitioners in private early learning settings; further enhancements to the Quality Ratings System; other recommendations and options included in the 2017 JLARC report on Improving Virginia's Early Childhood Development Programs; opportunities for the state to leverage improvements in federal Head Start programs; an integrated early childhood fund to pool and leverage funds for maximum performance and efficiency; and mandating a minimum percentage of VPI slots be in private settings.

2. The staff of the elementary and secondary Education subcommittees for the House Appropriations and Senate Finance Committees and the Department of Education will help with facilitating the scope of work to be completed by the Joint Subcommittee. The Virginia Early Childhood Foundation will provide support and resources to the members and staff of the Joint Subcommittee. Other stakeholders, such as those from the Virginia Department of Social Services, the Virginia Community College System, local school divisions, private and faith-based child day-care providers, accredited organizations, education associations and businesses may provide additional information if requested. A report of any findings and recommendations shall be submitted to the Chairmen of House Appropriations and Senate Finance Committees by October 1, 2018.

R. 1.a. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint four members from their respective committees to a Joint Subcommittee on the Future Competitiveness of Virginia Higher Education to (a) review ways to maintain and improve the quality of higher education, while providing for broad access and affordability; (b) examine the impact of financial, demographic, and competitive changes on the sustainability of individual institutions and the system as a whole; (c) identify best practices to make the system more efficient, including shared services, institutional flexibility, and easily accessible academic pathways; (d) evaluate the use of distance education and online instruction across the Commonwealth and appropriate business models for such programs; (e) review current need-based financial aid programs and alternative models to best provide for student affordability and completion; (f) review the recommendations of the Joint Legislative Audit and Review Commission on the study of the cost efficiency of higher education institutions and make recommendations to their respective committees on the implementation of those recommendations; (g) study the



ITEM 1.	Item Details(\$)		Appropriations(\$)	
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	workgroup shall examine the role of the current Certificate of Need program, including a review of past and current studies of the program, in ensuring access to care.			
	<p>3. The Joint Subcommittee shall provide ongoing oversight of initiatives and operations of the Health and Human Resources agencies. The joint subcommittee shall examine progress made in implementing changes to: (i) Medicaid managed care programs, including managed long-term supports and services (the Commonwealth Coordinated Care Plus program) and changes to the Medallion program; (ii) Medicaid waiver programs including the Medicaid waivers serving individuals with developmental disabilities; (iii) the Medicaid Enterprise System; (iv) improve eligibility, enrollment and renewal processes in the Medicaid and CHIP programs; (v) the organizational structure and realignment of staff and resources of the Department of Medical Assistance Services resulting from the change from a fee-for-service to a managed care delivery system; (vi) improve the cost effective delivery of services through the Comprehensive Services Act; and (vii) initiatives and programmatic changes across the Health and Human Resources agencies to ensure efficient and effective use of resources across the Secretariat.</p>			
	<p>4. The Joint Subcommittee may seek support and technical assistance from staff of the House Appropriations and Senate Finance Committees, the staff of the Joint Legislative Audit and Review Commission, and the staff of the Department of Medical Assistance Services. Other state agency staff shall provide support upon request.</p>			
	<p>5.a. The staff of the House Appropriations and Senate Finance Committees shall help facilitate the scope of work to be completed by the Joint Subcommittee for Health and Human Resources Oversight.</p>			
	<p>b. The staff of the Health and Human Resources and Elementary and Secondary Education Subcommittees for the House Appropriations and Senate Finance Committees shall facilitate a workgroup, in cooperation with the Office of Children's Services (OCS), the Virginia Department of Education (VDOE), the Department of Planning and Budget, the Department of Social Services, and the Department of Juvenile Justice, to examine the options and determine the actions necessary to better manage the quality and costs of private day educational programs currently funded through the Children's Services Act (CSA). Other stakeholders, such as those from local governments, school superintendents or their designees, CSA Community Policy and Management Teams and Family Assessment and Planning Teams, special education administrators, private providers, parents of special education students and others may provide additional information to the workgroup as requested.</p>			
	<p>c. In examining the options, the workgroup shall consider: (i) amending the CSA to transfer the state pool funding for students with disabilities in private day educational programs to the VDOE; (ii) the identification and collection of data on an array of measures to assess the efficacy of private special education day school placements; (iii) the identification of the resources necessary in order to transition students in private day school settings to a less restrictive environment; (iv) the role of Local Education Agencies in determining placements and overseeing the quality, cost and outcome of services for students with disabilities in private day educational programs; and (v) an assessment of the Individualized Education Program (IEP) process as compared to federal requirements, including how that process relates to the role of CSA Family Assessment and Planning Team (FAPT) in determining services for students with disabilities whose IEP requires private day educational placement.</p>			
	<p>d. The workgroup shall examine: (i) funding impacts; (ii) necessary statutory, regulatory or budgetary changes; and (iii) other relevant actions necessary to implement any recommended actions.</p>			
	<p>6. <i>The Joint Subcommittee for Health and Human Resources Oversight shall consider options for a § 1332 Affordable Care Act waiver to redesign the individual insurance market to better align with cost saving opportunities and outcomes similar to the large group market. The State Corporation Commission and Health and Human Resources unit at the Joint Legislative Audit and Review Commission shall provide assistance to the joint subcommittee, as needed, as the joint subcommittee evaluates the options. The joint subcommittee shall make recommendations, if any, to the General Assembly regarding a § 1332 Affordable Care Act waiver by December 15, 2019.</i></p>			

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>U.1. The Co-Chairs of the Senate Finance Committee shall appoint five members from their Committee and the Chairman of the House Appropriations Committee shall appoint four members from his Committee and two members of the House Finance Committee to a Joint Subcommittee on Local Government Fiscal Stress. The Joint Subcommittee shall elect a chairman and vice-chairman from among its membership.</p> <p>2. The goals and objectives of the Joint Subcommittee will be to review (i) savings opportunities from increased regional cooperation and consolidation of services, including by jointly operating or merging small school divisions; (ii) local responsibilities for service delivery of state-mandated or high priority programs, (iii) causes of fiscal stress among local governments, (iv) potential financial incentives and other governmental reforms to encourage increased regional cooperation; and (v) the different taxing authorities of cities and counties.</p> <p>3. Administrative staff support shall be provided by the Office of the Clerks of the House and Senate. The Joint Subcommittee may seek support and technical assistance from the staff of the Division of Legislative Services, House Appropriations and Senate Finance Committees, and the Commission on Local Government. All agencies of the Commonwealth shall provide assistance to the Joint Subcommittee for this study, upon request.</p> <p>4. No recommendation of the Joint Subcommittee shall be adopted if a majority votes against the recommendation. The Joint Subcommittee shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year.</p> <p>V. Notwithstanding any other provision of law, the Senate Joint Resolution 47 (2014 Session) Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century shall continue its work until <del>December 1, 2019</del> <i>June 30, 2020</i>.</p> <p>W. Pursuant to projects authorized and funded in paragraph E.1 of Item C-39.40 of Chapter 1 of the Acts of Assembly of 2014, operations of the Virginia General Assembly will temporarily move to and operate from the Pocahontas Building bounded by the following streets: 9th Street to the west, 10th Street to the east, Bank Street to the north, and Main Street to the south in the City of Richmond. Space occupied temporarily by the General Assembly shall be under the control of the Legislative Support Commission (§ 30-34.1). Funding for routine maintenance and operations of the temporary space is included in Item 1 of this act.</p> <p>X. Any nonlegislative citizen member appointed by either the Speaker of the House, the Senate Committee on Rules or the Joint Rules Committee to any Authority, Board, Commission, Committee, or other deliberative body in the Commonwealth shall serve at the pleasure of such appointing authority. Any such member may be relieved of his appointment at any time, with or without cause.</p>				
Total for General Assembly of Virginia.....			<del>\$46,981,541</del> <i>\$51,231,541</i>	<del>\$46,981,541</del> <i>\$51,331,541</i>
General Fund Positions.....			224.00	224.00
Position Level.....			224.00	224.00
Fund Sources: General.....			<del>\$46,981,541</del> <i>\$51,231,541</i>	<del>\$46,981,541</del> <i>\$51,331,541</i>

**§ 1-2. AUDITOR OF PUBLIC ACCOUNTS (133)**

2.	Legislative Evaluation and Review (78300).....		\$13,775,147	<del>\$13,775,147</del> <i>\$14,025,147</i>
	Financial and Compliance Audits (78301).....	\$13,775,147	<del>\$13,775,147</del> <i>\$14,025,147</i>	
	Fund Sources: General.....	\$12,221,188	\$12,221,188	
	Special.....	\$1,553,959	<del>\$1,553,959</del> <i>\$1,803,959</i>	

Authority: Article IV, Section 18, Constitution of Virginia; Title 30, Chapter 14, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Auditor of Public Accounts,

ITEM 2.	Item Details(\$)		Appropriations(\$)	
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<p>\$184,319 from July 1, 2018 to June 24, 2019 and \$184,319 from June 25, 2019 to June 30, 2020.</p> <p>B. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year pursuant to § 2.2-1829, Code of Virginia. The Auditor shall, at the same time, provide his report on (i) the 15 percent limitation and the amount that could be paid into the Revenue Stabilization Fund and (ii) any amounts necessary for deposit into the Fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia as well as the additional deposit requirement of § 2.2-1829, Code of Virginia.</p> <p>C. The specifications of the Auditor of Public Accounts for the independent certified public accountants auditing localities shall include requirements for any money received by the sheriff. These requirements shall include that the independent certified public accountant must submit a letter to the Auditor of Public Accounts annually providing assurance as to whether the sheriff has maintained a proper system of internal controls and records in accordance with the Code of Virginia. This letter shall be submitted along with the locality's audit report.</p> <p>D.1. Each locality establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, shall provide to the Auditor of Public Accounts by October 1 of each year, in a format specified by the Auditor, a report as to each program funded by these fees and the expected nutrient and sediment reductions for each of these programs. For any specific stormwater outfall generating more than \$200,000 in annual fees, such report shall include identification of specific actions to remediate nutrient and sediment reduction from the specific outfall.</p> <p>2. The Auditor of Public Accounts shall include in the Specifications for Audits of Counties, Cities, and Towns regulations for all local governments establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, a requirement to ensure that each impacted local government is in compliance with the provisions of § 15.2-2114 A., Code of Virginia. Any such adjustment to the Specifications for Audits of Counties, Cities, and Towns regulations shall be exempt from the Administrative Process Act and shall be required for all audits completed after July 1, 2014.</p> <p>E. The Auditor of Public Accounts' Specifications for Audits of Counties, Cities, and Towns and the Specifications for Audits of Authorities, Boards, and Commissions, for the independent certified public accountants auditing localities and local government entities, shall include requirements related to the communication of other internal control deficiencies or financial matters, commonly referred to as a management letter. These requirements shall include that any such communication issued by the independent certified public accountants related to other internal control deficiencies or other financial matters that merit the attention of management and the governing body must be made in the form of official, written communication.</p>				
Total for Auditor of Public Accounts.....			<b>\$13,775,147</b>	<b><del>\$13,775,147</del> \$14,025,147</b>
General Fund Positions.....	120.00	120.00		
Nongeneral Fund Positions.....	16.00	16.00		
Position Level.....	136.00	136.00		
Fund Sources: General.....	\$12,221,188	\$12,221,188		
Special.....	\$1,553,959	<del>\$1,553,959</del> \$1,803,959		
<b>§ 1-3. COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (413)</b>				
3. Ground Transportation System Safety Services (60500).....			\$1,540,045	\$1,540,045
Ground Transportation Safety Promotion (60503)...	\$1,540,045	\$1,540,045		
Fund Sources: Special.....	\$1,540,045	\$1,540,045		

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Authority: §§ 18.2-271.1 and 18.2-271.2, Code of Virginia.				
A. Out of this appropriation shall be paid the annual salary of the Executive Director, \$121,460 from July 1, 2018 to June 24, 2019 and \$121,460 from June 25, 2019 to June 30, 2020.				
B. Notwithstanding the salaries listed in paragraph A. of this item, the Commission on the Virginia Alcohol Safety Action Program may establish a salary range for the Executive Director of the program.				
Total for Commission on the Virginia Alcohol Safety Action Program.....			<b>\$1,540,045</b>	<b>\$1,540,045</b>
Nongeneral Fund Positions.....			11.50	11.50
Position Level.....			11.50	11.50
Fund Sources: Special.....			\$1,540,045	\$1,540,045

**§ 1-4. DIVISION OF CAPITOL POLICE (961)**

4.	Administrative and Support Services (39900).....			\$10,831,214	<del>\$10,380,214</del> \$10,580,214
	Security Services (39923).....	\$10,831,214	<del>\$10,380,214</del> \$10,580,214		
	Fund Sources: General.....	\$10,831,214	<del>\$10,380,214</del> \$10,580,214		

Authority: Title 30, Chapter 3.1, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Chief, Division of Capitol Police, \$120,000 from July 1, ~~2016~~ 2018 to June 30, ~~2017~~ 2019 and \$120,000 from July 1, ~~2017~~ 2019 to June 30, ~~2018~~ 2020.

Total for Division of Capitol Police.....				<b>\$10,831,214</b>	<b><del>\$10,380,214</del></b> <b>\$10,580,214</b>
General Fund Positions.....			108.00	<del>108.00</del> 109.00	
Position Level.....			108.00	<del>108.00</del> 109.00	
Fund Sources: General.....			\$10,831,214	<del>\$10,380,214</del> \$10,580,214	

**§ 1-5. DIVISION OF LEGISLATIVE AUTOMATED SYSTEMS (109)**

5.	Information Technology Development and Operations (82000).....			\$5,565,665	\$5,565,665
	Computer Operations Services (82001).....	\$5,565,665	\$5,565,665		
	Fund Sources: General.....	\$5,277,907	\$5,277,907		
	Special.....	\$287,758	\$287,758		

Authority: Title 30, Chapter 3.2, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Director, Division of Legislative Automated Systems, \$164,800 from July 1, 2018 to June 24, 2019 and \$164,800 from June 25, 2019 to June 30, 2020.

B. Included in this appropriation is funding sufficient for the ongoing replacement of a legacy legislative bill tracking system. The expenditure of these funds is contingent on the Director of the Division of Legislative Automated Systems developing a detailed implementation plan and submitting the plan to the Committee on Joint Rules for its approval. Any procurement of a replacement legislative bill tracking system shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et. seq.) of the Code of Virginia and the contract review provisions of § 2.2-2012. The plan may propose to procure a replacement legislative

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bill tracking system using (i) a request for information or a request for proposal, singly or jointly or in any combination thereof, (ii) such other industry recognized procurement method for procuring a management information system, or (iii) such other procurement method that comports with the best interests of the Commonwealth in the determination of the Director.				
Total for Division of Legislative Automated Systems.....			\$5,565,665	\$5,565,665
General Fund Positions.....	19.00	19.00		
Position Level.....	19.00	19.00		
Fund Sources: General.....	\$5,277,907	\$5,277,907		
Special.....	\$287,758	\$287,758		
<b>§ 1-6. DIVISION OF LEGISLATIVE SERVICES (107)</b>				
6. Legislative Research and Analysis (78400).....			\$6,884,115 <del>\$7,147,757</del>	\$6,884,115
Bill Drafting and Preparation (78401).....	\$6,884,115 <del>\$7,147,757</del>	\$6,884,115		
Fund Sources: General.....	\$6,864,081	\$6,864,081		
Special.....	<del>\$20,034</del> \$283,676	\$20,034		
Authority: Title 30, Chapter 2.2, Code of Virginia.				
A. Out of this appropriation shall be paid the annual salary of the Director, Division of Legislative Services, \$157,374 from July 1, <del>2016</del> 2018; to June 24, <del>2017</del> 2019 and \$157,374 from June 25, <del>2017</del> 2019, to June 30, <del>2018</del> 2020.				
B. Notwithstanding the salary set out in paragraph A. of this item, the Committee on Joint Rules may establish a salary range for the Director, Division of Legislative Services.				
C. The Division of Legislative Services shall continue to provide administrative support to include payroll processing, accounting, and travel expense processing at no charge to the Chesapeake Bay Commission, the Joint Commission on Health Care, the Virginia Commission on Youth, and the Virginia State Crime Commission.				
D. Out of this appropriation, \$250,000 the first year from the general fund is provided to support the work of the Senate Joint Resolution 47 (2014) Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century. The funding may be used to contract for expertise and assistance in its work to evaluate the community-based system of service delivery or other related topics as required by the work of the Joint Subcommittee. Any contractor hired shall evaluate the current system along with alternative delivery systems to provide the necessary information and assistance to the subcommittee in determining the most appropriate delivery system, or modifications to the current delivery system, that ensures access, quality, consistency, and accountability. Any remaining balance at year-end shall be carried forward to the subsequent fiscal year.				
E. Included in this item is \$263,642 in the first year from dedicated special revenue to implement the recommendations of the Chesapeake Bay Restoration Fund Advisory Committee.				
F. Out of the amounts re-appropriated to the Division of Legislative Services from prior year unexpended balances, an amount estimated at \$250,000 shall be available to cover expenses incurred for legislative redistricting, which is required after the 2020 Census.				
Total for Division of Legislative Services.....			\$6,884,115 <del>\$7,147,757</del>	\$6,884,115
General Fund Positions.....	56.00	56.00		
Position Level.....	56.00	56.00		
Fund Sources: General.....	\$6,864,081	\$6,864,081		

ITEM 6.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	Special.....	\$20,034 \$283,676	\$20,034		
<b>Capitol Square Preservation Council (820)</b>					
7.	Architectural and Antiquity Research Planning and Coordination (74800).....			\$221,297	\$221,297
	Architectural Research (74801).....	\$221,297	\$221,297		
	Fund Sources: General.....	\$221,297	\$221,297		
	Authority: Title 30, Chapter 28, Code of Virginia.				
	Any net proceeds from the public sale or auction of the surplus property from the General Assembly Building replacement project, less actual direct costs incurred by the Clerk of the House of Delegates, the Clerk of the Senate, and the Department of General Services, shall be deposited into a special non-reverting fund created on the books of the State Comptroller. The Capitol Square Preservation Council shall transfer these funds to the Virginia Capitol Preservation Foundation after entering into an agreement to use such funds to support the restoration and ongoing preservation of Virginia's Capitol and Capitol Square.				
	Total for Capitol Square Preservation Council.....			<b>\$221,297</b>	<b>\$221,297</b>
	General Fund Positions.....	2.00	2.00		
	Position Level.....	2.00	2.00		
	Fund Sources: General.....	\$221,297	\$221,297		
<b>Virginia Disability Commission (837)</b>					
8.	Social Services Research, Planning, and Coordination (45000).....			\$25,647	\$25,647
	Social Services Coordination (45001).....	\$25,647	\$25,647		
	Fund Sources: General.....	\$25,647	\$25,647		
	Authority: Title 30, Chapter 35, Code of Virginia.				
	Total for Virginia Disability Commission.....			<b>\$25,647</b>	<b>\$25,647</b>
	Fund Sources: General.....	\$25,647	\$25,647		
<b>Dr. Martin Luther King, Jr. Memorial Commission (845)</b>					
9.	Human Relations Management (14600).....			\$50,763	\$50,763
	Human Relations Management (14601).....	\$50,763	\$50,763		
	Fund Sources: General.....	\$50,763	\$50,763		
	Authority: Title 30, Chapter 27, Code of Virginia.				
	Total for Dr. Martin Luther King, Jr. Memorial Commission.....			<b>\$50,763</b>	<b>\$50,763</b>
	Fund Sources: General.....	\$50,763	\$50,763		
<b>Joint Commission on Technology and Science (847)</b>					
10.	Technology Research, Planning, and Coordination (53700).....			\$222,993	\$222,993
	Technology Research (53701).....	\$222,993	\$222,993		
	Fund Sources: General.....	\$222,993	\$222,993		
	Authority: Title 30, Chapter 11, Code of Virginia.				
	Total for Joint Commission on Technology and Science.....			<b>\$222,993</b>	<b>\$222,993</b>

ITEM 10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
General Fund Positions.....	2.00	2.00		
Position Level.....	2.00	2.00		
Fund Sources: General.....	\$222,993	\$222,993		

**Commissioners for the Promotion of Uniformity of Legislation in the United States (145)**

11.	Governmental Affairs Services (70100).....			\$87,520	\$87,520
	Interstate Affairs (70103).....	\$87,520	\$87,520		
	Fund Sources: General.....	\$87,520	\$87,520		

Authority: Title 30, Chapter 29, Code of Virginia.

*Commissioners shall receive no compensation for their services from the funds appropriated in this item, but their necessary travel and hotel expenses shall be reimbursed, subject to the approval of the Joint Rules Committee or to the joint approval of the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules.*

	Total for Commissioners for the Promotion of Uniformity of Legislation in the United States.....			<b>\$87,520</b>	<b>\$87,520</b>
	Fund Sources: General.....	\$87,520	\$87,520		

**State Water Commission (971)**

12.	Environmental Policy and Program Development (51600).....			\$10,245	\$10,245
	Environmental Policy and Program Development (51601).....	\$10,245	\$10,245		
	Fund Sources: General.....	\$10,245	\$10,245		

Authority: Title 30, Chapter 24, Code of Virginia.

	Total for State Water Commission.....			<b>\$10,245</b>	<b>\$10,245</b>
	Fund Sources: General.....	\$10,245	\$10,245		

**Virginia Coal and Energy Commission (118)**

13.	Resource Management Research, Planning, and Coordination (50700).....			\$21,645	\$21,645
	Energy Conservation Advisory Services (50703).....	\$21,645	\$21,645		
	Fund Sources: General.....	\$21,645	\$21,645		

Authority: Title 30, Chapter 25, Code of Virginia.

	Total for Virginia Coal and Energy Commission.....			<b>\$21,645</b>	<b>\$21,645</b>
	Fund Sources: General.....	\$21,645	\$21,645		

**Virginia Code Commission (108)**

14.	Enactment of Laws (78200).....			\$93,681	\$93,681
	Code Modernization (78201).....	\$93,681	\$93,681		
	Fund Sources: General.....	\$69,586	\$69,586		
	Special.....	\$24,095	\$24,095		

Authority: Title 30, Chapter 15, Code of Virginia.

The Code Commission shall not authorize, or undertake, a re-numbering or re-codification of the Code of Virginia, 1950 as amended unless there is a specific appropriation included in a general Appropriation Act addressing the fiscal impact of such an action. The

ITEM 14.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Commission is authorized to develop a proposal, for review by the Committee on Joint Rules, to re-number the Code of Virginia, including the proposed re-numbering structure and a detailed estimate of any potential fiscal impact on state agencies from the restructuring.				
	Total for Virginia Code Commission.....		<b>\$93,681</b>	<b>\$93,681</b>
	Fund Sources: General.....		\$69,586	\$69,586
	Special.....		\$24,095	\$24,095
<b>Virginia Freedom of Information Advisory Council (834)</b>				
15.	Governmental Affairs Services (70100).....		\$208,260	\$208,260
	Public Information Services (70109).....		\$208,260	\$208,260
	Fund Sources: General.....		\$208,260	\$208,260
Authority: Title 30, Chapter 21, Code of Virginia.				
	Total for Virginia Freedom of Information Advisory Council.....		<b>\$208,260</b>	<b>\$208,260</b>
	General Fund Positions.....		1.50	1.50
	Position Level.....		1.50	1.50
	Fund Sources: General.....		\$208,260	\$208,260
<b>Virginia Housing Commission (840)</b>				
16.	Housing Assistance Services (45800).....		\$21,265	\$21,265
	Housing Research and Planning (45803).....		\$21,265	\$21,265
	Fund Sources: General.....		\$21,265	\$21,265
Authority: § 30-257, Code of Virginia.				
	Total for Virginia Housing Commission.....		<b>\$21,265</b>	<b>\$21,265</b>
	Fund Sources: General.....		\$21,265	\$21,265
<b>Brown v. Board of Education Scholarship Committee (858)</b>				
17.	Human Relations Management (14600).....		\$25,339	\$25,339
	Human Relations Management (14601).....		\$25,339	\$25,339
	Fund Sources: General.....		\$25,339	\$25,339
Authority: Title 30, Chapter 34.1, Code of Virginia.				
Pursuant to § 30-231.5, Code of Virginia, there is provided \$25,000 each year from the general fund to support the operations of the Brown v. Board of Education Scholarship Awards Committee. This operational support shall be used to provide for the expenses incurred by the members of the committee and may be used for such other services as deemed necessary to accomplish the purposes for which it was created.				
	Total for Brown v. Board of Education Scholarship Committee.....		<b>\$25,339</b>	<b>\$25,339</b>
	Fund Sources: General.....		\$25,339	\$25,339
<b>Commission on Unemployment Compensation (860)</b>				
18.	Consumer Affairs Services (55000).....		\$6,072	\$6,072
	Consumer Assistance (55002).....		\$6,072	\$6,072
	Fund Sources: General.....		\$6,072	\$6,072
Authority: Title 30, Chapter 33, Code of Virginia.				

ITEM 18.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	Total for Commission on Unemployment Compensation.....		\$6,072	\$6,072
	Fund Sources: General.....		\$6,072	\$6,072
<b>Small Business Commission (862)</b>				
19.	Economic Development Services (53400).....		\$15,261	\$15,261
	Economic Development Research, Planning, and Coordination (53401).....		\$15,261	\$15,261
	Fund Sources: General.....		\$15,261	\$15,261
	Authority: Title 30, Chapter 22, Code of Virginia.			
	Total for Small Business Commission.....		\$15,261	\$15,261
	Fund Sources: General.....		\$15,261	\$15,261
<b>Commission on Electric Utility Regulation (863)</b>				
20.	Resource Management Research, Planning, and Coordination (50700).....		\$10,015	\$10,015
	Resource Management Policy and Program Development (50701).....		\$10,015	\$10,015
	Fund Sources: General.....		\$10,015	\$10,015
	Authority: Title 30, Chapter 31, Code of Virginia.			
	Total for Commission on Electric Utility Regulation.....		\$10,015	\$10,015
	Fund Sources: General.....		\$10,015	\$10,015
<b>Manufacturing Development Commission (864)</b>				
21.	Economic Development Services (53400).....		\$12,158	\$12,158
	Economic Development Research, Planning, and Coordination (53401).....		\$12,158	\$12,158
	Fund Sources: General.....		\$12,158	\$12,158
	Authority: Title 30, Chapter 41, Code of Virginia.			
	Total for Manufacturing Development Commission.....		\$12,158	\$12,158
	Fund Sources: General.....		\$12,158	\$12,158
<b>Joint Commission on Administrative Rules (865)</b>				
22.	Governmental Affairs Services (70100).....		\$10,015	\$10,015
	Intragovernmental Services (70104).....		\$10,015	\$10,015
	Fund Sources: General.....		\$10,015	\$10,015
	Authority: Title 30, Chapter 8.1, Code of Virginia.			
	Total for Joint Commission on Administrative Rules.....		\$10,015	\$10,015
	Fund Sources: General.....		\$10,015	\$10,015
<b>Autism Advisory Council (871)</b>				
23.	Health Research, Planning, and Coordination (40600).....		\$6,475	\$6,475

ITEM 23.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Health Policy Research (40606).....	\$6,475	\$6,475		
Fund Sources: General.....	\$6,475	\$6,475		
Authority: Title 30, Chapter 50, Code of Virginia.				
Total for Autism Advisory Council.....			<b>\$6,475</b>	<b>\$6,475</b>
Fund Sources: General.....	\$6,475	\$6,475		
<b>Virginia Conflict of Interest and Ethics Advisory Council (876)</b>				
24. Personnel Management Services (70400).....			\$598,128	\$598,128
Fund Sources: General.....	\$598,128	\$598,128		
Authority: Chapters 792 and 804 of the 2014 Acts of Assembly.				
Out of the the amounts appropriated to the Council, an amount estimated at \$195,000 each year is from lobbyist registration fees pursuant to § 2.2-424, Code of Virginia.				
Total for Virginia Conflict of Interest and Ethics Advisory Council.....			<b>\$598,128</b>	<b>\$598,128</b>
General Fund Positions.....	5.00	5.00		
Position Level.....	5.00	5.00		
Fund Sources: General.....	\$598,128	\$598,128		
<b>Joint Commission on Transportation Accountability (875)</b>				
25. Ground Transportation Planning and Research (60200).....			\$28,200	\$28,200
Fund Sources: General.....	\$28,200	\$28,200		
Total for Joint Commission on Transportation Accountability.....			<b>\$28,200</b>	<b>\$28,200</b>
Fund Sources: General.....	\$28,200	\$28,200		
<b>Commission on Economic Opportunity for Virginians in Aspiring and Diverse Communities (877)</b>				
26. Economic Development Services (53400).....			\$10,560	\$10,560
Economic Development Research, Planning, and Coordination (53401).....	\$10,560	\$10,560		
Fund Sources: General.....	\$10,560	\$10,560		
Authority: Discretionary Inclusion				
Total for Commission on Economic Opportunity for Virginians in Aspiring and Diverse Communities.....			<b>\$10,560</b>	<b>\$10,560</b>
Fund Sources: General.....	\$10,560	\$10,560		
<b>Virginia-Israel Advisory Board (330)</b>				
26.10 Economic Development Services (53400).....			\$215,184	\$215,184
Economic Development Research, Planning, and Coordination (53401).....	\$215,184	\$215,184		
Fund Sources: General.....	\$215,184	\$215,184		
Total for Virginia-Israel Advisory Board.....			<b>\$215,184</b>	<b>\$215,184</b>
General Fund Positions.....	1.00	1.00		
Position Level.....	1.00	1.00		

ITEM 26.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$215,184	\$215,184		
Grand Total for Division of Legislative Services.....			<b>\$8,784,838</b> <b>\$9,048,480</b>	<b>\$8,784,838</b>
General Fund Positions.....	67.50	67.50		
Position Level.....	67.50	67.50		
Fund Sources: General.....	\$8,740,709	\$8,740,709		
Special.....	\$44,129 \$307,771	\$44,129		

**§ 1-7. CHESAPEAKE BAY COMMISSION (842)**

27.	Resource Management Research, Planning, and Coordination (50700).....			\$332,368	\$332,368
	Resource Management Policy and Program Development (50701).....	\$332,368	\$332,368		
	Fund Sources: General.....	\$332,368	\$332,368		
	Authority: Title 30, Chapter 36, Code of Virginia.				
	Total for Chesapeake Bay Commission.....			<b>\$332,368</b>	<b>\$332,368</b>
	General Fund Positions.....	1.00	1.00		
	Position Level.....	1.00	1.00		
	Fund Sources: General.....	\$332,368	\$332,368		

**§ 1-8. JOINT COMMISSION ON HEALTH CARE (844)**

28.	Health Research, Planning, and Coordination (40600).....			\$779,133	\$779,133
	Health Policy Research (40606).....	\$779,133	\$779,133		
	Fund Sources: General.....	\$779,133	\$779,133		

Authority: Title 30, Chapter 18, Code of Virginia.

A. The Joint Commission on Health Care shall examine and identify strategies to ensure that the public is made fully aware of the risks and concerns related to the use of psychiatric medications that have dramatically increased over the last 25 years. The Commission shall identify methods: (i) to raise awareness of risks related to the mental and physical health side effects of Attention Deficit Hyperactivity Disorder (ADHD) medication use and risks from potential drug addiction from ADHD medication use; (ii) to compile and track statistics regarding the number of children in Virginia schools who are diagnosed with ADHD or other categories such as "specific learning disabilities, other health impairment, multiple disorder, and emotional disturbances" in the most effective means possible; (iii) used by other states and countries to limit antipsychotic use and the best methods for developing similar systems in the Commonwealth, including approaches and interventions which focus on treatment, recovery, and legal penalties; and (iv) to identify the incidence and prevalence of prescribing anti-psychotics for off-label use by general physicians and psychiatrists for treatment of ADHD for which there is no FDA indication. The Joint Commission on Health Care shall complete its analysis according to the workload priorities set for Commission staff and report findings to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 30, 2018.

B. The Joint Commission on Health Care shall study options for increasing the use of telemental health services in the Commonwealth. The Joint Commission on Health Care shall specifically study the issues and recommendations related to telemental health services set forth in the report of the Service System Structure and Financing Work Group of the Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century. All agencies of the Commonwealth shall provide assistance to the Joint Commission on Health Care for this study, upon request. The Joint Commission on Health Care shall submit an interim report to the Joint Subcommittee Studying Mental Health

ITEM 28.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Services in the Commonwealth in the 21st Century by November 1, 2017 and a final report of its findings to the Joint Subcommittee by November 1, 2018.				
			<b>\$779,133</b>	<b>\$779,133</b>
	6.00	6.00		
	6.00	6.00		
	\$779,133	\$779,133		
<b>§ 1-9. VIRGINIA COMMISSION ON YOUTH (839)</b>				
29.	Social Services Research, Planning, and Coordination (45000).....		\$355,201	\$355,201
	\$355,201	\$355,201		
	\$355,201	\$355,201		
Authority: Title 30, Chapter 20, Code of Virginia.				
			<b>\$355,201</b>	<b>\$355,201</b>
	3.00	3.00		
	3.00	3.00		
	\$355,201	\$355,201		
<b>§ 1-10. VIRGINIA STATE CRIME COMMISSION (142)</b>				
30.	Criminal Justice Research, Planning and Coordination (30500).....		\$940,402	<del>\$940,402</del> \$1,180,402
	\$940,402	<del>\$940,402</del> \$1,180,402		
	\$802,749	<del>\$802,749</del> \$1,042,749		
	\$137,653	\$137,653		
Authority: Title 30, Chapter 16, Code of Virginia.				
			<b>\$940,402</b>	<b>\$940,402</b> <del>\$1,180,402</del>
	6.00	<del>6.00</del> 8.00		
	4.00	4.00		
	10.00	<del>10.00</del> 12.00		
	\$802,749	<del>\$802,749</del> \$1,042,749		
	\$137,653	\$137,653		
<b>§ 1-11. JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION (110)</b>				
31.	Legislative Evaluation and Review (78300).....		<del>\$5,194,132</del> \$5,694,132	\$5,545,132
	<del>\$5,194,132</del> \$5,694,132	\$5,545,132		
	<del>\$5,075,187</del> \$5,575,187	\$5,426,187		
	\$118,945	\$118,945		
Authority: Title 30, Chapters 7 and 8, Code of Virginia.				
A. Out of this appropriation shall be paid the annual salary of the Director, Joint Legislative				

ITEM 31.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>Audit and Review Commission (JLARC), \$161,451 from July 1, 2018, to June 24, 2019, and \$161,451 from June 25, 2019, to June 30, 2020.</p>				
<p>B. JLARC, upon request of the Department of Planning and Budget and approval of the Chairman, shall review and provide comments to the department on its use of performance measures in the state budget process. JLARC staff shall review the methodology and proposed uses of such performance measures and provide periodic status reports to the Commission.</p>				
<p>C. Expenses associated with the oversight responsibility of the Virginia Retirement System by JLARC and the House Appropriations and Senate Finance Committees shall be reimbursed by the Virginia Retirement System upon documentation by the Director, JLARC of the expenses incurred.</p>				
<p>D. Out of this appropriation, funds are provided to continue the technical support staff of JLARC, in order to assist with legislative fiscal impact analysis when an impact statement is referred from the Chairman of a standing committee of the House or Senate, and to conduct oversight of the expenditure forecasting process. Pursuant to existing statutory authority, all agencies of the Commonwealth shall provide access to information necessary to accomplish these duties.</p>				
<p>E.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to review and evaluate the Virginia Information Technologies Agency (VITA) on a continuing basis and to make such special studies and reports as may be requested by the General Assembly, the House Appropriations Committee, or the Senate Finance Committee.</p>				
<p>2. The areas of review and evaluation to be conducted by the Commission shall include, but are not limited to, the following: (i) VITA's infrastructure outsourcing contracts and any amendments thereto; (ii) adequacy of VITA's planning and oversight responsibilities, including VITA's oversight of information technology projects and the security of governmental information; (iii) cost-effectiveness and adequacy of VITA's procurement services and its oversight of the procurement activities of State agencies.</p>				
<p>3. For the purpose of carrying out its duties and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the information, records, facilities, and employees of VITA.</p>				
<p>4. Records provided to VITA by a private entity pertaining to VITA's comprehensive infrastructure agreement or any successor contract, or any contractual amendments thereto for the operation of the Commonwealth's information technology infrastructure shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise. In order for the records specified in clauses (i) and (ii) to be excluded from the Virginia Freedom of Information Act, the private entity shall make a written request to VITA:</p>				
<p>a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;</p>				
<p>b. Identifying with specificity the data or other materials for which protection is sought; and</p>				
<p>c. Stating the reasons why protection is necessary.</p>				
<p>VITA shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. VITA shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision. Once a written determination is made by VITA, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of VITA or JLARC.</p>				

Except as specifically provided in this item, nothing in this item shall be construed to

ITEM 31.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	<p>authorize the withholding of (a) procurement records as required by § 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by VITA and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of the private entity under the comprehensive infrastructure agreement, or any successor contract, or any contractual amendments thereto for the operation of the Commonwealth's information technology infrastructure.</p>			
	<p>5. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for VITA review and evaluation activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.</p>			
	<p>6. All agencies of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.</p>			
	<p>F.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to conduct, on a continuing basis, a review and evaluation of economic development initiatives and policies and to make such special studies and reports as may be requested by the General Assembly, the House Appropriations Committee, or the Senate Finance Committee.</p>			
	<p>2. The areas of review and evaluation to be conducted by the Commission shall include, but are not limited to, the following: (i) spending on and performance of individual economic development incentives, including grants, tax preferences, and other assistance; (ii) economic benefits to Virginia of total spending on economic development initiatives at least biennially; (iii) effectiveness, value to taxpayers, and economic benefits to Virginia of individual economic development initiatives on a cycle approved by the Commission; and (iv) design, oversight, and accountability of economic development entities, initiatives, and policies as needed.</p>			
	<p>3. For the purpose of carrying out its duties under this authority and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the facilities, employees, information, and records, including confidential information, and the public and executive session meetings and records of the board of VEDP, involved in economic development initiatives and policies for the purpose of carrying out such duties in accordance with the established standards, processes, and practices exercised by JLARC pursuant to its statutory authority. Access shall include the right to attend such meetings for the purpose of carrying out such duties. Any non-disclosure agreement that VEDP enters into on or after July 1, 2016, for the provision of confidential and proprietary information to VEDP by a third party shall require that JLARC also be allowed access to such information for the purposes of carrying out its duties.</p>			
	<p>4. Notwithstanding the provisions of subsection A or B of § 58.1-3 or any other provision of law, unless prohibited by federal law, an agreement with a federal entity, or a court decree, the Tax Commissioner is authorized to provide to JLARC such tax information as may be necessary to conduct oversight of economic development initiatives and policies.</p>			
	<p>5. The following records shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and shall not be disclosed by JLARC:</p>			
	<p>(a) records provided by a public body as defined in § 2.2-3701, Code of Virginia, to JLARC in connection with its oversight of economic development initiatives and policies, where the records would not be subject to disclosure by the public body providing the records. The public body providing the records to JLARC shall identify the specific portion of the records to be protected and the applicable provision of the Freedom of Information Act or other provision of law that excludes the record or portions thereof from mandatory disclosure.</p>			
	<p>(b) confidential proprietary records provided by private entities pursuant to a promise of confidentiality from JLARC, used by JLARC in connection with its oversight of economic development initiatives and policies where, if such records are made public, the financial interest of the private entity would be adversely affected.</p>			
	<p>6. By August 15 of each year, the Secretary of Commerce and Trade shall provide to JLARC all information collected pursuant to § 2.2-206.12, Code of Virginia, in a format and manner</p>			

ITEM 31.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

specified by JLARC to ensure that the final report to be submitted by the Secretary fulfills the intent of the General Assembly and provides the data and evaluation in a meaningful manner for decision-makers.

7. JLARC shall assist the agencies submitting information to the Secretary of Commerce and Trade pursuant to the provisions of § 2.2-206.12, Code of Virginia, to ensure that the agencies work together to effectively develop standard definitions and measures for the data required to be reported and facilitate the development of appropriate unique project identifiers to be used by the impacted agencies.

8. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for ongoing review and evaluation activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.

9. JLARC may employ on a consulting basis such professional or technical experts as may be reasonably necessary for the Commission to fulfill its responsibilities under this authority.

10. All agencies of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.

11. The Joint Legislative Audit and Review Commission (JLARC) is hereby directed to review Virginia529's proposed weighted average tuition (WAT) payout model for the Prepaid529 program and report how the WAT payout model would change Prepaid529 relative to the existing model. In conducting the review, JLARC should address how the proposal would impact 1) program payout, 2) contract costs, 3) program sustainability, 4) overall complexity of the program, 5) any other factors relevant to the program. JLARC should complete the review and submit a final report, including any recommendations, to JLARC and the Chairman of the House Appropriations and Senate Finance Committee by November 30, 2018. Virginia529 shall provide assistance on this review upon request.

12. Since the Virginia College Savings Plan's (Virginia529) Prepaid529 is a public fund, and accurate benchmarks are necessary to ensure accountability and transparency for plan participants and other stakeholders such as the state, the Joint Legislative Audit and Review Commission (JLARC) is directed to contract with a third-party consultant to conduct an independent review of investment performance benchmarks used for the fund. The consultant, which should have expertise in institutional investment, shall determine whether Virginia529 is using appropriate benchmarks to measure performance, given the investment goals, strategies, and risk tolerance that the Virginia529 Board and Investment Advisory Committee have adopted for the fund. The contract should be procured through a request for proposal (RFP).The consultant shall report its findings and make recommendations, as warranted, for changes to existing benchmarks, by December 15, 2018. JLARC's expenses related to its duties under this amendment shall be reimbursed by Virginia529 as required under § 30-335. The consultant's recommendations shall be considered by the Virginia529 Board and Investment Advisory Committee.

G. Notwithstanding the salaries listed in paragraph A. of this item, the Joint Legislative Audit and Review Commission (JLARC) may establish a salary range for the Director of JLARC.

H.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to review and evaluate the agencies and programs under the Secretary of Health and Human Resources (HHR) on a continuing basis.

2. Review and evaluation work shall be directed by JLARC in consultation with the Joint Committee for Health and Human Resources Oversight.

3. Review and evaluation shall include, but not be limited to (i) studies of agencies or programs; (ii) targeted analysis of spending trends and other issues warranting examination; and (iii) assessment of the soundness and accuracy of population and spending forecasts, including the process, assumptions, methodology, and results.

4. For the purpose of carrying out its duties and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the information, records, facilities, and employees of all agencies within the HHR secretariat.

ITEM 31.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
5. The following records shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and shall not be disclosed by JLARC:				
(a) records provided by a public body as defined in § 2.2-3701, Code of Virginia, to JLARC in connection with its evaluation of agencies and programs within the HHR secretariat, where the records would not be subject to disclosure by the public body providing the records. The public body providing the records to JLARC shall identify the specific portion of the records to be protected and the applicable provision of the Freedom of Information Act or other provision of law that excludes the record or portions thereof from mandatory disclosure.				
(b) confidential proprietary records provided by private entities pursuant to a promise of confidentiality from JLARC, used by JLARC in connection with its evaluation of agencies and programs within the HHR secretariat where, if such records are made public, the financial interest of the private entity would be adversely affected.				
6. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for ongoing review and evaluation of agencies and programs within the HHR secretariat, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.				
7. JLARC may employ on a consulting basis such professional or technical experts as may be reasonably necessary for the Commission to fulfill its responsibilities under this authority.				
8. All agencies of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.				
<i>I. Included within the appropriation for this item is \$200,000 in the first year from the general fund for the Joint Legislative Audit and Review Commission to contract with one or more third-party independent reviewers to evaluate the Commonwealth's current and potential gaming governance structures, current and potential revenues to the Commonwealth, and any other relevant subjects it deems necessary pursuant to the study. In conducting this evaluation, the Joint Legislative Audit and Review Commission shall consider the impact of additional gaming and sports wagering, including both physical casino facilities and online gaming and sports wagering, as well as increased charitable gaming, on existing thoroughbred racing, breeding and related agribusiness industries, as well as the current and future revenues of the Virginia Lottery. The Joint Legislative Audit and Review Commission shall coordinate the study, and all state agencies, public bodies, and officials shall cooperate with the Joint Legislative Audit and Review Commission pursuant to completion of the study, as it deems necessary, upon its request.</i>				
<i>J. Included within this appropriation is \$300,000 the first year from the general fund to support the cost of actuarial analysis and consultant costs in the completion of the JLARC review of Virginia Workers' Compensation program and policies.</i>				
<i>K.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to review and evaluate the Commonwealth's enterprise resource planning and related financial, payroll, personnel management and benefit eligibility systems (Cardinal) on a continuing basis and to provide such special studies and reports as may be requested by the General Assembly, the House Appropriations Committee, or the Senate Finance Committee.</i>				
<i>2. The areas of review and evaluation to be conducted by the Commission shall include, but are not limited to, the following: (i) procurement for the planning, development, implementation, operation, and maintenance of Cardinal and any subsequent contracts and amendments thereto; (ii) the development, implementation, performance, and costs of Cardinal; (iii) the long-term viability of the technologies utilized in Cardinal; (iv) the adequacy of the system of governance for Cardinal, including the responsibility for, and control of specific data in Cardinal, the responsibility for systems support and maintenance, and the appropriate role of the Virginia Information Technologies Agency; and (v) the security of governmental and personally identifiable information contained in Cardinal.</i>				
<i>3. For the purpose of carrying out its duties and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the information, records, facilities, and employees of all state agencies and institutions.</i>				

ITEM 31.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

4. The following records shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and shall not be disclosed by JLARC:

(a) records provided by a public body as defined in § 2.2-3701, Code of Virginia, to JLARC in connection with its evaluation of Cardinal, where the records would not be subject to disclosure by the public body providing the records. The public body providing the records to JLARC shall identify the specific portion of the records to be protected and the applicable provision of the Freedom of Information Act or other provision of law that excludes the record or portions thereof from mandatory disclosure.

(b) confidential proprietary records provided by private entities pursuant to a promise of confidentiality from JLARC, used by JLARC in connection with its evaluation of Cardinal where, if such records are made public, the financial interest of the private entity would be adversely affected.

5. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for Cardinal review and evaluation activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.

6. JLARC may employ on a consulting basis such professional or technical experts as may be reasonably necessary for the Commission to fulfill its responsibilities under this authority.

7. All agencies and institutions of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.

8. To aid in this effort, the Department of Accounts shall provide the following information to the Commission not later than June 30, 2019: (i) a history of the Commonwealth's efforts from 2004 to date in developing an Enterprise Resource Planning (ERP) application, including budgeting, financials, payroll, personnel management and benefit eligibility systems; (ii) all initial and revised project schedules for each current and proposed module or phase of Cardinal and the actual date of completion, including modules initially developed for use by the Department of Transportation; (iii) all initial and revised cost estimates for each current and proposed module or phase of Cardinal and the actual cost to date, including modules initially developed and funded by the Department of Transportation; (iv) the total amount of spending authorized to date including all working capital advances and appropriated amounts from all sources; and (v) the estimated ten-year total cost for the planning, development, implementation, operation and maintenance of all current and planned modules or phases of Cardinal.

L. The Joint Legislative Audit and Review Commission staff shall have access to all information and operations of the Board of Corrections and to observe closed or executive sessions of the Board of Corrections and any of its committees. This authority shall not be limited by §2.2-3712 or any other provision of law.

Total for Joint Legislative Audit and Review Commission.....			<b>\$5,194,132</b>	<b>\$5,545,132</b>
General Fund Positions.....	42.00	42.00		
Nongeneral Fund Positions.....	1.00	1.00		
Position Level.....	43.00	43.00		
Fund Sources: General.....	\$5,075,187	\$5,426,187		
	\$5,575,187			
Trust and Agency.....	\$118,945	\$118,945		

**§ 1-12. VIRGINIA COMMISSION ON INTERGOVERNMENTAL COOPERATION (105)**

32.	Governmental Affairs Services (70100).....			\$781,027	\$781,027
	Interstate Affairs (70103).....	\$781,027	\$781,027		
	Fund Sources: General.....	\$781,027	\$781,027		

Authority: Title 30, Chapter 19, Code of Virginia.

ITEM 32.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Out of this appropriation may be paid from the general fund the annual assessments:				
1. To the National Conference of State Legislatures;				
2. To the Council of State Governments;				
3. To the Southern Regional Education Board; and				
4. To the Education Commission of the States.				
Included within this appropriation is \$146,035 each year for the annual dues for the Council of State Governments. Of this amount, one-third (\$48,678) shall represent the dues payable on behalf of the Executive Department, one-third (\$48,678) shall represent the dues payable on behalf of the Judicial Department, and the remaining one-third (\$48,679) shall represent the dues payable on behalf of the Legislative Department. Of the amount for annual dues payable on behalf of the Legislative Department, \$13,908 each year shall be allocated at the discretion of the Senate Committee on Rules and \$34,771 each year shall be allocated at the discretion of the Speaker of the House of Delegates.				
Total for Virginia Commission on Intergovernmental Cooperation.....			<b>\$781,027</b>	<b>\$781,027</b>
Fund Sources: General.....		\$781,027	\$781,027	
<b>§ 1-13. LEGISLATIVE DEPARTMENT REVERSION CLEARING ACCOUNT (102)</b>				
33.	Across the Board Reductions (71400).....		(\$194,600)	(\$194,600)
	Across the Board Reduction (71401).....	(\$194,600)	(\$194,600)	
	Fund Sources: General.....	(\$194,600)	(\$194,600)	
Authority: Discretionary Inclusion.				
34.	Enactment of Laws (78200).....		<b>\$610,315</b>	<b>\$610,315</b>
	Undesignated Support for Enactment of Laws Services (78205).....	<b>\$610,315</b>	<b>\$1,005,315</b>	<b>\$710,315</b>
	Fund Sources: General.....	<b>\$610,315</b>	<b>\$610,315</b>	<b>\$710,315</b>
Authority: Discretionary Inclusion.				
A. Transfers out of this appropriation may be made to fund unanticipated costs in the budgets of legislative agencies or other such costs approved by the Joint Rules Committee.				
B. Included within this appropriation is \$200,000 the first year and \$200,000 the second year from the general fund and one position for the operation of the Capitol Guides program. The allocation of these funds shall be subject to the approval of the Committee on Joint Rules. The Capitol Guides program shall be jointly administered by the Clerk of the House of Delegates and the Clerk of the Senate.				
C. Included within this appropriation is \$250,000 the first year and \$250,000 the second year from the general fund to support the development of the Women's Monument on Capitol Square.				
<i>D. Included within this appropriation is \$395,000 the first year and \$100,000 the second year from the general fund to provide funds, to be matched at a rate of fifty percent by the Virginia Historical Society, that support efforts to commemorate the 100th anniversary of the women's right to vote.</i>				
Total for Legislative Department Reversion Clearing Account.....			<b>\$415,715</b>	<b>\$415,715</b>
			<b>\$810,715</b>	<b>\$515,715</b>
General Fund Positions.....		1.00	1.00	

ITEM 34.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Position Level.....	1.00	1.00		
Fund Sources: General.....	\$415,715 \$810,715	\$415,715 \$515,715		
TOTAL FOR LEGISLATIVE DEPARTMENT.....			<b>\$96,276,428</b> <b>\$101,685,070</b>	<b>\$96,176,428</b> <b>\$101,316,428</b>
General Fund Positions.....	597.50	<del>597.50</del> 600.50		
Nongeneral Fund Positions.....	32.50	32.50		
Position Level.....	630.00	<del>630.00</del> 633.00		
Fund Sources: General.....	\$92,593,939 \$97,738,939	\$92,493,939 \$97,383,939		
Special.....	<del>\$3,425,891</del> \$3,689,533	<del>\$3,425,891</del> \$3,675,891		
Trust and Agency.....	\$118,945	\$118,945		
Federal Trust.....	\$137,653	\$137,653		

ITEM 35.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

**JUDICIAL DEPARTMENT**

**§ 1-14. SUPREME COURT (111)**

35.	Pre-Trial, Trial, and Appellate Processes (32100).....			\$14,924,170	\$14,924,170
	Appellate Review (32101).....	\$9,064,345	\$9,064,345		
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$5,859,825	\$5,859,825		
	Fund Sources: General.....	\$14,744,890	\$14,744,890		
	Special.....	\$179,280	\$179,280		

Authority: Article VI, Sections 1 through 6, Constitution of Virginia; Title 17.1, Chapter 3 and § 19.2-163, Code of Virginia.

A. Out of the amounts for Appellate Review shall be paid:

1. The annual salary of the Chief Justice, \$196,517 from July 1, 2018; to ~~November 24, 2018~~ June 9, 2019, ~~196,517~~ \$200,447 from ~~November 25, 2018; to November 24, 2019; and \$196,517 from November 25, 2019; June 10, 2019~~ to June 30, 2020.

2. The annual salaries of the six (6) Associate Justices, each \$184,327 from July 1, 2018; to ~~November 24, 2018, 184,327~~ June 9, 2019, ~~from November 25, 2018; to November 24, 2019; and \$184,327 from November 25, 2019; \$188,014~~ from June 10, 2019 to June 30, 2020.

3. To each justice, \$13,500 the first year and \$13,500 the second year, for expenses not otherwise reimbursed, said expenses to be paid out of the current appropriation to the Court.

B. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2018, in the appropriation made in Item 37, Chapter 836, Acts of Assembly of 2017, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2019.

C.1. Out of the amounts appropriated in this Item, \$5,175,000 the first year and \$5,175,000 the second year from the general fund is included for increased reimbursements for court-appointed counsel pursuant to § 19.2-163, Code of Virginia.

2. The Director, Department of Planning and Budget, shall upon the request of the Executive Secretary of the Supreme Court of Virginia, transfer from the second year amount identified in Paragraph C.1. of this item to the first year an amount equal to the estimated shortfall for criminal fund waivers in the first year. Any such request shall be submitted by the Executive Secretary no later than May 1st of any fiscal year. Any amounts transferred shall be communicated to the Chairmen of the House Appropriations and Senate Finance Committees no later than 30 days following any such transfer.

D. The Executive Secretary of the Supreme Court of Virginia shall encourage training of Juvenile and Domestic Relations District Court judges regarding the options available for court-ordered services for families in truancy cases prior to the initiation of other remedies.

E. Out of the amounts appropriated in this Item, \$310,300 the first year and \$310,300 the second year from the general fund is included to cover the cost of fee changes to mediators appointed in any custody and support or visitation cases.

F. Notwithstanding the provisions of § 20-124.4, Code of Virginia, the fee paid to mediators shall be \$120 per appointment mediated. For such purpose, \$303,000 the first year and \$303,000 the second year from the general fund is included in the appropriation for this item.

36.	Law Library Services (32300).....			\$1,057,444	\$1,057,444
	Law Library Services (32301).....	\$1,057,444	\$1,057,444		
	Fund Sources: General.....	\$1,057,444	\$1,057,444		

Authority: §§ 42.1-60 through 42.1-64, Code of Virginia.

ITEM 37.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
37.	Adjudication Training, Education, and Standards (32600).....		\$899,140	\$899,140
	Judicial Training (32603).....	\$899,140		
	Fund Sources: General.....	\$899,140		
	Authority: Title 16.1, Chapter 9; Title 17.1, Chapter 7; §§ 2.2-4025, 19.2-38.1 and 19.2-43, Code of Virginia.			
38.	Administrative and Support Services (39900).....		\$32,225,031	<del>\$32,225,031</del> \$32,513,319
	General Management and Direction (39901).....	\$32,225,031	<del>\$32,225,031</del> \$32,513,319	
	Fund Sources: General.....	\$23,125,335	<del>\$23,125,335</del> \$23,413,623	
	Special.....	\$124,375	\$124,375	
	Dedicated Special Revenue.....	\$7,675,321	\$7,675,321	
	Federal Trust.....	\$1,300,000	\$1,300,000	

Authority: §§ 16.1-69.30, 16.1-69.33, 17.1-314 through 17.1-320 and 17.1-502, Code of Virginia.

A. The Executive Secretary of the Supreme Court shall submit an annual fiscal year summary, on or before September 1 of each year, to the Chairmen of the House Appropriations and Senate Finance Committees and to the Director, Department of Planning and Budget, which will report the number of individuals for whom legal or medical services were provided and the nature and cost of such services as are authorized for payment from the criminal fund or the involuntary mental commitment fund.

B. Notwithstanding the provisions of § 19.2-326, Code of Virginia, the amount of attorney's fees allowed counsel for indigent defendants in appeals to the Supreme Court shall be in the discretion of the Supreme Court.

C. The Chief Justice is authorized to reallocate legal support staff between the Supreme Court and the Court of Appeals of Virginia, in order to meet changing workload demands.

D. Prior to January 1 of each year, the Judicial Council and the Committee on District Courts are requested to submit a fiscal impact assessment of their recommendations for the creation of any new judgeships, including the cost of judicial retirement, to the Chairmen of the House and Senate Committees on Courts of Justice, and the House Appropriations and Senate Finance Committees.

E. Included in this Item is \$3,750,000 the first year and \$3,750,000 the second year from the general fund, which may support computer system improvements for the several circuit and district courts. The Executive Secretary of the Supreme Court shall submit an annual report to the Director, Department of Planning and Budget on or before September 1 of each year outlining the improvement projects undertaken and the project status of each project. Each project in the report should include the life to date cost of the project, the amount spent on the project in the most recently completed fiscal year, the year the project began, the estimated cost to complete the remainder of the project and an estimated project completion date.

F. Given the continued concern about providing adequate compensation levels for court-appointed attorneys providing criminal indigent defense in the Commonwealth, the Executive Secretary of the Supreme Court, in conjunction with the Governor, Attorney General, Indigent Defense Commission, representatives of the Indigent Defense Stakeholders Group and Chairmen of the House and Senate Courts of Justice Committees, shall continue to study and evaluate all available options to enhance Virginia's Indigent Defense System.

G. In addition to any filing fee or other fee permitted by law, an electronic access fee may be charged for each case filed electronically pursuant to Rule 1:17 of the Rules of the Supreme Court of Virginia. The amount of this fee shall be set by the Supreme Court of Virginia. Moneys collected pursuant to this fee shall be deposited into the State Treasury to the credit of the Courts Technology Fund established pursuant to § 17.1-132, to be used



ITEM 38.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

the Department of General Services, is directed to develop a comprehensive plan that meets the future space needs of both courts around Capitol Square, which is acceptable to the Chief Justice of the Supreme Court of Virginia and the Chief Judge of the Court of Appeals of Virginia.

L. Included in this appropriation, \$175,321 the first year and \$175,321 the second year from nongeneral funds and two positions to support drug treatment court evaluation and monitoring. The source of funds is the Drug Offender Assessment Fund.

M. Included in the amounts appropriated for this item are \$400,000 the first year and \$400,000 the second year from the general fund to be allocated by the State Drug Treatment Court Advisory Committee for the establishment of drug courts in jurisdictions with high drug-related caseloads, or to increase funding provided to existing drug court programs experiencing high caseload growth.

N. Included in this appropriation is \$500,000 the first year and \$500,000 the second year from the general fund to support the creation and expansion of mental health court dockets in jurisdictions with high caseloads, to be allocated by the Virginia Supreme Court. The Executive Secretary of the Supreme Court shall evaluate and report the results of the expansion, as well as recommendations for expansion of mental health dockets to other courts, to the Secretaries of Public Safety and Homeland Security and Health and Human Resources, the Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2018.

O. The Executive Secretary shall convene a working group, to include a minimum of five circuit court clerks, to evaluate issues related to statewide adoption of electronic filing of civil cases in circuit courts, and the implementation of a statewide system through which images of nonconfidential records within civil case files in the circuit courts may be viewed by subscribers of that system. The evaluation shall include consideration of (i) the benefits of the availability of electronic case filing of civil cases in all circuit courts; (ii) the benefits of the adoption of one statewide electronic case filing system by all circuit courts; (iii) the benefits of a statewide system through which images of nonconfidential records within civil case files in the circuit courts may be viewed by subscribers via a single subscription for statewide access; (iv) the types of information to be made available to subscribers of the system or, alternatively, excluded from the system; (v) how a subscription process may be established to provide a clear definition of the duties of the Office of the Executive Secretary and each circuit court clerk with respect to implementation and operation of the system; (vi) the estimated one-time and ongoing costs of all circuit courts implementing and operating a) an electronic case filing system, and b) one statewide electronic case filing system for use by all circuit courts; (vii) the estimated one-time and ongoing costs of implementing and operating a statewide system through which images of nonconfidential records within civil case files in the circuit courts may be viewed by subscribers of that system via a single subscription for statewide access; (viii) a fee schedule for subscribers and how such fee schedule should be established, and (ix) any potential loss of revenues by circuit court clerks reasonably attributed to the implementation of one statewide electronic case filing system and a statewide system through which images of nonconfidential records within civil case files in the circuit courts may be viewed by subscribers of that system. The Executive Secretary shall provide a summary of the findings and recommendations of the working group to the Chairmen of the House Committees on Courts of Justice and Appropriations, and the Senate Committees on Courts of Justice and Finance no later than November 30, 2018.

*P.1. There is hereby created in the state treasury a special nonreverting fund to be known as the Attorney Wellness Fund, hereinafter referred to as the Fund. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of the fiscal year shall not revert to the general fund, but shall remain in the Fund. Except for transfers pursuant to this Item, there shall be no transfers out of the Fund, including transfers to the general fund.*

*2. Notwithstanding the provisions of § 54.1-3912, Code of Virginia, in addition to any other fee permitted by law, the Supreme Court of Virginia may adopt rules assessing members of the Virginia State Bar an annual fee of up to \$30 to be deposited in the State Bar Fund and transferred to the Attorney Wellness Fund.*

ITEM 38.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p><i>3. Moneys in the Fund shall be allocated at the direction of the Supreme Court of Virginia solely for the purposes of wellness initiatives for attorneys, judges, and law students, to prevent substance abuse and behavioral health disorders. The revenue raised in support of the Fund shall not be used to supplant current funding to the judicial branch. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the Executive Secretary of the Supreme Court of Virginia.</i></p> <p><i>Q. On or before June 30, 2019, the Director, Department of Planning and Budget, shall authorize the reversion to the general fund of \$4,500,000 the first year from the balances of the Criminal Fund.</i></p>				
Total for Supreme Court.....			<b>\$49,105,785</b>	<b>\$49,105,785</b> <b>\$49,394,073</b>
General Fund Positions.....	150.63	150.63		
Nongeneral Fund Positions.....	8.00	8.00		
Position Level.....	158.63	158.63		
Fund Sources: General.....	\$39,826,809	\$39,826,809 \$40,115,097		
Special.....	\$303,655	\$303,655		
Dedicated Special Revenue.....	\$7,675,321	\$7,675,321		
Federal Trust.....	\$1,300,000	\$1,300,000		
<b>Court of Appeals of Virginia (125)</b>				
39. Pre-Trial, Trial, and Appellate Processes (32100).....			\$9,753,238	\$9,753,238
Appellate Review (32101).....	\$9,753,238	\$9,753,238		
Fund Sources: General.....	\$9,753,238	\$9,753,238		
<p>Authority: Title 17.1, Chapter 4 and § 19.2-163, Code of Virginia.</p> <p>A. Out of the amounts in this Item for Appellate Review shall be paid:</p> <p>1. 1. The annual salary of the Chief <del>Judge</del>Justice, \$178,110 from July 1, 2018; to <del>November 24, 2018</del>June 9, 2019, \$178,110<del>181,612</del> from <del>November 25, 2018; to November 24, 2019;</del> and \$178,110 from <del>November 25, 2019; June 10, 2019</del> to June 30, 2020.</p> <p>2. The annual salaries of the ten (10) judges, each at \$175,110 from July 1, 2018; to <del>November 24, 2018</del>June 9, 2019, \$175,110<del>178,612</del> from <del>November 25, 2018; to November 24, 2019;</del> and \$175,110 from <del>November 25, 2019; June 10, 2019</del> to June 30, 2020.</p> <p>3. Salaries of the judges are to be 95 percent of the salaries of justices of the Supreme Court except for the Chief Judge, who shall receive an additional \$3,000 annually.</p> <p>4. To each judge, \$6,500 the first year and \$6,500 the second year, for expenses not otherwise reimbursed, said expenses to be paid out of the current appropriation to the Court.</p> <p>B. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2018, in the appropriation made in Item 41, Chapter 836, Acts of Assembly of 2017, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2019.</p> <p>C. The amount of attorney's fees allowed counsel to indigent defendants in appeals to the Court of Appeals shall be in the discretion of the court.</p>				
Total for Court of Appeals of Virginia.....			<b>\$9,753,238</b>	<b>\$9,753,238</b>
General Fund Positions.....	69.13	69.13		
Position Level.....	69.13	69.13		
Fund Sources: General.....	\$9,753,238	\$9,753,238		

ITEM 39.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>Circuit Courts (113)</b>					
40.	Pre-Trial, Trial, and Appellate Processes (32100)....			\$113,976,455	\$117,024,675
	Trial Processes (32103).....	\$49,546,226	\$52,434,446		
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$64,430,229	\$64,590,229		
	Fund Sources: General.....	\$113,971,455	\$117,019,675		
	Special.....	\$5,000	\$5,000		

Authority: Article VI, Section 1, Constitution of Virginia; Title 17.1, Chapter 5; § 19.2-163, Code of Virginia.

A. Out of the amounts in this Item for Trial Processes shall be paid:

1. The annual salaries of Circuit Court judges, each at \$171,120 from July 1, 2018; to ~~November 24, 2018~~ *June 9, 2019*, ~~\$171,120~~ *174,542* from ~~November 25, 2018; to November 24, 2019; and \$171,120 from November 25, 2019; June 10, 2019~~ to June 30, 2020. Such salaries shall represent the total compensation from all sources for Circuit Court judges.

2. Expenses necessarily incurred for the position of judge of the Circuit Court, including clerk hire not exceeding \$1,500 a year for each judge.

3. The state's share of expenses incident to the prosecution of a petition for a writ of habeas corpus by an indigent petitioner, including payment of counsel fees as fixed by the Court; the expenses shall be paid upon receipt of an appropriate order from a Circuit Court.

4. A circuit court judge shall only be reimbursed for mileage for commuting if the judge has to travel to a courthouse in a county or city other than the one in which the judge resides and the distance between the judge's residence and the courthouse is greater than 25 miles.

B. The Chief Circuit Court Judge shall restrict the appointment of special justices to conduct involuntary mental commitment hearings to those unusual instances when no General District Court or Juvenile and Domestic Relations District Court Judge can be made available or when the volume of the hearings would require more than eight hours a week.

C. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2018, in the appropriation made in Item 42, Chapter 836, Acts of Assembly of 2017, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2019.

D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.

E.1. General fund appropriations for Other Court Costs and Allowances (Criminal Fund) total ~~\$124,384,073~~ *124,909,073* the first year and ~~\$124,384,073~~ *124,909,073* the second year in this Item and Items 35, 39, 41, 42 and 43.

2. The Chief Justice of the Supreme Court of Virginia shall determine how the amounts appropriated to Other Courts Costs and Allowances (Criminal Fund) will be allocated, consistent with statutory provisions in the Code of Virginia. Funds within these appropriations are to be used to fund fully the statutory caps on compensation applicable to attorneys appointed by the court to defend criminal charges. Should this appropriation not be sufficient to fund fully all of the statutory caps on compensation as established by § 19.2-163, Code of Virginia, that this appropriation shall be applied first to fully fund the statutory caps for the most serious noncapital felonies and then, should funds still remain in this appropriation, to the other statutory caps, in declining order of the severity of the charges to which each cap is applicable.

3. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to

ITEM 40.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	exceed \$880,000 the first year and not to exceed \$880,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission, for the administration of the physical evidence recovery kit (PERK) program.			
	4. Notwithstanding the provisions of § 19.2-163, Code of Virginia, the amount of compensation allowed to counsel appointed by the court to defend a felony charge that may be punishable by death shall be calculated on an hourly basis at a rate set by the Supreme Court of Virginia.			
	F.1. For any hearing conducted pursuant to § 19.2-306, Code of Virginia, the circuit court shall have presented to it a sentencing revocation report prepared on a form designated by the Virginia Criminal Sentencing Commission indicating the condition or conditions of the suspended sentence, good behavior, or probation supervision that the defendant has allegedly violated.			
	2. For any hearing conducted pursuant to § 19.2-306 in which the defendant is cited for violation of a condition or conditions other than a new criminal offense conviction, the court shall also have presented to it the applicable probation violation guideline worksheets established pursuant to Chapter 1042 of the Acts of Assembly 2003. The court shall review and consider the suitability of the discretionary probation violation guidelines. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In hearings in which the court imposes a sentence that is either greater or less than that indicated by the discretionary probation violation guidelines, the court shall file with the record of the case a written explanation of such departure.			
	3. Following any hearing conducted pursuant to § 19.2-306 and the entry of a final order, the clerk of the circuit court in which the hearing was held shall cause a copy of such order or orders, the original sentencing revocation report, any applicable probation violation guideline worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection F.2., to be forwarded to the Virginia Criminal Sentencing Commission within 30 days.			
	4. The failure to follow any or all of the provisions specified in F.1. through F.3 or the failure to follow any or all of these provisions in the prescribed manner shall not be reviewable on appeal or the basis of any other post-hearing relief.			
	G. Mandated changes or improvements to court facilities pursuant to § 15.2-1643, Code of Virginia, or otherwise, including any new construction, shall be delayed at the request of the local governing body in which the court is located until June 30, 2020. The provisions of this item shall not apply to facilities that were subject to litigation on or before November 30, 2008.			
	H. In order to reduce expenditures through the Criminal Fund for court-appointed counsel, effective July 1, 2014, compensation paid to attorneys appointed pursuant to Virginia Code § 53.1-40 shall be limited to \$55 per hour, with a maximum per diem compensation of \$200, plus reasonable expenses, to be paid from the Criminal Fund.			
	I.1. Notwithstanding the provisions of § 19.2-155, Code of Virginia, in cases where an Attorney for the Commonwealth must recuse himself from a case or a special prosecutor must be appointed, the circuit court judge must appoint an Attorney for the Commonwealth or an Assistant Attorney for the Commonwealth from another jurisdiction. If the circuit court judge determines that the appointment of such Attorney for the Commonwealth or such Assistant Attorney for the Commonwealth is not appropriate or that such an attorney or assistant is unavailable then the judge must request approval from the Executive Secretary of the Supreme Court for an exception to this requirement.			
	2. The Executive Secretary of the Supreme Court shall include in the annual report required in paragraph A. of Item 38 information on the number of exceptions granted related to special prosecutors and the related expenditures.			
	J. Notwithstanding any other provisions of Chapter 23 of Title 8.1 of the Code of Virginia, a reasonable fee not to exceed \$150 may be charged by Commissioners of Accounts for any foreclosures on a timeshare estate to reimburse them for the reasonable costs associated therewith.			

ITEM 40.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
K. Sufficient funding is provided in the second year appropriation for this item to fill all circuit court judgeships authorized pursuant to § 17.1-507, Code of Virginia, as of July 1, 2019.				
Total for Circuit Courts.....			\$113,976,455	\$117,024,675
General Fund Positions.....	165.00	165.00		
Position Level.....	165.00	165.00		
Fund Sources: General.....	\$113,971,455	\$117,019,675		
Special.....	\$5,000	\$5,000		

**General District Courts (114)**

41.	Pre-Trial, Trial, and Appellate Processes (32100)....			\$117,958,469	\$120,337,475
	Trial Processes (32103).....	\$96,960,139	\$99,339,145		
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$15,069,165	\$15,069,165		
	Involuntary Mental Commitments (32105).....	\$5,929,165	\$5,929,165		
	Fund Sources: General.....	\$117,958,469	\$120,337,475		

Authority: Article VI, Section 8, Constitution of Virginia; §§ 16.1-69.1 through 16.1-137, 19.2-163 and 37.2-809 et seq., Code of Virginia.

A. Out of the amounts in this Item for Trial Processes shall be paid:

1. The annual salaries of all General District Court judges, \$154,017 from July 1, 2018; to ~~November 24, 2018~~ June 9, 2019, \$154,017 157,097 from ~~November 25, 2018; to November 24, 2019; and \$154,017 from November 25, 2019; June 10, 2019~~ to June 30, 2020. Such salary shall be 90 percent of the annual salary fixed by law for judges of the Circuit Courts and shall represent the total compensation for General District Court Judges and incorporate all supplements formerly paid by the various localities.

2. The salaries of substitute judges and court personnel.

B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2018, in the appropriation made in Item 43, Chapter 836, Acts of Assembly of 2017 in the item details Other Court Costs and Allowances (Criminal Fund) and Involuntary Mental Commitments and the balances remaining in these item details on June 30, 2019.

C. Any balance, or portion thereof, in the item detail Involuntary Mental Commitments, may be transferred between Items 41, 42, 43, and 300, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.

D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.

E. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to exceed \$40,000 the first year and not to exceed \$40,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission, for the administration of the physical evidence recovery kit (PERK) program.

F. A district court judge shall only be reimbursed for mileage for commuting if the judge has to travel to a courthouse in a county or city other than the one in which the judge resides and the distance between the judge's residence and the courthouse is greater than 25 miles.

G. Upon the retirement or separation from employment of any chief general district court clerks from the 7th judicial district or the 13th judicial district, any vacant chief clerk positions in excess of one chief clerk for each general district court shall be reallocated by

ITEM 41.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
the Committee on District Courts to district courts with the highest documented unmet staffing requirements.				
H. Sufficient funding is provided in the second year appropriation for this item to fill all general district court judgeships authorized pursuant to § 16.1-69.6:1, Code of Virginia, as of July 1, 2019.				
			<b>\$117,958,469</b>	<b>\$120,337,475</b>
	Total for General District Courts.....			
	General Fund Positions.....	1,056.10		1,056.10
	Position Level.....	1,056.10		1,056.10
	Fund Sources: General.....	\$117,958,469		\$120,337,475
<b>Juvenile and Domestic Relations District Courts (115)</b>				
42.	Pre-Trial, Trial, and Appellate Processes (32100).....		\$98,711,729	\$102,676,739
	Trial Processes (32103).....	\$66,639,631		\$70,604,641
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$31,807,351		\$31,807,351
	Involuntary Mental Commitments (32105).....	\$264,747		\$264,747
	Fund Sources: General.....	\$98,711,729		\$102,676,739
Authority: Article VI, Section 8, Constitution of Virginia; §§ 16.1-69.1 through 16.1-69.58, 16.1-226 through 16.1-334, 19.2-163 and 37.2-809 through 37.2-813., Code of Virginia.				
A. Out of the amounts in this Item for Trial Processes shall be paid:				
1. The annual salaries of all full-time Juvenile and Domestic Relations District Court Judges, \$154,017 from July 1, 2018; to <del>November 24, 2018</del> June 9, 2019, <del>\$154,017</del> 157,097 from <del>November 25, 2018; to November 24, 2019; and \$154,017 from November 25, 2019; June 10, 2019</del> to June 30, 2020. Such salary shall be 90 percent of the annual salary fixed by law for judges of the Circuit Courts and shall represent the total compensation for Juvenile and Domestic Relations District Court Judges.				
2. The salaries of substitute judges and court personnel.				
B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2018, in the appropriation made in Item 44, Chapter 836, Acts of Assembly of 2017, in the Item details Other Court Costs and Allowances (Criminal Fund) and Involuntary Mental Commitments and the balances remaining in these item details on June 30, 2019.				
C. Any balance, or portion thereof, in the Item detail Involuntary Mental Commitments, may be transferred between Items 41, 42, 43, and 300, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.				
D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.				
E. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to exceed \$870,000 the first year and not to exceed \$870,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission for the administration of the physical evidence recovery kit (PERK) program.				
F. Sufficient funding is provided in the second year appropriation for this item to fill all juvenile and domestic relations court judgeships authorized pursuant to § 16.1-69.6:1, Code of Virginia, as of July 1, 2019.				
	Total for Juvenile and Domestic Relations District Courts.....		<b>\$98,711,729</b>	<b>\$102,676,739</b>
	General Fund Positions.....	617.10		617.10
	Position Level.....	617.10		617.10

ITEM 42.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$98,711,729	\$102,676,739		
<b>Combined District Courts (116)</b>				
43. Pre-Trial, Trial, and Appellate Processes (32100)....			\$23,744,526	\$23,744,526
Trial Processes (32103).....	\$14,457,963	\$14,457,963		
Other Court Costs And Allowances (Criminal Fund) (32104).....	\$7,737,503	\$7,737,503		
Involuntary Mental Commitments (32105).....	\$1,549,060	\$1,549,060		
Fund Sources: General.....	\$23,744,526	\$23,744,526		
Authority: Article VI, Section 8, Constitution of Virginia, §§ 16.1-69.1 through 16.1-137, 16.1-226 through 16.1-334, 19.2-163, and 37.2-809 through 37.2-813, Code of Virginia.				
A. Out of the amounts in this Item for Trial Processes shall be paid the salaries of substitute judges and court personnel.				
B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2018, in the appropriation made in Item 45, Chapter 836, Acts of Assembly of 2017, in the item details Other Court Costs and Allowances (Criminal Fund) and Involuntary Mental Commitments and the balances remaining in these item details on June 30, 2019.				
C. Any balance, or portion thereof, in the Item detail Involuntary Mental Commitments, may be transferred between Items 41, 42, 43, and 300, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.				
D. The appropriation in this Item for Other Court Costs and Allowances shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.				
E. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to exceed \$95,000 the first year and not to exceed \$95,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission, for the administration of the physical evidence recovery kit (PERK) program.				
Total for Combined District Courts.....			<b>\$23,744,526</b>	<b>\$23,744,526</b>
General Fund Positions.....	204.55	204.55		
Position Level.....	204.55	204.55		
Fund Sources: General.....	\$23,744,526	\$23,744,526		
<b>Magistrate System (103)</b>				
44. Pre-Trial, Trial, and Appellate Processes (32100)....			\$33,859,000	\$33,859,000
Pre-Trial Assistance (32102).....	\$33,859,000	\$33,859,000		
Fund Sources: General.....	\$33,859,000	\$33,859,000		
Authority: Article VI, Section 8, Constitution of Virginia; Title 19.2, Chapter 3, Code of Virginia.				
Total for Magistrate System.....			<b>\$33,859,000</b>	<b>\$33,859,000</b>
General Fund Positions.....	446.20	446.20		
Position Level.....	446.20	446.20		
Fund Sources: General.....	\$33,859,000	\$33,859,000		
Grand Total for Supreme Court.....			<b>\$447,109,202</b>	<b>\$456,501,438</b> <b>\$456,789,726</b>
General Fund Positions.....	2,708.71	2,708.71		

ITEM 44.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Nongeneral Fund Positions.....	8.00	8.00		
Position Level.....	2,716.71	2,716.71		
Fund Sources: General.....	\$437,825,226	<del>\$447,217,462</del> \$447,505,750		
Special.....	\$308,655	\$308,655		
Dedicated Special Revenue.....	\$7,675,321	\$7,675,321		
Federal Trust.....	\$1,300,000	\$1,300,000		

**§ 1-15. BOARD OF BAR EXAMINERS (233)**

45.	Regulation of Professions and Occupations (56000)...		\$1,716,606	\$1,716,606
	Lawyer Regulation (56019).....	\$1,716,606	\$1,716,606	
	Fund Sources: Special.....	\$1,716,606	\$1,716,606	
Authority: Title 54.1, Chapter 39, Articles 3 and 4 and § 54.1-3934, Code of Virginia.				
The State Comptroller shall continue the Board of Bar Examiners Fund on the Cardinal system. Revenues collected from fees paid by applicants for admission to the bar shall be deposited into the Board of Bar Examiners Fund. The source of nongeneral funds included in this item is the Board of Bar Examiners Fund. Interest generated by the fund shall be retained by the fund.				
	Total for Board of Bar Examiners.....		<b>\$1,716,606</b>	<b>\$1,716,606</b>
	Nongeneral Fund Positions.....	9.00		9.00
	Position Level.....	9.00		9.00
	Fund Sources: Special.....	\$1,716,606		\$1,716,606

**§ 1-16. JUDICIAL INQUIRY AND REVIEW COMMISSION (112)**

46.	Adjudication Training, Education, and Standards (32600).....		\$656,142	\$656,142
	Judicial Standards (32602).....	\$656,142	\$656,142	
	Fund Sources: General.....	\$656,142	\$656,142	
Authority: Article VI, Section 10, Constitution of Virginia; Title 17.1, Chapter 9, Code of Virginia.				
	Total for Judicial Inquiry and Review Commission....		<b>\$656,142</b>	<b>\$656,142</b>
	General Fund Positions.....	3.00		3.00
	Position Level.....	3.00		3.00
	Fund Sources: General.....	\$656,142		\$656,142

**§ 1-17. INDIGENT DEFENSE COMMISSION (848)**

47.	Legal Defense (32700).....		\$51,298,554	<del>\$51,297,183</del> \$51,934,158
	Criminal Indigent Defense Services (32701).....	\$43,967,963	<del>\$43,966,592</del> \$44,603,567	
	Capital Indigent Defense Services (32702).....	\$3,928,516	\$3,928,516	
	Legal Defense Regulatory Services (32703).....	\$221,798	\$221,798	
	Administrative Services (32722).....	\$3,180,277	\$3,180,277	
	Fund Sources: General.....	\$51,286,554	<del>\$51,285,183</del> \$51,922,158	
	Special.....	\$12,000	\$12,000	

Authority: §§ 19.2-163.01 through 19.2-163.8, Code of Virginia

A. Pursuant to § 19.2-163.01, Code of Virginia, the Executive Director of the Indigent

ITEM 47.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Defense Commission shall serve at the pleasure of the commission.				
B. Out of the amounts in this Item, \$200,000 the first year and \$200,000 the second year from the general fund is provided to support two positions to enforce and monitor compliance with the new Standards of Practice for court-appointed counsel.				
C. Out of the amounts in this Item, \$186,463 the first year and \$185,092 the second year from the general fund is included for the financing costs of purchasing computers through the state's master equipment lease purchase program.				
Total for Indigent Defense Commission.....			\$51,298,554	\$51,297,183 \$51,934,158
General Fund Positions.....	546.00	<del>546.00</del> 566.00		
Position Level.....	546.00	<del>546.00</del> 566.00		
Fund Sources: General.....	\$51,286,554	<del>\$51,285,183</del> \$51,922,158		
Special.....	\$12,000	\$12,000		

**§ 1-18. VIRGINIA CRIMINAL SENTENCING COMMISSION (160)**

48.	Adjudicatory Research, Planning, and Coordination (32400).....			\$1,196,371	\$1,196,371
	Adjudicatory Research And Planning (32403).....	\$1,196,371	\$1,196,371		
	Fund Sources: General.....	\$1,126,340	\$1,126,340		
	Special.....	\$70,031	\$70,031		

Authority: Title 17.1, Chapter 8, Code of Virginia

A. For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of \$50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.

B. The clerk of each circuit court shall provide the Virginia Criminal Sentencing Commission case data in an electronic format from its own case management system or the statewide Circuit Case Management System. If the statewide Circuit Case Management System is used by the clerk, when requested by the Commission, the Executive Secretary of the Supreme Court shall provide for the transfer of such data to the Commission. The Commission may use the data for research, evaluation, or statistical purposes only and shall ensure the confidentiality and security of the data. The Commission shall only publish statistical reports and analyses based on this data as needed for its annual reports or for other reports as required by the General Assembly. The Commission shall not publish personal or case identifying information, including names, social security numbers and dates of birth, that may be included in the data from a case management system. Upon transfer to the Virginia Criminal Sentencing Commission, such data shall not be subject to the Virginia Freedom of Information Act. Except for the publishing of personal or case identifying information, including names, social security numbers and dates of birth, the restrictions in this section shall not prohibit the Commission from sharing aggregate data when requested by a member of the General Assembly, the Office of the Attorney General, the Office of the Governor, or a member of the Governor's Cabinet.

Total for Virginia Criminal Sentencing Commission.....			\$1,196,371	\$1,196,371
General Fund Positions.....	10.00	10.00		
Position Level.....	10.00	10.00		
Fund Sources: General.....	\$1,126,340	\$1,126,340		

ITEM 48.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

Special.....	\$70,031	\$70,031		
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**§ 1-19. VIRGINIA STATE BAR (117)**

49.	Legal Defense (32700).....			\$12,141,473	<del>\$12,141,473</del> \$13,416,473
	Criminal Indigent Defense Services (32701).....	\$352,500	\$352,500		
	Indigent Defense, Civil (32704).....	\$11,788,973	<del>\$11,788,973</del> \$13,063,973		
	Fund Sources: General.....	\$4,791,473	<del>\$4,791,473</del> \$6,066,473		
	Special.....	\$7,350,000	\$7,350,000		

Authority: § 17.1-278, Code of Virginia.

A. The Virginia State Bar and the Legal Services Corporation of Virginia shall not use funds provided for in this act, and those available from financial institutions pursuant to § 54.1-3916, Code of Virginia, to file lawsuits on behalf of aliens present in the United States in violation of law.

B.1. The amounts for Indigent Defense, Civil, include up to \$75,000 the first year and up to \$75,000 the second year from the general fund for the Community Tax Law Project, to provide indigent defense services in matters related to taxation disputes, and educational services involving the rights and responsibilities of taxpayers.

2. The amounts for Indigent Defense, Civil, include up to \$4,350,000 the first year and up to ~~\$4,350,000~~\$5,625,000 the second year from the general fund to provide grants for high quality civil legal assistance to low income Virginians and to promote equal access to justice.

3. The amounts for Indigent Defense, Criminal, include up to \$352,500 the first year and up to \$352,500 the second year from the general fund to provide grants to the Virginia Capital Representation Resource Center for representation to people sentenced to death in Virginia and to promote equal access to justice.

C. The Virginia State Bar and the Legal Services Corporation of Virginia shall annually, on or about January 1, provide a report to the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget regarding the status of legal services assistance programs in the Commonwealth. The report shall include, but not be limited to, efforts to maintain and improve the accuracy of caseload data, case opening and case closure information, and program activity levels as it relates to clients.

50.	Regulation of Professions and Occupations (56000)...			\$15,240,451	\$15,240,451
	Lawyer Regulation (56019).....	\$15,240,451	\$15,240,451		
	Fund Sources: Dedicated Special Revenue.....	\$15,240,451	\$15,240,451		

Authority: Title 54.1, Chapter 39, Article 2 and §§ 54.1-3935 through 54.1-3938, Code of Virginia.

A. It is the intention of the General Assembly that the Virginia State Bar strictly direct its activities toward the purposes of regulating the legal profession and improving the quality of legal services available to the people of the Commonwealth, and that, insofar as reasonably possible, the Virginia State Bar shall refrain from commercial or other undertakings not necessarily or reasonably related to the above stated purposes.

B. Out of the amounts appropriated for this Item, \$1,000,000 the first year and \$1,000,000 the second year from revenues generated from the assessment of annual fees by the Supreme Court of Virginia upon members of the Virginia State Bar, pursuant to Chapter 847, 2007 Acts of Assembly, is provided for transfer to the Clients' Protection Fund of the Virginia State Bar.

C. The Virginia State Bar shall review its member fee structure and make changes necessary to ensure fees are set at amounts needed only to cover costs and to provide for an appropriate balance.

ITEM 50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Total for Virginia State Bar.....			\$27,381,924	<del>\$27,381,924</del> \$28,656,924
Nongeneral Fund Positions.....	89.00	89.00		
Position Level.....	89.00	89.00		
Fund Sources: General.....	\$4,791,473	<del>\$4,791,473</del> \$6,066,473		
Special.....	\$7,350,000	\$7,350,000		
Dedicated Special Revenue.....	\$15,240,451	\$15,240,451		
TOTAL FOR JUDICIAL DEPARTMENT.....			\$529,358,799	<del>\$538,749,664</del> \$540,949,927
General Fund Positions.....	3,267.71	<del>3,267.71</del> 3,287.71		
Nongeneral Fund Positions.....	106.00	106.00		
Position Level.....	3,373.71	<del>3,373.71</del> 3,393.71		
Fund Sources: General.....	\$495,685,735	<del>\$505,076,600</del> \$507,276,863		
Special.....	\$9,457,292	\$9,457,292		
Dedicated Special Revenue.....	\$22,915,772	\$22,915,772		
Federal Trust.....	\$1,300,000	\$1,300,000		

ITEM 51.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>EXECUTIVE DEPARTMENT</b>				
<b>EXECUTIVE OFFICES</b>				
<b>§ 1-20. OFFICE OF THE GOVERNOR (121)</b>				
51.	Administrative and Support Services (79900).....		\$4,345,601	\$4,345,601
	General Management and Direction (79901).....	\$4,345,601	\$4,345,601	
	Fund Sources: General.....	\$4,345,601	\$4,345,601	
	Authority: Article V, Constitution of Virginia; Title 2.2, Chapter 1, Code of Virginia.			
	A. Out of this appropriation shall be paid the salary of the Governor, \$175,000 the first year and \$175,000 the second year.			
	B. Out of the amounts for General Management and Direction, \$75,000 each year is included for the Governor's discretionary expenses.			
52.	Historic and Commemorative Attraction Management (50200).....		\$775,566	\$775,566
	Executive Mansion Operations (50207).....	\$775,566	\$775,566	
	Fund Sources: General.....	\$775,566	\$775,566	
	Authority: Title 2.2, Chapter 1, Code of Virginia.			
53.	Governmental Affairs Services (70100).....		\$504,883	\$504,883
	Intergovernmental Relations (70101).....	\$504,883	\$504,883	
	Fund Sources: General.....	\$347,307	\$347,307	
	Commonwealth Transportation.....	\$157,576	\$157,576	
	Authority: Title 2.2, Chapter 3, Code of Virginia.			
54.	Disaster Planning and Operations (72200).....		a sum sufficient	
	Disaster Operations (72202).....	a sum sufficient		
	Disaster Assistance (72203).....	a sum sufficient		
	Authority: Title 44, Chapter 3.2, Code of Virginia.			
	A.1. The amount for Disaster Assistance is from all funds of the state treasury, not constitutionally restricted, and is to be effective only in the event of a declared state of emergency or authorization by the Governor of the sum sufficient, pursuant to § 44-146.28, Code of Virginia. Any appropriation authorized by this Item shall be transferred to state agencies for payment of eligible costs according to written directions of the Governor or by such other person or persons as may be designated by him for this purpose.			
	2. Any amount authorized for expenditure pursuant to § 44-146.28, Code of Virginia, shall be paid to eligible jurisdictions in accordance with guidelines and procedures established by the Department of Emergency Management, pursuant to § 44-146.28, Code of Virginia.			
	3. <i>The amount calculated for disaster assistance for any event provided under this authority shall be made in consultation with the Secretary of Finance, and, as deemed appropriate by the Secretary, the Department of Planning and Budget.</i>			
	B. In the event of a Presidentially declared disaster, the state and local share of any federal assistance, hazard mitigation, or flood control programs in which the state participates will be determined in accordance with the procedures in the "Commonwealth of Virginia Emergency Operations Plan, Basic Plan," promulgated by the Department of Emergency Management. The state share of any such program shall be no less than 10 percent.			
	Total for Office of the Governor.....		<b>\$5,626,050</b>	<b>\$5,626,050</b>
	General Fund Positions.....	42.67	42.67	

ITEM 54.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Nongeneral Fund Positions.....	1.33	1.33		
Position Level.....	44.00	44.00		
Fund Sources: General.....	\$5,468,474	\$5,468,474		
Commonwealth Transportation.....	\$157,576	\$157,576		

**§ 1-21. LIEUTENANT GOVERNOR (119)**

55.	Administrative and Support Services (79900).....			\$378,564	\$378,564
	General Management and Direction (79901).....	\$378,564	\$378,564		
	Fund Sources: General.....	\$378,564	\$378,564		
<p>Authority: Article V, Sections 13, 14, and 16, Constitution of Virginia; and Title 24.2, Chapter 2, Article 3, Code of Virginia.</p> <p>Out of this appropriation shall be paid:</p> <ol style="list-style-type: none"> <li>1. The salary of the Lieutenant Governor, \$36,321 the first year and \$36,321 the second year;</li> <li>2. Expenses of the Lieutenant Governor during sessions of the General Assembly on the same basis as for the members of the General Assembly;</li> <li>3. Salaries and benefits for compensation of up to three staff positions in the Office of the Lieutenant Governor.</li> </ol>					
	Total for Lieutenant Governor.....			<b>\$378,564</b>	<b>\$378,564</b>
	General Fund Positions.....	4.00	4.00		
	Position Level.....	4.00	4.00		
	Fund Sources: General.....	\$378,564	\$378,564		

**§ 1-22. ATTORNEY GENERAL AND DEPARTMENT OF LAW (141)**

56.	Legal Advice (32000).....			\$35,281,792	\$34,488,235
	State Agency/Local Legal Assistance and Advice (32002).....	\$35,281,792	\$34,488,235		
	Fund Sources: General.....	\$21,638,570	\$21,638,570		
	Special.....	\$11,598,833	\$11,598,833		
	Federal Trust.....	\$2,044,389	\$1,250,832		

Authority: Title 2.2 Chapter 5, Code of Virginia.

A. Out of this appropriation shall be paid:

1. The salary of the Attorney General, \$150,000 the first year and \$150,000 the second year.
2. Expenses of the Attorney General not otherwise reimbursed, \$9,000 each year in equal monthly installments.
3. Salary expenses necessary to provide legal services pursuant to Title 2.2, Chapter 5, Code of Virginia.

B. Out of this appropriation, \$738,536 the first year and \$738,536 the second year from the general fund is designated for efforts to enforce the 1998 Tobacco Master Settlement Agreement and Article 1 (§ 3.2-4200, et seq.), Chapter 42, Title 3.2, Code of Virginia. The Department of Law shall be responsible for enforcement of Article 1 (§ 3.2-4200, et seq.), Chapter 42, Title 3.2, Code of Virginia and the 1998 Tobacco Master Settlement Agreement. The general fund shall be reimbursed on a proportional basis from the Tobacco Indemnification and Community Revitalization Fund and the Virginia Tobacco Settlement Fund for costs associated with the enforcement of the 1998 Tobacco Master Settlement Agreement pursuant to transfers directed by Item 473, paragraphs A.2 and B.2,

ITEM 56.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>and § 3-1.01, Paragraph N of this act.</p> <p>C. Upon notification by the Attorney General, agencies that administer programs which are funded wholly or partially from nongeneral fund appropriations shall transfer to the Department of Law the necessary funds to cover the costs of legal services that are related to such nongeneral funds. The Attorney General, in consultation with the respective agency heads, shall determine the amounts for transfer. It is the intent of the General Assembly that legal services provided by the Office of the Attorney General for general fund-supported programs shall be provided out of this appropriation.</p> <p>D. At the request of the Attorney General, the Director, Department of Planning and Budget, shall provide an amount not to exceed \$100,000 per year from the Miscellaneous Contingency Reserve Account to pay the compensation, fees, and expenses of (i) counsel appointed by the Office of the Attorney General in actions brought pursuant to § 15.2-1643, Code of Virginia, to cause court facilities to be made secure, or put in good repair, or rendered otherwise safe, and (ii) counsel representing court personnel, including clerks, judges, and Justices in actions arising out of their official duties.</p> <p>E.1. Pursuant to Chapter 577 of the Acts of Assembly of 2008, the Office of the Attorney General shall provide legal service in civil matters and consultation and legal advice in suits and other legal actions to soil and water conservation district directors and districts upon the request of those district directors or districts at no charge, inclusive of all fees, expenses, or other costs associated with litigation, excluding the payment of damages.</p> <p>2. If the Office of the Attorney General is unable to provide legal services to the soil and water conservation districts, and as a result the districts incur costs from retaining other counsel, then the Director of the Department of Planning and Budget shall transfer general fund appropriations from the Office of the Attorney General to the Department of Conservation and Recreation in an amount equal to the cost incurred by the soil and water conservation districts to be used to reimburse the districts for costs incurred.</p> <p>F. The Attorney General shall prepare and submit a report to the Chairmen of the House Appropriations and Senate Finance Committees by November 1 of each year detailing expenditures in the prior fiscal year for special outside counsel by any executive branch agencies. The report shall include the reasoning why outside counsel is necessary, the hourly rate charged by outside counsel, total expenditures, and funding source.</p> <p><i>G. Except as otherwise specifically provided by law, all legal services of the Office of the Attorney General shall be performed exclusively by (i) an employee of the Office, (ii) an employee of another Virginia governmental entity as may be provided by law, or (iii) an employee of a federal governmental entity pursuant to an agreement between the Office of the Attorney General and such federal governmental entity. Except as otherwise specifically provided under this act, the sole source of compensation paid to employees of the Office of the Attorney General for performing legal services on behalf of the Commonwealth shall be from the appropriations provided under this act. In any case in which the Office of the Attorney General is authorized under law to contract with, hire, or engage a person other than a person described in clauses (i), (ii), or (iii) to perform legal services on behalf of the Commonwealth, the sole consideration for such legal services shall be a monetary amount bargained for in an arm's length transaction with such person and the Office of the Attorney General or another Virginia governmental entity, stating under what authority that office enters the contract. Only persons described in clauses (i), (ii), or (iii) shall perform legal services on premises leased by the Office of the Attorney General. Nothing in this paragraph shall prohibit the Office of the Attorney General from entering into a settlement agreement with a defendant arising from a case litigated or prosecuted by a federal governmental entity, local governmental entity, or an Attorney General's Office in another state or United States territory. Nothing in this paragraph shall prohibit the Office of the Attorney General from employing and providing office space to an unpaid intern assisting in performing legal services provided that such intern does not possess a current license to practice law in the Commonwealth, any other state, or any United States territory.</i></p>				
57.	Medicaid Program Services (45600).....		\$14,387,303	\$14,387,303
	Medicaid Fraud Investigation and Prosecution (45614).....	\$14,387,303	\$14,387,303	

ITEM 57.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: Special.....	\$3,784,266	\$3,784,266		
Federal Trust.....	\$10,603,037	\$10,603,037		
Authority: Title 32.1, Chapter 9, Code of Virginia.				
58. Regulation of Business Practices (55200).....			\$3,486,677	\$3,486,677
Regulatory and Consumer Advocacy (55201).....	\$3,486,677	\$3,486,677		
Fund Sources: General.....	\$2,067,020	\$2,067,020		
Special.....	\$1,419,657	\$1,419,657		
Authority: Title 2.2, Chapter 5, Code of Virginia.				
<p>Included in this Item is \$750,000 the first year and \$750,000 the second year from special funds for the Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust Fund as established in Item 48 of Chapter 966 of the Acts of Assembly 1994 and amended herein. The Department of Law is authorized to deposit to the fund any fees, civil penalties, costs, recoveries, or other moneys which from time to time may become available as a result of regulatory and consumer advocacy litigation, litigation in which the Office of the Attorney General participates, or civil enforcement efforts including, but not limited to, those brought pursuant to Article 1 (§ 3.2-4200 et seq.) and Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2 of the Code of Virginia. The Department of Law is also authorized to deposit to the fund any attorneys' fees which from time to time may be obtained. Any deposit to, and interest earnings on, the fund shall be retained in the fund, provided, however, that any amounts contained in the fund that exceed \$750,000 on the final day of the fiscal year shall be deposited to the credit of the general fund. In addition to the uses of the fund permitted by Item 48 of Chapter 966 of the Acts of Assembly of 1994, the fund may be used to pay costs associated with enforcement efforts pursuant to Article 1 (§ 3.2-4200 et seq.) and Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2 of the Code of Virginia, costs associated with litigation initiated by the Office of the Attorney General, and costs associated with civil commitment procedures pursuant to Chapter 9 of Title 37.2 of the Code of Virginia.</p>				
59. Any judgment rendered pursuant to the Virginia Tort Claims Act shall be paid out of the state treasury under the direction of the Attorney General. Claims against agencies funded solely from the general fund shall be paid from the general fund. Claims against agencies funded by both general and nongeneral funds shall be paid from a combination of funds based upon the appropriations from such funds.				
60. Personnel Management Services (70400).....			\$492,241	\$492,241
Compliance and Enforcement (70414).....	\$492,241	\$492,241		
Fund Sources: General.....	\$415,792	\$415,792		
Federal Trust.....	\$76,449	\$76,449		
Authority: Title 2.2, Chapter 26, Article 12, and Chapter 39; Title 15.2, Chapter 16, § 15.2-1604, Code of Virginia.				
Total for Attorney General and Department of Law			<b>\$53,648,013</b>	<b>\$52,854,456</b>
General Fund Positions.....	236.75	236.75		
Nongeneral Fund Positions.....	203.25	203.25		
Position Level.....	440.00	440.00		
Fund Sources: General.....	\$24,121,382	\$24,121,382		
Special.....	\$16,802,756	\$16,802,756		
Federal Trust.....	\$12,723,875	\$11,930,318		
<b>Division of Debt Collection (143)</b>				
61. Collection Services (74000).....			\$2,755,447	\$2,755,447
State Collection Services (74001).....	\$2,536,631	\$2,536,631		
State Fraud Recovery Services (74002).....	\$218,816	\$218,816		
Fund Sources: Special.....	\$2,755,447	\$2,755,447		

ITEM 61.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Authority: Title 2.2, Chapter 5 and Title 8.01, Chapter 3, Code of Virginia.				
<p>A. 1. The Division of Debt Collection shall provide legal services and advice related to the collection of funds owed the Commonwealth, including the recovery of certain funds pursuant to the Virginia Fraud Against Taxpayers Act (FATA) (§ 8.01-216.1 et seq.) by the Commonwealth as defined by 8.01-216.2. All agencies and institutions shall follow the procedures for collection of funds owed the Commonwealth as specified in §§ 2.2-518 and 2.2-4800 et seq. of the Code of Virginia, and all agencies, institutions, and political subdivisions shall follow the procedures for recovery of funds as specified in §§ 2.2-518 and 8.01-216.1 et seq. of the Code of Virginia, except as provided otherwise therein or in this act.</p> <p>2. The provisions of this section shall not apply to any investigations, litigation, or recoveries related to matters handled under the authority granted to the Medicaid Fraud Control Unit within the Department of Law pursuant to the provisions of 42 C.F.R. § 1007 et seq. All matters pertaining to the recovery of such Medicaid funds, including damages, fines, and penalties received pursuant to FATA, are specifically excluded from the provisions of this section.</p> <p>B.1. The Division of Debt Collection is entitled to retain as fees up to 30 percent of any revenues generated by its collection services pursuant to paragraph A. to pay operating costs supported by the appropriation in this item.</p> <p>2. Upon closing its books at the end of the fiscal year, after the execution of all transfers to state agencies having claims collected by the Division of Debt Collection, the Division may retain up to a \$400,000 balance in its operating accounts. Any amounts contained in the operating accounts that exceed \$400,000 on the final day of the fiscal year shall be deposited to the credit of the general fund no later than September 1 of the succeeding fiscal year.</p> <p>3. The Division of Debt Collection is entitled to retain as special revenue up to 30 percent of any funds recovered on behalf of the Commonwealth as well as any separate attorney's fees awarded to the Commonwealth pursuant to FATA for its fraud recovery services pursuant to paragraph A., to pay operating costs supported by the appropriation in this item.</p> <p>4. There shall be created on the books of the Comptroller a special, nonreverting, revolving fund to be known as the Fraud Recovery Fund (FATA Fund). The Division is authorized to deposit to the FATA Fund any revenue, fees, civil penalties, costs, recoveries, or other moneys which from time to time may become available as a result of its fraud recovery services. The Division is also authorized to deposit to the FATA Fund any attorneys' fees which from time to time may be awarded to the Commonwealth. Any deposit to, and interest earnings on, the FATA Fund shall be retained in the FATA Fund. The Division shall retain 30% of any funds recovered as well as any separate attorney's fees awarded to the Commonwealth pursuant to FATA, and shall transfer the remaining funds to the appropriate state agencies and political subdivisions on a periodic basis or such other period of time approved by the Division.</p> <p>5. The Director, Department of Planning and Budget, may grant an exception to the provisions in paragraph B.2. if the Division of Debt Collection can show just cause.</p> <p>C. The Division of Debt Collection may contract with private collection agents for the collection of debts amounting to less than \$15,000.</p>				
Total for Division of Debt Collection.....			\$2,755,447	\$2,755,447
Nongeneral Fund Positions.....	27.00	27.00		
Position Level.....	27.00	27.00		
Fund Sources: Special.....	\$2,755,447	\$2,755,447		
Grand Total for Attorney General and Department of Law.....			\$56,403,460	\$55,609,903
General Fund Positions.....	236.75	236.75		
Nongeneral Fund Positions.....	230.25	230.25		
Position Level.....	467.00	467.00		

ITEM 61.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$24,121,382	\$24,121,382		
Special.....	\$19,558,203	\$19,558,203		
Federal Trust.....	\$12,723,875	\$11,930,318		

**§ 1-23. SECRETARY OF THE COMMONWEALTH (166)**

62.	Central Records Retention Services (73800).....			\$2,251,576	\$2,251,576
	Appointments (73801).....	\$1,461,447	\$1,461,447		
	Authentications (73802).....	\$69,269	\$69,269		
	Judicial Support Services (73803).....	\$564,052	\$564,052		
	Lobbyist and Organization Registrations (73804)....	\$14,993	\$14,993		
	Notaries Commissioning (73805).....	\$141,815	\$141,815		
	Fund Sources: General.....	\$2,158,598	\$2,158,598		
	Dedicated Special Revenue.....	\$92,978	\$92,978		

Authority: §§ 2.2-400 through 2.2-435, 2.2-3106, Code of Virginia.

A. The fee charged by the Secretary of the Commonwealth under the provisions of § 2.2-409, Code of Virginia, for a Service of Process shall be \$28.00.

B. Included in the general fund appropriation for this item is \$18,470 each year for costs related to the Virginia Indian Advisory Board, pursuant to the provisions of House Bill 814 of the 2016 General Assembly.

Total for Secretary of the Commonwealth.....				<b>\$2,251,576</b>	<b>\$2,251,576</b>
General Fund Positions.....	17.00	17.00			
Position Level.....	17.00	17.00			
Fund Sources: General.....	\$2,158,598	\$2,158,598			
Dedicated Special Revenue.....	\$92,978	\$92,978			

**§ 1-24. OFFICE OF THE STATE INSPECTOR GENERAL (147)**

63.	Inspection, Monitoring, and Auditing Services (78700).....			\$6,844,033	\$6,844,033
	Inspection and Compliance of Program Operations (78701).....	\$6,844,033	\$6,844,033		
	Fund Sources: General.....	\$4,631,281	\$4,631,281		
	Special.....	\$282,390	\$282,390		
	Commonwealth Transportation.....	\$1,930,362	\$1,930,362		

Authority: Title 2.2, Chapter 3.2, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the State Inspector General ~~\$157,945~~ \$157,430 from July 1, 2016 2018 to June 30, 2017 2019 and ~~\$157,945~~ \$160,579 from July 1, 2017 2019 to June 30, 2018 2020.

B. The Office of the State Inspector General shall be responsible for investigating the management and operations of state agencies and nonstate agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or any officers or employees of a nonstate agency, including any allegations of criminal acts affecting the operations of state agencies or nonstate agencies. However, no investigation of an elected official of the Commonwealth to determine whether a criminal violation has occurred, is occurring, or is about to occur under the provisions of § 52-8.1 shall be initiated, undertaken, or continued except upon the request of the Governor, the Attorney General, or a grand jury.

C. The Office of the State Inspector General shall be responsible for coordinating and recommending standards for those internal audit programs in existence as of July 1, 2012, and developing and maintaining other internal audit programs in state agencies and nonstate agencies as needed in order to ensure that the Commonwealth's assets are subject to appropriate internal management controls. The State Inspector General shall assess the

ITEM 63.	Item Details(\$)		Appropriations(\$)		
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
condition of the accounting, financial, and administrative controls of state agencies and nonstate agencies.					
D. The Office of the State Inspector General shall be responsible for providing timely notification to the appropriate attorney for the Commonwealth and law-enforcement agencies whenever the State Inspector General has reasonable grounds to believe there has been a violation of state criminal law.					
E. The Office of the State Inspector General shall be responsible for assisting citizens in understanding their rights and the processes available to them to express concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the foregoing;					
F.1. The Office of the State Inspector General shall be responsible for development, coordination and management of a program to train internal auditors. The Office of the State Inspector General shall assist internal auditors of state agencies and institutions in receiving continued professional education as required by professional standards. The Office of the State Inspector General shall coordinate its efforts with state institutions of higher education and offer training programs to the internal auditors as well as coordinate any special training programs for the internal auditors.					
2. To fund the direct costs of hiring training instructors, the Office of the State Inspector General is authorized to collect fees from training participants to provide training events for internal auditors. A nongeneral fund appropriation of \$125,000 the first year and \$125,000 the second year is provided for use by the Office of the State Inspector General to facilitate the collection of payments from training participants for this purpose.					
Total for Office of the State Inspector General.....			<b>\$6,844,033</b>	<b>\$6,844,033</b>	
General Fund Positions.....			24.00	24.00	
Nongeneral Fund Positions.....			16.00	16.00	
Position Level.....			40.00	40.00	
Fund Sources: General.....			\$4,631,281	\$4,631,281	
Special.....			\$282,390	\$282,390	
Commonwealth Transportation.....			\$1,930,362	\$1,930,362	
<b>§ 1-25. INTERSTATE ORGANIZATION CONTRIBUTIONS (921)</b>					
64.	Governmental Affairs Services (70100).....			\$190,939	\$190,939
	Interstate Affairs (70103).....		\$190,939	\$190,939	
	Fund Sources: General.....		\$190,939	\$190,939	
Authority: Discretionary Inclusion.					
Out of the amounts for Interstate Affairs funding is provided for the following organizational memberships:					
1. National Association of State Budget Officers					
2. National Governors' Association					
3. Federal Funds Information for States					
Total for Interstate Organization Contributions.....				<b>\$190,939</b>	<b>\$190,939</b>
Fund Sources: General.....			\$190,939	\$190,939	
TOTAL FOR EXECUTIVE OFFICES.....				<b>\$71,694,622</b>	<b>\$70,901,065</b>
General Fund Positions.....			324.42	324.42	
Nongeneral Fund Positions.....			247.58	247.58	
Position Level.....			572.00	572.00	
Fund Sources: General.....			\$36,949,238	\$36,949,238	
Special.....			\$19,840,593	\$19,840,593	

**ITEM 64.**

	<b>Item Details(\$)</b>		<b>Appropriations(\$)</b>	
	<b>First Year FY2019</b>	<b>Second Year FY2020</b>	<b>First Year FY2019</b>	<b>Second Year FY2020</b>
Commonwealth Transportation.....	\$2,087,938	\$2,087,938		
Dedicated Special Revenue.....	\$92,978	\$92,978		
Federal Trust.....	\$12,723,875	\$11,930,318		

ITEM 65.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

OFFICE OF ADMINISTRATION

§ 1-26. SECRETARY OF ADMINISTRATION (180)

65.	Administrative and Support Services (79900).....			\$1,685,650	\$1,685,650
				\$2,438,191	
	General Management and Direction (79901).....	\$894,350	\$894,350		
		\$1,646,891			
	Accounting and Budgeting Services (79903).....	\$791,300	\$791,300		
	Fund Sources: General.....	\$1,685,650	\$1,685,650		
		\$2,438,191			

Authority: Title 2.2, Chapter 2, Code of Virginia.

A. Notwithstanding any contrary provision of law, the authority and responsibilities of the Secretary of Technology referenced in § 2.2-203.1, § 2.2-213.3, § 2.2-222.3, § 2.2-436, § 2.2-437, § 2.2-1617, § 2.2-2005, § 2.2-2006, § 2.2-2007, § 2.2-2220, § 2.2-2699.5, § 2.2-2699.7, § 2.2-2817.1, § 2.2-2822, § 2.2-3503, § 2.2-3504, § 2.2-3803, § 30-279, § 59.1-497, and § 59.1-550, Code of Virginia, shall be executed by the Secretary of Administration. Notwithstanding any contrary provision of law, the authority and responsibilities of the Secretary of Technology referenced in § 2.2-225, Code of Virginia, shall be divided between the Secretary of Administration and the Secretary of Commerce and Trade as determined by the Governor.

B. Out of this appropriation, \$752,541 the first year from the general fund shall be used to support a data sharing and analytics program for the purposes of developing a database to identify data elements and document user access patterns. The database will also support the creation of an enterprise data dictionary and a cloud-based data catalog platform. Agencies, as defined in Chapter 679 of the Acts of Assembly of 2018, shall cooperate with the Secretary of Administration to further develop the data sharing and analytics program. The Data Sharing and Analytics Advisory Committee, established in a second enactment clause of 2018 Senate Bill 580 that was enacted as Chapter 679, shall be extended to June 30, 2020, and the third enactment clause shall no longer be in force.

	Total for Secretary of Administration.....			\$1,685,650	\$1,685,650
				\$2,438,191	
	General Fund Positions.....	13.00	13.00		
	Position Level.....	13.00	13.00		
	Fund Sources: General.....	\$1,685,650	\$1,685,650		
		\$2,438,191			

§ 1-27. COMPENSATION BOARD (157)

66.	Financial Assistance for Sheriffs' Offices and Regional Jails (30700).....			\$472,543,575	\$474,116,781
					\$473,269,695
	Financial Assistance for Regional Jail Operations (30710).....	\$153,565,798	\$155,086,091		
			\$154,239,005		
	Financial Assistance for Local Law Enforcement (30712).....	\$95,346,637	\$95,346,637		
	Financial Assistance for Local Court Services (30713).....	\$57,246,941	\$57,246,941		
	Financial Assistance to Sheriffs (30716).....	\$12,611,106	\$12,611,106		
	Financial Assistance for Local Jail Operations (30718).....	\$153,773,093	\$153,826,006		
	Fund Sources: General.....	\$464,543,575	\$466,116,781		
			\$465,269,695		
	Dedicated Special Revenue.....	\$8,000,000	\$8,000,000		

Authority: Title 15.2, Chapter 16, Articles 3 and 6.1; and §§ 53.1-83.1 and 53.1-85, Code of

ITEM 66.	<b>Item Details(\$)</b>		<b>Appropriations(\$)</b>	
	<b>First Year FY2019</b>	<b>Second Year FY2020</b>	<b>First Year FY2019</b>	<b>Second Year FY2020</b>

Virginia.

A.1. The annual salaries of the sheriffs of the counties and cities of the Commonwealth shall be as hereinafter prescribed, according to the population of the city or county served and whether the sheriff is charged with civil processing and courtroom security responsibilities only, or the added responsibilities of law enforcement or operation of a jail, or both. Execution of arrest warrants shall not, in and of itself, constitute law enforcement responsibilities for the purpose of determining the salary for which a sheriff is eligible.

2. Whenever a sheriff is such for a county and city together, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such sheriff under the provisions of this item and such sheriff shall receive as additional compensation the sum of one thousand dollars.

	<b>July 1, 2018 to June 30, 2019</b>	<b>July 1, 2019 to November 30, 2019</b>	<b>December 1, 2019 to June 30, 2020</b>
<b>Law Enforcement and Jail Responsibility</b>			
Less than 10,000	\$69,439	<del>\$69,439</del> \$71,522	<del>\$69,439</del> \$71,522
10,000 to 19,999	\$79,813	<del>\$79,813</del> \$82,207	<del>\$79,813</del> \$82,207
20,000 to 39,999	\$87,708	<del>\$87,708</del> \$90,339	<del>\$87,708</del> \$90,339
40,000 to 69,999	\$95,335	<del>\$95,335</del> \$98,195	<del>\$95,335</del> \$98,195
70,000 to 99,999	\$105,927	<del>\$105,927</del> \$109,105	<del>\$105,927</del> \$109,105
100,000 to 174,999	\$117,699	<del>\$117,699</del> \$121,230	<del>\$117,699</del> \$121,230
175,000 to 249,999	\$123,892	<del>\$123,892</del> \$127,609	<del>\$123,892</del> \$127,609
250,000 and above	\$137,657	<del>\$137,657</del> \$141,787	<del>\$137,657</del> \$141,787
<b>Law Enforcement or Jail</b>			
Less than 10,000	\$68,048	<del>\$68,048</del> \$70,089	<del>\$68,048</del> \$70,089
10,000 to 19,999	\$78,217	<del>\$78,217</del> \$80,564	<del>\$78,217</del> \$80,564
20,000 to 39,999	\$85,952	<del>\$85,952</del> \$88,531	<del>\$85,952</del> \$88,531
40,000 to 69,999	\$93,428	<del>\$93,428</del> \$96,231	<del>\$93,428</del> \$96,231
70,000 to 99,999	\$103,809	<del>\$103,809</del> \$106,923	<del>\$103,809</del> \$106,923
100,000 to 174,999	\$115,34	<del>\$115,343</del> \$118,803	<del>\$115,343</del> \$118,803
175,000 to 249,999	\$121,415	<del>\$121,415</del> \$125,057	<del>\$121,415</del> \$125,057
250,000 and above	\$135,593	<del>\$135,593</del> \$139,661	<del>\$135,593</del> \$139,661
<b>No Law Enforcement or Jail</b>			

ITEM 66.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>Responsibility</b>				
Less than 10,000	\$63,940	<del>\$63,940</del> \$65,858	<del>\$63,940</del> \$65,858	<del>\$63,940</del> \$65,858
10,000 to 19,999	\$71,044	<del>\$71,044</del> \$73,175	<del>\$71,044</del> \$73,175	<del>\$71,044</del> \$73,175
20,000 to 39,999	\$78,936	<del>\$78,936</del> \$81,304	<del>\$78,936</del> \$81,304	<del>\$78,936</del> \$81,304
40,000 to 69,999	\$87,708	<del>\$87,708</del> \$90,339	<del>\$87,708</del> \$90,339	<del>\$87,708</del> \$90,339
70,000 to 99,999	\$97,454	<del>\$97,454</del> \$100,378	<del>\$97,454</del> \$100,378	<del>\$97,454</del> \$100,378
100,000 to 174,999	\$108,281	<del>\$108,281</del> \$111,529	<del>\$108,281</del> \$111,529	<del>\$108,281</del> \$111,529
175,000 to 249,999	\$113,978	<del>\$113,978</del> \$117,397	<del>\$113,978</del> \$117,397	<del>\$113,978</del> \$117,397
250,000 and above	\$128,021	<del>\$128,021</del> \$131,862	<del>\$128,021</del> \$131,862	<del>\$128,021</del> \$131,862

B. Out of the amounts provided for in this Item, no expenditures shall be made to provide security devices such as magnetometers in standard use in major metropolitan airports. Personnel expenditures for operation of such equipment incidental to the duties of courtroom and courthouse security deputies may be authorized, provided that no additional expenditures for personnel shall be approved for the principal purpose of operating these devices.

C. Notwithstanding the provisions of § 53.1-120, or any other section of the Code of Virginia, unless a judge provides the sheriff with a written order stating that a substantial security risk exists in a particular case, no courtroom security deputies may be ordered for civil cases, not more than one deputy may be ordered for criminal cases in a district court, and not more than two deputies may be ordered for criminal cases in a circuit court. In complying with such orders for additional security, the sheriff may consider other deputies present in the courtroom as part of his security force.

D. Should the scheduled opening date of any facility be delayed for which funds are available in this Item, the Director, Department of Planning and Budget, may allot such funds as the Compensation Board may request to allow the employment of staff for training purposes not more than 45 days prior to the rescheduled opening date for the facility.

E. Consistent with the provisions of paragraph B of Item 73, the board shall allocate the additional jail deputies provided in this appropriation using a ratio of one jail deputy for every 3.0 beds of operational capacity. Operational capacity shall be determined by the Department of Corrections. No additional deputy sheriffs shall be provided from this appropriation to a local jail in which the present staffing exceeds this ratio unless the jail is overcrowded. Overcrowding for these purposes shall be defined as when the average annual daily population exceeds the operational capacity. In those jails experiencing overcrowding, the board may allocate one additional jail deputy for every five average annual daily prisoners above operational capacity. Should overcrowding be reduced or eliminated in any jail, the Compensation Board shall reallocate positions previously assigned due to overcrowding to other jails in the Commonwealth that are experiencing overcrowding.

F. Two-thirds of the salaries set by the Compensation Board of medical, treatment, and inmate classification positions approved by the Compensation Board for local correctional facilities shall be paid out of this appropriation.

G.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a master deputy pay grade to those sheriffs' offices which had certified, on or before January 1, 1997, having a career development plan for deputy sheriffs that meet the minimum criteria set forth by the Compensation Board for such plans. The Compensation Board shall allow for additional grade 9 positions, at a level not to exceed one grade 9 master deputy per every five Compensation Board grade 7 and 8 deputy positions in each sheriff's office.

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
2. Each sheriff who desires to participate in the Master Deputy Program who had not certified a career development plan on or before January 1, 1997, may elect to participate by certifying to the Compensation Board that the career development plan in effect in his office meets the minimum criteria for such plans as set by the Compensation Board. Such election shall be made by July 1 for an effective date of participation the following July 1.				
3. Subject to appropriations by the General Assembly for this purpose, funding shall be provided by the Compensation Board for participation in the Master Deputy Program to sheriffs' offices electing participation after January 1, 1997, according to the date of receipt by the Compensation Board of the election by the sheriff.				
H. The Compensation Board shall estimate biannually the number of additional law enforcement deputies which will be needed in accordance with § 15.2-1609.1, Code of Virginia. Such estimate of the number of positions and related costs shall be included in the board's biennial budget request submission to the Governor and General Assembly. The allocation of such positions, established by the Governor and General Assembly in Item 73 of this act, shall be determined by the Compensation Board on an annual basis. The annual allocation of these positions to local sheriffs' offices shall be based upon the most recent final population estimate for the locality that is available to the Compensation Board at the time when the agency's annual budget request is completed. The source of such population estimates shall be the Weldon Cooper Center for Public Service of the University of Virginia or the United States Bureau of the Census. For the first year of the biennium, the Compensation Board shall allocate positions based upon the most recent provisional population estimates available at the time the agency's annual budget is completed.				
I. Any amount in the program Financial Assistance for Sheriffs' Offices and Regional Jails may be transferred between Items 66 and 67, as needed, to cover any deficits incurred in the programs Financial Assistance for Confinement of Inmates in Local and Regional Facilities, and Financial Assistance for Sheriffs' Offices and Regional Jails.				
J.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Sheriffs' Career Development Program.				
2. Following receipt of a sheriff's certification that the minimum requirements of the Sheriffs' Career Development Program have been met, and provided that such certification is submitted by sheriffs as part of their annual budget request to the Compensation Board on or before February 1 of each year, the Compensation Board shall increase the annual salary shown in paragraph A of this Item by the percentage shown herein for a twelve-month period effective the following July 1.				
a. 9.3 percent increase for all sheriffs who certify their compliance with the established minimum criteria for the Sheriffs' Career Development Program where such criteria includes that a sheriff has achieved certification in a program agreed upon by the Compensation Board and the Virginia Sheriffs' Institute by Virginia Commonwealth University , or, where such criteria include that a sheriff's office seeking accreditation has been assessed and will be considered for accreditation by the accrediting body no later than March 1, and have achieved accreditation by March 1 from the Virginia Law Enforcement Professional Standards Commission, or the Commission on Accreditation of Law Enforcement agencies, or the American Correctional Association.				
3. Other constitutional officers' associations may request the General Assembly to include certification in a program agreed upon by the Compensation Board and the officers' associations by the Weldon Cooper Center for Public Service to the requirements for participation in their respective career development programs.				
K. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$8,000,000 the first year and \$8,000,000 the second year from the Wireless E-911 Fund is included in this appropriation for local law enforcement dispatchers to offset dispatch center operations and related costs.				
L. Notwithstanding the provisions of §§ 53.1-131 through 53.1-131.3, Code of Virginia, local and regional jails may charge inmates participating in inmate work programs a reasonable daily amount, not to exceed the actual daily cost, to operate the program.				

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
M. Included in this appropriation is \$1,256,649 the first year and \$1,256,649 the second year from the general fund for the Compensation Board to contract for services to be provided by the Virginia Center for Policing Innovation to implement and maintain the interface between all local and regional jails in the Commonwealth and the Statewide Automated Victim Notification (SAVIN) system, to provide for SAVIN program coordination, and to maintain the interface between SAVIN and the Virginia Sex Offender Registry. All law enforcement agencies receiving general funds pursuant to this item shall provide the data requirements necessary to participate in the SAVIN system.				
N. Included in this appropriation is <del>\$1,520,293</del> \$673,207 in the second year from the general fund to support staffing costs associated with the expansion project at Prince William/Manassas Regional Jail.				
67. Financial Assistance for Confinement of Inmates in Local and Regional Facilities (35600).....			\$61,722,359	\$62,745,837
Financial Assistance for Local Jail Per Diem (35601)			\$58,692,757	\$59,083,447
	\$27,409,763	\$27,868,103		
	\$25,894,962	\$26,036,908		
Financial Assistance for Regional Jail Per Diem (35604).....	\$34,312,596	\$34,877,734		
	\$32,797,795	\$33,046,539		
Fund Sources: General.....	\$61,722,359	\$62,745,837		
	\$58,692,757	\$59,083,447		

Authority: §§ 53.1-83.1, 53.1-84 and 53.1-85, Code of Virginia.

A. In the event the appropriation in this Item proves to be insufficient to fund all of its provisions, any amount remaining as of June 1, 2019, and June 1, 2020, may be reallocated among localities on a pro rata basis according to such deficiency.

B. For the purposes of this Item, the following definitions shall be applicable:

1. Effective sentence--a convicted offender's sentence as rendered by the court less any portion of the sentence suspended by the court.

2. Local responsible inmate--(a) any person arrested on a state warrant and incarcerated in a local correctional facility, as defined by § 53.1-1, Code of Virginia, prior to trial; (b) any person convicted of a misdemeanor offense and sentenced to a term in a local correctional facility; or (c) any person convicted of a felony offense and given an effective sentence of (i) twelve months or less or (ii) less than one year.

3. State responsible inmate--any person convicted of one or more felony offenses and (a) the sum of consecutive effective sentences for felonies, committed on or after January 1, 1995, is (i) more than 12 months or (ii) one year or more, or (b) the sum of consecutive effective sentences for felonies, committed before January 1, 1995, is more than two years.

C. The individual or entity responsible for operating any facility which receives funds from this Item may, if requested by the Department of Corrections, enter into an agreement with the department to accept the transfer of convicted felons, from other local facilities or from facilities operated by the Department of Corrections. In entering into any such agreements, or in effecting the transfer of offenders, the Department of Corrections shall consider the security requirements of transferred offenders and the capability of the local facility to maintain such offenders. For purposes of calculating the amount due each locality, all funds earned by the locality as a result of an agreement with the Department of Corrections shall be included as receipts from these appropriations.

D. Out of this appropriation, an amount not to exceed \$377,010 the first year and \$377,010 the second year from the general fund, is designated to be held in reserve for unbudgeted medical expenses incurred by local correctional facilities in the care of state responsible felons.

E. The following amounts shall be paid out of this appropriation to compensate localities for the cost of maintaining prisoners in local correctional facilities, as defined by § 53.1-1, Code of Virginia, or if the prisoner is not housed in a local correctional facility, in an alternative to

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	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

incarceration program operated by, or under the authority of, the sheriff or jail board:

1. For local responsible inmates--\$4 per inmate day, or, if the inmate is housed and maintained in a jail farm not under the control of the sheriff, the rate shall be \$18 per inmate day.

2. For state responsible inmates--\$12 per inmate day.

F. For the payment specified in paragraph E 1 of this Item for prisoners in alternative punishment or alternative to incarceration programs:

1. Such payment is intended to be made for prisoners that would otherwise be housed in a local correctional facility. It is not intended for prisoners that would otherwise be sentenced to community service or placed on probation.

2. No such payment shall be made unless the program has been approved by the Department of Corrections or the Department of Criminal Justice Services. Alternative punishment or alternative to incarceration programs, however, may include supervised work experience, treatment, and electronic monitoring programs.

G.1. Except as provided for in paragraph G 2, and notwithstanding any other provisions of this Item, the Compensation Board shall provide payment to any locality with an average daily jail population of under ten in FY 1995 an inmate per diem rate of \$18 per day for local responsible inmates and \$12 per day for state responsible inmates held in these jails in lieu of personal service costs for corrections' officers.

2. Any locality covered by the provisions of this paragraph shall be exempt from the provisions thereof provided that the locally elected sheriff, with the assistance of the Compensation Board, enters into good faith negotiations to house his prisoners in an existing local or regional jail. In establishing the per diem rate and capital contribution, if any, to be charged to such locality by a local or regional jail, the Compensation Board and the local sheriff or regional jail authority shall consider the operating support and capital contribution made by the Commonwealth, as required by §§ 15.2-1613, 15.2-1615.1, 53.1-80, and 53.1-81, Code of Virginia. The Compensation Board shall report periodically to the Chairmen of the House Appropriations and Senate Finance Committees on the progress of these negotiations and may withhold the exemption granted by this paragraph if, in the board's opinion, the local sheriff fails to negotiate in good faith.

H.1. The Compensation Board shall recover the state-funded costs associated with housing federal inmates, District of Columbia inmates or contract inmates from other states. The Compensation Board shall determine, by individual jail, the amount to be recovered by the Commonwealth by multiplying the jail's current inmate days for this population by the proportion of the jail's per inmate day salary funds provided by the Commonwealth, as identified in the most recent Jail Cost Report prepared by the Compensation Board. Beginning July 1, 2009, the Compensation Board shall determine, by individual jail, the amount to be recovered by the Commonwealth by multiplying the jail's current inmate days for this population by the proportion of the jail's per inmate day operating costs provided by the Commonwealth, excluding payments otherwise provided for in this Item, as identified in the most recent Jail Cost Report prepared by the Compensation Board. If a jail is not included in the most recent Jail Cost Report, the Compensation Board shall use the statewide average of per inmate day salary funds provided by the Commonwealth.

2. The Compensation Board shall deduct the amount to be recovered by the Commonwealth from the facility's next quarterly per diem payment for state-responsible and local-responsible inmates. Should the next quarterly per diem payment owed the locality not be sufficient against which to net the total quarterly recovery amount, the locality shall remit the remaining amount not recovered to the Compensation Board.

3. Any local or regional jail which receives funding from the Compensation Board shall give priority to the housing of local-responsible, state-responsible, and state contract inmates, in that order, as provided in paragraph H 1.

4. The Compensation Board shall not provide any inmate per diem payments to any local or regional jail which holds federal inmates in excess of the number of beds contracted for with the Department of Corrections, unless the Director, Department of Corrections,

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
certifies to the Chairman of the Compensation Board that a) such contract beds are not required; b) the facility has operational capacity built under contract with the federal government; c) the facility has received a grant from the federal government for a portion of the capital costs; or d) the facility has applied to the Department of Corrections for participation in the contract bed program with a sufficient number of beds to meet the Department of Corrections' need or ability to fund contract beds at that facility in any given fiscal year.				
5. The Compensation Board shall apply the cost recovery methodology set out in paragraph H 1 of this Item to any jail which holds inmates from another state on a contractual basis. However, recovery in such circumstances shall not be made for inmates held pending extradition to other states or pending transfer to the Virginia Department of Corrections.				
6. The provisions of this paragraph shall not apply to any local or regional jail where the cumulative federal share of capital costs exceeds the Commonwealth's cumulative capital contribution.				
7. For a local or regional jail which operates bed space specifically built utilizing federal capital or grant funds for the housing of federal inmates and for which Compensation Board funding has never been authorized for staff for such bed space, the Compensation Board shall allow an exemption from the recovery provided in paragraph H.1. for a defined number of federal prisoners upon certification by the sheriff or superintendent that the federal government has paid for the construction of bed space in the facility or provided a grant for a portion of the capital cost. Such certification shall include specific funding amounts paid by the federal government, localities, and/or regional jail authorities, and the Commonwealth for the construction of bed space specifically built for the housing of federal inmates and for the construction of the jail facility in its entirety. The defined number of federal prisoners to be exempted from the recovery provided in paragraph H.1. shall be based upon the proportion of funding paid by the federal government and localities and/or regional jail authorities for the construction of bed space to house federal prisoners to the total funding paid by all sources, including the Commonwealth, for all construction costs for the jail facility in its entirety.				
8. Beginning March 1, 2013, federal inmates placed in the custody of a regional jail pursuant to a work release program operated by the federal Bureau of Prisons shall be exempt from the recovery of costs associated with housing federal inmates pursuant to paragraph H.1. of this item if such federal inmates have been assigned by the federal Bureau of Prisons to a home electronic monitoring program in place for such inmates by agreement with the jail on or before January 1, 2012 and are not housed in the jail facility. However, no such exemption shall apply to any federal inmate while they are housed in the regional jail facility.				
I. Any amounts in the program Financial Assistance for Confinement of Inmates in Local and Regional Facilities, may be transferred between Items 66 and 67, as needed, to cover any deficits incurred in the programs Financial Assistance for Sheriffs' Offices and Regional Jails and Financial Assistance for Confinement of Inmates in Local and Regional Facilities.				
J.1. The Compensation Board shall provide an annual report on the number and diagnoses of inmates with mental illnesses in local and regional jails, the treatment services provided, and expenditures on jail mental health programs. The report shall be prepared in cooperation with the Virginia Sheriffs Association, the Virginia Association of Regional Jails, the Virginia Association of Community Services Boards, and the Department of Behavioral Health and Developmental Services, and shall be coordinated with the data submissions required for the annual jail cost report. Copies of this report shall be provided by November 1 of each year to the Governor, Director, Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees.				
2. Whenever a person is admitted to a local or regional correctional facility, the staff of the facility shall screen such person for mental illness using a scientifically validated instrument. The Commissioner of Behavioral Health and Developmental Services shall designate the instrument to be used for the screenings and such instrument shall be capable of being administered by an employee of the local or regional correctional facility, other than a health care provider, provided that such employee is trained in the administration of such instrument.				
K. Out of the amounts appropriated in this item, \$100,000 the first year and \$100,000 the second year from the general fund is provided for the purpose of reimbursing the County of				

ITEM 67.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>Nottoway for the expense of confining residents of the Virginia Center for Behavioral Rehabilitation arrested for new offenses and held in Piedmont Regional Jail at the expense of the County. Reimbursements by the Board are to be made quarterly, and shall be equal to demonstrated costs incurred by the County of Nottoway for confinement of these individuals, and shall not exceed the amounts provided in this paragraph for each fiscal year. <b>Reimbursement of demonstrated costs in the first year may include expenses incurred in the prior fiscal year if not previously reimbursed. In subsequent years, demonstrated costs may include expenses incurred in the last month of the prior fiscal year if not previously reimbursed.</b> The County of Nottoway, the Virginia Center for Behavioral Rehabilitation, and Piedmont Regional Jail shall upon request provide the Compensation Board any information and assistance it determines is necessary to calculate amounts to be reimbursed to the County of Nottoway.</p>				
68.	Financial Assistance for Local Finance Directors (71700).....		\$5,627,448	\$5,627,448
		Financial Assistance to Local Finance Directors (71701).....	\$680,453	\$680,453
		Financial Assistance for Operations of Local Finance Directors (71702).....	\$4,946,995	\$4,946,995
		Fund Sources: General.....	\$5,627,448	\$5,627,448

Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.

A.1. The annual salaries of elected or appointed officers who hold the combined office of city treasurer and commissioner of the revenue, or elected or appointed officers who hold the combined office of county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia, shall be as hereinafter prescribed, based on the services provided, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2018 to June 30, 2019	July 1, 2019 to November 30, 2019	December 1, 2019 to June 30, 2020
Less than 10,000	\$62,523	<del>\$62,523</del> \$64,399	<del>\$62,523</del> \$64,399
10,000-19,999	\$69,473	<del>\$69,473</del> \$71,557	<del>\$69,473</del> \$71,557
20,000-39,999	\$77,193	<del>\$77,193</del> \$79,509	<del>\$77,193</del> \$79,509
40,000-69,999	\$85,767	<del>\$85,767</del> \$88,340	<del>\$85,767</del> \$88,340
70,000-99,999	\$95,298	<del>\$95,298</del> \$98,157	<del>\$95,298</del> \$98,157
100,000-174,999	\$105,883	<del>\$105,883</del> \$109,059	<del>\$105,883</del> \$109,059
175,000 to 249,999	\$111,459	<del>\$111,459</del> \$114,803	<del>\$111,459</del> \$114,803
250,000 and above	\$126,659	<del>\$126,659</del> \$130,459	<del>\$126,659</del> \$130,459

2. Whenever any officer whether elected or appointed, who holds that combined office of city treasurer and commissioner of the revenue, is such for two or more cities or for a county and city together, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such officer under the provisions of this Item.

B.1. Subject to appropriations by the General Assembly for this purpose, the Treasurers' Career Development Program shall be made available by the Compensation Board to appointed officers who hold the combined office of city or county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of

ITEM 68.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Virginia.				
2. The Compensation Board may increase the annual salary in paragraph A 1 of this Item following receipt of the appointed officer's certification that the minimum requirements of the Treasurers' Career Development Program have been met, provided that such certifications are submitted by appointed officers as part of their annual budget request to the Compensation Board on February 1 of each year.				
69.	Financial Assistance for Local Commissioners of the Revenue (77100).....		\$18,622,744	\$18,622,744 \$18,653,994
	\$10,265,563	\$10,265,563		
	\$7,841,169	\$7,841,169 \$7,872,419		
	\$516,012	\$516,012		
	\$18,622,744	\$18,622,744 \$18,653,994		

Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.

A. The annual salaries of county or city commissioners of the revenue shall be as hereinafter prescribed, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2018 to June 30, 2019	July 1, 2019 to November 30, 2019	December 1, 2019 to June 30, 2020
Less than 10,000	\$62,523	\$62,523 \$64,399	\$62,523 \$64,399
10,000-19,999	\$69,473	\$69,473 \$71,557	\$69,473 \$71,557
20,000-39,999	\$77,193	\$77,193 \$79,509	\$77,193 \$79,509
40,000-69,999	\$85,767	\$85,767 \$88,340	\$85,767 \$88,340
70,000-99,999	\$95,298	\$95,298 \$98,157	\$95,298 \$98,157
100,000-174,999	\$105,883	\$105,883 \$109,059	\$105,883 \$109,059
175,000 to 249,999	\$111,459	\$111,459 \$114,803	\$111,459 \$114,803
250,000 and above	\$126,659	\$126,659 \$130,459	\$126,659 \$130,459

B. 1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Commissioners of the Revenue Career Development Program.

2. Following receipt of the commissioner's certification that the minimum requirements of the Commissioners of the Revenue Career Development Program have been met, and provided that such certification is submitted by commissioners of the revenue as part of their annual budget request to the Compensation Board on or before February 1 of each year, *the Compensation Board may increase the annual salary in paragraph A of this item by 9.3 percent following receipt of the commissioner's certification that the minimum requirements of the Commissioners' Career Development Program have been met, provided that such certifications are submitted by commissioners as part of their annual budget request to the Compensation Board on February 1 of each year.* ~~the Compensation Board shall increase the annual salary shown in Paragraph A of this Item by the amount shown herein for a 12-month period effective the following July 1. The salary supplement shall be based upon the levels of service offered by the commissioner of the revenue for his/her locality and shall be in~~

ITEM 69.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

accordance with the following schedule:

a. 4.7 percent increase for all commissioners of the revenue who certify their compliance with the established minimum criteria for the Commissioners of the Revenue Career Development Program;

b. 2.3 percent additional increase for all commissioners of the revenue who certify their compliance with the established minimum criteria for the Commissioners of the Revenue Career Development Program and provide state income tax or real estate services as described in the minimum criteria for the Commissioners of the Revenue Career Development Program; and

c. 2.3 percent additional increase for all commissioners of the revenue who certify their compliance with the established minimum criteria for the Commissioners of the Revenue Career Development Program and provide state income tax and real estate services; as described in the minimum criteria for the Commissioners of the Revenue Career Development Program.

C.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Deputy Commissioners Career Development Program.

2. For each deputy commissioner selected by the commissioner of the revenue for participation in the Deputy Commissioners Career Development Program, the Compensation Board shall increase the annual salary established for that position by 9.3 percent, following receipt of the commissioner of the revenue's certification that the minimum requirements of the Deputy Commissioners Career Development Program have been met, and provided that such certification is submitted by the commissioner of the revenue as part of the annual budget request to the Compensation Board on or before February 1st of each year for an effective date of salary increase of the following July 1.

70.	Financial Assistance for Attorneys for the Commonwealth (77200).....			\$74,083,743	\$74,083,743 \$75,554,971
	Financial Assistance to Attorneys for the Commonwealth (77201).....	\$16,636,754	\$16,636,754		
	Financial Assistance for Operations of Local Attorneys for the Commonwealth (77202).....	\$57,446,989	\$57,446,989 \$58,918,217		
	Fund Sources: General.....	\$73,483,743	\$73,483,743 \$74,954,971		
	Dedicated Special Revenue.....	\$600,000	\$600,000		

Authority: Title 15.2, Chapter 16, Articles 4 and 6.1, Code of Virginia.

A.1. The annual salaries of attorneys for the Commonwealth shall be as hereinafter prescribed according to the population of the city or county served except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2018 to June 30, 2019	July 1, 2019 to November 30, 2019	December 1, 2019 to June 30, 2020
Less than 10,000	\$55,408	\$55,408 \$57,070	\$55,408 \$57,070
10,000-19,999	\$61,573	\$61,573 \$63,420	\$61,573 \$63,420
20,000-34,999	\$67,728	\$67,728 \$69,760	\$67,728 \$69,760
35,000-44,999	\$121,906	\$121,906 \$125,563	\$121,906 \$125,563
45,000-99,999	\$135,449	\$135,449 \$139,512	\$135,449 \$139,512

ITEM 70.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
100,000-249,999	\$140,529	\$140,529 \$144,745	\$140,529	\$144,745
250,000 and above	\$145,612	\$145,612 \$149,980	\$145,612	\$149,980

2. The attorneys for the Commonwealth and their successors who serve on a full-time basis pursuant to §§ 15.2-1627.1, 15.2-1628, 15.2-1629, 15.2-1630 or § 15.2-1631, Code of Virginia, shall receive salaries as if they served localities with populations between 35,000 and 44,999.

3. Whenever an attorney for the Commonwealth is such for a county and city together, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such attorney for the Commonwealth under the provisions of this paragraph and such attorney for the Commonwealth shall receive as additional compensation the sum of one thousand dollars.

B. No expenditure shall be made out of this Item for the employment of investigators, clerk-investigators or other investigative personnel in the office of an attorney for the Commonwealth.

C. Consistent with the provisions of § 19.2-349, Code of Virginia, attorneys for the Commonwealth may, in addition to the options otherwise provided by law, employ individuals to assist in collection of outstanding fines, costs, forfeitures, penalties, and restitution. Notwithstanding any other provision of law, beginning on the date upon which the order or judgment is entered, the costs associated with employing such individuals may be paid from the proceeds of the amounts collected provided that the cost is apportioned on a pro rata basis according to the amount collected which is due the state and that which is due the locality. The attorneys for the Commonwealth shall account for the amounts collected and apportion costs associated with the collections consistent with procedures issued by the Auditor of Public Accounts.

D. The provisions of this act notwithstanding, no Commonwealth's attorney, public defender or employee of a public defender, shall be paid or receive reimbursement for the state portion of a salary in excess of the salary paid to judges of the circuit court. Nothing in this paragraph shall be construed to limit the ability of localities to supplement the salaries of locally elected constitutional officers or their employees.

E. The Statewide Juvenile Justice project positions, as established under the provisions of Item 74 E, of Chapter 912, 1996 Acts of Assembly, and Chapter 924, 1997 Acts of Assembly, are continued under the provisions of this act. The Commonwealth's attorneys receiving such positions shall annually certify to the Compensation Board that the positions are used primarily, if not exclusively, for the prosecution of delinquency and domestic relations felony cases, as defined by Chapters 912 and 924. In the event the positions are not primarily or exclusively used for the prosecution of delinquency and domestic relations felony cases, the Compensation Board shall reallocate such positions by using the allocation provisions as provided for the board in Item 74 E of Chapters 912 and 924.

F. The Compensation Board shall monitor the Department of Taxation program regarding the collection of unpaid fines and court costs by private debt collection firms contracted by Commonwealth's attorneys and shall include, in its annual report to the General Assembly on the collection of court-ordered fines and fees for clerks of the courts and Commonwealth's attorneys, the amount of unpaid fines and costs collected by this program.

G. Out of this appropriation, \$389,165 the first year and \$389,165 the second year from the general fund is designated for the Compensation Board to fund five additional positions in Commonwealth's attorney's offices that shall be dedicated to prosecuting gang-related criminal activities. The board shall ensure that these positions work across jurisdictional lines, serving the Northern Virginia area (counties of Fairfax, Loudoun, Prince William, and Arlington and the cities of Falls Church, Alexandria, Manassas, Manassas Park and Fairfax).

H. In accordance with the provisions of § 19.2-349, Code of Virginia, attorneys for the Commonwealth may employ individuals, or contract with private attorneys, private collection agencies, or other state or local agencies, to assist in collection of delinquent fines, costs, forfeitures, penalties, and restitution. If the attorney for the Commonwealth employs

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individuals, the costs associated with employing such individuals may be paid from the proceeds of the amounts collected provided that the cost is apportioned on a pro rata basis according to the amount collected which is due the state and that which is due the locality. If the attorney for the Commonwealth does not undertake collection, the attorney for the Commonwealth shall, as soon as practicable, take steps to ensure that any agreement or contract with an individual, attorney or agency complies with the terms of the current Master Guidelines Governing Collection of Unpaid Delinquent Court-Ordered Fines and Costs Pursuant to Virginia Code § 19.2-349 promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board ("the Master Guidelines"). Notwithstanding any other provision of law, the delinquent amounts owed shall be increased by seventeen (17) percent to help offset the costs associated with employing such individuals or contracting with such agencies or individuals. If such increase would exceed the contracted collection agent's fee, then the delinquent amount owed shall be increased by the percentage or amount of the collection agent's fee. Effective July 1, 2015, as provided in § 19.2-349, Code of Virginia, treasurers not being compensated on a contingency basis as of January 1, 2015 shall be prohibited from being compensated on a contingency basis but shall instead be compensated for administrative costs pursuant to § 58.1-3958, Code of Virginia. Treasurers currently collecting a contingency fee shall be eligible to contract on a contingency fee basis. Effective July 1, 2015, any treasurer collecting a contingency fee shall retain only the expenses of collection, and the excess collection shall be divided between the state and the locality in the same manner as if the collection had been done by the attorney for the Commonwealth. The attorneys for the Commonwealth shall account for the amounts collected and the fees and costs associated with the collections consistent with procedures issued by the Auditor of Public Accounts.

I. Notwithstanding the provisions of Article 7, Chapter 4, Title 38, Code of Virginia, beginning July 1, 2018, \$600,000 each year from the Insurance Fraud Fund is included in this appropriation to fund multi-jurisdictional Assistant Commonwealth's Attorney positions that shall be dedicated to prosecuting insurance fraud and related criminal activities. The Department of State Police shall identify those jurisdictions most affected by insurance fraud based upon data provided by the Virginia State Police Insurance Fraud Program. The Virginia State Police Insurance Fraud Program shall ensure that these positions work across jurisdictional lines, serving jurisdictions identified as most in need of these resources as supported by data. These funds shall remain unallocated until the Compensation Board and Virginia State Police notify the Director of the Department of Planning and Budget of the joint agreements reached with the Commonwealth's Attorneys of the jurisdictions receiving the additional Assistant Commonwealth's Attorney positions and the jurisdictions to be served by these positions. The Commonwealth's Attorneys receiving such positions shall annually certify to the Compensation Board that these positions are used primarily, if not exclusively, for the prosecution of insurance fraud and related criminal activities.

*J. The appropriations in this item includes \$1,471,228 the second year from the general fund to fund approximately twenty percent of the unfunded positions needed based on the fiscal year 2019 staffing standards calculation.*

*K. Any locality in the Commonwealth that employs the use of body worn cameras for its law enforcement officers shall be required to establish and fund one full-time equivalent entry-level Assistant Commonwealth's Attorney, at a salary no less than that established by the Compensation Board for an entry-level Commonwealth's Attorney, at a rate of one Assistant Commonwealth's Attorney for up to 75 body worn cameras employed for use by local law enforcement officers, and one Assistant Commonwealth's Attorney for every 75 body worn cameras employed for use by local law enforcement officers, thereafter. However, with the consent of the Commonwealth's Attorney, a locality may provide their Commonwealth's Attorney's office with additional funding, using a different formula than stated above, as needed to accommodate the additional workload resulting from the requirement to review, redact and present footage from body worn cameras. If, as of July 1, 2019, a locality is providing additional funding to the Commonwealth's Attorney's office specifically to address the staffing and workload impact of the implementation of body worn cameras on that office, that additional funding shall be credited to the formula used in that locality. Any agreed upon funding formula between the impacted Commonwealth's Attorney and the locality employing body worn cameras shall be filed with the*

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<i>Compensation Board by July 1, 2019 and shall remain in effect unless modified by the agreement of both parties until June 30th of the following year. The term "locality" means every county or independent city with an Attorney for the Commonwealth. The term "employed for use" includes all body worn cameras maintained by the law enforcement agency or agencies of that locality, regardless of any temporary inoperability.</i>				
71.	Financial Assistance for Circuit Court Clerks (77300).....		\$54,345,586	<del>\$54,345,586</del> \$54,420,586
	Financial Assistance to Circuit Court Clerks (77301).	\$14,077,778	\$14,077,778	
	Financial Assistance for Operations for Circuit Court Clerks (77302).....	\$24,432,695	<del>\$24,432,695</del> \$24,507,695	
	Financial Assistance for Circuit Court Clerks' Land Records (77303).....	\$15,835,113	\$15,835,113	
	Fund Sources: General.....	\$46,344,874	<del>\$46,344,874</del> \$46,419,874	
	Trust and Agency.....	\$8,000,712	\$8,000,712	

Authority: Title 15.2, Chapter 16, Article 6.1; §§ 51.1-706 and 51.1-137, Title 17.1, Chapter 2, Article 7, Code of Virginia.

A.1. The annual salaries of clerks of circuit courts shall be as hereinafter prescribed.

	July 1, 2018 to June 30, 2019	July 1, 2019 to November 30, 2019	December 1, 2019 to June 30, 2020
Less than 10,000	\$78,553	<del>\$78,553</del> \$80,910	<del>\$78,553</del> \$80,910
10,000 to 19,999	\$96,795	<del>\$96,795</del> \$99,699	<del>\$96,795</del> \$99,699
20,000-39,999	\$110,825	<del>\$110,825</del> \$114,150	<del>\$110,825</del> \$114,150
40,000-69,999	\$116,435	<del>\$116,435</del> \$119,928	<del>\$116,435</del> \$119,928
70,000-99,999	\$126,251	<del>\$126,251</del> \$130,039	<del>\$126,251</del> \$130,039
100,000-174,999	\$137,476	<del>\$137,476</del> \$141,600	<del>\$137,476</del> \$141,600
175,000-249,999	\$141,742	<del>\$141,742</del> \$145,994	<del>\$141,742</del> \$145,994
250,000 and above	\$145,896	<del>\$145,896</del> \$150,273	<del>\$145,896</del> \$150,273

2. Whenever a clerk of a circuit court is such for a county and a city, for two or more counties, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of the circuit court clerk under the provisions of this Item.

3. Except as provided in Item 73 A 2, the annual salary herein prescribed shall be full compensation for services performed by the office of the circuit court clerk as prescribed by general law, and for the additional services of acting as general receiver of the court pursuant to § 8.01-582, Code of Virginia, indexing and filing land use application fees pursuant to § 58.1-3234, Code of Virginia, and all other services provided from, or utilizing the facilities of, the office of the circuit court clerk. Pursuant to § 8.01-589, Code of Virginia, the court shall provide reasonable compensation to the office of the clerk of the circuit court for acting as general receiver of the court. Out of the compensation so allowed, the clerk shall pay his bond or bonds. The remainder of the compensation so allowed shall be fee and commission income to the office of the circuit court clerk.

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
4. In any county or city operating under provisions of law which authorizes the governing body to fix the compensation of the clerk on a salary basis, such clerk shall receive such salary as shall be allowed by the governing body. Such salary shall not be fixed at an amount less than the amount that would be allowed the clerk under paragraphs A 1 through A 3 of this Item.				
5. All clerks shall deposit all clerks' fees and state revenue with the State Treasurer in a manner consistent with § 2.2-806, Code of Virginia, unless otherwise provided by the Compensation Board as set forth in § 17.1-284, Code of Virginia or otherwise provided by law.				
B. The reports filed by each circuit court clerk pursuant to § 17.1-283, Code of Virginia, for each calendar year shall include all income derived from the performance of any office, function or duty described or authorized by the Code of Virginia whether directly or indirectly related to the office of circuit court clerk, including, by way of description and not limitation, services performed as a commissioner of accounts, receiver, or licensed agent, but excluding private services performed on a personal basis which are completely unrelated to the office. The Compensation Board may suspend the allowance for office expenses for any clerk who fails to file such reports within the time prescribed by law, or when the board determines that such report does not comply with the provisions of this paragraph.				
C. Each clerk of the circuit court shall submit to the Compensation Board a copy of the report required pursuant to § 19.2-349, Code of Virginia, at the same time that it is submitted to the Commonwealth's attorney.				
D. Included within this appropriation are Trust and Agency funds necessary to support one position to assist circuit court clerks in implementing the recommendations of the Land Records Management Task Force Report dated January 1, 1998.				
E. Notwithstanding the provisions of § 17.1-279 E, Code of Virginia, the Compensation Board may allocate to the clerk of any circuit court funds for the acquisition of equipment and software for a pilot project for the automated application for, and issuance of, marriage licenses by such court. Any such funds allocated shall be deemed to have been expended pursuant to clause (iii) of § 17.1-279 E for the purposes of the limitation on allocations set forth in that subsection.				
F. Notwithstanding the provisions of § 17.1-279, Code of Virginia, the Compensation Board may allocate up to \$1,978,426 the first year and \$1,978,426 the second year of Technology Trust Fund moneys for operating expenses in the clerks' offices.				
G. Notwithstanding § 17.1-287, Code of Virginia, any elected official funded through this Item may elect to relinquish any portion of his state funded salary established in paragraph A 1 of this Item. In any office where the official elects this option, the Compensation Board shall ensure the amount relinquished is used to fund salaries of other office staff.				
H.1. For audits of clerks of the circuit court completed after July 1, 2004, the Auditor of Public Accounts shall report any internal control matter that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The Auditor of Public Accounts will also report on compliance with appropriate law and other financial matters of the clerks' office.				
2. For internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability, the clerk shall provide the Auditor of Public Accounts a written corrective action plan to any such audit findings within 10 business days of the audit exit conference, which will state what actions the clerk will take to remediate the finding. The clerk's response may also address the other matters in the report. During the next audit, the Auditor of Public Accounts shall determine and report if the clerk has corrected the finding related to internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.				
3. Notwithstanding the provisions of Item 474, the Compensation Board shall not provide any salary increase to any circuit court clerk identified by the Auditor of Public Accounts who has not taken corrective action for the matters reported above.				

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<p>I.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Circuit Court Clerks' Career Development Program.</p> <p>2. Following receipt of a clerk's certification that the minimum requirements of the Clerks' Career Development Program have been met, and provided that such certification is submitted by Clerks as part of their annual budget request to the Compensation Board by February 1 of each year, the Compensation Board shall increase the annual salary shown in Paragraph A.1. of this item by 9.3 percent with the salary increase becoming effective on the following July 1 for a 12-month period.</p> <p>J.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Deputy Clerks of Circuit Courts' Career Development Program.</p> <p>2. For each deputy clerk selected by the clerk for participation in the Deputy Clerks' Career Development Program, the Compensation Board shall increase the annual salary established for that position by 9.3 percent following receipt of the clerk's certification that the minimum requirements of the Deputy Clerks' Career Development Program have been met and provided that such certification is submitted by clerks as part of their annual budget request to the Compensation Board by February 1 of each year.</p> <p>K. Upon request of the attorney for the Commonwealth, the clerk of the circuit court shall contemporaneously provide the attorney for the Commonwealth copies of all documents provided to the Virginia Criminal Sentencing Commission pursuant to § 19.2-298.01 E, Code of Virginia.</p> <p>L. The Compensation Board may obligate Trust and Agency funds in excess of the current biennium appropriation for the automation efforts of the clerks' offices from the Technology Trust Fund provided that sufficient cash is available to cover projected costs in each year and that sufficient revenues are projected to meet all cash obligations for new obligations as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.</p> <p>M. Offices of the Clerks of the Circuit Court, jails, adult detention centers, and the Department of Corrections are further authorized to enter into agreements to electronically transmit and process criminal court orders to assure timely and accurate recordation and processing of such records.</p> <p>N. The Compensation Board, in consultation with the Executive Secretary of the Supreme Court shall conduct a study of circuit court clerk salaries in relation to district court clerks and deputy clerks staff salaries in all jurisdictions, with specific emphasis in jurisdiction where locally funded supplements to salaries by a local governing body are not provided for these positions. The study shall include a detail report on the salary disparities by each jurisdiction, the total fiscal impact of addressing such disparities, and recommendations for state adjustment, if any. Copies of the study shall be provided by October 1, 2018, to the Secretary of Administration, the Secretary of Finance, Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees.</p> <p><i>O. Included in the appropriation for this item is \$75,000 the second year from the general fund for the Williamsburg and James City County Circuit Court Clerk's office to conduct a pilot program to provide an online listing of foreclosures; continued courthouse posting of foreclosures; and to provide notice of foreclosures in the local newspaper for a limited period of time.</i></p>				
72.	Financial Assistance for Local Treasurers (77400).....		\$17,503,235	\$17,503,235
	Financial Assistance to Local Treasurers (77401).....	\$10,224,591		
	Financial Assistance for Operations of Local Treasurers (77402).....	\$7,113,008		
	Financial Assistance for State Tax Services by Local Treasurers (77403).....	\$165,636		
	Fund Sources: General.....	\$17,503,235		
<p>Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.</p> <p>A.1. The annual salaries of treasurers, elected or appointed officers who hold the combined</p>				

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office of city treasurer and commissioner of the revenue, or elected or appointed officers who hold the combined office of county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia, shall be as hereinafter prescribed, based on the services provided, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2018 to June 30, 2019	July 1, 2019 to November 30, 2019	December 1, 2019 to June 30, 2020
Less than 10,000	\$62,523	\$62,523 \$64,399	\$62,523 \$64,399
10,000 to 19,999	\$69,473	\$69,473 \$71,557	\$69,473 \$71,557
20,000-39,999	\$77,193	\$77,193 \$79,509	\$77,193 \$79,509
40,000-69,999	\$85,767	\$85,767 \$88,340	\$85,767 \$88,340
70,000-99,999	\$95,298	\$95,298 \$98,157	\$95,298 \$98,157
100,000-174,999	\$105,883	\$105,883 \$109,059	\$105,883 \$109,059
175,000-249,999	\$111,459	\$111,459 \$114,803	\$111,459 \$114,803
250,000 and above	\$126,659	\$126,659 \$130,459	\$126,659 \$130,459

2. Provided, however, that in cities having a treasurer who neither collects nor disburses local taxes or revenue or who distributes local revenues but does not collect the same, such salaries shall be seventy-five percent of the salary prescribed above for the population range in which the city falls except that in no case shall any such treasurer, or any officer whether elected or appointed, who holds that combined office of city treasurer and commissioner of the revenue, receive an increase in salary less than the annual percentage increase provided from state funds to any other treasurer, within the same population range, who was at the maximum prescribed salary in effect for the fiscal year 1980.

3. Whenever a treasurer is such for two or more cities or for a county and city together, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such treasurer under the provisions of this Item.

B.1. Subject to appropriations by the General Assembly for this purpose, the Treasurers' Career Development Program shall be made available by the Compensation Board to appointed officers who hold the combined office of city or county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia.

2. The Compensation Board may increase the annual salary in paragraph A 1 of this Item by 9.3 percent following receipt of the treasurer's certification that the minimum requirements of the Treasurers' Career Development Program have been met, provided that such certifications are submitted by treasurers as part of their annual budget request to the Compensation Board on February 1 of each year.

C.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Deputy Treasurers' Career Development Program.

2. For each deputy treasurer selected by the treasurer for participation in the Deputy Treasurers' Career Development Program, the Compensation Board shall increase the annual salary established for that position by 9.3 percent following receipt of the treasurer's certification that the minimum requirements of the Deputy Treasurers' Career Development Program have been met, and provided that such certification is submitted by the treasurer as part of the annual budget request to the Compensation Board on or before

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	February 1 of each year for an effective date of salary increase of the following July 1st.			
73.	Administrative and Support Services (79900).....		\$4,291,393	\$4,008,780
	General Management and Direction (79901).....	\$3,101,673		
	Information Technology Services (79902).....	\$1,130,870		
	Training Services (79925).....	\$58,850		
	Fund Sources: General.....	\$4,037,041		\$4,008,780
	Federal Trust.....	\$254,352		\$0

Authority: Title 2.2-1839; Title 15.2, Chapter 16, Articles 2, 3, 4 and 6.1; Title 17.1, Chapter 2, Article 7, Code of Virginia.

A.1. In determining the salary of any officer specified in Items 66, 68, 69, 70, 71, and 72 of this act, the Compensation Board shall use the greater of the most recent actual United States census count or the most recent provisional population estimate from the United States Bureau of the Census or the Weldon Cooper Center for Public Service of the University of Virginia available when fixing the officer's annual budget and shall adjust such population estimate, where applicable, for any annexation or consolidation order by a court when such order becomes effective. There shall be no reduction in salary by reason of a decline in population during the terms in which the incumbent remains in office.

2. In determining the salary of any officer specified in Items 66, 68, 69, 70, 71, and 72 of this act, nothing herein contained shall prevent the governing body of any county or city from supplementing the salary of such officer in such county or city for the provisions of Chapter 822, 2012 Acts of Assembly or for additional services not required by general law; provided, however, that any such supplemental salary shall be paid wholly by such county or city.

3. Any officer whose salary is specified in Items 66, 68, 69, 70, 71, and 72 of this act shall provide reasonable access to his work place, files, records, and computer network as may be requested by his duly elected successor after the successor has been certified.

B.1. Notwithstanding any other provision of law, the Compensation Board shall authorize and fund permanent positions for the locally elected constitutional officers, subject to appropriation by the General Assembly, including the principal officer, at the following levels:

	<b>FY 2017</b>	<b>FY 2019</b>	<b>FY 2018</b>	<b>FY 2020</b>
Sheriffs		11,407		11,407
Partially Funded: Jail Medical, Treatment, and Classification and Records Positions		797		797
Commissioners of the Revenue		851		851
Treasurers		861		861
Directors of Finance		383		383
Commonwealth's Attorneys		1,271	<del>1,271</del>	1,303
Clerks of the Circuit Court		1,144		1,144
<b>TOTAL</b>		<b>16,714</b>		<b>16,714</b>

2. The Compensation Board is authorized to provide funding for 597 temporary positions the first year and 597 temporary positions the second year.

3. The board is authorized to adjust the expenses and other allowances for such officers to maintain approved permanent and temporary manpower levels.

4. Paragraphs B 1 and B 2 of this Item shall not apply to the clerks of the circuit courts and their employees specified in § 17.1-288, Code of Virginia, or those under contract pursuant to § 17.1-290, Code of Virginia.

C.1. Reimbursement by the Compensation Board for the use of vehicles purchased or leased with public funds used in the discharge of official duties shall be at a rate equal to that approved by the Joint Legislative Audit and Review Commission for Central Garage Car Pool services. No vehicle purchased or leased with public funds on or after July 1, 2002, shall display lettering on the exterior of the vehicle that includes the name of the incumbent sheriff.

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<p>2. Reimbursement by the Compensation Board for the use of personal vehicles in the discharge of official duties shall be at a rate equal to that established in § 4-5.04 e 2. of this act. All such requests for reimbursement shall be accompanied by a certification that a publicly owned or leased vehicle was unavailable for use.</p>				
<p>D. The Compensation Board is directed to examine the current level of crowding of inmates in local jails among the several localities and to reallocate or reduce temporary positions among local jails as may be required, consistent with the provisions of this act.</p>				
<p>E. Any new positions established in Item 76 of this act shall be allocated by the Compensation Board upon request of the constitutional officers in accordance with staffing standards and ranking methodologies approved by the Compensation Board to fulfill the requirements of any court order occurring from proceedings under § 15.2-1636.8, Code of Virginia, in accordance with the provisions of Item 66 of this act.</p>				
<p>F. Any funds appropriated in this act for performance pay increases for designated deputies or employees of constitutional officers shall be allocated by the Compensation Board upon certification of the constitutional officer that the performance pay plan for that office meets the minimum standards for such plans as set by the Compensation Board. Nothing herein, and nothing in any performance pay plan set by the Compensation Board or adopted by a constitutional officer, shall change the status of employees or deputies of constitutional officers from employees at will or create a property or contractual right to employment. Such deputies and employees shall continue to be employees at will who serve at the pleasure of the constitutional officers.</p>				
<p>G. The Compensation Board shall apply the current fiscal stress factor, as determined by the Commission on Local Government, to any general fund amounts approved by the board for the purchase, lease or lease purchase of equipment for constitutional officers. In the case of equipment requests from regional jail superintendents and regional special prosecutors, the highest stress factor of a member jurisdiction will be used.</p>				
<p>H. The Compensation Board shall not approve or commit additional funds for the operational cost, including salaries, for any local or regional jail construction, renovation, or expansion project which was not approved for reimbursement by the State Board of Corrections prior to January 1, 1996, unless: (1) the Secretary of Public Safety and Homeland Security certifies that such additional funding results in an actual cost savings to the Commonwealth or (2) an exception has been granted as provided for in Item 388 of this act.</p>				
<p>I. Subject to appropriations by the General Assembly for this purpose, the Compensation Board may provide funding for executive management, lawful employment practices, and jail management training for constitutional officers, their employees, and regional jail superintendents.</p>				
<p>J. Any local or regional jail that receives funding from the Compensation Board shall report inmate populations to the Compensation Board, through the local inmate data system, no less frequently than weekly. Each local or regional jail that receives funding from the Compensation Board shall use the Virginia Crime Codes (VCC) in identifying and describing offenses for persons arrested and/or detained in local and regional jails in Virginia.</p>				
<p>K.1. The Compensation Board shall provide the Chairmen of the Senate Finance and House Appropriations Committees and the Secretaries of Finance and Administration with an annual report, on December 1 of each year, of jail revenues and expenditures for all local and regional jails and jail farms which receive funds from the Compensation Board. Information provided to the Compensation Board is to include an audited statement of revenues and expenses for inmate canteen accounts, telephone commission funds, inmate medical co-payment funds, any other fees collected from inmates and investment/interest monies for inclusion in the report.</p>				
<p>2. Local and regional jails and jail farms and local governments receiving funds from the Compensation Board shall, as a condition of receiving such funds, provide such information as may be required by the Compensation Board, necessary to prepare the annual jail cost report.</p>				

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3. If any sheriff, superintendent, county administrator, or city manager fails to send such information within five working days after the information should be forwarded, the Chairman of the Compensation Board shall notify the sheriff, superintendent, county administrator or city manager of such failure. If the information is not provided within ten working days from that date, then the chairman shall cause the information to be prepared from the books of the city, county, or regional jail and shall certify the cost thereof to the State Comptroller. The State Comptroller shall issue his warrant on the state treasury for that amount, deducting the same from any funds that may be due the sheriff or regional jail from the Commonwealth.				
L. In the event of the transition of a city to town status pursuant to the provisions of Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2, Code of Virginia, or the consolidation of a city and a county into a single city pursuant to the provisions of Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2, Code of Virginia, subsequent to July 1, 1999, the Compensation Board shall provide funding from Items 66, 69, 70, 71, and 72 of this act, consistent with the requirements of § 15.2-1302, Code of Virginia. Notwithstanding the provisions of paragraph E of this Item, any positions in the constitutional offices of the former city or former county which are available for reallocation as a result of the transition or consolidation shall be first reallocated in accordance with Compensation Board staffing standards to the constitutional officers in the county in which the town is situated or to the consolidated city, without regard to the Compensation Board's priority of need ranking for reallocated positions. The salary and fringe benefit costs for these positions shall be deducted from any amounts due the county or to the consolidated city, as provided in § 15.2-1302, Code of Virginia.				
M. Notwithstanding any other provisions of § 15.2-1605, Code of Virginia, the Compensation Board shall provide no reimbursement for accumulated vacation time for employees of Constitutional Officers.				
N. The Compensation Board is hereby authorized to deduct, from reimbursements made each year to localities out of the amounts in Items 66, 68, 69, 70, 71, and 72 of this act, an amount equal to 100 percent of each locality's share of the insurance premium paid by the Compensation Board on behalf of the constitutional officers, directors of finance, and regional jails. From sheriffs and regional jails, the Compensation Board shall deduct an additional \$80,000 each year for the costs of conducting training on managing risk in the operation of local and regional jails.				
O. Effective July 1, 2007, the Compensation Board is authorized to withhold reimbursements due the locality for sheriff and jail expenses upon notification from the Superintendent of State Police that there is reason to believe that crime data reported by a locality to the Department of State Police in accordance with § 52-28, Code of Virginia, is missing, incomplete or incorrect. Upon subsequent notification by the Superintendent that the data is accurate, the Compensation Board shall make reimbursement of withheld funding due the locality when such corrections are made within the same fiscal year that funds have been withheld.				
P. Notwithstanding the provisions of § 51.1-1403 A, Code of Virginia, the Compensation Board is hereby authorized to deduct, from reimbursements made each year to localities out of the amounts in Items 66, 68, 69, 70, 71, and 72 of this act, an amount equal to each locality's retiree health premium paid by the Compensation Board on behalf of the constitutional offices, directors of finance, and regional jails.				
Q.1. Compensation Board payments of, or reimbursements for, the employer paid contribution to the Virginia Retirement System, or any system offering like benefits, shall not exceed the Commonwealth's proportionate share of the following, whichever is less: (a) the actual retirement rate for the local constitutional officer's office or regional correctional facility as set by the Board of the Virginia Retirement System or (b) the employer rate established for the general classified workforce of the Commonwealth covered under and payable to the Virginia Retirement System.				
2. The rate specified in paragraph Q.1. shall exclude the cost of any early retirement program implemented by the Commonwealth.				
3. Any employer paid contribution costs for rates exceeding those specified in paragraph Q.1. shall be borne by the employer.				

ITEM 73.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>4. The benefits rate reimbursed by the Compensation Board to localities and regional jails shall not exceed the rate identified for fiscal year 2011 in Chapter 890, Item 469, paragraph I.1.</p> <p>R. Localities shall not utilize Compensation Board funding to supplant local funds provided for the salaries of constitutional officers and their employees under the provisions of Chapter 822, 2012 Acts of Assembly, who were affected members in service on June 30, 2012.</p> <p>S. Effective July 1, 2016, the Compensation Board is authorized to withhold reimbursements due to the locality for sheriff's law enforcement expenses if the sheriff fails to certify to the Board that the sheriff's office is compliant with the sex offender registration requirements of § 9.1-903, Code of Virginia. Upon subsequent certification by the sheriff that the sheriff's office is compliant with the sex offender registration requirements of § 9.1-903, Code of Virginia, the Compensation Board shall make reimbursement of withheld funding due to the locality when such subsequent certification is made within the same fiscal year that funds have been withheld.</p> <p>T.1. Consistent with the provisions of Chapter 198 of the 2017 Session of the General Assembly, the Executive Secretary of the State Compensation Board shall implement the recommendations relating to the State Compensation Board made by the Department of Medical Assistance Services in its November 30, 2017 report on streamlining the Medicaid application and enrollment process for incarcerated individuals.</p> <p>2. For the purpose of implementing these recommendations, included in the appropriation for this item are \$28,261 the first year from the general fund, and \$254,352 the first year from nongeneral funds.</p> <p>U. The Executive Secretary of the Compensation Board shall convene a working group comprised of representatives of the Supreme Court, Department of Criminal Justice Services, Commonwealth's Attorneys, local governments, and other stakeholders deemed appropriate by the Executive Secretary to investigate how body worn cameras have or may continue to impact the workloads experienced by Commonwealth's Attorneys offices. The working group shall examine processes, relevant judicial decisions, practices, and policies used in other states, potential financial and staffing challenges, and other related issues to determine workload impacts, and to develop recommended budgetary and legislative actions for consideration during the 2019 Session of the General Assembly. The Executive Secretary of the Compensation Board shall submit the recommendations of the working group to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2018. All state agencies and local subdivisions shall provide assistance as requested by the working group.</p> <p>W. The Compensation Board shall review the feasibility and benefits of allocating positions that can be shared between offices in multiple localities or multiple offices within one locality for small localities which currently have minimal staffing. The Compensation Board shall provide recommendations based on this review to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2019.</p>				
Total for Compensation Board.....			<b>\$708,740,083</b>	<b>\$711,054,154</b>
			<b>\$705,710,481</b>	<b>\$708,122,156</b>
General Fund Positions.....	20.00	20.00		
Nongeneral Fund Positions.....	1.00	1.00		
Position Level.....	21.00	21.00		
Fund Sources: General.....	\$691,885,019	\$694,453,442		
	\$688,855,417	\$691,521,444		
Trust and Agency.....	\$8,000,712	\$8,000,712		
Dedicated Special Revenue.....	\$8,600,000	\$8,600,000		
Federal Trust.....	\$254,352	\$0		

ITEM 74.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
74.	Laboratory Services (72600).....			\$38,828,247	\$38,939,593 \$39,880,688
	Statewide Laboratory Services (72604).....	\$24,354,460	\$24,332,980 \$25,141,075		
	Newborn Screening Laboratory Services (72607).....	\$11,952,757	\$11,952,757 \$12,085,757		
	Laboratory Accreditation Services (72608).....	\$500,000	\$500,000		
	Drinking Water Testing Services (72609).....	\$2,021,030	\$2,153,856		
	Fund Sources: General.....	\$13,144,185	\$13,255,531 \$13,733,626		
	Special.....	\$20,000	\$20,000		
	Enterprise.....	\$14,195,752	\$14,195,752 \$14,328,752		
	Internal Service.....	\$4,272,932	\$4,272,932 \$4,602,932		
	Federal Trust.....	\$7,195,378	\$7,195,378		

Authority: Title 2.2, Chapter 11, Article 2, Code of Virginia.

A. The provisions of § 2.2-1104, Code of Virginia, notwithstanding, the Division of Consolidated Laboratory Services shall ensure that no individual is denied the benefits of laboratory tests mandated by the Department of Health for reason of inability to pay for such services.

B. Out of this appropriation, \$4,272,932 the first year and ~~\$4,272,932~~ \$4,602,932 the second year for Statewide Laboratory Services is sum sufficient and these amounts are estimates from an internal service fund which shall be paid from revenues derived from charges collected from state agencies and institutions of higher education for laboratory testing services. The internal service fund shall also consist of revenues transferred from the Department of Transportation for motor fuel testing as stated in § 3-1.02 of this act.

C.1. The provisions of § 2.2-1104 B, Code of Virginia, notwithstanding, the Division of Consolidated Laboratory Services may charge a fee for the limited and specific purpose of analyses of water samples where (i) testing is required by Department of Health regulations as mandated by the federal Safe Drinking Water Act, (ii) funding to support such testing is not otherwise provided for in this act, and (iii) fees shall not be increased unless a plan is first approved by the Governor.

2. The Division of Consolidated Laboratory Services may charge a fee to recover its costs to certify laboratories under the requirements of §§ 2.2-1104 A. 4 and 2.2-1105, Code of Virginia, where certification of these laboratories is required by the Department of Health regulations mandated by the federal Safe Drinking Water Act, Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1, the Virginia Waste Management Act (§ 10.1-1400 et seq.), or the State Water Control Law (§ 62.1-44.2 et seq.), Code of Virginia.

3.a. Any regulations or guidelines necessary to implement or change the amount of the fees charged for testing of water samples or certification of laboratories may be adopted without complying with the Administrative Process Act (§2.2-4000 et seq.) provided that input is solicited from the public. Such input requires only that notice and an opportunity to submit written comments be given.

b. Notwithstanding any other provision of law, changes to fees charged for testing of water samples or certification of laboratories shall be subject to the provisions of § 4-5.03 of this act, effective July 1, 2016.

c. Fees charged for testing of water samples or certification of laboratories shall not exceed the cost of providing such services.

D. Out of this appropriation, \$278,035 the first year and \$410,861 the second year from the general fund shall be used for the first and second year of payments to finance the replacement of instrumentation used for drinking water testing that is at least ten years old utilizing the state's Master Equipment Leasing Program in addition to annual service maintenance agreements for such instrumentation.

ITEM 75.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
75.	Real Estate Services (72700).....			\$66,729,602	\$67,422,353
	Statewide Leasing and Disposal Services (72705)....	\$66,729,602	\$67,422,353	\$69,138,310	\$70,571,518
	Fund Sources: Internal Service.....	\$66,729,602	\$67,422,353	\$69,138,310	\$70,571,518

Authority: Title 2.2, Chapter 11, Article 4, § 2.2-1156, Code of Virginia.

A. Out of this appropriation, \$66,729,602 \$69,138,310 the first year and \$67,422,353 \$70,571,518 the second year for Statewide Leasing and Disposal Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues from rent payments or fees to be paid by state agencies and institutions for their occupancy of facilities and management of real property transactions, including, but not necessarily limited to, leases of non-state owned office space throughout the Commonwealth for use by such agencies and institutions. Also included are funds to pay costs associated with the disposal of state-owned real property and interests therein. In implementing the program, the Department of General Services may utilize brokerage services, portfolio management strategies, personnel policies, and compensation practices generally consistent with prevailing industry best practices.

B.1. The costs paid for each sale of state-owned property shall be returned to the fund upon sale of the property in an amount calculated at 115 percent of such costs.

2. The rate charged for administration of single-agency leases shall be three percent of lease costs and the rate for administration of master leases shall be four percent of lease costs. Fees approved in accordance with § 4-5.03 of this act may also be charged for one-time transactions.

C. The Department of General Services shall issue guidelines to ensure that site selection for new state facilities is accomplished in a way that is consistent with the Principles of Sustainable Community Investment identified in Executive Order 69 (2008) and Executive Order 82 (2009).

D.1. Upon notification from the State Treasurer that all debt service and capital lease obligations have been met, the Department of General Services, on behalf of the Commonwealth of Virginia, shall transfer ownership of the property located at the Center for Innovative Technology Complex at 2214 Rock Hill Road, Herndon, Virginia, formerly known as the Software Consortium Productivity Building and now known as the Mid-Rise Building from the Innovation and Entrepreneurship Investment Authority (IEIA), to the Department of General Services.

2. The Department of General Services shall honor all existing leases and contracts and manage the property as part of its real estate services operation. However, the Department of General Services shall allow IEIA to continue to manage and maintain the facility in accordance with Item 126.10 Q of this act unless otherwise directed by the Governor.

76.	Procurement Services (73000).....			\$57,302,921	\$57,349,742
	Statewide Procurement Services (73002).....	\$26,622,881	\$26,622,881	\$27,077,705	\$27,830,320
	Surplus Property Programs (73007).....	\$1,967,880	\$1,983,147		
	Statewide Cooperative Procurement and Distribution Services (73008).....	\$28,712,160	\$28,743,714		
	Fund Sources: General.....	\$1,872,240	\$1,872,240		
	Special.....	\$3,501,192	\$3,501,192		
	Enterprise.....	\$21,249,449	\$21,249,449		
	Internal Service.....	\$30,680,040	\$30,726,861		

Authority: Title 2.2, Chapter 11, Articles 3 and 6, Code of Virginia.

A. 1. Out of this appropriation, \$584,607 the first year and \$587,693 the second year for federal surplus property is sum sufficient and amounts shown are estimates from an

ITEM 76.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
internal service fund which shall be paid from revenues derived from charges for services.				
2. Out of this appropriation, \$1,383,273 the first year and \$1,395,454 the second year for state surplus property is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.				
B. Out of this appropriation, \$28,712,160 the first year and \$28,743,714 the second year for Statewide Cooperative Procurement and Distribution Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.				
C. The Commonwealth's statewide electronic procurement system and program known as eVA will be financed by fees assessed to state agencies and institutions of higher education and vendors.				
D. The Department of General Services shall allow nonprofit food banks operating in Virginia and granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code to purchase directly from the Virginia Distribution Center.				
77.	Physical Plant Management Services (74100).....		\$52,818,677	\$53,465,300
	Parking Facilities Management (74105).....	\$5,365,118		\$5,456,728
	Statewide Building Management (74106).....	\$41,862,006		\$42,480,605
	Statewide Engineering and Architectural Services (74107).....	\$5,033,408		\$4,969,822
	Seat of Government Mail Services (74108).....	\$558,145		\$558,145
	Fund Sources: General.....	\$1,441,550		\$1,441,550
	Special.....	\$5,365,118		\$5,456,728
	Internal Service.....	\$46,012,009		\$46,567,022

Authority: Title 2.2, Chapter 11, Articles 4, 6, and 8; § 58.1-3403, Code of Virginia.

A.1. Out of this appropriation, \$41,142,683 the first year and \$41,761,282 the second year for Statewide Building Management represent a sum sufficient internal service fund which shall be paid from revenues from rental charges assessed to occupants of seat of government buildings controlled, maintained, and operated by the Department of General Services and fees paid for other building maintenance and operation services provided through service agreements and special work orders. The internal service fund shall support the facilities at the seat of government and maintenance and operation of such other state-owned facilities as the Governor or department may direct, as otherwise provided by law.

2. Out of the amounts included above in paragraph A.1, \$8,305,202 the first year and \$8,305,202 the second year represent amounts estimated for Statewide Building Management consisting of fees derived from service agreements and special work orders.

3. Out of the amounts included above in paragraph A.1, \$32,837,481 the first year and \$33,456,080 the second year represent amounts estimated for Statewide Building Management consisting of revenues derived from rental charges assessed to occupants of seat of government buildings controlled, maintained, and operated by the Department of General Services, excluding the building occupants that currently have maintenance service agreements with the department.

4. The rent rate for occupants of office space in seat of government facilities operated and maintained by the Department of General Services, excluding the building occupants that currently have maintenance service agreements with the department, shall be \$15.96 per square foot the first year and \$15.96 the second year.

5. On or before September 1 of each year, the Department of General Services shall report to the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Administration, and the Department of Planning and Budget regarding the operations and maintenance costs of all buildings controlled, maintained, and operated by the Department of General Services. The report shall include, but not be limited to, the cost and fund source associated with the following: utilities, maintenance and repairs, security, custodial services, groundskeeping, direct administration and other overhead, and any other operations or maintenance costs for the most recently concluded fiscal year. The amount of unleased space

ITEM 77.	<b>Item Details(\$)</b>		<b>Appropriations(\$)</b>	
	<b>First Year</b>	<b>Second Year</b>	<b>First Year</b>	<b>Second Year</b>
	<b>FY2019</b>	<b>FY2020</b>	<b>FY2019</b>	<b>FY2020</b>

in each building shall also be reported.

6. Further, out of the estimated cost for Statewide Building Management, amounts estimated at \$1,894,865 the first year and \$1,894,865 the second year shall be paid for Payment in Lieu of Taxes. In addition to the amounts for Statewide Building Management, the following sums, estimated at the amounts shown for this purpose, are included in the appropriations for the agencies identified:

	<b>FY 2017</b>	<b>FY 2018</b>
Alcoholic Beverage Control Authority	\$78,331	\$78,331
Department of Corrections	\$4,906	\$4,906
Department of Motor Vehicles	\$206,832	\$206,832
Department of State Police	\$675	\$675
Department of Transportation	\$223,736	\$223,736
Department for the Blind and Vision Impaired	\$4,639	\$4,639
Virginia Employment Commission	\$62,163	\$62,163
Virginia Museum of Fine Arts	\$158,513	\$158,513
Virginia Retirement System	\$94,172	\$94,172
Veterans Services	\$140,878	\$140,878
Workers' Compensation Commission	\$35,002	\$35,002
<b>TOTAL</b>	<b>\$1,009,847</b>	<b>\$1,009,847</b>

B.1. Out of this appropriation, \$4,869,326 the first year and \$4,805,740 the second year for Statewide Engineering and Architectural Services provided by the Bureau of Capital Outlay Management represent a sum sufficient internal service fund which shall be paid from revenues from fees paid by state agencies and institutions of higher education for the review of architectural, mechanical, and life safety plans of capital outlay projects.

2. In administering this internal service fund, the Bureau of Capital Outlay Management (BCOM) shall provide capital project cost review services to state agencies and institutions of higher education and produce capital project cost analysis work products for the Department of Planning and Budget. BCOM shall collect fees, consistent with those fees authorized above in paragraph B.1, from state agencies and institutions of higher education for completed capital project cost review services or work products.

3. The hourly rate for engineering and architectural services shall be \$142.00 the first year and \$146.67 the second year, excluding contracted services and other special rates as authorized pursuant to § 4-5.03 of this act.

4. Out of the amounts appropriated in this Item, \$164,082 the first year and \$164,082 the second year from the general fund is provided for the Bureau of Capital Outlay Management to support the Commonwealth's capital budget and capital pool process for which fees authorized in this paragraph cannot otherwise be assessed.

C. Interest on the employee vehicle parking fund authorized by § 4-6.04 c of this act shall be added to the fund as earned.

D. The Department of General Services shall, in conjunction with affected agencies, develop, implement, and administer a consolidated mail function to process inbound and outbound mail for agencies located in the Richmond metropolitan area. The consolidated mail function shall include the establishment of a centralized mail receiving and outbound processing location or locations, and the enhancement of mail security capabilities within these location(s).

E. All new and renovated state-owned facilities, if the renovations are in excess of 50 percent of the structure's assessed value, that are over 5,000 gross square feet shall be designed and constructed consistent with energy performance standards at least as stringent as the U.S. Green Building Council's LEED rating system or the Green Globes rating system.

F. Effective July 1, 2009, the total service charge for the property known as the General Assembly Building and the State Capitol Building shall not exceed \$70,000 per fiscal

ITEM 77.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

year.

G. The Director of the Department of General Services shall work with the Commissioner of the Department of Transportation and other agencies to maximize the use of light-emitting diodes (LEDs) instead of traditional incandescent light bulbs when any state agency installs new outdoor lighting fixtures or replaces nonfunctioning light bulbs on existing outdoor lighting fixtures as long as the LEDs lights are determined to be cost effective.

H. The Director, Department of General Services, in collaboration with the Joint Rules Committee of the General Assembly, shall develop tenant occupancy lists for the Department's Old City Hall and Patrick Henry Buildings. In development of the lists, joint occupancy by legislative and executive branch agencies of either or both buildings shall be considered and may be approved by the Director and Joint Rules Committee. Upon approval of the lists, the Department will immediately design and construct the space required to accommodate the identified tenants. The Director, and Joint Rules Committee, will complete their work no later than September 30, 2018.

78.	Printing and Reproduction (82100).....			\$155,009	\$157,052
	Statewide Graphic Design Services (82101).....	\$155,009	\$157,052		
	Fund Sources: Internal Service.....	\$155,009	\$157,052		

Authority: Title 2.2, Chapter 11, Articles 3 and 6, Code of Virginia.

1. The appropriation for Statewide Graphic Design Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.

2. The hourly rate charged for graphic design services shall be \$85.00 the first year and \$85.00 the second year. The amount charged for contracted services shall be 115 percent of the actual cost of such contracted services.

79.	Transportation Pool Services (82300).....			\$19,774,962	\$20,162,297
	Statewide Vehicle Management Services (82302).....	\$19,774,962	\$20,162,297		
	Fund Sources: Internal Service.....	\$19,774,962	\$20,162,297		

Authority: Title 2.2, Chapter 11, Article 7; § 2.2-120, Code of Virginia.

A. The appropriation for Statewide Vehicle Management Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges to agencies for fleet management services.

B. Charges for central fleet vehicles leased by state agencies and institutions shall be the vehicle purchase cost and interest charges amortized over a period of 84 months or less, in addition to a standard monthly operating charge of \$127.32 the first year and \$127.32 the second year per vehicle for the cost of maintenance and support.

C. In addition to providing services to state agencies and institutions, fleet management services may also be provided to local public bodies on a fee for service basis in accordance with established Department of General Services Fleet Management policies and procedures.

D. The Department of General Services shall manage the Commonwealth's consolidation of bulk and commercial fuel contracts awarded in response to Chapter 879, Acts of Assembly of 2008, Item 1-83 C. The intent of this consolidation is to leverage the Commonwealth's state and local public entities, gasoline and diesel fuel purchase volume to achieve the most favored pricing from private sector fuel providers, and reduce procurement administration workload from state agencies, institutions, local government entities, and other authorized users of awarded contracts that would have otherwise procured and contracted separately for these commodities.

E. The Commonwealth of Virginia, Department of General Services may enter into a comprehensive agreement, or multiple comprehensive agreements, pursuant to the Public-Private Education Facilities and Infrastructure Act – 2002 (§ 56-575.1 et seq.), to achieve the purposes of § 2.2-1176 (B) and result in the replacement of state-owned or operated vehicles with vehicles that operate on alternative fuels. Any agreement entered into must be cost

ITEM 79.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>neutral or result in a reduction in the Commonwealth's combined vehicle acquisition and operational costs, and result in lower environmental emissions. The agreements shall not be subject to the requirements found in Title 30, Chapter 42, Code of Virginia (§ 30-278 et. seq.). The Director, Department of General Services, in consultation with the Governor's Senior Advisor on Energy and the Secretary of Finance, shall determine whether the agreement is cost neutral or results in cost savings to the Commonwealth.</p> <p>F. The comprehensive agreement referenced in paragraph E. above, may allow for the Department of General Services (DGS) to establish alternative fuels (natural gas, propane, electric) fueling sites at its office of fleet management facility in Richmond, Virginia. Such sites may be open to the general public for the purchase of alternative fuels when such fuels are not available on the retail market within 10 miles of the DGS fleet management facility. Rates for fuel purchased by the general public will be established by the private vendor operating the fueling site. In emergency situations or fuel shortages, the Commonwealth retains the ability to restrict access to such sites as necessary.</p>				
80.	Administrative and Support Services (79900).....		\$4,735,525	<del>\$4,735,525</del> \$4,835,525
	General Management and Direction (79901).....	\$2,740,684	<del>\$2,740,684</del> \$2,840,684	
	Information Technology Services (79902).....	\$1,994,841	\$1,994,841	
	Fund Sources: General.....	\$4,735,525	<del>\$4,735,525</del> \$4,835,525	

Authority: Title 2.2, Chapter 11 and Chapter 24, Article 1, Code of Virginia.

*The Department of General Services (DGS) shall conduct a review of current Virginia law and best practices as it relates to the statute of limitations on state contracts for construction services and its fiscal implications, consistent with recommendations made by the Joint Legislative Audit and Review Commission (JLARC) in its June 2016 "Development and Management of State Contracts" report. DGS shall conduct this review in consultation with state and local government public bodies, the Office of the Attorney General, and representatives from the private sector construction community, to include contractors, insurers, and legal representatives. DGS shall report its findings and recommendations to the Chairmen of the House Appropriations and Senate Finance Committees, and the Governor by December 31, 2019. JLARC shall provide oversight of, and assistance as needed to, DGS pursuant to the review and completion of the report.*

Total for Department of General Services.....			<del>\$240,344,943</del> \$243,208,475	<del>\$242,231,862</del> \$247,629,561
General Fund Positions.....	240.50	<del>240.50</del> 243.50		
Nongeneral Fund Positions.....	426.50	<del>426.50</del> 430.50		
Position Level.....	667.00	<del>667.00</del> 674.00		
Fund Sources: General.....	\$21,193,500	<del>\$21,304,846</del> \$21,882,941		
Special.....	\$8,886,310	\$8,977,920		
Enterprise.....	<del>\$35,445,201</del> \$35,900,025	<del>\$35,445,201</del> \$36,785,640		
Internal Service.....	<del>\$167,624,554</del> \$170,033,262	<del>\$169,308,517</del> \$172,787,682		
Federal Trust.....	\$7,195,378	\$7,195,378		

**§ 1-29. DEPARTMENT OF HUMAN RESOURCE MANAGEMENT (129)**

81.	Personnel Management Services (70400).....		\$103,805,256 \$103,100,826	\$108,535,313 \$108,364,532
	Agency Human Resource Services (70401).....	\$1,124,489 \$1,452,709	\$821,270 \$1,677,709	
	Human Resource Service Center (70402).....	<del>\$1,286,809</del> \$1,362,447	\$1,286,809	

ITEM 81.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Health Benefits Services (70406).....	\$7,968,125	\$7,968,125		
	\$6,859,837	\$6,868,079		
Personnel Development Services (70409).....	\$678,686	\$678,686		
Personnel Management Information System (70410)..	\$1,827,972	\$1,861,248		
Equal Employment and Dispute Resolution Services (70413).....	\$1,822,940	\$1,822,940		
		\$1,895,766		
State Employee Program Services (70417).....	\$2,139,084	\$2,139,084		
State Employee Workers' Compensation Services (70418).....	\$86,414,323	\$91,414,323		
Administrative and Support Services (70419).....	\$542,828	\$542,828		
Fund Sources: General.....	\$4,803,254	\$4,500,035		
	\$5,207,112	\$5,429,300		
Special.....	\$1,272,515	\$1,272,515		
Enterprise.....	\$3,714,817	\$3,714,817		
	\$2,519,448	\$2,519,448		
Internal Service.....	\$7,338,929	\$7,372,205		
Trust and Agency.....	\$86,675,741	\$91,675,741		
	\$86,762,822	\$91,771,064		

Authority: Title 2.2, Chapters 12 and 28, 29, 30, and 32, Code of Virginia.

A. The Department of Human Resource Management shall report any proposed changes in premiums, benefits, carriers, or provider networks to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees at least sixty days prior to implementation.

B.1. The Department of Human Resource Management shall operate a human resource service center to support the human resource needs of those agencies identified by the Secretary of Administration in consultation with the Department of Planning and Budget. The agencies identified shall cooperate with the Department of Human Resource Management by transferring such records and functions as may be required.

2. Out of this appropriation, \$622,898 the first year and \$622,898 the second year from the general fund shall be used to support the human resource service center.

3. Nothing in this paragraph shall prohibit additional agencies from using the services of the center; however, these additional agencies' use of the human resource service center shall be subject to approval by the affected cabinet secretary and the Secretary of Administration.

4. a. Agencies that are partially or fully funded with nongeneral funds that receive approval by the affected cabinet secretary and the Secretary of Administration to join the human resource service center, on or after July 1, 2014, shall pay the Department of Human Resource Management the costs to support the human resource service center. The agency's share of the costs to support the human resource service center shall be based on the agency's applicable nongeneral fund expenditures as set out in § 4-5.03 of this act.

b. The rates required to recover the costs of the human resource service center shall be provided by the Department of Human Resource Management to the Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate in accordance with § 4-5.03 of this act.

c. The rates for the human resource service center shall be \$625.00 per full-time equivalent and \$225.00 per wage employee the first year and \$900.00 per full-time equivalent and \$325.00 per wage employee the second year.

C. The institutions of higher education shall be exempt from the centralized advertising requirements identified in Executive Order 73 (01).

D.1. To ensure fair and equitable performance reviews, the Department of Human Resource Management, within available resources, is directed to provide performance management training to agencies and institutions of higher education with classified employees.

2. Agency heads in the Executive Department are directed to require appropriate performance

ITEM 81.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
management training for all agency supervisors and managers.				
E. The Department of Human Resource Management shall take into account the claims experience of each agency and institution when setting premiums for the workers' compensation program.				
F.1. The Department of Human Resource Management shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees by October 30 of each year, on its recommended workers' compensation premiums for state agencies for the following biennium. This report shall also include the basis for the department's recommendations; the status and recommendations of the loss control program authorized in paragraph F. 2; the number and amount of workers' compensation settlements concluded in the previous fiscal year, inclusive of those authorized in paragraph F. 3.a; and the impact of those settlements on the workers' compensation program's reserves.				
2. Beginning July 1, 2015, the Department of Human Resource Management shall conduct an annual review of each state agency's loss control history, to include the severity of workers' compensation claims, experience modification factor, and frequency normalized by payroll. Based on the annual review, state agencies deemed by the Department of Human Resource Management as having higher than normal loss history shall be required to participate in a loss control program. All executive, judicial, legislative, and independent agencies required to participate in the loss control program shall fully cooperate with the Department of Human Resource Management's review.				
3. a. A working capital advance of up to \$20,000,000 shall be provided to the Department of Human Resource Management to identify and potentially settle certain workers' compensation claims open for more than one year but less than 10 years. The Department of Human Resource Management shall pay back the working capital advance from annual premiums over a seven-year period.				
b. The Secretary of Finance and Secretary of Administration shall approve the drawdowns from this working capital advance prior to the expenditure of funds. The State Comptroller shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees of any approved drawdowns.				
G. The Department of Human Resource Management shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees, by October 15 of each year, on the renewal cost of the state employee health insurance program premiums that will go into effect on July 1 of the following year. This report shall include the impact of the renewal cost on employee and employer premiums and a valuation of liabilities as required by Other Post Employment Benefits reporting standards.				
H. Out of this appropriation, <del>\$303,219</del> \$606,439 the first year and \$606,439 the second year from the general fund is provided for the time, attendance and leave system.				
I. The Department of Human Resource Management shall develop and distribute instructions and guidelines to all executive department agencies for the provision of an annual statement of total compensation for each classified employee. The statement should account for the full cost to the Commonwealth and the employee of cash compensation as well as Social Security, Medicare, retirement, deferred compensation, health insurance, life insurance, and any other benefits. The Director, Department of Human Resource Management, shall ensure that all executive department agencies provide this notice to each employee. The Department of Accounts and the Virginia Retirement System shall provide assistance upon request. Further, the Director of the Department of Human Resource Management shall provide instructions and guidelines for the development notices of total compensation to all independent, legislative, and judicial agencies, and institutions of higher education for preparation of annual statements to their employees.				
J. 1. The appropriation for the Personnel Management Information System (PMIS) is a sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges to participating agencies, identified by the Department of Human Resource Management and approved by the Department of Planning and Budget, to support the operation of PMIS and its subsystems authorized in				

ITEM 81.	Item Details(\$)		Appropriations(\$)	
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this Item.				
2.a. The rate for agencies to support PMIS and its subsystems, operated and maintained by the Department of Human Resource Management, shall be \$16.20 per position the first year and no more than \$17.03 per position the second year. The rate is based upon the higher of the agency's maximum employment level as of July 1, 2017, and filled wage positions as of June 30, 2017, or the total number of filled classified and wage positions as of June 30, 2017.				
b. The rates authorized to support the operation of PMIS and its subsystems shall be provided by the Department of Human Resource Management and approved by the Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate in accordance with § 4-5.03 of this act.				
3. The State Comptroller shall recover the cost of services provided for the administration of the internal service fund through interagency transactions as determined by the State Comptroller.				
K. Out of the amounts appropriated for this Item to support the Commission on Employee Retirement Security and Pension Reform, the Department of Human Resource Management is authorized to spend an amount estimated at \$75,000 each year on the development and maintenance of an employee exit survey and an amount estimated at \$20,000 per year to subscribe to Occupationally Based Data Services focused on total compensation and evaluation of peer employers.				
L. The Department of Human Resource Management shall work with the Virginia Information Technologies Agency to develop a pilot program, beginning in July of 2019, utilizing a currently available electronic platform, to track and evaluate the productivity contract staff when teleworking or working in an office that is not part of the agency for which they work or for which they have a contract. The Departments shall identify specific executive branch agencies which have a significant number of such contractors and work with these agencies to develop the pilot project. The Departments shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the results of the pilot program by November 15, 2020.				
<i>M.1. The Department of Human Resource Management shall convene a workgroup to develop a methodology that can be used to determine (i) the amount of funding that should be appropriated for state employee salary increases each year and (ii) how to distribute that funding to address state agencies' most significant workforce challenges.</i>				
<i>2. The methodology should be data-driven and include (i) recruitment and retention trends for each job role in the state workforce, (ii) how salaries and total compensation for each job role compare to similar jobs at other employers, (iii) the extent to which recruitment and retention challenges can be addressed by salary increases, and (iv) the impact of recruitment and retention challenges in each job role on state agency operations.</i>				
<i>3. In developing the methodology, the workgroup shall incorporate data from the Personnel Management Information System, the Department of Human Resource Management's employee exit survey, and data from Occupationally Based Data Services.</i>				
<i>4. The workgroup shall include representatives from the Department of Human Resource Management, the Department of Planning and Budget, House Appropriations Committee staff, Senate Finance Committee staff, and human resources staff from multiple state agencies.</i>				
<i>5. The methodology developed by the workgroup shall be used to develop the biennial report required by House Bill 2055 of the 2019 General Assembly Session. Notwithstanding the provisions of House Bill 2055, the first biennial report using this methodology shall be due by December 1, 2019.</i>				
<i>N. The Department of Human Resource Management shall work with the Department of Veterans Services to identify and promote policies to support the hiring and continued employment of disabled veterans in the state workforce. The Departments shall submit any recommendations for state workforce policy changes to the Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2019.</i>				

ITEM 81.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Total for Department of Human Resource Management.....			<b>\$103,805,256</b>	<b>\$108,535,313</b>
			<b>\$103,100,826</b>	<b>\$108,364,532</b>
General Fund Positions.....	49.96	49.96		
Nongeneral Fund Positions.....	72.04	72.04		
	66.04	66.04		
Position Level.....	122.00	122.00		
	116.00	116.00		
Fund Sources: General.....	\$4,803,254	\$4,500,035		
	\$5,207,112	\$5,429,300		
Special.....	\$1,272,515	\$1,272,515		
Enterprise.....	\$3,714,817	\$3,714,817		
	\$2,519,448	\$2,519,448		
Internal Service.....	\$7,338,929	\$7,372,205		
Trust and Agency.....	\$86,675,741	\$91,675,741		
	\$86,762,822	\$91,771,064		

**Administration of Health Insurance (149)**

82.	Personnel Management Services (70400).....			\$2,585,446,067	\$2,685,446,067
				\$2,085,446,067	\$2,110,446,067
	Health Benefits Services (70406).....	\$1,519,195,823	\$1,619,195,823		
			\$1,544,195,823		
	Local Health Benefit Services (70407).....	\$534,050,244	\$534,050,244		
	Health Insurance Benefit Payment Under the Line of Duty Act (70408).....	\$32,200,000	\$32,200,000		
	Health Benefit Services – State-Based Local Option (70411).....	\$500,000,000	\$500,000,000		
		\$0	\$0		
	Fund Sources: Enterprise.....	\$1,034,050,244	\$1,034,050,244		
		\$534,050,244	\$534,050,244		
	Internal Service.....	\$1,519,195,823	\$1,619,195,823		
			\$1,544,195,823		
	Trust and Agency.....	\$32,200,000	\$32,200,000		

Authority: § 2.2-2818, § 2.2-1204, and Title 9.1, Chapter 4, Code of Virginia.

A. The appropriation for Health Benefits Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues paid by state agencies to the Department of Human Resource Management.

B. The amounts for Local Health Benefits Services include estimated revenues received from localities for the local choice health benefits program.

C.1. In the event that the total of all eligible claims exceeds the balance in the state employee medical reimbursement account, there is hereby appropriated a sum sufficient from the general fund of the state treasury to enable the payment of such eligible claims.

2. The term "employee medical reimbursement account" means the account administered by the Department of Human Resource Management pursuant to § 125 of the Internal Revenue Code in connection with the health insurance program for state employees (§ 2.2-2818, Code of Virginia).

D. Any balances remaining in the reserved component of the Employee Health Insurance Fund shall be considered part of the overall Health Insurance Fund. It is the intent of the General Assembly that future premiums for the state employee health insurance program shall be set in a manner so that the balance in the Health Insurance Fund will be sufficient to meet the estimated Incurred But Not Paid liability for the Fund and maintain a contingency reserve at a level recommended by the Department of Human Resource Management for a self-insured plan subject to the approval of the General Assembly.

E. The Department of Human Resource Management shall implement a Medication Therapy Management pilot program for state employees with certain disease states

ITEM 82.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
including Type II diabetes. The department shall continue to consult with all provider stakeholders in order to establish program parameters.				
F. Concurrent with the date the Governor introduces the budget bill, the Directors of the Departments of Planning and Budget and Human Resource Management shall provide to the Chairmen of the House Appropriations and Senate Finance Committees a report detailing the assumptions included in the Governor's introduced budget for the state employee health insurance plan. The report shall include the proposed premium schedule that would be effective for the upcoming fiscal year and any proposed changes to the benefit structure.				
G. Of money appropriated for the state employee health insurance fund, \$650,000 the first year and \$650,000 the second year shall be held separate and apart from the fund to pay for any required fees due to the Patient-Centered Outcomes Research Institute.				
H. In addition to such other payments as may be available, the full cost of group health insurance, net of any deductions and credits, for the surviving spouses and dependents of certain public safety officers killed in the line of duty and for certain public safety officers disabled in the line of duty, and the spouses and dependents of such disabled officers, are payable from this Item pursuant to Title 9.1, Chapter 4, Code of Virginia, effective July 1, 2017.				
I. <del>The amounts for Health Benefits Services - State - Based Local Option include estimated revenues received from localities for the local health benefits option pursuant to Chapter 512 of the Acts of Assembly of 2016:</del>				
J. The Department of Human Resource Management shall report to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2018 on the progress of implementing a shared-services incentive program for the state employee health plan and the Local Choice Health Benefit Plan.				
Total for Administration of Health Insurance.....			<b>\$2,585,446,067</b>	<b>\$2,685,446,067</b>
			<del>\$2,085,446,067</del>	<del>\$2,110,446,067</del>
Fund Sources: Enterprise.....	\$1,034,050,244	\$1,034,050,244		
	<del>\$534,050,244</del>	<del>\$534,050,244</del>		
Internal Service.....	\$1,519,195,823	\$1,619,195,823		
		<del>\$1,544,195,823</del>		
Trust and Agency.....	\$32,200,000	\$32,200,000		
Grand Total for Department of Human Resource Management.....			<b>\$2,689,251,323</b>	<b>\$2,793,981,380</b>
			<del>\$2,188,546,893</del>	<del>\$2,218,810,599</del>
General Fund Positions.....	49.96	49.96		
Nongeneral Fund Positions.....	72.04	72.04		
	<del>66.04</del>	<del>66.04</del>		
Position Level.....	122.00	122.00		
	<del>116.00</del>	<del>116.00</del>		
Fund Sources: General.....	\$4,803,254	\$4,500,035		
	<del>\$5,207,112</del>	<del>\$5,429,300</del>		
Special.....	\$1,272,515	\$1,272,515		
Enterprise.....	\$1,037,765,061	\$1,037,765,061		
	<del>\$536,569,692</del>	<del>\$536,569,692</del>		
Internal Service.....	\$1,526,534,752	\$1,626,568,028		
		<del>\$1,551,568,028</del>		
Trust and Agency.....	\$118,875,741	\$123,875,741		
	<del>\$118,962,822</del>	<del>\$123,971,064</del>		

**§ 1-30. DEPARTMENT OF ELECTIONS (132)**

83.	Electoral Services (72300).....			\$12,116,786	\$11,896,786
	Electoral Administration, Uniformity, Legality, and Quality Assurance Services (72302).....	\$1,285,140	\$1,285,140		\$16,114,173
			<del>\$2,098,443</del>		

ITEM 83.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Statewide Voter Registration System and Associated Information Technology Services (72304).....	\$8,872,492	<del>\$8,872,492</del> \$12,169,925		
Campaign Finance Disclosure Administration Services (72309).....	\$181,282	\$181,282		
Voter Services and Communications (72311).....	\$703,944	\$483,944		
Administrative Services (72312).....	\$1,073,928	<del>\$1,073,928</del> \$1,180,579		
Fund Sources: General.....	\$12,064,536	<del>\$11,844,536</del> \$13,061,923		
Special.....	\$52,250	\$52,250		
Trust and Agency.....	\$0	\$3,000,000		

Authority: Title 24.2, Chapter 1, Code of Virginia.

A. It is the intention of the General Assembly that all local precincts, other than central absentee precincts established under § 24.2-712, Code of Virginia, will use electronic pollbooks for elections held beginning in November, 2010.

B. Any locality using paper pollbooks for elections held beginning in November, 2010, shall be responsible for entering voting credit as provided in § 24.2-668. Additionally, any locality using paper pollbooks for elections held after November, 2010 may be required to reimburse the Department of Elections for state costs associated with providing paper pollbooks.

C. Municipalities will pay all expenses associated with May elections after June 30, 2009, including those costs incurred by the Department of Elections.

D. The State Board of Elections shall by regulation provide for an administrative fee up to \$25 for each non-electronic report filed with the State Board under § 24.2-947.5. The regulation shall provide for waiver of the fee based upon indigence.

E. All unpaid charges and civil penalties assessed under Title 24.2 shall be subject to interest, the administrative collection fee and late penalties authorized in the Virginia Debt Collection Act, Chapter 48 of Title 2.2, § 2.2-4800 et seq.

F. Out of this appropriation, \$212,687 the first year and \$212,687 the second year from the general fund is provided for voter outreach and education required to inform voters about the photo identification requirements pursuant to Chapter 725 of the Acts of Assembly of 2013. It is the intent of the General Assembly that registration cards containing the voter's photograph and signature be provided free to any eligible voter upon request to the general registrar.

G. Out of this appropriation, \$212,423 the first year and \$212,423 the second year from the general fund is provided for conducting list maintenance mailings as required by the National Voter Registration Act.

*H. No funds available within this appropriation shall be expended to substantially rebuild the Virginia Election & Registration Information System (VERIS) until such time as the Department of Elections, in consultation with the Virginia Information Technologies Agency (VITA), has (i) solicited feedback from the GR/EB Duties Workgroup, (ii) developed a product requirements document, and (iii) developed a draft request for proposals document for a potential replacement to the VERIS system. The Department shall submit a report to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2019, including the completed product requirements document and draft request for proposals document, as well as an assessment by the Department regarding the options of replacing or rebuilding the VERIS system, including the use of third-party vendors.*

*I. The Department of Elections, in collaboration with the Compensation Board, shall conduct a comparison of General Registrars' salaries, in relation to other local constitutional officers' salaries, between the years 1981 and 2018. Additionally, the Department shall prepare an analysis detailing the duties and job responsibilities for general registrars. The Department shall submit this information to the Chairmen of the*

ITEM 83.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<i>Senate Finance and House Appropriations Committees by September 1, 2019.</i>				
<i>J. Out of this appropriation, \$147,308 the second year from the general fund is provided to fund expenses incurred by the Department associated with the 2020 presidential primary.</i>				
84.	Financial Assistance for Electoral Services (78000)....		\$5,957,836	\$5,957,836
	Financial Assistance for General Registrar Compensation (78001).....	\$5,032,484		\$5,032,484
	Financial Assistance for Local Electoral Board Compensation and Expenses (78002).....	\$925,352		\$925,352
	Fund Sources: General.....	\$5,957,836		\$5,957,836

Authority: Title 24.2, Chapter 1, Code of Virginia.

A.1.a. In determining the salary for each general registrar, the Department of Elections shall use the most recent provisional population estimate from the Weldon Cooper Center for Public Service of the University of Virginia. The Department of Elections shall adjust such population estimate, where applicable, for any annexation or consolidation order by a court when such order becomes effective. There shall be no reduction in salary by reason of a decline in population during the terms in which the incumbent general registrar remains in office.

b. The annual salaries of general registrars, in accordance with the provisions of § 24.2-111, Code of Virginia, shall be as hereinafter prescribed.

Population	July 1, 2018	July 1, 2019
	to June 30, 2019	to June 30, 2020
0-25,000	\$46,468	\$46,468 \$47,397
25,001-50,000	\$51,059	\$51,059 \$52,080
50,001-100,000	\$55,959	\$55,959 \$57,078
100,001-150,000	\$62,538	\$62,538 \$63,789
150,001-200,000	\$68,491	\$68,491 \$69,861
200,001 and above	\$90,525	\$90,525 \$92,336

c. Any locality required to supplement the salary of a general registrar on June 30, 1981, shall continue that supplement at the identical annual amount as paid in FY 1982. This supplement shall continue as long as the incumbent general registrar on July 1, 1982, continues in office. Further, any locality may supplement the annual salary of the general registrar. There shall be no reimbursement out of the state treasury for such supplements.

2. General registrars in the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park shall receive a cost of competition supplement equal to 15 percent of the salaries authorized in paragraph A.1.a. The cost of this supplement shall be paid out of the general fund of the state treasury.

B.1.a. The Department of Elections shall set the annual compensation for secretaries and members of local electoral boards on July 1 of each year. In determining such compensation, the Department of Elections shall use the most recent population estimate from the United States Bureau of the Census. However, should more recent population estimates from the Weldon Cooper Center for Public Service of the University of Virginia indicate that the population of any county or city has, since the last United States census, increased so as to entitle such county or city to be placed in a higher compensation bracket, such county or city shall be considered as being within the higher bracket for the purpose of fixing the annual compensation.

<b>ITEM 84.</b>	<b>Item Details(\$)</b>		<b>Appropriations(\$)</b>	
	<b>First Year FY2019</b>	<b>Second Year FY2020</b>	<b>First Year FY2019</b>	<b>Second Year FY2020</b>

b. The annual compensation of the secretary of each local electoral board shall be as hereinafter prescribed.

	<b>July 1, 2018 to June 30, 2019</b>	<b>July 1, 2019 to June 30, 2020</b>
Population Size of Locality		
0-10,000	\$2,150	\$2,150 <i>\$2,193</i>
10,001-25,000	\$3,222	\$3,222 <i>\$3,286</i>
25,001-50,000	\$4,296	\$4,296 <i>\$4,382</i>
50,001-100,000	\$5,370	\$5,370 <i>\$5,477</i>
100,001-150,000	\$6,442	\$6,442 <i>\$6,571</i>
150,001-200,000	\$7,534	\$7,534 <i>\$7,685</i>
200,001-350,000	\$8,598	\$8,598 <i>\$8,770</i>
Above 350,000	\$9,667	\$9,667 <i>\$9,860</i>

c. The annual compensation of other members of local electoral boards shall be fixed at one-half the annual compensation provided to the secretary of the board.

d. The governing body of any county or city may pay to a full-time secretary of an electoral board such supplemental compensation as it deems appropriate. There shall be no reimbursement out of the state treasury for such supplements.

2. Nothing herein contained shall prevent the governing body of any county or city from paying the secretary of its electoral board such additional allowance for expenses as it deems appropriate but there shall be no reimbursement out of the state treasury for such expenses.

3. Notwithstanding § 24.2-108, Code of Virginia, counties and cities shall not be reimbursed for mileage paid to members of electoral boards.

Total for Department of Elections.....		<b>\$18,074,622</b>	<b><del>\$17,854,622</del> \$22,072,009</b>
General Fund Positions.....	43.00	<del>43.00</del> 49.00	
Position Level.....	43.00	<del>43.00</del> 49.00	
Fund Sources: General.....	\$18,022,372	<del>\$17,802,372</del> \$19,019,759	
Special.....	\$52,250	\$52,250	
Trust and Agency.....	\$0	\$3,000,000	

**§ 1-31. VIRGINIA INFORMATION TECHNOLOGIES AGENCY (136)**

84.10	Information Systems Management and Direction (71100).....		\$2,740,163	\$2,740,163
	Geographic Information Access Services (71105)....	\$2,740,163	\$2,740,163	
	Fund Sources: Dedicated Special Revenue.....	\$2,740,163	\$2,740,163	

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

ITEM 84.10.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

A.1. All state and nonstate agencies receiving an appropriation in Part 1 shall comply with the guidelines and related procedures issued by Virginia Information Technologies Agency for effective management of geographic information systems in the Commonwealth.

2. All state and nonstate agencies identified in paragraph A.1. that have a geographic information system, shall assist the department by providing any requested information on the systems including current and planned expenditures and activities, and acquired resources.

3. The State Corporation Commission, Virginia Employment Commission, the Department of Game and Inland Fisheries, and other nongeneral fund agencies are encouraged to use their own fund sources for the acquisition of hardware and development of data for the spatial data library in the Virginia Geographic Information Network.

B. The Virginia Information Technologies Agency, through its Geographic Information Network Division (VGIN), or its counterpart, shall acquire on a four-year cycle high-resolution digital orthophotography of the land base of Virginia pursuant to VGIN's Virginia Base Mapping Program (VBMP) and digital road centerline files. VGIN shall administer the maintenance of the VBMP and appropriate addressing and standardized attribution in collaboration with local governments. All digital orthophotography, Digital Terrain Models and ancillary data produced by the VBMP, but not including digital road centerline files, shall be the property of the Commonwealth of Virginia and administered by VGIN. The VGIN, or its counterpart, will be responsible for protecting the data through appropriate license agreements and establishing appropriate terms, conditions, charges and any limitations on use of the data. VGIN will license the data at no charge (other than media / transfer costs) to Virginia governmental entities or their agents. Such data shall not be subject to release by such entities under the Freedom of Information Act or similar laws. VGIN in its discretion may release certain data by posting to the Internet. Distribution of the data for commercial or private use or to users outside the Commonwealth will be the sole responsibility of VGIN or its agent(s) and shall require payment of a license fee to be determined by VGIN. All fees collected as a result will be added to the GIS Fund as established in the Code of Virginia § 2.2-2028. Collected fees and grants are hereby appropriated for future data updates or to cover the costs of existing digital ortho acquisition or for other purposes authorized in § 2.2-2028.

C. Funding in this item shall be used to support the efforts of the Virginia Geographic Information Network which provides for the development and use of spatial data to support E-911 wireless activities in partnership with Enhanced Emergency Communications Services. Funding is to be earmarked for major updates of the VBMP and digital road centerline files.

D. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$1,750,000 the first year and \$1,750,000 the second year from Emergency Response Systems Development Technology Services dedicated special revenue shall be used to support the efforts of the Virginia Geographic Information Network, or its counterpart, for providing the development and use of spatial data to support E-911 wireless activities in partnership with Enhanced Emergency Communications Services.

84.20	Emergency Response Systems Development Technology Services (71200).....			\$22,896,338	\$22,896,338
	Emergency Communication Systems Development Services (71201).....	\$6,919,730	\$6,919,730		
	Financial Assistance to Localities for Enhanced Emergency Communications Services (71202).....	\$10,984,640	\$10,984,640		
	Financial Assistance to Service Providers for Enhanced Emergency Communications Services (71203).....	\$4,991,968	\$4,991,968		
	Fund Sources: Dedicated Special Revenue.....	\$22,896,338	\$22,896,338		

Authority: Title 2.2, Chapter 20.1, and Title 56, Chapter 15, Code of Virginia.

A.1.a. Out of the amounts for Emergency Communication Systems Development Services, \$1,000,000 the first year and \$1,000,000 the second year from dedicated special revenue shall be used for development and deployment of improvements to the statewide E-911 network.

b. These funds shall remain unallotted until their expenditure has been approved by the

ITEM 84.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

Wireless E-911 Services Board.

2. Out of the amounts for Emergency Communication Systems Development Services, \$4,000,000 the first year and \$4,000,000 the second year from dedicated special revenue shall be used for wireless E-911 service costs as determined by the Wireless E-911 Services Board.

B. The operating expenses, administrative costs, and salaries of the employees of the Public Safety Communications Division shall be paid from the Wireless E-911 Fund created pursuant to § 56-484.17.

*C.1. Pursuant to § 3-2.03 of this act, a line of credit up to \$15,000,000 shall be provided to the 911 Services Board as a temporary cash flow advance. Funds received from the line of credit shall be used only to support implementation of next generation 911 service and shall be distributed in a manner consistent with § 56-484.17 (D), Code of Virginia. The request for the line of credit shall be prepared in the formats as approved by the Secretary of Finance and Secretary of Administration.*

*2. The Secretary of Finance and Secretary of Administration shall approve draw downs from this line of credit prior to the expenditure of funds.*

*D. During next generation 911 service planning and deployment, the 911 Services Board may reimburse a provider for its wireless E-911 CMRS costs, in lieu of reimbursing the provider's costs to deliver 911 calls to the ESInet points of interconnection pursuant to § 56-484.17(D), Code of Virginia. The 911 Services Board may establish the process, criteria, and duration for such reimbursement of CMRS costs but shall continue to ensure that necessary 911 service and ESInet objectives are achieved.*

84.30	Information Technology Development and Operations (82000).....			\$329,182,128	\$329,182,128 \$273,570,619
	Network Services -- Data, Voice, and Video (82003).....	\$102,286,722	\$102,286,722 \$102,666,845		
	Data Center Services (82005).....	\$117,920,303	\$117,920,303 \$62,617,248		
	Desktop and End User Services (82006).....	\$100,643,409	\$100,643,409 \$92,226,454		
	Computer Operations Security Services (82010).....	\$8,331,694	\$8,331,694 \$16,060,072		
	Fund Sources: Internal Service.....	\$329,182,128	\$329,182,128 \$273,570,619		

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A. Out of this appropriation, \$329,182,128 the first year and ~~\$329,182,128~~ \$273,570,619 the second year for Information Technology Development and Operations is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services.

B. Political subdivisions and local school divisions are hereby authorized to purchase information technology goods and services of every description from the Virginia Information Technologies Agency and its vendors, provided that such purchases are not prohibited by the terms and conditions of the contracts for such goods and services.

C.1. In consultation with the General Assembly and the Office of the Governor, the Virginia Information Technologies Agency (VITA) is authorized to plan for, procure, and take other actions necessary to replace information technology services currently provided by Northrop Grumman. VITA's plan to replace information technology services currently provided by Northrop Grumman shall involve agencies served by VITA.

2. The Secretary of Finance and Secretary of Administration shall approve the draw downs from the agency's line of credit authorized in § 3-2.03 of this act prior to the expenditure of funds for costs associated with replacing information technology services currently provided by Northrop Grumman.

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	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

3. The Director, Department of Planning and Budget, is authorized to administratively adjust the appropriation in this item and Item 84.60 of this act for approved transition costs associated with replacing information technology services currently provided by Northrop Grumman.

D. The Chief Information Officer of the Commonwealth shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on progress toward transitioning to new information technology services that will replace the information technology services currently provided by Northrop Grumman under the Comprehensive Infrastructure Agreement. Such a report shall be made at least quarterly, in a format mutually agreeable to them, and shall (i) describe efforts to discontinue the Unisys mainframe, (ii) assess the Virginia Information Technologies Agency's organization and in-scope information technology and telecommunications costs, and (iii) identify options available to the Commonwealth at the expiry of the current agreement including any anticipated steps required to plan for its expiration.

*E. 1. The Virginia Information Technologies Agency shall, in consultation with state agencies, report quarterly to the Secretary of Administration and the Secretary of Finance with a detailed transition plan for this migration out of the Commonwealth Enterprise Solutions Center (CESC). This plan will, at a minimum, identify the migration-readiness status of all such applications, data, and systems, propose detailed transition timelines, and identify ongoing and one-time costs for the migration.*

*2. For purposes of facilitating and expediting the migration of all Commonwealth applications, data, and systems currently physically located or hosted in CESC to a data center physically located in Virginia by June 30, 2022, The Virginia Information Technologies Agency shall procure a statewide contract on behalf of executive branch agencies to provide migration-readiness modifications where such modifications are deemed necessary by the Chief Information Officer of the Commonwealth.*

*3. The Virginia Information Technologies Agency is hereby authorized to fund approved migration expenses on behalf of agencies from its line of credit authorized in § 3-2.03 of this act. All proposed draws from the Virginia Information Technologies Agency's line of credit recommended by the Chief Information Officer of the Commonwealth for required migration expenses shall be approved by the Secretary of Finance and the Secretary of Administration prior to any expenditure of funds.*

*4. It is the responsibility of each approved agency to repay its specific costs incurred on the Virginia Information Technologies Agency's line of credit. Upon approval of expenditures to be paid from the line of credit draw request, the Secretary of Administration and the Secretary of Finance shall specify the repayment period.*

*5. Notwithstanding the provisions of § 4-3.02 of this act, the Secretary of Finance may provide agencies whose applications or systems are funded in whole or in part by nongeneral funds interest-free treasury loans to fund expenses associated with the migration of agency applications, data, and systems out of CESC where such modifications are deemed necessary by the Chief Information Officer of the Commonwealth. Such treasury loans shall only be for the nongeneral fund component of the migration costs. The repayment plan for such loans may be extended for a period longer than twelve months by the Secretary of Finance.*

*F. The Virginia Information Technologies Agency shall identify the charge-back structure to allocate costs based on agencies' consumption of data storage. The funds from this new charge-back structure, effective July 1, 2020, shall be used to support the Chief Data Officer's efforts to create a Commonwealth data inventory, and enterprise data dictionary and catalog.*

84.40	Central Support Services for Business Solutions (82400).....			\$6,760,438	\$6,760,438
	Information Technology Services for Data Exchange Programs (82401).....	\$6,603,226	\$6,603,226		
	Information Technology Services for Productivity Improvements (82402).....	\$157,212	\$157,212		
	Fund Sources: Internal Service.....	\$6,760,438	\$6,760,438		

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

ITEM 84.40.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>The appropriation for Central Support Services for Business Solutions is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services. Included in these amounts are the projected first and second year costs for workplace productivity and collaboration solutions. These solutions are offered as optional services to executive branch agencies and other customers.</p>				
84.50	Information Technology Planning and Quality Control (82800).....		\$1,110,137	<del>\$1,110,137</del> \$0
	Enterprise Development Services (82803).....	\$1,110,137		<del>\$1,110,137</del> \$0
	Fund Sources: Dedicated Special Revenue.....	\$1,110,137		<del>\$1,110,137</del> \$0
<p>Authority: Title 2.2, Chapter 20.1, Code of Virginia.</p>				
84.60	Administrative and Support Services (89900).....		<del>\$43,786,114</del> \$44,146,614	<del>\$41,590,093</del> \$42,390,093
	General Management and Direction (89901).....	\$28,033,408		\$25,837,387
	Accounting and Budgeting Services (89903).....	\$5,884,610		\$5,884,610
	Human Resources Services (89914).....	\$213,754		\$213,754
	Planning and Evaluation Services (89916).....	\$2,054,485		\$2,054,485
	Procurement and Contracting Services (89918).....	<del>\$4,413,682</del> \$4,774,182		<del>\$4,413,682</del> \$5,213,682
	Web Development and Support Services (89940)....	\$3,186,175		\$3,186,175
	Fund Sources: Special.....	<del>\$9,891,446</del> \$10,251,946		\$9,891,446
	Internal Service.....	\$33,894,668		<del>\$31,698,647</del> \$32,498,647

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A.1. Out of this appropriation, \$33,894,668 the first year and \$31,698,647 the second year for Administrative and Support Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from charges to other programs within this agency.

2. In accordance with § 2.2-2013 D, Code of Virginia, the surcharge rate used to fund expenses for operations and staff of services administered by the Virginia Information Technologies Agency shall be no more than 11.09 percent the first year and ~~10.04~~ 10.71 percent the second year.

3. Included in the amounts for Administrative and Support Services are funds from the Acquisition Services Special Fund which is paid solely from receipts from vendor information technology contracts. These funds will be used to finance procurement and contracting activities and costs unallowable for federal fund reimbursement.

B. The provisions of Title 2.2, Chapter 20.1 of the Code of Virginia shall not apply to the Virginia Port Authority.

C. The requirement that the Department of Behavioral Health and Developmental Services purchase information technology equipment or services from the Virginia Information Technologies Agency according to the provisions of Chapters 981 and 1021 of the Acts of Assembly of 2003 shall not adversely impact the provision of services to mentally disabled clients.

D. The Chief Information Officer and the Secretary of Administration shall provide the Governor and the Chairmen of the House Appropriations and Senate Finance Committees with a report detailing any amendments or modifications to the comprehensive infrastructure agreement. The report shall include statements describing the fiscal impact of such amendments or modifications and shall be submitted within 30 days following the signing of any amended agreement.

ITEM 84.60.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>E.1. Notwithstanding the provisions of §§ 2.2-1509, 2.2-2007 and 2.2-2017, Code of Virginia, the scope of formal reporting on major information technology projects in the Recommended Technology Investment Projects (RTIP) report is reduced. The efforts involved in researching, analyzing, reviewing, and preparing the report will be streamlined and project ranking will be discontinued. Project analysis will be targeted as determined by the Chief Information Officer (CIO) and the Secretary of Administration. Information on major information technology investments will continue to be provided General Assembly members and staff. Specifically, the following tasks will not be required, though the task may be performed in a more streamlined fashion: (i) The annual report to the Governor, the Secretary, and the Joint Commission on Technology and Science; (ii) The annual report from the CIO for submission to the Secretary, the Information Technology Advisory Council, and the Joint Commission on Technology and Science on a prioritized list of Recommended Technology Investment Projects (RTIP Report); (iii) The development by the CIO and regular update of a methodology for prioritizing projects based upon the allocation of points to defined criteria and the inclusion of this information in the RTIP Report; (iv) The indication by the CIO of the number of points and how they were awarded for each project recommended for funding in the RTIP Report; (v) The reporting, for each project listed in the RTIP, of all projected costs of ongoing operations and maintenance activities of the project for the next three biennia following project implementation, a justification and description for each project baseline change, and whether the project fails to incorporate existing standards for the maintenance, exchange, and security of data; and (vii) The reporting of trends in current projected information technology spending by state agencies and secretariats, including spending on projects, operations and maintenance, and payments to Virginia Information Technologies Agency.</p> <p>2. Notwithstanding any other provision of law and effective July 1, 2015, the Virginia Information Technologies Agency (VITA) shall maintain and update quarterly a list of major information technology projects that are active or are expected to become active in the next fiscal year and have been approved and recommended for funding by the Secretary of Administration. Such list shall serve as the official repository for all ongoing information technology projects in the Commonwealth and shall include all information required by § 2.2-1509.3 (B)(1)-(8), Code of Virginia. VITA shall make such list publically available on its website, updated on a quarterly basis, and shall submit electronically such quarterly update to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget, in a format mutually agreeable to them. To ensure such list can be maintained and updated quarterly, state agencies with major information technology projects that are active or are expected to become active in the next fiscal year shall provide in a timely manner all data and other information requested by VITA.</p>				
84.70	Information Technology Security Oversight (82900)..		\$6,849,008	<del>\$6,807,448</del> \$6,879,280
	Technology Security Oversight Services (82901).....	\$3,582,440		<del>\$3,582,440</del> \$3,654,272
	Information Technology Security Service Center (82902).....	\$2,695,267		\$2,653,707
	Cloud Based Services Oversight (82903).....	\$571,301		\$571,301
	Fund Sources: General.....	\$425,164		\$425,164
	Special.....	\$293,555		\$293,555
	Internal Service.....	\$6,130,289		<del>\$6,088,729</del> \$6,160,561

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A. Out of this appropriation, \$3,385,245 the first year and ~~\$3,385,245~~ \$3,457,077 the second year for Technology Security Oversight Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from charges to other programs within this agency.

B.1. The Virginia Information Technologies Agency shall operate an information technology security service center to support the information technology security needs of agencies electing to participate in the information technology security service center. Support for participating agencies shall include, but not be limited to, vulnerability scans, information technology security audits, and Information Security Officer services. Participating agencies

ITEM 84.70.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>shall cooperate with the Virginia Information Technologies Agency by transferring such records and functions as may be required.</p>				
<p>2.a. The Virginia Information Technologies Agency shall perform vulnerability scans of all public-facing websites and systems operated by state agencies. All state agencies which operate such websites and systems shall cooperate with the Virginia Information Technologies Agency in order to complete the vulnerability scans. However, the State Corporation Commission shall not be required to disable, in full or in part, any software system, process, or other tool utilized to protect such public-facing websites and systems.</p>				
<p>b. Out of this appropriation, \$274,092 the first year and \$274,092 the second year from the general fund shall be used to support vulnerability scanning of public-facing websites and systems of the Commonwealth.</p>				
<p>3. Agencies electing to participate in the information technology security service center shall enter into a memorandum of understanding with the Virginia Information Technologies Agency. Such memorandums shall outline the services to be provided by the Virginia Information Technologies Agency and the costs to provide those services. If a participating agency elects to not renew its memorandum of understanding, the agency shall notify the Virginia Information Technologies Agency twelve months prior to the scheduled renewal date of its intent to become a non-participating agency.</p>				
<p>4. Non-participating agencies shall be required by July 1 each year to notify the Chief Information Officer of the Commonwealth that the agency has met the requirements of the Commonwealth's information security standards. If the agency has not met the requirements of the Commonwealth's information security standards, the agency shall report to the Chief Information Officer of the Commonwealth the steps and procedures the agency is implementing in order to satisfy the requirements.</p>				
<p>5. Out of this appropriation, \$2,270,103 the first year and \$2,228,543 the second year for Information Technology Security Service Center is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from internal service fund revenues.</p>				
<p>6. Notwithstanding any other provision of state law, and to the extent and in the manner permitted by federal law, the Virginia Information Technologies Agency shall have the legal authority to access, use, and view data and other records transferred to or in the custody of the information technology security service center pursuant to this item. The services of the center are intended to enhance data security, and no state law or regulation imposing data security or dissemination restrictions on particular records shall prevent or burden the custodian agency's authority under this item to transfer such records to the center for the purpose of receiving the center's services. All such transfers and any access, use, or viewing of data by center personnel in support of the center's provision of such services to the transferring agency shall be deemed necessary to assist in valid administrative needs of the transferring agency's program that received, used, or created the records transferred, and personnel of the center shall, to the extent necessary, be deemed agents of the transferring agency's administrative unit that is responsible for the program. Without limiting the foregoing, no transfer of records under this item shall trigger any requirement for notice or consent under the Government Data Collection and Dissemination Practices Act (GDCDPA) (§ 2.2-3800 et. Seq.) or other law or regulation of the Commonwealth. The transferring agency shall continue to be deemed the custodian of any record transferred to the center for purposes of the GDCDPA, the Freedom Of Information Act, and other laws or regulations of the Commonwealth pertaining to agencies that administer the transferred records and associated programs. Custody of such records for security purposes shall not make the Virginia Information Technologies Agency a custodian of such records. Any memorandum of understanding under authority of this item shall specify the records to be transferred, security requirements, and permitted use of data provided. VITA and any contractor it uses in the provision of the center's services shall hold such data in confidence and implement and maintain all information security safeguards defined in the memorandum of understanding or required by federal or state laws, regulations, or policies for the protection of sensitive data.</p>				
<p>7. The rates required to recover the costs of the information technology security service center shall be provided by the Virginia Information Technologies Agency to the</p>				

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate.				
C.1. Out of this appropriation, \$474,941 the first year and \$474,941 the second year for Cloud Based Services Oversight is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from internal service fund revenues for a program to support the use of cloud service providers by state agencies served by the Virginia Information Technologies Agency.				
2. As part of the program, the Virginia Information Technologies Agency shall develop policies, standards, and procedures for the use of cloud services providers by state agencies served by the Virginia Information Technologies Agency. These policies, standards, and procedures shall address the security and privacy of Commonwealth and citizen data; ensure compliance with federal and state laws and regulations; and provide for ongoing oversight and management of cloud services to verify performance through service level agreements or other means. VITA shall also establish a statewide contract of approved vendors authorized to offer cloud based services to state agencies.				
3. Requests to use cloud providers shall be submitted by participating agencies to the Virginia Information Technologies Agency, which shall review such requests in accordance with the Commonwealth's policies, standards, and procedures. For approved requests, and consistent with Chapter 20.1 of Title 2.2, the Virginia Information Technologies Agency will procure cloud services on behalf of other agencies or may, upon request, authorize other state agencies to undertake such procurements on their own. The Virginia Information Technologies Agency shall also administer and oversee all contracts for cloud services used by agencies participating in the cloud services center, including verification of security and performance.				
4. The Virginia Information Technologies Agency shall work with state agencies to assess opportunities for additional use of cloud services, including infrastructure, platform, and software as a service. This assessment shall include a review of options for use of service brokers and integrators, and options for providing storage and server services through cloud or on-premises means.				
5. The rates required to recover the costs associated with providing oversight and management of cloud based services shall be included in the submission required by § 4-5.03 of this act.				
Total for Virginia Information Technologies Agency.			<b>\$413,324,326</b> <i>\$413,684,826</i>	<b>\$411,086,745</b> <i>\$355,236,931</i>
General Fund Positions.....	2.00	2.00		
Nongeneral Fund Positions.....	238.00	<del>238.00</del> 240.40		
Position Level.....	240.00	<del>240.00</del> 242.40		
Fund Sources: General.....	\$425,164	\$425,164		
Special.....	<del>\$10,185,001</del> <i>\$10,545,501</i>	\$10,185,001		
Internal Service.....	\$375,967,523	<del>\$373,729,942</del> <i>\$318,990,265</i>		
Dedicated Special Revenue.....	\$26,746,638	<del>\$26,746,638</del> <i>\$25,636,501</i>		
TOTAL FOR OFFICE OF ADMINISTRATION.....			<b>\$4,071,420,947</b> <i>\$3,571,663,488</i>	<b>\$4,177,894,413</b> <i>\$3,553,556,906</i>
General Fund Positions.....	368.46	<del>368.46</del> 377.46		
Nongeneral Fund Positions.....	<del>737.54</del> 731.54	<del>737.54</del> 737.94		
Position Level.....	<del>1,106.00</del> 1,100.00	<del>1,106.00</del> 1,115.40		
Fund Sources: General.....	<del>\$738,014,959</del> <i>\$736,141,756</i>	<del>\$740,171,509</del> <i>\$739,964,258</i>		

ITEM 84.70.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Special.....	\$20,396,076	\$20,487,686		
	\$20,756,576			
Enterprise.....	\$1,073,210,262	\$1,073,210,262		
	\$572,469,717	\$573,355,332		
Internal Service.....	\$2,070,126,829	\$2,169,606,487		
	\$2,072,535,537	\$2,043,345,975		
Trust and Agency.....	\$126,876,453	\$131,876,453		
	\$126,963,534	\$134,971,776		
Dedicated Special Revenue.....	\$35,346,638	\$35,346,638		
		\$34,236,501		
Federal Trust.....	\$7,449,730	\$7,195,378		

ITEM 85.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>OFFICE OF AGRICULTURE AND FORESTRY</b>				
<b>§ 1-32. SECRETARY OF AGRICULTURE AND FORESTRY (193)</b>				
85.	Administrative and Support Services (79900).....		\$503,367	\$503,367
	General Management and Direction (79901).....	\$503,367	\$503,367	
	Fund Sources: General.....	\$503,367	\$503,367	
	Authority: Title 2.2, Chapter 2, Article 2.1; § 2.2-203.3, Code of Virginia.			
	Total for Secretary of Agriculture and Forestry.....		<b>\$503,367</b>	<b>\$503,367</b>
	General Fund Positions.....	3.00	3.00	
	Position Level.....	3.00	3.00	
	Fund Sources: General.....	\$503,367	\$503,367	
<b>§ 1-33. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (301)</b>				
86.	Nutritional Services (45700).....		\$5,003,513	\$5,003,513
	Distribution of USDA Donated Food (45708).....	\$5,003,513	\$5,003,513	
	Fund Sources: General.....	\$299,578	\$299,578	
	Federal Trust.....	\$4,703,935	\$4,703,935	
	Authority: Title 3.2, Chapters 1 and 47, Code of Virginia.			
87.	Animal and Poultry Disease Control (53100).....		\$7,841,695	<del>\$7,841,695</del> \$7,991,695
	Animal Disease Prevention and Control (53101).....	\$3,357,008	\$3,357,008	
	Diagnostic Services (53102).....	\$4,267,076	<del>\$4,267,076</del> \$4,417,076	
	Animal Welfare (53104).....	\$217,611	\$217,611	
	Fund Sources: General.....	\$4,880,562	<del>\$4,880,562</del> \$5,030,562	
	Special.....	\$1,688,227	\$1,688,227	
	Federal Trust.....	\$1,272,906	\$1,272,906	
	Authority: Title 3.2, Chapters 60 and 65, Code of Virginia.			
	<i>Out of the amounts in this Item, \$150,000 the second year from the general fund is included for the purchase of laboratory equipment through the Commonwealth's Master Equipment Leasing Program.</i>			
88.	Agricultural Industry Marketing, Development, Promotion, and Improvement (53200).....		\$21,539,204	\$21,539,204
	Grading and Certification of Virginia Products (53201).....	\$7,419,277	\$7,419,277	
	Milk Marketing Regulation (53204).....	\$828,137	\$828,137	
	Marketing Research (53205).....	\$285,784	\$285,784	
	Market Virginia Agricultural and Forestry Products Nationally and Internationally (53206).....	\$4,829,301	\$4,829,301	
	Agricultural Commodity Boards (53208).....	\$7,190,091	\$7,190,091	
	Agribusiness Development Services and Farmland Preservation (53209).....	\$986,614	\$986,614	
	Fund Sources: General.....	\$8,260,076	\$8,260,076	
	Special.....	\$158,125	\$158,125	
	Trust and Agency.....	\$6,900,385	\$6,900,385	
	Dedicated Special Revenue.....	\$5,499,720	\$5,499,720	
	Federal Trust.....	\$720,898	\$720,898	

ITEM 88.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Authority: Title 3.2, Chapters 1, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 30, 32, 34, 35; Title 28.2, Chapter 2; and Title 61.1, Chapter 4, Code of Virginia.				
A. Agricultural Commodity Boards shall be paid from the special fund taxes levied in the following estimated amounts:				
1. To the Tobacco Board, \$143,000 the first year and \$143,000 the second year.				
2. To the Corn Board, \$390,000 the first year and \$390,000 the second year.				
3. To the Egg Board, \$210,000 the first year and \$210,000 the second year.				
4. To the Soybean Board, \$1,164,000 the first year and \$1,164,000 the second year.				
5. To the Peanut Board, \$320,000 the first year and \$320,000 the second year.				
6. To the Cattle Industry Board, \$800,000 the first year and \$800,000 the second year.				
7. To the Virginia Small Grains Board, \$400,000 the first year and \$400,000 the second year.				
8. To the Virginia Horse Industry Board, \$320,000 the first year and \$320,000 the second year.				
9. To the Virginia Sheep Industry Board, \$35,000 the first year and \$35,000 the second year.				
10. To the Virginia Potato Board, \$25,000 the first year and \$25,000 the second year.				
11. To the Virginia Cotton Board, \$180,000 the first year and \$180,000 the second year.				
12. To the State Apple Board, \$150,000 the first year and \$150,000 the second year.				
B. Each commodity board is authorized to expend funds in accordance with its authority as stated in the Code of Virginia. Such expenditures will be limited to available revenue levels.				
C. Each commodity board specified in this Item shall provide an annual notification to its excise tax paying producers which summarizes the purpose of the board and the excise tax, current tax rate, amount of excise taxes collected in the previous tax year, the previous fiscal year expenditures and the board's past year activities. The manner of notification shall be determined by each board.				
D. Out of the amounts in this Item shall be paid from certain special fund license taxes, license fees, and permit fees levied or imposed under Title 28.2, Chapters 2, 3, 4, 5, 6 and 7, Code of Virginia, to the Virginia Marine Products Board, \$402,543 and two positions the first year and \$402,543 and two positions the second year.				
E. Out of the amounts in this Item, \$2,273,692 the first year and \$2,273,692 the second year from the general fund shall be deposited to the Virginia Wine Promotion Fund as established in § 3.2-3005, Code of Virginia.				
F. Out of the amounts in this Item, \$250,000 the first year and \$250,000 the second year from the general fund shall be deposited to the Virginia Farmland Preservation Fund established in § 3.2-201, Code of Virginia. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.				
G. Out of the amounts in this Item, the Commissioner is authorized to expend from the general fund amounts not to exceed \$25,000 the first year and \$25,000 the second year for entertainment expenses commonly borne by businesses. Further, such expenses shall be recorded separately by the agency.				
H. Out of the amounts in this Item, the Commissioner is authorized to expend \$1,120,226 the first year and \$1,120,226 the second year from the general fund for the promotion of Virginia's agricultural products overseas. Such efforts shall be conducted in concert with the international offices opened by the Virginia Economic Development Partnership.				

ITEM 88.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>I. Out of the amounts in this Item, \$25,000 the first year and \$25,000 the second year from the general fund shall be provided to support 4-H and Future Farmers of America youth participation educational costs at the State Fair of Virginia. These funds shall not be used for administrative costs by the State Fair.</p>				
89.	Economic Development Services (53400).....		\$1,221,473	\$1,221,473
	Financial Assistance for Economic Development (53410).....		\$1,221,473	\$1,221,473
	Fund Sources: General.....		\$1,221,473	\$1,221,473
<p>Authority: Title 3.2, Chapter 3.1, Code of Virginia.</p> <p>A. Out of the amounts in this Item, \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be deposited to the Governor's Agriculture and Forestry Industries Development Fund for the payment of grants or loans in accordance § 3.2-303 et seq., Code of Virginia. Notwithstanding any other provision of law, at the discretion of the Governor, the cap on the amount of funding that may be awarded to an individual project as provided in § 3.2-305, Code of Virginia, may be waived for qualifying projects of regional or statewide interest.</p> <p>B. Out of the amounts in this Item, \$221,473 the first year and \$221,473 the second year may be used by the department to pay administrative costs.</p>				
90.	Plant Pest and Disease Control (53500).....		\$3,513,746	\$3,513,746
	Plant Pest and Disease Prevention and Control Services (53504).....		\$3,513,746	\$3,513,746
	Fund Sources: General.....		\$2,344,567	\$2,344,567
	Special.....		\$319,016	\$319,016
	Federal Trust.....		\$850,163	\$850,163
<p>Authority: Title 3.2, Chapters 7, 8, 9, 10, 28, 38, 41.1 and 44; Title 15.2, Chapter 18, Code of Virginia.</p> <p>A. The Commissioner may enter into agreements with local and state agencies, or other persons, for the control of black vultures, coyotes, and other wildlife that pose danger to agricultural animals. The Commissioner shall enter into an agreement with the federal government to establish and maintain the Virginia Cooperative Wildlife Damage Management Program.</p> <p>B. Out of the amounts in this item, \$125,000 the first year and \$125,000 the second year from the general fund shall be deposited to the Beehive Grant Fund established pursuant to § 3.2-4415, Code of Virginia. Notwithstanding the provisions of § 3.2-4416, Code of Virginia, the department shall not accept applications for grants from the Beehive Grant Program if funds are not appropriated for such purposes nor shall the department be required to continue to accept applications for the program if funds appropriated have been fully allocated to grantees for a given fiscal year.</p>				
91.	Agriculture and Food Homeland Security (54100).....		\$176,934	\$176,934
	Agricultural and Food Emergencies Prevention and Response (54101).....		\$176,934	\$176,934
	Fund Sources: General.....		\$173,613	\$173,613
	Special.....		\$3,321	\$3,321
<p>Authority: Title 3.2, Chapters 7, 51, 59, 60, and 65, Code of Virginia.</p>				
92.	Consumer Affairs Services (55000).....		\$1,723,343	\$1,723,343
	Consumer Affairs - Regulation and Consumer Education (55001).....		\$1,723,343	\$1,723,343
	Fund Sources: General.....		\$33,726	\$33,726
	Special.....		\$1,689,617	\$1,689,617
<p>Authority: Title 3.2, Chapter 1; Title 57, Chapter 5; Title 59.1, Chapters 24, 25, 33.1, 34, 34.1</p>				

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	and 36, Code of Virginia.				
93.	Regulation of Business Practices (55200).....			\$3,300,041	\$3,300,041
	Regulation of Grain Commodity Sales (55207).....	\$103,960	\$103,960		
	Regulation of Weights and Measures and Motor Fuels (55212).....	\$3,196,081	\$3,196,081		
	Fund Sources: General.....	\$3,098,551	\$3,098,551		
	Special.....	\$201,490	\$201,490		

Authority: Title 3.2, Chapters 43, 47, 55.1, 56, 57, and 58; and Title 59.1, Chapter 12, Code of Virginia.

In lieu of periodic inspections by the Commissioner, Department of Agriculture and Consumer Services, any person whose weights and measures devices, as defined in § 3.2-5600, et seq., Code of Virginia, which are used for a commercial purpose may select to provide for the inspection and testing of all such weights and measures to determine the accuracy and correct operation of the equipment or device. The owner shall have all such weights and measures devices tested at least annually by a service agency that is registered pursuant to § 3.2-5703, Code of Virginia. Weights and measures that have been rejected by a service agency shall not be used again commercially until they have been officially reexamined by the rejecting authority or an inspector employed by the Commissioner, and found to be in compliance with Title 3.2, Chapter 56, Code of Virginia. The owner of such weights and measures devices, or third-party agencies on behalf of the owner, shall report to the Commissioner on an annual basis in a manner prescribed by the Commissioner the results of all testing, including (i) the number of inspections completed, (ii) the number of failures in the weights and measures equipment or devices, and (iii) the actions taken to correct any inaccuracies in the equipment or devices.

94.	Food Safety and Security (55400).....			\$10,325,722	\$10,340,722
	Regulation of Food Establishments and Processors (55401).....	\$5,004,427	\$5,019,427		
	Regulation of Meat Products (55402).....	\$4,083,362	\$4,083,362		
	Regulation of Milk and Dairy Industry (55403).....	\$1,237,933	\$1,237,933		
	Fund Sources: General.....	\$5,771,125	\$5,771,125		
	Special.....	\$637,823	\$637,823		
	Federal Trust.....	\$3,916,774	\$3,931,774		

Authority: Title 3.2, Chapters 51, 51.1, 52, 53, 54, 55, and 60, Code of Virginia.

A. Each establishment under the authority of the Regulation of Meat Products that is requesting overtime or holiday inspection shall pay that part of the actual cost of the inspection services.

B. The Commissioner, Department of Agriculture and Consumer Services, is authorized to collect an annual inspection fee, not to exceed \$40, from all establishments that are subject to inspection pursuant to Title 3.2, Chapter 51, Code of Virginia. However, any such establishment that is subject to any permit fee, application fee, inspection fee, risk assessment fee, or similar fee imposed by any locality shall be subject to this annual inspection fee only to the extent that the annual inspection fee and the locally-imposed fee, when combined, do not exceed \$40. This fee structure shall be subject to the approval of the Secretary of Agriculture and Forestry. Any food bank, second harvest certified food bank, food bank member charity, or other food related activity which is exempt from taxation under 26 U.S.C. § 501 (c) (3), which maintains a food handling or storage facility, or any food-related program operated by any Community Services Board, as defined in Title 37.2, Chapter 5, Code of Virginia, shall be exempt from this inspection fee. Also, a producer of fruits and herbs that are dried, without the addition of any other ingredients, and sold only at a local farmers' market shall be exempt from the fee.

C. The Virginia Department of Agriculture and Consumer Services and the Virginia Department of Health shall collaborate to develop a long-term plan to adequately fund the food safety and restaurant inspection programs. In developing the plan, the departments shall seek input from representatives from local governments, private sector organizations,

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<p>and the public. The objective of the plan is to develop a financial strategy for the programs that will protect the public and the business sector without undue burdens. The plan shall address, but not be limited to, these factors: (1) the likelihood of additional general fund resources for this activity; (2) projected workloads, including the total number of establishments subject to inspection and by type of establishment; (3) cost containment and efficiency strategies in program management through increased reliance upon technology; (4) options to fund the programs or a portion of the programs through a flexible fee schedule that considers the number, size, and type of establishments and the time and resources to inspect such establishments; (5) the feasibility of unifying the food safety inspections currently performed by the two agencies and (6) legislation to implement the plan. The departments shall submit the plan no later than October 1, 2018, to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees.</p>				
95.	Regulation of Products (55700).....		\$5,922,203	\$5,922,203
	Pesticide Regulation and Applicator Certification (55704).....			
	\$3,758,899	\$3,758,899		
	Regulation of Feed, Seed, and Fertilizer Products (55706).....			
	\$2,163,304	\$2,163,304		
	Fund Sources: General.....			
	\$590,013	\$590,013		
	Dedicated Special Revenue.....			
	\$4,631,417	\$4,631,417		
	Federal Trust.....			
	\$700,773	\$700,773		
<p>Authority: Title 3.2, Chapters 1, 36, 37, 39, 40, 43, 47, 48, and 49; Title 18.2, Chapter 6; and Title 59.1, Chapter 12, Code of Virginia.</p> <p>The Office of Pesticide Services shall publish a report on the activities, educational programs, research, and grants administered through the Pesticide Control Act Fund to the Board of Agriculture and Consumer Services by October 15 of each year.</p>				
96.	Regulation of Charitable Gaming Organizations (55900).....		\$1,216,859	\$1,216,859
	Charitable Gaming Regulation and Enforcement (55907).....			
	\$1,216,859	\$1,216,859		
	Fund Sources: General.....			
	\$1,116,859	\$1,116,859		
	Dedicated Special Revenue.....			
	\$100,000	\$100,000		
<p>Authority: Title 2.2, Chapter 24; Title 18.2, Chapter 8; and Title 59.1, Chapter 51, Code of Virginia.</p> <p>A. Notwithstanding § 18.2-340.31, Code of Virginia, any and all fees paid by any organization conducting charitable gaming under a permit issued by the department, including audit and administrative fees and permit fees, shall be deposited to the general fund.</p> <p>B. The department shall deposit into the Investigation Fund any assets it receives as a result of a law enforcement seizure and subsequent forfeiture by either a state or federal court. The fund shall be used to defray the expenses of investigation and enforcement actions and to purchase equipment for enforcement purposes.</p> <p>C. Included in these amounts is \$100,000 the first year and \$100,000 the second year in nongeneral funds from annual registration fees paid by operators of fantasy contests to support both direct and indirect expenses of the department in the regulation of fantasy contests in Virginia.</p>				
97.	Administrative and Support Services (59900).....		\$11,224,466	\$11,224,466
	General Management and Direction (59901).....			
	\$11,224,466	\$11,224,466		
	Fund Sources: General.....			
	\$9,293,891	\$9,293,891		
	Special.....			
	\$1,644,666	\$1,644,666		
	Trust and Agency.....			
	\$163,215	\$163,215		
	Federal Trust.....			
	\$122,694	\$122,694		
<p>Authority: Title 3.2, Chapters 1, 4, 5, 6 and 29; Title 10.1, Chapter 5, Code of Virginia.</p>				

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Total for Department of Agriculture and Consumer Services.....			<b>\$73,009,199</b>	<b><del>\$73,024,199</del> \$73,174,199</b>
General Fund Positions.....	330.00	330.00		
Nongeneral Fund Positions.....	214.00	214.00		
Position Level.....	544.00	544.00		
Fund Sources: General.....	\$37,084,034	<del>\$37,084,034</del> \$37,234,034		
Special.....	\$6,342,285	\$6,342,285		
Trust and Agency.....	\$7,063,600	\$7,063,600		
Dedicated Special Revenue.....	\$10,231,137	\$10,231,137		
Federal Trust.....	\$12,288,143	\$12,303,143		

**§ 1-34. DEPARTMENT OF FORESTRY (411)**

98.	Forest Management (50100).....			\$34,182,018	<del>\$33,946,018</del> \$34,146,018
	Reforestation Incentives to Private Forest Land Owners (50102).....	\$4,345,039	\$4,345,039		
	Forest Conservation, Wildfire & Watershed Services (50103).....	\$23,956,163	<del>\$23,956,163</del> \$24,156,163		
	Tree Restoration and Improvement, Nurseries & State-Owned Forest Lands (50104).....	\$4,980,816	\$4,744,816		
	Financial Assistance for Forest Land Management (50105).....	\$900,000	\$900,000		
	Fund Sources: General.....	\$19,267,285	<del>\$19,031,285</del> \$19,231,285		
	Special.....	\$10,428,507	\$10,428,507		
	Trust and Agency.....	\$106,538	\$106,538		
	Dedicated Special Revenue.....	\$89,535	\$89,535		
	Federal Trust.....	\$4,290,153	\$4,290,153		

Authority: Title 10.1, Chapter 11, and Title 58.1, Chapter 32, Article 4, Code of Virginia.

A. The State Forester is hereby authorized to utilize any unobligated balances in the fire suppression fund authorized by § 10.1-1124, Code of Virginia, for the purpose of acquiring replacement equipment for forestry management and protection operations.

B. In the event that budgeted amounts for forest fire suppression are insufficient to meet forest fire suppression demands, such amounts as may be necessary for this purpose may be transferred from Item 475 of this act to the Department of Forestry, with the approval of the Director, Department of Planning and Budget.

C. The department shall provide technical assistance and project supervision in the aerial spraying of herbicides on timberland on landowner property. In addition to recovering the direct cost associated with the spraying contract, the department may charge an administrative fee for this service.

D. The Department of Forestry, in cooperation with the Department of Corrections, shall increase the use of inmate labor for routine and special work projects in state forests.

E. The appropriation in Reforestation Incentives to Private Forest Land Owners includes \$1,945,226 the first year and \$1,945,226 the second year from the general fund for the Reforestation of Timberlands Program. This appropriation shall be deemed sufficient to meet the provisions of Titles 10.1 and 58.1, Code of Virginia.

F. Out of this appropriation, \$2,126,126 the first year and \$2,126,126 the second year from the general fund is included for the purchase of forest fire protection equipment through the state's master equipment lease purchase program.

G. The department is authorized to enter into agreements with private entities for the

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active operational life of the tower located at 900 Natural Resources Drive in Albemarle County, Virginia. Notwithstanding any other provision of law, any revenues received from such agreements shall be retained by the department and used for forest land management.					
H.1. The State Comptroller shall continue the Virginia State Forest Mitigation and Acquisition Fund and the Long Term Mitigation Fund as established in Item 102, Chapter 806, 2013 Acts of Assembly. All moneys in these funds shall be used as provided for in this Item and in Item 102, Chapter 806, 2013 Acts of Assembly, and Item 98, Chapter 665, 2015 Acts of Assembly.					
2.a. With the exception of the amounts prescribed in paragraph I.2.b. of this item, the Virginia State Forest Mitigation and Acquisition Fund shall be used solely for forest land or conservation easement acquisition.					
b. The Long Term Mitigation Fund shall be used solely for long term management of the Cumberland State Forest Stream Buffer Preservation Stewardship Plan.					
3. For any such future mitigation projects, no state forest land shall be used to provide compensatory mitigation for wetland or stream impacts of any public or private project until such time as due consideration has been given to the availability of mitigation credits available from private sources. State forest land means all sites, roadways, game food patches, ponds, lakes, streams, rivers, beaches, and lakes to which the Department of Forestry holds title for use, development, and administration.					
I. The department is authorized to sell properties and timber located at the following: 16520 Five Forks Road, Amelia, Virginia, 23002; 26401 Blue Star Highway, Emporia, Virginia, 23847; 11260 Jessie Dupont Memorial Highway, Kilmarnock, Virginia, 22482; 152 Maury River Road, Lexington, Virginia, 24450; and 2080 Sowers Road NE, Floyd, Virginia, 24091. Notwithstanding any other provision of law, the net proceeds of these transactions shall be deposited into the general fund.					
J. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund is provided for the Virginia Natural Resources Leadership Institute.					
<i>K. Out of this appropriation, \$200,000 the second year from the general fund is provided to increase bandwidth capacity at the agency's offices in Abingdon, Appomattox-Buckingham State Forest, New Kent, Salem, and Tappahannock.</i>					
Total for Department of Forestry.....			<b>\$34,182,018</b>	<b>\$33,946,018</b> <b>\$34,146,018</b>	
General Fund Positions.....			165.59	165.59	
Nongeneral Fund Positions.....			113.41	113.41	
Position Level.....			279.00	279.00	
Fund Sources: General.....			\$19,267,285	\$19,031,285 \$19,231,285	
Special.....			\$10,428,507	\$10,428,507	
Trust and Agency.....			\$106,538	\$106,538	
Dedicated Special Revenue.....			\$89,535	\$89,535	
Federal Trust.....			\$4,290,153	\$4,290,153	
<b>§ 1-35. AGRICULTURAL COUNCIL (307)</b>					
99.	Agricultural and Seafood Product Promotion and Development Services (53000).....			\$490,308	\$490,308
	Grants for Agriculture, Research, Education and Services (53001).....		\$490,308	\$490,308	
	Fund Sources: Dedicated Special Revenue.....		\$490,308	\$490,308	
Authority: Title 3.2, Chapter 29, Code of Virginia.					
Total for Agricultural Council.....				<b>\$490,308</b>	<b>\$490,308</b>
	Fund Sources: Dedicated Special Revenue.....		\$490,308	\$490,308	

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<b>§ 1-36. VIRGINIA RACING COMMISSION (405)</b>					
100.	Economic Development Services (53400).....			\$1,500,000	\$1,500,000
	Financial Assistance to the Horse Breeding Industry (53411).....	\$1,500,000	\$1,500,000		
	Fund Sources: Special.....	\$1,500,000	\$1,500,000		
	Authority: Title 59.1, Chapter 29, Code of Virginia.				
101.	Regulation of Horse Racing and Pari-Mutuel Betting (55800).....			\$1,688,655	\$1,688,655
	License and Regulate Horse Racing and Pari- mutuel Wagering (55801).....	\$1,688,655	\$1,688,655		
	Fund Sources: Special.....	\$1,688,655	\$1,688,655		
	Authority: Title 59.1, Chapter 29, Code of Virginia.				
	A. Out of this appropriation, the members of the Virginia Racing Commission shall receive compensation and reimbursement for their reasonable expenses in the performance of their duties, as provided in § 2.2-2104, Code of Virginia.				
	B. Notwithstanding the provisions of § 59.1-392, Code of Virginia, up to \$255,000 the first year and \$255,000 the second year shall be transferred to Virginia Polytechnic Institute and State University to support the Virginia-Maryland Regional College of Veterinary Medicine.				
	C. Any revenues received during the biennium and which are due to the commission pursuant to § 59.1-364 et seq., Code of Virginia, shall be used first to fund the operating expenses of the commission as appropriated in this item. Any change in operating expenses as herein appropriated requires the approval of the Department of Planning and Budget. Any revenues in excess of amounts required for commission operations as appropriated under the provisions of this act and amounts payable to specific entities pursuant to § 59.1-392 and appropriated in paragraphs B and D of this item, shall revert to the general fund.				
	D. Out of these amounts, the obligations set out in § 59.1-392 D. 5., D.6., G.5., G.6., K.3., K.4., K.5., N.3., N.4., and N.5., Code of Virginia, shall be fully funded.				
	E. In the event revenues exceed the appropriated amounts in this item, the Virginia Racing Commission is authorized to seek an administrative appropriation, up to \$700,000, from the Director, Department of Planning and Budget, to develop programs or award grants for the promotion and marketing, sustenance and growth of the Virginia horse industry, including horse breeding.				
	Total for Virginia Racing Commission.....			<b>\$3,188,655</b>	<b>\$3,188,655</b>
	Nongeneral Fund Positions.....	10.00	10.00		
	Position Level.....	10.00	10.00		
	Fund Sources: Special.....	\$3,188,655	\$3,188,655		
	<b>TOTAL FOR OFFICE OF AGRICULTURE AND FORESTRY .....</b>			<b>\$111,373,547</b>	<b><del>\$111,152,547</del> \$111,502,547</b>
	General Fund Positions.....	498.59	498.59		
	Nongeneral Fund Positions.....	337.41	337.41		
	Position Level.....	836.00	836.00		
	Fund Sources: General.....	\$56,854,686	<del>\$56,618,686</del> \$56,968,686		
	Special.....	\$19,959,447	\$19,959,447		
	Trust and Agency.....	\$7,170,138	\$7,170,138		
	Dedicated Special Revenue.....	\$10,810,980	\$10,810,980		

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Federal Trust.....	\$16,578,296	\$16,593,296		

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**OFFICE OF COMMERCE AND TRADE**

**§ 1-37. SECRETARY OF COMMERCE AND TRADE (192)**

102.	Administrative and Support Services (79900).....			\$1,076,185	\$1,076,185
				\$936,185	
	General Management and Direction (79901).....	\$1,076,185	\$1,076,185		
		\$936,185			
	Fund Sources: General.....	\$1,076,185	\$1,076,185		
		\$936,185			

Authority: Title 2.2, Chapter 2, Article 3; § 2.2-201, Code of Virginia.

A. It is the intent of the General Assembly that state programs providing financial, technical, or training assistance to local governments for economic development projects or directly to businesses seeking to relocate or expand operations in Virginia should not be used to help a company relocate or expand its operations in one or more Virginia communities when the same company is simultaneously closing facilities in other Virginia communities. It is the responsibility of the Secretary of Commerce and Trade to enforce this policy and to inform the Chairmen of the Senate Finance and House Appropriations Committees in writing of the justification to override this policy for any exception.

B. The Secretary shall develop and implement, as a component of the comprehensive economic development policy requirements as established in § 2.2-205, Code of Virginia, a strategic workforce development plan for the Commonwealth.

C. Notwithstanding any contrary provision of law, the authority and responsibilities of the Secretary of Technology referenced in § 2.2-205, § 2.2-2221, § 2.2-2221.1, § 2.2-2233.1, § 2.2-2240.1, § 2.2-2485, § 2.2-2698, § 2.2-2699.1, § 2.2-2738, § 15.2-2425, § 23.1-2911.1, § 23.1-3102, § 23.1-3132, § 58.1-322.02, and § 58.1-402, Code of Virginia, shall be executed by the Secretary of Commerce and Trade. Notwithstanding any contrary provision of law, the authority and responsibilities of the Secretary of Technology referenced in § 2.2-225, Code of Virginia, shall be divided between the Secretary of Administration and the Secretary of Commerce and Trade as determined by the Governor.

D. The Secretary of Commerce and Trade shall conduct a comprehensive examination of the Commonwealth's economic development system and make recommendations to consolidate and improve coordination of activities to increase efficiency and effectiveness of economic development programs and policies. In developing recommendations, the Secretary shall seek input from a group of stakeholders which shall include a representative from each of the secretariats responsible for agencies with economic development programs, and representatives from the staffs of the House Appropriations and Senate Finance Committees. The examination of economic development programs and policies shall include, but is not limited to, workforce development initiatives; grants; services such as trade development, site selection and technical assistance; tax incentives such as modified apportionment formulas, credits, exemptions, and subtractions; proceeds from bonds; rights to lease property at below fair market value; and any other incentives from the Commonwealth. The Secretary shall report recommendations to the Governor and the Chairmen of the House Finance, House Appropriations and Senate Finance Committees by November 1, 2018.

*E.1. The Secretary of Commerce and Trade, or his designee, shall convene a workgroup to address the challenges outlined in House Bill 2153 introduced in the 2019 session of the Virginia General Assembly. The workgroup shall include representatives from, but not be limited to, the following: (i) the Secretary of Commerce and Trade, or his designee; (ii) the Secretary of Finance, or his designee; (iii) the Director of Small Business and Supplier Diversity; (iv) the Director of the Small Business Finance Authority; and, (v) the State Coordinator of Emergency Management.*

*2. The workgroup shall consider, but not be limited to, the following topics: (i) short-term direct loans to eligible small businesses adversely affected by a disaster for which a state emergency has been declared; (ii) the creation of a small business emergency bridge loan fund and its management and functionality; (iii) federal and state resources available to*

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<i>assist small businesses in the case of an emergency declaration; and, (iv) terms under which small business loans could be made and repaid.</i>				
Total for Secretary of Commerce and Trade.....			<del>\$1,076,185</del> \$936,185	\$1,076,185
General Fund Positions.....	9.00	9.00		
Position Level.....	9.00	9.00		
Fund Sources: General.....	<del>\$1,076,185</del> \$936,185	\$1,076,185		

**Economic Development Incentive Payments (312)**

103.	Economic Development Services (53400).....			\$50,034,808 \$47,964,808	\$44,033,498 \$93,823,498
	Financial Assistance for Economic Development (53410).....	\$50,034,808 \$47,964,808	\$44,033,498 \$93,823,498		
	Fund Sources: General.....	\$43,754,808 \$41,684,808	\$38,122,498 \$87,912,498		
	Special.....	\$6,130,000	\$5,761,000		
	Dedicated Special Revenue.....	\$150,000	\$150,000		

Authority: Discretionary Inclusion.

A.1. Out of the appropriation for this Item, \$19,750,000 the first year and \$19,750,000 the second year from the general fund shall be deposited to the Commonwealth's Development Opportunity Fund, as established in § 2.2-115, Code of Virginia. Such funds shall be used at the discretion of the Governor, subject to prior consultation with the Chairmen of the House Appropriations and Senate Finance Committees, to attract economic development prospects to locate or expand in Virginia. If the Governor, pursuant to the provisions of § 2.2-115, E.1., Code of Virginia, determines that a project is of regional or statewide interest and elects to waive the requirement for a local matching contribution, such action shall be included in the report on expenditures from the Commonwealth's Development Opportunity Fund required by § 2.2-115, F., Code of Virginia. Such report shall include an explanation on the jobs anticipated to be created, the capital investment made for the project, and why the waiver was provided.

2. The Governor may allocate these funds as grants or loans to political subdivisions. Loans shall be approved by the Governor and made in accordance with procedures established by the Virginia Economic Development Partnership and approved by the State Comptroller. Loans shall be interest-free unless otherwise determined by the Governor and shall be repaid to the general fund of the state treasury. The Governor may establish the interest rate to be charged, otherwise, any interest charged shall be at market rates as determined by the State Treasurer and shall be indicative of the duration of the loan. The Virginia Economic Development Partnership shall be responsible for monitoring repayment of such loans and reporting the receivables to the State Comptroller as required.

3. Funds may be used for public and private utility extension or capacity development on and off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and other activity required to prepare a site for construction; construction or build-out of publicly-owned buildings; grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision pursuant to their duties or powers; training; or anything else permitted by law.

4. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.

5. It is the intent of the General Assembly that the Virginia Economic Development Partnership shall work with localities awarded grants from the Commonwealth's Development Opportunity Fund to recover such moneys when the economic development projects fail to meet minimal agreed-upon capital investment and job creation targets. All such recoveries

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shall be deposited and credited to the Commonwealth's Development Opportunity Fund.

6. Up to \$5,000,000 of previously awarded funds and funds repaid by political subdivisions or business beneficiaries and deposited to the Commonwealth's Development Opportunity Fund may be used to assist Prince George County with site improvements related to the location of a major aerospace engine manufacturer to the Commonwealth.

7. *Up to \$2,675,000 of previously awarded funds and funds repaid by political subdivisions or business beneficiaries and deposited to the Commonwealth's Development Opportunity Fund may be reallocated to the Virginia Jobs Investment Program Fund and made available for eligible businesses under the Virginia Jobs Investment Program subject to the conditions set forth in § 2.2-2240.3, Code of Virginia.*

B.1. Out of the appropriation for this Item, ~~\$4,879,210~~ \$4,609,210 the first year and ~~\$5,446,900~~ \$5,236,900 the second year from the general fund shall be deposited to the Investment Performance Grant subfund of the Virginia Investment Partnership Grant Fund to be used to pay investment performance grants in accordance with § 2.2-5101, Code of Virginia.

2. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.

~~C.1. Out of the appropriation for this Item, \$1,800,000 the first year from the general fund shall be deposited to the Major Eligible Employer Grant subfund of the Virginia Investment Partnership Grant Fund to be used to pay investment performance grants in accordance with § 2.2-5102, Code of Virginia.~~

~~2. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.~~

D. Out of the appropriation for this Item, \$3,000,000 the first year and \$3,000,000 the second year from the general fund and an amount estimated at \$150,000 the first year and \$150,000 the second year from nongeneral funds shall be deposited to the Governor's Motion Picture Opportunity Fund, as established in § 2.2-2320, Code of Virginia. These nongeneral fund revenues shall be deposited to the fund from revenues generated by the digital media fee established pursuant to § 58.1-1731, et seq., Code of Virginia. Such funds shall be used at the discretion of the Governor to attract film industry production activity to the Commonwealth.

E. Out of the appropriation for this Item, \$5,500,000 the first year and \$5,500,000 the second year from the Aerospace Manufacturing Performance Grant Fund and \$630,000 the first year and \$261,000 the second year from the Aerospace Manufacturer Workforce Training Grant Fund is hereby appropriated. These funds shall be used for grants in accordance with §§ 59.1-284.20 and 59.1-284.22, Code of Virginia. The Director, Department of Planning and Budget shall transfer these funds to the impacted state agencies upon request to the Director, Department of Planning and Budget by the respective state agency.

F.1. Out of the appropriation for this Item, \$4,400,000 the first year and \$3,000,000 the second year from the general fund shall be deposited to the Virginia Economic Development Incentive Grant subfund of the Virginia Investment Partnership Grant Fund to be used to pay investment performance grants in accordance with § 2.2-5102.1, Code of Virginia.

2. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.

3. Notwithstanding § 2.2-5102.1.E. or any other provision of law, and subject to appropriation by the General Assembly, up to \$8,000,000 in economic development incentive grants is authorized for eligible projects to be awarded on or after July 1, 2017, but before June 30, 2019. Any eligible project awarded such grants shall be subject to the conditions set forth in § 2.2-5102.1. Any additional grant awards not authorized by this

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act, including any awards after June 30, 2019, shall require separate legislation.				
<p>G.1. Out of the appropriation for this Item, \$3,750,000 the first year and \$3,750,000 the second year from the general fund shall be provided for the Virginia Biosciences Health Research Corporation (VBHRC), a non-stock corporation research consortium initially comprised of the University of Virginia, Virginia Commonwealth University, Virginia Polytechnic Institute and State University, George Mason University and the Eastern Virginia Medical School. The consortium will contract with private entities, foundations and other governmental sources to capture and perform research in the biosciences, as well as promote the development of bioscience infrastructure tools which can be used to facilitate additional research activities. The Director, Department of Planning and Budget, is authorized to provide these funds to the non-stock corporation research consortium referenced in this paragraph upon request filed with the Director, Department of Planning and Budget by VBHRC.</p>				
<p>2. Of the amounts provided in G.1. for the research consortium, up to \$3,750,000 the first year and \$3,750,000 the second year may be used to develop or maintain investments in research infrastructure tools to facilitate bioscience research.</p>				
<p>3. The remaining funding shall be used to capture and perform research in the biosciences and must be matched at least dollar-for-dollar by funding provided by such private entities, foundations and other governmental sources. No research will be funded by the consortium unless at least two of the participating institutions, including the five founding institutions and any other institutions choosing to join, are actively and significantly involved in collaborating on the research. No research will be funded by the consortium unless the research topic has been vetted by a scientific advisory board and holds potential for high impact near-term success in generating other sponsored research, creating spin-off companies or otherwise creating new jobs. The consortium will set guidelines to disburse research funds based on advisory board findings. The consortium will have near-term sustainability as a goal, along with corporate-sponsored research gains, new Virginia company start-ups, and job creation milestones.</p>				
<p>4. Other publicly-supported institutions of higher education in the Commonwealth may choose to join the consortium as participating institutions. Participation in the consortium by the five founding institutions and by other participating institutions choosing to join will require a cash contribution from each institution in each year of participation of at least \$50,000.</p>				
<p>5. Of these funds, up to \$500,000 the first year and \$500,000 the second year may be used to pay the administrative, promotional and legal costs of establishing and administering the consortium, including the creation of intellectual property protocols, and the publication of research results.</p>				
<p>6. The Virginia Economic Development Partnership, in consultation with the publicly-supported institutions of higher education in the Commonwealth participating in the consortium, shall provide to the Governor, and the Chairmen of the Senate Finance and House Appropriations committees, by November 1 of each year a written report summarizing the activities of the consortium, including, but not limited to, a summary of how any funds disbursed to the consortium during the previous fiscal year were spent, and the consortium's progress during the fiscal year in expanding upon existing research opportunities and stimulating new research opportunities in the Commonwealth.</p>				
<p>7. The accounts and records of the consortium shall be made available for review and audit by the Auditor of Public Accounts upon request.</p>				
<p>8. Up to \$2,500,000 of the funds managed by the Commonwealth Health Research Board (CHRB), created pursuant to § 32.1-162.23, Code of Virginia, shall be directed toward collaborative research projects, approved by the boards of the VBHRC and CHRB, to support Virginia's core bioscience strengths, improve human health, and demonstrate commercial viability and a high likelihood of creating new companies and jobs in Virginia.</p>				
<p>H. Out of the appropriation for this Item, \$5,669,833 the first year and \$2,669,833 the second year from the general fund shall be available for eligible businesses under the Virginia Jobs Investment Program. Pursuant to § 2.2-1611, Code of Virginia, the appropriation provided for the Virginia Jobs Investment Program for eligible businesses shall be deposited to the</p>				

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Virginia Jobs Investment Program Fund.				
I. Out of the appropriation for this Item, \$500,000 the first year and \$500,000 the second year from the general fund may be provided to the Virginia Economic Development Partnership to facilitate additional domestic and international marketing and trade missions approved by the Governor. The Director, Department of Planning and Budget, is authorized to provide these funds to the Virginia Economic Development Partnership upon written approval of the Governor.				
<i>J. Out of the amounts in this item, \$50,000,000 the second year from the general fund shall be deposited to the Semiconductor Manufacturing Grant Fund for the award of grants to a qualified semiconductor manufacturing company in a qualified locality in accordance with legislation enacted by the 2019 General Assembly and subject to performance metrics agreed to in a memorandum of understanding with the Commonwealth.</i>				
Total for Economic Development Incentive Payments.....			<b>\$50,034,808</b>	<b>\$44,033,498</b>
			<b>\$47,964,808</b>	<b>\$93,823,498</b>
Fund Sources: General.....	\$43,754,808	\$38,122,498		
	\$41,684,808	\$87,912,498		
Special.....	\$6,130,000	\$5,761,000		
Dedicated Special Revenue.....	\$150,000	\$150,000		
Grand Total for Secretary of Commerce and Trade.			<b>\$51,110,993</b>	<b>\$45,109,683</b>
			<b>\$48,900,993</b>	<b>\$94,899,683</b>
General Fund Positions.....	9.00	9.00		
Position Level.....	9.00	9.00		
Fund Sources: General.....	\$44,830,993	\$39,198,683		
	\$42,620,993	\$88,988,683		
Special.....	\$6,130,000	\$5,761,000		
Dedicated Special Revenue.....	\$150,000	\$150,000		
<b>§ 1-38. BOARD OF ACCOUNTANCY (226)</b>				
104. Regulation of Professions and Occupations (56000).....			\$2,476,080	\$2,104,195
Accountant Regulation (56001).....	\$2,476,080	\$2,104,195		
Fund Sources: Dedicated Special Revenue.....	\$2,476,080	\$2,104,195		
Authority: Title 54.1, Chapter 44, Code of Virginia.				
Total for Board of Accountancy.....			<b>\$2,476,080</b>	<b>\$2,104,195</b>
Nongeneral Fund Positions.....	13.00	13.00		
Position Level.....	13.00	13.00		
Fund Sources: Dedicated Special Revenue.....	\$2,476,080	\$2,104,195		
<b>§ 1-39. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (165)</b>				
105. Housing Assistance Services (45800).....			\$66,402,939	\$68,069,605
			\$71,902,939	\$69,673,655
Housing Assistance (45801).....	\$34,821,044	\$34,821,044		
	\$40,321,044	\$36,321,044		
Homeless Assistance (45804).....	\$13,037,143	\$13,037,143		
		\$13,141,193		
Financial Assistance for Housing Services (45805).	\$18,544,752	\$20,211,418		
Fund Sources: General.....	\$19,380,355	\$21,047,021		
	\$24,880,355	\$22,651,071		
Special.....	\$344,537	\$344,537		
Dedicated Special Revenue.....	\$100,000	\$100,000		

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Federal Trust.....	\$46,578,047	\$46,578,047		

Authority: Title 36, Chapters 8, 9, and 11; and Title 58.1, Chapter 3, Articles 4 and 13, Code of Virginia.

A. Out of the amounts in this Item, \$3,482,705 from the general fund, \$100,000 from dedicated special revenue, and \$3,427,000 from federal trust funds the first year and \$3,482,705 from the general fund, \$100,000 from dedicated special revenue, and \$3,427,000 from federal trust funds the second year shall be provided to support services for persons at risk of or experiencing homelessness and housing for populations with special needs, and \$4,050,000 the first year and \$4,050,000 the second year from the general fund shall be provided for homeless prevention. Of the general fund amount provided, the department is authorized to use up to two percent in each year for program administration. The amounts allocated for services for persons at risk of or experiencing homelessness shall be matched through local or private sources. Any balances for the purposes specified in this paragraph which are unexpended on June 30, 2019, and June 30, 2020, shall not revert to the general fund but shall be carried forward and reappropriated.

B. The department shall report to the Chairmen of the Senate Finance, the House Appropriations Committees, and the Director, Department of Planning and Budget, by November 4 of each year on the state's homeless programs, including, but not limited to, the number of (i) emergency shelter beds, (ii) transitional housing units, (iii) single room occupancy dwellings, (iv) homeless intervention programs, (v) homeless prevention programs, and (vi) the number of homeless individuals supported by the permanent housing state funding on a locality and statewide basis and the accomplishments achieved by the additional state funding provided to the program in the first year. The report shall also include the number of Virginians served by these programs, the costs of the programs, and the financial and in-kind support provided by localities and nonprofit groups in these programs. In preparing the report, the department shall consult with localities and community-based groups.

C. Out of the amounts in this Item, \$1,100,000 the first year and \$1,100,000 the second year from the general fund shall be provided for rapid re-housing efforts. In keeping with the specific goals of the Balance of State Continuum of Care, \$200,000 of this amount in each year shall be focused on ensuring that no veteran is homeless or in a shelter for more than 30 days. These funds shall be used to supplement other state and federal programs, shall be directed to areas throughout the state where federal funds are not available, and shall be used to serve those veterans ineligible for federal benefits.

D. The department shall continue to collaborate with the Department of Veteran Services to ensure coordinated efforts towards reducing homelessness among veterans.

E.1. Out of the amounts in this Item, ~~\$5,500,000~~ *\$11,000,000* the first year and ~~\$5,500,000~~ *\$7,000,000* the second year from the general fund shall be deposited to the Virginia Housing Trust Fund, established pursuant to § 36-142 et seq., Code of Virginia. Notwithstanding § 36-142, Code of Virginia, when awarding grants through eligible organizations for targeted efforts to reduce homelessness, priority consideration shall be given to efforts to reduce the number of homeless youth and families.

2. As part of the plan required by § 36-142 E., Code of Virginia, the department shall also report on the impact of the loans and grants awarded through the fund, including but not limited to: (i) the number of affordable rental housing units repaired or newly constructed, (ii) the number of individuals receiving down payments and/or closing assistance, and (iii) the progress and accomplishments in reducing homelessness achieved by the additional support provided through the fund.

F. Out of the amounts in this Item, \$15,800,000 the first year and \$15,800,000 the second year from federal trust funds shall be provided to support Virginia affordable housing programs and the Indoor Plumbing Program.

G. Out of the amounts in this Item, \$50,000 the first year and \$50,000 the second year from the general fund and one position shall be provided to support the administrative costs associated with administering the tax credits authorized pursuant to § 58.1-435, Code of Virginia.

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<p>H. The department shall develop and implement strategies, that may include potential Medicaid financing, for housing individuals with serious mental illness. The department shall include other agencies in the development of such strategies including the Virginia Housing Development Authority, Department of Behavioral Health and Developmental Services, Department of Aging and Rehabilitative Services, Department of Medical Assistance Services, and Department of Social Services. The department shall also include stakeholders whose constituents have an interest in expanding supportive housing for people with serious mental illness, including the National Alliance on Mental Illness Virginia, the Virginia Housing Alliance and the Virginia Sheriff's Association. An annual report on such strategies and the progress on implementation shall be provided to the Chairmen of the House Appropriations and Senate Finance Committees by the first day of each General Assembly Regular Session.</p> <p><i>I. The Department of Housing and Community Development shall work with the Virginia Housing Commission to identify the impact of legislation that passed the 2019 session of the General Assembly that is designed to mitigate eviction rates and recommend if any further action is necessary to complement these efforts. The Department shall consider current federal, state and local resources, including but not limited to the following: (a) current counseling and social services provided by state agencies and authorities; (b) the potential needs of the cities of Richmond, Newport News, Hampton, Norfolk, and Chesapeake, as well as eviction prevention and diversion programs established in the cities of Arlington and Richmond; (c) data collected pursuant to Senate Bill 1450; and, (d) eviction prevention and diversion programs in other states. The Department shall analyze and recommend how to better coordinate current public and private resources and programs to reduce eviction rates in Virginia, as well as how current prevention efforts can coordinate with existing and newly created eviction diversion laws and programs.</i></p>				
106.	Community Development Services (53300).....		\$69,855,721	<del>\$74,855,721</del> \$91,205,721
	Community Development and Revitalization (53301).....	\$17,668,675		<del>\$17,668,675</del> \$34,018,675
	Financial Assistance for Regional Cooperation (53303).....	\$34,044,251	\$39,044,251	
	Financial Assistance for Community Development (53305).....	\$18,142,795	\$18,142,795	
	Fund Sources: General.....	\$46,681,890	<del>\$51,681,890</del> \$68,031,890	
	Special.....	\$212,012	\$212,012	
	Trust and Agency.....	\$150,000	\$150,000	
	Federal Trust.....	\$22,811,819	\$22,811,819	
	<p>Authority: Title 15.2, Chapter 13, Article 3 and Chapter 42; Title 36, Chapters 8, 10 and 11; and Title 59.1, Chapter 22, Code of Virginia.</p> <p>A. Out of the amounts in this Item, \$351,930 the first year and \$351,930 the second year from the general fund is provided for annual membership dues to the Appalachian Regional Commission. These dues are payable from the amounts for Community Development and Revitalization.</p> <p>B. The department and local program administrators shall make every reasonable effort to provide participants basic financial counseling to enhance their ability to benefit from the Indoor Plumbing Program and to foster their movement to economic self-sufficiency.</p> <p>C. Out of the amounts in this Item shall be paid from the general fund in four equal quarterly installments each year:</p> <p>1. To the Lenowisco Planning District Commission, \$75,971 the first year and \$75,971 the second year, which includes \$38,610 the first year and \$38,610 the second year for responsibilities originally undertaken and continued pursuant to § 15.2-4207, Code of Virginia, and the Virginia Coalfield Economic Development Authority.</p> <p>2. To the Cumberland Plateau Planning District Commission, \$75,971 the first year and \$75,971 the second year, which includes \$42,390 the first year and \$42,390 the second</p>			

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	year for responsibilities originally undertaken and continued pursuant to § 15.2-4207, Code of Virginia, and the Virginia Coalfield Economic Development Authority.			
	3. To the Mount Rogers Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	4. To the New River Valley Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	5. To the Roanoke Valley-Alleghany Regional Commission, \$75,971 the first year and \$75,971 the second year.			
	6. To the Central Shenandoah Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	7. To the Northern Shenandoah Valley Regional Commission, \$75,971 the first year and \$75,971 the second year.			
	8. To the Northern Virginia Regional Commission, \$151,943 the first year and \$151,943 the second year.			
	9. To the Rappahannock-Rapidan Regional Commission, \$75,971 the first year and \$75,971 the second year.			
	10. To the Thomas Jefferson Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	11. To the Region 2000 Local Government Council, \$75,971 the first year and \$75,971 the second year.			
	12. To the West Piedmont Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	13. To the Southside Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	14. To the Commonwealth Regional Council, \$75,971 the first year and \$75,971 the second year.			
	15. To the Richmond Regional Planning District Commission, \$113,957 the first year and \$113,957 the second year.			
	16. To the George Washington Regional Commission, \$75,971 the first year and \$75,971 the second year.			
	17. To the Northern Neck Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	18. To the Middle Peninsula Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	19. To the Crater Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	20. To the Accomack-Northampton Planning District Commission, \$75,971 the first year and \$75,971 the second year.			
	21. To the Hampton Roads Planning District Commission \$151,943 the first year, and \$151,943 the second year.			
	D. Out of the amounts in this Item, \$968,442 the first year and \$968,442 the second year from the general fund shall be provided for the Southeast Rural Community Assistance Project (formerly known as the Virginia Water Project) operating costs and water and wastewater grants. The department shall disburse the total payment each year in twelve equal monthly installments.			
	E. The department shall leverage any appropriation provided for the capital costs for safe			

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drinking water and wastewater treatment in the Lenowisco, Cumberland Plateau, or Mount Rogers planning districts with other state moneys, federal grants or loans, local contributions, and private or nonprofit resources.				
F.1. Out of the amounts in this Item, \$95,000 the first year and \$95,000 the second year from the general fund shall be provided for the Center for Rural Virginia. The department shall report periodically to the Chairmen of the Senate Finance and House Appropriations Committees on the status, needs and accomplishments of the center.				
2. As part of its mission, the Center for Rural Virginia shall monitor the implementation of the budget initiatives approved by the 2005 Session of the General Assembly for rural Virginia and shall report periodically to the Chairmen of the Senate Finance and House Appropriations Committees on the effectiveness of these various programs in addressing rural economic development problems.				
G. Out of the amounts in this Item, \$71,250 the first year and <del>\$71,250</del> \$171,250 the second year from the general fund shall be provided to support The Crooked Road: Virginia's Heritage Music Trail.				
H. Out of the amounts in this Item, \$1,500,000 the first year and <del>\$1,500,000</del> \$2,500,000 the second year from the general fund shall be deposited to the Virginia Removal or Rehabilitation of Derelict Structures Fund to support industrial site revitalization. <i>Out of the amounts in this paragraph, \$1,000,000 the second year from the general fund is designated for removing, renovating or modernizing port-related buildings and facilities in the cities of Portsmouth, Norfolk, Newport News, Richmond or Front Royal.</i>				
I. Out of the amounts in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided for the Virginia Main Street Program. This amount shall be in addition to other appropriations for this activity.				
J. Of the general fund amounts provided for the Virginia Main Street Program, the Indoor Plumbing Rehabilitation Program, and the water and wastewater planning and construction projects in Southwest Virginia, the department is authorized to use up to two percent of the appropriation in each year for program administration.				
K.1. Out of the amounts in this Item, \$875,000 the first year and \$875,000 the second year from the general fund shall be provided for the Southwest Virginia Cultural Heritage Foundation.				
2. The foundation shall report by September 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the expenditures of the foundation and its ongoing efforts to generate revenues sufficient to sustain operations.				
L.1. Out of the amounts in this Item, \$4,000,000 the first year and <del>\$4,000,000</del> \$19,000,000 the second year from the general fund is provided for the Virginia Telecommunication Initiative. The funds shall be used for providing financial assistance to supplement construction costs by private sector broadband service providers to extend service to areas that presently are unserved by any broadband provider. <i>Any balances for the purposes specified in this paragraph which are unexpended on June 30, 2019, and June 30, 2020, shall not revert to the general fund but shall be carried forward and reappropriated.</i>				
2. The department shall develop appropriate criteria and guidelines for the use of the funding provided to the Virginia Telecommunication Initiative. Such criteria and guidelines shall: (i) facilitate the extension of broadband networks by the private sector and shall focus on unserved areas; (ii) attempt to identify the most cost-effective solutions, given the proposed technology and speed that is desired; (iii) give consideration to proposals that are public-private partnerships in which the private sector will own and operate the completed project; and, (iv) consider the number of locations where the applicant states that service will be made available, in addition to whether customers take the service in both evaluating applications and in establishing completion and accountability requirements. The department shall encourage additional assistance from the local governments in areas designated to receive funds to lower the overall cost and further assist in the timely completion of construction, including assistance with permits, rights of way, easement and other issues that may hinder or delay timely construction and				

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increase the cost.				
3. The department shall post electronic copies of all submitted applications to the department's website after the deadline for application submissions has passed but before project approval, and shall establish a process for providers to challenge applications where providers assert the proposed area is served by another broadband provider.				
4. The department shall consult with the Broadband Advisory Council to designate the unserved areas to receive funds. The department shall report annually to the Governor's Broadband Advisory Council on the progress by the private sector on the designated projects.				
M.1. Out of the amounts in this Item, \$29,450,000 the first year and \$34,450,000 the second year from the general fund shall be deposited to the Virginia Growth and Opportunity Fund to encourage regional cooperation among business, education, and government on strategic economic and workforce development efforts in accordance with § 2.2-2487, Code of Virginia.				
2. Of the amounts provided in this paragraph, the appropriation shall be distributed as follows: (i) \$3,250,000 the first year and \$2,250,000 the second year from the general fund shall be allocated to qualifying regions to support organizational and capacity building activities, which, notwithstanding § 2.2-2489, Code of Virginia, may not require matching funds if a waiver is granted by the Virginia Growth and Opportunity Board to a qualifying region upon request; (ii) \$13,900,000 the first year and \$16,900,000 the second year from the general fund shall be allocated to qualifying regions based on each region's share of the state population; and (iii) \$12,300,000 the first year and \$15,300,000 the second year from the general fund shall be awarded to regional councils on a competitive basis.				
3. The Virginia Growth and Opportunity Board may allocate monies among the distributions outlined in paragraph M.2. of this item to meet demonstrated demand for funds. However, only those regional councils whose allocation is less than \$1,000,000 in a fiscal year based the region's share of state population shall be eligible to receive an additional allocation, and the amount shall be limited such that the total allocation does not exceed \$1,000,000 in a fiscal year.				
4. The Chairman of the Virginia Growth and Opportunity Board shall convene a broadband telecommunications advisory workgroup in cooperation with the Secretary of Commerce and Trade and the Commonwealth Chief Broadband Advisor, including representatives of the Department of Housing and Community Development, the Center for Innovative Technology, Virginia Economic Development Partnership, Mid-Atlantic Broadband Communities Corporation, staff from the House Appropriations Committee and Senate Finance Committee, and representatives from the broadband telecommunications industry, to develop a framework for policies related to broadband telecommunications across the Commonwealth of Virginia. The framework shall be used to provide guidance on statewide policies for commercial and economic planning and project development, including regional solutions, to improve access to and utilization of broadband to support economic development goals, including those developed by qualifying regions and those areas of the Commonwealth recognized as having high unemployment. Such framework shall include, but not be limited to, the following principles: (i) potential broadband telecommunications development and deployment solutions must be technology-neutral in order to leverage all available or emerging technologies to identify the most cost-effective plan; (ii) solutions that utilize speeds greater than the minimum technology standards as prescribed by the Virginia Telecommunications Initiative for unserved areas; (iii) maximize opportunities for private sector driven models related to construction, operations, and maintenance and open access to private-sector Internet Service Providers where public ownership of infrastructure may be proposed; (iv) facilitate broadband development and deployment-friendly policies at the regional and local level to expedite implementation of plans and projects, as well as mitigate costs, and (v) opportunities to leverage new and existing broadband infrastructure, including transoceanic and transcontinental backbone lines, to encourage new private sector job creation and investment in the Commonwealth.				
5. The Virginia Growth and Opportunity Board may approve grants for assessments of commercial economic development demand and current access, and to advance the planning and engineering of broadband infrastructure that are aligned with the framework recommended by the working group, and shall give priority consideration for broadband				

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technology development and deployment to facilitate the connectivity or upgrade of services to current and proposed business-ready sites in areas of high unemployment in qualifying regions.				
<i>6. For the purpose of awards in accordance with § 2.2-2487, Code of Virginia, related to site development, that site development will be deemed to meet requirements of clause (iii) of the definition of regional activity in § 2.2-2484, Code of Virginia, if carried out, performed on behalf of, or contracted for by a single locality, political subdivision or public body corporate and politic once the interested local governments within the region have entered into some kind of revenue-sharing agreement.</i>				
107.	Economic Development Services (53400).....		\$13,773,354	<del>\$13,773,354</del> \$14,773,354
	Financial Assistance for Economic Development (53410).....	\$13,773,354		<del>\$13,773,354</del> \$14,773,354
	Fund Sources: General.....	\$13,773,354		<del>\$13,773,354</del> \$14,773,354
Authority: Title 59.1, Chapters 22 and 49, Code of Virginia.				
Out of the amounts in this Item, \$13,500,000 the first year and <del>\$13,500,000</del> \$14,500,000 the second year from the general fund shall be provided to carry out the provisions of §§ 59.1-547 and 59.1-548, Code of Virginia, related to the Enterprise Zone Grant Act. Notwithstanding the provisions of §§ 59.1-547 and 59.1-548, Code of Virginia, the department is authorized to prorate, with no payment of the unpaid portion of the grant necessary in the next fiscal year, the amount of awards each business receives to match the appropriation for this Item. Should actual grants awarded in each fiscal year be less than the amounts provided in this Item, the excess shall not revert to the general fund but shall be deposited to the Virginia Removal or Rehabilitation of Derelict Structures Fund for revitalization purposes. <i>Consistent with the provisions of § 59.1-548, Code of Virginia, beginning on January 1, 2019, the installation of solar panels shall be considered eligible investments for the purposes of the real property improvement grants, provided that such solar installation investment is in an amount of at least \$50,000 and the grant shall be calculated at a rate of 20 percent of the amount of qualified real property investments in excess of \$450,000 in the case of the construction of a new building or facility. Grants shall be calculated at a rate of 20 percent of the amount of qualified real property investment in excess of \$50,000 in the case of the rehabilitation or expansion of an existing building or facility. In the case where a grant is awarded based solely on a solar investment, the grant shall be calculated at a rate of 20 percent of the amount of total qualified real property investments made in solar installation. For such properties eligible for real property improvement grants made solely on the basis of solar installation investments of at least \$50,000 but not more than \$100,000, awards shall not exceed \$1,000,000 in aggregate in any fiscal year.</i>				
108.	Regulation of Structure Safety (56200).....		\$2,922,902	\$2,922,902
	State Building Code Administration (56202).....	\$2,922,902		\$2,922,902
	Fund Sources: General.....	\$498,640		\$498,640
	Special.....	\$2,124,262		\$2,124,262
	Dedicated Special Revenue.....	\$300,000		\$300,000
Authority: Title 15.2, Chapter 9; Title 27, Chapters 1, 6, and 9; Title 36, Chapters 4, 4.1, 4.2, 6, and 8; Title 58.1, Chapter 36, Article 5; and Title 63.2, Chapter 17, Code of Virginia.				
109.	Governmental Affairs Services (70100).....		\$350,291	\$350,291
	Intergovernmental Relations (70101).....	\$350,291		\$350,291
	Fund Sources: General.....	\$350,291		\$350,291
Authority: Title 15.2, Subtitle III, Code of Virginia.				
110.	Administrative and Support Services (59900).....		\$3,184,949	\$3,184,949
	General Management and Direction (59901).....	\$3,184,949		\$3,184,949

ITEM 110.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$2,721,190	\$2,721,190		
Special.....	\$463,759	\$463,759		
Authority: Title 36, Chapter 8, Code of Virginia.				
Total for Department of Housing and Community Development.....			<b>\$156,490,156</b> <b>\$161,990,156</b>	<b>\$163,156,822</b> <b>\$182,110,872</b>
General Fund Positions.....	60.25	<del>60.25</del> 61.25		
Nongeneral Fund Positions.....	51.75	51.75		
Position Level.....	112.00	<del>112.00</del> 113.00		
Fund Sources: General.....	\$83,405,720	\$90,072,386		
	\$88,905,720	\$109,026,436		
Special.....	\$3,144,570	\$3,144,570		
Trust and Agency.....	\$150,000	\$150,000		
Dedicated Special Revenue.....	\$400,000	\$400,000		
Federal Trust.....	\$69,389,866	\$69,389,866		
<b>§ 1-40. DEPARTMENT OF LABOR AND INDUSTRY (181)</b>				
111. Economic Development Services (53400).....			\$1,971,054	\$1,971,054
Apprenticeship Program (53409).....	\$1,971,054	\$1,971,054		
Fund Sources: General.....	\$1,971,054	\$1,971,054		
Authority: Title 40.1, Chapter 6, Code of Virginia.				
112. Regulation of Business Practices (55200).....			\$919,006	\$919,006
Labor Law Services (55206).....	\$919,006	\$919,006		
Fund Sources: General.....	\$919,006	\$919,006		
Authority: Title 40.1, Chapters 1, 3, 4, and 5, Code of Virginia.				
113. Regulation of Individual Safety (55500).....			\$10,604,222	\$10,604,222
Virginia Occupational Safety and Health Services (55501).....	\$10,604,222	\$10,604,222		
Fund Sources: General.....	\$4,310,156	\$4,310,156		
Special.....	\$855,916	\$855,916		
Federal Trust.....	\$5,438,150	\$5,438,150		
Authority: Title 40.1, Chapters 1, 3, 3.2, and 3.3; Title 54.1, Chapter 5; Title 59.1, Chapter 30, Code of Virginia.				
A. Notwithstanding § 40.1-49.4 D., Code of Virginia, and § 4-2.02 of this act, the Department of Labor and Industry may retain up to \$481,350 in civil penalties assessed pursuant to § 40.1-49.4, Code of Virginia, as the required federal grant match for voluntary protection and voluntary compliance programs.				
B. Of the amounts provided in this item, \$650,000 the first year and \$650,000 the second year from the general fund is provided to support three positions in the Virginia Occupational Safety and Health Voluntary Protection Program and three positions in the Office of Consultation Services.				
114. Regulation of Structure Safety (56200).....			\$536,371	\$536,371
Boiler and Pressure Vessel Safety Services (56201)....	\$536,371	\$536,371		
Fund Sources: General.....	\$536,371	\$536,371		
Authority: Title 40.1, Chapter 3.1, Code of Virginia.				
115. Administrative and Support Services (59900).....			\$3,221,992	\$3,221,992

ITEM 115.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
General Management and Direction (59901).....	\$3,221,992	\$3,221,992		
Fund Sources: General.....	\$2,306,233	\$2,306,233		
Special.....	\$915,759	\$915,759		
Authority: Title 40.1, Chapters 1, 3, 3.1, 3.2, 3.3, 4, 5, and 6; Title 54.1, Chapter 5; Title 59.1, Chapter 30, Code of Virginia.				
Total for Department of Labor and Industry.....			<b>\$17,252,645</b>	<b>\$17,252,645</b>
General Fund Positions.....	113.66	113.66		
Nongeneral Fund Positions.....	76.34	76.34		
Position Level.....	190.00	190.00		
Fund Sources: General.....	\$10,042,820	\$10,042,820		
Special.....	\$1,771,675	\$1,771,675		
Federal Trust.....	\$5,438,150	\$5,438,150		

**§ 1-41. DEPARTMENT OF MINES, MINERALS AND ENERGY (409)**

116.	Minerals Management (50600).....			\$29,917,215	\$29,917,215 \$30,007,215
	Geologic and Mineral Resource Investigations, Mapping, and Utilization (50601).....	\$1,113,716	\$1,113,716 \$1,203,716		
	Mineral Mining Environmental Protection, Worker Safety and Land Reclamation (50602).....	\$2,918,681	\$2,918,681		
	Gas and Oil Environmental Protection, Worker Safety and Land Reclamation (50603).....	\$1,653,793	\$1,653,793		
	Coal Environmental Protection and Land Reclamation (50604).....	\$18,729,938	\$18,729,938		
	Coal Worker Safety (50605).....	\$5,501,087	\$5,501,087		
	Fund Sources: General.....	\$10,155,595	\$10,155,595		
	Special.....	\$5,948,745	\$5,948,745 \$6,038,745		
	Trust and Agency.....	\$525,000	\$525,000		
	Dedicated Special Revenue.....	\$173,000	\$173,000		
	Federal Trust.....	\$13,114,875	\$13,114,875		

Authority: Title 45.1, Code of Virginia.

A. Out of this appropriation, \$31,224 the first year and \$31,224 the second year from special funds shall be provided for annual membership dues to the Interstate Mining Compact Commission.

B. Out of this appropriation shall be provided reimbursement for expenses associated with administrative and judicial review when so ordered by a court of competent jurisdiction.

C. Out of this appropriation, \$6,119 the first year and \$6,119 the second year from the general fund shall be provided for annual membership dues to the Interstate Oil and Gas Compact Commission.

D. The application fee for a coal mine license or a renewal or transfer of a license pursuant to § 45.1-161.58, Code of Virginia, shall be in the amount of \$350.

E. The application fee for a mineral mine license or a renewal or transfer of a license pursuant to § 45.1-161.292:31, Code of Virginia, shall be in the amount of \$400, except applications submitted electronically, which shall be accompanied by a fee of \$330. However, the fee for any person engaged in mining sand or gravel on an area of five acres or less shall be required to pay a fee of \$100, except applications submitted electronically, which shall be accompanied by a fee of \$80.

F. The application fee for a new oil or gas well permit pursuant to § 45.1-361.29, Code of Virginia, shall be in the amount of \$600 and the application fee for permit modifications

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
shall be \$300.				
117.	Resource Management Research, Planning, and Coordination (50700).....		\$3,116,931	<del>\$3,116,931</del> \$3,253,931
	Energy Conservation Advisory Services (50703).....	\$50,000	\$50,000	
	Energy Conservation and Alternative Energy Supply Programs (50705).....	\$3,066,931	<del>\$3,066,931</del> \$3,203,931	
	Fund Sources: General.....	\$1,002,560	<del>\$1,002,560</del> \$1,139,560	
	Special.....	\$96,252	\$96,252	
	Federal Trust.....	\$2,018,119	\$2,018,119	
Authority: Title 45.1, Chapter 26, Code of Virginia.				
A. Out of this appropriation, \$38,362 the first year and \$38,362 the second year from the general fund shall be provided for dues and expenses for the Southern States Energy Board.				
B. To defray the costs of implementing the Virginia Energy Management Program, the Department of Mines, Minerals and Energy is authorized to have included in state fuel oil, natural gas, electricity, and similar energy contracts a provision for suppliers to collect from using agencies and remit to the department an administrative surcharge. The surcharge shall reflect the department's actual costs to administer the program. Additionally, the department is authorized, consistent with federal funding rules, to distribute energy-related federal funds as grants or as loans to other state or nonstate agencies for use in financing energy-related projects, and to recover from the recipient an administrative service charge to recover the department's costs of administering such grant or loan programs.				
C. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be used for the Virginia Solar Development Authority working with the Department of Mines, Minerals and Energy to conduct a study to determine whether or not future legislation in the form of regulatory reforms and incentives will prove fruitful in encouraging emerging energy storage capacity in the Commonwealth.				
<i>D. Out of this appropriation, \$137,000 the second year from the general fund is provided to support one position within the Division of Energy to assist localities with siting, procurement, land use concerns, and other solar energy-related issues.</i>				
118.	Administrative and Support Services (59900).....		\$4,045,938	\$4,045,938
	General Management and Direction (59901).....	\$4,045,938	\$4,045,938	
	Fund Sources: General.....	\$2,337,142	\$2,337,142	
	Special.....	\$1,414,959	\$1,414,959	
	Dedicated Special Revenue.....	\$293,837	\$293,837	
Authority: Title 45.1, Chapter 14.1, Code of Virginia.				
Total for Department of Mines, Minerals and Energy.			<b>\$37,080,084</b>	<del>\$37,080,084</del> \$37,307,084
	General Fund Positions.....	161.43	161.43	
	Nongeneral Fund Positions.....	74.57	74.57	
	Position Level.....	236.00	236.00	
	Fund Sources: General.....	\$13,495,297	<del>\$13,495,297</del> \$13,632,297	
	Special.....	\$7,459,956	<del>\$7,459,956</del> \$7,549,956	
	Trust and Agency.....	\$525,000	\$525,000	
	Dedicated Special Revenue.....	\$466,837	\$466,837	
	Federal Trust.....	\$15,132,994	\$15,132,994	

ITEM 119.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
119. Regulation of Professions and Occupations (56000).....			\$23,954,438	\$23,954,438
Licensure, Certification, and Registration of Professions and Occupations (56046).....	\$7,550,924	\$7,550,924		
Enforcement of Licensing, Regulating and Certifying Professions and Occupations (56047).....	\$7,913,854	\$7,913,854		
Administrative Services (56048).....	\$8,489,660	\$8,489,660		
Fund Sources: Special.....	\$1,328,410	\$1,328,410		
Dedicated Special Revenue.....	\$22,291,028	\$22,291,028		
Federal Trust.....	\$335,000	\$335,000		

Authority: Title 54.1, Chapters 1, 2, 3, 4, 5, 6, 7, 8.1, 9, 11, 15, 18, 20.1, 20.2, 21, 22, 22.1, 23, 23.1, 23.2, 23.3, and 23.4; Title 55, Chapters 4.1, 4.2, 19, 21, 24, 26, 27, 28, and 29; and Title 36, Chapter 5.1, Code of Virginia.

Costs for professional and occupational regulation may be met by fees paid by the respective professions and occupations.

*A. Any fund balances currently held in the Dedicated Special Revenue Fund (0900), the Common Interest Community Management Information Fund (0259) and the Special Revenue Fund (0200) shall be held in reserve and may not be disbursed by the Department of Professional and Occupational Regulation, but shall be applied to offset the anticipated, future costs of restructuring its organization, including additional staffing needs and the replacement or upgrade of the Department's information technology systems requirements as listed in (B) and (C) of this item. Such reserve funds shall be disbursed only to cover expenses of the Department or its regulatory boards as provided in § 54.1-308.*

*B.1. The Department of Professional and Occupational Regulation shall conduct a comprehensive assessment of its staffing needs and organizational structure to improve its performance, increase efficiency and effectively conduct its responsibilities and obligations.*

*2. The purpose of the assessment is to ensure that the department has sufficient staffing resources to (i) meet performance goals for processing transactions and handling customer inquiries and (ii) perform employment verifications and on-site audits recommended by JLARC. If the assessment finds additional positions are needed, DPOR should evaluate whether existing part-time positions should be converted to full-time positions and if existing positions elsewhere in the department can be reallocated.*

*3. During its comprehensive assessment the Department shall: (i) consider establishing one or more positions vested with the following agency-wide duties: (a) coordinate and assist in the development of agency regulations; (b) coordinate agency legislative efforts; (c) lead agency communications with external parties; and (d) serve as staff to the Board for Professional and Occupational Regulation; (ii) rank all vacant positions based on how critical they are to the department's ability to fulfill its responsibilities in order to enable its human resources staff to use the rankings to prioritize the advertising and filling of positions, using hiring processes that reflect best practices; and, (iii) consider reassignment to other divisions the following functions that are currently assigned to the licensing division: (a) handling Freedom of Information Act requests; (b) scanning documents; (c) managing policies and procedures; (d) evaluating business processes; and (e) agency-wide training.*

*4. The assessment should be submitted to the Department of Planning and Budget and the Chairmen of the House Appropriations Committee and Senate Finance Committee along with the agency's estimated funding needs by November 1, 2019.*

*C.1. In consultation and cooperation with the Virginia Information Technologies Agency (VITA) and the Commonwealth's Chief Data Officer, the Department of Professional and Occupational Regulation shall develop a plan to replace or upgrade the current information technology system, including the licensing system, utilized by the Department. At a minimum, the new or improved information technology system should have the capacity to do the following: (i) accept and process applications and payments online; (ii)*

ITEM 119.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p><i>improve the ease of online renewals; and (iii) integrate licensing data with enforcement case management data. The plan should identify the expected staffing needs during and after the system upgrade or replacement project, how staffing needs will be met, and the cost of the proposed upgrade or project.</i></p> <p><i>2. When developing the plan to replace or upgrade the current information technology system, including the licensing system, the Department of Professional and Occupational Regulation shall consider the transfer of information technology-related responsibilities for its licensing system and technical aspects of website management, records management, and electronic forms, from the licensing division to the Information Technology division.</i></p> <p><i>3. The plan should be submitted to the Department of Planning and Budget and the Chairmen of the House Appropriations Committee and Senate Finance Committee along with the agency's estimated funding needs by November 1, 2019.</i></p> <p><i>D. The Department is authorized to provide electronic credentials to persons regulated by the Department or its regulatory boards. An "electronic credential" means an electronic method by which a person may display or transmit to another person information that verifies information about a person such as their certification, licensure, registration, or permit. Any statutory or regulatory requirement to display, post, or produce a credential issued by a Department regulatory board or the Department may be satisfied by the proffer of an electronic credential. The Department may use a third-party electronic credential system that is not maintained by the agency. Such electronic credential system shall include a verification system that is operated by the agency or its agent on its behalf for the purpose of verifying the authenticity and validity of electronic credentials issued by the Department. No funds are appropriated for this purpose.</i></p>				
Total for Department of Professional and Occupational Regulation.....			\$23,954,438	\$23,954,438
Nongeneral Fund Positions.....			203.00	203.00
Position Level.....			203.00	203.00
Fund Sources: Special.....			\$1,328,410	\$1,328,410
Dedicated Special Revenue.....			\$22,291,028	\$22,291,028
Federal Trust.....			\$335,000	\$335,000
<b>§ 1-43. DEPARTMENT OF SMALL BUSINESS AND SUPPLIER DIVERSITY (350)</b>				
120.	Economic Development Services (53400).....		\$7,338,570	\$6,763,570
	Minority Business Enterprise Certification (53414)....	\$1,735,503	\$1,735,503	
	Business Information Services (53418).....	\$1,589,568	\$1,589,568	
	Administrative Services (53422).....	\$1,476,064	\$1,226,064	
	Financial Services for Economic Development (53423).....	\$2,537,435	\$2,212,435	
	Fund Sources: General.....	\$4,439,269	\$4,189,269	
	Special.....	\$1,141,729	\$816,729	
	Commonwealth Transportation.....	\$1,592,572	\$1,592,572	
	Trust and Agency.....	\$100,000	\$100,000	
	Dedicated Special Revenue.....	\$65,000	\$65,000	

Authority: Title 2.2, Chapters 16.1 and 22, Code of Virginia.

A. The Department of Small Business and Supplier Diversity, in conjunction with the Department of General Services, the Virginia Employment Commission, and the Virginia Department of Transportation, is authorized to conduct analyses of the availability of minority business enterprises in Virginia and the utilization of such businesses by the Commonwealth of Virginia, localities, or private industry in the acquisition of goods and services. The department also is authorized to receive and accept from the United States government, or any agency thereof, and from any other source, private or public, any and all gifts, grants, allotments, bequests or devises of any nature that would assist the department in conducting such analyses or otherwise strengthen its services to minority business enterprises. The Director, Department of Planning and Budget, is authorized to establish a nongeneral fund

ITEM 120.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>appropriation for the purposes of expending revenues that may be received for this effort.</p>				
<p>B.1. Out of the amounts in this Item, \$325,000 the first year from the Small Business Jobs Grant Fund is hereby appropriated for payment of grants pursuant to § 2.2-1615, Code of Virginia.</p>				
<p>2. By April 1 of each year, the department shall report to the Governor and the Secretary of Commerce and Trade the expenditures of the Small Business Jobs Grant Fund and anticipated needs for small business development in order to monitor the effective use of these funds.</p>				
<p>C. Out of the amounts in this Item, \$819,753 the first year and \$819,753 the second year from the general fund shall be deposited to the Small Business Investment Grant Fund pursuant to § 2.2-1616, Code of Virginia. The department shall aggressively market the program and shall report to the Governor and the Secretary of Commerce and Trade on the status of the program by November 1 of each year.</p>				
<p>D. Out of the amounts in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided to support the Business One-Stop Program.</p>				
<p>E.1. Out of the amounts in this Item, \$163,690 from the general fund and \$981,729 from nongeneral funds the first year and \$163,690 from the general fund and \$981,729 from nongeneral funds the second year shall be provided for the Virginia Small Business Financing Authority. The general fund amount shall be used to support operating expenses of the authority.</p>				
<p>2. To meet changing financing needs of small businesses, the Executive Director, Virginia Small Business Financing Authority, with the approval of the Director, Department of Small Business and Supplier Diversity, may transfer moneys between funds managed by the authority. These include the Virginia Small Business Growth Fund (§ 2.2-2310, Code of Virginia); the Virginia Export Fund (§ 2.2-2309, Code of Virginia); and the Insurance or Guarantee Fund (§ 2.2-2290, Code of Virginia). The Executive Director, Virginia Small Business Financing Authority, shall report, by fund, the transfers made by January 1 of each year to the Chairmen of the Senate Finance and House Appropriations Committees.</p>				
<p>3. The Virginia Small Business Financing Authority is authorized to insure additional loans for eligible small businesses, pursuant to § 2.2-2290, Code of Virginia, up to an aggregate amount not to exceed four times the principal amount in the Insurance or Guarantee Fund, or up to an aggregate amount of \$15,000,000. In the event that the authority is called upon to pay on guaranties of loans of more than 10 percent of the aggregate amount of all outstanding insured loans, the authority shall not insure any further loans and shall immediately notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees. Pursuant to § 4-1.03 of this act, the Director, Department of Planning and Budget, is authorized to transfer a sum sufficient to the Insurance or Guarantee Fund in the event the amount in the fund falls below the amount needed to honor any guarantee.</p>				
<p>4. For the I-95 HOV/HOT Lanes project as evidenced by the Comprehensive Agreement approved pursuant to the Public-Private Transportation Act of 1995, the maximum fee and/or premium charged by the Virginia Small Business Financing Authority pursuant to §§ 2.2-2285 and 2.2-2291, Code of Virginia, for acting as the conduit issuer for any bond financing is not to exceed \$25,000 per annum.</p>				
<p>F. The Department of Small Business and Supplier Diversity shall include employment services organizations within the development and operation of any state procurement program or program goal and targets for small, women-owned, and minority-owned businesses consistent with requirements in the Code of Virginia requiring the Department to certify employment service organizations.</p>				
<p>G. Notwithstanding any other provision of law, any business certified on or after July 1, 2017, by the Virginia Department of Small Business and Supplier Diversity as a small, women-owned, or minority-owned business, shall be certified for a period of five years unless (i) the certification is revoked before the end of the five-year period, (ii) the business ceases operation, or (iii) the business no longer qualifies as a small, women- or minority-owned business.</p>				

ITEM 120.	Item Details(\$)		Appropriations(\$)	
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<p>H. Beginning with the calendar quarter ending September 30, 2018, the Director of the Department of Small Business and Supplier Diversity shall report to the Secretary of Commerce and Trade and the Chairmen of the House Appropriations and Senate Finance Committees on the agency's efforts to maximize job creation and retention among the Commonwealth's small businesses. The report shall include, at a minimum, measures of (i) the effectiveness of programs administered by the Small Business Financing Authority in assisting borrowers to create jobs and enable increased capital investment; (ii) the efficiency and effectiveness of Small, Women-owned, and Minority-owned Business and Disadvantaged Business Enterprise programs; (iii) the success of the agency's outreach and technical assistance activities; and, (iv) the number of businesses certified, and the average number of business days to process a certification application each month. The report shall be in a format prescribed by the Secretary, but shall include specific data breakouts for rural areas and service disabled veteran businesses currently certified in the SWaM certification, and shall be due within thirty days of the close of each calendar quarter.</p>				
Total for Department of Small Business and Supplier Diversity.....			<b>\$7,338,570</b>	<b>\$6,763,570</b>
General Fund Positions.....			26.00	26.00
Nongeneral Fund Positions.....			24.00	24.00
Position Level.....			50.00	50.00
Fund Sources: General.....			\$4,439,269	\$4,189,269
Special.....			\$1,141,729	\$816,729
Commonwealth Transportation.....			\$1,592,572	\$1,592,572
Trust and Agency.....			\$100,000	\$100,000
Dedicated Special Revenue.....			\$65,000	\$65,000

**§ 1-44. FORT MONROE AUTHORITY (360)**

121.	Economic Development Services (53400).....			<b>\$5,815,606</b>	<b>\$5,923,245</b>
				<b>\$6,315,606</b>	<b>\$6,080,167</b>
	Administrative Services (53422).....	<b>\$5,815,606</b>	<b>\$5,923,245</b>		
		<b>\$6,315,606</b>	<b>\$6,080,167</b>		
	Fund Sources: General.....	<b>\$5,815,606</b>	<b>\$5,923,245</b>		
		<b>\$6,315,606</b>	<b>\$6,080,167</b>		

Authority: Title 2.2, Chapter 22, Code of Virginia.

A.1. Out of the amounts in this Item, **\$5,815,606** **\$6,315,606** the first year and **\$5,923,245** **\$6,080,167** the second year from the general fund shall be provided for the Commonwealth's share of the estimated operating expenses of the Fort Monroe Authority (FMA). This appropriation represents the Commonwealth's share of the FMA's estimated operating expenses. These expenses may not be reimbursed by the federal government and shall be reduced by any federal funding the authority may receive for expenditures funded through the Commonwealth's contribution that ultimately qualify for federal reimbursement. Any such reimbursements shall be repaid to the general fund. The State Comptroller shall disburse the first and second year appropriations in twelve equal monthly installments.

2. All moneys of the FMA, from whatever source derived, shall be paid to the treasurer of the FMA. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts of the books of the FMA.

3. Employees of the FMA shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

4. Pursuant to § 2.2-2338, Code of Virginia, the Board of Trustees of the FMA shall be deemed a state public body and may meet by electronic communication means in accordance with the requirements set forth in § 2.2-3708, Code of Virginia. Electronic communication shall mean the same as that term is defined in § 2.2-3701, Code of Virginia.

5. Notwithstanding any other provision of law or agreement, the amount paid from all sources

ITEM 121.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>of funds by the FMA to the City of Hampton pursuant to § 2.2-2342, Code of Virginia, shall not exceed \$983,960 in FY 2019 and \$983,960 in FY 2020. Beginning July 1, 2016, the FMA shall not pay any such amount to the City of Hampton until the City has recorded among the land records in the Office of the Circuit Court Clerk of the City of Hampton an instrument removing any liens or claims of liens on the real property of the Commonwealth at Fort Monroe. Such instrument shall state that the City acknowledges that in the event of conflict between any fees in lieu of taxes provided for under § 2.2-2342 of the Code of Virginia and the Appropriations Act, the Appropriations Act shall prevail. Such instrument shall further state that the FMA has paid all amounts set by the Appropriations Act for fiscal year 2014, fiscal year 2015 and fiscal year 2016 and that the City does not assert nor will it assert in the future any liens of any kind on the real property of the Commonwealth at Fort Monroe. Such instrument shall be in a form acceptable to, and have the written approval of the Attorney General of the Commonwealth in advance of recordation.</p>				
Total for Fort Monroe Authority.....			<b>\$5,815,606</b> <b>\$6,315,606</b>	<b>\$5,923,245</b> <b>\$6,080,167</b>
Fund Sources: General.....	\$5,815,606 \$6,315,606	\$5,923,245 \$6,080,167		

**§ 1-45. VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP (310)**

122.	Economic Development Services (53400).....			<b>\$31,597,198</b> <b>\$33,597,198</b>	<b>\$35,107,392</b> <b>\$37,807,392</b>
	Economic Development Services (53412).....	\$31,597,198 \$33,597,198	\$35,107,392 \$37,807,392		
	Fund Sources: General.....	\$31,597,198 \$33,597,198	\$35,107,392 \$37,807,392		

Authority: Title 2.2, Chapter 22, Article 4 and Chapter 51; and § 15.2-941, Code of Virginia.

A. Upon authorization of the Governor, the Virginia Economic Development Partnership may transfer funds appropriated to it by this act to a nonstock corporation.

B. Prior to July 1 of each fiscal year, the Virginia Economic Development Partnership shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a report of its operating plan. Prior to September 1 of each fiscal year, the Partnership shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a detailed expenditure report and a listing of the salaries and bonuses for all partnership employees for the prior fiscal year. All three reports shall be prepared in the formats as previously approved by the Department of Planning and Budget.

C. In developing the criteria for any pay for performance plan, the board shall include, but not be limited to, these variables: 1) the number of economic development prospects committed to move to or expand operations in Virginia; 2) dollar investment made in Virginia for land acquisition, construction, buildings, and equipment; 3) number of full-time jobs directly related to an economic development project; and 4) location of the project. To that end, the pay for performance plan shall be weighted to recognize and reward employees who successfully recruit new economic development prospects or cause existing prospects to expand operations in localities with fiscal stress greater than the statewide average. Fiscal Stress shall be based on the Index published by the Commission on Local Government. If a prospect is physically located in more than one contiguous locality, the highest Fiscal Stress Index of the participating localities will be used.

D.1. The Virginia Economic Development Partnership shall report before the General Assembly convenes in January of each year on the status of the implementation of the state's comprehensive economic development strategy, and shall recommend legislative actions related to the implementation of the comprehensive economic development strategy. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, and shall include the number of site visits made by



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	FY2019	FY2020	FY2019	FY2020

*P.1. Out of the amounts in this item, the Virginia Economic Development Partnership (VEDP) shall provide \$925,000 in the first year and \$1,925,000 in the second year from the general fund to the Commonwealth Center for Advanced Manufacturing for rent, operating support and maintenance. VEDP shall approve any and all disbursements of these funds to the Commonwealth Center for Advanced Manufacturing before distribution. These funds shall not revert back to the general fund at the end of the fiscal year.*

*2. The Commonwealth Center for Advanced Manufacturing (CCAM) must submit a detailed operating plan to VEDP by August 1, 2019 that shall include, but not be limited to, the following: (i) a schedule for annual and quarterly reporting of financial performance, research activity, and industry membership, and is based upon the Commonwealth's fiscal year; (ii) updated management and organization structure that specifies and defines all full-time positions; (iii) specific commitments from each university partner to hire, fund and place faculty and graduate students at the CCAM facility, as well as any collaborative efforts between CCAM industry members and university partners taking place outside the CCAM facility; (iv) a financial plan that includes specific budget estimates for operations at CCAM for fiscal year 2021 to fiscal year 2025, as well as estimates for a potential lease agreement between the Commonwealth of Virginia and CCAM; (v) specific details in regards to any outstanding loans or other outstanding debt, cash or in-kind, to public and private institutions and organizations and a financial plan for their satisfactory settlement; (vi) expansion of the membership of the Board of Directors for CCAM to include a university chief financial officer and a schedule for rotation of this Board seat among its university partner institutions; (vii) specific guidelines to implement the grant programs listed in paragraphs P.3. and P.4. of this Item; and, (viii) any other additional information that may be requested by VEDP.*

*3. Out of the amounts in this Item, VEDP shall provide \$1,100,000 in the second year from the general fund to CCAM for the purpose of providing private sector incentive grants to industry members of the CCAM as follows: (i) incentive grants for new industry members with no prior membership at CCAM; (ii) incentive grants to small manufacturing members who locate their primary job center in the Commonwealth, as determined by VEDP, in order to mitigate inaugural, industry membership costs associated with joining CCAM; and (iii) grants dedicated to CCAM industry members to be used exclusively for research project costs and require a minimum one-to-one match in funds to conduct additional directed research at the CCAM facility after their base amount of directed research is programmed.*

*4. Out of the amounts in this Item, VEDP shall provide \$600,000 in the second year from the general fund to CCAM for university research grants requiring a minimum one-to-one match in funds that bring in external research funds from federal or private organizations for research to be conducted at the CCAM facility. All project approvals are contingent upon each university partner entering into a memorandum of understanding (MOU) with CCAM that includes specific details about the university's anticipated commitment of financial and human resources, as well as programming and academic credentialing plans, to the CCAM facility.*

*5. No grant funds shall be disbursed until the conditions of paragraph P.2. of this Item have been met and approval from VEDP has been granted.*

*6. CCAM shall submit a report on October 1, 2019, to the Secretary of Finance and Chairmen of the House Committee on Appropriations and Senate Finance Committee containing a status update of all new incentive programs, including but not limited to the following: (i) MOUs it has entered into with each university partner; (ii) funds disbursed to both university and private sector partners of CCAM, as well as any other recipients; (iii) any other agreements CCAM has entered into with representatives of the public and private sectors that may impact current and future incentive fund disbursements; and (iv) any additional information requested by VEDP, the Secretary of Finance, or the Chairmen of the House Committee on Appropriations and Senate Finance Committee.*

*Q. Out of the amounts in this Item, \$4,865,700 the first year and \$4,865,700 the second year from the general fund shall be provided to strengthen and promote economic development initiatives. The funding shall be allocated as follows: \$366,000 the first year*

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<p>and \$366,000 the second year to expand and rebrand the Virginia Jobs Investment Program, \$950,000 the first year and \$950,000 the second year to support the Virginia International Trade Alliance, \$1,900,000 the first year and \$1,900,000 the second year to match federal grants for the Going Global Defense Initiative and the State Trade Export Promotion (STEP) grant program, \$605,000 the first year and \$605,000 the second year to Support Virginia exporters, \$250,000 in each year to implement the recommendations of the Virginia Sustained Growth Study and \$794,700 in each year to support US and international business attraction.</p>				
<p>R. Any requests for administrative or staff support for the Committee on Business Development and Marketing or the Committee on International Trade established to advise the Virginia Economic Development Partnership shall be directed to, and are subject to the approval of, the Chairman or the Chief Executive Officer of the Virginia Economic Development Partnership.</p>				
<p><i>S. Out of the amounts in this item, \$2,000,000 in the first year from the general fund is provided for the development of a site and building assessment and development program to identify, assess and develop the Commonwealth's industrial sites. Notwithstanding § 2.2-2238, the Virginia Economic Development Partnership may include sites of at least 25 acres in developing such a program and shall establish assessment guidelines and procedures for identification of industrial sites, resource requirements, and development oversight. The Authority shall invite participation by regional and industry stakeholders to assess potential sites, identify product shortfalls, and make recommendations to the Governor and General Assembly for marketing such sites, in alignment with the goals outlined in the Governor's economic development plan and other economic development initiatives. Up to \$2,000,000 may be utilized for characterization of publicly or privately-owned sites. No public funds associated with this program may be utilized to develop any sites owned exclusively by private interests unless such private interests contractually commit to refund the Commonwealth for its investment at the time the property is sold or leased for an eligible or ineligible use.</i></p>				
Total for Virginia Economic Development Partnership.....			<b>\$31,597,198</b>	<b>\$35,107,392</b>
			<b>\$33,597,198</b>	<b>\$37,807,392</b>
Fund Sources: General.....		\$31,597,198	\$35,107,392	
		\$33,597,198	\$37,807,392	

**§ 1-46. VIRGINIA EMPLOYMENT COMMISSION (182)**

123.	Workforce Systems Services (47000).....			\$557,581,011	\$552,381,011
	Job Placement Services (47001).....	\$31,658,869	\$31,658,869		
	Unemployment Insurance Services (47002).....	\$525,045,012	\$519,845,012		
	Workforce Development Services (47003).....	\$877,130	\$877,130		
	Fund Sources: General.....	\$0	\$0		
	Special.....	\$6,018,987	\$6,018,987		
	Trust and Agency.....	\$551,562,024	\$546,362,024		

Authority: Title 60.2, Chapters 1 through 6, Code of Virginia.

A. Revenues deposited into the Special Unemployment Compensation Administration Fund shall be used for the purposes set out in the following order of priority: 1) to make payment of any interest owed on loans from the U.S. Treasury for payment of unemployment compensation benefits; 2) to support essential services of the Commission, particularly in the event of reductions in federal funding; 3) to finance the cost of capital projects; and 4) to fund the discretionary fund established in § 60.2-315, Code of Virginia. Funding may be transferred from the capital budget to the operating budget consistent with this language.

B.1. Reed Act funds distributed by the Employment Security Financing Act of 1954 with respect to the federal fiscal years 1956, 1957, and 1958 and credited to the agency from the proceeds related to the sale of agency property with federal equity are hereby appropriated (up to \$600,000) to maintain service levels in the agency's local offices.

2. Reed Act funds distributed by the Balanced Budget Act of 1997 and credited to the unemployment trust fund with respect to federal fiscal years 2000, 2001, and 2002, under §

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<p>1103 of the Social Security Act (42 U.S.C.), as amended, shall be used only for the administration of the unemployment compensation program, under the direction of the Virginia Employment Commission, and shall not be subject to the requirements of § 60.2-305, Code of Virginia. Reed Act funds from the Balanced Budget Act are hereby appropriated (up to \$2.2 million, not to exceed the balance of said Reed Act funds) to pay for upgrading the information technology systems at the Virginia Employment Commission.</p> <p>C. There is hereby appropriated out of the funds made available to this state under § 1103 of the Social Security Act (42 U.S.C.) as amended, the balance of the \$51,067,866 of Reed Act funds, if any, provided in Item 120 E. of Chapter 847, 2007 Acts of Assembly, for upgrading obsolete information technology systems, to include staff costs. This appropriation is subject to the provisions of § 60.2-305, Code of Virginia. Savings as a result of the new systems shall be retained by the commission.</p> <p>D. Notwithstanding any other provision of law, all fees incurred by the Virginia Employment Commission with respect to the collection of debts authorized to be collected under § 2.2-4806 of the Code of Virginia, using the Treasury Offset Program of the United States, shall become part of the debt owed the Commission and may be recovered accordingly.</p> <p>E. Workforce development programs shall give priority to assisting Medicaid enrollees who are required to participate in the Training, Education, Employment and Opportunity Program to the extent allowed by federal law.</p>				
124.	Economic Development Services (53400).....		\$3,027,295	\$3,027,295
	Economic Information Services (53402).....	\$3,027,295	\$3,027,295	
	Fund Sources: Special.....	\$529,000	\$529,000	
	Trust and Agency.....	\$2,498,295	\$2,498,295	
	Authority: Title 60.2, Chapters 1 through 6, Code of Virginia.			
125.	For payment to the Secretary of the Treasury of the United States to the credit of the federal unemployment trust fund established by the Social Security Act, to be held for the state upon the terms and conditions provided in the said Social Security Act, there is hereby appropriated the amount remaining in the clearing account of the Unemployment Compensation Fund created by § 60.2-301, Code of Virginia, after deducting the refunds payable therefrom pursuant to § 60.2-301, Code of Virginia, a sum sufficient.			
	Total for Virginia Employment Commission.....		\$560,608,306	\$555,408,306
	Nongeneral Fund Positions.....	865.00	865.00	
	Position Level.....	865.00	865.00	
	Fund Sources: Special.....	\$6,547,987	\$6,547,987	
	Trust and Agency.....	\$554,060,319	\$548,860,319	
<b>§ 1-47. VIRGINIA TOURISM AUTHORITY (320)</b>				
126.	Tourist Promotion (53600).....		\$21,035,424	\$20,810,424 \$21,235,424
	Tourist Promotion Services (53607).....	\$21,035,424	<del>\$20,810,424</del> \$21,235,424	
	Fund Sources: General.....	\$21,035,424	<del>\$20,810,424</del> \$21,235,424	
	Authority: Title 2.2, Chapter 22, Article 8, Code of Virginia.			
	A.1. The Department of Transportation shall pay to the Virginia Tourism Authority \$1,200,000 each year for continued operation of the Welcome Centers. The Department of Transportation shall fund maintenance at each facility based on the agreed-upon service levels contained in the Memorandum of Agreement between the Virginia Tourism Authority and the Department of Transportation. Included in the amounts in this paragraph			

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	is \$100,000 each year for maintenance of the Danville Welcome Center.			
	2. To the extent necessary to fund the operations of the Welcome Centers, the Virginia Tourism Authority is authorized to collect fees paid by businesses for display space at the Welcome Centers.			
	B. Upon authorization of the Governor, the Virginia Tourism Authority may transfer funds appropriated to it by this act to a nonstock corporation.			
	C. Prior to July 1 of each fiscal year, the Virginia Tourism Authority shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a report of its operating plan. Prior to September 1 of each fiscal year, the authority shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a detailed expenditure report and a listing of the salaries and bonuses for all authority employees for the prior fiscal year. All three reports shall be prepared in the formats as previously approved by the Department of Planning and Budget.			
	D. The State Comptroller shall disburse the first and second year appropriations in twelve equal monthly installments. The Director, Department of Planning and Budget may authorize an increase in disbursements for any month, not to exceed the total appropriation for the fiscal year, if such an advance is necessary to meet payment obligations.			
	E.1. Out of the amounts in this Item, \$2,475,000 the first year and <del>\$2,475,000</del> \$2,875,000 the second year from the general fund is provided for grants to regional and local tourism authorities and other tourism entities to support their efforts. From the grants provided from the amounts included in this paragraph, priority consideration shall be given to funding for the Daniel Boone Visitor Center, as well as \$100,000 the first year and <del>\$100,000</del> \$200,000 the second year to the Coalfield Regional Tourism Authority, and \$50,000 the first year and \$50,000 the second year for events sponsored by Special Olympics Virginia, \$550,000 the first year and <del>\$550,000</del> \$850,000 the second year to the Southwest Virginia Regional Recreation Authority for the Spearhead Trails initiative, and \$125,000 the first year and \$125,000 the second year to the City of Virginia Beach for a regional tourism entity.			
	<i>2. Out of the amounts in this paragraph provided for the Southwest Virginia Regional Recreation Authority, up to \$25,000 the second year from the general fund, shall be provided to establish a peer-support program for Virginia veterans in partnership with the Spearhead Trails initiative. The Virginia Department of Behavioral Health and Developmental Services and the Virginia Department of Veterans Services shall provide assistance in establishing such program upon the request of the board of the Southwest Regional Recreation Authority.</i>			
	F. The Virginia Tourism Authority shall place a high priority on marketing rural areas of the state.			
	G. Out of the amounts in this Item, \$3,100,000 in the first year and \$3,100,000 in the second year from the general fund is provided to supplement appropriations to promote Virginia's tourism industries through an enhanced advertising campaign. Of these amounts, at least \$1,000,000 the first year and \$1,000,000 the second year shall be used to support a cooperative advertising program to partner with private sector tourism businesses and regional tourism entities to advertise Virginia as a tourism destination. The state dollars shall be used to incentivize private and regional tourism marketing funds on a \$1.00 for \$1.00 basis whereby the Virginia Tourism Corporation shall enter into agreements to undertake joint advertising purchases to promote Virginia and specific facilities with private sector and regional partners.			
	H. Out of the amounts in this Item, \$330,012 the first year and \$330,012 the second year from the general fund is provided to promote and advertise tourism in Virginia. These amounts include \$130,012 in the first year and \$130,012 in the second year for "See Virginia First," a partnership operated by the Virginia Association of Broadcasters to advertise Virginia Tourism, provided the Association contributes a total of at least \$390,036 in television and radio advertising value to promote tourism in Virginia in the first year and \$390,036 in the second year. Also included in these amounts is \$100,000 the first year and \$100,000 the second year to promote Virginia Parks, and \$100,000 the first year and \$100,000 the second year to promote Virginia's wineries.			

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<p>I. Out of the amounts in this Item, \$497,544 the first year and \$497,544 the second year from the general fund is provided to purchase media in the Washington, D.C., Virginia, and Baltimore, Maryland markets through the "See Virginia First," a partnership operated by the Virginia Association of Broadcasters, in association with its affiliates in other states in the region, provided that the Association can obtain contributions of at least \$1,492,632 the first year and \$1,492,632 the second year in television, radio and station-related internet advertising value to promote tourism in Virginia.</p>				
<p>J. Out of the amounts in this Item, \$400,000 the first year and \$450,000 the second year from the general fund is provided as an incentive to establish nonstop air service between Indira Gandhi International Airport and Washington Dulles International Airport in accordance with a signed agreement entered into with the Virginia Tourism Corporation. Such agreement shall include provisions requiring a minimum of three nonstop round-trip flights per week, a load factor, and that the incentive payments be repaid or reduced proportionately if such conditions are not met.</p>				
<p>K. Out of the amounts in this Item, \$150,000 the first year and \$150,000 the second year from the general fund is provided to support a tourism development initiative in the County of Henrico.</p>				
<p>L. Out of the amounts in this item, \$250,000 the first year from the general fund is provided as the state's contribution towards infrastructure costs in order to host the FEI Nation's Cup of Eventing at Great Meadow, The Plains.</p>				
<p>M. Out of the amounts in this item, \$25,000 the first year <i>and \$25,000 the second year</i> from the general fund is provided to support the Carver Price Legacy Museum.</p>				
<p><i>N. With such funds as are available, the Virginia Tourism Authority shall collaborate with "Opening Doors for Virginians with Disabilities" to maintain and update the Opening Doors for Virginians with Disabilities travel guide and establish a more user-friendly link to this information on the Virginia Tourism Corporation website home page.</i></p>				
Total for Virginia Tourism Authority.....			\$21,035,424	\$20,810,424 \$21,235,424
Fund Sources: General.....			\$21,035,424	\$20,810,424 \$21,235,424

**§ 1-48. INNOVATION AND ENTREPRENEURSHIP INVESTMENT AUTHORITY (934)**

126.10	Economic Development Services (53400).....		\$11,046,485	\$11,296,485
	Commonwealth Growth Accelerator Program (53415).....	\$3,100,000	\$3,100,000	
	Commonwealth Research Commercialization Services (53416).....	\$2,800,000	\$2,800,000	
	Technology Industry Development Services (53419).....	\$1,950,000	\$1,950,000	
	Administrative Services (53422).....	\$3,196,485	\$3,446,485	
	Fund Sources: General.....	\$11,046,485	\$11,296,485	

Authority: Title 2.2, Chapter 22, Code of Virginia, and Discretionary Inclusion.

A. The appropriation in this item shall be used for the purpose of and in accordance with the terms and conditions specified in Title 2.2, Chapter 22, Code of Virginia.

B. The Innovation and Entrepreneurship Investment Authority is hereby authorized to transfer funds in this appropriation to the Center for Innovative Technology to expend said funds for realizing the statutory purposes of the Authority, by contracting with governmental and private entities, notwithstanding the provisions of § 4-1.05 b of this act.

C. This appropriation shall be disbursed in twelve equal monthly installments each fiscal year.

D.1. No later than July 15 of each year, the Innovation and Entrepreneurship Investment Authority shall provide to the Chairmen of the House Appropriations and Senate Finance

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<p>Committees, Secretary of Commerce and Trade, and the Director, Department of Planning and Budget, a report of its operating plan for each year of the biennium. No later than September 30 of each year, the center shall submit to the same entities a detailed expenditure report for the concluded fiscal year. Both reports shall be prepared in the formats as approved by the Director, Department of Planning and Budget and include, but not be limited to the following:</p>				
<p>a. All planned and actual revenue and expenditures along with funding sources, including state, federal, and other revenue sources of both the Innovation and Entrepreneurship Investment Authority and the Center for Innovative Technology;</p>				
<p>b. A listing of the salaries, bonuses, and benefits of all employees of the Innovation and Entrepreneurship Investment Authority and the Center for Innovative Technology;</p>				
<p>c. By program, total grants made and investments awarded for each grant and investment program, to include the Commonwealth Research Commercialization Fund;</p>				
<p>d. By program, a report of the projected economic impact on the Commonwealth and recoveries of previous grants or investments and sales of equity positions; and</p>				
<p>e. Cash balances by funding source, and a report, by program, of available, committed and projected expenditures of all cash balances.</p>				
<p>2. The President of the Center shall report quarterly to the Center's board of directors, and the Chairmen of the House Appropriations and Senate Finance Committees, Secretary of Commerce and Trade, and the Director, Department of Planning and Budget in a format approved by the Board the following:</p>				
<p>a. The quarterly financial performance, determined by comparing the budgeted and actual revenues and expenditures to planned revenues and expenditures for the fiscal year;</p>				
<p>b. All investments and grants executed compared to projected investment closings, return on prior investments and grants, including all gains and losses; and</p>				
<p>c. The financial and programmatic performance of all operating entities owned by the Center.</p>				
<p>E. As part of its mission to foster technological innovation in the Commonwealth, the Innovation and Entrepreneurship Investment Authority is encouraged to include in its activities Virginia private research universities.</p>				
<p>F.1. The Center for Innovative Technology shall continue to support efforts of public and quasi-public bodies within the Commonwealth to enhance or facilitate the prompt availability of and access to advanced electronic communications services, commonly known as broadband, throughout the Commonwealth, monitoring trends and advances in advanced electronic communications technology to plan and forecast future needs for such technology, and identify funding options.</p>				
<p>2. Out of the amounts appropriated in this item, \$550,000 the first year and \$550,000 the second year from the general fund shall be used to support the expansion and continual improvement of broadband services in regions and localities throughout the Commonwealth. The Center for Innovative Technology (CIT) shall support broadband policy development and priorities established by the Commonwealth's Chief Broadband Advisor, as well as coordinate with and support the broadband assessment and planning activities of the Virginia Growth and Opportunity Board. CIT shall assess strategies and solutions designed to close gaps in Virginia's broadband coverage and performance. In addition, CIT will provide technical assistance to unserved and underserved regions and localities where wired broadband services are not currently available, in order to assist those regions and localities in determining the issues, business practices, and vendor requirements, including an assessment of the existing technologies, for the provision of broadband services to their citizens.</p>				
<p>G. The General Assembly supports the Innovation and Entrepreneurship Investment Authority's stated mission to enhance federal research funding to Virginia's colleges and universities and to industry. It is also the intent of the General Assembly to promote a greater reliance by the authority on nongeneral fund revenues for the authority's operations and programs.</p>				

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<p>H. Notwithstanding any other provision of law, any interest earned on moneys in the Advanced Communications Assistance Fund, as well as any moneys remaining in the fund at the end of each fiscal year, including interest thereon, shall be reverted to the general fund.</p>				
<p>I.1. A total of \$3,100,00 the first year and \$3,100,000 the second year from the general fund shall be allocated to the Commonwealth Growth Accelerator Program fund to foster the development of Virginia-based technology, biosciences, and energy companies. This funding shall be used to underwrite early stage financing for new companies with the goal of achieving an average 11:1 private to public investment ratio.</p>				
<p>2. Funds returned to the Commonwealth Growth Accelerator Program, including proceeds received due to the sale of a company that previously received a GAP investment, shall remain in the program and be used to make future early stage financing investments consistent with the goals of the program. The Center for Innovative Technology may recover the direct costs incurred associated with securing the return of such funds from the moneys returned.</p>				
<p>J.1. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is provided to support the advancement of unmanned systems companies and development of the unmanned systems industry in the Commonwealth.</p>				
<p>2. In addition to the amounts set forth in paragraph J.1., \$500,000 the first year and \$500,000 the second year from the general fund shall be made available for the establishment of an Unmanned Aerial Systems Commercial Center of Excellence and business accelerator in collaboration with the Mid-Atlantic Aviation Partnership and the Virginia Commercial Spaceflight Authority for (i) the development of a strategic plan and roadmap for the recruitment and expansion of commercial UAS entities, and (ii) advancing collaborative public-private UAS partnerships across the Commonwealth at the direction of the Secretary of Commerce and Trade.</p>				
<p>K. Out of the appropriation for this item, \$400,000 the first year and \$400,000 the second year from the general fund shall support the Virginia Cyber Security Commission and its recommendations.</p>				
<p>L. Notwithstanding the definition of qualifying institutions in § 2.2-2233.1, Code of Virginia, a university research consortium that includes Virginia colleges and university member institutions is a qualifying institution for purposes of seeking funding from the Commonwealth Research Commercialization Fund.</p>				
<p>M. Any proceeds from the sale of equity in companies that participated in the cyber security accelerator shall not revert to the general fund but shall be used to support the accelerator program.</p>				
<p>N. By September 1 each year, the President of the Innovation and Entrepreneurship Investment Authority shall report to the Chairmen of the House Appropriations and Senate Finance Committees, Secretary of Commerce and Trade, and to the Director, Department of Planning and Budget on program activities including, but not limited to the following:</p>				
<p>1. For activities associated with providing localities with broadband assistance: (i) the number of localities assisted by state and other broadband funding sources and (ii) the estimated number of households and localities with populations lacking wired broadband access;</p>				
<p>2. For activities associated with the Growth Accelerator Program (GAP): (i) the number of companies receiving investments from the fund, (ii) the state investment and amount of privately leveraged investments per company, (iii) the estimated number of jobs created, (iv) the estimated tax revenue generated, (v) the number of companies who have received investments from the GAP fund still operating in Virginia, (vi) return on investment, to include the value of proceeds from the sale of equity in companies that received support from the program and economic benefits to the Commonwealth, (vii) the number of state investments that failed and the state investment associated with failed investments, and (viii) the number of new companies created or expanded and the number of patents filed; and</p>				

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3. For activities associated with the cyber security accelerator: (i) the number of companies assisted and the number of startups successfully launched through the cyber accelerator program, (ii) the number of companies operating in Virginia as a result of the program, (iii) estimated number of jobs created, (iv) the value of proceeds from the sale of equity in companies that received capital support from the program, (v) the number of state investments that failed and the state investment associated with failed investments, and (vi) the number of new companies created or expanded and the number of patents filed.				
4. Such report shall include the prior fiscal year outcomes as well as the outcomes of each program since inception. In addition, the report shall also include program changes anticipated in the subsequent fiscal year.				
O.1. Pursuant to § 3-2.03 of this act, a line of credit up to \$2,500,000 shall be provided to the Innovation and Entrepreneurship Investment Authority as a temporary cash flow advance. The Innovation and Entrepreneurship Investment Authority shall transfer such related funds to the Center for Innovative Technology as a temporary cash advance to be repaid by June 30 of each fiscal year. Funds received from the line of credit shall be used only to support operational costs in anticipation of receiving reimbursement of said expenditures from signed contracts and grant awards. The request for the line of credit shall be prepared in the formats as approved by the Secretary of Finance and Secretary of Commerce and Trade.				
2. The Secretary of Finance and Secretary of Commerce and Trade shall approve the draw downs from this line of credit prior to the expenditure of funds.				
P.1. The Innovation and Entrepreneurship Investment Authority shall continue to manage and maintain the Mid-Rise Building located at the Center for Innovative Technology Complex at 2214 Rock Hill Road, Herndon, Virginia, unless otherwise directed by the Governor.				
2. The Authority shall ensure building maintenance meets the standards of the Virginia Maintenance Code 2012, remains at a level to satisfy existing lease agreements, and meets metropolitan Class B office standards.				
3. Consistent with the transfer of ownership of the Mid-Rise Building to the Department of General Services directed in Item 75 D of this act, the Innovation and Entrepreneurship Investment Authority shall make all records and information related to the Mid-Rise Building available to the Department of General Services. The Authority shall also provide any other information requested by the Department of General Services regarding the Center for Innovative Technology Complex and any components thereof due to the nature of the Mid-Rise Building's shared infrastructure and interconnection to other components of the Complex. Notwithstanding § 2.2-2221, Code of Virginia, or any other provision of law, the Center for Innovative Technology Complex, consisting of property located at 2214 and 2205 Rock Hill Road, Herndon, Virginia, shall be subject to the provisions of §§ 2.2-1150 through 2.2-1158, Code of Virginia.				
Q. Effective July 1, 2016, any form of proposed increase in employee compensation above the base salaries of employees, including one-time bonuses, except for salary adjustments explicitly authorized in this act, must be communicated to the Director, Department of Planning and Budget, and the Staff Directors of the House Appropriations Committee and the Senate Finance Committee, more than ninety days in advance of effectuating such increase.				
R.1. Out of the appropriation for this item, \$2,800,000 the first year and \$2,800,000 the second year from the general fund shall be deposited into the Commonwealth Research Commercialization Fund created pursuant to §2.2-2233.1, Code of Virginia. These funds shall not be subject to the equal monthly disbursement requirements provided in paragraph C. of this item but shall be disbursed as provided for in paragraphs R.2. through R.5. below.				
2. Of the amounts provided for the Commonwealth Research Commercialization Fund in paragraph R.1., up to \$1,500,000 the first year and \$1,500,000 the second year shall be used for a Small Business Innovation Research Matching Fund Program for Virginia-based technology businesses and, for matching funds for recipients of federal Small Business Technology Transfer (STTR) awards for Virginia-based small businesses. Any monies from these amounts that have not been allocated at the end of each fiscal year shall not revert to the general fund but shall be distributed for other purposes designated by the Research and Technology Investment Advisory Committee and aligned with the Research and Technology				

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Strategic Roadmap.				
3.a. Businesses meeting the following criteria shall be eligible to apply for an award to be administered by the Research and Technology Investment Advisory Committee:				
(i). The applicant has received an STTR award targeted at the development of qualified research or technologies;				
(ii). At least 51 percent of the applicant's employees reside in Virginia; and				
(iii). At least 51 percent of the applicant's property is located in Virginia.				
b. Applicants shall be eligible for matching grants of up to \$100,000 for Phase I awards and up to \$500,000 for Phase II awards. All applicants shall be required to submit a commercialization plan with their application. Any unused funds shall not revert to the general fund but shall remain in the Commonwealth Research and Commercialization Fund. Notwithstanding the provisions of § 2.2-2233.1 , Code of Virginia, unused funding from the Fund shall be awarded as originally intended by the Research and Technology Investment Advisory Committee and only reallocated if sufficient demand does not exist for the original allocation.				
4. Prior to disbursement of these funds to the Authority, the Innovation and Entrepreneurship Investment Authority shall certify that the awards have been made in compliance with the requirements set forth in § 2.2-2233.1, Code of Virginia, and in a format approved by the Director, Department of Planning and Budget.				
5. Notwithstanding § 2.2-2233.1, Code of Virginia, Commonwealth Research Commercialization Fund awards authorized for payment shall be disbursed to the Innovation and Entrepreneurship Investment Authority as provided in paragraph R.4. of this item in addition to the monthly payments as provided in paragraph C of this item. Any funds not expensed in accordance with the award shall be remitted by the Authority to the state treasury and deposited to the Commonwealth Research Commercialization Fund.				
S. 1. Notwithstanding § 2.2-2221, Code of Virginia, the General Assembly finds real property and the improvements thereon to be surplus to the needs of the Commonwealth; specifically, real property and improvements located in Loudoun County (Parcel 035-26) and Fairfax County (Parcel 0152-01-0015 and Parcel 0152-01-0017). The Department of General Services shall pursue and is authorized to execute disposal options, with the approval of the Governor, in accordance with § 2.2-1156, Code of Virginia.				
2. The Innovation and Entrepreneurship Investment Authority and the Center for Innovative Technology shall promptly respond to requests for information and provide other assistance as requested by the Department of General Services and other state agencies as necessary to comply with the requirements set forth in § 2.2-1156, Code of Virginia, shall make all records related to the property readily available to the Department of General Services, and shall provide the Department of General Services access to the property. Further, the Innovation and Entrepreneurship Investment Authority shall continue to manage the property in the best interests of the Commonwealth until the property is sold to the successful purchaser. The Innovation and Entrepreneurship Investment Authority shall not convey any interest or allow any new use without the recommendation of the Department of General Services and approval of the Governor or his designee.				
3. The Innovation and Entrepreneurship Investment Authority shall provide monthly reports to the Department of General Services of income and expenses associated with the property. The Department of General Services shall provide quarterly reports to the Chairmen of the House Appropriations and Senate Finance Committees and to the Governor on the Department's progress to determine disposal options of the parcels, beginning with the initial report due October 1, 2016.				
4. Costs incurred by the Department of General Services to carry out the direction in this item shall be accounted for separately from other Department operations and shall be reimbursed first from the Innovation and Entrepreneurship Investment Authority building reserve fund and, if insufficient funding is available from that fund, from the proceeds of the sale of the property. Such costs shall include moving expenses and the first year of				

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new rent costs incurred by the Center for Innovative Technology as a result of the direction in this item.				
5. The remaining proceeds of the sale shall be deposited to the nonreverting Virginia Research Investment Fund established pursuant to Chapter 775, 2016 Acts of Assembly for the express purpose of promoting research and development excellence in the Commonwealth; positioning the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; and encouraging cooperation and collaboration among higher education research institutions, and with the private sector, in areas and with activities that foster economic development and job creation in the Commonwealth, with particular emphasis on personalized health, biosciences, data analytics, and cybersecurity. Such proceeds shall herein be appropriated to the portion of the Fund designated for investment, reinvestment and management by the Board of the Virginia Retirement System as provided in § 51.1-124.38, Code of Virginia.				
T. The Center for Innovative Technology shall not charge indirect costs, including but not limited to, allocating administrative staff and overhead costs against the Innovation and Entrepreneurship Measurement System, broadband, unmanned systems, and Cyber Security Commission, unless approved by the Governor.				
Total for Innovation and Entrepreneurship Investment Authority.....			<b>\$11,046,485</b>	<b>\$11,296,485</b>
Fund Sources: General.....	\$11,046,485	\$11,296,485		
<b>TOTAL FOR OFFICE OF COMMERCE AND TRADE.....</b>			<b>\$925,805,985</b>	<b>\$923,967,289</b>
			<b>\$931,595,985</b>	<b>\$996,220,261</b>
General Fund Positions.....	370.34	<del>370.34</del> 371.34		
Nongeneral Fund Positions.....	1,307.66	1,307.66		
Position Level.....	1,678.00	<del>1,678.00</del> 1,679.00		
Fund Sources: General.....	<del>\$225,708,812</del> \$231,498,812	<del>\$230,136,001</del> \$302,298,973		
Special.....	\$27,524,327	<del>\$26,830,327</del> \$26,920,327		
Commonwealth Transportation.....	\$1,592,572	\$1,592,572		
Trust and Agency.....	\$554,835,319	\$549,635,319		
Dedicated Special Revenue.....	\$25,848,945	\$25,477,060		
Federal Trust.....	\$90,296,010	\$90,296,010		

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**OFFICE OF EDUCATION**

**§ 1-49. SECRETARY OF EDUCATION (185)**

127.	Administrative and Support Services (79900).....			\$694,565	\$694,565
	General Management and Direction (79901).....	\$694,565	\$694,565		
	Fund Sources: General.....	\$694,565	\$694,565		

Authority: Title 2.2, Chapter 2, § 2.2-208 Code of Virginia.

A. The Secretary of Education is hereby authorized to make allocations to qualified zone academies of the portion of the national zone academy bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to Section 1397E of the Internal Revenue Code of 1986, as amended, and to provide for carryovers of any unused limitation amount. In making such allocations, the Secretary of Education is directed to give priority to allocation requests for qualified zone academies having at least 35 percent free lunch participation or either located in federal enterprise communities or located in cities and counties within which federal enterprise communities are located.

B. The Secretary of Education is hereby authorized to make allocations of the portion of the tax-exempt private activity bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to the Economic Growth and Tax Relief Reconciliation Act of 2001 (PL 107-16)(Section 142(k)(5) of the Internal Revenue Code of 1986, as amended) for the development of education facilities using public-private partnerships, and to provide for carryovers of any unused limitation amount. In making such allocations, the Secretary is directed to give priority to public-private partnership proposals that will serve as demonstration projects concerning the leveraging of private sector contributions and resources, the achievement of economies or efficiencies associated with private sector innovation, and other benefits that are or may be derived from public-private partnerships in contrast to more traditional approaches to public school construction and renovation. The Secretary is directed to report annually not later than August 31 to the Chairmen of the Senate Finance and House Appropriations Committees regarding any guidelines implemented and any allocations made pursuant to this paragraph.

C. For the funds identified for reallocation in each of the higher education institutions' educational and general programs, each respective institution shall report the amounts and the specific purposes for which they were used in its six-year academic plans finalized in the fall of 2018 and the fall of 2019.

	Total for Secretary of Education.....			<b>\$694,565</b>	<b>\$694,565</b>
	General Fund Positions.....	5.00	5.00		
	Position Level.....	5.00	5.00		
	Fund Sources: General.....	\$694,565	\$694,565		

**§ 1-50. DEPARTMENT OF EDUCATION, CENTRAL OFFICE OPERATIONS (201)**

128.	Instructional Services (18100).....			\$19,515,887	\$19,515,887
	Public Education Instructional Services (18101).....	\$11,006,525	\$11,006,525	\$20,165,887	\$30,709,422
		\$11,656,525	\$12,219,112		
	Program Administration and Assistance for Instructional Services (18102).....	\$7,042,721	\$7,042,721		
			\$17,023,669		
	Adult Education and Literacy (18104).....	\$1,466,641	\$1,466,641		
	Fund Sources: General.....	\$8,809,594	\$8,809,594		
		\$9,459,594	\$10,102,181		
	Special.....	\$300,000	\$300,000		
	Commonwealth Transportation.....	\$270,419	\$270,419		
	Trust and Agency.....	\$5,000	\$5,000		

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Federal Trust.....	\$10,130,874	<del>\$10,130,874</del> \$20,031,822		

Authority: Public Education Instructional Services: Title 22.1, Chapter 13, Code of Virginia; P.L. 107-110, P.L. 105-332, P.L.108-447, P.L. 102-305, Federal Code.

Program Administration and Assistance for Instructional Services: Title 22.1, Chapter 13, Code of Virginia; P.L. 107-110, P.L. 105-332, P.L. 108-447, P.L. 102-305, Federal Code.

Compliance and Monitoring of Instructional Services: Title 22.1, Chapter 13, Code of Virginia; P.L. 107-110, P.L. 105-332, P.L. 108-447, Federal Code.

Adult Education and Literacy: §§ 2.2-2472, 22.1-223-226, 22.1-253.13:1, 22.1-254.2, Code of Virginia; P.L. 105-220, Federal Code.

A. The Superintendent of Public Instruction is encouraged to implement school/community team training.

B. The Superintendent of Public Instruction shall provide direction and technical assistance to local school divisions in the revision of their Vocational Education curriculum and instructional practices.

C. The Superintendent of Public Instruction, in cooperation with the Commissioner of Social Services, shall encourage local departments of social services and local school divisions to work together to develop cooperative arrangements for the use of school resources, especially computer labs, for the purpose of training Temporary Assistance for Needy Families (TANF) recipients for the workforce.

D. Notwithstanding § 4-1.04 a 3 of this act, the Superintendent of Public Instruction may apply for grant funding to be used by local school divisions consistent with the provisions of Chapter 447, 1999 Acts of Assembly. The nongeneral fund appropriation for this agency shall be adjusted by the amount of the proceeds of any such grant awards.

E. 1. Out of the appropriations in this item, \$1,300,000 the first year and \$1,300,000 the second year from the general fund is provided to support students and teachers pursuing information technology industry certifications. The funding shall be used to provide outreach, training, instructional resources, industry recognized certification opportunities for teachers and students enrolled in Virginia public high schools and regional career and technical education programs, and information technology curriculum resources for use by students' parents.

2. The funds provided in this initiative shall be used to support the following priority objectives: a) increase the percentage of students enrolled in career and technical education courses who receive instruction in information technology leading to an increased number of students achieving industry recognized certifications in information technology; b) increase the number of high schools and regional career and technical education programs that receive the training and technical support to be ready to implement information technology curricula leading to increased statewide implementation and use; c) increase the number of teachers teaching targeted career and technical education courses and other high school teachers who receive training in information technology and in industry recognized certifications leading to an increased number of teachers achieving industry recognized certifications in information technology; and, d) support implementation of information technology curricula in school divisions in Southside and Southwest Virginia so that implementation in those regions is at least comparable to implementation in other regions of Virginia.

F. Out of the appropriation in this Item, \$413,000 the first year and \$413,000 the second year from the general fund is provided for the Department of Education to continue a professional development program intended to increase the capacity of principals as school leaders in under-performing schools.

G. Out of the appropriation in this Item, \$366,000 the first year and \$366,000 the second year from the general fund is provided to the Department of Education to assist local school divisions, as needed, to establish criteria for the professional development of teachers and principals on the subject of issues related to high-needs students.

H. a. Out of this appropriation, \$1,350,000 the first year and \$1,350,000 the second year from

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the general fund is provided through the Department of Education to the University of Virginia to continue statewide implementation of the Virginia Kindergarten Readiness Program conducted in the fall, and to develop and implement a post-assessment upon the conclusion of the kindergarten year.

b. The Department of Education shall coordinate with the University of Virginia's Center for Advanced Study of Teaching and Learning to ensure that all school divisions shall be required to have their kindergarten students assessed during the school year using the multi-dimensional kindergarten readiness assessment model no later than by the end of the school year 2019-2020, and annually thereafter. All school divisions shall be required to have their kindergarten students assessed with such model.

c. Further, out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund shall be allocated to University of Virginia's Center for Advanced Study of Teaching and Learning to provide training to school divisions annually on how to effectively use Virginia Kindergarten Readiness Program data to improve instructional practices and student learning. Such teacher focused professional development and training shall be prioritized for the school divisions that would most benefit from state assistance in order to provide more time for classroom instruction and student learning.

d. The Department and the University of Virginia's Center for Advanced Study of Teaching and Learning shall use the results of the multi-dimensional Virginia Kindergarten Readiness Program assessments to determine how well the Virginia Preschool Initiative promotes readiness in all key developmental domains assessed. The Department shall submit such findings using data from the prior year's fall assessment to the Chairmen of House Appropriations and Senate Finance Committees no later than October 1, 2019, and annually thereafter.

I. The Department of Education, in cooperation with the Departments of Health, Social Services, and Planning & Budget, shall convene a workgroup facilitated by the Virginia Early Childhood Foundation, to examine opportunities including, but not limited to, leveraging existing funds targeted to early childhood development with the goal of identifying strategies and mechanisms for developing an Integrated Early Childhood Fund. The findings of the workgroup shall be provided by October 15, 2018, to the Joint Subcommittee on the Virginia Preschool Initiative, and shall articulate the potential for existing but underutilized appropriations including, but not limited to, unused Virginia Preschool Initiative funds and TANF, and other funds to support administrative costs that would assist with more fully drawing down federal CACFP funds. The purpose of the Integrated Early Childhood Fund shall be to more feasibly implement the cohesive and efficient administration of early childhood resources, increasing access to quality early childhood services for at-risk children with little additional fiscal impact on the Commonwealth's budget.

*J. Out of this appropriation, \$300,000 the first year and \$700,000 the second year from the general fund is provided through the Department of Education to the University of Virginia's Center for Advanced Study of Teaching and Learning to ensure that all Virginia Preschool Initiative classroom programs teachers receive appropriate individualized professional development training from professional development specialists to support quality teacher-child interactions and effective research-based curriculum implementation. Funding and professional development assistance shall be prioritized for teachers with Classroom Assessment Scoring System (CLASS) observation scores that did not meet the statewide minimum acceptable threshold standard established by University of Virginia's Center for Advanced Study of Teaching and Learning and the Department of Education. The University of Virginia's Center for Advanced Study of Teaching and Learning, assisted on an as needed basis, by the Department of Education, Virginia Early Childhood Foundation, and Elevate Early Education to hire and train specialists to provide such individualized professional development.*

*K. Out of this appropriation, \$350,000 the first year and \$350,000 the second year from the general fund is provided through the Department of Education to the University of Virginia to ensure that all Virginia Preschool Initiative classroom programs have the quality of their teacher-child interactions assessed through a rigorous and research-based classroom observational instrument at least once every two years using the CLASS observational instrument for such assessment. All classrooms shall be observed no later*

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*than June 30, 2020. The University of Virginia, with input from the Department of Education and the use of its detailed plan for such assessments, shall establish a statewide minimum acceptable threshold for the quality of teacher-child interactions for Virginia Preschool Initiative classroom programs, and classrooms that are assessed below the threshold will receive additional technical assistance from the Department of Education and the University of Virginia. The threshold should be established with the assistance of University of Virginia's Center for Advanced Study of Teaching and Learning, using a rigorous and research-based classroom observational instrument. The threshold shall be established no later than the beginning of the 2018-2019 school year and the classroom assessments shall begin no later than spring 2019. The University of Virginia's Center for Advanced Study of Teaching and Learning shall submit a progress report on such classroom observations to the Chairmen of House Appropriations and Senate Finance Committees no later than June 30, 2019, and annually thereafter.*

*L. Out of this appropriation, \$80,000 the second year from the general fund is provided to the Department of Education to cover all of the costs associated with the set up and design of a seventeenth career cluster, pursuant to the passage of House Bill 2008.*

129.	Special Education and Student Services (18200).....			\$16,492,613	<del>\$16,492,613</del> \$16,985,368
	Special Education Instructional Services (18201).....	\$9,907,986	\$9,907,986		
	Special Education Administration and Assistance Services (18202).....	\$1,043,459	\$1,043,459		
	Special Education Compliance and Monitoring Services (18203).....	\$3,058,297	<del>\$3,058,297</del> \$3,551,052		
	Student Assistance and Guidance Services (18204)....	\$2,482,871	\$2,482,871		
	Fund Sources: General.....	\$1,903,579	<del>\$1,903,579</del> \$2,396,334		
	Special.....	\$120,000	\$120,000		
	Federal Trust.....	\$14,469,034	\$14,469,034		

Authority: Special Education Instructional Services: §§ 22.1-213 through 22.1-221, 22.1-253.13:1 through 22.1-253.13:8, 22.1-319 through 22.1-332, Code of Virginia; P.L. 108-446, Federal Code.

Special Education Administration and Assistance Services: §§ 22.1-253.13:1 through 22.1-253.13:8, Code of Virginia; P.L. 108-446, Federal Code.

Special Education Compliance and Monitoring Services: §§ 22.1-213 through 22.1-221, 22.1-253.13:1 through 22.1-253.13:8, 22.1-319 through 22.1-332, Code of Virginia; P.L. 108-446, Federal Code.

Student Assistance and Guidance Services: Title 22.1, Chapters 1, 13, 14, 16; §§ 22.1-16.2, 22.1-17.1, 22.1-17.2, 22.1-199.4, 22.1-206, 22.1-207.1, 22.1-208.01, 22.1-209.2, Code of Virginia; P.L. 107-110 and P.L. 108-446, Federal Code.

A. The Department of Education, in collaboration with the Office of Children's Services, shall provide training to local staff serving on Family Assessment and Planning Teams and Community Policy and Management Teams. Training shall include, but need not be limited to, the federal and state requirements pertaining to the provision of the special education services funded under § 2.2-5211, Code of Virginia. The training shall also include written guidance concerning which services remain the financial responsibility of the local school divisions. In addition, the Department of Education shall provide ongoing local oversight of its federal and state requirements related to the provision of services funded under § 2.2-5211, Code of Virginia.

B. The Board of Education shall consider the caseload standards for speech-language pathologists as part of its review of the Standards of Quality, pursuant to § 22.1-18.01, Code of Virginia.

C. The Board of Education shall consider the inclusion of instructional positions needed for blind and visually impaired students enrolled in public schools and shall consider developing a caseload requirement for these instructional positions as part of its review of the Standards

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of Quality, pursuant to § 22.1-18.01, Code of Virginia.

D. Out of this appropriation, ~~\$197,416~~ \$447,416 the first year and ~~\$197,416~~ \$447,416 the second year from the general fund is provided to the Department of Education to provide training, technical assistance, and on-site coaching to public school teachers and administrators on implementation of a positive behavioral interventions and supports program with the goal of improving school climate and reducing disruptive behavior in the classroom. Such training and other assistance may be provided as part of the Department's ongoing efforts to assist schools with implementation of a tiered system of supports that addresses both academic and behavioral needs.

E. Out of this appropriation, \$290,000 the first year and \$290,000 the second year from the general fund and \$290,000 the first year and \$290,000 the second year from federal funds shall be used for Multisensory Structured Literacy teacher training.

*F. Out of this appropriation, \$492,755 the second year from the general fund is provided to support statewide training and assistance for local school divisions to implement the Board of Education's Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia.*

*G.1. The Department of Education shall serve as the lead agency to collect and report data that succinctly measures the progress and outcomes of students that are placed in private provider settings by such student's public school of residence in Virginia or have been placed in a private provider facility by other legal means for which the Commonwealth is responsible for providing education. In keeping with the November 1, 2018, Private Day Special Education Outcomes report's findings and recommendations, the data shall include at least student attendance rates, graduation rates, individual student progress improvement rates relative to student individual education plans, standardized test scores, return to public school setting percentages, suspension and expulsion rates, transition to enrolling in post-secondary education percentages, and parental and student perspectives.*

*2. The Department of Education, in collaboration with the Office of Children's Services, shall establish an implementation advisory group to assist in refining the outcome measures contained in paragraph G.1 of this item and the collection of any additional information that is beneficial in determining and measuring outcomes of such students in private day school settings that ensure a consistent set of comparable and compatible data relative to such data of students enrolled in the public schools in Virginia and who have an individualized education plan. The advisory workgroup shall include a representative number of various stakeholders that includes, but is not limited to, private day schools, local school divisions, associations that represent private providers, and others as necessary. The advisory group shall assist in the development of data collection protocols, requirements, and outcome reporting mechanisms. The relevant data shall be provided to the department annually by each private provider that receives state funding for the purpose of providing services as prescribed in such student's individualized education plan.*

*3. The department shall begin collecting outcome data for private day special education schools in the 2019-2020 school year, if possible, but no later than the 2020-2021 school year. If warranted, other state agencies shall provide appropriate support to facilitate the collection of such data. All public school divisions that have students enrolled in such a private provider facility shall include in their contract for services with the private provider a requirement for the department to receive the data necessary to satisfy the data collections and subsequent reporting requirements. The department shall report annually on the outcome data for students enrolled in special education private day schools to Chairmen of the House Appropriations, House Education, Senate Finance, and Senate Education and Health Committees by the first day of the regular General Assembly Session.*

*4. The Department of Education shall enter into a data sharing Memorandum of Understanding with the Office of Children's Services to allow linkage of specific student data to specific private day schools.*

*5. The Department of Education and the Office of Children's Services shall have authority*

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<i>to implement these changes effective July 1, 2019, and prior to the completion of any regulatory process undertaken in order to effect such changes.</i>				
130.	Pupil Assessment Services (18400).....		\$39,626,152	\$39,626,152 \$40,126,152
	Test Development and Administration (18401).....	\$39,626,152		
	Fund Sources: General.....	\$28,611,859		
	Special.....	\$270,488		
	Federal Trust.....	\$10,743,805		

Authority: § 22.1-253.13:3, sections C and E, Code of Virginia; P.L. 107-110, Federal Code.

A. Out of this appropriation, \$25,380,678 the first year and \$25,380,678 the second year from the general fund is provided to support the costs of contracts for test development, administration, scoring, and reporting as well as other program-related costs of the Standards of Learning testing program.

B. Out of this appropriation, \$1,551,416 the first year and \$1,551,416 the second year from the general fund is provided for continued computer adaptive test transition and revision.

C. Notwithstanding any contrary provisions of law, the Department of Education shall not be required to administer the Stanford 9 norm-referenced test.

D. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from the general fund is provided for a verified credit in high school in history and social science. In establishing graduation requirements, the State Board of Education shall require students to earn one verified credit in history and social science. Such verified credit shall be earned only by (i) the successful completion of a Board-developed end-of-course Standards of Learning assessment; (ii) achievement of a passing score on a Board-approved standardized test administered on a statewide, multistate, or international basis that measures content that incorporates or exceeds the Standards of Learning content in the course for which the verified credit is given; or (iii) achievement of criteria for the receipt of a locally awarded verified credit from the local school board in accordance with criteria established in Board guidelines when the student has not passed a corresponding Standards of Learning assessment. Such end-of-course Standards of Learning assessment shall not be a performance-based assessment.

*E. Out of this appropriation, \$500,000 the second year from the general fund is provided to update the Virginia Studies Standards of Learning assessment and the Civics and Economics Standards of Learning assessment.*

131.	School and Division Assistance (18500).....		\$6,850,044	\$6,850,044
	School Improvement (18501).....	\$1,939,750		
	School Nutrition (18502).....	\$4,477,096		
	Pupil Transportation (18503).....	\$433,198		
	Fund Sources: General.....	\$2,485,708		
	Special.....	\$31,000		
	Federal Trust.....	\$4,333,336		

Authority: School Improvement: § 22.1-253.13:1 et seq., Code of Virginia; P. L. 107-110, Federal Code.

School Nutrition: §§ 22.1-24, 22.1-89.1, and 22.1-207.3, Code of Virginia; P.L. 79-396, P.L. 89-642, P.L. 95-627, as amended, P.L. 108-265, Federal Code.

Pupil Transportation: Title 22.1, Chapter 12, and Title 46.2, Code of Virginia; P. L. 103-272 and P.L. 109-20, Federal Code.

A. This appropriation includes \$1,100,183 the first year and \$1,100,183 the second year from the general fund for contractual services related to assisting schools that do not meet the Standards of Accreditation as prescribed by the Board of Education.

B. Notwithstanding the provisions of § 2.2-1502.1, Code of Virginia, the Board of Education,

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in cooperation with the Department of Planning and Budget, is authorized to invite a school division to participate in the school efficiency review program described in § 2.2-1502.1, Code of Virginia, as a component of a division level academic review pursuant to § 22.1-253.13:3, Code of Virginia.				
132.	Technology Assistance Services (18600).....		\$2,229,864	\$2,229,864
			\$2,629,864	\$2,629,864
	Instructional Technology (18601).....	\$612,288	\$612,288	
	Distance Learning and Electronic Classroom (18602).....	\$1,617,576	\$1,617,576	
		\$2,017,576	\$2,017,576	
	Fund Sources: General.....	\$1,795,025	\$1,795,025	
	Special.....	\$105,000	\$105,000	
	Trust and Agency.....	\$274,563	\$274,563	
		\$674,563	\$674,563	
	Federal Trust.....	\$55,276	\$55,276	

Authority: Instructional Technology: §§ 22.1-20.1, 22.1-70.2, 22.1-199.1, 22.1-253.13:1 through 22.1-253.13:8, Code of Virginia; P.L. 107-110, Federal Code.

Distance Learning and Electronic Classroom: § 22.1-212.2, Code of Virginia.

A. This appropriation includes \$1,000,000 the first year and \$1,000,000 the second year from the general fund for statewide digital content development, online learning, and related support services, as prescribed through contract with the Department of Education. All digital content produced and delivery of online learning shall meet criteria established by the Department of Education, meet or exceed applicable Standards of Learning, and be correlated to such state standards.

B. In developing the deliverables for each contract, the Department of Education shall consult with division superintendents or their designated representatives to assess school divisions' needs for digital content, online learning, teacher training, and support services that advance technology integration into the K-12 classroom, as well as for additional educational resources that may be made available to school divisions throughout the Commonwealth.

133.	Teacher Licensure and Education (56600).....		\$2,380,752	\$2,380,752
			\$2,739,252	
	Teacher Licensure and Certification (56601).....	\$2,006,252	<del>\$2,006,252</del>	
			\$2,364,752	
	Teacher Education and Assistance (56602).....	\$374,500	\$374,500	
	Fund Sources: General.....	\$397,168	\$397,168	
			\$755,668	
	Special.....	\$1,983,584	\$1,983,584	

Authority: Teacher Licensure and Certification: §§ 22.1-16, 22.1-298.1, 22.1-299, 22.1-299.2, 22.1-302, 22.1-303, 22.1-305.2, 22.1-316 to 22.1-318, Code of Virginia; P.L. 107-110, Federal Code.

Teacher Education and Assistance: §§ 22.1-290; 22.1-290.01; 22.1-290.1, 22.1-298, 22.1-305.2, 22.1-305.1, Code of Virginia; P. L. 108-446 and P. L. 107-110, Federal Code.

A. Proceeds from the fee schedule for the issuance of teaching certificates shall be utilized to defray all, or any part of, the expenses incurred by the Department of Education in issuing or accounting for teaching certificates. The fee schedule shall take into account the actual costs of issuing certificates. Any portion of the general fund appropriation for this Item may be supplemented by such fees.

B. The Board of Education is authorized to approve changes in the licensure fee amounts charged to school personnel pursuant to 8VAC20-22-40 A.2.

C. In furtherance of the General Assembly's interest in understanding trends in Virginia's teaching work force, teacher turnover rates, and the market for teachers, as evidenced by such metrics as the number of applicants per position, the Department shall develop and

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provide a model exit questionnaire that Virginia school divisions may administer to their exiting teachers.

D. Out of this appropriation, \$93,084 the first year and \$93,084 the second year from the general fund is provided to support local school division access to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse to research educator misconduct.

E. Out of this appropriation, \$348,500 the second year from the general fund is provided to automate the teacher licensure application and intake process.

F. Out of this appropriation, \$10,000 the second year from the general fund is allocated to the Department of Education to cover costs incurred by the department and the Advisory Board on Teacher Education and Licensure in convening appropriate stakeholders to design and implement a micro-credentialing program in the Commonwealth, pursuant to the passage of House Bill 2217.

134.	Administrative and Support Services (19900).....			\$20,519,856	\$20,519,856
	General Management and Direction (19901).....	\$3,951,175	\$3,951,175		\$21,098,429
	Information Technology Services (19902).....	\$10,128,307	<del>\$10,128,307</del> \$10,393,773		
	Accounting and Budgeting Services (19903).....	\$4,337,930	<del>\$4,337,930</del> \$4,622,037		
	Policy, Planning, and Evaluation Services (19929).....	\$2,102,444	<del>\$2,102,444</del> \$2,131,444		
	Fund Sources: General.....	\$17,294,254	<del>\$17,294,254</del> \$17,872,827		
	Special.....	\$2,349,281	\$2,349,281		
	Federal Trust.....	\$876,321	\$876,321		

Authority: Article VIII, Sections 2, 4, 5, 6, 8, Constitution of Virginia; Title 2.2, Chapters 10, 12, 29, 30, 31, and 32; Title 22.1, 22.1-8 through 20, 22.1-21 through 24; Title 51.1, Chapters 4, 5, 6.1, and 11; Title 60.2, Chapters 60.2-100, 60.2-106; Title 65.2, Chapters 1, 6, and 9, Code of Virginia; P.L. 108-446, P.L. 107-110, Federal Code.

A. Out of this appropriation, \$9,000 the first year and \$9,000 the second year from the general fund is designated to support annual membership dues to the Southern Regional Education Board. In addition, \$5,000 the first year and \$5,000 the second year from the general fund is designated to pay registration and travel expenses of citizens appointed as Virginia commissioners for the Southern Regional Education Board.

B. Out of this appropriation \$70,000 the first year and ~~\$70,000~~\$79,000 the second year from the general fund is provided for the fees and travel expenses associated with the Interstate Compact on Educational Opportunity for Military Children, established pursuant to Chapter 187, of the 2009 Acts of Assembly.

C. The Department of Education is authorized to collect proceeds from the sale of educational resources it has developed, such as technology applications, on-line course content, assessments, and other educational content, to out-of-state individuals or entities and to in-state, for-profit entities. The Department of Education is further authorized to deposit such proceeds in a non-reverting special fund account established in its financial records for this purpose. Net proceeds from such sales shall be expended by the Department of Education to further develop existing educational resources or to create new educational resources for the benefit of the commonwealth's public schools and which may also be sold under the provisions of this paragraph. The Secretary of Administration shall authorize any licensing agreements executed by the Department of Education pursuant to this paragraph.

D. Out of this appropriation, \$34,625 the first year and \$34,625 the second year from the general fund shall be used to provide performance evaluation training to teachers, principals, division superintendents, and other affected school division personnel in support of the transition from continuing employment contracts to annual employment contracts for teachers and principals.

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<p>E. Included in this appropriation is \$624,713 the first year and \$624,713 the second year from the general fund to cover ongoing operational and maintenance costs of the Performance Budgeting System and the Cardinal System charged to Direct Aid for Public Education.</p>				
<p>F. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund is provided for the Board of Education, in consultation with the Standards of Learning Innovation Committee, to continue redesigning the School Performance Report Card so that it is more effective in communicating to parents and the public regarding information about the status and achievements of the schools and school divisions.</p>				
<p>G. Out of this appropriation, \$500,000 the first year and \$500,000 the second year is provided from the general fund for the Department of Education to develop a growth scale for the existing Standards of Learning mathematics and reading assessments. This growth scale should facilitate data-driven school improvement efforts and support the state's accountability and accreditation systems.</p>				
<p>H. Out of the amounts in this item, the Department of Education shall develop and administer biennially to individuals holding a license from the Department in each public elementary and secondary school in the Commonwealth a voluntary and anonymous school personnel survey to evaluate school-level teaching conditions and the impact such conditions have on teacher retention and student achievement. Such survey may include questions regarding school leadership, teacher leadership, teacher autonomy, demands on teachers' time, student conduct management, professional development, instructional practices and support, new teacher support, community engagement and support, and facilities and other resources. The Superintendent of Public Instruction shall report the results of any school personnel survey to the Chairmen of the House Committees on Appropriations and Education and to the Senate Committees on Finance and Education and Health annually before the first day of each General Assembly Regular Session. The appropriation in this item meets the requirements of the second enactment of Senate Bill 456, of the 2018 General Assembly Regular Session.</p>				
<p><i>I. Out of this appropriation, \$20,000 the second year from the general fund is provided to the Department of Education to work with a partner organization to conduct a brief questionnaire survey to approximately 500 high school students and then produce a number of cross-tabulated results of any key findings.</i></p>				
Total for Department of Education, Central Office Operations.....			<b>\$107,615,168</b>	<b>\$107,615,168</b>
			<del>\$108,665,168</del>	<del>\$121,138,531</del>
General Fund Positions.....	144.00	<del>144.00</del> 149.00		
Nongeneral Fund Positions.....	185.50	185.50		
Position Level.....	329.50	<del>329.50</del> 334.50		
Fund Sources: General.....	\$61,297,187	\$61,297,187		
	<del>\$61,947,187</del>	<del>\$64,519,602</del>		
Special.....	\$5,159,353	\$5,159,353		
Commonwealth Transportation.....	\$270,419	\$270,419		
Trust and Agency.....	<del>\$279,563</del>	<del>\$279,563</del>		
	<del>\$679,563</del>	<del>\$679,563</del>		
Federal Trust.....	\$40,608,646	<del>\$40,608,646</del> \$50,509,594		
<b>Direct Aid to Public Education (197)</b>				
135. Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....			\$31,723,732	\$31,237,303
			<del>\$32,171,945</del>	<del>\$33,324,222</del>
Financial Assistance for Supplemental Education (14304).....	\$31,723,732	\$31,237,303		
	<del>\$32,171,945</del>	<del>\$33,324,222</del>		

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Fund Sources: General.....	\$31,723,732	\$31,237,303		
	\$32,171,945	\$33,324,222		
Authority: Discretionary Inclusion.				
<b>Appropriation Detail of Educational, Cultural, Community, and Artistic Affairs (14300)</b>				
<b>Supplemental Education Assistance Programs (14304)</b>	<b>FY 2019</b>		<b>FY 2020</b>	
<i>Academies of Hampton</i>		\$0		\$500,763
Achievable Dream	\$500,000			\$500,000
Career and Technical Education Regional Centers	\$720,000			\$720,000
	\$660,000			\$660,000
Career and Technical Education - Emil and Grace Shihaden Innovation Center	\$250,000			\$250,000
Career and Technical Education Resource Center	\$298,021			\$298,021
Career Council at Northern Neck Career & Technical Center	\$60,300			\$60,300
Charter School Supplement	\$100,000			\$100,000
College Partnership Laboratory School	\$50,000			\$50,000
Communities in Schools (CIS)	\$1,244,400			\$1,244,400
<i>Computer Science Teacher Training</i>	\$550,000			\$550,000
Great Aspirations Scholarship Program (GRASP)	\$400,000			\$400,000
				\$500,000
High School Program Innovation	\$500,000			\$500,000
Jobs for Virginia Graduates (JVG)	\$573,776			\$573,776
National Board Certification Program	\$5,291,787			\$5,497,358
	\$5,250,000			\$5,393,514
Newport News Aviation Academy - STEM Program	\$100,000			\$100,000
Petersburg Executive Leadership Recruitment Incentives	\$350,000			\$350,000
Positive Behavioral Interventions & Support (PBIS)	\$1,598,000			\$1,598,000
<i>Praxis and Virginia Communication and Literacy Assessment Assistance for Provisionally Licensed Minority Teachers</i>	\$50,000			\$50,000
Project Discovery	\$962,500			\$962,500
<i>Robots for Autism Pilot Program</i>		\$0		\$200,000
Small School Division Assistance	\$145,896			\$145,896
Southside Virginia Regional Technology Consortium	\$108,905			\$108,905
Southwest Virginia Public Education Consortium	\$124,011			\$124,011
STEM Program / Research Study (VA Air & Space Center)	\$681,975			\$681,975
STEM Competition Team Grants	\$200,000			\$200,000
Targeted Extended/Enriched School Year and Year-round School Grants	\$7,763,312			\$7,763,312
<i>Targeted Joint Consolidation School Division Incentive</i>		\$0		\$400,000
Teach for America	\$500,000			\$500,000
Teacher Improvement Funding Initiative	\$15,000			\$15,000
Teacher Recruitment & Retention Grant Programs	\$2,123,000			\$1,931,000
				\$2,181,000

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Teacher Residency Program	\$2,000,000			<del>\$1,500,000</del> \$1,750,000
Van Gogh Outreach Program	\$71,849			\$71,849
Virginia Early Childhood Foundation (VECF)	\$2,750,000			\$2,750,000
Virginia Reading Corps	\$600,000			\$600,000
Virginia Student Training and Refurbishment (VA STAR) Program	\$300,000			\$300,000
Vision Screening Grants	\$391,000			\$391,000
Vocational Lab Pilot	\$175,000			\$175,000
Wolf Trap Model STEM Program	\$725,000			\$725,000
<b>Total</b>	<b><del>\$31,723,732</del></b>	<b>\$32,171,945</b>	<b><del>\$31,237,303</del></b>	<b>\$33,324,222</b>

A. Out of this appropriation, the Department of Education shall provide \$573,776 the first year and \$573,776 the second year from the general fund for the Jobs for Virginia Graduates initiative.

B. Out of this appropriation, the Department of Education shall provide \$124,011 the first year and \$124,011 the second year from the general fund for the Southwest Virginia Public Education Consortium at the University of Virginia's College at Wise. An additional \$71,849 the first year and \$71,849 the second year from the general fund is provided to the Consortium to continue the Van Gogh Outreach program with Lee and Wise County Public Schools and expand the program to the twelve school divisions in Southwest Virginia.

C. This appropriation includes \$108,905 the first year and \$108,905 the second year from the general fund for the Southside Virginia Regional Technology Consortium to expand the research and development phase of a technology linkage.

D. An additional state payment of \$145,896 the first year and \$145,896 the second year from the general fund is provided as a Small School Division Assistance grant for the City of Norton. To receive these funds, the local school board shall certify to the Superintendent of Public Instruction that its division has entered into one or more educational, administrative or support service cost-sharing arrangements with another local school division.

E. Out of this appropriation, \$298,021 the first year and \$298,021 the second year from the general fund shall be allocated for the Career and Technical Education Resource Center to provide vocational curriculum and resource instructional materials free of charge to all school divisions.

F. It is the intent of the General Assembly that the Department of Education provide bonuses from state funds to classroom teachers in Virginia's public schools who hold certification from the National Board of Professional Teaching Standards. Such bonuses shall be \$5,000 the first year of the certificate and \$2,500 annually thereafter for the life of the certificate. This appropriation includes an amount estimated at ~~\$5,291,787~~ \$5,250,000 the first year and ~~\$5,497,358~~ \$5,393,514 the second year from the general fund for the purpose of paying these bonuses. By October 15 of each year, school divisions shall notify the Department of Education of the number of classroom teachers under contract for that school year that hold such certification.

G. This appropriation includes \$2,123,000 the first year and ~~\$1,931,000~~ \$2,181,000 the second year from the general fund for grants, scholarships, and incentive payments to attract, recruit, and retain high-quality teachers and fill critical teacher shortage disciplines in Virginia's public schools.

1. Out of this appropriation, \$708,000 the first year and \$708,000 the second year from the general fund is provided for teaching scholarship loans. These scholarships shall be for undergraduate students in college with a cumulative grade point average of at least 2.7, who are nominated by their college, and who meet the criteria and qualifications, pursuant to § 22.1-290.01, Code of Virginia, except as provided herein. Awards shall be made to

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<p>students who are enrolled full-time or part-time in approved undergraduate or graduate teacher education programs for the top five critical teacher shortage disciplines, however minority students may be enrolled in any content area for teacher preparation. Scholarship recipients may fulfill the teaching obligation by accepting a teaching position, and teaching for at least two years in a school division where 50 percent or more of the students are eligible for free and reduced price lunch. Scholarship recipients who only complete one year of the teaching obligation shall be forgiven for one-half of the scholarship loan amount. Scholarship amounts are based on up to \$10,000 per year for full-time students, and shall be prorated for part-time students based on the number of credit hours. The Department of Education shall report annually on the critical shortage teaching areas in Virginia.</p> <p>a. The Department of Education shall make payments on behalf of the scholarship recipients directly to the Virginia institution of higher education where the scholarship recipient is enrolled full-time or part-time in an approved undergraduate or graduate teacher education program.</p> <p>b. The Department of Education is authorized to recover total funds awarded as scholarships, or the appropriate portion thereof, in the event that scholarship recipients fail to honor the stipulated teaching obligation.</p> <p>c. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.</p> <p>2. Out of this appropriation, \$1,000,000 the first year and \$808,000 the second year from the general fund is provided to attract, recruit, and retain high-quality diverse individuals to teach science, technology, engineering, or mathematics (STEM) subjects in Virginia's middle and high schools experiencing difficulty in recruiting qualified teachers. A teacher employed full-time in a Virginia school division who has been issued a five-year Virginia teaching license with an endorsement in Middle Education 6-8: Mathematic, Mathematics-Algebra-I, mathematics, Middle Education 6-8: Science, Biology, Chemistry, Earth and Space Science, physics, or technology education and assigned to a teaching position in a corresponding STEM subject area in a hard-to-staff school is eligible to receive a \$5,000 incentive award after the completion of the first, second, and third year of teaching at a hard-to-staff school with a satisfactory performance evaluation and a signed contract in the same school division for the following school year. The maximum incentive award for each eligible teacher is \$15,000. Eligibility for access to these incentives shall be determined through an application process whereby school divisions shall apply to the Department of Education. Priority for distribution of these incentives shall be to school divisions experiencing the most acute difficulties in recruiting qualified teachers, as determined using Department of Education criteria. School divisions that have been approved shall advertise the incentive for eligible vacancies and award such funds in accordance with this paragraph. For the purpose of the award of the additional \$1,000 to individuals who received funds under this program prior to July 1, 2018, the criteria provided in Chapter 836 of the 2017 Acts of Assembly shall continue to apply. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.</p> <p>3. Out of this appropriation, \$415,000 the first year and \$415,000 the second year from the general fund is provided to help school divisions recruit and retain qualified middle-school mathematics teachers. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.</p> <p>4. <i>Out of this appropriation, \$250,000 the second year from the general fund is provided for tuition scholarships to be specifically allocated solely for licensed public high school teachers pursuing additional credentialing requirements necessary to be considered faculty who are qualified to teach dual enrollment courses in high schools in their local school division. The Department of Education shall make payments on behalf of the scholarship recipients directly to the Virginia institution of higher education where the scholarship recipient is enrolled full-time or part-time in an approved undergraduate or graduate teacher education program applicable to dual enrollment course curriculum available for public high school students. The lifetime maximum dual enrollment tuition scholarship award for each approved eligible teacher is \$7,500. Eligibility for access to these dual enrollment tuition scholarship awards shall be determined through an application process whereby school divisions shall apply to the Department of Education. In the application process, the applying school division shall</i></p>				

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*include: i) an explanation of why such dual enrollment tuition scholarship is warranted, ii) the dual enrollment course or courses that shall be offered by the scholarship recipient's high school and taught by the recipient upon the recipient's successful completion of required coursework for appropriate credentialing to teach such dual enrollment courses, and iii) the projected student enrollment in the recipient taught public high school dual enrollment courses. The Department of Education shall compile and report the application information for each applying school division, and shall also report the number of recipients and amount of tuition awarded to each school division, the institution of higher education receiving tuition, the credentialing area pursued by recipients, and dual enrollment courses offered after the recipient's successful completion of the pursued credentialing. The Department shall submit the report by June 30, 2020, and annually thereafter, to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health.*

H. Out of this appropriation, \$400,000 the first year and ~~\$400,000~~ \$500,000 the second year from the general fund shall be distributed to the Great Aspirations Scholarship Program (GRASP) to provide students and families in need access to financial aid, scholarships, and counseling to maximize educational opportunities for students.

I.1. Out of this appropriation, the Department of Education shall provide \$1,244,400 the first year and \$1,244,400 the second year from the general fund to Communities in Schools. These funds will be used to continue existing Communities in Schools programming in Petersburg and Richmond City, expand programming to all Petersburg schools, and expand the Pathways to Parents as Partners program to two additional Richmond City elementary schools. Further, Communities in Schools is directed to assist the Community School organization with the developing opportunities to establish a Community School program in interested school divisions.

*2. The Department of Education, in consultation with Communities In Schools of Virginia and other relevant stakeholders, shall develop, distribute to each local school division, and report to the Governor and General Assembly, no later than November 1, 2019, guidance on best practices for local school divisions to transition existing schools to community schools. Such guidance shall include best practices for removing nonacademic barriers to learning as a means to enhance student academic success in public elementary and secondary schools throughout the Commonwealth.*

J. This appropriation includes \$100,000 the first year and \$100,000 the second year from the general fund for the Superintendent of Public Education to award supplemental grants to charter schools.

K. Out of this appropriation, the Department of Education shall provide \$962,500 the first year and \$962,500 the second year from the general fund for Project Discovery. These funds are towards the cost of the program in Abingdon, Accomack/Northampton, Alexandria, Amherst, Appomattox, Arlington, Bedford, Bland, Campbell, Charlottesville, Cumberland, Danville/Pittsylvania, Fairfax, Franklin/Patrick, Fredericksburg/Spotsylvania, Goochland/Powhatan, Lynchburg, Newport News, Norfolk, Richmond City, Roanoke City, Smyth, Surry/Sussex, Tazewell, Williamsburg/James City, and Wythe and the salary of a fiscal officer for Project Discovery. The Department of Education shall administer the Project Discovery funding distributions to each community action agency. Distributions to each community action agency shall be based on performance measures established by the Board of Directors of Project Discovery. The contract with Project Discovery should specify the allocations to each local program and require the submission of a financial and budget report and program evaluation performance measures.

2. Each participating community action agency shall submit annual performance metrics for services provided through the Project Discovery program that provide measurable evaluations and outcomes of participating students. Such performance metrics shall include evidenced-based data that effectively measure academic improvement outcomes. In addition, the performance metrics shall also include evidenced-based data to evaluate the specific effectiveness of the program for participating students on a longitudinal basis. Further, the performance metrics shall include the coordination and collaboration efforts the program staff regularly have with the school-based personnel, such as teachers and guidance counselors, that support and maximize opportunities of participating students to

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	<p>successfully graduate from high school and then to enroll and graduate from an institution of higher learning. Project Discovery shall submit a comprehensive and cumulative program performance metrics evaluation to the Department of Education and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1, 2016.</p>			
	<p>L. Out of this appropriation, the Department of Education shall provide \$300,000 the first year and \$300,000 the second year from the general fund for the Virginia Student Training and Refurbishment Program.</p>			
	<p>M. Out of this appropriation, \$1,598,000 the first year and \$1,598,000 the second year from the general fund is provided to expand the number of schools implementing a system of positive behavioral interventions and supports with the goal of improving school climate and reducing disruptive behavior in the classroom. Such a system may be implemented as part of a tiered system of supports that utilizes evidence-based, system-wide practices to provide a response to academic and behavioral needs. Any school division which desires to apply for this competitive grant must submit a proposal to the Department of Education by June 1 preceding the school-year in which the program is to be implemented. The proposal must define student outcome objectives including, but not limited to, reductions in disciplinary referrals and out-of-school suspension rates. In making the competitive grant awards, the Department of Education shall give priority to school divisions proposing to serve schools identified by the Department as having high suspension rates. No funds awarded to a school division under this grant may be used to supplant funding for schools already implementing the program.</p>			
	<p>N. Targeted Extended/Enriched School Year and Year-round School Grants Payments</p>			
	<p>1. Out of this appropriation, \$7,150,000 the first year and \$7,150,000 the second year from the general fund is provided for a targeted extended/enriched school year or year-round school incentive in order to improve student achievement. Annual start-up grants of up to \$300,000 per school may be awarded for a period of up to two years after the initial implementation year. The per school amount may be up to \$400,000 in the case of schools that have <i>an Accredited with Conditions status and are rated at Level Three in two or more Academic Achievement for All Students school quality indicators, or schools that had an Accredited with Conditions status and were rated at Level Three in two or more Academic Achievement for All Students school quality indicators when the initial application was made. Schools that qualified for the per school grant up to \$400,000 under the previous Standards of Accreditation Denied Accreditation status remain eligible for funding for the initial three year period; after that period, such schools are subject to eligibility under the current Standards of Accreditation a Denied Accreditation status or had a Denied Accreditation status when the initial application was made.</i> After the third consecutive year of successful participation, an eligible school's grant amount shall be based on a shared split of the grant between the state and participating school division's local composite index. Such continuing schools shall remain eligible to receive a grant based on the 2012 JLARC Review of Year Round Schools' researched base findings.</p>			
	<p>2. Except for school divisions with schools that are in <i>an Accredited with Conditions status and are rated at Level Three in two or more Academic Achievement for All Students school quality indicators or in a Denied Accreditation status</i>, any other school division applying for such a grant shall be required to provide a twenty percent local match to the grant amount received from either an extended/enriched school year or year-round school start-up or planning grant.</p>			
	<p>3. In the case of any school division with schools that are in <i>an Accredited with Conditions status and are rated at Level Three in two or more Academic Achievement for All Students school quality indicators or in a Denied Accreditation status</i> that apply for funds, the school division shall also consult with the Superintendent of Public Instruction or designee on all recommendations regarding instructional programs or instructional personnel prior to submission to the local board for approval.</p>			
	<p>4. Out of this appropriation, \$613,312 the first year and \$613,312 the second year from the general fund is provided for planning grants of no more than \$50,000 each for local school divisions pursuing the creation of new extended/enriched school year or year-round school programs for divisions or individual schools in support of the findings from the 2012 JLARC Review of Year Round Schools. School divisions must submit applications to the Department</p>			

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of Education by August 1 of each year. Priority shall be given to schools based on need, relative to the state accreditation ratings or similar federal designations. Applications shall include evidence of commitment to pursue implementation in the upcoming school year. If balances exist, existing extended school year programs may be eligible to apply for remaining funds.

5. A school division that has been awarded an extended/enriched school year or year-round school start-up grant or planning grant for the development of an extended/enriched school year or year-round school program may spend the awarded grant over two consecutive fiscal years.

6. a) Any such school division receiving funding from a Targeted Extended/Enriched School Year and Year-round School grant shall provide an annual progress report to the Department of Education that evaluates end of year success of the extended/enriched school year or year-round school model implemented as compared to the prior school year performance as measured by an appropriate evaluation matrix no later than September 1 each year.

b) The Department of Education shall develop such evaluation matrix that would be appropriate for a comprehensive evaluation for such models implemented. Further, the Department of Education is directed to submit the annual progress reports from the participating school divisions and an executive summary of the program's overall status and levels of measured success to the Chairmen of House Appropriations and Senate Finance Committees no later than November 1 each year.

7. Any funds remaining in this paragraph following grant awards may be disbursed by the Department of Education as grants to school divisions to support innovative approaches to instructional delivery or school governance models.

O. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is provided through grants or contracts for the cost of fees and financial incentives associated with hiring teachers in challenged schools. These funds may be used for grants or contracts awarded and expenses associated with supporting the Teach for America program. School divisions or their partners may apply for those funds through applications submitted to the Department of Education. Applications must be submitted to the Department of Education by September 1 each year. Within the fiscal year, any unobligated balance may be used for the Teacher Residency program.

P. Out of this appropriation, \$725,000 the first year and \$725,000 the second year from the general fund is provided for the Accomack, Albemarle, Arlington, Chesterfield, Fairfax, Henrico, Loudoun, Norfolk, Petersburg, Richmond City, Suffolk, and Wythe Public Schools to support expansion of a STEM model program for kindergarten and preschool students. Each developed model will focus on enhancing children's learning experiences through the arts.

Q. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is provided for the Achievable Dream partnership with Newport News School Division. ~~This funding is in lieu of a like amount from the Neighborhood Assistance Program Tax Credits for An Achievable Dream Middle and High School, Inc.~~

R. Out of this appropriation, \$2,000,000 the first year and ~~\$1,500,000~~ \$1,750,000 the second year from the general fund is provided for grants for teacher residency partnerships between university teacher preparation programs and the Petersburg, Norfolk, and Richmond City school divisions and any other university teacher preparation programs and hard-to-staff school divisions to help improve new teacher training and retention for hard-to-staff schools. The grants will support a site-specific residency model program for preparation, planning, development and implementation, including possible stipends in the program to attract qualified candidates and mentors. Applications must be submitted to the Department of Education by August 1 each year.

Partner school divisions shall provide at least one-third of the cost of each program and shall provide data requested by the university partner in order to evaluate program effectiveness by the mutually agreed upon timelines. Each university partner shall report annually, no later than June 30, to the Department of Education on available outcome

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<p>measures, including student performance indicators, as well as additional data needs requested by the Department of Education. The Department of Education shall provide, directly to the university partners, relevant longitudinal data that may be shared. The Department of Education shall consolidate all submissions from the participating university partners and school divisions and submit such consolidated annual report to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1 each year.</p>				
<p>S. Out of this appropriation, \$60,300 the first year and \$60,300 the second year from the general fund is provided to the Northern Neck Regional Technical Center to expand the workforce readiness education and industry based skills and certification development efforts supporting that region in the state. These funds support the Center's programs that serve high school students from the surrounding counties of Essex, Lancaster, Northumberland, Rappahannock, Westmoreland and Colonial Beach.</p>				
<p>T. Out of this appropriation, \$2,750,000 the first year and \$2,750,000 the second year from the general fund is provided to the Virginia Early Childhood Foundation.</p>				
<p>1. Of this amount, \$250,000 the first year and \$250,000 the second year is provided for general operations of the Foundation's grant program to strengthen the capacity of local communities to promote school readiness for young children through innovative regional partnerships.</p>				
<p>2. Of this amount, \$1,000,000 the first year and \$1,000,000 the second year is provided to operate a scholarship program to increase the skills of Virginia's early education workforce.</p>				
<p>3. Of this amount, \$1,500,000 the first year and \$1,500,000 the second year is provided to pilot an initiative to promote public-private delivery of pre-kindergarten services to high-risk children and communities. In determining these grant awards, the Virginia Early Childhood Foundation shall offer an award to a private-provider that has submitted application applicable to a partnership with Richmond City for a mixed delivery pre-kindergarten program, provided that the application is of high quality and is competitive with other submitted applications received for such an award.</p>				
<p>4. Notwithstanding any provisions of § 22.1-199.6 or § 22.1-299, and in order to achieve the priorities of the Joint Subcommittee on Virginia Preschool Initiative for exploring the feasibility of and barriers to mixed delivery preschool systems in Virginia, recipients of a Mixed-Delivery Preschool grant shall be provided maximum flexibility within their respective pilot initiative in order to fully implement the associated goals and objectives of the pilot. Recipients of a Mixed-Delivery Preschool grant and divisions participating in such grant pilot activities shall be exempted from all regulatory and statutory provisions related to teacher licensure requirements and qualifications when paid by public funds within the confines of the Mixed-Delivery Preschool pilot initiative.</p>				
<p>In the case of new pilot grants awarded beginning in the second year, in addition to the provisions of § 22.1-199.6 E., grants shall be awarded to recipients that offer high quality preschool experience to participating enrolled at-risk four-year-old children.</p>				
<p>U. This appropriation includes \$500,000 the first year and \$500,000 the second year from the general fund to support ten competitive grants, not to exceed \$50,000 each, for planning the implementation of systemic High School Program Innovation by either individual school divisions or consortia of school divisions or implementing a plan for High School Program Innovation previously approved by the Department of Education. The local applicant(s) selected to conduct this systemic approach to high school reform, in consultation with the Department of Education, will develop and plan or implement innovative approaches to engage and to motivate students through personalized learning and instruction leading to demonstrated mastery of content, as well as skills development of career readiness. Essential elements of high school innovation include: (1) student centered learning, with progress based on student demonstrated proficiency; (2) 'real-world' connections that promote alignment with community work-force needs and emphasize transition to college and/or career; and (3) varying models for educator supports and staffing. Individual school divisions or consortia will be invited to apply on a competitive basis by submitting a grant application that includes descriptions of key elements of innovations, a detailed budget, expectations for outcomes and student achievement benefits, evaluation methods, and plans for sustainability. The Department of Education will make the final determination of which individual school</p>				

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<p>divisions or consortia of divisions will receive the year-long planning grant for High School Innovation or a grant to implement a High School Program Innovation plan previously approved by the Department of Education. Any school division or consortium of divisions which desires to apply for this competitive grant must submit a proposal to the Department of Education by June 1 preceding the school year in which the planning or implementation for systemic high school innovation is to take place.</p>				
<p>V. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund is provided to support the Newport News Aviation Academy's four-year high school STEM program, which focuses on piloting, aircraft maintenance, engineering, computers, and electronics.</p>				
<p>W. Out of this appropriation, \$15,000 the first year and \$15,000 the second year is provided for grants to school divisions of up to \$5,000 each to explore alternative teacher compensation approaches that move away from tenure-based step increases toward compensation systems based on teacher performance and student progress. Priority will be given to school divisions that have not previously explored alternative compensation approaches and have schools not achieving full accreditation, or that have high numbers of at-risk students needing qualified teachers in hard-to-staff subjects.</p>				
<p>X. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund is provided for STEM Competition Team Grants. Notwithstanding § 22.1-362, Code of Virginia, Paragraph B, grants may not exceed \$5,000 each.</p>				
<p>Y. Out of this appropriation, \$681,975 the first year and \$681,975 the second year from the general fund is provided to support a multi-platform STEM education engagement program and research study, via the Virginia Air &amp; Space Center.</p>				
<p>Z. Out of this appropriation, \$350,000 the first year and \$350,000 the second year from the general fund is provided for executive leadership incentives in the Petersburg City Public Schools to strengthen the impact of division and school level executive leadership on student achievement in the school division. Such incentives may include, but not be limited to, supplements to locally funded salaries, deferred salary compensation, bonuses, housing and commuting supplements, and professional development supplements. The Department of Education shall provide such executive management incentive payments directly to the Petersburg City Public Schools accounts pursuant to a Memorandum of Understanding entered into between the Board of Education and the Petersburg City School Board. Such Agreement shall be approved by both parties by July 1, 2016, shall cover no less than both years of the biennium, and may be amended with the consent of both parties. Such Agreement shall include operational and student achievement metrics and include provisions for the achievement of such metrics as a condition of payment of the incentive funds by the Department of Education. The Department of Education shall provide updates on implementation of the Agreement to the Chairmen of the Senate Finance and House Appropriations Committees.</p>				
<p>AA. Out of this amount, \$600,000 the first year and \$600,000 the second year from the general fund shall be reserved for school divisions to partner with the Virginia Reading Corps program. The implementation partner shall determine and select partner school divisions. The Virginia Reading Corps shall report annually to the school divisions and Department of Education on the outcomes of this program.</p>				
<p>BB. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is provided for Chesterfield County Public Schools to partner and plan with Virginia State University for the continued development of a College Partnership Laboratory School in support of Etrick Elementary School.</p>				
<p>CC. Out of this appropriation, \$175,000 the first year and \$175,000 the second year from the general fund is provided to establish a Career and Technical Education Vocational Laboratory pilot that will be located within the Virginia Aviation Academy located in the Newport News school division. This vocational-based lab will be developed and focused on advanced, augmented and virtual reality related education.</p>				
<p>DD. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is provided for praxis assistance <i>and Virginia Communication and Literacy</i></p>				

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	<p><i>Assessment assistance</i> for provisionally licensed minority teachers seeking full licensure in Virginia. Grants of up to \$10,000 shall be awarded to school divisions, teacher preparation programs, or nonprofit organizations in <del>the Northern Virginia, Central Virginia, and Hampton Roads regions</del> <i>all regions of the state</i> to subsidize test fees and the cost of tutoring for provisionally licensed minority teachers seeking full licensure in Virginia.</p>			
	<p>EE. Out of this appropriation, \$391,000 the first year and \$391,000 the second year from the general fund is provided to school divisions to pay for a portion of the vision screening of students in kindergarten, grade two or three and grades seven and ten, pursuant to Chapter 312, 2017 Session Acts of Assembly. Eligible school divisions may receive the state's share of \$7.00 for each student reported in average daily membership and enrolled in kindergarten, grades three, seven and ten and who has received such vision screening test. The Department of Education shall administrator and distribute reimbursements to school divisions and the funding shall be prorated if needed, such that the appropriation is not exceeded. Prioritization shall be given the schools that would most benefit from state assistance in order to provide such vision screening service to students that are eligible for free lunch.</p>			
	<p>FF. Out of this appropriation, <del>\$720,000</del> <i>\$660,000</i> the first year and <del>\$720,000</del> <i>\$660,000</i> the second year from the general fund is provided for annual grants of \$60,000 to each of the <del>ten</del> <i>nine</i> regional career and technical centers, Winchester Public Schools' Innovation Center and Norfolk Public Schools' Norfolk Technical Center, to expand workforce readiness education and industry based skills.</p>			
	<p>GG. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is provided to Winchester Public Schools to match private support provided for the renovation of the Emil and Grace Shihadeh Innovation Center.</p>			
	<p><i>HH. Out of this appropriation, \$200,000 the second year from the general fund is provided to encourage the use of robots to aid in the education of students on the autism spectrum. Any school division that desires to apply for this competitive grant must submit a proposal to the Department of Education outlining the intended use of funds and a projected number of students who will be served. The Department of Education shall establish criteria by which to award these funds to school divisions. Local school divisions may use the funds to purchase robotic devices with proven effectiveness for aiding in the academic and social-emotional learning of students on the autism spectrum.</i></p>			
	<p><i>II. In the case of and in recognition of the current deliberations and on-going joint efforts of the Alleghany County School Board, Alleghany County Board of Supervisors, Covington City School Board and the Covington City Council toward investigating and determining benefits of operating a joint school division, that each respective entity has approved two members to serve on the established Committee to facilitate such activities. Out of this appropriation, \$400,000 the second year from the general fund is included in this item's appropriation and is provided to Alleghany County Public School Division for the express purpose of using such funds as incentive funding to support costs incurred by such joint efforts of Alleghany County School Board, Alleghany County Board of Supervisors, Covington City School Board and the City of Covington City Council toward investigating and determining benefits of operating a joint school division. In the event that such Committee does not come up with a plan for Alleghany County Public Schools and Covington City Schools, the remainder of the incentive money will be allocated and used to support Alleghany County and Covington City public school divisions' jointly operated career and technical center, Jackson River Technical Center.</i></p>			
	<p><i>JJ. Out of this appropriation, \$500,763 the second year from the general fund is provided to Hampton City school division for its Academies of Hampton which focuses on preparing students to be career ready or better equipped to enter into post-secondary education.</i></p>			
	<p><i>KK. 1. Out of this appropriation, \$550,000 the first year and \$550,000 the second year from the general fund is provided to CodeVA for the development, marketing, and implementation of high-quality and effective computer science training and professional development activities for public school teachers throughout the Commonwealth for the purpose of improving the computer science literacy of all public school students in the Commonwealth using the Computer Science Standards of Learning For Virginia Public Schools, which were reviewed and endorsed by the Virginia Board of Education in November 2017. The provided funds may be utilized for planning, preparing and materials needed for teacher training</i></p>			

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<i>sessions provided during the biennium.</i>				
<i>2. CodeVA shall report, no later than October 1, each year to the Chairmen of the House Education and Senate Education &amp; Health Committees, Secretary of Education and the Superintendent of Public Instruction on its activities in the previous year to support computer science teacher training and curriculum development, including on collaboration with other stakeholders to avoid duplication of efforts.</i>				
136.	State Education Assistance Programs (17800).....		\$6,983,675,218	\$7,158,199,386
			\$6,973,289,154	\$7,251,757,923
	Standards of Quality for Public Education (SOQ) (17801).....			
	\$6,174,103,650	\$6,203,629,560		
	\$6,152,892,137	\$6,196,871,983		
	Financial Incentive Programs for Public Education (17802).....			
	\$158,095,394	\$297,092,585		
	\$129,662,004	\$367,471,676		
	Financial Assistance for Categorical Programs (17803).....			
	\$58,942,988	\$59,084,055		
	\$58,336,366	\$58,583,763		
	Distribution of Lottery Funds (17805).....			
	\$592,533,186	\$598,393,186		
	\$632,398,647	\$628,830,501		
	Fund Sources: General.....			
	\$6,241,397,462	\$6,420,061,630		
	\$6,226,545,937	\$6,483,582,852		
	Special.....	\$895,000	\$895,000	
	Commonwealth Transportation.....	\$2,100,000	\$2,100,000	
	Trust and Agency.....	\$739,282,756	\$735,142,756	
	\$743,748,217	\$765,180,071		

Authority: Standards of Quality for Public Education (SOQ) (17801): Article VIII, Section 2, Constitution of Virginia; Chapter 667, Acts of Assembly, 1980; §§ 22.1-176 through 22.1-198, 22.1-199.1, 22.1-199.2, 22.1-213 through 22.1-221, 22.1-227 through 22.1-237, 22.1-253.13:1 through 22.1-253.13:8, 22.1-254.01, Code of Virginia; Title 51.1, Chapters 1, 5, 6.2, 7, and 14, Code of Virginia; P.L. 91-230, as amended; P.L. 93-380, as amended; P.L. 94-142, as amended; P.L. 98-524, as amended, Federal Code.

Financial Incentive Programs for Public Education (17802): §§ 22.1-24, 22.1-289.1 through 22.1-318, Code of Virginia; P.L. 79-396, as amended; P.L. 89-10, as amended; P.L. 89-642, as amended; P.L. 108-265, as amended; Title II P.L. 99-159, as amended, Federal Code.

Financial Assistance for Categorical Programs (17803): Discretionary Inclusion; Treaty of 1677 between Virginia and the Indians; §§ 22.1-3.4, 22.1-108, 22.1-199 through 22.1-212.2:2, 22.1-213 through 22.1-221, 22.1-223 through 22.1-237, 22.1-254, Code of Virginia; P.L. 89-10, as amended; P.L. 91-230, as amended; P.L. 93-380, as amended; P.L. 94-142, as amended; P.L. 94-588; P.L. 95-561, as amended; P.L. 98-211, as amended; P.L. 98-524, as amended; P.L. 99-570; P.L. 100-297, as amended; P.L. 102-73, as amended; P.L. 105-220, as amended, Federal Code.

Distribution of Lottery Funds (17805): §§ 58.1-4022 and 58.1-4022.1, Code of Virginia

**Appropriation Detail of Education Assistance Programs (17800)**

Standards of Quality (17801)	FY 2019	FY 2020
Basic Aid	\$3,343,800,247	\$3,336,206,414
	\$3,320,204,988	\$3,295,069,550
Sales Tax	\$1,410,800,000	\$1,441,800,000
	\$1,421,600,000	\$1,486,302,403
Textbooks	\$70,307,670	\$70,478,652
	\$70,008,927	\$70,023,715
Vocational Education	\$58,415,421	\$58,249,318
	\$58,212,575	\$57,930,204
Gifted Education	\$35,432,596	\$35,542,296

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		\$35,280,085		\$35,314,827
Special Education	\$397,724,858	\$395,781,461	\$398,522,385	\$396,092,863
Prevention, Intervention, and Remediation	\$113,078,853	\$112,645,717	\$112,984,901	\$112,320,130
English as a Second Language	\$62,210,121	\$59,957,366	\$65,479,578	\$62,519,408
VRS Retirement (includes RHCC)	\$442,990,973	\$441,069,956	\$443,958,755	\$442,260,022
Social Security	\$200,773,283	\$199,902,693	\$201,206,270	\$200,465,243
Group Life	\$13,629,269	\$13,570,212	\$13,658,060	\$13,596,751
Remedial Summer School	\$24,940,359	\$24,658,157	\$25,542,931	\$24,976,867
<b>Total</b>	<b>\$6,174,103,650</b>	<b>\$6,152,892,137</b>	<b>\$6,203,629,560</b>	<b>\$6,196,871,983</b>
<b>Incentive Programs (17802)</b>				
Compensation Supplement		\$0	\$130,327,110	\$201,975,291
Governor's Schools	\$17,797,126	\$17,572,420	\$18,609,369	\$18,560,517
At-Risk Add-On ( <i>split funded</i> )	\$100,250,775	\$10,468,261	\$107,079,544	\$34,468,409
Clinical Faculty	\$318,750		\$318,750	
Career Switcher Mentoring Grants	\$279,983		\$279,983	
Special Education - Endorsement Program	\$437,186		\$437,186	
Special Education – Vocational Education	\$200,089		\$200,089	
Virginia Workplace Readiness Skills Assessment	\$308,655		\$308,655	
Math/Reading Instructional Specialists Initiative	\$1,834,538		\$1,834,538	
Early Reading Specialists Initiative	\$1,476,790		\$1,476,790	
Breakfast After the Bell Incentive	\$1,074,000		\$1,074,000	
Special Education - Regional Tuition ( <i>split funded</i> )	\$28,004,796	\$89,503,626	\$35,146,571	\$100,397,909
Small School Division Enrollment Loss	\$6,112,706			\$0
Virginia Preschool Initiative - Develop Assessment Plan	\$75,000			\$0
Virginia Preschool Initiative Plus		\$0	\$6,139,559	
<b>Total</b>	<b>\$158,095,394</b>	<b>\$129,662,004</b>	<b>\$297,092,585</b>	<b>\$367,471,676</b>
<b>Categorical Programs (17803)</b>				
Adult Education	\$1,051,800		\$1,051,800	
Adult Literacy	\$2,480,000		\$2,480,000	
Virtual Virginia	\$5,425,808	\$5,025,808	\$5,425,808	\$5,175,808
American Indian Treaty Commitment	\$35,515	\$37,219	\$36,682	\$38,954
School Lunch Program	\$5,801,932		\$5,801,932	
Special Education - Homebound	\$5,052,524		\$5,077,061	

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		\$4,844,198		\$4,867,702
Special Education - Jails	\$3,507,385		\$3,622,748	\$3,507,385
Special Education - State Operated Programs	\$35,588,024		\$35,588,024	\$35,660,182
<b>Total</b>	<b>\$58,942,988</b>		<b>\$59,084,055</b>	<b>\$58,583,763</b>
<b>Lottery Funded Programs (17805)</b>				
<i>At-Risk Add-On (split funded)</i>		\$100,114,539		\$86,482,069
Foster Care	\$11,010,422		\$11,979,339	\$11,979,339
	\$9,615,192		\$10,387,961	
Virginia Preschool Initiative - Per Pupil Amount	\$72,286,230		\$72,297,411	\$72,297,411
	\$70,049,572		\$72,351,058	
Virginia Preschool Initiative - Provisional Teacher Licensure	\$2,304,088		\$2,306,100	\$2,306,100
	\$304,088		\$306,100	
Virginia Preschool Initiative - Teacher Professional Development	\$300,000		\$700,000	\$700,000
Virginia Preschool Initiative - Classroom Observations	\$350,000		\$350,000	\$350,000
Virginia Preschool Initiative - Develop Assessment Plan	\$75,000			\$0
Early Reading Intervention	\$22,599,681		\$22,651,560	\$22,651,560
	\$23,578,891		\$23,571,284	
Mentor Teacher	\$1,000,000		\$1,000,000	\$1,000,000
K-3 Primary Class Size Reduction	\$130,593,583		\$130,388,333	\$130,388,333
	\$125,175,585		\$128,005,970	
School Breakfast Program	\$6,731,771		\$7,997,053	\$7,997,053
	\$6,287,789		\$7,439,888	
SOL Algebra Readiness	\$13,003,937		\$13,020,964	\$13,020,964
	\$13,099,389		\$13,061,697	
Supplemental Lottery Per Pupil Allocation	\$234,670,780		\$239,357,235	\$239,357,235
	\$253,190,472		\$255,531,948	
Regional Alternative Education	\$8,779,013		\$9,211,142	\$9,211,142
	\$8,767,652		\$9,434,794	
Individualized Student Alternative Education Program (ISAEF)	\$2,247,581		\$2,247,581	\$2,247,581
Special Education - Regional Tuition (split-funded)	\$67,633,790		\$65,930,420	\$65,930,420
Career and Technical Education - Categorical	\$12,400,829		\$12,400,829	\$12,400,829
Project Graduation	\$1,387,240		\$1,387,240	\$1,387,240
Race to GED (NCLB/EFAL)	\$2,410,988		\$2,410,988	\$2,410,988
Path to Industry Certification (NCLB/EFAL)	\$1,831,464		\$1,831,464	\$1,831,464
Supplemental Basic Aid	\$916,789		\$925,527	\$925,527
	\$937,376		\$979,630	
<b>Total</b>	<b>\$592,533,186</b>		<b>\$598,393,186</b>	<b>\$598,393,186</b>
	<b>\$632,398,647</b>		<b>\$628,830,501</b>	
Technology - VPSA	\$58,835,200		\$60,331,600	\$60,331,600
	\$57,017,700		\$58,612,800	
Security Equipment - VPSA	\$6,000,000		\$6,000,000	\$6,000,000
			\$12,000,000	

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Payments out of the above amounts shall be subject to the following conditions:

**A. Definitions**

1. "March 31 Average Daily Membership," or "March 31 ADM" - The responsible school division's average daily membership for grades K-12 including (1) handicapped students ages 5-21 and (2) students for whom English is a second language who entered school for the first time after reaching their twelfth birthday, and who have not reached twenty-two years of age on or before August 1 of the school year, for the first seven (7) months (or equivalent period) of the school year through March 31 in which state funds are distributed from this appropriation. Preschool and postgraduate students shall not be included in March 31 ADM.

a. School divisions shall take a count of September 30 fall membership and report this information to the Department of Education no later than October 15 of each year.

b. Except as otherwise provided herein, by statute, or by precedent, all appropriations to the Department of Education shall be calculated using March 31 ADM unadjusted for half-day kindergarten programs, estimated at ~~1,252,433.60~~ 1,245,570.50 the first year and ~~1,257,772.90~~ 1,248,165.55 the second year. March 31 ADM for half-day kindergarten shall be adjusted at 85 percent.

c. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1 and who are enrolled in a public school on less than a full-time basis in any mathematics, science, English, history, social science, vocational education, health education or physical education, fine arts or foreign language course, or receiving special education services required by a student's individualized education plan, shall be counted in the funded fall membership and March 31 ADM of the responsible school division. Each course shall be counted as 0.25, up to a cap of 0.5 of a student.

d. Students enrolled in an Individualized Student Alternative Education Program (ISAEP) pursuant to § 22.1-254 E shall be counted in the March 31 Average Daily Membership of the responsible school division. School divisions shall report these students separately in their March 31 reports of Average Daily Membership.

2. "Standards of Quality" - Operations standards for grades kindergarten through 12 as prescribed by the Board of Education subject to revision by the General Assembly.

3.a. "Basic Operation Cost" - The cost per pupil, including provision for the number of instructional personnel required by the Standards of Quality for each school division with a minimum ratio of 51 professional personnel for each 1,000 pupils or proportionate number thereof, in March 31 ADM for the same fiscal year for which the costs are computed, and including provision for driver, gifted, occupational-vocational, and special education, library materials and other teaching materials, teacher sick leave, general administration, division superintendents' salaries, free textbooks (including those for free and reduced price lunch pupils), school nurses, operation and maintenance of school plant, transportation of pupils, instructional television, professional and staff improvement, remedial work, fixed charges and other costs in programs not funded by other state and/or federal aid.

b. The state and local shares of funding resulting from the support cost calculation for school nurses shall be specifically identified as such and reported to school divisions annually. School divisions may spend these funds for licensed school nurse positions employed by the school division or for licensed nurses contracted by the local school division to provide school health services.

4.a. "Composite Index of Local Ability-to-Pay" - An index figure computed for each locality. The composite index is the sum of 2/3 of the index of wealth per pupil in unadjusted March 31 ADM reported for the first seven (7) months of the 2015-2016 school year and 1/3 of the index of wealth per capita (population estimates for 2015 as determined by the Weldon Cooper Center for Public Service of the University of Virginia) multiplied by the local nominal share of the costs of the Standards of Quality of 0.45 in each year. The indices of wealth are determined by combining the following constituent index elements with the indicated weighting: (1) true values of real estate and public service corporations as reported by the State Department of Taxation for the calendar year 2015 - 50 percent; (2) adjusted gross income for the calendar year 2015 as reported by the State Department of Taxation - 40 percent; (3) the sales for the calendar year 2015 which are subject to the state general sales

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	<b>FY2019</b>	<b>FY2020</b>	<b>FY2019</b>	<b>FY2020</b>

and use tax, as reported by the State Department of Taxation - 10 percent. Each constituent index element for a locality is its sum per March 31 ADM, or per capita, expressed as a percentage of the state average per March 31 ADM, or per capita, for the same element. A locality whose composite index exceeds 0.8000 shall be considered as having an index of 0.8000 for purposes of distributing all payments based on the composite index of local ability-to-pay. Each constituent index element for a locality used to determine the composite index of local ability-to-pay for the current biennium shall be the latest available data for the specified official base year provided to the Department of Education by the responsible source agencies no later than November 15, 2017.

b. For any locality whose total calendar year 2015 Virginia Adjusted Gross Income is comprised of at least 3 percent or more by nonresidents of Virginia, such nonresident income shall be excluded in computing the composite index of ability-to-pay. The Department of Education shall compute the composite index for such localities by using adjusted gross income data which exclude nonresident income, but shall not adjust the composite index of any other localities. The Department of Taxation shall furnish to the Department of Education such data as are necessary to implement this provision.

c.1) Notwithstanding the funding provisions in § 22.1-25 D, Code of Virginia, additional state funding for future consolidations shall be as set forth in future Appropriation Acts.

2) In the case of the consolidation of Clifton Forge and Alleghany County school divisions, the fifteen year period for the application of a new composite index shall apply beginning with the fiscal year that starts on July 1, 2004. The composite index established by the Board of Education shall equal the lowest composite index that was in effect prior to July 1, 2004, of any individual localities involved in such consolidation, and this index shall remain in effect for a period of fifteen years, unless a lower composite index is calculated for the combined division through the process for computing an index as set forth above.

3) If the composite index of a consolidated school division is reduced during the course of the fifteen year period to a level that would entitle the school division to a lower interest rate for a Literary Fund loan than it received when the loan was originally released, the Board of Education shall reduce the interest rate of such loan for the remainder of the period of the loan. Such reduction shall be based on the interest rate that would apply at the time of such adjustment. This rate shall remain in effect for the duration of the loan and shall apply only to those years remaining to be paid.

4) In the case of the consolidation of Bedford County and Bedford City school divisions, the fifteen year period for the application of a new composite shall apply beginning with the fiscal year that starts on July 1, 2013. The composite index established by the Board of Education shall equal the lowest composite index that was in effect prior to July 1, 2013, of any individual localities involved in such consolidation, and this index shall remain in effect for a period of fifteen years, unless a lower composite index is calculated for the combined division through the process for computing an index as set forth above.

d. When it is determined that a substantial error exists in a constituent index element, the Department of Education will make adjustments in funding for the current school year only in the division where the error occurred. The composite index of any other locality shall not be changed as a result of the adjustment. No adjustment during the biennium will be made as a result of updating of data used in a constituent index element.

e. In the event that any school division consolidates two or more small schools, the division shall continue to receive Standards of Quality funding and provide for the required local expenditure for a period of five years as if the schools had not been consolidated. Small schools are defined as any elementary, middle, or high school with enrollment below 200, 300 and 400 students, respectively.

5. "Required Local Expenditure for the Standards of Quality" - The locality's share based on the composite index of local ability-to-pay of the cost required by all the Standards of Quality minus its estimated revenues from the state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item, both of which are returned on the basis of the latest yearly

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	estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item, collected by the Department of Education and distributed to school divisions in the fiscal year in which the school year begins.			
	6. "Required Local Match" - The locality's required share of program cost based on the composite index of local ability-to-pay for all Lottery and Incentive programs, where required, in which the school division has elected to participate in a fiscal year.			
	7. "Planning District Eight" - The nine localities which comprise Planning District Eight are Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.			
	8. "State Share of the Standards of Quality" - The state share of the Standards of Quality (SOQ) shall be equal to the total funded SOQ cost for a school division less the school division's estimated revenues from the state sales and use tax dedicated to public education based on the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, adjusted for the state's share of the composite index of local ability to pay.			
	9. Entitlements under this Item that use school-level or division-level Free Lunch eligibility percentages to determine the entitlement amounts are based on the most recent data available as of the biennial rebenchmarking calculations made for the current biennium. For schools that participate in the Community Eligibility Provision program, such entitlements are based on the most recent Free Lunch eligibility data available prior to that school's enrollment in the Community Eligibility Provision program.			
	10. In the event that the general fund appropriations in this Item are not sufficient to meet the entitlements payable to school divisions pursuant to the provisions of this Item, the Department of Education is authorized to transfer any available general fund funds between these Items to address such insufficiencies. If the total general fund appropriations after such transfers remain insufficient to meet the entitlements of any program funded with general fund dollars, the Department of Education is authorized to prorate such shortfall proportionately across all of the school divisions participating in any program where such shortfall occurred. In addition, the Department of Education is authorized each year to temporarily suspend textbook payments made to school divisions from Lottery funds to ensure that any shortfall in Lottery revenue can be accounted for in the remaining textbook payments to be made for the year.			
	11. The Department of Education is directed to apply a cap on inflation rates in the same manner prescribed in § 51.1-166.B, Code of Virginia, when updating funding to school divisions during the biennial rebenchmarking process.			
	12. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to combine the end-of-year Average Daily Membership (ADM) for those school divisions who have partnered together as a fiscal agent division and a contractual division for the purposes of calculating prevailing costs included in the Standards of Quality (SOQ).			
	13. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to include zeroes in the linear weighted average calculation of support non-personal costs for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).			
	14. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to eliminate the corresponding and appropriate object code(s) related to reported travel expenditures included the linear weighted average non-personal cost calculations for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).			
	15. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to eliminate the corresponding and appropriate object code(s) related to reported leases and rental and facility expenditures included the linear weighted average non-personal cost calculations for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).			

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16. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to fund transportation costs using a 15 year replacement schedule, which is the national standard guideline, for school bus replacement schedule for the purpose of calculating funded transportation costs included in the Standards of Quality (SOQ).

17. To provide temporary flexibility, notwithstanding any other provision in statute or in this Item, school divisions may elect to increase the teacher to pupil staffing ratios in kindergarten through grade 7 and English classes for grades 6 through twelve by one additional student; the teacher to pupil staffing ratio requirements for Elementary Resource teachers, Prevention, Intervention and Remediation, English as a Second Language, Gifted and Talented, Career and Technical funded programs (other than on Career and Technical courses where school divisions will have to maintain a maximum class size based on federal Occupational Safety & Health Administration safety requirements) are waived; and the instructional and support technology positions, librarians and guidance counselors staffing ratios for new hires are waived.

18. To provide additional flexibility, notwithstanding the provisions of § 22.1-79.1, Code of Virginia, any school division that was granted a waiver regarding the opening date of the school year for the 2011-2012 school year under the good cause requirements shall continue to be granted a waiver for the 2018-2019 school year and the 2019-2020 school year.

**B. General Conditions**

1. The Standards of Quality cost in this Item related to fringe benefits shall be limited for instructional staff members to the employer's cost for a number not exceeding the number of instructional positions required by the Standards of Quality for each school division and for their salaries at the statewide prevailing salary levels as printed below.

<b>Instructional Position</b>	<b>First Year Salary</b>	<b>Second Year Salary</b>
Elementary Teachers	\$48,298	\$48,298
Elementary Assistant Principals	\$68,545	\$68,545
Elementary Principals	\$85,115	\$85,115
Secondary Teachers	\$51,167	\$51,167
Secondary Assistant Principals	\$74,535	\$74,535
Secondary Principals	\$93,695	\$93,695
Instructional Aides	\$17,738	\$17,738

a.1) Payment by the state to a local school division shall be based on the state share of fringe benefit costs of 55 percent of the employer's cost distributed on the basis of the composite index.

2) A locality whose composite index exceeds 0.8000 shall be considered as having an index of 0.8000 for purposes of distributing fringe benefit funds under this provision.

3) The state payment to each school division for retirement, social security, and group life insurance costs for non-instructional personnel is included in and distributed through Basic Aid.

b. Payments to school divisions from this Item shall be calculated using March 31 Average Daily Membership adjusted for half-day kindergarten programs.

c. Payments for health insurance fringe benefits are included in and distributed through Basic Aid.

2. Each locality shall offer a school program for all its eligible pupils which is acceptable to the Department of Education as conforming to the Standards of Quality program requirements.

3. In the event the statewide number of pupils in March 31 ADM results in a state share of cost exceeding the general fund appropriation in this Item, the locality's state share of Basic Aid shall be reduced proportionately so that this general fund appropriation will not

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be exceeded. In addition, the required local share of Basic Aid shall also be reduced proportionately to the reduction in the state's share.

4. The Department of Education shall make equitable adjustments in the computation of indices of wealth and in other state-funded accounts for localities affected by annexation, unless a court of competent jurisdiction makes such adjustments. However, only the indices of wealth and other state-funded accounts of localities party to the annexation will be adjusted.

5. In the event that the actual revenues from the state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item (both of which are returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service) for sales in the fiscal year in which the school year begins are different from the number estimated as the basis for this appropriation, the estimated state sales and use tax revenues shall not be adjusted.

6. This appropriation shall be apportioned to the public schools with guidelines established by the Department of Education consistent with legislative intent as expressed in this act.

7.a. Appropriations of state funds in this Item include the number of positions required by the Standards of Quality. This Item includes a minimum of 51 professional instructional positions and aide positions (C 5); Education of the Gifted, 1.0 professional instructional position (C 6); Occupational-Vocational Education Payments and Special Education Payments; a minimum of 6.0 professional instructional positions and aide positions (C 7 and C 8) for each 1,000 pupils in March 31 ADM each year in support of the current Standards of Quality. Funding in support of one hour of additional instruction per day based on the percent of students eligible for the federal free lunch program with a pupil-teacher ratio range of 18:1 to 10:1, depending upon a school division's combined failure rate on the English and Math Standards of Learning, is included in Remedial Education Payments (C 9).

b. No actions provided in this section signify any intent of the General Assembly to mandate an increase in the number of instructional personnel per 1,000 students above the numbers explicitly stated in the preceding paragraph.

c. Appropriations in this Item include programs supported in part by transfers to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund pursuant to Part 3 of this Act. These transfers combined together with other appropriations from the general fund in this Item funds the state's share of the following revisions to the Standards of Quality pursuant to Chapters 939 & 955 of the Acts of Assembly of 2004: five elementary resource teachers per 1,000 students; one support technology position per 1,000 students; one instructional technology position per 1,000 students; and a full daily planning period for teachers at the middle and high school levels in order to relieve the financial pressure these education programs place on local real estate taxes.

d. To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers required by the Standards of Quality to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these SOQ funds in this manner shall only employ instructional personnel licensed by the Board of Education.

e. To provide flexibility in the provision of reading intervention services, school divisions may use the state Early Reading Intervention initiative funding provided from the Lottery Proceeds Fund and the required local matching funds to employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall only employ instructional personnel licensed by the Board of Education.

f. To provide flexibility in the provision of mathematics intervention services, school divisions may use the state Standards of Learning Algebra Readiness initiative funding provided from the Lottery Proceeds Fund and the required local matching funds to employ

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mathematics teacher specialists to provide the required mathematics intervention services. School divisions using the Standards of Learning Algebra Readiness initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

*g. Notwithstanding the provisions of subsection H of § 22.1-253.13:2 of the Code of Virginia, as amended by the 2019 Session of the General Assembly, to the contrary, each school board shall employ the following full-time equivalent school counselor positions for any school that reports fall membership, according to the type of school and student enrollment: effective with the 2019-2020 school year, in elementary schools, one hour per day per 91 students, one full-time at 455 students, one hour per day additional time per 91 students or major fraction thereof; school counselors in middle schools, one period per 74 students, one full-time at 370 students, one additional period per 74 students or major fraction thereof; school counselors in high schools, one period per 65 students, one full-time at 325 students, one additional period per 65 students or major fraction thereof.*

8.a.1) Pursuant to § 22.1-97, Code of Virginia, the Department of Education is required to make calculations at the start of the school year to ensure that school divisions have appropriated adequate funds to support their estimated required local expenditure for the corresponding state fiscal year. In an effort to reduce the administrative burden on school divisions resulting from state data collections, such as the one needed to make the aforementioned calculations, the requirements of § 22.1-97, Code of Virginia, pertaining to the adequacy of estimated required local expenditures, shall be satisfied by signed certification by each division superintendent at the beginning of each school year that sufficient local funds have been budgeted to meet all state required local effort and required local match amounts. This provision shall only apply to calculations required of the Department of Education related to estimated required local expenditures and shall not pertain to the calculations associated with actual required local expenditures after the close of the school year.

2) The Department of Education shall also make calculations after the close of the school year to verify that the required local effort level, based on actual March 31 Average Daily Membership, was met. Pursuant to § 22.1-97, Code of Virginia, the Department of Education shall report annually, no later than the first day of the General Assembly session, to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health, the results of such calculations made after the close of the school year and the degree to which each school division has met, failed to meet, or surpassed its required local expenditure. The Department of Education shall specify the calculations to determine if a school division has expended its required local expenditure for the Standards of Quality. This calculation may include but is not limited to the following calculations:

b. The total expenditures for operation, defined as total expenditures less all capital outlays, expenditures for debt service, facilities, non-regular day school programs (such as adult education, preschool, and non-local education programs), and any transfers to regional programs will be calculated.

c. The following state funds will be deducted from the amount calculated in paragraph a. above: revenues from the state sales and use tax (returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item) for sales in the fiscal year in which the school year begins; total receipts from state funds (except state funds for non-regular day school programs and state funds used for capital or debt service purposes); and the state share of any balances carried forward from the previous fiscal year. Any qualifying state funds that remain unspent at the end of the fiscal year will be added to the amount calculated in paragraph a. above.

d. Federal funds, and any federal funds carried forward from the previous fiscal year, will also be deducted from the amount calculated in paragraph a. above. Any federal funds that remain unspent at the end of the fiscal year and any capital expenditures paid from federal funds will be added to the amount calculated in paragraph a. above.

e. Tuition receipts, receipts from payments from other cities or counties, and fund transfers will also be deducted from the amount calculated in paragraph a, then

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f. The final amount calculated as described above must be equal to or greater than the required local expenditure defined in paragraph A. 5.				
g. The Department of Education shall collect the data necessary to perform the calculations of required local expenditure as required by this section.				
h. A locality whose expenditure in fact exceeds the required amount from local funds may not reduce its expenditures unless it first complies with all of the Standards of Quality.				
9.a. Any required local matching funds which a locality, as of the end of a school year, has not expended, pursuant to this Item, for the Standards of Quality shall be paid by the locality into the general fund of the state treasury. Such payments shall be made not later than the end of the school year following that in which the under expenditure occurs.				
b. Whenever the Department of Education has recovered funds as defined in the preceding paragraph a., the Secretary of Education is authorized to repay to the locality affected by that action, seventy-five percent (75%) of those funds upon his determination that:				
1) The local school board agrees to include the funds in its June 30 ending balance for the year following that in which the under expenditure occurs;				
2) The local governing body agrees to reappropriate the funds as a supplemental appropriation to the approved budget for the second year following that in which the under expenditure occurs, in an appropriate category as requested by the local school board, for the direct benefit of the students;				
3) The local school board agrees to expend these funds, over and above the funds required to meet the required local expenditure for the second year following that in which the under expenditure occurs, for a special project, the details of which must be furnished to the Department of Education for review and approval;				
4) The local school board agrees to submit quarterly reports to the Department of Education on the use of funds provided through this project award; and				
5) The local governing body and the local school board agree that the project award will be cancelled and the funds withdrawn if the above conditions have not been met as of June 30 of the second year following that in which the under expenditure occurs.				
c. There is hereby appropriated, for the purposes of the foregoing repayment, a sum sufficient, not to exceed 75 percent of the funds deposited in the general fund pursuant to the preceding paragraph a.				
10. The Department of Education shall specify the manner for collecting the required information and the method for determining if a school division has expended the local funds required to support the actual local match based on all Lottery and Incentive programs in which the school division has elected to participate. Unless specifically stated otherwise in this Item, school divisions electing to participate in any Lottery or Incentive program that requires a local funding match in order to receive state funding, shall certify to the Department of Education its intent to participate in each program by July 1 each fiscal year in a manner prescribed by the Department of Education. As part of this certification process, each division superintendent must also certify that adequate local funds have been appropriated, above the required local effort for the Standards of Quality, to support the projected required local match based on the Lottery and Incentive programs in which the school division has elected to participate. State funding for such program(s) shall not be made until such time that the school division can certify that sufficient local funding has been appropriated to meet required local match. The Department of Education shall make calculations after the close of the fiscal year to verify that the required local match was met based on the state funds that were received.				
11. Any sum of local matching funds for Lottery and Incentive program which a locality has not expended as of the end of a fiscal year in support of the required local match pursuant to this Item shall be paid by the locality into the general fund of the state treasury unless the carryover of those unspent funds is specifically permitted by other provisions of this act. Such payments shall be made no later than the end of the school year following that in which the under expenditure occurred.				

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12. The Superintendent of Public Instruction shall provide a report annually, no later than the first day of the General Assembly session, on the status of teacher salaries, by local school division, to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees. In addition to information on average salaries by school division and statewide comparisons with other states, the report shall also include information on starting salaries by school division and average teacher salaries by school.				
13. All state and local matching funds required by the programs in this Item shall be appropriated to the budget of the local school board.				
14. By November 15 of each year, the Department of Planning and Budget, in cooperation with the Department of Education, shall prepare and submit a preliminary forecast of Standards of Quality expenditures, based upon the most current data available, to the Chairmen of the House Appropriations and Senate Finance Committees. In odd-numbered years, the forecast for the current and subsequent two fiscal years shall be provided. In even-numbered years, the forecast for the current and subsequent fiscal year shall be provided. The forecast shall detail the projected March 31 Average Daily Membership and the resulting impact on the education budget.				
15. School divisions may choose to use state payments provided for Standards of Quality Prevention, Intervention, and Remediation in both years as a block grant for remediation purposes, without restrictions or reporting requirements, other than reporting necessary as a basis for determining funding for the program.				
16. Except as otherwise provided in this act, the Superintendent of Public Instruction shall provide guidelines for the distribution and expenditure of general fund appropriations and such additional federal, private and other funds as may be made available to aid in the establishment and maintenance of the public schools.				
17. At the Department of Education's option, fees for audio-visual services may be deducted from state Basic Aid payments for individual local school divisions.				
18. For distributions not otherwise specified, the Department of Education, at its option, may use prior year data to calculate actual disbursements to individual localities.				
19. Payments for accounts related to the Standards of Quality made to localities for public education from the general fund, as provided herein, shall be payable in twenty-four semi-monthly installments at the middle and end of each month.				
20. Notwithstanding § 58.1-638 D., Code of Virginia, and other language in this Item, the Department of Education shall, for purposes of calculating the state and local shares of the Standards of Quality, apportion state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/ Local Real Estate Property Tax Relief Fund in the first year based on the July 1, 2016, estimate of school age population provided by the Weldon Cooper Center for Public Service and, in the second year, based on the July 1, 2017, estimate of school age population provided by the Weldon Cooper Center for Public Service.				
Notwithstanding § 58.1-638 D., Code of Virginia, and other language in this Item, the State Comptroller shall distribute the state sales and use tax revenues dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/ Local Real Estate Property Tax Relief Fund in the first year based on the July 1, 2016, estimate of school age population provided by the Weldon Cooper Center for Public Service and, in the second year, based on the July 1, 2017, estimate of school age population provided by the Weldon Cooper Center for Public Service.				
21. The school divisions within the Tobacco Region, as defined by the Tobacco Indemnification and Community Revitalization Commission, shall jointly explore ways to maximize their collective expenditure reimbursement totals for all eligible E-Rate funding.				
22. This Item includes appropriations totaling an estimated <del>\$592,533,186</del> \$632,398,647 the first year and <del>\$598,393,186</del> \$628,830,501 the second year from the revenues deposited to the Lottery Proceeds Fund. These amounts are appropriated for distribution to counties,				



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positions, distributed based on the composite index of the local ability-to-pay.

3. School Employee Social Security Contributions

a. This Item provides funds to each local school board for the state share of the employer's Social Security cost incurred by it, on behalf of the instructional personnel for subsequent transfer to the Contribution Fund pursuant to Title 51.1, Chapter 7, Code of Virginia.

b. Appropriations for contributions in paragraphs 2 and 3 above include payments from funds derived from the principal of the Literary Fund in accordance with Article VIII, Section 8, of the Constitution of Virginia. The amounts set aside from the Literary Fund for these purposes shall not exceed ~~\$146,349,570~~ \$111,349,570 the first year and \$136,349,570 the second year.

4. School Employee Insurance Contributions

This Item provides funds to each local school board for the state share of the employer's Group Life Insurance cost incurred by it on behalf of instructional personnel who participate in group insurance under the provisions of Title 51.1, Chapter 5, Code of Virginia.

5. Basic Aid Payments

a.1) A state share of the Basic Operation Cost, which cost per pupil in March 31 ADM is established individually for each local school division based on the number of instructional personnel required by the Standards of Quality and the statewide prevailing salary levels (adjusted in Planning District Eight for the cost of competing) as well as recognized support costs calculated on a prevailing basis for an estimated March 31 ADM.

2) This appropriation includes funding to recognize the common labor market in the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area. Standards of Quality salary payments for instructional and support positions in school divisions of the localities set out below have been adjusted for the equivalent portion of the Cost of Competing Adjustment (COCA) rates that are paid to local school divisions in Planning District Eight. For the counties of Stafford, Fauquier, Spotsylvania, Clarke, Warren, Frederick, and Culpeper and the Cities of Fredericksburg and Winchester, the SOQ payments for instructional and support positions have been increased by 25 percent each year of the COCA rates paid to school divisions in Planning District Eight.

The support COCA rate is 10.6 percent.

b. The state share for a locality shall be equal to the Basic Operation Cost for that locality less the locality's estimated revenues from the state sales and use tax (returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item), in the fiscal year in which the school year begins and less the required local expenditure.

c. For the purpose of this paragraph, the Department of Taxation's fiscal year sales and use tax estimates are as cited in this Item.

d. 1) In accordance with the provisions of § 37.2-713, Code of Virginia, the Department of Education shall deduct the locality's share for the education of handicapped pupils residing in institutions within the Department of Behavioral Health and Developmental Services from the locality's Basic Aid payments.

2) The amounts deducted from Basic Aid for the education of intellectually disabled persons shall be transferred to the Department of Behavioral Health and Developmental Services in support of the cost of educating such persons; the amount deducted from Basic Aid for the education of emotionally disturbed persons shall be used to cover extraordinary expenses incurred in the education of such persons. The Department of Education shall establish guidelines to implement these provisions and shall provide for the periodic transfer of sums due from each local school division to the Department of Behavioral Health and Developmental Services and for Special Education categorical payments. The amount of the actual transfers will be based on data accumulated during the prior school year.

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e. 1) The apportionment to localities of all driver education revenues received during the school year shall be made as an undesignated component of the state share of Basic Aid in accordance with the provisions of this Item. Only school divisions complying with the standardized program established by the Board of Education shall be entitled to participate in the distribution of state funds appropriated for driver education. The Department of Education will deduct a designated amount per pupil from a school division's Basic Aid payment when the school division is not in compliance with § 22.1-205 C, Code of Virginia. Such amount will be computed by dividing the current appropriation for the Driver Education Fund by actual March 31 ADM.				
2) Local school boards may charge a per pupil fee for behind-the-wheel driver education provided, however, that the fee charged plus the per pupil basic aid reimbursement for driver education shall not exceed the actual average per pupil cost. Such fees shall not be cause for a pro rata reduction in Basic Aid payments to school divisions.				
f. Textbooks				
1) The appropriation in this Item includes <del>\$70,307,670</del> \$70,008,927 the first year and <del>\$70,478,652</del> \$70,023,715 the second year from the general fund as the state's share of the cost of textbooks based on a per pupil amount of \$100.69 the first year and \$100.69 the second year. A school division shall appropriate these funds for textbooks or any other public education instructional expenditure by the school division. The state's distributions for textbooks shall be based on adjusted March 31 ADM. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.				
2) School divisions shall provide free textbooks to all students.				
3) School divisions may use a portion of this funding to purchase Standards of Learning instructional materials. School divisions may also use these funds to purchase electronic textbooks or other electronic media resources integral to the curriculum and classroom instruction and the technical equipment required to read and access the electronic textbooks and electronic curriculum materials.				
4) Any funds provided to school divisions for textbook costs that are unexpended as of June 30, 2019, or June 30, 2020, shall be carried on the books of the locality to be appropriated to the school division the following year to be used for same purpose. School divisions are permitted to carry forward any remaining balance of textbook funds until the funds are expended for a qualifying purpose.				
g. The one-cent state sales and use tax earmarked for education and the sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item which are distributed to localities on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service as specified in this Item shall be reflected in each locality's annual budget for educational purposes as a separate revenue source for the current fiscal year.				
h. The appropriation for the Standards of Quality for Public Education (SOQ) includes amounts estimated at <del>\$386,700,000</del> \$389,900,000 the first year and <del>\$395,200,000</del> \$409,300,000 the second year from the amounts transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund pursuant to Part 3 of this act which are derived from the 0.375 cent increase in the state sales and use tax levied pursuant to § 58.1-638, Code of Virginia. These additional funds are provided to local school divisions and local governments in order to relieve the financial pressure education programs place on local real estate taxes.				
i. From the total amounts in paragraph h. above, an amount estimated at <del>\$257,800,000</del> \$259,900,000 the first year and <del>\$263,400,000</del> \$272,900,000 the second year (approximately 1/4 cent of sales and use tax) is appropriated to support a portion of the cost of the state's share of the following revisions to the Standards of Quality pursuant to Chapters 939 & 955 of the Acts of Assembly of 2004: five elementary resource teachers per 1,000 students; one support and one instructional technology position per 1,000 students; a full daily planning period for teachers at the middle and high school levels in order to relieve the pressure on local real estate taxes and shall be taken into account by the governing body of the county,				

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city, or town in setting real estate tax rates.

j. From the total amounts in paragraph h. above, an amount estimated at ~~\$128,900,000~~ *\$130,000,000* the first year and ~~\$131,700,000~~ *\$136,400,000* the second year (approximately 1/8 cent of sales and use tax) is appropriated in this Item to distribute the remainder of the revenues collected and deposited into the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service as specified in this Item.

k. For the purposes of funding certain support positions in Basic Aid, a funding ratio methodology is used based upon the prevailing ratio of actual support positions, consistent with those recognized for SOQ funding, to actual instructional positions, consistent with those recognized for SOQ funding, as established in Chapter 781, 2009 Acts of Assembly. For the purposes of making the required spending adjustments, the appropriation and distribution of Basic Aid shall reflect this methodology. Local school divisions shall have the discretion as to where the adjustment may be made, consistent with the Standards of Quality funded in this Act.

6. Education of the Gifted Payments

a. An additional payment shall be disbursed by the Department of Education to local school divisions to support the state share of one full-time equivalent instructional position per 1,000 students in adjusted March 31 ADM.

b. Local school divisions are required to spend, as part of the required local expenditure for the Standards of Quality the established per pupil cost for gifted education (state and local share) on approved programs for the gifted.

7. Occupational-Vocational Education Payments

a. An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Vocational Education instructors required by the Standards of Quality. These funds shall be disbursed on the same basis as the payment is calculated.

b. An amount estimated at \$120,281,318 the first year and ~~\$120,376,109~~ *\$120,355,978* the second year from the general fund included in Basic Aid Payments relates to vocational education programs in support of the Standards of Quality.

8. Special Education Payments

a. An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Special Education instructors required by the Standards of Quality. These funds shall be disbursed on the same basis as the payment is calculated.

b. Out of the amounts for special education payments, general fund support is provided to fund the caseload standards for speech pathologists at 68 students for each year of the biennium.

9. Remedial Education Payments

a. An additional payment estimated at ~~\$113,078,853~~ *\$112,645,717* the first year and ~~\$112,984,901~~ *\$112,320,130* the second year from the general fund shall be disbursed by the Department of Education to support the Board of Education's Standards of Quality Prevention, Intervention, and Remediation program adopted in June 2003.

b. The payment shall be calculated based on one hour of additional instruction per day for identified students, using the three year average percent of students eligible for the federal Free Lunch program as a proxy for students needing such services. Fall membership shall be multiplied by the three year average division-level Free Lunch eligibility percentage to determine the estimated number of students eligible for services. Pupil-teacher ratios shall be applied to the estimated number of eligible students to determine the number of instructional positions needed for each school division. The pupil-teacher ratio applied for each school division shall range from 10:1 for those divisions with the most severe

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	combined three year average failure rates for English and math Standards of Learning test scores to 18:1 for those divisions with the lowest combined three year average failure rates for English and math Standards of Learning test scores.			
	c. Funding shall be matched by the local government based on the composite index of local ability-to-pay.			
	d. To provide flexibility in the instruction of English Language Learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the SOQ Prevention, Intervention, and Remediation account to employ additional English Language Learner teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided through the SOQ staffing standard of 17 instructional positions per 1,000 limited English proficiency students. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall only employ instructional personnel licensed by the Board of Education.			
	e. An additional state payment estimated at <del>\$100,250,775</del> \$10,468,261 the first year and <del>\$107,079,544</del> \$34,468,409 the second year from the general fund and \$100,114,539 the first year and \$86,482,069 the second year from the Lottery Proceeds Fund shall be disbursed based on the estimated number of federal Free Lunch participants, in support of programs for students who are educationally at risk. The additional payment shall be based on the state share of:			
	1) A minimum 1.0 percent Add-On, as a percent of the per pupil basic aid cost, for each child who qualifies for the federal Free Lunch Program; and			
	2) An addition to the Add-On, based on the concentration of children qualifying for the federal Free Lunch Program. Based on its percentage of Free Lunch participants, each school division will receive a total between 1.0 and <del>13.0</del> 14.5 percent in the first year and between 1.0 and <del>14.0</del> 16.0 percent in the second year in additional basic aid per Free Lunch participant. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.			
	3a) Local school divisions are required to spend the established At-Risk Add-On payment (state and local share) on approved programs for students who are educationally at risk.			
	b) To receive these funds, each school division shall certify to the Department of Education that the state and local share of the At-Risk Add-On payment will be used to support approved programs for students who are educationally at risk. These programs may include: teacher recruitment programs and incentives, Dropout Prevention, community and school-based truancy officer programs, Advancement Via Individual Determination (AVID), Project Discovery, Reading Recovery, programs for students who speak English as a Second Language, hiring additional school guidance counselors, <i>testing coordinators, and licensed behavior analysts</i> , or programs related to increasing the success of disadvantaged students in completing a high school degree and providing opportunities to encourage further education and training. Further, each school division shall report each year by August 1 to the Department the individual uses of these funds. The Department shall compile the responses and provide them to the Chairmen of House Appropriations and Senate Finance Committees no later than the first day of each Regular General Assembly Session.			
	4) If the Board of Education has required a local school board to submit a corrective action plan pursuant to § 22.1-253.13:3, Code of Virginia, either for the school division pursuant to a division level review, or for any schools within its division that have been designated as not meeting the standards as approved by the Board of Education, the Superintendent of Public Instruction shall determine and report to the Board of Education whether each such local school board has met its obligation to develop and submit such corrective action plan(s) and is making adequate and timely progress in implementing the plan(s). Additionally, if an academic <i>or other</i> review process undertaken pursuant to § 22.1-253.13:3, Code of Virginia, has identified actions for a local school board to implement, the Superintendent of Public Instruction shall determine and report to the Board of Education whether the local school board has implemented required actions. If the Superintendent certifies that a local school board has failed or refused to meet any of those obligations <i>as referenced in a memorandum of understanding between the local school board and the Board of Education</i> , the Board of			

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Education shall withhold payment of some or all At-Risk Add-On funds otherwise allocated to the affected division pursuant to this allocation for the pending fiscal year. In determining the amount of At-Risk Add-On funds to be withheld, the Board of Education shall take into consideration the extent to which such funds have already been expended or contractually obligated. The local school board shall be given an opportunity to correct its failure and, if successful in a timely manner, may have some or all of its At-Risk Add-On funds restored at the Board of Education's discretion.

f. Regional Alternative Education Programs

1) An additional state payment of ~~\$8,779,013~~ \$8,767,652 the first year and ~~\$9,211,142~~ \$9,434,794 the second year from the Lottery Proceeds Fund shall be disbursed for Regional Alternative Education programs. Such programs shall be for the purpose of educating certain expelled students and, as appropriate, students who have received suspensions from public schools and students returned to the community from the Department of Juvenile Justice.

2) Each regional program shall have a small student/staff ratio. Such staff shall include, but not be limited to education, mental health, health, and law enforcement professionals, who will collaborate to provide for the academic, psychological, and social needs of the students. Each program shall be designed to ensure that students make the transition back into the "mainstream" within their local school division.

3) a) Regional alternative education programs are funded through this Item based on the state's share of the incremental per pupil cost for providing such programs. This incremental per pupil payment shall be adjusted for the composite index of local ability-to-pay of the school division that counts such students attending such program in its March 31 Average Daily Membership. It is the intent of the General Assembly that this incremental per pupil amount be in addition to the basic aid per pupil funding provided to the affected school division for such students. Therefore, local school divisions are encouraged to provide the appropriate portion of the basic aid per pupil funding to the regional programs for students attending these programs, adjusted for costs incurred by the school division for transportation, administration, and any portion of the school day or school year that the student does not attend such program.

b) In the event a school division does not use all of the student slots it is allocated under this program, the unused slots may be reallocated or transferred to another school division.

1. A school division must request from the Department of Education the availability and possible use of any unused student slots. If any unused slots are available and if the requesting school division chooses to utilize any of the unused slots, the requesting school division shall only receive the state's share of tuition for the unused slot that was allocated in this Item for the originally designated school division.

2. However, no requesting school division shall receive more tuition funding from the state for any requested unused slot than what would have been the calculated amount for the requesting school division had the unused slot been allocated to the requesting school division in the original budget. Furthermore, the requesting school division shall pay for any remaining tuition payment necessary for using a previously unused slot.

3. The Department of Education shall provide assistance for the state share of the incremental cost of Regional Alternative Education program operations based on the composite index of local ability-to-pay.

4) Out of this appropriation, ~~\$432,317~~ \$673,213 the second year from the Lottery Proceeds Fund is provided for a compensation supplement payment equal to 3.0 percent of base pay on July 1, 2019, and for a compensation supplement payment of up to 2.0 percent of base pay on September 1, 2019, for Regional Alternative Education Program instructional and support positions, as referenced in paragraph C. 39. of this Item.

g. Remedial Summer School

1) This appropriation includes ~~\$24,940,359~~ \$24,658,157 the first year and ~~\$25,542,931~~ \$24,976,867 the second year from the general fund for the state's share of Remedial Summer School Programs. These funds are available to school divisions for the operation

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of programs designed to remediate students who are required to attend such programs during a summer school session or during an intersession in the case of year-round schools. These funds may be used in conjunction with other sources of state funding for remediation or intervention. School divisions shall have maximum flexibility with respect to the use of these funds and the types of remediation programs offered; however, in exercising this flexibility, students attending these programs shall not be charged tuition and no high school credit may be awarded to students who participate in this program.

2) For school divisions charging students tuition for summer high school credit courses, consideration shall be given to students from households with extenuating financial circumstances who are repeating a class in order to graduate.

3) From the amounts provided for Remedial Summer School, there is hereby appropriated \$550,000 the first year and \$550,000 the second year from the general fund to support pilot public-private partnerships between local school divisions and the Greater Richmond and Central Virginia affiliates of the Virginia Alliance of YMCAs to expand student participation opportunities in existing summer Power Scholars Academies in such partnered school divisions. The Virginia Alliance of YMCAs shall prepare and submit an evaluation report for such pilot partnerships between the school divisions and the Greater Richmond and Central Virginia YMCA affiliates to the Chairmen of House Appropriations and Senate Finance Committees no later than October 31, 2018.

10. K-3 Primary Class Size Reduction Payments

a. An additional payment estimated at ~~\$130,593,583~~ \$125,175,585 the first year and ~~\$130,388,333~~ \$128,005,970 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education as an incentive for reducing class sizes in the primary grades.

b. The Department of Education shall calculate the payment based on the incremental cost of providing the lower class sizes based on the lower of the division average per pupil cost of all divisions or the actual division per pupil cost.

c. Localities are required to provide a match for these funds based on the composite index of local ability-to-pay.

d. By October 15 of each year school divisions must provide data to the Department of Education that each participating school has a September 30 pupil/teacher ratio in grades K through 3 that meet the following criteria:

<b>Qualifying School Percentage of Students Approved Eligible for Free Lunch, Three-Year Average</b>	<b>Grades K-3 School Ratio</b>	<b>Maximum Individual K-3 Class Size</b>
30% but less than 45%	19 to 1	24
45% but less than 55%	18 to 1	23
55% but less than 65%	17 to 1	22
65% but less than 70%	16 to 1	21
70% but less than 75%	15 to 1	20
75% or more	14 to 1	19

e. School divisions may elect to have eligible schools participate at a higher ratio, or only in a portion of grades kindergarten through three, with a commensurate reduction of state and required local funds, if local conditions do not permit participation at the established ratio and/or maximum individual class size. In the event that a school division requires additional actions to ensure participation at the established ratio and/or maximum individual class size, such actions must be completed by December 1 of the impacted school year. Special education teachers and instructional aides shall not be counted towards meeting these required pupil/teacher ratios in grades kindergarten through three.

f. The Superintendent of Public Instruction may grant waivers to school divisions for the class size requirement in eligible schools that have only one class in an affected grade level in the school.

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11. Literary Fund Subsidy Program Payments

a. The Department of Education and the Virginia Public School Authority (VPSA) shall provide a program of funding for school construction and renovation through the Literary Fund and through VPSA bond sales. The program shall be used to provide funds, through Literary Fund loans and subsidies, and through VPSA bond sales, to fund a portion of the projects on the First or Second Literary Fund Waiting List, or other critical projects which may receive priority placement on the First or Second Literary Fund Waiting List by the Department of Education. Interest rate subsidies will provide school divisions with the present value difference in debt service between a Literary Fund loan and a borrowing through the VPSA. To qualify for an interest rate subsidy, the school division's project must be eligible for a Literary Fund loan and shall be subject to the same restrictions. The VPSA shall work with the Department of Education in selecting those projects to be funded through the interest rate subsidy/bond financing program, so as to ensure the maximum leverage of Literary Fund moneys and a minimum impact on the VPSA Bond Pool.

*b. The Virginia Public School Authority shall provide an interest rate subsidy program in fiscal year 2020 for projects that are on the Board of Education's First Priority Waiting List, and which shall only use the subsidy funding and associated VPSA borrowing as original financing for the project and not to refinance any prior debt on the project. Projects on the Literary Fund Second Priority Waiting List may participate in the Interest Rate Subsidy Program if unused subsidy appropriation remains once the participation of projects on the First Priority Waiting List is confirmed and subject to the same restrictions. However, the total cost of the subsidy program shall not exceed \$5.0 million in the second year including the subsidy payments and related issuance costs based on the parameters in Senate Bill 1093, as passed during 2019 Session. In addition, \$30.0 million in Literary Fund revenues shall be used to provide school construction loans for projects that are on the Board of Education's First Priority Waiting List.*

~~b.c.~~ The Department of Education may offer Literary Fund loans from the uncommitted balances of the Literary Fund after meeting the obligations of the interest rate subsidy sales and the amounts set aside from the Literary Fund for Debt Service Payments for Education Technology and Security Equipment in this Item.

~~c.d.~~ 1) In the event that on any scheduled payment date of bonds of the Virginia Public School Authority (VPSA) authorized under the provisions of a bond resolution adopted subsequent to June 30, 1997, issued subsequent to June 30, 1997, and not benefiting from the provisions of either § 22.1-168 (iii), (iv), and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the sum of (i) the payments on general obligation school bonds of cities, counties, and towns (localities) paid to the VPSA and (ii) the proceeds derived from the application of the provisions of § 15.2-2659, Code of Virginia, to such bonds of localities, is less than the debt service due on such bonds of the VPSA on such date, there is hereby appropriated to the VPSA, first, from available moneys of the Literary Fund and, second, from the general fund a sum equal to such deficiency.

2) The Commonwealth shall be subrogated to the VPSA to the extent of any such appropriation paid to the VPSA and shall be entitled to enforce the VPSA's remedies with respect to the defaulting locality and to full recovery of the amount of such deficiency, together with interest at the rate of the defaulting locality's bonds.

~~d.e.~~ The chairman of the Board of Commissioners of the VPSA shall, on or before November 1 of each year, make and deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds of the VPSA issued and projected to be issued during such biennium pursuant to the bond resolution referred to in paragraph a above. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.

12. Educational Technology Payments

a. Any unobligated amounts transferred to the educational technology fund shall be disbursed on a pro rata basis to localities. The additional funds shall be used for technology needs identified in the division's technology plan approved by the Department

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of Education.

b. The Department of Education shall authorize estimated amounts as indicated in Table 1 from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in the referenced years.

Table 1

<b>Grant Year</b>	<b>FY 2019</b>	<b>FY 2020</b>
2014	\$13,243,979 <i>\$13,240,500</i>	
2015	\$13,809,749 <i>\$13,808,750</i>	\$13,807,226 <i>\$13,807,500</i>
2016	\$13,756,846 <i>\$13,758,000</i>	\$13,754,552 <i>\$13,753,750</i>
2017	\$13,953,049 <i>\$13,953,750</i>	\$13,952,820 <i>\$13,949,750</i>
2018	\$12,642,589 <i>\$12,474,388</i>	\$12,642,589 <i>\$12,471,250</i>
2019		\$12,658,496 <i>\$12,434,267</i>

c. It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for education technology grant programs. In developing the proposed 2020-2022, 2022-2024, and 2024-2026 biennial budgets for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for these programs in fiscal years 2021, 2022, 2023, 2024, 2025, and 2026.

d. 1) An education technology grant program shall be conducted through the Virginia Public School Authority, through the issuance of equipment notes in an amount estimated at ~~\$58,835,200~~ \$57,017,700 in fiscal year 2019 and ~~\$60,331,600~~ \$58,612,800 in fiscal year 2020. Proceeds of the notes will be used to establish a computer-based instructional and testing system for the Standards of Learning (SOL) and to develop the capability for high speed Internet connectivity at high schools followed by middle schools followed by elementary schools. School divisions shall use these funds first to develop and maintain the capability to support the administration of online SOL testing for all students with the exception of students with a documented need for a paper SOL test.

2) Grant funds from the issuance of ~~\$58,835,200~~ \$57,017,700 in fiscal year 2019 and ~~\$60,331,600~~ \$58,612,800 in fiscal year 2020 in equipment notes are based on a grant of \$26,000 per school and \$50,000 per school division. For purposes of this grant program, eligible schools shall include schools that are subject to state accreditation and reporting membership in grades K through 12 as of September 30, ~~2016~~ 2018, for the fiscal year ~~2017~~ 2019 issuance, and September 30, ~~2017~~ 2019, for the fiscal year ~~2018~~ 2020 issuance, as well as regional vocational centers, special education centers, alternative education centers, regular school year Governor's Schools, CodeRVA Regional High School, and the School for the Deaf and the Blind. Schools that serve only pre-kindergarten students shall not be eligible for this grant.

3. a.) Supplemental grants shall be allocated to eligible divisions to support schools that are not fully accredited in accordance with this paragraph. Schools that include a ninth grade that administer SOL tests in Spring 2018 and that are not fully accredited for the second consecutive year, based on school accreditation ratings in effect for fiscal year 2018 and fiscal year 2019 will qualify to participate in the Virginia e-Learning Backpack Initiative in fiscal year 2019 and receive: (1) a supplemental grant of \$400 per student reported in ninth grade fall membership in a qualifying school for the purchase of a laptop or tablet for that student and (2) a supplemental grant of \$2,400 per qualifying school to purchase two content creation packages for teachers. Schools eligible to receive this supplemental grant in fiscal year 2019 shall continue to receive the grant for the number of subsequent years equaling the number of grades 9 through 12 in the qualifying school up to a maximum of four years. Schools that administer SOL tests in Spring 2019 and that are not fully accredited for the second

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consecutive year based on school accreditation ratings in effect for fiscal year 2019 and fiscal year 2020 will qualify to participate in the initiative in fiscal year 2020. Schools eligible for the supplemental grants in previous fiscal years shall continue to be eligible for the remaining years of their grant award. Schools eligible to receive this supplemental grant in fiscal year 2020 shall continue to receive the grant for the number of subsequent years equaling the number of grades 9 through 12 in the qualifying school up to a maximum of four years. Grants awarded to qualifying schools that do not have grades 10, 11, or 12 may transition with the students to the primary receiving school for all years subsequent to grade 9. Schools are eligible to receive these grants for a period of up to four years beginning in fiscal year 2014 and shall not be eligible to receive a separate award in the future once the original award period has concluded. Schools that are fully accredited or that are new schools with conditional accreditation in their first year shall not be eligible to receive this supplemental grant.

b.) Supplemental grants allocated to school divisions for participation in the Virginia e-Learning Backpack Initiative prior to fiscal year 2017 shall be used in eligible schools for (1) the purchase of a laptop or tablet for a student reported in ninth grade fall membership, and (2) the purchase of two content creation packages for teachers per grant. The amounts for such grants shall remain unchanged.

4) Required local match:

a) Localities are required to provide a match for these funds equal to 20 percent of the grant amount, including the supplemental grants provided pursuant to paragraph g. 5). At least 25 percent of the local match, including the match for supplemental grants, shall be used for teacher training in the use of instructional technology, with the remainder spent on other required uses. The Superintendent of Public Instruction is authorized to reduce the required local match for school divisions with a composite index of local ability-to-pay below 0.2000. The Virginia School for the Deaf and the Blind is exempt from the match requirement.

b) School divisions that administer 100 percent of SOL tests online in all elementary, middle, and high schools may use up to 75 percent of their required local match to purchase targeted technology-based interventions. Such interventions may include the necessary technology and software to support online learning, technology-based content systems, content management systems, technology equipment systems, information and data management systems, and other appropriate technologies that support the individual needs of learners. School divisions that receive supplemental grants pursuant to paragraph g.5) above shall use the funds in qualifying schools to purchase laptops and tablets for ninth grade students reported in fall membership and content creation packages for teachers.

5) The goal of the education technology grant program is to improve the instructional, remedial, and testing capabilities of the Standards of Learning for local school divisions and to increase the number of schools achieving full accreditation.

6) Funds shall be used in the following manner:

a) Each division shall use funds to reach a goal, in each high school, of: (1) a 5-to-1 student to computer ratio; (2) an Internet-ready local area network (LAN) capability; and (3) high speed access to the Internet. School connectivity (computers, LANs and network access) shall include sufficient download/upload capability to ensure that each student will have adequate access to Internet-based instructional, remedial and assessment programs.

b) When each high school in a division meets the goals established in paragraph a) above, the remaining funds shall be used to develop similar capability in first the middle schools and then the elementary schools.

c) For purposes of establishing or enhancing a computer-based instructional program supporting the Standards of Learning pursuant to paragraph g. 1) above, these grant funds may be used to purchase handheld multifunctional computing devices that support a broad range of applications and that are controlled by operating systems providing full multimedia support and mobile Internet connectivity. School divisions that elect to use these grant funds to purchase such qualifying handheld devices must continue to meet the



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advancement of universal service.

13. Security Equipment Payments

1) A security equipment grant program shall be conducted through the Virginia Public School Authority, through the issuance of equipment notes in an amount estimated at up to \$6,000,000 in fiscal year 2019 and ~~\$6,000,000~~ \$12,000,000 in fiscal year 2020 in conjunction with the Virginia Public School Authority technology notes program authorized in C.12. of this Item. Proceeds of the notes will be used to help offset the related costs associated with the purchase of appropriate security equipment that will improve and help ensure the safety of students attending public schools in Virginia.

2) The Department of Education shall authorize estimated amounts as indicated in Table 1 from the Literary Fund to provide debt service payments for the security equipment grant programs conducted through the Virginia Public School Authority in the referenced years.

Table 1

Grant Year	FY 2019	FY 2020
2014	<del>\$1,235,521</del> \$1,239,000	
2015	<del>\$1,244,751</del> \$1,245,750	\$1,244,524 \$1,244,250
2016	<del>\$1,234,154</del> \$1,233,000	\$1,233,948 \$1,234,750
2017	<del>\$1,246,951</del> \$1,246,250	\$1,246,930 \$1,250,000
2018	<del>\$1,291,481</del> \$1,273,531	\$1,291,481 \$1,270,750
2019		<del>\$1,291,481</del> \$1,310,127

3) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2020-2022, 2022-2024, and 2024-2026 biennial budgets for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for these programs in fiscal years 2021, 2022, 2023, 2024, 2025, and 2026.

4) In the event that, on any scheduled payment date of bonds or notes of the Virginia Public School Authority issued for the purpose described in § 22.1-166.2, Code of Virginia, and not benefiting from the provisions of either § 22.1-168 (iii), (iv) and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the available moneys in the Literary Fund are less than the amounts authorized for debt service due on such bonds or notes on such date, there is hereby appropriated to the Virginia Public School Authority from the general fund a sum equal to such deficiency.

5) The Chairman of the Board of Commissioners of the Virginia Public School Authority shall, on or before November 1 of each year, deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds and notes issued and projected to be issued during such biennium. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.

6) Grant award funds from the issuance of up to \$6,000,000 in fiscal year 2019 and ~~\$6,000,000~~ \$12,000,000 in fiscal year 2020 in equipment notes shall be distributed to eligible school divisions. The grant awards will be based on a competitive grant basis of up to ~~\$100,000~~ \$250,000 per school division. School divisions will be permitted to apply annually for grant funding. For purposes of this program, eligible schools shall include schools that are subject to state accreditation and reporting membership in grades K through 12 as of September 30, 2018, for the fiscal year 2019 issuance, and September 30, 2019, for the fiscal year 2020 issuance, as well as regional vocational centers, special

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education centers, alternative education centers, regular school year Governor's Schools, and the Virginia School for the Deaf and the Blind.				
7) School divisions would submit their application to Department of Education by August 1 of each year based on the criteria developed by the Department of Education in collaboration with the Department of Criminal Justice Services who will provide requested technical support. Furthermore, the Department of Education will have the authority to make such grant awards to such school divisions.				
8) It is also the intent of the General Assembly that, <i>beginning with fiscal year 2020</i> , the total amount of the grant awards shall not exceed <del>\$30,000,000</del> \$60,000,000 over any ongoing revolving five year period.				
9) Required local match:				
a) Localities are required to provide a match for these funds equal to 25 percent of the grant amount. The Superintendent of Public Instruction is authorized to reduce the required local match for school divisions with a composite index of local ability-to-pay below 0.2000. The Virginia School for the Deaf and the Blind is exempt from the match requirement.				
b) Pursuant to § 15.2-1302, Code of Virginia, and in the event that two or more school divisions became one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be provided funding through this program on the basis of having the same number of school divisions as existed prior to September 30, 2000.				
c) Local school divisions shall maximize the use of available federal funds, including E-Rate Funds, and to the extent possible, use such funds to supplement the program and meet the goals of this program.				
14. Virginia Preschool Initiative Payments				
a.1) It is the intent of the General Assembly that a payment estimated at <del>\$72,286,230</del> \$70,049,572 the first year and <del>\$72,297,411</del> \$72,351,058 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk four-year-olds who are residents of Virginia and unserved by Head Start program funding and for at-risk five-year-olds who are not eligible to attend kindergarten. In no event shall distributions from the Lottery Proceeds Fund be made directly to community-based or private providers.				
2) These state funds and required local matching funds shall be used to provide programs for at-risk four-year-old children, which include quality preschool education, health services, social services, parental involvement and transportation. It shall be the policy of the Commonwealth that state funds and required local matching funds for the Virginia Preschool Initiative not be used for capital outlay. Programs must provide full-day or half-day and, at least, school-year services.				
3) The Department of Education shall establish academic standards that are in accordance with appropriate preparation for students to be ready to successfully enter kindergarten. These standards shall be established in such a manner as to be measurable for student achievement and success. Students shall be required to be evaluated in the fall and in the spring by each participating school division and the school divisions must certify that the Virginia Preschool Initiative program follows the established standards in order to receive the funding for quality preschool education and criteria for the service components. Such standards shall align with the Virginia Standards of Learning for Kindergarten.				
4) a) Grants shall be distributed based on an allocation formula providing the state share of a \$6,326 grant for 100 percent of the unserved at-risk four-year-olds in each locality for a full-day program. The number of unserved at-risk four-year-olds in each locality shall be based on the projected number of kindergarten students, updated once each biennium for the Governor's introduced biennial budget. Half-day programs shall operate for a minimum of three hours of classroom instructional time per day, excluding breaks for lunch <del>or recess</del> , and grants to half-day programs shall be funded based on the state share of \$3,163 per unserved at-risk four-year-old in each locality. Full-day programs shall operate for a minimum of five and one-half instructional hours, excluding breaks for meals <del>and recess</del> . <i>Virginia Preschool</i>				

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*Initiative programs may include unstructured recreational time that is intended to develop teamwork, social skills, and overall physical fitness in any calculation of total instructional time, provided that such unstructured recreational time does not exceed 15 percent of total instructional time or teaching hours. No additional state funding is provided for programs operating greater than three hours per day but less than five and one-half hours per day. In determining the state and local shares of funding, the composite index of local ability-to-pay is capped at 0.5000.*

b) For new programs in the first year of implementation only, programs operating less than a full school year shall receive state funds on a fractional basis determined by the pro-rata portion of a school year program provided. In determining the prorated state funds to be received, a school year shall be 180 days or 990 teaching hours.

b.1) Any locality which desires to participate in this grant program must submit a proposal through its chief administrator (county administrator or city manager) by May 15 of each year. The chief administrator, in conjunction with the school superintendent, shall identify a lead agency for this program within the locality. The lead agency shall be responsible for developing a local plan for the delivery of quality preschool services to at-risk children which demonstrates the coordination of resources and the combination of funding streams in an effort to serve the greatest number of at-risk four-year-old children.

2) The proposal must demonstrate coordination with all parties necessary for the successful delivery of comprehensive services, including the schools, child care providers, local social services agency, Head Start, local health department, and other groups identified by the lead agency.

3) A local match, based on the composite index of local ability-to-pay, shall be required. For purposes of meeting the local match, localities may use local expenditures for existing qualifying programs, however, at least seventy-five percent of the local match will be cash and no more than twenty-five percent will be in-kind. In-kind contributions are defined as cash outlays that are made by the locality that benefit the program but are not directly charged to the program. The value of fixed assets cannot be considered as an in-kind contribution. Philanthropic or other private funds may be contributed to the locality to be appropriated in their local budget and then utilized as local match. Localities shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds received through this program must be used to supplement, not supplant, any funds currently provided for programs within the locality. However, in the event a locality is unable to continue the previous level of support to programs for at-risk four-year-olds from Title I of the federal Elementary and Secondary Education Act (ESEA), the state and local funds provided in this grants program may be used to continue services to these Title I students. Such inability may occur due to adjustments to the allocation formula in the reauthorization of ESEA as the Every Student Succeeds Act of 2015, or due to a percentage reduction in a locality's Title I allocation in a particular year. Any locality so affected shall provide written evidence to the Superintendent of Public Instruction and request his approval to continue the services to Title I students.

c. Local plans must provide clear methods of service coordination for the purpose of reducing the per child cost for the service, increasing the number of at-risk children served and/or extending services for the entire year. Examples of these include:

1) "Wraparound Services" -- methods for combining funds such as child care subsidy dollars administered by local social service agencies with dollars for quality preschool education programs.

2) "Wrap-out Services" - methods for using grant funds to purchase quality preschool services to at-risk four-year-old children through an existing child care setting by purchasing comprehensive services within a setting which currently provides quality preschool education.

3) "Expansion of Service" - methods for using grant funds to purchase slots within existing programs, such as Head Start, which provide comprehensive services to at-risk four-year-old children.

d.1) Local plans must indicate the number of at-risk four-year-old children to be served,

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and the eligibility criteria for participation in this program shall be consistent with the economic and educational risk factors stated in the 2015-2016 programs guidelines that are specific to: (i) family income at or below 200 percent of federal poverty guidelines, (ii) homelessness, (iii) student's parents or guardians are school dropouts, or (iv) family income is above 200 percent but at or below 350 percent of federal poverty guidelines in the case of students with special needs or disabilities. Up to 15 percent of a division's slots may be filled based on locally established eligibility criteria so as to meet the unique needs of at-risk children in the community.

2) The Department of Education is directed to compile from each school division the aggregated information as to the number of enrolled students whose families are (i) at or below 130 percent of poverty, (ii) above 130 percent but at or below 200 percent of poverty, (iii) above 200 percent but at or below 350 percent of poverty, and (iv) above 350 percent of poverty. The Department shall report this information annually, after the application and fall participation reports are submitted to the Department from the school divisions, to the Chairmen of House Appropriations and Senate Finance Committees. In addition, the Department will post and maintain the summary information by division on the Department's website in keeping with current student privacy policies.

e.1) The Department of Education shall provide technical assistance for the administration of this grant program to provide assistance to localities in developing a comprehensive, coordinated, quality preschool program for serving at-risk four-year-old children.

2) The Department shall provide interested localities with information on models for service delivery, methods of coordinating funding streams, such as funds to match federal IV-A child care dollars, to maximize funding without supplanting existing sources of funding for the provision of services to at-risk four-year-old children. A priority for technical assistance in the design of programs shall be given to localities where the majority of the at-risk four-year-old population is currently unserved.

f. The Department of Education shall include in the program's application package specific information regarding the potential availability of funding for supplemental grants that may be used for one-time expenses, other than capital, related to start-up or expansion of programs, with priority given to proposals for expanding the use of partnerships with either nonprofit or for-profit providers. Furthermore, the Department is mandated to communicate to all eligible school divisions the remaining available balances in the program's adopted budget, after the fall participation reports have been submitted and finalized for such grants.

g. Beginning in school year 2019-2020, one-time waiting list slots may, subject to available funds, be provided to school divisions that have utilized 100 percent of their calculated slots in the previous school year and had a waiting list for unserved eligible children as certified by such school divisions on the ~~October~~ Virginia Preschool Initiative Fall Verification Report submitted to the Department of Education in the previous school year. Further, eligible school divisions that may request and receive a one-time allocation of such slots in the subsequent school year, shall offer such slots to at-risk four-year old children that (i) family income at or below 200 percent of federal poverty guidelines, (ii) family income is above 200 percent but at or below 350 percent of federal poverty guidelines in the case of students with special needs or disabilities, (iii) homelessness, or (iv) student's parents or guardians are school dropouts. The amount of funding available to provide any waiting list slots to eligible school divisions shall be determined by the previous fiscal year year-end balance of the allocations in paragraph C. 14. a. 1) of this item. Further, the Department of Education shall ensure that supplemental grants for one-time expenses, other than capital, related to start-up or expansion of Virginia Preschool Initiative program in paragraph C. 14. f. of this item, are awarded and allocated first from any ~~year-end~~ available balances in the program's adopted budget, after the fall participation reports have been submitted and finalized before any remaining balances are considered for waiting list slots. Any such remaining balances not awarded and allocated in the current fiscal year for start-up or expansion grants shall be carried forward to the next fiscal year to support waiting list slots. Available funding shall be provided only to eligible school divisions that report using 100 percent of the upcoming school year slot allocation in the May 15 grant proposal and report using 100 percent of the school year slot allocation on the ~~October~~ Virginia Preschool Initiative Fall Verification Report submitted to the Department of Education for the school year that waiting list slots are provided. If a school division's ~~October~~ Virginia Preschool Initiative Fall Verification Report submitted to the

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Department of Education does not certify that 100 percent of the school year calculated slot allocation is used, then the Department of Education shall withdraw enough of the granted waiting list slots and associated funding provided such that the net difference between the withdrawn waiting list slots make up the percentage deficient from the school year calculated slot allocation not used. The Department of Education shall submit a comprehensive report, detailing, but not limited to, the number of calculated slots and funding allocated to each school division, the number of calculated slots filled by each school division, supplemental grants requested and awarded by each school division, the number of waiting list slots requested by each school division, the number of waiting list slots offered to each school division, the number of waiting list slots filled by each school division and the funding allocated for the filled waiting list slots by each school division, to the Chairmen of House Appropriations and Senate Finance Committees no later than ~~November 15~~ *December 31*, 2019, and annually thereafter.

h. Out of the appropriation in this Item, ~~\$2,304,088~~ *\$304,088* the first year and ~~\$2,306,100~~ *\$306,100* the second year from the general fund is allocated for the Department of Education to provide grants of no more than \$30,000 each for local school divisions that have applied for such funds for the sole purpose of providing financial incentives to provisionally licensed teachers teaching students enrolled in the Virginia Preschool Initiative and who are actively engaged in coursework and professional development, toward achieving the required degree and license that satisfy the licensure requirements reflected in § 22.1-299, Code of Virginia. School divisions must submit applications to the Department of Education by December 1 of each year. Priority for awarding grants shall be given to hard-to-staff schools and schools with the highest number of provisionally licensed teachers teaching students enrolled in the Virginia Preschool Initiative. The Department of Education shall develop the application process to be provided to school divisions that have provisionally licensed teachers employed and are teaching students enrolled in the Virginia Preschool Initiative. *Any funds not awarded from this grant program in fiscal year 2019 may be awarded for supplemental grants for one-time expenses, other than capital, related to start-up or expansion of Virginia Preschool Initiative programs in paragraph C.14.f. of this Item. Any such remaining balances not awarded and allocated in fiscal year 2019 for start-up or expansion grants shall be carried forward to fiscal year 2020 to support waiting list slots.*

i. Out of the appropriation in this Item, \$300,000 the first year and \$700,000 the second year from the general fund is provided through the Department of Education to the University of Virginia's Center for Advanced Study of Teaching and Learning to ensure that all Virginia Preschool Initiative classroom programs teachers receive appropriate individualized professional development training from professional development specialists to support quality teacher-child interactions and effective research-based curriculum implementation. Funding and professional development assistance shall be prioritized for teachers with Classroom Assessment Scoring System (CLASS) observation scores that did not meet the statewide minimum acceptable threshold standard established by University of Virginia's Center for Advanced Study of Teaching and Learning and the Department of Education. The University of Virginia's Center for Advanced Study of Teaching and Learning; assisted on an as needed basis; by the Department of Education; Virginia Early Childhood Foundation; and Elevate Early Education to hire and train specialists to provide such individualized professional development.

j. Out of the appropriation in this Item, \$75,000 the first year from the general fund is provided such that, beginning July 1, 2018, the Department of Education shall develop a plan to ensure that high quality instruction is provided in the Virginia Preschool Initiative program's individual preschool classrooms. The plan shall detail how the Department will (i) monitor and assess the quality of teacher-child interactions within each preschool classroom at least once every two years, (ii) ensure the use of evidence-based curricula is implemented in each preschool classroom and take necessary corrective action if evidence-based curriculum is not used or effective by the following school year, and, (iii) facilitate and provide individualized professional development for Virginia Preschool Initiative classroom teachers to ensure the necessary teaching skills are aligned for the pedagogy of high quality preschool classroom experiences and (iv) provide informative and complete information about how Virginia Preschool Initiative funding, from all sources, supports quality preschool experiences for children enrolled in the local public school divisions in Virginia. The plan shall also include details on the number of staff,

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tasks and duties, and possible funding needed to carry out these responsibilities. The Department shall submit its complete detailed plan to the Chairmen of House Appropriations and Senate Finance Committees by November 1, 2018.

k. Out of the appropriation in this Item, \$350,000 the first year and \$350,000 the second year from the general fund is provided through the Department of Education to the University of Virginia to ensure that all Virginia Preschool Initiative classroom programs have the quality of their teacher-child interactions assessed through a rigorous and research-based classroom observational instrument at least once every two years using the CLASS observational instrument for such assessment. All classrooms shall be observed no later than June 30, 2020. The University of Virginia, with input from the Department of Education and the use of its detailed plan for such assessments, shall establish a statewide minimum acceptable threshold for the quality of teacher-child interactions for Virginia Preschool Initiative classroom programs, and classrooms that are assessed below the threshold will receive additional technical assistance from the Department of Education and the University of Virginia. The threshold should be established with the assistance of University of Virginia's Center for Advanced Study of Teaching and Learning, using a rigorous and research-based classroom observational instrument. The threshold shall be established no later than the beginning of the 2018-2019 school year and the classroom assessments shall begin no later than spring 2019. The University of Virginia's Center for Advanced Study of Teaching and Learning shall submit a progress report on such classroom observations to the Chairmen of House Appropriations and Senate Finance Committees no later than June 30, 2019, and annually thereafter.

15. Early Reading Intervention Payments

a. An additional payment of ~~\$22,599,684~~ \$23,578,891 the first year and ~~\$22,651,560~~ \$23,571,284 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions for the purposes of providing early reading intervention services to students in grades kindergarten through 3 who demonstrate deficiencies based on their individual performance on diagnostic tests which have been approved by the Department of Education. The Department of Education shall review the tests of any local school board which requests authority to use a test other than the state-provided test to ensure that such local test uses criteria for the early diagnosis of reading deficiencies which are similar to those criteria used in the state-provided test. The Department of Education shall make the state-provided diagnostic test used in this program available to local school divisions. School divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis at a time to be determined by the Superintendent of Public Instruction.

b. These payments shall be based on the state's share of the cost of providing two and one-half hours of additional instruction each week for an estimated number of students in each school division at a student to teacher ratio of five to one. The estimated number of students in each school division in each year shall be determined by multiplying the projected number of students reported in each school division's fall membership in grades kindergarten, 1, 2, and 3 by the percent of students who are determined to need services based on diagnostic tests administered in the previous year in that school division and adjusted in the following manner:

	<b>Year 1</b>	<b>Year 2</b>
Kindergarten	100%	100%
Grade 1	100%	100%
Grade 2	100%	100%
Grade 3	100%	100%

c. These payments are available to any school division that certifies to the Department of Education that an intervention program will be offered to such students and that each student who receives an intervention will be assessed again at the end of that school year. At the beginning of the school year, local school divisions shall partner with the parents of those third grade students in the division who demonstrate reading deficiencies, discussing with them a developed plan for remediation and retesting. Such intervention programs, at the discretion of the local school division, may include, but not be limited to, the use of: special reading teachers; trained aides; full-time early literacy tutors; volunteer tutors under the

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supervision of a certified teacher; computer-based reading tutorial programs; aides to instruct in-class groups while the teacher provides direct instruction to the students who need extra assistance; or extended instructional time in the school day or year for these students. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

d. In the event that a school division does not use the diagnostic test provided by the Department of Education in the year that serves as the basis for updating the funding formula for this program but has used it in past years, the Department of Education shall use the most recent data available for the division for the state-provided diagnostic test.

e. The results of all reading diagnostic tests and reading remediation shall be discussed with the student and the student's parent prior to the student being promoted to grade four.

f. Funds appropriated for Standards of Quality Prevention, Intervention, and Remediation, Remedial Summer School, or At-Risk Add-On may also be used to meet the requirements of this program.

16. Standards of Learning Algebra Readiness Payments

a. An additional payment of ~~\$13,003,937~~ \$13,099,389 the first year and ~~\$13,020,964~~ \$13,061,697 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions for the purposes of providing math intervention services to students in grades 6, 7, 8 and 9 who are at-risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on diagnostic tests which have been approved by the Department of Education. These amounts reflect \$200,000 the first year and \$200,000 the second year apportioned to each school division to account for the cost of the diagnostic test. The Department of Education shall review the tests to ensure that such local test uses state-provided criteria for diagnosis of math deficiencies which are similar to those criteria used in the state-provided test. The Department of Education shall make the state-provided diagnostic test used in this program available to local school divisions. School divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis at a time to be determined by the Superintendent of Public Instruction.

b. These payments shall be based on the state's share of the cost of providing two and one-half hours of additional instruction each week for an estimated number of students in each school division at a student to teacher ratio of ten to one. The estimate number of students in each school division shall be determined by multiplying the projected number of students reported in each school division's fall membership by the percent of students that qualify for the federal Free Lunch Program.

c. These payments are available to any school division that certifies to the Department of Education that an intervention program will be offered to such students and that each student who receives an intervention will be assessed again at the end of that school year. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

17. School Construction Grants Program Escrow

Notwithstanding the requirements of § 22.1-175.5, Code of Virginia, school divisions are permitted to withdraw funds from local escrow accounts established pursuant to § 22.1-175.5 to pay for recurring operational expenses incurred by the school division. Localities are not required to provide a local match of the withdrawn funds.

18. English as a Second Language Payments

A payment of ~~\$62,210,121~~ \$59,957,366 the first year and ~~\$65,479,578~~ \$62,519,408 the second year from the general fund shall be disbursed by the Department of Education to local school divisions to support the state share of 17 professional instructional positions per 1,000 students for whom English is a second language. Local school divisions shall provide a local match based on the composite index of local ability-to-pay.

19. Special Education Instruction Payments

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a. The Department of Education shall establish rates for all elements of Special Education Instruction Payments.				
b. Out of the appropriations in this Item, the Department of Education shall make available, subject to implementation by the Superintendent of Public Instruction, an amount estimated at <del>\$28,004,796</del> \$89,503,626 the first year and <del>\$35,146,571</del> \$100,397,909 the second year from the general fund and <del>\$67,633,790</del> the first year and <del>\$65,930,420</del> the second year from the Lottery Proceeds Fund for the purpose of the state's share of the tuition rates for approved public Special Education Regional Tuition school programs. Notwithstanding any contrary provision of law, the state's share of the tuition rates shall be based on the composite index of local ability-to-pay.				
c. Out of the amounts for Financial Assistance for Categorical Programs, \$35,588,024 the first year and <del>\$35,588,024</del> \$35,660,182 the second year from the general fund is appropriated to permit the Department of Education to enter into agreements with selected local school boards for the provision of educational services to children residing in certain hospitals, clinics, and detention homes by employees of the local school boards. The portion of these funds provided for educational services to children residing in local or regional detention homes shall only be determined on the basis of children detained in such facilities through a court order issued by a court of the Commonwealth. The selection and employment of instructional and administrative personnel under such agreements will be the responsibility of the local school board in accordance with procedures as prescribed by the local school board. State payments for the first year to the local school boards operating these programs will be based on certified expenditures from the fourth quarter of FY 2018 and the first three quarters of FY 2019. State payments for the second year to the local school boards operating these programs will be based on certified expenditures from the fourth quarter of FY 2019 and the first three quarters of FY 2020.				
20. Vocational Education Instruction Payments				
a. It is the intention of the General Assembly that the Department of Education explore initiatives that will encourage greater cooperation between jurisdictions and the Virginia Community College System in meeting the needs of public school systems.				
b. This appropriation includes \$1,800,000 the first year and \$1,800,000 the second year from the Lottery Proceeds Fund for secondary vocational-technical equipment. A base allocation of \$2,000 each year shall be available for all divisions, with the remainder of the funding distributed on the basis of student enrollment in secondary vocational-technical courses. State funds received for secondary vocational-technical equipment must be used to supplement, not supplant, any funds currently provided for secondary vocational-technical equipment within the locality. Local school divisions are not required to provide a local match in order to receive these state funds.				
c.1) This appropriation includes an additional \$2,000,000 the first year and \$2,000,000 the second year from the Lottery Proceeds Fund to update vocational-technical equipment to industry standards providing students with classroom experience that translates to the workforce.				
2) Of this amount, \$1,400,000 the first year and \$1,400,000 the second year is provided for vocational-technical equipment in high-demand, high-skill, and fast-growth industry sectors as identified by the Virginia Board of Workforce Development and based on data from the Bureau of Labor Statistics and the Virginia Employment Commission.				
3) Of this amount, \$600,000 the first year and \$600,000 the second year will be awarded based on competitive innovative program grants for high-demand and fast-growth industry sectors with priority given to state-identified challenged schools, the Governor's Science Technology, Engineering, and Mathematics (STEM) academies, and the Governor's Health Science Academies.				
d. This appropriation includes \$500,000 the first year and \$500,000 the second year from the Lottery Proceeds Fund to support credentialing testing materials for students and professional development for instructors in science, technology, engineering, and mathematics-health sciences (STEM-H) career and technical education programs.				
21. Adult Education Payments				

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State funds shall be used to reimburse general adult education programs on a fixed cost per pupil or cost per class basis. No state funds shall be used to support vocational noncredit courses.

22. General Education Payments

a. This appropriation includes \$2,410,988 the first year and \$2,410,988 the second year from the Lottery Proceeds Fund to support Race to GED. Out of this appropriation, \$465,375 the first year and \$465,375 the second year shall be used for PluggedIn VA.

b. This appropriation includes \$1,387,240 the first year and \$1,387,240 the second year from the Lottery Proceeds Fund to support Project Graduation and any associated administrative and contractual service expenditures related to this initiative.

23. Virtual Virginia Payments

a. From appropriations in this Item, the Department of Education shall provide assistance for the Virtual Virginia program.

b. This appropriation includes \$498,000 the first year and \$498,000 the second year from the general fund to support the Virtual Virginia full-time program for 200 students in grades nine through 12.

c. This appropriation includes \$330,000 the first year and \$330,000 the second year from the general fund to support the virtual mathematics outreach program.

d. The local share of costs associated with the operation of the Virtual Virginia program shall be computed using the composite index of local ability-to-pay.

*e. The Department of Education shall develop a plan to establish a per-student, per-course fee schedule for local school divisions to participate in Virtual Virginia (VVA) coursework for elementary, middle, and high school students. Such fee schedule plan shall provide (i) an allotment of slots, determined by the Department, per course to a school division free of charge, and (ii) for any slots a school division wishes to use beyond the free slots, a per-course, per-student fee that may include discounts for school divisions based upon the composite index of local ability to pay. The department shall also include in its plan the current student participation enrollment by grade level in each VVA course, the number of students enrolled in VVA courses that a fee of any kind is charged and how such fee is currently paid for in each participating school division. The department shall submit its Virtual Virginia Plan to the Chairmen of House Appropriations and Senate Finance Committee upon completion of developing such plan.*

24. Individual Student Alternative Education Program (ISAEP) Payments

Out of this appropriation, \$2,247,581 the first year and \$2,247,581 in the second year from the Lottery Proceeds Fund shall be provided for the secondary schools' Individual Student Alternative Education Program (ISAEP), pursuant to Chapter 488 and Chapter 552 of the 1999 Session of the General Assembly.

25. Foster Children Education Payments

a. An additional state payment is provided from the Lottery Proceeds Fund for the prior year's local operations costs, as determined by the Department of Education, for each pupil of school age as defined in § 22.1-1, Code of Virginia, not a resident of the school division providing his education (a) who has been placed in foster care or other custodial care within the geographical boundaries of such school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children; (b) who has been placed in an orphanage or children's home which exercises legal guardianship rights; or (c) who is a resident of Virginia and has been placed, not solely for school purposes, in a child-caring institution or group home.

b. This appropriation provides ~~\$11,010,422~~ \$9,615,192 the first year and ~~\$11,979,339~~ \$10,387,961 the second year from the Lottery Proceeds Fund to support children attending public school who have been placed in foster care or other such custodial care across jurisdictional lines, as provided by subsections A and B of § 22.1-101.1, Code of Virginia.

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To the extent these funds are not adequate to cover the full costs specified therein, the Department is authorized to expend unobligated balances in this Item for this support.				
26. Sales Tax Payments				
a. This is a sum-sufficient appropriation for distribution to counties, cities and towns a portion of net revenue from the state sales and use tax, in support of the Standards of Quality (Title 22.1, Chapter 13.2, Code of Virginia) (See the Attorney General's opinion of August 3, 1982).				
b. Certification of payments and distribution of this appropriation shall be made by the State Comptroller.				
c. The distribution of state sales tax funds shall be made in equal bimonthly payments at the middle and end of each month.				
d. Included in this appropriation are the accelerated sales tax revenues attributable to §58.1-638 B., D., and F.1., Code of Virginia, and collected pursuant to §3-5.06 of this act.				
27. Adult Literacy Payments				
a. Appropriations in this Item include \$125,000 the first year and \$125,000 the second year from the general fund for the ongoing literacy programs conducted by Mountain Empire Community College.				
b. Out of this appropriation, the Department of Education shall provide \$100,000 the first year and \$100,000 the second year from the general fund for the Virginia Literacy Foundation grants to support programs for adult literacy including those delivered by community-based organizations and school divisions providing services for adults with 0-9th grade reading skills.				
28. Governor's School Payments				
a. Out of the amounts for Governor's School Payments, the Department of Education shall provide assistance for the state share of the incremental cost of regular school year Governor's Schools based on each participating locality's composite index of local ability-to-pay. Participating school divisions must certify that no tuition is assessed to students for participation in this program.				
b.1) Out of the amounts for Governor's School Payments, the Department of Education shall provide assistance for the state share of the incremental cost of summer residential Governor's Schools and Foreign Language Academies to be based on the greater of the state's share of the composite index of local ability-to-pay or 50 percent. Participating school divisions must certify that no tuition is assessed to students for participation in this program if they are enrolled in a public school.				
2) Out of the amounts for Governor's School Payments, \$41,000 the first year and \$41,000 the second year is provided to support the Hanover Regional Summer Governor's School for Career and Technical Advancement, which was established pursuant to Chapter 425, 2014 Acts of Assembly, and Chapter 665, 2015 Acts of Assembly.				
c. For the Summer Governor's Schools and Foreign Language Academies programs, the Superintendent of Public Instruction is authorized to adjust the tuition rates, types of programs offered, length of programs, and the number of students enrolled in order to maintain costs within the available state and local funds for these programs.				
d. It shall be the policy of the Commonwealth that state general fund appropriations not be used for capital outlay, structural improvements, renovations, or fixed equipment costs associated with initiation of existing or proposed Governor's schools. State general fund appropriations may be used for the purchase of instructional equipment for such schools, subject to certification by the Superintendent of Public Instruction that at least an equal amount of funds has been committed by participating school divisions to such purchases.				
e. The Board of Education shall not take any action that would increase the state's share of costs associated with the Governor's Schools as set forth in this Item. This provision shall not prohibit the Department of Education from submitting requests for the increased costs of existing programs resulting from updates to student enrollment for school divisions currently				

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participating in existing programs or for school divisions that begin participation in existing programs.

f.1) Regular school year Governor's Schools are funded through this Item based on the state's share of the incremental per pupil cost for providing such programs for each student attending a Governor's School up to a cap of 1,800 students per Governor's School in the first year and a cap of 1,800 students per Governor's School in the second year. This incremental per pupil payment shall be adjusted for the composite index of the school division that counts such students attending an academic year Governor's School in their March 31 Average Daily Membership. It is the intent of the General Assembly that this incremental per pupil amount be in addition to the basic aid per pupil funding provided to the affected school division for such students. Therefore, local school divisions are encouraged to provide the appropriate portion of the basic aid per pupil funding to the Governor's Schools for students attending these programs, adjusted for costs incurred by the school division for transportation, administration, and any portion of the day that the student does not attend a Governor's School.

2) Students attending a revolving Academic Year Governor's School program for only one semester shall be counted as 0.50 of a full-time equivalent student and will be funded for only fifty percent of the full-year funded per pupil amount. Funding for students attending a revolving Academic Year program will be adjusted based upon actual September 30th and January 30th enrollment each fiscal year. For purposes of this Item, revolving programs shall mean Academic Year Governor's School programs that admit students on a semester basis.

3) Students attending a continuous, non-revolving Academic Year Governor's School program shall be counted as a full-time equivalent student and will be funded for the full-year funded per pupil amount. Funding for students attending a continuous, non-revolving Academic Year Governor's School program will be adjusted based upon actual September 30th student enrollment each fiscal year. For purposes of this Item, continuous, non-revolving programs shall mean Academic Year Governor's School programs that only admit students at the beginning of the school year. Fairfax County Public Schools shall not reduce local per pupil funding for the Thomas Jefferson Governor's School below the amounts appropriated for the 2003-2004 school year.

g. All regional Governor's Schools are encouraged to provide full-day grades 9 through 12 programs.

h. Out of the appropriation included in paragraph C. 39. of this Item, ~~\$568,499~~ \$866,870 the second year from the general fund is provided in the Academic Year Governor's School funding allocation to increase the per pupil amount the second year as an add-on for a compensation supplement payment equal to 3.0 percent of base pay on July 1, 2019, *and for a compensation supplement payment of up to 2.0 percent of base pay on September 1, 2019*, for Academic Year Governor's School instructional and support positions.

29. School Nutrition Payments

It is provided that, subject to implementation by the Superintendent of Public Instruction, no disbursement shall be made out of the appropriation for school nutrition to any locality in which the schools permit the sale of competitive foods in food service facilities or areas during the time of service of food funded pursuant to this Item.

30. School Breakfast Payments

a. Out of this appropriation, ~~\$6,731,771~~ \$6,287,789 the first year and ~~\$7,997,053~~ \$7,439,888 the second year from the Lottery Proceeds Fund is included to continue a state funded incentive program to maximize federal school nutrition revenues and increase student participation in the school breakfast program. These funds are available to any school division as a reimbursement for breakfast meals served that are in excess of the baseline established by the Department of Education. The per meal reimbursement shall be \$0.22; however, the department is authorized, but not required to reduce this amount proportionately in the event that the actual number of meals to be reimbursed exceeds the number on which this appropriation is based so that this appropriation is not exceeded.

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b. In order to receive these funds, school divisions must certify that these funds will be used to supplement existing funds provided by the local governing body and that local funds derived from sources that are not generated by the school nutrition programs have not been reduced or eliminated. The funds shall be used to improve student participation in the school breakfast program. These efforts may include, but are not limited to, reducing the per meal price paid by students, reducing competitive food sales in order to improve the quality of nutritional offerings in schools, increasing access to the school breakfast program, or providing programs to increase parent and student knowledge of good nutritional practices. In no event shall these funds be used to reduce local tax revenues below the level appropriated to school nutrition programs in the prior year. Further, these funds must be provided to the school nutrition programs and may not be used for any other school purpose.

c.1) Out of this appropriation, \$1,074,000 the first year and \$1,074,000 the second year from the general fund is provided to fund an After-the-Bell Model breakfast program available on a voluntary basis to elementary, middle, and high schools where student eligibility for free or reduced lunch exceeds 45.0 percent for the participating eligible school, and to provide additional reimbursement for eligible meals served in the current traditional school breakfast program at all grade levels in any participating school. The Department of Education is directed to ensure that only eligible schools receive reimbursement funding for participating in the After-the-Bell school breakfast model. The schools participating in the program shall evaluate the educational impact of the models implemented that provide school breakfasts to students after the first bell of the school day, based on the guidelines developed by the Department of Education and submit the required report to the Department of Education no later than August 31, 2019 for the 2018-2019 school year and no later than August 31, 2020 for the 2019-2020 school year.

2) The Department of Education shall communicate, through Superintendent's Memo, to school divisions the types of breakfast serving models and the criteria that will meet the requirements for this State reimbursement, which may include, but are not limited to, breakfast in the classroom, grab and go breakfast, or a breakfast after first period. School divisions may determine the breakfast serving model that best applies to its students, so long as it occurs after the instructional day has begun. For the 2018-2019 and 2019-2020 school years, the Department of Education shall monthly transfer to each school division a reimbursement rate of \$0.05 per breakfast meal that meets either of the established criteria in elementary schools and a reimbursement rate of \$0.10 per breakfast meal that meets either of the established criteria in middle or high schools.

3) No later than July 1, 2018 for the 2018-2019 school year and no later than July 1, 2019 for the 2019-2020 school year, the Department of Education shall provide for a breakfast program application process for school divisions with eligible schools, including guidelines regarding specified required data to be compiled from the prior school year or years and for the upcoming school year program. The number of approved applications shall be based on the estimated number of sites that can be accommodated within the approved funding level. The Department of Education shall set criteria for establishing priority should the number of applications from eligible schools exceed the approved funding level. The reporting requirements must include: chronic absenteeism rates, student attendance and tardy arrivals, office discipline referrals, student achievement measures, teachers' and administrators' responses to the impact of the program on student hunger, student attentiveness, and overall classroom learning environment before and after implementation, and the financial impact on the division's school food program. Funded schools that do not provide data by August 31 are subject to exclusion from funding in the following year. The Department of Education shall collect and compile the results of the breakfast program and shall submit the report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1 following each school year.

31. Clinical Faculty and Mentor Teacher Program Payments

This appropriation includes \$1,000,000 the first year and \$1,000,000 the second year from the Lottery Proceeds Fund to be paid to local school divisions for statewide Mentor Teacher Programs to assist pre-service teachers and beginning teachers to make a successful transition into full-time teaching. This appropriation also includes \$318,750 the first year and \$318,750 the second year from the general fund for Clinical Faculty programs to assist pre-service teachers and beginning teachers to make a successful transition into full-time teaching. Such

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programs shall include elements which are consistent with the following:

- a. An application process for localities and school/higher education partnerships that wish to participate in the programs;
- b. For Clinical Faculty programs only, provisions for a local funding or institutional commitment of 50 percent, to match state grants of 50 percent;
- c. Program plans which include a description of the criteria for selection of clinical faculty and mentor teachers, training, support, and compensation for clinical faculty and mentor teachers, collaboration between the school division and institutions of higher education, the clinical faculty and mentor teacher assignment process, and a process for evaluation of the programs;
- d. The Department of Education shall allow flexibility to local school divisions and higher education institutions regarding compensation for clinical faculty and mentor teachers consistent with these elements of the programs; and
- e. It is the intent of the General Assembly that no preference between pre-service or beginning teacher programs be construed by the language in this Item. School divisions operating beginning teacher mentor programs shall receive equal consideration for funding.

32. Career Switcher/Alternative Licensure Payments

Appropriations in this Item include \$279,983 the first year and \$279,983 the second year from the general fund to provide grants to school divisions that employ mentor teachers for new teachers entering the profession through the alternative route to licensure as prescribed by the Board of Education.

33. Virginia Workplace Readiness Skills Assessment

Appropriations in this Item include \$308,655 the first year and \$308,655 the second year from the general fund to provide support grants to school divisions for standard diploma graduates. To provide flexibility, school divisions may use the state grants for the actual assessment or for other industry certification preparation and testing.

34. Early Reading Specialists Initiative

- a. An additional payment of \$1,476,790 the first year and \$1,476,790 the second year from the general fund shall be disbursed by the Department of Education to qualifying local school divisions for the purpose of providing a reading specialist for schools with a third grade that rank lowest statewide on the reading Standards of Learning (SOL) assessments.
- b. These payments shall be based on the state's share of the cost of providing one reading specialist per qualifying school.
- c. These payments are available to any school division with a qualifying school that (1) certifies to the Department of Education that the division has hired a reading specialist to provide direct services to children reading below grade level in the school to improve reading achievement and (2) applies and receives a waiver for up to two years from the Board of Education for the administration of third grade SOL assessments in science or history and social science or both for the purpose of creating additional instructional time for reading specialists to work with students reading below grade level to improve reading achievement.
- d. These payments also are available to any school division with a qualifying school that certifies to the Department of Education that the division is supporting tuition for collegiate programs and instruction for currently employed instructional school personnel to earn the credentials necessary to meet licensure requirements to be endorsed as a reading specialist.
- e. School divisions receiving these payments are required to match these funds based on the composite index of local ability-to-pay.
- f. Within the fiscal year, any funds not awarded from this program may be awarded to

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eligible schools under the Math/Reading Instructional Specialist Initiative.				
35. Math/Reading Instructional Specialist Initiative				
a. Included in this appropriation is \$1,834,538 the first year and \$1,834,538 the second year from the general fund in additional payments for reading or math instructional specialists at underperforming schools. From this amount, the state share of one reading or math specialist shall be provided to local school divisions with schools which rank lowest statewide on the Spring Standards of Learning (SOL) math or reading assessment. Funding for one math or reading specialist during the 2018-2020 biennium shall be based on the results of the Spring 2017 SOL assessments. Such schools shall be eligible to receive the state share of funding for both years of the biennium. If, following certification from a school division that it will not participate in the program, the Department is authorized to identify additional eligible schools based upon the list of schools that rank lowest on the Spring SOL math or reading assessment.				
b. These payments are available to any school division with a qualifying school that certifies to the Department of Education that the division has (1) hired a math or reading instructional specialist, or (2) is supporting tuition for collegiate programs and instruction for currently employed instructional school personnel to earn the credentials necessary to meet licensure requirements to be endorsed as a math specialist or a reading specialist. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.				
c. The Department of Education is authorized to utilize available funding appropriated to the Early Reading Specialist Initiative contained in this Item to pay for instructional specialists at additional eligible schools, or to support tuition for collegiate programs and instruction for currently employed instructional school personnel at additional eligible schools to earn the credentials necessary to meet licensure requirements to be endorsed as an instructional specialist.				
d. Within the fiscal year, any funds not awarded from this program may be awarded to eligible schools under the Early Reading Specialists Initiative.				
36. Broadband Connectivity Capabilities				
By November 1 each year, school divisions shall report to the Department of Education the status of broadband connectivity capability of schools in the division on a form to be provided by the Department. Such report shall include school-level information on the method of Internet service delivery, the level of bandwidth capacity and the degree such capacity is sufficient for delivery of school-wide digital resources and instruction, degree of internet connectivity via Wi-Fi, cost information related to Internet connectivity, data security, and such other pertinent information as determined by the Department of Education. The Department shall provide a summary of the division responses in a report to be made available on its agency Web site.				
37. Supplemental Lottery Per Pupil Allocation Payments				
a. Out of this appropriation, an amount estimated at <del>\$234,670,780</del> \$253,190,472 the first year and <del>\$239,357,235</del> \$255,531,948 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions to support the state share of an estimated <del>\$336.08</del> \$364.15 per pupil the first year and <del>\$341.96</del> \$367.44 per pupil the second year in adjusted March 31 average daily membership. These per pupil amounts are subject to change for the purpose of payment to school divisions based on the actual March 31 ADM collected each year. No locality shall be required to maintain a per pupil expenditure each year from local funds which is greater than the per pupil amount expended by the locality for such purposes in the year upon which the 2016-18 biennial Standards of Quality expenditure data were based.				
b. Of the amounts listed above, school divisions are permitted to spend such funds on both recurring and nonrecurring expenses in a manner that best supports the needs of the schools divisions. No local match is required.				
c. Any lottery funds provided to school divisions from this item that are unexpended as of June 30, 2019, and June 30, 2020, shall be carried on the books of the locality to be appropriated to the school division in the following year.				

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38. Special Education Endorsement Program

a. Notwithstanding § 22.1-290.02, Code of Virginia, out of this appropriation, \$437,186 the first year and \$437,186 the second year from the general fund is provided for traineeships and program operation grants that shall be awarded to public Virginia institutions of higher education to prepare persons who are employed in the public schools of Virginia, state operated programs, or regional special education centers as special educators with a provisional license and enrolled either part-time or full-time in programs for the education of children with disabilities. Applicants shall be graduates of a regionally accredited college or university.

b. The award of such grants shall be made by the Department of Education, and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount awarded for each traineeship shall be \$600 for a minimum of three semester hours of course work in areas required for the special education endorsement to be taken by the applicant during a single semester or summer session. Only one traineeship shall be awarded to a single applicant in a single semester or summer session.

39. Compensation Supplement

a.1) ~~Out of this appropriation, \$130,895,609 the first year and \$218,203,996 the second year from the general fund and \$432,317 the first year and \$720,897 the second year from the Lottery Proceeds Fund is provided for the state share of a payment equivalent to a 3-0 5-0 percent salary incentive increase, effective July 1, 2019; for funded SOQ instructional and support positions. Funded SOQ instructional positions shall include the teacher, guidance counselor, librarian, instructional aide, principal, and assistant principal positions funded through the SOQ staffing standards for each school division in the biennium. This amount includes \$568,499 the first year and \$932,580 the second year from the general fund referenced in paragraph C. 28. h. for the Academic Year Governor's Schools for a 3-0 5-0 percent salary incentive increase, effective July 1, 2019; for instructional and support positions; and this amount includes \$432,317 the first year and \$720,897 the second year from the Lottery Proceeds Fund referenced in paragraph C. 9. f. 4) for Regional Alternative Education Programs for a 3-0 5-0 percent salary incentive increase, effective July 1, 2019; for instructional and support positions.~~

2) It is the intent that the instructional and support position salaries be increased in school divisions throughout the state by at least an average of 3-0 5-0 percent during the 2018-2020 biennium. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of a 3-0 5-0 percent salary increase for funded SOQ instructional and support positions, effective July 1, 2019; to school divisions which certify to the Department of Education, by April 1, 2019, that salary increases of a minimum average of 3-0 5-0 percent have been or will have been provided during the 2018-2020 biennium, either in the first year or in the second year or through a combination of the two years; to instructional and support personnel.

b. ~~This funding is not intended as a mandate to increase salaries.~~

39. Compensation Supplement

a.1) *Out of this appropriation, \$130,305,448 the first year and \$432,516 the second year from the Lottery Proceeds Fund is provided for the state share of a payment equivalent to a 3.0 percent salary incentive increase, effective July 1, 2019, for funded SOQ instructional and support positions. Funded SOQ instructional positions shall include the teacher, guidance counselor, librarian, instructional aide, principal, and assistant principal positions funded through the SOQ staffing standards for each school division in the biennium. This amount includes \$556,869 the second year from the general fund referenced in paragraph C. 28. h. for the Academic Year Governor's Schools for a 3.0 percent salary incentive increase, effective July 1, 2019, for instructional and support positions, and this amount includes \$432,516 the second year from the Lottery Proceeds Fund referenced in paragraph C. 9. f. 4) for Regional Alternative Education Programs for a 3.0 percent salary incentive increase, effective July 1, 2019, for instructional and support positions.*

2) *It is the intent that the instructional and support position salaries be increased in*

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	<p><i>school divisions throughout the state by at least an average of 3.0 percent during the 2018-2020 biennium. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of a 3.0 percent salary increase for funded SOQ instructional and support positions, effective July 1, 2019, to school divisions which certify to the Department of Education, by June 1, 2019, that salary increases of a minimum average of 3.0 percent have been or will have been provided during the 2018-2020 biennium, either in the first year or in the second year or through a combination of the two years, to instructional and support personnel.</i></p>			
	<p><i>b.1) In addition to the compensation provisions in paragraphs C. 39. a.1) and 2), the appropriation in this item includes \$72,536,713 the second year from the general fund and \$240,697 the second year from the Lottery Proceeds Fund for the state share of a payment equivalent to a separate 2.0 percent salary incentive increase, effective September 1, 2019, for funded SOQ instructional and support positions. Funded SOQ instructional positions shall include the teacher, guidance counselor, librarian, instructional aide, principal, and assistant principal positions funded through the SOQ staffing standards for each school division in the biennium. This amount includes \$310,001 the second year from the general fund referenced in paragraph C. 28. h. for the Academic Year Governor's Schools for a separate 2.0 percent salary incentive increase, effective September 1, 2019, for instructional and support positions, and this amount includes the \$240,697 second year from the Lottery Proceeds Fund referenced in paragraph C. 9. f. 4) for Regional Alternative Education Programs for a separate 2.0 percent salary incentive increase, effective September 1, 2019, for instructional and support positions.</i></p>			
	<p><i>2) It is the intent that the instructional and support position salaries be increased in school divisions throughout the state by at least an average of 2.0 percent during the second year, on or before September 1, 2019. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of a 2.0 percent salary increase for funded SOQ instructional and support positions, effective September 1, 2019, to school divisions which certify to the Department of Education, by June 1, 2019, that separate salary increases of a minimum average of 2.0 percent will have been provided in the second year to instructional and support personnel on or before September 1, 2019. For any school division that meets the qualifications for the 3.0 percent Compensation Supplement pursuant to paragraph C.39.a.1) and 2), the separate 2.0 percent salary increase required in the second year by September 1, 2019, must be in addition to the salary increases that made them eligible for the 3.0 percent Compensation Supplement effective July 1, 2019.</i></p>			
	<p><i>3) In order to be eligible to receive the state's share of up to a separate 2.0 percent salary increase in the second year, school divisions must provide up to a 2.0 percent salary increase in the second year effective by September 1, 2019, to instructional and support personnel. School divisions that provide a salary increase in the second year by September 1, 2019, that is less than 2.0 percent shall have the state share of the 2.0 percent Compensation Supplement payment reduced to the same percentage of the actual local salary increase provided. Any salary increase provided by a school division in the first year that was in excess of 3.0 percent prescribed in paragraphs C. 39. a.1) and 2), shall not count toward or be applied toward the local requirements for any portion of the separate 2.0 percent salary increase provided for in the second year. For any school division that is not able to provide a 3.0 percent salary increase over the biennium, such school division would be eligible to receive the state share of funding for up to a 2.0 percent salary increase in the second year for local salary increases provided in the second year by September 1, 2019.</i></p>			
	<p><i>c. In the second year, school divisions are eligible to receive the state's share of funding for up to a total of 5.0 percent salary increase for SOQ-funded instructional and support positions. First, school divisions are eligible to receive the state's share of funding for a 3.0 percent Compensation Supplement, effective July 1, 2019, to school divisions which certify to the Department of Education, by June 1, 2019, that salary increases of a minimum average of 3.0 percent have been or will have been provided during the 2018-2020 biennium, either in the first year or in the second year or through a combination of the two years, to instructional and support personnel. Second, school divisions are eligible to receive the state's share of funding for up to a separate 2.0 percent Compensation Supplement, effective September 1, 2019, to school divisions which certify to the Department of Education, by June 1, 2019, that salary increases of up to 2.0 percent will be provided in the second year by September 1, 2019, to instructional and support personnel. The 2.0 percent Compensation Supplement may</i></p>			

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*be in addition to or in lieu of the 3.0 percent Compensation Supplement.*

*d. This funding is not intended as a mandate to increase salaries.*

40. Small School Division Enrollment Loss Payments

Out of this appropriation, \$6,112,706 the first year from the general fund is allocated to eligible school divisions that have realized and reported to the Department of Education a total of a five percent or more decline in average daily membership from March 31, 2013, to March 31, 2018, with a minimum dollar amount for such eligible school divisions of \$75,000. Such eligible school divisions shall receive an apportioned allocation as specified below:

DIVISION NAME	FY 2019
ALLEGHANY	\$277,068
AMHERST	\$159,179
BATH	\$75,000
BEDFORD	\$343,221
BLAND	\$93,254
BOTETOURT	\$147,129
BRUNSWICK	\$155,111
BUCHANAN	\$209,987
CARROLL	\$288,674
CHARLES CITY	\$75,000
CHARLOTTE	\$91,755
CLARKE	\$75,000
CRAIG	\$75,000
CUMBERLAND	\$75,000
DICKENSON	\$157,259
DINWIDDIE	\$119,359
ESSEX	\$80,965
GRAYSON	\$142,166
GREENSVILLE	\$86,726
HALIFAX	\$299,314
KING & QUEEN	\$75,000
LANCASTER	\$75,000
MADISON	\$75,000
MATHEWS	\$75,000
MECKLENBURG	\$183,246
NELSON	\$75,000
NORTHUMBERLAND	\$75,000
NOTTOWAY	\$114,243
PRINCE EDWARD	\$98,625
PULASKI	\$168,097
RAPPAHANNOCK	\$75,000
RUSSELL	\$256,057
SCOTT	\$136,340
SMYTH	\$241,110
SURRY	\$75,000
SUSSEX	\$75,000
TAZEWELL	\$342,700
WYTHE	\$108,477
BUENA VISTA	\$75,000
DANVILLE	\$260,493
MARTINSVILLE	\$131,417

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NORTON				\$75,000
PETERSBURG				\$145,734
FRANKLIN CITY				\$75,000
<b>TOTAL</b>				<b>\$6,112,706</b>

41. Virginia Preschool Initiative Plus

Out of this appropriation, \$6,139,559 the second year from the general fund is provided to sustain approximately 1,530 student slots of high quality preschool for at risk four year olds within the 13 divisions that participate in the federally-funded Preschool Development Grant program known as Virginia Preschool Initiative Plus. These school divisions shall be responsible for ensuring that all such slots meet expectations set forth in the Department of Education's November 2018 Plan to Ensure High-Quality Instruction in All Virginia Preschool Initiative Classrooms, submitted to the General Assembly pursuant to paragraph C.14.j. of this Item. In fiscal year 2020, a local match based on a local composite index match of 0.4000, or a local match based on the division's actual composite index of local ability-to-pay if that is lower than 0.4000, is required. Beginning in fiscal year 2021, a local match based on a local composite index match of 0.5000, or a local match based on the division's actual composite index of local ability-to-pay if that is lower than 0.5000, is required.

137.	Federal Education Assistance Programs (17900).....		\$1,066,525,233	\$1,066,525,233
	Federal Assistance to Local Education Programs (17901).....	\$1,066,525,233	\$1,066,525,233	
	Fund Sources: Federal Trust.....	\$1,066,525,233	\$1,066,525,233	

Authority: PL 107-110, PL 108-446, PL 105-332, PL 105-220, PL 105-220, Federal Code.

a. The appropriation to support payments to school divisions from federal program grant funds is contained in this Item. Such federal program grant funds are based on the latest estimates available to the Department of Education and are provided here for informational purposes and are subject to change within each state fiscal year by the awarding federal agency. The Department of Education is directed to update the estimated federal program grant fund amounts contained in the table in this item on a periodic basis throughout the biennium.

b. The Department of Education will encourage localities to apply for Medicaid reimbursements for eligible special education expenditures which will help to increase available state and local funding for other educational activities and expenditures.

c. It is the intent of the General Assembly that in any fiscal year when revenues received or budgeted by the Commonwealth, applicable to any public education program, which were derived from a federally funded grant or program and subsequently realize a decrease in such funding levels, that the Commonwealth will not supplant any of the decreased federal funding received or budgeted with any general fund revenues from the Commonwealth.

Item Details of Federal Education Assistance Program Awards (17900)	FY 2019	FY 2020
Project AWARE and YMHFA	\$1,948,697	\$0
School Nutrition - Breakfast, Lunch, Special Milk	\$348,354,872	\$369,078,569
School Nutrition - Summer Food Service Program and After School At-risk Program	\$14,250,000	\$14,250,000
Fresh Fruit and Vegetables	\$4,714,061	\$4,714,061
Child Nutrition Programs Team Nutrition	\$498,010	\$498,010
Special Education - Program Improvement	\$1,524,000	\$1,524,000
Special Education - IDEA - Part B Section 611	\$291,082,767	\$291,082,767
Special Education - IDEA - Part B	\$8,863,495	\$8,863,495

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Section 619 - Preschool				
Federal Preschool Expansion Grant (VPI)	\$18,775,000			\$0
Migration Education - Basic Grant	\$945,262			\$945,262
Migrant Education - Consortium Incentive Grants	\$133,333			\$133,333
Title I - Neglected & Delinquent Children	\$1,263,459			\$1,263,459
Title I Part A - Improving Basic Programs	\$254,532,699			\$254,532,699
Title II Part A - Improving Teacher Quality	\$36,500,579			\$36,500,579
Title III Part A - Language Acquisition State Grant	\$12,743,264			\$12,743,264
Title IV Part A - Student Support and Academic Enrichment Grant	\$6,969,326			\$6,969,326
Title IV Part B - 21st Century Community Learning Centers	\$20,507,430			\$20,507,430
Title VI - Rural and Low-Income Schools	\$2,242,591			\$2,242,591
Adult Literacy	\$12,880,748			\$12,880,748
Vocational Education - Basic Grant	\$24,254,182			\$24,254,182
School Climate Transformation	\$707,941			\$707,941
Education for Homeless Children and Youth	\$1,309,517			\$1,309,517
Empowering Educators through a Systems Approach	\$1,524,000			\$1,524,000
<b>Total</b>	<b>\$1,066,525,233</b>			<b>\$1,066,525,233</b>
Total for Direct Aid to Public Education.....			<b>\$8,081,924,183</b>	<b>\$8,255,961,922</b>
			<b>\$8,071,986,332</b>	<b>\$8,351,607,378</b>
Fund Sources: General.....	\$6,273,121,194	\$6,451,298,933		
	\$6,258,717,882	\$6,516,907,074		
Special.....	\$895,000	\$895,000		
Commonwealth Transportation.....	\$2,100,000	\$2,100,000		
Trust and Agency.....	\$739,282,756	\$735,142,756		
	\$743,748,217	\$765,180,071		
Federal Trust.....	\$1,066,525,233	\$1,066,525,233		
Grand Total for Department of Education, Central Office Operations.....			<b>\$8,189,539,351</b>	<b>\$8,363,577,090</b>
			<b>\$8,180,651,500</b>	<b>\$8,472,745,909</b>
General Fund Positions.....	144.00	<del>144.00</del> 149.00		
Nongeneral Fund Positions.....	185.50	185.50		
Position Level.....	329.50	<del>329.50</del> 334.50		
Fund Sources: General.....	\$6,334,418,381	\$6,512,596,120		
	\$6,320,665,069	\$6,581,426,676		
Special.....	\$6,054,353	\$6,054,353		
Commonwealth Transportation.....	\$2,370,419	\$2,370,419		
Trust and Agency.....	\$739,562,319	\$735,422,319		
	\$744,427,780	\$765,859,634		
Federal Trust.....	\$1,107,133,879	<del>\$1,107,133,879</del> \$1,117,034,827		

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138.	Instruction (19700).....			\$5,676,303	\$5,676,303
	Classroom Instruction (19701).....	\$5,476,043	\$5,476,043		
	Occupational-Vocational Instruction (19703).....	\$158,065	\$158,065		
	Outreach and Community Assistance (19710).....	\$42,195	\$42,195		
	Fund Sources: General.....	\$4,748,128	\$4,748,128		
	Special.....	\$135,239	\$135,239		
	Federal Trust.....	\$792,936	\$792,936		
	Authority: §§ 22.1-346 through 22.1-349, Code of Virginia.				
139.	Residential Support (19800).....			\$5,092,349	\$5,092,349
	Food and Dietary Services (19801).....	\$449,885	\$449,885		
	Medical and Clinical Services (19802).....	\$403,650	\$403,650		
	Physical Plant Services (19803).....	\$2,100,276	\$2,100,276		
	Residential Services (19804).....	\$1,784,204	\$1,784,204		
	Transportation Services (19805).....	\$354,334	\$354,334		
	Fund Sources: General.....	\$4,949,636	\$4,949,636		
	Special.....	\$104,220	\$104,220		
	Federal Trust.....	\$38,493	\$38,493		
	Authority: Title 22.1, Chapter 19, Code of Virginia.				
140.	Administrative and Support Services (19900).....			\$1,321,520	\$1,321,520
	General Management and Direction (19901).....	\$1,321,520	\$1,321,520		
	Fund Sources: General.....	\$1,086,326	\$1,086,326		
	Special.....	\$181,724	\$181,724		
	Federal Trust.....	\$53,470	\$53,470		
	Authority: Title 22.1, Chapter 19, Code of Virginia.				
	Notwithstanding any other provision of law, the Virginia School for the Deaf and Blind is authorized to retain the income generated by the rental of facilities on the Staunton campus to outside entities.				
	Total for Virginia School for the Deaf and the Blind...			<b>\$12,090,172</b>	<b>\$12,090,172</b>
	General Fund Positions.....	185.50	185.50		
	Position Level.....	185.50	185.50		
	Fund Sources: General.....	\$10,784,090	\$10,784,090		
	Special.....	\$421,183	\$421,183		
	Federal Trust.....	\$884,899	\$884,899		
<b>§ 1-52. STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA (245)</b>					
141.	Higher Education Student Financial Assistance (10800).....			\$82,587,332	<del>\$84,708,559</del> \$92,448,559
	Scholarships (10810).....	\$82,397,332	<del>\$84,518,559</del> \$92,258,559		
	Regional Financial Assistance for Education (10813).	\$190,000	\$190,000		
	Fund Sources: General.....	\$82,327,332	<del>\$84,448,559</del> \$92,188,559		
	Special.....	\$10,000	\$10,000		
	Dedicated Special Revenue.....	\$250,000	\$250,000		
	Authority: Title 23.1, Chapter 6, Code of Virginia, Regional Grants and Contracts: Discretionary Inclusion; Undergraduate and Graduate Assistance: Discretionary Inclusion				
	A. Appropriations in this Item are subject to the conditions specified in paragraphs B, C, D, E, F, G, and H hereof.				

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<p>B. Those private institutions which participate in the programs provided by the appropriations in this Item shall, upon request by the State Council of Higher Education, submit financial and other information which the Council deems appropriate.</p>				
<p>C. Out of the amounts for Scholarships the following sums shall be made available for:</p>				
<p>1. Tuition Assistance Grant Program, \$65,812,665 the first year and <del>\$67,598,303</del> \$71,098,303 the second year from the general fund is designated for full-time undergraduate and graduate students.</p>				
<p>2. a. Virginia Space Grant Consortium Scholarships, \$795,000 the first year and \$795,000 the second year from the general fund.</p>				
<p>b. Out of the amounts included in this item, \$100,000 the first year and \$100,000 the second year from the general fund shall be provided to the Virginia Space Grant Consortium (VSGC) to provide scholarships for select high school students to participate in immersive ground and flight training through the solo experience as a step in addressing the critical pilot shortage. The VSGC shall work with Averett University and Liberty University to provide two sessions of its New Horizons solo academy giving 30 high school students the opportunity to accomplish their first solo flight.</p>				
<p>3. Out of this appropriation, \$20,000 the first year and \$20,000 the second year from the general fund is designated to provide grants of up to \$5,000 per year for Virginia students who attend schools and colleges of optometry. Each student receiving a grant shall agree to set up practice in the Commonwealth for a period of not less than two years upon completion of instruction.</p>				
<p>4. No amount, or part of an amount, listed for any program specified under paragraph C shall be expended for any other program in this appropriation.</p>				
<p>D. Tuition Assistance Grant Program</p>				
<p>1. Payments to students out of this appropriation shall not exceed \$3,300 the first year and <del>\$3,350</del> \$3,400 the second year for qualified undergraduate students and \$2,200 the first year and \$2,200 the second year for qualified graduate and medical students attending not-for-profit, independent institutions in accordance with § 23.1-628 through § 23.1-635, Code of Virginia. However, for those undergraduate students pursuing a career in teaching, payments shall be increased by an additional \$500 in their senior year.</p>				
<p>2. The private institutions which participate in this program shall, during the spring semester previous to the commencement of a new academic year or as soon as a student is admitted for that year, whichever is later, notify their enrolled and newly admitted Virginia students about the availability of tuition assistance awards under the program. The information provided to students and their parents must include information about the eligibility requirements, the application procedures, and the fact that the amount of the award is an estimate and is not guaranteed. The number of students applying for participation and the funds appropriated for the program determine the amount of the award. Conditions for reduction of award amount and award eligibility are described in this Item and in the regulations issued by the State Council of Higher Education. The institutions shall certify to the council that such notification has been completed and shall indicate the method by which it was carried out.</p>				
<p>3. Institutions participating in this program must submit annually to the council copies of audited financial statements.</p>				
<p>4. To be eligible for a fall or full-year award out of this appropriation, a student's application must have been received by a participating independent college or by the State Council of Higher Education by July 31. Returning students who received the award in the previous year will be prioritized with the July 31 award. Applications for a fall or full-year award received after July 31 but no later than September 14 will be held for consideration if funds are available after July 31 and returning student awards have been made. Applications for spring semester only awards must be received by December 1 and will be considered only if funds remain available.</p>				
<p>5. No limitations shall be placed on the award of Tuition Assistance Grants other than</p>				

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	those set forth herein or in the Code of Virginia.			
	6. All eligible institutions not previously approved by the State Council of Higher Education to participate in the Tuition Assistance Grant Program shall have received accreditation by a nationally recognized regional accrediting agency, prior to participation in the program or by the Commission on Osteopathic College Accreditation of the American Osteopathic Association in the case of freestanding institutions of higher education that offer the Doctor of Osteopathic Medicine as the sole degree program.			
	7. Payments to undergraduate students shall be greater than payments to graduate and medical students and shall be based on a differential established by the State Council of Higher Education for Virginia.			
	8. No awards shall be provided to graduate students except in health-related professional programs to include allied health, nursing, pharmacy, medicine, and osteopathic medicine. <del>Notwithstanding application deadlines contained in the Virginia Administrative Code for the Tuition Assistance Grant program, provided that the institution has received accreditation by the Liaison Committee on Medical Education, the Virginia Tech - Carilion School of Medicine shall be deemed eligible to participate in the Tuition Assistance Grant program.</del>			
	9. Notwithstanding any other provisions of law, Eastern Virginia Medical School is not eligible to participate in the Tuition Assistance Grant Program.			
	10. Any general fund appropriation in the Tuition Assistance Grant Program which is unexpended at the close of business June 30 of any fiscal year shall be reappropriated for use in the program in the following year.			
	E.1. Regional Grants and Contracts: Out of this appropriation, \$170,000 the first year and \$170,000 the second year from the general fund is designated to support Virginia's participation in the Southern Regional Education Board initiative to increase the number of minority doctoral graduates.			
	2. The amounts listed in paragraph E.1 shall be expended in accordance with the agreements between the Commonwealth of Virginia and the Southern Regional Education Board.			
	F.1. Out of this appropriation, \$1,980,000 the first year and \$1,980,000 the second year from the general fund is designated to support the Virginia Military Survivors and Dependents program, § 23.1-608, Code of Virginia, to provide up to a \$2,200 annual stipend to offset the costs of room, board, books and supplies for qualified survivors and dependents of military service members.			
	2. The amount of the stipend is an estimate depending on the number of students eligible under § 23.1-608, Code of Virginia. Changes that increase or decrease the grant amount shall be determined by the State Council of Higher Education for Virginia.			
	3. The Director, State Council of Higher Education for Virginia, shall allocate these funds to public institutions of higher education on behalf of students qualifying under this provision.			
	4. Each institution of higher education shall report the number of recipients for this program to the State Council of Higher Education for Virginia by April 1 of each year. The State Council of Higher Education for Virginia shall report this information to the Chairmen of the House Appropriations and Senate Finance Committees by May 15 of each year.			
	5. The Department of Veterans Services shall consult with the State Council of Higher Education for Virginia prior to the dissemination of any information related to the financial benefits provided under this program.			
	G.1. Out of the appropriation for this Item, \$3,549,667 the first year and \$3,885,256 the second year from the general fund is designated to support the Two-Year College Transfer Grant Program.			
	2. The State Council of Higher Education for Virginia shall disburse these funds for full-time students consistent with § 23.1-623 through § 23.1-627, Code of Virginia. Beginning with students who are entering a senior institution as a two-year transfer student for the first time in the fall 2013 academic year, and who otherwise meet the eligibility criteria of § 23.1-624, Code of Virginia, the maximum EFC is raised to \$12,000.			

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	<b>FY2019</b>	<b>FY2020</b>	<b>FY2019</b>	<b>FY2020</b>

3. The actual amount of the award depends on the number of students eligible under § 23.1-623 through § 23.1-627, Code of Virginia. Changes that decrease the grant amount shall be determined by the State Council of Higher Education for Virginia.

4. Out of this appropriation, up to \$600,000 the first year and \$600,000 the second year from the general fund is designated to support students eligible for the first time under § 23.1-623 through § 23.1-627, Code of Virginia. The State Council of Higher Education for Virginia shall transfer these funds to Norfolk State University, Old Dominion University, Radford University, University of Virginia's College at Wise, Virginia Commonwealth University and Virginia State University so that each institution can provide for grants of \$1,000 from these funds for these students.

a. Each institution shall award grants from these funds for one year and students shall not receive subsequent awards until they have satisfied the requirements to move to the next class level. Each recipient may receive a maximum of one year of support per class level for a maximum total of two years of support.

b. Any balances remaining from the appropriation identified in paragraph G.4 shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to the State Council of Higher Education for Virginia to support the purposes specified in paragraphs G.1. and G.4 in the subsequent fiscal year.

c. It is anticipated that the institutions shift by a total of 600 the number of students each enrolls from first time freshman to transfers eligible under § 23.1-623 through § 23.1-627, Code of Virginia. Institutional goals under this fund are estimated as follows:

<b>Institution</b>	<b>Transfer Target</b>
Norfolk State University	80
Old Dominion University	140
Radford University	140
University of Virginia's College at Wise	20
Virginia Commonwealth University	140
Virginia State University	80

d. The State Council of Higher Education for Virginia may allocate these funds among the institutions in Paragraph G.4.c as necessary to meet the actual number of transfers each institution generates for students eligible for the first time under § 23.1-623 through § 23.1-627, Code of Virginia. Each institution shall report its progress toward the targets in Paragraph G.4.c to the Chairmen of the House Appropriations and Senate Finance Committees by May 1 each year.

e. The report shall include a detailed accounting of the use of the funds provided and a plan for achieving the goals identified in this item.

H. 1. Out of this appropriation, \$9,500,000 the first year and ~~\$9,500,000~~ \$13,500,000 the second year from the general fund is designated for the New Economy Workforce Credential Grant Program.

2. The State Council of Higher Education for Virginia shall develop guidelines for the program, collect data, evaluate and approve grant funds for allocation to eligible institutions.

3. Local community colleges shall not start new workforce programs that would duplicate existing high school and adult Career and Technical Education (CTE) programs for high-demand occupations in order to receive funding under this Grant.

4. *No more than 25 percent of Grant funds may be used in one occupational field.*

I. Out of this appropriation, \$500,000 each year from the general fund is designated for the Cybersecurity ~~Student Loan Repayment~~ *Public Service* Grant Program (the Program) as a public-private initiative for the purpose of attracting to and retaining in qualified employment talented recent graduates and veterans to meet qualified employers' growing demand for cybersecurity professionals. The Program shall provide renewable grants of up

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<p>to \$20,000 of matching state and employer funds on a competitive basis to an individual who (i) either (a) graduated within the past year from a <i>Virginia</i> public institution of higher education or regionally accredited <i>Virginia</i> private institution of higher education with an undergraduate or graduate degree in computer science or another academic program recognized by the Council to prepare an individual for a career in cybersecurity and who resides in the Commonwealth or (b) has served on active duty in the Armed Forces of the United States, was discharged or released within the past year from such service under conditions other than dishonorable, gained experience or received training in computer science during such service, and resides in the Commonwealth and (ii) accepts an offer of employment in a computer science position with any federal, <del>or</del> state, <i>or local government</i> organization, including any federal or state military or defense organization, that is located in the Commonwealth or any private organization that contractually provides cybersecurity services for any such federal, <del>or</del> state, <i>or local</i> organization and that is located in the Commonwealth. The State Council of Higher Education for Virginia shall administer and award grants pursuant to the Program and shall adopt regulations relating to recent graduate and veteran eligibility and academic or job qualifications, the application process, and identification and prioritization of qualified employers and qualified employment and may adopt such other regulations for the administration of the Program as it deems necessary. <i>Recipients of the former Cybersecurity Public Service Scholarship may fulfill that program's employment commitment utilizing the employer description contained herein at the rate of one year of service for each year of award received.</i></p> <p>J. 1. The State Council of Higher Education for Virginia shall work with representatives of the higher education institutions receiving state financial aid or whose students receive tuition assistance grants and review the financial aid award letters utilized by these institutions by November 1, 2017. During this review, the Council shall identify opportunities for improvement as well as best practices for, but not limited to, clarity and completeness of the information provided on gift aid as well as student's responsibility regarding student loans or work-study, student's ability to compare financial aid award packages among these institutions to make informed financial choices, and the conditions under which these awards or outstanding balance might change.</p> <p>2. The Council shall then develop and implement award letter policies so that the following information is available to the student (1) a breakdown of the components of the institution's cost of attendance, designating billable charges; (2) a clear identification of each award, indicating the type of aid; (3) the use of standardized terminology consistent with the National Association of Student Financial Aid Administrators (NASFAA); and (4) whether awards are conditional and renewal requirement criteria information.</p> <p>3. The Council shall report its findings and provide a status report on the implementation of the policy and process changes to the House Appropriations and Senate Finance Committees by December 1, 2018.</p> <p><i>K. 1. The State Council of Higher Education for Virginia, in consultation from representatives from House Appropriations Committee, Senate Finance Committee, Department of Planning and Budget, Secretary of Finance and Secretary of Education, as well as representatives of public higher education institutions, shall review financial aid funding models and awarding practices.</i></p> <p><i>2. The Council shall review current and prospective financial aid funding models including, but not limited to, how the various models determine individual and aggregate student financial need, the recommended state portion of meeting that need, how funding is most efficiently and effectively allocated among the institutions, how financial aid allocations can be aligned with other funding for higher education and how these funds are used to address student affordability and completion of a degree. The review shall also assess how the utilization of tuition and fee revenue for financial aid, pursuant to the Top Jobs Act, prioritizes and addresses affordability for low- and middle-income students.</i></p> <p><i>3. By November 1, 2019, the Council shall submit a report and any related recommendations to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees.</i></p> <p><i>L. 1. Out of this appropriation, \$240,000 the second year from the general fund is designated for the Grow Your Own Teacher pilot program to provide scholarships to low-income high</i></p>				

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*school graduates who are committed to attend a baccalaureate institution of higher education in the Commonwealth and to subsequently teach in high-need public schools in the school divisions in which they graduated from high school.*

*2. The State Council of Higher Education for Virginia (SCHEV), in collaboration with the Virginia Department of Education, shall establish a process by which local school boards may apply for grants to establish Grow Your Own Teacher Pilot Programs to provide a scholarship not to exceed \$7,500 per academic year for attendance at a baccalaureate institution of higher education in the Commonwealth for individuals who (i) graduated from a public high school in the local school division; (ii) were eligible for free or reduced price lunch throughout the individual's attendance at a public high school in the local school division; and (iii) commit to teach, within one year of graduating from the baccalaureate institution of higher education in the Commonwealth and for a period of at least four years, at a public high school at which at least 50 percent of students qualify for free or reduced price lunch in the school division in which such individual graduated from high school. In developing such process, SCHEV will ensure that at least one school division within each of the eight superintendent regions, applying for such grants, be awarded prior to awarding grants to multiple school divisions within a single superintendent region. Each superintendent region shall be permitted to apply for up to four tuition grant awards. SCHEV is authorized to offer and award any remaining unallotted awards to other applying school divisions within a superintendent region.*

*3. In the event that any scholarship recipient fails or refuses to comply with the teaching obligation under paragraph L.2. (iii) the sum of all scholarship funds received by such individual shall be converted to a loan that is subject to repayment with interest (i) that begins to accrue 90 days after the date that the scholarship recipient graduates from or fails to maintain continuous enrollment at the baccalaureate institution of higher education and (ii) at a rate that does not exceed 5.5 percent per annum.*

142.	Financial Assistance For Educational and General Services (11000).....			\$75,000	\$75,000
	Outstanding Faculty Recognition (11009).....	\$75,000	\$75,000		
	Fund Sources: Special.....	\$75,000	\$75,000		

Authority: Outstanding Faculty Recognition Program: Discretionary Inclusion.

Outstanding Faculty Recognition Program

1. The State Council of Higher Education for Virginia shall annually provide a grant to faculty members selected to be honored under this program from such private funds as may be designated for this purpose.

2. The faculty members shall be selected from public and private institutions of higher education in Virginia, but recipients of Outstanding Faculty Recognition Awards shall not be eligible for the awards in subsequent years.

143.	Higher Education Academic, Fiscal, and Facility Planning and Coordination (11100).....			\$16,861,435	\$17,205,107 \$18,530,107
	Higher Education Coordination and Review (11104).....	\$6,029,446	\$6,058,118 \$7,383,118		
	Regulation of Private and Out-of-State Institutions (11105).....	\$1,251,727	\$1,251,727		
	Institutional Program Support (11107).....	\$9,580,262	\$9,895,262		
	Fund Sources: General.....	\$15,459,708	\$15,803,380 \$17,128,380		
	Special.....	\$1,211,727	\$1,211,727		
	Trust and Agency.....	\$190,000	\$190,000		

Authority: § 23.1-200, § 23.1-203, § 23.1-1107, § 23.1-629.

A. 1. It is the intent of the General Assembly to provide general fund support to contract at a level equivalent to the Tuition Assistance Grant undergraduate award with Mary

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Baldwin University for Virginia women resident students to participate in the Virginia Women's Institute for Leadership at Mary Baldwin University.				
2. The amounts included in this Item are \$307,899 the first year and \$307,899 the second year from the general fund for the programmatic administration of this program.				
3. General fund appropriations provided under this contract include financial incentive for the participating students at Mary Baldwin University in the Virginia Women's Institute for Leadership Program. Students receiving this financial incentive will not be eligible for Tuition Assistance Grants.				
4. By September 1 of each year, Mary Baldwin University shall report to the Chairmen of the House Appropriations and Senate Finance Committees, the Director, State Council of Higher Education for Virginia, and the Director, Department of Planning and Budget, on the number of students participating in the Virginia Women's Leadership Program, the number of in-state and out-of-state students receiving awards, the amount of the awards, the number of students graduating, and the number of students receiving commissions in the military.				
B. In discharging the responsibilities specified in § 23.1-219, Code of Virginia, the State Council of Higher Education for Virginia shall provide exemptions to individual proprietorships, associations, co-partnerships or corporations which are now or in the future will be using the words "college" or "university" in their training programs solely for their employees or customers, which do not offer degree-granting programs, and whose name includes the word "college" or "university" in a context from which it clearly appears that such entity is not an educational institution.				
C. Out of the appropriation for Higher Education Coordination and Review, \$8,847,363 the first year and \$9,162,363 the second year from the general fund is provided for continuation of the Virtual Library of Virginia. Funding for the Virtual Library of Virginia is provided for the benefit of students and faculty at the Commonwealth's public institutions of higher education and participating nonprofit, independent private colleges and universities. Out of this amount, \$421,946 the first year and \$436,946 the second year is earmarked to allow the participation of nonprofit, independent private colleges and universities.				
D. Out of this appropriation, \$950,366 and ten positions the first year and \$950,366 and ten positions the second year from nongeneral funds is provided to support higher education coordination and review services, including expenses incurred in the regulation and oversight of the private and out-of-state postsecondary institutions and proprietary schools operating in Virginia. These funds will be generated through fee schedules developed pursuant to § 23.1-224, Code of Virginia. Out of this amount, \$190,000 the first year and \$190,000 the second year from nongeneral funds is designated to administration of the Student Tuition Guarantee Fund.				
E. The State Council of Higher Education for Virginia, in consultation with the House Appropriations Committee, the Senate Finance Committee, the Department of General Services, and the Department of Planning and Budget, shall develop a six-year capital outlay plan for higher education institutions including affiliated entities. As a part of this plan SCHEV shall consider (i) current funding mechanisms for capital projects and improvements at the Commonwealth's institutions of higher education, including general obligation bonds and other viable funding methods; (ii) mechanisms to assist private institutions of higher education in the Commonwealth with their capital needs.				
F. The Executive Director, State Council of Higher Education for Virginia, may appoint an advisory committee to assist the council with technology-enriched learning initiatives. The advisory committee may assist the council in (i) developing innovative, cost-effective, technology-enriched teaching and learning initiatives, including distance and distributed learning initiatives; (ii) improving cooperation among and between the public and private institutions of higher education in the Commonwealth; (iii) improving efficiency and expand the availability of technology-enriched courses; and (iv) facilitating the sharing of research and experience to improve student learning.				
G. The State Council of Higher Education for Virginia shall include Eastern Virginia Medical School in any calculations used to determine the funding requirements for state medical schools.				

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H. In addition to the reviews conducted under § 23.1-206 and § 23.1-306, Code of Virginia, the State Council of Higher Education shall evaluate the progress of individual initiatives funded in this act as part of the incentive funding provided to colleges and universities with regard to improvements in retention, graduation, degree production and other criteria the Council deems appropriate.				
I. Out of this appropriation, \$160,295 the first year and \$160,295 the second year from the general fund is designated to support research and analysis and the enhancement of consumer information regarding higher education.				
J. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from the general fund is designated to support initiatives related to the statewide plan for higher education and to help implement the recommendations of the Joint Legislative Audit and Review Commission's series of higher education reports.				
K. Out of this appropriation, \$330,687 the first year and \$330,687 the second year from the general fund is designated to support research and analysis and the administration of a multi-agency longitudinal data system to improve consumer information and policy recommendations.				
L. Out of this appropriation, \$225,000 the first year and \$225,000 the second year from the general fund is designated to establish and maintain a fund for excellence and innovation. The fund is designed to stimulate collaboration among public school divisions, community colleges and universities to create and expand affordable student pathways and to pursue shared services and other efficiency initiatives at colleges and universities that lead to measurable cost reductions. Grants will be awarded on a competitive basis, with eligibility criteria determined by the State Council of Higher Education for Virginia.				
M. Out of this appropriation, \$514,031 the first year and \$534,036 the second year from the general fund is designated for development of the Commonwealth Research and Technology Strategic Roadmap as well as support for the Virginia Research Investment Committee and Fund as established in Chapter 775, 2016 Acts of Assembly.				
N. Out of this appropriation, \$115,333 and one position the first year and \$124,000 and one position the second year from the general fund is designated for the establishment of a student loan ombudsman to provide timely assistance to student borrowers of any student education loan in the Commonwealth. The ombudsman will also be responsible for establishing and maintaining an online student loan borrower education course, which would cover key loan terms, documentation requirements, monthly payment obligations, income-based repayment options, loan forgiveness, and disclosure requirements.				
O. 1. Out of this appropriation, \$200,000 the first year and <del>\$200,000 the second year</del> from the general fund is designated for an internship pilot program. The funding is designed to stimulate public colleges and universities to develop partnerships to provide innovative internship programs for their students. Grants will be awarded on a competitive basis to Virginia public colleges and universities, with eligibility criteria determined by the State Council of Higher Education for Virginia. To be eligible for a grant a Virginia public college or university must have at least one private sector partner and the state grant shall be matched equally by the partner with non-state funding.				
2. Applications by institutions of higher education shall describe how the proposed internship grants will be used to accomplish one or more of the following goals: (i) support the strategic objectives of the Commonwealth of Virginia regarding designated workforce needs; (ii) support the strategic objectives of the Commonwealth of Virginia regarding research and research commercialization in sectors and clusters targeted for development; (iii) support regional economic growth and diversification plans; (iv) enhance the job readiness and access of students by providing valuable workplace experience as a member of a team addressing real problems and building skills that employers seek; and (v) reduce the amount of educational loan debt that students will incur without lengthening the course of study leading to a degree or industry-recognized credential.				
3. a. Out of this appropriation, \$700,000, the second year from the general fund is designated for an internship program. The funding is designed to expand paid or credit-				

ITEM 143.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>bearing student internship and other work-based learning opportunities in collaboration with Virginia employers. The Program comprises institutional grants and a statewide initiative to facilitate the readiness of students, employers, and institutions of higher education to participate in internship and other work-based learning opportunities.</p> <p>b. In administering the statewide initiative, the Council shall (i) engage stakeholders from business and industry, secondary and higher education, economic development, and state agencies and entities that are successfully engaging employers or successfully operating internship programs; (ii) explore strategies in Virginia and elsewhere on successful institutional, regional, statewide or sector-based internship programs; (iii) gather data on current institutional internship practices, scale, and outcomes; (iv) develop internship readiness educational resources, delivery methods, certification procedures, and outreach and awareness activities for employer partners, students, and institutional career development personnel; (v) pursue shared services or other efficiency initiatives, including technological solutions; and (vi) create a process to track key measures of performance.</p> <p>c. The Council shall establish eligibility criteria, including requirements for matching funds, for institutional grants. Such grants shall be used to accomplish one or more of the following goals: (i) support state or regional workforce needs; (ii) support initiatives to attract and retain talent in the Commonwealth; (iii) support research and research commercialization in sectors and clusters targeted for development; (iv) support regional economic growth and diversification plans; (v) enhance the job readiness of students; (vi) enhance higher education affordability and timely completion for Virginia students; or (vii) further the objectives of increasing the tech talent pipeline.</p> <p>P. As part of the biennial six-year financial plan required in the provisions of § 23.1-306, Code of Virginia, each public four-year institution of higher education, Richard Bland College, and the Virginia Community College System shall include in its six-year plan submitted to the State Council of Higher Education for Virginia (SCHEV) a tuition and fee transparency and predictability plan for in-state undergraduate students. Such tuition and fee predictability plans shall be for a period of not less than three years and must cover at least tuition and mandatory educational and general fees. Plans shall include a percentage and dollar increase or decrease of any size the institution determines to be appropriate from one year to the next or for the entire duration covered by the plan. Plans shall indicate a range of tuitions based upon available state resources, but must contain a scenario that includes the assumption of no new state general fund support. SCHEV shall develop instructions related to the submission of such plans in conjunction with the six-year financial plans as required by § 23.1-306, Code of Virginia.</p> <p>Q. Out of this appropriation \$750,000 in the second year from the general fund is designated for the administration of a one-time survey of graduates of public institutions of higher education. The survey shall be designed to enable Virginia to answer fundamental questions about the value and impact of undergraduate education and complement existing research on wages of college graduates derived from the Virginia Longitudinal Data System. The results of the survey may be used to guide future policy decisions in alignment with the priorities of the Governor and the General Assembly.</p> <p>R. The State Council of Higher Education for Virginia shall work with the Lumina Foundation to develop a statewide higher education finance plan that incorporates the priorities of the Joint Subcommittee on the Future Competitiveness of Higher Education and provides strategies to achieve higher education outcomes.</p> <p>S. In addition to the exceptions pursuant to § 2.2-3815, the provisions of the section shall not be construed to prevent the release of a social security number to the U.S. Census, U.S. Education Department, or other agency of the federal government, by the State Council of Higher Education for the purposes of data-matching to improve knowledge of the outcomes of education programs of the Commonwealth, including, but not limited, to earnings and education-related debt.</p>				
144.	Higher Education Federal Programs Coordination (11200).....		\$2,440,426	\$2,440,426
	Higher Education Federal Programs Coordination (11201).....	\$2,440,426	\$2,440,426	

ITEM 144.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: Federal Trust.....	\$2,440,426	\$2,440,426		
Authority: Title 23.1, Chapter 2, Code of Virginia.				
Out of this appropriation, \$2,440,426 the first year and \$2,440,426 the second year from nongeneral funds is designated for grants to improve teacher quality (No Child Left Behind Act grant).				
145. Financial Assistance for Public Education (Categorical) (17100).....			\$3,000,000	\$3,000,000
Early Awareness and Readiness Programs (17117).....	\$3,000,000	\$3,000,000		
Fund Sources: Federal Trust.....	\$3,000,000	\$3,000,000		
Authority: Discretionary Inclusion.				
Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from nongeneral funds is designated for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR-UP) grant.				
146. Technology Assistance Services (18600).....			\$100,000	\$100,000
Distance Learning and Electronic Classroom (18602).....	\$100,000	\$100,000		
Fund Sources: Special.....	\$100,000	\$100,000		
Authority: Code of Virginia, § 23.1-211				
Out of this appropriation, \$100,000 the first year and \$100,000 the second year from nongeneral funds is designated to cover the costs of coordination and administration of the Virginia State Authorization Reciprocity Agreement (SARA) program as administered by the Southern Regional Education Board (SREB) and the National Council on State Authorization Reciprocity Agreements (NC-SARA).				
Total for State Council of Higher Education for Virginia.....			<b>\$105,064,193</b>	<b>\$107,529,092</b> <i>\$116,594,092</i>
General Fund Positions.....	46.00	46.00		
Nongeneral Fund Positions.....	17.00	17.00		
Position Level.....	63.00	63.00		
Fund Sources: General.....	\$97,787,040	<del>\$100,251,939</del> <i>\$109,316,939</i>		
Special.....	\$1,396,727	\$1,396,727		
Trust and Agency.....	\$190,000	\$190,000		
Dedicated Special Revenue.....	\$250,000	\$250,000		
Federal Trust.....	\$5,440,426	\$5,440,426		

**§ 1-53. CHRISTOPHER NEWPORT UNIVERSITY (242)**

147. Educational and General Programs (10000).....			\$74,972,673	\$76,090,343
			\$76,533,673	\$77,651,343
Higher Education Instruction (100101).....	\$37,797,505	\$38,465,175		
	\$38,356,782	\$39,024,452		
Higher Education Research (100102).....	\$1,961,180	\$1,961,180		
Higher Education Academic (100104).....	<del>\$9,877,717</del>	<del>\$9,877,717</del>		
	\$10,394,202	\$10,394,202		
Higher Education Student Services (100105).....	<del>\$6,445,684</del>	<del>\$6,445,684</del>		
	\$6,459,684	\$6,459,684		
Higher Education Institutional Support (100106).....	<del>\$8,466,817</del>	<del>\$8,466,817</del>		
	\$8,682,718	\$8,682,718		
Operation and Maintenance Of Plant (100107).....	<del>\$10,423,770</del>	<del>\$10,873,770</del>		
	\$10,679,107	\$11,129,107		
Fund Sources: General.....	\$29,175,568	\$30,293,238		

ITEM 147.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Higher Education Operating.....	\$45,797,105 \$47,358,105	\$45,797,105 \$47,358,105		

Authority: Title 23.1, Chapter 14, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. 1. Out of this appropriation, \$667,670 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Science (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).

3. Christopher Newport University is expected to increase:

a. Data Science and Technology awards by 5 in the second year.

b. Science and Engineering awards by 15 in the second year.

c. The 2016-17 year will serve as the base year for these purposes.

4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.

148. Higher Education Student Financial Assistance (10800).....			\$8,535,320	\$8,857,448 \$9,522,330
Scholarships (10810).....	\$8,520,157	\$8,842,285 \$9,507,167		
Fellowships (10820).....	\$15,163	\$15,163		
Fund Sources: General.....	\$4,975,320	\$5,297,448 \$5,962,330		
Higher Education Operating.....	\$3,560,000	\$3,560,000		

Authority: Title 23.1, Chapter 14, Code of Virginia.

Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science

ITEM 148.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
149.	Financial Assistance For Educational and General Services (11000).....		\$1,498,882	\$1,498,882
	Sponsored Programs (11004).....	\$1,498,882	\$1,498,882	
	Fund Sources: Higher Education Operating.....	\$1,498,882	\$1,498,882	
Authority: Title 23.1, Chapter 14, Code of Virginia.				
The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
150.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$80,327,885	\$80,327,885
	Food Services (80910).....	\$17,608,538	\$17,608,538	
	Bookstores And Other Stores (80920).....	\$709,300	\$709,300	
	Residential Services (80930).....	\$30,482,944	\$30,482,944	
	Parking And Transportation Systems And Services (80940).....	\$1,801,906	\$1,801,906	
	Student Unions And Recreational Facilities (80970).....	\$5,774,978	\$5,774,978	
	Recreational And Intramural Programs (80980).....	\$167,142	\$167,142	
	Other Enterprise Functions (80990).....	\$13,831,856	\$13,831,856	
	Intercollegiate Athletics (80995).....	\$9,951,221	\$9,951,221	
	Fund Sources: Higher Education Operating.....	\$60,524,016	\$60,524,016	
	Debt Service.....	\$19,803,869	\$19,803,869	
Authority: Title 23.1, Chapter 14, Code of Virginia.				
	Total for Christopher Newport University.....		<b>\$165,334,760</b> <b>\$166,895,760</b>	<b>\$166,774,558</b> <b>\$169,000,440</b>
	General Fund Positions.....	341.56	341.56	
	Nongeneral Fund Positions.....	<del>585.18</del> 596.18	<del>585.18</del> 596.18	
	Position Level.....	<del>926.74</del> 937.74	<del>926.74</del> 937.74	
	Fund Sources: General.....	\$34,150,888	<del>\$35,590,686</del> \$36,255,568	
	Higher Education Operating.....	<del>\$111,380,003</del> \$112,941,003	<del>\$111,380,003</del> \$112,941,003	
	Debt Service.....	\$19,803,869	\$19,803,869	

**§ 1-54. THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA (204)**

151.	Educational and General Programs (10000).....		\$207,744,934 \$215,407,230	\$209,579,454 \$217,811,750
	Higher Education Instruction (100101).....	<del>\$113,568,820</del> \$117,664,830	<del>\$115,328,340</del> \$119,994,350	
	Higher Education Research (100102).....	<del>\$1,009,170</del> \$1,302,405	<del>\$1,009,170</del> \$1,302,405	
	Higher Education Public Services (100103).....	\$8,021	\$8,021	
	Higher Education Academic (100104).....	<del>\$30,297,231</del> \$31,215,747	<del>\$30,297,231</del> \$31,215,747	
	Higher Education Student Services (100105).....	<del>\$8,974,583</del> \$9,378,972	<del>\$8,974,583</del> \$9,378,972	
	Higher Education Institutional Support (100106).....	<del>\$24,700,054</del> \$26,911,426	<del>\$24,700,054</del> \$26,911,426	

ITEM 151.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Operation and Maintenance Of Plant (100107).....	\$29,187,055 \$28,925,829	\$29,262,055 \$29,000,829		
Fund Sources: General.....	\$43,719,512	\$45,554,032 \$46,124,032		
Higher Education Operating.....	\$154,363,371 \$162,025,667	\$154,363,371 \$162,025,667		
Debt Service.....	\$9,662,051	\$9,662,051		

Authority: Title 23.1, Chapter 28, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. Out of this appropriation, \$245,000 the first year and \$245,000 the second year from the general fund is designated to support the Lewis B. Puller Jr. Veterans Benefits Clinic.

D. Out of this appropriation, \$287,850 and two positions the second year from the general fund is designated to develop a specialization in military and veterans counseling within the existing clinical mental health counseling degree program and a post-graduate certificate in veterans counseling.

E. The College of William and Mary may extend the authority granted to it under the Restructured Higher Education Financial and Administrative Operations Act (Title 23.1, Chapter 10, Code of Virginia) to Richard Bland College in a manner that is consistent with the Management Agreement By and Between the Commonwealth of Virginia and the College of William and Mary in Virginia, executed November 15, 2005 and subsequently amended to the provisions of the memorandum of understanding related to financial operations and other related administrative areas as executed by the presidents of both institutions on November 15, 2017 and as may subsequently be amended.

F. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the College of William and Mary and the Commonwealth, as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

G. 1. Out of this appropriation, \$1,221,670 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

ITEM 151.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).				
3. The College of William and Mary is expected to increase:				
a. Data Science and Technology awards by 20 in the second year.				
b. Science and Engineering awards by 15 in the second year.				
c. Education awards by 5 in the second year.				
d. The 2016-17 year will serve as the base year for these purposes.				
4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.				
H. Out of this appropriation, \$250,000 and two positions the second year from the general fund is designated for on-line course development for the Public Policy's Whole of Government program. This program will provide a hybrid Master of Public Policy degree that will allow the first year to be completed online.				

152.	Higher Education Student Financial Assistance (10800).....			\$40,999,673	\$41,350,192
				\$45,924,441	\$46,313,815
	Scholarships (10810).....	\$26,989,374	\$27,339,893		
		\$31,914,142	\$32,303,516		
	Fellowships (10820).....	\$14,010,299	\$14,010,299		
	Fund Sources: General.....	\$4,460,902	\$4,811,421		
			\$4,850,276		
	Higher Education Operating.....	\$36,538,771	\$36,538,771		
		\$41,463,539	\$41,463,539		

Authority: Title 23.1, Chapter 28, Code of Virginia.

A. Higher education operating funds appropriated in this program may be allocated for need-based aid to Virginia undergraduate students to enhance the quality and diversity of the student body.

B. The appropriation for the fund source Higher Education Operating in this Item shall be considered sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

C. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

153.	Financial Assistance For Educational and General Services (11000).....			\$31,725,000	\$31,725,000
				\$32,524,929	\$32,524,929
	Sponsored Programs (11004).....	\$31,725,000	\$31,725,000		
		\$32,524,929	\$32,524,929		
	Fund Sources: General.....	\$75,000	\$75,000		
	Higher Education Operating.....	\$31,464,806	\$31,464,806		
		\$32,264,735	\$32,264,735		
	Debt Service.....	\$185,194	\$185,194		

Authority: Title 23.1, Chapter 28, Code of Virginia.

A. Out of this appropriation, \$75,000 the first year and \$75,000 the second year from the general fund and \$400,000 the first year and \$400,000 the second year from nongeneral

ITEM 153.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
funds are designated to build research capacity in biomedical research and biomaterials engineering.				
B. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
154.	Higher Education Auxiliary Enterprises (80900)			
	a sum sufficient, estimated at.....		\$82,489,084	\$82,489,084
			\$85,516,353	\$85,516,353
	Food Services (80910).....	\$15,448,700		\$15,448,700
	Bookstores And Other Stores (80920).....	\$3,875,918		\$3,875,918
	Residential Services (80930).....	<del>\$27,959,653</del>		<del>\$27,959,653</del>
		\$28,359,653		\$28,359,653
	Parking And Transportation Systems And Services (80940).....	\$1,924,715		\$1,924,715
	Telecommunications Systems And Services (80950).....	\$4,669,012		\$4,669,012
	Student Health Services (80960).....	<del>\$3,605,724</del>		<del>\$3,605,724</del>
		\$5,575,127		\$5,575,127
	Student Unions And Recreational Facilities (80970).....	<del>\$6,639,832</del>		<del>\$6,639,832</del>
		\$6,775,671		\$6,775,671
	Recreational And Intramural Programs (80980).....	<del>\$748,349</del>		<del>\$748,349</del>
		\$1,006,215		\$1,006,215
	Other Enterprise Functions (80990).....	<del>\$9,012,152</del>		<del>\$9,012,152</del>
		\$9,276,313		\$9,276,313
	Intercollegiate Athletics (80995).....	\$8,605,029		\$8,605,029
	Fund Sources: Higher Education Operating.....	<del>\$62,351,460</del>		<del>\$62,351,460</del>
		\$65,378,729		\$65,378,729
	Debt Service.....	\$20,137,624		\$20,137,624
Authority: Title 23.1, Chapter 28, Code of Virginia.				
Total for The College of William and Mary in Virginia.....			<del>\$362,958,691</del>	<del>\$365,143,730</del>
			\$379,372,953	\$382,166,847
	General Fund Positions.....	545.16		549.16
				552.16
	Nongeneral Fund Positions.....	882.96		882.96
	Position Level.....	1,428.12		1,432.12
				1,435.12
	Fund Sources: General.....	\$48,255,414		<del>\$50,440,453</del>
				\$51,049,308
	Higher Education Operating.....	<del>\$284,718,408</del>		<del>\$284,718,408</del>
		\$301,132,670		\$301,132,670
	Debt Service.....	\$29,984,869		\$29,984,869
<b>Richard Bland College (241)</b>				
155.	Educational and General Programs (10000).....		\$13,054,585	\$13,276,008
				\$13,788,008
	Higher Education Instruction (100101).....	\$6,253,898		\$6,452,041
	Higher Education Public Services (100103).....	\$4,500		\$4,500
	Higher Education Academic (100104).....	\$729,502		<del>\$729,502</del>
				\$979,502
	Higher Education Student Services (100105).....	\$1,016,298		\$1,016,298
	Higher Education Institutional Support (100106).....	\$3,543,471		\$3,566,751
	Operation and Maintenance Of Plant (100107).....	\$1,506,916		<del>\$1,506,916</del>
				\$1,768,916
	Fund Sources: General.....	\$7,398,321		<del>\$7,549,744</del>
				\$8,061,744
	Higher Education Operating.....	\$5,656,264		\$5,726,264

ITEM 155.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

Authority: Title 23.1, Chapter 28, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. In order to advance the goals outlined in TJ21 and collaboration and innovation in higher education, Richard Bland College may develop and deliver new, collaborative educational pathways and innovative educational models, including distance learning, technology-based instruction, prior learning assessments, experiential learning, stackable credentials, and competency-based programs that lead to STEM-H and other high-demand credentials and careers, with such funds as are appropriated or made available for this purpose. Richard Bland College shall strengthen educational pathways for traditional and nontraditional students, including veterans and military personnel, through the continued establishment and strengthening of cross-institutional and cross-sector partnerships including the use of innovative educational approaches in order to promote entry into high-demand fields and industries critical to the economic development of Virginia. Richard Bland College may:

1. Broker agreements between and among educational, industry, and non-profit partners and establish collaborative, innovative partnership agreements with school districts, public and private colleges and universities, economic development agencies, employers, philanthropic organizations, veterans organizations, public agencies and other partners as necessary to strengthen and streamline educational pathways from high school, to work-based learning, to baccalaureate and advanced degrees that prepare individuals, including nontraditional students and veterans, for entry into STEM-H and other high-demand careers in the Commonwealth;
2. Serve as a clearing house of educational pathway and career pathway information and as a resource and referral agency for traditional and non-traditional students, including veterans;
3. Serve as an educational innovation resource center, referral agency and hub for collaboration, innovation, and information sharing among educational and industry partners to facilitate the vetting, piloting, and effective implementation of innovative, evidence-based educational resources, including open educational resources and self-paced, competency-based tools designed to maximize limited resources, improve educational outcomes, or accelerate time to credential completion;
4. Pilot and implement innovative educational approaches and technologies, and promote the development, delivery, and ongoing assessment of innovative, cost-effective degree programs and stackable credentials, including industry-recognized, competency-based credentials that are aligned with and responsive to the educational and workforce development needs of traditional and non-traditional students, including veterans and military personnel, and advance the economic development needs of employers and industries statewide;
5. Identify and implement new strategies to support economic and community development in Virginia and to expand opportunities for traditional and non-traditional students, including veterans, to prepare for high-demand fields.
6. Identify opportunities for resource sharing and new operational efficiencies in the delivery of postsecondary education and pursue additional funding by federal, state, corporate, and private philanthropic sources to support collaborative, innovative

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<p>approaches to education that improve educational access and outcomes, strengthen the alignment between postsecondary education and high-demand career pathways in Virginia, and support improved educational attainment, economic opportunity, and economic development for Virginians.</p> <p>7. Richard Bland College may explore shared services and other options for increased collaboration with the College of William and Mary.</p> <p>D. Out of this appropriation, \$706,070 and seven positions the first year and \$729,350 and seven positions the second year from the general fund is designated to address the staffing recommendations of the Auditor of Public Accounts related to financial management and operations.</p>				
156.	Higher Education Student Financial Assistance (10800).....		\$1,047,077	\$1,127,644 \$1,366,180
	Scholarships (10810).....	\$1,047,077		<del>\$1,127,644</del> \$1,366,180
	Fund Sources: General.....	\$987,077		<del>\$1,067,644</del> \$1,306,180
	Higher Education Operating.....	\$60,000		\$60,000
<p>Authority: Title 23.1, Chapter 28, Code of Virginia.</p> <p>Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.</p>				
157.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$15,000	\$15,000
	Sponsored Programs (11004).....	\$15,000		\$15,000
	Fund Sources: Higher Education Operating.....	\$15,000		\$15,000
<p>Authority: Title 23.1, Chapter 28, Code of Virginia.</p>				
158.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$4,727,202	\$4,727,202
	Food Services (80910).....	\$640,600		\$640,600
	Bookstores And Other Stores (80920).....	\$200,000		\$200,000
	Residential Services (80930).....	\$2,377,102		\$2,377,102
	Parking And Transportation Systems And Services (80940).....	\$248,000		\$248,000
	Recreational And Intramural Programs (80980).....	\$29,000		\$29,000
	Other Enterprise Functions (80990).....	\$882,500		\$882,500
	Intercollegiate Athletics (80995).....	\$350,000		\$350,000
	Fund Sources: Higher Education Operating.....	\$4,727,202		\$4,727,202
<p>Authority: Title 23.1, Chapter 28, Code of Virginia.</p>				
	Total for Richard Bland College.....		<b>\$18,843,864</b>	<b>\$19,145,854</b> <b>\$19,896,390</b>
	General Fund Positions.....	72.43		72.43
	Nongeneral Fund Positions.....	41.41		41.41
	Position Level.....	113.84		113.84
	Fund Sources: General.....	\$8,385,398		<del>\$8,617,388</del> \$9,367,924
	Higher Education Operating.....	\$10,458,466		\$10,528,466

ITEM 158.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>Virginia Institute of Marine Science (268)</b>					
159.	Educational and General Programs (10000).....			\$24,760,690	\$25,254,158 \$26,140,826
	Higher Education Instruction (100101).....	\$1,525,293	\$1,525,293		
	Higher Education Research (100102).....	\$9,459,920	\$10,353,673 \$11,240,341		
	Higher Education Academic (100104).....	\$5,946,044	\$5,543,703		
	Higher Education Institutional Support (100106)....	\$2,661,887	\$2,661,887		
	Operation and Maintenance Of Plant (100107).....	\$5,167,546	\$5,169,602		
	Fund Sources: General.....	\$22,771,422	\$23,262,834 \$24,149,502		
	Higher Education Operating.....	\$1,989,268	\$1,991,324		

Authority: Title 23.1, Chapter 28, and Title 28.2, Chapter 11, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. If sufficient appropriations are not made available by the Commonwealth, it shall not be necessary for the Virginia Institute of Marine Science to reallocate funds from existing research projects to provide the funding for research mandated in the Code of Virginia or in the Appropriation Act.

C. Out of this appropriation, \$212,772 and four positions the first year and \$212,772 and four positions the second year from the general fund is designated to support an Aquaculture Genetics and Breeding Technology Center at the Virginia Institute of Marine Science. The center shall coordinate its efforts with the repletion program of the Virginia Marine Resources Commission.

D. It is the intent of the General Assembly that the development of a disease resistant native oyster remains a high priority for oyster-related research activities at the Virginia Institute of Marine Science.

E. Out of this appropriation, \$68,391 the first year and \$68,391 the second year from the general fund is provided for the continuation of the Clean Marina Program. This additional funding will allow the Virginia Institute of Marine Science to provide education, outreach, and technical assistance to the Commonwealth's marinas in an effort to improve water quality.

F. Out of this appropriation, \$289,096 the first year and \$289,096 the second year from the general fund is designated for the monitoring of the Chesapeake Bay's blue crab population. This additional support will permit the Virginia Institute of Marine Science to generate the data necessary to develop fishery management plans, determine in-danger habitats, and project the annual blue crab catch.

G. Notwithstanding Chapter 719, 1999 Acts of Assembly, out of this appropriation, \$159,579 the first year and \$159,579 the second year from the general fund shall be provided to the Virginia Institute of Marine Science to support the Fishery Resource Grant Fund and Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the State Comptroller upon written request of the President of the College of William and Mary.

H. Out of this appropriation, \$432,894 and 3.15 positions the first year and \$432,894 and 3.15 positions the second year from the general fund is designated to support research on sea level rise and state-of-the-art storm surge modeling, as well as for subcontracting with the College of William and Mary's Virginia Coastal Policy Center (CWMVCPC) to conduct policy and legal analyses of stakeholder-driven adaptation responses to sea level rise, in support of the Commonwealth Center for Recurrent Flooding Resiliency. The center, a collaborative partnership involving the Virginia Institute of Marine Science, Old Dominion University, and the CWMVCPC, shall work with municipalities both along

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coastal Virginia and throughout the Commonwealth to develop useful resilience strategies.

I. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is designated for the establishment of a marine conservation fellowship program in partnership with Virginia-based marine science education programs and conservation museums.

J. Out of this appropriation, \$14,893 the first year and \$14,783 the second year from the general fund is designated for debt service costs under the Master Equipment Leasing Program (MELP) for upgrades to the campus information technology infrastructure. In addition to these amounts, \$590,317 and one position the first year and \$188,086 and one position the second year from the general fund is designated for installing fiber cable and supporting a network engineer, maintenance contracts, and staff training.

K. Out of this appropriation, \$84,678 the second year from the general fund is designated for debt service costs under the Master Equipment Leasing Program (MELP) for the equipment associated with the modeling and assessment technologies used to monitor the water quality of the Chesapeake Bay and its tributaries. In addition to this amount, \$406,075 and 2.70 positions the second year from the general fund is designated for a postdoctoral researcher and two research technicians, research-related supplies and materials, and ongoing service center costs.

L. Out of this appropriation, \$403,000 the second year from the general fund is designated for development of the State of the Elizabeth River Scorecard 2020 report on pollution levels in the Elizabeth River. The report shall include, at a minimum, an assessment of fish health data including cancer levels, tributyltin levels, and benthic index of biotic integrity, in correlated contamination samples of water and Elizabeth River sediments

M. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the College of William and Mary and the Commonwealth, as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

*N. Out of this appropriation, \$386,668 and 2.75 positions the second year from the general fund is provided for an annual survey of submerged bay grasses and the development of best management practices for oyster aquaculture that supports co-existence with bay grasses. The survey is also intended to assist in evaluating attainment of water quality standards, permitting efforts of other state agencies, and evaluating progress towards meeting the Chesapeake Bay Program goals.*

*O. Out of this appropriation, \$300,000 the second year from the general fund is provided to support the development of a wave, hydrodynamic, and sediment transport model for the region around Chincoteague Inlet; including Assateague Inlet, Wallops Island, and Chincoteague Island, that can be used to inform erosion control and stabilization management decisions on the islands.*

160.	Higher Education Student Financial Assistance (10800).....			\$321,002	\$321,002
	Fellowships (10820).....	\$321,002	\$321,002		
	Fund Sources: General.....	\$321,002	\$321,002		

Authority: Title 23.1, Chapter 28, Code of Virginia.

161.	Financial Assistance For Educational and General Services (11000).....			\$24,091,561	\$24,091,561
	Eminent Scholars (11001).....	\$75,000	\$75,000		
	Sponsored Programs (11004).....	\$24,016,561	\$24,016,561		
	Fund Sources: Higher Education Operating.....	\$24,091,561	\$24,091,561		

Authority: Title 23.1, Chapter 28 and Title 28.2, Chapter 11, Code of Virginia.

A. Out of the amounts for sponsored programs, \$50,000 the first year and \$50,000 the second year from nongeneral funds shall be paid from the Marine Fishing Improvement Fund to

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support the Mariculture and Marine Product Advisory Program.				
B. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the institute to cover sponsored program operations.				
Total for Virginia Institute of Marine Science.....			\$49,173,253	<del>\$49,666,721</del> \$50,553,389
General Fund Positions.....	288.47	<del>291.17</del> 293.92		
Nongeneral Fund Positions.....	99.30	99.30		
Position Level.....	387.77	<del>390.47</del> 393.22		
Fund Sources: General.....	\$23,092,424	<del>\$23,583,836</del> \$24,470,504		
Higher Education Operating.....	\$26,080,829	\$26,082,885		
Grand Total for The College of William and Mary in Virginia.....			\$430,975,808	<del>\$433,956,305</del> \$452,616,626
General Fund Positions.....	906.06	<del>912.76</del> 918.51		
Nongeneral Fund Positions.....	1,023.67	1,023.67		
Position Level.....	1,929.73	<del>1,936.43</del> 1,942.18		
Fund Sources: General.....	\$79,733,236	<del>\$82,641,677</del> \$84,887,736		
Higher Education Operating.....	<del>\$321,257,703</del> \$337,671,965	<del>\$321,329,759</del> \$337,744,021		
Debt Service.....	\$29,984,869	\$29,984,869		

**§ 1-55. GEORGE MASON UNIVERSITY (247)**

162.	Educational and General Programs (10000).....			\$529,319,010	\$537,854,330
				\$582,319,010	\$591,604,330
	Higher Education Instruction (100101).....	\$329,287,929	\$335,491,540		
		\$357,775,239	\$364,728,850		
	Higher Education Research (100102).....	<del>\$8,608,561</del>	\$8,686,216		
		\$9,718,731	\$9,796,386		
	Higher Education Public Services (100103).....	\$2,133,803	\$2,154,279		
		\$2,448,543	\$2,469,019		
	Higher Education Academic (100104).....	<del>\$64,627,637</del>	\$65,148,642		
		\$73,474,636	\$73,995,641		
	Higher Education Student Services (100105).....	<del>\$21,392,580</del>	\$21,585,411		
		\$24,973,418	\$25,166,249		
	Higher Education Institutional Support (100106)....	\$53,316,616	\$53,828,516		
		\$61,127,840	\$61,639,740		
	Operation and Maintenance Of Plant (100107).....	<del>\$49,951,884</del>	\$50,959,726		
		\$52,800,603	\$53,808,445		
	Fund Sources: General.....	\$137,254,116	<del>\$142,789,436</del> \$143,239,436		
	Higher Education Operating.....	<del>\$392,064,894</del> \$445,064,894	<del>\$395,064,894</del> \$448,364,894		

Authority: Title 23.1, Chapter 15, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals as described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. Out of this appropriation, an amount estimated at \$289,614 the first year and \$289,614 the second year from the general fund and \$124,120 the first year and \$124,120 the second

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	<p>year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.</p>			
	<p>C. Out of this appropriation, \$459,125 the first year and \$459,125 the second year from the general fund is designated for the Institute for Conflict Analysis.</p>			
	<p>D. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p>			
	<p>E. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is designated to support the Potomac Bay Science Center.</p>			
	<p>F. Out of this appropriation, \$400,000 the first year and \$400,000 the second year from the general fund is designated to develop a pathway program to attract and train veterans for cyber security careers.</p>			
	<p>G. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.</p>			
	<p>H. 1. Out of this appropriation, \$4,685,320 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.</p>			
	<p>2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:</p>			
	<p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p>			
	<p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p>			
	<p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p>			
	<p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p>			
	<p>3. George Mason University is expected to increase:</p>			
	<p>a. Data Science and Technology awards by 50 in the second year.</p>			
	<p>b. Science and Engineering awards by 35 in the second year.</p>			
	<p>c. Healthcare awards by 35 in the second year.</p>			
	<p>d. Education awards by 40 in the second year.</p>			

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e. The 2016-17 year will serve as the base year for these purposes.

4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.

I. Out of this appropriation \$50,000 each year from the general fund is designated for campus lighting, generators and other infrastructure at the School of Conflict Resolution at the Point of View facility.

J. The Board of Visitors of George Mason University may participate in a joint venture or innovation agreement with an individual, corporation, governmental body or agency, partnership, association, or other entity to develop and deliver new, collaborative distance learning and technology-based instruction programs for traditional and non-traditional students, including veterans and military personnel. The Board may create or operate such entity accordingly. In the course of any venture or agreement, the Board may authorize a pilot and implementation of distance learning and technology-based instruction programs that are aligned with and responsive to the educational and workforce needs of traditional and non-traditional students. If the Board determines it is necessary to the development and delivery of distance learning and technology-based instruction programs, the Board may create or assist in the creation of; own in whole or in part or otherwise control; participate in or with any entities, public or private; and purchase, receive, subscribe for, own, use, employ, sell, pledge or otherwise acquire or dispose of (i) shares or obligations of, or interests in, any entity organized for any purpose within or outside the Commonwealth and (ii) obligations of any person or corporation. Prior to the execution of any joint venture or innovation agreement, George Mason University shall formally seek and receive approval from the majority of the members of the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education and report on whether there will be any impact on current or future operations of the Online Virginia Network Authority.

163.	Higher Education Student Financial Assistance (10800).....			\$37,100,506	\$38,176,201
				<del>\$39,900,506</del>	<del>\$43,896,594</del>
	Scholarships (10810).....	\$31,391,565	\$32,467,260		
		<del>\$34,191,565</del>	<del>\$38,187,653</del>		
	Fellowships (10820).....	\$5,708,941	\$5,708,941		
	Fund Sources: General.....	\$26,804,506	<del>\$27,880,201</del>		
			<del>\$30,800,594</del>		
	Higher Education Operating.....	\$10,296,000	\$10,296,000		
		<del>\$13,096,000</del>	<del>\$13,096,000</del>		

Authority: Title 23.1, Chapter 15, Code of Virginia.

A. Notwithstanding the provisions of § 4-5.01.5.b) of this Act, George Mason University is hereby authorized to transfer the balance of its discontinued student loan funds to an endowment fund established by the University to be used for undergraduate and graduate students in the Higher Education Student Financial Assistance Program.

B. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

164.	Financial Assistance For Educational and General Services (11000).....			\$262,000,000	<del>\$262,000,000</del>
					<del>\$262,275,000</del>
	Eminent Scholars (11001).....	\$1,000,000	\$1,000,000		
	Sponsored Programs (11004).....	\$261,000,000	<del>\$261,000,000</del>		
			<del>\$261,275,000</del>		
	Fund Sources: General.....	\$1,831,250	<del>\$1,831,250</del>		
			<del>\$2,106,250</del>		

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Higher Education Operating.....	\$260,168,750	\$260,168,750		
Authority: Title 23.1, Chapter 15, Code of Virginia.				
A. 1. Out of this appropriation, \$956,250 the first year and \$956,250 the second year from the general fund and \$5,850,000 the first year and \$5,850,000 the second year from nongeneral funds are designated to build research capacity in biomedical research and biomaterials engineering.				
2. Out of this appropriation, \$750,000 the first year and \$750,000 the second year from the general fund is designated for applied research in simulation modeling and gaming.				
B. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is designated for Lyme Disease research and medical test development.				
C. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
<i>D. 1. Out of this appropriation, \$275,000 the second year from the general fund is designated for George Mason University, in collaboration with Eastern Virginia Medical School, Old Dominion University, the University of Virginia, Virginia Commonwealth University, Virginia Tech-Carilion, INOVA, and Sentara Health System, to create the Virginia Commonwealth Clinical Research Network to serve as a network of institutions to conduct significant clinical trials in areas that include oncology, mental health and substance abuse. The Virginia Commonwealth Clinical Research Network would facilitate identifying and recruiting patients and expand access for researchers to a clinical base thereby creating greater opportunities for grant funding and the development commercialization of breakthrough products and services.</i>				
<i>2. The Virginia Commonwealth Clinical Research Network shall develop a strategy and business plan and report to the Chairman of the House Appropriations and Senate Finance Committees by November 1, 2019.</i>				
165.	Higher Education Auxiliary Enterprises (80900)			
	a sum sufficient, estimated at.....		\$222,500,000	\$222,500,000
	Food Services (80910).....	\$34,257,808	\$34,257,808	
	Bookstores And Other Stores (80920).....	\$1,832,900	\$1,832,900	
	Residential Services (80930).....	\$37,688,815	\$37,688,815	
	Parking And Transportation Systems And Services (80940).....	\$14,391,828	\$14,391,828	
	Telecommunications Systems And Services (80950)..	\$513,178	\$513,178	
	Student Health Services (80960).....	\$5,023,606	\$5,023,606	
	Student Unions And Recreational Facilities (80970)...	\$10,691,770	\$10,691,770	
	Recreational And Intramural Programs (80980).....	\$17,512,020	\$17,512,020	
	Other Enterprise Functions (80990).....	\$77,927,480	\$77,927,480	
	Intercollegiate Athletics (80995).....	\$22,660,595	\$22,660,595	
	Fund Sources: Higher Education Operating.....	\$168,357,800	\$168,357,800	
	Debt Service.....	\$54,142,200	\$54,142,200	
Authority: Title 23.1, Chapter 15, Code of Virginia.				
	Total for George Mason University.....		<b>\$1,050,919,516</b> <b>\$1,106,719,516</b>	<b>\$1,060,530,531</b> <b>\$1,120,275,924</b>
	General Fund Positions.....	1,082.14	1,082.14	
	Nongeneral Fund Positions.....	<del>3,577.57</del> 3,772.57	<del>3,577.57</del> 3,772.57	
	Position Level.....	<del>4,659.71</del> 4,854.71	<del>4,659.71</del> 4,854.71	
	Fund Sources: General.....	\$165,889,872	<del>\$172,500,887</del> \$176,146,280	
	Higher Education Operating.....	<del>\$830,887,444</del> \$886,687,444	<del>\$833,887,444</del> \$889,987,444	

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	FY2019	FY2020	FY2019	FY2020
Debt Service.....	\$54,142,200	\$54,142,200		

**§ 1-56. JAMES MADISON UNIVERSITY (216)**

166.	Educational and General Programs (10000).....			\$315,339,326	\$317,785,246
	Higher Education Instruction (100101).....	\$166,088,448	\$168,534,368		
	Higher Education Research (100102).....	\$895,884	\$895,884		
	Higher Education Public Services (100103).....	\$1,446,139	\$1,446,139		
	Higher Education Academic (100104).....	\$43,387,251	\$43,387,251		
	Higher Education Student Services (100105).....	\$20,039,901	\$20,039,901		
	Higher Education Institutional Support (100106)....	\$44,817,074	\$44,817,074		
	Operation and Maintenance Of Plant (100107).....	\$38,664,629	\$38,664,629		
	Fund Sources: General.....	\$84,310,500	\$86,756,420		
	Higher Education Operating.....	\$229,078,173	\$229,078,173		
	Debt Service.....	\$1,950,653	\$1,950,653		

Authority: Title 23.1, Chapter 16, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.

D. 1. Out of this appropriation, \$2,445,920 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1

ITEM 166.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
completion report for the Education Programs (13).				
3. James Madison University is expected to increase:				
a. Data Science and Technology awards by 10 in the second year.				
b. Science and Engineering awards by 15 in the second year.				
c. Healthcare awards by 45 in the second year.				
d. Education awards by 15 in the second year.				
e. The 2016-17 year will serve as the base year for these purposes.				
4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.				
167.	Higher Education Student Financial Assistance (10800).....		\$16,753,359	<del>\$17,411,854</del> \$18,585,366
	Scholarships (10810).....	\$15,837,388	<del>\$16,495,883</del> \$17,669,395	
	Fellowships (10820).....	\$915,971	\$915,971	
	Fund Sources: General.....	\$9,613,739	<del>\$10,272,234</del> \$11,445,746	
	Higher Education Operating.....	\$7,139,620	\$7,139,620	
Authority: Title 23.1, Chapter 16, Code of Virginia.				
Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
168.	Financial Assistance For Educational and General Services (11000)			
	a sum sufficient, estimated at.....		\$37,335,958	\$37,335,958
	Eminent Scholars (11001).....	\$39,031	\$39,031	
	Sponsored Programs (11004).....	\$37,296,927	\$37,296,927	
	Fund Sources: Higher Education Operating.....	\$37,335,958	\$37,335,958	
Authority: Title 23.1, Chapter 16, Code of Virginia.				
169.	Higher Education Auxiliary Enterprises (80900)			
	a sum sufficient, estimated at.....		\$215,053,139	\$215,053,139
	Food Services (80910).....	\$67,418,068	\$67,418,068	
	Bookstores And Other Stores (80920).....	\$1,644,000	\$1,644,000	
	Residential Services (80930).....	\$37,705,530	\$37,705,530	
	Parking And Transportation Systems And Services (80940).....	\$6,287,490	\$6,287,490	
	Telecommunications Systems And Services (80950)..	\$1,392,632	\$1,392,632	
	Student Health Services (80960).....	\$6,480,601	\$6,480,601	
	Student Unions And Recreational Facilities (80970)...	\$7,505,345	\$7,505,345	
	Recreational And Intramural Programs (80980).....	\$13,972,180	\$13,972,180	
	Other Enterprise Functions (80990).....	\$25,499,121	\$25,499,121	
	Intercollegiate Athletics (80995).....	\$47,148,172	\$47,148,172	
	Fund Sources: Higher Education Operating.....	\$180,997,356	\$180,997,356	
	Debt Service.....	\$34,055,783	\$34,055,783	
Authority: Title 23.1, Chapter 16, Code of Virginia.				

ITEM 169.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Total for James Madison University.....			\$584,481,782	<del>\$587,586,197</del> \$588,759,709
General Fund Positions.....	1,167.39	1,167.39		
Nongeneral Fund Positions.....	2,440.41	2,440.41		
Position Level.....	3,607.80	3,607.80		
Fund Sources: General.....	\$93,924,239	<del>\$97,028,654</del> \$98,202,166		
Higher Education Operating.....	\$454,551,107	\$454,551,107		
Debt Service.....	\$36,006,436	\$36,006,436		

**§ 1-57. LONGWOOD UNIVERSITY (214)**

170.	Educational and General Programs (10000).....			\$69,796,261	<del>\$70,943,261</del> \$71,493,261
	Higher Education Instruction (100101).....	\$33,200,365	<del>\$33,747,365</del> \$33,967,365		
	Higher Education Public Services (100103).....	\$609,926	\$609,926		
	Higher Education Academic (100104).....	\$8,110,511	<del>\$8,110,511</del> \$8,330,511		
	Higher Education Student Services (100105).....	\$4,738,011	\$4,738,011		
	Higher Education Institutional Support (100106).....	\$14,567,043	\$14,567,043		
	Operation and Maintenance Of Plant (100107).....	\$8,570,405	<del>\$9,170,405</del> \$9,280,405		
	Fund Sources: General.....	\$28,182,452	\$29,329,452		
	Higher Education Operating.....	\$41,613,809	<del>\$41,613,809</del> \$42,163,809		

Authority: Title 23.1, Chapter 17, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this Act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. 1. Out of this appropriation, \$547,000 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1

ITEM 170.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
completion report for the Education Programs (13).				
3. Longwood University is expected to increase:				
a. Science and Engineering awards by 5 in the second year.				
b. Healthcare awards by 5 in the second year.				
c. Education awards by 5 in the second year.				
d. The 2016-17 year will serve as the base year for these purposes.				
4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.				
171.	Higher Education Student Financial Assistance (10800).....		\$7,358,377	\$7,566,766 \$8,102,659
	Scholarships (10810).....	\$7,337,713		\$7,546,102 \$8,081,995
	Fellowships (10820).....	\$20,664		\$20,664
	Fund Sources: General.....	\$5,045,497		\$5,253,886 \$5,789,779
	Higher Education Operating.....	\$2,312,880		\$2,312,880
Authority: Title 23.1, Chapter 17, Code of Virginia.				
Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
172.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$3,178,393	\$3,178,393
	Sponsored Programs (11004).....	\$3,178,393		\$3,178,393
	Fund Sources: Higher Education Operating.....	\$3,178,393		\$3,178,393
Authority: Title 23.1, Chapter 17, Code of Virginia.				
173.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$64,882,672	\$64,882,672
	Food Services (80910).....	\$8,139,258		\$8,139,258
	Bookstores And Other Stores (80920).....	\$273,195		\$273,195
	Residential Services (80930).....	\$22,354,254		\$22,354,254
	Parking And Transportation Systems And Services (80940).....	\$989,591		\$989,591
	Telecommunications Systems And Services (80950)..	\$951,620		\$951,620
	Student Health Services (80960).....	\$974,226		\$974,226
	Student Unions And Recreational Facilities (80970)...	\$3,179,541		\$3,179,541
	Recreational And Intramural Programs (80980).....	\$2,172,334		\$2,172,334
	Other Enterprise Functions (80990).....	\$16,807,306		\$16,807,306
	Intercollegiate Athletics (80995).....	\$9,041,347		\$9,041,347
	Fund Sources: Higher Education Operating.....	\$57,295,361		\$57,295,361
	Debt Service.....	\$7,587,311		\$7,587,311
Authority: Title 23.1, Chapter 17, Code of Virginia.				
	Total for Longwood University.....		\$145,215,703	\$146,571,092 \$147,656,985

ITEM 173.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
General Fund Positions.....	287.89	287.89		
Nongeneral Fund Positions.....	471.67	471.67		
Position Level.....	759.56	759.56		
Fund Sources: General.....	\$33,227,949	<del>\$34,583,338</del> \$35,119,231		
Higher Education Operating.....	\$104,400,443	<del>\$104,400,443</del> \$104,950,443		
Debt Service.....	\$7,587,311	\$7,587,311		

**§ 1-58. NORFOLK STATE UNIVERSITY (213)**

174.	Educational and General Programs (10000).....		\$86,452,708	\$87,633,268 \$87,931,268
	Higher Education Instruction (100101).....	\$39,382,186	<del>\$40,437,746</del> \$40,735,746	
	Higher Education Research (100102).....	\$199,975	\$199,975	
	Higher Education Public Services (100103).....	\$1,326,879	\$1,326,879	
	Higher Education Academic (100104).....	\$10,245,834	\$10,245,834	
	Higher Education Student Services (100105).....	\$5,346,684	\$5,346,684	
	Higher Education Institutional Support (100106).....	\$17,036,290	\$17,036,290	
	Operation and Maintenance Of Plant (100107).....	\$12,914,860	\$13,039,860	
	Fund Sources: General.....	\$46,933,360	<del>\$47,759,930</del> \$48,057,930	
	Higher Education Operating.....	\$39,519,348	\$39,873,338	

Authority: Title 23.1, Chapter 19, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. Out of this appropriation, \$5,350,128 the first year and \$5,350,128 the second year from the general fund is designated for the recently initiated Bachelor of Science academic programs in Electronics Engineering and Optical Engineering and Master of Science academic programs in Electronics Engineering, Optical Engineering, Computer Science, and Criminal Justice.

2. Out of the amounts for programs listed in paragraph B.1. above, shall be provided \$273,486 the first year and \$273,486 the second year from the general fund for lease payments through the Master Equipment Leasing Program for educational and general equipment.

3. Out of the amounts for Educational and General Programs, \$37,500 the first year and \$37,500 the second year from the general fund is provided to serve in lieu of endowment income from the Eminent Scholars Program.

C.1. Out of the amounts for Educational and General Programs, a maximum of \$70,000 the first year and \$70,000 the second year from the general fund is designated for the Dozoretz National Institute for Minorities in Applied Sciences.

2. Any unexpended balances in paragraphs B.1., B.2., B.3., and C.1. in this Item at the close of business on June 30, 2018 and June 30, 2019 shall not revert to the surplus of the general fund, but shall be carried forward on the books of the State Comptroller and reappropriated in the succeeding year. Norfolk State University may expend any prior year end balances to support its educational and general activities.

D. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of

ITEM 174.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p> <p>E. Out of this appropriation, \$220,000 the first year and \$220,000 the second year from the general fund is designated to increase retention and graduation of juniors and seniors in good academic standing and who have additional demonstrated need.</p> <p>F. 1. Out of this appropriation, \$826,570 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.</p> <p>2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:</p> <p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p> <p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Norfolk State University is expected to increase:</p> <p>a. Data Science and Technology awards by 5 in the second year.</p> <p>b. Science and Engineering awards by 5 in the second year.</p> <p>c. Healthcare awards by 5 in the second year.</p> <p>d. Education awards by 5 in the second year.</p> <p>e. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.</p>				
175.	Higher Education Student Financial Assistance (10800).....		\$17,002,323	\$17,400,189 \$18,307,464
	Scholarships (10810).....	\$16,823,771		\$17,221,637 \$18,128,912
	Fellowships (10820).....	\$178,552		\$178,552
	Fund Sources: General.....	\$11,869,456		\$12,267,322 \$13,174,597
	Higher Education Operating.....	\$5,132,867		\$5,132,867
	Authority: Title 23.1, Chapter 19, Code of Virginia.			
	Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.			
176.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$18,006,943	\$18,006,943

ITEM 176.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Sponsored Programs (11004).....	\$18,006,943	\$18,006,943		
Fund Sources: Higher Education Operating.....	\$18,006,943	\$18,006,943		
Authority: Title 23.1, Chapter 19, Code of Virginia.				
177. Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$41,965,589	\$41,965,589
Food Services (80910).....	\$1,368,865	\$1,368,865		
Bookstores And Other Stores (80920).....	\$393,740	\$393,740		
Residential Services (80930).....	\$14,529,508	\$14,529,508		
Parking And Transportation Systems And Services (80940).....	\$458,180	\$458,180		
Student Health Services (80960).....	\$1,000,000	\$1,000,000		
Student Unions And Recreational Facilities (80970).....	\$9,570,213	\$9,570,213		
Other Enterprise Functions (80990).....	\$7,477,215	\$7,477,215		
Intercollegiate Athletics (80995).....	\$7,167,868	\$7,167,868		
Fund Sources: Higher Education Operating.....	\$38,171,807	\$38,171,807		
Debt Service.....	\$3,793,782	\$3,793,782		
Authority: Title 23.1, Chapter 19, Code of Virginia.				
Total for Norfolk State University.....			<b>\$163,427,563</b>	<b>\$165,005,989</b> <b>\$166,211,264</b>
General Fund Positions.....	492.77	<del>496.64</del> 497.64		
Nongeneral Fund Positions.....	685.35	688.48		
Position Level.....	1,178.12	<del>1,185.12</del> 1,186.12		
Fund Sources: General.....	\$58,802,816	<del>\$60,027,252</del> \$61,232,527		
Higher Education Operating.....	\$100,830,965	\$101,184,955		
Debt Service.....	\$3,793,782	\$3,793,782		

**§ 1-59. OLD DOMINION UNIVERSITY (221)**

178. Educational and General Programs (10000).....			\$291,824,526	\$299,434,655 \$303,691,746
Higher Education Instruction (100101).....	\$161,608,643	<del>\$169,143,772</del> \$171,441,654		
Higher Education Research (100102).....	\$5,863,813	<del>\$5,863,813</del> \$5,956,234		
Higher Education Public Services (100103).....	\$276,403	<del>\$276,403</del> \$303,586		
Higher Education Academic (100104).....	\$50,734,058	<del>\$50,734,058</del> \$51,537,029		
Higher Education Student Services (100105).....	\$17,995,501	<del>\$17,995,501</del> \$18,371,520		
Higher Education Institutional Support (100106).....	\$28,970,470	<del>\$28,970,470</del> \$29,456,147		
Operation and Maintenance Of Plant (100107).....	\$26,375,638	<del>\$26,450,638</del> \$26,625,576		
Fund Sources: General.....	\$122,968,662	<del>\$126,655,452</del> \$126,680,452		
Higher Education Operating.....	\$168,855,864	<del>\$172,779,203</del> \$177,011,294		

Authority: Title 23.1, Chapter 20, Code of Virginia.

A.1. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945,

ITEM 178.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
2005 Acts of Assembly).				
2. Out of this appropriation, the university may allocate funds to expand enrollment capacity through expansion of distance learning, TELETECHNET and summer school.				
B. Out of this appropriation, \$431,013 the first year and \$431,013 the second year from the general fund and \$198,244 the first year and \$198,244 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.				
C. Notwithstanding § 55-297, Code of Virginia, Old Dominion University is hereby designated as the administrative agency for the Virginia Coordinate System.				
D. Notwithstanding § 23.1-506, Code of Virginia, the governing board of Old Dominion University may charge reduced tuition to any person enrolled in one of Old Dominion University's TELETECHNET sites or higher education centers who lives within a 50-mile radius of the site/center, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in any state, or the District of Columbia, which is contiguous to Virginia and which has similar reciprocal provisions for persons domiciled in Virginia.				
E. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
F. Out of this appropriation, \$320,000 the first year and \$320,000 the second year from the general fund is designated to provide opportunity for 80 students per year to be engaged in STEM education using aerospace, high tech science, technology and engineering in partnership with NASA Wallops Flight Facility. Old Dominion University will collaborate with the Virginia Space Grant Consortium and STEM educators to identify the students who will participate in the program each year. The designated funding in this paragraph will not be considered as a resource for purposes of funding guidelines.				
G. Out of this appropriation, \$409,200 and four positions the first year and \$409,200 and four positions the second year from the general fund is designated to support modeling of socioeconomic impacts of recurrent flooding in support of the Commonwealth Center for Recurrent Flooding Resiliency. The center, a collaborative partnership involving Old Dominion University, the Virginia Institute of Marine Science, and the College of William and Mary's Virginia Coastal Policy Center, shall work with municipalities both along coastal Virginia and throughout the Commonwealth to develop useful resilience strategies.				
H. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.				
I. 1. Out of this appropriation, \$3,611,790 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.				
2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:				

ITEM 178.	Item Details(\$)		Appropriations(\$)		
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
<p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p> <p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Old Dominion University is expected to increase:</p> <p>a. Data Science and Technology awards by 15 in the second year.</p> <p>b. Science and Engineering awards by 40 in the second year.</p> <p>c. Healthcare awards by 40 in the second year.</p> <p>d. Education awards by 30 in the second year.</p> <p>e. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.</p> <p>J. The Director, Department of Planning and Budget is authorized, upon request of the President, Old Dominion University, to move up to \$2,000,000 of general fund appropriation from the second year to the first year.</p> <p><i>K. Out of this appropriation, \$25,000 the second year from the general fund is designated for the Marine Rescue Program, a collaborative program between Old Dominion University and the Virginia Aquarium and Marine Science Foundation to support rescue efforts for stranded and sick marine animals throughout the entire Virginia coastline region of the Chesapeake Bay.</i></p>					
179.	Higher Education Student Financial Assistance (10800).....			\$33,101,147	\$33,750,373 \$34,347,607
	Scholarships (10810).....	\$30,390,452	\$31,039,678 \$31,636,912		
	Fellowships (10820).....	\$2,710,695	\$2,710,695		
	Fund Sources: General.....	\$24,773,629	\$25,422,855 \$26,020,089		
	Higher Education Operating.....	\$8,327,518	\$8,327,518		
	Authority: Title 23.1, Chapter 20, Code of Virginia.				
	Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
180.	Financial Assistance For Educational and General Services (11000).....			\$17,484,202	\$17,484,202 \$17,854,260
	Eminent Scholars (11001).....	\$421,387	\$421,387		
	Sponsored Programs (11004).....	\$17,062,815	\$17,062,815 \$17,432,873		

ITEM 180.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$4,064,245	\$4,064,245 \$4,434,245		
Higher Education Operating.....	\$13,419,957	\$13,419,957 \$13,420,015		

Authority: Title 23.1, Chapter 20, Code of Virginia.

A.1. Out of this appropriation, \$2,099,838 and 14 positions the first year and \$2,099,838 and 14 positions the second year from the general fund and \$4,500,000 the first year and \$4,500,000 the second year from nongeneral funds are designated to build research capacity in modeling and simulation, which shall include efforts to improve traffic management through modeling.

2. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated to support science, technology, engineering and mathematics (STEM), and health-related programs. Old Dominion University shall use these funds to promote the use of modeling and simulation in the medical industry.

B. Out of this appropriation, \$1,500,000 the first year and \$1,500,000 the second year from the general fund is designated to expand research efforts at the Center for Bioelectrics, which uses electrical stimuli in the biomedical area to eliminate cancer cells and tumors without damaging healthy surrounding tissue, accelerate wound healing, and efficiently deliver DNA vaccines. Non-biomedical areas of research include reducing pollutants in exhaust and establishing effective ground penetrating radar.

C. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.

*D. Out of this appropriation, \$370,000 the second year from the general fund is designated to the Virginia SmallSat Data Consortium, to support development of the Virginia Institute for Spaceflight and Autonomy.*

181. Higher Education Auxiliary Enterprises (80900)				
a sum sufficient, estimated at.....			\$111,721,044 \$117,041,044	\$111,721,044 \$117,041,044
Food Services (80910).....	\$5,260,460	\$5,260,460		
Bookstores And Other Stores (80920).....	\$655,764	\$655,764		
Residential Services (80930).....	\$32,829,062 \$34,129,062	\$32,829,062 \$34,129,062		
Parking And Transportation Systems And Services (80940).....	\$6,609,248 \$6,709,248	\$6,609,248 \$6,709,248		
Telecommunications Systems And Services (80950).....	\$906,134	\$906,134		
Student Health Services (80960).....	\$2,687,180 \$2,807,180	\$2,687,180 \$2,807,180		
Student Unions And Recreational Facilities (80970).....	\$8,342,908	\$8,342,908		
Recreational And Intramural Programs (80980).....	\$2,415,657 \$4,215,657	\$2,415,657 \$4,215,657		
Other Enterprise Functions (80990).....	\$18,248,115	\$18,248,115		
Intercollegiate Athletics (80995).....	\$33,766,516 \$35,766,516	\$33,766,516 \$35,766,516		
Fund Sources: Higher Education Operating.....	\$89,103,563 \$94,423,563	\$89,103,563 \$94,423,563		
Debt Service.....	\$22,617,481	\$22,617,481		

Authority: Title 23.1, Chapter 20, Code of Virginia.

Old Dominion University is authorized to establish a self-supporting "instructional enterprise" fund to account for the revenues and expenditures of TELETECHNET classes offered at locations outside the Commonwealth of Virginia. Consistent with the self-supporting concept of an "enterprise fund," student tuition and fee revenues for TELETECHNET students at locations outside Virginia shall exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this requirement shall be established by the

ITEM 181.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
University's Board of Visitors. Revenue and expenditures of the fund shall be accounted for in such a manner as to be auditable by the State Council of Higher Education for Virginia. Revenues in excess of expenditures shall be retained in the fund to support the entire TELETECHNET program. Full-time equivalent students generated through these programs shall be accounted for separately. Additionally, revenues which remain unexpended on the last day of the previous biennium and the last day of the first year of the current biennium shall be reappropriated and allotted for expenditure in the respective succeeding fiscal year.				
Total for Old Dominion University.....			<b>\$454,130,919</b> <i>\$459,450,919</i>	<b>\$462,390,274</b> <i>\$472,934,657</i>
General Fund Positions.....	1,063.51	1,084.51		
Nongeneral Fund Positions.....	1,504.98	1,525.98		
Position Level.....	2,568.49	2,610.49		
Fund Sources: General.....	\$151,806,536	<del>\$156,142,552</del> <i>\$157,134,786</i>		
Higher Education Operating.....	<del>\$279,706,902</del> <i>\$285,026,902</i>	<del>\$283,630,241</del> <i>\$293,182,390</i>		
Debt Service.....	\$22,617,481	\$22,617,481		

**§ 1-60. RADFORD UNIVERSITY (217)**

182.	Educational and General Programs (10000).....			\$128,257,092	\$129,285,552
	Higher Education Instruction (100101).....	\$78,703,027	\$79,731,487		
	Higher Education Public Services (100103).....	\$616,976	\$616,976		
	Higher Education Academic (100104).....	\$11,482,401	\$11,482,401		
	Higher Education Student Services (100105).....	\$6,124,308	\$6,124,308		
	Higher Education Institutional Support (100106)....	\$20,329,736	\$20,329,736		
	Operation and Maintenance Of Plant (100107).....	\$11,000,644	\$11,000,644		
	Fund Sources: General.....	\$51,845,521	\$52,873,981		
	Higher Education Operating.....	\$76,411,571	\$76,411,571		

Authority: Title 23.1, Chapter 21, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. 1. Out of this appropriation, \$1,028,460 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph.

ITEM 182.	Item Details(\$)		Appropriations(\$)		
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
<p>2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Radford University is expected to increase:</p> <p>a. Data Science and Technology awards by 5 in the second year.</p> <p>b. Science and Engineering awards by 5 in the second year.</p> <p>c. Healthcare awards by 10 in the second year.</p> <p>d. Education awards by 10 in the second year.</p> <p>e. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.</p> <p>5. Out the amounts designated for degree production \$300,000 the second year is designated to support a flat-fee degree pilot initiative for education programs. Radford University shall offer alternative tuition or fee structures, including discounted tuition, flat tuition rates, discounted student fees, or student fee and student services flexibility, to any first-time, incoming freshman undergraduate student who (i) has established domicile, as that term is defined in § 23.1-500 et seq., in the Commonwealth and (ii) enrolls full time with the intent to earn a degree in a program that leads to employment as a teacher in the region. Such an alternative tuition or fee structure may be renewed each year if the recipient maintains continuous full-time enrollment. If a recipient fails to maintain continuous full-time enrollment, subsequently enrolls in a noneligible degree program, or fails to complete the eligible degree program within four years, the institution shall convert the financial benefit received by the student to a financial obligation payable by the student to the institution on terms established by the institution.</p>					
183.	Higher Education Student Financial Assistance (10800).....			\$12,547,467	\$12,913,328 \$13,541,673
	Scholarships (10810).....	\$11,628,720	<del>\$11,994,581</del> \$12,622,926		
	Fellowships (10820).....	\$918,747	\$918,747		
	Fund Sources: General.....	\$10,639,996	<del>\$11,005,857</del> \$11,634,202		
	Higher Education Operating.....	\$1,907,471	\$1,907,471		
	Authority: Title 23.1, Chapter 21, Code of Virginia.				
	Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
184.	Financial Assistance For Educational and General Services (11000)			\$9,010,037	\$9,010,037
	a sum sufficient, estimated at.....				
	Eminent Scholars (11001).....	\$48,397	\$48,397		
	Sponsored Programs (11004).....	\$8,961,640	\$8,961,640		
	Fund Sources: Higher Education Operating.....	\$9,010,037	\$9,010,037		

ITEM 184.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Authority: Title 23.1, Chapter 21, Code of Virginia.				
184.10	<i>Administrative and Support Services (19900).....</i>		\$0	\$22,341,670
	<i>Operation of Higher Education Centers (19931).....</i>		\$0	\$22,341,670
	<i>Fund Sources: General.....</i>		\$0	\$1,707,422
	<i>Higher Education Operating.....</i>		\$0	\$20,634,248
Authority: Title 23.1, Chapter 23, Code of Virginia				
<i>The appropriation listed in this Item is designated to support the university's operations of Jefferson College of Health Sciences in Roanoke once it merges with Radford University.</i>				
185.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$63,389,333	\$63,389,333
	\$17,589,847	\$17,589,847		
	\$552,998	\$552,998		
	\$15,120,494	\$15,120,494		
	\$1,514,508	\$1,514,508		
	\$602,949	\$602,949		
	\$2,962,546	\$2,962,546		
	\$5,687,500	\$5,687,500		
	\$1,516,639	\$1,516,639		
	\$4,867,326	\$4,867,326		
	\$12,974,526	\$12,974,526		
	\$59,189,333	\$59,189,333		
	\$4,200,000	\$4,200,000		
Authority: Title 23.1, Chapter 21, Code of Virginia.				
	Total for Radford University.....		<b>\$213,203,929</b>	<b>\$214,598,250</b> <b>\$237,568,265</b>
	631.39	631.39		
	812.69	<del>812.69</del> 964.69		
	1,444.08	<del>1,444.08</del> 1,596.08		
	\$62,485,517	<del>\$63,879,838</del> \$66,215,605		
	\$146,518,412	<del>\$146,518,412</del> \$167,152,660		
	\$4,200,000	\$4,200,000		
<b>§ 1-61. UNIVERSITY OF MARY WASHINGTON (215)</b>				
186.	Educational and General Programs (10000).....		\$76,386,955	\$77,150,505
	\$39,656,593	\$39,995,143		
	\$418,561	\$418,561		
	\$460,385	\$460,385		
	\$9,922,575	\$9,922,575		
	\$8,377,983	\$8,752,983		
	\$10,646,609	\$10,646,609		
	\$6,904,249	\$6,954,249		
	\$26,907,724	\$27,671,274		
	\$49,479,231	\$49,479,231		
Authority: Title 23.1, Chapter 18, Code of Virginia.				

ITEM 186.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).</p>				
<p>B. Out of this appropriation an amount estimated at \$80,483 the first year and \$80,483 the second year from the general fund and \$36,130 the first year and \$36,130 the second year nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. The participating institutions and centers shall jointly submit an annual report and operating plan to the State Council of Higher Education for Virginia in support of these funded activities.</p>				
<p>C. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p>				
<p>D. Notwithstanding any other provision of law, the University of Mary Washington may enter into an agreement with the Fredericksburg Regional Alliance, a nonprofit organization dedicated to cooperative economic development efforts in the Fredericksburg region, for the purpose of expanding regional efforts in the field of economic development and research.</p>				
<p>E. Pursuant to § 2.2-1155 B., Code of Virginia, the University of Mary Washington may enter into written agreements to lease property on its Stafford Campus. The lease dated September 1, 2017 for use of the Gates Hudson Building by Stafford County Public Schools, which lease is expressly conditioned upon approval by the General Assembly, is hereby approved.</p>				
<p>F. 1. Out of this appropriation, \$338,550 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.</p>				
<p>2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:</p>				
<p>a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;</p>				
<p>b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p>				
<p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p>				
<p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p>				
<p>3. University of Mary Washington is expected to increase:</p>				
<p>a. Science and Engineering awards by 5 in the second year.</p>				
<p>b. Education awards by 5 in the second year.</p>				
<p>c. The 2016-17 year will serve as the base year for these purposes.</p>				
<p>4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.</p>				

ITEM 187.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
187.	Higher Education Student Financial Assistance (10800).....			\$12,571,981	<del>\$12,747,143</del> \$12,881,262
	Scholarships (10810).....	\$12,550,848	<del>\$12,726,010</del> \$12,860,129		
	Fellowships (10820).....	\$21,133	\$21,133		
	Fund Sources: General.....	\$3,371,981	<del>\$3,547,143</del> \$3,681,262		
	Higher Education Operating.....	\$9,200,000	\$9,200,000		
	Authority: Title 23.1, Chapter 18, Code of Virginia.				
	Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
188.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....			\$809,533	\$809,533
	Eminent Scholars (11001).....	\$57,396	\$57,396		
	Sponsored Programs (11004).....	\$752,137	\$752,137		
	Fund Sources: Higher Education Operating.....	\$809,533	\$809,533		
	Authority: Title 23.1, Chapter 18, Code of Virginia.				
189.	Museum and Cultural Services (14500).....			\$799,139	\$799,139
	Collections Management and Curatorial Services (14501).....	\$799,139	\$799,139		
	Fund Sources: General.....	\$481,118	\$481,118		
	Special.....	\$318,021	\$318,021		
	Authority: Title 23.1, Chapter 18 and Chapter 51, Acts of Assembly of 1960; § 23.1-1310, Code of Virginia.				
	The amounts provided in this appropriation are designated for the support of Belmont, the estate and memorial gallery of American artist Gari Melchers.				
190.	Administrative and Support Services (19900).....			\$1,700,000	\$1,700,000
	Operation of Higher Education Centers (19931).....	\$1,700,000	\$1,700,000		
	Fund Sources: General.....	\$1,250,000	\$1,250,000		
	Special.....	\$450,000	\$450,000		
	Authority: Title 23.1, Chapter 18, Code of Virginia.				
191.	Historic and Commemorative Attraction Management (50200).....			\$327,897	\$327,897
	Historic and Commemorative Attraction Management (50200).....	\$53,950	\$53,950		
	Historic Landmarks and Facilities Management (50203).....	\$273,947	\$273,947		
	Fund Sources: General.....	\$273,947	\$273,947		
	Special.....	\$53,950	\$53,950		
	Authority: Title 2.2, Chapter 2, § 2.2-208 Code of Virginia.				
	The amounts provided in this appropriation are designated for the support of the James Monroe Museum and Memorial Library.				

ITEM 192.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
192. Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$43,976,228 \$45,976,228	\$43,976,228 \$45,976,228
Food Services (80910).....	\$8,886,229 \$9,250,229	\$8,886,229 \$9,250,229		
Bookstores And Other Stores (80920).....	\$2,634,945	\$2,634,945		
Residential Services (80930).....	\$10,826,169 \$13,921,169	\$10,826,169 \$13,921,169		
Parking And Transportation Systems And Services (80940).....	\$692,417	\$692,417		
Telecommunications Systems And Services (80950).....	\$1,932,104 \$2,832,104	\$1,932,104 \$2,832,104		
Student Health Services (80960).....	\$592,823	\$592,823		
Student Unions And Recreational Facilities (80970).....	\$4,749,937 \$5,391,937	\$4,749,937 \$5,391,937		
Recreational And Intramural Programs (80980).....	\$1,965,941 \$1,040,941	\$1,965,941 \$1,040,941		
Other Enterprise Functions (80990).....	\$9,041,809 \$6,965,809	\$9,041,809 \$6,965,809		
Intercollegiate Athletics (80995).....	\$2,653,854	\$2,653,854		
Fund Sources: Higher Education Operating.....	\$38,537,600 \$40,537,600	\$38,537,600 \$40,537,600		
Debt Service.....	\$5,438,628	\$5,438,628		
Authority: Title 23.1, Chapter 18, Code of Virginia.				
Total for University of Mary Washington.....			<b>\$136,571,733</b> <b>\$138,571,733</b>	<b>\$137,510,445</b> <b>\$139,644,564</b>
General Fund Positions.....	228.66	228.66		
Nongeneral Fund Positions.....	465.00	465.00		
Position Level.....	693.66	693.66		
Fund Sources: General.....	\$32,284,770	\$33,223,482 \$33,357,601		
Special.....	\$821,971	\$821,971		
Higher Education Operating.....	\$98,026,364 \$100,026,364	\$98,026,364 \$100,026,364		
Debt Service.....	\$5,438,628	\$5,438,628		

**§ 1-62. UNIVERSITY OF VIRGINIA (207)**

193. Educational and General Programs (10000).....			\$649,101,340 \$732,801,340	\$651,747,680 \$735,647,680
Higher Education Instruction (100101).....	\$319,082,300 \$371,082,300	\$321,743,640 \$373,743,640		
Higher Education Research (100102).....	\$21,684,573 \$29,584,573	\$21,684,573 \$29,584,573		
Higher Education Public Services (100103).....	\$9,482,000	\$9,467,000 \$9,667,000		
Higher Education Academic (100104).....	\$111,524,612 \$125,524,612	\$111,524,612 \$125,524,612		
Higher Education Student Services (100105).....	\$37,814,443	\$37,814,443		
Higher Education Institutional Support (100106).....	\$41,482,643 \$46,282,643	\$41,482,643 \$46,282,643		
Operation and Maintenance Of Plant (100107).....	\$108,030,769 \$113,030,769	\$108,030,769 \$113,030,769		
Fund Sources: General.....	\$128,219,761	\$130,866,101 \$131,066,101		
Higher Education Operating.....	\$518,001,579 \$601,701,579	\$518,001,579 \$601,701,579		
Debt Service.....	\$2,880,000	\$2,880,000		

Authority: Title 23.1, Chapter 22, Code of Virginia.

ITEM 193.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
<p>A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).</p>				
<p>B.1. This appropriation includes an amount not to exceed \$1,393,959 the first year and \$1,393,959 the second year from the general fund for the operation of the Family Practice Residency Program and Family Practice medical student programs. This appropriation for Family Practice programs, whether ultimately implemented by contract, agreement or other means, is considered to be a grant.</p>				
<p>2. The university shall report by July 1 annually to the Department of Planning and Budget an operating plan for the Family Practice Residency Program.</p>				
<p>3. The University of Virginia, in cooperation with the Virginia Commonwealth University Health System Authority, shall establish elective Family Practice Medicine experiences in Southwest Virginia for both students and residents.</p>				
<p>4. In the event the Governor imposes across-the-board general fund reductions, pursuant to his executive authority in § 4-1.02 of this act, the general fund appropriation for the Family Practice programs shall be exempt from any reductions, provided the general fund appropriation for the family practice program is excluded from the total general fund appropriation for the University of Virginia for purposes of determining the university's portion of the statewide general fund reduction requirement.</p>				
<p>C. 1. Out of this appropriation, \$1,476,467 the first year and <del>\$1,576,467</del> \$1,776,467 the second year from the general fund and \$714,900 the first year and \$714,900 the second year from nongeneral funds is designated for the Virginia Foundation for Humanities and Public Policy. Out of the total funding, \$250,000 and two positions the first year and \$250,000 and two positions the second year from the general fund and \$714,900 and four positions the first year and \$714,900 and four positions the second year from nongeneral funds is provided to support Discovery Virginia, an online archive to preserve elements of Virginia history, culture, and heritage, and make the materials accessible to the public.</p>				
<p>2. Pursuant to House Joint Resolution 762, 1999 Session of the General Assembly, funds in this Item begin to address the objective of appropriating one dollar per capita for the support of the Foundation.</p>				
<p>D. Out of this appropriation, an amount estimated at \$501,230 the first year and \$501,230 the second year from the general fund and at least \$468,850 the first year and at least \$468,850 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.</p>				
<p>E. Out of this appropriation, \$183,306 the first year and \$183,306 the second year from the general fund, and at least \$283,500 the first year and at least \$283,500 the second year from nongeneral funds are designated for the independent Virginia Institute of Government at the University of Virginia Center for Public Service.</p>				
<p>F. Out of this appropriation, at least \$148,577 the first year and \$148,577 the second year from the general fund is designated for support of diabetes education and public service at the Virginia Center for Diabetes Professional Education at the University of Virginia.</p>				
<p>G. Out of this appropriation \$304,927 the first year and \$304,927 the second year from the general fund and \$53,189 the first year and \$53,189 the second year from nongeneral funds are designated for support of the State Arboretum at Blandy Farm.</p>				
<p>H. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In</p>				



ITEM 193.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.

O. The President of the University of Virginia shall lead a collaborative evaluation between the University of Virginia, Virginia Tech, and Virginia State University, with assistance from other institutions of higher education and organizations with expertise in this area, to analyze the problems facing rural Virginia and develop strategic recommendations for improvement. Such recommendations shall be reported to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees by October 1, 2018.

194.	Higher Education Student Financial Assistance (10800).....			\$141,474,699	\$141,981,668 \$142,049,052
	Scholarships (10810).....	\$51,352,780	\$51,859,749 \$51,927,133		
	Fellowships (10820).....	\$90,121,919	\$90,121,919		
	Fund Sources: General.....	\$11,809,411	\$12,316,380 \$12,383,764		
	Higher Education Operating.....	\$129,665,288	\$129,665,288		

Authority: Title 23.1, Chapter 22, Code of Virginia.

A. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund, shall be provided to support public-private sector partnerships in order to maximize the number of newly licensed nurses and increase the supply of nursing faculty.

B. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

C. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

195.	Financial Assistance For Educational and General Services (11000).....			\$537,856,736	\$536,856,736 \$537,356,736
	Sponsored Programs (11004).....	\$537,856,736	\$536,856,736 \$537,356,736		
	Fund Sources: General.....	\$10,469,379	\$9,469,379 \$9,969,379		
	Higher Education Operating.....	\$504,577,357	\$504,577,357		
	Debt Service.....	\$22,810,000	\$22,810,000		

Authority: Title 23.1, Chapter22, Code of Virginia.

A. Out of this appropriation, \$1,744,245 the first year and \$1,744,245 the second year from the general fund and \$14,350,000 the first year and \$14,350,000 the second year from nongeneral funds are designated to build research capacity in the areas of bioengineering and biosciences.

B. Out of this appropriation, \$4,162,634 the first year and \$4,162,634 the second year from the general fund is designated for the support of cancer research.

C. Out of this appropriation, \$3,612,500 the first year and ~~\$2,612,500~~ \$3,112,500 the second year from the general fund is designated for support of the Focused Ultrasound Center to support core programs and research activities.

ITEM 195.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
D. Out of this appropriation, \$950,000 the first year and \$950,000 the second year from the general fund is designated to support the creation of the UVA Economic Development Accelerator.				
E. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
196.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$222,775,089	\$222,775,089
	Food Services (80910).....	\$5,126,300	\$5,126,300	
	Residential Services (80930).....	\$42,416,308	\$42,416,308	
	Parking And Transportation Systems And Services (80940).....	\$15,152,588	\$15,152,588	
	Telecommunications Systems And Services (80950)..	\$15,564,808	\$15,564,808	
	Student Health Services (80960).....	\$9,988,173	\$9,988,173	
	Student Unions And Recreational Facilities (80970)..	\$6,416,529	\$6,416,529	
	Recreational And Intramural Programs (80980).....	\$9,719,717	\$9,719,717	
	Other Enterprise Functions (80990).....	\$61,109,420	\$61,109,420	
	Intercollegiate Athletics (80995).....	\$57,281,246	\$57,281,246	
	Fund Sources: Higher Education Operating.....	\$200,917,089	\$200,917,089	
	Debt Service.....	\$21,858,000	\$21,858,000	
Authority: Title 23.1, Chapter 22, Code of Virginia.				
	Total for University of Virginia.....		<del>\$1,551,207,864</del> <b>\$1,634,907,864</b>	<del>\$1,553,361,173</del> <b>\$1,637,828,557</b>
	General Fund Positions.....	1,084.63	1,084.63	
	Nongeneral Fund Positions.....	5,951.17	5,951.17	
	Position Level.....	7,035.80	7,035.80	
	Fund Sources: General.....	\$150,498,551	<del>\$152,651,860</del> <i>\$153,419,244</i>	
	Higher Education Operating.....	<del>\$1,353,161,313</del> <i>\$1,436,861,313</i>	<del>\$1,353,161,313</del> <i>\$1,436,861,313</i>	
	Debt Service.....	\$47,548,000	\$47,548,000	
<b>University of Virginia Medical Center (209)</b>				
197.	State Health Services (43000).....		\$1,874,877,027	<del>\$1,899,578,933</del> <i>\$1,987,715,855</i>
	Inpatient Medical Services (43007).....	\$767,462,156	<del>\$769,762,156</del> <i>\$795,807,156</i>	
	Outpatient Medical Services (43011).....	\$451,807,921	<del>\$455,307,921</del> <i>\$483,484,843</i>	
	Administrative Services (43018).....	\$655,606,950	<del>\$674,508,856</del> <i>\$708,423,856</i>	
	Fund Sources: Higher Education Operating.....	\$1,857,230,562	<del>\$1,881,932,468</del> <i>\$1,970,069,390</i>	
	Debt Service.....	\$17,646,465	\$17,646,465	
Authority: §§ 23.1, Chapter 22, Article 3 , Code of Virginia and Chapter 38, Acts of Assembly of 1978.				
A. The appropriation to the University of Virginia Medical Center provides for the care, treatment, health related services and education activities associated with Virginia patients, including indigent and medically indigent patients. Inasmuch as the University of Virginia Medical Center is a state teaching hospital, this appropriation is to be used to jointly support the education of health students through patient care provided by this appropriation.				
B. By July 1 of each year, the Director, Department of Medical Assistance Services shall approve a common criteria and methodology for determining free care attributable to the				

ITEM 197.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>appropriations in this Item. The Medical Center will report to the Department of Medical Assistance Services expenditures for indigent, medically indigent, and other patients. The Auditor of Public Accounts and the State Comptroller shall monitor the implementation of these procedures. The Medical Center shall report by October 31 annually to the Department of Medical Assistance Services, the Comptroller and the Auditor of Public Accounts on expenditures related to this Item. Reporting shall be by means of the indigent care cost report and shall follow criteria approved by the Director, Department of Medical Assistance Services.</p> <p>C. Funding for Family Practice is included in the University of Virginia's Educational and General appropriation. Support for other residencies is included in the hospital appropriation.</p> <p>D. It is the intent of the General Assembly that the University of Virginia Medical Center – Hospital maintain its efforts to staff residencies and fellow positions to produce sufficient generalist physicians in medically underserved regions of the state.</p> <p>E. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover medical center operations.</p> <p>F. Notwithstanding anything contrary to law, the University of Virginia has authority to determine compensation paid to Medical Center employees in accordance with policies established by the Board of Visitors.</p> <p>G. In order to provide the state share for Medicaid supplemental payments to Medicaid provider private hospitals in which the University of Virginia Medical Center has a non-majority interest, the University of Virginia shall transfer to the Department of Medical Assistance Services public funds that comply with 42 C.F.R. § 433.51.</p>				
198.	The June 30, 2018 and June 30, 2019 unexpended balances to the University of Virginia Medical Center are hereby reappropriated; their use is subject to approval of allotments by the Department of Planning and Budget.			
199.	A full accrual system of accounting shall be effected by the institution, subject to the authority of the State Comptroller, as stated in § 2.2-803, Code of Virginia, with the proviso that appropriations for operating expenses may not be used for capital projects.			
	Total for University of Virginia Medical Center.....		<b>\$1,874,877,027</b>	<b>\$1,899,578,933</b> <i>\$1,987,715,855</i>
	Nongeneral Fund Positions.....	7,145.22	<del>7,294.22</del> 7,463.22	
	Position Level.....	7,145.22	<del>7,294.22</del> 7,463.22	
	Fund Sources: Higher Education Operating.....	\$1,857,230,562	<del>\$1,881,932,468</del> <i>\$1,970,069,390</i>	
	Debt Service.....	\$17,646,465	\$17,646,465	
<b>University of Virginia's College at Wise (246)</b>				
200.	Educational and General Programs (10000).....		\$27,503,151	<del>\$29,192,340</del> <i>\$31,325,486</i>
	Higher Education Instruction (100101).....	\$10,093,463	<del>\$12,093,463</del> <i>\$12,461,326</i>	
	Higher Education Public Services (100103).....	\$546,684	\$546,684	
	Higher Education Academic (100104).....	\$5,373,038	<del>\$5,312,227</del> <i>\$5,370,727</i>	
	Higher Education Student Services (100105).....	\$1,995,301	<del>\$1,994,103</del> <i>\$2,432,408</i>	
	Higher Education Institutional Support (100106)....	\$5,280,306	<del>\$5,280,306</del> <i>\$5,684,036</i>	
	Operation and Maintenance Of Plant (100107).....	\$4,214,359	<del>\$3,965,557</del> <i>\$4,830,305</i>	

ITEM 200.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$16,629,041	\$18,318,230 \$20,318,230		
Higher Education Operating.....	\$10,874,110	\$10,874,110 \$11,007,256		

Authority: Title 23.1, Chapter 22, Article 2, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. The software engineering curriculum being established to insure success of recent economic development projects in Southwest Virginia, shall be considered on its merits by the State Council of Higher Education for Virginia and shall not be dependent on funding by the Commonwealth.

C. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

D. Out of this appropriation, \$233,358 the first year and \$233,358 the second year from the general fund and \$138,577 the first year and \$138,577 the second year from nongeneral funds are designated to facilitate the technical training programs for the Northrop Grumman state backup data center.

E. Out of this appropriation, \$720,880 the first year and \$715,580 the second year from the general fund is designated to support debt service costs under the Master Equipment Lease Program (MELP) to upgrade the university's information technology network and security systems. In addition to these amounts, \$172,000 the first year and \$116,489 the second year from the general fund is designated to support training and software costs.

F. Out of this appropriation, \$1,750,000 the second year from the general fund is designated to enhance academic programs at the College.

G. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the University of Virginia and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.

H. The Director, Department of Planning and Budget is authorized, upon request of the Chancellor, University of Virginia's College at Wise, to move up to \$2,000,000 of general fund appropriation from the second year to the first year.

201. Higher Education Student Financial Assistance (10800).....			\$2,756,028	\$2,855,808 \$3,254,335
Scholarships (10810).....	\$2,756,028	\$2,855,808 \$3,254,335		
Fund Sources: General.....	\$2,706,028	\$2,805,808 \$3,204,335		
Higher Education Operating.....	\$50,000	\$50,000		

Authority: Title 23.1, Chapter 22, Article 2, Code of Virginia.

Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least

ITEM 201.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.			
202.	Financial Assistance For Educational and General Services (11000)			
	a sum sufficient, estimated at.....		\$3,889,751	\$3,613,252
	Sponsored Programs (11004).....	\$3,889,751	\$3,613,252	
	Fund Sources: Higher Education Operating.....	\$3,889,751	\$3,613,252	
	Authority: Title 23.1 Chapter 22, Article 2, Code of Virginia.			
203.	Higher Education Auxiliary Enterprises (80900)			
	a sum sufficient, estimated at.....		\$12,292,005	\$12,292,005
	Food Services (80910).....	\$294,528	\$294,528	
	Bookstores And Other Stores (80920).....	\$268,500	\$268,500	
	Residential Services (80930).....	\$4,781,075	\$4,781,075	
	Parking And Transportation Systems And Services (80940).....	\$150,172	\$150,172	
	Student Health Services (80960).....	\$209,230	\$209,230	
	Student Unions And Recreational Facilities (80970).....	\$1,297,379	\$1,297,379	
	Recreational And Intramural Programs (80980).....	\$123,400	\$123,400	
	Other Enterprise Functions (80990).....	\$2,546,219	\$2,546,219	
	Intercollegiate Athletics (80995).....	\$2,621,502	\$2,621,502	
	Fund Sources: Higher Education Operating.....	\$9,302,005	\$9,302,005	
	Debt Service.....	\$2,990,000	\$2,990,000	
	Authority: Title 23.1, Chapter 22, Article 2, Code of Virginia.			
	Total for University of Virginia's College at Wise.....		<b>\$46,440,935</b>	<b><del>\$47,953,405</del> \$50,485,078</b>
	General Fund Positions.....	165.26	<del>165.26</del> 171.46	
	Nongeneral Fund Positions.....	185.44	<del>185.44</del> 186.24	
	Position Level.....	350.70	<del>350.70</del> 357.70	
	Fund Sources: General.....	\$19,335,069	<del>\$21,124,038</del> \$23,522,565	
	Higher Education Operating.....	\$24,115,866	<del>\$23,839,367</del> \$23,972,513	
	Debt Service.....	\$2,990,000	\$2,990,000	
	Grand Total for University of Virginia.....		<b><del>\$3,472,525,826</del> \$3,556,225,826</b>	<b><del>\$3,500,893,511</del> \$3,676,029,490</b>
	General Fund Positions.....	1,249.89	<del>1,249.89</del> 1,256.09	
	Nongeneral Fund Positions.....	13,281.83	<del>13,430.83</del> 13,600.63	
	Position Level.....	14,531.72	<del>14,680.72</del> 14,856.72	
	Fund Sources: General.....	\$169,833,620	<del>\$173,775,898</del> \$176,941,809	
	Higher Education Operating.....	<del>\$3,234,507,741</del> \$3,318,207,741	<del>\$3,258,933,148</del> \$3,430,903,216	
	Debt Service.....	\$68,184,465	\$68,184,465	
<b>§ 1-63. VIRGINIA COMMONWEALTH UNIVERSITY (236)</b>				
204.	Educational and General Programs (10000).....		<del>\$602,861,401</del> \$631,161,401	<del>\$607,134,781</del> \$635,669,781

ITEM 204.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Higher Education Instruction (100101).....	\$346,436,880	\$350,710,260		
	\$374,736,880	\$379,085,260		
Higher Education Research (100102).....	\$14,264,683	\$14,264,683		
Higher Education Public Services (100103).....	\$8,673,781	<del>\$8,673,781</del>		
		\$8,833,781		
Higher Education Academic (100104).....	\$97,468,448	\$97,468,448		
Higher Education Student Services (100105).....	\$26,410,668	\$26,410,668		
Higher Education Institutional Support (100106).....	\$54,539,802	\$54,539,802		
Operation and Maintenance Of Plant (100107).....	\$55,067,139	\$55,067,139		
Fund Sources: General.....	\$178,794,052	<del>\$183,067,432</del>		
		\$183,302,432		
Higher Education Operating.....	<del>\$424,067,349</del>	<del>\$424,067,349</del>		
	\$452,367,349	\$452,367,349		

Authority: Title 23.1, Chapter 23, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. Out of this appropriation, \$4,336,607 the first year and \$4,336,607 the second year from the general fund is provided for the operation of the Family Practice Residency Program and Family Practice medical student programs. This appropriation for Family Practice programs, whether ultimately implemented by contract, agreement or other means, is considered to be a grant.

2. The university shall report by July 1 annually to the Department of Planning and Budget an operating plan for the Family Practice Residency Program.

3. The university, in cooperation with the University of Virginia, shall establish elective Family Practice Medicine experiences in Southwest Virginia for both students and residents.

4. In the event the Governor imposes across-the-board general fund reductions, pursuant to his executive authority in § 4-1.02 of this act, the general fund appropriation for the Family Practice programs shall be exempt from any reductions, provided the general fund appropriation for the family practice program is excluded from the total general fund appropriation for Virginia Commonwealth University for purposes of determining the University's portion of the statewide general fund reduction requirement.

C. Out of this appropriation, an amount estimated at \$332,140 the first year and \$332,140 the second year from the general fund and \$168,533 the first year and \$168,533 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.

D.1. Out of this appropriation, not less than \$386,685 the first year and not less than \$386,685 the second year from the general fund is designated for the Virginia Center on Aging. This includes \$319,750 the first year and \$319,750 the second year for the Alzheimer's and Related Diseases Research Award Fund.

2. Out of this appropriation, \$253,244 the first year and \$253,244 the second year from the general fund and \$356,250 the first year and \$356,250 the second year from nongeneral funds are designated for the operation of the Virginia Geriatric Education Center and the Geriatric Academic Career Awards Program, both to be administered by the Virginia Center on Aging.

E. All costs for maintenance and operation of the physical plant of the School of Engineering, Phase I and future renovations, repairs, and improvements as they become necessary shall be financed from nongeneral funds.

F. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from the general fund is designated for support of the Council on Economic Education.

ITEM 204.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
G.	Out of this appropriation, \$32,753 the first year and <del>\$32,753</del> \$192,753 the second year from the general fund is designated for support of the Education Policy Institute.			
H.1.	Notwithstanding any other provisions of law, Virginia Commonwealth University is authorized to remit tuition and fees for merit scholarships for students of high academic achievement subject to the following limitations and restrictions:			
	2. The number of such scholarships annually awarded to undergraduate Virginia students shall not exceed 20 percent of the fall headcount enrollment of Virginia students in undergraduate studies in the institution from the preceding academic year. The total value of such merit scholarships annually awarded shall not exceed in any year the amount arrived at by multiplying the applicable figure for undergraduate tuition and required fees by 20 percent of the headcount enrollment of Virginia students in undergraduate studies in the institution for the fall semester from the preceding academic year.			
	3. The number of such scholarships annually awarded to undergraduate non-Virginia students shall not exceed 20 percent of the fall headcount enrollment of non-Virginia students in undergraduate studies in the institution from the preceding academic year. The total value of such merit scholarships annually awarded shall not exceed in any year the amount arrived at by multiplying the applicable figure for undergraduate tuition and required fees by 20 percent of the fall headcount enrollment of non-Virginia students in undergraduate studies in the institution during the preceding academic year.			
	4. A scholarship awarded under this program shall entitle the holder to receive an annual remission of an amount not to exceed the cost of tuition and required fees to be paid by the student.			
I.	Out of this appropriation, \$252,595 the first year and \$252,595 the second year from the general fund is provided for the Medical College of Virginia Palliative Care Partnership.			
J.	As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.			
K.	Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is designated for the Virginia Commonwealth University School of Pharmacy to support the Center for Compounding Practice and Research. The allocation will serve to support any costs associated with creating the Center including facility-related expenses as well as the purchase of the compounding equipment necessary for this state of the art teaching and research facility and will be leveraged as a matching gift with private funds. The Center will train Pharm.D. students to meet technical compounding demands, provide continuing education to registered pharmacists and conduct ongoing research on compounded medications.			
L.	Out of this appropriation, \$180,000 the first year and <del>\$180,000</del> \$255,000 the second year from the general fund is designated to support a substance abuse fellowship program <i>and a sickle cell opiod management program</i> at the Virginia Commonwealth University School of Medicine.			
M.	Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is designated to support a partnership between Virginia Commonwealth University and the Virginia Repertory Theatre at the historic November Theatre (formally known as the Empire Theatre).			
N.	Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated for the Commonwealth Center for Advanced Logistics to serve as state matching funds for industry research and membership fees.			
O.	Out of this appropriation, \$125,000 the first year \$125,000 the second year from the general fund is designated for the Commonwealth Center for Advanced Logistics to			

ITEM 204.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

support the traffic optimization modeling and simulation project at the Port of Virginia to improve port operations.

P. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between Virginia Commonwealth University and the Commonwealth, as set forth in Chapters 594 and 616, of the 2008 Acts of Assembly.

Q. 1. Out of this appropriation, \$4,273,380 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);

c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and

d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).

3. Virginia Commonwealth University is expected to increase:

a. Data Science and Technology awards by 20 in the second year.

b. Science and Engineering awards by 30 in the second year.

c. Healthcare awards by 40 in the second year.

d. Education awards by 20 in the second year.

e. The 2016-17 year will serve as the base year for these purposes.

4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.

205.	Higher Education Student Financial Assistance (10800).....			\$58,353,954	\$59,568,247 \$63,394,475
	Scholarships (10810).....	\$54,928,970	\$56,143,263 \$59,969,491		
	Fellowships (10820).....	\$3,424,984	\$3,424,984		
	Fund Sources: General.....	\$31,777,447	\$32,991,740 \$35,195,886		
	Higher Education Operating.....	\$26,576,507	\$26,576,507 \$28,198,589		

Authority: Title 23.1, Chapter 23, Code of Virginia.

A. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

B. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed

ITEM 205.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
206.	Financial Assistance For Educational and General Services (11000).....		\$299,137,393 \$309,437,393	\$299,137,393 \$309,437,393
	Eminent Scholars (11001).....	\$3,045,800	\$3,045,800	
	Sponsored Programs (11004).....	\$296,091,593 \$306,391,593	\$296,091,593 \$306,391,593	
	Fund Sources: General.....	\$14,012,500	\$14,012,500	
	Higher Education Operating.....	\$266,018,613 \$275,318,613	\$266,018,613 \$275,318,613	
	Debt Service.....	\$19,106,280 \$20,106,280	\$19,106,280 \$20,106,280	
Authority: Title 23.1, Chapter 23, Code of Virginia.				
A. Out of this appropriation, \$1,162,500 the first year and \$1,162,500 the second year from the general fund and \$6,600,000 the first year and \$6,600,000 the second year from nongeneral funds are designated to build research capacity in the areas of biomedical engineering and regenerative medicine.				
B. Out of this appropriation, \$12,500,000 the first year and \$12,500,000 the second year from the general fund is designated for the support of cancer research.				
C. Out of this appropriation, \$350,000 the first year and \$350,000 the second year from the general fund is designated to support the Parkinson's and Movement Disorders Center.				
D. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
207.	State Health Services (43000).....		\$26,575,000 \$27,575,000	\$26,575,000 \$27,575,000
	State Health Services Technical Support And Administration (43012).....	\$26,575,000 \$27,575,000	\$26,575,000 \$27,575,000	
	Fund Sources: Higher Education Operating.....	\$26,575,000 \$27,575,000	\$26,575,000 \$27,575,000	
Authority: Discretionary Inclusion.				
This appropriation includes funding to support 238 instructional and administrative faculty positions and for administrative and classified positions which provide services, through internal service agreements, to the Virginia Commonwealth University Health System Authority.				
208.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$164,247,126 \$174,247,126	\$164,247,126 \$174,247,126
	Food Services (80910).....	\$13,763,884 \$14,996,022	\$13,763,884 \$14,996,022	
	Bookstores And Other Stores (80920).....	\$4,806,270 \$5,338,412	\$4,806,270 \$5,338,412	
	Residential Services (80930).....	\$30,075,194 \$31,446,857	\$30,075,194 \$31,446,857	
	Parking And Transportation Systems And Services (80940).....	\$23,383,257 \$24,351,660	\$23,383,257 \$24,351,660	
	Telecommunications Systems And Services (80950).....	\$5,676,016	\$5,676,016	
	Student Health Services (80960).....	\$5,891,638	\$5,891,638	

ITEM 208.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Student Unions And Recreational Facilities (80970)...	\$14,560,559	\$14,560,559		
Recreational And Intramural Programs (80980).....	\$11,859,159	\$11,859,159		
Other Enterprise Functions (80990).....	\$36,166,962	\$36,166,962		
	\$42,062,616	\$42,062,616		
Intercollegiate Athletics (80995).....	\$18,064,187	\$18,064,187		
Fund Sources: Higher Education Operating.....	\$130,379,246	\$130,379,246		
	\$140,379,246	\$140,379,246		
Debt Service.....	\$33,867,880	\$33,867,880		
Authority: Title 23.1, Chapter 23, Code of Virginia.				
209. Administrative and Support Services (19900).....			\$45,000,000	\$45,000,000
Operation of Higher Education Centers (19931).....	\$45,000,000	\$45,000,000		
Fund Sources: Higher Education Operating.....	\$45,000,000	\$45,000,000		
Authority: Title 23.1, Chapter 23, Code of Virginia.				
A.1. Out of this appropriation, \$45,000,000 the first year and \$45,000,000 the second year from nongeneral funds is designated to support the university's branch campus in Qatar.				
2. Notwithstanding § 2.2-1802 of the Code of Virginia, Virginia Commonwealth University is authorized to maintain a local bank account in Qatar and non-U.S. countries to facilitate business operations the VCU Qatar Campus. These accounts are exempt from the Securities for Public Deposits Act, Title 2.2, Chapter 44 of the Code of Virginia.				
3. Procurements and expenditures from the local bank account(s) are not subject to the Virginia Public Procurement Act and the Commonwealth Accounting Policies and Procedures (CAPP) Manual. Virginia Commonwealth University will institute procurement policies based on competitive procurement principles, except as otherwise stated within these policies. Expenditures from the local bank account will be recorded in the Commonwealth Accounting and Reporting System by Agency Transaction Vouchers, as appropriated herewith with revenue recognized as equal to the expenditures.				
4. Notwithstanding § 2.2-1149 of the Code of Virginia, Virginia Commonwealth University is authorized to approve operating, income and capital leases in Qatar under policies and procedures developed by the University.				
5. Virginia Commonwealth University is authorized to establish and hire staff (non-faculty) positions in Qatar under policies and procedures developed by the University. These employees, who are employed solely to support the Qatar Campus are not considered employees of the Commonwealth of Virginia and are not subject to the Virginia Personnel Act.				
6. The Board of Visitors of Virginia Commonwealth University is authorized to establish policies for the Qatar Campus.				
Total for Virginia Commonwealth University.....			<b>\$1,196,174,874</b>	<b>\$1,201,662,547</b>
			<b>\$1,245,774,874</b>	<b>\$1,255,323,775</b>
General Fund Positions.....	1,507.80	1,507.80		
Nongeneral Fund Positions.....	3,792.29	3,792.29		
Position Level.....	5,300.09	5,300.09		
Fund Sources: General.....	\$224,583,999	\$230,071,672		
		\$232,510,818		
Higher Education Operating.....	\$918,616,715	\$918,616,715		
	\$967,216,715	\$968,838,797		
Debt Service.....	\$52,974,160	\$52,974,160		
	\$53,974,160	\$53,974,160		

**§ 1-64. VIRGINIA COMMUNITY COLLEGE SYSTEM (260)**

210. Educational and General Programs (10000).....			\$895,795,430	\$896,375,430
			\$895,245,430	\$902,455,430

ITEM 210.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Higher Education Instruction (100101).....	\$386,925,300	\$386,925,300		
	\$386,375,300	\$391,505,300		
Higher Education Public Services (100103).....	\$4,606,631	\$4,606,631		
Higher Education Academic (100104).....	\$95,942,712	\$96,422,712		
Higher Education Student Services (100105).....	\$91,753,670	\$91,753,670		
Higher Education Institutional Support (100106)....	\$218,410,701	\$218,410,701		
		\$219,910,701		
Operation and Maintenance Of Plant (100107).....	\$98,156,416	\$98,256,416		
Fund Sources: General.....	\$384,683,304	\$385,263,304		
	\$384,133,304	\$389,843,304		
Higher Education Operating.....	\$511,112,126	\$511,112,126		
		\$512,612,126		

Authority: Title 23.1, Chapter 29, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. It is the objective of the Commonwealth that a standard of 70 percent full-time faculty be established for the Virginia Community College System. Consistent with higher education funding guidelines, it is expected that the Virginia Community College System will utilize the funds provided for base operating support to achieve this objective. In addition, the first priority for new funding provided to the community college system shall be for operating support at individual community colleges. Thirty days prior to the beginning of each fiscal year, the Virginia Community College System shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the allocation of all new general funds and nongeneral funds in this item and any cost recovery plans between the individual community colleges and the system office.

C. It is the intent of the General Assembly that funds available to the Virginia Community College System be reallocated to accommodate changes in enrollment and other cost factors at each of the community colleges.

D. Tuition and fee revenues from out-of-state students taking distance education courses through the Virginia Community College System must exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this requirement shall be established by the State Board for Community Colleges.

E. Out of this appropriation, amounts for the following special programs are designated: at J. Sargeant Reynolds Community College, the Program for the Deaf, \$64,547 and four positions the first year and \$64,547 and four positions the second year from the general fund and the Program for the Intellectually Disabled, \$91,004 and four positions the first year and \$91,004 and four positions the second year from the general fund; and, at New River Community College, the Program for the Deaf, \$78,328 and four positions the first year and \$78,328 and four positions the second year from the general fund, and the Program for the Intellectually Disabled, \$69,682 and 4.5 positions the first year and \$69,682 and 4.5 positions the second year from the general fund; and, at Danville Community College, the Program for the Deaf, \$26,001 and one position the first year and \$26,001 and one position the second year from the general fund.

F. Out of this appropriation, \$39,001 the first year and \$39,001 the second year from the general fund is designated to support the Southwest Virginia Telecommunications Network.

G. Out of this appropriation, \$261,370 and four positions the first year and \$261,370 and four positions the second year from the general fund is provided to support Virginia Western Community College's participation in the Roanoke Higher Education Center and the Botetourt County Education and Training Center at Greenfield.

H. Out of this appropriation, \$130,005 the first year and \$130,005 the second year from the general fund is designated to support the Southwestern Virginia Advanced Manufacturing Technology Center at Wytheville Community College.

ITEM 210.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
1.1. Out of this appropriation, \$345,000 the first year and \$345,000 the second year from the general fund is provided for the annual lease or rental costs of space in the Botetourt County Education and Training Center at Greenfield.				
2. The general fund amounts provided for in this paragraph for workforce training, retraining, programming, and community education facilities at the Botetourt County Education and Training Center shall be matched by local or private sources in a ratio of two-thirds state funds to at least one-third local or private funds, as approved by the State Board for Community Colleges.				
J. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
K. Out of this appropriation, \$191,884 the first year and \$191,884 the second year from the general fund shall be provided to Northern Virginia Community College to support public-private sector partnerships in order to maximize the number of newly licensed nurses and increase the supply of nursing faculty.				
L. Out of this appropriation, \$489,000 the first year and \$489,000 the second year from the general fund is designated for Northern Virginia Community College to implement the SySTEMic Solutions initiative which will enable expansion of dual enrollment courses with a STEM focus in all Northern Virginia school districts; opportunities to earn industry-aligned certifications; professional development opportunities for STEM teachers; part-time employment and internship opportunities for students in STEM programs; hands-on SOL-based science lessons at the elementary level with industry input and support; and collaborative robotics programs between the community college and K-12 schools. It is expected that an equal amount of private funds will be generated as a match for the state support.				
M. Out of this appropriation, \$19,560 the first year and \$19,560 the second year from the general fund shall be provided to Southside Virginia Community College. Out of this amount, \$7,824 each year from the general fund shall be provided to the Estes Community Center in Chase City, \$7,824 each year from the general fund shall be provided to the Lake Country Advanced Knowledge Center in South Hill, and \$3,912 the first year and \$3,912 the second year from the general fund shall be provided to the Clarksville Enrichment Complex.				
N. Out of this appropriation, \$115,130 the first year and \$115,130 the second year from the general fund is provided for the Mecklenburg County Job Retraining Center.				
O. Out of this appropriation, \$255,000 the first year and \$255,000 the second year from the general fund and \$163,000 the first year and \$163,000 the second year from nongeneral funds is designated for the operation of the Amherst Center of Central Virginia Community College. Central Virginia Community College shall report annually to the Chairmen of the House Appropriations and Senate Finance Committees on the number of students enrolled, the programs provided with number of students served and the number of degrees and certificates awarded by program.				
P. Out of this appropriation, \$200,000 each year from the general fund is designated for Lord Fairfax Community College. Of this amount \$100,000 each year is designated to expand the career and technical education programs at the Middletown Campus and \$100,000 each year is designated for workforce training programs at the Fauquier Campus. The programs will be designed in collaboration with regional employers and high schools.				
Q. Out of this appropriation, \$1,100,000 and seven positions the first year and \$1,100,000 and seven positions the second year from the general fund is designated for veterans resource centers at Northern Virginia Community College, Tidewater Community College, Thomas Nelson Community College, Germanna Community College, J. Sargeant Reynolds Community College, John Tyler Community College, and Virginia Western Community				

ITEM 210.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

College.

R. Out of this appropriation, \$250,000 and nine positions the first year and \$250,000 and nine positions the second year from the general fund is designated to support the Rural Horseshoe Initiative.

S. Out of this appropriation, \$550,000 in the first year and \$550,000 in the second year from the general fund is designated for Northern Virginia Community College to contract in accordance with Chapter 779, 2017 Acts of Assembly, to develop, market, and implement high-quality and effective computer science training and professional development activities for public school teachers throughout the Commonwealth for the purpose of improving the computer science literacy of all public school students in the Commonwealth. Further, Northern Virginia Community College shall establish an advisory committee for the purpose of advising the college and its partner organization on the development, marketing, and implementation of training and professional development activities pursuant to Chapter 779 (2017); subsection A. The Secretary of Commerce and Trade and the Secretary of Education shall each submit to the college a list of names of qualified individuals, and the college shall appoint members to such advisory committee from such lists.

T. The Virginia Community College System (VCCS) shall evaluate and submit a report on a strategy and funding for enhancing the rate at which community college students progress through the system's academic programs and attain degrees or other credentials. The evaluation should focus on enhancing institutions' academic advising services. The report should describe a plan for ensuring that each institution can provide proactive, individualized, mandatory advising for students who demonstrate the potential to benefit from such advising and who are at the highest risk of not earning a credential or transferring to a four-year higher education institution. The report should also describe the criteria that the system will use to identify high-risk students who should receive intensive, mandatory advising; describe the circumstances that will prompt mandatory academic advising meetings; estimate the total number of students who would be eligible; estimate the total cost of equipping each college to provide such advising; and identify the potential sources of funding for implementing the plan. The report should describe how the existing College Success Coach Initiative program could be expanded to achieve these purposes. The report should also describe the resources that would be necessary to require students to attend new-student orientation before enrolling in courses and to complete the student development course during their first semester, and such requirements should at least apply to students who are seeking a degree or credential and who have been identified by VCCS as being at-risk of non-completion. The report should be provided to the Secretary of Education and the Chairman of the House Appropriations and Senate Finance Committees by September 1, 2018.

U. Out of this appropriation, \$480,000 and two positions the second year from the general fund are designated for the Virginia Community College System, in partnership with the State Council of Higher Education for Virginia, to develop and maintain a mandated online repository for all transfer agreements, course equivalency tools, Passport Credit Program Guidelines and other informational resources related to transferring from a public two-year institution to a public four-year institution. The repository shall also include a Dual Enrollment Guide, Exam Equivalency Guide, Degree Searcher, and other transfer tools and components that support student transfer.

V. Out of this appropriation, \$5,000,000 the second year from the general fund is designated for general operating support for the Virginia Community College System.

211. Higher Education Student Financial Assistance (10800)				
a sum sufficient, estimated at.....			\$65,532,073	\$66,809,208 \$74,283,661
Scholarships (10810).....	\$65,532,073	\$66,809,208 \$74,283,661		
Fund Sources: General.....	\$45,084,767	\$46,361,902 \$49,836,355		
Higher Education Operating.....	\$20,447,306	\$20,447,306 \$24,447,306		

ITEM 211.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

Authority: Title 23.1, Chapter 29, Code of Virginia.

A. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund is designated for Tidewater Community College to support an apprenticeship program for Virginia's shipyard workers. All general fund amounts appropriated for this apprenticeship program shall be used to provide scholarships to shipyard workers enrolled in the program. The conditions for receiving a scholarship shall be those conditions described in § 23.1-2912, Code of Virginia.

B. Funding in this Item shall be allocated for the Virginia Guaranteed Assistance Program, the Commonwealth Award and need-based student financial assistance for industry-based certifications or related programs that do not qualify for other sources of student financial assistance.

C. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.

212.	Financial Assistance For Educational and General Services (11000).....			\$55,786,044	\$55,786,044
	Sponsored Programs (11004).....	\$55,786,044	\$55,786,044		
	Fund Sources: General.....	\$550,000	\$550,000		
	Higher Education Operating.....	\$55,236,044	\$55,236,044		

Authority: Title 23.1, Chapter 29, Code of Virginia.

213.	Economic Development Services (53400).....			\$107,419,320	<del>\$107,719,320</del> \$118,877,970
	Management of Workforce Development Program Services (53427).....	\$107,419,320	<del>\$107,719,320</del> \$118,877,970		
	Fund Sources: General.....	\$10,417,664	<del>\$10,717,664</del> \$10,876,314		
	Higher Education Operating.....	\$97,001,656	<del>\$97,001,656</del> \$108,001,656		

Authority: Title 23.1, Chapter 29, Code of Virginia.

A. 1. Out of this appropriation, \$53,850,629 and 38 positions the first year, and \$53,850,629 and 38 positions the second year from nongeneral funds is provided for the administration and implementation of workforce development programs as part of the federal Workforce Innovation and Opportunity Act of 2014 (WIOA).

2. Out of this appropriation, and consistent with Sections 128 and 133 of WIOA, 15% of the nongeneral funds received for the administration of Title I of WIOA shall be reserved by the Governor in a fund to support administration of the Title I programs and to support statewide strategic workforce initiatives. At the end of the federal allotment cycle, unobligated Rapid Response funds shall also be transferred to the Governor's fund, consistent with Section 134 of WIOA. The investment strategy for the fund shall be determined by the Governor, in consultation with the Chief Workforce Development Advisor, the Virginia Community College System, and workforce system stakeholders no later than the first day of the federal program year for WIOA Title I. The investment strategy shall be consistent with required and allowable activities under Section 134 of WIOA. By December 15 of each year, the Chief Workforce Development Advisor shall report on the use of funds and generated outcomes to the Chairmen of the House Appropriations and Senate Finance Committees.

B. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is provided to continue planning for the advanced integrated manufacturing technology program at Thomas Nelson Community College.

C.1. Out of this appropriation, \$166,162 the first year and \$166,162 the second year from the

ITEM 213.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>general fund is designated for the A. L. Philpott Manufacturing Extension Partnership at Patrick Henry Community College.</p>				
<p>2. Out of this appropriation, \$927,700 the first year and <del>\$927,700</del>\$1,086,350 the second year from the general fund is designated for the A. L. Philpott Manufacturing Extension Partnership at Patrick Henry Community College for an ongoing match for a grant from the U.S. Department of Commerce to develop a manufacturer assistance program covering most of Virginia.</p>				
<p>D. It is the intent of the General Assembly that noncredit business and industry work-related training courses and programs offered by community colleges be funded at a ratio of 30 percent from the general fund and 70 percent from nongeneral funds. Out of this appropriation, \$664,647 in the first year and \$664,647 in the second year from the general fund is designated for this purpose. These funds may be combined with funds of \$249,243 the first year and \$249,243 the second year already included in the Virginia Community College System budget for the "Virginia Works" program. The funds will be allocated by formula to all colleges based on the number of individuals served by non-credit activities.</p>				
<p>E.1. As recommended by House Joint Resolution No. 622 (1997), the Joint Subcommittee to Study Noncredit Education for Workforce Training in the Commonwealth, the Virginia Community College System is directed to establish one or more Institutes of Excellence responsible for development of statewide training programs to meet current, high demand workforce needs of the Commonwealth. Out of this appropriation, at least \$664,647 the first year and \$664,647 the second year from the general fund is available to support the Institutes of Excellence.</p>				
<p>2. Under the guidance of the Virginia Workforce Council, authorized in Title 2.2, Chapter 26, Article 25, Code of Virginia, the Virginia Community College System shall submit to the Chairmen of the Senate Finance and House Appropriations Committees by November 4 of each year a report detailing the financing, activities, accomplishments and plans for the Institutes of Excellence and the four workforce development centers, and outcomes of the appropriations for 23 workforce coordinators and for non-credit training. The report shall include, but not be limited to:</p>				
<p>a. performance measures to be used to evaluate the effectiveness of the workforce coordinators at all 23 colleges;</p>				
<p>b. detailed information on number of students trained, employers served and courses offered; the types of certifications awarded; and the participation by local governments and the public or private sector, and other data relevant to the activities of the four regional workforce development centers;</p>				
<p>c. the number of students trained, employers served and courses offered through noncredit instruction, and the amounts of local government, public or private sector funding used to match this appropriation; and</p>				
<p>d. the amount or percentage of private and public funding contributed for the institutes' programming and operating needs; the number of private and public partnerships involved in the institutes' programming; the number of faculty and colleges affected by the institutes' programming; and performance measures to be used to evaluate the sharing or broadcasting of information and new/improved/updated curricula to other Virginia Community College campuses.</p>				
<p>F. Out of this appropriation, \$1,196,820 and 23 positions the first year and \$1,196,820 and 23 positions the second year from the general fund is provided for staff who will be responsible for coordinating workforce training in the campus service area. The staff will work with local business and industry to determine training needs, coordinate with local economic development personnel, the local workforce training council, and other providers. It is the General Assembly's intent that the Virginia Community College System maximize these positions by encouraging funding matches at the local level.</p>				
<p>G. Out of this appropriation, \$470,880 and four positions the first year and \$470,880 and four positions the second year from the general fund is provided for four workforce training centers: the Peninsula Workforce Development Center (Thomas Nelson Community College), \$78,480 and one position the first year and \$78,480 and one</p>				

ITEM 213.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

position the second year; the Regional Center for Applied Technology Training (Danville Community College), \$156,960 and one position the first year and \$156,960 and one position the second year; a Workforce Development Center at Paul D. Camp Community College, \$156,960 and one position the first year and \$156,960 and one position the second year; and the Central Virginia Manufacturing Technology Training Center in the Lynchburg area, \$78,480 and one position the first year and \$78,480 and one position the second year. Each center shall provide a 25 percent match prior to the release of state funding.

H. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated to continue the pre-hire immersion training program.

I. Out of this appropriation, \$460,000 the first year and \$460,000 the second year from the general fund is designated to support the veteran's credit for prior learning application.

J. Out of this appropriation, \$104,950 each year from the general fund is designated to support career and technical education at Lord Fairfax Community College's Luray-Page County Center with a focus on healthcare and medical programs.

K. Out of this appropriation, \$310,000 the first year and \$310,000 the second year from the general fund is designated to implement a pilot program between Virginia Western Community College, Botetourt County Public Schools, and local industry partners to meet the demand for mechatronic technicians. The program goal is to prepare 100 Mechatronic Engineering Technicians over five years using established career pathways with Botetourt County Public Schools and Virginia Western Community College and a sustainable faculty preparation program.

L. Out of this appropriation, \$300,000 the second year from the general fund is designated to implement a pilot program between Virginia Western Community College, Roanoke City Public Schools and local industry partners to create a Career Technical dual track program to allow high school students the opportunity to complete high school with both a diploma and a workforce credential / certificate.

214.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$58,821,317	<del>\$58,821,317</del> \$53,821,317
	Food Services (80910).....	\$1,238,576	\$1,238,576		
	Bookstores And Other Stores (80920).....	\$14,447,297	\$14,447,297		
	Parking And Transportation Systems And Services (80940).....	\$23,487,416	<del>\$23,487,416</del> \$18,487,416		
	Student Unions And Recreational Facilities (80970)...	\$19,648,028	\$19,648,028		
	Fund Sources: Higher Education Operating.....	\$42,710,554	<del>\$42,710,554</del> \$37,710,554		
	Debt Service.....	\$16,110,763	\$16,110,763		

Authority: Title 23.1, Chapter 29, Code of Virginia.

215. The appropriations in this section are for the following community colleges:

College I.D.	Community College	College I.D.	Community College
61	System Office	80	Northern Virginia
70	Utility	85	Patrick Henry
91	Blue Ridge	77	Paul D. Camp
92	Central Virginia	82	Piedmont
87	Dabney S. Lancaster	78	Rappahannock
79	Danville	76	Southside Virginia
84	Eastern Shore	94	Southwest Virginia
97	Germanna	93	Thomas Nelson
83	J. Sargeant Reynolds	95	Tidewater
90	John Tyler	96	Virginia Highlands
98	Lord Fairfax	86	Virginia Western

ITEM 215.			Item Details(\$)		Appropriations(\$)		
			First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
	99	Mountain Empire		88	Wytheville		
	75	New River					
Total for Virginia Community College System.....						<b>\$1,183,354,184</b>	<b>\$1,185,511,319</b>
						<b>\$1,182,804,184</b>	<b>\$1,205,224,422</b>
General Fund Positions.....			5,557.57	<del>5,557.57</del> 5,558.57			
Nongeneral Fund Positions.....			5,796.58	5,796.58			
Position Level.....			11,354.15	<del>11,354.15</del> 11,355.15			
Fund Sources: General.....			<del>\$440,735,735</del>	<del>\$442,892,870</del>			
			\$440,185,735	\$451,105,973			
Higher Education Operating.....			\$726,507,686	<del>\$726,507,686</del> \$738,007,686			
Debt Service.....			\$16,110,763	\$16,110,763			

**§ 1-65. VIRGINIA MILITARY INSTITUTE (211)**

216.	Educational and General Programs (10000).....				\$40,129,603	\$41,464,327
	Higher Education Instruction (100101).....		\$16,934,911	<del>\$18,269,635</del> \$18,391,035		\$42,074,875
	Higher Education Public Services (100103).....		\$75,221	\$75,221		
	Higher Education Academic (100104).....		\$5,763,746	\$5,763,746		
	Higher Education Student Services (100105).....		\$2,694,932	\$2,694,932		
	Higher Education Institutional Support (100106)....		\$7,509,209	\$7,509,209		
	Operation and Maintenance Of Plant (100107).....		\$7,151,584	<del>\$7,151,584</del> \$7,640,732		
	Fund Sources: General.....		\$9,995,154	<del>\$10,930,316</del> \$11,540,864		
	Higher Education Operating.....		\$29,734,449	\$30,134,011		
	Debt Service.....		\$400,000	\$400,000		

Authority: Title 23.1, Chapter 25, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals as described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. Resources determined by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the base adequacy funding guidelines.

D. 1. Out of this appropriation, \$395,740 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.

2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:

a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;

b. Science and Engineering awards shall be based on completion data contained in the

ITEM 216.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Virginia Military Institute is expected to increase:</p> <p>a. Data Science and Technology awards by 5 in the second year.</p> <p>b. Science and Engineering awards by 5 in the second year.</p> <p>c. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.</p>				
217.	Higher Education Student Financial Assistance (10800).....		\$5,636,680	\$5,707,147 \$5,718,218
	Scholarships (10810).....	\$5,636,680		\$5,707,147 \$5,718,218
	Fund Sources: General.....	\$1,036,680		\$1,107,147 \$1,118,218
	Higher Education Operating.....	\$4,600,000		\$4,600,000
<p>Authority: Title 23.1, Chapter 25, § 23.1-2506, Code of Virginia.</p> <p>A. Out of the amounts for Scholarships and Loans, the institute shall provide for State Cadetships and for discretionary student aid.</p> <p>B. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.</p>				
218.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$894,898	\$894,898
	Eminent Scholars (11001).....	\$200,000		\$200,000
	Sponsored Programs (11004).....	\$694,898		\$694,898
	Fund Sources: Higher Education Operating.....	\$894,898		\$894,898
<p>Authority: Title 23.1, Chapter 25, Code of Virginia.</p>				
219.	Unique Military Activities (11300).....		\$8,772,662	\$10,172,662
	Fund Sources: General.....	\$4,210,058		\$5,610,058
	Higher Education Operating.....	\$4,562,604		\$4,562,604
<p>Authority: Discretionary Inclusion.</p> <p>A.1. Personnel associated with performance of activities designated by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the calculation of employment guidelines.</p> <p>2. It is the intent of the General Assembly that nonresident cadets receive the same general fund support in the Unique Military program as resident cadets.</p>				

ITEM 220.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
220. Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$29,916,510	\$29,916,510
Food Services (80910).....	\$7,497,369	\$7,497,369		
Bookstores And Other Stores (80920).....	\$1,174,021	\$1,174,021		
Residential Services (80930).....	\$2,080,471	\$2,080,471		
Student Health Services (80960).....	\$232,440	\$232,440		
Student Unions And Recreational Facilities (80970).....	\$1,838,039	\$1,838,039		
Recreational And Intramural Programs (80980).....	\$955,874	\$955,874		
Other Enterprise Functions (80990).....	\$10,743,395	\$10,743,395		
Intercollegiate Athletics (80995).....	\$5,394,901	\$5,394,901		
Fund Sources: Higher Education Operating.....	\$27,920,510	\$27,920,510		
Debt Service.....	\$1,996,000	\$1,996,000		
Authority: Title 23.1, Chapter 25, Code of Virginia.				
Total for Virginia Military Institute.....			<b>\$85,350,353</b>	<b>\$88,155,544</b> <b>\$88,777,163</b>
General Fund Positions.....	187.71	<del>187.71</del> 188.71		
Nongeneral Fund Positions.....	281.06	281.06		
Position Level.....	468.77	<del>468.77</del> 469.77		
Fund Sources: General.....	\$15,241,892	<del>\$17,647,521</del> \$18,269,140		
Higher Education Operating.....	\$67,712,461	\$68,112,023		
Debt Service.....	\$2,396,000	\$2,396,000		

**§ 1-66. VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (208)**

221. Educational and General Programs (10000).....			<del>\$707,553,016</del> \$756,061,887	<del>\$712,768,896</del> \$761,277,767
Higher Education Instruction (100101).....	<del>\$402,323,902</del> \$440,537,396	<del>\$407,539,782</del> \$445,753,276		
Higher Education Research (100102).....	\$21,760,642	\$21,760,642		
Higher Education Public Services (100103).....	\$24,677,993	\$24,677,993		
Higher Education Academic (100104).....	<del>\$85,609,511</del> \$88,977,171	<del>\$85,609,511</del> \$88,977,171		
Higher Education Student Services (100105).....	<del>\$22,070,704</del> \$23,344,510	<del>\$22,070,704</del> \$23,344,510		
Higher Education Institutional Support (100106).....	<del>\$69,017,141</del> \$72,667,747	<del>\$69,017,141</del> \$72,667,747		
Operation and Maintenance Of Plant (100107).....	<del>\$82,093,123</del> \$84,096,428	<del>\$82,093,123</del> \$84,096,428		
Fund Sources: General.....	\$162,254,482	\$167,470,362		
Higher Education Operating.....	<del>\$545,298,534</del> \$593,807,405	<del>\$545,298,534</del> \$593,807,405		

Authority: Title 23.1, Chapter 26, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. Out of this appropriation shall be expended an amount estimated at \$869,882 the first year and \$869,882 the second year from the general fund and \$436,357 the first year and \$436,357 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review

ITEM 221.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	and recommendation to the Governor and General Assembly.			
	C. Out of this appropriation, \$301,219 the first year and \$301,219 the second year from the general fund is designated to support the Marion duPont Scott Equine Center of the Virginia-Maryland Regional College of Veterinary Medicine.			
	D. Out of this appropriation, \$225,588 the first year and \$225,588 the second year from the general fund is designated to support tobacco research for medicinal purposes and field tests at sites in Blackstone and Abingdon.			
	E. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.			
	F. Out of this appropriation, \$288,000 the first year and \$288,000 the second year from the general fund is designated to develop a STEM Industry Internship program in partnership with the Virginia Space Grant Consortium, Virginia Regional Technology Councils and industry. The program will provide 75 undergraduate students across the Commonwealth an opportunity to centrally apply for real world work experience and provide Virginia's industries with access to qualified interns. Virginia Tech will partner with the Virginia Space Grant Consortium and work with Virginia's Regional Technology Councils who will serve as the program's conduit to industry, advertising the program and linking with interested industry partners.			
	G. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.			
	H. Out of this appropriation, \$2,000,000 the first year and \$2,000,000 the second year from the general fund is designated to support a cyber range platform to be used for cyber security training by students in Virginia's public high schools, community colleges, and four-year institutions. Virginia Tech shall form a consortium among participating institutions, and shall serve as the coordinating entity for use of the platform. The consortium should initially include all Virginia public institutions with a certification of academic excellence from the federal government.			
	I. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between Virginia Polytechnic Institute and State University and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.			
	J. 1. Out of this appropriation, \$5,215,880 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.			
	2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:			
	a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;			
	b. Science and Engineering awards shall be based on completion data contained in the State			

ITEM 221.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>Council of Higher Education for Virginia SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);</p> <p>c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and</p> <p>d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).</p> <p>3. Virginia Tech is expected to increase:</p> <p>a. Data Science and Technology awards by 60 in the second year.</p> <p>b. Science and Engineering awards by 100 in the second year.</p> <p>c. The 2016-17 year will serve as the base year for these purposes.</p> <p>4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.</p>				
222.	Higher Education Student Financial Assistance (10800).....		\$26,156,231	\$26,862,539
			\$29,709,256	\$31,406,961
	Scholarships (10810).....	\$21,078,606	\$21,784,914	
		\$24,631,631	\$26,329,336	
	Fellowships (10820).....	\$5,077,625	\$5,077,625	
	Fund Sources: General.....	\$21,288,231	\$21,994,539	
			\$22,985,936	
	Higher Education Operating.....	\$4,868,000	\$4,868,000	
		\$8,421,025	\$8,421,025	
<p>Authority: Soil Scientist Scholarships: Title 23.1, Chapter 26, and § 23.1-615, Code of Virginia.,</p> <p>A. Out of the amount for Scholarships, the following sums shall be made available from the general fund for:</p> <p>1. Soil Scientist Scholarships, \$11,000 the first year and \$11,000 the second year.</p> <p>2. Scholarships, internships, and graduate assistantships administered by the Multicultural Academic Opportunities Program at the university, \$86,500 the first year and \$86,500 the second year. Eligible students must have financial need and participate in an academic support program.</p> <p>B. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.</p> <p>C. Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.</p>				
223.	Financial Assistance For Educational and General Services (11000).....		\$336,801,687	\$336,801,687
	Eminent Scholars (11001).....	\$2,000,000	\$2,000,000	
	Sponsored Programs (11004).....	\$334,801,687	\$334,801,687	
	Fund Sources: General.....	\$5,388,544	\$5,388,544	

ITEM 223.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

Higher Education Operating.....	\$331,413,143	\$331,413,143		
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Authority: Title 23.1, Chapter 26, Code of Virginia.

A. Out of this appropriation, \$2,388,544 the first year and \$2,388,544 the second year from the general fund and \$15,000,000 the first year and \$15,000,000 the second year from nongeneral funds are designated to build research capacity in the areas of bioengineering, biomaterials and nanotechnology.

B. Virginia Polytechnic Institute and State University is authorized to establish a self-supporting "instructional enterprise" fund to account for the revenues and expenditures of the Institute for Distance and Distributed Learning (IDDL) classes offered to students at locations outside the Commonwealth of Virginia. Consistent with the self-supporting concept of an "enterprise fund," student tuition and fee revenues for IDDL students at locations outside Virginia shall exceed all direct and indirect costs of providing instruction to those students. The Board of Visitors shall set tuition and fee rates to meet this requirement and shall set other policies regarding the IDDL as may be appropriate. Revenue and expenditures of the fund shall be accounted for in such a manner as to be auditable by the Auditor of Public Accounts. As a part of this "instructional enterprise" fund Virginia Tech is authorized to establish a program in which Internet-based (on-line) courses, certificate, and entire degree programs, primarily at the graduate level, are offered to students in Virginia who are not enrolled for classes on the Blacksburg campus or one of the extended campus locations. Tuition generated by Virginia students taking these on-line courses and tuition from IDDL students at locations outside Virginia shall be retained in the fund to support the entire IDDL program and shall not be used by the state to offset other Educational and General costs. Revenues in excess of expenditures shall be retained in the fund to support the entire IDDL program. Full-time equivalent students generated through these programs shall be accounted for separately. Additionally, revenues which remain unexpended on the last day of the previous biennium and the last day of the first year of the current biennium shall be reappropriated and allotted for expenditure in the respective succeeding fiscal year.

C. Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from the general fund is designated to support and enhance brain disorder research.

D. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.

224.	Unique Military Activities (11300).....		\$2,284,350		\$2,584,350 \$2,757,350
	Fund Sources: General.....	\$2,284,350			\$2,584,350 \$2,757,350

Authority: Discretionary Inclusion.

A.1. Personnel associated with performance of activities designated by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the calculation of employment guidelines.

2. It is the intent of the General Assembly that nonresident cadets receive the same general fund support in the Unique Military program as resident cadets.

225.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....				\$312,946,077    \$312,946,077
	Food Services (80910).....	\$58,017,586	\$58,017,586		
	Residential Services (80930).....	\$54,276,261	\$54,276,261		
	Parking And Transportation Systems And Services (80940).....	\$13,709,452	\$13,709,452		
	Telecommunications Systems And Services (80950)..	\$19,617,224	\$19,617,224		
	Student Health Services (80960).....	\$11,308,313	\$11,308,313		
	Student Unions And Recreational Facilities (80970)...	\$18,411,985	\$18,411,985		
	Recreational And Intramural Programs (80980).....	\$9,123,592	\$9,123,592		
	Other Enterprise Functions (80990).....	\$61,298,310	\$61,298,310		
	Intercollegiate Athletics (80995).....	\$67,183,354	\$67,183,354		

ITEM 225.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Fund Sources: Higher Education Operating.....	\$302,595,577	\$302,595,577		
Debt Service.....	\$10,350,500	\$10,350,500		
Authority: Title 23.1, Chapter 26, Code of Virginia.				
Total for Virginia Polytechnic Institute and State University.....			<b>\$1,385,741,361</b>	<b>\$1,391,963,549</b>
			<del>\$1,437,803,257</del>	<del>\$1,445,189,842</del>
General Fund Positions.....	1,890.53	1,890.53		
Nongeneral Fund Positions.....	4,933.45	4,933.45		
Position Level.....	6,823.98	6,823.98		
Fund Sources: General.....	\$191,215,607	<del>\$197,437,795</del>		
		\$198,602,192		
Higher Education Operating.....	<del>\$1,184,175,254</del>	<del>\$1,184,175,254</del>		
	\$1,236,237,150	\$1,236,237,150		
Debt Service.....	\$10,350,500	\$10,350,500		

**Virginia Cooperative Extension and Agricultural Experiment Station (229)**

226.	Educational and General Programs (10000).....			\$89,957,448	\$89,957,448
				<del>\$90,087,005</del>	<del>\$91,131,372</del>
	Higher Education Research (100102).....	\$39,256,359	\$39,256,359		
		\$39,315,359	\$39,506,336		
	Higher Education Public Services (100103).....	\$46,920,496	\$46,920,496		
		\$46,991,053	\$47,844,443		
	Higher Education Academic (100104).....	\$718,057	\$718,057		
	Operation and Maintenance Of Plant (100107).....	\$3,062,536	\$3,062,536		
	Fund Sources: General.....	\$71,786,740	\$71,786,740		
		\$71,916,297	\$72,960,664		
	Higher Education Operating.....	\$18,170,708	\$18,170,708		

Authority: Title 23.1, Chapter 26, Article 2, Code of Virginia.

A. Appropriations for this agency shall include operating expenses for research and investigations, and the several regional and county agricultural experiment stations under its control, in accordance with law.

B.1. It is the intent of the General Assembly that the Cooperative Extension Service gives highest priority to programs and services which comprised the original mission of the Extension Service, especially agricultural programs at the local level. The university shall ensure that the service utilizes information technology to the extent possible in the delivery of programs.

2. The budget of this agency shall include and separately account for local payments. Virginia Polytechnic Institute and State University, in conjunction with Virginia State University, shall report, by fund source, actual expenditures for each program area and total actual expenditures for the agency, annually, by September 1, to the Department of Planning and Budget and the House Appropriations and Senate Finance Committees. The report shall include all expenditures from local support funds.

C. The Virginia Cooperative Extension and Agricultural Experiment Station shall not charge a fee for testing the soil on property used for commercial farming.

D. It is the intent of the General Assembly that the general fund share of the Educational and General program for the Virginia Cooperative Extension and Agriculture Experiment Station shall be 95 percent of state funding calculations.

E. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between Virginia Polytechnic Institute and State University and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.

ITEM 226.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Total for Virginia Cooperative Extension and Agricultural Experiment Station.....			<b>\$89,957,448</b> <b>\$90,087,005</b>	<b>\$89,957,448</b> <b>\$91,131,372</b>
General Fund Positions.....	726.24	726.24 730.24		
Nongeneral Fund Positions.....	388.27	388.27		
Position Level.....	1,114.51	1,114.51 1,118.51		
Fund Sources: General.....	\$71,786,740	\$71,786,740		
Higher Education Operating.....	\$71,916,297	\$72,960,664		
Higher Education Operating.....	\$18,170,708	\$18,170,708		
Grand Total for Virginia Polytechnic Institute and State University.....			<b>\$1,475,698,809</b> <b>\$1,527,890,262</b>	<b>\$1,481,920,997</b> <b>\$1,536,321,214</b>
General Fund Positions.....	2,616.77	2,616.77 2,620.77		
Nongeneral Fund Positions.....	5,321.72	5,321.72		
Position Level.....	7,938.49	7,938.49 7,942.49		
Fund Sources: General.....	\$263,002,347	\$269,224,535		
Higher Education Operating.....	\$263,131,904	\$271,562,856		
Higher Education Operating.....	\$1,202,345,962	\$1,202,345,962		
Debt Service.....	\$1,254,407,858	\$1,254,407,858		
Debt Service.....	\$10,350,500	\$10,350,500		

**§ 1-67. VIRGINIA STATE UNIVERSITY (212)**

227.	Educational and General Programs (10000).....			\$72,863,678	\$73,144,280 \$73,902,030
	Higher Education Instruction (100101).....	\$40,138,349	\$40,619,059 \$41,376,809		
	Higher Education Research (100102).....	\$2,118,047	\$2,118,047		
	Higher Education Public Services (100103).....	\$120,448	\$120,448		
	Higher Education Academic (100104).....	\$5,752,949	\$5,752,949		
	Higher Education Student Services (100105).....	\$4,387,836	\$4,387,836		
	Higher Education Institutional Support (100106).....	\$13,166,931	\$12,891,823		
	Operation and Maintenance Of Plant (100107).....	\$7,179,118	\$7,254,118		
	Fund Sources: General.....	\$36,206,980	\$36,487,582 \$37,020,868		
	Higher Education Operating.....	\$36,656,698	\$36,656,698 \$36,881,162		

Authority: Title 23.1, Chapter 27, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. Out of this appropriation, \$3,790,639 the first year and \$3,790,639 the second year from the general fund is designated for continued enhancement of the existing Bachelor of Science academic programs in Computer Science, Manufacturing Engineering, Computer Engineering, Mass Communications and Criminal Justice, and the doctoral program in Education.

2. Out of this appropriation, \$37,500 the first year and \$37,500 the second year from the general fund is provided to serve in lieu of endowment income for the Eminent Scholars Program.

3. Any unexpended balances in paragraphs B.1. and B.2. in this Item at the close of business on June 30, 2018 and June 30, 2019, shall not revert to the surplus of the general fund but

ITEM 227.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
shall be carried forward on the books of the State Comptroller and reappropriated in the succeeding year.				
C. This appropriation includes \$200,000 the first year and \$200,000 the second year from the general fund to increase the number of faculty with terminal degrees to at least 85 percent of the total teaching faculty.				
D. Out of this appropriation, Virginia State University is authorized to use up to \$600,000 the first year and \$600,000 the second year from the general fund to address extremely critical deferred maintenance deficiencies in its facilities, including residence halls and dining facilities.				
E. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
F. Out of this appropriation, \$1,300,000 the first year and \$1,300,000 the second year from the general fund is designated to support the Manufacturing Engineering and Logistics Technology program.				
G. Out of this appropriation, \$104,792 the first year and \$104,022 the second year from the general fund is designated for debt service costs under the Master Equipment Lease Program (MELP) for upgrades to the university's police radio system. In addition to these amounts, \$154,451 the first year from the general fund is designated to support training and software costs.				
H. Out of this appropriation, \$324,140 the first year and \$321,757 the second year from the general fund is designated to support debt service costs under the Master Equipment Lease Program (MELP) to improve the university's information technology network. In addition to these amounts, \$412,923 the first year and \$295,419 the second year from the general fund is designated to support training and software costs.				
I. 1. Out of this appropriation, \$480,710 the second year from the general fund is designated to address increased degree production in Data Science and Technology, Science and Engineering, Healthcare, and Education.				
2. Degree production shall be measured for Bachelors, Masters, Doctorates and First Professional awards as follows:				
a. Data Science and Technology awards shall be based on completion data contained in the State Council of Higher Education for Virginia, C-16 completion report;				
b. Science and Engineering awards shall be based on completion data contained in the State Council of Higher Education for Virginia (SCHEV), C-1 A1 completion report for the following programs Biological and Biomedical Science (26), Engineering (14) less those already counted in paragraph 2 a., Engineering Technologies (15), and Physical Sciences (42);				
c. Healthcare awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Health Professions and Related Programs (51); and				
d. Education awards shall be based on completion data contained in the SCHEV C-1 A1 completion report for the Education Programs (13).				
3. Virginia State University is expected to increase:				
a. Data Science and Technology awards by 5 in the second year.				
b. Science and Engineering awards by 5 in the second year.				
c. Education awards by 5 in the second year.				

ITEM 227.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
d. The 2016-17 year will serve as the base year for these purposes.				
4. SCHEV shall report on the progress toward these goals to the Chairman of the House Appropriations and Senate Finance Committees report on the progress toward these goals annually beginning August 2020.				
<i>I. Out of this appropriation, an amount estimated at \$299,286 from the general fund and \$224,464 from nongeneral funds in the second year are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.</i>				
228.	Higher Education Student Financial Assistance (10800).....		\$15,372,344	\$15,623,045 \$16,103,906
	Scholarships (10810).....	\$14,973,285	\$15,223,986 \$15,704,847	
	Fellowships (10820).....	\$399,059	\$399,059	
	Fund Sources: General.....	\$8,775,317	\$9,026,018 \$9,506,879	
	Higher Education Operating.....	\$6,597,027	\$6,597,027	
Authority: Title 23.1, Chapter 27, Code of Virginia.				
Up to 15 percent of the funding in this item may be used to support Virginia Guaranteed Assistance Program eligible students for (1) priority funding who are enrolled in Data Science and Technology, Science and Engineering, Healthcare and Education programs and (2) as a grant for students in innovative internship programs provided that the institutions has at least one private sector partner and the grant is matched equally by the partner with non-state funding and / or the institution from private funds.				
229.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$35,538,161	\$35,538,161
	Sponsored Programs (11004).....	\$35,538,161	\$35,538,161	
	Fund Sources: Higher Education Operating.....	\$35,538,161	\$35,538,161	
Authority: Title 23.1, Chapter 27, Code of Virginia.				
230.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$42,508,117	\$42,508,117
	Food Services (80910).....	\$8,789,606	\$8,789,606	
	Bookstores And Other Stores (80920).....	\$51,001	\$51,001	
	Residential Services (80930).....	\$17,374,870	\$17,374,870	
	Parking And Transportation Systems And Services (80940).....	\$417,467	\$417,467	
	Student Health Services (80960).....	\$1,046,036	\$1,046,036	
	Student Unions And Recreational Facilities (80970)...	\$2,678,662	\$2,678,662	
	Other Enterprise Functions (80990).....	\$6,150,277	\$6,150,277	
	Intercollegiate Athletics (80995).....	\$6,000,198	\$6,000,198	
	Fund Sources: Higher Education Operating.....	\$32,175,572	\$32,175,572	
	Debt Service.....	\$10,332,545	\$10,332,545	
Authority: Title 23.1, Chapter 27, Code of Virginia.				
Total for Virginia State University.....			\$166,282,300	\$166,813,603 \$168,052,214
	General Fund Positions.....	323.47	<del>323.47</del> 329.47	
	Nongeneral Fund Positions.....	486.89	<del>486.89</del> 489.89	

ITEM 230.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Position Level.....	810.36	810.36 819.36		
Fund Sources: General.....	\$44,982,297	\$45,513,600 \$46,527,747		
Higher Education Operating.....	\$110,967,458	\$110,967,458 \$111,191,922		
Debt Service.....	\$10,332,545	\$10,332,545		

**Cooperative Extension and Agricultural Research Services (234)**

231.	Educational and General Programs (10000).....			\$12,231,656	\$12,231,656
	Higher Education Research (100102).....	\$5,679,088	\$5,679,088		
	Higher Education Public Services (100103).....	\$5,934,114	\$5,934,114		
	Higher Education Institutional Support (100106)....	\$50,440	\$50,440		
	Operation and Maintenance Of Plant (100107).....	\$568,014	\$568,014		
	Fund Sources: General.....	\$5,590,340	\$5,590,340		
	Higher Education Operating.....	\$6,641,316	\$6,641,316		

Authority: Title 23.1, Chapter 27, § 23.1-2704, Title 23, Chapter 13, Code of Virginia.

A. Out this appropriation, \$392,107 the first year and \$392,107 the second year from the general fund is designated for support of research and extension activities aimed at the production of hybrid striped bass in Virginia farm ponds. No expenditures will be made from these funds for other purposes without the prior written permission of the Secretary of Education.

B. The Extension Division budgets shall include and separately account for local payments. Virginia State University, in conjunction with Virginia Polytechnic Institute and State University, shall report, by fund source, actual expenditures for each program area and total actual expenditures for the Extension Division, annually, by September 1, to the Department of Planning and Budget and the House Appropriations and Senate Finance Committees. The report shall include all expenditures from local support funds.

C. Out of this appropriation, \$394,000 the first year and \$394,000 the second year from the general fund is designated for the Small-Farmer Outreach Training and Technical Assistance Program to provide outreach and business management education to small farmers.

	Total for Cooperative Extension and Agricultural Research Services.....			<b>\$12,231,656</b>	<b>\$12,231,656</b>
	General Fund Positions.....	31.75	31.75		
	Nongeneral Fund Positions.....	67.00	67.00		
	Position Level.....	98.75	98.75		
	Fund Sources: General.....	\$5,590,340	\$5,590,340		
	Higher Education Operating.....	\$6,641,316	\$6,641,316		
	Grand Total for Virginia State University.....			<b>\$178,513,956</b>	<b>\$179,045,259</b> <b>\$180,283,870</b>
	General Fund Positions.....	355.22	<del>355.22</del> 361.22		
	Nongeneral Fund Positions.....	553.89	<del>553.89</del> 556.89		
	Position Level.....	909.11	<del>909.11</del> 918.11		
	Fund Sources: General.....	\$50,572,637	<del>\$51,103,940</del> \$52,118,087		
	Higher Education Operating.....	\$117,608,774	<del>\$117,608,774</del> \$117,833,238		
	Debt Service.....	\$10,332,545	\$10,332,545		

ITEM 231.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>§ 1-68. FRONTIER CULTURE MUSEUM OF VIRGINIA (239)</b>				
232.	Museum and Cultural Services (14500).....		\$2,597,716	<del>\$2,597,716</del> \$2,987,716
	Collections Management and Curatorial Services (14501).....	\$188,555		\$188,555
	Education and Extension Services (14503).....	\$1,169,606		<del>\$1,169,606</del> \$1,294,606
	Operational and Support Services (14507).....	\$1,239,555		<del>\$1,239,555</del> \$1,504,555
	Fund Sources: General.....	\$1,891,936		<del>\$1,891,936</del> \$2,281,936
	Special.....	\$705,780		\$705,780
	Authority: Title 23.1, Chapter 32, Article 2, Code of Virginia.			
	A. Any revenue generated by the Frontier Culture Museum of Virginia from the development of its properties pursuant to § 23.1-3203, Code of Virginia, may be retained by the museum to support agency operations. Such revenues shall be deposited into a special fund which shall be created on the books of the State Comptroller. Amounts in this fund shall be appropriated consistent with the provisions of this act.			
	B. The Governor may authorize the conveyance of any interest in property or improvements thereon held by the Commonwealth to the American Frontier Culture Foundation.			
	Total for Frontier Culture Museum of Virginia.....		<b>\$2,597,716</b>	<b><del>\$2,597,716</del></b> <b>\$2,987,716</b>
	General Fund Positions.....	22.50		22.50
	Nongeneral Fund Positions.....	15.00		15.00
	Position Level.....	37.50		37.50
	Fund Sources: General.....	\$1,891,936		<del>\$1,891,936</del> \$2,281,936
	Special.....	\$705,780		\$705,780
<b>§ 1-69. GUNSTON HALL (417)</b>				
233.	Museum and Cultural Services (14500).....		\$842,150	\$842,150
	Education and Extension Services (14503).....	\$94,202		\$94,202
	Operational and Support Services (14507).....	\$747,948		\$747,948
	Fund Sources: General.....	\$661,973		\$661,973
	Special.....	\$180,177		\$180,177
	Authority: Title 23.1, Chapter 32, Article 3, Code of Virginia.			
	Total for Gunston Hall.....		<b>\$842,150</b>	<b>\$842,150</b>
	General Fund Positions.....	8.00		8.00
	Nongeneral Fund Positions.....	3.00		3.00
	Position Level.....	11.00		11.00
	Fund Sources: General.....	\$661,973		\$661,973
	Special.....	\$180,177		\$180,177
<b>§ 1-70. JAMESTOWN-YORKTOWN FOUNDATION (425)</b>				
234.	Museum and Cultural Services (14500).....		\$18,918,251	<del>\$18,360,426</del> \$18,959,884
	Collections Management and Curatorial Services (14501).....	\$684,141		\$684,141
	Education and Extension Services (14503).....	\$7,858,030		<del>\$7,300,205</del> \$7,375,205

ITEM 234.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Operational and Support Services (14507).....	\$10,376,080	<del>\$10,376,080</del> \$10,900,538		
Fund Sources: General.....	\$10,305,275	<del>\$9,747,450</del> \$10,346,908		
Special.....	\$8,612,976	\$8,612,976		
Authority: Title 23.1, Chapter 32, Article 4, Code of Virginia.				
A. Out of the amounts for Operational and Support Services, the Director is authorized to expend from special funds amounts not to exceed \$3,500 the first year and \$3,500 the second year for entertainment expenses commonly borne by businesses. Such expenses shall be recorded separately by the agency.				
B. With the prior written approval of the Director, Department of Planning and Budget, nongeneral fund revenues which are unexpended by the end of the fiscal year may be paid to the Jamestown-Yorktown Foundation, Inc. for the specific purposes determined by the Board of Trustees in support of Foundation programs.				
C. It is the intent of the General Assembly that the Jamestown-Yorktown Foundation be authorized to fill all positions authorized in this act and all part-time (wage) positions funded in this act, notwithstanding § 4-7.01 of this act.				
D. Out of the appropriation for this Item, \$54,777 the first year and \$54,777 the second year from the general fund is included for the purchase of museum electronic security equipment through the state's master equipment lease program.				
Total for Jamestown-Yorktown Foundation.....			<b>\$18,918,251</b>	<del>\$18,360,426</del> <b>\$18,959,884</b>
General Fund Positions.....	108.00	<del>108.00</del> 111.00		
Nongeneral Fund Positions.....	63.00	63.00		
Position Level.....	171.00	<del>171.00</del> 174.00		
Fund Sources: General.....	\$10,305,275	<del>\$9,747,450</del> \$10,346,908		
Special.....	\$8,612,976	\$8,612,976		
<b>Jamestown-Yorktown Commemorations (400)</b>				
235. Historic and Commemorative Attraction Management (50200).....			\$6,501,417	\$6,501,417
2019 Commemoration (50210).....	\$6,501,417	\$6,501,417		
Fund Sources: General.....	\$6,501,417	\$6,501,417		
Total for Jamestown-Yorktown Commemorations...			<b>\$6,501,417</b>	<b>\$6,501,417</b>
General Fund Positions.....	9.00	9.00		
Position Level.....	9.00	9.00		
Fund Sources: General.....	\$6,501,417	\$6,501,417		
Grand Total for Jamestown-Yorktown Foundation..			<b>\$25,419,668</b>	<del>\$24,861,843</del> <b>\$25,461,301</b>
General Fund Positions.....	117.00	<del>117.00</del> 120.00		
Nongeneral Fund Positions.....	63.00	63.00		
Position Level.....	180.00	<del>180.00</del> 183.00		
Fund Sources: General.....	\$16,806,692	<del>\$16,248,867</del> \$16,848,325		
Special.....	\$8,612,976	\$8,612,976		

ITEM 235.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>§ 1-71. THE LIBRARY OF VIRGINIA (202)</b>					
236.	Archives Management (13700).....			\$5,848,305	\$5,848,305
	Management of Public Records (13701).....	\$778,007	\$778,007		
	Management of Archival Records (13702).....	\$1,967,402	\$1,967,402		
	Historical and Cultural Publications (13703).....	\$679,368	\$679,368		
	Archival Research Services (13704).....	\$1,236,422	\$1,236,422		
	Conservation-Preservation of Historic Records (13705).....	\$175,061	\$175,061		
	Circuit Court Record Preservation (13706).....	\$1,012,045	\$1,012,045		
	Fund Sources: General.....	\$2,250,046	\$2,250,046		
	Special.....	\$3,273,833	\$3,273,833		
	Federal Trust.....	\$324,426	\$324,426		

Authority: Title 42.1, Chapters 1 and 7, Code of Virginia.

A. The Librarian of Virginia shall report annually to the Secretary of Education on progress in the processing and preserving of circuit court records.

B. The Librarian of Virginia and the State Archivist shall conduct an annual study of The Library of Virginia's archival preservation needs and priorities, and shall report annually by December 1 to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees of the General Assembly on The Library of Virginia's progress to date in reducing its archival backlog.

237.	Statewide Library Services (14200).....			\$6,413,094	\$6,413,094
	Cooperative Library Services (14201).....	\$2,651,222	\$2,651,222		
	Consultation to Libraries (14203).....	\$739,259	\$739,259		
	Research Library Services (14206).....	\$3,022,613	\$3,022,613		
	Fund Sources: General.....	\$2,986,105	\$2,986,105		
	Special.....	\$286,759	\$286,759		
	Federal Trust.....	\$3,140,230	\$3,140,230		

Authority: Title 42.1, Chapters 1 and 3, Code of Virginia.

It is the intent of the General Assembly to continue to provide electronic resources for public libraries and to provide universal access to all citizens of the Commonwealth. First priority shall be the ability to access the Internet in local public libraries.

238.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....			\$16,483,584	<del>\$16,733,584</del> \$17,233,584
	State Formula Aid for Local Public Libraries (14301).....	\$16,483,584	<del>\$16,733,584</del> \$17,233,584		
	Fund Sources: General.....	\$16,483,584	<del>\$16,733,584</del> \$17,233,584		

Authority: Title 42.1, Chapter 3, Code of Virginia.

A. It is the objective of the Commonwealth that all local public libraries receiving state aid provide access to their patrons to worldwide electronic information on the Internet. It is the intent of the General Assembly that local public libraries receiving state aid invest in the technology necessary to provide or enhance this service.

B. Included in this appropriation is \$190,070 the first year and \$190,070 the second year from the general fund to supplement the state formula aid distribution provided in Title 42.1, Code of Virginia, for Fairfax Public Library System.

C. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is designated for the Eastern Shore Public Library to support construction of a new library.

ITEM 238.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
D. Out of this appropriation, \$250,000 the first year and <del>\$500,000</del> \$1,000,000 the second year from the general fund of the total amounts for aid to libraries may be used for summer reading materials and programs or for STEAM instructional materials.				
239.	Administrative and Support Services (19900).....		\$10,279,695	\$10,150,490
	General Management and Direction (19901).....	\$3,431,116		
	Information Technology Services (19902).....	\$3,332,910		
	Physical Plant Services (19915).....	\$3,515,669		
	Fund Sources: General.....	\$8,377,320		
	Special.....	\$1,021,479		
	Federal Trust.....	\$880,896		
Authority: Title 42.1, Chapter 1, Code of Virginia.				
A. In the event that any budget reduction actions are required, the Director, Department of Planning and Budget, shall exclude from any reduction target calculations the rent plan included in the Library of Virginia budget.				
	Total for The Library Of Virginia.....		<b>\$39,024,678</b>	<b><del>\$39,145,473</del> \$39,645,473</b>
	General Fund Positions.....	134.09		
	Nongeneral Fund Positions.....	63.91		
	Position Level.....	198.00		
	Fund Sources: General.....	\$30,097,055		
			<del>\$30,217,850</del>	
			\$30,717,850	
	Special.....	\$4,582,071		
	Federal Trust.....	\$4,345,552		
<b>§ 1-72. THE SCIENCE MUSEUM OF VIRGINIA (146)</b>				
240.	Museum and Cultural Services (14500).....		\$11,492,197	\$11,492,197
	Collections Management and Curatorial Services (14501).....	\$1,713,008		
	Education and Extension Services (14503).....	\$5,097,180		
	Operational and Support Services (14507).....	\$4,682,009		
	Fund Sources: General.....	\$5,263,401		
	Special.....	\$5,228,192		
	Federal Trust.....	\$1,000,604		
Authority: Title 23.1, Chapter 32, Article 5, Code of Virginia.				
A. This appropriation from the general fund shall be in addition to any appropriation from nongeneral funds, notwithstanding any contrary provisions in this act.				
B. Out of this appropriation, \$50,000 and two positions the first year and \$50,000 and two positions the second year from the general fund shall be provided to support the Danville Science Center in Danville, Virginia.				
C. Out of this appropriation, \$351,314 the first year and \$351,314 the second year from the general fund is included for the purchase of an IMAX digital projection system through the state's master equipment lease program.				
D. Out of this appropriation, \$150,000 the first year and \$150,000 the second year is provided to pilot a STEM partnership between the Science Museum of Virginia, the Virginia Air and Space Center, and the Virginia Living Museum for programs that promote achievement for K-12 students in Hampton Roads and across the state, leveraging technology in the vital STEM component of the workforce pipeline.				
	Total for The Science Museum of Virginia.....		<b>\$11,492,197</b>	<b>\$11,492,197</b>
	General Fund Positions.....	58.19		
	Nongeneral Fund Positions.....	34.81		

ITEM 240.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Position Level.....	93.00	93.00		
Fund Sources: General.....	\$5,263,401	\$5,263,401		
Special.....	\$5,228,192	\$5,228,192		
Federal Trust.....	\$1,000,604	\$1,000,604		

**§ 1-73. VIRGINIA COMMISSION FOR THE ARTS (148)**

241.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....			\$3,880,912	\$3,880,912 \$4,005,912
	Financial Assistance to Cultural Organizations (14302).....	\$3,630,912	\$3,630,912 \$3,755,912		
	Administration of Grants for Cultural and Artistic Affairs (14307).....	\$250,000	\$250,000		
	Fund Sources: General.....	\$3,160,237	\$3,160,237 \$3,285,237		
	Federal Trust.....	\$720,675	\$720,675		

Authority: Title 2.2, Chapter 25, Article 4, Code of Virginia.

A. In the allocation of grants to arts organizations, the Commission shall give preference to the performing arts.

B. It is the objective of the Commonwealth to fund the Virginia Commission for the Arts at an amount that equals one dollar for each resident of Virginia.

C. In the allocation of grants to arts organizations, the Commission shall not consider any other general fund amounts which may be appropriated to an arts organization elsewhere in this act, nor shall any funds appropriated elsewhere in this act supplant those grants which may be allocated from this appropriation.

242.	Museum and Cultural Services (14500).....			\$631,430 \$639,358	\$631,430 \$639,358
	Operational and Support Services (14507).....	\$631,430 \$639,358	\$631,430 \$639,358		
	Fund Sources: General.....	\$543,973 \$551,901	\$543,973 \$551,901		
	Federal Trust.....	\$87,457	\$87,457		

Authority: Title 2.2, Chapter 25, Article 4, Code of Virginia.

Total for Virginia Commission for the Arts.....				<b>\$4,512,342</b> <b>\$4,520,270</b>	<b>\$4,512,342</b> <b>\$4,645,270</b>
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General Fund Positions.....	5.00	5.00		
Position Level.....	5.00	5.00		
Fund Sources: General.....	\$3,704,210 \$3,712,138	\$3,704,210 \$3,837,138		
Federal Trust.....	\$808,132	\$808,132		

**§ 1-74. VIRGINIA MUSEUM OF FINE ARTS (238)**

243.	Museum and Cultural Services (14500).....			\$41,979,096	\$42,123,449 \$42,500,852
	Collections Management and Curatorial Services (14501).....	\$8,007,367	\$8,007,367		
	Education and Extension Services (14503).....	\$7,872,606	\$7,872,606 \$8,250,009		
	Operational and Support Services (14507).....	\$26,099,123	\$26,243,476		
	Fund Sources: General.....	\$10,119,079	\$10,263,432 \$10,640,835		

ITEM 243.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Special.....	\$6,452,595	\$6,452,595		
Enterprise.....	\$7,479,910	\$7,479,910		
Dedicated Special Revenue.....	\$17,677,512	\$17,677,512		
Federal Trust.....	\$250,000	\$250,000		

Authority: Title 23.1, Chapter 32, Article 6, Code of Virginia.

A. The appropriation in this Item from the general fund shall be in addition to any appropriation from nongeneral funds, notwithstanding any contrary provision of this act.

B. Nongeneral fund revenues included in this Item under Dedicated Special Revenue will be restricted for the uses specified by the donors and shall not be subject to interagency transfers or appropriation reductions.

C. The Comptroller of Virginia shall establish a special revenue account fund detail code for nongeneral funds donated to the Virginia Museum of Fine Arts by private donors and volunteers who sponsor fundraising activities to support the museum's general operations, exhibitions, and programs, and entertainment expenses commonly borne by businesses. Such expenses shall be recorded separately by the museum.

D. Out of this appropriation, \$158,513 in the first year and \$158,513 in the second year from the general fund is provided to cover the service fee in lieu of taxes levied by the City of Richmond.

*E. Purchase of items for resale at retail outlets and food services operations open to the public operated by the Virginia Museum of Fine Arts shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et. seq.) of the Code of Virginia. However, such purchase procedures shall provide for competition where practicable.*

Total for Virginia Museum of Fine Arts.....			<b>\$41,979,096</b>	<b>\$42,123,449</b>
				<b>\$42,500,852</b>
General Fund Positions.....	132.50	<del>133.50</del> 141.50		
Nongeneral Fund Positions.....	212.00	212.00		
Position Level.....	344.50	<del>345.50</del> 353.50		
Fund Sources: General.....	\$10,119,079	<del>\$10,263,432</del> \$10,640,835		
Special.....	\$6,452,595	\$6,452,595		
Enterprise.....	\$7,479,910	\$7,479,910		
Dedicated Special Revenue.....	\$17,677,512	\$17,677,512		
Federal Trust.....	\$250,000	\$250,000		

**§ 1-75. EASTERN VIRGINIA MEDICAL SCHOOL (274)**

244. Financial Assistance For Educational and General Services (11000).....			\$26,181,554	\$27,866,126
				\$30,366,126
Sponsored Programs (11004).....	\$595,612	\$595,612		
Medical Education (11005).....	\$25,585,942	<del>\$27,270,514</del> \$29,770,514		
Fund Sources: General.....	\$26,181,554	<del>\$27,866,126</del> \$30,366,126		

Authority: Title 23.1, Chapter 30 and Chapter 87, Acts of Assembly of 2002.

A. Out of this appropriation, \$595,612 the first year and \$595,612 the second year from the general fund is designated to build research capacity in medical modeling and simulation.

B. Out of this appropriation, \$6,158,108 the first year and \$6,158,108 the second year from the general fund is designated for treatment, care and maintenance of indigent Virginia patients through the medical school. The aid is to be apportioned on the basis of a

ITEM 244.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>plan to be approved, at the beginning of each biennium, by the Director, Department of Medical Assistance Services.</p> <p>C. Out of this appropriation, \$375,700 the first year and \$375,700 the second year from the general fund is designated to support financial aid for in-state medical and health professions students.</p> <p>D. Out of this appropriation, \$658,597 the first year and \$658,597 the second year from the general fund is designated for the operation of the Family Practice Residency program and Family Practice Medical Student programs.</p> <p>E. Out of this appropriation, \$60,620 the first year and \$60,620 the second year from the general fund is designated to support the Eastern Virginia Area Health Education Center.</p> <p>F. Eastern Virginia Medical School shall transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to physicians affiliated with Eastern Virginia Medical School for Medicaid supplemental capitation payments to managed care organizations for the purpose of securing access to Medicaid physicians services in Eastern Virginia. The funds to be transferred must comply with 42 CFR 433.51.</p> <p>G. Eastern Virginia Medical School is hereby authorized to transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to the primary teaching hospitals affiliated with Eastern Virginia Medical School. These Medicaid supplemental fee-for-service and/or capitation payments to managed care organizations are for the purpose of securing access to hospital services in Eastern Virginia. The funds to be transferred must comply with 42 CFR 433.51.</p> <p><i>H. 1. Out of this appropriation, \$1,250,000 the second year from the general fund is designated to support accreditation requirements at the Eastern Virginia Medical School.</i></p> <p><i>2. Out of this appropriation, \$1,250,000 the second year from the general fund is designated to support community health programs in partnership with Sentara Healthcare.</i></p>				
245.	Appropriations for this agency shall be disbursed in twelve equal monthly installments each fiscal year.			
	Total for Eastern Virginia Medical School.....		\$26,181,554	\$27,866,126 \$30,366,126
	Fund Sources: General.....	\$26,181,554	\$27,866,126 \$30,366,126	

**§ 1-76. NEW COLLEGE INSTITUTE (938)**

246.	Administrative and Support Services (19900).....		\$4,133,795	\$4,133,795
	Operation of Higher Education Centers (19931).....	\$4,133,795	\$4,133,795	
	Fund Sources: General.....	\$2,589,059	\$2,589,059	
	Special.....	\$1,544,736	\$1,544,736	

Authority: Title 23.1, Chapter 31, Article 4, Code of Virginia.

A. It is the intent of the General Assembly that the New College Institute, the Institute for Advanced Learning and Research, and the Southern Virginia Higher Education Center coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education and the Department of Planning and Budget on their joint efforts in this regard.

B. The requirements of § 4-5.05 shall not apply to this appropriation.

C. 1. The Governing Board of the New College Institute shall be authorized to seek an agreement with the New College Foundation and other non-governmental parties to acquire the Building on Baldwin for the amount not funded by the Virginia Tobacco Indemnification

ITEM 246.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
and Community Revitalization Commission, the federal government through the U.S. Economic Development Administration, the Appalachian Regional Commission, other federal monies, or local government.				
2. If agreement on acquisition of the Building on Baldwin cannot be reached, the Governing Board of the New College Institute, with the assistance of the Department of General Services (DGS), is further authorized to plan for the construction or acquisition of a new facility. Priority will be given to options utilizing existing state property. The Governing Board and DGS may partner with local community colleges and/or local governments to this end.				
D. The New College Institute, in collaboration with James Madison University, the Virginia Community College System and the Online Virginia Network, shall provide an update on the delivery of programs in Data Science and Technology, Science and Engineering, Healthcare and Education. The report shall include a timeline for the program's implementation, an assessment of workforce demand and student preparation and interim steps required to ensure student success. The institutions shall submit this report to the Chairman of the House Appropriations and Senate Finance Committees by September 15, 2018.				
Total for New College Institute.....			\$4,133,795	\$4,133,795
General Fund Positions.....		17.00	17.00	
Nongeneral Fund Positions.....		6.00	6.00	
Position Level.....		23.00	23.00	
Fund Sources: General.....		\$2,589,059	\$2,589,059	
Special.....		\$1,544,736	\$1,544,736	

**§ 1-77. INSTITUTE FOR ADVANCED LEARNING AND RESEARCH (885)**

247.	Economic Development Services (53400).....		\$6,415,246	\$6,415,246
	Regional Research, Technology, Education, and Commercialization Services (53421).....	\$6,415,246	\$6,415,246	
	Fund Sources: General.....	\$6,415,246	\$6,415,246	

Authority: Title 23.1, Chapter 31, Article 3, Code of Virginia.

A. It is the intent of the General Assembly that the Institute for Advanced Learning and Research, the New College Institute, and the Southern Virginia Higher Education Center coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education on their joint efforts in this regard.

B. The requirements of § 4-5.05 shall not apply to this appropriation.

C. This Item includes no funds for the agency's use of leased property for engagement activities.

D. This Item includes \$31,927 the first year and \$31,927 the second year from the general fund for debt service on a five-year term loan through the Master Equipment Leasing Program (MELP) to purchase communications infrastructure and 16 telephone handsets. It is intended that the ongoing amount will be removed from the agency's base budget in 2022.

Total for Institute for Advanced Learning and Research.....			\$6,415,246	\$6,415,246
Fund Sources: General.....		\$6,415,246	\$6,415,246	

**§ 1-78. ROANOKE HIGHER EDUCATION AUTHORITY (935)**

248.	Administrative and Support Services (19900).....		\$1,478,706	\$1,478,706
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ITEM 248.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Operation of Higher Education Centers (19931).....	\$1,478,706	\$1,478,706		
Fund Sources: General.....	\$1,478,706	\$1,478,706		
Authority: Title 23.1, Chapter 31, Article 5, Code of Virginia.				
A. The requirements of § 4-5.05 shall not apply to this appropriation.				
Total for Roanoke Higher Education Authority.....			<b>\$1,478,706</b>	<b>\$1,478,706</b>
Fund Sources: General.....	\$1,478,706	\$1,478,706		

**§ 1-79. SOUTHERN VIRGINIA HIGHER EDUCATION CENTER (937)**

249.	Administrative and Support Services (19900).....			\$7,526,924	\$7,808,065
	Operation of Higher Education Centers (19931).....	\$7,526,924	\$7,808,065		
	Fund Sources: General.....	\$3,543,932	\$3,718,615		
	Special.....	\$3,982,992	\$4,089,450		

Authority: Title 23.1, Chapter 31, Article 6, Code of Virginia.

A. It is the intent of the General Assembly that the Southern Virginia Higher Education Center, the Institute for Advanced Learning and Research, and the New College Institute coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education for Virginia on their joint efforts in this regard.

B. Out of this appropriation, \$29,050 the first year and \$29,050 the second year from the general fund is designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and the General Assembly.

C. Out of this appropriation, \$266,000 and four positions the first year and \$266,000 and four positions the second year from the general fund is designated for additional operational support of the Southern Virginia Higher Education Center and its efforts to provide STEM programs and specialized workforce training to the citizens of Southside Virginia.

D. Out of this appropriation, \$731,250 and eight positions the first year and \$731,250 and eight positions the second year from the general fund and \$782,100 and 3.5 positions the first year and \$782,100 and 3.5 positions the second year from nongeneral funds are designated to maintain workforce advancement programs in the areas of health care, manufacturing, information technology, and STEM that were originally established through short-term grants in order to expand the credentials-to-career pipeline for key industry sectors in Southside Virginia.

E. Out of this appropriation, \$127,997 the first year and \$127,055 the second year from the general fund is designated for debt service costs under the Master Equipment Leasing Program (MELP) for the acquisition of specialized machining equipment. In addition to these costs, \$218,500 and two positions the first year and \$394,125 and six positions the second year from the general fund and \$126,917 the first year and \$233,375 the second year from nongeneral funds are designated for the staff and operational costs associated with the Career Tech Academy, providing precision machining technical training to high school students from the counties of Charlotte, Halifax, and Mecklenburg.

F. The Southern Virginia Higher Education Center is authorized to provide specialized workforce training consistent with grant agreements and memoranda of understanding with employers that existed as of January 1, 2016. The center will seek opportunities to collaborate with local community colleges in meeting the continuing goals of these programs and on new training needs identified by employers. If the local community colleges are unable to meet the training needs identified by employers, then the center is authorized to seek other education providers or to offer specialized workforce training independent of the local community

ITEM 249.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
colleges.				
G. The requirements of § 4-5.05 shall not apply to this appropriation.				
Total for Southern Virginia Higher Education Center.....			\$7,526,924	\$7,808,065
General Fund Positions.....			30.80	34.80
Nongeneral Fund Positions.....			29.50	29.50
Position Level.....			60.30	64.30
Fund Sources: General.....			\$3,543,932	\$3,718,615
Special.....			\$3,982,992	\$4,089,450

**§ 1-80. SOUTHWEST VIRGINIA HIGHER EDUCATION CENTER (948)**

250.	Administrative and Support Services (1990).....			\$9,637,229	\$9,637,229
	General Management and Direction (19901).....	\$38,794	\$38,794		
	Operation of Higher Education Centers (19931).....	\$9,598,435	\$9,598,435		
	Fund Sources: General.....	\$2,100,046	\$2,100,046		
	Special.....	\$7,537,183	\$7,537,183		

Authority: Title 23.1, Chapter 31, Article 7, Code of Virginia.

The board of trustees of the Southwest Virginia Higher Education Center may establish and administer agreements with out-of-state institutions certified to operate in Virginia pursuant to § 23.1-219 Code of Virginia for such institutions to provide undergraduate-level and graduate-level instructional programs at the Center.

Total for Southwest Virginia Higher Education Center.....			\$9,637,229	\$9,637,229
General Fund Positions.....			30.00	30.00
Nongeneral Fund Positions.....			5.00	5.00
Position Level.....			35.00	35.00
Fund Sources: General.....			\$2,100,046	\$2,100,046
Special.....			\$7,537,183	\$7,537,183

**§ 1-81. SOUTHEASTERN UNIVERSITIES RESEARCH ASSOCIATION DOING BUSINESS FOR JEFFERSON SCIENCE ASSOCIATES, LLC (936)**

251.	Financial Assistance For Educational and General Services (11000).....			\$1,775,439	\$1,275,439 \$1,775,439
	Sponsored Programs (11004).....	\$1,775,439	\$1,275,439 \$1,775,439		
	Fund Sources: General.....	\$1,775,439	\$1,275,439 \$1,775,439		

Authority: Discretionary Inclusion.

A. This appropriation represents the Commonwealth of Virginia's contribution to the Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC, for the support of the Thomas Jefferson National Accelerator Facility (Jefferson Lab) located at Newport News, Virginia. This contribution includes funds to support faculty positions and industry-led research that will promote economic development opportunities in the Commonwealth.

B. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is designated to provide one-time seed funding to establish a center for nuclear femtography in partnership with the Commonwealth's research universities. Nuclear femtography is expected to be the next generation of nanotechnology.

ITEM 251.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
C. This nonstate agency is exempt from the match requirement of § 2.2-1505, Code of Virginia and § 4-5.05 of this act.				
Total for Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC.....			\$1,775,439	\$1,275,439 \$1,775,439
Fund Sources: General.....			\$1,775,439	\$1,275,439 \$1,775,439

**§ 1-82. HIGHER EDUCATION RESEARCH INITIATIVE (989)**

252.	Financial Assistance For Educational and General Services (11000).....			\$8,000,000	\$28,000,000
	Sponsored Programs (11004).....	\$8,000,000	\$28,000,000		
	Fund Sources: General.....	\$8,000,000	\$28,000,000		

Authority: Title 23.1, Chapter 31, Article 8, Code of Virginia

A. Out of this appropriation, \$8,000,000 the first year and \$8,000,000 the second year from the general fund is designated for the Virginia Research Investment Fund. These funds shall be allocated in accordance with provisions established in Chapter 775 of the 2016 General Assembly and shall be used to (i) promote research and development excellence in the Commonwealth; (ii) foster innovative and collaborative research, development, and commercialization efforts in projects and programs with a high potential for economic development and job creation opportunities; (iii) position the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; and (iv) to attract and recruit eminent researchers that enhance research superiority at public institutions of higher education.

B.1. The Commonwealth Cyber Initiative shall be established to serve as an engine for research, innovation, and commercialization of cybersecurity technologies, and address the Commonwealth's need for growth of advanced and professional degrees within the cyber workforce.

2. The initiative shall consist of a primary Hub, located in Northern Virginia, and a network of Spokes across the Commonwealth with collaborating public institutions of higher education in Virginia and industry partners to build an ecosystem of cyber-related research, education, and engagement that positions the Commonwealth as a world leader of cybersecurity.

3. In collaboration with public institutions in the Commonwealth, Virginia Polytechnic Institute & State University shall serve as the anchoring institution and coordinate the activities of the Hub.

4. Out of this appropriation, \$10,000,000 in the second year from the general fund is provided to the Virginia Research Investment Fund (VRIF) to scale the initiative and provide resources for faculty recruiting at both the Hub and Spoke sites. The VRIF will establish a process for public institutions of higher education in Virginia to seek certification as a Spokes site based on a plan for institutional investment, industry partnership, enrollment growth, and research focus areas. The Hub and certified Spokes sites will have the ability to seek matching funds for faculty recruitment and support for renovations and equipment. Certified institutions shall submit their funding request application to the Virginia Research Investment Committee established in § 23.1-3132 for review and evaluation. After completing its review, the Virginia Research Investment Committee, pursuant to § 23.1-3133, shall approve or deny the request for an allocation of funds. *The amounts provided in this paragraph are non-reverting and shall constitute the base budget for subsequent fiscal years.*

5. Out of this appropriation, \$10,000,000 in the second year from the general fund is provided for the leasing of space and establishment of the Hub by the anchoring institution and for the establishment of research faculty, entrepreneurship programs, student internships and educational programming, and operations of the Hub. *The amounts provided in this paragraph are non-reverting and shall constitute the base budget for subsequent fiscal years.*

6. Out of the amounts authorized in Item C-52.10 of Chapter 836, 2017 Session, \$5,000,000

ITEM 252.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
in the first year shall be made available for renovations, space enhancements, and equipment.				
7. No later than December 1, 2018, Virginia Polytechnic Institute & State University shall provide to the Virginia Research Investment Committee (VRIC) a blueprint for the development and operation of the Commonwealth Cyber Initiative. This report will include such components as an outline of Virginia Tech's operating model of the Hub, a framework for Spoke sites and their interface with the Hub, an assessment of opportunities for industry partnerships and the commercialization of innovation, and a vision for both the short-term and long-term development of the initiative. The report will define the amount needed to establish the Hub including renovations, equipping and leasing of space, establishment of research faculty, entrepreneurship programs, student internships and educational programming, operations of the Hub, establishment of cyber-physical systems security at the Hub and at supporting Spoke sites across the Commonwealth, establishment of a machine learning lab at the Hub, and the amount for Virginia Research Investment Fund (VRIF) to scale the initiative and provide resources for faculty recruiting at both the Hub and Spoke sites. The report will clarify the process for public institutions of higher education in Virginia to seek certification as a Spoke site based on a plan for institutional investment, industry partnership, enrollment growth, and research focus areas. The Hub and certified Spoke sites will have the ability to seek matching funds for faculty recruitment and support for renovations and equipment. Certified institutions shall submit their funding request application to the Virginia Research Investment Committee established in § 23.1-3132 for review and evaluation. After completing its review, the Virginia Research Investment Committee, pursuant to § 23.1-3133, shall approve or deny the request for an allocation of funds.				
			<b>\$8,000,000</b>	<b>\$28,000,000</b>
	Total for Higher Education Research Initiative.....			
	Fund Sources: General.....	\$8,000,000      \$28,000,000		
<b>§ 1-83. ONLINE VIRGINIA NETWORK AUTHORITY (244)</b>				
253.	Educational and General Programs (10000).....		\$3,000,000	\$3,000,000
	Higher Education Instruction (10001).....	\$3,000,000      \$3,000,000		
	Fund Sources: General.....	\$3,000,000      \$3,000,000		
Authority: Title 23.1, Chapter 31, Article 9, Code of Virginia.				
Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from the general fund is designated for the Online Virginia Network Authority (OVN). George Mason University, Old Dominion University and the Virginia Community College System shall develop a plan for the OVN that (1) serves adult learners, nontraditional students, and other students seeking access to an online degree program; (2) is more cost-effective than a traditional degree; (3) describes how the OVN will reduce the unit cost of providing online education; (4) uses tuition revenue from online students to support the cost of the initiative; (5) includes a discussion of potential options to partner with those currently providing online courses; and (6) utilizes only existing financial aid programs. The OVN shall provide an annual progress report on the plan to the Governor and the Chairmen of the House Appropriations and the Senate Finance Committees by November 1 of each year.				
			<b>\$3,000,000</b>	<b>\$3,000,000</b>
	Total for Online Virginia Network Authority.....			
	Fund Sources: General.....	\$3,000,000      \$3,000,000		
<b>§ 1-84. IN-STATE UNDERGRADUATE TUITION MODERATION (980)</b>				
253.50	<i>In-State Undergraduate Tuition Moderation (11400).....</i>		\$0	\$52,459,000
	<i>In-State Undergraduate Tuition Moderation (11401).....</i>	\$0      \$52,459,000		
	<i>Fund Sources: General.....</i>	\$0      \$52,459,000		

ITEM 253.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<i>Authority: Discretionary Inclusion</i>				
<i>A.1. Out of this appropriation, \$52,459,000 the second year from the general fund is designated for In-State Undergraduate Affordability with allocations to public colleges and universities as follows:</i>				
<b><i>Institution</i></b>				<b><i>Annual Amount</i></b>
<i>Christopher Newport University</i>				<i>\$1,654,000</i>
<i>College of William and Mary</i>				<i>1,450,000</i>
<i>George Mason University</i>				<i>6,524,000</i>
<i>James Madison University</i>				<i>6,100,000</i>
<i>Longwood University</i>				<i>975,000</i>
<i>University of Mary Washington</i>				<i>957,000</i>
<i>Norfolk State University</i>				<i>971,000</i>
<i>Old Dominion University</i>				<i>3,124,000</i>
<i>Radford University</i>				<i>1,659,000</i>
<i>University of Virginia</i>				<i>5,520,000</i>
<i>University of Virginia's College at Wise</i>				<i>235,000</i>
<i>Virginia Commonwealth University</i>				<i>6,797,000</i>
<i>Virginia Military Institute</i>				<i>661,000</i>
<i>Virginia Polytechnic Institute &amp; State University</i>				<i>6,306,000</i>
<i>Virginia State University</i>				<i>1,250,000</i>
<i>Richard Bland College</i>				<i>183,000</i>
<i>Virginia Community College System</i>				<i>8,093,000</i>
<i>Total</i>				<i>\$52,459,000</i>
 <i>2. a. Allocations listed in paragraph A.1. of this item shall be granted to public colleges and universities in fiscal year 2020 so long as they maintain tuition and mandatory Educational and General (E &amp; G) fee charges for in-state undergraduate students to fiscal year 2019 levels.</i>				
 <i>b. In addition to the allocation from this item, the Virginia Community College System also is provided \$5,000,000 from the general fund under Item 210 V. in order to effectuate the goals of this item.</i>				
 <i>3. The State Council of Higher Education for Virginia (SCHEV) shall certify whether each public college and university has met the tuition freeze requirements of this fund. SCHEV shall report its findings to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director of the Department of Planning and Budget by July 1, 2019.</i>				
 <i>4. Upon certification by SCHEV that the requirements in paragraph A.2. have been met, the Director, Department of Planning and Budget, shall transfer the amounts listed above to each of the certified institutions. The amounts transferred to each institution shall not revert and shall become part of the institution's fiscal year 2020 base for subsequent biennia.</i>				
 <i>5. If an institution elects to increase tuition and mandatory E &amp; G fees for in-state undergraduate students in fiscal year 2020 above the fiscal year 2019 levels, the institution shall not be eligible for an allocation from the fund.</i>				
 <i>6. The Rector, Board of Visitors of institutions choosing to forego allocations from this item and electing to increase tuition and mandatory E &amp; G fees for in-state undergraduate students in fiscal year 2020 shall communicate the Board Resolution certifying that decision to the Chairmen of the House Appropriations and Senate Finance Committees by August 1, 2019.</i>				
 <i>7. All unallocated funds shall be transferred to Item 266, the Revenue Cash Reserve by September 1, 2019.</i>				
Total for In-State Undergraduate Tuition Moderation.			<b>\$0</b>	<b>\$52,459,000</b>

ITEM 253.50.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Fund Sources: <i>General</i> .....	\$0	\$52,459,000		

**§ 1-85. VIRGINIA COLLEGE BUILDING AUTHORITY (941)**

254. Authority: Chapter 597, Acts of Assembly of 1986.

A.1. The purpose of this Item is to provide an ongoing program for the acquisition and replacement of instructional and research equipment at state-supported institutions of higher education in accordance with the intent and purpose of Chapter 597, Acts of Assembly of 1986.

2. The Governor shall annually present to the General Assembly through the Commonwealth's budget process, the estimated payments and the corresponding total value of equipment to be acquired.

B.1. The State Council of Higher Education for Virginia shall establish and maintain procedures through which institutions of higher education apply for allocations made available under the program, and shall develop guidelines and recommendations for the apportionment of such equipment to each state-supported institution of higher education.

2. The Authority shall finance equipment for educational institutions in accordance with § 23.1-1207, Code of Virginia, and according to terms and conditions approved through the Commonwealth's budget and appropriation process. Bonds or notes issued by the Virginia College Building Authority to finance equipment may be sold and issued at the same time with other obligations of the Authority as separate issues or as a combined issue. Each institution shall make available such additional detail on specific equipment to be purchased as may be requested by the Governor or the General Assembly. If emergency acquisitions are necessary when the General Assembly is not in session, the Governor may approve such acquisitions. The Governor shall report his approval of such acquisitions to the Chairmen of the House Appropriations and Senate Finance Committees.

3. Amounts for debt service payments for allocations provided by this Item shall be provided pursuant to Item 279 of this act.

C.1. Transfer of the appropriation in Item 279 of this act to the Virginia College Building Authority shall be subject to the approval of the Secretary of Finance. An allocation of \$168,469,999 made in the 2016-2018 biennium brings the total amount of equipment acquired through the program to approximately \$1,476,789,456.

2. Allocations of \$83,000,000 the first year and \$83,000,000 the second year will be made to support the purchase of additional equipment to enhance instructional and research activity at Virginia's public colleges and universities. Allocations are as follows:

<b>Institution</b>	<b>Prior Allocations</b>	<b>FY 2019 Allocation</b>	<b>FY 2020 Allocation</b>	<b>FY 2019 Research Allocation</b>	<b>FY 2020 Research Allocation</b>
George Mason University	\$92,641,169	\$3,947,024	\$3,947,024	\$474,407	\$474,407
Old Dominion University	\$98,944,593	\$5,016,192	\$5,016,192	\$329,078	\$329,078
University of Virginia	\$261,083,324	\$10,458,476	\$10,458,476	\$5,189,341	\$5,189,341
Virginia Commonwealth University	\$178,884,857	\$6,853,430	\$6,853,430	\$2,995,552	\$2,995,552
Virginia Polytechnic Institute and State University	\$273,762,820	\$10,331,639	\$10,331,639	5,240,458	\$5,240,458
College of William and Mary	\$49,693,024	\$2,300,493	\$2,300,493	\$595,857	\$595,857

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		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Christopher Newport University	\$14,878,357	\$754,464	\$754,464	\$0	\$0
University of Virginia's College at Wise	\$6,142,801	\$250,681	\$250,681	\$0	\$0
James Madison University	\$47,730,911	\$2,309,646	\$2,309,646	\$0	\$0
Longwood University	\$14,886,969	\$743,433	\$743,433	\$0	\$0
University of Mary Washington	\$16,658,922	\$655,746	\$655,746	\$0	\$0
Norfolk State University	\$41,232,791	\$1,200,108	\$1,200,108	\$0	\$0
Radford University	\$34,088,668	1,744,993	\$1,744,993	\$0	\$0
Virginia Military Institute	\$17,254,514	\$886,084	\$886,084	\$0	\$0
Virginia State University	\$26,146,509	\$1,342,189	\$1,342,189	\$0	\$0
Richard Bland College	\$3,616,262	\$160,149	\$160,149	\$0	\$0
Virginia Community College System	\$278,820,129	\$17,596,542	\$17,596,542	\$0	\$0
Virginia Institute of Marine Science	\$9,109,516	\$362,100	\$362,100	\$175,307	\$175,307
Southwest Virginia Higher Education Center	\$1,463,385	\$80,111	\$80,111	\$0	\$0
Roanoke Higher Education Authority	\$1,149,593	\$77,623	\$77,623	\$0	\$0
Institute for Advanced Learning and Research	\$6,016,656	\$274,172	\$274,172	\$0	\$0
Southern Virginia Higher Education Center	\$624,576		\$95,790	\$0	\$0
New College Institute	\$410,250	\$34,486	\$34,486	\$0	\$0
Eastern Virginia Medical School	\$1,548,858	\$524,429	\$524,429	\$0	\$0
<b>TOTAL</b>	<b>\$1,476,789,456</b>	<b>\$68,000,000</b>	<b>\$68,000,000</b>	<b>\$15,000,000</b>	<b>\$15,000,000</b>

D. Out of the allocations for the Virginia Community College System, \$5,000,000 the first year and \$5,000,000 the second year is designated to support the equipment needs of Workforce Development activities, including those related to the New Economy Industry Credential Assistance Training Grant Program.

Total for Virginia College Building Authority.....				\$0	\$0
TOTAL FOR OFFICE OF EDUCATION.....				<del>\$19,437,284,736</del>	<del>\$19,711,193,513</del>
				\$19,694,441,528	\$20,311,401,671
General Fund Positions.....		18,611.91	<del>18,648.48</del>		
			18,689.43		
Nongeneral Fund Positions.....		<del>41,228.61</del>	41,401.74		
		41,434.61	41,932.54		
Position Level.....		<del>59,840.52</del>	60,050.22		
		60,046.52	60,621.97		

ITEM 254.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Fund Sources: General.....	\$8,443,588,457	\$8,689,356,422		
	\$8,429,422,630	\$8,855,436,148		
Special.....	\$47,520,936	\$47,627,394		
Higher Education Operating.....	\$8,714,858,682	\$8,747,033,036		
	\$8,980,315,840	\$9,139,823,205		
Commonwealth Transportation.....	\$2,370,419	\$2,370,419		
Enterprise.....	\$7,479,910	\$7,479,910		
Trust and Agency.....	\$739,752,319	\$735,612,319		
	\$744,617,780	\$766,049,634		
Debt Service.....	\$343,923,009	\$343,923,009		
	\$344,923,009	\$344,923,009		
Dedicated Special Revenue.....	\$17,927,512	\$17,927,512		
Federal Trust.....	\$1,119,863,492	\$1,119,863,492		
		\$1,129,764,440		

ITEM 255.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

**OFFICE OF FINANCE**

**§ 1-86. SECRETARY OF FINANCE (190)**

255.	Administrative and Support Services (79900).....			\$667,595	\$667,595
	General Management and Direction (79901).....	\$667,595	\$667,595		
	Fund Sources: General.....	\$667,595	\$667,595		

Authority: Title 2.2, Chapter 2, Article 5; § 2.2-201, Code of Virginia.

A. The Secretary of Finance, in consultation with other affected secretaries, is hereby authorized to order the State Comptroller to transfer to the general fund a reasonable sum, as determined by the State Comptroller, from annual charges of internal service funds and enterprise funds that exceed the cost of providing services or that represent over-recoveries from the general fund.

B. Following every General Assembly session, the financial plan in place required by § 2.2-1503.1, Code of Virginia, shall be updated to reflect policy changes or budget actions adopted by the General Assembly that would alter financial assumptions included in the plan. The revised financial plan shall be posted on the Department of Planning and Budget website no later than September 1 of each year.

*C. 1. The Secretary of Finance shall develop a plan for the competitive procurement of services and supplies from third-parties during natural disasters based upon reasonable cost. In developing the plan, the Secretary shall consult with the Secretaries of Education and Health and Human Resources to assess the use of state institutions of higher education facilities, or other third-party facilities, for sheltering displaced persons during a disaster. The Secretary shall also evaluate potential agreements for family-based pricing structures that allow families to be sheltered together at a lower cost than being sheltered individually. The Secretary shall present the proposed plan to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2019.*

*2. The Secretary shall convene a workgroup of representatives from appropriate agencies to review the feasibility of implementing a web-based repository of sheltering information, which shall at minimum provide information on the availability of shelters, including their type, capacity, and location. The web portal should be available to emergency coordinators, and consideration should be given to interfacing with a system for alerting the public of sheltering and evacuation information when a disaster occurs. The Secretary shall report the findings and recommendations of the workgroup to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2019.*

	Total for Secretary of Finance.....			<b>\$667,595</b>	<b>\$667,595</b>
	General Fund Positions.....	4.00	4.00		
	Position Level.....	4.00	4.00		
	Fund Sources: General.....	\$667,595	\$667,595		

**§ 1-87. DEPARTMENT OF ACCOUNTS (151)**

256.	Financial Systems Development and Management (72400).....			\$3,921,555	\$3,921,555
	Financial Systems Development (72401).....	\$778,798	\$778,798		
	Financial Systems Maintenance (72402).....	\$1,060,044	\$1,060,044		
	Computer Services (72404).....	\$2,082,713	\$2,082,713		
	Fund Sources: General.....	\$3,921,555	\$3,921,555		
	Authority: Title 2.2, Chapter 8, Code of Virginia.				
257.	Accounting Services (73700).....			\$9,073,298	\$9,073,298
	General Accounting (73701).....	\$4,091,704	\$4,091,704		
	Disbursements Review (73702).....	\$1,067,737	\$1,067,737		

ITEM 257.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Payroll Operations (73703).....	\$1,279,794	\$1,279,794		
Financial Reporting (73704).....	\$2,634,063	\$2,634,063		
Fund Sources: General.....	\$8,080,478	\$8,080,478		
Special.....	\$992,820	\$992,820		

Authority: Title 2.2, Chapter 8, and § 2.2-1822, Code of Virginia.

A.1. There is hereby created on the books of the State Comptroller the Commonwealth Charge Card Rebate Fund. Rebates earned in any fiscal year on the Commonwealth's statewide charge card program shall be deposited to the Commonwealth Charge Card Rebate Fund. The cost of administration of the program as well as rebates due to political subdivisions and payments due to the federal government are hereby appropriated from the fund. All remaining rebate revenue in the fund shall be deposited to the general fund by June 30 of each year.

2. The Department of Accounts is authorized to include the administrative costs estimated at \$80,000 per year for executing entries in the Commonwealth's accounting system for Level III institutions as defined in Chapter 675, 2009 Acts of Assembly, in the program costs appropriated from the fund.

B. Notwithstanding the provisions of §§ 17.1-286 and 58.1-3176, Code of Virginia, the State Comptroller shall not make payments to the Circuit Court clerks on amounts directly deposited into the State Treasury by General District Courts, Juvenile and Domestic Relations General District Courts, Combined District Courts, and the Magistrates System. The State Comptroller shall continue to make payments, in accordance with §§ 17.1-286 and 58.1-3176, Code of Virginia, to the respective clerks on those amounts directly deposited into the state treasury by the Circuit Courts.

C.1. There is hereby created in the state treasury a special nonreverting fund that shall be known as the Federal Repayment Reserve Fund. The Fund shall be established on the books of the Comptroller and shall consist of such moneys as the State Comptroller determines will be required to repay the federal government its share of any rebates, Internal Service Fund profits, transfers to the general fund or amounts arising from other sources. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of the fiscal year shall not revert to the general fund but shall remain in the Fund. The Comptroller shall hold all moneys in this Fund until such payment is required by the federal government.

2. Effective upon creation of Federal Repayment Reserve Fund, any agency with cash balances held in reserve for the anticipated federal repayment shall transfer the estimated amount determined by the State Comptroller prior to June 30. On an ongoing basis, agencies shall coordinate with the State Comptroller to identify amounts due to be returned to the federal government. The State Comptroller shall transfer those amounts to the Fund on or before June 30 of each year.

D. The Department of Accounts is authorized to charge employees a mandatory fee of up to 15 cents for each payroll deduction administered under the Supplemental Insurance and Annuities program. Reimbursement by the employing agency is prohibited.

258.	Service Center Administration (82600).....			\$2,682,503	\$2,762,479
	Payroll Service Bureau (82601).....	\$2,682,503	\$2,762,479		
	Fund Sources: Internal Service.....	\$2,682,503	\$2,762,479		

Authority: Title 2.2, Chapter 8, Code of Virginia.

A. The appropriation for the Payroll Service Bureau is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services.

B.1. The Department of Accounts shall operate the payroll service center to support the salaried and wage employees of all agencies identified by the Department of Planning and Budget. The agencies so identified shall cooperate with the Department of Accounts in

<b>ITEM 258.</b>	<b>Item Details(\$)</b>		<b>Appropriations(\$)</b>	
	<b>First Year FY2019</b>	<b>Second Year FY2020</b>	<b>First Year FY2019</b>	<b>Second Year FY2020</b>

transferring such records and functions as may be required. The payroll service center shall provide services to employees to include, but not be limited to, payroll, benefit enrollment and leave accounting. The Department of Accounts shall be responsible for all accounting reconciliations for these services; however, each employing agency shall remain fully responsible for certifying the accuracy of each payroll paid to its employees. This certification shall be in such form as the Comptroller directs.

2.a. The Department of Accounts shall recover the cost of services provided by the payroll service center through interagency transactions as determined by the State Comptroller.

b. The Department of Accounts is authorized to charge the following rates to agencies participating in the payroll service center based on the type and number of W-2 forms processed and how each customer agency reports employee leave to the department. Prior to the implementation of Cardinal Payroll, the new Payroll Service Bureau Cardinal Payroll rate category shall be assigned by the Comptroller to the category that most closely coincides with the prior rate.

<b>Criteria</b>	<b>FY 2017 FY2019</b>	<b>FY 2018 FY2020</b>
Wage employees with automatic leave processing	\$105.54 \$68.53	\$108.88 \$105.31
Wage employees with manual leave processing	\$128.15 \$83.22	\$132.21 \$127.76
Salaried employees with automatic leave processing	\$113.08 \$73.43	\$116.65 \$112.72
Salaried employees with manual leave processing	\$150.77 \$97.90	\$155.54 \$150.31

C.1. The Department of Accounts shall operate a fiscal service center to support the operations of all agencies identified by the Department of Planning and Budget. The agencies so identified shall cooperate with the Department of Accounts in transferring such records and functions as may be required. The service center shall provide services to agencies to include accounts payable processing, travel voucher processing, related reconciliations, and such other fiscal services as may be appropriate.

2. The Department of Accounts shall recover the cost of services provided by the fiscal service center through interagency transactions as determined by the State Comptroller.

3. The Department of Accounts is authorized to charge fees of up to twenty percent of revenues generated pursuant to non-tax debt collection initiatives to pay the administrative costs of supporting such initiatives. These fees are over and above any fees charged by outside collections contractors and/or enhanced collection revenues returned to the Commonwealth.

D. Nothing in this section shall prohibit additional agencies from using the services of the centers; however, such additions shall be subject to approval by the affected cabinet secretary and the Secretary of Finance.

259.	Information Systems Management and Direction (71100).....			\$26,140,587 \$24,428,730	\$36,311,025 \$25,105,962
	Financial Oversight for Performance Budgeting System (71107).....	\$2,660,587	\$2,684,775		
	Financial Oversight for Cardinal System (71108).....	\$23,480,000 \$21,768,143	\$33,626,250 \$22,421,187		
	Fund Sources: Internal Service.....	\$26,140,587 \$24,428,730	\$36,311,025 \$25,105,962		

Authority: Title 2.2 Chapter 8, Code of Virginia

A. The appropriation for Financial Oversight for Performance Budgeting System and Financial Oversight for Cardinal System is sum sufficient and amounts shown are estimates from internal service funds for the Commonwealth's enterprise applications which shall be paid solely from revenues derived from charges for services. All users of the

ITEM 259.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

Commonwealth's enterprise applications shall be assessed a surcharge based on licenses, transactions, or other meaningful methodology as determined by the Secretary of Finance and the owner of the enterprise application, which shall be deposited in the fund. Additionally, the State Comptroller shall recover the cost of services provided for the administration of the fund through interagency transactions as determined by the State Comptroller.

1. Out of this appropriation, the Performance Budgeting System is appropriated \$2,660,587 the first year and \$2,684,775 the second year from internal service fund revenues.

2. Out of this appropriation, the Cardinal Financial System is appropriated ~~\$18,480,000~~ \$21,768,143 the first year and ~~\$19,404,000~~ \$22,421,187 the second year from internal service fund revenues.

~~3. Out of this appropriation, the Cardinal Payroll System is appropriated \$5,000,000 the first year and \$14,222,250 the second year from internal service fund revenues. The first year amount of \$5,000,000 represents four months of operating costs incurred after the full transition to the new Cardinal Payroll System during the first year. The operating costs incurred during the transition are funded through the Working Capital Advance included in paragraph B.1. of this item.~~

4. The State Comptroller shall submit revised projections of revenues and expenditures for the internal service funds for the Commonwealth's enterprise applications and estimates of any anticipated changes to fee schedules in accordance with § 4-5.03 of this act.

5. In the event that expenses of the enterprise applications become due before costs have been fully recovered in the department's internal service fund, a treasury loan shall be provided to the department to finance these costs. This treasury loan shall be repaid from the proceeds collected in the funds.

*B.1.a. A working capital advance of up to \$52,000,000 shall be provided to the Department of Accounts to pay the initial costs of the replacement of the Commonwealth Integrated Payroll/Personnel System (CIPPS). Initial costs include any costs necessary for the planning, development, and configuration of the new payroll system. Initial costs do not include statewide roll-out costs necessary to ensure agencies are prepared for the implementation of the new payroll system and the decommissioning of CIPPS such as applications configuration, agency training, change management costs, or costs incurred by line agencies to develop required interfaces from agency based systems. From this amount up to \$10,000,000 may be directed toward any unforeseen costs associated with the roll-out of the statewide financial management system known as Cardinal.*

*The Department of Accounts, in coordination with the Department of Human Resource Management shall replace the Commonwealth Integrated Payroll/Personnel System (CIPPS) and the Personnel Management Information System and the Benefits Eligibility System (PMIS & BES) with an integrated Human Capital Management (HCM) system. In order to maximize the efficiencies and benefits of the current Commonwealth Enterprise Resource Planning system, Cardinal, along with establishing a single source of personnel and payroll information and to achieve greater security of sensitive personally identifiable information, such system shall be based on the HCM modules within the Cardinal Enterprise Resource Planning application currently serving as the Commonwealth's financial system.*

*b. A working capital advance of up to \$82,400,000 shall be provided to the Department of Accounts to pay the initial costs of replacing CIPPS and PMIS & BES. Initial costs may include any costs necessary for the planning, development, configuration, and roll-out of the new HCM application. Initial costs do not include costs necessary to ensure agencies are prepared for the implementation of the new application and the decommissioning of CIPPS and PMIS & BES such as interfaces from agency based systems. The State Comptroller shall provide the Governor and the Chairmen of the House Appropriations and Senate Finance Committees with the total projected project implementation cost by September 1, 2019.*

*c. The Department of Accounts and the Department of Human Resource Management*

ITEM 259.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p><i>shall recommend to the Governor a permanent system of governance over the new HCM application, which shall designate specifically which agencies have the responsibility for authority and control of the data in the new HCM application as well as responsibility for systems support and maintenance.</i></p> <p>2. The Secretary of Finance and Secretary of Administration shall approve the drawdowns from this working capital advance prior to the expenditure of funds. The State Comptroller shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees of any approved drawdowns.</p> <p>3. Repayment of the working capital advance and ongoing systems operation, maintenance and support costs for the statewide <del>payroll</del> <i>Human Capital Management</i> system shall be funded through <del>the Cardinal Payroll System Enterprise Applications Internal Service Fund established in an internal service fund for the enterprise application pursuant to paragraph A.3. of this Item.</del></p>				
260.	Administrative and Support Services (79900).....		\$1,491,063	\$1,491,063
	General Management and Direction (79901).....	\$1,491,063	\$1,491,063	
	Fund Sources: General.....	\$1,491,063	\$1,491,063	
<p>Authority: Title 2.2, Chapter 8, Code of Virginia.</p> <p>As a condition of the appropriation in this Item, the department shall provide to the Chairmen of the House Appropriations and Senate Finance Committees the expenditure and revenue reports necessary for timely legislative oversight of state finances. The necessary reports include monthly and year-end versions and shall be provided in an interactive electronic format agreed upon by the Chairmen of the House Appropriations and Senate Finance Committees, or their designees, and the Comptroller. Delivery of these reports shall occur by way of electronic mail or other methods to ensure their receipt within 48 hours of their initial run after the close of the business month.</p>				
261.	<p>In the event of default by a unit, as defined in § 15.2-2602, Code of Virginia, on payment of principal of or interest on any of its general obligation bonded indebtedness when due, the State Comptroller, in accordance with § 15.2-2659, Code of Virginia, is hereby authorized to make such payment to the bondholder, or paying agent for the bondholder, and to recover such payment and associated costs of publication and mailing from any funds appropriated and payable by the Commonwealth to the unit for any and all purposes.</p>			
262.	<p>In the event of default by any employer participating in the health insurance program authorized by § 2.2-1204, Code of Virginia, in the remittance of premiums or other fees and costs of the program, the State Comptroller is hereby authorized to pay such premiums and costs and to recover such payments from any funds appropriated and payable by the Commonwealth to the employer for any purpose. The State Comptroller shall make such payments upon receipt of notice from the Director, Department of Human Resource Management, that such payments are due and unpaid from the employer.</p>			
263.	<p>The State Comptroller shall make calculations of payments and transfers related to interest earned on federal funds, interest receivable on state funds advanced on behalf of federal programs, and direct cost reimbursements due from the federal government pursuant to Item 278 of this act.</p>			
	Total for Department of Accounts.....		<del>\$43,309,006</del> \$41,597,149	<del>\$53,559,420</del> \$42,354,357
	General Fund Positions.....	115.00	115.00	
	Nongeneral Fund Positions.....	54.00	54.00	
	Position Level.....	169.00	169.00	
	Fund Sources: General.....	\$13,493,096	\$13,493,096	
	Special.....	\$992,820	\$992,820	
	Internal Service.....	<del>\$28,823,090</del> \$27,111,233	<del>\$39,073,504</del> \$27,868,441	

ITEM 263.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>Department of Accounts Transfer Payments (162)</b>					
264.	Financial Assistance to Localities - General (72800)				
	a sum sufficient, estimated at.....			\$572,395,000	<del>\$572,395,000</del> \$600,395,000
	Distribution of Rolling Stock Taxes (72806).....	\$6,530,000	\$6,530,000		
	Distribution of Recordation Taxes (72808).....	\$40,000,000	\$40,000,000		
	Financial Assistance to Localities - Rental Vehicle Tax (72810).....	\$46,500,000	\$46,500,000		
	Distribution of Sales Tax Revenues from Certain Public Facilities (72811).....	\$1,040,000	\$1,040,000		
	Distribution of Tennessee Valley Authority Payments in Lieu of Taxes (72812).....	\$1,200,000	\$1,200,000		
	Distribution of the Virginia Communications Sales and Use Tax (72816).....	\$440,000,000	\$440,000,000		
	Distribution of Payments to Localities for Enhanced Emergency Communications Services (72817).....	\$37,000,000	\$37,000,000		
	Distribution of Sales Tax Revenues from Certain Tourism Projects (72819).....	\$125,000	\$125,000		
	<i>Distribution of Historic Triangle Sales Tax Collections (72820).....</i>	<i>\$0</i>	<i>\$28,000,000</i>		
	Fund Sources: General.....	\$48,895,000	\$48,895,000		
	Trust and Agency.....	\$46,500,000	\$46,500,000		
	Dedicated Special Revenue.....	\$477,000,000	<del>\$477,000,000</del> \$505,000,000		

Authority: §§ 15.2-5814, 15.2-5914, 33.2-2400, 58.1-608.3, 58.1-662, 58.1-815.1, 58.1-816, 58.1-1736, 58.1-1741, 58.1-2658.1, and 58.1-3406, Code of Virginia.

A. Out of this appropriation, amounts estimated at \$20,000,000 the first year and \$20,000,000 the second year from the general fund shall be deposited into the Northern Virginia Transportation District Fund, as provided in § 33.2-2400, Code of Virginia. Said amount shall consist of recordation taxes attributable to and transferable to the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the counties of Arlington, Fairfax, Loudoun, and Prince William, pursuant to § 58.1-816, Code of Virginia. This amount shall be transferred to Item 454 of this act and shall be used to support the Northern Virginia Transportation District Program as defined in § 33.2-2401, Code of Virginia. The Commonwealth Transportation Board shall make such allocations and expenditures from the fund as are provided in the Northern Virginia Transportation District, Commonwealth of Virginia Revenue Bond Act of 1993 (Chapter 391, 1993 Acts of Assembly). The Commonwealth Transportation Board also shall make such allocations and expenditures from the fund as are provided in Chapters 470 and 597 of the 1994 Acts of Assembly (amendments to Chapter 391, 1993 Acts of Assembly).

B. Pursuant to Chapters 233 and 662, 1994 Acts of Assembly, out of this appropriation, an amount estimated at \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be deposited into the set-aside fund as requested in an ordinance adopted March 28, 1995, and in compliance with the requirements provided for in § 58.1-816.1, Code of Virginia, for an account for the City of Chesapeake. These amounts shall be transferred to Item 454 of this act and shall be allocated by the Commonwealth Transportation Board to provide for the debt service pursuant to the Oak Grove Connector, City of Chesapeake, Commonwealth of Virginia Transportation Program Revenue Bond Act of 1994 (Chapters 233 and 662, 1994 Acts of Assembly).

C. Out of this appropriation, the Virginia Baseball Stadium Authority shall be paid a sum sufficient equal to the state personal, corporate, and pass-through entity income and sales and use tax revenues to which the authority is entitled.

D.1. In order to carry out the provisions of § 58.1-645 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$440,000,000 in the first year and \$440,000,000 in the second year equal to the revenues

ITEM 264.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>collected pursuant to § 58.1-645 et seq., Code of Virginia, from the Virginia Communications Sales and Use Tax. All revenue received by the Commonwealth pursuant to the provisions of § 58.1-645 et seq., Code of Virginia, shall be paid into the state treasury and deposited to the Virginia Communications Sales and Use Tax Fund and shall be distributed pursuant to § 58.1-662, Code of Virginia and Item 284 of this act. For the purposes of the State Comptroller's preliminary and final annual reports required by § 2.2-813, Code of Virginia, however, all deposits to and disbursements from the fund shall be accounted for as part of the general fund of the state treasury.</p> <p>2. It is the intent of the General Assembly that all such revenues be distributed to counties, cities, and towns, the Department for the Deaf and Hard-of-Hearing, and to the Department of Taxation for the costs of administering the Virginia Communications Sales and Use Tax Fund.</p> <p>E. In order to carry out the provisions of § 58.1-1734 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$46,500,000 in the first year and \$46,500,000 in the second year equal to the revenues collected pursuant to A. 2 of § 58.1-1736 Code of Virginia, from the Virginia Motor Vehicle Rental Tax.</p> <p>F. In order to carry out the provisions of § 56-484.:17 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$37,000,000 in the first year and \$37,000,000 in the second year equal to the revenues collected pursuant to § 56-484.17.:1 Code of Virginia, from the Virginia Wireless Tax.</p> <p><i>G. In order to carry out the provisions of Chapter 850, 2018 Acts of Assembly, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$28,000,000 the second year equal to the revenues collected pursuant to § 58.1-603.2, Code of Virginia, from the additional state sales and use tax in the Historic Triangle.</i></p>				
265.	Revenue Stabilization Fund (73500).....		\$0	\$360,458,731
	Payments to the Revenue Stabilization Fund (73501).	\$0	\$360,458,731	
	Fund Sources: General.....	\$0	\$360,458,731	
<p>Authority: Title 2.2, Chapter 18, Article 4, Code of Virginia.</p> <p>A. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year. The auditor shall, at the same time, provide his report on the 15 percent limitation and the amount that could be paid into the fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia as well as the additional deposit requirement of § 2.2-1829, Code of Virginia.</p> <p><i>B. Out of this appropriation, \$262,941,731 the second year from the general fund attributable to actual tax collections for fiscal year 2018 shall be paid by the State Comptroller on or before June 30, 2020, into the Revenue Stabilization Fund pursuant to § 2.2-1829, Code of Virginia. This amount is based on the certification of the Auditor of Public Accounts of actual tax revenues for fiscal year 2018. This appropriation meets the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia.</i></p> <p><i>C. Out of this appropriation, \$97,517,000 the second year from the general fund shall be paid by the State Comptroller on or before June 30, 2020, into the Revenue Stabilization Fund pursuant to § 2.2-1829, Code of Virginia. This amount represents an estimate of the required deposit to the Revenue Stabilization Fund attributable to tax collections for fiscal year 2020, which the Auditor of Public Accounts shall determine for the year ending June 30, 2020.</i></p>				
266.	Revenue Cash Reserve (23700).....		\$45,500,000 \$342,727,895	\$45,500,000 \$222,783,000
	Appropriated Revenue Reserve (23701).....	\$45,500,000 \$342,727,895	\$45,500,000 \$222,783,000	
	Fund Sources: General.....	\$45,500,000 \$342,727,895	\$45,500,000 \$222,783,000	
<p>Authority: <del>Discretionary Inclusion</del> Title 2.2, Chapter 18, Article 4.1, Code of Virginia.</p>				

ITEM 266.	Item Details(\$)		Appropriations(\$)		
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
<p>A. 1. Notwithstanding any contrary provision of law, there is hereby appropriated in this item <del>\$45,500,000</del> \$342,727,895 from the general fund the first year and <del>\$45,500,000</del> \$222,783,000 from the general fund the second year to the Revenue Cash Reserve established pursuant to <del>Chapter 827, 2018 Session of the General Assembly</del>, § 2.2-1831.2, Code of Virginia, to mitigate any potential revenue or transfer shortfalls that may arise during the biennium.</p> <p>2. <i>The Department of Taxation shall certify the revenues generated pursuant to subdivision B.5. of § 58.1-301, Code of Virginia. An amount equal to any revenues in excess of those included in this act and appropriated in this item, estimated at \$107,500,000, shall be deposited into the Revenue Reserve Fund and, notwithstanding the provisions of § 2.2-1831.4, Code of Virginia, if appropriated, may be used to effectuate future tax reform options for the citizens of the Commonwealth in accordance with the fifth enactment of Chapters 17 and 18, 2019 Session of the General Assembly. Nothing in this item shall be construed to require the appropriation of such funds prior to the use of other funds in the Revenue Reserve Fund pursuant to § 2.2-1831.4, Code of Virginia.</i></p> <p>B.1. Notwithstanding any contrary provision of law, the Governor shall appropriate to the Revenue Reserve any sums that are committed by the Comptroller for that purpose on his June 30, 2018 balance sheet and that are reported by the Governor to the General Assembly as part of the preliminary annual balance sheet and that are reported by the Governor to the General Assembly as part of the preliminary annual report.</p> <p>2. Any calculation made pursuant to the provisions of § 2.2-1831.2, Code of Virginia, by the Auditor of Public Accounts based on general fund resources collected in fiscal year 2019 shall be committed for deposit into the Fund established pursuant to § 2.2-1831.2, Code of Virginia, in fiscal year 2021.</p> <p>C. Any amounts appropriated in this item that are unexpended on June 30, 2019, or June 30, 2020, shall be reappropriated in the next fiscal year to this reserve to be used for the same purposes identified in this item.</p>					
267.	Virginia Education Loan Authority Reserve Fund (73600).....			\$194,778	\$194,778
	Loan Servicing Reserve Fund (73601).....	\$94,778	\$94,778		
	Edvantage Reserve Fund (73602).....	\$100,000	\$100,000		
	Fund Sources: Trust and Agency.....	\$194,778	\$194,778		
<p>Authority: Chapter 384, Acts of Assembly of 1995; Chapter 39, Acts of Assembly of 1998.</p> <p>A. The General Assembly hereby recognizes and reaffirms the provisions of such Declarations as may have been adopted by the Virginia Education Loan Authority pursuant to Chapter 384, 1995 Acts of Assembly, and dated June 30, 1996. There is hereby appropriated from the VELA Loan Servicing Reserve Fund within the state treasury such sums as may be necessary, not to exceed \$94,778, to be paid out by the State Comptroller consistent with the provisions of the Declarations. There is hereby appropriated from the VELA Loan Servicing Reserve Fund within the state treasury such sums as may be necessary, not to exceed \$100,000, to be paid out by the State Comptroller for the purpose of determining the validity and amount of any claims against the Fund. The State Comptroller is authorized to take such actions as may be necessary to effect the provisions of this paragraph.</p> <p>B. Funds in the Edvantage Reserve Fund are hereby appropriated for disbursement by the State Comptroller, as provided for by law. All interest earned by the Edvantage Reserve Fund shall remain with the fund.</p>					
268.	Personnel Management Services (70400).....			\$32,686,276	\$32,686,276
	Employee Flexible Benefits Services (70420).....	\$32,686,276	\$32,686,276		
	Fund Sources: Trust and Agency.....	\$32,686,276	\$32,686,276		
<p>Authority: Title 2.2, Chapter 8, Code of Virginia.</p>					
269.	Financial Assistance for Health Research (40700)...			\$1,549,871	\$1,580,906

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Health Research Grant Administration Services (40701).....	\$1,549,871	\$1,580,906		
Fund Sources: Dedicated Special Revenue.....	\$1,549,871	\$1,580,906		

Authority: Title 2.2, Chapter 8, Code of Virginia.

The Department of Accounts is authorized to disburse, as fiscal agent for the Commonwealth Health Research Board, funds received from the Virginia Retirement System pursuant to § 32.1-162.28, Code of Virginia.

270. Personal Property Tax Relief Program (74600).....			\$950,000,000	\$950,000,000
Reimbursements to Localities for Personal Property Tax Relief (74601).....	\$950,000,000	\$950,000,000		
Fund Sources: General.....	\$950,000,000	\$950,000,000		

Authority: Discretionary Inclusion.

A.1. Out of this appropriation, \$950,000,000 the first year and \$950,000,000 the second year from the general fund is provided to be used to implement a program which provides equitable tax relief from the personal property tax on vehicles.

2. The amounts appropriated in this Item provide for a local reimbursement level of 70 percent in tax years 2004 and 2005. The local reimbursement level for tax year 2006 is set at \$950,000,000 pursuant Chapter 1, 2004 Acts of Assembly, Special Session I. Payments to localities with calendar year 2006 car tax payment due dates prior to July 1, 2006, shall not be reimbursed until after July 1, 2006, except as otherwise provided in paragraph D of this Item.

B. Notwithstanding the provisions of subsection B of § 58.1-3524, Code of Virginia, as amended by Chapter 1, 2004 Acts of Assembly, Special Session I, the determination of each county's, city's and town's share of the total funds available for reimbursement for personal property tax relief pursuant to that subsection shall be pro rata based upon the actual payments to such county, city or town pursuant to Title 58.1, Chapter 35.1, Code of Virginia, for tax year 2004 as compared to the actual payments to all counties, cities and towns pursuant to that chapter for tax year 2004, made with respect to reimbursement requests submitted on or before December 31, 2005, as certified in writing by the Auditor of Public Accounts not later than March 1, 2006. Notwithstanding the provisions of the second enactment of Chapter 1, 2004 Acts of Assembly, Special Session I, this paragraph shall become effective upon the effective date of this act.

C. The requirements of subsection C 2 of § 58.1-3524 and subsection E of § 58.1-3912, Code of Virginia, as amended by Chapter 1, 2004 Acts of Assembly, Special Session I, with respect to the establishment of tax rates for qualifying vehicles and the format of tax bills shall be deemed to have been satisfied if the locality provides by ordinance or resolution, or as part of its annual budget adopted pursuant to Title 15.2, Chapter 25, Code of Virginia, or the provisions of a local government charter or Title 15.2, Chapter 4, 5, 6, 7 or 8, Code of Virginia, if applicable, specific criteria for the allocation of the Commonwealth's payments to such locality for tangible personal property tax relief among the owners of qualifying vehicles, and such locality's tax bills provide a general description of the criteria upon which relief has been allocated and set out, for each qualifying vehicle that is the subject of such bill, the specific dollar amount of relief so allocated.

D. The Secretary of Finance may authorize advance payment, from funds appropriated in this Item, of sums otherwise due a town on and after July 1, 2006, for personal property tax relief under the provisions of Chapter 1, 2004 Acts of Assembly, Special Session I, if the Secretary finds that such town (1) had a due date for tangible personal property taxes on qualified vehicles for tax year 2006 falling between January 1 and June 30, 2006, (2) had a due date for tangible personal property taxes on qualified vehicles for tax year 2004 falling between January 1 and June 30, 2004, (3) received reimbursements pursuant to the provisions of Title 58.1, Chapter 35.1, Code of Virginia, between January 1 and June 30, 2004, (4) utilizes the cash method of accounting, and (5) would suffer fiscal hardship in the absence of such advance payment.

E. It is the intention of the General Assembly that reimbursements to counties, cities and towns that had a billing date for tax year 2004 tangible personal property taxes with respect to

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qualifying vehicles falling between January 1 and June 30, 2004, and received personal property tax relief reimbursement with respect to tax year 2004 from the Commonwealth between January 1 and June 30, 2004, pursuant to the provisions of Title 58.1, Chapter 35.1, Code of Virginia, as it existed prior to the amendments effected by Chapter 1, 2004 Acts of Assembly, Special Session I, be made by the Commonwealth with respect to sums attributable to such spring billing dates not later than August 15 of each fiscal year.				
Total for Department of Accounts Transfer Payments.....			<b>\$1,602,325,925</b>	<b>\$1,602,356,960</b>
			<i>\$1,899,553,820</i>	<i>\$2,168,098,691</i>
Nongeneral Fund Positions.....	1.00	1.00		
Position Level.....	1.00	1.00		
Fund Sources: General.....	\$1,044,395,000	\$1,044,395,000		
	<i>\$1,341,622,895</i>	<i>\$1,582,136,731</i>		
Trust and Agency.....	\$79,381,054	\$79,381,054		
Dedicated Special Revenue.....	\$478,549,871	<del>\$478,580,906</del>		<i>\$506,580,906</i>
Grand Total for Department of Accounts.....			<b>\$1,645,634,931</b>	<b>\$1,655,916,380</b>
			<i>\$1,941,150,969</i>	<i>\$2,210,453,048</i>
General Fund Positions.....	115.00	115.00		
Nongeneral Fund Positions.....	55.00	55.00		
Position Level.....	170.00	170.00		
Fund Sources: General.....	\$1,057,888,096	\$1,057,888,096		
	<i>\$1,355,115,991</i>	<i>\$1,595,629,827</i>		
Special.....	\$992,820	\$992,820		
Internal Service.....	<del>\$28,823,090</del>	<del>\$39,073,504</del>		
	<i>\$27,111,233</i>	<i>\$27,868,441</i>		
Trust and Agency.....	\$79,381,054	\$79,381,054		
Dedicated Special Revenue.....	\$478,549,871	<del>\$478,580,906</del>		<i>\$506,580,906</i>

**§ 1-88. DEPARTMENT OF PLANNING AND BUDGET (122)**

271.	Planning, Budgeting, and Evaluation Services (71500).....			\$7,963,865	\$8,015,465
	Budget Development and Budget Execution Services (71502).....	\$5,688,400	\$5,688,400		
	Forecasting and Regulatory Review Services (71505).....	\$1,124,374	\$1,175,974		
	Program Evaluation Services (71506).....	\$678,507	\$678,507		
	Administrative Services (71598).....	\$472,584	\$472,584		
	Fund Sources: General.....	\$7,963,865	\$8,015,465		

Authority: Title 2.2, Chapter 15, Code of Virginia.

A. The Department of Planning and Budget shall be responsible for continued development and coordination of an integrated, systematic policy analysis, planning, budgeting, performance measurement and evaluation process within state government. The department shall collaborate with the Governor's Secretaries and all other agencies of state government and other entities as necessary to ensure that information generated from these processes is useful for managing and improving the efficiency and effectiveness of state government operations.

B. The Department of Planning and Budget shall be responsible for the continued development and coordination of a review process for strategic plans and performance measures of the state agencies. The review process shall assess on a periodic basis the structure and content of the plans and performance measures, the processes used to develop and implement the plans and measures, the degree to which agencies achieve intended goals and results, and the relation between intended and actual results and budget requirements.

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<p>C.1. Notwithstanding § 2.2-1508, Code of Virginia, or any other provisions of law, on or before December 20, the Department of Planning and Budget shall deliver to the presiding officer of each house of the General Assembly a copy of the budget document containing the explanation of the Governor's budget recommendations. This copy may be in electronic format.</p> <p>2. The Department of Planning and Budget shall include in the budget document the amount of projected spending and projected net tax-supported state debt for each year of the biennium on a per capita basis. For this purpose, "spending" is defined as total appropriations from all funds for the cited fiscal years as shown in the Budget Bill. The most current population estimates from the Weldon Cooper Center for Public Services shall be used to make the calculations.</p> <p>D. Notwithstanding any contrary provision of law, any school division may also request the Department of Planning and Budget to assist in the coordination of a school efficiency review for the division, including but not limited to the selection of the contractor to conduct that school division's review. Each participating school division shall pay 100 percent of the cost of the review.</p>				
Total for Department of Planning and Budget.....			<b>\$7,963,865</b>	<b>\$8,015,465</b>
General Fund Positions.....			67.00	67.00
Nongeneral Fund Positions.....			3.00	3.00
Position Level.....			70.00	70.00
Fund Sources: General.....			\$7,963,865	\$8,015,465

**§ 1-89. DEPARTMENT OF TAXATION (161)**

272.	Planning, Budgeting, and Evaluation Services (71500).....			\$3,831,391	\$3,831,391
	Tax Policy Research and Analysis (71507).....	\$1,954,381	\$1,954,381		
	Appeals and Rulings (71508).....	\$1,160,286	\$1,160,286		
	Revenue Forecasting (71509).....	\$716,724	\$716,724		
	Fund Sources: General.....	\$3,831,391	\$3,831,391		

Authority: §§ 2.2-1503, 15.2-2502, 58.1-202, 58.1-207, 58.1-210, 58.1-213, 58.1-816, and 58.1-3406, and Title 10.1, Chapter 14, Code of Virginia.

A. The Department of Taxation shall continue the staffing and responsibility for the revenue forecasting of the Commonwealth Transportation Funds, including the Department of Motor Vehicles Special Fund, as provided in § 2.2-1503, Code of Virginia. The Department of Motor Vehicles shall provide the Department of Taxation with direct access to all data records and systems required to perform this function. The Department of Planning and Budget shall effectuate the transfer of three full-time equivalent positions and sufficient funding to ensure the successful consolidation of this function.

B. Notwithstanding the provisions of § 58.1-202.2, Code of Virginia, no report on public-private partnership contracts shall be required in years following the final report upon the completion of contract or when no such contract is active.

C. The Department of Taxation shall report no later than September 1 on an annual basis, to the Chairmen of the House Appropriations, House Finance and Senate Finance Committees, on the amount of state sales and use tax revenues authorized to be remitted for the preceding fiscal year under the provisions of § 58.1-608.3, § 58.1-3851.1, and § 58.1-3851.2, of the Code of Virginia, as amended by the 2015 General Assembly.

D. The Department of Taxation shall convene a workgroup to examine the provisions related to the timing of payments and return filings required of registered dealers pursuant to §§ 58.1-615 and 58.1-616, Code of Virginia, and § 3-5.06 of this act. The workgroup shall establish costs and a timeline for the Department of Taxation to implement an easy online application provided by the Department of Taxation for dealers to apply for the hardship exception and determine whether the current hardship definition is adequate or could be expanded to include

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<p>additional hardship scenarios. The workgroup should make recommendations to the Department of Taxation about providing earlier notice to dealers of accelerated sales tax payments, the equity in assessing monthly 6 percent late payment penalty fees, how the state would be impacted by options to phase-out the accelerated sales tax by fiscal year 2022, and the ability of the General Assembly to lower the accelerated sales tax threshold by more than 10% in one year when threshold is at \$15,000,000 of annual taxable sales or less. The workgroup shall consider alternatives and limitations to the current accelerated sales tax requirement and shall examine other sales tax-related issues, including bi-monthly remittance of sales taxes as an alternative. The workgroup shall include the staffs of the House Appropriations and Senate Finance Committees, the Secretary of Finance or his designee, the Office of the Governor and representatives from affected businesses and industries. Additional staff support shall be provided by the Department of Taxation and the Division of Legislative Services upon request. The workgroup shall begin meetings in the month of May and meet no less than three times and complete its meetings by November 30, 2018, and shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees and all members of the House Appropriations and Senate Finance Committees a report of its findings and recommendations no later than the first day of the 2019 Regular Session of the General Assembly.</p> <p><i>E. The Tax Commissioner shall convene a working group by June 1, 2019 to study the impact of the limitation of interest expense on businesses that are part of an affiliated group and that file a Virginia combined or consolidated return. The Tax Commissioner shall develop and make available guidelines regarding the determination of the limitation of interest expense under section 163(j) of the Internal Revenue Code by December 1, 2019. Such guidelines shall apply to taxable years beginning on or after January 1, 2018 and shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).</i></p>				
273.	Revenue Administration Services (73200).....		\$57,051,523	\$57,106,413
			\$57,709,623	\$57,960,311
	Tax Return Processing (73214).....	\$5,747,734	\$5,747,734	
		\$6,405,834	\$6,428,140	
	Customer Services (73217).....	\$12,091,563	\$12,091,563	
	Compliance Audit (73218).....	\$20,166,112	\$20,250,986	
	Compliance Collections (73219).....	\$16,402,877	\$16,372,893	
	Legal and Technical Services (73222).....	\$2,643,237	\$2,643,237	
			\$2,816,729	
	Fund Sources: General.....	\$46,340,063	\$46,431,403	
		\$46,998,163	\$47,285,301	
	Special.....	\$10,020,211	\$9,987,133	
	Dedicated Special Revenue.....	\$691,249	\$687,877	

Authority: Title 3.2; Title 58.1, Code of Virginia.

A. Pursuant to § 58.1-1803, Code of Virginia, the Tax Commissioner is hereby authorized to contract with private collection agencies for the collection of delinquent accounts. The State Comptroller is hereby authorized to deposit collections from such agencies into the Contract Collector Fund (§ 58.1-1803, Code of Virginia). Revenue in the Contract Collector Fund may be used to pay private collection agencies/attorneys and perform oversight of their operations, upgrade audit and collection systems and data interfaces, and retain experts to perform analysis of receivables and collection techniques. Any balance in the fund remaining after such payment shall be deposited into the appropriate general, nongeneral, or local fund no later than June 30 of each year.

B.1. The Department of Taxation is authorized to retain, as special revenue, its reasonable share of any court fines and fees to reimburse the department for any ongoing operational collection expenses.

2. Any form of state debt assigned to the Department of Taxation for collection may be collected by the department in the same manner and means as state taxes may be collected pursuant to Title 58.1, Chapter 18, Code of Virginia.

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C. The Department of Taxation is hereby appropriated revenues from the Communications Sales and Use Tax Trust Fund to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 58.1-662, Code of Virginia.				
D. The Tax Commissioner shall have the authority to waive penalties and grant extensions of time to file a return or pay a tax, or both, to any class of taxpayers when the Tax Commissioner in his discretion finds that the normal due date has, or would, cause undue hardship to taxpayers who were, or would be, unable to use electronic means to file a return or pay a tax because of a power or systems failure that causes the department's electronic filing or payment systems to be nonfunctional for all or a portion of a day on or about the due date for a return or payment.				
E. The Department of Taxation is hereby appropriated Land Conservation Incentive Act fees imposed under § 58.1-513 C. 2., Code of Virginia, on the transferring of the value of the donated interest. The Code of Virginia specifies such fees will be used by the Departments of Taxation and Conservation and Recreation to recover the direct cost of administration incurred in implementing the Virginia Land Conservation Act.				
F. In the event that the United States Congress adopts legislation allowing local governments, with the assistance of the Commonwealth, to collect delinquent local taxes using offsets from federal income taxes, the Department of Accounts shall provide a treasury loan to the Department of Taxation to finance the costs of modifying the agency's computer systems to implement this federal debt setoff program. This treasury loan shall be repaid from the proceeds collected from the offsets of federal income taxes collected on behalf of localities by the Department of Taxation.				
G. 1. All revenue received by the Commonwealth pursuant to the provisions of § 58.1-645 et seq., Code of Virginia, shall be paid into the state treasury and deposited to the Virginia Communications Sales and Use Tax Fund and shall be distributed pursuant to § 58.1-662, Code of Virginia, and Items 264 and 284 of this act. For the purposes of the Comptroller's preliminary and final annual reports required by § 2.2-813, Code of Virginia, however, all deposits to and disbursements from the Fund shall be accounted for as part of the general fund of the state treasury.				
2. It is the intent of the General Assembly that all such revenues be distributed to counties, cities, and towns, the Department for the Deaf and Hard-of-Hearing, and for the costs of administering the Virginia Communications Sales and Use Tax.				
H. Notwithstanding the provisions of § 58.1-478, Code of Virginia, effective July 1, 2011, every employer whose average monthly liability can reasonably be expected to be \$1,000 or more and the aggregate amount required to be withheld by any employer exceeds \$500 shall file the annual report required by § 58.1-478, Code of Virginia, and all forms required by § 58.1-472, Code of Virginia, using an electronic medium using a format prescribed by the Tax Commissioner. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the employer. All requests for waiver shall be submitted to the Tax Commissioner in writing.				
I. Notwithstanding the provisions of § 58.1-214, Code of Virginia, the department shall not be required to mail its forms and instructions unless requested by a taxpayer or his representative.				
J.1. Notwithstanding the provisions of § 58.1-609.12, Code of Virginia, no report on the fiscal, economic and policy impact of the miscellaneous Retail Sales and Use Tax exemptions under § 58.1-609.10, Code of Virginia, shall be required after the completion of the final report in the first five-year cycle of the study, due December 1, 2011. The Department of Taxation shall satisfy the requirement of § 58.1-609.12 that it study and report on the annual fiscal impact of the Retail Sales and Use Tax exemptions for nonprofit entities provided for in § 58.1-609.11, Code of Virginia, by publishing such fiscal impact on its website.				
2. Notwithstanding the provisions of § 58.1-202, Code of Virginia, no report detailing the total amount of corporate income tax relief provided in Virginia shall be required after the completion of such report due on October 1, 2013. The Department of Taxation shall satisfy the requirement of § 58.1-202 that it issue an annual report detailing the total amount of				

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<p>corporate income tax relief provided in Virginia by publishing its Annual Report on its website.</p>				
<p>K. 1. Notwithstanding any provision of the Code of Virginia or this act to the contrary,</p>				
<p>a. Effective January 1, 2013, all corporations are required to file estimated tax payments and their annual income tax return and final payment using an electronic medium in a format prescribed by the Tax Commissioner .</p>				
<p>b. Effective July 1, 2013, every employer shall file the annual report required by § 58.1-478 and all forms required by § 58.1-472, Code of Virginia, using an electronic medium in a format prescribed by the Tax Commissioner.</p>				
<p>c. Effective July 1, 2014, every employer shall file the annual report required by § 58.1-478 , not later than January 31 of the calendar year succeeding the calendar year in which wages were withheld from employees.</p>				
<p>d. Effective January 1, 2015, for taxable years beginning on and after January 1, 2014, every pass-through entity shall file the annual return required by § 58.1-392, Code of Virginia, and make related payments using an electronic medium in a format prescribed by the Tax Commissioner.</p>				
<p>e. <i>i.</i> Effective <del>January 1, 2018</del> <i>until January 1, 2020</i>, all estates and trusts are required to file estimated tax payments pursuant to § 58.1-490 et seq., Code of Virginia, and their annual income tax return pursuant to § 58.1-381, Code of Virginia, and final payment using an electronic medium in a format prescribed by the Tax Commissioner.</p>				
<p><i>ii.</i> <i>Effective January 1, 2020, annual income tax returns of estates and trusts required pursuant to § 58.1-381, Code of Virginia, that are prepared by an income tax return preparer, as defined in § 58.1-302, Code of Virginia, must be filed using an electronic medium in a format prescribed by the Tax Commissioner.</i></p>				
<p>f. Taxpayers subject to the taxes imposed pursuant to § 58.1-320 and required to pay estimated tax pursuant to § 58.1-490 et seq., shall be required to file and remit using an electronic medium in a format prescribed by the Tax Commissioner all installment payments of estimated tax and all payments made with regard to a return or an extension of time to file if (i) any one such payment exceeds or is required to exceed \$7,500, or if (ii) the taxpayer's total tax liability exceeds or can be reasonably expected to exceed \$30,000 in any taxable year beginning on or after January 1, 2018. The Department of Taxation shall provide reasonable advanced notice to taxpayers affected by this requirement.</p>				
<p>2.a. The Tax Commissioner shall have the authority to waive the requirement to file or pay by electronic means. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the person required to use an electronic medium. All requests for waiver shall be submitted to the Tax Commissioner in writing.</p>				
<p>b. The Tax Commissioner shall have the authority to waive the requirement to file or pay by January 31. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the person required to file or pay by January 31. All requests for waiver shall be submitted to the Tax Commissioner in writing.</p>				
<p>L.1. Notwithstanding any other provision of law, Retail Sales and Use Tax returns and payments shall be made using an electronic medium prescribed by the Tax Commissioner beginning with the June 2012 return, due July 2012, for monthly filers and, for less frequent filers, with the first return they are required to file after July 1, 2013.</p>				
<p>2. Notwithstanding any other provision of law, Out-of-State Dealer's Use Tax and Business Consumer's Use Tax returns and payments shall be made using an electronic medium prescribed by the Tax Commissioner beginning with the July 2017 return, due August 2017, for monthly filers and, for less frequent filers, with the first return they are required to file after August 1, 2017.</p>				
<p>3. The Tax Commissioner shall have the authority to waive the requirement to file by</p>				

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	electronic means upon a determination that the requirement would cause an undue hardship. All requests for waiver shall be transmitted to the Tax Commissioner in writing.			
	M. The Department of Taxation is hereby appropriated revenues from the Virginia Motor Vehicle Rental Tax to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 58.1-1741, Code of Virginia.			
	N. Notwithstanding the provisions of § 58.1-490 et seq., Code of Virginia,			
	1. Effective for taxable years beginning on or after January 1, 2015, a taxpayer shall be permitted to file a declaration of estimated tax with the Department of Taxation instead of with the commissioner of the revenue and notwithstanding the provisions of § 58.1-306, Code of Virginia, the department may so advise taxpayers.			
	2. Effective January 1, 2015, every treasurer who receives an estimated income tax return, declaration or voucher pursuant to § 58.1-495 of the Code of Virginia shall transmit such return, declaration or voucher to the Department of Taxation using an electronic medium in a format prescribed by the Tax Commissioner.			
	O. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Department of Taxation is authorized to provide Form 1099 in an electronic format to taxpayers. The Tax Commissioner shall ensure that taxpayers may elect to receive the electronic version of the form.			
	P. The Department of Taxation is hereby appropriated revenues from the E-911 Wireless Tax to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 56-484.17:1, Code of Virginia.			
	Q. The Department of Taxation is hereby appropriated revenues from the assessment for expenses pursuant to §§ 38.2-400 and 38.2-403, Code of Virginia, to recover any costs related to the Insurance Premiums License Tax that are incurred by the Department of Taxation, as provided in § 58.1-2533, Code of Virginia.			
	R. The Department of Taxation is authorized to recover the administrative costs associated with debt collection initiatives under the U.S. Treasury Offset Program authorized by § 2.2-4809, not to exceed twenty percent of revenues generated pursuant to such debt collection initiatives. Such sums are in addition to any fees charged by outside collections contractors and/or enhanced collection revenues returned to the Commonwealth.			
	S.1. Notwithstanding any other provision of the Code of Virginia or this act to the contrary, effective July 1, 2015, the Department of Taxation is hereby authorized to charge a fee of \$5.00 per copy of a tax return requested by a taxpayer or a representative thereof.			
	2. The Tax Commissioner shall have the authority to waive such fee. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the person requesting such copies. All requests for waiver shall be submitted to the Tax Commissioner in writing.			
	T. Notwithstanding any other provision of the Code of Virginia or this act to the contrary, effective January 1, 2016, the Department of Taxation shall not provide to the local commissioners of the revenue or any other local officials copies of federal tax forms or schedules, including but not limited to, federal Schedules C (1040), C-EZ (1040), D (1040), E (1040), or F (1040), or federal Forms 4562 or 2106, or copies of Virginia Schedule 500FED, unless such schedules or forms are attached to a Virginia income tax return and submitted to the department in an electronic format by the taxpayer.			
	U.1. Notwithstanding any other provision of law, Vending Machine Dealer's Sales Tax, Motor Vehicle Rental Tax and Fee, Communications Taxes, and Tobacco Products Tax returns shall be filed using an electronic medium prescribed by the Tax Commissioner beginning with the July 2016 return, due August 2016, for monthly filers and, for less frequent filers, with the first return they are required to file after July 1, 2016.			
	2. Notwithstanding any other provision of law, Litter Tax returns shall be filed and any payments shall be made using an electronic medium prescribed by the Tax Commissioner beginning with the first return required to be filed after January 1, 2018.			

ITEM 273.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
3. The Tax Commissioner shall have the authority to waive the requirement to file by electronic means upon a determination that the requirement would cause an undue hardship. All requests for waiver shall be transmitted to the Tax Commissioner in writing.				
V.1. Notwithstanding any other provision of law, effective July 1, 2017, the Department of Taxation shall charge a fee of \$275 for each request, except those requested by the local assessing officer, for a letter ruling to be issued pursuant to § 58.1-203, Code of Virginia, or for an advisory opinion issued pursuant to §§ 58.1-3701 or 58.1-3983.1, Code of Virginia; \$50 for each request for an offer in compromise with respect to doubtful collectability authorized by § 58.1-105, Code of Virginia; and \$100 for each request for permission to change a corporation's filing method pursuant to § 58.1-442, Code of Virginia.				
2. The Tax Commissioner shall have the authority to waive such fees. Waivers shall be granted only if the Tax Commissioner finds that such fee creates an unreasonable burden on the person making such request. All requests for waiver shall be submitted to the Tax Commissioner in writing.				
3. Revenues received from the above fees shall be deposited into the general fund in the state treasury.				
W. Notwithstanding the provisions of § 38.2-5601, Code of Virginia, the Department of Taxation shall not be required to update the Virginia Medical Savings Account Plan report after the completion of such report due on December 31, 2016.				
X.1. Notwithstanding any other provision of law, any employer or payroll service provider that owns or licenses computerized data relating to income tax withheld pursuant to Article 16 (§ 58.1-460 et seq.) of Chapter 3 of Title 58.1 shall notify the Office of the Attorney General without unreasonable delay after the discovery or notification of unauthorized access and acquisition of unencrypted and unredacted computerized data containing a taxpayer identification number in combination with the income tax withheld for that taxpayer that compromises the confidentiality of such data and that creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or the employer or payroll provider reasonably believes has caused or will cause, identity theft or other fraud. With respect to employers, this requirement applies only to information regarding the employer's employees, and does not apply to information regarding the employer's customers or other non-employees.				
Such employer or payroll service provider shall provide the Office of the Attorney General with the name and federal employer identification number of the employer as defined in § 58.1-460 that may be affected by the compromise in confidentiality. Upon receipt of such notice, the Office of the Attorney General shall notify the Department of Taxation of the compromise in confidentiality. The notification required under this provision that does not otherwise require notification under subsections A through L of § 18.2-186.6, Code of Virginia, shall not be subject to any other notification, requirement, exemption, or penalty contained in that section.				
2. Notwithstanding any other provision of law, any income tax return preparer, as defined in § 58.1-302, who prepares any Virginia individual income tax return during a calendar year for which he has the primary responsibility for the overall substantive accuracy of the preparation thereof shall notify the Department of Taxation without unreasonable delay after the discovery or notification of unauthorized access and acquisition of unencrypted and unredacted return information that compromises the confidentiality of such information and that creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or such preparer reasonably believes has caused or will cause, identity theft or other fraud.				
Such income tax return preparer shall provide the Department of Taxation with the name and taxpayer identifying number of any taxpayer that may be affected by the compromise in confidentiality, as well as the name of the income tax return preparer, his preparer tax identification number, and such other information as the Department may prescribe.				

ITEM 274.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
274.	Tax Value Assistance to Localities (73400).....			\$2,128,144	\$2,121,172
	Training for Local Assessors (73401).....	\$146,401	\$146,401		
	Valuation and Assessment Assistance for Localities (73410).....	\$1,981,743	\$1,974,771		
	Fund Sources: General.....	\$682,353	\$682,353		
	Special.....	\$1,445,791	\$1,438,819		

Authority: Title 58.1, Chapters 32, 34, 35, 36, and 39 and §§ 58.1-202, subdivisions 6, 10, and 11, 58.1-206; §§ 58.1-2655, 58.1-3239, 58.1-3278, and 58.1-3374, Code of Virginia.

A. The department is hereby authorized to recover from participating localities, as special funds, the direct costs associated with assessor/property tax and local valuation and assessments training classes. In accordance with § 58.1-206, Code of Virginia, the assessing officers and board members attending shall continue to be reimbursed for the actual expenses incurred by their attendance at the programs.

B. In the expenditure of funds out of its appropriations for determination of true values of locally taxable real estate for use by the Board of Education in state school fund distributions, the Department of Taxation shall use a sufficiently representative sampling of parcels, in accordance with the classification system as established in § 58.1-208, Code of Virginia, to reflect actual true values; further, the department shall, upon request of any local school board, review its initial determination and promptly inform the Board of Education of corrections in such determination.

C. Notwithstanding any other provision of law, the requirement that the Department of Taxation print and distribute local tax forms, instructions, and property tax books shall be satisfied by the posting of such documents on the department's web site.

275.	Administrative and Support Services (79900).....			\$50,589,813	<del>\$49,673,140</del> \$49,811,536
	General Management and Direction (79901).....	\$29,383,260	\$29,383,260		
	Information Technology Services (79902).....	\$21,206,553	<del>\$20,289,880</del> \$20,428,276		
	Fund Sources: General.....	\$50,436,359	<del>\$49,519,686</del> \$49,658,082		
	Special.....	\$153,454	\$153,454		

Authority: §§ 58.1-200, 58.1-202, and 58.1-213, Code of Virginia.

A. To defray the costs of administration for voluntary contributions made on individual income tax returns for taxable years beginning on or after January 1, 2003, the Department of Taxation may retain up to five percent of the contributions made to each organization, not to exceed a total of \$50,000 from all organizations in any taxable year.

B. The Department is hereby authorized to request and receive a treasury loan to fund the necessary start-up costs associated with the implementation of a sales and use tax modification or other state or local tax imposed pursuant to Chapter 766, 2013 Acts of Assembly. The treasury loan shall be repaid for these costs from the tax revenues. The Department shall also retain sufficient revenues to recover its costs incurred administering these taxes.

C. Out of this appropriation, \$524,670 the first year and \$524,670 the second year from the general fund shall be provided for an initiative to develop new mobile applications and purchase computer tablets for the department's field collectors and auditors in order to increase revenue collection efficiency.

D. Notwithstanding the provisions of §§ 2.2-507 and 2.2-510, when the Tax Commissioner determines that an issue may have a major impact on tax policies, revenues or expenditures, he may request that the Attorney General appoint special counsel to render such assistance or representation as needed. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the Department of Taxation.

E. The Department of Taxation is required to provide, at the beginning of an audit, detailed information on the audit process and tax policies that are being examined. Furthermore, the

ITEM 275.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Department shall compile and make available on their website a list of common issues which are identified in a large number of audits.				
Total for Department of Taxation.....			<b>\$113,600,871</b> <i>\$114,258,971</i>	<b>\$112,732,116</b> <i>\$113,724,410</i>
General Fund Positions.....	894.00	<del>894.00</del> 897.00		
Nongeneral Fund Positions.....	56.00	56.00		
Position Level.....	950.00	<del>950.00</del> 953.00		
Fund Sources: General.....	<del>\$101,290,166</del> <i>\$101,948,266</i>	<del>\$100,464,833</del> <i>\$101,457,127</i>		
Special.....	\$11,619,456	\$11,579,406		
Dedicated Special Revenue.....	\$691,249	\$687,877		

**§ 1-90. DEPARTMENT OF THE TREASURY (152)**

276.	Investment, Trust, and Insurance Services (72500)..		\$36,785,300	<del>\$32,706,683</del> <i>\$33,226,846</i>
	Debt Management (72501).....	\$1,113,753	\$1,113,753	
	Insurance Services (72502).....	\$31,319,996	<del>\$27,241,379</del> <i>\$27,761,542</i>	
	Banking and Investment Services (72503).....	\$4,351,551	\$4,351,551	
	Fund Sources: General.....	\$7,745,856	<del>\$3,667,239</del> <i>\$4,187,402</i>	
	Special.....	\$126,365	\$126,365	
	Commonwealth Transportation.....	\$185,187	\$185,187	
	Trust and Agency.....	\$28,727,892	\$28,727,892	

Authority: Title 2.2, Chapter 18, Code of Virginia.

A. The Department of the Treasury shall take into account the claims experience of each agency and institution when setting premiums for the general liability program.

B. Coverage provided by the VARISK plan for constitutional officers shall be extended to any action filed against a constitutional officer or appointee of a constitutional officer before the Equal Employment Opportunity Commission or the Virginia State Bar.

C. Notwithstanding the provisions of § 33.2-1919 and § 33.2-1927, Code of Virginia, the Northern Virginia Transportation Commission and the Potomac Rappahannock Transportation Commission are authorized to obtain liability policies for the Commissions' joint project, the Virginia Railway Express, consisting of liability insurance and a program of self-insurance maintained by the Commissions and administered by the Department of the Treasury's Division of Risk Management or by an independent third party selected by the Commissions, which liability policies shall be deemed to meet the requirements of § 8.01-195.3, Code of Virginia. In addition, the Director of the Department of Rail and Public Transportation is authorized to work with the Northern Virginia Transportation Commission and the Potomac Rappahannock Transportation Commission to obtain the foregoing liability policies for the Commissions. In obtaining liability policies, the Director of the Department of Rail and Public Transportation shall advise the Commissions regarding compliance with all applicable public procurement and administrative guidelines.

D. By January 15 of each year the Department of the Treasury shall report to the chairmen of the House Appropriations and Senate Finance Committees, in a unified report mutually agreeable to them, summarizing changes in required debt service payments from the general fund as the result of any refinancing, refunding, or issuance actions taken or expected to be taken by the Commonwealth within the next twelve months.

E. The Virginia Public School Authority shall transfer to the Department of the Treasury each year an amount necessary to recover the direct cost incurred by the department in the administration of the Virginia Public School Authority programs.

ITEM 276.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

F. Notwithstanding § 2.2-1836 of the Code of Virginia, the Department of the Treasury is authorized to continue the data breach coverage under the Property Plan for state agencies.

G. The Department of the Treasury shall provide to the State Compensation Board the premiums, by local constitutional office and individual regional jail, required to fund the Constitutional Officer and Regional Jail Fund of the State Insurance Reserve Trust Fund. The premiums provided to the Department of the Treasury by the actuary shall be calculated using factors such claims experience by local constitutional office and individual regional jail, each local constitutional office and individual regional jail's total number of positions, and local and regional jail average daily populations.

H. Out of the amounts for this Item shall be paid \$582,313 in the first year for the relief of Robert Paul Davis, as provided for and contingent upon the passage of the appropriate relief bill of the 2018 Acts of General Assembly.

I. Out of the general fund amounts for this item shall be paid \$3,496,304 in the first year for the relief of Danial J. Williams, Joseph Jesse Dick, Jr., Eric Cameron Wilson, and Derek Elliot Tice, as provided for pursuant to Chapters 502 and 503 of the 2018 Acts of the Assembly.

*J. Out of the amounts for this item shall be paid \$520,163 in the second year from the general fund for the relief of Gary Linwood Bush, as provided for pursuant to Senate Bill 1477 of the 2019 General Assembly.*

277.	Revenue Administration Services (73200).....			\$13,101,042	<del>\$13,112,104</del> \$14,712,104
	Unclaimed Property Administration (73207).....	\$6,782,313	\$6,782,313		
	Accounting and Trust Services (73213).....	\$1,769,561	\$1,780,623		
	Check Processing and Bank Reconciliation (73216)...	\$2,249,473	<del>\$2,249,473</del> \$3,849,473		
	Administrative Services (73220).....	\$2,299,695	\$2,299,695		
	Fund Sources: General.....	\$3,687,021	<del>\$3,693,657</del> \$5,293,657		
	Special.....	\$335,994	\$335,994		
	Trust and Agency.....	\$8,359,770	\$8,363,089		
	Dedicated Special Revenue.....	\$718,257	\$719,364		

Authority: Title 2.2, Chapter 18 and §§ 55-210.1 through 55-210.29, Code of Virginia.

A. Included in this Item is a sum sufficient nongeneral fund appropriation for personal services and other operating expenses to process checks issued by the Department of Social Services. The estimated cost, excluding actual postage costs, is \$89,000 the first year and \$89,000 the second year.

B. Included in this Item is a sum sufficient nongeneral fund appropriation for administrative expenses to process the Virginia Employment Commission (VEC) and Virginia Retirement System (VRS) checks. The estimated cost for VEC is \$5,500 the first year and \$5,500 the second year, and for VRS is \$25,500 the first year and \$25,500 the second year.

C.1. The amounts for Unclaimed Property Administration are for administrative and related support costs of the Uniform Disposition of Unclaimed Property Act, to be paid solely from revenues derived pursuant to the act.

2. The amounts also include a sum sufficient nongeneral fund amount estimated at \$2,000,000 the first year and \$2,000,000 the second year to pay fees for compliance services and securities portfolio custody services for unclaimed property administration.

3. Any revenue derived from the sale of the Department of the Treasury's new unclaimed property system is hereby appropriated to the department for use in unclaimed property customer service and system enhancements.

4. Notwithstanding § 55-210.13.C of the Uniform Disposition of Unclaimed Property Act, the State Treasurer is not required to publish any item of less than \$250.

D. The State Treasurer is authorized to charge institutions of higher education participating in

ITEM 277.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>the private college financing program of the Virginia College Building Authority an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Revenue collected from this administrative fee shall be deposited to a special fund in the Department of the Treasury to compensate the department for direct and indirect staff time and expenses involved with this program.</p> <p>E. The State Treasurer is authorized to sell any securities remitted as unclaimed demutualization proceeds of insurance companies at any time after delivery, pursuant to legislation enacted by the 2003 Session of the General Assembly. The funds derived from the sale of said securities shall be handled in accordance with § 55-210.19, Code of Virginia.</p> <p>F.1. The State Treasurer is authorized to charge qualified public depositories holding public deposits, as defined in § 2.2-4401, Code of Virginia, an annual administrative fee of not more than one-half of one basis point of their average public deposit balances over a twelve month period. The State Treasurer shall issue guidelines to effect the implementation of this fee. However, the total fees collected from all qualified depositories shall not exceed \$100,000 in any one year.</p> <p>2. Any regulations or guidelines necessary to implement or change the amount of the fee may be adopted without complying with the Administrative Process Act (§ 2.2-4000 et seq.) provided that input is solicited from qualified public depositories. Such input requires only that notice and an opportunity to submit written comments be given.</p> <p>G. The State Treasurer shall work with universities and community colleges to develop policies and procedures which minimize the use of paper checks when issuing any reimbursements of student loan balances. These efforts should include reimbursement through debit cards, direct deposits, or other electronic means.</p> <p>H. The Virginia Public School Authority shall transfer to the Department of the Treasury each year an amount necessary to recover the direct cost incurred by the department in the accounting and financial reporting of the Virginia Public School Authority programs.</p>				
278.	<p>1. There is hereby appropriated to the Department of the Treasury a sum sufficient for the transfer to the federal government, in accordance with the provisions of the federal Cash Management Improvement Act of 1990 and related federal regulations, of the interest owed by the state on federal funds advanced to the state for federal assistance programs, where such funds are held by the state from the time they are deposited in the state's bank account until they are paid out to redeem warrants, checks or payments by other means. This sum sufficient appropriation is funded from the interest earned on federal funds deposited and invested by the state. The actual amount for transfer shall be established by the State Comptroller.</p> <p>2. When permitted by applicable federal laws or administrative regulations, the State Comptroller shall first offset and reduce the amount to be transferred by any and all amounts of interest payments calculated to be received by the state from the federal government, where such payments are due to the state because the state was required to disburse its own funds for federal program purposes prior to the receipt of federal funds.</p> <p>3. Should the interest payments calculated to be made by the federal government to the state exceed the interest calculated to be transferred from the state to the federal government, reduced by the federally approved direct cost reimbursement to the state, the State Comptroller shall then notify the federal government of the net amount of interest due to the state and shall record such net interest, upon its receipt, as interest revenue earned by the general fund.</p>			
	Total for Department of the Treasury.....		\$49,886,342	\$45,818,787 \$47,938,950
	General Fund Positions.....	31.20	31.20	
	Nongeneral Fund Positions.....	91.80	91.80	
	Position Level.....	123.00	123.00	

ITEM 278.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$11,432,877	\$7,360,896 \$9,481,059		
Special.....	\$462,359	\$462,359		
Commonwealth Transportation.....	\$185,187	\$185,187		
Trust and Agency.....	\$37,087,662	\$37,090,981		
Dedicated Special Revenue.....	\$718,257	\$719,364		

**§ 1-91. TREASURY BOARD (155)**

279.	Bond and Loan Retirement and Redemption (74300).		\$808,451,406	\$856,066,435
			\$782,931,935	\$824,795,771
	Debt Service Payments on General Obligation Bonds (74301).....	\$67,030,237	\$64,792,831	
		\$67,029,003	\$64,791,313	
	Capital Lease Payments (74302).....	\$5,490,800	\$5,497,550	
	Debt Service Payments on Public Building Authority Bonds (74303).....	\$272,347,842	\$299,778,953	
		\$262,613,033	\$280,424,780	
	Debt Service Payments on College Building Authority Bonds (74304).....	\$463,582,527	\$485,997,101	
		\$447,799,099	\$474,082,128	
	Fund Sources: General.....	\$759,099,000	\$807,607,404	
		\$735,190,499	\$776,432,307	
	Higher Education Operating.....	\$31,526,576	\$31,526,576	
		\$30,011,174		
	Dedicated Special Revenue.....	\$645,000	\$645,000	
	Federal Trust.....	\$17,180,830	\$16,287,455	
		\$17,085,262	\$16,191,888	

Authority: Title 2.2, Chapter 18, Code of Virginia; Article X, Section 9, Constitution of Virginia.

A. The Director, Department of Planning and Budget is authorized to transfer appropriations between Items in the Treasury Board to address legislation affecting the Treasury Board passed by the General Assembly.

B.1. Out of the amounts for Debt Service Payments on General Obligation Bonds, the following amounts are hereby appropriated from the general fund for debt service on general obligation bonds issued pursuant to Article X, Section 9 (b), of the Constitution of Virginia:

Series	FY 2019		FY 2020	
	General Fund	Federal Funds	General Fund	Federal Funds
2009A	\$4,063,500	\$0	\$0	\$0
2009B	\$3,128,651	\$411,196	\$3,074,467	\$379,328
2009D Refunding	\$23,824,751	\$0	\$22,811,750	\$0
2012 Refunding	\$4,322,450	\$0	\$4,229,200	\$0
2013 Refunding	\$15,388,750	\$0	\$14,977,250	\$0
2015B Refunding	\$13,977,350	\$0	\$13,549,350	\$0
2016B Refunding	\$1,821,450	\$0	\$5,681,450	\$0
Projected debt service & expenses	\$92,139 \$90,905	\$0	\$90,036 \$88,518	\$0
<b>Total Service Area</b>	<b>\$66,619,041</b> <b>\$66,617,807</b>	<b>\$411,196</b>	<b>\$64,413,503</b> <b>\$64,411,985</b>	<b>\$379,328</b>

2. Out of the amounts for Debt Service Payments on General Obligation Bonds, sums needed to fund issuance costs and other expenses are hereby appropriated.

C. Out of the amounts for Capital Lease Payments, the following amounts are hereby appropriated for capital lease payments:

**FY 2019**

**FY 2020**

ITEM 279.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Norfolk RHA (VCCS-TCC), Series 1995		\$738,300		\$739,800
Virginia Biotech Research Park, 2009		\$4,752,500		\$4,757,750
<b>Total Capital Lease Payments</b>		<b>\$5,490,800</b>		<b>\$5,497,550</b>

D.1. Out of the amounts for Debt Service Payments on Virginia Public Building Authority Bonds shall be paid to the Virginia Public Building Authority the following amounts for use by the authority for its various bond issues:

Series	FY 2019		FY 2020	
	General Fund	Nongeneral Fund	General Fund	Nongeneral Fund
2005D	\$2,000,000	\$0	\$2,000,000	\$0
2008B	\$7,119,950	\$0	\$0	\$0
2009A	\$4,683,024	\$0	\$4,682,412	\$0
2009B	\$10,204,500	\$0	\$10,203,875	\$0
2009B STARS	\$6,584,000	\$0	\$6,585,625	\$0
2009C	\$1,089,190	\$0	\$1,087,554	\$0
2009D	\$6,248,100	\$0	\$6,241,975	\$0
2010A	\$21,902,842	\$4,039,992	\$21,886,404	\$3,813,064
	\$21,877,801	\$4,026,508	\$21,861,364	\$3,799,581
2010B	\$30,463,982	\$3,483,595	\$30,473,099	\$3,392,523
	\$30,091,167	\$3,401,511	\$30,320,659	\$3,310,439
2011A STARS	\$631,000	\$0	\$628,875	\$0
2011A	\$17,659,300	\$0	\$17,658,425	\$0
	\$12,909,500		\$12,908,625	
2011B	\$1,298,749	\$0	\$1,299,224	\$0
2012A Refunding	\$6,567,975	\$0	\$6,564,975	\$0
	\$6,559,225		\$6,556,225	
2013A	\$10,281,175	\$0	\$10,279,550	\$0
	\$8,823,275		\$8,821,650	
2013B	\$3,478,000	\$0	\$17,247,000	\$0
2014A	\$9,204,775	\$645,000	\$9,202,525	\$645,000
	\$8,482,025		\$8,479,775	
2014B	\$2,012,760	\$0	\$2,011,353	\$0
2014C Refunding	\$39,637,575	\$0	\$25,923,950	\$0
	\$39,593,775		\$25,880,150	
2015A	\$17,344,496	\$0	\$17,339,996	\$0
2015B Refunding	\$14,881,080	\$0	\$16,639,455	\$0
	\$14,845,275		\$16,603,650	
2016A	\$14,385,550	\$0	\$14,385,300	\$0
2016B Refunding	\$8,816,400	\$0	\$8,816,400	\$0
	\$8,773,400		\$8,773,400	
2016C	\$11,659,375	\$0	\$11,657,250	\$0
2016D	\$906,902	\$0	\$903,732	\$0
2017A	\$6,722,850	\$0	\$6,722,850	\$0
2018A	\$5,097,794	\$0	\$11,745,719	\$0
2018B	\$475,366	\$0	\$1,233,790	\$0
Projected debt service and expenses	\$15,118,555	\$0	\$48,209,412	\$0
	\$642,965		\$16,487,732	
<b>Total Service Area</b>	<b>\$264,179,255</b>	<b>\$8,168,587</b>	<b>\$291,928,366</b>	<b>\$7,850,587</b>
	<b>\$254,540,014</b>	<b>\$8,073,019</b>	<b>\$272,669,760</b>	<b>\$7,755,020</b>

2.a. Funding is included in this Item for the Commonwealth's reimbursement of a portion of the approved capital costs as determined by the Board of Corrections and other interest costs as provided in §§ 53.1-80 through 53.1-82.2 of the Code of Virginia, for the

ITEM 279.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
following:				
<b>Project</b>			<b>Commonwealth Share of Approved Capital Costs</b>	
Prince William – Manassas Regional Jail				\$21,032,421
Henry County Jail				\$18,759,878
Chesapeake City Jail				\$6,860,886
Piedmont Regional Jail				\$2,139,464
Rockbridge Regional Jail				\$103,693
Prince William - Manassas Adult Detention Center				\$49,643
Northwestern Regional Jail Authority				\$1,198,915
Southside Regional Jail Authority				\$138,465
<b>Total Approved Capital Costs</b>				<b>\$50,283,365</b>

b. The Commonwealth's share of the total construction cost of the projects listed in the table in paragraph D.2.a. shall not exceed the amount listed for each project. Reimbursement of the Commonwealth's portion of the construction costs of these projects shall be subject to the approval of the Department of Corrections of the final expenditures.

c. This paragraph shall constitute the authority for the Virginia Public Building Authority to issue bonds for the foregoing projects pursuant to § 2.2-2261 of the Code of Virginia.

E.1. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds shall be paid to the Virginia College Building Authority the following amounts for use by the Authority for payments on obligations issued for financing authorized projects under the 21st Century College Program:

Series	FY 2019	FY 2020
2008A	\$4,966,500	\$0
2009A&B	\$15,176,500 \$14,459,700	\$15,176,800 \$0
2009E Refunding	\$26,975,050	\$26,976,000
2009F	\$37,693,761	\$37,353,111
2010B	\$27,673,519	\$27,471,289
2011 A	\$13,940,050 \$10,727,000	\$13,940,800 \$10,727,750
2012A	\$21,496,400 \$16,248,450	\$21,495,900 \$16,247,950
2012B	\$25,527,200 \$21,481,850	\$25,524,200 \$21,478,850
2013 A	\$21,956,763 \$16,815,919	\$21,959,263 \$15,872,969
2014A	\$19,545,400 \$16,972,150	\$19,547,400 \$16,974,150
2014B	\$1,328,400	\$1,387,150
2015A	\$22,489,550 \$16,398,550	\$31,266,700 \$25,175,700
2015B Refunding	\$7,285,433	\$12,225,054 \$12,255,054
2015C	\$1,479,354	\$1,484,260
2015D	\$22,496,085 \$22,496,035	\$13,711,535
2016A	\$19,476,600	\$19,469,100
2016B Refunding	\$1,972,000	\$1,972,000
2016C	\$4,428,839	\$4,433,139
2017B	\$21,184,500	\$19,851,250

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
2017C	\$31,464,500			\$31,466,500
2017D	\$11,318,714			\$11,316,514
2017E	\$31,960,000			\$41,448,500
Projected 21st Century debt service & expenses	\$21,303,509	\$717,501	\$49,470,746	\$38,328,915
<b>Subtotal 21st Century</b>	<b>\$381,178,627</b>		<b>\$407,498,711</b>	<b>\$395,401,686</b>

2. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds shall be paid to the Virginia College Building Authority the following amounts for the payment of debt service on authorized bond issues to finance equipment:

Series	FY 2019	FY 2020
2011A	\$8,536,500	\$0
2012A	\$8,363,250	\$0
2013A	\$9,451,750	\$9,448,500
2014A	\$9,660,250	\$9,658,000
2015A	\$10,483,250	\$10,482,000
2016A	\$11,065,500	\$11,067,000
2017A	\$11,849,000	\$11,853,750
2018	\$12,865,274	\$12,864,500
Projected debt service & expenses	\$12,994,400	\$25,989,140
	\$0	\$13,306,692
Subtotal Equipment	\$82,403,900	\$78,498,390
	\$82,274,774	\$78,680,442
<b>Total Service Area</b>	<b>\$463,582,527</b>	<b>\$485,997,101</b>
	<b>\$447,799,099</b>	<b>\$474,082,128</b>

3. Beginning with the FY 2008 allocation of the higher education equipment trust fund, the Treasury Board shall amortize equipment purchases at seven years, which is consistent with the useful life of the equipment.

4. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds, the following nongeneral fund amounts from a capital fee charged to out-of-state students at institutions of higher education shall be paid to the Virginia College Building Authority in each year for debt service on bonds issued under the 21st Century Program:

Institution	FY 2019	FY 2020
George Mason University	\$2,644,092	\$2,804,490
Old Dominion University	\$1,047,123	\$1,108,899
University of Virginia	\$4,721,706	\$5,006,754
Virginia Polytechnic Institute and State University	\$4,867,731	\$5,192,295
Virginia Commonwealth University	\$2,224,530	\$2,359,266
College of William and Mary	\$1,549,053	\$1,639,845
Christopher Newport University	\$122,562	\$131,508
University of Virginia's College at Wise	\$45,540	\$48,330
James Madison University	\$2,675,079	\$2,843,787
Norfolk State University	\$402,831	\$420,789
Longwood University	\$97,911	\$106,149
University of Mary Washington	\$222,750	\$234,834
Radford University	\$281,556	\$300,486
Virginia Military Institute	\$377,190	\$400,470
Virginia State University	\$739,233	\$773,577
Richard Bland College	\$9,900	\$10,830
Virginia Community College System	\$3,139,785	\$3,301,665

ITEM 279.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>TOTAL</b>		<b>\$25,168,572</b>		<b>\$26,683,974</b>

5. Out of the amounts for Debt Service Payments of College Building Authority Bonds, the following is the estimated general and nongeneral fund breakdown of each institution's share of the debt service on the Virginia College Building Authority bond issues to finance equipment. The nongeneral fund amounts shall be paid to the Virginia College Building Authority in each year for debt service on bonds issued under the equipment program:

Institution	FY 2019		FY 2020	
	General Fund	Nongeneral Fund	General Fund	Nongeneral Fund
College of William & Mary	\$2,721,384 \$2,726,776	\$259,307	\$2,527,063 \$2,542,753	\$259,307
University of Virginia	\$14,337,975 \$14,768,704	\$1,088,024	\$13,323,452 \$14,069,323	\$1,088,024
Virginia Polytechnic Institute and State University	\$14,442,862 \$14,850,856	\$992,321	\$13,302,001 \$14,157,712	\$992,321
Virginia Military Institute	\$876,713 \$844,441	\$88,844	\$830,879 \$766,641	\$88,844
Virginia State University	\$1,353,677 \$1,304,801	\$108,886	\$1,284,242 \$1,186,954	\$108,886
Norfolk State University	\$1,199,191 \$1,155,483	\$108,554	\$1,137,112 \$1,050,111	\$108,554
Longwood University	\$755,365 \$728,290	\$54,746	\$716,907 \$663,015	\$54,746
University of Mary Washington	\$617,490 \$760,811	\$97,063	\$583,563 \$872,100	\$97,063
James Madison University	\$2,262,279 \$2,178,176	\$254,504	\$2,142,792 \$1,975,385	\$254,504
Radford University	\$1,766,263 \$1,535,517	\$135,235	\$1,675,996 \$1,213,438	\$135,235
Old Dominion University	\$5,352,390 \$5,250,439	\$374,473	\$5,052,229 \$4,670,293	\$374,473
Virginia Commonwealth University	\$9,428,616 \$9,627,321	\$401,647	\$8,733,529 \$9,153,973	\$401,647
Richard Bland College	\$172,483 \$166,653	\$2,027	\$164,197 \$152,592	\$2,027
Christopher Newport University	\$804,228 \$776,754	\$17,899	\$765,198 \$710,511	\$17,899
University of Virginia's College at Wise	\$253,407 \$244,285	\$19,750	\$240,433 \$222,275	\$19,750
George Mason University	\$4,511,046 \$4,474,164	\$205,665	\$3,935,203 \$4,516,681	\$205,665
Virginia Community College System	\$15,363,705 \$14,722,898	\$633,657	\$15,889,652 \$14,614,134	\$633,657
Virginia Institute of Marine Science	\$555,160 \$568,209	\$0	\$493,103 \$520,534	\$0
Roanoke Higher Education Authority	\$84,591 \$81,758	\$0	\$80,582 \$74,943	\$0
Southwest Virginia Higher Education Center	\$87,294 \$84,378	\$0	\$83,149 \$77,344	\$0
Institute for Advanced Learning and Research	\$298,762 \$288,907	\$0	\$284,579 \$264,704	\$0
Southern Virginia Higher Education Center	\$90,167 \$86,674	\$0	\$99,434 \$92,482	\$0
New College Institute	\$51,796	\$0	\$35,791	\$0

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	\$50,542		\$33,246	
Eastern Virginia	\$174,460	\$0	\$274,706	\$0
Medical School	\$155,335		\$236,697	
<b>TOTAL</b>	<b>\$77,561,306</b>	<b>\$4,842,602</b>	<b>\$73,655,793</b>	<b>\$4,842,602</b>
	<i>\$77,432,173</i>		<i>\$73,837,840</i>	

F. Pursuant to various Payment Agreements between the Treasury Board and the Commonwealth Transportation Board, funds required to pay the debt service due on Commonwealth Transportation Board bonds shall be paid to the Trustee for the bondholders by the Treasury Board after transfer of these funds to the Treasury Board from the Commonwealth Transportation Board pursuant to Item 457, paragraph E of this act and §§ 33.2-2300, 33.2-2400, and 58.1-816.1, Code of Virginia.

G. Under the authority of this act, an agency may transfer funds to the Treasury Board for use as lease, rental, or debt service payments to be used for any type of financing where the proceeds are used to acquire equipment and to finance associated costs, including but not limited to issuance and other financing costs. In the event such transfers occur, the transfers shall be deemed an appropriation to the Treasury Board for the purpose of making the lease, rental, or debt service payments described herein.

H. Notwithstanding the provisions of 2.2-11.56, Code of Virginia, if tax-exempt bonds were used by the Commonwealth or its authorities, boards, or institutions to finance the acquisition, construction, improvement or equipping of real property, proceeds from the subsequent sale or disposition of such property and any improvements may first be applied toward remediation options available under federal law in order to maintain the tax-exempt status of such bonds.

280. A. There is hereby appropriated to the Treasury Board a sum sufficient from the general fund to pay obligations incurred pursuant to Article X, Sections 9 (a), 9 (c), and 9 (d), of the Constitution of Virginia, as follows:

1. Section 9 (a) To meet emergencies and redeem previous debt obligations.
2. Section 9 (c) Debt for certain revenue-producing capital projects.
3. Section 9 (d) Debt for variable rate obligations secured by general fund appropriations and a payment agreement with the Treasury Board.
4. For payment of the principal of and the interest on obligations, issued in accordance with the cited Sections 9 (c) and 9 (d), in the event pledged revenues are insufficient to meet the obligation of the Commonwealth.

B. There is hereby appropriated to the Treasury Board a sum sufficient to pay debt service expected at the time of issuance to be paid from subsidies under federal programs and for arbitrage rebate amounts and other penalties to the United States Government for bonds issued by the Commonwealth pursuant to Article X, Sections 9 (a), 9 (b), 9 (c), and 9 (d) (obligations secured by General Fund appropriations to Treasury Board) of the Constitution of Virginia.

Total for Treasury Board.....			<b>\$808,451,406</b>	<b>\$856,066,435</b>
			<i>\$782,931,935</i>	<i>\$824,795,771</i>
Fund Sources: General.....	\$759,099,000	\$807,607,404		
	\$735,190,499	\$776,432,307		
Higher Education Operating.....	\$31,526,576	\$31,526,576		
	\$30,011,174			
Dedicated Special Revenue.....	\$645,000	\$645,000		
Federal Trust.....	\$17,180,830	\$16,287,455		
	\$17,085,262	\$16,191,888		
<b>TOTAL FOR OFFICE OF FINANCE.....</b>			<b>\$2,626,205,010</b>	<b>\$2,679,216,778</b>
			<i>\$2,896,859,677</i>	<i>\$3,205,595,239</i>
General Fund Positions.....	1,111.20	1,111.20		
		<i>1,114.20</i>		

ITEM 280.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Nongeneral Fund Positions.....	205.80	205.80		
Position Level.....	1,317.00	<del>1,317.00</del> 1,320.00		
Fund Sources: General.....	<del>\$1,938,341,599</del> \$2,212,319,093	<del>\$1,982,004,289</del> \$2,491,683,380		
Special.....	\$13,074,635	\$13,034,585		
Higher Education Operating.....	<del>\$31,526,576</del> \$30,011,174	\$31,526,576		
Commonwealth Transportation.....	\$185,187	\$185,187		
Internal Service.....	<del>\$28,823,090</del> \$27,111,233	<del>\$39,073,504</del> \$27,868,441		
Trust and Agency.....	\$116,468,716	\$116,472,035		
Dedicated Special Revenue.....	\$480,604,377	<del>\$480,633,147</del> \$508,633,147		
Federal Trust.....	<del>\$17,180,830</del> \$17,085,262	<del>\$16,287,455</del> \$16,191,888		

ITEM 281.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

**OFFICE OF HEALTH AND HUMAN RESOURCES**

**§ 1-92. SECRETARY OF HEALTH AND HUMAN RESOURCES (188)**

281.	Administrative and Support Services (79900).....		\$830,743	\$830,743
	General Management and Direction (79901).....	\$830,743	\$830,743	
	Fund Sources: General.....	\$830,743	\$830,743	

Authority: Title 2.2, Chapter 2; Article 6, and § 2.2-200, Code of Virginia.

A.1. The Secretary of Health and Human Resources, in collaboration with the Office of the Attorney General and the Secretary of Public Safety and Homeland Security, shall present a six-year forecast of the adult offender population presently incarcerated in the Department of Corrections and approaching release who meet the criteria set forth in Chapter 863 and Chapter 914 of the 2006 Acts of Assembly, and who may be eligible for evaluation as sexually violent predators (SVPs) for each fiscal year within the six-year forecasting period. As part of the forecast, the secretary shall report on: (i) the number of Commitment Review Committee (CRC) evaluations to be completed; (ii) the number of eligible inmates recommended by the CRC for civil commitment, conditional release, and full release; (iii) the number of civilly committed residents of the Virginia Center for Behavioral Rehabilitation who are eligible for annual review; and (iv) the number of individuals civilly committed to the Virginia Center for Behavioral Rehabilitation and granted conditional release from civil commitment in a state SVP facility. The secretary shall complete a summary report of current SVP cases and a forecast of SVP eligibility, civil commitments, and SVP conditional releases, including projected bed space requirements, to the Governor and Senate Finance and House Appropriations Committees by November 15 of each year.

2. As part of the forecast process, the Department of Corrections shall administer a STATIC-99 screening to all potential Sexually Violent Predators eligible for civil commitment pursuant to § 37.2-900 et seq., Code of Virginia, within six months of admission to the Department of Corrections. The results of such screenings shall be provided to the commissioner of the Department of Behavioral Health and Developmental Services (DBHDS) on a monthly basis and used for the SVP population forecast process.

3. The Office of the Attorney General shall also provide to the commissioner of DBHDS, on a monthly basis, the status of all SVP cases pending before their office for purposes of forecasting the SVP population.

B. The Secretary of Health and Human Resources shall create a trauma-informed care workgroup to develop a shared vision and definition of trauma-informed care for agencies within the Health and Human Resources Secretariat. The workgroup shall include representatives from the Departments of Social Services, Behavioral Health and Developmental Services, Medical Assistance Services, and Health, as well as stakeholders, researchers, community organizations and representatives from impacted communities. The workgroup shall also (i) examine Virginia's applicable child and family-serving programs and data; (ii) develop strategies to build a trauma-informed system of care for children, using best practices for families who are impacted by the human service delivery system; (iii) identify indicators to measure progress in developing such a system of care; (iv) identify needed professional development/training in trauma-informed practices for all child-serving professionals and (v) identify data sharing issues that need to be addressed to facilitate such a system. In addition, the workgroup shall explore opportunities to expand trauma-informed care throughout the Commonwealth. The Secretary of Health and Human Resources shall report on the workgroup's activities to the Chairmen of the House Appropriations and Senate Finance Committees and the Virginia Commission on Youth by December 15 of each year.

C.1. The Secretary of Health and Human Resources, in collaboration with the Secretary of Administration and the Secretary of Public Safety and Homeland Security, shall convene an interagency workgroup to oversee the development of a statewide integrated electronic health record (EHR) system. The workgroup shall include the Department of Behavioral Health and Developmental Services (DBHDS), the Virginia Department of Health, the

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>Department of Corrections, the Department of Planning and Budget, <i>staff of the House Appropriations and Senate Finance Committees</i>, and other agencies as deemed appropriate by the respective Secretaries. The purpose of the workgroup shall be to evaluate common business requirements for electronic health records to ensure consistency and interoperability with other partner state and local agencies and public and private health care entities to the extent allowed by federal and state law and regulations. The goal of the workgroup is to develop an integrated EHR which may be shared as appropriate with other partner state and local agencies and public and private health care entities. The workgroup shall evaluate the DBHDS statement of work developed for its EHR system and the DBHDS platform for potential adaption and/or use by state agencies in order to develop an integrated statewide EHR.</p>				
<p>2. The workgroup may consider and evaluate other EHR systems that may be more appropriate to meet specific agency needs and evaluate the cost-effectiveness of pursuing a separate EHR system as compared to a statewide integrated EHR. However, the workgroup shall ensure that standards are developed to ensure that EHRs can be shared as appropriate with public and private partner agencies and health care entities.</p>				
<p>3. The workgroup shall also develop an implementation timeline, cost estimates, and assess other issues that may need to be addressed in order to implement an integrated statewide EHR system. The timeline and cost estimates shall be used by the respective agencies to coordinate implementation. The workgroup shall report on its activities and any recommendations to the Joint Subcommittee on Health and Human Resources Oversight by October 15, 2018.</p>				
<p><i>4. The workgroup shall produce a robust analysis of the costs and benefits of using the platform provided through Contract Number VA-121107-SMU managed by the Virginia Information Technologies Agency on behalf of the Commonwealth of Virginia in developing and implementing electronic health records for use by the Virginia Department of Health. The analysis shall consider the need for a separate domain from any other procured through the Contract. The workgroup shall report on the findings of the analysis and any recommendations to the Joint Subcommittee on Health and Human Resources Oversight by November 1, 2019.</i></p>				
<p>D. The Secretary of Health and Human Resources shall convene a work group to examine recent trends in the individual insurance market and state options for stabilizing that market. The examination shall include, but not be limited to, a review of association and catastrophic health plans as well as innovative solutions that reduce individual insurance premiums and out-of-pocket costs while preserving access to comprehensive health insurance. The examination shall also consider the resources necessary to fund any proposed options. The work group shall include the Commissioner of Insurance or his designee, the Virginia Association of Health Plans, chambers of commerce, and other relevant stakeholders at the discretion of the Secretary. The Secretary shall report his findings and recommendations to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2018.</p>				
<p>E.1. The Secretary of Health and Human Resources is authorized to develop and apply for a state innovation waiver under Section 1332 of the federal Patient Protection and Affordable Care Act (42 U.S.C. 18052) to implement innovative solutions to help stabilize the individual insurance market by reducing individual insurance premiums and out-of-pocket costs while preserving access to health insurance. Such solutions may include the implementation of a state reinsurance program or high risk pool, or market stabilization program payments, among others.</p>				
<p>2. The State Corporation Commission Bureau of Insurance shall provide technical assistance to the Secretary of Health and Human Resources as requested.</p>				
<p>3. The Secretary shall report on the waiver plan to the House and Senate Committees on Labor and Commerce and the House Appropriations and Senate Finance Committees prior to the submission of the waiver application. Such report shall include an analysis of the costs and assumptions used to implement the waiver and any mechanism proposed to fund the non-federal share of costs. Implementation of the waiver shall be subject to appropriation of the non-federal share of costs by the General Assembly and approval by the United States Secretary of Health and Human Services.</p>				

ITEM 281.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p><i>F. The Secretary of Health and Human Resources, in collaboration with the Secretary of Administration, Secretary of Finance, and State Corporation Commission (SCC), shall convene a workgroup to evaluate options to prohibit the practice of balance billing by out-of-network health care providers for emergency services rendered, and to establish equitable and fair reimbursement for these health care providers. The workgroup shall include: 1) staff from the House Appropriations and Senate Finance Committees and representatives from such state agencies as the Commission and Secretaries deem appropriate, and 2) relevant stakeholders, including but not limited to, the Medical Society of Virginia, Virginia College of Emergency Physicians, Virginia Hospital and Healthcare Association, Virginia Association of Health Plans, Virginia Poverty Law Center, and National Patient Advocate Foundation. The workgroup shall include in its report the fiscal impact of each option considered and the impact on provider networks. The workgroup also shall include in its report recommendations for future legislation for consideration by the General Assembly. The SCC shall provide analytical and actuarial services pursuant to the workgroup's analysis and development of a proposal, as needed. The workgroup shall protect any proprietary and confidential data of any health plan, healthcare provider, or third party administrator in its final report. The workgroup shall report its recommendations to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2019.</i></p>				
Total for Secretary of Health and Human Resources.....			<b>\$830,743</b>	<b>\$830,743</b>
General Fund Positions.....	5.00	5.00		
Position Level.....	5.00	5.00		
Fund Sources: General.....	\$830,743	\$830,743		

**Children's Services Act (200)**

282.	Protective Services (45300).....			<del>\$349,251,604</del>	<del>\$359,167,989</del>
				<b>\$343,351,604</b>	<b>\$353,282,080</b>
	Financial Assistance for Child and Youth Services (45303).....	<del>\$349,251,604</del>	<del>\$359,167,989</del>		
		<b>\$343,351,604</b>	<b>\$353,282,080</b>		
	Fund Sources: General.....	<del>\$296,643,858</del>	<del>\$306,560,243</del>		
		<del>\$290,743,858</del>	<del>\$300,674,334</del>		
	Federal Trust.....	\$52,607,746	\$52,607,746		

Authority: Title 2.2, Chapter 52, Code of Virginia.

A. The Department of Education shall serve as fiscal agent to administer funds cited in paragraphs B and C.

B.1.a. Out of this appropriation, ~~\$238,581,993~~ ~~\$258,756,145~~ ~~\$252,856,145~~ the first year and ~~\$51,609,746~~ ~~\$51,607,746~~ the second year from the general fund and ~~\$51,607,746~~ the first year and ~~\$51,607,746~~ the second year from nongeneral funds shall be used for the state pool of funds pursuant to § 2.2-5211, Code of Virginia. This appropriation shall consist of a Medicaid pool allocation, and a non-Medicaid pool allocation.

b. The Medicaid state pool allocation shall consist of ~~\$28,526,197~~ ~~\$28,526,197~~ the first year and ~~\$28,526,197~~ the second year from the general fund and ~~\$43,187,748~~ the first year and ~~\$43,187,748~~ the second year from nongeneral funds. The Office of Children's Services will transfer these funds to the Department of Medical Assistance Services as they are needed to pay Medicaid provider claims.

c. The non-Medicaid state pool allocation shall consist of ~~\$209,805,796~~ ~~\$219,972,181~~ ~~\$214,086,272~~ the first year and ~~\$8,419,998~~ the first year and ~~\$8,419,998~~ the second year from nongeneral funds. The nongeneral funds shall be transferred from the Department of Social Services.

d. The Office of Children's Services, with the concurrence of the Department of Planning and Budget, shall have the authority to transfer the general fund allocation between the

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<p>Medicaid and non-Medicaid state pools in the event that a shortage should exist in either of the funding pools.</p>				
<p>e. The Office of Children's Services, per the policy of the State Executive Council, shall deny state pool funding to any locality not in compliance with federal and state requirements pertaining to the provision of special education and foster care services funded in accordance with § 2.2-5211, Code of Virginia.</p>				
<p>2.a. Out of this appropriation, <del>\$55,666,865</del> \$49,766,865 the first year and \$55,666,865 the second year from the general fund and \$1,000,000 the first year and \$1,000,000 the second year from nongeneral funds shall be set aside to pay for the state share of supplemental requests from localities that have exceeded their state allocation for mandated services. The nongeneral funds shall be transferred from the Department of Social Services.</p>				
<p>b. In each year, the director of the Office of Children's Services may approve and obligate supplemental funding requests in excess of the amount in 2a above, for mandated pool fund expenditures up to 10 percent of the total general fund appropriation authority in B1a in this Item.</p>				
<p>c. The State Executive Council shall maintain local government performance measures to include, but not be limited to, use of federal funds for state and local support of the Children's Services Act.</p>				
<p>d. Pursuant to § 2.2-5200, Code of Virginia, Community Policy and Management Teams shall seek to ensure that services and funding are consistent with the Commonwealth's policies of preserving families and providing appropriate services in the least restrictive environment, while protecting the welfare of children and maintaining the safety of the public. Each locality shall submit to the Office of Children's Services information on utilization of residential facilities for treatment of children and length of stay in such facilities. By December 15 of each year, the Office of Children's Services shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on utilization rates and average lengths of stays statewide and for each locality.</p>				
<p>3. Each locality receiving funds for activities under the Children's Services Act (CSA) shall have a utilization management process, including a uniform assessment, approved by the State Executive Council, covering all CSA services. Utilizing a secure electronic site, each locality shall also provide information as required by the Office of Children's Services to include, but not be limited to case specific information, expenditures, number of youth served in specific CSA activities, length of stay for residents in core licensed residential facilities, and proportion of youth placed in treatment settings suggested by the uniform assessment instrument. The State Executive Council, utilizing this information, shall track and report on child specific outcomes for youth whose services are funded under the Children's Services Act. Only non-identifying demographic, service, cost and outcome information shall be released publicly. Localities requesting funding from the set aside in paragraph 2.a. and 2.b. must demonstrate compliance with all CSA provisions to receive pool funding.</p>				
<p>4. The Secretary of Health and Human Resources, in consultation with the Secretary of Education and the Secretary of Public Safety and Homeland Security, shall direct the actions for the Departments of Social Services, Education, and Juvenile Justice, Medical Assistance Services, Health, and Behavioral Health and Developmental Services, to implement, as part of ongoing information systems development and refinement, changes necessary for state and local agencies to fulfill CSA reporting needs.</p>				
<p>5. The State Executive Council shall provide localities with technical assistance on ways to control costs and on opportunities for alternative funding sources beyond funds available through the state pool.</p>				
<p>6. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is provided for a combination of regional and statewide meetings for technical assistance to local community policy and management teams, family assessment and planning teams, and local fiscal agents. Training shall include, but not be limited to, cost containment measures, building community-based services, including creation of partnerships with private providers and non-profit groups, utilization management, use of alternate revenue sources, and administrative and fiscal issues. A state-supported institution of higher education, in</p>				

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	FY2019	FY2020	FY2019	FY2020

cooperation with the Virginia Association of Counties, the Virginia Municipal League, and the State Executive Council, may assist in the provisions of this paragraph. A training plan shall be presented to and approved by the State Executive Council before the beginning of each fiscal year. A training calendar and timely notice of programs shall be provided to Community Policy and Management Teams and family assessment and planning team members statewide as well as to local fiscal agents and chief administrative officers of cities and counties. A report on all regional and statewide training sessions conducted during the fiscal year, including (i) a description of each program and trainers, (ii) the dates of the training and the number of attendees for each program, (iii) a summary of evaluations of these programs by attendees, and (iv) the funds expended, shall be made to the Chairmen of the House Appropriations and Senate Finance Committees and to the members of the State Executive Council by December 1 of each year. Any funds unexpended for this purpose in the first year shall be reappropriated for the same use in the second year.

7. Out of this appropriation, \$70,000 the first year and \$70,000 the second year from the general fund is provided for the Office of Children's Services to contract for the support of uniform CSA reporting requirements.

8. The State Executive Council shall require a uniform assessment instrument.

9. The Office of Children's Services, in conjunction with the Department of Social Services, shall determine a mechanism for reporting Temporary Assistance for Needy Families Maintenance of Effort eligible costs incurred by the Commonwealth and local governments for the Children's Services Act.

10. For purposes of defining cases involving only the payment of foster care maintenance, pursuant to § 2.2-5209, Code of Virginia, the definition of foster care maintenance used by the Virginia Department of Social Services for federal Title IV-E shall be used.

C. The funding formula to carry out the provisions of the Children's Services Act is as follows:

1. Allocations. The allocations for the Medicaid and non-Medicaid pools shall be the amounts specified in paragraphs B.1.b. and B.1.c. in this Item. These funds shall be distributed to each locality in each year of the biennium based on the greater of that locality's percentage of actual 1997 Children's Services Act pool fund program expenditures to total 1997 pool fund program expenditures or the latest available three-year average of actual pool fund program expenditures as reported to the state fiscal agent.

2. Local Match. All localities are required to appropriate a local match for the base year funding consisting of the actual aggregate local match rate based on actual total 1997 program expenditures for the Children's Services Act. This local match rate shall also apply to all reimbursements from the state pool of funds in this Item and carryforward expenditures submitted prior to September 30 each year for the preceding fiscal year, including administrative reimbursements under paragraph C.4. in this Item.

3.a. Notwithstanding the provisions of C.2. of this Item, beginning July 1, 2008, the local match rate for community based services for each locality shall be reduced by 50 percent.

b. Localities shall review their caseloads for those individuals who can be served appropriately by community-based services and transition those cases to the community for services. Beginning July 1, 2009, the local match rate for non-Medicaid residential services for each locality shall be 25 percent above the fiscal year 2007 base. Beginning July 1, 2011, the local match rate for Medicaid residential services for each locality shall be 25 percent above the fiscal year 2007 base.

c. By ~~October~~December 1 of each year, The State Executive Council (SEC) shall provide an update to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the outcomes of this initiative.

d. At the direction of the State Executive Council, local Community Policy and Management Teams (CPMTs) and Community Services Boards (CSBs) shall work collaboratively in their service areas to develop a local plan for intensive care coordination (ICC) services that best meets the needs of the children and families. If there is more than

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<p>one CPMT in the CSB's service area, the CPMTs and the CSB may work together as a region to develop a plan for ICC services. Local CPMTs and CSBs shall also work together to determine the most appropriate and cost-effective provider of ICC services for children in their community who are placed in, or at-risk of being placed in, residential care through the Children's Services Act, in accordance with guidelines developed by the State Executive Council. The State Executive Council and Office of Children's Services shall establish guidelines for reasonable rates for ICC services and provide training and technical assistance to CPMTs and fiscal agents regarding these services.</p> <p>e. The local match rate for all non-Medicaid services provided in the public schools after June 30, 2011 shall equal the fiscal year 2007 base.</p> <p>4. Local Administrative Costs. Out of this appropriation, an amount equal to two percent of the fiscal year 1997 pool fund allocations, not to exceed \$2,060,000 the first year and \$2,060,000 the second year from the general fund, shall be allocated among all localities for administrative costs. Every locality shall be required to appropriate a local match based on the local match contribution in paragraph C.2. of this Item. Inclusive of the state allocation and local matching funds, every locality shall receive the larger of \$12,500 or an amount equal to two percent of the total pool allocation. <del>No locality shall receive more than \$50,000, inclusive of the state allocation and local matching funds.</del> Localities are encouraged to use administrative funding to hire a full-time or part-time local coordinator for the Children's Services Act program. Localities may pool this administrative funding to hire regional coordinators.</p> <p>5. Definition. For purposes of the funding formula in the Children's Services Act, "locality" means city or county.</p> <p>D. Community Policy and Management Teams shall use Medicaid-funded services whenever they are available for the appropriate treatment of children and youth receiving services under the Children's Services Act. Effective July 1, 2009, pool funds shall not be spent for any service that can be funded through Medicaid for Medicaid-eligible children and youth except when Medicaid-funded services are unavailable or inappropriate for meeting the needs of a child.</p> <p>E. Pursuant to subdivision 3 of § 2.2-5206, Code of Virginia, Community Policy and Management Teams shall enter into agreements with the parents or legal guardians of children receiving services under the Children's Services Act. The Office of Children's Services shall be a party to any such agreement. If the parent or legal guardian fails or refuses to pay the agreed upon sum on a timely basis and a collection action cannot be referred to the Division of Child Support Enforcement of the Department of Social Services, upon the request of the community policy management team, the Office of Children's Services shall make a claim against the parent or legal guardian for such payment through the Department of Law's Division of Debt Collection in the Office of the Attorney General.</p> <p>F. The Office of Children's Services, in cooperation with the Department of Medical Assistance Services, shall provide technical assistance and training to assist residential and treatment foster care providers who provide Medicaid-reimbursable services through the Children's Services Act to become Medicaid-certified providers.</p> <p>G. The Office of Children's Services shall work with the State Executive Council and the Department of Medical Assistance Services to assist Community Policy and Management Teams in appropriately accessing a full array of Medicaid-funded services for Medicaid-eligible children and youth through the Children's Services Act, thereby increasing Medicaid reimbursement for treatment services and decreasing the number of denials for Medicaid services related to medical necessity and utilization review activities.</p> <p>H. Pursuant to subdivision 21 of § 2.2-2648, Code of Virginia, no later than December 20 in the odd-numbered years, the State Executive Council shall biennially publish and disseminate to members of the General Assembly and Community Policy and Management Teams a progress report on services for children, youth, and families and a plan for such services for the succeeding biennium.</p> <p>I. Out of this appropriation, \$275,000 the first year and \$275,000 the second year from the general fund shall be used to purchase and maintain an information system to provide quality</p>				

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and timely child demographic, service, expenditure, and outcome data.

J. The State Executive Council shall work with the Department of Education to ensure that funding in this Item is sufficient to pay for the educational services of students that have been placed in or admitted to state or privately operated psychiatric or residential treatment facilities to meet the educational needs of the students as prescribed in the student's Individual Educational Plan (IEP).

K.1. The Office of Children's Services (OCS) shall report on funding for therapeutic foster care services including but not limited to the number of children served annually, average cost of care, type of service provided, length of stay, referral source, and ultimate disposition. In addition, the OCS shall provide guidance and training to assist localities in negotiating contracts with therapeutic foster care providers.

2. The Office of Children's Services shall report on funding for special education day treatment and residential services, including but not limited to the number of children served annually, average cost of care, type of service provided, length of stay, referral source, and ultimate disposition.

3. The Office of Children's Services shall report *by December 1 of each year* the information included in this paragraph to the Chairmen of the House Appropriations and Senate Finance Committees. ~~beginning September 1, 2011 and each year thereafter.~~

L. Out of this appropriation, the Director, Office of Children's Services, shall allocate \$2,200,000 the first year and \$2,200,000 the second year from the general fund to localities for wrap-around services for students with disabilities as defined in the Children's Services Act policy manual.

M. Out of this appropriation, up to \$250,000 the first year from the general fund shall be made available for the Office of Children's Services to contract for a study on the current rates paid by localities to special education private day programs licensed by the Virginia Department of Education. The study shall include an examination of the adequacy of the current rates for private educational services for children placed outside of public school settings, and include recommendations for implementing a rate-setting structure for educational services reimbursed through the Children's Services Act. The study shall consider the impact on local school districts, local governments, and public and private educational services providers. The Office of Children's Services shall provide an interim report on the study's findings to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees by December 1, 2018, and a final report, including recommendations, by ~~July~~October 1, 2019. *The final report shall include a list of all special education private day programs that did not participate in or respond to the provider survey the contractor used to collect information to assist in conducting the rate study.*

N. Notwithstanding any other provision of law, the rates paid by localities to providers of private day special education services under the Children's Services Act shall not increase more than two percent above the rates paid in the prior fiscal year. This provision shall take effect July 1, 2019, such that the rates paid in fiscal year 2020 shall not increase more than two percent over the rates paid in fiscal year 2019. All localities shall submit their contracted rates for private day education services to the Office of Children's Services by August 1 of each year.

O. The Office of Children's Services shall coordinate with the Department of Education to facilitate a workgroup to include private providers, including the Virginia Association of Independent Specialized Education Facilities, the Virginia Council for Private Education, the Virginia Association of Independent Schools, the Virginia Coalition of Private Provider Associations, and the Virginia Association of Community Services Boards, local school divisions, stakeholder groups, and parent representatives to identify and define outcome measures to assess students' progress in private day placements that may include assessment scores, attendance, graduation rates, transition statistics, and return to the students' home schools. The agencies shall ensure that the number of members from each group (i.e representatives of private providers, parents, local governments, and other stakeholders are each considered their own group) are proportionally represented on the workgroup. The Office of Children's Services and Department of Education shall report

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recommendations to the Chairmen of the House Education and Appropriations Committees and the Senate Education and Health and Finance Committees by November 1, 2018.				
283.	Administrative and Support Services (49900).....		\$1,933,058	\$1,933,058 \$1,945,790
	General Management and Direction (49901).....	\$1,933,058		\$1,933,058 \$1,945,790
	Fund Sources: General.....	\$1,933,058		\$1,933,058 \$1,945,790
Authority: Title 2.2, Chapter 26, Code of Virginia.				
The Office of Children's Services may enter into a memorandum of understanding with the Department of Social Services for the provision of routine administrative support services.				
	Total for Children's Services Act.....		<b>\$351,184,662</b> <b>\$345,284,662</b>	<b>\$361,101,047</b> <b>\$355,227,870</b>
	General Fund Positions.....	14.00		14.00
	Position Level.....	14.00		14.00
	Fund Sources: General.....	<del>\$298,576,916</del> \$292,676,916	<del>\$308,493,301</del> \$302,620,124	
	Federal Trust.....	\$52,607,746		\$52,607,746
	Grand Total for Secretary of Health and Human Resources.....		<b>\$352,015,405</b> <b>\$346,115,405</b>	<b>\$361,931,790</b> <b>\$356,058,613</b>
	General Fund Positions.....	19.00		19.00
	Position Level.....	19.00		19.00
	Fund Sources: General.....	<del>\$299,407,659</del> \$293,507,659	<del>\$309,324,044</del> \$303,450,867	
	Federal Trust.....	\$52,607,746		\$52,607,746

**§ 1-93. DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING (751)**

284.	Social Services Research, Planning, and Coordination (45000).....		\$4,265,778	\$4,265,778
	Technology Services for Deaf and Hard-of-Hearing (45004).....	\$3,148,260		\$3,148,260
	Consumer, Interpreter, and Community Support Services (45005).....	\$723,899		\$723,899
	Administrative Services (45006).....	\$393,619		\$393,619
	Fund Sources: General.....	\$998,570		\$998,570
	Special.....	\$3,167,208		\$3,167,208
	Federal Trust.....	\$100,000		\$100,000

Authority: Title 51.5, Chapter 13, Code of Virginia.

A. Up to \$38,798 the first year and up to \$38,798 the second year from the general fund is provided to the Department of Deaf and Hard-of-Hearing (DDHH) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared administrative services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between DDHH and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.

B. Out of this appropriation, an amount estimated at \$2,648,800 the first year and \$2,648,800 the second year from special funds shall be used to cover the cost of providing telecommunications relay service as defined in §51.5-115, Code of Virginia.

C.1. Notwithstanding § 58.1-662 of the Code of Virginia, prior to the distribution of monies from the Communications Sales and Use Tax Trust Fund to counties, cities and towns, there

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shall be distributed monies in the fund to pay for the Technology Assistance Program. This requirement shall not change any other distributions required by law from the Communications Sales and Use Tax Trust Fund.				
2. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from special funds shall be used for the Technology Assistance Program.				
D. Out of this appropriation, \$40,000 the first year and \$40,000 the second year from the general fund shall be used to contract with the Connie Reasor Deaf Resource Center in Planning District 1 for the provision of outreach and technical assistance to deaf and hard-of-hearing individuals.				
Total for Department for the Deaf and Hard-Of-Hearing.....			\$4,265,778	\$4,265,778
General Fund Positions.....			8.37	8.37
Nongeneral Fund Positions.....			2.63	2.63
Position Level.....			11.00	11.00
Fund Sources: General.....			\$998,570	\$998,570
Special.....			\$3,167,208	\$3,167,208
Federal Trust.....			\$100,000	\$100,000

**§ 1-94. DEPARTMENT OF HEALTH (601)**

285.	Higher Education Student Financial Assistance (10800).....			\$774,000	\$774,000
	Scholarships (10810).....	\$774,000	\$774,000		
	Fund Sources: General.....	\$300,000	\$300,000		
	Dedicated Special Revenue.....	\$85,000	\$85,000		
	Federal Trust.....	\$389,000	\$389,000		

Authority: §§ 23.1-614 and 32.1-122.5:1 through 32.1-122.10, Code of Virginia.

A. This appropriation shall only be used for the provision of loans or scholarships in accordance with regulations promulgated by the Board of Health, or for the administration, management, and reporting thereof. The department may move appropriation between scholarship or loan repayment programs as long as the scholarship or loan repayment is in accordance with the regulations promulgated by the Board of Health.

B. The Virginia Department of Health shall collaborate with the Virginia Health Care Foundation and the Department of Behavioral Health and Developmental Services, the state teaching hospitals, and other relevant stakeholders on a plan to increase the number of Virginia behavioral health practitioners, including licensed clinical psychologists, licensed clinical social workers, licensed professional counselors, child and adolescent psychiatrists, and psychiatric nurse practitioners, practicing in Virginia's community services boards, behavioral health authorities, state mental health facilities, free clinics, federally qualified health centers and other similar health safety net organizations through the use of a student loan repayment program. The program design shall address the need for behavioral health professionals in behavioral health shortage areas; the types of behavioral health practitioners needed across communities; the results of community health needs assessments that have been completed by hospitals, localities or other organizations; and shortages that may exist in high cost of living areas, which may preclude individuals from choosing employment in public and non-profit community behavioral health and safety net organizations and state mental health facilities. The program design shall include a preference for applicants who choose employment in underserved areas of the Commonwealth and contain conditions for recipients to practice in these areas for at least two years. The program shall be implemented by the Virginia Department of Health. The plan shall identify opportunities to leverage state funding for the program with funds from other sources in order to maximize the total funding for such a program. The plan shall determine how the program can complement and coordinate with existing efforts to recruit and retain Virginia behavioral health practitioners.

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286.	Emergency Medical Services (40200).....		\$44,851,484	\$44,851,484
	Financial Assistance for Non Profit Emergency Medical Services Organizations and Localities (40203).....	\$33,291,700		
	State Office of Emergency Medical Services (40204).	\$11,559,784		
	Fund Sources: Special.....	\$18,559,266		
	Dedicated Special Revenue.....	\$25,886,329		
	Federal Trust.....	\$405,889		

Authority: §§ 32.1-111.1 through 32.1-111.16, 32.1-116.1 through 32.1-116.3, and 46.2-694 A 13, Code of Virginia.

A. Out of this appropriation, \$25,000 the first year and \$25,000 the second year from special funds shall be provided to the Department of State Police for administration of criminal history record information for local volunteer fire and rescue squad personnel (pursuant to § 19.2-389 A 11, Code of Virginia).

B. Distributions made under § 46.2-694 A 13 b (iii), Code of Virginia, shall be made only to nonprofit emergency medical services organizations.

C. Out of this appropriation, \$1,045,375 the first year and \$1,045,375 the second year from the Virginia Rescue Squad Assistance Fund and \$2,052,723 the first year and \$2,052,723 the second year from the special emergency medical services fund shall be provided to the Department of State Police for aviation (med-flight) operations.

D. The State Health Commissioner shall review current funding provided to trauma centers to offset uncompensated care losses, report on feasible long-term financing mechanisms, and examine and identify potential funding sources on the federal, state and local level that may be available to Virginia's trauma centers to support the system's capacity to provide quality trauma services to Virginia citizens. As sources are identified, the commissioner shall work with any federal and state agencies and the Trauma System Oversight and Management Committee to assist in securing additional funding for the trauma system.

E. Notwithstanding any other provision of law or regulation, the Board of Health shall not modify the geographic or designated service areas of designated regional emergency medical services councils in effect on January 1, 2008, or make such modifications a criterion in approving or renewing applications for such designation or receiving and disbursing state funds.

F. Notwithstanding any other provision of law or regulation, funds from the \$0.25 of the \$4.25 for Life fee shall be provided for the payment of the initial basic level emergency medical services certification examination provided by the National Registry of Emergency Medical Technicians (NREMT). The Board of Health shall determine an allocation methodology upon recommendation by the State EMS Advisory Board to ensure that funds are available for the payment of initial NREMT testing and distributed to those individuals seeking certification as an Emergency Medical Services provider in the Commonwealth of Virginia.

G. Out of this appropriation, \$90,000 the first year and \$90,000 the second year from the Virginia Rescue Squad Assistance Fund shall be provided for national background checks on persons applying to serve as a licensed provider in a licensed emergency medical services agency. The Office of Emergency Medical Services may transfer funding to the Office of State Police for national background checks as necessary.

287.	Medical Examiner and Anatomical Services (40300)..		\$14,095,497	\$14,095,497
	Anatomical Services (40301).....	\$569,238		
	Medical Examiner Services (40302).....	\$13,526,259		
	Fund Sources: General.....	\$12,522,448		
	Special.....	\$717,268		
	Federal Trust.....	\$855,781		

Authority: §§ 32.1-277 through 32.1-304, Code of Virginia.

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288.	Vital Records and Health Statistics (40400).....			\$8,010,137	\$8,010,137
	Health Statistics (40401).....	\$1,073,143	\$1,073,143		
	Vital Records (40402).....	\$6,936,994	\$6,936,994		
	Fund Sources: Special.....	\$7,384,058	\$7,384,058		
	Federal Trust.....	\$626,079	\$626,079		

Authority: §§ 8.01-217, 32.1-249 through 32.1-276, Code of Virginia; and P.L. 93-353, as amended, Federal Code.

A. Effective July 1, 2004, the standard vital records fee shall be \$12.00 and the fee for the expedited record search shall be \$48.00.

B. Notwithstanding § 32.1-273.D, Code of Virginia, the revenues generated from the sale of birth, marriage, or divorce records in state administered health districts shall be distributed between the districts that issue the records and the Division of Vital Records. The revenues will be split with 65 percent remaining in the district to support the costs of that district and 35 percent to be transferred to the Division of Vital Records to support ongoing infrastructure costs associated with the collection, retention and issuance of the Commonwealth's vital records.

C. The state teaching hospitals shall work with the Department of Health and Division of Vital Records to fully implement use of the Electronic Death Registration System (EDRS) for all deaths occurring within any Virginia state teaching hospital's facilities. Full implementation shall occur and be reported, by the Division of Vital Records, to the Chairmen of the House Appropriations and Senate Finance Committees by April 15, 2018, in alignment with the Division of Vital Records plan to promulgate and market the EDRS.

289.	Communicable Disease Prevention and Control (40500).....			\$92,038,115	\$91,799,909 \$92,307,121
	Immunization Program (40502).....	\$6,764,610	\$6,626,404		
	Tuberculosis Prevention and Control (40503).....	\$2,116,814	\$2,116,814		
	Sexually Transmitted Disease Prevention and Control (40504).....	\$3,199,002	\$3,199,002		
	Disease Investigation and Control Services (40505).....	\$3,592,408	<del>\$3,492,408</del> \$3,577,583		
	HIV/AIDS Prevention and Treatment Services (40506).....	\$75,195,735	\$75,195,735		
	Pharmacy Services (40507).....	\$1,169,546	<del>\$1,169,546</del> \$1,591,583		
	Fund Sources: General.....	\$9,804,664	<del>\$9,704,664</del> \$9,789,839		
	Special.....	\$805,116	<del>\$805,116</del> \$1,329,034		
	Federal Trust.....	\$81,428,335	<del>\$81,290,129</del> \$81,188,248		

Authority: §§ 32.1-11.1, 32.1-11.2, and 32.1-35 through 32.1-73, Code of Virginia; and P.L. 91-464, as amended, Federal Code.

A. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be used to purchase medications for individuals who have tuberculosis but who do not qualify for free or reduced prescription drugs and who do not have adequate income or insurance coverage to purchase the required prescription drugs.

B. Out of this appropriation, \$40,000 the first year and \$40,000 the second year from the general fund shall be provided to the Division of Tuberculosis Control for the purchase of medications and supplies for individuals who have drug-resistant tuberculosis and require treatment with expensive, second-line antimicrobial agents.

C. The requirement for testing of tuberculosis isolates set out in § 32.1-50 E, Code of Virginia, shall be satisfied by the submission of samples to the Division of Consolidated Laboratory Services, or such other laboratory as may be designated by the Board of

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Health.

D. Out of this appropriation, \$840,288 the first year and \$840,288 the second year from nongeneral funds shall be used to purchase the Tdap (tetanus/diphtheria/pertussis) vaccine for children without insurance.

E. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund shall be provided to the State Pharmaceutical Assistance Program (SPAP) for insurance premium payments, coinsurance payments, and other out-of-pocket costs for individuals participating in the Virginia AIDS Drug Assistance Program (ADAP) with incomes between 135 percent and 300 percent of the federal poverty income guidelines and who are Medicare Part D beneficiaries.

F. The State Health Commissioner shall monitor patients who have been removed or diverted from the Virginia AIDS Drug Assistance Program due to budget considerations. At a minimum the Commissioner shall monitor patients to determine if they have been successfully enrolled in a private Pharmacy Assistance Program or other program to receive appropriate anti-retroviral medications. The commissioner shall also monitor the program to assess whether a waiting list has developed for services provided through the ADAP program. The commissioner shall report findings to the Chairmen of the House Appropriations and Senate Finance Committees annually on October 1.

G. Out of this appropriation, \$50,000 the first year from the general fund shall be used for the Virginia Department of Health (VDH) to design and conduct a pilot epidemiological study of the human health effects of land application of biosolids. In designing and conducting the pilot study, VDH shall contract with third parties, such as researchers at Virginia institutions of higher education, as needed. VDH shall be assisted by the Virginia Department of Environmental Quality as needed. Following completion of the pilot study, VDH shall submit its findings and a proposed design for a full-scale epidemiological study, if needed, to the Senate Finance, and Agriculture, Conservation, and Natural Resources Committees; and the House Appropriations, and Agriculture, Chesapeake, and Natural Resources Committees.

H. Out of this appropriation, \$50,000 the first year from the general fund shall be used for the Virginia Department of Health (VDH) to perform sample testing of Class B biosolids that are land applied in Virginia to determine their pathogen content. VDH shall use test results to inform its epidemiological pilot study and assessment of aerosol infection risks.

*I. The Virginia Department of Health shall report for each month within 30 days after the end of each month, on the number of procedures approved for payment pursuant to § 32.1-92.2, Code of Virginia, and include a description of the nature of the fetal abnormality, to the extent permitted by law, as required for eligibility under § 32.1-92.2, Code of Virginia. The department shall report the information by letter to the Chairmen of the House Appropriations and Senate Finance Committees.*

290.	Health Research, Planning, and Coordination (40600).....			\$18,190,949	<del>\$18,190,949</del> \$18,358,631
	Health Research, Planning and Coordination (40603).....	\$3,178,975	\$3,178,975		
	Regulation of Health Care Facilities (40607).....	\$13,697,376	\$13,697,376		
	Certificate of Public Need (40608).....	\$1,314,598	<del>\$1,314,598</del> \$1,482,280		
	Fund Sources: General.....	\$3,579,610	\$3,579,610		
	Special.....	\$2,782,987	<del>\$2,782,987</del> \$2,950,669		
	Dedicated Special Revenue.....	\$451,798	\$451,798		
	Federal Trust.....	\$11,376,554	\$11,376,554		

Authority: §§ 32.1-102.1 through 32.1-102.11; 32.1-122.01 through 32.1-122.08; and 32.1-123 through 32.1-138.5, Code of Virginia; and P.L. 96-79, as amended, Federal Code; and Title XVIII and Title XIX of the U.S. Social Security Act, Federal Code.

A. Supplemental funding for the regional health planning agencies shall be provided from the following sources:

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<p>1. Special funds from Certificate of Public Need (40608) application fees in excess of those required to operate the COPN Program, provided the program may retain special fund balances each year equal to of one month's operational needs in case of revenue shortfalls in the subsequent year.</p> <p>2. The Department of Health shall revise annual agreements with the regional health planning agencies to require an annual independent financial audit to examine the use of state funds and the reasonableness of those expenditures.</p> <p>B. Failure of any regional health planning agency to establish or sustain business operations shall cause funds to revert to the Central Office to support health planning and Certificate of Public Need functions.</p> <p>C. The State Health Commissioner shall continue implementation of the "Five-Year Action Plan: Improving Access to Primary Health Care Services in Medically Underserved Areas and Populations of the Commonwealth." A minimum of \$150,000 the first year and \$150,000 the second year from the general fund shall be provided to the Virginia Office of Rural Health, as the state match for the federal Office of Rural Health Policy Grant. The commissioner is authorized to contract for services to accomplish the plan.</p> <p>D. Out of the this appropriation, \$278,000 the first year and \$278,000 the second year is appropriated to the department from statewide indirect cost recoveries to match federal funds and support the programs of the Office of Licensure and Certification. Amounts recovered in excess of the special fund appropriation shall be deposited to the general fund.</p> <p>E. The Virginia Department of Health (VDH) in collaboration with the Department of Health Professions shall issue risk mitigation guidelines on the prescription of the class of potent pain medicines known as extended-release and long-acting (ER/LA) opioid analgesics to include co-prescription of an opioid antagonist, approved by the U.S. Food and Drug Administration (FDA), for administration by family members or caregivers in a non-medically supervised environment.</p>				
291.	State Health Services (43000).....		\$163,419,548 <i>\$163,466,548</i>	\$163,419,548 <i>\$164,900,452</i>
	Child and Adolescent Health Services (43002).....	\$11,407,376	\$11,407,376	
	Women's and Infant's Health Services (43005).....	<del>\$9,189,910</del> <i>\$9,236,910</i>	<del>\$9,189,910</del> <i>\$10,670,814</i>	
	Chronic Disease Prevention, Health Promotion, and Oral Health (43015).....	\$10,959,837	\$10,959,837	
	Injury and Violence Prevention (43016).....	\$4,024,200	\$4,024,200	
	Women, Infants, and Children (WIC) and Community Nutrition Services (43017).....	\$127,838,225	\$127,838,225	
	Fund Sources: General.....	<del>\$4,410,670</del>	<del>\$4,410,670</del>	
		<i>\$4,457,670</i>	<i>\$5,891,574</i>	
	Special.....	\$3,017,967	\$3,017,967	
	Dedicated Special Revenue.....	\$64,967,057	\$64,967,057	
	Federal Trust.....	\$91,023,854	\$91,023,854	

Authority: §§ 32.1-11, 32.1-77, 32.1-89, and 32.1-90, Code of Virginia; P.L. 94-566, as amended, Title V of the U.S. Social Security Act and Title X of the U.S. Public Health Service Act, Federal Code; and P.L. 95-627, as amended, Federal Code.

A. Out of this appropriation, \$999,804 the first year and \$999,804 the second year from special funds is provided to support the newborn screening program and its expansion pursuant to Chapters 717 and 721, Act of Assembly of 2005, and Chapter 531, 2018 Acts of Assembly. Fee revenues sufficient to fund the Department of Health's costs of the program and its expansion shall be transferred from the Division of Consolidated Laboratory Services.

B. The Special Supplemental Nutrition Program for Women, Infants, and Children is exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.).

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<p>C. Out of this appropriation, \$305,000 the first year and \$305,000 the second year from the general fund shall be provided to the department's sickle cell program to address rising pediatric caseloads in the current program. Any remaining funds shall be used to develop transition services for youth who will require adult services to ensure appropriate medical services are available and provided for youth who age out of the current program.</p> <p>D. It is the intent of the General Assembly that the State Health Commissioner continue providing services through child development clinics and access to children's dental services.</p> <p>E. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to the Department of Health for the operation of the Resource Mothers program.</p> <p>F.I. Out of this appropriation, \$124,470 the first year and \$124,470 the second year from the general fund and \$82,980 the first year and \$82,980 the second year from nongeneral funds shall be provided for the Virginia Department of Health to establish and administer a Perinatal Quality Collaborative. The Perinatal Quality Collaborative shall work to improve pregnancy outcomes for women and newborns by advancing evidence-based clinical practices and processes through continuous quality improvement with an initial focus on pregnant women with substance use disorder and infants impacted by neonatal abstinence syndrome.</p> <p><i>2. Out of this appropriation, \$315,000 the second year from the general fund shall be provided to support efforts by the Virginia Neonatal Perinatal Collaborative (VNPC) to decrease maternal mortality and morbidity. Funding shall be used for a coordinator position for community engagement, training and education; the development of a pilot program of the Centers for Disease Control's levels of care assessment (LOCATe) tool in the Richmond metropolitan region and Tidewater region; and development of a Project ECHO tele-education model for education and training. Funding shall also be used to assist the VNPC with expanding capacity to address these issues through the use of software to advance data analytics.</i></p> <p>G. Notwithstanding any other provision of this act, the Director, Department of Planning and Budget, is authorized to move the associated appropriation and authorized positions supporting the federal Summer Food Service Program and the federal At-Risk Afterschool Meals Program component of the Child and Adult Care Food Program from the Virginia Department of Health to the Department of Education. Such transfer shall be in accordance with a memorandum-of-understanding agreed to by the Virginia Department of Health and the Department of Education setting forth the federal positions and dollars to be transferred associated with the Summer Food Service and At-Risk Afterschool Meals Programs. Such transfer shall be coordinated with the United States Department of Agriculture to ensure a seamless transition.</p>				
292.	Community Health Services (44000).....		\$267,476,216	\$267,614,422 \$267,445,726
	Local Dental Services (44002).....	\$3,851,248	\$3,851,248	
	Restaurant and Food Safety, Well and Septic Permitting and Other Environmental Health Services (44004).....	\$39,436,804	\$39,436,804	
	Local Family Planning Services (44005).....	\$30,411,901	\$30,411,901	
	Support for Local Management, Business, and Facilities (44009).....	\$69,742,537	<del>\$69,742,537</del> \$70,197,775	
	Local Maternal and Child Health Services (44010)....	\$37,952,642	<del>\$37,952,642</del> \$37,500,149	
	Local Immunization Services (44013).....	\$17,986,689	\$18,124,895	
	Local Communicable Disease Investigation, Treatment, and Control (44014).....	\$22,713,419	<del>\$22,713,419</del> \$22,541,978	
	Local Personal Care Services (44015).....	\$4,400,334	\$4,400,334	
	Local Chronic Disease and Prevention Control (44016).....	\$11,871,775	\$11,871,775	
	Local Nutrition Services (44018).....	\$29,108,867	\$29,108,867	

**I VETO THIS ITEM INCLUDING ALL APPROPRIATIONS AND CONDITIONS WHICH APPEAR ON PAGES 2326, 2327, 2328 AND 2329.**  
**/s/ Ralph S. Northam (05/02/19) (Vetoed item is enclosed in brackets.)**

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Fund Sources: General.....	\$104,694,748	<del>\$104,694,748</del> \$103,910,700
Special.....	\$111,195,079	<del>\$111,333,285</del> \$111,530,815
Dedicated Special Revenue.....	\$3,568,592	\$3,568,592
Federal Trust.....	\$48,017,797	<del>\$48,017,797</del> \$48,435,619

Authority: §§ 32.1-11 through 32.1-12, 32.1-31, 32.1-163 through 32.1-176, 32.1-198 through 32.1-211, 32.1-246, and 35.1-1 through 35.1-26, Code of Virginia; Title V of the U.S. Social Security Act; and Title X of the U.S. Public Health Service Act.

A.1. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$425.00, for a construction permit for on-site sewage systems designed for less than 1,000 gallons per day, and alternative discharging systems not supported with certified work from an onsite soil evaluator or a professional engineer working in consultation with an onsite soil evaluator.

2. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$350.00, for the certification letter for less than 1,000 gallons per day not supported with certified work from an onsite soil evaluator or a professional engineer working in consultation with an onsite soil evaluator.

3. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$225.00, for a construction permit for an onsite sewage system designed for less than 1,000 gallons per day when the application is supported with certified work from a licensed onsite soil evaluator.

4. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$320.00, for the certification letter for less than 1,000 gallons per day supported with certified work from an onsite soil evaluator or a professional engineer working in consultation with an onsite soil evaluator.

5. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$300.00, for a construction permit for a private well.

6. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$1,400.00, for a construction permit or certification letter designed for more than 1,000 gallons per day.

7. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$425.00, for a permit to repair an onsite sewage system or an alternative discharging system designed for less than 1,000 gallons per day not supported with certified work from an onsite soil evaluator or a professional engineer working in consultation with an onsite soil evaluator. This fee shall be waived for persons with income below 200 percent of the federal poverty guidelines as established by the United States Department of Health and Human Services when the application is for a pit privy or for a repair of a failing onsite or alternative discharging sewage system.

8. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$225.00, for a permit to repair or voluntarily upgrade an onsite sewage system or alternative discharging system designed for less than 1,000 gallons per day supported with certified work from an onsite soil evaluator or a professional engineer. This fee shall be waived for persons with income below 200 percent of the federal poverty guidelines as established by the United States Department of Health and Human Services when the application is for a pit privy or for a repair of a failing onsite or alternative discharging sewage system.

9. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$150.00, to provide written authorizations pursuant to § 32.1-165 not supported with certified work from a qualified professional.

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**ITEM 292 VETO  
CONTINUED FROM PAGE  
2326. /s/ Ralph S. Northam  
(05/02/19) (Vetoed item is  
enclosed in brackets.)**

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10. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$100.00, to provide written authorizations pursuant to § 32.1-165 supported with certified work from a qualified professional.

11. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, and starting July 1, 2019, the State Health Commissioner shall charge a fee of \$1,400.00, for a permit to repair or voluntarily upgrade an onsite sewage system designed for more than 1,000 gallons per day.

12. The State Health Commissioner shall appoint two manufacturers to the Advisory Committee on Sewage Handling and Disposal, representing one system installer and the Association of Onsite Soil Engineers.

B.1. The State Health Commissioner is authorized to develop, in consultation with the regulated entities, a hotel, campground, and summer camp plan and specification review fee, not to exceed \$40.00, a restaurant plan and specification review fee, not to exceed \$40.00, an annual hotel, campground, and summer camp permit renewal fee, not to exceed \$40.00, and an annual restaurant permit renewal fee, not to exceed \$40.00 to be collected from all establishments, except K-12 public schools, that are subject to inspection by the Department of Health pursuant to §§ 35.1-13, 35.1-14, 35.1-16, and 35.1-17, Code of Virginia. However, any such establishment that is subject to any health permit fee, application fee, inspection fee, risk assessment fee or similar fee imposed by any locality as of January 1, 2002, shall be subject to this annual permit renewal fee only to the extent that the Department of Health fee and the locally imposed fee, when combined, do not exceed the fee amount listed in this paragraph. This fee structure shall be subject to the approval of the Secretary of Health and Human Resources.

2. The Department of Health shall examine the cost recovery from larger establishments to determine if the services are adequately supported and report to the Chairmen of the House Appropriations and Senate Finance Committees by December 15, 2017.

3. The Virginia Department of Agriculture and Consumer Services and the Virginia Department of Health shall collaborate to develop a long-term plan to adequately fund the food safety and restaurant inspection programs. In developing the plan, the departments shall seek input from representatives from local governments, private sector organizations, and the public. The objective of the plan is to develop a financial strategy for the programs that will protect the public and the business sector without undue burdens. The plan shall address, but not be limited to, these factors: (1) the likelihood of additional general fund resources for this activity; (2) projected workloads, including total number of establishments subject to inspection and by type of establishment; (3) cost containment and efficiency strategies in program management through increased reliance upon technology; (4) options to fund the programs or a portion of the programs through a flexible fee schedule that considers the number, size, and type of establishments and the time and resources to inspect such establishments; (5) the feasibility of unifying the food safety inspections currently performed by the two agencies and (6) legislation to implement the plan. The departments shall submit the plan no later than October 1, 2018, to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees.

C. Pursuant to the Department of Health's Policy Implementation Manual (#07-01), individuals who participate in a local festival, fair, or other community event where food is sold, shall be exempt from the annual temporary food establishment permit fee of \$40.00 provided the event is held only one time each calendar year and the event takes place within the locality where the individual resides.

D. The State Health Commissioner shall work with public and private dental providers to develop options for delivering dental services in underserved areas, including the use of public-private partnerships in the development and staffing of facilities, the use of dental hygiene and dental students to expand services and enhance learning experiences, and the availability of reimbursement mechanisms and other public and private resources to expand services.

E. Out of this appropriation, \$387,744 the first year and \$387,744 the second year from the general fund and \$267,602 the first year and \$267,602 the second year from nongeneral funds is provided to address the cost of leasing or expanding local health department facilities.

**ITEM 292 VETO CONTINUED FROM PAGES 2326 AND 2327. /s/ Ralph S. Northam (05/02/19) (Vetoed item is enclosed in brackets.)**

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F.1. Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided for the purpose of developing a two-year pilot program to expand access to hormonal long acting reversible contraceptives (LARC) that delay or prevent ovulation. The Virginia Department of Health shall establish and manage memorandums of understanding with qualified health care providers who will provide access to LARCs to patients whose income is below 250% of the federal poverty level; the Title X family planning program income eligibility requirement. Providers shall be reimbursed for the insertion and removal of LARCs at Medicaid rates. As part of the pilot program, the department, in cooperation with the Department of Medical Assistance Services and stakeholders, shall develop a plan to improve awareness and utilization of the Plan First program and include outreach efforts to refer women who have a diagnosis of substance use disorder and who seek family planning services to the Plan First program or participating providers in the pilot program.

2. The Virginia Department of Health shall develop metrics to measure the effectiveness of the pilot project such as impacts on morbidity, reduction in abortions and unplanned pregnancies, and impacts on maternal health such as an increase in the length of time between births, among others. In addition, the department shall collect data on the number of women served who also sought treatment for substance use disorder. The department shall submit a progress report to the Governor, Chairmen of the House Appropriations and Senate Finance Committees, Secretary of Health and Human Resources, and the Director, Department of Planning and Budget, that describes the program, metrics used to measure results, preliminary results, actual program expenditures, and projected expenditures by July 1, 2019; with a final report on June 30, 2020.

*F. The Virginia Department of Health shall end its contracts with sub-recipients of the Virginia Long-Acting Reversible Contraception program by June 30, 2019. Out of any remaining unused appropriation for this initiative, the department shall only use such funds for the purchase of hormonal long-acting reversible contraception (LARC) devices and implement a program to make such devices available to local health departments and other health care providers at no cost. The department shall only accept applications from health care providers that agree to provide the LARC devices, at no charge, to their patients, whose income is below 250 percent of the federal poverty level. Notwithstanding any other provision of law, the department shall have authority to operate as a wholesale distributor of prescription drugs, which shall be limited to only hormonal long-acting reversible contraception devices. The department shall negotiate or utilize the most cost-effective methods for purchasing LARCs in order to maximize the number to be purchased. The department shall report within 30 days after the close of each quarter with a status update to include: (i) the number of LARCs purchased and the unit price; and (ii) the number of LARCs distributed in total and by health care provider. The status update shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees.*

*G. Out of this appropriation, \$417,822 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be used to support program expenses for the Healthy Families program.*

**ITEM 292 VETO CONTINUED FROM PAGES 2326, 2327, AND 2328. /s/ Ralph S. Northam (05/02/19) (Vetoed item is enclosed in brackets.)**

293.	Financial Assistance to Community Human Services Organizations (49200).....			\$23,239,583	<del>\$21,239,583</del> \$22,839,583
	Payments to Human Services Organizations (49204).....	\$23,239,583	<del>\$21,239,583</del> \$22,839,583		
	Fund Sources: General.....	\$20,839,583	<del>\$18,839,583</del> \$20,439,583		
	Federal Trust.....	\$2,400,000	\$2,400,000		

Authority: § 32.1-2, Code of Virginia.

A.1. Out of this appropriation, \$832,946 the first year and \$832,946 the second year from the general fund and \$2,400,000 the first year and \$2,400,000 the second year from the federal Temporary Assistance for Needy Families (TANF) block grant shall be used to contract with the Comprehensive Health Investment Project (CHIP) of Virginia. In the

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	event that the CHIP of Virginia changes its name; the provisions of this item shall apply to the successor organization provided that the required program purposes outlined in paragraph A.2. through A.4. are still achieved.			
	2. The purpose of the program is to develop, expand, and operate a network of local public-private partnerships providing comprehensive care coordination, family support and preventive medical and dental services to low-income, at-risk children.			
	3. The general fund appropriation in this Item for the CHIP of Virginia projects shall not be used for administrative costs.			
	4. CHIP of Virginia shall continue to pursue raising funds and in-kind contributions from local communities. It is the intent of the General Assembly that the CHIP program increases its efforts to raise funds from local communities and other private or public sources with the goal of reducing reliance on general fund appropriations in the future.			
	5. Of this appropriation, from the amounts in paragraph A.1., \$24,679 the first year and \$24,679 the second year from the general fund shall be used to contract with the CHIP of Roanoke and shall be used as matching funds to support three full-time equivalent public health nurse positions to services in the Roanoke Valley and Allegheny Highlands.			
	B. Out of this appropriation \$53,241 the first year and \$53,241 the second year from the general fund shall be used to contract with the Alexandria Neighborhood Health Services, Inc. to promote the health of women in Alexandria, Arlington, Fairfax County, and Falls Church, to prevent illness and injury and provide early treatment for serious health conditions. The contract with Alexandria Neighborhood Health Services Inc. (ANHSI) shall require that ANHSI provide comprehensive women's health care with a focus on preventative health services and screenings to low income, uninsured women. Women's health care services shall focus on preventative screenings. Blood pressure screening and body mass index shall be performed at each visit. The organization shall pursue raising funds and in-kind contributions from the local community.			
	C. Out of this appropriation \$5,982 the first year and \$5,982 the second year from the general fund shall be used to contract with the Louisa County Resource Council to promote, develop, and encourage activities to deliver community-based services to disadvantaged Louisa County residents. The contract with Louisa County Resource Council shall require that the council provide assistance to income-eligible residents in meeting various needs of the clients including medication assistance, outreach assistance, and medical care referrals by exploring affordable options. The council shall continue to pursue raising funds and in-kind contributions from the local community.			
	D. Out of this appropriation, \$7,837 the first year and \$7,837 the second year from the general fund shall be used to contract with the Olde Towne Medical Center. The contract with Olde Towne Medical Center shall require that the center provide cost effective, comprehensive primary and preventive health care (including obstetrical care) and oral health care to the uninsured, Medicaid, and Medicare residents in the City of Williamsburg, James City County, and York County. The population served shall include adults and children.			
	E.1. Out of this appropriation, \$433,750 the first year and \$433,750 the second year from the general fund shall be used to contract with the Virginia Community Healthcare Association (VCHA). The contract with VCHA shall require that the association purchase pharmaceuticals and medically necessary pharmacy supplies, and to provide pharmacy services to low-income, uninsured patients of the Community and Migrant Health Centers throughout Virginia. The uninsured patients served with these funds shall have family incomes no greater than 200 percent of the federal poverty level. The amount allocated to each Community and Migrant Health Center shall be determined through an allocation methodology developed by the Virginia Community Healthcare Association. The allocation methodology shall ensure that funds are distributed such that the Community and Migrant Health Centers are able to serve the pharmacy needs of the greatest number of low-income, uninsured persons. The Virginia Community Healthcare Association shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.			
	2. Out of this appropriation, \$175,000 the first year and \$175,000 the second year from the			

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general fund shall be used to contract with the Virginia Community Healthcare Association. The contract with VCHA shall require that the association expand access to care provided through community health centers.

3. Out of this appropriation, \$2,800,000 the first year and \$2,800,000 the second year from the general fund shall be used to contract with the Virginia Community Healthcare Association. The contract with VCHA shall require that the association support community health center operating costs for services provided to uninsured clients. The amount allocated to each Community and Migrant Health Center shall be determined through an allocation methodology developed by the Virginia Community Healthcare Association. The allocation methodology shall ensure that funds are distributed such that the Community and Migrant Health Centers are able to serve the needs of the greatest number of uninsured persons. The Virginia Community Healthcare Association shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.

F.1. Out of this appropriation, \$1,321,400 the first year and \$1,321,400 the second year from the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require that the organization purchase pharmaceuticals and medically necessary pharmacy supplies, and to provide pharmacy services to low-income, uninsured patients of the Free Clinics throughout Virginia. The amount allocated to each Free Clinic shall be determined through an allocation methodology developed by the Virginia Association of Free and Charitable Clinics. The allocation methodology shall ensure that funds are distributed such that the Free Clinics are able to serve the pharmacy needs of the greatest number of low-income, uninsured adults. The Virginia Association of Free and Charitable Clinics shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.

2. Out of this appropriation, \$175,000 the first year and \$175,000 the second year from the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require the organization to expand access to health care services.

3. Out of this appropriation, \$5,300,000 the first year and \$5,300,000 the second year from the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require that the organization support free clinic operating costs for services provided to uninsured clients. The amount allocated to each free clinic shall be determined through an allocation methodology developed by the Virginia Association of Free and Charitable Clinics. The allocation methodology shall ensure that funds are distributed such that the free clinics are able to serve the needs of the greatest number of uninsured persons. The Virginia Association of Free and Charitable Clinics shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.

G. Out of this appropriation, \$29,303 the first year and \$29,303 the second year from the general fund shall be used to contract with HealthWorks of Herndon. The contract with HealthWorks of Herndon (HWH) shall require that HWH provide treatment and prevention services, including health care services and mental health counseling, to low income and uninsured adults and children residing in the communities of Herndon, Reston, Chantilly, and Centreville in Fairfax County. These services shall include comprehensive primary health care with integrated behavioral health care to adult and children, prescription medications, diagnostic and lab testing, specialty referrals, and preventive screenings. Children's services shall include school physicals and sports physicals. Patients will also have access to oral health care through HealthWorks Dental Program.

H. Out of this appropriation, \$164,758 the first year and \$164,758 the second year from the general fund shall be used to contract with the Southwest Virginia Graduate Medical Education Consortium. The contract with Southwest Virginia Graduate Medical Education (GMEC) shall require GMEC to create and support medical residency preceptor sites in rural and underserved communities in Southwest Virginia.

I. Out of this appropriation, \$355,555 the first year and \$355,555 the second year from the

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	general fund shall be used to contract with the regional AIDS resource and consultation centers and one local early intervention and treatment center.			
	J. Out of this appropriation, \$57,963 the first year and \$57,963 the second year from the general fund shall be used to contract with the Arthur Ashe Health Center in Richmond. The contract with the Arthur Ashe Health Center shall require that the center provide HIV early intervention and treatment for HIV infected patients who reside within the City of Richmond.			
	K. Out of this appropriation, \$10,663 the first year and \$10,663 the second year from the general fund shall be used to contract with the Health Brigade for AIDS related services. The contract with the Health Brigade shall require that the clinic provide financial assistance and support groups and conduct an education and outreach program for HIV positive clients in Central Virginia.			
	L.1. Out of this appropriation, \$4,580,571 the first year and \$4,580,571 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation. The contract with the Virginia Health Care Foundation (VHCF) shall require that the general fund shall be matched with local public and private resources and shall be awarded to proposals which enhance access to primary health care for Virginia's uninsured and medically underserved residents, through innovative service delivery models. The foundation, in coordination with the Virginia Department of Health, the Area Health Education Centers program, the Joint Commission on Health Care, and other appropriate organizations, is encouraged to undertake initiatives to reduce health care workforce shortages. The foundation shall account for the expenditure of these funds by providing the Governor, the Secretary of Health and Human Resources, the Chairmen of the House Appropriations and Senate Finance Committees, the State Health Commissioner, and the Chairman of the Joint Commission on Health Care with a certified audit and full report on the foundation's initiatives and results, including evaluation findings, not later than October 1 of each year for the preceding fiscal year ending June 30.			
	2. The contract with the Virginia Health Care Foundation shall require that on or before October 1 of each year, the foundation shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees a report on the actual amount, by fiscal year, of private and local government funds received by the foundation since its inception. The report shall include certification that an amount equal to the state appropriation for the preceding fiscal year ending June 30 has been matched from private and local government sources during that fiscal year.			
	3. Of this appropriation, from the amounts in paragraph L.1., \$125,000 the first year and \$125,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund shall be provided to the foundation to expand the Pharmacy Connection software program to unserved or underserved regions of the Commonwealth.			
	4. Of this appropriation, from the amounts in paragraph L.1., \$105,000 the first year and \$105,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund shall be used to contract with the foundation for the Rx Partnership to improve access to free medications for low-income Virginians.			
	5. Of this appropriation, from the amounts in paragraph L.1., \$2,350,000 the first year and \$2,350,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund be provided to the foundation to increase the capacity of the Commonwealth's health safety net providers to expand services to unserved or underserved Virginians. Of this amount, (i) \$850,000 the first year and \$850,000 the second year shall be used to underwrite service expansions and/or increase the number of patients served at existing sites or at new sites, (ii) \$1,350,000 the first year and \$1,350,000 the second year shall be used for Medication Assistance Coordinators who provide outreach assistance, and (iii) \$150,000 the first year and \$150,000 the second year shall be made available for locations with existing medication assistance programs.			
	M.1. Out of this appropriation, \$272,313 the first year and <del>\$272,313</del> \$1,272,313 the second year from the general fund shall be used to support the administration of the patient level data			

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	base, including the outpatient data reporting system. The department shall establish a contract for this service.			
	2. Out of this appropriation from the amounts in paragraph M.1., \$25,000 the first year and <del>\$25,000</del> \$1,025,000 the second year from the general fund the second year shall be used to contract with the Virginia All Payer Claims Database.			
	N. Out of this appropriation, \$402,712 the first year and \$402,712 the second year from the general fund shall be used to contract with the Health Wagon. The contract with the Health Wagon shall require the organization to provide summer outreach programs to low-income and uninsured individuals living in southwest Virginia.			
	O. Out of this appropriation, \$105,000 the first year and \$105,000 the second year from the general fund shall be used to contract with the Statewide Sickle Cell Chapters of Virginia (SSCCV). The contract with SSCCV shall require that the general fund shall be used to provide for grants to community-based programs that provide patient assistance, education, and family-centered support for individuals suffering from sickle cell disease. The SSCCV shall develop criteria for distributing these funds including specific goals and outcome measures. A report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees detailing program outcomes by October 1 of each year.			
	P. Out of this appropriation, \$141,280 the first year and \$141,280 the second year from the general fund shall be used to contract with the Virginia Dental Health Foundation for the Mission of Mercy (M.O.M.) dental project. The contract with the Virginia Dental Health Foundation for the Mission of Mercy (M.O.M.) dental project shall require the Foundation to conduct Mission of Mercy (M.O.M) Projects that provide no cost dental services in identified underserved areas.			
	Q. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be used to contract with three poison control centers. The State Health Commissioner shall review existing poison control services and determine how best to provide and enhance use of these services as a resource for patients with mental health disorders and for health care providers treating patients with poison-related suicide attempts, substance abuse, and adverse medication events. The Commissioner shall allocate the general fund amounts between the three centers. The general fund amounts shall be based on the proportion of Virginia's population served by each center.			
	R. Out of this appropriation, \$32,559 the first year and \$32,559 the second year from the general fund shall be used to contract with the Community Health Center of the Rappahannock Region to provide medical, dental, and behavioral health services to low income and/or uninsured residents in the Rappahannock region. The contract with the center shall require the center to include acute and chronic disease management services, lab and diagnostic services, medication assistance, physical examinations, diagnosis and treatment of sexually transmitted infections, immunizations, women's health services (including family planning and pap smears), preventive and restorative dental services, and behavioral health services.			
	S. Out of this appropriation, \$571,750 the first year and \$571,750 the second year from the general fund shall be used to contract with the Hampton Roads Proton Beam Therapy Institute at Hampton University, LLC. The contract with Hampton Roads Proton Beam Therapy Institute shall require that the institute support efforts for proton therapy in the treatment of cancerous tumors with fewer side effects.			
	T. Out of this appropriation, \$2,000,000 the first year from the general fund shall be provided to the Hampton University Proton Therapy Foundation for the cancer and proton research and therapy activities.			
	U. Out of this appropriation, \$10,000 the first year and \$10,000 the second year from the general fund shall be provided to Special Olympics Virginia for the Special Olympics Healthy Athlete Program.			
	V. <i>Out of this appropriation, \$600,000 from the general fund the second year shall be provided to contract with the Riverside Shore Memorial Hospital (RSMH) for obstetrical healthcare services. The contract shall require that the RSMH provide obstetrical services</i>			

ITEM 293.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<i>to the residents of the Eastern Shore of Virginia.</i>				
294.	Drinking Water Improvement (50800).....		\$29,195,627	\$29,195,627
	Drinking Water Regulation (50801).....	\$9,809,453		\$9,809,453
	Drinking Water Construction Financing (50802).....	\$18,936,844		\$18,936,844
	Public Health Toxicology (50805).....	\$449,330		\$449,330
	Fund Sources: General.....	\$4,631,983		\$4,631,983
	Special.....	\$5,756,332		\$5,756,332
	Dedicated Special Revenue.....	\$15,794,644		\$15,794,644
	Federal Trust.....	\$3,012,668		\$3,012,668
Authority: §§ 32.1-163 through 32.1-176.7, 32.1-246, 32.1-246.1, and 62.1-44.18 through 62.1-44.19:9, Code of Virginia; and P.L. 92-500, P.L. 93-523 and P.L. 95-217, Federal Code.				
A. It is the intent of the General Assembly that the Department of Health be the agency designated to receive and manage general and nongeneral funds appropriated pursuant to the federal Safe Drinking Water Act of 1996.				
B. The fee schedule for charges to community waterworks shall be adjusted to the level necessary to cover the cost of operating the Waterworks Technical Assistance Program, consistent with § 32.1-171.1, Code of Virginia, and shall not exceed \$3.00 per connection to all community waterworks.				
295.	Environmental Health Hazards Control (56500).....		\$10,879,124	\$10,937,124
	State Office of Environmental Health Services (56501).....	\$4,373,035		\$4,431,035
	Shellfish Sanitation (56502).....	\$2,653,184		\$2,653,184
		\$2,760,709		\$2,760,709
	Bedding and Upholstery Inspection (56503).....	\$828,733		\$828,733
	Radiological Health and Safety Regulation (56504)....	\$3,024,172		\$3,024,172
	Fund Sources: General.....	\$5,546,317		\$5,604,317
		\$5,653,842		\$5,711,842
	Special.....	\$2,548,530		\$2,548,530
	Dedicated Special Revenue.....	\$1,477,635		\$1,477,635
	Federal Trust.....	\$1,306,642		\$1,306,642
Authority: §§ 2.2-4002 B 16; 28.2-800 through 28.2-825; and 32.1-212 through 32.1-245, Code of Virginia.				
Out of this appropriation, \$12,500 the first year and \$12,500 the second year from the general fund shall be provided for the activities of the Sewage Appeals Review Board.				
296.	Emergency Preparedness (77500).....		\$33,694,356	\$33,694,356
	Emergency Preparedness and Response (77504).....	\$33,694,356		\$33,694,356
	Fund Sources: Federal Trust.....	\$33,694,356		\$33,694,356
Authority: §§ 32.1-2, 32.1-39, and 32.1-42, Code of Virginia.				
297.	Administrative and Support Services (49900).....		\$24,339,399	\$28,540,899
			\$24,292,399	\$24,428,665
	General Management and Direction (49901).....	\$9,322,919		\$11,722,919
	Information Technology Services (49902).....	\$8,187,609		\$9,989,109
		\$8,140,609		\$5,790,609
	Accounting and Budgeting Services (49903).....	\$3,267,953		\$3,267,953
	Human Resources Services (49914).....	\$2,113,124		\$2,113,124
	Procurement and Distribution Services (49918).....	\$1,447,794		\$1,447,794
				\$1,534,060
	Fund Sources: General.....	\$15,670,199		\$19,871,699
		\$15,623,199		\$15,759,465
	Special.....	\$3,973,821		\$3,973,821
	Federal Trust.....	\$4,695,379		\$4,695,379

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	FY2019	FY2020	FY2019	FY2020

Authority: §§ 3.2-5206 through 3.2-5216, 32.1-11.3 through 32.1-23, 35.1-1 through 35.1-7, and 35.1-9 through 35.1-28, Code of Virginia.

A. The State Comptroller is hereby authorized to provide a line of credit of up to \$200,000 to the Department of Health to cover the actual costs of expanding the availability of vital records through the Department of Motor Vehicles, to be repaid from administrative processing fees provided under Code of Virginia, § 32.1-273 until such time as the line of credit is repaid.

B. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund shall be provided for agency costs related to onboarding to ConnectVirginia, transition costs to convert the agency's node on ConnectVirginia to the state agency node, and provide support to other state agencies in their onboarding efforts.

C. The Virginia Department of Health is authorized to develop a plan to allocate a reduction of \$150,000 the first year and \$150,000 the second year from the general fund across programs within the department to reflect administrative savings. The Department of Planning and Budget is authorized to make the necessary budget execution adjustments to transfer the funds between programs to implement the plan.

D.1. Out of this appropriation, \$370,000 from the general fund and \$3,330,000 from nongeneral funds is provided for the Virginia Department of Health to implement the requirements of House Bill 2209 and Senate Bill 1561 (2017 Session). The department shall contract or amend an existing contract with a non-profit entity as necessary in order to do so. The department shall require its contractor to establish a separate and distinct Emergency Department Care Coordination Advisory Council (ED Council) to whom responsibility for implementing this program shall be delegated under the department's supervision. The contractor may utilize an existing governance, legal and trust framework in order to fulfill the requirements of House Bill 2209 and Senate Bill 1561 and to expedite the implementation of the program.

2. The ED Council, under the department's governance and direction shall: (i) specify the necessary functionalities to meet the needs of all key stakeholders; (ii) develop and oversee a competitive selection process for a vendor or vendors that will provide a single, statewide technology solution to fulfill the required functionalities and advance the goals of the initiative; and (iii) select and oversee the implementation of successful information technologies, with implementation no later than June 30, 2018. The ED Council shall include three representatives from the Commonwealth appointed by the Secretary, including the department, the Department of Medical Assistance Services, and the Department of Health Professions; three representatives from hospitals and health systems, nominated by the Virginia Hospital and Healthcare Association; three health plan representatives, nominated by the Virginia Association of Health Plans; and six physician representatives, nominated by the Medical Society of Virginia with representation from the Virginia College of Emergency Physicians, the Virginia Academy of Family Physicians and the Virginia Chapter, American Academy of Pediatrics.

3. The department shall coordinate with the Department of Medical Assistance Services to seek federal Health Information Technology for Economic and Clinical Health (HITECH) Act matching funds. The department shall coordinate with the Department of Medical Assistance Services to seek any additional eligible federal matching funds supporting provider electronic health record implementation and integration in order to implement the program. The department may use up to \$100,000 for administrative costs.

4. The implementation of this initiative is contingent upon the receipt of federal HITECH Act funds, and neither the department nor its contractor shall be obligated to implement the program without HITECH Act matching funds. The appropriation in this paragraph is contingent upon the receipt of federal HITECH Act funds.

5. Effective July 1, 2017 or upon program implementation, all hospitals operating emergency departments in the Commonwealth and all Medicaid Managed Care contracted health plans shall participate in the program. Effective June 30, 2018, all hospital operating emergency departments in the Commonwealth, all Medicaid Managed Care contracted health plans, the State Employee Health Plan, all Medicare plans operating in the Commonwealth, and all commercial plans operating in the Commonwealth, excluding

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ERISA plans, shall participate in the program. The department, in coordination with the Department of Medical Assistance Services, shall determine the amount of federal funds available to support program operations in the second year. Accordingly, the department, in coordination with the Department of Medical Assistance Services and the ED Council, shall recommend, by December 15, 2017, a funding structure for program operations in fiscal year 2019 that apports program costs across the Commonwealth, participating hospitals, and participating health plans.

6. The department, in coordination with the ED Council, shall report annually beginning November 1, 2017 to the Secretary of Health and Human Resources and the Chairmen of the House Appropriations and the Senate Finance Committees on progress, including, but not limited to: (i) the participation rate of hospitals and health systems, physicians and subscribing health plans; (ii) strategies for sustaining the program and methods to continue to improve care coordination; and (iii) the impact on health care utilization and quality goals such as reducing the frequency of visits by high-volume Emergency Department utilizers and avoiding duplication of prescriptions, imaging, testing or other health care services.

E. The Virginia Department of Health shall assess the feasibility of developing a home visiting Pay for Success pilot program. The department shall develop a workgroup comprised of Virginia home visiting organizations and early childhood education organizations in examining this issue. The department shall determine if the recent provisions of the federal Bipartisan Budget Act of 2018 allow for the department to access federal funding to develop a pilot Pay for Success program for home visiting. The department shall report on the feasibility analysis, the availability of federal funding and the steps necessary to proceed with a pilot program, if feasible, to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2018.

*F. The Virginia Department of Health shall modify the Emergency Room Care Coordination Program to track individuals who present in the emergency room under an Emergency Custody Order (ECO). The program shall identify the legal disposition of individuals being evaluated for psychiatric hospitalization as Temporary Detention Order at the hospital, Temporary Detention Order at another Hospital, Voluntary Admission at the Hospital, or Voluntary Admission at Other Hospital, or released to the community. The department shall report the data monthly on its website by hospital and provide an annual report to the General Assembly for each fiscal year, no later than September 1, after the the end of the fiscal year.*

Total for Department of Health.....			<b>\$730,204,035</b>	<b>\$732,363,535</b>
			<b>\$730,311,560</b>	<b>\$731,945,928</b>
General Fund Positions.....	1,503.00	<del>1,503.00</del> 1,504.50		
Nongeneral Fund Positions.....	2,196.00	<del>2,196.00</del> 2,198.00		
Position Level.....	3,699.00	<del>3,699.00</del> 3,702.50		
Fund Sources: General.....	\$182,000,222	\$184,159,722		
	\$182,107,747	\$182,537,044		
Special.....	\$156,740,424	\$156,878,630		
		\$157,767,760		
Dedicated Special Revenue.....	\$112,231,055	\$112,231,055		
Federal Trust.....	\$279,232,334	\$279,094,128		
		\$279,410,069		

**§ 1-95. DEPARTMENT OF HEALTH PROFESSIONS (223)**

298.	Higher Education Student Financial Assistance (10800).....			\$65,000	\$65,000
	Scholarships (10810).....	\$65,000	\$65,000		
	Fund Sources: Special.....	\$65,000	\$65,000		

Authority: § 54.1-3011.2, Chapter 30, Code of Virginia.

ITEM 299.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
299.	Regulation of Professions and Occupations (56000).....			\$33,708,207	<del>\$33,708,207</del> \$34,383,922
	Technical Assistance to Regulatory Boards (56044).....	\$33,708,207	<del>\$33,708,207</del> \$34,383,922		
	Fund Sources: Trust and Agency.....	\$1,125,987	\$1,125,987		
	Dedicated Special Revenue.....	\$32,582,220	<del>\$32,582,220</del> \$33,257,935		

Authority: Title 54.1, Chapter 25, Code of Virginia.

A. Out of this appropriation, \$250,000 from nongeneral funds the second year is provided to implement a demonstration program with the Medical Society of Virginia and the Prescription Monitoring Program (PMP) to enhance the use of the PMP by prescribers through the use of real time access to the program via intraoperability with electronic health records systems. The department shall design the demonstration program using \$25,000 in PMP funds and \$225,000 in federal Health Information Technology for Economic and Clinical Health (HITECH) Act funds. The Department of Medical Assistance Services shall apply for up to \$225,000 in enhanced federal HITECH Act funds to support the program. The Department of Health Professions shall report on the increased use of the program by prescribers in the demonstration program to the Chairmen of the House Appropriations and Senate Finance Committees by July 1, 2018. The implementation of the demonstration program is contingent upon the receipt of federal HITECH Act funds.

B. *The Board of Pharmacy shall report to the Joint Commission on Health Care by October 1, 2019, on state and local efforts to promote proper drug disposal methods, including existing community-based collection and disposal efforts.*

Total for Department of Health Professions.....				\$33,773,207	<del>\$33,773,207</del> \$34,448,922
Nongeneral Fund Positions.....	246.00	246.00			
Position Level.....	246.00	246.00			
Fund Sources: Special.....	\$65,000	\$65,000			
Trust and Agency.....	\$1,125,987	\$1,125,987			
Dedicated Special Revenue.....	\$32,582,220	<del>\$32,582,220</del> \$33,257,935			

**§ 1-96. DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (602)**

300.	Pre-Trial, Trial, and Appellate Processes (32100)....			\$18,239,618	\$17,991,740
	Reimbursements for Medical Services Related to Involuntary Mental Commitments (32107).....	\$18,239,618	\$17,991,740		
	Fund Sources: General.....	\$18,239,618	\$17,991,740		

Authority: § 37.2-809, Code of Virginia.

A. Any balance, or portion thereof, in Reimbursements for Medical Services Related to Involuntary Mental Commitments (32107), may be transferred between Items 41, 42, 43, and 300 as needed, to address any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.

B. Out of this appropriation, payments may be made to licensed health care providers for medical screening and assessment services provided to persons with mental illness while in emergency custody pursuant to § 37.2-808, Code of Virginia.

C. To the extent that appropriation in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600), Medicaid Program Services (45600), and Medical Assistance Services for Low Income Children (46600), if available, into this Item.

ITEM 300.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>D. The Department of Medical Assistance Services, in cooperation with the Department of Behavioral Health and Developmental Services shall examine options, including financial incentives and disincentives, for increasing the participation of community hospitals in the provision of medical services for individuals subject to temporary detention orders (TDOs). The department shall report on the options to the Chairmen of the House Appropriations and Senate Finance Committees by September 30, 2018.</p>				
301.	Financial Assistance for Health Research (40700).....		\$12,810,945	\$12,810,945
	Grants for Improving The Quality of Health Services (40703).....	\$12,810,945	\$12,810,945	
	Fund Sources: Federal Trust.....	\$12,810,945	\$12,810,945	
	Authority: P.L. 111-5, Federal Code.			
302.	Children's Health Insurance Program Delivery (44600).....		\$200,025,684 \$213,752,531	\$211,343,011 \$221,851,578
	Reimbursements for Medical Services Provided Under the Family Access to Medical Insurance Security Plan (44602).....	\$200,025,684 \$213,752,531	\$211,343,011 \$221,851,578	
	Fund Sources: General.....	\$9,937,455 \$11,212,749	\$29,523,869 \$31,182,684	
	Dedicated Special Revenue.....	\$14,065,627	\$14,065,627	
	Federal Trust.....	\$176,022,602 \$188,474,155	\$167,753,515 \$176,603,267	
	Authority: Title 32.1, Chapter 13, Code of Virginia; Title XXI, Social Security Act, Federal Code.			
<p>A. Pursuant to Chapter 679, Acts of Assembly of 1997, the State Corporation Commission shall annually, on or before June 30, 1998, and each year thereafter, calculate the premium differential between: (i) 0.75 percent of the direct gross subscriber fee income derived from eligible contracts and (ii) the amount of license tax revenue generated pursuant to subdivision A 4 of § 58.1-2501 for the immediately preceding taxable year and notify the Comptroller of the Commonwealth to transfer such amounts to the Family Access to Medical Insurance Security Plan Trust Fund as established on the books of the State Comptroller.</p>				
<p>B. As a condition of this appropriation, revenues from the Family Access to Medical Insurance Security Plan Trust Fund, shall be used to match federal funds for the Children's Health Insurance Program.</p>				
<p>C. Every eligible applicant for health insurance as provided for in Title 32.1, Chapter 13, Code of Virginia, shall be enrolled and served in the program.</p>				
<p>D. To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Medicaid Program Services (45600) and Medical Assistance Services for Low Income Children (46600), if available, into this Item to be used as state match for federal Title XXI funds.</p>				
<p>E. The Department of Medical Assistance Services shall make the monthly capitation payment to managed care organizations for the member months of each month in the first week of the subsequent month.</p>				
<p>F. If any part, section, subsection, paragraph, clause, or phrase of this Item or the application thereof is declared by the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services to be in conflict with a federal law or regulation, such decisions shall not affect the validity of the remaining portions of this Item, which shall remain in force as if this Item had passed without the conflicting part, section, subsection, paragraph, clause, or phrase. Further, if the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services determines that the process for accomplishing the intent of a part, section, subsection, paragraph, clause, or phrase of this Item is out of compliance or in conflict with federal law and regulation and recommends another method of accomplishing the same intent, the Director, Department of Medical</p>				

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Assistance Services, after consultation with the Attorney General, is authorized to pursue the alternative method.				
303.	Medicaid Program Services (45600).....		\$11,349,056,147	\$12,993,105,698
			\$11,840,531,648	\$14,915,068,263
	Reimbursements to State-Owned Mental Health and Intellectual Disabilities Facilities (45607).....	\$123,671,762	\$110,694,442	\$81,678,750
	Reimbursements for Behavioral Health Services (45608).....	\$134,087,172	\$14,571,748	\$186,076,126
			\$43,601,628	
	Reimbursements for Medical Services (45609).....	\$8,816,333,481	\$9,247,571,707	\$8,994,264,674
			\$9,664,682,683	
	Reimbursements for Long-Term Care Services (45610).....	\$1,219,302,428	\$1,307,328,752	\$1,442,690,738
			\$1,497,658,506	
	Payments for Healthcare Coverage for Low-Income Uninsured Adults (45611).....	\$1,055,661,304	\$2,312,939,049	\$1,093,828,348
			\$3,627,446,696	
	Fund Sources: General.....	\$4,693,022,530	\$4,775,531,889	\$4,875,329,958
			\$4,988,700,277	
	Dedicated Special Revenue.....	\$752,219,143	\$1,070,819,016	\$675,249,477
			\$1,062,068,926	
	Federal Trust.....	\$5,903,814,474	\$7,146,754,793	\$6,289,952,213
			\$8,864,299,060	

Authority: Title 32.1, Chapters 9 and 10, Code of Virginia; P.L. 89-97, as amended, Title XIX, Social Security Act, Federal Code.

A.1. Out of this appropriation, \$61,835,881 the first year and ~~\$55,347,221~~\$40,839,375 the second year from the general fund and \$61,835,881 the first year and ~~\$55,347,221~~\$40,839,375 the second year from the federal trust fund is provided for reimbursement to the institutions within the Department of Behavioral Health and Developmental Services.

2. Out of this appropriation, \$18,969,647 the first year from the general fund is provided to cover any federal deferrals associated with payments made to Piedmont and Catawba hospitals. The Department of Planning and Budget shall unallot these funds and shall not allot the funds until the Department of Medical Assistance Services (DMAS) provides documentation of a federal deferral. The Department of Planning and Budget shall be authorized to transfer any unspent portion of this amount, along with first year appropriation in service area 45607 of this Item, to agency 793 (Mental Health Treatment Centers) should DMAS cease Medicaid payments to either Piedmont or Catawba hospitals.

B.1. Included in this appropriation is ~~\$71,773,601~~\$44,675,958 the first year and ~~\$76,085,569~~\$9,017,369 the second year from the general fund and ~~\$90,962,360~~\$63,864,717 the first year and ~~\$95,874,328~~\$28,206,128 the second year from nongeneral funds to reimburse the Virginia Commonwealth University Health System for indigent health care costs as reported by the hospital and adjusted by the department for indigent care savings related to Medicaid expansion. This funding is composed of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.

2. Included in this appropriation is ~~\$43,354,550~~\$26,274,229 the first year and ~~\$45,391,756~~\$3,054,908 the second year from the general fund and ~~\$58,069,328~~\$40,989,007 the first year and ~~\$60,106,534~~\$17,769,686 the second year from nongeneral funds to reimburse the University of Virginia Health System for indigent health care costs as reported by the hospital and adjusted by the department for indigent care savings related to Medicaid expansion. This funding is comprised of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.

ITEM 303.	Item Details(\$)		Appropriations(\$)	
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3. The general fund amounts for the state teaching hospitals have been reduced to mirror the general fund impact of reduced and no inflation for inpatient services in prior years. It also includes reductions associated with prior year indigent care reductions. However, the nongeneral funds are appropriated. In order to receive the nongeneral funds in excess of the amount of the general fund appropriated, the health systems shall certify the public expenditures.				
4. The Department of Medical Assistance Service shall have the authority to increase Medicaid payments for Type One hospitals and physicians consistent with the appropriations to compensate for limits on disproportionate share hospital (DSH) payments to Type One hospitals that the department would otherwise make. In particular, the department shall have the authority to amend the State Plan for Medical Assistance to increase physician supplemental payments for physician practice plans affiliated with Type One hospitals up to the average commercial rate as demonstrated by University of Virginia Health System and Virginia Commonwealth University Health System, to change reimbursement for Graduate Medical Education to cover costs for Type One hospitals, to case mix adjust the formula for indirect medical education reimbursement for HMO discharges for Type One hospitals and to increase the adjustment factor for Type One hospitals to 1.0. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.				
C.1. The estimated revenue for the Virginia Health Care Fund is <del>\$371,395,190</del> \$410,279,068 the first year and <del>\$365,695,190</del> \$364,019,578 the second year, to be used pursuant to the uses stated in § 32.1-367, Code of Virginia.				
2. Notwithstanding § 32.1-366, Code of Virginia, the State Comptroller shall deposit 41.5 percent of the Commonwealth's allocation of the Master Settlement Agreement with tobacco product manufacturers, as defined in § 3.2-3100, Code of Virginia, to the Virginia Health Care Fund.				
3. Notwithstanding any other provision of law, the State Comptroller shall deposit 50 percent of the Commonwealth's allocation of the Strategic Contribution Fund payment pursuant to the Master Settlement Agreement with tobacco product manufacturers into the Virginia Health Care Fund.				
4. Notwithstanding any other provision of law, revenues deposited to the Virginia Health Care Fund shall only be used as the state share of Medicaid unless specifically authorized by this Act.				
D. If any part, section, subsection, paragraph, clause, or phrase of this Item or the application thereof is declared by the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services to be in conflict with a federal law or regulation, such decisions shall not affect the validity of the remaining portions of this Item, which shall remain in force as if this Item had passed without the conflicting part, section, subsection, paragraph, clause, or phrase. Further, if the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services determines that the process for accomplishing the intent of a part, section, subsection, paragraph, clause, or phrase of this Item is out of compliance or in conflict with federal law and regulation and recommends another method of accomplishing the same intent, the Director, Department of Medical Assistance Services, after consultation with the Attorney General, is authorized to pursue the alternative method.				
E. At least 30 days prior to the submission of any state plan or waiver amendment to the Centers for Medicare and Medicaid Services (CMS) <i>or change in the contracts with managed care organizations that may impact the capitation rates</i> , the Department of Medical Assistance Services (DMAS) shall provide written notification to the Director, Department of Planning and Budget as to the purpose of such change. This notice shall also assess whether the amendment will require any future state regulatory action or expenditure beyond that which is appropriated in this Act. <i>If the Department of Planning and Budget, after review of the proposed change, determines that it may likely result in a material fiscal impact on the general fund, for which no legislative appropriation has been provided, then the Department of Medical Assistance Services shall delay the proposed change until the General Assembly authorizes such action.</i>				

ITEM 303.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
<p>F.1. The Director, Department of Medical Assistance Services shall seek the necessary waivers from the United States Department of Health and Human Services to authorize the Commonwealth to cover health care services and delivery systems, as may be permitted by Title XIX of the Social Security Act, which may provide less expensive alternatives to the State Plan for Medical Assistance.</p>				
<p>2. At least 30 days prior to the submission of an application for any new waiver of Title XIX or Title XXI of the Social Security Act, the Department of Medical Assistance Services shall notify the Chairmen of the House Appropriations and Senate Finance Committees of such pending application and provide information on the purpose and justification for the waiver along with any fiscal impact. If the department receives an official letter from either Chairmen raising an objection about the waiver during the 30-day period, the department shall not submit the waiver application and shall request authority for such waiver as part of the normal legislative or budgetary process. If the department receives no objection, then the application may be submitted. Any waiver specifically authorized elsewhere in this item is not subject to this provision. Waiver renewals are not subject to the provisions of this paragraph.</p>				
<p>3. The director shall promulgate such regulations as may be necessary to implement those programs which may be permitted by Titles XIX and XXI of the Social Security Act, in conformance with all requirements of the Administrative Process Act.</p>				
<p>G. To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600) and Medical Assistance Services for Low Income Children (46600), if available, into this Item to be used as state match for federal Title XIX funds.</p>				
<p>H. It is the intent of the General Assembly that the medically needy income limits for the Medicaid program are adjusted annually to account for changes in the Consumer Price Index.</p>				
<p>I.1.a. As of July 1, 2017, the Community Living (CL) waiver authorizes 11,302 slots.</p>				
<p>b. As of July 1, 2017, the Family and Individuals Support (FIS) waiver authorizes 1,762 slots.</p>				
<p>c. As of July 1, 2017, the Building Independence (BI) waiver authorizes 360 slots.</p>				
<p>2. Notwithstanding Chapters 228 and 303 of the 2009 Virginia Acts of Assembly and §32.1-323.2 of the Code of Virginia, the Department of Medical Assistance Services shall not add any slots to the Intellectual Disabilities Medicaid Waiver or the Individual and Family Developmental Disabilities and Support Medicaid Waiver other than those slots authorized specifically to support the Money Follows the Person Demonstration, individuals who are exiting state institutions, any slots authorized under Chapters 724 and 729 of the 2011 Virginia Acts of Assembly or §37.2-319, Code of Virginia, or authorized elsewhere in this Act.</p>				
<p>3. Upon approval by the Centers for Medicare and Medicaid Services of the application for renewal of the CL, FIS and BI waivers, expeditious implementation of any revisions shall be deemed an emergency situation pursuant to § 2.2-4002 of the Administrative Process Act. Therefore, to meet this emergency situation, the Department of Medical Assistance Services shall promulgate emergency regulations to implement the provisions of this Act.</p>				
<p>4.a. The Department of Medical Assistance Services (DMAS) shall amend the CL waiver to add 189 new slots effective July 1, 2018 and an additional 195 slots effective July 1, 2019. An amount estimated at \$8,156,426 the first year and \$16,537,788 the second year from the general fund and \$8,156,426 the first year and \$16,537,788 the second year from nongeneral funds is provided to cover the anticipated costs of the new slots. These estimated amounts assumes that 60 of the additional slots in each year may be filled with individuals transitioning from facility care. DMAS shall seek federal approval for necessary changes to the CL waiver to add the additional slots.</p>				
<p>b. The Department of Medical Assistance Services (DMAS) shall amend the FIS waiver to</p>				

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	add 414 new slots effective July 1, 2018 and an additional 481 slots effective July 1, 2019. An amount estimated at \$6,347,617 the first year and \$13,720,427 the second year from the general fund and \$6,347,617 the first year and \$13,720,427 the second year from nongeneral funds is provided to cover the anticipated costs of the new slots. DMAS shall seek federal approval for necessary changes to the FIS waiver to add the additional slots.			
	c. The Department of Medical Assistance Services (DMAS) shall amend the BI waiver to add 40 new slots effective July 1, 2019. An amount estimated at \$257,680 the second year from the general fund and \$257,680 the second year from nongeneral funds is provided to cover the anticipated costs of the new slots. DMAS shall seek federal approval for necessary changes to the BI waiver to add the additional slots.			
	d. In addition to the new slots added in 4.a. and b., the Department of Medical Assistance Services (DMAS) shall amend the CL waiver to add 25 new slots effective July 1, 2018 and an additional 25 slots effective July 1, 2019. These slots shall be held as reserve capacity by the Department of Behavioral Health and Disability Services (DBHDS) to address emergency situations. An amount estimated at \$937,237 the first year and \$1,874,475 the second year from the general fund and \$937,237 the first year and \$1,874,475 the second year from nongeneral funds is provided to cover the anticipated costs of the emergency slots. DMAS shall seek federal approval for necessary changes to the CL waiver to add the additional slots. Beginning July 1, 2018, DBHDS shall provide a quarterly report on the use of the emergency slot provided in this paragraph.			
	e. In addition to the new slots added in 4.b., the Department of Medical Assistance Services shall amend the FIS waiver to add 326 new slots effective July 1, 2019 to address the Priority One waiting list. An amount estimated at \$5,000,000 from the general fund and \$5,000,000 from nongeneral funds the second year is provided to cover the anticipated costs of the additional slots.			
	f. The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Disability Services, shall separately track all costs, placements and services associated with the additional slots added in paragraphs I.4.a., I.4.b., and I.4.c. of this Item. By October 1 of each year, the department shall report this data to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget.			
	J. The Department of Medical Assistance Services and the Virginia Department of Health shall work with representatives of the dental community: to expand the availability and delivery of dental services to pediatric Medicaid recipients; to streamline the administrative processes; and to remove impediments to the efficient delivery of dental services and reimbursement thereof. The Department of Medical Assistance Services shall report its efforts to expand dental services to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget by December 15 each year.			
	K. The Department of Medical Assistance Services shall not require dentists who agree to participate in the delivery of Medicaid pediatric dental care services, or services provided to enrollees in the Family Access to Medical Insurance Security (FAMIS) Plan or any variation of FAMIS, to also deliver services to subscribers enrolled in commercial plans of the managed care vendor, unless the dentist is a willing participant in the commercial managed care plan.			
	L. The Department of Medical Assistance Services shall implement continued enhancements to the drug utilization review (DUR) program. The department shall continue the Pharmacy Liaison Committee and the DUR Board. The department shall continue to work with the Pharmacy Liaison Committee, meeting at least semi-annually, to implement initiatives for the promotion of cost-effective services delivery as may be appropriate. The department shall solicit input from the Pharmacy Liaison Committee regarding pharmacy provisions in the development and enforcement of all managed care contracts. The department shall report on the Pharmacy Liaison Committee's and the DUR Board's activities to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget no later than December 15 each year of the biennium.			
	M.1. The Department of Medical Assistance Services shall have the authority to seek federal			

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approval of changes to its Medallion 4.0 waiver.				
2. In order to conform the state regulations to the federally approved changes and to implement the provisions of this Act, the department shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this Act.				
N.1. The Department of Medical Assistance Services shall develop and pursue cost saving strategies internally and with the cooperation of the Department of Social Services, Virginia Department of Health, Office of the Attorney General, Children's Services Act program, Department of Education, Department of Juvenile Justice, Department of Behavioral Health and Developmental Services, Department for Aging and Rehabilitative Services, Department of the Treasury, University of Virginia Health System, Virginia Commonwealth University Health System Authority, Department of Corrections, federally qualified health centers, local health departments, local school divisions, community service boards, local hospitals, and local governments, that focus on optimizing Medicaid claims and cost recoveries. Any revenues generated through these activities shall be transferred to the Virginia Health Care Fund to be used for the purposes specified in this Item.				
2. The Department of Medical Assistance Services shall retain the savings necessary to reimburse a vendor for its efforts to implement paragraph. N.1. of this Item. However, prior to reimbursement, the department shall identify for the Secretary of Health and Human Resources each of the vendor's revenue maximization efforts and the manner in which each vendor would be reimbursed. No reimbursement shall be made to the vendor without the prior approval of the above plan by the Secretary.				
O. The Department of Medical Assistance Services shall have the authority to pay contingency fee contractors, engaged in cost recovery activities, from the recoveries that are generated by those activities. All recoveries from these contractors shall be deposited to a special fund. After payment of the contingency fee any prior year recoveries shall be transferred to the Virginia Health Care Fund. The Director, Department of Medical Assistance Services, shall report to the Chairmen of the House Appropriations and Senate Finance Committees the increase in recoveries associated with this program as well as the areas of audit targeted by contractors by November 1 each year.				
P. The Department of Medical Assistance Services in cooperation with the State Executive Council, shall provide semi-annual training to local Children's Services Act teams on the procedures for use of Medicaid for residential treatment and treatment foster care services, including, but not limited to, procedures for determining eligibility, billing, reimbursement, and related reporting requirements. The department shall include in this training information on the proper utilization of inpatient and outpatient mental health services as covered by the Medicaid State Plan.				
Q.1. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, the Department of Medical Assistance Services, in consultation with the Department of Behavioral Health and Developmental Services, shall amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a Preferred Drug List. In developing the modifications, the department shall consider input from physicians, pharmacists, pharmaceutical manufacturers, patient advocates, and others, as appropriate.				
2.a. The department shall utilize a Pharmacy and Therapeutics Committee to assist in the development and ongoing administration of the Preferred Drug List program. The Pharmacy and Therapeutics Committee shall be composed of 8 to 12 members, including the Commissioner, Department of Behavioral Health and Developmental Services, or his designee. Other members shall be selected or approved by the department. The membership shall include a ratio of physicians to pharmacists of 2:1 and the department shall ensure that at least one-half of the physicians and pharmacists are either direct providers or are employed with organizations that serve recipients for all segments of the Medicaid population. Physicians on the committee shall be licensed in Virginia, one of whom shall be a psychiatrist, and one of whom specializes in care for the aging. Pharmacists on the committee shall be licensed in Virginia, one of whom shall have clinical expertise in mental health drugs, and one of whom has clinical expertise in community-based mental health treatment. The Pharmacy and Therapeutics Committee shall recommend to the department (i) which therapeutic classes of drugs should be				

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<p>subject to the Preferred Drug List program and prior authorization requirements; (ii) specific drugs within each therapeutic class to be included on the preferred drug list; (iii) appropriate exclusions for medications, including atypical anti-psychotics, used for the treatment of serious mental illnesses such as bi-polar disorders, schizophrenia, and depression; (iv) appropriate exclusions for medications used for the treatment of brain disorders, cancer and HIV-related conditions; (v) appropriate exclusions for therapeutic classes in which there is only one drug in the therapeutic class or there is very low utilization, or for which it is not cost-effective to include in the Preferred Drug List program; and (vi) appropriate grandfather clauses when prior authorization would interfere with established complex drug regimens that have proven to be clinically effective. In developing and maintaining the preferred drug list, the cost effectiveness of any given drug shall be considered only after it is determined to be safe and clinically effective.</p>				
<p>b. The Pharmacy and Therapeutics Committee shall schedule meetings at least semi-annually and may meet at other times at the discretion of the chairperson and members. At the meetings, the Pharmacy and Therapeutics committee shall review any drug in a class subject to the Preferred Drug List that is newly approved by the Federal Food and Drug Administration, provided there is at least thirty (30) days notice of such approval prior to the date of the quarterly meeting.</p>				
<p>3. The department shall establish a process for acting on the recommendations made by the Pharmacy and Therapeutics Committee, including documentation of any decisions which deviate from the recommendations of the committee.</p>				
<p>4. The Preferred Drug List program shall include provisions for (i) the dispensing of a 72-hour emergency supply of the prescribed drug when requested by a physician and a dispensing fee to be paid to the pharmacy for such supply; (ii) prior authorization decisions to be made within 24 hours and timely notification of the recipient and/or the prescribing physician of any delays or negative decisions; (iii) an expedited review process of denials by the department; and (iv) consumer and provider education, training and information regarding the Preferred Drug List prior to implementation, and ongoing communications to include computer access to information and multilingual material.</p>				
<p>5. The Preferred Drug List program shall generate savings as determined by the department that are net of any administrative expenses to implement and administer the program.</p>				
<p>6. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, to implement these changes, the Department of Medical Assistance Services shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this Act. With respect to such state plan amendments and regulations, the provisions of § 32.1-331.12 et seq., Code of Virginia, shall not apply. In addition, the department shall work with the Department of Behavioral Health and Development Services to consider utilizing a Preferred Drug List program for its non-Medicaid clients.</p>				
<p>7. The Department of Medical Assistance Services shall (i) continually review utilization of behavioral health medications under the State Medicaid Program for Medicaid recipients; and (ii) ensure appropriate use of these medications according to federal Food and Drug Administration (FDA) approved indications and dosage levels. The department may also require retrospective clinical justification according to FDA approved indications and dosage levels for the use of multiple behavioral health drugs for a Medicaid patient. For individuals 18 years of age and younger who are prescribed three or more behavioral health drugs, the department may implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns in accordance with FDA-approved indications and dosage levels.</p>				
<p>8. The Department of Medical Assistance Services shall ensure that in the process of developing the Preferred Drug List, the Pharmacy and Therapeutics Committee considers the value of including those prescription medications which improve drug regimen compliance, reduce medication errors, or decrease medication abuse through the use of medication delivery systems that include, but are not limited to, transdermal and injectable delivery systems.</p>				
<p>R.1. The Department of Medical Assistance Services may amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a specialty drug program. In developing the modifications, the department shall consider input</p>				

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from physicians, pharmacists, pharmaceutical manufacturers, patient advocates, the Pharmacy Liaison Committee, and others as appropriate.				
2. In developing the specialty drug program to implement appropriate care management and control drug expenditures, the department shall contract with a vendor who will develop a methodology for the reimbursement and utilization through appropriate case management of specialty drugs and distribute the list of specialty drug rates, authorized drugs and utilization guidelines to medical and pharmacy providers in a timely manner prior to the implementation of the specialty drug program and publish the same on the department's website.				
3. In the event that the Department of Medical Assistance Services contracts with a vendor, the department shall establish the fee paid to any such contractor based on the reasonable cost of services provided. The department may not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses cannot be based on the percentage of cost savings generated under the benefit management of services.				
4. The department shall: (i) review, update and publish the list of authorized specialty drugs, utilization guidelines, and rates at least quarterly; (ii) implement and maintain a procedure to revise the list or modify specialty drug program utilization guidelines and rates, consistent with changes in the marketplace; and (iii) provide an administrative appeals procedure to allow dispensing or prescribing provider to contest the listed specialty drugs and rates.				
5. The department shall have authority to enact emergency regulations under § 2.2-4011 of the Administrative Process Act to effect these provisions.				
S.1. The Department of Medical Assistance Services shall reimburse school divisions who sign an agreement to provide administrative support to the Medicaid program and who provide documentation of administrative expenses related to the Medicaid program 50 percent of the Federal Financial Participation by the department.				
2. The Department of Medical Assistance Services shall retain five percent of the Federal Financial Participation for reimbursement to school divisions for medical and transportation services.				
T. In the event that the Department of Medical Assistance Services decides to contract for pharmaceutical benefit management services to administer, develop, manage, or implement Medicaid pharmacy benefits, the department shall establish the fee paid to any such contractor based on the reasonable cost of services provided. The department may not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses cannot be based on the percentage of cost savings generated under the benefit management of services.				
U. The Department of Medical Assistance Services, in cooperation with the Department of Social Services' Division of Child Support Enforcement (DSCE), shall identify and report third party coverage where a medical support order has required a custodial or noncustodial parent to enroll a child in a health insurance plan. The Department of Medical Assistance Services shall also report to the DCSE third party information that has been identified through their third party identification processes for children handled by DCSE.				
V.1. Notwithstanding the provisions of § 32.1-325.1:1, Code of Virginia, upon identifying that an overpayment for medical assistance services has been made to a provider, the Director, Department of Medical Assistance Services shall notify the provider of the amount of the overpayment. Such notification of overpayment shall be issued within the earlier of (i) four years after payment of the claim or other payment request, or (ii) four				



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passage of this Act, and prior to the completion of any regulatory process undertaken in order to effect such change.

BB. The Department of Medical Assistance Services shall impose an assessment equal to 6.0 percent of revenue on all ICF-ID providers. The department shall determine procedures for collecting the assessment, including penalties for non-compliance. The department shall have the authority to adjust interim rates to cover new Medicaid costs as a result of this assessment.

CC. The Department of Medical Assistance Services shall not adjust rates or the rate ceiling of residential psychiatric facilities for inflation.

DD. The Department of Medical Assistance Services shall work with the Department of Behavioral Health and Developmental Services in consultation with the Virginia Association of Community Services Boards, the Virginia Network of Private Providers, the Virginia Coalition of Private Provider Associations, and the Association of Community Based Providers, to establish rates for the Intensive In-Home Service based on quality indicators and standards, such as the use of evidence-based practices.

EE. The Department of Medical Assistance Services shall seek federal authority through the necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to expand principles of care coordination to all geographic areas, populations, and services under programs administered by the department. The expansion of care coordination shall be based on the principles of shared financial risk such as shared savings, performance benchmarks or risk and improving the value of care delivered by measuring outcomes, enhancing quality, and monitoring expenditures. The department shall engage stakeholders, including beneficiaries, advocates, providers, and health plans, during the development and implementation of the care coordination projects. Implementation shall include specific requirements for data collection to ensure the ability to monitor utilization, quality of care, outcomes, costs, and cost savings. The department shall report by November 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees detailing implementation progress including, but not limited to, the number of individuals enrolled in care coordination, the geographic areas, populations and services affected and cost savings achieved. Unless otherwise delineated, the department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change. The intent of this Item may be achieved through several steps, including, but not limited to, the following:

a. In fulfillment of this Item, the department and the Department of Behavioral Health and Developmental Services, in collaboration with the Community Services Boards and in consultation with appropriate stakeholders, shall develop a blueprint for the development and implementation of a care coordination model for individuals in need of behavioral health services not currently provided through a managed care organization. The overall goal of the project is to improve the value of behavioral health services purchased by the Commonwealth of Virginia without compromising access to behavioral health services for vulnerable populations. Targeted case management services will continue to be the responsibility of the Community Services Boards. The blueprint shall: (i) describe the steps for development and implementation of the program model(s) including funding, populations served, services provided, timeframe for program implementation, and education of clients and providers; (ii) set the criteria for medical necessity for community mental health rehabilitation services; and (iii) include the following principles:

1. Improves value so that there is better access to care while improving equity.
2. Engages consumers as informed and responsible partners from enrollment to care delivery.
3. Provides consumer protections with respect to choice of providers and plans of care.
4. Improves satisfaction among providers and provides technical assistance and incentives for quality improvement.
5. Improves satisfaction among consumers by including consumer representatives on provider panels for the development of policy and planning decisions.

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6. Improves quality, individual safety, health outcomes, and efficiency.				
7. Develops direct linkages between medical and behavioral services in order to make it easier for consumers to obtain timely access to care and services, which could include up to full integration.				
8. Builds upon current best practices in the delivery of behavioral health services.				
9. Accounts for local circumstances and reflects familiarity with the community where services are provided.				
10. Develops service capacity and a payment system that reduces the need for involuntary commitments and prevents default (or diversion) to state hospitals.				
11. Reduces and improves the interface of vulnerable populations with local law enforcement, courts, jails, and detention centers.				
12. Supports the responsibilities defined in the Code of Virginia relating to Community Services Boards and Behavioral Health Authorities.				
13. Promotes availability of access to vital supports such as housing and supported employment.				
14. Achieves cost savings through decreasing avoidable episodes of care and hospitalizations, strengthening the discharge planning process, improving adherence to medication regimens, and utilizing community alternatives to hospitalizations and institutionalization.				
15. Simplifies the administration of acute psychiatric, community mental health rehabilitation, and medical health services for the coordinating entity, providers, and consumers.				
16. Requires standardized data collection, outcome measures, customer satisfaction surveys, and reports to track costs, utilization of services, and outcomes. Performance data should be explicit, benchmarked, standardized, publicly available, and validated.				
17. Provides actionable data and feedback to providers.				
18. In accordance with federal and state regulations, includes provisions for effective and timely grievances and appeals for consumers.				
b. The department may seek the necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to develop and implement a care coordination model, that is consistent with the principles in Paragraph a, for individuals in need of behavioral health services to be effective July 1, 2019. This model may be applied to individuals on a mandatory basis. The department shall have authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this Act.				
FF. The Department of Medical Assistance Services shall make programmatic changes in the provision of Residential Treatment Facility (Level C) and Levels A and B residential services (group homes) for children with serious emotional disturbances in order ensure appropriate utilization and cost efficiency. The department shall consider all available options including, but not limited to, prior authorization, utilization review and provider qualifications. The department shall have authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.				
GG. The Department of Medical Assistance Services, in consultation with the appropriate stakeholders, shall seek federal authority to implement a pricing methodology to modify or replace the current pricing methodology for pharmaceutical products as defined in 13 VAC 30- 80-40, including the dispensing fee, with an alternative methodology that is budget neutral or that creates a cost savings. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.				
HH. The Department of Medical Assistance Services (DMAS) shall have the authority to				

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amend the State Plan for Medical Assistance to enroll and reimburse freestanding birthing centers accredited by the Commission for the Accreditation of Birthing Centers. Reimbursement shall be based on the Enhanced Ambulatory Patient Group methodology applied in a manner similar to the reimbursement methodology for ambulatory surgery centers. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.

II. The department may seek federal authority through amendments to the State Plans under Title XIX and XXI of the Social Security Act, and appropriate waivers to such, to develop and implement programmatic and system changes that allow expedited enrollment of Medicaid eligible recipients into Medicaid managed care, most importantly for pregnant women. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this Act.

JJ.1. The Department of Medical Assistance Services, related to appeals administered by and for the department, shall have authority to amend regulations to:

- i. Utilize the method of transmittal of documentation to include email, fax, courier, and electronic transmission.
- ii. Clarify that the day of delivery ends at normal business hours of 5:00 pm.
- iii. Eliminate an automatic dismissal against DMAS for alleged deficiencies in the case summary that do not relate to DMAS's obligation to substantively address all issues specified in the provider's written notice of informal appeal. A process shall be added, by which the provider shall file with the informal appeals agent within 12 calendar days of the provider's receipt of the DMAS case summary, a written notice that specifies any such alleged deficiencies that the provider knows or reasonably should know exist. DMAS shall have 12 calendar days after receipt of the provider's timely written notification to address or cure any of said alleged deficiencies. The current requirement that the case summary address each adjustment, patient, service date, or other disputed matter identified in the provider's written notice of informal appeal in the detail set forth in the current regulation shall remain in force and effect, and failure to file a written case summary with the Appeals Division in the detail specified within 30 days of the filing of the provider's written notice of informal appeal shall result in dismissal in favor of the provider on those issues not addressed by DMAS.
- iv. Clarify that appeals remanded to the informal appeal level via Final Agency Decision or court order shall reset the timetable under DMAS' appeals regulations to start running from the date of the remand.
- v. Clarify the department's authority to administratively dismiss untimely filed appeal requests.
- vi. Clarify the time requirement for commencement of the formal administrative hearing.
- vii. Clarify that settlement proposals may be tendered during the appeal process and that approval is subject to the requirements of § 2.2-514 of the Code of Virginia. The amended regulations shall develop a framework for the submission of the settlement proposal and state that the Department of Medical Assistance Services and the provider may jointly agree to stay the deadline for the informal appeal decision or for the formal appeal recommended decision of the Hearing Officer for a period of up to sixty (60) days to facilitate settlement discussions. If the parties reach a resolution as reflected by a written settlement agreement within the sixty-day period, then the stay shall be extended for such additional time as may be necessary for review and approval of the settlement agreement in accordance with law.

2. The Department of Medical Assistance Services shall have authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.

KK. It is the intent of the General Assembly that the implementation and administration of the care coordination contract for behavioral health services be conducted in a manner that

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<p>insures system integrity and engages private providers in the independent assessment process. In addition, it is the intent that in the provision of services that ethical and professional conflicts are avoided and that sound clinical decisions are made in the best interests of the individuals receiving behavioral health services. As part of this process, the department shall monitor the performance of the contract to ensure that these principles are met and that stakeholders are involved in the assessment, approval, provision, and use of behavioral health services provided as a result of this contract.</p> <p>LL. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to allow for delivery of notices of program reimbursement or other items referred to in the regulations related to provider appeals by electronic means consistent with the Uniform Electronic Transactions Act. The department shall implement this change effective July 1, 2013, and prior to completion of any regulatory process undertaken in order to effect such changes.</p> <p>MM.1. The department shall amend the State Plan for Medical Assistance to reimburse the price-based operating rate rather than the transition operating rate to any nursing facility whose licensed bed capacity decreased by at least 30 beds after 2011 and whose occupancy increased from less than 70 percent in 2011 to more than 80 percent in 2013. The department shall have the authority to implement this reimbursement change effective July 1, 2015, and prior to completion of any regulatory process in order to effect such change.</p> <p>2. Effective July 1, 2017, the department shall amend the State Plan for Medical Assistance to increase the direct and indirect operating rates under the nursing facility price based reimbursement methodology by 15 percent for nursing facilities where at least 80 percent of the resident population have one or more of the following diagnoses: quadriplegia, traumatic brain injury, multiple sclerosis, paraplegia, or cerebral palsy. In addition, a qualifying facility must have at least 90 percent Medicaid utilization and a case mix index of 1.15 or higher in fiscal year 2014. The department shall have the authority to implement this reimbursement methodology change for rates on or after July 1, 2017, and prior to completion of any regulatory process in order to effect such change.</p> <p>3. Effective July 1, 2017 through June 30, 2020, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to pay nursing facilities located in the former Danville Metropolitan Statistical Area (MSA) the operating rates calculated for the Other MSA peer group. For purposes of calculating rates under the rebasing effective July 1, 2017, the department shall use the peer groups based on the existing regulations. For future rebasings, the department shall permanently move these facilities to the Other MSA peer group. The department shall have the authority to implement this reimbursement change effective July 1, 2017 and prior to completion of any regulatory process undertaken in order to effect such change.</p> <p>NN. The Department of Medical Assistance Services shall amend its State Plan under Title XIX of the Social Security Act to implement reasonable restrictions on the amount of incurred dental expenses allowed as a deduction from income for nursing facility residents. Such limitations shall include: (i) that routine exams and x-rays, and dental cleaning shall be limited to twice yearly; (ii) full mouth x-rays shall be limited to once every three years; and (iii) deductions for extractions and fillings shall be permitted only if medically necessary as determined by the department.</p> <p>OO. Notwithstanding §32.1-325, et seq. and §32.1-351, et seq. of the Code of Virginia, and effective upon the availability of subsidized private health insurance offered through a Health Benefits Exchange in Virginia as articulated through the federal Patient Protection and Affordable Care Act (PPACA), the Department of Medical Assistance Services shall eliminate, to the extent not prohibited under federal law, Medicaid Plan First and FAMIS Moms program offerings to populations eligible for and enrolled in said subsidized coverage in order to remove disincentives for subsidized private healthcare coverage through publicly-offered alternatives. To ensure, to the extent feasible, a smooth transition from public coverage, DMAS shall endeavor to phase out such coverage for existing enrollees once subsidized private insurance is available through a Health Benefits Exchange in Virginia. The department shall implement any necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.</p> <p>PP. The Department of Medical Assistance Services shall have authority to amend the State</p>				

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<p>Plans for Medical Assistance under Titles XIX and XXI of the Social Security Act, and any waivers thereof, to implement requirements of the federal Patient Protection and Affordable Care Act (PPACA) as it pertains to implementation of Medicaid and CHIP eligibility determination and case management standards and practices, including the Modified Adjusted Gross Income (MAGI) methodology. The department shall have authority to implement such standards and practices upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>QQ. Effective July 1, 2013, the Department of Medical Assistance Services shall establish a Medicaid Physician and Managed Care Liaison Committee including, but not limited to, representatives from the following organizations: the Virginia Academy of Family Physicians; the American Academy of Pediatricians – Virginia Chapter; the Virginia College of Emergency Physicians; the American College of Obstetrics and Gynecology – Virginia Section; Virginia Chapter, American College of Radiology; the Psychiatric Society of Virginia; the Virginia Medical Group Management Association; and the Medical Society of Virginia. The committee shall also include representatives from each of the department's contracted managed care organizations and a representative from the Virginia Association of Health Plans. The committee will work with the department to investigate the implementation of quality, cost-effective health care initiatives, to identify means to increase provider participation in the Medicaid program, to remove administrative obstacles to quality, cost-effective patient care, and to address other matters as raised by the department or members of the committee. The Committee shall establish an Emergency Department Care Coordination work group comprised of representatives from the Committee, including the Virginia College of Emergency Physicians, the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Academy of Family Physicians and the Virginia Association of Health Plans to review the following issues: (i) how to improve coordination of care across provider types of Medicaid "super utilizers"; (ii) the impact of primary care provider incentive funding on improved interoperability between hospital and provider systems; and (iii) methods for formalizing a statewide emergency department collaboration to improve care and treatment of Medicaid recipients and increase cost efficiency in the Medicaid program, including recognized best practices for emergency departments. The committee shall meet semi-annually, or more frequently if requested by the department or members of the committee. The department, in cooperation with the committee, shall report on the committee's activities annually to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget no later than October 1 each year.</p>				
<p>RR. The Department of Medical Assistance Services shall realign the billable activities paid for individual supported employment provided under the Medicaid home- and community-based waivers to be consistent with job development and job placement services provided through employment services organizations that are reimbursed by the Department for Aging and Rehabilitative Services. The department shall have the authority to implement this reimbursement change effective July 1, 2013, and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>SS.1. The Department of Medical Assistance Services shall seek federal authority through any necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to implement a comprehensive value-driven, market-based reform of the Virginia Medicaid/FAMIS programs.</p>				
<p>2. The department is authorized to contract with qualified health plans to offer recipients a Medicaid benefit package adhering to these principles. Any coordination of non-traditional behavioral health services covered under contract with qualified health plans or through other means shall adhere to the principles outlined in paragraph EE.a. This reformed service delivery model shall be mandatory, to the extent allowed under the relevant authority granted by the federal government and shall, at a minimum, include (i) limited high-performing provider networks and medical/health homes; (ii) financial incentives for high quality outcomes and alternative payment methods; (iii) improvements to encounter data submission, reporting, and oversight; (iv) standardization of administrative and other processes for providers; and (v) support of the health information exchange.</p>				

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<p>3. The Department of Medical Assistance Services shall seek reforms to include all remaining Medicaid populations and services, including long-term care and home- and community-based waiver services into cost-effective, managed and coordinated delivery systems. The department shall begin designing the process and obtaining federal authority to transition all remaining Medicaid beneficiaries into a coordinated delivery system. DMAS shall promulgate regulations to implement these provisions to be effective within 280 days of its enactment. The department may implement any changes necessary to implement these provisions prior to the promulgation of regulations undertaken in order to effect such changes.</p>				
<p>4.a. Notwithstanding § 30-347, Code of Virginia, or any other provision of law, no later than 45 days upon the passage of House Bill 5001, the Department of Medical Assistance Services shall have the authority to (1) amend the State Plan for Medical Assistance under Title XIX of the Social Security Act, and any waivers thereof, to implement coverage for newly eligible individuals pursuant to 42 U.S.C. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act and (2) begin the process of implementing a § 1115 demonstration project to transform the Medicaid program for newly eligible individuals pursuant to the provisions of 4.a.(1) and eligible individuals enrolled in the existing Medicaid program. No later than 150 days from the passage of House Bill 5001, DMAS shall submit the § 1115 demonstration waiver application to CMS for approval. If the State Plan amendments are affirmatively approved by CMS prior to the submission of the waiver, Medicaid coverage for newly eligible individuals may be implemented. If the State Plan amendment becomes effective without affirmative action by CMS, coverage may begin upon submission of the completed § 1115 demonstration waiver application, per CMS notification, but no later than January 1, 2019. If the demonstration waiver cannot be completed by 150 days, despite a good faith effort to complete the application, the department may request an extension from the Chairmen of the House Appropriations and Senate Finance Committees. The department shall provide updates on the progress of the State Plan amendments and demonstration waiver applications to the Chairmen of the House Appropriations and Senate Finance Committees, or their designees, upon request, and provide for participation in discussions with CMS staff. The department shall respond to all requests for information from CMS on the State Plan amendments and demonstration waiver applications in a timely manner.</p>				
<p>b. At least 10 days prior to the submission of the application for the waiver of Title XIX of the Social Security Act, the department shall notify the Chairmen of the House Appropriations and Senate Finance Committees of such pending application and provide a copy of the application. If the department receives an official letter from either Chairman raising an objection about the waiver during the 10-day period, the department shall make all reasonable attempts to address the objection and modify the waiver(s). If the department receives no objection, then the application may be submitted. Any waiver specifically authorized elsewhere in this item is not subject to this provision. Waiver renewals are not subject to the provisions of this paragraph.</p>				
<p>c. The Department of Medical Assistance Services shall include provisions to make referrals to job training, education and job placement assistance for all unemployed, able-bodied adult enrollees as allowed under current federal law or regulations through the State Plan amendments, contracts, or other policy changes. DMAS shall also include provisions to foster personal responsibility and prepare newly eligible enrollees for participation in commercial health insurance plans to include use of private health plans, premium support for employer-sponsored insurance, health and wellness accounts, appropriate utilization of hospital emergency room services, healthy behavior incentives, and enhanced fraud prevention efforts, among others through the State Plan amendments, contracts, or other policy changes.</p>				
<p>d. The demonstration project shall be designed to empower individuals to improve their health and well-being and gain employer sponsored coverage or other commercial health insurance coverage, while simultaneously ensuring the program's long-term fiscal sustainability. The demonstration project shall include the following elements in the design:</p>				
<p>(i) two pathways for eligible individuals with incomes between 100 percent and 138 percent of the federal poverty level, including income disregards, to obtain health care coverage: enrollment in an existing Medicaid managed care plan, or premium assistance for the purchase of employer-sponsored health insurance coverage if cost effective. The plans will provide a comprehensive benefit package consistent with private market plans, compliant with all mandated essential health benefits, and inclusive of current Medicaid covered mental</p>				

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health and addiction recovery and treatment services. The demonstration shall include (1) the development of a health and wellness account for eligible individuals, comprised of participant contributions and state funds to be used to fund the health insurance premiums and to ensure funds are available for the enrollee to cover out-of-pocket expenses for the deductible, with the ability to roll over the funds from the account into succeeding years if not fully used. The monthly premium amount for the enrollee shall be set on a sliding scale based on monthly income, not to exceed two percent of monthly income, nor be less than \$1 per month; (2) provisions for demonstration coverage to begin on the first day of the month following receipt of the premium payment or enrollment due to treatment of an acute illness; (3) provisions for institution of a grace period for premium payment, followed by a waiting period before re-enrollment if the premium is not paid by the participant or if the participant does not maintain continuous coverage; and (4) provisions to recover premium payments owed to the Commonwealth through debt set-off collections;

(ii) provisions to enroll newly eligible individuals with incomes between 0 and 100 percent of the federal poverty level, including income disregards, in existing Medicaid managed care plans with existing Medicaid benefits or in employer-sponsored health insurance plans, if cost effective. Such newly eligible enrollees shall be subject to existing Medicaid cost sharing provisions;

(iii) cost-sharing for eligible enrollees with incomes between 100 percent and 138 percent of the federal poverty level, including income disregards, designed to promote healthy behaviors such as the avoidance of tobacco use, and to encourage personal responsibility and accountability related to the utilization of health care services such as the appropriate use of emergency room services. However, such individuals who also meet the exemptions listed in (iv) shall not be subject to premium and copayment requirements more stringent than existing Medicaid law or regulations. Enrollees who comply with provisions of the demonstration program, including healthy behavior provisions, may receive a decrease in their monthly premiums and copayments, not to exceed 50 percent.

(iv) the establishment of the Training, Education, Employment and Opportunity Program (TEEOP) for every able-bodied, working-age adult enrolled in the Medicaid program to enable enrollees to increase their health and well-being through community engagement leading to self-sufficiency. The TEEOP program shall not apply to: (1) children under the age of 18 or individuals under the age of 19 who are participating in secondary education; (2) individuals age 65 years and older; (3) individuals who qualify for medical assistance services due to blindness or disability, including individuals who receive services pursuant to a § 1915 waiver; (4) individuals residing in institutions; (5) individuals determined to be medically frail; (6) individuals diagnosed with serious mental illness; (7) pregnant and postpartum women; (8) former foster children under the age of 26; (9) individuals who are the primary caregiver for a dependent, including a dependent child or adult dependent with a disability; and (10) individuals who already meet the work requirements of the TANF or SNAP programs. The TEEOP shall comply with guidance from CMS regarding such programs and may include other exemptions that may be necessary to achieve the TEEOP's goals of community engagement and improved health outcomes that are approved by CMS.

The TEEOP shall include provisions for gradually escalating participation in training, education, employment and community engagement opportunities through the program as follows:

- a. beginning three months after enrollment, at least 20 hours per month;
- b. beginning six months after enrollment, at least 40 hours per month;
- c. beginning nine months after enrollment, at least 60 hours per month; and
- d. beginning 12 months after enrollment, at least 80 hours per month;

The TEEOP shall also include provisions for satisfaction of the requirement for participation in training, education, employment and community engagement opportunities through participation in job skills training; job search activities in conformity with Virginia Employment and Commission guidelines; education related to

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<p>employment; general education, including participation in a program of preparation for the General Education Development (GED) certification examination or community college courses leading to industry certifications or a STEM-H related degree or credential; vocational education and training; subsidized or unsubsidized employment; community work experience programs, community service or public service, excluding political activities, that can reasonably improve work readiness; or caregiving services for a non-dependent relative or other person with a chronic, disabling health condition. The department may waive the requirement for participation in employment in areas of the Commonwealth with unemployment rates equal to or greater than 150 percent of the statewide average; however, requirements related to training, education and other community engagement opportunities shall not be waived in any area of the Commonwealth.</p> <p>The TEEOP shall work with Virginia Workforce Centers or One-Stops to provide services to Medicaid enrollees. Such services shall include career services for program enrollees, services to link enrollees with industry certification and credentialing programs, including the New Economy Workforce Credential Grant Program, and individualized case management services.</p> <p>The TEEOP shall, to the extent allowed under federal law, utilize federal and state funding available through the Centers for Medicare and Medicaid Services, Temporary Assistance for Needy Families program, the Supplemental Nutrition Assistance Program, the Workforce Innovation and Opportunity Act, and other state and federal workforce development programs to support program enrollees.</p> <p>Unless exempt, enrollees shall be ineligible to receive Medicaid benefits if, during any three months of the 12-month period beginning on the first day of enrollment, they fail to meet the TEEOP requirements and they will not be permitted to re-enroll until the end of such 12-month period, unless the failure to comply or report compliance was the result of a catastrophic event or circumstances beyond the beneficiary's control. However, enrollees shall be eligible to re-enroll in the program within such 12-month period upon demonstration of compliance with the TEEOP requirements.</p> <p>(v) monitoring and oversight of the use of health care services to ensure appropriate utilization;</p> <p>(vi) The Department of Medical Assistance Services shall develop a supportive employment and housing benefit targeted to high risk Medicaid beneficiaries with mental illness, substance use disorder, or other complex, chronic conditions who need intensive, ongoing support to obtain and maintain employment and stable housing.</p> <p>e. The State Plan amendment and the demonstration waiver program shall include (i) systems for determining eligibility for participation in the program, (ii) provisions for disenrollment if federal funding is reduced or terminated, and (iii) provisions for monitoring, evaluating, and assessing the effectiveness of the waiver program in improving the health and wellness of program participants and furthering the objectives of the Medicaid program.</p> <p>f. The department shall have the authority to promulgate emergency regulations to implement these changes within 280 days or less from the enactment date of House Bill 5001. The department shall have the authority to implement these changes prior to the completion of any regulatory process undertake in order to effect such changes.</p> <p>5. In the event that the increased federal medical assistance percentages for newly eligible individuals included in 42 U.S.C. § 1396d(y)(1)[2010] of the PPACA are modified through federal law or regulation from the methodology in effect on January 1, 2014, resulting in a reduction in federal medical assistance as determined by the department in consultation with the Department of Planning and Budget, the Department of Medical Assistance Services shall disenroll and eliminate coverage for individuals who obtained coverage through 42 U.S.C. § 1396d(y)(1) [2010] of the PPACA. The disenrollment process shall include written notification to affected Medicaid beneficiaries, Medicaid managed care plans, and other providers that coverage will cease as soon as allowable under federal law following the date the department is notified of a reduction in Federal Medical Assistance Percentage.</p> <p>TT. Effective July 1, 2014, the Department of Medical Assistance Services shall replace the AP-DRG grouper with the APR-DRG grouper for hospital inpatient reimbursement. The</p>				

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department shall develop budget neutral case rates and Virginia-specific weights for the APR-DRG grouper based on the FY 2011 base year. The department shall phase in the APR-DRG weights by blending in 50 percent of the full APR-DRG weights with 50 percent of FY 2014 AP-DRG weights in the first year and 75 percent of the full APR-DRG weights with 25 percent of the FY 2014 AP-DRG weights in the second year for each APR-DRG group and severity. FY 2014 AP-DRG weights shall be calculated as a weighted average FY 2014 AP-DRG weight for all claims in the base year that group to each APR-DRG group and severity. Full APR-DRG weights shall be used in the third year and succeeding years for each APR-DRG group and severity. The department shall have the authority to implement these reimbursement changes effective July 1, 2014, and prior to completion of any regulatory process in order to effect such changes.

UU.1. Effective July 1, 2014, the Department of Medical Assistance Services shall replace the current Disproportionate Share Hospital (DSH) methodology with the following methodology:

a) DSH eligible hospitals must have a total Medicaid Inpatient Utilization Rate equal to 14 percent or higher in the base year using Medicaid days eligible for Medicare DSH or a Low Income Utilization Rate in excess of 25 percent and meet other federal requirements. Eligibility for out of state cost reporting hospitals shall be based on total Medicaid utilization or on total Medicaid NICU utilization equal to 14 percent or higher.

b) Each hospital's DSH payment shall be equal to the DSH per diem multiplied by each hospital's eligible DSH days in a base year. Days reported in provider fiscal years in state FY 2011 will be the base year for FY 2015 prospective DSH payments. DSH will be recalculated annually with an updated base year. DSH payments are subject to applicable federal limits.

c) Eligible DSH days are the sum of all Medicaid inpatient acute, psychiatric and rehabilitation days above 14 percent for each DSH hospital subject to special rules for out of state cost reporting hospitals. Eligible DSH days for out of state cost reporting hospitals shall be the higher of the number of eligible days based on the calculation in the first sentence times Virginia Medicaid utilization (Virginia Medicaid days as a percent of total Medicaid days) or the Medicaid NICU days above 14 percent times Virginia NICU Medicaid utilization (Virginia NICU Medicaid days as a percent of total NICU Medicaid days). Eligible DSH days for out of state cost reporting hospitals who qualify for DSH but who have less than 12 percent Virginia Medicaid utilization shall be 50 percent of the days that would have otherwise been eligible DSH days.

d) Additional eligible DSH days are days that exceed 28 percent Medicaid utilization for Virginia Type Two hospitals (excluding Children's Hospital of the Kings Daughters).

e) The DSH per diem shall be calculated in the following manner:

a. The DSH per diem for Type Two hospitals is calculated by dividing the total Type Two DSH allocation by the sum of eligible DSH days for all Type Two DSH hospitals. For purposes of DSH, Type Two hospitals do not include Children's Hospital of the Kings Daughters (CHKD) or any hospital whose reimbursement exceeds its federal uncompensated care cost limit. The Type Two Hospital DSH allocation shall equal the amount of DSH paid to Type Two hospitals in state FY 2014 increased annually by the percent change in the federal allotment, including any reductions as a result of the Affordable Care Act, adjusted for the state fiscal year.

b. The DSH per diem for State Inpatient Psychiatric Hospitals is calculated by dividing the total State Inpatient Psychiatric Hospital DSH allocation by the sum of eligible DSH days. The State Inpatient Psychiatric Hospital DSH allocation shall equal the amount of DSH paid in state FY 2013 increased annually by the percent change in the federal allotment, including any reductions as a result of the Affordable Care Act, adjusted for the state fiscal year.

c. The DSH per diem for CHKD shall be three times the DSH per diem for Type Two hospitals.

d. The DSH per diem for Type One hospitals shall be 17 times the DSH per diem for Type Two hospitals.

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2. Each year, the department shall determine how much Type Two DSH has been reduced as a result of the Affordable Care Act and adjust the percent of cost reimbursed for outpatient hospital reimbursement.				
3. The department shall convene the Hospital Payment Policy Advisory Council at least once a year to consider additional changes to the DSH methodology.				
4. The department shall have the authority to implement these reimbursement changes effective July 1, 2014, and prior to completion of any regulatory process in order to effect such changes.				
VV. The Department of Medical Assistance Services shall have authority to amend the State Plans for Medical Assistance under Titles XIX and XXI of the Social Security Act, and any waivers thereof, to implement requirements of the federal Patient Protection and Affordable Care Act (PPACA), P.L. 111-148, as it pertains to implementation of Medicaid and CHIP eligibility determination and case management standards and practices, including the Modified Adjusted Gross Income (MAGI) methodology and, notwithstanding the requirements of Code of Virginia §2.2-4000, et seq., the process for administrative appeals of MAGI-related eligibility determinations. The department shall have authority to implement such standards and practices upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such changes.				
WW.1. Notwithstanding § 32.1-330 of the Code of Virginia, the Department of Medical Assistance Services shall improve the preadmission screening process for individuals who will be eligible for long-term care services, as defined in the state plan for medical assistance. The community-based screening team shall consist of a licensed health care professional and a social worker who are employees or contractors of the Department of Health or the local department of social services, or other assessors contracted by the department. The department shall not contract with any entity for whom there exists a conflict of interest. For community-based screening for children, the screening shall be performed by an individual or entity with whom the department has entered into a contract for the performance of such screenings.				
2. The department shall track and monitor all requests for screenings and report on those screenings that have not been completed within 30 days of an individual's request for screening. The screening teams and contracted entities shall use the reimbursement and tracking mechanisms established by the department.				
3. The Department of Medical Assistance Services shall promulgate regulations to implement these provisions to be effective within 280 days of its enactment. The department may implement any changes necessary to implement these provisions prior to the promulgation of regulations undertaken in order to effect such changes.				
XX.1.a. There is hereby appropriated sum-sufficient nongeneral funds for the Department of Medical Assistance Services (DMAS) to pay the state share of supplemental payments for qualifying private hospital partners of Type One hospitals (consisting of state-owned teaching hospitals) as provided in the State Plan for Medical Assistance Services. Qualifying private hospitals shall consist of any hospital currently enrolled as a Virginia Medicaid provider and owned or operated by a private entity in which a Type One hospital has a non-majority interest. The supplemental payments shall be based upon the reimbursement methodology established for such payments in Attachments 4.19-A and 4.19-B of the State Plan for Medical Assistance Services. DMAS shall enter into a transfer agreement with any Type One hospital whose private hospital partner qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments to the private hospital partner. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment approved by the Centers for Medicare and Medicaid Services (CMS) and prior to completion of any regulatory process in order to effect such changes.				
b. The department shall adjust capitation payments to Medicaid managed care organizations for the purpose of securing access to Medicaid hospital services for the qualifying private hospital partners of Type One hospitals (consisting of state-owned teaching hospitals). The department shall revise its contracts with managed care organizations to incorporate these				

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supplemental capitation payments and provider payment requirements. DMAS shall enter into a transfer agreement with any Type One hospital whose private hospital partner qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments to the private hospital partner. The department shall have the authority to implement these reimbursement changes consistent with the effective date approved by the Centers for Medicare and Medicaid Services (CMS). No payment shall be made without approval from CMS.

2.a. The Department of Medical Assistance Services shall promulgate regulations to make supplemental payments to Medicaid physician providers with a medical school located in Eastern Virginia that is a political subdivision of the Commonwealth. The amount of the supplemental payment shall be based on the difference between the average commercial rate approved by CMS and the payments otherwise made to physicians. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment approved by CMS and prior to completion of any regulatory process in order to effect such changes.

b. The department shall increase payments to Medicaid managed care organizations for the purpose of securing access to Medicaid physician services in Eastern Virginia, through higher rates to physicians affiliated with a medical school located in Eastern Virginia that is a political subdivision of the Commonwealth subject to applicable limits. The department shall revise its contracts with managed care organizations to incorporate these supplemental capitation payments, and provider payment requirements, subject to approval by CMS. No payment shall be made without approval from CMS.

c. Funding for the state share for these Medicaid payments is authorized in Item 244.

3.a. The Department of Medical Assistance Services (DMAS) shall have the authority to amend the State Plan for Medical Assistance Services (State Plan) to implement a supplemental Medicaid payment for local government-owned nursing homes. The total supplemental Medicaid payment for local government-owned nursing homes shall be based on the difference between the Upper Payment Limit of 42 CFR §447.272 as approved by CMS and all other Medicaid payments subject to such limit made to such nursing homes. There is hereby appropriated sum-sufficient funds for DMAS to pay the state share of the supplemental Medicaid payment hereunder. However, DMAS shall not submit such State Plan amendment to CMS until it has entered into an intergovernmental agreement with eligible local government-owned nursing homes or the local government itself which requires them to transfer funds to DMAS for use as the state share for the supplemental Medicaid payment each nursing home is entitled to and to represent that each has the authority to transfer funds to DMAS and that the funds used will comply with federal law for use as the state share for the supplemental Medicaid payment. If a local government-owned nursing home or the local government itself is unable to comply with the intergovernmental agreement, DMAS shall have the authority to modify the State Plan. The department shall have the authority to implement the reimbursement change consistent with the effective date in the State Plan amendment approved by CMS and prior to the completion of any regulatory process undertaken in order to effect such change.

b. If by June 30, 2017, the Department of Medical Assistance Services has not secured approval from the Centers for Medicare and Medicaid Services to use a minimum fee schedule pursuant to 42 C.F.R. § 438.6(c)(1)(iii) for local government-owned nursing homes participating in Commonwealth Coordinated Care Plus (CCC Plus) at the same level as and in lieu of the supplemental Medicaid payments authorized in Section XX.3.a., then DMAS shall: (i) exclude Medicaid recipients who elect to receive nursing home services in local government-owned nursing homes from CCC Plus; (ii) pay for such excluded recipient's nursing home services on a fee-for-service basis, including the related supplemental Medicaid payments as authorized herein; and (iii) prohibit CCC Plus contracted health plans from in any way limiting Medicaid recipients from electing to receive nursing home services from local government-owned nursing homes. The department may include in CCC Plus Medicaid recipients who elect to receive nursing home services in local government-owned nursing homes in the future when it has secured federal CMS approval to use a minimum fee schedule as described above.

4. The Department of Medical Assistance Services shall have the authority to amend the

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State Plan for Medical Assistance Services to implement a supplemental payment for clinic services furnished by the Virginia Department of Health (VDH) effective July 1, 2015. The total supplemental Medicaid payment shall be based on the Upper Payment Limit approved by the Centers for Medicare and Medicaid Services and all other Medicaid payments. VDH may transfer general fund to the department from funds already appropriated to VDH to cover the non-federal share of the Medicaid payments. The department shall have the authority to implement the reimbursement change effective July 1, 2015, and prior to the completion of any regulatory process undertaken in order to effect such changes.

5. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the supplemental physician payments for physicians employed at a freestanding children's hospital serving children in Planning District 8 with more than 50 percent Medicaid inpatient utilization in fiscal year 2014 to the maximum allowed by the Centers for Medicare and Medicaid Services within the limit of the appropriation provided for this purpose. The total supplemental Medicaid payment shall be based on the Upper Payment Limit approved by the Centers for Medicare and Medicaid Services and all other Virginia Medicaid fee-for-service payments. The department shall have the authority to implement these reimbursement changes effective July 1, 2016, and prior to the completion of any regulatory process undertaken in order to effect such change.

6.a. The Department of Medical Assistance Services shall promulgate regulations to make supplemental Medicaid payments to the primary teaching hospitals affiliated with a Liaison Committee on Medical Education (LCME) accredited medical school located in Planning District 23 that is a political subdivision of the Commonwealth and an LCME accredited medical school located in Planning District 5 that has a partnership with a public university. The amount of the supplemental payment shall be based on the reimbursement methodology established for such payments in Attachments 4.19-A and 4.19-B of the State Plan for Medical Assistance and/or the department's contracts with managed care organizations. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment or the managed care contracts approved by the Centers for Medicare and Medicaid Services (CMS) and prior to completion of any regulatory process in order to effect such changes. No payment shall be made without approval from CMS.

b. Funding for the state share for these Medicaid payments is authorized in Item 244 and Item 4-5.03.

c. Payments authorized in this subsection shall sunset after the effective date of a statewide supplemental payment for private acute care hospitals authorized in Item 3-5.16. For purposes of the upper payment limit, the department shall prorate the upper payment limit if the sunset date is mid-fiscal year. The department shall have the authority to implement this change prior to the completion of any regulatory process undertaken in order to effect such change.

7. The department shall amend the State plan for Medical Assistance to implement a supplemental inpatient and outpatient payment for Chesapeake Regional Hospital based on the difference between reimbursement with rates using an adjustment factor of 100% minus current authorized reimbursement subject to the inpatient and outpatient Upper Payment Limits for non-state government owned hospitals. The department shall include in its contracts with managed care organizations a minimum fee schedule for Chesapeake Regional Hospital consistent with rates using an adjustment factor of 100%. The department shall adjust capitation payments to Medicaid managed care organizations to fund this minimum fee schedule. Both the contract changes and capitation rate adjustments shall be compliant with 42 C.F.R. 438.6(c)(1)(iii) and subject to CMS approval. Prior to submitting the State Plan Amendment or making the managed care contract changes, Chesapeake Regional Hospital shall enter into an agreement with the department to transfer the non-federal share for these payments. The department shall have the authority to implement these reimbursement changes consistent with the effective date(s) approved by the Centers for Medicare and Medicaid (CMS). No payments shall be made without CMS approval.

8.a. There is hereby appropriated sum-sufficient nongeneral funds for the department to pay the state share of supplemental payments for nursing homes owned by Type One hospitals (consisting of state-owned teaching hospitals) as provided in the State Plan for Medical Assistance Services. The total supplemental payment shall be based on the difference between the Upper Payment Limit of 42 CFR § 447.272 as approved by CMS and all other Medicaid

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payments subject to such limit made to such nursing homes. DMAS shall enter into a transfer agreement with any Type One hospital whose nursing home qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment approved by CMS and prior to completion of any regulatory process in order to effect such changes.

b. The department shall adjust capitation payments to Medicaid managed care organizations to fund a minimum fee schedule compliant with requirements in 42 C.F.R. § 438.6(c)(1)(iii) at a level consistent with the State Plan amendment authorized above for nursing homes owned by Type One hospitals. The department shall revise its contracts with managed care organizations to incorporate these supplemental capitation payments and provider payment requirements. DMAS shall enter into a transfer agreement with any Type One hospitals whose nursing home qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments. The department shall have the authority to implement these reimbursement changes consistent with the effective date approved by CMS. No payment shall be made without approval from CMS.

YY. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to provide coverage for cessation services for tobacco users, including pharmacology, group and individual counseling, and other treatment services including the most current version of or an official update to the Clinical Health Guideline "Treating Tobacco Use and Dependence" published by the Public Health Service of the U.S. Department of Health and Human Services. These services shall be subject to copayment requirements. The department shall have authority to implement this reimbursement change effective July 1, 2014 and prior to the completion of any regulatory process undertaken in order to effect such changes.

ZZ. The Department of Medical Assistance Services shall have the authority to implement Section 1902(a)(10)(A)(i)(IX) of the federal Social Security Act to provide Medicaid benefits up until the age of 26 to individuals who are or were in foster care at least until the age of 18 in any state.

AAA.1.a The Department of Medical Assistance Services shall amend the Medicaid demonstration project (Project Number 11-W-00297/3) to modify eligibility provided through the project to individuals with serious mental illness to be effective July 1, 2015. Income eligibility shall be modified to limit services to seriously mentally ill adults with effective household incomes up to 60 percent of the federal poverty level (FPL). All individuals enrolled in this Medicaid demonstration project with incomes between 61% and 100% of the Federal Poverty Level as of May 15, 2015 who continue to meet other program eligibility rules, shall maintain enrollment in the demonstration until their next eligibility renewal period or July 1, 2016, whichever comes first. Benefits shall include the following services: (i) primary care office visits including diagnostic and treatment services performed in the physician's office, (ii) outpatient specialty care, consultation, and treatment, (iii) outpatient hospital including observation and ambulatory diagnostic procedures, (iv) outpatient laboratory, (v) outpatient pharmacy, (vi) outpatient telemedicine, (vii) medical equipment and supplies for diabetic treatment, (viii) outpatient psychiatric treatment, (ix) mental health case management, (x) psychosocial rehabilitation assessment and psychosocial rehabilitation services, (xi) mental health crisis intervention, (xii) mental health crisis stabilization, (xiii) therapeutic or diagnostic injection, (xiv) behavioral telemedicine, (xv) outpatient substance abuse treatment services, and (xvi) intensive outpatient substance abuse treatment services. Care coordination, Recovery Navigation (peer supports), crisis line and prior authorization for services shall be provided through the agency's Behavioral Health Services Administrator.

b. The Department of Medical Assistance Services shall amend the Medicaid demonstration project described in paragraph AAA.1.a. to increase the income eligibility for adults with serious mental illness from 60 to 80 percent of the federal poverty level effective July 1, 2016 and from 80 to 100 percent of the federal poverty level effective October 1, 2017. Effective October 1, 2017, the department shall amend the Medicaid demonstration project to include the provision of addiction recovery and treatment

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services, including partial day hospitalization and residential treatment services. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such changes.				
c. The Department of Medical Assistance Services, in cooperation with the Department of Social Services and the League of Social Service Executives, shall provide information and conduct outreach activities with the Department of Corrections and local and regional jails to increase access to the Medicaid demonstration waiver for individuals with serious mental illness who are preparing to be released from custody, or are under the supervision of state or local community corrections programs.				
d. The Department of Medical Assistance Services, in cooperation with the Department of Social Services and the League of Social Service Executives, shall provide information and conduct outreach activities with the Department of Corrections and local and regional jails to increase access to the Medicaid demonstration waiver for individuals with serious mental illness who are preparing to be released from custody, or are under the supervision of state or local community corrections programs.				
2. The Department of Medical Assistance Services is authorized to amend the State Plan under Title XIX of the Social Security Act to add coverage for comprehensive dental services to pregnant women receiving services under the Medicaid program to include: (i) diagnostic, (ii) preventive, (iii) restorative, (iv) endodontics, (v) periodontics, (vi) prosthodontics both removable and fixed, (vii) oral surgery, and (viii) adjunctive general services.				
3. The Department of Medical Assistance Services is authorized to amend the FAMIS MOMS and FAMIS Select demonstration waiver (No. 21-W-00058/3) for FAMIS MOMS enrollees to add coverage for dental services to align with pregnant women's coverage under Medicaid.				
4. The Department of Medical Assistance Services is authorized to amend the State Plan under Title XXI of the Social Security Act to plan to allow enrollment for dependent children of state employees who are otherwise eligible for coverage.				
5. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such changes.				
BBB. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance Services to eliminate the requirement for pending, reviewing and reducing fees for emergency room claims for 99283 codes. The department shall have the authority to implement this reimbursement change effective July 1, 2015, and prior to the completion of any regulatory process undertaken in order to effect such change.				
CCC. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the supplemental physician payments for practice plans affiliated with a freestanding children's hospital with more than 50 percent Medicaid inpatient utilization in fiscal year 2009 to the maximum allowed by the Centers for Medicare and Medicaid Services. The department shall have the authority to implement these reimbursement changes effective July 1, 2015, and prior to completion of any regulatory process undertaken in order to effect such change.				
DDD. The Department of Medical Assistance Services (DMAS) shall amend its July 1, 2016, managed care contracts in order to conform to the requirement pursuant to House Bill 1942 / Senate Bill 1262, passed during the 2015 Regular Session, for prior authorization of drug benefits.				
EEE.1. Out of this appropriation, <del>\$1,450,000</del> \$1,400,000 the first year and <del>\$2,700,000</del> \$2,350,000 the second year from the general fund and <del>\$1,450,000</del> \$1,400,000 the first year and <del>\$2,700,000</del> \$2,250,000 the second year from nongeneral funds shall be used for supplemental payments to fund the second and third years of graduate medical education for 15 funded slots for residents who began their residencies in July 2017, the first and second years of graduate medical education of <del>1413</del> funded slots for residents beginning their residencies in July 2018, and the first year of graduate medical education of 2520 funded slots for residencies in July 2019, and two one year post graduate fellowships in July 2019.				
2. The supplemental payment for each qualifying residency slot shall be \$100,000 annually				

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minus any Medicare residency payment for which the sponsoring institution is eligible. For any residency program at a facility whose Medicaid payments are capped by the Centers for Medicare and Medicaid Services, the supplemental payments for each qualifying residency slot shall be \$50,000 from the general fund annually minus any Medicare residency payments for which the residency program is eligible. Supplemental payments shall be made for up to four years for each qualifying resident. Payments shall be made quarterly following the same schedule used for other medical education payments.

3.The Department of Medical Assistance Services shall submit a State Plan amendment based on the authorization in EEE.1. of this item to make supplemental payments for graduate medical education residency slots. The supplemental payments are subject to federal Centers for Medicare and Medicaid Services approval. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.

4.a. Effective July 1, 2017, the department shall make supplemental payments to the following sponsoring institutions for the specified number of primary care residencies: Sentara Norfolk General (2 residencies), Carilion Medical Center (6 residencies), Centra Lynchburg General Hospital (1 residency), Riverside Regional Medical Center (2 residencies), Bon Secours St. Francis Medical Center (2 residencies). The department shall make supplemental payments to Carilion Medical Center for 2 psychiatry residencies.

b. Effective July 1, 2018, the department shall make supplemental payments to the following sponsoring institutions for the specified number of primary care residencies: Sentara Norfolk General (~~21 residencies~~ residency), Maryview Hospital (1 residency) and Carilion Medical Center (6 residencies). The department shall make supplemental payments to Carilion Medical Center for 2 ~~psychiatry~~ psychiatric residencies and to Sentara Norfolk General for 1 OB/GYN residency,~~and 2 psychiatric residencies; and 1 urology residency.~~

c. Effective July 1, 2019, the department shall make supplemental payments to the following sponsoring institutions for the specified number of primary care residencies: Sentara Norfolk General (1 residency), Maryview Hospital (1 residency), Carilion Medical Center (6 residencies), Centra Health (2 residencies), and Riverside Regional Medical Center (2 residencies). The department shall make supplemental payments to Inova Fairfax Hospital for 1 General Surgery residency and to Carilion Medical Center for 2 psychiatric residencies. The department shall make supplemental payments to Sentara Norfolk General for 2 psychiatric residencies, 1 OB/GYN residency, and 2 urology residencies. The department shall make supplemental payments to the University of Virginia Health System for a one year fellowship in Addiction Medicine and to the Virginia Commonwealth University Health System for a one year fellowship in Addiction Medicine.

5. Preference shall be given for residency slots located in underserved areas. Applications for slots that involve multiple medical care providers collaborating in training residents and that involve providing residents the opportunity to train in underserved areas are encouraged. A majority of the new residency slots funded each year shall be for primary care. The department shall adopt criteria for primary care, high need specialties and underserved areas as developed by the Virginia Health Workforce Development Authority. Beginning July 1, 2018, the department shall also review and consider applications from non-hospital sponsoring institutions, such as Federally Qualified Health Centers (FQHCs).

6. If the number of qualifying residency slots exceeds the available number of supplemental payments, the Virginia Health Workforce Development Authority shall determine which new residency slots to fund based on priorities developed by the authority.

7. The sponsoring institution will be eligible for the supplemental payments as long as it maintains the number of residency slots in total and by category as a result of the increase. The sponsoring institutions must certify by June 1 each year that they continue to meet the criteria for the supplemental payments and report any changes during the year to the

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number of residents.				
8. The department shall require all sponsoring institutions receiving Medicaid medical education funding to report annually by September 15 on the number of residents in total and by specialty/subspecialty. Medical education funding includes payments for graduate medical education (GME) and indirect medical education (IME).				
9. The Virginia Health Workforce Authority shall study options to help institutions in underserved and rural areas acquire and maintain specialists and instructors vital to maximize the quality of residency programs and report to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2018.				
FFF.1. The Department of Medical Assistance Services, in consultation with the appropriate stakeholders, shall amend the state plan for medical assistance and/or seek federal authority through an 1115 demonstration waiver, as soon as feasible, to provide coverage of inpatient detoxification, inpatient substance abuse treatment, residential detoxification, residential substance abuse treatment, and peer support services to Medicaid individuals in the Fee-for-Service and Managed Care Delivery Systems.				
2. The Department of Medical Assistance Services shall have the authority to make programmatic changes in the provision of all Substance Abuse Treatment Outpatient, Community Based and Residential Treatment services (group homes and facilities) for individuals with substance abuse disorders in order to ensure parity between the substance abuse treatment services and the medical and mental health services covered by the department and to ensure comprehensive treatment planning and care coordination for individuals receiving behavioral health and substance use disorder services. The department shall ensure appropriate utilization and cost efficiency, and adjust reimbursement rates within the limits of the funding appropriated for this purpose based on current industry standards. The department shall consider all available options including, but not limited to, service definitions, prior authorization, utilization review, provider qualifications, and reimbursement rates for the following Medicaid services: substance abuse day treatment for pregnant women, substance abuse residential treatment for pregnant women, substance abuse case management, opioid treatment, substance abuse day treatment, and substance abuse intensive outpatient. Any amendments to the State Plan or waivers initiated under the provisions of this paragraph shall not exceed funding appropriated in this Act for this purpose. The department shall have the authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.				
3. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance and any waivers thereof to include peer support services to children and adults with mental health conditions and/or substance use disorders. The department shall work with its contractors, the Department of Behavioral Health and Developmental Services, and appropriate stakeholders to develop service definitions, utilization review criteria and provider qualifications. Any amendments to the State Plan or waivers initiated under the provisions of this paragraph shall not exceed funding appropriated in this Act for this purpose. The department shall have the authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.				
4. The Department of Medical Assistance Services shall, prior to the submission of any state plan amendment or waivers to implement paragraphs FFF.1., FFF.2., and FFF.3., submit a plan detailing the changes in provider rates, new services added, other programmatic changes, and a certification of budget neutrality to the Director, Department of Planning and Budget and the Chairmen of the House Appropriation and Senate Finance Committees.				
GGG. The Department of Medical Assistances shall amend the State Plan for Medical Assistance to convert the specialized care rates to a prospective rate consistent with the existing cost-based methodology by adding inflation to the per diem costs subject to existing ceilings for direct, indirect and ancillary costs from the most recent settled cost report prior to the state fiscal year for which the rates are being established. The same inflation adjustment shall apply to plant costs for specialized care facilities that do not have prospective capital rates that are based on fair rental value. The department shall use the state fiscal year rate methodology recently adopted for regular nursing facilities. Partial year inflation shall be applied to per diem costs if the provider fiscal year end is different than the state fiscal year. Ceilings shall also be maintained by state fiscal year. The department shall have the authority				

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<p>to implement these changes effective July 1, 2016, and prior to completion of any regulatory process to effect such changes.</p>				
<p>HHH. The Department of Medical Assistance Services (DMAS), in consultation with the appropriate stakeholders, shall seek federal authority via a state plan amendment to cover low-dose computed tomography (LDCT) lung cancer screenings for high-risk adults. The department shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.</p>				
<p>III. The Department of Medical Assistance Services shall not expend any appropriation for an approved Delivery System Reform Incentive Program (DSRIP) §1115 waiver unless the General Assembly appropriates the funding. The department shall notify the Chairmen of the House Appropriations and Senate Finance Committees within 15 days of any final negotiated waiver agreement with the Centers for Medicare and Medicaid Services.</p>				
<p>JJJ. Effective July 1, 2017, the Department of Medical Assistance Services shall amend the managed care regulations to specify that all contracts with health plans in a Medicaid managed care delivery model, including long-term services and supports, require reimbursement to nursing facility and specialized care services at no less than the Medicaid established per diem rate for Medicaid covered days, using the department's methodologies, unless the managed care organization and the nursing facility or specialized care services provider mutually agree to an alternative payment. The department shall have authority to implement this provision prior to the completion of any regulatory process in order to effect such change.</p>				
<p>KKK.1. The Department of Medical Assistance Services shall monitor the capacity available under the Upper Payment Limit (UPL) for all hospital supplemental payments and adjust payments accordingly when the UPL cap is reached. The department shall make an adjustment to stay under the UPL cap by reducing or eliminating as necessary supplemental payments to hospitals based on when the first supplemental payments were actually made so that the newest supplemental payments to hospitals would be impacted first and so on.</p>				
<p>2. The Department of Medical Assistance Services shall have the authority to implement reimbursement changes deemed necessary to meet the requirements of this paragraph prior to the completion of any regulatory process in order to effect such changes.</p>				
<p>LLL.1: <del>Effective no later than January 1, 2019</del> <i>By October 1, 2019</i>, the Department of Medical Assistance Services <del>is authorized to</del> <i>shall</i> require consumer-directed aides providing personal care, respite care and companion services in the Medicaid Commonwealth Coordinated Care (CCC) Plus Waiver and Developmental Disability waiver programs and the Early and Periodic Screening Diagnosis and Treatment (EPSDT) program to utilize an Electronic Visit Verification (EVV) system. The department is authorized to contract with a vendor to provide access to an EVV system for use by consumer-directed aides.</p>				
<p>2. For personal care, respite care and companion services agencies, the department shall work with the appropriate stakeholders to develop standards for electronic visit verification systems and certification requirements to ensure EVV systems used by such agencies meet all federal requirements and are capable of providing the necessary data the department may require.</p>				
<p>3. Nothing stated above shall apply to respite services provided by a DBHDS licensed provider in a DBHDS licensed program site such as a group home, sponsored residential home, supervised living, supported living or similar facility/location licensed to provide respite, as allowed by the Centers for Medicare and Medicaid.</p>				
<p>4. The department shall ensure that implementation of electronic visit verification complies with all requirements of the federal Centers of Medicare and Medicaid Services. The department shall have authority to implement these provisions prior to the completion of any regulatory process in order to effect such changes.</p>				
<p>MMM. Effective July 1, 2017, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the formula for indirect medical education (IME) for freestanding children's hospitals with greater than 50 percent</p>				



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of integrated care models including behavioral supports. The department shall have the authority to amend the necessary waiver(s) and the State Plan under Titles XIX and XXI of the Social Security Act to include changes to services covered, provider qualifications, medical necessity criteria, and rates and rate methodologies for private duty nursing. The adjustments to these services shall meet the needs of members and maintain budget neutrality by not requiring any additional expenditure of general fund beyond the current projected appropriation for such nursing services.

2. The department shall have authority to implement these changes to be effective July 1, 2019. The department shall also have authority to promulgate any emergency regulations required to implement these necessary changes within 280 days or less from the enactment dated of this act. The department shall submit a report and estimates of any projected cost savings to the Chairmen of the House Appropriations and Senate Finance Committees 30 days prior to implementation of such changes.

3. The department shall work with stakeholders to review changes to services covered, provider qualifications, rates and rate methodologies for private duty nursing services, and make recommendations to the Chairmen of the House Appropriations and Senate Finance Committees by December 15, 2018.

UUU. Effective July 1, 2018, the Department of Medical Assistance Services shall explore private sector technology based platforms and service delivery options to allow qualified, licensed providers to deliver the Consumer-Directed Agency with Choice model in the Commonwealth of Virginia. The department shall work with stakeholders to examine this model of care and assess the changes that would be required including the services covered, provider qualifications, medical necessity criteria, reimbursement methodologies and rates to implement the model. The department shall submit a report on its findings to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2018.

VVV. *Effective July 1, 2019, the department shall amend the State Plan for Medical Assistance to clarify payment rules for new nursing homes or renovations that qualify for mid-year rate adjustments, to include the following:*

1. *For any facility whose Fair Rental Value report has less than 12 months of experience, the department shall develop an occupancy schedule that represents average statewide occupancy by month of operation for use in calculating the per diem rate in lieu of a minimum occupancy requirement or actual occupancy.*
2. *Any new beds or renovations placed in service between the reporting year and the rate year shall be treated as a mid-year rate adjustment. No new rate will be made after April 30. Rate updates that fall between May 1 and June 30 shall be effective July 1 of the same year.*
3. *The department shall annualize real estate taxes, property taxes and property insurance costs that do not represent a full year's cost.*
4. *Costs shall be based on currently available documentation at the time but are subject to audit. The department may use any reasonable method to estimate costs for which there is inadequate documentation. Any adjustments based on subsequent documentation or audit for a current rate year shall be applied beginning with the next rate year.*
5. *The department shall have 15 days from the date of the provider's submission to determine if the filing is complete for purposes of setting a rate for a new or renovated facility. The facility shall have 15 days from the date the filing is deemed incomplete to submit the required information. The deadline for setting the rate shall be extended for 30 days after the filing is deemed complete.*
6. *Providers may propose a phased renovation subject to approval by the department. The phased renovation may include reductions to available beds. Any modifications to the proposed renovation are also subject to approval by the department.*
7. *The department shall have the authority to implement these reimbursement changes effective July 1, 2019 and prior to the completion of any regulatory process undertaken in order to effect such change.*

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<p>WWW. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance and any relevant waivers thereof to modify reimbursement for Hospice services provided to patients residing in facilities to include at least 100 percent of the relevant Medicaid facility rate for that individual, a component commonly referred to as "room and board." To the extent allowed under federal law and regulation, the Department shall further amend the State plan and/or relevant waivers thereof to pay this "room and board" rate in effect with no discount applied to the facility directly, thus eliminating the Hospice from its role in passing-through this facility payment to the facility. To the extent federal approval of this direct payment component is dependent on whether it is in the State Plan or in relevant waivers, the Department shall implement the direct payment where federal approval is achieved. The department shall have authority to implement these changes effective July 1, 2019 and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>XXX. Effective July 1, 2019, the Department of Medical Assistance Services shall increase the telehealth originating site facility fee to 100 percent of the Medicare rate and shall reflect changes annually based on any changes in the Medicare rate. The department shall exempt Federally Qualified Health Centers and Rural Health Centers from this reimbursement change. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.</p>				
<p>YYY.1. The Department of Medical Assistance Services shall work with the Department of Behavioral Health and Developmental Services and stakeholders to develop the continuum of evidence-based, trauma-informed, and cost-effective mental health services recommended by the University of Colorado Farley Center for Health Policy that will result in the best outcomes for Medicaid and FAMIS members. This continuum shall include community mental health rehabilitation services (including early intervention services) and integrated behavioral health in primary care and school settings.</p>				
<p>2. The department shall develop the necessary waiver(s) and the State Plan amendments under Titles XIX and XXI of the Social Security Act to fulfill this item, including but not limited to, changes to the medical necessity criteria, services covered, provider qualifications, and reimbursement methodologies and rates for Community Mental Health and Rehabilitation Services. The department shall work with its contractors, the Department of Behavioral Health and Developmental Services, and appropriate stakeholders to develop service definitions, utilization review criteria, provider qualifications, and rates and reimbursement methodologies. The department shall also work with its actuary to model the fiscal impact of the proposed continuum.</p>				
<p>3. Prior to the submission of any state plan amendment or waivers to implement these changes, the Department of Medical Assistance Services and Department of Behavioral Health and Developmental Services shall submit a plan detailing the changes in provider rates, new services added and any other programmatic or cost changes to the Chairmen of the House Appropriations and Senate Finance Committees. The departments shall submit this report no later than December 1, 2019.</p>				
<p>4. Upon approval of the 2020 General Assembly and the federal Centers for Medicare and Medicaid Services, the department shall have authority to implement these changes.</p>				
<p>ZZZ. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase reimbursement for Critical Access Hospitals by using an adjustment factor or percent of cost reimbursement of 100% for inpatient operating and capital rates and outpatient rates effective July 1, 2019. The department shall have the authority to implement these changes effective July 1, 2019 and prior to completion of any regulatory action to effect such change.</p>				
<p>AAAA. The Department of Medical Assistance Services shall pursue any and all alternatives and cost based reimbursement models to allow a private hospital in rural Southwest Virginia that has closed in the last five years to recoup capital startup costs and minimize operating losses for the next five years, including but not limited to optimizing federal matching dollars in accordance with federal law.</p>				
<p>BBBB. The Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services shall recognize the Certified Employment Support</p>				

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*Professional (CESP) and Association of Community Rehabilitation Educators (ACRE) certifications in lieu of competency requirements for supported employment staff in the Medicaid Community Living, Family and Individual Support and Building Independence Waiver programs and shall allow providers that are Department for the Aging and Rehabilitative Services vendors that hold a national three-year accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) to be deemed qualified to meet employment staff competency requirements, provided the provider submits the results from their CARF surveys including recommendations received to the Department of Behavioral Health and Developmental Services so that the agency can verify that there are no recommendations for the standards that address staff competency.*

*CCCC. Effective July 1, 2019, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the practitioner rates for primary care services by five percent and rates for Emergency Department services by one percent to reflect the equivalent of 70 percent of the 2018 Medicare rates. The department shall ensure through its contracts with managed care organizations that the rate increase is reflected in their rates to providers. The department shall have the authority to implement these reimbursement changes prior to the completion of the regulatory process.*

*DDDD. Effective July 1, 2019, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to create a separate service category for psychiatric services and to increase practitioner rates for psychiatric services by 21 percent to reflect the equivalent of 100 percent of the 2018 Medicare rates. All practitioners who bill these services shall receive new rates. The department shall have the authority to implement these reimbursement changes prior to the completion of the regulatory process.*

*EEEE. The Department of Medical Assistance Services shall develop a methodology for Disproportionate Share Hospital (DSH) payments that recognizes and creates incentives for private hospitals in providing medical services for individuals subject to temporary detention orders (TDOs). The methodology shall factor in utilization related to TDOs in the DSH methodology. The department shall have the authority to modify the State Plan for Medical Assistance and to implement the changes in the DSH methodology effective January 1, 2019 and prior to the completion of the regulatory process. The department shall report on the details of the methodology, and the potential impact on allocations to hospitals, to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2019.*

*FFFF. Notwithstanding any other provision of law, any unexpended general fund appropriation remaining in this item on the last day of each fiscal year shall revert to the general fund and shall not be reappropriated in the following fiscal year.*

*GGGG. The Department of Medical Assistance Services shall amend its contracts with managed care organizations to require written notification and training to agency-directed personal care providers at least 60 days prior to the implementation of all changes to Quality Management Review and prior authorization policies and processes consistent with state and federal regulations.*

304.	Medical Assistance Services (Non-Medicaid) (46400).....			\$821,702	\$821,702
	Insurance Premium Payments for HIV-Positive Individuals (46403).....	\$556,702	\$556,702		
	Reimbursements from the Uninsured Medical Catastrophe Fund (46405).....	\$265,000	\$265,000		
	Fund Sources: General.....	\$781,702	\$781,702		
	Dedicated Special Revenue.....	\$40,000	\$40,000		

Authority:- §32.1-330.1 and §32.1-324.3, Code of Virginia.

A. Out of this appropriation, \$556,702 the first year and \$556,702 the second year from the general fund shall be provided for insurance payment assistance to HIV-infected persons in accordance with § 32.1-330.1, Code of Virginia, except that the eligibility threshold for assistance shall allow a maximum income of no more than 250 percent of the federal poverty threshold.

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<p>B. Out of this appropriation, \$225,000 the first year and \$225,000 the second year from the general fund shall be transferred to the Uninsured Medical Catastrophe Fund under § 32.1-324.3, Code of Virginia.</p>				
305.	Medical Assistance Services for Low Income Children (46600).....		\$156,888,591 \$187,688,174	\$162,674,282 \$204,876,631
	Reimbursements for Medical Services Provided to Low-Income Children (46601).....	\$156,888,591 \$187,688,174	\$162,674,282 \$204,876,631	
	Fund Sources: General.....	\$18,826,631 \$21,802,581	\$33,551,571 \$40,866,198	
	Federal Trust.....	\$138,061,960 \$165,885,593	\$129,122,711 \$164,010,433	
<p>Authority: Title 32.1, Chapters 9, 10 and 13, Code of Virginia; P.L. 89-97, as amended, Titles XIX and XXI, Social Security Act, Federal Code.</p> <p>To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600) and Medicaid Program Services (45600), if available, into this Item to be used as state match for federal Title XXI funds.</p>				
306.	Medical Assistance Management Services (Forecasted) (49600).....		\$64,204,564 \$52,262,433	\$62,784,520 \$43,871,083
	Medicaid payments for enrollment and utilization related contracts (49601).....	\$61,742,452 \$49,800,321	\$61,679,457 \$42,766,020	
	CHIP payments for enrollment and utilization related contracts (49632).....	\$2,462,112	\$1,105,063	
	Fund Sources: General.....	\$23,307,149 \$17,324,168	\$24,837,446 \$14,377,806	
	Dedicated Special Revenue.....	\$977,271	\$2,344,057	
	Federal Trust.....	\$40,897,415 \$33,960,994	\$37,947,074 \$27,149,220	
<p>To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget, is authorized to transfer amounts, as needed, from Medicaid Program Services (45600), Medical Assistance Services for Low Income Children (46600) and Children's Health Insurance Program Delivery (44600), if available, into this Item to fund administrative expenditures associated with contracts between the department and companies providing dental benefit services, consumer-directed payroll services, claims processing, behavioral health management services and disease state/chronic care programs for Medicaid and FAMIS recipients.</p>				
307.	Administrative and Support Services (49900).....		\$282,112,859 \$276,209,635	\$281,299,207 \$288,267,024
	General Management and Direction (49901).....	\$271,558,406 \$265,655,182	\$270,744,754 \$277,712,571	
	Administrative Support for the Family Access to Medical Insurance Security Plan (49932).....	\$10,554,453	\$10,554,453	
	Fund Sources: General.....	\$75,722,124 \$63,468,138	\$77,451,857 \$66,081,185	
	Special.....	\$2,305,332	\$2,334,320	
	Dedicated Special Revenue.....	\$11,620,070	\$18,553,043	
	Federal Trust.....	\$204,085,403 \$198,816,095	\$201,513,030 \$201,298,476	

Authority: Title 32.1, Chapters 9 and 10, Code of Virginia; P.L. 89-97, as amended, Titles XIX and XXI, Social Security Act, Federal Code.

A.1. By November 1 of each year, the Department of Planning and Budget, in cooperation with the Department of Medical Assistance Services, shall prepare and submit a forecast of

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Medicaid expenditures, upon which the Governor's budget recommendations will be based, for the current and subsequent two years to the Chairmen of the House Appropriations and Senate Finance Committees. In addition to the expenditure forecast, the Department of Medical Assistance Services shall provide a breakout that shows forecasted expenditures by caseload/utilization, inflation, and policy changes. An enrollment forecast for the same forecast period shall also be submitted with the expenditure forecast.

2. The forecast shall be based upon current state and federal laws and regulations. The forecast shall only include expenditures for medical services in Program 45600 and shall exclude administrative expenditures. Rebasings and inflation estimates that are required by existing law or regulation for any Medicaid provider shall be included in the forecast. The forecast shall also include an estimate of projected increases or decreases in managed care costs, including estimates regarding changes in managed care rates for the three-year period. In preparing for each year's forecast of the managed care portions of the budget, the department shall submit to its actuarial contractor a letter, with a copy sent to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees. This letter shall document the department's request for a point estimate of the rate of increase in rates, based on application of actuarial principals and methodologies and information available at the time of the forecast, that the contractor estimates will occur in the years being forecast, and shall specify the population groupings for which estimates are requested. The department shall request that the contractor reply in writing with a copy to all parties copied on the department's letter.

3. The Department of Planning and Budget and the Department of Medical Assistance Services shall convene a meeting on or before October 15 of each year with the appropriate staff from the House Appropriations and Senate Finance Committees to review current trends and the assumptions used in the Medicaid forecast prior to its finalization. The departments shall provide at this meeting a complete list of all policy and manual adjustments along with the estimated amounts of each adjustment by fiscal year that will be included in the Medicaid forecast due November 1.

B.1. The Department of Medical Assistance Services (*DMAS*) shall submit monthly expenditure reports of the Medicaid program by service that shall compare expenditures to the official Medicaid forecast, adjusted to reflect budget actions from each General Assembly Session. The monthly report shall be submitted to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees within 20 days after the end of each month. *DMAS shall convene a meeting each quarter with the Secretary of Finance, Secretary of Health and Human Resources, or their designees, and appropriate staff from the Department of Planning and Budget, House Appropriations and Senate Finance Committees, and Joint Legislative Audit and Review Commission to explain any material differences in expenditures compared to the official Medicaid forecast, adjusted to reflect budget actions from each General Assembly Session. If necessary, the department shall provide options to bring expenditures in line with available resources. At each quarterly meeting, the department shall provide an update on any changes to the managed care programs, or contracts with managed care organizations, that includes detailed information and analysis on any such changes that may have an impact on the capitation rates or overall fiscal impact of the programs, including changes that may result in savings. Specifically, the department shall report on the Discrete Incentive Transition Program with information regarding the number of individuals that transition from nursing facilities, payments to managed care organizations, and outcomes and quality data for the individual plan members that transition into the community. In addition, the department shall report on utilization and other trends in the managed care programs.*

2. The Department of Medical Assistance Services shall submit a quarterly report summarizing managed care encounter data by service category in a format similar to the report in paragraph B.1. This quarterly report shall be submitted to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees no later than 30 days after the end of each quarter.

3. The Department of Medical Assistance Services shall track expenditures for the prior fiscal year that ended on June 30, that includes the expenditures associated with changes

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<p>in services and eligibility made in the Medicaid and FAMIS programs adopted by the General Assembly in the past session(s). Expenditures related to changes in services and eligibility adopted in a General Assembly Session shall be included in the report for five fiscal years beginning from the first year the policy impacted expenditures in the Medicaid and FAMIS programs. The department shall report the expenditures of each funding change separately and show the impact by fiscal year. The report shall be submitted to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees by October 1 of each year.</p>				
<p>C.1. It is the intent of the General Assembly that the Department of Medical Assistance Services provide more data regarding Medicaid and other programs operated by the department on their public website. The department shall create a central website that consolidates data and statistical information to make the information more readily available to the general public. At a minimum the information included on such website shall include monthly enrollment data, expenditures by service, and other relevant data.</p>				
<p>2. No later than June 30, 2018, the department shall make Medicaid and other agency data stored in the agency's data warehouse available through the department's website that includes, at a minimum, interactive tools for the user to select, display, manipulate and export requested data.</p>				
<p>D. The Department of Medical Assistance Services shall notify the Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees at least 30 days prior to any change in capitated rates for managed care companies. The notification shall include the amount of the rate increase or decrease, and the projected impact on the state budget.</p>				
<p>E.1. Effective January 1, 2018, the Department of Medical Assistance Services shall include in all its contracts with managed care organizations (MCOs) the following:</p>				
<p>a. A provision requiring the MCOs to return one-half of the underwriting gain in excess of three percent of Medicaid premium income up to 10 percent. The MCOs shall return 100 percent of the underwriting gain above 10 percent.</p>				
<p>b. A requirement for detailed financial and utilization reporting. The reported data shall include: (i) income statements that show expenses by service category; (ii) balance sheets; (iii) information about related-party transactions; and (iv) information on service utilization metrics.</p>				
<p>c. Upon the inclusion of behavioral health care in managed care, behavioral health-specific metrics to identify undesirable trends in service utilization.</p>				
<p>d. Upon the inclusion of behavioral health care in managed care, a report on their policies and processes for identifying behavioral health providers who provide inappropriate services and the number of such providers that are disenrolled.</p>				
<p>2. For rate periods effective January 1, 2018 and thereafter, the Department of Medical Assistance Services shall direct its actuary as part of the rate setting process to:</p>				
<p>a. Identify potential inefficiencies in the Medallion program and adjust capitation rates for expected efficiencies. The department is authorized to phase-in this adjustment over time based on the portion of identified inefficiencies that MCOs can reasonably reduce each year.</p>				
<p>b. Monitor medical spending for related-party arrangements and adjust historical medical spending when deemed necessary to ensure that capitation rates do not cover excessively high spending as compared to benchmarks. Related-party arrangements shall mean those in which there is common ownership or control between the entities, and shall not include Medicaid payments otherwise authorized in this item.</p>				
<p>c. Adjust capitation rates in the Medallion program to account for a portion of expected savings from required initiatives.</p>				
<p>d. Allow negative historical trends in medical spending to be carried forward when setting capitation rates.</p>				
<p>e. Annually rebase administrative expenses per member per month for projected enrollment</p>				

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changes.

f. Annually incorporate findings on unallowable administrative expenses from audits of MCOs into its calculations of underwriting gain and administrative loss ratios for the purposes of ongoing financial monitoring, including enforcement of the underwriting gain cap.

g. Adjust calculations of underwriting gain and medical loss ratio by classifying as profit medical spending that is excessively high due to related-party arrangements.

3. The Department of Medical Assistance Services shall report to the General Assembly on spending and utilization trends within Medicaid managed care, with detailed population and service information and include an analysis and report on the underlying reasons for these trends, the agency's and MCOs' initiatives to address undesirable trends, and the impact of those initiatives. The report shall be submitted each year by September 1.

4. The Department of Medical Assistance Services shall develop a proposal for cost sharing requirements based on family income for individuals eligible for long-term services and supports through the optional 300 percent of Supplemental Security Income eligibility category and submit the proposal to the Centers for Medicare and Medicaid Services to determine if such a proposal is feasible. No cost sharing requirements shall be implemented unless approved by the General Assembly.

F. The Department of Medical Assistance Services, to the extent permissible under federal law, shall enter into an agreement with the Department of Behavioral Health and Developmental Services to share Medicaid claims and expenditure data on all Medicaid-reimbursed mental health, intellectual disability and substance abuse services, and any new or expanded mental health, intellectual disability retardation and substance abuse services that are covered by the State Plan for Medical Assistance. The information shall be used to increase the effective and efficient delivery of publicly funded mental health, intellectual disability and substance abuse services.

G. The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, shall convene a stakeholder workgroup, to meet at least once annually, with representatives of the Virginia Association of Community Services Boards, the Virginia Network of Private Providers, the Virginia Association of Centers for Independent Living, Virginia Association of Community Rehabilitation Programs (VaACCSES), the disAbility Law Center of Virginia, the ARC of Virginia, and other stakeholders including representative family members, as deemed appropriate by the Department of Medical Assistance Services. The workgroup shall: (i) review data from the previous year on the distribution of the SIS levels and tiers by region and by waiver; (ii) review the process, information considered, scoring, and calculations used to assign individuals to their levels and reimbursement tiers; (iii) review the communication which informs individuals, families, providers, case managers and other appropriate parties about the SIS tool, the administration, and the opportunities for review to ensure transparency; and (iv) review other information as deemed necessary by the workgroup. The department shall report on the results and recommendations of the workgroup to the General Assembly by October 1 of each year.

H.1. The Department of Medical Assistance Services (DMAS) shall take actions to improve the reliability of Medicaid eligibility screenings for long-term services and supports, including: (i) validation of the children's criteria used with the Uniform Assessment Instrument to determine eligibility for Medicaid long-term services and supports, and (ii) design and implementation of an inter-rater reliability test for the pre-admission screening process.

2. The department shall work with relevant stakeholders to (i) assess whether hospital screening teams are making appropriate recommendations regarding placement in institutional care or home and community-based care; (ii) determine whether hospitals should have a role in the screening process; and (iii) determine what steps must be taken to ensure the Uniform Assessment Instrument is implemented consistently and does not lead to unnecessary institutional placements.

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3. The department shall report to the General Assembly by December 1 on steps taken to address the risks associated with hospital screenings, including any statutory or regulatory changes needed to improve such screenings.				
I. The Department of Medical Assistance Services (DMAS) shall collect and provide to the Office of Children's Services (OCS) all information and data necessary to ensure the continued collection of local matching dollars associated with payments for Medicaid eligible services provided to children through the Children's Services Act as required in Item 282, C.2. of this Act. This information and data shall be collected by DMAS and provided to OCS on a monthly basis.				
J. The Departments of Medical Assistance Services (DMAS) and Social Services (DSS) shall collaborate with the League of Social Services Executives, and other stakeholders to analyze and report data that demonstrates the accuracy, efficiency, compliance, quality of customer service, and timeliness of determining eligibility for the Medicaid, CHIP and Governor's Access Program (GAP) programs. Based on this collaboration, the departments shall develop meaningful performance metrics on data in agency systems that shall be used to monitor eligibility trends, address potential compliance problem areas and implement best practices. DMAS shall maintain on its website a public dashboard on eligibility performance that includes performance metrics developed through collaborative efforts as well as the performance of local departments of social services and any centralized eligibility-processing unit. Effective August 1, 2018 this dashboard shall be updated for the previous quarter and 30 days following the end of each quarter thereafter.				
K. In addition to any regional offices that may be located across the Commonwealth, any statewide, centralized call center facility that operates in conjunction with a brokerage transportation program for persons enrolled in Medicaid or the Family Access to Medical Insurance Security plan shall be located in Norton, Virginia.				
L. The Department of Medical Assistance Services shall, to the extent possible, require web-based electronic submission of provider enrollment applications, revalidations and other related documents necessary for participation in the fee-for-service program under the State Plans for Title XIX and XXI of the Social Security Act.				
M. The Department of Medical Assistance Services, in collaboration with the Department of Social Services, shall require Medicaid eligibility workers to search for unreported assets at the time of initial eligibility determination and renewal, using all currently available sources of electronic data, including local real estate property databases and the Department of Motor Vehicles for all Medicaid applicants and recipients whose assets are subject to an asset limit under Medicaid eligibility requirements.				
N.1. The Department of Medical Assistance Services shall require eligibility workers to verify income, using currently available Virginia Employment Commission data, for applicants and recipients who report no earned or unearned income. The Department shall, at the earliest date feasible but no later than October 1, 2017, require all Medicaid eligibility workers to apply the same protocols when verifying income for all applicants and recipients, including those who report no earned or unearned income.				
2. The Department shall amend the Virginia Medicaid application, upon approval of the federal Centers for Medicare and Medicaid, to require a Medicaid applicant to opt out if such applicant does not want to grant permission to the state to use his federal tax returns for the purposes of renewing eligibility. The Department shall implement the necessary regulatory changes and other necessary measures to be consistent with federal approval of any appropriate state plan changes, and prior to the completion of any regulatory process undertaken in order to effect such change.				
O.1. The Department of Medical Assistance Services shall report on the operations and costs of the Medicaid call center (also known as the Cover Virginia Call Center). This report shall include number of calls received on a monthly basis, the purpose of the call, the number of applications for Medicaid submitted through the call center, and the costs of the contract. The department shall submit the report by August 15 of each year to the Director, Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees.				

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2. Out of this appropriation, \$3,283,004 the first year and \$3,283,004 the second year from the general fund and \$9,839,000 the first year and \$9,839,000 the second year from nongeneral funds is provided for the enhanced operation of the Cover Virginia Call Center as a centralized eligibility processing unit (CPU) that shall be limited to processing Medicaid applications received from the Federally Facilitated Marketplace, telephonic applications through the call center, or electronically submitted Medicaid-only applications. The department shall report the number of applications processed on a monthly basis and payments made to the contractor to the Director, Department of Planning and Budget and the Chairman of the House Appropriations and Senate Finance Committees. The report shall be submitted no later than 30 days after the end of each quarter of the fiscal year.				
3. The Secretary of Health and Human Resources shall convene an interagency workgroup of the Department of Medical Assistance Services (DMAS), the Department of Social Services (DSS), and the Department of Planning and Budget (DPB) and representatives of the Virginia League of Social Services Executives to assess the programmatic, operational and fiscal impact of consolidating the Cover Virginia call center with the call center operated by DSS to determine if more efficient and cost effective services can be achieved, prior to the procurement of the Cover Virginia call center contract. The workgroup shall develop an implementation plan and funding adjustments, that may be needed, to implement a consolidated call center. The Secretary shall report on the results of the assessment and any recommendations to the Chairmen of the House Appropriations and Senate Finance Committee by September 1, 2019.				
P.1. Out of this appropriation, \$5,835,000 the first year and \$5,835,000 the second year from the general fund and \$52,515,000 the first year and \$52,515,000 the second year from nongeneral funds shall be provided to replace the Medicaid Management Information System.				
2. Within 30 days of awarding a contract or contracts related to the replacement project, the Department of Medical Assistance Services shall provide the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget, with a copy of the contract including costs.				
3. Beginning July 1, 2016, the Department of Medical Assistance Services shall provide annual progress reports that must include a current project summary, implementation status, accounting of project expenditures and future milestones. All reports shall be submitted to the Chairmen of House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget.				
Q.1. Out of this appropriation, \$1,675,000 the first year and \$1,675,000 the second year from special funds is appropriated to the Department of Medical Assistance Services (DMAS) for the disbursement of civil money penalties (CMP) levied against and collected from Medicaid nursing facilities for violations of rules identified during survey and certification as required by federal law and regulation. Based on the nature and seriousness of the deficiency, the Agency or the Centers for Medicare and Medicaid Services may impose a civil money penalty, consistent with the severity of the violations, for the number of days a facility is not in substantial compliance with the facility's Medicaid participation agreement. Civil money penalties collected by the Commonwealth must be applied to the protection of the health or property of residents of nursing facilities found to be deficient. Penalties collected are to be used for (1) the payment of costs incurred by the Commonwealth for relocating residents to other facilities; (2) payment of costs incurred by the Commonwealth related to operation of the facility pending correction of the deficiency or closure of the facility; and (3) reimbursement of residents for personal funds or property lost at a facility as a result of actions by the facility or individuals used by the facility to provide services to residents. These funds are to be administered in accordance with the revised federal regulations and law, 42 CFR 488.400 and the Social Security Act § 1919(h), for Enforcement of Compliance for Long-Term Care Facilities with Deficiencies. Any special fund revenue received for this purpose, but unexpended at the end of the fiscal year, shall remain in the fund for use in accordance with this provision.				
2. Of the amounts appropriated in Q.1. of this Item, up to \$175,000 the first year and \$175,000 the second year from special funds may be used for the costs associated with				

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administering CMP funds.				
3. Of the amounts appropriated in Q.1. of this Item, up to \$1,000,000 the first year and \$1,000,000 the second year from the special funds may be used for special projects that benefit residents and improve the quality of nursing Facilities.				
4. By October 1 of each year, the department shall provide an annual report of the previous fiscal year that includes the amount of revenue collected and spending activities to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget.				
5. No spending or activity authorized under the provisions of paragraph Q. of this Item shall necessitate general fund spending or require future obligations to the Commonwealth.				
6. The department shall maintain CMP special fund balance of at least \$1.0 million to address emergency situations in Virginia's nursing facilities.				
R. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund shall be provided to contract with the Virginia Center for Health Innovation for research, development and tracking of innovative approaches to healthcare delivery.				
S.1. Out of this appropriation, \$40,332 the first year and \$69,320 the second year from special funds and \$295,764 the first year and \$266,776 the second year from federal funds shall be used to contract with Vision to Learn, a non-profit organization, to provide vision exams and corrective lenses and frames, if necessary, to school age children enrolled in Title I schools where at least 51 percent of the student body qualifies for free or reduced lunch. Vision to Learn will provide services through a mobile eye clinic, and must have a formalized agreement with targeted schools being serviced. The Department of Medical Assistance Services (DMAS) shall reimburse Vision to Learn for services provided to children that do not have another source of payment. The department shall reimburse for services rendered at the standard fee-for-service reimbursement rates.				
2. Federal trust funds for these services will be accessed through the Children's Health Insurance Program (CHIP) Health Services Initiative allowed by Section 2015(a)(1)(D)(ii) of the Social Security Act and 42 CFR 457.10. The department is authorized to match federal trust funds with local public and private contributions for the purpose of reimbursing Vision to Learn for eye exams and corrective lenses and frames, if necessary, to school age children.				
3. The funding of these services is contingent on continued federal funding for the Children's Health Insurance Program (CHIP), and is further limited by the availability of CHIP administrative funds. This language should not be construed as authorizing a new Medicaid or CHIP benefit, or as creating a new entitlement.				
T. The Director, the Department of Medical Assistance Services, shall include language in all managed care contracts, for all department programming, requiring the plan sponsor to report quarterly; for all quarters through the one ending June 30, 2019; to the department for all pharmacy claims; the amount paid to the pharmacy provider per claim, including but not limited to cost of drug reimbursement; dispensing fees; copayments; and the amount charged to the plan sponsor for each claim by its pharmacy benefit manager. In the event there is a difference between these amounts, the plan sponsor shall report an itemization of all administrative fees, rebates, or processing charges associated with the claim. All data and information provided by the plan sponsor shall be kept secure; and notwithstanding any other provision of law, the department shall maintain the confidentiality of the proprietary information and not share or disclose the proprietary information contained in the report or data collected with persons outside the department. Only those department employees involved in collecting, securing and analyzing the data for the purpose of preparing the report shall have access to the proprietary data. <i>The department shall annually provide a report using aggregated data only to the Chairmen of the House Appropriations and Senate Finance Committees on the implementation of this initiative and its impact on program expenditures by October 1 of each year. Nothing in the report shall contain confidential or proprietary information.</i>				
U. The Department of Medical Assistance Services shall, prior to the end of each fiscal quarter, determine and properly reflect in the accounting system whether pharmacy rebates received in the quarter are related to fee-for-service or managed care expenditures and				

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whether or not the rebates are prior year recoveries or expenditure refunds for the current year. All pharmacy rebates for the quarter determined to be prior year revenue shall be deposited to the Virginia Health Care Fund before the end of the fiscal quarter. The department shall create and use a separate revenue source code to account for pharmacy rebates in the Virginia Health Care Fund.

V.1. Effective with the development of the 2020-2022 biennium, it is the intent of the General Assembly that there is hereby established an annual Medicaid state spending target for each fiscal year. The Joint Subcommittee for Health and Human Resources Oversight shall establish the annual target by September 15 of each year for the following two fiscal years. The target shall take into account the following: a 10-year rolling average of Medicaid expenditures by eligibility category and utilization of services, a 20-year rolling average of general fund revenue growth, and for policy decisions adopted by General Assembly during the previous Session which impact Medicaid spending.

2. In the event of an economic recession, the Joint Subcommittee may take into consideration enrollment and spending trends experienced during previous recessions in establishing the targets.

3. It is the intent of the General Assembly that the Governor abide by the spending target for Medicaid state spending, as established by the Joint Subcommittee, in developing the introduced budget each year and shall notify the Chairmen of the House Appropriations and Senate Finance Committees in the event the target cannot be met, along with the reason it cannot be met.

*W. Out of this appropriation, \$225,000 the first year from the general fund and \$225,000 the first year from federal funds shall be used to hire an expert contractor or contractors to review the Department of Medical Assistance Services' (DMAS) federal expenditure and budget reporting as well as aid the department with improvements to cost allocation plans and federal advanced planning documents. On or before October 1, 2020, DMAS shall provide a report that details all areas examined, findings and improvements to Director, Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees.*

*X. The Department of Medical Assistance Services, in collaboration with the Department of Social Services, may consider and review proofs of concept from vendors for a pilot program to improve screening services for income and assets as part of the Medicaid eligibility determination process for both initial applications and renewals. Any such pilot program may include innovative methods to increase automation of various financial accounts to improve the verification process for eligibility. The pilot may also include methods to monitor compliance with the provisions of the Training, Education, Employment, and Opportunity Program pursuant to a § 1115 Demonstration Waiver. Any proofs of concept submitted by a vendor shall include cost estimates of such a pilot program. If the Department of Medical Assistance Services determines that a proof of concept by a vendor may significantly improve the eligibility determination process, the department shall notify the Chairmen of the House Appropriations and Senate Finance Committees with details and cost estimates of a potential pilot program.*

*Y. The Director, Department of Planning and Budget, shall unallot \$4,611,953 from the general fund in this Item and revert the appropriation to the general fund, on or before June 30, 2019, which reflects carryforward balances from fiscal year 2018.*

*Z. The Department of Medical Assistance Services, in collaboration with the Department of Social Services, shall provide data by the first day of each month, to each managed care organization, that includes the renewal dates for each member enrolled in their plan that will occur in the next 60 days. The department shall work with the managed care organizations to develop processes to reduce the number of renewals lapsing each year for Medicaid and Family Access to Insurance Security (FAMIS) enrollees.*

*AA. The Department of Medical Assistance Services shall report a detailed accounting, annually, of the agency's organization and operations. This report shall include an organizational chart that shows all full- and part-time positions (by job title) employed by the agency as well as the current management structure and unit responsibilities. The report shall also provide a summary of organization changes implemented over the*

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<p>previous year. The report shall be made available on the department's website by August 15 of each year.</p> <p>BB. The Department of Medical Assistance Services shall, within 15 days of receiving a deferral of federal grant funds, or release of a deferral, or a disallowance letter, notify the Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees of such deferral action or disallowance. The notice shall include the amount of the deferral or disallowance and a detailed explanation of the federal rationale for the action. Any federal documentation received by the department shall be attached to the notification.</p> <p>CC. The Department of Medical Assistance Services shall report on the use of emergency rooms for dental issues by Medicaid covered individuals. The report shall include: (i) data on the number of Medicaid-covered individuals that utilize emergency rooms primarily for dental issues; (ii) a summary of the types of dental issues being addressed and the treatments provided; (iii) data on the frequency of individuals returning to emergency rooms that may be related to the same dental issues; and (iv) options to consider to improve awareness and access to available dental care through free clinics and other community providers to resolve dental issues. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2019.</p> <p>DD. Out of this appropriation, \$87,500 from the general fund and \$262,500 from nongeneral funds the second year, shall be provided for support of the All Payer Claims Database operated by Virginia Health Information. This appropriation is contingent on federal approval of an Operational Advanced Planning Document.</p> <p>EE.1. The Department of Medical Assistance Services shall cause its contracted actuary, not later than October 1, 2019, to evaluate and determine the most cost-effective pharmacy benefit delivery model, taking into account cost savings and other considerations such as clinical benefits, for all programs managed or directed by the department. In determining cost savings for each model considered, the actuary shall consider factors including rebates captured by the Commonwealth, decreased capitation rates, drug ingredient costs, generic drug dispensing, dispensing fees, drug utilization, and a single drug formulary (including the existing Common Core Formulary). The department shall report its findings to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2019.</p> <p>2. Upon approval of the 2020 General Assembly, the department may permit Medicaid managed care organizations (MCOs) under the Commonwealth's Children's Health Insurance Programs, Medallion 4.0, the Commonwealth Coordinated Care Plus or any other program managed or directed by the department, to develop and implement the most cost-effective pharmacy benefit delivery model including medication therapy management programs and medication reconciliation programs, for Medicaid recipients effective as of July 1, 2020. However, payments for prescribed drugs and dispensing fees shall be aligned to the model that provides the most beneficial financial solution to the Commonwealth. Upon approval of the 2020 General Assembly the department is authorized to contract with a pharmacy benefit manager, provided that the contract requires transparency in dispensing fees paid, cost control and containment measures, rebates collected and paid, fees and other charges for its administration of the pharmacy benefit.</p> <p>3. The department is authorized to contract with a Virginia university for administration of a common formulary across its programs for pharmacy benefits upon approval of the 2020 General Assembly.</p>				
Total for Department of Medical Assistance Services.			<b>\$12,084,160,110</b>	<b>\$13,742,831,105</b>
			<del>\$12,602,316,686</del>	<del>\$15,705,558,966</del>
General Fund Positions.....	257.52	<del>257.52</del>		
		259.52		
Nongeneral Fund Positions.....	<del>259.48</del>	<del>259.48</del>		
	273.48	275.48		
Position Level.....	<del>517.00</del>	<del>517.00</del>		
	531.00	535.00		
Fund Sources: General.....	<del>\$4,839,837,209</del>	<del>\$4,959,670,074</del>		
	\$5,008,158,914	\$5,159,981,592		

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Special.....	\$2,305,332	\$2,334,320		
Dedicated Special Revenue.....	\$766,324,770	\$1,084,924,643		
	\$701,952,445	\$1,097,071,653		
Federal Trust.....	\$6,475,692,799	\$7,695,902,068		
	\$6,889,899,995	\$9,446,171,401		

**§ 1-97. DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES (720)**

308.	Regulation of Public Facilities and Services (56100).....			\$4,081,136	\$4,701,738 \$5,054,172
	Regulation of Health Care Service Providers (56103).....	\$4,081,136	\$4,701,738 \$5,054,172		
	Fund Sources: General.....	\$3,625,461	\$4,246,063 \$4,598,497		
	Special.....	\$95,864	\$95,864		
	Federal Trust.....	\$359,811	\$359,811		

Authority: Title 37.2, Chapter 4, Code of Virginia.

A. The department shall post on its Web site information concerning (i) any application for initial licensure of or renewal of a license, denial of an application for an initial license or renewal of a license, or issuance of provisional licensure of for any residential facility for children located in the locality and (ii) all inspections and investigations of any residential facility for children licensed by the department, including copies of any reports of such inspections or investigations. Information concerning inspections and investigations of residential facilities for children shall be posted on the department's Web site within seven days of the issuance of any report and shall be maintained on the department's website for a period of at least six years from the date on which the report of the inspection or investigation was issued.

B. The Department of Behavioral Health and Developmental Services is authorized to certify individuals as peer recovery specialists and shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act.

309. A. It is the intent of the General Assembly that the Department of Behavioral Health and Developmental Services proceed in transforming its system of care into a model that embodies best practices and state-of-the art services. The consumer-driven system of services and supports shall promote self-determination, empowerment, recovery, resilience, health, and the highest possible level of consumer participation in all aspects of community life. The transformed system shall include investments in a suitable array and adequate quantity of community-based services, with an emphasis on consumer choice and the appropriate use of facility resources. State facilities shall be redesigned to ensure high quality care, efficient operation, and capacity necessary for persons most in need of such care. Amounts authorized herein, and in related legislation, shall be used to support the transformation of the system of care and to promote the provision of behavioral health and developmental services in the most efficient and appropriate setting. The Department of Behavioral Health and Developmental Services may consider the use of public-private partnerships to deliver behavioral health and intellectual disability services as part of the comprehensive behavioral health and intellectual disability system of care, in facilities that are being planned for renovation or replacement. These partnerships may include contracts with private entities for facility operations, unless the Department of Behavioral Health and Developmental Services can demonstrate that continued state operation of the facility is at least as cost effective and provides at least an equivalent or higher level quality care than operation by a private entity.

B. Notwithstanding any law to the contrary, on July 1, of each year, *excluding July 1, 2019*, the State Comptroller shall transfer to the general fund any special revenue fund balance accumulated by the Department of Behavioral Health and Developmental Services in excess of \$25,000,000.

C.1. Notwithstanding §4-5.10, §4-5.09 of this Act and paragraph C. of § 2.2-1156, Code

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of Virginia, the Department of Behavioral Health and Developmental Services is hereby authorized to deposit the entire proceeds of the sales of surplus land at state-owned behavioral health and intellectual disability facilities into a revolving trust fund. The trust fund may initially be used for expenses associated with restructuring such facilities. Remaining proceeds after such expenses shall be dedicated to continuing services for current patients as facility services are restructured. Thereafter, the fund will be used to enhance services to individuals with mental illness, intellectual disability and substance abuse problems.

2. Expenditures from the Behavioral Health and Developmental Services Trust Fund shall be subject to appropriation through an appropriations bill passed by the General Assembly.

3. Any remaining balances in the Behavioral Health and Developmental Services Trust Fund shall be carried forward to the subsequent fiscal year.

D. Any funds appropriated in this Act for the purpose of complying with the settlement agreement with the United States Department of Justice pursuant to civil action no: 3:12cv059-JAG that remain unspent at the end of the fiscal year may be carried forward into the subsequent fiscal year in order to continue implementation of the agreement's requirements.

310.	Administrative and Support Services (49900).....		\$96,848,446	\$96,376,988
			\$97,756,222	\$97,715,780
	General Management and Direction (49901).....	\$20,525,179	\$20,525,179	
			\$20,599,429	
	Information Technology Services (49902).....	\$33,621,717	\$33,621,717	
	Architectural and Engineering Services (49904).....	\$2,935,876	\$2,685,876	
	Collection and Locator Services (49905).....	\$3,079,686	\$3,079,686	
	Human Resources Services (49914).....	\$548,566	\$548,566	
	Planning and Evaluation Services (49916).....	\$3,626	\$3,626	
	Program Development and Coordination (49933).....	\$36,133,796	\$35,912,338	
		\$37,041,572	\$37,176,880	
	Fund Sources: General.....	\$53,429,075	\$54,407,617	
			\$54,594,797	
	Special.....	\$15,568,328	\$15,318,328	
	Dedicated Special Revenue.....	\$1,200,000	\$0	
	Federal Trust.....	\$26,651,043	\$26,651,043	
		\$27,558,819	\$27,802,655	

Authority: Title 16.1, Article 18, and Title 37.2, Chapters 2, 3, 4, 5, 6 and 7, and Title 2.2, Chapters 26 and 53 Code of Virginia; P.L. 102-119, Federal Code.

A. The Commissioner, Department of Behavioral Health and Developmental Services shall, at the beginning of each fiscal year, establish the current capacity for each facility within the system. When a facility becomes full, the commissioner or his designee shall give notice of the fact to all sheriffs.

B. The Commissioner, Department of Behavioral Health and Developmental Services shall work in conjunction with community services boards to develop and implement a graduated plan for the discharge of eligible facility clients to the greatest extent possible, utilizing savings generated from statewide gains in system efficiencies.

C. Notwithstanding § 4-5.09 of this act and paragraph C of § 2.2-1156, Code of Virginia, the Department of Behavioral Health and Developmental Services is hereby authorized to deposit the entire proceeds of the sales of surplus land at state-owned behavioral health and intellectual disability facilities into a revolving trust fund. The trust fund may initially be used for expenses associated with restructuring such facilities. Remaining proceeds after such expenses shall be dedicated to continuing services for current patients as facility services are restructured.

D. The Department of Behavioral Health and Developmental Services shall identify and create opportunities for public-private partnerships and develop the incentives necessary to establish and maintain an adequate supply of acute-care psychiatric beds for children and adolescents.

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E. The Department of Behavioral Health and Developmental Services, in cooperation with the Department of Juvenile Justice, where appropriate, shall identify and create opportunities for public-private partnerships and develop the incentives necessary to establish and maintain an adequate supply of residential beds for the treatment of juveniles with behavioral health treatment needs, including those who are mentally retarded, aggressive, or sex offenders, and those juveniles who need short-term crisis stabilization but not psychiatric hospitalization.				
F. Out of this appropriation, \$656,538 the first year and <del>\$656,538</del> \$730,788 the second year from the general fund shall be provided for placement and restoration services for juveniles found to be incompetent to stand trial pursuant to Title 16.1, Chapter 11, Article 18, Code of Virginia.				
G. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be used to pay for legal and medical examinations needed for individuals living in the community and in need of guardianship services.				
H. Out of this appropriation, \$2,751,776 the first year and \$2,938,500 the second year from the general fund shall be provided for services for the civil commitment of sexually violent predators including the following: (i) clinical evaluations and court testimony for sexually violent predators who are being considered for release from state correctional facilities and who will be referred to the Clinical Review Committee for psycho-sexual evaluations prior to the state seeking civil commitment, (ii) conditional release services, including treatment, and (iii) costs associated with contracting with a Global Positioning System service to closely monitor the movements of individuals who are civilly committed to the sexually violent predator program but conditionally released.				
I. Out of this appropriation, \$146,871 the first year and \$146,871 the second year from the general fund shall be used to operate a real-time reporting system for public and private acute psychiatric beds in the Commonwealth.				
J. The Department of Behavioral Health and Developmental Services shall submit a report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than December 1 of each year for the preceding fiscal year that provides information on the operation of Virginia's publicly-funded behavioral health and developmental services system. The report shall include a brief narrative and data on the numbers of individuals receiving state facility services or CSB services, including purchased inpatient psychiatric services, the types and amounts of services received by these individuals, and CSB and state facility service capacities, staffing, revenues, and expenditures. The annual report also shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.				
K. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be used for a comprehensive statewide suicide prevention program. The Commissioner of the Department of Behavioral Health and Developmental Services (DBHDS), in collaboration with the Departments of Health, Education, Veterans Services, Aging and Rehabilitative Services, and other partners shall develop and implement a statewide program of public education, evidence-based training, health and behavioral health provider capacity-building, and related suicide prevention activity.				
L.1. Beginning October 1, 2013, the Commissioner of the Department of Behavioral Health and Developmental Services shall provide quarterly reports to the House Appropriations and Senate Finance Committees on progress in implementing the plan to close state training centers and transition residents to the community. The reports shall provide the following information on each state training center: (i) the number of authorized representatives who have made decisions regarding the long-term type of placement for the resident they represent and the type of placement they have chosen; (ii) the number of authorized representatives who have not yet made such decisions; (iii) barriers to discharge; (iv) the general fund and nongeneral fund cost of the services provided to individuals transitioning from training centers; and (v) the use of increased Medicaid reimbursement for congregate residential services to meet exceptional needs of individuals transitioning from state training centers.				

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2. At least six months prior to the closure of a state intellectual disabilities training center, the Commissioner of Behavioral Health and Developmental Services shall complete a comprehensive survey of each individual residing in the facility slated for closure to determine the services and supports the individual will need to receive appropriate care in the community. The survey shall also determine the adequacy of the community to provide care and treatment for the individual, including but not limited to, the appropriateness of current provider rates, adequacy of waiver services, and availability of housing. The Commissioner shall report quarterly findings to the Governor and Chairmen of the House Appropriations and Senate Finance Committees.				
3. The department shall convene quarterly meetings with authorized representatives, families, and service providers in Health Planning Regions I, II, III and IV to provide a mechanism to (i) promote routine collaboration between families and authorized representatives, the department, community services boards, and private providers; (ii) ensure the successful transition of training center residents to the community; and (iii) gather input on Medicaid waiver redesign to better serve individuals with intellectual and developmental disability.				
4. In the event that provider capacity cannot meet the needs of individuals transitioning from training centers to the community, the department shall work with community services boards and private providers to explore the feasibility of developing (i) a limited number of small community group homes or intermediate care facilities to meet the needs of residents transitioning to the community, and/or (ii) a regional support center to provide specialty services to individuals with intellectual and developmental disabilities whose medical, dental, rehabilitative or other special needs cannot be met by community providers. The Commissioner shall report on these efforts to the House Appropriations and Senate Finance Committees as part of the quarterly report, pursuant to paragraph L.1.				
M.1. A joint subcommittee of the House Appropriations and Senate Finance Committees, in collaboration with the Secretary of Health and Human Resources and the Department of Behavioral Health and Developmental Services, shall continue to monitor and review the closure plans for the three remaining training centers scheduled to close by 2020. As part of this review process the joint subcommittee may evaluate options for those individuals in training centers with the most intensive medical and behavioral needs to determine the appropriate types of facility or residential settings necessary to ensure the care and safety of those residents is appropriately factored into the overall plan to transition to a more community-based system. In addition, the joint subcommittee may review the plans for the redesign of the Intellectual Disability, Developmental Disability and Day Support Waivers.				
2. To assist the joint subcommittee, the Department of Behavioral Health and Developmental Services shall provide a quarterly accounting of the costs to operate and maintain each of the existing training centers at a level of detail as determined by the joint subcommittee. The quarterly reports for the first, second and third quarter shall be due to the joint subcommittee 20 days after the close of the quarter. The fourth quarter report shall be due on August 15 of each year.				
<i>3. The Department of Behavioral Health and Developmental Services shall provide an update to the Special Joint Subcommittee to Consult on the Plan to Close State Training Centers no later than June 30, 2019, regarding any Public-Private Partnerships for CVTC that may allow continued operation in some form, whether such proposal has been officially proposed or not. The Commissioner of the Department of Behavioral Health and Developmental Services shall provide all information and analysis related to any proposals received under the Public-Private Education Facilities and Infrastructure Act to the Joint Subcommittee.</i>				
<i>4. The Department of Behavioral Health and Developmental Services shall provide a report to the Joint Subcommittee regarding all remaining residents at Central Virginia Training Center by April 30, 2019. The report shall provide data that provides details on the needs of those individuals that remain and what services they would need in the community. The department shall also provide data regarding the number of behavioral specialists in the Commonwealth available to meet the needs of individuals with developmental disabilities in Virginia's waiver program and an update on the overall crisis system for children and adults with developmental disabilities, including data regarding the need for these services, current services available, and outcomes for those using the current system.</i>				
N. The Department of Behavioral Health and Developmental Services in collaboration with				

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the Department of Medical Assistance Services shall provide a detailed report for each fiscal year on the budget, expenditures, and number of recipients for each specific intellectual disability (ID) and developmental disability (DD) service provided through the Medicaid program or other programs in the Department of Behavioral Health and Developmental Services. This report shall also include the overall budget and expenditures for the ID, DD and Day Support waivers separately. The Department of Medical Assistance Services shall provide the necessary information to the Department of Behavioral Health and Developmental Services 90 days after the end of each fiscal year. This information shall be published on the Department of Behavioral Health and Developmental Services' website within 120 days after the end of each fiscal year.

O. Effective July 1, 2015, the Department of Behavioral Health and Developmental Services shall not charge any fee to Community Services Boards or private providers for use of the knowledge center, an on-line training system.

P. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the general fund shall be used to provide mental health first aid training and certification to recognize and respond to mental or emotional distress. Funding shall be used to cover the cost of personnel dedicated to this activity, training, manuals, and certification for all those receiving the training.

Q. Out of this appropriation, \$752,170 the second year from the general fund is provided to establish community support teams responsible for the development and oversight of a continuum of integrated community settings for individuals leaving state hospitals.

R. The Department of Behavioral Health and Developmental Services and the Department of Medical Assistance Services shall recognize Certified Employment Support Professional (CESP) and Association of Community Rehabilitation Educators (ACRE) certifications in lieu of competency requirements for supported employment staff in the developmental disability Medicaid waiver programs to allow providers that are Department of Aging and Rehabilitative Services (DARS) vendors that hold a national three-year accreditation from the National Council on Accreditation of Rehabilitation Facilities (CARF) to be deemed qualified to meet employment competency requirements.

S. Out of this appropriation, \$250,000 the first year from special funds is designated to conduct the next phase of Environmental Site Assessment (ESA) at the Central Virginia Training Center to assess the presence of contaminants in the soil and ground water from the high and medium priority findings presented in the Site Specific Environmental Conditions Assessment that was performed by EEE Consulting, Inc, in July 2017. The Department of Behavioral Health and Developmental Services shall be responsible for conducting and reporting results of the assessment by December 1, 2018, to the Governor and General Assembly. The department may request assistance from the Department of General Services in procuring the services for this assessment.

T. The Department of Behavioral Health and Developmental Services is authorized to receive unsolicited proposals and to solicit proposals under the Public-Private Education Facilities and Infrastructure Act (PPEA), Chapter 22.1 of Title 56, Code of Virginia, as amended, to partner with private not-for-profit entities described under Section 501(c)(3) of the federal Internal Revenue Code to provide the necessary level of care for residents at the Central Virginia Training Center, which could include either intermediate care or a nursing facility level of care. The department shall provide to proposers such relevant information, including financial information, capital assets of the training center, operational details, information regarding current medical and long-term care needs of training center residents, in accordance with federal law, and other information as may be reasonably requested, in order to assist proposers in developing and submitting a proposal. Proposals may include managing or leasing state property, including some or all of the buildings at the training center and may also include other facility options offsite from the training center. Review and approval, if any, of proposals shall follow the requirements of Chapter 22.1 of Title 56, Code of Virginia, and shall include information provided by the Department of Treasury as to state funding of the training center and the financial consequences related to such funding of entering into a comprehensive agreement under the PPEA. If a proposal is recommended for approval, after review and consideration by the Secretary of Health and Human Resources, the Department Behavioral Health and Developmental Services shall notify the Chairmen of the House Appropriations and

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Senate Finance Committees at least thirty days prior to the award of same and execution of any related comprehensive agreement with details regarding the recommended proposal, and any operational, financial and legal impacts associated with it, including general fund effects.				
U.1. The Department of General Services (DGS), with the cooperation of the Department of Behavioral Health and Developmental Services (DBHDS), shall work with James City County to identify the amount of acreage needed on the Eastern State Hospital site to be purchased or leased at fair market value by James City County for the co-location of a new facility for Old Town Medical Center and Colonial Behavior Health and the the development of a community project that serves as a residence for 25 families impacted by a member with serious mental illness by Hope Family Village Corporation.				
2. As part of this process, DGS will work with James City County to update the James City County comprehensive plan to assist with a master development plan, including the subject acres, of the entire site to maximize the economic development opportunities, expedite the rezoning process and the receipt of funds for DBHDS Mental Health Trust fund from the sale(s) of surplus property.				
V. The Department of Behavioral Health and Developmental Services for each fiscal year shall report the number of waiver slots, by waiver, that becomes available for reallocation during the year. In addition, the department shall report on the allocation of emergency waiver slots and reserve slots, which shall include how many slots were allocated in the year and for which waiver. The information on reserve slots shall indicate for which waiver the reserve slot was used and the waiver from which the individual moved that was granted the slot. Furthermore, the report shall show the allocations by each Community Services Board from new waiver slots, emergency slots and reserve slots for the year. The department shall submit this report for the prior fiscal year, ending June 30, by September 1 of each year.				
W. The Department of Behavioral Health and Developmental Services in conjunction with the Department of the Treasury shall report on the outstanding bonds related to the future closure of the Southwest Virginia Training Center and the Central Virginia Training Center. The report shall indicate the anticipated outstanding bond balance for the date of the planned facility closure based on facility funding as of the date of the report and the anticipated outstanding balance each year thereafter until such time as all bonds would be repaid on those facilities. The department shall submit the report to the Chairmen of the House Appropriations and Senate Finance Committees by September 1, 2018.				
<i>X.1. Out of this appropriation, \$75,000 the second year from the general fund is provided for compensation to individuals who were involuntarily sterilized pursuant to the Virginia Eugenical Sterilization Act and who were living as of February 1, 2015. Any funds that are appropriated but remain unspent at the end of the fiscal year shall be carried forward into the subsequent fiscal year in order to provide compensation to individuals who qualify for compensation.</i>				
<i>2. A claim may be submitted on behalf of an individual by a person lawfully authorized to act on the individual's behalf. A claim may be submitted by the estate of or personal representative of an individual who died on or after February 1, 2015.</i>				
<i>3. Reimbursement shall be contingent on the individual or their representative providing appropriate documentation and information to certify the claim under guidelines established by the department.</i>				
<i>4. Reimbursement per verified claim shall be \$25,000 and shall be contingent on funding being available, with disbursements being prioritized based on the date at which sufficient documentation is provided.</i>				
<i>5. Should the funding provided in the paragraph be exhausted prior to the end of the fiscal year, the department may use available special fund revenue balances to provide compensation. The department shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on a quarterly basis on the number of additional individuals who have applied.</i>				
<i>Y.1. The Department of Behavioral Health and Developmental Services, in consultation with the Department of Medical Assistance Services, shall, on a monthly basis, monitor the fiscal impact of Medicaid expansion on community services boards. The Department of Behavioral</i>				

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*Health and Developmental Services shall require community services boards to submit monthly expenditure reports documenting additional federal revenues received as a result of Medicaid expansion on a timely basis. In the event that the reduction in general fund appropriation allocated to a community services board in this Act in anticipation of additional revenues from Medicaid expansion exceeds, by more than ten percent, the total additional revenue collections as of May 15, 2019, the Commissioner, Department of Behavioral Health and Developmental Services, may allocate up to \$7,000,000 from available special fund revenue balances to address shortfalls, on a pro rata basis, if necessary.*

*2. Prior to the distribution of any special revenue fund balances for this purpose, the Department shall notify the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance Committees.*

*3. The Department of Behavioral Health and Developmental Services, in consultation with the Department of Medical Assistance Services, shall submit a letter to the Secretary of Health and Human Resources and the Chairmen of the House Appropriations and Senate Finance Committees by May 15, 2019, and each fiscal quarter thereafter, that reports on: (i) the state general fund reductions taken by each Community Services Board (CSB) or Behavioral Health Authority (BHA) in fiscal year 2019 in anticipation of projected savings from the expansion of Medicaid eligibility to existing CSB clients who were previously uninsured; (ii) the actual Medicaid-generated reimbursements realized by each CSB/BHA in fiscal year 2019 as a result of the expansion of Medicaid eligibility to existing CSB clients who were previously uninsured; (iii) the state general fund reductions to be taken by each CSB/BHA in fiscal year 2020 in anticipation of projected savings from the expansion of Medicaid eligibility; and (iv) the amount of Medicaid reimbursements that each CSB/BHA would have to achieve in order to meet the anticipated general fund savings/budget reductions in fiscal year 2020, as well as any actions the Department proposes to take to address any shortfalls and to ensure continuity in the provision of services. The Department of Medical Assistance Services shall require the managed care organizations to report encounter data impacting Community Services Boards on a monthly basis, with the data submitted no later than 20 days after the end of each month in order to determine the revenue impact to fulfill the intent of this paragraph.*

*Z. Upon approval by the 2020 General Assembly, the Department of Behavioral Health and Developmental Services shall have the authority to promulgate regulations to: (i) ensure that licensing regulations support high quality community-based mental health services and align with changes being made to the Medicaid behavioral health regulations that support evidence-based, trauma-informed, prevention-focused and cost-effective services for individuals served across the lifespan; and (ii) incorporate the American Society of Addiction Medicine Levels of Care Criteria or an equivalent set of criteria into substance use licensing regulations to ensure the provision of outcome-oriented and strengths-based care in the treatment of addiction.*

*AA. The Department of Behavioral Health and Development Services and the Department of Medical Assistance Services shall not implement the proposed individualized supports budget process for the Medicaid Community Living, Family and Individual Support and Building Independence Waiver programs without the explicit authorization of the General Assembly through legislation or authorizing budget language.*

*BB. The Department of Behavioral Health and Developmental Services shall report on the allocation and funding for Programs of Assertive Community Treatment (PACT) in the Commonwealth. The report shall include information on the cost of each team, the cost per individual served and the cost effectiveness of each PACT in diverting individuals from state and local hospitalization and stabilizing individuals in the community. The department shall provide the report to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2019.*

*CC.1. The Department of Behavioral Health and Developmental Services shall establish a workgroup, which shall include the Virginia Hospital and Healthcare Association, other state agencies, and other stakeholders as deemed necessary by the department, to examine the impact of Temporary Detention Order admissions on the state behavioral health hospitals. The workgroup shall develop options to relieve the census pressure on state behavioral health hospitals, which shall include options for diverting more admissions to*

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	<p>private hospitals and other opportunities to increase community services that may reduce the number of Temporary Detention Orders. The workgroup shall develop an action plan, that includes actions that can be implemented immediately and other actions that may require action by the 2020 General Assembly. The action plan shall take into account the need to take short-term actions to relieve the census pressure on state behavioral health hospitals in order to develop a plan for the right sizing of the state behavioral health hospital system. The department shall report its findings to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by October 15, 2019.</p>			
	<p>2. In conjunction with the workgroup in paragraph CC.1., the Department of Behavioral Health and Developmental Services shall develop a conceptual plan to "right size" the state behavioral health hospital system, including future capacity and distribution of capacity, that aligns with the action plan that is recommended by the workgroup. The department shall submit the plan to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2019.</p>			
	<p>3. As part of the plan in paragraph CC.2., the Department of Behavioral Health and Developmental Services shall include a proposal for construction of a new Central State Hospital. The plan shall establish the scope of the new hospital within a "right sized" system and the appropriate timeline to coincide with efforts to relieve census pressures on the state mental health hospital system.</p>			
	<p>DD. The Department of Behavioral Health and Developmental Services shall work with the Fairfax-Falls Church Community Services Board, and the provider, to ensure that future openings for the Miller House in Falls Church allow residents of Falls Church, that have been allocated a developmental disability waiver slot, be given first choice in the Miller House, if the group home is appropriate to meet their needs. In addition, the department shall work with the Community Services Board and the City of Falls Church to explore options for establishing a special allocation within the Community Services Board allocation of waiver slots for Falls Church residents who are on the Priority One waiting list and could live in the Miller House when future openings occur in the group home.</p>			
	<p>4. Also as part of the plan in paragraph CC.2., DBHDS, in consultation with the Department of General Services, shall address the feasibility of relocating forensic beds to state-owned property other than the current Central State Hospital location authorized in C-48.10. The analysis shall at a minimum address the issue of cost and timeline for construction.</p>			
	<p>EE. The Department of Behavioral Health and Developmental Services shall lease 25 acres of land at Eastern State Hospital to Hope Family Village Corporation for one dollar for the development of a village of residence and common areas to create a culture of self-care and neighborly support for families and their loved ones impacted by serious mental illness. The department shall work with the Hope Family Village Corporation to identify a 25 acre plot of land that is suitable for the project.</p>			
	<p>FF. The Department of Behavioral Health and Developmental Services shall report a detailed accounting, annually, of the agency's organization and operations. This report shall include an organizational chart that shows all full- and part-time positions (by job title) employed by the agency as well as the current management structure and unit responsibilities. The report shall also provide a summary of organization changes implemented over the previous year. The report shall be made available on the department's website by August 15, of each year.</p>			
	<p>GG. The Department of Behavioral Health and Developmental Services shall facilitate a mental health coordination workgroup in the Northern Virginia region so that public and private providers of services and advocates for such services may collectively determine how to develop the most effective and most comprehensive services for persons who need such services. This mental health coordination workgroup shall seek agreement on how the services provided can best promote mental health, help people receive services needed when they are needed, provide intensive treatment when needed, ensure that crisis care is provided, provide care management in ways that help maintain mental health, and provide the supportive services necessary for individuals with mental health needs to live fully within the community. Participants in the workgroup shall include but not be limited to community services boards, state facilities and programs, private hospitals, partial hospitalization and crisis stabilization programs, residential treatment facilities, private community providers, criminal justice personnel, consumers and advocates for consumers, and others. The</p>			

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<i>department shall facilitate the initiation of the workgroup and once it is fully operational shall allow it to operate independently, however the department may continue to participate in the workgroup to provide assistance as needed. The department shall report on the composition, participation and any actions of the workgroup to the Chairmen of the House Appropriations and Senate Finance Committees by November 30, 2019.</i>				
311.	Central Office Managed Community and Individual Health Services (44400).....		\$12,960,077	<del>\$16,510,077</del> \$19,030,992
	Individual and Developmental Disability Services (44401).....	\$4,810,077		<del>\$6,110,077</del> \$5,800,992
	Mental Health Services (44402).....	\$8,150,000		<del>\$10,400,000</del> \$11,630,000
	Substance Abuse Services (44403).....	\$0		\$1,600,000
	Fund Sources: General.....	\$12,960,077		<del>\$16,510,077</del> \$19,030,992

Authority: Title 16.1, Article 18, and Title 37.2, Chapters 2, 3, 4, 5, 6 and 7, and Title 2.2, Chapters 26 and 53 Code of Virginia; P.L. 102-119, Federal Code.

A. Out of this appropriation, \$3,900,000 the first year and \$5,200,000 the second year from the general fund shall be used for Developmental Disability Health Support Networks in regions served, or previously served, by Southside Virginia Training Center, Central Virginia Training Center, Northern Virginia Training Center, and Southwestern Virginia Training Center.

B. Out of this appropriation, \$565,000 the first year and \$565,000 the second year from the general fund shall be used to provide community-based services to individuals transitioning from state training centers to community settings who are not eligible for Medicaid.

C. Out of this appropriation, \$2,900,000 the first year and \$2,900,000 the second year from the general fund shall be used to address census issues at state facilities by providing community-based services for those individuals determined clinically ready for discharge or for the diversion of admissions to state facilities by purchasing acute inpatient or community-based psychiatric services at private facilities.

D. Out of this appropriation, \$1,750,000 the first year and \$1,750,000 the second year from the general fund is provided for the development or acquisition of clinically appropriate housing options to provide comprehensive community-based care for individuals in state hospitals who have complex and resource-intensive needs who have been clinically determined able to move from a hospital to a more integrated setting. In addition, \$250,000 the second year from the general fund is provided for a community support team to assist housing providers in addressing the complex needs of residents who have been discharged from state facilities or individuals who are at risk of institutionalization.

E. Out of this appropriation, \$2,500,000 the first year and \$4,500,000 the second year from the general fund shall be provided to the Department of Behavioral Health and Developmental Services to provide alternative transportation for adults and children under a temporary detention order. The department shall structure the contract to phase in the program over a three-year period such that in year three the contract will result in the provision of services statewide. The department shall report on the disbursement of the funds to the Governor and Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2018. Annually, thereafter on October 1, the department shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on the effectiveness and outcomes of the program funding.

F. Out of this appropriation, \$1,230,000 the second year from the general fund shall be provided to the Department of Behavioral Health and Developmental Services to contract with the Virginia Mental Health Access Program to develop integrated mental health services for children.

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<i>G. Out of this appropriation, \$1,600,000 the second year from the general fund shall be used to purchase and distribute additional REVIVE! kits and associated doses of naloxone used to treat emergency cases of opioid overdose or suspected opioid overdose.</i>				
Total for Department of Behavioral Health and Developmental Services.....			<b>\$113,889,659</b> <i>\$114,797,435</i>	<b>\$117,588,803</b> <i>\$121,800,944</i>
General Fund Positions.....	399.75	<del>422.50</del> 423.50		
Nongeneral Fund Positions.....	31.25	31.25		
Position Level.....	431.00	<del>453.75</del> 454.75		
Fund Sources: General.....	\$70,014,613	<del>\$75,163,757</del> \$78,224,286		
Special.....	\$15,664,192	\$15,414,192		
Dedicated Special Revenue.....	\$1,200,000	\$0		
Federal Trust.....	<del>\$27,010,854</del> \$27,918,630	<del>\$27,010,854</del> \$28,162,466		

**Grants to Localities (790)**

312.	Financial Assistance for Health Services (44500).....			<del>\$446,744,254</del> \$465,217,537	<del>\$459,692,678</del> \$504,170,491
	Community Substance Abuse Services (44501).....	<del>\$102,583,512</del> \$116,094,031	<del>\$104,583,512</del> \$121,844,031		
	Community Mental Health Services (44506).....	<del>\$264,423,058</del> \$267,125,162	<del>\$274,816,643</del> \$287,571,247		
	Community Developmental Disability Services (44507).....	<del>\$79,737,684</del> \$81,998,344	<del>\$80,292,523</del> \$94,755,213		
	Fund Sources: General.....	<del>\$370,958,279</del> \$371,417,537	<del>\$392,706,703</del> \$411,670,491		
	Dedicated Special Revenue.....	\$3,800,000	\$0 \$2,500,000		
	Federal Trust.....	<del>\$71,985,975</del> \$90,000,000	<del>\$66,985,975</del> \$90,000,000		

Authority: Title 37.2, Chapters 5 and 6; Title 2.2, Chapter 53, Code of Virginia.

A. It is the intent of the General Assembly that community mental health, intellectual disability and substance abuse services are to be improved throughout the state. Funds provided in this Item shall not be used to supplant the funding effort provided by localities for services existing as of June 30, 1996.

B. Further, it is the intent of the General Assembly that funds appropriated for this Item may be used by Community Services Boards to purchase, develop, lease, or otherwise obtain, in accordance with §§ 37.2-504 and 37.2-605, Code of Virginia, real property necessary to the provision of residential services funded by this Item.

C. Out of the appropriation for this Item, funds are provided to Community Services Boards in an amount sufficient to reimburse the Virginia Housing Development Authority for principal and interest payments on residential projects for the mentally disabled financed by the Housing Authority.

D. The Department of Behavioral Health and Developmental Services shall make payments to the Community Services Boards from this Item in twenty-four equal semimonthly installments, except for necessary budget revisions or the operational phase-in of new programs.

E. Failure of a board to participate in Medicaid covered services and to meet all requirements for provider participation shall result in the termination of a like amount of state grant support.

F. Community Services Boards may establish a line of credit loan for up to three months'

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	FY2019	FY2020	FY2019	FY2020

operating expenses to assure adequate cash flow.

G. Out of this appropriation \$190,000 the first year and \$190,000 the second year from the general fund shall be provided to Virginia Commonwealth University for the continued operation and expansion of the Virginia Autism Resource Center.

H.1. Out of this appropriation, ~~\$18,127,885~~ \$18,587,143 the first year and ~~\$19,099,977~~ \$19,761,265 the second year from the general fund shall be provided for Virginia's Part C Early Intervention System for infants and toddlers with disabilities.

2. By November 15 of each year, the department shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the (a) total revenues used to support Part C services, (b) total expenses for all Part C services, (c) total number of infants, toddlers and families served using all Part C revenues, and (d) services provided to those infants, toddlers, and families.

I. Out of this appropriation \$6,148,128 the first year and \$6,148,128 the second year from the general fund shall be provided for mental health services for children and adolescents with serious emotional disturbances and related disorders, with priority placed on those children who, absent services, are at-risk for custody relinquishment, as determined by the Family and Assessment Planning Team of the locality. The Department of Behavioral Health and Developmental Services shall provide these funds to Community Services Boards through the annual Performance Contract. These funds shall be used exclusively for children and adolescents, not mandated for services under the Comprehensive Services Act for At-Risk Youth, who are identified and assessed through the Family and Assessment Planning Teams and approved by the Community Policy and Management Teams of the localities. The department shall provide these funds to the Community Services Boards based on an individualized plan of care methodology.

J. The Commissioner, Department of Behavioral Health and Developmental Services shall allocate \$1,000,000 the first year and \$1,000,000 the second year from the federal Community Mental Health Services Block Grant for two specialized geriatric mental health services programs. One program shall be located in Health Planning Region II and one shall be located in Health Planning Region V. The programs shall serve elderly populations with mental illness who are transitioning from state mental health geriatric units to the community or who are at risk of admission to state mental health geriatric units. The commissioner is authorized to reduce the allocation in each year in an amount proportionate to any reduction in the federal Community Mental Health Services Block Grant funds awarded to the Commonwealth.

K. The Commissioner, Department of Behavioral Health and Developmental Services shall allocate \$750,000 the first year and \$750,000 the second year from the federal Community Mental Health Services Block Grant for consumer-directed programs offering specialized mental health services that promote wellness, recovery and improved self-management. The commissioner is authorized to reduce the allocation in each year in an amount proportionate to any reduction in the federal Community Mental Health Services Block Grant funds awarded to the Commonwealth.

L. Out of this appropriation, \$2,197,050 the first year and \$2,197,050 the second year from the general fund shall be used for jail diversion and reentry services. Funds shall be distributed to community-based contractors based on need and community preparedness as determined by the commissioner.

M. Out of this appropriation, \$2,400,000 the first year and \$2,400,000 the second year from the general fund shall be used for treatment and support services for substance use disorders, including individuals with acquired brain injury and co-occurring substance use disorders. Funded services shall focus on recovery models and the use of best practices.

N. Out of this appropriation, \$2,780,645 the first year and \$2,780,645 the second year from the general fund shall be used to provide outpatient clinician services to children with mental health needs. Each Community Services Board shall receive funding as determined by the commissioner to increase the availability of specialized mental health services for children. The department shall require that each Community Services Board receiving these funds agree to cooperate with Court Service Units in their catchment areas



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U. Out of this appropriation, \$2,375,000 the first year and \$2,750,000 the second year from the general fund shall be used to develop and implement crisis services for children with intellectual or developmental disabilities.				
V. Out of this appropriation, \$29,758,441 the first year and <del>\$32,058,441</del> \$37,298,441 the second year from the general fund shall be used to provide community-based services or acute inpatient services in a private facility to individuals residing in state hospitals who have been determined clinically ready for discharge, and for continued services for those individuals currently being served under a discharge assistance plan. Of this appropriation, \$1,305,000 the first year and \$1,305,000 the second year shall be allocated for individuals currently or previously residing at Western State Hospital.				
W. Out of this appropriation, \$620,000 the first year and \$620,000 the second year from the general fund shall be used to expand access to telepsychiatry and telemedicine services.				
X. Out of this appropriation, \$4,000,000 the first year and \$4,000,000 the second year from the general fund shall be used to increase availability of community-based mental health outpatient services for youth and young adults.				
Y. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be used to increase mental health inpatient treatment purchased in community hospitals. Priority shall be given to regions that exhaust available resources before the end of the year in order to ensure treatment is provided in the community and do not result in more restrictive placements.				
Z. Out of this appropriation, \$10,496,105 the first year and <del>\$12,021,210</del> \$17,083,710 the second year from the general fund is provided for programs for permanent or transitional housing for individuals with serious mental illness. Of this amount, \$8,970,500 the first year and \$8,970,500 the second year shall be used for permanent supportive housing to support rental subsidies and services to be administered by community services boards or private entities to provide stable, supportive housing for persons with serious mental illness. Remaining amounts may be used to expand permanent supportive housing programs or to provide transitional housing supports for individuals with serious mental illness being discharged from state facilities into the community. <i>The Department of Behavioral Health and Developmental Services shall report on the number of individuals who are discharged from state behavioral health hospitals who receive supportive housing services, the number of individuals who are on the hospitals' extraordinary barrier list who could receive supportive housing services, and the number of individuals in the community who receive supportive housing services and whether they are at risk of institutionalization. In addition, the department shall report on the average length of stay in permanent supportive housing for individuals receiving such services and report how the funding is reinvested when individuals discontinue receiving such services. The report shall be provided to the Chairmen of the House Appropriations and Senate Finance Committee by November 30, 2019.</i>				
AA. Out of this appropriation, \$400,000 the first year and \$400,000 the second year is provided for rental subsidies and associated costs for individuals served through the Rental Choice VA program.				
BB. Out of this appropriation, \$5,308,836 the first year and \$7,897,833 the second year from the general fund shall be used for a program of rental subsidies for individuals with intellectual and developmental disabilities.				
CC. Out of this appropriation, \$3,800,000 the first year from the Behavioral Health and Developmental Services Trust Fund is provided for the development of provider capacity for individuals with medically complex support needs or those individuals who have multiple diagnoses.				
DD. Out of this appropriation, \$10,795,651 the first year and \$10,795,651 the second year from the general fund shall be provided to Community Service Boards and Behavioral Health Authorities to implement same day access for community behavioral health services. The Department of Behavioral Health and Developmental Services shall report annually by October 1 to the Governor and Chairmen of the House Appropriations and				

ITEM 312.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	Senate Finance Committees on the effectiveness and outcomes of the program funding.			
	EE. Out of this appropriation, \$5,000,000 the first year from the federal State Targeted Response to the Opioid Crisis Grant and \$5,000,000 the second year from the general fund is provided to increase access to medication assisted treatment for individuals with substance use disorders who are addicted to opioids. In expending this amount, the department shall ensure that preferred drug classes shall include non-narcotic, non-addictive, injectable prescription drug treatment regimens. The department shall ensure that a portion of the funding is used for non-narcotic, non-addictive, prescription drug treatment regimens for individuals who are: (i) on probation; (ii) in an institution, prison, or jail; or (iii) not able for clinical or other reasons to participate in buprenorphine or methadone based drug treatment regimens.			
	FF. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year from the general fund is provided for community detoxification and sobriety services for individuals in crisis.			
	GG. Out of this appropriation, \$880,000 the first year and \$880,000 the second year from the general fund is provided for one regional, multi-disciplinary team for older adults. This team shall provide clinical, medical, nursing, and behavioral expertise and psychiatric services to nursing facilities and assisted living facilities.			
	HH. Out of this appropriation, \$3,720,000 the first year and \$7,440,000 the second year from the general fund is provided for primary care outpatient screening services at Community Services Boards and Behavioral Health Authorities as required by Chapter 607, 2017 Acts of Assembly.			
	II. Out of this appropriation, \$15,000,000 the second year from the general fund is provided to begin phasing in an expansion of outpatient mental health and substance abuse services at Community Services Boards and Behavioral Health Authorities pursuant to the System Transformation, Excellence and Performance in Virginia (STEP-VA) process and Chapters 607 and 683, 2017 Acts of Assembly.			
	JJ. Out of this appropriation, \$2,000,000 the second year from the general fund is provided to begin phasing in an expansion of detoxification services at Community Services Boards and Behavioral Health Authorities, pursuant to the System Transformation, Excellence and Performance in Virginia (STEP-VA) process and Chapters 607 and 683, 2017 Acts of Assembly.			
	KK. Out of this appropriation, \$826,200 the first year and \$1,652,400 the second year from the general fund shall be used to provide permanent supportive housing to pregnant or parenting women with substance use disorders.			
	LL. Out of this appropriation, \$11,025,231 the first year and \$11,025,231 the second year from the general fund shall be used to divert admissions from state hospitals by purchasing acute inpatient or community-based psychiatric services at private facilities.			
	MM. Out of this appropriation, \$1,600,000 the first year and \$1,600,000 the second year from the general fund is provided for discharge planning at jails for individuals with serious mental illness. Funding shall be used to create staff positions in Community Services Boards and will be implemented at two jails with a high percentage of inmates with serious mental illness.			
	NN. Out of this appropriation, \$708,663 the first year and \$708,663 the second year from the general fund is provided to establish an Intercept 2 diversion program in up to three rural communities. The funding shall be used for staffing and to provide access to treatment services.			
	OO. Out of this appropriation, \$1,100,000 the first year and \$1,100,000 the second year from the general fund is provided to establish the Appalachian Telemental Health Initiative, a telemental health pilot program. <i>Any funds that remain unspent at the end of each fiscal year shall be carried forward to the subsequent fiscal year.</i>			
	PP. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund shall be provided to the Department of Behavioral Health and Developmental Services to contract with Best Buddies Virginia to expand inclusion services for people with			

ITEM 312.	Item Details(\$)		Appropriations(\$)		
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intellectual and developmental disabilities to the Richmond and Virginia Beach areas of the state.					
<i>QQ. Out of this appropriation, \$7,800,000 the second year from the general fund is provided for crisis services at Community Services Boards and Behavioral Health Authorities pursuant to the System Transformation, Excellence and Performance in Virginia (STEP-VA) process and Chapters 607 and 683, 2017 Acts of Assembly.</i>					
<i>RR. Out of this appropriation, \$200,000 the second year from the general fund is provided to the Fairfax-Falls Church Community Services Board to fully fund its Program of Assertive Community Treatment (PACT) Team.</i>					
<i>SS. Out of this appropriation, \$750,000 the second year from the Behavioral Health and Developmental Services Trust Fund shall be expended for one-time expenditures for developmental disability services across the Commonwealth. Priority shall be given to projects that serve critical service gaps for individuals with developmental disability in the Northern Virginia region (Region 2) who have been discharged from state training centers or who are at risk of institutional placement. The department shall collaborate with Community Services Boards and private providers, to determine the best use of such funds to address critical needs on a one-time basis, for individuals with developmental disabilities. The department shall report on the allocation of these funds to the Chairmen of the House Appropriations and Senate Finance Committees by no later than September 15, 2019.</i>					
Total for Grants to Localities.....			<b>\$446,744,254</b>	<b>\$459,692,678</b>	
			<b>\$465,217,537</b>	<b>\$504,170,491</b>	
Fund Sources: General.....					
			\$370,958,279	\$392,706,703	
			\$371,417,537	\$411,670,491	
Dedicated Special Revenue.....					
			\$3,800,000	\$0	
				\$2,500,000	
Federal Trust.....					
			\$71,985,975	\$66,985,975	
			\$90,000,000	\$90,000,000	
<b>Mental Health Treatment Centers (792)</b>					
313.	Instruction (1970).....			\$176,397	\$176,397
	Facility-Based Education and Skills Training (19708).....		\$176,397	\$176,397	
Fund Sources: General.....					
			\$34,569	\$34,569	
			\$5,328	\$5,328	
			\$136,500	\$136,500	
Authority: §§ 37.2-312 and 37.2-713, Code of Virginia; P.L. 102-73 and P.L. 102-119, Federal Code.					
314.	Secure Confinement (35700).....			\$21,501,860	\$21,501,860
	Forensic and Behavioral Rehabilitation Security (35707).....		\$21,501,860	\$21,501,860	
Fund Sources: General.....					
			\$21,057,403	\$21,057,403	
			\$444,457	\$444,457	
Authority: Title 37.2, Chapter 9, Code of Virginia.					
315.	Pharmacy Services (42100).....			\$18,677,746	\$18,677,746
	Inpatient Pharmacy Services (42102).....		\$18,677,746	\$18,677,746	
Fund Sources: General.....					
			\$6,246,656	\$6,246,656	
			\$12,431,090	\$12,431,090	
Authority: Title 37.2, Chapter 8, Code of Virginia.					
316.	State Health Services (43000).....			\$244,851,323	\$251,069,370
				\$259,088,038	

ITEM 316.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Geriatric Care Services (43006).....	\$49,604,517	\$49,604,517		
Inpatient Medical Services (43007).....	\$18,252,833	\$18,252,833		
State Mental Health Facility Services (43014).....	\$176,993,973	<del>\$183,212,020</del> \$191,230,688		
Fund Sources: General.....	\$192,455,049	<del>\$198,051,291</del> \$233,372,078		
Special.....	\$52,396,274	<del>\$53,018,079</del> \$25,715,960		

Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.

A. Out of this appropriation, \$700,000 the first year and \$700,000 the second year from the general fund shall be used to continue operating up to 13 beds at Northern Virginia Mental Health Institute (NVMHI) that had been scheduled for closure in fiscal year 2013. The Commissioner of the Department of Behavioral Health and Developmental Services shall ensure continued operation of at least 123 beds.

B. The Department of Behavioral Health and Developmental Services shall report by November 1 of each year to the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance Committees on the number of individuals served through discharge assistance plans and the types of services provided.

C. Out of this appropriation, \$850,000 the second year from the general fund shall be used to provide transition services in alternate settings for children and adolescents who can be diverted or discharged from state facilities.

317. Facility Administrative and Support Services (49800).....			\$104,915,227	<del>\$104,915,227</del> \$106,915,227
General Management and Direction (49801).....	\$46,795,316	<del>\$46,795,316</del> \$48,795,316		
Information Technology Services (49802).....	\$6,242,139	\$6,242,139		
Food and Dietary Services (49807).....	\$13,827,750	\$13,827,750		
Housekeeping Services (49808).....	\$8,365,167	\$8,365,167		
Linen and Laundry Services (49809).....	\$1,657,504	\$1,657,504		
Physical Plant Services (49815).....	\$21,136,325	\$21,136,325		
Power Plant Operation (49817).....	\$4,181,654	\$4,181,654		
Training and Education Services (49825).....	\$2,709,372	\$2,709,372		
Fund Sources: General.....	\$90,086,146	<del>\$90,086,146</del> \$92,086,146		
Special.....	\$14,765,581	\$14,765,581		
Federal Trust.....	\$63,500	\$63,500		

Authority: § 37.2-304, Code of Virginia.

A. Out of this appropriation, \$759,000 the first year and \$759,000 the second year from the general fund shall be used to ensure proper billing and maximum reimbursement for prescription drugs purchased by mental health treatment centers through the Medicare Part D drug program.

B. Notwithstanding § 37.2-319 of the Code of Virginia, the Commissioner shall prepare a plan to address the capital and programmatic needs of other state mental health facilities and state mental retardation training centers when considering expenditures from the trust fund. No less than 30 days prior to the expenditure of funds, the Commissioner shall present an expenditure plan to the Chairmen of the Senate Finance and House Appropriations Committees for their review and consideration.

318. The Commissioner, Department of Behavioral Health and Developmental Services, shall report by August 1 of each year to the Secretary of Finance, and the Chairmen of House Appropriations and Senate Finance Committees the general fund and non general fund allocations and authorized position levels for each state-operated behavioral health facility. The report shall be made available on the agency's public website.

ITEM 318.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Total for Mental Health Treatment Centers.....			<b>\$390,122,553</b>	<b>\$396,340,600</b> <del>\$406,359,268</del>
General Fund Positions.....	3,848.00	3,949.00 4,203.00		
Nongeneral Fund Positions.....	602.00	613.00		
Position Level.....	4,450.00	4,562.00 4,816.00		
Fund Sources: General.....	\$309,879,823	\$315,476,065 \$352,796,852		
Special.....	\$80,042,730	\$80,664,535 \$53,362,416		
Federal Trust.....	\$200,000	\$200,000		
<b>Intellectual Disabilities Training Centers (793)</b>				
319. Instruction (19700).....			\$6,870,420	\$5,827,797
Facility-Based Education and Skills Training (19708).....	\$6,870,420	\$5,827,797		
Fund Sources: General.....	\$6,664,769	\$5,622,146		
Special.....	\$5,651	\$5,651		
Federal Trust.....	\$200,000	\$200,000		
Authority: Title 37.2, Chapter 3, Code of Virginia.				
320. Pharmacy Services (42100).....			\$5,515,600	\$5,515,600
Inpatient Pharmacy Services (42102).....	\$5,515,600	\$5,515,600		
Fund Sources: General.....	\$141,443	\$141,443		
Special.....	\$5,374,157	\$5,374,157		
Authority: §§ 37.2-312 and 37.2-713, Code of Virginia; P.L. 102-119, Federal Code.				
321. State Health Services (43000).....			\$69,918,683	\$69,918,683
Inpatient Medical Services (43007).....	\$32,095,261	\$32,095,261		
State Intellectual Disabilities Training Center Services (43010).....	\$37,823,422	\$37,823,422		
Fund Sources: General.....	\$15,066,431	\$15,066,431		
Special.....	\$54,852,252	\$54,852,252		
Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.				
The Commissioner of Behavioral Health and Developmental Services shall comply with all relevant state and federal laws and Supreme Court decisions that govern the discharge of residents from state intellectual disability training centers and the granting of intellectual disability waiver slots.				
322. Facility Administrative and Support Services (49800).....			\$57,642,209	<del>\$57,642,209</del> \$55,642,209
General Management and Direction (49801).....	\$13,329,884	<del>\$13,329,884</del> \$11,329,884		
Information Technology Services (49802).....	\$1,596,574	\$1,596,574		
Food and Dietary Services (49807).....	\$12,351,287	\$12,351,287		
Housekeeping Services (49808).....	\$8,039,680	\$8,039,680		
Linen and Laundry Services (49809).....	\$2,046,376	\$2,046,376		
Physical Plant Services (49815).....	\$13,120,286	\$13,120,286		
Power Plant Operation (49817).....	\$5,832,104	\$5,832,104		
Training and Education Services (49825).....	\$1,326,018	\$1,326,018		
Fund Sources: General.....	\$9,763,533	<del>\$9,763,533</del> \$7,763,533		
Special.....	\$47,878,676	\$47,878,676		

ITEM 322.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Authority: Title 37.1, Chapters 1 and 2, Code of Virginia; P.L. 74-320, Federal Code.				
323.	The Commissioner, Department of Behavioral Health and Developmental Services, shall report by August 1 of each year to the Secretary of Finance, and the Chairmen of House Appropriations and Senate Finance Committees the general fund and non general fund allocations and authorized position levels for each state-operated training center. The report shall be made available on the agency's public website.			
	Total for Intellectual Disabilities Training Centers.....		<b>\$139,946,912</b>	<b>\$138,904,289</b> <b>\$136,904,289</b>
	General Fund Positions.....	1,092.00	1,092.00	
	Nongeneral Fund Positions.....	665.00	665.00	
	Position Level.....	1,757.00	1,757.00	
	Fund Sources: General.....	\$31,636,176	\$30,593,553 \$28,593,553	
	Special.....	\$108,110,736	\$108,110,736	
	Federal Trust.....	\$200,000	\$200,000	
<b>Virginia Center for Behavioral Rehabilitation (794)</b>				
324.	Instruction (19700).....		\$227,847	\$227,847
	Facility-Based Education and Skills Training (19708).....		\$227,847	\$227,847
	Fund Sources: General.....		\$227,847	\$227,847
325.	Secure Confinement (35700).....		\$12,098,368	\$18,159,479
	Forensic and Behavioral Rehabilitation Security (35707).....		\$12,098,368	\$18,159,479
	Fund Sources: General.....		\$12,098,368	\$18,159,479
Authority: Title 37.2, Chapter 9, Code of Virginia.				
326.	Pharmacy Services (42100).....		\$999,013	\$999,013
	Inpatient Pharmacy Services (42102).....		\$999,013	\$999,013
	Fund Sources: General.....		\$999,013	\$999,013
327.	State Health Services (43000).....		\$12,767,511	\$12,862,705
	State Mental Health Facility Services (43014).....		\$12,767,511	\$12,862,705
	Fund Sources: General.....		\$12,767,511	\$12,862,705
Authority: Title 37.2, Chapters 1 and 9, Code of Virginia.				
Out of this appropriation, \$2,793,766 the first year and \$2,888,960 the second year from the general fund is provided for the staffing, equipment, and other costs of temporarily housing 22 individuals with complex medical needs.				
328.	Facility Administrative and Support Services (49800).....		\$14,245,696	\$15,945,696
	General Management and Direction (49801).....		\$2,164,423	\$3,864,423
	Information Technology Services (49802).....		\$28,765	\$28,765
	Food and Dietary Services (49807).....		\$3,079,145	\$3,079,145
	Housekeeping Services (49808).....		\$428,210	\$428,210
	Physical Plant Services (49815).....		\$8,446,716	\$8,446,716
	Training and Education Services (49825).....		\$98,437	\$98,437
	Fund Sources: General.....		\$14,245,696	\$15,945,696
Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.				
A. In the event that services are not available in Virginia to address the specific needs of an				

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individual committed for treatment at the VCBR or conditionally released, or additional capacity cannot be met at the VCBR, the Commissioner is authorized to seek such services from another state.				
B. Out of the amounts appropriated in this Item and Item 325, \$7,761,111 the second year from the general fund is provided for the staffing, equipment, and other costs of operating 72 new beds at the expanded VCBR beginning in August, 2019.				
C. Out of this appropriation, \$540,000 the first year and \$540,000 the second year from the general fund is provided for the treatment costs of residents diagnosed with hepatitis. The facility shall make efforts to use certified federal 340B providers for the dispensing of any associated pharmaceuticals.				
D. Within 15 days of any appropriation transfer to the Virginia Center for Behavioral Rehabilitation from any other sub-agency within the Department of Behavioral Health and Developmental Services, the Department of Planning and Budget shall notify the Chairmen of the House Appropriations and Senate Finance Committees. The notice shall include the amount, fund source and reason for the transfer with an explanation of why the funding being transferred has no impact on the sub-agency from which it is transferred.				
Total for Virginia Center for Behavioral Rehabilitation.....			\$40,338,435	\$48,194,740
General Fund Positions.....	631.50	778.50		
Position Level.....	631.50	778.50		
Fund Sources: General.....	\$40,338,435	\$48,194,740		
Grand Total for Department of Behavioral Health and Developmental Services.....			\$1,131,041,813	\$1,160,721,110
			\$1,150,422,872	\$1,217,429,732
General Fund Positions.....	5,971.25	6,242.00		
		6,497.00		
Nongeneral Fund Positions.....	1,298.25	1,309.25		
Position Level.....	7,269.50	7,551.25		
		7,806.25		
Fund Sources: General.....	\$822,827,326	\$862,134,818		
	\$823,286,584	\$919,479,922		
Special.....	\$203,817,658	\$204,189,463		
		\$176,887,344		
Dedicated Special Revenue.....	\$5,000,000	\$0		
		\$2,500,000		
Federal Trust.....	\$99,396,829	\$94,396,829		
	\$118,318,630	\$118,562,466		

**§ 1-98. DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES (262)**

329.	Rehabilitation Assistance Services (45400).....		\$110,285,116	\$110,285,116
			\$102,350,463	\$98,792,156
	Vocational Rehabilitation Services (45404).....	\$93,000,600	\$93,000,600	
		\$85,065,947	\$82,465,914	
	Community Rehabilitation Programs (45406).....	\$17,284,516	\$17,284,516	
			\$16,326,242	
	Fund Sources: General.....	\$33,180,238	\$33,180,238	
			\$32,887,879	
	Special.....	\$837,802	\$837,802	
			\$719,952	
	Dedicated Special Revenue.....	\$999,937	\$999,937	
	Federal Trust.....	\$75,267,139	\$75,267,139	
		\$67,332,486	\$64,184,388	

Authority: Title 51.5, Chapter 14 , Code of Virginia; P.L. 93-112, Federal Code.

A.1. Out of this appropriation, \$8,984,358 the first year and \$8,984,358 the second year



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allocated to support Centers for Independent Living.				
J. The Department for Aging and Rehabilitative Services shall fulfill the administrative responsibilities pertaining to the Personal Attendant Services program, without interruption or discontinuation of personal attendant services currently provided.				
K. Out of this appropriation, it is estimated that \$2,349,933 the first year and \$2,349,933 the second year from the general fund shall be used for personal assistance services for individuals with disabilities.				
L.1. Out of this appropriation, \$5,933,981 the first year and \$5,933,981 the second year from the general fund shall be provided for expanding the continuum of services used to assist persons with brain injuries in returning to work and community living.				
2. Of this amount, \$1,830,000 the first year and \$1,830,000 the second year from the general fund shall be used to provide a continuum of brain injury services to individuals in unserved or underserved regions of the Commonwealth. Up to \$150,000 each year shall be awarded to successful program applicants. Programs currently receiving more than \$250,000 from the general fund each year are ineligible for additional assistance under this section. To be determined eligible for a grant under this section, program applicants shall submit plans to pursue non-state resources to complement the provision of general fund support.				
3. Of this amount, \$285,000 the first year and \$285,000 the second year shall be provided from the general fund to support direct case management services for brain injured individuals and their families in Southwestern Virginia.				
4. Of this amount, \$150,000 the first year and \$150,000 the second year from the general fund shall be used to support case management services for individuals with brain injuries in unserved or underserved regions of the Commonwealth.				
5. In allocating additional funds for brain injury services, the Department for Aging and Rehabilitative Services shall consider recommendations from the Virginia Brain Injury Council (VBIC).				
6. The Department for Aging and Rehabilitative Services (DARS) shall submit an annual report to the Chairmen of the Senate Finance and House Appropriations Committees documenting the number of individuals served, services provided, and success in attracting non-state resources.				
M.1. For Commonwealth Neurotrauma Initiative Trust Fund grants awarded after July 1, 2004, the commissioner shall require applicants to submit a plan to achieve self-sufficiency by the end of the grant award cycle in order to receive funding consideration.				
2. Notwithstanding any other law to the contrary, the commissioner may reallocate up to \$500,000 from unexpended balances in the Commonwealth Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.				
N. Out of this appropriation, \$427,457 the first year and \$427,457 the second year from the general fund shall be allocated to the Long-Term Rehabilitation Case Management Services Program.				
O. Every county and city, either singly or in combination with another political subdivision, may establish a local disability services board to provide input to state agencies on service needs and priorities of persons with physical and sensory disabilities, to provide information and resource referral to local governments regarding the Americans with Disabilities Act, and to provide such other assistance and advice to local governments as may be requested.				
P. The Department for Aging and Rehabilitative Services shall convene a workgroup of relevant stakeholders that shall include at a minimum representatives of various employment services organizations including Goodwill Industries, APSE, vaACCSES, staff of the House Appropriations and Senate Finance Committees, the Department of Planning and Budget, and appropriate staff from the department. Each organization included in the workgroup will be limited to one representative from that group. The				

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purpose of the workgroup is to assess combining the Extended Employment Services (EES) and Long Term Employment Support Services (LTESS) programs and associated funding into one program. The workgroup shall report its recommendations to the Chairman of the House Appropriations and Senate Finance Committees by November 1, 2018.				
<i>Q. The Director, Department of Planning and Budget, shall, on or before June 30, 2019, unallot \$376,000 from the general fund in this item, which reflects unused balances in the state employment services programs.</i>				
330.	Individual Care Services (45500).....		\$36,059,218	\$36,059,218
	Financial Assistance for Local Services to the Elderly (45504).....	\$30,890,287		\$30,890,287
	Rights and Protection for the Elderly (45506).....	\$5,168,931		\$5,168,931
	Fund Sources: General.....	\$16,303,403		\$16,303,403
	Special.....	\$60,000		\$60,000
	Dedicated Special Revenue.....	\$200,000		\$200,000
	Federal Trust.....	\$19,495,815		\$19,495,815

Authority: Title 51.5, Chapter 14, Code of Virginia.

A. Out of this appropriation, \$456,209 the first year and \$456,209 the second year from the general fund shall be provided to continue a statewide Respite Care Initiative program for the elderly and persons suffering from Alzheimer's Disease.

B.1. Out of this appropriation, \$1,726,733 the first year and \$1,726,733 the second year from the general fund shall be provided to support local and regional programs of the Virginia Public Guardian and Conservator Program. This funding is estimated to provide 457 client slots the first year and 457 client slots the second year for unrestricted guardianship services.

2. Out of this appropriation, \$125,500 the first year and \$125,500 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with mental illness or intellectual disability (ID). This funding is estimated to provide 40 client slots each year for guardianship services for individuals with mental illness or ID.

3. Out of this appropriation, \$1,970,600 the first year and \$1,970,600 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with intellectual disabilities (ID) and developmental disabilities (DD). This funding shall be expended pursuant to an interagency agreement between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and Rehabilitative Services. This funding is estimated to provide 454 client slots the first year and 454 client slots the second year for guardianship services for individuals with ID/DD, as authorized by DBHDS.

4. Out of this appropriation, \$686,000 the first year and \$686,000 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with mental illness. This funding shall be expended pursuant to an interagency agreement between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and Rehabilitative Services. This funding is estimated to provide 98 client slots the first year and 98 client slots the second year for guardianship services for individuals with mental illness, as authorized by DBHDS.

C.1. Area Agencies on Aging that are authorized to use funding for the Care Coordination for the Elderly Program, shall be authorized to use funding to conduct a program providing mobile, brief intervention and service linking as a form of care coordination. The Department for Aging and Rehabilitative Services, in collaboration with the Area Agencies on Aging, shall analyze the resulting impact in these agencies and determine if this model of service delivery is an appropriate and beneficial use of these funds.

2. The Department for Aging and Rehabilitative Services, in collaboration with Area Agencies on Aging (AAAs) that are authorized to use funding for the Care Coordination for Elderly Program, shall examine and analyze existing state and national care coordination models to determine best practice models. The department and designated AAAs shall determine which models of service delivery are appropriate and demonstrate beneficial use of

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these funds and develop the accompanying service standards. Each AAA receiving care coordination funding shall submit its plan for care coordination with the annual area plan.

D. Area Agencies on Aging shall be designated as the lead agency in each respective area for No Wrong Door.

E. The Department for Aging and Rehabilitative Services shall (i) recommend strategies to coordinate services and resources among agencies involved in the delivery of services to Virginians with dementia; (ii) monitor the implementation of the Dementia State Plan; (iii) recommend policies, legislation, and funding needed to implement the Plan; (iv) collect and monitor data related to the impact of dementia on Virginians; and (v) determine the services, resources, and policies that may be needed to address services for individuals with dementia.

F. Out of this appropriation, \$201,875 the first year and \$201,875 the second year from the general fund shall be provided to support the distribution of comprehensive health and aging information to Virginia's senior population, their families and caregivers.

G. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund shall be provided for the Pharmacy Connect Program in Southwest Virginia, administered by Mountain Empire Older Citizens, Inc.

H. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund shall be used to contract with the Jewish Social Services Agency to provide assistance to low-income seniors who have experienced trauma.

I. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund shall be provided to contract with Birmingham Green to provide residential services to low-income, disabled individuals.

331.	Nutritional Services (45700).....			\$22,019,603	\$22,019,603
	Meals Served in Group Settings (45701).....	\$9,521,747	\$9,521,747		
	Distribution of Food (45702).....	\$424,342	\$424,342		
	Delivery of Meals to Home-Bound Individuals (45703).....	\$12,073,514	\$12,073,514		
	Fund Sources: General.....	\$6,278,648	\$6,278,648		
	Federal Trust.....	\$15,740,955	\$15,740,955		

Authority: Title 51.5, Chapter 14, Code of Virginia.

Home delivered meals shall not require cost-sharing until such time as federal law permits cost-sharing with Older Americans Act funding.

332. A. Area Agencies on Aging are encouraged to continue seeking funds from a variety of sources which include cost-sharing in programs where not prohibited by funding sources; private sector voluntary contributions from older persons receiving services; families of individuals receiving services; and churches, service groups and other organizations. Such appropriations shall not be included in the appropriations used to match Older Americans Act funding. Revenue generated as a result of these projects shall be retained by the participating area agencies for use in meeting critical care needs of older Virginians. These revenues shall supplement, not supplant, general fund resources.

B. It is the intent of the General Assembly that all Area Agencies on Aging use any new general fund revenue, with the exception of funding provided for the Long-term Care Ombudsman program, to implement sliding fees for services. However, priority for services should be given to applicants in the greatest need, regardless of ability to pay. Revenue from fees shall be retained by the Area Agencies on Aging for use in meeting critical care needs of older Virginians. These revenues shall supplement, not supplant, general fund resources.

C. It is the intent of the General Assembly that Older Americans Act funds and general fund moneys be targeted to services which can assist the elderly to function independently for as long as possible. Area Agencies on Aging may use general fund moneys for consumer-directed services.

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<p>D. At the request of the Commissioner, Department for Aging and Rehabilitative Services, the Director, Department of Planning and Budget may transfer state general fund appropriations for services provided by Area Agencies on Aging between service categories. <del>The amounts to be transferred between categories shall not exceed 40 percent of the total state general fund appropriations allocated for each category.</del> Each individual Area Agency on Aging may transfer up to the maximum amount of federal funds and matching state general fund amounts allowed by federal law between service categories. Further, each Area Agency on Aging may transfer undesignated state general fund amounts among service categories. Under no circumstances shall any funds be transferred from direct services to administration. State general fund appropriations shall be available to the area agencies on aging beginning July 1 of each year of the biennium, in compliance with the department's General Fund Cash Management Policy.</p>				
333.	Continuing Income Assistance Services (46100).....		\$54,911,365	\$54,911,365
	Social Security Disability Determination (46102).....	\$54,911,365	\$54,911,365	
	Fund Sources: General.....	\$1,465,118	\$1,465,118	
	Special.....	\$152,258	\$152,258	
	Federal Trust.....	\$53,293,989	\$53,293,989	

Authority: Title 51.5, Chapter 14, Code of Virginia; Titles II and XVI, P.L. 74-271, Federal Code.

A. The Department for Aging and Rehabilitative Services, in cooperation with the Department of Social Services and local social services agencies, shall develop an expedited process for transitioning hospitalized persons to rehabilitation facilities when the patient may meet the criteria established by the Social Security Administration (SSA) and Medicaid for disability. As part of this expedited process, the Department for Aging and Rehabilitative Services (DARS) shall make Medicaid disability determinations within seven business days of the receipt of social service referrals, when the referrals include sufficient evidence that appropriately documents SSA's definition of disability. If the referrals do not contain sufficient documentation of disability, DARS shall continue to expedite processing of these priority referrals under Medicaid regulations.

B. The general fund appropriation in this item shall only be used for the cost of Medicaid disability determinations and for no other purpose.

334.	Adult Programs and Services (46800).....		\$6,920,474	<del>\$6,920,474</del> \$7,089,867
	Management and Quality Assurance of Aging Services (46811).....	\$3,749,515	<del>\$3,749,515</del> \$3,218,908	
	Central Oversight and Quality Assurance for Adult Protective Services (46812).....	\$1,609,632	<del>\$1,609,632</del> \$1,709,632	
	State Long-Term Care Ombudsman Services (46813).....	\$1,219,845	\$1,219,845	
	No Wrong Door Initiative (46814).....	\$341,482	<del>\$341,482</del> \$941,482	
	Fund Sources: General.....	\$3,523,359	<del>\$3,523,359</del> \$3,692,752	
	Special.....	\$30,490	\$30,490	
	Federal Trust.....	\$3,366,625	\$3,366,625	

Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 93-112, Federal Code.

A. 1. Out of this appropriation, \$233,515 the first year and \$233,515 the second year from the general fund shall be used to administer and oversee public guardianship programs and for no other purpose.

2. Of this amount, \$88,350 the first year and \$88,350 the second year shall be used to support the administrative costs associated with serving individuals pursuant to interagency agreements for the provision of public guardianship services between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and

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Rehabilitative Services.				
B. Out of this appropriation, up to \$5,000 the first year and \$5,000 the second year from the general fund shall be provided to support activities of the Virginia Public Guardianship and Conservator Program Advisory Board, including but not limited to, paying expenses for the members to attend four meetings per year.				
C. Out of this appropriation, \$87,338 the first year and <del>\$87,338</del> \$90,831 the second year from the general fund is provided to support a position dedicated to monitoring and auditing the auxiliary grant (AG) program. The department shall provide an annual report on AG oversight findings and activities to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees by October 1 of each year.				
D. By August 1 of each year, the Department for Aging and Rehabilitative Services (DARS) shall report, for each month of the previous fiscal year, the number of Auxiliary Grant recipients living in a supportive housing setting. This information shall be reported to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees.				
E. Out of this appropriation, <del>\$445,124</del> \$745,124 the first year and <del>\$445,124</del> \$745,124 the second year from the general fund and <del>\$445,124</del> \$745,124 the first year and <del>\$445,124</del> \$745,124 the second year from federal matching funds is provided for eight full-time and one part-time positions to support the Medicaid Managed Long Term Services and Supports (MLTSS) program.				
F. Out of this appropriation, \$440,000 the first year and \$440,000 the second year from the general fund is provided to cover PeerPlace license costs for local workers as well as the on-going cost of system modifications.				
335.	Administrative and Support Services (49900).....		\$14,307,467	\$14,307,467
			\$13,547,140	\$14,429,789
	General Management and Direction (49901).....	\$7,161,832	\$7,161,832	
		\$6,701,505	\$7,584,154	
	Information Technology Services (49902).....	\$6,392,808	\$6,392,808	
		\$6,092,808	\$6,092,808	
	Planning and Evaluation Services (49916).....	\$752,827	\$752,827	
	Fund Sources: General.....	\$100,000	\$100,000	
			\$322,966	
	Special.....	\$11,769,006	\$11,769,006	
			\$11,886,856	
	Federal Trust.....	\$2,438,461	\$2,438,461	
		\$1,678,134	\$2,219,967	
Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 93-112, Federal Code.				
336.	Included in the Federal Trust appropriation are amounts estimated at \$583,541 the first year and \$583,541 the second year, to pay for statewide indirect cost recoveries of this agency. Actual recoveries of statewide indirect costs up to the level of these estimates shall be exempt from payment into the general fund, as provided by § 4-2.03 of this Act. Amounts recovered in excess of these estimates shall be deposited to the general fund.			
	Total for Department for Aging and Rehabilitative Services.....		\$244,503,243	\$244,503,243
			\$235,808,263	\$233,301,998
	General Fund Positions.....	81.76	81.76	
			82.76	
	Nongeneral Fund Positions.....	926.26	926.26	
		882.26	882.26	
	Position Level.....	1,008.02	1,008.02	
		964.02	965.02	
	Fund Sources: General.....	\$60,850,766	\$60,850,766	
			\$60,950,766	

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	FY2019	FY2020	FY2019	FY2020
Special.....	\$12,849,556	\$12,849,556		
Dedicated Special Revenue.....	\$1,199,937	\$1,199,937		
Federal Trust.....	\$169,602,984	\$169,602,984		
	<i>\$160,908,004</i>	<i>\$158,301,739</i>		

**Wilson Workforce and Rehabilitation Center (203)**

337.	Rehabilitation Assistance Services (45400).....			\$13,554,195	\$13,554,195
				<i>\$12,585,591</i>	<i>\$11,907,271</i>
	Vocational Rehabilitation Services (45404).....	\$7,132,567	\$7,132,567		
		<i>\$6,918,137</i>	<i>\$6,830,302</i>		
	Medical Rehabilitative Services (45405).....	\$6,421,628	\$6,421,628		
		<i>\$5,667,454</i>	<i>\$5,076,969</i>		
	Fund Sources: General.....	\$2,909,117	\$2,909,117		
	Special.....	\$10,636,078	\$10,636,078		
		<i>\$9,667,474</i>	<i>\$8,989,154</i>		
	Federal Trust.....	\$9,000	\$9,000		

Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 89-313, P.L. 93-112, P.L. 94-482 and P.L. 95-602, Federal Code.

338.	Facility Administrative and Support Services (49800).....			\$14,165,846	\$14,165,846
				<i>\$13,269,477</i>	<i>\$12,441,824</i>
	General Management and Direction (49801).....	\$3,932,936	\$3,932,936		
		<i>\$3,375,938</i>	<i>\$2,656,295</i>		
	Information Technology Services (49802).....	\$778,832	\$778,832		
		<i>\$722,122</i>	<i>\$674,534</i>		
	Security Services (49803).....	\$737,283	\$737,283		
		<i>\$680,023</i>	<i>\$632,435</i>		
	Residential Services (49804).....	\$1,773,482	\$1,773,482		
		<i>\$1,746,906</i>	<i>\$1,746,906</i>		
	Food and Dietary Services (49807).....	\$1,176,000	\$1,176,000		
		<i>\$1,156,498</i>	<i>\$1,156,498</i>		
	Physical Plant Services (49815).....	\$5,767,313	\$5,767,313		
		<i>\$5,587,990</i>	<i>\$5,575,156</i>		
	Fund Sources: General.....	\$2,408,597	\$2,408,597		
			<i>\$2,483,597</i>		
	Special.....	\$11,578,286	\$11,578,286		
		<i>\$10,681,917</i>	<i>\$9,779,264</i>		
	Federal Trust.....	\$178,963	\$178,963		

Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 93-112 and P.L. 95-602, Federal Code.

Comprehensive services available on-site at Wilson Workforce and Rehabilitation Center shall include, but not be limited to, vocational services, including evaluation, prevocational, academic, and vocational training; independent living services; transition from school to work services; rehabilitative engineering and assistive technology; and medical rehabilitation services, including residential, outpatient, supported living, community reentry, and family support.

	Total for Wilson Workforce and Rehabilitation Center.....			\$27,720,041	\$27,720,041
				<i>\$25,855,068</i>	<i>\$24,349,095</i>
	General Fund Positions.....	58.80	58.80		
	Nongeneral Fund Positions.....	222.20	222.20		
		<i>193.20</i>	<i>193.20</i>		
	Position Level.....	281.00	281.00		
		<i>252.00</i>	<i>252.00</i>		
	Fund Sources: General.....	\$5,317,714	\$5,317,714		
			<i>\$5,392,714</i>		

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Special.....	\$22,214,364	\$22,214,364		
	\$20,349,391	\$18,768,418		
Federal Trust.....	\$187,963	\$187,963		
Grand Total for Department for Aging and Rehabilitative Services.....			\$272,223,284	\$272,223,284
			\$261,663,331	\$257,651,093
General Fund Positions.....	140.56	140.56		
		141.56		
Nongeneral Fund Positions.....	1,148.46	1,148.46		
	1,075.46	1,075.46		
Position Level.....	1,289.02	1,289.02		
	1,216.02	1,217.02		
Fund Sources: General.....	\$66,168,480	\$66,168,480		
		\$66,343,480		
Special.....	\$35,063,920	\$35,063,920		
	\$33,198,947	\$31,617,974		
Dedicated Special Revenue.....	\$1,199,937	\$1,199,937		
Federal Trust.....	\$169,790,947	\$169,790,947		
	\$161,095,967	\$158,489,702		

**§ 1-99. DEPARTMENT OF SOCIAL SERVICES (765)**

339.	Program Management Services (45100).....			\$42,408,598	\$42,408,598
					\$44,554,972
	Training and Assistance to Local Staff (45101).....	\$4,986,679	\$4,986,679		
	Central Administration and Quality Assurance for Benefit Programs (45102).....	\$12,541,044	\$12,541,044		
	Central Administration and Quality Assurance for Family Services (45103).....	\$8,491,978	\$8,491,978		
					\$9,436,422
	Central Administration and Quality Assurance for Community Programs (45105).....	\$9,992,656	\$9,992,656		
					\$11,194,586
	Central Administration and Quality Assurance for Child Care Activities (45107).....	\$6,396,241	\$6,396,241		
	Fund Sources: General.....	\$16,701,948	\$16,701,948		
					\$18,078,365
	Special.....	\$100,000	\$100,000		
	Federal Trust.....	\$25,606,650	\$25,606,650		
					\$26,376,607

Authority: Title 2.2, Chapter 54; Title 63.2, Chapters 2 and 21, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.

A. The Department of Social Services, in collaboration with the Office of Children's Services, shall provide training to local staff serving on Family Assessment and Planning Teams and Community Policy and Management Teams. Training shall include, but need not be limited to, the federal and state requirements pertaining to the provision of the foster care services funded under § 2.2-5211, Code of Virginia. The training shall also include written guidance concerning which services remain the financial responsibility of the local departments of social services. Training shall be provided on a regional basis at least once per year. Written guidance shall be updated and provided to local Office of Children's Services teams whenever there is a change in allowable expenses under federal or state guidelines. In addition, the Department of Social Services shall provide ongoing local oversight of its federal and state requirements related to the provision of services funded under § 2.2-5211, Code of Virginia.

B.1. By November 1 of each year, the Department of Planning and Budget, in cooperation with the Department of Social Services, shall prepare and submit a forecast of expenditures for cash assistance provided through the Temporary Assistance for Needy Families (TANF) program, mandatory child day care services under TANF, foster care

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maintenance and adoption subsidy payments, upon which the Governor's budget recommendations will be based, for the current and subsequent two years to the Chairmen of the House Appropriations and Senate Finance Committees.

2. The forecast of expenditures shall detail the incremental general fund and federal fund adjustments required by the forecast each year in the biennial budget. The Department of Planning and Budget shall convene a meeting on or before October 15 of each year with the appropriate staff from the Department of Social Services, and the House Appropriations and Senate Finance Committees to review current trends and assumptions used in the forecasts prior to their finalization.

C. The Department of Social Services shall provide administrative support and technical assistance to the Family and Children's Trust Fund (FACT) Board of Trustees established in Sections 63.2-2100 through 63.2-2103, Code of Virginia.

D. Out of this appropriation, \$1,829,111 the first year and \$1,829,111 the second year from the general fund and \$1,829,111 the first year and \$1,829,111 the second year from nongeneral funds shall be provided to fund the Supplemental Nutrition Assistance Program (SNAP) Electronic Benefit Transfer (EBT) contract cost.

E.1. Out of this appropriation, ten positions and the associated funding shall be dedicated to providing on-going financial oversight of foster care services. Each of the ten positions, with two working out of each regional office, shall assess and review all foster care spending to ensure that state and federal standards are met. None of these positions shall be used for quality, information technology, or clerical functions.

2. By September 1 of each year, the department shall report to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget regarding the foster care program's statewide spending, error rates and compliance with state and federal reviews.

340.	Financial Assistance for Self-Sufficiency Programs and Services (45200).....			\$267,327,852	\$274,095,685 \$280,389,941
	Temporary Assistance for Needy Families (TANF) Cash Assistance (45201).....	\$65,706,200	\$61,618,736 \$66,744,124		
	Temporary Assistance for Needy Families (TANF) Employment Services (45212).....	\$21,657,833	\$21,657,833		
	Supplemental Nutrition Assistance Program Employment and Training (SNAPET) Services (45213).....	\$4,562,444	\$1,017,741		
	Temporary Assistance for Needy Families (TANF) Child Care Subsidies (45214).....	\$57,807,905	\$57,807,905 \$58,676,773		
	At-Risk Child Care Subsidies (45215).....	\$110,235,948	\$124,635,948		
	Unemployed Parents Cash Assistance (45216).....	\$7,357,522	\$7,357,522 \$7,657,522		
	Fund Sources: General.....	\$81,518,741	\$81,518,741 \$81,818,741		
	Federal Trust.....	\$185,809,111	\$192,576,944 \$198,571,200		

Authority: Title 2.2, Chapter 54; Title 63.2, Chapters 1 through 7, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.

105,902,723A. It is hereby acknowledged that as of June 30, 2017 there existed with the federal government an unexpended balance of \$123,754,882 in federal Temporary Assistance for Needy Families (TANF) block grant funds which are available to the Commonwealth of Virginia to reimburse expenditures incurred in accordance with the adopted State Plan for the TANF program. Based on projected spending levels and appropriations in this act, the Commonwealth's accumulated balance for authorized federal TANF block grant funds is estimated at ~~\$117,664,697~~ \$136,288,696 on June 30, 2018; ~~\$106,277,367~~ \$124,901,366 on June 30, 2019; and ~~\$99,249,842~~ \$105,902,723 on June 30, 2020.

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B. No less than 30 days prior to submitting any amendment to the federal government related to the State Plan for the Temporary Assistance for Needy Families program, the Commissioner of the Department of Social Services shall provide the Chairmen of the House Appropriations and Senate Finance Committees as well as the Director, Department of Planning and Budget written documentation detailing the proposed policy changes. This documentation shall include an estimate of the fiscal impact of the proposed changes and information summarizing public comment that was received on the proposed changes.

C. Notwithstanding any other provision of state law, the Department of Social Services shall maintain a separate state program, as that term is defined by federal regulations governing the Temporary Assistance for Needy Families (TANF) program, 45 C.F.R. § 260.30, for the purpose of providing welfare cash assistance payments to able-bodied two-parent families. The separate state program shall be funded by state funds and operated outside of the TANF program. Able-bodied two-parent families shall not be eligible for TANF cash assistance as defined at 45 C.F.R. § 260.31 (a)(1), but shall receive benefits under the separate state program provided for in this paragraph. Although various conditions and eligibility requirements may be different under the separate state program, the basic benefit payment for which two-parent families are eligible under the separate state program shall not be less than what they would have received under TANF. The Department of Social Services shall establish regulations to govern this separate state program.

D. As a condition of this appropriation, the Department of Social Services shall disregard the value of one motor vehicle per assistance unit in determining eligibility for cash assistance in the Temporary Assistance for Needy Families (TANF) program and in the separate state program for able-bodied two-parent families.

E. The Department of Social Services, in collaboration with local departments of social services, shall maintain minimum performance standards for all local departments of social services participating in the Virginia Initiative for Employment, Not Welfare (VIEW) program. The department shall allocate VIEW funds to local departments of social services based on these performance standards and VIEW caseloads. The allocation formula shall be developed and revised in cooperation with the local social services departments and the Department of Planning and Budget.

F. A participant whose Temporary Assistance for Needy Families (TANF) financial assistance is terminated due to the receipt of 24 months of assistance as specified in § 63.2-612, Code of Virginia, or due to the closure of the TANF case prior to the completion of 24 months of TANF assistance, excluding cases closed with a sanction for noncompliance with the Virginia Initiative for Employment Not Welfare program, shall be eligible to receive employment and training assistance for up to 12 months after termination, if needed, in addition to other transitional services provided pursuant to § 63.2-611, Code of Virginia.

G. The Department of Social Services, in conjunction with the Department of Correctional Education, shall identify and apply for federal, private and faith-based grants for pre-release parenting programs for non-custodial incarcerated parent offenders committed to the Department of Corrections, including but not limited to the following grant programs: Promoting Responsible Fatherhood and Healthy Marriages, State Child Access and Visitation Block Grant, Serious and Violent Offender Reentry Initiative Collaboration, Special Improvement Projects, § 1115 Social Security Demonstration Grants, and any new grant programs authorized under the federal Temporary Assistance for Needy Families (TANF) block grant program.

H.1. Out of this appropriation, \$10,703,748 the first year and \$10,703,748 the second year from nongeneral funds is included for Head Start wraparound child care services.

2. Included in this Item is funding to carry out the former responsibilities of the Virginia Council on Child Day Care and Early Childhood Programs. Nongeneral fund appropriations allocated for uses associated with the Head Start program shall not be transferred for any other use until eligible Head Start families have been fully served. Any remaining funds may be used to provide services to enrolled low-income families in

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	accordance with federal and state requirements. Families, who are working or in education and training programs, with income at or below the poverty level, whose children are enrolled in Head Start wraparound programs paid for with the federal block grant funding in this Item shall not be required to pay fees for these wraparound services.			
	I. Out of this appropriation, \$2,647,305 the first year and \$2,647,305 the second year from the general fund and \$72,503,762 the first year and \$72,503,762 the second year from federal funds shall be provided to support state child care programs which will be administered on a sliding scale basis to income eligible families. The sliding fee scale and eligibility criteria are to be set according to the rules and regulations of the State Board of Social Services, except that the income eligibility thresholds for child care assistance shall account for variations in the local cost of living index by metropolitan statistical areas. The Department of Social Services shall make the necessary amendments to the Child Care and Development Funds Plan to accomplish this intent. Funds shall be targeted to families who are most in need of assistance with child care costs. Localities may exceed the standards established by the state by supplementing state funds with local funds.			
	J. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from nongeneral funds shall be used to provide scholarships to students in early childhood education and related majors who plan to work in the field, or already are working in the field, whether in public schools, child care or other early childhood programs, and who enroll in a state community college or a state supported senior institution of higher education.			
	K. Out of this appropriation, \$505,000 the first year and \$505,000 the second year from nongeneral funds shall be used to provide training of individuals in the field of early childhood education.			
	L. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from nongeneral funds shall be used to provide child care assistance for children in homeless and domestic violence shelters.			
	M. Out of this appropriation, the Department of Social Services shall use \$4,800,000 the first year and \$4,800,000 the second year from the federal Temporary Assistance to Needy Families (TANF) block grant to provide to each TANF recipient with two or more children in the assistance unit a monthly TANF supplement equal to the amount the Division of Child Support Enforcement collects up to \$200, less the \$100 disregard passed through to such recipient. The TANF child support supplement shall be paid within two months following collection of the child support payment or payments used to determine the amount of such supplement. For purposes of determining eligibility for medical assistance services, the TANF supplement described in this paragraph shall be disregarded. In the event there are sufficient federal TANF funds to provide all other assistance required by the TANF State Plan, the Commissioner may use unobligated federal TANF block grant funds in excess of this appropriation to provide the TANF supplement described in this paragraph.			
	N. The Board of Social Services shall combine Groups I and II for the purposes of Temporary Assistance to Needy Families cash benefits and use the Group II rates for the new group.			
	O. The Department of Social Services, in cooperation with the University of Virginia's Center for Advanced Study of Teaching and Learning, shall (i) develop a list of research-based, age-appropriate curricula to be available as a resource for child care providers participating in the child care subsidy program, and (ii) develop, publish and maintain a list of professional development courses and providers to be available as resources for child care professionals participating in the child care subsidy program.			
	P. The Department of Social Services shall submit a plan on the intended allocation and spending of additional federal Child Care and Development Fund monies to improve access to and quality of child day care in Virginia that are received pursuant to the Consolidated Appropriations Act of 2018, PL 115-141. The plan shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees by September 1, 2018.			
	Q.1. Out of this appropriation \$925,000 the first year and \$325,000 the second year from the federal Child Care and Development Fund (CCDF) shall be provided to implement a pilot program in cooperation with the University of Virginia Center for Advanced Study of Teaching and Learning (UVA CASTL) to improve early childhood classrooms in faith-based			

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and private child day care centers. The pilot program shall implement UVA CASTL developed curricula, professional development and coaching modules to improve Kindergarten readiness in these centers.

2. Out of the amounts provided in O.1., \$525,000 the first year shall be used to implement the pilot program in 50 early childhood classrooms in faith-based and private child day care centers and \$400,000 the first year from the federal CCDF shall be provided to develop a version of the Virginia Kindergarten Readiness Program for the pilot program to use in assessing four-year-olds in these early childhood classrooms.

3. Out of the amounts provided in O.1., \$325,000 the second year shall be used to implement an evaluation of the pilot program.

*R. The Department of Social Services shall increase the Temporary Assistance for Needy Families (TANF) cash benefits by five percent effective July 1, 2019.*

*S. The Commissioner, Department of Social Services, shall develop a comprehensive plan for the Temporary Assistance to Needy Families (TANF) block grant and make recommendations to ensure the block grant is being used in the most effective manner to best support low-income families in achieving self-sufficiency. The Commissioner shall: (i) review and evaluate the current uses of TANF block grant funds; (ii) assess the effectiveness of current TANF benefits in assisting families; (iii) evaluate the effectiveness of the discretionary uses of TANF in meeting the four goals of the TANF program and whether such uses have outcome measures; and (iv) provide estimates for the costs of any recommendations in the plan. The Commissioner shall consult with stakeholders in developing the plan, and shall submit the plan to the Joint Subcommittee for Health and Human Resources Oversight by October 1, 2019.*

341. Financial Assistance for Local Social Services Staff (46000).....			\$484,194,170	\$495,412,252
			\$479,100,482	\$488,984,442
Local Staff and Operations (46010).....	\$484,194,170	\$495,412,252		
	\$479,100,482	\$488,984,442		
Fund Sources: General.....	\$126,847,174	\$128,239,109		
	\$124,596,629	\$125,400,386		
Dedicated Special Revenue.....	\$3,000,000	\$3,000,000		
	\$6,508,986	\$8,659,655		
Federal Trust.....	\$354,346,996	\$364,173,143		
	\$347,994,867	\$354,924,401		

Authority: Title 63.2, Chapters 1 through 7 and 9 through 16, Code of Virginia; P.L. 104-193, Titles IV A, XIX, and XXI, Social Security Act, Federal Code, as amended.

A. The amounts in this Item shall be expended under regulations of the Board of Social Services to reimburse county and city welfare/social services boards pursuant to § 63.2-401, Code of Virginia, and subject to the same percentage limitations for other administrative services performed by county and city public welfare/social services boards and superintendents of public welfare/social services pursuant to other provisions of the Code of Virginia, as amended.

B. Pursuant to the provisions of §§ 63.2-403, 63.2-406, 63.2-407, 63.2-408, and 63.2-615 Code of Virginia, all moneys deducted from funds otherwise payable out of the state treasury to the counties and cities pursuant to the provisions of § 63.2-408, Code of Virginia, shall be credited to the applicable general fund account.

C. Included in this appropriation are funds to reimburse local social service agencies for eligibility workers who interview applicants to determine qualification for public assistance benefits which include but are not limited to: Temporary Assistance for Needy Families (TANF); Supplemental Nutrition Assistance Program (SNAP); and Medicaid.

D. Included in this appropriation are funds to reimburse local social service agencies for social workers who deliver program services which include but are not limited to: child and adult protective services complaint investigations; foster care and adoption services; and adult services.

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E. Out of the federal fund appropriation for local social services staff, amounts estimated at \$72,000,000 the first year and \$72,000,000 the second year shall be set aside for allowable local costs which exceed available general fund reimbursement and amounts estimated at \$22,000,000 the first year and \$22,000,000 the second year shall be set aside to reimburse local governments for allowable costs incurred in administering public assistance programs.				
F. Out of this appropriation, \$562,260 the first year and \$562,260 the second year from the general fund and \$540,211 the first year and \$540,211 the second year from nongeneral funds is provided to cover the cost of the health insurance credit for retired local social services employees.				
G. The Department of Social Services shall work with local departments of social services on a pilot project in the western region of the state to evaluate the available data collected by local departments on facilitated care arrangements. The department shall, based on the findings from the pilot project, determine the most appropriate mechanism for collecting and reporting such data on a statewide basis.				
H.1. Out of this appropriation, \$4,527,969 the first year and \$4,527,969 the second year from the general fund shall be available for the reinvestment of adoption general fund savings as authorized in Title IV, parts B and E of the federal Social Security Act (P.L. 110-351).				
2. Of the amount in paragraph H.1. above, \$1,333,031 the first year and \$1,333,031 the second year from the general fund shall be used to provide Child Protective Services (CPS) assessments and investigations in response to all reports of children born exposed to controlled substances regardless of whether the substance had been prescribed to the mother when she has sought or gained substance abuse counseling or treatment.				
342. Child Support Enforcement Services (46300).....			\$775,255,087	\$774,455,087
Support Enforcement and Collection Services (46301).....	\$110,348,778	\$109,548,778		
Public Assistance Child Support Payments (46302)....	\$11,000,000	\$11,000,000		
Non-Public Assistance Child Support Payments (46303).....	\$653,906,309	\$653,906,309		
Fund Sources: General.....	\$17,157,242	<del>\$16,957,242</del> \$16,882,124		
Special.....	\$691,388,199	<del>\$690,788,199</del> \$691,663,317		
Federal Trust.....	\$66,709,646	<del>\$66,709,646</del> \$65,909,646		

Authority: Title 20, Chapters 2 through 3.1 and 4.1 through 9; Title 63.2, Chapter 19, Code of Virginia; P.L. 104-193, as amended; P.L. 105-200, P.L. 106-113, Federal Code.

A. Any net revenue from child support enforcement collections, after all disbursements are made in accordance with state and federal statutes and regulations, and after the state's share of the cost of administering the program is paid, shall be estimated and deposited into the general fund by June 30 of the fiscal year in which it is collected. Any additional moneys determined to be available upon final determination of a fiscal year's costs of administering the program shall be deposited to the general fund by September 1 of the subsequent fiscal year in which it is collected.

B. In determining eligibility and amounts for cash assistance, pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, the department shall continue to disregard up to \$100 per month in child support payments and return to recipients of cash assistance up to \$100 per month in child support payments collected on their behalf.

C. The state share of amounts disbursed to recipients of cash assistance pursuant to paragraph B of this Item shall be considered part of the Commonwealth's required Maintenance of Effort spending for the federal Temporary Assistance for Needy Families program established by the Social Security Act.

D. The department shall expand collections of child support payments through contracts with private vendors. However, the Department of Social Services and the Office of the Attorney

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<p>General shall not contract with any private collection agency, private attorney, or other private entity for any child support enforcement activity until the State Board of Social Services has made a written determination that the activity shall be performed under a proposed contract at a lower cost than if performed by employees of the Commonwealth.</p> <p>E. The Division of Child Support Enforcement, in cooperation with the Department of Medical Assistance Services, shall identify cases for which there is a medical support order requiring a noncustodial parent to contribute to the medical cost of caring for a child who is enrolled in the Medicaid or Family Access to Medical Insurance Security (FAMIS) Programs. Once identified, the division shall work with the Department of Medical Assistance Services to take appropriate enforcement actions to obtain medical support or repayments for the Medicaid program.</p>				
343.	Adult Programs and Services (46800).....		\$39,661,169	<del>\$40,960,209</del> \$40,660,209
	Auxiliary Grants for the Aged, Blind, and Disabled (46801).....	\$20,998,969	<del>\$22,298,009</del> \$21,998,009	
	Adult In-Home and Supportive Services (46802).....	\$6,822,995	\$6,822,995	
	Domestic Violence Prevention and Support Activities (46803).....	\$11,839,205	\$11,839,205	
	Fund Sources: General.....	\$22,456,141	<del>\$23,755,181</del> \$23,455,181	
	Federal Trust.....	\$17,205,028	\$17,205,028	

Authority: Title 63.2, Chapters 1, 16 and 22, Code of Virginia; Title XVI, federal Social Security Act, as amended.

A.1.a. Effective ~~July 1, 2018~~ *January 1, 2019*, the Department of Social Services, in collaboration with the Department for Aging and Rehabilitative Services, is authorized to base approved licensed assisted living facility rates for individual facilities on an occupancy rate of 85 percent of licensed capacity, not to exceed a maximum rate of ~~\$1,271~~ \$1,292 per month, which rate is also applied to approved adult foster care homes, unless modified as indicated below. The department may add a 15 percent differential to the maximum amount for licensed assisted living facilities and adult foster care homes in Planning District Eight.

b. Effective July 1, 2019, the Department of Social Services, in collaboration with the Department for Aging and Rehabilitative Services, is authorized to base approved licensed assisted living facility rates for individual facilities on an occupancy rate of 85 percent of licensed capacity, not to exceed a maximum rate of ~~\$1,296~~ \$1,317 per month, which rate is also applied to approved adult foster care homes, unless modified as indicated below. The department may add a 15 percent differential to the maximum amount for licensed assisted living facilities and adult foster care homes in Planning District Eight.

2. Effective January 1, 2013, the monthly personal care allowance for auxiliary grant recipients who reside in licensed assisted living facilities and approved adult foster care homes shall be \$82 per month, unless modified as indicated below.

3. The Department of Social Services, in collaboration with the Department for Aging and Rehabilitative Services, is authorized to increase the assisted living facility and adult foster care home rates and/or the personal care allowance cited above on January 1 of each year in which the federal government increases Supplemental Security Income or Social Security rates or at any other time that the department determines that an increase is necessary to ensure that the Commonwealth continues to meet federal requirements for continuing eligibility for federal financial participation in the Medicaid program. Any such increase is subject to the prior concurrence of the Department of Planning and Budget. Within thirty days after its effective date, the Department of Social Services shall report any such increase to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees with an explanation of the reasons for the increase.

4. ~~The number of auxiliary grant recipients in a supportive housing setting shall not exceed 60.~~ *The Department of Social Services, in collaboration with the Department for Aging and Rehabilitative Services and the Department of Behavioral Health and*

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*Developmental Services, shall report annually by August 15, the number of individuals receiving an Auxiliary Grant supportive housing slot that were discharged from a state behavioral health hospital in the prior 12 months. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees.*

B. Out of this appropriation, \$4,185,189 the first year and \$4,185,189 in the second year from the federal Social Services Block Grant shall be allocated to provide adult companion services for low-income elderly and disabled adults.

C. The toll-free telephone hotline operated by the Department of Social Services to receive child abuse and neglect complaints shall also be publicized and used by the department to receive complaints of adult abuse and neglect.

D. Out of this appropriation, \$248,750 the first year and \$248,750 the second year from the general fund and \$1,346,792 the first year and \$1,346,792 the second year from federal Temporary Assistance for Needy Families (TANF) funds shall be provided as a grant to local domestic violence programs for purchase of crisis and core services for victims of domestic violence, including 24-hour hotlines, emergency shelter, emergency transportation, and other crisis services as a first priority.

E. Out of this appropriation, \$75,000 the first year and \$75,000 the second year from the general fund and \$400,000 the first year and \$400,000 the second year from nongeneral funds shall be provided for the purchase of services for victims of domestic violence as stated in § 63.2-1615, Code of Virginia, in accordance with regulations promulgated by the Board of Social Services.

F. Out of this appropriation \$1,100,000 the first year and \$1,100,000 the second year from the general fund and \$2,500,000 the first year and \$2,500,000 the second year from federal Temporary Assistance to Needy Families (TANF) funds shall be provided as a grant to local domestic violence programs for services.

*G. The Director, Department of Planning and Budget, shall, on or before June 30, 2019, unallot \$2,000,000 from the general fund in this item, which reflects unused balances in the auxiliary grants program.*

344.	Child Welfare Services (46900).....			\$234,276,500	\$234,356,991
				\$234,910,203	\$238,176,201
	Foster Care Payments (46901).....	\$66,587,861	\$66,668,352		
		\$62,854,331	\$63,509,506		
	Supplemental Child Welfare Activities (46902).....	\$36,763,186	\$36,763,186		
			\$38,723,749		
	Adoption Subsidy Payments (46903).....	\$130,925,453	\$130,925,453		
		\$135,292,686	\$135,942,946		
	Fund Sources: General.....	\$117,370,861	\$117,426,796		
		\$118,060,119	\$119,412,176		
	Special.....	\$1,425,030	\$1,425,030		
			\$2,434,593		
	Dedicated Special Revenue.....	\$585,265	\$585,265		
	Federal Trust.....	\$114,895,344	\$114,919,900		
		\$114,839,789	\$115,744,167		

Authority: Title 63.2, Chapters 1, 2, 4 and 8 through 15, Code of Virginia; P.L. 100-294, P.L. 101-126, P.L. 101-226, P.L. 105-89, P.L. 110-351, P.L. 111-320, as amended, Federal Code.

A. Expenditures meeting the criteria of Title IV-E of the Social Security Act shall be fully reimbursed except that expenditures otherwise subject to a standard local matching share under applicable state policy, including local staffing, shall continue to require local match. The commissioner shall ensure that local social service boards obtain reimbursement for all children eligible for Title IV-E coverage.

B. The commissioner, in cooperation with the Department of Planning and Budget, shall establish a reasonable, automatic adjustment for inflation each year to be applied to the room and board maximum rates paid to foster parents. However, this provision shall apply only in fiscal years following a fiscal year in which salary increases are provided for state employees.

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C. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided for the purchase of services for victims child abuse and neglect prevention activities as stated in § 63.2-1502, Code of Virginia, in accordance with regulations promulgated by the Board of Social Services.

D. Out of this appropriation, \$180,200 the first year and \$180,200 the second year from the general fund and \$99,800 the first year and \$99,800 the second year from nongeneral funds shall be provided to continue respite care for foster parents.

E. Notwithstanding the provisions of §§ 63.2-1300 through 63.2-1303, Code of Virginia, adoption assistance subsidies and supportive services shall not be available for children adopted through parental placements, except parental placements where the legal guardian is a child placing agency at the time of the adoption. This restriction does not apply to existing adoption assistance agreements.

F.1. Out of this appropriation, \$1,500,000 the first year and \$1,500,000 the second year from the general fund shall be provided to implement pilot programs that increase the number of foster care children adopted.

2. Beginning July 1, 2017, the department shall provide an annual report, not later than 45 days after the end of the state fiscal year, on the use and effectiveness of this funding including, but not limited to, the additional number of special needs children adopted from foster care as a result of this effort and the types of ongoing supportive services provided, to the Governor, Chairmen of House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget.

G. Out of this appropriation, ~~\$17,625,719~~ \$18,293,004 the first year and \$17,625,719 the second year from the general fund and \$7,000,000 the first year and \$7,000,000 the second year from nongeneral funds shall be provided for special needs adoptions.

H. Out of this appropriation ~~\$53,199,867~~ \$54,830,250 the first year and ~~\$53,199,867~~ \$54,830,250 the second year from the general fund and ~~\$53,199,867~~ \$54,830,250 the first year and ~~\$53,199,867~~ \$54,830,250 the second year from nongeneral funds shall be provided for Title IV-E adoption subsidies.

I. The Commissioner, Department of Social Services, shall ensure that local departments that provide independent living services to persons between 18 and 21 years of age make certain information about and counseling regarding the availability of independent living services is provided to any person who chooses to leave foster care or who chooses to terminate independent living services before his twenty-first birthday. Information shall include the option for restoration of independent living services following termination of independent living services, and the processes whereby independent living services may be restored should he choose to seek restoration of such services in accordance with § 63.2-905.1 of the Code of Virginia.

J.1. Notwithstanding the provisions of § 63.2-1302, Code of Virginia, the Department of Social Services shall negotiate all adoption assistance agreements with both existing and prospective adoptive parents on behalf of local departments of social services. This provision shall not alter the legal responsibilities of the local departments of social services set out in Chapter 13 of Title 63.2, Code of Virginia, nor alter the rights of the adoptive parents to appeal.

2. Out of this appropriation, \$342,414 the first year and \$342,414 the second year from the general fund and \$215,900 the first year and \$215,900 the second year from nongeneral funds shall be provided for five positions to execute these negotiations.

K.1. The Department of Social Services shall partner with Patrick Henry Family Services to implement a pilot program in the area encompassing Planning District 11 (Amherst, Appomattox, Bedford, Campbell Counties and the City of Lynchburg) for the temporary placements of children for children and families in crisis.

The pilot program will allow a parent or legal custodian of a minor, with the assistance of Patrick Henry Family Services, to delegate to another person by a properly executed power of attorney any powers regarding care, custody, or property of the minor for a

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	temporary placement for a period that is not greater than 90 days. The program will allow for an option of a one-time 90 day extension.			
	2. The department shall ensure that this pilot program meets the following specific programmatic and safety requirements outlined in 22 VAC 40-131 and 22 VAC 40-191:			
	(i) The pilot program organization shall meet the background check requirements described in 22 VAC 40-191.			
	(ii) The pilot program organization shall develop and implement written policies and procedures for governing active and closed cases, admissions, monitoring the administration of medications, prohibiting corporal punishment, ensuring that children are not subjected to abuse or neglect, investigating allegations of misconduct toward children, implementing the child's back-up emergency care plan, assigning designated casework staff, management of all records, discharge policies, and the use of seclusion and restraint (22 VAC 40-131-90).			
	(iii) The pilot program organization shall provide pre-service and ongoing training for temporary placement providers and staff (22 VAC 40-131-210 and 22 VAC 40-131-150).			
	3. The Department of Social Services shall evaluate the pilot program and determine if this model of prevention is effective. A report of the evaluation findings and recommendations shall be submitted to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Commission on Youth by December 1, 2017.			
	L.1. Out of this appropriation, \$2,925,954 the first year and \$2,925,954 the second year from the general fund and \$2,886,611 the first year and \$2,886,611 the second year from nongeneral funds shall be available for the expansion of foster care and adoption assistance as authorized in the federal Foster Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351; P.L. 11-148).			
	2. In order to implement the Fostering Futures program, the Department of Social Services shall set out the requirements for program participation in accordance with 42 U.S.C. 675 (8) (B) (iv) and shall provide the format of an agreement to be signed by the local department of social services and the youth. The definition of a child for the purpose of the Fostering Futures program shall be any natural person who has reached the age of 18 years but has not reached the age of 21. The Department of Social Services shall develop guidance setting out the requirements for local implementation including a requirement for six-month reviews of each case and reasons for termination of participation by a youth. The guidance shall also include a definition of a supervised independent living arrangement which does not include group homes or residential facilities. Implementation of this program includes the extension of adoption assistance to age 21 for youth who were adopted at age 16 or older and who meet the program participation requirements set out in guidance by the Department of Social Services.			
	3. The Department of Social Services shall issue guidance for the program's eligibility requirements and shall be available, on a voluntary basis, to an individual upon reaching the age of 18 who:			
	(i) was in the custody of a local department of social services either:			
	(a) prior to reaching 18 years of age, remained in foster care upon turning 18 years of age; or			
	(b) immediately prior to commitment to the Department of Juvenile Justice and is transitioning from such commitment to self-sufficiency.			
	(ii) and who is:			
	(a) completing secondary education or an equivalent credential; or			
	(b) enrolled in an institution that provides post-secondary or vocational education; or			
	(c) employed for at least 80 hours per month; or			
	(d) participating in a program or activity designed to promote employment or remove barriers to employment; or			

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<p>(e) incapable of doing any of the activities described in subdivisions (a) through (d) due to a medical condition, which incapability is supported by regularly updated information in the program participant's case plan.</p> <p>4. Implementation of extended foster care services shall be available for those eligible youth reaching age 18 on or after July 1, 2016.</p> <p>M.1. Out of this appropriation, \$7,517,668 the first year and \$7,517,668 the second year from the general fund and \$2,500,000 the first year and \$2,500,000 the second year from nongeneral funds shall be available for the reinvestment of adoption general fund savings as authorized in title IV, parts B and E of the federal Social Security Act (P.L. 110-351).</p> <p>2. Of the amounts in paragraph M.1. above, \$3,078,595 the first year and \$3,078,595 the second year from the general fund shall be used to develop a case management module for a comprehensive child welfare information system (CCWIS). In the development of the CCWIS, the department shall not create any future obligation that will require the appropriation of general fund in excess of that provided in this Act. Should additional appropriation, in excess of the amounts identified in this paragraph, be needed to complete development of this or any other module for the CCWIS, the department shall notify the Chairmen of the House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget.</p> <p>3. Beginning September 1, 2018, the department shall also provide semi-annual progress reports that includes current project summary, implementation status, accounting of project expenditures and future milestones. All reports shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget.</p> <p><i>N. Out of this appropriation, \$1,009,563 the second year from nongeneral funds shall be used to fund ten positions that support the child protective services hotline.</i></p> <p><i>O. Out of this appropriation, \$50,000 the second year from the general fund and \$50,000 the second year from nongeneral funds shall be used to fund one position that supports Virginia Fosters.</i></p> <p><i>P. Out of this appropriation, \$851,000 the second year from the general fund is provided for training, consultation and technical support, and licensing costs associated with establishing evidence-based programming as identified in the federal Family First Prevention Services Act (FFPSA) Evidence-Based Programs Clearinghouse.</i></p> <p><i>Q. The Department of Social Services shall immediately review all cases of children in congregate care without a clinical need to be there and assist local departments in finding appropriate family-based settings. The department shall certify completion of the reviews by June 30, 2020, and by letter notify the General Assembly as such.</i></p>					
345.	Financial Assistance for Supplemental Assistance Services (49100).....			\$78,757,450	\$78,757,450
	General Relief (49101).....	\$500,000	\$500,000		
	Resettlement Assistance (49102).....	\$9,022,000	\$9,022,000		
	Emergency and Energy Assistance (49103).....	\$69,235,450	\$69,235,450		
	Fund Sources: General.....	\$500,000	\$500,000		
	Federal Trust.....	\$78,257,450	\$78,257,450		
	Authority: Title 2.2, Chapter 54; Title 63.2, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 104-193, as amended, Federal Code.				
346.	Financial Assistance to Community Human Services Organizations (49200).....			\$48,789,789	\$49,039,789
	Community Action Agencies (49201).....	\$18,638,048	<del>\$18,638,048</del> \$19,763,048	\$48,700,789	\$53,657,967
	Volunteer Services (49202).....	\$3,866,340	\$3,866,340		

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Other Payments to Human Services Organizations (49203).....	\$26,285,401 \$26,196,401	\$26,535,401 \$30,028,579		
Fund Sources: General.....	\$674,500	\$674,500		
Federal Trust.....	\$48,115,289 \$48,026,289	\$48,365,289 \$52,983,467		

Authority: Title 2.2, Chapter 54; Title 63.2, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.

A.1. All increased state or federal funds distributed to Community Action Agencies shall be distributed as follows: The funds shall be distributed to all local Community Action Agencies according to the Department of Social Services funding formula (75 percent based on low-income population, 20 percent based on number of jurisdictions served, and five percent based on square mileage served), adjusted to ensure that no agency receives less than 1.5 percent of any increase.

2. Out of this appropriation, \$185,725 the first year and \$185,725 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with the Virginia Community Action Partnership to provide outreach, education and tax preparation services via the Virginia Earned Income Tax Coalition and other community non-profit organizations to citizens who may be eligible for the federal Earned Income Tax Credit. The contract shall require the Virginia Community Action Partnership to report on its efforts to expand the number of Virginians who are able to claim the federal EITC, including the number of individuals identified who could benefit from the credit, the number of individuals counseled on the availability of federal EITC, and the number of individuals assisted with tax preparation to claim the federal EITC. The annual report from the Virginia Community Action Partnership shall also detail actual expenditures for the program including the sub-contractors that were utilized. This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by December 1 each year.

3. Out of this appropriation, \$6,250,000 the first year and \$6,250,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with local Community Action Agencies to provide an array of services designed to meet the needs of low-income individuals and families, including the elderly and migrant workers. Services may include, but are not limited to, child care, community and economic development, education, employment, health and nutrition, housing, and transportation.

4. Out of this appropriation, \$1,125,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided for competitive grants to Community Action Agencies for a Two-Generation/Whole Family Pilot Project and for evaluation of the pilot project. Applicants selected for the pilot project shall provide a match of no less than 20 percent of the grant, including in-kind services. The Department of Social Services shall report to the General Assembly annually on the progress of the pilot project and shall complete a final report on the project no later than six years after the commencement of the project.

B. The department shall continue to fund from this Item all organizations recognized by the Commonwealth as community action agencies as defined in §2.2-5400 et seq.

C. Out of this appropriation, \$9,035,501 the first year and ~~\$9,035,501~~ \$8,617,679 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with programs that follow the evidence-based Healthy Families America home visiting model that promotes positive parenting, improves child health and development, and reduces child abuse and neglect. The Department of Social Services shall use a portion of the funds from this item to contract with the statewide office of Prevent Child Abuse Virginia for providing the coordination, technical support, quality assurance, training and evaluation of the Virginia Healthy Families programs.

~~D. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from nongeneral funds shall be provided for Volunteer Emergency Families for Children to expand its shelter care network for abused, neglected, runaway, homeless, and at-risk children throughout Virginia.~~

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E. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from nongeneral funds shall be provided for the Child Abuse Prevention Play (the play) administered by Virginia Repertory Theatre. The contract shall include production and live performances of the play that teach child safety awareness to prevent child abuse.				
F. Out of this appropriation, \$70,000 the first year and \$70,000 the second year from the general fund shall be provided to contract with the Virginia Alzheimer's Association Chapters to provide dementia-specific training to long-term care workers in licensed nursing facilities, assisted living facilities and adult day care centers who deal with Alzheimer's disease and related disorders.				
G. Out of this appropriation, \$500,000 the first year and <del>\$500,000</del> \$1,000,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with Northern Virginia Family Services (NVFS) to provide supportive services that address the basic needs of families in crisis, including the provision of food, financial assistance to prevent homelessness, <del>and</del> access to health services, <i>and adult workforce development programs</i> . The contract shall require NVFS to provide an intake process that identifies the needs and appropriate services for those in crisis. Outcomes will be measured utilizing surveys provided to those who receive services and NVFS will report quarterly on survey results.				
H. Out of this appropriation, \$405,500 the first year and \$405,500 the second year from the general fund and <del>\$1,125,500</del> \$1,136,500 the first year and <del>\$1,125,500</del> \$1,136,500 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with child advocacy centers (CAC) to provide a comprehensive, multidisciplinary team response to allegations of child abuse in a dedicated, child-friendly setting. The contracts shall require CACs to provide forensic interviews, victim support and advocacy services, medical evaluations, and mental health services to victims of child abuse and neglect with the expected outcome of reducing child abuse and neglect. The department shall allocate four percent to Children's Advocacy Centers of Virginia (CACVA), the recognized chapter of the National Children's Alliance for Virginia's Child Advocacy Centers, for the purpose of assisting and supporting the development, continuation, and sustainability of community-coordinated, child-focused services delivered by children's advocacy centers (CACs). Of the remaining 96 percent, (i) 65 percent shall be distributed to a baseline allocation determined by the accreditation status of the CAC: (a) developing and associate centers 100 percent of base; (b) accredited centers 150 percent of base; and (c) accredited centers with satellite facilities 175 percent of base; and (ii) 35 percent shall be allocated according to established criteria to include: (a) 25 percent determined by the rate of child abuse per 1,000; (b) 25 percent determined by child population; and (c) 50 percent determined by the number of counties and independent cities serviced.				
I.1. Out of this appropriation, \$1,250,000 the first year and \$1,250,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with the Virginia Early Childhood Foundation (VECF) to support the health and school readiness of Virginia's young children prior to school entry. These funds shall be matched with local public and private resources with a goal of leveraging a dollar for each state dollar provided.				
2. Of the amounts in paragraph I.1. above, \$1,250,000 the first year and \$1,250,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be used to provide information and assistance to parents and families and to facilitate partnerships with both public and private providers of early childhood services. VECF will track and report statewide and local progress on a biennial basis. The Foundation shall account for the expenditure of these funds by providing the Governor, Secretary of Health and Human Resources, and the Chairmen of the House Appropriations and Senate Finance Committees with a certified audit and full report on Foundation initiatives and results not later than October 1 of each year for the preceding fiscal year ending June 30.				
3. On or before October 1 of each year, the foundation shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees a report on the actual amount, by fiscal year, of private and local government funds received by the foundation.				

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J. Out of this appropriation \$1,000,000 the first year and <del>\$1,000,000</del> \$1,500,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided to the Virginia Alliance of Boys and Girls Clubs to expand community-based prevention and mentoring programs.				
K.1. Out of this appropriation, \$7,500,000 the first year and \$7,500,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant the shall be provided for competitive grants for community employment and training programs designed to move low-income individuals out of poverty through programs designed to assist TANF recipients in obtaining and retaining competitive employment with the prospect of a career path and wage growth and other supportive services designed to break the cycle of poverty and permanently move individuals out of poverty. Of this amount, \$2.0 million shall be provided for competitive grants provided through Employment Services Organizations (ESOs).				
2.a. Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant the shall be provided for a second round of grants for community employment and training programs designed to move low-income individuals out of poverty by obtaining and retaining competitive employment with the prospect of a career path and wage growth. The local match requirement shall be reduced to 10 percent, including in-kind services, for grant recipients located in Virginia counties or cities with high fiscal stress as defined by the Commission on Local Government fiscal stress index.				
b. Out of the amounts in 2.a., at least \$300,000 each year from the TANF block grant shall be provided through a contract with the City of Richmond, Office of Community Wealth for services provided through the Center for Workforce Innovation.				
3. The Department of Social Services shall award grants to qualifying programs through a memorandum of understanding which articulates performance measures and outcomes including the number of individuals participating in services, number of individuals hired into employment, the number of unique employers hiring individuals through organizational programs and activities, the average starting wage of individuals hired, reductions in the rate of poverty, as well as process measures such as how the program targets improvement in poverty over a 3-5 year period and fits in with long term community goals for reducing poverty. Grants shall require local matching funds of at least a 25 percent, including in-kind services.				
4. Community employment and training programs and ESOs shall report on annual program performance and outcome measures contained in the memorandum of understanding with the Department of Social Services. The department shall report on the implementation of the programs and any performance and outcome data collected through the memorandum of understanding by June 1 of each year.				
L. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund shall be provided to contract with Youth for Tomorrow (YFT) to provide comprehensive residential, education and counseling services to at-risk youth of the Commonwealth of Virginia who have been sexually exploited, including victims of sex trafficking. The contract shall require YFT to provide individual assessments/individual service planning; individual and group counseling; room and board; coordination of medical and mental health services and referrals; independent living services for youth transitioning out of foster care; active supervision; education; and family reunification services. Youth for Tomorrow shall submit monthly progress reports on activities conducted and progress achieved on outputs, outcomes and other functions/activities during the reporting period. On October 1 of each year, YFT shall provide an annual report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees that details program services, outputs and outcomes.				
M. Out of this appropriation, \$75,000 each year from the federal Temporary Assistance to Needy Families block grant shall be provided to contract with Visions of Truth Community Development Corporation in Portsmouth, Virginia. The funding will support the Students Taking Responsibility in Valuing Education (STRIVE) suspension/dropout prevention program.				
N. Out of this appropriation, \$250,000 the first year and \$600,000 the second year from the				

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the federal Temporary Assistance to Needy Families block grant shall be provided to contract with Early Impact Virginia to continue its work in support of Virginia's voluntary home visiting programs. These funds may be used to hire three full-time staff, including a director and an evaluator, and to continue Early Impact Virginia's training partnerships. Early Impact Virginia shall have the authority and responsibility to determine, systematically track, and report annually on the key activities and outcomes of Virginia's home visiting programs; conduct systematic and statewide needs assessments for Virginia's home visiting programs at least once every three years; and to support continuous quality improvement, training, and coordination across Virginia's home visiting programs on an ongoing basis. Early Impact Virginia shall report on its findings to the Chairmen of the House Appropriations and Senate Finance Committees by July 1, 2019 and annually thereafter.

O. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided to contract with the Laurel Center in Winchester to provide program services to survivors of domestic abuse and sexual violence in Winchester, Frederick County, Clarke County, and Warren County at the Center's residential facility for survivors.

P. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be provided for the Department of Social Services to contract with Adoption Share, Inc. for the purpose of a pilot program to operate the Family-Match application, which is an online matching tool for state case workers to use in matching foster care children with the best families.

Q. Out of this appropriation, \$200,000 the first year and \$100,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided to FACETS to provide homeless assistance services in Northern Virginia.

*R. Out of this appropriation, \$3,000,000 the second year from the TANF block grant shall be provided for one-time funding to contract with the Virginia Federation of Food Banks to provide child nutrition programs.*

347.	Regulation of Public Facilities and Services (56100).....			\$28,719,903	\$28,819,686
	Regulation of Adult and Child Welfare Facilities (56101).....	\$25,783,256	\$25,883,039		
	Background Investigation Services (56106).....	\$2,936,647	\$2,936,647		
	Fund Sources: General.....	\$3,880,473	\$3,880,473		
	Special.....	<del>\$2,360,620</del>	<del>\$2,360,620</del>		
		\$3,038,114	\$3,038,114		
	Federal Trust.....	<del>\$22,478,810</del>	<del>\$22,578,593</del>		
		\$21,801,316	\$21,901,099		

Authority: Title 63.2, Chapters 17 and 18, Code of Virginia.

A. The state nongeneral fund amounts collected and paid into the state treasury pursuant to the provisions of § 63.2-1700, Code of Virginia, shall be used for the development and delivery of training for operators and staff of assisted living facilities, adult day care centers, and child welfare agencies.

B. As a condition of this appropriation, the Department of Social Services shall (i) promptly fill all position vacancies that occur in licensing offices so that positions shall not remain vacant for longer than 120 days and (ii) hire sufficient child care licensing specialists to ensure that all child care facilities receive, at a minimum, the two visits per year mandated by § 63.2-1706, Code of Virginia, and that facilities with compliance problems receive additional inspection visits as necessary to ensure compliance with state laws and regulations.

C. As a condition of this appropriation, the Department of Social Services shall utilize a risk assessment instrument for child and adult care enforcement. This instrument shall include criteria for determining when the following sanctions may be used: (i) the imposition of intermediate sanctions, (ii) the denial of licensure renewal or revocation of license of a licensed facility, (iii) injunctive relief against a child care provider, and (iv)

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additional inspections and intensive oversight of a facility by the Department of Social Services.					
D. Out of this appropriation, the Department of Social Services shall implement training for new assisted living facility owners and managers to focus on health and safety issues, and resident rights as they pertain to adult care residences.					
E. Out of this appropriation, \$8,853,833 and 59 positions the first year and \$8,853,833 and 59 positions second year from the federal Child Care and Development Fund (CCDF) shall be provided to address the workload associated with licensing, inspecting and monitoring family day homes, pursuant to § 63.2-1704, Code of Virginia. On July 1, 2018, the Director of the Department of Planning and Budget shall unallot \$6,853,833 of this appropriation. At such time as the department demonstrates a sufficient increase in family day home licensure, inspection and monitoring activity to necessitate additional staff, the Director of the Department of Planning and Budget may allot additional resources. The Department of Social Services shall provide an annual report, not later than October 1 of each year for the preceding state fiscal year ending June 30, on the implementation of this initiative to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget.					
F. The Department of Social Services shall work with localities that currently inspect child day care centers and family day homes to minimize duplication and overlap of inspections pursuant to § 63.2-1701.1, Code of Virginia.					
G. No child day center, family day home, or family day system licensed in accordance with Chapter 17, Title 63.2; child day center exempt from licensure pursuant to § 63.2-1716; registered family day home; family day home approved by a family day system; or any child day center or family day home that enters into a contract with the Department of Social Services or a local department of social services to provide child care services funded by the Child Care and Development Block Grant shall employ; continue to employ; or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who has an offense as defined in § 63.2-1719. All employees and volunteers shall undergo the following background check by July 1, 2017 and every 5 years thereafter, as required by the federal Child Care and Development Block Grant Act of 2014 (CCDBG).					
348.	Administrative and Support Services (49900).....			\$103,784,025 \$113,072,876	\$103,784,025 \$115,794,025
	General Management and Direction (49901).....	\$3,529,872 \$4,515,894	\$3,529,872		
	Information Technology Services (49902).....	\$76,684,999 \$84,987,828	\$76,684,999 \$88,694,999		
	Accounting and Budgeting Services (49903).....	\$9,732,964	\$9,732,964		
	Human Resources Services (49914).....	\$5,318,017	\$5,318,017		
	Planning and Evaluation Services (49916).....	\$2,972,427	\$2,972,427		
	Procurement and Distribution Services (49918).....	\$3,104,631	\$3,104,631		
	Public Information Services (49919).....	\$2,211,522	\$2,211,522		
	Financial and Operational Audits (49929).....	\$229,593	\$229,593		
	Fund Sources: General.....	\$42,711,794 \$43,881,794	\$42,711,794 \$43,881,794		
	Special.....	\$175,000	\$175,000		
	Dedicated Special Revenue.....	\$1,265,778	\$1,050,000		
	Federal Trust.....	\$60,897,231 \$67,750,304	\$60,897,231 \$70,687,231		

Authority: Title 63.2, Chapter 1; § 2.2-4000 et seq., Code of Virginia; P.L. 98-502, P.L. 104-156, P.L. 104-193, P.L. 104-327, P.L. 105-33, as amended, P.L. 105-89, Federal Code; Titles IV-A, IV-B, IV-D, IV-E, XIX, XX, XXI of the federal Social Security Act, as amended.

A. The Department of Social Services shall require localities to report all expenditures on designated social services, regardless of reimbursement from state and federal sources. The Department of Social Services is authorized to include eligible costs in its claim for Temporary Assistance for Needy Families Maintenance of Effort requirements.

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<p>B. It is the intent of the General Assembly that the Commissioner, Department of Social Services shall work with localities that seek to voluntarily merge and consolidate their respective local departments of social services. No funds appropriated under this act shall be used to require a locality to merge or consolidate local departments of social services.</p>				
<p>C.1. Out of this appropriation, \$473,844 the first year and \$473,844 the second year from the general fund and \$781,791 the first year and \$781,791 the second year from nongeneral funds shall be provided to support the statewide 2-1-1 Information and Referral System which provides resource and referral information on many of the specialized health and human resource services available in the Commonwealth, including child day care availability and providers in localities throughout the state, and publish consumer-oriented materials for those interested in learning the location of child day care providers.</p>				
<p>2. The Department of Social Services shall request that all state and local child-serving agencies within the Commonwealth be included in the Virginia Statewide Information and Referral System as well as any agency or entity that receives state general fund dollars and provides services to families and youth. The Secretary of Health and Human Resources, the Secretary of Education and Workforce, and the Secretary of Public Safety and Homeland Security shall assist in this effort by requesting all affected agencies within their secretariats to submit information to the statewide Information and Referral System and ensure that such information is accurate and updated annually. Agencies shall also notify the Virginia Information and Referral System of any changes in services that may occur throughout the year.</p>				
<p>3. The Department of Social Services shall communicate with child-serving agencies within the Commonwealth about the availability of the statewide Information and Referral System. This information shall also be communicated via the Department of Social Services' broadcast system on their agency-wide Intranet so that all local and regional offices can be better informed about the Statewide Information and Referral System. Information on the Statewide Information and Referral System shall also be included within the department's electronic mailings to all local and regional offices at least biannually.</p>				
<p>D.1. Within 30 days of awarding or amending any contract related to the Virginia Case Management System (VaCMS), the Department of Social Services (DSS) shall provide the Chairmen of the House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget with a copy of the contract, including any fiscal implications.</p>				
<p>2. Prior to the award of any contract that will potentially obligate the Commonwealth to future unappropriated spending, the department shall receive prior written concurrence from Director, Department of Planning and Budget. Any approved increases in funding requests shall be reported by DSS to the Chairmen of House Appropriations and Senate Finance Committees within 30 days.</p>				
<p>E.1. The Department of Social Services shall provide to the Chairmen of the House Appropriations and Senate Finance Committees a report on the implementation of the Asset Verification Service that is part of the Eligibility Modernization Project on or before September 1, 2016. It is the intent of the General Assembly to encourage financial institutions with branches in Virginia to work collaboratively with the department and its vendor in order to maximize participation in the Asset Verification Service program.</p>				
<p>2. The Department shall also develop a plan and submit it to the Chairmen of the House Appropriations and Senate Finance Committees to incorporate searchable national real estate records as part of the Asset Verification Service program as soon as the data are available.</p>				
349.	<p>A. In the operation of any program of public assistance, including benefit and service programs in any locality, for which program appropriations are made to the Department of Social Services, it is provided that if a payment or overpayment is made to an individual who is ineligible therefor under federal and/or state statutes and regulations, the amount of such payment or overpayment shall be returned to the Department of Social Services by the locality.</p>			

ITEM 349.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

B. However, no such repayments may be required of the locality if the department determines that such overpayment or payments to ineligible resulted from the promulgation of vague or conflicting regulations by the department or from the failure of the department to make timely distribution to the localities of the statutes, rules, regulations, and policy decisions, causing the overpayment or payment to ineligible(s) to be made by the locality or from situations where a locality exercised due diligence, yet received incomplete or incorrect information from the client which caused the overpayment or payment to ineligible. If a locality fails to effect the return, the Department of Social Services shall withhold an equal amount from the next disbursement made by the department to the locality for the same program.

C. The Department of Social Services shall implement the guidance issued by the U.S. Department of Health and Human Services concerning the obligation of recipients of federal financial assistance to comply with Title VI of the Civil Rights Act of 1964 by ensuring that meaningful access to federally-funded programs, activities and services administered by the department is provided to limited English proficient (LEP) persons, 63 Fed. Reg. 47,311-47,323 (August 8, 2003). At a minimum, the department shall (i) identify the need for language assistance by analyzing the following factors: (1) the number or proportion of LEP persons in the eligible service population, (2) the frequency of contact with such persons, (3) the nature and importance of the program, activity or service, and (4) the costs of providing language assistance and resources available; (ii) translate vital documents into the language of each frequently encountered LEP group eligible to be served; (iii) provide accurate and timely oral interpreter services; and (iv) develop an effective implementation plan to address the identified needs of the LEP populations served.

350. A. The amount for the Supplemental Nutrition Assistance Program (SNAP) shall be expended under regulations of the Board of Social Services to reimburse county and city welfare/social services boards pursuant to § 63.2-401, Code of Virginia, and subject to the same percentage limitations for other administrative services performed by county and city public welfare/social services boards and superintendents of public welfare/social services pursuant to other provisions of the Code of Virginia, as amended.

B. Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, the Department of Social Services shall, in cooperation with local departments of social services, maintain a waiver of the work requirement for Supplemental Nutrition Assistance Program (SNAP) recipients residing in areas that do not have a sufficient number of jobs to provide employment for such individuals, including those areas designated as labor surplus areas by the U.S. Department of Labor.

C. To the extent permitted by federal law, Supplemental Nutrition Assistance Program (SNAP) recipients subject to a work requirement pursuant to § 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended, shall be permitted to satisfy such work requirement by providing volunteer services to a public or private, nonprofit agency for the number of hours per month determined by dividing the household's monthly SNAP allotment by the federal minimum wage.

D. The Department of Social Services shall, to the extent permitted by federal law, disregard the value of at least one motor vehicle per household in determining eligibility for the Supplemental Nutrition Assistance Program (SNAP).

E. The Department of Social Services shall develop a multi-lingual outreach campaign to inform qualified aliens and their children, who are United States citizens, of their eligibility for the federal Supplemental Nutrition Assistance Program (SNAP) and ensure that they have access to benefits under SNAP. To the extent permitted by federal law, the department shall administer SNAP in a way that minimizes the procedural burden on qualified aliens and addresses concerns about the impact of SNAP receipt on their immigration sponsors and status.

Total for Department of Social Services.....			<del>\$2,103,174,543</del>	<del>\$2,122,089,772</del>
			\$2,107,914,409	\$2,144,249,980
General Fund Positions.....	624.00	<del>624.00</del>		
		638.00		
Nongeneral Fund Positions.....	1,198.50	<del>1,198.50</del>		
		1,213.50		

ITEM 350.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Position Level.....	1,822.50	<del>1,822.50</del> 1,851.50		
Fund Sources: General.....	\$429,818,874	\$432,365,784		
	\$429,427,587	\$433,983,740		
Special.....	\$695,448,849	\$694,848,849		
	\$696,126,343	\$697,411,024		
Dedicated Special Revenue.....	\$3,585,265	\$3,585,265		
	\$8,360,029	\$10,294,920		
Federal Trust.....	\$974,321,555	\$991,289,874		
	\$974,000,450	\$1,002,560,296		

**§ 1-100. VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES (606)**

351.	Social Services Research, Planning, and Coordination (45000).....			\$1,535,390	\$1,535,390
				\$1,572,417	\$1,578,852
	Research, Planning, Outreach, Advocacy, and Systems Improvement (45002).....	\$980,625	\$980,625		
	Administrative Services (45006).....	\$554,765	\$554,765		
		\$591,792	\$598,227		
	Fund Sources: General.....	\$211,515	\$211,515		
		\$248,542	\$254,977		
	Federal Trust.....	\$1,323,875	\$1,323,875		

Authority: Title 51.5, Chapter 7, Code of Virginia.

Up to \$35,556 the first year and up to \$35,556 the second year is available for the Virginia Board for People with Disabilities (VBPD) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared administrative services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between VBPD and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.

352.	Financial Assistance for Individual and Family Services (49000).....			\$401,475	\$401,475
	Financial Assistance to Localities for Individual and Family Services (49001).....	\$401,475	\$401,475		
	Fund Sources: Federal Trust.....	\$401,475	\$401,475		
	Authority: Title 51.5, Chapter 7, Code of Virginia.				
	Total for Virginia Board for People with Disabilities.....			\$1,936,865	\$1,936,865
				\$1,973,892	\$1,980,327
	General Fund Positions.....	0.60	<del>0.60</del> 1.60		
	Nongeneral Fund Positions.....	8.40	8.40		
	Position Level.....	9.00	<del>9.00</del> 10.00		
	Fund Sources: General.....	\$211,515	\$211,515		
		\$248,542	\$254,977		
	Federal Trust.....	\$1,725,350	\$1,725,350		

**§ 1-101. DEPARTMENT FOR THE BLIND AND VISION IMPAIRED (702)**

353.	Statewide Library Services (14200).....			\$1,170,781	\$1,170,781
	Library and Resource Center Services (14202).....	\$1,170,781	\$1,170,781		
	Fund Sources: General.....	\$1,170,781	\$1,170,781		

Authority: § 51.5-74, Code of Virginia; P.L. 89-522, and P.L. 101-254, Federal Code.

ITEM 353.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Out of this appropriation, \$141,163 the first year and \$141,363 the second year from the general fund shall be used to contract for the provision of radio reading services for the blind and vision impaired.				
354.	State Education Services (19100).....		\$1,362,094	\$1,362,094
	Braille and Instructional Materials (19101).....	\$579,976		\$579,976
	Educational and Early Childhood Support Services (19102).....	\$782,118		\$782,118
	Fund Sources: General.....	\$857,094		\$857,094
	Trust and Agency.....	\$55,000		\$55,000
	Federal Trust.....	\$450,000		\$450,000
Authority: §§ 22.1-214 and 22.1-217, Code of Virginia; P.L. 89-313, P.L. 97-35 and P.L. 102-119, Federal Code.				
355.	Rehabilitation Assistance Services (45400).....		\$13,397,938	<del>\$13,397,938</del> \$14,082,547
	Low Vision Services (45401).....	\$441,285		\$441,285
	Vocational Rehabilitation Services (45404).....	\$8,339,166		\$8,339,166
	Community Based Independent Living Services (45407).....	\$4,095,980		<del>\$4,095,980</del> \$4,490,589
	Vending Stands, Cafeterias, and Snack Bars (45410)..	\$521,507		<del>\$521,507</del> \$811,507
	Fund Sources: General.....	\$1,981,012		<del>\$1,981,012</del> \$2,375,621
	Special.....	\$504,731		<del>\$504,731</del> \$794,731
	Trust and Agency.....	\$150,000		\$150,000
	Federal Trust.....	\$10,762,195		\$10,762,195
Authority: § 51.5-1 and Title 51.5, Chapter 1, Code of Virginia; P.L. 93-516 and P.L. 93-112, Federal Code.				
A. It is the intent of the General Assembly that visually handicapped persons who have completed vocational training as food service managers through programs operated by the Department be considered for food service management position openings within the Commonwealth as they arise.				
B. 1.The annual federal vocational rehabilitation grant award that will be received by the Department for the Blind and Vision Impaired (DBVI) is estimated at \$11,442,719 for federal fiscal year 2018; \$11,442,719 for federal fiscal year 2019; and \$11,442,719 for federal fiscal year 2020. In addition to the base annual award amount, DBVI may request up to \$1,500,000 of additional federal reallocation dollars in each of these years. Assuming these amounts, the annual 21.3 percent state matching requirement would equate to \$3,632,832 for federal fiscal year 2018; \$3,632,832 for federal fiscal year 2019; and \$3,632,832 for federal fiscal year 2020.				
2. Based on the projection of federal award funding in paragraph A.2., DBVI shall not request federal vocational rehabilitation grant dollars in excess of \$12,942,719 for federal fiscal year 2018; \$12,942,719 for federal fiscal year 2019; and \$12,942,719 for federal fiscal year 2020, without prior written concurrence from the Director, Department of Planning and Budget. Any approved increases in grant award requests shall be reported by DARS to the Chairmen of the House Appropriations and Senate Finance Committees within 30 days.				
356.	Regional Office Support and Administration (49700).		\$2,593,034	\$2,593,034
	Regional Office and Field Support Services (49701)..	\$2,593,034		\$2,593,034
	Fund Sources: General.....	\$1,366,526		\$1,366,526
	Federal Trust.....	\$1,226,508		\$1,226,508
Authority: Title 2.2, Chapter 36; Title 51.5, Chapter 13, Code of Virginia; P.L. 93-112 and P.L. 97-35, Federal Code.				

ITEM 357.		Item Details(\$)		Appropriations(\$)		
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
357.	Rehabilitative Industries (81000).....			\$50,768,817	\$50,768,817 \$50,368,817	
	Manufacturing, Retail, and Contract Operations (81003).....	\$50,768,817	\$50,768,817 \$50,368,817			
	Fund Sources: Enterprise.....	\$50,768,817	\$50,768,817 \$50,368,817			
	Authority: § 51.5-72, Code of Virginia; P.L. 92-29 and P.L. 93-112, Federal Code.					
	The Industry Production Workers with the Virginia Industries for the Blind shall not be counted in the classified employment levels of the Department for the Blind and Vision Impaired.					
358.	Administrative and Support Services (49900).....			\$3,074,912	\$3,074,912 \$3,474,912	
	General Management and Direction (49901).....	\$2,277,309	<del>\$2,277,309</del> \$2,677,309			
	Physical Plant Services (49915).....	\$797,603	\$797,603			
	Fund Sources: General.....	\$762,724	\$762,724			
	Special.....	\$749,678	\$749,678			
	Enterprise.....	\$1,100,000	<del>\$1,100,000</del> \$1,500,000			
	Trust and Agency.....	\$40,000	\$40,000			
	Federal Trust.....	\$422,510	\$422,510			
	Authority: Title 63.2, Chapter 4, Code of Virginia; P.L. 89-313, P.L. 93-112, and P.L. 97-35, Federal Code.					
	Up to \$1,244,790 the first year and up to \$1,244,790 the second year is available for the Department for the Blind and Vision Impaired (DBVI) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared administrative services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between DBVI and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.					
	Total for Department for the Blind and Vision Impaired.....			\$72,367,576	<del>\$72,367,576</del> \$73,052,185	
	General Fund Positions.....	62.60	62.60			
	Nongeneral Fund Positions.....	92.40	92.40			
	Position Level.....	155.00	155.00			
	Fund Sources: General.....	\$6,138,137	<del>\$6,138,137</del> \$6,532,746			
	Special.....	\$1,254,409	<del>\$1,254,409</del> \$1,544,409			
	Enterprise.....	\$51,868,817	\$51,868,817			
	Trust and Agency.....	\$245,000	\$245,000			
	Federal Trust.....	\$12,861,213	\$12,861,213			
	<b>Virginia Rehabilitation Center for the Blind and Vision Impaired (263)</b>					
359.	Rehabilitation Assistance Services (45400).....			\$1,651,313	\$1,651,313 \$1,721,313	
	Social and Personal Adjustment to Blindness Training (45408).....	\$1,651,313	\$1,651,313 \$1,721,313			
	Fund Sources: General.....	\$172,500	\$172,500			
	Special.....	\$2,000	\$2,000			
	Enterprise.....	\$0	\$50,000			

ITEM 359.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	<i>Trust and Agency</i> .....	\$20,000		
	Federal Trust.....	\$1,476,813		
	Authority: § 51.5-1, Code of Virginia; P.L. 93-112, Federal Code.			
360.	Administrative and Support Services (49900).....		\$1,339,251	\$1,339,251
	General Management and Direction (49901).....	\$588,403		
	Food and Dietary Services (49907).....	\$228,000		
	Physical Plant Services (49915).....	\$522,848		
	Fund Sources: General.....	\$169,444		
	Special.....	\$42,000		
	Federal Trust.....	\$1,127,807		
	Authority: § 51.5-73, Code of Virginia; P.L. 93-112, Federal Code.			
	Out of this appropriation, \$172,250 the first year and \$172,250 the second year from the general fund shall be used for training individuals whose cost cannot be covered by federal vocational rehabilitation revenue. It is estimated that this funding will support 21 blind, deafblind, and vision impaired individuals.			
	Total for Virginia Rehabilitation Center for the Blind and Vision Impaired.....		<b>\$2,990,564</b> <b>\$3,010,564</b>	<b>\$2,990,564</b> <b>\$3,060,564</b>
	Nongeneral Fund Positions.....	26.00		
	Position Level.....	26.00		
	Fund Sources: General.....	\$341,944		
	Special.....	\$44,000		
	Enterprise.....	\$0		
	Trust and Agency.....	\$20,000		
	Federal Trust.....	\$2,604,620		
	Grand Total for Department for the Blind and Vision Impaired.....		<b>\$75,358,140</b> <b>\$75,378,140</b>	<b>\$75,358,140</b> <b>\$76,112,749</b>
	General Fund Positions.....	62.60		
	Nongeneral Fund Positions.....	118.40		
	Position Level.....	181.00		
	Fund Sources: General.....	\$6,480,081		
	Special.....	\$1,298,409		
	Enterprise.....	\$51,868,817		
	Trust and Agency.....	\$245,000		
	Federal Trust.....	\$15,465,833		
	TOTAL FOR OFFICE OF HEALTH AND HUMAN RESOURCES.....		<b>\$16,788,153,180</b> <b>\$17,314,135,280</b>	<b>\$18,507,494,586</b> <b>\$20,529,702,088</b>
	General Fund Positions.....	8,586.90		
	Nongeneral Fund Positions.....	6,476.12		
	Position Level.....	15,063.02		
	Fund Sources: General.....	\$6,647,749,936		
	Special.....	\$1,097,906,800		

ITEM 360.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Enterprise.....	\$51,868,817	<del>\$51,868,817</del> \$51,918,817		
Trust and Agency.....	<del>\$1,370,987</del> \$1,390,987	<del>\$1,370,987</del> \$1,390,987		
Dedicated Special Revenue.....	<del>\$920,923,247</del> \$861,325,686	<del>\$1,234,523,120</del> \$1,256,555,500		
Federal Trust.....	<del>\$8,068,333,393</del> \$8,492,446,305	<del>\$9,300,372,775</del> \$11,075,092,863		

ITEM 361.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

**OFFICE OF NATURAL RESOURCES**

**§ 1-102. SECRETARY OF NATURAL RESOURCES (183)**

361.	Administrative and Support Services (79900).....			\$711,953	\$711,953
	General Management and Direction (79901).....	\$711,953	\$711,953		
	Fund Sources: General.....	\$609,254	\$609,254		
	Federal Trust.....	\$102,699	\$102,699		

Authority: Title 2.2, Chapter 2, Article 7; and § 2.2-201, Code of Virginia.

A. The Secretary of Natural Resources shall report to the Chairmen of the Senate Committees on Finance and Agriculture, Conservation, and Natural Resources, and the House Committees on Appropriations and Conservation and Natural Resources, by November 4 of each year on implementation of the Chesapeake Bay nutrient reduction strategies. The report shall include and address the progress and costs of point source and nonpoint source pollution strategies. The report shall include, but not be limited to, information on levels of dissolved oxygen, acres of submerged aquatic vegetation, computer modeling, variety and numbers of living resources, and other relevant measures for the General Assembly to evaluate the progress and effectiveness of the tributary strategies. In addition, the Secretary shall include information on the status of all of Virginia's commitments to the Chesapeake Bay Agreements.

B. It is the intent of the General Assembly that a reserve be created within the Virginia Water Quality Improvement Fund to support the purposes delineated within the Virginia Water Quality Improvement Act of 1997 (WQIA 1997) when year-end general fund surpluses are unavailable. Consequently, 15 percent of any amounts appropriated to the Virginia Water Quality Improvement Fund due to annual general fund revenue collections in excess of the official estimates contained in the general appropriation act shall be withheld from appropriation, unless otherwise specified. When annual general fund revenue collections do not exceed the official revenue estimates contained in the general appropriation act, the reserve fund may be used for WQIA 1997 purposes as directed by the General Assembly within the general appropriation act.

C. The Secretary of Natural Resources, with the assistance of the Directors of the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Game and Inland Fisheries, and the Department of Historic Resources, shall provide an annual report to the Chairmen of the House Appropriations and Senate Finance Committees of all projects undertaken pursuant to a settlement or mitigation agreement upon which the Secretary of Natural Resources is an authorized signatory on behalf of the Governor by November 15 each year until all terms of the settlement or mitigation agreement are satisfied. In addition, whenever a settlement or mitigation agreement is finalized, the Secretary shall provide a copy of, and explanation of, the terms of such settlement to the Chairmen of the House Appropriations and Senate Finance Committees within 15 days.

*D. The Secretary of Natural Resources and the Secretary of Transportation, with the assistance of the Director of the Department of Conservation and Recreation and the Commissioner of Highways, shall convene a stakeholder group to assess the feasibility and costs associated with transferring sponsorship and maintenance support responsibilities for the Virginia Capital Trail from the Department of Transportation to the Department of Conservation and Recreation. The stakeholder group shall solicit input from other affected stakeholders including the Virginia Capital Trail Foundation, trail user groups, and local government representatives from jurisdictions through which the trail traverses. The Secretary shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the results of the assessment no later than October 1, 2019.*

	Total for Secretary of Natural Resources.....			<b>\$711,953</b>	<b>\$711,953</b>
	General Fund Positions.....	5.00	5.00		
	Position Level.....	5.00	5.00		
	Fund Sources: General.....	\$609,254	\$609,254		
	Federal Trust.....	\$102,699	\$102,699		

ITEM 361.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>§ 1-103. DEPARTMENT OF CONSERVATION AND RECREATION (199)</b>					
362.	Land and Resource Management (50300).....			\$61,126,611	\$38,274,312
				<del>\$67,010,611</del>	<del>\$117,799,864</del>
	Soil and Water Conservation (50301).....	\$35,615,467	\$13,183,168		
		<del>\$41,499,467</del>	<del>\$86,940,867</del>		
	Dam Inventory, Evaluation and Classification and Flood Plain Management (50314).....	\$3,502,916	\$3,082,916		
			<del>\$8,450,769</del>		
	Natural Heritage Preservation and Management (50317).....	\$4,717,137	\$4,717,137		
	Financial Assistance to Soil and Water Conservation Districts (50320).....	\$7,291,091	<del>\$7,291,091</del>		
			<del>\$7,691,091</del>		
	Technical Assistance to Soil and Water Conservation Districts (50322).....	\$1,200,000	\$1,200,000		
	Agricultural Best Management Practices Cost Share Assistance (50323).....	\$8,800,000	\$8,800,000		
	Fund Sources: General.....	\$40,196,508	\$17,344,209		
		<del>\$46,080,508</del>	<del>\$96,869,761</del>		
	Special.....	\$995,861	\$995,861		
	Dedicated Special Revenue.....	\$12,251,202	\$12,251,202		
	Federal Trust.....	\$7,683,040	\$7,683,040		

Authority: Title 10.1, Chapters 1, 2, 5, 6, 7, and 21.1; Title 62.1, Chapter 3.1, Code of Virginia.

A.1. Out of the amounts appropriated for Financial Assistance to Virginia Soil and Water Conservation Districts, \$7,191,091 the first year and ~~\$7,191,091~~ \$7,591,091 the second year from the general fund shall be provided to soil and water conservation districts for administrative and operational support. These funds shall be distributed upon approval by the Virginia Soil and Water Conservation Board to the districts in accordance with the Board's established financial allocation policy. These amounts shall be in addition to any other funding provided to the districts for technical assistance pursuant to subsections B. and D. of this Item. Of this amount, \$6,209,091 the first year and \$6,209,091 the second year from the general fund shall be distributed to the districts for core administrative and operational expenses (personnel, training, travel, rent, utilities, office support, and equipment) based on identified budget projections and in accordance with the Board's financial allocation policy; \$312,000 the first year and \$312,000 the second year from the general fund shall be distributed at a rate of \$3,000 per dam for maintenance; \$500,000 the first year and \$500,000 the second year from the general fund for small dam repairs of known or suspected deficiencies; ~~\$400,000 the second year from the general fund for the purchase and installation of remote monitoring equipment for District-owned high and significant hazard dams~~; and \$170,000 the first year and \$170,000 the second year to the department to provide district support in accordance with Board policy, including, but not limited to, services related to auditing, bonding, contracts, and training. The amount appropriated for small dam repairs of known or suspected deficiencies *and the purchase and installation of remote monitoring equipment* is authorized for transfer to the Soil and Water Conservation District Dam Maintenance, Repair, and Rehabilitation Fund.

2. The department shall provide a semi-annual report on or before February 15 and August 15 of each year to the Chairmen of the House Appropriations and Senate Finance Committees on each Virginia soil and water conservation district's budget, revised budget, previous year's balance budget, and expenditure for the following: (i) the federal Conservation Reserve Enhancement Program, (ii) the use of Agricultural Best Management Cost-Share Program funds within the Chesapeake Bay watershed, (iii) the use of Agricultural Best Management Cost-Share Program funds within the Southern Rivers area, and (iv) the amount of Technical Assistance funding. The August 15 report shall reflect cumulative amounts.

3. As part of the semi-annual report, the department shall assess the impact of settlement agreements with the Commonwealth entered into between July 1, 2017, and June 30, 2018, on achieving an effective level of Soil and Water Conservation District technical

ITEM 362.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>assistance funding and the implementation of agricultural best management practices pursuant to § 10.1-546.1., Code of Virginia. The department shall include in its report any amounts from the settlements including: 1) estimation of the timeline and amount for each fiscal year to implement agricultural best management practices; and 2) estimation of the timeline and amount for each fiscal year of additional technical assistance provided as a result of the additional funding from the settlements.</p>				
<p>B.1. Notwithstanding § 10.1-2129 A., Code of Virginia, \$22,532,299 the first year from the general fund shall be deposited to the Virginia Water Quality Improvement Fund established under the Water Quality Improvement Act of 1997. Of this amount, \$750,000 shall be appropriated to the department for the following specified statewide uses: \$500,000 shall be used for the Commonwealth's match for participation in the federal Conservation Reserve Enhancement Program (CREP) and up to \$250,000 may be utilized to develop a financial tracking and reporting module as part of the Agricultural Best Management Practices Database and to make necessary database revisions. Pursuant to paragraph B of Item 361, \$2,011,689 is designated for deposit to the reserve within the Virginia Water Quality Improvement Fund.</p>				
<p>2. Of the remaining amount, \$19,770,610 is authorized for transfer to the Virginia Natural Resources Commitment Fund, a subfund of the Water Quality Improvement Fund. Notwithstanding any other provision of law, the funds transferred to the Virginia Natural Resources Commitment Fund shall be distributed by the department upon approval of the Virginia Soil and Water Conservation Board in accordance with the board's developed policies, as follows: \$17,398,137 for Agricultural Best Management Practices Cost-Share Assistance where of this amount \$10,438,882 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, \$6,959,255 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed, and \$2,372,473 shall be appropriated for Technical Assistance for Virginia Soil and Water Conservation Districts.</p>				
<p>3. This appropriation meets the mandatory deposit requirements associated with the FY 2017 excess general fund revenue collections and discretionary year-end general fund balances.</p>				
<p>C. It is the intent of the General Assembly, that notwithstanding the provisions of § 10.1-2132, Code of Virginia, the department is authorized to make Water Quality Improvement Grants to state agencies.</p>				
<p>D.1 Out of the appropriation in this Item, \$10,000,000 the first year and \$10,000,000 the second year from the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, is hereby appropriated. The funds shall be dispersed by the department pursuant to § 10.1-2128.1, Code of Virginia.</p>				
<p>2. The source of an amount estimated at \$10,000,000 the first year and \$10,000,000 the second year to support the nongeneral fund appropriation to the Virginia Natural Resources Commitment Fund shall be the recordation tax fee established in Part 3 of this act.</p>				
<p>3. Out of this amount, a total of eight percent, or \$1,200,000, whichever is greater, shall be appropriated to Virginia Soil and Water Conservation Districts for technical assistance to farmers implementing agricultural best management practices, and \$8,800,000 for Agricultural Best Management Practices Cost-Share Assistance. Of the amount deposited for Cost-Share Assistance, distributions between watersheds shall be in accordance with the allocation percentages set out in § 10.1-2128.1 B., Code of Virginia.</p>				
<p>4. <i>Out of this amount in the second year, a total of thirteen percent, or \$1,300,000, whichever is greater, shall be appropriated to Virginia Soil and Water Conservation Districts for technical assistance to farmers implementing agricultural best management practices, and \$8,700,000 for Agricultural Best Management Practices Cost-Share Assistance. Of the amount deposited for Cost-Share Assistance, seventy percent shall be used for matching grants for agricultural best management practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, and thirty percent shall be used for matching grants for agricultural best management practices on lands in the Commonwealth exclusively outside of the Chesapeake Bay watershed.</i></p>				

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
E.1. Out of the appropriation in this item, \$2,583,531 in the first year and \$2,583,531 in the second year from the funds designated in Item 3-1.01.C. of this act are hereby appropriated to the Virginia Water Quality Improvement Fund and designated for deposit to the reserve fund established pursuant to paragraph B of Item 361. It is the intent of the General Assembly that all interest earnings of the Water Quality Improvement Fund shall be spent only upon appropriation by the General Assembly, after the recommendation of the Secretary of Natural Resources, pursuant to § 10.1-2129, Code of Virginia.				
2. Notwithstanding the provisions of §§ 10.1-2128, 10.1-2129 and 10.1-2128.1, Code of Virginia, it is the intent of the General Assembly that the department use interest earnings from the Water Quality Improvement Fund and the Virginia Natural Resources Commitment Fund to support one position to administer grants from the fund.				
F. Out of the appropriation in this Item, \$15,000 the first year and \$15,000 the second year from the general fund is provided to support the Rappahannock River Basin Commission. The funds shall be matched by the participating localities and planning district commissions.				
G. Notwithstanding § 10.1-552, Code of Virginia, Soil and Water Conservation Districts are hereby authorized to recover a portion of the direct costs of services rendered to landowners within the district and to recover a portion of the cost for use of district-owned conservation equipment. Such recoveries shall not exceed the amounts expended by a district on these services and equipment.				
H. Unless specified otherwise in this Item, it is the intent of the General Assembly that balances in Soil and Water Conservation be used first, and then balances from Agricultural Best Management Practices Cost Share Assistance be used for the Commonwealth's statewide match for participation in the federal Conservation Reserve Enhancement Program (CREP).				
I. The Water Quality Agreement Program shall be continued in order to protect the waters of the Commonwealth through voluntary cooperation with lawn care operators across the state. The department shall encourage lawn care operators to voluntarily establish nutrient management plans and annual reporting of fertilizer application. If appropriate, then the program may be transferred to another state agency.				
J. Out of the appropriation in this Item, \$80,000 the first year and \$80,000 the second year from the general fund is provided to the department to make available a competitive grant to provide Chesapeake Bay meaningful watershed educational on-the-water field services. The department may enter into a two-year contract contingent on funding being available in the second year of the biennium.				
K. The department, in collaboration with Soil and Water Conservation Districts, shall develop a plan containing cost estimates, for the rehabilitation of high hazard Soil and Water Conservation District owned and managed impounding structures. An interim plan shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016, with a final plan due by November 1, 2018.				
L. Out of the appropriation in this Item, \$200,000 the first year and \$200,000 the second year from the general fund is provided to the department for technical assistance to support Shoreline Erosion Advisory Services as established in § 10.1-702, Code of Virginia.				
M. Out of the appropriation in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided to the Natural Heritage Program in support of active preserve management activities across Virginia's 63 Natural Area Preserves as identified by the Board of Conservation and Recreation.				
N. Notwithstanding § 54.1, Chapter 4, the U.S. Department of Agriculture's Natural Resources Conservation Service and Department of Conservation and Recreation Central Office staff may provide engineering services to the Department of Conservation and Recreation and the local Soil and Water Conservation Districts for design and construction of agriculture best management practices.				

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
O.1. Out of the amounts appropriated for Dam Inventory, Evaluation, and Classification and Flood Plain Management, \$884,294 the first year and <del>\$464,294</del> \$832,147 the second year from the general fund shall be deposited to the Dam Safety, Flood Prevention and Protection Assistance Fund, established pursuant § 10.1-603.17, Code of Virginia. Out of these amounts, \$420,000 in the first year from the general fund shall be provided to match federal and local funding for the rehabilitation of the Hearthstone Lake Dam in Augusta County. <i>In addition, out of these amounts, and \$100,000 in the second year from the general fund shall be used to hire an independent engineering firm to conduct a study to find a less costly solution to rehabilitate the Cherrystone and Roaring Fork Dams. The department shall assist the three project sponsors, the town of Chatham, Pittsylvania County and the Pittsylvania Soil and Water Conservation District in this effort.</i>				
2. <i>Out of the amounts appropriated in this item for the Dam Safety, Flood Prevention and Protection Assistance Fund, \$5,000,000 the second year from the general fund shall be provided to match local funding for lakebed stabilization, sediment control and removal, wetland creation, dam safety improvements, stream flow improvement, and other related costs in the College Lake watershed in the City of Lynchburg. This amount shall be matched by a local appropriation of at least \$5,000,000 prior to any disbursement from this item</i>				
2. Unobligated balances in the Dam Safety, Flood Prevention and Protection Assistance Fund may be utilized in an amount not to exceed \$60,000 to perform activities necessary to update the flood protection plan for the Commonwealth and to make the plan accessible online. Once these activities are complete, the department will maintain and update the plan as needed within existing resources.				
P. Out of the amounts appropriated in this item, \$100,000 and one position the first year, and \$200,000 and two positions the second year, from the general fund is provided to fund additional engineering staff to support the 47 Soil and Water Conservation Districts.				
<i>Q.1. Notwithstanding § 10.1-2129A., Code of Virginia, \$73,757,699 the second year from the general fund shall be deposited to the Virginia Water Quality Improvement Fund established under the Water Quality Improvement Act of 1997. Of this amount, \$4,250,000 shall be appropriated to the department for the following specified statewide uses: \$1,000,000 shall be used for the Commonwealth's match for participation in the Federal Conservation Reserve Enhancement Program (CREP) on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed; \$1,000,000 shall be used for the Commonwealth's match for participation in CREP on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed; \$1,000,000 shall be transferred to the Virginia Association of Soil and Water Conservation Districts to be used for the Virginia Conservation Assistance Program (VCAP); \$750,000 shall be allocated for special nonpoint source reduction projects to include but not be limited to poultry litter transport and grants related to the development and certification of Resource Management Plans developed pursuant to § 10.1-104.7, Code of Virginia; and \$500,000 shall be transferred to the Department of Forestry for water quality grants. The Department of Forestry shall submit a report by August 15, 2019, to the Department of Conservation and Recreation specifying the uses of the funds received. Pursuant to paragraph B of Item 361, \$8,288,850 is designated for deposit to the reserve within the Virginia Water Quality Improvement Fund.</i>				
<i>2. Of the remaining amount, \$61,218,849 is authorized for transfer to the Virginia Natural Resources Commitment Fund, a subfund of the Water Quality Improvement Fund. Notwithstanding any other provision of law, the funds transferred to the Virginia Natural Resources Commitment Fund shall be distributed by the department upon approval of the Virginia Soil and Water Conservation Board in accordance with the board's developed policies, as follows: \$37,282,279 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, and \$15,978,120 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed, and \$7,958,450 shall be appropriated for Technical Assistance for Virginia Soil and Water Conservation Districts.</i>				
3. <i>This appropriation meets the mandatory deposit requirements associated with the FY 2018 excess general fund revenue collections and discretionary year-end general fund balances.</i>				
S. <i>Notwithstanding § 10.1-2129 A., Code of Virginia, \$5,884,000 the first year from the</i>				

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<i>general fund shall be deposited to the Water Quality Improvement Fund established under the Water Quality Improvement Act of 1997. This amount shall be appropriated for the implementation of previously approved livestock stream exclusion practices. Of the amount for livestock stream exclusion practices, \$4,600,000 shall be used for practices on land in the Commonwealth exclusively or partly outside the Chesapeake Bay watershed and \$608,000 shall be used for practices on lands in the Commonwealth exclusively inside the Chesapeake Bay watershed. From these amounts, \$676,000 shall be appropriated to the Virginia Soil and Water Conservation Districts for technical assistance to farmers implementing agricultural best management practices.</i>				
363.	Leisure and Recreation Services (50400).....		\$58,395,919	\$61,884,926 \$62,268,291
	Preservation of Open Space Lands (50401).....	\$6,723,417		\$10,910,917 \$11,044,317
	Design and Construction of Outdoor Recreational Facilities (50403).....	\$886,797		\$886,797
	State Park Management and Operations (50404).....	\$46,305,543		\$45,719,550 \$45,919,515
	Natural Outdoor Recreational and Open Space Resource Research, Planning, and Technical Assistance (50406).....	\$4,480,162		\$4,367,662 \$4,417,662
	Fund Sources: General.....	\$24,379,426		\$28,373,764 \$28,366,542
	Special.....	\$26,444,308		\$26,444,308 \$26,834,895
	Dedicated Special Revenue.....	\$2,322,455		\$1,817,124
	Federal Trust.....	\$5,249,730		\$5,249,730

Authority: Title 10.1, Chapters 1, 2, 3, 4, 4.1, and 17; Title 18.2, Chapters 1 and 5; Title 19.2, Chapters 1, 5, and 7, Code of Virginia.

.1. Included in the amounts for Preservation of Open Space Lands is \$4,500,000 the second year from the general fund to be deposited into the Virginia Land Conservation Fund, § 10.1-1020, Code of Virginia. ~~Notwithstanding § 10.1-1020, Code of Virginia, \$900,000 in the second year shall be transferred to the Virginia Outdoors Foundation's Open-Space Lands Preservation Trust Fund.~~ No less than 50 percent of the appropriations remaining after the transfer to the Virginia Outdoors Foundation's Open-Space Lands Preservation Trust fund has been satisfied are to be used for grants for fee simple acquisitions with public access or acquisitions of easements with public access. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.

2. Included in the amounts for Preservation of Open Space Lands is \$1,500,000 the first year and \$1,500,000 the second year from nongeneral funds to be deposited into the Virginia Land Conservation Fund to be distributed by the Virginia Land Conservation Foundation pursuant to the provisions of § 58.1-513, Code of Virginia.

B. Included in the amounts for Preservation of Open-Space Lands is \$1,752,750 the first year and \$1,752,750 the second year from the general fund for the operating expenses of the Virginia Outdoors Foundation (Title 10.1, Chapter 18, Code of Virginia). Pursuant to § 58.1-817, the \$1 recordation fee shall be imposed on each instrument or document recorded in the proper book for filing of land records in those jurisdictions in which open-space easements are held by the Virginia Outdoors Foundation.

C.1. Out of the amounts appropriated for Natural Outdoor Recreational and Open Space Resource Research, Planning, and Technical Assistance, up to \$275,000 the first year and \$275,000 the second year from the general fund shall be paid for the operation and maintenance of Breaks Interstate Park. In addition to these amounts provided for operations and maintenance, an additional \$112,500 the first year from the general fund is appropriated to undertake emergency repairs at the Breaks Interstate Park dam.

2. The Breaks Interstate Park Commission shall submit an annual audit of a fiscal and compliance nature of its accounts and transactions to the Auditor of Public Accounts, the

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Director, Department of Conservation and Recreation, and the Director, Department of Planning and Budget.				
3. The Breaks Interstate Park Commission shall, following the modernization of the Breaks Interstate Park electrical system, enter into negotiations to transfer control of the electrical system serving the park to a local regional electric utility.				
D. Notwithstanding the provisions of § 10.1-202, Code of Virginia, amounts deposited to the State Park Conservation Resources Fund may be used for a program of in-state travel advertising. Such travel advertising shall feature Virginia State Parks and the localities or regions in which the parks are located. To the extent possible the department shall enter into cooperative advertising agreements with the Virginia Tourism Authority and local entities to maximize the effectiveness of expenditures for advertising. The department is further authorized to enter into a cooperative advertising agreement with the Virginia Association of Broadcasters.				
E. Upon completion of the construction of the Daniel Boone Wilderness Trail Interpretative Center, the Division of State Parks may accept transfer of the facility, 153 acres of land, and \$450,000 for maintenance of the completed facility for operation as a satellite facility to Natural Tunnel State Park. It is the intent of the General Assembly that at such time as the facility, property, and cash are transferred to the Division of State Parks that positions and ongoing funding for the operation of the satellite facility shall be provided.				
F. The department is hereby authorized to enter into an agreement with the non-profit organization that currently owns Natural Bridge to open and operate the facility as a Virginia State Park.				
G.1. Notwithstanding any other provision of the Code of Virginia, as a condition of the expenditure of all amounts included in this Item, the department shall not initiate or accept by gift, transfer or purchase with nongeneral funds any new lands for use as a State Park or Natural Area Preserve without a specific appropriation for such purpose by the General Assembly. However, the department is authorized to acquire land as expressly set out in Items C-27 and C-27.10 of this act, as well as in-holdings or lands contiguous to an existing State Park or Natural Area Preserve as expressly set out in Items C-25 and C-26 of this act and as provided for in Section 4-2.01 a.1. of this act provided further that acquisitions authorized in Items C-25 and C-26 will not cause the department to incur additional operating expenses. It is not the intent of these provisions to prohibit any acquisitions resulting from mitigation settlements or to prohibit any additional operating expenses resulting from such acquisitions.				
2. The Board of Conservation and Recreation is directed to develop a prioritization process and report which evaluates the relative priority of improvements for all properties that have not yet been fully developed as State Parks or Natural Area Preserves to ensure that the development of land-banked properties and properties not fully developed State Parks is undertaken with consideration of: i.) priority on development in areas with limited access to state and regional outdoor recreation facilities; ii.) the relative operational costs and staffing needs for any new areas compared to operating and staffing needs at existing state parks and natural areas; iii.) focus on in-holdings and parcels contiguous to existing state parks and natural area preserves; and iv.) any other such criteria as may deemed appropriate. The Board shall complete its evaluation and submit its prioritized listing to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2018.				
H. Included in the amounts for State Park Management and Operations is \$965,310 the first year and \$590,944 the second year and six positions from the general fund for the initial start-up and ongoing operational costs for Phase I of Widewater State Park in Stafford County. It is the intent of the General Assembly that, as soon as practicable upon completion of Phase 1A, that the Department shall provide public access and proceed to regular revenue generating operations at the Park.				
I. Included in the amount for this item is \$167,548 and one position the first year and \$198,752 and two positions the second year from the general fund to support the limited operation of Seven Bends State Park.				
J. Included in the amounts for this item is \$50,000 from the general fund in the first year <i>and \$50,000 from the general fund the second year</i> for the Department of Conservation and				

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Recreation to develop a plan to expand bike facilities at First Landing State Park.				
<i>K. Included in the amount for this item is \$50,000 the second year from the general fund for the Mendota Trail Project for the engineering and construction of a prototype for a covered container bridge.</i>				
<i>L. Included in the amounts for this item is \$350,000 the first year and \$70,000 the second year from the nongeneral fund amounts appropriated in Item 453 A. for recreational access which shall be used to fabricate and install Supplemental Guide Signs for Virginia State Parks.</i>				
364.	Administrative and Support Services (59900).....		\$9,149,070	<del>\$9,149,070</del> \$9,790,451
	General Management and Direction (59901).....	\$9,149,070	<del>\$9,149,070</del> \$9,790,451	
	Fund Sources: General.....	\$8,934,070	<del>\$8,934,070</del> \$9,575,451	
	Special.....	\$215,000	\$215,000	
Authority: Title 2.2, Chapters 37, 40, 41, 43; and Title 10.1, Chapter 1, Code of Virginia.				
Total for Department of Conservation and Recreation.....			<del>\$128,671,600</del> \$134,555,600	<del>\$109,308,308</del> \$189,858,606
	General Fund Positions.....	416.50	<del>418.50</del> 420.50	
	Nongeneral Fund Positions.....	42.50	<del>42.50</del> 44.50	
	Position Level.....	459.00	<del>461.00</del> 465.00	
	Fund Sources: General.....	<del>\$73,510,004</del> \$79,394,004	<del>\$54,652,043</del> \$134,811,754	
	Special.....	\$27,655,169	<del>\$27,655,169</del> \$28,045,756	
	Dedicated Special Revenue.....	\$14,573,657	\$14,068,326	
	Federal Trust.....	\$12,932,770	\$12,932,770	
<b>§ 1-104. DEPARTMENT OF ENVIRONMENTAL QUALITY (440)</b>				
365.	Land Protection (50900).....		\$27,643,388	\$27,643,388
	Land Protection Permitting (50925).....	\$3,785,734	\$3,785,734	
	Land Protection Compliance and Enforcement (50926).....	\$22,972,580	\$22,972,580	
	Land Protection Outreach (50927).....	\$677,746	\$677,746	
	Land Protection Planning and Policy (50928).....	\$207,328	\$207,328	
	Fund Sources: General.....	\$839,842	\$839,842	
	Special.....	\$1,109,676	\$1,109,676	
	Trust and Agency.....	\$11,088,508	\$11,088,508	
	Dedicated Special Revenue.....	\$7,979,675	\$7,979,675	
	Federal Trust.....	\$6,625,687	\$6,625,687	
Authority: Title 10.1, Chapters 11.1, 11.2, 12.1, 14, and 25; Title 44, Chapter 3.5, Code of Virginia.				
A. It is the intent of the General Assembly that balances in the Virginia Environmental Emergency Response Fund be used to meet match requirements for U.S. Environmental Protection Agency Superfund State Support Contracts.				
B. Notwithstanding the provisions of § 10.1-1422.3, Code of Virginia, \$1,807,575 in the first year and \$1,807,575 in the second year from the Waste Tire Trust Fund, and \$250,000 in the first year and \$250,000 in the second year from the Hazardous Waste Management Permit Fund within the Department of Environmental Quality shall be used				

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for the costs associated with the Department's land protection and water programs. Such funds may be used for the purposes set forth in § 10.1-1422.3, Code of Virginia, at the Director's discretion and only as available after funding other land protection and water programs.				
366.	Water Protection (51200).....		\$44,039,387	<del>\$44,039,387</del> \$44,164,302
	Water Protection Permitting (51225).....	\$10,208,957	\$10,208,957	
	Water Protection Compliance and Enforcement (51226).....	\$7,866,879	\$7,866,879	
	Water Protection Outreach (51227).....	\$2,147,757	<del>\$2,147,757</del> \$2,272,672	
	Water Protection Planning and Policy (51228).....	\$5,820,533	\$5,820,533	
	Water Protection Monitoring and Assessment (51229).....	\$8,713,955	\$8,713,955	
	Water Protection Stormwater Management (51230)....	\$9,281,306	\$9,281,306	
	Fund Sources: General.....	\$22,266,225	<del>\$22,266,225</del> \$22,391,140	
	Special.....	\$1,607,265	\$1,607,265	
	Trust and Agency.....	\$25,500	\$25,500	
	Dedicated Special Revenue.....	\$12,202,336	\$12,202,336	
	Federal Trust.....	\$7,938,061	\$7,938,061	

Authority: Title 10.1, Chapter 11.1; and Title 62.1, Chapters 2, 3.1, 3.2, 3.6, 5, 6, 20, 22, 24, and 25, Code of Virginia.

A. Out of this appropriation, \$51,500 the first year and \$51,500 the second year from the general fund is designated for annual membership dues for the Ohio River Valley Water Sanitation Commission.

B.1. The permit fee regulations adopted by the State Water Control Board pursuant to paragraphs B.1. and B.2. of § 62.1-44.15:6, Code of Virginia, shall be set at an amount representing not more than 50 percent of the direct costs for the administration, compliance and enforcement of Virginia Pollutant Discharge Elimination System permits and Virginia Pollution Abatement permits.

2. The regulations adopted by the State Water Control Board to initially implement the provisions of this Item shall be exempt from Article 2 (§ 2.2-4006, et seq.) of Chapter 40 of Title 2.2, Code of Virginia, and shall become effective no later than July 1, 2010. Thereafter, any amendments to the fee schedule described by these acts shall not be exempted from Article 2 (§ 2.2-4006, et seq.) of Chapter 40 of Title 2.2, Code of Virginia.

C. Out of the appropriation for this item, \$151,500 the first year and \$151,500 the second year from the general fund is designated for the annual membership dues for the Interstate Commission on the Potomac River Basin.

D.1. Notwithstanding § 62.1-44.15:56, Code of Virginia, public institutions of higher education, including community colleges, colleges, and universities, shall be subject to project review and compliance for state erosion and sediment control requirements by the local program authority of the locality within which the land disturbing activity is located, unless such institution submits annual specifications to the Department of Environmental Quality, in accordance with § 62.1-44.15:56 A (i), Code of Virginia.

2. The State Water Control Board is authorized to amend the Erosion and Sediment Control Regulations (9 VAC 25-840 et seq.) to conform such regulations with this project review requirement and to clarify the process. These amendments shall be exempt from Article 2 (§2.2-4006 et seq.) of the Administrative Process Act.

E. Beginning October 1, 2015, there shall be a \$3.75 fee imposed on each dry ton of exceptional quality biosolids cake sewage sludge that is land applied pursuant to § 62.1-44.19:3P, Code of Virginia, until such fee is altered, amended or rescinded by the State Water Control Board.

F. If the Board of the Appomattox River Water Authority does not approve an action to move forward with the raising of the Brasfield Dam prior to June 30, 2018, the authorization for

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<p>\$5,000,000 in Virginia Public Building Authority bonds for such project included in Chapter 806, 2013 Acts of Assembly shall expire.</p> <p>G. The Department shall work in conjunction with the Virginia Economic Development Partnership to facilitate the development of long-term offsetting methods within the Virginia Nutrient Credit Exchange as set out in Item 122 of this act.</p> <p>H. Included in the appropriation for this item is \$250,000 the first year and \$250,000 the second year from the general fund for the department to evaluate environmental concerns in the upper reaches of Buchannan Creek, a tributary of the Western Branch of the Lynnhaven River in Virginia Beach. The study should address: (i) adequacy of the channel; (ii) evaluation of shoreline deterioration; (iii) and potential contamination from Birchwood Gardens former private sewage treatment facility. The study may require but not be limited to: an evaluation of historical land use records; permits; water quality testing and monitoring; soil sampling and other environmental testing and evaluation as required. The report will include recommendations for any corrective action as determined to be necessary and shall be submitted to the Governor and the General Assembly no later than October 1, 2019.</p> <p>I. Notwithstanding any other provision of law, <del>the department</del>any <i>Virginnia Stormwater Management Program authority</i> is authorized to charge a voluntary fee of \$30,000 for review of sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres for an expedited stormwater <del>impact management program plan</del> review. Any individual or firm electing to pay the voluntary fee shall be guaranteed the total government review time shall not exceed 45 days excluding any applicant's time in responding to questions. <del>The portion of the fee above the normal</del> Any amounts paid to DEQ above the \$9,600 fee shall be used by DEQ to increase the staffing level of the reviewers of these applications.</p> <p><i>J. The Department of Environmental Quality shall prepare an update to its November 1, 2018 initial report entitled "Flexibilities for Virginia's Permitted Dischargers Implementing EPA's 2013 Nationally-Recommended Ammonia Criteria" pursuant to Enactment Clause 2 of Chapter 511 of the 2018 Acts of Assembly. The update shall expand the Department's previous identification of specific procedures and practices for ammonia criteria implementation to minimize their impact on Virginia sewerage systems or other treatment works, specifically by including all existing or potential permitting procedures and practices that are not prohibited by the Clean Water Act but which would provide relief to permitted dischargers. The Department shall report its findings to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Appropriations Committee, and Senate Finance Committee no later than November 1, 2019.</i></p> <p><i>K. The State Water Control Board shall amend its regulation at 9VAC25-31-250.A.3. on the maximum time for a Virginia Pollution Discharge Elimination System permitted discharger to attain compliance with water quality-based limitations so as to be consistent with the time for compliance established by the United States Environmental Protection Agency section 122.47(a)(1) of Title 40, Code of Federal Regulations. The Board shall complete this amendment by October 1, 2019. This action shall be exempt from the procedures and requirements of Article 2 of Chapter 40 of Title 2.2, Code of Virginia.</i></p>				
367.	Air Protection (51300).....		\$18,236,455	\$18,236,455
	Air Protection Permitting (51325).....	\$6,369,469		
	Air Protection Compliance and Enforcement (51326).....	\$6,547,634		
	Air Protection Outreach (51327).....	\$148,587		
	Air Protection Planning and Policy (51328).....	\$2,067,437		
	Air Protection Monitoring and Assessment (51329).....	\$3,103,328		
	Fund Sources: General.....	\$896,542		
	Enterprise.....	\$9,712,296		
	Dedicated Special Revenue.....	\$3,664,708		

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Federal Trust.....	\$3,962,909	\$3,962,909		

Authority: Title 10.1, Chapters 11.1 and 13; and Title 46.2, Chapter 10, Code of Virginia.

A. The Department of Environmental Quality is authorized to use up to \$300,000 the first year and \$300,000 the second year from the Vehicle Emissions Inspection Program Fund to implement the provisions of Chapter 710, Acts of Assembly of 2002, which authorizes the department to operate a program to subsidize repairs of vehicles that fail to meet emissions standards established by the Air Pollution Control Board when the owner of the vehicle is financially unable to have the vehicle repaired.

B.1. All of the permit program emissions fees collected by the State Air Pollution Control Board pursuant to § 10.1-1322, Code of Virginia, shall be assessed and collected on an annual basis notwithstanding the provisions of that section. The State Air Pollution Control Board shall adopt regulations adjusting permit program emissions fees collected pursuant to § 10.1-1322, Code of Virginia, and establish permit application processing fees and permit maintenance fees sufficient to ensure that the revenues collected from fees cover the total direct and indirect costs of the program consistent with the requirements of Title V of the Clean Air Act, except that the initial adjustment to permit program emissions fees shall not be increased by more than 30 percent over current rates. Notwithstanding the provisions of § 10.1-1322, Code of Virginia, the permit application fees collected pursuant to this paragraph shall not be credited towards the amount of annual fees owed pursuant to § 10.1-1322, Code of Virginia. All of the fees adopted pursuant to this section shall be adjusted annually by the Consumer Price Index.

2. The regulations adopted by the State Air Pollution Control Board to initially implement the provisions of this item shall be exempt from Chapter 40 of Title 2.2, Code of Virginia, and shall become effective no later than July 1, 2012. Thereafter, any amendments to the fee schedule described by these acts shall not be exempted from Chapter 40 of Title 2.2, Code of Virginia.

368.	Environmental Financial Assistance (51500).....			\$81,632,711	\$61,313,511
	Financial Assistance for Environmental Resources Management (51502).....	\$8,745,068	\$8,425,868		
	Virginia Water Facilities Revolving Fund Loans and Grants (51503).....	\$43,588,877	\$23,588,877		
	Financial Assistance for Coastal Resources Management (51507).....	\$1,924,500	\$1,924,500		
	Litter Control and Recycling Grants (51509).....	\$2,039,509	\$2,039,509		
	Petroleum Tank Reimbursement (51511).....	\$25,334,757	\$25,334,757		
	Fund Sources: General.....	\$22,672,814	\$2,353,614		
	Trust and Agency.....	\$25,504,646	\$25,504,646		
	Dedicated Special Revenue.....	\$4,741,509	\$4,741,509		
	Federal Trust.....	\$28,713,742	\$28,713,742		

Authority: Title 10.1, Chapters 11.1, 14, 21.1, and 25 and Title 62.1, Chapters 3.1, 22, 23.2, and 24, Code of Virginia.

A. To the extent available, the authorization included in Chapter 781, 2009 Acts of Assembly, Item 368, paragraph E, is hereby continued for the Virginia Public Building Authority to issue revenue bonds in order to finance Virginia Water Quality Improvement Grants, pursuant to Chapter 851, 2007 Acts of Assembly.

B. To the extent available, the authorization included in Chapter 806, 2013 Acts of Assembly, Item C-39.40, is hereby continued for the Virginia Public Building Authority to issue revenue bonds in order to finance the Stormwater Local Assistance Fund, the Combined Sewer Overflow Matching Fund, Nutrient Removal Grants, the Hopewell Regional Wastewater Treatment Authority, and the Appomattox River Water Authority. The administration of several of the water quality programs, including the Stormwater Local Assistance Fund, transferred to the Department of Environmental Quality per Chapter 756, 2013 Acts of Assembly.

C.1. The State Comptroller is authorized to continue the Stormwater Local Assistance Fund as

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established in Item 360, Chapter 806, 2013 Acts of Assembly. The fund shall consist of bond proceeds from bonds authorized by the General Assembly and issued pursuant to Item C-39.40 in Chapter 806, 2013 Acts of Assembly, ~~and~~ Item C-43 of Chapter 665, 2015 Acts of Assembly *and Item C-48.10 of this Act*, sums appropriated to it by the General Assembly, including \$20,000,000 the first year from the general fund for the fiscal year beginning July 1, 2018, and other grants, gifts, and moneys as may be made available to it from any other source, public or private. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

2. The purpose of the Fund is to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads. Moneys in the Fund shall be used to meet: i) obligations related to the Chesapeake Bay total maximum daily load (TMDL) requirements; ii) requirements for local impaired stream TMDLs; iii) water quality requirements of the Chesapeake Bay Watershed Implementation Plan (WIP); and iv) water quality requirements related to the permitting of small municipal stormwater sewer systems. The grants shall be used only for the acquisition of certified nonpoint nutrient credits and capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration.

D. The grants shall be used only for the acquisition of certified nonpoint nutrient credits and capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration. Such grants shall be in accordance with eligibility determinations made by the State Water Control Board under the authority of the Department of Environmental Quality.

E. The Department of Environmental Quality shall use an amount not to exceed \$3,000,000 from the Water Quality Improvement Fund to conduct the James River chlorophyll study pursuant to the approved Virginia Chesapeake Bay Total Maximum Daily Load, Phase I Watershed Implementation Plan. This amount shall be used solely for contractual support for water quality monitoring and analysis and computer modeling. No portion of this funding may be used for administrative costs of the department.

F. Out of such funds available in this item, the Department shall provide funding to the Virginia Geographic Information Network in an amount necessary to implement statewide digital orthography to improve land coverage data necessary to assist localities in planning and implementing stormwater management programs. As part of this authorization, the Department shall also include data to update prior LIDAR surveys of elevations along coastal areas to support activities related to management of recurrent coastal flooding.

G. Out of the amounts appropriated for Financial Assistance for Environmental Resources Management, \$3,292,479 the first year and \$3,292,479 the second year from federal funds is provided to implement stormwater management activities.

H.1. Each locality establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, shall provide to the Auditor of Public Accounts by October 1 of each year, in a format specified by the Auditor, a report as to each program funded by these fees and the expected nutrient and sediment reductions for each of these programs. The Department of Environmental Quality shall, at the request of the Auditor of Public Accounts, offer assistance to the Auditor's office in the review of the submitted reports.

2. The Auditor of Public Accounts shall include in the Specifications for Audits of Counties, Cities, and Towns regulations for all local governments establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, a requirement to ensure that each impacted local government is in compliance with the provisions of § 15.2-2114 A., Code of

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Virginia. Any such adjustment to the Specifications for Audits of Counties, Cities, and Towns regulations shall be exempt from the Administrative Process Act and shall be required for all audits completed after July 1, 2014.				
I. Out of the amounts appropriated in this item is \$319,200 the first year from the general fund to retire debt and interest incurred by the W.E. Skelton 4-H Educational Conference Center at Smith Mountain Lake to comply with a consent order to replace the wastewater system at the facility.				
369.	Administrative and Support Services (59900).....		\$28,770,211	<del>\$28,770,211</del> \$29,504,371
	General Management and Direction (59901).....	\$20,123,257	\$20,123,257	
	Information Technology Services (59902).....	\$8,646,954	<del>\$8,646,954</del> \$9,381,114	
	Fund Sources: General.....	\$13,686,360	<del>\$13,686,360</del> \$14,420,520	
	Special.....	\$6,431,064	\$6,431,064	
	Enterprise.....	\$3,325,278	\$3,325,278	
	Trust and Agency.....	\$1,239,744	\$1,239,744	
	Dedicated Special Revenue.....	\$633,740	\$633,740	
	Federal Trust.....	\$3,454,025	\$3,454,025	
Authority: Title 10.1, Chapters 11.1, 13 and 14 and Title 62.1, Chapter 3.1, Code of Virginia.				
A. Notwithstanding the provisions of Title 10.1, Chapter 25, Code of Virginia, the department is authorized to expend funds from the balances in the Virginia Environmental Emergency Response Fund for costs associated with its waste management, air, and water programs.				
B. Notwithstanding the provisions of Title 10.1, Chapter 25, Code of Virginia, the department is authorized to expend up to \$600,000 the first year and \$600,000 the second year from the balances in the Virginia Environmental Emergency Response Fund to further develop and implement eGovernment services.				
C. Out of the amounts for this appropriation, \$11,200 the first year and \$11,200 the second year from the general fund is provided for payment of the necessary expenses for Virginia's participation in the Roanoke River Bi-State Commission and Roanoke River Basin Advisory Committee.				
	Total for Department of Environmental Quality.....		\$200,322,152	<del>\$180,002,952</del> \$180,862,027
	General Fund Positions.....	408.50	<del>408.50</del> 413.50	
	Nongeneral Fund Positions.....	564.50	564.50	
	Position Level.....	973.00	<del>973.00</del> 978.00	
	Fund Sources: General.....	\$60,361,783	<del>\$40,042,583</del> \$40,901,658	
	Special.....	\$9,148,005	\$9,148,005	
	Enterprise.....	\$13,037,574	\$13,037,574	
	Trust and Agency.....	\$37,858,398	\$37,858,398	
	Dedicated Special Revenue.....	\$29,221,968	\$29,221,968	
	Federal Trust.....	\$50,694,424	\$50,694,424	
<b>§ 1-105. DEPARTMENT OF GAME AND INLAND FISHERIES (403)</b>				
370.	Wildlife and Freshwater Fisheries Management (51100).....		\$43,794,951 <del>\$46,374,951</del>	\$43,794,951 \$47,304,951
	Wildlife Information and Education (51102).....	\$4,015,764	\$4,015,764	
	Enforcement of Recreational Hunting and Fishing Laws and Regulations (51103).....	<del>\$15,342,891</del> \$15,322,891	<del>\$15,342,891</del> \$15,322,891	

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Wildlife Management and Habitat Improvement (51106).....	\$24,436,296 \$27,036,296	\$24,436,296 \$27,966,296		
Fund Sources: Dedicated Special Revenue.....	\$31,622,269 \$34,202,269	\$31,622,269 \$35,132,269		
Federal Trust.....	\$12,172,682	\$12,172,682		
Authority: Title 29.1, Chapters 1 through 6, Code of Virginia.				
Out of the amounts appropriated for this Item, \$20,000 the first year and \$20,000 the second year from nongeneral funds is provided for the Smith Mountain Lake Water Quality Monitoring Program.				
371.	Boating Safety and Regulation (62500).....		\$8,587,279 \$7,587,279	\$8,587,279 \$7,587,279
	Boat Registration and Titling (62501).....	\$2,744,547 \$2,844,547		
	Boating Safety Information and Education (62502).	\$462,359 \$362,359		
	Enforcement of Boating Safety Laws and Regulations (62503).....	\$5,380,373 \$4,380,373		
	Fund Sources: Dedicated Special Revenue.....	\$7,143,234 \$6,143,234		
	Federal Trust.....	\$1,444,045		
Authority: Title 29.1, Chapters 7 and 8, Code of Virginia.				
372.	Administrative and Support Services (59900).....		\$9,869,535	\$9,869,535
	General Management and Direction (59901).....	\$8,093,933		
	Information Technology Services (59902).....	\$1,775,602		
	Fund Sources: Dedicated Special Revenue.....	\$9,648,686		
	Federal Trust.....	\$220,849		
Authority: Title 29.1, Chapter 1, Code of Virginia.				
A. The department shall recover the cost of reproduction, plus a reasonable fee per record, from persons or organizations requesting copies of computerized lists of licenses issued by the department.				
B. The department shall not further consolidate its regional offices, field offices, or close any of these offices in presently-served localities or enter into any lease for any new regional office without notification of the Chairman of the House Committee on Agriculture, Chesapeake, and Natural Resources and the Chairman of the Senate Committee on Agriculture, Conservation, and Natural Resources. The department shall not undertake any future reorganization of any division, reporting structures, regional or field offices, or any function it may perform without notifying the Chairmen of the House Committee on Agriculture, Chesapeake, and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation, and Natural Resources, and the Senate Committee on Finance.				
C. Funds previously appropriated to the Lake Anna Advisory Committee for hydrilla control and removal may be used at the discretion of the Lake Anna Advisory Committee upon issues related to maintaining the health, safety, and welfare of Lake Anna.				
373.	A. Pursuant to §§ 29.1-101, 58.1-638, and 58.1-1410, Code of Virginia, deposits to the Game Protection Fund include an estimated <del>\$16,850,000</del> \$15,500,000 the first year and <del>\$16,850,000</del> \$15,500,000 the second year from revenue originating from the general fund.			
	B. Pursuant to § 29.1-101.01, Code of Virginia, the Department of Planning and Budget shall transfer such funds as designated by the Board of Game and Inland Fisheries from the Game Protection Fund (§ 29.1-101) to the Capital Improvement Fund (§ 29.1-101.01) up to an amount equal to 50 percent or less of the revenue deposited to the Game			

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Protection Fund by § 3-1.01, subparagraph M, of this act.				
C. Out of the amounts transferred pursuant to § 3-1.01, subparagraph K, of this act, \$881,753 the first year and \$881,753 the second year from the Game Protection Fund shall be used for the enforcement of boating laws, boating safety education, and for improving boating access.				
Total for Department of Game and Inland Fisheries....			<b>\$62,251,765</b>	<b>\$62,251,765</b>
			<b>\$63,831,765</b>	<b>\$64,761,765</b>
Nongeneral Fund Positions.....	496.00	496.00		
Position Level.....	496.00	496.00		
Fund Sources: Dedicated Special Revenue.....	\$48,414,189	\$48,414,189		
	\$49,994,189	\$50,924,189		
Federal Trust.....	\$13,837,576	\$13,837,576		

**§ 1-106. DEPARTMENT OF HISTORIC RESOURCES (423)**

374. Historic and Commemorative Attraction Management (50200).....			\$6,976,468	\$6,876,468
				\$7,063,738
Financial Assistance for Historic Preservation (50204).....	\$1,144,055	\$1,144,055		
			\$1,331,325	
Historic Resource Management (50205).....	\$5,832,413	\$5,732,413		
Fund Sources: General.....	\$3,925,307	\$3,925,307		
			\$4,112,577	
Special.....	\$922,989	\$822,989		
Commonwealth Transportation.....	\$115,642	\$115,642		
Dedicated Special Revenue.....	\$97,799	\$97,799		
Federal Trust.....	\$1,914,731	\$1,914,731		

Authority: Title 10.1, Chapters 22 and 23, Code of Virginia.

A. General fund appropriations for historic and commemorative attractions not identified in § 10.1-2211 or § 10.1-2211.1, Code of Virginia, shall be matched by local or private sources, either in cash or in-kind, in amounts at least equal to the appropriation and which are deemed to be acceptable to the department.

B. In emergency situations which shall be defined as those posing a threat to life, safety or property, § 10.1-2213, Code of Virginia, shall not apply.

C.1. Out of the amounts for Financial Assistance for Historic Preservation shall be paid from the general fund grants to the following organization for the purposes prescribed in § 10.1-2211, Code of Virginia:

<b>ORGANIZATION</b>	<b>FY 2019</b>	<b>FY 2020</b>
United Daughters of the Confederacy	\$83,570	\$83,570

Notwithstanding the cited Code section, the United Daughters of the Confederacy shall make disbursements to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy for the purposes stated in that section. By November 1 of each year, the United Daughters of the Confederacy shall submit to the Director, Department of Historic Resources a report documenting the disbursement of these funds for their specified purpose.

2. As disbursements are made to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy by the United Daughters of the Confederacy for the purposes stated in § 10.1-2211, Code of Virginia, an amount equal to \$7,500 each year shall be distributed to the Ladies Memorial Association of Petersburg.

3. As disbursements are made to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy by the United Daughters of the Confederacy for the purposes stated in § 10.1-2211, Code of Virginia, an amount equal to \$90 the first year and \$90 the second year shall be distributed to the Town of Coeburn Municipal

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Graveyard.				
<p>D. Pursuant to the provisions of § 10.1-2211.1, Code of Virginia, as amended by Chapter 639, 2018 Session of the General Assembly, out of the amounts provided for Financial Preservation shall be paid \$23,100 the first year and \$23,100 the second year from the general fund grants to the Virginia Society of the Sons of the American Revolution (VASSAR) and the Revolutionary War memorial associations caring for cemeteries as set forth in subsection B of § 10.1-2211.1, Code of Virginia. Such sums shall be expended by the associations for the routine maintenance of their respective Revolutionary War cemeteries and graves and for the graves of Revolutionary War soldiers and sailors not otherwise cared for in other cemeteries, and in erecting and caring for markers, memorials, and monuments to the memory of such soldiers, sailors, and persons rendering service to the Patriot cause in the Revolutionary War.</p>				
<p>E. Included in this appropriation is \$115,642 the first year and \$115,642 the second year in nongeneral funds from the Highway Maintenance and Operating Fund to support the Department of Historic Resources' required reviews of transportation projects.</p>				
<p>F. The Department of Historic Resources is authorized to accept a devise of certain real property under the will of Elizabeth Rust Williams known as Clermont Farm located on Route 7 east of the town of Berryville in Clarke County. If, after due consideration of options, the department determines that the property should be sold or leased to a different public or private entity, and notwithstanding the provisions of § 2.2-1156, Code of Virginia, then the department is further authorized to sell or lease such property, provided such sale or lease is not in conflict with the terms of the will. The proceeds of any such sale or lease shall be deposited to the Historic Resources Fund established under § 10.1-2202.1, Code of Virginia.</p>				
<p>G. The Department of Historic Resources shall follow and provide input on federal legislation designed to establish a new national system of recognizing and funding Presidential Libraries for those entities that are not included in the 1955 Presidential Library Act.</p>				
<p>H. Included in this appropriation is \$1,000,000 the first year and \$1,000,000 the second year from the general fund to be deposited into the Virginia Battlefield Preservation Fund for grants to be made in accordance with § 10.1-2202.4, Code of Virginia. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.</p>				
<p>I. The Department of Historic Resources is authorized to require applicants for tax credits for historic rehabilitation projects under § 58.1-339.2, Code of Virginia, to provide an audit by a certified public accountant licensed in Virginia, in accordance with guidelines developed by the department in consultation with the Auditor of Public Accounts. The department is also authorized to contract with tax, financial, and other professionals to assist the department with the oversight of historic rehabilitation projects for which tax credits are anticipated.</p>				
<p>J.1. Included in this Item is \$34,875 the first year and <del>\$34,875</del> \$52,145 the second year from the general fund to support the preservation and care of historical African American graves and cemeteries pursuant to § 10.1-2211.2., Code of Virginia.</p>				
<p>2. Notwithstanding the provisions of § 10.1-2211.2., Code of Virginia, included in this Item is \$960 the first year and \$960 the second year from the general fund to support the preservation and care of historical African American graves at the Daughters of Zion Cemetery in Charlottesville, Virginia.</p>				
<p>3. Notwithstanding the provisions of § 10.1-2211.2, Code of Virginia, included in this item is \$1,330 the first year and \$1,330 the second year from the general fund to support the preservation and care of historical African American graves at the Mt. Calvary Cemetery in Portsmouth, Virginia.</p>				
<p>4. Notwithstanding the provisions of § 10.1-2211.2, Code of Virginia, included in this item is \$220 the first year and \$220 the second year from the general fund to support the preservation and care of historical African American graves at the African-American</p>				

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Burial Ground for the Enslaved at Belmont in Loudoun County, Virginia.				
<i>5. Notwithstanding the provisions of § 10.1-2211.2, Code of Virginia, included in this item is \$385 the second year from the general fund to support the preservation and care of historical African American graves at the New River and West Dublin Cemeteries in Pulaski County, Virginia.</i>				
<i>6. Notwithstanding the provisions of §10.1-2211.2, Code of Virginia, included in this item is \$2,340 the second year from the general fund to support the preservation and care of historical African American graves at Oak Lawn Cemetery in Suffolk, Virginia.</i>				
<i>7. Notwithstanding the provisions of § 10.1-2211.2, Code of Virginia, included in this item is \$3,855 the second year from the general fund to support the preservation and care of historical African American graves at the following cemeteries in Hampton Virginia: 212 graves at Bassonette's Cemetery, 339 graves at Elmerton Cemetery, 14 graves at Queen Street Cemetery, 29 graves at Pleasant Shade Cemetery, 15 graves at the Tucker Family Cemetery, 125 graves at Union Street Cemetery and 37 graves at Good Samaritan Cemetery.</i>				
<i>8. Notwithstanding the provisions of § 10.1-2211.2, Code of Virginia, included in this item is \$975 the second year from the general fund to support the preservation and care of historical African American graves at Matthews, People's and Smith Street Cemeteries in Martinsville, Virginia.</i>				
<i>9. Notwithstanding the provisions of § 10.1-2211.2, Code of Virginia, included in this item is \$9,715 the second year from the general fund to support the preservation and care of historical African American graves at six cemeteries in Alexandria, Virginia.</i>				
K. The Department of Historic Resources is authorized to collect administrative fees for the provision of easement and stewardship services. Revenues generated from the easement fee schedule shall be deposited into the Preservation Easement Fund pursuant to § 10.1-2202.2., Code of Virginia.				
<i>L. Out of the amounts for Financial Assistance for Historic Preservation shall be paid from the general fund \$100,000 in the second year to the Historic Hopewell Foundation for restoration work at Weston Plantation.</i>				
<i>M. Out of the amounts for Financial Assistance for Historic Preservation shall be paid from the general fund \$70,000 in the second year to the Citizens United to Preserve Greensville County Training School.</i>				
375.	Administrative and Support Services (59900).....		\$973,912	\$973,912
	General Management and Direction (59901).....	\$973,912	\$973,912	
	Fund Sources: General.....	\$746,723	\$746,723	
	Special.....	\$46,205	\$46,205	
	Federal Trust.....	\$180,984	\$180,984	
Authority: Title 10.1, Chapters 10.1, 22 and 23, Code of Virginia.				
Out of the amounts for Administrative and Support Services, the department shall administer state grants to nonstate agencies pursuant to Item 492 of this act.				
Total for Department of Historic Resources.....			<b>\$7,950,380</b>	<b>\$7,850,380</b> <b>\$8,037,650</b>
	General Fund Positions.....	27.00	27.00	
	Nongeneral Fund Positions.....	19.00	19.00	
	Position Level.....	46.00	46.00	
	Fund Sources: General.....	\$4,672,030	<del>\$4,672,030</del> \$4,859,300	
	Special.....	\$969,194	\$869,194	
	Commonwealth Transportation.....	\$115,642	\$115,642	
	Dedicated Special Revenue.....	\$97,799	\$97,799	
	Federal Trust.....	\$2,095,715	\$2,095,715	

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**§ 1-107. MARINE RESOURCES COMMISSION (402)**

376.	Marine Life Management (50500).....			\$20,937,803	\$21,187,803 \$22,187,803
	Marine Life Information Services (50501).....	\$1,336,855	\$1,336,855		
	Marine Life Regulation Enforcement (50503).....	\$9,139,908	\$9,139,908		
	Artificial Reef Construction (50506).....	\$69,520	\$69,520		
	Chesapeake Bay Fisheries Management (50507).....	\$5,679,841	\$5,679,841		
	Oyster Propagation and Habitat Improvement (50508).....	\$4,711,679	<del>\$4,961,679</del> \$5,961,679		
	Fund Sources: General.....	\$9,811,165	<del>\$10,061,165</del> \$11,061,165		
	Special.....	\$6,983,056	\$6,983,056		
	Commonwealth Transportation.....	\$313,768	\$313,768		
	Dedicated Special Revenue.....	\$581,014	\$581,014		
	Federal Trust.....	\$3,248,800	\$3,248,800		

Authority: Title 18.2, Chapters 1 and 5; Title 19.2, Chapters 1, 5 and 7; Title 28.2, Chapters 1 through 10; Title 29.1, Chapter 7; Title 32.1, Chapter 6; Title 33.2, Chapter 1; and Title 62.1, Chapters 18 and 20, Code of Virginia.

A. Out of this appropriation, \$54,611 the first year and \$54,611 the second year from the general fund is provided for annual membership dues to the Atlantic States Marine Fisheries Commission.

B. Out of this appropriation, \$148,750 the first year and \$148,750 the second year from the general fund is provided for annual membership dues to the Potomac River Fisheries Commission.

C. Out of the amounts for Marine Life Regulation Enforcement shall be paid into the Marine Patrols Fund, \$169,248 the first year and \$169,248 the second year, pursuant to § 28.2-108, Code of Virginia. For this purpose, cash shall be transferred from the Commonwealth Transportation Fund.

D. Pursuant to § 58.1-2289 D, Code of Virginia, \$144,520 the first year and \$144,520 the second year shall be transferred to Marine Life Regulation Enforcement from the Commonwealth Transportation Fund from unrefunded motor fuel taxes for boats and paid into the Marine Patrols Fund.

E. 1. Out of this appropriation, \$2,750,000 the first year and ~~\$3,000,000~~ \$4,000,000 the second year from the general fund is provided to support oyster replenishment and oyster restoration activities. From these amounts \$750,000 the first year and ~~\$1,000,000~~ \$1,500,000 the second year from the general fund shall be used to provide support for oyster restoration.

2. Any unexpended general fund balances designated by the agency for oyster remediation activities remaining in this Item on June 30, 2019, and June 30, 2020, shall be reappropriated and reallocated to the Marine Resources Commission for expenditure.

F. The commission shall deposit proceeds from the sale of oyster shells, oyster seeds, and other subaqueous materials pursuant to § 28.2-550, Code of Virginia, to the Public Oyster Rock Replenishment Fund established by § 28.2-542, Code of Virginia. The proceeds from such sale shall be used for the same purposes specified in § 28.2-542, Code of Virginia.

G. Notwithstanding any action of the Virginia Marine Resources Commission pursuant to Chapter 4 VAC 20-1090-10 et. seq., or other provisions of law or policy, fee increases proposed to be levied by the Commission for commercial harvest license and gear use fees scheduled to go into effect in December 2017 shall be imposed at the level as they were in effect on January 1, 2016.

377.	Coastal Lands Surveying and Mapping (51000).....			\$2,929,820	\$2,757,820
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ITEM 377.	Item Details(\$)		Appropriations(\$)	
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Coastal Lands and Bottomlands Management (51001).....	\$2,262,431	\$2,090,431		
Marine Resources Surveying and Mapping (51002)....	\$667,389	\$667,389		
Fund Sources: General.....	\$1,858,641	\$1,686,641		
Dedicated Special Revenue.....	\$889,179	\$889,179		
Federal Trust.....	\$182,000	\$182,000		
Authority: Title 28.2, Chapters 12, 13, 14, 15 and 16; Title 62.1, Chapters 16 and 19, Code of Virginia.				
A. Out of this appropriation, \$245,687 the first year and \$233,637 the second year from the general fund is designated for Virginia's share of an Army Corps of Engineers project to construct a seawall to preserve the harbor on Tangier Island.				
B. Out of this appropriation, \$160,000 the first year from the general fund is designated for completion of the public boat ramp project RF16-11/RF16-11a1, including all necessary and reasonable improvements as may be required for public access.				
378. Tourist Promotion (53600).....			\$220,000	\$220,000
Virginia Saltwater Sport Fishing Tournament (53601).....	\$220,000	\$220,000		
Fund Sources: Special.....	\$220,000	\$220,000		
Authority: Title 28.2, Chapter 2, Code of Virginia				
Pursuant to the provisions of §28.2-206, Code of Virginia, the Virginia Marine Resources Commission shall conduct the Virginia Saltwater Sport Fishing Tournament in both years of the biennium.				
379. Administrative and Support Services (59900).....			\$2,689,325	\$2,739,325
General Management and Direction (59901).....	\$2,689,325	\$2,739,325		
Fund Sources: General.....	\$2,567,729	\$2,617,729		
Special.....	\$121,596	\$121,596		
Authority: Title 28.2, Chapters 1 and 2, Code of Virginia.				
A. The Marine Resources Commission shall recover the cost of reproduction, plus a reasonable fee per record, from persons or organizations requesting copies of computerized lists of licenses issued by the commission.				
B. From the amounts collected pursuant to § 28.2-200 et seq., Code of Virginia, and deposited into the Virginia Marine Products Fund (§ 3.2-2705, Code of Virginia), the Marine Resources Commission may retain \$10,000 the first year and \$10,000 the second year for the administrative cost of issuing gear licenses.				
C. Notwithstanding any action of the Virginia Marine Resources Commission pursuant to Chapter 4 VAC 20-1090-10 et. seq., or other provisions of law or policy, fees levied by the Commission for saltwater recreational fishing licenses shall be imposed at the level as they were in effect on October 1, 2014.				
D. The Virginia Marine Resources Commission shall report by December 15 of each year all projects and expenditures funded from the Virginia Saltwater Recreational Fishing Development Fund. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees.				
E. Out of this appropriation, \$175,000 the first year and \$225,000 the second year from the general fund is provided for relocation costs of the Virginia Marine Resources Commission headquarters and all operational facilities to publicly owned land at Ft. Monroe. It is the intent of the General Assembly that all operational assets of the Commission, including but not limited to communications, dispatch, and marine equipment storage remain co-located as part of the current relocation project. The Department of General Services, Division of Real Estate Services and the Fort Monroe Authority shall provide all necessary assistance, including but not limited to revisions to the Fort Monroe Authority Master Plan.				

ITEM 379.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Total for Marine Resources Commission.....			\$26,776,948	<del>\$26,904,948</del> \$27,904,948
General Fund Positions.....	135.50	135.50		
Nongeneral Fund Positions.....	28.00	28.00		
Position Level.....	163.50	163.50		
Fund Sources: General.....	\$14,237,535	<del>\$14,365,535</del> \$15,365,535		
Special.....	\$7,324,652	\$7,324,652		
Commonwealth Transportation.....	\$313,768	\$313,768		
Dedicated Special Revenue.....	\$1,470,193	\$1,470,193		
Federal Trust.....	\$3,430,800	\$3,430,800		

**§ 1-108. VIRGINIA MUSEUM OF NATURAL HISTORY (942)**

380. Museum and Cultural Services (14500).....			<del>\$3,522,111</del> \$3,592,111	<del>\$3,272,111</del> \$3,427,782
Collections Management and Curatorial Services (14501).....	\$114,827	\$114,827		
Education and Extension Services (14503).....	\$567,559	\$317,559		
Operational and Support Services (14507).....	<del>\$2,002,884</del> \$2,032,884	<del>\$2,002,884</del> \$2,148,555		
Scientific Research (14508).....	<del>\$836,841</del> \$876,841	<del>\$836,841</del> \$846,841		
Fund Sources: General.....	\$3,083,105	<del>\$2,833,105</del> \$2,878,776		
Special.....	<del>\$343,410</del> \$403,410	<del>\$343,410</del> \$453,410		
Federal Trust.....	<del>\$95,596</del> \$105,596	\$95,596		

Authority: Title 10.1, Chapter 20, Code of Virginia.

Out of this appropriation, \$250,000 the first year from the general fund is provided for a preliminary planning study to establish a satellite location of the Virginia Natural History Museum in Waynesboro, Virginia.

Total for Virginia Museum of Natural History.....			<del>\$3,522,111</del> \$3,592,111	<del>\$3,272,111</del> \$3,427,782
General Fund Positions.....	38.00	38.00		
Nongeneral Fund Positions.....	9.50	9.50		
Position Level.....	47.50	47.50		
Fund Sources: General.....	\$3,083,105	<del>\$2,833,105</del> \$2,878,776		
Special.....	<del>\$343,410</del> \$403,410	<del>\$343,410</del> \$453,410		
Federal Trust.....	<del>\$95,596</del> \$105,596	\$95,596		
<b>TOTAL FOR OFFICE OF NATURAL RESOURCES.....</b>			<del>\$430,206,909</del> \$437,740,909	<del>\$390,302,417</del> \$475,564,731
General Fund Positions.....	1,030.50	<del>1,032.50</del> 1,039.50		
Nongeneral Fund Positions.....	1,159.50	<del>1,159.50</del> 1,161.50		
Position Level.....	2,190.00	<del>2,192.00</del> 2,201.00		
Fund Sources: General.....	<del>\$156,473,711</del> \$162,357,711	<del>\$117,174,550</del> \$199,426,277		
Special.....	<del>\$45,440,430</del> \$45,500,430	<del>\$45,340,430</del> \$45,841,017		

ITEM 380.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Commonwealth Transportation.....	\$429,410	\$429,410		
Enterprise.....	\$13,037,574	\$13,037,574		
Trust and Agency.....	\$37,858,398	\$37,858,398		
Dedicated Special Revenue.....	\$93,777,806	\$93,272,475		
	\$95,357,806	\$95,782,475		
Federal Trust.....	\$83,189,580	\$83,189,580		
	\$83,199,580			

**ACTS  
OF THE  
GENERAL ASSEMBLY**



**2019 REGULAR SESSION**

**VOLUME I**

**VOLUME II**

**VOLUME III**



**ACTS**

**OF THE**

**GENERAL ASSEMBLY**

**OF THE**

**COMMONWEALTH OF VIRGINIA**

**2019 REGULAR SESSION**

**which met at the State Capitol, Richmond**

**Convened Wednesday, January 9, 2019**

**Adjourned sine die Sunday, February 24, 2019**

**Reconvened Wednesday, April 3, 2019**

**Adjourned sine die Wednesday, April 3, 2019**

**VOLUME III**

**Chapter 854**  
**RESOLUTIONS**  
**APPENDIX**  
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**COMMONWEALTH OF VIRGINIA**  
**RICHMOND**  
**2019**

**Compiled by the Clerk's Office**

**The House of Delegates**

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**Clerk of the House of Delegates**

**and**

**Keeper of the Rolls of the Commonwealth**

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**in cooperation with the**

**Senate of Virginia,  
Division of Legislative Services,  
and  
Division of Legislative Automated Systems**

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ITEM 381.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

**OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY**

**§ 1-109. SECRETARY OF PUBLIC SAFETY AND HOMELAND SECURITY (187)**

381.	Administrative and Support Services (79900).....			\$1,323,142	\$1,173,142 \$1,223,142
	General Management and Direction (79901).....	\$1,323,142	\$1,173,142 \$1,223,142		
	Fund Sources: General.....	\$1,323,142	\$1,173,142 \$1,223,142		

Authority: Title 2.2, Chapter 2, Article 8, and § 2.2-201, Code of Virginia.

A. The Secretary of Public Safety and Homeland Security shall present revised six-year state and local juvenile and state and local responsibility adult offender population forecasts to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Chairmen of the House and Senate Courts of Justice Committees by October 15 of each year. The secretary shall ensure that the revised forecast for state-responsible adult offenders shall include an estimate of the number of probation violators included each year within the overall population forecast who may be appropriate for alternative sanctions.

B. The secretary shall continue to work with other secretaries to (i) develop services intended to improve the re-entry of offenders from prisons and jails to general society and (ii) enhance the coordination of service delivery to those offenders by all state agencies. The secretary shall provide a status report on actions taken to improve offender transitional and reentry services, as provided in § 2.2-221.1, Code of Virginia, including improvements to the preparation and provision for employment, treatment, and housing opportunities for those being released from incarceration. The report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 15 of each year.

C. Included in the appropriation for this item is \$500,000 the first year and \$500,000 the second year from the general fund for the Commonwealth's nonfederal cost match requirement to accomplish the United States Corps of Engineers Regional Reconnaissance Flood Control Study for both the Hampton Roads and Northern Neck regions as authorized by the U.S. Congress. *Any balances not needed to complete these studies may be used to conduct a comparable study in the Northern Virginia region.*

D. The appropriation in this item includes \$150,000 the first year from the general fund to fulfill the requirements set forth in § 2.2-222.2, Code of Virginia, and to assess and prioritize the systems that require upgrade to ensure the Commonwealth's goals for interoperability. The Secretary of Public Safety and Homeland Security shall submit a report detailing costs associated with the upgrade to achieve statewide interoperability to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Department of Planning and Budget by November 1, 2018.

*E.1. The Secretary of Public Safety and Homeland Security shall convene and expand the workgroup created pursuant to paragraph 73.U of this act. The expanded work group shall examine the workload impact, as well as other fiscal and policy impacts, on the Commonwealth's public safety and judicial agencies as a whole. The Executive Secretary of the Supreme Court shall submit the recommendations of the working group to the Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2019. All state agencies and local subdivisions shall provide assistance as requested by the working group.*

*2. The expanded workgroup shall include representatives of the Supreme Court, the State Compensation Board, staff of the House Appropriations and Senate Finance Committees, Department of Criminal Justice Services, Commonwealth's Attorneys, local governments, and other stakeholders deemed appropriate by the Secretary.*

*3. Prior to the preparation of the November 15, 2019 report, each Commonwealth's Attorney's office in a locality that employs body worn cameras, in conjunction with the*

ITEM 381.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>law enforcement agency using body worn cameras, shall report to the Compensation Board and the workgroup the following information on a quarterly basis, in a format prescribed by the Board:</p> <p>a. The number of hours of body worn camera video footage received from their law enforcement agencies. The number of hours should additionally be broken down into corresponding categories of felonies, misdemeanors and traffic offenses. Any recorded event that results in charges for two or more of the above categories shall be reported in the most serious category;</p> <p>b. The number of hours spent in the course of redacting videos; and</p> <p>c. Any other data determined relevant and necessary by the workgroup for this analysis.</p> <p>F. Included in the amounts appropriated for this item is \$50,000 from the general fund in the second year for the Secretary of Public Safety and Homeland Security to develop a plan for implementation for a statewide school safety mobile application to be accessed by all school divisions. The Secretary shall submit his plan to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2019.</p> <p>G. The Secretary shall convene a workgroup to review the effectiveness of Virginia's Sex Offender Registry requirements. The workgroup shall examine and report on: (1) the feasibility of implementing a multi-tiered risk-based classification system; (2) the feasibility and public safety considerations of implementing differentiated registration requirements for juvenile and/or misdemeanor offenders; (3) the feasibility and public safety considerations of implementing an automatic removal process for meeting certain criteria; (4) an evaluation of the requirements to post employer information on the registry; and (5) the feasibility of implementing a multi-disciplinary Sex Offender Management Board that would provide evidence-based input on proposed changes to sex offender laws in the Commonwealth. The workgroup shall identify and compare the requirements for registration imposed by the federal government, by the other 49 states and the Commonwealth, and include this information as context in the report. The workgroup shall report on its work by November 15, 2020.</p> <p>H. The Secretary of Public Safety, in consultation with the Secretary of Health and Human Resources, shall convene a workgroup to report on the feasibility of increasing access to sex offender treatment for inmates held in the Commonwealth's adult correctional centers. The workgroup shall identify the different types of sex offender treatment currently available at the Department of Corrections and the numbers of offenders treated annually in each program. The workgroup shall consider the most effective time during an inmate's confinement to screen for treatment, and whether the existing Departmental policy should be modified. The report shall also recommend specific short- and long-term strategies for the Commonwealth to employ, and identify staffing and other costs required for implementation. The report shall be submitted to the Governor and Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2020.</p>				
382.	Disaster Planning and Operations (72200).....		\$567,489	\$567,489
	Emergency Planning and Homeland Security (72210).....	\$567,489	\$567,489	
	Fund Sources: Federal Trust.....	\$567,489	\$567,489	
	Total for Secretary of Public Safety and Homeland Security.....		<b>\$1,890,631</b>	<b><del>\$1,740,631</del> \$1,790,631</b>
	General Fund Positions.....	6.00	6.00	
	Nongeneral Fund Positions.....	3.00	3.00	
	Position Level.....	9.00	9.00	
	Fund Sources: General.....	\$1,323,142	<del>\$1,173,142</del> \$1,223,142	
	Federal Trust.....	\$567,489	\$567,489	

ITEM 383.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
383.	Adjudication Training, Education, and Standards (32600).....			\$2,077,357	\$2,077,357
	Prosecutorial Training (32604).....	\$2,077,357	\$2,077,357		
	Fund Sources: General.....	\$666,396	\$666,396		
	Special.....	\$1,410,961	\$1,410,961		
	Authority: Title 2.2, Chapter 26, Article 7, Code of Virginia.				
	Total for Commonwealth's Attorneys' Services Council.....			\$2,077,357	\$2,077,357
	General Fund Positions.....	7.00	7.00		
	Position Level.....	7.00	7.00		
	Fund Sources: General.....	\$666,396	\$666,396		
	Special.....	\$1,410,961	\$1,410,961		

**§ 1-111. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (999)**

384.	Crime Detection, Investigation, and Apprehension (30400).....			\$20,087,975	\$20,087,975
	Enforcement and Regulation of Alcoholic Beverage Control Laws (30403).....	\$20,087,975	\$20,087,975		
	Fund Sources: Enterprise.....	\$19,387,975	\$19,387,975		
	Federal Trust.....	\$700,000	\$700,000		

Authority: § 4.1-100 through § 4.1-133, Code of Virginia.

A. No funds appropriated for this program shall be used for enforcement personnel to enforce local ordinances.

B. Revenues of the fund appropriated in this Item and Item 385 of this act are limited to those received pursuant to Title 4, Code of Virginia, excepting taxes collected by the Alcoholic Beverage Control Board.

C. By September 1 of each year, the Alcoholic Beverage Control Board shall report for the prior fiscal year the dollar amount of total wine liter tax collections in Virginia; the portion, expressed in dollars, of such tax collections attributable to the sale of Virginia wine in both ABC stores and in private stores; and, the percentage of total wine liter tax collections attributable to the sale of Virginia wine. Such report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, Director, Department of Planning and Budget and the Virginia Wine Board.

D. Included in this appropriation for this item is \$839,752 each year from the Enterprise Fund to be used to support civilian licensing technicians.

385.	Alcoholic Beverage Merchandising (80100).....			\$715,950,057 \$716,914,931	\$753,966,617 \$756,574,679
	Administrative Services (80101).....	\$69,111,416	\$69,149,514		
	Alcoholic Beverage Control Retail Store Operations (80102).....	\$109,479,659 \$110,444,533	\$112,644,603 \$115,252,665		
	Alcoholic Beverage Purchasing, Warehousing and Distribution (80103).....	\$537,358,982	\$572,172,500		
	Fund Sources: Enterprise.....	\$715,950,057 \$716,914,931	\$753,966,617 \$756,574,679		

Authority: § 4.1-100 through § 4.1-133, Code of Virginia.

A. The Secretary of Finance shall chair an advisory committee to review the progress of the Alcoholic Beverage Control Authority in planning, financing, procuring, and implementing the information technology systems necessary to sustain the department's business enterprise. Members of this committee shall include the Secretary of Public Safety and Homeland Security; the Director, Department of Planning and Budget; the

ITEM 385.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Director, Department of Accounts; the Chief Information Officer of the Commonwealth; the Auditor of Public Accounts; and the Staff Directors of the House Appropriations and Senate Finance Committees and/or their designees.				
B. Funds appropriated for services related to state lottery operations shall be used solely for lottery ticket purchases and prize payouts.				
C. The Alcoholic Beverage Control Board shall open additional stores in locations deemed to have the greatest potential for total increased sales in order to maximize profitability.				
D. Notwithstanding § 4.1-120, Code of Virginia, the Alcoholic Beverage Control Board may open certain government stores, as determined by the Board, for the sale of alcoholic beverages on New Year's Day and on Sundays after <del>12:00 p.m.</del> 10:00 a.m.				
E. Consistent with the provisions of Chapters 730 and 38, 2015 Acts of Assembly, members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairmen of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.				
Total for Department of Alcoholic Beverage Control.			<b>\$736,038,032</b>	<b>\$774,054,592</b>
			<del>\$737,002,906</del>	<del>\$776,662,654</del>
Nongeneral Fund Positions.....				
			<del>1,304.00</del>	<del>1,348.00</del>
			<del>1,320.00</del>	<del>1,364.00</del>
Position Level.....				
			<del>1,304.00</del>	<del>1,348.00</del>
			<del>1,320.00</del>	<del>1,364.00</del>
Fund Sources: Enterprise.....				
			<del>\$735,338,032</del>	<del>\$773,354,592</del>
			<del>\$736,302,906</del>	<del>\$775,962,654</del>
Federal Trust.....				
			<del>\$700,000</del>	<del>\$700,000</del>
<b>§ 1-112. DEPARTMENT OF CORRECTIONS (799)</b>				
386.	Instruction (19700).....		\$30,012,821	\$30,012,821
	Career and Technical Instructional Services for Youth and Adult Schools (19712).....		\$10,330,218	\$10,330,218
	Adult Instructional Services (19713).....		\$12,887,704	\$12,887,704
	Instructional Leadership and Support Services (19714).....		\$6,794,899	\$6,794,899
	Fund Sources: General.....		\$29,502,543	\$29,502,543
	Federal Trust.....		\$510,278	\$510,278
Authority: §§ 53.1-5 and 53.1-10, Code of Virginia.				
387.	Supervision of Offenders and Re-entry Services (35100).....		\$103,664,289	<del>\$104,905,315</del> <del>\$105,105,315</del>
	Probation and Parole Services (35106).....		\$98,623,821	\$99,864,847
	Community Residential Programs (35108).....		\$3,163,556	\$3,163,556
	Administrative Services (35109).....		\$1,876,912	<del>\$1,876,912</del> <del>\$2,076,912</del>
	Fund Sources: General.....		\$100,715,593	<del>\$101,956,619</del> <del>\$102,156,619</del>
	Special.....		\$85,000	\$85,000
	Dedicated Special Revenue.....		\$2,463,696	\$2,463,696
	Federal Trust.....		\$400,000	\$400,000
Authority: §§ 53.1-67.2 through 53.1-67.6 and §§ 53.1-140 through 53.1-176.3, Code of Virginia.				

ITEM 387.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>A. By September 1 of each year, the Department of Corrections shall provide a status report on the Statewide Community-Based Corrections System for State-Responsible Offenders to the Chairmen of the House Courts of Justice; Health, Welfare and Institutions; and Appropriations Committees and the Senate Courts of Justice; Rehabilitation and Social Services; and Finance Committees and to the Department of Planning and Budget. The report shall include a description of the department's progress in implementing evidence-based practices in probation and parole districts, and its plan to continue expanding this initiative into additional districts. The section of the status report on evidence-based practices shall include an evaluation of the effectiveness of these practices in reducing recidivism and how that effectiveness is measured.</p>				
<p>B. Included in the appropriation for this Item is \$150,000 the first year and \$150,000 the second year from nongeneral funds to support the implementation of evidence-based practices in probation and parole districts. The source of the funds is the Drug Offender Assessment Fund.</p>				
<p>C. Out of the amounts appropriated in this item, \$200,000 the second year from the general fund is designated for the Department of Corrections to pay the Department of Motor Vehicles for the costs of providing identification cards to inmates through the DMV Connect program.</p>				
387.10	<p><i>Financial Assistance for Confinement of Inmates in Local and Regional Facilities (35600).....</i></p>		\$0	\$124,641
	<p><i>Financial Assistance for Construction of Local and Regional Jails (35603).....</i></p>		\$0	\$124,641
	<p><i>Fund Sources: General.....</i></p>		\$0	\$124,641
<p><i>Authority: §§ 53.1-80 and 53.1-81, Code of Virginia</i></p>				
<p><i>The appropriation in this Item shall be used to pay the Commonwealth's share of the costs to construct, renovate, or expand a local correctional facility. After reviewing requests for reimbursement, the Department of Corrections shall reimburse the Commonwealth's share of costs approved by the Board of Corrections for the following facility, not to exceed the amount shown:</i></p>				
	<p><i>Martinsville City Jail – Upgrade Security Control System</i></p>			\$124,641
388.	<p>A. The following process shall be applicable in order for any county, city, or regional jail authority (hereinafter referred to as “the locality”) to receive state reimbursement for a portion of the costs of the construction, expansion, or renovation of a jail as provided in §§53.1-80 and 53.1-81, Code of Virginia:</p>			
	<p>1. The locality shall file with the Department of Corrections, by January 1 of the year in which it wishes its request to be considered, the following information in a format specified by the department:</p>			
	<p>a. the information and documents required by §53.1-82.1, Code of Virginia;</p>			
	<p>b. Specifications for the proposed construction or renovation; and</p>			
	<p>c. Detailed cost estimates.</p>			
	<p>2. The Department of Corrections shall review the request and make its comments and recommendations to the Board of Corrections.</p>			
	<p>3. The Departments of Corrections and Criminal Justice Services shall review the community-based corrections plan and jail population forecast submitted by the locality and make their comments and recommendation concerning them to the Board of Corrections.</p>			
	<p>4. The Board of Corrections shall review and take action on the request, after reviewing the comments and recommendations of the Departments of Corrections and Criminal Justice Services. It may modify any aspect of the request before approving it. The board shall not approve any request unless the following conditions have been met:</p>			

ITEM 388.	Item Details(\$)		Appropriations(\$)	
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a. the project is consistent with the projected number of local and state responsible offenders to be housed in such facility;				
b. the project meets the design criteria set out in the Board of Corrections' Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities;				
c. the project is proposed to be built using standards for a minimum security facility, as adopted by the board, unless the use of more expensive construction standards is justified, based on a documented projection of offender populations that would require a higher level of security;				
d. the project can be completed and operated in a cost-efficient manner; and				
e. any other criteria established by the board.				
5. If the Board of Corrections approves a request, the Department of Corrections shall notify the Department of Planning and Budget by October 1 of the board's action and submit a summary of the project and a detailed list of the board-approved costs to the department.				
6. If the Board of Corrections approves a request, the Department of Criminal Justice Services shall submit to the Department of Planning and Budget by October 1 a summary of the alternatives to incarceration included in the community-based corrections plan approved for the project, along with a projection of the state funds needed to implement these programs.				
7. The Department of Planning and Budget shall submit to the Governor, for consideration for inclusion in the budget bill to be submitted by the Governor to the General Assembly, its recommendations concerning the approval of the request for reimbursement of jail construction or renovation costs and whether state funding is appropriate to support the alternatives to incarceration included in the community-based corrections plan.				
B. The Department of Corrections shall provide an annual report on the status of jail construction and renovation projects as approved for funding by the General Assembly. The report shall be limited to those projects which increase bed capacity. The report shall include a brief summary description of each project, the total capital cost of the project and the approved state share of the capital cost, the number of beds approved, along with the net number of new beds if existing beds are to be removed, and the closure of any existing facilities, if applicable. The report shall include the six-year population forecast, as well as the double-bunking capacity compared to the rated capacity for each project listed. The report shall also include the general fund impact on community corrections programs as reported by the Department of Criminal Justice Services, and the recommended financing arrangements and estimated general fund requirements for debt service as provided by the State Treasurer. Copies of the report shall be provided by October 1 of each year to the Chairmen of the Senate Finance and House Appropriations Committees and to the Director, Department of Planning and Budget.				
C.1. No city, county, town or regional jail shall authorize the construction, remodeling, renovation or rehabilitation of any facility to house any inmate in secure custody which results in increased jail capacity without the prior approval of the Board of Corrections.				
2. Any facility operated by any local or regional jail in the Commonwealth which houses any inmate in secure custody shall be subject to the operational provisions of §§ 53.1-5 and 53.1-68, Code of Virginia, as well as all rules, regulations, and inspections established by the Board of Corrections.				
D. The Board of Corrections shall include within its reporting formats on the capacity of each local and regional jail, a measure of the actual jail capacity, which shall include double-bunking, with exceptions as appropriate, in the judgment of the Board, for isolation, segregation, or medical cells, or similar units which would not normally be double-bunked. Exceptions to this measure of capacity may also be made for jails which were constructed prior to 1980. A report including the double-bunking capacity, as well as the standard Board of Corrections measure of rated capacity, for each jail shall be presented to the Secretary of Public Safety and the Chairmen of the Senate Finance and House Appropriations Committees by October 1 of each year.				
E. The Commonwealth shall reimburse localities or regional jail authorities up to 25 percent				

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of the cost of constructing, enlarging, or renovating local or regional jails, for projects approved by the Governor on or after July 1, 2017.				
389.	Operation of State Residential Community Correctional Facilities (36100).....		\$17,503,006	<del>\$17,503,006</del> \$18,083,080
	Community Facility Management (36101).....	\$1,406,592	\$1,406,592	
	Supervision and Management of Probates (36102)..	\$11,240,304	\$11,240,304	
	Rehabilitation and Treatment Services - Community Residential Facilities (36103).....	\$1,838,499	<del>\$1,838,499</del> \$2,418,573	
	Medical and Clinical Services - Community Residential Facilities (36104).....	\$799,261	\$799,261	
	Food Services - Community Residential Facilities (36105).....	\$1,182,525	\$1,182,525	
	Physical Plant Services - Community Residential Facilities (36106).....	\$1,035,825	\$1,035,825	
	Fund Sources: General.....	\$16,603,006	<del>\$16,603,006</del> \$17,183,080	
	Special.....	\$900,000	\$900,000	

Authority: §§ 53.1-67.2 through 53.1-67.8, Code of Virginia.

A. Included within this appropriation is \$700,00 the first year and \$700,000 the second year from nongeneral funds to be used for operating expenses of diversion centers operated by the Department of Corrections. The nongeneral funds are to come from the fees collected from probationers, assigned to the diversion centers, to cover a portion of the cost of housing them, pursuant to § 19.2-316.3 C, Code of Virginia.

B. Notwithstanding the provisions of § 53.1-67.1, Code of Virginia, the Department of Corrections shall not be required to operate a boot camp program for offenders placed on probation.

C. Included in the appropriation for this Item is \$438,936 the first year and \$438,936 \$1,019,010 the second year from the general fund for the establishment of opioid treatment programs in the detention and diversion centers. The department shall report annually to the Governor, the Chairmen of the House Appropriations and the Senate Finance Committees, and the Department of Planning and Budget on the status of the program, including recidivism and illegal drug relapse of participants in the program.

390.	Operation of Secure Correctional Facilities (39800).....		\$1,006,178,030	<del>\$1,001,894,525</del> \$1,013,081,717
	Supervision and Management of Inmates (39802)...	\$499,024,754	<del>\$503,718,236</del> \$504,244,019	
	Rehabilitation and Treatment Services - Prisons (39803).....	\$44,026,754	<del>\$44,102,440</del> \$44,172,440	
	Prison Management (39805).....	\$73,063,102	\$73,063,102	
	Food Services - Prisons (39807).....	\$43,926,300	\$43,926,300	
	Medical and Clinical Services - Prisons (39810).....	<del>\$212,979,263</del> \$221,312,692	<del>\$203,926,590</del> \$214,517,999	
	Agribusiness (39811).....	\$10,481,833	\$10,481,833	
	Correctional Enterprises (39812).....	\$50,303,706	\$50,303,706	
	Physical Plant Services - Prisons (39815).....	\$72,372,318	\$72,372,318	
	Fund Sources: General.....	<del>\$948,378,153</del> \$956,711,582	<del>\$947,753,642</del> \$958,940,834	
	Special.....	\$53,219,843	\$53,219,843	
	Dedicated Special Revenue.....	\$3,658,994	\$0	
	Federal Trust.....	\$921,040	\$921,040	

Authority: §§ 53.1-1, 53.1-5, 53.1-8, and 53.1-10, Code of Virginia.

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A.	Included in this appropriation is \$1,195,000 in the first year and \$1,195,000 the second year from nongeneral funds for the purposes listed below. The source of the funds is commissions generated by prison commissary operations:			
	1. \$170,000 the first year and \$170,000 the second year for Assisting Families of Inmates, Inc., to provide transportation for family members to visit offenders in prison and other ancillary services to family members;			
	2. \$950,000 the first year and \$950,000 the second year for distribution to organizations that work to enhance faith-based services to inmates; and			
	3. \$75,000 the first year and \$75,000 the second year for the "FETCH" program.			
B.1.	The Department of Corrections is authorized to contract with other governmental entities to house male and female prisoners from those jurisdictions in facilities operated by the department.			
2.	The State Comptroller shall continue to maintain the Contract Prisoners Special Revenue Fund on the books of the Commonwealth to reflect the activities of contracts between the Commonwealth of Virginia and other governmental entities for the housing of prisoners in facilities operated by the Virginia Department of Corrections.			
3.	The Department of Corrections shall determine whether it may be possible to contract to house additional federal inmates or inmates from other states in space available within state correctional facilities. The department may, subject to the approval of the Governor, enter into such contracts, to the extent that sufficient bedspace may become available in state facilities for this purpose.			
C.	The Department of Corrections may enter into agreements with local and regional jails to house state-responsible offenders in such facilities and to effect transfers of convicted state felons between and among such jails. Such agreements shall be governed by the provisions of Item 67 of this act.			
D.	To the extent that the Department of Corrections privatizes food services, the department shall also seek to maximize agribusiness operations.			
E.	Notwithstanding the provisions of § 53.1-45, Code of Virginia, the Department of Corrections is authorized to sell on the open market and through the Virginia Farmers' Market Network any dairy, animal, or farm products of which the Commonwealth imports more than it exports.			
F.	It is the intention of the General Assembly that § 53.1-47, the Code of Virginia, concerning articles and services produced or manufactured by persons confined in state correctional facilities, shall be construed such that the term "manufactured" articles shall include "remanufactured" articles.			
G.	Out of this appropriation, \$921,040 the first year and \$921,040 the second year from nongeneral funds is included for inmate medical costs. The sources of the nongeneral funds are an award from the State Criminal Alien Assistance Program, administered by the U.S. Department of Justice.			
H.1.	The Department of Corrections, in coordination with the Virginia Supreme Court, shall continue to operate a behavioral correction program. Offenders eligible for such a program shall be those offenders: (i) who have never been convicted of a violent felony as defined in § 17.1-805 of the Code of Virginia and who have never been convicted of a felony violation of §§ 18.2-248 and 18.2-248.1 of the Code of Virginia; (ii) for whom the sentencing guidelines developed by the Virginia Criminal Sentencing Commission would recommend a sentence of four years or more in facilities operated by the Department of Corrections; and (iii) whom the court determines require treatment for drug or alcohol substance abuse. For any such offender, the court may impose the appropriate sentence with the stipulation that the Department of Corrections place the offender in an intensive therapeutic community-style substance abuse treatment program as soon as possible after receiving the offender. Upon certification by the Department of Corrections that the offender has successfully completed such a program of a duration of 24 months or longer, the court may suspend the remainder of the sentence imposed by the court and order the offender released to supervised probation for a period			

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specified by the court.

2. If an offender assigned to the program voluntarily withdraws from the program, is removed from the program by the Department of Corrections for intractable behavior, fails to participate in program activities, or fails to comply with the terms and conditions of the program, the Department of Corrections shall notify the court, outlining specific reasons for the removal and shall reassign the defendant to another incarceration assignment as appropriate. Under such terms, the offender shall serve out the balance of the sentence imposed by the court, as provided by law.

3. The Department of Corrections shall collect the data and develop the framework and processes that will enable it to conduct an in-depth evaluation of the program three years after it has been in operation. The department shall submit a report periodically on the program to the Chief Justice as he may require and shall submit a report on the implementation of the program and its usage to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Appropriations and Senate Finance Committees by June 30 of each year.

I. Included in the appropriation for this Item is \$250,000 the first year and \$250,000 the second year from nongeneral funds for a culinary arts program in which inmates are trained to operate food service activities serving agency staff and the general public. The source of the funds shall be revenues generated by the program. Any revenues so generated by the program shall not be subject to § 4-2.02 of this act and shall be used by the agency for the costs of operating the program. The State Comptroller shall continue to maintain the Inmate Culinary Arts Training Program Fund on the books of the Commonwealth to reflect the revenue and expenditures of this program.

J. The Department of Corrections shall continue to coordinate with the Department of Medical Assistance Services and the Department of Social Services to enroll eligible inmates in Medicaid. To the extent possible, the Department of Corrections shall work to identify potentially eligible inmates on a proactive basis, prior to the time inpatient hospitalization occurs. Procedures shall also include provisions for medical providers to bill the Department of Medical Assistance Services, rather than the Department of Corrections, for eligible inmate inpatient medical expenses. Due to the multiple payor sources associated with inpatient and outpatient health care services, the Department of Corrections and the Department of Medical Assistance Services shall consult with the applicable provider community to ensure that administrative burdens are minimized and payment for health care services is rendered in a prompt manner.

K. Federal funds received by the Department of Corrections from the federal Residential Substance Abuse Treatment Program shall be exempt from payment of statewide and agency indirect cost recoveries into the general fund.

L. Included in the appropriation for this item is funding for the first year and the second year from the general fund for six medical contract monitors. The persons filling these positions shall have the responsibility of closely monitoring the adequacy and quality of inmate medical services in those correctional facilities for which the department has contracted with a private vendor to provide inmate medical services.

M. The Department of Corrections shall continue to operate a separate program for inmates under 18 years old who have been tried and convicted as adults and committed to the Department of Corrections. This separation of these offenders from the general prison population is required by the requirements of the federal Prison Rape Elimination Act.

*N. Included in the appropriation for this item is \$3,525,783 in the second year from the general fund for the Department of Corrections to use for initiatives to improve recruitment and retention of correctional personnel. Of this amount, \$1,051,567 is provided for targeted salary actions for correctional officers at Augusta Correctional Center.*

*O. In the introduced budget for the biennium beginning on July 1, 2020, the Department of Planning and Budget shall create a new program within the Department of Corrections for the appropriations related to inmate healthcare. Appropriation under the service area for "Medical and Clinical Services - Prisons (39810)," shall be transferred to the new*

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<i>Item created pursuant to this paragraph. The program shall allocate the funding into appropriate service areas to identify: healthcare contracts; offsite care; medical transportation; medications; and other appropriate allocations.</i>				
<i>P. Included within the appropriation for this item is \$70,000 the second year from the general fund for the Sex Offender Residential Treatment Program.</i>				
<i>Q. The Department of Corrections and the VCU Health System and UVA Health System shall collaborate on a plan to ensure that inmates with long-term or high-cost prescription drug needs receive treatment from a federal 340-B covered entity. The Department shall begin development of the plan as soon as is practicable and report to the House Appropriations and Senate Finance Committees by January 1, 2020.</i>				
<i>R. The Department of Corrections shall convene a workgroup to develop a plan for a pilot partnership for a university health system to provide comprehensive health care for the inmates in at least one state correctional facility. The workgroup shall be co-chaired by the director of the Department of Corrections, the chief executive officer of the VCU Health System, and the executive vice president for health affairs at the University of Virginia. The workgroup shall jointly submit an interim update to the House Appropriations and Senate Finance Committees no later than November 1, 2019; and jointly submit a final plan for the pilot partnership no later than January 1, 2020. The plan shall include (i) the facility or facilities included in the pilot, (ii) staffing needs for providing health care services, (iii) the amount and structure of payment to the university, and (iv) how the effectiveness of the pilot project will be evaluated.</i>				
391.	Administrative and Support Services (39900).....		\$104,025,032	\$103,632,136 \$110,564,916
	General Management and Direction (39901).....	\$17,005,366	\$17,005,366	
	Information Technology Services (39902).....	\$37,096,261	\$36,753,365 \$43,336,178	
	Accounting and Budgeting Services (39903).....	\$5,098,156	\$5,098,156	
	Architectural and Engineering Services (39904).....	\$6,482,895	\$6,432,895 \$6,782,862	
	Jail Regulation, Inspections, and Investigations (39905).....	\$465,274	\$465,274	
	Human Resources Services (39914).....	\$5,944,758	\$5,944,758	
	Planning and Evaluation Services (39916).....	\$799,987	\$799,987	
	Procurement and Distribution Services (39918).....	\$13,120,696	\$13,120,696	
	Training Academy (39929).....	\$7,910,592	\$7,910,592	
	Offender Classification and Time Computation Services (39930).....	\$10,101,047	\$10,101,047	
	Fund Sources: General.....	\$98,884,006	\$98,799,903 \$102,676,179	
	Special.....	\$4,987,220	\$4,678,427 \$7,734,931	
	Dedicated Special Revenue.....	\$153,806	\$153,806	

Authority: §§ 53.1-1 and 53.1-10, Code of Virginia.

A.1. Any plan to modernize and integrate the automated systems of the Department of Corrections shall be based on developing the integrated system in phases, or modules. Furthermore, any such integrated system shall be designed to provide the department the data needed to evaluate its programs, including that data needed to measure recidivism.

2. The appropriation in this Item includes \$2,868,500 the first year and \$2,135,500 the second year from the Contract Prisoners Special Revenue Fund to defray a portion of the costs of maintaining and enhancing the offender management system, including the development of an electronic health records system. In addition to any general fund appropriations, the Department of Corrections may, subject to the authorization of the Director, Department of Planning and Budget, utilize additional revenue deposited in the Contract Prisoners Special Revenue Fund to support the development of the offender management system.

B. Included in this appropriation is \$550,000 the first year and \$550,000 the second year from nongeneral funds to be used for installation and operating expenses of the telemedicine

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<p>program operated by the Department of Corrections. The source of the funds is revenue from inmate fees collected for medical services.</p>				
<p>C. Included in this appropriation is \$1,100,000 the first year and \$1,100,000 the second year from nongeneral funds to be used by the Department of Corrections for the operations of its Corrections Construction Unit. The State Comptroller shall continue the Corrections Construction Unit Special Operating Fund on the Commonwealth Accounting and Reporting System to reflect the activities of contracts between the Corrections Construction Unit and (i) institutions within the Department of Corrections for work not related to a capital project and (ii) agencies without the Department of Corrections for work performed for those agencies.</p>				
<p>D. Notwithstanding the provisions of § 53.1-20 A. and B., Code of Virginia, the Director, Department of Corrections, shall receive offenders into the state correctional system from local and regional jails at such time as he determines that sufficient, secure and appropriate housing is available, placing a priority on receiving inmates diagnosed and being treated for HIV, mental illnesses requiring medication, or Hepatitis C. The director shall maximize, consistent with inmate and staff safety, the use of bed space in the state correctional system. The director shall report monthly to the Secretary of Public Safety and Homeland Security and the Department of Planning and Budget on the number of inmates housed in the state correctional system, the number of inmate beds available, and the number of offenders housed in local and regional jails that meet the criteria set out in § 53.1-20 A. and B.</p>				
<p>E. Notwithstanding any requirement to the contrary, any building, fixture, or structure to be placed, erected or constructed on, or removed or demolished from the property of the Commonwealth of Virginia under the control of the Department of Corrections shall not be subject to review and approval by the Art and Architectural Review Board as contemplated by § 2.2-2402, Code of Virginia. However, if the Department of Corrections seeks to construct a facility that is not a secure correctional facility or a structure located on the property of a secure correctional facility, then the Department of Corrections shall submit that structure to the Art and Architectural Review Board for review and approval by that board. Such other structures could include probation and parole district offices or regional offices.</p>				
<p>F. The Commonwealth of Virginia shall convey 45 acres (more or less) of property, being a portion of Culpeper County Tax Map No. 75, parcel 32, lying in the Cedar Mountain Magisterial District of Culpeper County, Virginia, in consideration of the County's construction of water capacity and service line(s) adequate to serve the needs of the Department of Corrections' Coffeewood Facility and the Department of Juvenile Justice's Culpeper Juvenile Correctional Facility (hereinafter "the facilities"). The cost of the water improvements necessary to serve the facilities, including an eight-inch water service line, and including engineering and land/easement acquisition costs, shall be paid by the Commonwealth, less and except (i) the value of the property for the jail conveyed by the Commonwealth to the County (\$150,382, based on valuation by the Culpeper County Assessor), and (ii) the cost of increasing the size of the water service line from eight inches to twelve inches, in order to accommodate planned county needs.</p>				
<p>G. Notwithstanding the provisions of § 58.1-3403, Code of Virginia, the Department of Corrections shall be exempt from the payment of service charges levied in lieu of taxes by any county, city, or town.</p>				
<p>H. The Department of Corrections shall serve as the Federal Bonding Coordinator and shall work with the Virginia Community College System and its workforce development programs and services to provide fidelity bonds to those offenders released from jails or state correctional centers who are required to provide fidelity bonds as a condition of employment. The department is authorized to use funds from the Contract Prisoners Special Revenue Fund to pay the costs of this activity.</p>				
<p>I. In the event the Department of Corrections closes a correctional facility for which it has entered into an agreement with any locality to pay a proportionate share of the debt service for the establishment of utilities to serve the facility, the department shall continue to pay its agreed upon share of the debt service, subject to the schedule previously agreed upon.</p>				

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J. Included in the appropriation for this Item is \$1,000,000 the first year and \$1,000,000 the second year from the general fund for the costs of security technology and hardware for the inmate telephone system.				
K. From the appropriation in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be used to present seminars on overcoming obstacles to re-entry and to promote family integration in the correctional centers designated for intensive re-entry programs. The department shall submit a report by October 15 of each year to the chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security, and the Department of Planning and Budget on the use of this funding.				
L. Included in the appropriation for this Item is \$50,000 the first year from the general fund for the estimated net increase in the operating cost of adult correctional facilities resulting from the enactment of sentencing legislation as listed below. This amount shall be paid into the Corrections Special Reserve Fund, established pursuant to § 30-19.1:4, Code of Virginia.				
1. Chapter 549 -- \$50,000.				
M. Included in the appropriation for this Item is \$175,000 in the first year and \$200,000 in the second year from the general fund and two positions to assist the Board of Corrections in carrying out its duties under the authority of § 53.1-69.1, Code of Virginia, to review deaths of inmates in local correctional facilities.				
N.1. Consistent with the provisions of Chapter 198 of the 2017 Session of the General Assembly, the Director, Department of Corrections, shall implement the recommendations relating to the Department of Corrections made by the Department of Medical Assistance Services in its November 30, 2017 report on streamlining the Medicaid application and enrollment process for incarcerated individuals.				
2. For the purpose of implementing these recommendations, included in the appropriation for this item are \$71,503 the first year and \$37,400 the second year from the general fund, and \$420,993 the first year and \$112,200 the second year from nongeneral funds and two positions.				
O. The Department of Corrections shall evaluate potential options to reduce the number of state-responsible inmates with serious mental illness who serve the entirety of their state-responsible sentences in, and are released directly from, local and regional jails. In its evaluation, and using the definition of serious mental illness in accordance with the American Correctional Association, the Department shall give consideration to (i) the number of state-responsible inmates identified by jail staff with serious mental illness held in regional jails, the jails in which they are held, their diagnostic category as delineated in the DSM-V, the length of their state-responsible sentence and the type of their offense, and whether they were assigned to a DBHDS facility from the jail for evaluation; (ii) which among these offenders should be prioritized for transfer to a state correctional facility; (iii) the current inmate population with serious mental illness held in state correctional facilities, their diagnosis and the acuity of their symptoms, and the length of their sentence and the type of their offenses; (iv) the facilities and services currently provided for the treatment of inmates with serious mental illness held in state correctional facilities; and, (v) what additional capital and operating resources would be needed by the Department to facilitate a reduction in the number of state-responsible inmates with serious mental illness serving the entirety of their sentence in local and regional jails. The Department shall provide the results of its evaluation to the Chairmen of the House Appropriations and Senate Finance Committees no later than October 15, 2018.				
P. The Department of Corrections shall assess its long-term facility needs with respect to providing appropriate levels of medical and mental health care to its offender population. At a minimum, the assessment shall include (i) a summary of the Department's existing clinical, geriatric, assisted living, and mental health capacity, and an assessment of the sufficiency of this existing capacity to meet the current and future needs of the Department's offender population; (ii) a prioritized list of capital projects which may be needed to address the Department's current or future needs for capacity in relation to (i) which shall include a discussion of the methodology used by the Department to prioritize projects and the estimated cost of each project; and, (iii) a short-term plan to house offenders in a manner which reduces the risks related to transmittable diseases. The Department shall provide the results of its				

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assessment to the Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1, 2018.				
<p>Q. By September 1 of each year, the Department of Corrections shall remit data to the Director of the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees regarding medical treatment provided to offenders at each facility. The data shall include, as a proportion of average daily population at each facility, the levels of inmates who received care, including: the specific proportions of inmates from each facility who were treated as inpatients, the specific proportion of inmates from each facility who were treated as outpatients, data on prescription drug administration, and the proportion of inmates from each facility who received other discrete services. When negotiating contracts with healthcare vendors, the Department of Corrections shall include the reporting of data required under this paragraph as a requirement within the contract.</p> <p>R. Included in the appropriation for this Item is \$349,967 the second year from the general fund for the estimated net increase in the operating cost of adult correctional facilities resulting from the enactment of sentencing legislation passed by the 2019 Session of the General Assembly as listed below. This amount shall be paid into the Corrections Special Reserve Fund, established pursuant to § 30-19.1:4, Code of Virginia.</p> <ol style="list-style-type: none"> <li>1. House Bill 1874/Senate Bill 1604 -- \$50,000</li> <li>2. House Bill 1911 -- \$50,000</li> <li>3. House Bill 1941 -- \$50,000</li> <li>4. House Bill 2528 -- \$149,967</li> <li>5. House Bill 2586 -- \$50,000.</li> </ol> <p>S. The Department of Corrections is authorized to purchase from the Town of Craigsville approximately 122 acres, more or less, located adjacent to the Augusta Correctional Center. In consideration for this acreage, the Department will provide wastewater treatment services to the Town at no cost for a period adequate to equal the value of the property conveyed. The value of the property shall be established by averaging the value of one appraisal provided by the Department of Corrections and one by the Town of Craigsville.</p> <p>T. The Director, Department of Corrections, consistent with the December 4, 2018 recommendations of the Joint Subcommittee on Mental Health Services in the 21st Century, shall develop policies to improve the exchange of offender medical information, including electronic exchange of information for telemedicine, telepsychiatry, and electronic medical chart access by health care providers. The Director shall provide a report detailing its policies and implementation plan to the Joint Subcommittee no later than October 1, 2019.</p> <p>U. The Commonwealth of Virginia shall convey 65 acres of property consisting of Clarke County Tax Map No. 27, new parcel A, situated in the Greenway Magisterial District of Clarke County, Virginia, to the Virginia Port Authority (VPA), on behalf of the Virginia Inland Port (VIP). The VPA, on behalf of the VIP, shall collaborate with representatives of Clarke County to promote the use of the land for economic development purposes. The VIP shall enter into a memorandum-of-understanding with Clarke County on the development and execution of mutually advantageous economic development proposals.</p>				
Total for Department of Corrections.....			<b>\$1,261,383,178</b>	<b>\$1,257,947,803</b>
			<b>\$1,269,716,607</b>	<b>\$1,276,972,490</b>
General Fund Positions.....	12,146.00	12,185.00		
	12,269.00	12,308.00		
Nongeneral Fund Positions.....	233.50	233.50		
Position Level.....	12,379.50	12,418.50		
	12,502.50	12,541.50		
Fund Sources: General.....	\$1,194,083,301	\$1,194,615,713		
	\$1,202,416,730	\$1,210,583,896		

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Special.....	\$59,192,063	<del>\$58,883,270</del> \$61,939,774		
Dedicated Special Revenue.....	\$6,276,496	\$2,617,502		
Federal Trust.....	\$1,831,318	\$1,831,318		

**§ 1-113. DEPARTMENT OF CRIMINAL JUSTICE SERVICES (140)**

392.	Criminal Justice Training and Standards (30300).....			\$2,086,689	\$2,086,689 \$4,571,831
	Criminal Justice Training Services (30303).....	\$633,714	<del>\$633,714</del> \$2,838,856		
	Standards and Training (30304).....	\$982,307	\$982,307		
	<i>Law Enforcement Training and Education Assistance (30306)</i> .....	\$0	\$280,000		
	Criminal Justice Academy Inspections and Audit Services (30307).....	\$470,668	\$470,668		
	Fund Sources: General.....	\$1,264,407	<del>\$1,264,407</del> \$3,749,549		
	Special.....	\$822,282	\$822,282		

Authority: Title 9.1, Chapter 1, Code of Virginia.

A. The Director of the Department of Criminal Justice Services (the Director) and the Board of Criminal Justice Services (the Board) shall, in conjunction with the relevant stakeholders, review all of the compulsory minimum training standards which are applicable to law-enforcement officers and update them as needed. The Director and the Board shall ensure that the training standards appropriately educate law-enforcement officers in the areas of mental health, community policing, and serving individuals who are disabled. The updated compulsory minimum training standards shall, where appropriate, include consideration of, but not be limited to, the recommendations of the President's Task Force on 21st Century Policing. The Director shall identify current resources available to officers in dealing with situations related to mental health and identify what resources are needed. Any updates to the compulsory minimum training standards shall be completed by ~~October 1, 2019~~ *June 30, 2020*, and shall be reported to the Chairmen of the House Committees on Militia, Police, and Public Safety, Courts of Justice, and Appropriations, and to the Chairmen of the Senate Committees for Courts of Justice and Finance.

B. *Included in the amounts appropriated for this item is \$280,000 the second year from the general fund for the Department to provide annual trainings on active shooter scenarios to school and community personnel.*

C. *Included in the amounts appropriated for this item is \$427,630 the second year from the general fund for oversight and management of the school resource officer and school security officer certification and training programs, the provision of basic training courses for school resource officers and school personnel, and development and update Virginia-specific training resources for school resource officers and school security officers.*

D.1. *Included in the amounts appropriated for this item is \$595,630 the second year from the general fund for the purpose of expanding training provided to members of threat assessment teams.*

2. *Included in the amounts appropriated for this item is \$125,000 the second year from the general fund for the development of a case management tool for use by threat assessment teams, consistent with the provisions of House Bill 1734 of the 2019 Session of the General Assembly.*

E. *Included in the amounts appropriated for this item is \$871,890 the second year from the general fund to enhance school safety training provided to Virginia school personnel, to include hosting live trainings and conferences, developing online training and curricula, and developing Virginia-specific school safety resources.*

393.	Criminal Justice Research, Planning and Coordination (30500).....			\$557,247	<del>\$557,247</del> \$917,255
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ITEM 393.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Criminal Justice Research, Statistics, Evaluation, and Information Services (30504).....	\$557,247	<del>\$557,247</del> \$917,255		
Fund Sources: General.....	\$357,247	<del>\$357,247</del> \$717,255		
Trust and Agency.....	\$200,000	\$200,000		
Authority: Title 9.1, Chapter 1; Title 19.2, Chapter 23.1, Code of Virginia.				
<i>A. Included in the amounts appropriated for this item is \$400,000 the second year from the general fund for the ongoing costs of conducting the School Climate Survey.</i>				
<i>B. Included in the appropriation for this item is \$145,000 the second year from the general fund for the sex trafficking response coordination activities of the Department, pursuant to the provisions of House Bill 2576 and Senate Bill 1669 of the 2019 Session of the General Assembly.</i>				
394.	Asset Forfeiture and Seizure Fund Management and Financial Assistance Program (30600).....		\$6,040,538	\$6,040,538
	Coordination of Asset Seizure and Forfeiture Activities (30602).....	\$6,040,538	\$6,040,538	
	Fund Sources: Special.....	\$6,040,538	\$6,040,538	
Authority: Title 19.2, Chapter 22.1, Code of Virginia.				
395.	Financial Assistance for Administration of Justice Services (39000).....		\$111,096,612	<del>\$107,296,612</del> \$113,727,678
	Criminal Justice Assistance Grants (39002).....	\$107,857,257	<del>\$104,057,257</del> \$110,488,323	
	Criminal Justice Grants Fiscal Management Services (39003).....	\$544,494	\$544,494	
	Criminal Justice Policy and Program Services (39004).....	\$2,694,861	\$2,694,861	
	Fund Sources: General.....	\$40,121,333	<del>\$36,321,333</del> \$42,752,399	
	Special.....	\$223,347	\$223,347	
	Trust and Agency.....	\$4,028,130	\$4,028,130	
	Dedicated Special Revenue.....	\$11,036,199	\$11,036,199	
	Federal Trust.....	\$55,687,603	\$55,687,603	

Authority: Title 9.1, Chapter 1, Code of Virginia.

A.1. This appropriation includes an estimated \$4,800,000 the first year and an estimated \$4,800,000 the second year from federal funds pursuant to the Omnibus Crime Control Act of 1968, as amended. Of these amounts, ~~nine~~ ten percent is available for administration, and the remainder is available for grants to state agencies and local units of government. The remaining federal funds are to be passed through as grants to localities, with a required 25 percent local match. Also included in this appropriation is \$452,128 the first year and \$452,128 the second year from the general fund for the required matching funds for state agencies.

2. The Department of Criminal Justice Services shall provide a summary report on federal anti-crime and related grants which will require state general funds for matching purposes during FY 2013 and beyond. The report shall include a list of each grant and grantee, the purpose of the grant, and the amount of federal and state funds recommended, organized by topical area and fiscal period. The report shall indicate whether each grant represents a new program or a renewal of an existing grant. Copies of this report shall be provided to the Chairmen of the Senate Finance and House Appropriations Committees and the Director, Department of Planning and Budget by January 1 of each year.

B. The Department of Criminal Justice Services is authorized to make grants and provide technical assistance out of this appropriation to state agencies, local governments,

ITEM 395.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
regional, and nonprofit organizations for the establishment and operation of programs for the following purposes and up to the amounts specified:				
1.a. Regional training academies for criminal justice training, \$1,001,074 the first year and \$1,001,074 the second year from the general fund and an estimated \$1,649,315 the first year and an estimated \$1,649,315 the second year from nongeneral funds. The Criminal Justice Services Board shall adopt such rules as may reasonably be required for the distribution of funds and for the establishment, operation and service boundaries of state-supported regional criminal justice training academies.				
b. The Board of Criminal Justice Services, consistent with § 9.1-102, Code of Virginia, and § 6VAC-20-20-61 of the Administrative Code, shall not approve or provide funding for the establishment of any new criminal justice training academy from July 1, 2018, through June 30, 2020.				
c. Notwithstanding subsection B.1.b. of this item, the Board of Criminal Justice Services may approve a new regional criminal justice academy serving the Counties of Clarke, Frederick, and Warren; the City of Winchester; the Towns of Berryville, Front Royal, Middletown, Stephens City and Strasburg; the Northwestern Adult Detention Center; and, the Frederick County Emergency Communications Center, to be established and operated consistent with a written agreement, provided to the Board, between the local governing bodies, chief executive officers, and chief law enforcement officers of the aforementioned localities, and the Rappahannock Regional Criminal Justice Academy. The new academy shall be eligible to receive state funding in a manner consistent with the currently existing regional criminal justice training academies. However, no current existing regional criminal justice training academy other than the Rappahannock Regional Criminal Justice Academy will receive less funding as a result of the creation of the new regional academy.				
2. Virginia Crime Victim-Witness Fund, \$5,692,738 the first year and \$5,692,738 the second year from dedicated special revenue, and \$943,700 the first year and \$943,700 the second year from the general fund. The Department of Criminal Justice Services shall provide a report on the current and projected status of federal, state and local funding for victim-witness programs supported by the Fund. Copies of the report shall be provided annually to the Secretary of Public Safety and Homeland Security, the Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees by October 16 of each year.				
3.a. Court Appointed Special Advocate (CASA) programs, \$1,615,000 the first year and \$1,615,000 the second year from the general fund.				
b. In the event that the federal government reduces or removes support for the CASA programs, the Governor is authorized to provide offsetting funding for those impacted programs out of the unappropriated balances in this Act.				
4. Domestic Violence Fund, \$3,000,000 the first year and \$3,000,000 the second year from the dedicated special revenue fund to provide grants to local programs and prosecutors that provide services to victims of domestic violence.				
5. Pre and Post-Incarceration Services (PAPIS), \$2,286,144 the first year and \$2,286,144 the second year from general fund to support pre and post incarceration professional services and guidance that increase the opportunity for, and the likelihood of, successful reintegration into the community by adult offenders upon release from prisons and jails.				
6. To the Department of Behavioral Health and Developmental Services for the following activities and programs: (i) a partnership program between a local community services board and the district probation and parole office for a jail diversion program; (ii) forensic discharge planners; (iii) advanced training on veterans' issues to local crisis intervention teams; and (iv) cross systems mapping targeting juvenile justice and behavioral health.				
7. To the Department of Corrections for the following activities and programs: (i) community residential re-entry programs for female offenders; (ii) establishment of a pilot day reporting center; and (iii) establishment of a pilot program whereby non-violent state offenders would be housed in a local or regional jail, rather than a prison or other state correctional facility, with rehabilitative services provided by the jail.				

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8. To Drive to Work, \$75,000 the first year and \$75,000 the second year from the general fund and \$75,000 the first year and \$75,000 the second year from such federal funds as may be available to provide assistance to low income and previously incarcerated persons to restore their driving privileges so they can drive to work and keep a job.				
9. For model addiction recovery programs administered in local or regional jails, \$153,600 the first year and \$153,600 the second year from the general fund. The Department of Criminal Justice Services, consistent with the provisions of Chapter 758, 2017 Acts of Assembly, shall award grants not to exceed \$38,400 to four pilot programs selected in consultation with the Department of Behavioral Health and Developmental Services.				
C.1. Out of this appropriation, \$25,390,378 the first year and \$25,390,378 the second year from the general fund is authorized to make discretionary grants and to provide technical assistance to cities, counties or combinations thereof to develop, implement, operate and evaluate programs, services and facilities established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§§ 9.1-173 through 9.1-183 Code of Virginia) and the Pretrial Services Act (§§ 19.2-152.2 through 19.2-152.7, Code of Virginia). Out of these amounts, the Director, Department of Criminal Justice Services, is authorized to expend no more than five percent per year for state administration of these programs.				
2. The Department of Criminal Justice Services, in conjunction with the Office of the Executive Secretary of the Supreme Court and the Virginia Criminal Sentencing Commission, shall conduct information and training sessions for judges and other judicial officials on the programs, services and facilities available through the Pretrial Services Act and the Comprehensive Community Corrections Act for Local-Responsible Offenders.				
D.1. Out of this appropriation, \$225,000 the first year and \$225,000 the second year from the general fund is provided for Comprehensive Community Corrections and Pretrial Services Programs for localities that belong to the Central Virginia Regional Jail Authority. These amounts are seventy-five percent of the costs projected in the community-based corrections plan submitted by the Authority. The localities shall provide the remaining twenty-five percent as a condition of receiving these funds.				
2. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the general fund is provided for Comprehensive Community Corrections and Pretrial Services Programs for localities that belong to the Southwest Virginia Regional Jail Authority. These amounts are seventy-five percent of the costs projected in the community-based corrections plan submitted by the Authority. The localities shall provide the remaining twenty-five percent as a condition of receiving these funds.				
E. In the event the federal government should make available additional funds pursuant to the Violence Against Women Act, the department shall set aside 33 percent of such funds for competitive grants to programs providing services to domestic violence and sexual assault victims.				
F.1. Out of this appropriation, \$3,000,000 the first year and <del>\$1,700,000</del> \$4,700,000 the second year from the general fund and \$1,710,000 the first year and \$1,710,000 the second year from such federal funds as are available shall be deposited to the School Resource Officer Incentive Grants Fund established pursuant to § 9.1-110, Code of Virginia.				
2.a. The Director, Department of Criminal Justice Services, is authorized to expend \$410,877 the first year and \$410,877 the second year from the School Resource Officer Incentive Grants Fund to operate the Virginia Center for School Safety, pursuant to § 9.1-110, Code of Virginia.				
b. The Center for School Safety shall provide a grant of \$85,000 in the first year and <del>\$85,000</del> \$100,000 in the second year to the York County-Poquoson Sheriff's Office for the statewide administration of the Drug Abuse Resistance Education (DARE) program. The Center for School Safety shall conduct an evaluation of the effectiveness of the program, along with an assessment of other evidence-based drug education programs, and shall provide a report on its findings to the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the House				

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Appropriations and Senate Finance Committees by January 1, 2018.				
<p>3. Subject to the development of criteria for the distribution of grants from the fund, including procedures for the application process and the determination of the actual amount of any grant issued by the department, the department shall award grants to either local law-enforcement agencies, where such local law-enforcement agencies and local school boards have established a collaborative agreement for the employment of school resource officers, as such positions are defined in § 9.1-101, Code of Virginia, for the employment of school resource officers, or to local school divisions for the employment of school security officers, as such positions are defined in § 9.1-101, Code of Virginia, for the employment of school security officers in any public school. The application process shall provide for the selection of either school resource officers, school security officers, or both by localities. The department shall give priority to localities requesting school resource officers, school security officers, or both where no such personnel are currently in place. Localities shall match these funds based on the composite index of local ability-to-pay.</p>				
<p>4. Included in this appropriation is \$202,300 the first year and \$202,300 the second year from the general fund for the implementation of a model critical incident response training program for public school personnel and others providing services to public schools, and the maintenance of a model policy for the establishment of threat assessment teams for each public school, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of public school staff or other students.</p>				
<p>G. Included in the amounts appropriated in this Item is \$2,500,000 the first year and \$2,500,000 the second year from the general fund for grants to local sexual assault crisis centers (SACCs) and domestic violence programs to provide core and comprehensive services to victims of sexual and domestic violence, including ensuring such services are available and accessible to victims of sexual assault and dating violence committed against college students on- and off-campus.</p>				
<p>H.1. Out of the amounts appropriated for this Item, \$2,658,420 the first year and \$2,658,420 the second year from nongeneral funds is provided, to be distributed as follows: for the Southern Virginia Internet Crimes Against Children Task Force, \$1,450,000 the first year and \$1,450,000 the second year; and, for the creation of a grant program to law enforcement agencies for the prevention of internet crimes against children, \$1,208,420 the first year and \$1,208,420 the second year.</p>				
<p>2. The Southern Virginia and Northern Virginia Internet Crimes Against Children Task Forces shall each provide an annual report, in a format specified by the Department of Criminal Justice Services, on their actual expenditures and performance results. Copies of these reports shall be provided to the Secretary of Public Safety and Homeland Security, the Chairmen of the Senate Finance and House Appropriations Committees, and Director, Department of Planning and Budget prior to the distribution of these funds each year.</p>				
<p>3. Subject to compliance with the reports and distribution thereof as required in paragraph 2 above, the Governor shall allocate all additional funding, not to exceed actual collections, for the prevention of Internet Crimes Against Children, pursuant to § 17.1-275.12, Code of Virginia.</p>				
<p>I. Out of the amounts appropriated for this item, \$50,000 the first year and \$50,000 the second year from the general fund is provided for training to local law enforcement to aid in their identifying and interacting with individuals suffering from Alzheimer's and/or dementia.</p>				
<p><del>F. Included in the appropriation for this Item is \$2,500,000 the first year from the general fund to continue the pilot programs authorized in Item 398, Chapter 836, 2017 Acts of Assembly.</del></p>				
<p><del>2. The Department of Criminal Justice Services, in consultation with the Department of Behavioral Health and Developmental Services, shall evaluate the implementation and effectiveness of the pilot programs and to the Governor, the Secretaries of Health and Human Resources and Public Safety and Homeland Security, and the Chairmen of the House Appropriations Committee and the Senate Finance Committee by October 15, 2018.</del></p>				
<p><del>J.1. Included in the appropriation for this item is \$2,500,000 the first year and \$2,500,000 the second year from the general fund to continue the pilot programs authorized in Item 398, Chapter 836, 2017 Acts of Assembly. The number of pilot sites shall not be expanded beyond</del></p>				

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*those participating in the pilot program the first year.*

*2. The funding provided to each pilot site shall supplement, not supplant, existing local spending on these services. Distribution of grant amounts shall be made quarterly pursuant to the conditions of paragraph J.3. of this item.*

*3. The Department shall collect on a quarterly basis qualitative and quantitative data of pilot site performance, to include: (i) mental health screenings and assessments provided to inmates, (ii) mental health treatment plans and services provided to inmates, (iii) jail safety incidents involving inmates and jail staff, (iv) the provision of appropriate services after release, (v) the number of inmates re-arrested or re-incarcerated within 90 days after release following a positive identification for mental health disorders in jail or the receipt of mental health treatment within the facility. The Department shall provide a report on its findings to the Chairmen of the House Appropriations and Senate Finance Committees no later than October 15th each year.*

*4. The Department of Criminal Justice Services, in cooperation with the Executive Secretary of the Compensation Board and the Board of Corrections, shall evaluate the resources needed by local and regional jails to comply with the minimum standards of behavioral health services to be established by the Board of Corrections pursuant to House Bill 1942 of the 2019 Session of the General Assembly. The evaluation shall include consideration of the appropriate share of resources for minimum standards of care to be provided by the Commonwealth and local governments, respectively. The evaluation shall also consider the appropriate mechanism by which any such Commonwealth funds be provided. The Department shall report the findings of its evaluation to the Chairmen of the House Appropriations and Senate Finance Committees by June 30, 2020.*

*K. Included in the appropriations for this Item is \$100,000 each year from the general fund for the Department of Criminal Justice Services to make competitive grants to nonprofit organizations to support services for law enforcement, including post critical incident seminars and peer-supported critical incident stress management programs to promote officer safety and wellness, under guidelines to be established by the Department. The Department shall evaluate the effectiveness of the program and report on its findings to the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees by July 1, 2020.*

*L. Included in the appropriation for this item is \$916,066 in the second year from the general fund for the Virginia Beach Correctional Center for the Jail and Re-entry Service Coordination Pathway, which is a joint operation between the Virginia Beach Department of Human Services and the Virginia Beach Sheriff's Office. The program consists of diversion, screening, assessment, treatment, and re-entry services for all incarcerated individuals with an active mental illness or substance use disorder diagnosis.*

396.	Regulation of Professions and Occupations (56000).....			\$3,319,556	\$3,319,556
	Towing Licensing Oversight Services (56035).....	\$573,743	\$573,743		
	Licensure, Certification, and Registration of Professions and Occupations (56046).....	\$1,329,160	\$1,329,160		
	Enforcement of Licensing, Regulating and Certifying Professions and Occupations (56047).....	\$1,416,653	\$1,416,653		
	Fund Sources: Special.....	\$3,319,556	\$3,319,556		
	Authority: Title 9.1, Chapter 1, Article 4, §§ 9.1-141, 9.1-139, 9.1-143, and 9.1-149, Code of Virginia.				
397.	Financial Assistance to Localities - General (72800).....			\$184,548,683	\$191,746,081
	Financial Assistance to Localities Operating Police Departments (72813).....	\$184,548,683	\$191,746,081		
	Fund Sources: General.....	\$184,548,683	\$191,746,081		

ITEM 397.	Item Details(\$)		Appropriations(\$)		
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
<p>Authority: Title 9.1, Chapter 1, Article 8, Code of Virginia.</p> <p>A. The funds appropriated in this Item shall be distributed to localities with qualifying police departments, as defined in §§ 9.1-165 through 9.1-172, Code of Virginia (HB 599), except that, in accordance with the requirements of § 15.2-1302, Code of Virginia, such funds shall also be distributed to a city without a qualifying police force that was created by the consolidation of a city and a county subsequent to July 1, 2011, pursuant to the provisions of § 15.2-3500 et seq. of the Code of Virginia. Notwithstanding the provisions of §§ 9.1-165 through 9.1-172, Code of Virginia, the total amount to be distributed to localities shall be \$184,548,683 the first year and \$191,746,081 the second year. The amount to be distributed to such a city created by consolidation shall equal the sum distributed to the city during the year prior to the effective date of the consolidation, net of any additional funds allocated by the Compensation Board to the sheriff of the consolidated city as a result of such consolidation, as adjusted in proportion to the increase or decrease in the total amount distributed to all localities during the applicable year. Notwithstanding the provisions of § 9.1-165, Code of Virginia, the amount to be distributed to each locality in each year shall be proportionate to the amount distributed to that locality in FY 2018.</p> <p>B. For purposes of receiving funds in accordance with this program, it is the intention of the General Assembly that the Town of Boone's Mill shall be considered to have had a police department in operation since the 1980-82 biennium and is therefore eligible for financial assistance under Title 9.1, Chapter 1, Article 8, Code of Virginia (House Bill 599).</p> <p>C.1. It is the intent of the General Assembly that state funding provided to localities operating police departments be used to fund local public safety services. Funds provided in this item shall not be used to supplant the funding provided by localities for public safety services.</p> <p>2. To ensure that state funding provided to localities operating police departments does not supplant local funding for public safety services, all localities shall annually certify to the Department of Criminal Justice Services the amount of funding provided by the locality to support public safety services and that the funding provided in this item was used to supplement that local funding. This certification shall be provided in such manner and on such date as determined by the department. The department shall provide this information to the Chairmen of the House Appropriations and Senate Finance Committees within 30 days following the submission of the local certifications.</p> <p>D. The Director of the Department of Criminal Justice Services is authorized to withhold reimbursements due a locality under Title 9.1, Chapter 1, Article 8, Code of Virginia, upon notification from the Superintendent of State Police that there is reason to believe that crime data reported by the locality to the Department of State Police in accordance with § 52-28, Code of Virginia, is missing, incomplete or incorrect. Upon subsequent notification by the superintendent that the data is accurate, the director shall make reimbursement of withheld funding due the locality when such corrections are made within the same fiscal year that funds have been withheld.</p> <p>E. The Director of the Department of Criminal Justice Services is authorized to withhold reimbursements due to a locality under Title 9.1, Chapter 1, Article 8, Code of Virginia, upon notification from the Superintendent of State Police that there is reason to believe the police department within a locality is not registering sex offenders as required in § 9.1-903, Code of Virginia. Upon subsequent notification by the Superintendent that the local law enforcement agency is compliant with the requirements of § 9.1-903, Code of Virginia, the Director shall make reimbursement of withheld funding due to the locality in the same fiscal year in which the local law enforcement agency comes into compliance.</p>					
398.	Administrative and Support Services (39900).....			\$10,003,647	\$10,003,647
	General Management and Direction (39901).....	\$1,934,237	\$1,934,237		
	Information Technology Services (39902).....	\$4,674,805	\$4,674,805		
	Accounting and Budgeting Services (39903).....	\$3,394,605	\$3,394,605		
	Fund Sources: General.....	\$4,479,976	\$4,479,976		
	Special.....	\$1,231,274	\$1,231,274		
	Trust and Agency.....	\$570,000	\$570,000		
	Dedicated Special Revenue.....	\$2,910,000	\$2,910,000		
	Federal Trust.....	\$812,397	\$812,397		

ITEM 398.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Authority: Title 9.1, Chapter 1, Code of Virginia.				
Total for Department of Criminal Justice Services...			\$317,652,972	\$321,050,370 \$330,326,586
General Fund Positions.....	48.50	48.50 57.50		
Nongeneral Fund Positions.....	67.50	67.50 74.50		
Position Level.....	116.00	116.00 132.00		
Fund Sources: General.....	\$230,771,646	\$234,169,044 \$243,445,260		
Special.....	\$11,636,997	\$11,636,997		
Trust and Agency.....	\$4,798,130	\$4,798,130		
Dedicated Special Revenue.....	\$13,946,199	\$13,946,199		
Federal Trust.....	\$56,500,000	\$56,500,000		

**§ 1-114. DEPARTMENT OF EMERGENCY MANAGEMENT (127)**

399.	Emergency Preparedness (77500).....			\$26,578,746	\$26,608,283
	Financial Assistance for Emergency Management and Response (77501).....	\$20,370,257	\$20,370,257		
	Emergency Training and Exercises (77502).....	\$3,846,025	\$3,846,025		
	Emergency Planning Preparedness Assistance (77503).....	\$462,341	\$476,091		
	Emergency Preparedness and Response (77504).....	\$1,006,824	\$1,022,611		
	Emergency Management Regional Coordination (77506).....	\$893,299	\$893,299		
	Fund Sources: General.....	\$1,889,916	\$1,919,453		
	Special.....	\$1,710,335	\$1,710,335		
	Federal Trust.....	\$22,978,495	\$22,978,495		

Authority: Title 44, Chapters 3.2, 3.3, 3.4, §§ 44-146.13 through 44-146.28:1 and 44-146.31 through 44-146.40, Code of Virginia.

A. Included within this appropriation is the continuation of \$160,810 the first year and \$160,810 the second year from the Fire Programs Fund to support the department's hazardous materials training program.

B. By October 1 of each year, the Sheltering Coordinator shall provide a status report on the Commonwealth's emergency shelter capabilities and readiness to the Governor, the Secretary of Veterans and Defense Affairs, the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees.

C. This appropriation includes \$500,000 in the first year and \$500,000 in the second year from the general fund for the Department of Emergency Management to conduct multidisciplinary training, regional training and exercises related to man-made and natural disaster preparedness, including training consistent with the National Incident Management System (NIMS). Training shall involve, but is not to be limited to, local and state law enforcement, fire services, emergency medical services, public health agencies, and affected private and nonprofit entities, including colleges and universities. Training may be conducted with a state, local or federal agency or agencies having the capability or responsibility to coordinate or assist in emergency preparedness. The agency shall submit a report detailing the number and types of training and exercises conducted, the costs associated with such training and exercises, and challenges and barriers to ensuring that state and local agencies are ready and able to respond to emergencies and natural disasters. The report shall be submitted to the Governor, Secretary of Public Safety and Homeland Security, the Chairmen of the House Appropriations and Senate Finance Committees, and the Department of Planning and Budget by October 1 of each year.

ITEM 400.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
400.	Emergency Response and Recovery (77600).....		\$22,933,000	\$22,933,000
	Emergency Response and Recovery Services (77601).....	\$2,651,264 \$2,801,264		
	Financial Assistance for Emergency Response and Recovery (77602).....	\$20,171,631	\$20,171,631	
	Emergency Response Direct Support (77603).....	\$102,604	\$102,604	
	Disaster Recovery Services (77604).....	\$7,501	\$7,501	
	Fund Sources: General.....	\$501,445 \$651,445	\$501,445	
	Special.....	\$288,501	\$288,501	
	Commonwealth Transportation.....	\$1,148,747	\$1,148,747	
	Federal Trust.....	\$20,994,307	\$20,994,307	
	Authority: Title 44, Chapters 3.2 through 3.5, §§ 44-146.17, 44-146.18(c), 44-146.22, 44-146.28(a) Code of Virginia.			
	A. Subject to authorization by the Governor, the Department of Emergency Management may employ persons to assist in response and recovery operations for emergencies or disasters declared either by the President of the United States or by the Governor of Virginia. Such employees shall be compensated solely with funds authorized by the Governor or the federal government for the emergency, disaster, or other specific event for which their employment was authorized. The Director, Department of Planning and Budget, is authorized to increase the agency's position level based on the number of positions approved by the Governor.			
	B. The Secretary of Finance, consistent with any Executive Order signed by the Governor, may provide the department anticipation loans in such amounts as may be needed to appropriately reimburse localities and state agencies for costs associated with Emergency Management Assistance Compact (EMAC) mission assignments. Such loans shall be based on the reimbursements anticipated under the Emergency Management Assistance Compact (EMAC) and, notwithstanding the provisions of § 4-3.02 b of this act, may be extended for a period longer than twelve months.			
	C.1. Localities receiving reimbursements from the department for Emergency Management Assistance Compact (EMAC) mission costs shall reimburse the Department of Emergency Management for any overpayments within sixty (60) days of written notification of such overpayment.			
	2. Overpayment amounts shall be based on the difference between the amount reimbursed to the locality by the Department of Emergency Management and the amount reimbursed to the Department of Emergency Management by the state requesting emergency aid under the Compact.			
	3. If the locality does not reimburse the Department of Emergency Management the overpaid amount within sixty (60) days of being notified, the Comptroller is authorized to withhold from any funds to be transferred to the locality the amount overpaid to the locality and transfer such withheld funds to the Department of Emergency Management.			
	D. Consistent with any Executive Order signed by the Governor, the Secretary of Finance or his designee may provide the department anticipation loans in such amounts as may be needed to appropriately reimburse the department for disaster related costs. Such loans shall be based on the federal reimbursements anticipated in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act and, notwithstanding the provisions of § 4-3.02 b of this act, may be extended for a period longer than twelve months, if necessary.			
	<i>E. Out of the appropriation for this item is \$150,000 from the general fund in the first year for the Department to repay its line of credit with the Department of the Treasury.</i>			
401.	Virginia Emergency Operations Center (77800).....		\$2,434,179	\$2,434,179
	Emergency Communications and Warning Point (77801).....	\$2,434,179	\$2,434,179	
	Fund Sources: General.....	\$876,955	\$876,955	

ITEM 401.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Special.....	\$732,255	\$732,255		
Federal Trust.....	\$824,969	\$824,969		

Authority: Title 44 and § 52-47, Code of Virginia.

Included within this appropriation is \$424,874 the first year and \$424,874 the second year from the general fund to support the Integrated Flood Observing and Warning System (IFLOWS) program.

402.	Administrative and Support Services (79900).....			\$11,533,224	\$11,533,224
	General Management and Direction (79901).....	\$4,485,591	\$4,485,591		
	Information Technology Services (79902).....	\$4,132,504	\$4,132,504		
	Accounting and Budgeting Services (79903).....	\$1,574,652	\$1,574,652		
	Public Information Services (79919).....	\$324,705	\$324,705		
	Telecommunications (79930).....	\$1,015,772	\$1,015,772		
	Fund Sources: General.....	\$4,181,225	\$4,181,225		
	Special.....	\$418,803	\$418,803		
	Commonwealth Transportation.....	\$63,762	\$63,762		
	Federal Trust.....	\$6,869,434	\$6,869,434		

Authority: Title 44, Chapters 3.2, 3.3, 3.4, Code of Virginia.

A.1. By September 1 of each year, the State Coordinator of Emergency Management shall assess emergencies and disasters that have been authorized sum sufficient funding by the Governor and provide to the Department of Planning and Budget *and the Chairmen of the House Appropriations and Senate Finance Committees* written justification to support continuing sum sufficient funding longer than one year for a locally declared emergency (or disaster), three years for a state declared disaster, and five years for a nationally declared disaster. At the same time, the state coordinator shall identify any disasters that can be closed due to fulfillment of the state's obligations.

2. *The Department shall report on annual disaster expenditures and contracting. The report shall at minimum i) specify by event and state agency or locality, the amount spent per year from the Disaster Recovery Fund separate from any other state, local, federal or private contributions; ii) identify any Federal Emergency Management Agency (FEMA) reimbursements received during the previous fiscal year, itemizing for which event such reimbursements were made; iii) any contracts executed during a disaster and the expenditures and purposes for which they were executed. The State Coordinator shall provide the report to the Governor; Director, Department of Planning and Budget; and the Chairmen of the House Appropriations and Senate Finance Committees by June 30th of each year.*

B.1. Localities and eligible private non-profit organizations that have received cost reimbursement through state and/or federal assistance programs to support homeland security and eligible recovery and mitigation projects and initiatives associated with disaster events, that are subsequently notified that either a portion or all of the funds provided are to be returned, shall reimburse the Virginia Department of Emergency Management for such overpayments, including any interest accrued on such funds, within sixty (60) days of being notified and receiving the request for reimbursement.

2. Overpayment amounts shall be based on the difference between the amount reimbursed or prepaid to the entity involved by the Department of Emergency Management and the final amount approved by the granting agency. Localities and eligible private non-profit organizations shall certify that no interest was earned on overpaid funds if no interest is included in the remittance.

3. If the entity does not reimburse the Virginia Department of Emergency Management within 60 days of being notified, the Comptroller is authorized to withhold the amount of overpayment from any eligible funds to be transferred to the locality or organization and redirect the funds withheld to the Virginia Department of Emergency Management to satisfy the outstanding liability.

4. The Department of Emergency Management shall not provide future prepayments to

ITEM 402.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>any locality or eligible private non-profit organization once the Comptroller has been required to withhold funding.</p> <p>C. Included within this appropriation is \$570,901 the first year and \$570,901 the second year from the general fund that shall only be used for costs associated with transforming the agency's information systems to conform with standards of the Virginia Information Technologies Agency.</p> <p>D. Out of this appropriation, \$173,256 the first year and \$189,043 the second year from the general fund is included for the financing costs of purchasing vehicles through the state's master equipment lease purchase program. It is the intent that the department establish a schedule for replacing emergency response vehicles using the master equipment lease purchase program.</p> <p>E. Included in this appropriation is \$90,000 in the first year and \$90,000 in the second year from the general fund to support regional satellite communications used by the agency in the event of an emergency.</p> <p>F. Included in this appropriation is \$42,000 the first year and \$42,000 the second year from the general fund to replace radios for regional coordinators, hazardous materials officers, disaster response and recovery officers, and other regional staff. The radios shall be interoperable with the State Agencies Radio System (STARS), and shall be acquired through the master equipment lease program.</p> <p><i>G. The Department of Emergency Management shall review disasters over the previous six years for which sum sufficient funding was authorized under Item 54 of this act, and categorize disasters into general types, such as tornadoes, hurricanes of various categories, flooding, etc. For local financial assistance authorized under § 44-146.28 of the Code of Virginia, the report shall also detail the state and local share of spending on those events. The Department shall propose model executive orders to authorize funding from the sum sufficient authority provided in Item 54 of this act for each respective type of disaster event, based on reasonable state share, in consideration of the data collected pursuant to this paragraph, to the Governor; Secretary of Finance; Director, Department of Planning and Budget; and the Chairmen of the House Appropriations and Senate Finance Committees by September 1, 2020.</i></p>				
403.	<p>A. All funds transferred to the Department of Emergency Management pursuant to the Governor's authority under § 44-146.28, Code of Virginia, shall be deposited into a special fund account to be used only for Disaster Recovery.</p> <p>B. Included in the Federal Trust appropriation are amounts estimated at \$34,592 the first year and \$34,592 the second year, to pay for statewide indirect cost recoveries of this agency. Actual recoveries of statewide indirect costs up to the level of these estimates shall be exempt from payment into the general fund, as provided by § 4-2.03 of this act. Amounts recovered in excess of these estimates shall be deposited to the general fund.</p>			
	Total for Department of Emergency Management.....		<b>\$63,479,149</b> <b>\$63,629,149</b>	<b>\$63,508,686</b>
	General Fund Positions.....	46.85	46.85	
	Nongeneral Fund Positions.....	113.15	113.15	
	Position Level.....	160.00	160.00	
	Fund Sources: General.....	\$7,449,541 \$7,599,541	\$7,479,078	
	Special.....	\$3,149,894	\$3,149,894	
	Commonwealth Transportation.....	\$1,212,509	\$1,212,509	
	Federal Trust.....	\$51,667,205	\$51,667,205	
<b>§ 1-115. DEPARTMENT OF FIRE PROGRAMS (960)</b>				
404.	Fire Training and Technical Support Services (74400).....		\$8,879,001	\$8,857,251

ITEM 404.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fire Services Management and Coordination (74401).....	\$3,924,846	\$3,924,846		
Virginia Fire Services Research (74402).....	\$302,274	\$302,274		
Fire Services Training and Professional Development (74403).....	\$2,318,625	\$2,296,875		
Technical Assistance and Consultation Services (74404).....	\$2,128,643	\$2,128,643		
Emergency Operational Response Services (74405).....	\$15,000	\$15,000		
Public Fire and Life Safety Educational Services (74406).....	\$189,613	\$189,613		
Fund Sources: Special.....	\$8,879,001	\$8,857,251		

Authority: Title 9.1, Chapter 2 and § 38.2-401, Code of Virginia.

A. Notwithstanding the provisions of § 38.2-401, Code of Virginia, up to 25 percent of the revenue available from the Fire Programs Fund, after making the distributions set out in § 38.2-401 D, Code of Virginia, may be used by the Department of Fire Programs to pay for the administrative costs of all activities assigned to it by law.

B. Included in the amounts appropriation for this items is \$144,850 the first year and \$123,100 the second year from the Fire Programs Fund to implement a modular training program for volunteer firefighters in accordance with House Bill 729 of the 2018 Session of the General Assembly.

405.	Financial Assistance for Fire Services Programs (76400).....			\$29,825,000	\$29,825,000
	Fire Programs Fund Distribution (76401).....	\$26,500,000	\$26,500,000		
	Live Fire Training Structure Grant (76402).....	\$2,500,000	\$2,500,000		
	Categorical Grants (76403).....	\$825,000	\$825,000		
	Fund Sources: Special.....	\$29,575,000	\$29,575,000		
	Federal Trust.....	\$250,000	\$250,000		

Authority: §§ 38.2-401, Code of Virginia.

406.	Regulation of Structure Safety (56200).....			\$2,986,469	\$2,986,469
	State Fire Prevention Code Administration (56203).....	\$2,986,469	\$2,986,469		
	Fund Sources: General.....	\$2,426,347	\$2,426,347		
	Special.....	\$560,122	\$560,122		

Authority: §§ 9.1-201, 9.1-206, and 27-94 through 27-99, Code of Virginia.

The State Fire Marshal may charge no fee for any permits or inspections of any school, whether it be public or private.

	Total for Department of Fire Programs.....			<b>\$41,690,470</b>	<b>\$41,668,720</b>
	General Fund Positions.....	29.00	29.00		
	Nongeneral Fund Positions.....	49.00	49.00		
	Position Level.....	78.00	78.00		
	Fund Sources: General.....	\$2,426,347	\$2,426,347		
	Special.....	\$39,014,123	\$38,992,373		
	Federal Trust.....	\$250,000	\$250,000		

**§ 1-116. DEPARTMENT OF FORENSIC SCIENCE (778)**

407.	Law Enforcement Scientific Support Services (30900).....			\$47,861,280	\$48,216,780 \$52,274,568
	Biological Analysis Services (30901).....	\$12,838,592	\$12,888,229 \$13,274,752		

ITEM 407.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Chemical Analysis Services (30902).....	\$10,342,295	<del>\$10,451,569</del> \$13,792,857		
Toxicology Services (30903).....	\$7,842,925	<del>\$7,980,024</del> \$8,310,001		
Physical Evidence Services (30904).....	\$9,138,611	\$9,166,111		
Training Services (30905).....	\$328,670	\$360,660		
Administrative Services (30906).....	\$7,370,187	\$7,370,187		
Fund Sources: General.....	\$45,818,010	<del>\$46,173,510</del> \$50,014,798		
Federal Trust.....	\$2,043,270	<del>\$2,043,270</del> \$2,259,770		

Authority: §§ 9.1-1100 through 9.1-1113, Code of Virginia.

A. Notwithstanding the provisions of § 58.1-3403, Code of Virginia, the Department of Forensic Science shall be exempt from the payment of service charges levied in lieu of taxes by any county, city, or town.

B.1. The Forensic Science Board shall ensure that all individuals who were convicted due to criminal investigations, for which its case files for the years between 1973 and 1988 were found to contain evidence possibly suitable for DNA testing, are informed that such evidence exists and is available for testing. To effectuate this requirement, the Board shall prepare two form letters, one sent to each person whose evidence was tested, and one sent to each person whose evidence was not tested. Copies of each such letter shall be sent to the Chairman of the Forensic Science Board and to the respective Chairmen of the House and Senate Committees for Courts of Justice. The Department of Corrections shall assist the board in effectuating this requirement by providing the addresses for all such persons to whom letters shall be sent, whether currently incarcerated, on probation, or on parole. In cases where the current address of the person cannot be ascertained, the Department of Corrections shall provide the last known address. The Chairman of the Forensic Science Board shall report on the progress of this notification process at each meeting of the Forensic Science Board.

2. Upon a request pursuant to the Virginia Freedom of Information Act for a certificate of analysis that has been issued in connection with the Post Conviction DNA Testing Program and that reflects that a convicted person's DNA profile was not indicated on items of evidence tested, the Department of Forensic Science shall make available for inspection and copying such requested record after all personal and identifying information about the victims, their family members, and consensual partners has been redacted, except where disclosure of the information contained therein is expressly prohibited by law or the Commonwealth's Attorney to whom the certificate was issued states that the certificate is critical to an ongoing active investigation and that disclosure jeopardizes the investigation.

C. Out of the appropriation for this Item, \$167,750 the first year and \$403,250 the second year from the general fund is provided for the ongoing financing costs of scientific equipment in the toxicology, controlled substances, breath alcohol, and DNA sections through the state's master equipment lease purchase program.

D. Included in the appropriation for this item is \$144,336 each year from the general fund for the estimated costs of materials needed for the additional DNA testing required pursuant to Chapters 543 and 544 of the 2018 Session of the General Assembly.

*E. Notwithstanding § 9.1-1101.1, Code of Virginia, the Department of Forensic Science shall not enter into contracts or agreements for forensic laboratory services that i) require additional general fund resources for laboratory services that can otherwise be procured at lower costs, or ii) impose additional regulatory burdens on the staff of the Department to implement.*

Total for Department of Forensic Science.....			<b>\$47,861,280</b>	<b><del>\$48,216,780</del></b> <b>\$52,274,568</b>
General Fund Positions.....	326.00	326.00		
Nongeneral Fund Positions.....	0.00	2.00		
Position Level.....	326.00	<del>326.00</del> 328.00		

ITEM 407.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$45,818,010	\$46,173,510		
		\$50,014,798		
Federal Trust.....	\$2,043,270	\$2,043,270		
		\$2,259,770		

**§ 1-117. DEPARTMENT OF JUVENILE JUSTICE (777)**

408.	Instruction (1970).....			\$15,139,348	\$15,139,348
	Youth Instructional Services (19711).....	\$9,246,195	\$9,246,195		
	Career and Technical Instructional Services for Youth and Adult Schools (19712).....	\$2,489,856	\$2,489,856		
	Instructional Leadership and Support Services (19714).....	\$3,403,297	\$3,403,297		
	Fund Sources: General.....	\$12,630,968	\$12,630,968		
	Special.....	\$170,536	\$170,536		
	Federal Trust.....	\$2,337,844	\$2,337,844		

Authority: § 66-13.1, Code of Virginia.

409.	Operation of Community Residential and Nonresidential Services (35000).....			\$3,320,293	\$3,320,293
	Community Residential and Non-residential Custody and Treatment Services (35008).....	\$3,320,293	\$3,320,293		
	Fund Sources: General.....	\$3,247,866	\$3,247,866		
	Special.....	\$50,000	\$50,000		
	Federal Trust.....	\$22,427	\$22,427		

Authority: §§ 16.1-246 through 16.1-258, 16.1-286, 16.1-291 through 16.1-295, 66-13, 66-14, 66-22 and 66-24, Code of Virginia.

A. Services funded out of this appropriation may include intensive supervision, day treatment, boot camp, and aftercare services, and should be integrated into existing services for juveniles.

B. Included in the appropriation for this Item is \$2,920,000 in the first year and \$2,920,000 in the second year from the general fund for a Juvenile Community Placement Program, in which the department may contract with local juvenile detention centers to house juveniles committed to the department prior to their release. The funding provided shall support a minimum of 40 juvenile detention center beds. The department shall develop program guidelines that at a minimum will include which juveniles qualify for placement, length of stay, level of security, mental health services, alcohol and substance abuse services, as well as other services that will be provided to the juvenile while in the detention center.

410.	Supervision of Offenders and Re-entry Services (35100).....			\$65,071,729	\$65,071,729
	Juvenile Probation and Aftercare Services (35102)..	\$65,071,729	\$65,071,729		
	Fund Sources: General.....	\$64,189,780	\$64,189,780		
	Special.....	\$145,000	\$145,000		
	Federal Trust.....	\$736,949	\$736,949		

Authority: §§ 16.1-233 through 16.1-238, 16.1-274, 16.1-294, 16.1-322.1 and 66-14, Code of Virginia.

A. Notwithstanding the provisions of § 16.1-273 of the Code of Virginia, the Department of Juvenile Justice, including locally-operated court services units, shall not be required to provide drug screening and assessment services in conjunction with investigations ordered by the courts.

B. Included in the appropriation for this Item is \$1,626,575 in the first year and \$1,626,575 in the second year from the general fund to support mental health and substance abuse evaluation and treatment services for juveniles under state probation or

ITEM 410.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
parole. Out of this item, up to \$325,315 each year may be used for the provision of inpatient mental health treatment by private providers for residents committed to the Department and found to be in need of mental health treatment pursuant to § 66-20 of the Code of Virginia. The department shall develop a plan to ensure continuation of mental health and substance abuse treatment services, including contracting with local providers as necessary.				
C. Included in the appropriation for this Item is \$240,000 in the first year and \$240,000 in the second year from the general fund that shall be used for emergency housing upon release from department custody. The department shall develop guidelines which at a minimum includes a juvenile selection process for placement and maximum lengths of stay.				
411. Financial Assistance to Local Governments for Juvenile Justice Services (36000).....			\$49,558,594	\$49,558,594
Financial Assistance for Juvenile Confinement in Local Facilities (36001).....	\$35,327,514	\$35,327,514		
Financial Assistance for Probation and Parole - Local Grants (36002).....	\$3,566,348	\$3,566,348		
Financial Assistance for Community based Alternative Treatment Services (36003).....	\$10,664,732	\$10,664,732		
Fund Sources: General.....	\$47,748,915	\$47,748,915		
Federal Trust.....	\$1,809,679	\$1,809,679		

Authority: §§ 16.1-233 through 16.1-238, 16.1-274, 16.1-322.1 and 66-14, Code of Virginia.

A. From July 1, 2018 to June 30, 2020, the Board of Juvenile Justice shall not approve or commit additional funds for the state share of the cost of construction, enlargement or renovation of local or regional detention centers, group homes or related facilities. The board may grant exceptions only to address emergency maintenance projects needed to resolve immediate life safety issues. For such emergency projects, approval by both the Board of Juvenile Justice and the Secretary of Public Safety and Homeland Security is required. Any emergency projects must also comply with Board of Juvenile Justice standards.

B. Each emergency resolution adopted by the Board of Juvenile Justice approving reimbursement of the state share of the cost of construction, maintenance, or operation of local or regional detention centers, group homes, or related facilities or programs shall include a statement noting that such approval is subject to the availability of funds and approval by the General Assembly at its next regular session.

C. The Department of Juvenile Justice shall reimburse localities, pursuant to § 66-15, Code of Virginia, at the rate of \$50 per day for housing juveniles who have been committed to the department, for each day after the department has received a valid commitment order and other pertinent information as required by § 16.1-287, Code of Virginia.

D. Notwithstanding the provisions of § 16.1-322.1 of the Code of Virginia, the department shall apportion to localities the amounts appropriated in this Item.

E.1. The appropriation for Financial Assistance for Community Based Alternative Treatment Services includes \$10,379,926 the first year and \$10,379,926 the second year from the general fund for the implementation of the financial assistance provisions of the Juvenile Community Crime Control Act (VJCCCA), §§ 16.1-309.2 through 16.1-309.10, Code of Virginia. Notwithstanding § 16.1-309.6, Code of Virginia, localities participating in this program and contributing through their local match an amount of local funds which is greater than they receive from the Commonwealth under this program are authorized, but not required, to provide a contribution greater than the state general fund contribution. In no case shall their local match be less than their state share.

2. Notwithstanding the provisions of §§ 16.1-309.2 through 16.1-309.10, Code of Virginia, the Board of Juvenile Justice shall establish guidelines for use in determining the types of programs for which VJCCCA funding may be expended. The department shall establish a format to receive biennial or annual requests for funding from localities, based on these guidelines. For each program requested, the plan shall document the need for the program, goals, and measurable objectives, and a budget for the proposed expenditure of these funds and any other resources to be committed by localities.

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	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

3.a. Notwithstanding the provisions of § 16.1-309.7 B, Code of Virginia, unobligated VJCCCA funds must be returned to the department by each grantee locality no later than October 1 of the fiscal year following the fiscal year in which they were received, or a similar amount may be withheld from the current fiscal year's periodic payments designated by the department for that locality. The Director, Department of Planning and Budget, may increase the general fund appropriation for this Item up to the amount of unobligated VJCCCA funds returned to the Department of Juvenile Justice.

b. All such unobligated and reappropriated balances shall be used by the department for the purpose of awarding short-term supplementary grants to localities, for programs and services which have been demonstrated to improve outcomes, including reduced recidivism, of juvenile offenders. Such programs and services must augment and support current VJCCCA-funded programs within each affected locality. The grantee locality shall submit an outcomes report to the department, in accord with a written memorandum of agreement which shall accompany the supplementary grant award. This provision shall apply to funds obligated to and in the possession of the department and its grant recipients. The entity which returns unobligated funds under this provision shall not have a presumptive entitlement to a supplementary grant.

c. The Department of Juvenile Justice, with the assistance of the Department of Corrections, the Virginia Council on Juvenile Detention, juvenile court service unit directors, juvenile and domestic relations district court judges, and juvenile justice advocacy groups, shall provide a report on the types of programs supported by the Juvenile Community Crime Control Act and whether the youth participating in such programs are statistically less likely to be arrested, adjudicated or convicted, or incarcerated for either misdemeanors or crimes that would otherwise be considered felonies if committed by an adult.

F. The department shall consolidate the annual reporting requirements in §§ 2.2-222 and 66-13 and in Chapters 755 and 914 of the 1996 Acts of the General Assembly concerning juvenile offender demographics. The consolidated annual report shall address the progress of Virginia Juvenile Community Crime Control Act programs including the requirements in Article 12.1 of Chapter 11 of Title 16.1 (§ 16.1-309.2 et seq.) relating to the number of juveniles served, the average cost for residential and nonresidential services, the number of employees, and descriptions of the contracts entered into by localities. Notwithstanding any other provisions of the Code of Virginia, the consolidated report shall be submitted to the Governor, the General Assembly, the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security, and the Department of Planning and Budget by the first day of the regular General Assembly session.

412.	Operation of Secure Correctional Facilities (39800).....			\$70,240,687	\$70,240,687
	Juvenile Corrections Center Management (39801)...	\$2,490,634	\$2,490,634		
	Food Services - Prisons (39807).....	\$2,841,114	\$2,841,114		
	Medical and Clinical Services - Prisons (39810).....	\$8,102,665	\$8,102,665		
	Physical Plant Services - Prisons (39815).....	\$6,370,062	\$6,370,062		
	Offender Classification and Time Computation Services (39830).....	\$1,213,165	\$1,213,165		
	Juvenile Supervision and Management Services (39831).....	\$42,570,520	\$42,570,520		
	Juvenile Rehabilitation and Treatment Services (39832).....	\$6,652,527	\$6,652,527		
	Fund Sources: General.....	\$66,546,028	\$66,546,028		
	Special.....	\$2,101,371	\$2,101,371		
	Dedicated Special Revenue.....	\$48,000	\$48,000		
	Federal Trust.....	\$1,545,288	\$1,545,288		

Authority: §§ 16.1-278.8, 16.1-285.1, 66-13, 66-16, 66-18, 66-19, 66-22 and 66-25.1, Code of Virginia.

A. The Department of Juvenile Justice shall retain all funds paid for the support of

ITEM 412.	Item Details(\$)		Appropriations(\$)	
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<p>children committed to the department to be used for the security, care, and treatment of said children.</p> <p>B.1. The Director, Department of Juvenile Justice, (the “Department”) shall develop a transformation plan to provide more effective and efficient services for juveniles, using data-based decision-making, that improves outcomes and safely reduces the number of juveniles housed in state-operated juvenile correctional centers, consistent with public safety. To accomplish these objectives, the Department will provide, when appropriate, alternative placements and services for juveniles committed to the Department that offer treatment, supervision and programs that meet the levels of risk and need, as identified by the Department's risk and needs assessment instruments, for each juvenile placed in such placements or programs. Prior to implementation, the plan shall be approved by the Secretary of Public Safety and Homeland Security.</p> <p>2. The Department shall reallocate any savings from the reduced cost of operating state juvenile correctional centers to support the goals of the transformation plan including, but not limited to: (a) increasing the number of male and female local placement options, and post-dispositional treatment programs and services; (b) ensuring that appropriate placements and treatment programs are available across all regions of the Commonwealth; and (c) providing appropriate levels of educational, career readiness, rehabilitative, and mental health services for these juveniles in state, regional, or local programs and facilities, including but not limited to, community placement programs, independent living programs, and group homes. The goals of such transformation services shall be to reduce the risks for reoffending for juveniles supervised or committed to the Department and to improve and promote the skills and resiliencies necessary for the juveniles to lead successful lives in their communities.</p> <p>3. No later than November 1 of each year, the Department of Juvenile Justice shall provide a report to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security and the Director, Department of Planning and Budget, assessing the impact and results of the transformation plan and its related actions. The report shall include, but is not limited to, assessing juvenile offender recidivism rates, fiscal and operational impact on detention homes; changes (if any) in commitment orders by the courts; and use of the savings redirected as a result of transformation, including the amount expended for contracted programs and treatment services, including the number of juveniles receiving each specific service. The report should also include the average length of stay for juveniles in each placement option.</p> <p>4. The Director, Department of Planning and Budget, is authorized to transfer appropriations between items and programs within the Department of Juvenile Justice to reallocate any savings achieved through transformation to accomplish the goals of transformation.</p> <p>5. If the Department of Juvenile Justice deems it necessary, due to facility population decline, efficient use of resources, and the need to further reduce recidivism, to close a state juvenile correctional center, the Department shall (i) work cooperatively with the affected localities to minimize the effect of the closure on those communities and their residents, and (ii) implement a general closure plan, preferably not less than 12 months from announcement of the closure, to create opportunities to place affected state employees in existing departmental vacancies, assist affected employees with placement in other state agencies, create training opportunities for affected employees to increase their qualifications for additional positions, and safely reduce the population of the facility facing closure, consistent with public safety.</p>				
413.	Administrative and Support Services (39900).....		\$19,453,870	\$19,145,077
	General Management and Direction (39901).....	\$2,940,600		\$2,940,600
	Information Technology Services (39902).....	\$4,486,215		\$4,177,422
	Accounting and Budgeting Services (39903).....	\$5,360,310		\$5,360,310
	Architectural and Engineering Services (39904).....	\$620,386		\$620,386
	Food and Dietary Services (39907).....	\$287,734		\$287,734
	Human Resources Services (39914).....	\$3,685,573		\$3,685,573
	Planning and Evaluation Services (39916).....	\$2,073,052		\$2,073,052
	Fund Sources: General.....	\$17,679,616		\$17,679,616
	Special.....	\$979,574		\$979,574
	Federal Trust.....	\$794,680		\$485,887

ITEM 413.	Item Details(\$)		Appropriations(\$)		
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
Authority: §§ 66-3 and 66-13, Code of Virginia.					
A.1. Consistent with the provisions of Chapter 198 of the 2017 Session of the General Assembly, the Director, Department of Juvenile Justice, shall implement the recommendations relating to the Department of Juvenile Justice made by the Department of Medical Assistance Services in its November 30, 2017 report on streamlining the Medicaid application and enrollment process for incarcerated individuals.					
2. For the purpose of implementing these recommendations, included in the amounts appropriated for this item is \$420,993 the first year and \$112,200 the second year from nongeneral funds and two positions.					
Total for Department of Juvenile Justice.....			\$222,784,521	\$222,475,728	
General Fund Positions.....			2,150.50	2,150.50	
Nongeneral Fund Positions.....			22.00	22.00	
Position Level.....			2,172.50	2,172.50	
Fund Sources: General.....			\$212,043,173	\$212,043,173	
Special.....			\$3,446,481	\$3,446,481	
Dedicated Special Revenue.....			\$48,000	\$48,000	
Federal Trust.....			\$7,246,867	\$6,938,074	
<b>§ 1-118. DEPARTMENT OF MILITARY AFFAIRS (123)</b>					
414.	Higher Education Student Financial Assistance (10800).....			\$3,028,382	\$3,028,382
	Tuition Assistance (10811).....		\$3,028,382	\$3,028,382	
	Fund Sources: General.....		\$3,028,382	\$3,028,382	
Authority: Title 44, Chapters 1 and 2; § 23.1-506, Code of Virginia.					
415.	At Risk Youth Residential Program (18700).....			\$5,085,836	\$5,085,836
	Virginia Commonwealth Challenge Program (18701).....		\$5,085,836	\$5,085,836	
	Fund Sources: General.....		\$1,592,103	\$1,592,103	
	Federal Trust.....		\$3,493,733	\$3,493,733	
Authority: Discretionary Inclusion.					
A. The Department of Military Affairs is hereby authorized to designate building space at the State Military Reservation as an in-kind match for the receipt of federal funds under the Commonwealth Challenge program, equivalent to a value of \$253,040 each year.					
B. Out of this appropriation, up to \$350,000 the first year and up to \$350,000 the second year in nongeneral funds is provided to establish a STARBASE youth education program to improve math and science skills to prepare students for careers in engineering and other science-related fields of study.					
416.	Defense Preparedness (72100).....			\$52,468,404	\$52,468,404
	Armories Operations and Maintenance (72101).....		\$11,407,207	\$11,407,207	
	Virginia State Defense Force (72104).....		\$201,217	\$201,217	
	Security Services (72105).....		\$4,355,909	\$4,355,909	
	Fort Pickett and Camp Pendleton Operations (72109).....		\$22,775,627	\$22,775,627	
	Other Facilities Operations and Maintenance (72110).....		\$13,728,444	\$13,728,444	
	Fund Sources: General.....		\$2,814,589	\$2,814,589	
	Special.....		\$1,784,927	\$1,784,927	
	Dedicated Special Revenue.....		\$1,730,000	\$1,730,000	
	Federal Trust.....		\$46,138,888	\$46,138,888	

ITEM 416.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Authority: Title 44, Chapters 1 and 2, Code of Virginia.				
A. The Department is authorized to receive payments from localities resulting from reimbursement agreements with the Virginia Defense Force, an organization of the Virginia National Guard. The Department may disburse up to \$30,000 the first year and \$30,000 the second year from these payments to the Virginia Defense Force. Included in the appropriation for this Item is \$30,000 the first year and \$30,000 the second year from nongeneral funds for this purpose.				
B. The Department of Military Affairs may operate, with nongeneral funds, a Morale, Welfare, and Recreation program for the benefit of the Virginia National Guard, Virginia Defense Force, employees of the Department, family members, and other authorized transient users of the Department's facilities, under such policies as approved by the agency.				
417.	Disaster Planning and Operations (72200).....		a sum sufficient	
	Communications and Warning System (72201).....		a sum sufficient	
	Disaster Assistance (72203).....		a sum sufficient	
	Fund Sources: General.....		a sum sufficient	
Authority: Title 44, Chapters 1 and 2, Code of Virginia.				
A. The amount for Disaster Planning and Operations provides for a military contingent fund, out of which to pay the military forces of the Commonwealth when aiding the civil authorities.				
B. In the event units of the Virginia National Guard shall be in federal service, the sum allocated herein for their support shall not be used for any different purpose, except with the prior written approval of the Governor, other than to provide for the Virginia State Defense Force or for safeguarding properties used by the Virginia National Guard.				
418.	Administrative and Support Services (79900).....		\$7,828,505	\$8,002,925
	General Management and Direction (79901).....	\$4,891,773	\$5,066,193	
	Telecommunications (79930).....	\$2,936,732	\$2,936,732	
	Fund Sources: General.....	\$3,416,011	\$3,590,431	
	Dedicated Special Revenue.....	\$1,037,191	\$1,037,191	
	Federal Trust.....	\$3,375,303	\$3,375,303	
Authority: Title 44, Chapters 1 and 2, Code of Virginia.				
A. The Department of Military Affairs shall advise and provide assistance to the Department of Accounts in administering the \$20,000 death benefit provided for certain members of the National Guard and United States military reserves killed in action in any armed conflict as of October 7, 2001, pursuant to § 44-93.1.B., Code of Virginia.				
B. Included in this appropriation is \$240,000 the first year and \$240,000 the second year from the general fund and \$100,000 in the first year and \$100,000 the second year from nongeneral funds for the financing costs of purchasing STARS radio communication equipment through the state's master equipment lease program.				
	Total for Department of Military Affairs.....		<b>\$68,411,127</b>	<b>\$68,585,547</b>
	General Fund Positions.....	53.47	54.47	
	Nongeneral Fund Positions.....	307.03	307.03	
	Position Level.....	360.50	361.50	
	Fund Sources: General.....	\$10,851,085	\$11,025,505	
	Special.....	\$1,784,927	\$1,784,927	
	Dedicated Special Revenue.....	\$2,767,191	\$2,767,191	
	Federal Trust.....	\$53,007,924	\$53,007,924	

§ 1-119. DEPARTMENT OF STATE POLICE (156)

ITEM 419.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
419.	Information Technology Systems, Telecommunications and Records Management (30200).....			\$62,039,445	\$60,622,845
				\$62,237,365	\$62,353,314
	Information Technology Systems and Planning (30201).....	\$17,741,662	\$16,325,062		
	Criminal Justice Information Services (30203).....	\$9,597,348	\$9,597,348		
		\$9,795,268	\$9,809,295		
	Telecommunications and Statewide Agencies Radio System (STARS) (30204).....	\$29,590,494	\$29,590,494		
			\$31,109,016		
	Firearms Purchase Program (30206).....	\$1,686,088	\$1,686,088		
	Sex Offender Registry Program (30207).....	\$3,109,440	\$3,109,440		
	Concealed Weapons Program (30208).....	\$314,413	\$314,413		
	Fund Sources: General.....	\$51,728,298	\$50,311,698		
		\$51,926,218	\$52,042,167		
	Special.....	\$5,834,551	\$5,834,551		
	Dedicated Special Revenue.....	\$3,716,561	\$3,716,561		
	Federal Trust.....	\$760,035	\$760,035		

Authority: §§ 18.2-308.2:2, 19.2-387, 19.2-388, 27-55, 52-4, 52-4.4, 52-8.5, 52-12, 52-13, 52-15, 52-16, 52-25 and 52-31 through 52-34, Code of Virginia.

A.1. It is the intent of the General Assembly that wireless 911 calls be delivered directly by the Commercial Mobile Radio Service (CMRS) provider to the local Public Safety Answering Point (PSAP), in order that such calls be answered by the local jurisdiction within which the call originates, thereby minimizing the need for call transfers whenever possible.

2. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$3,700,000 the first year and \$3,700,000 the second year from the Wireless E-911 Fund is included in this appropriation for telecommunications to offset dispatch center operations and related costs incurred for answering wireless 911 telephone calls.

B. Out of the Motor Carrier Special Fund, \$900,000 the first year and \$900,000 the second year shall be disbursed on a quarterly basis to the Department of State Police.

C.1. This appropriation includes \$9,175,535 the first year and \$9,175,535 the second year from the general fund for maintaining the Statewide Agencies Radio System (STARS).

2. The Secretary of Public Safety and Homeland Security, in conjunction with the STARS Management Group and the Superintendent of State Police, shall provide a status report on (1) annual operating costs; (2) the status of site enhancements to support the system; (3) the project timelines for implementing the enhancements to the system; and (4) other matters as the secretary may deem appropriate. This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1 of each year.

3. Any bond proceeds authorized for the STARS project that remain after the full implementation of the STARS network shall be made available for the STARS equipment needs of the Department of Military Affairs.

4. Any general fund appropriation given for STARS operating and maintenance under the service area 30204, is designated for such purposes. If the Department of State Police cannot expend its STARS appropriation within a given fiscal year, there shall remain an appropriation balance at the end of the fiscal year. The Department may request a discretionary re-appropriation in the subsequent year as provided in § 4-1.05 of this act if necessary for the payment of preexisting obligations for the purchase of goods or services.

D. The department shall deposit to the general fund an amount estimated at \$100,000 the first year and \$100,000 the second year resulting from fees generated by additional criminal background checks of local job applicants and prospective licensees collected pursuant to § 15.2-1503.1 of the Code of Virginia.

ITEM 419.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
E. 1. Notwithstanding the provisions of §§ 19.2-386.14, 38.2-415, 46.2-1167 and 52-4.3, Code of Virginia, the Department of State Police may use revenue from the State Asset Forfeiture Fund, the Insurance Fraud Fund, the Drug Investigation Trust Account – State, and the Safety Fund to modify, enhance or procure automated systems that focus on the Commonwealth's law enforcement activities and information gathering processes.				
2. Included within this appropriation is \$2,050,000 the first year and \$2,050,000 the second year from the Safety Fund's 2018 year-end balances to support the enhancements to the department's Computerized Criminal History System.				
F. The Superintendent of State Police is authorized to and shall establish a policy and reasonable fee to contract for the bulk transmission of public information from the Virginia Sex Offender Registry. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the registry. The State Superintendent of State Police shall charge no fee for the transfer of any information from the Virginia Sex Offender Registry to the Statewide Automated Victim Notification (SAVIN) system.				
G. The Virginia State Police shall, upon request, provide to the Department of Behavioral Health and Developmental Services any information it possesses as a result of carrying out the provisions of §§ 19.2-389, 37.2-819 and 64.2-2014, Code of Virginia, to enable the Department to make anonymous the data held pursuant to those provisions and link it with other relevant data held by the Commonwealth for the purpose of evaluating the impact of carrying out these provisions on the public health and safety, pursuant to a grant from the National Science Foundation to Duke University and a subcontract with the University of Virginia.				
H. Included in the amounts provided for this Item is \$99,479 the first year and \$99,479 the second year from the general fund for the public safety information exchange program with those states that share a border with Canada or Mexico and are willing to participate in the exchange program pursuant to § 2.2-224.1, Code of Virginia.				
I. Included in this appropriation is \$620,371 the first year and \$620,371 the second year from the general fund for the annual debt service for the Department to purchase fixed repeaters for the Statewide Agencies Radio System (STARS) through the Department of Treasury's Master Equipment Leasing Program.				
J. Included within this appropriation is \$340,000 the first year and <del>\$340,000</del> \$350,200 the second year from the general fund to support maintenance costs of the state's Commonwealth Link to Interoperable Communications (COMLINC) system.				
<i>K. Included within this appropriation is \$627,900 the second year for training costs and four positions to support the upgrade and expansion of the COMLINC system.</i>				
<i>L. Included in the amounts provided for in this Item is \$675,000 the second year for training and project management costs to upgrade the STARS system. Of this amount, \$500,000 shall not be allotted until the project management costs are determined to be ineligible costs for a bond-funded capital project.</i>				
<del>K. M.</del> M. Included in the amounts provided for this item is \$1,678,929 the first year and \$262,329 the second year from the general fund for the Department to implement and operate an electronic summons system in Division 7. The Department shall work in cooperation with the Office of the Executive Secretary of the Supreme Court to implement the system, and shall provide a report on its activities and the outcomes of the system implementation to the Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2019.				
<i>N. In the introduced budget for the biennium beginning on July 1, 2020, the Department of Planning and Budget shall create a new program within the Department of State Police for the appropriations related to operation and maintenance of the Statewide Agencies Radio System. Appropriation under this item for the service area for Telecommunications and Statewide Agencies Radio System (STARS) (30204), shall be transferred into the new item created pursuant to this paragraph. The program shall allocate the funding into appropriate service areas to identify: vehicle radio maintenance for State Police vehicles, vehicle radio maintenance for other agency vehicles, site maintenance, subscriber equipment, network maintenance, and equipment, as appropriate.</i>				

ITEM 419.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p><i>O. Included within the amounts for this item is \$197,920 in the first year from the general fund for a modification to the Central Criminal Records Exchange and \$211,947 and three positions in the second year from the general fund for the Department to address the recommendation of the Crime Commission to provide a reference to the "Hold File" for criminal history records checks.</i></p>				
420.	Law Enforcement and Highway Safety Services (31000).....		\$284,746,976	\$286,481,735
			\$284,796,976	\$286,531,735
	Aviation Operations (31001).....	\$7,626,764	\$9,489,396	
		\$7,676,764	\$9,539,396	
	Commercial Vehicle Enforcement (31002).....	\$5,748,407	\$5,748,407	
	Counter-Terrorism (31003).....	\$6,170,042	\$6,170,042	
	Help Eliminate Auto Theft (HEAT) (31004).....	\$1,900,191	\$1,900,191	
	Drug Enforcement (31005).....	\$22,914,510	\$22,914,510	
	Crime Investigation and Intelligence Services (31006).....	\$36,880,537	\$37,332,029	
	Uniform Patrol Services (Highway Patrol) (31007).....	\$167,862,372	\$167,283,007	
	Insurance Fraud Program (31009).....	\$5,716,743	\$5,716,743	
	Vehicle Safety Inspections (31010).....	\$22,692,343	\$22,692,343	
	Sex Offender Registry Program Enforcement (31011).....	\$7,235,067	\$7,235,067	
	Fund Sources: General.....	\$228,391,431	\$230,126,190	
		\$228,441,431	\$230,176,190	
	Special.....	\$29,247,804	\$29,247,804	
	Commonwealth Transportation.....	\$9,083,587	\$9,083,587	
	Trust and Agency.....	\$20,000	\$20,000	
	Dedicated Special Revenue.....	\$9,692,692	\$9,692,692	
	Federal Trust.....	\$8,311,462	\$8,311,462	

Authority: §§ 27-56, 33.2-1726, 46.2-1157 through 46.2-1187, 52-1, 52-4, 52-4.2, 52-4.3, 52-8, 52-8.1, 52-8.2, 52-8.4 and 56-334, Code of Virginia.

A. Included in this appropriation is \$810,687 the first year and \$810,687 the second year from Commonwealth Transportation Funds for the personal and associated nonpersonal services costs for eight positions. These positions will be dedicated to patrolling the I-95/395/495 Interchange.

B. Included in this appropriation is \$4,831,625 the first year and \$4,831,625 the second year from the Commonwealth Transportation Fund to support enforcement operations at weigh stations statewide.

C. Included in this appropriation is \$1,631,282 the first year and \$1,631,282 the second year from Commonwealth Transportation Funds that shall be used to support the personal and associated nonpersonal services costs for trooper positions. These positions will be assigned to the "Highway Safety Corridors" and work to supplement the Department of State Police's enforcement efforts in those corridors.

D. The Department of State Police shall modify the implementation of the division of drug law enforcement established pursuant to § 52-8.1:1, Code of Virginia, and shall redirect, as may be necessary, resources heretofore provided for that purpose by the General Assembly for the purposes of homeland security, the gathering of intelligence on terrorist activities, the preparation for response to a terrorist attack and any other activity determined by the Governor to be crucial to strengthening the preparedness of the Commonwealth against the threat of natural disasters and emergencies. Nothing in this Item shall be construed to prohibit the Department of State Police from performing drug law enforcement or investigation as otherwise provided for by the Code of Virginia.

E. Included within this appropriation is \$3,098,098 the first year and \$3,098,098 the second year from the Rescue Squad Assistance Fund to support the department's aviation (med-flight) operations.

ITEM 420.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
F.	Included within this appropriation is <del>\$400,000</del> \$450,000 the first year and \$400,000 \$450,000 the second year from the general fund, which shall be provided to the County of Chesterfield for use in funding the paramedics assigned to the Department of State Police for aviation (med-flight) operations, and for related med-flight expenses.			
G.	In the event that special fund revenues for this Item exceed expenditures, the balance of such revenues may be used for air medical evacuation equipment improvements, information technology upgrades or for motor vehicle replacement.			
H.	Included in this appropriation is \$110,000 the first year and \$110,000 the second year from the general fund to maintain increased traffic enforcement on Interstate 81. These funds shall be used to provide overtime payments for extended and additional work shifts so as to maintain the enhanced level of State Police patrols on this and other public highways in the Commonwealth.			
I.1.	Included in the appropriation for this Item is sufficient funding to support, in addition to sworn positions, at least 43 non-sworn positions for monitoring persons required to comply with the requirements of the Sex Offender Registry. The department shall coordinate monitoring and verification activities related to registry requirements with other state and local law enforcement agencies that have responsibility for monitoring or supervising individuals who are also required to comply with the requirements of the Sex Offender Registry.			
2.	The Secretary of Public Safety and Homeland Security, in conjunction with the Superintendent of State Police, shall report on the implementation of the monitoring of offenders required to comply with the Sex Offender Registry requirements. The report shall include at a minimum: (1) the number of verifications conducted; (2) the number of investigations of violations; (3) the status of coordination with other state and local law enforcement agencies activities to monitor Sex Offender Registry requirements; and (4) an update of the sex offender registration and monitoring section in the department's current "Manpower Augmentation Study." This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees each year by January 1.			
J.	Included within this appropriation is \$200,000 the first year and \$200,000 the second year from nongeneral funds to be used by the Department of State Police to record revenue related to overtime work performed by troopers at the end of a fiscal year and for which reimbursement was not received by the department until the following fiscal year. The Department of Accounts shall establish a revenue code and fund detail for this revenue.			
K.	Included within this appropriation is \$100,000 the first year and \$100,000 the second year from the general fund for the Department of State Police to enhance its capabilities in recruiting minority troopers. Funding is to support increased marketing and advertising efforts for recruiting minorities.			
L.	Included within this appropriation is \$116,988 the first year and \$116,988 the second year from the Department of Aviation's special fund to support the aviation operations of the Department of State Police.			
M.1.	Out of the amounts appropriated for this Item, \$1,450,000 the first year and \$1,450,000 the second year from nongeneral funds shall be distributed to the department to expand the operations of the Northern Virginia Internet Crimes Against Children Task Force.			
2.	Pursuant to paragraph H.2 of Item 395, the Northern Virginia Internet Crimes Against Children Task Force shall provide a report on the actual expenditures and performance results achieved each year. Copies of this report shall be provided each year to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Appropriations and Senate Finance Committees by October 1.			
N.	Out of the appropriation for this Item, \$1,543,733 the first year and \$3,406,365 the second year from the general fund is continued for the ongoing financing costs of purchasing four helicopters through the state's master equipment lease purchase program.			
O.	Effective July 1, 2015, the Superintendent of State Police shall provide training to all local law enforcement agencies on the proper method to register and re-register persons required to			

ITEM 420.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>be registered with the Sex Offender and Crimes Against Minors Registry. Should the Superintendent have reason to believe that any local law enforcement agency is not registering sex offenders as required by § 9.1-903, Code of Virginia, the Superintendent shall notify the local law enforcement agency, as well as the Executive Secretary of the Compensation Board and the Director of the Department of Criminal Justice Services.</p> <p>P. Included in this appropriation for this item is \$1,708,919 the first year and \$1,129,554 the second year from the general fund to establish the second Special Operations Division, which shall serve the Sixth Division. Positions from the Sixth Division that are transferred into the Special Operations Sixth Division shall be backfilled in the Sixth Division.</p> <p>Q. Included in this appropriation is \$103,470 each year from the general fund for the Department of State Police to hire an aviation mechanic for the Fourth Aviation Division in Abingdon.</p> <p><i>R. The Department shall study the steps necessary to contract with insurance providers for reimbursement of expenses related to the provision of Med-flight services and report on those steps and the estimated annual revenue to the Department of Planning and Budget and the Chairmen of the House Appropriations and the Senate Finance Committees by November 30, 2019.</i></p>				
421.	Administrative and Support Services (39900).....		\$26,969,041	\$26,969,041
	General Management and Direction (39901).....	\$6,532,462		\$6,532,462
	Accounting and Budgeting Services (39903).....	\$2,096,886		\$2,096,886
	Human Resources Services (39914).....	\$2,281,203		\$2,281,203
	Physical Plant Services (39915).....	\$5,562,343		\$5,562,343
	Procurement and Distribution Services (39918).....	\$2,892,679		\$2,892,679
	Training Academy (39929).....	\$6,908,465		\$6,908,465
	Cafeteria (39931).....	\$695,003		\$695,003
	Fund Sources: General.....	\$26,236,975		\$26,236,975
	Special.....	\$706,310		\$706,310
	Dedicated Special Revenue.....	\$25,756		\$25,756

Authority: §§ 52-1 and 52-4, Code of Virginia.

A. The Superintendent of State Police shall establish written procedures for the timely and accurate electronic reporting of crime data reported to the Department of State Police in accordance with the provisions of § 52-28, Code of Virginia. The procedures shall require the principal officer of the reporting organization to certify that the information provided is, to his knowledge and belief, a true and accurate report. Should the superintendent have reason to believe that any crime data is missing, incomplete or incorrect after audit of the data, the superintendent shall notify the reporting organization, as well as the Chairman of the Compensation Board and the Director, Department of Criminal Justice Services. Upon receiving and verifying resubmitted data that corrects the report, the superintendent shall notify the Chairman of the Compensation Board and the Director, Department of Criminal Justice Services that the missing, incomplete or incorrect data has been satisfactorily submitted.

B.1. The Department of State Police is authorized to charge other law enforcement agencies a fee for the use of the Virginia State Police Blackstone Training Facility related to training activities. The fee structure and subsequent changes must be reviewed and approved by the Secretary of Public Safety and Homeland Security. The Department shall deposit any moneys received from such fees into the Virginia State Police Blackstone Training Facility Fund.

2. The State Comptroller shall continue the Virginia State Police Blackstone Training Facility Fund on the books of the Commonwealth. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of the fiscal year shall not revert to the general fund but shall remain in the Fund. The Department of State Police shall utilize the revenue deposited in the Fund to (1) maintain and repair facilities at the Virginia State Police Blackstone Training Facility, and (2) acquire, maintain, repair or replace equipment at the Virginia State Police Blackstone Training Facility.

ITEM 421.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
422.	All revenue received from the sale of motor vehicles shall be reported separately from that received from the sale of other property of the department.			
	Total for Department of State Police.....		<b>\$373,755,462</b>	<b>\$374,073,621</b>
			<del>\$374,003,382</del>	<del>\$375,854,090</del>
	General Fund Positions.....	2,626.00	<del>2,630.00</del>	2,641.00
	Nongeneral Fund Positions.....	394.00	394.00	
	Position Level.....	3,020.00	<del>3,024.00</del>	3,035.00
	Fund Sources: General.....	<del>\$306,356,704</del>	<del>\$306,674,863</del>	
		<del>\$306,604,624</del>	<del>\$308,455,332</del>	
	Special.....	\$35,788,665	\$35,788,665	
	Commonwealth Transportation.....	\$9,083,587	\$9,083,587	
	Trust and Agency.....	\$20,000	\$20,000	
	Dedicated Special Revenue.....	\$13,435,009	\$13,435,009	
	Federal Trust.....	\$9,071,497	\$9,071,497	
<b>§ 1-120. VIRGINIA PAROLE BOARD (766)</b>				
423.	Probation and Parole Determination (35200).....		\$1,787,462	\$1,787,462
	Adult Probation and Parole Services (35201).....		\$1,787,462	\$1,787,462
	Fund Sources: General.....		\$1,787,462	\$1,787,462
	Authority: Title 53.1, Chapter 4, Code of Virginia.			
	Notwithstanding the provisions of § 53.1-40.01, Code of Virginia, the Parole Board shall annually consider for conditional release those inmates who meet the criteria for conditional geriatric release set out in § 53.1-40.01, Code of Virginia, except that upon any such review the Board may schedule the next review as many as three years thereafter. If any such inmate is also eligible for discretionary parole under the provisions of § 53.1-151 et seq., Code of Virginia, the board shall not be required to consider that inmate for conditional geriatric release unless the inmate petitions the board for conditional geriatric release.			
	Total for Virginia Parole Board.....		<b>\$1,787,462</b>	<b>\$1,787,462</b>
	General Fund Positions.....	12.00	12.00	
	Position Level.....	12.00	12.00	
	Fund Sources: General.....	\$1,787,462	\$1,787,462	
	<b>TOTAL FOR OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.....</b>		<b>\$3,138,811,641</b>	<b>\$3,177,187,297</b>
			<del>\$3,148,507,864</del>	<del>\$3,213,984,519</del>
	General Fund Positions.....	<del>17,451.32</del>	<del>17,495.32</del>	17,638.32
		<del>17,574.32</del>	<del>17,638.32</del>	
	Nongeneral Fund Positions.....	<del>2,493.18</del>	<del>2,537.18</del>	2,562.18
		<del>2,509.18</del>	<del>2,562.18</del>	
	Position Level.....	<del>19,944.50</del>	<del>20,032.50</del>	20,200.50
		<del>20,083.50</del>	<del>20,200.50</del>	
	Fund Sources: General.....	<del>\$2,013,576,807</del>	<del>\$2,018,234,233</del>	
		<del>\$2,022,308,156</del>	<del>\$2,049,150,389</del>	
	Special.....	\$155,424,111	<del>\$155,093,568</del>	<del>\$158,150,072</del>
	Commonwealth Transportation.....	\$10,296,096	\$10,296,096	
	Enterprise.....	<del>\$735,338,032</del>	<del>\$773,354,592</del>	<del>\$775,962,654</del>
		<del>\$736,302,906</del>	<del>\$775,962,654</del>	
	Trust and Agency.....	\$4,818,130	\$4,818,130	
	Dedicated Special Revenue.....	\$36,472,895	\$32,813,901	
	Federal Trust.....	\$182,885,570	<del>\$182,576,777</del>	<del>\$182,793,277</del>

ITEM 424.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>OFFICE OF TECHNOLOGY</b>					
424.	Omitted.				
425.	Omitted.				
426.	Omitted.				
427.	Omitted.				
428.	Omitted.				
429.	Omitted.				
430.	Omitted.				
431.	Omitted.				
432.	Omitted.				
	TOTAL FOR OFFICE OF TECHNOLOGY.....			<b>\$0</b>	<b>\$0</b>

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**OFFICE OF TRANSPORTATION**

**§ 1-121. SECRETARY OF TRANSPORTATION (186)**

433.	Administrative and Support Services (79900).....			\$916,840	\$916,840
	General Management and Direction (79901).....	\$916,840	\$916,840		
	Fund Sources: Commonwealth Transportation.....	\$916,840	\$916,840		

Authority: Title 2.2, Chapter 2, Article 10, § 2.2-201, and Titles 33, 46, and 58, Code of Virginia.

A. The transportation policy goals enumerated in this act shall be implemented by the Secretary of Transportation, including the Secretary acting as Chairman of the Commonwealth Transportation Board.

1. The maintenance of existing transportation assets to ensure the safety of the public shall be the first priority in budgeting, allocation, and spending. The highway share of the Transportation Trust Fund shall be used for highway maintenance and operation purposes prior to its availability for new development, acquisition, and construction.

2. It is in the interest of the Commonwealth to have an efficient and cost-effective transportation system that promotes economic development and all modes of transportation, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety. The planning, development, construction, and operations of Virginia's transportation facilities will reflect this goal.

3. To the greatest extent possible, the appropriation of transportation revenues shall reflect planned spending of such revenues by agency and by program.

B. The maximization of all federal transportation funds available to the Commonwealth shall be paramount in the budgetary, spending, and allocation processes.

1. Notwithstanding any provision of law to the contrary, the secretary and all agencies within the transportation secretariat are hereby authorized to take all actions necessary to ensure that federal transportation funds are allocated and utilized for the maximum benefit of the Commonwealth, whether such actions or funds or both are authorized under P.L. 114-94 of the 114th Congress, or any successor or related federal transportation legislation, or regulation, rule, or guidance issued by the U.S. Department of Transportation or any federal agency. The secretary and agencies within the transportation secretariat shall utilize, to the maximum extent practicable, the flexibility provided in federal law, regulation, rule, or guidance to use federal funds in a manner consistent with the Code of Virginia. However, neither the Secretary *nor* an agency in the transportation secretariat may materially delay a project selected pursuant to § 33.2-214.1, Code of Virginia, under the authority in this paragraph.

2. The secretary shall ensure that the allocation of transportation funds apportioned and for which obligation authority is expected to be available under federal law shall be in accordance with such laws and in support of the transportation policy goals enumerated in section A. of this Item. Furthermore, the secretary is authorized to take all actions necessary to allocate the required match for federal highway funds to ensure their appropriate and timely obligation and expenditure within the fiscal constraints of state transportation revenues and in support of the efforts addressed in B.1. By June 1 of each year, the secretary, as Chairman of the Board, shall report to the Governor and General Assembly on the allocation of such federal transportation funds and the actions taken to provide the required match.

3. The board shall only make allocations providing the required match for federal Regional Surface Transportation Block Grant Program funds to those Metropolitan Planning Organizations in urbanized areas greater than 200,000 that, in consultation with the Office of Intermodal Planning and Investment, have developed regional transportation and land use performance measures pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly and have been approved by the board.

4. Projects funded, in whole or part, from federal funds referred to as congestion mitigation

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and air quality improvement, shall be selected as directed by the board. Such funds shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by such agency or recipient, then the board shall use such federal funds for any other project eligible under 23 USC 149.

5. Funds apportioned under federal law for the Surface Transportation Block Grant Program shall be distributed and administered in accordance with federal requirements, including the 22 percent of the non-suballocated portion that is required to be allocated for public transportation purposes. The prioritization process developed under § 33.2-214.1, Code of Virginia, shall not apply to the 22 percent share of the non-suballocated portion allocated for public transportation purposes.

6. Funds made available to the Metropolitan Planning Organizations known as the Regional Surface Transportation Block Grant Program for urbanized areas greater than 200,000 shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by the recipient, then the board may rescind the required match for such federal funds.

7. Notwithstanding paragraph B.2. of this Item, the required matching funds for Transportation Alternatives projects are to be provided by the project sponsor of the federal-aid funding.

8. Federal transportation funds as well as the required state matching funds may be allocated by the Commonwealth Transportation Board for transit purposes under the same rules and conditions authorized by federal law in a manner consistent with the Code of Virginia. The Commonwealth Transportation Board, in consultation with the appropriate local and regional entities, may allocate state revenues to local and regional public transit operators, for operating and/or capital purposes.

9. If a regional area (or areas) of the Commonwealth is determined to be not in compliance with Clean Air Act rules regarding conformity and as a result federal and/or state allocations, apportionments or obligations cannot be used to fund or support transportation projects or programs in that area, such funds may be used to finance demand management, conformity, and congestion mitigation projects to the extent allowed by federal law. Any remaining amount of such allocations, apportionments, or obligations shall be set aside to the extent possible under law for use in that regional area.

10. Appropriations in this act related to federal revenues outlined in this section may be adjusted by the Director, Department of Planning and Budget, upon request from the Secretary of Transportation, as needed to utilize and allocate additional federal funds that may become available.

11. The secretary shall ensure that any bonds issued pursuant to Article 4, Chapter 15 of Title 33.2 shall be programmed to eligible projects selected and funded through the High Priority Projects Program pursuant § 33.2-370 or the Construction District Grant Program pursuant to §33.2-371. In any year such bond proceeds are allocated to one or both of the programs, the secretary shall take all necessary action to ensure that each program is provided with the same overall amount of monies though the mix of bond proceeds, state revenues, and federal revenues provided to each program may vary as deemed appropriate by the secretary.

C. The secretary may ensure that appropriate action is taken to maintain a minimum cash balance and/or cash reserve in the Highway Maintenance and Operating Fund.

D.1. The Office of Intermodal Planning and Investment shall recommend to the Commonwealth Transportation Board all allocations of funds made available in subsections A. and B. of Item 449. The planning and evaluation may be conducted or managed by the Department of Transportation, Department of Rail and Public Transportation, or another qualified entity selected and/or approved by the Commonwealth Transportation Board.

2. The office shall be responsible for implementing the statewide prioritization process pursuant to § 33.2-214.1 for the Commonwealth Transportation Board.

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3. The office shall work directly with affected Metropolitan Planning Organizations to develop and implement quantifiable and achievable goals relating to congestion reduction and safety, transit and HOV usage, job/housing ratios, job and housing access to transit and pedestrian facilities, air quality, and/or per-capital vehicle miles traveled pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly.				
4. For allocation of funds under Paragraph 1, the office may give a higher priority for planning grants to (i) regional organizations to analyze various land development scenarios for their long range transportation plans, (ii) local governments to revise their comprehensive plans and other applicable local ordinances to designate urban development areas pursuant to Chapter 896 of the 2007 Acts of Assembly and incorporate the principles included in such act, and (iii) local governments, regional organizations, transit agencies and other appropriate entities to develop plans for transit oriented development and the expansion of transit service. Such analyses, plans, and ordinances shall be shared with the regional planning district commission or metropolitan planning organization and the Commonwealth Transportation Board.				
E.1. The Commonwealth Transportation Board is hereby authorized to apply for, execute, and/or endorse applications submitted by private entities <i>or political subdivision of the Commonwealth</i> to obtain federal credit assistance for one or more qualifying transportation infrastructure projects or facilities to be developed pursuant to the Public-Private Transportation Act of 1995, as amended. Any such application, agreement and/or endorsement shall not financially obligate the Commonwealth or be construed to implicate the credit of the Commonwealth as security for any such federal credit assistance.				
2. The Commonwealth Transportation Board is hereby authorized to pursue or otherwise apply for, and execute, an agreement to obtain financing using a federal credit instrument for project financings otherwise authorized by this Act or other Acts of Assembly.				
F. Revenues generated pursuant to the provisions of § 58.1-3221.3, Code of Virginia, shall only be used to supplement, not supplant, any local funds provided for transportation programs within the localities authorized to impose the fees under the provisions of § 58.1-3221.3, Code of Virginia.				
G. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds which were authorized in <del>the</del> prior fiscal year but not issued, pursuant to Section 2 of Enactment Clause 2 of Chapter 896 of the 2007 General Assembly Session.				
H. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes.				
I. In programming funds for the reconstruction and rehabilitation of structurally deficient bridges pursuant to § 33.2-358 C.(i), Code of Virginia, the Commonwealth Transportation Board shall consider both state and locally-owned bridges.				
J. All revenues generated under Chapter 896 of the Acts of Assembly of 2007 (HB 3202) and Chapter 766 of the Acts of Assembly of 2013 (HB 2313) that were dedicated to transportation-related funds have been appropriated in conformity with the requirements of those respective chapters.				
<i>K. It is the intent of the General Assembly that the Secretary of Transportation and the Commonwealth Transportation Board shall direct the Virginia Department of Transportation to establish a working group which shall evaluate (i) the impact of increased fuel efficiency and increased use of hybrid and electric vehicles on transportation revenues, and (ii) potential options to provide a sustainable funding stream for transportation infrastructure. The working group shall include, at a minimum, representatives of local government associations, the regional transportation authorities, the trucking industry, the motor dealer industry and the motor fuels industries. The Secretary shall provide a report of the group's findings to the Chairmen of the House and Senate Transportation Committees and the Chairmen of the House Appropriations and Senate Finance Committees no later than December 10, 2019.</i>				

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<i>L. The Secretary of Transportation (Secretary) shall evaluate potential opportunities to mitigate the financial burden on the commuting public at the (i) Downtown Tunnel and (ii) Midtown Tunnel. The Secretary shall report to the Governor, the House and Senate Committees on Transportation, the House Committee on Appropriations, and the Senate Committee on Finance on its findings no later than June 30, 2020.</i>				
<i>M. Notwithstanding § 33.2-502, Code of Virginia, the high-occupancy requirement for a HOT lane facility that is constructed as a result of the Public-Private Transportation Act (§ 33.2-1800 et. seq.) with an initial construction cost in excess of \$3 billion and whose operation, maintenance, or financing is not a result of the same comprehensive agreement that resulted in the facility's construction shall be not less than two.</i>				
Total for Secretary of Transportation.....			<b>\$916,840</b>	<b>\$916,840</b>
Nongeneral Fund Positions.....	6.00	6.00		
Position Level.....	6.00	6.00		
Fund Sources: Commonwealth Transportation.....	\$916,840	\$916,840		

**§ 1-122. VIRGINIA COMMERCIAL SPACE FLIGHT AUTHORITY (509)**

434.	Space Flight Support Services (60800).....			\$15,800,000	\$15,800,000
	Maintenance and Operation of Space Flight Facilities (60801).....	\$15,800,000	\$15,800,000		
	Fund Sources: Commonwealth Transportation.....	\$15,800,000	\$15,800,000		

Authority: Title 2.2, Chapter 22, Code of Virginia.

A. Pursuant to the provisions of Chapters 779 and 817, 2012 Session of the General Assembly, \$15,800,000 in the first year and \$15,800,000 in the second year shall be transferred to the Commonwealth Space Flight Fund as set forth in § 33.2-1526 to support the maintenance and operations of the Virginia Commercial Space Flight Authority.

B. In addition to the amounts included in this item, the Commonwealth Transportation Board shall transfer \$5,000,000 in the second year from the Transportation Trust Fund to the Commonwealth Space Flight Fund to improve existing waterfront facilities for multimodal unmanned vehicle test operations, including small barge and research vessel access, and for the removal of trees adjacent to the existing airfield.

C. In addition to the amounts included in this item, the Commonwealth Transportation Board shall transfer \$2,500,000 in the second year from the Transportation Trust Fund to the Commonwealth Space Flight Fund for completion of launch pad LC-2.

Total for Virginia Commercial Space Flight Authority.....			<b>\$15,800,000</b>	<b>\$15,800,000</b>
Fund Sources: Commonwealth Transportation.....	\$15,800,000	\$15,800,000		

**§ 1-123. DEPARTMENT OF AVIATION (841)**

435.	Financial Assistance for Airports (65400).....			\$28,351,475	\$28,351,475
	Financial Assistance for Airport Maintenance (65401).....	\$1,000,000	\$1,000,000		
	Financial Assistance for Airport Development (65404).....	\$25,976,475	\$25,976,475		
	Financial Assistance for Aviation Promotion (65405).....	\$1,375,000	\$1,375,000		
	Fund Sources: Commonwealth Transportation.....	\$28,351,475	\$28,351,475		

Authority: Title 5.1, Chapters 1, 3, and 5; Title 58.1, Chapter 6, Code of Virginia.

A. It is the intent of the General Assembly that the Department of Aviation match federal funds for Airport Assistance to the maximum extent possible. In furtherance of this maximization, the Commonwealth Transportation Board may request funding from the

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<p>Commonwealth Airport Fund for surface transportation projects that provide airport access. The Aviation Board shall consider such requests and provide funding as it so approves. However, the legislative intent expressed herein shall not be construed to prohibit the Virginia Aviation Board from allocating funds for promotional activities in the event that federal matching funds are unavailable.</p> <p>B. The department is authorized to expend up to \$400,000 the first year and \$400,000 the second year from Aviation Special Funds to support a partnership between industry, academia, and Virginia Small Aircraft Transportation System. The project shall target research efforts to promote safety and greater access for rural airports.</p> <p>C. The department is authorized to pay to the Civil Air Patrol \$100,000 the first year and \$100,000 the second year from Aviation Special Funds. The provisions of § 2.2-1505, Code of Virginia, and § 4-5.05 of this act shall not apply to the Civil Air Patrol.</p> <p>D. Out of the amounts included in this Item, \$500,000 the first year and \$500,000 the second year shall be paid to the Washington Airports Task Force.</p> <p>E.1. By November 1 of each year, the Virginia Aviation Board shall report to the Governor and the General Assembly on the use of Commercial Airport Fund revenues allocated the previous fiscal year. The report shall include at a minimum the following: (i) the use of entitlement funds allocated by each air carrier airport, including the amount of funds that are unobligated; (ii) the award and use of discretionary funds allocated for air carrier and reliever airports by every such airport; and (iii) the award and use of discretionary funds allocated for general aviation airports by every such airport. Such report shall also include the status of ongoing projects funded in whole or in part by the Commonwealth Airport Fund pursuant to subdivision A 3 of § 58.1-638.</p> <p>2. The Board shall have the right to withhold entitlement funds allocated pursuant to subdivision A 3 a of § 58.1-638 in the event that the entitlement utilization plan is not approved by the Board or the airport uses the funds in a manner that is inconsistent with the approved plan.</p> <p>F. It is the intent of the General Assembly that state moneys allocated pursuant to subdivision A 3 of § 58.1-638 shall not be used for (i) operating costs unless otherwise approved by the Virginia Aviation Board, or (ii) purposes related to supporting the operation of an airline, either directly or indirectly, through grants, credit enhancements, or other related means.</p>				
436.	Air Transportation System Planning, Regulation, Communication and Education (65500).....		\$2,931,818	<del>\$2,931,818</del> \$2,991,764
	Aviation Licensing and Regulation (65501).....	\$116,484		<del>\$116,484</del> \$176,430
	Aviation Communication and Education (65502).....	\$882,536		\$882,536
	General Aviation Personnel Development (65503).....	\$26,400		\$26,400
	Air Transportation Planning and Development (65504).....	\$1,906,398		\$1,906,398
	Fund Sources: Commonwealth Transportation.....	\$2,431,818		<del>\$2,431,818</del> \$2,491,764
	Federal Trust.....	\$500,000		\$500,000
	Authority: Title 5.1, Chapter 1, Code of Virginia.			
437.	State Aircraft Flight Operations (65600).....		\$2,257,381	\$2,257,381
	State Aircraft Operations and Maintenance (65602)....	\$2,257,381		\$2,257,381
	Fund Sources: General.....	\$30,246		\$30,246
	Commonwealth Transportation.....	\$2,227,135		\$2,227,135
	Authority: Title 5.1, Chapter 1, Code of Virginia.			
438.	Administrative and Support Services (69900).....		\$2,331,319	\$2,331,319
	General Management and Direction (69901).....	\$2,331,319		\$2,331,319
	Fund Sources: Commonwealth Transportation.....	\$2,331,319		\$2,331,319

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Authority: Title 5.1, Chapter 1, Code of Virginia.				
A. The Director, Department of Aviation, shall prepare general guidelines regarding aircraft acquisition and use that shall include a requirement for state agencies to develop written policies on usage, charge rates and record-keeping. The Director shall examine the aircraft needs of state agencies and determine the most efficient and effective method of organizing and managing the Commonwealth's aircraft operations. The Director shall implement the aircraft management system he determines to be most suitable and revise it periodically as the need arises.				
B. The Virginia Aviation Board and the Department of Aviation may obligate funds in excess of the current biennium appropriation for aviation financial assistance programs supported by the Commonwealth Transportation Fund provided 1) sufficient cash is available to cover projected costs in each year and 2) sufficient revenues are projected to meet all cash obligations for new obligations as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.				
Total for Department of Aviation.....			<b>\$35,871,993</b>	<b>\$35,871,993</b> <b>\$35,931,939</b>
Nongeneral Fund Positions.....	34.00	<del>34.00</del> 37.00		
Position Level.....	34.00	<del>34.00</del> 37.00		
Fund Sources: General.....	\$30,246	\$30,246		
Commonwealth Transportation.....	\$35,341,747	<del>\$35,341,747</del> \$35,401,693		
Federal Trust.....	\$500,000	\$500,000		

**§ 1-124. DEPARTMENT OF MOTOR VEHICLES (154)**

439. Ground Transportation Regulation (60100).....			<del>\$214,197,223</del> \$214,215,235	<del>\$211,657,741</del> \$211,832,588
Customer Service Centers Operations (60101).....	\$148,942,473	<del>\$153,523,491</del> \$153,389,781		
Ground Transportation Regulation and Enforcement (60103).....	\$44,194,258	<del>\$44,194,258</del> \$44,327,968		
Motor Carrier Regulation Services (60105).....	<del>\$21,060,492</del> \$21,078,504	<del>\$13,939,992</del> \$14,114,839		
Fund Sources: Commonwealth Transportation.....	<del>\$206,750,623</del> \$206,768,635	<del>\$204,211,141</del> \$204,385,988		
Trust and Agency.....	\$5,446,600	\$5,446,600		
Federal Trust.....	\$2,000,000	\$2,000,000		

Authority: Title 46.2, Chapters 1, 2, 3, 6, 8, 10, 12, 15, 16, and 17; §§ 18.2-266 through 18.2-272; Title 58.1, Chapters 21 and 24, Code of Virginia. Title 33, Chapter 4, United States Code.

A. The Commissioner, Department of Motor Vehicles, is authorized to establish, where feasible and cost efficient, contracts with private/public partnerships with commercial operations, to provide for simplification and streamlining of service to citizens through electronic means. Provided, however, that such commercial operations shall not be entitled to compensation as established under § 46.2-205, Code of Virginia, but rather at rates limited to those established by the commissioner.

B. The Department of Motor Vehicles shall work to increase the use of alternative service delivery methods, which may include offering discounts on certain transactions conducted online, as determined by the department. As part of its effort to shift customers to internet usage where applicable, the department shall not charge its customers for the use of credit cards for internet or other types of transactions; however, this restriction shall not apply with respect to any credit or debit card transactions the department conducts on behalf of another agency, provided (i) the other agency is authorized to charge customers for the use of credit or debit cards and (ii) the merchant's fees and other transaction costs imposed by

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the card issuer are charged to the department.				
C. In order to provide citizens of the Commonwealth greater access to the Department of Motor Vehicles, the agency is authorized to enter into an agreement with any local constitutional officer or combination of officers to act as a license agent for the department, with the consent of the chief administrative officer of the constitutional officer's county or city, and to negotiate a separate compensation schedule for such office other than the schedule set out in § 46.2-205, Code of Virginia. Notwithstanding any other provision of law, any compensation due to a constitutional officer serving as a license agent shall be remitted by the department to the officer's county or city on a monthly basis, and not less than 80 percent of the sums so remitted shall be appropriated by such county or city to the office of the constitutional officer to compensate such officer for the additional work involved with processing transactions for the department. Funds appropriated to the constitutional office for such work shall not be used to supplant existing local funding for such office, nor to reduce the local share of the Compensation Board-approved budget for such office below the level established pursuant to general law.				
D. The base compensation for DMV Select Agents shall be set at 4.5 percent of gross collections for the first \$500,000 and 5.0 percent of all gross collections in excess of \$500,000 made by the entity during each fiscal year on such state taxes and fees in place as a matter of law. The commissioner shall supply the agents with all necessary agency forms to provide services to the public, and shall cause to be paid all freight and postage, but shall not be responsible for any extra clerk hire or other business-related expenses or business equipment expenses occasioned by their duties.				
E. Out of the amounts identified in this Item, an amount estimated at <del>\$332,789,350,801</del> the first year and <del>\$332,789,350,801</del> the second year from the Commonwealth Transportation Fund shall be paid to the Washington Metropolitan Area Transit Commission.				
F.1. Notwithstanding any other provision of law, the department shall assess a minimum fee of \$15 for all titles. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
2. Notwithstanding any other provision of law, the department shall assess a \$10 late fee on all registration renewal transactions that occur after the expiration date. The late fee shall not apply to those exceptions granted under § 46.2-221.4, Code of Virginia. In assessing the late renewal fee the department shall provide a ten day grace period for transactions conducted by mail to allow for administrative processing. This grace period shall not apply to registration renewals for vehicles registered under the International Registration Plan. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
3. Notwithstanding any other provision of law, the department shall establish a \$20 minimum fee for original driver's licenses and replacements. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
G. The Department of Motor Vehicles is hereby granted approval to renew or extend existing capital leases due to expire during the current biennium for existing customer service centers.				
H. The Department of Motor Vehicles is hereby appropriated revenues from the additional sales tax on fuel in certain transportation districts to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 58.1-2295, Code of Virginia.				
I. The Commissioner of the Department of Motor Vehicles, in consultation with the Commissioner of Highways, shall take such steps as may be necessary to expand access to the E-ZPass program through its customer service channels using such locations and methods as are practicable.				
J. The Department of Motor Vehicles is hereby granted approval to distribute the transactional charges of the Cardinal accounting system to state agencies, when the transactions involve funds passed through the department to the benefiting agency. This paragraph shall not pertain to Direct Aid to Public Education.				
K. The Department of Motor Vehicles is hereby granted approval to distribute a portion of its indirect cost allocation charge to another state agency when the charge is related to revenue				

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<p>collected and transferred by the department to the state agency. Such transfers shall be based on the agency's proportionate share of the department's total transactions in the immediately preceding fiscal year. The Department shall annually submit to the Department of Planning and Budget a summary of the transfer amounts and the transaction volumes used to allocate the internal cost amounts.</p> <p>L. Notwithstanding § 46.2-688, Code of Virginia, the Department of Motor Vehicles shall not be required to refund a proration of the total cost of a motor vehicle registration when less than six months remain in the registration period. Any resulting savings shall be retained and used to meet the expenses of the Department.</p> <p>M. Notwithstanding § 46.2-342, Code of Virginia, the Department of Motor Vehicles shall not be required to include organ donation brochures with every driver's license renewal notice or application mailed to licensed drivers.</p> <p>N. The Commissioner shall only refuse to issue or renew any vehicle registration pursuant to subsection L of § 46.2-819.3:1 of an operator or owner of a vehicle who has no prior resolution, whether that resolution is by settlement or conviction, for offenses under § 46.2-819.3:1 if, in addition to the conditions set forth in subsection L of § 46.2-819.3:1 for such refusal, the toll operator has offered the individual a settlement of no more than \$2,200.</p> <p>O.1. Pursuant to § 3-2.03 of this act, a line of credit up to \$10,500,000 is provided to the Department of Motor Vehicles as a temporary cash flow advance. The Department shall transfer such related funds to its special fund. Funds received from the line of credit shall be used to support operational costs related to the implementation and issuance of REAL ID compliant credentials. The Department is authorized to impose a \$10 surcharge on all first issuances of REAL ID compliant credentials that are acceptable for federal purposes. The surcharge shall be used to reimburse the line of credit. The request for the line of credit shall be prepared in the formats as approved by the Secretary of Finance and Secretary of Transportation.</p> <p>2. At least 10 days prior to any draw downs from this line of credit, the Secretaries of Finance and Transportation shall report to the Chairmen of the House Appropriations and Senate Finance Committees the following: (i) the amount of any proposed draw down, (ii) the incremental and cumulative costs associated with system modifications and equipment, (iii) the incremental and cumulative number of full-time equivalent positions and part-time positions filled to support the implementation of the federal REAL ID Act, and (iv) the intended usage of any new draw downs. Subsequent to October 1, 2018, the department shall report on a quarterly basis to the Chairmen of the House Appropriations and Senate Finance Committees on the number of REAL ID compliant credentials that have been issued and any changes in average wait times at DMV offices that have resulted from the increased workload. The first report shall be submitted by January 1, 2019 for the period October 1, 2018 through December 31, 2018, and additional reports shall be submitted every three months thereafter.</p> <p>P. The Commissioner of the Department of Motor Vehicles, in consultation with applicable stakeholder groups, shall report on the feasibility and advisability of outsourcing driver license road tests for adults. Such report shall be submitted to the Chairmen of the House and Senate Transportation Committees no later than November 15, 2018.</p>					
440.	Ground Transportation System Safety Services (60500).....			\$7,334,034	<del>\$7,334,034</del> \$7,177,199
	Highway Safety Services (60508).....	\$7,334,034	<del>\$7,334,034</del> \$7,177,199		
	Fund Sources: Commonwealth Transportation.....	\$5,601,710	<del>\$5,601,710</del> \$5,444,875		
	Federal Trust.....	\$1,732,324	\$1,732,324		
<p>Authority: §§ 46.2-222 through 46.2-224, Code of Virginia; Chapter 4, United States Code.</p>					

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441.	Administrative and Support Services (69900).....			\$74,562,219	\$74,562,219
	General Management and Direction (69901).....	\$30,884,836	\$30,884,836		
	Information Technology Services (69902).....	\$38,505,554	\$38,505,554		
	Facilities and Grounds Management Services (69915).....	\$5,171,829	\$5,171,829		
	Fund Sources: Commonwealth Transportation.....	\$72,325,219	\$72,325,219		
	Federal Trust.....	\$2,237,000	\$2,237,000		
	Authority: Title 46.2, Chapters 1 and 2, and § 46.2-214.3; Title 58.1, Chapters 17, 21, and 24, Code of Virginia.				
	The Department of Transportation shall reimburse the Department of Motor Vehicles for the operating costs of the Fuels Tax Evasion Program.				
	Total for Department of Motor Vehicles.....			<b>\$296,093,476</b> <b>\$296,111,488</b>	<b>\$293,553,994</b> <b>\$293,572,006</b>
	Nongeneral Fund Positions.....	2,080.00	2,080.00		
	Position Level.....	2,080.00	2,080.00		
	Fund Sources: Commonwealth Transportation.....	<del>\$284,677,552</del>	<del>\$282,138,070</del>		
		<del>\$284,695,564</del>	<del>\$282,156,082</del>		
	Trust and Agency.....	\$5,446,600	\$5,446,600		
	Federal Trust.....	\$5,969,324	\$5,969,324		

**Department of Motor Vehicles Transfer Payments (530)**

442.	Ground Transportation System Safety Services (60500).....			\$26,255,029	\$26,255,029
	Financial Assistance for Transportation Safety (60507).....	\$26,255,029	\$26,255,029		
	Fund Sources: Federal Trust.....	\$26,255,029	\$26,255,029		
	Authority: §§ 46.2-222 through 46.2-223, Code of Virginia; Chapter 4, United States Code.				
443.	Financial Assistance to Localities - General (72800)...			<del>\$85,691,500</del> <del>\$157,391,500</del>	<del>\$85,691,500</del> <del>\$159,591,500</del>
	Financial Assistance to Localities - Mobile Home Tax (72803).....	\$5,500,000	\$5,500,000		
	Financial Assistance to Localities for the Disposal of Abandoned Vehicles (72814).....	\$391,500	\$391,500		
	Distribution of Sales Tax on Fuel in Certain Transportation Districts (72815).....	<del>\$79,800,000</del> <del>\$151,500,000</del>	<del>\$79,800,000</del> <del>\$153,700,000</del>		
	Fund Sources: Commonwealth Transportation.....	\$391,500	\$391,500		
	Trust and Agency.....	\$5,500,000	\$5,500,000		
	Dedicated Special Revenue.....	<del>\$79,800,000</del> <del>\$151,500,000</del>	<del>\$79,800,000</del> <del>\$153,700,000</del>		

Authority: §§ 46.2-416, 58.1-2402, and 58.1-2425, and 46.2-1200 through 46.2-1207, Code of Virginia.

A. Funds collected pursuant to § 58.1-2291 et seq., Code of Virginia, from the additional sales tax on fuel in certain transportation districts under § 58.1-2291 et seq., Code of Virginia, shall be returned to the respective commissions in amounts equivalent to the shares collected in the respective member jurisdictions. The amounts generated from the sales tax on fuel in certain transportation districts in this item are estimated at \$61,200,000 to the Northern Virginia Transportation Commission, \$40,800,000 to the Potomac and Rappahannock Transportation Commission, and \$49,500,000 to the Hampton Roads Transportation Accountability Commission in the first year and \$62,000,000 to the Northern Virginia Transportation Commission, \$41,400,000 to the Potomac and Rappahannock Transportation Commission, and \$50,300,000 to the Hampton Roads Transportation Accountability Commission in the second year. These estimates are listed for informational purposes only.

ITEM 443.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>B. Notwithstanding any other provision of law, the Commissioner may divulge tax information collected pursuant to § 58.1-2291 et seq., Code of Virginia, to the executive director or designee of the Northern Virginia Transportation Commission, the Potomac and Rappahannock Transportation Commission, and the Hampton Roads Transportation Accountability Commission for their confidential use of such tax information as may be necessary to facilitate the collection of the taxes collected in the respective member jurisdictions. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed in § 58.1-3, Code of Virginia, as though that person were a tax official as defined in that section.</p>				
Total for Department of Motor Vehicles Transfer Payments.....			<b>\$111,946,529</b>	<b>\$111,946,529</b>
			<b>\$183,646,529</b>	<b>\$185,846,529</b>
Fund Sources: Commonwealth Transportation.....	\$391,500	\$391,500		
Trust and Agency.....	\$5,500,000	\$5,500,000		
Dedicated Special Revenue.....	<del>\$79,800,000</del>	<del>\$79,800,000</del>		
	<i>\$151,500,000</i>	<i>\$153,700,000</i>		
Federal Trust.....	\$26,255,029	\$26,255,029		
Grand Total for Department of Motor Vehicles.....			<b>\$408,040,005</b>	<b>\$405,500,523</b>
			<b>\$479,758,017</b>	<b>\$479,418,535</b>
Nongeneral Fund Positions.....	2,080.00	2,080.00		
Position Level.....	2,080.00	2,080.00		
Fund Sources: Commonwealth Transportation.....	<del>\$285,069,052</del>	<del>\$282,529,570</del>		
	<i>\$285,087,064</i>	<i>\$282,547,582</i>		
Trust and Agency.....	\$10,946,600	\$10,946,600		
Dedicated Special Revenue.....	<del>\$79,800,000</del>	<del>\$79,800,000</del>		
	<i>\$151,500,000</i>	<i>\$153,700,000</i>		
Federal Trust.....	\$32,224,353	\$32,224,353		

**§ 1-125. DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION (505)**

444.	Ground Transportation Planning and Research (60200).....			\$3,347,198	\$3,347,198
	Rail and Public Transportation Planning, Regulation, and Safety (60203).....	\$3,347,198	\$3,347,198		
	Fund Sources: Commonwealth Transportation.....	\$3,347,198	\$3,347,198		
	Authority: Titles 33.2 and 58.1, Code of Virginia.				
445.	Financial Assistance for Public Transportation (60900).....			\$443,248,455	\$443,248,455
	Public Transportation Programs (60901).....	\$420,042,153	\$420,042,153		
	Congestion Management Programs (60902).....	\$13,344,000	\$13,344,000		
	Human Service Transportation Programs (60903)....	\$9,862,302	\$9,862,302		
	Fund Sources: Special.....	\$1,139,844	\$1,139,844		
	Commonwealth Transportation.....	\$442,108,611	\$442,108,611		

Authority: Titles 33.2 and 58.1, Code of Virginia.

A.1. Except as provided in Item 447, the Commonwealth Transportation Board shall allocate all monies in the Commonwealth Mass Transit Fund, as provided herein and in § 33.2-1526.1, Code of Virginia. The total appropriation for the Commonwealth Mass Transit Fund is estimated to be \$296,028,000 the first year and \$296,079,000 the second year from the Transportation Trust Fund. From these funds, the following estimated allocations shall be made:

a. \$90,932,000 the first year and \$90,948,000 the second year to statewide Operating Assistance as provided in § 33.2-1526.1.C.1., Code of Virginia.

b. \$36,666,000 the first year and \$36,672,000 the second year from the Commonwealth

ITEM 445.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Mass Transit Fund to statewide Capital Assistance.				
c. \$156,930,000 the first year and \$156,958,000 the second year from the Commonwealth Mass Transit Fund to the Northern Virginia Transportation Commission to support the operating and capital costs of the Washington Metropolitan Area Transit Authority.				
d. Notwithstanding the provisions of paragraph A.1.a, A.1.b, and A.1.c of this item, prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate funding from the Commonwealth Mass Transit Fund to implement the transit and transportation demand management improvements identified for the I-95 corridor. Such costs shall include only direct transit capital and operating costs as well as transportation demand management activities. Costs associated with additional park and ride lots required to be funded by the Commonwealth under the provisions of the Comprehensive Agreement for the Interstate 95 High Occupancy Toll Lanes project shall be borne by the Department of Transportation as set out in Item 450 of this act.				
2. Included in this item is \$1,500,000 the first year and \$1,500,000 the second year from the Commonwealth Mass Transit Trust Fund. These allocations are designated for "paratransit" capital projects and enhanced transportation services for the elderly and disabled.				
3. Included in this item is an amount estimated at \$1,200,000 the first year and \$1,200,000 the second year from the Commonwealth Mass Transit Trust Fund. These allocations are designated for federally mandated state safety oversight of fixed rail guideway transit agencies located in the Commonwealth.				
4. a. From the amounts appropriated in this item from the Commonwealth Mass Transit Fund, \$8,800,000 the first year and \$8,801,000 the second year is the estimated allocation to statewide Special Programs as provided in § 33.2-1526.1, Code of Virginia.				
b. From the amounts provided for Special Programs, the Commonwealth Transportation Board shall operate a program entitled the Transportation Efficiency Improvement Fund (TEIF). The purpose of the TEIF program is to reduce traffic congestion by supporting transportation demand management programs and projects designed to reduce the movement of passengers and freight on Virginia's highway system.				
5. The amount allocated for public transportation purposes according to Item 433 B. 5. is an amount estimated at \$25,583,000 the first year and \$25,583,000 the second year from federal sources for the Surface Transportation Block Grant (STBG) program.				
B. Funds from a stable and reliable source, as required in Public Law 96-184, as amended, are to be provided to Metro from payments authorized and allocated in this program and pursuant to §§ 58.1-1720 and 58.1-2295, Code of Virginia. Notwithstanding any other provision of law, funds allocated to Metro under this program may be disbursed by the Department of Rail and Public Transportation directly to Metro or to any other transportation entity that has an agreement to provide funding to Metro as deemed appropriate by the Department. In appointing the Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern Virginia Transportation Commission shall include the Secretary of Transportation or his designee as a principal member on the WMATA board of directors.				
C. All Commonwealth Mass Transit Funds appropriated for Financial Assistance for Public Transportation shall be used only for public transportation purposes as defined by the Federal Transit Administration or outlined in § 58.1-638 A.4. or in § 33.2-156.1, Code of Virginia.				
D. It is the intent of the General Assembly that no transit operating assistance funding, as provided in A.1.a. of this item, be used to support any new transit system or route at a level higher than such project would be eligible for under the allocation formula set out in § 33.2-1526.1 C. 1., Code of Virginia, beyond the first two years of its operation.				
E. The Director, Department of Planning and Budget, is hereby authorized, upon request by the Secretary of Transportation, to transfer an amount not to exceed \$6,214,575 in the first year and \$6,214,575 in the second year from the amounts appropriated in Item 450 of this act to the Department of Rail and Public Transportation. Such transfers shall be considered loans, and are intended to hold harmless transit agencies that operate in the Commonwealth that receive urbanized transit funds pursuant to 49 U.S.C 5307 whose funds have been withheld by				

ITEM 445.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

the Federal Transit Administration until the certification of the Metro Safety Commission by the Federal Transit Administration. The Department may disburse, subject to appropriate repayment terms, such funds to affected transit agencies in an amount not to exceed the funds withheld by the Federal Transit Administration. To the extent repayment is not made as required by the agreement between the Department and an affected transit agency, the Department is directed to withhold the payment amount due from funds provided to such transit agency pursuant to §58.1-638 A. 4. b. 1. of the Code of Virginia in order to return such amounts to the Department of Transportation. However, no funds from such loan shall be disbursed to any transit agency until such agency has expended all funds available for their use from federal fiscal year 2016. The specific terms and structure of any loan shall be approved by the Secretary of Transportation, upon consultation with the Chairmen of the House Appropriations and Senate Finance Committees, or their designees.

F.1. The Department of Rail and Public Transportation, in conjunction with the Department of Treasury and the Department of General Services shall investigate options to develop a program for the financing of statewide transit capital needs using the Master Equipment Leasing Program currently operated through the Department of the Treasury as a model to facilitate group purchases of mass transit equipment. The goal of the program would be twofold: (i) to achieve cost savings through bulk purchases and (ii) to establish a revolving fund to meet transit capital replacement needs that does not rely on the use of longer-term debt for items with a limited life cycle.

2. As part of this effort, the department shall convene a work group that includes representatives from the Northern Virginia, Rappahannock and Potomac, and Hampton Roads Transportation District Commissions, at least one transit property that is not a member of a Transportation District Commission, the Virginia Municipal League and the Virginia Association of Counties. The work group shall utilize the Report of the Transit Capital Revenue Advisory Board findings relating to state of good repair needs to develop and estimate of the amount of transit capital funding needed annually and shall also identify potential sources within the Transportation Trust Fund that could be used to provide lease payments for the program.

3. The Director of the Department of Rail and Public Transportation shall submit a report on the proposed program, including legal requirements, terms, rates and operational structure to the Governor, the Chairman of the House Appropriations Committee and the Senate Finance Committee by November 1, 2018.

*G. The Commonwealth Transportation Board may allocate supplemental operating funds in fiscal year 2020 to any transit provider that receives funds to support operating costs pursuant to § 33.2-1526.1 C. 1., and that is negatively impacted by a loss of operating funds as a direct result of the performance-based allocation process set forth in Chapter 854 of the Acts of Assembly of 2018. The maximum amount of supplemental operating funds available pursuant to this authorization shall not exceed \$3,000,000 from the nongeneral fund amounts available to the department.*

446.	Financial Assistance for Rail Programs (61000).....			\$127,488,369	\$127,488,369
	Rail Industrial Access (61001).....	\$3,000,000	\$3,000,000		
	Rail Preservation Programs (61002).....	\$14,583,520	\$14,583,520		
	Passenger and Freight Rail Financial Assistance Programs (61003).....	\$109,904,849	\$109,904,849		
	Fund Sources: Special.....	\$1,000,000	\$1,000,000		
	Commonwealth Transportation.....	\$126,488,369	\$126,488,369		

Authority: Title 33.2, Code of Virginia.

A. 1. Except as provided in Item 447, the Commonwealth Transportation Board shall operate the Shortline Railway Preservation and Development program in accordance with § 33.2-1602, Code of Virginia. As determined by the board, funds apportioned pursuant to § 33.2-1530, Code of Virginia, shall be appropriated to the Shortline Railway Preservation and Development Program. Total funding appropriated to the Shortline Railway Preservation and Development Program from this source shall not exceed \$4,000,000 the first year and \$4,000,000 the second year.

ITEM 446.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>2. The board may allocate up to 20 percent of the annual revenue of the Rail Enhancement Fund established through § 33.2-1601, Code of Virginia, to the Shortline Railway Preservation and Development Fund. Should funds established in § 33.2-1601, Code of Virginia, be allocated for the purposes outlined in § 33.2-1602, Code of Virginia, the Director of the Department of Rail and Public Transportation shall administer and expend the funds subject to the approval of the board and according to the authority outlined in § 33.2-1602; the requirements of § 33.2-1601 shall not apply.</p> <p>B. The Commonwealth Transportation Board shall operate the Rail Industrial Access Program in accordance with § 33.2-1600, Code of Virginia. The board may allocate funds pursuant to § 33.2-358, Code of Virginia, to the fund for construction of industrial access railroad tracks.</p> <p>C. Of the funds appropriated pursuant to Chapters 1019 and 1044 of the 2000 Acts of Assembly for passenger rail capacity improvements in the I-95 passenger rail corridor between Richmond and the District of Columbia, the Director of the Department of Rail and Public Transportation is authorized to utilize any remaining funds along the described corridor for the development of intercity passenger rail enhancements to include rail improvements and passenger station facilities.</p> <p>D. Because of the overwhelming need for the delivery of services provided by the investment in a balanced transportation system in the Commonwealth, and in an effort to deliver intercity passenger trains utilizing the Commonwealth's investments and to increase passenger train frequencies to Norfolk and Roanoke, notwithstanding the provisions of § 33.2-1601 and § 33.2-1603, Code of Virginia, the Commonwealth Transportation Board may only make further investments in intercity passenger rail capacity to serve new markets in North Carolina, provided the Six-Year Improvement Plan adopted pursuant to § 33.2-214, Code of Virginia includes sufficient funding to complete projects underway to deliver train capacity improvements and provides the funding for service for additional passenger rail frequency to Norfolk and an extension of passenger rail to Roanoke. Any Rail Enhancement Funds utilized for the purposes of the service delivery outlined in this paragraph shall be administered according to the guidelines governing the use of Intercity Passenger Rail Operating and Capital Funds.</p>				
447.	Administrative and Support Services (69900).....		\$16,409,091	\$16,409,091
	General Management and Direction (69901).....	\$16,409,091	\$16,409,091	
	Fund Sources: Commonwealth Transportation.....	\$16,409,091	\$16,409,091	
	Authority: Titles 33.2 and 58.1, Code of Virginia.			
<p>A. The Director, Department of Planning and Budget, is authorized to adjust appropriations and allotments for the Department of Rail and Public Transportation to reflect changes in the official revenue estimates for commonwealth transportation funds.</p> <p>B. The Commonwealth Transportation Board may allocate up to 3.5 percent of the revenues available each year in the funds established pursuant to §§ 33.2-1601, 33.2-1602, and subdivision A4 of § 58.1-638, and up to 5 percent of the revenues available each year in the fund established pursuant to § 33.2-1603 to support costs of project development, project administration and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management programs and grants .</p>				
	Total for Department of Rail and Public Transportation.....		\$590,493,113	\$590,493,113
	Nongeneral Fund Positions.....	64.00	64.00	
	Position Level.....	64.00	64.00	
	Fund Sources: Special.....	\$2,139,844	\$2,139,844	
	Commonwealth Transportation.....	\$588,353,269	\$588,353,269	
<b>§ 1-126. DEPARTMENT OF TRANSPORTATION (501)</b>				
448.	Environmental Monitoring and Evaluation (51400).....		\$24,060,509 \$24,211,863	\$21,412,022 \$20,494,379

ITEM 448.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Environmental Monitoring and Compliance for Highway Projects (51408).....	\$7,752,122 \$6,722,931	\$7,945,925 \$6,876,404		
Environmental Monitoring Program Management and Direction (51409).....	\$3,131,597 \$3,293,882	\$3,209,887 \$3,356,739		
Municipal Separate Storm Sewer System (MS4) Compliance Activities (51410).....	\$13,176,790 \$14,195,050	\$10,256,210 \$10,261,236		
Fund Sources: Commonwealth Transportation.....	\$24,060,509 \$24,211,863	\$21,412,022 \$20,494,379		
449. Ground Transportation Planning and Research (60200).....			\$74,664,920 \$75,153,449	\$76,333,475 \$76,658,340
Ground Transportation System Planning (60201)....	\$61,250,286 \$61,573,678	\$62,601,600 \$62,853,660		
Ground Transportation System Research (60202)....	\$9,368,150 \$9,500,838	\$9,584,229 \$9,606,334		
Ground Transportation Program Management and Direction (60204).....	\$4,046,484 \$4,078,933	\$4,147,646 \$4,198,346		
Fund Sources: Commonwealth Transportation.....	\$74,664,920 \$75,153,449	\$76,333,475 \$76,658,340		
Authority: Title 33.2, Code of Virginia.				
A. Included in the amount for ground transportation system planning and research is no less than \$6,500,000 the first year and no less than \$6,500,000 the second year from the highway share of the Transportation Trust Fund for the planning and evaluation of options to address transportation needs.				
B. In addition, the Commonwealth Transportation Board may approve the expenditures of up to \$500,000 the first year and \$500,000 the second year from the highway share of the Transportation Trust Fund for the completion of advance activities, prior to the initiation of an individual project's design along existing highway corridors, to determine short-term and long-term improvements to the corridor. Such activities shall consider safety, access management, alternative modes, operations, and infrastructure improvements. Such funds shall be used for, but are not limited to, the completion of activities prior to the initiation of an individual project's design or to benefit identification of needs throughout the state or the prioritization of those needs. For federally eligible activities, the activity or item shall be included in the Commonwealth Transportation Board's annual update of the Six-Year Improvement program so that (i) appropriate federal funds may be allocated and reimbursed for the activities and (ii) all requirements of the federal Statewide Transportation Improvement Program can be achieved.				
C. Notwithstanding the provisions of Chapter 729 and Chapter 733 of the 2012 Acts of Assembly, the Commonwealth Transportation Board shall not reallocate any funds from projects on roadways controlled by any county that has withdrawn or elects to withdraw from the secondary system of state highways, nor from any roadway controlled by a city or town as part of the state's urban roadway system, based on a determination of nonconformity with the Commonwealth Transportation Board's Statewide Transportation Plan or the Six-Year Improvement Program. In jurisdictions that maintain roadways within their boundaries, the provisions of § 33.2-214, Code of Virginia, shall apply only to highways controlled by the Department of Transportation.				
D. The prioritization process developed under § 33.2-214.1, Code of Virginia, shall not apply to use of funds provided in this Item from the federal apportionments in the State Planning and Research Program.				
450. Highway Construction Programs (60300).....			\$2,594,951,490 \$2,907,209,244	\$2,173,595,205 \$2,447,228,540
Highway Construction Program Management (60315).....	\$40,728,351 \$42,834,638	\$41,739,060 \$42,367,081		

ITEM 450.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
State of Good Repair Program (60320).....	\$68,943,750	\$38,800,246		
	\$85,614,863	\$43,176,315		
High Priority Projects Program (60321).....	\$133,650,650	\$175,389,941		
	\$144,334,403	\$113,834,068		
Construction District Grant Programs (60322).....	\$133,650,648	\$175,389,941		
	\$156,831,439	\$109,161,887		
Specialized State and Federal Programs (60323).....	\$1,739,053,012	\$1,232,495,067		
	\$1,985,035,681	\$1,608,632,265		
Legacy Construction Formula Programs (60324).....	\$478,925,079	\$509,780,950		
	\$492,558,220	\$530,056,924		
Fund Sources: General.....	\$0	\$0		
Commonwealth Transportation.....	\$2,375,558,246	\$1,836,380,620		
	\$2,687,816,000	\$2,110,013,955		
Trust and Agency.....	\$219,393,244	\$337,214,585		

Authority: Title 33.2, Chapter 3; Code of Virginia; Chapters 8, 9, and 12, Acts of Assembly of 1989, Special Session II.

A. From the appropriation for specialized state and federal programs funds shall be distributed as follows:

1. \$108,071,298 the first year and ~~\$113,028,115~~ \$119,318,608 the second year in federal state and matching funds shall be allocated for regional Surface Transportation Block Grant Funds and distributed to applicable metropolitan planning organizations pursuant to 23 USC 133;
2. \$53,122,502 the first year and \$53,122,502 the second year in federal and state matching funds shall be allocated for the Highway Safety Improvement Program pursuant to 23 USC 148;
3. \$78,058,001 the first year and ~~\$77,859,551~~ \$81,142,944 the second year in federal and state matching funds shall be allocated for the Congestion Mitigation Air Quality program pursuant to 23 USC 149;
4. \$100,000,000 the first year and \$100,000,000 the second year shall be allocated for the Revenue Sharing Program pursuant to § 33.2-357, Code of Virginia;
5. \$20,265,939 the first year and ~~\$20,089,434~~ \$20,087,475 the second year in federal funds shall be allocated for the Surface Transportation Block Grant Program Set-Aside to 23 USC 133(h).
6. \$424,441,132 the first year and ~~\$345,367,043~~ \$265,367,043 the second year in appropriation represents the estimated project participation costs from localities and regional entities.
7. \$150,908,817 the second year in this appropriation represents the bond proceeds to be used for the Route 58 Corridor Development Program.
8. \$2,736,051 the first year and \$4,183,261 the second year in state funds shall be allocated to the Virginia Transportation Infrastructure Bank pursuant to § 33.2-1500 et seq, Code of Virginia.
9. \$1,368,025 the first year and \$2,091,630 the second year in state funds shall be allocated to the Transportation Partnership Opportunity Fund pursuant to § 33.2-1529.1, Code of Virginia.

B. Notwithstanding § 33.2-358, Code of Virginia, the proceeds from the lease or sale of surplus and residue property purchased under this program in excess of related costs shall be applied to the State of Good Repair Program pursuant to § 33.2-369, Code of Virginia. Proceeds must be used on Federal Title 23 eligible projects.

C. The Director of the Department of Planning and Budget is authorized to increase the appropriation as needed to utilize amounts available from prior year balances in the dedicated funds and adjust items to the most recent Commonwealth Transportation Board budget.

D. Funds appropriated for legacy formula construction programs shall be used for the purposes enumerated in subsection C of § 33.2-358, Code of Virginia, or as previously appropriated.

ITEM 450.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

E. Included in the amounts for specialized state and federal programs is the reappropriation of \$145,700,000 the first year and ~~\$131,300,000~~ \$135,100,000 the second year from bond proceeds or dedicated special revenues for anticipated expenditure of amounts collected in prior years. The amounts will be provided from balances in the Capital Projects Revenue Bond Fund, Federal Transportation Grant Anticipation Revenue Bond Fund, Northern Virginia Transportation District Fund, State Route 28 Highway Improvement District Fund, U.S. Route 58 Corridor Development Fund and the Priority Transportation Fund. These amounts were originally appropriated when received or forecasted and are not related to FY 2017 and FY 2018 estimated revenues.

F. The Director of the Department of Planning and Budget is authorized to increase the appropriation as needed to utilize amounts available from prior year balances in the ~~Concession~~Concession Payments Account to support project activities.

G. For funds allocated in § 58.1-1741, Code of Virginia, to state of good repair purposes for fiscal year 2019 and fiscal year 2020; the distribution of funding in subsections (B) and (C) of § 33.2-369; Code of Virginia; will not apply. The Commonwealth Transportation Board may allocate funds to state of good repair purposes for reconstruction and replacement of structurally deficient state and locally owned bridges and reconstruction and rehabilitation of pavement on the interstate system and primary state highway system determined to be deteriorated by the board; including municipality-maintained primary extensions; as well as to work related to the condition assessment and pavement rehabilitation of secondary highways and other related work to improve secondary highways.

H. The Commonwealth Transportation Board shall, no later than December 1, 2018, review and report to the Chairmen of the House and Senate Committees on Transportation, the Joint Transportation Accountability Commission, the House Committee on Appropriations and the Senate Committees on Finance, on the overall condition and funding needs of large and unique bridge and tunnel structures in the Commonwealth. As part of the review, the Board shall make recommendations addressing funding of such projects within the State of Good Repair program. In developing these recommendations the Board shall assess the impact of establishing a set aside from the State of Good Repair funding pot, limited use of the provisions of § 33.2-369 B., Code of Virginia, which allows for the waiving of district minimum caps in a single year, or such other options as they might identify.

451. Highway System Maintenance and Operations (60400).....			\$1,719,918,399	\$1,685,842,192
			\$1,978,877,656	\$1,992,859,424
Interstate Maintenance (60401).....	\$319,352,830	\$312,119,525		
	\$439,078,579	\$442,264,643		
Primary Maintenance (60402).....	\$469,662,397	\$458,613,079		
	\$591,903,773	\$595,965,645		
Secondary Maintenance (60403).....	\$655,610,560	\$646,843,136		
	\$604,321,956	\$608,513,522		
Transportation Operations Services (60404).....	\$194,533,844	\$188,351,801		
	\$266,309,352	\$268,459,641		
Highway Maintenance Operations, Program Management and Direction (60405).....	\$80,758,768	\$79,914,651		
	\$77,263,996	\$77,655,973		
Fund Sources: Commonwealth Transportation.....	\$1,719,918,399	\$1,685,842,192		
	\$1,978,877,656	\$1,992,859,424		

A. The department is authorized to enter into agreements with state and local law enforcement officials to facilitate the enforcement of high occupancy vehicle (HOV) restrictions throughout the Commonwealth and metropolitan planning regions.

B. Should federal law be changed to permit privatization of rest area operations, the department is hereby authorized to accept or solicit proposals for their development and/or operation.

C. The Director, Department of Planning and Budget, is authorized to increase the appropriation in this Item as needed to utilize amounts available from prior year balances

ITEM 451.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
in the dedicated funds.				
D. The Commissioner's annual report pursuant to § 33.2-232, Code of Virginia, shall include an assessment of whether the department has met its secondary road pavement targets, by district and on a statewide basis.				
<i>E. Out of the amounts provided in this Item, the department shall increase the share of funding dedicated to the Safety Service Patrol Services by \$5,000,000 from nongeneral fund revenues in the second year to expand services across the Commonwealth's Interstate System, with priority given to the Interstate 81 Corridor.</i>				
452.	Commonwealth Toll Facilities (60600).....		\$64,386,587 \$80,876,667	\$63,967,153 \$91,272,130
	Toll Facility Debt Service (60602).....	\$3,194,200		\$3,190,600
	Toll Facility Maintenance And Operation (60603).....	\$25,042,387 \$41,532,467		\$24,326,553 \$51,631,530
	Toll Facilities Revolving Fund (60604).....	\$36,150,000		\$36,450,000
	Fund Sources: Commonwealth Transportation.....	\$58,386,587 \$74,876,667		\$57,967,153 \$85,272,131
	Trust and Agency.....	\$6,000,000		\$6,000,000 \$5,999,999

Authority: §§ 33.2-1524 and 33.2-1700 through 33.2-1729, Code of Virginia.

A. Included in this Item are funds for the installation and implementation of a statewide Electronic Toll Customer Service/Violation Enforcement System.

B. It is the intent of the General Assembly that the toll revenues, and any bond proceeds or concession payments backed by such toll revenues, derived from the express lanes on Interstate 64 between the interchange of Interstate 64 with Interstate 664 and the interchange of Interstate 64 with Interstate 564 be used to reduce the necessary contribution from the Hampton Roads Transportation Accountability Commission established pursuant Chapter 26 of Title 33.2, Code of Virginia, for a project to expand the capacity of Interstate 64 between the interchange of Interstate 64 with Interstate 664 and the interchange of Interstate 64 with Interstate 564.

453.	Financial Assistance to Localities for Ground Transportation (60700).....		\$1,065,903,724 \$1,079,779,699	\$1,073,337,551 \$1,074,659,612
	Financial Assistance for City Road Maintenance (60701).....	\$386,527,944 \$386,532,142		\$384,438,120 \$385,407,026
	Financial Assistance for County Road Maintenance (60702).....	\$69,287,562 \$69,295,633		\$68,914,911 \$69,468,919
	Financial Assistance for Planning, Access Roads, and Special Projects (60704).....	\$15,188,218 \$15,551,924		\$15,384,520 \$15,383,667
	Distribution of Northern Virginia Transportation Authority Fund Revenues (60706).....	\$266,800,000 \$280,400,000		\$272,600,000
	Distribution of Hampton Roads Transportation Fund Revenues (60707).....	\$191,200,000 \$191,100,000		\$194,200,000 \$194,000,000
	Distribution of Washington Metropolitan Area Transit Authority Capital Fund Revenues (60708).....	\$127,400,000		\$128,200,000
	Distribution of Certain Taxes to Certain Localities in Planning District 8 (60709).....	\$9,500,000		\$9,600,000
	Fund Sources: Commonwealth Transportation.....	\$471,003,724 \$471,379,699		\$468,737,551 \$470,259,612
	Dedicated Special Revenue.....	\$594,900,000 \$608,400,000		\$604,600,000 \$604,400,000

Authority: Title 33.2, Chapter 1, Code of Virginia.

ITEM 453.	Item Details(\$)		Appropriations(\$)		
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020	
<p>A. Out of the amounts for Financial Assistance for Planning, Access Road, and Special Projects, \$7,000,000 the first year and \$7,000,000 the second year from the Commonwealth Transportation Fund shall be allocated for purposes set forth in §§ 33.2-1509, 33.2-1600, and 33.2-1510, Code of Virginia. Of this amount, the allocation for Recreational Access Roads shall be \$1,500,000 the first year and \$1,500,000 the second year. <i>It is the intent of the General Assembly that up to \$250,000 of the funds allocated by the Commonwealth Transportation Board for Recreational Access Roads in this Item shall be prioritized for handicapped accessibility improvements at Virginia State Parks, including improvements to handicapped access points and parking facility enhancements as may be requested by the Department of Conservation and Recreation.</i></p>					
<p>B. Distribution of Northern Virginia Transportation Authority Fund Revenues represents direct payments, of the revenue collected and deposited into the Fund, to the Northern Virginia Transportation Authority for uses contained in Chapter 766, 2013 Acts of Assembly. Notwithstanding any other provision of law, moneys deposited into the Hampton Roads Transportation Fund shall be transferred to the Hampton Roads Transportation Accountability Commission for use in accordance with § 33.2-2611, Code of Virginia.</p>					
<p>C. The prioritization process developed under § 33.2-214.1, Code of Virginia, shall not apply to use of funds provided in this Item from federal apportionments in the Metropolitan Planning Program.</p>					
<p>D. Notwithstanding the provisions of § 4-3.02 of this act, the Secretary of Finance may provide the Department of Transportation interest-free treasury loans in an amount not to exceed \$1,700,000 per year which may be extended for a period longer than twelve months. The loan amounts would be provided to the City of Portsmouth to offset losses in personal property tax collections generated by the City due to the transfer of personal property from the Virginia International Gateway to the Commonwealth. The specific terms and structure of any loan shall be approved by the Secretary of Finance, after consultation with the Chairmen of the House Appropriations and Senate Finance Committees, or their designees. A treasury loan for this purpose shall be considered as bridge financing until the planned expansion of the Virginia International Gateway Facility commences and additional equipment is purchased which will generate personal property taxes that the City of Portsmouth shall use to repay the loan. To the extent the loan is not repaid as required by the specific terms of the loan, the Department of Transportation is directed to withhold the payment amount due from funds provided to the City of Portsmouth pursuant to § 33.2-319, Code of Virginia, to repay the loan.</p>					
<p>E. Distribution of Washington Metropolitan Area Transit Authority Capital Fund Revenues represents direct payments, of the revenue collected and deposited into the Fund, to the Washington Metropolitan Area Transit Authority for uses pursuant to Chapter 34 of Title 33.2, Code of Virginia.</p>					
<p>F. Consistent with § 33.2-366, Code of Virginia, the Commonwealth Transportation Board, when establishing annual rates of payments to Counties that have elected to withdraw from the secondary highway system, shall adjust such rate annually with i) procedures established for adjusting payments to cities, and ii) lane mileage adjustments. It is the express intent of the General Assembly, that under no circumstance shall the addition of lane miles to one jurisdiction result in the direct or indirect reduction in the calculation of payment to any other jurisdiction receiving payment from funds appropriated for Financial Assistance for County Road Maintenance (60702).</p>					
454.	Non-Toll Supported Transportation Debt Service (61200).....			\$368,779,818 \$369,469,786	\$390,027,353 \$384,933,110
	Highway Transportation Improvement District Debt Service (61201).....	\$8,639,519	\$8,639,519		
	Designated Highway Corridor Debt Service (61202).....	\$57,580,183 \$55,935,686	\$69,853,813 \$64,321,062		
	Commonwealth Transportation Capital Projects Bond Act Debt Service (61204).....	\$179,370,270 \$187,706,263	\$177,641,395 \$188,168,113		

ITEM 454.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Federal Transportation Grant Anticipation Revenue				
Notes Debt Service (61205).....	\$123,189,846	\$133,892,626		
	\$117,188,318	\$123,804,416		
Fund Sources: General.....	\$40,000,000	\$40,000,000		
Commonwealth Transportation.....	\$126,530,223	\$135,728,695		
	\$117,188,318	\$123,804,416		
Trust and Agency.....	\$195,085,520	\$207,402,784		
	\$204,649,770	\$213,496,996		
Federal Trust.....	\$7,164,075	\$6,895,874		
	\$7,631,698	\$7,631,698		

Authority: Titles 15.2, 33.2, and 58.1 of the Code of Virginia; Chapters 827 and 914, Acts of Assembly of 1990; Chapters 233 and 662, Acts of Assembly of 1994; Chapter 8, as amended by Chapter 538, Acts of Assembly of 1999; Chapters 1019 and 1044, Acts of Assembly of 2000; Chapter 799, Acts of Assembly of 2002; Chapter 896, Acts of Assembly of 2007; and Chapters 830 and 868, Acts of Assembly of 2011

A.1. The amount shown for Highway Transportation Improvement District Construction shall be derived from payments made to the Transportation Trust Fund pursuant to the Contract between the State Route 28 Highway Transportation Improvement District and the Commonwealth Transportation Board dated September 1, 1988 as amended by the Amended and Restated District Contract by and among the Commonwealth Transportation Board, the Fairfax County Economic Development Authority and the State Route 28 Highway Transportation Improvement District Commission (the "District Commission") dated August 30, 2002, and May 1, 2012 (the "District Contract").

2. There is hereby appropriated for payment immediately upon receipt to a third party approved by the Commonwealth Transportation Board, or a bond trustee selected by such third party, a sum sufficient equal to the special tax revenues collected by the Counties of Fairfax and Loudoun within the State Route 28 Highway Transportation Improvement District and paid to the Commonwealth Transportation Board by or on behalf of the District Commission (the "contract payments") pursuant to § 15.2-4600 et seq., Code of Virginia, and the District Contract between the Commonwealth Transportation Board and the District Commission.

3. The contract payments may be supplemented from the Construction District Grant Program pursuant to § 33.2-371 allocated to the highway construction district in which the project financed is located, or any other lawfully available revenues of the Transportation Trust Fund, as may be necessary to meet debt service obligations. The payment of debt service shall be for the bonds (the Series 2012 Bonds) issued under the "Commonwealth of Virginia Transportation Contract Revenue Bond Act of 1988" (Chapters 653 and 676, Acts of Assembly of 1988 as amended by Chapters 827 and 914 of the Acts of Assembly of 1990). Funds required to pay the total debt service on the Series 2012 Bonds shall be made available in the amounts indicated in paragraph E of this Item.

B.1. Out of the amounts for Designated Highway Corridor Construction, \$40,000,000 the first year and \$40,000,000 the second year from the general fund shall be paid to the U.S. Route 58 Corridor Development Fund, hereinafter referred to as the "Fund", established pursuant to § 33.2-2300, Code of Virginia. This payment shall be in lieu of the deposit of state recordation taxes to the Fund, as specified in the cited Code section. Said recordation taxes which would otherwise be deposited to the Fund shall be retained by the general fund. Additional appropriations required for the U.S. Route 58 Corridor Development Fund, an amount estimated at \$9,000,000 the first year and ~~\$9,000,000~~ \$20,000,000 the second year shall be transferred from the highway share of the Transportation Trust Fund.

2. Pursuant to the "U.S. Route 58 Commonwealth of Virginia Transportation Revenue Bond Act of 1989" (as amended by Chapter 538 of the 1999 Acts of Assembly and Chapter 296 of the 2013 Acts of Assembly), the amounts shown in paragraph E of this Item shall be available from the Fund for debt service for the bonds previously issued and additional bonds issued pursuant to said act.

C.1. The Commonwealth Transportation Board shall maintain the Northern Virginia Transportation District Fund, hereinafter referred to as the "Fund." Pursuant to § 33.2-2400, Code of Virginia, and for so long as the Fund is required to support the issuance of bonds, the

ITEM 454.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

Fund shall include at least the following elements:

- a. Amounts transferred from Item 264 of this act to this Item.
- b. Any public right-of-way use fees allocated by the Department of Transportation pursuant to § 56-468.1 of the Code of Virginia and attributable to the counties of Fairfax, Loudoun, and Prince William, the amounts estimated at \$5,315,304 the first year and \$5,315,304 the second year.

c. Any amounts which may be deposited into the Fund pursuant to a contract between the Commonwealth Transportation Board and a jurisdiction or jurisdictions participating in the Northern Virginia Transportation District Program, the amounts estimated to be \$816,000 the first year and \$816,000 the second year.

2. The Fund shall support the issuance of bonds at a total authorized level of \$500,200,000 for the purposes provided in the “Northern Virginia Transportation District, Commonwealth of Virginia Revenue Bond Act of 1993,” Chapter 391, Acts of Assembly of 1993 as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, Chapter 538 of the 1999 Acts of Assembly, Chapter 799 of the 2002 Acts of Assembly, and Chapter 621 of the 2005 Acts of Assembly.

3. Pursuant to the Northern Virginia Transportation District, Commonwealth of Virginia Revenue Bond Act of 1993, Chapter 391, Acts of Assembly of 1993, and as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, Chapter 538 of the 1999 Acts of Assembly, Chapter 799 of the 2002 Acts of Assembly, and Chapter 621 of the 2005 Acts of Assembly, amounts shown in paragraph E of this Item shall be available from the Fund for debt service for the bonds previously issued and additional bonds issued pursuant to said act.

4. Should the actual distribution of recordation taxes to the localities set forth in § 33.2-2400, Code of Virginia, exceed the amount required for debt service on the bonds issued pursuant to the above act, such excess amount shall be transferred to the Northern Virginia Transportation District Fund in furtherance of the program described in § 33.2-2401, Code of Virginia.

5. Should the actual distribution of recordation taxes to said localities be less than the amount required to pay debt service on the bonds, the Commonwealth Transportation Board is authorized to meet such deficiency, to the extent required, from funds identified in Enactment No. 1, Section 11, of Chapter 391, Acts of Assembly of 1993.

D.1. The Commonwealth Transportation Board shall maintain the City of Chesapeake account of the Set-aside Fund, pursuant to § 58.1-816.1, Code of Virginia, which shall include funds transferred from Item 264 of this act to this Item, and an amount estimated at \$1,000,000 the first year and \$1,000,000 the second year received from the City of Chesapeake pursuant to a contract or other alternative mechanism for the purpose provided in the “Oak Grove Connector, City of Chesapeake Commonwealth of Virginia Transportation Program Revenue Bond Act of 1994,” Chapters 233 and 662, Acts of Assembly of 1994 (hereafter referred to as the “Oak Grove Connector Act”).

2. The amounts shown in paragraph E of this Item shall be available from the City of Chesapeake account of the Set-aside Fund for debt service for the bonds issued pursuant to the Oak Grove Connector Act.

3. Should the actual distribution of recordation taxes and such local revenues from the City of Chesapeake as may be received pursuant to a contract or other alternative mechanism to the City of Chesapeake account of the Set-aside Fund be less than the amount required to pay debt service on the bonds, the Commonwealth Transportation Board is authorized to meet such deficiency, pursuant to Enactment No. 1, Section 11 of the Oak Grove Connector Act.

E. Pursuant to various Payment Agreements between the Treasury Board and the Commonwealth Transportation Board, funds required to pay the debt service due on the following Commonwealth Transportation Board bonds shall be transferred to the Treasury Board as follows:

ITEM 454.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
		<b>FY 2019</b>		<b>FY 2020</b>
Transportation Contract Revenue Refund Bonds, Series 2012 (Refunding Route 28)		\$8,639,519		\$8,639,519
Commonwealth of Virginia Transportation Revenue Bonds: U.S. Route 58 Corridor Development Program:				
Series 2014B (Refunding)		\$24,142,000		\$24,139,500
Series 2016C (Refunding)		\$2,592,750		\$2,592,750
Series 2017C (Refunding)		\$14,290,500		
Northern Virginia Transportation District Program:				
Series 2009A-2		\$5,378,653		\$5,336,803
Series 2012A (Refunding)		\$9,790,538		\$2,559,038
Series 2014A (Refunding)		\$9,640,250		\$9,645,000
Series 2016B (Refunding)		\$2,358,750		\$463,500
Series 2017B (Refunding)		\$4,408,000		\$4,368,000
Transportation Program Revenue Bonds:				
Series 2016A (Oak Grove Connector, City of Chesapeake)		\$1,992,750		\$1,990,750
Capital Projects Revenue Bonds:				
Series 2010 A-2		\$35,882,155		\$35,660,925
Series 2011		<del>\$42,109,050</del> \$21,097,750		<del>\$42,107,800</del> \$21,096,500
Series 2012		<del>\$40,279,500</del> \$29,163,800		<del>\$40,277,205</del> \$29,161,550
Series 2014		\$18,226,700		\$18,224,700
Series 2016		\$16,797,000		\$16,799,250
Series 2017		\$16,524,688		\$16,525,938
Series 2017A		\$30,408,400		\$30,408,400
Series 2018		\$9,201,301		\$9,197,600

F. Out of the amounts provided for in this Item, an estimated ~~\$123,189,846~~ \$115,469,133 the first year and ~~\$133,892,626~~ \$123,804,416 the second year from federal reimbursements shall be provided for debt service payments on the Federal Transportation Grant Anticipation Revenue Notes.

G. Out of the amounts provided for this Item, an estimated ~~\$169,819,093~~ \$177,301,793 the first year and ~~\$169,595,863~~ \$188,168,113 the second year from the Priority Transportation Fund shall be provided for debt service payments on the Commonwealth Transportation Capital Projects Revenue Bonds. Any additional amounts needed to offset the debt service payment requirements attributable to the issuance of the Capital Projects Revenue Bonds shall be provided from the Transportation Trust Fund.

H. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the applicable provisions of the Transportation Development and Revenue Bond Act (§ 33.2-1700 et seq., Code of Virginia) as amended from time to time, revenue obligations of the Commonwealth to be designated

ITEM 454.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>"Commonwealth of Virginia Transportation Capital Projects Revenue Bonds, Series XXXX" at one or more times in an aggregate principal amount not to exceed \$180,000,000, after all costs. The net proceeds of the bonds shall be used exclusively for the purpose of providing funds for paying the costs incurred or to be incurred for construction or funding of transportation projects set forth in Item 449.10 of Chapter 847 of the Acts of Assembly of 2007, including but not limited to environmental and engineering studies; rights-of-way acquisition; improvements to all modes of transportation; acquisition, construction and related improvements; and any financing costs and other financing expenses. Such costs may include the payment of interest on the bonds for a period during construction and not exceeding one year after completion of construction of the projects. Notwithstanding the provisions of Item 449.10 of Chapter 847 of the acts of Assembly 2007, any remaining funding may be used for the purposes set forth in subsection G of Item 453 of Chapter 665, 2015 Acts of Assembly.</p>				
455.	Administrative and Support Services (69900).....		\$273,814,072	\$276,549,422
			\$279,817,017	\$294,076,199
	General Management and Direction (69901).....	\$141,489,732	\$144,879,504	
		\$147,188,104	\$150,993,064	
	Information Technology Services (69902).....	\$96,626,171	\$96,738,045	
		\$96,813,415	\$107,964,794	
	Facilities and Grounds Management Services (69915).....	\$17,113,687	\$17,541,529	
		\$17,169,363	\$17,653,302	
	Employee Training and Development (69924).....	\$18,584,482	\$17,390,344	
		\$18,646,135	\$17,465,039	
	Fund Sources: Commonwealth Transportation.....	\$273,814,072	\$276,549,422	
		\$279,817,017	\$294,076,199	

Authority: Title 33.2, Code of Virginia.

A. Notwithstanding any other provision of law, the highway share of the Transportation Trust Fund shall be used for highway maintenance and operation purposes prior to its availability for new development, acquisition, and construction.

B. Administrative and Support Services shall include funding for management, direction, and administration to support the department's activities that cannot be directly attributable to individual programs and/or projects.

C. Out of the amounts for General Management and Direction, allocations shall be provided to the Commonwealth Transportation Board to support its operations, the payment of financial advisory and legal services, and the management of the Transportation Trust Fund.

D. Notwithstanding any other provision of law, the department may assess and collect the costs of providing services to other entities, public and private. The department shall take all actions necessary to ensure that all such costs are reasonable and appropriate, recovered, and understood as a condition to providing such service.

E. Each year, as part of the six-year financial planning process, the commissioner shall implement a long-term business strategy that considers appropriate staffing levels for the department. In addition, the commissioner shall identify services, programs, or projects that will be evaluated for devolution or outsourcing in the upcoming year. In undertaking such evaluations, the commissioner is authorized to use the appropriate resources, both public and private, to competitively procure those identified services, programs, or projects and shall identify total costs for such activities.

F. Notwithstanding § 4-2.03 of this act, the Virginia Department of Transportation shall be exempt from recovering statewide and agency indirect costs from the Federal Highway Administration until an indirect cost plan can be evaluated and developed by the agency and approved by the Federal Highway Administration.

G. The Director, Department of Planning and Budget, is authorized to adjust appropriations and allotments for the Virginia Department of Transportation to reflect changes in the official revenue estimates for commonwealth transportation funds.

ITEM 455.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
H. Out of the amounts for General Management and Direction, allocations shall be provided to support the capital lease agreement with Fairfax County for the Northern Virginia District building. An amount estimated at \$7,800,000 the first year and \$7,800,000 the second year from Commonwealth Transportation Funds shall be provided.				
I. Notwithstanding any other provisions of law, the Commonwealth Transportation Commissioner may enter into a contract with homeowner associations for grounds-keeping, mowing, and litter removal services.				
J. Notwithstanding the provisions § 2.2-2402 of the Code of Virginia, no construction, erection, repair, upgrade, removal or demolition of any building, fixture or structure located or to be located on property of the Commonwealth of Virginia under the control of the Virginia Department of Transportation (VDOT) and within the secured area of a residency, area headquarters or district complex shall be subject to review or approval by the Art and Architectural Review Board as contemplated by that section. However, for changes to any building or fixture located on property owned or controlled by VDOT that has been designated or is under consideration for designation as a historic property, then VDOT shall submit such changes to the Art and Architectural Review Board for review and approval by the Board.				
<i>K. The Virginia Department of Transportation is authorized to convey a 25-foot wide strip of land containing approximately 0.1923 acre located along the southeastern boundary of its original Callaway Area Headquarters parcel, Tax Map Parcel #0580004200, to Earl E. Bowman, Jr. and Elizabeth H. Bowman, husband and wife, in return for the termination of an existing easement in favor of the Bowmans across certain property of the Commonwealth, as shown in those certain deeds and plats recorded at Deed Book 1114, Page 1622 and Deed Book 1114, Page 1630 in the Clerk's Office of the Circuit Court of Franklin County, Virginia, and the conveyance from the Bowmans of a parcel of land containing approximately 0.3582 acres located adjacent to and northwest of VDOT's original parcel, all as shown on a plat to be agreed to between the Parties. The appraised value of the land to be acquired by VDOT shall be equal to or greater than the value of the land to be transferred from VDOT. The exact property to be conveyed as consideration for this transaction is subject to change or adjustment provided that all parties agree, the requirements for value and form are met, and the appropriate approvals are obtained. The conveyances shall be made with the recommendation of the Department of General Services, the approval of the Governor and shall be in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.</i>				
<i>L. 1. At such time as the Virginia Department of Transportation (VDOT) determines that the VDOT Residency office, on five acres, at 626 Waddell Street, in the City of Lexington is no longer required for VDOT's purposes, it shall offer to transfer the property to the City of Lexington prior to offering the property for transfer or sale to any other public or private agency or entity or individual, on such terms and conditions as provided below.</i>				
<i>2. The Virginia Department of Transportation and the City of Lexington shall each obtain a separate appraisal of the property, each performed by an appraiser licensed by the Commonwealth of Virginia as Certified General Real Property Appraisers, who must meet the competency provisions of the Uniform Standards of Professional Appraisal Practice.</i>				
<i>3. VDOT shall offer the property to the City of Lexington at a value which shall be determined by averaging the values from the two appraisals obtained in L.2. above. Any other conditions of the transfer shall be based on usual and customary terms for such intergovernmental transfers.</i>				
<i>4. If the Virginia Department of Transportation and the City of Lexington cannot agree on the terms of the transfer of the property, VDOT may transfer or sell the property to any other public or private agency or entity or individual on such terms as it determines are in the best interest of the Virginia Department of Transportation, however it will present those terms to the City of Lexington for its consideration prior to finalizing any transfer or sale to any other party.</i>				
456. A full accrual system of accounting shall be effected by the Department, subject to the authority of the State Comptroller, as stated in § 2.2-803, Code of Virginia.				

ITEM 456.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Total for Department of Transportation.....			<b>\$6,186,479,519</b>	<b>\$5,761,064,373</b>
			<b>\$6,795,395,381</b>	<b>\$6,382,181,734</b>
Nongeneral Fund Positions.....	7,735.00	7,735.00		
Position Level.....	7,735.00	7,735.00		
Fund Sources: General.....	\$40,000,000	\$40,000,000		
Commonwealth Transportation.....	\$5,123,936,680	\$4,558,951,130		
	\$5,709,320,669	\$5,173,438,456		
Trust and Agency.....	<del>\$420,478,764</del>	<del>\$550,617,369</del>		
	<del>\$430,043,014</del>	<del>\$556,711,580</del>		
Dedicated Special Revenue.....	<del>\$594,900,000</del>	<del>\$604,600,000</del>		
	<del>\$608,400,000</del>	<del>\$604,400,000</del>		
Federal Trust.....	<del>\$7,164,075</del>	<del>\$6,895,874</del>		
	<del>\$7,631,698</del>	<del>\$7,631,698</del>		

**§ 1-127. MOTOR VEHICLE DEALER BOARD (506)**

457.	Consumer Affairs Services (55000).....			\$277,833	<del>\$277,833</del>
					\$282,283
	Consumer Assistance (55002).....	\$277,833	<del>\$277,833</del>		<del>\$282,283</del>
					\$282,283
	Fund Sources: Special.....	\$277,833	<del>\$277,833</del>		<del>\$282,283</del>
					\$282,283
	Authority: Title 46.2, Chapter 15, Code of Virginia.				
458.	Regulation of Professions and Occupations (56000).....			\$2,697,139	<del>\$2,697,139</del>
					<del>\$2,779,014</del>
	Motor Vehicle Dealer and Salesman Regulation (56023).....	\$1,436,275	<del>\$1,436,275</del>		<del>\$1,457,305</del>
					<del>\$1,260,864</del>
	Administrative Services (56048).....	\$1,260,864	<del>\$1,260,864</del>		<del>\$1,321,709</del>
					<del>\$2,779,014</del>
	Fund Sources: Special.....	\$2,697,139	<del>\$2,697,139</del>		<del>\$2,779,014</del>
					<del>\$2,779,014</del>
	Authority: Title 46.2, Chapter 15, Code of Virginia.				
	Total for Motor Vehicle Dealer Board.....			<b>\$2,974,972</b>	<b>\$2,974,972</b>
					<b>\$3,061,297</b>
	Nongeneral Fund Positions.....	25.00	25.00		
	Position Level.....	25.00	25.00		
	Fund Sources: Special.....	\$2,974,972	<del>\$2,974,972</del>		<del>\$3,061,297</del>

**§ 1-128. VIRGINIA PORT AUTHORITY (407)**

459.	Economic Development Services (53400).....			\$5,731,946	\$5,981,946
	National and International Trade Services (53413)..	\$4,481,946	\$4,481,946		
	Commerce Advertising (53426).....	\$1,250,000	\$1,500,000		
	Fund Sources: Special.....	\$5,731,946	\$5,981,946		
	Authority: Title 62.1, Chapter 10, Code of Virginia.				
460.	Port Facilities Planning, Maintenance, Acquisition, and Construction (62600).....			\$93,838,924	\$93,838,924
	Maintenance and Operations of Ports and Facilities (62601).....	\$28,926,314	\$28,926,314		
	Port Facilities Planning (62606).....	\$1,280,247	\$1,280,247		
	Debt Service for Port Facilities (62607).....	\$63,632,363	\$63,632,363		

ITEM 460.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Fund Sources: Special.....	\$49,495,191	\$49,495,191		
Commonwealth Transportation.....	\$41,343,733	\$41,343,733		
Federal Trust.....	\$3,000,000	\$3,000,000		

Authority: Title 62.1, Chapter 10; Title 33.2, Chapter 1, Code of Virginia.

A. 1. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority refunded bonds issued on October 22, 1996, in the amount of \$38,300,000 for the purposes of completing the Phase II Expansion at Norfolk International Terminals and replacing and improving equipment at other port facilities. The debt service on the 2006 refunding bonds is estimated to be \$1,440,100 the first year and \$1,440,100 the second year and all or a portion of such 2006 refunding bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.

2. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund bonds on April 14, 2005, in the amount of \$60,000,000, for the purpose of regrading and reconstruction of Norfolk International Terminals (South), Phase III, land acquisition, and other improvements, Capital Project 407-16644. The debt service on bonds referenced in this paragraph is estimated to be \$4,033,900 the first year and \$4,033,900 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

3. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue Commonwealth Port Fund bonds up to the amount of \$125,000,000, for the purpose of developing the Craney Island Marine Terminal and creating road and rail access to such terminal, capital project 407-17513. Such bonds may also be used for the purpose of constructing warehouses at a facility owned by the Virginia Port Authority. All or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia. The debt service on the bonds referenced in this paragraph is estimated to be \$9,500,000 the first year and \$9,500,000 the second year.

It is hereby acknowledged that the Virginia Port Authority issued \$57,370,000 of such Commonwealth Port Fund bonds noted in the paragraph above in July 2011 for the purpose of developing the Craney Island Marine Terminal and creating road and rail access to such terminal, capital project 407-17513. The debt service on bonds referenced in this paragraph is estimated to be \$2,868,500 the first year and \$2,868,500 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

4. In the event revenues of the Commonwealth Port Fund are insufficient to provide for the debt service on the Virginia Port Authority Commonwealth Port Fund Revenue Bonds authorized by paragraphs A 1, A 2, A 3, and A 4; or any bonds payable from the revenues of the Commonwealth Port Fund, there is hereby appropriated a sum sufficient first from the legally available moneys in the Transportation Trust Fund and then from the general fund to provide for this debt service. Total debt service on the bonds referenced in paragraphs A 1, A 2, A 3, and A 4 is estimated at \$31,579,000 the first year and \$31,579,000 the second year.

5. Notwithstanding § 62.1-140, Code of Virginia, the aggregate principal amount of Commonwealth Port Fund bonds, and including any other long-term commitment that utilizes the Commonwealth Port Fund, shall not exceed \$440,000,000.

6. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund bonds on January 25, 2012 in the amount of \$108,015,000 to refund Commonwealth Port Fund bonds originally issued on July 11, 2002. Debt service on bonds referenced in this paragraph is estimated to be \$9,056,000 the first year and \$9,056,000 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

7. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund bonds on September 26, 2012 in the amount of \$50,025,000 to refund a portion of Commonwealth Port Fund bonds originally issued on April 14, 2005. Debt service on bonds referenced in the paragraph is estimated to be \$4,680,193 the first year, and \$4,680,193 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

ITEM 460.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>B.1. In accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority has issued Port Facilities Revenue Bonds, Series 1997, in the amount of \$98,065,000 to finance the cost of capital projects for the Virginia Port Authority marine and intermodal terminals. In accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority refunded certain maturities of the bonds in 2007. The debt service on the 2007 refunding bonds is estimated at \$6,347,500 the first year and \$6,347,500 the second year from special funds and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia. The Virginia Port Authority is authorized to transfer to the Virginia International Terminals Inc. (VIT), from the revenues of the authority's port facilities, funds that are available for the purpose under the Authority's applicable Bond Resolution.</p>				
<p>2. In accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority on June 18, 2003, issued additional Port Facilities Revenue bonds in the amount of \$55,155,000 to regrade and reconstruct the Norfolk International Terminal (South) backlands (Phase II, capital outlay project 407-16644), and to construct security related facilities at Norfolk International Terminals (North) and Portsmouth Marine Terminal (capital outlay project 407-16961). Total debt service on these bonds referenced in this paragraph is estimated at \$688,300 the first year and \$688,300 the second year from special funds, and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.</p>				
<p>3. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue additional bonds, in an amount of up to \$90,000,000, for the purposes of the reconstruction and expansion of Norfolk International Terminals, and other improvements to port facilities (capital outlay project 407-17252). The debt service on these bonds, estimated to be \$3,984,000 the first year and \$3,984,000 the second year, will be paid from special funds, and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.</p>				
<p>4. Prior to the 2006-2008 biennium, the Virginia Port Authority purchased, through their master equipment lease program, equipment at a total cost of \$60,163,170 (capital outlay project 407-16962 and capital outlay project 407-16989). Total debt service on the equipment leases referenced in this paragraph is estimated at \$2,228,000 the first year and \$2,228,000 the second year from special funds, and such lease purchases may be refunded by the authority.</p>				
<p>5. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority is authorized to purchase, through a purchase agreement (master equipment lease program), terminal operating equipment at a total cost of \$41,493,035 (capital outlay project 407-16962). Total debt service referenced in this paragraph, including any interim financing issued in anticipation of such program, is estimated at \$4,706,000 the first year and \$4,706,000 the second year from special funds, and such lease purchases may be refunded by the authority.</p>				
<p>6. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority on April 21, 2010, issued Port Facilities Revenue Refunding bonds in an amount of \$68,630,000, for the purposes of the reconstruction and expansion of Norfolk International Terminals (NIT), reconstruction and expansion of Portsmouth Marine Terminal (PMT), land acquisitions adjacent to NIT and PMT, and other improvements to port facilities (capital outlay project 407-16644). The debt service on these bonds, estimated to be \$4,825,000 the first year and \$4,825,000 the second year, will be paid from special funds, and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.</p>				
<p>7. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue short-term debt on a revolving basis as interim or anticipation financing in order to cover costs of planning, design, and construction pending the receipt of bond or master equipment lease program proceeds authorized in paragraphs A 4, B 5, and B 6 in an amount not to exceed the authorized amount for the projects. In the aggregate, the short-term debt shall not exceed \$200,000,000 at any point in time and all or a portion of such debt may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia. The debt service, including associated fees, on the short-term debt may be paid, as recommended by the authority and approved by the Board, from the</p>				

ITEM 460.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
bond or master equipment lease proceeds, special funds, or other revenues or proceeds.				
<p>8. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue additional bonds, in an amount up to \$105,500,000 for purposes of expanding port terminal capacity (capital outlay project 407-17956). All or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia. The debt service on these bonds, estimated to be \$8,500,000 the first year and \$8,500,000 the second year, will be paid from special funds.</p>				
<p>9. Total debt service paid from special funds for all bonds, lease agreements, and short-term debt noted herein shall not exceed \$45,000,000 the first year and \$45,000,000 the second year, unless approved by the Governor upon execution of the capital lease authorized by Item C-40.10 of Chapter 665, 2015 Acts of Assembly. Such approval shall be reported to the Chairmen of the House Appropriations and Senate Finance Committees within five days of the Governor's action.</p>				
<p>10. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Port Facilities Revenue bonds on October 22, 3013, in the amount of \$37,945,000 to refund a portion of Port Facilities Revenue bonds originally issued on June 18, 2003 and October 17, 2006. Debt service on bonds referenced in this paragraph is estimated to be \$1,172,500 the first year and \$1,172,500 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.</p>				
<p>11. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority is authorized to purchase, through a purchase agreement (master equipment lease program), terminal operating equipment at a total estimated cost of \$37,000,000. Total debt service referenced in this paragraph (including any interim financing issued in anticipation of such program), is estimated at \$8,900,000 the first year and \$8,900,000 the second year from special funds, and such lease purchases may be refunded by the Authority.</p>				
<p>12. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority on November 17, 2016, issued Port Facilities Revenue Refunding bonds in the amounts of \$143,965,000, \$99,230,000 and 37,335,000 for the purposes of defeasing and refunding special fund debt authorized by paragraphs B1, B2, B3 and B6. The debt service on these bonds, estimated to be \$17,600,000 the first year and \$17,600,000 the second year, will be paid from special funds, and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.</p>				
<p>C. In order to remain consistent with the grant of authority as provided in Chapter 10, § 62.1-128 et seq. of the Code of Virginia, the Virginia Port Authority is authorized to maintain independent payroll and nonpayroll disbursement systems and, in connection with such systems, to open and maintain an appropriate account with a qualified public depository, or depositories. As implementation occurs, these systems and related procedures shall be subject to review and approval by the State Comptroller. The Virginia Port Authority shall continue to provide nonpayroll transaction detail to the State Comptroller through the Commonwealth Accounting and Reporting System (Cardinal).</p>				
<p>D. Out of the amounts in this Item, \$10,000,000 the first year and \$10,000,000 the second year from the Commonwealth Port Fund may be used to make lease payments associated with the Virginia International Gateway capital lease.</p>				
<p>E. The Virginia Port Authority shall include the Commonwealth Railway Mainline Safety Relocation Project Phase 2 - I-664 Pughsville Road to Bowers Hill - Feasibility Study as part of its long-range plan for the development of the Craney Island Marine Terminal and creating road and rail access to such terminal.</p>				
461.	Financial Assistance for Port Activities (62800).....		\$5,880,725	\$5,881,925
	Aid to Localities (62801).....	\$3,350,000		\$3,350,000
	Payment in Lieu of Taxes (62802).....	\$2,530,725		\$2,531,925
	Fund Sources: General.....	\$1,000,000		\$1,000,000
	Special.....	\$2,880,725		\$2,881,925
	Commonwealth Transportation.....	\$2,000,000		\$2,000,000

ITEM 461.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

Authority: Title 62.1, Chapter 10, Code of Virginia.

A. Of the amounts in this Item, \$1,000,000 the first year and \$1,000,000 the second year from the general fund is appropriated for service charges to be paid to localities in which the Virginia Port Authority owns tax-exempt real estate. The funds shall be transferred to Item 451 of this act for distribution by the Commonwealth Transportation Board for roadway maintenance activities in the jurisdictions hosting Virginia Port Authority facilities and shall be treated as other Commonwealth Transportation Board payments to localities for highway maintenance. These funds shall not be used for other activities nor shall they supplant other local government expenditures for roadway maintenance. These funds shall be distributed to the localities on a pro rata basis in accordance with the formula set out in § 58.1-3403 D, Code of Virginia; however, the proportion of the funds distributed based on cargo traveling through each port facility shall be distributed on a pro rata basis according to twenty-foot equivalent units.

B. Of the amounts authorized in Item 103 A.1., \$2,000,000 the first year and \$2,000,000 the second year from the general fund may be deposited in the Port of Virginia Economic and Infrastructure Development Zone Grant Fund, created pursuant to § 62.1-132.3:2, Code of Virginia. The Executive Director of the Virginia Port Authority shall disburse the funding in the form of grants to qualified companies in accordance with the provisions of § 62.1-132.3:2, Code of Virginia.

C. Of the amounts in this Item, \$1,000,000 the first year and \$1,000,000 the second year from the Commonwealth Port Fund is appropriated for previously awarded Aid to Local Ports which were unreimbursed in the year of the initial award.

D. Out of amounts in this item, \$1,350,000 the first year and \$1,350,000 the second year from amounts transferred to this item pursuant § 3-1.01 M. of this act, the Authority shall award a grant of funds to a qualified applicant or applicants to support a dredging project or projects that have been approved by the Authority. The source of the grant funds shall be the Virginia Waterway Maintenance Fund created pursuant to § 62.1-132.3:3. Applicants shall be limited to political subdivisions and the governing bodies of Virginia localities. The Authority shall develop guidelines establishing an application process as set out in Chapter 642, 2018 Session of the General Assembly. Projects for which the Authority may award grant funding include (i) feasibility and cost evaluations, pre-project engineering studies, and project permitting and contracting costs for a waterway project conducted by the Commonwealth; (ii) the state portion of a nonfederal sponsor funding requirement for a federal project, which may include the beneficial use of dredged materials that are not covered by federal funding; (iii) the Commonwealth's maintenance of shallow-draft navigable waterway channel maintenance dredging and the construction and management of areas for the placement of dredged material; and (iv) the beneficial use, for environmental restoration and the mitigation of coastal erosion or flooding, of dredged materials from waterway projects conducted by the Commonwealth. Special consideration shall be given to any locality which provides a three-to-one match for any requested funding in the first year.

462.	Administrative and Support Services (69900).....			\$112,865,952	\$117,381,013
	General Management and Direction (69901).....	\$100,916,121	\$105,207,161		
	Security Services (69923).....	\$11,949,831	\$12,173,852		
	Fund Sources: Special.....	\$111,565,952	\$116,081,013		
	Commonwealth Transportation.....	\$1,300,000	\$1,300,000		

Authority: Title 62.1, Chapter 10, Code of Virginia.

A. Out of the amounts in this Item, the Executive Director is authorized to expend from special funds amounts not to exceed \$37,500 the first year and \$37,500 the second year, for entertainment expenses commonly borne by businesses. Further, such expenses shall be recorded separately by the agency.

B. Prior to purchasing airline and hotel accommodations related to overseas travel, the Virginia Port Authority shall provide an itemized list of projected costs for review by the Secretary of Transportation.

ITEM 462.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>C. It is hereby acknowledged that, in accordance with Item C-40.10 of Chapter 665, 2015 Virginia Acts of Assembly, on November 17, 2016, the Port Authority converted its 20 year operating lease to operate a privately owned marine terminal in Portsmouth to a 49 year capital lease terminating December 31, 2065. Included in this Item is an amount estimated at \$86,700,000 the first year and \$90,100,000 the second year from special funds to cover the costs of this lease.</p>				
Total for Virginia Port Authority.....			<b>\$218,317,547</b>	<b>\$223,083,808</b>
Nongeneral Fund Positions.....	236.00	236.00		
Position Level.....	236.00	236.00		
Fund Sources: General.....	\$1,000,000	\$1,000,000		
Special.....	\$169,673,814	\$174,440,075		
Commonwealth Transportation.....	\$44,643,733	\$44,643,733		
Federal Trust.....	\$3,000,000	\$3,000,000		
TOTAL FOR OFFICE OF TRANSPORTATION.....			<b>\$7,458,893,989</b>	<b>\$7,035,705,622</b>
			<b>\$8,139,527,863</b>	<b>\$7,730,887,266</b>
Nongeneral Fund Positions.....	10,180.00	<del>10,180.00</del> 10,183.00		
Position Level.....	10,180.00	<del>10,180.00</del> 10,183.00		
Fund Sources: General.....	\$41,030,246	\$41,030,246		
Special.....	\$174,788,630	<del>\$179,554,891</del> \$179,641,216		
Commonwealth Transportation.....	<del>\$6,094,061,321</del> \$6,679,463,322	<del>\$5,526,536,289</del> \$6,141,101,573		
Trust and Agency.....	<del>\$431,425,364</del> \$440,989,614	<del>\$561,563,969</del> \$567,658,180		
Dedicated Special Revenue.....	<del>\$674,700,000</del> \$759,900,000	<del>\$684,400,000</del> \$758,100,000		
Federal Trust.....	<del>\$42,888,428</del> \$43,356,051	<del>\$42,620,227</del> \$43,356,051		

ITEM 463.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

**OFFICE OF VETERANS AND DEFENSE AFFAIRS**

**§ 1-129. SECRETARY OF VETERANS AND DEFENSE AFFAIRS (454)**

463.	Disaster Planning and Operations (72200).....			\$1,242,908	\$1,242,908
	Emergency Planning (72205).....	\$1,242,908	\$1,242,908		
	Fund Sources: General.....	\$870,878	\$870,878		
	Federal Trust.....	\$372,030	\$372,030		

Authority: Title 2.2, Chapter 3.1, Code of Virginia.

Included in this Item is \$200,000 the first year and \$190,000 the second year from the general fund for the grant match required for an Office of Economic Adjustment (OEA) grants.

464.	Economic Development Services (53400).....			\$600,000	<del>\$600,000</del> \$3,100,000
	Financial Assistance for Economic Development (53410).....	\$600,000	<del>\$600,000</del> \$3,100,000		
	Fund Sources: General.....	\$600,000	\$600,000		
	Trust and Agency.....	\$0	\$2,500,000		

A.1. Any administrative reappropriations or other administrative appropriation increases pursuant to Item 458 of the Appropriation Act for the 2014-2016 biennium to address the encroachment of incompatible uses in localities in which the United States Navy Master Jet Base, an auxiliary landing field, or United States Air Force Base are located shall continue to be governed by the provisions contained in the 2014-2016 Appropriation Act. The recurring, dedicated special (nongeneral) fund component of the U.S. Navy Master Jet Base and Auxiliary Landing Field encroachment mitigation program is continued through June 30, 2020.

2. In the event that dedicated special revenues generated pursuant to the provisions of the 2014-16 Appropriations Act exceed the amounts needed to fund the requirements set out in that Act, any excess dedicated special fund revenue a total of \$3,000,000 is hereby appropriated as follows:

- a. \$1,700,000 for encroachment mitigation activities in the vicinity of Naval Auxiliary Landing Field Fentress;
- b. \$700,000 for encroachment mitigation activities in the vicinity of Langley Air Force Base; and
- c. \$600,000 for encroachment mitigation activities in the vicinity of Naval Air Station Oceana.

3. The amounts identified in paragraph A.2. of this item shall be used to provide additional assistance to the locality in which the United States Navy Master Jet Base auxiliary landing field is located for the purpose of purchasing property or development rights and otherwise converting such property to an appropriate compatible use and prohibiting new uses or development which is deemed incompatible with air operations arising from such Master Jet Base.

4. In addition to the amounts identified in paragraph A.1. of this item, \$450,000 is hereby appropriated as follows:

- a. \$250,000 for encroachment mitigation activities in the vicinity of Naval Auxiliary Landing Field Fentress; and
- b. \$200,000 for encroachment mitigation activities in the vicinity of Langley Air Force Base.

5. Included in this appropriation is \$2,500,000 the second year from nongeneral funds to

ITEM 464.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p><i>be provided through an agreement with the City of Virginia Beach for construction of a new secure gate to the Camp Pendleton State Military Reservation located in the City of Virginia Beach. An initial payment of \$2,500,000 shall be made by the City prior to June 30, 2020 and an additional payment of \$2,500,000 shall be made by the City prior to June 30, 2021. Pursuant to Executive Order 20 (2018), authorizing the transfer of administrative authority of the Department of Military Affairs from the Secretary of Public Safety and Homeland Security to the Secretary of Veterans and Defense Affairs, the Secretary of Veterans and Defense Affairs shall seek agreement with the City for the long-term lease of state-owned parcels totaling approximately 12 acres, more or less, and currently leased to the City for use as parking for the Virginia Aquarium and Marine Science Center and overflow Rudee Inlet boat ramp parking. The term of the lease shall be not less than 50 years with an additional 50-year option being available. Upon successful execution of the lease agreement, the City of Virginia Beach shall also provide for a new signal-controlled entrance to Camp Pendleton State Military Reservation aligned with the new secure gate. The Secretary of Veterans and Defense Affairs shall report to the Chairmen of the House Appropriations Committee and the Senate Finance Committee on such projects and real property lease agreements executed from funds appropriated in this item by October 15th of each year until completion of the specified improvement projects.</i></p>				
<p>B. Included in this appropriation is \$600,000 in the first year and \$600,000 in the second year from the general fund to support the recommendations of the Governor's Commission on Military Installations and Defense Activities.</p>				
<p>C. The Secretary of Veterans and Defense Affairs may submit project requests that improve, expand, develop, or redevelop a federal or state military installation or its supporting infrastructure, to enhance its military value to the MEI Project Approval Commission established pursuant to § 30-309, Code of Virginia. The Commission shall recommend approval or denial of such packages to the General Assembly. The authority of the Commission to consider and evaluate such projects shall be in addition to the authorities provided to the MEI Project Approval Commission and § 30-310, Code of Virginia.</p>				
<p>D. The Secretary of Veterans and Defense Affairs and the Secretary of Finance shall, in cooperation with the City of Chesapeake, execute an addendum to the grant agreement for Encroachment Grant #2017-100 such that the terms of the agreement are to expire on September 30, 2020.</p>				
Total for Secretary of Veterans and Defense Affairs...			<b>\$1,842,908</b>	<b>\$1,842,908</b> <b>\$4,342,908</b>
General Fund Positions.....		4.00	4.00	
Nongeneral Fund Positions.....		2.00	2.00	
Position Level.....		6.00	6.00	
Fund Sources: General.....		\$1,470,878	\$1,470,878	
<i>Trust and Agency</i> .....		\$0	\$2,500,000	
Federal Trust.....		\$372,030	\$372,030	
<b>§ 1-130. DEPARTMENT OF VETERANS SERVICES (912)</b>				
465.	State Health Services (43000).....			\$60,127,320
	Veterans Care Center Operations (43013).....	\$60,127,320	\$72,859,427	
	Fund Sources: General.....	\$50,000	\$50,000	
	Special.....	\$33,548,012	\$45,544,638	
	Federal Trust.....	\$26,529,308	\$27,264,789	
Authority: § Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.				
466.	Veterans Benefit Services (46700).....			\$17,635,740
	Case Management Services for Veterans Benefits (46701).....	\$7,996,947	<del>\$8,144,957</del> \$8,418,957	<del>\$17,896,444</del> \$18,170,444
	Virginia Veteran and Family Support Services (46702).....	\$4,866,878	\$4,866,878	

ITEM 466.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Veterans Education, Transition, and Employment Services (46703).....	\$3,975,415	\$4,088,109		
Veterans Services Fund Administration (46704).....	\$796,500	\$796,500		
Fund Sources: General.....	\$15,652,998	\$15,913,702 \$16,187,702		
Dedicated Special Revenue.....	\$796,500	\$796,500		
Federal Trust.....	\$1,186,242	\$1,186,242		

Authority: Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.

A. 1. Out of this appropriation, up to \$500,000 in the first year and up to \$500,000 in the second year from the general fund shall be provided to address the costs associated with support of a grant program to create employment opportunities for veterans by assisting Virginia employers in hiring and retaining veterans. The Department of Veterans Services shall develop program guidelines to ensure that the funding mechanism effectively attracts maximum participation of firms to increase the number of veterans hired.

2. Such funds shall be used to provide grants beginning July 1, 2015, to any business located in Virginia with 300 or fewer employees which has hired a veteran on or after July 1, 2014, with the following additional requirements: (a) each such veteran shall have been hired within five years of the date of his or her discharge from active military service and (b) each such veteran shall have been continuously employed by the business in a full-time job for at least one year. The grant shall equal \$1,000 per qualifying business for each veteran who has been hired, and who qualifies under the provisions of this item, up to a maximum grant of \$10,000 per business in the fiscal year.

3. Grants shall be issued in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are available.

4. The Department shall report no later than October 1 of each fiscal year after the program is implemented on the demand for the program, and any shortage of funding resulting from requests in excess of the available appropriation.

B. Any general fund appropriation for the Virginia Veteran and Family Support Services service area which remains unexpended at the end of the first year shall be reappropriated and allotted for expenditure for the second year.

C.1. Notwithstanding § 23.1-608, Code of Virginia, the department shall provide the State Council of Higher Education in Virginia the information these schools need to administer the Virginia Military Survivors and Dependent Education Program. The department shall retain the responsibility to certify the eligibility of those who apply for financial aid under this program.

2. No surviving spouse or child may receive the education benefits provided by § 23.1-608, Code of Virginia, and funded by this or similar state appropriations, for more than four years or its equivalent.

D. For the Virginia Values Veterans Program, the Department is hereby directed to measure (i) the program's specific effect on employers' knowledge of how to appropriately recruit and retain veterans as civilian sector employees, (ii) the program's specific effect on employers' decisions to hire more veterans than if employers did not participate in the program, and (iii) the time and effort required by employers to participate in the program. The Department shall also develop a plan to improve the effect of the Virginia Values Veterans Program on employer knowledge and hiring decisions, and reduce the time and effort required of participating employers. The plan should evaluate whether improvements should be made to the program, or whether program resources could be more effectively used by other programs to help veterans. If it is determined that program improvements should be made, the plan shall define those specific changes to the program, as well as the roles, responsibilities, and costs to both Department staff and contractors in implementing any such recommended changes. The Department shall provide its assessment and recommended plan to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2018.

ITEM 466.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<i>E. Included in the amount provided for this item is \$24,000 the second year from the general fund for the Angel Wings for Veterans program.</i>				
467.	Historic and Commemorative Attraction Management (50200).....		\$4,547,749	\$4,912,749
	State Veterans Cemetery Management and Operations (50206).....	\$3,076,394		\$3,441,394
	Virginia War Memorial Management and Operations (50209).....	\$1,471,355		\$1,471,355
	Fund Sources: General.....	\$2,601,164		\$2,901,164
	Special.....	\$348,466		\$348,466
	Federal Trust.....	\$1,598,119		\$1,663,119
Authority: Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.				
The Department of General Services shall continue to provide routine building and grounds maintenance for the Virginia War Memorial as part of services provided under the seat of government rental plan.				
468.	Administrative and Support Services (49900).....		\$2,773,744	\$2,773,744
	General Management and Direction (49901).....	\$2,773,744		\$2,773,744
	Fund Sources: General.....	\$2,357,446		\$2,357,446
	Special.....	\$416,298		\$416,298
Authority: Title 2.2, Chapters 20, 24, 26, 27, Code of Virginia.				
Included within the general fund appropriation for this item is up to \$160,000 the first year and up to \$160,000 the second year to support the operations of the Veterans Services Foundation.				
Total for Department of Veterans Services.....			<b>\$85,084,553</b>	<b>\$98,442,364</b> <b>\$98,716,364</b>
	General Fund Positions.....	211.00		<del>216.00</del> 233.00
	Nongeneral Fund Positions.....	625.00		865.00
	Position Level.....	836.00		<del>1,081.00</del> 1,098.00
	Fund Sources: General.....	\$20,661,608		<del>\$21,222,312</del> \$21,496,312
	Special.....	\$34,312,776		\$46,309,402
	Dedicated Special Revenue.....	\$796,500		\$796,500
	Federal Trust.....	\$29,313,669		\$30,114,150
<b>§ 1-131. VETERANS SERVICES FOUNDATION (913)</b>				
469.	Veterans Benefit Services (46700).....		\$796,500	\$796,500
	Veterans Services Fund Administration (46704).....	\$796,500		\$796,500
	Fund Sources: Dedicated Special Revenue.....	\$796,500		\$796,500
Authority: §§ 2.2-2715 through 2.2-2718, Code of Virginia				
470.	Administrative and Support Services (49900).....		\$115,000	\$115,000
	General Management and Direction (49901).....	\$115,000		\$115,000
	Fund Sources: General.....	\$115,000		\$115,000
Authority: §§ 2.2-2715 through 2.2-2718, Code of Virginia				
Total for Veterans Services Foundation.....			<b>\$911,500</b>	<b>\$911,500</b>
	General Fund Positions.....	1.00		1.00
	Position Level.....	1.00		1.00

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$115,000	\$115,000		
Dedicated Special Revenue.....	\$796,500	\$796,500		
<b>TOTAL FOR OFFICE OF VETERANS AND DEFENSE AFFAIRS.....</b>			<b>\$87,838,961</b>	<b>\$101,196,772</b>
				<b>\$103,970,772</b>
General Fund Positions.....	216.00	<del>221.00</del> 238.00		
Nongeneral Fund Positions.....	627.00	867.00		
Position Level.....	843.00	<del>1,088.00</del> 1,105.00		
Fund Sources: General.....	\$22,247,486	<del>\$22,808,190</del> \$23,082,190		
Special.....	\$34,312,776	\$46,309,402		
Trust and Agency.....	\$0	\$2,500,000		
Dedicated Special Revenue.....	\$1,593,000	\$1,593,000		
Federal Trust.....	\$29,685,699	\$30,486,180		

ITEM 471.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

**CENTRAL APPROPRIATIONS**

**§ 1-132. CENTRAL APPROPRIATIONS (995)**

471.	Higher Education Academic, Fiscal, and Facility Planning and Coordination (11100).....			\$8,491,533 \$10,756,833	\$8,491,533 \$10,756,833
	Interest Earned on Educational and General Programs Revenue (11106).....	\$8,491,533 \$10,756,833	\$8,491,533 \$10,756,833		
	Fund Sources: General.....	\$6,543,416 \$7,231,017	\$6,543,416 \$7,231,017		
	Higher Education Operating.....	\$1,948,117 \$3,525,816	\$1,948,117 \$3,525,816		

A. The standards upon which the public institutions of higher education are deemed certified to receive the payment of interest earnings from the tuition and fees and other nongeneral fund Educational and General revenues shall be based upon the standards provided in § 4-9.01 of this act, as approved by the General Assembly.

B. The estimated interest earnings and other revenues shall be distributed to those specific public institutions of higher education that have been certified by the State Council of Higher Education for Virginia as having met the standards provided in § 4-9.01 of this act, based on the distribution methodology developed pursuant to Chapter 933, Enactment 2, Acts of Assembly of 2005 and reported to the Chairmen of the House Appropriations Committee and Senate Finance Committee.

C. In accordance with § 2.2-5004 and 5005, Code of Virginia, this Item provides ~~\$3,371,977~~ \$4,573,395 the first year and ~~\$3,371,977~~ \$4,573,395 the second year from the general fund, and ~~\$1,948,117~~ \$3,525,816 from nongeneral funds in the first year and ~~\$1,948,117~~ \$3,525,816 from nongeneral funds in the second year for the estimated total payment to individual institutions of higher education of the interest earned on tuition and fees and other nongeneral fund Education and General Revenues deposited to the state treasury. Upon certification by the State Council of Higher Education of Virginia that all available performance benchmarks have been successfully achieved by the individual institutions of higher education, the Director, Department of Planning and Budget, shall transfer the appropriation in this Item for such estimated interest earnings to the general fund appropriation of each institution's Educational and General program.

D. This Item also includes ~~\$3,171,439~~ \$2,657,622 in the first year and ~~\$3,171,439~~ \$2,657,622 the second year from the general fund for the payment to individual institutions of higher education of a pro rata amount of the rebate paid to the State Commonwealth on credit card purchases not exceeding \$5,000 during the previous fiscal year. The State Comptroller shall determine the amount owed to each certified institution, net of any payments due to the federal government, using a methodology that equates a pro rata share based upon the total transactions of \$5,000 or less made by the institution using the state-approved credit card in comparison to all transactions of \$5,000 or less using said approved credit card. By October 15, or as soon thereafter as deemed appropriate, following the year of certification, the Comptroller shall reimburse each institution its estimated pro rata share.

E. Once actual financial data from the year of certification are available, the State Comptroller and the Director, Department of Planning and Budget, shall compare the actual data with estimates used to determine the distribution of the interest earnings, nongeneral fund Educational and General revenues, and the pro rata amounts to the certified institutions of higher education. In those cases where variances exist, the Governor shall include in his next introduced budget bill recommended appropriations to make whatever adjustments to each institution's distributed amount to ensure that each institution's incentive payments are accurate based on actual financial data.

472.	Revenue Administration Services (73200).....			a sum sufficient
	Designated Refunds for Taxes and Fees (73215).....		a sum sufficient	
	Fund Sources: General.....		a sum sufficient	

ITEM 472.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

Authority: Discretionary Inclusion.

A. There is hereby appropriated from the affected funds in the state treasury, for refunds of taxes and fees, and the interest thereon, in accordance with law, a sum sufficient.

B. There is hereby established a special fund in the state treasury to be known as the Refund Suspense Fund, hereinafter referred to as the Fund. The Tax Commissioner is hereby authorized to contract with nongovernmental entities for review of requests for refunds of taxes to enhance, expand and/or modify the administration of the refund review program, and to perform analysis of refund processing techniques. The amount of any refund identified by the nongovernmental entity as potentially erroneous shall be deposited to the Fund pending review of the refund request. Amounts in the Fund may be used to pay refunds subsequently determined to be valid, to pay the contracted nongovernmental entity for its services, to perform oversight of their operations, to upgrade necessary refund processing systems and data interfaces to facilitate the contractor's work, to offset any administrative or other costs related to any contracts authorized under this provision, and to retain experts to perform analysis of refund processing techniques. Any balance in the fund remaining after such payments, or provision therefore, shall be deposited into the appropriate general, nongeneral, or local fund.

C. There is hereby appropriated from the affected funds in the state treasury for, (1) refunds of previously paid taxes imposed by the Commonwealth at 100 percent of face value up to the amount of the coalfield employment enhancement tax credit authorized by § 58.1-439.2, Code of Virginia, (2) refunds of any remaining credit at 90 percent of face value for credits earned in taxable years beginning before January 1, 2002, and 85 percent of face value for credits earned in taxable years beginning on and after January 1, 2002, and (3) payment of the remaining 10 or 15 percent credit to the Coalfields Economic Development Authority, a sum sufficient.

473.	Distribution of Tobacco Settlement (74500) a sum sufficient, estimated at.....			\$119,327,905	\$119,327,905
	Payments to Tobacco Producers and Tobacco Growing Communities (74501).....	\$110,000,000	\$110,000,000		
	Payments for Tobacco Usage Prevention (74502)....	\$9,327,905	\$9,327,905		
	Fund Sources: Trust and Agency.....	\$119,327,905	\$119,327,905		

Authority: Title 3.2, Chapters 31, 42 and 46, and Title 32.1, Chapter 14, Code of Virginia.

A.1. There is hereby appropriated a sum sufficient estimated at \$110,000,000 the first year and \$110,000,000 the second year from nongeneral funds for expenditures of securitized proceeds and earnings up to the amount transferred from the endowment to the Tobacco Indemnification and Community Revitalization Fund in accordance with § 3.2-3104, Code of Virginia. Such expenditures shall be made pursuant to § 3.2-3108, Code of Virginia.

2. From the amount deposited into the Tobacco Indemnification and Community Revitalization Fund pursuant to § 3.2-3106, Code of Virginia, shall be paid 50 percent of the costs associated with the diligent enforcement of the non-participating manufacturer statute of the 1998 Tobacco Master Settlement Agreement, § 3.2-4201, Code of Virginia, and Item 56, Paragraph B of this act. These costs shall be paid pursuant to the transfer to the general fund directed by § 3-1.01, Paragraph N.1, of this act.

B.1. Notwithstanding the provisions of §§ 32.1-354, 32.1-360 and 32.1-361.1, Code of Virginia, the State Comptroller shall deposit 8.5 percent of the Commonwealth's Allocation pursuant to the Master Settlement Agreement with tobacco product manufacturers to the Virginia Tobacco Settlement Fund. There is hereby appropriated a sum sufficient estimated at \$9,423,439 the first year and \$9,327,905 the second year from available balances in the fund for the purposes set forth in § 32.1-361, Code of Virginia. No less than \$1,000,000 the first year and \$1,000,000 the second year shall be allocated for obesity prevention activities.

2. From the amount deposited into the Virginia Tobacco Settlement Fund shall be paid 8.5 percent of the costs associated with the diligent enforcement of the non-participating

ITEM 473.	Item Details(\$)		Appropriations(\$)	
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<p>manufacturer statute of the 1998 Tobacco Master Settlement Agreement, § 3.2-4201, Code of Virginia, and Item 56, Paragraph B, of this act. These costs shall be paid pursuant to the transfer to the general fund directed by § 3-1.01, Paragraph N.2, of this act.</p> <p>3. Beginning November 1, 2010, and each year thereafter, the Director, Virginia Healthy Youth Foundation, shall report to the Chairmen of the House Appropriations and Senate Finance Committees on funding provided to community-based organizations for obesity prevention activities pursuant to § 32.1-355, Code of Virginia.</p> <p>C. The amounts deposited by the State Comptroller pursuant to paragraph B.1. of this Item shall be included in the general fund revenue calculations for purposes of subsection C of § 58.1-3524, Code of Virginia.</p>				
474.	Compensation and Benefit Adjustments (75700).....		\$44,809,292	\$241,696,304
	Adjustments to Employee Compensation (75701).....	\$14,134,815	\$44,908,273	\$187,164,033
	Adjustments to Employee Benefits (75702).....	\$30,674,477		
		\$30,773,458		
	Fund Sources: General.....	\$44,809,292		
		\$44,908,273		

Authority: Discretionary Inclusion.

A. Transfers to or from this Item may be made to decrease or supplement general fund appropriations to state agencies for:

1. Adjustments to base rates of pay;
2. Adjustments to rates of pay for budgeted overtime of salaried employees;
3. Salary changes for positions with salaries listed elsewhere in this act;
4. Salary changes for locally elected constitutional officers and their employees;
5. Employer costs of employee benefit programs when required by salary-based pay adjustments;
6. Salary changes for local employees supported by the Commonwealth, other than those funded through appropriations to the Department of Education; and
7. Adjustments to the cost of employee benefits to include but not be limited to health insurance premiums and retirement and related contribution rates.

B. Transfers from this Item may be made when appropriations to the state agencies concerned are insufficient for the purposes stated in paragraph A of this Item, as determined by the Department of Planning and Budget, and subject to guidelines prescribed by the department. Further, the Department of Planning and Budget may transfer appropriations within this Item from the second year of the biennium to the first year, when necessary to accomplish the purposes stated in paragraph A of this Item.

C. Except as provided for elsewhere in this Item, agencies supported in whole or in part by nongeneral fund sources, shall pay the proportionate share of changes in salaries and benefits as required by this Item, subject to the rules and regulations prescribed by the appointing or governing authority of such agencies. Nongeneral fund revenues and balances required for this purpose are hereby appropriated.

D. Any supplemental salary payment to a state employee or class of state employees by a local governing body shall be governed by a written agreement between the agency head of the employee or class of employees receiving the supplement and the chief executive officer of the local governing body. Such agreement shall also be reviewed and approved by the Director of the State Department of Human Resource Management. At a minimum, the agreement shall specify the percent of state salary or fixed amount of the supplement, the resultant total salary of the employee or class of employees, the frequency and method of payment to the agency of the supplement, and whether or not such supplement shall be included in the employee's state benefit calculations. A copy of the agreement shall be made

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available annually to all employees receiving the supplement. The receipt of a local salary supplement shall not subject employees to any personnel or payroll rules and practices other than those promulgated by the State Department of Human Resource Management.

E. The Governor is hereby authorized to transfer funds from agency appropriations to the accounts of participating state employees in such amounts as may be necessary to match the contributions of the qualified participating employees, consistent with the requirements of the Code of Virginia governing the deferred compensation cash match program. Such transfers shall be made consistent with the following:

1. The maximum cash match provided to eligible employees shall not be less than \$20.00 per pay period, or \$40.00 per month, in each year of the biennium. The Governor may direct the agencies of the Commonwealth to utilize funds contained within their existing appropriations to meet these requirements.
2. The Governor may direct agencies supported in whole or in part with nongeneral funds to utilize existing agency appropriations to meet these requirements. Such nongeneral revenues and balances are hereby appropriated for this purpose, subject to the provisions of § 4-2.01 b of this act. The use of such nongeneral funds shall be consistent with any existing conditions and restrictions otherwise placed upon such nongeneral funds.
3. The procurement of services related to the implementation of this program shall be governed by standards set forth in § 51.1-124.30 C, Code of Virginia, and shall not be subject to the provisions of Chapter 7 (§ 11-35 et seq.), Title 11, Code of Virginia.

F. The Secretary of Administration, in conjunction with the Secretary of Finance, may establish a program that allows for the sharing of cost savings from improved productivity, efficiency, and performance with agencies and employees. Such gain sharing programs require a management philosophy of open communication encouraging employee participation; a system which seeks, evaluates and implements employee input on increasing productivity; and a formula for measuring productivity gains and sharing these gains between employees and the agency. The Department of Human Resource Management, in conjunction with the Department of Planning and Budget, shall develop specific gain sharing program guidelines for use by agencies. The Department of Human Resource Management shall provide to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees an annual report no later than October 1 of each year detailing identified savings and their usage.

G.1. Out of the appropriation for this Item, amounts estimated at \$33,650,659 the first year and ~~\$84,583,369~~ \$33,272,027 the second year from the general fund shall be transferred to state agencies and institutions of higher education to support the general fund portion of costs associated with changes in the employer's share of premiums paid for the Commonwealth's health benefit plans.

2. Notwithstanding any contrary provision of law, the health benefit plans for state employees resulting from the additional funding in this Item shall allow for a portion of employee medical premiums to be charged to employees.
3. The Department of Human Resource Management shall explore options within the health insurance plan for state employees to promote value-based health choices aimed at creating greater employee satisfaction with lower overall health care costs. It is the General Assembly's intent that any savings associated with this employee health care initiative be retained and used towards funding state employee salary or fringe benefit cost increases.
4. Notwithstanding any other provision of law, it shall be the sole responsibility and authority of the Department of Human Resource Management to establish and enforce employer contribution rates for any health insurance plan established pursuant to §2.2-2818, Code of Virginia.
5. The Department of Human Resource Management is prohibited from establishing a retail maintenance network for maintenance drugs that includes penalties for non-use of the retail maintenance network.
6. The Department of Human Resource Management shall not increase the annual out-of-

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	<b>First Year</b>	<b>Second Year</b>	<b>First Year</b>	<b>Second Year</b>
	<b>FY2019</b>	<b>FY2020</b>	<b>FY2019</b>	<b>FY2020</b>

pocket maximum included in the plans above the limits in effect for the plan year which began on July 1, 2014.

7. The Department of Human Resource Management shall include language in all contracts, signed on or after July 1, 2018, with third party administrators of the state employee health plan requiring the third party administrators to: 1) maintain policies and procedures for transparency in their pharmacy benefit administration programs; 2) transparently provide information to state employees through an explanation of benefits regarding the cost of drug reimbursement; dispensing fees; copayments; coinsurance; the amount paid to the dispensing pharmacy for the claim; the amount charged to the third party administrator for the claim by the third party administrator's pharmacy benefit manager; and the amount charged by the third party administrator to the Commonwealth; and 3) provide a report to the Department of Human Resource Management of the aggregate difference in amounts between reimbursements made to pharmacies for claims covered by the state employee insurance plan, the amount charged to the third party administrator for the claim by the third party administrator's pharmacy benefit manager, and the amount charged by the third party administrator to the Commonwealth as well as an explanation for any difference. The department shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on its implementation of this item by October 1, 2018.

8. Notwithstanding the provisions of § 38.2-3418.17 and any other provision of law, effective October 1, 2018, the Department of Human Resource Management shall provide coverage under the state employee health insurance program for the treatment of autism spectrum disorder through the age of eighteen.

9. In addition to the amounts cited in paragraph G.1 of this item, \$992,222 the first year from the general fund shall be provided for the Department of Human Resource Management for the repayment of costs incurred pursuant to the proposal to establish an optional statewide local employee health insurance program.

H.1. Contribution rates paid to the Virginia Retirement System for the retirement benefits of public school teachers, state employees, state police officers, state judges, and state law enforcement officers eligible for the Virginia Law Officers Retirement System shall be based on a valuation of retirement assets and liabilities that are consistent with the provisions of Chapters 701 and 823, Acts of Assembly of 2012.

2. Retirement contribution rates, excluding the five percent employee portion, shall be as set out below and include both the regular contribution rate and for the public school teacher plan the rate calculated by the Virginia Retirement System actuary for the 10-year payback of the retirement contribution payments deferred for the 2010-12 biennium:

	<b>FY 2019</b>	<b>FY 2020</b>
Public school teachers	15.68%	15.68%
State employees	13.52%	13.52%
State Police Officers' Retirement System	24.88%	24.88%
Virginia Law Officers' Retirement System	21.61%	21.61%
Judicial Retirement System	34.39%	34.39%

3. Payments of all required contributions and insurance premiums to the Virginia Retirement System and its third-party administrators, as applicable, shall be made no later than the tenth day following the close of each month of the fiscal year.

4. The Director of Department of Planning and Budget shall withhold and transfer to this Item, amounts estimated at \$6,539,646 the first year and \$6,823,946 the second year, from the general fund appropriations of state agencies and institutions of higher education, representing the net savings resulting from the changes in employer contributions for state employee retirement as provided for in this paragraph.

5. The funding necessary to support the cost of reimbursements to Constitutional Officers for retirement contributions are appropriated elsewhere in this act under the Compensation Board.

6. The funding necessary to support the cost of the employer retirement contribution rate for public school teachers is appropriated elsewhere in this act under Direct Aid to Public

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Education.				
<p>I.1. Except as authorized in Paragraph I.2. of this Item, rates paid to the Virginia Retirement System on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions shall be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to § 51.1-145(I), Code of Virginia.</p>				
<p>2. Rates paid to the VRS on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions shall be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to § 51.1-145(I), Code of Virginia, unless the participating employer notifies VRS that it has opted to base the employer contribution rate on the higher of: a) the contribution rate in effect for FY 2012, or b) seventy percent of the results of the June 30, 2011 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2012-14 biennium, eighty percent of the results of the June 30, 2013 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2014-16 biennium, ninety percent of the results of the June 30, 2015 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2016-18 biennium, and one-hundred percent of the results of the June 30, 2017 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2018-20 biennium.</p>				
<p>3. Every participating employer that opts not to use the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to § 51.1-145(I), Code of Virginia, must certify to the board of the Virginia Retirement System by resolution adopted by its local governing body that it: has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future fiscal implications of electing or not electing to utilize the employer contribution rates certified by the Virginia Retirement System Board of Trustees, as provided for in paragraph I.1.</p>				
<p>4. Local public school divisions must receive the concurrence of the local governing body if electing to pay the alternate contribution rate set out in paragraph I.2. Such concurrence must be documented by a resolution of the governing body.</p>				
<p>5. The board of the Virginia Retirement System shall provide all employers participating in the Virginia Retirement System with a summary of the implications inherent in the use of the employer contribution rates certified by the Virginia Retirement System (VRS) Board of Trustees set out in paragraph I.1, and the alternate employer contribution rates set out in paragraph I.2.</p>				
<p>J. The Virginia Retirement System Board of Trustees shall account for the employer retirement contribution payments for the public school teacher plan deferred for the 2010-2012 biennium based on limiting employer retirement contributions to the Virginia Retirement System to the actuarial normal cost. In setting the employer retirement contribution rates for the public school teacher plan for subsequent biennia, the board shall calculate a separate, supplemental employer contribution rate that will amortize such deferred payments over a period of ten years using the board's assumed long-term rate of return. The Governor shall include funds to support payment of the approved state portion of such board-approved, supplemental employer contribution rates for the public school teacher plan in the budget submitted to the General Assembly.</p>				
<p>K.1. Contribution rates paid to the Virginia Retirement System for other employee benefits to include the public employee group life insurance program, the Virginia Sickness and Disability Program, the state employee retiree health insurance credit, and the public school teacher retiree health insurance credit, shall be based on a valuation of assets and liabilities that assume an investment return of seven percent and an amortization period of 30 years.</p>				
<p>2. Contribution rates paid on behalf of public employees for other programs administered</p>				

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by the Virginia Retirement System shall be:

	FY 2019	FY 2020
State employee retiree health insurance credit	1.17%	1.17%
Public school teacher retiree health insurance credit	1.20%	1.20%
State employee group life insurance program	1.31%	1.31%
Employer share of the public school teacher group life insurance program	0.52%	0.52%
Virginia Sickness and Disability Program	0.62%	0.62%

3. Funding for the Virginia Sickness and Disability Program is calculated on a rate of 0.53 percent of total payroll.

4. The Director of Department of Planning and Budget shall withhold and transfer to this Item amounts estimated at \$676,148 the first year and \$705,521 the second year, from the general fund appropriations of state agencies and institutions of higher education, representing the net savings resulting from changes in employer contributions for state employee benefits as provided for in this paragraph.

5. The funding necessary to support the cost of reimbursements to Constitutional Officers for public employee group life insurance contributions is appropriated elsewhere in this act under the Compensation Board.

6. The funding necessary to support the cost of the employer public school teacher group life insurance and retiree health insurance credit rates is appropriated elsewhere in this act under Direct Aid to Public Education.

L.1. The retiree health insurance credit contribution rates for the following groups of state supported local public employees shall be: 0.38 percent for constitutional officers and employees of constitutional officers 0.43 percent for employees of local social services boards, and 0.39 percent for General Registrars and employees of General Registrars.

2. Out of the general fund appropriation for this Item is included \$317,863 the first year and \$317,863 the second year to support the general fund portion of the net costs resulting from changes in the retiree health insurance credit contribution rates for state supported local public employees through the Compensation Board, the Department of Social Services, and the Department of Elections pursuant to § 51.1-1403, Code of Virginia.

M.1. Notwithstanding the provisions of § 2.2-3205(A), Code of Virginia, the terminating agency shall not be required to pay the Virginia Retirement System the costs of enhanced retirement benefits provided for in § 2.2-3204(A), Code of Virginia for employees who are involuntarily separated from employment with the Commonwealth if the Director of the Department of Planning and Budget certifies that such action results from 1. budget reductions enacted in the Appropriation Act, 2. budget reductions executed in response to the withholding of appropriations by the Governor pursuant to §4-1.02 of the Act, 3. reorganization or reform actions taken by state agencies to increase efficiency of operations or improve service delivery provided such actions have been previously approved by the Governor, or 4. downsizing actions taken by state agencies as the result of the loss of federal or other grants, private donations, or other nongeneral fund revenue, and if the Director of the Department of Human Resource Management certifies that the action comports with personnel policy. Under these conditions, the entire cost of such benefits for involuntarily separated employees shall be factored into the employer contribution rates paid to the Virginia Retirement System.

2. Notwithstanding the provisions of § 2.2-3205(A), Code of Virginia, the terminating agency shall not be required to pay the Virginia Retirement System the costs of enhanced retirement benefits provided for in § 2.2-3204(A), Code of Virginia, for employees who are involuntarily separated from employment with the Commonwealth if the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules have certified on or after July 1, 2016,

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that such action results from 1. budget reductions enacted in the Appropriation Act pertaining to the Legislative Department; 2. reorganization or reform actions taken by agencies in the legislative branch of state government to increase efficiency of operations or improve service delivery provided such actions have been approved by the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules; or 3. downsizing actions taken by agencies in the legislative branch of state government as the result of the loss of federal or other grants, private donations, or other nongeneral fund revenue and if the applicable agency certifies that the actions comport with the provisions of and related policies associated with the Workforce Transition Act. Under these conditions, the entire cost of such benefits for involuntarily separated employees shall be factored into the employer contribution rates paid to the Virginia Retirement System.

N. The purpose of this paragraph is to provide a transitional severance benefit, under the conditions specified, to eligible city, county, school division or other political subdivision employees who are involuntarily separated from employment with their employer.

1.a. "Involuntary separation" includes, but is not limited to, terminations and layoffs from employment with the employer, or being placed on leave without pay-layoff or equivalent status, due to budget reductions, employer reorganizations, workforce downsizings, or other causes not related to the job performance or misconduct of the employee, but shall not include voluntary resignations. As used in this paragraph, a "terminated employee" shall mean an employee who is involuntarily separated from employment with his employer.

b. The governing authority of a city, county, school division or other political subdivision electing to cover its employees under the provisions of this paragraph shall adopt a resolution, as prescribed by the Board of Trustees of the Virginia Retirement System, to that effect. An election by a school division shall be evidenced by a resolution approved by the Board of such school division and its local governing authority.

2.a. Any (i) "eligible employee" as defined in § 51.1-132, (ii) "teacher" as defined in § 51.1-124.3, and (iii) any "local officer" as defined in § 51.1-124.3 except for the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, and (a) for whom reemployment with his employer is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this paragraph. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

b. Eligibility shall commence on the date of involuntary separation.

3.a. On his date of involuntary separation, an eligible employee with (i) two years' service or less to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary; (ii) three years through and including nine years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary plus one additional week of salary for every year of service over two years; (iii) ten years through and including fourteen years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to twelve weeks of salary plus two additional weeks of salary for every year of service over nine years; or (iv) fifteen years or more of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to two weeks of salary for every year of service, not to exceed thirty-six weeks of salary.

b. Transitional severance benefits shall be computed by the terminating employer's payroll department. Partial years of service shall be rounded up to the next highest year of service.

c. Transitional severance benefits shall be paid by the employer in the same manner as normal salary. In accordance with § 60.2-229, transitional severance benefits shall be allocated to the date of involuntary separation. The right of any employee who receives a transitional severance benefit to also receive unemployment compensation pursuant to § 60.2-100 et seq. shall not be denied, abridged, or modified in any way due to receipt of the transitional severance benefit; however, any employee who is entitled to unemployment

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	<p>compensation shall have his transitional severance benefit reduced by the amount of such unemployment compensation. Any offset to a terminated employee's transitional severance benefit due to reductions for unemployment compensation shall be paid in one lump sum at the time the last transitional severance benefit payment is made.</p>			
	<p>d. For twelve months after the employee's date of involuntary separation, the employee shall continue to be covered under the (i) health insurance plan administered by the employer for its employees, if he participated in such plan prior to his date of involuntary separation, and (ii) group life insurance plan administered by the Virginia Retirement System pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1, or such other group life insurance plan as may be administered by the employer. During such twelve months, the terminating employer shall continue to pay its share of the terminated employee's premiums. Upon expiration of such twelve month period, the terminated employee shall be eligible to purchase continuing health insurance coverage under COBRA.</p>			
	<p>e. Transitional severance benefit payments shall cease if a terminated employee is reemployed or hired in an individual capacity as an independent contractor or consultant by the employer during the time he is receiving such payments.</p>			
	<p>f. All transitional severance benefits payable pursuant to this section shall be subject to applicable federal laws and regulations.</p>			
	<p>4.a. In lieu of the transitional severance benefit provided in subparagraph 3 of this paragraph, any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of a defined benefit plan within the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169, and including a member eligible for the benefits described in subsection B of § 51.1-138, and (ii) at least fifty years of age, may elect to have the employer purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, including a member eligible for the benefits described in subsection B of § 51.1-138, who is eligible for unreduced retirement shall be added to his creditable service and not his age. The cost of each year of age or creditable service purchased by the employer shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the employer shall be equal to the quotient obtained by dividing (i) the cash value of the benefits to which the employee would be entitled under subparagraphs 3.a. and 3.d. of this paragraph by (ii) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153 and disability retirement under the provisions of § 51.1-156 et seq., shall not be available under this paragraph.</p>			
	<p>b. In lieu of the (i) transitional severance benefit provided in subparagraph 3 of this paragraph and (ii) the retirement program provided in this subsection, any employee who is otherwise eligible may take immediate retirement pursuant to §§ 51.1-155.1 or 51.1-155.2.</p>			
	<p>c. The retirement allowance for any employee electing to retire under this paragraph who, by adding years to his age, is between ages fifty-five and sixty-five, shall be reduced on the actuarial basis provided in subdivision A. 2. of § 51.1-155.</p>			
	<p>d. The retirement program provided in this subparagraph shall be otherwise governed by policies and procedures developed by the Virginia Retirement System.</p>			
	<p>e. Costs associated with the provisions of this subparagraph shall be factored into the employer contribution rates paid to the Virginia Retirement System.</p>			
	<p>f. Notwithstanding the foregoing, the provisions of this paragraph N shall apply to an otherwise eligible employee who is a person who becomes a member on or after July 1, 2010, a person who does not have 60 months of creditable service as of January 1, 2013, or a person who is enrolled in the hybrid retirement program described in § 51.1-169, mutatis mutandis.</p>			
	<p>O.1. In addition to the contributions required under § 51.1-145 of the Code of Virginia; and notwithstanding any other contrary provisions of the Appropriation Act or of § 51.1-145; all institutions of higher education that have established their own optional retirement plan under § 51.1-126(B) shall, beginning October 1, 2018; pay contributions to the employer's retirement allowance account in an amount equal to the difference between the total</p>			

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<p>retirement contribution rate required on behalf of State employees and the rate payable by the Commonwealth under § 51.1-126(F)(1) for Optional Retirement Plan for Higher Education employees who became a member on or after July 1, 2010: Such payment shall be made for each employee who began participating in an Optional Retirement Plan for Higher Education under § 51.1-126(B) on or after January 1, 2014, and who, as of that date, was not directly engaged in the performance of teaching duties, with the exception of employees of entities described in § 51.1-126.1, § 51.1-126.3, and Chapter 24 of Title 23.1: <i>a. In order to address the potential for stranded liability in the Virginia Retirement System, notwithstanding any other contrary provisions of the Appropriation Act or of § 51.1-145, institutions of higher education that have established their own optional retirement plan under § 51.1-126(B) shall pay, effective July 1, 2019, contributions to the employer's retirement allowance account in an amount equal to that portion of the state employer contribution rate designated to pay down the total unfunded accrued liability, for any positions existing as of December 31, 2011 that are subsequently converted from non-Optional Retirement Plan for Higher Education (ORPHE) eligible positions to ORPHE-eligible positions on or after January 1, 2012 and that are filled by an employee who elects to participate in the ORPHE. In meeting this obligation, each institution shall provide to the Virginia Retirement System by April 1 of each year a list of all positions converted from non-ORPHE eligible positions to ORPHE-eligible positions since January 1, 2012, and whether current employees in such positions have elected ORPHE participation.</i></p> <p><i>b. Such contributions shall not be required for any new position established by the institution after January 1, 2012, that may be eligible for participation in the Optional Retirement Plan for Higher Education.</i></p> <p>2. Furthermore, the Department of Accounts, the Virginia Retirement System, and the universities of higher education shall work to develop a methodology to identify and report separately personnel services expenditures for university personnel in positions that use to be classified positions but have been transitioned to university staff positions.</p> <p>3. The Virginia Retirement System and the universities of higher education shall submit a report to the Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2018 on the approximate unfunded liability that maybe attributable to these positions and the level of additional contributions the system will realize from the surcharge.</p> <p>P. 1. Notwithstanding the provisions of § 17.1-327, Code of Virginia, any justice, judge, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission who is retired under the Judicial Retirement System and who is temporarily recalled to service shall be reimbursed for actual expenses incurred during such service and shall be paid a per diem of \$250 for each day the person actually sits, exclusive of travel time.</p> <p>2. Out of the general fund appropriation for this Item, \$500,000 in the first year and \$500,000 in the second year is provided to support the costs resulting from the changes in the per diem amounts provided for in paragraph P.1. The Director, Department of Planning and Budget, shall disburse funding from this Item to all affected judicial and independent agencies upon request.</p> <p>Q. The Director, Department of Planning and Budget, shall transfer from this Item, general fund amounts estimated at <del>\$1,107,576</del> \$1,206,557 the first year and <del>\$1,107,576</del> \$1,267,368 the second year to state agencies and institutions of higher education to support the general fund portion of costs of Line of Duty Act premiums based on the latest enrollment update from the Virginia Retirement System.</p> <p>R. The Director, Department of Planning and Budget, shall transfer from this Item, general fund amounts estimated at \$1,821,951 the first year and <del>\$2,436,844</del> \$2,291,203 the second year to state agencies and institutions of higher education to support the general fund portion of costs of workers' compensation premiums provided by the Department of Human Resource Management.</p> <p>S.1. The Governor is hereby authorized to allocate a sum of up to \$13,634,815 the first year and <del>\$160,280,119</del> \$202,207,901 the second year from this appropriation to the extent</p>				

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<p>necessary to offset any downward revisions of the general fund revenue estimate prepared for fiscal years 2019 and 2020 after the enactment by the General Assembly of the 2018 Special Session I Appropriation Act. If the forecast of general fund revenues for fiscal years 2019 and 2020 developed as the basis for the 2019 budget bill is no less than the revenues assumed in the 2018 Appropriation Act then such appropriation shall be used only for employee compensation purposes as stated in paragraphs T., U., V., W., X., Y., Z., and AA. below.</p>				
<p>2. Furthermore, <del>\$131,500,000</del> \$203,515,374 the second year from the general fund allocated to support the state share of a <del>three</del> five percent salary adjustment for SOQ funded positions authorized in Item 136 of this act shall be unallotted if the provisions of paragraph S.1. are not met and the actions authorized in paragraphs T., U., V., W., X., Y., Z., and AA. of this item are not effectuated.</p>				
<p>3. <i>Appropriation amounts stated in paragraphs T., U., V., W., X., Y., Z., and AA. below reflect the estimated general fund share of costs for such employee compensation actions. Transfers from this Item shall be made based on the general fund share of the actual costs to implement the actions authorized in paragraphs T., U., V., W., X., Y., Z., and AA., as determined by the Director, Department of Planning and Budget. However, the total value of such transfers shall not exceed the amounts designated for these purposes in paragraph S.1. above.</i></p>				
<p>T.1. The base salary of the following employees shall be increased by <del>two</del> 2.75 percent on June 10, 2019:</p>				
<p>a. Full-time and other classified employees of the Executive Department subject to the Virginia Personnel Act;</p>				
<p>b. Full-time employees of the Executive Department not subject to the Virginia Personnel Act, except officials elected by popular vote; <i>except for faculty at institutions of higher education whose base salary shall be increased three percent.</i></p>				
<p>c. Any official whose salary is listed in § 4-6.01 of this act, subject to the ranges specified in the agency head salary levels in § 4-6.01 c;</p>				
<p>d. Full-time staff of the Governor's Office, the Lieutenant Governor's Office, the Attorney General's Office, Cabinet Secretaries' Offices, including the Deputy Secretaries, the Virginia Liaison Office, and the Secretary of the Commonwealth's Office;</p>				
<p>e. Heads of agencies in the Legislative Department;</p>				
<p>f. Full-time employees in the Legislative Department, other than officials elected by popular vote;</p>				
<p>g. Legislative Assistants as provided for in Item 1 of this act;</p>				
<p>h. Judges and Justices in the Judicial Department;</p>				
<p>i. Heads of agencies in the Judicial Department;</p>				
<p>j. Full-time employees in the Judicial Department;</p>				
<p>k. Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission, the Chief Executive Officer of the Virginia College Savings Plan, <del>and</del> the <i>Executive</i> Directors of the Virginia Lottery, and the <i>Director of the Virginia Retirement System</i>; and</p>				
<p>l. Full-time employees of the State Corporation Commission, the Virginia College Savings Plan, the Virginia Lottery, Virginia Workers' Compensation Commission, and the Virginia Retirement System.</p>				
<p>2.a. Employees in the Executive Department subject to the Virginia Personnel Act shall receive the salary increases authorized in this paragraph only if they attained at least a rating of "Contributor" on their latest performance evaluation.</p>				
<p>b. Salary increases authorized in this paragraph for employees in the Judicial and Legislative Departments, employees of Independent agencies, and employees of the Executive Department not subject to the Virginia Personnel Act shall be consistent with the provisions</p>				

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of this paragraph, as determined by the appointing or governing authority. The appointing or governing authority shall certify to the Department of Human Resource Management that employees receiving the awards are performing at levels at least comparable to the eligible employees as set out in subparagraph 2.a. of this paragraph.

3. The Department of Human Resource Management shall increase the minimum and maximum salary for each band within the Commonwealth's Classified Compensation Plan by ~~four~~ five percent on June 10, 2019. No salary increase shall be granted to any employee as a result of this action. The department shall develop policies and procedures to be used in instances when employees fall below the entry level for a job classification due to poor performance. Movement through the revised pay band shall be based on employee performance.

4. Out of the amounts for Supplements to Employee Compensation is included ~~\$68,791,336~~ \$96,976,795 the second year from the general fund to support the general fund portion of costs associated with the salary increase provided in this paragraph.

5. The following agency heads, at their discretion, may utilize agency funds or the funds provided pursuant to this paragraph to implement the provisions of new or existing performance-based pay plans:

- a. The heads of agencies in the Legislative and Judicial Departments;
- b. The Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission;
- c. The Attorney General;
- d. The Director of the Virginia Retirement System;
- e. The *Executive* Director of the Virginia Lottery;
- f. The Director of the University of Virginia Medical Center;
- g. The Chief Executive Officer of the Virginia College Savings Plan;
- h. The Executive Director of the Virginia Port Authority; and
- i. The Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority.

6. The base rates of pay, and related employee benefits, for wage employees may be increased up to ~~two~~ 2.75 percent no earlier than June 10, 2019. The cost of such increases for wage employees shall be borne by existing funds appropriated to each agency.

U.1. The appropriations in this item include funds to increase the base salary of the following employees by ~~two~~ three percent on July 1, 2019, provided that the governing authority of such employees use such funds to support salary increases for the following listed employees:

- a. Locally-elected constitutional officers;
- b. General Registrars and members of local electoral boards;
- c. Full-time employees of locally-elected constitutional officers and,
- d. Full-time employees of Community Services Boards, Centers for Independent Living, secure detention centers supported by Juvenile Block Grants, juvenile delinquency prevention and local court service units, local social services boards, local pretrial services act and comprehensive community corrections act employees, and local health departments where a memorandum of understanding exists with the Virginia Department of Health.

2. Out of the appropriation for Supplements to Employee Compensation is included ~~\$17,882,376~~ \$26,830,344 the second year from the general fund to support the costs associated with the salary increase provided in ~~this paragraph~~ *subparagraph U.1.*

3. *In addition to any other salary increase provided in this paragraph, \$139,611 from the*

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<i>general fund in the second year is included to provide general registrars an additional three percent salary increase, effective July 1, 2019</i>				
<p>V.1. In addition to the salary increase authorized in paragraph T. of this item, the appropriation for this item includes <del>\$38,040,000</del> \$42,834,355 from the general fund the second year to provide an additional <del>two</del> 2.25 percent merit based salary adjustment for state employees with three or more years of continuous state service listed in paragraph T. of this item, except for faculty at institutions of higher education, appointed officials and employees designated as university staff at institutions of higher education, and judges and justices in the Judicial Department, and Officials whose salary is listed in § 4-6.01 of this act, effective June 10, 2019. Agency directors shall have the authority to provide individual employees a merit increase in excess of <del>two</del> 2.25 percent provided the total cost of all merit increases for each agency does not exceed the <del>two</del> 2.25 percent average.</p> <p>2. The following agency heads, at their discretion, may utilize agency funds or the funds provided pursuant to this paragraph to implement the provisions of new or existing performance-based pay plans:</p> <ul style="list-style-type: none"> <li>a. The heads of agencies in the Legislative and Judicial Departments;</li> <li>b. The Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission;</li> <li>c. The Attorney General;</li> <li>d. The Director of the Virginia Retirement System;</li> <li>e. The <i>Executive</i> Director of the Virginia Lottery;</li> <li>f. The Director of the University of Virginia Medical Center;</li> <li>g. The Chief Executive Officer of the Virginia College Savings Plan;</li> <li>h. The Executive Director of the Virginia Port Authority; and</li> <li>i. The Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority.</li> </ul> <p>W. The appropriations in this item includes \$6,670,930 the first year and \$17,949,110 the second year from the general fund to support the cost of a \$2,016 salary increase for Correctional Officers and Correctional Officer Seniors within the Department of Corrections effective January 10, 2019.</p> <p>X. The appropriations in this item includes \$391,791 the first year and \$958,044 the second year from the general fund to support the cost of a \$1,846 salary increase for Correctional Officers and Correctional Officer Seniors within the Department of Juvenile Justice effective January 10, 2019.</p> <p>Y. Included in this appropriation is \$145,997 the first year and \$350,394 the second year from the general fund to support the cost of the following salary adjustment for all members of the Virginia Marine Police effective January 10, 2019:</p> <ul style="list-style-type: none"> <li>1.) The starting salary for officers of the Virginia Marine Police shall be set at \$41,814.</li> <li>2.) Consistent with current practice, officers of the Virginia Marine police shall receive a five percent salary adjustment after completing one year of service resulting in a salary of \$43,905.</li> <li>3.) The salary for all current members of the Virginia Marine Police with more than one year of service shall be the greater of \$43,905 or their current salary adjusted for a 6.5 percent increase.</li> </ul> <p>Z. The appropriations in this item includes \$5,083,333 the first year and \$12,200,000 the second year from the general fund to support the cost of increasing the salaries for direct service associates, licensed practical nurses, and registered nurses employed in facilities of the Department of Behavioral Health &amp; Developmental Services to within three percent of the market median effective January 10, 2019.</p>				

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AA. The appropriations in this item includes \$1,342,764 the first year and \$4,108,859 the second year from the general fund to support the cost of increasing the entry level pay for sworn deputy sheriffs in sheriffs' offices by \$871 effective February 1, 2019.				
<i>BB. Out of the amounts included in this Item, an amount estimated at \$808,692 the second year from the general fund shall be transferred to the University of Virginia to cover the state share of the increases in employer premiums for state employees participating in the university's health care plan.</i>				
<i>CC. The Director of the Department of Planning and Budget shall withhold from general fund appropriations of state agencies and institutions of higher education, and transfer to this item, the amount of \$46,111,165 the second year representing the savings that will be realized from providing a premium holiday for members in the state employee health benefits program, including retirees and COBRA beneficiaries included in the state employee funding pool, for the two pay periods in October 2019.</i>				
475. Payments for Special or Unanticipated Expenditures (75800).....			\$29,908,315	\$40,531,819
			\$35,637,316	\$58,063,713
Miscellaneous Contingency Reserve Account (75801).....	\$1,300,000	\$1,300,000		
<i>Economic Development Assistance (75804).....</i>	<i>\$0</i>	<i>\$1,350,000</i>		
Undistributed Support for Designated State Agency Activities (75806).....	\$28,608,315	\$39,231,819		
	\$34,337,316	\$55,413,713		
Fund Sources: General.....	\$29,908,315	\$40,531,819		
	\$35,637,316	\$58,063,713		

Authority: Discretionary Inclusion.

A. The Governor is hereby authorized to allocate sums from this appropriation, in addition to an amount not to exceed \$5,000,000 from the unappropriated balance derived by subtracting the general fund appropriations from the projected general fund revenues in this act, to provide for supplemental funds pursuant to paragraph D hereof. Transfers from this Item shall be made only when (1) sufficient funds are not available within the agency's appropriation and (2) additional funds must be provided prior to the end of the next General Assembly Session.

B.1. The Governor is authorized to allocate from the unappropriated general fund balance in this act such amounts as are necessary to provide for unbudgeted cost increases to state agencies incurred as a result of actions to enhance homeland security, combat terrorism, and to provide for costs associated with the payment of a salary supplement for state classified employees ordered to active duty as part of a reserve component of the Armed Forces of the United States or the Virginia National Guard. Any salary supplement provided to state classified employees ordered to active duty, shall apply only to employees who would otherwise earn less in salary and other cash allowances while on active duty as compared to their base salary as a state classified employee. Guidelines for such payments shall be developed by the Department of Human Resource Management in conjunction with the Departments of Accounts and Planning and Budget.

2. The Governor shall submit a report within thirty days to the Chairmen of House Appropriations and Senate Finance Committees which itemizes any disbursements made from this Item for such costs.

3. The governing authority of the agencies listed in this subparagraph may, at its discretion and from existing appropriations, provide such payments to their employees ordered to active duty as part of a reserve component of the Armed Forces of the United States or the Virginia National Guard, as necessary to provide comparable pay supplements to its employees.

a. Agencies in the Legislative and Judicial Departments;

b. The State Corporation Commission, the Virginia Workers' Compensation Commission, the Virginia Retirement System, the Virginia Lottery, and the Virginia College Savings Plan;

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c. The Office of the Attorney General and the Department of Law; and				
d. State-supported institutions of higher education.				
C. The Governor is authorized to expend from the unappropriated general fund balance in this act such amounts as are necessary, up to \$1,500,000, to provide for indemnity payments to growers, producers, and owners for losses sustained as a result of an infectious disease outbreak or natural disaster in livestock and poultry populations in the Commonwealth. These indemnity payments will compensate growers, producers, and owners for a portion of the difference between the appraised value of each animal destroyed or slaughtered or animal product destroyed in order to control or eradicate an animal disease outbreak and the total of any salvage value plus any compensation paid by the federal government.				
D. Out of the appropriation for this item is included \$1,000,000 the first year and \$1,000,000 the second year from the general fund to be used by the Governor as he may determine to be needed for the following purposes:				
1. To address the six conditions listed in § 4-1.03 c 5 of this act.				
2. To provide for unbudgeted and unavoidable increases in costs to state agencies for essential commodities, services, and training which cannot be absorbed within agency appropriations including unbudgeted benefits associated with Workforce Transition Act requirements.				
3. To secure federal funds in the event that additional matching funds are needed for Virginia to participate in the federal Superfund program.				
4. To provide a payment of up to \$100,000 to the Military Order of the Purple Heart, for the continued operation of the National Purple Heart Hall of Honor, provided that at least half of other states have made similar grants.				
5. In addition, if the amounts appropriated in this Item are insufficient to meet the unanticipated events enumerated, the Governor may utilize up to \$1,000,000 the first year and \$1,000,000 the second year from the general fund amounts appropriated for the Commonwealth's Opportunity Fund for the unanticipated purposes set forth in paragraph D.1. through paragraph D.5. of this Item.				
6. In addition, to provide for payment of monetary rewards to persons who have disclosed information of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act.				
7. The Department of Planning and Budget shall submit a quarterly report of any disbursements made from, commitments made against, and requests made for such sums authorized for allocation pursuant to this paragraph to the Chairmen of the House Appropriations and Senate Finance Committees. This report shall identify each of the conditions specified in this paragraph for which the transfer is made.				
E. Included in this appropriation is \$300,000 the first year and \$300,000 the second year from the general fund to pay for private legal services and the general fund share of unbudgeted costs for enforcement of the 1998 Tobacco Master Settlement Agreement. Transfers for private legal services shall be made by the Director, Department of Planning and Budget upon prior written authorization of the Governor or the Attorney General, pursuant to § 2.2-510, Code of Virginia or Item 56, Paragraph D of this act. Transfers for enforcement of the Master Settlement Agreement shall be made by the Director, Department of Planning and Budget at the request of the Attorney General, pursuant to Item 56, Paragraph B of this act.				
F. Notwithstanding the provisions of § 58.1-608.3B.(v), Code of Virginia, any municipality which has issued bonds on or after July 1, 2001, but before July 1, 2006, to pay the cost, or portion thereof, of any public facility pursuant to § 58.1-608.3, Code of Virginia, shall be entitled to all sales tax revenues generated by transactions taking place in such public facility.				
G. The Director, Department of Planning and Budget, shall transfer from this Item, general fund amounts estimated at <del>\$23,356,579</del> \$31,341,768 the first year and <del>\$27,414,371</del> \$47,497,476 the second year to state agencies and institutions of higher education to support the general fund portion of costs resulting from the estimated usage of technology services provided by the Virginia Information Technologies Agency.				

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H.1. Out of this appropriation, \$790,791 the first year from the general fund shall be provided to the City of Richmond for expenses incurred for the development of the Slavery and Freedom Heritage Site in Richmond, including Lumpkin's Pavilion and Slave Trail improvements. Any unexpended general fund balances as of June 30, 2019, that were appropriated for the purpose of supporting the City of Richmond in the development of the Slavery and Freedom Heritage Site in Richmond shall not revert to the general fund, but shall instead be reappropriated for its original purpose. Out of this appropriation and all amounts previously appropriated for this purpose, a cumulative total of up to \$1,000,000 shall be used for improvements to the Slave Trail, and up to \$1,000,000 for costs associated with Lumpkin's Pavilion. It is the intent of the General Assembly to fully meet its commitment to the project as reimbursement requests are made and funding to meet such requests shall be included by the Governor in any budget submission made pursuant to the provisions of §§ 2.2-1508 and 2.2-1509, Code of Virginia.

2. Prior to the receipt of state funds for the purpose set out in paragraph H.1., the Richmond City Council shall pass a resolution outlining its approval of and financial commitment to the proposed project and local matching funds in an amount totaling at least \$5,000,000 which shall be appropriated by the City of Richmond for the project prior to receipt of any state funds. Release of state funding for Lumpkin's Pavilion shall also require evidence that the City of Richmond has raised at least fifty percent of the remaining funding required for that portion of the project from private or other sources.

3. At such time that the City of Richmond has completed construction of the respective improvements, the City of Richmond shall be eligible for reimbursement from the Commonwealth of an amount not to exceed \$9,000,000, or up to twenty five percent of the total costs of each project.

4. State funding appropriated in paragraph H.1. and future appropriations considered in paragraph H.3., shall be allocated only as follows: no more than \$5,000,000 shall be allocated for the planning, design, and construction of the Pavilion at Lumpkin's Jail, no more than \$1,000,000 shall be allocated for improvements to the Richmond Slave Trail, and no more than \$5,000,000 shall be allocated for the planning, design and construction of a slavery museum.

5. The City of Richmond shall provide documentation to the Department of General Services on the progress of this project and actual expenditures incurred for it in a form acceptable to the Secretaries of Finance and Administration.

6. In addition to the matching requirements set out in paragraph H.2., the City of Richmond shall provide and dedicate appropriate contiguous real estate prior to the receipt of any state funding for the purposes outlined in paragraph H.1 above.

7. The Department of General Services shall act as the fiscal agent for these funds. The director shall oversee the expenditure of state appropriations to ensure that payments to the City of Richmond are made consistent with the purposes set out in paragraphs H.1. and H.4. The Director, Department of Planning and Budget, is authorized to transfer these funds to the Department of General Services to implement this appropriation.

8. This appropriation shall be exempt from the disbursement procedures specified in § 4-5.05 of the act.

I.1. The Director, Department of Planning and Budget, is authorized to transfer any remaining balances originally appropriated in Item 476 I., Chapter 836, 2017 Virginia Acts of Assembly, the first year, to the Department of State Police for unanticipated costs associated with mitigating security threats, information technology (IT) security gaps, and the data stored on IT systems used by the Department. The costs eligible for reimbursement shall be for information technology and telecommunications goods and services that have been procured in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.

2.a. Notwithstanding the provisions of § 2.2-2011, Code of Virginia, the Department of State Police is authorized to procure, develop, operate, and manage the cyber security and management tools required to protect the information technology used by the Department that is defined as out-of-scope from the Virginia Information Technologies Agency

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	pursuant to the Memorandum of Understanding (MOU) between the two agencies dated August 30, 2013. The Department of State Police shall be solely responsible for securing all aspects of information technology defined as out-of-scope in the current MOU.			
	b. Costs expended by the Department of State Police for cyber security and management tools shall be reimbursed by the Director, Department of Planning and Budget from unexpended funds provided in paragraph I.1. of this Item, after such expenses have been approved by the Chief Information Officer and determined to be in compliance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.			
	3.a. The Superintendent of State Police shall develop and report to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance a detailed transition plan addressing the steps required for the Department of State Police to assume responsibility for the development, operation, and management of all of its information technology infrastructure and services. The Department of State Police is authorized to procure consulting services to assist in the development of the detailed transition plan. The Virginia Information Technologies Agency shall assist in the development and drafting of the detailed transition plan.			
	b. The report shall, at a minimum, include a detailed transition plan that: (i) identifies and evaluates anticipated transition timelines, tasks, activities, and responsible parties; (ii) identifies any one-time and ongoing costs of transitioning responsibility for information technology services from the Virginia Information Technologies Agency to the Department of State Police, including the estimated costs to obtain existing information technology assets or transition services from Northrop Grumman; (iii) identifies the ongoing costs of staffing, services, and contracts related to enterprise security and management tools, legacy system replacements or upgrades, construction or lease of facilities including data centers, labor costs and workload analyses, and training costs; (iv) identifies any other such factors deemed necessary for discussion as identified by the Superintendent of State Police or Chief Information Officer of the Commonwealth; (v) identifies necessary changes required to transition and modernize current statutes related to basic State Police communication systems consistent with the Criminal Justice Information Services Security Policy Version 5.5, or its successor; and (vi) provides a jointly developed and agreed upon MOU between the Department of State Police and the Virginia Information Technologies Agency that certifies the information.			
	c. Costs expended by the Department of State Police for the development of the detailed transition plan shall be reimbursed by the Director, Department of Planning and Budget from unexpended funds provided in paragraph I.1 of this item, after such expenses have been approved by the Chief Information Officer and determined to be in compliance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.			
	d. The report and accompanying Memorandum shall be provided to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance as required by Item 476 I., Chapter 836, 2017 Virginia Acts of Assembly. The Chief Information Officer of the Commonwealth shall review the report and provide an analysis of the detailed transition plan no later than 30 days after submission of the report to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance.			
	4. Any remaining balances as originally appropriated in Item 476 I.5., Chapter 836, 2017 Virginia Acts of Assembly, from the general fund are authorized to be transferred to reimburse the Department of State Police for costs associated with mitigating information technology security threats and gaps required to protect and manage out-of-scope information technology that is not addressed in paragraph 3.b. All such costs shall be eligible for reimbursement if they have been procured in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency. The Director, Department of Planning and Budget is authorized to release this funding following certification by the Chief Information Officer that these costs address cyber security threats and gaps, including upgrades to legacy applications to remediate audit findings by the Auditor of Public Accounts or Commonwealth Security and Risk Management.			
	J. The Director, Department of Planning and Budget, shall withhold and transfer to this Item, an amount estimated at \$365,568 the first year and shall transfer from this Item an amount			

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	estimated at \$19,782 the second year from the general fund for the general fund share of rental costs for space maintained and operated by the Department of General Services.			
	K. Out of this appropriation, \$203,893 the first year and \$203,893 the second year from the general fund shall be provided to state agencies to support the costs of information technology security audits and information security officer services. With such funding, agencies are encouraged to work with the Virginia Information Technologies Agency's information technology shared security center created pursuant to Item 84.70 of this act.			
	L. The Director, Department of Planning and Budget, shall transfer from this Item, general fund amounts estimated at \$1,043,931 the first year and <del>\$1,259,168</del> \$3,208,467 the second year to state agencies and institutions of higher education to support the general fund portion of costs resulting from changes in agency charges for the Cardinal Financial System operated by the Department of Accounts.			
	M. The Director, Department of Planning and Budget, shall transfer from this Item, general fund amounts estimated at \$237,053 the first year and \$247,487 the second year to state agencies and institutions of higher education to support the general fund portion of costs resulting from changes in agency charges for the Performance Budgeting system.			
	<del>N. The Director, Department of Planning and Budget, shall transfer from this Item, general fund amounts estimated at \$2,256,188 the first year and \$8,850,510 the second year to fund agency charges for the state payroll system operated by the Department of Accounts.</del>			
	O. The Director, Department of Planning and Budget, shall withhold and transfer to this Item, an amount estimated at \$25,552 the first year and shall transfer from this Item an amount estimated at \$21,608 the second year from the general fund to executive branch agencies to support the costs of the Personnel Management Information System.			
	P. Out of the appropriation for this Item is included \$1,111,000 the first year and \$1,215,000 the second year from the general fund for a joint internship and management training program to assist in improving leadership, management, and succession planning capabilities of all branches of state government. The Secretary of Finance shall contract with Virginia Tech for the continuation of the program. The program shall collaborate with Virginia public colleges and universities on an internship, management training and succession planning program by which students in their final year of undergraduate school work, or those attending graduate programs may be considered for opportunities for state employment on a temporary basis, whereby they may earn academic credit for hours worked while participating in the program. Any balances remaining from the appropriation identified in this paragraph shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to support the Virginia Management Fellows program in the subsequent fiscal year.			
	Q. 1. The Virginia Information Technologies Agency shall study and submit its recommendations for the development, ongoing support, and system of governance for a personnel information system to replace the current version of the Personnel Management Information System (PMIS) to the Governor no later than September 1, 2018. The Department of Human Resource Management, Department of Accounts, and any other agency designated by the Virginia Information Technologies Agency, shall provide all required information necessary for the Virginia Information Technologies Agency to develop the required recommendations.			
	2. Notwithstanding § 2.2-1201, Code of Virginia, the Governor shall select a state agency to develop and maintain a personnel information system to replace the current version of PMIS. In determining which agency shall develop and maintain the new personnel information system, consideration shall be given to maximizing the efficiencies of enterprise systems and the benefits of establishing a single source of personnel information to achieve greater security of sensitive personally identifiable information. Further, the Governor shall establish a permanent system of governance over the new personnel information system which shall designate specifically which agencies have responsibility for authority and control of the data in the new personnel information system as well as responsibility for systems support and maintenance.			

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3. ~~The Governor shall authorize a A working capital advance of up to \$25,000,000 is authorized in Item 259 for the Department of Accounts to support the initial costs of replacing the current version of PMIS. Initial costs include any costs necessary for the planning, development, and configuration of the new personnel information system. Initial costs do not include statewide roll-out costs necessary to ensure agencies are prepared for the implementation of the new payroll system and the decommissioning of PMIS such as applications configuration, agency training, change management costs, or costs incurred by line agencies to develop required interfaces from agency based systems. Portions of this working capital advance may be assigned to selected agencies as needed in order to meet the requirements for selecting the agency responsible for developing and maintaining the new personnel information system; for developing the related system governance structure; and for developing and deploying of the new personnel information system.~~

*R. Out of this appropriation, \$1,350,000 the second year from the general fund is provided to support the advancement of computer science education and implementation of the Commonwealth's new computer science standards across the public education continuum. These funds are intended to provide high quality professional development to current and future teachers; create, curate, and disseminate high quality computer science curriculum, instructional resources, and assessments; support summer and after-school computer science related programming for students; and facilitate meaningful career exposure and work-based learning opportunities in computer science fields for high school students. Funds shall be disbursed through a competitive grant process and shall prioritize at-risk students and schools. In consultation with the Secretary of Finance and the Secretary of Commerce and Trade, the Secretary of Education shall develop a process to award these funds in accordance with the provisions of this language, with the Governor providing final approval for distribution of the funds.*

*S.1. The Director, Department of Corrections, shall procure and implement an electronic health records system for use in the Department's secure correctional facilities using the platform provided through Contract Number VA-121107-SMU managed by the Virginia Information Technologies Agency on behalf of the Commonwealth of Virginia. The system shall be established on a domain separate from any other procured through the Contract.*

*2. Included in the amounts provided for this item is \$3,000,000 the second year from the general fund for a contingency fund should the costs of complying with Paragraph S.1 of this item exceed the amounts provided for such purpose in Item 391. The Director, Department of Planning and Budget, is authorized to transfer appropriation from this contingency fund to the Department of Corrections, after verification of the total costs of an electronic health records system which justifies the need for additional funding from this item."*

475.10	Financial Assistance For Educational and General Services (11000).....				
	Sponsored Programs (11004).....	\$0	\$4,000,000	\$0	\$4,000,000
	Fund Sources: General.....	\$0	\$4,000,000		

*A. 1. Out of this appropriation, \$4,000,000 the second year from the general fund is provided as the Commonwealth's initial investment in the Hampton Roads Biomedical Research Consortium subject to meeting the conditions of paragraph B.*

*2. Out of the amounts authorized in item C-48.10, \$10,000,000 the second year shall be made available for lab renovations and enhancements and / or research equipment for the Hampton Roads Biomedical Research Consortium for the University of Virginia, Old Dominion University, and Eastern Virginia Medical School subject to meeting the conditions in paragraph B.*

*B. The conditions required in order to receive an allocation from this item are:*

*1. The University of Virginia shall convene a workgroup comprised of Old Dominion University, Eastern Virginia Medical School, the Hampton Roads Community Foundation, and a private or non-profit hospital for the expressed purpose of developing a plan for the Hampton Roads Biomedical Research Consortium.*

*2. The plan shall identify areas of research relevant to the region taking into account the region's biomedical public and private assets, conduct a health risk assessment of the region's*

ITEM 475.10.	Item Details(\$)		Appropriations(\$)	
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<i>population and identify cost sharing strategies between and among the partnering institutions and entities to include matching requirements.</i>				
<i>3. The workgroup shall submit the report by December 1, 2019 to the Chairmen of the House Appropriations and Senate Finance Committees and the Governor.</i>				
<i>4. After adoption of the report by the General Assembly, the funding provided in paragraph A.1. shall be released to the University of Virginia to support the operations of the Hampton Roads Biomedical Research Consortium. Out of the amounts provided in paragraph A.1., the University of Virginia may use up to \$250,000 for the costs of a consultant to assist with the development of the plan for the Hampton Roads Biomedical Research Consortium.</i>				
475.20	<i>Educational and General Programs (10000).....</i>		\$0	\$16,600,000
	<i>Higher Education Instruction (10001).....</i>	\$0	\$16,600,000	
	<i>Fund Sources: General.....</i>	\$0	\$16,600,000	

*A. Out of this appropriation, \$16,600,000 the second year from the general fund is designated for the Tech Talent Investment Fund. These funds shall be allocated in accordance with provisions established in House Bill 2490 / Senate Bill 1617 of the 2019 General Assembly and shall be used to support the efforts of qualified institutions to increase by fiscal year 2039 the number of new eligible degrees by at least 25,000 more degrees than the number of such degrees awarded in 2018 and to improve the readiness of graduates to be employed in technology-related fields and fields that align with traded-sector growth opportunities identified by the Virginia Economic Development Partnership. Funds may be used to support admissions and advising programs designed to convey labor market information to students to guide decisions to enroll in eligible degree programs and academic programs and to fund facility construction, renovation, and enhancement and equipment purchases related to the initiative to increase the number of eligible degrees awarded.*

*B. Prior to an allocation from the fund, institutions must enter into a Memorandum of Understanding (MOU) through a negotiation process between the institution and the Commonwealth. The MOU shall contain criteria for eligible degrees, eligible expenses, and degree production goals for a period ending in 2039. In addition, each institution shall (i) submit an enrollment plan detailing the number of eligible degrees produced between July 1, 2013, and June 30, 2018; (ii) develop a detailed plan of how the institution proposes to materially increase the enrollment, retention, and graduation of students pursuing eligible degrees, the resources necessary to accomplish such increase in enrollment, retention, and graduation, and plans to track new enrollment; (iii) provide an accounting of the anticipated number of in-state and out-of-state students enrolling in eligible degree programs; (iv) determine the existing capacity of current eligible degree programs; (v) propose plans to partner with other institutions to provide courses or programs that will lead to the completion of an eligible degree including articulation agreements with the Virginia Community College System to provide guaranteed admission for qualified students with an associate degree for transfer into an eligible degree program; (vi) allocate existing funds held by or appropriated to the institution to meet increased enrollment, retention, and graduation goals in eligible degree programs; and (vii) provide any other information deemed relevant.*

*C. Failure of an institution to meet the goals, metrics, and requirements set forth in its memorandum of understanding shall result in the adjustment of any future allocations from the fund to the institution to reflect such discrepancy.*

476. A. The Oil Overcharge Expendable Trust Fund shall be established on the books of the Comptroller and the interest earned by investment of funds credited to the Oil Overcharge Expendable Trust Fund shall be allocated to such fund periodically. This fund represents the Commonwealth's proportionate share of the recoveries from the Exxon Corporation, Diamond Shamrock Refining and Marketing Company, Stripper Well and the Texaco Corporation litigations, for petroleum pricing violations between 1973 and 1981.

B.1. Any expenditure involving oil overcharges by the Exxon Corporation shall be utilized according to regulations and procedures of the five state energy conservation and benefits

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<p>programs specified in the Warner Amendment (Section 155, P.L. 97-377) to provide restitution to the broad class of parties injured by the alleged overcharges. These programs are:</p> <p>a. Low Income Home Energy Assistance Program, 42 U.S.C. § 8621 et seq.</p> <p>b. State Energy Conservation Program, 42 U.S.C. § 6321 et seq.</p> <p>c. Energy Extension Service, 42 U.S.C. § 7001 et seq.</p> <p>d. Institutional Conservation Program, 42 U.S.C. § 6371 et seq.</p> <p>e. Weatherization Assistance Program, 42 U.S.C. § 6861 et seq.</p> <p>2. Any expenditure involving oil overcharges from the approved settlement In Re: The Department of Energy Stripper Well Litigation (MDL No. 378) or the approved settlement in the case of the Diamond Shamrock Refining and Marketing Company (Civil Action No. C2-84-1432) shall be utilized to fund one or more energy-related programs which are designed to benefit, directly or indirectly, consumers of petroleum products. These programs shall be limited to:</p> <p>a. Administration and operation of the five energy conservation and benefit programs specified under the Warner Amendment (Section 155, P.L. 97-377),</p> <p>b. Those programs approved by the U.S. Department of Energy's Office of Hearings and Appeals in Subpart V Refund Proceedings,</p> <p>c. Those programs referenced in the Chevron consent order (46 FR 52221), and</p> <p>d. Such other restitutionary programs approved by the District Court or the U.S. Department of Energy's Office of Hearings and Appeals.</p> <p>C. Before appropriations to the Oil Overcharge Expendable Trust Fund can be expended, approval for the use of the funds must be obtained from the United States Department of Energy. Applications to the United States Department of Energy must be made through the Department of Mines, Minerals and Energy.</p> <p>D. The Governor shall submit such statements and reports as are required by court orders, settlements, or the Departments of Energy or Health and Human Services regarding use(s) of these funds and shall also report to the Chairmen of the House Appropriations and Senate Finance Committees on the activities funded by transfers from this Item only in fiscal years in which activities have occurred.</p>				
Total for Central Appropriations.....			<b>\$202,537,045</b> <b>\$210,630,327</b>	<b>\$410,047,561</b> <b>\$395,912,484</b>
Fund Sources: General.....	\$81,261,023 \$87,776,606	\$288,771,539 \$273,058,763		
Higher Education Operating.....	\$1,948,117 \$3,525,816	\$1,948,117 \$3,525,816		
Trust and Agency.....	\$119,327,905	\$119,327,905		
TOTAL FOR CENTRAL APPROPRIATIONS.....			<b>\$202,537,045</b> <b>\$210,630,327</b>	<b>\$410,047,561</b> <b>\$395,912,484</b>
Fund Sources: General.....	\$81,261,023 \$87,776,606	\$288,771,539 \$273,058,763		
Higher Education Operating.....	\$1,948,117 \$3,525,816	\$1,948,117 \$3,525,816		
Trust and Agency.....	\$119,327,905	\$119,327,905		
TOTAL FOR EXECUTIVE DEPARTMENT.....			<b>\$55,350,226,572</b> <b>\$56,616,010,051</b>	<b>\$57,296,259,860</b> <b>\$60,699,199,549</b>
General Fund Positions.....	48,569.64 48,692.64	48,927.96 49,423.41		
Nongeneral Fund Positions.....	65,000.40 65,157.40	65,468.53 65,989.73		

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	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020
Position Level.....	113,570.04	114,396.49		
	113,850.04	115,413.14		
Fund Sources: General.....	\$20,401,796,960	\$21,044,767,991		
	\$20,849,290,584	\$22,142,953,430		
Special.....	\$1,656,188,761	\$1,671,924,122		
	\$1,655,421,782	\$1,648,650,778		
Higher Education Operating.....	\$8,748,333,375	\$8,780,507,729		
	\$9,013,852,830	\$9,174,875,597		
Commonwealth Transportation.....	\$6,111,022,943	\$5,543,497,911		
	\$6,696,424,944	\$6,158,063,195		
Enterprise.....	\$1,880,934,595	\$1,918,951,155		
	\$1,381,158,924	\$1,421,754,287		
Internal Service.....	\$2,098,949,919	\$2,208,679,991		
	\$2,099,646,770	\$2,071,214,416		
Trust and Agency.....	\$2,139,903,729	\$2,265,705,653		
	\$2,154,440,521	\$2,307,852,502		
Debt Service.....	\$343,923,009	\$343,923,009		
	\$344,923,009	\$344,923,009		
Dedicated Special Revenue.....	\$2,298,098,378	\$2,616,890,811		
	\$2,325,280,817	\$2,742,023,054		
Federal Trust.....	\$9,671,074,903	\$10,901,411,488		
	\$10,095,569,870	\$12,686,889,281		

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**INDEPENDENT AGENCIES**

**§ 1-133. STATE CORPORATION COMMISSION (171)**

477.	Regulation of Business Practices (55200).....			\$71,625,759	\$70,275,805 \$72,827,482
	Corporation Commission Clerk's Services (55203).....	\$17,595,201	\$15,101,725 \$15,603,703		
	Regulation of Investment Companies, Products and Services (55210).....	\$8,699,380	\$8,716,052 \$9,040,257		
	Regulation of Financial Institutions (55215).....	\$15,438,846	\$16,633,492 \$17,265,135		
	Regulation of Insurance Industry (55216).....	\$29,892,332	\$29,824,536 \$30,918,387		
	Fund Sources: Special.....	\$71,625,759	\$70,275,805 \$72,827,482		

Authority: Article IX, Constitution of Virginia; Title 8.9A, Part 4; Title 12.1, Chapter 4; Title 13.1; Title 55, Chapter 6, Article 6; Title 56, Chapter 15, Article 5; Title 58.1, Chapter 28; Title 59.1, Chapter 6.1, Code of Virginia; Title 13.1, Chapter 3.1; Title 38.2; Title 58.1, Chapter 25; and Title 65.2, Chapter 8, Code of Virginia.

A. Out of this appropriation, the State Corporation Commission is authorized to expend an amount not to exceed \$10,000 the first year and \$10,000 the second year for the payment of annual membership dues to the National Conference of Insurance Legislators.

B. Out of this appropriation, \$3,611,153 the first year and \$1,000,000 the second year is designated for replacement of the Clerk's Information System.

C. Out of the amounts for this Item, \$1,150,000 the first year and \$1,200,000 the second year is provided to effectuate the provisions of Chapter 486 of the Acts of Assembly of 2017, which allows the Commission to absorb the credit card and eCheck convenience fees as opposed to passing them on to the filers and also grants the Commission the discretion to not charge a fee for providing copies of certain documents.

478.	Regulation of Public Utilities (56300).....			\$29,836,417	\$30,021,897 \$30,945,527
	Regulation of Utility Companies (56301).....	\$29,836,417	\$30,021,897 \$30,945,527		
	Fund Sources: Special.....	\$26,477,917	\$26,626,025 \$27,514,016		
	Dedicated Special Revenue.....	\$1,308,500	\$1,345,872 \$1,381,511		
	Federal Trust.....	\$2,050,000	\$2,050,000		

Authority: Title 56, Chapter 10, Code of Virginia.

479.	Distribution of Fees From and To Regulated Entities and Localities (56400).....			\$5,856,941	\$5,856,941
	Distribution of Uninsured Motorist Fee (56401).....	\$5,340,845	\$5,340,845		
	Distribution of Rolling Stock Taxes (56402).....	\$516,096	\$516,096		
	Fund Sources: Trust and Agency.....	\$5,856,941	\$5,856,941		

Authority: § 58.1-2652, Code of Virginia.

480.	Administrative and Support Services (59900).....			\$0	\$0
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Authority: Title 12.1, Code of Virginia; Article IV, Section 14 and Article IX, Constitution of Virginia.

A. Operational costs for this program shall be paid solely from charges to agency programs.

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>B. Out of the amounts for this Item, shall be paid the annual salary of the chairman, \$177,087 from July 1, 2018, to June 30, <del>2020</del> 2019 and \$181,957 from July 1, 2019 to June 30, 2020, and for the other two Commissioners of the State Corporation Commission, each at \$175,147 from July 1, 2018, to June 30, <del>2020</del> 2019 and \$179,964 from July 1, 2019 to June 30, 2020.</p> <p>C. Notwithstanding the provisions of § 13.1-775.1, Code of Virginia, the State Corporation Commission shall continue the following annual registration fees for domestic and foreign corporations. The new annual rates shall be \$100 for every foreign and domestic corporation authorized to do business in the Commonwealth whose number of authorized shares is 5,000 shares or less. Any such corporation whose number of authorized shares is more than 5,000 shall pay an annual registration fee of \$100 plus \$30 for each 5,000 shares or fraction thereof in excess of 5,000 up to a maximum of \$1,700. The commission shall deposit these funds into a special fund and transfer three-fourths of the receipts to the general fund semiannually.</p>				
481.	Plan Management (40800).....		\$101,278	\$101,278
	Federal Health Benefit Exchange Plan Management (40801).....	\$101,278	\$101,278	
	Fund Sources: General.....	\$101,278	\$101,278	
<p>Authority: §§ 38.2-316.1 and 38.2-326, Code of Virginia; § 42.18041 c, United States Code.</p> <p>There is hereby appropriated to the State Corporation Commission \$101,278 the first year and \$101,278 the second year from the general fund to pay for the plan management functions authorized in Chapter 670 of the Acts of Assembly of 2013.</p>				
	Total for State Corporation Commission.....		<b>\$107,420,395</b>	<b>\$106,255,921</b> <b>\$109,731,228</b>
	Nongeneral Fund Positions.....	675.00	<del>675.00</del> 676.00	
	Position Level.....	675.00	<del>675.00</del> 676.00	
	Fund Sources: General.....	\$101,278	\$101,278	
	Special.....	\$98,103,676	<del>\$96,901,830</del> \$100,341,498	
	Trust and Agency.....	\$5,856,941	\$5,856,941	
	Dedicated Special Revenue.....	\$1,308,500	<del>\$1,345,872</del> \$1,381,511	
	Federal Trust.....	\$2,050,000	\$2,050,000	

**§ 1-134. VIRGINIA LOTTERY (172)**

482.	State Lottery Operations (81100).....		\$108,679,472	\$101,279,472
	Regulation and Law Enforcement (81105).....	\$3,135,511	<del>\$3,135,511</del> \$3,264,712	\$112,279,472 \$102,661,539
	Gaming Operations (81106).....	<del>\$93,217,454</del> \$96,817,454	\$85,817,454 \$86,880,145	
	Administrative Services (81107).....	\$12,326,507	<del>\$12,326,507</del> \$12,516,682	
	Fund Sources: Enterprise.....	\$108,679,472	\$101,279,472	
		\$112,279,472	\$102,661,539	

Authority: Title 58.1, Chapter 40, Code of Virginia.

Out of the amounts for Virginia Lottery Operations shall be paid:

1. Reimbursement for compensation and reasonable expenses of the members of the Virginia Lottery Board in the performance of their duties, as provided in § 2.2-2813, Code of Virginia.

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2. The total costs for the operation and administration of the state lottery, pursuant to § 58.1-4022, Code of Virginia.				
3. The costs of informing the public of the purposes of the Lottery Proceeds Fund, established pursuant to Article X, Section 7-A, Constitution of Virginia.				
483. Disbursement of Lottery Prize Payments (81200) a sum sufficient, estimated at.....			\$350,000,000	\$350,000,000
Payment of Lottery Prizes (81201).....	\$350,000,000	\$350,000,000		
Fund Sources: Enterprise.....	a sum sufficient			
Authority: Title 58.1, Chapter 40, Code of Virginia.				
There is hereby appropriated from affected funds in the state treasury, for payment of prizes awarded by the state lottery and of commissions to lottery sales agents, in accordance with law, a sum sufficient.				
Total for Virginia Lottery.....			<b>\$458,679,472</b> <b>\$462,279,472</b>	<b>\$451,279,472</b> <b>\$452,661,539</b>
Nongeneral Fund Positions.....	308.00	308.00		
Position Level.....	308.00	308.00		
Fund Sources: Enterprise.....	\$458,679,472 \$462,279,472	\$451,279,472 \$452,661,539		

**§ 1-135. VIRGINIA COLLEGE SAVINGS PLAN (174)**

484. Investment, Trust, and Insurance Services (72500) a sum sufficient, estimated at.....			\$250,000,000	\$250,000,000
Payments for Tuition and Educational Expense Benefits (72505).....	\$250,000,000	\$250,000,000		
Fund Sources: Enterprise.....	\$250,000,000	\$250,000,000		
Authority: Title 23.1, Chapter 7, Code of Virginia.				
A. Amounts for Payments for Tuition and Educational Expense Benefits represent the payment of benefits to postsecondary educational institutions on behalf of program participants under the Prepaid529 Program, estimated at \$250,000,000 the first year and \$250,000,000 the second year, from nongeneral funds pursuant to, § 23.1-701, Code of Virginia.				
B.1. Any moneys collected, distributed or held for the benefit of participants under the Invest529 Program and other higher education savings programs, including any income from such funds, are subject to the provisions of § 23.1-701.B. of the Code of Virginia.				
2. Any moneys collected, distributed or held for the benefit of participants under the Prepaid529 Program, or any Plan administrative revenue, including any income from such funds, are subject to § 23.1-701.C. of the Code of Virginia.				
C. Amounts for Payments for Tuition and Educational Expense Benefits cover the current obligations of the fund as provided for in Title 23.1, Chapter 7, Code of Virginia.				
485. Administrative and Support Services (79900).....			\$28,985,519 \$30,517,037	\$29,063,694 \$30,120,929
General Management and Direction (79901).....	\$14,102,555 \$14,621,468	\$14,129,306 \$14,674,541		
Investment, Trust and Related Services for Prepaid529 Program (79950).....	\$6,402,127 \$6,447,127	\$6,373,856		
Trust and Related Services for Invest529 Program and other Higher Education Savings Programs (79951).....	\$7,376,575 \$8,344,180	\$7,435,613 \$7,947,613		

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Investment, Trust and Related Services for Achieving a Better Life Experience (ABLE) Program (79952).....	\$1,104,262	\$1,124,919		
Fund Sources: Enterprise.....	\$28,985,519 \$30,517,037	\$29,063,694 \$30,120,929		

Authority: Title 23.1, Chapter7, Code of Virginia.

A. Out of the amounts appropriated to this Item, \$650,000 the first year and \$650,000 the second year from nongeneral funds are designated for a comprehensive compensation plan to link pay to performance.

B. Amounts for Investment, Trust and Related Services cover variable or unpredictable costs of the Prepaid529 Program, estimated at \$6,402,127 the first year and \$6,373,856 the second year, from nongeneral funds pursuant to § 23.1-701, Code of Virginia.

C. Amounts for Investment, Trust and Related Services cover variable and unpredictable costs of the Invest529 Program and other higher education savings programs, estimated at \$7,376,575 the first year and \$7,435,613 the second year, from nongeneral funds pursuant to § 23.1-701, Code of Virginia.

D.1. Included in this appropriation is \$2,000,000 the first year and \$2,000,000 the second year from nongeneral funds to support SOAR Virginia scholarships.

2. Of the appropriation provided in D.1., \$1,000,000 the first year and \$1,000,000 the second year shall be from existing appropriations provided in this item.

3. The funding provided to SOAR Virginia in D.1. and D.2. above are contingent upon the Prepaid529 fund having an actuarial fund value of at least 100 percent in the prior fiscal year and Virginia529 operating expenses must have less than a 70 percent operating expense to operating revenue ratio in the prior fiscal year unless otherwise authorized by the Governor.

E. The newly created Investment Director position at the Virginia College Savings Plan shall assist the CEO and Board in directing, managing, and administering the Plan's assets. The Investment Director shall serve at the pleasure of the Board and may be removed by a majority vote of the Board.

Total for Virginia College Savings Plan.....			<b>\$278,985,519</b> <b>\$280,517,037</b>	<b>\$279,063,694</b> <b>\$280,120,929</b>
Nongeneral Fund Positions.....	115.00	115.00		
Position Level.....	115.00	115.00		
Fund Sources: Enterprise.....	\$278,985,519 \$280,517,037	\$279,063,694 \$280,120,929		

**§ 1-136. VIRGINIA RETIREMENT SYSTEM (158)**

486. Personnel Management Services (70400).....			\$17,175,128	<del>\$16,994,991</del> \$17,310,718
Administration of Retirement and Insurance Programs (70415).....	\$17,175,128	<del>\$16,994,991</del> \$17,310,718		
Fund Sources: General.....	\$185,137	\$80,000		
Trust and Agency.....	\$16,989,991	<del>\$16,914,991</del> \$17,230,718		

Authority: Title 9.1, Chapter 4; Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.

A. The Board of Trustees of the Virginia Retirement System is hereby authorized to charge a participation fee to each employer served by the Virginia Retirement System for any services provided pursuant to Title 51.1, Code of Virginia. The fee shall be utilized to pay the administrative expenses of all administrative services, including non-retirement programs. Retirement contributions required by the board shall be reduced to pay such

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<p>fees in a manner prescribed by the Board of Trustees.</p> <p>B. State agencies and institutions of higher education shall make payments to the Virginia Retirement System (VRS) for VRS-administered benefits no less often than monthly.</p> <p>C. The Virginia Retirement System shall make changes to administrative policies, procedures, and systems as necessary for implementation of the public employee retirement reforms provided in Chapter 701 of the Acts of Assembly of 2012.</p> <p>D.1. Out of this appropriation, \$185,137 the first year and \$80,000 the second year from the general fund is provided for expenses associated with the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund.</p> <p>2. Gains forfeited prior to July 1, 2016 pursuant to § 51.1-1206, Code of Virginia, and the accumulated earnings thereon shall be used to provide the reimbursement described in § 51.1-1200, Code of Virginia. All future gains forfeited pursuant to § 51.1-1206, Code of Virginia, shall also be used to provide the reimbursement described in § 51.1-1200, Code of Virginia.</p> <p>E. The Board of Trustees of the Virginia Retirement System shall provide notification to the Chairmen of the House Appropriations Committee and Senate Finance Committee when a political subdivision becomes more than 60 days in arrears in their contributions to the Virginia Retirement System. Such notification shall occur within 15 days of when the 60 day period has occurred.</p> <p>F.1. Pursuant to the administration of Chapter 4 of Title 9.1, Code of Virginia, the following provisions are effective July 1, 2017:</p> <p>2. For purposes of this Item, employer contributions for coverage provided to members of the National Guard and Virginia Defense Force on active duty shall be paid by the Department of Military Affairs.</p> <p>3. In addition to any other benefit provided by law, an additional death benefit in the amount of \$20,000 for the surviving spouses and dependents of certain members of the National Guard and United States military reserves killed in action in any armed conflict on or after October 7, 2001, are payable pursuant to § 44-93.1.B., Code of Virginia, from the Line of Duty Death and Health Benefits Trust Fund. The Virginia Retirement System, with support from the Department of Military Affairs, shall determine eligibility for this benefit.</p> <p>4. Funding for the inclusion of a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard will be paid by the Department of Military Affairs out of its appropriation in Item 416 of this act.</p> <p>5. Any locality that has established a trust, trusts, or equivalent arrangements for the purpose of accumulating and investing assets to fund post-employment benefits other than pensions under § 15.2-1544, Code of Virginia, may fund Line of Duty Act benefits from the assets of the trust, trusts, or equivalent arrangements.</p> <p><i>G. Annually by February 1st, the Virginia Retirement System shall submit to the Secretary of Public Safety and Homeland Security the names of individuals who were determined to be deceased persons, as defined in § 9.1-400 of the Code of Virginia, in the previous calendar year. The name of any individual whose claim has been filed, but not yet approved, may be submitted in a subsequent year by the Virginia Retirement System once the claim is approved. The Secretary of Public Safety and Homeland Security shall be authorized to share the list as necessary for the purposes of the names being inscribed on the Virginia Public Safety Memorial and honored at the Annual Memorial Service. As provided in § 9.1-408 of the Code of the Virginia, the list otherwise shall be deemed confidential, shall be exempt from disclosure under the Virginia Freedom of Information Act, and shall not be released in whole or in part.</i></p>				
487.	Investment, Trust, and Insurance Services (72500).....		\$35,251,714 \$35,393,852	\$34,758,314 \$37,783,637
	Investment Management Services (72504).....	\$35,251,714 \$35,393,852	\$34,758,314 \$37,783,637	
	Fund Sources: Trust and Agency.....	\$35,251,714 \$35,393,852	\$34,758,314 \$37,783,637	

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Authority: Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.

By September 30 of each year, the Board of Trustees of the Virginia Retirement System shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the prior fiscal year's results obtained by the internal investment management program. The report shall include a comparison of investment performance against the board's benchmarks and an estimate of the program's fee savings when compared to similar assets managed externally.

488.	Administrative and Support Services (79900).....			\$41,124,684	\$36,241,810
				\$43,274,684	\$38,928,014
	General Management and Direction (79901).....	\$19,814,712	\$14,256,589		
		\$21,964,712	\$16,406,220		
	Information Technology Services (79902).....	\$21,309,972	\$21,985,221		
			\$22,521,794		
	Fund Sources: Trust and Agency.....	\$41,124,684	\$36,241,810		
		\$43,274,684	\$38,928,014		

Authority: Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.

A. Out of the amounts appropriated to this Item, the director is authorized to expend an amount not to exceed \$25,000 the first year and \$25,000 the second year for expenses commonly borne by business enterprises. Such expenses shall be recorded separately by the agency.

B. Out of the amounts appropriated to this item, an amount not to exceed \$300,000 the first year and \$300,000 the second year is designated to provide retirement-related services in support of the Commission on Employee Retirement Security and Pension Reform created pursuant to the passage of Chapter 683, 2016 Acts of Assembly.

489. In the event any political subdivision of the Commonwealth of Virginia participating in the programs administered by the Virginia Retirement System fails to remit contributions or other fees and costs of the programs as duly prescribed, the Board of Trustees of the Virginia Retirement System shall inform the State Comptroller and the participating political subdivision of the delinquent amount. The State Comptroller shall forthwith transfer such amounts to the appropriate fund from any non earmarked moneys otherwise distributable to such political subdivision by any department or agency of the state.

	Total for Virginia Retirement System.....			\$93,551,526	\$87,995,115
				\$95,843,664	\$94,022,369
	Nongeneral Fund Positions.....	364.00	368.00		
	Position Level.....	364.00	368.00		
	Fund Sources: General.....	\$185,137	\$80,000		
	Trust and Agency.....	\$93,366,389	\$87,915,115		
		\$95,658,527	\$93,942,369		

**§ 1-137. VIRGINIA WORKERS' COMPENSATION COMMISSION (191)**

490.	Employment Assistance Services (46200).....			\$40,560,127	\$40,534,327
					\$41,846,302
	Workers Compensation Services (46204).....	\$40,560,127	\$40,534,327		
			\$41,846,302		
	Fund Sources: Dedicated Special Revenue.....	\$40,560,127	\$40,534,327		
			\$41,846,302		

Authority: Title 65.2, Chapter 2; Title 38.2, Chapter 50, Code of Virginia.

A. Out of the amounts for Workers' Compensation Services shall be paid the annual salary of the chairman, \$174,745 from July 1, 2018 to June 30, 2020 2019 and \$179,550 from July 1, 2019 to June 30, 2020, and for each of the other two Commissioners of the Virginia Workers' Compensation Commission, \$171,154 from July 1, 2018 to June 30, 2020 2019 and \$175,861 from July 1, 2019 to June 30, 2020.

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B. In addition, retired Commissioners recalled to active duty will be paid as authorized by § 17.1-327, Code of Virginia.				
C. Out of the amounts appropriated for this item, beginning July 1, 2010, and ending June 30, 2020, payments of \$20,000 per year shall be paid to Kurt E. Beach to offset the continuing costs of his health care.				
491.	Financial Assistance for Supplemental Assistance Services (49100).....		\$8,527,111	<del>\$8,527,111</del> \$8,672,575
	Crime Victim Compensation (49104).....	\$8,527,111		<del>\$8,527,111</del> \$8,672,575
	Fund Sources: Dedicated Special Revenue.....	\$7,027,111		<del>\$7,027,111</del> \$6,660,575
	Federal Trust.....	\$1,500,000		<del>\$1,500,000</del> \$2,012,000
Authority: Title 19.2, Chapters 21.1 and 21.2, Code of Virginia.				
	Total for Virginia Workers' Compensation Commission.....		\$49,087,238	<del>\$49,061,438</del> \$50,518,877
	Nongeneral Fund Positions.....	297.00		297.00
	Position Level.....	297.00		297.00
	Fund Sources: Dedicated Special Revenue.....	\$47,587,238		<del>\$47,561,438</del> \$48,506,877
	Federal Trust.....	\$1,500,000		<del>\$1,500,000</del> \$2,012,000
	TOTAL FOR INDEPENDENT AGENCIES.....		\$987,724,150	<del>\$973,655,640</del> \$987,054,942
			\$995,147,806	
	Nongeneral Fund Positions.....	1,759.00		<del>1,763.00</del> 1,764.00
	Position Level.....	1,759.00		<del>1,763.00</del> 1,764.00
	Fund Sources: General.....	\$286,415		\$181,278
	Special.....	\$98,103,676		<del>\$96,901,830</del> \$100,341,498
	Enterprise.....	<del>\$737,664,991</del> \$742,796,509		<del>\$730,343,166</del> \$732,782,468
	Trust and Agency.....	<del>\$99,223,330</del> \$101,515,468		<del>\$93,772,056</del> \$99,799,310
	Dedicated Special Revenue.....	\$48,895,738		<del>\$48,907,310</del> \$49,888,388
	Federal Trust.....	\$3,550,000		<del>\$3,550,000</del> \$4,062,000

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**STATE GRANTS TO NONSTATE ENTITIES**

**§ 1-138. STATE GRANTS TO NONSTATE ENTITIES-NONSTATE AGENCIES (986)**

492.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....		\$0	\$0
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Authority: Discretionary Inclusion.

A. Grants provided for in this Item shall be administered by the Department of Historic Resources. As determined by the department, projects of museums and historic sites, as provided for in § 10.1-2211, 10.1-2212, and 10.1-2213 of the Code of Virginia, shall be administered under the provisions of those sections. Others listed in this Item shall be administered under the provisions of § 4-5.05 of this act.

B. Prior to the distribution of any funds, the organization or entity shall make application to the department in a format prescribed by the department. The application shall state whether grant funds provided under this item will be used for purposes of operating support or capital outlay and shall include project and spending plans. Unless otherwise specified in this item, the matching share for grants funded from this Item may be cash or in-kind contributions as requested by the nonstate organization in its application for state grant funds, but must be concurrent with the grant period. The department shall use applicable federal guidelines assessing the value and eligibility of in-kind contributions to be used as matching amounts.

C. The appropriation to those entities in this Item that are marked with an asterisk (\*) shall not be subject to the matching requirements of § 4-5.05 of this act.

D. Grants are hereby made to each of the following organizations and entities subject to the conditions set forth in paragraphs A., B., and C. of this Item:

Total for State Grants to Nonstate Entities-Nonstate Agencies.....		\$0	\$0
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TOTAL FOR STATE GRANTS TO NONSTATE ENTITIES.....		\$0	\$0
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TOTAL FOR PART 1: OPERATING EXPENSES.		<b>\$56,963,585,949</b>	<b>\$58,904,841,592</b>
		<del>\$58,242,201,726</del>	<del>\$62,328,520,846</del>

General Fund Positions.....	52,434.85	52,793.17		
	52,557.85	53,311.62		
Nongeneral Fund Positions.....	66,897.90	67,370.03		
	67,054.90	67,892.23		
Position Level.....	119,332.75	120,163.20		
	119,612.75	121,203.85		
Fund Sources: General.....	\$20,990,363,049	\$21,642,519,808		
	\$21,443,001,673	\$22,747,795,510		
Special.....	\$1,767,175,620	\$1,781,709,135		
	\$1,766,672,283	\$1,762,125,459		
Higher Education Operating.....	\$8,748,333,375	\$8,780,507,729		
	\$9,013,852,830	\$9,174,875,597		
Commonwealth Transportation.....	\$6,111,022,943	\$5,543,497,911		
	\$6,696,424,944	\$6,158,063,195		
Enterprise.....	\$2,618,599,586	\$2,649,294,321		
	\$2,123,955,433	\$2,154,536,755		
Internal Service.....	\$2,098,949,919	\$2,208,679,991		
	\$2,099,646,770	\$2,071,214,416		
Trust and Agency.....	\$2,239,246,004	\$2,359,596,654		
	\$2,256,074,934	\$2,407,770,757		
Debt Service.....	\$343,923,009	\$343,923,009		
	\$344,923,009	\$344,923,009		
Dedicated Special Revenue.....	\$2,369,909,888	\$2,688,713,893		
	\$2,397,092,327	\$2,814,827,214		

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Federal Trust.....	\$9,676,062,556	\$10,906,399,141		
	\$10,100,557,523	\$12,692,388,934		

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## PART 2: CAPITAL PROJECT EXPENSES

### § 2-0. GENERAL CONDITIONS

A.1. The General Assembly hereby authorizes the capital projects listed in this act. The amounts hereinafter set forth are appropriated to the state agencies named for the indicated capital projects. Amounts so appropriated and amounts reappropriated pursuant to paragraph G of this section shall be available for expenditure during the current biennium, subject to the conditions controlling the expenditures of capital project funds as provided by law. Reappropriated amounts, unless otherwise stated, are limited to the unexpended appropriation balances at the close of the previous biennium, as shown by the records of the Department of Accounts.

2. The Director, Department of Planning and Budget, may transfer appropriations listed in Part 2 of this act from the second year to the first year in accordance with § 4-1.03 a 5 of this act.

B. The five-digit number following the title of a project is the code identification number assigned for the life of the project.

C. Except as herein otherwise expressly provided, appropriations or reappropriations for structures may be used for the purchase of equipment to be used in the structures for which the funds are provided, subject to guidelines prescribed by the Governor.

D. Notwithstanding any other provisions of law, appropriations for capital projects shall be subject to the following:

1. Appropriations or reappropriations of funds made pursuant to this act for planning of capital projects shall not constitute implied approval of construction funds in a future biennium. Funds, other than the reappropriations referred to above, for the preparation of capital project proposals must come from the affected agency's existing resources.

2. No capital project for which appropriations for planning are contained in this act, nor any project for which appropriations for planning have been previously approved, shall be considered for construction funds until preliminary plans and cost estimates are reviewed by the Department of General Services. The purpose of this review is to avoid unnecessary expenditures for each project, in the interest of assuring the overall cost of the project is reasonable in relation to the purpose intended, regardless of discrete design choices.

E.1. Expenditures from Items in this act identified as "Maintenance Reserve" are to be made only for the maintenance of property, plant, and equipment as defined in § 4-4.01c of this act to the extent that funds included in the appropriation to the agency for this purpose in Part 1 of this act are insufficient.

2. Agencies and institutions of higher education can expend up to \$2,000,000 for a single repair or project, and up to \$4,000,000 for a roof replacement project, through the maintenance reserve appropriation. Such expenditures shall be subject to rules and regulations prescribed by the Governor. To the extent an agency or institution of higher education has identified a potential project that exceeds this threshold, the Director, Department of Planning and Budget, can provide exemptions to the threshold as long as the project still meets the definition of a maintenance reserve project as defined by the Department of Planning and Budget.

3. Only facilities supported wholly or in part by the general fund shall utilize general fund maintenance reserve appropriations. Facilities supported entirely by nongeneral funds shall accomplish maintenance through the use of nongeneral funds.

#### F. Conditions Applicable to Bond Projects

1. The capital projects listed in §§ 2-52 and 2-53 for the indicated agencies and institutions of higher education are hereby authorized and sums from the sources and in the amount indicated are hereby appropriated and reappropriated. The issuance of bonds in a principal amount plus amounts needed to fund issuance costs, reserve funds, and other financing expenses, including capitalized interest for any project listed in §§ ~~2-53~~ 2-52 and ~~2-54~~ 2-53 is hereby authorized.

2. The issuance of bonds for any project listed in § 2-52 is to be separately authorized pursuant to Article X, Section 9 (c), Constitution of Virginia.

3. The issuance of bonds for any project listed in §§ 2-52 or 2-53 shall be authorized pursuant to § 23.1-1106, Code of Virginia.

4. In the event that the cost of any capital project listed in §§ 2-52 and 2-53 shall exceed the amount appropriated therefore, the Director, Department of Planning and Budget, is hereby authorized, upon request of the affected institution, to approve an increase in appropriation authority of not more than ten percent of the amount designated in §§ 2-52 and 2-53 for such project, from any available nongeneral fund revenues, provided that such increase shall not constitute an increase in debt issuance authorization for such capital project. Furthermore, the Director, Department of Planning and Budget, is hereby authorized to approve the expenditure of all interest earnings derived from the investment of bond proceeds in addition to the amount designated in §§ 2-52 and 2-53 for such capital project.

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5. The interest on bonds to be issued for these projects may be subject to inclusion in gross income for federal income tax purposes.

6. Inclusion of a project in this act does not imply a commitment of state funds for temporary construction financing. In the absence of such commitment, the institution may be responsible for securing short-term financing and covering the costs from other sources of funds.

7. In the event that the Treasury Board determines not to finance all or any portion of any project listed in § 2-52 of this act with the issuance of bonds pursuant to Article X, Section 9 (c), Constitution of Virginia, and notwithstanding any provision of law to the contrary, this act shall constitute the approval of the General Assembly to finance all or such portion of such project under the authorization of § 2-53 of this act.

8. The General Assembly further declares and directs that, notwithstanding any other provision of law to the contrary, 50 percent of the proceeds from the sale of surplus real property pursuant to § 2.2-1147 et seq., Code of Virginia, which pertain to the general fund, and which were under the control of an institution of higher education prior to the sale, shall be deposited in a special fund set up on the books of the State Comptroller, which shall be known as the Higher Education Capital Projects Fund. Such sums shall be held in reserve, and may be used, upon appropriation, to pay debt service on bonds for the 21st Century College Program as authorized in Item C-7.10 of Chapter 924 of the Acts of Assembly of 1997.

G. Upon certification by the Director, Department of Planning and Budget, there is hereby reappropriated the appropriations unexpended at the close of the previous biennium for all authorized capital projects which meet any of the following conditions:

1. Construction is in progress.
2. Equipment purchases have been authorized by the Governor but not received.
3. Plans and specifications have been authorized by the Governor but not completed.
4. Obligations were outstanding at the end of the previous biennium.

#### H. Alternative Financing

1. Any agency or institution of the Commonwealth that would construct, purchase, lease, or exchange a capital asset by means of an alternative financing mechanism, such as the Public Private Education Infrastructure Act, or similar statutory authority, shall provide a report to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees no less than 30 days prior to entering into such alternative financing agreement. This report shall provide:

- a. a description of the purpose to be achieved by the proposal;
- b. a description of the financing options available, including the alternative financing, which will delineate the revenue streams or client populations pledged or encumbered by the alternative financing;
- c. an analysis of the alternatives clearly setting out the advantages and disadvantages of each for the Commonwealth;
- d. an analysis of the alternatives clearly setting out the advantages and disadvantages of each for the clients of the agency or institution; and
- e. a recommendation and planned course of action based on this analysis.

#### I. Conditions Applicable to Alternative Financing

The following authorizations to construct, purchase, lease or exchange a capital asset by means of an alternative financing mechanism, such as the Public Private Education Infrastructure Act, or similar statutory authority, are continued until revoked:

##### 1. James Madison University

a. Subject to the provisions of this act, the General Assembly authorizes James Madison University, with the approval of the Governor, to explore and evaluate an alternative financing scenario to provide additional parking, student housing, and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board Guidelines issued pursuant to § 23.1-1106 C.1.d, Code of Virginia.

b. The General Assembly authorizes James Madison University to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional parking, student housing, and/or operational related facilities. The facility or facilities may be located on property owned by the Commonwealth. All project proposals and approvals shall be in accordance with the guidelines cited in paragraph 1 of this item. James Madison University is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities.

c. The General Assembly further authorizes James Madison University to enter into a written agreement with the public or private

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entity for the support of such parking, student housing, and/or operational related facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students, and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

d. James Madison University is further authorized to convey fee simple title in and to one or more parcels of land to James Madison University Foundation (JMUF), which will develop and use the land for the purpose of developing and establishing residential housing for students and/or faculty and staff, office, retail, athletics, dining, student services, and other auxiliary activities and commercial land use in accordance with the University's Master Plan.

2. Longwood University

a. Subject to the provisions of this act, the General Assembly authorizes Longwood University to enter into a written agreement or agreements with the Longwood University Real Estate Foundation (LUREF) for the development, design, construction and financing of student housing projects, a convocation center, parking, and operational and recreational facilities through alternative financing agreements including public-private partnerships. The facility or facilities may be located on property owned by the Commonwealth.

b. Longwood is further authorized to enter into a written agreement with the LUREF for the support of such student housing, convocation center, parking, and operational and recreational facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

c. The General Assembly further authorizes Longwood University to enter into a written agreement with a public or private entity to plan, design, develop, construct, finance, manage and operate a facility or facilities to provide additional student housing and/or operational-related facilities. Longwood University is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities. The State Treasurer is authorized to make Treasury loans to provide interim financing for planning, construction and other costs of any of the projects. Revenue bonds issued by or for the benefit of LUREF will provide construction and/or permanent financing.

d. Longwood University is further authorized to convey fee simple title in and to one or more parcels of land to LUREF, which will develop and use the land for the purpose of developing and establishing residential housing for students and/or faculty and staff, office, retail, athletics, dining, student services, and other auxiliary activities and commercial land use in accordance with the University's Master Plan.

3. Christopher Newport University

a. Subject to the provisions of this act, the General Assembly authorizes Christopher Newport University to enter into, continue, extend or amend written agreements with the Christopher Newport University Educational Foundation (CNUEF) or the Christopher Newport University Real Estate Foundation (CNUREF) in connection with the refinancing of certain housing and office space projects.

b. Christopher Newport University is further authorized to enter into, continue, extend or amend written agreements with CNUEF or CNUREF to support such facilities including agreements to (i) lease all or a portion of such facilities from CNUEF or CNUREF, (ii) include such facilities in the University's building inventory, (iii) manage the operation and maintenance of the facilities, including collection of any rental fees from University students in connection with the use of such facilities, and (iv) otherwise support the activities at such facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligation under any documents or instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

4. Radford University

a. Subject to the provisions of this act, the General Assembly authorizes Radford University, with the approval of the Governor, to explore and evaluate an alternative financing scenario to provide additional parking, student housing, and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board Guidelines issued pursuant to § 23.1-1106 C.1.d, Code of Virginia.

b. The General Assembly authorizes Radford University to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional parking, student housing, and/or operational related facilities. The facility or facilities may be located on property owned by the Commonwealth. All project proposals and approvals shall be in accordance with the guidelines cited in paragraph 1 of this item. Radford University is also authorized to enter into a written

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agreement with the public or private entity to lease all or a portion of the facilities.

c. The General Assembly further authorizes Radford University to enter into a written agreement with the public or private entity for the support of such parking, student housing, and/or operational related facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students, and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

#### 5. University of Mary Washington

a. Subject to the provisions of this act, the General Assembly authorizes the University of Mary Washington to enter into a written agreement or agreements with the University of Mary Washington Foundation (UMWF) to support student housing projects and/or operational-related or other facilities through alternative financing agreements including public-private partnerships and leasehold financing arrangements.

b. The University of Mary Washington is further authorized to enter into written agreements with UMWF to support such student housing facilities; the support may include agreements to (i) include the student housing facilities in the University's students housing inventory; (ii) manage the operation and maintenance of the facilities, including collection of rental fees as if those students occupied University-owned housing; (iii) assign students to the facilities in preference to other University-owned facilities; (iv) seek to obtain police power over the student housing as provided by law; and (v) otherwise support the students housing facilities consistent with law, provided that the University's obligation under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

c. The General Assembly further authorizes the University of Mary Washington to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional student housing and/or operational-related facilities. The facility or facilities may or may not be located on property owned by the Commonwealth. The University of Mary Washington is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities. The State Treasurer is authorized to make Treasury loans to provide interim financing for planning, construction and other costs of any of the projects. Revenue bonds issued by or for UMWF will provide construction and/or permanent financing.

d. The University of Mary Washington is further authorized to convey fee simple title in and to one or more parcels of land to the University of Mary Washington Foundation (UMWF) which will develop and use the land for the purpose of developing and establishing residential housing for students, faculty, or staff, recreational, athletic, and/or operational related facilities including office, retail and commercial, student services, or other auxiliary activities.

#### 6. Norfolk State University

a. Subject to the provisions of this act, the General Assembly authorizes Norfolk State University to enter into a written agreement or agreements with a Foundation of the University for the development of one or more student housing projects on or adjacent to campus, subject to the conditions outlined in the Public-Private Education Facilities Infrastructure Act of 2002.

b. Norfolk State University is further authorized to enter into written agreements with a Foundation of the University to support such student housing facilities; the support may include agreements to (i) include the student housing facilities in the University's student housing inventory; (ii) manage the operation and maintenance of the facilities, including collection of rental fees as if those students occupied University-owned housing; (iii) assign students to the facilities in preference to other University-owned facilities; (iv) restrict construction of competing student housing projects; (v) seek to obtain police power over the student housing as provided by law; and (vi) otherwise support the student housing facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

#### 7. Northern Virginia Community College - Alexandria Campus

The General Assembly authorizes Northern Virginia Community College, Alexandria Campus to enter into a written agreement either with its affiliated foundation or a private contractor to construct a facility to provide on-campus housing on College land to be leased to said foundation or private contractor for such purposes. Northern Virginia Community College, Alexandria Campus, is also authorized to enter into a written agreement with said foundation or private contractor for the support of such student housing facilities and management of the operation and maintenance of the same.

#### 8. Virginia State University

a. Subject to the provisions of this act, the General Assembly authorizes Virginia State University (University) to enter into a written agreement or agreements with the Virginia State University Foundation (VSUF), Virginia State University Real Estate Foundation (VSUREF), and other entities owned or controlled by the university for the development, design, construction, financing, and

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management of a mixed-use economic development corridor comprising student housing, parking, and dining facilities through alternative financing agreements including public-private partnerships. The facility or facilities may be located on property owned by the Commonwealth.

b. Virginia State University is further authorized to enter into a written agreement with the VSUREF, VSUF, and other entities owned or controlled by the university for the support of such a mixed-use economic development corridor comprising student housing, parking, and dining facilities by including these projects in the university's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students and/or operations to the facility or facilities in preference to other university facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the university shall not be required to take any action that would constitute a breach of the university's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the university or the Commonwealth of Virginia.

9. College of William and Mary

a. Subject to the provisions of this act, the General Assembly authorizes the College of William and Mary, with the approval of the Governor, to explore and evaluate alternative financing scenarios to provide additional parking, student or faculty/staff housing, recreational, athletic and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board guidelines issued pursuant to § 23.1-1106 C.1. (d), Code of Virginia.

b. The General Assembly authorizes the College of William and Mary to enter into written agreements with public or private entities to design, construct, and finance a facility or facilities to provide additional parking, student or faculty/staff housing, recreational, athletic, and/or operational related facilities. The facility or facilities may be on property owned by the Commonwealth. All project proposals and approvals shall be in accordance with the guidelines cited in paragraph 1 of this item. The College of William and Mary is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facility.

c. The General Assembly further authorizes the College of William and Mary to enter into written agreements with the public or private entities for the support and operation of such parking, student or faculty/staff housing, recreational, athletic, and/or operational related facilities by including the facilities in the College's facility inventory and managing their operation and maintenance including the assignment of parking authorizations, students, faculty or staff, and operations to the facility in preference to other university facilities, limiting construction of competing projects, and by otherwise supporting the facilities consistent with law, provided that the Collage shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the College or the Commonwealth of Virginia.

d. The College of William and Mary is further authorized to convey fee simple title in and to one or more parcels of land to the William and Mary Real Estate Foundation (WMREF) which will develop and use the land for the purpose of developing and establishing residential housing for students, faculty, or staff, recreational, athletic, and/or operational related facilities including office, retail and commercial, student services, or other auxiliary activities.

10. The following individuals, and members of their immediate family, may not engage in an alternative financing arrangement with any agency or institution of the Commonwealth, where the potential for financial gain, or other factors may cause a conflict of interest:

- a. A member of the agency or institution's governing body;
- b. Any elected or appointed official of the Commonwealth or its agencies and institutions who has, or reasonably can be assumed to have, a direct influence on the approval of the alternative financing arrangement; or
- c. Any elected or appointed official of a participating political subdivision, or authority who has, or reasonably can be assumed to have, a direct influence on the approval of the alternative financing arrangement.

J. Appropriations contained in this act for capital project planning shall be used as specified for each capital project and construction funding for the project shall be considered by the General Assembly after determining that (1) project cost is reasonable; (2) the project remains a highly-ranked capital priority for the Commonwealth; and (3) the project is fully justified from a space and programmatic perspective.

K. Any capital project that has received a supplemental appropriation due to cost overruns must be completed within the revised budget provided. If a project requires an additional supplement, the Governor should also consider reduction in project scope or cancelling the project before requesting additional appropriations. Agencies and institutions with nongeneral funds may bear the costs of additional overruns from nongeneral funds.

L. The Governor shall consider the project life cycle cost that provides the best long-term benefit to the Commonwealth when conducting capital project reviews, design and construction decisions, and project scope changes.

M. No structure, improvement or renovation shall occur on the state property located at the Carillon in Byrd Park in the City of Richmond without the approval of the General Assembly.

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N. All agencies of the Commonwealth and institutions of higher education shall provide information and/or use systems and processes in the method and format as directed by the Director, Department of General Services, on behalf of the Six-Year Capital Outlay Plan Advisory Committee, to provide necessary information for state-wide reporting. This requirement shall apply to all projects, including those funded from general and nongeneral fund sources.

O. The Department of General Services, with the cooperation and support of the Workers' Compensation Commission, is hereby directed to manage acquisition or, construction, or leasing under a capital lease of a new headquarters facility for the commission out of such funds appropriated for such purposes by Item C-38.10, Chapter 1, 2014 Special Session I. Upon completion of the new facility, the department shall transfer the existing headquarters facility located at 1000 DMV Drive in Richmond, Virginia to the Science Museum of Virginia.

P. The Director, Department of Planning and Budget, in consultation with the Six-Year Capital Outlay Plan Advisory Committee, is authorized to transfer bond appropriations and bond proceeds between and among the capital pool projects listed in the table below, in order to address any shortfall in appropriation in one or more of such projects:

Pool Project No.	Pool Project Title	Authorization
17775	Public Education Institutions Capital Account	Enactment Clause 2, § 4, Chapter 1, 2008 Special Session I Acts of Assembly
17776	State Agency Capital Account	Enactment Clause 2, § 2, Chapter 1, 2008 Special Session I Acts of Assembly
17861	Supplements for Previously Authorized Higher Education Capital Projects	Item C-85, Chapter 874, 2010 Acts of Assembly; amended by Item C-85, Chapter 890, 2011 Acts of Assembly
17862	Energy Conservation	Item C-86, Chapter 890, 2011 Acts of Assembly
17967	Capital Outlay Project Pool	Item C-38.10, Chapter 3, 2012 Special Session I Acts of Assembly; amended by: Item C-38.10, Chapter 806, 2013 Acts of Assembly; by Item C-38.10, Chapter 1, 2014 Special Session I Acts of Assembly; Item C-43, Chapter 2, 2014 Special Session I Acts of Assembly; Item C-43, Chapter 665, 2015 Acts of Assembly; and Item 48.10, Chapter 836, 2017 Acts of Assembly.
18049	Comprehensive Capital Outlay Program	Item C-39.40, Chapter 806, 2013 Acts of Assembly; amended by: Item C-39.40, Chapter 1, 2014 Special Session I Acts of Assembly; Item C-46.10, Chapter 2, 2014 Special Session I Acts of Assembly, <del>and</del> Item 46.10, Chapter 665, 2015 Acts of Assembly, <i>and Item C-46, Chapter 2, 2018 Acts of Assembly, Special Session I.</i>
18196	Capital Outlay Renovation Pool	Item C-46.15, Chapter 665, 2015 Acts of Assembly
18300	2016 VPBA Capital Construction Pool	§ 1, Chapters 759 and 769, 2016 Acts of Assembly; <i>amended by: Item C-47, Chapter 2, 2018 Acts of Assembly, Special Session I.</i>
18301	2016 VCBA Capital Construction Pool	§ 2, Chapters 759 and 769, 2016 Acts of Assembly; <i>amended by: Item C-48, Chapter 2, 2018 Acts of Assembly, Special Session I.</i>
18371	2018 Capital Construction Pool	<i>Item C-45, Chapter 2, 2018 Acts of Assembly, Special Session I</i>

**EXECUTIVE DEPARTMENT**

**OFFICE OF ADMINISTRATION**

ITEM C-1.		Item Details(\$)		Appropriations(\$)	
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<b>§ 2-1. DEPARTMENT OF GENERAL SERVICES (194)</b>					
C-1.	Improvements: Monroe Building Critical Systems Replacements (18368).....			\$13,600,000	\$0
	Fund Sources: Bond Proceeds.....	\$13,600,000	\$0		
C-1.10	Security improvements for North Drive (18420).....			\$2,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$2,000,000	\$0		
C-2.	Omitted.				
	Total for Department of General Services.....			<b>\$13,600,000</b> <b>\$15,600,000</b>	<b>\$0</b>
	Fund Sources: Bond Proceeds.....	<del>\$13,600,000</del> \$15,600,000	\$0		
	TOTAL FOR OFFICE OF ADMINISTRATION....			<b>\$13,600,000</b> <b>\$15,600,000</b>	<b>\$0</b>
	Fund Sources: Bond Proceeds.....	<del>\$13,600,000</del> \$15,600,000	\$0		

**OFFICE OF AGRICULTURE AND FORESTRY**

**§ 2-2. DEPARTMENT OF FORESTRY (411)**

C-2.10	New Construction: Construct new vehicle service center (18405).....			\$0	\$4,270,000
	Fund Sources: Special.....	\$0	\$4,270,000		
	<i>The purpose of the project authorized in this Item is the acquisition of property and the construction of a new Department of Forestry vehicle service center in the Charlottesville area. The Department of Forestry and the University of Virginia may enter into an agreement to exchange property, pursuant to the provisions of § 2.2-1150, Code of Virginia, to effect this project.</i>				
	Total for Department of Forestry.....			<b>\$0</b>	<b>\$4,270,000</b>
	Fund Sources: Special.....	\$0	\$4,270,000		
	TOTAL FOR OFFICE OF AGRICULTURE AND FORESTRY.....			<b>\$0</b>	<b>\$4,270,000</b>
	Fund Sources: Special.....	\$0	\$4,270,000		

**OFFICE OF EDUCATION**

**§ 2-3. VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND (218)**

C-3.	Improvements: Make System Infrastructure Repairs and Improvements (18370).....			\$2,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$2,000,000	\$0		
C-3.10	Improvements: Expand Emergency Generator System (18417).....			\$0	\$1,017,000
	Fund Sources: Bond Proceeds.....	\$0	\$1,017,000		
	Total for Virginia School for the Deaf and the Blind.....			<b>\$2,000,000</b>	<b>\$0</b> <b>\$1,017,000</b>

ITEM C-3.10.	Item Details(\$)		Appropriations(\$)	
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Fund Sources: Bond Proceeds.....	\$2,000,000	\$0 \$1,017,000		
<b>§ 2-4. THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA (204)</b>				
C-4. New Construction: Construct the Sadler Center West Addition (18360).....			\$37,742,000	\$0
Fund Sources: Bond Proceeds.....	\$37,742,000	\$0		
C-5. Improvements: Renovate dormitories (18100).....			\$11,000,000	\$0
Fund Sources: Bond Proceeds.....	\$11,000,000	\$0		
Total for The College of William and Mary in Virginia.....			<b>\$48,742,000</b>	<b>\$0</b>
Fund Sources: Bond Proceeds.....	\$48,742,000	\$0		
<b>§ 2-5. GEORGE MASON UNIVERSITY (247)</b>				
C-6. New Construction: Construct Utilities Distribution Infrastructure (18208).....			\$5,381,000	\$0
Fund Sources: Bond Proceeds.....	\$5,381,000	\$0		
C-6.10 <i>Improvements: Demolish Arlington Original Building (18423).....</i>			\$0	\$7,500,000
<i>Fund Sources: Higher Education Operating.....</i>	<i>\$0</i>	<i>\$7,500,000</i>		
<i>George Mason University is authorized to demolish the Arlington Original Building and related storm drain relocation at its Arlington Campus as part of the construction of an academic and research facility in support of Amazon's relocation to Northern Virginia. Funds committed by the University will be considered part of its share of the total project costs.</i>				
Total for George Mason University.....			<b>\$5,381,000</b>	<b>\$0</b> <b>\$7,500,000</b>
Fund Sources: <i>Higher Education Operating.....</i>	<i>\$0</i>	<i>\$7,500,000</i>		
Bond Proceeds.....	\$5,381,000	\$0		
<b>§ 2-6. JAMES MADISON UNIVERSITY (216)</b>				
C-7. Acquisition: Blanket Property Acquisition (17821)....			\$3,000,000	\$0
Fund Sources: Higher Education Operating.....	\$3,000,000	\$0		
C-8. Omitted.				
C-8.10 <i>Acquisition: Property Exchange (18424).....</i>			\$0	\$310,000
<i>Fund Sources: Higher Education Operating.....</i>	<i>\$0</i>	<i>\$310,000</i>		
<i>James Madison University is authorized to exchange 36,155 sq. ft. or .83 acres of University owned property located at 622 South Main Street in Harrisonburg, Virginia for 22,216 sq. ft. or .51 acres including a 3,884 sq. ft. improvement located at 741 South Main Street in Harrisonburg, Virginia owned by the Diocesan Missionary Society of Virginia. This property exchange will allow the institution to obtain property contiguous to campus on West Grace Street as a part of the University's Master Plan and the property located on 741 South Main Street is adjacent to property currently owned by the Episcopal Church at the corner of Martin Luther King Jr. Way and South Main Street in Harrisonburg, Virginia. As part of the transaction, the University is authorized to compensate the Diocesan Missionary Society of Virginia up to \$310,000 for the property exchange.</i>				
Total for James Madison University.....			<b>\$3,000,000</b>	<b>\$0</b> <b>\$310,000</b>

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Fund Sources: Higher Education Operating.....	\$3,000,000	\$0 \$310,000		

**§ 2-7. LONGWOOD UNIVERSITY (214)**

C-8.50	Planning: Renovate / Expand Environmental Health & Safety and Facilities Annex Building (18384).....			\$1,378,000	\$0
	Fund Sources: Higher Education Operating.....	\$1,378,000	\$0		
	<p>A. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Longwood University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. Longwood University is authorized to use additional higher education operating nongeneral funds to move to working drawings for this project. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2019.</p> <p>B. Longwood University shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.</p>				
C-8.60	New Construction: Wygal Hall Replacement (18425).....			\$0	\$2,163,000
	Fund Sources: Higher Education Operating.....	\$0	\$2,163,000		
	<p>Longwood University shall be reimbursed for the designated nongeneral funds used in this item for detailed planning when the project is funded to move into the construction phase.</p>				
	Total for Longwood University.....			<b>\$1,378,000</b>	<b>\$0</b> <b>\$2,163,000</b>
	Fund Sources: Higher Education Operating.....	\$1,378,000	\$0 \$2,163,000		

**§ 2-8. NORFOLK STATE UNIVERSITY (213)**

C-9.	New Construction: Construct Residential Housing (17818).....			\$10,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$10,000,000	\$0		
C-10.	Acquisition: Acquire Property (18188).....			\$3,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$3,000,000	\$0		
C-10.10	Planning: Science Building Replacement (18385)..			\$3,500,000	\$0
	Fund Sources: Higher Education Operating.....	\$3,500,000	\$0		
	<p>A. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Norfolk State University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. Norfolk State University is authorized to use additional higher education operating nongeneral funds to move to working drawings for this project. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2019.</p> <p>B. Norfolk State University shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.</p>				
C-10.20	Improvements: IT Infrastructure (18426).....			\$0	\$1,400,000
	Fund Sources: Bond Proceeds.....	\$0	\$1,400,000		
	<p>A. The Virginia College Building Authority, pursuant to § 23.1-1200 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$1,400,000 plus</p>				

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<i>amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project for which the appropriation in this item is provided.</i>				
<i>B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.</i>				
Total for Norfolk State University.....			<b>\$16,500,000</b>	<b>\$0</b> <i>\$1,400,000</i>
Fund Sources: Higher Education Operating.....	\$6,500,000	\$0		
Bond Proceeds.....	\$10,000,000	\$0		
		<i>\$1,400,000</i>		

**§ 2-9. OLD DOMINION UNIVERSITY (221)**

C-11.	Improvements: Convert Gymnasium Into a Competition Women's Volleyball Facility (18359).....			\$3,420,000	\$0
	Fund Sources: Higher Education Operating.....	\$3,420,000	\$0		
C-11.10	Improvements: Construct Campus Dining Improvements, Phase II (18406).....			\$0	\$5,000,000
	Fund Sources: Higher Education Operating.....	\$0	\$5,000,000		
C-11.20	New Construction: Construct Student Health and Wellness Addition (18407).....			\$0	\$11,000,000
	Fund Sources: Higher Education Operating.....	\$0	\$1,800,000		
	Bond Proceeds.....	\$0	\$9,200,000		
Total for Old Dominion University.....			<b>\$3,420,000</b>	<b>\$0</b>	<b>\$16,000,000</b>
	Fund Sources: Higher Education Operating.....	\$3,420,000	\$0		
			<i>\$6,800,000</i>		
	Bond Proceeds.....	\$0	\$9,200,000		

**§ 2-10. RADFORD UNIVERSITY (217)**

C-11.50	Planning: Renovation / Construction Center of Adaptive Innovation and Creativity (CAIC) (18386)..			\$4,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$4,000,000	\$0		
<p>A. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Radford University shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. Radford University is authorized to use additional higher education operating nongeneral funds to move to working drawings for this project. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2019.</p> <p>B. Radford University shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.</p>					
C-11.60	Acquisition: Acquire property for campus expansion (17851).....			\$17,500,000	\$0
	Fund Sources: Bond Proceeds.....	\$17,500,000	\$0		
Total for Radford University.....			<b>\$4,000,000</b>	<b>\$0</b>	<b>\$0</b>
			<i>\$21,500,000</i>		
	Fund Sources: Higher Education Operating.....	\$4,000,000	\$0		
	Bond Proceeds.....	\$17,500,000	\$0		

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**§ 2-11. UNIVERSITY OF MARY WASHINGTON (215)**

C-12.	Improvements: Renovate Residence Halls - Phase II (18362).....			\$24,500,000	\$0
	Fund Sources: Bond Proceeds.....	\$24,500,000	\$0		
	Total for University of Mary Washington.....			<b>\$24,500,000</b>	<b>\$0</b>
	Fund Sources: Bond Proceeds.....	\$24,500,000	\$0		

**§ 2-12. UNIVERSITY OF VIRGINIA (207)**

C-13.	Improvements: Renovate Gilmer Hall and Chemistry Building (18082).....			\$31,441,000	\$0 \$10,200,000
	Fund Sources: Bond Proceeds.....	\$31,441,000	\$0 \$10,200,000		

*A. The Virginia College Building Authority, pursuant to § 23.1-1200 et seq., Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$7,600,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project for which the appropriation in this item is provided.*

*B. Debt service on bonds issued under the authorization in this item shall be provided from appropriations to the Treasury Board.*

	Total for University of Virginia.....			<b>\$31,441,000</b>	<b>\$0</b> <b>\$10,200,000</b>
	Fund Sources: Bond Proceeds.....	\$31,441,000	\$0 \$10,200,000		

**§ 2-13. VIRGINIA COMMONWEALTH UNIVERSITY (236)**

*C-13.10 Acquire Virginia Alcoholic Beverage Control Authority Property*

*A. At such time as the Virginia Alcoholic Beverage Control Authority (Authority) determines that the Alcoholic Beverage Control Central Office and Warehouse located at 2901 & 2919 Hermitage Road in the City of Richmond, Virginia, consisting of approximately 20 acres +/- of land and improvements (Property), is no longer required for Authority purposes, it shall offer to sell the Property to Virginia Commonwealth University (VCU) prior to offering the Property for sale to any other public or private agency or entity or individual.*

*B. The Department of General Services (DGS), working on behalf of and in consultation with the Authority, shall determine fair market value for sale of the property. Such valuation will be determined by DGS obtaining two independent appraisals prepared according to prevailing professional standards and practices and performed by appraisers licensed by the Commonwealth of Virginia as Certified General Real Property Appraisers, who must meet the competency provisions of the Uniform Standards of Professional Appraisal Practice.*

*C. 1. The Authority shall offer for sale the Property to VCU at the fair market value determined in paragraph B. Any other conditions of the transfer, as negotiated between the Authority and VCU, shall be based on usual and customary terms for such intergovernmental transfers. If the Authority and VCU cannot agree on the terms of the sale of the Property, the Authority may sell the property pursuant to § 2.2-1156 and on such terms as it determines are in the best interest of the Authority, however any sale terms negotiated shall be presented to VCU, prior to any sale, to enable VCU to make a counter offer to the Authority. Should such counter offer be received by the Authority, the Authority shall consider the VCU counter offer and if determined favorable by the*

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	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<i>Authority, may sell the property to VCU.</i>				
<i>2. Prior to any sale of the Property to VCU, the university shall prepare a master plan for the development of the Property for submission to the Chairmen of the House Appropriations and Senate Finance Committees. The master plan may include development of the property as the VCU Athletics Village and shall include academic space in support of academic or clinical programs that align with the overall intended uses of the Athletics Village to include but not be limited to: Sports Medicine, Sports Leadership, classroom space for future delivery of 4-year teaching degree, or instructional space for student athletes.</i>				
<i>3. Upon approval of the master plan by the General Assembly, the Authority may proceed with the sale of the Property to VCU.</i>				
<i>D. Administrative costs incurred by DGS and the Authority to conduct the sale of the property shall be paid from the proceeds of the sale of the property.</i>				
C-13.20	<i>New Construction: Construct School of Engineering Research Expansion (18243).....</i>		\$6,541,000	\$0
	<i>Fund Sources: Bond Proceeds.....</i>	\$6,541,000	\$0	
	<i>Total for Virginia Commonwealth University.....</i>		\$6,541,000	\$0
	<i>Fund Sources: Bond Proceeds.....</i>	\$6,541,000	\$0	
<b>§ 2-14. VIRGINIA MILITARY INSTITUTE (211)</b>				
C-14.	<i>Improvements: Turman House Renovations (18361).</i>		\$2,500,000	\$0
	<i>Fund Sources: Bond Proceeds.....</i>	\$2,500,000	\$0	
C-15.	<i>Improvements: Improve Crozet Hall (18372).....</i>		\$1,650,000	\$0
	<i>Fund Sources: Higher Education Operating.....</i>	\$1,650,000	\$0	
C-16.	<i>Improvements: Improve Gray Minor Stadium (18373).....</i>		\$0	\$3,100,000
	<i>Fund Sources: Higher Education Operating.....</i>	\$0	\$3,100,000	
C-16.10	<i>Planning: Physical Training Facility Phase 3 (18387).....</i>		\$1,800,000	\$0
	<i>Fund Sources: Higher Education Operating.....</i>	\$1,800,000	\$0	
<i>A. In accordance with Chapter 15.1 (§ 2.2-1515 et seq.) of Title 2.2 of the Code of Virginia, Virginia Military Institute shall submit its completed detailed planning documents to the Six-Year Capital Outlay Plan Advisory Committee for its review and recommendation. Virginia Military Institute is authorized to use additional higher education operating nongeneral funds to move to working drawings for this project. However, no planning documents pursuant to this item shall be submitted to the Governor or the General Assembly prior to July 1, 2019.</i>				
<i>B. Virginia Military Institute shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.</i>				
C-16.20	<i>Improvements: Expand / Improve Clarkson-McKenna Press Box (18388).....</i>		\$1,500,000	\$0
	<i>Fund Sources: Bond Proceeds.....</i>	\$1,500,000	\$0	
C-16.30	<i>Improvements: Renovate 412 Parade, Superintendents Quarters (18389).....</i>		\$2,000,000	\$0
	<i>Fund Sources: Higher Education Operating.....</i>	\$2,000,000	\$0	
	<i>Total for Virginia Military Institute.....</i>		\$9,450,000	\$3,100,000
	<i>Fund Sources: Higher Education Operating.....</i>	\$5,450,000	\$3,100,000	
	<i>Bond Proceeds.....</i>	\$4,000,000	\$0	

ITEM C-16.30.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>§ 2-15. VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (208)</b>				
C-17.	Improvements: Renovate O'Shaughnessy Hall (18356).....		\$21,501,000	\$0
	Fund Sources: Higher Education Operating.....	\$8,867,000	\$0	
	Bond Proceeds.....	\$12,634,000	\$0	
C-18.	Improvements: Improve Student Wellness Facilities (18357).....		\$63,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$13,310,000	\$0	
	Bond Proceeds.....	\$49,690,000	\$0	
C-19.	New Construction: Construct VT Carilion Research Institute Biosciences Addition (18269).....		\$17,765,000	\$0
	Fund Sources: Bond Proceeds.....	\$17,765,000	\$0	
C-20.	Improvements: Renovate Dietrick Hall, First Floor and Plaza (18358).....		<del>\$7,000,000</del> \$10,800,000	\$0
	Fund Sources: Higher Education Operating.....	\$5,000,000	\$0	
	Bond Proceeds.....	<del>\$2,000,000</del> \$5,800,000	\$0	
C-20.10	<i>New Construction: Construct new academic facility, Innovation campus, Northern Virginia (18412).....</i>		\$0	\$275,000,000
	<i>Fund Sources: Higher Education Operating.....</i>	<i>\$0</i>	<i>\$107,000,000</i>	
	<i>Bond Proceeds.....</i>	<i>\$0</i>	<i>\$168,000,000</i>	
	<i>A. The Virginia College Building Authority, pursuant to § 23.1-1200 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$168,000,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project for which the appropriation in this Item is provided.</i>			
	<i>B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.</i>			
C-20.20	<i>New Construction: Data and Decision Science Building (18427).....</i>		\$0	\$79,000,000
	<i>Fund Sources: Higher Education Operating.....</i>	<i>\$0</i>	<i>\$10,000,000</i>	
	<i>Bond Proceeds.....</i>	<i>\$0</i>	<i>\$69,000,000</i>	
	<i>A. The Virginia College Building Authority, pursuant to § 23.1-1200 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$69,000,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project for which the appropriation in this item is provided.</i>			
	<i>B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.</i>			
	Total for Virginia Polytechnic Institute and State University.....		<b>\$109,266,000</b> <b>\$113,066,000</b>	<b>\$0</b> <b>\$354,000,000</b>
	Fund Sources: Higher Education Operating.....	\$27,177,000	\$0	
	Bond Proceeds.....	\$82,089,000	\$117,000,000	
		<del>\$85,889,000</del> \$85,889,000	<del>\$0</del> \$237,000,000	

ITEM C-20.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>§ 2-16. FRONTIER CULTURE MUSEUM OF VIRGINIA (239)</b>				
C-21.	New Construction: Construct English Barn (18364)..		\$629,000	\$0
	Fund Sources: Special.....	\$629,000	\$0	
C-21.10	Planning: Construct Crossing Gallery (18316).....		\$0	\$2,700,000
	Fund Sources: Dedicated Special Revenue.....	\$0	\$2,700,000	
<p>A. The project contained in this item shall be funded for planning entirely from amounts in the Central Capital Planning Fund established under § 2.2-1520 of the Code of Virginia.</p> <p>B. The Director, Department of Planning and Budget shall transfer, no later than July, 1, 2018, \$2,700,000 from the fiscal year 2018 year-end balances of Agency 949, Project 17968, Fund Group 09 to this project.</p> <p>C. In accordance with § 2.2-1520, the Director, Department of Planning and Budget, shall reimburse the Central Capital Planning Fund for the amounts provided for detailed planning when the project is funded to move into the construction phase.</p>				
Total for Frontier Culture Museum of Virginia.....			<b>\$629,000</b>	<b>\$0</b> <b>\$2,700,000</b>
	Fund Sources: Special.....	\$629,000	\$0	
	Dedicated Special Revenue.....	\$0	\$2,700,000	

**§ 2-17. GUNSTON HALL (417)**

C-21.50	Improvements: Repair Exterior Brick and Stone at Gunston Hall (18409).....		\$375,000	\$0
	Fund Sources: General.....	\$375,000	\$0	
Total for Gunston Hall.....			<b>\$375,000</b>	<b>\$0</b>
	Fund Sources: General.....	\$375,000	\$0	

**§ 2-18. THE SCIENCE MUSEUM OF VIRGINIA (146)**

C-21.75	Planning: Construct Regional Science Center in Northern Virginia (18428).....		\$0	\$2,326,000
	Fund Sources: General.....	\$0	\$2,326,000	
<p>The purpose of the project authorized in this item is for detailed planning for a Regional Science Center in Northern Virginia. This project requires a 50 percent local match or private funding for the building, land, furnishings, and exhibits related to this project. In addition, as part of detailed planning, the Science Museum of Virginia shall report to the Chairmen of the House Appropriations and Senate Finance Committees a plan for the future operations of the Regional Science Center. The operating plan shall include projected revenue from admissions and sales, a specified match from local and private funding related to the ongoing operations of the Center and any requested contributions from the State. The operating plan must be submitted by November 1st of the year prior to the General Assembly Session in which construction funding will be requested.</p>				
Total for The Science Museum of Virginia.....			<b>\$0</b>	<b>\$2,326,000</b>
	Fund Sources: General.....	\$0	\$2,326,000	

**§ 2-19. VIRGINIA MUSEUM OF FINE ARTS (238)**

C-22. There is hereby established a capital project for the Virginia Museum of Fine Arts entitled, "Repair and Replace Deteriorating Plywood in the Mellon Galleries (18374)." Furthermore, it is hereby authorized that unutilized Virginia Public Building Authority bond authorization in the amount of \$1,494,000 be transferred to this project from the Virginia Museum of Fine

ITEM C-22.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Arts' Renovate and Relocate Carpenter Shop project (17582).				
C-22.10	Planning: Expand and Renovate Museum (18430)..		\$0	\$6,300,000
	Fund Sources: Dedicated Special Revenue.....		\$0	\$6,300,000
Any dedicated special revenue committed by the Virginia Museum of Fine Arts to this project will be considered part of its share of the total project costs if this project is approved for full construction.				
	Total for Virginia Museum of Fine Arts.....		\$0	\$6,300,000
	Fund Sources: Dedicated Special Revenue.....		\$0	\$6,300,000

**§ 2-20. ROANOKE HIGHER EDUCATION AUTHORITY (935)**

C-22.50	Create Oliver Hill Courtyard (18411).....		\$328,000	\$0
	Fund Sources: General.....		\$328,000	\$0
	Total for Roanoke Higher Education Authority.....		\$328,000	\$0
	Fund Sources: General.....		\$328,000	\$0
	TOTAL FOR OFFICE OF EDUCATION.....		<del>\$259,707,000</del> \$288,251,000	<del>\$3,100,000</del> \$407,016,000
	Fund Sources: General.....		\$703,000	\$2,326,000
	Special.....		\$629,000	\$0
	Higher Education Operating.....		\$50,925,000	<del>\$3,100,000</del> \$136,873,000
	Dedicated Special Revenue.....		\$0	\$9,000,000
	Bond Proceeds.....		<del>\$208,153,000</del> \$235,994,000	<del>\$0</del> \$258,817,000

**OFFICE OF HEALTH AND HUMAN RESOURCES**

**§ 2-21. DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES (720)**

C-23.	Improvements: Address patient and staff safety issues at state facilities (18365).....		\$9,400,000	\$0
	Fund Sources: Bond Proceeds.....		\$9,400,000	\$0
	Total for Department of Behavioral Health and Developmental Services.....		\$9,400,000	\$0
	Fund Sources: Bond Proceeds.....		\$9,400,000	\$0
	TOTAL FOR OFFICE OF HEALTH AND HUMAN RESOURCES.....		\$9,400,000	\$0
	Fund Sources: Bond Proceeds.....		\$9,400,000	\$0

**OFFICE OF NATURAL RESOURCES**

**§ 2-22. DEPARTMENT OF CONSERVATION AND RECREATION (199)**

C-24.	Omitted.			
C-25.	Acquisition: Acquisition of land for State Parks (18236).....		<del>\$1,620,000</del> \$3,132,335	<del>\$0</del> \$750,000
	Fund Sources: General.....		\$120,000	\$0
	Special.....		<del>\$1,500,000</del> \$1,512,335	<del>\$0</del> \$750,000

ITEM C-25.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<i>Federal Trust</i> .....	\$1,500,000	\$0		
<p>A. It is the intent of the General Assembly that any acquisitions by gift, transfer or purchase, be limited to in-holdings or contiguous properties, consistent with the authorization contained in Item 363, and be limited to property within or contiguous to Hungry Mother, <del>Kiptopeke</del>, <del>Lake Anna</del>, Mayo River, New River Trail, <del>Westmoreland</del>, Seven Bends, False Cape, Natural Tunnel, New River, <i>Sailor's Creek Battlefield, Shenandoah River, Wilderness Road, High Bridge Trail</i> and York River State Parks. <i>In addition, the department is authorized to accept donations of property to develop a state park within Loudoun County.</i></p> <p>B. Included in the amounts for this item is \$120,000 the first year from the general fund to acquire additional land abutting the New River State Park.</p>				
C-26. Acquisition: Acquisition of land for Natural Area Preserves (18242).....			\$3,600,000	\$0
			\$4,251,431	\$7,688,164
Fund Sources: <i>Special</i> .....	\$300,000	\$2,488,500		
Dedicated Special Revenue.....	\$3,600,000	\$0		
	\$3,951,431	\$500,000		
<i>Federal Trust</i> .....	\$0	\$4,699,664		
<p>It is the intent of the General Assembly that any acquisitions by gift, transfer or purchase be limited, consistent with the authorization contained in Item 363, to property within or contiguous to The Cedars, <del>Cowbane Prairie</del>, <del>Grayson Glads</del>, Bald Knob, Deep Run Ponds, <del>Redrock Mountain</del>, Buffalo Mountain, Antioch Pines, Magothy Bay, Pinnacle, Lyndhurst Ponds, Mount Joy Ponds, <i>Camp Branch Wetlands, Chesnut Ridge, Cleveland Barrens, Difficult Creek, Pedlar Hills Glades, Poor Mountain, South Quay Sandhills</i>, and Grafton Ponds Natural Area Preserves. In addition, the department is authorized to accept donations of property within Stafford County contiguous to existing Natural Area Preserves.</p>				
C-27. <i>New Construction: Acquire and develop land for Middle Peninsula State Park (18355)</i> .....			\$145,000	\$0
Fund Sources: <i>Special</i> .....	\$145,000	\$0		
<p>Notwithstanding § 10.1-200.1, Code of Virginia, and any other provision of law, the department is authorized to acquire, by donation, land and any improvements to expand Middle Peninsula State Park. In addition, the department is authorized to further develop the property using funds it may receive for this purpose in accordance with the provisions set in the Surry-Skiffes Creek Transmission Line Memorandum of Understanding and Mitigation Project Agreements, and as agreed to by the Army Corps of Engineers.</p>				
C-27.10 <i>Acquire the Daniel Boone Wilderness Trail Interpretive Center (18416)</i>				
<p><i>Notwithstanding § 10.1-200.1, Code of Virginia, and pursuant to Item 363 E. of this act, the department is authorized to acquire, by transfer, land and the Daniel Boone Wilderness Trail Interpretive Center for operation as a satellite facility to Natural Tunnel State Park.</i></p>				
C-27.20 <i>Improvements: Belle Isle State Park (18429)</i> .....			\$100,000	\$100,000
Fund Sources: <i>Dedicated Special Revenue</i> .....	\$100,000	\$100,000		
<p><i>The Department of Conservation and Recreation is authorized to accept and expend gifts, donations or other funds to evaluate options to renovate and furnish the Belle Isle Manor House and dependencies at Belle Isle State Park.</i></p>				
Total for Department of Conservation and Recreation.....			\$5,220,000	\$0
			\$7,628,766	\$8,538,164
Fund Sources: General.....	\$120,000	\$0		
Special.....	\$1,500,000	\$0		
	\$1,957,335	\$3,238,500		
Dedicated Special Revenue.....	\$3,600,000	\$0		
	\$4,051,431	\$600,000		
<i>Federal Trust</i> .....	\$1,500,000	\$4,699,664		

ITEM C-27.20.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<b>§ 2-23. DEPARTMENT OF GAME AND INLAND FISHERIES (403)</b>					
C-28.	Maintenance Reserve (13316).....			\$1,900,000	\$1,900,000
	Fund Sources: Dedicated Special Revenue.....	\$1,150,000	\$1,150,000		
	Federal Trust.....	\$750,000	\$750,000		
C-29.	Improvements: Improve Wildlife Management Areas (18103).....			\$1,000,000	\$1,000,000
	Fund Sources: Dedicated Special Revenue.....	\$500,000	\$500,000		
	Federal Trust.....	\$500,000	\$500,000		
C-30.	Acquisition: Acquire Additional Land (18104).....			\$5,000,000	\$5,000,000
	Fund Sources: Dedicated Special Revenue.....	\$500,000	\$500,000		
	Federal Trust.....	\$4,500,000	\$4,500,000		
C-31.	Improvements: Repair and Upgrade Dams to Comply with the Dam Safety Act (18105).....			\$500,000	\$500,000
	Fund Sources: Dedicated Special Revenue.....	\$500,000	\$500,000		
C-32.	Improvements: Improve Boating Access (18106)...			\$1,000,000	\$2,000,000
	Fund Sources: Dedicated Special Revenue.....	\$250,000	\$500,000		
	Federal Trust.....	\$750,000	\$1,500,000		
	Total for Department of Game and Inland Fisheries			<b>\$9,400,000</b>	<b>\$10,400,000</b>
	Fund Sources: Dedicated Special Revenue.....	\$2,900,000	\$3,150,000		
	Federal Trust.....	\$6,500,000	\$7,250,000		
	TOTAL FOR OFFICE OF NATURAL RESOURCES.....			<b>\$14,620,000</b>	<b>\$10,400,000</b>
				<b>\$17,028,766</b>	<b>\$18,938,164</b>
	Fund Sources: General.....	\$120,000	\$0		
	Special.....	\$1,500,000	\$0		
		\$1,957,335	\$3,238,500		
	Dedicated Special Revenue.....	\$6,500,000	\$3,150,000		
		\$6,951,431	\$3,750,000		
	Federal Trust.....	\$6,500,000	\$7,250,000		
		\$8,000,000	\$11,949,664		

**OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY**

C-32.50 Omitted.

**§ 2-24. DEPARTMENT OF MILITARY AFFAIRS (123)**

C-33.	Improve Readiness Centers (18369).....			\$3,000,000	\$0 \$12,000,000
	Fund Sources: <i>Federal Trust</i> .....	\$0	\$9,000,000		
	Bond Proceeds.....	\$3,000,000	\$0		
			\$3,000,000		
	It is the intent that the funding provided in this project be used for the required state match for any federal funds made available for the repair, renovation, or improvement of readiness centers in the Commonwealth.				
	Total for Department of Military Affairs.....			<b>\$3,000,000</b>	<b>\$0</b> <b>\$12,000,000</b>
	Fund Sources: <i>Federal Trust</i> .....	\$0	\$9,000,000		

ITEM C-33.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Bond Proceeds.....	\$3,000,000	\$0 \$3,000,000		

**§ 2-25. DEPARTMENT OF STATE POLICE (156)**

C-34. From the existing appropriation for the Statewide Agencies Radio Systems capital project (17130), the Department of State Police is directed to use up to \$3,443,651 for the replacement of STARS battery power plants, the upgrade of STARS network management platforms, and the replacement of Department of State Police STARS mobile data terminals.

C-34.10 <i>Stand-alone Equipment Acquisition: Upgrade Statewide Agencies Radio System (STARS) network (18414).....</i>			\$0	\$40,000,000
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*Fund Sources: Bond Proceeds..... \$0 \$40,000,000*

*It is the intent of the General Assembly that this appropriation is the first of a four year allocation to implement an upgrade program for the Statewide Agencies Radio System (STARS) project. It may consist of, but is not limited to, land; mobile telecommunications equipment and towers; software; radio frequency rights and licenses; communications control buildings and facilities; related infrastructure; program management; and other project costs necessary, incidental or convenient to undertake, acquire, develop, construct, upgrade, and equip the integrated statewide shared land-mobile radio communications system for the Commonwealth.*

C-34.20 <i>Improvements: Refresh Commonwealth Link to Interoperable Communications (COMLINC) system (18415).....</i>			\$0	\$5,844,000
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*Fund Sources: Bond Proceeds..... \$0 \$5,844,000*

*The appropriation for this project shall be used to upgrade and expand the Commonwealth Link to Interoperable Communications (COMLINC) system. The Department of State Police shall replace COMLINC equipment at existing sites and install such equipment at new sites, as well as install updated software to maintain radio communication interoperability in the Commonwealth. Following the equipment and software replacement and installation, the Department shall own and oversee the operation of the COMLINC system.*

C-34.30 <i>New Construction: Construct Area 39 Office in Rockbridge County (18421).....</i>			\$725,000	\$0
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*Fund Sources: General..... \$725,000 \$0*

**Total for Department of State Police..... \$725,000 \$45,844,000**

*Fund Sources: General..... \$725,000 \$0*

*Bond Proceeds..... \$0 \$45,844,000*

**TOTAL FOR OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY..... \$3,000,000 \$0**  
**\$3,725,000 \$57,844,000**

*Fund Sources: General..... \$725,000 \$0*

*Federal Trust..... \$0 \$9,000,000*

*Bond Proceeds..... \$3,000,000 \$0*  
*\$48,844,000*

**OFFICE OF TRANSPORTATION**

**§ 2-26. DEPARTMENT OF MOTOR VEHICLES (154)**

C-34.50 <i>Acquisition: Acquire Emporia Customer Service Center (18419).....</i>			\$10,000	\$0
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*Fund Sources: Commonwealth Transportation..... \$10,000 \$0*

**Total for Department of Motor Vehicles..... \$10,000 \$0**

ITEM C-34.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: Commonwealth Transportation.....	\$10,000	\$0		

**§ 2-27. DEPARTMENT OF TRANSPORTATION (501)**

C-35.	Maintenance Reserve (15732).....			\$0	\$5,000,000
	Fund Sources: Commonwealth Transportation.....	\$0	\$5,000,000		
C-36.	Improvements: Acquire, Design, Construct and Renovate Agency Facilities (18130).....			\$20,000,000	\$25,000,000
	Fund Sources: Commonwealth Transportation.....	\$0	\$25,000,000		
	Bond Proceeds.....	\$20,000,000	\$0		

A. The Director, Department of Planning and Budget, shall transfer \$20,000,000 from amounts in the Transportation Trust Fund available for highway construction and designated for facility capital projects under the Virginia Department of Transportation to the Virginia Port Authority for advancing the planning and preliminary engineering requirements of widening and dredging the Norfolk Harbor channel to the maximum authorized depth of 55 feet and dredging the Southern Branch of the Elizabeth River to the maximum authorized depth of 45 feet.

B. The Virginia Public Building Authority, pursuant to § 2.2-2260 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$20,000,000, plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses to finance the capital costs of the Virginia Department of Transportation capital project "Improvements: Acquire, Design, Construct and Renovate Agency Facilities" (18130).

C. Debt service on the bonds issued under the authorization provided in this Item shall be paid from appropriations to the Treasury Board.

Total for Department of Transportation.....			<b>\$20,000,000</b>	<b>\$30,000,000</b>
Fund Sources: Commonwealth Transportation.....	\$0	\$30,000,000		
Bond Proceeds.....	\$20,000,000	\$0		

**§ 2-28. VIRGINIA PORT AUTHORITY (407)**

C-37.	Maintenance Reserve (13804).....			\$3,000,000	\$3,000,000
	Fund Sources: Commonwealth Transportation.....	\$3,000,000	\$3,000,000		
C-38.	Improvements: Expand Empty Yard (16643).....			\$13,000,000	\$11,000,000
	Fund Sources: Special.....	\$13,000,000	\$11,000,000		
C-39.	Improvements: Cargo Handling Facilities (16048).			\$13,000,000	<del>\$11,000,000</del> \$16,250,000
	Fund Sources: Special.....	\$13,000,000	<del>\$11,000,000</del> \$16,250,000		
C-40.	Stand-alone Equipment Acquisition: Procure Equipment (18125).....			\$37,000,000	\$30,000,000
	Fund Sources: Special.....	\$37,000,000	\$30,000,000		
C-40.10	Improvements: Harbor Widening and Deepening (18390).....			\$330,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$330,000,000	\$0		

That pursuant to § 2.2-2263 of the Code of Virginia, the Virginia Public Building Authority is authorized to issue bonds in an aggregate amount not to exceed \$330,000,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during acquisition, construction, or renovation and for one year after

ITEM C-40.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
completion thereof, and other financing expenses. The proceeds of such bonds shall be used to fund capital projects related to the Port Harbor Widening and Deepening. The General Assembly hereby appropriates the proceeds from any such bonds for the projects listed in this enactment. Debt service on projects contained in this enactment shall be provided from appropriations to the Treasury Board.				
Total for Virginia Port Authority.....			<b>\$396,000,000</b>	<b>\$55,000,000</b> <b>\$60,250,000</b>
Fund Sources: Special.....	\$63,000,000	<del>\$52,000,000</del> \$57,250,000		
Commonwealth Transportation.....	\$3,000,000	\$3,000,000		
Bond Proceeds.....	\$330,000,000	\$0		
TOTAL FOR OFFICE OF TRANSPORTATION.....			<b>\$416,000,000</b> <b>\$416,010,000</b>	<b>\$85,000,000</b> <b>\$90,250,000</b>
Fund Sources: Special.....	\$63,000,000	<del>\$52,000,000</del> \$57,250,000		
Commonwealth Transportation.....	<del>\$3,000,000</del> \$3,010,000	\$33,000,000		
Bond Proceeds.....	\$350,000,000	\$0		

**OFFICE OF VETERANS AND DEFENSE AFFAIRS**

**§ 2-29. DEPARTMENT OF VETERANS SERVICES (912)**

C-41.	Expand Amelia Veterans Cemetery (18363).....		\$4,500,000	\$0
	Fund Sources: Federal Trust.....	\$4,500,000	\$0	
The Director, Department of Planning and Budget, shall approve a short-term, interest-free treasury loan in the amount of up to \$1,000,000 for the Department of Veterans Services for final cemetery expansion design and to assist with cash flow during the construction of the expansion. The loan shall be repaid by the Department of Veterans Services upon receipt of federal funds by June 30, 2020.				
	Total for Department of Veterans Services.....		<b>\$4,500,000</b>	<b>\$0</b>
	Fund Sources: Federal Trust.....	\$4,500,000	\$0	
	TOTAL FOR OFFICE OF VETERANS AND DEFENSE AFFAIRS.....		<b>\$4,500,000</b>	<b>\$0</b>
	Fund Sources: Federal Trust.....	\$4,500,000	\$0	

**CENTRAL APPROPRIATIONS**

**§ 2-30. CENTRAL CAPITAL OUTLAY (949)**

C-42.	Central Maintenance Reserve (15776).....		\$128,566,436	\$128,566,436
	Fund Sources: Bond Proceeds.....	\$128,566,436	\$128,566,436	

A. A total of \$128,566,436 the first year and \$128,566,436 the second year is hereby authorized for issuance by the Virginia Public Building Authority pursuant to § 2.2-2263 Code of Virginia, or the Virginia College Building Authority pursuant to § 23.1-1200 et seq., Code of Virginia, for capital costs of maintenance reserve projects.

B. The proceeds of such bonds authorized in paragraph A. are hereby appropriated for the capital costs of the following maintenance reserve projects:

Agency Name/Code	Project Code	FY 2019	FY 2020
Department of Military Affairs (123)	10893	\$972,356	\$972,356
Department of Emergency	15989	\$100,000	\$100,000

ITEM C-42.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Management (127)				
The Science Museum of Virginia (146)	13634	\$681,997		\$681,997
Department of State Police (156)	10886	\$652,917		\$652,917
Department of General Services (194)	14260	\$11,800,591		\$11,800,591
Department of Conservation and Recreation (199)	16646	\$2,674,091		\$2,674,091
The Library of Virginia (202)	17423	\$184,182		\$184,182
Wilson Workforce and Rehabilitation Center (203)	10885	\$542,549		\$542,549
The College of William and Mary (204)	12713	\$3,666,752		\$3,666,752
University of Virginia (207)	12704	\$12,916,383		\$12,916,383
Virginia Polytechnic Institute and State University (208)	12707	\$13,574,211		\$13,574,211
Virginia Military Institute (211)	12732	\$1,714,724		\$1,714,724
Virginia State University (212)	12733	\$3,769,199		\$3,769,199
Norfolk State University (213)	12724	\$4,118,167		\$4,118,167
Longwood University (214)	12722	\$1,878,865		\$1,878,865
University of Mary Washington (215)	12723	\$1,653,087		\$1,653,087
James Madison University (216)	12718	\$4,957,041		\$4,957,041
Radford University (217)	12731	\$2,213,442		\$2,213,442
Virginia School for the Deaf and Blind (218)	14082	\$458,357		\$458,357
Old Dominion University (221)	12710	\$3,629,749		\$3,629,749
Virginia Commonwealth University (236)	12708	\$7,073,267		\$7,073,267
Virginia Museum of Fine Arts (238)	13633	\$827,971		\$827,971
Frontier Culture Museum of Virginia (239)	15045	\$600,000		\$600,000
Richard Bland College (241)	12716	\$515,756		\$515,756
Christopher Newport University (242)	12719	\$1,015,859		\$1,015,859
University of Virginia's College at Wise (246)	12706	\$772,776		\$772,776
George Mason University (247)	12712	\$5,837,877		\$5,837,877
Virginia Community College System (260)	12611	\$13,158,441		\$13,158,441
Virginia Institute of Marine Science (268)	12331	\$802,315		\$802,315
Eastern Virginia Medical School (274)	18190	\$318,929		\$318,929
Department of Agriculture and Consumer Services (301)	12253	\$413,678		\$413,678
Marine Resources Commission (402)	16498	\$101,472		\$101,472
Department of Mines, Minerals, and Energy (409)	13096	\$110,237		\$110,237
Department of Forestry (411)	13986	\$467,234		\$467,234
Gunston Hall (417)	12382	\$173,320		\$173,320
Jamestown-Yorktown Foundation (425)	13605	\$1,669,298		\$1,669,298

ITEM C-42.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Department for the Blind and Vision Impaired (702)	13942	\$383,462		\$383,462
Department of Behavioral Health and Developmental Services (720)	10880	\$6,759,827		\$6,759,827
Department of Juvenile Justice (777)	15081	\$1,049,679		\$1,049,679
Department of Forensic Science (778)	16320	\$538,217		\$538,217
Department of Corrections (799)	10887	\$11,744,472		\$11,744,472
Institute for Advanced Learning and Research (885)	18044	\$331,973		\$331,973
Department of Veterans Services (912)	17073	\$100,000		\$100,000
Roanoke Higher Education Center (935)	17916	\$380,889		\$380,889
Southern Virginia Higher Education Center (937)	18131	\$303,571		\$303,571
New College Institute (938)	18132	\$303,571		\$303,571
Virginia Museum of Natural History (942)	14439	\$331,062		\$331,062
Southwest Virginia Higher Education Center (948)	16499	\$322,623		\$322,623
Total		\$128,566,436		\$128,566,436

C. Expenditures for amounts appropriated in this Item are subject to conditions defined in §2-0 E of this act.

D. 1. In order to reduce building operation costs and repay capital investments, agencies and institutions of higher education may give priority to maintenance reserve projects which result in guaranteed savings to the agency or institution pursuant to § 11-34.3, Code of Virginia.

2. Agencies and institutions of higher education may use maintenance reserve funds to finance the following capital costs: to repair or replace damaged or inoperable equipment, components of plant, and utility systems; to correct deficiencies in property and plant required to conform with building and safety codes or those associated with hazardous condition corrections, including asbestos abatement; to correct deficiencies in fire protection, safety and security, energy conservation and handicapped access; and to address such other physical plant deficiencies as the Director, Department of Planning and Budget may approve. Agencies and institutions of higher education may also use maintenance reserve funds to make other necessary improvements that do not meet the criteria for maintenance reserve funding with the prior approval of the Director, Department of Planning and Budget.

E. 1. The Department of General Services is authorized to use these funds from its maintenance reserve allocation for necessary repairs and improvements in and around Capitol Square for items such as repair and conservation of the historic fence, repair and improvements to the grounds, upkeep and ongoing repairs to the exterior of the Capitol and Bell Tower, needed safety and security upgrades, and conservation and maintenance of monuments and statues. The use of and allocation of these funds shall be as deemed appropriate by the Director, Department of General Services.

2. Notwithstanding the provisions of § 2.2-1130, Code of Virginia, the Department of General Services shall retain custody, control and supervision of the Virginia War Memorial Carillon. Out of the amounts provided for the Department of General Services (Project Code 14260), the Department shall provide for maintenance and repair of the Virginia War Memorial Carillon. In addition, notwithstanding the provisions of § 2.2-1130, Code of Virginia, any fund balances held by the Department of General Services and new revenues generated by the Department of General Services under the provisions of § 2.2-1130, Code of Virginia, shall be paid to the Department of General Services by the Comptroller and shall be retained by the Department of General Services for the upkeep, maintenance, and improvement of the Virginia War Memorial Carillon.

ITEM C-42.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
F.1. The Jamestown-Yorktown Foundation may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this item for the conservation of art and artifacts.				
2. The Virginia Museum of Fine Arts may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this item for the conservation of art works owned by the Museum.				
3. <i>The Frontier Culture Museum may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this Item for the conservation of art and artifacts.</i>				
G. The Department of Corrections may use a portion of its annual maintenance reserve allocation to make modifications to correctional facilities needed to enable the agency to meet the requirements of the federal Prison Rape Elimination Act.				
H. The Frontier Culture Museum may use its maintenance reserve allocation to pave the loop roads, paths, and parking lots, repair and replace restroom facilities, improve public entrance accessibility, and improve the grounds at the museum.				
I. The Jamestown-Yorktown Foundation may utilize its annual maintenance reserve allocation to restore, repair or renew exhibits.				
J. The Department of Corrections may use up to \$1,500,000 of its annual maintenance reserve allocation to retrofit the correctional facility in Culpeper County that had been used in the past by the Department of Juvenile Justice to house juvenile defenders, but will be used to house adult offenders.				
K. Gunston Hall may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this Item to restore, repair, or renew exhibits. Furthermore, it may use its maintenance reserve allocation to pave the roads, paths, and parking lots, improve entrance accessibility, and improve the grounds at the museum.				
L. Out of the amount allocated for the Department of General Services, \$2,000,000 the first year and \$2,000,000 the second year is designated for building and utility repairs at Fort Monroe. After determining those buildings and utilities to be repaired, and the priority in which repairs will be undertaken within the available allocation in this Item, the Fort Monroe Authority shall present an annual plan to the Director, Department of Planning and Budget. The Fort Monroe Authority is authorized to use a portion of this funding allocation to secure the services of a project manager for overseeing and coordinating the on-site efforts involving the various repairs at Fort Monroe. The project manager shall work in consultation and coordination with the Department of General Services. The Department of General Services shall act as fiscal agent for the authorized funds.				
M. Out of the amounts provided for the Department of Behavioral Health and Developmental Services (720), Project Code 10880, \$570,000 the first year is designated to begin the initial environmental remediation recommended in the initial environmental site assessment at the Central Virginia Training Center site.				

C-43. Central Reserve for Capital Equipment Funding (17954).....			\$59,997,000	\$0
				\$46,041,000

Fund Sources: Bond Proceeds.....	\$59,997,000	\$0
		\$46,041,000

A. 1. The capital projects in paragraph B. of this Item are hereby authorized and may be financed in whole or part through bonds of the Virginia College Building Authority, pursuant to § 23.1-1200 et seq., Code of Virginia, or the Virginia Public Building Authority, pursuant to § 2.2-2260, Code of Virginia. Bonds of the Virginia College Building Authority issued to finance these projects may be sold and issued under the 21st Century College Program at the same time with other obligations of the Authority as separate issues or as a combined issue. The aggregate principal amount shall not exceed ~~\$59,997,000~~ \$106,038,000 plus amounts to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year



ITEM C-43.	Item Details(\$)		Appropriations(\$)					
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020				
Expand Western State Hospital (18210) <i>Construct New Sexually Violent Predator Facility (18166)</i>								
C-43.50	Planning: Replace Central State Hospital (18391)...		\$3,000,000	\$0				
	Fund Sources: Special.....	\$3,000,000	\$0					
<p>A. The Department of Behavioral Health and Developmental Services (DBHDS) and the Department of General Services (DGS) shall develop and deliver a plan to provide capital project options for a new Central State Hospital.</p> <p>B. The Department of General Services (DGS) shall analyze and include phasing options in the DBHDS plan as part of the detailed planning process.</p> <p>C. Project budgeting estimates pursuant to this item shall be delivered to the Governor, Chairmen of the House Appropriations and Senate Finance Committees, and the Six-Year Capital Outlay Plan Advisory Committee (§ 2.2-1516) by December 1, 2018.</p> <p>D. DBHDS shall be reimbursed for all nongeneral funds used when the project is funded to move into the construction phase.</p>								
C-44.	Omitted.							
C-44.10	Capital Outlay Project Pool (17967).....		\$500,000	\$7,785,000				
	Fund Sources: Bond Proceeds.....	\$500,000	\$7,785,000					
<p>A. 1. In addition to the amounts previously authorized in Item C-43, Chapter 2, 2014 Acts of Assembly, Special Session I and Item C-48.10, Chapter 836, 2017 Acts of Assembly, the Virginia Public Building Authority, pursuant to § 2.2-2260 et seq., Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$8,285,000, plus amounts needed to fund issuance costs, reserve funds, original issuance discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing costs, to supplement the funding for the following projects previously authorized in Item C-43, Chapter 2, 2014 Acts of Assembly, Special Session I:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"><i>Department of State Police (156)</i></td> <td style="width: 50%;"><i>Construct Area 12 Office Building (18250)</i></td> </tr> <tr> <td><i>Department of Corrections (799)</i></td> <td><i>Replace Fire Alarm Systems (18156)</i></td> </tr> </table> <p>2. Debt service on the bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.</p> <p>B. The title and scope of the capital project for the Department of Corrections, titled, "Replace Greensville Heating and Hot Water Pipes" authorized in Item C-48.10, Chapter 836, 2017 Acts of Assembly, is hereby changed to "Replace Greensville Heating and Hot Water Systems", including hot water piping and associated equipment at Greensville Correctional Center.</p>					<i>Department of State Police (156)</i>	<i>Construct Area 12 Office Building (18250)</i>	<i>Department of Corrections (799)</i>	<i>Replace Fire Alarm Systems (18156)</i>
<i>Department of State Police (156)</i>	<i>Construct Area 12 Office Building (18250)</i>							
<i>Department of Corrections (799)</i>	<i>Replace Fire Alarm Systems (18156)</i>							
C-44.20	Omitted.							
C-45.	New Construction: 2018 Capital Construction Pool (18371).....		\$216,471,500	\$0				
	Fund Sources: Bond Proceeds.....	\$216,471,500	\$0					
<p>A. 1. The capital projects in paragraph B of this Item are hereby authorized and may be financed in whole or in part through bonds of the Virginia College Building Authority pursuant to § <del>23-30.24</del> § 23.1-1203 et seq., Code of Virginia, or the Virginia Public Building Authority pursuant to § 2.2-2263, Code of Virginia. Bonds of the Virginia College Building Authority issued to finance these projects may be sold and issued under the 21st Century College Program at the same time with other obligations of the Authority as separate issues or as a combined issue. The aggregate principal amounts shall not exceed \$216,471,500 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year</p>								

ITEM C-45.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

after completion thereof, and other financing expenses, in accordance with § 2.2-2263, Code of Virginia.

2. From the list of projects included in paragraph B of this Item, the Director, Department of Planning and Budget, shall provide to the Chairmen of the Virginia College Building Authority and the Virginia Public Building Authority with the specific projects, as well as the amounts for these projects, to be financed by each authority within the dollar limit established by this authorization.

3. Debt service on these projects contained in this Item shall be provided from appropriations to the Treasury Board.

4. The appropriations for the capital projects in this Item are subject to the conditions in § 2.0 F. of this act.

B. There is hereby appropriated \$216,471,500 the first year from bond proceeds of the Virginia College Building Authority or the Virginia Public Building Authority to provide funds for the construction and other capital costs of the following projects:

Agency Code	Agency Title	Project Title
123	Department of Military Affairs	Replace Army Aviation Support Facility
146	Science Museum of Virginia	New Exhibits, Danville Science Center (18317)
156	Department of State Police	Construct Area 13 Barracks
194	Department of General Services	Seat of Government Swing Space and Repairs ABC Warehouse and Administrative Offices Acquire New NCI Facility Expand Consolidated Labs, 1st floor
229	Virginia Cooperative Extension and Agricultural Experiment Station	Construct Virginia Seafood Agricultural Research and Extension Center (AREC)
236	Virginia Commonwealth University	Life Sciences Building Roof and HVAC Replacement
238	Virginia Museum of Fine Arts	Replace Roof and Drains on Pauley Center Replace Air Handling Units
702	Department for the Blind and Vision Impaired	Renovate Departmental Headquarters Building
799	Department of Corrections	<del>Replace Hot Water and Heating Mechanical Systems--Sussex I &amp; H and Red Onion</del> <i>Replace Heating and Hot Water Systems Piping and Associated Equipment at Sussex I &amp; II and Red Onion</i> Renovate Buckingham Wastewater Treatment Plant
885	Institute for Advanced Learning and Research	Construct Center for Manufacturing Advancement
948	Southwest Virginia Higher Education Center	Replace HVAC System

C. Pursuant to authorization in Item 246 C.1. and C.2 of this act, funds are appropriated in this item to the Department of General Services for the New College Institute to prepare and execute the necessary agreements to acquire a new facility for its administrative operations, programs, and instructional and research activities.







<b>ITEM C-48.10.</b>		<b>Item Details(\$)</b>		<b>Appropriations(\$)</b>	
		<b>First Year FY2019</b>	<b>Second Year FY2020</b>	<b>First Year FY2019</b>	<b>Second Year FY2020</b>
	<i>Bond Proceeds.....</i>	\$0	\$722,216,000		

A. 1. The capital projects in paragraph C of this Item are hereby authorized and may be financed in whole or in part through bonds of the Virginia College Building Authority pursuant to § 23.1-1200 et seq., Code of Virginia, or the Virginia Public Building Authority pursuant to § 2.2-2263 et seq., Code of Virginia. Bonds of the Virginia College Building Authority issued to finance these projects may be sold and issued under the 21st Century College Program at the same time with other obligations of the Authority as separate issues or as a combined issue. The aggregate principal amounts shall not exceed \$722,216,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, in accordance with § 2.2-2263, Code of Virginia.

2. From the list of projects included in paragraph C of this Item, the Director, Department of Planning and Budget, shall provide to the Chairmen of the Virginia College Building Authority and the Virginia Public Building Authority the specific projects, as well as the amounts for these projects, to be financed by each authority within the dollar limit established by this authorization.

3. Debt service on the projects contained in this Item shall be provided from appropriations to the Treasury Board.

4. The appropriations for the capital projects in this Item are subject to the conditions in § 2.0 F. of this act.

B. In addition to the appropriation and bond authorization authorized by this Item, the Director, Department of Planning and Budget, shall transfer unutilized Virginia College Building Authority (VCBA) and Virginia Public Building Authority (VPBA) bond authorization and appropriation from the projects listed below, in the amounts shown, to this project for funding the projects listed in paragraph C:

Agency No.	Project No.	Issuing Authority	Initial Authorization	Amount
207	17476	VCBA	Chapter 1, Enactment 2, Section 3, 2008 Acts of Assembly, Special Session I	\$4,080,667
215	17670	VCBA	Chapter 1, Enactment 2, Section 3, 2008 Acts of Assembly, Special Session I	\$1,374,605
247	16607	VCBA	Item C-85.10, Chapter 874, 2010 Acts of Assembly	\$1,120,047
260	16836	VCBA	Item C-182.10, Chapter 781, 2009 Acts of Assembly	\$111,398
260	17379	VCBA	Item C-326.30, Chapter 847, 2008 Acts of Assembly	\$401,727
912	18319	VPBA	Item C-43.50, Chapter 836, 2017 Acts of Assembly	\$10,000,000

C. There is hereby appropriated \$677,216,000 the second year from bond proceeds of the Virginia College Building Authority or the Virginia Public Building Authority, \$830,000 from the general fund and \$30,516,000 from nongeneral funds to provide funds for the construction and other capital costs of the following projects:

Agency Code	Agency Title	Project Title
194	Department of General Services	Renovate Parking Deck, Main Street Centre
194	Department of General Services	Improve Capitol Campus Utilities

ITEM C-48.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
194	Department of General Services	Acquisition of the VEC Building		
194	Department of General Services	Replace Central State Hospital		
199	Department of Conservation and Recreation	Construct Cabins, Breaks Interstate Park		
207	University of Virginia	Alderman Library Renewal		
211	Virginia Military Institute	Construct Corps Physical Training Facility Phase 3 (Aquatic Center)		
212	Virginia State University	Demolish / Replace Daniel Gym and Demolish Harris Hall, Phase I		
214	Longwood University	Replace Major HVAC System Components		
216	James Madison University	Renovate Jackson Hall		
221	Old Dominion University	Address Maintenance Needs in Kaufman Hall and Mills Godwin Building		
236	Virginia Commonwealth University	Construct STEM Teaching Laboratory Building		
238	Virginia Museum of Fine Arts	Replace Life and Safety Systems		
238	Virginia Museum of Fine Arts	Repair the Museum Building Envelope		
241	Richard Bland College	Acquire and Install New Generator at the Library		
247	George Mason University	Improve IT Network Infrastructure		
268	Virginia Institute of Marine Science	Replace Oyster Hatchery		
417	Gunston Hall	Upgrade Fire Suppression System and Improve Security		
720	Department of Behavioral Health and Developmental Services	Renovate Eastern State Hospital Kitchen		
777	Department of Juvenile Justice	Repair Life Safety Systems and Upgrade Electrical Systems, Bon Air		
799	Department of Corrections	Replace Appalachian and Wise Wastewater Treatment Plants		
799	Department of Corrections	Construct James River Wastewater Pump Station		

D. 1. From the proceeds of bonds authorized to be issued by the Virginia Public Building Authority in paragraph A of this Item, there is hereby appropriated a one-time and final payment of \$25,000,000 in the second year for the Combined Sewer Overflow Matching Fund, established pursuant to § 62.1-242.12, Code of Virginia and administered by the Department of Environmental Quality. These bond proceeds shall be used by the Virginia Resources Authority and the State Water Control Board to make a grant to the City of Alexandria to pay a portion of the capital costs of its combined sewer overflow control project. Disbursements from these proceeds shall be authorized by the State Water Control Board, under the authority of the Department of Environmental Quality, and administered by the Virginia Resources Authority through the Combined Sewer Overflow Matching Fund.

2. This appropriation is subject to the conditions of § 2.0 F of this act.

3. Except as provided in paragraph D.2 of this Item, the provisions of §§ 2.0 and 4-4.01 of this act and the provisions of § 2.2-1132, Code of Virginia, shall not apply to the project supported in this Item.

E. Funding for the Department of General Services' project to Improve Capitol Campus utilities shall not be released until the department and the City of Richmond have signed an agreement allowing the state to work on any needed improvements to the utilities running through Capitol Square, including a methodology in the agreement that provides for the state's utility bills to be adjusted to offset the state's expenditures for any improvements to the water lines.

F. Out of the amounts provided in this Item, \$10,000,000 the second year from bond

ITEM C-48.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	<i>proceeds is designated for lab renovations and enhancements and / or research equipment related to higher education research for the Hampton Roads Biomedical Research Consortium created in Item 475.10.</i>			
	<i>G. Stormwater Local Assistance Fund. From the appropriation and bond authorization provided in this Item, up to \$10,000,000 of the bond proceeds shall be provided to the Department of Environmental Quality for the Stormwater Local Assistance Fund, established in accordance with the provisions of Item 368 of this act. In accordance with the purpose of the Fund set out in Item 368, the bond proceeds shall be used to provide grants solely for capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration. Such grants shall be in accordance with eligibility determinations made by the State Water Control Board under the authority of the Department of Environmental Quality.</i>			
	<i>H. Out of the amounts provided in Paragraph C of this item, the Department of General Services is authorized funding for the defeasance of the federal equity in the the Virginia Employment Commission site located at 703 E. Main Street, Richmond, Virginia, to enable transfer of title to that site to the Commonwealth of Virginia, Department of General Services to be included in the Department of General Services statewide building management program.</i>			
	<i>I. 1. Funding provided in paragraph C of this Item for the Department of General Services' project to Replace Central State Hospital is to replace the Department of Behavioral Health and Developmental Services' Central State Hospital at its current location in Petersburg, Virginia. Funding is included to complete the design, construction, and provision of furniture, fixtures, and equipment for a facility that includes 111 maximum security beds, 141 civil beds, and the associated program and support facilities identified in the Central State Hospital pre-planning study delivered to the General Assembly in December 2018 pursuant to Item C-43.50 of this act.</i>			
	<i>2. The Department of Behavioral Health and Developmental Services may consider potential future phasing options for the new Central State Hospital beyond the scope authorized in subparagraph I.1 of this Item for the Central State Hospital replacement in its plan that is proposed pursuant to Item 310 CC. of this act.</i>			
C-49.	A. The Department of General Services is authorized to enter into capital leases as follows:			
	1. On behalf of the Department of Social Services, to address lease space needs for the Child Support Enforcement District Office, the Regional Administrative Office and the Regional Training Offices in Abingdon.			
	2. On behalf of the Department of Social Services, to address lease space needs for the Child Support Enforcement District Office and the Child Support Enforcement Regional Offices in Roanoke.			
	3. On behalf of the Department of Motor Vehicles, to address lease space needs for a customer service center to replace or renew the lease for the existing facility in Manassas and Henrico County.			
	4. On behalf of the Department of Corrections, to address space needs for probation and parole offices in Petersburg, Bristol, Abingdon, Gloucester, Front Royal, and Chesterfield County.			
	5. On behalf of the Department of Environmental Quality, to address lease space needs for a regional office to replace or renew the lease for the existing facility in Roanoke.			
	6. On behalf of the Department of Environmental Quality, to address lease space needs for the Piedmont Regional Office and Office of Air Quality Monitoring to replace or renew the lease for the existing facility in the greater Richmond area.			
	7. On behalf of the Department of Emergency Management, to address lease space needs for a headquarters facility to replace or renew the lease for the existing facility in the greater			

ITEM C-49.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020

Richmond area.

8. On behalf of the Department of Motor Vehicles, to address lease space needs for the Sterling Customer Service Center to relocate and expand the existing facility.

C-49.10 Workforce Development Projects (18418)..... \$0 \$11,000,000

Fund Sources: Bond Proceeds..... \$0 \$11,000,000

A. 1. The Virginia College Building Authority, pursuant to § 23.1-1200 et seq., Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$11,000,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project for which the appropriation is this Item is provided.

2. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.

B. Funds from this item shall be allocated in accordance with provisions established in House Bill 2490 / Senate Bill 1617 of the 2019 General Assembly and shall be used to support the efforts of qualified institutions to increase by fiscal year 2039 the number of new eligible degrees by at least 25,000 more degrees than the number of such degrees awarded in 2018 and to improve the readiness of graduates to be employed in technology-related fields and fields that align with traded-sector growth opportunities identified by the Virginia Economic Development Partnership.

C-49.20 Parking Deck Repairs--Higher Ed Institutions (18422)..... \$0 \$20,000,000

Fund Sources: Bond Proceeds..... \$0 \$20,000,000

The Director, Department of Planning and Budget, is authorized to transfer the 9(d) debt authorization in this project to Virginia Commonwealth University, Christopher Newport University, and Germanna Community College to address any identified repairs required for one or more of the institutions' parking decks. If desired by an institution, the 9(d) appropriation can be transferred to auxiliary appropriation by the Director, Department of Planning and Budget.

C-50. A. The Virginia Public Building Authority, pursuant to § 2.2-2260 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed ~~\$39,820,000~~\$91,681,000 plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the projects described in paragraph C. of this Item.

B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.

C. The appropriations for the following authorized projects are contained in the appropriation Items listed:

Agency Name/Project Title	Project Code	Item	VPBA Bonds
<b>Department of Military Affairs (123)</b>			
Improve Readiness Centers	18369	C-33	<del>\$3,000,000</del> \$6,000,000
<b>Department of State Police</b>			
Upgrade Statewide Radio System (STARS) Network	18414	C-34.10	\$40,000,000
Refresh Commonwealth Link to Interoperable Communications (COMLINC)	18415	C-34.20	\$5,844,000

ITEM C-50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<i>System</i>				
<b>Department of General Services (194)</b>				
Monroe Building Critical Systems Replacements	18368	C-1	\$13,600,000	
<i>Security Improvements for North Drive</i>	18420	C-1.10	\$2,000,000	
Capitol Complex Infrastructure and Security	18081	C-51.50	\$11,820,000	
<b>Virginia School for the Deaf and the Blind (218)</b>				
Make System Infrastructure Repairs and Improvements	18370	C-3	\$2,000,000	
<i>Expand Emergency Generator System</i>	18417	C-3.10	\$1,017,000	
<b>Department of Behavioral Health and Developmental Services (720)</b>				
Address Patient and Staff Safety Issues at State Facilities	18365	C-23	\$9,400,000	
<b>Total VPBA Bonds</b>			<b>\$39,820,000</b>	<b>\$91,681,000</b>

C-51. The Virginia Alcoholic Beverage Control Authority and the Department of General Services (DGS) are authorized to execute an agreement for a capital project to acquire a new ABC warehouse and administrative offices pursuant to the competitive public solicitation process called for in Item C-52.45 of Chapter 836 of the 2017 Acts of Assembly. Terms of such agreement shall be cost effective and efficient to meet ABC's operational and business needs.

C-51.50	Improvements: Supplemental funding: Capitol Complex Infrastructure and Security (Project 18081) (18382).....		\$11,820,000	\$0
	Fund Sources: Bond Proceeds.....	\$11,820,000	\$0	

A. 1. Pursuant to projects authorized and funded in paragraphs B and E.1 of Item C-39.40 of Chapter 1 of the 2014 Special Session I, Virginia Acts of Assembly, the General Assembly appropriated funds to the Department of General Services (DGS) for Capitol Complex Infrastructure and Security construction projects. Project work includes security work to be performed, at North 9th Street, (in the area north of where Grace Street intersects 9th Street and south of where 9th Street intersects Broad Street); which is owned by the City of Richmond (City); and more specifically as determined by the DGS project team and in collaboration with the City with respect to North 9th Street. Accordingly, the City and DGS shall enter into a deed of easement whereby the City, without charge to the Commonwealth, shall grant to DGS, as agent of the Commonwealth, where mutually agreeable across, over, under and above North 9th Street, the perpetual right, privilege and easement to construct, install, use, operate, inspect, maintain, repair, replace, rebuild, improve, alter and remove any construction contracted for by DGS as part of the referenced construction projects and all equipment, accessories, utilities and appurtenances necessary to support the construction projects, as well as any necessary or appropriate temporary construction easements, upon terms approved by the City Council and the Governor (pursuant to § 2.2-1149, Code of Virginia). Pursuant to projects authorized and funded in paragraphs B and E.1 of Item C-39.40 of Chapter 1 of the 2014 Special Session I, Virginia Acts of Assembly, the General Assembly appropriated funds to the Department of General Services (DGS) for Capitol Complex Infrastructure and Security construction projects. Project work includes improvements and safety and security enhancements to be constructed or installed within the right-of-way of North 9th Street (between the area north of where Bank Street intersects North 9th Street and south of where North 9th Street intersects East Broad Street) and within the right-of-way of East Broad Street (between the area from where the western right-of-way line of North 9th Street intersects East Broad Street to where the western right-of-way line of

ITEM C-51.50.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2019	FY2020	FY2019	FY2020

*Governor Street intersects East Broad Street), which rights-of-way are owned by the City of Richmond (City), and more specifically as determined by the DGS project team and in collaboration with the City with respect to such rights-of-way. Accordingly, the City and DGS shall enter into a deed of easement or other proper instruments, in such form approved by the Offices of the City Attorney and of the Commonwealth Office of the Attorney General, whereby the City, without charge to the Commonwealth, shall grant to DGS, as agent of the Commonwealth, where mutually agreeable across, over, under and above the referenced right-of-way of North 9th Street and East Broad Street, (a) the perpetual and irrevocable right, privilege and easement to construct, install, use, operate, inspect, maintain, repair, replace, rebuild, improve, alter and remove (i) any construction or installation contracted for by DGS either as part of the referenced construction projects or at any time with respect to safety and security enhancements around the perimeter of Capitol Square deemed appropriate by DGS and (ii) all equipment, accessories, utilities and appurtenances necessary to support such construction projects and such incorporation of safety and security enhancements, (b) the perpetual and irrevocable right, privilege and easement to inspect, maintain, repair, replace and rebuild the sidewalks and elements thereof (but not traffic control devices and signage or street lighting located thereupon) of the referenced right-of-way of North 9th Street and East Broad Street and (c) any necessary or appropriate temporary construction easements, upon terms approved by the Mayor of Richmond and the Governor (pursuant to § 2.2-1149, Code of Virginia); approval by Richmond City Council shall not be required.*

2. The City, without expending City funds, shall cooperate with DGS (i) to support the referenced construction project work to be performed at North 9th Street; to relocate any utilities located in the agreed upon easement area; if necessary; and (ii) to coordinate any closure or other traffic flow controls of North 9th Street during the construction projects. At no time shall DGS make any permanent changes to the North 9th Street right-of-way without the prior approval of the Chief Administrative Officer of the City or the City hinder or delay construction of the referenced construction projects: *The City, without expending City funds, shall cooperate with DGS (i) to support the referenced construction project work and incorporation of safety and security enhancements at and along North 9th Street and East Broad Street, (ii) to relocate any utilities located in the agreed upon easement area, if necessary, and (iii) to coordinate any closure or other traffic flow controls of North 9th Street and East Broad Street during the performance of the construction projects and the incorporation of any safety and security features that will enhance safety and security around the perimeter of Capitol Square. At no time shall DGS make any permanent changes to the North 9th Street or East Broad Street rights-of-way without the prior approval of the Chief Administrative Officer of the City or the City hinder or delay construction of the referenced construction projects. Notwithstanding the foregoing, DGS may commence the construction project work and safety and security enhancements within the referenced right-of-way of North 9th Street and East Broad Street prior to the execution of a deed of easement or other proper instruments, if deemed necessary by DGS to avoid delay in the implementation of the construction project work or safety and security enhancements.*

B. 1. Pursuant to projects authorized and funded in paragraph E.1 of Item C-39.40 of Chapter 1 of the Acts of Assembly of 2014, operations of the Virginia General Assembly have temporarily moved and now operate from the Pocahontas Building bounded by the following streets 9th to the west, 10th to the east, Bank to the north, and Main to the south in the City of Richmond. This temporary move has resulted in the Commonwealth's legislative activities to be concentrated in an area requiring traffic and pedestrian operational safety and security enhancements. As such, and pursuant to the responsibilities of the Department of General Services (DGS) (§ 2.2-1129) and the Division of Capitol Police (DCP) (§ 30-34.2:1), Bank Street from 9th to 12th Street in the City of Richmond shall be controlled by the DGS and the DCP year-round while General Assembly operations are located, and conducted, in the Pocahontas Building. Vehicular travel limitations and pedestrian management needs on and along Bank Street shall be determined jointly by the DGS and the DCP during that time. These determinations will be based on the recommendations outlined in the Bank Street Safety and Security Assessment prepared by Commonwealth Architects dated February 15, 2017 (the Assessment). Funding for materials and contract services needed to address pedestrian and vehicle management activities are available to DGS from the Chapter referenced in this item.

ITEM C-51.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
<p>2. At no time, will DGS or DCP make permanent changes to Bank Street right-of-way (e.g. traffic control devices, security fixtures, street lighting, surface treatments) without the approval of the City of Richmond's Chief Administrative Officer. Additionally, at no time will the City prevent DGS and DCP from implementing and maintaining the recommendations outlined in the Assessment. Bank Street operations, as described in paragraph A, will remain under the control of DGS and DCP year-round until control of Bank Street I reverts to the City of Richmond upon the General Assembly, and its operations, vacating the Pocahontas Building, and the General Assembly, with approval of the Governor, authorizing control of Bank Street back to the City of Richmond.</p>				
Total for Central Capital Outlay.....			<b>\$498,303,936</b>	<b>\$128,566,436</b>
			<b>\$501,903,936</b>	<b>\$966,954,436</b>
Fund Sources: <i>General</i> .....	\$0	\$830,000		
Special.....	\$3,000,000	\$0		
		\$10,516,000		
<i>Higher Education Operating</i> .....	\$0	\$20,000,000		
Bond Proceeds.....	\$495,303,936	\$128,566,436		
	\$498,903,936	\$935,608,436		

**§ 2-31. 9(C) REVENUE BONDS (950)**

- C-52. A.1. This Item authorizes the capital projects listed below to be financed pursuant to Article X, Section 9(c), Constitution of Virginia.
2. The appropriations for said capital projects are contained in the appropriation Items listed below and are subject to the conditions in § 2-0 F of this act.
3. The total amount listed in this Item includes ~~\$21,000,000~~ \$38,500,000 in bond proceeds.

Agency Name/ Project Title	Item #	Project Code	Section 9(c) Bonds
<b>College of William and Mary (204)</b>			
Renovate Dormitories	C-5	18100	\$11,000,000
<b>Norfolk State University (213)</b>			
Construct Residential Housing	C-9	17818	\$10,000,000
<b>Radford University (217)</b>			
Acquire Property for Campus Expansion	C-11.60	17851	\$17,500,000
<b>Total for Nongeneral Fund Obligation Bonds 9(c)</b>			<b>\$21,000,000</b> <b>\$38,500,000</b>
Total for 9(C) Revenue Bonds.....			<b>\$0</b> <b>\$0</b>

**§ 2-32. 9(D) REVENUE BONDS (951)**

- C-53. 1. This Item authorizes the capital projects listed below to be financed pursuant to Article X, Section 9(d), Constitution of Virginia.
2. The appropriations for said capital projects are contained in the appropriation Items listed below and are subject to the conditions in § 2-0 F of this act.
3. The total amount listed in this Item includes ~~\$185,153,000~~ \$224,694,000 in bond proceeds.

Agency Name/ Project Title	Item #	Project Code	Section 9(d) Bonds
<b>College of William and Mary (204)</b>			

ITEM C-53.		Item Details(\$)		Appropriations(\$)	
		First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
	Construct the Sadler Center West Addition	C-4	18360	\$37,742,000	
	<b>University of Virginia (208)</b>				
	Renovate Gilmer Hall and Chemistry Building	C-13	18082	\$31,441,000	
	<b>Virginia Polytechnic Institute and State University (208)</b>				
	Renovate O'Shaughnessy Hall	C-17	18356	\$12,634,000	
	Improve Student Wellness Center	C-18	18357	\$49,690,000	
	Construct VT Carilion Research Institute Biosciences Addition	C-19	18269	\$17,765,000	
	Renovate Dietrick Hall, First Floor and Plaza	C-20	18358	<del>\$2,000,000</del> \$5,800,000	
	<b>Virginia Military Institute (211)</b>				
	Turman House Renovations	C-14	18361	\$2,500,000	
	Expand / Improve Clarkson- McKenna Press Box	C-16.20	18388	\$1,500,000	
	<b>University of Mary Washington (215)</b>				
	Renovate Residence Halls-- Phase II	C-12	18362	\$24,500,000	
	<b>Old Dominion University (221)</b>				
	Construct Student Health and Wellness Addition	C-11.20	18407	\$9,200,000	
	<b>Virginia Commonwealth University (236)</b>				
	Construct School of Engineering Research Expansion	C-13.20	18243	\$6,541,000	
	George Mason University (247)				
	Construct Utilities Distribution Infrastructure	C-6	18208	\$5,381,000	
	<b>Central Capital Outlay (949)</b>				
	Parking Deck Repairs-- Higher Ed Institutions	C-49.20	18422	\$20,000,000	
	<b>Total for Nongeneral Fund Obligation Bonds 9(d)</b>			<del>\$185,153,000</del> \$224,694,000	
	Total for 9(D) Revenue Bonds.....			\$0	\$0
	TOTAL FOR CENTRAL APPROPRIATIONS.....			<del>\$498,303,936</del> \$501,903,936	<del>\$128,566,436</del> \$966,954,436
	Fund Sources: <i>General</i> .....		\$0	\$830,000	
	Special.....		\$3,000,000	\$0	
				\$10,516,000	
	<i>Higher Education Operating</i> .....		\$0	\$20,000,000	
	Bond Proceeds.....		\$495,303,936	\$128,566,436	
			\$498,903,936	\$935,608,436	
	TOTAL FOR EXECUTIVE DEPARTMENT.....			<del>\$1,219,130,936</del> \$1,256,418,702	<del>\$227,066,436</del> \$1,545,272,600

ITEM C-53.	Item Details(\$)		Appropriations(\$)	
	First Year FY2019	Second Year FY2020	First Year FY2019	Second Year FY2020
Fund Sources: General.....	\$120,000	\$0		
	\$1,548,000	\$3,156,000		
Special.....	\$68,129,000	\$52,000,000		
	\$68,586,335	\$75,274,500		
Higher Education Operating.....	\$50,925,000	\$3,100,000		
		\$156,873,000		
Commonwealth Transportation.....	\$3,000,000	\$33,000,000		
	\$3,010,000			
Dedicated Special Revenue.....	\$6,500,000	\$3,150,000		
	\$6,951,431	\$12,750,000		
Federal Trust.....	\$11,000,000	\$7,250,000		
	\$12,500,000	\$20,949,664		
Bond Proceeds.....	\$1,079,456,936	\$128,566,436		
	\$1,112,897,936	\$1,243,269,436		

**INDEPENDENT AGENCIES**

**§ 2-33. STATE CORPORATION COMMISSION (171)**

C-54.	Maintenance Reserve (18351).....			\$1,250,000	\$0
	Fund Sources: Special.....	\$1,212,780	\$0		
	Dedicated Special Revenue.....	\$37,220	\$0		
	Total for State Corporation Commission.....			<b>\$1,250,000</b>	<b>\$0</b>
	Fund Sources: Special.....	\$1,212,780	\$0		
	Dedicated Special Revenue.....	\$37,220	\$0		
	TOTAL FOR INDEPENDENT AGENCIES.....			<b>\$1,250,000</b>	<b>\$0</b>
	Fund Sources: Special.....	\$1,212,780	\$0		
	Dedicated Special Revenue.....	\$37,220	\$0		
	TOTAL FOR PART 2: CAPITAL PROJECT EXPENSES.....			<b>\$1,220,380,936</b>	<b>\$227,066,436</b>
				<b>\$1,257,668,702</b>	<b>\$1,545,272,600</b>
	Fund Sources: General.....	\$120,000	\$0		
		\$1,548,000	\$3,156,000		
	Special.....	\$69,341,780	\$52,000,000		
		\$69,799,115	\$75,274,500		
	Higher Education Operating.....	\$50,925,000	\$3,100,000		
			\$156,873,000		
	Commonwealth Transportation.....	\$3,000,000	\$33,000,000		
		\$3,010,000			
	Dedicated Special Revenue.....	\$6,537,220	\$3,150,000		
		\$6,988,651	\$12,750,000		
	Federal Trust.....	\$11,000,000	\$7,250,000		
		\$12,500,000	\$20,949,664		
	Bond Proceeds.....	\$1,079,456,936	\$128,566,436		
		\$1,112,897,936	\$1,243,269,436		

**PART 3: MISCELLANEOUS**  
**§ 3-1.00 TRANSFERS**

§ 3-1.01 INTERFUND TRANSFERS

A.1. In order to reimburse the general fund of the state treasury for expenses herein authorized to be paid therefrom on account of the activities listed below, the State Comptroller shall transfer the sums stated below to the general fund from the nongeneral funds specified, except as noted, on January 1 of each year of the current biennium. Transfers from the Alcoholic Beverage Control Enterprise Fund to the general fund shall be made four times a year, and such transfers shall be made within fifty (50) days of the close of the quarter. The payment for the fourth quarter of each fiscal year shall be made in the month of June.

	<b>FY 2019</b>	<b>FY 2020</b>
1. Alcoholic Beverage Control Enterprise Fund (§ 4.1-116, Code of Virginia)		
a) For expenses incurred for care, treatment, study and rehabilitation of alcoholics by the Department of Behavioral Health and Developmental Services and other state agencies (from Alcoholic Beverage Control gross profits)	\$65,375,769	\$65,375,769
b) For expenses incurred for care, treatment, study and rehabilitation of alcoholics by the Department of Behavioral Health and Developmental Services and other state agencies (from gross wine liter tax collections as specified in § 4.1-234, Code of Virginia)	\$9,141,363	\$9,141,363
2. Forest Products Tax Fund (§ 58.1-1609, Code of Virginia)	\$23,613	\$23,613
For collection by Department of Taxation		
3. Peanut Fund (§3.2-1906, Code of Virginia)	\$2,419	\$2,419
4. For collection by Department of Taxation		
a) Aircraft Sales & Use Tax (§ 58.1-1509, Code of Virginia)	\$39,169	\$39,169
b) Soft Drink Excise Tax	\$1,596	\$1,596
c) Virginia Litter Tax	\$9,472	\$9,472
5. Proceeds of the Tax on Motor Vehicle Fuels		
For inspection of gasoline, diesel fuel and motor oils	\$97,586	\$97,586
6. Virginia Retirement System (Trust and Agency)		
For postage by the Department of the Treasury	\$34,500	\$34,500
7. Alcoholic Beverage Control Authority (Enterprise)		
For services by the:		
a) Auditor of Public Accounts	\$75,521	\$75,521
b) Department of Accounts	\$64,607	\$64,607
c) Department of the Treasury	\$47,628	\$47,628

8. Commission on the Virginia Alcohol Safety Action Program (Special)

For expenses incurred for care, treatment, study and rehabilitation of alcoholics by the Department of Behavioral Health and Developmental Services and other state agencies

**TOTAL**

\$325,000	
<b>\$74,913,243</b>	<b>\$74,913,243</b>
<del>\$75,238,243</del>	

2.a. Transfers of net profits from the Alcoholic Beverage Control Enterprise Fund to the general fund shall be made four times a year, and such transfers shall be made within fifty (50) days of the close of each quarter. The transfer of fourth quarter profits shall be estimated and made in the month of June. In the event actual net profits are less than the estimate transferred in June, the difference shall be deducted from the net profits of the next quarter and the resulting sum transferred to the general fund. Distributions to localities shall be made within fifty (50) days of the close of each quarter. Net profits are estimated at ~~\$109,800,000~~ \$115,600,000 the first year and ~~\$115,500,000~~ \$120,128,892 the second year.

b. Notwithstanding the provisions of § 4.1-116 B, Code of Virginia, the Alcoholic Beverage Control Authority shall properly record the depreciation of all depreciable assets, including approved projects, property, plant and equipment. The State Comptroller shall be notified of the amount of depreciation costs recorded by the Alcoholic Beverage Control Authority. However, such depreciation costs shall not be the basis for reducing the quarterly transfers needed to meet the estimated profits contained in this act.

B.1. If any transfer to the general fund required by any subsections of §§ 3-1.01 through 3-6.02 is subsequently determined to be in violation of any federal statute or regulation, or Virginia constitutional requirement, the State Comptroller is hereby directed to reverse such transfer and to return such funds to the affected nongeneral fund account.

2. There is hereby appropriated from the applicable funds such amounts as are required to be refunded to the federal government for mutually agreeable resolution of internal service fund over-recoveries as identified by the U. S. Department of Health and Human Services' review of the annual Statewide Indirect Cost Allocation Plans.

C. In order to fund such projects for improvement of the Chesapeake Bay and its tributaries as provided in § 58.1-2289 D, Code of Virginia, there is hereby transferred to the general fund of the state treasury the amounts listed below. From these amounts \$2,583,531 the first year and \$2,583,531 the second year shall be deposited to the Virginia Water Quality Improvement Fund pursuant to § 10.1-2128.1, Code of Virginia, and designated for deposit to the reserve fund, for ongoing improvements of the Chesapeake Bay and its tributaries. The Department of Motor Vehicles shall be responsible for effecting the provisions of this paragraph. The amounts listed below shall be transferred on June 30 of each fiscal year.

154	Department of Motor Vehicles	\$10,000,000	\$10,000,000
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D. The provisions of Chapter 6 of Title 58.1, Code of Virginia notwithstanding, the State Comptroller shall transfer to the general fund from the special fund titled "Collections of Local Sales Taxes" a proportionate share of the costs attributable to increased local sales and use tax compliance efforts, the Property Tax Unit, and State Land Evaluation Advisory Committee (SLEAC) services by the Department of Taxation estimated at ~~\$5,986,862~~ \$6,208,652 the first year and ~~\$5,986,862~~ \$6,208,652 the second year.

E. The State Comptroller shall transfer to the general fund from the Transportation Trust Fund a proportionate share of the costs attributable to increased sales and use tax compliance efforts and revenue forecasting for the Transportation Trust Fund by the Department of Taxation estimated at ~~\$2,933,496~~ \$3,010,852 the first year and ~~\$2,933,496~~ \$3,010,852 the second year.

F.1. On or before June 30 of each year, the State Comptroller shall transfer \$12,965,823 the first year and \$12,965,823 the second year to the general fund the following amounts from the agencies and fund sources listed below, for expenses incurred by central service agencies:

Agency Name	Fund Group	FY 2019	FY 2020
Administration of Health Insurance (149)	0500	\$558,986	\$558,986
Department of Agriculture & Consumer Services (301)	0200	\$1,847	\$1,847
Department of Forestry (411)	0200	\$48,576	\$48,576

Department of Forestry (411)	0900	\$297	\$297
Board of Accountancy (226)	0900	\$11,302	\$11,302
Department of Housing and Community Develop. (165)	0900	\$306	\$306
Department of Labor and Industry (181)	0200	\$7,404	\$7,404
Department of Professional & Occupational Regulations (222)	0200	\$8,513	\$8,513
Southwest Virginia Higher Ed. Center (948)	0200	\$9,535	\$9,535
Virginia Museum of Fine Arts (238)	0200	\$24,516	\$24,516
Virginia Museum of Fine Arts (238)	0500	\$19,470	\$19,470
Department for the Deaf and Hard-Of-Hearing (751)	0200	\$13,975	\$13,975
Department of Behavioral Health and Developmental Services (720)	0200	\$99,048	\$99,048
Department of Health (601)	0900	\$152,263	\$152,263
Department for Aging and Rehabilitative Services (262)	0200	\$85,374	\$85,374
Virginia for Health Youth Foundation (852)	0900	\$23,052	\$23,052
State Corporation Commission (171)	0900	\$10,928	\$10,928
Virginia College Savings Plan (174)	0500	\$380,986	\$380,986
Board of Bar Examiners (233)	0200	\$5,155	\$5,155
Supreme Court (111)	0900	\$343,043	\$343,043
Virginia State Bar (117)	0900	\$56,836	\$56,836
Department of Conservation and Recreation (199)	0200	\$206,500	\$206,500

Department of Conservation and Recreation (199)	0900	\$47,612	\$47,612
Department of Game and Inland Fisheries (403)	0900	\$315,439	\$315,439
Department of Historic Resources (423)	0900	\$144	\$144
Marine Resources Commission (402)	0200	\$26,282	\$26,282
Marine Resources Commission (402)	0900	\$8,205	\$8,205
Virginia Museum of Natural History (942)	0200	\$4,460	\$4,460
Alcoholic Beverage Control Authority (999)	0500	\$169	\$169
Department of Criminal Justice Services (140)	0200	\$72,779	\$72,779
Department of Criminal Justice Services (140)	0900	\$64,195	\$64,195
Department of Fire Programs (960)	0200	\$124,615	\$124,615
Department of State Police (156)	0200	\$84,399	\$84,399
Department of Military Affairs (123)	0900	\$13,123	\$13,123
Division of Community Corrections (767)	0900	\$12,874	\$12,874
Innovation & Entrepreneurship Investment Authority (934)	0900	\$15,383	\$15,383
Department of Aviation (841)	0400	\$94,028	\$94,028
Department of Motor Vehicles (154)	0400	\$3,728,268	\$3,728,268
Department of Rail & Public Transportation (505)	0400	\$680,556	\$680,556
Department of Transportation (501)	0400	\$5,338,860	\$5,338,860
Motor Vehicle Dealer Board (506)	0200	\$15,065	\$15,065
Virginia Port Authority (407)	0200	\$170,539	\$170,539
Virginia Port Authority	0400	\$80,916	\$80,916

(407)

**\$12,965,823****\$12,965,823**

2. *Following the transfers authorized in paragraph F.1. of this section in the second year, the State Comptroller shall transfer \$2,787,795 back to the Department of Motor Vehicles to replace the anticipated loss of driving privilege reinstatement fee revenue.*

G.1. The State Comptroller shall transfer to the Lottery Proceeds Fund established pursuant to § 58.1-4022.1, Code of Virginia, an amount estimated at ~~\$592,533,186~~ \$632,398,647 the first year and ~~\$598,393,186~~ \$628,830,501 the second year, from the Virginia Lottery Fund. The transfer each year shall be made in two parts: (1) on or before January 1 of each year, the State Comptroller shall transfer the balance of the Virginia Lottery Fund for the first five months of the fiscal year and (2) thereafter, the transfer will be made on a monthly basis, or until the amount estimated at ~~\$592,533,186~~ \$632,398,647 the first year and ~~\$598,393,186~~ \$628,830,501 the second year has been transferred to the Lottery Proceeds Fund. Prior to June 20 of each year, the Virginia Lottery *Executive* Director shall estimate the amount of profits in the Virginia Lottery Fund for the month of June and shall notify the State Comptroller so that the estimated profits can be transferred to the Lottery Proceeds Fund prior to June 22.

2. No later than 10 days after receipt of the annual audit report required by § 58.1-4022.1, Code of Virginia, the State Comptroller shall transfer to the Lottery Proceeds Fund the remaining audited balances of the Virginia Lottery Fund for the prior fiscal year. If such annual audit discloses that the actual revenue is less than the estimate on which the June transfer was based, the State Comptroller shall adjust the next monthly transfer from the Virginia Lottery Fund to account for the difference between the actual revenue and the estimate transferred to the Lottery Proceeds Fund. The State Comptroller shall take all actions necessary to effect the transfers required by this paragraph, notwithstanding the provisions of § 58.1-4022, Code of Virginia. In preparing the Comprehensive Annual Financial Report, the State Comptroller shall report the Lottery Proceeds Fund as specified in § 58.1-4022.1, Code of Virginia.

H.1. The State Treasurer is authorized to charge up to 20 basis points for each nongeneral fund account which he manages and which receives investment income. The assessed fees, which are estimated to generate \$3,000,000 the first year and \$3,000,000 the second year, will be based on a sliding fee structure as determined by the State Treasurer. The amounts shall be paid into the general fund of the state treasury.

2.a. The State Treasurer is authorized to charge institutions of higher education participating in the pooled bond program of the Virginia College Building Authority an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected from the public institutions of higher education, which are estimated to generate \$100,000 the first year and \$100,000 the second year, shall be paid into the general fund of the state treasury.

3. The State Treasurer is authorized to charge agencies, institutions and all other entities that utilize alternative financing structures and require Treasury Board approval, including capital lease arrangements, up to 10 basis points of the amount financed in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected shall be paid into the general fund of the state treasury.

4. The State Treasurer is authorized to charge projects financed under Article X, Section 9(c) of the Constitution of Virginia, an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected are estimated to generate \$50,000 the first year and \$50,000 the second year, and shall be paid into the general fund of the state treasury.

I. The State Comptroller shall transfer to the general fund of the state treasury 50 percent of the annual reimbursement received from the Manville Property Damage Settlement Trust for the cost of asbestos abatement at state-owned facilities. The balance of the reimbursement shall be transferred to the state agencies that incurred the expense of the asbestos abatement.

J. The State Comptroller shall transfer to the general fund from the Revenue Stabilization Fund in the state treasury any amounts in excess of the limitation specified in § 2.2-1829, Code of Virginia.

K.1. Not later than 30 days after the close of each quarter during the biennium, the State Comptroller shall transfer, notwithstanding the allotment specified in § 58.1-1410, Code of Virginia, funds collected pursuant to § 58.1-1402, Code of Virginia, from the general fund to the Game Protection Fund. This transfer shall not exceed \$4,500,000 the first year and \$4,500,000 the second year.

2. Notwithstanding the provisions of subparagraph K.1. above, the Governor may, at his discretion, direct the State Comptroller to transfer to the Game Protection Fund, any funds collected pursuant to § 58.1-1402, Code of Virginia, that are in excess of the official revenue forecast for such collections.

L.1. On or before June 30 each year, the State Comptroller shall transfer from the general fund to the Family Access to Medical Insurance Security Plan Trust Fund the amount required by § 32.1-352, Code of Virginia. This transfer shall not exceed

\$14,065,627 the first year and \$14,065,627 the second year. The State Comptroller shall transfer 90 percent of the yearly estimated amounts to the Trust Fund on July 15 of each year.

2. Notwithstanding any other provision of law, interest earnings shall not be allocated to the Family Access to Medical Insurance Security Plan Trust Fund (agency code 602, fund detail 0903) in either the first year or the second year of the biennium.

M. Not later than thirty days after the close of each quarter during the biennium, the State Comptroller shall transfer to the Game Protection Fund the general fund revenues collected pursuant to § 58.1-638 E, Code of Virginia. Notwithstanding § 58.1-638 E, this transfer shall not exceed \$11,000,000 the first year and \$11,000,000 the second year. Notwithstanding § 58.1-638 E, on or before June 30 of the first year and June 30 of the second year, the State Comptroller shall transfer to the Virginia Port Authority \$1,350,000 of the general fund revenues collected pursuant to § 58.1-638 E, Code of Virginia, to enhance and improve recreation opportunities for boaters, including but not limited to land acquisition, capital projects, maintenance, and facilities for boating access to the waters of the Commonwealth pursuant to the provisions of Senate Bill 693, 2018 Session of the General Assembly.

N.1. On or before June 30 each year, the State Comptroller shall transfer from the Tobacco Indemnification and Community Revitalization Fund to the general fund an amount estimated at \$244,268 the first year and \$244,268 the second year. This amount represents the Tobacco Indemnification and Community Revitalization Commission's 50 percent proportional share of the Office of the Attorney General's expenses related to the enforcement of the 1998 Tobacco Master Settlement Agreement and § 3.2-4201, Code of Virginia.

2. On or before June 30 each year, the State Comptroller shall transfer from the Tobacco Settlement Fund to the general fund an amount estimated at \$48,854 the first year and \$48,854 the second year. This amount represents the Tobacco Settlement Foundation's ten percent proportional share of the Office of the Attorney General's expenses related to the enforcement of the 1998 Tobacco Master Settlement Agreement and § 3.2-4201, Code of Virginia.

O. On or before June 30 each year, the State Comptroller shall transfer to the general fund ~~\$4,089,914~~ \$3,000,000 the first year and ~~\$4,089,914~~ \$3,000,000 the second year from the Court Debt Collection Program Fund at the Department of Taxation.

P. On or before June 30 each year, the State Comptroller shall transfer to the general fund \$7,400,000 the first year and \$7,400,000 the second year from the Department of Motor Vehicles' Uninsured Motorists Fund. These amounts shall be from the share that would otherwise have been transferred to the State Corporation Commission.

Q. On or before June 30 each year, the State Comptroller shall transfer an amount estimated at ~~\$6,500,000~~ \$5,000,000 the first year and an amount estimated at ~~\$6,500,000~~ \$5,000,000 the second year to the general fund from the Intensified Drug Enforcement Jurisdictions Fund at the Department of Criminal Justice Services.

R. On or before June 30 each year, the State Comptroller shall transfer to the general fund \$3,364,585 the first year and \$3,864,585 the second year from operating efficiencies to be implemented by the Alcoholic Beverage Control Authority.

S. The State Comptroller shall transfer quarterly, one-half of the revenue received pursuant to § 18.2-270.01, of the Code of Virginia, and consistent with the provisions of § 3-6.03 of this act, to the general fund in an amount not to exceed \$8,055,000 the first year, and ~~\$8,055,000~~ \$1,859,900 the second year from the Trauma Center Fund contained in the Department of Health's Financial Assistance for Non Profit Emergency Medical Services Organizations and Localities (40203).

T. On or before June 30 each year, the State Comptroller shall transfer \$600,000 the first year and ~~\$600,000~~ \$466,600 the second year to the general fund from the Land Preservation Fund (Fund 0216) at the Department of Taxation.

U. Unless prohibited by federal law or regulation or by the Constitution of Virginia and notwithstanding any contrary provision of state law, on June 30 of each fiscal year, the State Comptroller shall transfer to the general fund of the state treasury the cash balance from any nongeneral fund account that has a cash balance of less than \$100. This provision shall not apply to institutions of higher education, bond proceeds, or trust accounts. The State Comptroller shall consult with the Director of the Department of Planning and Budget in implementing this provision and, for just cause, shall have discretion to exclude certain balances from this transfer or to restore certain balances that have been transferred.

V.1. The Brunswick Correctional Center operated by the Department of Corrections shall be sold. The Commonwealth may enter into negotiations with (1) the Virginia Tobacco Indemnification and Community Revitalization Commission, (2) regional local governments, and (3) regional industrial development authorities for the purchase of this property as an economic development site.

2. Notwithstanding the provisions of § 2.2-1156, Code of Virginia or any other provisions of law, the proceeds of the sale of the Brunswick Correctional Center shall be paid into the general fund.

W. On a monthly basis, in the month subsequent to collection, the State Comptroller shall transfer all amounts collected for the fund created pursuant to § 17.1-275.12 of the Code of Virginia, to Items 344, 395, and 420 of this act, for the purposes enumerated in Section 17.1-275.12.

X. On or before June 30 each year, the State Comptroller shall transfer \$10,518,587 the first year and \$10,518,587 the second year to the general fund from the \$2.00 increase in the annual vehicle registration fee from the special emergency medical services fund

contained in the Department of Health's Emergency Medical Services Program (40200).

Y. The provisions of Chapter 6.2, Title 58.1, Code of Virginia, notwithstanding, on or before June 30 each year the State Comptroller shall transfer to the general fund from the proceeds of the Virginia Communications Sales and Use Tax (fund 0926), the Department of Taxation's indirect costs of administering this tax estimated at \$106,451 the first year and \$106,451 the second year.

Z. Any amount designated by the State Comptroller from the June 30, 2018, or June 30, 2019, general fund balance for transportation pursuant to § 2.2-1514B., Code of Virginia, is hereby appropriated.

AA. The Department of General Services, with the cooperation and support of the Department of Behavioral Health and Developmental Services, is authorized to sell to Virginia Electric and Power Company, a Virginia corporation d/b/a Dominion Virginia Power, for such consideration as the Governor may approve, a parcel of land containing approximately 15 acres along the northern property line of Southside Virginia Training Center. After deduction of the expenses incurred by the Department of General Services in the sale of the property, the proceeds of the sale shall be deposited to the Behavioral Health and Developmental Services Trust Fund established pursuant to § 37.2-318, Code of Virginia. Any conveyance shall be approved by the Governor or his designee in the manner set forth in § 2.2-1150, Code of Virginia.

BB. On or before June 30, of each fiscal year, the State Comptroller shall transfer to the State Health Insurance Fund (Fund 06200) the balance from the Administration of Health Benefits Services Fund (Fund 06220) at the Department of Human Resource Management.

CC. The Department of General Services is authorized to dispose of the following property currently owned by the Department of Corrections in the manner it deems to be in the best interests of the Commonwealth: Pulaski Correctional Center and White Post Detention and Diversion Center. Such disposal may include sale or transfer to other agencies or to local government entities. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, the proceeds from the sale of all or any part of the properties shall be deposited into the general fund no later than June 30, 2018 .

DD. The State Comptroller shall deposit an additional \$300,000 to the general fund on or before June 30, 2019, and an additional \$800,000 to the general fund on or before June 30, 2020, from the fees generated by the Firearms Transaction and Concealed Weapons Permit Programs at the Department of State Police.

EE.1. On or before June 30 each year, the State Comptroller shall transfer \$4,414,446 the first year and \$273,627 the second year to the general fund from agency nongeneral funds, as detailed below, to fund a portion of the nongeneral share of costs for the expedited repayment of deferred contributions to the Virginia Retirement System authorized in Chapter 732, 2016 Acts of Assembly.

Agency Name	Fund Detail	FY 2019	FY 2020
Supreme Court (111)	02800	\$13,506	
Virginia State Bar (117)	09117	\$132,793	
Department of Emergency Management (127)	02870	\$17,828	
Department of Motor Vehicles (154)	04540	\$417,507	
Department of Motor Vehicles (154)	04100	\$31,425	
Wilson Workforce and Rehabilitation Center (203)	02203	\$92,218	\$92,217
Board of Bar Examiners (233)	02233	\$11,896	
Department for Aging and Rehabilitative Services (262)	02262	\$4,665	\$4,667
Department for Aging and Rehabilitative	02800	\$53,670	\$53,670

## Services (262)

Department of Environmental Quality (440)	02149	\$63
Department of Environmental Quality (440)	02440	\$420
Department of Environmental Quality (440)	02450	\$309
Department of Environmental Quality (440)	02800	\$6,575
Department of Environmental Quality (440)	05100	\$5048
Department of Environmental Quality (440)	09024	\$1,622
Department of Environmental Quality (440)	09042	\$5
Department of Environmental Quality (440)	09060	\$34
Department of Environmental Quality (440)	09070	\$47
Department of Environmental Quality (440)	09080	\$873
Department of Environmental Quality (440)	09110	\$1,682
Department of Environmental Quality (440)	09190	\$914
Department of Environmental Quality (440)	09143	\$2,891
Department of Environmental Quality (440)	09250	\$10
Department of Environmental Quality (440)	09640	\$454
Department of Health (601)	02000	\$163,259
Department of Health (601)	02030	\$3,873
Department of Health (601)	02063	\$7,577
Department of Health (601)	02110	\$17,839
Department of Health (601)	02130	\$100,099
Department of Health	02150	\$3,927

(601)			
Department of Health (601)	02260	\$2,400	
Department of Health (601)	02480	\$112,729	
Department of Health (601)	02800	\$1,707,240	
Department of Health (601)	09013	\$51,751	
Department of Health (601)	09100	\$3,927	
Department of Health (601)	09312	\$23,326	
Department for the Blind and Vision Impaired (702)	05910	\$32,019	\$32,019
Department of Social Services (765)	02022	\$39,869	\$39,870
Department of Social Services (765)	02043	\$39,869	\$39,870
Department of Juvenile Justice (777)	02777	\$9,389	
Department of Corrections (799)	02711	\$147,786	
Department of Corrections (799)	02320	\$23,995	
Department of Corrections (799)	09530	\$68,864	
Virginia Foundation for Healthy Youth (852)	09430	\$11,313	\$11,314
Commonwealth's Attorneys' Services Council (957)	02957	\$561	
Department of Fire Programs (960)	02180	\$44,614	
Alcoholic Beverage Control Authority (999)	05001	\$1,001,765	
		<b>\$4,414,446</b>	<b>\$273,627</b>

2. Out of the amounts listed above, the Comptroller shall transfer into the Federal Repayment Reserve Fund an amount estimated to be sufficient to pay the federal government in anticipation of a federal repayment resulting from transfers from internal service funds identified in this list. The State Comptroller shall notify the Director, Department of Planning and Budget of the final federal repayment transfer amount prior to making the transfer into the Federal Repayment Reserve Fund.

FF. On or before June 30, of each fiscal year, the State Comptroller shall transfer to the Health Insurance Fund - Local (Fund 05200) at the Administration of Health Insurance the balance from the Administration of Local Benefits Services Fund (Fund 05220) at the Department of Human Resource Management.

GG. On or before June 30, of each fiscal year, the State Comptroller shall transfer to the Line of Duty Death and Health Benefits Trust Fund (Fund 07420) at the Administration of Health Insurance the balance from the Administration of Health Benefits Payment - LODA Fund (Fund 07422) at the Department of Human Resource Management.

HH. On or before June 30, of each fiscal year, the State Comptroller shall transfer \$154,743 from Special Funds of the

Department of Behavioral Health and Developmental Services (720) to Special Funds at the Office of the State Inspector General (147).

II. The Department of General Services, with the cooperation and support of the Department of Agriculture and Consumer Services, is authorized to sell, for such consideration and the Governor may approve, a portion of the Eastern Shore Farmers Market, including the Market Office Building at 18491 Garey Road and the Produce Warehouse at 18513 Garey Road, Melfa, Virginia 23410. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, the proceeds from the sale shall first be applied toward remediation options under federal tax law of any outstanding tax-exempt bonds on the property. After deduction of the expenses incurred by the Department of Agriculture and Consumer Services, any proceeds that remain shall be deposited to the general fund no later than June 30, 2020. Any conveyance shall be approved by the Governor in a manner set forth in §2.2-1150, Code of Virginia.

JJ. On or before June 30 of each fiscal year, the State Comptroller shall transfer to the general fund the portion of the balance of the Disaster Recovery Fund (Fund 02460) at the Virginia Department of Emergency Management that was received as a federal cost recovery. The amounts transferred represent repayment of the sum sufficient fund originally appropriated for federally-declared emergencies. The Department of Emergency Management shall report to the State Comptroller the amount of the balance to be transferred by June 1 of each year.

KK. Notwithstanding the provisions of subsection A of § 58.1-662, Code of Virginia, and in addition to clause (i) and (ii) of that subsection, monies in the Communications Sales and Use Tax Trust Fund shall not be allocated to the Commonwealth's counties, cities, and towns until after an amount equal to \$2,000,000 each the first year is allocated to the general fund. The State Comptroller shall deposit to the general fund \$2,000,000 on or before June 30, 2019 and an additional \$2,000,000 on or before June 30, 2020 from the revenues received from the Communications Sales and Use Tax.

*LL. As required by §4-1.05 b of Chapter 2, 2018 Special Session I, \$168,434 in various inactive nongeneral fund accounts were reverted by the State Comptroller to the general fund in the first year.*

*MM. The transfer of excess amounts in the Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust Fund to the general fund pursuant to Item 58 of this act is estimated at \$14,000,000 the first year and \$500,000 the second year.*

### § 3-1.02 INTERAGENCY TRANSFERS

The Virginia Department of Transportation shall transfer, from motor fuel tax revenues, \$388,254 the first year and \$388,254 the second year to the Department of General Services for motor fuels testing.

### § 3-1.03 SHORT-TERM ADVANCE TO THE GENERAL FUND FROM NONGENERAL FUNDS

A. To meet the occasional short-term cash needs of the general fund during the course of the year when cumulative year-to-date disbursements exceed temporarily cumulative year-to-date revenue collections, the State Comptroller is authorized to draw cash temporarily from nongeneral fund cash balances deemed to be available, although special dedicated funds related to commodity boards are exempt from this provision. Such cash drawdowns shall be limited to the amounts immediately required by the general fund to meet disbursements made in pursuance of an authorized appropriation. However, the amount of the cash drawdown from any particular nongeneral fund shall be limited to the excess of the cash balance of such fund over the amount otherwise necessary to meet the short-term disbursement requirements of that nongeneral fund. The State Comptroller will ensure that those funds will be replenished in the normal course of business.

B. In the event that nongeneral funds are not sufficient to compensate for the operating cash needs of the general fund, the State Treasurer is authorized to borrow, temporarily, required funds from cash balances within the Transportation Trust Fund, where such trust fund balances, based upon assessments provided by the Commonwealth Transportation Commissioner, are not otherwise needed to meet the short-term disbursement needs of the Transportation Trust Fund, including any debt service and debt coverage needs, over the life of the borrowing. In addition, the State Treasurer shall ensure that such borrowings are consistent with the terms and conditions of all bond documents, if any, that are relevant to the Transportation Trust Fund.

C. The Secretary of Finance, the State Treasurer and the Commonwealth Transportation Commissioner shall jointly agree on the amounts of such interfund borrowings. Such borrowed amounts shall be repaid to the Transportation Trust Fund at the earliest practical time when they are no longer needed to meet short-term cash needs of the general fund, provided, however, that such borrowed amounts shall be repaid within the biennium in which they are borrowed. Interest shall accrue daily at the rate per annum equal to the then current one-year United States Treasury Obligation Note rate.

D. Any temporary loan shall be evidenced by a loan certificate duly executed by the State Treasurer and the Commonwealth Transportation Commissioner specifying the maturity date of such loan and the annual rate of interest. Prepayment of temporary loans shall be without penalty and with interest calculated to such prepayment date. The State Treasurer is authorized to make, at least monthly, interest payments to the Transportation Trust Fund.

### § 3-2.00 WORKING CAPITAL FUNDS AND LINES OF CREDIT

#### § 3-2.01 ADVANCES TO WORKING CAPITAL FUNDS

A. The State Comptroller shall make available to the Virginia Racing Commission, on July 1 of each year, the amount of \$125,000 from the general fund as a temporary cash flow advance, to be repaid by December 30 of each year.

B. The State Comptroller shall provide a Working Capital Advance for up to \$11,553,000 to the Department of Veterans Services, on July 1 of the second year, to operate the Puller and Jones & Cabacoy Veterans Care Centers, to be repaid from revenue generated by the facilities.

§ 3-2.02 CHARGES AGAINST WORKING CAPITAL FUNDS

The State Comptroller may periodically charge the appropriation of any state agency for the expenses incurred for services received from any program financed and accounted for by working capital funds. Such charge may be made upon receipt of such documentation as in the opinion of the State Comptroller provides satisfactory evidence of a claim, charge or demand against the appropriations made to any agency. The amounts so charged shall be recorded to the credit of the appropriate working capital fund accounts. In the event any portion of the charge so made shall be disputed, the amount in dispute may be restored to the agency appropriation by direction of the Governor.

§ 3-2.03 LINES OF CREDIT

a. The State Comptroller shall provide lines of credit to the following agencies, not to exceed the amounts shown:

Administration of Health Insurance, Health Benefits Services	\$75,000,000
Administration of Health Insurance, Line of Duty Act	\$10,000,000
Department of Accounts, for the Payroll Service Bureau	\$400,000
Department of Accounts, Transfer Payments	\$5,250,000
Alcoholic Beverage Control Authority	\$60,000,000
Department of Corrections, for Virginia Correctional Enterprises	\$1,000,000
Department of Corrections, for Educational Grant Processing	300,000
Department of Emergency Management	\$150,000
Department of Environmental Quality	\$5,000,000
Department of Human Resource Management, for the Workers' Compensation Self Insurance Trust Fund	\$10,000,000
Department of Behavioral Health and Developmental Services	\$30,000,000
Department of Medical Assistance Services, for the Virginia Health Care Fund	\$12,000,000
Department of Motor Vehicles	\$5,000,000
Department of the Treasury, for the Unclaimed Property Trust Fund	\$5,000,000
Department of the Treasury, for the State Insurance Reserve Trust Fund	\$25,000,000
Virginia Lottery	\$40,000,000
Virginia Information Technologies Agency	\$165,000,000
Virginia Tobacco Settlement Foundation	\$3,000,000
Department of Historic Resources	\$600,000
Department of Fire Programs	\$30,000,000
Compensation Board	\$8,000,000
Department of Conservation and Recreation	\$4,000,000
Department of Military Affairs, for State Active Duty	\$5,000,000
Department of Military Affairs, for Federal Cooperative Agreements	\$21,000,000
Innovation and Entrepreneurship Authority	\$2,500,000
Department of Motor Vehicles	\$10,500,000
<i>Virginia Parole Board</i>	<i>\$50,000</i>

b. The State Comptroller shall execute an agreement with each agency documenting the procedures for the line of credit, including, but not limited to, applicable interest and the method for the drawdown of funds. The provisions of § 4-3.02 b of this act shall not apply to these lines of credit.

c. The State Comptroller, in conjunction with the Departments of General Services and Planning and Budget, shall establish guidelines for agencies and institutions to utilize a line of credit to support fixed and one-time costs associated with

implementation of office space consolidation, relocation and/or office space co-location strategies, where such line of credit shall be repaid by the agency or institution based on the cost savings and efficiencies realized by the agency or institution resulting from the consolidation and/or relocation. In such cases the terms of office space consolidation or co-location strategies shall be approved by the Secretary of Administration, in consultation with the Secretary of Finance, as demonstrating cost benefit to the Commonwealth. In no case shall the advances to an agency or institution exceed \$1,000,000 nor the repayment begin more than one year following the implementation or extend beyond a repayment period of seven years.

d. The State Comptroller is hereby authorized to provide lines of credit of up to \$2,500,000 to the Department of Motor Vehicles and up to \$2,500,000 to the Department of State Police to be repaid from revenues provided under the federal government's establishment of Uniform Carrier Registration.

e. The Virginia Lottery is hereby authorized to use its line of credit to meet cash flow needs for operations at any time during the year and to provide cash to the Virginia Lottery Fund to meet the required transfer of estimated lottery profits to the Lottery Proceeds Fund in the month of June, as specified in provisions of § 3-1.01G. of this act. The Virginia Lottery shall repay the line of credit as actual cash flows become available. The Secretary of Finance is authorized to increase the line of credit to the Virginia Lottery if necessary to meet operating needs.

f. The State Comptroller is hereby authorized to provide a line of credit of up to \$5,000,000 to the Department of Military Affairs to cover the actual costs of responding to State Active Duty. The line of credit will be repaid as the Department of Military Affairs is reimbursed from federal or other funds, other than Department of Military Affairs funds.

g. The Innovation and Entrepreneurship Investment Authority is hereby authorized to use its line of credit to meet cash flow needs at any time during the year in support of operational costs in anticipation of reimbursement of said expenditures from signed contracts and grant awards. The Innovation and Entrepreneurship Investment Authority shall repay the line of credit by June 30 of each fiscal year.

h. The Department of Human Resource Management shall repay the local health insurance option program's initial start-up costs, funded through the line of credit authorized in Chapter 836, 2017 Acts of Assembly, in fiscal years 2017 and 2018, over a period not to exceed ten years from the health insurance premiums paid by the local health insurance option program's participants.

### § 3-3.00 GENERAL FUND DEPOSITS

#### § 3-3.01 PAYMENT BY THE STATE TREASURER

The state Treasurer shall transfer an amount estimated at \$50,000 on or before June 30, 2019 and an amount estimated at \$50,000 on or before June 30, 2020, to the general fund from excess 9(c) sinking fund balances.

#### § 3-3.02 UTILITY BILL CREDITS

Utility bill credits pursuant to the provisions of House Bill 1558, 2018 Session of the General Assembly; in an amount estimated to be \$3,400,000 shall accrue to state agencies on or before June 30, 2019. Out of this amount, the Comptroller shall transfer into the Federal Repayment Reserve Fund an amount estimated to be sufficient to pay the federal government in anticipation of a federal repayment. The State Comptroller shall notify the Director, Department of Planning and Budget of the final federal repayment transfer amount prior to making the transfer into the Federal Repayment Reserve Fund. The Director, Department of Planning and Budget and the State Comptroller are authorized to utilize a combination of nongeneral fund cash transfers and general fund appropriation transfers from applicable state agencies in order to recover these rebate amounts to the general fund.

### § 3-4.00 AUXILIARY ENTERPRISES AND SPONSORED PROGRAMS IN INSTITUTIONS OF HIGHER EDUCATION

#### § 3-4.01 AUXILIARY ENTERPRISE INVESTMENT YIELDS

A. The educational and general programs in institutions of higher education shall recover the full indirect cost of auxiliary enterprise programs as certified by institutions of higher education to the Comptroller subject to annual audit by the Auditor of Public accounts. The State Comptroller shall credit those institutions meeting this requirement with the interest earned by the investment of the funds of their auxiliary enterprise programs.

B. No interest shall be credited for that portion of the fund's cash balance that represents any outstanding loans due from the State Treasurer. The provisions of this section shall not apply to the capital projects authorized under Items C-36.21 and C-36.40 of Chapter 924, 1997 Acts of Assembly.

### § 3-5.00 ADJUSTMENTS AND MODIFICATIONS TO TAX COLLECTIONS

#### § 3-5.01 RETALIATORY COSTS TO OTHER STATES TAX CREDIT

Notwithstanding any other provision of law, the amount deposited to the Priority Transportation Trust Fund pursuant to § 58.1-2531 shall not be reduced by more than \$266,667 by any refund of the Tax Credit for Retaliatory Costs to Other States available under § 58.1-2510.

## §3-5.02 PAYMENT OF AUTO RENTAL TAX TO THE GENERAL FUND

Notwithstanding the provisions of § 58.1-1741, Code of Virginia, or any other provision of law, all revenues resulting from the fee imposed under subdivision A3 of § 58.1-1736, Code of Virginia, shall be deposited into the general fund after the direct costs of administering the fee are recovered by the Department of Taxation.

## § 3-5.03 IMPLEMENTATION OF CHAPTER 3, ACTS OF ASSEMBLY OF 2004, SPECIAL SESSION I

Revenues deposited into the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 of the Code of Virginia pursuant to enactments of the 2004 Special Session of the General Assembly shall be transferred to the general fund and used to meet the Commonwealth's responsibilities for the Standards of Quality prescribed pursuant to Article VIII, Section 2, of the Constitution of Virginia. The Comptroller shall take all actions necessary to effect such transfers monthly, no later than 10 days following the deposit to the Fund. The amounts transferred shall be distributed to localities as specified in Direct Aid to Public Education's (197), State Education Assistance Programs (17800) of this Act. The estimated amount of such transfers are ~~\$386,700,000~~ \$389,900,000 the first year and ~~\$395,200,000~~ \$409,300,000 the second year.

## § 3-5.04 RETAIL SALES &amp; USE TAX EXEMPTION FOR INTERNET SERVICE PROVIDERS

Notwithstanding any other provision of law, for purchases made on or after July 1, 2006, any exemption from the retail sales and use tax applicable to production, distribution, and other equipment used to provide Internet-access services by providers of Internet service, as defined in § 58.1-602, Code of Virginia, shall occur as a refund request to the Tax Commissioner. The Tax Commissioner shall develop procedures for such refunds.

## § 3-5.05 DISPOSITION OF EXCESS FEES COLLECTED BY CLERKS OF THE CIRCUIT COURTS

Notwithstanding §§ 15.2-540, 15.2-639, 15.2-848, 17.1-285, and any other provision of law general or special, effective July 1, 2009, the Commonwealth shall be entitled to two-thirds of the excess fees collected by the clerks of the circuit courts as required to be reported under § 17.1-283.

## § 3-5.06 ACCELERATED SALES TAX

A. Notwithstanding any other provision of law, in addition to the amounts required under the provisions of §§58.1-615 and 58.1-616, any dealer as defined by §58.1-612 or direct payment permit holder pursuant to §58.1-624 with taxable sales and purchases of \$1,000,000 or greater for the 12-month period beginning July 1, and ending June 30 of the immediately preceding calendar year, shall be required to make a payment equal to 90 percent of the sales and use tax liability for the previous June. Such tax payments shall be made on or before the 30th day of June, if payments are made by electronic fund transfer, as defined in § 58.1-202.1. If payment is made by other than electronic funds transfer, such payment shall be made on or before the 25th day of June. Every dealer or direct payment holder shall be entitled to a credit for the payment under this section on the return for June of the current year due July 20.

B. The Tax Commissioner may develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

C. For purposes of this section, taxable sales or purchases shall be computed without regard to the number of certificates of registration held by the dealer. The provisions of this section shall not apply to persons who are required to file only a Form ST-7, Consumer's Use Tax Return.

D. In lieu of the penalties provided in § 58.1-635, except with respect to fraudulent returns, failure to make a timely payment or full payment of the sales and use tax liability as provided in subsection A shall subject the dealer or direct payment permit holder to a penalty of six percent of the amount of tax underpayment that should have been properly paid to the Tax Commissioner. Interest shall accrue as provided in § 58.1-15. The payment required by this section shall become delinquent on the first day following the due date set forth in this section if not paid.

E. Payments made pursuant to this section shall be made in accordance with procedures established by the Tax Commissioner and shall be considered general fund revenue, except with respect to those revenues required to be distributed under the provisions of §§ 58.1-605, 58.1-606, 58.1-638(A), 58.1-638(G)-(H), 58.1-638.2, and 58.1-638.3 of the Code of Virginia.

F. That the State Comptroller shall make no distribution of the taxes collected pursuant to this section in accordance with §§ 58.1-605, 58.1-606, 58.1-638, 58.1-638.1, 58.1-638.2 and 58.1-638.3 of the Code of Virginia until the Tax Commissioner makes a written certification to the Comptroller certifying the sales and use tax revenues generated pursuant to this section. The Tax Commissioner shall certify the sales and use tax revenues generated as soon as practicable after the sales and use tax revenues have been paid into the state treasury in any month for the preceding month.

G.1. Beginning with the tax payment that would be remitted on or before June 25, 2019, if the payment is made by other than electronic fund transfers, and by June 30, 2019, if payments are made by electronic fund transfer, the provisions of § 3-5.08 of Chapter 874, 2010 Acts of Assembly, shall apply only to those dealers or permit holders with taxable sales and purchases of

\$4,000,000 or greater for the 12-month period beginning July 1 and ending June 30 of the immediately preceding calendar year.

2. Beginning with the tax payment that would be remitted on or before June 25, 2020, if the payment is made by other than electronic fund transfers, and by June 30, 2020, if payments are made by electronic fund transfer, the provisions of § 3-5.08 of Chapter 874, 2010 Acts of Assembly, shall apply only to those dealers or permit holders with taxable sales and purchases of ~~\$4,000,000~~ \$10,000,000 or greater for the 12-month period beginning July 1 and ending June 30 of the immediately preceding calendar year.

#### § 3-5.07 DISCOUNTS AND ALLOWANCES

A. Notwithstanding any other provision of law, effective beginning with the return for June 2010, due July 2010, the compensation allowed under § 58.1-622, Code of Virginia, shall be suspended for any dealer required to remit the tax levied under §§ 58.1-603 and 58.1-604, Code of Virginia, by electronic funds transfer pursuant to § 58.1-202.1, Code of Virginia, and the compensation available to all other dealers shall be limited to the following percentages of the first three percent of the tax levied under §§ 58.1-603 and 58.1-604, Code of Virginia:

Monthly Taxable Sales	Percentage
\$0 to \$62,500	1.6%
\$62,501 to \$208,000	1.2%
\$208,001 and above	0.8%

B. Notwithstanding any other provision of law, effective beginning with the return for June 2010, due July 2010, the compensation available under §§ 58.1-642, 58.1-656, 58.1-1021.03, and 58.1-1730, Code of Virginia, shall be suspended.

C. Beginning with the return for June 2011, due July 2011, the compensation under § 58.1-1021.03 shall be reinstated.

#### § 3-5.08 SALES TAX COMMITMENT TO HIGHWAY MAINTENANCE AND OPERATING FUND

The sales and use tax revenue for distribution to the Highway Maintenance and Operating Fund shall be consistent with Chapter 766, 2013 Acts of Assembly.

#### § 3-5.09 INTANGIBLE HOLDING COMPANY ADDBACK

Notwithstanding the provisions of § 58.1-402(B)(8), Code of Virginia, for taxable years beginning on and after January 1, 2004:

(i) The exception in § 58.1-402(B)(8)(a)(1) for income that is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government shall be limited and apply only to the portion of such income received by the related member, which portion is attributed to a state or foreign government in which the related member has sufficient nexus to be subject to such taxes; and

(ii) The exception in § 58.1-402(B)(8)(a)(2) for a related member deriving at least one-third of its gross revenues from licensing to unrelated parties shall be limited and apply only to the portion of such income derived from licensing agreements for which the rates and terms are comparable to the rates and terms of agreements that the related member has actually entered into with unrelated entities.

#### § 3-5.10 REGIONAL FUELS TAX

Funds collected pursuant to § 58.1-2291 et seq., Code of Virginia, from the additional sales tax on fuel in certain transportation districts under § 58.1-2291 et seq., Code of Virginia, shall be returned to the respective commissions in amounts equivalent to the shares collected in the respective member jurisdictions. However, no funds shall be collected pursuant to § 58.1-2291 et seq., Code of Virginia, from levying the additional sales tax on aviation fuel as that term is defined in § 58.1-2201, Code of Virginia.

#### § 3-5.11 DEDUCTION FOR ABLE ACT CONTRIBUTIONS

A. Effective for taxable years beginning on or after January 1, 2016, an individual shall be allowed a deduction from Virginia adjusted gross income as defined in § 58.1-321, Code of Virginia, for the amount contributed during the taxable year to an ABLE savings trust account entered into with the Virginia College Savings Plan pursuant to Chapter 7 ( § 23.1-700 et seq.) of Title 23.1, Code of Virginia. The amount deducted on any individual income tax return in any taxable year shall be limited to \$2,000 per ABLE savings trust account. No deduction shall be allowed pursuant to this section if such contributions are deducted on the contributor's federal income tax return. If the contribution to an ABLE savings trust account exceeds \$2,000 the remainder may be carried forward and subtracted in future taxable years until the ABLE savings trust contribution has been fully deducted; however, in no event shall the amount deducted in any taxable year exceed \$2,000 per ABLE savings trust account.

B. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, Code of Virginia, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified disability expenses, as defined in § 529A of the Internal Revenue Code; or (ii) the beneficiary's death.

C. A contributor to an ABLÉ savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per ABLÉ savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount contributed to an ABLÉ savings trust account, less any amounts previously deducted.

D. The Tax Commissioner shall develop guidelines implementing the provisions of this section, including but not limited to the computation, carryover, and recapture of the deduction provided under this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq., Code of Virginia).

#### § 3-5.12 RETAIL SALES AND USE TAX EXEMPTION FOR RESEARCH FOR FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

A. Notwithstanding any other provision of law or regulation, and beginning July 1, 2016 and ending June 30, 2018, the retail sales and use tax exemption provided for in subdivision 5 of § 58.1-609.3 of the Code of Virginia, applicable to tangible personal property purchased or leased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense, shall apply to such property used in a federally funded research and development center, regardless of whether such property is used by the purchaser, lessee, or another person or entity.

B. Notwithstanding any other provision of law, beginning July 1, 2018, tangible personal property purchased by a federally funded research and development center sponsored by the U.S. Department of Energy shall be exempt from the retail sales and use tax.

C. Nothing in this section shall be construed to relieve any federally funded research and development center of any liability for retail sales and use tax due for the purchase of tangible personal property pursuant to the law in effect at the time of the purchase.

#### § 3-5.13 ADMISSIONS TAX

Notwithstanding the provisions of § 58.1-3818.02, Code of Virginia, or any other provision of law, subject to the execution of a memorandum of understanding between an entertainment venue and the County of Stafford, Stafford County is authorized to impose a tax on admissions to an entertainment venue located in the county that (i) is licensed to do business in the county for the first time on or after July 1, 2015, and (ii) requires at last 75 acres of land for its operations, and (iii) such land is purchased or leased by the entertainment venue owner on or after June 1, 2015. The tax shall not exceed 10 percent of the amount of charge for admission to any such venue. The provisions of this section shall expire on July 1, 2019 if no entertainment venue exists in Stafford County upon which the tax authorized is imposed.

#### § 3-5.14 SUNSET DATES FOR INCOME TAX CREDITS AND SALES AND USE TAX EXEMPTIONS

A. Notwithstanding any other provision of law the General Assembly shall not advance the sunset date on any existing sales tax exemption or tax credit beyond June 30, 2022. Any new sales tax exemption or tax credit enacted by the General Assembly prior to the 2021 regular legislative session shall have a sunset date not later than June 30, 2022. However, this requirement shall not apply to tax exemptions administered by the Department of Taxation under § 58.1-609.11, relating to exemptions for nonprofit entities nor shall it apply to exemptions or tax credits with sunset dates after June 30, 2022, enacted or advanced during the 2016 Session of the General Assembly.

B. By November 1, 2020, the Department of Taxation shall report to every member of the General Assembly and to the Joint Subcommittee to Evaluate Tax Preferences, on the revenue impact of every sales tax exemption and tax credit scheduled to expire on or before June 30, 2022. The report shall include the prior fiscal year's state and local sales tax impact of each expiring sales tax exemption, and the prior fiscal year's general fund revenue impact of each expiring tax credit. The tax credit revenue impact analysis shall be inclusive of credits claimed against any tax imposed under Title 58.1 of the Code of Virginia.

C. The Department shall provide an updated revenue impact report no later than November 1, 2025, and every five years thereafter, for sales tax exemptions and tax credits set to expire within two years following the date of the report. Such reports shall be distributed to every member of the General Assembly and to the Joint Subcommittee to Evaluate Tax Preferences.

#### § 3-5.15 PROVIDER COVERAGE ASSESSMENT

~~A. The Department of Medical Assistance Services (DMAS) is authorized to levy an assessment upon private acute care hospitals operating in Virginia in accordance with this item. Private acute care hospitals operating in Virginia shall pay a coverage assessment beginning on or after October 1, 2018. For the purposes of this coverage assessment, the definition of private acute care hospitals shall exclude public hospitals; freestanding psychiatric and rehabilitation hospitals; children's hospitals; long stay hospitals; long-term acute care hospitals and critical access hospitals.~~

~~B.1. The coverage assessment shall be used only to cover the non-federal share of the full cost for expanded Medicaid coverage for newly eligible individuals pursuant to 42 U.S.C. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act, including the administrative costs of collecting the coverage assessment, and implementing and operating the coverage for newly eligible adults.~~

2: The Department of Medical Assistance Services (DMAS) shall calculate each hospital's "coverage assessment" annually by multiplying the "coverage assessment percentage" times "net patient service revenue" as defined below:

3: The "coverage assessment percentage" shall be calculated as (i) 1.08 times the non-federal share of the "full cost of expanded Medicaid coverage" for newly eligible individuals under the Patient Protection and Affordable Care Act (42 U.S.C. § 1396d(y)(1)[2010]) divided by (ii) the total "net patient service revenue" for hospitals subject to the assessment. By May 1 of each year, DMAS shall report the estimated assessment payments by hospital and all assessment percentage calculations for the upcoming fiscal year to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees:

4: The "full cost of expanded Medicaid coverage" shall equal the amount estimated in the official Medicaid forecast due by November 1 of each year as required by paragraph A.1. of Item 307 of this Act. This Act estimates the non-federal share of the cost of coverage for FY 2019 as \$80,823,953 and FY 2020 as \$226,123,826.

5: Each hospital's "net patient service revenue" equals the amount reported in the most recent Virginia Health Information (VHI) "Hospital Detail Report" as of December 15 of each year. In the first year, net patient service revenue shall be prorated by the portion of the year subject to the tax:

6: Any estimated excess or shortfall of revenue from the previous year shall be deducted from or added to the "full cost of expanded Medicaid coverage" for the next year prior to the calculation of the "coverage assessment percentage."

7: DMAS shall be responsible for collecting the coverage assessment. Hospitals subject to the coverage assessment shall make quarterly payments to the department equal to 25 percent of the annual "coverage assessment" amount. In the first year, quarterly amounts for the remainder of the state fiscal year shall equal one-third of the coverage assessment. The payments are due not later than the first day of each quarter. In the first year, the first coverage assessment payment shall be due on or after October 1, 2018. Hospitals that fail to make the coverage assessment payments within 30 days of the due date shall incur a five percent penalty. Any unpaid coverage assessment or penalty will be considered a debt to the Commonwealth and DMAS is authorized to recover it as such:

8: DMAS shall submit a report due September 1 of each year to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees. The report shall include, for the most recently completed fiscal year, the revenue collected from the coverage assessment; expenditures for purposes authorized by this Item; and the year-end coverage assessment balance in the Health Care Coverage Assessment Fund:

9: All revenue from the coverage assessment including penalties shall be deposited into the Health Care Coverage Assessment Fund. Proceeds from the coverage assessment, including penalties, shall not be used for any other purpose than to cover the non-federal share of the full cost of enhanced Medicaid coverage for newly eligible individuals, pursuant to 42 U.S.S. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act, including the administrative costs of collecting the assessment, and implementing and operating the coverage for newly eligible adults:

10: Any provision of this Item is contingent upon approval by the Centers for Medicare and Medicaid Services if necessary:

*A. The Department of Medical Assistance Services (DMAS) is authorized to levy an assessment upon private acute care hospitals operating in Virginia in accordance with this Item. Private acute care hospitals operating in Virginia shall pay a coverage assessment beginning on or after October 1, 2018. For the purposes of this coverage assessment, the definition of private acute care hospitals shall exclude public hospitals, freestanding psychiatric and rehabilitation hospitals, children's hospitals, long stay hospitals, long-term acute care hospitals and critical access hospitals.*

*B.1. The coverage assessment shall be used only to cover the non-federal share of the "full cost of expanded Medicaid coverage" for newly eligible individuals pursuant to 42 U.S.C. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act, including the administrative costs of collecting the coverage assessment and implementing and operating the coverage for newly eligible adults which includes the costs of administering the provisions of the Section 1115 waiver.*

*2.a. The "full cost of expanded Medicaid coverage" shall include: 1) any and all Medicaid expenditures related to individuals eligible for Medicaid pursuant to 42 U.S.C. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act, including any federal actions or repayments; and, 2) all administrative costs associated with providing coverage, which includes the costs of administering the provisions of the Section 1115 waiver, and collecting the coverage assessment.*

*b. The "full cost of expanded Medicaid coverage" shall be updated: 1) on November 1 of each year based on the official Medicaid forecast and latest administrative cost estimates developed by DMAS; 2) no more than 30 days after the enactment of this Act to reflect policy changes adopted by the latest session of the General Assembly; and 3) on March 1 of any year in which DMAS estimates that the most recent non-federal share of the "full cost of expanded Medicaid coverage" times 1.08 will be insufficient to pay all expenses in 2.a. for that year.*

*c. This Act estimates the non-federal share of the cost of Medicaid expansion to be \$86,103,345 the first year and \$293,192,716 the second year. However, these amounts shall not be construed as a limitation on collections or override the provisions of this item that allow for periodic updates of the full cost of coverage.*

*C. 1. The Department of Medical Assistance Services (DMAS) shall calculate each hospital's "coverage assessment amount" by multiplying the "coverage assessment percentage" times "net patient service revenue" as defined below.*

*2. The "coverage assessment percentage" shall be calculated as (i) 1.08 times the non-federal share of the "full cost of expanded Medicaid coverage" divided by (ii) the total "net patient service revenue" for hospitals subject to the assessment.*

*3. Each hospital's "net patient service revenue" equals the amount reported in the most recent Virginia Health Information (VHI) "Hospital Detail Report." In FY 2019, net patient service revenue shall be prorated by the portion of the year subject to the tax. Hospitals shall certify that the net patient service revenue is hospital revenue and this amount shall be the assessment basis for the following fiscal year.*

*D.1. DMAS shall, at a minimum, update the "coverage assessment amount" to be effective on January 1, of each year. DMAS is further authorized to update the "coverage assessment amount" on a quarterly basis to ensure amounts are sufficient to cover the full cost of expanded Medicaid coverage based on the latest estimate. Hospitals shall be given no less than 30 days' notice prior to a change in its coverage assessment amount and be provided with associated calculations. Prior to any change to the coverage assessment amount, DMAS shall perform and incorporate a reconciliation of the Health Care Coverage Assessment Fund. Any estimated excess or shortfall of revenue since the previous reconciliation shall be deducted from or added to the "full cost of expanded Medicaid coverage" for the updated coverage assessment amount.*

*2. DMAS shall be responsible for collecting the coverage assessment amount. Hospitals subject to the coverage assessment shall make quarterly payments due no later than July 1, October 1, January 1 and April 1 of each state fiscal year. In FY 2019, quarterly amounts for the remainder of the state fiscal year shall equal one-third of the coverage assessment. In the first year, the first coverage assessment payment shall be due on or after October 1, 2018.*

*3. Hospitals that fail to make the coverage assessment payments within 30 days of the due date shall incur a five percent penalty that shall be deposited in the Virginia Health Care Fund. Any unpaid coverage assessment or penalty will be considered a debt to the Commonwealth and DMAS is authorized to recover it as such.*

*E. DMAS shall submit a report due September 1 of each year to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees, and the Virginia Hospital and Healthcare Association. The report shall include, for the most recently completed fiscal year, the revenue collected from the coverage assessment, expenditures for purposes authorized by this Item, and the year-end coverage assessment balance in the Health Care Coverage Assessment Fund. The report shall also include a complete and itemized listing of all administrative costs included in the coverage assessment.*

*F. All revenue from the coverage assessment excluding penalties, shall be deposited into the Health Care Coverage Assessment Fund. Proceeds from the coverage assessment, excluding penalties, shall not be used for any other purpose than to cover the non-federal share of the full cost of expanded Medicaid coverage.*

*G. Any provision of this Item is contingent upon approval by the Centers for Medicare and Medicaid Services if necessary.*

*H. The Hospital Payment Policy Advisory Council shall meet to consider the implementation and provisions of the Provider Coverage and Payment Rate Assessments in order to consider and make recommendations to ensure the collection and use of such funds are appropriate and consistent with the intent of the General Assembly. Specifically, the Council shall consider the level of detail and format necessary to develop the report pursuant to paragraph E. The Council shall recommend a format and associated level of detail, to be included in the report to the Joint Subcommittee for Health and Human Resources Oversight. The Joint Subcommittee shall approve the final format and associated level of detail of the report to be submitted by the Department of Medical Assistance Services.*

#### § 3-5.16 PROVIDER PAYMENT RATE ASSESSMENT

*A. The Department of Medical Assistance Services (DMAS) is hereby authorized to levy a payment rate assessment upon private acute care hospitals operating in Virginia in accordance with this item: Private acute care hospitals operating in Virginia shall pay a payment rate assessment beginning on or after October 1, 2018 when all necessary state plan amendments are approved by the Centers for Medicare and Medicaid Services (CMS). For purposes of this assessment, the definition of private acute care hospitals shall exclude public hospitals; freestanding psychiatric and rehabilitation hospitals; children's hospitals; long stay hospitals; long-term acute care hospitals and critical access hospitals:*

*B.1. Proceeds from the payment rate assessment shall be disbursed to fund an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the "upper payment limit" and to fill the "managed care organization hospital payment gap" for care provided to recipients of medical assistance services:*

*2. DMAS shall calculate each hospital's payment rate assessment annually by multiplying the "payment rate assessment percentage" times "net patient service revenue". Each hospital's "net patient service revenue" equals the amount reported in the most recent Virginia Health Information (VHI) "Hospital Detail Report" as of December 15 of each year. The "payment rate assessment percentage" for hospitals shall be calculated as (i) 1.00 times the non-federal share of funding the "upper payment*

limit gap" and the "managed care organization hospital payment gap" divided by (ii) the total "net patient service revenue" for hospitals subject to the assessment. Prior to calculating the payment rate assessment percentage, DMAS shall estimate the cost of the upper payment limit gap and the managed care organization hospital payment gap. Any estimated excess or shortfall of revenue from the previous year shall be deducted from or added to the calculation of the provider rate costs. By 14 days after the Appropriation Act for the upcoming fiscal year is signed, DMAS shall report the estimated payment rate assessment by hospital and all assessment percentage calculations for the upcoming fiscal year to the Director, Department of Planning and Budget, and Chairmen of the House Appropriations and Senate Finance Committees:

3: The "upper payment limit" means the limit on payment for inpatient services for recipients of medical assistance established in accordance with 42 C.F.R. § 447.272 and outpatient services for recipients of medical assistance pursuant to 42 C.F.R. § 447.321 for private hospitals. DMAS shall complete a calculation of the "upper payment limit" for each state fiscal year with a detailed analysis of how it was determined. The "upper payment limit payment gap" means the difference between the amount of the private hospital upper payment limit and the amount otherwise paid pursuant to the state plan for inpatient and outpatient services. The "managed care organization hospital payment gap" means the difference between the amount included in the capitation rates for inpatient and outpatient services based on historical paid claims and the amount that would be included when the projected hospital services furnished by private acute care hospitals operating in Virginia are priced according to the existing State Plan methodology but using 100% for the adjustment factors (including the capital reimbursement percentage) and full inflation subject to CMS approval under 42 C.F.R. section 438.6(c). As part of the development of the managed care capitation rates, the Department shall calculate a "Medicaid managed care organization (MCO) supplemental hospital capitation payment adjustment". This is a distinct additional amount added to Medicaid MCO capitation rates to fund supplemental payments under this section to private acute care hospitals operating in Virginia for services to Medicaid recipients:

4: DMAS shall contractually direct Medicaid MCOs to disburse supplemental hospital capitation payment funds consistent with this section and 42 C.F.R. § 438.6(c), that ensure that all such funds are disbursed to private acute care hospitals operating in Virginia. In addition, DMAS shall contractually prohibit MCOs from making reductions to or supplanting hospital payments otherwise paid by MCOs:

5: DMAS shall make available monthly a report of the additional capitation payments that are made to each MCO pursuant to this subsection. Further, DMAS shall consider recommendations of the Medicaid Hospital Payment Policy and Advisory Council in designing and implementing the specific elements of the payment rate assessment and private acute care hospital supplemental payment program authorized by this item:

C: DMAS shall be responsible for collecting the payment rate assessment. Hospitals subject to the assessment shall make quarterly payments to the department equal to 25 percent of the annual "assessment" amount. In the first year, quarterly amounts for the remainder of the state fiscal year shall equal the hospital's total payment rate assessment for the fiscal year divided by the number of quarters in the remainder of the fiscal year after the effective date of the payment rates. The assessment are due not later than the first day of each quarter. In the first year, the first assessment payment shall be due on or after October 1, 2018. Hospitals that fail to make the assessment payments within 30 days of the due date shall incur a five percent penalty. Any unpaid assessment or penalty will be considered a debt to the Commonwealth and DMAS is authorized to recover it as such:

D: DMAS shall submit a report due September 1 of each year to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees. The report shall include, for the most recently completed fiscal year, the revenue collected from the payment rate assessment, expenditures for purposes authorized by this item, and the year-end assessment balance in the Health Care Provider Payment Rate Assessment Fund:

E: All revenue from the payment rate assessment shall be deposited into the Health Care Provider Payment Rate Assessment Fund; a special non-reverting fund in the state treasury. Proceeds from the payment rate assessment, including penalties, shall not be used for any other purpose than to fund (i) an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the private hospital "upper payment limit" and "managed care organization hospital payment gap" for care provided to recipients of medical assistance services; and (ii) the administrative costs of collecting the assessment and of implementing and operating the associated payment rate actions:

F: Any provision of this Section is contingent upon approval by the Centers for Medicare and Medicaid Services if necessary:

*A. The Department of Medical Assistance Services (DMAS) is hereby authorized to levy a payment rate assessment upon private acute care hospitals operating in Virginia in accordance with this item. Private acute care hospitals operating in Virginia shall pay a payment rate assessment beginning on or after October 1, 2018 when all necessary state plan amendments are approved by the Centers for Medicare and Medicaid Services (CMS). For purposes of this assessment, the definition of private acute care hospitals shall exclude public hospitals, freestanding psychiatric and rehabilitation hospitals, children's hospitals, long stay hospitals, long-term acute care hospitals and critical access hospitals.*

*B. Proceeds from the payment rate assessment shall be used to i) fund an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the "upper payment limit gap" and ii) fill the "managed care organization hospital payment gap" for care provided to recipients of medical assistance services. Payments made under the provisions of this item shall be referred to as "private acute care hospital enhanced payments".*

C.1. The Department of Medical Assistance Services (DMAS) shall calculate each hospital's "payment rate assessment amount" by multiplying the "payment rate assessment percentage" times "net patient service revenue" as defined below.

2. The "payment rate assessment percentage" for hospitals shall be calculated as (i) 1.08 times the non-federal share of funding the "private acute care hospitals enhanced payments" divided by (ii) the total "net patient service revenue" for hospital subject to the assessment.

3. Each hospital's "net patient service revenue" equals the amount reported in the most recent Virginia Health Information (VHI) "Hospital Detail Report." In FY 2019, net patient service revenue shall be prorated by the portion of the year subject to the tax. Hospitals shall certify that the net patient service revenue is hospital revenue and this amount shall be the assessment basis for the following fiscal year.

D. DMAS is authorized to update the payment rate assessment amount on a quarterly basis to ensure amounts are sufficient to cover the full cost of the private acute care hospital enhanced payments based on the latest estimate. Hospitals shall be given no less than 30 days prior notice of the new assessment amount and be provided with calculations. Prior to any change to the payment rate assessment amount, DMAS shall perform and incorporate a reconciliation of the Health Care Provider Payment Rate Assessment Fund. Any estimated excess or shortfall of revenue since the previous reconciliation shall be deducted from or added to the calculation of the private acute care hospital enhanced payments.

E.1. The "upper payment limit" means the limit on payment for inpatient services for recipients of medical assistance established in accordance with 42 C.F.R. § 447.272 and outpatient services for recipients of medical assistance pursuant to 42 C.F.R. § 447.321 for private hospitals. DMAS shall complete a calculation of the "upper payment limit" for each state fiscal year with a detailed analysis of how it was determined. The "upper payment limit payment gap" means the difference between the amount of the private hospital upper payment limit and the amount otherwise paid pursuant to the state plan for inpatient and outpatient services. The "managed care organization hospital payment gap" means the difference between the amount included in the capitation rates for inpatient and outpatient services based on historical paid claims and the amount that would be included when the projected hospital services furnished by private acute care hospitals operating in Virginia are priced according to the existing State Plan methodology but using 100% for the adjustment factors (including the capital reimbursement percentage) and full inflation subject to CMS approval under 42 C.F.R. section 438.6(c). As part of the development of the managed care capitation rates, the DMAS shall calculate a "Medicaid managed care organization (MCO) supplemental hospital capitation payment adjustment". This is a distinct additional amount shall be added to Medicaid MCO capitation rates to fund supplemental payments under this section to private acute care hospitals operating in Virginia for services to Medicaid recipients.

2. DMAS shall contractually direct Medicaid MCOs to disburse supplemental hospital capitation payment funds consistent with this section and 42 C.F.R. § 438.6(c), to ensure that all such funds are disbursed to private acute care hospitals operating in Virginia. In addition, DMAS shall contractually prohibit MCOs from making reductions to or supplanting hospital payments otherwise paid by MCOs.

3. DMAS shall make available quarterly a report of the additional capitation payments that are made to each MCO pursuant to this item. Further, DMAS shall consider recommendations of the Medicaid Hospital Payment Policy and Advisory Council in designing and implementing the specific elements of the payment rate assessment and private acute care hospital supplemental payment program authorized by this item.

F.1. DMAS shall be responsible for collecting the payment rate assessment amount. Hospitals subject to the payment rate assessment shall make quarterly payments due no later than July 1, October 1, January 1 and April 1 of each state fiscal year. In FY 2019, the first payment rate assessment payment shall be due on or after October 1, 2018.

2. Hospitals that fail to make the payment rate assessment payments within 30 days of the due date shall incur a five percent penalty that shall be deposited in the Virginia Health Care Fund. Any unpaid payment assessment or penalty will be considered a debt to the Commonwealth and DMAS is authorized to recover it as such.

G. DMAS shall submit a report due September 1 of each year to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees. The report shall include, for the most recently completed fiscal year, the revenue collected from the payment rate assessment, expenditures for purposes authorized by this item, and the year-end assessment balance in the Health Care Provider Payment Rate Assessment Fund.

H. All revenue from the payment rate assessment shall be deposited into the Health Care Provider Payment Rate Assessment Fund, a special non-reverting fund in the state treasury. Proceeds from the payment rate assessment, excluding penalties, shall not be used for any other purpose than to fund (i) an increase in inpatient and outpatient payment rates paid to private acute care hospitals operating in Virginia up to the private hospital "upper payment limit" and "managed care organization hospital payment gap" for care provided to recipients of medical assistance services, and (ii) the administrative costs of collecting the assessment and of implementing and operating the associated payment rate actions.

J. Any provision of this Section is contingent upon approval by the Centers for Medicare and Medicaid Services if necessary.

### § 3-5.17 TOBACCO TAX STUDY

The Joint Subcommittee to Evaluate Tax Preferences is hereby directed to ~~study~~ *continue studying* options for the modernization of § 58.1-1001(A), Code of Virginia, to reflect advances in science and technology in the area of tobacco harm reduction, and the role innovative non-combustible tobacco products can play in reducing harm, including products that produce vapor or aerosol from heating tobacco or liquid nicotine. In addition, the Joint Subcommittee shall study possible reforms to the taxation of tobacco products that will provide fairness and equity for all local governments and also ensure stable tax revenues for the Commonwealth. The Joint Subcommittee shall complete its study and submit a final report with recommended reforms to the Finance Committees of the Virginia Senate and Virginia House of Delegates by November 1, ~~2018~~2019. All agencies of the Commonwealth shall provide assistance for this study, upon request.

### §3-5.18 HISTORIC PRESERVATION TAX CREDIT

Notwithstanding § 58.1-339.2 or any other provision of law, effective for taxable years beginning on and after January 1, 2017, the amount of the Historic Rehabilitation Tax Credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$5 million for any taxable year.

### § 3-5.19 LAND PRESERVATION TAX CREDIT CLAIMED

Notwithstanding § 58.1-512 or any other provision of law, effective for the taxable year beginning on and after January 1, 2017, but before January 1, 2020, the amount of the Land Preservation Tax Credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$20,000

### § 3-5.20. Omitted.

### § 3-5.21 TAXPAYER RELIEF FUND

*A. Notwithstanding any other provision of law, the Comptroller shall transfer any revenues generated by the individual reform provisions contained in Subtitle A of Title I and §§ 13611 - 13613 of the federal Tax Cuts and Jobs Act, P.L. 115-97 (2017), from the collection of taxes during Fiscal Years 2019 through 2025, estimated to be approximately \$450 million annually, beyond those revenues reasonably expected to be collected due to general economic growth and absent the federal policy changes, less the estimated reduction in revenues needed to implement the tax policy changes set forth in the first enactment of Chapters 17 and 18, 2019 Acts of Assembly for the relevant fiscal year, to the Taxpayer Relief Fund established pursuant to the fifth enactment of that Act. The Governor, in consultation with the State Comptroller and the Tax Commissioner, shall certify to the General Assembly on or before September 1 each year the estimated amount to be transferred to the Fund pursuant to this act.*

*B. For purposes of determining the amounts required to be deposited to the Revenue Stabilization Fund pursuant to Article X, Section 8, Constitution of Virginia, the certified amounts for fiscal year 2019 shall not include any amounts transferred from the general fund to the Taxpayer Relief Fund that will be used to provide refunds pursuant to the fourth enactment of Chapters 17 and 18, 2019 Acts of Assembly.*

*C. For the purposes of determining the amounts required to be deposited to the Revenue Reserve Fund pursuant to § 2.2-1831.3, Code of Virginia, and the amounts required to be deposited to the Water Quality Improvement Fund pursuant to § 10.1-2128, Code of Virginia, general fund revenue collections shall not include any amounts transferred to the Taxpayer Relief Fund established pursuant to the fifth enactment of Chapters 17 and 18, 2019 Acts of Assembly.*

### § 3-5.22 NEIGHBORHOOD ASSISTANCE ACT TAX CREDIT

*Notwithstanding any other provision of law or regulation, in order to be eligible to receive an allocation of credits pursuant to § 58.1-439.20:1, Code of Virginia, at least 50 percent of the persons served by the neighborhood organization, either directly by the neighborhood organization or through the provision of revenues to other organizations or groups serving such persons, shall be low-income persons or eligible students with disabilities and at least 50 percent of the neighborhood organization's revenues shall be used to provide services to low-income persons or to eligible students with disabilities, either directly by the neighborhood organization or through the provision of revenues to other organizations or groups providing such services. A tax credit shall be issued by the Superintendent of Public Instruction or the Commissioner of Social Services to an individual only upon receipt of a certification made by a neighborhood organization to whom tax credits were allocated for an approved program pursuant to § 58.1-439.20, § 58.1-439.20:1 or this language.*

## § 3-6.00 ADJUSTMENTS AND MODIFICATIONS TO FEES

### § 3-6.01 RECORDATION TAX FEE

There is hereby assessed a twenty dollar fee on (i) every deed for which the state recordation tax is collected pursuant to §§ 58.1-801 A and 58.1-803, Code of Virginia; and (ii) every certificate of satisfaction admitted under § 55-66.6, Code of Virginia. The revenue generated from fifty percent of such fee shall be deposited to the general fund. The revenue generated from the other fifty percent of such fee shall be deposited to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality

Improvement Fund, as established in § 10.1-2128.1, Code of Virginia. The funds deposited to this subfund shall be disbursed for the agricultural best management practices cost share program, pursuant to § 10.1-2128.1, Code of Virginia.

§ 3-6.02 ANNUAL VEHICLE REGISTRATION FEE (\$4.25 FOR LIFE)

Notwithstanding § 46.2-694 paragraph 13 of the Code of Virginia, the additional fee that shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle shall be \$6.25.

§ 3-6.03 DRIVERS LICENSE REINSTATEMENT FEE

Notwithstanding § 46.2-411 of the Code of Virginia, the drivers license reinstatement fee payable to the Trauma Center Fund shall be \$100 *the first year and \$0 the second year. In the second year, notwithstanding the provisions of § 46.2-395 of the Code of Virginia, no court shall suspend any person's privilege to drive a motor vehicle solely for failure to pay any fines, court costs, forfeitures, restitution, or penalties assessed against such person. The Commissioner of the Department of Motor Vehicles shall reinstate a person's privilege to drive a motor vehicle that was suspended prior to July 1, 2019, solely pursuant to § 46.2-395 of the Code of Virginia and shall waive all fees relating to reinstating such person's driving privileges. Nothing herein shall require the Commissioner to reinstate a person's driving privileges if such privileges have been otherwise lawfully suspended or revoked or if such person is otherwise ineligible for a driver's license.*

§ 3-6.04 ASSESSMENT OF ELECTRONIC SUMMONS FEE BY LOCALITIES

Nothing in § 17.1-279.1 of the Code of Virginia shall be construed to authorize any county, city, or town to assess the sum set forth therein upon any summons issued by a law-enforcement agency of the Commonwealth.

**PART 4: GENERAL PROVISIONS**  
**§ 4-0.00 OPERATING POLICIES**

§ 4-0.01 OPERATING POLICIES

- a. Each appropriating act of the General Assembly shall be subject to the following provisions and conditions, unless specifically exempt elsewhere in this act.
- b. All appropriations contained in this act, or in any other appropriating act of the General Assembly, are declared to be maximum appropriations and conditional on receipt of revenue.
- c. The Governor, as chief budget officer of the state, shall ensure that the provisions and conditions as set forth in this section are strictly observed.
- d. Public higher education institutions are not subject to the provisions of § 2.2-4800, Code of Virginia, or the provisions of the Department of Accounts' Commonwealth Accounting Policies and Procedures manual (CAPP) topic 20505 with regard to students who are veterans of the United States armed services and National Guard and are in receipt of federal educational benefits under the G.I. Bill. Public higher education shall establish internal procedures for the continued enrollment of such students to include resolution of outstanding accounts receivable.
- e. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia) shall not apply to grants made in support of the 2019 Commemoration to non-profit entities organized under § 501 (c)(3) of the Internal Revenue Code.
- f. 1. The State Council of Higher Education for Virginia shall establish a policy for granting undergraduate course credit to entering freshman students who have taken one or more Advanced Placement, Cambridge Advanced (A/AS), College-Level Examination Program (CLEP), or International Baccalaureate examinations by August 1, 2017. The policy shall:
  - a) Outline the conditions necessary for each public institution of higher education to grant course credit, including the minimum required scores on such examinations;
  - b) Identify the course credit or other academic requirements of each public institution of higher education that the student satisfies by achieving the minimum required scores on such examinations; and
  - c) Ensure, to the extent possible, that the grant of course credit is consistent across each public institution of higher education and each such examination.
2. The Council and each public institution of higher education shall make the policy available to the public on its website.

**§ 4-1.00 APPROPRIATIONS**

§ 4-1.01 PREREQUISITES FOR PAYMENT

- a. The State Comptroller shall not pay any money out of the state treasury except pursuant to appropriations in this act or in any other act of the General Assembly making an appropriation during the current biennium.
- b. Moneys shall be spent solely for the purposes for which they were appropriated by the General Assembly, except as specifically provided otherwise by § 4-1.03 Appropriation Transfers, § 4-4.01 Capital Projects, or § 4-5.01 a. Settlement of Claims with Individuals. Should the Governor find that moneys are not being spent in accordance with provisions of the act appropriating them, he shall restrain the State Comptroller from making further disbursements, in whole or in part, from said appropriations. Further, should the Auditor of Public Accounts determine that a state or other agency is not spending moneys in accordance with provisions of the act appropriating them, he shall so advise the Governor or other governing authority, the State Comptroller, the Chairman of the Joint Legislative Audit and Review Commission, and Chairmen of the Senate Finance and House Appropriations Committees.
- c. Exclusive of revenues paid into the general fund of the state treasury, all revenues earned or collected by an agency, and contained in an appropriation item to the agency shall be expended first during the fiscal year, prior to the expenditure of any general fund appropriation within that appropriation item, unless prohibited by statute or by the terms and conditions of any gift, grant or donation.

§ 4-1.02 WITHHOLDING OF SPENDING AUTHORITY

- a. For purposes of this subsection, withholding of spending authority is defined as any action pursuant to a budget reduction plan approved by the Governor to address a declared shortfall in budgeted revenue that impedes or limits the ability to spend appropriated moneys, regardless of the mechanism used to effect such withholding.
- b.1. Changed Expenditure Factors: The Governor is authorized to reduce spending authority, by withholding allotments of

appropriations, when expenditure factors, such as enrollments or population in institutions, are smaller than the estimates upon which the appropriation was based. Moneys generated from the withholding action shall not be reallocated for any other purpose, provided the withholding of allotments of appropriations under this provision shall not occur until at least 15 days after the Governor has transmitted a statement of changed factors and intent to withhold moneys to the Chairmen of the House Appropriations and Senate Finance Committees.

2. Moneys shall not be withheld on the basis of reorganization plans or program evaluations until such plans or evaluations have been specifically presented in writing to the General Assembly at its next regularly scheduled session.

c. Increased Nongeneral Fund Revenue:

1. General fund appropriations to any state agency for operating expenses are supplemental to nongeneral fund revenues collected by the agency. To the extent that nongeneral fund revenues collected in a fiscal year exceed the estimate on which the operating budget was based, the Governor is authorized to withhold general fund spending authority, by withholding allotments of appropriations, in an equivalent amount. However, this limitation shall not apply to (a) restricted excess tuition and fees for educational and general programs in the institutions of higher education, as defined in § 4-2.01 c of this act; (b) appropriations to institutions of higher education designated for fellowships, scholarships and loans; (c) gifts or grants which are made to any state agency for the direct costs of a stipulated project; (d) appropriations to institutions for the mentally ill or intellectually disabled payable from the Behavioral Health and Developmental Services Revenue Fund; and (e) general fund appropriations for highway construction and mass transit. Moneys unallotted under this provision shall not be reallocated for any other purpose.

2. To the degree that new or additional grant funds become available to supplement general fund appropriations for a program, following enactment of an appropriation act, the Governor is authorized to withhold general fund spending authority, by withholding allotments of appropriations, in an amount equivalent to that provided from grant funds, unless such action is prohibited by the original provider of the grant funds. The withholding action shall not include general fund appropriations, which are required to match grant funds. Moneys unallotted under this provision shall not be reallocated for any other purpose.

d. Reduced General Fund Resources:

1. The term "general fund resources" as applied in this subsection includes revenues collected and paid into the general fund of the state treasury during the current biennium, transfers to the general fund of the state treasury during the current biennium, and all unexpended balances brought forward from the previous biennium.

2. In the event that general fund resources are estimated by the Governor to be insufficient to pay in full all general fund appropriations authorized by the General Assembly, the Governor shall, subject to the qualifications herein contained, withhold general fund spending authority, by withholding allotments of appropriations, to prevent any expenditure in excess of the estimated general fund resources available.

3. In making this determination, the Governor shall take into account actual general fund revenue collections for the current fiscal year and the results of a formal written re-estimate of general fund revenues for the current and next biennium, prepared within the previous 90 days, in accordance with the process specified in § 2.2-1503, Code of Virginia. Said re-estimate of general fund revenues shall be communicated to the Chairmen of the Senate Finance, House Appropriations and House Finance Committees, prior to taking action to reduce general fund allotments of appropriations on account of reduced resources.

4.a) In addition to monthly reports on the status of revenue collections relative to the current fiscal year's estimate, the Governor shall provide a written quarterly assessment of the current economic outlook for the remainder of the fiscal year to the Chairmen of the House Appropriations, House Finance, and Senate Finance Committees.

b) Within five business days after the preliminary close of the state accounts at the end of the fiscal year, the State Comptroller shall provide the Governor with the actual total of (1) individual income taxes, (2) corporate income taxes, and (3) sales taxes for the just-completed fiscal year, with a comparison of such actual totals with the total of such taxes in the official budget estimate for that fiscal year. If that comparison indicates that the total of (1) individual income taxes, (2) corporate income taxes, and (3) sales taxes, as shown on the preliminary close, was one percent or more below the amount of such taxes in the official budget estimate for the just-completed fiscal year, the Governor shall prepare a written re-estimate of general fund revenues for the current biennium and the next biennium in accordance with § 2.2-1503, Code of Virginia, to be reported to the Chairmen of the Senate Finance, House Finance and House Appropriations Committees, not later than September 1 following the close of the fiscal year.

5.a) The Governor shall take no action to withhold allotments until a written plan detailing specific reduction actions approved by the Governor, identified by program and appropriation item, has been presented to the Chairmen of the House Appropriations and Senate Finance Committees. Subsequent modifications to the approved reduction plan also must be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, prior to withholding allotments of appropriations.

b) In addition to the budget reduction plan approved by the Governor, all budget reduction proposals submitted by state

agencies to the Governor or the Governor's staff, including but not limited to the Department of Planning and Budget, the Governor's Cabinet secretaries, or the Chief of Staff, whether submitted electronically or otherwise, shall be made available via electronic means to the Chairmen of the House Appropriations and Senate Finance Committees concurrently with that budget reduction plan.

6. In effecting the reduction of expenditures, the Governor shall not withhold allotments of appropriations for:

a) More than 15 percent cumulatively of the annual general fund appropriation contained in this act for operating expenses of any one state or nonstate agency or institution designated in this act by title, and the exact amount withheld, by state or nonstate agency or institution, shall be reported within five calendar days to the Chairmen of the Senate Finance and House Appropriations Committees. State agencies providing funds directly to grantees named in this act shall not apportion a larger cut to the grantee than the proportional cut apportioned to the agency. Without regard to § 4-5.05 b.4. of this act, the remaining appropriation to the grantee which is not subject to the cut, equal to at least 85 percent of the annual appropriation, shall be made by July 31, or in two equal installments, one payable by July 31 and the other payable by December 31, if the remaining appropriation is less than or equal to \$500,000, except in cases where the normal conditions of the grant dictate a different payment schedule.

b) The payment of principal and interest on the bonded debt or other bonded obligations of the Commonwealth, its agencies and its authorities, or for payment of a legally authorized deficit.

c) The payments for care of graves of Confederate and historical African American dead.

d) The employer contributions, and employer-paid member contributions, to the Social Security System, Virginia Retirement System, Judicial Retirement System, State Police Officers Retirement System, Virginia Law Officers Retirement System, Optional Retirement Plan for College and University Faculty, Optional Retirement Plan for Political Appointees, Optional Retirement Plan for Superintendents, the Volunteer Service Award Program, the Virginia Retirement System's group life insurance, sickness and disability, and retiree health care credit programs for state employees, state-supported local employees and teachers. If the Virginia Retirement System Board of Trustees approves a contribution rate for a fiscal year that is lower than the rate on which the appropriation was based, or if the United States government approves a Social Security rate that is lower than that in effect for the current budget, the Governor may withhold excess contributions. However, employer and employee paid rates or contributions for health insurance and matching deferred compensation for state employees, state-supported local employees and teachers may not be increased or decreased beyond the amounts approved by the General Assembly. Payments for the employee benefit programs listed in this paragraph may not be delayed beyond the customary billing cycles that have been established by law or policy by the governing board.

e) The payments in fulfillment of any contract awarded for the design, construction and furnishing of any state building.

f) The salary of any state officer for whom the Constitution of Virginia prohibits a change in salary.

g) The salary of any officer or employee in the Executive Department by more than two percent (irrespective of the fund source for payment of salaries and wages); however, the percentage of reduction shall be uniformly applied to all employees within the Executive Department.

h) The appropriation supported by the State Bar Fund, as authorized by § 54.1-3913, Code of Virginia, unless the supporting revenues for such appropriation are estimated to be insufficient to pay the appropriation.

7. The Governor is authorized to withhold specific allotments of appropriations by a uniform percentage, a graduated reduction or on an individual basis, or apply a combination of these actions, in effecting the authorized reduction of expenditures, up to the maximum of 15 percent, as prescribed in subdivision 6a of this subsection.

8. Each nongeneral fund appropriation shall be payable in full only to the extent the nongeneral fund revenues from which the appropriation is payable are estimated to be sufficient. The Governor is authorized to reduce allotments of nongeneral fund appropriations by the amount necessary to ensure that expenditures do not exceed the supporting revenues for such appropriations; however, the Governor shall take no action to reduce allotments of appropriations for major nongeneral fund sources on account of reduced revenues until such time as a formal written re-estimate of revenues for the current and next biennium, prepared in accordance with the process specified in § 2.2-1503, Code of Virginia, has been reported to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees. For purposes of this subsection, major nongeneral fund sources are defined as Highway Maintenance and Operating Fund and Transportation Trust Fund.

9. Notwithstanding any contrary provisions of law, the Governor is authorized to transfer to the general fund on June 30 of each year of the biennium, or within 20 days from that date, any available unexpended balances in other funds in the state treasury, subject to the following:

a) The Governor shall declare in writing to the Chairmen of the Senate Finance and House Appropriations Committees that a fiscal emergency exists which warrants the transfer of nongeneral funds to the general fund and reports the exact amount of such transfer within five calendar days of the transfer;

b) No such transfer may be made from retirement or other trust accounts, the State Bar Fund as authorized by § 54.1-3913, Code of Virginia, debt service funds, or federal funds; and

c) The Governor shall include for informative purposes, in the first biennial budget he submits subsequent to the transfer, the amount transferred from each account or fund and recommendations for restoring such amounts.

10. The Director, Department of Planning and Budget, shall make available via electronic means a report of spending authority withheld under the provisions of this subsection to the Chairmen of the Senate Finance and House Appropriations Committees within five calendar days of the action to withhold. Said report shall include the amount withheld by agency and appropriation item.

11. If action to withhold allotments of appropriation under this provision is inadequate to eliminate the imbalance between projected general fund resources and appropriations, the Speaker of the House of Delegates and the President pro tempore of the Senate shall be advised in writing by the Governor, so that they may consider requesting a special session of the General Assembly.

#### § 4-1.03 APPROPRIATION TRANSFERS

##### GENERAL

a. During any fiscal year, the Director, Department of Planning and Budget, may transfer appropriation authority from one state or other agency to another, to effect the following:

- 1) distribution of amounts budgeted in the central appropriation to agencies, or withdrawal of budgeted amounts from agencies in accordance with specific language in the central appropriation establishing reversion clearing accounts;
- 2) distribution of pass-through grants or other funds held by an agency as fiscal agent;
- 3) correction of errors within this act, where such errors have been identified in writing by the Chairmen of the House Appropriations and Senate Finance Committees;
- 4) proper accounting between fund sources 0100 and 0300 in higher education institutions;
- 5) transfers specifically authorized elsewhere in this act or as specified in the Code of Virginia;
- 6) to supplement capital projects in order to realize efficiencies or provide for cost overruns unrelated to changes in size or scope; or
- 7) to administer a program for another agency or to effect budgeted program purposes approved by the General Assembly, pursuant to a signed agreement between the respective agencies.

b. During any fiscal year, the Director, Department of Planning and Budget, may transfer appropriation authority within an agency to effect proper accounting between fund sources and to effect program purposes approved by the General Assembly, unless specifically provided otherwise in this act or as specified in the Code of Virginia. However, appropriation authority for local aid programs and aid to individuals, with the exception of student financial aid, shall not be transferred elsewhere without advance notice to the Chairmen of the House Appropriations and Senate Finance Committees. Further, any transfers between capital projects shall be made only to realize efficiencies or provide for cost overruns unrelated to changes in size or scope.

c.1. In addition to authority granted elsewhere in this act, the Director, Department of Planning and Budget, may transfer operating appropriations authority among sub-agencies within the Judicial System, the Department of Corrections, and the Department of Behavioral Health and Developmental Services to effect changes in operating expense requirements which may occur during the biennium.

2. The Director, Department of Planning and Budget, may transfer appropriations from the Department of Behavioral Health and Developmental Services to the Department of Medical Assistance Services, consisting of the general fund amounts required to match federal funds for reimbursement of services provided by its institutions and Community Services Boards.

3. The Director, Department of Planning and Budget, may transfer appropriations from the Office of Comprehensive Services to the Department of Medical Assistance Services, consisting of the general fund amounts required to match federal funds for reimbursement of services provided to eligible children.

4. The Director, Department of Planning and Budget, may transfer an appropriation or portion thereof within a state or other agency, or from one such agency to another, to support changes in agency organization, program or responsibility enacted by the General Assembly to be effective during the current biennium.

5. The Director, Department of Planning and Budget, may transfer appropriations from the second year to the first year, with said transfer to be reported in writing to the Chairmen of the Senate Finance and House Appropriations Committees within five calendar days of the transfer, when the expenditure of such funds is required to:

- a) address a threat to life, safety, health or property, or

b) provide for unbudgeted cost increases for statutorily required services or federally mandated services, in order to continue those services at the present level, or

c) provide for payment of overtime salaries and wages, when the obligations for payment of such overtime were incurred during a situation deemed threatening to life, safety, health, or property, or

d) provide for payments to the beneficiaries of certain public safety officers killed in the line of duty, as authorized in Title 2.2, Chapter 4, Code of Virginia and for payments to the beneficiaries of certain members of the National Guard and United States military reserves killed in action in any armed conflict on or after October 7, 2001, as authorized in § 44-93.1 B., Code of Virginia, or

e) continue a program at the present level of service or at an increased level of service when required to address unanticipated increases in workload such as enrollment, caseload or like factors, or unanticipated costs, or

f) to address unanticipated business or industrial development opportunities which will benefit the state's economy, provided that any such appropriations be used in a manner consistent with the purposes of the program as originally appropriated.

6. An appropriation transfer shall not occur except through properly executed appropriation transfer documents designed specifically for that purpose, and all transactions effecting appropriation transfers shall be entered in the state's computerized budgeting and accounting systems.

7. The Director, Department of Planning and Budget, may transfer from any other agency, appropriations to supplement any project of the Virginia Public Building Authority authorized by the General Assembly and approved by the Governor. Such capital project shall be transferred to the state agency designated as the managing agency for the Virginia Public Building Authority.

8. In the event of the transition of a city to town status pursuant to the provisions of Chapter 41 of Title 15.2 of the Code of Virginia (§ 15.2-4100 et seq.) or the consolidation of a city and a county into a single city pursuant to the provisions of Chapter 35 of Title 15.2, Code of Virginia (§ 15.2-3500 et seq.) subsequent to July 1, 1999, the provisions of § 15.2-1302 shall govern distributions from state agencies to the county in which the town is situated or to the consolidated city, and the Director, Department of Planning and Budget, is authorized to transfer appropriations or portions thereof within a state agency, or from one such agency to another, if necessary to fulfill the requirements of § 15.2-1302.

#### § 4-1.04 APPROPRIATION INCREASES

##### a. UNAPPROPRIATED NONGENERAL FUNDS:

##### 1. Sale of Surplus Materials:

The Director, Department of Planning and Budget, is hereby authorized to increase the appropriations to any state agency by the amount of credit resulting from the sale of surplus materials under the provisions of § 2.2-1125, Code of Virginia.

##### 2. Insurance Recovery:

The Director, Department of Planning and Budget, shall increase the appropriation authority for any state agency by the amount of the proceeds of an insurance policy or from the State Insurance Reserve Trust Fund, for expenditures as far as may be necessary, to pay for the repair or replacement of lost, damaged or destroyed property, plant or equipment.

##### 3. Gifts, Grants and Other Nongeneral Funds:

a) Subject to § 4-1.02 c, Increased Nongeneral Fund Revenue, and the conditions stated in this section, the Director, Department of Planning and Budget, is hereby authorized to increase the appropriations to any state agency by the amount of the proceeds of donations, gifts, grants or other nongeneral funds paid into the state treasury in excess of such appropriations during a fiscal year. Such appropriations shall be increased only when the expenditure of moneys is authorized elsewhere in this act or is required to:

1) address a threat to life, safety, health or property or

2) provide for unbudgeted increases in costs for services required by statute or services mandated by the federal government, in order to continue those services at the present level or implement compensation adjustments approved by the General Assembly, or

3) provide for payment of overtime salaries and wages, when the obligations for payment of such overtime were incurred during a situation deemed threatening to life, safety, health, or property, or

4) continue a program at the present level of service or at an increased level of service when required to address unanticipated increases in noncredit instruction at institutions of higher education or business and industrial development opportunities which will benefit the state's economy, or

5) participate in a federal or sponsored program provided that the provisions of § 4-5.03 shall also apply to increases in appropriations for additional gifts, grants, and other nongeneral fund revenue which require a general fund match as a condition of

their acceptance; or

6) realize cost savings in excess of the additional funds provided, or

7) permit a state agency or institution to use a donation, gift or grant for the purpose intended by the donor, or

8) provide for cost overruns on capital projects and for capital projects authorized under § 4-4.01 m of this act, or

9) address caseload or workload changes in programs approved by the General Assembly.

b) The above conditions shall not apply to donations and gifts to the endowment funds of institutions of higher education.

c) Each state agency and institution shall ensure that its budget estimates include a reasonable estimate of receipts from donations, gifts or other nongeneral fund revenue. The Department of Planning and Budget shall review such estimates and verify their accuracy, as part of the budget planning and review process.

d) No obligation or expenditure shall be made from such funds until a revised operating budget request is approved by the Director, Department of Planning and Budget. Expenditures from any gift, grant or donation shall be in accordance with the purpose for which it was made; however, expenditures for property, plant or equipment, irrespective of fund source, are subject to the provisions of §§ 4-2.03 Indirect Costs, 4-4.01 Capital Projects General, and 4-5.03 b Services and Clients-New Services, of this act.

e) Nothing in this section shall exempt agencies from complying with § 4-2.01 a Solicitation and Acceptance of Donations, Gifts, Grants, and Contracts of this act.

4. Any nongeneral fund cash balance recorded on the books of the Department of Accounts as unexpended on the last day of the fiscal year may be appropriated for use in the succeeding fiscal year with the prior written approval of the Director, Department of Planning and Budget, unless the General Assembly shall have specifically provided otherwise. Revenues deposited to the Virginia Health Care Fund shall be used only as the state share of Medicaid, unless the General Assembly specifically authorizes an alternate use. With regard to the appropriation of other nongeneral fund cash balances, the Director shall make a listing of such transactions available to the public via electronic means no less than ten business days following the approval of the appropriation of any such balance.

#### 5. Reporting:

The Director, Department of Planning and Budget, shall make available via electronic means a report on increases in unappropriated nongeneral funds in accordance with § 4-8.00, Reporting Requirements, or as modified by specific provisions in this subsection.

#### b. AGRIBUSINESS EQUIPMENT FOR THE DEPARTMENT OF CORRECTIONS

The Director of the Department of Planning and Budget may increase the Department of Corrections appropriation for the purchase of agribusiness equipment or the repair or construction of agribusiness facilities by an amount equal to fifty percent of any annual amounts in excess of fiscal year 1992 deposits to the general fund from agribusiness operations. It is the intent of the General Assembly that appropriation increases for the purposes specified shall not be used to reduce the general fund appropriations for the Department of Corrections.

#### § 4-1.05 REVERSION OF APPROPRIATIONS AND REAPPROPRIATIONS

##### a. GENERAL FUND OPERATING EXPENSE:

1.a) General fund appropriations which remain unexpended on (i) the last day of the previous biennium or (ii) the last day of the first year of the current biennium, shall be reappropriated and allotted for expenditure where required by the Code of Virginia, where necessary for the payment of preexisting obligations for the purchase of goods or services, or where desirable, in the determination of the Governor, to address any of the six conditions listed in § 4-1.03 c.5 of this act or to provide financial incentives to reduce spending to effect current or future cost savings. With the exception of the unexpended general fund appropriations of agencies in the Legislative Department, the Judicial Department, the Independent Agencies, or institutions of higher education, all other such unexpended general fund appropriations unexpended on the last day of the previous biennium or the last day of the first year of the current biennium shall revert to the general fund.

b) General fund appropriations for agencies in the Legislative Department, the Judicial Department, and the Independent Agencies shall be reappropriated, except as may be specifically provided otherwise by the General Assembly. General fund appropriations shall also be reappropriated for institutions of higher education, subject to § 23.1-1002, Code of Virginia.

c) To improve the stability in institutional planning and predictability for students and families to prepare for the cost of higher education, public higher education institutions are encouraged to employ the financial management strategy of establishing an institutional reserve fund supported by any unexpended education and general appropriations of the institution at the end of the fiscal year. The establishment of such a fund is designed to foster more long-term planning, promote efficient resource

utilization and reduce the need for substantial year-to-year increases in tuition, thereby increasing affordability for Virginians. Independent of the provisions of § 23.1-1001, institutions are authorized to carry over education and general unexpended balances to establish and maintain a reserve fund in an amount not to exceed three percent of their general fund appropriation for educational and general programs in the most recently-completed fiscal year. Any use of the reserve fund shall be approved by the Board of Visitors of the affected institution, and the institution shall immediately report the details of the approved plan for use of the reserve fund to the Governor, the Secretary of Education, the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance Committees. Any reserve fund shall be subject to the provisions of § 23.1-1303.B.11.

2. a. The Governor shall report within five calendar days after completing the reappropriation process to the Chairmen of the Senate Finance and House Appropriations Committees on the reappropriated amounts for each state agency in the Executive Department. He shall provide a preliminary report of reappropriation actions on or before November 1 and a final report on or before December 20 to the Chairmen of the House Appropriations and Senate Finance Committees.

b. The Director, Department of Planning and Budget, may transfer reappropriated amounts within an agency to cover nonrecurring costs.

3. Pursuant to subsection E of § 2.2-1125, Code of Virginia, the determination of compliance by an agency or institution with management standards prescribed by the Governor shall be made by the Secretary of Finance and the Secretary having jurisdiction over the agency or institution, acting jointly.

4. The general fund resources available for appropriation in the first enactment of this act include the reversion of certain unexpended balances in operating appropriations as of June 30 of the prior fiscal year, which were otherwise required to be reappropriated by language in the Appropriation Act.

5. Upon request, the Director, Department of Planning and Budget, shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees showing the amount reverted for each agency and the total amount of such reversions.

**b. NONGENERAL FUND OPERATING EXPENSE:**

Based on analysis by the State Comptroller, when any nongeneral fund has had no increases or decreases in fund balances for a period of 24 months, the State Comptroller shall promptly transfer and pay the balance into the fund balance of the general fund. If it is subsequently determined that an appropriate need warrants repayment of all or a portion of the amount transferred, the Director, Department of Planning and Budget shall include repayment in the next budget bill submitted to the General Assembly. This provision does not apply to funds held in trust by the Commonwealth.

**c. CAPITAL PROJECTS:**

1. Upon certification by the Director, Department of Planning and Budget, the State Comptroller is hereby authorized to revert to the fund balance of the general fund any portion of the unexpended general fund cash balance and corresponding appropriation or reappropriation for a capital project when the Director determines that such portion is not needed for completion of the project. The State Comptroller may similarly return to the appropriate fund source any part of the unexpended nongeneral fund cash balance and reduce any appropriation or reappropriation which the Director determines is not needed to complete the project.

2. The unexpended general fund cash balance and corresponding appropriation or reappropriation for capital projects shall revert to and become part of the fund balance of the general fund during the current biennium as of the date the Director, Department of Planning and Budget, certifies to the State Comptroller that the project has been completed in accordance with the intent of the appropriation or reappropriation and there are no known unpaid obligations related to the project. The State Comptroller shall return the unexpended nongeneral fund cash balance, if there be any, for such completed project to the source from which said nongeneral funds were obtained. Likewise, he shall revert an equivalent portion of the appropriation or reappropriation of said nongeneral funds.

3. The Director, Department of Planning and Budget, may direct the restoration of any portion of the reverted amount if he shall subsequently verify an unpaid obligation or requirement for completion of the project. In the case of a capital project for which an unexpended cash balance was returned and appropriation or reappropriation was reverted in the prior biennium, he may likewise restore any portion of such amount under the same conditions.

**§ 4-1.06 LIMITED ADJUSTMENTS OF APPROPRIATIONS**

**a. LIMITED CONTINUATION OF APPROPRIATIONS.**

Notwithstanding any contrary provision of law, any unexpended balances on the books of the State Comptroller as of the last day of the previous biennium shall be continued in force for such period, not exceeding 10 days from such date, as may be necessary in order to permit payment of any claims, demands or liabilities incurred prior to such date and unpaid at the close of business on such date, and shown by audit in the Department of Accounts to be a just and legal charge, for values received as of the last day of the previous biennium, against such unexpended balances.

**b. LIMITATIONS ON CASH DISBURSEMENTS.**

Notwithstanding any contrary provision of law, the State Comptroller may begin preparing the accounts of the Commonwealth for each subsequent fiscal year on or about 10 days before the start of such fiscal year. The books will be open only to enter budgetary transactions and transactions that will not require the receipt or disbursement of funds until after June 30. Should an emergency arise, or in years in which July 1 falls on a weekend requiring the processing of transactions on or before June 30, the State Comptroller may, with notification to the Auditor of Public Accounts, authorize the disbursement of funds drawn against appropriations of the subsequent fiscal year, not to exceed the sum of three million dollars (\$3,000,000) from the general fund. This provision does not apply to debt service payments on bonds of the Commonwealth which shall be made in accordance with bond documents, trust indentures, and/or escrow agreements.

#### § 4-1.07 ALLOTMENTS

Except when otherwise directed by the Governor within the limits prescribed in §§ 4-1.02 Withholding of Spending Authority, 4-1.03 Appropriation Transfers, and 4-1.04 Appropriation Increases of this act, the Director, Department of Planning and Budget, shall prepare and act upon the allotment of appropriations required by this act, and by § 2.2-1819, Code of Virginia, and the authorizations for rates of pay required by this act. Such allotments and authorizations shall have the same effect as if the personal signature of the Governor were subscribed thereto. This section shall not be construed to prohibit an appeal by the head of any state agency to the Governor for reconsideration of any action taken by the Director, Department of Planning and Budget, under this section.

### § 4-2.00 REVENUES

#### § 4-2.01 NONGENERAL FUND REVENUES

##### a. SOLICITATION AND ACCEPTANCE OF DONATIONS, GIFTS, GRANTS, AND CONTRACTS:

1. No state agency shall solicit or accept any donation, gift, grant, or contract without the written approval of the Governor except under written guidelines issued by the Governor which provide for the solicitation and acceptance of nongeneral funds, except that donations or gifts to the Virginia War Memorial Foundation that are small in size and number and valued at less than \$5,000, such as library items or small display items, may be approved by the Executive Director of the Virginia War Memorial in consultation with the Secretary of Veterans Affairs and Homeland Security. All other gifts and donations to the Virginia War Memorial Foundation must receive written approval from the Secretary of Veterans Affairs and Homeland Security.

2. The Governor may issue policies in writing for procedures which allow state agencies to solicit and accept nonmonetary donations, gifts, grants, or contracts except that donations, gifts and grants of real property shall be subject to § 4-4.00 of this act and § 2.2-1149, Code of Virginia. This provision shall apply to donations, gifts and grants of real property to endowment funds of institutions of higher education, when such endowment funds are held by the institution in its own name and not by a separately incorporated foundation or corporation.

3. The preceding subdivisions shall not apply to property and equipment acquired and used by a state agency or institution through a lease purchase agreement and subsequently donated to the state agency or institution during or at the expiration of the lease purchase agreement, provided that the lessor is the Virginia College Building Authority.

4. The use of endowment funds for property, plant or equipment for state-owned facilities is subject to §§ 4-2.03 Indirect Costs, 4-4.01 Capital Projects-General and 4-5.03 Services and Clients of this act.

##### b. HIGHER EDUCATION TUITION AND FEES

1. Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, all nongeneral fund collections by public institutions of higher education, including collections from the sale of dairy and farm products, shall be deposited in the state treasury in accordance with § 2.2-1802, Code of Virginia, and expended by the institutions of higher education in accordance with the appropriations and provisions of this act, provided, however, that this requirement shall not apply to private gifts, endowment funds, or income derived from endowments and gifts.

2. a) The Boards of Visitors or other governing bodies of institutions of higher education may set tuition and fee charges at levels they deem to be appropriate for all resident student groups based on, but not limited to, competitive market rates, provided that the total revenue generated by the collection of tuition and fees from all students is within the nongeneral fund appropriation for educational and general programs provided in this act.

b) The Boards of Visitors or other governing bodies of institutions of higher education may set tuition and fee charges at levels they deem to be appropriate for all nonresident student groups based on, but not limited to, competitive market rates, provided that: i) the tuition and mandatory educational and general fee rates for nonresident undergraduate and graduate students cover at least 100 percent of the average cost of their education, as calculated through base adequacy guidelines adopted, and periodically amended, by the Joint Subcommittee Studying Higher Education Funding Policies, and ii) the total revenue generated by the collection of tuition and fees from all students is within the nongeneral fund appropriation for educational and general programs provided in this act.

c) For institutions charging nonresident students less than 100 percent of the cost of education, the State Council of Higher Education for Virginia may authorize a phased approach to meeting this requirement, when in its judgment, it would result in annual tuition and fee increases for nonresident students that would discourage their enrollment.

d) The Boards of Visitors or other governing bodies of institutions of higher education shall not increase the current proportion of nonresident undergraduate students if the institution's nonresident undergraduate enrollment exceeds 25 percent. Norfolk State University, Virginia Military Institute, Virginia State University, and two-year public institutions are exempt from this restriction.

3. a) In setting the nongeneral fund appropriation for educational and general programs at the institutions of higher education, the General Assembly shall take into consideration the appropriate student share of costs associated with providing full funding of the base adequacy guidelines referenced in subparagraph 2. b), raising average salaries for teaching and research faculty to the 60th percentile of peer institutions, and other priorities set forth in this act.

b) In determining the appropriate state share of educational costs for resident students, the General Assembly shall seek to cover at least 67 percent of educational costs associated with providing full funding of the base adequacy guidelines referenced in subparagraph 2. b), raising average salaries for teaching and research faculty to the 60th percentile of peer institutions, and other priorities set forth in this act.

4. a) Each institution and the State Council of Higher Education for Virginia shall monitor tuition, fees, and other charges, as well as the mix of resident and nonresident students, to ensure that the primary mission of providing educational opportunities to citizens of Virginia is served, while recognizing the material contributions provided by the presence of nonresident students. The State Council of Higher Education for Virginia shall also develop and enforce uniform guidelines for reporting student enrollments and the domiciliary status of students.

b) The State Council of Higher Education for Virginia shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than August 1 of each year the annual change in total charges for tuition and all required fees approved and allotted by the Board of Visitors. As it deems appropriate, the State Council of Higher Education for Virginia shall provide comparative national, peer, and market data with respect to charges assessed students for tuition and required fees at institutions outside of the Commonwealth.

c) Institutions of higher education are hereby authorized to make the technology service fee authorized in Chapter 1042, 2003 Acts of Assembly, part of ongoing tuition revenue. Such revenues shall continue to be used to supplement technology resources at the institutions of higher education.

d) Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, each institution shall work with the State Council of Higher Education for Virginia and the Virginia College Savings Plan to determine appropriate tuition and fee estimates for tuition savings plans.

5. It is the intent of the General Assembly that each institution's combined general and nongeneral fund appropriation within its educational and general program closely approximate the anticipated annual budget each fiscal year.

6. Nonresident graduate students employed by an institution as teaching assistants, research assistants, or graduate assistants and paid at an annual contract rate of \$4,000 or more may be considered resident students for the purposes of charging tuition and fees.

7. The fund source "Higher Education Operating" within educational and general programs for institutions of higher education includes tuition and fee revenues from nonresident students to pay their proportionate share of the amortized cost of the construction of buildings approved by the Commonwealth of Virginia Educational Institutions Bond Act of 1992 and the Commonwealth of Virginia Educational Facilities Bond Act of 2002.

8. a) 1) Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, mandatory fees for purposes other than educational and general programs shall not be increased for Virginia undergraduates beyond three percent annually, excluding requirements for wage, salary, and fringe benefit increases, authorized by the General Assembly. Fee increases required to carry out actions that respond to mandates of federal agencies are also exempt from this provision, provided that a report on the purposes of the amount of the fee increase is submitted to the Chairmen of the House Appropriations and Senate Finance Committees by the institution of higher education at least 30 days prior to the effective date of the fee increase.

2) *The University of Mary Washington is hereby authorized to undertake a review of its tuition and fee structure for the purpose of more closely aligning auxiliary fees, including room, board, and the comprehensive fee, with auxiliary expenditure budgets. Adjustments to mandatory fees in auxiliary programs may exceed three percent subject to annual approval by the University's Board of Visitors to the extent required to effect budgetary alignment of revenues and expenditures. This exemption will be limited to the period beginning in fiscal year 2019-20 and extending through the end of fiscal year 2023-24.*

b) This restriction shall not apply in the following instances: fee increases directly related to capital projects authorized by the General Assembly; fee increases to support student health services; and other fee increases specifically authorized by the General Assembly.

c) Due to the small mandatory non-educational and general program fees currently assessed students in the Virginia Community College System, increases in any one year of no more than \$15 shall be allowed on a cost-justified case-by-case basis, subject to approval by the State Board for Community Colleges.

9. Any institution of higher education granting new tuition waivers to resident or nonresident students not authorized by the Code of Virginia must absorb the cost of any discretionary waivers.

10. Tuition and fee revenues from nonresident students taking courses through Virginia institutions from the Southern Regional Education Board's Southern Regional Electronic Campus must exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this requirement shall be established by the Board of Visitors of the institution.

c. HIGHER EDUCATION PLANNED EXCESS REVENUES:

An institution of higher education, except for those public institutions governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, may generate and retain tuition and fee revenues in excess of those provided in § 4-2.01 b Higher Education Tuition and Fees, subject to the following:

1. Such revenues are identified by language in the appropriations in this act to any such institution.
2. The use of such moneys is fully documented by the institution to the Governor prior to each fiscal year and prior to allotment.
3. The moneys are supplemental to, and not a part of, ongoing expenditure levels for educational and general programs used as the basis for funding in subsequent biennia.
4. The receipt and expenditure of these moneys shall be recorded as restricted funds on the books of the Department of Accounts and shall not revert to the surplus of the general fund at the end of the biennium.
5. Tuition and fee revenues generated by the institution other than as provided herein shall be subject to the provisions of § 4-1.04 a.3 Gifts, Grants, and Other Nongeneral Funds of this act.

§ 4-2.02 GENERAL FUND REVENUE

a. STATE AGENCY PAYMENTS INTO GENERAL FUND:

1. Except as provided in § 4-2.02 a.2., all moneys, fees, taxes, charges and revenues received at any time by the following agencies from the sources indicated shall be paid immediately into the general fund of the state treasury:

a) Marine Resources Commission, from all sources, except:

- 1) Revenues payable to the Public Oyster Rocks Replenishment Fund established by § 28.2-542, Code of Virginia.
- 2) Revenue payable to the Virginia Marine Products Fund established by § 3.2-2705, Code of Virginia.
- 3) Revenue payable to the Virginia Saltwater Recreational Fishing Development Fund established by § 28.2-302.3, Code of Virginia.
- 4) Revenue payable to the Marine Fishing Improvement Fund established by § 28.2-208, Code of Virginia.
- 5) Revenue payable to the Marine Habitat and Waterways Improvement Fund established by § 28.2-1206, Code of Virginia.

b1) Department of Labor and Industry, or any other agency, for the administration of the state labor and employment laws under Title 40.1, Code of Virginia.

2) Department of Labor and Industry, from boiler and pressure vessel inspection certificate fees, pursuant to § 40.1-51.15, Code of Virginia.

c) All state institutions for the mentally ill or intellectually disabled, from fees or per diem paid employees for the performance of services for which such payment is made, except for a fee or per diem allowed by statute to a superintendent or staff member of any such institution when summoned as a witness in any court.

d) Secretary of the Commonwealth, from all sources.

e) The Departments of Corrections and Juvenile Justice, as required by law, including revenues from sales of dairy and other farm products.

f) Auditor of Public Accounts, from charges for audits or examinations when the law requires that such costs be borne by the county, city, town, regional government or political subdivision of such governments audited or examined.

- g) Department of Education, from repayment of student scholarships and loans, except for the cost of such collections.
- h) Department of the Treasury, from the following source:  
Fees collected for handling cash and securities deposited with the State Treasurer pursuant to § 46.2-454, Code of Virginia.
- i) Attorney General, from recoveries of attorneys' fees and costs of litigation.
- j) Department of Social Services, from net revenues received from child support collections after all disbursements are made in accordance with state and federal statutes and regulations, and the state's share of the cost of administering the programs is paid.
- k) Department of General Services, from net revenues received from refunds of overpayments of utilities charges in prior fiscal years, after deduction of the cost of collection and any refunds due to the federal government.
- l) Without regard to paragraph e) above, the following revenues shall be excluded from the requirement for deposit to the general fund and shall be deposited as follows: (1) payments to Virginia Correctional Enterprises shall be deposited into the Virginia Correctional Enterprises Fund; (2) payments to the Departments of Corrections and Juvenile Justice for work performed by inmates, work release prisoners, probationers or wards, which are intended to cover the expenses of these inmates, work release prisoners, probationers, or wards, shall be retained by the respective agencies for their use; and (3) payments to the Departments of Corrections and Juvenile Justice for work performed by inmates in educational programs shall be retained by the agency to increase vocational training activities and to purchase work tools and work clothes for inmates, upon release.
- m) the Department of State Police, from the fees generated by the Firearms Transaction Program Fund, the Concealed Weapons Program, and the Conservator of the Peace Program pursuant to §§ 18.2-308, 18.2-308.2:2 and 19.2-13, Code of Virginia
2. The provisions of § 4-2.02 a.1. State Agency Payments into General Fund shall not apply to proceeds from the sale of surplus materials pursuant to § 2.2-1125, Code of Virginia. However, the State Comptroller is authorized to transfer to the general fund of the state treasury, out of the credits under § 4-1.04 a.1 Unappropriated Nongeneral Funds – Sale of Surplus Materials of this act, sums derived from the sale of materials originally purchased with general fund appropriations. The State Comptroller may authorize similar transfers of the proceeds from the sale of property not subject to § 2.2-1124, Code of Virginia, if said property was originally acquired with general fund appropriations, unless the General Assembly provides otherwise.
- n) Without regard to § 4-2.02 a.1 above, payments to the Treasurer of Virginia assessed to insurance companies for the safekeeping and handling of securities or surety bonds deposited as insurance collateral shall be deposited into the Insurance Collateral Assessment Fund to defray such safekeeping and handling expenses.

#### b. DEFINITION OF GENERAL FUND REVENUE FOR PERSONAL PROPERTY RELIEF ACT

Notwithstanding any contrary provision of law, for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536, Code of Virginia, the term general fund revenues, excluding transfers, is defined as (i) all state taxes, including penalties and interest, required and/or authorized to be collected and paid into the general fund of the state treasury pursuant to Title 58.1, Code of Virginia; (ii) permits, fees, licenses, fines, forfeitures, charges for services, and revenue from the use of money and property required and/or authorized to be paid into the general fund of the treasury; and (iii) amounts required to be deposited to the general fund of the state treasury pursuant to § 4-2.02 a.1., of this act. However, in no case shall (i) lump-sum payments, (ii) one-time payments not generated from the normal operation of state government, or (iii) proceeds from the sale of state property or assets be included in the general fund revenue calculations for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536, Code of Virginia.

#### c. DATE OF RECEIPT OF REVENUES:

All June general fund collections received under Subtitle I of Title 58.1, Code of Virginia, bearing a postmark date or electronic transactions with a settlement or notification date on or before the first business day in July, when June 30 falls on a Saturday or Sunday, shall be considered as June revenue and recorded under guidelines established annually by the Department of Accounts.

#### d. RECOVERIES BY THE OFFICE OF THE ATTORNEY GENERAL

1. As a condition of the appropriation for Item 59 of this Act, there is hereby created the Disbursement Review Committee (the "Committee"), the members of which are the Attorney General, who shall serve as chairman; two members of the House of Delegates appointed by the Speaker of the House; two members of the Senate appointed by the Chairman of the Senate Committee on Rules; and two members appointed by the Governor.
2. Whenever forfeitures are available for distribution by the Attorney General through programs overseen by either the U.S. Department of Justice Asset Forfeiture Program or the U.S. Treasury Executive Office for Asset Forfeiture, by virtue of the Attorney General's participation on behalf of the Commonwealth or on behalf of an agency of the Commonwealth, the Attorney General shall seek input from the Committee, to the extent permissible under applicable federal law and guidelines, for the preparation of a proposed Distribution Plan (the "Plan") regarding the distribution and use of money or property, or both. If a federal entity must approve the Plan for such distribution or use, or both, and does not approve the Plan submitted by the Attorney General, the Plan may be revised if deemed appropriate and resubmitted to the federal entity for approval following notification of the Committee. If

the federal entity approves the original Plan or a revised Plan, the Attorney General shall inform the Committee, and ensure that such money or property, or both, is distributed or used, or both, in a manner that is consistent with the Plan approved by the federal entity. The distribution of any money or property, or both, shall be done in a manner as prescribed by the State Comptroller and consistent with any federal authorization in order to ensure proper accounting on the books of the Commonwealth.

*e. REVENUES GENERATED FROM CLIMATE CHANGE COMPACTS*

*Any revenues generated through participation in any regional climate change compact, including but not limited to the Regional Greenhouse Gas Initiative and the Transportation Climate Initiative, shall be deposited in the general fund and shall not be transferred to any other entity as a condition of such compact nor shall such funds be expended for any projects or programs without the express approval of the General Assembly as evidenced by an appropriation of such funds in a general Appropriation Act with the exception of expenditures required pursuant to any contracts signed prior to the passage of this act by the General Assembly.*

§ 4-2.03 INDIRECT COSTS

a. INDIRECT COST RECOVERIES FROM GRANTS AND CONTRACTS:

Each state agency, including institutions of higher education, which accepts a grant or contract shall recover full statewide and agency indirect costs unless prohibited by the grantor agency or exempted by provisions of this act.

b. AGENCIES OTHER THAN INSTITUTIONS OF HIGHER EDUCATION:

The following conditions shall apply to indirect cost recoveries received by all agencies other than institutions of higher education:

1. The Governor shall include in the recommended nongeneral fund appropriation for each agency in this act the amount which the agency includes in its revenue estimate as an indirect cost recovery. The recommended nongeneral fund appropriations shall reflect the indirect costs in the program incurring the costs.
2. If actual agency indirect cost recoveries exceed the nongeneral fund amount appropriated in this act, the Director, Department of Planning and Budget, is authorized to increase the nongeneral fund appropriation to the agency by the amount of such excess indirect cost recovery. Such increase shall be made in the program incurring the costs.
3. Statewide indirect cost recoveries shall be paid into the general fund of the state treasury, unless the agency is specifically exempted from this requirement by language in this act. Any statewide indirect cost recoveries received by the agency in excess of the exempted sum shall be deposited to the general fund of the state treasury.

c. INSTITUTIONS OF HIGHER EDUCATION:

The following conditions shall apply to indirect cost recoveries received by institutions of higher education:

1. Seventy percent shall be retained by the institution as an appropriation of moneys for the conduct and enhancement of research and research-related requirements. Such moneys may be used for payment of principal of and interest on bonds issued by or for the institution pursuant to § 23.1-1106, Code of Virginia, for any appropriate purpose of the institution, including, but not limited to, the conduct and enhancement of research and research-related requirements.
2. Thirty percent of the indirect cost recoveries for the level of sponsored programs authorized in the appropriations in Part 1 of Chapter 1042 of the Acts of Assembly of 2003, shall be included in the educational and general revenues of the institution to meet administrative costs.
3. Institutions of higher education may retain 100 percent of the indirect cost recoveries related to research grant and contract levels in excess of the levels authorized in Chapter 1042 of the Acts of Assembly of 2003. This provision is included as an additional incentive for increasing externally funded research activities.

d. REPORTS

The Director, Department of Planning and Budget, shall make available via electronic means a report to the Chairmen of the Senate Finance and House Appropriations Committees and the public no later than September 1 of each year on the indirect cost recovery moneys administratively appropriated.

e. REGULATIONS:

The State Comptroller is hereby authorized to issue regulations to carry out the provisions of this subsection, including the establishment of criteria to certify that an agency is in compliance with the provisions of this subsection.

**§ 4-3.00 DEFICIT AUTHORIZATION AND TREASURY LOANS**

## § 4-3.01 DEFICITS

## a. GENERAL:

1. Except as provided in this section no state agency shall incur a deficit. No state agency receiving general fund appropriations under the provisions of this act shall obligate or expend moneys in excess of its general fund appropriations, nor shall it obligate or expend moneys in excess of nongeneral fund revenues that are collected and appropriated.

2. The Governor is authorized to approve deficit funding for a state agency under the following conditions:

a) an unanticipated federal or judicial mandate has been imposed,

b) insufficient moneys are available in the first year of the biennium for start-up of General Assembly-approved action, or

c) delay pending action by the General Assembly at its next legislative session will result in the curtailment of services required by statute or those required by federal mandate or will produce a threat to life, safety, health or property.

d) Such approval by the Governor shall be in writing under the conditions described in § 4-3.02 a Authorized Deficit Loans of this act and shall be promptly communicated to the Chairmen of the House Appropriations and Senate Finance Committees within five calendar days of deficit approval.

3. Deficits shall not be authorized for capital projects.

4. The Department of Transportation may obligate funds in excess of the current biennium appropriation for projects of a capital nature not covered by § 4-4.00 Capital Projects, of this act provided such projects a) are delineated in the Virginia Transportation Six-Year Improvement Program, as approved by the Commonwealth Transportation Board; and b) have sufficient cash allocated to each such project to cover projected costs in each year of the Program; and provided that c) sufficient revenues are projected to meet all cash obligations for such projects as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.

b. UNAUTHORIZED DEFICITS: If any agency contravenes any of the prohibitions stated above, thereby incurring an unauthorized deficit, the Governor is hereby directed to withhold approval of such excess obligation or expenditure. Further, there shall be no reimbursement of said excess, nor shall there be any liability or obligation upon the state to make any appropriation hereafter to meet such unauthorized deficit. Further, those members of the governing board of any such agency who shall have voted therefor, or its head if there be no governing board, making any such excess obligation or expenditure shall be personally liable for the full amount of such unauthorized deficit and, at the discretion of the Governor, shall be deemed guilty of neglect of official duty and be subject to removal therefor. Further, the State Comptroller is hereby directed to make public any such unauthorized deficit, and the Director, Department of Planning and Budget, is hereby directed to set out such unauthorized deficits in the next biennium budget. In addition, the Governor is directed to bring this provision of this act to the attention of the members of the governing board of each state agency, or its head if there be no governing board, within two weeks of the date that this act becomes effective. The governing board or the agency head shall execute and return to the Governor a signed acknowledgment of such notification.

c. TOTAL AUTHORIZED DEFICITS: The amount which the Governor may authorize, under the provisions of this section during the current biennium, to be expended from loans repayable out of the general fund of the state treasury, for all state agencies, or other agencies combined, in excess of general fund appropriations for the current biennium, shall not exceed one and one-half percent (1 1/2%) of the revenues collected and paid into the general fund of the state treasury as defined in § 4-2.02 b. of this act during the last year of the previous biennium and the first year of the current biennium.

d. The Governor shall report any such authorized and unauthorized deficits to the Chairmen of the House Appropriations and Senate Finance Committees within five calendar days of deficit approval. By August 15 of each year, the Governor shall provide a comprehensive report to the Chairmen of the House Appropriations and Senate Finance Committees detailing all such deficits.

## § 4-3.02 TREASURY LOANS

a. AUTHORIZED DEFICIT LOANS: A state agency requesting authorization for deficit spending shall prepare a plan for the Governor's review and approval, specifying appropriate financial, administrative and management actions necessary to eliminate the deficit and to prevent future deficits. If the Governor approves the plan and authorizes a state agency to incur a deficit under the provisions of this section, the amount authorized shall be obtained by the agency by borrowing the authorized amount on such terms and from such sources as may be approved by the Governor. At the close of business on the last day of the current biennium, any unexpended balance of such loan shall be applied toward repayment of the loan, unless such action is contrary to the conditions of the loan approval. The Director, Department of Planning and Budget, shall set forth in the next biennial budget all such loans which require an appropriation for repayment. A copy of the approved plan to eliminate the deficit shall be transmitted to the Chairmen of the House Appropriations and the Senate Finance Committees within five calendar days of approval.

b. ANTICIPATION LOANS: Authorization for anticipation loans are limited to the provisions below.

1.a) When the payment of authorized obligations for operating expenses is required prior to the collection of nongeneral fund

revenues, any state agency may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds; such loans shall not exceed the amount of the anticipated collections of such revenues and shall be repaid only from such revenues when collected.

b) When the payment of authorized obligations for capital expenses is required prior to the collection of nongeneral fund revenues or proceeds from authorized debt, any state agency or body corporate and politic, constituting a public corporation and government instrumentality, may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds; such loans in anticipation of bond proceeds shall not exceed the amount of the anticipated proceeds from debt authorized by the General Assembly and shall be repaid only from such proceeds when collected.

2. Anticipation loans for operating expenses shall be in amounts not greater than the sum identified by the agency as the minimum amount required to meet the projected expenditures. The term of any anticipation loans granted for operating expenses shall not exceed twelve months.

3. Before an anticipation loan for a capital project is authorized, the agency shall develop a plan for financing such capital project; approval of the State Treasurer shall be obtained for all plans to incur authorized debt.

4. Anticipation loans for capital projects shall be in amounts not greater than the sum identified by the agency as required to meet the projected expenditures for the project within the current biennium.

5. To ensure that such loans are repaid as soon as practical and economical, the Department of Planning and Budget shall monitor the construction and expenditure schedules of all approved capital projects that will be paid for with proceeds from authorized debt and have anticipation loans.

6. Unless otherwise prohibited by federal or state law, the State Treasurer shall charge current market interest rates on anticipation loans made for operating purposes and capital projects subject to the following:

a) Anticipation loans for capital projects for which debt service will be paid with general fund appropriations shall be exempt from interest payments on borrowed balances.

b) Interest payments on anticipation loans for nongeneral fund capital projects or nongeneral fund operating expenses shall be made from appropriated nongeneral fund revenues. Such interest shall not be paid with the funds from the anticipation loan or from the proceeds of authorized debt without the approval of the State Treasurer.

c) REPORTING: All outstanding loans shall be reported by the Governor to the Chairmen of the House Appropriations and Senate Finance Committees by August 15 of each year. The report shall include a status of the repayment schedule for each loan.

c. ANTICIPATION LOANS FOR PROJECTS NOT INCLUDED IN THIS ACT OR FOR PROJECTS AUTHORIZED UNDER § 4-4.01M: Authorization for anticipation loans for projects not included in this act or for projects authorized under § 4-4.01 m are limited to the provisions below:

1. Such loans are limited to those projects that shall be repaid from revenues derived from nongeneral fund sources.

2.a) When the payment of authorized obligations for operating expenses is required prior to the collection of nongeneral fund revenues, any state agency may borrow from the state treasury the required sum with the prior written approval of the Secretary of Finance or his designee as to the amount, terms, and sources of such funds. Such loans shall not exceed the amount of the anticipated collections of such nongeneral fund revenues and shall be repaid only from such nongeneral fund revenues when collected.

b) When the payment of obligations for capital expenses for projects authorized under § 4-4.01 m is required prior to the collection of nongeneral fund revenues, any state agency or body corporate and politic, constituting a public corporation and government instrumentality, may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds. Such loans shall be repaid only from nongeneral fund revenues associated with the project.

3. Anticipation loans for operating expenses shall be in amounts not greater than the sum identified by the agency as the minimum amount required to meet projected expenditures. The term of any anticipation loans granted for operating expenses shall not exceed 12 months.

4. Before an anticipation loan is provided for a capital project authorized under § 4-4.01 m, the agency shall develop a plan for repayment of such loan and approval of the Director of the Department of Planning and Budget shall be obtained for all such plans and reported to the Chairman of the House Appropriations and Senate Finance Committees.

5. Anticipation loans for capital projects authorized under § 4-4.01 m shall be in amounts not greater than the sum identified by the agency as required to meet the projected expenditures for the project within the current biennium. Such loans shall be repaid

only from nongeneral fund revenues associated with the project.

6. The State Treasurer shall charge current market interest rates on anticipation loans made for capital projects authorized under § 4-4.01 m. Interest payments on anticipation loans for nongeneral fund capital projects authorized under § 4-4.01 m shall be made from appropriated nongeneral fund revenues. Such interest shall not be paid with the funds from the anticipation loan without the approval of the Director of the Department of Planning and Budget.

a) REPORTING: All outstanding loans shall be reported by the Governor to the Chairmen of the House Appropriations and Senate Finance Committees by August 15 of each year. The report shall include a status of the repayment schedule for each loan.

#### § 4-3.03 CAPITAL LEASES

##### a. GENERAL:

1. As part of their capital budget submission, all agencies and institutions of the Commonwealth proposing building projects that may qualify as capital lease agreements, as defined in Generally Accepted Accounting Principles (GAAP), and that may be supported in whole, or in part, from appropriations provided for in this act, shall submit copies of such proposals to the Directors of the Departments of Planning and Budget and General Services, the State Comptroller, and the State Treasurer. The Secretary of Finance may promulgate guidelines for the review and approval of such requests.

2. The proposals shall be submitted in such form as the Secretary of Finance may prescribe. The Comptroller and the Director, Department of General Services shall be responsible for evaluating the proposals to determine if they qualify as capital lease agreements. The State Treasurer shall be responsible for incorporating existing and authorized capital lease agreements in the annual Debt Capacity Advisory Committee reports.

##### b. APPROVAL OF FINANCINGS:

1. For any project which qualifies as a capital lease, as defined in the preceding subdivisions a 1 and 2, and which is financed through the issuance of securities, the Treasury Board shall approve the terms and structure of such financing pursuant to § 2.2-2416, Code of Virginia.

2. For any project for which costs will exceed \$5,000,000 and which is financed through a capital lease transaction, the Treasury Board shall approve the financing terms and structure of such capital lease in addition to such other reviews and approvals as may be required by law. Prior to consideration by the Treasury Board, the Departments of Accounts, General Services, and Planning and Budget shall notify the Treasury Board upon their approval of any transaction which qualifies as a capital lease under the terms of this section. The State Treasurer shall notify the Chairmen of the House Appropriations and Senate Finance Committees of the action of the Treasury Board as it regards this subdivision within five calendar days of its action.

c. REPORTS: Not later than December 20 of each year, the Secretary of Finance and the Secretary of Administration shall jointly be responsible for providing the Chairmen of the House Appropriations and Senate Finance Committees with recommendations involving proposed capital lease agreements.

d. This section shall not apply to capital leases that are funded entirely with nongeneral fund revenues and are entered into by public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly. Furthermore, the Department of General Services is authorized to enter into capital leases for executive branch agencies provided that the resulting capital lease is funded entirely with nongeneral funds, is approved based on the requirements of § 4-3.03 b.1 and 2 above, and would not be considered tax supported debt of the Commonwealth.

#### § 4-4.00 CAPITAL PROJECTS

##### § 4-4.01 GENERAL

##### a. Definition:

1. Unless defined otherwise, when used in this section, "capital project" or "project" means acquisition of property and new construction and improvements related to state-owned property, plant or equipment (including plans therefor), as the terms "acquisition", "new construction", and "improvements" are defined in the instructions for the preparation of the Executive Budget. "Capital project" or "project" shall also mean any improvements to property leased for use by a state agency, and not owned by the state, when such improvements are financed by public funds, except as hereinafter provided in subdivisions 3 and 4 of this subsection.

2. The provisions of this section are applicable equally to acquisition of property and plant by purchase, gift, or any other means, including the acquisition of property through a lease/purchase contract, regardless of the method of financing or the source of funds. Acquisition of property by lease shall be subject to § 4-3.03 of this act.

3. The provisions of this section shall not apply to property or equipment acquired by lease or improvements to leased property and equipment when the improvements are provided by the lessor pursuant to the terms of the lease and upon expiration of the lease remain the property of the lessor.

4. The provisions of this section shall not apply to property leased by state agencies for the purposes described in §§ 2.2-1151 C and 33.2-1010, Code of Virginia.

b. Notwithstanding any other provisions of law, requests for appropriations for capital projects shall be subject to the following:

1. The agency shall submit a capital project proposal for all requested capital projects. Such proposals shall be submitted to the Director, Department of Planning and Budget, for review and approval in accordance with guidelines prescribed by the director. Projects shall be developed to meet agency functional and space requirements within a cost range comparable to similar public and private sector projects.

2. Except for institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly and Chapters 675 and 685 of the 2009 Acts of Assembly, financings for capital projects shall comply, where applicable, with the Treasury Board Guidelines issued pursuant to § 2.2-2416, Code of Virginia, and any subsequent amendments thereto.

3. As part of any request for appropriations for an armory, the Department of Military Affairs shall obtain a written commitment from the host locality to share in the operating expense of the armory.

c. Each agency head shall provide annually to the Director, Department of Planning and Budget, a report on the use of the maintenance reserve appropriation of the agency in Part 2 of this act. In the use of its maintenance reserve appropriation, an agency shall give first priority to the repair or replacement of roof on buildings under control of the agency. The agency head shall certify in the agency's annual maintenance reserve report that to the best of his or her knowledge, all necessary roof repairs have been accomplished or are in the process of being accomplished. Such roof repairs and replacements shall be in accord with the technical requirements of the Commonwealth's Construction and Professional Services Manual.

d. The Department of Planning and Budget shall review its approach to capital outlay planning and budgeting from time to time and make available via electronic means a report of any proposed change to the Chairmen of the House Appropriations and Senate Finance Committees and the public prior to its implementation. Such report shall include an analysis of the impact of the suggested change on affected agencies and institutions.

e. Nothing in §§ 2-0 and 4-4.00 of this act shall be deemed to override the provisions of §§ 2.2-1132 and 62.1-132.6, Code of Virginia, amended by Chapter 488, 1997 Acts of Assembly, relating to Virginia Port Authority capital projects and procurement activities.

f. Legislative Approval: It is the intent of the General Assembly that, with the exceptions noted in this paragraph and paragraph m, all capital projects to be undertaken by agencies of the Commonwealth, including institutions of higher education, shall be pursuant to approvals by the General Assembly as provided in the Six-Year Capital Outlay Plan established pursuant to § 2.2-1515, et seq., Code of Virginia. Otherwise, the consideration of capital projects shall be limited to:

1. Supplementing projects which have been bid and determined to have insufficient funding to be placed under contract, and

2. Projects declared by the Governor or the General Assembly to be of an emergency nature, which may avoid an increase in cost or otherwise result in a measurable benefit to the state, and/or which are required for the continued use of existing facilities.

3. This paragraph does not prohibit the initiation of projects authorized by § 4-4.01 m hereof, or projects included under the central appropriations for capital project expenses in this act.

g. Preliminary Requirements: In regard to each capital project for which appropriation or reappropriation is made pursuant to this act, or which is hereafter considered by the Governor for inclusion in the Executive Budget, or which is offered as a gift or is considered for purchase, the Governor is hereby required: (1) to determine the urgency of its need, as compared with the need for other capital projects as herein authorized, or hereafter considered; (2) to determine whether the proposed plans and specifications for each capital project are suitable and adequate, and whether they involve expenditures which are excessive for the purposes intended; (3) to determine whether labor, materials, and other requirements, if any, needed for the acquisition or construction of such project can and will be obtained at reasonable cost; and (4) to determine whether or not the project conforms to a site or master plan approved by the agency head or board of visitors of an institution of higher education for a program approved by the General Assembly.

h. Initiation Generally:

1. No architectural or engineering planning for, or construction of, or purchase of any capital project shall be commenced or revised without the prior written approval of the Governor or his designee.

2. The requirements of § 10.1-1190, Code of Virginia, shall be met prior to the release of funds for a major state project, provided, however, that the Governor or his designee is authorized to release from any appropriation for a major state project made pursuant to this act such sum or sums as may be necessary to pay for the preparation of the environmental impact report required by § 10.1-1188, Code of Virginia.

3. The Governor, at his discretion, or his designee may release from any capital project appropriation or reappropriation made pursuant to this act such sum (or sums) as may be necessary to pay for the preparation of plans and specifications by architects and engineers, provided that the estimated cost of the construction covered by such drawings and specifications does not exceed the appropriation therefor; provided, further, however, that the architectural and engineering fees paid on completion of the preliminary design for any such project may be based on such estimated costs as may be approved by the Governor in writing, where it is shown to the satisfaction of the Governor that higher costs of labor or material, or both, or other unforeseen conditions, have made the appropriation inadequate for the completion of the project for which the appropriation was made, and where in the judgment of the Governor such changed conditions justify the payment of architectural or engineering fees based on costs exceeding the appropriation.

4. Architectural or engineering contracts shall not be awarded in perpetuity for capital projects at any state institution, agency or activity.

i. Capital Projects Financed with Bonds: Capital projects proposed to be financed with (i) 9 (c) general obligation bonds or (ii) 9(d) obligations where debt service is expected to be paid from project revenues or revenues of the agency or institution, shall be reviewed as follows:

1. By August 15 of each year, requests for inclusion in the Executive Budget of capital projects to be financed with 9(c) general obligation bonds shall be submitted to the State Treasurer for evaluation of financial feasibility. Submission shall be in accordance with the instructions prescribed by the State Treasurer. The State Treasurer shall distribute copies of financial feasibility studies to the Director, Department of Planning and Budget, the Secretary for the submitting agency or institution, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, State Council of Higher Education for Virginia, if the project is requested by an institution of higher education.

2. By August 15 of each year, institutions shall also prepare and submit copies of financial feasibility studies to the State Council of Higher Education for Virginia for 9(d) obligations where debt service is expected to be paid from project revenues or revenues of the institution. The State Council of Higher Education for Virginia shall identify the impact of all projects requested by the institutions of higher education, and as described in § 4-4.01 j.1. of this act, on the current and projected cost to students in institutions of higher education and the impact of the project on the institution's need for student financial assistance. The State Council of Higher Education for Virginia shall report such information to the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1 of each year.

3. Prior to the issuance of debt for 9(c) general obligation projects, when more than one year has elapsed since the review of financial feasibility specified in § 4-4.01 j 1 above, an updated feasibility study shall be prepared by the agency and reviewed by the State Treasurer prior to requesting the Governor's Opinion of Financial Feasibility required under Article X, Section 9 (c), of the Constitution of Virginia.

j. Transfers to supplement capital projects from nongeneral funds may be made under the conditions set forth in §§ 4-1.03 a, 4-1.04 a.3, and 4-4.01 m of this act.

k.1. Change in Size and Scope: Unless otherwise provided by law, the scope, which is the function or intended use, of any capital project may not be substantively changed, nor its size increased or decreased by more than five percent in size beyond the plans and justification which were the basis for the appropriation or reappropriation in this act or for the Governor's authorization pursuant to § 4-4.01 m of this act. However, this prohibition is not applicable to changes in size and scope required because of circumstances determined by the Governor to be an emergency, or requirements imposed by the federal government when such capital project is for armories or other defense-related installations and is funded in whole or in part by federal funds. Furthermore, this prohibition shall not apply to minor increases, beyond five percent, in square footage determined by the Director, Department of General Services, to be reasonable and appropriate based on a written justification submitted by the agency stating the reason for the increase, with the provision that such increase will not increase the cost of the project beyond the amount appropriated; nor to decreases in size beyond five percent to offset unbudgeted costs when such costs are determined by the Director, Department of Planning and Budget, to be reasonable based on a written justification submitted by the agency specifying the amount and nature of the unbudgeted costs and the types of actions that will be taken to decrease the size of the project. The written justification shall also include a certification, signed by the agency head, that the resulting project will be consistent with the original programmatic intent of the appropriations.

2. If space planning, energy conservation, and environmental standards guides for any type of construction have been approved by the Governor or the General Assembly, the Governor shall require capital projects to conform to such planning guides.

l. Projects Not Included In This Act:

1. Authorization by Governor:

a) The Governor may authorize initiation of, planning for, construction of or acquisition of a nongeneral fund capital project not specifically included in this act or provided for a program approved by the General Assembly through appropriations, under one or more of the following conditions:

- 1) The project is required to meet an emergency situation.
- 2) The project is to be operated as an auxiliary enterprise or sponsored program in an institution of higher education and will be fully funded by revenues of auxiliary enterprises or sponsored programs.
- 3) The project is to be operated as an educational and general program in an institution of higher education and will be fully funded by nongeneral fund revenues of educational and general programs or from private gifts and indirect cost recoveries.
- 4) The project consists of plant or property which has become available or has been received as a gift.
- 5) The project has been recommended for funding by the Tobacco Indemnification and Community Revitalization Commission or the Virginia Tobacco Settlement Foundation.

b) The foregoing conditions are subject to the following criteria:

- 1) Funds are available within the appropriations made by this act (including those subject to §§ 4-1.03 a, 4-1.04 a.3, and 4-2.03) without adverse effect on other projects or programs, or from unappropriated nongeneral fund revenues or balances.
- 2) In the Governor's opinion such action may avoid an increase in cost or otherwise result in a measurable benefit to the state.
- 3) The authorization includes a detailed description of the project, the project need, the total project cost, the estimated operating costs, and the fund sources for the project and its operating costs.
- 4) The Chairmen of the House Appropriations and Senate Finance Committees shall be notified by the Governor prior to the authorization of any capital project under the provisions of this subsection.
- 5) Permanent funding for any project initiated under this section shall only be from nongeneral fund sources.

2. Authorization by Director, Department of Planning and Budget:

a) The Director, Department of Planning and Budget, may authorize initiation of a capital project not included in this act, if the General Assembly has enacted legislation to fund the project from bonds of the Virginia Public Building Authority, Virginia College Building Authority, or from reserves created by refunding of bonds issued by those Authorities.

3. Delegated authorization by Boards of Visitors, Public Institutions of Higher Education:

a) In accordance with § 4-5.06 of this act, the board of visitors of any public institution of higher education that: i) has met the eligibility criteria set forth in Chapters 933 and 945 of the 2005 Acts of Assembly for additional operational and administrative autonomy, including having entered into a memorandum of understanding with the Secretary of Administration for delegated authority of nongeneral fund capital outlay projects, and ii) has received a sum sufficient nongeneral fund appropriation for emergency projects as set out in Part 2: Capital Project Expenses of this act, may authorize the initiation of any capital project that is not specifically set forth in this act provided that the project meets at least one of the conditions and criteria identified in § 4-4.01 m 1 of this act.

b) At least 30 days prior to the initiation of a project under this provision, the board of visitors must notify the Governor and Chairmen of the House Appropriations and Senate Finance Committees and must provide a life-cycle budget analysis of the project. Such analysis shall be in a form to be prescribed by the Auditor of Public Accounts.

c) The Commonwealth of Virginia shall have no general fund obligation for the construction, operation, insurance, routine maintenance, or long-term maintenance of any project authorized by the board of visitors of a public institution of higher education in accordance with this provision.

m. Acquisition, maintenance, and operation of buildings and nonbuilding facilities in colleges and universities shall be subject to the following policies:

1. The anticipated program use of the building or nonbuilding facility should determine the funding source for expenditures for acquisition, construction, maintenance, operation, and repairs.

2. Expenditures for land acquisition, site preparation beyond five feet from a building, and the construction of additional outdoor lighting, sidewalks, outdoor athletic and recreational facilities, and parking lots in the Virginia Community College System shall be made only from appropriated federal funds, Trust and Agency funds, including local government allocations or appropriations, or the proceeds of indebtedness authorized by the General Assembly.

3. The general policy of the Commonwealth shall be that parking services are to be operated as an auxiliary enterprise by all colleges and universities. Institutions should develop sufficient reserves for ongoing maintenance and replacement of parking facilities.

4. Except as provided in paragraph 2 above, expenditures for maintenance, replacement, and repair of outdoor lighting, sidewalks, and other infrastructure facilities may be made from any appropriated funds.

5. Expenditures for operations, maintenance, and repair of athletic, recreational, and public service facilities, both indoor and outdoor, should be from nongeneral funds. However, this condition shall not apply to any indoor recreational facility existing on a community college campus as of July 1, 1988.

6.a.1. At institutions of higher education that have met the eligibility criteria for additional operational and administrative authority as set forth in Chapters 933 and 945 of the 2005 Acts of Assembly or Chapters 824 and 829 of the 2008 Acts of Assembly, any repair, renovation, or new construction project costing up to \$3,000,000 shall be exempt from the capital outlay review and approval process. For purposes of this paragraph, projects shall not include any subset of a series of projects, which in combination would exceed the \$3,000,000 maximum.

2. All state agencies and institutions of higher education shall be exempt from the capital review and approval process for repair, renovation, or new construction projects costing up to \$3,000,000.

b. Blanket authorizations funded entirely by nongeneral funds may be used for 1) renovation and infrastructure projects costing up to \$3,000,000 and 2) the planning of nongeneral fund new construction and renovation projects through bidding, with bid award made after receipt of a construction authorization. The Director, Department of Planning and Budget, may provide exemptions to the threshold.

7. It is the policy of the Commonwealth that the institutions of higher education shall treat the maintenance of their facilities as a priority for the allocation of resources. No appropriations shall be transferred from the "Operation and Maintenance of Plant" subprogram except for closely and definitely related purposes, as approved by the Director, Department of Planning and Budget, or his designee. A report providing the rationale for each approved transfer shall be made to the Chairmen of the House Appropriations and Senate Finance Committees.

n. Legislative Intent and Reporting: Appropriations for capital projects shall be deemed to have been made for purposes which require their expenditure, or being placed under contract for expenditure, during the current biennium. Agencies to which such appropriations are made in this act or any other act are required to report progress as specified by the Governor. If, in the opinion of the Governor, these reports do not indicate satisfactory progress, he is authorized to take such actions as in his judgment may be necessary to meet legislative intent as herein defined. Reporting on the progress of capital projects shall be in accordance with § 4-8.00, Reporting Requirements.

o. No expenditure from a general fund appropriation in this act shall be made to expand or enhance a capital outlay project beyond that anticipated when the project was initially approved by the General Assembly except to comply with requirements imposed by the federal government when such capital project is for armories or other defense-related installations and is funded in whole or in part by federal funds. General fund appropriations in excess of those necessary to complete the project shall not be reallocated to expand or enhance the project, or be reallocated to a different project. The prohibitions in this subsection shall not apply to transfers from projects for which reappropriations have been authorized.

p. Local or private funds to be used for the acquisition, construction or improvement of capital projects for state agency use as owner or lessee shall be deposited into the state treasury for appropriation prior to their expenditure for such projects.

q. State-owned Registered Historic Landmarks: To guarantee that the historical and/or architectural integrity of any state-owned properties listed on the Virginia Landmarks Register and the knowledge to be gained from archaeological sites will not be adversely affected because of inappropriate changes, the heads of those agencies in charge of such properties are directed to submit all plans for significant alterations, remodeling, redecoration, restoration or repairs that may basically alter the appearance of the structure, landscaping, or demolition to the Department of Historic Resources. Such plans shall be reviewed within thirty days and the comments of that department shall be submitted to the Governor through the Department of General Services for use in making a final determination.

r.1. The Governor may authorize the conveyance of any interest in property or improvements thereon held by the Commonwealth to the educational or real estate foundation of any institution of higher education where he finds that such property was acquired with local or private funds or by gift or grant to or for the use of the institution, and not with funds appropriated to the institution by the General Assembly. Any approved conveyance shall be exempt from § 2.2-1156, Code of Virginia, and any other statute concerning conveyance, transfer or sale of state property. If the foundation conveys any interest in the property or any improvements thereon, such conveyance shall likewise be exempt from compliance with any statute concerning disposition of state property. Any income or proceeds from the conveyance of any interest in the property shall be deemed to be local or private funds and may be used by the foundation for any foundation purpose.

2. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly.

s.1. Facility Lease Agreements Involving Institutions of Higher Education: In the case of any lease agreement involving state-owned property controlled by an institution of higher education, where the lease has been entered into consistent with the provisions of § 2.2-1155, Code of Virginia, the Governor may amend, adjust or waive any project review and reporting procedures of Executive agencies as may reasonably be required to promote the property improvement goals for which the lease agreement was developed.

2. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly.

t. Energy-efficiency Projects: Improvements to state-owned properties for the purpose of energy-efficiency shall be treated as follows:

1. Such improvements shall be considered an operating expense, provided that:

a) the scope of the project meets or exceeds the applicable energy-efficiency standards set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), the Illuminating Engineering Society (IES) standard 90.1-1989 and is limited to measures listed in guidelines issued by the Department of General Services;

b) the project is financed consistent with the provisions of § 2.2-2417, Code of Virginia, which requires Treasury Board approval and is executed through a nonprofessional services contract with a vendor approved by the Department of General Services;

c) the scope of work has been reviewed and recommended by the Department of Mines, Minerals and Energy;

d) the total cost does not exceed \$3,000,000; and

e) if the total cost exceeds \$3,000,000, but does not exceed \$7,000,000, the energy savings from the project offset the total cost of the project, including debt service and interest payments.

2. If (a) the total cost of the improvement exceeds \$7,000,000 or (b) the total cost exceeds \$3,000,000, but does not exceed \$7,000,000, and the energy savings from the project do not fully offset the total cost of the project, including debt services and interest payments, the improvement shall be considered a capital expense regardless of the type of improvement and the following conditions must be met:

a) the scope of the project meets or exceeds the applicable energy-efficiency standards set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), the Illuminating Engineering Society (IES) standard 90.1-1989 and is limited to measures listed in guidelines issued by the Department of General Services;

b) the project is financed consistent with the provisions of § 2.2-2417, Code of Virginia, which requires Treasury Board approval and is executed through a nonprofessional services contract with a vendor approved by the Department of General Services;

c) the scope of work has been reviewed and recommended by the Department of Mines, Minerals and Energy;

d) the project has been reviewed by the Department of Planning and Budget; and

e) the project has been approved by the Governor.

3. If the total project exceeds \$250,000, the agency director will submit written notification to the Director, Department of Planning and Budget, verifying that the project meets all of the conditions in subparagraph 1 above.

The provisions of §§ 2.0 and 4-4.01 of this act and the provisions of § 2.2-1132, Code of Virginia, shall not apply to energy conservation projects that qualify as capital expenses.

4. As used in this paragraph, "improvement" does not include (a) constructing, enlarging, altering, repairing or demolishing a building or structure, (b) changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities or sanitary provisions, or (c) removing or disturbing any asbestos-containing materials during demolition, alteration, renovation of or additions to building or structures, If the projected scope of an energy-efficiency project includes any of these elements, it shall be subject to the capital outlay process as set out in this section.

5. The Director, Department of Planning and Budget, shall notify the Chairmen of the House Appropriations and Senate Finance Committees upon the initiation of any energy-efficiency projects under the provisions of this paragraph.

u. No expenditures shall be authorized for the purchase of fee simple title to any real property to be used for a correctional facility or for the actual construction of a correctional facility provided for in this act, or by reference hereto, that involves acquisition or new construction of youth or adult correctional facilities on real property which was not owned by the Commonwealth on January 1, 1995, until the governing body of the county, city or town wherein the project is to be located has adopted a resolution supporting the location of such project within the boundaries of the affected jurisdiction. The foregoing does not prohibit expenditures for site studies, real estate options, correctional facility design and related expenditures.

v. Except for institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594

and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, any alternative financing agreement entered into between a state agency or institution of higher education and a private entity or affiliated foundation must be reviewed and approved by the Treasury Board.

w. Prior to requesting authorization for new dormitory capital projects, institutions of higher education shall conduct a cost study to determine whether an alternative financing arrangement or public-private transaction would provide a more effective option for the construction of the proposed facility. This study shall be submitted to the Department of Planning and Budget as part of the budget development process and shall be evaluated by the Governor prior to submitting his proposed budget.

x. Construction or improvement projects of the Department of Military Affairs are not exempt from the capital outlay review process when the state procurement process is utilized, except for those projects with both an estimated cost of \$3,000,000 or less and are 100 percent federally reimbursed. The Department of Military Affairs shall submit by July 30 of each year to the Department of Planning and Budget a list of such projects that were funded pursuant to this exemption in the previous fiscal year and any projects that would be eligible for such funding in future fiscal years.

#### § 4-4.02 PLANNING AND BUDGETING

a. It shall be the intent of the General Assembly to make biennial appropriations for a capital improvements program sufficient to address the program needs of the Commonwealth. The capital improvements program shall include maintenance and deferred maintenance of the Commonwealth's existing facilities, and of the facility requirements necessary to deliver the programs of state agencies and institutions.

b. In effecting these policies, the Governor shall establish a capital budget plan to address the renewal and replacement of the Commonwealth's physical plant, using such guidelines as recommended by industry or government to maintain the Commonwealth's investment in its property and plant.

### § 4-5.00 SPECIAL CONDITIONS AND RESTRICTIONS ON EXPENDITURES

#### § 4-5.01 TRANSACTIONS WITH INDIVIDUALS

a. SETTLEMENT OF CLAIMS: Whenever a dispute, claim or controversy involving the interest of the Commonwealth is settled pursuant to § 2.2-514, Code of Virginia, payment may be made out of any appropriations, designated by the Governor, to the state agency(ies) which is (are) party to the settlement.

b. STUDENT FINANCIAL ASSISTANCE FOR HIGHER EDUCATION:

1. General:

a) The appropriations made in this act to state institutions of higher education within the Items for student financial assistance may be expended for any one, all, or any combination of the following purposes: grants to undergraduate students enrolled at least one-half time in a degree, certificate, industry-based certification and related programs that do not qualify for other sources of student financial assistance or diploma program; grants to full-time graduate students; graduate assistantships; grants to students enrolled full-time in a dual or concurrent undergraduate and graduate program. The institutions may also use these appropriations for the purpose of supporting work study programs. The institution is required to transfer to educational and general appropriations all funds used for work study or to pay graduate assistantships. Institutions may also contribute to federal or private student grant aid programs requiring matching funds by the institution, except for programs requiring work. The State Council of Higher Education for Virginia shall annually review each institution's plan for the expenditures of its general fund appropriation for undergraduate student financial assistance prior to the start of the fall term to determine program compliance. The institution's plan shall include the institution's assumptions and calculations for determining the cost of attendance, student financial need, and student remaining need as well as an award schedule or description of how funds are awarded. For the purposes of the proposed plan, each community college shall be considered independently. No limitations shall be placed on the awarding of nongeneral fund appropriations made in this act to state institutions of higher education within the Items for student financial assistance other than those found previously in this paragraph and as follows: (i) funds derived from in-state student tuition will not subsidize out-of-state students, (ii) students receiving these funds must be making satisfactory academic progress, (iii) awards made to students should be based primarily on financial need, and (iv) institutions should make larger grant and scholarship awards to students taking the number of credit hours necessary to complete a degree in a timely manner.

b) All awards made to undergraduate students from such Items shall be for Virginia students only and such awards shall offset all, or portions of, the costs of tuition and required fees, and, in the case of students qualifying under subdivision b 2 c)1) hereof, the cost of books. All undergraduate financial aid award amounts funded by this appropriation shall be proportionate to the remaining need of individual students, with students with higher levels of remaining need receiving grants before other students. No criteria other than the need of the student shall be used to determine the award amount. Because of the low cost of attendance and recognizing that federal grants provide a much higher portion of cost than at other institutions, a modified approach and minimum award amount for the neediest VGAP student should be implemented for community college and Richard Bland College students based on remaining need and the combination of federal and grant state aid. Student financial need shall be determined by a need-analysis system approved by the Council.

- c)1) All need-based awards made to graduate students shall be determined by the use of a need-analysis system approved by the Council.
- 2) As part of the six-year financial plans required in the provisions of Chapters 933 and 945 of the 2005 Acts of Assembly, each institution of higher education shall report the extent to which tuition and fee revenues are used to support graduate student aid and graduate compensation and how the use of these funds impacts planned increases in student tuition and fees.
- d) A student who receives a grant under such Items and who, during a semester, withdraws from the institution which made the award must surrender the unearned portion. The institution shall calculate the unearned portion of the award based on the percentage used for federal Return to Title IV program purposes.
- e) An award made under such Items to assist a student in attending an institution's summer session shall be prorated according to the size of comparable awards made in that institution's regular session.
- f) The provisions of this act under the heading "Student Financial Assistance for Higher Education" shall not apply to (1) the soil scientist scholarships authorized under § 23.1-615, Code of Virginia and (2) need-based financial aid programs for industry-based certification and related programs that do not qualify for other sources of student financial assistance, which will be subject to guidelines developed by the State Council of Higher Education for Virginia.
- g) Unless noted elsewhere in this act, general fund awards shall be named "Commonwealth" grants.
- h) Unless otherwise provided by statute, undergraduate awards shall not be made to students seeking a second or additional baccalaureate degree until the financial aid needs of first-degree seeking students are fully met.

#### 2. Grants To Undergraduate Students:

- a) Each institution which makes undergraduate grants paid from its appropriation for student financial assistance shall expend such sums as approved for that purpose by the Council.
- b) A student receiving an award must be duly admitted and enrolled in a degree, certificate or diploma program at the institution making the award, and shall be making satisfactory academic progress as defined by the institution for the purposes of eligibility under Title IV of the federal Higher Education Act, as amended.
- c)1) It is the intent of the General Assembly that students eligible under the Virginia Guaranteed Assistance Program (VGAP) authorized in Title 23.1, Chapter 4.4:2, Code of Virginia, shall receive grants before all other students at the same institution with equivalent remaining need from the appropriations for undergraduate student financial assistance found in Part 1 of this act (service area 1081000 - Scholarships). In each instance, VGAP eligible students shall receive awards greater than other students with equivalent remaining need.
- 2) The amount of each VGAP grant shall vary according to each student's remaining need and the total of tuition, all required fees and the cost of books at the institution the student will attend upon acceptance for admission. The actual amount of the VGAP award will be determined by the proportionate award schedule adopted by each institution; however, those students with the greatest financial need shall be guaranteed an award at least equal to tuition.
- 3) It is the intent of the General Assembly that the Virginia Guaranteed Assistance Program serve as an incentive to financially needy students now attending elementary and secondary school in Virginia to raise their expectations and their academic performance and to consider higher education an achievable objective in their futures.
- 4) Students may not receive a VGAP and a Commonwealth grant in the same semester.

#### 3. Grants To Graduate Students:

- a) An individual award may be based on financial need but may, in addition to or instead of, be based on other criteria determined by the institution making the award. The amount of an award shall be determined by the institution making the award; however, the Council shall annually be notified as to the maximum size of a graduate award that is paid from funds in the appropriation.
- b) A student receiving a graduate award paid from the appropriation must be duly admitted into a graduate degree program at the institution making the award.
- c) Not more than 50 percent of the funds designated by an institution as graduate grants from the appropriation, and approved as such by the Council, shall be awarded to persons not eligible to be classified as Virginia domiciliary resident students except in cases where the persons meet the criteria outlined in § 4-2.01b.6.

4. Matching Funds: Any institution of higher education may, with the approval of the Council, use funds from its appropriation for fellowships and scholarships to provide the institutional contribution to any student financial aid program established by the federal government or private sources which requires the matching of the contribution by institutional funds, except for programs requiring work.

5. Discontinued Loan Program:

a) If any federal student loan program for which the institutional contribution was appropriated by the General Assembly is discontinued, the institutional share of the discontinued loan program shall be repaid to the fund from which the institutional share was derived unless other arrangements for the use of the funds are recommended by the Council and approved by the Department of Planning and Budget. Should the institution be permitted to retain the federal contributions to the program, the funds shall be used according to arrangements authorized by the Council and approved by the Department of Planning and Budget.

b)1) An institution of higher education may discontinue its student loan fund established pursuant to Title 23.1, Chapter 4.01, Code of Virginia. The full amount of cash in such discontinued loan fund shall be paid into the state treasury into a nonrevertible nongeneral fund account. Prior to such payment, the State Comptroller shall verify its accuracy, including the fact that the cash held by the institution in the loan fund will be fully depleted by such payment. The loan fund shall not be reestablished thereafter for that institution.

2) The cash so paid into the state treasury shall be used only for grants to undergraduate and graduate students in the Higher Education Student Financial Assistance program according to arrangements authorized by the Council and approved by the Department of Planning and Budget.

3) Payments on principal and interest of any promissory notes held by the discontinued loan fund shall continue to be received by the institution, which shall deposit such payments in the state treasury to the nonrevertible nongeneral fund account specified in subdivision (1) preceding, to be used for grants as specified in subdivision (2) preceding.

6. Reporting: The Council shall collect student-specific information for undergraduate students as is necessary for the operation of the Student Financial Assistance Program. The Council shall maintain regulations governing the operation of the Student Financial Assistance Program based on the provisions outlined in this section, the Code of Virginia, and State Council policy.

C. PAYMENTS TO CITIZEN MEMBERS OF NONLEGISLATIVE BODIES:

Notwithstanding any other provision of law, executive branch agencies shall not pay compensation to citizen members of boards, commissions, authorities, councils, or other bodies from any fund for the performance of such members' duties in the work of the board, commission, authority, council, or other body.

d. VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

1. Notwithstanding any other provision of law, the Virginia Birth-Related Neurological Injury Compensation Program is authorized to require each admitted claimant's parent or legal guardian to purchase private health insurance (the "primary payer") to provide coverage for the actual medically necessary and reasonable expenses as described in Virginia Code § 38.2-5009(A)(1) that were, or are, incurred as a result of the admitted claimant's birth-related neurological injury and for the admitted claimant's benefit. Provided, however, that the Program shall reimburse, upon receipt of proof of payment, solely the portion of the premiums that is attributable to the admitted claimant's post-admission coverage from the effective date of this provision forward and paid for by the admitted claimant's parent or legal guardian.

2. The State Corporation Commission shall develop a report containing options and recommendations for improving the actuarial soundness of financing for the Virginia Birth-Related Neurological Injury Compensation Program. The report shall be presented to the Governor and Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2017.

§ 4-5.02 THIRD PARTY TRANSACTIONS

a. EMPLOYMENT OF ATTORNEYS:

1.a) All attorneys authorized by this act to be employed by any state agency and all attorneys compensated out of any moneys appropriated in this session of the General Assembly shall be appointed by the Attorney General and be in all respects subject to the provisions of Title 2.2, Chapter 5, Code of Virginia, to the extent not to conflict with Title 12.1, Chapter 4, Code of Virginia; provided, however, that if the Governor certifies the need for independent legal counsel for any Executive Department agency, such agency shall be free to act independently of the Office of the Attorney General in regard to selection, and provided, further, that compensation of such independent legal counsel shall be paid from the moneys appropriated to such Executive Department agency or from the moneys appropriated to the Office of the Attorney General.

b) For purposes of this act, "attorney" shall be defined as an employee or contractor who represents an agency before a court, board or agency of the Commonwealth of Virginia or political subdivision thereof. This term shall not include members of the bar employed by an agency who perform in a capacity that does not require a license to practice law, including but not limited to, instructing, managing, supervising or performing normal or customary duties of that agency.

2. This section does not apply to attorneys employed by state agencies in the Legislative Department, Judicial Department or Independent Agencies.

3. Reporting on employment of attorneys shall be in accordance with § 4-8.00, Reporting Requirements.

4. Notwithstanding § 2.2-510.1 of the Code of Virginia and any other conflicting provision of law, the Virginia Retirement System may enter into agreements to seek i) recovery of investment losses in foreign jurisdictions, and ii) legal advice related to its investments. Any such agreements shall be reported to the Office of the Attorney General as soon as practicable.

b. **STUDIES AND CONSULTATIVE SERVICES REQUIRED BY GENERAL ASSEMBLY:** No expenditure for payments on third party nongovernmental contracts for studies or consultative services shall be made out of any appropriation to the General Assembly or to any study group created by the General Assembly, nor shall any such expenditure for third party nongovernmental contracts be made by any Executive Department agency in response to a legislative request for a study, without the prior approval of two of the following persons: the Chairman of the House Appropriations Committee; the Chairman of the Senate Finance Committee; the Speaker of the House of Delegates; the President pro tempore of the Senate. All such expenditures shall be made only in accordance with the terms of a written contract approved as to form by the Attorney General.

c. **USE OF CONSULTING SERVICES:** All state agencies and institutions of higher education shall make a determination of "return on investment" as part of the criteria for awarding contracts for consulting services.

d. **DEBT COLLECTION SERVICES:**

1. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Virginia Commonwealth University Health System Authority shall have the option to participate in the Office of the Attorney General's debt collection process. Should the Authority choose not to participate, the Authority shall have the authority to collect its accounts receivable by engaging private collection agents and attorneys to pursue collection actions, and to independently compromise, settle, and discharge accounts receivable claims.

2. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the University of Virginia Medical Center shall have the authority to collect its accounts receivable by engaging private collection agents and attorneys to pursue collection actions, and to independently compromise, settle, and discharge accounts receivable claims, provided that the University of Virginia demonstrates to the Secretary of Finance that debt collection by an agent other than the Office of the Attorney General is anticipated to be more cost effective. Nothing in this paragraph is intended to limit the ability of the University of Virginia Medical Center from voluntarily contracting with the Office of the Attorney General's Division of Debt Collection in cases where the Center would benefit from the expertise of legal counsel and collection services offered by the Office of the Attorney General.

3. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Department of Taxation shall be exempt from participating in the debt collection process of the Office of the Attorney General.

#### § 4-5.03 SERVICES AND CLIENTS

a. **CHANGED COST FACTORS:**

1. No state agency, or its governing body, shall alter factors (e.g., qualification level for receipt of payment or service) which may increase the number of eligible recipients for its authorized services or payments, or alter factors which may increase the unit cost of benefit payments within its authorized services, unless the General Assembly has made an appropriation for the cost of such change.

2. Notwithstanding any other provision of law, the Department of Planning and Budget, with assistance from agencies that operate internal service funds as requested, shall establish policies and procedures for annually reviewing and approving internal service fund overhead surcharge rates and working capital reserves.

3. By September 1 each year, state agencies that operate an internal service fund, pursuant to §§ 2.2-803, 2.2-1101, and 2.2-2013, Code of Virginia, that have an impact on agency expenditures, shall submit a report to the Department of Planning and Budget and the Joint Legislative Audit and Review Commission to include all information as required by the Department of Planning and Budget to conduct a thorough review of overhead surcharge rates, revenues, expenditures, full-time positions, and working capital reserves for each internal service fund. The report shall include any proposed modifications in rates to be charged by internal service funds for review and approval by the Department of Planning and Budget. In its review, the Department of Planning and Budget shall determine whether the requested rate modifications are consistent with budget assumptions. The format by which agencies submit the operating plan for each internal service fund shall be determined by the Department of Planning and Budget with assistance from agencies that operate internal service funds as requested.

4. State agencies that operate internal service funds may not change a billable overhead surcharge rate to another state agency unless the resulting change is provided in the final General Assembly enacted budget.

5. State agencies that operate more than one internal service fund shall comply with the review and approval requirements detailed in this Item for each internal service fund.

6. As determined by the Director, Department of Planning and Budget, state agencies that operate select programs where an

agency provides a service to and bills other agencies shall be subject to the annual review of the agency's internal service funds consistent with the provisions of this Item, unless such payment for services is pursuant to a memorandum of understanding authorized by § 4-1.03 a. 7 of this act.

7. The Governor is authorized to change internal service fund overhead surcharge rates, including the creation of new rates, beyond the rates enacted in the budget in the event of an emergency or to implement actions approved by the General Assembly, upon prior notice to the Chairmen of the House Appropriations and Senate Finance Committees. Such prior notice shall be no less than five days prior to enactment of a revised or new rate and shall include the basis of the rate change and the impact on state agencies.

8. Notwithstanding any other provision of law, the Commonwealth's statewide electronic procurement system and program known as eVA shall have all rates and working capital reserves reviewed and approved by the Department of Planning and Budget consistent with the provisions of this Item.

9. State agencies that are partially or fully funded with nongeneral funds and are billed for services provided by another state agency shall pay the nongeneral fund cost for the service from the agency's applicable nongeneral fund revenue source consistent with an appropriation proration of such expenses.

b. NEW SERVICES:

1. No state agency shall begin any new service that will call for future additional property, plant or equipment or that will require an increase in subsequent general or nongeneral fund operating expenses without first obtaining the authorization of the General Assembly.

2. Pursuant to the policies and procedures of the State Council of Higher Education regarding approval of academic programs and the concomitant enrollment, no state institution of higher education shall operate any academic program with funds in this act unless approved by the Council and included in the Executive Budget, or approved by the General Assembly. The Council may grant exemptions to this policy in exceptional circumstances.

3. a) The General Assembly is supportive of the increasing commitment by both Virginia Tech and the Carilion Clinic to the success of the programs at the Virginia Tech/Carilion School of Medicine and the Virginia Tech/Carilion Research Institute, and encourages these two institutions to pursue further developments in their partnership. Therefore, notwithstanding § 4-5.03 c. of the Appropriation Act, if through the efforts of these institutions to further strengthen the partnership, Virginia Tech acquires the Virginia Tech Carilion School of Medicine during the current biennium, the General Assembly approves the creation and establishment of the Virginia Tech/Carilion School of Medicine within the institution notwithstanding § 23.1-203 Code of Virginia. No additional funds are required to implement establishment of the Virginia Tech/Carilion School of Medicine within the institution.

b) Virginia Tech Carilion School of Medicine is hereby authorized to transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to the teaching hospital affiliated with the Virginia Tech Carilion School of Medicine. These Medicaid supplemental fee-for-service and/or capitation payments to managed care organizations are for the purpose of securing access to Medicaid hospital services in Western Virginia. The funds to be transferred must comply with 42 CFR 433.51.

4. Reporting on all new services shall be in accordance with § 4-8.00, Reporting Requirements.

c. OFF-CAMPUS SITES OF INSTITUTIONS OF HIGHER EDUCATION:

No moneys appropriated by this act shall be used for off-campus sites unless as provided for in this section.

1. A public college or university seeking to create, establish, or operate an off-campus instructional site, funded directly or indirectly from the general fund or with revenue from tuition and mandatory educational and general fees generated from credit course offerings, shall first refer the matter to the State Council of Higher Education for Virginia for its consideration and approval. The State Council of Higher Education for Virginia may provide institutions with conditional approval to operate the site for up to one year, after which time the college or university must receive approval from the Governor and General Assembly, through legislation or appropriation, to continue operating the site.

2. For the colleges of the Virginia Community College System, the State Board for Community Colleges shall be responsible for approving off-campus locations. Sites governed by this requirement are those at any locations not contiguous to the main campus of the institution, including locations outside Virginia.

3. a) The provisions herein shall not apply to credit offerings on the site of a public or private entity if the offerings are supported entirely with private, local, or federal funds or revenue from tuition and mandatory educational and general fees generated entirely by course offerings at the site.

b) Offerings at previously approved off-campus locations shall also not be subject to these provisions.

c) Further, the provisions herein do not govern the establishment and operations of campus sites with a primary function of carrying out grant and contract research where direct and indirect costs from such research are covered through external funding sources.

Such locations may offer limited graduate education as appropriate to support the research mission of the site.

d) Nothing herein shall prohibit an institution from offering non-credit continuing education programs at sites away from the main campus of a college or university.

4. The State Council of Higher Education shall establish guidelines to implement this provision.

#### d. PERFORMANCE MEASUREMENT

1. In accordance with § 2.2-1501, Code of Virginia, the Department of Planning and Budget shall develop a programmatic budget and accounting structure for all new programs and activities to ensure that it provides the appropriate financial and performance measures to determine if programs achieve desired results and outcomes. The Department of Accounts shall provide assistance as requested by the Department of Planning and Budget. The Department of Planning and Budget shall provide this information each year when the Governor submits the budget in accordance with § 2.2-1509, Code of Virginia, to the Chairmen of the House Appropriations, House Finance, and Senate Finance Committees.

2.a) Within thirty days of the enactment of this act, the Director, Department of Planning and Budget, shall make available via electronic means to the Chairmen of the House Appropriations and Senate Finance Committees and the public a list of the new initiatives for which appropriations are provided in this act.

b) Not later than ninety days after the end of the first year of the biennium, the Director, Department of Planning and Budget, shall make available via electronic means a report on the performance of each new initiative contained in the list, to be submitted to the Chairmen of the House Appropriations and Senate Finance Committees and the public. The report shall compare the actual results, including expenditures, of the initiative with the anticipated results and the appropriation for the initiative. This information shall be used to determine whether the initiative should be extended beyond the beginning period. In the preparation of this report, all state agencies shall provide assistance as requested by the Department of Planning and Budget.

### § 4-5.04 GOODS AND SERVICES

#### a. STUDENT ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION:

1. Public Information Encouraged: Each public institution of higher education is expected and encouraged to provide prospective students with accurate and objective information about its programs and services. The institution may use public funds under the control of the institution's Board of Visitors for the development, preparation and dissemination of factual information about the following subjects: academic programs; special programs for minorities; dates, times and procedures for registration; dates and times of course offerings; admission requirements; financial aid; tuition and fee schedules; and other information normally distributed through the college catalog. This information may be presented in any and all media, such as newspapers, magazines, television or radio where the information may be in the form of news, public service announcements or advertisements. Other forms of acceptable presentation would include brochures, pamphlets, posters, notices, bulletins, official catalogs, flyers available at public places and formal or informal meetings with prospective students.

2. Excessive Promotion Prohibited: Each public institution of higher education is prohibited from using public funds under the control of the institution's Board of Visitors for the development, preparation, dissemination or presentation of any material intended or designed to induce students to attend by exaggerating or extolling the institution's virtues, faculty, students, facilities or programs through the use of hyperbole. Artwork and photographs which exaggerate or extol rather than supplement or complement permissible information are prohibited. Mass mailings are generally prohibited; however, either mass mailings or newspaper inserts, but not both, may be used if other methods of distributing permissible information are not economically feasible in the institution's local service area.

3. Remedial Education: Senior institutions of higher education shall make arrangements with community colleges for the remediation of students accepted for admission by the senior institutions.

4. Compliance: The president or chancellor of each institution of higher education is responsible for the institution's compliance with this subsection.

#### b. INFORMATION TECHNOLOGY FACILITIES AND SERVICES:

1.a) The Virginia Information Technologies Agency shall procure information technology and telecommunications goods and services of every description for its own benefit or on behalf of other state agencies and institutions, or authorize other state agencies or institutions to undertake such procurements on their own.

b) Except for research projects, research initiatives, or instructional programs at public institutions of higher education, or any non-major information technology project request from the Virginia Community College System, Longwood University, or from an institution of higher education which is a member of the Virginia Association of State Colleges and University Purchasing Professionals (VASCUPP) as of July 1, 2003, or any procurement of information technology and telecommunications goods and services by public institutions of higher education governed by some combination of Chapters

933 and 945 of the 2005 Acts of Assembly, Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, requests for authorization from state agencies and institutions to procure information technology and telecommunications goods and services on their own behalf shall be made in writing to the Chief Information Officer or his designee. Members of VASCUPP as of July 1, 2003, are hereby recognized as: The College of William and Mary, George Mason University, James Madison University, Old Dominion University, Radford University, Virginia Commonwealth University, Virginia Military Institute, Virginia Polytechnic Institute and State University, and the University of Virginia.

c) The Chief Information Officer or his designee may grant the authorization upon a written determination that the request conforms to the statewide information technology plan and the individual information technology plan of the requesting agency or institution.

d) Any procurement authorized by the Chief Information Officer or his designee for information technology and telecommunications goods and services, including geographic information systems, shall be issued by the requesting state agency or institution in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.

e) Nothing in this subsection shall prevent public institutions of higher education or the Virginia Community College System from using the services of Network Virginia.

f) To ensure that the Commonwealth's research universities maintain a competitive position with access to the national optical research network infrastructure including the National LambdaRail and Internet2, the Network Virginia Contract Administrator is hereby authorized to renegotiate the term of the existing contracts. Additionally, the contract administrator is authorized to competitively negotiate additional agreements in accordance with the Code of Virginia and all applicable regulations, as required, to establish and maintain research network infrastructure.

2. If the billing rates and associated systems for computer, telecommunications and systems development services to state agencies are altered, the Director, Department of Planning and Budget, may transfer appropriations from the general fund between programs affected. These transfers are limited to actions needed to adjust for overfunding or underfunding the program appropriations affected by the altered billing systems.

3. The provisions of this subsection shall not in any way affect the duties and responsibilities of the State Comptroller under the provisions of § 2.2-803, Code of Virginia.

4. It is the intent of the General Assembly that information technology (IT) systems, products, data, and service costs, including geographic information systems (GIS), be contained through the shared use of existing or planned equipment, data, or services which may be available or soon made available for use by state agencies, institutions, authorities, and other public bodies. State agencies, institutions, and authorities shall cooperate with the Virginia Information Technologies Agency in identifying the development and operational requirements for proposed IT and GIS systems, products, data, and services, including the proposed use, functionality, capacity and the total cost of acquisition, operation and maintenance.

5. This section shall not apply to public institutions of higher education governed by some combination of Chapters 933 and 945 of the 2005 Acts of Assembly, Chapters 933 and 943 of the 2006 Acts of Assembly or Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly and Chapters 675 and 685 of the 2009 Acts of Assembly, or to the Virginia Alcoholic Beverage Control Authority.

6. Notwithstanding any other provision of law, state agencies that do not receive computer services from the Virginia Information Technologies Agency may develop their own policies and procedures governing the sale of surplus computers and laptops to their employees or officials. Any proceeds from the sale of surplus computers or laptops shall be deposited into the appropriate fund or funds used to purchase the equipment.

**c. MOTOR VEHICLES AND AIRCRAFT:**

1. No motor vehicles shall be purchased or leased with public funds by the state or any officer or employee on behalf of the state without the prior written approval of the Director, Department of General Services.

2. The institutions of higher education and the Alcoholic Beverage Control Authority shall be exempt from this provision but shall be required to report their entire inventory of purchased and leased vehicles including the cost of such to the Director of the Department of General Services by June 30 of each year. The Director of the Department of General Services shall compare the cost of vehicles acquired by institutions of higher education and the Authority to like vehicles under the state contract. If the comparison demonstrates for a given institution or the Authority that the cost to the Commonwealth is greater for like vehicles than would be the case based on a contract of statewide applicability, the Governor or his designee may suspend the exemption granted to the institution or the Authority pursuant to this subparagraph c.

3. The Director, Department of General Services, is hereby authorized to transfer surplus motor vehicles among the state agencies, and determine the value of such surplus equipment for the purpose of maintaining the financial accounts of the state agencies affected by such transfers.

**d. MOTION PICTURE, TELEVISION AND RADIO SERVICES PRODUCTION:** Except for public institutions of higher

education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, no state Executive Department agency or the Virginia Lottery Department shall expend any public funds for the production of motion picture films or of programs for television transmission, or for the operation of television or radio transmission facilities, without the prior written approval of the Governor or as otherwise provided in this act, except for educational television programs produced for elementary-secondary education by authority of the Virginia Information Technologies Agency. The Joint Subcommittee on Rules is authorized to provide the approval of such expenditures for legislative agencies. For judicial agencies and independent agencies, other than the Virginia Lottery Department, prior approval action rests with the supervisory bodies of these entities. With respect to television programs which are so approved and other programs which are otherwise authorized or are not produced for television transmission, state agencies may enter into contracts without competitive sealed bidding, or competitive negotiation, for program production and transmission services which are performed by public telecommunications entities, as defined in § 2.2-2006, Code of Virginia.

e. TRAVEL: Reimbursement for the cost of travel on official business of the state government is authorized to be paid pursuant to law and regulations issued by the State Comptroller to implement such law. Notwithstanding any contrary provisions of law:

1. For the use of personal automobiles in the discharge of official duties outside the continental limits of the United States, the State Comptroller may authorize an allowance not exceeding the actual cost of operation of such automobiles;

2. The first 15,000 miles of use during each fiscal year of personal automobiles in the discharge of official duties within the continental limits of the United States shall be reimbursed at an amount equal to the most recent business standard mileage rate as established by the Internal Revenue Service for employees or self-employed individuals to use in computing their income tax deductible costs for operating passenger vehicles owned or leased by them for business purposes, or in the instance of a state employee, at the lesser of (a) the IRS rate or (b) the lowest combined capital and operational trip pool rate charged by the Department of General Services, Office of Fleet Management Services (OFMS), posted on the OFMS website at time of travel, for the use of a compact state-owned vehicle. If the head of the state agency concerned certifies that a state-owned vehicle was not available, or if, according to regulations issued by the State Comptroller, the use of a personal automobile in lieu of a state-owned automobile is considered to be an advantage to the state, the reimbursement shall be at the rate of the IRS rate. For such use in excess of 15,000 miles in each fiscal year, the reimbursement shall be at a rate of 13.0 cents per mile, unless a state-owned vehicle is not available; then the rate shall be the IRS rate;

3. The State Comptroller may authorize exemptions to restrictions upon use of common carrier accommodations;

4. The State Comptroller may authorize reimbursement by per diem in lieu of actual costs of meals and any other expense category deemed necessary for the efficient and effective operation of state government;

5. State employees traveling on official business of state government shall be reimbursed for their travel costs using the same bank account authorized by the employee in which their net pay is direct deposited; and

6. This section shall not apply to members and employees of public school boards.

f. SMALL PURCHASE CHARGE CARD, ELECTRONIC DATA INTERCHANGE, DIRECT DEPOSIT, AND PAYLINE OPT OUT: The State Comptroller is hereby authorized to charge state agencies a fee of \$5 per check or earnings notice when, in his judgment, agencies have failed to comply with the Commonwealth's electronic commerce initiatives to reduce unnecessary administrative costs for the printing and mailing of state checks and earning notices. The fee shall be collected by the Department of Accounts through accounting entries.

g. PURCHASES OF APPLIANCES AND EQUIPMENT: State agencies and institutions shall purchase Energy Star rated appliances and equipment in all cases where such appliances and equipment are available.

h. ELECTRONIC PAYMENTS: Any recipient of payments from the State Treasury who receives six or more payments per year issued by the State Treasurer shall receive such payments electronically. The State Treasurer shall decide the appropriate method of electronic payment and, through his warrant issuance authority, the State Comptroller shall enforce the provisions of this section. The State Comptroller is authorized to grant administrative relief to this requirement when circumstances justify non-electronic payment.

i. LOCAL AND NON-STATE SAVINGS AND EFFICIENCIES: It is the intent of the General Assembly that State agencies shall encourage and assist local governments, school divisions, and other non-state governmental entities in their efforts to achieve cost savings and efficiencies in the provision of mandated functions and services including but not limited to finance, procurement, social services programs, and facilities management.

j. TELECOMMUNICATION SERVICES AND DEVICES:

1. The Chief Information Officer and the State Comptroller shall develop statewide requirements for the use of cellular telephones and other telecommunication devices by in-scope Executive Department agencies, addressing the assignment, evaluation of need, safeguarding, monitoring, and usage of these telecommunication devices. The requirements shall include an acceptable use agreement template clearly defining an employee's responsibility when they receive and use a telecommunication device. Statewide requirements shall require some form of identification on a device in case it is lost or

stolen and procedures to wipe the device clean of all sensitive information when it is no longer in use.

2. In-scope Executive Department agencies providing employees with telecommunication devices shall develop agency-specific policies, incorporating the guidance provided in § 4-5.04 k. 1. of this act and shall maintain a cost justification for the assignment or a public health, welfare and safety need.

3. The Chief Information Officer shall determine the optimal number of telecommunication vendors and plans necessary to meet the needs of in-scope Executive Department agency personnel. The Chief Information Officer shall regularly procure these services and provide statewide contracts for use by all such agencies. These contracts shall require the vendors to provide detailed usage information in a useable electronic format to enable the in-scope agencies to properly monitor usage to make informed purchasing decisions and minimize costs.

4. The Chief Information Officer shall examine the feasibility of providing tools for in-scope Executive Department agencies to analyze usage and cost data to assist in determining the most cost effective plan combinations for the entity as a whole and individual users.

k. **ALTERNATIVE PROCUREMENT:** If any payment is declared unconstitutional for any reason or if the Attorney General finds in a formal, written, legal opinion that a payment is unconstitutional, in circumstances where a good or service can constitutionally be the subject of a purchase, the administering agency of such payment is authorized to use the affected appropriation to procure, by means of the Commonwealth's Procurement Act, goods and services, which are similar to those sought by such payment in order to accomplish the original legislative intent.

l. **MEDICAL SERVICES:** No expenditures from general or nongeneral fund sources may be made out of any appropriation by the General Assembly for providing abortion services, except otherwise as required by federal law **or state statute**.

m. **BODY-WORN CAMERAS:** *No expenditures from general or nongeneral fund sources may be made by any state agency or authority for the purchase or implementation of body-worn cameras or body-worn camera systems.*

#### § 4-5.05 NONSTATE AGENCIES, INTERSTATE COMPACTS AND ORGANIZATIONAL MEMBERSHIPS

a. The accounts of any agency, however titled, which receives funds from this or any other appropriating act, and is not owned or controlled by the Commonwealth of Virginia, shall be subject to audit or shall present an audit acceptable to the Auditor of Public Accounts when so directed by the Governor or the Joint Legislative Audit and Review Commission.

b.1. For purposes of this subsection, the definition of "nonstate agency" is that contained in § 2.2-1505, Code of Virginia.

2. Allotment of appropriations to nonstate agencies shall be subject to the following criteria:

a) Such agency is located in and operates in Virginia.

b) The agency must be open to the public or otherwise engaged in activity of public interest, with expenditures having actually been incurred for its operation.

3. No allotment of appropriations shall be made to a nonstate agency until such agency has certified to the Secretary of Finance that cash or in-kind contributions are on hand and available to match equally all or any part of an appropriation which may be provided by the General Assembly, unless the organization is specifically exempted from this requirement by language in this act. Such matching funds shall not have been previously used to meet the match requirement in any prior appropriation act.

4. Operating appropriations for nonstate agencies equal to or in excess of \$150,000 shall be disbursed to nonstate agencies in twelve or fewer equal monthly installments depending on when the first payment is made within the fiscal year. Operating appropriations for nonstate agencies of less than \$150,000 shall be disbursed in one payment once the nonstate agency has successfully met applicable match and application requirements.

5. The provisions of § 2.2-4343 A 14, Code of Virginia shall apply to any expenditure of state appropriations by a nonstate agency.

c.1. Each interstate compact commission and each organization in which the Commonwealth of Virginia or a state agency thereof holds membership, and the dues for which are provided in this act or any other appropriating act, shall submit its biennial budget request to the state agency under which such commission or organization is listed in this act. The state agency shall include the request of such commission or organization within its own request, but identified separately. Requests by the commission or organization for disbursements from appropriations shall be submitted to the designated state agency.

2. Each state agency shall submit by November 1 each year, a report to the Director, Department of Planning and Budget, listing the name and purpose for organizational memberships held by that agency with annual dues of \$5,000 or more. The institutions of higher education shall be exempt from this reporting requirement.

#### § 4-5.06 DELEGATION OF AUTHORITY

a. The designation in this act of an officer or agency head to perform a specified duty shall not be deemed to supersede the authority

of the Governor to delegate powers under the provisions of § 2.2-104 , Code of Virginia.

b. The nongeneral fund capital outlay decentralization programs initiated pursuant to § 4-5.08b of Chapter 912, 1996 Acts of Assembly as continued in subsequent appropriation acts are hereby made permanent. Decentralization programs for which institutions have executed memoranda of understanding with the Secretary of Administration pursuant to the provisions of § 4-5.08b of Chapter 912, 1996 Acts of Assembly shall no longer be considered pilot projects, and shall remain in effect until revoked.

c. Institutions wishing to participate in a nongeneral fund capital outlay decentralization program for the first time shall submit a letter of interest to the appropriate Cabinet Secretary. Within 90 calendar days of the receipt of the institution's request to participate, the responsible Cabinet Secretary shall determine whether the institution meets the eligibility criteria and, if appropriate, establish a decentralization program at the institution. The Cabinet Secretary shall report to the Governor and Chairmen of the Senate Finance and House Appropriations Committees by December 1 of each year all institutions that have applied for inclusion in a decentralization program and whether the institutions have been granted authority to participate in the decentralization program.

d. The provisions identified in § 4-5.08 f and § 4-5.08 h of Chapter 1042 of the Acts of Assembly of 2003 pertaining to pilot programs for selected capital outlay projects and memoranda of understanding in institutions of higher education are hereby continued. Notwithstanding these provisions, those projects shall be insured through the state's risk management liability program.

e. If during an independent audit conducted by the Auditor of Public Accounts, the audit discloses that an institution is not performing within the terms of the memoranda of understanding or their addenda, the Auditor shall report this information to the Governor, the responsible Cabinet Secretary, and the Chairmen of the Senate Finance and House Appropriations Committees.

f. Institutions that have executed memoranda of understanding with the Secretary of Administration for nongeneral fund capital outlay decentralization programs are hereby granted a waiver from the provisions of § 2.2-4301, Competitive Negotiation, subdivision 3a, Code of Virginia, regarding the not to exceed amount of \$100,000 for a single project, the not to exceed sum of \$500,000 for all projects performed, and the option to renew for two additional one-year terms.

g. Notwithstanding any contrary provision of law or this act, delegations of authority in this act to the Governor shall apply only to agencies and personnel within the Executive Department, unless specifically stated otherwise.

h. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly.

#### § 4-5.07 LEASE, LICENSE OR USE AGREEMENTS

a. Agencies shall not acquire or occupy real property through lease, license or use agreement until the agency certifies to the Director, Department of General Services, that (i) funds are available within the agency's appropriations made by this act for the cost of the lease, license or use agreement and (ii) except for good cause as determined by the Department of General Services, the volume of such space conforms with the space planning procedures for leased facilities developed by the Department of General Services and approved by the Governor. The Department of General Services shall acquire and hold such space for use by state departments, agencies and institutions within the Executive Branch and may utilize brokerage services, portfolio management strategies, strategic planning, transaction management, project and construction management, and lease administration strategies consistent with industry best practices as adopted by the Department from time to time. These provisions may be waived in writing by the Director, Department of General Services. However, these provisions shall not apply to institutions of higher education that have met the conditions prescribed in subsection B of § 23.1-1006, Code of Virginia.

b. Agencies acquiring personal property in accordance with § 2.2-2417, Code of Virginia, shall certify to the State Treasurer that funds are available within the agency's appropriations made by this act for the cost of the lease.

#### § 4-5.08 SEMICONDUCTOR MANUFACTURING PERFORMANCE GRANT PROGRAMS

a. The Comptroller shall not draw any warrants to issue checks for semiconductor manufacturing performance grant programs, pursuant to Title 59.1, Chapter 22.3, Code of Virginia, without a specific legislative appropriation. The appropriation shall be in accordance with the terms and conditions set forth in a memorandum of understanding between a qualified manufacturer and the Commonwealth. These terms and conditions shall supplement the provisions of the Semiconductor Manufacturing Performance Grant Program, the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program, and the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program II, as applicable, and shall include but not be limited to the numbers and types of semiconductor wafers that are produced; the level of investment directly related to the building and equipment for manufacturing of wafers or activities ancillary to or supportive of such manufacturer within the eligible locality; and the direct employment related to these programs. To that end, the Secretary of Commerce and Trade shall certify in writing to the Governor and to the Chairmen of the House Appropriations and Senate Finance Committees the extent

to which a qualified manufacturer met the terms and conditions. The appropriation shall be made in full or in proportion to a qualified manufacturer's fulfillment of the memorandum of understanding.

b. The Governor shall consult with the House Appropriations and Senate Finance Committees before amending any existing memorandum of understanding. These Committees shall have the opportunity to review any changes prior to their execution by the Commonwealth.

#### § 4-5.09 DISPOSITION OF SURPLUS REAL PROPERTY

a. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, the departments, divisions, institutions, or agencies of the Commonwealth, or the Governor, shall sell or lease surplus real property only under the following circumstances:

1. Any emergency declared in accordance with §§ 44-146.18:2 or § 44-146.28, Code of Virginia, or

2. Not less than thirty days after the Governor notifies, in writing, the Chairmen of the House Appropriations and Senate Finance Committees regarding the planned conveyance, including a statement of the proceeds to be derived from such conveyance and the individual or entity taking title to such property.

3. Surplus property valued at less than \$5,000,000 that is possessed and controlled by a public institution of higher education, pursuant to §§ 2.2-1149 and 2.2-1153, Code of Virginia.

b. In any circumstance provided for in subsection a of this section, the cognizant board or governing body of the agency or institution holding title or otherwise controlling the state-owned property shall approve, in writing, the proposed conveyance of the property.

c. In accordance with § 15.2-2005, Code of Virginia, the consent of the General Assembly is herein provided for the road known as Standpipe Road, that was relocated and established on a portion of the Virginia Department of Transportation's Culpeper District Office property, identified as Tax Map No. 50-28, to improve the operational efficiency of the local road network in the Town of Culpeper. Further, the Virginia Department of Transportation is hereby authorized to convey to the Town of Culpeper, upon such terms and conditions as the Department deems proper and for such considerations the Department may determine, the property on which "Standpipe Road (Relocated)(Variable Width R/W)" on the plat entitled "plat Showing Property and Various Easements for Standpipe Road Relocated, Tax Map 50-28, Town of Culpeper, Culpeper County, Virginia" prepared by ATCS P.L.C and sealed March 14, 2012, together with easements to the Town of Culpeper for electric utility, slopes and drainage as shown on said plat. The conveyance shall be made with the approval of the Governor and in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.

d. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, if tax-exempt bonds were issued by the Commonwealth or its related authorities, boards or institutions to finance the acquisition, construction, improvement or equipping of real property, proceeds from the sale or disposition of such property and any improvements may first be applied toward remediation options available under federal law to maintain the tax-exempt status of such bonds.

#### § 4-5.10 SURPLUS PROPERTY TRANSFERS FOR ECONOMIC DEVELOPMENT

a. The Commonwealth shall receive the fair market value of surplus state property which is designated by the Governor for economic development purposes, and for any properties owned by an Industrial Development Authority in any county where the Commonwealth has a continuing interest based on the deferred portion of the purchase price, which shall be assessed by more than one independent appraiser certified as a Licensed General Appraiser. Such property shall not be disposed of for less than its fair market value as determined by the assessments.

b. Recognizing the commercial, business and industrial development potential of certain lands declared surplus, and for any properties owned by an Industrial Development Authority in any county where the Commonwealth has a continuing interest based on the deferred portion of the purchase price, the Governor shall be authorized to utilize funds available in the Governor's discretion, to meet the requirements of the preceding subsection a. Sale proceeds, together with the money from the Commonwealth's Development Opportunity Fund, shall be deposited as provided in § 2.2-1156 D, Code of Virginia.

c. Within thirty days of closing on the sale of surplus property designated for economic development, the Governor or his designee shall report to the Chairmen of the Senate Finance and House Appropriations Committees. The report shall include information on the number of acres sold, sales price, amount of proceeds deposited to the general fund and Conservation Resources Fund, and the fair market value of the sold property.

d. Except for subaqueous lands that have been filled prior to January 1, 2006, the Governor shall not sell or convey those subaqueous lands identified by metes and bounds in Chapter 884 of the Acts of the Assembly of 2006.

*e. Prior to July 1, 2019, and not withstanding any provision of law to the contrary, the Commonwealth of Virginia shall begin the process to convey, as is and pursuant to § 2.2-1150, approximately 150 acres of land located within County of York, Virginia, known as Tax Parcel 12-00-00-003 (the Property) to the Eastern Virginia Regional Industrial Facility Authority (hereinafter referred to*

Authority) for an amount not to exceed \$1,000,000. Location of the 150 acres within the Property shall be agreed to between the Commonwealth of Virginia and the Authority prior to execution of the property transfer, the Commonwealth of Virginia shall provide to the Authority copies of the two most recent state appraisals for the 150 acres parcel agreed to by the parties, and in no case shall the transaction price exceed the average of the two most recent state appraisals. The Authority shall reimburse the Commonwealth of Virginia, at property closing, for the appraisals and other Commonwealth of Virginia costs to prepare and execute the conveyance documents. The conveyance of the Property should occur no later than December 31, 2019.

1. The Authority is authorized to convey the property rights of the 150 acres, conveyed by the Commonwealth in paragraph e., to the operator of a 20 megawatt solar facility for the amount the Authority acquired the property and any closing costs associated with its acquisition from the Commonwealth of Virginia.

2. Any remaining Property as agreed to by the Commonwealth of Virginia and the Authority shall be made available for purchase by the Authority for an amount not to exceed \$350,000, and the Commonwealth is authorized to sell such property to the Authority pursuant to § 2.2-1150 . A deed restriction in the Commonwealth of Virginia and Authority property sale described in this section, e.2, shall limit the sale of such property by the Authority to unmanned systems companies or companies related to the unmanned system industries locating to the Hampton Roads Unmanned Systems Park for amounts as determined by the Authority. The Authority shall reimburse the Commonwealth of Virginia, at property closing, for any appraisals and other Commonwealth of Virginia costs to prepare and execute the conveyance documents related to this transaction.

§ 4-5.11 LIMITATIONS ON USE OF STATE FUNDING

Notwithstanding any other provision of the Code of Virginia, no expenditures from the general, special, or other nongeneral fund sources from any appropriation by the General Assembly shall be used to support membership or participation in the Regional Greenhouse Gas Initiative (RGGI) until such time as the General Assembly has approved such membership as evidenced by language authorizing such action in the Appropriation Act, with the exception of any expenditures required pursuant to any contract signed prior to the passage of this act by the General Assembly, nor shall any RGGI auction proceeds be used to supplement any appropriation in this act without express General Assembly approval.

§ 4-5.12 SEAT OF GOVERNMENT TRAFFIC AND PEDESTRIAN SAFETY

In order to implement and maintain traffic and pedestrian operational safety and security enhancements and secure the seat of government, the Commonwealth Transportation Board shall, not later than January 1, 2020, add to the state primary highway system, pursuant to § 33.2-314, Code of Virginia, those portions of the rights-of-way located in the City of Richmond identified as Bank Street from 9th Street to 14th Street, 10th Street from Main Street to Bank Street, 12th Street from Main Street to Bank Street, and Governor Street from Main Street to Bank Street and, pursuant to the responsibilities of the Department of General Services (DGS) (§ 2.2-1129) and the Division of Capitol Police (DCP) (§ 30-34.2:1), DGS and DCP shall control those rights-of-way and pedestrian and vehicular traffic thereon. The rights-of-way so transferred shall be in addition to the 50 miles per year authorized to be transferred under § 33.2-314(A).

§ 4-6.00 POSITIONS AND EMPLOYMENT

§ 4-6.01 EMPLOYEE COMPENSATION

a. The compensation of all kinds and from all sources of each appointee of the Governor and of each officer and employee in the Executive Department who enters the service of the Commonwealth or who is promoted to a vacant position shall be fixed at such rate as shall be approved by the Governor in writing or as is in accordance with rules and regulations established by the Governor. No increase shall be made in such compensation except with the Governor's written approval first obtained or in accordance with the rules and regulations established by the Governor. In all cases where any appointee, officer or employee is employed or promoted to fill a vacancy in a position for which a salary is specified by this act, the Governor may fix the salary of such officer or employee at a lower rate or amount within the respective level than is specified. In those instances where a position is created by an act of the General Assembly but not specified by this act, the Governor may fix the salary of such position in accordance with the provisions of this subsection.

b. Annual salaries of persons appointed to positions by the General Assembly, pursuant to the provisions of §§ 2.2-200 and 2.2-400, Code of Virginia, shall be paid in the amounts shown. However, if an incumbent is reappointed, his or her salary may be as high as his or her prior salary.

	<b>July 1, 2018</b> to <b>June 24, 2019</b>	<b>June 25, 2019</b> to <b>November 24, 2019</b>	<b>November 25, 2019</b> to <b>June 30, 2020</b>
Chief of Staff	\$175,000	\$175,000 \$179,813	\$175,000 \$179,813

Secretary of Administration	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730
Secretary of Agriculture and Forestry	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730
Secretary of Commerce and Trade	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730
Secretary of the Commonwealth	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730
Secretary of Education	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730
Secretary of Finance	<del>\$172,000</del> \$175,980	<del>\$172,000</del> \$180,819	<del>\$172,000</del> \$180,819
Secretary of Health and Human Resources	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730
Secretary of Natural Resources	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730
Secretary of Public Safety and Homeland Security	<del>\$172,000</del> \$173,903	<del>\$172,000</del> \$178,685	<del>\$172,000</del> \$178,685
Secretary of Transportation	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730
Secretary of Veterans and Defense Affairs	\$172,000	<del>\$172,000</del> \$176,730	<del>\$172,000</del> \$176,730

c.1.a) Annual salaries of persons appointed to positions listed in subdivision c 6 hereof shall be paid in the amounts shown for the current biennium, unless changed in accordance with conditions stated in subdivisions c 2 through c 5 hereof.

b) The starting salary of a new appointee shall not exceed the midpoint of the range, except where the midpoint salary is less than a ten percent increase from an appointee's preappointment compensation. In such cases, an appointee's starting salary may be set at a rate which is ten percent higher than the preappointment compensation, provided that the maximum of the range is not exceeded. However, in instances where an appointee's preappointment compensation exceeded the maximum of the respective salary range, then the salary for that appointee may be set at the maximum salary for the respective salary range except if the new hire was employed in a state classified position, then the Governor may exceed the maximum salary for the position and set the salary for the employee at a salary level not to exceed the employee's salary at their prior state position.

c) Nothing in subdivision c 1 shall be interpreted to supersede the provisions of § 4-6.01 e, f, g, h, i, j, k, l, and m of this act.

d) For new appointees to positions listed in § 4-6.01c.6., the Governor is authorized to provide for fringe benefits in addition to those otherwise provided by law, including post retirement health care and other non-salaried benefits provided to similar positions in the public sector.

2.a)1) The Governor may increase or decrease the annual salary for incumbents of positions listed in subdivision c 6 below at a rate of up to 10 percent in any single fiscal year between the minimum and the maximum of the respective salary range in accordance with an assessment of performance and service to the Commonwealth.

2) The governing boards of the independent agencies may increase or decrease the annual salary for incumbents of positions listed in subdivision c.7. below at a rate of up to 10 percent in any fiscal year between the minimum and maximum of the respective salary range, in accordance with an assessment of performance and service to the Commonwealth.

b)1) The appointing or governing authority may grant performance bonuses of 0-5 percent for positions whose salaries are listed in §§ 1-1 through 1-9, and 4-6.01 b, c, and d of this act, based on an annual assessment of performance, in accordance with policies and procedures established by such appointing or governing authority. Such performance bonuses shall be over and above the salaries listed in this act, and shall not become part of the base rate of pay.

2) The appointing or governing authority shall report performance bonuses which are granted to executive branch employees to the

Department of Human Resource Management for retention in its records.

3. From the effective date of the Executive Pay Plan set forth in Chapter 601, Acts of Assembly of 1981, all incumbents holding positions listed in this § 4-6.01 shall be eligible for all fringe benefits provided to full-time classified state employees and, notwithstanding any provision to the contrary, the annual salary paid pursuant to this § 4-6.01 shall be included as creditable compensation for the calculation of such benefits.

4. Notwithstanding § 4-6.01.c.2.b)1) of this Act, the Board of Commissioners of the Virginia Port Authority may supplement the salary of its Executive Director, with the prior approval of the Governor. The Board should be guided by criteria which provide a reasonable limit on the total additional income of the Executive Director. The criteria should include, without limitation, a consideration of the salaries paid to similar officials at comparable ports of other states. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

5.a. With the written approval of the Governor, the Board of Trustees of the Virginia Museum of Fine Arts, the Science Museum of Virginia, the Virginia Museum of Natural History, Gunston Hall, and the Library Board may supplement the salary of the Director of each museum, and the Librarian of Virginia from nonstate funds. In approving a supplement, the Governor should be guided by criteria which provide a reasonable limit on the total additional income and the criteria should include, without limitation, a consideration of the salaries paid to similar officials at comparable museums and libraries of other states. The respective Boards shall report approved supplements to the Department of Human Resource Management for retention in its records.

b) The Board of Trustees of the Jamestown-Yorktown Foundation may supplement, using nonstate funds, the salary of the Executive Director of the Foundation. In approving the supplement the Board should be guided by criteria which provides a reasonable limit on the total additional income and the criteria should include, without limitation, a consideration of the salaries paid to similar officials at comparable Foundations in other states. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

6.a) The following salaries shall be paid for the current biennium in the amounts shown, however, all salary changes shall be subject to subdivisions c 2 through c 5 above.

	July 1, 2018 to June 24, 2019	June 25, 2019 to November 24, 2019	November 25, 2019 to June 30, 2020
<b>Level I Range</b>	<b>\$155,442 - \$235,000</b> <b>\$164,651 - \$235,000</b>	<b>\$155,442 - \$235,000</b> <b>\$169,179 - \$241,463</b>	<b>\$155,442 - \$235,000</b> <b>\$169,179 - \$241,463</b>
<b>Midpoint</b>	<b>\$184,051</b> <b>\$198,825</b>	<b>\$184,051</b> <b>\$205,321</b>	<b>\$184,051</b> <b>\$205,321</b>
Chief Information Officer, Virginia Information Technologies Agency	\$180,250 \$189,263	\$180,250 \$194,468	\$180,250 \$194,468
Commissioner, Department of Motor Vehicles	\$164,970	\$164,970 \$169,507	\$164,970 \$169,507
Commissioner, Department of Social Services	\$155,442 \$209,000	\$155,442 \$214,748	\$155,442 \$214,748
Commissioner, Department of Behavioral Health and Developmental Services	\$183,855 \$212,661	\$183,855 \$218,509	\$183,855 \$218,509
Commonwealth Transportation Commissioner	\$208,492 \$212,661	\$208,492 \$218,509	\$208,492 \$218,509
Director, Department of Corrections	\$160,742 \$184,051	\$160,742 \$189,112	\$160,742 \$189,112
Director, Department of Environmental Quality	\$190,188	\$190,188 \$195,418	\$190,188 \$195,418
Director, Department of	\$199,548	\$199,548	\$199,548

Medical Assistance Services		\$205,036	\$205,036
Director, Department of Planning and Budget	\$172,699	\$172,699 \$177,448	\$172,699 \$177,448
State Health Commissioner	\$202,023 \$225,000	\$202,023 \$231,188	\$202,023 \$231,188
State Tax Commissioner	\$164,651	\$164,651 \$169,179	\$164,651 \$169,179
Superintendent of Public Instruction	\$212,661 \$235,000	\$212,661 \$241,463	\$212,661 \$241,463
Superintendent of State Police	\$184,705	\$184,705 \$189,784	\$184,705 \$189,784

	July 1, 2018 to June 24, 2019	June 25, 2019 to November 24, 2019	November 25, 2019 to June 30, 2020
<b>Level II Range</b>	<b>\$85,654 - \$172,567</b> <b>\$114,330 - \$180,000</b>	<b>\$85,654 - \$172,567</b> <b>\$117,474 - \$184,950</b>	<b>\$85,654 - \$172,567</b> <b>\$117,474 - \$184,950</b>
<b>Midpoint</b>	<b>\$129,110</b> <b>\$147,150</b>	<b>\$129,110</b> <b>\$151,212</b>	<b>\$129,110</b> <b>\$151,212</b>
Commissioner, Department for Aging and Rehabilitative Services	\$155,895	\$155,895 \$160,182	\$155,895 \$160,182
Commissioner, Department of Agriculture and Consumer Services	\$170,519 \$165,000	\$170,519 \$169,538	\$170,519 \$169,538
Commissioner, Department of Veterans Services	\$147,084	\$147,084 \$151,129	\$147,084 \$151,129
Executive Director, Veterans Services Foundation	\$85,654	\$85,654	\$85,654
Commissioner, Virginia Employment Commission	\$161,679	\$161,679 \$166,125	\$161,679 \$166,125
Executive Director, Department of Game and Inland Fisheries	\$144,414	\$144,414 \$148,385	\$144,414 \$148,385
Commissioner, Marine Resources Commission	\$121,770 \$142,000	\$121,770 \$145,905	\$121,770 \$145,905
Director, Department of Forensic Science	\$167,566	\$167,566 \$172,174	\$167,566 \$172,174
Director, Department of General Services	\$167,214	\$167,214 \$171,812	\$167,214 \$171,812
Director, Department of Human Resource Management	\$149,997 \$158,738	\$149,997 \$163,103	\$149,997 \$163,103
Director, Department of	\$126,860	\$126,860	\$126,860

Juvenile Justice		\$130,349	\$130,349
Director, Department of Mines, Minerals and Energy	\$146,775	\$146,775 \$150,811	\$146,775 \$150,811
Director, Department of Rail and Public Transportation	\$152,337	\$152,337 \$156,526	\$152,337 \$156,526
Director, Department of Small Business and Supplier Diversity	\$139,466	\$139,466 \$143,301	\$139,466 \$143,301
Executive Director, Motor Vehicle Dealer Board	\$114,330	\$114,330 \$117,474	\$114,330 \$117,474
Executive Director, Virginia Port Authority	\$141,301	\$141,301 \$145,187	\$141,301 \$145,187
State Comptroller	\$172,567	\$172,567 \$177,313	\$172,567 \$177,313
State Treasurer	\$172,430	\$172,430 \$177,172	\$172,430 \$177,172
<i>Executive Director, Board of Accountancy</i>	\$145,000	\$148,988	\$148,988
<i>Chief Executive Officer, Virginia Alcoholic Beverage Control Authority</i>	\$180,000	\$184,950	\$184,950

	<b>July 1, 2018 to June 24, 2019</b>	<b>June 25, 2019 to November 24, 2019</b>	<b>November 25, 2019 to June 30, 2020</b>
<b>Level III Range</b>	<b>\$110,980 - \$153,585</b>	<b>\$110,980 - \$153,585 \$114,032 - \$157,809</b>	<b>\$110,980 - \$153,585 \$114,032 - \$157,809</b>
<b>Midpoint</b>	<b>\$132,282</b>	<b>\$132,282 \$135,920</b>	<b>\$132,282 \$135,920</b>
Adjutant General	\$139,614	\$139,614 \$143,453	\$139,614 \$143,453
Chairman, Virginia Parole Board	\$131,310	\$131,310 \$134,921	\$131,310 \$134,921
Vice Chairman, Virginia Parole Board	\$118,145	\$118,145 \$121,394	\$118,145 \$121,394
Member, Virginia Parole Board	\$115,829	\$115,829 \$119,014	\$115,829 \$119,014
Commissioner, Department of Labor and Industry	\$139,647	\$139,647 \$143,487	\$139,647 \$143,487
Coordinator, Department of Emergency Management	\$139,122 \$148,860	\$139,122 \$152,954	\$139,122 \$152,954
Director, Department of Aviation	\$138,315 \$150,000	\$138,315 \$154,125	\$138,315 \$154,125

Director, Department of Conservation and Recreation	\$151,577	<del>\$151,577</del> \$155,745	<del>\$151,577</del> \$155,745
Director, Department of Criminal Justice Services	\$125,021	<del>\$125,021</del> \$128,459	<del>\$125,021</del> \$128,459
Director, Department of Health Professions	\$135,160	<del>\$135,160</del> \$138,877	<del>\$135,160</del> \$138,877
Director, Department of Historic Resources	\$110,980	<del>\$110,980</del> \$114,032	<del>\$110,980</del> \$114,032
Director, Department of Housing and Community Development	\$137,296	<del>\$137,296</del> \$141,072	<del>\$137,296</del> \$141,072
Director, Department of Professional and Occupational Regulation	\$151,759	<del>\$151,759</del> \$155,932	<del>\$151,759</del> \$155,932
Director, The Science Museum of Virginia	\$138,798	<del>\$138,798</del> \$142,615	<del>\$138,798</del> \$142,615
Director, Virginia Museum of Fine Arts	\$144,315	<del>\$144,315</del> \$148,284	<del>\$144,315</del> \$148,284
Director, Virginia Museum of Natural History	\$118,480	<del>\$118,480</del> \$121,738	<del>\$118,480</del> \$121,738
Executive Director, Board of Accountancy	\$132,283	<del>\$132,283</del>	<del>\$132,283</del>
Executive Director, Jamestown-Yorktown Foundation	\$140,888	<del>\$140,888</del> \$144,762	<del>\$140,888</del> \$144,762
Executive Secretary, Virginia Racing Commission	\$113,300	<del>\$113,300</del> \$116,416	<del>\$113,300</del> \$116,416
Librarian of Virginia	\$153,585	<del>\$153,585</del> \$157,809	<del>\$153,585</del> \$157,809
State Forester, Department of Forestry	\$144,983	<del>\$144,983</del> \$148,970	<del>\$144,983</del> \$148,970
	<b>July 1, 2018</b> to <b>June 24, 2019</b>	<b>June 25, 2019</b> to <b>November 24, 2019</b>	<b>November 25, 2019</b> to <b>June 30, 2020</b>
<b>Level IV Range</b>	<del>\$99,586 - \$118,393</del> \$90,537 - \$118,393	<del>\$99,586 - \$118,393</del> \$93,027 - \$121,649	<del>\$99,586 - \$118,393</del> \$93,027 - \$121,649
<b>Midpoint</b>	<del>\$108,989</del> \$104,465	<del>\$108,989</del> \$107,338	<del>\$108,989</del> \$107,338
Administrator, Commonwealth's Attorneys' Services Council	\$107,761	<del>\$107,761</del> \$110,724	<del>\$107,761</del> \$110,724
Commissioner, Virginia Department for the Blind and Vision Impaired	\$118,393	<del>\$118,393</del> \$121,649	<del>\$118,393</del> \$121,649

Executive Director, Frontier Culture Museum of Virginia	\$115,362 \$105,000	\$115,362 \$107,888	\$115,362 \$107,888
Commissioner, Department of Elections	\$111,448 \$111,000	\$111,448 \$114,053	\$111,448 \$114,053
Executive Director, Virginia-Israel Advisory Board	\$99,586 \$98,000	\$99,586 \$100,695	\$99,586 \$100,695
Director, Gunston Hall	\$90,537	\$90,537 \$93,027	\$90,537 \$93,027
	<b>July 1, 2018 to June 24, 2019</b>	<b>June 25, 2019 to November 24, 2019</b>	<b>November 25, 2019 to June 30, 2020</b>
<b>Level V Range</b>	<b>\$23,515 - \$98,577</b>	<b>\$23,515 - \$98,577 \$24,162 - \$101,288</b>	<b>\$23,515 - \$98,577 \$24,162 - \$101,288</b>
<b>Midpoint</b>	<b>\$61,046</b>	<b>\$61,046 \$62,725</b>	<b>\$61,046 \$62,725</b>
Director, Virginia Department for the Deaf and Hard-of-Hearing	\$98,577	\$98,577 \$101,288	\$98,577 \$101,288
Executive Director, Department of Fire Programs	\$94,926 \$98,577	\$94,926 \$101,288	\$94,926 \$101,288
Executive Director, Virginia Commission for the Arts	\$90,649 \$98,577	\$90,649 \$101,288	\$90,649 \$101,288
<del>Chairman of Board</del> Chairman, Compensation Board	\$23,515	\$23,515 \$24,162	\$23,515 \$24,162

7. Annual salaries of the directors of the independent agencies, as listed in this subdivision, shall be paid in the amounts shown. All salary changes shall be subject to subdivisions c 1, c 2, and c 3 above.

	<b>July 1, 2018 to June 24, 2019</b>	<b>June 25, 2019 to November 24, 2019</b>	<b>November 25, 2019 to June 30, 2020</b>
<b>Independent Range</b>	<b>\$171,954 - \$185,871</b>	<b>\$171,954 - \$185,871 \$176,683 - \$190,982</b>	<b>\$171,954 - \$185,871 \$176,683 - \$190,982</b>
<b>Midpoint</b>	<b>\$178,913</b>	<b>\$178,913 \$183,832</b>	<b>\$178,913 \$183,832</b>
Executive Director, Virginia Lottery	\$171,954	\$171,954 \$176,683	\$171,954 \$176,683
Director, Virginia Retirement System	\$185,871	\$185,871 \$190,982	\$185,871 \$190,982
Chief Executive Officer, Virginia College Savings Plan	\$183,362	\$183,362 \$188,404	\$183,362 \$188,404

8. Notwithstanding any provision of this Act, the Board of Trustees of the Virginia Retirement System may supplement the salary of its Director. The Board should be guided by criteria, which provide a reasonable limit on the total additional income

of the Director. The criteria should include, without limitation, a consideration of the salaries paid to similar officials in comparable public pension plans. The Board shall report such criteria and potential supplement level to the Chairmen of the Senate Finance and House Appropriations Committees at least 60 days prior to the effectuation of the compensation action. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

9. Notwithstanding any provision of this Act, the Board of the Virginia College Savings Plan may supplement the compensation of its Chief Executive Officer. The Board should be guided by criteria which provide a reasonable limit on the total additional income of the Chief Executive Officer. The criteria should include, without limitation, a consideration of compensation paid to similar officials in comparable qualified tuition programs, independent public agencies or other entities with similar responsibilities and size. The Board shall report such criteria and potential supplement level to the Chairmen of the Senate Finance and House Appropriations Committees at least 60 days prior to the effectuation of the compensation action. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

d.1. Annual salaries of the presidents of the senior institutions of higher education, the President of Richard Bland College, the Chancellor of the University of Virginia's College at Wise, the Superintendent of the Virginia Military Institute, the Director of the State Council of Higher Education, the Director of the Southern Virginia Higher Education Center, the Director of the Southwest Virginia Higher Education Center and the Chancellor of Community Colleges, as listed in this paragraph, shall be paid in the amounts shown. The annual salaries of the presidents of the community colleges shall be fixed by the State Board for Community Colleges within a salary structure submitted to the Governor prior to June 1 each year for approval.

2.a) The board of visitors of each institution of higher education or the boards of directors for Southern Virginia Higher Education Center, Southwest Virginia Higher Education Center, and the New College Institute may annually supplement the salary of a president or director from private gifts, endowment funds, foundation funds, or income from endowments and gifts. Supplements paid from other than the cited sources prior to June 30, 1997, may continue to be paid. In approving a supplement, the board of visitors or board of directors should be guided by criteria which provide a reasonable limit on the total additional income of a president or director. The criteria should include a consideration of additional income from outside sources including, but not being limited to, service on boards of directors or other such services. The board of visitors or board of directors shall report approved supplements to the Department of Human Resource Management for retention in its records.

b) The State Board for Community Colleges may annually supplement the salary of the Chancellor from any available appropriations of the Virginia Community College System. In approving a supplement, the State Board for Community Colleges should be guided by criteria which provide a reasonable limit on the total additional income of the Chancellor. The criteria should include consideration of additional income from outside sources including, but not being limited to, service on boards of directors or other such services. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

c) Norfolk State University is authorized to supplement the salary of its president from educational and general funds up to \$17,000.

d) Should a vacancy occur for the Director of the State Council of Higher Education on or after the date of enactment of this act, the salary for the new director shall be established by the State Council of Higher Education based on the salary range for Level I agency heads. Furthermore, the state council may provide a bonus of up to five percent of the annual salary for the new director.

	<b>July 1, 2018 to June 24, 2019</b>	<b>June 25, 2019 to November 24, 2019</b>	<b>November 25, 2019 to June 30, 2020</b>
<b>NEW COLLEGE INSTITUTE</b>			
Executive Director, New College Institute	\$126,844	\$126,844 <i>\$130,332</i>	\$126,844 <i>\$130,332</i>
<b>STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA</b>			
Director, State Council of Higher Education for Virginia	\$199,479	\$199,479 <i>\$204,965</i>	\$199,479 <i>\$204,965</i>
<b>SOUTHERN VIRGINIA HIGHER EDUCATION CENTER</b>			
Director, Southern Virginia Higher Education Center	\$134,273	\$134,273 <i>\$137,966</i>	\$134,273 <i>\$137,966</i>
<b>SOUTHWEST VIRGINIA</b>			

**HIGHER EDUCATION  
CENTER**

Director, Southwest Virginia Higher Education Center	\$133,900	\$133,900 <i>\$137,582</i>	\$133,900 <i>\$137,582</i>
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**VIRGINIA COMMUNITY  
COLLEGE SYSTEM**

Chancellor of Community Colleges	\$180,976	\$180,976 <i>\$185,953</i>	\$180,976 <i>\$185,953</i>
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**SENIOR COLLEGE  
PRESIDENTS' SALARIES**

Chancellor, University of Virginia's College at Wise	\$127,210 <i>\$127,218</i>	\$127,210 <i>\$130,716</i>	\$127,210 <i>\$130,716</i>
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President, Christopher Newport University	\$142,606	\$142,606 <i>\$146,528</i>	\$142,606 <i>\$146,528</i>
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President, The College of William and Mary in Virginia	\$168,510 <i>\$163,602</i>	\$168,510 <i>\$168,101</i>	\$168,510 <i>\$168,101</i>
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President, George Mason University	\$154,298 <i>\$157,384</i>	\$154,298 <i>\$161,712</i>	\$154,298 <i>\$161,712</i>
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President, James Madison University	\$164,153 <i>\$168,654</i>	\$164,153 <i>\$173,292</i>	\$164,153 <i>\$173,292</i>
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President, Longwood University	\$153,858	\$153,858 <i>\$158,089</i>	\$153,858 <i>\$158,089</i>
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President, Norfolk State University	\$168,405 <i>\$166,920</i>	\$168,405 <i>\$171,510</i>	\$168,405 <i>\$171,510</i>
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President, Old Dominion University	\$173,735 <i>\$173,732</i>	\$173,735 <i>\$178,510</i>	\$173,735 <i>\$178,510</i>
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President, Radford University	\$162,579	\$162,579 <i>\$167,050</i>	\$162,579 <i>\$167,050</i>
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President, Richard Bland College	\$138,453	\$138,453 <i>\$142,260</i>	\$138,453 <i>\$142,260</i>
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President, University of Mary Washington	\$151,404	\$151,404 <i>\$155,568</i>	\$151,404 <i>\$155,568</i>
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President, University of Virginia	\$197,620 <i>\$187,500</i>	\$197,620 <i>\$192,656</i>	\$197,620 <i>\$192,656</i>
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President, Virginia Commonwealth University	\$181,387 <i>\$181,395</i>	\$181,387 <i>\$186,383</i>	\$181,387 <i>\$186,383</i>
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President, Virginia Polytechnic Institute and State University	\$198,266	\$198,266 <i>\$203,718</i>	\$198,266 <i>\$203,718</i>
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President, Virginia State University	\$149,496	\$149,496 <i>\$153,607</i>	\$149,496 <i>\$153,607</i>
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Superintendent, Virginia Military Institute	\$154,785	\$154,785 <i>\$159,042</i>	\$154,785 <i>\$159,042</i>
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e. 1. Salaries for newly employed or promoted employees shall be established consistent with the compensation and classification plans established by the Governor.

2. The State Comptroller is hereby authorized to require payment of wages or salaries to state employees by direct deposit or by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds.

f. The provisions of this section, requiring prior written approval of the Governor relative to compensation, shall apply also to any system of incentive award payments which may be adopted and implemented by the Governor. The cost of implementing any such system shall be paid from any funds appropriated to the affected agencies.

g. No lump sum appropriation for personal service shall be regarded as advisory or suggestive of individual salary rates or of salary schedules to be fixed under law by the Governor payable from the lump sum appropriation.

h. Subject to approval by the Governor of a plan for a statewide employee meritorious service awards program, as provided for in § 2.2-1201, Code of Virginia, the costs for such awards shall be paid from any operating funds appropriated to the affected agencies.

i. The General Assembly hereby affirms and ratifies the Governor's existing authority and the established practice of this body to provide for pay differentials or to supplement base rates of pay for employees in specific job classifications in particular geographic and/or functional areas where, in the Governor's discretion, they are needed for the purpose of maintaining salaries which enable the Commonwealth to maintain a competitive position in the relevant labor market.

j.1. If at any time the Administrator of the Commonwealth's Attorneys' Services Council serves on the faculty of a state-supported institution of higher education, the faculty appointment must be approved by the Council. Such institution shall pay one-half of the salary listed in § 4-6.01 c 6 of this act. Further, such institution may provide compensation in addition to that listed in § 4-6.01 c 6; provided, however, that such additional compensation must be approved by the Council.

2. If the Administrator ceases to be a member of the faculty of a state-supported institution of higher education, the total salary listed in § 4-6.01 c 6 shall be paid from the Council's appropriation.

k.1.a. Except as otherwise provided for in this subdivision, any increases in the salary band assignment of any job role contained in the compensation and classification plans approved by the Governor shall be effective beginning with the first pay period, defined as the pay period from June 25 through July 9, of the fiscal year if: (1) the agency certifies to the Secretary of Finance that funds are available within the agency's appropriation to cover the cost of the increase for the remainder of the current biennium and presents a plan for covering the costs next biennium and the Secretary concurs, or (2) such funds are appropriated by the General Assembly. If at any time the Secretary of Administration shall certify that such change in the salary band assignment for a job role is of an emergency nature and the Secretary of Finance shall certify that funds are available to cover the cost of the increase for the remainder of the biennium within the agency's appropriation, such change in compensation may be effective on a date agreed upon by these two Secretaries. The Secretary of Administration shall provide a monthly report of all such emergency changes in accordance with § 4-8.00, Reporting Requirements.

b. Notwithstanding any other provision of law, state employees will be paid on the first workday of July for the work period June 10 to June 24 in any calendar year in which July 1 falls on a weekend.

2. Salary adjustments for any employee through a promotion, role change, exceptional recruitment and retention incentive options, or in-range adjustment shall occur only if: a) the agency has sufficient funds within its appropriation to cover the cost of the salary adjustment for the remainder of the current biennium or b) such funds are appropriated by the General Assembly.

3. No changes in salary band assignments affecting classified employees of more than one agency shall become effective unless the Secretary of Finance certifies that sufficient funds are available to provide such increase or plan to all affected employees supported from the general fund.

1. Full-time employees of the Commonwealth, including faculty members of state institutions of higher education, who are appointed to a state-level board, council, commission or similar collegial body shall not receive any such compensation for their services as members or chairmen except for reimbursement of reasonable and necessary expenses. The foregoing provision shall likewise apply to the Compensation Board, pursuant to § 15.2-1636.5, Code of Virginia.

m.1. Notwithstanding any other provision of law, the board of visitors or other governing body of any public institution of higher education is authorized to establish age and service eligibility criteria for faculty participating in voluntary early retirement incentive plans for their respective institutions pursuant to § 23.1-1302 B and the cash payment offered under such compensation plans pursuant to § 23.1-1302 D, Code of Virginia. Notwithstanding the limitations in § 23.1-1302 D, the total cost in any fiscal year for any such compensation plan, shall be set forth by the governing body in the compensation plan for approval by the Governor and review for legal sufficiency by the Office of the Attorney General.

2. Notwithstanding any other provision of law, employees holding full-time, academic-year classified positions at public institutions of higher education shall be considered "state employees" as defined in § 51.1-124.3, Code of Virginia, and shall be considered for medical/hospitalization, retirement service credit, and other benefits on the same basis as those individuals appointed to full-time, 12-month classified positions.

n. Notwithstanding the Department of Human Resource Management Policies and Procedures, payment to employees with five or

more years of continuous service who either terminate or retire from service shall be paid in one sum for twenty-five percent of their sick leave balance, provided, however, that the total amount paid for sick leave shall not exceed \$5,000 and the remaining seventy-five percent of their sick leave shall lapse. This provision shall not apply to employees who are covered by the Virginia Sickness and Disability Program as defined in § 51.1-1100, Code of Virginia. Such employees shall not be paid for their sick leave balances. However, they will be paid, if eligible as described above, for any disability leave credits they have at separation or retirement or may convert disability credits to service credit under the Virginia Retirement System pursuant to § 51.1-1103 (F), Code of Virginia.

o. It is the intent of the General Assembly that calculation of the faculty salary benchmark goal for the Virginia Community College System shall be done in a manner consistent with that used for four-year institutions, taking into consideration the number of faculty at each of the community colleges. In addition, calculation of the salary target shall reflect an eight percent salary differential in a manner consistent with other public four-year institutions and for faculty at Northern Virginia Community College.

p. Any public institution of higher education that has met the eligibility criteria set out in Chapters 933 and 945 of the 2005 Acts of Assembly may supplement annual salaries for classified employees from private gifts, endowment funds, or income from endowments and gifts, subject to policies approved by the board of visitors. The Commonwealth shall have no general fund obligations for the continuation of such salary supplements.

q. The Governor, or any other appropriate Board or Public Body, is authorized to adjust the salaries of employees specified in this item, and other items in the Act, to reflect the compensation adjustments authorized in this Act.

r. Any public institution of higher education shall not provide general fund monies above \$100,000 for any individual athletic coaching salaries after July 1, 2013. Athletic coaching salaries with general fund monies above this amount shall be phased-down over a five-year period at 20 percent per year until reaching the cap of \$100,000.

#### § 4-6.02 EMPLOYEE TRAINING AND STUDY

Subject to uniform rules and regulations established by the Governor, the head of any state agency may authorize, from any funds appropriated to such department, institution or other agency in this act or subsequently made available for the purpose, compensation or expenses or both compensation and expenses for employees pursuing approved training courses or academic studies for the purpose of becoming better equipped for their employment in the state service. The rules and regulations shall include reasonable provision for the return of any employee receiving such benefits for a reasonable period of duty, or for reimbursement to the state for expenditures incurred on behalf of the employee should he not return to state service.

#### § 4-6.03 EMPLOYEE BENEFITS

a. Any medical/hospitalization benefit program provided for state employees shall include the following provision: any state employee, as defined in § 2.2-2818, Code of Virginia, shall have the option to accept or reject coverage.

b. Except as provided for sworn personnel of the Department of State Police, no payment of, or reimbursement for, the employer paid contribution to the State Police Officers' Retirement System, or any system offering like benefits, shall be made by the Compensation Board of the Commonwealth at a rate greater than the employer rate established for the general classified workforce of the Commonwealth covered under the Virginia Retirement System. Any cost for benefits exceeding such general rate shall be borne by the employee or, in the case of a political subdivision, by the employer.

c. Each agency may, within the funds appropriated by this act, implement a transit and ridesharing incentive program for its employees. With such programs, agencies may reimburse employees for all or a portion of the costs incurred from using public transit, car pools, or van pools. The Secretary of Transportation shall develop guidelines for the implementation of such programs and any agency program must be developed in accordance with such guidelines. The guidelines shall be in accordance with the federal National Energy Policy Act of 1992 (P.L. 102-486), and no program shall provide an incentive that exceeds the actual costs incurred by the employee.

d. Any hospital that serves as the primary medical facility for state employees may be allowed to participate in the State Employee Health Insurance Program pursuant to § 2.2-2818, Code of Virginia, provided that (1) such hospital is not a participating provider in the network, contracted by the Department of Human Resource Management, that serves state employees and (2) such hospital enters into a written agreement with the Department of Human Resource Management as to the rates of reimbursement. The department shall accept the lowest rates offered by the hospital from among the rates charged by the hospital to (1) its largest purchaser of care, (2) any state or federal public program, or (3) any special rate developed by the hospital for the state employee health benefits program which is lower than either of the rates above. If the department and the hospital cannot come to an agreement, the department shall reimburse the hospital at the rates contained in its final offer to the hospital until the dispute is resolved. Any dispute shall be resolved through arbitration or through the procedures established by the Administrative Process Act, as the hospital may decide, without impairment of any residual right to judicial review.

e. Any classified employee of the Commonwealth and any person similarly employed in the legislative, judicial and independent agencies who (i) is compensated on a salaried basis and (ii) works at least twenty hours per week shall be

considered a full-time employee for the purposes of participation in the Virginia Retirement System's group life insurance and retirement programs. Any part-time magistrate hired prior to July 1, 1999, shall have the option of participating in the programs under this provision.

f.1. Any member of the Virginia Retirement System who is retired under the provisions of § 51.1-155.1, Code of Virginia who: 1) returns to work in a position that is covered by the provisions of § 51.1-155.1, Code of Virginia after a break of not less than four years, 2) receives no other compensation for service to a public employer than that provided for the position covered by § 51.1-155.1, Code of Virginia during such period of reemployment, 3) retires within one year of commencing such period of reemployment, and 4) retires directly from service at the end of such period of reemployment may either:

a) Revert to the previous retirement benefit received under the provisions of § 51.1-155.1, Code of Virginia, including any annual cost of living adjustments granted thereon. This benefit may be adjusted upward to reflect the effect of such additional months of service and compensation received during the period of reemployment, or

b) Retire under the provisions of Title 51.1 in effect at the termination of his or her period of reemployment, including any purchase of service that may be eligible for purchase under the provisions of § 51.1-142.2, Code of Virginia.

2. The Virginia Retirement System shall establish procedures for verification by the employer of eligibility for the benefits provided for in this paragraph.

g. Notwithstanding any other provision of law, no agency head compensated by funds appropriated in this act may be a member of the Virginia Law Officers' Retirement System created under Title 51.1, Chapter 2.1, Code of Virginia. The provisions of this paragraph are effective on July 1, 2002, and shall not apply to the Chief of the Capitol Police.

h. Full-time employees appointed by the Governor who, except for meeting the minimum service requirements, would be eligible for the provisions of § 51.1-155.1, Code of Virginia, may, upon termination of service, use any severance allowance payment to purchase service to meet, but not exceed, the minimum service requirements of § 51.1-155.1, Code of Virginia. Such service purchase shall be at the rate of 15 percent of the employee's final creditable compensation or average final compensation, whichever is greater, and shall be completed within 90 days of separation of service.

i. When calculating the retirement benefits payable under the Virginia Retirement System (VRS), the State Police Officers' Retirement System (SPORS), the Virginia Law-enforcement Officers' Retirement System (VaLORS), or the Judicial Retirement System (JRS) to any employee of the Commonwealth or its political subdivisions who is called to active duty with the armed forces of the United States, including the United States Coast Guard, the Virginia Retirement System shall:

1) utilize the pre-deployment salary, or the actual salary paid by the Commonwealth or the political subdivision, whichever is higher, when calculating average compensation, and

2) include those months after September 1, 2001 during which the employee was serving on active duty with the armed forces of the United States in the calculation of creditable service.

j. The provisions in § 51.1-144, Code of Virginia, that require a member to contribute five percent of his creditable compensation for each pay period for which he receives compensation on a salary reduction basis, shall not apply to any (i) "state employee," as defined in § 51.1-124.3, Code of Virginia, who is an elected official, or (ii) member of the Judicial Retirement System under Chapter 3 of Title 51.1 (§ 51.1-300 et seq.), who is not a "person who becomes a member on or after July 1, 2010," as defined in § 51.1-124.3, Code of Virginia.

k. Notwithstanding the provisions of subsection G of § 51.1-156, any employee of a school division who completed a period of 24 months of leave of absence without pay during October 2013 and who had previously submitted an application for disability retirement to VRS in 2011 may submit an application for disability retirement under the provisions of § 51.1-156. Such application shall be received by the Virginia Retirement System no later than October 1, 2014. This provision shall not be construed to grant relief in any case for which a court of competent jurisdiction has already rendered a decision, as contemplated by Article II, Section 14 of the Constitution of Virginia.

#### § 4-6.04 CHARGES

a. **FOOD SERVICES:** Except as exempted by the prior written approval of the Director, Department of Human Resource Management, and the provisions of § 2.2-3605, Code of Virginia, state employees shall be charged for meals served in state facilities. Charges for meals will be determined by the agency. Such charges shall be not less than the value of raw food and the cost of direct labor and utilities incidental to preparation and service. Each agency shall maintain records as to the calculation of meal charges and revenues collected. Except where appropriations for operation of the food service are from nongeneral funds, all revenues received from such charges shall be paid directly and promptly into the general fund. The provisions of this paragraph shall not apply to on-duty employees assigned to correctional facilities operated by the Departments of Corrections and Juvenile Justice.

b. **HOUSING SERVICES:**

1. Each agency will collect a fee from state employees who occupy state-owned or leased housing, subject to guidelines provided by

the Director, Department of General Services. Each agency head is responsible for establishing a fee for state-owned or leased housing and for documenting in writing why the rate established was selected. In exceptional circumstances, which shall be documented as being in the best interest of the Commonwealth by the agency requesting an exception, the Director, Department of General Services may waive the requirement for collection of fees.

2. All revenues received from housing fees shall be promptly deposited in the state treasury. For housing for which operating expenses or rent are financed by general fund appropriations, such revenues shall be deposited to the credit of the general fund. For housing for which operating expenses or rent are financed by nongeneral fund appropriations, such revenues shall be deposited to the credit of the nongeneral fund. Agencies which provide housing for which operating expenses or rent are financed from both general fund and nongeneral fund appropriations shall allocate such revenues, when deposited in the state treasury, to the appropriate fund sources in the same proportion as the appropriations. However, without exception, any portion of a housing fee attributable to depreciation for housing which was constructed with general fund appropriations shall be paid into the general fund.

c. PARKING SERVICES:

1. State-owned parking facilities

Agencies with parking space for employees in state-owned facilities shall, when required by the Director, Department of General Services, charge employees for such space on a basis approved by the Governor. All revenues received from such charges shall be paid directly and promptly into a special fund in the state treasury to be used, as determined by the Governor, for payment of costs for the provision of vehicle parking spaces. Interest shall be added to the fund as earned. -

2. Leased parking facilities in metropolitan Richmond area

Agencies occupying private sector leased or rental space in the metropolitan Richmond area, not including institutions of higher education, shall be required to charge a fee to employees for vehicle parking spaces that are assigned to them or are otherwise available either incidental to the lease or rental agreement or pursuant to a separate lease agreement for private parking space. In such cases, the individual employee parking fee shall not be less than that paid by employees parking in Department of General Services parking facilities at the Seat of Government. The Director, Department of General Services may amend or waive the fee requirement for good cause. Revenues derived from employees paying for parking spaces in leased facilities will be retained by the leasing agency to be used to offset the cost of the lease to which it pertains. Any lease for private parking space must be approved by the Director, Department of General Services.

3. The assignment of Lot P1A of the Department of General Services, Capitol Area Site Plan, to include parking spaces 1 through 37, but excluding spaces 34 and 36, which shall be reserved for the Department of General Services, and the surrounding surfaces around those spaces shall be under the control of the Committee on Joint Rules and administered by the Clerk of the House and the Clerk of the Senate. Any employee permanently assigned to any of these spaces shall be subject to the provisions of paragraph 1 of this item.

4. The assignment of 300 parking spaces in the Department of General Services parking facility to be built at the corner of 9th and Broad Streets in the City of Richmond, shall be under the control of the Committee on Joint Rules and administered by the Clerk of the House and the Clerk of the Senate. Such parking spaces shall be subject to the provisions of paragraph 1 of this item.

§ 4-6.05 SELECTION OF APPLICANTS FOR CLASSIFIED POSITIONS

It is the responsibility of state agency heads to ensure that all provisions outlined in Title 2.2, Chapter 29, Code of Virginia (the Virginia Personnel Act), and executive orders that govern the practice of selecting applicants for classified positions are strictly observed. The Governor's Secretaries shall ensure this provision is faithfully enforced.

§ 4-6.06 POSITIONS GOVERNED BY CHAPTERS 933 AND 943 OF THE 2006 ACTS OF ASSEMBLY

Except as provided in subsection A of § 23.1-1020 of the Code of Virginia, § 4-6.00 shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly and Chapters 675 and 685 of the 2009 Acts of Assembly, with regard to their participating covered employees, as that term is defined in those two chapters, except to the extent a specific appropriation or language in this act addresses such an employee.

**§ 4-7.00 STATEWIDE PLANS**

§ 4-7.01 MANPOWER CONTROL PROGRAM

a.1. The term Position Level is defined as the number of full-time equivalent (FTE) salaried employees assigned to an agency in this act. Except as provided in § 4-7.01 b, the Position Level number stipulated in an agency's appropriation is the upper limit for agency employment which cannot be exceeded during the fiscal year without approval from the Director, Department of Planning and Budget for Executive Department agencies, approval from the Joint Committee on Rules for Legislative

Department agencies or approval from the appropriate governing authority for the independent agencies.

2. Any approval granted under this subsection shall be reported in writing to the Chairmen of the House Appropriations Committee and the Senate Finance Committee, the Governor and the Directors of the Department of Planning and Budget and Department of Human Resource Management within ten days of such approval. Approvals for executive department agencies shall be based on threats to life, safety, health, or property, or compliance with judicial orders or federal mandates, to support federal grants or private donations, to administer a program for another agency or to address an immediate increase in workload or responsibility or when to delay approval of increased positions would result in a curtailment of services prior to the next legislative session. Any such position level increases pursuant to this provision may not be approved for more than one year.

b. The Position Levels stipulated for the individual agencies within the Department of Behavioral Health and Developmental Services and the Department of Corrections are for reference only and are subject to changes by the applicable Department, provided that such changes do not result in exceeding the Position Level for that department.

c.1. The Governor shall implement such policies and procedures as are necessary to ensure that the number of employees in the Executive Department, excluding institutions of higher education and the State Council of Higher Education, may be further restricted to the number required for efficient operation of those programs approved by the General Assembly. Such policies and procedures shall include periodic review and analysis of the staffing requirements of all Executive Department agencies by the Department of Planning and Budget with the object of eliminating through attrition positions not necessary for the efficient operation of programs.

2. The institutions of higher education and the State Council of Higher Education are hereby authorized to fill all positions authorized in this act. This provision shall be waived only upon the Governor's official declaration that a fiscal emergency exists requiring a change in the official estimate of general fund revenues available for appropriation.

d.1. Position Levels are for reference only and are not binding on agencies in the legislative department, independent agencies, the Executive Offices other than the offices of the Governor's Secretaries, and the judicial department.

2. Positions assigned to programs supported by internal service funds are for reference only and may fluctuate depending upon workload and funding availability.

3. Positions assigned to sponsored programs, auxiliary enterprises, continuing education, and teaching hospitals in the institutions of higher education are for reference only and may fluctuate depending upon workload and funding availability. Positions assigned to Item Detail 43012, State Health Services Technical Support and Administration, at Virginia Commonwealth University are for reference only and may fluctuate depending upon workload and funding availability.

4. Positions assigned to educational and general programs in the institutions of higher education are for reference only and may fluctuate depending upon workload and funding availability. However, total general fund positions filled by an institution of higher education may not exceed 105 percent of the general fund positions appropriated without prior approval from the Director, Department of Planning and Budget.

5. Positions assigned to Item Details 47001, Job Placement Services; 47002, Unemployment Insurance Services; 47003, Workforce Development Services; and 53402, Economic Information Services, at the Virginia Employment Commission are for reference only and may fluctuate depending upon workload and funding availability. Unless otherwise required by the funding source, after enactment of this act, any new positions hired using this provision shall not be subject to transitional severance benefit provisions of the Workforce Transition Act of 1995, Title 2.2, Chapter 32, Code of Virginia.

e. Prior to implementing any Executive Department hiring freeze, the Governor shall consider the needs of the Commonwealth in regards to the safe and efficient operation of state facilities and performance of essential services to include the exemption of certain positions assigned to agencies and institutions that provide services pertaining to public safety and public health from such hiring freezes.

f.1. Full-time, part-time, wage or contractual state employees assigned to the Governor's Cabinet Secretaries from agencies and institutions under their control for the purpose of carrying out temporary assignments or projects may not be so assigned for a period exceeding 180 days in any calendar year. The permanent transfer of positions from an agency or institution to the Offices of the Secretaries, or the temporary assignment of agency or institutional employees to the Offices of the Secretaries for periods exceeding 180 days in any calendar year regardless of the separate or discrete nature of the projects, is prohibited without the prior approval of the General Assembly.

2. Not more than three positions in total, as described in subsection 1 hereof, may be assigned at any time to the Office of any Cabinet Secretary, unless specifically approved in writing by the Governor. The Governor shall notify the Chairmen of the House Appropriations and Senate Finance Committees in the case of any such approvals.

g. All state employees, including those in the legislative, judicial, and executive branches and the independent agencies of the Commonwealth, who are not eligible for benefits under a health care plan established and administered by the Department of Human Resource Management (DHRM) pursuant to Va. Code § 2.2-2818, or by an agency administering its own health care plan, may not work more than 29 hours per week on average over a twelve month period. Adjunct faculty at institutions of higher education may

not work more than 29 hours per week on average over a twelve month period, including classroom or other instructional time plus additional hours determined by the institution as necessary to perform the adjunct faculty's duties. DHRM shall provide relevant program requirements to agencies and employees, including, but not limited to, information on wage, variable and seasonal employees. All state agencies/employers in all branches of government shall provide information requested by DHRM concerning hours worked by employees as needed to comply with the Affordable Care Act (the "Act") and this provision. State agencies/employers are accountable for compliance with this provision, and are responsible for any costs associated with maintaining compliance with it and for any costs or penalties associated with any violations of the Act or regulations thereunder and any such costs shall be borne by the agency from existing appropriations. The provisions of this paragraph shall not apply to employees of state teaching hospitals that have their own health insurance plan; however, the state teaching hospitals are accountable for compliance with, and are responsible for any costs associated with maintaining compliance with the Act and for any costs or penalties associated with any violations of the Act or regulations thereunder and any such costs shall be borne by the agency from existing appropriations. Subject to approval of the Governor, DHRM shall modify this provision consistent with any updates or changes to federal law and regulations.

**§ 4-8.00 REPORTING REQUIREMENTS**

§ 4-8.01 GOVERNOR

a. General:

1. The Governor shall submit the information specified in this section to the Chairmen of the House Appropriations and Senate Finance Committees on a monthly basis, or at such intervals as may be directed by said Chairmen, or as specified elsewhere in this act. The information on agency operating plans and expenditures as well as agency budget requests shall be submitted in such form, and by such method, including electronically, as may be mutually agreed upon. Such information shall be preserved for public inspection in the Department of Planning and Budget.

2. The Governor shall make available annually to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees a report concerning the receipt of any nongeneral funds above the amount(s) specifically appropriated, their sources, and the amounts for each agency affected.

3. a) It is the intent of the General Assembly that reporting requirements affecting state institutions of higher education be reduced or consolidated where appropriate. State institutions of higher education, working with the Secretary of Education and Workforce, Secretary of Finance, and the Director, Department of Planning and Budget, shall continue to identify specific reporting requirements that the Governor may consider suspending.

b) Reporting generally should be limited to instances where (1) there is a compelling state interest for state agencies to collect, use, and maintain the information collected; (2) substantial risk to the public welfare or safety would result from failing to collect the information; or (3) the information collected is central to an essential state process mandated by the Code of Virginia.

c) Upon the effective date of this act, and until its expiration date, the following reporting requirements are hereby suspended or modified as specified below:

<b>Agency</b>	<b>Report Title of Descriptor</b>	<b>Authority</b>	<b>Action</b>
Department of Accounts	Intercollegiate Athletics Receipts & Disbursements	Code of Virginia § 23.1-102.	Suspend reporting.
Department of Accounts	Prompt Pay Summary Report	Agency Directive	Change reporting from monthly to quarterly.
Department of General Services	Usage of State-Assigned and State-Owned Vehicles Report	Agency Directive -- Executive Order 89 (2005)	Suspend reporting.
Department of General Services	Gas Report/Repair Charge	Agency Directive--Executive Order 89 (2005)	Suspend reporting.
Department of Human Resource Management	Report of Personnel Development Service	Agency Directive	Suspend reporting.
Department of Human Resource Management	Human Capital Report (Full-Time, Part-Time, Temporary, Contractual employees funded by the Commonwealth)	Code of Virginia § 2.2-1201. A. 14.	Change reporting from annually to monthly.

Department of Human Resource Management State Employee Workers' Compensation Program	Work-related injuries and illnesses report -- goals, strategies, and results	Agency Directive -- Executive Order 94 (2005)	Suspend reporting.
Governor's Office	Small, Women-and Minority-owned Businesses (SWaM)	Executive Directive	Change reporting from weekly to monthly.
Secretary of Commerce and Trade	Recruitment of National and Regional Conferences Report	Agency Directive -- Executive Order 14 (2006)	Suspend reporting.

d) The Department of Planning and Budget (DPB) and the State Council of Higher Education for Virginia (SCHEV) shall work jointly to attempt to consolidate various reporting requirements pertaining to the estimates and projections of nongeneral fund revenues in institutions of higher education. The purpose of this effort shall be aimed at developing a common form for use in collecting nongeneral fund data for DPB's six-year nongeneral fund revenue estimate submission and SCHEV's annual survey of nongeneral fund revenue from institutions of higher education.

b. Operating Appropriations Reports:

1. Status of Adjustments to Appropriations. Such information must include increases and decreases of appropriations or allotments, transfers and additional revenues. A report of appropriation transfers from one agency to another made pursuant to § 4-1.03 of this act shall be made available via electronic means to the Chairmen of the House Appropriations and Senate Finance Committees, and the public by the tenth day of the month following that in which such transfer occurs, unless otherwise specified in § 4-1.03.
2. Status of each sum sufficient appropriation. The information must include the amount of expenditures for the period just completed and the revised estimates of expenditures for the remaining period of the current biennium, as well as an explanation of differences between the amount of the actual appropriation and actual and/or projected appropriations for each year of the current biennium.
3. Status of Economic Contingency Appropriation. The information must include actions taken related to the appropriation for economic contingency.
4. Status of Withholding Appropriations. The information must include amounts withheld and the agencies affected.
5. Status of reductions occurring in general and nongeneral fund revenues in relation to appropriations.
6. Status of approvals of deficits.

c. Employment Reports:

1. Status of changes in positions and employment of state agencies affected. The information must include the number of positions and the agencies affected.
2. Status of the employment by the Attorney General of special counsel in certain highway proceedings brought pursuant to Chapter 10 of Title 33.2, Code of Virginia, on behalf of the Commissioner of Highways, as authorized by § 2.2-510, Code of Virginia. This report shall include fees for special counsel for the respective county or city for which the expenditure is made and shall be submitted within 60 days of the close of the fiscal year (see § 4-5.02 a.3).
3. Changes in the level of compensation authorized pursuant to § 4-6.01 k, Employee Compensation. Such report shall include a list of the positions changed, the number of employees affected, the source and amount of funds, and the nature of the emergency.
4. Pursuant to requirements of § 2.2-203.1, Code of Virginia, the Secretary of Administration, in cooperation with the Secretary of Technology, shall provide a report describing the Commonwealth's telecommuting policies, which state agencies and localities have adopted telecommuting policies, the number of state employees who telecommute, the frequency with which state employees telecommute by locality, and the efficacy of telecommuting policies in accomplishing the provision of state services and completing state functions. This report shall be provided to the Chairmen of the House Committee on Appropriations, the House Committee on Science and Technology, the Senate Committee on Finance, and the Senate Committee on General Laws and Technology each year by October 1.

d. Capital Appropriations Reports:

1. Status of progress of capital projects on an annual basis (see § 4-4.01 o).
2. Notice of all capital projects authorized under § 4-4.01 m (see § 4-4.01 m. 1. b) 4)).

e. Utilization of State Owned and Leased Real Property:

1. By November 15 of each year, the Department of General Services (DGS) shall consolidate the reporting requirements of § 2.2-1131.1 and § 2.2-1153 of the Code of Virginia into a single report eliminating the individual reports required by § 2.2-1131.1 and § 2.2-1153 of the Code of Virginia. This report shall be submitted to the Governor and the General Assembly and include (i) information on the implementation and effectiveness of the program established pursuant to subsection A of § 2.2-1131.1, (ii) a listing of real property leases that are in effect for the current year, the agency executing the lease, the amount of space leased, the population of each leased facility, and the annual cost of the lease; and, (iii) a report on DGS's findings and recommendations under the provisions of § 2.2-1153, and recommendations for any actions that may be required by the Governor and the General Assembly to identify and dispose of property not being efficiently and effectively utilized.

2. By October 1 of each year, each agency that controls leased property, where such leased property is not under the DGS lease administration program, shall provide a report on each leased facility or portion thereof to DGS in a manner and form prescribed by DGS. Specific data included in the report shall identify at a minimum, the number of square feet occupied, the number of employees and contractors working in the leased space, if applicable, and the cost of the lease.

f. Services Reports:

Status of any exemptions by the State Council of Higher Education to policy which prohibits use of funds in this act for the operation of any academic program by any state institution of higher education, unless approved by the Council and included in the Governor's recommended budget, or approved by the General Assembly (see § 4-5.05 b 2).

g. Standard State Agency Abbreviations:

The Department of Planning and Budget shall be responsible for maintaining a list of standard abbreviations of the names of state agencies. The Department shall make a listing of agency standard abbreviations available via electronic means on a continuous basis to the Chairmen of the House Appropriations and Senate Finance Committees, the State Comptroller, the Director, Department of Human Resource Management and the Chief Information Officer, Virginia Information Technologies Agency, and the public.

h. Educational and General Program Nongeneral Fund Administrative Appropriations Approved by the Department of Planning and Budget:

The Secretary of Finance and Secretary of Education, in collaboration with the Director, Department of Planning and Budget, shall report in December and June of each year to the Chairmen of the House Appropriations and Senate Finance Committees on adjustments made to higher education operating funds in the Educational and General Programs (10000) items for each public college and university contained in this budget. The report shall include actual or projected adjustments which increase nongeneral funds or actual or projected adjustments that transfer nongeneral funds to other items within the institution. The report shall provide the justification for the increase or transfer and the relative impact on student groups.

§ 4-8.02 STATE AGENCIES

a. As received, all state agencies shall forward copies of each federal audit performed on agency or institution programs or activities to the Auditor of Public Accounts and to the State Comptroller. Upon request, all state agencies shall provide copies of all internal audit reports and access to all working papers prepared by such auditors to the Auditor of Public Accounts and to the State Comptroller.

b. Annually: Within five calendar days after state agencies submit their budget requests, amendment briefs, or requests for amendments to the Department of Planning and Budget, the Director, Department of Planning and Budget shall submit, electronically if available, copies to the Chairmen of the Senate Finance and House Appropriations Committees.

c. By September 1 of each year, state agencies receiving any asset as the result of a law-enforcement seizure and subsequent forfeiture by either a state or federal court, shall submit a report identifying all such assets received during the prior fiscal year and their estimated net worth, to the Chairmen of the House Appropriations and Senate Finance Committees.

d. Any state agency that is required to return federal grant funding as a result of not fulfilling the specifications of a grant, shall, as soon as practicable but no later than November 1st, report to the Chairmen of the Senate Finance and House Appropriations Committees of such forfeiting of federal grant funding.

§ 4-8.03 LOCAL GOVERNMENTS

a.1. The Auditor of Public Accounts shall establish a workgroup to develop criteria for a preliminary determination that a local government may be in fiscal distress. Such criteria shall be based upon information regularly collected by the Commonwealth or otherwise regularly made public by the local government. This information includes expenditure reports submitted to the Auditor, budget information posted on local government websites, and reports prepared by the Commission on Local Government on revenue fiscal stress. Information provided by the Virginia Retirement System, the Virginia Resources Authority, the Virginia Public Building Authority, and other state and regional authorities concerning late or missed debt service payments shall be shared with the Auditor. Fiscal distress as used in this context shall mean a situation whereby the provision and sustainability of public services is threatened by various administrative and financial shortcomings including but

not limited to cash flow issues; inability to pay expenses; revenue shortfalls; deficit spending; structurally imbalanced budgets; billing and revenue collection inadequacies and discrepancies; debt overload; failure to meet obligations to authorities, school divisions, or political subdivisions of the Commonwealth; and/or lack of trained and qualified staff to process administrative and financial transactions. Fiscal distress may be caused by factors internal to the unit of government or external to the unit of government and in various degrees such conditions may or may not be controllable by management, or the local governing body, or its constitutional officers.

2. Based upon the criteria established by the workgroup and using information identified above, the Auditor of Public Accounts shall establish a prioritized early warning system. Under the prioritized early warning system, the Auditor of Public Accounts shall establish a regular process whereby it reviews data on at least an annual basis to make a preliminary determination that a local government is in fiscal distress.

3. For local governments where the Auditor of Public Accounts has made a preliminary determination of fiscal distress based upon the early warning system criteria, the Auditor of Public Accounts shall notify the local governing body of its preliminary determination that it may meet the criteria for fiscal distress. Based upon the request of the local governing body or chief executive officer, the Auditor of Public Accounts may conduct a review and request documents and data from the local government. Such review shall consider factors including, but not limited to, budget processes, debt, borrowing, expenses and payables, revenues and receivables, and other areas including staffing, and the identification of external variables contributing to a locality's financial position, and if so, the scope of the issues involved. Any local governing body that receives requests for information from the Auditor of Public Accounts pursuant to such preliminary determination based on the above described threshold levels shall acknowledge receipt of such a request and shall ensure that a response is provided within the time frames specified by the Auditor of Public Accounts. After such review, if the Auditor of Public Accounts is of the opinion that state assistance, oversight, or targeted intervention is needed, either to further assess, help stabilize, or remediate the situation, the Auditor shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees, and the governing body of the local government in writing outlining specific issues or actions that need to be addressed by state intervention.

4. The notification issued by the Auditor of Public Accounts pursuant to paragraph 3 above shall satisfy the notification requirement necessary to effectuate the provisions of this act in paragraph b.3 below.

b.1. The Director of the Department of Planning and Budget shall identify any amounts remaining unexpended from general fund appropriations in this Act as of June 30 of each year, which constitute state aid to local governments. The Director shall provide a listing of such amounts designated by item number and by program on or before August 15 of each year, to the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee.

2. From such unexpended balances identified by the Director of the Department of Planning and Budget, the Governor may reappropriate up to \$750,000 from amounts which would otherwise revert to the balance of the general fund and transfer such amounts as necessary to establish a component of fund balance which may be used for the purpose of providing technical assistance and intervention actions for local governments deemed to be fiscally distressed and in need of intervention to address such distress. Any such reappropriation approved by the Governor, shall be separately identified in the commitments specified on the balance sheet and financial statements of the State Comptroller for the close of each fiscal year, to the extent that such reserve is not used or added to by future appropriation actions.

3. Prior to any expenditure of the reappropriated reserve, the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee must receive a notification from the Auditor of Public Accounts that a specific locality is in need of intervention because of a worsening financial situation. The Auditor of Public Accounts may issue such a notification upon receipt of audited financial statement or other information that indicates the existence of fiscal distress. But, no such notification shall be made until appropriate follow up and correspondence ascertains that, in the opinion of the Auditor of Public Accounts, such fiscal distress indeed exists. Such notification may also be issued by the Auditor of Public Accounts if written concerns raised about fiscal distress are not adequately addressed by the locality in question.

4. Once the Governor has received a notification from the Auditor of Public Accounts indicating fiscal distress in a specific local government, the Governor shall consult with the Chairmen of the House Appropriations Committee and the Senate Finance Committee about a plan for state intervention prior to any expenditure of funds from the cash reserve. Any plan approved by the Governor for intervention should, at a minimum, specify the purpose of such intervention, the estimated duration of the intervention, and the anticipated resources (dollars and personnel) directed toward such effort. The staffing necessary to carry out the intervention plan may be assembled from either public agencies or private entities or both and, notwithstanding any other provisions of law, the Governor may use an expedited method of procurement to secure such staffing when, in his judgment, the need for intervention is of an emergency nature such that action must be taken in a timely manner to avoid or address unacceptable financial risks to the Commonwealth.

5. The governing body and the elected constitutional officers of a locality subject to an intervention plan approved by the Governor shall assist all state appointed staff conducting the intervention regardless of whether such staff are from public agencies or private entities. Intervention staff shall provide periodic reports in writing to the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee outlining the scope of issues discovered and any recommendations made to remediate such issues, and the progress that is made on such recommendations or other remediation efforts. These periodic reports shall

specifically address the degree of cooperation the intervention team is receiving from locally elected officials, including constitutional officers, city, county, or town managers and other local personnel in regards to their intervention work.

6. The Department of General Services is hereby encouraged to develop a master contract of qualified private sector turnaround specialists with expertise in local government intervention that the Governor can use to procure intervention services in an expeditious manner when he determines that state intervention is warranted in situations of local fiscal distress.

#### **§ 4-9.00 HIGHER EDUCATION RESTRUCTURING**

##### § 4-9.01 ASSESSMENT OF INSTITUTIONAL PERFORMANCE

Consistent with § 23.1-206, Code of Virginia, the following education-related and financial and administrative management measures shall be the basis on which the State Council of Higher Education shall annually assess and certify institutional performance. Such certification shall be completed and forwarded in writing to the Governor and the General Assembly no later than October 1 of each even-numbered year. Institutional performance on measures set forth in paragraph D of this section shall be evaluated year-to-date by the Secretaries of Finance, Administration, and Technology as appropriate, and communicated to the State Council of Higher Education before October 1 of each even-numbered year. Financial benefits provided to each institution in accordance with § 23.1-1002 will be evaluated in light of that institution's performance.

In general, institutions are expected to achieve all performance measures in order to be certified by SCHEV, but it is understood that there can be circumstances beyond an institution's control that may prevent achieving one or more performance measures. The Council shall consider, in consultation with each institution, such factors in its review: (1) institutions meeting all performance measures will be certified by the Council and recommended to receive the financial benefits, (2) institutions that do not meet all performance measures will be evaluated by the Council and the Council may take one or more of the following actions: (a) request the institution provide a remediation plan and recommend that the Governor withhold release of financial benefits until Council review of the remediation plan or (b) recommend that the Governor withhold all or part of financial benefits.

Further, the State Council shall have broad authority to certify institutions as having met the standards on education-related measures. The State Council shall likewise have the authority to exempt institutions from certification on education-related measures that the State Council deems unrelated to an institution's mission or unnecessary given the institution's level of performance.

The State Council may develop, adopt, and publish standards for granting exemptions and ongoing modifications to the certification process.

##### a. BIENNIAL ASSESSMENTS

1. Institution meets at least 95 percent of its State Council-approved biennial projections for in-state undergraduate headcount enrollment.
2. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state associate and bachelor degree awards.
3. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state STEM-H (Science, Technology, Engineering, Mathematics, and Health professions) associate and bachelor degree awards.
4. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state, upper level - sophomore level for two-year institutions and junior and senior level for four-year institutions - program-placed, full-time equivalent students.
5. Maintain or increase the number of in-state associate and bachelor degrees awarded to students from under-represented populations.
6. Maintain or increase the number of in-state two-year transfers to four-year institutions.

##### b. Elementary and Secondary Education

1. The Virginia Department of Education shall share data on teachers, including identifying information, with the State Council of Higher Education for Virginia in order to evaluate the efficacy of approved programs of teacher education, the production and retention of teachers, and the exiting of teachers from the teaching profession.
2. a) The Virginia Department of Education and the State Council of Higher Education for Virginia shall share personally identifiable information from education records in order to evaluate and study student preparation for and enrollment and performance at state institutions of higher education in order to improve educational policy and instruction in the Commonwealth. However, such study shall be conducted in such a manner as to not permit the personal identification of students by persons other than representatives of the Department of Education or the State Council for Higher Education for Virginia, and such shared information shall be destroyed when no longer needed for purposes of the study.

b) Notwithstanding § 2.2-3800 of the Code of Virginia, the Virginia Department of Education, State Council of Higher Education for Virginia, Virginia Community College System, and the Virginia Employment Commission may collect, use, share, and maintain de-identified student data to improve student and program performance including those for career readiness.

3. Institutions of higher education shall disclose information from a pupil's scholastic record to the Superintendent of Public Instruction or his designee for the purpose of studying student preparation as it relates to the content and rigor of the Standards of Learning. Furthermore, the superintendent of each school division shall disclose information from a pupil's scholastic record to the Superintendent of Public Instruction or his designee for the same purpose. All information provided to the Superintendent or his designee for this purpose shall be used solely for the purpose of evaluating the Standards of Learning and shall not be redisclosed, except as provided under federal law. All information shall be destroyed when no longer needed for the purposes of studying the content and rigor of the Standards of Learning.

c. SIX-YEAR PLAN

Institution prepares six-year financial plan consistent with § 23.1-907.

d. FINANCIAL AND ADMINISTRATIVE STANDARDS

The financial and administrative standards apply to all institutions except those governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly.

1. As specified in § 2.2-5004, Code of Virginia, institution takes all appropriate actions to meet the following financial and administrative standards:

- a) An unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;
- b) No significant audit deficiencies attested to by the Auditor of Public Accounts;
- c) Substantial compliance with all financial reporting standards approved by the State Comptroller;
- d) Substantial attainment of accounts receivable standards approved by the State Comptroller, including but not limited to, any standards for outstanding receivables and bad debts; and
- e) Substantial attainment of accounts payable standards approved by the State Comptroller including, but not limited to, any standards for accounts payable past due.

2. Institution complies with a debt management policy approved by its governing board that defines the maximum percent of institutional resources that can be used to pay debt service in a fiscal year, and the maximum amount of debt that can be prudently issued within a specified period.

3. The institution will achieve the classified staff turnover rate goal established by the institution; however, a variance of 15 percent from the established goal will be acceptable.

4. The institution will substantially comply with its annual approved Small, Women and Minority (SWAM) plan as submitted to the Department of Small Business and Supplier Diversity; however, a variance of 15 percent from its SWAM purchase goal, as stated in the plan, will be acceptable.

The institution will make no less than 75 percent of dollar purchases through the Commonwealth's enterprise-wide internet procurement system (eVA) from vendor locations registered in eVA.

5. The institution will complete capital projects (with an individual cost of over \$1,000,000) within the budget originally approved by the institution's governing board for projects initiated under delegated authority, or the budget set out in the Appropriation Act or other Acts of Assembly. If the institution exceeds the budget for any such project, the Secretaries of Administration and Finance shall review the circumstances causing the cost overrun and the manner in which the institution responded and determine whether the institution shall be considered in compliance with the measure despite the cost overrun.

6. The institution will complete major information technology projects (with an individual cost of over \$1,000,000) within the budgets and schedules originally approved by the institution's governing board. If the institution exceeds the budget and/or time schedule for any such project, the Secretary of Administration shall review the circumstances causing the cost overrun and/or delay and the manner in which the institution responded and determine whether the institution appropriately adhered to Project Management Institute's best management practices and, therefore, shall be considered in compliance with the measure despite the cost overrun and/or delay.

e. FINANCIAL AND ADMINISTRATIVE STANDARDS

The financial and administrative standards apply to institutions governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly. They shall be measured by the administrative standards outlined in the Management Agreements and § 4-9.02.d.4. of this act. However, the

Governor may supplement or replace those administrative performance measures with the administrative performance measures listed in this paragraph. Effective July 1, 2009, the following administrative and financial measures shall be used for the assessment of institutional performance for institutions governed under Chapters 933 and 943 of the 2006 Acts of Assembly and those governed under Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly.

#### 1. Financial

- a) An unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;
- b) No significant audit deficiencies attested to by the Auditor of Public Accounts;
- c) Substantial compliance with all financial reporting standards approved by the State Comptroller;
- d) Substantial attainment of accounts receivable standards approved by the State Comptroller, including but not limited to, any standards for outstanding receivables and bad debts; and
- e) Substantial attainment of accounts payable standards approved by the State Comptroller including, but not limited to, any standards for accounts payable past due.

#### 2. Debt Management

- a) The institution shall maintain a bond rating of AA- or better;
- b) The institution achieves a three-year average rate of return at least equal to the imoney.net money market index fund; and
- c) The institution maintains a debt burden ratio equal to or less than the level approved by the Board of Visitors in its debt management policy.

#### 3. Human Resources

- a) The institution's voluntary turnover rate for classified plus university/college employees will meet the voluntary turnover rate for state classified employees within a variance of 15 percent; and
- b) The institution achieves a rate of internal progression within a range of 40 to 60 percent of the total salaried staff hires for the fiscal year.

#### 4. Procurement

- a) The institution will substantially comply with its annual approved Small, Women and Minority (SWAM) procurement plan as submitted to the Department of Small Business and Supplier Diversity; however, a variance of 15 percent from its SWAM purchase goal, as stated in the plan, will be acceptable; and
- b) The institution will make no less than 80 percent of purchase transactions through the Commonwealth's enterprise-wide internet procurement system (eVA) with no less than 75 percent of dollars to vendor locations in eVA.

#### 5. Capital Outlay

- a) The institution will complete capital projects (with an individual cost of over \$1,000,000) within the budget originally approved by the institution's governing board at the preliminary design state for projects initiated under delegated authority, or the budget set out in the Appropriation Act or other Acts of Assembly which provides construction funding for the project at the preliminary design state. If the institution exceeds the budget for any such project, the Secretaries of Administration and Finance shall review the circumstances causing the cost overrun and the manner in which the institution responded and determine whether the institution shall be considered in compliance with the measure despite the cost overrun;
- b) The institution shall complete capital projects with the dollar amount of owner requested change orders not more than 2 percent of the guaranteed maximum price (GMP) or construction price; and
- c) The institution shall pay competitive rates for leased office space – the average cost per square foot for office space leased by the institution is within 5 percent of the average commercial business district lease rate for similar quality space within reasonable proximity to the institution's campus.

#### 6. Information Technology

- a) The institution will complete major information technology projects (with an individual cost of over \$1,000,000) on time and on budget against their managed project baseline. If the institution exceeds the budget and/or time schedule for any such project, the Secretary of Technology shall review the circumstances causing the cost overrun and/or delay and the manner in which the institution responded and determine whether the institution appropriately adhered to Project Management Institute's best management practices and, therefore, shall be considered in compliance with the measure despite the cost overrun and/or

delay; and

b) The institution will maintain compliance with institutional security standards as evaluated in internal and external audits. The institution will have no significant audit deficiencies unresolved beyond one year.

f. REPORTING

The Director, Department of Planning and Budget, with cooperation from the Comptroller and institutions of higher education governed under Management Agreements, shall develop uniform reporting requirements and formats for revenue and expenditure data.

g. EXEMPTION

The requirements of this section shall not be in effect if they conflict with § 23.1-206.D. of Chapters 828 and 869 of the Acts of Assembly of 2011.

§ 4-9.02 LEVEL II AUTHORITY

a. Notwithstanding the provisions of § 5 of Chapter 824 and 829 of the 2008 Acts of Assembly, institutions of higher education that have met the eligibility criteria for additional operational and administrative authority set forth in Chapters 824 and 829 of the 2008 Acts of Assembly shall be allowed to enter into separate negotiations for additional operational authority for a third and separate functional area listed in Chapter 824 and 829 of the 2008 Acts of Assembly, provided they have:

1. successfully completed at least three years of effectiveness and efficiencies operating under such additional authority granted by an original memorandum of understanding;
2. successfully renewed an additional memoranda of understanding for a five year term for each of the original two areas.

The institutions shall meet all criteria and follow policies for negotiating and establishing a memorandum of understanding with the Commonwealth of Virginia as provided in § 2.0 (Information Technology), § 3.0 (Procurement), and § 4.0 (Capital Outlay) of Chapter 824 and 829 of the 2008 Acts of Assembly.

b. As part of the memorandum of understanding, each institution shall be required to adopt at least one new education-related measure for the new area of operational authority. Each education-related measure and its respective target shall be developed in consultation with the Secretary of Finance, Secretary of Education, the appropriate Cabinet Secretary, and the State Council of Higher Education for Virginia. Each education-related measure and its respective target must be approved by the State Council of Higher Education for Virginia.

c. 1. As part of a five-year pilot program, George Mason University and James Madison University are authorized, for a period of five years, to exercise additional financial and administrative authority as set out in each of the three functional areas of information technology, procurement and capital projects as set forth and subject to all the conditions in §§ 2.0, 3.0 and 4.0 of the second enactment of Chapter 824 and 829 of the Acts of Assembly of 2008 except that (i) any effective dates contained in Chapter 824 and 829 of the Acts of Assembly of 2008 are superseded by the provisions of this item, and (ii) the institution is not required to have a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as provided in subsection C of § 2.2-1132 in order to be eligible for the additional capital project authority.

2. In addition, each institution shall exercise additional financial and administrative authority over financial operations as follows:

a). BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The Board of Visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this Policy. Consistent with this full and ultimate accountability, however, the Board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate Board resolution the duties and responsibilities set forth in this Policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

b) FINANCIAL MANAGEMENT AND REPORTING SYSTEM.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized by the Board to maintain existing and implement new policies governing the management of University financial resources. These policies shall continue to (i) ensure compliance with Generally Accepted Accounting Principles, (ii) ensure consistency with the current accounting principles employed by the Commonwealth, including the use of fund accounting principles, with regard to the establishment of the underlying accounting records of the University and the allocation and utilization of resources within the accounting system, including the relevant guidance provided by the State Council of Higher Education for Virginia chart of accounts with regard to the allocation and proper use of funds from specific types of fund sources, (iii) provide adequate risk management and internal controls to protect and safeguard all financial resources, including moneys transferred to the University pursuant to a general fund appropriation, and ensure compliance with the requirements of the Appropriation Act.

The financial management system shall continue to include a financial reporting system to satisfy both the requirements for inclusion into the Commonwealth's Comprehensive Annual Financial Report, as specified in the related State Comptroller's Directives, and the University's separately audited financial statements. To ensure observance of limitations and restrictions placed on the use of the resources available to the University, the accounting and bookkeeping system of the University shall continue to be maintained in accordance with the principles prescribed for governmental organizations by the Governmental Accounting Standards Board.

In addition, the financial management system shall continue to provide financial reporting for the President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, and the Board of Visitors to enable them to provide adequate oversight of the financial operations of the University.

c) FINANCIAL MANAGEMENT POLICIES.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall create and implement any and all financial management policies necessary to establish a financial management system with adequate risk management and internal control processes and procedures for the effective protection and management of all University financial resources. Such policies will not address the underlying accounting principles and policies employed by the Commonwealth and the University, but rather will focus on the internal operations of the University's financial management. These policies shall include, but need not be limited to, the development of a tailored set of finance and accounting practices that seek to support the University's specific business and administrative operating environment in order to improve the efficiency and effectiveness of its business and administrative functions. In general, the system of independent financial management policies shall be guided by the general principles contained in the Commonwealth's Accounting Policies and Procedures such as establishing strong risk management and internal accounting controls to ensure University financial resources are properly safeguarded and that appropriate stewardship of public funds is obtained through management's oversight of the effective and efficient use of such funds in the performance of University programs.

The University shall continue to follow the Commonwealth's accounting policies until such time as specific alternate policies can be developed, approved and implemented. Such alternate policies shall include applicable accountability measures and shall be submitted to the State Comptroller for review and comment before they are implemented by the University.

d) FINANCIAL RESOURCE RETENTION AND MANAGEMENT.

The Board of Visitors shall retain the authority to establish tuition, fee, room, board, and other charges, with appropriate commitment provided to need-based grant aid for middle- and lower-income undergraduate Virginians. Except as provided otherwise in the Appropriation Act, it is the intent of the Commonwealth and the University that the University shall be exempt from the revenue restrictions in the general provisions of the Appropriation Act related to non-general funds. In addition, unless prohibited by the Appropriation Act, it is the intent of the Commonwealth and the University that the University shall be entitled to retain non-general fund savings generated from changes in Commonwealth rates and charges, including but not limited to health, life, and disability insurance rates, retirement contribution rates, telecommunications charges, and utility rates, rather than reverting such savings back to the Commonwealth. This financial resource policy assists the University by providing the framework for retaining and managing non-general funds, for the receipt of general funds, and for the use and stewardship of all these funds.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to provide oversight of the University's cash management system which is the framework for the retention of non-general funds. The Internal Audit Department of the University shall periodically audit the University's cash management system in accordance with appropriate risk assessment models and make reports to the Audit and Compliance Committee of the Board of Visitors. Additional oversight shall continue to be provided through the annual audit and assessment of internal controls performed by the Auditor of Public Accounts. For the receipt of general and non-general funds, the University shall conform to the Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 of the Code of Virginia as it currently exists and from time to time may be amended.

e) ACCOUNTS RECEIVABLE MANAGEMENT AND COLLECTION.

The President, through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized to create and implement any and all Accounts Receivable Management and Collection policies as part of a system for the management of University financial resources. The policies shall be guided by the requirements of the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of the Code of Virginia, such that the University shall take all appropriate and cost effective actions to aggressively collect accounts receivable in a timely manner.

These shall include, but not be limited to, establishing the criteria for granting credit to University customers; establishing the nature and timing of collection procedures within the above general principles; and the independent authority to select and contract with collection agencies and, after consultation with the Office of the Attorney General, private attorneys as needed to perform any and all collection activities for all University accounts receivable such as reporting delinquent accounts to credit bureaus, obtaining judgments, garnishments, and liens against such debtors, and other actions. In accordance with sound

collection activities, the University shall continue to utilize the Commonwealth's Debt Set-Off Collection Programs, shall develop procedures acceptable to the Tax Commissioner and the State Comptroller to implement such Programs, and shall provide a quarterly summary report of receivables to the Department of Accounts in accordance with the reporting procedures established pursuant to the Virginia Debt Collection Act.

f) DISBURSEMENT MANAGEMENT.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized to create and implement any and all disbursement policies as part of a system for the management of University financial resources. The disbursement management policies shall continue to define the appropriate and reasonable uses of all funds, from whatever source derived, in the execution of the University's operations. These policies also shall continue to address the timing of appropriate and reasonable disbursements consistent with the Prompt Payment Act, and the appropriateness of certain goods or services relative to the University's mission, including travel-related disbursements. Further, the University's disbursement policy shall continue to provide for the mechanisms by which payments are made including the use of charge cards, warrants, and electronic payments.

These disbursement policies shall authorize the President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, to independently select, engage, and contract for such consultants, accountants, and financial experts, and other such providers of expert advice and consultation, and, after consultation with the Office of the Attorney General, private attorneys, as may be necessary or desirable in his or her discretion. The policies also shall continue to include the ability to locally manage and administer the Commonwealth's credit card and cost recovery programs related to disbursements, subject to any restrictions contained in the Commonwealth's contracts governing those programs, provided that the University shall submit the credit card and cost recovery aspects of its financial and operations policies to the State Comptroller for review and comment prior to implementing those aspects of those policies. The disbursement policies shall ensure that adequate risk management and internal control procedures shall be maintained over previously decentralized processes for public records, payroll, and non-payroll disbursements. The University shall continue to provide summary quarterly prompt payment reports to the Department of Accounts in accordance with the reporting procedures established pursuant to the Prompt Payment Act.

The University's disbursement policies shall be guided by the principles of the Commonwealth's policies as included in the Commonwealth's Accounting Policy and Procedures Manual. The University shall continue to follow the Commonwealth's disbursement policies until such time as specific alternative policies can be developed, approved and implemented. Such alternate policies shall be submitted to the State Comptroller for review and comment prior to their implementation by the University.

3. The Auditor of Public Accounts or his legally authorized representatives shall audit annually the accounts of each institution and shall distribute copies of each annual audit to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Pursuant to § 30-133, the Auditor of Public Accounts and his legally authorized representatives shall examine annually the accounts and books of each such institution, but the institution shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapter 14 (§ 30-130 et seq.) of Title 30 except for those provisions in such chapter that relate to requirements for financial recordkeeping and bookkeeping. Each such institution shall be subject to periodic external review by the Joint Legislative and Audit Review Commission and such other reviews and audits as shall be required by law.

d. Subject to review of its Shared Services Center by the Department of General Services, and approval to proceed with decentralized procurement of authority by the Department of General Services, the Virginia Community College System (VCCS) is authorized, for a period of five years, to exercise additional financial and administrative authority as set out in each of the three functional areas of information technology, procurement and capital projects as set forth and subject to all the conditions in §§ 2.0, 3.0 and 4.0 of the second enactment of Chapter 824 and 829 of the Acts of Assembly of 2008 except that (i) any effective dates contained in Chapter 824 and 829 of the Acts of Assembly of 2008 are superseded by the provisions of this item. The State Board for Community Colleges may request any subsequent delegation of procurement authority after consultation with and positive recommendation by the Department of General Services.

*e. Notwithstanding the small purchase thresholds set forth in the Rules Governing Procurement for institutions of higher education that have operational authority in the area of procurement, the small purchases thresholds shall be the same thresholds set forth in the Virginia Public Procurement Act (§ 2.2- 4300 et seq). Where small purchase thresholds in the Rules Governing Procurement for such institutions exceed those in 2.2-4300 et seq, the Rules Governing Procurement shall be the authorized procurement threshold.*

§ 4-9.03 LEVEL III AUTHORITY

a. The Management Agreements negotiated by the institutions contained in Chapters 675 and 685 of the 2009 Acts of Assembly shall continue in effect unless the Governor, the General Assembly, or the institutions determine that the Management Agreements need to be renegotiated or revised.

b. Pursuant to § 23.1-1005, Code of Virginia, the Governor recommends approval for James Madison University to operate as a Level III institution under the management agreement as approved by its board of visitors on November 9, 2018.

c. Notwithstanding the small purchase thresholds set forth in the Rules Governing Procurement the small purchases thresholds for

*Level III institutions shall be the small purchase thresholds set forth in the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Where small purchase thresholds under Rules Governing Procurement for Level III institutions exceed those in 2.2-4300 et seq., the Rules Governing Procurement shall be the authorized procurement threshold.*

§ 4-9.04 IMPLEMENT JLARC RECOMMENDATIONS

a. The Boards of Visitors at each Virginia public four-year higher education institution, to the extent practicable, shall:

1. require their institutions to clearly list the amount of the athletic fee on their website's tuition and fees information page. The page should include a link to the State Council of Higher Education for Virginia's tuition and fee information. The boards should consider requiring institutions to list the major components of all mandatory fees, including the portion attributable to athletics, on a separate page attached to student invoices;
2. assess the feasibility and impact of raising additional revenue through campus recreation and fitness enterprises to reduce reliance on mandatory student fees. The assessments should address the feasibility and impact of raising additional revenue through charging for specialized programs and services, expanding membership, and/or charging all users of recreation facilities;
3. direct staff to perform a comprehensive review of the institution's organizational structure, including an analysis of spans of control and a review of staff activities and workload, and identify opportunities to streamline the organizational structure. Boards should further direct staff to implement the recommendations of the review to streamline their organizational structures where possible;
4. require periodic reports on average and median spans of control and the number of supervisors with six or fewer direct reports;
5. direct staff to revise human resource policies to eliminate unnecessary supervisory positions by developing standards that establish and promote broader spans of control. The new policies and standards should (i) set an overall target span of control for the institution, (ii) set a minimum number of direct reports per supervisor, with guidelines for exceptions, (iii) define the circumstances that necessitate the use of a supervisory position, (iv) prohibit the establishment of supervisory positions for the purpose of recruiting or retaining employees, and (v) establish a periodic review of departments where spans of control are unusually narrow; and,
6. direct institution staff to set and enforce policies to maximize standardization of purchases of commonly procured goods, including use of institution-wide contracts;
7. consider directing institution staff to provide an annual report on all institutional purchases, including small purchases, that are exceptions to the institutional policies for standardizing purchases;
8. participate in national faculty teaching load assessments by discipline and faculty type.

b. The State Council on Higher Education for Virginia, to the extent practicable, shall:

1. convene a working group of institution financial officers, with input from the Department of Accounts, the Department of Planning and Budget, and the Auditor of Public Accounts, to create a standard way of calculating and publishing mandatory non-E&G fees, including for intercollegiate athletics;
2. update the state's Chart of Accounts for higher education in order to improve comparability and transparency of mandatory non-E&G fees, with input from the Department of Accounts, the Department of Planning and Budget, the Auditor of Public Accounts, and institutional staff. This process should be coordinated with the standardization of tuition and fee reporting;
3. convene a working group of institutional staff to develop instructional and research space guidelines that adequately measure current use of space and plans for future use of space at Virginia's public higher education institutions;
4. coordinate a committee of institutional representatives, such as the previously authorized Learning Technology Advisory Committee. In addition to the objectives set out in the Appropriation Act for the Learning Technology Advisory Committee, the committee should identify instructional technology initiatives and best practices for directly or indirectly lowering institutions' instructional expenditures per student while maintaining or enhancing student learning;
5. include factors such as discipline, faculty rank, cost of living, and regional comparisons in developing faculty salary goals;
6. identify instructional technology best practices that directly or indirectly lower student cost while maintaining or enhancing learning.

c. Notwithstanding the provisions of § 23.1-1304, the State Council of Higher Education for Virginia shall annually train boards of visitors members on the types of information members should request from institutions to inform decision making, such as performance measures, benchmarking data, the impact of financial decisions on student costs, and past and projected cost trends. Boards of Visitors members serving on finance and facilities subcommittees should, at a minimum, participate in

the training within their first year of membership on the subcommittee. SCHEV should obtain assistance in developing or delivering the training from relevant agencies such as the Department of General Services and past or present finance officers at Virginia's public four-year institutions, as appropriate.

d. The Department of Planning and Budget shall revise the formula used to make allocation recommendations for the state's maintenance reserve funding to account for higher maintenance needs resulting from poor facility condition, aging of facilities, and differences in facility use. Beginning with fiscal year 2016, the Department of Planning and Budget shall submit these recommendations to the Governor and General Assembly no later than November 1 of each year.

e. The Six-Year Capital Outlay Plan Advisory Committee, the Department of Planning and Budget, and others as appropriate shall use the results of the prioritization process established by the State Council of Higher Education for Virginia in determining which capital projects should receive funding.

f. Beginning with fiscal year 2016, the Auditor of Public Accounts shall include in its audit plan for each public institution of higher education a review of progress in implementing the JLARC recommendations contained in paragraph § 4-9.04 a.

#### § 4-11.00 STATEMENT OF FINANCIAL CONDITION

Each agency head handling any state funds shall, at least once each year, upon request of the Auditor of Public Accounts, make a detailed statement, under oath, of the financial condition of his office as of the date of such call, to the Auditor of Public Accounts, and upon such forms as shall be prescribed by the Auditor of Public Accounts.

#### § 4-12.00 SEVERABILITY

If any part, section, subsection, paragraph, sentence, clause, phrase, or item of this act or the application thereof to any person or circumstance is for any reason declared unconstitutional, such decisions shall not affect the validity of the remaining portions of this act which shall remain in force as if such act had been passed with the unconstitutional part, section, subsection, paragraph, sentence, clause, phrase, item or such application thereof eliminated; and the General Assembly hereby declares that it would have passed this act if such unconstitutional part, section, subsection, paragraph, sentence, clause, phrase, or item had not been included herein, or if such application had not been made.

#### § 4-13.00 CONFLICT WITH OTHER LAWS

Notwithstanding any other provision of law, and until June 30, 2020, the provisions of this act shall prevail over any conflicting provision of any other law, without regard to whether such other law is enacted before or after this act; however, a conflicting provision of another law enacted after this act shall prevail over a conflicting provision of this act if the General Assembly has clearly evidenced its intent that the conflicting provision of such other law shall prevail, which intent shall be evident only if such other law (i) identifies the specific provision(s) of this act over which the conflicting provision of such other law is intended to prevail and (ii) specifically states that the terms of this section are not applicable with respect to the conflict between the provision(s) of this act and the provision of such other law.

#### § 4-14.00 EFFECTIVE DATE

This act is effective ~~on July 1, 2018~~ on its passage as provided in § 1-214, Code of Virginia..

#### ADDITIONAL ENACTMENTS

**23. That §§ 33.2-1904, 33.2-1907 and 33.2-2502 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 33.2-1904. Northern Virginia Transportation District and Commission.**

A. There is hereby created the Northern Virginia Transportation District (the District), comprising the Counties of Arlington, Fairfax, and Loudoun; the Cities of Alexandria, Falls Church, and Fairfax; and such other county or city contiguous to the District that agrees to join the District.

B. There is hereby established the Northern Virginia Transportation Commission (the Commission) as a transportation commission pursuant to this chapter. The Commission shall consist of five nonlegislative citizen members from Fairfax County, three nonlegislative citizen members from Arlington County, two nonlegislative citizen members from Loudoun County, two nonlegislative citizen members from the City of Alexandria, one nonlegislative member from the City of Falls Church, one nonlegislative citizen member from the City of Fairfax, and the Chairman of the Commonwealth Transportation Board or his designee to serve ex officio with voting privileges. If a county or city contiguous to the District agrees to join the District, such locality shall appoint one nonlegislative citizen member to the Commission. Members from the counties and cities shall be appointed from their respective governing bodies. The Commission shall also include four members ~~of the House of Delegates~~ appointed by the Speaker of the House of Delegates *who may be members of the House of Delegates for terms coincident with their terms of office* and two members of the Senate appointed by the Senate Committee on Rules. *All legislative members shall serve for terms coincident with their terms of office.* Members may be reappointed for successive terms. All members shall be citizens of the Commonwealth. Except for the Chairman of the Commonwealth Transportation Board or his designee, all members of the Commission shall be residents of the localities composing the District.

Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

**§ 33.2-1907. Members of Transportation Commissions.**

A. Any transportation district commission created pursuant to this chapter shall consist of the number of members the component governments shall agree upon, or as may otherwise be provided by law. The governing body of each participating county and city shall appoint from among its members the number of commissioners to which the county or city is entitled; however, for those commissions with powers as set forth in subsection A of § 33.2-1915, the governing body of each participating county or city is not limited to appointing commissioners from among its members. In addition, the governing body may appoint, from its number or otherwise, designated alternate members for those appointed to the commission who shall be able to exercise all of the powers and duties of a commission member when the regular member is absent from commission meetings. Each such appointee shall serve at the pleasure of the appointing body; however, no appointee to a commission with powers as set forth in subsection B of § 33.2-1915 may continue to serve when he is no longer a member of the appointing body. Each governing body shall inform the commission of its appointments to and removals from the commission by delivering to the commission a certified copy of the resolution making the appointment or causing the removal.

The Chairman of the Commonwealth Transportation Board, or his designee, shall be a member of each commission, ex officio with voting privileges. The Chairman of the Commonwealth Transportation Board may appoint an alternate member who may exercise all the powers and duties of the Chairman of the Commonwealth Transportation Board when neither the Chairman of the Commonwealth Transportation Board nor his designee is present at a commission meeting.

The Potomac and Rappahannock Transportation Commission shall also include two members *who reside within the boundaries of the transportation district of the House of Delegates and one member of the Senate from legislative districts located wholly or in part within the boundaries of the transportation district.* ~~The members of the House of Delegates shall be appointed by the Speaker of the House for terms coincident with their terms of office who may be members of the House of Delegates and the one member of the Senate shall be appointed by the Senate Committee on Rules. Each legislative member shall be from a legislative district located wholly or in part within the boundaries of the transportation district and shall serve for a term coincident with his term of office.~~ The members of the General Assembly shall be eligible for reappointment for successive terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

The Transportation District Commission of Hampton Roads shall consist of one nonlegislative citizen member appointed by the Governor from each county and city embraced by the transportation district. However, for the gubernatorial appointments that will become effective July 1, 2016, three of the appointments shall be for initial terms of two years and three appointments shall be for terms of four years. Thereafter, all gubernatorial appointments shall be for terms of four years so as to stagger the terms of the gubernatorial appointees. The governing body of each such county or city may appoint either a member of its governing body or its county or city manager to serve as an ex officio member with voting privileges. Every such ex officio member shall be allowed to attend all meetings of the commission that other members may be required to attend. Vacancies shall be filled in the same manner as the original appointments.

B. The Secretary or his designee and any appointed member of the Northern Virginia Transportation Commission are authorized to serve as members of the board of directors of the Washington Metropolitan Area Transit Authority (§ 33.2-3100 et seq.) and while so serving the provisions of § 2.2-2800 shall not apply to such member. In appointing Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern Virginia Transportation Commission shall include the Secretary or his designee as a principal member on the board of directors of WMATA. Any designee serving as the principal member must reside in a locality served by WMATA.

In selecting from its membership those members to serve on the board of directors of WMATA, the Northern Virginia Transportation Commission shall comply with the following requirements:

1. A board member shall not have been an employee of WMATA within one year of appointment to serve on the board of directors.
2. A board member shall have (i) experience in at least one of the fields of transit planning, transportation planning, or land use planning; transit or transportation management or other public sector management; engineering; finance; public safety; homeland security; human resources; or the law or (ii) knowledge of the region's transportation issues derived from working on regional transportation issue resolution.
3. A board member shall be a regular patron of the services provided by WMATA.
4. Board members shall serve a term of four years with a maximum of two consecutive terms. A board member's term or terms must coincide with his term on the body that appointed him to the Northern Virginia Transportation Commission. Any vacancy created if a board member cannot fulfill his term because his term on the appointing body has ended shall be filled for the unexpired term in the same manner as the member being replaced was appointed within 60 days of the vacancy. The initial appointments to a four-year term will be as follows: the Secretary, or his designee, for a term of four years; the second principal

member for a term of three years; one alternate for a term of two years; and the remaining alternate for a term of one year. Thereafter, board members shall be appointed for terms of four years. Service on the WMATA board of directors prior to July 1, 2012, shall not be considered in determining length of service. Any person appointed to an initial one-year or two-year term, or appointed to an unexpired term in which two years or less is remaining, shall be eligible to serve two consecutive four-year terms after serving the initial or unexpired term.

5. Members may be removed from the board of directors of WMATA if they attend fewer than three-fourths of the meetings in a calendar year; if they are conflicted due to employment at WMATA; or if they are found to be in violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). If a board member is removed during a term, the vacancy shall be filled pursuant to the provisions of subdivision 4.

6. Each member of the Northern Virginia Transportation Commission appointed to the board of directors of WMATA shall file semiannual reports with the Secretary's office beginning July 1, 2012. The reports shall include (i) the dates of attendance at WMATA board meetings, (ii) any reasons for not attending a specific meeting, and (iii) dates and attendance at other WMATA-related public events.

7. Each nonelected member of the Northern Virginia Transportation Commission appointed to the board of directors of WMATA shall be eligible to receive reasonable and necessary expenses and compensation pursuant to §§ 2.2-2813 and 2.2-2825 from the Northern Virginia Transportation Commission for attending meetings and for the performance of his official duties as a board member on that day.

Any entity that provides compensation to a WMATA board member for his service on the WMATA board shall be required to submit on July 1 of each year to the Secretary the amount of that compensation. Such letter will remain on file with the Secretary's office and be available for public review.

C. When the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission enter into an agreement to operate a commuter railway, the agreement governing the creation of the railway shall provide that the Chairman of the Commonwealth Transportation Board or his designee shall have one vote on the oversight board for the railway. For each year in which the state contribution to the railway is greater than or equal to the highest contribution from an individual locality, the total annual subsidy as provided by the member localities used to determine vote weights shall be recalculated to include the Commonwealth contributing an amount equal to the highest contributing locality. The vote weights shall be recalculated to provide the Chairman of the Commonwealth Transportation Board or his designee the same weight as the highest contributing locality. The revised vote weights shall be used in determining the passage of motions before the oversight board.

**§ 33.2-2502. Composition of Authority; membership; terms.**

The Authority shall consist of 17 members as follows:

1. The chief elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;
2. Two members ~~of the House of Delegates~~ who reside in different counties or cities embraced by the Authority, appointed by the Speaker of the House ~~who may be and, to the extent practicable,~~ from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;
3. One member of the Senate who resides in a county or city embraced by the Authority, appointed by the Senate Committee on Rules and, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation;
4. Two nonlegislative citizen members who reside in different counties or cities embraced by the Authority, appointed by the Governor. One such gubernatorial appointment shall be a member of the Commonwealth Transportation Board and one shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management; and
5. The following three persons who shall serve as nonvoting ex officio members of the Authority: the Director of the Department of Rail and Public Transportation, or his designee; the Commissioner of Highways, or his designee; and the chief elected officer of one town in a county embraced by the Authority to be chosen by the Authority.

All members of the Authority shall serve terms coincident with their terms of office, except that the gubernatorial appointee who is not a member of the Board shall serve for a term of four years. A vacancy occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. The Authority shall appoint a chairman and vice-chairman from among its members.

**34. That the Code of Virginia is amended by adding in Article 1 of Chapter 10 of Title 32.1 sections numbered 32.1-332.01, and 32.1-332.02 as follows:**

**§ 32.1-331.01. Health Care Coverage Assessment Fund.**

A. As used in this section:

*"Covered hospital" means any in-state private acute care hospital other than a hospital classified as a public hospital, freestanding psychiatric and rehabilitation hospital, children's hospital, long stay hospital, long-term care hospital, or critical access hospital.*

*"Newly eligible adult" means an individual described in 42 U.S.C. § 1396a(a)(10)(A)(i)(VIII).*

*"State Plan" means the state plan for medical assistance under Title XIX (§ 42 U.S.C. § 1396 et seq.) of the Social Security Act.*

*B. There is hereby created in the state treasury a special nonreverting fund to be known as the Health Care Coverage Assessment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues collected or received as a result of imposition of a health care coverage assessment on covered hospitals and any other such moneys, public or private, received for the administration of the health care coverage assessment shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys deposited to the Fund shall be used solely for the nonfederal share of the cost of medical assistance for newly eligible adults, the administrative costs of collecting the assessment and implementing and operating the coverage for newly eligible adults. Such moneys shall be appropriated as provided in the general appropriation act. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Medical Assistance Services.*

**§ 32.1-331.02. Health Care Provider Payment Rate Assessment Fund.**

*A. As used in this section:*

*"Covered hospital" means any in-state private acute care hospital other than a hospital classified as a public hospital, freestanding psychiatric and rehabilitation hospital, children's hospital, long stay hospital, long-term care hospital, or critical access hospital.*

*"Managed care organization hospital payment gap" means the difference between the amount included in rates for inpatient and outpatient services provided by covered hospitals, based on historical paid claims, and the amount that would be included when hospital services are priced according to the existing State Plan methodology but using 100 percent of the adjustment factors, including the capital reimbursement percentage, and full inflation subject to approval by the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. § 438.6(c).*

*"State Plan" means the state plan for medical assistance under Title XIX (§ 42 U.S.C. § 1396 et seq.) of the Social Security Act.*

*"Upper payment limit" means the amount equal to the maximum amount of payment for inpatient services for recipients of medical assistance services established in accordance with 42 C.F.R. § 447.272 and outpatient services for recipients of medical assistance services pursuant to 42 CFR § 447.321.*

*B. There is hereby created in the state treasury a special nonreverting fund to be known as the Health Care Payment Rate Assessment Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues collected or received as a result of imposition of a health care payment rate assessment on covered hospitals and any other such moneys, public or private, received for the administration of the health care payment assessment shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys deposited to the Fund shall be used solely for the nonfederal share of the cost of payment rate actions associated with the payment rate assessment as provided in the general appropriation act and the administrative costs of collecting the assessment and of implementing and operating the associated payment rate actions. Such moneys shall be appropriated as provided in the general appropriation act. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department of Medical Assistance Services.*

**4 5. Effective July 1, 2018, the authority and responsibilities of the Secretary of Technology included in the Code of Virginia shall be executed by the Secretary of Administration and the Secretary of Commerce and Trade pursuant to Item 65 and Item 102 of this act. Any authority or responsibilities of the Secretary of Technology not referenced in Item 65 and Item 102 of this act shall be executed by either the Secretary of Administration or the Secretary of Commerce and Trade as determined by the Governor.**

**6. That § 58.1-638 of the Code of Virginia is amended and reenacted as follows:**

**58.1-638. Disposition of state sales and use tax revenue.**

*A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.*

*1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session*

of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.2-1524. Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.7 percent shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary ports within the Commonwealth. Expenditures for such capital needs are restricted to those capital projects specified in subsection B of § 62.1-132.1.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell, and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington Airports Authority (MWAA), as follows:

Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however, shall receive less than \$50,000 nor more than \$2 million per year from this provision.

b. Sixty percent of the funds shall be allocated as follows:

(1) For the first six months of each fiscal year, the funds shall be allocated as follows:

(a) Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever airports on a discretionary basis, except airports owned or leased by MWAA; and

(b) Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports on a discretionary basis; and

(2) For the second six months of each fiscal year, all remaining funds shall be allocated by the Aviation Board for all eligible airports on a discretionary basis, except airports owned or leased by MWAA.

3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight Fund. The Commonwealth Space Flight Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.2-1526 shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

b. Commonwealth Space Flight Fund revenue shall be allocated by the Board of Directors to the Virginia Commercial Space Flight Authority in order to foster and stimulate the growth of the commercial space flight industry in Virginia.

4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass Transit Fund.

a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund.

b. The amounts allocated pursuant to § 33.2-1526.1 shall be used to support the operating, capital, and administrative costs of public transportation at a state share determined by the Commonwealth Transportation Board, and these amounts may be used to support the capital project costs of public transportation and ridesharing equipment, facilities, and associated costs at a state share determined by the Commonwealth Transportation Board. Capital costs may include debt service payments on local or agency transit bonds.

c. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 33.2-1800 and for purposes as enumerated in subdivision 7 of § 33.2-1701 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. The Commonwealth Transit Capital Fund shall not be allocated without requiring a local match from the recipient.

B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of the Commonwealth in the manner provided in subsections C and D.

C. The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the state treasury. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received into the state treasury during each month, and such distribution shall be made as soon as practicable after the close of each such month.

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for individuals receiving services in state hospitals, state training centers, or mental health facilities, persons who are confined in state or federal correctional institutions, or persons who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who attend institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by school divisions. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last estimate of school population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such estimate and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.

F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent increase as provided in this subdivision. The transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the net revenue generated (and collected in the succeeding month) from such one-half percent increase for the month of August 2004 and for each month thereafter.

2. Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the revenue generated by a 0.125 percent sales and use tax shall be distributed to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1, and be used for the state's share of Standards of Quality basic aid payments.

3. For the purposes of the Comptroller making the required transfers under subdivision 1 and 2, the Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each month certifying the sales and use tax revenues generated in the preceding month. Within three calendar days of receiving such certification, the Comptroller shall make the required transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

G. (Contingent expiration date — see note) Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the following percentages of the revenue generated by a one-half percent sales and use tax, such as that paid to the Transportation Trust Fund as provided in subdivision A 1, shall be paid to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530:

1. For fiscal year 2014, an amount equal to 10 percent;
2. For fiscal year 2015, an amount equal to 20 percent;
3. For fiscal year 2016, an amount equal to 30 percent; and
4. For fiscal year 2017 and thereafter, an amount equal to 35 percent.

The Highway Maintenance and Operating Fund's share of the net revenue distributable under this subsection shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

H. (Contingent expiration date — see note) 1. The additional revenue generated by increases in the state sales and use tax from Planning District 8 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-2509.

2. The additional revenue generated by increases in the state sales and use tax from Planning District 23 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-2600.

3. The additional revenue generated by increases in the state sales and use tax in any other Planning District pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited into special funds that shall be established by appropriate legislation.

4. The net revenues distributable under this subsection shall be computed as an estimate of the net revenue to be received by the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the appropriate funds on the last day of each month.

I. (For contingent expiration date, see Acts 2018, c. 850) The additional revenue generated by increases in the state sales and use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be deposited by the Comptroller as follows: (i) 50 percent shall be deposited into the Historic Triangle Marketing Fund established pursuant to subsection E of § 58.1-603.2; and (ii) 50 percent shall be deposited in the special fund created pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the localities in which the revenues were collected. The net revenues distributable under this subsection shall be computed as an estimate of the net revenues to be received by the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month.

All payments shall be made to the appropriate funds on the last day of each month.

*J. Beginning July 1, 2020, the first \$40 million of sales and use taxes remitted by online retailers with a physical nexus established pursuant to subsection D of § 58.1-612 shall be deposited into the Major Headquarters Workforce Grant Fund established pursuant to § 59.1-284.31.*

*K. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.*

*KL. The term "net revenue," as used in this section, means the gross revenue received into the general fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter, less refunds to taxpayers."*

***7. That §§ 58.1-601 and 58.1-602, as they are currently effective, 58.1-604, as it is currently effective and as it may become effective, 58.1-605, as it is currently effective, 58.1-612, 58.1-615, as it is currently effective, 58.1-625, as it is currently effective and as it shall become effective, and 58.1-635, as it is currently effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-612.1 as follows:***

§ 58.1-601. (Contingent expiration date) Administration of chapter.

A. The Tax Commissioner shall administer and enforce the assessment and collection of the taxes and penalties imposed by this chapter, *including the collection of state and local sales and use taxes from remote sellers.*

B. *In administering the collection of state and local sales and use taxes from remote sellers, the Tax Commissioner shall:*

*1. Provide adequate information to remote sellers to enable them to identify state and local sales and use tax rates and exemptions;*

*2. Provide adequate information to software providers to enable them to make software and services available to remote sellers;*

*3. Ensure that if the Department requires a periodic audit the remote seller may complete a single audit that covers the state and local sales and use taxes in all localities; and*

*4. Require no more than one sales and use tax return per month be filed with the Department by any remote seller or any software provider on behalf of such remote seller.*

C. For purposes of evaluating the fiscal, economic and policy impact of sales and use tax exemptions, the Tax Commissioner may require from any person information relating to the evaluation of exempt purchases or sales, information relating to the qualification for exempt purchases, and information relating to direct or indirect government financial assistance ~~which~~ *that* the person receives. Such information shall be filed on forms prescribed by the Tax Commissioner.

§ 58.1-602. (Contingent expiration date) Definitions.

As used in this chapter, unless the context clearly shows otherwise; ~~the term or phrase:~~

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined ~~herein~~ *in this section* shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program ~~which~~ *that* is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person ~~who~~ *that* has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" ~~shall~~ *does* not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, ~~such term shall~~ *"integrated process" does* not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected ~~world-wide~~ *worldwide* network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. ~~The term "manufacturing" shall~~ *"Manufacturing" also include* includes the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination *of* whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" ~~shall include~~ *includes*, but ~~is not~~ *is* not limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but ~~shall is not~~ *is* not limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, ~~a~~ *"modular building shall" does* not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person ~~or corporation who~~ *that* owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person ~~who~~ *that* purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales

and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which ~~he~~ *it* is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided *that* such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, ~~shall also include~~ *includes* Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of ~~such term shall mean~~ *"person"* means the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

*"Remote seller" means any dealer deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 under the criteria specified in subdivision C 10 or 11 of § 58.1-612 or any software provider acting on behalf of such dealer.*

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" ~~shall~~ specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also ~~shall~~ specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.

The term "transient" ~~shall~~ *does* not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient, provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" ~~shall~~ *do* not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner

or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" ~~shall~~ *does* not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property ~~which~~ *that* may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. ~~The term "tangible "Tangible personal property" shall~~ *does* not include stocks, bonds, notes, insurance or other obligations or securities. ~~The term "tangible "Tangible personal property" shall include~~ *includes* (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. ~~The term "Use" does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term "Use" does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.~~

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as ~~herein~~ *defined in this section*.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities ~~which~~ *that* are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, ~~it shall refer "used directly" refers~~ *refers* to the activities specified ~~above, in this definition~~ *above, in this definition* and, in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person ~~or entity~~ that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator, including, but not limited to, Internet service.

§ 58.1-604. (Contingent expiration date) Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of 4.3 percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property that has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder

shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

~~5. (Contingent repeal date = see note) The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.~~

§ 58.1-604. (Contingent effective date) Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

~~5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.~~

§ 58.1-605. (Contingent expiration date) To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section.

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on a local sales tax.

C. 1. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this section, and providing that such ordinance shall be effective on the first day of a month at least 60 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

2. *Prior to any change in the rate of any local sales and use tax, the Tax Commissioner shall provide remote sellers with at least 30 days' notice. Any change in the rate of any local sales and use tax shall only become effective on the first day of a calendar quarter. Failure to provide notice pursuant to this section shall require the Commonwealth and the locality to apply the preceding effective rate until 30 days after notification is provided.*

D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G above, that in any county wherein is situated any incorporated town not constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H of this section be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

§ 58.1-612. *Tax collectible from dealers; "dealer" defined; jurisdiction.*

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons ~~who that~~ are dealers, as ~~hereinafter~~ defined in this section, and ~~who that~~ have sufficient contact with the Commonwealth to qualify under (i) ~~subsections (i) B and C~~ or (ii) ~~subsections B and D~~.

B. ~~The term "dealer," as~~ As used in this chapter, ~~shall include "dealer" includes~~ every person ~~who that~~:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;
2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;
3. Sells at retail, or ~~who that~~ offers for sale at retail, or ~~who that~~ has in ~~his~~ its possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible personal property;
4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this Commonwealth, tangible personal property and ~~who that~~ cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal property;
5. Leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;
6. Is the lessee or rentee of tangible personal property and ~~who that~~ pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;
7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or
8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether ~~he~~ it holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if ~~he~~ it:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;
2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;
3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;
4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than 12 times during a calendar year to deliver goods sold by him;
5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;
6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;
7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;
8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; ~~or~~
9. Owns tangible personal property that is for sale located in this Commonwealth, or that is rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth;
10. *Receives more than \$100,000 in gross revenue, or other minimum amount as may be required by federal law, from retail sales in the Commonwealth in the previous or current calendar year, provided that in determining the amount of a dealer's gross revenues, the sales made by all commonly controlled persons as defined in subsection D shall be aggregated; or*
11. *Engages in 200 or more separate retail sales transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year, provided that in determining the total number of a dealer's retail sales transactions, the sales made by all commonly controlled persons as defined in subsection D shall be aggregated.*

D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its customers. The presumption in this subsection may be rebutted by demonstrating that the activities conducted by the commonly controlled person in the Commonwealth are not significantly associated with the dealer's ability to establish or maintain a market in the Commonwealth for the dealer's sales. For purposes of this subsection, a "commonly

controlled person" means any person that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the dealer as a corporation that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered.

E. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person ~~who~~ *that* has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;
2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;
3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and
4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained ~~herein~~ *in this chapter* other than *in* subsection E) shall limit any authority ~~which~~ *that* this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer ~~who~~ *that* regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

G. ~~(Contingent effective date) Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax; the Commonwealth is authorized; as permitted by such federal legislation; to require collection of sales and use tax by any remote seller; or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount; then in determining such amount; the sales made by all persons related within the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.~~

§ 58.1-612.1. *Tax collectible from marketplace facilitators; "marketplace facilitator" defined.*

A. *As used in this chapter:*

*"Marketplace facilitator" means a person that contracts with a marketplace seller to facilitate, for consideration and regardless of whether such consideration is deducted as fees from transactions, the sale of such marketplace seller's products through a physical or electronic marketplace operated by such person. "Marketplace facilitator" does not include a payment processor business appointed by a merchant to handle payment transactions from various channels, such as credit cards and debit cards, and whose sole activity with respect to marketplace sales is to handle transactions between two parties. "Marketplace facilitator" does not include a platform or forum that exclusively provides internet advertising services, including any advertisements that may list products for sale, so long as such platform or forum does not also engage directly or indirectly through one or more commonly controlled persons, as defined in subsection D of § 58.1-612, in the activities described in subsection C.*

*"Marketplace seller" means a person that is not a commonly controlled person, as defined in subsection D of § 58.1-612, to a marketplace facilitator and that makes sales through any physical or electronic marketplace operated by such marketplace facilitator, even if such seller would not have been required to collect and remit sales and use tax had the sale not been made through such marketplace.*

B. *The tax levied under this chapter shall be collectible from all persons that are marketplace facilitators that have sufficient contact with Virginia to require registration under subsection C.*

C. *A marketplace facilitator shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if it meets at least one requirement in each of subdivisions 1, 2, and 3:*

*1. It engages, either directly or indirectly, through a commonly controlled person as defined in subsection D of § 58.1-612 in any of the following activities:*

*a. Transmitting or communicating an offer or acceptance between a purchaser and a marketplace seller;*

*b. Owning or operating the infrastructure, whether electronic or physical, or technology that brings purchasers and marketplace*

*sellers together; or*

*c. Providing a virtual currency that purchasers are allowed or required to use to purchase products from the marketplace seller;*

*2. It engages in any of the following activities with respect to a marketplace seller's products:*

*a. Payment processing;*

*b. Fulfillment or storage;*

*c. Listing products for sale;*

*d. Setting prices;*

*e. Branding sales as those of the marketplace facilitator; or*

*f. Providing customer service or accepting or assisting with returns or exchanges; and*

*3. It establishes economic nexus through either of the following activities:*

*a. Facilitating sales in Virginia that, in the aggregate, generate more than \$100,000 in gross revenue, or other minimum amount as may be required by federal law, for such marketplace facilitator. A marketplace facilitator may exceed this threshold based on sales for either the previous or current calendar year. In determining the amount of a marketplace facilitator's gross revenues, the sales made by all commonly controlled persons, as defined in subsection D of § 58.1-612, shall be aggregated; or*

*b. Facilitating 200 or more separate retail sale transactions, or other minimum amount as may be required by federal law, in the Commonwealth in the previous or current calendar year. In determining the total number of retail sales transactions attributable to a marketplace facilitator, the sales made by all commonly controlled persons, as defined in subsection D of § 58.1-612, shall be aggregated.*

*D. 1. A marketplace facilitator shall be considered a dealer for purposes of this chapter and shall collect the tax imposed by this chapter on all transactions that it facilitates through its marketplace.*

*2. No marketplace seller shall collect sales and use tax on a transaction made through a marketplace facilitator's marketplace.*

*3. Notwithstanding the provisions of subdivisions 1 and 2, the Department shall allow for a waiver from the requirements of subdivisions 1 and 2 if a marketplace facilitator demonstrates, to the satisfaction of the Commissioner, that either (i) all of its marketplace sellers already are registered dealers under § 58.1-613 or (ii) the marketplace seller has sufficient nexus to require registration under § 58.1-613 and that collection of the tax by the marketplace facilitator for such marketplace seller would create an undue burden or hardship for either party. If such waiver is granted, the tax levied under this chapter shall be collectible from the marketplace seller. The Department shall develop guidelines that establish (a) the criteria for obtaining a waiver pursuant to this section, (b) the process and procedure for a marketplace facilitator to apply for a waiver, and (c) the process for providing notice to an affected marketplace facilitator and marketplace seller of a waiver obtained pursuant to this subdivision.*

*E. A marketplace facilitator shall be relieved from liability, including penalties and interest, for the incorrect collection or remittance of sales and use tax on transactions it facilitates or for which it is the seller if the error is due to reasonable reliance on (i) an invalid exemption certificate provided by the marketplace seller or the purchaser; (ii) incorrect or insufficient information provided by the Commonwealth; or (iii) incorrect or insufficient information provided by the marketplace seller or purchaser regarding the tax classification or proper sourcing of an item or transaction, provided that the marketplace facilitator can demonstrate it made a reasonable effort to obtain accurate information from the marketplace seller or purchaser. The relief from liability afforded to the marketplace facilitator pursuant to this subsection shall not exceed the total amount of tax due from the marketplace facilitator on the incorrect transaction independent of any penalties or interest that would have otherwise applied. Any deficiency resulting from incorrect information provided by the marketplace seller or as the result of an audit shall be the liability of the marketplace seller.*

*F. A marketplace facilitator is the sole entity subject to audit by the Department for sales and use tax collection for all transactions facilitated by the marketplace facilitator unless (i) the marketplace facilitator can demonstrate that its failure to collect the proper tax was due to incorrect information provided by the marketplace seller or (ii) the marketplace seller is subject to a waiver granted pursuant to subdivision D 3.*

*G. If a marketplace facilitator lacks physical presence in the Commonwealth and has both facilitated and made direct sales into the Commonwealth, both types of sales shall be considered in determining whether it has established economic nexus.*

*H. When a marketplace seller that is not otherwise required to register for the collection of the tax under any of the provisions contained in subdivisions C 1 through 9 of § 58.1-612 makes both direct sales and sales on a marketplace facilitator's marketplace, only the marketplace seller's direct sales shall be considered in determining whether the marketplace seller is required to register for the collection of the tax under subdivision C 10 or 11 of § 58.1-612.*

*I. No class action shall be brought against a marketplace facilitator in any court of the Commonwealth on behalf of customers arising from or in any way related to an overpayment of sales and use tax collected on sales facilitated by the marketplace facilitator, regardless of whether such claim is characterized as a tax refund claim. Nothing in this subsection shall affect a customer's right to seek a refund on an individual basis.*

§ 58.1-615. (Contingent expiration date) Returns by dealers.

A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day of the month following the month in which the tax shall become effective, transmit to the Tax Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be, arising from all transactions taxable under this chapter during the preceding calendar month, and thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or before the twentieth day of each month, for the preceding calendar month. In the case of dealers regularly keeping books and accounts on the basis of an annual period which varies 52 to 53 weeks, the Tax Commissioner may make rules and regulations for reporting consistent with such accounting period.

Notwithstanding any other provision of this chapter, a dealer may be required by the Tax Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when, in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or before the twentieth day of the month following the close of the period. Each such return shall contain all information required for monthly returns.

A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable to remit to the Tax Commissioner any tax for the period covered by the return.

*The Tax Commissioner shall not require that more than one sales and use tax return per month be filed with the Department by any remote seller or any software provider on behalf of such remote seller.*

B. [Expired.]

C. Any return required to be filed with the Tax Commissioner under this section shall be deemed to have been filed with the Tax Commissioner on the date that such return is delivered by the dealer to the commissioner of the revenue or the treasurer for the locality in which the dealer is located and receipt is acknowledged by the commissioner of the revenue or treasurer. The commissioner of the revenue or the treasurer shall stamp such date on the return, and shall mail the return to the Tax Commissioner no later than the following business day. The commissioner of the revenue or the treasurer may collect from the dealer the cost of postage for such mailing.

D. Every dealer ~~who that~~ elects to file a consolidated sales tax return for any taxable period and ~~who that~~ is required to remit payment by electronic funds transfer pursuant to subsection B of § 58.1-202.1 beginning on and after July 1, 2010, shall file ~~his its~~ monthly return using an electronic medium prescribed by the Tax Commissioner. A waiver of this requirement may be granted if the Tax Commissioner determines that it creates an unreasonable burden on the dealer.

§ 58.1-625. (Effective until July 1, 2022) Collection of tax.

A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter may be maintained in this Commonwealth by any dealer ~~who that~~ is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until ~~he it~~ can affirmatively show that the tax has since been refunded to the purchaser or credited to ~~his its~~ account.

D. 1. Any dealer ~~who that~~ neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by ~~him it, his its~~ agents, or employees shall be liable for and pay the tax ~~himself itself~~, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer ~~who that~~ neglects, fails, or refuses to pay or collect the tax herein provided, either by ~~himself itself~~ or through ~~his its~~ agents or employees, ~~shall be~~ is guilty of a Class 1 misdemeanor.

2. *Notwithstanding subdivision 1, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

E. (Contingent effective date) ~~Notwithstanding subsection D; any remote seller, single provider, or consolidated provider who has~~

collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.

F: All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

F. Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in §§ 58.1-611.2 and 58.1-611.3 or subdivision 18 of § 58.1-609.1 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax ~~himself~~ *itself*. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as ~~he~~ *it* is for tax collected from a purchaser pursuant to this section.

§58.1-625. (Effective July 1, 2022) Collection of tax.

A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter may be maintained in this Commonwealth by any dealer ~~who~~ *that* is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until ~~he~~ *it* can affirmatively show that the tax has since been refunded to the purchaser or credited to ~~his~~ *its* account.

D. 1. Any dealer ~~who~~ *that* neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by ~~him~~ *it*, ~~his~~ *its* agents, or employees shall be liable for and pay the tax ~~himself~~ *itself*, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer ~~who~~ *that* neglects, fails, or refuses to pay or collect the tax herein provided, either by ~~himself~~ *itself* or through ~~his~~ *its* agents or employees, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

2. *Notwithstanding subdivision 1, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

E. (Contingent effective date -- see Editor's note) Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.

F: All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

F. Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in § 58.1-611.2 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax ~~himself~~ *itself*. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as ~~he~~ *it* is for tax collected from a purchaser pursuant to this section.

§ 58.1-635. (Contingent expiration date) Failure to file return; fraudulent return; civil penalties.

A. When any dealer fails to make any return and pay the full amount of the tax required by this chapter, there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed ~~thirty~~ *30* percent in the aggregate. In no case, however, shall the penalty be less than ~~ten dollars~~ *\$10* and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the Tax Commissioner, such return with or without remittance may be accepted exclusive of penalties. In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any tax due under this chapter, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of ~~fifty~~ *50* percent of the amount of the proper tax shall be assessed. All penalties and interest imposed by this chapter shall be payable by the dealer and collectible by the Tax Commissioner in the same manner as if they were a part of the tax imposed.

B. It shall be prima facie evidence of intent to defraud the Commonwealth of any tax due under this chapter when any dealer

reports ~~his~~ its gross sales, gross proceeds or cost price, as the case may be, at ~~five~~ 50 percent or less of the actual amount.

C. Interest at a rate determined in accordance with § 58.1-15, shall accrue on the tax until the same is paid, or until an assessment is made, pursuant to § 58.1-15, after which interest shall accrue as provided therein.

*D. Notwithstanding any other provision of this section, any remote seller or marketplace facilitator that has collected an incorrect amount of sales and use tax shall be relieved from liability for such amount, including any penalty or interest, if the error is a result of the remote seller's or marketplace facilitator's reasonable reliance on information provided by the Commonwealth.*

**8. That the provisions of Chapter 766 of the Acts of Assembly of 2013 amending §§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, 58.1-615, and 58.1-635, as they may become effective, of the Code of Virginia are repealed.**

**9. That the fourth enactment of Chapter 766 of the Acts of Assembly of 2013 is amended and reenacted as follows:**

**4. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia, §§ ~~58.1-609.13~~, 58.1-2289, as it may become effective, 58.1-2290, and 58.1-2701, as it may become effective, of the Code of Virginia and the second enactment of Chapter 822 of the Acts of Assembly of 2009, as amended by Chapter 535 of the Acts of Assembly of 2012, are repealed.**

**10. That the seventh and fifteenth enactments of Chapter 766 of the Acts of Assembly of 2013 and the twelfth enactment of Chapter 684 of the Acts of Assembly of 2015, as amended by Chapters 854 and 856 of the Acts of Assembly of 2018, are repealed.**

**11. That nothing in this act shall be construed to appropriate or transfer any transportation revenues for nontransportation purposes pursuant to the twenty-second enactment of Chapter 896 of the Acts of Assembly of 2007 or the fourteenth enactment of Chapter 766 of the Acts of Assembly of 2013.**

**12. That the provisions of this act requiring remote sales and use tax collection by remote sellers and marketplace facilitators shall not apply to any retail sales transactions occurring before July 1, 2019; however, transactions occurring before July 1, 2019, may be included in the calculation of gross revenue or retail transactions pursuant to the provisions of subdivisions C 10 and 11 of § 58.1-612 of the Code of Virginia, as amended by this act. Notwithstanding the sixth enactment clause of House Bill 1722, 2019 Acts of Assembly, and the sixth enactment clause of Senate Bill 1083, 2019 Acts of Assembly, the Department of Taxation is not permitted to temporarily suspend or delay the collection or reporting requirements, or both, of a marketplace facilitator.**

**13. That the Department of Taxation shall develop guidelines implementing the provisions of the seventh and twelfth enactment clauses of this act, including guidelines implementing the provisions of subsection D of § 58.1-612.1 of the Code of Virginia, as created by this act, creating a waiver. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).**

**14. That should any portion of this act be held unconstitutional by a court of competent jurisdiction, the remaining portions of this act shall remain in effect.**

**15. That the provisions of the seventh enactment of this Act shall apply beginning July 1, 2019.**

**16. That § 58.1-638.2 of the Code of Virginia is repealed.**

**17. That the provisions of the first, second and ~~fourth~~ fifth enactments of this act shall expire at midnight on June 30, 2020. The provisions of the ~~second and third~~, fourth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth enactments shall have no expiration date.**

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## CERTIFICATION OF THE ACTS OF ASSEMBLY

## 2019 REGULAR SESSION

I, G. Paul Nardo, Clerk of the House of Delegates and Keeper of the Rolls of the Commonwealth, do hereby certify that the 2019 Regular Session of the General Assembly of the Commonwealth of Virginia, at which the Acts of Assembly herein printed were enacted, convened on Wednesday, January 9, 2019, and adjourned sine die on Sunday, February 24, 2019, and the Reconvened Session, pursuant to Section 6 of Article IV of the Constitution of Virginia, convened on Wednesday, April 3, 2019, and adjourned sine die on Wednesday, April 3, 2019.

G. PAUL NARDO  
*Clerk of the House of Delegates  
and  
Keeper of the Rolls of the Commonwealth*

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Note: Except as otherwise provided therein, all Acts of the 2019 Regular Session of the General Assembly, including the Reconvened Session, became effective at the first moment of July 1, 2019.

The Acts contained in Chapters 820-824 became a chapter of the Acts of Assembly on March 26, 2019, pursuant to Section 1 of Article XII of the Constitution of Virginia and §§ 30-13, 30-14, and 30-19 of the Code of Virginia. These chapters, agreed to by the General Assembly as either a House Joint Resolution or Senate Joint Resolution, are not subject to presentation, review, and action by the Governor pursuant to Section 6 of Article V of the Constitution of Virginia.

The Acts contained in Chapters 825-847 became law without the signature of the Governor on April 3, 2019, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

The Acts contained in Chapters 848-853 were signed by the Governor on April 29, 2019, all having been returned to the Governor by the Reconvened Session, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

The Act contained in Chapter 854 was signed by the Governor on May 2, 2019, having been returned to the Governor by the Reconvened Session, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

**RESOLUTIONS OF THE GENERAL ASSEMBLY  
2019 REGULAR SESSION**

**HOUSE JOINT RESOLUTION NO. 581**

*Requesting the Commonwealth Transportation Board to study the portion of the Interstate 95 corridor between Exit 118 and the Springfield Interchange and financing options for improvements to the corridor. Report.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, an adequate, efficient, and safe Interstate 95 corridor is important to the economic well-being of the communities located along the corridor; and

WHEREAS, a 2017 nationwide study conducted by INRIX Research ranked the nation's worst single traffic hotspot as Interstate 95 southbound at Exit 133A in Fredericksburg, with 1,394 traffic jams over the two-month study period, with an average duration of 33 minutes. This hotspot is projected to cost drivers \$2.3 billion from 2017 through 2026 in time lost, fuel wasted, and carbon emitted; and

WHEREAS, the portion of Interstate 95 northbound between Massaponax and State Route 610 in North Stafford was ranked as the seventh worst traffic hotspot in the nation, with 936 traffic jams over the two-month study period, with an average duration of 33 minutes. This hotspot is projected to cost drivers \$1.1 billion from 2017 through 2026 in time lost, fuel wasted, and carbon emitted; and

WHEREAS, the existing transportation infrastructure in this corridor is inadequate and must be updated to meet the needs of the growing population along this corridor; and

WHEREAS, the Metropolitan Washington Council of Governments reported that the Interstate 95 corridor in Fairfax and Prince William Counties contained 566,000 residents and 187,000 jobs in 2010 and forecasts that 126,000 residents and 85,000 jobs will be added by 2030; and

WHEREAS, continued congestion in this corridor threatens the prosperity and economic development of the entire region and creates economic hardship for the residents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Commonwealth Transportation Board be requested to study the portion of the Interstate 95 corridor between Exit 118 and the Springfield Interchange and financing options for improvements to the corridor.

In conducting its study, the Commonwealth Transportation Board (the Board) shall develop and adopt an Interstate 95 Corridor Improvement Plan (Plan). The Plan shall include the examination of potential improvements to the portion of Interstate 95 between Exit 118 and the Springfield Interchange and the methods of financing such improvements.

At a minimum, in the development of the Plan, the Board shall:

1. Designate specific segments of the Interstate 95 corridor between Exit 118 and the Springfield Interchange for improvement;
2. Identify a targeted set of improvements for each segment that may be financed or funded in such segment and evaluated using the statewide prioritization process pursuant to § 33.2-214.1 of the Code of Virginia;
3. Ensure that, in the overall plan of expenditure and distribution of any toll revenues or other evaluated financing means, each segment's total long-term benefit shall be approximately equal to the proportion of the toll revenues attributable to and other funds allocated to such segment divided by the total toll revenues and other revenues allocated to the Plan;
4. Study truck travel patterns along the Interstate 95 corridor and analyze policies that minimize the impact of the Plan on local truck traffic;
5. Identify incident management strategies corridor-wide;
6. Ensure that any revenues collected on the Interstate 95 corridor be used only for the benefit of that corridor;
7. Determine potential solutions to address region-specific needs along this Interstate 95 corridor; and
8. Also consider the effect of improvements to the Virginia Railway Express Service, the implementation of High Speed Rail service, and the effect that enhanced transit service could mitigate congestion along the I-95 Corridor.

Technical assistance shall be provided to the Board by the Department of Transportation, the Department of Motor Vehicles, and the Department of State Police. All agencies of the Commonwealth shall provide assistance to the Board for this study, upon request.

The Board shall complete its meetings by November 30, 2019, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of

Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2020 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 586

*Celebrating the life of William E. Ward.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, William E. Ward, a trailblazing public servant who strengthened the Chesapeake community as the city's first African American mayor and the longest-serving mayor in the City of Chesapeake history, died on July 10, 2018; and

WHEREAS, a native of Central Virginia, William "Bill" E. Ward earned bachelor's and master's degrees from Virginia State University and master's and doctoral degrees from Clark University in Massachusetts; and

WHEREAS, Bill Ward pursued a 27-year career in higher education as a professor and chair of the history department at Norfolk State University, where he also served as president of the faculty senate, a member of the Council of Teacher Education, and chair of the institution's Black History Month Committee; and

WHEREAS, Bill Ward began his career in public life as a grassroots community organizer, working to bring sewer services and roads to neighborhoods in Chesapeake and Norfolk; desirous to be of further service to the community, he ran for and was elected to the Chesapeake City Council in 1978 and was subsequently elected vice mayor for two terms, from 1984-1986 and 1988-1990; and

WHEREAS, in 1990, Bill Ward was appointed as Mayor of Chesapeake to fill an unexpired term, and he won reelection to the city's highest office in 1992, 1996, and 2000; during his tenure as mayor, he worked tirelessly to achieve his vision of Chesapeake as an economic driver in Hampton Roads; and

WHEREAS, Bill Ward oversaw the expansion of several national and international companies in Chesapeake, creating countless new employment opportunities and encouraging responsible growth and development throughout the region, and he played a vital role in the creation of the Chesapeake Conference Center in Greenbrier; and

WHEREAS, Bill Ward was a trusted mentor to countless aspiring public servants and community leaders and was the president of the Educational Foundation, Inc., of The New Chesapeake Men for Progress, which provides scholarships and grants to African American students in local high schools; and

WHEREAS, a true statesman, Bill Ward used his charismatic personality and quiet professionalism to build bipartisan consensus in pursuit of a bright future for the Chesapeake community, becoming known as "the people's mayor"; and

WHEREAS, Bill Ward volunteered his wise leadership to the Virginia State University Board of Visitors, Hampton Roads Partnership, Hampton Roads Economic Development Alliance, Hampton Roads Planning District Commission, and Southeastern Public Service Authority; and

WHEREAS, Bill Ward will be fondly remembered and greatly missed by his wife of more than 50 years, Rose; his children, Michael and Michelle, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William E. Ward, an inspirational leader who dedicated his life to public service and left a legacy of unity to the residents of Chesapeake and Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William E. Ward as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 587

*Commending the American Legion.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, for 100 years, the American Legion has promoted patriotism and advocated for military veterans, their families, and their communities throughout the Commonwealth and the United States; and

WHEREAS, the American Legion was founded in Paris, France, by veterans of World War I, who were concerned about maintaining the welfare of their comrades and communities after their return to the United States; the organization was officially chartered by the United States Congress on September 16, 1919; and

WHEREAS, based in Indianapolis, the American Legion has grown to become the largest wartime veterans service organization in the country, with more than 12,000 posts in all 50 states, as well as the District of Columbia, Puerto Rico, Mexico, the Philippines, and France; and

WHEREAS, in its early years, the American Legion helped create the United States Flag Code, which established the proper protocols of use, display, and respect for the flag, and the organization was instrumental in the creation of the United States Veterans' Bureau, now the United States Department of Veterans Affairs; and

WHEREAS, during World War II, the American Legion advocated for improved support for medically discharged, disabled veterans, which became known as the Serviceman's Readjustment Act of 1944 or the G.I. Bill; the bill provided a wide range of benefits for all returning veterans, including access to higher education; and

WHEREAS, members of the American Legion have strengthened their communities through volunteer outreach, civics programs, and fundraising for charitable organizations; after Hurricane Hugo in 1989, the American Legion established the National Emergency Fund to provide immediate cash relief for veterans who have been affected by natural disasters; and

WHEREAS, the American Legion's 100th anniversary celebration began at the 100th American Legion National Convention on August 24-30, 2018, in Minneapolis, the site of the first such convention in 1919, will continue through the 101st American Legion National Convention in August 2019, and will conclude on Veterans Day on November 12, 2019; and

WHEREAS, among many special events during this 15-month commemoration, the American Legion developed a video series and an illustrated book on the history of the organization, organized exhibits at national museums, and hosted several American Legion Legacy Run motorcycle rides; and

WHEREAS, the American Legion launched a Post History Page on its website, allowing individual posts throughout the nation to build a unique page detailing that post's history and contributions to its community; and

WHEREAS, the American Legion's centennial provides an opportunity not only to look back upon the organization's storied history, but also to foster a new era of growth and engagement in the important programs that have served generations of veterans; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the American Legion for its legacy of service to veterans on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the American Legion as an expression of the General Assembly's admiration for the organization's contributions to American society, national security, and the welfare of military veterans and their families.

### HOUSE JOINT RESOLUTION NO. 589

*Commending the Southside Virginia Wildlife Center.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Southside Virginia Wildlife Center, a nonprofit organization in Danville, provides care to orphaned and injured wild animals and promotes the importance of protecting wildlife and conserving the Commonwealth's valuable natural resources; and

WHEREAS, established by Tanya Lovern, the region's only state licensed and permitted wildlife rehabilitator, the Southside Virginia Wildlife Center accepts all wild animals at no charge to the rescuer; and

WHEREAS, Tanya Lovern, who has more than 25 years of experience rehabilitating wild animals, worked out of her home for several years before opening the Southside Virginia Wildlife Center in 2012; and

WHEREAS, active in the Counties of Franklin, Halifax, Henry, Patrick, and Pittsylvania, the Southside Virginia Wildlife Center cares for hundreds of animals each year; and

WHEREAS, the Southside Virginia Wildlife Center also educates students and other members of the public on how to properly interact with wildlife; and

WHEREAS, the Southside Virginia Wildlife Center has fulfilled its mission with the leadership of its board of directors, the hard work of many volunteers, and donations and support from local game wardens, veterinarians, community members, and the Danville Area Humane Society; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Southside Virginia Wildlife Center for its compassionate work to rehabilitate wild animals and release them back into their natural habitat; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tanya Lovern, head of the Southside Virginia Wildlife Center, as an expression of the General Assembly's admiration for the center's contributions to the Southside Virginia community.

### HOUSE JOINT RESOLUTION NO. 593

*Remembering the 80th anniversary of Kristallnacht.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, the Holocaust was the state-sponsored, systematic persecution and annihilation of the European Jewry by Nazi Germany and its collaborators between 1933 and 1945, when more than six million Jews were murdered and millions of other people suffered grievous oppression and death under Nazi tyranny; and

WHEREAS, 2018 marks the 80th anniversary of Kristallnacht, a pogrom organized by Nazi officials and paramilitary forces against Jewish communities throughout Nazi Germany that took place on November 9-10, 1938; and

WHEREAS, during Kristallnacht, hundreds of synagogues in Germany and Austria were burned and destroyed, businesses and homes were ransacked, and scores of innocent Jews were killed and thousands of others were arrested and sent to concentration camps; and

WHEREAS, commonly translated as the Night of Broken Glass, Kristallnacht took its name from the shards of broken window glass littering the streets after the horrific attacks; and

WHEREAS, a major escalation of existing anti-Semitic policies at the time, Kristallnacht was the first coordinated assault on the Jewish population and served as a prelude to the greatest horrors of the Holocaust, a campaign of systematic mass murder on a scale never before witnessed in human history; and

WHEREAS, Kristallnacht and the entire reign of the Nazi government mark one of the darkest periods in the civilized era and are stark reminders of how easily hatred and bigotry can proliferate and erode societal norms; and

WHEREAS, the 80th anniversary of this unprecedented tragedy offers a solemn opportunity for all Virginians to keep alive the memory of the millions who perished during the Holocaust, more than one and a half million of whom were innocent children; raise awareness of the dangers of bigotry and intolerance; and work to ensure that acts of genocide such as Kristallnacht never occur again; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the 80th anniversary of Kristallnacht be remembered in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Jewish Community Federation of Richmond, requesting that the organization further disseminate copies of this resolution so its constituents may be apprised of the sense of the General Assembly in this matter.

### HOUSE JOINT RESOLUTION NO. 594

*Designating April, in 2019 and in each succeeding year, as Safe Digging Month in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, underground utility infrastructure provides vital services such as water, sewer, electricity, communications, and natural gas to the citizens and businesses across the Commonwealth; and

WHEREAS, these underground utility lines are at risk of damage every time someone digs in close proximity to the facilities; and

WHEREAS, every year, the Commonwealth's underground utility infrastructure is jeopardized by unintentional damage caused by those who fail to contact the Virginia 811 notification center to have underground utility lines located and marked prior to digging; and

WHEREAS, the potential consequences of failing to have the underground lines located and marked include possible service interruption, damage to the environment, personal injury, and even death; and

WHEREAS, Virginia 811, partnering with the Virginia State Corporation Commission and stakeholder groups, has developed an effective public education campaign to raise awareness about safe digging practices and the importance of always contacting Virginia 811 before digging; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate April, in 2019 and in each succeeding year, as Safe Digging Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to Rick Pevarski, president and chief executive officer of Virginia 811, so that the Virginia 811 board of directors, utility members, staff, and industry stakeholders may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 595

*Designating August 11, in 2019 and in each succeeding year, as 811 Day in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, in 2005, the Federal Communications Commission mandated 811 as the universal number for contractors and homeowners to contact their local one-call notification center to have underground utility lines located and marked at an intended digging site; and

WHEREAS, Virginia 811 and industry stakeholders promote the "Call/Contact Before You Dig" 811 number in an effort to reduce damages and protect the infrastructure of the Commonwealth; and

WHEREAS, underground utility lines are placed at risk of damage every time someone digs in close proximity; and

WHEREAS, each year, the Commonwealth's vital infrastructure is jeopardized by unintentional damage caused by those who fail to contact Virginia 811 prior to digging or demolishing; and

WHEREAS, the potential consequences of failing to contact 811 include service interruption, damage to the environment, personal injury, and even death; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate August 11, in 2019 and in each succeeding year, as 811 Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to Rick Pevarski, president and chief executive officer of Virginia 811, so that the Virginia 811 board of directors, utility members, staff, and industry stakeholders may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 596

*Celebrating the life of Troy Everette Strickland.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Troy Everette Strickland of Scottsburg, a highly admired youth coach and public safety professional, died on July 25, 2018; and

WHEREAS, a native of Halifax County, Troy Strickland never met a stranger and worked to enhance the lives of all of his fellow residents through his generous volunteerism and civic leadership; and

WHEREAS, Troy Strickland served as an investigator with the Halifax Public Defender Office, where he earned a reputation as a hardworking colleague and a trusted friend; and

WHEREAS, in addition to his duties for the county, Troy Strickland coached the Halifax Heat 14U girls' softball team and Dixie Boys Brewers baseball team, providing an exceptional role model for the boys and girls in his care both on and off the field; and

WHEREAS, throughout his life, Troy Strickland earned admiration for his willingness to always help a friend or neighbor in need; he heroically made the ultimate sacrifice while helping to rescue a young girl who had become trapped in a rip current at Emerald Isle, North Carolina; and

WHEREAS, Troy Strickland will be fondly remembered and greatly missed by his wife, Jessica; his children, Ashlyn and Grant; his mother, Darlene; his sister, Jessica, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Troy Everette Strickland, a proud member of the Halifax County community who touched countless lives as a youth coach and a public safety professional; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Troy Everette Strickland as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 599

*Commending the Washington Capitals.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, on June 7, 2018, the Washington Capitals claimed their first National Hockey League championship in the franchise's 44-year history with a thrilling win in the 2018 Stanley Cup Finals; and

WHEREAS, the Washington Capitals defeated the red-hot Vegas Golden Knights in the Stanley Cup Finals in five games, closing out the best-of-seven series with four consecutive wins to lift Lord Stanley's Cup, the oldest existing trophy awarded in a professional sports league; and

WHEREAS, the Washington Capitals opened their historic postseason campaign as the Metropolitan Division number one seed and defeated the Columbus Blue Jackets in six games, then exorcised years of heartbreak to advance past the second round of the Stanley Cup playoffs for the first time since 1998, overcoming their longtime rivals, the Pittsburgh Penguins, with a dramatic overtime win in game six; and

WHEREAS, the Washington Capitals defeated the Tampa Bay Lightning, the Atlantic Division number one seed, in seven games to clinch the Eastern Conference title, win their second Prince of Wales Trophy, and advance to the Stanley Cup Finals, with beloved Capitals radio announcer John Walton prophetically asserting, "It's OK to believe"; and

WHEREAS, with the 2018 Stanley Cup Finals tied 1-1 after the first two games in Las Vegas, Washington Capitals stars T.J. Oshie and Matt Niskanen shocked and delighted fans by riding the MetroRail Red Line to games three and four at Capital One Arena; and

WHEREAS, tens of thousands of fans watched Game 5 of the Stanley Cup Finals inside and outside of Capital One Arena and witnessed the Washington Capitals become the first team from Washington, D.C., in the four major professional sports leagues in the United States to win a championship since 1992, ending one of the longest citywide championship droughts in the country; and

WHEREAS, Alexander Ovechkin, captain of the Washington Capitals since 2010 and the first overall pick in the 2004 National Hockey League Draft, exhibited extraordinary leadership and delivered superstar-caliber play, leading all scorers in the postseason with 15 goals and receiving the Conn Smythe Trophy as the most valuable player for the 2018 Stanley Cup playoffs; and

WHEREAS, during the 2018 Stanley Cup playoffs, Washington Capitals goalie Braden Holtby recorded 639 saves and two shutouts for a remarkable 0.922 save percentage; and

WHEREAS, during the 2018 Stanley Cup playoffs, Washington Capitals' Evgeny Kuznetsov recorded 32 points, including 12 goals and 20 assists, the second most points scored in a Stanley Cup playoff year since 1997, and he was only the fifth player to record 30 or more points in a single Stanley Cup playoff year since 1997; and

WHEREAS, Barry Trotz, head coach of the Washington Capitals, and the entire coaching staff kept the Capitals composed and organized, despite facing obstacles and adversity throughout the regular season and the playoffs; and

WHEREAS, the entire Washington Capitals postseason roster banded together as one family to contribute to the Stanley Cup victory, including Nicklas Backstrom, Jay Beagle, Travis Boyd, Madison Bowey, Andre Burakovsky, John Carlson, Alex Chiasson, Brett Connolly, Pheonix Copley, Christian Djoos, Lars Eller, Shane Gersich, Philipp Grubauer, Braden Holtby, Jakub Jerabek, Michal Kempny, Evgeny Kuznetsov, Matt Niskanen, Dmitry Orlov, Brooks Orpik, T.J. Oshie, Alex Ovechkin, Devante Smith-Pelly, Chandler Stephenson, Jakub Vrana, Nathan Walker, and Tom Wilson; and

WHEREAS, Ted Leonsis, chief executive officer of Monumental Sports and owner of the Washington Capitals since 1999, has built a culture of success and contributed greatly to the Washington, D.C., community through philanthropy and support for youth leadership in the region; and

WHEREAS, the Washington Capitals are welcoming to fans from all walks of life and held a variety of special events throughout the season, including Fan Appreciation Week, Salute to the Military Night, and the organization's first annual Pride Night in support of the LGBT community on February 27, 2018; several members of the team, including Braden Holtby, Chandler Stephenson, Brett Connolly, and Nathan Walker also attended the 2018 Human Rights Campaign National Dinner; and

WHEREAS, headquartered in the Commonwealth, the Washington Capitals practice at the MedStar Capitals Iceplex in Arlington, and a majority of the players reside in Virginia; the members of the team make many generous contributions to the Northern Virginia community, including through Caps Care programs to support special needs children, hunger relief, and cancer research; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Washington Capitals on winning the 2018 Stanley Cup Finals; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Washington Capitals as an expression of the General Assembly's admiration for the team's incredible achievements on and off the ice.

### HOUSE JOINT RESOLUTION NO. 600

*Commending the 2nd Street Festival.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, in 2018, the 2nd Street Festival, one of Richmond's premier annual events, celebrated the 30th anniversary of "Reuniting the Jackson Ward Community" and offering consistent support for the neighborhood with ongoing efforts to revitalize downtown Richmond; and

WHEREAS, the 2nd Street Festival began in 1989 as a gala to mark the release of a video called *2 Street*; it was one of the first organized neighborhood street parties, coinciding with the City of Richmond's goal to revitalize Second Street and the surrounding Jackson Ward area; and

WHEREAS, several local organizations were the prime movers in developing and promoting the 2nd Street Festival; Nina Abady, who was director of Downtown Presents in 1989, insisted that a free public event be included in the 1989 video-promotion festivities; and

WHEREAS, from its beginnings under one tent in front of the Hippodrome Theater, the festival celebrating *2 Street*, as the neighborhood once known as "the Harlem of the South" is sometimes fondly called now, has grown into a four-city-block celebration offering Richmonders and visitors alike the chance to reunite with old friends, reminisce, and reflect on memories of the Historic Jackson Ward and familiar places; and

WHEREAS, the 2nd Street Festival continues to celebrate the rich culture of Richmond's vibrant African American community, the legacies of generations of families who still call Richmond home, the evolution of this historic neighborhood through decades of change, and a renewed sense of purpose for a promising future; and

WHEREAS, more than 45,000 people thronged the streets of Jackson Ward during the 2nd Street Festival, held on October 6-7, 2018, with artists and concerts showcased on four stages throughout the event; and

WHEREAS, the 2nd Street Festival, which is organized by Venture Richmond Events, LLC, promotes the continued rebirth of Jackson Ward and encourages homeowners and businesses to invest in and be a part of a burgeoning neighborhood; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the 2nd Street Festival on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brian K. Jackson, chair and chief executive officer of Venture Richmond, as an expression of the General Assembly's congratulations and admiration for its work to promote the 2nd Street Festival and one of the Commonwealth's most historic and vibrant African American communities.

### HOUSE JOINT RESOLUTION NO. 601

*Commending Piney Grove Baptist Church.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 150 years, Piney Grove Baptist Church has provided spiritual leadership, generous outreach programs, and opportunities for joyful worship to the members of the Brunswick County community; and

WHEREAS, Piney Grove Baptist Church was organized on September 7, 1868, by the Reverend Jefferson Branch and the Reverend James Fowler in Warfield and took its name from the grove of pine trees near where the congregation held its first services in a brush arbor; and

WHEREAS, the Reverend Ben Coleman served as the first pastor of Piney Grove Baptist Church and was succeeded by the Reverend J. B. Branch and the Reverend Henry Madison; the church eventually moved to a small frame building, then purchased land on the property of the Goldsberry family under the leadership of its fourth pastor, the Reverend Jesse Baskerville; and

WHEREAS, in 1944, the Reverend C. P. Madison followed in his father's footsteps to become pastor and oversaw the construction of the current Piney Grove Baptist Church building; his successor, the Reverend Jesse Byrd, modernized the building with the inclusion of a central heating system and running water; and

WHEREAS, the Reverend Lorenzo W. Jacobs and the Reverend Dr. D. H. Winston continued to enhance the church to better serve the growing congregation, adding pews, carpet, restrooms, and a new Hammond organ; and

WHEREAS, in 1975, the Reverend Marion R. Tapscott answered the call to become the ninth pastor of Piney Grove Baptist Church; under his leadership, the church instituted a pastor's aide society, revived the junior choir program, and increased services; and

WHEREAS, beginning in 1979, the Reverend Frederick Harrison Bagley, Jr., led Piney Grove Baptist Church for 33 years, overseeing multiple renovations and additions to the church building and the establishment of a Nurses Guild, Gospel chorus, Bible study program, and vacation Bible school; in recognition of his exceptional contributions, the church fellowship hall was named the F. H. Bagley Fellowship Hall in his honor; and

WHEREAS, in February 2014, the Reverend Yvonne W. Bridgeforth became the 11th pastor of Piney Grove Baptist Church; her compassion and visionary leadership have led to a significant increase in membership as well as an increase in the number of deacons and trustees; and

WHEREAS, throughout its history, Piney Grove Baptist Church has welcomed people from diverse backgrounds and built an enduring sense of community in the Warfield area, and large numbers of friends and former members return to the church for homecoming and revival services each August; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Piney Grove Baptist Church on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Yvonne W. Bridgeforth, pastor of Piney Grove Baptist Church, as an expression of the General Assembly's admiration for the church's legacy of contributions to the Brunswick County community.

### HOUSE JOINT RESOLUTION NO. 602

*Celebrating the life of David Allen Price, Sr.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, David Allen Price, Sr., a respected member of the City of Franklin and Southampton County communities, died on July 28, 2018; and

WHEREAS, David Price grew up in Sussex County and was educated at the Southampton County Training School; he graduated from the National School of Business with a degree in accounting, studied at Bentley College of Accounting and Harvard University, and earned additional degrees from Paul D. Camp Community College and Christopher Newport University; and

WHEREAS, David Price served his country in the United States Marine Corps during the Vietnam War, where he rose to the rank of sergeant and witnessed the Tet Offensive in 1968; he went on to support his fellow Marine veterans as a life member of the Marine Corps League; and

WHEREAS, David Price's varied career included employment at Shawmut National Bank, Robinson Enterprises, and Union Camp Corporation and ownership of Price Tax Accounting; he also safeguarded the community with the Southampton County Sheriff's Department, retiring as a sergeant after 30 years of service; and

WHEREAS, David Price served his community as an active member of numerous civic organizations, including multiple Masonic Lodges in Southampton County, the Downtown Franklin Association, Southampton County Electoral Board, National Association of Black Law Enforcement Executives, American Red Cross Board, and National Association of Tax Practitioners; and

WHEREAS, as a member of Bryant Baptist Church, David Price offered his spiritual leadership to the community as a deacon and chair of the Deacon Board and as a leader in numerous other church boards and organizations; and

WHEREAS, David Price will be greatly missed and fondly remembered by his wife, Della; his sons, Allen and Dean, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of David Allen Price, Sr., a pillar of the civic, law-enforcement, religious, and business communities in the City of Franklin and Southampton County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of David Allen Price, Sr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 603

*Designating the first full week of February, in 2019 and in each succeeding year, as Enrolled Agents Week in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, the Enrolled Agent profession dates back to 1884, when, after questionable claims had been presented for Civil War losses, the United States Congress acted to regulate persons who represented citizens in their dealings with the U.S. Department of the Treasury; and

WHEREAS, in 1983, Enrolled Agents in Virginia formed the Virginia Society of Enrolled Agents (VASEA) as an affiliate of the National Association of Enrolled Agents; and

WHEREAS, Enrolled Agents are licensed by the Internal Revenue Service (IRS) to represent the interest of taxpayers in proceedings before that agency and have demonstrated zeal and proficiency in serving taxpayers throughout the Commonwealth; and

WHEREAS, to achieve the Enrolled Agent designation, tax professionals must pass a comprehensive three-part examination on all phases of federal tax laws and regulations and must pass a rigorous background check by the IRS; and

WHEREAS, Enrolled Agents must complete 72 hours of continuing professional education every three years to maintain their credentials with the IRS and their professional competence; and

WHEREAS, there are approximately 53,000 Enrolled Agents in the United States, more than 1,000 of whom practice in Virginia; and

WHEREAS, as a prime source of professional expertise on the application of complex federal and state laws and regulations, members of VASEA provide solutions to help Virginia taxpayers file fair and accurate returns; and

WHEREAS, Enrolled Agents have been an important asset to both Virginia taxpayers and the Virginia Department of Taxation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the first full week in February, in 2019 and in each succeeding year, as Enrolled Agents Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Society of Enrolled Agents so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 604**

*Commending the University of Mary Washington men's rugby team.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the University of Mary Washington men's rugby team claimed a historic national title with a win in the USA Rugby Men's Division 1-AA national championship on May 5, 2018; and

WHEREAS, entering the season as an underdog, the University of Mary Washington men's rugby team, known as "Mother's Rugby," dominated the Chesapeake Conference and defeated the team from St. Joseph's University in the 2017 fall championship to advance to the national title game; and

WHEREAS, at the Division 1-AA national championship at California State University Fullerton, the University of Mary Washington men's rugby team faced a talented club from Dartmouth College, which took an early lead in the first half; and

WHEREAS, the University of Mary Washington men's rugby team built upon strong momentum at the end of the half to come from behind and win the game 38-30, with three tries from Jordan Sacks, two tries from Harry Masters, one try from Matthew Gordon, and four conversions; and

WHEREAS, the national championship victory is a testament to the skill and hard work of all the players, the leadership and guidance of the coaches and staff, and the passionate support of the entire University of Mary Washington community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the University of Mary Washington men's rugby team on winning the USA Rugby Men's Division 1-AA national championship in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the University of Mary Washington men's rugby team as an expression of the General Assembly's admiration for the team's historic achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 605**

*Commending the James Monroe High School field hockey team.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the James Monroe High School field hockey team captured its second state championship by winning the Virginia High School League Class 3 title on November 10, 2018; and

WHEREAS, the talented and determined players from James Monroe High School in Fredericksburg defeated the hardworking team from Poquoson High School 1-0; and

WHEREAS, at the two-day tournament held at South County High School in Lorton, the James Monroe Yellow Jackets' winning teamwork, exemplified by Winny Hall and Morgan Rigual, who worked together to score in the second half of the championship game, led to the team's victory over the Poquoson Islanders; and

WHEREAS, the win was a team effort, and James Monroe High School field hockey coach Jamie Tierney praised the athletes' incredible performance, especially after losing nine graduated seniors from the previous year's winning team as well as their former coach; and

WHEREAS, throughout the 2018 season, the members of the James Monroe High School field hockey team were enthusiastically supported by their families, fellow students, and the entire school community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the James Monroe High School field hockey team for winning the Virginia High School League Class 3 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jamie Tierney, coach of the James Monroe High School field hockey team, as an expression of the General Assembly's congratulations and admiration for the team's championship season and stellar performance.

**HOUSE JOINT RESOLUTION NO. 606**

*Providing for a Joint Assembly and establishing a schedule for the conduct of business coming before the 2019 Regular Session of the General Assembly of Virginia.*

Agreed to by the House of Delegates, January 9, 2019

Agreed to by the Senate, January 9, 2019

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall meet in joint session in the Hall of the House of Delegates on Wednesday, January 9, 2019, at such time as specified by the Speaker of the House of

Delegates, to receive the Governor of Virginia, and such address as he may desire to make, and that the rules for the government of the House of Delegates and the Senate, when convened in joint session for such purpose, shall be as follows:

Rule I. At the hour fixed for the meeting of the Joint Assembly, the Senators, accompanied by the President and the Clerk of the Senate, shall proceed to the Hall of the House of Delegates and shall be received by the Delegates standing. Appropriate seats shall be assigned to the Senators by the Sergeant at Arms of the House. The Speaker of the House of Delegates shall assign an appropriate seat for the President of the Senate.

Rule II. The Speaker of the House of Delegates shall be President of the Joint Assembly. In case it shall be necessary for the Speaker to vacate the Chair, the President of the Senate shall serve as the presiding officer.

Rule III. The Clerk of the House of Delegates shall be Clerk of the Joint Assembly and shall be assisted by the Clerk of the Senate. The Clerk of the Joint Assembly shall enter the proceedings of the Joint Assembly in the Journal of the House and shall certify a copy of the same to the Clerk of the Senate, who shall enter the same in the Journal of the Senate.

Rule IV. The Sergeant at Arms and Doorkeepers of the House shall act as such for the Joint Assembly.

Rule V. The Rules of the House of Delegates, as far as applicable, shall be the rules of the Joint Assembly.

Rule VI. In calling the roll of the Joint Assembly, the names of the Senators shall be called in alphabetical order, then the names of the Delegates in like order, except that the name of the Speaker of the House of Delegates shall be called last.

Rule VII. If, when the Joint Assembly meets, it shall be ascertained that a majority of each house is not present, the Joint Assembly may take measures to secure the attendance of absentees, or adjourn to a succeeding day, as a majority of those present may determine.

Rule VIII. When the Joint Assembly adjourns, the Senators, accompanied by the President and the Clerk of the Senate, shall return to their chamber, and the business of the House shall be continued in the same order as at the time of the entrance of the Senators; and, be it

RESOLVED FURTHER, That notwithstanding any other provision of this resolution and in accordance with the practices of each house, with the exception of commending and memorial joint resolutions, a request to be added as a co-patron shall be received prior to the first vote on the passage of a bill or agreement to a joint resolution or, if the bill or joint resolution is not reported from committee, then prior to the last action on such legislation. A request to be removed as a co-patron shall be received no later than 3:00 p.m., Friday, February 15, 2019; and, be it

RESOLVED FURTHER, That any joint resolution creating or continuing a study shall require a vote of two-thirds of the members voting in each house and any resolution creating or continuing a study shall require a vote of two-thirds of the members voting in the respective house; and, be it

RESOLVED FURTHER, That any member offering for introduction a bill or joint resolution not submitted to the Division of Legislative Services for drafting is encouraged to submit an electronic version no later than 5:00 p.m. on the day the legislation is introduced; and, be it

RESOLVED FURTHER, That for purposes of the procedural deadlines established herein for the 2019 Regular Session of the General Assembly:

"Budget Bill" means the general appropriation bill introduced in each house that authorizes the biennial expenditure of public revenues for the period from July 1, 2018, through June 30, 2020.

"Debt bill" means any bill that authorizes the issuance of debt.

"Legislative day" means the period of time that begins with the call to order by the presiding officer and ends when declared adjourned by the presiding officer. Unless another time is specified, any deadline established in this resolution shall expire at the end of the legislative day.

"Prefiled legislation" means any bill or joint resolution requested from the Division of Legislative Services no later than 5:00 p.m., Monday, December 3, 2018, and prefiled no later than 10:00 a.m., Wednesday, January 9, 2019, or any bill or joint resolution not requested from the Division of Legislative Services and prefiled no later than 10:00 a.m., Wednesday, January 9, 2019.

"Revenue bill" means any bill, except the Budget Bill and debt bills, that increases or decreases the total revenues available for appropriation.

"Unanimous consent" means the affirmation of all the members present in the house of origin. Any legislation intended to be offered for introduction with unanimous consent or with the written request of the Governor shall not require the consent of the house in order for the member to request the Division of Legislative Services to draft such legislation. The Division of Legislative Services shall return such legislation after the original introduction deadline.

"Virginia Retirement System bill" means any bill that amends, adds, repeals, or modifies any provision of any retirement system established in Title 51.1 of the Code of Virginia; and, be it

RESOLVED FINALLY, That the 2019 Regular Session of the General Assembly shall be governed by the following procedural rules, which establish introduction limits and time limitations for elections and for all legislation prefiled and introduced for or continued to the 2019 Regular Session except:

(i) House and Senate resolutions, except for the time limitations established in Rules 19 and 21;

(ii) Bills and joint resolutions affecting the rules of procedure or the schedule of business of the General Assembly, either of its houses, or any of its committees;

(iii) Bills and joint resolutions introduced with unanimous consent either to exceed the introduction limits established in Rule 1 or to exceed the time limitations established in Rules 3, 4, 7, and 17;

(iv) Joint resolutions confirming appointments subject to the confirmation of the General Assembly;

- (v) Joint commending and memorial resolutions, except for the time limitations established in Rules 15 and 17;
- (vi) Bills and joint resolutions regarding elections held by the General Assembly during the 2019 Regular Session; or
- (vii) Bills and joint resolutions requested in writing by the Governor.

Rule 1. After the deadline for filing prefiled legislation established by House Joint Resolution No. 12 (2018), no member of the House of Delegates shall introduce more than a combined total of five bills and referred joint resolutions and no member of the Senate shall introduce more than a combined total of eight bills and referred joint resolutions. Notwithstanding the provisions of this rule and in accordance with House Rule 37, no member of the House of Delegates may introduce more than 15 bills during the 2019 Regular Session.

Rule 2. Neither house of the General Assembly shall receive from any committee any bill or joint resolution that was continued on the agenda of such committee and acted upon later than midnight, Thursday, November 29, 2018. For purposes of this rule, a motion to refer a measure to another committee shall be treated as an action by a committee.

Rule 3. No bill or joint resolution creating or continuing a study shall be offered in either house after the adjournment of that house on Wednesday, January 9, 2019.

Rule 4. No Virginia Retirement System bill shall be offered in either house after adjournment of that house on Wednesday, January 9, 2019.

Rule 5. Except for bills and joint resolutions required to be requested earlier, requests for the drafting, redrafting, or correction of any bill or joint resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 11, 2019.

Rule 6. No later than Monday, January 14, 2019, each house shall begin its consideration of any election to fill any judicial seat in the courts of the Commonwealth, or to fill a seat on any commission or office elected by the General Assembly. In the event that the houses cannot agree on such election before Tuesday, January 15, 2019, such election shall become the subject of a special and continuing joint order in each house, and such special and continuing joint order shall have precedence over all other business of either house, until such time as both houses reach agreement on such election or agree to hold it at another specific time. The Rules of each house, as far as applicable, shall be the rules governing such election.

Rule 7. Except for bills required to be filed earlier, no bill or joint resolution shall be offered in either house after 3:00 p.m., Friday, January 18, 2019.

Rule 8. No later than Friday, January 18, 2019, the Board of Trustees of the Virginia Retirement System shall submit, in accordance with § 30-19.1:7, impact statements for all Virginia Retirement System bills filed by the first day of session. For any Virginia Retirement System bill filed later than the first day of session, the Board of Trustees shall use due diligence in preparing the impact statement in time for review by the standing committees.

Rule 9. The committees responsible for the consideration of the Budget Bill in the houses of introduction shall complete their work on such bill no later than midnight, Sunday, February 3, 2019, and any amendments proposed by such committees shall be made available to their respective houses no later than noon, Tuesday, February 5, 2019.

Rule 10. Except for the Budget Bill, beginning Wednesday, February 6, 2019, the House of Delegates shall consider only Senate bills, Senate joint resolutions, House bills with Senate amendments, and House joint resolutions with Senate amendments; the Senate shall consider only House bills, House joint resolutions, Senate bills with House amendments, and Senate joint resolutions with House amendments; and each house may consider conference reports and other privileged matters relating thereto to the end that the work of each house may be disposed of by the other.

Rule 11. The houses of introduction shall complete their consideration of the Budget Bill, except for conference reports and other privileged matters relating thereto, no later than Thursday, February 7, 2019.

Rule 12. The committees responsible for the consideration of revenue bills of the other house shall complete their consideration of such bills no later than midnight, Tuesday, February 12, 2019.

Rule 13. No later than midnight, Wednesday, February 13, 2019, each house shall complete its consideration of the Budget Bill and all revenue bills of the other house, except for conference reports and other privileged matters relating thereto, and the appointing authority shall appoint the conferees to such bills.

Rule 14. No later than Wednesday, February 13, 2019, each house shall begin its consideration of any election to fill any judicial seat in the courts of the Commonwealth, or to fill a seat on any commission or office elected by the General Assembly. In the event that the houses cannot agree on such election before Thursday, February 14, 2019, such election shall become the subject of a special and continuing joint order in each house, and such special and continuing joint order shall have precedence over all other business of either house, until such time as both houses reach agreement on such election, or either house votes to suspend or discharge the order. The Rules of each house, as far as applicable, shall be the rules governing such election.

Rule 15. Requests for the drafting, redrafting, or correction of any joint commending or memorial resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Thursday, February 14, 2019.

Rule 16. Any conference committee on any revenue bills shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable.

Rule 17. No joint commending or memorial resolution shall be offered in either house after 5:00 p.m., Monday, February 18, 2019.

Rule 18. Beginning Tuesday, February 19, 2019, neither house shall receive from any committee any bill or joint resolution acted on by any committee later than midnight, Monday, February 18, 2019.

Rule 19. Requests for the drafting, redrafting, or correction of any single-house commending or memorial resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Tuesday, February 19, 2019.

Rule 20. Any conference committee on the Budget Bill shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable. *In accordance with House Rule 75(b) and Senate Rule 39(a), neither house shall receive, consider, or vote on any Budget Bill that is in conference unless it has been agreed to in writing by a majority of conferees from each house.* Neither house shall consider such conference report earlier than 48 hours after receipt, unless both houses respectively determine to proceed earlier by a vote of two-thirds of the members voting in each house. No engrossment of the Budget Bill shall be required in either house, and any conference on the Budget Bill shall consider, as the basis of its deliberations, the Budget Bill as recommended by the Governor and introduced in the House and the amendments thereto proposed by each house. A report shall be issued concurrently with the report of the conference committee that identifies the following by item number, narrative description, and dollar amount: (i) any nonstate agency appropriation, (ii) any item in the conference report that was not included in a general appropriation bill as passed by either the House or the Senate, and (iii) any item that represents legislation that failed in either house during the regular or a special session.

Rule 21. No single-house commending or memorial resolution shall be offered in either house after 5:00 p.m., Thursday, February 21, 2019.

Rule 22. Except for joint resolutions affecting the rules of procedure or the schedule of business of the General Assembly, beginning Friday, February 22, 2019, the House of Delegates shall consider only Senate joint resolutions and House joint resolutions with Senate amendments; the Senate shall consider only House joint resolutions and Senate joint resolutions with House amendments; and each house may consider conference reports or joint resolutions and other privileged matters relating thereto, to the end that the work of each house may be disposed of by the other.

Rule 23. This session of the General Assembly shall be extended beyond the 30-day period provided in Section 6 of Article IV of the Constitution of Virginia and shall adjourn sine die no later than Saturday, February 23, 2019.

Rule 24. Pursuant to Section 6 of Article IV of the Constitution of Virginia, the General Assembly shall reconvene Wednesday, April 3, 2019, for the purpose of considering bills and items of appropriation bills that may have been returned by the Governor with recommendations for their amendment, and bills and items of appropriation bills, including the general appropriation act, that may have been returned by the Governor with his objections.

Rule 25. The conduct of the business of any subcommittee of any House committee, any joint subcommittee of House and Senate committees, and any interim study commission created pursuant to a House measure shall be governed by the Rules of the House of Delegates; the conduct of the business of any subcommittee of any Senate committee, any joint subcommittee of Senate and House committees, and any interim study commission created pursuant to a Senate measure shall be governed by the Rules of the Senate. If a House measure and a Senate measure create the same study, the conduct of the business of the study shall be governed by the rules of the house of the chairman of the study, or in the case of co-chairmen, the rules of the house as agreed upon by the co-chairmen.

Rule 26. Interim meetings of any standing committee, joint committee, joint subcommittee, legislative commission, or any other interim study subcommittee or study commission shall be held on Monday, Tuesday, or Wednesday during the first and third full weeks of the month, unless otherwise authorized by the Speaker of the House of Delegates or the Chairman of the Senate Committee on Rules, as may be appropriate for the house in which the chairman serves.

Rule 27. Any staff member assigned to work for, and support the efforts of, any committee of the House or Senate, any subcommittee of any such committee, any joint subcommittee of House and Senate committees, or any interim study commission shall work under the direction of the chairman of such committee, subcommittee, joint subcommittee, or interim study commission.

### HOUSE JOINT RESOLUTION NO. 607

*Establishing a schedule for the conduct of business for the prefiling period of the 2020 Regular Session of the General Assembly of Virginia.*

Agreed to by the House of Delegates, January 9, 2019

Agreed to by the Senate, January 9, 2019

RESOLVED by the House of Delegates, the Senate concurring, That the prefiling period of the 2020 Regular Session of the General Assembly shall be governed by the following rules:

Rule 1. Requests for drafts of any bill or joint resolution to be prefiled shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Thursday, December 5, 2019. The Division shall make such drafts available for review no later than midnight, Monday, December 30, 2019.

Rule 2. Requests for the drafting, redrafting, or correction of any bill or joint resolution creating or continuing a study shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 3, 2020, in order to be filed on the first day of the 2020 Regular Session.

Rule 3. Requests for redrafts and corrections of any draft prepared for prefilng shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 3, 2020. The Division shall make such drafts available no later than noon, Tuesday, January 7, 2020.

Rule 4. Bills and joint resolutions offered for prefilng shall be prefiled in either house no later than 10:00 a.m., Wednesday, January 8, 2020. Any member offering for prefilng a bill or joint resolution not submitted to the Division of Legislative Services for drafting is encouraged to submit an electronic version no later than 5:00 p.m. on the day the legislation is prefiled.

### HOUSE JOINT RESOLUTION NO. 611

*Celebrating the life of Joseph Benjamin Fuller.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Joseph Benjamin Fuller, a fire lieutenant at Engine Company 11 with Portsmouth Fire, Rescue and Emergency Services, died in the line of duty on December 9, 2017; and

WHEREAS, J. Benjamin Fuller joined Portsmouth Fire, Rescue and Emergency Services on September 5, 1995, and was promoted to fire lieutenant on November 28, 2008; and

WHEREAS, J. Benjamin Fuller had previously served his country as a member of the United States Navy during the Gulf War; and

WHEREAS, throughout his career, J. Benjamin Fuller served on many of the busiest engine companies in Portsmouth, as well as on the department's Hazardous Materials Team; and

WHEREAS, J. Benjamin Fuller died as a result of brain cancer that developed after a 22-year career in the fire service; and

WHEREAS, J. Benjamin Fuller was a lover of music, playing the guitar, going fast, cracking jokes, going to the beach, and spending time with his family and friends, to whom he was deeply dedicated; and

WHEREAS, J. Benjamin Fuller will be fondly remembered and greatly missed by his daughter, Lauren Alyssa Fuller; his mother, Patricia Willis Vaughan, and her husband, Jerry; his stepmother, Dee Fuller; his siblings, Chelsea Fuller, Charles Nethercutt, and Jeff Griswold; and his niece, nephews, aunts, uncles, cousins, and extended family who loved him deeply; and

WHEREAS, J. Benjamin Fuller was a larger-than-life personality and will be deeply missed by the members of his fire department and the citizens of the City of Portsmouth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joseph Benjamin Fuller, a tireless hero who dedicated more than 20 years to fighting fires in the City of Portsmouth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joseph Benjamin Fuller as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 612

*Commending the Mission of Mercy project.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, the Mission of Mercy project, a series of free dental clinics established by the Virginia Dental Association, hosted its 100th event at the University of Virginia College at Wise David J. Prior Convocation Center on July 20-22, 2018; and

WHEREAS, Mission of Mercy was created in 2000 by Terry Dickinson, executive director of the Virginia Dental Association, to provide preventative, restorative, and surgical dental treatments to thousands of Virginians who lack dental insurance or access to proper dental care; and

WHEREAS, the 100th Mission of Mercy event was the first in the program's history to be held indoors, ensuring a comfortable, safe event for patients and volunteers; a total of 953 patients from Southwest Virginia, Kentucky, Tennessee, North Carolina, Ohio, and Florida received treatment valued at \$1.3 million during the three-day event; and

WHEREAS, Mission of Mercy achieved its milestone 100th event with the help and hard work of Virginia Dental Association member dentists, dental hygienists, dental assistants, dental labs, staff members, other volunteers, and the Virginia Dental Association Foundation, as well as community partners throughout Virginia, such as the College at Wise and the Virginia Commonwealth University School of Dentistry; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Mission of Mercy project for its success in providing dental care to people in underserved areas of the Commonwealth on the occasion of its 100th event; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Dental Association as an expression of the General Assembly's admiration for the Mission of Mercy project's important work to promote good oral health.

### HOUSE JOINT RESOLUTION NO. 613

*Designating the third full week of June, in 2019 and in each succeeding year, as Trench Safety Stand Down Week in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, trenching and excavation work are hazardous construction operations performed by many Virginians every day; and

WHEREAS, construction employers and employees who work in trenching and excavation need continuous access to education and training in identifying hazards associated with these activities; and

WHEREAS, trench collapse deaths are easily preventable with proper shielding, shoring, sloping, and training; and

WHEREAS, despite increased training and hazard identification, recent national statistics show an alarming increase in trench injuries and deaths, and in 2016, the United States Occupational Safety and Health Administration reported that trench injuries and deaths were nearly double the average of the previous five years; and

WHEREAS, the National Utility Contractors Association, a Virginia-based National Construction Trade Association affiliate representing underground utility and excavating contractors, has focused on education and training through trenching and excavating hazard awareness programs that are approved by OSHA and sponsored by the North American Excavation Shoring Association; and

WHEREAS, during Trench Safety Stand Down Week and throughout the year, organizations and individuals in Virginia are encouraged to focus on education and training in trenching and excavating hazard awareness in order to improve the health, safety, and welfare of construction workers and all residents of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the third full week of June, in 2019 and in each succeeding year, as Trench Safety Stand Down Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the National Utility Contractors Association so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 617

*Designating 2019 as the Year of Reconciliation and Civility in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, the Declaration of Independence acknowledges that all people have inalienable rights endowed by their Creator, and the Constitution of the United States guarantees equal protection under the law; and

WHEREAS, these spiritual, political, and economic truths are fundamental American guarantees, but they are not fully realized in every community, and with the demographics of the country shifting, it is estimated that the United States will be a majority non-white nation in 30 years, making the need for greater understanding of equality and race relations critical; and

WHEREAS, Virginia was the destination of the first enslaved African people, the epicenter of the American slave trade, the capital of the Confederacy, and in 2017, the site of a violent, deadly protest held by white supremacists in Charlottesville, but the Commonwealth has also been the home of trailblazing civil rights leaders like Barbara Johns, Oliver Hill, and Maggie Walker and the nation's first black Governor, Doug Wilder; and

WHEREAS, Virginians for Reconciliation is a citizen volunteer group formed to commemorate the 400th anniversary of the country's first enslaved African people landing in Virginia in August 1619 and to reflect upon Virginia's role in the enslavement of African-Americans; and

WHEREAS, Virginians for Reconciliation will host a series of events to help participants understand and accept the hard truths that exist in black and white America, with the goal of establishing a new dynamic where people of different races will have a much healthier dialogue and work more closely together to advance the common good; and

WHEREAS, Virginians for Reconciliation will partner with American Evolution, which will also commemorate key historical events that took place in Virginia in 1619 through a series of exhibitions, educational programs, and cultural festivals; and

WHEREAS, Virginians have a unique opportunity in 2019 to accelerate the healing of racial wounds by not only acknowledging the depths of racial divisions but by developing solutions that move the nation toward unity and reconciliation economically, socially, and legally; and

WHEREAS, all Virginians are encouraged to observe the Year of Reconciliation and Civility by raising awareness and taking steps to promote a more just and civil society in America; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate 2019 as the Year of Reconciliation and Civility in Virginia to promote racial healing and unity; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to Virginians for Reconciliation and American Evolution requesting that they further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post this designation on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 619

*Celebrating the life of Master Sergeant Edward Colston Newton V, USA.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Master Sergeant Edward Colston Newton V, USA, a highly admired member of the Northern Neck community who proudly served his country in the United States Armed Forces, died on July 11, 2018; and

WHEREAS, born at Fort Polk, Louisiana, Edward Colston "Coley" Newton V, grew up in Hague and neighboring Kinsale in Westmoreland County, where he cultivated his love of the outdoors and began to earn his lifelong reputation as a skilled hunter and fisherman; and

WHEREAS, Coley Newton graduated from the Blue Ridge School in Saint George and attended Ferrum College; he was a standout football player at both schools, achieving local recognition for his dedication, toughness, and tenacity as an offensive and defensive lineman; and

WHEREAS, Coley Newton joined the United States Army to serve and safeguard his fellow Americans and rose through the ranks to become a master sergeant of infantry, earning the coveted Ranger Tab and Master Parachutist Badge; and

WHEREAS, Coley Newton served in the 101st Airborne Division and the 82nd Airborne Division as a team leader, squad leader, platoon sergeant, and jump master; in 2006, he began his first of 14 tours in Iraq and Afghanistan, during most of which he was a member of the United States Army Asymmetric Warfare Group; and

WHEREAS, in May 2018, the Northern Neck chapter of the Virginia Society, Sons of the American Revolution presented Coley Newton with the organization's Heroism Award for his legacy of courage and self-sacrifice in service to the community and the nation; and

WHEREAS, Coley Newton will be fondly remembered and greatly missed by his wife, Katherine; his son, Lee; his mother, Jane; his father, Edward; his brother, John; his sister, Cynthia; his beloved brothers of war; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Master Sergeant Edward Colston Newton V, USA; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Master Sergeant Edward Colston Newton V, USA, as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 624

*Commending Stop Child Abuse Now of Northern Virginia.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for 30 years, Stop Child Abuse Now of Northern Virginia has worked to ensure that every child grows up in a safe, stable, and nurturing environment and receives the support every child needs to become a contributing member of the community; and

WHEREAS, established in 1988 by Dave Cleary, Stop Child Abuse Now (SCAN) of Northern Virginia promotes the health and wellness of children by working to improve parent-child relationships and prevent child abuse and neglect through comprehensive educational programs, innovative services, and passionate advocacy; and

WHEREAS, SCAN works directly with parents and raises awareness among members of the general public to cultivate engaging and empowering partnerships with the goal of ending child abuse and neglect; and

WHEREAS, SCAN supports Court Appointed Special Advocates (CASA) to ensure that children have well-qualified representation in the legal system; in 2017, 82 CASA volunteers dedicated more than 6,000 hours advocating for 198 abused and neglected children in Alexandria and Arlington; and

WHEREAS, SCAN has succeeded with the leadership of its board of directors, the help and hard work of countless staff members and volunteers, and generous donations from local service organizations, corporate partners, and members of the community; and

WHEREAS, SCAN commemorated its 30th anniversary with its Spring2Action campaign, profiles of the hardworking individuals who have helped the organization achieve its mission, and its Toast to Hope event in the fall of 2018; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Stop Child Abuse Now of Northern Virginia on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stop Child Abuse Now of Northern Virginia as an expression of the General Assembly's admiration for the organization's mission to bring hope to children and families in the region.

### HOUSE JOINT RESOLUTION NO. 625

*Commending James T. Roberts, Ph.D.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, James T. Roberts, Ph.D., an experienced educator and public school administrator who has supported and inspired students throughout Hampton Roads, retired as superintendent of Chesapeake Public Schools after more than two decades of outstanding service to the school district; and

WHEREAS, a passionate, lifelong learner, Dr. Roberts earned bachelor's, master's, and doctoral degrees from Old Dominion University, where he was named the Social Studies Graduate Student of the Year in 1974; he was inspired to serve the community by his parents, a public school cafeteria worker and a public transportation bus driver; and

WHEREAS, Dr. Roberts began his nearly 50-year career in public education in 1969 as a social studies teacher at I.C. Norcom High School in Portsmouth; he went on to serve as a department chair at Woodrow Wilson High School and was promoted to his first administrative position in 1979 when he became assistant principal of Manor High School; and

WHEREAS, in 1983, Dr. Roberts joined Portsmouth Public Schools as a management research analyst; he subsequently served as director of personnel, director of budget, and director of business affairs; and

WHEREAS, in 1995, Dr. Roberts brought his leadership and expertise to Chesapeake Public Schools as director of budget, where he developed and implemented the school board budget, assisted with program evaluation and planning functions for the school division, and was responsible for submitting state reports on student and financial data; and

WHEREAS, from 2004 to 2010, Dr. Roberts served as assistant superintendent for personnel and support services; in this capacity, he ably managed all personnel responsibilities and oversaw information technology, school improvement planning, school nutrition services, instructional materials and textbooks, and data reporting; and

WHEREAS, Dr. Roberts became superintendent of Chesapeake Public Schools in 2010, assuming responsibility for all departments and schools; he worked tirelessly to monitor and implement state-required programs, support education advocacy efforts, and foster good communication between the school division, school faculty and staff members, parents, and the Chesapeake community; and

WHEREAS, Dr. Roberts believed every student was a "masterpiece" and was committed to building strong personal relationships based on trust and mutual respect to ensure that the voice of every child under his care was heard and every child was able to succeed both in and out of the classroom; and

WHEREAS, Dr. Roberts has inspired young men and women throughout the Commonwealth as an adjunct professor at The George Washington University, Old Dominion University, and Virginia Polytechnic Institute and State University; and

WHEREAS, Dr. Roberts has offered his wise leadership to the Virginia Association of School Superintendents, the American Association of School Administrators, and other professional organizations at state and national levels; he is a sought-after speaker at workshops, conferences, and seminars; and

WHEREAS, Dr. Roberts was a fierce and outspoken advocate for K-12 funding; and

WHEREAS, Dr. Roberts is well respected by members of the General Assembly, who have regularly and frequently conferred with him regarding his knowledge and expertise on K-12 funding, in particular the respective Chairman and Committee members of the House Committee on Appropriations and Senate Committee on Finance; and

WHEREAS, Dr. Roberts has earned numerous awards and accolades for his exceptional work, including the 2010 Darden College of Education Alumni Fellow Award from Old Dominion University and the 2014 Region II Superintendent of the Year Award; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James T. Roberts, Ph.D., on the occasion of his retirement as superintendent of Chesapeake Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James T. Roberts, Ph.D., as an expression of the General Assembly's admiration for his commitment to academic excellence and service to the Chesapeake community.

**HOUSE JOINT RESOLUTION NO. 626**

*Requesting the Virginia Department of Health to take action to increase awareness of shingles and shingles prevention. Report.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, herpes zoster, also known as shingles, is a disease caused by the same virus that causes chickenpox, so any person who has contracted chickenpox during their lifetime is at risk for developing shingles; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), approximately 98 percent of adults in the United States are at risk for developing shingles, and nearly one in three people in the United States will develop shingles in their lifetime, with shingles affecting more than one million Americans each year; and

WHEREAS, a person's risk of developing shingles increases with age; nearly half of individuals who develop shingles are over 60 years of age and approximately half of people who reach 85 years of age will develop shingles in their lifetime; and

WHEREAS, according to the CDC, shingles is a viral infection that causes a painful, sometimes-severe rash and other symptoms, including long-term nerve pain, fever, headache, chills, upset stomach, muscle weakness, skin infection, scarring, and decreased or loss of vision or hearing; and

WHEREAS, as much as 20 percent of adults who have contracted shingles will develop postherpetic neuralgia, a debilitating complication of shingles that causes severe pain, that may interfere with sleep and recreational activities, and that may be associated with clinical depression; and

WHEREAS, vaccines have reduced the burden of widespread and often fatal diseases, enabling individuals to lead longer and healthier lives while reducing health care costs; and

WHEREAS, although much attention has been paid to the importance of childhood vaccinations, there is a general lack of awareness of adult-recommended vaccines and a misperception that immunizations are unnecessary for healthy adults; and

WHEREAS, the CDC and the Advisory Committee on Immunization Practices (ACIP) recommend that healthy adults 50 years of age and older be vaccinated against shingles to prevent shingles and shingles-related complications; and

WHEREAS, despite the recommendations of CDC officials and other experts, as of 2015 only 30 percent of eligible adults had received the shingles vaccine; and

WHEREAS, the annual economic burden of shingles in American adults is estimated to be between \$782 million and \$5 billion; and

WHEREAS, the Institute of Medicine has stated that missed prevention opportunities is one of the six key causes of excess spending in the U.S. health care system; and

WHEREAS, millions of American adults go without routine and recommended vaccinations because our medical system is not set up to ensure that adults receive regular preventive health care; and

WHEREAS, during the month of August, which is observed as National Immunization Awareness Month, residents of Virginia should be encouraged to speak with their health care provider to ensure that they have been properly vaccinated against shingles according to current CDC and ACIP recommendations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia Department of Health be requested to take action to increase awareness of shingles and shingles prevention.

The Virginia Department of Health shall submit to the Division of Legislative Automated Systems an executive summary and report of its progress in meeting the requests of this resolution no later than the first day of the 2020 Regular Session of the General Assembly. The executive summary and report shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 630**

*Designating the third full week of September, in 2019 and in each succeeding year, as Silence Empowers Violence Break the Code Awareness-to-Action Week in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, violent crime encompasses homicide, murder, assault, arson, larceny, motor vehicle theft, sexual assault, rape, and kidnapping; and

WHEREAS, as reported by the Bureau of Justice Statistics, 40 to 51 percent of all violent victimizations and 32 to 40 percent of property crimes in the nation were not reported to police each year between 1995 and 2015; and

WHEREAS, of those crimes reported to police, 44 to 50 percent of violent victimization cases and 16 to 20 percent of property crimes cases were cleared by police; and

WHEREAS, researchers from the Bureau of Justice Statistics have attributed this problem to codes of silence, fear of reprisal, desensitization to violence, lack of cooperation with law enforcement, sense of apathy, and distrust of law enforcement; and

WHEREAS, not speaking up or taking action when one becomes a victim or witness of a crime gives the perpetrator or perpetrators permission, power, and a place to continue these behaviors to the detriment of a community; and

WHEREAS, all Virginians are encouraged to be a voice for those who are too afraid to speak up or take action in such situations and to take a public stand against violent crime in their respective communities; and

WHEREAS, the Silence Empowers Violence Community Care and Action Teams have identified a series of practices that can be incorporated to assist in dealing with the issue of unreported and unresolved crimes, including establishing a comprehensive witness protection and relocation program, implementing community cooperation incentives, and facilitating violence prevention awareness educational training; and

WHEREAS, the Silence Empowers Violence Community Care and Action Teams work diligently to implement these practices and encourage others to implement these practices wherever possible; and

WHEREAS, The Catalyst Effect, LLC, and the Silence Empowers Violence Community Care and Action Teams will observe Silence Empowers Violence Break the Code Awareness-to-Action Week by educating communities about the psychological trauma and monetary effects of unresolved and unreported crimes; and

WHEREAS, these organizations will also encourage individuals to volunteer with community service and violence prevention organizations; to engage youths in creating violence prevention, intervention, and postvention initiatives for their respective communities, as well as in violence prevention and awareness contests using media, art, and drama; and to empower individuals within their respective communities to facilitate community forums and events to combat hopelessness and build healthy relationships and trust; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the third full week of September, in 2019 and in each succeeding year, as Silence Empowers Violence Break the Code Awareness-to-Action Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to The Catalyst Effect, LLC, so that members of the organization may be apprised of the sense of the General Assembly in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 631

*Celebrating the life of Richard Leigh Towell, Sr.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Richard Leigh Towell, Sr., a devoted educator and a respected member of the Richmond community, died on August 12, 2018; and

WHEREAS, after earning a bachelor's degree from the University of Virginia and a master's degree in mathematics from the University of South Carolina, Richard Towell pursued a long and fulfilling career in education; and

WHEREAS, over the course of more than 50 years, Richard Towell inspired generations of Richmond students at Collegiate School and St. Christopher's School to achieve success both in and out of the classroom; he also taught at Sevenoaks School in England on a Fulbright-Hayes Fellowship; and

WHEREAS, Richard Towell worked to build strong, personal relationships with his students, using his sense of humor to enhance the learning process and ensure that the young men and women in his care were prepared for success in higher education, careers, and citizenship; and

WHEREAS, a patron of the arts, he enhanced cultural life in Richmond as a founding member of the Carillon Civic Association and the annual Arts in the Park event, which has showcased thousands of artists from around the country for nearly 50 years; and

WHEREAS, Richard Towell enjoyed fellowship and worship with the congregation of River Road Presbyterian Church, where he served as an elder; and

WHEREAS, predeceased by his first wife, Carol, Richard Towell will be fondly remembered and greatly missed by his wife, Anita; his children, Leigh, Ellen, Eric, and Sam, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard Leigh Towell, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Leigh Towell, Sr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 632**

*Celebrating the life of Grosjean Graves Crump, Jr.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Grosjean Graves Crump, Jr., a patriotic veteran and a respected member of the New Kent County community, died on August 27, 2018; and

WHEREAS, a native of Washington, D.C., Grosjean "Dusty" Graves Crump, Jr., grew up in New Kent County, then joined many of the other young men of his generation in service to the nation during World War II; and

WHEREAS, in the aftermath of the war, Dusty Crump helped break the Soviet blockade of West Berlin by flying supplies to Allied sectors of the city during the Berlin Airlift; he subsequently served at Langley Air Force Base for more than 30 years and oversaw development of the vaunted F-15 Eagle fighter; and

WHEREAS, Dusty Crump supported young people in the community as a member of the New Kent County School Board for 24 years, and he volunteered his time as a member of Mann Page Masonic Lodge No. 157 A.F. & A.M. for 50 years; and

WHEREAS, Dusty Crump enjoyed fellowship and worship with his fellow residents of New Kent County at New Kent Chapel, where he served as a trustee for five decades; and

WHEREAS, throughout his life, Dusty Crump knew no stranger, and he earned the admiration of his peers for his unflinching willingness to help a friend or neighbor in need; and

WHEREAS, Dusty Crump will be fondly remembered and greatly missed by his wife, Nellie; his children, G. G., Catherine, and Pamela, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Grosjean Graves Crump, Jr., a distinguished veteran and an active member of the New Kent County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Grosjean Graves Crump, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 633**

*Celebrating the life of George Edward Robertson Stiles.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, George Edward Robertson Stiles, a respected business executive and an active community leader, died on June 7, 2018; and

WHEREAS, a proud native of Ashland, George "Ned" Edward Robertson Stiles honorably served his country as a member of the United States Army and attended Randolph-Macon College and the University of Virginia's Darden School of Business; and

WHEREAS, Ned Stiles spent most of his professional career with A. H. Robins Company, serving as senior vice president and chief financial officer; and

WHEREAS, Ned Stiles also worked to enhance the community in many ways, inspiring young people as a football coach, volunteering, and offering his leadership to many civic and service organizations; and

WHEREAS, Ned Stiles' greatest joy in life was his family, and he relished opportunities to support them in every endeavor and impart his many wise life lessons; and

WHEREAS, Ned Stiles will be fondly remembered and greatly missed by his devoted wife, Anna; his beloved children, Cameron, Lisa, and Rob, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George Edward Robertson Stiles; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Edward Robertson Stiles as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 634**

*Commending Michelle Rahman.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Michelle Rahman, a visionary leader in higher education admissions, retired as associate dean for admissions for the University of Richmond School of Law on June 30, 2018; and

WHEREAS, Michelle Rahman joined the Office of Admissions in 1985 and became associate dean of admissions in 1990; during her 34-year tenure, the University of Richmond Law School admitted more than 18,835 students, most of whom benefited from her expertise and guidance during the recruiting process; and

WHEREAS, in addition to working with prospective students, Michelle Rahman administered financial aid programs and arranged for on-campus housing for law students, building strong, personal relationships that ultimately made her a trusted ambassador to alumni; and

WHEREAS, an innovator who made the most of new technology, Michelle Rahman developed a VHS admissions video to send to prospective students in 1988, helped the Office of Admissions begin receiving Internet inquiries in 1995, and led the effort to fully transition to an electronic application system in 2017; and

WHEREAS, Michelle Rahman also pioneered the Law School Admissions Representatives program, which gives prospective students the opportunity to discuss coursework, clinical programs, faculty, the Richmond area, and other topics with current students; and

WHEREAS, Michelle Rahman will seek new opportunities to serve the Richmond community after her well-earned retirement, and she will continue to serve the University of Richmond as a special assistant to the dean through the end of 2018; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michelle Rahman on the occasion of her retirement as associate dean for admissions for the University of Richmond School of Law; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michelle Rahman as an expression of the General Assembly's admiration for her exceptional achievements in support of the legal profession and the students of the University of Richmond.

### HOUSE JOINT RESOLUTION NO. 635

*Commending Black Creek Volunteer Fire Department.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, for 50 years, Black Creek Volunteer Fire Department, located in Mechanicsville, has safeguarded the lives and property of generations of Hanover County residents; and

WHEREAS, Black Creek Volunteer Fire Department was formed in the spring of 1968 with approximately 30 members under the leadership of then-president Douglas Mantlo and the first chief, John Peace; and

WHEREAS, in the spring of 1969, the members of Black Creek Volunteer Fire Department constructed the original firehouse, which served as both a firehouse and a community gathering place until June 2011, when the new firehouse was built; and

WHEREAS, Black Creek Volunteer Fire Company has been a fixture in the community, making countless contributions to local life, most notably the creation of the Hanover Tomato Festival; and

WHEREAS, Black Creek Volunteer Fire Department started the Hanover Tomato Festival as a fundraiser at the firehouse in 1978 with a small parade, various fire department competitions and games, tomato judging contests, one food vendor, and about 10 craft vendors; and

WHEREAS, through the hard work and dedication of the members of Black Creek Volunteer Fire Department, the Hanover Tomato Festival has grown into one of the biggest annual events in Hanover County and celebrated its 40th anniversary in 2018 with record-breaking attendance, delicious Hanover tomato cuisine, over 150 vendors, live music, and a play area for children featuring rides, games, and contests; and

WHEREAS, Black Creek Volunteer Fire Department has approximately 15 active members who work alongside career firefighters in a combination approach to provide service to the citizens of Hanover County; and

WHEREAS, the members of Black Creek Volunteer Fire Department have generously sacrificed countless hours of their time and often put their own lives at risk to ensure the safety of their fellow community members; and

WHEREAS, Black Creek Volunteer Fire Company commemorated its 50th anniversary with a special celebration in October 2018; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Black Creek Volunteer Fire Department on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Black Creek Volunteer Fire Department as an expression of the General Assembly's admiration for its legacy of contributions to the Hanover County community.

**HOUSE JOINT RESOLUTION NO. 637**

*Commending Elizabeth Crowther.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Elizabeth Crowther will retire as president of Rappahannock Community College on June 30, 2019, after 14 years of exceptional contributions to young men and women in the Northern Neck and Middle Peninsula; and

WHEREAS, Elizabeth Crowther grew up on her family's farm in Northumberland County and gained her appreciation for the importance of a good education from her father, who served on a local board affiliated with Rappahannock Community College in the 1980s; and

WHEREAS, after earning bachelor's and master's degrees from Virginia Polytechnic Institute and State University, Elizabeth Crowther worked at a financial services firm that provided educational opportunities for its employees through local community colleges; witnessing firsthand the difference these programs made in the lives of her coworkers, she was inspired to pursue a second career in higher education; and

WHEREAS, Elizabeth Crowther completed a doctoral program at The College of William & Mary, then accepted a research position with Rappahannock Community College; in 1993, she became the head of instruction at Lord Fairfax Community College and was subsequently hired by Blue Ridge Community College as vice president for academic and student affairs; and

WHEREAS, in 2004, Elizabeth Crowther returned to the Northern Neck as the third president of Rappahannock Community College and has since helped the institution earn local, state, and national recognition as a model for other institutions of higher education in rural areas; and

WHEREAS, during her tenure, Elizabeth Crowther increased Rappahannock Community College Educational Foundation's assets from \$1 million to \$11 million, oversaw renovations to both the Glens and Warsaw campuses, opened satellite campuses in Kilmarnock and New Kent, expanded opportunities for students through partnerships with local community organizations and businesses, and worked to ensure that faculty had access to world-class technology and instructional equipment that enhanced the learning process; and

WHEREAS, after her well-earned retirement, Elizabeth Crowther plans to spend more time with her beloved family and will continue to serve the community as a member of numerous professional boards and organizations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Elizabeth Crowther on the occasion of her retirement as president of Rappahannock Community College; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elizabeth Crowther as an expression of the General Assembly's admiration for her commitment to excellence in higher education.

**HOUSE JOINT RESOLUTION NO. 638**

*Celebrating the life of Joan Albert Lawler.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Joan Albert Lawler, a respected businesswoman and a passionate philanthropist who touched countless lives throughout the Commonwealth, died on August 20, 2018; and

WHEREAS, a native of Syracuse, New York, Joan "Joni" Albert Lawler grew up in McLean and made lifelong memories while spending summers with her family at Horners Beach and Sandy Point in the Northern Neck; and

WHEREAS, after earning a bachelor's degree from the University of Vermont, Joni Lawler worked on Capitol Hill in Washington, D.C., at the United States House of Representatives, where she met her husband, John; together, they opened a popular watering hole for the young political community called the Third Party and she helped her brothers establish a sporting goods business, Wind and Water Sports; and

WHEREAS, while raising her family, Joni Lawler earned a real estate license and cofounded a financial consulting firm with John, East West Financial Services, in addition to working with their other companies, including Sterling Wealth Management; she volunteered her time and leadership as a fundraiser for Our Lady of Victory Church, Georgetown Visitation Preparatory School, Washington Waldorf School, and St. Margaret's School in Tappahannock, where she served on the Board of Governors; and

WHEREAS, in 2005, Joni Lawler moved full-time to the Northern Neck to build a home at Sandy Point and to use her wide-ranging experience in business and fundraising to become a pillar of the community, admired for her leadership, generosity, and grace; and

WHEREAS, Joni Lawler served on the boards and committees of numerous organizations, including the Haven Shelter, Kinsale Foundation, Menokin Foundation, Sandy Point Homeowners Association, Stratford Hall, Garden Club of the

Northern Neck, and Rappahannock Community College, creating many fundraising events that became beloved local traditions; and

WHEREAS, guided by her deep faith, Joni Lawler spearheaded a successful capital campaign to support the construction of a new church building for St. Paul's Mission Church in Hague; and

WHEREAS, Joni Lawler will be fondly remembered and greatly missed by her husband of 43 years, John; her daughters, Abigail, Laura, and Anna-Elizabeth, and their families; and numerous other family members and friends; now, therefore, be it RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joan Albert Lawler, a successful businesswoman and generous philanthropist; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joan Albert Lawler as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 641

*Requesting the Department of Health to evaluate additional issues related to use of rainwater as part of the rulemaking process. Report.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, during the 2018 Session, the General Assembly approved Chapter 817 of the Acts of Assembly, directing the Board of Health to adopt regulations governing the use of gray water and rainwater; and

WHEREAS, Chapter 817 directed the Board of Health to include in its regulations standards for the use of rainwater harvesting systems, including systems that collect rainwater for use by commercial enterprises but do not provide water for human consumption; and

WHEREAS, during the 2018 interim, the Department of Health has worked with stakeholders to address concerns related to the promulgation of regulations pursuant to Chapter 817, and additional issues remain, including questions about (i) the conditions under which rainwater may appropriately be used and for what purposes; (ii) standards for the use of rainwater for human consumption; (iii) standards for rainwater harvesting systems, including systems that collect rainwater for human consumption and systems that collect rainwater for use by commercial enterprises but not human consumption, as those systems are defined in § 32.1-167 of the Code of Virginia; (iv) a requirement that buildings that draw water from both rainwater harvesting systems and public water supplies maintain appropriate cross-connection safeguards; and (v) training and certification requirements for installers of rainwater harvesting systems, including installers of rainwater harvesting systems installed in buildings that draw water from both rainwater harvesting systems and public water supplies; and

WHEREAS, participants in the current rulemaking process can provide extensive expertise and insight into regulatory solutions and the current rulemaking process provides an opportunity to address those remaining issues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Health be requested to evaluate additional issues related to use of rainwater as part of the rulemaking process. Specifically, the Department of Health is requested to include consideration of and allow for stakeholder input on (i) the conditions under which rainwater may appropriately be used and for what purposes; (ii) standards for the use of rainwater for human consumption; (iii) standards for rainwater harvesting systems, including systems that collect rainwater for human consumption and systems that collect rainwater for use by commercial enterprises but not human consumption, as those systems are defined in § 32.1-167; (iv) a requirement that buildings that draw water from both rainwater harvesting systems and public water supplies maintain appropriate cross-connection safeguards; and (v) training and certification requirements for installers of rainwater harvesting systems, including installers of rainwater harvesting systems installed in buildings that draw water from both rainwater harvesting systems and public water supplies. The Department is also requested to provide an update on the status of the rulemaking process to the General Assembly by November 1, 2019.

The Department of Health shall submit to the Division of Legislative Automated Systems an executive summary and report of its progress in meeting the request of this resolution no later than the first day of the 2020 Regular Session of the General Assembly. The executive summary and report shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 646

*Designating September 11, in 2019 and in each succeeding year, as First Responders Day in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, throughout the Commonwealth, courageous and dedicated men and women work to protect and aid the public during emergencies as both professional and volunteer first responders; and

WHEREAS, first responders include 911 dispatchers, law-enforcement officers, professional and volunteer firefighters, professional and volunteer emergency medical services personnel, emergency management professionals, search and rescue teams, rescue pilots and divers, the Virginia National Guard, and members of other organizations in the public safety sector; and

WHEREAS, every day, first responders risk their own safety in the performance of their duties to protect the citizens of the Commonwealth; and

WHEREAS, first responders are the first and best defense against all emergencies that threaten Virginia communities; and

WHEREAS, first responders are ready to aid the people of Virginia 24 hours a day, seven days a week, regardless of inclement weather or other hazards; and

WHEREAS, first responders are highly trained, specialized workers who contribute their excellent skills for the public good; and

WHEREAS, the members of first responder organizations undergo extensive education and training and make significant personal sacrifices in order to achieve the expertise required to respond to emergency situations; and

WHEREAS, in addition to maintaining safety and order in times of crisis, many first responders in Virginia also enhance their communities as volunteers for service organizations, churches, and schools; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate September 11, in 2019 and in each succeeding year, as First Responders Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the Virginia Department of Fire Programs, the Virginia Department of Health's Office of Emergency Medical Services, the Virginia Association of Volunteer Rescue Squads, Inc., the Virginia Association of Governmental EMS Administrators, the EMS Regional Directors Group, the Virginia Ambulance Association, International Association of Arson Investigators-Virginia Chapter, the Virginia State Police, the Virginia Sheriffs' Association, the Virginia Association of Chiefs of Police, the Virginia Fire Chiefs Association, the Virginia State Firefighters Association, Virginia Professional Fire Fighters, the Virginia Department of Emergency Management, the Virginia Emergency Management Association, and the Virginia National Guard so that first responders in the Commonwealth may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 648

*Commending the University of Mary Washington men's soccer team.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the University of Mary Washington men's soccer team won its 11th Capital Athletic Conference championship on November 3, 2018; and

WHEREAS, the talented and determined University of Mary Washington Eagles defeated the hardworking St. Mary's College of Maryland Seahawks with a 1-0 win; and

WHEREAS, at the championship, held at the Battleground Athletic Complex in Fredericksburg, the Mary Washington Eagles outran and outshot their competitors, with junior Idrissa Barrie passing to Ryan Van Maanen to score the game's lone goal at 58:37; and

WHEREAS, Mary Washington Eagles defenders Conor MacMurdy and Jacob Lovinger cleared balls from near the goal to preserve the shutout, which was the team's 13th of the season, and sophomore goalkeeper Ken Kurtz made a series of incredible saves in the final 25 minutes of action to secure the victory; and

WHEREAS, members of the Mary Washington Eagles earned top Colonial Athletic Conference (CAC) men's soccer awards with senior Justin Carey and head coach Jason Kilby earning top conference honors as player of the year and coach of the year and with a contingent of six Eagles playing on the 2018 All-CAC Men's Soccer Team; and

WHEREAS, the win was a team effort, and throughout the 2018 season, the members of the Mary Washington Eagles men's soccer team were enthusiastically supported by their families, their fellow students, and the entire school community; and

WHEREAS, because of their impressive win as CAC champions, the Mary Washington Eagles soccer team traveled to Lancaster, Pennsylvania, for the NCAA Division III Men's Soccer Tournament, competing for the second straight year and 11th time overall; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the University of Mary Washington men's soccer team for winning its 11th Capital Athletic Conference championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jason Kilby, head coach of the University of Mary Washington men's soccer team, as an expression of the General Assembly's admiration for the team's championship season and stellar performance.

**HOUSE JOINT RESOLUTION NO. 649**

*Designating December 5, in 2019 and in each succeeding year, as Susanna Bolling Day in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Susanna Bolling was born on December 5, 1764, in the village of City Point, now known as Hopewell, in Prince George County; and

WHEREAS, during the Revolutionary War, Susanna Bolling lived on her family's plantation in City Point, and in late May 1781, when she was 16 years old, British General Charles Cornwallis arrived unexpectedly on the plantation with the entire British Southern Army and quartered overnight; and

WHEREAS, Susanna Bolling overheard General Cornwallis's plan to capture the Marquis de Lafayette, the French general who was a key American ally, the next morning at the Half Way House, located midway between Richmond and Petersburg, which is still in operation in Chesterfield County; and

WHEREAS, in the middle of the night, Susanna Bolling snuck out of her home through a secret underground tunnel, crossed the Appomattox River in a canoe, borrowed a neighbor's horse, rode through pitch darkness to the Half Way House, and warned General Lafayette of General Cornwallis's plan to capture him; and

WHEREAS, thanks to Susanna Bolling's warning, General Lafayette evaded capture and went on to play cat-and-mouse with the British Southern Army, trapping General Cornwallis and his soldiers in Yorktown by August 1781; and

WHEREAS, the Battle of Yorktown soon followed, resulting in Cornwallis's surrender and a resounding British defeat that served as the last major land battle of the American Revolution; and

WHEREAS, the Patriot victory at Yorktown, which would not have been possible without Susanna Bolling's courage, patriotism, and determination, prompted the British government to recognize America's status as its own sovereign nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate December 5, in 2019 and in each succeeding year, as Susanna Bolling Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Historic Hopewell Foundation so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 651**

*Commemorating the 75th anniversary of D-Day.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, June 6, 2019, marks the 75th anniversary of the Allied assault at Normandy, France, by American, British, and Canadian troops, which was known as Operation Overlord; and

WHEREAS, before Operation Overlord, the German Army still occupied France and the Nazi government still had access to the raw materials and industrial capacity of Western Europe; and

WHEREAS, the naval phase of the assault on Normandy was code-named Neptune, and June 6, 1944, the date of the landing, is referred to as D-Day; and

WHEREAS, the D-Day landing was the largest single amphibious assault in history, consisting of approximately 31,000 members of the United States Armed Forces, 153,000 members of the Allied Expeditionary Force, 5,000 naval vessels, and more than 11,000 sorties by Allied aircraft; and

WHEREAS, soldiers of six divisions (three American, two British, and one Canadian) stormed ashore in five main landing areas on beaches in Normandy, code-named Utah, Omaha, Gold, Juno, and Sword; and

WHEREAS, of the approximately 10,000 Allied casualties incurred on the first day of the landing, more than 6,000 casualties were members of the United States Armed Forces; and

WHEREAS, the age of the remaining World War II veterans and the gradual disappearance of any living memory of World War II and the Normandy landings make it necessary to increase activities intended to pass on the history of these events, particularly to younger generations; and

WHEREAS, the young people of Normandy and the United States have displayed unprecedented commitment to and involvement in celebrating the veterans of the Normandy landings and the freedom that they brought with them in 1944; and

WHEREAS, the significant material remains of the Normandy landing, such as shipwrecks and various items of military equipment found both on the Normandy beaches and at the bottom of the sea in French territorial waters, bear witness to the remarkable amount of resources needed to successfully execute the Normandy landings; and

WHEREAS, the five Normandy landing sites and a number of sites on the Normandy coast, including Pointe du Hoc, constitute a unique piece of American and European heritage and a symbol of peace and freedom, the unspoiled nature, integrity, and authenticity of which must be protected at all costs; and

WHEREAS, the French government has worked diligently to preserve the remains of the Normandy landing, by including them on the United Nations Educational, Scientific, and Cultural Organization (UNESCO) World Heritage List; and

WHEREAS, dedicated on June 6, 2001, the National D-Day Memorial honors the memory of the American and Allied troops who participated in Operation Overlord, many of whom made the ultimate sacrifice in defense of freedom; the memorial is located in Bedford, which suffered the highest per capita losses of any community in the United States on D-Day; and

WHEREAS, Virginians are encouraged to observe the 75th anniversary of D-Day with appropriate ceremonies and programs to honor the members of the Greatest Generation who sought to liberate Europe from Nazism and fascism and the service and sacrifices of all veterans; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the 75th anniversary of D-Day be commemorated on June 6, 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for the National D-Day Memorial Foundation, requesting that the organization further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

### HOUSE JOINT RESOLUTION NO. 652

*Commending First Baptist Church of Waverly.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 150 years, First Baptist Church of Waverly has provided spiritual leadership, generous outreach programs, and opportunities for joyful worship to the members of the Sussex County community; and

WHEREAS, First Baptist Church is recognized as Waverly's oldest church, founded by a woman simply known as "Mother Hubbard," a post-Civil War missionary who traveled the area spreading the gospel to all people, including newly freed slaves; the first services were held in a bush harbor sometime in 1868; and

WHEREAS, First Baptist Church is acknowledged as the place where Waverly's freed slaves were first educated; as the church grew, the Reverend Gregory was called as its first pastor, and under his leadership, the church became more structured and plans were made for the first church building; and

WHEREAS, First Baptist Church's initial building was completed in 1882 under the Reverend P. R. Berry, who served for 28 years, baptizing and marrying members of the first generation of the church; the Reverend R. D. Pittman of Petersburg served for three years, and the Reverend M. C. Holland served for 14 years, overseeing the building's remodeling; and

WHEREAS, under the 10 years of leadership of the Reverend H. L. James of Richmond, the interior of the First Baptist Church was improved, and the first auxiliaries of the church were organized; and

WHEREAS, it was during this time in the 1920s, in cooperation with the officials of Sussex County, that the first public school for African Americans was erected on First Baptist Church property at the site of the present church; the school was the only school for African Americans in Waverly well into the 20th century, when the Sussex County Training School was created; and

WHEREAS, the Reverend L. A. Jackson served for 12 years, leading a project to install new windows, and the Reverend S. L. Craig, who served for two years, was successful in burning the mortgage; the Reverend C. L. Robinson, who served for 14 years, undertook a number of renovation projects and increased membership and was succeeded by the Reverend E. J. Johnson, who served for 16 years; and

WHEREAS, the 10th pastor of First Baptist Church, the Reverend William N. Bland, Jr., served for 12 years, paying off the mortgage of the new edifice in a year and accomplishing a number of infrastructure improvements, including asphaltting the parking lot; and

WHEREAS, the Reverend Richard A. Mims served for five years at First Baptist Church, leading new programs such as youth Bible study and the Mass Choir and Praise Dance ministries, as well as the installation of a new roof, new air conditioning units, and a security system; and

WHEREAS, in 2002, the Reverend Samuel Robinson, Sr., joined First Baptist Church as its 12th pastor and was known for his ministries visiting the sick; as the 13th pastor, the Reverend Kenneth Lee instated the male chorus and launched a church website; in 2014, the Reverend Ronald C. Taylor led the congregation spiritually and oversaw the installation of a new roof; and

WHEREAS; on October 2, 2016, the Reverend Dr. Bridget Wilson began serving as interim pastor, bringing the church full circle, once again with a woman at the church's helm; she was installed as the congregation's 15th pastor on March 19, 2017, and she made her mark by reinstating twice-monthly Bible study, recognizing church youth for their academic achievement, and continually improving the building's lighting, thermostats, and sound system; and

WHEREAS, throughout its history, First Baptist Church of Waverly has welcomed people from diverse backgrounds, adding a Hispanic service and blended worship and building an enduring sense of community in the Waverly area as large numbers of friends and former members return to the church for Family and Friends Day and Vacation Bible School; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend First Baptist Church of Waverly for providing spiritual leadership, generous outreach programs, and opportunities for joyful worship to the members of the Waverly community for 150 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Bridget Wilson, pastor of First Baptist Church of Waverly, as an expression of the General Assembly's admiration for the church's legacy of contributions to Sussex County.

### HOUSE JOINT RESOLUTION NO. 655

*Acknowledging with profound regret the existence and acceptance of lynching within the Commonwealth.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, the year 2019 marks the 400th anniversary of the arrival to the Jamestown settlement of the first Africans in what would become the United States, where they were enslaved, marking the beginning of nearly 250 years of slavery in the British colonies and in the new nation; and

WHEREAS, throughout America's history of slavery, segregation, and inequality, thousands of African Americans were lynched across America, particularly throughout the southern United States, to perpetuate racial inequality and white supremacy and to terrorize African American communities; and

WHEREAS, during Reconstruction, the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution were ratified, abolishing slavery, granting citizenship to any person born or naturalized in the United States, and guaranteeing the rights to due process of law and equal protection under the law and the right to vote for African American men; and

WHEREAS, in outright defiance of the Reconstruction Amendments, people across the nation acted outside of the law, deliberately, violently, and brutally, against African American citizens in retribution for alleged or invented crimes and faced few or no consequences; and

WHEREAS, the Equal Justice Initiative has documented more than 4,000 lynchings that took place throughout the South between 1877 and 1950, over 80 of which took place in Virginia; other scholarship documents more than 100 lynchings in Virginia; and

WHEREAS, African American men, women, and children lived in fear that their lives and the lives of loved ones could end violently at any time and in any place; and

WHEREAS, lynchings were often widely known and publicly attended; some were witnessed by crowds that numbered in the thousands, reflecting community acceptance, and many leaders and authorities and much of society denied and enabled the illegal and horrific nature of the acts; and

WHEREAS, *Richmond Planet* editor John Mitchell, Jr., exposed lynchings in Virginia as they occurred and led the state's anti-lynching campaign; however, despite his efforts and other accounts, historians believe still more lynchings remain undocumented; and

WHEREAS, at the urging of *Norfolk Virginia-Pilot* editor Louis Isaac Jaffe and other anti-lynching activists, and to curtail mob violence in Virginia, the General Assembly passed an anti-lynching measure that was signed into law on March 14, 1928, declaring lynching a state crime; and

WHEREAS, the extreme racial animus, violence, and terror embodied in the act of lynching did not die with the criminalization of the act, and few, if any, prosecutions occurred under the measure; and

WHEREAS, the legacy of racism that outlived slavery, enabled the rise and acceptance of lynching, facilitated segregation and disenfranchisement, and denied education and civil rights to African Americans has yet to be uprooted in Virginia, the South, and the nation, and this dark and shameful chapter of American history must be understood, acknowledged, and fully documented and the seemingly irreparable breach mended; and

WHEREAS, the most abject apology for past wrongs cannot right them; yet the spirit of true repentance on behalf of a government and, through it, a people can promote reconciliation and healing and avert the repetition of past wrongs and the disregard of manifested injustices; and

WHEREAS, in 2010, the Equal Justice Initiative began investigating thousands of racial terror lynchings in the American South in an effort to understand the terror and trauma this sanctioned violence against the African American community created, resulting in the report *Lynching in America: Confronting the Legacy of Racial Terror* in 2015 and the opening of the Memorial for Peace and Justice on April 26, 2018, as the nation's first memorial dedicated to the legacy of enslaved black people, people terrorized by lynching, African Americans humiliated by racial segregation and Jim Crow, and people of color burdened with contemporary presumptions of guilt and police violence; and

WHEREAS, the Equal Justice Initiative created the Community Remembrance Project to create greater awareness and understanding about racial terror lynchings and to begin a necessary conversation that advances truth and reconciliation by working with communities to commemorate and recognize the traumatic era of lynching by collecting soil from lynching sites across the country and erecting historical markers and monuments in these spaces; and

WHEREAS, the General Assembly established the Virginia Dr. Martin Luther King, Jr. Memorial Commission in 1992 to continue the work of Dr. King, himself a victim of violence, as he sought to realize his dream of a "Beloved Community" in which love, peace, and justice prevail over hatred and fear; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby acknowledge with profound regret the existence and acceptance of lynching within the Commonwealth and call for reconciliation among all Virginians; and, be it

RESOLVED FURTHER, That the Virginia Dr. Martin Luther King, Jr. Memorial Commission make as complete a record as possible of each documented lynching that occurred in the Commonwealth of Virginia, including the names of the victims and the locations and circumstances of each occurrence, to be preserved on the Commission's website, and develop programming to bring awareness and recognition of this history to communities across the state, that such awareness might contribute to the process of healing and reconciliation in Virginia's still-wounded communities and for families and descendants affected by lynchings; and, be it

RESOLVED FURTHER, That the Virginia Dr. Martin Luther King, Jr. Memorial Commission coordinate with the Department of Historic Resources to identify sites for historic markers to recognize documented lynchings and assist the Equal Justice Initiative in its Community Remembrance Project in the Commonwealth; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Dr. Martin Luther King, Jr. Memorial Commission, requesting that it further disseminate copies of this resolution to its constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

### HOUSE JOINT RESOLUTION NO. 659

*Designating October 10, in 2019 and in each succeeding year, as Taiwan Day in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, the 10th day of the month of October, or Double Tenth Day, is a national holiday in Taiwan; and

WHEREAS, Virginia is home to many people of Taiwanese descent, for whom Double Tenth Day may still hold a special place in their hearts; and

WHEREAS, Virginia's rich culture is enhanced by understanding and sharing the heritage and traditions of those who call the Commonwealth home; and

WHEREAS, Virginia is pleased to maintain a strong relationship with Taiwan and looks forward to expanding that relationship in the future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate October 10, in 2019 and in each succeeding year, as Taiwan Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the people of Taiwan so that they may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 662

*Directing the Joint Commission on Health Care to study the dispensing of drugs and devices pursuant to prescriptions, pharmacy collaborative practice agreements, standing orders, and statewide protocols in the Commonwealth. Report.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, a pharmacist practicing in the Commonwealth may only dispense drugs or devices pursuant to a valid prescription issued by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine licensed by the Board of Medicine; a physician assistant licensed by the Board of Medicine who has entered into a practice agreement with a licensed physician or podiatrist; a nurse practitioner licensed jointly by the Boards of Medicine and Nursing who has entered into a practice agreement with a patient care team physician or who meets the requirements for practice without a practice agreement; or a TPA-certified optometrist, or pursuant to a standing order or protocol or in accordance with a collaborative practice agreement; and

WHEREAS, the roles and responsibilities of pharmacists vary depending on the authority pursuant to which they dispense drugs or devices; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Commission on Health Care be directed to study the dispensing of drugs and devices pursuant to prescriptions, pharmacy collaborative practice agreements, standing orders, and statewide protocols in the Commonwealth. In conducting its study, the Joint Commission on Health Care shall (i) review and evaluate laws and regulations governing the prescribing, dispensing, and administration of drugs and devices in the Commonwealth, including the prescribing, dispensing, and administration of drugs and devices pursuant to pharmacy collaborative practice agreements, standing orders, and statewide protocols; (ii) review the roles and responsibilities of pharmacists and other health care providers prescribing, dispensing, and administering drugs and devices in accordance with laws and regulations, including the roles and responsibilities of pharmacists and other health care providers prescribing, dispensing, and administering drugs and devices pursuant to pharmacy collaborative practice agreements, standing orders, and statewide protocols; such review shall include evaluation of the roles and responsibilities of pharmacists authorized to practice pursuant to pharmacy collaborative practice agreements, standing orders, and statewide protocols conducting patient assessments and identifying appropriate drugs or devices for dispensing or administration; (iii) determine the legal liability of pharmacists and other health care providers prescribing, dispensing, and administering drugs and devices in the Commonwealth in accordance with laws and regulations, including the legal liability of pharmacists and other health care providers prescribing, dispensing, and administering drugs and devices pursuant to pharmacy collaborative practice, agreements, standing orders, and statewide protocols; (iv) identify any changes to such laws or regulations governing the prescribing, dispensing, and administration of drugs and devices in the Commonwealth, including the prescribing, dispensing, and administration of drugs and devices by pharmacists and other health care providers pursuant to pharmacy collaborative practice agreements, standing orders, and statewide protocols, that would enhance patient access to health care in the Commonwealth; and (v) develop specific proposals to implement changes identified, including proposed amendments to laws and regulations necessary to implement such changes. In conducting its study, the Joint Commission on Health Care shall provide for stakeholder input from the Department of Health, the Department of Health Professions, the Medical Society of Virginia, and the Virginia Pharmacists Association.

Technical assistance shall be provided to the Joint Commission on Health Care by the Board of Pharmacy. All agencies of the Commonwealth shall provide assistance to the Joint Commission on Health Care for this study, upon request.

The Joint Commission on Health Care shall complete its meetings for the first year by November 30, 2019, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2020 Regular Session of the General Assembly. The executive summary shall state whether the Joint Commission on Health Care intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 663

*Commending Clay Jenkinson.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Clay Jenkinson, a well-known and recognized humanities scholar, author, and speaker, has promoted the importance of civil discourse, historical literacy, and enlightenment through his masterful portrayal of the esteemed Thomas Jefferson on his national radio show *The Thomas Jefferson Hour* on PBS; and

WHEREAS, Clay Jenkinson's national radio show aims to elevate discourse about the important issues of the day through the voice of the third President of the United States and one of Virginia's most beloved sons, Thomas Jefferson, in an informative, unique, and entertaining way; and

WHEREAS, in order to further spread understanding of Thomas Jefferson, Clay Jenkinson wrote the books *Thomas Jefferson: The Man of Light* and *Becoming Jefferson's People* and, as cofounder of the modern Chautauqua movement, portrayed historical characters for audiences, including Thomas Jefferson, to further impart the story of Thomas Jefferson and the concepts he espoused of building a nation of equality, justice, and cultural achievement; and

WHEREAS, Clay Jenkinson grew up on the western plains of North Dakota, studying at the University of Minnesota, Oxford University, and the University of Colorado and earning degrees in Renaissance English Literature; he currently resides in Bismarck, North Dakota, and serves as a humanities scholar at both the University of Mary and Dickinson State University and as CEO of Dakota Sky Education, Inc., as a historical performer, writer, and lecturer from 2000 to the present; and

WHEREAS, Clay Jenkinson's work explaining, portraying, researching, and writing about Thomas Jefferson and other notable Americans has earned him an invitation to the White House from prior Presidential administrations, as well as numerous awards, including the National Humanities Medal, the highest honor conferred on a public humanities scholar in the United States of America; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Clay Jenkinson for introducing one of Virginia's most beloved historical figures to an entire new generation of Americans

and for promoting historical literacy through his portrayal of Thomas Jefferson on *The Thomas Jefferson Hour* radio show; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Clay Jenkinson as an expression of the General Assembly's respect on behalf of Virginia for his work both in elevating our civil discourse and in highlighting the life and legacy of Thomas Jefferson.

### HOUSE JOINT RESOLUTION NO. 664

*Commending the Joe Bagley Veterans of Foreign Wars Post 2582.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Joe Bagley Veterans of Foreign Wars Post 2582, located in Suffolk, celebrated its 80th anniversary of service to veterans, active duty military, military families, and the community in 2018; and

WHEREAS, the Joe Bagley Veterans of Foreign Wars (VFW) Post 2582 is a nonprofit, patriotic, social, fraternal, and educational association of "warriors still serving," whose mission is to honor the dead by helping the living; and

WHEREAS, the Joe Bagley VFW Post 2582 is named for a navigator who was the first casualty from Suffolk in World War II; the post has a rich tradition of service in his honor and was selected as a VFW All-American Post for 2017-2018; and

WHEREAS, today, there are more than 90 members of the Joe Bagley VFW Post 2582 who attend state conventions, place flags at veteran cemeteries on Veterans Day and wreaths for the holidays, distribute care packages to active duty military, serve the local citizens of Suffolk, and participate in Honor Flight Network trips to Washington, D.C., to visit war memorials; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Joe Bagley Veterans of Foreign Wars Post 2582 for its decades of service to veterans, active duty military, military families, and the community on the occasion of its 80th anniversary in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Frank McKiddie, post commander of the Joe Bagley Veterans of Foreign Wars Post 2582, as an expression of the General Assembly's admiration for the organization's efforts to carry on their proud tradition of service and patriotism.

### HOUSE JOINT RESOLUTION NO. 665

*Commending the Western Branch High School track and field program.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Western Branch High School track and field program won both the boys' and girls' state titles at the 2018 Virginia High School League Class 5 and 6 State Indoor Track and Field Championships in February 2018; and

WHEREAS, the talented and determined athletes from Western Branch High School in Chesapeake defeated dozens of hardworking teams from around the Commonwealth; and

WHEREAS, at the two-day track and field tournament held at the Boo Williams Sportsplex in Hampton, the Western Branch Bruins outran and outjumped their competitors, with Shadajah Ballard and Jazmine Tilmon scoring crucial points in the 55-meter hurdles event and sprinter Darian Perkerson running a personal-best 35.04 in the 300-meter race; and

WHEREAS, the Western Branch girls' track and field team, which entered the competition as a favorite, finished with an impressive 127 points, while the Western Branch boys' track and field team finished with 74 points, defeating the runner-up team by nearly 30 points; and

WHEREAS, Western Branch track coach Claude Toukene had previously won five consecutive state crowns, and the 2018 championships were especially meaningful because they capped his last year as coach of the Western Branch Bruins before moving to become the head track coach at Bryant & Stratton College; and

WHEREAS, the championship win was a complete team effort, and throughout the 2018 season, the members of the Western Branch High School track and field program were enthusiastically supported by their families, fellow students, and the entire school community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Western Branch High School track and field program on securing both the boys' and girls' state titles at the 2018 Virginia High School League Class 5 and 6 State Indoor Track and Field Championships; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Western Branch High School track and field program as an expression of the General Assembly's admiration for the teams' championship season and their stellar performance.

**HOUSE JOINT RESOLUTION NO. 666**

*Commending the Nansemond River High School girls' track and field team.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Nansemond River High School girls' track and field team won the Virginia High School League Class 5 State Track and Field Championship in February 2018; and

WHEREAS, the talented and determined athletes from Nansemond River High School in Suffolk bested track and field teams from around the Commonwealth at the competition; and

WHEREAS, at the two-day tournament held at the Boo Williams Sportsplex in Hampton, each of the Nansemond River High School Warriors contributed to the victory, including hurdle jumper Kori Carter and relay runners Asia Crocker and Skylar Parks; and

WHEREAS, the Nansemond River Warriors finished the state championship with an impressive 88 points, 36 points more than the runners-up, and as state winners, the team advanced to the New Balance Nationals Indoor meet in New York; and

WHEREAS, the win was a team effort, and Nansemond River High School girls' track and field coach Justin Byron praised the athletes' incredible performance, even with a smaller team this year; and

WHEREAS, throughout the 2018 season, the members of the Nansemond River High School girls' track and field team were enthusiastically supported by their families, fellow students, and entire school community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Nansemond River High School girls' track and field team on winning the Virginia High School League Class 5 State Track and Field Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Justin Byron, coach of the Nansemond River High School girls' track and field team, as an expression of the General Assembly's congratulations and admiration for the team's championship season and its stellar performance.

**HOUSE JOINT RESOLUTION NO. 667**

*Celebrating the life of Stacey Visser Dendy.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Stacey Visser Dendy, a vibrant member of the Richmond community and a beloved wife and mother, died on August 29, 2018; and

WHEREAS, a native of Virginia Beach, Stacey Dendy attended Norfolk Christian High School and graduated from the University of Virginia; and

WHEREAS, Stacey Dendy lived on West Avenue in Richmond's historic Fan District for 27 years, building a strong sense of community with her neighbors through her kindness, generosity, and zest for life; and

WHEREAS, Stacey Dendy further worked to enhance the quality of life in her neighborhood by offering her leadership as president of the Fan Townhouse & Garden Club and chair of the West Avenue Garden Tour; and

WHEREAS, Stacey Dendy served two terms as Parent Teacher Association president of William F. Fox Elementary School; and

WHEREAS, an accomplished amateur athlete, Stacey Dendy excelled at tennis and golf and proudly made holes-in-one at her two home golf courses, the Princess Anne Country Club in Virginia Beach and Willow Oaks Country Club in Richmond; and

WHEREAS, Stacey Dendy's greatest joy in life was spending time with her family and friends, whether at home or traveling throughout the United States and the world; and

WHEREAS, guided by her faith in all her actions, Stacey Dendy enjoyed fellowship and worship with the community as a devout member of Second Presbyterian Church, where she served as a deacon; and

WHEREAS, Stacey Dendy will be fondly remembered and greatly missed by her husband, Ben; her sons, Marshall, Thomas, and Knox; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Stacey Visser Dendy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stacey Visser Dendy as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 674**

*Requesting the Department of Veterans Services and the Department of Taxation to study the feasibility of exempting military retirement income from taxation. Report.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, over half of the states exempt military retirement income or a portion thereof from taxation; and

WHEREAS, Maryland, North Carolina, and West Virginia, which share a border with Virginia, either partially or fully exempt military retirement income from taxation; and

WHEREAS, Virginia currently exempts military retirement income from taxation only if the taxpayer is a recipient of the Congressional Medal of Honor; and

WHEREAS, Virginia should strive to maintain its reputation as a veteran-friendly state and, more importantly, strive to reward veterans for their service to Virginia and the United States by fully exempting military retirement income from state income tax; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Veterans Services and the Department of Taxation (the Agencies) be requested to convene a joint working group to study the feasibility of exempting military retirement income from taxation.

In conducting their study, the Agencies shall evaluate the effects of phasing in a full exemption of military retirement income over a four-year, five-year, or six-year period or any other time period the Agencies deem appropriate. The Agencies shall consider (i) the impact of fully exempting military retirement income on Virginia's current population of veterans, (ii) the projected effect of such exemption on Virginia's competitiveness as a desirable state of residence for veterans in comparison with other states, (iii) the revenue losses associated with fully exempting military retirement income from state income tax, and (iv) any other factors the Agencies deem relevant. The Agencies shall review any other issues and make recommendations as appropriate.

All agencies of the Commonwealth shall provide assistance to the Agencies for this study upon request.

The Agencies shall complete their meetings by November 30, 2019, and shall submit to the Governor and the General Assembly an executive summary and a report of their findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2020 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 686**

*Commending Arlington County Fire Department Station 8.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 23, 2019

WHEREAS, Arlington County Fire Department Station 8, once the only fire company in Arlington staffed by African Americans, has safeguarded the lives and property of local residents for 100 years; and

WHEREAS, Arlington County Fire Department Station 8 traces its roots to the formation of Hall's Hill Volunteer Fire Department in 1918, which was established by a group of concerned residents of the Hall's Hill neighborhood; and

WHEREAS, Hall's Hill Volunteer Fire Department was among the first volunteer firefighting companies in what would become Arlington County and one of the first in the nation to be owned and operated by African Americans; and

WHEREAS, in its early days, the members of Hall's Hill Volunteer Fire Department fought fires with a 60-gallon chemical tank that needed to be pulled by six men; the Department purchased its first motor-driven fire engine with help from the community in 1926; and

WHEREAS, Hall's Hill Volunteer Fire Department was officially incorporated the following year and subsequently relocated to a lot on Lee Highway; the Department received its first pumper truck in 1932, after Arlington County began to purchase equipment for volunteer fire companies; and

WHEREAS, in 1934, Hall's Hill Volunteer Fire Department moved to a new fire station on North Culpeper Street on land donated by the Hicks family, which served as a community meeting place and offered conveniences such as a pay telephone and a soda machine; and

WHEREAS, during the 1940s and 1950s, Hall's Hill Volunteer Fire Department became Station 8 in the unified Arlington County Fire Department; the company continued to modernize its equipment, and in 1951, the first four African American professional firefighters hired by the county were assigned to Station 8; and

WHEREAS, as a segregated department during the Jim Crow era, the members of Station 8 faced discrimination and were occasionally disallowed from responding to certain calls; in 1957, Station 8's Alfred Clark paved the way for his fellow African American firefighters as the first black fire captain in Arlington County; and

WHEREAS, in 1963, Station 8 opened its current firehouse at 4845 Lee Highway, where it ably served Arlington residents for more than 50 years; and

WHEREAS, Station 8 was nearly moved due to a reorganization, but members of the community rallied to preserve the history and heritage of Hall's Hill Volunteer Fire Department, and in 2016, planning began for a new Station 8 firehouse at the same location; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Arlington County Fire Department Station 8 on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Arlington County Fire Department Station 8 as an expression of the General Assembly's admiration for the fire company's legacy of contributions to the Arlington community.

### HOUSE JOINT RESOLUTION NO. 687

*Directing the Small Business Commission to study models and streamlined procedures for appealing tax assessment decisions. Report.*

Agreed to by the House of Delegates, February 23, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Commonwealth ranks poorly in national ratings of real estate assessment appeal practices; and

WHEREAS, the prohibitive cost of circuit court appeals limits property owners' and taxpayers' access to justice with respect to real estate taxes, especially for property owners and taxpayers who have limited income; and

WHEREAS, small businesses are particularly disadvantaged by the exorbitant costs of appealing tax assessment decisions; and

WHEREAS, small businesses account for a significant number of new jobs each year; and

WHEREAS, the Commonwealth could reduce inefficiency, minimize costs to taxpayers, and make tax appeals more fair by establishing a tax court or other structure for appeals or, in the alternative, streamlined procedures for appealing decisions by a local board of equalization or similar local body; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Small Business Commission be directed to study models and streamlined procedures for appealing tax assessment decisions.

In conducting its study, the Small Business Commission shall (i) seek input from local government representatives, property ownership and management associations, the judicial branch, and state and local tax administrators; (ii) evaluate the tax court systems of other states; and (iii) evaluate other options and models for streamlining appeals of a local board of equalization or similar local body, including options and models provided by research organizations.

Technical assistance shall be provided by the Commissioner of the Department of Taxation or his designee and the Executive Secretary of the Supreme Court of Virginia or his designee. All other agencies of the Commonwealth shall provide assistance to the Small Business Commission, upon request.

The Small Business Commission shall complete its meetings by November 30, 2019, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2020 Regular Session of the General Assembly. The executive summary shall state whether the Small Business Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 689

*Notifying the Governor of organization.*

Agreed to by the House of Delegates, January 9, 2019

Agreed to by the Senate, January 9, 2019

RESOLVED by the House of Delegates, the Senate concurring, That a committee be appointed, composed of six on the part of the House of Delegates and five on the part of the Senate, to notify the Governor that the General Assembly is duly organized and is ready to receive any communication he may desire to make.

### HOUSE JOINT RESOLUTION NO. 690

*Designating May 10, 2019, as the 150th Anniversary of the Completion of the First Transcontinental Railroad in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, with the advent of the railroad in the 1820s, many Americans envisioned binding together the nation through the construction of a railroad that spanned the country, from Atlantic to Pacific; and

WHEREAS, the Commonwealth of Virginia recognizes the importance of honoring efforts that provide common benefits and promote opportunity for all its residents; and

WHEREAS, President Abraham Lincoln signed the Pacific Railroad Act in 1862 to provide federal support for the building of the First Transcontinental Railroad; and

WHEREAS, the Central Pacific Railroad Company laid the first rails of the new railway in 1863 in Sacramento, California, and continued east across the Sierra Nevada, while a second company, the Union Pacific Railroad Company, built westward from the Missouri River, near the Iowa-Nebraska border, where the line met existing Atlantic railways via ferry, beginning in 1865; and

WHEREAS, the First Transcontinental Railroad required the building of over 50 bridges and trestles and 15 tunnels through the most challenging terrain; and

WHEREAS, building the first major national transportation infrastructure necessitated the employment of thousands of workers, many of whom were Chinese and Irish immigrants, Mormons, Native Americans, Free Blacks, and others who joined to work together to construct the railroad; and

WHEREAS, United States industrialists recruited thousands of Chinese workers to assist in the construction of the railroad; these laborers, who made up to 80 percent of the western workforce, were paid substandard wages and faced grueling hours and extremely harsh conditions in order to lay hundreds of miles of track; and

WHEREAS, the First Transcontinental Railroad was completed on May 10, 1869, by the joining of the two tracks with a symbolic golden spike at Promontory, Utah; and

WHEREAS, the U.S. Department of Labor awarded the Chinese railroad workers a place on the Department's Hall of Honor in 2014, on the 145th anniversary of the railroad's completion; and

WHEREAS, the First Transcontinental Railroad reduced the time required to journey across the United States from six months to one week and the cost of such a trip from \$1,000 to \$150; and

WHEREAS, the impact of the First Transcontinental Railroad in the 19th century has been likened to the impact of the Internet in the 21st century in transforming communications, commerce, and industry; facilitating the movement of peoples across the country; and greatly increasing the global presence of the United States; and

WHEREAS, schools and leaders across the Commonwealth are encouraged to observe May 10, 2019, as the 150th Anniversary of the Completion of the First Transcontinental Railroad and celebrate the tireless efforts of all of those who overcame brutal obstacles, both natural and technological, to achieve the dream of uniting the country from coast to coast; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate May 10, 2019, as the 150th Anniversary of the Completion of the Transcontinental Railroad in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Board of Education so that the members of the Board may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 691

*Celebrating the life of the Honorable John Maston Davis.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, the Honorable John Maston Davis, a respected attorney and a former judge of the 15th Judicial District of Virginia, died on July 10, 2018; and

WHEREAS, John Davis attended Farnham High School, graduated from Randolph-Macon College with a bachelor's degree in 1964, and earned his law degree from the University of Richmond in 1967; and

WHEREAS, John Davis joined the United States Marine Corps and was assigned to Marine Corps Base Quantico for two years; after his honorable military service, he continued to serve the public as an assistant attorney for the Commonwealth in Newport News; and

WHEREAS, in 1972, John Davis joined the firm Ryland and Fidler in Warsaw and subsequently became a partner in Ryland, Fidler and Davis; during this time, he also served as a substitute judge in the area; and

WHEREAS, in March 1995, John Davis was appointed as a judge for the 15th Judicial District of Virginia's Juvenile and Domestic Relations District Court, serving the Counties of Essex, Lancaster, Northumberland, Richmond, and Westmoreland; and

WHEREAS, John Davis presided over the court with great fairness and wisdom until his well-earned retirement from the bench in November 2008; throughout his long career, he served the Commonwealth with integrity, dedication, and distinction and demonstrated a great concern for the well-being of children in the court system; and

WHEREAS, John Davis enjoyed fellowship and worship with the community as a life member of Mildred Presbyterian Church, where he helped lead the congregation as a deacon and an elder; and

WHEREAS, John Davis was an avid outdoorsman, and he supported young people in the community as a Little League baseball coach and manager for 11 years; his greatest joy in life was his family, and he relished every opportunity to spend time with his beloved children and grandchildren; and

WHEREAS, predeceased by one son, Karl, John Davis will be fondly remembered and greatly missed by his wife of 47 years, Nancy, his children, Ryan, Todd, Gene, and Channing, and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable John Maston Davis; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable John Maston Davis as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 695

*Celebrating the life of Bettie Woodson Weaver.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Bettie Woodson Weaver, a consummate educator who enriched the learning process with her kindness, creativity, and unparalleled commitment to her students, died on June 14, 2018; and

WHEREAS, born in Crewe, Virginia in 1920, Bettie Weaver was a witness to the seminal events of the 20th century; she gained her passion for learning from her grandmother, who entertained her young granddaughter with family stories and vivid history lessons; and

WHEREAS, Bettie Weaver graduated from John Marshall High School and earned a bachelor's degree from Westhampton College; she began her career in education at Manchester High School in Chesterfield County in 1941; and

WHEREAS, during World War II, Bettie Weaver lived in North Carolina, Texas, Oklahoma, and Kentucky before returning to Chesterfield County, where she and her husband, Albert, restored her family's historic home, Aetna Hill; and

WHEREAS, Bettie Weaver taught at Midlothian High School from 1946 to 1951, until her own children were born, then worked with Chesterfield County to document historic homes, churches, and buildings in the area for the Historic American Buildings Survey; and

WHEREAS, Bettie Weaver was commissioned by the Chesterfield County Board of Supervisors to write a book on the history of the county, served on the County's bicentennial committee, and helped develop the Chesterfield County Museum and Magnolia Grange; and

WHEREAS, Bettie Weaver returned to teaching at Midlothian High School in 1966 and subsequently joined Watkins Elementary School, where she worked until her well-earned retirement in 1981; and

WHEREAS, Bettie Weaver infused her lessons with unique perspectives and opportunities, such as field trips to a nearby coal mine, where she connected local history to early American industry, architecture, and environmental studies; she relished opportunities to teach students about the beauty of the natural world, especially her favorite animal, the bluebird; and

WHEREAS, in 1994, Bettie Weaver Elementary School was named in her honor, with the Bettie Weaver Bluebird as the school mascot; her legacy lives on in the many students who have passed through the school's doors, as well as the thousands of students she herself inspired to become inquisitive lifelong learners and engaged leaders in their professions and communities; and

WHEREAS, predeceased by her husband, Albert, Bettie Weaver will be fondly remembered and greatly missed by her children, Bettie and George, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Bettie Woodson Weaver; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bettie Woodson Weaver as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 696

*Celebrating the life of William Brinker Inskeep.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, William Brinker Inskeep, a dedicated and innovative farmer and a loving father, brother, and friend, died on February 12, 2018; and

WHEREAS, William "Bill" Brinker Inskeep was born and raised in Virginia and continued a family tradition of farming in Culpeper; and

WHEREAS, together with his brothers Rusty and John, Bill Inskeep operated Mt. Pony Farms off Rt. 522 South; and

WHEREAS, Bill Inskeep approached the unique challenges of farming with intense passion, innovating cooperatively with his brothers to create efficient agricultural machinery like an operational hay baler proven to do the work of three square balers that was dubbed the "Mt. Pony Special" and received coverage in the publication *Progressive Forage*; and

WHEREAS, Bill Inskeep will be fondly remembered and greatly missed by his fiancée, Carrie Swanson; his sons, Paul, Patrick, and Peter, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Brinker Inskeep, a dedicated and innovative farmer and a loving father, brother, and friend; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Brinker Inskeep as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 697

*Designating the first full week of May, in 2019 and in each succeeding year, as Correctional Officers' Week in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, correctional officers are responsible for supervising offenders serving sentences in federal, state, or local correctional facilities; and

WHEREAS, correctional officers promote the safety of all Virginians by supervising offender conduct and behavior to avoid conflicts and escapes; and

WHEREAS, correctional officers are dedicated to promoting positive behaviors and outcomes, which improve offenders' post-release success; and

WHEREAS, correctional officers are crucial to the statewide re-entry initiative and reducing recidivism, as they play a critical role in preparing offenders for successful re-entry into their communities after release; and

WHEREAS, correctional officers strive to maintain a safe working and living environment in correctional facilities throughout the Commonwealth, often in the face of significant challenges and dangers; and

WHEREAS, Correctional Officers' Week offers an opportunity to acknowledge and honor Virginia's correctional officers for the vital contributions and sacrifices they make to protect the citizens of the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the first full week of May, in 2019 and in each succeeding year, as Correctional Officers' Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Department of Corrections so that members of the Department may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 698

*Commending the Literacy Council of Northern Virginia.*

Agreed to by the House of Delegates, January 14, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for more than 55 years, the Literacy Council of Northern Virginia has enabled generations of Northern Virginia residents to participate more fully in the community by helping them learn to speak, read, and understand English; and

WHEREAS, founded in 1962, the Literacy Council of Northern Virginia has become a nationally recognized leader in literacy education, known for its innovative methods and work to foster a supportive learning experience; and

WHEREAS, the Literacy Council of Northern Virginia offers beginner classes that focus on United States history and culture, civic responsibilities, and life skills; family learning program classes to help parents and caregivers become more engaged in their children's learning process; and skills-based classes with options to focus on particular language competencies; and

WHEREAS, the Literacy Council of Northern Virginia partners with employers to offer programs on industry-specific language, workplace communication, and employee advancement skills; and

WHEREAS, with its intensive curricula and wide range of support services such as tutoring and distance learning, the Literacy Council of Northern Virginia has helped countless students enhance their capacity to earn a living wage, care for their families, and become active, confident members of society; and

WHEREAS, the Literacy Council of Northern Virginia has fulfilled its mission to help non-English-speaking community members enhance their lives and better support their families through the hard work of highly trained and credentialed staff members and the generosity of many volunteer service providers; and

WHEREAS, on June 21, 2018, the Literacy Council of Northern Virginia held its 56th Annual Recognition Ceremony to celebrate the extraordinary achievements of students, community partners, volunteers, and instructors; now, therefore, be it RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Literacy Council of Northern Virginia for its decades of work to increase adult literacy in Northern Virginia; and, be it RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Literacy Council of Northern Virginia as an expression of the General Assembly's admiration for the organization's crucial contributions to the Northern Virginia community.

### HOUSE JOINT RESOLUTION NO. 699

*Commending Shreyaa Venkat.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Shreyaa Venkat, a student at Broad Run High School in Ashburn, was awarded the Loudoun Human Services Network Outstanding Youth Volunteer award on October 19, 2018, for her positive impact on Loudoun County; and

WHEREAS, Shreyaa Venkat was recognized for logging more than 250 volunteer hours and for creating an organization called Newer Environment Starts Today (NEST) to help the homeless through distributing freshly cooked meals and care packages to homeless shelters; the award recognizes that in three years, NEST has grown to include 150 volunteers; and

WHEREAS, Shreyaa Venkat's endeavor meets the Loudoun Human Services Network's mission as a coalition of nonprofits advocating and collaborating to ensure access to human services for Loudoun residents, serving as a collective voice for its members, and seeking to provide a comprehensive system of care, resources, and benefits for Loudoun residents in their time of need; and

WHEREAS, Shreyaa Venkat is an active and engaged eleventh-grade student at Broad Run High School, a forward on the Broad Run High School girls' junior varsity soccer team, and the member-led event coordinator of the Broad Run High School Key Club; and

WHEREAS, Shreyaa Venkat involves family and friends in her NEST volunteer endeavor to share love and care with those who do not get that affection and think they are alone in the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Shreyaa Venkat for receiving the Loudoun Human Services Network Outstanding Youth Volunteer award for her positive impact on Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shreyaa Venkat as an expression of the General Assembly's admiration for her selfless contributions to the homeless.

### HOUSE JOINT RESOLUTION NO. 700

*Commending Hanover County.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, in 2020, Hanover County will be celebrating the 300th anniversary of its founding and its unique role in events that have shaped the history of the Commonwealth and the United States; and

WHEREAS, Hanover County was formed on November 26, 1720, from New Kent County along the boundaries of St. Paul's Parish; and

WHEREAS, the original Hanover County Courthouse, believed to have been constructed between 1737 and 1743, is the second oldest courthouse in the Commonwealth still in use and appears as the most prominent feature on the seal of the County, along with references to Patrick Henry and Henry Clay, both of whom were natives of the County; and

WHEREAS, in 1743, the first Virginia Presbytery was formed at the Polegreen Meetinghouse and was soon led by the Reverend Samuel Davies, Virginia's first licensed non-Anglican pastor and an oratorical inspiration to a then-young parishioner named Patrick Henry; and

WHEREAS, the Polegreen Meetinghouse, which was representative of a Protestant religious revival known as "the Great Awakening," when Virginians sought freedom of religious expression, served as a treasured place in the community until its destruction during the Civil War; a memorial to the Historic Polegreen Church was created after the foundation of the original meetinghouse was uncovered in the early 1990s; and

WHEREAS, Patrick Henry, one of the most important Revolutionary War patriots, publicly challenged the King of England's authority in the "Parson's Cause" case, heard in the historic Hanover Courthouse in 1763, an argument that has been called "the opening bell of the American Revolution"; and

WHEREAS, in 1766, Patrick Henry authored *The Virginia Resolves*, which protested the Stamp Act passed by the British Parliament and led other colonies to protest in similar manners, ultimately sparking the American Revolution; and

WHEREAS, in the Second Virginia Convention of 1775, Patrick Henry, who is known to history as "the Voice of the Revolution," exhorted his fellow representatives to pass a resolution preparing Virginia troops for the Revolutionary War with one of America's most famous speeches, ending with "I know not what course others may take, but as for me, give me liberty or give me death!"; and

WHEREAS, Patrick Henry served as Virginia's first elected Governor, a post to which he was reelected four times; and

WHEREAS, sites associated with the life of Patrick Henry in Hanover County were among the first in the Commonwealth's Road to Revolution Heritage Trail, with historical markers erected at Scotchtown, which was built in the early 1700s and was his home from 1771 to 1778; Hanover Courthouse; Rural Plains, which was owned by the parents of his first wife and is now part of a Civil War battlefield preserved by Richmond National Battlefield Park; his birthplace at Studley; and at Pine Slash, his first home with his first wife; and

WHEREAS, Hanover County is also the home of the historic Hanover Tavern, the original structure of which dates to about 1732; and

WHEREAS, Hanover is proud to be the home of several churches that were founded in the 18th century including Slash Church, which was built around 1730 and is the oldest frame church in continuous use in Virginia; Fork Church, which was built around 1735; Winn's Baptist Church, established in 1776; and Black Creek Baptist Church, founded in 1777; and

WHEREAS, Hanover County is also the birthplace of Henry Clay, one of America's great political leaders of the first half of the 19th century, who served nearly 50 years in Congress and was known as "the Great Compromiser" for his efforts to preserve the Union in the years before the Civil War; and

WHEREAS, Hanover County's primary industry has always been agriculture, beginning with tobacco and over the centuries shifting to grain crops, primarily wheat and corn, and vegetables; the County was also the home of one of the greatest agricultural scientists of the 19th century, Edmund Ruffin, who discovered that the acidity of soils could be neutralized by applying marl; and

WHEREAS, Hanover County is home to 39 sites listed in the National Register of Historic Places and the Virginia Landmarks Register, including Sycamore Tavern, Hickory Hill, and Marlbourne; and

WHEREAS, Hanover County was the site of numerous battles in the Civil War, including the site of General Robert E. Lee's first (Gaines Mill) and last (Cold Harbor) major battlefield victories, with Gaines Mill, Cold Harbor, Beaver Dam Creek, and Rural Plains at Totopotomoy Creek preserved as part of the Richmond National Battlefield Park, and North Anna and Cold Harbor preserved by the County; and

WHEREAS, Hanover County is home to the incorporated Town of Ashland, which was chartered in 1858 and named after Henry Clay's estate in Kentucky, and which is now home to more than 7,000 residents who enjoy its charming ambiance as both a railroad town and college town; and

WHEREAS, Randolph-Macon College, America's oldest Methodist-related college, moved to Ashland from Boydton in 1868 and now has an enrollment of more than 1,400 students on a beautiful 116-acre campus that has more than 60 buildings; and

WHEREAS, the construction of I-95 in the 1960s and I-295 in the 1980s helped bring additional prosperity to Hanover County; and

WHEREAS, Hanover County currently has the third largest population of the Metro Richmond suburban counties, with an estimated population of 110,000 in 2018; and

WHEREAS, Hanover County was one of the smallest local governments in the nation to achieve Triple-A ratings from each of the bond rating agencies; and

WHEREAS, Hanover County has been successful in attracting high-quality residential and business growth to its suburban services area while maintaining its rural charm and preserving its historic resources; and

WHEREAS, the residents of Hanover County are proud of their rich history and their prosperous present and look forward to a promising future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hanover County on the occasion of the 300th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the chair of the Hanover County Board of Supervisors as an expression of the General Assembly's admiration for the County's illustrious history and significant contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 701

*Celebrating the life of Captain Alvin Deon Branch, USN, Ret.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Captain Alvin Deon Branch, USN, Ret., a patriotic veteran who was deeply devoted to his country, community, and family, died on September 2, 2018; and

WHEREAS, Deon Branch learned the value of responsibility at a young age while working at his family business, the Lynn-Dee Motel in Virginia Beach, and graduated from Maury High School in 1946; and

WHEREAS, Deon Branch attended Bullis Preparatory Academy, then entered the United States Naval Academy and was commissioned as an officer in 1951; he subsequently earned a master's degree from the Naval Postgraduate School; and

WHEREAS, during his 30-year military career, Deon Branch served in Korea; was stationed aboard the USS *Miller*, USS *Iowa*, USS *Hazelwood*, and USS *Newport News*; commanded the USS *San Joaquin County*, USS *Sussex*, USS *Cromwell*, USS *Barney*, and USS *Neosho*; achieved the rank of commodore; and worked at the Pentagon; and

WHEREAS, Deon Branch earned numerous awards and accolades, including the Navy Commendation Medal, National Defense Service Medal, Defense Meritorious Service Medal, European Occupation Service Medal, Korean Service Medal with Two Bronze Stars, Sea Service Deployment Ribbon, Republic of Korea Presidential Unit Citation, and United Nations Service Medal; and

WHEREAS, Deon Branch's expertise in mathematics, particularly his brilliance with algorithms and statistics, served him well in his second career as a stock and commodity broker for E. F. Hutton on the New York and Miami Stock Exchanges and later as a tutor to his beloved granddaughters; and

WHEREAS, an active member of the community with a zest for life, Deon Branch relished opportunities to entertain family and friends at crab-picking parties and other gatherings at his home in Virginia Beach, where he was a longtime member of the Princess Anne Country Club; and

WHEREAS, at the age of 60, Deon Branch was paralyzed as a result of a spinal cord injury suffered 44 years earlier in a hunting accident near Camp Ashby, which housed German prisoners of war, who stabilized his wounds and helped carry him to Norfolk General Hospital on a makeshift stretcher, ultimately saving his life; and

WHEREAS, after the accident, Deon Branch went on to become a celebrated athlete, both recreationally and in service to his country, and, later in life, his positive attitude and unwillingness to be defined by his injury were inspirational to friends and family; and

WHEREAS, predeceased by his wife, Jacqueline, and son, Deon, Jr., Captain Deon Branch will be fondly remembered and greatly missed by his daughter, Dee, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Captain Alvin Deon Branch, USN, Ret., a distinguished veteran and a respected member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Captain Alvin Deon Branch, USN, Ret., as an expression of the General Assembly's respect for his memory.

## HOUSE JOINT RESOLUTION NO. 702

*Commending Alain Noriega.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Alain Noriega, a pastor at Community Church in Ashburn, was presented with the Loudoun Human Services Network Outstanding Faith-Based Leader Award on October 19, 2018, for his positive impact on Loudoun County; and

WHEREAS, Alain Noriega was recognized for leading Community Church in completely renovating the Loudoun Abused Women's Shelter's kitchen, living room, dining room, children's playroom, and outside landscaping; the church also donated new kitchen appliances, furniture, and toys, and helped paint and clean; and

WHEREAS, Alain Noriega's efforts align with the Loudoun Human Services Network's mission as a coalition of nonprofits seeking to provide a comprehensive system of care, resources, and benefits for Loudoun County residents in their times of need; and

WHEREAS, Alain Noriega collaborates with his congregation to perform selfless deeds, including hosting toy drives for children at the Loudoun Abused Women's Shelter, to enhance the Loudoun County community and reach out to those in need; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Alain Noriega for receiving the Loudoun Human Services Network Outstanding Faith-Based Leader Award for his positive impact on Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alain Noriega as an expression of the General Assembly's admiration for his work to better the Loudoun County community through acts that are greater than himself and his church, extending to those in his area in need of care, resources, and help.

**HOUSE JOINT RESOLUTION NO. 703**

*Designating the first full week of March, in 2019 and in each succeeding year, as Trusted Choice® Independent Insurance Agents Week in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, celebrating its 120th anniversary, the Independent Insurance Agents of Virginia was formally established in 1898 as the Virginia Association of Local Fire Insurance Agents in Lynchburg; and

WHEREAS, the Independent Insurance Agents of Virginia was founded with a mission to facilitate the friendly exchange of ideas and expertise among its members and to promote best practices in the insurance field throughout the Commonwealth; and

WHEREAS, members of the Independent Insurance Agents of Virginia have served the Commonwealth with distinction, including Lt. Governor Bill Bolling, Senator John Chichester, Senator Phil Puckett, and Delegate Frank Hargrove, Sr., among others; and

WHEREAS, the Independent Insurance Agents of Virginia is now part of the nation's oldest and largest association of independent insurance agents with a network of more than 300,000 agents and agency employees nationwide and more than 5,000 in the Commonwealth; and

WHEREAS, the members of the Independent Insurance Agents of Virginia offer customers a choice of policies from a variety of insurance companies; independent agents offer all lines of insurance—property, casualty, life, health, workers' compensation, employee benefit plans, and retirement products; and

WHEREAS, the Independent Insurance Agents and Brokers of America is the leading national association representing the interests of independent insurance agents and owns the Trusted Choice® trademark created exclusively for members to demonstrate their commitment to providing choice, customization, and support for consumers; and

WHEREAS, Trusted Choice®, an online search engine for independent insurance agents, represents multiple insurance companies and helps consumers find the right company to protect their assets and address their unique concerns; and

WHEREAS, Trusted Choice® Independent Insurance Agents Week is designated right before the national Flood Awareness Week to encourage the residents of Virginia to review their need for flood insurance in these days of recurrent flooding, not only in the Tidewater region but in all areas of the Commonwealth; and

WHEREAS, only three percent of Virginians today have flood insurance, but more than nine percent of Virginia land is located in designated flood hazard areas; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the first full week in March, in 2019 and in each succeeding year, as Trusted Choice® Independent Insurance Agents Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Independent Insurance Agents of Virginia so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 705**

*Designating October 22, in 2019 and in each succeeding year, as the Cameron Crowder Pediatric Care Awareness Day in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, emergency physicians and nurses care for approximately 25 million children under the age of 15 in the United States each year, with pediatric patients accounting for at least 20 percent of emergency department visits; and

WHEREAS, while the vast majority of these patients experience good outcomes, and the United States maintains the best pediatric emergency care system in the world, many emergency medical personnel feel underprepared to address the unique challenges of assessing and treating pediatric patients; and

WHEREAS, pediatric emergency care requires specific skills and training as well as specific types and sizes of equipment and supplies, and established procedures and techniques for treating adult patients may not be effective for pediatric patients; and

WHEREAS, emergency medical technicians, emergency department staff, nurses, emergency medicine physicians, pediatricians, pediatric surgeons, respiratory therapists, radiologic technologists, phlebotomists, perfusionists, radiologists, and pediatric specialists in emergency medicine, cardiology, gastroenterology, nephrology, pulmonology, critical care, and neonatology all play a role in the care of young patients from infancy to adolescence; and

WHEREAS, on October 22, 2018, three-year-old Cameron Crowder was taken to Carilion New River Valley Medical Center for what was suspected to be a case of croup; over the next 24 hours, he was diagnosed with a more severe condition

requiring surgery, and was transferred to Carilion Roanoke Memorial Hospital and the University of Virginia Medical Center, respectively; and

WHEREAS, Cameron Crowder was the first pediatric patient to be placed on extracorporeal membrane oxygenation at Carilion Roanoke Memorial Hospital, with surgeons modifying adult equipment and using groundbreaking techniques to ensure a successful procedure and prevent further complications; and

WHEREAS, Cameron Crowder received exceptional, life-saving care from nurses Cindy Johnson and Teresa Jones, respiratory therapists Alva Daniels and Amanda Short, intensivist Randall Ruppel, and surgeons William Arnold and Shawn Safford; and

WHEREAS, the medical professionals who assisted Cameron Crowder are fine examples of the hardworking pediatric emergency caregivers who treat children and adolescents across the Commonwealth each day; and

WHEREAS, health care providers throughout Virginia are encouraged to ensure that state-of-the-art emergency medical care for ill or injured pediatric patients is fully integrated at all levels of the emergency medical system—prehospital, hospital, acute, and rehabilitation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate October 22, in 2019 and in each succeeding year, as the Cameron Crowder Pediatric Care Awareness Day in Virginia to honor the vital work of pediatric emergency care providers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Department of Health's Virginia Emergency Medical Services for Children program so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 706

*Celebrating the life of James Robert Bushong.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, James Robert Bushong, a celebrated educator and active Botetourt County community member, died on November 6, 2018; and

WHEREAS, James "Jim" Robert Bushong was a lifelong Botetourt resident who studied at Lord Botetourt High School and graduated from Virginia Polytechnic Institute at Dabney S. Lancaster Community College with a teaching certificate in architectural drafting and design; and

WHEREAS, Jim Bushong taught trades and construction skills at Botetourt Technical Education Center and at Lord Botetourt High School, impacting generations of students both through his mentorship and by organizing a yearly canned food drive during the holiday season; he held a wide variety of jobs including as Mr. Peanut, a radio DJ, a farmer, a painter, a butcher, a packaging designer, and an engineering draftsman; and

WHEREAS, Jim Bushong was involved in civic organizations like the Kiwanis Club of Botetourt, fundraising for the group's scholarship fund and laboring for the betterment of Botetourt County; he was recognized for his service with numerous awards and honors including the Richard Henegar, Jr. Acts of Kindness Community Award and being named Virginia Vocational Teacher of the Year and Virginia Association of Trade and Industrial Educators' Teacher of the Year; and

WHEREAS, Jim Bushong will be fondly remembered and greatly missed by his wife, Kay; his children, Kimberly and Kristal, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James Robert Bushong, a celebrated educator and active Botetourt community member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Robert Bushong as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 707

*Celebrating the life of Inez Faye Snodgrass.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Inez Faye Snodgrass, beloved wife and mother and vibrant member of the Bristol community, died on November 29, 2018; and

WHEREAS, Inez Snodgrass was a dedicated member of River Bend Church on the North Fork of the Holston River, where she spent all of her life; and

WHEREAS, Inez Snodgrass enjoyed many hobbies, including reading, cooking, camping, and spending time with her family; and

WHEREAS, Inez Snodgrass was very active in the community and was a member of the Clinchburg Senior Citizens Group; and

WHEREAS, Inez Snodgrass will be fondly remembered and greatly missed by her husband, James; her sons, Wayne and David, and their families; and numerous other family and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Inez Faye Snodgrass; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Inez Faye Snodgrass as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 708

*Commending Richard Carroll Clark, Jr.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Richard Carroll Clark, Jr., an experienced law-enforcement officer who served and safeguarded generations of Southwest Virginia residents, retired as chief of the Galax Police Department in 2018; and

WHEREAS, a native of Galax, Richard "Rick" Carroll Clark, Jr., graduated from Galax High School and was attending Wytheville Community College when he was offered a job with the Galax Police Department in 1976; and

WHEREAS, Rick Clark began his law-enforcement career as a dispatcher, graduated from the police academy in 1978, and was promoted to investigator in 1979; and

WHEREAS, in 1982, Rick Clark transferred to the Carroll County Sheriff's Office, where he performed a wide variety of roles, including chief investigator, evidence custodian, communication supervisor, records management and training coordinator, grants manager, and uniform patrol supervisor, in addition to pursuing a bachelor's degree; and

WHEREAS, Rick Clark returned to the Galax Police Department as chief of police in 2002 and immediately transformed the department with visionary leadership and innovative techniques such as implementing a four-part model to scan for and analyze problems, prepare a comprehensive response, and assess the effectiveness of the plan; and

WHEREAS, among Rick Clark's proudest accomplishments is the revitalization of Main Street through directed patrols and zero-tolerance policies for equipment, driving, and alcohol violations to make the area safer for residents and visitors; he also helped lower the speed limit on East Stuart Drive, which resulted in a decrease in vehicle crashes; and

WHEREAS, under Rick Clark's diligent leadership, the Galax Police Department solved numerous high-profile cases and became a model for other departments with its effective community engagement programs, building a strong sense of trust with local residents; and

WHEREAS, respected throughout the Commonwealth for his expertise, Rick Clark served as president of the Virginia Association of Chiefs of Police in 2010-2011 and vice chair of the Virginia Department of Criminal Justice Services Board from 2008 to 2012; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richard Carroll Clark, Jr., for his service to the residents of the City of Galax and Carroll County on the occasion of his retirement as chief of the Galax Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard Carroll Clark, Jr., as an expression of the General Assembly's admiration for his leadership and dedication to service and best wishes for his well-earned retirement.

### HOUSE JOINT RESOLUTION NO. 709

*Commending Appalachian Cast Products.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, in 2019, Appalachian Cast Products celebrates its 20th anniversary of providing die casting, finishing, inspection, single-point drilling, and machine operations in Abingdon for the automotive, HVAC, and hand and power tool industries; and

WHEREAS, Appalachian Cast Products (ACP) was formed in 1999 as a custom die casting facility with one 600-ton die cast machine; the company has grown to include 11 die casting machines, as well as various machine and finishing operations; and

WHEREAS, in its early years, Appalachian Cast Products became ISO Certified because of the importance to the company of adhering to industry standards; and

WHEREAS, Appalachian Cast Products further enhanced its capabilities in 2010 with the acquisition of ACP Precision Machine in nearby Wytheville, adding the ability to manufacture die cast tooling and to perform more complex machining of castings as well as to provide finished components; and

WHEREAS, Appalachian Cast Products continued its growth in 2014 with the acquisition of an adjoining 56,000-square-foot facility; and

WHEREAS, throughout its history, Appalachian Cast Products has adhered to its founding principles to carefully manage growth as well as to invest in employees by providing training opportunities and a path to allow them to build a career with the company; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Appalachian Cast Products for 20 years of providing die casting, finishing, inspection, single-point drilling, and machine operations in Abingdon for the automotive, HVAC, and hand and power tool industries; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Ferracci, president of Appalachian Cast Products, as an expression of the General Assembly's admiration and best wishes for continued success in the future.

### HOUSE JOINT RESOLUTION NO. 710

*Celebrating the life of Charles Krum, Jr.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Charles Krum, Jr., a respected pharmacist and an active member of the Southwest Virginia community, died on October 6, 2018; and

WHEREAS, Charles "Charlie" Krum, Jr., grew up in Yoakum, Texas, and attended the University of Texas at Austin, where he earned a bachelor's degree in pharmacy; he subsequently served his country as a member of the United States Army for two years and the United States Army Reserve for two years; and

WHEREAS, after his honorable military service, Charlie Krum lived in Fayetteville, North Carolina, where he worked for Eli Lilly and Company, then Marion, South Carolina, where he opened English Park Pharmacy; and

WHEREAS, Charlie Krum first came to the Commonwealth to work for Southwestern Virginia Community Health Services, until he relocated to Athens, Tennessee, and opened Athens Pharmacy, which he sold to Rite Aid; and

WHEREAS, Charlie Krum returned to Southwest Virginia, where he worked for Rite Aid until his well-earned retirement and was an active member of the Virginia Housing Development Authority, Virginia Pharmaceutical Association, People Incorporated, Dominion Bank Advisory Board, Dickenson County Board of Supervisors, Dickenson County 4-H, Kiwanis Club, Civitan International, Optimist Club, Rotary Club, Knights of Columbus, and the Methodist Church; and

WHEREAS, in recognition of his exceptional legacy of civic leadership and professional excellence, Charlie Krum earned the title of Kentucky Colonel, among many other awards and accolades throughout his life; and

WHEREAS, Charlie Krum will be fondly remembered and greatly missed by his beloved wife, Adina; his children, Brian and Jennifer, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Krum, Jr., a pharmacist who made many contributions to the Southwest Virginia community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Krum, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 711

*Celebrating the life of Charles William Davis, Jr.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Charles William Davis, Jr., a retired fire lieutenant with the City of Alexandria Fire Department, died on September 17, 2018, from occupational cancer; and

WHEREAS, Charles Davis, Jr., was raised in Washington, D.C., and resided in Manassas at the time of his death; and

WHEREAS, Charles Davis, Jr., joined the City of Alexandria Fire Department in 1981 and was promoted to fire lieutenant in 2001; he retired in 2011 after 30 years safeguarding the lives and property of his fellow community members; and

WHEREAS, Charles Davis, Jr., spent his time between his greatest loves: family, friends, and fishing on the lakes and rivers of Northern Virginia; and

WHEREAS, Charles Davis, Jr., was a loving father and husband, and he was always willing to help and give advice to anyone who needed it; he inspired others with his kind, caring, and selfless nature; and

WHEREAS, deeply dedicated to family and friends, Charles Davis, Jr., will be fondly remembered and greatly missed by his loving wife, Eun Hee Jung; his children, Duane Davis, Nicole Reid, Kayla Davis, and Courtney Davis; his sister, Regina Davis; and his grandchildren, Jaden and Jaxon Reid and Sarah and Isabella Davis; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles William Davis, Jr., a tireless hero who dedicated 30 years to fighting fires in the City of Alexandria; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles William Davis, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 712

*Celebrating the life of the Honorable Frederick MacDonald Quayle.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, the Honorable Frederick MacDonald Quayle, a consummate public servant who greatly enhanced the quality of life in his beloved home of Suffolk, died on November 24, 2018; and

WHEREAS, Frederick "Fred" MacDonald Quayle began to cultivate his passion for community service at a young age, when he was elected student government president of Suffolk High School; he continued to demonstrate his penchant for leadership as an editor of *The Cavalier Daily* newspaper at the University of Virginia; and

WHEREAS, Fred Quayle served his country as a member of the United States Army Reserve from 1956 to 1962, then earned a law degree from the University of Richmond's T. C. Williams School of Law, and pursued a career as an attorney in Norfolk and Chesapeake for more than 40 years; and

WHEREAS, well known in the legal community, Fred Quayle was a member of the Virginia State Bar and the Norfolk-Portsmouth Bar Association, and he was appointed as the divorce commissioner for the Chesapeake Circuit Court, arbitrating matters of divorce, child custody, and marital assets; and

WHEREAS, desirous to be of further service to the Commonwealth, Fred Quayle ran for and was elected to the Senate of Virginia in 1991; he ably represented the residents of the 13th District with integrity, dedication, and distinction for 20 years; and

WHEREAS, Fred Quayle introduced and supported many important pieces of legislation to benefit all Virginians and worked to build bipartisan consensus and respect between his fellow members of the General Assembly; and

WHEREAS, among his proudest accomplishments, Fred Quayle sponsored legislation to improve child support determination and collection procedures and helped create the Friend of the Chesapeake license plate, which has raised millions of dollars for education and conservation, earning national and state Legislator of the Year awards for his efforts; and

WHEREAS, Fred Quayle served as chair of the Senate Committee on Local Government and offered his wise insights to the Committees on Finance, Courts of Justice, Education and Health, and Rules; and

WHEREAS, Fred Quayle was a staunch advocate for the preservation of the Commonwealth's valuable environmental and historic resources, serving as chair of the Tidewater Rehabilitation Institute Advisory Board, a charter board member of the Hoffer Creek Wildlife Preserve, and a member of the Board of Trustees of the Jamestown-Yorktown Foundation; and

WHEREAS, in 2002, Fred Quayle began a second career as an educator, inspiring young men and women as an assistant professor in the Department of Government and Public Affairs at Christopher Newport University until 2005 and as a lecturer and adjunct professor in the Department of Political Science and Geography at Old Dominion University until 2011; and

WHEREAS, a former Eagle Scout, Fred Quayle supported young people in the community as a Cubmaster of Cub Scout Pack 212 in Chesapeake and an honorary lifetime member of the Virginia PTA; and

WHEREAS, Fred Quayle was an avid sailor and a talented woodworker, who enjoyed making everything from toys for his grandchildren to furniture; he built six houses as a general contractor, including vacation homes in Sandbridge and Greene County; and

WHEREAS, Fred Quayle will be fondly remembered and greatly missed by his wife of 41 years, Brenda; his children, Frederick, Catherine, George, and Timothy, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Frederick MacDonald Quayle, a true statesman and a champion for the Suffolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Frederick MacDonald Quayle as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 713

*Commending Ted Gong.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Ted Gong, national vice president for Civic and Public Affairs of the Chinese American Citizens Alliance, has been named a distinguished Frederick Douglass 200 awardee; and

WHEREAS, the Frederick Douglass 200 project honors outstanding individuals like Ted Gong for embodying the work and spirit of the celebrated American abolitionist and statesman whose influence extended into politics, feminism, writing, education, entrepreneurship, and diplomacy; and

WHEREAS, Ted Gong is a Fairfax resident who grew up in California, attending Orosi High School and University of California Santa Cruz; he was a foreign service diplomat in the United States Department of State, serving in East Asia and working on policy related to migration and border management, and is the current president of the Washington, D.C., chapter of the National Chinese American Citizens Alliance; and

WHEREAS, in addition to his leadership roles within the Chinese American Citizens Alliance, Ted Gong serves as executive director of the 1882 Project Foundation, which aims to teach the historical and continued significance of the Chinese Exclusion Act of 1882 and is devoted to civil rights issues and immigration reform for Asian Americans and Pacific Islanders; and

WHEREAS, Ted Gong joins the Diplomats of the Frederick Douglass 200, all of whom are acknowledged for "thriving in delicate and divisive situations, often inspiring those most depleted of inspiration"; and

WHEREAS, Ted Gong and the other esteemed awardees, including many prominent leaders, will receive their award on Frederick Douglass' 201st birthday on February 14, 2019, at a ceremony at the Library of Congress; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ted Gong, national vice president for Civic and Public Affairs of the Chinese American Citizens Alliance, for being named a distinguished Frederick Douglass 200 awardee; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ted Gong as an expression of the General Assembly's admiration for his advocacy on behalf of Chinese Americans and his service to the country.

#### HOUSE JOINT RESOLUTION NO. 714

*Commending the Suffolk Christian Academy softball team.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Suffolk Christian Academy softball team won its first National Association of Christian Athletes championship in the Division 2 level on May 12, 2018, and became the first athletic team in school history to earn such a distinction; and

WHEREAS, the talented and determined softball players from the Suffolk Christian Academy defeated the Covenant Christian Academy 7-6; and

WHEREAS, at the two-day tournament in eastern Tennessee, the Suffolk Christian Knights fell behind Covenant 5-0 after the first three innings, but in the fourth inning, the Suffolk Christian Knights put themselves on the board with two runs; and

WHEREAS, the Suffolk Christian Knights scored three runs in the fifth inning with Channing Acree, Penelope Franklin, and Zoe Wheeler driving in runs; the fifth-inning momentum carried them through the final two innings with the team taking its first lead of the game in the seventh inning with two runs scored; and

WHEREAS, the win was a team effort, and Suffolk Christian Knights' coach, Robbie Lester, credited the athletes for their fantastic attitudes throughout the event, highlighting Penelope Franklin for being a spark on offense, and defensive captain, Katie Glover, as a positive presence in the dugout; and

WHEREAS, throughout the 2018 season, the members of the Suffolk Christian Academy softball team were enthusiastically supported by their families, fellow students, and the entire school community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Suffolk Christian Academy softball team for winning its first National Association of Christian Athletes championship in the Division 2 level on May 12, 2018, and for becoming the first athletic team in school history to earn such a distinction; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Suffolk Christian Academy softball team as an expression of the General Assembly's admiration for the team's championship season and stellar performance.

#### HOUSE JOINT RESOLUTION NO. 716

*Commending the Honorable Daun Sessoms Hester.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, in 2018, the Honorable Daun Sessoms Hester became the first African American woman elected as treasurer of the City of Norfolk; and

WHEREAS, a recognized leader in the Norfolk community, Daun Hester has previously served as an educator in Norfolk Public Schools for 22 years, as a member of the Norfolk City Council for 14 years, including four years as vice mayor, and as a member of the Virginia House of Delegates representing the 89th House District for five years; and

WHEREAS, as Norfolk's chief tax collector, Daun Hester will use her experience in government and visionary leadership to build trust, transparency, and accountability in the office; and

WHEREAS, prior to her election, Daun Hester discovered that in the era of Jim Crow laws, her father and grandparents had been forced to pay poll taxes for the right to vote, a reminder of the hard work and significant achievements of the Civil Rights movement and of the importance of her own responsibilities to the public as she takes office as treasurer; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable Daun Sessoms Hester on becoming the first African American woman to serve as treasurer of the City of Norfolk; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Daun Sessoms Hester as an expression of the General Assembly's admiration for her service to the members of the Norfolk community and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 717

*Commending Rodney A. Robinson.*

Agreed to by the House of Delegates, January 18, 2019

Agreed to by the Senate, January 22, 2019

WHEREAS, Rodney A. Robinson, a history teacher at Virgie Binford Education Center in Richmond, won the Virginia Teacher of the Year award on October 16, 2018; and

WHEREAS, Rodney Robinson was raised in King William County and earned a bachelor's degree from Virginia State University and a master's degree from Virginia Commonwealth University; and

WHEREAS, Rodney Robinson was inspired to go into teaching while watching his mother pursue her GED after poverty and segregation initially thwarted her educational and professional aspirations, seeing how she clearly enjoyed the act of learning, even while working and caring for her children; and

WHEREAS, Rodney Robinson has 19 years of experience as an educator in Richmond Public Schools; he worked as a civics and economics teacher at Lucille M. Brown Middle School, a world geography and U.S. history teacher at George Wythe High School, and a government, history, and geography teacher at Armstrong High School; and

WHEREAS, since 2015, Rodney Robinson has taught history to students at the Virgie Binford Education Center, a school within the Richmond Juvenile Detention Center; he uses a whole child approach to education to help the students who are the most vulnerable, while conveying a passion for history; and

WHEREAS, Rodney Robinson views his classroom as a collaborative partnership between him and his students; he provides a civics-centered education that promotes social and emotional growth to reduce recidivism among his students and create socially and civically engaged citizens; and

WHEREAS, Rodney Robinson has earned numerous accolades for his work and has delivered many lectures on pedagogy; he rose to the top of the list of exemplary Richmond teachers, and outshone other regional winners from around the Commonwealth to claim the title of Virginia Teacher of the Year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Rodney A. Robinson, a history teacher at Virgie Binford Education Center, for winning the Virginia Teacher of the Year award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rodney A. Robinson as an expression of the General Assembly's admiration for his commitment to serving, teaching, and inspiring the students of Richmond and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 718

*Election of a Court of Appeals of Virginia Judge, Circuit Court Judges, General District Court Judges, Juvenile and Domestic Relations District Court Judges, a member of the Judicial Inquiry and Review Commission, and a member of the State Corporation Commission.*

Agreed to by the House of Delegates, January 16, 2019

Agreed to by the Senate, January 16, 2019

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed this day To the election of a Court of Appeals of Virginia judge, for a term of eight years commencing August 1, 2019.

To the election of Circuit Court judges for terms of eight years commencing as follows:

One judge for the Second Judicial Circuit, term commencing August 1, 2019.  
 One judge for the Second Judicial Circuit, term commencing August 1, 2019.  
 One judge for the Fourth Judicial Circuit, term commencing March 16, 2019.  
 One judge for the Fifth Judicial Circuit, term commencing February 1, 2019.  
 One judge for the Seventh Judicial Circuit, term commencing April 1, 2019.  
 One judge for the Eighth Judicial Circuit, term commencing September 1, 2019.  
 One judge for the Eleventh Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Thirteenth Judicial Circuit, term commencing February 1, 2019.  
 One judge for the Fourteenth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Fifteenth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Sixteenth Judicial Circuit, term commencing April 1, 2019.  
 One judge for the Eighteenth Judicial Circuit, term commencing January 1, 2020.  
 One judge for the Nineteenth Judicial Circuit, term commencing February 1, 2019.  
 One judge for the Twentieth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Twenty-fourth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Twenty-seventh Judicial Circuit, term commencing April 1, 2019.  
 One judge for the Thirtieth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Thirtieth Judicial Circuit, term commencing July 1, 2019.  
 To the election of General District Court judges for terms of six years commencing as follows:  
 One judge for the Sixth Judicial District, term commencing February 1, 2019.  
 One judge for the Ninth Judicial District, term commencing February 1, 2019.  
 One judge for the Twelfth Judicial District, term commencing July 1, 2019.  
 One judge for the Thirteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Thirteenth Judicial District, term commencing February 1, 2019.  
 One judge for the Fourteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Fifteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Fifteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Seventeenth Judicial District, term commencing July 1, 2019.  
 One judge for the Twenty-fifth Judicial District, term commencing February 1, 2019.  
 One judge for the Twenty-eighth Judicial District, term commencing July 1, 2019.  
 One judge for the Twenty-ninth Judicial District, term commencing July 1, 2019.  
 To the election of Juvenile and Domestic Relations District Court judges for terms of six years commencing as follows:  
 One judge for the Second Judicial District, term commencing July 1, 2019.  
 One judge for the Second Judicial District, term commencing April 1, 2019.  
 One judge for the Third Judicial District, term commencing February 16, 2019.  
 One judge for the Fourth Judicial District, term commencing April 1, 2019.  
 One judge for the Sixth Judicial District, term commencing June 1, 2019.  
 One judge for the Eighth Judicial District, term commencing July 1, 2019.  
 One judge for the Eighth Judicial District, term commencing April 1, 2019.  
 One judge for the Tenth Judicial District, term commencing February 1, 2019.  
 One judge for the Eleventh Judicial District, term commencing February 1, 2019.  
 One judge for the Thirteenth Judicial District, term commencing April 1, 2019.  
 One judge for the Fifteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Fifteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Sixteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Nineteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Twentieth Judicial District, term commencing February 10, 2019.  
 One judge for the Twenty-first Judicial District, term commencing May 1, 2019.  
 One judge for the Twenty-third Judicial District, term commencing on July 1, 2019.  
 One judge for the Twenty-sixth Judicial District, term commencing on February 1, 2019.  
 One judge for the Thirtieth Judicial District, term commencing on February 1, 2019.  
 One judge for the Thirty-first Judicial District, term commencing on July 1, 2019.  
 To the election of a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2019.

To the election of a member of the State Corporation Commission for an unexpired term commencing March 1, 2019, and ending January 31, 2020.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

**HOUSE JOINT RESOLUTION NO. 719**

*Celebrating the life of Pat Loggans.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Pat Loggans, a hardworking civil servant and a dedicated mentor to generations of young people in Scott County, died on August 3, 2018; and

WHEREAS, a native of Kingsport, Tennessee, Pat Loggans grew up in Scott County and attended Gate City High School, where he excelled in athletics, becoming the school's first five-sport letterman and earning a total of 13 letters; and

WHEREAS, as a star member of the Gate City High School football team, Pat Loggans played through an illness and a knee injury to help lead the team to its first state championship with a convincing 40-8 win over James Monroe High School in 1970; and

WHEREAS, Pat Loggans continued his education at Virginia Polytechnic Institute and State University and East Tennessee State University, where he studied business education, accounting, and economics and developed an interest in sports medicine; and

WHEREAS, Pat Loggans returned to Gate City High School as an athletic trainer and helped members of the football team achieve greatness on and off the field for more than four decades; he went on to serve as a member of the Governor's Council on Physical Fitness and Sports, the Virginia Advisory Board on Athletic Training, and the National Athletic Trainers' Association; and

WHEREAS, desirous to be of further service to the community, Pat Loggans ran for and was elected to the Gate City Town Council and was serving as vice mayor when he was hired as a community and economic development coordinator for the county in 1990; and

WHEREAS, Pat Loggans served as the county industrial development authority director and was subsequently appointed as county administrator, ably serving the county in both roles until his retirement in 1997; and

WHEREAS, guided by his deep faith, Pat Loggans enjoyed fellowship and worship with the community as a longtime member of Gate City United Methodist Church, where he shared his musical talents with the congregation as a member of the praise band; he was also active with other churches in the region as a member of Gideons International; and

WHEREAS, Pat Loggans will be fondly remembered and greatly missed by his wife of 43 years, Lisa; his children, Rebecca and Scott, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Pat Loggans, a respected civil servant and youth athletic trainer who touched countless lives in Scott County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Pat Loggans as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 720**

*Designating June 20, in 2019 and in each succeeding year, as World Refugee Day in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, as of 2018, there were more than 20 million refugees throughout the world, people displaced from their home country who are unwilling or unable to return due to a fear of persecution based on race, nationality, or religion; and

WHEREAS, the Office of the United Nations High Commissioner for Refugees (UNHCR) was established in 1950 to lead and coordinate international action to protect refugees and resolve refugee problems worldwide; and

WHEREAS, the UNHCR reports that there are more refugees in the world today than at any time since World War II and that approximately half of the world's refugees are children; and

WHEREAS, the UNHCR has determined that 1.19 million refugees are in need of immediate resettlement and that these refugees include torture survivors, people with severe medical conditions, LGBTQ individuals, orphaned children, and women at risk of gender-based violence, all of whom cannot return to their homeland and cannot stay in their host country due to their extreme vulnerability; and

WHEREAS, according to the United Nations, every minute 24 people are fleeing terror, persecution, armed conflicts, and human rights abuses in Africa, the Middle East, Southeast Asia, Central America, and other regions around the world; and

WHEREAS, Amnesty International reports that more than half of the world's refugees are hosted by only 10 countries, many of which have inadequate resources to keep refugees fed, housed, or safe, leaving some refugees to survive on less than 50 cents a day; and

WHEREAS, the United States participates in a resettlement program that is critical to global humanitarian efforts and reflects America's finest values, strengthens global security, and alleviates some of the burden placed on front-line host countries; and

WHEREAS, refugees that enter the United States are among the most vetted travelers to enter this country and are subject to extensive screening checks, including in-person interviews, biometric data checks, and multiple interagency checks; and

WHEREAS, once they settle in the United States, refugees contribute to their communities by starting businesses, paying taxes, and sharing their cultural traditions; these new residents are workers, students, entrepreneurs, parents, neighbors, and community leaders who contribute more than they consume in state-funded services, including schooling and health care; and

WHEREAS, Virginia has been and continues to be a welcoming home to a diverse population of refugees and immigrants who add to the economic strength and cultural richness of the Commonwealth; and

WHEREAS, since 2013, Virginia has resettled more than 7,400 refugees from Afghanistan, Bhutan, Burundi, Cameroon, China, Colombia, Cuba, Democratic Republic of Congo, Egypt, El Salvador, Eritrea, Ethiopia, Ghana, Guatemala, Honduras, Iran, Iraq, Israel, Ivory Coast, Jordan, Kenya, Lebanon, Malaysia, Myanmar, Nepal, Pakistan, Russia, Rwanda, Somalia, Sudan, Syria, Tanzania, Turkey, Ukraine, Vietnam, Zimbabwe, and other countries; and

WHEREAS, the Virginia Department of Social Services' Office of Newcomer Services is responsible for administering the Commonwealth's Refugee Resettlement Program and works with other state agencies, faith communities, businesses, and nonprofit organizations to help individuals and families gain economic self-sufficiency and achieve social integration; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate June 20, in 2019 and in each succeeding year, as World Refugee Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Department of Social Services' Office of Newcomer Services so that the agency may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 721

*Celebrating the life of William Clinton Walker.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, William Clinton Walker, a respected educator, hardworking farmer, and beloved member of the Smyth County community, died on September 20, 2018; and

WHEREAS, William Walker shared his professional expertise as a farmer with local youths as an agriculture teacher at Chilhowie High School, where he was a positive role model for his students and earned the admiration of his fellow Smyth County Public Schools educators; and

WHEREAS, William Walker supported and inspired young people as coach of the Chilhowie Warriors junior varsity basketball and football teams; and

WHEREAS, highly admired in the community, William Walker never met a stranger and was always willing to help a friend or neighbor in need; and

WHEREAS, William Walker will be fondly remembered and greatly missed by his wife, Ashley; daughter, Emery; mother and stepfather, Angela and Jeff; father and stepmother, Daniel and Kim; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Clinton Walker; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Clinton Walker as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 722

*Celebrating the life of Richard Mimms Lee, M.D.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Richard Mimms Lee, M.D., who served generations of Hanover County families as a pediatrician and general physician, died on August 21, 2018; and

WHEREAS, a native of Richmond, Richard Lee graduated from St. Christopher's School and attended Hampden-Sydney College, then earned a medical degree from the Medical College of Virginia; and

WHEREAS, Richard Lee practiced pediatric and general medicine in the Ashland and Hanover County communities for more than 40 years and demonstrated incomparable care for the health and wellness of his patients; and

WHEREAS, an advocate for the importance of physical fitness, Richard Lee was an avid cyclist who completed many long-distance cycling trips with family and friends; and

WHEREAS, Richard Lee enjoyed fellowship and worship within his community as a longtime member of St. Matthew's Episcopal Church; and

WHEREAS, predeceased by his first wife, Cynthia, and two children, Ann and Stanton, Richard Lee will be fondly remembered and greatly missed by his wife, Beverly, and her children; his sons, Richard and Andrew, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard Mimms Lee, M.D., a highly admired medical professional in Ashland; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Mimms Lee, M.D., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 725

*Commending Steve Dempsey.*

Agreed to by the House of Delegates, January 21, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, Steve Dempsey will retire as sheriff of King George County in December 2019, after a distinguished career in public service as a law-enforcement officer for 39 years; and

WHEREAS, Steve Dempsey is a long-time King George County resident from a long line of public servants; he graduated from King George High School, earned a degree in police science from Germanna Community College, and served his country as a member of the Virginia National Guard from 1972 to 1978; and

WHEREAS, Steve Dempsey started with the King George County Sheriff's Office in 1980 and was promoted to sergeant four years later; he reached the rank of captain in 1988 and major in 2009; he has held the position of sheriff since January 1, 2011; and

WHEREAS, at every step along his professional career, Steve Dempsey has engaged in educational and professional training, building his skills at the Rappahannock Criminal Justice Academy, the Metropolitan Police K-9 Academy, the FBI National Academy, and the DEA's Drug Unit Commander Academy, leading to a wide breadth of law-enforcement knowledge; and

WHEREAS, in his duties as sheriff, Steve Dempsey has led an entire department of sworn deputies, animal control officers, communications officers, and administrative staff, providing a wide range of law-enforcement services for the public, including criminal and narcotic investigation, court security, a special response team, K-9 services, school resource officers, rescue services, and traffic services; and

WHEREAS, Steve Dempsey gives back to his community as a deacon and Sunday school teacher at Spotswood Baptist Church; he also contributes to his profession as a state-certified law-enforcement instructor and as the current president of the 8,900-member Virginia Sheriffs' Association; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Steve Dempsey for his lifetime of public service as a law-enforcement officer; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steve Dempsey as a tangible reminder of the respect and gratitude of the General Assembly and the citizens of the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 726

*Celebrating the life of the Honorable Kenneth N. Whitehurst, Jr.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, the Honorable Kenneth N. Whitehurst, Jr., who dedicated his life to the service of others as a former member of the Virginia House of Delegates and a judge of the Second Judicial District of Virginia, died on November 3, 2018; and

WHEREAS, Kenneth "Ken" N. Whitehurst, Jr., learned the value of hard work and responsibility as a young man while growing up on his family's farm; after graduating from Princess Anne High School, he earned a bachelor's degree from the University of North Carolina at Chapel Hill, then served his country as a member of the United States Army; and

WHEREAS, upon completion of his military service, Ken Whitehurst earned a law degree from the Marshall-Wythe School of Law at The College of William & Mary, then practiced law in the newly formed City of Virginia Beach; and

WHEREAS, desirous to be of further service, Ken Whitehurst ran for and was elected to the Virginia House of Delegates in 1967 and ably represented the residents of the 55th District for one term; he introduced or supported numerous important pieces of legislation to benefit all Virginians and served with dedication and distinction; and

WHEREAS, in 1972, Ken Whitehurst was appointed as a judge to the Virginia Beach Juvenile and Domestic Relations District Court, where he presided with great fairness and wisdom for more than two decades; after his well-earned retirement from the bench in 2000, he continued to serve the court as a mediator; and

WHEREAS, Ken Whitehurst was an accomplished world traveler, but as an 11th-generation resident of the Tidewater Region, he was happiest entertaining friends and family with tales of local lore and old Virginia Beach; and

WHEREAS, predeceased by his first wife, Martha, Ken Whitehurst will be fondly remembered and greatly missed by his wife of 47 years, Lillie; his children, Nanette and Kenneth, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Kenneth N. Whitehurst, Jr., a respected public servant and judge in Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Kenneth N. Whitehurst, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 727

*Commending Louis Kokonis.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Louis Kokonis, who for 60 years has worked tirelessly to mold future citizens and leaders as a math teacher and a mentor, is the longest-serving educator in Alexandria City Public Schools; and

WHEREAS, Louis Kokonis began his career in 1959 at Francis Hammond High School, then transferred to T.C. Williams High School, which became the city's lone high school in the 1970s; and

WHEREAS, Louis Kokonis has taught algebra, geometry, and calculus to thousands of students; he is well known for his professionalism and quiet command of a classroom and has spent countless hours preparing lessons, evaluating progress, and counseling and coaching students; and

WHEREAS, Louis Kokonis has imparted his passion for lifelong learning to his students, many of whom went on to become physicists, engineers, doctors, and professors; and

WHEREAS, over the course of his six-decade career, Louis Kokonis has witnessed significant growth and changes, both in the community and in the field of education, including the advent of new technologies to enhance the learning process; and

WHEREAS, on January 11, 2018, the Scholarship Fund of Alexandria honored Louis Kokonis's achievements in service to students by unveiling the Louis Kokonis Teaching Legend Scholarship; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Louis Kokonis for his 60 years of service educating and mentoring students in Alexandria; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Louis Kokonis for his commitment to academic excellence and incalculable contributions to the Alexandria community.

### HOUSE JOINT RESOLUTION NO. 728

*Commending Richard L. Semmler.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Richard L. Semmler, a professor of mathematics at Northern Virginia Community College, has dedicated his life to the service of others and to support for higher education in Northern Virginia; and

WHEREAS, over the course of his 44-year career in higher education, Richard Semmler has donated more than \$1,000,000 to the Northern Virginia Community College (NVCC) Educational Foundation; and

WHEREAS, Richard Semmler takes an active role in his investments by engaging directly with the recipients of his Pathway to the Baccalaureate Program scholarships, inviting students to complete 15 hours of community service with him as part of the program; and

WHEREAS, while NVCC is Richard Semmler's primary beneficiary, he has also given generously to his alma mater, the State University of New York College at Plattsburgh, which hosts an annual day of service in his honor; and

WHEREAS, Richard Semmler volunteers his time with the Central Union Mission, where he has served weekly meals to the less fortunate for more than 18 years, and Habitat for Humanity, with which he has helped build more than 100 houses; and

WHEREAS, Richard Semmler has gone above and beyond in his philanthropic work, demonstrating great personal sacrifice and an unparalleled commitment to giving in his quest to enhance the lives of his students and fellow Northern Virginia residents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richard L. Semmler for his selfless volunteer service and legacy of support for Northern Virginia Community College; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard L. Semmler as an expression of the General Assembly's admiration for his generosity and commitment to strengthening the Northern Virginia community.

### HOUSE JOINT RESOLUTION NO. 730

*Celebrating the life of Harold W. Roller.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Harold W. Roller, an accomplished farmer and dairyman, loving husband and father, and active community member of Weyers Cave, died on July 22, 2018; and

WHEREAS, Harold Roller was born in Broadway and was the first recipient of the Future Farmers of America American Farmer degree from Broadway High School; and

WHEREAS, Harold Roller earned a degree in dairy science from Virginia Polytechnic Institute and State University (Virginia Tech), where he was in the Corps of Cadets and was commissioned a second lieutenant through the ROTC program; he was also a member of the Virginia Tech Regimental Band all four years and remained a Hokie sports fan and supporter of the Dairy Science Department activities at Virginia Tech throughout his life; and

WHEREAS, Harold Roller served his country as a member of the United States Army during the Korean War and later as the first unit commander of the Virginia National Guard unit in Leesburg; and

WHEREAS, Harold Roller dedicated himself to a career in agriculture as a dairy farmer with registered Jersey cattle, as a dairy specialist in Loudoun and Augusta Counties, and as an extension agent in Rockingham County, where he assisted with dairy and agronomy programs and developed an educational program on nutrient management of livestock and poultry waste that earned national recognition; and

WHEREAS, during his well-earned retirement, Harold Roller drove cars at Harrisonburg Auto Auction and was custodian of the Weyers Cave Ruritan Community Park; and

WHEREAS, Harold Roller was deeply engaged in service to the community in Ruritan Clubs, 4-H, the Virginia State Dairymen's Association, and the Augusta County School Board; that dedication earned him recognition including a Distinguished Service Award from the Virginia Poultry Federation for outstanding service in meeting environmental issues and a Distinguished Service Award from the American Jersey Cattle Association; and

WHEREAS, as a faithful member of Bethany United Methodist Church, Harold Roller served in many capacities, including lay leader, church treasurer, and Sunday school teacher; and

WHEREAS, Harold Roller will be fondly remembered and greatly missed by his beloved wife, Carolyn; his children, Kenneth, Dale, and Marguerite, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Harold W. Roller, an accomplished farmer and dairyman, loving husband and father, and active community member of Weyers Cave; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Harold W. Roller as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 731

*Celebrating the life of William Holt Kling, Sr.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, William Holt Kling, Sr., a beloved father, grandfather, and mentor in Heathsville who made many contributions to the Commonwealth and the United States, died on November 22, 2018; and

WHEREAS, William "Bill" Holt Kling, Sr., was born in York, Pennsylvania, to Joseph Amon and Mary Nellye Kling; and

WHEREAS, Bill Kling honorably served his country as a member of the United States Army, stationed in Germany and North Africa; and

WHEREAS, Bill Kling had a varied career in both the public and private sectors; he served with integrity as a reporter and editor for the *Chicago Tribune*, *The Washington Times*, and newspapers in Prince William County; and

WHEREAS, Bill Kling was active in government at the local, state, and federal levels, and promoted democracy in South America, Africa, and China as a consultant; and

WHEREAS, Bill Kling contributed a lifetime of service to the Republican Party through his volunteer leadership; he was a visionary who understood that the growth of Prince William County's eastern area required the establishment of a new Republican committee dedicated solely to Prince William County; and

WHEREAS, as chair of the Prince William County Republican Committee, Bill Kling developed new party leadership in the county and was a mentor to young people, encouraging the creation of the Prince William Young Republicans Club; and

WHEREAS, known for his wit and wisdom, Bill Kling communicated the principles of the Republican Party in a personal way and was directly responsible for increasing civic engagement in Prince William County; and

WHEREAS, an avid outdoorsman, Bill Kling dedicated himself to the protection and preservation of the nation's valuable natural resources as a leading member of the Izaak Walton League of America; and

WHEREAS, predeceased by his beloved wife, Elizabeth, Bill Kling will be fondly remembered and greatly missed by his children, Susan, Kathy, Barbara, Elizabeth, and William, and their families; his stepchildren, Marc, Elizabeth, Catherine, Richard, Carolyn, Anselm, and Mary, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Holt Kling, Sr., a respected member of the Heathsville community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Holt Kling, Sr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 732

*Designating the fourth Thursday in March, in 2019 and in each succeeding year, as Tuskegee Airmen Commemoration Day in Virginia.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, prior to World War II, African Americans had very limited roles in the defense of the nation with no involvement in military aviation; and

WHEREAS, the United States War Department used a grossly inaccurate and disparaging report published in 1925 with the intent of relegating African Americans to menial duty positions; and

WHEREAS, more African Americans were receiving higher education by the time the United States was drawn into World War II and were thus aspiring to more meaningful jobs in the military, including aviation; and

WHEREAS, the rapid expansion of aircraft production to meet air power demands during World War II created a greater need for military pilots; and

WHEREAS, the public outcry from the African American population and media, as well as fair-minded white Americans, exhorted the War Department to extend the opportunity to fly airplanes to include African American United States Army Air Corps service personnel; and

WHEREAS, the War Department's Civilian Pilot Training Program (CPTP) authorized colleges and universities to train civilian students to increase the number of civilian pilots, thus having a clear impact on military preparedness; and

WHEREAS, Tuskegee Institute in Alabama was one of six black schools chosen to participate in the CPTP Program and helped open the doors for the first African American military pilots, who became known as the Tuskegee Airmen; and

WHEREAS, the Tuskegee Airmen included pilots, navigators, bombardiers, maintenance crews, instructors, and other support officer, enlisted, and civilian personnel whose outstanding performance record was unprecedented in military aviation history, thus disproving every adverse, prejudiced contention made prior to World War II; and

WHEREAS, the month of March is special for the Tuskegee Airmen as the month the first aviation cadets started their flight training, the first maintenance crew began training at Chanute Field in Illinois, and the 99th Pursuit Squadron, the first all-African American squadron, was established; and

WHEREAS, on March 29, 2007, the fourth Thursday of March that year, President George W. Bush presented the Tuskegee Airmen with the Congressional Gold Medal; and

WHEREAS, at one time, 38 pilots and more than 400 ground support crew members had direct ties to Virginia, and at least six Tuskegee Airmen continue to reside in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the fourth Thursday in March, in 2019 and in each succeeding year, as Tuskegee Airmen Commemoration Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the East Coast, Howard Baugh, and Tidewater Chapters of Tuskegee Airmen, Incorporated, so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

### HOUSE JOINT RESOLUTION NO. 733

*Commending the Richmond 34.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, the Richmond 34, a group of Virginia Union University students who participated in the Thalhimer's lunch counter sit-in, were at the forefront of the modern Civil Rights movement and played a pivotal role in the desegregation of Richmond businesses; and

WHEREAS, under Jim Crow laws and the doctrine of "separate but equal" derived from Plessy v. Ferguson, many businesses throughout the nation maintained a system of segregation, whereby African American customers were served separately from white customers or not served at all; and

WHEREAS, inspired by the Reverend Dr. Martin Luther King, Jr., who had recently given a speech at Virginia Union University, as well as the student sit-ins at Woolworth's department store in Greensboro in early February 1960, students at Virginia Union University launched a campaign of nonviolent protests at Richmond department stores; and

WHEREAS, on the morning of February 22, 1960, 34 students assembled at the Thalhimer's department store in downtown Richmond, sat at the whites-only lunch counter and restaurant, and demanded to be served; after refusing to leave, the students were arrested and briefly taken to jail before being released on bail; and

WHEREAS, the members of the Richmond 34 were Leroy M. Bray, Jr., Gordon Coleman, Gloria C. Collins, Robert B. Dalton, Joseph E. Ellison, Marise L. Ellison, Wendell T. Foster, Jr., Anderson J. Franklin, Donald Vincent Goode, Woodrow B. Grant, Albert Van Graves, Jr., George Wendall Harris, Jr., Thalma Y. Hickman, Joanna Hinton, Carolyn Anne Horne, Richard C. Jackson, Elizabeth Patricia Johnson, Ford Tucker Johnson, Jr., Milton Johnson, Celia E. Jones, Clarence A. Jones, John J. McCall, Frank George Pinkston, Larry Pridgen, Leotis L. Pryor, Raymond B. Randolph, Jr., Samuel F. Shaw, Charles Melvin Sherrod, Virginia G. Simms, Ronald B. Smith, Barbara A. Thornton, Randolph A. Tobias, Patricia A. Washington, and Lois B. White; and

WHEREAS, the members of the Richmond 34 were all convicted of trespassing; all 34 students appealed the conviction, which was upheld by the Supreme Court of Virginia, but overturned by the Supreme Court of the United States in 1963 in Randolph v. Virginia; and

WHEREAS, the Richmond 34 galvanized the Richmond community; the students' arrest and great personal sacrifice launched shopping boycotts by the African American community and further pickets of business establishments by Virginia Union University and high school students, resulting in many businesses integrating main-floor lunch counters and even upstairs dining rooms within a year of the original protest; and

WHEREAS, members of the Richmond 34 went on to become accomplished professionals in many fields, including law, education, medicine, jurisprudence, ministry, business and industry, pharmacy, politics, the criminal justice system, and social sciences; and

WHEREAS, the Richmond 34 demonstrated the power of peaceful protest and the necessity of confronting bigotry, discrimination, and hatred in the pursuit of justice and equality; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Richmond 34 for their courageous participation in the historic Thalhimer's lunch counter sit-in; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Virginia Union University as an expression of the General Assembly's admiration for the Richmond 34's important contributions to the Civil Rights movement and the Richmond community as a whole.

### HOUSE JOINT RESOLUTION NO. 734

*Commending William M. Kelso.*

Agreed to by the House of Delegates, January 23, 2019

Agreed to by the Senate, January 25, 2019

WHEREAS, 2019 marks the 25th anniversary of William M. Kelso leading the archaeological investigation and research project at Historic Jamestowne that vastly increased the body of knowledge about the early history of the beginnings of this nation; and

WHEREAS, a deeply respected scholar, William "Bill" M. Kelso had previously served as commissioner of archaeology for the Virginia Historic Landmarks Commission and director of field archaeology for Colonial Williamsburg, Monticello, and Poplar Forest; and

WHEREAS, Bill Kelso joined the Association for the Preservation of Virginia Antiquities, now Preservation Virginia, in 1993, to guide the association's plans to find and study the archaeological remains of 1607 James Fort in preparation for the historic commemoration of the 400th anniversary of the landing at Jamestown; and

WHEREAS, Bill Kelso and his team defied the prevailing belief that the site of James Fort had been lost to erosion due to its proximity to the James River, and quickly unearthed enough evidence of 17th century artifacts and soil-stained evidence of the palisade and earthfast structures to announce in 1996 that James Fort had been found; and

WHEREAS, the monumental discoveries led by Bill Kelso continued a multi-year excavation that revealed footprints of palisade walls, bulwarks, and earthfast structures, as well as more than two million artifacts which greatly enhanced the educational programs and events for the historic 400th commemoration of the landing at Jamestown; and

WHEREAS, in addition to finding the 1607 Fort and associated structures, Bill Kelso and his team uncovered the 1608 church, which served as the wedding site for Pocahontas and John Rolfe, as well as the graves of four prominent early leaders of the Jamestown colony; and

WHEREAS, now the emeritus director of archaeology and research at Preservation Virginia, Bill Kelso has overseen program interpretation at Historic Jamestowne and worked in conjunction with the Colonial Williamsburg Foundation to seek recognition for the Historic Triangle of Williamsburg, Jamestown, and Yorktown; and

WHEREAS, a sought-after lecturer, Bill Kelso has been presented with many awards and accolades for his groundbreaking work, and in 2012, Her Majesty Queen Elizabeth II presented him with the Honorary Commander of the Most Excellent Order of the British Empire (CBE), one of Great Britain's highest honors; and

WHEREAS, Bill Kelso's visionary work is expanding the understanding of the nation's origins, providing historians with insights into the opening chapters of American history, the establishment of the first representative assembly in North America, and the interactions between the English settlers and Virginia Indians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend William M. Kelso on the occasion of the 25th anniversary of his excavation of the Jamestown Settlement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William M. Kelso as an expression of the General Assembly's admiration for his pivotal work to preserve the history and heritage of the Commonwealth and the United States.

### HOUSE JOINT RESOLUTION NO. 736

*Commending Virginia's 21 planning district commissions.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, in 1966, the General Assembly created the Metropolitan Areas Study Commission (the Hahn Commission), which found that a holistic approach to solving local and regional problems needed to be taken and recommended a new concept, the creation of planning district commissions and service district commissions; and

WHEREAS, the Virginia Area Development Act (VADA) passed in 1968, creating the planning district commission framework "to encourage and facilitate local government cooperation and state-local cooperation in addressing on a regional basis problems of greater than local significance"; and

WHEREAS, following passage of the VADA, the Commonwealth undertook an aggressive effort to establish planning district commission boundaries, the last of which were announced in 1969, and within one year, planning district commissions were established in 19 of the original 22 districts; and

WHEREAS, in 2019, Virginia's planning district commissions, now 21 in number, are celebrating 50 years of promoting and supporting regional collaboration; and

WHEREAS, planning district commissions serve to foster intergovernmental cooperation by bringing together elected and appointed officials and citizens to discuss common needs and develop solutions to regional issues; and

WHEREAS, over the years, planning district commissions have conducted studies and identified solutions in the areas of transportation, economic development, infrastructure, the environment, and community development, among many others; and

WHEREAS, planning district commissions implement services and provide technical assistance to their member local governments; and

WHEREAS, planning district commissions often serve as liaisons between local and state governments, partnering with the Commonwealth to carry out state initiatives at the local and regional level; most recently, these partnerships have included working cooperatively with state agencies on the GO Virginia initiative and Phase 3 Watershed Implementation Plan development; and

WHEREAS, planning district commissions are committed to promoting opportunities for regional collaboration and expanding the types of services they provide to their member governments; and

WHEREAS, planning district commissions take great pride in their history and accomplishments, while recognizing the importance of looking ahead to the challenges of the future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Virginia's 21 planning district commissions on the occasion of their 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the Virginia Association of Planning District Commissions as an expression of the General Assembly's appreciation for the vital support provided by Virginia's 21 planning district commissions to state and local governments.

**HOUSE JOINT RESOLUTION NO. 737**

*Commending Francis W. Pedrotty.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Francis W. Pedrotty has faithfully served the Commonwealth as a senior assistant attorney general in the Office of the Attorney General since November 25, 1999, having also served, prior to his promotion, as an assistant attorney general since July 16, 1982, for a 36-year career in public service; and

WHEREAS, Francis "Frank" W. Pedrotty capably served as chief of the Health Professions Unit in the Public Safety and Enforcement Division from 1990 to 2014, and has served as chief of the Health Professions Section of the Civil Litigation Division since October 2014, leading a team of dedicated and distinguished health care prosecutors; and

WHEREAS, during his tenure with the Office of the Attorney General, Frank Pedrotty served as counsel to several state agencies, including the Department of Corrections, the Virginia State Police, the Department of Criminal Justice Services, the Department of Alcoholic Beverage Control, the Division of Forensic Science, the Department of Behavioral Health and Developmental Services, and the Department of Health Professions, providing sage and professional advice and representation in challenging cases; and

WHEREAS, Frank Pedrotty represented the Commonwealth with integrity and distinction as a prosecutor and as a defense counsel in state and federal courts, successfully defending the former state penitentiary in Richmond from a class action lawsuit brought by the American Civil Liberties Union, prosecuting state fraud actions, and litigating civil rights claims, including search and seizure and excessive force claims; and

WHEREAS, since 1990, in his role as chief of the Health Professions Section, Frank Pedrotty prosecuted some of the most difficult and complex cases involving health care professionals licensed by 13 health regulatory boards within the Virginia Department of Health Professions, concerning standard of care violations, substance abuse, mental illness and mental incompetence, professional boundary violations, and patient abuse; and

WHEREAS, in 2006, Frank Pedrotty successfully prosecuted a gastroenterologist who demonstrated a pattern of faulty clinical judgment in his selection of patients for a risky surgical procedure used to identify gallstones or tumors blocking the common bile duct; following a six-day formal hearing, the Virginia Board of Medicine revoked the physician's license to practice medicine and surgery in Virginia; and

WHEREAS, another significant case handled by Frank Pedrotty in 2015 involved a medical doctor who had drugged and exploited medical students in his emergency medical training course; following Frank Pedrotty's presentation of the Commonwealth's evidence at a formal hearing, the Virginia Board of Medicine ordered the revocation of the doctor's license to practice medicine and surgery in Virginia; and

WHEREAS, consistent with the initiatives undertaken by Governor Terrence R. McAuliffe, Governor Ralph S. Northam, and Attorney General Mark Herring concerning the current opioid epidemic plaguing the Commonwealth, Frank Pedrotty ensured that the Health Professions Section would vigorously prosecute cases against physicians and pharmacists who engage in the excessive and unwarranted prescribing and dispensing of opioid medications; and

WHEREAS, further evidence of Frank Pedrotty's commitment to public service is shown in his 30 years of active duty and reserve duty legal experience in the United States Air Force from 1974 through 2004, rising to the rank of colonel; and

WHEREAS, Frank Pedrotty's dedication, as well as his good humor and willingness to assume many and varied challenges during his career, have earned him the respect and friendship of his colleagues and clients in public service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Francis W. Pedrotty on the occasion of his retirement from the Office of the Attorney General; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Francis W. Pedrotty as an expression of the General Assembly's admiration for his service to the Commonwealth and best wishes on his well-earned retirement.

**HOUSE JOINT RESOLUTION NO. 738**

*Commending the Local Office on Aging.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Local Office on Aging has played a vital role in helping residents of Alleghany, Botetourt, Craig, and Roanoke Counties as well as the Cities of Covington, Salem, and Roanoke age with dignity by providing education, advocacy, and support; and

WHEREAS, the mission of the Local Office on Aging (LOA) is to foster independence and healthy aging and to improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services; and

WHEREAS, crucial services the LOA provides include the Adopt-a-Senior program, consumer services, in-home services, critical assistance, elder rights advice, family caregiver support, and life-enhancing activities; and

WHEREAS, LOA staff have achieved significant accomplishments in service to the elderly of the area, including facilitating the Age-Friendly Community program for the Greater Roanoke Valley, focusing on the City of Roanoke; securing and retrofitting a new corporate facility in June 2018; establishing an assisted medical transportation door-to-door program in 2016; and completing an \$80,000 Let's Do Lunch fundraiser for Meals On Wheels; and

WHEREAS, the LOA is supported by dedicated volunteers, generous community partners, and a distinguished board of directors; and

WHEREAS, LOA has received a Gold Award and a Shining Light Award from the Roanoke Valley United Way, and grants from the Foundation for Roanoke Valley, the Thomas L. Leivesley, Jr. Foundation, Kiwanis, Wells Fargo, the Glick Foundation, the Sam and Marion Golden Helping Hand Foundation, the Louise R. Lester Foundation, and the United Methodist Church Roanoke District Board of Missions; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Local Office on Aging for its work of helping residents age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Local Office on Aging for fostering independence and healthy aging and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### HOUSE JOINT RESOLUTION NO. 739

*Commending Virginia is for Lovers.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, 2019 marks the 50th anniversary of *Virginia is for Lovers*, the official tourism slogan of the Commonwealth of Virginia and the longest-running state tourism campaign in the United States; and

WHEREAS, the Virginia Tourism Corporation, an agency of the Secretary of Commerce and Trade that promotes travel to Virginia, oversees the *Virginia is for Lovers* campaign; and

WHEREAS, *Virginia is for Lovers* is one of the most recognized and well-known tourism slogans in the world, representing a love for life and a passion for travel, and highlighting the Commonwealth's diverse cultural, historic, natural, educational, and recreational assets; and

WHEREAS, *Virginia is for Lovers* was first used in 1969 and has become an integral part of Virginia's tourism industry marketing; the campaign has earned national acclaim and has been included in the Advertising Icon Museum and the Madison Avenue Advertising Walk of Fame; and

WHEREAS, over the past five decades, *Virginia is for Lovers* has encouraged visitors from around the world to experience and enjoy Virginia for vacations, business travel, reunions, festivals, weddings, and much more; and

WHEREAS, Virginia's travel industry is one of the largest private employers in the Commonwealth, accounting for thousands of jobs and generating billions of dollars in revenue; and

WHEREAS, the Virginia Tourism Corporation and the Virginia travel and hospitality industry will commemorate the 50th anniversary of *Virginia is for Lovers* through a one-year campaign in 2019, entitled *50 Years of Love*, that will include promotions, advertising, branding, social media, special events, and other programs throughout the Commonwealth; and

WHEREAS, this marketing campaign will bring worldwide attention to *Virginia is for Lovers* and to Virginia as a travel destination, resulting in increased visitation and greater economic benefits to the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend *Virginia is for Lovers* on the occasion of the campaign's 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Tourism Corporation as an expression of the General Assembly's admiration for the *Virginia is for Lovers* campaign's contributions to the economic vitality and quality of life in the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 740

*Commending Bob Stuart.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Bob Stuart, a respected journalist who served communities in Virginia and South Carolina, retired after a long and distinguished career; and

WHEREAS, Bob Stuart began his journalism career in Virginia in 1978 at the *Hopewell News*; and

WHEREAS, Bob Stuart took his tradecraft to South Carolina as the sports editor of the *Union Daily Times* in Union, then worked for *The Herald* in Rock Hill, before becoming the night police reporter at *The State* in Columbia; and

WHEREAS, Bob Stuart subsequently returned to Virginia and worked for more than 21 years at *The News Virginian* of Waynesboro; and

WHEREAS, during his long career at *The News Virginian*, Bob Stuart covered education, local churches, Waynesboro city government, Augusta County government, and state politics; and

WHEREAS, Bob Stuart conducted his journalistic craft with the utmost integrity, and his reporting was devoid of any partisanship; and

WHEREAS, Bob Stuart has earned the respect of his readers for his fair reporting; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bob Stuart on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bob Stuart as an expression of the General Assembly's admiration for his commitment to journalistic integrity and for his contributions to the people of both South Carolina and Virginia.

### HOUSE JOINT RESOLUTION NO. 741

*Celebrating the life of Franklin E. Laughon.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Franklin E. Laughon, a successful businessman and a respected leader in the Richmond community, died on November 22, 2018; and

WHEREAS, Franklin E. "Pepper" Laughon grew up in Richmond, where he attended St. Christopher's School and Thomas Jefferson High School; and

WHEREAS, Pepper Laughon continued his education at Randolph-Macon College, then served his country for two years as a photographer for the United States Army; and

WHEREAS, after returning home to the Commonwealth, Pepper Laughon pursued a career in business, becoming president and chief executive officer of Richmond Cold Storage; he was inducted into the Greater Richmond Business Hall of Fame in 2014; and

WHEREAS, Pepper Laughon also supported the community by volunteering his time and leadership with Kiwanis International, BB&T Bank, the Richmond Eye and Ear Hospital, and Rubicon, Inc.; and

WHEREAS, a proud alumnus of Randolph-Macon College, Pepper Laughon served on the institution's Board of Trustees, where he was active with the athletics and student affairs committees and the Greek alumni advisory board; and

WHEREAS, Pepper Laughon will be fondly remembered and greatly missed by his loving wife of 56 years, Stuart; his daughters, Catherine and Page, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Franklin E. Laughon, a businessman who strengthened the Richmond community through his generosity and civic leadership; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Franklin E. Laughon as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 742

*Commending Living Legends of Alexandria.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, since 2006, Living Legends of Alexandria has identified, honored, and chronicled 142 individuals who have made significant contributions to the quality of life in Alexandria; and

WHEREAS, Living Legends of Alexandria inspires others to volunteer and serve the community; and

WHEREAS, in keeping with the spirit of its devotion to civic engagement and volunteerism, Living Legends of Alexandria is a completely volunteer-run organization; and

WHEREAS, previously honored Living Legends of Alexandria include former members of the General Assembly like Senators Bob Calhoun and Patsy Ticer, and Delegates Marian Van Landingham and David Speck; and

WHEREAS, an annual compendium of the stories of Living Legends of Alexandria is registered with the United States Library of Congress; and

WHEREAS, a collection of the photographs of those honored is preserved by the Office of Historic Alexandria as a living history of the city's heritage; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Living Legends of Alexandria for its important work; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Living Legends of Alexandria as an expression of the General Assembly's admiration for its service to the residents of Alexandria and to the history of the Commonwealth of Virginia.

### HOUSE JOINT RESOLUTION NO. 743

*Commending the Honorable Robert W. Goodlatte.*

Agreed to by the House of Delegates, January 30, 2019

Agreed to by the Senate, January 31, 2019

WHEREAS, in 2019, the Honorable Robert W. Goodlatte retired from public office after 26 years of dedicated service to the residents of Roanoke, Lynchburg, and much of the Shenandoah Valley in Virginia's Sixth Congressional District; and

WHEREAS, a former attorney, Robert W. "Bob" Goodlatte first ran for the United States House of Representatives in 1992; he was undefeated in 13 general elections and three primary contests, becoming the longest-serving representative in the history of the Sixth District; and

WHEREAS, Bob Goodlatte represented more than 750,000 constituents through offices in Roanoke, Lynchburg, Staunton, and Harrisonburg; he held monthly Open Door Meetings in smaller cities and towns throughout the Sixth District and attended a multitude of community events, driving more than a million miles during his service; and

WHEREAS, during his tenure, Bob Goodlatte served as Chairman of the United States House Committee on Agriculture from 2003-2004, followed by four successive years as Ranking Member of the Agriculture Committee; and served as Chairman of the United States House Committee on the Judiciary for a full six-year term from 2013-2018; and

WHEREAS, Bob Goodlatte served as Co-Chair of the Congressional Internet Caucus, Chair of the House Republican Technology Working Group, Co-Chair of the International Creativity and Theft-Prevention Caucus, Co-Chair of the Congressional Civil Justice Caucus, and a member of the House Majority and House Minority Whip and leadership teams; and

WHEREAS, Bob Goodlatte introduced and supported numerous important pieces of legislation to support the Sixth District and benefit all Americans; his first piece of legislation signed into law created the Mount Pleasant National Scenic Area in Amherst County; and

WHEREAS, Bob Goodlatte secured final funding for the James R. Olin Flood Prevention Project in Buena Vista and the Roanoke River Flood Reduction Project in the City of Roanoke, a project designed to include portions of the hiking and biking trails comprising the Roanoke Valley Greenways; and

WHEREAS, Bob Goodlatte enhanced transportation in the Sixth District, introducing legislation to eventually enable the extension of Amtrak service to Lynchburg and Roanoke and legislation to route Interstate 73 through Roanoke; and

WHEREAS, a champion for fiscal responsibility, Bob Goodlatte proposed a Balanced Budget Amendment to the Constitution in each Congress for the last 10 years; and

WHEREAS, Bob Goodlatte sponsored the Anticounterfeiting Consumer Protection Act of 1996, which provided more controls and prevention of counterfeiting; the No Electronic Theft Act of 1997, which enhanced copyright protection through increased prosecutions of violators; and the Telemarketing Fraud Prevention Act of 1998, which boosted consumer protection from fraudulent telemarketing schemes; and

WHEREAS, the Clinton administration subsequently relaxed export restrictions on encrypted software and hardware, fully implementing efforts that had begun years prior thanks to Bob Goodlatte's visionary leadership; and

WHEREAS, Bob Goodlatte's contributions to the Telecommunications Act of 1996 paved the way for expanded competitive telecom services and wider deployment of broadband Internet; his leadership on the Internet Tax Freedom Act of 1998 prevented taxes on Internet access, and a permanent ban that he authored was later signed into law by President Barack Obama; and his Rural Local Broadcast Signal Act of 2002 expanded access to local television stations on satellite television systems; and

WHEREAS, Bob Goodlatte's other work in the field of technology included the Unlawful Internet Gambling Enforcement Act of 2006 and the USA Freedom Act of 2015, which balanced national security with the protection of Americans' civil liberties and ended the bulk collection of personal data by the National Security Agency; and

WHEREAS, Bob Goodlatte made lasting contributions to civil justice reform including his Class Action Fairness Act of 2005 which protected consumers by curbing class action abuse; and

WHEREAS, building on his years of work to protect intellectual property, Bob Goodlatte was instrumental to the passage of the America Invents Act of 2011, which contained elements of his longtime work to reform the patent system; and

WHEREAS, Bob Goodlatte supported agriculture, assisting in the creation of the Virginia Poultry Growers Cooperative and passing the Farm Bill of 2008, overriding a Presidential veto; and

WHEREAS, among his recent contributions to the nation, Bob Goodlatte completed decades-long work to update the nation's music copyright laws for the digital age with the Hatch-Goodlatte Music Modernization Act of 2018 and a career-long, bipartisan goal to reform America's criminal justice system including sentencing reform for federal crimes and post-incarceration programs with the passage of the First Step Act of 2018; and

WHEREAS, throughout his career, Bob Goodlatte enjoyed the support of his devoted wife, Maryellen; his children, Jennifer and Bobby; his son-in-law, Matt Barblan; and his two beloved granddaughters; and

WHEREAS, Bob Goodlatte was the epitome of a servant-leader, who represented the Commonwealth with the utmost integrity and dedication, engendering the respect of his constituents and colleagues and the loyalty of his staff; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable Robert W. Goodlatte on the occasion of his retirement from the United States House of Representatives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Robert W. Goodlatte as an expression of the General Assembly's admiration for his legacy of leadership and unparalleled contributions to Virginia's Sixth Congressional District.

### HOUSE JOINT RESOLUTION NO. 744

*Celebrating the life of Hugh Rose Brown.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Hugh Rose Brown, a respected third-generation owner of Brown's Hardware in Falls Church, died on November 5, 2018; and

WHEREAS, a lifelong Falls Church resident, Hugh Brown attended Madison Elementary School and Jefferson High School; and

WHEREAS, Hugh Brown inherited his commitment to community service from his father, Horace E. Brown, who was deeply involved in Falls Church as the owner of Brown's Hardware, an original trustee of the Falls Church Volunteer Fire Department, and a participant in the 1952 ceremonies to dedicate George Mason High School; and

WHEREAS, in 1959, Hugh Brown began running the hardware store that his grandfather, James W. Brown, started in 1883, when it was the first commercial establishment in Falls Church; in 1949, the store switched from being a general store to a hardware store; and

WHEREAS, Hugh Brown and his hardware store staff were known for offering individual assistance to customers in a personable and homespun way, helping shoppers navigate their merchandise of hand tools, gardening tools, and nuts and bolts as well as essential services like key making; and

WHEREAS, admired for being generous and kind to everyone he knew, Hugh Brown was a strong supporter of the City of Falls Church and will be greatly missed and fondly remembered by his family, friends, and customers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Hugh Rose Brown, a respected third-generation owner of Brown's Hardware; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Hugh Rose Brown as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 745

*Commending Dominion Hospital.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for 50 years, Dominion Hospital, a freestanding mental health care facility, has provided accessible, short-term mental health services in the suburban Falls Church area; and

WHEREAS, Dominion Hospital is known as an outstanding inpatient mental health program in Northern Virginia, serving clients well beyond Fairfax and Loudoun County; and

WHEREAS, Dominion Hospital houses numerous programs including adolescent inpatient units, adult inpatient units, an eating disorders program, adolescent and adult partial-hospitalization programs, suicide prevention programs, school refusal programs, a Complex Trauma Disorders program, and LGBTQ-related mental health services; and

WHEREAS, the more than 1,500 members of the Dominion Hospital workforce are a group of skilled and highly trained mental health, medical, and support staff committed to a safe and secure treatment environment; and

WHEREAS, over its five-decade history, Dominion Hospital has remained committed to the idea that all people deserve access to first-rate mental health care; its talented doctors, nurses, and staff members have improved the quality of life for the many patients and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dominion Hospital on the occasion of its 50th anniversary for providing excellent mental health services in the suburban Falls Church area; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dominion Hospital as an expression of the General Assembly's admiration for its dedication to mental health wellness and best wishes for continued success.

### HOUSE JOINT RESOLUTION NO. 746

*Commending Share, Inc.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Share, Inc., a nonprofit corporation providing emergency assistance to the less fortunate in the McLean and Pimmit Hills areas, celebrates its 50th anniversary of enhancing the lives of the needy in Northern Virginia; and

WHEREAS, Share, Inc., took root in the late 1960s, when McLean Baptist Church parishioner and visiting home teacher Irene Jones learned about a local family with two children who, because they had to share only one pair of shoes, could only have one child attend school at a time; Irene Jones made it her mission to spread the word to McLean churchgoers about the number of people in the community who were in need or who were falling between society's cracks; and

WHEREAS, started in 1969 by laypersons from McLean-area churches to respond to social needs, Share, Inc., has grown into an organization of interfaith cooperation, responding to needs of an emergency nature as well as those requiring a longer-term approach, but still focused on citizen welfare; and

WHEREAS, in the 1970s and 1980s, Share, Inc., volunteers devoted their time and resources to the societal problems of the day, with programs for alienated youth and runaways, inner-city problems, concerns with the limited availability of affordable housing, and the special needs of the aging senior population; and

WHEREAS, in the 1990s and early 2000s, Share, Inc., launched new programs, as its earlier initiatives had led to the establishment of independent institutions that provided specialized services, such as Meals on Wheels, Alternative House, and McLean Day; and

WHEREAS, other impactful initiatives established by Share, Inc., during that era included programs to provide school supplies, refurbished computers, fresh fruit, vegetables, and herbs to families in need; programs to assist special needs populations such as victims of spousal abuse, formerly homeless families, and other individuals reentering society; and increasing cooperative efforts with Fairfax and Arlington Counties; and

WHEREAS, today, Share, Inc., remains an entirely volunteer organization with numerous special programs, including providing gift cards and presents to over 230 needy families during the holiday season and distributing refurbished computers to over 30 clients; and

WHEREAS, Share, Inc.'s programs include furniture, family assistance, and transportation programs that succeed through ecumenical cooperation and generous volunteers; Share, Inc., has provided over 900 bags of groceries and 280 bags of used clothing and linens per month to those in need; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Share, Inc., for providing emergency assistance to the less fortunate in the McLean and Pimmit Hills areas as the organization celebrates its 50th anniversary of enhancing the lives of the needy in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Share, Inc., as an expression of the General Assembly's admiration for the organization's generous efforts to help Virginians in need.

### HOUSE JOINT RESOLUTION NO. 747

*Commending Steve Rogers.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Steve Rogers, a beloved and accomplished veterinarian at the Falls Church Animal Hospital, retired on September 28, 2016; and

WHEREAS, Steve Rogers grew up in Smithfield, where he was exposed to veterinary medicine from an early age; his father was a large animal veterinarian, as were two uncles and a great uncle; and

WHEREAS, Steve Rogers attended Virginia Polytechnic Institute and State University for his undergraduate degree before being accepted into a prestigious and selective program at the University of Georgia, where he earned his Doctor of Veterinary Medicine degree; and

WHEREAS, Steve Rogers worked initially in Richmond and Southeast Washington, D.C., before joining the Falls Church Animal Hospital in 1975, which at the time was a small two-doctor operation; and

WHEREAS, Steve Rogers gave generously of his time to civic causes in the community, serving as vice mayor of Falls Church, as a member of city council, and as the head of the Falls Church Chamber of Commerce and of the Falls Church Housing Commission; and

WHEREAS, pet owners describe Steve Rogers as an empathetic, dedicated, kind, and conscientious doctor, and his colleagues in the now state-of-the-art, multi-veterinarian, specialized practice call him irreplaceable; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Steve Rogers, a beloved and accomplished veterinarian at the Falls Church Animal Hospital, on his retirement after 41 years of service to pets and their owners in the Falls Church area; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steve Rogers as an expression of the General Assembly's admiration for his commitment to the health and welfare of animals.

### HOUSE JOINT RESOLUTION NO. 748

*Commending Virginia State University.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Virginia State University, a historically black public land-grant university in Ettrick, was named as the 2018 HBCU of the Year for its high achievement in academics, athletics, community outreach, leadership, and media; and

WHEREAS, Virginia State University received the prestigious award, presented by *HBCU Digest*, at the HBCU Awards ceremony on June 22, 2018, in Baltimore; the institution was selected by a distinguished panel of previous award winners, members of the media, and presidents and chancellors of other historically black colleges and universities; and

WHEREAS, Virginia State University earned accolades for its commitment to funding the innovative Agricultural Research Station, its success in football and basketball, and its increased enrollment and retention, especially among first-generation college students; and

WHEREAS, Virginia State University was a finalist in seven categories at the 2018 HBCU Awards, with Briana Bundick-Kelly winning Female Student of the Year and the Board of Visitors claiming the top honor in the Best Board of Trustees category; and

WHEREAS, Virginia State University's hardworking student body, engaged alumni, and dedicated faculty, administrators, and staff have helped make the institution a model of success for other historically black colleges and universities throughout the Commonwealth and the nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Virginia State University on its selection as the 2018 HBCU of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Makola M. Abdullah, president of Virginia State University, as an expression of the General Assembly's admiration for the institution's commitment to excellence in academia and leadership in the community.

### HOUSE JOINT RESOLUTION NO. 749

*Commending Dennis S. Hall.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Dennis S. Hall, the hardworking commissioner of the Northern Virginia Football Officials Association for the past 17 years, is retiring from his post; and

WHEREAS, a graduate of George Mason University, Dennis Hall was drafted into the United States Army right out of high school and served in Vietnam; and

WHEREAS, Dennis Hall worked as a football official for the Northern Virginia Football Officials Association (NVFOA) for 47 years; in his role as commissioner of the NVFOA, he managed over 170 officials, negotiated contracts with over 65 schools, assigned games, aided in the mitigation of numerous issues, and observed the performance of officials; and

WHEREAS, as commissioner of the NVFOA, Dennis Hall served athletic programs in Northern Virginia and the greater Washington, D.C., area, and also cooperated with the Fairfax County Football League, Loudoun Youth Football Association, and other football leagues in Northern Virginia to officiate games and to support the development of new officials; and

WHEREAS, over the years, Dennis Hall has devoted his officiating and coaching skills to sports beyond football, including baseball and basketball; his devotion to access to athletics was felt in his role as an area coordinator for the Northern Virginia Special Olympics; and

WHEREAS, for his zeal for athletics and his professionalism, Dennis Hall received numerous accolades, including the 2006 Fairfax County Football Hall of Fame award and the NVFOA William S. Nunnally Lifetime Achievement Award; and

WHEREAS, Dennis Hall's influence stretches beyond athletics, as an active member of Boyce and Clarke County; he has been on the Boyce Town Council for the past five years, he is on the Boyce Planning Commission, he has served as a volunteer with the Boyce Volunteer Fire Department, and he is an elder deacon at the Boyce Baptist Church; and

WHEREAS, Dennis Hall's impact has been felt in communities throughout Northern Virginia for decades; as the Northern Virginia Football Officials Association commissioner, he cares about consistently providing the best support for student athletes and youth football players; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dennis S. Hall, the hardworking commissioner of the Northern Virginia Football Officials Association for the past 17 years, on his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dennis S. Hall to express the General Assembly's admiration for his exceptional record and convey best wishes for an enjoyable and rewarding retirement.

### HOUSE JOINT RESOLUTION NO. 750

*Commending the Honorable Robert John Cochran Wrenn.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Honorable Robert John Cochran Wrenn, a respected public servant and a dedicated community leader in Greensville County, will retire as clerk of the Greensville Circuit Court on March 1, 2019; and

WHEREAS, Robert "Bobby" John Cochran Wrenn has ably served the public as clerk of the Greensville Circuit Court for more than 50 years, winning elections for the position seven consecutive times; he offered his wisdom and expertise to the Virginia Court Clerks' Association as a former board member and president; and

WHEREAS, Bobby Wrenn served the Commonwealth as an appointed member of the Virginia Community College System State Board for 11 years and as a member of a public records advisory committee; and

WHEREAS, Bobby Wrenn has strengthened the community as a longtime member and past president of the Meherrin Ruritan Club, which named him Ruritan of the Year in 2004 and named him a Ruritan Forever Member in 2005; and

WHEREAS, Bobby Wrenn has served as a board member of the Salvation Army of Emporia, chair of the Rise Against Hunger campaign, and chair of the Bloodmobile, donating blood more than 200 times; he has also offered his leadership to the Greensville Bicentennial Committee and the Boy Scouts of America; and

WHEREAS, an avid cyclist, Bobby Wrenn established the Great Peanut Bicycle Ride, a beloved local tradition that has welcomed as many as 1,625 participants from 26 states and been featured in national media; and

WHEREAS, for more than five decades, Bobby Wrenn and his wife, Ann, have hosted a Fourth of July celebration that promotes community spirit and unity between both local residents and visitors from far and wide; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable Robert John Cochran Wrenn on the occasion of his retirement as clerk of the Greensville Circuit Court; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Robert John Cochran Wrenn as an expression of the General Assembly's admiration for his legacy of service to the residents of Greensville County.

### HOUSE JOINT RESOLUTION NO. 751

*Commending Gilfield Baptist Church.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for more than 155 years, Gilfield Baptist Church in Ivor has enriched the Southampton County community through opportunities for worship, joyful evangelism, and generous mission work; and

WHEREAS, the oldest African American church in Southampton County, Gilfield Baptist Church was established by former members of Tucker Swamp Baptist Church in 1863, two years prior to the end of the Civil War; and

WHEREAS, Gilfield Baptist Church held its first services in a brush arbor on land owned by the Diggs family; the church's location on a hill at the turn of a road made it an important local landmark for years to come; and

WHEREAS, the members of Gilfield Baptist Church eventually erected a small frame building, which was renovated and modernized in the 1940s, adding new floors, heaters, windows, pews, lighting, and a pulpit to better serve the growing congregation; and

WHEREAS, Gilfield Baptist Church was active during the Civil Rights movement, hosting numerous important speakers who inspired the entire community to take a more active role in civic life; and

WHEREAS, in the 1990s and continuing into the new millennium, Gilfield Baptist Church greatly expanded its worship services, programs, and ministries, enhancing the quality of life for all residents through its generosity and leadership; and

WHEREAS, throughout its storied history, Gilfield Baptist Church has benefited from the wise leadership of 11 pastors, the Reverend Jordan Thomas, the Reverend Ashley Lewis, the Reverend Holland Powell, the Reverend Henry Madison, the

Reverend Collin P. Madison, the Reverend Ralph Page, the Reverend George W. King, the Reverend Curtis W. Harris, the Reverend Eustis Mitchell, Jr., the Reverend Kenneth W. Ricks, and the Reverend Elizabeth B. Jones; and

WHEREAS, the current pastor, the Reverend Elizabeth B. Jones, was the first female minister in the Berlin District of Southampton County, and she has helped Gilfield Baptist Church continue to grow in faith and numbers; and

WHEREAS, Gilfield Baptist Church has worked diligently to make Christian values a part of everyday life and has played a vital role in supporting and strengthening the African American community for generations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gilfield Baptist Church on the occasion of its 155th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gilfield Baptist Church as an expression of the General Assembly's admiration for its legacy of contributions to the residents of Southampton County.

### HOUSE JOINT RESOLUTION NO. 752

*Commending the Virginia Funeral Directors Association.*

Agreed to by the House of Delegates, January 28, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Virginia Funeral Directors Association is a professional organization founded in 1887 by funeral service providers; and

WHEREAS, the Virginia Funeral Directors Association (VFDA) serves communities throughout the Commonwealth and counts more than 550 funeral service professionals among its membership; and

WHEREAS, the VFDA creates opportunities for professional development and fosters a positive environment in which members can build relationships with each other and with elected officials and decision makers; and

WHEREAS, the VFDA provides mentoring to the next generation of funeral service professionals and works with its members and other stakeholders to promote the mutual advancement and elevation of the field and the attainment of a higher standard of excellence, which will ensure the respect and esteem of the community; and

WHEREAS, the VFDA educates its members, the public, and government officials on relevant issues affecting funeral service through continuing education programs, general outreach and communications, and the work of its committees; and

WHEREAS, the VFDA provides a unified voice for its members before local and state bodies and advocates for important initiatives to enhance the funeral service profession; and

WHEREAS, the VFDA strives in every way to better enable its members to serve the public, who entrust their loved ones to them for their last act of care; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Funeral Directors Association on the occasion of its 132nd anniversary for providing education, advocacy, and professional growth to its members and the broader funeral service profession; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Larry Spiaggi, president of the Virginia Funeral Directors Association, as an expression of the General Assembly's best wishes for the organization's next hundred years of continuous service to the funeral service community in the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 753

*Commending the Reverend Alphonso Washington.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, the Reverend Alphonso Washington, a proud veteran and a highly admired spiritual leader in Hume, celebrated his 105th birthday on October 18, 2018; and

WHEREAS, born in 1913 in Washington, D.C., Alphonso Washington moved to Hume with his mother at the age of three and began a lifelong association with Mount Morris Baptist Church; and

WHEREAS, as a teenager, Alphonso Washington returned to the nation's capital, where he worked several jobs to help support his family; in the 1930s, while working on a dairy farm in Loudoun County, he attended a revival service at Mount Olive Baptist Church in Lincoln and discovered his passion for ministry; and

WHEREAS, in 1942, Alphonso Washington joined many of the other young men in service to the nation during World War II when he was drafted as a member of the United States Army Air Corps; and

WHEREAS, Alphonso Washington was assigned to the base chaplain corps at San Marcos Army Air Field in Texas, where he met and married his first wife, Rosa, who passed away in the 1980s; in addition to his duties as a chaplain, he trained in aircraft maintenance and was later stationed in Florida and Jamaica; and

WHEREAS, after the war, Alphonso Washington continued to support his fellow veterans as a chaplain for the American Legion, and he traveled the country as a visiting preacher, eventually finding himself back at his home church in Hume; and

WHEREAS, as an associate minister of Mount Morris Baptist Church, Alphonso Washington has offered his leadership to the Sunday School Conference, the Women's Auxiliary, and the Ministers' and Deacons' Conference; he continued to travel, preaching and performing marriages, funerals, and counseling throughout the region; and

WHEREAS, Alphonso Washington currently lives in Culpeper with his beloved wife, Carol, and he is a sought-after speaker at events throughout Culpeper County and Fauquier County, sharing his incomparable wisdom and wealth of life lessons to new generations of community leaders; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Alphonso Washington on the occasion of his 105th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Alphonso Washington as an expression of the General Assembly's admiration for his lifetime of service and contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 754

*Commemorating the lives and legacies of Allie Thompson, William Grayson, and William Thompson.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the year 2018 marked the 100th anniversary of the lynching of Allie Thompson, who was one of several African American men lynched in Culpeper County, including William Grayson and William Thompson; and

WHEREAS, millions of Africans and their descendants were captured in their homelands and forced into enslavement in the 13 colonies and in the United States, including in the Commonwealth of Virginia, between 1619 and 1865; and

WHEREAS, in the defining moment of the founding of the nation, the Declaration of Independence proclaimed that "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."; and

WHEREAS, slavery ranks as one of the most horrendous of all atrocities against persons of African descent in the United States; and

WHEREAS, Black Codes, Jim Crow laws, sharecropping, the separate but equal doctrine, and the nationally and locally sanctioned vigilante crimes of lynching succeeded slavery as the ultimate expression of racism and intimidation of persons of African descent in the United States following the Reconstruction Era; and

WHEREAS, lynching was a crime that occurred throughout Virginia, with documented incidents in at least 54 counties, including Culpeper County; and

WHEREAS, lynching denied Virginia citizens, primarily persons of African descent, their Constitutional rights under the Fifth and Fourteenth Amendments to due process and equal protection under the law; and

WHEREAS, on November 25, 1918, Allie Thompson, an 18-year-old African American man and resident of Culpeper County, was so denied due process and equal protection under the law when he was forcibly removed from jail by a mob and lynched; and

WHEREAS, other men in Culpeper County were denied their rights in similar ways, including William Grayson, who was removed from jail while awaiting an appeal and lynched by a mob in August 1850 and William Thompson, who was removed from jail while awaiting trial and lynched by a mob on August 11, 1877; and

WHEREAS, the commemoration of the deaths of Allie Thompson, William Grayson, and William Thompson provides an opportunity for all Virginians to commit themselves to healing racial divisions in their communities and achieving justice for all; and

WHEREAS, the members of the Culpeper community especially have resolved to take steps to end racially motivated crimes and racist attitudes, advance the cause of reconciliation and understanding, and ensure that these atrocities will neither be forgotten nor repeated; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the lives and legacies of Allie Thompson, William Grayson, and William Thompson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the families of Allie Thompson, William Grayson, and William Thompson as an expression of the General Assembly's respect for their memories and appreciation for the significance of these events as a reminder of the need to fight injustice and bigotry in all forms.

**HOUSE JOINT RESOLUTION NO. 755**

*Commending Chatham Hall.*

Agreed to by the House of Delegates, February 4, 2019  
 Agreed to by the Senate, February 7, 2019

WHEREAS, Chatham Hall in Pittsylvania County, an exemplary private boarding school for young women that has earned national accolades, celebrates its 125th anniversary in 2019; and

WHEREAS, the General Assembly chartered Chatham Hall as the Chatham Episcopal Female Institute on February 26, 1894; and

WHEREAS, the Reverend Cleivus Orlando Pruden, rector of Chatham's Emmanuel Episcopal Church, was the principal advocate for the founding of Chatham Hall; and

WHEREAS, in the early 1900s, Chatham Hall nurtured the nascent talent of Georgia O'Keeffe, one of America's most celebrated artists; and

WHEREAS, Chatham Hall survived a disastrous fire in 1906 by moving into homes on Whittle Street in Chatham and recovered from the event as a stronger, more resilient school community; and

WHEREAS, Chatham Hall rose to prominence during the 1930s, drawing young women from across the United States and from foreign nations; and

WHEREAS, Chatham Hall alumnae served the nation with distinction in critical roles during World War II; and

WHEREAS, Chatham Hall alumna and Chatham native Claudia Emerson was Virginia's poet laureate from 2008 until 2010; and

WHEREAS, throughout its history, Chatham Hall has inspired many young women who went on to become leaders in their communities and professions; graduates have distinguished themselves in medicine, law, business, art, science, and education; and

WHEREAS, in 2019, Chatham Hall remains true to its mission to foster high intellect and high character in all of its students through rigorous academic programs that encourage growth, creativity, and personal responsibility, as well as a culture of shared values of honesty and integrity; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Chatham Hall, a distinguished private boarding school for young women, on the occasion of its 125th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chatham Hall, as an expression of the General Assembly's admiration for the school's rich history and contributions to young women in the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 756**

*Commending the Chatham Southern Railway Depot.*

Agreed to by the House of Delegates, February 4, 2019  
 Agreed to by the Senate, February 7, 2019

WHEREAS, the Chatham Southern Railway Depot, a well-known landmark in the Town of Chatham, has played an important role in community life for 100 years; and

WHEREAS, the Chatham Southern Railway Depot was built in 1918 as a stop on Southern Railway's dual north-south mainline between Washington and Atlanta and became the primary station for both passengers and freight in Pittsylvania County; and

WHEREAS, in addition to facilitating commerce within the region, the Chatham Southern Railway Depot served as a hub for businessmen, vacationers, and soldiers, especially during World War II; the depot also helped Chatham Hall and Hargrave Military Academy thrive by ensuring that students had transportation to and from the schools; and

WHEREAS, the Chatham Southern Railway Depot played a pivotal role in local economic development in the 1950s; after a half century of service, the depot was closed to passenger traffic in 1965 and retired from active use in 1975; and

WHEREAS, in 2000, the Chatham Southern Railway Depot was saved from demolition by Pittsylvania County officials, the Pittsylvania County Historical Society, and local citizens; after a multiphase preservation, restoration, and rehabilitation, the depot was reopened in 2013 as the History Research Center and Library; and

WHEREAS, operating under the Pittsylvania County Public Library, the Pittsylvania History Research Center and Library serves as a veterans' museum, a meeting place for civic groups and cultural presentations, and a valuable resource for local history and genealogical research; and

WHEREAS, an exceptional example of railroad architecture with Colonial Revival influences, the Chatham Southern Railway Depot was added to the Virginia Landmarks Register and the National Register of Historic Places in 2015; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chatham Southern Railway Depot on the occasion of the 100th anniversary of its construction; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Pittsylvania County Historical Society as an expression of the General Assembly's admiration for the Chatham Southern Railroad Depot's important place in the history and heritage of Pittsylvania County and the Town of Chatham.

### HOUSE JOINT RESOLUTION NO. 757

*Commending James E. Davis.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, in 2018, James E. Davis retired as emergency services director of Pittsylvania County after 37 years of diligent work to serve and protect his fellow community members as a first responder, law-enforcement officer, and emergency dispatcher; and

WHEREAS, following in the footsteps of his father, a volunteer firefighter in North Carolina, James "Jim" E. Davis began his long and fulfilling career in public safety as a dispatcher with the Danville Fire Department in 1981, at a time when there was no 911 system in the area; and

WHEREAS, after a consolidated emergency dispatch was created under the Danville Police Department in 1982, Jim Davis helped implement basic and enhanced 911 services and subsequently became a sworn officer of the department, rising to the rank of lieutenant; and

WHEREAS, in 1995, Jim Davis was selected by the Pittsylvania County Board of Supervisors to design, implement, and oversee the creation of a countywide 911 system; and

WHEREAS, Jim Davis assembled a highly motivated team of dispatchers to map county roads, create an accurate list of addresses and telephone numbers, and collaborate with local public safety departments to set policies and procedures; and

WHEREAS, Jim Davis was officially named emergency services manager in February 1996 and ably led the department through its first major test later that year, when Hurricane Fran struck the East Coast; and

WHEREAS, over the course of his 22-year tenure, Jim Davis maintained a wide array of credentials and certifications for emergency services and disaster response and adopted cutting-edge technology and techniques to keep Pittsylvania County at the forefront of public safety communications; and

WHEREAS, respected for his expertise at the regional and state levels, Jim Davis has served as president of the Virginia chapter of the National Emergency Number Association and the Virginia Emergency Management Association and chair of the Piedmont Regional Criminal Justice Training Academy; and

WHEREAS, Jim Davis will continue to utilize his public safety expertise as a member of Mission Critical Partners, which helps 911 centers throughout the United States expand and enhance emergency communications systems and better serve their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James E. Davis for his 37 years of service to the Danville and Pittsylvania County communities as a first responder, law-enforcement officer, and the founder of the county's 911 communication system; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James E. Davis as an expression of the General Assembly's admiration for his diligent work to safeguard the lives of Danville and Pittsylvania County residents.

### HOUSE JOINT RESOLUTION NO. 758

*Commending Alfred Durham.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Alfred Durham, a respected law-enforcement officer who worked to make the Richmond community stronger and safer, retired as chief of the Richmond Police Department on December 31, 2018; and

WHEREAS, Alfred Durham has more than 30 years of experience in law enforcement, beginning with the Metropolitan Police Department of the District of Columbia in 1987; he has also served his country as a member of the United States Marine Corps on active duty and in the reserves; and

WHEREAS, Alfred Durham first joined the Richmond Police Department in 2005 as chief of staff for two years, then returned to the department in 2014 as deputy chief of administrative services; and

WHEREAS, after becoming chief of the Richmond Police Department in 2015, Alfred Durham made officer morale a high priority and was a staunch advocate for the department before the Richmond City Council; and

WHEREAS, by embracing community policing strategies, Alfred Durham fostered trust and mutual respect between the department and members of the public; under his leadership, the department assigned additional officers to the city's public housing neighborhoods and promoted efforts to take illegal firearms off Richmond's streets; and

WHEREAS, thanks in large part to Alfred Durham's policies, Richmond saw a 21 percent decrease in homicides and a nine percent decrease in violent crime between 2017 and 2018; and

WHEREAS, Alfred Durham earned a reputation as a "24/7" police chief, making his presence felt at everything from community meetings and protests to street festivals and other events throughout the city; and

WHEREAS, Alfred Durham is an exemplar of the dedication to service and care for the community demonstrated by law-enforcement leaders throughout the Commonwealth, and he leaves the Richmond Police Department with a firm footing to continue providing exceptional service to the public; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Alfred Durham on the occasion of his retirement as chief of the Richmond Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alfred Durham as an expression of the General Assembly's admiration for his achievements in service to the residents of Richmond.

### HOUSE JOINT RESOLUTION NO. 759

*Commending Mikael Martinez Jaka.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Mikael Martinez Jaka, a member of Boy Scouts of America Troop 786, was honored by the World Organization of the Scout Movement with the prestigious Messengers of Peace Heroes Award at the United Nations headquarters in New York; and

WHEREAS, Mikael Martinez Jaka is a Life Scout, a member of the Order of the Arrow, and an Eagle Scout candidate who has already completed his Eagle Scout project; and

WHEREAS, Mikael Martinez Jaka was one of 11 Scouts from around the world and the only Scout representing the United States honored by the Messengers of Peace ceremony at the United Nations in New York City on International Peace Day on September 21, 2018; and

WHEREAS, Mikael Martinez Jaka was honored for his Eagle Scout project at the Loudoun Freedom Center's African American Burial Ground for the Enslaved at Belmont where he created a 400-foot walking trail to be used by future visitors to the site, to help guide visitors and make the cemetery more accessible; and

WHEREAS, Mikael Martinez Jaka received this recognition because his Eagle Scout project was aligned with the United Nations' Sustainable Development Goals, including promoting just, peaceful, strong, and inclusive societies; Messengers of Peace is a World Scouting initiative designed to encourage Scouts to inspire others to action; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mikael Martinez Jaka for his achievements as a 2018 Messengers of Peace Heroes Award winner; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mikael Martinez Jaka as an expression of the General Assembly's admiration for his diligent service and contributions to the community.

### HOUSE JOINT RESOLUTION NO. 760

*Commending the George Washington University School of Nursing.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, in 2018, the George Washington University School of Nursing received a Health Professions Higher Education Excellence in Diversity Award for its work to make every member of the campus community feel welcomed, valued, and respected; and

WHEREAS, established in 2010, the George Washington University School of Nursing is one of the top nursing schools in the country, offering bachelor's, master's, doctoral, and certificate programs led by world-class faculty members; and

WHEREAS, presented by *INSIGHT Into Diversity*, the oldest and largest magazine focusing on diversity in colleges and universities, the Health Professions Higher Education Excellence in Diversity Award recognizes institutions like the George Washington University School of Nursing that demonstrate an outstanding commitment to inclusion on campus; and

WHEREAS, the George Washington University School of Nursing qualified for the award based on its work to ensure that students learn in an environment that is representative of the diverse population they will serve; and

WHEREAS, the George Washington University School of Nursing offers the Health and Community Engaged Passport program, an inter-professional approach to teaching students about social, economic, and environmental factors that influence health, as well as the Pediatric Adversity and Early Childhood Development and Health course, which focuses on factors that affect the health of children living in poverty; and

WHEREAS, among its other unique programs, the George Washington University School of Nursing strives to enrich the learning process through the Professional Well-Being Experience, a series of sessions that gives students the tools to help themselves and others cope with stress and adversity in the health care field; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the George Washington University School of Nursing for receiving a 2018 Health Professions Higher Education Excellence in Diversity Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the George Washington University School of Nursing as an expression of the General Assembly's admiration for the school's work to create a safe and welcoming campus for all students.

### HOUSE JOINT RESOLUTION NO. 761

*Celebrating the life of George Welsh.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, George Welsh, a visionary college football coach who helped elevate the University of Virginia's football program to become one of the best in the nation, died on January 2, 2019; and

WHEREAS, George Welsh grew up in Coaldale, Pennsylvania, where he graduated from Coaldale High School; he went on to play quarterback for the United States Naval Academy football team and was a contender for the Heisman Trophy in 1955; and

WHEREAS, after working as an assistant coach at Pennsylvania State University for 10 years, George Welsh returned to his alma mater as head coach of the Navy Midshipmen football team in 1973; during his nine-year tenure, the team went 55-46-1 and won the 1978 Holiday Bowl, the team's first bowl game appearance in 15 years; and

WHEREAS, in 1981, George Welsh accepted the head coaching position for the University of Virginia, which at the time had only finished two of its previous 29 seasons with a winning record; by his third season, he led the team to an 8-2-2 record and victory against Purdue University in its first-ever bowl game appearance, the 1984 Peach Bowl; and

WHEREAS, beginning in 1987, George Welsh helped the University of Virginia Cavaliers achieve 14 consecutive winning seasons, including 13 consecutive seasons with seven or more victories, and 11 postseason bowl game appearances; and

WHEREAS, under George Welsh's leadership, the University of Virginia Cavaliers won their first Atlantic Coast Conference championship in 1989 and were ranked as the top team in the nation for the first time in 1990; he won coach of the year awards in 1983, 1984, 1991, and 1995 and was inducted into the College Football Hall of Fame and the Virginia Sports Hall of Fame; and

WHEREAS, known for his meticulous attention to detail, incomparable work ethic, and undeniable love of the game, George Welsh created a culture of excellence at the University of Virginia by encouraging his players and staff to reach their fullest potential; and

WHEREAS, George Welsh emphasized the importance of high academic achievement for all of his players, and the team consistently received national accolades for its graduation rates among scholarship players; and

WHEREAS, George Welsh retired in 2000 as the winningest coach in the ACC at the time and the most successful coach in University of Virginia history with a 134-86-3 record over the course of his 19-season career; and

WHEREAS, George Welsh was a trusted mentor to his players and his staff both on and off the field; many of his players received All-American honors and went on to play in the National Football League and several of his assistant coaches became successful head coaches at other institutions; and

WHEREAS, George Welsh will be fondly remembered and greatly missed by numerous family members, friends, colleagues, and former players on whose lives he had a profound impact; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George Welsh, legendary head coach of the University of Virginia football team; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Welsh as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 762

*Commending Voices for Virginia's Children.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, for the past 25 years, Voices for Virginia's Children has championed public policies that improve the lives of the Commonwealth's children; and

WHEREAS, Voices for Virginia's Children (Voices) was founded in 1994 by a nonpartisan group of concerned citizens from across the Commonwealth, including two former First Ladies of Virginia, with the support of the Freddie Mac Foundation and the Annie E. Casey Foundation; and

WHEREAS, using the KIDS COUNT data system, Voices tracks and analyzes statistics about children to identify the root problems they are facing; and

WHEREAS, Voices educates policymakers about solutions that research and experience have demonstrated benefit children; and

WHEREAS, Voices mobilizes voters and partner organizations to advocate for changes in laws, funding priorities, and systems that result in better outcomes for children; and

WHEREAS, Voices focuses on young children whose needs are often unaddressed, such as those with mental health challenges, those in the child welfare system, those who have experienced trauma, and those whose families are economically disadvantaged; and

WHEREAS, Voices' approach to advocacy has evolved as the organization has matured over 25 years, and that has translated into greater wins for Virginia's children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Voices for Virginia's Children for its outstanding leadership and effectiveness in improving the lives of the Commonwealth's children on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Margaret Nimmo Holland, executive director, and Keith Hare, chair of the Board of Voices for Virginia's Children, as an expression of the General Assembly's appreciation for the organization's dedication to the young people of the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 763

*Commending Grayson County Public Schools.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, for the first time in seven years, Grayson County Public Schools achieved full accreditation, demonstrating high graduation rates and Standards of Learning test scores in all of its schools; and

WHEREAS, to achieve full accreditation, Grayson County Public Schools recorded the highest overall Standards of Learning test score gains in the Commonwealth during the 2017-2018 academic year; and

WHEREAS, two schools in Grayson County recorded the highest Standards of Learning test score gains in the Region VII Consortium; and

WHEREAS, in pursuit of full accreditation, teachers and administrators in Grayson County Public Schools focused on the use of technology in the classroom, as well as innovative teaching methods to ensure that each student was fully engaged in the learning process; and

WHEREAS, these accomplishments are a testament to the hardworking students, faculty, and staff members at each public school in Grayson County: Fairview Elementary School, Independence Elementary School, Independence Middle School, Fries School, Grayson Highlands School, Grayson County High School, and the Grayson County Career and Technical Education Center; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Grayson County Public Schools for achieving full accreditation for all of its schools in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kelly Wilmore, superintendent of Grayson County Public Schools, as an expression of the General Assembly's admiration for the school district's commitment to academic excellence and dedication to the young people of Grayson County.

### HOUSE JOINT RESOLUTION NO. 764

*Commending Appalachian Plastics, Inc.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, in 2018, Appalachian Plastics, Inc., celebrated its 50th anniversary of manufacturing and distributing fiberglass and plastic products in Glade Spring to customers in the mining, appliance, plumbing, and sheet metal fabricating industries; and

WHEREAS, Appalachian Plastics, Inc., was started by Herb and Betty DeBusk in 1968; Betty still holds the position of president, and Herb, who died in 2009, worked for several companies like DuPont and Brunswick connected to the aerospace industry; and

WHEREAS, Appalachian Plastics, Inc., began its manufacturing history in a small garage, building fiberglass reinforced plastic (FRP) flanges and fiberglass covers for air compressors; and

WHEREAS, through the years, Appalachian Plastics, Inc.'s product lines have changed and evolved; in 2018 the product line ranged from FRP filament-wound light poles and commercial and industrial HVAC ducts to top-of-the-line fiberglass mechanical filters for the aquarium and swimming pool industries; and

WHEREAS, products of Appalachian Plastics, Inc., have been shipped all over the world to locations such as Australia, Guam, and the Middle East, and the company has stayed in the DeBusk family for three generations; and

WHEREAS, the proudest and most difficult moments for the owners of Appalachian Plastics, Inc., were being able to rebuild after the April 2011 tornado, which had made a direct hit on their main manufacturing facility, within a year's time; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Appalachian Plastics, Inc., for 50 years of manufacturing and distributing fiberglass and plastic products in Glade Spring to customers in the mining, appliance, plumbing, and sheet metal fabricating industries; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Betty DeBusk, president of Appalachian Plastics, Inc., as an expression of the General Assembly's admiration and best wishes for continued success in the future.

### HOUSE JOINT RESOLUTION NO. 765

*Commending the Little Fork Volunteer Fire and Rescue Company.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, for 25 years, the dedicated and highly trained members of the Little Fork Volunteer Fire and Rescue Company have safeguarded the lives and property of Culpeper County residents, ably responding to fires, medical emergencies, and other crisis situations; and

WHEREAS, the Little Fork Volunteer Fire and Rescue Company traces its roots to 1993, when a group of concerned citizens circulated a petition to determine community interest in starting a local fire company; and

WHEREAS, the Little Fork Volunteer Fire and Rescue Company was officially chartered in April 1994 and placed its first fire and emergency medical services vehicle into service in January 1995; and

WHEREAS, in 2004, the Little Fork Volunteer Fire and Rescue Company received the prestigious Outstanding Emergency Medical Services Agency award from the Governor, an especially admirable feat for a small, community-supported organization; the company received the award for using donated equipment and limited resources to turn the one-room, steel building it has inhabited since its founding into an impressive EMS-provider facility; and

WHEREAS, in 2011, Little Fork Volunteer Fire and Rescue Company established the Technical Large Animal Rescue Team, the only all-volunteer large animal rescue team in Virginia, responding to calls across the Commonwealth and performing rescues of large animals that are trapped or encumbered; and

WHEREAS, due to the unparalleled dedication of its volunteers, the Little Fork Volunteer Fire and Rescue Company has responded to every single emergency medical service and fire call in the past seven years, not missing a single call for assistance from the citizens in their community and surrounding areas; and

WHEREAS, the volunteers of the Little Fork Volunteer Fire and Rescue Company are an outstanding company of tireless and dedicated professionals who proudly protect the quality of life and the social, economic, and environmental infrastructure of northern Culpeper County; and

WHEREAS, the Little Fork Volunteer Fire and Rescue Company will commemorate its 25th anniversary at its annual banquet on October 5, 2019; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Little Fork Volunteer Fire and Rescue Company on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Little Fork Volunteer Fire and Rescue Company as an expression of the General Assembly's admiration for its exceptional service to the residents of Culpeper County and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 766

*Celebrating the life of Charles Edward Doane.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Charles Edward Doane, a longtime youth athletics coach, Chilhowie office holder, and business owner, died on November 21, 2018; and

WHEREAS, Charles "Charlie" Edward Doane, a lifelong Chilhowie resident, attended Chilhowie High School and was an active member of Chilhowie Christian Church; he ran Chilhowie Insurance Agency for decades and Chilhowie Drug Company with his daughter, Amanda; and

WHEREAS, Charlie Doane mentored young athletes for decades as assistant coach for the Chilhowie High School baseball and softball teams and a softball and baseball coach for the Chilhowie Little League; and

WHEREAS, in civic service to his community, Charlie Doane represented his fellow residents as a member of the Chilhowie Town Council and the Smyth County School Board; in recognition of his involvement and caring for his community, Charlie Doane was named grand marshal of the 2018 Chilhowie Apple Festival Parade; and

WHEREAS, Charlie Doane will be fondly remembered and greatly missed by his wife, Tamara; his children, Todd, Amanda, and Emily, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Edward Doane, a longtime youth athletics coach, Chilhowie office holder, and business owner; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Edward Doane as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 767

*Celebrating the life of Elizabeth Carter Lineweaver.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Elizabeth Carter Lineweaver, a successful businesswoman who dedicated her life to the service of her fellow Warrenton residents, and honored veterans of the Civil War through the creation of the Memorial Wall to Name the Fallen, died on October 24, 2018; and

WHEREAS, a proud native of Warrenton, Elizabeth "Bizz" Carter Lineweaver grew up in Washington, D.C., and attended American University and the University of Richmond's Westhampton College; and

WHEREAS, in 1943, Bizz Lineweaver married her husband, Bill, who went on to serve as a member of the Warrenton Town Council and as mayor of the town for more than two decades; over the years, the couple worked diligently to enhance the quality of life in both Warrenton and all of Fauquier County; and

WHEREAS, as the owner of H. B. Carter & Company, as well as several buildings on Main Street, Bizz Lineweaver was determined to ensure that downtown Warrenton remained a focal point of the community; she initiated several beautification projects and led negotiations to keep the post office on Main Street, which she considered one of her finest achievements in service to the town; and

WHEREAS, in order to better understand her deep family roots in the Warrenton area, Bizz Lineweaver applied her keen intellect to the study of genealogy and became a member of the Jamestowne Society, Daughters of the American Revolution, and the United Daughters of the Confederacy; and

WHEREAS, in 1996, Bizz Lineweaver was given a notebook containing the names of 520 previously unnamed Civil War veterans who had been buried in a mass grave in Warrenton Cemetery during the war; and

WHEREAS, Bizz Lineweaver worked with a renowned landscape architect and local civic groups to erect a granite wall engraved with the name, unit, and date of death of each soldier, a delicate task in the more than 200-year-old cemetery, as well as publish the full contents of the notebook; and

WHEREAS, Bizz Lineweaver was an accomplished seamstress, a life member of the Francis Fauquier Garden Club, and a gracious and welcoming hostess who relished every opportunity to spend time with family and friends; and

WHEREAS, predeceased by her husband of 69 years, Bill, Bizz Lineweaver will be fondly remembered and greatly missed by her daughters, Beth, Babs, and Bitsy, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Elizabeth Carter Lineweaver, a pillar of the Warrenton community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Elizabeth Carter Lineweaver as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 768

*Celebrating the life of Alvin W. Anderson, Sr.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Alvin W. Anderson, Sr., a devoted educator, an advocate for Native Americans, and a respected civic leader who strengthened the Suffolk community, died on July 21, 2018; and

WHEREAS, a native of High Point, North Carolina, Alvin "Andy" W. Anderson, Sr., began to develop his deep and abiding Christian faith at a young age and learned about his Cherokee heritage from his mother; and

WHEREAS, after relocating to Hampton Roads with his family, Andy Anderson graduated from Maury High School, then served his country as a member of the United States Navy and the United States Air Force, specializing in intelligence; and

WHEREAS, after his honorable military service, Andy Anderson earned a bachelor's degree from what is now Old Dominion University, a master's degree from the University of Virginia, and a doctorate in education from Nova Southeastern University; and

WHEREAS, Andy Anderson pursued a long and fulfilling career in teaching; he served as headmaster of Nansemond-Suffolk Academy, where he led efforts to establish the Saints as the school mascot, then cofounded Alliance Christian High School, which served Portsmouth students for 40 years; and

WHEREAS, Andy Anderson went on to serve as assistant superintendent of secondary education for Buckingham County Public Schools, where he retired after 32 years as an educator and administrator in public and private schools; and

WHEREAS, Andy Anderson's civic engagement was unparalleled, and he developed strong relationships with many public officials in his mission to enhance the quality of life for all of his fellow Suffolk residents; and

WHEREAS, Andy Anderson was an official member of the Southeastern Cherokee Council, Inc., and an honorary member of the Nansemond Indian Tribe, to whom he was known as "Big Mountain"; he led efforts to secure a 70-acre parcel of land at Lone Star Lakes Park that became Mattanock Town, an important cultural center for the Nansemond Tribe and the site of its annual pow wow; and

WHEREAS, Andy Anderson enjoyed fellowship and worship with the community at Windsor Congregational Christian Church, where he served as a deacon, taught Sunday school, and chaired the property committee; and

WHEREAS, Andy Anderson will be fondly remembered and greatly missed by his loving wife of 48 years, Bobbi; his children, Brenda, Julia, and Andy, Jr., and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Alvin W. Anderson, Sr., a pillar of the Suffolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alvin W. Anderson, Sr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 769

*Commending Lonnie Manuel Massey.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Lonnie Manuel Massey of Suffolk, a decorated veteran who served his country on active duty through two wars and in civil service for many years afterward, celebrated his 100th birthday in 2018; and

WHEREAS, born in Delta County, Texas, on November 23, 1918, Lonnie Massey was the oldest son of Mann and Leeola Massey; he learned the value of hard work and responsibility as a youth, working as an automobile repairman and a farmer, among other jobs; and

WHEREAS, after graduating from Cooper High School, Lonnie Massey joined the United States Marine Corps in 1938 and specialized in electronics, including the construction and operation of radio transmitters and receivers; and

WHEREAS, during World War II, Lonnie Massey was assigned to I Marine Amphibious Corps, stationed aboard the USS *Northampton*, where he put his skills in Morse code and radio theory to good use; and

WHEREAS, Lonnie Massey participated in the battles of Guadalcanal, Bougainville Island, Okinawa, Kwajalein Atoll, Saipan, and Guam, and he took part in the top-secret operation to train the famed Navajo code talkers in radio communications; and

WHEREAS, Lonnie Massey continued to serve his country during the Korean War, earning the Bronze Star for his vital work to maintain constant, uninterrupted radio communications between Marine units; and

WHEREAS, after retiring from the United States Marine Corps, Lonnie Massey pursued a second career in civil service as a communications field engineer and traveled to United States Navy transmitter sites around the world; and

WHEREAS, during this time, Lonnie Massey met his late wife, Iris, in Northern Ireland; the couple were married for 47 years and raised one son, Robert, who has relished opportunities to share his father's thrilling stories with his own children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lonnie Manuel Massey, a distinguished member of the Greatest Generation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lonnie Manuel Massey as an expression of the General Assembly's admiration for his legacy of contributions to the Commonwealth and the United States.

**HOUSE JOINT RESOLUTION NO. 770**

*Commending the recipients of the 2019 Virginia Outstanding Faculty Awards.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, the Commonwealth of Virginia offers one of the most respected and acclaimed systems of higher education in the United States due to the quality of each of its public and private colleges and universities; and

WHEREAS, Virginia colleges and universities educate more than 550,000 students annually, representing all demographics, all regions of the Commonwealth, and all corners of the nation and the world; and

WHEREAS, Virginia higher education advances learning, research, and public service to enhance the civic and financial health of the Commonwealth and the well-being of all its people, transforming the lives of Virginians, their communities, and the Commonwealth; and

WHEREAS, the success of the Virginia higher education system would not be possible without the dedicated, hardworking faculty at each of the Commonwealth's superb colleges and universities; and

WHEREAS, Virginia faculty contribute in innumerable ways to the intellectual and personal growth and development of their students, who then contribute greatly to the educational, economic, cultural, and civic vitality of the Commonwealth; and

WHEREAS, the Virginia Outstanding Faculty Awards program, now in its 33rd year, is presented by the State Council of Higher Education for Virginia and Dominion Energy and continues to recognize the finest among the Commonwealth's faculty for their superior abilities and accomplishments in teaching, research, service, and knowledge integration; and

WHEREAS, the 2019 Virginia Outstanding Faculty Award recipients—Alfred Abuhamad, Valerie S. Banschbach, Jeffrey Bellin, Valentina P. Dimitrova-Grajzl, Charlotte Elizabeth Gill, Helen I'Anson, Rowan Lockwood, Agida Gabil Manizade, Jill Elizabeth Mitchell, Sterling Nesbitt, Andrew Jefferson Offutt, Leo Eric Piilonen, and Jonathan W. White—are remarkable educators, productive scholars, and tremendous ambassadors for their academic disciplines, campuses, communities, and the entire Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the recipients of the 2019 Virginia Outstanding Faculty Awards for their professorial excellence and unparalleled achievements; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the State Council of Higher Education for Virginia and the recipients of the 2019 Virginia Outstanding Faculty Awards as an expression of the General Assembly's respect for the recipients' commitment to their profession and their outstanding contributions to the lives of Virginians and the Commonwealth as a whole.

**HOUSE JOINT RESOLUTION NO. 771**

*Commending the National Automated Clearing House Association.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the National Automated Clearing House Association in Herndon was named one of the 2019 Best Places to Work in Virginia by *Virginia Business* magazine; and

WHEREAS, to attain the Best Places to Work in Virginia status, the National Automated Clearing House Association (NACHA) submitted a thorough company assessment designed to gather detailed information about its workplace, in which both owners and employees provided their honest feedback by taking part in a company-wide survey; and

WHEREAS, NACHA creates broadly adopted payment and financial messaging rules and standards through consensus-led governance, international collaboration, and innovative development practices; the business continually advances the ubiquitous Automated Clearing House Network and engages diverse stakeholders to accelerate a digital future of global financial services interoperability; and

WHEREAS, to earn its place on the 2019 Best Places to Work in Virginia list, NACHA treats employees as its most valued asset and promotes a culture of employee engagement and collaboration; and

WHEREAS, NACHA sets financial interoperability standards while offering education and certification to support financial industry professionals in expanding their skills and knowledge of payment systems; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the National Automated Clearing House Association for being named one of the 2019 Best Places to Work in Virginia by *Virginia Business* magazine; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the National Automated Clearing House Association president and CEO Janet O. Estep as an expression of the General Assembly's admiration for the company's emphasis on employee engagement and collaboration.

**HOUSE JOINT RESOLUTION NO. 772**

*Commending Braxton-Perkins American Legion Post 25.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Braxton-Perkins American Legion Post 25 was chartered as a wartime veterans' organization by the American Legion Department of Virginia on August 25, 1919, providing what is known by the members of the American Legion as the Four Pillars of the American Legion: veterans affairs and rehabilitation, national security, Americanism, and support for children and youth; and

WHEREAS, Braxton-Perkins Post 25 has performed an exceptional amount of service for the community throughout the years, establishing a kindergarten for children of foreign-born parents, providing financial aid to military veterans, caring for the sick and war-wounded, locating employment opportunities, adjusting veterans benefit claims, and assisting with arrangements for military funerals given to deceased veterans, whether members or not; and

WHEREAS, Braxton-Perkins Post 25 continues to strive for a prominent role in civic life, and the men and women of the Post work together to support the youth of America and the citizens of the community and have always supported service members and their families; and

WHEREAS, throughout the years, Braxton-Perkins Post 25 has become a preeminent community service organization by establishing the renowned Virginia War Museum and providing headquarters for the National Guard Machine Gun Company and United States Navy Reserve within the Post 25 home; and

WHEREAS, for 100 years, the members of Braxton-Perkins Post 25 have dedicated themselves to upholding the ideals of freedom and democracy, while working to make a difference in the lives of their fellow Virginians and Americans; and

WHEREAS, the centennial of Braxton-Perkins Post 25 provides an opportunity not only to look back upon the organization's storied history, but also to foster a new era of growth and engagement in the vital programs that have served generations of veterans; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Braxton-Perkins American Legion Post 25 for its legacy of service to veterans on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Braxton-Perkins American Legion Post 25 as an expression of the General Assembly's admiration for the organization's contributions to American society, national security, and the welfare of military veterans and their families.

**HOUSE JOINT RESOLUTION NO. 773**

*Commending Old Dominion Association of Church Schools students.*

Agreed to by the House of Delegates, February 4, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, in April 2018, Old Dominion Association of Church Schools students representing Virginia won their 16th consecutive American Association of Christian Schools National Competition; and

WHEREAS, the American Association of Christian Schools (AACS) National Competition includes 76 categories related to the Bible, music, speech, art, and academics, with points awarded to the top three finishers in each category; Old Dominion Association of Church Schools students competed against fellow high school seniors from more than 30 states; and

WHEREAS, in the 2018 AACS National Competition, students from the Old Dominion Association of Church Schools scored 80 points, defeating the runner-up team by 33 points; and

WHEREAS, Old Dominion Association of Church Schools students have won a total of 21 national titles in the 41 years of AACS competition history, meaning students from the Commonwealth have won more titles than all other states combined; and

WHEREAS, Old Dominion Association of Church Schools students will defend their title on April 9-11, 2019, at Bob Jones University in South Carolina; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Old Dominion Association of Church Schools students on winning the 2018 American Association of Christian Schools National Competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Old Dominion Association of Church Schools as an expression of the General Assembly's admiration for their legacy of national success.

**HOUSE JOINT RESOLUTION NO. 774**

*Commending the Asian American Chamber of Commerce.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for 10 years, the Asian American Chamber of Commerce, based in Tysons, has enhanced the economic vitality of the Commonwealth by supporting Asian American-owned businesses; and

WHEREAS, established in 2009, the Asian American Chamber of Commerce facilitates the growth and development of member businesses in Virginia, Maryland, and Washington, D.C., through special events, expos, workshops, and seminars; and

WHEREAS, the Asian American Chamber of Commerce provides a networking platform for member businesses to share information and help members market their products and services to consumers; and

WHEREAS, membership in the Asian American Chamber of Commerce not only creates high visibility in the local community but also offers members a tangible link to markets throughout the Asia-Pacific region; and

WHEREAS, with Asian American-owned businesses generating more than half of all revenue from minority-owned businesses, the Asian American Chamber of Commerce plays a pivotal role in the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Asian American Chamber of Commerce on the occasion of its 10th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Asian American Chamber of Commerce as an expression of the General Assembly's admiration for its achievements in service to Asian American-owned businesses in Virginia.

**HOUSE JOINT RESOLUTION NO. 775**

*Commending the Northwest Federal Credit Union Foundation.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for 15 years, the Northwest Federal Credit Union Foundation, the charitable arm of Northwest Federal Credit Union, has strengthened communities in Northern Virginia by supporting scholarships and other youth outreach programs; and

WHEREAS, the Northwest Federal Credit Union Foundation was established in 2004 to promote and manage the credit union's philanthropic activities; the organization formed its first partnership with Dranesville Elementary School in Herndon that same year and has formed similar partnerships with schools throughout Herndon and Vienna; and

WHEREAS, the Northwest Federal Credit Union Foundation has donated more than \$150,000 to the Children's Miracle Network, and its members have volunteered more than 2,220 hours of their time to mentor elementary school students; and

WHEREAS, the Northwest Federal Credit Union Foundation has awarded \$554,000 to local students through the Ben DeFelice Scholarship Program and \$93,000 through the Central Intelligence Retirees Association Scholarship Program; the organization has also formed a need-based community college scholarship program; and

WHEREAS, in addition to its work with young people, the Northwest Federal Credit Union Foundation has collected countless items and raised more than \$22,000 for food, toy, clothing, and school supply drives and delivered more than 2,500 meals through Meals on Wheels; and

WHEREAS, outside of Virginia, the Northwest Federal Credit Union Foundation has donated thousands of dollars to relief funds for Hurricane Katrina in 2005 and Typhoon Haiyan in 2013; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Northwest Federal Credit Union Foundation on the occasion of its 15th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Northwest Federal Credit Union Foundation as an expression of the General Assembly's admiration for the organization's legacy of charitable giving and support for the young people of Northern Virginia.

**HOUSE JOINT RESOLUTION NO. 776**

*Commending the National Active and Retired Federal Employees Association Vienna-Oakton Chapter 1116.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, in 2019, the National Active and Retired Federal Employees Association Vienna-Oakton Chapter 1116 in Fairfax County celebrates its 50th anniversary of representing the interests of federal workers and retirees by protecting pay and benefits; and

WHEREAS, the mission of the National Active and Retired Federal Employees Association (NARFE) is to support legislation beneficial to current and potential federal annuitants; and

WHEREAS, NARFE promotes the general welfare of current and potential federal annuitants by advising them with respect to their rights under retirement laws and regulations; and

WHEREAS, NARFE acts as an information resource for its members on complex issues regarding federal retirement, health care, life insurance, compensation, and other benefits, as well as acting as a legislative voice; and

WHEREAS, the board members of NARFE Vienna-Oakton Chapter 1116 work diligently to uphold the association's mission and promote the welfare of area members, as well as to participate in the Virginia Federation of NARFE meetings; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the National Active and Retired Federal Employees Association Vienna-Oakton Chapter 1116 in Fairfax County on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to National Active and Retired Federal Employees Association Vienna-Oakton Chapter 1116 president Kathy Arpa as an expression of the General Assembly's admiration for the organization's commitment to preserving the dignity of federal retirees.

### HOUSE JOINT RESOLUTION NO. 777

*Commending Rizwan Jaka.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Rizwan Jaka, chair of the Board of Trustees of the All Dulles Area Muslim Society Center, the second largest mosque in the United States, has promoted strong interfaith ties and positive civic engagement throughout Northern Virginia; and

WHEREAS, a graduate of the University of Texas at Austin, Rizwan Jaka works in the technology industry and is an active member of the community; he has held leadership roles within the All Dulles Area Muslim Society (ADAMS) Center for more than 16 years; and

WHEREAS, Rizwan Jaka has helped the ADAMS Center grow and provide opportunities for worship, advocacy, and education to thousands of people of all faiths in Northern Virginia, facilitating trust, mutual respect, and cooperation to advance the common good; and

WHEREAS, as a former youth athletics coach and the head of the ADAMS Center's Boy Scouts of America program, Rizwan Jaka places a special emphasis on developing youth leaders who have the tools to become productive citizens of the Commonwealth; and

WHEREAS, through his work with ADAMS Center, Rizwan Jaka works to correct misconceptions about American Muslims and supports the Muslim community's unique role in combating violent extremism; and

WHEREAS, Rizwan Jaka is a board member and former chair of the InterFaith Conference of Metropolitan Washington and a former board member of the Islamic Society of North America; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Rizwan Jaka for his dedication to interfaith cooperation and positive community leadership; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rizwan Jaka as an expression of the General Assembly's admiration for his work to strengthen the Northern Virginia community as a whole.

### HOUSE JOINT RESOLUTION NO. 778

*Commending Margaret Vanderhye.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Margaret Vanderhye, executive director of the Virginia Commission for the Arts, departed her position in June 2018; and

WHEREAS, Margaret "Margi" Vanderhye was appointed to the position by former Governor Terence R. McAuliffe in 2014 after decades of leadership; she previously served in the Virginia House of Delegates, representing the 34th district which encompasses McLean; and

WHEREAS, Margi Vanderhye served for six years as a Presidential appointee to the National Capital Planning Commission during the Clinton administration, chairing the commission's Joint Memorials and Museums Task Force which developed an esteemed master plan for monuments, memorials, and museums; and

WHEREAS, Margi Vanderhye was the vice chair for the McLean Project for the Arts and served as an appointee to the Northern Virginia Advisory Panel for the Virginia Commission for the Arts (VCA); and

WHEREAS, as executive director of the VCA, Margi Vanderhye has been credited with being a "relentless warrior" in her efforts to ensure the preservation and expansion of funding for the arts; under her leadership, the VCA paved the way for the vibrant and diverse cultural amenities and programs enjoyed in every corner of the Commonwealth; and

WHEREAS, highlights of Margi Vanderhye's achievements during her tenure include honoring some of Virginia's finest artists and arts leaders through the VCA's 50th anniversary program; strengthening the VCA's Artists in Education Program; transitioning the Commission to an online grants management system; encouraging increased networking and collaboration among arts partners; and taking the lead on arts and military wellness and healing programs; and

WHEREAS, numerous arts organizations throughout the Commonwealth thrive today because of the support of the VCA under Margi Vanderhye's leadership; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Margaret Vanderhye for her successful tenure as executive director of the Virginia Commission for the Arts; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Margaret Vanderhye as an expression of the General Assembly's admiration for her leadership and dedication to strengthening cultural life throughout the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 779

*Commending Eagle Scouts Cycling Across America 2018.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Eagle Scouts Cycling Across America 2018 rode from Seattle, Washington, to Great Falls to promote the Scout lifestyle and support their fellow Scouts by raising money for camperships and other programs; and

WHEREAS, between June 17 and August 21, 2018, Eagle Scouts Cycling Across America 2018 visited 15 states and Washington, D.C., covering 4,000 miles and stopping to visit numerous Scout troops and camps along the way; and

WHEREAS, Eagle Scouts Cycling Across America 2018 partnered with the Rotary Club of Great Falls to accept donations in support of world and national jamboree camperships, as well as bicycling programs to encourage healthy lifestyles; and

WHEREAS, the Eagle Scouts Cycling Across America 2018 team consisted of six Eagle Scouts from Virginia, two from California, one from Pennsylvania, and one from Florida, as well as friends, family members, and Scout leaders; and

WHEREAS, four of the Virginia Eagle Scouts hailed from Troop 55 in Great Falls—William Nowak of Langley High School, Wesley Pan of Virginia Polytechnic Institute and State University, James Ye of Thomas Jefferson High School of Science and Technology, and Scoutmaster Gary Pan; Brandon Bolick of the University of Virginia and Phillip Bolick of Abingdon High School also represented the Commonwealth; and

WHEREAS, Eagle Scouts Cycling Across America 2018 received national media coverage and was the subject of a cover story in the Boy Scouts of America's monthly magazine, *Boy's Life*; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Eagle Scouts Cycling Across America 2018 for its work to engage with and support fellow Boy Scouts throughout the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Boy Scouts of America Troop 55 in Great Falls as an expression of the General Assembly's admiration for the impressive achievements of Eagle Scouts Cycling Across America 2018.

### HOUSE JOINT RESOLUTION NO. 780

*Commending Maqsood Chaudhry.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Maqsood Chaudhry was awarded an InterFaith Bridge Builders Award from the InterFaith Council of Metropolitan Washington on June 24, 2018; and

WHEREAS, Maqsood Chaudhry is a Falls Church-based dentist with degrees from West Virginia University School of Dentistry and the University of Punjab in Lahore, Pakistan; and

WHEREAS, starting with the modest Grove Dental Clinic at Bailey's Crossroads, Maqsood Chaudhry has expanded his practice by opening several offices around Northern Virginia in Alexandria, Falls Church, Herndon, Tysons, Springfield, and Sterling, growing his expertise in the field of implants; and

WHEREAS, Maqsood Chaudhry has contributed his dental expertise to those needing dental services through the Give Kids A Smile program at the Northern Virginia Dental Society's free clinics, and at Adams Compassionate Healthcare Network; and

WHEREAS, as a community activist, Maqsood Chaudhry has supported many local and national charities and served on the board of a non-profit free health clinic in Virginia; he supports the community service projects of the Jewish Temple Rodef Shalom in Falls Church, Muslims Against Hunger project, the McLean Islamic Center, Stop-Hunger Now, and many other community service projects of his Rotary Club; and

WHEREAS, Maqsood Chaudhry contributes to and participates in many interfaith activities; as a trustee and past president of the McLean Islamic Center, he has hosted and arranged numerous Muslim and Jewish leaders' interfaith activities under the umbrella of the Jewish-Islamic Dialogue Society and other similar interfaith groups, striving to build bridges between followers of differing religions around the globe; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Maqsood Chaudhry for receiving the InterFaith Bridge Builders Award from the InterFaith Council of Metropolitan Washington; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Maqsood Chaudhry as an expression of the General Assembly's admiration for his efforts to strengthen understanding between people of different faiths.

### HOUSE JOINT RESOLUTION NO. 781

*Celebrating the life of Thelma Virginia Dodson.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Thelma Virginia Dodson, a compassionate community leader in Loudoun County, died on June 29, 2018; and WHEREAS, after 15 years with the Department of Defense and at age 47, Thelma Dodson changed careers and became a licensed practical nurse, devoting herself to home care and hospice work; and

WHEREAS, Thelma Dodson engaged in many community projects to give a voice to those in need, and she supported many causes about which she felt strongly, including the Loudoun County Mental Health Center, NAACP, Loudoun Douglass Alumni Association, and the Bluemont Concert Series; and

WHEREAS, when Thelma Dodson's son, Poonie, died from HIV/AIDS in 1993, she offered support and solidarity at a time when those suffering from the disease were regarded with suspicion by some communities; and

WHEREAS, Thelma Dodson designed and made a panel in honor of her son for the NAMES Project AIDS Memorial Quilt and was a lead volunteer for the project, spending long hours and many days coordinating and unfolding the memorial quilt that contained 40,000 panels and 70,000 names; she was one of many distinguished readers selected to proudly announce those names on the steps of Capitol Hill; and

WHEREAS, in 2012, Thelma Dodson launched the Virginia Women for Obama organization, and between 2012 and the end of 2017, when she became ill, she worked on every local, state, and federal election campaign in Loudoun County; she spent many hours at campaign offices, where she was involved in canvassing, phone banking, training other volunteers, running staging locations, and providing food for volunteers and staffers; and

WHEREAS, Thelma Dodson was a consummate volunteer—efficient, energetic, organized, always kind-hearted, and always present when needed; and

WHEREAS, predeceased by one son, Poonie, Thelma Dodson will be fondly remembered and greatly missed by her husband of 60 years, Alvin; her son, Alvin, Jr., and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thelma Virginia Dodson, a passionate activist who made a difference in countless lives in Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thelma Virginia Dodson as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 782

*Commending Chapel Grove United Church of Christ.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Chapel Grove United Church of Christ in Windsor celebrated its 150th anniversary on October 20, 2018; and

WHEREAS, Chapel Grove United Church of Christ is the oldest and largest African American congregation in Isle of Wight County, tracing its roots to the time after the Civil War, when many African Americans broke away from white churches to hold their own worship services in whatever locations were available to them; and

WHEREAS, in 1868, the founding members of the Chapel Grove United Church of Christ left Antioch Church to establish their own faith community; those congregants began holding services a few miles away under a bush arbor, coming together in a central place once a month, with some members traveling miles and leaving home early and returning late or even staying overnight; and

WHEREAS, in 1899, the congregation of Chapel Grove United Church of Christ acquired property for the construction of a new church building, which was completed in 1916; originally the name of the Church was Chapel Grove Congregational Christian Church, and the final name change occurred when the congregation merged with the United Church of Christ in 1957, leading to 80 Tidewater-area churches merging into a single association; and

WHEREAS, Chapel Grove United Church of Christ continues to be a member in good standing with the Eastern Virginia District of the Southern Conference of the United Church of Christ; and

WHEREAS, Chapel Grove United Church of Christ has been instrumental in sponsoring many civic, health, cultural, educational, and religious programs in which both youths and adults in the community benefit; the church also works with the Isle of Wight Sheriff's Department to promote career choices for youths after high school graduation; and

WHEREAS, Chapel Grove United Church of Christ took an active role in the Town of Windsor's centennial celebration and sponsors programs at the Georgie D. Tyler Middle School in Windsor, which sits on the property that held the first segregated African American public school, where many of the current and former church members were educated or were teachers and principals; and

WHEREAS, the Chapel Grove United Church of Christ has led numerous other programs to assist the community and its congregants, including a daycare, events, and scholarships that promote students' academic progress, and winter nutrition and heating assistance for the less fortunate; and

WHEREAS, the minister of Chapel Grove United Church of Christ, the Reverend H. Carlyle Church, Jr., works tirelessly to bring the congregation together through biblical scripture and yearly events, large and small, to maintain a spiritual community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Chapel Grove United Church of Christ on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend H. Carlyle Church, Jr., spiritual leader of Chapel Grove United Church of Christ, as an expression of the General Assembly's admiration for the church's legacy of contributions to the community of Isle of Wight County.

### HOUSE JOINT RESOLUTION NO. 783

*Commending the Chantilly High School field hockey team.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Chantilly High School field hockey team won the Virginia High School League Region 6D North championship on November 1, 2018; and

WHEREAS, the Chantilly High School Chargers defeated the Langley High School Saxons by a score of 2-1; and WHEREAS, Chantilly's Allison Green, Adriana Risi, and Taylor Bui were named to the All-Region 1st Team; Alexis Tacinelli was named to the All-Region 2nd Team; and Tina Plaugher was named Regional Coach of the Year; and

WHEREAS, the Chantilly Chargers won the Concorde District title and ultimately finished the season with an impressive 17-5 record; and

WHEREAS, each of the student-athletes contributed to the victory and benefited from the leadership of the coaches and staff and the enthusiastic support of the entire Chantilly High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chantilly High School field hockey team on winning the 2018 Virginia High School League Region 6D North championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tina Plaugher, head coach of the Chantilly High School field hockey team, as an expression of the General Assembly's admiration for the team's achievements.

### HOUSE JOINT RESOLUTION NO. 784

*Commending the Chantilly High School volleyball team.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Chantilly High School volleyball team won the Virginia High School League Class 6 state championship on November 16, 2018, capping off an undefeated season with its first state title in program history; and

WHEREAS, the Chantilly High School Chargers swept the Frank W. Cox High School Falcons 3-0 to take the state crown; and

WHEREAS, the Chantilly Chargers' stifling defense set the tone early, forcing the Cox Falcons to angle their shots out of bounds, and Chantilly's three outside hitters, Morgahn Fingall, Celie Feighery, and Mujay Mambu, combined for 27 kills; and

WHEREAS, on the road to the state final and a perfect 29-0 finish, the Chantilly Chargers dominated every opponent, losing only three sets in the entire season; and

WHEREAS, after the state win, the Chantilly Chargers were ranked as the top high school volleyball team in Virginia by *The Washington Post*; and

WHEREAS, the victorious season is a testament to the hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the energetic support of the entire Chantilly High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chantilly High School volleyball team on winning the 2018 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charles Ezigbo, head coach of the Chantilly High School volleyball team, as an expression of the General Assembly's admiration for the team's hard work and historic accomplishments.

### HOUSE JOINT RESOLUTION NO. 785

*Commending the Highland Springs High School football team.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, with a win in the 2018 Virginia High School League Class 5 state championship, the Highland Springs High School football team of Henrico County made history as only the third high school team in the Commonwealth to claim four consecutive state titles; and

WHEREAS, the Highland Springs High School Springers defeated the Stone Bridge High School Bulldogs by a score of 37-26 in the state final held at Hampton University; and

WHEREAS, the Highland Springs Springers, who routinely use their athleticism and dynamic offense to spread opposing defenses thin, took a 16-point lead over the Stone Bridge Bulldogs in the second quarter and never looked back; and

WHEREAS, the state championship win capped off a perfect 15-0 season for the Highland Springs Springers, who now hold the longest active winning streak in Virginia with 20 consecutive postseason wins and 29 wins overall; and

WHEREAS, each of the Highland Springs High School football team's student-athletes, coaches, and staff members contributed to the momentous victory; and

WHEREAS, throughout the season, the Highland Springs Springers enjoyed the support of friends, family members, and the entire Highland Springs High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Highland Springs High School football team for winning the Virginia High School League Class 5 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Loren Johnson, head coach of the Highland Springs High School football team, as an expression of the General Assembly's admiration for the team's historic achievements and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 786

*Commending Northern Neck Ginger Ale.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Northern Neck Ginger Ale, a beloved locally made product and an institution in the Montross community, has delighted connoisseurs of one of the world's most well-known soft drinks with its unique taste for more than 90 years; and

WHEREAS, Northern Neck Ginger Ale was first produced by Arthur Carver, Sr., of Northern Neck Bottling Company in 1926 and was originally known as Carver's Special; the recipe called for only three ingredients: ginger extract, cane sugar, and artesian well water; and

WHEREAS, the name was changed to Northern Neck Ginger Ale in 1932, and a second blend known as Carver's Original was introduced in 1992; the company also began offering a diet variant known for its even stronger ginger flavor; and

WHEREAS, a hometown favorite, Northern Neck Ginger Ale was a hidden gem sold almost exclusively on the Northern Neck for much of its history; ownership of Northern Neck Bottling Company passed down through the Carver family until 2002, when the Coca-Cola Company purchased the rights to distribute the company's acclaimed products; and

WHEREAS, Northern Neck Ginger Ale was designated as one of "Virginia's Finest" products by the Virginia Department of Agriculture and Consumer Services, in recognition of Northern Neck Coca-Cola Bottling Company's commitment to using only the finest ingredients; and

WHEREAS, in addition to its well-earned state and national accolades, Northern Neck Ginger Ale's devoted following has made it a symbol of the region and a facet of local culture for generations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Northern Neck Ginger Ale for more than 90 years as a Northern Neck icon; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Northern Neck Coca-Cola Bottling, Inc., as an expression of the General Assembly's admiration for Northern Neck Ginger Ale's history and success as a Virginia-made product.

### HOUSE JOINT RESOLUTION NO. 787

*Commending Vinson Hall Retirement Community.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for 50 years, Vinson Hall Retirement Community in McLean has provided a senior living community that fosters dignity, security, and friendship; and

WHEREAS, Vinson Hall Retirement Community traces its roots to the late 1950s, when the Navy Officers' Wives' Club began to develop the concept for a secure, companionable, and dignified home for Navy widows; and

WHEREAS, the idea quickly gained support among sea service leaders, as well as Navy, Marine, and Coast Guard wives' clubs throughout the world, and the precursor to Vinson Hall Retirement Community, the Navy Marine Coast Guard Residence Foundation, was formed in 1961; and

WHEREAS, Vinson Hall Retirement Community opened its doors on June 23, 1969, and has since expanded to offer an assisted living and nursing residence at Arleigh Burke Pavilion, a memory support residence at The Sylvestery, and an independent living building; and

WHEREAS, Vinson Hall Retirement Community accommodates every resident's changing life needs, and the Navy Marine Coast Guard Residence Foundation continues to support programs for residents at all Vinson Hall locations; and

WHEREAS, Vinson Hall Retirement Community fulfills its mission to help residents live a full, enriched life through the hard work of its dedicated staff members and volunteers, as well as through partnerships with businesses and organizations throughout the region; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Vinson Hall Retirement Community on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Vinson Hall Retirement Community as an expression of the General Assembly's admiration for its five decades of service to seniors in McLean.

### HOUSE JOINT RESOLUTION NO. 788

*Commending CrisisLink.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, CrisisLink, a 24-hour mental health and suicide-prevention call center based in Arlington, which is affiliated with the National Suicide Prevention Lifeline, has served those in need of support for 50 years; and

WHEREAS, founded in a church basement in 1969, CrisisLink originally responded to calls related to teen drug abuse and relationship problems; it has grown to field more than 20,000 calls each year, with the majority handled by trained volunteers; and

WHEREAS, after the attacks on September 11, 2001, CrisisLink established a satellite at Virginia Hospital Center and answered more than 6,000 calls in 48 hours; and

WHEREAS, after the National Suicide Prevention Lifeline was formed in 2004, CrisisLink became one of more than 150 local crisis centers affiliated with the organization; and

WHEREAS, in June 2014, CrisisLink launched a crisis texting program in Fairfax County, resulting in 300 additional conversations within three months; that same year, the center merged with Psychiatric Rehabilitation Services, an Arlington-based mental health nonprofit organization, to better serve its callers; and

WHEREAS, throughout its history, CrisisLink has touched countless lives by providing free, confidential support to members of the community in their time of need; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend CrisisLink on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Wendy Gradison, executive director of CrisisLink, as an expression of the General Assembly's admiration for the organization's important mission and dedicated service to the residents of Northern Virginia.

### HOUSE JOINT RESOLUTION NO. 789

*Commending the Public Broadcasting Service.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for 50 years, the Public Broadcasting Service (PBS), a public nonprofit television broadcasting network headquartered in Arlington, has provided high-quality educational and informative programming to audiences throughout Virginia and the United States; and

WHEREAS, established in 1969, PBS assumed many of the core functions of its predecessor, the National Educational Television network; PBS commenced broadcasting on October 5, 1970; and

WHEREAS, PBS merged with Educational Television Stations in 1973 and has since grown to include a network of more than 350 member stations in all 50 states, with some stations available in Canada; and

WHEREAS, unlike commercial broadcasters, PBS does not accept money for advertisements and is supported through federal funding, private donations, and pledge drives in an effort to ensure objectivity, balance, and universal access; and

WHEREAS, PBS is collectively owned by its member stations, which produce the network's news, documentary, and entertainment programming; PBS has distributed a number of highly regarded educational children's shows, and its evening schedules feature programs on the fine arts, drama, science, history, public affairs, and independent films; and

WHEREAS, throughout its history, PBS has inspired young people as the nation's largest classroom, enriched cultural life as the largest stage for the arts, and provided all viewers with a trusted window to the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Public Broadcasting Service on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Public Broadcasting Service as an expression of the General Assembly's admiration for the network's legacy of enlightening, informing, and entertaining generations of viewers.

### HOUSE JOINT RESOLUTION NO. 790

*Celebrating the life of Jhoon Goo Rhee.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Jhoon Goo Rhee, a pioneering Tae Kwon Do instructor who helped countless students throughout the United States and the world develop self-discipline and enhance physical and mental fitness through martial arts, died on April 30, 2018; and

WHEREAS, a native of Korea, Jhoon Rhee began to study the newly developed martial arts style of Tae Kwon Do while he attended high school in Seoul in the 1940s; at the outset of the Korean War, he worked as an interpreter for the United States Air Force, then was drafted by the Republic of Korea Armed Forces; and

WHEREAS, in 1956, Jhoon Rhee became the first person to offer Tae Kwon Do instruction in the United States when he began teaching informal classes at Edward Gary Air Force Base in Texas; six years later, he accepted a position with a karate school in Washington, D.C., and subsequently opened his own studio; and

WHEREAS, Jhoon Rhee revolutionized Tae Kwon Do instruction by devising a martial arts ballet, in which forms and movements are performed to music, and by using safety equipment such as foam padding for the head, hands, and feet; and

WHEREAS, in 1965, Jhoon Rhee formed the Congressional Tae Kwon Do Club, offering free lessons in the basement of the United States Capitol, where he instructed more than 250 lawmakers, including former Speaker of the House Newt Gingrich and former Vice President Joe Biden; and

WHEREAS, in the 1970s, Jhoon Rhee became a household name when he started running television commercials for his studios with a catchy jingle written by his former student, Nils Lofgren of the E Street Band; and

WHEREAS, a 10th degree black belt who could perform incredible feats of strength and control, Jhoon Rhee worked with Bruce Lee, Muhammad Ali, and Chuck Norris, and by the 1980s, he operated a network of 11 studios serving more than 10,000 students throughout the Washington, D.C., region, including in the 48th District of Virginia; and

WHEREAS, Jhoon Rhee introduced Tae Kwon Do to the countries of the former Soviet Union, with Jhoon Rhee affiliate schools operating in Kazakhstan, Russia, Ukraine, and Uzbekistan; and

WHEREAS, Jhoon Rhee firmly believed that martial arts are not just a system of self-defense, but a way of life that gives each student the opportunity to unite mind and body in the pursuit of peace, understanding, and self-respect; and

WHEREAS, predeceased by his first wife, Han, Jhoon Rhee will be fondly remembered and greatly missed by his wife of 20 years, Theresa; his children, Chun, James, Joanne, and Meme, and their families; and numerous other family members, friends, and former students; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jhoon Goo Rhee; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jhoon Goo Rhee as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 791

*Commending Virginia Commonwealth University.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Virginia Commonwealth University, which in 2018 celebrated the 180th anniversary of its founding and 50th anniversary under its current name, is committed to providing quality higher education and exemplary programs and services to the citizens of Virginia; and

WHEREAS, the Medical College of Virginia was established in 1838 as the medical department of Hampden-Sydney College, and the Richmond Professional Institute was established in 1917 as the Richmond School of Social Work and Public Health; and

WHEREAS, the 1968 merger of the Medical College of Virginia and Richmond Professional Institute created Virginia Commonwealth University, now one of the Commonwealth's largest public universities with 32,000 students; and

WHEREAS, Virginia Commonwealth University now has a \$6 billion impact on the Commonwealth through its commitments to education, research, innovation, creativity, health care, and social engagement; and

WHEREAS, Virginia Commonwealth University has increased its graduation rate by 37 percent in the last decade, one of the largest surges in the nation; and

WHEREAS, Virginia Commonwealth University has 19 nationally ranked academic programs, including six programs in their respective top five slots and two programs, nursing anesthesia and fine arts-sculpture, ranked the best in the nation; and

WHEREAS, Virginia Commonwealth University conducts groundbreaking research, offers relevant courses, delivers leading-edge medical care, and provides 1.3 million hours of service across Virginia and beyond; and

WHEREAS, Virginia Commonwealth University is recognized as a leader in teaching, research, public service, and patient care for the City of Richmond, the Commonwealth of Virginia, and the United States; and

WHEREAS, throughout its history, Virginia Commonwealth University has preserved its rich educational heritage, while recognizing the opportunities of the present and preparing for the challenges of the future; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Virginia Commonwealth University on the occasion of the 180th anniversary of its founding and 50th anniversary under its current name; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Michael Rao, president of Virginia Commonwealth University, as an expression of the General Assembly's admiration for the university's outstanding efforts to provide exceptional services in the area of higher education and health care.

### HOUSE JOINT RESOLUTION NO. 792

*Commending the New River Valley Regional Commission.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the New River Valley Regional Commission was chartered on October 9, 1969, establishing a Planning District Commission to serve Virginia's New River Valley; and

WHEREAS, the 50th anniversary of the New River Valley Regional Commission is an opportunity to recognize the agency's contributions to the betterment of the region and the Commonwealth; and

WHEREAS, the New River Valley Regional Commission was chartered following the visionary leadership provided by the General Assembly's 1968 Hahn Commission, which set forth the importance of working together regionally for the efficiencies of service delivery and economic well-being; and

WHEREAS, the initial localities that created the New River Valley Regional Commission included the Counties of Floyd, Giles, Montgomery, Pulaski; the City of Radford; and the Towns of Blacksburg, Christiansburg, and Pulaski; and

WHEREAS, the New River Valley Regional Commission's membership has since expanded twice, in 2000 and 2018, with membership now including Virginia Polytechnic Institute and State University, Radford University, New River Community College, and the Towns of Floyd, Pearisburg, Pembroke, Narrows, and Rich Creek; and

WHEREAS, the 2018 membership expansion included the first community college in Virginia to join a Planning District Commission, New River Community College, which exemplifies one of the region's key strengths, the ability of local governments to collaborate with higher education institutions to increase economic prosperity and enhance service delivery; and

WHEREAS, the New River Valley Regional Commission has remained focused on delivering services to support area-wide planning for the physical, social, and economic elements of the region; helping members plan for their future; coordinating federal, state, and local efforts to secure resources to address challenges and opportunities; and implementing projects as requested; and

WHEREAS, the New River Valley Regional Commission serves as an Economic Development District established by the United States Economic Development Administration and a Local Development District for the Appalachian Regional Commission, which directly benefits the region by securing federal funds to address local issues; and

WHEREAS, the members of the New River Valley Regional Commission have utilized the structure provided by the agency to establish many impactful regional solutions for issues such as community corrections, industrial park development, water and waste water systems, small business development, foreign trade zone designation, broadband planning and implementation, economic development, and preservation of natural resources; and

WHEREAS, the New River Valley Regional Commission has addressed hazard mitigation, emergency services, cultural heritage development, human services, outdoor recreation asset development, water quality planning, transportation infrastructure, housing, downtown revitalization, tourism marketing, financial services, analytical mapping services, early childhood education, organizational development, and capacity building among elected and appointed officials; and

WHEREAS, the New River Valley Regional Commission continues to provide a critical forum for collaboration that benefits the residents of the region and the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the New River Valley Regional Commission on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the New River Valley Regional Commission as an expression of the General Assembly's admiration for its contributions to the New River Valley and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 793

*Commending Bishop Curtis Eugene Edmonds, Sr.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Bishop Curtis Eugene Edmonds, Sr., a highly admired religious leader and a pillar of the Portsmouth community, will retire as senior pastor of St. Mark Missionary Baptist Church in 2019; and

WHEREAS, a proud Portsmouth native, Curtis Edmonds graduated from I. C. Norcom High School, served his country as a member of the United States Air Force during the Vietnam War, then earned a bachelor's degree from Norfolk State University; and

WHEREAS, Curtis Edmonds answered the call to ministry and became a pastor of St. Mark Missionary Baptist Church in 1992; under his able leadership, the church has created dozens of new ministries, grown from 350 to 2,400 members, and moved to a state-of-the-art, 52,200-square-foot facility; and

WHEREAS, after his retirement from Norfolk Naval Shipyard as an industrial engineer technician in 1993, Curtis Edmonds attended Virginia Union University School of Theology; he continued his studies at United Theological Seminary in Ohio and Boston University School of Theology and has preached in communities throughout the world; and

WHEREAS, Curtis Edmonds earned the love and respect of his congregation for his kindness and generosity, and in recognition of his dedicated leadership and spiritual wisdom, St. Mark Missionary Baptist Church named him as the first bishop in the church's 115-year history; and

WHEREAS, over the course of his distinguished career, Curtis Edmonds has served as president of the Tidewater Metro Baptist Ministers' Conference, advisor to the Portsmouth Branch of the NAACP, and as a member of the Portsmouth City Council from 2010 to 2016; he has earned numerous awards and accolades for his personal and professional accomplishments; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bishop Curtis Eugene Edmonds, Sr., on the occasion of his retirement as senior pastor of St. Mark Missionary Baptist Church; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bishop Curtis Eugene Edmonds, Sr., as an expression of the General Assembly's admiration for his achievements in service to the Portsmouth community.

**HOUSE JOINT RESOLUTION NO. 794***Commending Freddy Gerald Lawson, Jr.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Freddy Gerald Lawson, Jr., a respected member of the Norton community, was inducted into the John I. Burton High School Hall of Fame in 2018; and

WHEREAS, Gerald Lawson has served and safeguarded his fellow Norton residents as a member of the Norton Volunteer Fire Department since 1972 and as a member of the Norton Rescue Squad Board of Directors since 2012; and

WHEREAS, Gerald Lawson has offered his leadership to the community as a member of the Norton Board of Zoning Appeals since 2014; and

WHEREAS, a 1970 graduate of John I. Burton High School, Gerald Lawson has been a dedicated member of the John I. Burton Football Chain Gang since 1973; he was inducted into his alma mater's Hall of Fame in recognition of his legacy of support for the school's athletics programs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Freddy Gerald Lawson, Jr., on his induction into the John I. Burton High School Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Freddy Gerald Lawson, Jr., as an expression of the General Assembly's admiration for his contributions to the Norton community.

**HOUSE JOINT RESOLUTION NO. 795***Celebrating the life of Leslie Bain Lord.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Leslie Bain Lord of Oakton, a longtime civil servant who supported the members of the United States Armed Forces, died on September 20, 2018; and

WHEREAS, a native of Jackson, Mississippi, Leslie Lord graduated from Forest Hill High School in Jackson and received a bachelor's degree from Belhaven University and a master's degree from The George Washington University; and

WHEREAS, Leslie Lord served his country as a member of the United States Army, then joined the United States Department of the Army at the Pentagon as a human resources specialist after his honorable discharge; and

WHEREAS, among his many professional accomplishments, Leslie Lord helped craft the policy that expedites the citizenship process for immigrants who serve in the military; and

WHEREAS, a man of deep and abiding faith, Leslie Lord enjoyed fellowship and worship with the congregation of Fairfax United Methodist Church, where he held numerous leadership roles, was a lay reader, and sang in the choir; and

WHEREAS, Leslie Lord was a member of the National Christian Choir who toured with the group in Europe and Russia, and an accomplished pianist; and

WHEREAS, Leslie Lord will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Leslie Bain Lord, a hardworking civil servant in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Leslie Bain Lord as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 796***Celebrating the life of John H. Chenard.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, John H. Chenard of Oakton, who served the Commonwealth and the United States for many years as an officer in the United States Navy, died on December 1, 2018; and

WHEREAS, a native of East Meadow, New York, John Chenard grew up in Bucksport, Maine, and attended the United States Naval Academy in Maryland; and

WHEREAS, John Chenard spent his first years in the United States Navy aboard the destroyers USS *Ault*, USS *Charles H. Roan*, and USS *Charles R. Ware* and guided missile cruisers USS *Belknap* and USS *Harry E. Yarnell*, serving during the Cuban Missile Crisis and the Vietnam War; and

WHEREAS, John Chenard worked primarily in weapons billets and managed nuclear warheads before earning master's degrees in aerospace physics from the Naval Postgraduate School and in electrical engineering from the University of California, Los Angeles; and

WHEREAS, John Chenard held several teaching positions at universities around the country, served as a director of land and sea testing for electrostatic gyro navigation systems, and was appointed as a representative to the Strategic Systems Project Office for the Sperry Corporation in New York; and

WHEREAS, John Chenard subsequently became the in-service engineer for 31 cruiser and destroyer weapons systems, director of long-range missile systems at Naval Sea Systems Command, and engineering and procurement manager for AEGIS Shipbuilding; and

WHEREAS, in addition, John Chenard served as a program manager for nuclear weapons at Sandia Base, New Mexico, and became director of the Board of Visitors of the Naval Postgraduate School; and

WHEREAS, after completing his military service, John Chenard enjoyed a second career in the private sector, working for Science Applications International Corporation and Leidos, among other companies; and

WHEREAS, in his well-earned retirement, John Chenard enjoyed spending time with his beloved family and working as a sailing instructor at Coasters Harbor Navy Yacht Club in Rhode Island; and

WHEREAS, John Chenard will be fondly remembered and greatly missed by his wife, Sheila; his sons, John, Christopher, and Michael, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of John H. Chenard; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John H. Chenard as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 797

*Celebrating the life of Mary Barbara Kirk Hoge.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Mary Barbara Kirk Hoge, a member of the Chantilly community who shared the joys of reading with young people as a librarian, died on March 20, 2018; and

WHEREAS, Barbara Hoge graduated from West Virginia University in 1964 with a bachelor's degree in library science; and

WHEREAS, before relocating to Fairfax County, Barbara Hoge promoted the importance of literacy and inspired students at Mannington High School and Stonewall Jackson High School in West Virginia; and

WHEREAS, in Chantilly, Barbara Hoge taught at Mother's Day Out preschool at Ox Hill Baptist Church and worked at the Chantilly Regional Library; and

WHEREAS, Barbara Hoge will be fondly remembered and greatly missed by her loving husband, Hampton; her children, Jennifer, David, and Sarah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Mary Barbara Kirk Hoge; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Barbara Kirk Hoge as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 798

*Celebrating the life of Earl V. Karl.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Earl V. Karl, a respected educator, veteran, and minister in Chantilly, died on February 2, 2018; and

WHEREAS, after graduating from Fairmont High School in 1965, Earl Karl honorably served his country as a member of the United States Marine Corps in Vietnam, earning the Purple Heart when he was wounded in combat; and

WHEREAS, Earl Karl graduated from Fairmont State University in 1971 and worked to prepare young people for success in higher education and careers as a high school teacher; he later earned a master's degree and Doctor of Ministry degree in 1990; and

WHEREAS, a man of deep and abiding faith, Earl Karl was passionate about sharing the good news of the Gospel with others and was an inspirational leader in his community; and

WHEREAS, Earl Karl will be fondly remembered and greatly missed by his devoted wife, Judy; his daughters, Melanie, Rachel, Jennifer, Stephanie, Michelle, and Shauna, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Earl V. Karl, who made many contributions to the Chantilly community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Earl V. Karl as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 799

*Celebrating the life of Thomas Francis Byrne.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Thomas Francis Byrne, a patriotic veteran and a respected member of the Centreville community, died on October 19, 2018; and

WHEREAS, Thomas Byrne served his country in the United States Army for 20 years, including two tours in Vietnam; and  
WHEREAS, in addition to his honorable military service, Thomas Byrne joined the United States Postal Service and worked as a rural letter carrier in Chantilly for more than two decades; and

WHEREAS, a devout Catholic, Thomas Byrne enjoyed fellowship and worship with the community and was an active member of the Knights of Columbus, proudly participating in the group's annual fundraisers for the Special Olympics; and

WHEREAS, Thomas Byrne will be fondly remembered and greatly missed by his wife, Kumson; his children, John and Timi, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thomas Francis Byrne; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Francis Byrne as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 800

*Celebrating the life of Robert Joseph Coniglio.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Robert Joseph Coniglio; a skilled information systems professional residing in Centreville, died on July 2, 2018; and

WHEREAS, Robert Coniglio was born and raised in Swoyersville, Pennsylvania; a graduate of Wyoming Valley West High School, he went on to further his education at College Misericordia, where he earned a bachelor's degree in management information systems; he then pursued a master's in business administration from The George Washington University; and

WHEREAS, for 25 years, Robert Coniglio was employed in the information technology division of General Dynamics, where he held the position of senior information technology manager, which involved information technology solutions for national-level assets; exceptionally knowledgeable and mechanically inclined, he was always up to date on the latest gadgets and was known to be able to repair just about anything; and

WHEREAS, Robert Coniglio had a friendly, helpful, and adventurous spirit and a passion for traveling, wind surfing, scuba diving, voyaging the sea on his sailing yacht, and flying a plane every chance he could; he also enjoyed playing guitar in his younger days; and

WHEREAS, Robert Coniglio will be fondly remembered and greatly missed by his mother, Joan; his siblings, William, Corine, and Jill, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert Joseph Coniglio, a skilled information systems professional; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Joseph Coniglio as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 801

*Celebrating the life of Cleonia B. Ramsey Agee Olson.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Cleonia B. Ramsey Agee Olson, an active member of the Fairfax County community, died on May 29, 2018; and

WHEREAS, Cleonia Olson was born in La Luz, New Mexico; her family moved to El Paso, Texas, where she graduated from Austin High School and was involved in many civic, community, and service organizations; she had the great honor of being selected as the El Paso Centennial Queen in 1950; and

WHEREAS, Cleonia Olson then attended Texas Western University, earning a Bachelor's of Science in education, and was involved in many campus, church, and community activities; and

WHEREAS, Cleonia Olson's life as a military spouse led her to live in Hawaii, back in El Paso, and then in Madison, Alabama; and

WHEREAS, as a Clifton resident since 1988, Cleonia Olson was active in Centreville Baptist Church, where she team-taught Sunday school to third and fourth graders with her husband; she was an active and caring neighbor and friend in the community; and

WHEREAS, Cleonia Olson will be fondly remembered and greatly missed by her husband, Martin; her children, James, David, and Kathryn and step-children, Sonia and Allen, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Cleonia B. Ramsey Agee Olson, an active member of Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Cleonia B. Ramsey Agee Olson as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 802

*Celebrating the life of Edna Bounds.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Edna Bounds, a vibrant member of the Fairfax County community, who served the Allied cause during World War II, died on March 2, 2018; and

WHEREAS, a native of Liverpool, England, Edna Bounds worked in a munitions factory after she graduated from high school at the outset of World War II; desirous to be of further service to her country, she joined the Women's Auxiliary Air Force in 1943; and

WHEREAS, after the war, she met her husband, John Arthur Bounds in Paris, and the couple were married for 47 years, living in Germany, Italy, Ohio, and Georgia, before settling in Virginia; and

WHEREAS, though she proudly remained a British citizen throughout her life, Edna Bounds made many contributions to the Fairfax County community as a volunteer for the American Cancer Society and Meals on Wheels; and

WHEREAS, Edna Bounds was well-known by friends and neighbors for her beautiful gardens, her musical talents, and her delicious homemade apple pies; and

WHEREAS, predeceased by her husband, Arthur, Edna Bounds will be fondly remembered and greatly missed by her children, Barbara and John, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Edna Bounds, a beloved resident of Centreville; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edna Bounds as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 803

*Commending the Chantilly High School boys' tennis team.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Chantilly High School boys' tennis team won the Virginia High School League Class 6 state championship on June 9, 2018; and

WHEREAS, the Chantilly High School Chargers defeated the Frank W. Cox High School Falcons 5-0 to claim their second team title in the last three years; and

WHEREAS, sophomore Will Pak, who had won the Class 6 singles title earlier in the week, won his matches in the team tournament 6-2 and 6-0, setting a tone for the rest of the Chantilly Chargers; and

WHEREAS, in the state final, junior Shaun Ganju won 6-0 and 6-2, junior Manu Balasubramanian won 6 -0 and 6 -1, sophomore Keith Orr won 6-3 and 6-0, and sophomore Manas Kethireddy won 6-3 and 6-4; and

WHEREAS, each of the Chantilly Chargers contributed to the victorious season, and the team won the Concorde District team title and district singles and doubles titles on the way to the state tournament; and

WHEREAS, throughout the season, the Chantilly Chargers benefited from the leadership of coaches and staff and the passionate support of friends, family members, and the entire Chantilly High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chantilly High School boys' tennis team on winning the 2018 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Matt Datta, head coach the Chantilly High School boys' tennis team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 804

*Commending Girl Scout Troop 3173.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, in 2018, Girl Scout Troop 3173 participated in Fairfax County's annual SpringFest event to raise awareness of ocean pollution caused by disposable plastic bottles; and

WHEREAS, Girl Scout Troop 3173 is made up of students from Waples Mill Elementary School and Hunters Woods Elementary School; the troop participates in the Girl Scout Council of the Nation's Capital; and

WHEREAS, after learning about the great Pacific garbage patch, an enormous collection of plastic and trash floating in the Pacific Ocean, and that if current trends continue, plastic pollution is estimated to outweigh fish in the oceans by 2050, the members of Girl Scout Troop 3173 resolved to make a difference; and

WHEREAS, the youngest exhibitors at SpringFest, the members of Girl Scout Troop 3173 created a display to simulate ocean pollution and invited attendees to pledge not to use single-use, disposable water bottles; and

WHEREAS, SpringFest is organized by the Clean Fairfax Council and is held on Earth Day; Girl Scout Troop 3173's exhibit was especially relevant given the theme of Earth Day 2018: End Plastic Pollution; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Girl Scout Troop 3173 for raising awareness of plastic pollution at Fairfax County's 2018 SpringFest; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Girl Scout Troop 3173 as an expression of the General Assembly's admiration for their commitment to protecting the Commonwealth's valuable natural resources.

### HOUSE JOINT RESOLUTION NO. 806

*Commending the Riverheads High School football team.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, with a victory in the Virginia High School League Class 1 state championship, the Riverheads High School football team claimed its third consecutive state title on December 8, 2018; and

WHEREAS, in a rematch of the previous season's state final, the Riverheads High School Gladiators defeated the Chilhowie High School Warriors 35-7; and

WHEREAS, the Riverheads Gladiators shut down the Chilhowie Warriors' explosive offense and led 7-0 after a tense first half; and

WHEREAS, the Riverheads Gladiators broke the game wide open in the second half, scoring four more touchdowns, including one from an interception; and

WHEREAS, the Virginia High School League named Riverheads' Blake Smith as Defensive Player of the Year and Robert Casto, who retired after 23 seasons as head coach, as Coach of the Year; and

WHEREAS, each member of the Riverheads High School football team contributed to the state tournament win, which capped off an impressive 13-1 season; and

WHEREAS, throughout the year, the Riverheads Gladiators benefited from the leadership and guidance of coaches and staff and the support of friends, family members, and the entire Riverheads High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Riverheads High School football team on winning the 2018 Virginia High School League Class 1 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Riverheads High School football team as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 807**

*Commending Robert Casto.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Robert Casto, who led the Riverheads High School football team to six state championships over the course of 23 seasons, retired as head coach of the team in 2019; and

WHEREAS, Robert Casto worked as an assistant coach at Buffalo Gap High School and head coach at Chincoteague High School before becoming an assistant coach at Riverheads High School; and

WHEREAS, named head coach of the Riverheads High School Gladiators in 1996, Robert Casto led the team to a playoff appearance within three years and capped off an undefeated season with a state championship victory in 2000; and

WHEREAS, under Robert Casto's leadership, the Riverheads Gladiators won additional state titles in 2006, 2010, 2016, 2017, and 2018; and

WHEREAS, known for his ability to adapt to his players' strengths, Robert Casto finished his coaching career at Riverheads High School with an incredible 222-59 record; he was named by the Virginia High School League as Class 1 Coach of the Year at the end of his final season; and

WHEREAS, Robert Casto has been an exceptional mentor and role model to his players both on and off the football field; after his well-earned retirement from coaching, he will continue to serve students as a physical education teacher and support the Riverheads Gladiators from the sidelines; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert Casto on the occasion of his retirement as head coach of the Riverheads High School football team; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Casto as an expression of the General Assembly's admiration for his achievements and service to the young people of Augusta County.

**HOUSE JOINT RESOLUTION NO. 808**

*Commending the Byrd Theatre.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, for 90 years, the Byrd Theatre in Richmond has entertained and educated generations of Virginians and visitors through its mission to expand the big screen experience, celebrate the art of cinema, and preserve the legacy of the nation's grand motion picture palaces; and

WHEREAS, built in 1928, the Byrd Theatre is named for William Byrd, founder of Richmond, and is listed on the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, the Byrd Theatre is a fine example of the opulent movie palaces of the 1920s and 1930s and has operated as a cinema for nearly its entire history; its beautiful interior, featuring painted murals, marble walls, gold leaf arches, a cantilevered balcony, a richly appointed mezzanine, and a two-and-a-half-ton crystal chandelier, has been largely unaltered since its early days; and

WHEREAS, the Byrd Theatre is well known for its Mighty Wurlitzer Organ, a custom-made theatre organ that was designed to accompany silent movies; the theatre proudly offers live organ shows every Saturday evening before movie showings; and

WHEREAS, since 2007, this beloved architectural treasure and irreplaceable Richmond icon has been preserved by the Byrd Theatre Foundation, a nonprofit corporation that has led restoration efforts and integrated cultural and educational events, while still showing major motion pictures at reasonable prices; and

WHEREAS, the Byrd Theatre Foundation strives to elevate the Byrd Theatre's landmark position among American theatres as a center for film history and literacy; and

WHEREAS, the Byrd Theatre benefits more than 100,000 moviegoers each year, including residents, students, groups, businesses, and tourists, and serves thousands more through film collaborations, special events, and community use; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Byrd Theatre on the occasion of its 90th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Byrd Theatre Foundation as an expression of the General Assembly's admiration for the Byrd Theatre's unique contributions to cultural life in Richmond.

**HOUSE JOINT RESOLUTION NO. 809**

*Commending Robert Cellell Dalton.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, after 21 years of diligent service to the residents of Wythe County, Robert Cellell Dalton retired in 2016 as county administrator; and

WHEREAS, a graduate of Hillsville High School, Cellell Dalton served his country in the United States Army during the Vietnam War, earning the Bronze Star and the Purple Heart; and

WHEREAS, after receiving a degree in civil engineering from Wytheville Community College, Cellell Dalton pursued a 15-year career with Anderson & Associates, Inc., where he worked on community enhancement projects, such as water and sewer improvements and industrial site development; and

WHEREAS, in 1995, Cellell Dalton became the director of the Wythe County Department of Water and Wastewater; he oversaw the installation of a new sewer system that serves approximately 600 customers, expanded the county water system from 700 customers to 2,100 customers, and developed a regional water treatment facility; and

WHEREAS, after becoming county administrator in 1997, Cellell Dalton focused on strengthening the county's infrastructure to attract new businesses and industries and investing in the county's future; and

WHEREAS, Cellell Dalton worked with the Wythe County School Board and the Board of Supervisors to initiate multimillion-dollar construction and renovation projects for local schools, resulting in improvements to Max Meadows Elementary School; Rural Retreat Elementary, Middle, and High Schools; Sheffey Elementary School; Jackson Memorial Elementary School; and Fort Chiswell Middle School; and

WHEREAS, Cellell Dalton oversaw the acquisition and development of Wythe County Progress Park, an industrial park accompanied by new rail and road corridors, which has attracted national businesses to the region, leading to the creation of 600 new job opportunities; and

WHEREAS, Cellell Dalton offered his wisdom and leadership to the New River Valley Regional Water Authority, Wythe/Bland Joint Public Service Authority, Crossroads Regional Industrial Facility, New River Valley Regional Jail Authority, and the Tourism Advisory Committee; and

WHEREAS, since his well-earned retirement from public office, Cellell Dalton remains in Wythe County and continues to serve the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert Cellell Dalton on the occasion of his retirement as county administrator of Wythe County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Cellell Dalton as an expression of the General Assembly's admiration for his leadership and service to Wythe County and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 810**

*Commending Debbie Ritter.*

Agreed to by the House of Delegates, February 6, 2019

Agreed to by the Senate, February 7, 2019

WHEREAS, Debbie Ritter, a longtime public servant and an active civic leader in Chesapeake, was selected as the 2018 Woman of the Year by the Women's Division Hampton Roads Chamber of Commerce Chesapeake; and

WHEREAS, born in Rhode Island, Debbie Ritter grew up in a military family and learned the importance of community service at a young age; she met her husband, Ron, while attending the University of Connecticut, and the couple later settled in Chesapeake, where they raised their three daughters, Courtney, Caroline, and Hilary; and

WHEREAS, Debbie Ritter encouraged responsible growth in the city as a member of the Chesapeake Planning Commission from 1994 to 1997, then was elected to the Chesapeake City Council to serve from 1998 to 2006 and 2008 to the present; and

WHEREAS, as a member of the Chesapeake City Council, Debbie Ritter focused on initiatives to support financial stability, job creation, high-quality education, and improved transportation corridors; and

WHEREAS, among her proudest achievements, Debbie Ritter oversaw the creation of the Dismal Swamp Canal Trail; new recreational facilities in the city's parks; and the city call center; which takes 100,000 calls from residents each year; and

WHEREAS, Debbie Ritter has offered her wise leadership to numerous other civic and service organizations in Hampton Roads, inspiring and motivating countless other women to follow her example and participate in leadership opportunities throughout the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Debbie Ritter on her selection as the 2018 Woman of the Year by the Women's Division Hampton Roads Chamber of Commerce Chesapeake; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Debbie Ritter as an expression of the General Assembly's admiration for her personal and professional achievements in service to the Chesapeake community.

### HOUSE JOINT RESOLUTION NO. 811

*Celebrating the life of Edwin Burwell Jones Whitmore III.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Edwin Burwell Jones Whitmore III, a respected businessman and public servant who made many contributions to the residents of Marion, died on December 22, 2018; and

WHEREAS, Edwin "Ed" Burwell Jones Whitmore III moved to Marion with his family as a youth, and his devotion to the community strengthened throughout his life; and

WHEREAS, after graduating from Virginia Polytechnic Institute and State University in 1968, Ed Whitmore became editor of the *Smyth County News* before enlisting in the United States Army; and

WHEREAS, Ed Whitmore served his country on active duty for three years and as a member of the reserves for more than 25 years, earning the rank of lieutenant colonel; he helped shape a new generation of military officers as a liaison to the admissions staff of the United States Military Academy; and

WHEREAS, Ed Whitmore pursued a career with Dominion Bankshares Corporation, working as a commercial loan officer for 23 years; he was subsequently promoted to assistant vice president, then selected as vice president for economic development and legislative affairs; and

WHEREAS, in 1993, Ed Whitmore returned to his alma mater as a research associate and assistant director of the New Century Council, which worked to create a strategic vision for the region; and

WHEREAS, Ed Whitmore supported the community as a member of the Marion Town Council; in 1998, he was appointed county administrator and served in that capacity until 2009; and

WHEREAS, Ed Whitmore will be fondly remembered and greatly missed by his wife of 33 years, Beverly, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Edwin Burwell Jones Whitmore III; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edwin Burwell Jones Whitmore III as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 812

*Celebrating the life of Barbara Beatrice Abernathy Ross.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Barbara Beatrice Abernathy Ross, a passionate civic leader whose efforts to revitalize the Carver neighborhood strengthened the entire Richmond community, died on December 21, 2018; and

WHEREAS, Barbara Abernathy Ross, best known in the community as Barbara Abernathy, grew up in the Carver neighborhood and made her home there while working for Reynolds Metals Company for 23 years; and

WHEREAS, in the 1980s, Barbara Abernathy joined the West of Belvidere Civic Association to help preserve the single-family character of the Carver community; she formed the Carver Area Civic Improvement League in the 1990s in response to plans by Virginia Commonwealth University (VCU) to expand its campus into the neighborhood; and

WHEREAS, Barbara Abernathy's tenacity resulted in the formation of the Carver-VCU Partnership, a groundbreaking collaboration that preserved the history and integrity of the community; she served as co-chair of the partnership for 11 years, overseeing efforts to improve health care, increase neighborhood safety, and offer youth programs; and

WHEREAS, Barbara Abernathy's leadership ultimately led to the creation of the VCU Division of Community Engagement and a council with representatives from all neighborhoods adjacent to the university; and

WHEREAS, Barbara Abernathy worked with the Richmond Redevelopment and Housing Authority to redevelop several blighted blocks in Carver, and with city officials to create a park on Catherine Street named after civic leaders Madeline T. Peters and Helen M. Smith; and

WHEREAS, Barbara Abernathy was a mentor and role model for generations of local activists, and her legacy is closely entwined with the heritage, culture, and people of the now thriving Carver neighborhood; and

WHEREAS, Barbara Abernathy will be fondly remembered and greatly missed by her sisters, Shelia and Katherina, and numerous other family members, friends, and Carver residents whose lives she changed for the better; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Barbara Beatrice Abernathy Ross, a champion for the Carver community in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Barbara Beatrice Abernathy Ross as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 813

*Commending Eleanor Otto Leftwich.*

Agreed to by the House of Delegates, February 6, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Eleanor Otto Leftwich received the Lifetime Member award from the Women's Division Hampton Roads Chamber of Commerce Chesapeake for her exceptional service to the organization and the community; and

WHEREAS, the Women's Division Hampton Roads Chamber of Commerce Chesapeake (WDHRCCC) is a nonprofit, member-driven organization composed of exceptional women leaders, like Eleanor Leftwich, who bring with them experience from business, education, and other fields; and

WHEREAS, as a longtime member of the WDHRCCC, Eleanor Leftwich has been an active participant in numerous events and served as a trusted mentor and friend to her fellow members; and

WHEREAS, Eleanor Leftwich began her career as a teacher for Chesapeake Public Schools and also taught for and was the director of Great Bridge Presbyterian Preschool; and

WHEREAS, Eleanor Leftwich dedicated her life to inspiring young people as an educator and role model and supporting her family as a beloved wife and mother; and

WHEREAS, Eleanor Leftwich believes in the gift of love, is generous in spirit, and above all, holds indomitable faith in the love, grace, and goodness of God; and

WHEREAS, through her role with the WDHRCCC and as an educator, Eleanor Leftwich has encouraged and inspired countless men, women, and children to more fully participate in civic life, to pursue educational achievement, and to set standards of personal excellence; and

WHEREAS, through her efforts, Eleanor Leftwich has made Chesapeake a stronger community; and

WHEREAS, Eleanor Leftwich received the prestigious award at the WDHRCCC's 52nd Annual Woman of the Year Banquet; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Eleanor Otto Leftwich on her selection as a Lifetime Member of the Women's Division Hampton Roads Chamber of Commerce Chesapeake; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Eleanor Otto Leftwich as an expression of the General Assembly's admiration for her legacy of service to the Chesapeake community.

### HOUSE JOINT RESOLUTION NO. 814

*Celebrating the life of Cynthia Lynn Piazza.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Cynthia Lynn Piazza, a highly admired educator who touched countless lives in the Chesterfield community and helped her students achieve success both in and out of the classroom, died on October 31, 2018; and

WHEREAS, a native of Wilmington, Delaware, Cynthia Piazza attended Lake Braddock Secondary School in Burke and subsequently graduated from the University of Delaware, where she was founding member of the university's Sigma Kappa sorority chapter; and

WHEREAS, Cynthia Piazza worked as an educator for more than two decades, including 14 years as a Title I math specialist at Harrowgate Elementary School in Chester; she took a special interest in elevating and supporting underprivileged students and was named the 2010 Elementary School Teacher of the Year by Chesterfield County Public Schools; and

WHEREAS, an avid runner, Cynthia Piazza completed 29 full marathons, including races in Boston, Chicago, and New York City, as well as the Marine Corps Marathon and 13 Richmond marathons; and

WHEREAS, Cynthia Piazza shared her passion for physical fitness with Hopewell elementary school students through the Greater Richmond Fit4Kids program, and her Kids Run RVA team raised \$4,000 to support youth running clubs in the area; and

WHEREAS, Cynthia Piazza inspired others through her passion, grace, positivity, and willingness to treat every challenge as an opportunity for self-improvement; and

WHEREAS, Cynthia Piazza will be fondly remembered and greatly missed by her husband, Michael; her son, Matthew; her parents, Joseph and Rose; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Cynthia Lynn Piazza, an educator and a beloved member of the Chesterfield community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Cynthia Lynn Piazza as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 815

*Celebrating the life of Linwood S. Matthews.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Linwood S. Matthews passed peacefully from his family and friends on August 7, 2018; and

WHEREAS, Linwood Matthews was a member of the Forest View Volunteer Rescue Squad for 54 years, displaying a commitment to volunteerism and service to his community that very few could equal, serving his squad as president, vice president, secretary, deputy chief, membership chair, day lieutenant and night lieutenant, rescue officer, and junior advisor; he began his career in 1964 as a first aid provider, then was an emergency medical technician before he moved on to vehicle extrication; and

WHEREAS, Linwood Matthews' training and instructor certifications would make a lengthy catalog of courses, but included subjects like the Emergency Medical Technician Course, CPR, Vertical Rescue Instructor Trainer, Emergency Vehicle Operators' Course, Basic and Light Duty Rescue, Heavy Rescue and Rescue Technician Instructor, Hazardous Materials, Search and Rescue and Incident Command, plus many more; and

WHEREAS, Linwood Matthews was an asset to District 3 of the Virginia Association of Volunteer Rescue Squads (VAVRS), serving as deputy rescue officer and rescue officer, where he competed and assisted with competitions, served on the EMS Advisory Committee, and promoted Recruitment and Retention in EMS; and

WHEREAS, Linwood Matthews served the VAVRS as training officer, rescue officer, rescue college instructor, convention committee and convention vehicle extrication contest co-chair, and convention rescue contest co-chair and chair; he represented the VAVRS on the Central Virginia Technical Rescue Committee; State Search and Rescue Committee; VA EMS Critical Incident Committee; EMS Task Force; and EMS Disaster, EMS Mass Casualty, and EMS Disaster Planning groups; and

WHEREAS, Linwood Matthews demonstrated his enthusiasm for community service through his 25-year career as an officer of the Chesterfield County Police Department, beginning in 1968, where he was responsible for establishing the first school bus rodeo and the department's driver training and pursuit driving program; he also developed the Neighborhood Watch and Crime Prevention programs and chaired the Torch Run Committee to raise funds for the Special Olympics; and

WHEREAS, Linwood Matthews was named as Chesterfield County's Outstanding Police Officer in 1971 and as Police Officer of the Year in 1972; when he retired in 1994, he had attained the rank of captain and served in a number of sections within the department, including uniform operations, emergency communications, and support services; and

WHEREAS, Linwood Matthews led the effort to create the department's first SWAT team, which included ten officers, and the first department yearbook, showing the department's history; and

WHEREAS, affectionately known to friends and colleagues as "Lin" or "Doc," Linwood Matthews was inducted as a life member of the Forest View Volunteer Rescue Squad in 1978 and 20 years later as a life member of the Virginia Association of Volunteer Rescue Squads; in September 2004, he was selected by his peers for induction into the prestigious Virginia Life Saving and Rescue Hall of Fame; and

WHEREAS, Linwood Matthews will be fondly remembered and greatly missed by his beloved wife, Judy; his two daughters, Shari Caston (Dan) and Christy Koogler, and their families, including three granddaughters; and the numerous EMS friends, those he served with, students he taught, patients he treated, and members of the law-enforcement community, which made up his second family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Linwood S. Matthews; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Linwood S. Matthews as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 816

*Commending Justin Carey.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Justin Carey, a senior midfielder on the Mary Washington University men's soccer team, earned the top Capital Athletic Conference honor of Player of the Year in 2018; and

WHEREAS, during the 2018 season, Justin Carey helped lead the Mary Washington Eagles to Capital Athletic Conference (CAC) regular season and tournament titles; and

WHEREAS, Justin Carey was a leader for the Mary Washington Eagles with a team-high of eight goals, including three game-winners and three assists, for a total of 19 points; and

WHEREAS, Justin Carey headlined a contingent of six Mary Washington Eagles on the 2018 All-CAC men's soccer team and was one of four players on the United Soccer Coaches NCAA Division III Men's All-South Atlantic Region Team; and

WHEREAS, Justin Carey's determination and athleticism on the pitch led to his receiving the United Soccer Coaches 2018 All-America First Team award and the Scholar All-America First Team award; he was selected as Player of the Year by the Virginia Sports Information Directors and named as a member of the organization's College Division All-State Men's Soccer Team; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Justin Carey on his selection as the 2018 Capital Athletic Conference Player of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Justin Carey as an expression of the General Assembly's admiration for his dedication and hard work.

### HOUSE JOINT RESOLUTION NO. 817

*Commending Marie Ridder.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, over the course of her exceptional career, Marie Ridder has made contributions to communities throughout the Commonwealth, the United States, and the world as a journalist, civic servant, and preservationist; and

WHEREAS, Marie Ridder is a long-time McLean resident who earned a bachelor's degree from Bryn Mawr College and a master's degree from The George Washington University; and

WHEREAS, Marie Ridder worked extensively in journalism as an editor for Conde Nast, where she served as the Washington, D.C., editor for *Vogue*, *Mademoiselle*, and *Glamour* magazines; she was a Washington correspondent for Ridder, and later, Knight Ridder newspapers, and wrote for a variety of publications including *The Washington Post* and *The Boston Globe*; and

WHEREAS, the plight of post-World War II Finland was a notable, one-of-a-kind project Marie Ridder reported on as a 21-year-old cub journalist; she also worked on national issues as deputy to the national director of Project Head Start and liaison to Lady Bird Johnson from 1964 to 1968; and

WHEREAS, in her retirement, Marie Ridder has devoted her time to environmental causes in the Commonwealth and beyond, serving on numerous boards including the Piedmont Environmental Council, the Trust for Public Land, the Initiative for Social Action and Renewal in Eurasia, the League of Conservation Voters, and Sasha Bruce House youth shelter; and

WHEREAS, Marie Ridder has made an impact on national and state-wide environmental organizations as vice chair of the Landmarks Commission for the United States Department of the Interior, and as former chair of the Virginia State Parks Commission and the Virginia Council on the Environment; she made the environment a priority, serving on advisory boards of the National Park Service and American Farm Land Trust, as a trustee of the Chesapeake Bay Foundation, and as an executive committee member of the National Parks Conservation Association; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marie Ridder for her many contributions to the Commonwealth, the United States, and the world as a journalist, civic servant, and preservationist; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marie Ridder as an expression of the General Assembly's admiration for her many accomplishments in her professional and volunteer duties.

### HOUSE JOINT RESOLUTION NO. 818

*Celebrating the life of Frank C. Carlucci III.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Frank C. Carlucci III of McLean, a foreign policy expert known for his leadership ability and composure under pressure, who served four United States presidents in a variety of roles, including deputy director of the Central Intelligence Agency, head of the National Security Council, and Secretary of Defense, died on June 3, 2018; and

WHEREAS, a native of Scranton, Pennsylvania, Frank Carlucci earned a bachelor's degree in international relations from Princeton University, where he was a standout wrestler and a teammate of two other future secretaries of defense, Donald Rumsfeld and Caspar Weinberger; and

WHEREAS, after serving two years in the United States Navy, Frank Carlucci started a brief career in business, but found himself drawn back to international affairs and joined the United States Foreign Service in 1956; and

WHEREAS, in 1960, Frank Carlucci was sent to the Congo during the volatile period when the country was gaining independence from Belgium; he sustained injuries while courageously protecting a group of Americans from a mob and developed lasting friendships with Cyrille Adoula and Patrice Lumumba, who both became prime minister of the country; and

WHEREAS, in 1969, Frank Carlucci became the deputy director for operations at the Office of Economic Opportunity, earning the admiration of officials close to then-governor Ronald Reagan for his negotiating tactics to protect the agency's funding; and

WHEREAS, Frank Carlucci served as undersecretary of Health, Education, and Welfare during the Nixon administration until 1974, when a military coup threatened to turn Portugal into the first communist state in Western Europe; he was appointed as ambassador to Portugal under the Ford administration and successfully navigated the crisis by supporting democratic elections; and

WHEREAS, after returning from Portugal in the late 1970s, Frank Carlucci was appointed by President Jimmy Carter to serve as deputy director of the Central Intelligence Agency; his practicality as a manager and his appreciation for the importance of human intelligence helped ease tensions between the agency and the then-director, who was increasingly advocating for the use of signals intelligence and satellites; and

WHEREAS, Frank Carlucci transferred to the Department of Defense early in the Reagan administration and helped oversee what was then the largest military buildup in the nation's history; he left government work in 1982 to pursue opportunities in the private sector, but returned to public life as the national security advisor in 1986; and

WHEREAS, preceded by his reputation as a steady leader whose sound judgment was an asset in any situation, Frank Carlucci reformed the National Security Council in the wake of the Iran-Contra scandal and ultimately became Secretary of Defense in 1987; and

WHEREAS, after his retirement from public service in 1989, Frank Carlucci joined the Carlyle Group and helped the newly formed private equity firm grow to manage approximately \$200 billion in assets for more than 1,850 investors; he was named chairman emeritus of the company in 2003; and

WHEREAS, Frank Carlucci will be fondly remembered and greatly missed by his wife, Marcia; his children, Frank, Karen, and Kristin, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Frank C. Carlucci III, a consummate civil servant who helped steward foreign policy for decades; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Frank C. Carlucci III as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 819

*Celebrating the life of the Honorable Ernest Pleasants Gates.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, the Honorable Ernest Pleasants Gates, a deeply respected former judge of the Chesterfield Circuit Court who dedicated a lifetime of service to the community, died on June 18, 2018; and

WHEREAS, a native of Chesterfield County, where his family roots run deep, Ernest Gates attended local schools and graduated from Hampden-Sydney College; he joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Navy and was wounded in combat on Okinawa; and

WHEREAS, after his honorable military service, Ernest Gates returned to the Commonwealth and earned a law degree from Washington and Lee University before beginning a long and fulfilling career in local government; and

WHEREAS, Ernest Gates served as deputy commissioner of the revenue, deputy treasurer, county attorney, and counsel for the school board, then was elected as an attorney for the Commonwealth in 1955; and

WHEREAS, in 1966, Ernest Gates was appointed as a judge of the Chesterfield Circuit Court of the 12th Judicial Circuit of Virginia, where he presided with great fairness and wisdom until his retirement in 1987; and

WHEREAS, Ernest Gates continued to hear cases part-time as a designated judge and was appointed as chair of the Virginia Criminal Sentencing Commission in 1994; throughout his distinguished career, he was known for his grace, integrity, and professionalism, as well as his commitment to treating others with dignity and respect; and

WHEREAS, Ernest Gates volunteered his time to strengthen the community as a member of the Chesterfield Jaycees, the local Kiwanis and Lions clubs, and the Henricus Foundation, and he enjoyed fellowship and worship with the congregation of St. John's Episcopal Church in Chester; and

WHEREAS, predeceased by his beloved wife of 63 years, Virginia, Ernest Gates will be fondly remembered and greatly missed by his six children, 16 grandchildren, six great-grandchildren, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Ernest Pleasants Gates, a former judge of the Chesterfield Circuit Court and a true Virginia gentleman; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Ernest Pleasants Gates as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 820

*Commending Falling Creek Ironworks.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, the historic Falling Creek Ironworks was established in 1619 as the first iron furnace in the English New World colonies, organized and supported by the Virginia Company of London with the goal of expanding trade, mining iron ore, and establishing the first system of private land ownership in the area; and

WHEREAS, the first exploration of the original Falling Creek Ironworks site was organized in 1876 for the Virginia Historical Society, and elements of the iron furnace and artifacts were unearthed between 1925 and 1950 by Roger Bensley, the property owner at the time; and

WHEREAS, the Archaeological Society of Virginia conducted additional archaeological testing of the site in 1963; the Virginia Department of Historic Resources conducted on-site evaluations in 1990; The College of William & Mary Center for Archaeological Research conducted archaeological investigations in 1993; and the remains of wooden timbers were discovered in 2006 after Tropical Storm Gaston embedded them in the creek bank; and

WHEREAS, the Falling Creek Ironworks Foundation was created in 1991, and a Virginia Historic Preservation Easement of eight acres surrounding the immediate site was recorded for the property in 1995; and

WHEREAS, the Falling Creek Ironworks Park and surrounding 14.6 acres were established in 1995; associated with this site is Virginia's first wayside park, which was established in 1934 and includes the oldest historic stone bridge in the county, completed in 1828; and

WHEREAS, a cooperative partnership exists between Chesterfield County Parks and Recreation and the Falling Creek Ironworks Foundation to manage and protect the site, as well as to promote public education about the historical significance of the site; and

WHEREAS, Falling Creek Ironworks is listed on the National Register of Historic Places and the Virginia Landmarks Register and is recognized as a Chesterfield County Historic Landmark; and

WHEREAS, as the first foundry in the Western Hemisphere to smelt iron ore into pig iron, Falling Creek Ironworks is recognized as one of the earliest industrial achievements of the 17th century and the beginning of American heavy industry; and

WHEREAS, Falling Creek Ironworks serves as an important symbol and an educational tool for telling the history of early industrial achievement in Chesterfield County, Virginia, and the United States; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Falling Creek Ironworks on the occasion of the 400th anniversary of its establishment; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Falling Creek Ironworks Foundation as an expression of the General Assembly's admiration for the organization's work to maintain Falling Creek Ironworks and preserve the history and heritage of Chesterfield County and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 821

*Commending Michael J. Brown.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Michael J. Brown, Bedford County Sheriff, will retire on December 31, 2019, after 24 years in the law-enforcement leadership position; and

WHEREAS, Michael "Mike" J. Brown is a native of Bedford County and a graduate of American University, where he earned a bachelor's degree in the administration of justice and police administration; he has additional advanced training with the United States Department of Justice's Executive Development Program, the National Sheriffs' Institute, and numerous courses of instruction from federal agencies; and

WHEREAS, Mike Brown has brought a wide range of experience to his position; he is a retired senior special agent in the United States Treasury Department; he served in the United States Army Military Police Corps, in Washington, D.C.'s Metropolitan Police Department, in the United States Department of Defense, and as an instructor overseas with the United States Department of Justice's International Criminal Investigative Training Assistance Program; and

WHEREAS, since 1998, Mike Brown has directed a national task force dealing with the sexual exploitation of children over the Internet for the United States Department of Justice's Office of Juvenile Justice and Delinquency Prevention; he testified twice before Congress on these matters; and

WHEREAS, under Mike Brown's leadership, the Bedford County Sheriff's Office had one of the first 10 Internet Crimes Against Children task forces in the country, and in 2000, he founded the nonprofit Safe Surfin' Foundation which seeks to educate people about Internet safety; and

WHEREAS, Mike Brown was selected by United States Attorney General Janet Reno to participate at the Crime Technology Initiative Forum of the Office of Science and Technology Policy, Executive Office of the White House; in 2002 he was a member of Virginia Attorney General Kilgore's task force on identity theft; and

WHEREAS, Mike Brown is a member of the executive committee and board of directors of the National Sheriffs' Association, focusing on education and awards, congressional affairs, and technology; he is also in a leadership position in the National White Collar Crime Center, as well as the Law Enforcement Innovation Center at the University of Tennessee; and

WHEREAS, Mike Brown maintains memberships in numerous other organizations focused on policing and the military; his concern for community involvement has twice earned him recognition as Citizen of the Year by the Bedford Chapter of the NAACP, and he was named Sheriff of the Year in 2017 by the National Sheriffs' Association; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michael J. Brown on his retirement as Bedford County Sheriff on December 31, 2019, after 24 years in the law-enforcement leadership position; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael J. Brown as an expression of the General Assembly's admiration for his service to Bedford County and the law-enforcement community.

### HOUSE JOINT RESOLUTION NO. 822

*Commending the Bedford Area Chamber of Commerce.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for 80 years, the Bedford Area Chamber of Commerce has been a driving force behind the economic vitality and prosperity of Bedford County and the surrounding region; and

WHEREAS, the Bedford Area Chamber of Commerce was established in 1939 to facilitate networking and educational opportunities and provide a unified voice for its membership; and

WHEREAS, based in the Town of Bedford, the Bedford Area Chamber of Commerce operates satellite offices in Forest and Moneta and serves member businesses as far away as Roanoke, Lynchburg, Amherst, and Alta Vista; and

WHEREAS, the Bedford Area Chamber of Commerce is an active forum for communication between its members and hosts hundreds of networking events, including the Business After Hours events, which attract more than 100 attendees, and the Business Before Hours events that cater to smaller groups; and

WHEREAS, the Bedford Area Chamber of Commerce promotes the region's vital tourism industry, supports transportation infrastructure enhancements, and works with Bedford County Public Schools and other organizations to train the next generation of business leaders through workforce development initiatives; and

WHEREAS, the Bedford Area Chamber of Commerce highlights the achievements of outstanding member businesses and community organizations through its annual Dinner and Awards Reception; and

WHEREAS, in 2011, the Bedford Area Chamber of Commerce received four-star accreditation from the United States Chamber of Commerce, placing it among the top three percent of the nation's chambers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Bedford Area Chamber of Commerce on the occasion of its 80th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Bedford Area Chamber of Commerce as an expression of the General Assembly's admiration for its work to support local businesses and build stronger communities.

### HOUSE JOINT RESOLUTION NO. 823

*Commending Rosemary Tribble.*

Agreed to by the House of Delegates, February 7, 2019

Agreed to by the Senate, February 13, 2019

WHEREAS, Rosemary Tribble has concluded her tenure as the founding president of Fear 2 Freedom after many years of service to college students and survivors of sexual assault throughout Virginia and around the world; and

WHEREAS, Rosemary Tribble used her own terrible and tragic experience as a rape victim to help others by counseling hundreds of women individually and thousands more through her work with Fear 2 Freedom; and

WHEREAS, Rosemary Tribble authored a book, *Fear to Freedom*, where she recounts her journey from the trauma of rape at gunpoint at the age of 25 to freedom through forgiveness and shares her story with others; and

WHEREAS, Rosemary Tribble has with all her heart dedicated her life to seeing others find joy and walk the path of healing; Fear 2 Freedom now operates worldwide, partnering with hospitals and universities, to provide education, information, and support in an effort to end sexual assault, child abuse, domestic violence, and sex trafficking; and

WHEREAS, under Rosemary Tribble's leadership, Fear 2 Freedom has provided thousands of students with information about sexual assault and demonstrated how they can combat sexual violence on their campuses and in their communities and support survivors by assembling Fear 2 Freedom Aftercare Kits, more than 20,000 of which have been distributed; and

WHEREAS, Rosemary Tribble served on Governor Terence R. McAuliffe's Task Force on Combating Campus Sexual Violence to develop recommendations for reforming and improving the way Virginia works to prevent and respond to sexual violence on college campuses; and

WHEREAS, in addition to her formal duties as the first lady of Christopher Newport University, Rosemary Tribble has befriended, supported, actively mentored, and inspired countless students during the 23 years that her husband, Paul Tribble, has served as president of the institution; and

WHEREAS, Rosemary Tribble has poured her creativity and professional design expertise into all of the new buildings at Christopher Newport University, creating a breathtakingly beautiful campus that will continue to serve Virginia for years to come; and

WHEREAS, Rosemary Tribble has hugged each graduating Christopher Newport University senior after they received their diploma to demonstrate her admiration for their accomplishments and her appreciation for their lives and rich promise; and

WHEREAS, Rosemary and Paul Tribble are the understandably proud parents of two children who embody the values of excellence and leadership that have been the hallmarks of their public lives and the devoted grandparents of three precious grandchildren who are the light of their lives; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Rosemary Tribble for her service as founding president of Fear 2 Freedom; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rosemary Tribble as an expression of the General Assembly's admiration for her contributions to the Commonwealth of Virginia.

### HOUSE JOINT RESOLUTION NO. 825

*Commending the Very Reverend John A. Weatherly.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, the Very Reverend John A. Weatherly, a respected spiritual leader who has served the members of the Alexandria community for more than two decades, will retire as rector of St. Mark's Episcopal Church on September 30, 2018; and

WHEREAS, a native of Bethlehem, Pennsylvania, Reverend Weatherly graduated from the University of the South and Duke University; he then worked as an educator in Portsmouth and Charlottesville until 1978, when he answered the call to ministry and entered the Divinity School at Yale University; and

WHEREAS, in 1981, Reverend Weatherly was ordained in New Jersey and appointed as vicar of two Episcopal churches in Trenton; he went on to serve as a missionary in Brazil from 1986 to 1989, then subsequently offered his leadership to Episcopal churches in North Carolina, Connecticut, and Maryland; and

WHEREAS, Reverend Weatherly returned to the Commonwealth to serve as rector of St. Mark's Episcopal Church in 1997; over the course of his 21-year tenure in that role, he helped the congregation grow in spirit, offered wise counsel to members of the community, and oversaw generous outreach programs; and

WHEREAS, at the state level, Reverend Weatherly served the Episcopal Diocese of Virginia as a member of the Hispanic Church Plant Committee and the Executive Committee, and he currently serves as a region dean; and

WHEREAS, Reverend Weatherly served his country as a longtime member of the Chaplain Corps of the United States Army, deploying to Bosnia in 2001 with the 29th Infantry Division and Iraq in 2006-2007 with the Virginia National Guard's 224th Aviation Regiment and 1st Marine Expeditionary Force; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Very Reverend John A. Weatherly for his 21 years of service to the congregation of St. Mark's Episcopal Church on the occasion of his retirement as rector; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Very Reverend John A. Weatherly as an expression of the General Assembly's admiration for his exceptional contributions to the Alexandria community.

**HOUSE JOINT RESOLUTION NO. 826**

*Commending the Shenandoah Area Agency on Aging.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Shenandoah Area Agency on Aging provides in-home support to older residents of Clarke, Frederick, Page, Shenandoah, and Warren Counties, and the City of Winchester, with a variety of high-quality services that delay or prevent moves to costly long-term care facilities; and

WHEREAS, Shenandoah Area Agency on Aging (SAAA) was incorporated in July 1975, and is the only comprehensive regional provider of support services that enable older persons to continue living in their own homes; and

WHEREAS, SAAA operates six senior centers and offers crucial services including information on aging, in-home services, Meals On Wheels, respite centers, transportation, long-term care, an emergency food and shelter grant program, and insurance counseling; and

WHEREAS, recent major accomplishments for the SAAA include applying for and receiving a grant to open a respite center in Page County, and increased jurisdictional funding in Shenandoah County; and

WHEREAS, the good work of SAAA has been acknowledged through numerous awards and grants, including from the Shenandoah Community Foundation, the United Way of Northern Shenandoah Valley, and the National Lutheran Foundation, and the Subaru Share the Love grant; and

WHEREAS, SAAA has a dedicated group of key volunteers such as Skip Royston, Martha Watkins, and Diane Brecht, all of whom contribute much of their time to enhance the quality of life for seniors; the volunteer board of directors, composed of Betsy Pritchard, John Ayes, Richard Bever, Martha Watkins, Dot Pendly, Charles Thomas, Queenie Kemmer, and Joe Biggs, is key to SAAA's success; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Shenandoah Area Agency on Aging for helping residents age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Shenandoah Area Agency on Aging for fostering independence and healthy aging, and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

**HOUSE JOINT RESOLUTION NO. 827**

*Commending Allie Eggers.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Allie Eggers, a master police officer of the Fairfax County Police Department, has demonstrated a passion for personal safety and community policing throughout her career; and

WHEREAS, with more than eight years of experience in crime prevention, Allie Eggers has recorded the largest number of alcohol stings in the history of the traffic safety unit; and

WHEREAS, a supporter of National Night Out events, Allie Eggers helped the crime prevention awareness program grow from six events in Franconia in 2005 to 36 events in 2006 and 44-45 events per year thereafter; and

WHEREAS, to ensure that her fellow law-enforcement officers received the best equipment to serve and protect the members of the public, Allie Eggers led a program that resulted in the placement of life-saving trauma kits in every patrol car; and

WHEREAS, Allie Eggers was one of the first in Fairfax County to be certified as an instructor for CarFit, an educational program that helps senior drivers, and she was one of the first nationally certified car seat installation instructors in Fairfax County; and

WHEREAS, Allie Eggers earned the community service award from Fairfax County once for her senior safety program and again for her worship watch program, which encourages congregations to take an active role in crime prevention; and

WHEREAS, Allie Eggers has received many other awards and accolades from the Fairfax County Police Department for her meritorious service, as well as from several community organizations, including the Mount Vernon Chamber of Commerce; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Allie Eggers for her exemplary achievements as a sworn officer of the Fairfax County Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Allie Eggers as an expression of the General Assembly's admiration for her dedicated service to the residents of Fairfax County.

**HOUSE JOINT RESOLUTION NO. 828**

*Commending Spring Hill Baptist Church.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, for 175 years, Spring Hill Baptist Church in Blackstone has served the Nottoway County community by providing opportunities for worship in the Baptist tradition, joyful evangelism, and generous outreach; and

WHEREAS, Spring Hill Baptist Church traces its roots to the formation in April 1844 of Cool Spring Baptist Church, which was established with 54 white members and 85 African American members; the Reverend J.W.D. Creath was chosen as the first pastor in July of that year; and

WHEREAS, when Cool Spring Baptist Church was dissolved in 1872, the African American members of the congregation purchased the church building for \$300 and formed Spring Hill Baptist Church; and

WHEREAS, throughout its history Spring Hill Baptist Church has benefited from the leadership of numerous pastors and assistant pastors, including the Reverend Benjamin Wilson, the Reverend C. Cooke, the Reverend Claiborne C. Johnson, the Reverend Dr. A.H. Wynn, the Reverend Walter L. Tucker, the Reverend Dr. C.R. Alston, the Reverend H. James Ellis, the Reverend Christine Shelton, the Reverend Harold Farmer, and the Reverend Dr. Travis L.C. Warren, the current pastor; and

WHEREAS, as senior pastor of Spring Hill Baptist Church, Dr. Warren is supported by his fellow ministers, the Reverend Grace Barr, the Reverend Daniel Smith, the Reverend Lorenza Reed, the Reverend Tylia Threatt, and the Reverend Carl J. Bassfield; and

WHEREAS, the Spring Hill Baptist Church congregation is also supported by deacons Clifton Black, Barbara D. Bridgeforth, James E. Bridgeforth, Orlander Marshall, David Neal, Jr., Harriett Greenhill, Fred Irby, Charles Vaughter, Carl Bassfield, Sr., and Martha Wilson; and

WHEREAS, in 2015, Dr. Warren oversaw the dedication and consecration of a new sanctuary with an expanded basement for events and activities to better serve the congregation and the community; and

WHEREAS, under the leadership of Dr. Warren, Spring Hill Baptist Church became an affiliate of the Tabernacle Divinity School in Hopewell, and a campus was established at the church, with Dr. Warren serving as dean and First Lady Letitia Warren serving as registrar; and

WHEREAS, in 2016, Spring Hill Baptist Church was nominated as Church of the Year by the Blackstone Ministerial Association, and Dr. Warren was named 2016 Pastor of the Year; and

WHEREAS, Spring Hill Baptist Church was nominated for the Governor's Community Service and Volunteerism Award on April 10, 2018, in recognition of its contributions to life in Blackstone and Nottoway County; and

WHEREAS, the members of Spring Hill Baptist Church will commemorate the milestone anniversary with a special celebration in July 2019 and events and activities throughout the year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Spring Hill Baptist Church on the occasion of its 175th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Spring Hill Baptist Church as an expression of the General Assembly's admiration for the church's longevity and legacy of contributions to the Blackstone and Nottoway County communities.

**HOUSE JOINT RESOLUTION NO. 829**

*Commending Jhermaine Richey.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Jhermaine Richey received the 2018 Youth of the Year award from the Boys & Girls Clubs of Southeast Virginia for his exceptional achievements in community service and leadership; and

WHEREAS, a native of Portsmouth, Jhermaine Richey joined a Boys & Girls Club at the age of 10 and earned a reputation as a reliable and active club member; he participated in numerous club activities, including a cross-country trip; and

WHEREAS, rising above negative influences, Jhermaine Richey has been a role model for his fellow young people through his work with the Boys & Girls Clubs' Keystone teen community service group and Passport to Manhood male mentorship program; and

WHEREAS, Jhermaine Richey completed the Discipleship Evangelism 101 course at Mount Carmel Baptist Church and received a certificate of appreciation for his work on Keep Woodrow Wilson Beautiful Day 2016; and

WHEREAS, in addition to his community service, Jhermaine Richey is committed to high academic achievement; he is a graduate of Woodrow Wilson High School and is currently studying business at Old Dominion University, with plans to become an entrepreneur; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jhermaine Richey on his selection as the 2018 Youth of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jhermaine Richey as an expression of the General Assembly's admiration for his contributions to the Portsmouth community and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 830

*Celebrating the life of Sylvia Overton McLaughlin.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Sylvia Overton McLaughlin, esteemed newspaper editor of the *News & Record*, died December 24, 2018; and  
 WHEREAS, Sylvia McLaughlin learned the value of hard work growing up on her maternal grandparents' tobacco farm near Polecat Creek; she earned high marks and academic distinction at Halifax Elementary School and Halifax High School, going on to study at Longwood University and later at Mary Washington College, which at the time was a women's college affiliated with the University of Virginia; and

WHEREAS, it was in college that Sylvia McLaughlin married her high school sweetheart Tucker McLaughlin, graduating while rearing small children; the couple moved back to Halifax where they continued to raise their family while working in the real estate, land development, and oil industries; and

WHEREAS, in 1973, the couple bought the *Record-Advertiser* and the *South Boston News*, with Sylvia McLaughlin acting as company secretary, selling advertising, and keeping the books; the couple's goal was to preserve a voice to counter the dominant paper of the time, *The Gazette-Virginian*, resulting in two newspapers in the same town vying for the same audience as the community's newspaper of record, offering opposing views from young journalists on the pressing issues of the day, from school desegregation to a campaign to build a new Halifax County Senior High School; and

WHEREAS, the newspapers later merged and became the *News & Record*, which Sylvia McLaughlin led, becoming the editor when economic hardship forced her to take the reins as a one-person news operation, where she was known for fair reporting covering the area's civic, cultural, criminal, and environmental issues, and as a regular attendee at public meetings; and

WHEREAS, Sylvia McLaughlin was known as a champion of public education and a voice for fairness and inclusion in community life, especially for African American residents of the community who knew the sting of being excluded from local affairs; and

WHEREAS, for her principled reporting, in 2014, the Halifax County/South Boston NAACP bestowed on Sylvia McLaughlin the Cora Tucker Award, named for the late Halifax County civil rights activist; she earned the distinction of being the only white person to ever earn that award; and

WHEREAS, predeceased by her husband, Tucker, Sylvia McLaughlin will be fondly remembered and greatly missed by her four children, Tucker, Jr., Bill, Ann, and Tom, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Sylvia Overton McLaughlin, esteemed newspaper editor of the *News & Record*; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sylvia Overton McLaughlin as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 831

*Celebrating the life of Andrew Dalton Elder, Sr.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Andrew Dalton Elder, Sr., the chief of Pamplin Volunteer Fire Department and EMS, who served and safeguarded the residents of Prince Edward County for five decades, died on July 21, 2018; and

WHEREAS, born in Charlotte County, Dalton Elder worked in the garment industry for 49 years as a skilled mechanic and cutter for Amelia Dress Company, Star Children's Dress Company, and STEPS, Inc.; and

WHEREAS, desirous to be of further service to the community, Dalton Elder joined Pamplin Volunteer Fire Department and EMS as a young man in the spring of 1968; and

WHEREAS, in 1990, Dalton Elder was named chief of the department, which safeguards the lives and property of the residents of the Town of Pamplin and parts of the Counties of Appomattox, Charlotte, and Prince Edward; and

WHEREAS, Dalton Elder represented Pamplin Volunteer Fire Department and EMS before the Prince Edward Area Firefighters Association and the Southside Virginia Volunteer Firefighters Association; and

WHEREAS, a pillar of the community, Dalton Elder never hesitated to help a friend or neighbor in need, and he touched countless lives through his generosity and servant-leadership; and

WHEREAS, Dalton Elder will be fondly remembered and greatly missed by his wife of 49 years, Clara; his son, Drew, and his family; and numerous other family members, friends, and fellow firefighters; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Andrew Dalton Elder, Sr., chief of Pamplin Volunteer Fire Department and EMS; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Andrew Dalton Elder, Sr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 832

*Commending the Reverend Clifton Threat.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Reverend Clifton Threat has diligently served the congregation of Oak Grove Baptist Church in Emporia as pastor for the past 10 years; and

WHEREAS, Clifton Threat has given tirelessly of his time through counseling, conducting meetings, and most of all preaching the word of God within and outside of the Oak Grove Baptist Church; during his tenure, the church completed a new edifice, tripling its capacity to house worshippers; and

WHEREAS, Clifton Threat's impressive intellect, sound judgment, and commitment to public service and the community are in great demand; his scope of leadership extends beyond the church to the City of Emporia and Greensville County; and

WHEREAS, Clifton Threat has been an active leader in the community, serving as the executive director of the Boys and Girls Club and as an active member of the Democratic Party and the local NAACP; he represents District 1 on the Emporia City Council and serves as vice mayor for the City of Emporia; and

WHEREAS, Clifton Threat is a member of the Greensville Emporia Ministerial Association, the Shiloh Baptist Association, and the Sunday School Union, where he served as chair; and

WHEREAS, Clifton Threat has studied to show himself approved as a workman in God's vineyard; he is a graduate of Greensville County High School and received his associate degree from Commonwealth College of Hampton; advancing his call to the Gospel, he attended Eastern Carolina Christian College and Seminary of Roanoke Rapids, North Carolina, where he earned his Bachelor of Theology degree; he has served his country as a member of the United States Air Force; and

WHEREAS, Clifton Threat's loving spirit and faith in God has helped the Oak Grove Baptist Church congregation grow expeditiously, while reaching out to those who are unchurched and offering support and the love of Jesus Christ; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Clifton Threat for providing 10 years of spiritual leadership and outstanding service to the Oak Grove Baptist Church family; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Clifton Threat as an expression of the General Assembly's admiration for his legacy of contributions to his congregation and the Greensville County community.

### HOUSE JOINT RESOLUTION NO. 833

*Commending Locally Poured.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Locally Poured, a unique collaboration between Visit Fairfax and seven independent craft breweries in Fairfax County, highlights the importance of the growing craft beer industry to the Commonwealth; and

WHEREAS, Visit Fairfax launched the Locally Poured marketing campaign with Aslin Beer Company in Herndon, Caboose Brewing Company in Vienna, Fair Winds Brewing Company and Forge Brew Works in Lorton, Lake Anne Brew House in Reston, and Mustang Sally Brewing Company and Ono Brewing Company in Chantilly; and

WHEREAS, Locally Poured created the *Brewery Field Guide*, which encourages residents and visitors to take a *Tour de Pour* and sample high-quality craft beers from all seven participating breweries; and

WHEREAS, the *Brewery Field Guide* offers recommendations at each Locally Poured brewery, and the passport-like book features space for visitors to receive a stamp at each brewery, with at least four stamps earning an upgrade to VIP access to the Fairfax County Brewfest; and

WHEREAS, craft breweries play an important role in the economic vitality of Fairfax County and the Commonwealth, with more than 130 businesses creating thousands of jobs and generating more than \$1 billion of economic impact; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Locally Poured for its collaborative efforts to promote local businesses; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Visit Fairfax as an expression of the General Assembly's admiration for the achievements of the Locally Poured campaign.

### HOUSE JOINT RESOLUTION NO. 834

*Celebrating the life of Scott Marvin Anderson.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Scott Marvin Anderson, a dynamic member of the Fredericksburg community, died on January 6, 2019; and WHEREAS, a native of Minnesota, Scott Anderson developed strong roots in the area, remaining a lifelong fan of the Minnesota Twins and the Minnesota Vikings; and

WHEREAS, Scott Anderson was born to a military family and lived throughout the United States, including in Mississippi, Arkansas, Nebraska, Missouri, Virginia, and Hawaii; he graduated from Warrensburg High School in Missouri and attended Central Missouri State University and Colorado Christian University; and

WHEREAS, Scott Anderson had an ear for music and was especially fond of the trombone and the piano; he shared his passion with countless listeners in Bath County as the host of the Eclectic Music Hour on Allegheny Mountain Radio; and

WHEREAS, an avid outdoorsman, Scott Anderson was passionate about golf and spent as much time as possible on the links as a player, coach, caddie, and teacher; for much of his adult life, he worked at golf courses throughout the Commonwealth and the United States; and

WHEREAS, Scott Anderson was a dedicated reader who impressed others with his encyclopedic knowledge of a vast array of subjects from sports trivia to current events; and

WHEREAS, guided by his deep and abiding faith, Scott Anderson devoted himself to the study of the Bible and enjoyed fellowship and worship with the congregation of Bethel Free Will Baptist Church in Woodbridge; and

WHEREAS, Scott Anderson will be fondly remembered and greatly missed by his son, Boden; his parents, Richard L. Anderson and Ruth M. Anderson; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Scott Marvin Anderson, a charismatic and highly admired resident of Fredericksburg; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Scott Marvin Anderson as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 835

*Commending Utility Trailer Manufacturing Company.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, workers at Utility Trailer Manufacturing Company in Glade Spring celebrated the milestone production of the 100,000th trailer built at the plant on January 9, 2019; and

WHEREAS, since 2000, Utility Trailer has manufactured the 4000D-X Composite series and the 4000D dry van series at the Glade Spring plant; the Utility Trailer company was founded in 1914 and is considered an industry leader today; and

WHEREAS, the Utility Trailer 4000D-X Composite's polyurethane foam core composite side walls optimize strength and deliver a lower tare weight; the 4000D dry van's traditional plywood-lined trailer is extremely durable for superior value; and

WHEREAS, in 2006 the Glade Spring Utility Trailer plant set a record by building 55 trailers in one day, but three years later, a downturn in the economy reduced the employee level at the facility; a tornado struck the facility in April 2011, posing another setback, but the plant rebuilt and reopened less than two weeks later; and

WHEREAS, today the Glade Spring Utility Trailer plant continues to be a top manufacturer in Washington County; in 2012, the plant expanded by an additional 56,000 square feet to produce more dry vans; and

WHEREAS, Glade Spring Utility Trailer plant workers are active in the Washington County community, donating a trailer full of food to Feeding America, collecting canned goods for a local food bank, gifting a fully equipped mountain bike to the Washington County Sheriff's Office to patrol the Creeper Trail, and making significant contributions to the United Way of Southwest Virginia, with a majority of donations going directly to schoolchildren in need; and

WHEREAS; Utility Trailer's 100,000th dry van is a 4000D-X TBR Composite model, presented to Whitaker Transportation Company owners Charles D. and Deborah Whitaker, whose fleet hauls many different commodities from Bristol, Tennessee, to the East Coast and Midwest; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Utility Trailer Manufacturing Company for completing production of the 100,000th trailer built at the Glade Spring plant; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Utility Trailer Manufacturing Company as an expression of the General Assembly's admiration for its achievement.

### HOUSE JOINT RESOLUTION NO. 836

*Commending Ruth Coles Harris.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Ruth Coles Harris, a visionary educator and trailblazing leader for women in business, was honored on September 29, 2018, with the unveiling of the Ruth Coles Harris Leadership Institute at Virginia Union University's Sydney Lewis School of Business; and

WHEREAS, a graduate of Virginia State College and New York University, Ruth Harris began her career as an educator and strove to inspire her students by pursuing certification as a public accountant; in 1962, she became the first African American woman certified public accountant (CPA) in Virginia, at a time when there were fewer than 100 African American CPAs in the entire country; and

WHEREAS, after earning a doctorate from The College of William & Mary in 1977, Ruth Harris joined the faculty of Virginia Union University, where she taught for many years and oversaw the creation of the Sydney Lewis School of Business from the university's commerce department; and

WHEREAS, as the founding director of the Sydney Lewis School of Business, Ruth Harris used her lifetime of expertise to develop the school's comprehensive curriculum and helped grow enrollment to more than 400 students; she retired as distinguished professor emerita in 1997; and

WHEREAS, Ruth Harris offered her leadership to several state commissions and the boards of directors for numerous local, state, and national organizations, earning recognition as one of eight women selected for the 2015 Virginia Women in History program at the Library of Virginia, among many other awards and accolades; and

WHEREAS, the Sydney Lewis School of Business launched the Ruth Coles Harris Leadership Institute (RCHLI) to celebrate her valuable contributions to Virginia Union University and the professions of business and accounting; and

WHEREAS, the RCHLI perpetuates Ruth Harris' legacy of excellence by deepening the understanding of business, accounting, and entrepreneurship through lectures, workshops, seminars, and certificate programs and working with faculty in other disciplines and members of the community to create unique opportunities for all participants; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ruth Coles Harris, the inspirational namesake of the new Ruth Coles Harris Leadership Institute at Virginia Union University's Sydney Lewis School of Business; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ruth Coles Harris as an expression of the General Assembly's admiration for her personal and professional achievements in service to her students and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 837

*Commending Thomas E. Ousley.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Thomas E. Ousley, founder and chief executive officer of the Infinite Scholars Program, Inc., has positively impacted generations of college-bound students in the Richmond area and throughout the country by providing resources to further their education; and

WHEREAS, the Infinite Scholars Program is a nonprofit organization founded in 2003 by Thomas Ousley, who taught high school English and history for 29 years for the public schools in Jennings, Missouri; while teaching, he worked on many mentoring and educational initiatives to assist low-income students to attend college; and

WHEREAS, the Infinite Scholars Program was borne out of Thomas Ousley finding that too few of his students who deserved to go to college actually enrolled because they believed they could not afford to go; he designed the Infinite Scholars Program to ensure that financially disadvantaged students could receive the funding they need; today 80 percent of Infinite Scholars Program participants enroll in college; and

WHEREAS, during the past 13 years, Thomas Ousley's Infinite Scholars Program has helped more than 100,000 young people receive more than \$1 billion to attend institutions of higher education and now holds over 30 scholarship fairs annually throughout the country; and

WHEREAS, Thomas Ousley's Infinite Scholars Program has been helping Richmond-area students since 2010 at an annual college fair thanks to a partnership with the Richmond Alumnae Chapter of the Delta Sigma Theta Sorority and the Delta House Foundation, impacting thousands of students as they benefit from over \$66 million in scholarship funds; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Thomas E. Ousley for positively impacting generations of college-bound students in the Richmond area and throughout the country by providing resources to further their education; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Thomas E. Ousley as an expression of the General Assembly's admiration for his contributions to education.

### HOUSE JOINT RESOLUTION NO. 838

*Commending Senior Officer Joseph M. Nichols.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Senior Officer Joseph M. Nichols, a dedicated law-enforcement officer, retires as a member of the Division of Capitol Police on April 1, 2019, after more than two decades of service to the Commonwealth; and

WHEREAS, a native of Suffolk, Joseph Nichols joined the Division of Capitol Police, the oldest police department in the nation, on September 25, 1998; and

WHEREAS, in addition to performing general law-enforcement duties at the Virginia State Capitol complex, Joseph Nichols has served on the Capitol Police Honor Guard, presenting a positive, professional image of the department at ceremonial events; and

WHEREAS, Joseph Nichols concurrently served his country as a member of the United States Army Reserve as a military police officer; he was deployed to Germany in 1999-2000, the Radford Army Ammunition Plant in Radford in 2001-2002, and Kuwait in 2003-2004; and

WHEREAS, Joseph Nichols retired from the United States Army Reserve in April 2004 as a sergeant first class; and

WHEREAS, from 2004 to 2015, Joseph Nichols was a member of the Division of Capitol Police Executive Protection Unit, providing security to Virginia Supreme Court justices and the attorney general on official business throughout the Commonwealth, from Grundy, Big Stone Gap, and Scott County to Virginia Beach and the Eastern Shore to Leesburg and Fairfax; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Senior Officer Joseph M. Nichols on the occasion of his retirement as a member of the Division of Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Senior Officer Joseph M. Nichols as an expression of the General Assembly's admiration for his distinguished service to the Commonwealth and the United States.

### HOUSE JOINT RESOLUTION NO. 839

*Celebrating the life of Krissia Ansara Henderson Burrus.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Krissia Ansara Henderson Burrus, a beloved member of the Chester community who touched countless lives through her grace and generosity, died on August 26, 2018; and

WHEREAS, a native of Cleveland, Ohio, Krissia Henderson Burrus grew up in nearby South Euclid, where she developed a passion for gymnastics and joined her first cheerleading squad at the age of 10; and

WHEREAS, in high school, Krissia Henderson Burrus was one of the few ninth-grade students at Brush High School to join the varsity cheerleading squad, and she participated in numerous competitions and a memorable performance at Cleveland Browns Stadium during halftime of a National Football League game; and

WHEREAS, in 2013, Krissia Henderson Burrus relocated to Chester with her family and finished high school at Thomas Dale High School, where she served as captain of the football and basketball cheerleading teams; and

WHEREAS, Krissia Henderson Burrus began attending Virginia Union University in 2016; as a criminal justice major, she shadowed a police officer and conducted coursework at the police academy to further her goal of making the community safer and stronger as a law-enforcement officer; and

WHEREAS, throughout her life, Krissia Henderson Burrus was a trusted mentor to her peers, always willing to help with anything from academics to personal issues; she generously supported clothing drives, holiday gift programs, and food pantries; and

WHEREAS, Krissia Henderson Burrus will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Krissia Ansara Henderson Burrus; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Krissia Ansara Henderson Burrus as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 840**

*Celebrating the life of Walter T. Kenney, Sr.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Walter T. Kenney, Sr., a respected labor leader and public servant who strengthened the Richmond community as a longtime member of the Richmond City Council and an esteemed former mayor, died on January 28, 2019; and

WHEREAS, a proud native of Richmond, Walter Kenney graduated from Armstrong High School and served his country as a member of the United States Army during the Korean War; and

WHEREAS, after his honorable military service, Walter Kenney continued to serve the community as a postal worker and went on to become the first African American to lead a postal union in the southern United States when he was elected president of the Virginia chapter of the American Postal Workers Union, AFL-CIO; and

WHEREAS, Walter Kenney was subsequently elected as a vice president of the American Postal Workers Union in 1970, becoming the first African American to hold a national office in a labor organization; and

WHEREAS, in 1977, Walter Kenney was elected to the first African American-majority City Council in Richmond history and ably represented the residents of the 6th District, which included Highland Park, the East End, and parts of downtown; and

WHEREAS, Walter Kenney was elected as mayor by his fellow Richmond City Council members in 1990 and served two terms until his retirement from public office in 1994; and

WHEREAS, during his long tenure on the Richmond City Council, Walter Kenney led racial reconciliation efforts, opened more city jobs to African Americans, and supported development projects designed to revitalize downtown Richmond and enhance community services; and

WHEREAS, admired for his authenticity, integrity, and unfailing kindness toward others, Walter Kenney earned a reputation as a true gentleman who worked to build mutual respect and consensus across racial, political, and regional lines; and

WHEREAS, Walter Kenney enjoyed fellowship and worship with the community as a lifelong member of St. John Baptist Church in Richmond, where he served as chair of the church's trustee ministry; and

WHEREAS, predeceased by his wife of 41 years, Mamie, Walter Kenney will be fondly remembered and greatly missed by his children, Wilma, Marvette, and Walter, Jr., and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Walter T. Kenney, Sr., a trailblazer for African American leaders in the Commonwealth and the United States; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Walter T. Kenney, Sr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 841**

*Celebrating the life of Leonard E. Phillips, Jr.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Leonard E. Phillips, Jr., a hardworking emergency medical professional who worked to advance the field throughout the Commonwealth, died on October 3, 2018; and

WHEREAS, Leonard E. "Buddy" Phillips, Jr., began his career in the family business, Eastern Handle Corporation, which was later sold in the 1970s, and he began another career with medical and first aid equipment sales; and

WHEREAS, desirous to be of further service to the members of the community, Buddy Phillips joined the recently organized Forest View Volunteer Rescue Squad in 1956, beginning his training with other new members who hoped to make Forest View one of the best rescue squads in the Commonwealth; and

WHEREAS, Buddy Phillips was elected president of Forest View Volunteer Rescue Squad in 1959 and was subsequently elected four additional times; he held additional offices of vice president, finance officer, secretary, training officer, and various other offices in the squad; and

WHEREAS, Buddy Phillips was involved with raising funds, going door to door, working the Christmas tree lot, helping make Brunswick stew, selling fruit cakes, working bingo nights, and other projects, including teaching vehicle extrication, CPR, and first aid classes, while answering emergency calls for over 30 years; in 1977, he received life membership in the Forest View Volunteer Rescue Squad; and

WHEREAS, in 1967, Buddy Phillips began another part of his rescue squad life when he was elected to the office of secretary of the Virginia Association of Volunteer Rescue Squads (VAVRS), followed by winning the District III vice presidency; and

WHEREAS, Buddy Phillips was elected president of the VAVRS in 1970, serving two terms in that position; he also served the VAVRS as vice president, historian, convention chair, and Life Membership Committee chair, as well as, for 10 years, Convention Exhibit chair; and

WHEREAS, Buddy Phillips received life membership in the VAVRS in 1972 and also received recognition from the American Heart Association for his devotion to teaching first aid classes and CPR classes in Virginia; and

WHEREAS, Buddy Phillips advocated for his fellow public safety professionals before the Virginia General Assembly and helped achieve the passage of legislation that exempted rescue personnel from wrongful liability while providing emergency care; he was instrumental in achieving the proclamation of Rescue Squad Week; and

WHEREAS, Buddy Phillips shared his lifetime of expertise by working with administrators at the Medical College of Virginia to sponsor medical seminars for rescue squad personnel; and

WHEREAS, Buddy Phillips was elected to the Virginia Life Saving and Rescue Hall of Fame in 1995; and

WHEREAS, predeceased by his first wife, Frances, Buddy Phillips will be fondly remembered and greatly missed by his beloved wife, Dot; his five children and three stepchildren; his 21 grandchildren and 20 great-grandchildren; and his numerous EMS friends, public safety officials he served with, students he taught, and patients he treated, all of whom made up his second family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Leonard E. Phillips, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Leonard E. Phillips, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 842

*Celebrating the life of Hunter Holmes McGuire, Jr., M.D.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Hunter Holmes McGuire, Jr., M.D., an esteemed surgeon, valued medical educator, and beloved husband and father, died on July 30, 2018; and

WHEREAS, Hunter McGuire was born in Richmond, attended private schools in the area, and earned his undergraduate degree in philosophy at the University of Virginia; he subsequently attended the Medical College of Virginia (MCV), where he received his medical degree and completed a research fellowship and a surgical residency; and

WHEREAS, Hunter McGuire served his country in the military as a medical officer in the Mediterranean and the Persian Gulf, and he served in a medical internship in Cincinnati; and

WHEREAS, Hunter McGuire worked at a McGuire Outpatient Clinic and later rose to become chief of surgical services at Hunter Holmes McGuire Veterans Affairs Medical Center, both of which are named for family members; concurrently, he served for 35 years on the full-time faculty at MCV, where he taught and practiced general surgery and served as an assistant dean of students as well as interim dean; and

WHEREAS, Hunter McGuire coauthored three textbooks and published often-quoted medical reference papers on diverticulosis, and his achievements led to his elections to the presidencies of the Virginia Surgical Society, the Eastern Surgical Society, and the Association of Virginia Surgeons; he also held offices with the Southern Surgical Association and the Medical Society of Virginia; and

WHEREAS, Hunter McGuire served on the vestries of numerous Episcopal churches, as well as on the boards of the Virginia Historical Society and Hollywood Cemetery and as president of the Richmond German; he enjoyed golf, watercolor painting, and sailing but also refining ideas such as his model for better American health care; and

WHEREAS, Hunter McGuire will be fondly remembered and greatly missed by his beloved wife, Alice Burwell Reed McGuire; his children, Alice, Hunter III, and William, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Hunter Holmes McGuire, Jr., M.D., an esteemed surgeon, medical educator, and beloved husband and father; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Hunter Holmes McGuire, Jr., M.D., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 843**

*Celebrating the life of Joseph Dandridge Logan III.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Joseph Dandridge Logan III, a lawyer, musician, and patron of the arts in the Roanoke community, died on May 30, 2018; and

WHEREAS, Joseph Logan was born and raised in Salem; he studied at Christchurch School, Princeton University, and Washington and Lee School of Law; and

WHEREAS, Joseph Logan was a partner in the Roanoke law firm Plunkett and Logan; beyond the law, his interests were quite varied; a talented musician, he played the mandolin, piano, and guitar and for decades, he was a mentor to many young musicians, especially in his own family; and

WHEREAS, Joseph Logan gave his time and intellect serving on the boards of Opera Roanoke, Garth Newel Music Center, and Poplar Forest, Thomas Jefferson's second home, as well as other nonprofits; genealogy was another passion he focused on, spending many hours researching and documenting his family history; and

WHEREAS, Joseph Logan will be fondly remembered and greatly missed by his wife Laura; his children, Anna, Beverley, and Joseph, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joseph Dandridge Logan III, a lawyer, musician, and patron of the arts in the Roanoke community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joseph Dandridge Logan III as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 844**

*Commending Hope in the Cities.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Hope in the Cities, a nonprofit focused on interracial trust, reflection, dialogue, and action, began in 1990 as a response to the need for racial healing in Richmond; and

WHEREAS, Hope in the Cities was launched as a program of Initiatives of Change, a global organization devoted to repairing the world through justice and equity and doing away with the harmful effects of dehumanization, exclusion, hierarchy, and violence; and

WHEREAS, in 1993, Hope in the Cities sponsored a national conference called Healing the Heart of America, which for the first time publicly acknowledged Richmond's role in the slave trade; and

WHEREAS, in the 1990s Hope in the Cities launched small group dialogues on race, reconciliation, and responsibility that have, over the intervening years, involved thousands of people; and

WHEREAS, at the Hope in the Cities 1996 Metropolitan Richmond Day, hundreds of attendees wrestled with critical issues facing the Richmond area, and in 1998 the organization assisted in the development of a public dialogue process for President Clinton's Initiative on Race; and

WHEREAS, in 2001 Hope in the Cities facilitated the creation of a partnership among Richmond, Liverpool, and Benin in West Africa, in which each jurisdiction apologized for its involvement in the slave trade and committed to building a reconciliation triangle, beginning with the erection of common public statues and organization of youth exchange visits; later that year, the organization held an international forum on reconciliation and justice; and

WHEREAS, Hope in the Cities programs in the past decade have trained leaders in skill building and addressed healthy integrated public schools, including in those discussions teachers, administrators, students, parents, and the business community; and

WHEREAS, in 2007, the Hope in the Cities Richmond and Liverpool organizations worked with The Slave Trail Commission to unveil the Reconciliation Statue in Richmond, with replicas erected in Liverpool and the Republic of Benin in West Africa; and two years later saw The Slave Trail Commission complete an archeological dig at the former site of Lumpkin's Jail, one of the historical sites identified by Hope in the Cities at the first Unity Walk in 1993; and

WHEREAS, Hope in the Cities played a leading role in hosting The Trust Factor, a national forum at the University of Richmond in 2009; and after the 2010 Census, it partnered with the Virginia Center for Inclusive Communities to present a program called Unpacking the 2010 Census: The New Realities of Race, Class, and Jurisdiction; and

WHEREAS, two decades after its inception, Hope in the Cities continues to pursue dialogue and cultivate leadership with the Community Trustbuilding Fellowship that enables leaders to make sustainable change within the communities in which they live and work; and

WHEREAS, Hope in the Cities' model for dialogue, healing history, and building interracial partnerships has been replicated in cities across the nation, including Portland, Selma, Baltimore, Hartford, Natchez, and Dayton, as well as communities in Europe, Australia, South Africa, Brazil, and India; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hope in the Cities for its efforts focused on interracial trust, reflection, dialogue, and action, with a focus on addressing the need for racial healing in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hope in the Cities as an expression of the General Assembly's admiration for two decades of commitment to the betterment of Richmond and the world.

### HOUSE JOINT RESOLUTION NO. 845

*Celebrating the life of Yvonne Elizabeth Spain.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Yvonne Elizabeth Spain, a highly admired civic leader who worked diligently to revitalize Southside Richmond and inspired others through her grace and humility, died on May 28, 2018; and

WHEREAS, a native of Richmond, Yvonne Spain grew up in the Randolph neighborhood then moved to Swansboro; she made her career as the longtime office manager for a local dentist, but found her true calling as an advocate for the community; and

WHEREAS, Yvonne Spain served on the boards of the Richmond Redevelopment and Housing Authority and the Richmond Metropolitan Transportation Authority, but was best known for her work with the Richmond Neighborhood Teams, which facilitated communication between civic associations in different parts of the city; and

WHEREAS, as leader of a Swansboro civic association, Yvonne Spain worked with representatives from the Bellemeade, Blackwell, Oak Grove, Manchester, Forest Hill, and Woodland Heights neighborhoods to support initiatives that strengthened the entire Southside community; and

WHEREAS, Yvonne Spain possessed an encyclopedic knowledge of Southside Richmond's neighborhoods, and many city officials relied on her accurate and honest information when crafting policy; and

WHEREAS, Yvonne Spain supported the HOPE VI project that replaced public housing in Blackwell with new homes and apartments, advocated for new master plans for Hull Street and Manchester that sparked responsible growth, and organized Rebuilding Together volunteer projects to renovate and repair the homes of elderly residents in the area; and

WHEREAS, Yvonne Spain offered her wise leadership to the Local Initiatives Support Corporation, the Better Housing Coalition, Homeward, Daily Planet Health Services, and many other civic and service groups; and

WHEREAS, Yvonne Spain will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Yvonne Elizabeth Spain, a pillar of the Southside Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Yvonne Elizabeth Spain as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 846

*Commending Montana Gold Bread Company.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, for 25 years, Montana Gold Bread Company has enriched the culinary landscape in Richmond by providing a wide range of baked delicacies, from everyday midday treats to baked goods for hearty home-made meals and events; and

WHEREAS, Montana Gold Bread Company was established in 1994 by owners Rich and Sher Lahvic, who chose to establish their new endeavor on Cary Street in Richmond because of the city residents' support of local businesses; since then the bakery has grown to employ 11 employees; and

WHEREAS, Rich and Sher Lahvic used their home baking experience, a handful of family recipes, a background in corporate restaurants, and a few months of intensive research to start Montana Gold Bread Company; and

WHEREAS, Montana Gold Bread Company's attention to detail shows in the fact that its employees mill wheat from Montana by hand each day; the Lahvics have enhanced the bakery's sweet and savory selection of muffins, cinnamon rolls, and cookies to include Ukrainian black bread, holiday bread, orange cranberry bread, pumpkin bread, cherry apple challah, and jalapeño cornbread; and

WHEREAS, Montana Gold Bread Company, in its 25th year, invested in an enclosed seating area for patrons to enjoy their delicacies with a cup of coffee as well as a cooling room to store rolling racks of breads, luring patrons in with

tantalizing aromas, and further expanded its menu to include sandwiches, box lunches, and platters for catered affairs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Montana Gold Bread Company on the occasion of its 25th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Montana Gold Bread Company as an expression of the General Assembly's admiration for its contributions to the culinary landscape in Richmond and best wishes for continued success in the future.

#### **HOUSE JOINT RESOLUTION NO. 847**

*Commending Ellwood Thompson's.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, in 2019, Ellwood Thompson's, a local market in Richmond, celebrates its 30th anniversary of bringing people fresh food, engaging the community, and helping the environment; and

WHEREAS, founded in 1989, Ellwood Thompson's was originally known as City Market, a 3,000-square-foot community market opened and run by Rick Hood and Eric Walters, located near the intersection of Libbie Avenue and Patterson Avenue; and

WHEREAS, with an eye to expanding their offering of local, organic foods, the market moved to a bigger home in 1993 at Ellwood Thompson's current 20,000-square-foot location at its namesake intersection by Carytown; and

WHEREAS, with Rich Hood becoming the sole owner, Ellwood Thompson's has continued to grow to employ 150 people, with a full-service meat and seafood department, in-house bakery, coffee and juice bar, made-to-order food station, and dining and event space; and

WHEREAS, most recently, Ellwood Thompson's continues to expand its culinary enterprises, opening a cafe at Virginia Commonwealth University's Institute of Contemporary Art in 2018 and soon opening a new farm venture in Hanover County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ellwood Thompson's on the occasion of its 30th anniversary of bringing people fresh food, engaging community events, and helping the environment; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rick Hood, owner of Ellwood Thompson's, as an expression of the General Assembly's admiration for the business's longevity and best wishes for continued success in the future.

#### **HOUSE JOINT RESOLUTION NO. 848**

*Commending Richmond Ballet.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Richmond Ballet, a nationally recognized premier dance organization and educational institution in Virginia's capital, celebrates its 35th anniversary as a professional ballet company in 2019, fulfilling its mission to awaken and uplift the human spirit; and

WHEREAS, dance enthusiasts founded Richmond Ballet in 1957 as a performance outlet for students in local dance programs; and

WHEREAS, Richmond Ballet existed for almost 20 years as a small civic company until 1975, when the School of Richmond Ballet was founded; the school sparked the evolution from a student company to the professional company of today; and

WHEREAS, in 1980, Stoner Winslett became the founding artistic director; in 1984, Richmond Ballet became the first professional ballet company in the Commonwealth and was subsequently designated "The State Ballet of Virginia" in 1990 by the Governor; and

WHEREAS, in 2000, Richmond Ballet moved into a newly renovated state-of-the-art facility at 407 East Canal Street, in the heart of downtown Richmond; and

WHEREAS, today the professional company employs 19 full-time dancers and five apprentices who come from all over the world and have helped earn Richmond Ballet critical acclaim; and

WHEREAS, today Richmond Ballet reaches more than 100,000 people annually in communities throughout Virginia and beyond, with a professional repertory that includes 47 original works, educational and outreach programs including the Minds In Motion and in-school performance series, and a thriving school that serves more than 700 students; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richmond Ballet on its 35th anniversary as a professional ballet company in 2019 fulfilling its mission to awaken and uplift the human spirit; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richmond Ballet Artistic Director Stoner Winslett, as an expression of the General Assembly's admiration for Richmond Ballet's commitment to fostering the arts in the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 849

*Commending Richmond Camera.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, Richmond Camera marked its 80th anniversary in 2018 as the acknowledged primary source for photographic supplies and services in Central Virginia; and

WHEREAS, Richmond Camera was established in 1938 by James Bullard; since that time Richmond Camera has provided superior photofinishing services as well as an endless selection of products and equipment to both professional and amateur photographers in the region; and

WHEREAS, as the primary source of photographic supplies in Central Virginia, Richmond Camera operates seven locations in Richmond, Midlothian, Ashland, Charlottesville, and Fredericksburg; and

WHEREAS, Richmond Camera offers a plethora of photographic products in their stores, extensive lab services, camera and lens rentals, and educational workshops; the business upholds a commitment to customer service, exceptional quality, cost consciousness, and educational outreach; and

WHEREAS, Richmond Camera adheres to the highest standards by following a unique process of creating photographic prints on professional archival paper engineered to last well over 100 years; the chemical process that technicians use for digital prints contributes to the vibrancy and accuracy of the colors, and staff members take environmentally protective steps such as regular recycling of essential chemicals to reduce the impact on the environment; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richmond Camera, on the occasion of its 80th anniversary, as the acknowledged primary source for photographic supplies and services in Central Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richmond Camera as an expression of the General Assembly's admiration for its dedication to promoting the art of photography, its longevity, its business acumen, and its service to customers and to the community.

### HOUSE JOINT RESOLUTION NO. 850

*Commending Bandazian and Company.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 20, 2019

WHEREAS, since its founding in 1974, Bandazian and Company has provided a full range of real estate services to the Richmond community and Central Virginia Region; and

WHEREAS, Bedros Bandazian formed the Bandazian and Company real estate firm 45 years ago after the Richmond native completed his education in Richmond Public Schools and graduated from Virginia Commonwealth University; and

WHEREAS, Bandazian and Company specializes in commercial real estate and business brokerage in the urban real estate market in Richmond; services include residential and commercial sales and leasing and property management, as well as navigating the search process for clients and setting expectations for buying, selling, renting, or leasing property; and

WHEREAS, Bandazian and Company contributes to the community through involvement with numerous causes including the Monument Avenue 10k, the Special Olympics, the Elby Awards, the Greater Richmond Association for Commercial Real Estate (GRACRE), and the Ronald McDonald House; and

WHEREAS, Bandazian and Company has expanded over the decades to include more staff and is now led by Raffi Bandazian, president and principal broker, who is an active member of the community through numerous organizations including the Rotary Club of West Richmond; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bandazian and Company on the occasion of its 45th anniversary of providing a full range of real estate services to the Richmond community and Central Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bandazian and Company as an expression of the General Assembly's admiration for the fine work of this exceptionally successful and valuable company.

**HOUSE JOINT RESOLUTION NO. 851**

*Commending David Boyer.*

Agreed to by the House of Delegates, February 11, 2019  
Agreed to by the Senate, February 14, 2019

WHEREAS, David Boyer, a resident of Wytheville and an experienced professional truck driver with more than 47 years of experience delivering life's essentials throughout Virginia and North America as an employee of ABF Freight, was named the 2018 National Driver of the Year by the American Trucking Associations; and

WHEREAS, David Boyer has driven more than five million miles in his truck-driving career and averages more than 150,000 miles of driving per year; and

WHEREAS, over the past 38 years, David Boyer has accumulated 2.8 million miles of safe driving without a preventable or non-preventable accident; and

WHEREAS, David Boyer serves Southwest Virginia by hosting multi-week driving safety tours at high schools across the region each year, demonstrating commercial vehicle blind spots, stopping distances, and the dangers of distracted driving to Virginia's young drivers; and

WHEREAS, David Boyer has touched the lives of more than 50,000 high school students in seven different states by putting them behind the wheel of a truck to educate them about sharing the road with large vehicles; and

WHEREAS, in 2011, David Boyer was named a member of the elite group of national professional truck driver ambassadors known as America's Road Team; and

WHEREAS, the Commonwealth recognized David Boyer as the recipient of the 2016 Governor's Transportation Safety Award for Motor Carrier Safety, and the Virginia Trucking Association named him the 2018 Virginia Truck Driver of the Year; and

WHEREAS, David Boyer represented the Commonwealth and the American Trucking Associations at a visit to the White House, where he was formally recognized for his accomplishments as a safe professional by the Secretary of Transportation Elaine L. Chao in a meeting with President Donald J. Trump in the Oval Office; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend David Boyer on being named the 2018 National Driver of the Year by the American Trucking Associations; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Boyer as an expression of the General Assembly's admiration for his achievements as a dedicated leader in his community, an advocate for safety, an experienced truck driver, and a role model for the industry's 3.5 million professional truck drivers.

**HOUSE JOINT RESOLUTION NO. 852**

*Celebrating the life of Sandra Elizabeth Miller.*

Agreed to by the House of Delegates, February 11, 2019  
Agreed to by the Senate, February 20, 2019

WHEREAS, Sandra Elizabeth Miller, a vibrant member of the Richmond community, died on November 18, 2018; and

WHEREAS, Sandra Miller was born and raised in Richmond and graduated from Blessed Sacrament Huguenot High School; and

WHEREAS, Sandra Miller moved to Los Angeles after graduation to pursue a career in film production; and

WHEREAS, upon returning to the Richmond area, where she raised her family, Sandra Miller pursued painting and photography; she enjoyed all things Celtic and was a proud member of the Richmond Scottish Country Dancers; and

WHEREAS, well-known as a problem solver, Sandra Miller used her quiet, collaborative leadership style to tackle challenges creatively, and she was a trusted friend and mentor to many coworkers throughout her life; and

WHEREAS, Sandra Miller will be fondly remembered and greatly missed by her husband, Craig; her daughters, Melissa and Stephanie; her mother, Betty Ann Dillon; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Sandra Elizabeth Miller; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sandra Elizabeth Miller as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 853**

*Commending Rick Wilson and Henderson Motorsports.*

Agreed to by the House of Delegates, February 11, 2019  
Agreed to by the Senate, February 18, 2019

WHEREAS, on April 10, 1989, Rick Wilson and Henderson Motorsports won a career-defining victory in the Budweiser 200 of the National Association for Stock Car Auto Racing Busch Grand National Series at Bristol Motor Speedway; and

WHEREAS, Henderson Motorsports, affiliated with Food Country USA grocery stores, was one of the preeminent teams in the National Association for Stock Car Auto Racing (NASCAR) Busch Grand National Series, now known as the Xfinity Series; the team recruited Rick Wilson for his homespun personality and aggressive racing philosophy; and

WHEREAS, the 1989 Budweiser 200 was delayed to a Monday afternoon start due to severe weather the previous weekend; Rick Wilson started from the pole in his blue No. 75 Oldsmobile and dominated the competition, adapting to the frigid temperatures and passing two other drivers in the outside lane for a dramatic finish; and

WHEREAS, Rick Wilson drove in more than 250 NASCAR races between 1980 and 1997, when he retired at the age of 44, and Henderson Motorsports continues to race in the NASCAR Gander Outdoors Truck Series; and

WHEREAS, in 2010, Rick Wilson and Henderson Motorsports won the NASCAR Legends Race for retired drivers, with Rick Wilson behind the wheel of a replica of the No. 75 Oldsmobile from the 1989 Budweiser 200; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Rick Wilson and Henderson Motorsports on the occasion of the 30th anniversary of their victory in the 1989 Budweiser 200 at Bristol Motor Speedway; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Rick Wilson and Henderson Motorsports as an expression of the General Assembly's admiration for their achievements.

### HOUSE JOINT RESOLUTION NO. 854

*Commending Zeta Chapter of Omega Psi Phi Fraternity, Inc.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Zeta Chapter of Omega Psi Phi Fraternity, Inc., at Virginia Union University proudly marks its 100th anniversary in 2019; and

WHEREAS, the Zeta Chapter of the national Omega Psi Phi Fraternity grew from the Camp Howard Chapter in Washington, D.C., during World War I, where African American men stationed there banded together with other students from historically black colleges and universities to form an association to combat racism, serving in the United States Armed Services to demonstrate that they were loyal, patriotic Americans; and

WHEREAS, those initial Virginia Union University student soldiers and members of Omega Psi Phi Fraternity, Victor C. Smith, Henry B. Hucles, and Melvin DeWitt "Red" Walker, met on October 20, 1919, to form the fraternity's sixth chapter; and

WHEREAS, initially the brothers of the Zeta Chapter of Omega Psi Phi Fraternity were charged with setting up the fraternity, as well as establishing ROTC programs as assistant instructors of military science; and

WHEREAS, the Zeta Chapter of Omega Psi Phi Fraternity remains active in civic, academic, and patriotic endeavors on the campus of Virginia Union University and throughout the community; the fraternity manages a scholarship fund, hosts events, and participates in health initiative programs like blood drives and Prostate Cancer Awareness Month; and

WHEREAS, the Zeta Chapter of Omega Psi Phi Fraternity delivers baskets of donations to the less fortunate on holidays; feeds the hungry; organizes winter coat collection drives; adopts elementary schools to receive donations of coats, backpacks, and school supplies; and provides tutoring and mentoring to area students; and

WHEREAS, today, Omega Psi Phi Fraternity membership has broadened significantly, with over 2,000 members in its 43 chapters in Washington, D.C., and Virginia, including the Zeta Chapter; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Zeta Chapter of Omega Psi Phi Fraternity, Inc., at Virginia Union University on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Zeta Chapter of Omega Psi Phi Fraternity, Inc., at Virginia Union University as an expression of the General Assembly's admiration for the group's significant achievements, dedication to the community, military and civic involvement, and support for higher education.

### HOUSE JOINT RESOLUTION NO. 855

*Commending Action in Community Through Service.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, in 2019, Action in Community Through Service celebrates 50 years of providing support to residents of Prince William County struggling with homelessness, hunger, domestic violence, mental health issues, and other crisis situations; and

WHEREAS, Action in Community Through Service (ACTS) traces its roots to early 1969, when 13 Prince William County churches came together to help a family whose home was destroyed by fire; and

WHEREAS, those 13 churches—Good Shepherd Lutheran, Concordia Lutheran, Lutheran Church of the Covenant, Grace Lutheran, Dumfries United Methodist, Cokesbury United Methodist, St. Paul United Methodist, Ebenezer Baptist, Mt. Olive Baptist, Triangle Baptist, Our Lady of Angels, Woodbridge Church of the Brethren, and Covenant Presbyterian—officially formed ACTS on February 10, 1969, with a mission to alleviate human suffering throughout the region; and

WHEREAS, ACTS immediately began to address the need for food and housing in Prince William County by setting up a food bank and a shelter; in its early years, the organization provided emergency financial assistance for food, housing, utilities, and prescription medications through its network of volunteers working over the phone and opened a day care center for at-risk children from low-income households; and

WHEREAS, throughout the 1970s, ACTS partnered with the United Way of the National Capital Area and launched school food drives, holiday assistance programs, and the Behavioral Intervention Program; in 1979 alone, the organization hired its first executive director, opened a 15-bed homeless shelter in Dumfries, and launched a thrift store program that has grown and expanded over the years; and

WHEREAS, in the 1980s, ACTS established the Women's Aid domestic violence program to provide education, advocacy, and support to local women in need, the Transitional Living program to help families achieve independent living, and a second day care center; and

WHEREAS, ACTS moved to a new administrative office on Acts Lane in Dumfries in 1997 and continued to expand its other facilities in the new millennium, opening the West Safe House in Manassas and reopening the East Safe House, now known as the Women's Empowerment Center, in a newly built house in Triangle; and

WHEREAS, with programs and services still expanding, ACTS opened the Family Service Center in Dumfries in 2008 to better meet its clients' needs, and by 2010, the organization had purchased two townhomes for use as part of an affordable housing program; and

WHEREAS, in 2013, the Sexual Assault Advocacy Service became part of ACTS; it is the only sexual assault crisis program serving Prince William County, offering individual and group counseling for children and adults, court advocacy, hospital accompaniment, and education; and

WHEREAS, more recently, ACTS opened a satellite office in Manassas and completed the Hunger Prevention Center, which distributed more than 679,000 pounds of food to 7,600 households in 2018; and

WHEREAS, ACTS operates several 24/7 call lines, including the Surviving After Suicide line, Senior Link, and the Helpline, an information, referral, and crisis listening hot line that works with the National Suicide Prevention Lifeline and answered 20,493 calls in 2018; and

WHEREAS, ACTS supported more than 3,000 domestic violence victims and 612 sexual assault victims in 2018, and more than 13,000 individuals attended community education courses on the prevention of and recovery from domestic or sexual assault; and

WHEREAS, throughout its history, ACTS has fulfilled its mission with the dedication and hard work of countless volunteers, the leadership of its board of directors and executives, and the support of local businesses, government agencies, faith communities, and other nonprofit organizations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Action in Community Through Service on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Action in Community Through Service as an expression of the General Assembly's admiration for the organization's legacy of excellence in service to the residents of Prince William County.

### HOUSE JOINT RESOLUTION NO. 857

*Commending Randolph-Macon College.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, on October 1, 2018, Randolph-Macon College, the second-oldest Methodist-run college in the nation, celebrated the 150th anniversary of the institution's move from its original location in Boydton to Ashland; and

WHEREAS, founded in 1830 with support from Methodist organizations in North Carolina, South Carolina, and Georgia, Randolph-Macon College relocated to Ashland in 1868, after the railroad to the campus in Boydton was destroyed during the Civil War; and

WHEREAS, chronicled in the book by emeritus faculty member James Edward Scanlon, *Randolph-Macon College: A Southern History, 1825 – 1967*, the move granted Randolph-Macon College a more accessible location and an opportunity to build a stronger relationship with the Virginia Conference of the Methodist Church; and

WHEREAS, Randolph-Macon College's rich and vibrant partnership with the Town of Ashland has helped the institution grow to an enrollment of more than 1,400 students in a wide range of disciplines; and

WHEREAS, over the course of the past 150 years, Randolph-Macon College has become a vital part of the Ashland community, extending its school motto—Building Extraordinary Futures—to include its friends and neighbors in Ashland, as well as its students; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Randolph-Macon College on the occasion of the 150th anniversary of the institution's move to Ashland; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Randolph-Macon College as an expression of the General Assembly's admiration for the institution's commitment to excellence in higher education and numerous contributions to the Ashland community.

### HOUSE JOINT RESOLUTION NO. 858

*Commending the Eastern Shore Area Agency on Aging/Community Action Agency.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Eastern Shore Area Agency on Aging/Community Action Agency has played a vital role in helping residents of Accomack and Northampton Counties age with dignity by providing education, advocacy, and support; and

WHEREAS, the Eastern Shore Area Agency on Aging/Community Action Agency is committed to providing comprehensive, high-quality human services; qualified, dedicated staff create partnerships with families at all stages of life, offering integrated services that address their unique needs and link them with resources in the community; and

WHEREAS, to that end, the Eastern Shore Area Agency on Aging/Community Action Agency offers numerous programs, including Head Start, which serves over 97,000 meals to over 200 families at three sites; an innovative youth program; a senior farmers market; emergency services; and senior centers that feature a variety of programs, such as socialization, diabetes screening and flu shots, care coordination, and Medicare enrollment; and

WHEREAS, DeCola Johnson and Diane Davis are among the key volunteers who play a crucial role in serving the constituents of the Eastern Shore Area Agency on Aging/Community Action Agency; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Eastern Shore Area Agency on Aging/Community Action Agency for playing a vital role in helping local residents age with dignity by providing education, advocacy, and support; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Eastern Shore Area Agency on Aging/Community Action Agency for fostering independence and healthy aging, and improving the quality of life for people of all ages, their families, and their caregivers through comprehensive programs and services.

### HOUSE JOINT RESOLUTION NO. 859

*Commending Leslyn Barrow.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Leslyn Barrow, a Human Services Specialist with the City of Falls Church, has served the residents of the community for more than 25 years; and

WHEREAS, Leslyn Barrow began her career with the City of Falls Church as an administrative secretary on August 18, 1993, and was promoted to housing specialist in 2006; and

WHEREAS, in 2013, Leslyn Barrow received the Employee of the Year Award for her compassion, dedication, and grace in managing difficult situations; she was jointly nominated by Housing and Human Services, the Housing Commission, the Human Services Advisory Council, the Friends of Falls Church Homeless Shelter, and the Falls Church Zoning Inspector; and

WHEREAS, Leslyn Barrow has received many other awards and commendations for her work with the Ellison Resources Center, participation in the Fall for Fun outreach event, and efforts to help other departments with translations; and

WHEREAS, Leslyn Barrow is committed to professional development and lifelong learning; she earned an associate's degree in psychology to better serve community members and maintains certifications from the Alliance of Information and Referral Systems; and

WHEREAS, in the course of her duties, Leslyn Barrow has inspired confidence and hope in the city's most vulnerable residents through her kindness, empathy, and passion for service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Leslyn Barrow for her 25 years of service as a member of Falls Church Housing and Human Services; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Leslyn Barrow as an expression of the General Assembly's admiration for her contributions to the Falls Church community.

**HOUSE JOINT RESOLUTION NO. 860**

*Commending Sam Khamis.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Sam Khamis, a business revenue auditor with the City of Falls Church, has served the residents of the community for more than 30 years; and

WHEREAS, Sam Khamis began his career with the City of Falls Church on October 31, 1988, and has offered his expertise to three commissioners of the revenue, Claude Wells, Harold Miller, and Tom Clinton; and

WHEREAS, Sam Khamis has witnessed significant changes to local, state, and federal tax codes over the past three decades and has worked diligently to help businesses, citizens, and city leadership interpret and adapt to those changes; and

WHEREAS, among his many achievements, Sam Khamis successfully negotiated with business owners to recoup \$150,000 in tax revenue, saving the city from incurring large legal fees; and

WHEREAS, throughout his career, Sam Khamis has demonstrated flexibility and a deep appreciation for the unique challenges that face large and small businesses, while always treating taxpayers with the utmost respect and professionalism; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sam Khamis for his 30 years of service to the City of Falls Church as a business revenue auditor; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sam Khamis as an expression of the General Assembly's admiration for his contributions to the Falls Church community.

**HOUSE JOINT RESOLUTION NO. 861**

*Commending Susan Richter.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, Susan Richter, a management specialist at Falls Church Housing and Human Services, has served the residents of the community for 25 years; and

WHEREAS, Susan "Sue" Richter began her career with the City of Falls Church on August 2, 1993, and quickly earned a reputation for loyalty, fairness, and dedication to her clients, coworkers, and the community as a whole; and

WHEREAS, staff members of multiple city departments have come to rely upon Sue Richter's encyclopedic knowledge of city policies and procedures; and

WHEREAS, in 2011, Sue Richter received the Employee of the Year Award for improving services to the city's most vulnerable residents, revitalizing the Fare Wheels program, coordinating the Community Development Block Grant for the Housing Commission, and enhancing inter-jurisdictional contract management; and

WHEREAS, throughout her career, Sue Richter has served the community with patience, sincerity, kindness, and the utmost professionalism; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Susan Richter for her 25 years of service as a member of Falls Church Housing and Human Services; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Susan Richter as an expression of the General Assembly's admiration for her contributions to the Falls Church community.

**HOUSE JOINT RESOLUTION NO. 862**

*Commending William T. Green, D.D.S.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, William T. Green, D.D.S., a trusted dentist in Newport News, has promoted good oral health in the community for nearly 60 years; and

WHEREAS, William Green attended Hampton High School and graduated from Virginia Polytechnic Institute and State University, where he was a company commander in the Corps of Cadets and a member of the Pershing Rifles and Scabbard and Blade honor societies; and

WHEREAS, William Green served his country as a captain in the United States Air Force, stationed at Wright-Patterson Air Force Base in Ohio for 39 months; he also served in the Virginia Air National Guard and participated in the Berlin Airlift; and

WHEREAS, in 1961, William Green began practicing general dentistry and opened his own office in the Denbigh neighborhood of Newport News; and

WHEREAS, over the course of his long career in dentistry, William Green has treated generations of Newport News families, as well as patients from throughout the United States and foreign countries; and

WHEREAS, highly admired in his field, William Green has received commendations for his dental work from the United States Military Academy at West Point; he is a lifetime member of the Virginia Dental Association and a member of the Delta Sigma Delta dental fraternity; and

WHEREAS, in addition to his work in dentistry, William Green is an instrument-rated pilot with a commercial certificate, and he is an avid golfer who competes in the Virginia Senior Amateur Championship; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend William T. Green, D.D.S., for his six decades of service to the community as a dentist; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William T. Green, D.D.S., as an expression of the General Assembly's admiration for his legacy of contributions to the residents of Newport News.

### HOUSE JOINT RESOLUTION NO. 863

*Commending the Heritage High School football team.*

Agreed to by the House of Delegates, February 11, 2019

Agreed to by the Senate, February 18, 2019

WHEREAS, the Heritage High School football team of Lynchburg claimed its second state title in program history with a victory in the Virginia High School League Class 3 state championship; and

WHEREAS, in the state final at Liberty University, the Heritage High School Pioneers defeated the Phoebus High School Phantoms by a score of 24-20; and

WHEREAS, the Heritage Pioneers were dominant on the ground, with senior quarterback Jabari Blake rushing for 177 yards and three touchdowns and junior running back KJ Vaughan adding another 100 yards; kicker Luke Barredo rounded out the score with a field goal just before halftime; and

WHEREAS, the Heritage Pioneers' defense played tough, physical football, holding the Phoebus offense to a mere 56 rushing yards and forcing two interceptions, including senior Chris Megginson's pick at the 10-yard line to halt a Phoebus drive with only one minute remaining; and

WHEREAS, each member of the Heritage High School football team contributed to the win, which capped off an impressive 14-1 season; and

WHEREAS, throughout the year, the Heritage Pioneers benefited from the leadership of coaches and staff and the passionate support of friends, family members, and the entire Heritage High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Heritage High School football team on winning the Virginia High School League Class 3 state title; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brad Bradley, head coach of the Heritage High School football team, as an expression of the General Assembly's admiration for the team's accomplishments and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 864

*Commending the Virginia Defense Force.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Virginia Defense Force, one of the three components of the Virginia state military, along with the Virginia National Guard and the Virginia Air National Guard, traces its history and tradition of citizen-soldier service to the founding of the Virginia Militia in Jamestown in 1607; and

WHEREAS, in response to the 1917 federalization of the Virginia National Guard, the Commonwealth created the Virginia State Volunteers to support civil authorities; they were soon renamed the Virginia Volunteers and guarded bridges, waterways, fuel storage areas, and public buildings and facilities; and

WHEREAS, the Virginia Volunteers were deactivated in 1921 when the Virginia National Guard returned home from World War I; and

WHEREAS, following the 1940 Nazi defeat of the French army, Governor James Hubert Price ordered the establishment of the Virginia Protective Force, which assumed the in-state missions of the Virginia National Guard after it was called to federal service; and

WHEREAS, in 1944, the Virginia General Assembly changed the name of the Virginia Protective Force to the Virginia State Guard; it was deactivated when the Virginia National Guard returned from federal service in June 1947; and

WHEREAS, the Virginia General Assembly amended the Code of Virginia in 1981 to permit a Virginia State Guard to once again exist during peacetime, and organizational meetings continued for several years; and

WHEREAS, the Virginia State Guard State Headquarters was formally established on April 18, 1984, which is considered the founding date of the modern Virginia Defense Force; and

WHEREAS, the Virginia General Assembly amended the Code of Virginia on March 1, 1986, to change the name of the Virginia State Guard to the Virginia Defense Force; and

WHEREAS, the Virginia Defense Force is authorized by Title 44 of the Code of the Virginia as the all-volunteer reserve of the Virginia National Guard, and it serves as a force multiplier for all Virginia National Guard domestic operations; and

WHEREAS, for 35 years, members of the Virginia Defense Force have volunteered their time, skills, energy, and expertise, providing countless hours of dedicated service supporting the Virginia National Guard as part of the state emergency response team that assists their fellow Virginians during times of need; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Defense Force and its dedicated members for their devotion to duty and their many outstanding and valuable contributions to the safety of citizens of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brig. Gen. (Va.) Justin P. Carlitti, Sr., on behalf of the Virginia Defense Force members under his command as an expression of the General Assembly's gratitude for their 35 years of dedication to the citizens of the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 865

*Commending Providence Baptist Church.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for 55 years, Providence Baptist Church has strengthened the Newport News community by providing opportunities for worship, joyful evangelism, and generous outreach programs; and

WHEREAS, in April 1964, a group of 13 local residents met in the home of Deacon Carl Fautleroy to discuss forming their own congregation; Hazel Pride suggested the name Providence Baptist Church, and on May 1, 1964, the group met at Taborian Hall to officially organize the new church; and

WHEREAS, in its early days, Providence Baptist Church installed officers, formed a Missionary Circle, and voted to purchase lots for the construction of a sanctuary and fellowship hall, which was subsequently built by members of the congregation; and

WHEREAS, the Reverend James L. Hargrave was called as the first pastor of Providence Baptist Church in September 1964; over the course of his 15-year tenure he oversaw the creation of men's, women's, and junior usher boards, music ministries, a Sunday school program, and Vacation Bible School; and

WHEREAS, the Reverend Dr. James J. Gray succeeded Reverend Hargrave in July 1979 and worked diligently to enhance the spiritual vitality of the church family; he actively sought new members and organized the congregation into 12 tribes, with deacons visiting each family in their tribe to learn about issues in the community and keep the church engaged in everyday life; and

WHEREAS, under Reverend Gray's leadership, Providence Baptist Church implemented a nursery and youth tutoring programs, restructured administrative offices and began construction on a new fellowship hall to better serve the growing congregation, and increased community outreach and charitable giving; and

WHEREAS, the third and current pastor of Providence Baptist Church, the Reverend Dr. Corey L. Brown, preached his first sermon in February 2006 and has fulfilled his original mission to provide sound doctrine, relevant ministry, and to help the church become a beacon in the community; and

WHEREAS, Reverend Brown gave the members of the church a sense of direction through new vision and mission statements, focused on developing young leaders in the congregation, and strengthened outreach programs, all contributing to an 81 percent increase in membership; and

WHEREAS, a passionate lifelong learner, Reverend Brown established the Annual Walk for Education, which has raised more than \$140,000 for college scholarships, and a science, technology, engineering, and math ministry to help young people learn about careers in those fields; and

WHEREAS, Providence Baptist Church will commemorate its 55th anniversary with a special service on Sunday, May 5, 2019; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Providence Baptist Church on the occasion of its 55th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Providence Baptist Church as an expression of the General Assembly's admiration for its contributions to the Newport News community.

**HOUSE JOINT RESOLUTION NO. 866**

*Commending Downing-Gross Cultural Arts Center.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Downing-Gross Cultural Arts Center, a multi-purpose cultural space in Newport News, celebrated its 10th anniversary in 2018; and

WHEREAS, the Downing-Gross Cultural Arts Center held its grand opening in 2008, but the building that houses the center, at 2410 Wickham Avenue, has functioned as a community structure since 1918; it has been a high school, an elementary school, an emergency hospital during the Spanish Influenza outbreak, and a library; and

WHEREAS, the Downing-Gross Cultural Arts Center was named after Norvleate Downing-Gross, a passionate community leader in Newport News, who served as program director of the Phillis Wheatley YWCA, the executive secretary of the Peninsula Coordinating Committee, and the executive director for the Newport News Office of Human Affairs from its inception in 1964 until her death; and

WHEREAS, today the Downing-Gross Cultural Arts Center is operated by the Parks, Recreation and Tourism department of the City of Newport News; it houses the 276-seat Ella Fitzgerald Theater and the Anderson Johnson Gallery showcasing art by Johnson inspired by his faith mission; programs at the Center include musical shows, a steel drum performance group, youth photography classes, dance classes, adult painting classes, and more; and

WHEREAS, since its inception, the Downing-Gross Cultural Arts Center has celebrated student, local, national, and international artists and cultivated the arts with their events, workshops, concerts featuring national and local acts, theatrical productions, and much more, in an inclusive and visionary space; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Downing-Gross Cultural Arts Center, a multi-purpose cultural space in Newport News, for celebrating its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Downing-Gross Cultural Arts Center, as an expression of the General Assembly's admiration for its commitment to preserving, cultivating, and presenting the arts in Newport News.

**HOUSE JOINT RESOLUTION NO. 867**

*Commending United Steelworkers Local 8888.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for more than 40 years, United Steelworkers Local 8888 has supported and advocated for the hardworking men and women of Newport News Shipbuilding, the largest single private sector employer in the Commonwealth; and

WHEREAS, prior to the formation of Local 8888, the employees of Newport News Shipbuilding were represented by the Peninsula Shipbuilders Association, which did not hold meetings, elect shop stewards, or maintain a safety clause in its contract; at the time, wages and pensions for shipbuilders in Newport News were lower than those at other shipyards in the United States; and

WHEREAS, in an effort to improve working conditions for their fellow shipbuilders, a group that became known as the "front four," Oscar Pretlow, Edward Coppedge, Ellis Cofield, and W.T. Hayes, contacted United Steelworkers seeking stronger union representation; and

WHEREAS, in the face of opposition from the Peninsula Shipbuilders Association, thousands of shipbuilders in Newport News voted by secret ballot to affiliate with United Steelworkers as Local 8888 in January 1978, a decision that the shipyard owner refused to recognize; and

WHEREAS, one year later, with the support of workers from throughout the Commonwealth and the United States, the shipbuilders of Local 8888 went on strike for 82 days, until the National Labor Relations Board upheld the validity of the election, obligating the company to bargain with United Steelworkers; and

WHEREAS, in the six years after Local 8888 signed its first agreement with the shipyard, wages and benefits increased by more than \$500 million, and the organization has since produced many other contracts resulting in higher wages, improved health benefits, better pensions, and increased workplace safety; and

WHEREAS, in its 40-year history, Local 8888 has benefited from the strong leadership of presidents Lucky Howard, Wayne Crosby, Edward Coppedge, Russ Axsom, Ray Coppedge, Thomas Crudup, Alton Glass, Arnold Outlaw, and Charles Spivey; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend United Steelworkers Local 8888 on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charles Spivey, president of United Steelworkers Local 8888, as an expression of the General Assembly's admiration for the

organization's work to promote the economic vitality of the Commonwealth by supporting the employees of Newport News Shipbuilding.

### HOUSE JOINT RESOLUTION NO. 868

*Commending The Apprentice School.*

Agreed to by the House of Delegates, February 13, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for 100 years, The Apprentice School at Newport News Shipbuilding has shaped the future of the shipbuilding industry by providing an exceptional vocational education; and

WHEREAS, the first Newport News Shipbuilding apprentice, Norwood Jones, graduated on April 4, 1894, and The Apprentice School was formally established on July 1, 1919; the school has since graduated more than 10,800 apprentices; and

WHEREAS, in its early years, The Apprentice School offered only shop training, but has expanded its rigorous curriculum to include the study of mathematics, physics, strength of materials, drafting, marine engineering, shipbuilding operations, technical communications, and other subjects to give students a strong academic foundation for technical training; and

WHEREAS, apprenticeship as a form of education provides significant benefits for both students and businesses, and The Apprentice School's highly effective instructional system and academic components ensure that students have the tools to succeed in demanding careers; and

WHEREAS, The Apprentice School offers 28 different four-year, five-year, or eight-year programs, enrolling approximately 800 young men and women, who not only learn valuable career skills, but earn compensation for on-the-job training; and

WHEREAS, The Apprentice School has been recognized regionally, nationally, and globally as an exceptional model for similar schools, providing an example of how the apprenticeship concept can apply to a wide array of skilled trades; and

WHEREAS, The Apprentice School has enhanced the reputation of Newport News Shipbuilding as a global leader in commercial and military shipbuilding and played a vital role in the company's traditions of success and commitment to excellence; and

WHEREAS, The Apprentice School will commemorate its centennial with special events and activities throughout 2019; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Apprentice School for its service to generations of students on the occasion of its 100th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The Apprentice School as an expression of the General Assembly's admiration for its commitment to craftsmanship, scholarship, and leadership.

### HOUSE JOINT RESOLUTION NO. 869

*Commending the James Madison University women's lacrosse team.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the James Madison University women's lacrosse team won the National Collegiate Athletic Association Division I lacrosse championship on May 27, 2018, claiming its first national title in the team's 50-year history; and

WHEREAS, the James Madison University Dukes defeated the Boston College Eagles by a score of 16-15 in the tense national final at Stony Brook University's Kenneth P. LaValle Stadium, becoming one of only four schools to win the championship since 2004; and

WHEREAS, while the James Madison Dukes took an early four-point lead, the Boston Eagles rallied to tie the game at the half; in the second half, the Dukes overcame a 10-8 deficit and never relinquished the lead; and

WHEREAS, senior midfielder Haley Warden led the James Madison Dukes with four goals in the final and was selected as the 2018 Final Four Most Outstanding Player; seniors Elena Romesberg and Kristen Gaudian and junior Hanna Haven scored three goals each, and freshman goalkeeper Molly Dougherty recorded seven saves; and

WHEREAS, after starting the season ranked 17th, the James Madison Dukes dominated their opponents to finish with a 22-1 overall record, including a sweep of Atlantic Coast Conference opponents; and

WHEREAS, Shelley Klaes-Bawcombe, head coach of the James Madison Dukes, earned Coach of the Year honors from local media outlets and was named as the Division I South Region Coach of the Year and the National Coach of the Year by the Intercollegiate Women's Lacrosse Coaches Association; and

WHEREAS, the James Madison Dukes' victorious season is a testament to the hard work and tenacity of all the student-athletes, the leadership and dedication of coaches and staff, and the passionate support of the entire James Madison University community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the James Madison University women's lacrosse team on winning the National Collegiate Athletic Association Division I lacrosse championship in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shelley Klaes-Bawcombe, head coach of the James Madison University women's lacrosse team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 870

*Commending the Patrick Henry High School volleyball team.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Patrick Henry High School volleyball team of Glade Spring secured its first state title in program history with a victory in the Virginia High School League Class 1 state championship; and

WHEREAS, in the state final held at Northside High School, the Patrick Henry High School Rebels defeated the Riverheads High School Gladiators in straight sets by scores of 25-14, 25-20, and 25-11; and

WHEREAS, the Patrick Henry Rebels took early leads in all three sets, and the team's stifling defense and impressive depth at every position overwhelmed the Riverheads Gladiators; and

WHEREAS, Patrick Henry sophomore Ella Maiden led the team with 14 kills and senior Carlee Taylor scored the game-winner in the third set; each member of the team contributed to the win, which capped off an incredible 25-2 season; and

WHEREAS, throughout the year, the Patrick Henry Rebels benefited from the leadership and guidance of coaches and staff members as well as the energetic support of friends, family, and the entire Patrick Henry High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Patrick Henry High School volleyball team on winning the Virginia High School League Class 1 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pam Ratliff Newberry, head coach of the Patrick Henry High School volleyball team, as an expression of the General Assembly's admiration for the team's historic achievement and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 871

*Celebrating the life of Anthony R. Whetzel.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Anthony R. Whetzel, a retired fire captain with the Rockingham County Fire and Rescue Department, died on September 15, 2018, from cancer; and

WHEREAS, Anthony Whetzel was raised in Timberville and resided in the neighboring Town of Broadway at the time of his death; and

WHEREAS, Anthony Whetzel first joined the fire service as a volunteer firefighter with the Broadway Volunteer Fire Department in May 2005 and went on to be hired by the Rockingham County Fire and Rescue Department in July 2006; and

WHEREAS, Anthony Whetzel dedicated 13 years of his life to protecting the citizens of Rockingham County and was a respected leader, mentor, and trainer; and

WHEREAS, Anthony Whetzel was promoted to captain in September 2014 after receiving the rank of master fire and rescue technician in November 2008 and the rank of lieutenant in September 2011; and

WHEREAS, Anthony Whetzel proudly and valiantly served his community and department despite his illness, working up to within a month of his passing; and

WHEREAS, deeply dedicated to his family and friends, Anthony Whetzel will be fondly remembered and greatly missed by his loving wife Drenna; his children, Rylan and Callie; his parents, Harry and Faye; and his brother, Dustin, who carries on his legacy as a firefighter with the Rockingham County Fire and Rescue Department; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Anthony R. Whetzel, a tireless hero who dedicated more than 13 years of his life to fighting fires in Rockingham County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anthony R. Whetzel as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 872**

*Celebrating the life of Lillie A. Estes.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Lillie A. Estes, passionate community strategist and advocate for her fellow residents of Gilpin Court and the members of the Richmond community as a whole, died on January 31, 2019; and

WHEREAS, a native of Newport News, Lillie A. Estes graduated from Menchville High School and relocated to Richmond after she earned a bachelor's degree from Virginia Commonwealth University in 1983; and

WHEREAS, Lillie A. Estes was a longtime resident of Gilpin Court and led efforts to support and revitalize public housing neighborhoods throughout Richmond; she was a founding member of Residents of Public Housing in Richmond Against Mass Eviction and served on the board of the Virginia Poverty Law Center and the advisory council for Hope in the Cities; and

WHEREAS, Lillie A. Estes offered her leadership to the Richmond mayor's anti-poverty commission, which became the Office of Community Wealth Building, and helped secure a \$1 million federal grant for a community-based crime reduction program through the Office of the Attorney General; and

WHEREAS, a determined organizer and a skilled strategist, Lillie A. Estes engaged members of the community in unique ways, including through her Community Justice Film Series and by working with local residents and civic groups to create the Charles S. Gilpin Community Farm, an urban garden on a formerly vacant lot on St. Peter Street; and

WHEREAS, in November of 2018, Lillie A. Estes, building upon the work of the Charles Hamilton Houston Institute for Race and Justice, established the Community Justice Network, a gathering of individuals and organizations who are committed to advancing community justice through their individual and collective work; and

WHEREAS, Lillie A. Estes has positively influenced the work of younger community organizers through her wisdom and experience, while encouraging them to seek intersectionality within their separate areas of civic engagement to achieve common goals; and

WHEREAS, Lillie A. Estes will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lillie A. Estes, a champion for the residents of Gilpin Court who worked to build a more just, more humane community in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lillie A. Estes as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 873**

*Celebrating the life of the Honorable Ralph L. Axselle, Jr.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Honorable Ralph L. Axselle, Jr., a prominent attorney in Richmond and a former member of the Virginia House of Delegates who represented the residents of Henrico County for 16 years, died on January 24, 2019; and

WHEREAS, Ralph L. "Bill" Axselle, Jr., grew up in Glen Allen and graduated from Hermitage High School, where he cultivated his penchant for leadership as class president for four years, then continued his education at the University of North Carolina at Chapel Hill; and

WHEREAS, Bill Axselle returned to the Commonwealth to pursue a law degree at the University of Richmond; he served as president of the McNeill Law Society and as a member of the University of Richmond *Law Review*, while supporting his young family by working as a railroad brakeman; and

WHEREAS, seeking to provide stronger representation for his fellow residents of Henrico County, Bill Axselle ran for and was elected to the Virginia House of Delegates in 1973 and quickly gained a reputation for his attention to detail, work ethic, and commitment to building bipartisan consensus; and

WHEREAS, during Bill Axselle's first term as a member of the General Assembly, 22 of his 28 introduced bills passed and he served on more study committees than any other freshman delegate; he was recognized as the most effective of 17 new members elected in 1973; and

WHEREAS, among his proudest achievements, Bill Axselle supported a 10-year moratorium on annexation attempts by the City of Richmond in 1977 and legislation in 1979 that gave the counties adjacent to the city immunity from annexation, ultimately fostering greater regional cooperation and more effective long-range planning; and

WHEREAS, Bill Axselle coordinated negotiations for road improvements near River Road Shopping Center; advocated for full disclosure of lobbyists' activities and spending; helped give the State Corporation Commission power to set utility rates in Richmond; modified the criminal code to allow juries to know the background of defendants before sentencing;

limited increases in state spending to the rate of growth of the economy; and established a task force to make rape trials less intimidating for victims; and

WHEREAS, after leaving the state legislature in 1990, Bill Axselle continued to offer his leadership and expertise to several state boards and commissions, including the Virginia Code Commission and the Virginia Freedom of Information Advisory Council, among many others; most notably, he joined Williams Mullen, becoming chair of the firm's government relations group and using his expertise to develop one of the Commonwealth's premier government relations teams; and

WHEREAS, Bill Axselle was widely known as a real estate and land use attorney who had practiced in energy and infrastructure, business and corporate, and transportation and logistics law; and

WHEREAS, Bill Axselle was selected by *Best Lawyers* as its government relations Lawyer of the Year in 2011 and 2015 and its land use and zoning Lawyer of the Year in 2012, 2016, and 2018; he was named to *Virginia Lawyers Weekly's* 2014 class of Leaders in the Law, which recognizes lawyers for changing the law, serving the community, changing practice, or improving Virginia's justice system; and

WHEREAS, Bill Axselle will be fondly remembered and greatly missed by his wife, Anne; his children, Ralph III, Anne-Marie, and Laura, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Ralph L. Axselle, Jr., a highly admired public servant, an accomplished attorney, and a champion for Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Ralph L. Axselle, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 874

*Celebrating the life of Roy Lee Redd.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Roy Lee Redd, a longtime volunteer with the Christiansburg Fire Department, died on November 28, 2018; and

WHEREAS, Roy Redd was born in Christiansburg and served the community throughout his life, retiring in 2009 after 37 years as a second-generation city employee; and

WHEREAS, Roy Redd began serving as a loyal volunteer with the Christiansburg Fire Department in 1973; he served in many capacities with the Southwest Virginia Fire Association and Virginia State Fire Association, where he earned the title of Fire Truck Rodeo champion multiple times; and

WHEREAS, in 2014, Roy Redd was recognized by the Montgomery County Board of Supervisors for answering 678 fire calls that year; the Christiansburg Fire Department named an award in his honor that is presented annually to a deserving firefighter for exceptional service to the community; and

WHEREAS, Roy Redd was an avid hunter, enjoying deer, elk, and especially bear hunting with hounds; he was known for his humor, selflessness, and commitment to service; and

WHEREAS, preceded in death by his wife Teresa, Roy Redd will be fondly remembered and greatly missed by his children, Amanda, Forest, Ashley, and Skyler, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Roy Lee Redd, a longtime volunteer with the Christiansburg Fire Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Roy Lee Redd as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 875

*Celebrating the life of Trina Nelson Rupe.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Trina Nelson Rupe, who served the residents of Pulaski County as Commissioner of the Revenue for over a decade, died on August 29, 2018; and

WHEREAS, Trina Rupe was a graduate of Pulaski High School, New River Community College, and the University of Virginia; she was known as a dedicated public servant who put in a lot of effort to be fair and respectful when collecting taxes; and

WHEREAS, to those she supervised and her colleagues, Trina Rupe was known as a master at creating camaraderie in the office, often organizing birthday dinners and other gatherings for her valued colleagues; and

WHEREAS, Trina Rupe loved life outside of the office, pursuing numerous pastimes including crafting, cooking and baking, caring for her pets, and visiting the beach; and

WHEREAS, Trina Rupe will be fondly remembered and greatly missed by her daughter, Kristel; her granddaughter, Paeslee, and their family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Trina Nelson Rupe, longtime Commissioner of the Revenue for Pulaski County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Trina Nelson Rupe as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 876

*Commending New River Valley Community Services.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 50 years, New River Valley Community Services has provided community-based behavioral health services that promote independence and improved quality of life for the citizens of the New River Valley; and

WHEREAS, New River Valley Community Services offers community-based programs for both children and adults who are living with mental illness, developmental disabilities, or substance abuse disorders; and

WHEREAS, established in 1969, New River Valley Community Services is part of a statewide system of Community Services Boards, which serves residents throughout the Commonwealth of Virginia; and

WHEREAS, New River Valley Community Services programs serve adults and children in emergencies or in an ongoing capacity, addressing mental health, developmental disabilities, substance abuse, and prevention through peer groups and psychiatric services, as well as diagnostic evaluations and assessment services; and

WHEREAS, over the course of five decades in operation, the New River Valley Community Services staff have treated their clients with care, sensitivity, and understanding; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend New River Valley Community Services for providing community-based behavioral health services that promote independence and improved quality of life for the citizens of the New River Valley for 50 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to New River Valley Community Services as an expression of the General Assembly's admiration for the organization's crucial contributions to the New River Valley.

### HOUSE JOINT RESOLUTION NO. 877

*Commending Don Goodman.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Don Goodman, respected chief of the Radford City Police Department who served the community for over a decade, retired on January 1, 2019; and

WHEREAS, Don Goodman graduated from Radford University in 1984, and previously served for 23 years with the Town of Blacksburg Police Department as a police officer, detective, detective sergeant, lieutenant, professional standards lieutenant, detective lieutenant, and operations division captain; and

WHEREAS, Don Goodman is a graduate of the 18th session of the Professional Executive Leadership School conducted by the Virginia Association of Chiefs of Police, and the 218th session of the Federal Bureau of Investigation National Academy; in his retirement, he will continue to teach at the National Center for Biomedical Research and Training, a Louisiana State University-based program that provides free training to first responders; and

WHEREAS, Don Goodman was appointed as chief of the Radford City Police Department in 2008; specific achievements during his tenure included the department's move in 2012 to a new public safety building, a relocation that greatly upgraded the police department's technology and facilities, and improved its ability to carry out its duties; and

WHEREAS, Don Goodman supervised upgrades to police vehicles and equipment, including body cameras, and prioritized community engagement and emergency preparedness; part of his community engagement strategy included rotating officers assigned to city schools and directing them to open car doors at student drop offs so students could become more familiar with officers and see them as helpful; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Don Goodman for his legacy of service on the occasion of his retirement as chief of the Radford City Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Don Goodman as an expression of the General Assembly's admiration for his exceptional community leadership and commitment to the residents of Radford.

### HOUSE JOINT RESOLUTION NO. 878

*Commending Robert Stoots.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Robert Stoots, a respected leader in the Pulaski County community, has served and supported his fellow members of United Steelworkers District 8 as president of Local 8-495 for 10 years; and

WHEREAS, Robert Stoots handled grievances and contract issues for United Steelworkers (USW) Local 8-495 for eight years, then served for two years as vice president, before becoming president in 2009; and

WHEREAS, USW represents workers from a diverse range of industries, including fabricated metals, chemicals, glass, rubber, and other products; from his experience working with propellants and explosives for military weapons systems, Robert Stoots understands the on-the-job challenges faced by the highly skilled members of USW District 8 each day; and

WHEREAS, Robert Stoots has safeguarded the lives and property of his fellow residents as a member of the Twin Community Volunteer Fire Department since 1975; he has held every office, including chief, and led efforts to raise funds for the department to expand and modernize its fire house and equipment; and

WHEREAS, Robert Stoots also supported young people in the community as a Little League tee-ball, baseball, and football coach from 1991 to 2001 and a fundraiser for Pulaski County High School athletics from 2000 to 2005; and

WHEREAS, in recognition of his countless hours of leadership and volunteer service over the past 40 years, Robert Stoots received the 2018 USW Cares District 8 Jefferson Award; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert Stoots for his 10 years of service as president of United Steelworkers Local 8-495; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Stoots as an expression of the General Assembly's admiration for his advocacy in support of the members of United Steelworkers District 8 and contributions to the Pulaski County community.

### HOUSE JOINT RESOLUTION NO. 879

*Commending the Frank W. Cox High School field hockey team.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, with a victory in the Virginia High School League Class 6 state championship in November 2018, the Frank W. Cox High School field hockey team of Virginia Beach earned its 20th state title in program history and the 51st state title in school history; and

WHEREAS, the Frank W. Cox High School Falcons defeated their district rivals, the First Colonial High School Patriots, by a score of 1-0 in a tense double-overtime game marked by physical play and below freezing wind chills; and

WHEREAS, Frank W. Cox High School's Kylie Levine converted a cross from Zoe Campisi to score the lone goal of the match with only 3:36 to play in the second sudden-death overtime period; and

WHEREAS, every member of the Frank W. Cox High School field hockey team contributed to the historic win, which capped off an impressive 20-1 season and placed the school in a three-way tie for most field hockey championships in the nation; and

WHEREAS, throughout the year, the Frank W. Cox Falcons benefited from the leadership and guidance of coaches and staff and the support of friends, family members, and the entire Frank W. Cox High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Frank W. Cox High School field hockey team on winning the 2018 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Frank W. Cox High School field hockey team as an expression of the General Assembly's admiration for the team's perseverance and legacy of success.

**HOUSE JOINT RESOLUTION NO. 880**

*Commending the Rock Ridge High School softball team.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, in 2018, the Rock Ridge High School softball team, coached by Phil Cox, worked with American Legion Post 2001 and Luck Stone Corporation to install a flagpole at the team's field, allowing the players to honor the American flag during the playing of the National Anthem before games; and

WHEREAS, Phil Cox, a teacher and patriotic citizen, began his mission to provide a flagpole for the Rock Ridge High School softball team by contacting American Legion Post 2001 in Ashburn to build support for the project; and

WHEREAS, the Rock Ridge High School softball team raised awareness among the members of the Brambleton community and worked to change Loudoun County Public School policies and raise money for the purchase and installation of a flagpole; and

WHEREAS, the Rock Ridge High School softball team worked with Luck Stone Corporation, which donated the rock that bears a commemorative plaque near the flagpole; and

WHEREAS, the Rock Ridge High School softball team held a special ceremony on May 12, 2018, with a dedication led by Chuck Loomis, post commander of American Legion Post 2001, and a benediction by post chaplain Bob O'Suche, with veterans of World War II, the Korean War, and the Vietnam War proudly in attendance; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Rock Ridge High School softball team for working with other members of the community to install a flagpole at the team's field; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Phil Cox, head coach of the Rock Ridge High School softball team, as an expression of the General Assembly's admiration for the team's patriotism and the hard work of all the community members involved in the project.

**HOUSE JOINT RESOLUTION NO. 881**

*Commending the 29th Infantry Division.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, June 6, 2019, marks the 75th anniversary of the Allied assault at Normandy, France, by American, British, and Canadian troops, known as Operation Overlord, in which the 29th Infantry Division, based at Fort Belvoir in Fairfax County, played a vital role; and

WHEREAS, the D-Day landing was the largest single amphibious assault in history, consisting of approximately 31,000 members of the United States Armed Forces, 153,000 members of the Allied Expeditionary Force, 5,000 naval vessels, and more than 11,000 sorties by Allied aircraft; and

WHEREAS, the Virginia National Guard, having been mobilized by the President of the United States starting in 1940, formed the 111th Field Artillery Battalion and the 116th Infantry Regiment; and

WHEREAS, these two units of the 29th Infantry Division would be among the very first units to land on Omaha Beach, thereby earning the unique battle streamer "Beaches of Normandy" for their unit flags; and

WHEREAS, among the soldiers on the beach that morning were Sergeant John Robert "Bob" Slaughter and Sergeant Arnold H. Lindblad; their heroic acts and devotion to duty gave cause to the Virginia National Guard to name their headquarters building the Sergeant Bob Slaughter Headquarters and to designate the Norfolk Virginia National Guard Readiness Center as the Chief Warrant Officer Arnold Lindblad Readiness Center; and

WHEREAS, in the early hours of the landing, the commander of the 111th Field Artillery, Lieutenant Colonel Thornton L. Mullins, on finding that the amphibious vehicles bringing his unit's howitzers ashore had sunk, told his men to forget their artillery training, saying, "We're infantrymen now"; and

WHEREAS, Lieutenant Colonel Mullins was killed in action shortly thereafter; and

WHEREAS, the subsequent fighting after the initial D-Day landing proved to be as dangerous and fraught with casualties; the individual heroic acts of Virginia National Guardsman Technical Sergeant Frank D. Peregory at Grandchamps, France, on June 8, 1944, in singlehandedly eliminating a German strongpoint and capturing more than thirty of the enemy earned him the Medal of Honor; and

WHEREAS, the 29th Infantry Division found itself fighting for weeks in the Bocage area of Normandy against a deadly foe that contested every field and hedgerow, and casualty rates soon exceeded those of the D-Day landing; and

WHEREAS, the breakout from the Bocage and subsequent capture of the town of Saint-Lô on July 19, 1944, was led by the Virginia Guardsmen of the 116th Infantry Regiment while supported by the 111th Field Artillery; after 45 days of continuous combat, more than 7,000 members of the 29th Infantry Division were killed or wounded; and

WHEREAS, the commander of the 2nd Battalion, 116th Infantry, Major Thomas Dry Howie, was killed by enemy artillery fire, and his body was carried by his troops into the heart of the shattered city, then laid in state on the rubble of a church in the Saint-Lô square; and

WHEREAS, this incredible show of respect for their fallen leader was reported in the world press and gave rise to the legend of the "Major of Saint-Lô"; and

WHEREAS, the Virginia Guardsmen of the 29th Infantry Division would next be assigned to the assault on the German-fortified port city of Brest where they would be reunited with their former 116th Regimental Commander, Brigadier General Charles D. W. Canham, now Assistant Division Commander of the 8th Infantry Division, while fighting in the streets of Brest; and

WHEREAS, the final capture of Brest after weeks of street-to-street combat would lead to the movement of the 29th Infantry Division across France to take up positions in Holland, defending the northern flank of the United States Army forces in Europe; and

WHEREAS, units of the 29th Infantry Division participated in the assault across the Rur River in February 1945 and finished the war in a defensive position along the Elbe River in May of that year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the 29th Infantry Division on the occasion of the 75th anniversary of its meritorious actions during World War II, from the beaches of Normandy on D-Day to the Elbe River; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the 29th Infantry Division and the National D-Day Memorial Foundation as an expression of the General Assembly's admiration for the unit's meritorious service in combat during World War II and subsequent service to the Commonwealth and the United States.

### HOUSE JOINT RESOLUTION NO. 882

*Commending the Orange County Agricultural Initiative.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Orange County Agricultural Initiative was established by the Orange County Chamber of Commerce in July 2018 to enhance support for the county's vast agricultural community; and

WHEREAS, the Orange County Agricultural Initiative is a groundbreaking effort to create a centralized, comprehensive resource on agriculture-related funding, training and certification, education, staffing, government assistance, insurance, products, peer support, and advocacy; and

WHEREAS, the Orange County Agricultural Initiative pools the capabilities and knowledge of relevant local, state, and federal agencies; local, state, and national agricultural associations; farmers and agribusinesses; educational organizations such as 4-H, Future Farmers of America, Virginia Cooperative Extension, and local schools; and secondary contributors like vendors and retailers; and

WHEREAS, the Orange County Agricultural Initiative has developed plans to launch an informational website and will function as an independent nonprofit organization with oversight from the Orange County Chamber of Commerce and the Orange County Farm Bureau; and

WHEREAS, Orange County is the eighth-largest contributor to agriculture in Virginia, and the success of the Orange County Agricultural Initiative will broaden and increase agricultural revenue for the Commonwealth; and

WHEREAS, the Orange County Agricultural Initiative provides a model for how other localities in the Commonwealth and throughout the United States can strengthen their commitment to agriculture; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Orange County Agricultural Initiative, an innovative program to support the Orange County agricultural community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Orange County Chamber of Commerce as an expression of the General Assembly's admiration for the unique benefits of the Orange County Agricultural Initiative to the region and the Commonwealth as a whole.

### HOUSE JOINT RESOLUTION NO. 883

*Commending Richard Brooking.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, after 31 years of distinguished service to the community as a law-enforcement officer, Richard Brooking retired from the Town of Culpeper Police Department on December 31, 2018; and

WHEREAS, Richard Brooking started working in law enforcement at the Culpeper County Sheriff's Office; he joined the Town of Culpeper Police Department in June of 1986 and served as a detective, K-9 officer, and master police officer over the years; and

WHEREAS, Richard Brooking was known in his profession as an officer with integrity and one who always treated others as he would want to be treated; and

WHEREAS, Richard Brooking was highly respected by his colleagues and recognized as a police officer with high character, unparalleled dedication, and a strong work ethic; and

WHEREAS, in his well-earned retirement, Richard Brooking plans to seek new part-time work, enjoy more leisure time, and continue his volunteer work of helping people suffering from addiction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richard Brooking on the occasion of his retirement from the Culpeper Police Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard Brooking as an expression of the General Assembly's admiration for his service and exceptional commitment to the residents of Culpeper.

### HOUSE JOINT RESOLUTION NO. 884

*Commending Mt. Zion Baptist Church.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 160 years, Mt. Zion Baptist Church in Locust Grove has served the members of the Orange County community by providing spiritual leadership, generous outreach programs, and opportunities for joyful worship; and

WHEREAS, prior to the Emancipation Proclamation in 1863, the citizens of the Gordon District in Orange County who would become the congregation of Mt. Zion Baptist Church gathered to praise God through prayer, song, and testimony; and

WHEREAS, the early ancestors of Mt. Zion Baptist Church were many and consisted of members of the Armstead, Broadus, Brooks, Carter, Cottoms, Henderson, Johnson, Lewis, Minor, and Vass families, with birth dates as early as 1810; descendants of those families remain members and loyal supporters of the church; and

WHEREAS, initially, the residents formed a Prayer Band in the home of Maria Armstead and Peter Armstead, the congregation's first known spiritual leader, in an area referred to as Peter Bottom, near Indiantown Road in Locust Grove; and

WHEREAS, the Prayer Band's next place of worship was a brush arbor built on a corner lot subsequently purchased by Nathan Henderson and his wife, Betsy, with the Reverend John C. Willis, Jr., a white minister, as the principal speaker; and

WHEREAS, in Mt. Zion Baptist Church's early days, many members walked to worship services and others traveled by horseback and carriages from the neighboring communities of Lewistown, Peter Bottom, Fox Neck, and Flat Run; and

WHEREAS, as the church community grew in numbers and spirituality, Prayer Band members decided to divide the travel distance and move from Indiantown Road in Lewistown to property owned by Abe Roach on Governor Almond Road, where the congregation erected a log cabin; and

WHEREAS, the Reverend Peter Armstead continued as the Prayer Band's leader until his death sometime prior to the 1860s; and

WHEREAS, in 1858, needing a larger sanctuary and unable to add to the log cabin, the Prayer Band moved to a property on land owned by Henry Willis, a few miles from the present location of Mt. Zion Baptist Church; during this period, the Reverend Robert Woodson, a traveling minister, served the congregation; and

WHEREAS, the Reverend Wanzer Tibbs, also a traveling minister, was the Prayer Band's next spiritual leader; he named the new sanctuary Zion Baptist Church, later referred to as Mt. Zion Baptist Church (Colored) and formally changed to Mt. Zion Baptist Church on November 5, 2000; and

WHEREAS, the Reverend James A. Robinson of Spotsylvania became the first official pastor of Mt. Zion Baptist Church and served the congregation for 33 years, from 1895 to 1928, and established the Church's first Sunday school and Usher Board; and

WHEREAS, the next pastor of Mt. Zion Baptist Church, the Reverend Robert L. Harris, served from approximately 1930 to 1951, and oversaw the baptism of many new members in Floyd Hicks' farm pond; and

WHEREAS, in 1951, the Reverend Ellis W. Yancey was elected pastor and designed and began the construction of a new church; groundbreaking services took place in 1954, and Benny Carter of Spotsylvania was the builder; and

WHEREAS, in 1957, the Reverend Charles H. Sanford was elected as pastor of Mt. Zion Baptist Church and under his leadership the new building was completed; on May 5, 1962, Floyd E. Hicks and Mabel E. Hicks conveyed to Wyman H. Johnson and MacNeire Johnson, as trustees, the land on which the church currently stands; and

WHEREAS, the Reverend Winston L. Brock, who guided Mt. Zion Baptist Church from 1981 to 1995, was an inspirational and motivational leader who greatly improved and enhanced the church building and grounds; he was succeeded by the Reverend Ernest Woodson, who was pastor from 1996 to 1997; and

WHEREAS, on November 13, 1996, the interior of Mt. Zion Baptist Church suffered fire damage; deacons Howard Roberts, MacNeire Johnson, George Price, and Clarence Washington and sisters Betty Roberts and Joan Washington were instrumental in overseeing the restoration; and

WHEREAS, the Reverend Dr. Robert C. Stone, pastor of Mt. Zion Baptist Church from 2000 to 2006, was a man who walked among his people and appointed two associate ministers, the Reverend Eddie Naylor and the Reverend Alan Watkins, to better serve the congregation; and

WHEREAS, the current pastor of Mt. Zion Baptist Church, the Reverend Sanford Reaves, Jr., joined the church in 2007 and continues to answer God's call to grow the congregation both physically and spiritually and preach the gospel to the people; and

WHEREAS, throughout the history of Mt. Zion Baptist Church, the members of the congregation have upheld their commitment to serve the Lord by believing, trusting, praising, and growing in their spiritual faith; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mt. Zion Baptist Church on the occasion of its 160th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Sanford Reaves, Jr., pastor of Mt. Zion Baptist Church, as an expression of the General Assembly's admiration for the church's unique place in local history and contributions to the Locust Grove community.

### HOUSE JOINT RESOLUTION NO. 885

*Commending the Dolley Madison Garden Club.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Dolley Madison Garden Club, a nonprofit organization in the Town of Orange, has promoted horticulture and protected the agricultural heritage of the community for 100 years; and

WHEREAS, established in 1919 by a group of civic-minded women with an interest in gardening, the Dolley Madison Garden Club selected the zinnia, a symbol of friendship, endurance, and constancy, as its club flower; and

WHEREAS, the Dolley Madison Garden Club was the fourth such club to join the Garden Club of Virginia after it was founded in 1920, and it was admitted to the Garden Club of America in 1922; and

WHEREAS, among its many community improvement projects, the Dolley Madison Garden Club has worked to save dogwood trees, limit the use of billboards, and abolish automobile graveyards; the club also planted trees along U.S. Route 15 and worked with the Town of Orange to enhance Taylor Park; and

WHEREAS, each April, the Dolley Madison Garden Club produces a Historic Garden Week tour, with proceeds benefiting the Garden Club of Virginia projects to restore and beautify gardens and supporting an ongoing partnership with Virginia State Parks; and

WHEREAS, members of the Dolley Madison Garden Club give generously of their time and talents to increase the quality of life in Orange; the club has also received special recognition for its outstanding contributions to the Boys and Girls Clubs of Orange; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Dolley Madison Garden Club on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Dolley Madison Garden Club as an expression of the General Assembly's admiration for its legacy of contributions to the Orange community and the Commonwealth as a whole.

### HOUSE JOINT RESOLUTION NO. 886

*Commending William C. Chase, Jr.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, in 2018, William C. Chase, Jr., an exceptional public servant and community leader, was elected to his 10th term as chair of the Culpeper County Board of Supervisors; and

WHEREAS, William "Bill" C. Chase, Jr., served his country during the Vietnam War as an officer in the United States Army Rangers, earning four Bronze Star Medals, nine Army Air Medals, the Purple Heart, and the Army Commendation Medal, among other awards and decorations; and

WHEREAS, a graduate of the United States Military Academy at West Point and the University of Virginia, Bill Chase has enjoyed a long career as a farmer and served as president of Potts Run Coal Company; and

WHEREAS, in 1977, Bill Chase joined the Culpeper Planning Commission and went on to serve for seven years, including three years as chair; and

WHEREAS, desirous to be of further service to his fellow Culpeper residents, Bill Chase ran for and was elected to the Culpeper County Board of Supervisors; beginning in 1982, he represented the Stevensburg District and was elected as chair from 1984 to 1988, 2008 to 2009, 2011 to 2012, and again in 2018; and

WHEREAS, Bill Chase works to strengthen the community as a member of the Public Safety Committee, the E-911 Board, the Museum Board, the Disability Services Committee, and the Airport Committee; and

WHEREAS, Bill Chase enjoys fellowship and worship with the congregation of Mitchells Presbyterian Church, where he serves as an elder and a past trustee, and volunteers his time and wise leadership with numerous other civic and service organizations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend William C. Chase, Jr., for his more than 40 years of service to the residents of Culpeper County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William C. Chase, Jr., as an expression of the General Assembly's admiration for his legacy of contributions to the Culpeper community.

### HOUSE JOINT RESOLUTION NO. 887

*Commending the Gloucester High School field hockey team.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Gloucester High School field hockey team finished an undefeated season with a victory in the Virginia High School League Class 5 state championship on November 10, 2018; and

WHEREAS, the Gloucester High School Dukes defeated the Deep Run High School Wildcats by a score of 2-1 in a tense double overtime match; and

WHEREAS, the Gloucester Dukes took an early lead with a goal by Ali Goodwin off of a corner from Tally Vaughan, but the Deep Run Wildcats responded in the second half to tie the game at 1-1; and

WHEREAS, Gloucester's H.P. Johnson scored the game-winner after redirecting a shot from Ali Goodwin in the second period of sudden death overtime; and

WHEREAS, the Gloucester Dukes' staunch defense only allowed four goals in the entire season, and the state title capped off a perfect 22-0 record; and

WHEREAS, the victory was a testament to the skill and hard work of all the student-athletes, the leadership of coaches and staff, and the passionate support of the entire Gloucester High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Gloucester High School field hockey team on winning the Virginia High School League Class 5 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mike Miller, head coach of the Gloucester High School field hockey team, as an expression of the General Assembly's admiration for the team's exceptional achievements.

### HOUSE JOINT RESOLUTION NO. 888

*Commending DeMolay International.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, DeMolay International is a character-building organization composed of young men between the ages 12 and 21, who are dedicated to becoming better citizens and leaders for tomorrow by developing those traits and strengths that will prepare them for active roles in their communities, the Commonwealth, and the nation; and

WHEREAS, DeMolay was founded in 1919 by Frank S. Land in March in Kansas City, Missouri, and was instituted in Virginia in March 1922; the organization has produced tens of thousands of outstanding Virginia citizens, including former Governor Charles S. Robb, former Attorney General J. Marshall Coleman, former United States Secretary of the Treasury Henry H. Fowler, and astronaut Guy Spence Gardner; and

WHEREAS, for 100 years, DeMolay has carried out its mission through a well-rounded program of social and athletic activities, and has dedicated many hundreds of hours each year for charitable and community service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend DeMolay International for its service to communities throughout the Commonwealth and the United States on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to DeMolay International as an expression of the General Assembly's admiration for its contributions to the welfare of all people and its work to build good character among youths.

**HOUSE JOINT RESOLUTION NO. 889**

*Commending the Jamestown High School Envirothon team.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Jamestown High School Envirothon team from Williamsburg placed third in the National Conservation Foundation's Envirothon national competition in July 2018 in Idaho; and

WHEREAS, Envirothon is a team-based academic competition that gives students an opportunity to learn from natural resource professionals and test their knowledge in a variety of categories; after winning the state competition in May 2018, the Jamestown High School Envirothon team advanced to the national level, where they faced worthy competitors from throughout the United States, Canada, and China; and

WHEREAS, as part of the competition, the Jamestown High School Envirothon team gave an oral presentation on a real-world environmental challenge and participated in five field test stations, with each team member taking the lead on a particular station—Joanna Stathopoulos for rangeland management, Anna Song for forestry, Rachel Smith for aquatics, Lisa Small for soils, and Audrey Root for wildlife; and

WHEREAS, the members of the Jamestown High School Envirothon team placed first in the oral presentation category and tied for first place in the wildlife category; each member of the team received a \$1,000 scholarship for their outstanding performance; and

WHEREAS, the Jamestown High School Envirothon team is sponsored by Dominion Energy and has worked with conservation and environmental professionals throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Jamestown High School Envirothon team on placing third at the National Conservation Foundation's 2018 Envirothon national competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Jamestown High School Envirothon team as an expression of the General Assembly's admiration for the team's achievements and dedication to studying environmental science and conservation.

**HOUSE JOINT RESOLUTION NO. 890**

*Commending The College of William & Mary.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, The College of William & Mary received a 2018 Higher Education Excellence in Diversity Award for its work to make every member of the campus community feel welcomed, valued, and respected; and

WHEREAS, presented by *INSIGHT Into Diversity*, the oldest and largest magazine focusing on diversity in colleges and universities, the Higher Education Excellence in Diversity Award recognizes institutions like The College of William & Mary that demonstrate an outstanding commitment to inclusion on campus; and

WHEREAS, to qualify for the prestigious award, The College of William & Mary demonstrated high standards in the recruitment and retention of diverse students, employees, and leadership, and support for inclusion in all aspects of academic and campus life; and

WHEREAS, The College of William & Mary created symbolic signs of welcome around campus, including plaques on the Wren Building; plans for a memorial to enslaved peoples; increased outreach to LGBT, religious, and veterans groups; and the creation of diversity action plans; and

WHEREAS, The College of William & Mary earned special recognition for the extensive efforts of the Task Force on Race and Race Relations, the Office of Diversity and Inclusion, the Center for Student Diversity, the Office of Undergraduate Admission, the Board of Visitors, and other university-wide working groups; and

WHEREAS, as one of 95 award-recipients from around the country, The College of William & Mary was featured in the November 2018 issue of *INSIGHT Into Diversity*; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The College of William & Mary for receiving a 2018 Higher Education Excellence in Diversity Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The College of William & Mary as an expression of the General Assembly's admiration for the institution's work to create a safe and welcoming campus for all students.

**HOUSE JOINT RESOLUTION NO. 891**

*Commending service dogs Liberty and Justice.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, service dogs Liberty and Justice retired after three years of service as mascots of Colonial Williamsburg; and WHEREAS, Liberty and Justice, a pair of three-year-old certified therapy dogs, have served as ambassadors for Colonial Williamsburg by greeting and interacting with guests at events and at the living history museum; and

WHEREAS, Liberty first joined Colonial Williamsburg in September 2015, when a historical interpreter portraying George Washington introduced the Briard dog to guests at the Colonial Williamsburg Inn; and

WHEREAS, Liberty and Justice have participated in the annual Dogs of DoG Street pet parade on Duke of Gloucester Street that benefits the Heritage Humane Society; and

WHEREAS, the Briard is an ancient French breed of large herding dog that was introduced to the United States by Thomas Jefferson in the 1780s after he served as ambassador to France, giving Liberty and Justice a unique connection to the early history of the nation; and

WHEREAS, both in good health, Liberty and Justice will return to a licensed breeder after their well-earned retirement from Colonial Williamsburg; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend service dogs Liberty and Justice on the occasion of their retirement as mascots of Colonial Williamsburg; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonial Williamsburg as an expression of the General Assembly's admiration for the important role that service dogs Liberty and Justice played for Colonial Williamsburg.

**HOUSE JOINT RESOLUTION NO. 892**

*Commending the Newport News Fall Festival.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Newport News Fall Festival, a beloved local tradition showcasing artists, craftsmen, vendors, and exhibitors, held its 45th festival on October 6 – 7, 2018, at Newport News Park; and

WHEREAS, the Newport News Fall Festival has delighted generations of residents and visitors with its Craft Marketplace and Country Store, selling handmade crafts and homemade delicacies, as well as with food vendors and exhibitors from local businesses and civic organizations; and

WHEREAS, another hallmark of the Newport News Fall Festival is the Heritage Area, Southeast Virginia's largest celebration of traditional crafts and trades, including quilting, pottery, nautical ropes, wood turning, beekeeping, basket weaving, musical instruments, livestock care, and blacksmithing, among many others; and

WHEREAS, the Heritage Area is home to demonstrations of Medieval history, early American history, and Civil War history, as well as antique boats, carriages, and automobiles; and

WHEREAS, over the course of the two-day event, the Newport News Fall Festival features multiple shows and concerts on two stages, and younger guests can enjoy a variety of hands-on activities like scarecrow making, fruit fishing, and archery, and can explore a pumpkin patch and a rock climbing wall; and

WHEREAS, with its unique offerings and opportunities to learn about the history and heritage of the Commonwealth, the Newport News Fall Festival has become a yearly tradition for generations of Virginia families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Newport News Fall Festival on the occasion of its 45th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the 45th Newport News Fall Festival as an expression of the General Assembly's appreciation for the event's legacy of contributions to cultural life in Newport News.

**HOUSE JOINT RESOLUTION NO. 893**

*Commending the Newport News Police Department's Young Adult Police Commissioners program.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Newport News Police Department's Young Adult Police Commissioners program gives young people voices in matters that affect their community and an opportunity to participate in problem-solving strategies to address current and emerging issues; and

WHEREAS, the Young Adult Police Commissioners is a youth advisory board created by the Newport News Police Department, working in partnership with Newport News Public Schools; and

WHEREAS, the Young Adult Police Commissioners helps young people gain a better understanding of law enforcement and appreciate the importance of civic engagement; and

WHEREAS, by sharing these messages with their peers, students who take part in the Young Adult Police Commissioners program can make their neighborhoods safer and their communities stronger; and

WHEREAS, in December 2018, Newport News Police Department held a swearing-in ceremony for 24 high school students who were chosen by school resource officers and school administrators to participate in the Young Adult Police Commissioners program; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Newport News Police Department's Young Adult Police Commissioners program; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Newport News Police Department as an expression of the General Assembly's admiration for the Young Adult Police Commissioners program's important role in building trust and understanding between law-enforcement officers and young people in the community.

### HOUSE JOINT RESOLUTION NO. 894

*Commending the Virginia Beer Company.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Virginia Beer Company, a Williamsburg-based local brewery, won the Silver European Beer Star Award for its Elbow Patches Oatmeal Stout at an international craft beer exposition in November 2018; and

WHEREAS, the Virginia Beer Company received the award at the BrauBeviale 2018 in Nuremberg, Germany, the world's most important capital goods exhibition for the beverage industry, where over 40,000 trade visitors and 1,000 exhibitors meet to talk about high-quality products, raw materials, advanced technologies, efficient logistics, and lively marketing concepts; and

WHEREAS, the Virginia Beer Company was one of 23 breweries based in the United States to win at the expo, competing with over 2,000 beers from 51 countries across 60 awards categories; and

WHEREAS, the Virginia Beer Company's award-winning oatmeal stout uses flaked oats, creating a smooth, velvety base that sets the stage for pronounced aromas reminiscent of chocolate and coffee with a lack of astringent bitterness that gives the dark beer its appeal; and

WHEREAS, the Virginia Beer Company's oatmeal stout won the Virginia Craft Beer Cup gold medal in 2018 from the Virginia Craft Brewers Guild for the beverage's appealing taste; and

WHEREAS, the Virginia Beer Company has a wide array of brewed-on-site beverages, with over 200 recipes brewed in the establishment's first three years and 16 selections featured in their taproom, from experimental India pale ales, to saisons, to stouts; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Beer Company, a Williamsburg-based local brewery, for winning the Silver European Beer Star Award at the BrauBeviale 2018 craft beer exposition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Beer Company, as an expression of the General Assembly's admiration for the business's achievement and acumen.

### HOUSE JOINT RESOLUTION NO. 895

*Commending Community of Faith Mission.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Community of Faith Mission is a faith-based program that provides emergency shelter and food from November through March for men, women, and families who are homeless in the greater Williamsburg area; and

WHEREAS, the Community of Faith Mission was established in August 2012 to address a dire need to provide assistance for homeless individuals; the shelter program was conceived by founders Kathy Banfield and Renee Collins through the homeless ministry at Saint Bede Catholic Church; and

WHEREAS, the faith community quickly came together to support Community of Faith Mission; in November 2012 the Mission successfully launched its first season of winter emergency shelter, offering 12 weeks of accommodations to meet the needs of individuals and families who are homeless in the greater Williamsburg area; and

WHEREAS, in 2013, the Community of Faith Mission became governed by a board of directors consisting of a diverse group of individuals from the faith community and other community professionals and expanded the number of weeks of services offered to 18; in 2015, the organization implemented more comprehensive and standardized shelter services; and

WHEREAS, today the Community of Faith Mission has the support of many county and city officials, community partners, and individuals to provide three meals a day and 126 nights of safe shelter to homeless individuals during the coldest months of the year; and

WHEREAS, the Community of Faith Mission's shelter rotates weekly to a different host location, where guests meet with caring volunteers and staff who collaborate with other community resource providers to make referrals for medical care, transitional housing, and other social services; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Community of Faith Mission, a faith-based program that provides emergency shelter and food for men, women, and families who are homeless in the greater Williamsburg area; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Community of Faith Mission as an expression of the General Assembly's admiration for the shelter's caring and benevolent work in the Williamsburg community.

### HOUSE JOINT RESOLUTION NO. 896

*Commending Colonial Williamsburg.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, 2019 marks the 40th year of Colonial Williamsburg's work to portray the lives and legacies of the African American men and women who helped forge the nation; and

WHEREAS, in 1979, Colonial Williamsburg recruited students from nearby Hampton University to work as first-person interpreters and interact with guests in-character as African American men and women who lived, worked, and ministered in Williamsburg in the late 1700s; and

WHEREAS, Colonial Williamsburg built upon the work of these early luminaries, and today, the African American Experience at Colonial Williamsburg offers a wide array of programming on the daily life and culture of the period's free and enslaved African Americans; and

WHEREAS, to commemorate the 40th anniversary of its African American interpretation programs, Colonial Williamsburg began by hosting a free film series at Bruton Heights School in January 2019, featuring the documentaries *Traces of the Trade* and *13th*, as well as a community discussion; and

WHEREAS, in February 2019, Colonial Williamsburg will celebrate Black History Month by showcasing the best of its year-round interpretive programming, including "My Story: My Voice," "Joy in the Morning," "Freedom's Paradox," and "Music was My Refuge"; and

WHEREAS, Colonial Williamsburg will host an exhibition at the Raleigh Tavern that memorializes, by name, every African American who was known to have lived in the city between 1763 and 1785; and

WHEREAS, through its African American historical interpretation programs, Colonial Williamsburg promotes civil discourse on racial issues in a welcoming, engaging, and educational setting; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Colonial Williamsburg on the occasion of the 40th anniversary of its outstanding historical interpretation programs focusing on African Americans; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonial Williamsburg as an expression of the General Assembly's admiration for its contributions to preserving the history and heritage of the Commonwealth and the early United States.

### HOUSE JOINT RESOLUTION NO. 897

*Commending Habitat for Humanity Peninsula and Greater Williamsburg.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Habitat for Humanity Peninsula and Greater Williamsburg, an organization dedicated to building affordable homes that strengthen families and communities, celebrated its 15th annual Raise the Roof fundraiser on March 2, 2019; and

WHEREAS, an ecumenical group of individuals formed the Habitat for Humanity Peninsula and Greater Williamsburg affiliate in 1985; the group started their first home in 1986 and, since then, the affiliate has constructed and renovated 155 houses in the region it serves; and

WHEREAS, Habitat for Humanity Peninsula and Greater Williamsburg brings people together to build homes, communities, and hope, utilizing volunteers to build and repair affordable homes for low-income residents of the area it serves; and

WHEREAS, Habitat for Humanity Peninsula and Greater Williamsburg's Raise the Roof fundraiser is a festive, Mardi Gras-themed event with entertainment, as well as silent auctions that aim to raise significant funds to sustain the organization's benevolent work; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Habitat for Humanity Peninsula and Greater Williamsburg for its service to the community on the occasion of its 15th annual Raise the Roof fundraiser in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Habitat for Humanity Peninsula and Greater Williamsburg as an expression of the General Assembly's admiration for its dedication to creating affordable housing for low-income residents.

### HOUSE JOINT RESOLUTION NO. 898

*Commending Jimmye Laycock.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, in 2018, Jimmye Laycock retired as head coach of The College of William & Mary football team after 39 seasons of record-setting success and exceptional leadership both on and off the field; and

WHEREAS, a Virginia native, Jimmye Laycock was a 12-letter multisport athlete in high school and graduated from The College of William & Mary, where he played on the football team, starting in the secondary in his sophomore year before later switching to quarterback; and

WHEREAS, Jimmye Laycock began his full-time coaching career at The Citadel, then went on to become quarterbacks coach at Memphis State University and offensive coordinator of Clemson University, before returning to his alma mater in 1979 as The College of William & Mary's 29th head football coach; and

WHEREAS, in 1983, Jimmye Laycock led the William & Mary Tribe to its first winning season since 1977, and three years later the team made its first appearance in what is now the Football Championship Subdivision (FCS) playoffs; and

WHEREAS, in 1988, Jimmye Laycock became the winningest coach in the university's history; in 1990, the team won its first playoff game; in 2004, the team set another record for most wins in a season, finishing with an 11-3 record; and

WHEREAS, Jimmye Laycock's teams ultimately won five conference titles, made 10 FCS playoff appearances, including two semifinal appearances, and finished a season as a nationally ranked team 13 times over the course of 24 winning seasons; and

WHEREAS, Jimmye Laycock's imaginative offensive schemes and ability to adapt to not only changes in the game, but to the strengths and weaknesses of each season's players resulted in a team that year after year was entertaining to watch and always competitive, often surprising opponents who had far more resources; and

WHEREAS, Jimmye Laycock finished with an impressive 249-194-2 record, becoming one of the few FCS coaches to achieve 200 wins; at the time of his retirement, no other coach in Virginia had led his team to as many victories over so long a time period, no other active coach in the nation had as many Division I wins, no other coach had led his alma mater for as long, and his uninterrupted tenure as coach of a Division I program ranked third of all-time; and

WHEREAS, under Jimmye Laycock's leadership, the Tribe football team has achieved success in the classroom as well as on the field; in the National Collegiate Athletic Association's 2016-2017 Academic Progress Report, Tribe football earned a perfect score of 1,000, an especially impressive feat given the institution's rigorous academic standards; and

WHEREAS, during the 2017 National Football League (NFL) season, there were seven players on active rosters and three head coaches in the league who had played or coached under Jimmye Laycock, and at least 40 former players have signed contracts in the NFL; and

WHEREAS, throughout his historic tenure, Jimmye Laycock served The College of William & Mary with the utmost integrity, dedication, and distinction, inspiring generations of student-athletes and upholding the institution's proud traditions of excellence; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jimmye Laycock on the occasion of his retirement as head coach of The College of William & Mary football team; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jimmye Laycock as an expression of the General Assembly's admiration for his exceptional legacy of leadership to the students of The College of William & Mary and contributions to the Williamsburg community.

**HOUSE JOINT RESOLUTION NO. 899**

*Commending the Virginia Peninsula Foodbank.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, in 2019, during the partial shutdown of the federal government, the Virginia Peninsula Foodbank went above and beyond to offer assistance to furloughed federal workers; and

WHEREAS, the Virginia Peninsula Foodbank, which usually receives fewer donations early in the year, addressed numerous challenges to ensure that it could continue to provide food to those in need; and

WHEREAS, members of the Virginia Peninsula Foodbank distributed food to Transportation Security Administration personnel working without pay at Newport News/Williamsburg International Airport; and

WHEREAS, the Virginia Peninsula Foodbank also set up a special distribution for furloughed workers between 2:00 p.m. and 3:30 p.m. each Friday for the duration of the shutdown; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Peninsula Foodbank for supporting furloughed federal government workers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Peninsula Foodbank as an expression of the General Assembly's admiration for its service to residents of the Commonwealth in need.

**HOUSE JOINT RESOLUTION NO. 900**

*Commending the 3 Amigos Mexican Restaurant.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the 3 Amigos Mexican Restaurant in Kiln Creek worked with other local restaurants and members of the community to help support members of the United States Coast Guard and their families affected by the partial federal government shutdown in January 2019; and

WHEREAS, on January 15, 2019, 3 Amigos Mexican Restaurant supplied food for a potluck hosted by veteran Kelsea Pernsteiner and active-duty member of the United States Air Force Carla Rutledge; and

WHEREAS, along with 3 Amigos Mexican Restaurant, Da'Rican Chef in Newport News and Bon Appétit in Norfolk also contributed dishes to the potluck; and

WHEREAS, members of the community prepared more than 85 dishes, with 3 Amigos Mexican Restaurant offering enchiladas and burritos, to feed members of the United States Coast Guard, who worked without pay during the shutdown; the potluck offered more than \$500 worth of nonperishable groceries to the United States Coast Guard members and their families; and

WHEREAS, the potluck dinner supported by 3 Amigos Mexican Restaurant helped members of the United States Coast Guard remain focused on their mission to safeguard the nation's fisheries and coastal borders; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend 3 Amigos Mexican Restaurant for supporting members of the United States Coast Guard and their families during the partial federal government shutdown in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to 3 Amigos Mexican Restaurant as an expression of the General Assembly's admiration for its generous service to members of the community in need.

**HOUSE JOINT RESOLUTION NO. 901**

*Commending Jay BeVille.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Jay BeVille retired as artistic director of the Williamsburg Choral Guild after 16 years at the helm of the 100-member group that brings high-quality choral music to local audiences; and

WHEREAS, Jay BeVille has a storied background in music education; he worked as a music specialist at the Hanover County Public Schools, performed as a soloist alongside the Richmond Symphony, and taught voice courses at Virginia Commonwealth University and Randolph-Macon College; and

WHEREAS, as artistic director of the Williamsburg Choral Guild, Jay BeVille presented a diverse repertoire running the gamut from classics to modern pieces, including songs in multiple languages; and

WHEREAS, Jay BeVille is credited with considerable outreach to younger singers; in 2011, he founded the Williamsburg Youth Chorale, a spinoff of the Guild with performers ranging from third graders through high school seniors; and

WHEREAS, Jay BeVille's final concert with the Williamsburg Choral Guild and the Williamsburg Youth Chorale, titled "A Potpourri of Choral Classics," included arias, solos, duets, and ensembles presented with obvious care and feeling; Fauré's "Cantique de Jean Racine" was described as a standout because of its stunningly beautiful delivery; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jay BeVille for leading the Williamsburg Choral Guild as artistic director for 16 years and for bringing magnificent choral music to appreciative audiences; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jay BeVille as an expression of the General Assembly's admiration for his dedication to elevating and presenting choral music and the arts.

### HOUSE JOINT RESOLUTION NO. 902

*Commending Laura Seltzer-Duny.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Laura Seltzer-Duny, a filmmaker in Newport News, produced the documentary *Nobody Wants Us* to highlight the important work of the late Jacob L. Morewitz, an advocate for a group of refugees fleeing Nazi persecution in 1940; and

WHEREAS, Laura Seltzer-Duny's documentary uses contemporary interviews, dramatic recreations, and archival photos and film clips to tell the story of the SS *Quanza*, which departed Europe in August 1940 with more than 300 passengers, many of whom were refugees; and

WHEREAS, 86 of the refugees, most of them Belgian Jews, were initially denied entry to the United States and Mexico, and the ship had docked at Sewell's Point in Norfolk to restock its coal supply before returning to Europe; and

WHEREAS, the plight of the refugees drew the attention of Jacob L. Morewitz, a maritime attorney and a relative of Laura Seltzer-Duny, who filed multiple lawsuits and used his legal expertise to delay the ship's departure; and

WHEREAS, the decisive actions taken by Jacob L. Morewitz gave activists time to raise awareness of the situation, eventually reaching Eleanor Roosevelt, who entreated her husband, President Franklin D. Roosevelt, to investigate the status of the passengers; and

WHEREAS, thanks to Jacob L. Morewitz's efforts, all 86 people remaining aboard the SS *Quanza* were allowed to stay in the United States; they were among the last refugees allowed into the country until after the end of World War II; and

WHEREAS, Laura Seltzer-Duny's inspirational documentary, which demonstrates the difference that one determined person can make in the lives of others, premiered at the United Jewish Community of the Virginia Peninsula in Newport News on January 12, 2019; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Laura Seltzer-Duny on the premiere of her documentary *Nobody Wants Us*; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Laura Seltzer-Duny as an expression of the General Assembly's admiration for her work in preserving the memory of this unique episode in the history of Norfolk and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 903

*Commending Naval Weapons Station Yorktown.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for more than 100 years, Naval Weapons Station Yorktown has played a vital role in the defense of the Commonwealth and the nation as a weapons and ammunition storage and loading facility for the United States Atlantic Fleet; and

WHEREAS, originally known as Navy Mine Depot Yorktown, Naval Weapons Station Yorktown was created by order of President Woodrow Wilson on August 7, 1918, and was established on land belonging to York County and what was formerly Warwick County; and

WHEREAS, initial construction of Naval Weapons Station Yorktown was completed for \$3 million and included a mine-loading plant, magazines for storage, a power plant, a machine shop, barracks, administrative buildings, and a railroad system connecting the base to local railways and an ordnance pier; and

WHEREAS, in the early days of Naval Weapons Station Yorktown, barges were loaded with munitions and towed ships anchored in the York River or at Naval Station Norfolk; the original ordnance pier suffered damage from a hurricane in 1933 and a fire in 1954 and was replaced by the current U-shaped pier in 1962; and

WHEREAS, during World War II, there were 94 officers, 890 enlisted personnel, and 250 Marines assigned to Naval Weapons Station Yorktown, supported by a civilian workforce of more than 2,300 people; in 2018, the station was home to more than 5,000 military and civilian personnel, accounting for significant contributions to the economic vitality of the region and the local community; and

WHEREAS, today, Naval Weapons Station Yorktown provides handling, maintenance, storage, research, and development for explosive ordnance, as well as expeditionary logistics training and operations and warfare training; and

WHEREAS, Naval Weapons Station Yorktown hosts 37 tenant commands, including the Navy Munitions Command Atlantic, the Naval Ophthalmic Support and Training Activity, the Marine Corps Security Force Regiment, Fleet Industrial Supply Center, Navy Expeditionary Logistics Support Group, Naval Expeditionary Medical Support Command, Navy Cargo Handling Battalion One, and many others; and

WHEREAS, Naval Weapons Station Yorktown commemorated its centennial with an open house event on August 10, 2018, featuring live music, historical displays by tenant commands, and a time capsule opening; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Naval Weapons Station Yorktown on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Captain Matthew Kosnar, commanding officer of Naval Weapons Station Yorktown, as an expression of the General Assembly's admiration for its role in supporting the local community and contributions to national defense.

### HOUSE JOINT RESOLUTION NO. 904

*Commending the United Way of the Virginia Peninsula.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, in 2019, during the partial shutdown of the federal government, the United Way of the Virginia Peninsula went above and beyond to offer assistance to furloughed federal workers; and

WHEREAS, in anticipation of an increase in calls to its local assistance and referral sources, the United Way of the Virginia Peninsula started a special fund to help federal workers impacted by the government shutdown; and

WHEREAS, the United Way of the Virginia Peninsula fund supported partner agencies assisting members of the community in need of help paying for rent, mortgage and utilities bills, and groceries; and

WHEREAS, in addition, the United Way of the Virginia Peninsula donated advance money to community partners whose funding had been affected by the shutdown; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the United Way of the Virginia Peninsula for supporting furloughed federal government workers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the United Way of the Virginia Peninsula as an expression of the General Assembly's admiration for its service to residents of the Commonwealth in need.

### HOUSE JOINT RESOLUTION NO. 905

*Celebrating the life of Tyler McKellan Spruill.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Tyler McKellan Spruill, 32, of Chesapeake, passed away peacefully on January 12, 2019, at Sentara Hospice House; and

WHEREAS, born in Chesapeake, Tyler Spruill was a 2005 graduate of Great Bridge High School and a 2009 graduate of Radford University; and

WHEREAS, the son of Terry and Julia Spruill, Tyler Spruill was predeceased by his grandparents, Harry and Mae Dean Spruill, T. Ray Hassell III, and Fred D. Goad; and

WHEREAS, Tyler Spruill was the beloved brother of Tori; an amazing uncle to his precious niece, Emma; an incredible nephew to his two favorite aunts, Joretta and Royce, and uncle Tom Hassell; and very special grandson of Mollie Hassell; and

WHEREAS, Tyler Spruill was blessed with an abundance of best friends, including his seven cousins, Callie, Casey, Gaines, Mary, Lynne, Sarah, and Thomas, and his pup Charlie; and

WHEREAS, Tyler Spruill was a Realtor and worked for Berkshire Hathaway HomeServices Towne Realty and previously for Rose & Womble Realty; and

WHEREAS, Tyler Spruill was a passionate community and civic leader, who loved politics and supporting great Republican candidates; and

WHEREAS, Tyler Spruill was actively involved in fundraising for charities and causes, including the Bra-ha-ha, breast cancer research, and Wounded Warriors, to name a few; and

WHEREAS, Tyler Spruill served on the Chesapeake Port Authority and was an executive board member of the Western Tidewater Young Republicans; and

WHEREAS, a man of strength, great humor, and faith, Tyler Spruill was always willing to enthusiastically help a friend, whenever and wherever they needed it; and

WHEREAS, Tyler Spruill's memory will be honored and treasured by many, knowing that his life set the standard for love, compassion, empathy, loyalty, and respect for all of us to emulate; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Tyler McKellan Spruill, a Realtor, political enthusiast, and dear friend to many; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Tyler McKellan Spruill as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 906

*Celebrating the life of James H. Bowles, M.D.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Virginian as servant to his neighbors and as bearer of his community's traditions is one of the principal cultural inheritances of all peoples of the Commonwealth; and

WHEREAS, the noble individual, to whom his neighbors look for wisdom, guidance, and assistance in the public affairs of their shared community, is, too, one of the cherished characteristics of many of Virginia's smaller, rural communities, even well into the 21st century; and

WHEREAS, James H. Bowles, M.D., a son of Goochland County, was such a noble man, servant to his community, and a leader in the civic affairs of his people during a long and distinguished life from which he passed on January 17, 2019, at 97 years of age; and

WHEREAS, James H. Bowles was born in Goochland in June 1921 and was reared amid the verdant fields and ancient woodlands of Pea Ridge and Caledonia in the county's western piedmont; and

WHEREAS, James H. Bowles was graduated from Central High School in the heart of his community in the Class of 1940, and subsequently attended Virginia Union University for two years; and

WHEREAS, during the latter half of World War II, James H. Bowles was employed in the civil service in both Pennsylvania and Hawaii, and while in Hawaii he enlisted in the United States Army, serving through 1946; and

WHEREAS, following the war, James H. Bowles continued his education at Virginia Union University, and was graduated with a bachelor's degree in 1948, whereupon he enrolled in Meharry Medical College, the first medical school in the South for African American students, and he was awarded the Doctor of Medicine degree in 1952; and

WHEREAS, after completing his internship, James H. Bowles—then and forever afterwards known throughout Goochland and Central Virginia as "Doctor Bowles"—returned, naturally, to the community of his birth, his ancestors, family, friends, and neighbors; and

WHEREAS, for well over half-a-century Dr. Bowles was the quintessential "country doctor," providing medical care for countless Goochland residents and for residents, too, of a wide area of Central and Southside Virginia; and

WHEREAS, as a scholar, medical doctor, veteran, and native son, Dr. Bowles was entrusted by his community with ever-larger civic responsibilities; and

WHEREAS, Dr. Bowles was for 37 years a servant of the Trustee Ministry of Emmaus Baptist Church, and his other civic endeavors included Goochland Recreational Center, Alpha Phi Alpha Fraternity, Caledonia Masonic Lodge No. 240, the board of directors of Second Union Rosenwald School, the YMCA, ASLAH, Goochland Historical Society, and the Goochland Branch of the NAACP; and

WHEREAS, Dr. Bowles, as a man of rich political experience and wisdom, served—naturally in those times—on the Goochland County Democratic Committee, and the Goochland County Voters League, and in 1972 he was elected by the voters of District 2 to serve as their representative on the Goochland County Board of Supervisors, an office to which he would be elected for eight full terms spanning 32 years; and

WHEREAS, Dr. Bowles gave of his time and talents, too, to the Goochland County Planning Commission and to numerous boards of directors, including those for Henrico Doctors' Hospital, Senior Connections, the Richmond Medical Society, the Medical Society of Virginia, the Virginia Association of Counties, the Red Cross, and the Citizens Development Corporations; and

WHEREAS, James H. Bowles was, on December 29, 1945, married to Aretha Melton Bowles, and to her he remained devoted for 51 years, until she passed away in July of 1996; and

WHEREAS, James H. Bowles and his wife were the parents of six children (including James H. Bowles, M.D., who follows in his father's footsteps), and were blessed with 12 grandchildren, and eight great-grandchildren; and

WHEREAS, James H. Bowles was subsequently married to Jane Allen Bowles, who survives him; and

WHEREAS, the name of "Doctor Bowles" will remain sacred to the memory of generations of the people of Goochland County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly pause to remember the life and legacy of one of the great sons and servants of the community of Goochland County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. James H. Bowles, Jr., and to his siblings, as an expression of the gratitude of the entire General Assembly for the life, accomplishments, and legacy of Dr. James H. Bowles of Goochland.

### HOUSE JOINT RESOLUTION NO. 907

*Celebrating the life of Ronnie Lee McCray.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Ronnie Lee McCray, beloved local icon of the Williamsburg community, died on September 19, 2018; and  
WHEREAS, Ronnie McCray was born and raised in Williamsburg; he was known as a man who cared deeply for his family, coworkers, and community; he was well-loved and left a legacy of wisdom and kindness with those who knew him; and

WHEREAS, Ronnie McCray was central to community life at The College of William & Mary as a proud Williamsburg native and an employee of Paul's Deli & Restaurant on Scotland Street for over 40 years; and

WHEREAS, Ronnie McCray began working at Paul's Deli & Restaurant in 1977 as a teenager; he quickly earned the admiration of customers for his ability to never forget a face or a regular's order; throughout his long career, he brightened the days of colleagues and customers alike with his affectionate smile; and

WHEREAS, Ronnie McCray will be fondly remembered and greatly missed by his 11 brothers and sisters, their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ronnie Lee McCray, beloved local icon of the Williamsburg community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ronnie Lee McCray as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 908

*Celebrating the life of George Fuller Cridlin.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, George Fuller Cridlin, a respected civic servant and a passionate community leader in Jonesville and Lee County, died on December 14, 2018; and

WHEREAS, after graduating from Jonesville High School in 1965, George Cridlin studied business at Carson-Newman University in Jefferson City, Tennessee, then served his country as a member of the United States Army Corps of Engineers during the Vietnam War; and

WHEREAS, George Cridlin earned a law degree from the University of Richmond's T.C. Williams School of Law and returned to Jonesville to follow in the footsteps of his father and grandfather as an attorney; and

WHEREAS, as a member of the Jonesville Town Council, George Cridlin worked diligently to develop positive, productive solutions to every challenge; he offered his legal expertise to local leaders as town attorney for 33 years; and

WHEREAS, in 1996, George Cridlin joined the board of directors of Powell Valley National Bank; during his tenure, the bank doubled its assets, tripled its loans across the community, and expanded to several new locations; and

WHEREAS, George Cridlin served the community with the Lee County Hospital Authority, the Virginia Coalfield Economic Development Authority, and the Jonesville Lions Club, and he was an avid supporter and fundraiser for youth athletics; and

WHEREAS, George Cridlin enjoyed fellowship and worship with the congregation of Jonesville United Methodist Church; and

WHEREAS, while he and his wife, Karen, were accomplished world travelers, George Cridlin's heart always remained in Lee County, and he nurtured a lifelong fascination with the history and heritage of the community; and

WHEREAS, George Cridlin will be fondly remembered and greatly missed by his wife of 47 years, Karen; his sons, Fuller and Jay, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George Fuller Cridlin, a pillar of the Jonesville and Lee County communities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Fuller Cridlin as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 909**

*Commending The Woman's Club.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, The Woman's Club, a vital and venerable civic organization in Richmond marks the 125th anniversary of its founding in 1919; and

WHEREAS, The Woman's Club was founded when most women did not attend college and few owned property, yet the energetic, forward-looking founders created an organization to foster lifelong learning and enrich the lives of its members, and these women were instrumental in establishing other important civic institutions in the community; and

WHEREAS, The Woman's Club was founded in 1894 with 14 members at 313 West Franklin Street, and in 1900, the group purchased the Bolling Haxall House at 211 East Franklin Street, which remains the club's most visible connection with the community; the Italianate-style building became a Virginia Historic Landmark in 1971 and has been lovingly preserved and protected over the years; and

WHEREAS, in 1921 The Woman's Club established the Education Endowment Fund, now named The Woman's Club Scholarship Fund, to provide scholarships which they award to this day; over 500 young women have been named Mary Munford Scholars, an award titled after the pioneering educator, founding member, and past president Mary-Cooke Branch Munford; and

WHEREAS, forming an all women's club was a bold enterprise in the days before women could vote, and The Woman's Club has since welcomed thousands of women, with notable past members including two Pulitzer Prize winners, Ellen Glasgow and Mary Wells Ashworth; the club currently has almost 1,500 women as its members; and

WHEREAS, The Woman's Club's events include a Monday program series that features local, national, and international lecturers who speak on a variety of topics; notable speakers have included Amelia Earhart, Frank Lloyd Wright, Vincent Price, Jessica Tandy, Hume Cronyn, Jehan Sadat, Barbara Bush, and Lady Carnarvon, the 8th Countess of Carnarvon; and

WHEREAS, The Woman's Club hosts special events that fulfill its mission to educate, inspire, and engage today's women by offering exposure to new ideas and new people; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Woman's Club on its civic, educational, and cultural contributions to the City of Richmond and its residents; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The Woman's Club as an expression of the General Assembly's admiration for its inspiring and engaging history, mission, and programming.

**HOUSE JOINT RESOLUTION NO. 910**

*Commending Technical Sergeant Allyson Denise Winston, USAF.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Technical Sergeant Allyson Denise Winston, USAF, has served the Commonwealth and the United States with the utmost dedication and distinction as a dental professional in the United States Air Force for 15 years; and

WHEREAS, a native of Cincinnati, Ohio, Allyson Winston enlisted in the United States Air Force on June 15, 2004, and was stationed at Sheppard Air Force Base in Texas, until she was reassigned to Langley Air Force Base in Hampton to join her husband, Travis, in 2006; and

WHEREAS, as a member of the 633rd Dental Squadron, Allyson Winston worked as a dental instrument processing technician, dental cleaning technician, and oral and maxillofacial surgery assistant, until she became the noncommissioned officer in charge of records and reception in 2015; and

WHEREAS, Allyson Winston subsequently became the noncommissioned officer in charge of oral and maxillofacial surgery and has successfully managed the 633rd Dental Squadron's busiest department, which in 2018 treated 900 patients and provided \$1.9 million in services, contributing to a 98 percent deployment readiness rate; and

WHEREAS, in addition to managing oral surgeons, dental residents, and dental technicians, Allyson Winston has maintained biopsy and consult programs with zero discrepancies for three years, researched and procured new equipment, and trained assistants to perform crucial procedures, all while bolstering employee morale; and

WHEREAS, Allyson Winston goes above and beyond to support the members of her unit, and her care for and dedication to her patients is unparalleled; outside of her profession, she supports the community by volunteering to serve breakfast at Union Mission and donating to Edmarc Hospice for Children; and

WHEREAS, Allyson Winston has received numerous awards and accolades throughout her career, including two Air Force Commendation Medals and an Air Force Achievement Medal; she was also named the squadron noncommissioned officer of the quarter two times; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Technical Sergeant Allyson Denise Winston, USAF, for her exceptional service to the Commonwealth and to the United States; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Technical Sergeant Allyson Denise Winston, USAF, as an expression of the General Assembly's admiration for her contributions to the dental field and achievements in service to the nation.

### HOUSE JOINT RESOLUTION NO. 911

*Commending Edward D. Fly.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Edward D. Fly, a veteran, civil servant, and dedicated Scoutmaster, has served the Hampton community for more than 60 years; and

WHEREAS, Edward "Ed" D. Fly served his country as a member of the United States Army during the Korean War and was stationed in Japan as a member of the United States Air Force in the 1960s; he retired from the Defense Intelligence Agency in 1972 after two decades of military service; and

WHEREAS, Ed Fly continued to serve the Commonwealth and the nation as a civilian employee of the National Aeronautics and Space Administration Langley Research Center and Fort Monroe in Hampton; and

WHEREAS, Ed Fly is best known in the community as a youth mentor in both the Boy Scouts of America and the Girl Scouts of the USA; he was one of the founding Scoutmasters of Boy Scout Troop 151 at First United Methodist Church, where he remains an active leader more than 50 years later; and

WHEREAS, Ed Fly continues to lead camping trips and has taught generations of young people how to survive in the wilderness as well as how to give back to their communities; under his leadership, more than 70 Scouts have earned the prestigious rank of Eagle Scout; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Edward D. Fly for his legacy of contributions to the Hampton community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Edward D. Fly as an expression of the General Assembly's admiration for his personal and professional achievements in service to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 912

*Commending Girls on the Run of NOVA.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Girls on the Run of NOVA empowers a community of girls by teaching them the skills they need to be strong, confident, and healthy women; and

WHEREAS, Girls on the Run of NOVA is a nonprofit organization that has served more than 60,000 girls since 2000; it has engaged the entire community in efforts to positively impact the health and well-being of the girls of Northern Virginia, their families, and the volunteer coaches who serve them; and

WHEREAS, Girls on the Run of NOVA is an independent Council of Girls on the Run International and serves all of Northern Virginia by inspiring girls to know their limitless potential and boldly pursue their dreams; and

WHEREAS, Girls on the Run of NOVA's trained coaches lead small teams through research-based curricula which include dynamic discussions, activities, and running games; in the course of the 10-week program, girls in third through eighth grade develop essential skills that help them navigate their worlds and nurture an appreciation for health and fitness; and

WHEREAS, Girls on the Run of NOVA's program culminates with a service project and the completion of a celebratory 5K event; and

WHEREAS, Girls on the Run of NOVA's statistics demonstrate its success, with over 700 volunteer coaches across the region serving over 4,000 girls in 25 groups, and a new 5K race location in Loudoun County; the group provides more than \$160,000 in financial aid to make the program accessible to all girls; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Girls on the Run of NOVA for teaching girls the skills they need to be strong, confident, and healthy women; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Girls on the Run of NOVA as an expression of the General Assembly's admiration for the organization's efforts to help girls face social pressures, bolster girls' confidence, and strengthen the community of Northern Virginia.

**HOUSE JOINT RESOLUTION NO. 913**

*Commending Safe Space NOVA.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Safe Space NOVA is dedicated to providing a safe, accepting, and supportive environment to combat social stigmas, bullying, and other challenges faced by LGBTQ+ youths; and

WHEREAS, Safe Space NOVA was established in 2016 when founder and executive director Jordan Costen developed the idea to create programming where lesbian, gay, bisexual, transsexual, and questioning youths could have fun in a safe and accepting environment; and

WHEREAS, Safe Space NOVA addresses issues raised in studies by organizations like the Centers for Disease Control and Prevention that show that LGBTQ+ youths are at an increased risk for suicidal thoughts and behaviors, suicide attempts, and suicide; other motivating concerns were that LGBTQ+ youths were more likely to report high levels of bullying and substance abuse; and

WHEREAS, the goal of Safe Space NOVA is to protect young people from these perils by providing a positive environment and welcoming staff that embrace, uplift, and encourage them, as well as to ensure that 14- to 18-year-olds in the Northern Virginia area have access to an organization and activities that promote equality; and

WHEREAS, to that end, Safe Space NOVA oversees a mentorship program and organizes holiday events, fun teen-friendly excursions, gay pride parade gatherings, and discussion groups; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Safe Space NOVA for providing a safe, accepting, and supportive environment to combat social stigmas, bullying, and other challenges faced by LGBTQ+ youths; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Safe Space NOVA as an expression of the General Assembly's admiration for the organization's important work toward inclusivity and acceptance of LGBTQ+ youths.

**HOUSE JOINT RESOLUTION NO. 914**

*Commending the Westfield High School football team.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Westfield High School football team claimed its fifth consecutive regional title with a victory in the Virginia High School League Region 6D championship on November 24, 2018; and

WHEREAS, the Westfield High School Bulldogs defeated the Madison High School Warhawks by a score of 17-7 in a game marked by frigid conditions and tough, physical play; and

WHEREAS, down 7-0 after the first half, the Westfield Bulldogs defense reasserted itself in the second half after a 35-yard dash to the four-yard-line by senior running back Eugene Asante shifted momentum in the Bulldogs' favor; and

WHEREAS, the Westfield Bulldogs put up 17 unanswered points and forced the Madison Warhawks, who were known for their strong running game all season, to resort to the throw, allowing only one completion; and

WHEREAS, the Westfield Bulldogs advanced to the Virginia High School League Class 6 state semifinal and finished the season with an impressive 13-1 record; and

WHEREAS, the Westfield Bulldogs achieved success through the hard work and dedication of all the student-athletes, the leadership and guidance of coaches and staff, and the enthusiastic support of the entire Westfield High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Westfield High School football team on winning the Virginia High School League Region 6D championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kyle Simmons, head coach of the Westfield High School football team, as an expression of the General Assembly's admiration for the team's achievements.

**HOUSE JOINT RESOLUTION NO. 915**

*Celebrating the life of Colonel Robert B. Mason, USMC, Ret.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Colonel Robert B. Mason, USMC, Ret., a respected community leader in Fairfax County, died on August 9, 2018; and

WHEREAS, Robert Mason joined the United States Marine Corps Reserve in 1952 and was commissioned as a second lieutenant after his graduation from Springfield College in Massachusetts in 1955; and

WHEREAS, over the course of his distinguished military career, Robert Mason served in the 1st, 2nd, 3rd, and 5th Marine Divisions and the 2nd Marine Aircraft Wing; he was an advisor to the Republic of Korea Marine Corps, a communications officer during the Vietnam War, and commanding officer of the Marine Barracks at Naval Air Station Kodiak in Alaska; and

WHEREAS, Robert Mason served as an instructor and academic director at the Marine Corps Communications-Electronics School, a communications planner at Naval Amphibious Base Little Creek, and a member of the Operations (J-3) staff of the Joint Chiefs of Staff and the Department of Defense Joint Tactical Communications Office; and

WHEREAS, in recognition of his exceptional service to the nation, Robert Mason received the Defense Superior Service Medal, the Defense Meritorious Service Medal, the Navy Commendation Medal with Combat V, and the Navy Unit Commendation, among other awards and decorations; and

WHEREAS, Robert Mason was a skilled athlete, running the Boston Marathon in under three hours multiple times; he volunteered his time and leadership as a youth soccer referee and softball umpire, and as a speaker for veteran activities at many local elementary and middle school events in Northern Virginia; he was active with the Society of St. Vincent De Paul at St. Timothy Parish in Chantilly and supported Wreaths Across America; and

WHEREAS, predeceased by his wife of 48 years, Josephine, Robert Mason will be fondly remembered and greatly missed by his children, Rick, Tim, Donna, Patty, and Terri, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Colonel Robert B. Mason, USMC, Ret.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Colonel Robert B. Mason, USMC, Ret., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 916

*Commending Joe Taylor.*

Agreed to by the House of Delegates, February 12, 2019

Agreed to by the Senate, February 14, 2019

WHEREAS, Joe Taylor, Virginia Union University athletic director, has been named to the 2019 College Football Hall of Fame in acknowledgement of his remarkable coaching career; and

WHEREAS, Joe Taylor is a legend in college football who has won four national championships, 14 conference championships, and seven bowl games, and has an overall record of 233-96-4; and

WHEREAS, Joe Taylor is a graduate of Western Illinois University where he played offensive line for the Leathernecks under College Football Hall of Fame coach Darrell Mudra; and

WHEREAS, Joe Taylor's coaching career began at H.D. Woodson High School in his hometown of Washington, D.C., from 1972 to 1977; his first college coaching job was as an assistant at Eastern Illinois University, where he helped lead the program to the 1978 NCAA Division II championship; and

WHEREAS, Joe Taylor first arrived at Virginia Union University as former coach Willard Bailey's offensive coordinator in 1979; after four seasons, he accepted the head coaching post at Howard University in 1983, but soon returned to Virginia Union University as head coach, where he compiled a 60-19-3 record, with three NCAA Tournament appearances from 1984 to 1991; and

WHEREAS, Joe Taylor then went on to continue his successful career at Hampton University from 1992 to 2007, where he became the Pirates' all-time winning coach; he led the Florida A & M Rattlers from 2008 to 2012; and

WHEREAS, upon his retirement in 2012, Joe Taylor ranked 33rd in victories among all coaches and third among coaches at historically black colleges and universities; a former president of the American Football Coaches Association, he also served on the advisory board of the Black Coaches Association, receiving many lifetime achievement awards, and is enshrined in halls of fame of numerous associations and universities that he served; and

WHEREAS, Joe Taylor will receive the 2019 College Football Hall of Fame award at the induction ceremony on December 10, 2019 at the New York Hilton Midtown and the final ceremony will take place at the Peach Bowl in Atlanta later that month; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joe Taylor, Virginia Union University athletic director, for being named to the 2019 College Football Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joe Taylor, as an expression of the General Assembly's admiration for his dedication to football and his remarkable coaching career.

**HOUSE JOINT RESOLUTION NO. 917**

*Commending Sterling Edwards Rives III.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Sterling Edwards Rives III will retire on February 28, 2019, as Hanover County Attorney, a position that he has held since September 1, 1987; and

WHEREAS, a native of Wakefield and a lifelong resident of the Commonwealth, Sterling Rives taught Latin, government, history, and economics at Huguenot Academy in Powhatan County, and Latin at Virginia Commonwealth University before receiving his law degree from the University of Richmond in 1983; and

WHEREAS, after law school, Sterling Rives joined the firm of Roeder, Durette and Davenport in Fairfax, where his clients included the City of Fairfax and the Prince William-Manassas Regional Detention Center; and

WHEREAS, Sterling Rives originally accepted the position of Hanover County Attorney intending to return to private practice after a few years, but eventually found that he was unwilling to leave the variety, challenge, and sense of purpose he found in local government law practice in a growing locality like Hanover County; and

WHEREAS, Sterling Rives has been a member of the team of elected and appointed officials and employees in Hanover County government who have successfully developed, implemented, and defended a Comprehensive Land Use Plan designed to ensure orderly growth, preservation of rural areas, adequate public facilities, and stable tax rates; and

WHEREAS, Sterling Rives was appointed by the Virginia Supreme Court to serve on the faculty of the Harry L. Carrico Professionalism Course required of all first year lawyers; he was a member and chair of the Virginia State Bar's Bench-Bar Relations Committee; he was a member of the Board of Directors and president of the Local Government Lawyers of Virginia; and he was a member and chair of the Virginia Air Pollution Control Board; and

WHEREAS, Sterling Rives has earned numerous awards and accolades for his achievements, including the Finnegan Award for Distinguished Service from the Local Government Attorneys of Virginia; and

WHEREAS, as Hanover County prepares to celebrate the 300th Anniversary of its founding in 2020, it is notable that Sterling Rives has been the County Attorney for more than one tenth of Hanover County's history; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sterling Edwards Rives III for his diligent public service as Hanover County Attorney on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sterling Edwards Rives III as an expression of the General Assembly's admiration for his long career in service to the people of the Commonwealth and best wishes for a long and happy retirement.

**HOUSE JOINT RESOLUTION NO. 918**

*Commending David Rosenberg.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, after an outstanding 34-year career in state government, David Rosenberg retired as a senior attorney with the Finance and Government Section of the Division of Legislative Services on October 1, 2018; and

WHEREAS, David Rosenberg began his legal career in private practice with a fellow attorney from 1981 to 1984, when he accepted his first position with the Commonwealth as an Assistant Attorney General; and

WHEREAS, while at the Office of the Attorney General, David Rosenberg served in the Consumer and Antitrust, Appellate, and Claims Sections, handling numerous cases related to the Virginia Antitrust Act and the Virginia Consumer Protection Act; and

WHEREAS, in one such case, David Rosenberg represented the interests of 5,000 Virginia consumers against 38 lending institutions, resulting in an \$11 million settlement for the consumers; he also handled criminal appeals and habeas corpus actions, including several capital murder cases, on behalf of the Commonwealth at all levels of state and federal courts; and

WHEREAS, from 1990 to 1995, David Rosenberg served as Deputy Director of the Department of Personnel and Training, overseeing personnel functions for all executive branch agencies under Governor L. Douglas Wilder, then briefly served as Deputy Secretary of Administration under Governor George Allen; and

WHEREAS, in the fall of 1999, David Rosenberg joined the Division of Legislative Services, where he became known for his insights and acumen on taxation issues as a member of the Finance and Government Section; he provided exceptional bill drafting, committee staffing, legal guidance, and constituent services on behalf of the members of the Virginia General Assembly; and

WHEREAS, for 19 years, David Rosenberg served as counsel for the House Committee on Appropriations and the House Committee on Finance; the chairmen, members, and staff of the committees relied heavily on him for his expert legal interpretations and guidance, as well as his ability to draft complex fiscal legislation with far-reaching impact in the Commonwealth; and

WHEREAS, among his many achievements in service to the citizens of Virginia, David Rosenberg assisted in drafting legislation to reform the Virginia Retirement System and restructure the Commonwealth's tax code; and

WHEREAS, over the course of his distinguished career, David Rosenberg gained a wealth of institutional knowledge regarding the laws of the Commonwealth and the operation of the General Assembly, and he was eager to share his knowledge and experiences with his coworkers; and

WHEREAS, David Rosenberg's personal integrity, commitment to public service, and professional contributions helped ensure the good and efficient functioning of state government and enabled the General Assembly to better serve the residents of and visitors to the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend David Rosenberg for his decades of service to the Commonwealth on the occasion of his retirement from the Division of Legislative Services in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Rosenberg as an expression of the General Assembly's gratitude for his hard work and legal expertise and best wishes on a well-earned retirement.

### HOUSE JOINT RESOLUTION NO. 919

*Commending the McLean Newcomers and Neighbors Club.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, in 2019, the McLean Newcomers and Neighbors Club marks 50 years of engaging established citizens with the task of welcoming new residents to the community; and

WHEREAS, the McLean Newcomers and Neighbors Club invites residents to create new friendships, provides opportunities for socializing, and acquaints new residents with the community, fulfilling the organization's motto to "Have Fun, Make New Friends!"; and

WHEREAS, the McLean Newcomers and Neighbors Club is a vibrant organization, with numerous activities every month that take place in residents' homes, area businesses, and cultural institutions, including coffee meet-ups; luncheons with speakers; and activities like nature walks, canasta, crafting, museum visits, movie screenings, and tech forums; and

WHEREAS, the McLean Newcomers and Neighbors Club has played an important role in letting new members of the community understand the many helpful resources for residents in the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the McLean Newcomers and Neighbors Club for marking in 2019 its 50th anniversary of engaging established inhabitants with the task of welcoming new residents to the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the McLean Newcomers and Neighbors Club as an expression of the General Assembly's admiration for the group's generous hospitality and noble community-building efforts.

### HOUSE JOINT RESOLUTION NO. 920

*Commending the Presbyterian Children's Home of the Highlands.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 100 years, the Presbyterian Children's Home of the Highlands in Wytheville has worked to break cycles of abuse and neglect by giving children a safe, supportive environment in which to learn and grow; and

WHEREAS, the Presbyterian Children's Home of the Highlands was established by the Reverend Dr. George H. Gilmer and originally opened as the Girls' Industrial School on September 3, 1919, under the direction of Charlotte Webb; and

WHEREAS, in its early years, the Presbyterian Children's Home of the Highlands cared for children who had lost parents due to war, illness, or other factors, and by 1930, the program began to accept boys, so that orphaned siblings would not need to be separated; and

WHEREAS, the Presbyterian Children's Home of the Highlands relocated to its current campus on the 89-acre Green Meadows Farm in Wytheville in 1962; thousands of students have passed through the home's doors, finding love, sanctuary, and Christian fellowship in their time of need; and

WHEREAS, in 1994, the Presbyterian Children's Home of the Highlands refocused its mission to the care of abused and neglected children, but the organization remains true to its core principles of "Giving Children Hope and Purpose for the Future"; and

WHEREAS, throughout its history, the Presbyterian Children's Home of the Highlands has fulfilled its mission with the hard work of its highly trained staff; the leadership of its board of directors; and the generosity of volunteers, donors, and community partners; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Presbyterian Children's Home of the Highlands on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Presbyterian Children's Home of the Highlands as an expression of the General Assembly's admiration for its work giving children a safe, supportive environment in which to learn and grow.

### HOUSE JOINT RESOLUTION NO. 921

*Commending Louis G. Zindel III.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Louis G. Zindel III was named the 2018 Citizen of the Year by the *Rappahannock News* for his extraordinary community involvement; and

WHEREAS, a Vietnam veteran who earned a Bronze Star Medal for heroic service in a combat zone, Louis G. "Butch" Zindel III settled in Rappahannock County in 1978 with his wife, Jan, and they raised their three children in Amissville; and

WHEREAS, Butch Zindel is known as an upstanding and ethical broker and owner for forty years of Rappahannock Real Estate in the Town of Washington, leading a team of realtors to help people find homes in Rappahannock County, and he has accumulated more than 50 years of construction experience running L G Zindel Construction; and

WHEREAS, Butch Zindel's civic involvement runs wide in his service as a member of the Rappahannock County Board of Zoning Appeals and Planning Commission; as a dedicated community volunteer he was recognized as the Piedmont region's Scoutmaster of the Year and received the Governor's Award for Volunteer Excellence in 1990; he has also served on the board of directors of Greater Piedmont Realtors and the board of directors of the Child Care & Learning Center in Washington; and

WHEREAS, known as a dependable and caring resident of Rappahannock County who works under the radar and without fanfare, Butch Zindel has made numerous contributions, from building social ties with the Lunch Bunch, to making arrangements for and donating materials to a new Little League field, to donating flooring for the United States military band performances at Washington's Fourth of July concerts, to supplying fireworks for Independence Day celebrations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Louis G. Zindel III for being named the 2018 Citizen of the Year by the *Rappahannock News* for his extraordinary community involvement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Louis G. Zindel III as an expression of the General Assembly's admiration for his contributions to Rappahannock County.

### HOUSE JOINT RESOLUTION NO. 922

*Commending the Warrenton-Fauquier Joint Communications Center.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, on October 18, 1991, the Fauquier County Board of Supervisors and the Warrenton Town Council approved an agreement for the establishment and operation of a Joint Dispatch Center to become effective on July 1, 1994; and

WHEREAS, on October 20, 1992, the Fauquier County Board of Supervisors approved the E-911 Implementation Program with the understanding that development of sub-tasks for each of the 17 tasks contained therein would be brought back to the board for approval; and

WHEREAS, the Fauquier E-911 Steering Committee members, including Chuck Thompson, Joe Higgs, Ann Nelson, Tom Reese, Dale Koglin, Richard Sanders, Billy Jenkins, Steve Ross, Jim Boarland, Tina Ross, Jim Minihan, and Bob Schotta, were tasked with development of a plan for the establishment of a consolidated Warrenton-Fauquier Emergency Services Dispatch Center, the implementation of an updated street name and number system, and the establishment of a position to manage all county communication, to include the Emergency Services Dispatch Center; and

WHEREAS, on September 6, 1994, the Fauquier County Board of Supervisors voted to change the name of the Emergency Services Dispatch Center to the Warrenton-Fauquier Joint Communications Center after citing the antiquity of the term dispatch; and

WHEREAS, at 3:05 p.m. on December 30, 1994, the first 9-1-1 call was received, reporting a traffic hazard of cows in the road near Remington; and

WHEREAS, in 2009, the Warrenton-Fauquier Joint Emergency Communications Center became the Emergency Communications Division of the Fauquier County Sheriff's Office; and

WHEREAS, the Emergency Communications Division is authorized to staff 28 emergency communications positions, including a communications manager, training coordinator, accounting specialist, radio manager, and four administrative positions; and

WHEREAS, in 2018, the Emergency Communications Division processed 24,450 9-1-1 calls and 77,300 calls through non-emergency lines, and received a meritorious unit award for its exceptional response to Winter Storm Riley; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Warrenton-Fauquier Joint Emergency Communications Center on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Warrenton-Fauquier Joint Emergency Communications Center as an expression of the General Assembly's admiration for the center's contributions to making Fauquier County and Warrenton safer and better places to live.

### HOUSE JOINT RESOLUTION NO. 923

*Celebrating the life of Lou Dean.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Lou Dean, longtime Richmond radio personality and communications professional, died on January 10, 2019; and

WHEREAS, Lou Dean graduated from the University of Chicago and served in the United States Army; his first radio job in Richmond was as host and producer of WRVA's All-Night Show, a music program from 1957 to 1977; he also hosted and produced WRVA's call-in program, Viewpoint, from 1978 to 1982 and the WRVA Newsroom program from 1990 to 2000; and

WHEREAS, a program director at WRVA from 1982 to 1986, Lou Dean was in charge of a 15-person department, supervising and scheduling announcers, commercial production staff, creative staff, and all programs; as manager of community services from 1986 to 1990, he was responsible for representing WRVA to the public at a wide variety of events; and

WHEREAS, after retiring from WRVA, Lou Dean worked in the public relations and media department of Henrico County and was very involved in the Virginia Voice audio reading program, producing original content on a variety of topics; and

WHEREAS, Lou Dean was known as a voice of the community, remembered for being the master of ceremonies for the Festival of the Arts at Dogwood Dell each summer, as well as lending his voice to Richmond International Airport's public address system, the Richmond Metropolitan Convention & Visitors Bureau highway radio stations, and the Science Museum of Virginia Planetarium & Space Theater; and

WHEREAS, for his years of service, Lou Dean received numerous awards including the Lifetime Achievement Award from the Richmond Association of Broadcasters and the George Bowles Award for Distinguished Performance in Broadcast News from the Virginia Association of Broadcasters; he was inducted into the Virginia Communications Hall of Fame in 1998; and

WHEREAS, Lou Dean offered his leadership to numerous organizations and boards including the Science Museum of Virginia, the Society for the Prevention of Cruelty to Animals, Richmond Region Tourism, the Richmond First Club, the Virginia Division of the American Cancer Society, the Carillon Advisory Commission, the Swift Creek Mill Theatre, the Maymont Foundation, the Boys Club of Richmond, the Richmond Emergency Planning Commission, the Virginia Capital Chapter of the American Red Cross, the Virginia Retail Merchants Association, the Richmond Police Memorial Foundation, the Greater Richmond St. Patrick's Day Parade Committee, and the International Brotherhood of Magicians Ring 180; and

WHEREAS, predeceased by his wife, Sandra, Lou Dean will be fondly remembered and greatly missed by his stepdaughter, Katy, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lou Dean, longtime Richmond radio personality and communications professional; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lou Dean as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 924

*Celebrating the life of Ursula Landsrath.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Ursula Landsrath, a passionate advocate for animals and a vibrant member of the Delaplane community, who achieved success in a wide range of careers, died on January 3, 2019; and

WHEREAS, Ursula Landsrath was born in Germany and moved to Australia with her parents when she was in elementary school; she lived in Australia until 1975, when she emigrated to Las Vegas and became an American citizen; and

WHEREAS, in her multiple careers, Ursula Landsrath was a fashion model, movie stunt driver, skydiver, hotel manager, fashion boutique manager, and real estate investor and manager; and

WHEREAS, eight years ago, Ursula Landsrath founded the Animal Rescue Fund of Virginia; through that organization and its annual events, Dog and Cat Fest, Animal Night, and Cat Night, she led a volunteer effort that raised and distributed over \$1 million to animal rescue organizations; she was an active animal advocate in Fauquier County and represented animal rescue organizations at numerous Fauquier County Board of Supervisors meetings; and

WHEREAS, predeceased by her son, Jensen, Ursula Landsrath will be fondly remembered and greatly missed by her husband, Ken; her stepson, K. C., and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ursula Landsrath, a passionate advocate for animals and a vibrant member of the Delaplane community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ursula Landsrath as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 925

*Celebrating the life of Milton Thomas Edgerton, Jr., M.D.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Milton Thomas Edgerton, Jr., M.D., a groundbreaking leader in the fields of plastic surgery and reconstructive surgery who touched countless lives through his unparalleled expertise and care for his patients, died on May 17, 2018; and

WHEREAS, a native of Atlanta, Georgia, Dr. Edgerton earned a bachelor's degree from Emory University and a medical degree from Johns Hopkins University, then served his country during World War II as a captain in the United States Army Medical Corps, treating combat-wounded patients at Valley Forge General Hospital; and

WHEREAS, after his honorable military service, Dr. Edgerton returned to Johns Hopkins University, where he completed a residency in surgery and served a term as the first official resident in the new field of plastic surgery; and

WHEREAS, Dr. Edgerton went on to establish the Division of Plastic Surgery and the Plastic Surgery Training Program at Johns Hopkins University, becoming the first full-time chief of plastic surgery, plastic surgeon-in-chief, and professor of plastic surgery; and

WHEREAS, as founder of the Plastic Surgery Research Council, Dr. Edgerton was a trailblazer in the field, taking many cases that some colleagues deemed too risky or controversial; and

WHEREAS, Dr. Edgerton was an innovative leader in plastic surgery for pediatric patients, and in 1969, he performed one of his most difficult and highly publicized procedures, when he became the first plastic surgeon to successfully correct orbital hypertelorism by altering the skull of a patient born with craniofacial deformities to move her eyes nearly two inches closer together; and

WHEREAS, Dr. Edgerton helped establish the Johns Hopkins Gender Identity Clinic, one of the first such clinics in the country specializing in gender-reassignment or gender-confirmation surgeries; by 1969, the clinic had received more than 1,500 requests for treatment and had provided guidance to surgeons throughout the United States; and

WHEREAS, after his distinguished career at John Hopkins University, Dr. Edgerton relocated to the Commonwealth to serve as the chair of the Division of Plastic Surgery at the University of Virginia Medical Center, where he subsequently established and led the institution's Department of Plastic and Maxillofacial Surgery, one of the first such departments in the United States; and

WHEREAS, respected for his expertise and forward-thinking leadership throughout the nation, Dr. Edgerton served as president of the American Association of Plastic Surgeons, and in 1974, he received what was then the highest honor in plastic surgery, the Dow Corning International Award of Merit; and

WHEREAS, over the course of his long and fulfilling career, Dr. Edgerton authored more than 500 peer-reviewed medical papers and four medical textbooks, including one of the first books on human ear reconstruction, and he was a sought-after speaker on a variety of subjects related to plastic surgery; and

WHEREAS, after his well-earned retirement as a surgeon in 1994, Dr. Edgerton continued to serve the members of the Charlottesville community, and in 2011, he created the Milton T. Edgerton, M.D. Professorship in Plastic & Reconstructive Surgery at Johns Hopkins School of Medicine to support other exceptional plastic surgeons; and

WHEREAS, predeceased by his wife of 64 years, Patricia, Dr. Edgerton will be fondly remembered and greatly missed by his children, Bradford, William, Sandy, and Diane, and their families, and numerous other family members, friends, colleagues, and patients whose lives he changed for the better; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Milton Thomas Edgerton, Jr., M.D., a respected leader in plastic surgery and reconstructive surgery; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Milton Thomas Edgerton, Jr., M.D., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 926

*Celebrating the life of Helen B. Snook.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Helen B. Snook, an active civic leader in Charlottesville and Albemarle County and a passionate educator who helped countless students develop a strong foundation for critical thinking and lifelong learning, died on May 22, 2018; and

WHEREAS, a native of Metuchen, New Jersey, Helen "Sandy" B. Snook graduated from Antioch College in Ohio; in 1961 she relocated to Charlottesville when her husband, John, joined the faculty of the Darden School of Business at the University of Virginia; and

WHEREAS, after earning her master's degree from the University of Virginia, Sandy Snook began a distinguished career as a government and psychology teacher at Lane High School and Charlottesville High School; and

WHEREAS, Sandy Snook was committed to helping her students become good citizens of the Commonwealth by encouraging them to attend city council meetings, participate in police ride-alongs, and find other ways to gain practical civics experience, and many of her former students were inspired to become law-enforcement officers, civil servants, and community leaders; and

WHEREAS, Sandy Snook subsequently joined the University of Virginia's Institute of Government, where she developed teaching materials for educators throughout the Commonwealth; and

WHEREAS, Sandy Snook enjoyed fellowship and worship with the congregation of St. Paul's Memorial Episcopal Church, where she had served on the vestry and chaired the Outreach and Service Commission for many years; and

WHEREAS, in the 1960s, Sandy Snook organized volunteers from St. Paul's Memorial Episcopal Church to establish and lead what became Camp Faith, a summer day camp in Earlysville that became many local children's first experience with racial integration; she also led the first integrated Girl Scouts of the USA troop in Central Virginia; and

WHEREAS, Sandy Snook offered her wise leadership and expertise to several other boards, committees, and commissions addressing race relations, women's rights, affordable housing, and education, serving as president of the Charlottesville Housing Improvement Program and the Piedmont Council of the Arts; she continued to participate in civic affairs as three-time president of the League of Women Voters and as a legislative aide to the Honorable Mitchell Van Yahres in 1985-1986; and

WHEREAS, Sandy Snook earned many awards and accolades for her personal and professional achievements on behalf of the community, including recognition on *The Daily Progress* 2002-2003 Distinguished Dozen list and the Charlottesville Bridge Builders Award in 2004; and

WHEREAS, predeceased by her husband, John, Sandy Snook will be fondly remembered and greatly missed by her children, Lloyd, Kathy, and Carol, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Helen B. Snook, an inspirational educator who left a legacy of contributions to the Charlottesville and Albemarle County communities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Helen B. Snook as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 927

*Celebrating the life of Charlotte Staples Riddick.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Charlotte Staples Riddick, a lifelong Charlottesville resident and a visionary civic leader who became the city's first general registrar and served generations of voters, died on October 19, 2018; and

WHEREAS, Charlotte Riddick was a member of the first graduating class of Charlottesville's Lane High School and continued her education at Mary Washington College; and

WHEREAS, Charlotte Riddick married her husband, Vernon, in 1953, and the couple proudly raised four children; she was a mentor to many young people in the community, instilling in them her passion for community engagement and leadership; and

WHEREAS, in 1971, Charlotte Riddick became the first person appointed to the newly-formed office of general registrar for Charlottesville; a pioneer in the field, she quickly began to digitize the city's voter rolls; and

WHEREAS, upon the ratification of the 26th Amendment to the United States Constitution in 1971, she swiftly and efficiently ensured that the young adults of Charlottesville, 18 years and older, were able to register to vote; and

WHEREAS, Charlotte Riddick worked diligently to make voter registration and voting easy and accessible for the members of the community; she launched a campaign in local newspapers to provide information about voting to a wide audience, she borrowed the local library's bookmobile to visit Charlottesville neighborhoods for voter registration drives, and she helped plan for the implementation of the motor voter system; and

WHEREAS, deeply respected by her peers, Charlotte Riddick served on an advisory committee to the Secretary of the Virginia Board of Elections and was a founding member and two-term president of the Voter Registrars Association of Virginia; and

WHEREAS, Charlotte Riddick retired on June 6, 1994, having faithfully fulfilled her duties as general registrar for 23 years; she continued to serve the community as a volunteer at the Albemarle County Visitors Center near Monticello, delighting guests with her natural charm and knowledge of local history; and

WHEREAS, predeceased by her husband, Vernon, Charlotte Riddick will be fondly remembered and greatly missed by her children, David, Dona, Dean, and Debra, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charlotte Staples Riddick, who played a vital role in the democratic process as the first general registrar of Charlottesville; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charlotte Staples Riddick as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 928

*Commending Marcus L. Martin, M.D.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Marcus L. Martin, M.D., a trailblazing leader for African Americans in the fields of medicine and higher education, has touched the lives of countless students through his work as the vice president and chief officer for diversity and equity at the University of Virginia; and

WHEREAS, a native of Covington, Marcus Martin pursued an education at North Carolina State University through a scholarship from the paper mill where his father worked and became the first African American member of the university's football team; and

WHEREAS, Marcus Martin subsequently worked at the paper mill for two years, before enrolling at Eastern Virginia Medical School as a member of its charter class of 24 students; he became the first African American graduate in 1976; and

WHEREAS, Marcus Martin was commissioned by the United States Public Health Service and worked as a general medical officer at the Gallup Indian Medical Center in New Mexico, then became the first African American graduate of the emergency medicine residency program at the University of Cincinnati in 1981; and

WHEREAS, after a series of staff and administrative postings at Allegheny General Hospital, Marcus Martin joined the University of Virginia School of Medicine as chair of the Department of Emergency Medicine and was the first African American to head any clinical department at the school; and

WHEREAS, during his distinguished tenure at the University of Virginia, Marcus Martin has offered his expertise to the Summer Medical Dental Education Program, led a team of health specialists to provide relief after natural disasters, and established the innovative Emergency Medicine Center for Education, Research and Technology; and

WHEREAS, in 2011, Marcus Martin was appointed as the vice president and chief officer for diversity and equity and has since overseen efforts at all levels of university life to recruit and retain students and faculty from underrepresented populations, close the achievement gap for minority students, and create a safe, welcoming, and inclusive atmosphere on campus; and

WHEREAS, Marcus Martin has supported young people in the region directly through his work to establish a medical science program at Charlottesville High School and a summer program at Burley Middle School; and

WHEREAS, highly admired by his peers in the field of emergency medicine, he was the first African American president of the Society for Academic Emergency Medicine (SAEM), and the first African American president of the Council of Emergency Medicine Residency Directors; and

WHEREAS, Marcus Martin has earned numerous awards and accolades, including the 1994 Joseph F. Waeckerle Founder's Award from the Emergency Medicine Residents' Association, the 2008 Citizen of the Year award from Omega Psi Phi fraternity, the 2009 Distinguished Dozen award from *The Daily Progress*, and SAEM's Diversity Interest Group Leadership Award, which was renamed in his honor; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marcus L. Martin, M.D., for his myriad personal and professional achievements in medicine and higher education; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marcus L. Martin, M.D., as an expression of the General Assembly's admiration for his contributions to the students of the University of Virginia and the Commonwealth as a whole.

### HOUSE JOINT RESOLUTION NO. 929

*Commending the Jefferson Area Board for Aging.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Jefferson Area Board for Aging has helped residents of Charlottesville and the Counties of Albemarle, Fluvanna, Greene, Louisa, and Nelson age with dignity and stay engaged in the community for over 40 years; and

WHEREAS, the Jefferson Area Board for Aging's mission is to provide services and resources promoting the health, quality of life, and independence of seniors, individuals with a disability, and their caregivers, enabling people to live with dignity and choice; and

WHEREAS, to better serve the population, the Jefferson Area Board for Aging provides crucial programs, services, and facilities, including dementia care coordination, community senior centers, insurance counseling, adult care centers, home delivered meals, respite care, intergenerational programming, and affordable housing for seniors; and

WHEREAS, for its important services, the Jefferson Area Board for Aging has received numerous awards from the Commonwealth Council on Aging, Generations United, and the National Association of Area Agencies on Aging; the Jefferson Area Board for Aging has been awarded grants to support insurance counseling and has received recognition for its Friends In School Helping program; and

WHEREAS, key Jefferson Area Board for Aging volunteers like Sally Mank assist with Medicare counseling; Joe Bernheim is a crucial Affordable Care Act counselor who serves on the Mountainside Senior Living & Memory Care board; and Dick Gibson contributes as chair of the Jefferson Area Board for Aging's board; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Jefferson Area Board for Aging for helping residents of the City of Charlottesville and the Counties of Albemarle, Fluvanna, Greene, Louisa, and Nelson age with dignity and stay engaged in the community for over 40 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Jefferson Area Board for Aging as an expression of the General Assembly's admiration for its work to foster independence and healthy aging and improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### HOUSE JOINT RESOLUTION NO. 930

*Commending Steven G. Meeks.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Steven G. Meeks, born and raised in Albemarle County and Charlottesville, was first elected to the Thomas Jefferson Soil and Water Conservation District as a district director in 1991; and

WHEREAS, Steven Meeks served as chair of his local district board from 1994-1998 and continues to serve as secretary; and

WHEREAS, Steven Meeks acted in a leadership role as the Virginia Association of Soil and Water Conservation Districts Area II chair, a regional representative ensuring the voice of Virginia's Soil and Water Conservation Districts (Districts) are represented at the state level; and

WHEREAS, Steven Meeks also served in a leadership role as vice president of the Virginia Association of Soil and Water Conservation Districts (VASWCD) nonprofit arm, the VASWCD Educational Foundation; and

WHEREAS, Steven Meeks furthered his commitment to conservation issues as a VASWCD Executive Board member, having been elected to the role of second vice president and first vice president by the directors of the Districts; and

WHEREAS, Steven Meeks was elected to serve as VASWCD president from 2017-2018; and

WHEREAS, during his term as president, Steven Meeks served with distinction, leading the VASWCD to host the joint National Association of Conservation Districts Summer Board Meeting and Southeast Region Meeting in Williamsburg, showcasing Virginia's conservation efforts on a national scale; and

WHEREAS, Steven Meeks continues to highlight the work of the Commonwealth's conservation initiatives by serving as both the National Association of Conservation Districts (NACD) representative and as historian of the NACD Presidents Association's Board; and

WHEREAS, Steven Meeks has expressed a deep appreciation, commitment, and passion for his community, historical preservation, and conservation; and

WHEREAS, Steven Meeks, as an unpaid volunteer district director and past president of the VASWCD, has embraced the mission of Virginia's Soil and Water Conservation Districts by providing and promoting leadership in the conservation of natural resources; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly commend and congratulate Steven G. Meeks on his exemplary service and dedication to Virginia's Soil and Water Conservation Districts; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steven G. Meeks as an expression of the General Assembly's appreciation for his public service and commitment to preserving Virginia's natural resources.

### HOUSE JOINT RESOLUTION NO. 931

*Commending Charles Alexander.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Charles Alexander, an author, television presenter, columnist, and speaker, has inspired countless children, adolescents, and adults throughout the City of Charlottesville, Albemarle County, and the United States with his creative, interactive presentations; and

WHEREAS, a trailblazer in the Civil Rights movement, Charles Alexander was one of the "Charlottesville 12," the first group of African American children to integrate Charlottesville schools in 1959; and

WHEREAS, Charles Alexander, referred to as an "infotainer" or "performing teacher" and known by his stage name Alex-Zan, has secured more than 100 copyrights, four trademarks, and has developed several cartoon characters to better engage with audiences; and

WHEREAS, in 2018, Charles Alexander launched a series of presentations geared toward elementary school students in Charlottesville City Schools that combines his own perspective on the history of school desegregation with themes of character development; and

WHEREAS, in August 2018, Charles Alexander presented a lesson on the importance of self-respect and kindness toward others to children at Barrett Early Learning Center and held his "Yes You Matter" workshop on the importance of being safe and responsible on social media to students at Albemarle High School; and

WHEREAS, Charles Alexander is recognized for creating Close Your Mouth and Listen Day, also known as CYM Day, which was officially proclaimed in September 2018 by the City of Charlottesville; and

WHEREAS, Charles Alexander's "I'm a Thinker" series promotes social and emotional learning by encouraging students to think before they act; the first presentation took place at Jackson-Via Elementary School in November 2018, with appearances at other elementary schools in the city scheduled through 2020; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Charles Alexander for his unique work as an educator, entertainer, and motivator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charles Alexander as an expression of the General Assembly's admiration for his efforts to make a positive difference in the lives of people throughout the Commonwealth and the United States.

### HOUSE JOINT RESOLUTION NO. 932

*Commending Lani Ashberry.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Lani Ashberry, an eighth-grade language arts, civics, and economics teacher at St. Clare Walker Middle School in Locust Hill, received the National University System's 2018 Sanford Teacher Award for Virginia; and

WHEREAS, the Sanford Teacher Award Program of San Diego, California, recognizes the top 51 pre-kindergarten through 12th grade teachers in the nation, with a cash prize of \$10,000 presented to each state winner; and

WHEREAS, the goal of the prize is to honor teachers like Lani Ashberry, who consistently demonstrate enthusiasm for learning, show empathy and warmth toward all students, foster positive relationships with all students, create positive learning environments, and recognize students' strengths; and

WHEREAS, Lani Ashberry graduated from Woodside High School in Newport News and earned a bachelor's degree in English from The College of William & Mary; in addition to her teaching duties at St. Clare Walker Middle School, she is involved as advisor to the Student Council and the *Social Buzz* school newspaper and as head coach of the volleyball team; and

WHEREAS, Lani Ashberry contributes to the betterment of Middlesex County Public Schools as a member of the Superintendent's Advisory Council, an advisor of the Superintendent's Student Advisory Council, a homebound instructor, and a new teacher mentor; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lani Ashberry, eighth grade language arts, civics, and economics teacher at St. Clare Walker Middle School in Locust Hill, for receiving the National University System's 2018 Sanford Teacher Award for Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lani Ashberry as an expression of the General Assembly's admiration for her dedication to her students and pedagogical excellence.

### HOUSE JOINT RESOLUTION NO. 933

*Commending Frederick S. Middleton III.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Frederick S. Middleton III, executive director of the Southern Environmental Law Center since he founded the organization in 1986, has dedicated years of outstanding service to the Commonwealth; and

WHEREAS, Frederick "Rick" S. Middleton III, a native son of Birmingham, Alabama, graduated from the University of Virginia in 1968, then returned to Charlottesville in 1985 to settle and raise his family; and

WHEREAS, Rick Middleton graduated from Yale Law School in 1971, when many of this nation's fundamental environmental laws were being passed, and became one of the first attorneys to begin enforcing the Clean Water Act and Clean Air Act; he has spent his entire career in the vanguard of environmental law in the United States; and

WHEREAS, Rick Middleton joined the staff of the Alabama Attorney General's office, then headed the Washington, D.C., office of the Sierra Club Legal Defense Fund; his work with both organizations convinced him that the natural resources of the southeastern United States were vulnerable and in need of protection; and

WHEREAS, Rick Middleton founded the Southern Environmental Law Center in 1986 to defend the environment and health of Virginia, along with the five other southeastern states of Tennessee, North Carolina, South Carolina, Georgia, and Alabama; and

WHEREAS, Rick Middleton based the Southern Environmental Law Center on a collaborative approach that now includes hundreds of partnerships with other organizations; under his three decades of leadership, it has grown into the largest environmental advocacy organization in the southern United States; and

WHEREAS, during Rick Middleton's tenure, the Southern Environmental Law Center won a unanimous decision in the United States Supreme Court that catalyzed the largest clean-up of power plant pollution in modern times; pursued the clean-up of toxic coal ash that had been stored in unlined pits and was leaking into rivers and groundwater; played a lead role in securing permanent protection for wild and remote roadless areas throughout the Southern Appalachian National Forests, as well as wilderness designation for the Priest and Three Ridges areas in Virginia's George Washington National Forest; protected millions of acres of valuable wetlands; helped curb motor vehicle pollution; worked to revitalize communities and protect open space; and helped ensure that all Virginians have clean water to drink; and

WHEREAS, Rick Middleton has won numerous awards and accolades for his work, including recognition from the Garden Club of America on its 100th anniversary, when he was presented with the Cynthia Pratt Laughlin Medal for outstanding lifetime achievement in environmental protection and maintenance of quality of life; and

WHEREAS, after a highly successful and productive career, Rick Middleton will retire in 2019 after 33 years as founder and executive director of the Southern Environmental Law Center; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Frederick S. Middleton III on the occasion of his retirement as founder and executive director of the Southern Environmental Law Center, which has benefited current and future citizens of Virginia by protecting the Commonwealth's precious environmental heritage; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Frederick S. Middleton III as an expression of the General Assembly's admiration for his distinguished service and many valuable contributions to protecting the environment and health in the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 934

*Commending Meg Medina.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Richmond-based author Meg Medina received the 2019 John Newbery Medal for her children's book, *Merci Suárez Changes Gears*; and

WHEREAS, Meg Medina's award-winning book tells the story of an 11-year-old girl balancing the expectations of her peers at an elite private school with those of her large, lively Latino family; and

WHEREAS, as a Cuban-American, Meg Medina uses her own life experiences to craft relatable young adult, middle-grade, and picture books; and

WHEREAS, Meg Medina's childhood love of bicycling was a major influence for *Merci Suárez Changes Gears*, and she drew upon memories of her own Cuban-American grandmothers when creating the main character's vibrant family; and

WHEREAS, in *Merci Suárez Changes Gears*, Meg Medina strives to create positive characterizations of Latino families while portraying the immigrant experience in the United States; and

WHEREAS, Meg Medina has received many other awards and accolades, including the 2014 Pura Belpré Award and the 2012 Ezra Jack Keats Medal, for her other works, all of which focus on what it means to be a girl, or a girl in a Latino family; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Meg Medina on winning the John Newbery Medal for children's literature in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Meg Medina as an expression of the General Assembly's admiration for her contributions to American literature and her work to inspire young women throughout the Commonwealth and the United States.

### HOUSE JOINT RESOLUTION NO. 935

*Commending A Simple Gesture-Reston.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, A Simple Gesture-Reston, a program founded by Bob Schnapp that collects and distributes food to members of the community in need, was honored by the Greater Reston Chamber of Commerce and Cornerstones, Inc., with a prestigious 2019 Cornerstones of Our Community Best of Reston Award; and

WHEREAS, the Best of Reston awards honor individuals, organizations, and companies that have demonstrated an extraordinary commitment to helping others and improving the lives of people throughout the Greater Reston area; and

WHEREAS, A Simple Gesture-Reston was started by Bob Schnapp, a longtime resident of Reston who has served in the United States Department of Energy as an economist for over 35 years, and held other leadership positions in national and international energy agencies; the A Simple Gesture program originally started in California and because of its simplicity and positive mission has been replicated in many communities throughout the nation; and

WHEREAS, residents who participate in A Simple Gesture-Reston get a green tote bag which they fill up with nonperishable foods over a two-month period; on the first Saturday of every other month, participants simply place the bag outside their front door, then volunteer drivers pick up the bags and deliver the food to area pantries to help those in need; and

WHEREAS, over the years, Bob Schnapp has supported Reston in many ways, including as a sports coach, a cluster officer, and a volunteer on many community projects; however, his efforts establishing A Simple Gesture-Reston have taken his commitment to Reston to a new level; and

WHEREAS, A Simple Gesture-Reston started in June 2015 with funding from the Shoreshim of Reston congregation, and later the Giving Circle of Hope and the Community Foundation of Northern Virginia, collecting food from just 20 families with a miniscule budget and no advertising, expanding only through word-of-mouth and the continued generosity of volunteers; and

WHEREAS, A Simple Gesture-Reston has now grown to over 870 bi-monthly donors and more than 50 drivers, collecting 15,000 to 20,000 pounds of food each time they go out to support the Cornerstones and LINK food banks, as well as food pantries organized by St. Anne's Episcopal Church and the South Lakes High School PTSA; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend A Simple Gesture-Reston, founded by Bob Schnapp, for its work to alleviate hunger in the community and on the well-deserved honor as a 2019 Best of Reston award recipient; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to A Simple Gesture-Reston as an expression of the General Assembly's admiration for the program's enduring commitment to making Reston a special place to live, work, and play.

### HOUSE JOINT RESOLUTION NO. 936

*Commending Touching Heart.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Touching Heart, a Reston nonprofit organization with a mission to inspire children and fill their young hearts with love and compassion for one another through service projects, was honored by the Greater Reston Chamber of Commerce and Cornerstones, Inc., with a prestigious 2019 Cornerstones of Our Community Best of Reston Award; and

WHEREAS, the Best of Reston awards honor individuals, organizations, and companies that have demonstrated an extraordinary commitment to helping others and improving the lives of people throughout the Greater Reston area; and

WHEREAS, Touching Heart was started in 2010 by Helen Yi and her then 13-year-old daughter, Taylor, who wanted to give to needier children instead of receiving gifts for her birthday that year, asking her friends to give donations to charities instead; Taylor Yi is now a student at Boston University and serves on the organization's board; and

WHEREAS, Taylor's request reminded Yi of her grandmother, who took in and cared for over 100 orphan children during the turbulent Korean War; that inspiration to help neglected children without social support moved the mother-daughter duo to start Touching Heart; and

WHEREAS, the numerous Touching Heart volunteer activities include running fundraisers with local businesses, ordering and preparing food for children, seeking sponsors for fundraisers, organizing charity golf tournaments, and teaching children; children in the school program volunteer to pack lunches for local homeless shelters, such as the Embry Rucker Shelter, and make gifts of comfort for children in foster care; and

WHEREAS, since the founding of Touching Heart, over 500 local children have volunteered an estimated total of 2,200 volunteer hours, and approximately 125 adults have volunteered an estimated total of 875 hours; the organization's programs have donated \$40,000 locally this year, and \$92,000 since the beginning in 2010, to help community members in need; and

WHEREAS, Touching Heart has been recognized with awards for its philanthropic work including the Nonprofit of the Year Award from the Asian-American Business Chamber of Commerce and the Fairfax County Corporate Volunteer Program Award; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Touching Heart for its work inspiring children and filling their young hearts with love and compassion for one another through service projects, and on its well-deserved honor as a 2019 Best of Reston award recipient; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Touching Heart as an expression of the General Assembly's admiration for its enduring commitment to make Reston a special place to live, work, and play.

### HOUSE JOINT RESOLUTION NO. 937

*Commending Omicron Kappa Kappa.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Omicron Kappa Kappa, a historically African American fraternity that uplifts and supports the next generation of minority youth in their community, was honored by the Greater Reston Chamber of Commerce and Cornerstones, Inc., with a prestigious 2019 Cornerstones of Our Community Best of Reston Award; and

WHEREAS, the Best of Reston awards honor individuals, organizations, and companies that have demonstrated an extraordinary commitment to helping others and improving the lives of people throughout the Greater Reston area; and

WHEREAS, Omicron Kappa Kappa is a part of the umbrella Omega Psi Phi Fraternity; the all-volunteer nonprofit's mission is to participate in the lives of minority youth in the western Fairfax County area, and to provide them a beacon of hope; members are passionate about being a catalyst for young people of color to experience a brighter tomorrow; and

WHEREAS, since Omicron Kappa Kappa was chartered in 1996 in Reston/Herndon, they have uplifted the community with enthusiasm and pride through a variety of service and civic affairs programs and initiatives led by the members of the fraternity who are unique in that all are accomplished African American men who have made it against all odds, many leading and participating in the civil rights movement; and

WHEREAS, Omicron Kappa Kappa members contribute to worthy causes throughout the community, including at the Embry Rucker Community Shelter and the Reston Chamber of Commerce, and in various local tutoring programs; they are a leading volunteer force at local community events such as the Taste of Reston, Flavors of the Fall, Relay for Life, Reston Dr. Martin Luther King, Jr., Birthday Celebration, Northern Virginia Project Giveback, Dr. Charles Drew Blood Drive, and Fairfax County's Road DAWG summer camp for at-risk youth; and

WHEREAS, moving toward their goal of uplifting the community, Omicron Kappa Kappa recently initiated a partnership with Microsoft where members offer hands-on technology workshops for local underprivileged youth; to pay it forward in order to better humanity, the fraternity also provides scholarships to minority Fairfax County Public School students; and

WHEREAS, Omicron Kappa Kappa has received several awards for its efforts, including a 2018 Volunteer of the Year Award for Excellence by the Greater Reston Chamber of Commerce and Charity of the Month at Not Your Average Joe's of Reston; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Omicron Kappa Kappa, a historically African American fraternity, for its work uplifting and supporting the next generation of minority youth in their community and on its well-deserved 2019 Best of Reston award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Omicron Kappa Kappa as an expression of the General Assembly's admiration for the fraternity's enduring commitment to making Reston a special place to live, work, and play.

### HOUSE JOINT RESOLUTION NO. 938

*Commending Kurt Rose.*

Agreed to by the House of Delegates, February 18, 2019  
Agreed to by the Senate, February 21, 2019

WHEREAS, Kurt Rose, a jewelry designer and co-owner of Aspen Jewelry Designs, a business that gives back to the community, was honored by the Greater Reston Chamber of Commerce and Cornerstones, Inc., with a prestigious 2019 Cornerstones of Our Community Best of Reston Award; and

WHEREAS, the Best of Reston awards honor individuals, organizations, and companies that have demonstrated an extraordinary commitment to helping others and improving the lives of people throughout the Greater Reston area; and

WHEREAS, Kurt Rose was raised in Reston, graduated from South Lakes High School in 1985, and in 1984, started working part time at Reston International Jewelers; over the next few years, he received certificates in diamond identification and grading and colored gemstone identification and grading from the Gemology Institute of America; he opened Aspen Jewelry Designs in 1993; and

WHEREAS, Kurt Rose is dedicated to making the Reston community sparkle through community service; he brings energy, ideas, and collaboration to multiple organizations that benefit the community; and

WHEREAS, over the last 10 years, Kurt Rose has been involved in numerous philanthropic activities in Reston and Herndon to better the community, including Kids R First, the Reston Historic Trust, the Imagination Library, Readers Are Leaders, the South Lakes Band Boosters, the Reston YMCA, the Rotary Club of Herndon, and schools in Reston; and

WHEREAS, Kurt Rose donates articles from Aspen Jewelry Designs towards good causes; his contributions and work positively impact thousands of people in the areas of the arts and social services, bringing an infectious positive attitude that motivates others to join his efforts to make Reston a better place for all; and

WHEREAS, Kurt Rose has received several awards and distinctions for his efforts and contributions to the Reston community; he received the YMCA's Joseph L. Ritchey Community Service Award in 2015 and the Exceptional Philanthropic Award from Kids R First in 2014; he served as president and sergeant at arms of Rotary District 7610, and was the Paul Harris Fellow with the Rotary Club of Herndon; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kurt Rose, jewelry designer and co-owner of Aspen Jewelry Designs, a business that gives back to the community, for his well-deserved honor as a 2019 Best of Reston award recipient; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kurt Rose as an expression of the General Assembly's admiration for his enduring commitment to making Reston a special place to live, work, and play.

### HOUSE JOINT RESOLUTION NO. 939

*Commending the Healthy Generations Area Agency on Aging.*

Agreed to by the House of Delegates, February 18, 2019  
Agreed to by the Senate, February 21, 2019

WHEREAS, for more than 40 years, Healthy Generations Area Agency on Aging, formerly known as Rappahannock Area Agency on Aging, has played a vital role in helping local residents age with dignity by providing education, advocacy, and support; and

WHEREAS, the mission of the Healthy Generations Area Agency on Aging is to enhance the quality of life for all older adults through a wide range of programs including emergency assistance, insurance counseling, legal services, congregate meal centers, and a long-term care ombudsman; and

WHEREAS, Healthy Generations Area Agency on Aging's key accomplishments include implementing meal services in partnership with the local homeless shelter by providing a training program to homeless residents in preparation for working in the restaurant industry; and

WHEREAS, Healthy Generations Area Agency on Aging has also implemented a meals program for assisted living facilities and facilities that offer short-term meal options for patients discharged from the hospital; the Healthy Generations Area Agency on Aging recently partnered with Rappahannock Adult Activities to offer activities to individuals who have intellectual disabilities; and

WHEREAS, in 2018, the Healthy Generations Area Agency on Aging served nearly 2,000 senior citizens, providing over 25,000 meals and nearly 5,000 in-home care hours; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Healthy Generations Area Agency on Aging for over 40 years of playing a vital role in helping local residents age with dignity by providing education, advocacy, and support; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Healthy Generations Area Agency on Aging for fostering independence and healthy aging, and for improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### HOUSE JOINT RESOLUTION NO. 940

*Celebrating the life of Bellamy Malaki Gamboa.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Bellamy Malaki Gamboa, a vibrant member of the Hampton Roads community and a devoted mother, daughter, and sister, died in 2018; and

WHEREAS, born to a military family, Bellamy Gamboa spent much of her early life in Japan, where her father was stationed with the United States Navy; and

WHEREAS, in 1996, Bellamy Gamboa graduated from Nile C. Kinnick High School in Yokosuka, Japan, where she had made many lifelong friendships and cultivated her passion for music and singing; and

WHEREAS, Bellamy Gamboa served her country as a member of the United States Air Force, then returned to the Commonwealth, where she had deep family roots, and worked for the international shipping firm CMA CGM as an import customer service representative for the next 10 years; and

WHEREAS, Bellamy Gamboa subsequently worked for Livingston International in Norfolk and had been pursuing a degree at Tidewater Community College with a goal of becoming a licensed customs broker; and

WHEREAS, a proud mother who was deeply involved in the lives of her children, Bellamy Gamboa served as a team mom for her older son's baseball team and often invited friends and co-workers to her daughter's dance recitals; and

WHEREAS, Bellamy Gamboa's family members established the 4Bellamy campaign in her honor to raise awareness of the warning signs for domestic violence and support other women in the community who may be at risk for domestic violence; and

WHEREAS, Bellamy Gamboa will be fondly remembered and greatly missed by her four beloved children and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Bellamy Malaki Gamboa; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bellamy Malaki Gamboa as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 941

*Celebrating the life of George Shelbourne Bussey.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, George Shelbourne Bussey, respected Richmond resident, retired postal clerk, and skilled radio technician, died on December 4, 2018; and

WHEREAS, George Bussey was born in Shelbyville, Kentucky; he attended schools in Eminence and Louisville, where he graduated from Louisville Central High School; and

WHEREAS, George Bussey matriculated to West Virginia State College, leaving only when called by the United States Army to serve his country; after basic training, he was enrolled in the Army Air Corps Radio Technical Training School to become a radio technician; and

WHEREAS, after serving in the United States Armed Forces, George Bussey relocated his young family to Louisville, Kentucky, and began a career with the United States Postal Service, retiring after 40 years of dedicated service; and

WHEREAS, known to be very industrious and with a love of technology, George Bussey made his family's first television in 1948; he later ran his own successful business, repairing radios and televisions for over 50 years; and

WHEREAS, throughout his life, George Bussey loved traveling and action sports, particularly Caribbean cruises and parasailing; devoted to his family, he provided and cared for his mother until her death at the age of 111; and

WHEREAS, George Bussey will be fondly remembered and greatly missed by his wife, Magdalene; his daughters, Connie and Jill, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George Shelbourne Bussey, a beloved husband, father, and grandfather, and respected Richmond resident; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Shelbourne Bussey as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 942

*Commending Commissioners and Cans.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Commissioners and Cans is an annual initiative that gives commissioners of the revenue throughout Virginia the opportunity to support their communities by collecting food and raising funds for their local food banks; and

WHEREAS, established by Tiffany Boyle, the commissioner of the revenue for Newport News, Commissioners and Cans began in 2018 and collected more than 700 pounds of food with the support of commissioners in Poquoson, Yorktown, and Williamsburg; and

WHEREAS, Commissioners and Cans supports the Federation of Virginia Food Banks, and participating offices compete to raise the most money and food items from a list of the items most requested at food pantries; and

WHEREAS, the second annual Commissioners and Cans event takes place from February 1-15, 2019, with offices around the Commonwealth striving to do their part to address food insecurity in their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Commissioners and Cans, an initiative to support local food banks; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tiffany Boyle as an expression of the General Assembly's admiration for the important work of Commissioners and Cans to alleviate hunger in communities throughout the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 943

*Commending the Newport News Redevelopment and Housing Authority.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for 80 years, the Newport News Redevelopment and Housing Authority has worked to achieve its mission of creating affordable housing, viable neighborhoods, and opportunities for self-sufficiency to enhance the quality of life for citizens of Newport News; and

WHEREAS, in 1939, the Newport News Redevelopment and Housing Authority was one of the first such agencies formed in Virginia; it now manages and maintains a diverse public housing portfolio of 1,250 units and administers a 2,500-unit housing choice voucher program; and

WHEREAS, the Newport News Redevelopment and Housing Authority carries out traditional community development activities such as rehabilitation of single family housing and assemblage of land for new residential construction; in the last 20 years, the Newport News Redevelopment and Housing Authority has been actively involved in the low income housing tax credit program as a developer and manager; and

WHEREAS, since 2000, the Newport News Redevelopment and Housing Authority has served as a catalyst for the construction and rehabilitation of several hundred affordable single family homes in designated community revitalization areas, and has developed and co-sponsored several subsidized multifamily complexes with over 600 units; longstanding relationships with state and federal agencies are key to the Authority's success; and

WHEREAS, to implement critical programming for residents, the Newport News Redevelopment and Housing Authority has received numerous awards of merit from the National Association of Housing and Redevelopment Officials; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Newport News Redevelopment and Housing Authority on the occasion of its 80th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Newport News Redevelopment and Housing Authority as an expression of the General Assembly's admiration for the organization's focus on providing affordable housing and independent living with dignity.

### HOUSE JOINT RESOLUTION NO. 944

*Commending the Silent Children's Garden.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, in 2019, the Silent Children's Garden in Newport News marked its 10th Anniversary of bringing community awareness to Child Abuse Prevention Month each April; and

WHEREAS, the Silent Children's Garden and the Blue Ribbon Campaign began in 2009 to support Child Abuse Prevention Month and were formed under the Newport News Department of Human Services; and

WHEREAS, numerous organizations are involved in the Silent Children's Garden, including Newport News Public Schools, Unity Works, Smart Beginnings, The Woman's Club of Newport News, the Newport News Juvenile Court Services Unit, Newport News Parks and Recreation, and the city's public library system; children's groups are involved in the opening event as well; and

WHEREAS, the Silent Children's Garden is a display of 2,000 blue and silver pinwheels symbolizing the happy and healthy childhood every person deserves, along with large colorful silhouettes of children; and

WHEREAS, speakers at the Silent Children's Garden opening event emphasize to parents, caregivers, and anyone involved in a child's life ways to give every child a great childhood; the focus is on positive things parents can do and how everyone can help children in the community; and

WHEREAS, in 2019, the Silent Children's Garden opening ceremony will take place on April 10 at Boulevard Park in Newport News with Mayor McKinley L. Price reading the proclamation declaring April as Child Abuse Prevention Month; the event aims to inspire, to bring awareness to the community, and to emphasize that every community member has a role in making childhood a positive experience; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Silent Children's Garden on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Newport News Department of Human Services, as an expression of the General Assembly's admiration for the Silent Children's Garden's mission to raise awareness about the harm of child abuse and the community's role in child abuse prevention.

#### HOUSE JOINT RESOLUTION NO. 945

*Celebrating the life of David P. Bobzien.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, David P. Bobzien, a respected legal professional who served the Fairfax community as county attorney for more than two decades, died on December 20, 2018; and

WHEREAS, David Bobzien grew up in Jersey City, New Jersey, graduated from the College of the Holy Cross in Massachusetts in 1968 and the University of Virginia School of Law in 1971, and earned a Master of Laws degree from The George Washington University School of Law in 1975; and

WHEREAS, David Bobzien served his country as a captain in the United States Army Judge Advocate General's Corps for four years, then joined the firm Fitzgerald and Smith in Fairfax; and

WHEREAS, from 1979 to 1992, David Bobzien worked as an assistant counsel in the Office of Professional Responsibility of the United States Department of Justice; he joined the Fairfax County government as county attorney in 1993 and provided expert legal advice on criminal, civil, and ethical issues to the Board of Supervisors until his retirement in 2016; and

WHEREAS, David Bobzien served Fairfax County with the utmost integrity, dedication, and distinction in his capacity as county attorney; he mentored countless young lawyers and civil servants and gained the trust and respect of his colleagues for his grace and knowledge of the law; and

WHEREAS, well-known for his leadership in the legal profession, David Bobzien served as president of the Virginia State Bar in 2004-2005, becoming the first local government attorney to hold the office, and was an active member of several other peer organizations; and

WHEREAS, David Bobzien represented the Commonwealth in the American Bar Association's House of Delegates and was a member of the association's Commission on Domestic and Sexual Violence; and

WHEREAS, David Bobzien was active in the community as a member of the Ancient Order of Hibernians, the Reston Association Board of Directors, and the Reston Runners, and he supported young people as a leader in the Boy Scouts of America; and

WHEREAS, David Bobzien will be fondly remembered and greatly missed by his devoted wife, Cathy; his sons, David, Jr., and Brendan, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of David P. Bobzien, a respected attorney and public servant in Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of David P. Bobzien as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 946**

*Celebrating the life of John George Liakos.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, John George Liakos, who served delicious food to generations of Roanoke residents as a manager of the Roanoke Weiner Stand, a beloved fixture of the community, died on November 22, 2018; and

WHEREAS, John "Johnny" George Liakos was born in Athens, Greece, and was one of the last people to pass through Ellis Island when immigrating to the United States; and

WHEREAS, Johnny Liakos settled in Roanoke and worked for 54 years at the Roanoke Weiner Stand, a local institution that has served residents for more than 100 years, becoming the night manager; and

WHEREAS, Johnny Liakos was a trusted mentor and friend to his fellow employees at the Roanoke Weiner Stand, and members of the community will remember his favorite saying as he peered out over the line of hungry customers: "Somebody's got to be next!"; and

WHEREAS, predeceased by his wife of 32 years, Mary, Johnny Liakos will be fondly remembered by his daughters, Virginia and Laura, and their families, and numerous other family members, friends, and customers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of John George Liakos, a beloved restaurateur in Roanoke; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John George Liakos as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 947**

*Celebrating the life of William Garfield Dabney.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, William Garfield Dabney, a distinguished veteran and a respected business owner and community leader in Roanoke, died on December 12, 2018; and

WHEREAS, William "Bill" Garfield Dabney was born in Altavista to the late Edgar and Elinor Dabney; and

WHEREAS, during World War II, Bill Dabney joined many of the other young men of his generation in service to the nation as a member of the United States Army, rising to the rank of corporal; and

WHEREAS, Bill Dabney participated in the D-Day invasion of Normandy, France, with the 320th Barrage Balloon Battalion, the only African American unit that took part in the operation; and

WHEREAS, after his honorable military service, Bill Dabney returned to the Commonwealth and opened Dabney Floors in Roanoke, earning a reputation as a master carpet layer while serving generations of residents; and

WHEREAS, throughout his life, Bill Dabney was featured in numerous documentaries about African American soldiers during World War II, and he received awards from the Congressional Black Caucus Veterans Braintrust; and

WHEREAS, in 2009, on the 65th anniversary of D-Day, Bill Dabney returned to Normandy as one of the last surviving members of the 320th Barrage Balloon Battalion to receive the Legion of Honor, the highest award of the French military, for his gallantry in service to the people of France and the United States; and

WHEREAS, Bill Dabney will be fondly remembered and greatly missed by his loving wife of 66 years, Beulah; his sons, Vincent, Michael, and Marlon, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Garfield Dabney, an active member of the Roanoke community and a member of the Greatest Generation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Garfield Dabney as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 948**

*Celebrating the life of Annie Lee Farmer McGuire.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Annie Lee Farmer McGuire, a loving wife, mother, and grandmother, and a woman of deep and abiding faith who made many contributions to her community, died on January 16, 2019; and

WHEREAS, a native of Wytheville, Annie McGuire married her husband, Harold, in 1956; the couple spent 53 joyous years together until his death in 2009; and

WHEREAS, Annie and Harold McGuire served and safeguarded the community together as longtime members of the Tuckahoe Volunteer Rescue Squad; Annie McGuire originally served in the squad's auxiliary, then became one of its first female members and was certified as an emergency medical technician; and

WHEREAS, after retiring from SunTrust in 2005, Annie McGuire devoted her time to her church and to community service; she enjoyed fellowship and worship with the congregation of Good Shepherd United Methodist Church and offered hope and support to the homeless as an active volunteer at CARITAS; and

WHEREAS, affectionately known as "Mamaw," Annie McGuire never met a stranger, and she was a mother figure to countless people over the years, making everyone around her feel welcome and loved; and

WHEREAS, Annie McGuire provided end of life care to her mother, husband, cousin, and sister, and her kindness, compassion, and dedication to family and friends were unparalleled; and

WHEREAS, Annie McGuire will be fondly remembered and greatly missed by her children, Deana and Lori, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Annie Lee Farmer McGuire; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Annie Lee Farmer McGuire as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 949

*Commending Sherley Stuart.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Sherley Stuart, longtime coach at William Fleming High School in Roanoke, was honored by students, alumni, staff, and the academic community when the school's athletic field track was named after him; and

WHEREAS, the track at the William Fleming High School Colonels' field facility was officially dubbed in honor of former football coach Sherley Stuart on November 2, 2018, during the halftime ceremony at a football game against Lord Botetourt High School; and

WHEREAS, Sherley Stuart grew up in Floyd County and is a longtime resident of the community; he moved to Roanoke when he was in the fourth grade, graduating from Lucy Addison High School and St. Paul's College; and

WHEREAS, for nine seasons, from 1986 to 1994, he was William Fleming High School's head football coach, as well as an athletic director for the Colonels; and

WHEREAS, the name change honors Sherley Stuart's dedication to athletics and his impact on generations of students as a coach for hundreds of Colonels; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sherley Stuart, longtime coach at William Fleming High School in Roanoke, for the honor of having his name connected to the athletic facilities, demonstrating his positive contributions; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sherley Stuart as an expression of the General Assembly's admiration for his achievement.

### HOUSE JOINT RESOLUTION NO. 950

*Commending Evelyn Bethel and Helen Davis.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Evelyn Bethel and Helen Davis, sisters in the Gainsboro neighborhood of Roanoke, have dedicated their lives to the protection of the area's historic resources and the preservation of its unique community spirit; and

WHEREAS, Evelyn Bethel and Helen Davis founded Historic Gainsboro, Inc., which helped register the Gainsboro Branch of the Roanoke City Public Library on the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, Evelyn Bethel and Helen Davis facilitated Operation Rebirth, which moved and rehabilitated historic homes to prevent demolition, and published a brochure on the significance of Gainsboro as Roanoke's oldest community; and

WHEREAS, a guiding presence at every Roanoke City Council meeting, Evelyn Bethel and Helen Davis strive to lead by example when it comes to civic engagement and community service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Evelyn Bethel and Helen Davis for their work as historic preservationists and community leaders; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Evelyn Bethel and Helen Davis as an expression of the General Assembly's admiration for their contributions to the Gainsboro neighborhood in central Roanoke.

### HOUSE JOINT RESOLUTION NO. 951

*Commending Jamie Follin Nichols.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Jamie Follin Nichols, a sixth-grade science teacher at Lucy Addison Middle School in Roanoke City Public Schools who motivates and inspires countless students, was named the 2018 Roanoke Teacher of the Year and the 2019 Region VI Teacher of the Year; and

WHEREAS, Jamie Nichols holds a bachelor's degree in wildlife science and a master's degree in curriculum and instruction from Virginia Polytechnic Institute and State University; and

WHEREAS, Jamie Nichols brings over a decade of experience to the education field, formerly serving as a science and math teacher in a rural middle school in Shenandoah County and working as the math and science assessment manager for PowerSchool; and

WHEREAS, Jamie Nichols returned to the classroom at Lucy Addison Middle School because she missed instructing students; at her school, she is known as an upbeat, dedicated science teacher who uses traditional and innovative techniques to keep her students engaged in and out of the classroom; and

WHEREAS, Jamie Nichols received the Roanoke Teacher of the Year award on April 26, 2018, and the 2019 Region VI Teacher of the Year award on September 6, 2018; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jamie Follin Nichols, sixth-grade science teacher at Lucy Addison Middle School in Roanoke City Public Schools, for motivating and inspiring countless students and for being named the 2018 Roanoke Teacher of the Year and the 2019 Region VI Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jamie Follin Nichols as an expression of the General Assembly's admiration for her exemplary ability to impart to students a foundation for lifelong learning.

### HOUSE JOINT RESOLUTION NO. 952

*Commending Robert A. Clement, Jr.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Robert A. Clement, Jr., a longtime Roanoke resident and a distinguished city employee, retired as the Neighborhood Services Coordinator on October 1, 2018, after years of exemplary service to the community; and

WHEREAS, Robert "Bob" A. Clement, Jr., is a graduate of Patrick Henry High School and Virginia Polytechnic Institute and State University, where he earned a degree in business; and

WHEREAS, prior to joining the City of Roanoke staff, Bob Clement worked as the manager of inflight services for Piedmont Airlines, and as an in-flight services manager for US Airways; and

WHEREAS, in June 2003, Bob Clement joined the City of Roanoke team as its Neighborhood Services Coordinator, where he carried out a wide variety of roles and responsibilities; he facilitated, supported, and nurtured the Roanoke Neighborhood Advocates group, an active liaison between Roanoke City Council and other neighborhood groups; and

WHEREAS, Bob Clement initiated Roanoke's Leadership College, a program designed to encourage city residents to learn about local government and operations, in an effort to promote a better understanding and relationship between citizens and their government, encourage citizens to participate in civic activities, and create opportunities for new leaders in the community; and

WHEREAS, Bob Clement regularly attended neighborhood meetings, organized new neighborhood groups, and worked closely with city boards and officials, sending out meeting reminders and agendas for the planning commission, board of zoning appeals, Roanoke City Council, and code enforcement court hearings; and

WHEREAS, Bob Clement has been a valuable resource for the more than 25 active neighborhood organizations throughout the city, communicating information about Neighborhood Development Grant funding, project opportunities, and educational resources; maintaining the grant process with help from Roanoke Neighborhood Advocates; and maintaining reports and reimbursements for grants; and

WHEREAS, as Neighborhood Services Coordinator, Bob Clement nurtured the development and sustainability of neighborhoods and quickly learned the importance of a strong, engaged citizenry to the overall health and vitality of the city, as well as the important roles that interpersonal relationships play in creating a sense of community and civic pride; and

WHEREAS, Bob Clement has received numerous awards and accolades for his dedication to Roanoke's neighborhoods, including the 2017 Ambassador Award for Outstanding Contributions in Civic Leadership, the first award of its kind; and

WHEREAS, over the course of his 15-year career, Bob Clement has enhanced the quality of life of the residents of Roanoke, and has helped build a better, stronger, and more collaborative community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert A. Clement, Jr., on the occasion of his retirement as the Roanoke Neighborhood Services Coordinator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert A. Clement, Jr., as an expression of the General Assembly's admiration for his legacy of leadership and many contributions to communities throughout Roanoke.

### HOUSE JOINT RESOLUTION NO. 953

*Commending George Miller.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, George Miller, longtime coach at William Fleming High School in Roanoke, was honored by students, alumni, staff, and the academic community when the school's athletic field was named after him; and

WHEREAS, the William Fleming High School Colonels' field facility was officially dubbed the George Miller Stadium in honor of the former football coach on November 2, 2018, during the halftime ceremony at a football game against Lord Botetourt High School; and

WHEREAS, in 1969, George Miller was an all-Group AAA defensive lineman at William Fleming High School under longtime coach Fred Smith; he later became an assistant coach of William Fleming High School for 21 seasons; and

WHEREAS, George Miller served as the William Fleming High School football team's head coach from 1995 to 1999, taking the Colonels to the 1997 Virginia High School League Division 5 championship game and winning three Roanoke Valley District titles; and

WHEREAS, George Miller impacted hundreds of students as a health and physical education teacher for 16 years; he was involved in athletics across the board and was named mid-Atlantic regional wrestling coach of the year, and he served as a longtime girls' track and field coach at William Fleming High School; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend George Miller for receiving the honor of having the William Fleming High School stadium named after him; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George Miller as an expression of the General Assembly's admiration for his dedication to youth athletics and for his years of commitment to the Roanoke community.

### HOUSE JOINT RESOLUTION NO. 954

*Commending Sue Ranson.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Sue Ranson, an experienced caregiver who cofounded Good Samaritan Hospice in Roanoke, retired as president and chief executive officer of the organization on December 31, 2018, after 27 years of service; and

WHEREAS, a native of Baltimore, Sue Ranson began her medical career in pediatrics at the Medical College of Virginia in Richmond; she relocated to Roanoke, where she worked for Community Hospital, leading a senior wellness program and a grief counseling program; and

WHEREAS, in 1991, Sue Ranson helped establish Good Samaritan Hospice, the first Medicare-certified in-patient hospice in the Roanoke Valley and still the only nonprofit, community-based hospice in the area; and

WHEREAS, from its humble beginnings with only two volunteer staff members and Sue Ranson as the organization's only nurse, Good Samaritan Hospice has touched the lives of more than 11,000 patients and their families through more than 500,000 staff and volunteer visits; and

WHEREAS, Sue Ranson went on to serve as vice president of patient care services and had become president and chief executive officer by 1995; her passion, dedication, and innovative leadership helped the organization continue to fulfill its mission to provide seamless, coordinated, and compassionate care year after year; and

WHEREAS, Sue Ranson helped establish the Palliative Care Partnership of the Roanoke Valley as well as an international hospice in China; she offered her wisdom and expertise to the Virginia Association for Hospices and Palliative Care and the Virginia Tech Center for Gerontology Futures Board, among many other organizations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sue Ranson on the occasion of her retirement as president and chief executive officer of Good Samaritan Hospice in Roanoke; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sue Ranson as an expression of the General Assembly's admiration for her visionary leadership in the health care industry and unparalleled care for her patients.

### HOUSE JOINT RESOLUTION NO. 955

*Commending the Hilton Downtown Richmond.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, in 2019, the Hilton Downtown Richmond celebrates its 10th anniversary of providing exceptional hospitality and service from inside the historic Miller & Rhoads Building on Broad Street; and

WHEREAS, on October 17, 1885, the same year that the nation's first electric trolley system debuted in Richmond, three businessmen from Pennsylvania opened the Miller, Rhoads & Gerhart dry goods store at 117 East Broad Street; the store was later renamed as Miller & Rhoads and moved to the 500 block of East Broad Street; and

WHEREAS, Miller & Rhoads prospered in the area and quickly became an upscale department store encompassing nearly half a million square feet of floor space on an entire city block; the store helped anchor downtown Richmond's retail district for decades, drawing shoppers from throughout the region; and

WHEREAS, Miller & Rhoads was the first store in Richmond to feature electric lighting, elevators, escalators, air conditioning, and underground plumbing and was known for its ornate clock on the side of the building, with the phrase "Meet me under the clock" becoming familiar to Richmonders planning downtown activities; and

WHEREAS, the famous Miller & Rhoads Tea Room was known as the center of Richmond's afternoon social scene, hosting fashion shows, book signings, and other events; the store also gained recognition for its elaborate holiday window displays, and thousands of children flocked to the store each Christmas to visit Santa Claus; and

WHEREAS, Miller & Rhoads opened 20 stores in Virginia and North Carolina before closing in 1990; throughout its history, the store maintained its traditional roots, even placing its elegant metal signs outside stores inside shopping malls; and

WHEREAS, in 2009, the Miller & Rhoads Building reopened as the 250-room Hilton Downtown Richmond, elevating the commitment to excellence for which Miller & Rhoads was known with the prestige of the Hilton brand; the project also created 130 condominiums in the building and was the first development in the city to incorporate hotel and condominium units in the same space; and

WHEREAS, the opening of the Hilton Downtown Richmond was an important element in the revitalization of downtown Richmond, and the property has been a major contributor to the city's vibrant economy; and

WHEREAS, guests from around the world have stayed at the Hilton Downtown Richmond, enjoying the high quality of service provided by its employees, unique guest rooms, beautiful lobby with original marble floors, and nostalgic touches reminiscent of the building's past; and

WHEREAS, the Virginia Department of Historic Resources has approved the installation of a Virginia Highway Marker to be placed in front of the Hilton Downtown Richmond to preserve the story of the Miller & Rhoads Building; and

WHEREAS, in 2019, the Hilton Downtown Richmond also commemorates the 100th anniversary of Hilton Hotels and Resorts, which was established in 1919 and now serves millions of guests at 570 locations in 85 countries and territories on six continents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Hilton Downtown Richmond in the historic Miller & Rhoads Building on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Hilton Downtown Richmond as an expression of the General Assembly's admiration for its contributions to the Richmond community.

### HOUSE JOINT RESOLUTION NO. 956

*Commending the United Network for Organ Sharing.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, one result of the numerous medical and scientific advances that have harnessed technology, created life-sustaining therapies, and transformed health care and many lives in the process is organ transplantation; and

WHEREAS, transplantation may be necessary when a person's organ has failed or has been damaged by disease or injury; however, unfortunately, the need for organ donors is much greater than the number of people who donate organs, and approximately 20 people die each day in America while awaiting an organ; and

WHEREAS, on March 21, 1984, the nonprofit organization United Network for Organ Sharing (UNOS) was founded in Richmond to meet the growing demand for organ transplants nationwide; today, UNOS maintains the nation's organ transplant waiting list, which currently has nearly 114,000 men, women, and children awaiting a life-saving transplant; and

WHEREAS, UNOS administers the computerized national database that matches donated organs with transplant candidates and collects data and shares the most comprehensive transplant database in the country used by researchers, medical facilities, transplant surgeons, donors, and recipients; and

WHEREAS, UNOS ensures that all organs are equitably distributed, develops and implements organ-sharing policies that maximize the use of donated organs, and educates the public about the need for organ donation; and

WHEREAS, the UNOS Organ Center operates nonstop, 365 days a year, helping place an average of 30 organs per day; and

WHEREAS, UNOS' accomplishments are demonstrated by the following statistics: an average of 100 transplants occur each day with organs from both deceased and living donors; more than 36,000 people receive an organ transplant each year; more than 750,000 transplants have been performed nationwide since 1984; and more than 315,000 Americans are living today with a functioning transplanted organ; and

WHEREAS, a model for transplant systems around the world, the UNOS mission is promoted by 375 dedicated employees who serve as researchers, data analysts, and information technology professionals, many of them Virginians who have graduated from Virginia colleges and universities; and

WHEREAS, headquartered in the Virginia BioTechnology Research Park in Richmond, UNOS provides a valuable service to improving transplant technology, increasing the number of organ donors, saving lives through organ transplantation, and improving the quality of life for people throughout the Commonwealth and the nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the United Network for Organ Sharing on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brian Shepard, chief executive officer of United Network for Organ Sharing, as an expression of the General Assembly's admiration and appreciation for the organization's exemplary work, commitment, and dedication to saving and improving the quality of life of thousands of citizens, and its best wishes for many productive years of service to the Commonwealth and the nation in the future.

#### HOUSE JOINT RESOLUTION NO. 957

*Celebrating the life of Dr. Donn Lancaster.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Dr. Donn Lancaster, a longtime educator and leader at The New Community School in Richmond, died on January 5, 2019; and

WHEREAS, Donn Lancaster was born in Ithaca, New York, and was a graduate of the University of Arkansas, Colorado State University, and the University of Richmond, where he received a master's degree in teaching; and

WHEREAS, after a career as a scientist, Donn Lancaster was inspired by the potential of the students of The New Community School to join their faculty as a science teacher at its middle school in 1995; and

WHEREAS, Donn Lancaster's life's work was dedicated to the students at The New Community School, empowering them to feed their curiosity and encouraging them to strive for excellence in developing their gifts and passions; and

WHEREAS, as a founding leader of The New Community School middle school, Donn Lancaster helped to define and enhance the school's culture; he inspired students and his fellow faculty members as a teacher, mentor, advisor, coach, and friend before retiring in June 2018; and

WHEREAS, Donn Lancaster was a member of Three Chopt Presbyterian Church and an Elder of the Presbyterian Church (U.S.A.); and

WHEREAS, Donn Lancaster will be fondly remembered and greatly missed by his beloved wife, Carol; his son, Jeffrey, and his family; his colleagues, students, and alumni of The New Community School; and his many friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Dr. Donn Lancaster, an educator who made many contributions to the Central Virginia community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dr. Donn Lancaster, as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 958

*Celebrating the life of Cynthia Grim Dellinger.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Cynthia Grim Dellinger, former broadcast journalist, esteemed elected official, and accomplished realtor in Shenandoah County, died on January 26, 2019; and

WHEREAS, Cynthia Dellinger was born and raised in Shenandoah County; she graduated from Stonewall Jackson High School and attended Lord Fairfax Community College; and

WHEREAS, from 1980 to 1987, Cynthia Dellinger worked in broadcasting as a radio and television news anchor and was known for her high journalistic standards; she became a licensed realtor in 1987 and started her own company in 1991; and

WHEREAS, in 1994, Cynthia Dellinger became a member of the United Country Shenandoah Valley real estate agency; leading her field, she served as president of the Massanutten Association of Realtors and on the Risk Management Advisory Group for the Virginia Association of Realtors; and

WHEREAS, Cynthia Dellinger was very active in the community, serving on the board of directors for Habitat for Humanity, the board of directors for the Mount Jackson Chamber of Commerce, the advisory board for a local bank, and the Valley Conservation Council; and

WHEREAS, Cynthia Dellinger was an active member of the Shenandoah County Republican Committee, representing the Conicville District for over 30 years; in 1987, she became the first woman elected to the Shenandoah County Board of Supervisors and later served as its first female chair; and

WHEREAS, Cynthia Dellinger will be fondly remembered and greatly missed by her mother, Dorothy; her husband, Charles; her son, Wesley, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Cynthia Grim Dellinger, former broadcast journalist, esteemed elected official, and realtor in Shenandoah County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Cynthia Grim Dellinger as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 959

*Celebrating the life of the Honorable Robert Franklin Hagans, Jr.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Honorable Robert Franklin Hagans, Jr., a skilled attorney and respected judge of the Virginia Beach General District Court who dedicated himself fully to the service of others, died on January 17, 2019; and

WHEREAS, Robert Hagans was born in Norfolk and grew up in Virginia Beach, where he attended the newly integrated Bayside High School; he continued his education at Howard University and the Marshall-Wythe School of Law at The College of William & Mary; and

WHEREAS, Robert Hagans began his legal career as an Assistant Commonwealth's Attorney in Norfolk, then worked as an attorney in private practice with his godfather, J. Hugo Madison; and

WHEREAS, Robert Hagans went on to serve as general counsel for Berkley Citizens Federal Savings and Loan Association, Sentry Federal Savings Bank, and New Atlantic Bank; he also served as a divorce commissioner for the Norfolk Circuit Court for more than 20 years; and

WHEREAS, Robert Hagans offered his leadership and expertise to numerous professional organizations, including as president of the Old Dominion Bar Association, the Virginia Beach Bar Association, and the South Hampton Roads Bar Association; and

WHEREAS, a champion for education, Robert Hagans served as chair of the Virginia Beach School Board, gaining a reputation as a consensus-maker who strengthened the school district, and was a member of the Norfolk State University Foundation Board and the Norfolk Marine Institute's board of trustees; and

WHEREAS, Robert Hagans enhanced the quality of life in Virginia Beach as chair of the Virginia Beach Community Services Board and played a vital role in the development of the Virginia Beach Town Center as secretary and commissioner of the Virginia Beach Industrial Development Authority; and

WHEREAS, Robert Hagans became the first African American man appointed as a judge of Virginia Beach General District Court of the 2nd Judicial District of Virginia on February 25, 2015, and presided over the court with great fairness and wisdom; and

WHEREAS, Robert Hagans will be fondly remembered and greatly missed by his wife of 34 years, Peggy; his children, Hazel, Meagan, and Robert III; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Robert Franklin Hagans, Jr., a respected attorney and judge who made many contributions to the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Robert Franklin Hagans, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 960**

*Commemorating the life and legacy of Thomas Calhoun Walker.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Thomas Calhoun Walker, a trailblazing attorney, educator, and public servant who dedicated his life to strengthening the Gloucester County community, died on November 5, 1953; and

WHEREAS, T.C. Walker, born a slave in 1862, worked to help support his family as a young man; he dreamed of pursuing an education and with 92 cents in his pocket, traveled to Hampton Institute where, despite failing the entrance exam, he convinced General Samuel Chapman Armstrong, the founder of the institution, to allow him to enroll in a work-study program; and

WHEREAS, after graduating from what is now Hampton University, T.C. Walker taught students at Zion Poplars Baptist Church in Gloucester, then began to further his education by studying law with the help of two local attorneys; when he passed the bar exam at the age of 25, he became the first African American attorney in Gloucester County; and

WHEREAS, T.C. Walker was a founding member of the Virginia State Board of Public Welfare and used his position on the State Board of Charities and Corrections to help find homes for more than 2,000 at-risk children in Gloucester County and other localities; and

WHEREAS, T.C. Walker encouraged members of the African American community to gain self-sufficiency by buying land and learning how to farm; he made loans and explained taxes to residents, and by 1930, 881 out of 995 African American families in Gloucester County owned their own farms, more than anywhere else in the United States; and

WHEREAS, T.C. Walker worked to lower the crime rate in Gloucester County by leading citizens' movements to close saloons and supporting similar movements in Lancaster County and Hanover County; and

WHEREAS, T.C. Walker remained committed to education throughout his life, organizing and raising funds for the Gloucester Agricultural and Industrial School and the Gloucester Training School; and

WHEREAS, in 1891, T.C. Walker was elected to the Gloucester County Board of Supervisors; he was later appointed as Virginia's first African American customs collector and became known as the "Black Governor of Virginia" when he was appointed by President Franklin D. Roosevelt to the Virginia Emergency Relief Administration; and

WHEREAS, T.C. Walker was one of the leading citizens of his time and served as an example, then and now, to all Virginians of what can be achieved through hard work, determination, education, individual responsibility, and concern for the welfare of others; and

WHEREAS, upon his death, T.C. Walker bequeathed his home on Main Street in Gloucester Courthouse to Hampton University; the T.C. Walker House is listed on the National Register of Historic Places and the Virginia Landmarks Register and is a reminder of his lifelong efforts to serve and enhance the African American community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the life and legacy of Thomas Calhoun Walker on the occasion of the 65th anniversary of his death in 1953; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Thomas C. Walker Preservation Alliance as an expression of the General Assembly's admiration for his contributions to Gloucester County, Hampton University, and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 961**

*Celebrating the life of Audrey Elizabeth Moore.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Audrey Elizabeth Moore, an environmentalist and an advocate for responsible growth who strengthened the Fairfax County community as a longtime member and former chair of the Board of Supervisors, died on December 12, 2018; and

WHEREAS, a native of Venezuela, Audrey Moore came to the United States with her family at a young age and grew up in Westchester County, New York; she attended Mount Holyoke College and graduated from the University of New Hampshire; and

WHEREAS, Audrey Moore intended to pursue a legal career, but ultimately chose to attend a secretarial school in Manhattan instead; her exposure to the urban sprawl of New York City turned out to be a seminal moment in her life, igniting her passion for environmentalism; and

WHEREAS, in 1950, Audrey Moore relocated to Washington, D.C., to work as an administrative assistant for a trademark specialist, and by 1956, she settled in Annandale, which at the time was experiencing significant growth; and

WHEREAS, Audrey Moore educated herself on urban planning techniques, rezoning procedures, and state laws on sewers, transportation, and parks, and became president of her local civic association in an effort to preserve the community's rural charms; and

WHEREAS, in 1966, Audrey Moore led a door-to-door campaign to save Wakefield Park and helped raise \$18 million to expand parks throughout Fairfax County, resulting in what is now a system of 427 parks on 23,000 acres; and

WHEREAS, desirous to be of further service to the community, Audrey Moore ran for and was elected to the Fairfax County Board of Supervisors, where she supported a zoning change that restricted development in the Occoquan Basin to one house per every five acres; and

WHEREAS, in 1988, Audrey Moore was elected chair of the Fairfax County Board of Supervisors; she supported vital programs to increase the health and economic vitality of the community, helping to manage the county's growth through investments in road improvements; and

WHEREAS, in her later years, Audrey Moore was an active member of the Greenspring retirement community in Springfield, bringing joy to her fellow residents with her zest for life; and

WHEREAS, Audrey Moore will be fondly remembered and greatly missed by her sons, Douglas, Andrew, and Robert, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Audrey Elizabeth Moore, a champion for the residents of Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Aubrey Elizabeth Moore as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 962

*Commending Calista Garcia.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Calista Garcia, an eleventh-grade student at H-B Woodlawn Secondary Program in Arlington, was named a 2018 National YoungArts Foundation award winner in the singer-songwriter category; and

WHEREAS, as a National YoungArts Foundation award winner, Calista Garcia was selected through a blind adjudication process and received valuable support, professional development, and educational experience working with renowned mentors; and

WHEREAS, growing up in a family supportive of the arts and arts education, songwriting comes naturally to Calista Garcia; at the age of 13, she wrote the score to a musical her school produced based on *Lysistrata*; and

WHEREAS, Calista Garcia continues to perform frequently at events around the Washington, D.C., area in a style that has been described as a folk-rock and blues sound that harkens back to 1970s classic acts; she aspires to continue in her professional and artistic development; and

WHEREAS, in 2019, Calista Garcia was selected as an Artist in Residence at Strathmore, a multidisciplinary arts center and presenting organization where she received mentoring and training, as well as unique performance and learning opportunities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Calista Garcia, an eleventh-grade student at H-B Woodlawn Secondary Program in Arlington, for receiving the National YoungArts Foundation award in the singer-songwriter category; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Calista Garcia, as an expression of the General Assembly's admiration for her dedication to the arts.

### HOUSE JOINT RESOLUTION NO. 963

*Commending Arlington Free Clinic.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Arlington Free Clinic, a volunteer-run clinic that provides high-quality medical care to low-income and uninsured adults, celebrates its 25th anniversary in 2019; and

WHEREAS, founded by Dr. Joseph A. Backer, Dr. Stephen J. Sheehy, and the Arlington County Medical Society, the Arlington Free Clinic first provided medical services in space borrowed from an Arlington County middle school in 1994; and

WHEREAS, over the past 25 years, Arlington Free Clinic has expanded into its own Leadership in Energy and Environmental Design Gold Certified facility, where a team of medical and nonmedical volunteers has provided over 245,000 hours of medical services to over 12,000 patients; and

WHEREAS, minimizing health care costs for its patients, Arlington Free Clinic provides free comprehensive medical care, including primary and specialty services, mental health services, patient education programs, and patient support groups; and

WHEREAS, Arlington Free Clinic works with community medical partners to help patients access free laboratory and diagnostic services and treatment programs; and

WHEREAS, Arlington Free Clinic's newest service, oral health care, was launched in 2015 and, now in its own facility, provides routine and advanced dental services including crowns, partials, endodontic, periodontal, and prosthodontic procedures that are very much needed by those who have gone without care for years; and

WHEREAS, the ability of the Arlington Free Clinic to faithfully serve the Arlington community would not be possible without the volunteers, donors, and community partners who dedicate their time, expertise, and funds to helping those in need; in 2018 the team of over 5,000 volunteers, including 170 physicians, delivered care to over 1,600 unique patients in more than 8,000 visits; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Arlington Free Clinic, a volunteer-run clinic that provides high-quality medical care to low-income and uninsured adults, on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Arlington Free Clinic as an expression of the General Assembly's admiration for the organization's contributions to the health and welfare of low-income, uninsured people in the Arlington area.

### HOUSE JOINT RESOLUTION NO. 964

*Commending St. Augustine's Episcopal Church.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, in 2018, St. Augustine's Episcopal Church in Newport News celebrated the 30th anniversary of its Saturday Feeding Program; and

WHEREAS, St. Augustine's Episcopal Church's Saturday Feeding Program was started after congregation member Doris Watson initiated a survey to determine how members of the church could best serve the hungry in their community; it was determined that a program was needed and should be financed by members of the church; and

WHEREAS, members of St. Augustine's Episcopal Church formed an Outreach Committee to gain financial support, to seek membership with the Foodbank, and to plan simple menus, analyzing costs to initially feed at least 50 people; and

WHEREAS, St. Augustine's Episcopal Church's Saturday Feeding Program regularly serves between 80 and 125 people and is designed to not only feed those in need of a satisfying meal, but to provide a pleasant atmosphere where they can dine and be treated with kindness, respect, and dignity; and

WHEREAS, St. Augustine's Episcopal Church members volunteer to prepare and serve meals, seat clients, and clean up; others have been responsible for planning menus and shopping; over the years, sextons have worked tirelessly setting up and taking down tables and chairs; various civic organizations, social clubs, and churches in the community have volunteered alongside college and high school students; and

WHEREAS, the Saturday Feeding Program continues to thrive in its 30th year and is primarily funded by members of St. Augustine's Episcopal Church; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend St. Augustine's Episcopal Church on the occasion of the 30th anniversary of its Saturday Feeding Program; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to St. Augustine's Episcopal Church and to Doris Watson, founder of the Saturday Feeding Program, as an expression of the General Assembly's admiration for the congregation's longstanding and consistent efforts to provide food and hospitality to those in need in the Newport News community.

### HOUSE JOINT RESOLUTION NO. 965

*Commending John A. Downey.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, John A. Downey, president of Blue Ridge Community College, was selected by Phi Theta Kappa Honor Society as a recipient of the Shirley B. Gordon Award of Distinction in 2019; and

WHEREAS, John Downey was one of 18 community college presidents from around the country and the only such administrator from Virginia to receive the prestigious award, which recognizes individuals who have fostered academic achievement, leadership, and service among the students on their campuses; and

WHEREAS, the Alpha Xi Xi Chapter of Phi Theta Kappa at Blue Ridge Community College has a long history of achieving success under John Downey's leadership; he recruits high-performing students to join the organization and encourages them to demonstrate initiative and pursue scholarships through the honor society; and

WHEREAS, members of the Alpha Xi Xi Chapter have supported the community by participating in the Relay for Life and the Annual Virginia Hunger Symposium, with John Downey playing an active role in the chapter's events; and

WHEREAS, John Downey promotes the Phi Theta Kappa values of scholarship, leadership, fellowship, and service through all his endeavors; and

WHEREAS, John Downey will receive the Shirley B. Gordon Award of Distinction at the Phi Theta Kappa Annual Convention on April 4-6, 2019, in Orlando, Florida; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John A. Downey on receiving the Shirley B. Gordon Award of Distinction; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John A. Downey as an expression of the General Assembly's admiration for his servant leadership and contributions to the students of Blue Ridge Community College.

### HOUSE JOINT RESOLUTION NO. 966

*Commending the Northern Virginia Technology Council Foundation.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for five years, the Northern Virginia Technology Council Foundation has helped veterans and military spouses find employment opportunities through its Veterans Employment Initiative; and

WHEREAS, the Veterans Employment Initiative of the Northern Virginia Technology Council Foundation has connected military spouses to employment opportunities and has provided support to member companies in their efforts to recruit, hire, train, and retain qualified veteran and military spouse employees; and

WHEREAS, since the Veterans Employment Initiative's start in 2013, 12,000 veterans and their spouses have benefitted from the program's professional development programming and placement services; and

WHEREAS, the Northern Virginia business and technology community and the National Capital Region's academic institutions and policymakers are central to the existence and growth of the Veterans Employment Initiative; the program is also supported through regional military and community nonprofit partnerships, with the active assistance of committed volunteers; and

WHEREAS, the Veterans Employment Initiative runs programming that includes Networking events with a mix of career education and networking, recruiting days, and employer training events; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Northern Virginia Technology Council Foundation on the occasion of the fifth anniversary of its Veterans Employment Initiative; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Northern Virginia Technology Council Foundation as an expression of the General Assembly's admiration for the Veterans Employment Initiative's legacy of professional support for veterans and their spouses.

### HOUSE JOINT RESOLUTION NO. 967

*Commending Backpack Buddies Foundation of Loudoun.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Backpack Buddies Foundation of Loudoun celebrates five years of providing financial support to the individual programs that provide food for the weekend to students in need; and

WHEREAS, Backpack Buddies Foundation of Loudoun receives generous donations from individuals, local groups, and corporate sponsors to distribute funding to purchase meals, snacks, and milk for the children in Loudoun County who might otherwise go without sufficient food at home; and

WHEREAS, Backpack Buddies Foundation of Loudoun previously donated over \$84,000 to 14 local groups that support over 1,600 students on a weekly basis by running weekend food programs for students in Loudoun County Public Schools; the grant distribution amount has ranged from \$500 to \$51,000, depending on the number of students that the program supports each week; and

WHEREAS, during the 2018-2019 school year, Backpack Buddies Foundation of Loudoun served 80 schools and 3,000 students, providing supplemental food through these programs; the programs, open to all students in need, confidentially provide bags of food to students to help sustain them through the weekend as well as during winter and spring breaks; and

WHEREAS, Backpack Buddies Foundation of Loudoun continues to work with local partners to establish new programs and raise awareness about the important issues surrounding hunger that affect many children and adults residing in the Loudoun County community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Backpack Buddies Foundation of Loudoun for celebrating five years of providing financial support to the individual programs that provide weekend food backpacks for students in need; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Backpack Buddies Foundation of Loudoun as an expression of the General Assembly's admiration for the program's dedication to addressing hunger in Loudoun County.

### HOUSE JOINT RESOLUTION NO. 968

*Celebrating the life of Trooper Lucas B. Dowell.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Trooper Lucas B. Dowell, a dedicated law-enforcement officer with the Virginia State Police who was committed to helping others and serving the community, died in the line of duty on February 4, 2019; and

WHEREAS, Lucas Dowell grew up in Chilhowie, where he attended Chilhowie High School; he continued his education at Radford University, earning a bachelor's degree in criminal justice; and

WHEREAS, Lucas Dowell graduated from the Virginia State Police Academy with the 122nd Basic Session on November 21, 2014; he was assigned to Area 20 of Division III, which encompasses the City of Lynchburg and the Counties of Amherst and Campbell; and

WHEREAS, a model law-enforcement officer, Lucas Dowell went above and beyond in his service to the public and support for his fellow officers; he became a member of the Division III Tactical Team in 2016 and was certified as a general instructor; and

WHEREAS, Lucas Dowell worked to build trust and mutual respect with members of the public, and he was well-known by family and friends for his sense of humor and ability to captivate a room with his penchant for storytelling; and

WHEREAS, Lucas Dowell made the ultimate sacrifice while executing a search warrant with the Piedmont Regional Drug and Gang Task Force near Farmville, a reminder of the dangers bravely faced by police officers throughout the Commonwealth and the United States as they strive to serve and protect the members of their communities each day; and

WHEREAS, Lucas Dowell will be fondly remembered and greatly missed by his parents, Michael and Rebecca; his sister, Erica; and numerous other family members, friends, and fellow law-enforcement officers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Trooper Lucas B. Dowell; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Trooper Lucas B. Dowell as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 969

*Celebrating the life of Glen Wood.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Glen Wood, a native of Stuart, an auto racing legend, and a beloved member of the Patrick County community, died on January 18, 2019; and

WHEREAS, known as the "Woodchopper" on the racing circuit, Glen Wood won four races in NASCAR's premier series over an 11-year racing career and an additional 93 victories in modified, convertibles, and sportsman divisions, and in 1998, was named one of the 50 Greatest Drivers in the National Association for Stock Car Auto Racing (NASCAR); and

WHEREAS, in 1950, Glen Wood and his family formed the Wood Brothers Racing Team, and during its early years, the team evolved from a weekend hobby into a full-time business; and

WHEREAS, along with his youngest brother, Leonard, who was with the team from its inception, Glen Wood worked full-time building and preparing the cars while his other brothers and family members served as part of the pit crew on race weekends; and

WHEREAS, after the 1964 season, Glen Wood gave up his driving duties and became a full-time owner of Wood Brothers Racing, which fielded a long list of talented drivers including NASCAR's David Pearson, Cale Yarborough, Dale Jarrett, and Bill Elliott; and

WHEREAS, recognizing that by limiting their time off the track they could increase their position on the track, Wood Brothers Racing created and perfected the modern pit stop; and

WHEREAS, in the 1970s, the Wood Brothers' notorious No. 21 car with the gold-colored decals proved to be a formidable challenge on the NASCAR circuit; with legendary driver David Pearson at the wheel, Wood Brothers Racing won the coveted "Triple-Crown" of NASCAR racing by winning the legendary Daytona 500, the World 600 at Charlotte Motor Speedway, and the Southern 500 at Darlington Raceway in 1976; and

WHEREAS, Wood Brothers Racing has fielded only Ford Motor Company products since 1950, making their relationship with Ford the longest association of any motorsports team with a single manufacturer; and

WHEREAS, Glen Wood was recognized for his outstanding career as a driver and team owner with his election and induction as a member of the third class of the NASCAR Hall of Fame in 2012; and

WHEREAS, Glen Wood joined fellow inductees Cale Yarborough, Darrell Waltrip, Dale Inman, and the widow of Richie Evans at the Charlotte Convention Center on January 20, 2012, for the induction ceremony; and

WHEREAS, Glen Wood was inducted by his brother, Leonard, before an audience that included NASCAR dignitaries, drivers, crew chiefs, team owners, and family members and friends from Patrick County; and

WHEREAS, the Wood Brothers Racing Team holds the unique distinction as the oldest continuously operating team in NASCAR's top series, and guided by Glen Wood, along with his brother, Leonard, the team has had 119 poles and 99 victories in more than 1,500 starts; and

WHEREAS, the Wood Brothers Racing Team has earned over \$30 million in career winnings, and remains among the winningest racing teams in the history of NASCAR racing over the past 68 years; and

WHEREAS, Glen Wood will be fondly remembered and greatly missed by his wife, Bernece; his children, Eddie, Len, and Kim, and their families; his siblings, Ray, Delano, Leonard, and Crystal; and numerous other family members, friends, and fellow members and fans of NASCAR; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Glen Wood, a NASCAR legend; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Glen Wood as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 970

*Celebrating the life of Dale Warren Dover.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Dale Warren Dover, a scholar, athlete, diplomat, father, grandfather, and friend who made many contributions to the Falls Church community as the city's first African American mayor, died on January 14, 2019; and

WHEREAS, a native of New York, Dale Dover graduated from Harvard University, where he was a standout member of the basketball team; he played and coached professional basketball in Portugal, and was a participant in the Sunday morning basketball game at the Ed Henderson Gymnasium in Falls Church for over 15 years; and

WHEREAS, Dale Dover was a distinguished linguist who was fluent in Mandarin, Portuguese, Danish, Hebrew, Swahili, and Arabic; and

WHEREAS, Dale Dover joined the United States Department of State in the 1970s and utilized his talents to serve as United States Vice-Consul in Denmark and coach for the Danish National Basketball team, and later as United States Consul in Tel Aviv; and

WHEREAS, after earning a law degree from Harvard University, Dale Dover settled in the Commonwealth in 1984; he served as Mayor of Falls Church from 1990 to 1992 and as a member of the Falls Church City Council from 1990 to 1994, then practiced law in the area for 25 years; and

WHEREAS, Dale Dover had a passion for serving young people and demonstrated this not only by his work with youth basketball, but by focusing his law firm on advocating for children in the court system; and

WHEREAS, Dale Dover served the residents of Falls Church with the utmost integrity and dedication, and he will be fondly remembered and greatly missed by his children, Lauren and Noah, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Dale Warren Dover; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dale Warren Dover as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 971

*Celebrating the life of President George Herbert Walker Bush.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, President George Herbert Walker Bush, a consummate public servant and a respected statesman who was defined by his pragmatic leadership and unparalleled commitment to the American people, died on November 30, 2018; and

WHEREAS, born in Massachusetts to former Senator Prescott Bush and Dorothy Walker Bush, George H.W. Bush grew up in Greenwich, Connecticut, and began to hone his leadership skills at a young age, serving as class president and captain of baseball and soccer teams in high school; and

WHEREAS, after the attack on Pearl Harbor, George H.W. Bush joined many of the other young men of his generation in service to the nation, enlisting in the United States Naval Reserve in 1942 on his 18th birthday; he was assigned to a torpedo squadron as a photographic officer and went on to become one of the youngest aviators in the United States Navy during World War II; and

WHEREAS, during an attack against Chichi Jima, a heavily fortified island held by Japanese forces, the aircraft George H.W. Bush was flying was damaged by Japanese anti-aircraft fire; he courageously released his payload against his target before ejecting from the aircraft and evaded capture by enemy forces; and

WHEREAS, George H.W. Bush served the United States honorably as a naval pilot during World War II, logging 1,228 hours of flight time, 126 carrier landings, and 58 combat missions, for which he was awarded the United States Navy Air Medal with two gold stars and the Distinguished Flying Cross for bravery in action; and

WHEREAS, on January 6, 1945, George H.W. Bush married the love of his life and best friend, Barbara Pierce, and their marriage lasted 73 years, the longest presidential marriage in the history of the United States; and

WHEREAS, while enrolled at Yale University following World War II, George H.W. Bush played in two College World Series games as a left-handed first baseman and met Babe Ruth before graduating in 1948 with a degree in economics and moving to Texas with Barbara and his eldest son, George W. Bush; and

WHEREAS, upon moving to West Texas, George H.W. Bush became a successful businessman, establishing himself in the oil and gas industry until 1966, when he was elected to the House of Representatives, where he ably represented the residents of the 7th District of Texas for two terms; and

WHEREAS, George H.W. Bush served as United States Ambassador to the United Nations from 1971 to 1973, which led to his appointment in 1974 as Chief of the United States Liaison Office in the People's Republic of China, where he greatly improved relations between the United States and China during his 14-month tenure; and

WHEREAS, in 1976, President Gerald Ford appointed George H.W. Bush to serve as the Director of the Central Intelligence Agency, where he worked to improve agency morale; and

WHEREAS, George H.W. Bush served as Vice President of the United States for eight years under President Ronald Reagan, managing federal deregulation, championing anti-drug efforts, combating terrorism, and leading North Atlantic Treaty Organization negotiations during the Cold War; and

WHEREAS, in 1988, the people of the United States elected George H.W. Bush to serve as the 41st President of the United States; he became the first serving Vice President to be elected President since 1836 and he was the last veteran of World War II elected to the nation's highest office; and

WHEREAS, President George H.W. Bush worked closely with his international counterparts throughout his Presidency and oversaw the end of the Cold War, the fall of the Berlin Wall, and the reunification of Germany, and worked with Soviet leader Mikhail Gorbachev to sign two treaties reducing the threat of nuclear war; and

WHEREAS, President George H.W. Bush upheld the reputation of the United States as the leader of the free world, protecting the Panama Canal from a corrupt regime, assembling a multinational force to compel the withdrawal of Iraq from Kuwait in the Persian Gulf War, and convening the Madrid Peace Conference in 1991; and

WHEREAS, the efforts of President George H.W. Bush to negotiate the North American Free Trade Agreement led to the adoption of that agreement in 1993; and

WHEREAS, President George H.W. Bush worked with Congress to enact the Americans with Disabilities Act of 1990 and Public Law 101-549, commonly known as the Clean Air Act Amendments of 1990; he also hosted an education summit with governors from all 50 states in the pursuit of systemic education reform and capped discretionary spending that led to historic deficit cuts; and

WHEREAS, President George H.W. Bush appointed Justice Clarence Thomas and Justice David Souter to the Supreme Court of the United States; and

WHEREAS, President George H.W. Bush believed "there could be no definition of a successful life that does not include service to others" and therefore launched the Points of Light initiative to promote volunteerism and community service across America and, while in office, awarded 1,020 Daily Points of Light to Americans representing all 50 states; and

WHEREAS, after leaving office, President George H.W. Bush remained dedicated to volunteerism and community service, raising hundreds of millions of dollars for charity; and

WHEREAS, President George H.W. Bush inspired his sons, the 43rd President of the United States and former Governor of Texas George W. Bush and former Governor of Florida Jeb Bush, to follow in his footsteps as public servants; and

WHEREAS, in 1999, the Central Intelligence Agency headquarters in Langley was named the George Bush Center for Intelligence in his honor, and in 2009, the USS *George H.W. Bush*, a United States naval supercarrier, was commissioned with the Motto "Freedom at Work"; and

WHEREAS, President George H.W. Bush accepted the Presidential Medal of Freedom on February 15, 2011, from President Barack Obama; and

WHEREAS, President George H.W. Bush never lost his zest for life and his zeal for adventure, commemorating his 75th, 80th, 85th, and 90th birthdays with parachute jumps; and

WHEREAS, predeceased by his wife, Barbara, and his daughter, Robin, President George H.W. Bush is fondly remembered and greatly missed by his five children, 17 grandchildren, and eight great-grandchildren, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of President George Herbert Walker Bush, the 41st President of the United States; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of President George Herbert Walker Bush as an expression of the General Assembly's respect for his memory and admiration for his incredible legacy of excellence in public service.

### HOUSE JOINT RESOLUTION NO. 972

*Celebrating the life of Robert C. Nusbaum.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Robert C. Nusbaum, a pillar of the legal community and a Norfolk civic leader, died on October 31, 2018; and

WHEREAS, Robert Nusbaum was born in Norfolk and graduated from Maury High School before entering Harvard College in Cambridge, Massachusetts; his undergraduate education was interrupted by World War II, when he was called to service, first in the United States Army and then in the Office of Strategic Services, serving in the European theater until the conclusion of the war; after a post-war term at Harvard College, he enrolled at the University of Virginia Law School; and

WHEREAS, Robert Nusbaum began his legal practice in Norfolk with Alan J. Hofheimer, a relationship that endured for over 40 years; their firm grew to more than 30 attorneys and in 2004, Hofheimer Nusbaum merged with the law firm of Williams Mullen; and

WHEREAS, throughout over 65 years of legal practice, Robert Nusbaum was regularly named a Super Lawyer by *Virginia Super Lawyers* magazine and a member of the Legal Elite by *Virginia Business* magazine; he was one of only a few attorneys to be listed in seven categories in *The Best Lawyers in America*; and

WHEREAS, Robert Nusbaum was heavily involved in civic and philanthropic causes, serving on the Norfolk International Terminals board of directors, various boards of Sentara Health Systems, the board of the Library of Virginia, and the Institute for Reproductive Medicine at the Eastern Virginia Medical School; and

WHEREAS, always committed to building a forward-thinking community, in the late 1950s Robert Nusbaum publicly fought against massive resistance to the integration of Norfolk Public Schools; in the 1960s, he organized The Aid Fund, providing scholarships to talented African American students who were integrating Virginia's public colleges and graduate schools; he later conceived and funded the Center for the Study of Religious Freedom at Virginia Wesleyan University; and

WHEREAS, in recognition of Robert Nusbaum's contributions to furthering higher education in the African American community and his generous patronage, Norfolk State University named its Honors College after him in 2017; and

WHEREAS, numerous other organizations honored Robert Nusbaum for his civic involvement, activism, and philanthropic work, including the Cosmopolitan Club, the Norfolk Foundation, the Tidewater Council of the Boy Scouts of America, the Virginia Center for Inclusive Communities, and Tidewater Community College; and

WHEREAS, Robert Nusbaum will be fondly remembered and greatly missed by his wife, Linda; his children, Robert and William, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert C. Nusbaum, a pillar of the legal community and a Norfolk civic leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert C. Nusbaum as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 973

*Celebrating the life of Anne B. Shumadine.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Anne B. Shumadine, a quiet and thoughtful Norfolk businesswoman, philanthropist, and advisor, died on July 24, 2018; and

WHEREAS, Anne Shumadine grew up in Norfolk and went to Norfolk Public Schools, graduating as valedictorian from Granby High School, where she was included in the school's Hall of Fame; she was also the first recipient of the Virginian-Pilot Scholastic Achievement Award; and

WHEREAS, after graduating from Wellesley College, Anne Shumadine's first job was teaching mathematics at Nashoba Country Day School in Concord, Massachusetts; upon returning to Norfolk, she became active in community work and started her first entrepreneurial venture as a minority owner of the Par 3 Ski Shop; and

WHEREAS, at age 37, Anne Shumadine enrolled at the Marshall-Wythe School of Law at The College of William & Mary, where she graduated first in her class and was editor of the law review; she began her legal career with the predecessor firm of McGuireWoods before forming her own firm, which became Shumadine & Rose, where she was recognized for her expertise in tax and financial planning; and

WHEREAS, recognizing a need to counsel her clients in thoughtfully and properly passing on their wealth to their heirs and charitable institutions, Anne Shumadine founded Signature Family Wealth Advisors in 1994, serving as chair until her passing; and

WHEREAS, Anne Shumadine served the community as trustee and president of the Norfolk Day Nursery Association, a predecessor to Children's Harbor; trustee and president of the ACCESS College Foundation; rector of the board of visitors of Old Dominion University; board director of CENIT Bancorp, Inc.; trustee of the Old Dominion University Educational Foundation; rector of the board of visitors of Eastern Virginia Medical School; trustee of the Chesapeake Bay Foundation; trustee and chair of the Chrysler Museum of Art; trustee and chair of the investment committee of Virginia Wesleyan University; and as a member of the Wellesley College Business Leadership Council; and

WHEREAS, in recognition of her community involvement, Anne Shumadine was awarded the Safe Harbor Anchor Award by Children's Harbor in 2001; in 2011, she received the LEAD Hampton Roads Visionary Award, the Baron F. Black Community Builders Award from the Hampton Roads Community Foundation, and the Citizen Lawyer Award from the Marshall-Wythe School of Law at The College of William & Mary; in 2014, she was inducted into the Junior Achievement Business Hall of Fame; and

WHEREAS, Anne Shumadine will be fondly remembered and greatly missed by her husband, Conrad; her sons, John and James, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Anne B. Shumadine, Norfolk businesswoman, philanthropist, and advisor; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anne B. Shumadine as an expression of the General Assembly's respect for her memory.

#### HOUSE JOINT RESOLUTION NO. 974

*Commending the Norfolk Drug Court.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Norfolk Drug Court, one of the oldest programs of its kind in Virginia, has helped non-violent drug offenders recover from addiction and rejoin society for more than two decades; and

WHEREAS, established in 1998, the Norfolk Drug Court was a revolutionary concept at the time, but has since inspired the formation of more than 40 similar programs throughout the Commonwealth; and

WHEREAS, the Norfolk Drug Court is a collaboration between the Norfolk Community Services Board, the Norfolk Circuit Court, the Norfolk Commonwealth's Attorney, the Norfolk Sheriff's Office, and Norfolk Probation and Parole; Colonel Michael O'Toole of the Norfolk Sheriff's Office and the Honorable Junius Fulton III, a judge of the Norfolk Circuit Court, played vital roles in the establishment of the program; and

WHEREAS, the Norfolk Drug Court reduces recidivism and saves tens of thousands of taxpayer dollars by allowing nonviolent felony offenders who meet the criteria for psychoactive substance use disorders to plead guilty and receive intensive, supervised outpatient treatment rather than incarceration; and

WHEREAS, the Norfolk Drug Court's treatment program lasts for a minimum of 18 months and facilitates rehabilitation and recovery through individualized case management; assessment, treatment, and monitoring by a multidisciplinary staff; group and individual therapy sessions and counseling; and random screening for illicit substances; and

WHEREAS, from 1998 to 2018, 300 people graduated from the Norfolk Drug Court, accepting the opportunity to rebuild their lives and once again become responsible members of their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Norfolk Drug Court for its service to the community on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Norfolk Drug Court as an expression of the General Assembly's admiration for the program's work to address substance abuse and change the lives of its participants for the better.

#### HOUSE JOINT RESOLUTION NO. 975

*Commending the Attucks Theatre.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Attucks Theatre, the oldest operating theatre in the nation that was financed, designed, constructed, and operated by African Americans, has served the Norfolk community for 100 years; and

WHEREAS, the Attucks Theatre traces its roots to the Twin Cities Amusement Corporation, formed by a group of African American businessmen from Norfolk and Portsmouth in response to the segregation of public entertainment venues in the region; and

WHEREAS, the Twin Cities Amusement Corporation sought funding for the Attucks Theatre from two African American-owned businesses, the Brown Savings Bank and Tidewater Trust Company, and hired Harvey N. Johnson, a 25-year-old African American architect; and

WHEREAS, opened in 1919, the Attucks Theatre is a fine example of the grand movie palaces of the time period, with elaborate balconies, an orchestra pit, and state-of-the-art lighting; the building was also designed to accommodate new businesses with space for retail shops and offices; and

WHEREAS, the Attucks Theatre was named for Crispus Attucks, who is considered the first American casualty of the Revolutionary War, an event memorialized on the stage curtain of the 600-seat theater; and

WHEREAS, the Attucks Theatre quickly became an icon in the local African American community and a center for cultural life in Norfolk, drawing comparisons to New York City's Apollo Theater; and

WHEREAS, the Attucks Theatre was added to the Virginia Landmarks Register in 1981 and the National Register of Historic Places in 1982; and

WHEREAS, in 2019, the Attucks Theatre features a full calendar of events, including screenings of the documentary *The Historic Attucks Theatre: The Apollo of the South*; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Attucks Theatre on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Attucks Theatre as an expression of the General Assembly's admiration for the theatre's unique contributions to the performing arts in the Commonwealth and service to the Norfolk community.

### HOUSE JOINT RESOLUTION NO. 976

*Commending Ohef Sholom Temple.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, since the late 1700s, the Commonwealth of Virginia and the City of Norfolk have provided a welcoming home to Jewish residents, and one of the best-known early Jewish residents, Moses Myers, served as one of the city's most cherished early mayors; and

WHEREAS, Norfolk's Jewish population increased in the early nineteenth century, and Ohef Sholom Congregation was founded on Cumberland Street in 1844; thereafter its members worshipped in synagogues throughout downtown Norfolk; and

WHEREAS, after the tragic destruction by fire of Ohef Sholom's synagogue at Freemason Street and Monticello Avenue in February 1916, the congregation moved to the tranquil northeast corner of Raleigh Avenue and Stockley Gardens, where its new synagogue, with its neoclassical design by architects Ferguson, Calrow and Wrenn, was completed in early 1918; and

WHEREAS, on April 22, 1918, Ohef Sholom Temple was dedicated by its eloquent rabbi, Dr. Louis D. Mendoza, "as a monument to Judaism and as a monument to the Americanism of the Jewish people," with his further admonition to those assembled, "Let no unkind thought be formulated within this house, let no word that stings be spoken here; may hatred and injustice be barred; may it be an inspiration to those who seek spiritual exaltation, and may those upon whom the hand of death has been heavily laid, find comfort here"; and

WHEREAS, in that same spirit, the words of the prophet Isaiah, "MY HOUSE SHALL BE CALLED A HOUSE OF PRAYER FOR ALL PEOPLES," are inscribed above the Stockley Gardens doors to Ohef Sholom Temple, and the congregation strives for warm relations with communities of all faiths in Hampton Roads; and

WHEREAS, the rabbis, cantors, and congregants of Ohef Sholom Temple have for decades dedicated themselves to Reform Judaism's principle of "tikkun olam" (perfecting the world) as community leaders in education, medicine, social action, business, the arts, philanthropy, and government, contributing greatly to the social fabric of the Hampton Roads community; and

WHEREAS, the clergy and congregants of Ohef Sholom Temple have been civic leaders, strongly opposing Massive Resistance and supporting civil rights and equal rights for all, without regard to race, religion, or gender; its congregants have served on the Norfolk City Council, the Virginia House of Delegates, and the United States House of Representatives, as well as on countless municipal, state, civic, and charitable boards and commissions; and

WHEREAS, the October 2018 celebration of the 100th anniversary of Ohef Sholom's sanctuary began a year-long celebration which marks, in 2019, the 175th anniversary of the congregation's founding, making it the second-oldest Jewish congregation in Virginia and the 19th oldest congregation within American Reform Judaism; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ohef Sholom Temple on the occasion of its 175th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ohel Sholom Temple as an expression of the General Assembly's admiration for its storied history and legacy of service to the residents of Hampton Roads.

### HOUSE JOINT RESOLUTION NO. 977

*Commending Paul B. Ebert.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Paul B. Ebert has served the residents of Prince William County and the Cities of Manassas and Manassas Park as Commonwealth's attorney for more than 50 years; and

WHEREAS, Paul Ebert holds degrees from Virginia Polytechnic Institute and State University and The George Washington University School of Law; he practiced law from 1963 to 1980 and previously worked as a justice of the peace for the City of Falls Church and as an assistant Commonwealth's attorney; and

WHEREAS, desirous to be of further service to the community, Paul Ebert ran for and was elected as Commonwealth's attorney for Prince William County and the Cities of Manassas and Manassas Park in 1967; and

WHEREAS, Paul Ebert witnessed significant changes to the office of Commonwealth's attorney, which was still a part-time position until 1980, and incredible growth in Prince William County, which has more than quadrupled in population since 1967; and

WHEREAS, having first assumed office at the age of 30, Paul Ebert was the youngest Commonwealth's attorney in Virginia at the time and went on to become the oldest Commonwealth's attorney after winning election to his 13th term in 2015; and

WHEREAS, as Commonwealth's attorney, Paul Ebert has directed a staff of 23 assistant Commonwealth's attorneys with a total of 450 years of legal experience and 390 years of criminal prosecution experience between them; and

WHEREAS, throughout his distinguished career, Paul Ebert has presided over many high-profile cases that received national attention, including the John and Lorena Bobbitt case and the "Beltway sniper" case involving John Allen Muhammad and Lee Boyd Malvo; and

WHEREAS, under Paul Ebert's leadership, the office has worked closely with police departments in multiple jurisdictions to provide 24-hour legal advice; the office has also provided its expertise to special prosecutions in other jurisdictions, delivered lectures throughout the Commonwealth, and conducted mock trials to educate local and state law-enforcement officers; and

WHEREAS, Paul Ebert volunteered his time and wise leadership to numerous professional organizations in the legal field, and he has earned many awards and accolades for his personal and professional achievements; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Paul B. Ebert for dedicating more than 50 years of his life to the residents of Prince William County and the Cities of Manassas and Manassas Park as Commonwealth's attorney; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Paul B. Ebert as an expression of the General Assembly's admiration for his legal acumen and legacy of public service.

### HOUSE JOINT RESOLUTION NO. 978

*Commending the Brown family.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, over the past 100 years, the Richmond-based Brown Distributing Company, owned by the Brown family, has grown from a producer of a single cherry soda to a nationally acclaimed, highly regarded beverage distribution business that operates in two states; and

WHEREAS, in 1919, brothers Abraham and Isadore Brown formed a soda-bottling business where they produced a cherry-flavored soft drink; the company soon grew to become a Pepsi bottler and distributor, serving the Richmond-Petersburg market area; and

WHEREAS, the end of Prohibition in 1933 allowed the Brown family to add their first beer, the Maryland-brewed "Wolf Beer," to their operation; and

WHEREAS, as a result of their tremendous growth within the beer business, in 1935, the Brown family became the Anheuser-Busch wholesaler for the Richmond-Petersburg market area; and

WHEREAS, that same year, a second generation of the Brown family, Abraham Brown's son, Jacob, joined the business; and

WHEREAS, in 1951, Abraham and Jacob Brown formed Brown Distributing Company in Richmond to manage the beer side of the business; and

WHEREAS, in 1969, the Brown family sold its Pepsi operation in order to focus on its beer distribution; during this period, a third generation of the family, Jacob Brown's son, Larry, was instrumental in expanding their business when they acquired an Anheuser-Busch franchise in Petersburg in the footprint of the family's original Pepsi bottling operation; and

WHEREAS, in 1999 and 2006 respectively, a fourth generation of the family, Larry Brown's sons, Jason and Reid, joined the business and began enlarging its scope, adding a non-alcohol portfolio including teas, waters, and juices; and

WHEREAS, in 2009, Brown Distributing Company acquired Legendary Distributing, a Richmond start-up craft distribution company, which allowed the Brown family to start selling a variety of local and regional craft beers; and

WHEREAS, after 100 years in business, the Brown family now distributes more than 700 brands of beer and other beverages, operates a fleet of more than 115 vehicles, and employs more than 550 individuals; and

WHEREAS, the Brown family makes significant investments in alcohol awareness and education programs, as well as designated driver programs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Brown family for its 100 years of success in the beverage industry; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Brown family as an expression of the General Assembly's admiration for the longevity of their business and their commitment to the community.

### HOUSE JOINT RESOLUTION NO. 979

*Election of a Supreme Court of Virginia Justice, a Court of Appeals of Virginia Judge, Circuit Court Judges, General District Court Judges, Juvenile and Domestic Relations District Court Judges, and a member of the Judicial Inquiry and Review Commission.*

Agreed to by the House of Delegates, February 14, 2019

Agreed to by the Senate, February 14, 2019

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed this day To the election of a Supreme Court of Virginia justice, for a term of twelve years commencing September 1, 2019. To the election of a Court of Appeals of Virginia judge, for a term of eight years commencing September 1, 2019. To the election of Circuit Court judges for terms of twelve years commencing as follows:

One judge for the First Judicial Circuit, term commencing April 1, 2019.  
 One judge for the Fifth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Sixth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Tenth Judicial Circuit, term commencing April 16, 2019.  
 One judge for the Fourteenth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Fifteenth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Sixteenth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Seventeenth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Nineteenth Judicial Circuit, term commencing March 16, 2019.  
 One judge for the Twentieth Judicial Circuit, term commencing November 1, 2019.  
 One judge for the Twenty-fourth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Twenty-fifth Judicial Circuit, term commencing April 1, 2019.  
 One judge for the Twenty-fifth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Twenty-sixth Judicial Circuit, term commencing May 1, 2019.  
 One judge for the Twenty-sixth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Twenty-eighth Judicial Circuit, term commencing July 1, 2019.  
 One judge for the Thirty-first Judicial Circuit, term commencing July 1, 2019.

To the election of General District Court judges for terms of six years commencing as follows:

One judge for the First Judicial District, term commencing April 1, 2019.  
 One judge for the Second Judicial District, term commencing May 1, 2019.  
 One judge for the Fourth Judicial District, term commencing July 1, 2019.  
 One judge for the Fifth Judicial District, term commencing July 1, 2019.  
 One judge for the Sixth Judicial District, term commencing July 1, 2019.  
 One judge for the Seventh Judicial District, term commencing July 1, 2019.  
 One judge for the Tenth Judicial District, term commencing June 1, 2019.  
 One judge for the Tenth Judicial District, term commencing April 16, 2019.  
 One judge for the Tenth Judicial District, term commencing June 1, 2019.  
 One judge for the Eleventh Judicial District, term commencing May 1, 2019.  
 One judge for the Fourteenth Judicial District, term commencing June 1, 2019.  
 One judge for the Fifteenth Judicial District, term commencing July 1, 2019.  
 One judge for the Sixteenth Judicial District, term commencing June 1, 2019.

One judge for the Seventeenth Judicial District, term commencing July 1, 2019.

One judge for the Seventeenth Judicial District, term commencing March 16, 2019.

One judge for the Nineteenth Judicial District, term commencing July 1, 2019.

One judge for the Twenty-fifth Judicial District, term commencing April 1, 2019.

One judge for the Twenty-fifth Judicial District, term commencing July 1, 2019.

One judge for the Twenty-eighth Judicial District, term commencing July 1, 2019.

One judge for the Thirty-first Judicial District, term commencing July 1, 2019.

To the election of Juvenile and Domestic Relations District Court judges for terms of six years commencing as follows:

One judge for the First Judicial District, term commencing July 1, 2019.

One judge for the First Judicial District, term commencing July 1, 2019.

One judge for the Fourth Judicial District, term commencing July 1, 2019.

One judge for the Sixth Judicial District, term commencing July 1, 2019.

One judge for the Sixth Judicial District, term commencing July 1, 2019.

One judge for the Seventh Judicial District, term commencing July 1, 2019.

One judge for the Seventh Judicial District, term commencing April 16, 2019.

One judge for the Eighth Judicial District, term commencing July 1, 2019.

One judge for the Ninth Judicial District, term commencing July 1, 2019.

One judge for the Eleventh Judicial District, term commencing July 1, 2019.

One judge for the Thirteenth Judicial District, term commencing July 1, 2019.

One judge for the Fourteenth Judicial District, term commencing July 1, 2019.

One judge for the Sixteenth Judicial District, term commencing July 1, 2019.

One judge for the Sixteenth Judicial District, term commencing July 1, 2019.

One judge for the Nineteenth Judicial District, term commencing July 1, 2019.

One judge for the Nineteenth Judicial District, term commencing July 1, 2019.

One judge for the Twenty-fourth Judicial District, term commencing July 1, 2019.

One judge for the Twenty-fourth Judicial District, term commencing July 1, 2019.

One judge for the Twenty-fifth Judicial District, term commencing on July 1, 2019.

One judge for the Twenty-sixth Judicial District, term commencing on May 1, 2019.

One judge for the Twenty-sixth Judicial District, term commencing on July 1, 2019.

One judge for the Twenty-sixth Judicial District, term commencing on July 1, 2019.

One judge for the Thirtieth Judicial District, term commencing on July 1, 2019.

To the election of a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2019.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

### HOUSE JOINT RESOLUTION NO. 980

*Commending the 10 River Basin Grand Winners of the Clean Water Farm Award.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Department of Conservation and Recreation and the Soil and Water Conservation Districts provide farmers throughout the Commonwealth with education, technical assistance, and incentive programs to encourage nutrient reduction and water quality improvement; and

WHEREAS, the General Assembly passed legislation in 1998 to establish the Clean Water Farm Award Program, which is administered by the Department of Conservation and Recreation; and

WHEREAS, the Clean Water Farm Award Program furthers the Commonwealth's water quality goals by recognizing farmers actively engaged in implementing important conservation practices that control nutrients, sediment, and other agricultural nonpoint source pollutants; and

WHEREAS, the Soil and Water Conservation Districts selected local farms across the Commonwealth for recognition in 2018 as winners of the Clean Water Farm Award; and

WHEREAS, ten of those farms were selected and announced at the December 2018 meeting of the Virginia Association of Soil and Water Conservation Districts by the Department of Conservation and Recreation to represent the Commonwealth's 10 major river basins and to recognize the exemplary efforts of such farms in implementing best management practices; and

WHEREAS, those 10 winners are:

Seth and Courtney Umbarger, Laurel Springs Farm, Smyth County for the Big Sandy-Upper Tennessee River Basin;

Richard T. Hite, Jr., Hite Farming LLC, Lunenburg County, for the Chowan River Basin;

David L. Long, Long Grain and Livestock, Northampton County, for the Coastal Basin;

Mike and Ashley McMahon, Magnolia Farm, Albemarle County, for the James River Basin;

the Sharitz Family, Sharitz Dairy, Wythe County, for the New River Basin;

Jay and Sonja Yankey, Yankey Farms, Prince William County, for the Potomac River Basin;

William M. and Mary S.T. Alphin Family Limited Partnership, Rillhurt Farm, Culpeper County, for the Rappahannock River Basin;

the Thurman and Furrow Families, Lazy Acres Angus, Franklin County, for the Roanoke River Basin;

Roger and Sharon Shifflett, Purple Cow Road Farms, Augusta County, for the Shenandoah River Basin;

the Higginbotham and Gibson Families, Higginbotham and Gibson Family Farms, Orange County, for the York River Basin; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend and congratulate the 10 River Basin Grand Winners of the Clean Water Farm Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the 10 River Basin Grand Winners of the Clean Water Farm Award as an expression of the General Assembly's admiration for their commitment to conserving the Commonwealth's natural resources and their outstanding conservation achievements.

### HOUSE JOINT RESOLUTION NO. 981

*Commending Harry James Johnson.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Harry James Johnson, a former coach and educator for Danville Public Schools, has touched the lives of countless young men and women during his lifetime of outstanding community service; and

WHEREAS, over the course of Harry Johnson's long and fulfilling career as an educator with Danville Public Schools, he helped prepare young people for success in higher education and careers and gave them the tools to become responsible citizens of the Commonwealth; and

WHEREAS, in addition to coaching youth athletics and high school football, Harry Johnson served as head coach of the George Washington High School boys' basketball team for 19 years, amassing an impressive 348-146 record; and

WHEREAS, during his coaching career, Harry Johnson led the George Washington Eagles to 14 regular-season titles, five district tournament championships, and three regional championships; in 1996, the team finished with a perfect 28-0 record, a state championship, and national recognition by *USA Today* as the top public school basketball team in the nation and the fourth-best team in the nation overall; and

WHEREAS, Harry Johnson helped the George Washington Eagles achieve success in academics as well as athletics and used his network of friends and colleagues at the college level to support players pursuing higher education; and

WHEREAS, after his retirement from coaching in 1996, Harry Johnson remained active in civic and service groups in Danville, including the Kiwanis Club, the Boys and Girls Clubs of America, and Kappa Alpha Psi; and

WHEREAS, in 2018, Harry Johnson was recognized by the Danville School Board for his work as a mentor and advocate for young people through Big Brothers, Big Sisters; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Harry James Johnson for his personal and professional achievements in service to the young people of Danville; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Harry James Johnson as an expression of the General Assembly's admiration for his legacy of contributions to the Danville community.

### HOUSE JOINT RESOLUTION NO. 982

*Commending Reginald Purvis.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Reginald Purvis, the former, longtime band leader at George Washington High School in Danville, was inducted into the Virginia Band and Orchestra Directors Association Hall of Fame in 2018; and

WHEREAS, the award recognizes Reginald Purvis for his exceptional support, inspiration, and outstanding contributions to the growth and development of instrumental music education in the Commonwealth; and

WHEREAS, Reginald Purvis received the award at the Virginia Music Educators Association State Conference at the Homestead in Hot Springs on November 18, 2018, where he was recognized for his outstanding 33-year tenure with Danville Public Schools, 30 of which were completed at George Washington High School; and

WHEREAS, during Reginald Purvis' tenure, the band continually received superior ratings in both concert hall and marching field competitions; and

WHEREAS, with Reginald Purvis as leader, the bands performed both locally and nationally, showcasing the musical talent of the students and leading the band to continued success; notable performances under Purvis' tenure included marching in a gubernatorial inaugural parade in Richmond and a Thanksgiving Day parade in Charlotte, North Carolina; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Reginald Purvis on his induction into the Virginia Band and Orchestra Directors Association Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Reginald Purvis as an expression of the General Assembly's admiration for his musical talent and educational leadership.

### HOUSE JOINT RESOLUTION NO. 983

*Commending the Manchester High School football team.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Manchester High School football team won the Virginia High School League Class 6 state title on December 8, 2018; and

WHEREAS, the determined athletes from Manchester High School in Chesterfield County bested numerous talented teams from across the state on their way to the championship; and

WHEREAS, the Manchester Lancers capped a 15-0 season with a 49-7 win against Freedom High School at Hampton University's Armstrong Stadium on December 8, 2018; and

WHEREAS, the Manchester Lancers' Brendon Clark accounted for three touchdowns and 324 yards, with K. J. McNeil running, throwing, and catching a touchdown; the defense stifled its opponents as it had done at previous competitions; and

WHEREAS, Manchester Lancers coach Tom Hall emphasized in his 2018 training season attention to details, from diligently keeping equipment organized in the weight room to running sprints with precision; and

WHEREAS, the Manchester Lancers' diligence paid off, resulting in limited turnovers and penalties and a passing game that was nearly perfect; Brendon Clark threw just one interception while unleashing 35 touchdowns during the season; and

WHEREAS, despite all of the hard work, in the first half of the championship, the Manchester Lancers fumbled the opening kickoff and later muffed a punt allowing Freedom High School to score a touchdown; but later in the game, Manchester led 21-7 early in the third quarter, going 80 yards in five plays and taking a 28-7 lead; and

WHEREAS, the Manchester Lancers scored three more touchdowns before the game was over, including a halfback pass by K. J. McNeil and a pick-six by defensive lineman Christian Williams; and

WHEREAS, throughout the 2018 season, the members of the Manchester High School football team were enthusiastically supported by their families, boosters, fellow students, the school administration, and the entire school community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Manchester High School football team for winning the Virginia High School League Class 6 state title; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Manchester High School football team as an expression of the General Assembly's admiration for the team's achievement and stellar performance.

### HOUSE JOINT RESOLUTION NO. 984

*Celebrating the life of Lorna Garrett Adkins.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Lorna Garrett Adkins, retired public school teacher and devoted Ridgeway public servant, died on July 1, 2018; and

WHEREAS, Lorna Adkins was born in Thomaston, Georgia, and was raised in the Draper section of Eden, North Carolina; she graduated as salutatorian of Draper High School and University of North Carolina at Greensboro; and

WHEREAS, the majority of Lorna Adkins' career was as a teacher for Henry County Schools at Ridgeway Elementary School; while teaching, she was an active member of Delta Kappa Gamma; she was also an active member of Piedmont Arts and Piedmont Guild; and

WHEREAS, Lorna Adkins attended Ridgeway United Methodist Church for many years and served in multiple capacities including as a member of the pastor-parish relations committee and as a Sunday school teacher; most recently she attended Martinsville's First United Methodist Church; and

WHEREAS, upon the death of Lorna Adkins' husband in 2004, she was asked to fill his seat for the Town Council of Ridgeway; subsequently she was elected to the Town Council numerous times and served until her death; she was instrumental in the display of the Town of Ridgeway's seasonal banners; and

WHEREAS, preceded in death by her husband, Caleb, Lorna Adkins will be fondly remembered and greatly missed by her daughter, Lynn, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lorna Garrett Adkins, retired public school teacher and devoted Ridgeway public servant; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lorna Garrett Adkins, as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 985

*Celebrating the life of Commander Frederick Lineburg, USN, Ret.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Commander Frederick Lineburg, USN, Ret., a distinguished military aviator and a native of Winchester, died on October 11, 2018; and

WHEREAS, in his youth, Frederick "Buzzy" Lineburg attended Sacred Heart of Jesus Catholic Church, where he served as an altar boy, and achieved the prestigious rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, after graduating from John Handley High School, Buzzy Lineburg joined the United States Navy, and rose through the ranks from seaman apprentice to senior chief petty officer in the first 12 years of his service; and

WHEREAS, Buzzy Lineburg was commissioned as a limited duty officer in 1977, then became a naval flight officer in 1982; after his retirement as a commander in 1999, he began a 15-year career as a government contractor in the Washington, D.C., area; and

WHEREAS, Buzzy Lineburg continued to support his fellow veterans as a past post commander of Veterans of Foreign Wars Post 9760, and as a member of American Legion Post 21, the Military Officers Association of America, and the Maritime Patrol Association; and

WHEREAS, Buzzy Lineburg will be fondly remembered and greatly missed by his wife of 52 years, BeeDee; his daughter, Buffi, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Commander Frederick Lineburg, USN, Ret., a distinguished veteran of the United States Navy and a former resident of Winchester; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Commander Frederick Lineburg, USN, Ret., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 986

*Celebrating the life of Richard Dudley White.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Richard Dudley White, a dedicated Latin teacher at Norfolk Collegiate School, died on July 21, 2018; and

WHEREAS, Richard White was born and raised in Michigan and graduated from St. Edmond High School; a lifelong learner, he worked at a bookstore in high school, spending many more hours than his shift to read the books there that appealed to him; and

WHEREAS, Richard White earned his bachelor's degree from Iowa State University and his master's degree in classics from the University of Texas at Austin; he studied at the University of Virginia and was a resident fellow at the American School of Classical Studies at Athens; and

WHEREAS, for 16 years, Richard White taught Latin, Greek, and German at Norfolk Collegiate School where his son attended, and inspired generations of students; he led the Battle of the Brains academic team with his son, a four-year member and captain, and was an assistant cross country and track coach for his son's teams; most recently he trained alongside his son in Jiu-Jitsu; and

WHEREAS, years earlier, Richard White taught at Old Dominion University and Virginia Wesleyan College; and

WHEREAS, Richard White will be fondly remembered and greatly missed by his wife, Mary Anna; his son, Francis; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard Dudley White, a dedicated Latin teacher at Norfolk Collegiate School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Dudley White as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 987

*Celebrating the life of Robert LeeErtiese Crenshaw, Jr.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Robert LeeErtiese Crenshaw, Jr., a highly admired member of the Richmond community, died on January 21, 2019; and

WHEREAS, Robert Crenshaw was born in Richmond to Bessie Stokes Johnson and the late Robert LeeErtiese Crenshaw, Sr.; and

WHEREAS, in 1975, Robert Crenshaw graduated from Armstrong High School, where he was well-liked by his classmates, and began to study geology at Virginia State University; and

WHEREAS, during his freshman year at Virginia State University, Robert Crenshaw volunteered with the Salvation Army Boys and Girls Club; his work made a positive difference in the lives of many local children and influenced his decision to change his major to special education; and

WHEREAS, Robert Crenshaw pursued a career with Barrett Juvenile Correctional Center, where he retired after 30 years of service to vulnerable youths; and

WHEREAS, affectionately known to family and friends as "Crennie," Robert Crenshaw lived life to the fullest and inspired others through his generosity of spirit and unflinching kindness; and

WHEREAS, predeceased by his daughters, Roquisha and Renika, Robert Crenshaw will be fondly remembered and greatly missed by his wife, Dorothy; his son, Robert III, and his family; his mother, Bessie; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert LeeErtiese Crenshaw, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert LeeErtiese Crenshaw, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 989

*Commending Horizon Behavioral Health.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Horizon Behavioral Health supports and promotes the health, independence, and self-worth of individuals and families in Central Virginia by providing high quality services to people of all ages who are struggling with mental health, substance abuse, and developmental disability issues; and

WHEREAS, originally known as Central Virginia Community Services, Horizon Behavioral Health began providing services for the treatment of mental illnesses and intellectual disabilities on April 18, 1969, with a staff of five people and a budget of \$18,350; and

WHEREAS, Horizon Behavioral Health now has more than 720 staff members at 25 locations and 19 area schools; it partners with three private hospitals, four state psychiatric facilities, three correctional facilities, four federally qualified health centers, the free clinic, and countless client homes throughout Region 2000, providing services to more than 17,000 individuals, with an operating budget of more than \$51,000,000; and

WHEREAS, for five decades, Horizon Behavioral Health has faithfully served the Counties of Amherst, Appomattox, Bedford, and Campbell and the City of Lynchburg, providing quality behavioral health services to thousands of citizens of all ages; and

WHEREAS, Horizon Behavioral Health provides programs and services to children, adolescents, adults, and their families, including emergency care, assessment, psychiatric evaluation, medication management, crisis intervention and stabilization, residential services, day treatment, assertive community treatment, intensive in-home care, psychosocial rehabilitation, mental health supports, early intervention, case management, outpatient counseling and prevention, and intermediate care; and

WHEREAS, ably led by a dedicated board of directors, the hardworking staff of Horizon Behavioral Health seek to provide services in a manner that preserves the independence, dignity, choice, and privacy of their clients; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Horizon Behavioral Health on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Horizon Behavioral Health as an expression of the General Assembly's admiration for the organization's contributions to the health and wellness of communities throughout Central Virginia.

### HOUSE JOINT RESOLUTION NO. 990

*Commending Senior Connections.*

Agreed to by the House of Delegates, February 18, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for over 45 years, Senior Connections, the Capital Area Agency on Aging, has played a vital role in helping local residents age with dignity by providing education, advocacy, and support; and

WHEREAS, the goal of Senior Connections is to promote the maximum level of independence for persons 60 years of age and older, and to ensure that older residents of the Counties of Hanover, New Kent, Charles City, Henrico, Chesterfield, Powhatan, and Goochland, and the Cities of Richmond and Ashland, live as an integral part of society, with access to programs and services that meet their needs and preferences; and

WHEREAS, to that end, Senior Connections offers numerous programs that provide services, information, and assistance to 23,000 older adults and caregivers each year; the organization serves as a lead for No Wrong Door, a program that makes it easier for older adults to find and use available services with 31 community partners; and

WHEREAS, Senior Connections runs 20 Friendship Cafés serving more than 700 participants; in addition, a dynamic partnership with Feed More provides more than 650 home delivered meals each day and contributes to a growing annual fundraiser; and

WHEREAS, Senior Connections partners with the gerontology department at Virginia Commonwealth University to manage the Richmond Age Wave Coalition, a collaboration of public and private organizations, businesses, and individuals working to prepare for the opportunities and challenges of the capital region's growing population of older adults; and

WHEREAS, notable volunteers play a crucial role in supporting Senior Connections, including John Parnell of the Virginia Insurance Counseling & Assistance Program, Nancy Bolio of the Foster Grandparent Program, Carol Young of the advisory council for Senior Connections, Peter Perkins of the advisory council for No Wrong Door, former board chair John Robertson, current board chair Michelle Johnson, and other key volunteers who contribute to the Foster Grandparent Program and the Friendship Café; and

WHEREAS, Senior Connections has been recognized with many awards, including the National Association of Area Agencies on Aging's Aging Innovations & Achievement Award; the Valentine Museum's Richmond History Makers Award; the Commonwealth Council on Aging's First Place Best Practices Award for the Chronic Diseases Self-Management Education Program, Advance Care Planning, and the Money Management Initiative; and Health Quality Innovators' Health Innovations Award; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Senior Connections, the Capital Area Agency on Aging, for playing a vital role in helping local residents age with dignity by providing education, advocacy, and support; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Senior Connections, the Capital Area Agency on Aging, as an expression of the General Assembly's admiration for fostering independence and healthy aging, and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### HOUSE JOINT RESOLUTION NO. 991

*Commending Leroy Holland.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Leroy Holland, a senior maintenance worker for streets and sidewalks in the City of Falls Church, has served the residents of the community for 30 years; and

WHEREAS, Leroy Holland began his career with the City of Falls Church on May 9, 1988, as a solid waste collector and earned many accolades from citizens for going above and beyond to collect trash that had been displaced by animals or weather and provide assistance to elderly and disabled residents; and

WHEREAS, in 1997, Leroy Holland was nominated for Employee of the Year by the Woman's Club of Falls Church for his exceptional work ethic and cheerful demeanor while representing the city; and

WHEREAS, Leroy Holland transferred to the maintenance team for streets and sidewalks in 2001 and has continued his legacy of outstanding service to city residents, repairing driveways, sidewalks, and roadways to keep pedestrians and drivers safe; in 2010, he received a commendation for helping police officers respond to an emergency involving dangerous ice accumulation and a water main break; and

WHEREAS, committed to lifelong learning, Leroy Holland has participated in a Workplace Education Program through Falls Church City Public Schools; he also takes part in Occupational Safety and Health Administration and Virginia Department of Transportation training sessions and is a regular winner of the city's Safe Driving Award; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Leroy Holland for his 30 years of service to the City of Falls Church as a maintenance worker; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Leroy Holland as an expression of the General Assembly's admiration for his contributions to the Falls Church community.

### HOUSE JOINT RESOLUTION NO. 992

*Commending Ester Pavia.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Ester Pavia, a library assistant with the City of Falls Church, has served the residents of the community for more than 25 years; and

WHEREAS, Ester Pavia joined Mary Riley Styles Public Library in Falls Church on July 6, 1993, as a part-time employee, bringing with her a unique background in library science and music, as well as fluency in three languages; and

WHEREAS, over the years, Ester Pavia became a full-time employee, serving in a variety of roles, including library assistant I, office assistant, and library assistant II; she has assisted with operation of the computer system, curated and catalogued the library's music collection, and currently manages the magazine collection; and

WHEREAS, in 2000, Ester Pavia received the Performance Award for taking on additional duties in the absence of a library director and subsequently helping the new director become acclimated to Mary Riley Styles Public Library; and

WHEREAS, Ester Pavia is a loyal and dedicated employee who is committed to accuracy in her work and goes above and beyond to serve library patrons and share her wealth of knowledge with visitors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ester Pavia for her 25 years of service to the City of Falls Church at Mary Riley Styles Public Library; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ester Pavia as an expression of the General Assembly's admiration for her contributions to the Falls Church community.

### HOUSE JOINT RESOLUTION NO. 993

*Commending Debra Gee.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Debra Gee, a planning specialist for the City of Falls Church, has served the residents of the community for more than 30 years; and

WHEREAS, Debra Gee began working for the City of Falls Church on August 15, 1988, as an administrative secretary in the Economic Development Office and was first nominated for Employee of the Year two years later; and

WHEREAS, Debra Gee won the Employee of the Year Award in 1994 for using her many administrative skills to help the downsized Planning Department continue to provide exceptional services; and

WHEREAS, Debra Gee has regularly volunteered to assist other departments, receiving commendations from the City Arborist, Recreation and Parks Department, and the Economic Development Authority for her generosity with her time and leadership; and

WHEREAS, committed to lifelong learning and professional development, Debra Gee has received certificates in customer service, administration, communication, and business writing from accredited entities such as George Mason University, the Business Women's Training Institute, and AT&T; and

WHEREAS, Debra Gee has been a trusted mentor and friend to her fellow city employees, providing invaluable knowledge about the community, its residents, and local history; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Debra Gee for her 30 years of service to the City of Falls Church as a planning specialist; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Debra Gee as an expression of the General Assembly's admiration for her contributions to the Falls Church community.

**HOUSE JOINT RESOLUTION NO. 994**

*Commending West Engineering Company.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, West Engineering Company, which produces special and custom machinery in Ashland, celebrates 100 years of service to its customers in 2019; and

WHEREAS, Edward E. West, Sr., the founder of West Engineering Company, graduated from Virginia Mechanics Institute and was an apprentice machinist at Tredegar Iron Works before founding West Engineering in a garage behind his home on Fourth Avenue in Richmond in 1919; and

WHEREAS, in the early years, West Engineering Company focused on designing and building equipment that manufactured cloth drawstring bags for numerous industries relating to consumer goods, ship building, printing presses, nylon fiber, advanced fiber, filter tow, fiber optic cable, power generation, and more; and

WHEREAS, in the 1920s, West Engineering Company moved to a dedicated manufacturing facility in Henrico County; the facility initially had a dirt floor and the lathes and milling machines were powered from a central motor connected via an overhead belt and pulley system; and

WHEREAS, in 1956, Edward E. West, Sr., stepped down from his leadership role at West Engineering Company, which was subsequently led by his sons Edward E. West, Jr., David L. West, and Stephen N. West; the company continued to expand and manufacture equipment for numerous industries relating to consumer goods, ship building, printing presses, nylon fiber, advanced fiber, filter tow, fiber optic cable, power generation, and more; and

WHEREAS, by 1964, West Engineering Company employed over 120 machinists, welders, and engineers; and

WHEREAS, in 1984, the company relocated to a climate-controlled manufacturing facility in Hanover County, where it still operates today under the leadership of Stephen West and his son, Kenneth N. West; equipment manufactured by West Engineering Company is installed in over 30 countries on five continents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend West Engineering Company, which produces special and custom machinery in Ashland, on celebrating 100 years in business; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to West Engineering as an expression of the General Assembly's admiration for the company's longevity and high-quality products.

**HOUSE JOINT RESOLUTION NO. 995**

*Commending the Southern Area Agency on Aging.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Southern Area Agency on Aging has for over 40 years helped residents of Danville, Martinsville, and the Counties of Franklin, Henry, Patrick, and Pittsylvania age with dignity and stay engaged in the community; and

WHEREAS, the Southern Area Agency on Aging's mission is to provide services and resources promoting the health, quality of life, and independence of seniors, individuals with disabilities, and their families and caregivers, enabling people to live with dignity and freedom; and

WHEREAS, to better serve the population, the Southern Area Agency on Aging provides crucial programs and services including meals served at senior lunch sites; home repair assistance; personal care services; care coordination; recreational activities; mobility management services like "Miles 4 Vets," a program that improves access to medical care for veterans by providing wheelchair accessible transportation services; and the Care Transitions Program, which helps patients transition from hospital to home; and

WHEREAS, for its important services, the Southern Area Agency on Aging has garnered numerous grants, including grants from the Community Foundation for its emergency aid program for vulnerable seniors and a grant from the United Way of Roanoke Valley for providing medical-related transportation to Franklin County residents; the agency received a Best Practices Award from the Commonwealth Council on Aging in recognition of the success of its "Miles 4 Vets" transportation program; and

WHEREAS, the Southern Area Agency on Aging's work is made possible through the invaluable support of its volunteers, including Volunteer Driver Program participants Debbie Norton, Terry Davis, Sandra Hairston, Marquis Hamm, Mike Kelly, Kent Martin, Lorrie Stokes, William Stanley, Nancy Waller, and Joe Valder; In-Home Services volunteer, Delois Howard; and numerous others who assist with meal delivery, the Chronic Disease Self-Management Education Program, and other services; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Southern Area Agency on Aging for over 40 years helping residents of Danville, Martinsville, and the Counties of Franklin, Henry, Patrick, and Pittsylvania age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Southern Area Agency on Aging as an expression of the General Assembly's admiration for its work to foster independence and healthy aging and improve the quality of life for seniors, individuals with disabilities, and their families and caregivers through comprehensive programs and services.

### HOUSE JOINT RESOLUTION NO. 996

*Commending God's Pit Crew.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, God's Pit Crew, a nonprofit, faith-based crisis response organization in Danville, has supported communities throughout the United States and the world in times of need for two decades; and

WHEREAS, established by Randy and Terri Johnson in response to the historic tornado outbreak in Oklahoma from May 2-8, 1999, God's Pit Crew originally used borrowed trucks and trailers to deliver supplies to people affected by the disaster; and

WHEREAS, from its humble beginnings, God's Pit Crew has grown into a full-scale relief organization, maintaining a fleet of trucks, trailers, and heavy equipment and supported by more than 400 volunteers; and

WHEREAS, since 1999, God's Pit Crew has responded to 106 disasters in 25 states and 11 countries, including eight responses in Virginia, distributing more than 200 million pounds of relief supplies, including food, water, first aid kits, medicine, personal hygiene products, tools, and many other items; and

WHEREAS, God's Pit Crew established a local distribution center in 2008 that has donated more than 117 million pounds of supplies valued at more than \$90 million to 1,439 agencies; and

WHEREAS, God's Pit Crew conducts building and rebuilding projects, including at least 38 homes, four churches, two schools, three radio stations, and 14 other projects; and

WHEREAS, since 2009, the hardworking members of God's Pit Crew have recorded more than 524,000 hours of volunteer service on disaster relief and mission trips; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend God's Pit Crew on the occasion of its 20th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to God's Pit Crew as an expression of the General Assembly's admiration for the organization's work to deliver hope, healing, and restoration to people affected by natural disasters and other crises.

### HOUSE JOINT RESOLUTION NO. 997

*Celebrating the life of Charles Austin Joy, Jr.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Charles Austin Joy, Jr., a beloved member of the Hanover County community and an accomplished real estate agent who was respected for his commitment to fairness and his wealth of professional expertise, died on June 15, 2018; and

WHEREAS, a graduate of Norfolk Academy and The College of William & Mary, Austin Joy pursued a long and successful career in real estate, using his ability to form deep connections with people of all ages and backgrounds to build trust between clients and colleagues alike; and

WHEREAS, Austin Joy worked with property owners in Richmond's Fan and Museum Districts, and he was well-known for his work with River Road Shopping Center, but he was most active in Carytown, serving at one time as president of the Carytown Merchants Association, and working for years at Spotts and Carneal, Inc.; and

WHEREAS, Austin Joy handled many different types of properties, from the Carytown Shopping Center to smaller buildings; a compassionate listener, he understood the challenges facing small business owners and offered unique solutions to help his clients achieve their goals; and

WHEREAS, Austin Joy was a gifted painter and a talented cook who formerly worked at the Smokey Pig in Ashland; he enjoyed fellowship and worship with the community as a cherished member of the Fork Church; and

WHEREAS, Austin Joy courageously sacrificed his own life while performing a rescue in a rip current off the coast of Atlantic Beach, North Carolina; and

WHEREAS, Austin Joy will be fondly remembered and greatly missed by his wife, Ali; his children, Charles, Ryland, and Mary; his parents, Charles and Faye; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Austin Joy, Jr., a highly admired real estate professional and a beloved husband and father; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Austin Joy, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 998

*Commending Clifton Rector.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Clifton Rector, a vehicle maintenance supervisor for the City of Falls Church, has served the residents of the community for more than 45 years; and

WHEREAS, Clifton Rector began his career with Falls Church on June 13, 1973, and has received numerous awards and accolades from Falls Church City Public Schools, city leadership, and citizens' organizations for his exemplary work ethic; and

WHEREAS, in 1987, Clifton Rector received the Performance Award after he assumed leadership of the city's auto shop during extended leave periods and handled emergency operations with a high degree of professionalism; and

WHEREAS, Clifton Rector received letters of commendation for his efforts to assist with building safety operations in 1990 and his work to clean and restore city school buses to full operation within one day after they had been vandalized in 1992; and

WHEREAS, Clifton Rector has received the Safe Driver Award multiple times, setting a sterling example for other drivers on the road, and in 2010, he was nominated for Employee of the Year for keeping city vehicles running efficiently and saving taxpayer money by preventing large, costly repairs; and

WHEREAS, a dedicated lifelong learner, Clifton Rector holds certifications from General Motors, Alvocation Automotive Academy, Sun Electric Corporation, and Brockwell Equipment Company, among others; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Clifton Rector for his 45 years of service to the City of Falls Church as a vehicle maintenance worker; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Clifton Rector as an expression of the General Assembly's admiration for his contributions to the Falls Church community.

### HOUSE JOINT RESOLUTION NO. 999

*Commending Gerald L. Gordon, Ph.D.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Gerald L. Gordon, Ph.D., who served the Fairfax County Economic Development Authority for 35 years, retired from his position as president and chief executive officer in 2018; and

WHEREAS, Gerald "Jerry" L. Gordon, Ph.D., started at the Fairfax County Economic Development Authority in 1983 and became its head in 1987, overseeing the second-largest suburban office market in the country and the largest in the Commonwealth; during his tenure, office space in Fairfax County grew from 32 million square feet to more than 118 million, while the number of jobs in the county expanded from 243,000 to more than 600,000; and

WHEREAS, Jerry Gordon has led efforts to promote Fairfax County's status as a corporate headquarters and to bring a diverse array of businesses to the region, elevating the county's economic potential; in 2007, *Time* magazine called Fairfax County "one of the great economic success stories of our time"; and

WHEREAS, during his career, Jerry Gordon has taken his visionary leadership beyond Fairfax County, working for Arlington County and the United States Department of Labor; teaching for Catholic University, the University of Maryland, George Mason University, and Virginia Commonwealth University; consulting for state governments around the United States, national governments throughout the world, and various other government agencies, businesses, nonprofits, associations, and universities; and writing 13 books on strategic planning and economic development; and

WHEREAS, Jerry Gordon has received numerous accolades and awards during his extraordinary career, including the Jeffrey A. Finkle Organizational Leadership Award from the International Economic Development Council in 2015, the Northern Virginia Regional Leadership Award from Leadership Fairfax, Inc., in 2011, and the Israel Freedom Award from the Israel Bonds organization in 2003; in 2010, *Virginia Business* magazine named Jerry Gordon its "2010 Virginia Business Person of the Year" and has included him in its list of "50 Most Influential Virginians" every year since 2013; and

WHEREAS, beyond his professional career, Jerry Gordon has made remarkable contributions to the community as chair of the boards of the Fairfax Symphony, the Arts Council of Fairfax County, the Foundation for Fairfax County Public Schools, and the George Mason University Honors College; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gerald L. Gordon, Ph.D., former president and chief executive officer of the Fairfax County Economic Development Authority, on the occasion of his retirement in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gerald L. Gordon, Ph.D., as an expression of the General Assembly's admiration for his sterling leadership and transformative influence upon the economy and community of Fairfax County and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1000

*Commending Meghan Percival.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Meghan Percival, McLean High School yearbook adviser, won the Medal of Merit from the Journalism Education Association for her significant contributions to scholastic journalism; and

WHEREAS, Meghan Percival received her award at a November 3, 2018, Journalism Education Association convention in Chicago; she received praise from nominators for encouraging her own students and countless others around Fairfax County, helping other advisers, and improving scholastic journalism; and

WHEREAS, now in her twentieth year as the yearbook adviser at McLean High School, Meghan Percival teaches history and social studies; she holds degrees in education from the University of Virginia and Catholic University of America; and

WHEREAS, Meghan Percival brings her yearbook staffs to conventions and serves on local committees for several Washington, D.C., student journalism conventions, where she is known as an outstanding speaker, author, and judge and for which, notably, she has accepted the role of local chair; and

WHEREAS, Meghan Percival provides her leadership to the Boards of the Virginia Association of Journalism Teachers and Advisers and of the National Scholastic Press Association where she is known among her colleagues for working hard, providing insightful commentary, and contributing her time and expertise to benefit advisers and staffs locally and nationwide; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Meghan Percival, McLean High School yearbook adviser, for winning the Medal of Merit from the Journalism Education Association for her significant contributions to scholastic journalism; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Meghan Percival, as an expression of the General Assembly's admiration for her commitment to journalism education.

### HOUSE JOINT RESOLUTION NO. 1001

*Commending the Princess Anne High School girls' basketball team.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Princess Anne High School girls' basketball team secured its fifth consecutive state title with a historic victory in the Virginia High School League Class 5 state championship in 2018; and

WHEREAS, during their 26-1 season, the Princess Anne High School Cavaliers, who were ranked 10th in the nation by MaxPreps and 12th by *USA Today*, dominated their opponents and racked up an impressive average of 51 points per game; and

WHEREAS, in the state final, the Princess Anne Cavaliers never relinquished their early lead over the Thomas Edison High School Eagles and scored on eight of their final 10 possessions to win 61-45; the team's stifling defense forced 28 turnovers and caused the Thomas Edison Eagles to miss 13 of 16 three-point attempts; and

WHEREAS, Jasha Clinton led the Princess Anne Cavaliers with 17 points, followed by Brianna Jackson, who added 12 points and 15 rebounds for her third consecutive double-double; and

WHEREAS, with only three graduating seniors—Makayla Dickens, Bryonna Ferebee, and Xaria Wiggins—the Princess Anne Cavaliers will retain a core group of their championship team and stay poised for success in years to come; and

WHEREAS, the Princess Anne Cavaliers' win was the team's fifth consecutive state title and the program's ninth state title overall, both Virginia High School League records; and

WHEREAS, the Princess Anne Cavaliers achieved these historic milestones through the hard work and determination of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Princess Anne High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Princess Anne High School girls' basketball team on its record-setting victory in the Virginia High School League Class 5 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Darnell Dozier, head coach of the Princess Anne High School girls' basketball team, as an expression of the General Assembly's admiration for the team's extraordinary achievements.

### HOUSE JOINT RESOLUTION NO. 1002

*Commending Arrowhead Elementary School.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for 55 years, Arrowhead Elementary School has given students in Kempsville the tools to build a strong foundation for lifelong learning; and

WHEREAS, established in 1964, Arrowhead Elementary School opened its doors to 952 children in grades one through seven, making it the largest elementary school in Virginia Beach at the time; and

WHEREAS, Arrowhead Elementary School has played a pivotal role in local life, not only as a leader in primary education but also as a vital community partner and a host for special activities such as the Friday night recreation center and the Block Mother Program; and

WHEREAS, in November 2004, Arrowhead Elementary School moved into a new, state-of-the-art facility, where students use the latest educational technology to learn in a safe, nurturing environment; and

WHEREAS, throughout its history, Arrowhead Elementary School has cultivated strong relationships with parents, families, and local organizations to engage the entire community in the learning process and provide unique opportunities for students; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Arrowhead Elementary School on the occasion of its 55th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Arrowhead Elementary School as an expression of the General Assembly's admiration for the school's commitment to academic excellence and contributions to the Kempsville community.

### HOUSE JOINT RESOLUTION NO. 1003

*Commending Nolan Fitzsimmons.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Nolan Fitzsimmons, a student at McLean High School, won the Congressional Award Gold Medal, the highest award for young Americans presented by the United States Congress; and

WHEREAS, Nolan Fitzsimmons received his award on June 21, 2018, at a ceremony on Capitol Hill in Washington, D.C., that honored 400 winners from across the country; and

WHEREAS, to meet the requirements for the award, Falls Church resident Nolan Fitzsimmons' efforts focused on the four program areas of voluntary public service, personal development, physical fitness, and expedition or exploration; and

WHEREAS, to address the volunteering requirement, Nolan Fitzsimmons spent time at an assisted living home and at the United States Chess Center, where he helped to run two weekly elementary school chess clubs; for his personal development he wrote many essays and read many books; and

WHEREAS, Nolan Fitzsimmons developed his physical fitness by improving his overall endurance through a combination of running and swimming, regularly running five kilometers and swimming long distances; and

WHEREAS, to fulfill the award's exploration requirement, Nolan Fitzsimmons set out to learn more about the United States-Mexico border and immigration by spending two weeks along the border between the two countries, traveling from Laredo, Texas, to Chula Vista, California, and exploring cities and communities on both sides of the border; his trip took him into Mexico eight times to visit seven different cities, and included tours and meetings with United States border agents in three different states; and

WHEREAS, to acknowledge his achievement, the McLean Citizens Association awarded Nolan Fitzsimmons a Teen Character Award; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Nolan Fitzsimmons, a student at McLean High School, for receiving the Congressional Award Gold Medal from the United States Congress; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nolan Fitzsimmons as an expression of the General Assembly's admiration for his commitment to service and personal growth.

**HOUSE JOINT RESOLUTION NO. 1004***Commending Helen Ganley.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Helen Ganley, a student at McLean High School, won the Congressional Award Gold Medal, the highest award for young Americans presented by the United States Congress; and

WHEREAS, Helen Ganley received her award at a ceremony that honored winners from across the country on June 21, 2018, at an event on Capitol Hill in Washington, D.C.; and

WHEREAS, to meet the requirements for the award, Falls Church resident Helen Ganley focused on the four program areas of voluntary public service, personal development, physical fitness, and expedition or exploration; and

WHEREAS, as an avid volleyball fan, Helen Ganley volunteered to coach a middle school volleyball team so that other girls could enjoy the sport as much as she does; and

WHEREAS, to fulfill the personal development and physical fitness requirement, Helen Ganley focused on music; as a percussionist she wanted to test herself by applying for a rigorous pre-professional program and after practicing and auditioning, she was later accepted to the Interlochen Wind Symphony program; Helen Ganley marched on the McLean High School's marching band's drumline, developing her stamina and becoming a section leader; and

WHEREAS, to meet the exploration requirement of the program, Helen Ganley organized a trip to New York City to see Broadway shows where she gained important experience troubleshooting; and

WHEREAS, to acknowledge her achievement the McLean Citizens Association awarded Helen Ganley a Teen Character Award for her personal efforts and service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Helen Ganley, a student at McLean High School, for receiving the Congressional Award Gold Medal from the United States Congress; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Helen Ganley as an expression of the General Assembly's admiration for her commitment to service and personal growth.

**HOUSE JOINT RESOLUTION NO. 1005***Celebrating the life of Jose Del Carmen Carbajal.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Jose Del Carmen Carbajal, a beloved husband, father, and grandfather and a hardworking resident of Fauquier County, died on January 31, 2019; and

WHEREAS, born in Chiclayo, Peru, Jose Carbajal married Carmen Rosa Cueto in Lima in 1977, and the couple immigrated to the United States in 1988 to seek better opportunities for their children; and

WHEREAS, after settling in Virginia, Jose Carbajal worked tirelessly to support his young family, making great personal sacrifices to ultimately give his children a better life; and

WHEREAS, known for his dedication to his family and loved ones, Jose Carbajal leaves behind an incredible legacy that will be treasured and carried on by his children and grandchildren; and

WHEREAS, Jose Carbajal was well known in the community for his unfailing kindness, his sense of humor, and his ability to put a smile on anyone's face; and

WHEREAS, Jose Carbajal will be fondly remembered and greatly missed by his loving wife of 41 years, Carmen; his children, Joe and Lisette; his grandchildren, Erica and Rosalie; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jose Del Carmen Carbajal; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jose Del Carmen Carbajal as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1006***Commending the Rotary Club of Portsmouth.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Rotary Club of Portsmouth, part of a worldwide social service network, celebrates its 100th anniversary in 2019; and

WHEREAS, the Rotary Club of Portsmouth was chartered on June 1, 1919, and since its start has provided leadership, volunteers, and financial resources to assist people of the City of Portsmouth, the Commonwealth of Virginia, the United States, and the world; and

WHEREAS, ongoing projects of the Rotary Club of Portsmouth have donated over 8,000 volumes to the Portsmouth Public Library, provided over 21,000 dictionaries to third-grade students in Portsmouth, and donated countless amounts of funds to area projects and organizations that depend upon volunteer contributions; and

WHEREAS, the Rotary Club of Portsmouth has provided exterior painting, minor repairs, and landscaping to over 130 residences owned by senior and disabled homeowners in need; the group has contributed to the Rotary International Initiative which has eliminated polio in 99 percent of the world; and

WHEREAS, the Rotary Club of Portsmouth's membership has provided leadership in the business community as well as in civic affairs and includes the Honorable Norman R. Hamilton, the Right Reverend William A. Brown, the Honorable William B. Spong, Jr., the Honorable Richard J. Davis, and the Honorable Stephen E. Heretick; 25 recipients of Portsmouth's First Citizen Award have been members of the Rotary Club of Portsmouth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Rotary Club of Portsmouth on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Rotary Club of Portsmouth as an expression of the General Assembly's admiration for its longstanding service to the residents of Portsmouth.

### HOUSE JOINT RESOLUTION NO. 1007

*Celebrating the life of Guy Malcolm Kinman, Jr.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Guy Malcolm Kinman, Jr., a passionate advocate for equal rights for gay, lesbian, bisexual, and transgender people throughout Richmond and the Commonwealth, died on September 17, 2018; and

WHEREAS, a native of Heavener, Oklahoma, Guy Kinman graduated from Texas Military Institute Episcopal school in San Antonio, Texas, and earned a bachelor's degree from Wabash College in Indiana; and

WHEREAS, after attending McCormick Theological Seminary in Illinois, Guy Kinman preached at churches in Illinois and Minnesota, then served his country as a chaplain in the United States Air Force; in 1960, Guy Kinman changed careers and settled in the Richmond area, working as a sales counselor for the firm Snelling and Snelling for 20 years; and

WHEREAS, Guy Kinman was married for 10 years before he acknowledged that he was gay and went on to make it his life's mission to help and support other members of the gay community; and

WHEREAS, in 1985, Guy Kinman was elected as president of the Richmond Virginia Gay Alliance, which later became the Richmond Virginia Gay and Lesbian Alliance, and was proud to serve as the public face of the organization, without the fear of retribution from an employer or ostracism by friends and family that many younger members of the gay and lesbian communities struggled with at the time; and

WHEREAS, inspired by similar but unsuccessful efforts in Lynchburg and Roanoke, Guy Kinman and the Richmond Virginia Gay and Lesbian Alliance raised money to place billboards throughout the city with simple, personal messages, such as "Someone You Know is Gay...Maybe Someone You Love," to fight discrimination and raise awareness of the gay and lesbian communities; and

WHEREAS, Guy Kinman continued to lead and support the LGBTQ community up to the time of his passing, and in recognition of his groundbreaking work, the Virginia Historical Society and the Gay Community Center of Richmond (now Diversity Richmond) created the Guy Kinman Research Award to promote historical scholarship on LGBTQ issues; and

WHEREAS, Guy Kinman inspired members of the LGBTQ community to find confidence in themselves and live their lives openly and honestly, while fighting stereotypes and creating friends and allies through trust and mutual respect; and

WHEREAS, Guy Kinman was active with the Virginia Historical Society, the Virginia Museum of Fine Arts, the Valentine Museum, the Prime Timers of Central Virginia, and the Unitarian Universalist Church of Richmond; and

WHEREAS, Guy Kinman will be fondly remembered and greatly missed by his vast circle of friends and the numerous people he helped lead richer, fuller lives through his outspoken leadership; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Guy Malcolm Kinman, Jr., a highly admired member of the Richmond community whose legacy of activism touched countless lives; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Guy Malcolm Kinman, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1008***Celebrating the life of John M. Cornman.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, John M. Cornman, a respected intellectual and a passionate advocate for affordable housing who touched countless lives in the Arlington County community, died on June 9, 2018; and

WHEREAS, a native of Philadelphia, John "Jack" M. Cornman graduated from The Haverford School and Dartmouth College, then began his professional career in journalism, serving as city editor of the *Daily Local News* in Chester County, Pennsylvania; and

WHEREAS, Jack Cornman relocated to Washington, D.C., as a Congressional Fellow with the American Political Science Association, then subsequently worked on Capitol Hill as a legislative aide, speech writer, and press secretary for two United States senators; and

WHEREAS, Jack Cornman went on to serve as executive director of the Gerontological Society of America, the oldest and largest multidisciplinary research organization dedicated to the study of aging, and the American Anthropological Association; he coauthored two books and several articles on ethical and societal issues related to aging, health care, and intergenerational relations; and

WHEREAS, Jack Cornman worked diligently to enhance the quality of life of his fellow Arlington County residents; in 1996, he founded a consulting firm specializing in planning and fundraising for nonprofit corporations and, in 2003, the Alliance for Housing Solutions in Arlington, which provides research and advocacy for affordable housing in the region; and

WHEREAS, Jack Cornman was an inspiration to his fellow community leaders and a trusted mentor to members of the Arlington County Board and other local officials; and

WHEREAS, in 2007, Jack Cornman received the James B. Hunter III Community Hero Award for his tireless activism and leadership in a wide range of local organizations, including the Arlington New Directions Coalition, Arlington Area Agency on Aging, Hospice of Northern Virginia, and Meals on Wheels; and

WHEREAS, predeceased by his son, Geoffrey, Jack Cornman will be fondly remembered and greatly missed by his wife of 57 years, Donna; his children, Jennifer and Whitney, and their families; his son Geoffrey's family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of John M. Cornman, a highly admired civic activist in Arlington County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John M. Cornman as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1009***Celebrating the life of Timothy Martin Wise.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Timothy Martin Wise, a champion for fiscal responsibility and transparency in local government who made many contributions to the Arlington County community, died on October 5, 2018; and

WHEREAS, a native of Uniontown, Pennsylvania, Timothy "Tim" Martin Wise graduated from Lakewood High School in Ohio and Baldwin Wallace University, then earned a master's degree from DePaul University; and

WHEREAS, Tim Wise served his country as a member of the United States Air Force, working as a medical administrator at Aviano Air Base in Italy; after his honorable military service, he began a long career as a certified information systems auditor for the Internal Revenue Service; and

WHEREAS, Tim Wise relocated to Arlington County in 1986 and quickly became involved in many community groups; he was a longtime member and president of the Arlington County Taxpayers Association (ACTA) and was well-known as the editor of the organization's newsletter and later a blogger on its website; and

WHEREAS, Tim Wise represented ACTA before the Arlington County Civic Federation, where he was awarded its highest honor, the Journal Cup, in 1999; as a member of the Revenues and Expenditures Committee, he analyzed county budgets and suggested tax-saving measures, and as chair of the legislative committee, he helped draft recommendations for state legislation; and

WHEREAS, respected for his expertise, work ethic, and fair-mindedness, Tim Wise worked to build bipartisan consensus on issues related to government accountability and transparency; he became an institution in Arlington County civic affairs, bringing fresh perspectives to the county's Fiscal Affairs Advisory Commission and other committees over the years; and

WHEREAS, Tim Wise will be fondly remembered and greatly missed by numerous family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Timothy Martin Wise; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Timothy Martin Wise as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1010

*Celebrating the life of Lucy E. Denney.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Lucy E. Denney, an admired civic servant who left a legacy of contributions to the Arlington County community, died on May 1, 2018; and

WHEREAS, a native of Shreveport, Louisiana, Lucy Denney graduated from C. E. Byrd High School, then earned a bachelor's degree from Hollins University and a master's degree from Stanford University; and

WHEREAS, in 1954, Lucy Denney accepted an analyst position at the Central Intelligence Agency, where she worked for the next five years; she married her husband, Jerry, in 1957, and the couple later relocated to Arlington County to raise their family; and

WHEREAS, Lucy Denney strived to enhance the quality of life of all her fellow Arlington County residents by volunteering with numerous organizations and projects; she served as chair of the Arlington Fair Housing Board for more than a decade and was active with the Alliance for Housing Solutions, Arlington Partnership for Affordable Housing, Historical Affairs and Landmark Review Board, Arlington Street People's Assistance Network, and Meals on Wheels; and

WHEREAS, Lucy Denney was especially active with the Arlington County Democratic Party, serving as a campaign manager for several Democratic candidates for the Arlington County Board over the course of nearly 30 years, and a manager for all of Representative Joseph L. Fisher's campaigns from 1974 to 1980; she also served as chair of the Arlington County Democratic Committee Headquarters; and

WHEREAS, Lucy Denney earned many accolades for her personal and professional accomplishments, including the 1994 Joseph L. Fisher Lifetime Achievement Award, the 2003 Arlington County Woman of Vision Award, and the 2007 James B. Hunter Community Hero Award; and

WHEREAS, guided by her strong faith, Lucy Denney enjoyed fellowship and worship with the community at St. George's Episcopal Church, where she was on the vestry, worked in the food pantry, and was a member of the social ministry and outreach committees; and

WHEREAS, Lucy Denney will be fondly remembered and greatly missed by her husband of 60 years, Jerry; her children, Charlie and Jane, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lucy E. Denney, a respected civic leader in Arlington County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the family of Lucy E. Denney and the Arlington County Democratic Committee as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1011

*Celebrating the life of Carolyn W. Johnson.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Carolyn W. Johnson, an accomplished writer and a dedicated civil servant who enhanced community life as a longtime member of the Arlington County Planning Commission, died on May 5, 2018; and

WHEREAS, a native of Milwaukee, Wisconsin, Carolyn "Carrie" W. Johnson attended the University School of Milwaukee and graduated *magna cum laude* from Smith College; and

WHEREAS, after completing her education, Carrie Johnson worked as a legislative aide on Capitol Hill for eight years and proudly helped advance the bill that created the Chesapeake and Ohio Canal National Park; and

WHEREAS, beginning in 1972, Carrie Johnson served on the editorial board of *The Washington Post* for five years, then worked as a speechwriter; and

WHEREAS, Carrie Johnson relocated to Arlington County in 1979 and served on the Arlington County Planning Commission from 1986 to 2005, one of the longest tenures on record; she oversaw the creation of Long Bridge Park, as well as neighborhood conservation efforts for Ft. Myer Heights, Virginia Square, Four Mile Run Valley, and Ashton Heights; and

WHEREAS, Carrie Johnson handled database management for the Arlington County Democratic Committee, becoming known as "the list lady" for her tireless work compiling, sorting, and maintaining voter lists, which were invaluable to the committee's outreach efforts; and

WHEREAS, in later life, Carrie Johnson continued to write freelance articles and papers, and in 2005, she temporarily relocated to Butte, Montana, to research and complete a series of articles and an outline for a book about the city's history; and  
WHEREAS, Carrie Johnson inspired others through her quick wit, quiet confidence, and civility, and her commitment to strengthening the Arlington County community was unparalleled; and

WHEREAS, Carrie Johnson will be fondly remembered and greatly missed by numerous family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Carolyn W. Johnson, a highly admired writer and civic servant in Arlington County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the family of Carolyn W. Johnson and the Arlington County Democratic Committee as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1012

*Celebrating the life of Sheila Elizabeth Norman.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Sheila Elizabeth Norman, a beloved wife, mother, and daughter, and esteemed prosecutor in Arlington County, died on December 11, 2018; and

WHEREAS, Sheila Norman was born and raised in Connecticut, in a household with a love of opera, dance, poetry, and theater; and

WHEREAS, Sheila Norman earned a bachelor's degree in political science at Boston College; after graduation, she traveled internationally, performed as a ballet dancer, and embarked on her professional career working for the League of Cities and Vita Corporation before attending law school at George Mason University; and

WHEREAS, Sheila Norman worked in her dream job as an Arlington County prosecutor where she was well-known and respected by her colleagues, as well as her opposition, for her skill in trying cases from petty larceny to murder, as well as for her ability to debate any side of an issue and stare down those who differed with her; and

WHEREAS, Sheila Norman will be fondly remembered by her husband, Tom; her daughter, Mary; her parents, John Norman and Mary Lynott; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Sheila Elizabeth Norman, a beloved wife, mother, and daughter, and esteemed prosecutor; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sheila Elizabeth Norman as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1013

*Commending Robin Norman.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Robin Norman, who has served Virginia Hospital Center in Arlington since 1979, retired on January 4, 2019, as senior vice president and chief financial officer; and

WHEREAS, Robin Norman joined Virginia Hospital Center as an accounting manager and rose through roles of increasing responsibility to her current position as chief financial officer (CFO), all the while shaping Virginia Hospital Center into one of the most fiscally stable stand-alone hospitals in the United States; and

WHEREAS, Robin Norman brought strong credentials to her work; she earned a bachelor's degree in accounting from the University of Maryland and a master's degree in business administration from Virginia Polytechnic Institute and State University; she is a certified public accountant, a member of the Healthcare Financial Management Association, and a 2005 graduate of Leadership Arlington; and

WHEREAS, as CFO of Virginia Hospital Center, Robin Norman was responsible for financial reporting, accounting and disbursements, internal audits, third-party reimbursement, investment management, accounts receivable, managed care, capital funding, and financial management and planning; and

WHEREAS, during Robin Norman's tenure, operating margins improved, market share grew, and the hospital's bond rating was raised twice; the hospital was ranked as one of the top 100 hospitals in the country by Truven Health Analytics; and

WHEREAS, Robin Norman earned numerous accolades for her accomplishments; she was on the *Becker's Hospital Review* list of 150 Hospital and Health System CFOs to Know, was named 2014 CFO of the Year by the *Washington Business Journal*, and was made executive in residence for Marymount University's master's program in healthcare management; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robin Norman on the occasion of her retirement as senior vice president and chief financial officer of Virginia Hospital Center in Arlington; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robin Norman as an expression of the General Assembly's admiration for her many career accomplishments and best wishes for a well-deserved retirement.

#### HOUSE JOINT RESOLUTION NO. 1014

*Commending the League of Women Voters of Arlington.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 75 years, the League of Women Voters of Arlington has served the members of the community by promoting active and informed citizen participation in government through education and advocacy; and

WHEREAS, the League of Women Voters of Arlington monitors elections and government activities and provides nonpartisan, balanced information on local, state, and national issues; and

WHEREAS, founded in 1944, the League of Women Voters of Arlington encourages citizen participation in the political process by facilitating voter registration, sponsoring candidate forums, and providing nonpartisan, balanced information to the public on local, state, and national issues; and

WHEREAS, the League of Women Voters of Arlington has long advocated for public policies that provide equal and quality schooling, housing, and transportation for all, while minimizing the impacts on the environment; and

WHEREAS, this year, the League of Women Voters of Arlington continues to educate and engage the public and its elected representatives on issues ranging from nonpartisan redistricting, to voting protection, to the Equal Rights Amendment, to fair and affordable housing, while expanding voter registration efforts in high schools; and

WHEREAS, throughout its 75 years of service, the League of Women Voters of Arlington has worked assiduously to raise the level of informed political debate and promote reasoned public policy; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the League of Women Voters of Arlington on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the League of Women Voters of Arlington as an expression of the General Assembly's admiration for its legacy of contributions to civic engagement in Arlington.

#### HOUSE JOINT RESOLUTION NO. 1015

*Commending the Arlington Area Agency on Aging.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Arlington Area Agency on Aging, part of the Arlington County Aging and Disability Services Division in the Department of Human Services, has played a vital role in helping local residents age with dignity by providing education, advocacy, and support for more than four decades; and

WHEREAS, the goal of the Arlington Area Agency on Aging is to promote the maximum level of independence for persons 60 years of age and older, and to ensure that older Arlington residents live as an integral part of society, with access to programs and services that meet their needs and preferences; and

WHEREAS, to that end, the Arlington Area Agency on Aging offers numerous programs, including an improved meal delivery program and community engagement events; the Division's Aging and Disability Resource Center delivers services using an integrated services model in a person-centered, supportive way, which fosters collaboration and provides a continuum of care for older adults so that they may age in place; this year, Arlington also earned an AARP Age-Friendly Community designation; and

WHEREAS, the Arlington Area Agency on Aging utilizes county services to serve elderly residents and involves numerous volunteers who lead the program Age-Friendly Arlington; and

WHEREAS, the Arlington Area Agency on Aging has won numerous national, state, regional, and local awards recognizing its essential services to older adults, most notably recognition from the National Association of Agencies on Aging Innovation Award in 2018, the Aging Achievement Award in 2017, and a Civic Engagement award in 2015; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Arlington Area Agency on Aging for playing a vital role in helping local residents age with dignity by providing education, advocacy, and support; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Arlington Area Agency on Aging for fostering independence and healthy aging, and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### HOUSE JOINT RESOLUTION NO. 1016

*Commending Captain Todd Marzano, USN.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Captain Todd Marzano, USN, has demonstrated meritorious conduct in service to the Commonwealth and the nation as commanding officer of the USS *ARLINGTON*; and

WHEREAS, Captain Marzano was commissioned as an aviation officer in December 1992 and has completed numerous tours of duty around the world, deploying in support of Operation Southern Watch, Operation Iraqi Freedom, and Operation Enduring Freedom; and

WHEREAS, Captain Marzano has logged more than 3,000 flight hours and made more than 800 carrier landings, earning the Legion of Merit, Defense Meritorious Service Medal, Meritorious Service Medal, and four Strike Flight Medals, as well as unit, campaign, and service awards; and

WHEREAS, Captain Marzano assumed command of the USS *ARLINGTON* in 2018 and oversaw extensive repairs and critical preventative maintenance to return the ship to full combat capability; and

WHEREAS, during Captain Marzano's service as commanding officer, the USS *ARLINGTON* completed multiple at-sea exercises with the U.S. Atlantic Fleet and conducted exercises and training with the United States Marines stationed afloat; and

WHEREAS, on short notice, Captain Marzano led the USS *ARLINGTON* in sailing from Norfolk in the face of severe weather from the approaching Hurricane Florence to provide rapid disaster relief along the Mid-Atlantic Coast in September 2018; and

WHEREAS, Captain Marzano and the officers and crew of the USS *ARLINGTON* represented the Commonwealth and the United States Navy at New York City's Fleet Week, welcoming aboard more than 20,000 visitors; and

WHEREAS, Captain Marzano has built strong ties between the USS *ARLINGTON* and the residents of its namesake Arlington County by hosting ship visits, conducting school visits to give students a chance to learn about the vital role of the United States Navy, and sending a team to participate in the 9-1-1 Memorial 5K & Half, which honors victims of the attack on the Pentagon on September 11, 2001; and

WHEREAS, under Captain Marzano's leadership, the officers and crew of the USS *ARLINGTON* continued to demonstrate the highest level of professionalism and esprit de corps; a significant number of personnel achieved surface warfare officer/enlisted designation, the maximum number of sailors were promoted to chief petty officers, and the ship's percent reenlistment exceeded normal standards, all indicators of high morale and the superior quality of the ship's leadership team; and

WHEREAS, Captain Marzano was relieved of command onboard the USS *ARLINGTON* on February 14, 2018, by Captain Paul J. Lanzilotta, USN; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Captain Todd Marzano, USN, for his exceptional service as commanding officer of the USS *ARLINGTON*; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Captain Todd Marzano, USN, as an expression of the General Assembly's admiration for his achievements in defense of the Commonwealth and the United States.

### HOUSE JOINT RESOLUTION NO. 1017

*Commending Linda Lindberg.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Linda Lindberg has ably served the Arlington community as director of elections and general registrar for more than 15 years, implementing many programs and processes that have made voting easier and more accessible for all residents; and

WHEREAS, a graduate of Miami University and George Mason University with a background in arts administration and data systems, Linda Lindberg was appointed as Arlington's general registrar in 2003, having previously served as deputy registrar since 1994; and

WHEREAS, Linda Lindberg led efforts to renovate and modernize the Department of Elections and Electoral Board offices, expand service hours, and launch voter registration drives in local high schools and senior care facilities; and

WHEREAS, Linda Lindberg has given local and national presentations on the accuracy of current voter rolls and ways to secure polling places and maintain the integrity of local elections; and

WHEREAS, during her tenure, Linda Lindberg has overseen a dramatic increase in the number of county voting precincts, established election page and election concierge programs to enhance smooth operations and line management, and implemented changes that resulted from the Help America Vote Act; and

WHEREAS, Linda Lindberg's exceptional leadership ensured that the county was prepared for record voter turnout in 2016, giving voters full confidence in Arlington's electoral process; and

WHEREAS, Linda Lindberg increased engagement with the media by creating a social media presence for the Arlington elections team and has welcomed secure delegations from countries around the world to observe the electoral process in Arlington; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Linda Lindberg for her service to Arlington County as director of elections and general registrar; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Linda Lindberg as an expression of the General Assembly's admiration for her achievements in service to the residents of the Commonwealth and the democratic process.

### HOUSE JOINT RESOLUTION NO. 1018

*Commending Timothy Wyatt Cotman, Jr.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Timothy Wyatt Cotman, Jr., an equity and excellence coordinator and English teacher at Thomas Jefferson Middle School in Arlington, won the Region 4 Teacher of the Year award; and

WHEREAS, Timothy "Tim" Wyatt Cotman, Jr., earned a Bachelor of Arts in English and a Master of Education in curriculum and instruction from George Mason University (GMU); he also earned a graduate certificate in advanced skills in conflict resolution from GMU; and

WHEREAS, while working on his teacher licensure and master's degree, Tim Cotman was employed as a minority achievement coordinator for Arlington Public Schools; his work focuses on helping to create a more equitable learning environment for students, which he considers his greatest accomplishment and contribution to education; and

WHEREAS, early in Tim Cotman's career, he co-facilitated workshops for teachers on culturally affirming teacher strategies, and he was instrumental in the Arlington Public Schools Cultural Competencies initiative, through which the entire staff was trained in effective and appropriate communication with people of other cultures; and

WHEREAS, Tim Cotman's leadership is evident in and outside of the classroom; he works behind the scenes to increase the number of diverse participants in back-to-school nights and has increased participation of internal and external groups that bolster engagement of students, communities of color, and English language learners; and

WHEREAS, Tim Cotman has set up partnerships to provide robotics, soccer, character development, literacy, martial arts, and conflict resolution programming at his school; and

WHEREAS, Tim Cotman is a tremendous asset as a tenacious educator who both challenges and motivates student and adult learners to consider their own social constructs regarding race and identity and imparts thought-provoking training, workshops, lessons, and dialogue around racial and social justice and injustice; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Timothy Wyatt Cotman, Jr., an equity and excellence coordinator and English teacher at Thomas Jefferson Middle School in Arlington, for winning the Region 4 Teacher of the Year award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Timothy Wyatt Cotman, Jr., as an expression of the General Assembly's admiration for his dedication to students and for his dedication to education.

### HOUSE JOINT RESOLUTION NO. 1019

*Commending Zachary Norrbom.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Zachary Norrbom received the 2018 Donovan Award, having been selected by his peers across the nation, while he was a student at the University of Mary Washington; and

WHEREAS, the Donovan Award is presented to Division III ultimate players who demonstrate exceptional skill, athleticism, and leadership both on and off the field, and uphold the sport's principles of fair play and self-officiating exemplified in the Spirit of the Game; and

WHEREAS, Zachary "Zach" Norrbom grew up in the Leeway and Overlee areas of Arlington and graduated from the H-B Woodlawn Secondary Program, where he began to hone his skills at ultimate; and

WHEREAS, after matriculating at the University of Mary Washington, Zach Norrbom transformed the program and led them to their first ever Nationals appearance in 2018; and

WHEREAS, at the University of Mary Washington, Zach Norrbom was an exceptional ultimate player and an enthusiastic presence on the sidelines, encouraging his team and communicating instructions and tactics at all times; and

WHEREAS, Zach Norrbom earned the All-Freshman award in 2014 and was named as a First Team All-Region selection in 2015, 2016, 2017, and 2018; he won a Youth Club Championships U-19 Mixed National Championship in 2013 and was invited to try out for the U24 world team in 2017; and

WHEREAS, Zach Norrbom currently teaches art at Barcroft Elementary School in Arlington; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Zachary Norrbom on his selection as the 2018 Donovan Award winner; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Zachary Norrbom as an expression of the General Assembly's admiration for his achievements.

### HOUSE JOINT RESOLUTION NO. 1020

*Commending the Honorable Richard J. McCue.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Honorable Richard J. McCue, a respected member of the Arlington County community, retired as a judge of the Arlington General District Court in 2019; and

WHEREAS, Richard McCue was born and raised in Massachusetts and came to Virginia to pursue his education, earning a bachelor's degree from the University of Virginia and a law degree from The College of William & Mary; and

WHEREAS, Richard McCue began his legal career in private practice and was appointed as a judge of the Arlington General District Court of the 17th Judicial District of Virginia on July 16, 2001, and presided over the court with great fairness and wisdom until his well-earned retirement; and

WHEREAS, Richard McCue offered his leadership to his peers in the legal field as a past president of the Arlington County Bar Association and chair of its Criminal Justice Committee and co-chair of the Courts Committee; and

WHEREAS, Richard McCue has served the community as a volunteer with the Friends of Argus and Aurora House and as a youth athletics coach with the Lee District Basketball Association for 10 years; and

WHEREAS, Richard McCue served the Commonwealth with the utmost integrity, dedication, and distinction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable Richard J. McCue on the occasion of his retirement as a judge of the Arlington General District Court; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Richard J. McCue as an expression of the General Assembly's admiration for his service to Arlington County and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1021

*Commending the Honorable Thomas J. Kelley, Jr.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Honorable Thomas J. Kelley, Jr., a respected member of the Arlington County community, retired as a judge of the Arlington General District Court in 2019; and

WHEREAS, a lifelong resident of Arlington County, Thomas Kelley earned a bachelor's degree and a law degree from the University of Richmond before returning to Arlington and pursuing a career as an attorney; and

WHEREAS, during his career Thomas Kelley served as chair of the Police Trial Board, as escheator for Arlington County and the City of Falls Church, as a member of the Commission on Mental Health Law Reform, as president of the Association of District Court Judges, and as a mentor judge; and

WHEREAS, in 1995, Thomas Kelley was appointed as a judge of the Arlington General District Court of the 17th Judicial District of Virginia and presided over the court with great fairness and wisdom until his well-earned retirement; and

WHEREAS, Thomas Kelley is a longtime member of the Arlington County Bar Association; he served on the board of directors from 1985 to 1995 and has offered his leadership and expertise to numerous committees; and

WHEREAS, Thomas Kelley has served the community as a referee and umpire for youth athletics and as a Scoutmaster for Boy Scouts of America Troop 647; he enjoys fellowship and worship with the congregation of National City Christian Church, where he has held many leadership roles; and

WHEREAS, Thomas Kelley has served the Commonwealth with the utmost integrity, dedication, and distinction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable Thomas J. Kelley, Jr., on the occasion of his retirement as a judge; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Thomas J. Kelley, Jr., as an expression of the General Assembly's admiration for his service to Arlington County and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1022

*Commending the West Springfield High School baseball team.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the West Springfield High School baseball team won the Virginia High School League Class 6 state championship in June 2018; and

WHEREAS, the West Springfield High School Spartans defeated the defending champion Western Branch High School Bruins by a score of 12-2; and

WHEREAS, the Western Branch Bruins scored first, but the West Springfield High School Spartans rallied quickly to take a 4-1 lead by the end of the second inning; and

WHEREAS, in the fifth inning, West Springfield's starting pitcher Jared Lyons put the game well out of reach for the Western Branch Bruins with his grand slam over the center field fence and senior Nick Johnson's home run put the exclamation point on the victory; and

WHEREAS, the West Springfield Spartans achieved success through the hard work of all the student-athletes, the leadership of coaches and staff, and the support of the entire West Springfield High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the West Springfield High School baseball team on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jason Olms, head coach of the West Springfield High School baseball team, as an expression of the General Assembly's admiration for the team's achievements.

### HOUSE JOINT RESOLUTION NO. 1023

*Commending Robert J. Austin.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, on October 31, 2018, Robert J. Austin retired as section manager of the Education, Health, Welfare, Elections, Rules, and Special Projects Section of the Division of Legislative Services after 51 years of exceptional service to the General Assembly and the Commonwealth; and

WHEREAS, a native of Roanoke, Robert J. "Jack" Austin is a proud alumnus of the University of Virginia, where he earned a bachelor's degree in foreign affairs, a master's degree in government, and a doctoral degree in philosophy of government; and

WHEREAS, while studying at the University of Virginia's Institute of Government, Jack Austin compiled data for annual studies on highway finance and tax rates in the Commonwealth and served as a consultant for the Norfolk Charter Advisory Study Commission; he also served as a legislative assistant to the Speaker of the Virginia House of Delegates, the Honorable John Warren Cooke, and provided staff assistance to the Senate Committee on Privileges and Elections during the decennial redistricting in 1971; and

WHEREAS, in 1972, Jack Austin joined Virginia Commonwealth University as an assistant professor, teaching courses in local, state, and federal government; he served on the planning committee that developed the Department of Political Science and the university's bachelor's degree program in political science; and

WHEREAS, during his time at Virginia Commonwealth University, Jack Austin worked as an academic advisor, internship program coordinator, and departmental liaison; he hosted seminars for local elected officials, coordinated faculty training on state government, and was the principal author of a legislative liaison handbook for the Virginia Chapter of the American Association of University Professors; and

WHEREAS, Jack Austin supported efforts to redesignate the General Assembly's Division of Statutory Research and Drafting and subsequently joined the new Division of Legislative Services, where he provided exceptional bill drafting,

committee staffing, legal analysis and interpretation, and constituent services on behalf of the members of the Virginia General Assembly; and

WHEREAS, as a section manager, Jack Austin oversaw a large staff of attorneys, editors, and administrative assistants who were responsible for an array of subject matter, including education, health, social services, editing, elections, redistricting, geographic information systems, publications, and resolutions; and

WHEREAS, in nearly 40 years with the Division of Legislative Services, Jack Austin reviewed tens of thousands of bills and resolutions, turning his practiced eye from the intricacies of health care policy one moment to the minutia of high school sports statistics the next; and

WHEREAS, Jack Austin garnered the trust and respect of his staff for his attention to detail and his collegial leadership style; he was accessible as both a counselor and a teacher, and was admired for his insights and acumen, as well as his wit and composure under pressure; and

WHEREAS, among his many achievements in service to the residents of Virginia, Jack Austin oversaw four decennial redistricting processes in the Commonwealth as a member of reapportioning and redistricting committees; the chairmen, members, and staff of those committees relied heavily on him for his expert legal guidance; and

WHEREAS, in the course of his duties, Jack Austin developed not only a vast institutional knowledge of the workings of state government, but also a keen understanding of the people and places of the Commonwealth; and

WHEREAS, Jack Austin's personal integrity, commitment to public service, and professional contributions helped ensure the good and efficient functioning of state government and enabled the General Assembly to better serve the residents of and visitors to the Commonwealth; his legacy of excellence lives on in the many young attorneys he mentored throughout his career; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert J. Austin for his more than five decades of meritorious contributions to the people of Virginia on the occasion of his retirement from the Division of Legislative Services in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert J. Austin as an expression of the General Assembly's admiration for his wide-ranging expertise and gratitude for his dedicated service to the Commonwealth.

#### HOUSE JOINT RESOLUTION NO. 1024

*Commending the Williamsburg Unitarian Universalists.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 30 years, the Williamsburg Unitarian Universalists has provided a welcoming, inclusive place for members of the community to explore spiritual growth; and

WHEREAS, the Williamsburg Unitarian Universalists was chartered on February 5, 1989, with 89 members; services were held in a local elementary school until members of the congregation purchased several acres of land and two small houses on Ironbound Road; and

WHEREAS, the Williamsburg Unitarian Universalists' original sanctuary was dedicated in 1995, and the houses were renovated for use as offices and classrooms; in 2016, the congregation launched a capital campaign for a major renovation and expansion project, which resulted in the completion of the current sanctuary; and

WHEREAS, the Williamsburg Unitarian Universalists supports local organizations to enrich community life and promotes religious, racial, and social harmony to build a more just and humane world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Williamsburg Unitarian Universalists on the occasion of the organization's 30th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Williamsburg Unitarian Universalists as an expression of the General Assembly's admiration for the congregation's contributions to spiritual life in the Williamsburg community.

#### HOUSE JOINT RESOLUTION NO. 1025

*Commending Amy G. Fannon.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Amy G. Fannon, a Lee County farmer and Virginia Cooperative Extension agent, was named first runner-up for the Excellence in Agriculture Award at the American Farm Bureau Federation's centennial convention held January 11-16, 2019; and

WHEREAS, Amy Fannon was recognized for her involvement in agriculture, leadership ability, and participation with Farm Bureau and other organizations; and

WHEREAS, Amy Fannon is a Virginia Cooperative Extension unit coordinator and agriculture and natural resources agent in Lee County; much of her work as an extension agent helps farmers with limited resources find practical solutions to imperfect situations so they can keep operating; and

WHEREAS, Amy Fannon earned a degree in crop and soil environmental sciences from Virginia Polytechnic Institute and State University; she and her sister are the fourth generation to help run her family's farm near Pennington Gap, where they raise pumpkins, corn, and alfalfa hay; and

WHEREAS, Amy Fannon is a member of numerous professional organizations, including the National Association of County Agriculture Agents, the Virginia Association of Agriculture Extension Agents, the Virginia Extension Service Association, the Virginia Cattlemen's Association, the Virginia Forage and Grasslands Council, and the Honor Society of Agriculture, Gamma Sigma Delta; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Amy G. Fannon, a Lee County farmer and Virginia Cooperative Extension agent, for being named first runner-up for the Excellence in Agriculture Award at the American Farm Bureau Federation's centennial convention; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Amy G. Fannon as an expression of the General Assembly's admiration for her achievements in agriculture.

### HOUSE JOINT RESOLUTION NO. 1026

*Commending Eugene C. Wingfield.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Eugene C. Wingfield will retire as Clerk of the Lynchburg Circuit Court on December 31, 2019; and

WHEREAS, Eugene Wingfield, a Lynchburg native, began his career as a member of the Lynchburg Police Department, joining as police cadet in 1974 and rising to the rank of captain before retiring in 2006; and

WHEREAS, upon his retirement from the Lynchburg Police Department, where he worked for many years as an investigator, Eugene Wingfield joined the City of Lynchburg Commonwealth Attorney's Office in a similar role until his election as Clerk of the Lynchburg Circuit Court in 2010; and

WHEREAS, during his time as Clerk of the Lynchburg Circuit Court, Eugene Wingfield brought positive change to the Office of the Clerk of the Court, adopting and implementing technology to improve efficiency and accuracy of records and access to records, digitizing records, preserving historical records, including documents and letters signed by Thomas Jefferson and Lynchburg founder John Lynch, and land, marriage, and other records dating back to 1805, and installing a new security system in the Lynchburg Courthouse to ensure the safety of employees and visitors; and

WHEREAS, over the course of his career, Eugene Wingfield has been honored with awards and commendations including Police Officer of the Year, the Lynchburg Police Department Meritorious Service Award, three Lynchburg Police Department Honorable Service awards, and many others; and

WHEREAS, in addition to his more than 45 years of service as a law-enforcement officer and Clerk of the Circuit Court, Eugene Wingfield has served his community as a member of the Exchange Club of Lynchburg, participating on committees for the Soldier's Healing Field Flag Memorial and the annual Pancake Jamboree and as an event coordinator for a World War II veterans' trip to Washington, D.C., as well as participating in projects through Lynchburg Day of Caring, including projects to benefit the Presbyterian Home and Habitat for Humanity; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Eugene C. Wingfield on the occasion of his retirement as Clerk of the Lynchburg Circuit Court; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Eugene C. Wingfield as an expression of the General Assembly's admiration for his service to the Lynchburg community.

### HOUSE JOINT RESOLUTION NO. 1027

*Commending Stanley S. Clarke.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Stanley S. Clarke, a dedicated law-enforcement officer, retired as sheriff of Essex County on July 1, 2018, after 36 years of service to the community; and

WHEREAS, Stanley Clarke, a native of Essex County and a graduate of Essex County High School, earned an associate's degree in police science from Rappahannock Community College and a bachelor's degree in criminal justice from Columbia College; and

WHEREAS, Stanley Clarke served the people of Essex County as a member of the Sheriff's Office for 36 years; he was first elected to serve as sheriff in 1996, a position he held for over 22 years; and

WHEREAS, a lifelong learner dedicated to acquiring new skills and abilities in service to the community, Stanley Clarke pursued additional education and training, completing programs offered by the Rappahannock Regional Criminal Justice Academy, the National Sheriffs' Institute, the Virginia Forensic Science Academy, and the Federal Bureau of Investigation's National Academy; and

WHEREAS, in addition to his service with the Essex County Sheriff's Office, Stanley Clarke has been an active member of the Essex County community, serving as a trustee and deacon of Zion Baptist Church, a member of the board of directors of Essex Churches Together, a member of the Tappahannock Rotary Club, chairman of the board of directors of Bay Aging, and a member of the Rappahannock Community College Citizen's Advisory Committee; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Stanley S. Clarke on the occasion of his retirement as sheriff of Essex County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stanley S. Clarke as an expression of the General Assembly's admiration for his dedicated service on the occasion of his retirement as sheriff of Essex County.

### HOUSE JOINT RESOLUTION NO. 1028

*Commending Veterans of Foreign Wars Post 3103.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Veterans of Foreign Wars Post 3103 in Fredericksburg has promoted patriotism, supported veterans, and offered valuable outreach to the community for more than 75 years; and

WHEREAS, established on November 19, 1943, Veterans of Foreign Wars (VFW) Post 3103 held its first meeting at the American Legion Hall at 600 Caroline Street with Jesse L. George as the first post commander; since that time, the organization has benefited from the able leadership of more than 50 post commanders; and

WHEREAS, VFW Post 3103 subsequently relocated to a hall on the corner of Caroline and Lewis Streets, then moved to its current location at 2701 Princess Anne Street on April 13, 1958; and

WHEREAS, VFW Post 3103 supports local veterans by holding special events throughout the community and assists their fellow service members with understanding veterans' benefits and submitting claims to the United States Department of Veterans Affairs; and

WHEREAS, VFW Post 3103 has fulfilled its mission with the hard work and generosity of its members and through partnerships with affiliate organizations, including the VFW Post 3103 Auxiliary, Special Forces Association Chapter 90, and Disabled American Veterans Chapter 7; and

WHEREAS, VFW Post 3103 maintains a rich history of service to the community and supports numerous organizations, including the Boy Scouts of America, United States Naval Sea Cadet Corps, Young Marines, Wreaths Across America, and other veterans' organizations and charitable fundraisers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Veterans of Foreign Wars Post 3103 on the occasion of its 75th anniversary in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Veterans of Foreign Wars Post 3103 as an expression of the General Assembly's admiration for the organization's contributions to veterans and the Fredericksburg community.

### HOUSE JOINT RESOLUTION NO. 1029

*Commending James Madison High School.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, James Madison High School in Vienna, an institution devoted to providing an enriching secondary education for students in Fairfax County, marks its 60th anniversary in 2019; and

WHEREAS, James Madison High School was named for James Madison, Jr., native Virginian, Founding Father of the United States, and the fourth American President; and

WHEREAS, James Madison High School was established in 1959, originally as a segregated school but was integrated following the implementation of the Brown v. Board of Education decision; and

WHEREAS, today, James Madison High School is led by Principal Greg Hood and serves a diverse student body of 2,198 students in grades nine through 12, with courses tailored to meet the needs of students of all abilities; and

WHEREAS, James Madison High School offers its student body approximately 60 clubs to engage in and explore areas including music, technology, drama, languages, science, robotics, human rights issues, disability advocacy, American Sign Language, business, debate, gaming, politics, and current events; students are also involved in numerous performing arts ensembles as well as publications at the school; and

WHEREAS, James Madison High School's "The Pride of Vienna" Marching Band has won numerous awards and recognitions, including the Virginia Class 5 Championship at the VMBC State Championship in 2018, National Winner of the National Band Association's Blue Ribbon Award in 2017; the Virginia Blue Ribbon Award from the Virginia Music Educators Association for 11 consecutive years; and twice received the prestigious Sudler Flag of Honor from the John Philip Sousa Foundation which is the highest accolade for a high school band in the United States; and

WHEREAS, James Madison High School students are engaged in a wide variety of sports including competitive cheer, cross country, dance, field hockey, football, golf, volleyball, basketball, track, swimming and diving, wrestling, baseball, crew, lacrosse, soccer, and tennis, with many athletic competitions won by the James Madison Warhawks teams; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James Madison High School on its 60th anniversary in 2019 as an educational institution of excellence in Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Madison High School as an expression of the General Assembly's admiration for the school's commitment to excellence, nurturing students, and providing a foundation for lifelong learning.

### HOUSE JOINT RESOLUTION NO. 1030

*Celebrating the life of the Reverend Dr. Kenny Smith.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Reverend Dr. Kenny Smith, a military veteran who led First Baptist Church of Vienna and was active on civil rights and humanitarian issues, died on November 15, 2018; and

WHEREAS, a resident of Haymarket, Kenny Smith was known as a man committed to humanity; he was concerned about the economic and social conditions in which people found themselves, their economic well-being, jobs, health, and social justice; and

WHEREAS, Kenny Smith was born in Atlanta and joined the United States Air Force after graduating from high school; during 25 years in the military, he served in Vietnam, where he received commendation medals and was stationed in Omaha, Nebraska; Fort Belvoir; and Izmir, Turkey; and

WHEREAS, Kenny Smith earned a bachelor's degree in business management from the University of Nebraska-Omaha, a Master of Divinity degree from Howard University, and a Doctor of Ministry degree from Virginia Union University's Samuel DeWitt Proctor School of Theology; and

WHEREAS, Kenny Smith was a minister at Morning Star Baptist Church in Omaha and Bethlehem Baptist Church in Alexandria before joining First Baptist Church of Vienna; during his tenure at First Baptist, he led efforts to expand the church, start a credit union, and implement other civic projects; he was the longest serving pastor at the predominantly African American church, which was founded in 1867 by former slaves; and

WHEREAS, Kenny Smith was recently named pastor emeritus of his congregation; after retiring from First Baptist, he and his wife, the Reverend Mary Lucille Steverson Smith, formed Christian Services, Inc., which, among its services, provides interim pastors for churches that are in the process of selecting full-time leaders; and

WHEREAS, in 2008, Kenny Smith was elected president of the Northern Virginia Clergy Council for the Prevention of HIV/AIDS; he also served as a trustee of both the John Leland Center for Theological Studies and Virginia Union University, and as a board member of the Baptist General Convention of Virginia and the First Baptist Church-Vienna Federal Credit Union; and

WHEREAS, Kenny Smith served as an adjunct professor at the Howard University School of Divinity, a visiting professor at Wesley Theological Seminary, and an instructor at the Evans-Smith Leadership Training Program and Northern Virginia Baptist Association; and

WHEREAS, Kenny Smith received dozens of awards over the years, and spent two terms as president of the Fairfax County NAACP; he was the former president of the Baptist General Convention of Virginia; moderator of the Northern Virginia Baptist Association; and a board member with Habitat for Humanity Northern Virginia, Vienna Church Coalition for Housing, and Medical Care for Children Partnership of Fairfax; and

WHEREAS, a lifelong world traveler who visited 15 countries, including Israel and all seven churches in Turkey that were mentioned in the Book of Revelation; Kenny Smith authored the book *Retiring with Grace: A Baptist Pastor's Journey from the Pulpit to Retirement*; he also enjoyed coin collecting, football, and expanding his knowledge; and

WHEREAS, Kenny Smith will be fondly remembered and greatly missed by his wife, Mary; his daughters, Donna and Christa, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Dr. Kenny Smith, a military veteran who led First Baptist Church of Vienna and was active on civil rights and humanitarian issues; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Dr. Kenny Smith as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1031**

*Commending the Chancellor High School field hockey team.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Chancellor High School field hockey team of Spotsylvania County completed an outstanding season by winning the Virginia High School League Class 4 state championship on November 10, 2018; and

WHEREAS, the Chancellor High School Chargers took down talented teams from Heritage High School 4-2 in the state quarterfinal and Midlothian High School 3-0 in the state semifinal; and

WHEREAS, in the tournament final held at South County High School in Lorton, the Chancellor Chargers defeated the Eastern View Cyclones 2-1 to claim the sixth state field hockey title in school history; and

WHEREAS, each of the 22 student-athletes on the Chancellor High School field hockey team contributed to the victory, which capped off an impressive 16-6 season; and

WHEREAS, the Chancellor Chargers benefited from the leadership and guidance of coaches and staff and the support of friends, family members, and the entire Chancellor High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chancellor High School field hockey team on winning the Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jim Larkin, head coach of the Chancellor High School field hockey team, as an expression of the General Assembly's admiration for the team's achievements.

**HOUSE JOINT RESOLUTION NO. 1032**

*Commending Linda Q. Smyth.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Linda Q. Smyth, Fairfax County Supervisor representing the Providence magisterial district, will retire from public office in 2019; and

WHEREAS, for nearly two decades, Linda Smyth has handled some of Fairfax County's largest and most challenging land use cases; and

WHEREAS, Linda Smyth is a former civic activist and Planning Commission member who was first elected in 2003; she is a Cape Girardeau, Missouri, native who holds a bachelor's degree in history from Washington University and master's and doctoral degrees from University of Virginia; and

WHEREAS, in her county leadership role, Linda Smyth was immersed for years in the ongoing redevelopments on Tysons and Merrifield and early in her tenure tackled the Fairlee/MetroWest development just south of the Vienna Metro Station; and

WHEREAS, Linda Smyth's civic career began when she and her neighbors opposed having their subdivision, Briarwood, turned into high-rise office buildings and had to learn land use in a crash course to change the course of the development plan; and

WHEREAS, Linda Smyth is known for being practical in her approach and voting consistently with her conscience and in the best interests of the county; she is committed to educating the public about county government processes, land use, the environment, and other related issues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Linda Q. Smyth on the occasion of her retirement from public office in 2019 as a Fairfax County Supervisor representing the Providence magisterial district; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Linda Q. Smyth as an expression of the General Assembly's admiration for her years of exceptional service to the residents of Fairfax County.

**HOUSE JOINT RESOLUTION NO. 1033**

*Commending the Prince William County Human Rights Commission.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Prince William County Human Rights Commission celebrated the 25th anniversary of its founding on January 15, 2018; and

WHEREAS, the Prince William County Human Rights Commission was established by the Prince William County Board of Supervisors in 1993 for the purpose of enforcing Prince William County's newly enacted human rights ordinance; and

WHEREAS, the Prince William County Human Rights Commission works to establish equal opportunities for all persons within Prince William County through advocacy and education, and strives to eliminate discrimination through civil and human rights law enforcement; and

WHEREAS, the Prince William County Human Rights Commission's many programs include the Student Leadership Council, created to help public, private, and home-schooled high school students learn about government through the lens of human rights, and the Long-Term Care Ombudsman, which advocates for people receiving long-term care services in nursing homes and assisted living facilities in the county; and

WHEREAS, the Prince William County Human Rights Commission works with the community to receive and respond to complaints regarding human rights violations, build relationships and raise awareness of human rights issues, and recognize members of the Prince William County community who have distinguished themselves in the area of human rights; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Prince William County Human Rights Commission on the occasion of the 25th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Raul Torres, Esq., executive director of the Prince William County Human Rights Commission, as an expression of the General Assembly's admiration for the Commission's work in protecting and advocating for human rights in Prince William County.

### HOUSE JOINT RESOLUTION NO. 1034

*Celebrating the life of Norman Brooks.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Norman Brooks, the highly admired chief of the Spotsylvania Volunteer Fire Department, who touched countless lives over the course of his 47-year career as a firefighter, died on February 12, 2019; and

WHEREAS, Norman Brooks joined the Spotsylvania Volunteer Fire Department as a firefighter in 1972 and was one of the first four professional firefighters hired by Spotsylvania County in 1981; and

WHEREAS, Norman Brooks rose through the ranks of several departments, bridging the gap between career and volunteer firefighters and ultimately playing a key role in the county's successful implementation of a combination system; and

WHEREAS, Norman Brooks returned to the Spotsylvania Volunteer Fire Department as chief in 2013; he earned a reputation as a "firefighter's chief" for his active leadership in responding to emergencies and incomparable work ethic; and

WHEREAS, Norman Brooks led by example and was a mentor to countless young firefighters, fostering teamwork, trust, and a commitment to excellence in service to the community; and

WHEREAS, Norman Brooks will be fondly remembered and greatly missed by his wife, Janet; his six children; and numerous other family members, friends, and fellow first responders in Spotsylvania County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Norman Brooks, a dedicated firefighter who served the Spotsylvania County community for many years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Norman Brooks as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1035

*Celebrating the life of James Hoshik Kim.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, James Hoshik Kim, a respected journalist and economist in Springfield, died on November 28, 2018; and

WHEREAS, born in Edmonton, Alberta, Canada, James Kim moved to Lubbock, Texas, with his family at a young age; he graduated from Monterey High School, where he was a multisport athlete and excelled on the debate team and in music programs; and

WHEREAS, James Kim continued his education at Duke University, graduating *magna cum laude* with a degree in economics and political science; and

WHEREAS, James Kim moved to New York City to pursue a career as a journalist; he completed an internship at *The New York Times* and worked at several local and regional newspapers around the country until he joined the Money Desk at *USA Today*; and

WHEREAS, in 2004, James Kim was hired at the United States Bureau of Economic Analysis, where he garnered the admiration of his colleagues for his insights and earned many commendations for his outstanding work; and

WHEREAS, James Kim was a dedicated husband and father, who imparted his lifelong love of basketball to his beloved daughters, and relished every opportunity to watch them play the sport; and

WHEREAS, James Kim will be fondly remembered and greatly missed by his wife, Anna Lee; his daughters, Abigail and Eleanor; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James Hoshik Kim; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Hoshik Kim as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1036

*Commending John N. Skirven.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, John N. Skirven retired as chief executive officer of Senior Services of Southeastern Virginia on July 31, 2018, after more than 28 years of service to seniors in the region; and

WHEREAS, a Baltimore native who lived in both Norfolk and Philadelphia as a child, John Skirven earned a bachelor's degree in journalism from Temple University and a master's degree from the Bryn Mawr College Graduate School of Social Work; and

WHEREAS, following completion of his master's degree, John Skirven ran a geriatric program at Thomas Jefferson University Hospital and worked as an administrator for a Medicare-certified home health agency and a housing director for the Philadelphia Corporation for Aging before joining the Southeastern Virginia Areawide Model Program, Inc., Norfolk, now known as Senior Services of Southeastern Virginia, as executive director in 1990; and

WHEREAS, during his tenure as executive director of Senior Services of Southeastern Virginia, John Skirven has dedicated himself to supporting and enriching the lives of seniors and their families in the South Hampton Roads region through advocacy, education, information, and comprehensive services including meal delivery, transportation assistance, in-home services, Medicare benefits counseling and information seminars, senior centers offering a variety of services and programs, caregiver support services, and other services; and

WHEREAS, in recent years, John Skirven oversaw the completion of development of the Hayden Village Center, an independent living community located in the renovated and adapted historic Hayden Village School in Franklin, which offers a mix of apartments for seniors, commercial space, and a community center as well as the administrative offices of Senior Services of Southeastern Virginia; and

WHEREAS, following his well-earned retirement, John Skirven plans to seek new opportunities to serve the community, including serving as the part-time manager for the Hayden Center, the for-profit subsidiary of the Hayden Village Center, and pursuing other volunteer opportunities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John N. Skirven on the occasion of his retirement as chief executive officer of Senior Services of Southeastern Virginia in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John N. Skirven as an expression of the General Assembly's admiration for his decades of work to enhance the quality of life for senior members of the community.

### HOUSE JOINT RESOLUTION NO. 1037

*Commending the Williamsburg-James City County Community Action Agency.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Williamsburg-James City County Community Action Agency, a trusted, nonprofit resource for integrated services and community partnerships that promote self-reliance, celebrated its 50th anniversary in 2018; and

WHEREAS, the Williamsburg-James City County Community Action Agency's programs focus on education, parent involvement, energy bill reduction, and life skills through its whole-family approach; and

WHEREAS, the Williamsburg-James City County Community Action Agency nurtures children through the Head Start preschool program and Project Discovery, a program for first-generation college-bound students; integrated support for the whole family is available through programs that provide home weatherization to reduce energy bills, one-time emergency rent or utility bill assistance tied to budgeting classes, free income tax preparation, holiday food distribution, and money management classes; and

WHEREAS, the Williamsburg-James City County Community Action Agency serves over 4,000 people a year through its programs, planting seeds to help them thrive in the community; and

WHEREAS, the Williamsburg-James City County Community Action Agency employs almost 50 staff members, including teachers, bus drivers, and professionals, all working toward the goal of helping individuals and families reduce their reliance on public assistance; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Williamsburg-James City County Community Action Agency, a trusted resource for integrated services and community partnerships, on its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Williamsburg-James City County Community Action Agency as an expression of the General Assembly's admiration for its dedication to changing people's lives, embodying the spirit of hope, and improving the community.

### HOUSE JOINT RESOLUTION NO. 1038

*Commending Stephen Legawiec.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Stephen Legawiec, a history teacher at Lafayette High School in Williamsburg, was honored as the 2019 Region 2 Teacher of the Year; and

WHEREAS, a native of Rochester, New York, where the Erie Canal, the George Eastman House, and Iroquois ancestral sites inspired his passion for America's past at an early age, Stephen Legawiec earned a doctoral degree in history from The College of William & Mary; he has been a teacher for seven years and has taught with the Williamsburg-James City County Public Schools district for three years; and

WHEREAS, Stephen Legawiec is known as an innovative educator who imparts his passion for history to his students; he expects them to engage with their world, to have conversations about history and politics with their families at the dinner table, to write to their representatives when they feel unheard, and to engage actively in the betterment of their community and world; and

WHEREAS, Stephen Legawiec's passion for history is evident in every lesson he teaches; he has the unique ability to guide students as they make important connections between the past, present, and future; and

WHEREAS, students in Stephen Legawiec's class research topics and participate in debates and seminars; the activities challenge students to evaluate their views and ideas and encourage all students to think critically; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Stephen Legawiec, history teacher at Lafayette High School in Williamsburg, on his selection as the 2019 Region 2 Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stephen Legawiec as an expression of the General Assembly's admiration for his dedication to inspiring students and preparing the next generation of civic-minded Virginians.

### HOUSE JOINT RESOLUTION NO. 1039

*Commending the Jamestown High School Envirothon team.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Jamestown High School Envirothon team from Williamsburg placed third in the National Conservation Foundation's Envirothon national competition in July 2018 in Idaho; and

WHEREAS, Envirothon is a team-based academic competition that gives students an opportunity to learn from natural resource professionals and test their knowledge in a variety of categories; after winning the state competition in May 2018, the Jamestown High School Envirothon team advanced to the national level, where they faced worthy competitors from throughout the United States, Canada, and China; and

WHEREAS, as part of the competition, the Jamestown High School Envirothon team gave an oral presentation on a real-world environmental challenge and participated in five field test stations, with each team member taking the lead on a particular station—Joanna Stathopoulos for rangeland management, Anna Song for forestry, Rachel Smith for aquatics, Lisa Small for soils, and Audrey Root for wildlife; and

WHEREAS, the members of the Jamestown High School Envirothon team placed first in the oral presentation category and tied for first place in the wildlife category; each member of the team received a \$1,000 scholarship for their outstanding performance; and

WHEREAS, the Jamestown High School Envirothon team is sponsored by Dominion Energy and has worked with conservation and environmental professionals throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Jamestown High School Envirothon team on placing third at the National Conservation Foundation's 2018 Envirothon national competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Jamestown High School Envirothon team as an expression of the General Assembly's admiration for the team's achievements and dedication to studying environmental science and conservation.

### HOUSE JOINT RESOLUTION NO. 1040

*Commending the Fairfax County Department of Neighborhood and Community Services.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Fairfax County Department of Neighborhood and Community Services received the 2018 Kudos Award for Sustainability and Longevity for its Clubhouse Network technology programs; and

WHEREAS, the Clubhouse Network provides an international arena for young people to share ideas and projects and to test their technology skills against their peers around the world; the Fairfax County Department of Neighborhood and Community Services launched the first Clubhouse location in the county at the Gum Springs Community Center in 1997; and

WHEREAS, the Department of Neighborhood and Community Services has opened five additional Clubhouse locations over the years and focused on raising technology literacy among children and teenagers in underserved areas; and

WHEREAS, Fairfax County's Clubhouse locations provide students between the ages of 10 and 18 opportunities to learn about robotics, 3D design and printing, coding, graphic design, virtual reality, and audio and video recording and editing; and

WHEREAS, the Fairfax County Department of Neighborhood and Community Services earned recognition from the Clubhouse Network in 2017 and received two awards at the 2017 Global RE@CH Media Festival; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fairfax County Department of Neighborhood and Community Services on receiving the 2018 Kudos Award for Sustainability and Longevity; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fairfax County Department of Neighborhood and Community Services as an expression of the General Assembly's admiration for its work to educate and empower young people through its Clubhouse Network technology programs.

### HOUSE JOINT RESOLUTION NO. 1041

*Commending Fairfax County.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Fairfax County received the Arbor Day Foundation's Tree City USA award for the 35th consecutive year in 2018; and

WHEREAS, the Tree City USA program is a national framework that helps communities manage and expand urban forests; Fairfax County is one of 3,400 communities in the United States and 56 communities in Virginia that have attained this prestigious designation; and

WHEREAS, the Tree Commission of the Fairfax County Board of Supervisors works with community partners and residents to promote urban forestry in the area; with more than 44 million trees, the tree cover in Fairfax County is 51.2 percent; and

WHEREAS, public trees in Fairfax County make significant contributions to the local ecosystem by removing more than 4,438 tons of pollution each year and producing 232.9 thousand tons of oxygen per year; and

WHEREAS, public trees in Fairfax County have a structural value of more than \$32 billion and provide energy savings of more than \$34 million each year; and

WHEREAS, Fairfax County commemorated the award at its annual SpringFest Fairfax event on Arbor Day 2018; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Fairfax County on receiving the 2018 Arbor Day Foundation's Tree City USA award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fairfax County Tree Commission as an expression of the General Assembly's admiration for Fairfax County's work to enhance the quality of life for all residents by planting and maintaining trees in public areas.

**HOUSE JOINT RESOLUTION NO. 1042**

*Commending Bayside High School.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Bayside High School, an outstanding public school in Virginia Beach, has helped students grow and develop academically and socially for 55 years; and

WHEREAS, Bayside High School opened in 1964 with N. W. Morris as the first principal and eighth, ninth, and tenth graders in attendance; and

WHEREAS, Bayside High School has given generations of Virginia Beach students the tools to achieve success in higher education and their careers and to become responsible citizens of the Commonwealth and a global society; and

WHEREAS, Bayside High School meets the challenges of serving an ethnically and socio-economically diverse community to achieve its mission and provides a variety of opportunities for its students; since 2002 the fully accredited school has been home to the Health Sciences Academy; and

WHEREAS, Bayside High School has fulfilled its mission through the hard work of its faculty, administrators, and staff, as well as the support of parents, families, local partners, and community members; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bayside High School on the occasion of its 55th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bayside High School as an expression of the General Assembly's admiration for the school's commitment to academic excellence and service to the Virginia Beach community.

**HOUSE JOINT RESOLUTION NO. 1043**

*Commending Kempsville Meadows Elementary School.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 60 years, Kempsville Meadows Elementary School has provided children in Virginia Beach with a safe, supportive environment in which to learn and grow; and

WHEREAS, opened in 1959 with Josephine Charles as its first principal, Kempsville Meadows Elementary School helps young students become good citizens of the Commonwealth and the world by developing the life experiences to think critically and creatively while cultivating a sense of responsibility and respect for themselves and others; and

WHEREAS, the dedicated faculty and staff members of Kempsville Meadows Elementary School provide a robust, stimulating curriculum to students in pre-kindergarten through fifth grade, using innovative teaching methods to ensure that each student's academic needs are met; and

WHEREAS, Kempsville Meadows Elementary School offers many co-curricular programs, including athletics, tutoring, special education programs, and outreach from area attractions; and

WHEREAS, emphasizing strong relationships with parents, families, and the community, Kempsville Meadows Elementary School enhances the educational experience through opportunities for volunteering and other unique services that benefit every student; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kempsville Meadows Elementary School on the occasion of its 60th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kempsville Meadows Elementary School as an expression of the General Assembly's admiration for the school's legacy of service to the youths of Virginia Beach.

**HOUSE JOINT RESOLUTION NO. 1044**

*Commending Kempsville Middle School.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 50 years, Kempsville Middle School has provided children in Virginia Beach with a safe, supportive environment in which to learn and grow; and

WHEREAS, established in 1969, Kempsville Middle School helps young students become good citizens of the Commonwealth and the world by guiding them in learning to think critically and creatively while cultivating a sense of responsibility and respect for themselves and others; and

WHEREAS, the dedicated faculty and staff members at Kempsville Middle School provide a robust, stimulating curriculum to 800 students in sixth through eighth grade using innovative teaching methods to ensure that each student's academic needs are met; and

WHEREAS, Kempsville Middle School offers many co-curricular programs and clubs, including code\_KMS, a drama program, a zumba program, the Student Ambassador program, the Student Council Association, and Debate and Academic Challenge Teams; the school has also been named a Blue Ribbon School for Music; and

WHEREAS, emphasizing strong relationships with parents, families, and the community, Kempsville Middle School enhances educational experiences through opportunities for volunteering and other unique services that benefit every student; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kempsville Middle School on the occasion of its 50th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Patti T. Jenkins, principal of Kempsville Middle School, as an expression of the General Assembly's admiration for the school's legacy of service to the youths of Virginia Beach.

### HOUSE JOINT RESOLUTION NO. 1045

*Commending the Aquia Harbour community.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the residents of the Aquia Harbour community in Stafford County have made numerous contributions to the Commonwealth in the community's 50-year history; and

WHEREAS, residents of Aquia Harbour are leaders in a variety of professions and promote civic engagement within the community and throughout the region; and

WHEREAS, conveniently located 45 miles south of Washington, D.C., and 70 miles north of Richmond, many of Aquia Harbour's 7,000 residents work in the nation's capital or Virginia's capital; and

WHEREAS, situated on 2,000 acres of land along the historic Aquia Creek, the Aquia Harbour community safeguards the Commonwealth's valuable natural resources by preserving 400 acres of protected wetlands; and

WHEREAS, the Aquia Harbour Property Owner's Association was established in 1975 to provide a unified voice for the community and maintain a high quality of life for residents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Aquia Harbour community on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Aquia Harbour Property Owner's Association as an expression of the General Assembly's admiration for the community's contributions to life in Stafford County and throughout the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1046

*Commending Pembroke Meadows Elementary School.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 50 years, Pembroke Meadows Elementary School has provided children in Virginia Beach with a safe, supportive environment in which to learn and grow; and

WHEREAS, established in 1969, Pembroke Meadows Elementary School helps young students become good citizens of the Commonwealth and the world by guiding them in learning to think critically and creatively while cultivating a sense of responsibility and respect for themselves and others; and

WHEREAS, the dedicated faculty and staff members at Pembroke Meadows Elementary School provide a robust, stimulating curriculum to 500 students in pre-kindergarten through fifth grade, using innovative teaching methods to ensure that each student's academic needs are met; and

WHEREAS, emphasizing strong relationships with parents, families, and the community, Pembroke Meadows Elementary School enhances the educational experience through opportunities for volunteering and other unique services that benefit every student; and

WHEREAS, Pembroke Meadows Elementary School has given students a strong foundation for lifelong learning; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Pembroke Meadows Elementary School on the occasion of its 50th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Charles Spivey, principal of Pembroke Meadows Elementary School, as an expression of the General Assembly's admiration for the school's legacy of service to the youths of Virginia Beach.

### HOUSE JOINT RESOLUTION NO. 1047

*Celebrating the life of Robert Andrew Earley, Sr.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Robert Andrew Earley, Sr., dedicated family man, coach, and member of the community of Norfolk, died on December 20, 2018; and

WHEREAS, Robert "Big Bob" Andrew Earley, Sr., began a lifetime of service to his community in the United States Navy, where he was stationed for four years in Norfolk; and

WHEREAS, an ardent fan of Chicago sports, Bob Earley channeled this passion into years of coaching youth sports in his community; he was a coach both in the Azalea Little League Challenger Division and the TAC Neptunes football and basketball organization; additionally, he was the longest-running president in the history of the Azalea Little League; and

WHEREAS, Bob Earley's friendly spirit created a warm, family-like atmosphere at Q-Master Billiards and the U.S. Open 9-Ball Championships that persists today; and

WHEREAS, Bob Earley helped numerous children in his lifetime by donating over 71 units of O negative blood to the Children's Hospital of the King's Daughters; and

WHEREAS, Bob Earley will be dearly remembered by his wife of 38 years, Linda; his children, Bobby, Ashley, and Ryan; and countless other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert Andrew Earley, Sr., valued member of the Norfolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Andrew Earley, Sr., as an expression of the General Assembly's respect for his memory and service to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1048

*Celebrating the life of Josiah Pollard Rowe III.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Josiah Pollard Rowe III, the esteemed former publisher of *The Free Lance-Star*, former Fredericksburg mayor, and a passionate advocate for the environment, died on November 3, 2018; and

WHEREAS, Josiah Rowe was born and raised in Fredericksburg; he graduated from James Monroe High School and Washington and Lee University, where he studied physics and mathematics; and

WHEREAS, Josiah Rowe was inducted into Omicron Delta Kappa, a national leadership honor society, and was a member of Delta Tau Delta Fraternity; he studied printing management at the Carnegie Institute of Technology and from 1951 to 1953 he served in the United States Army; and

WHEREAS, when Josiah Rowe's father died in 1949, Josiah and his brother Charles were called on to manage *The Free Lance-Star*; under the brothers' leadership, the newspaper rose from a circulation of about 6,000 subscribers to a high of 50,000 subscribers as a seven-day newspaper, and the business was expanded to include WFLS, WYSK, WWUZ, Print Innovators, and fredericksburg.com; and

WHEREAS, Josiah Rowe always kept an eye on details, reading the newspaper every day with a red pen in hand to catch mistakes; he was also an early adopter of new technology; and

WHEREAS, Josiah and Charles Rowe received national recognition in 1986 when *Time* magazine named *The Free Lance-Star* as one of the nation's best newspapers for its size; the publication prided itself on being the primary source for news for the Fredericksburg region, giving readers little reason to subscribe to larger papers in Washington, D.C., or Richmond; and

WHEREAS, under Josiah and Charles Rowe's leadership, *The Free Lance-Star* paid journalists enough to make their careers there and raise families; the brothers were not afraid to take bold, even unpopular stances in the newspaper when they believed those positions were ethical, just, and correct; and

WHEREAS, as Mayor of Fredericksburg from 1964 to 1972, Josiah Rowe helped lead the peaceful integration of schools and the city's workforce in Fredericksburg; he purposefully marched in solidarity with city residents mourning the death of the Reverend Dr. Martin Luther King, Jr., in 1968, and he made the trailblazing move for the city to acquire the land around the Rappahannock River to preserve the natural resource and the city's drinking water source; and

WHEREAS, Josiah Rowe followed in a long family tradition of public service, with his father, grandfather, and great-grandfather all having previously held the office of Fredericksburg mayor; Josiah Rowe also served on the Fredericksburg school board in the paradigm-shifting time after Brown v. Board of Education; and

WHEREAS, Josiah Rowe volunteered his leadership to many other organizations, including as president of the Virginia Press Association, chair of Presbyterian School of Christian Education, trustee of the Virginia Museum of History & Culture, chair of Mary Washington Hospital, trustee and treasurer of the George Washington Foundation, member of the Fredericksburg Jaycees, chair of the Community Fund, and longtime member of the Fredericksburg Rotary Club; and

WHEREAS, for excellence in his profession, Josiah Rowe received awards from the Virginia Communications Hall of Fame and AP Broadcasters' Hall of Fame; *The Free Lance-Star* received awards from the Columbia Graduate School of Journalism and the University of Missouri; and

WHEREAS, Josiah Rowe was a passionate tennis player who reigned as city tennis champion for several decades and did not retire from the sport until well into his 80s; his love of tennis and his generosity prompted him to donate funds to build indoor courts at the University of Mary Washington and the Massad Branch of the Rappahannock Area YMCA; he was known for his enjoyment of puns and trivia, his dry wit, and his keen memory and could recite a linotype keyboard horizontally and vertically; and

WHEREAS, Josiah Rowe and his late wife, Anne Wilson Rowe, were generous philanthropists and contributed to institutions that reflected their interest in higher education, history, faith, and community; genealogy was of great interest to Josiah Rowe, who traced his family's origins to Stafford County's first peoples, leading him to join the Patowomeck Indian Tribe; and

WHEREAS, predeceased by his wife, Anne, Josiah Rowe will be fondly remembered and greatly missed by his children, Jeannette, Florence, Sallie, and Josiah, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Josiah Pollard Rowe III, an esteemed newspaper publisher, former Fredericksburg mayor, and environmental advocate; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Josiah Pollard Rowe III as an expression of the General Assembly's respect for his memory as a champion for Fredericksburg, journalism, athletics, and the environment.

### HOUSE JOINT RESOLUTION NO. 1049

*Celebrating the life of Mitchel Raftelis.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Mitchel Raftelis, a lifelong resident of the Town of Quantico who dedicated himself to the service of others as a town council member, mayor, and generous volunteer, died on August 14, 2018; and

WHEREAS, Mitchel Raftelis graduated from the historic Occoquan School and earned a bachelor's degree from Virginia Polytechnic Institute and State University; he joined many of the other young men of his generation in service to the nation as a lieutenant in the United States Army during World War II; and

WHEREAS, Mitchel Raftelis began his career as an accountant with Zarpas and Company in 1949, then joined the M. T. Broyhill and Sons Corporation, and subsequently established his own accounting firm in 1958; and

WHEREAS, desirous to be of further service to the community, Mitchel Raftelis served as town treasurer and clerk and was elected to the Quantico Town Council, on which he served from 1967 to 1998; he became mayor from 1998 to 2006, then returned to service as a councilmember from 2006 to 2010; and

WHEREAS, Mitchel Raftelis helped strengthen the Quantico community by building strong relationships with local, regional, and state entities, and his knowledge of the town's history and its needs was unparalleled; and

WHEREAS, among his proudest accomplishments, Mitchel Raftelis oversaw the creation of Quantico Municipal Park, and he helped raise more than \$800,000 over the course of 17 years for the construction of a new riprap seawall and a floating boat dock, as well as bike paths and landscaping projects; and

WHEREAS, Mitchel Raftelis volunteered his time and wise leadership to the Freemasons, the Order of AHEPA, and the Prince William County Wetlands Advisory Board; he enjoyed fellowship and worship with the community as a member of Saint Katherine Greek Orthodox Church; and

WHEREAS, Mitchel Raftelis will be fondly remembered and greatly missed by his wife, Georgia; his daughters, Anastasia and Joyia, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Mitchel Raftelis, a champion for the Town of Quantico; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mitchel Raftelis as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1050**

*Commending Larkspur Middle School.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 25 years, Larkspur Middle School, an outstanding public middle school, has provided children in Virginia Beach with a safe, supportive environment in which to learn and grow; and

WHEREAS, established in 1994 with an enrollment of almost 2,000 students and led by its first principal John Sutherland, Larkspur Middle School helps its students become good citizens of the Commonwealth and the world by developing the life experiences needed to think critically and creatively while cultivating a sense of responsibility and respect for themselves and others; and

WHEREAS, Larkspur Middle School was carefully designed to fully implement the "school-within-a-school," middle school philosophy and organization, with a design that permits each grade level to be self-contained in its own hallway with offices for a school counselor and assistant principal; and

WHEREAS, the dedicated faculty and staff members of Larkspur Middle School provide a robust, stimulating curriculum to more than 1,600 sixth-, seventh-, and eighth-grade students using innovative teaching methods to ensure that each student's academic needs are met; and

WHEREAS, Larkspur Middle School offers many co-curricular programs as well as community partnerships with Grace Bible Church and FEED KEMPSVILLE; and

WHEREAS, emphasizing strong relationships with parents, families, and the community, Larkspur Middle School enhances the educational experience through opportunities for volunteering and other unique services that benefit every student; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Larkspur Middle School on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Larkspur Middle School as an expression of the General Assembly's admiration for the school's legacy of service to the youths of Virginia Beach.

**HOUSE JOINT RESOLUTION NO. 1051**

*Commending Princess Anne High School.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Princess Anne High School, a public secondary school in Virginia Beach, has helped students grow and develop academically and socially for 65 years; and

WHEREAS, Princess Anne High School opened in August 1954 with 1,558 students and 62 teachers; it was formed from the consolidation of the three high schools that served Princess Anne County; and

WHEREAS, Princess Anne High School's student population peaked in the early 1970s at approximately 2,800 students; in 1963, Princess Anne County was incorporated into the newly formed City of Virginia Beach and thus the school became the oldest existing high school in the system; and

WHEREAS, Princess Anne High School serves approximately 1,800 students in grades 9-12, including in the school's West Building, which serves secondary-level special education students with disabilities from the entire city; the school's International Baccalaureate Program opened in 1995; and

WHEREAS, Princess Anne High School was modernized several times, first in 1985 and most recently after a fire destroyed a third of the building in September 1995, four days before the new school year began, forcing the school to temporarily relocate to the vacant Celebration Station mall; the school reopened in 1997; and

WHEREAS, Princess Anne High School has given generations of Virginia Beach students the tools to achieve success in higher education and in their careers and to become responsible citizens of the Commonwealth and the global society; and

WHEREAS, Princess Anne High School has fulfilled its mission through the hard work of its faculty, administrators, and staff, as well as the support of parents, families, local partners, and community members; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Princess Anne High School, a public secondary school in Virginia Beach, on its 65th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Princess Anne High School as an expression of the General Assembly's admiration for the school's commitment to academic excellence and service to the Virginia Beach community.

**HOUSE JOINT RESOLUTION NO. 1052***Commending River Bend Bistro.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the River Bend Bistro in Alexandria, a popular restaurant with simple, good food using local ingredients, has served appreciative diners for five years; and

WHEREAS, Caroline and Bill Ross opened River Bend Bistro in 2013 with the vision of serving American cuisine with French and Mediterranean influences; and

WHEREAS, River Bend Bistro chef-owner, Caroline Ross, attended the prestigious *École de Cuisine La Varenne* in Paris, France, and worked in many respected American, French, and Italian restaurants before opening the River Bend Bistro to strengthen her French culinary repertoire; and

WHEREAS, River Bend Bistro's co-owner, Bill Ross, has been a businessman in Alexandria for more than 30 years; known as "Captain Bill," he also owns and operates the National River Tour Co.; and

WHEREAS, River Bend Bistro was built over several years, starting with used equipment from a closing restaurant and ultimately undergoing an entire kitchen renovation at its Fort Hunt Road location; and

WHEREAS, in its years in operation, River Bend Bistro has garnered many positive reviews, including from Zagat, which called the restaurant a "classy spot for American fare, with a wide selection of international beers, wine, and house cocktails"; and

WHEREAS, River Bend Bistro's seasonal menu items are composed of local ingredients, such as scallops from the Chesapeake, goat cheese from Crozet, and vegetables from across the Commonwealth; and

WHEREAS, River Bend Bistro's dedication to excellence has built a loyal following of patrons, making them an extremely popular restaurant in the Fort Hunt neighborhood of Alexandria; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend River Bend Bistro on its fifth anniversary of serving up simple, good food using local ingredients; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to River Bend Bistro as an expression of the General Assembly's admiration for the restaurant's service to the Alexandria community.

**HOUSE JOINT RESOLUTION NO. 1053***Commending the First Bank and Trust Company.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, First Bank and Trust Company, a Russell County-based community bank, celebrates its 40th anniversary in 2019; and

WHEREAS, First Bank and Trust Company has numerous branches in Southwest Virginia as well as Tennessee; and

WHEREAS, First Bank and Trust Company is categorized as a growth company; it has carved out a regional market niche by catering to businesses large and small who wish to benefit from a local bank that offers all of the services that are expected from a larger organization, as well as free checking; and

WHEREAS, First Bank and Trust Company offers the services customers and clients expect from a larger financial services firm in a community bank environment; and

WHEREAS, as a member of the Federal Home Loan Bank of Atlanta, First Bank and Trust Company provides access to national funding sources; and

WHEREAS, as a testament to its success, First Bank and Trust Company has received numerous awards from outside organizations including Capital Performance Group, *Bank Director* magazine, the United States Department of Agriculture, and the Virginia Agribusiness Council; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend First Bank and Trust Company, a Russell County-based community bank, on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to First Bank and Trust Company, as an expression of the General Assembly's admiration for the business's growth and its dedication to providing financial services to individuals and businesses.

**HOUSE JOINT RESOLUTION NO. 1054**

*Commending the employees of Bristol Motor Speedway.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Bristol Motor Speedway plays an essential role in the economic vitality of Southwest Virginia and Northeast Tennessee, which would not be possible without the dedication to high-quality customer service, safety, and efficient operations demonstrated by its employees; and

WHEREAS, Bristol Motor Speedway employs a vast number of people in an array of positions, including maintenance, ticket sales, concessions, guest services, security, media, track operations, and administrative support, among countless other positions; and

WHEREAS, many employees of Bristol Motor Speedway participate in Speedway Children's Charities, the official charity of Speedway Motorsports, Inc., and Bristol Motor Speedway, which was established in 1996 to support children in the area; and

WHEREAS, in 2016, the Bristol Chapter of Speedway Children's Charities awarded over \$1 million in funds to nearly 100 different children's agencies in Virginia and Tennessee; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the employees of Bristol Motor Speedway for their hard work to ensure the effective operation of the venue year after year and for their exceptional service to the surrounding community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the employees of Bristol Motor Speedway as an expression of the General Assembly's admiration for their civic engagement and contributions to the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1055**

*Commending the Bristol Chamber of Commerce.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Bristol Chamber of Commerce, the second oldest accredited chamber in Virginia, celebrates its 110th anniversary in 2019; and

WHEREAS, the Bristol Chamber of Commerce, then known as the Board of Trade, held its first meeting on May 7, 1909, and adopted its slogan "Greater Bristol"; at the time, there were approximately 40 members who each paid annual dues of \$6; and

WHEREAS, the Board of Trade changed its name to the Bristol Chamber of Commerce in 1918; a relic from this period is the "Push, It's Bristol" sign, which originated from the organization in 1910 and remains a historic landmark and a major part of Bristol's heritage and history; and

WHEREAS, in 1965, the Bristol Chamber of Commerce became the first chamber in Tennessee or the Commonwealth to be accredited by the United States Chamber of Commerce; today, the Bristol Chamber of Commerce is one of only four chambers in the Commonwealth with a five-star accreditation and, of the approximately 7,000 chambers in the nation, is among the top 1.5% of chambers based on performance and program evaluations during the reaccreditation process; and

WHEREAS, over the past half century, the Bristol Chamber of Commerce has developed several programs to better the community of Bristol, including LEAD Bristol, an adult leadership program; Keep Bristol Beautiful, a litter reduction program; and Bristol Youth Leadership, a leadership program for high school sophomores and juniors; in over a century of operation, the organization has been the foundation of Bristol's business community and has worked to foster a thriving economy; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Bristol Chamber of Commerce on the occasion of its 110th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Bristol Chamber of Commerce as an expression of the General Assembly's admiration for its contributions to the communities of Bristol and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1056**

*Commending On Our Own.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, On Our Own of the Roanoke Valley, a mental health advocacy and support organization, celebrated its 25th anniversary in 2018; and

WHEREAS, On Our Own opened its doors on November 16, 1993, on Day Avenue in Roanoke; it is open every day of the year, including holidays, to consistently serve the community and promote mental health by providing a safe, consumer-run support system for the purpose of socialization, self-help, advocacy, recreation, and education; and

WHEREAS, On Our Own employs consumers of mental health services as staff, knowing that as they provide services and a safe haven for individuals in need of care, they enrich the lives of others and make their own lives more productive and meaningful; and

WHEREAS, On Our Own uses self-help groups such as the "Wellness Recovery Action Plan" and "Dual Recovery Anonymous" to improve the quality of care, increase socialization, and establish mutual support systems; and

WHEREAS, to that end, On Our Own's programming includes activities like Bingo, chess, card games, cook-outs, pizza parties, outdoor recreation, music appreciation, and arts and crafts to improve its users' quality of life; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend On Our Own of the Roanoke Valley, a mental health advocacy and support organization, on its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to On Our Own as an expression of the General Assembly's admiration for the organization's commitment to mental health.

### HOUSE JOINT RESOLUTION NO. 1057

*Commending Brenda G. Willis.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Brenda G. Willis, executive director of the Chesapeake Redevelopment and Housing Authority, retired on January 31, 2019; and

WHEREAS, Brenda Willis began her employment in the City of Chesapeake in August 1994, serving the Chesapeake Redevelopment and Housing Authority (CRHA) for over 24 years, with 21 years as executive director; and

WHEREAS, Brenda Willis served with vision and enlightenment while always displaying the highest standards of personal and professional integrity and dedication; she has made bold moves throughout her tenure and has been a remarkable champion for public housing; and

WHEREAS, during her tenure as executive director, Brenda Willis served on numerous state, regional, and national committees for housing; she rendered outstanding public service on the Mayor's Task Force Committee on Low Income Housing; and

WHEREAS, Brenda Willis has faithfully and diligently sought and secured numerous state and federal programs for the enrichment and betterment of the city and citizens of Chesapeake in her relentless efforts to serve the CRHA in all its undertakings and activities; and

WHEREAS, under Brenda Willis' guidance, Virginia's first 40-unit, multi-family, green build project, Oakdale Square, was developed for low- to moderate-income families; in partnership with EarthCraft Virginia, the revitalization of the Schooner Cove public housing community was redeveloped using a \$3.3 million grant from the United States Department of Housing and Urban Development, with Chesapeake being the sole city in Virginia to receive the energy conservation grant; and

WHEREAS, Brenda Willis developed partnerships with the Chesapeake City Council to build two affordable single-family homes on donated city property to develop affordable and senior housing initiatives; the CRHA has maintained high performer status for the majority of her tenure and has consistently achieved excellent scores on independent audits; and

WHEREAS, Brenda Willis' level of service for 24 years is a reflection of her enduring dedication to quality, innovation, and social justice; with leadership that was vigilant and disciplined, Chesapeake has benefitted significantly from her influence and legacy that bore witness to the greatness and dignity of the countless lives she has touched; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Brenda G. Willis on the occasion of her retirement as executive director of the Chesapeake Redevelopment and Housing Authority; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brenda G. Willis as an expression of the General Assembly's admiration for her commitment to providing affordable, quality housing, revitalizing communities, and promoting upward mobility and self-sufficiency through alliances with public and private sector groups.

**HOUSE JOINT RESOLUTION NO. 1058**

*Celebrating the life of Alexis Wesolowsky Press.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Alexis Wesolowsky Press, a vibrant member of the Vienna community, died on October 25, 2018; and

WHEREAS, Alexis Press was raised in Rutledge, Pennsylvania, graduated from Swarthmore High School and received a bachelor's degree in French from Georgetown University; she earned a master's degree in business administration from both the University of Texas at Austin and the École Supérieure de Commerce de Lyon in France; and

WHEREAS, Alexis Press went on to work in marketing in various firms, most recently in the senior care space; pursuing a passion to teach, she received a certificate in education from Old Dominion University, where she studied to become a teacher of French and of English for Speakers of Other Languages; and

WHEREAS, Alexis Press was a loving and involved mother; she was a fixture in the communities that surrounded her family; she was a selfless and generous volunteer with the Boy Scouts of America, the Vienna Girls' Softball League, her children's PTAs, Wesley United Methodist Church, and the Francophone community in Washington, among many other groups; and

WHEREAS, Alexis Press will be fondly remembered and greatly missed by her mother, Anne; her husband, Dan; her children, Benjamin and Elizabeth; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Alexis Wesolowsky Press, a vibrant member of the Vienna community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alexis Wesolowsky Press as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 1059**

*Celebrating the life of March Cromuel, Jr., USN, Ret.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, March Cromuel, Jr., USN, Ret., a former president of the Chesapeake NAACP, died on February 13, 2019; and

WHEREAS, born and raised in Florida, March Cromuel joined the United States Navy as a young man and became a welder and later a Navy recruiter; he retired as a chief petty officer after 22 years of service; and

WHEREAS, March Cromuel graduated from Norfolk State University, where he earned his bachelor's degree in social work; he was an active and passionate member of the Chesapeake Chapter of the Norfolk State University Alumni Association; and

WHEREAS, March Cromuel is best known as the Chesapeake NAACP president, serving from 1987 to 2007, where he fought to ensure opportunities for advancement in employment, education, and voting rights for African Americans; notably, he fought to get African American managers at local hotels, ran voter registration drives, and challenged the lack of African Americans as ranking police officers, judges, and high school principals in the Chesapeake area; and

WHEREAS, March Cromuel was a devout member of New Galilee Missionary Baptist Church, serving as chairman of the deacon board; and

WHEREAS, March Cromuel will be fondly remembered and greatly missed by his wife of 59 years, Ida Mae; his children, Gloria, Vernon, Sharrel, Barrington, Cassandra, and Ronald, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of March Cromuel, Jr., USN, Ret., longtime president of the Chesapeake NAACP; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of March Cromuel, Jr., USN, Ret., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1060**

*Celebrating the life of George Stenke.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, George Stenke, a distinguished veteran, entrepreneur, and generous philanthropist who touched countless lives in Virginia Beach, died on April 4, 2018; and

WHEREAS, a native of Michigan, George Stenke learned the value of hard work and responsibility at a young age as a youth during the Great Depression; and

WHEREAS, at the age of 16, George Stenke joined the United States Navy and served his country during World War II, the Korean War, the Cuban Missile Crisis, and the Vietnam War, rising to the rank of commander; and

WHEREAS, over the course of his 29-year career, George Stenke completed many shore and sea assignments, serving aboard patrol craft, destroyer tenders, supply ships, and aircraft carriers, and received numerous awards and decorations for his meritorious service; and

WHEREAS, George Stenke worked as a fence, siding, and insulation salesman, and after his retirement from the United States Navy, he purchased Hercules Fence; he subsequently expanded his business portfolio by establishing OK Moving and Storage, Pickett Road Enterprises, and Harmony Road Properties; and

WHEREAS, George Stenke built the home in Thoroughgood where he raised his family and used his expertise to help develop the Lake Charles area and enhance the Lake Charles dam for the benefit of the entire community; and

WHEREAS, a devout Catholic who was guided by his faith to help others, George Stenke was a major supporter of St. Pius X School in Norfolk, served on the General Board of Catholic Charities for more than 30 years, and was a founding member of the Catholic Charities of Eastern Virginia Foundation, which presented its Lifetime of Giving Award to him in 2017; and

WHEREAS, predeceased by his first wife, Josephine, George Stenke will be fondly remembered and greatly missed by his wife, Carolyn; his daughter, Linda, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of George Stenke, a member of the Greatest Generation and a pillar of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of George Stenke as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 1061

*Commending Lieutenant James Layne.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Lieutenant James Layne, a dedicated law-enforcement officer, retired as a member of the Division of Capitol Police on January 1, 2019, after more than 33 years of service; and

WHEREAS, a native of Essex County, James Layne earned degrees in police science and criminal justice from Rappahannock Community College and Strayer University; and

WHEREAS, James Layne joined the Division of Capitol Police, the oldest police department in the nation, in 1985; he served as a patrol officer, shift sergeant, lieutenant-watch commander, and most recently as a lieutenant overseeing special operations; and

WHEREAS, James Layne continued his education at the Federal Bureau of Investigation's National Academy, the Virginia Association of Chiefs of Police Foundation's Professional Executive Leadership School at the University of Richmond, the Institute for Leadership in Changing Times at Virginia Tech, the Public Safety Institute of Virginia Commonwealth University's L. Douglas Wilder School of Government and Public Affairs, and the National Honor Guard Academy; and

WHEREAS, James Layne concurrently served his country as a member of the Virginia Army National Guard and was awarded the Military Achievement Medal for outstanding leadership in 1990; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lieutenant James Layne on the occasion of his retirement as a member of the Division of Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lieutenant James Layne as an expression of the General Assembly's admiration for his distinguished service to the Commonwealth and the United States.

#### HOUSE JOINT RESOLUTION NO. 1062

*Commending Jane Strauss.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Jane Strauss, Dranesville District representative on the Fairfax County School Board, is retiring from her position in 2019; and

WHEREAS, Jane Strauss was on the Fairfax County School Board from 1991 to 1993 and since 1996, serving as board vice chair in 2000 and chair in 2001 and 2011; and

WHEREAS, Jane Strauss has been active in education for over 30 years as a former elementary and preschool teacher, past president of both the Franklin Sherman Elementary School Parent Teacher Association and the Fairfax County Council of PTAs, and past chair of the latter organization's education and budget committees; and

WHEREAS, Jane Strauss has served on numerous education and youth affairs committees including the Fairfax County Public Schools Career and Technical Preparation Task Force, the Division Planning Committee, the Citizens Bond Committee, and the Fairfax Framework for Student Success Committee; and

WHEREAS, the community and students of Fairfax County are indebted to Jane Strauss for her many years of service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jane Strauss, Dranesville District representative on the Fairfax County School Board, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jane Strauss as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1063

*Commending Silence Empowers Violence Community Care and Action Teams.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Silence Empowers Violence Community Care and Action Teams is a youth-led program that has made significant strides toward building a stronger community by raising awareness of how not speaking up or not taking action as the victim of a crime or when witnessing a crime gives perpetrators permission, power, and a place to continue detrimental behavior; and

WHEREAS, in December 2017, The Catalyst Effect launched a collaborative, nationwide youth-led awareness to action movement called Silence Empowers Violence...Break the Code!, recognizing that codes of silence, fear of reprisal, desensitization to violence, lack of cooperation with law enforcement, a sense of apathy, and distrust of law enforcement all contribute to an environment where crime and violence can flourish; and

WHEREAS, the movement engages with young people between the ages of 10 and 17 through Silence Empowers Violence Community Care and Action Teams, including teams to address creative expressions, community service, gangs, bullying, suicide, drugs and alcohol, human trafficking, sexual assault, domestic violence, and child abuse; and

WHEREAS, the Silence Empowers Violence Community Care and Action Teams have identified a series of practices that can be incorporated to assist in dealing with the issue of unreported and unresolved crimes, including establishing a comprehensive witness protection and relocation program, implementing community cooperation incentives, and facilitating violence prevention awareness educational training; and

WHEREAS, the Silence Empowers Violence Community Care and Action Teams work diligently to implement these practices and encourage others to implement these practices wherever possible; and

WHEREAS, leaders from Silence Empowers Violence Community Care and Action Teams partnered with the Youth Services Division of the Newport News Department of Human Services and the Virginia Department of Alcoholic Beverage Control on an alcohol-free and drug-free community art project; the teams were tasked with facilitating peer-to-peer trainings and designing a positive anti-alcohol and anti-drug message on the hood of a car for display in the community to spread awareness; and

WHEREAS, members of the Silence Empowers Violence Community Care and Action Teams participated in the first Silence Empowers Violence...Break the Code symposium in July 2018 and the Break the Code Walk in October 2018, among many community outreach activities; and

WHEREAS, The Catalyst Effect's stellar accomplishment of successfully launching the Silence Empowers Violence...Break the Code movement and creating the Silence Empowers Violence Community Care and Action Teams is a testament to the hard work, dedication, and commitment of all of its team members, staff, volunteers, community partners, and especially the youth participants and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Silence Empowers Violence Community Care and Action Teams for their youth-led community service and violence prevention efforts; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Silence Empowers Violence Community Care and Action Teams as an expression of the General Assembly's admiration for the team members' work to create significant and lasting change in violence prevention in Newport News and communities across the nation.

**HOUSE JOINT RESOLUTION NO. 1064**

*Commending the Reverend Lawrence G. Campbell, Sr.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Reverend Lawrence G. Campbell, Sr., pastor at Bible Way Cathedral Church, was awarded Averett University's inaugural President's Service Award in 2019; and

WHEREAS, the award was established to recognize those who have shown exemplary service to Averett University or the surrounding area; the honor recognizes Lawrence Campbell's leadership and service as a veteran of the United States Navy, a civil rights organizer in the 1960s, and a spiritual leader to the Danville community and abroad; and

WHEREAS, Lawrence Campbell is a longtime Danville resident who graduated from Averett University in 1973; and

WHEREAS, Lawrence Campbell started the Bible Way Cathedral Church in 1953 with his wife, Gloria; they were also local civil rights leaders, participating in the "Bloody Monday" protest and meeting with the Reverend Dr. Martin Luther King, Jr., during his visits to Danville; and

WHEREAS, Lawrence Campbell served as the chief apostle and presiding bishop of the Bible Way Church of Our Lord Jesus Christ, leading over 300 churches in the United States, England, Africa, and the Caribbean from 1998 to 2006; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Lawrence G. Campbell, Sr., pastor at Bible Way Cathedral Church, for receiving Averett University's inaugural President's Service Award in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Lawrence G. Campbell, Sr., as an expression of the General Assembly's admiration for his exemplary service to Averett University and the surrounding area.

**HOUSE JOINT RESOLUTION NO. 1065**

*Commending the Fieldale-Collinsville Volunteer Rescue Squad.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 50 years, the Fieldale-Collinsville Volunteer Rescue Squad has provided high-quality emergency medical care and rescue services to the residents of Henry County; and

WHEREAS, the Fieldale-Collinsville Volunteer Rescue Squad traces its roots to the formation of the Fieldale branch of the Martinsville-Henry County Life Saving and First Aid Crew with 11 members in 1966; and

WHEREAS, in 1968, the Fieldale Sanitary District Board purchased an ambulance for the Fieldale branch with the stipulation that it reorganize into an independent agency, and as a result, the Fieldale Volunteer Rescue Squad was officially chartered in September of that year, with Foster Copeland as the first captain; and

WHEREAS, in 1979, the organization reincorporated as the Fieldale-Collinsville Volunteer Rescue Squad to better reflect its expanded coverage area and moved to a new station on South Daniels Creek Road; and

WHEREAS, the Fieldale-Collinsville Volunteer Rescue Squad made history in 1980 as the first rescue squad in Henry County to allow women to join as full-time members and was also the first squad in the county to strengthen its finances by transitioning to a soft billing system; and

WHEREAS, the Fieldale-Collinsville Volunteer Rescue Squad set another example for local rescue squads by creating a college scholarship program for the children of active members; and

WHEREAS, over the years, the Fieldale-Collinsville Volunteer Rescue Squad has adapted to numerous changes in the field of emergency medicine, such as increased training requirements, and the squad has always strived to lead the county in the adoption of new techniques and modern equipment; and

WHEREAS, on August 11, 2018, the Fieldale-Collinsville Volunteer Rescue Squad hosted a celebration for current and former members to reflect on the squad's numerous milestones and the rich history of the Henry County community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fieldale-Collinsville Volunteer Rescue Squad on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fieldale-Collinsville Volunteer Rescue Squad as an expression of the General Assembly's admiration for the squad's contributions toward making Henry County a better, safer place to live.

**HOUSE JOINT RESOLUTION NO. 1066**

*Commending Robbie Woodall.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Robbie Woodall, chief of the Danville Life Saving Crew, was named the 2018 Danville Kiwanis Citizen of the Year; and

WHEREAS, the award recognizes Robbie Woodall for his leadership of the Danville Life Saving Crew, which for over 70 years has been providing emergency care to the Danville community, as well as training for emergency medical technicians and medical professionals; his visionary leadership has saved the city millions of tax dollars; and

WHEREAS, the award recognizes Robbie Woodall for his demonstrated compassion and concern for the community, his contributions as a public safety officer and a local business owner, and his strong faith; and

WHEREAS, Robbie Woodall has been serving the Danville community for over 30 years as an active medical volunteer; he has been recognized for his service with the Raymond C. McNeely Lifetime Achievement Award; and

WHEREAS, Robbie Woodall is highly involved in Danville as a member of Rotary Club International, the Virginia Association of Volunteer Rescue Squads, and the North Carolina Association of Rescue and Emergency Medical Services, Inc.; and

WHEREAS, Robbie Woodall has generously supported many civic organizations over the years, including God's Storehouse, United Way, Danville Community College, Danville Boys & Girls Club, and Big Brothers Big Sisters; and

WHEREAS, a dedicated family man, Robbie Woodall has devoted his love and support to his wife of 20 years and their two children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robbie Woodall, chief of the Danville Life Saving Crew, for being named the 2018 Danville Kiwanis Citizen of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robbie Woodall as an expression of the General Assembly's admiration for his decades-long commitment to the health and wellness of the Danville community.

**HOUSE JOINT RESOLUTION NO. 1067**

*Commending Gretna Rescue Squad, Inc.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, for 50 years, Gretna Rescue Squad, Inc., has served and safeguarded the Gretna community by providing emergency medical services; and

WHEREAS, Gretna Rescue Squad traces its history to August 29, 1968, when 23 members of the community met at an American Legion post to discuss the impending need for a rescue squad after the local funeral home discontinued ambulance services at the end of the year; and

WHEREAS, Gretna Rescue Squad elected to its first slate of officers David Martin as president, Jack G. Moore as vice president, A. L. Haymes as secretary, John Blair as treasurer, Hartwell Moss as captain, Doug Huntley as first lieutenant, H. Blair Reynolds as second lieutenant, George Holley as sergeant, and Joe Kinsley as chaplain; and

WHEREAS, Gretna Rescue Squad elected George Dawson, J. G. Aylor, Ed Ramsey, Jack Miller, and Joe Kinsley to its first board of directors, with H. C. Brown and Gordon Cocke as alternates; and

WHEREAS, members of the Altavista Life Saving Crew and the Danville Life Saving Crew conducted training for the Gretna Rescue Squad, and Colbert-Moran Funeral Home donated the squad's first ambulance; and

WHEREAS, in its first year of operation in 1969, Gretna Rescue Squad responded to 300 calls for service from its base inside a local fire department; in 1973, the squad purchased a new ambulance, and in 1979, it moved into its own building on 102 East Gretna Road; and

WHEREAS, in 2017, Gretna Rescue Squad responded to 331 calls for service with 16 active members running calls, including two charter members, Daniel Shelhorse and Gene Shelton; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gretna Rescue Squad, Inc., on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gretna Rescue Squad, Inc., as an expression of the General Assembly's admiration for the squad's work to make the Town of Gretna a safer, better place to live.

**HOUSE JOINT RESOLUTION NO. 1068**

*Commending the Chatham Star-Tribune.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the *Chatham Star-Tribune*, a family-owned community newspaper serving the City of Danville and Pittsylvania County, is celebrating its 150th anniversary in 2019; and

WHEREAS, the *Star-Tribune* was founded in 1869 and has been owned by members of the Womack family since 1969; and

WHEREAS, through the years, dedicated and talented editors and reporters of the *Star-Tribune* have served the community by telling the stories of what makes Danville and Pittsylvania County remarkable; and

WHEREAS, the *Star-Tribune*, which has over 25,000 readers each week, is published every Wednesday, covering Danville; Pittsylvania County; the Towns of Chatham, Gretna, and Hurt; and the communities of Ringgold, Sutherlin, Brosville, Cascade, Mount Hermon, Dry Fork, Callands, Sandy Level, Renan, Blairs, Climax, and Long Island; and

WHEREAS, the *Star-Tribune* includes news and pictures about local government, crime, courts, public records, weddings and engagements, church services, social activities, high school and youth sports, and community events and activities; and

WHEREAS, each week, sponsors of the *Star-Tribune* feature a variety of advertisers, including local supermarkets, retail stores, hospitals and health organizations, and other businesses and professionals; and

WHEREAS, the mission of the *Star-Tribune* is to be a written and visual record of what makes the Danville and Pittsylvania County community special; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the *Chatham Star-Tribune* on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bobbye Raye Womack, owner of the *Chatham Star-Tribune*, as an expression of the General Assembly's admiration for the newspaper's contributions to the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1069**

*Commending the Owens-Illinois, Inc., Danville plant.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Owens-Illinois, Inc., Danville plant, the world's largest glass container manufacturer and preferred partner for many of the world's leading food and beverage brands, celebrated its 40th anniversary in 2018; and

WHEREAS, the Owens-Illinois, Inc., plant in Danville opened in 1978 and produced its first bottle on December 7 of that year; today it employs 153 people and supplies glass bottles to MillerCoors' brewery in Elkton; and

WHEREAS, prior to the construction of the Elkton brewery, the Owens-Illinois, Inc., plant made bottles for Coca-Cola and jars for baby food, mayonnaise, and other foods and beverages; and

WHEREAS, today, the Owens-Illinois, Inc., plant in Danville produces almost two million bottles a day and is the largest end user of recycled consumer glass in the Commonwealth, along with its sister plant in Toano; and

WHEREAS, the employees of the Owens-Illinois, Inc., plant are active in the Danville community, contributing time and resources to the Danville Regional Medical Center's blood drives, the Danville Family YMCA, the Danville Bright Leaf Brew Festival, and local fire departments; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Owens-Illinois, Inc., Danville plant, the world's largest glass container manufacturer and preferred partner for many of the world's leading food and beverage brands, on its 40th anniversary in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Owens-Illinois, Inc., Danville plant as an expression of the General Assembly's admiration for the business's longevity and continued success.

**HOUSE JOINT RESOLUTION NO. 1070**

*Commending Sylvan Learning in Sterling.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Sylvan Learning, the leading supplemental and enrichment education franchise brand, celebrates a grand opening in Sterling at 45630 Falke Plaza on March 16, 2019; and

WHEREAS, Sylvan Learning tutors use a personal approach and interactive technology to help kids learn math, reading, writing, and other subjects to improve grades in school; and

WHEREAS, in 2019, Sylvan Learning is celebrating its 40th year of helping students strengthen their academic skills as well as providing test prep and science, technology, engineering, and math enrichment activities; and

WHEREAS, Sylvan Learning staff offer personalized tutoring and academic coaching to help students achieve success; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sylvan Learning in Sterling, the leading supplemental and enrichment education franchise brand, on the occasion of their 40th year of helping students in the Commonwealth achieve academic success; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sylvan Learning in Sterling as an expression of the General Assembly's admiration for its work promoting academic mastery and enrichment.

### HOUSE JOINT RESOLUTION NO. 1071

*Commending the Longfellow Middle School National Literature Competition team.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Longfellow Middle School National Literature Competition team in Fairfax County won the National Literature Competition in 2018; and

WHEREAS, the Longfellow Middle School National Literature Competition team faced numerous teams from schools across the country in a three-day competition held at Connecticut State University; and

WHEREAS, in preliminary heats, the Longfellow Middle School National Literature Competition team and its opponents answered 100 questions on children's literature in categories such as poetry, authors, titles, settings, characters, and nursery rhymes, presented in a quiz show format; and

WHEREAS, the Longfellow Middle School National Literature Competition team was composed of four students—Joshua, Elliott, Daniel, and Anisha—who were coached by parent Julia Fu; and

WHEREAS, the Longfellow Middle School team went on to represent the Commonwealth in the Kids' Lit Quiz World Championships in Auckland, New Zealand; and

WHEREAS, the Longfellow Middle School team benefited from the support of their devoted faculty, family, and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Longfellow Middle School National Literature Competition team; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Longfellow Middle School National Literature Competition team as an expression of the General Assembly's admiration for its members' hard work and success.

### HOUSE JOINT RESOLUTION NO. 1072

*Commending Bloom by Doyle's.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Bloom by Doyle's, a florist in Lynchburg, celebrates 100 years in business in 2019; and

WHEREAS, Bloom by Doyle's originated in 1919, when William Doyle, a second-generation American of Irish heritage who fought in World War I, bought J. J. Fallon's flower business; and

WHEREAS, William Doyle built greenhouses just outside of Lynchburg city limits, using the technology of the day to cultivate flowers in a warm setting throughout the winter and preserve cut flowers in a cooler setting once harvested; and

WHEREAS, William Doyle's flowers were shipped by railway from Lynchburg to retail stores along the eastern seaboard from 1920 to 1951; he developed a peach-colored rose which he named Mrs. Carter Glass and his business persevered through the Great Depression; and

WHEREAS, the business changed hands in 1952, and greenhouse operations ceased in 1999; those facilities are now run by the seven-acre urban farm Lynchburg Grows; and

WHEREAS, in 2013, Bob and Debbie Miller rebranded and relocated Bloom by Doyle's to the Boonsboro Shopping Center where it continues to provide floral creations and services for life's transitions and celebrations, as well as unique gifts to the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bloom by Doyle's in Lynchburg on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bloom by Doyle's, as an expression of the General Assembly's admiration for the business's longevity and service to the community.

### HOUSE JOINT RESOLUTION NO. 1073

*Commending the Academies of Loudoun.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Academies of Loudoun opened in 2018 to provide new opportunities for the students of Loudoun County Public Schools, one of the fastest-growing school districts in the Commonwealth; and

WHEREAS, the culmination of a 10-year project, the Academies of Loudoun merged the three existing science and technology academies in Loudoun County Public Schools into one 305,000-square-foot facility; and

WHEREAS, the Academies of Loudoun opened as the largest facility in the district and had an initial enrollment of 1,700 students, which is expected to reach 2,500 in coming years; students attend the school on an alternate-day schedule and still attend their home high school for humanities classes; and

WHEREAS, the Academies of Loudoun features 40 different laboratories, including a "maker space" modeled after a similar laboratory at the Massachusetts Institute of Technology; and

WHEREAS, the Academies of Loudoun was part of a comprehensive initiative to enhance services within the district, which supported more than 83,000 students in 2018; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Academies of Loudoun on the occasion of its opening in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Academies of Loudoun as an expression of the General Assembly's admiration for the school's contributions to Loudoun County's reputation for academic excellence.

### HOUSE JOINT RESOLUTION NO. 1074

*Commending Little Austria, LLC.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Little Austria, LLC, a company specializing in Austrian-style baking, celebrated opening a new commercial bakery in Sterling on November 30, 2018; and

WHEREAS, founded in 2017 by Austrian-born Helene Gallent, Little Austria, LLC, has been operating out of the shared kitchen at the culinary incubator, Chefscape, in Ashburn; the company specializes in authentic Austrian strudels from Helene Gallent's homeland, which can already be found at farmers' markets across the region; and

WHEREAS, with support from the Governor's Agriculture and Forestry Industries Development Fund and the Loudoun County Economic Development Authority, the company will invest more than \$370,000 to build its new commercial bakery; Little Austria's first brick-and-mortar location created five jobs and will produce countless delicious pastries for the community; and

WHEREAS, Little Austria's commitment to using high-quality local ingredients, including Virginia-grown apples, will help support produce growers throughout the Commonwealth; and

WHEREAS, Little Austria's expansion will be appreciated by consumers and growers in the Commonwealth alike; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Little Austria, LLC, for opening a new commercial bakery in Sterling on November 30, 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Helene Gallent, owner of Little Austria, LLC, as an expression of the General Assembly's admiration for her company's contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1075

*Commending Kline's Freeze.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Kline's Freeze, a beloved family business in Manassas, closed its doors on August 19, 2018, after 53 years of serving delicious fare to generations of local families and visitors throughout the Commonwealth; and

WHEREAS, Paul and June Kline opened Kline's Freeze on Centreville Road in 1965 with just two ice cream machines; and

WHEREAS, in the years that followed, Kline's Freeze became a summer tradition for many Northern Virginia families and the business expanded, offering a variety of treats including funnel cake sundaes and milkshakes; and

WHEREAS, Kline's Freeze was a family affair for the Klines, with all seven children helping out at the shop at various times; in 2003, Paul and June's daughter Lorraine Croushorn and her husband James took over the business, continuing the Kline's tradition for another 15 years; and

WHEREAS, a beloved institution in the Manassas area, Kline's Freeze will be missed by many following its closing; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kline's Freeze, an icon in the Manassas community, for its 53 years of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lorraine and James Croushorn as an expression of the General Assembly's admiration for their work on behalf of Kline's Freeze of Manassas.

### HOUSE JOINT RESOLUTION NO. 1076

*Commending the Patrick Henry College moot court team.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Patrick Henry College moot court team won its 12th intercollegiate moot court national championship at the American Moot Court Association national tournament in January 2019 in Orlando, Florida; and

WHEREAS, the American Moot Court Association is the only national organization dedicated to intercollegiate moot court competition; more than 400 different teams competed in qualifying tournaments during the 2018-2019 season; and

WHEREAS, continuing a proud tradition of excellence, the Patrick Henry College moot court team's victory was the school's 12th national title; no other team in the history of the competition has won twice; and

WHEREAS, Michael Patton from Kansas City, Missouri, and Keely Wright from Louisville, Kentucky, claimed the top award for Patrick Henry College; the institution placed three teams among the top eight in the nation and four of its students won top 20 speaker awards; and

WHEREAS, each member of the 2018-2019 championship roster—Marina Barnes, Micah Bock, Samuel Bock, Caleb Canna, Benjamin Crosby, Thomas Doan, Clare Downing, Thomas Keith, Cooper Milhouse, Emil Meintjes, Michael Patton, Benjamin Phibbs, Simon Sefzik, Andrew Shelton, Keely Wright, and Kyle Ziemnick—contributed to the victory; and

WHEREAS, the Patrick Henry College moot court team owes its ongoing success to the dedication and hard work of all its team members, the leadership of coaches and faculty, and the enthusiastic support of the Patrick Henry College community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Patrick Henry College moot court team on winning the American Moot Court Association national tournament in January 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Frank Guliuza, Ph.D., coach of the Patrick Henry College moot court team, as an expression of the General Assembly's admiration for the team's continuing legacy of impressive performances in moot court competition.

### HOUSE JOINT RESOLUTION NO. 1077

*Commending Robert Dryden.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Robert Dryden retired as fire chief of Purcellville's Fire Company 2 in December of 2018, after more than 13 years in the role and 28 years of service with the company safeguarding the lives and property of members of the Purcellville community; and

WHEREAS, Robert "Bob" Dryden began his firefighting career in 1989 as a volunteer with the Blue Ridge Fire Company in Clarke County, serving two years before moving to Purcellville where he served 12 years as a volunteer firefighter and two years as the Fire Company 2's assistant fire chief before being elected fire chief in 2005; and

WHEREAS, firefighting is a family tradition for Bob Dryden, whose father served as an assistant fire chief in New Mexico; Bob's wife, Robin Dryden, has also served as a volunteer firefighter for many years, starting out as a volunteer at the Blue Ridge Fire Company, which her father founded, at the age of 16; and

WHEREAS, during his tenure as fire chief, Bob Dryden has provided superior leadership, growing the company to more than 100 members, working tirelessly to secure funding and high-quality equipment for the company, serving as an active member of the County Fire Operations Committee, mastering rural water supply techniques to better combat fires in rural areas, and supporting the larger volunteer firefighting community by donating equipment to volunteer companies in need; and

WHEREAS, Bob Dryden acknowledges the hard work and dedication of the many people, including volunteer firefighters and members of the Purcellville community, who contribute to Fire Company 2's success in providing high-quality service to the community; and

WHEREAS, after his well-earned retirement, Bob Dryden will seek new opportunities to serve the Purcellville community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert Dryden on the occasion of his retirement as fire chief of Purcellville's Fire Company 2; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Dryden as an expression of the General Assembly's admiration of his lengthy service and dedication to the Purcellville community.

### HOUSE JOINT RESOLUTION NO. 1078

*Commending the Woodgrove High School football team.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, the Woodgrove High School football team became the first football team from Purcellville to bring home a state title with a victory in the Virginia High School League Class 4 state championship in December 2018; and

WHEREAS, the Woodgrove High School Wolverines defeated the Lake Taylor High School Titans by a score of 38-33; and

WHEREAS, the Woodgrove Wolverines racked up 511 yards and 30 first downs to keep pace with the Lake Taylor Titans' explosive offense and secure the win; and

WHEREAS, every member of the Woodgrove High School football team contributed to the victory, which capped off an impressive 11-2 season; and

WHEREAS, throughout the year, the Woodgrove Wolverines enjoyed the leadership and guidance of coaches and staff and the enthusiastic support of the entire Woodgrove High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Woodgrove High School football team on winning the Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mike Skinner, head coach of the Woodgrove High School football team, as an expression of the General Assembly's admiration for the team's achievements.

### HOUSE JOINT RESOLUTION NO. 1079

*Commending the Reverend Christopher C. Carter, Sr.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for 25 years, the Reverend Christopher C. Carter, Sr., has provided his wise spiritual leadership to the Hampton community as pastor of New Hope Baptist Church; and

WHEREAS, Reverend Christopher Carter is a native of Newport News; he was reared in Hampton and educated in the Hampton Public School System; and

WHEREAS, Reverend Christopher Carter is a lifelong learner with an associate's degree from Thomas Nelson Community College, bachelor's and master's degrees from Liberty University, and an honorary Doctorate of Divinity from Norfolk Seminary and College; and

WHEREAS, since 2011, Reverend Christopher Carter has been the independent co-owner of the C. C. Carter Funeral Home in Newport News, alongside his wife Anita R. Carter, serving members of the community with the utmost dignity and care through end-of-life events; and

WHEREAS, Reverend Christopher Carter is actively involved in civic duties as an appointed member of the City of Hampton Parking Authority and the chair of the City of Hampton City Planning Commission; and

WHEREAS, Reverend Christopher Carter has been recognized professionally with the Pastor of the Month award from Murray's Steaks, Inc., for his leadership and service to the community; he actively participates in fraternal organizations including the Omega Psi Phi Fraternity and *Les Hommes* Civic Club; and

WHEREAS, Reverend Christopher Carter and Anita Carter have helped the congregation of New Hope Baptist Church grow in faith and numbers; in 2002, he dedicated land on New Bethel Road for a new building and an expansion of the

church; he charismatically leads the congregation with weekly religious and educational services, soul-stirring singing, and specific programming for children, teens, and adults; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Christopher C. Carter, Sr., pastor of New Hope Baptist Church, for 25 years of wise spiritual leadership to the Hampton community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Christopher C. Carter, Sr., as an expression of the General Assembly's admiration for his sage religious and communal guidance.

### HOUSE JOINT RESOLUTION NO. 1080

*Celebrating the life of John Davis Williams.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, John Davis Williams, a respected educator and community leader in Richmond, died on February 3, 2019; and WHEREAS, a native of Richmond, John D. Williams graduated from Armstrong High School and earned a bachelor's degree from Virginia State University and a master's degree from Indiana University; and

WHEREAS, John D. Williams continued his education at Harvard Divinity School, where he participated in a pilot project on ways that African American churches can contribute to the vitality of their communities; and

WHEREAS, through his work as a teacher in Richmond Public Schools from 1952 to 1988, John D. Williams was a mentor, role model, and father figure to countless young people, including Arthur Ashe, Jr., and other extraordinary young people who went on to become leaders in their professions and communities; and

WHEREAS, guided by his deep and abiding faith, John D. Williams enjoyed fellowship and worship with the congregation of New Bridge Baptist Church, where he held several leadership positions, and he volunteered his time and wise leadership with Meals on Wheels and programs to support youths and seniors; and

WHEREAS, John D. Williams will be fondly remembered and greatly missed by his sons, Jonathan and Lyn, and their families; his longtime companion, Joyce James, and her family; the mother of his children, Jean Grantham; his sister, Maserine; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of John Davis Williams; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Davis Williams as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1081

*Celebrating the life of Fred Thomas Martin, Sr.*

Agreed to by the House of Delegates, February 19, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Fred Thomas Martin, Sr., esteemed businessman and supporter of the City of Martinsville, died on September 13, 2018; and

WHEREAS, Fred Martin was born in Bedford County and spent most of his life in Martinsville; he grew up near the former American Furniture Company and worked on his family's farm, then served in the Army Signal Corps during the Korean War before returning to work with American Furniture Company; and

WHEREAS, Fred Martin moved up the ranks of American Furniture Company while acquiring horses and cattle to develop the large farm that eventually took the form of Martin Stables; and

WHEREAS, in the 1960s, Fred Martin began working with several companies around the country that sold custom-made parts, including glass and wrought iron components, to furniture companies in Martinsville and Henry County; he also operated a furniture import business; and

WHEREAS, in the 1990s, as furniture manufacturing waned, Fred Martin entered into new business ventures, buying buildings throughout Martinsville with the goal of reviving both commercial and residential real estate in the area; at times he was able to help members of the community in need through his projects; and

WHEREAS, Fred Martin will be fondly remembered and greatly missed by his wife, Lowanda; his children, Theresa, Freddie, and Tim, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Fred Thomas Martin, Sr., an esteemed businessman and community leader in the City of Martinsville; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Fred Thomas Martin, Sr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1082**

*Celebrating the life of Richard Lee Proffitt.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Richard Lee Proffitt, a dedicated husband, father, and friend, who served students in Prince William County as a school bus driver, died on February 5, 2018; and

WHEREAS, a native of Dayton, Ohio, Richard Proffitt relocated to the Commonwealth with his family at a young age and graduated from George Mason High School in 1974; and

WHEREAS, in 2011, Richard Proffitt accepted a position with Prince William County Public Schools as a bus driver; he was passionate about mentoring young people in addition to making sure that they had a safe trip to and from school; and

WHEREAS, Richard Proffitt was a trusted friend and a supportive coworker, and he was well-known in the community for his bright smile and infectious laugh; and

WHEREAS, Richard Proffitt was recognized by the National Teachers Hall of Fame when his name was added to the Memorial to Fallen Educators, which pays tribute to educators who lost their lives while in the performance of their duties; and

WHEREAS, Richard Proffitt will be fondly remembered and greatly missed by his loving wife of more than 35 years, Laura; his four children and three grandchildren; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard Lee Proffitt; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Lee Proffitt as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1083**

*Celebrating the life of Evelynn Belle Ware.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Evelynn Belle Ware, a dedicated public servant and a passionate historic preservationist who made many contributions to the Hillsboro community, died on November 25, 2018; and

WHEREAS, a native of Washington, D.C., Belle Ware moved to Hillsboro with her family shortly after World War II and went on to become the town's longest-living resident, gaining an unparalleled knowledge of the community's history and heritage along the way; and

WHEREAS, Belle Ware was a founding member of the Short Hill Historical Society and helped save Hillsboro's Old Stone School from demolition in 1976; she was deeply involved in the nonprofit organization for 42 years and especially loved participating in the Hillsboro Historic Homes Tour; and

WHEREAS, desirous to be of further service to her fellow Hillsboro residents, Belle Ware ran for and was elected to the Hillsboro Town Council, following in the footsteps of her late mother, Evelyn Turbeville, who was the first woman mayor in Virginia; and

WHEREAS, over the course of her three decades in public office, Belle Ware served as treasurer and vice mayor and helped strengthen the Hillsboro community; and

WHEREAS, Belle Ware was an active leader in the Hillsboro Community Association and the Daughters of the American Revolution, and she enjoyed fellowship and worship with the congregation of Hillsboro United Methodist Church; and

WHEREAS, predeceased by her husband, John, Belle Ware will be fondly remembered and greatly missed by her children, Vicki, Paige, John, and Mark, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Evelynn Belle Ware, a pillar of the Hillsboro community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Evelynn Belle Ware as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 1084**

*Celebrating the life of Malcolm Forbes Baldwin.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Malcolm Forbes Baldwin, prominent Loudoun County conservation leader, died on November 12, 2018; and  
WHEREAS, Malcolm Baldwin began his career in environmental law in the mid-1960s when he joined the Conservation Foundation and coauthored and edited *Law and the Environment*, a book that helped guide the then-emerging field of environmental law; and

WHEREAS, Malcolm Baldwin served in the White House Council on Environmental Quality beginning in 1974 and was acting chairman when he left the organization in 1981; and

WHEREAS, for the last 15 years of his career, Malcolm Baldwin worked and lived in developing countries to help protect their environment; and

WHEREAS, Malcolm Baldwin will be dearly remembered by his loving wife, Pamela; his children, Peter, Rebecca, and Alice; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Malcolm Forbes Baldwin, conservation leader in the Loudoun County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Malcolm Forbes Baldwin as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1085

*Commending the Loudoun Valley High School boys' cross country team.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Loudoun Valley High School boys' cross country team of Purcellville won the Virginia High School League Class 4 state championship in November 2018 for the fourth consecutive year; and

WHEREAS, the Loudoun Valley High School boys' cross country team also won the Nike Southeast Regional cross county championship in Carry, North Carolina, for the second straight year; and

WHEREAS, the Loudoun Valley High School boys' cross country team also won the Nike Cross Country National Championship in Portland, Oregon, for the second straight year; and

WHEREAS, the Loudoun Valley High School boys' cross country team have now set national team records, including lowest score and highest margin of victory, and they are the only two-time winner of the Nike Cross Country National Championship; and

WHEREAS, Marc Hunter and Joan Hunter, coaches of the Loudoun Valley High School boys' cross country team, were named the 2018 National High School Coaches of the Year for Virginia by the U.S. Track & Field Cross Country Coaches Association; and

WHEREAS, the championship victories are a testament to the skill and dedication of all the student-athletes, the leadership of the coaches and staff, and the energetic support of the entire Loudoun Valley High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun Valley High School boys' cross country team on winning state, regional, and national championships in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marc Hunter and Joan Hunter, coaches of the Loudoun Valley High School boys' cross country team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 1086

*Commending the Clarke County High School girls' cross country team.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Clarke County High School girls' cross country team won the Virginia High School League Class 2 state cross country meet at Great Meadow Park in The Plains on November 9, 2018; and

WHEREAS, led by coach Jeff Webster and assistant coach Sarah Casey, the Eagles were represented in the meet by Keagan Bragg, Skylar Bragg, Kimmy Cruz-Ramirez, Sarah Flockhart, Sydney Jacobson, Maeve Lyman, Charlotte Smith, Kateri Thorne, Madison Webster, and Ryleigh Webster; and

WHEREAS, the Eagles scored 51 points, 18 fewer than runner-up and five-time defending Class 2 state champion, Maggie L. Walker Governor's School; and

WHEREAS, the 2018 state championship title is the seventh such victory for the Clarke County High School girls' cross country team, who previously won four straight championships from 2004 through 2007, in addition to titles in 1986 and 1987; and

WHEREAS, Keagan Bragg, Skylar Bragg, Sydney Jacobson, and Madison Webster also earned All-State honors at the November 9 state meet; and

WHEREAS, notable efforts include Madison Webster finishing as state runner-up for the second time in her high school career and Skylar Bragg earning fourth place for the third time in her high school career; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Clarke County High School girls' cross country team for winning the Virginia High School League Class 2 state cross country meet; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jeff Webster, coach of the Clarke County High School girls' cross country team, as an expression of the General Assembly's admiration for his team's remarkable achievements.

### HOUSE JOINT RESOLUTION NO. 1087

*Commending Hogback Mountain Paintball.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, for 25 years, Hogback Mountain Paintball in Leesburg has provided opportunities for outdoor recreation to the residents of Northern Virginia; and

WHEREAS, established by Rodney Huber on 70 acres of his family's property in 1994, Hogback Mountain Paintball originally catered solely to paintball enthusiasts, but has grown to host birthday parties, corporate team-building exercises, bachelor and bachelorette parties, and other special events; and

WHEREAS, open year-round, Hogback Mountain Paintball has developed 15 fields, including areas dedicated to speedball, woodsball, and large-scale scenario games; and

WHEREAS, as Hogback Mountain Paintball's customer base grew, the company adapted by installing pavilions for parties, offering shorter games, and purchasing special low-impact equipment for younger players; and

WHEREAS, over the past 25 years, Rodney Huber has maintained high levels of service at Hogback Mountain Paintball with the help of his wife, Marci, who handles marketing, and John Greeley, who has managed the fields; and

WHEREAS, Hogback Mountain Paintball will commemorate its milestone 25th anniversary with a special event on March 31, 2019; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hogback Mountain Paintball on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rodney Huber of Hogback Mountain Paintball as an expression of the General Assembly's admiration for its contributions to agritourism in Northern Virginia.

### HOUSE JOINT RESOLUTION NO. 1088

*Commending the Woodgrove High School softball team.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Woodgrove High School softball team won the Virginia High School League Class 4 state championship at the Moyer Sports Complex on June 9, 2018; and

WHEREAS, the Woodgrove High School Wolverines defeated the Powhatan High School Indians by a score of 9-1, winning their third consecutive state title and fourth in the last five years; and

WHEREAS, the Woodgrove Wolverines were led by the pitching of Camryn Dolby, who had pitched a no-hitter in the state semifinal and held the Powhatan Indians hitless until the sixth inning of the state championship; and

WHEREAS, the lone run scored by the Powhatan Indians was the first allowed by the team since May 21, 2018, an indication of the team's dominant performance this season; and

WHEREAS, the Woodgrove Wolverines' victory was the result of the hard work of the student-athletes, leadership of their coaches and teachers, and support of the entire Woodgrove High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Woodgrove High School softball team for winning the Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Woodgrove High School softball team as an expression of the General Assembly's admiration for their outstanding achievement.

**HOUSE JOINT RESOLUTION NO. 1089**

*Commending First Church of Newport News (Baptist).*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, in 2019, First Church of Newport News (Baptist) celebrates its 155th anniversary of providing opportunities for joyful and spirit-filled worship and generous community outreach; and

WHEREAS, originally known as First Baptist Church, First Church of Newport News (Baptist) was founded in 1864 by the Reverend Thomas Henry Poole from Isle of Wight County; the congregation holds the distinction of being the oldest congregation still in existence within the original city limits, predating the founding of the city by 32 years; and

WHEREAS, in its earliest days, the small wood-framed church located under what is now the 28th Street Bridge was a spiritual home for many formerly enslaved people; and

WHEREAS, under the leadership of Reverends Carr and C. D. Cooley, First Church of Newport News (Baptist) congregants worshiped in soldiers' barracks before moving to a building constructed for the church on land bought in 1897; and

WHEREAS, under the Reverend Dr. William Dixon, planning and construction began on a new church building that would house the church for most of the 20th century; the impressive structure would include a steeple that was believed to be the highest in Newport News and was a landmark on the city skyline for decades; and

WHEREAS, First Church of Newport News (Baptist) continued to expand under Reverends H. Howell Harris, W. A. Taylor, and C. D. Henderson; in 1919, the Reverend Dr. A. A. Galvin became pastor; many ministries and facets of parochial life in the congregation that still exist were founded during his tenure including the Benevolent Fund and the Men's Star Bible Class; and

WHEREAS, under the next pastor, the Reverend Dr. John F. Williams, First Church of Newport News (Baptist) formed both a gospel choir and a deaf and blind ministry; in 1961, the Reverend Dr. Fred J. Boddie, Jr., began his 39-year tenure, the longest of any pastor in the church's history, and moved the church to its current location on Wickham Avenue; and

WHEREAS, in 2005, the Reverend Dr. Reginald Dawkins became the eleventh pastor of First Church of Newport News (Baptist); in 2011, Reverend Dr. Rodney Johnson was installed as the twelfth pastor, and the church continues to grow in its outreach with numerous programmatic enhancements and community outreach endeavors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend First Church of Newport News (Baptist) on the occasion of its 155th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to First Church of Newport News (Baptist), as an expression of the General Assembly's admiration for the congregation's rich legacy of spiritual guidance and community outreach.

**HOUSE JOINT RESOLUTION NO. 1090**

*Commending the Tuscarora High School girls' cross country team.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Tuscarora High School girls' cross country team won the Virginia High School League Class 5 state championship at Great Meadow Park in The Plains on November 10, 2018; and

WHEREAS, the team secured its victory by a 27-point margin, earning its second consecutive state championship title and its fourth state championship title in five years; and

WHEREAS, the Tuscarora High School girls' cross country team was led by Ava Hassebrock, who, finishing seventh overall, earned All-State honors, and Katie West, Amber Douglas, Emma Hunt, and Sarah Gould, whose finishing times were also among the best in the competition; and

WHEREAS, Katherine Russell, Callie Lashey, Megan Gibson, Abigail Costello, and Sophia Cevinini also contributed to the team's stellar finish, while coaches Troy Harry, Patrick Wolack, and Rebecca Puterio inspired their athletes to greatness; and

WHEREAS, the state championship title was earned through the hard work of the student-athletes, the guidance of their coaches and teachers, and the unwavering support of the entire Tuscarora High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Tuscarora High School girls' cross country team for winning the Virginia High School League Class 5 state championship in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Tuscarora High School girls' cross country team as an expression of the General Assembly's admiration for the team's remarkable achievement.

**HOUSE JOINT RESOLUTION NO. 1091**

*Commending the Loudoun County High School girls' soccer team.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Loudoun County High School girls' soccer team won the Virginia High School League Class 4 state championship in 2018; and

WHEREAS, the Loudoun County High School girls' soccer team defeated Courtland High School by a score of 3-1, earning its third state championship title in four years; and

WHEREAS, the Loudoun County High School girls' soccer team was led by first-year coach, Olivia Mackey, and the stellar play of Brooke Kirstein, Devin Balac, and Taylor Kibble, who all had goals in the match; and

WHEREAS, the championship victory capped a triumphant season, with the Loudoun County High School girls' soccer team posting a 19-5-1 record; and

WHEREAS, the championship victory was the result of the hard work of the student-athletes, the leadership of their coaches and teachers, and the support of the entire Loudoun County High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun County High School girls' soccer team for winning the 2018 Virginia High School League Class 4 championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Olivia Mackey, coach of the Loudoun County High School girls' soccer team, as an expression of the General Assembly's admiration for her team's extraordinary accomplishment.

**HOUSE JOINT RESOLUTION NO. 1092**

*Commending the Loudoun County High School girls' volleyball team.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Loudoun County High School girls' volleyball team won the Virginia High School League Class 4 state championship in 2018; and

WHEREAS, the Loudoun County High School girls' volleyball team defeated Grafton High School in four sets, earning its seventh straight championship title and 11th state championship title in 12 years; and

WHEREAS, the Loudoun County High School girls' volleyball team was led by the stellar play of seniors Ashley Rubino and Megan Bukala; and

WHEREAS, the championship victory capped off a triumphant season, with the Loudoun County High School girls' volleyball team posting a record of 30-1; and

WHEREAS, the championship victory was the result of the hard work of the student-athletes, the leadership of their coaches and teachers, and the support of the entire Loudoun County High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun County High School girls' volleyball team for winning the 2018 Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Senchak, coach of the Loudoun County High School girls' volleyball team, as an expression of the General Assembly's admiration for his team's extraordinary achievement.

**HOUSE JOINT RESOLUTION NO. 1093**

*Commending the residents of the Rollins Ford Road corridor.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, after a fatal traffic crash occurred at the intersection of Rollins Ford Road and Estate Manor Drive in Gainesville on July 24, 2018, the residents of the Rollins Ford Road Corridor worked to raise awareness of this dangerous intersection and make the community safer for all; and

WHEREAS, members of the Glenkirk Estates, Linton Crest, and Morris Farm homeowners' associations educated themselves on ways to properly address the issue; they launched an email campaign and gathered dozens of testimonials from neighbors regarding the significant dangers posed to drivers, cyclists, and pedestrians at the intersection; and

WHEREAS, the Rollins Ford Road Corridor Town Hall discussion in August 2018 gave residents of the Rollins Ford Road corridor additional opportunities to share their concerns with elected officials and ultimately resulted in a study by the Virginia Department of Transportation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the residents of the Rollins Ford Road corridor for their advocacy and diligent work to make Prince William County a safer place to live; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the residents of the Rollins Ford Road corridor as an expression of the General Assembly's admiration for their contributions to the community.

### HOUSE JOINT RESOLUTION NO. 1094

*Commending the Reverend Jay Lawson.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Reverend Jay Lawson retired as pastor of Warrenton Baptist Church after more than 18 years of service and ministry to the community on February 13, 2019; and

WHEREAS, a Hampton native and graduate of Hampton High School, Jay Lawson attended Duke University on an athletic scholarship, graduating with a bachelor's degree in religion; he also earned a master's degree from Southeastern Baptist Theological Seminary; and

WHEREAS, first called to the pulpit more than 40 years ago, Jay Lawson began his career as associate pastor at Temple Baptist Church in Newport News and went on to serve as pastor of Belhaven Baptist Church in Belhaven, North Carolina, Emmaus Baptist Church in Poquoson, and Hilton Baptist Church in Newport News before becoming pastor of Warrenton Baptist Church in 2000; and

WHEREAS, during his more than 18 years of service to Warrenton Baptist Church, Jay Lawson guided the congregation through periods of growth and change, including improvements to the existing church, construction of a 5,240-square-foot ministry center known as "The Gathering Place," and the addition of contemporary and Spanish-language worship services; and

WHEREAS, following his well-earned retirement, Jay Lawson plans to continue to give back to the community, mentoring young ministers and remaining active with the Baptist church; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Jay Lawson on his retirement as pastor of Warrenton Baptist Church; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Jay Lawson as an expression of the General Assembly's appreciation for his many years of dedicated service and ministry to the community.

### HOUSE JOINT RESOLUTION NO. 1095

*Commending Sharon Bulova.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Sharon Bulova, chair of the Fairfax County Board of Supervisors, will retire from her position in the fall of 2019; and

WHEREAS, a native of Pikesville, Maryland, Sharon Bulova has been a Northern Virginia resident since 1966, and raised four children with her husband Lou DeFalaise in the area; she entered public service in 1984, leaving her role as president of the Kings Park West Civic Association to become a legislative aide to former Supervisor Audrey C. Moore in what was then known as the Annandale District; and

WHEREAS, Sharon Bulova won her first election in 1987, representing the new Braddock District; during that era she brought order to what had previously been a chaotic budget process, with supervisors debating individual line items during marathon meetings that sometimes stretched past midnight; and

WHEREAS, Sharon Bulova is known as a genial and pragmatic elected official who builds consensus by working individually with each of her fellow supervisors; and

WHEREAS, during her tenure, Sharon Bulova addressed improving public transportation, transforming older industrial areas into mixed-use zones, job growth, investing in Fairfax County's education system, safety, supporting elders, and supporting affordable housing; and

WHEREAS, Sharon Bulova championed a smart approach to regionalism by supporting the Washington Metropolitan Area Transit Authority's transformative regional Silver Line project, which opened in 2014; her leadership and service included involvement with Fairfax County's Governing Board to Prevent and End Homelessness; she also founded Faith

Communities in Action, created the Communities of Trust Committee, and established the Ad Hoc Police Practices Review Commission; and

WHEREAS, numerous organizations have recognized Sharon Bulova's accomplishments including the Virginia Transit Association, the Center for Non-Profit Advancement, the Workhouse Arts Foundation, and *Washingtonian* magazine; and

WHEREAS, Sharon Bulova spearheaded numerous civic projects including community budget dialogues, history initiatives, local events such as summer concerts, and a seasonal farmers' market; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sharon Bulova on the occasion of her retirement as chair of the Fairfax County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sharon Bulova as an expression of the General Assembly's admiration for her civic contributions to life in Fairfax County.

### HOUSE JOINT RESOLUTION NO. 1096

*Commending the Fairfax Library Foundation, Inc.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Fairfax Library Foundation, Inc., a nonprofit charitable and educational organization that supports the programs and services of the Fairfax County Public Library, celebrates its 25th anniversary in 2019; and

WHEREAS, established in 1994, the Fairfax Library Foundation supports the programs and services of the Fairfax County Public Library's 23 branches that serve the over one million residents of Fairfax County; and

WHEREAS, the Fairfax Library Foundation sponsors numerous enriching programs, including Ready to Read, an early literacy outreach program; 1,000 Books Before Kindergarten, a nationwide program that promotes reading to newborns, infants, and toddlers and encourages parent and child bonding through reading; and Changing Lives through Literature, an alternative to formal court action for first-time juvenile offenders; and

WHEREAS, the Fairfax Library Foundation supports the New American Initiative that supports English language learning, funds scholarships for professional development for library staff, offers special programs and presentations, and provides library books and materials; and

WHEREAS, the Fairfax Library Foundation allows the Fairfax County Public Library to enhance its many high-quality programs and services; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fairfax Library Foundation, Inc., a nonprofit charitable and educational organization that exists solely to support the programs and services of the Fairfax County Public Library, on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fairfax Library Foundation, Inc., as an expression of the General Assembly's admiration for its dedication to supporting literacy and programming at the Fairfax County Public Library.

### HOUSE JOINT RESOLUTION NO. 1097

*Confirming appointments by the Joint Rules Committee.*

Agreed to by the House of Delegates, February 22, 2019

Agreed to by the Senate, February 23, 2019

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointments made by the Joint Rules Committee to the Virginia Retirement System Board of Trustees pursuant to § 51.1-124.20 of the Code of Virginia:

**W. Brett Hayes** of **Richmond**, Virginia 23221, Member, for a term of five years beginning March 1, 2018, and ending February 28, 2023, to succeed himself.

**Joseph W. Montgomery** of **Williamsburg**, Virginia 23185, Member, for a term of five years beginning March 1, 2019, and ending February 29, 2024, to succeed himself.

### HOUSE JOINT RESOLUTION NO. 1098

*Celebrating the life of Willie Mae Mitchell.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Willie Mae Mitchell, a beloved grandmother, wife, mother, daughter, community volunteer, and business owner in Alexandria, passed away on July 7, 2018, at the age of 83; and

WHEREAS, Willie Mae Mitchell was born and raised in Shorter, Alabama, near Tuskegee, and moved to Alexandria in the mid-1960s with her husband, where they would go on to raise six children; and

WHEREAS, Willie Mae Mitchell served as a crossing guard for the City of Alexandria and later in parking enforcement for Arlington County before opening her business, Tops of Old Town, in Alexandria in 1987; and

WHEREAS, Willie Mae Mitchell frequently donated clothes, hats, and accessories from Tops of Old Town for funeral services for her neighbors in need, as well as to the Battered Woman's Shelter of Alexandria to provide professional attire for employment opportunities; and

WHEREAS, Willie Mae Mitchell was a 52-year member of St. Paul Temple Church of God in Christ in Washington, D.C., and a missionary for the Church of God in Christ; and

WHEREAS, Willie Mae Mitchell started a Prison Ministry to spread the word of God and spent years doing so, while styling inmates' hair as a licensed cosmetologist; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Willie Mae Mitchell, a vibrant member of the Alexandria community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Willie Mae Mitchell as an expression of the General Assembly's admiration for her acts of kindness and respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1099

*Celebrating the life of Josephine Bernadine Cooke.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Josephine Bernadine Cooke, a vibrant member of the Heritage Hunt community in Gainesville, died on November 27, 2018; and

WHEREAS, a native of Swoyersville, Pennsylvania, Josephine Cooke was born to the late Benjamin Joseph Cicero and Patricia Beatrice Maruca Cicero; and

WHEREAS, Josephine Cooke made her career as a civil servant, working as an administrative assistant for the federal government for many years; she was also an active volunteer who brought joy and encouragement to all who knew her; and

WHEREAS, Josephine Cooke's greatest joy in life was her family and she relished every opportunity to spend time with her beloved children and grandchildren; and

WHEREAS, predeceased by her husband of 53 years, Harry, and one daughter, Joyce Ann, Josephine Cooke will be fondly remembered and greatly missed by her children, Karen, Patricia, Maryellen, and David, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Josephine Bernadine Cooke; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Josephine Bernadine Cooke as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1100

*Celebrating the life of Gary Carlo LaPorta.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 21, 2019

WHEREAS, Gary Carlo LaPorta, honored veteran and treasured member of the Falls Church business community, died on February 10, 2019; and

WHEREAS, Gary LaPorta served in the United States Army from 1968 to 1971 and was a veteran of the Vietnam War; and

WHEREAS, following the war, Gary LaPorta moved to Northern Virginia and worked for AT&T; he and his wife, June, also owned Miniatures from the Attic, a cherished small business located in Falls Church; after Gary LaPorta closed the business, he earned his bachelor's degree from George Mason University and worked for the Commissioner of the Revenue of the City of Falls Church until his passing; and

WHEREAS, Gary LaPorta served for many years in the Falls Church Chamber of Commerce, holding several positions including chair, membership committee vice chair, legislative committee vice chair, secretary, and board member; and

WHEREAS, as the longtime chair of the Employee Advisory Council, Gary LaPorta was a passionate and effective advocate for city employees; and

WHEREAS, as a result of his service to the community, Gary LaPorta was honored as a "Pillar of the Community" in 2018, the Falls Church Chamber of Commerce's highest recognition; he also received the Commander Hap Day Chamber Appreciation Award in 2013; and

WHEREAS, beyond the Falls Church Chamber of Commerce, Gary LaPorta made many contributions to the community; as owner of Miniatures from the Attic, he hosted a series of field trips to the shop for students to learn about area, perimeter, and scale using a dollhouse; he won the Acacia Bank Good Guy Award in 2006 and 2007 for this program; he was also named the Business in Education Partner of the Year in 2009, the first recipient of this award; and

WHEREAS, predeceased by his wife, June, Gary LaPorta will be dearly remembered by his daughter, Connie, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Gary Carlo LaPorta, honored veteran and valued member of the Falls Church community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gary Carlo LaPorta as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1101

*Commending the Arlington Partnership for Affordable Housing.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Arlington Partnership for Affordable Housing celebrates its 30th anniversary in 2019; and

WHEREAS, inspired by faith and a desire for economic justice, four couples created the Arlington Partnership for Affordable Housing (APAH) in 1989 to meet the housing needs of their diverse and inclusive Arlington community; it has grown from that hopeful but humble beginning to provide today nearly 1600 high-quality, affordable rental homes in 16 apartment communities; and

WHEREAS, the mission is to develop, preserve, and own quality, affordable places to live; to promote stability and opportunity for APAH residents; and to advocate for the people and communities the organization serves; and

WHEREAS, APAH is an effective, award-winning nonprofit that combines best practices and innovation to meet the Commonwealth's growing affordable housing needs and whose work has been honored by the Virginia Governor's Housing Conference, the Urban Land Institute, the Housing Association of Nonprofit Developers, the Affordable Housing Tax Credit Coalition, and more; and

WHEREAS, APAH has pioneered the use of new financing tools for affordable housing, enabling the construction of more housing in high-cost urban areas and providing a model for other developers; APAH is an innovative and supportive partner, deepening its impact and service through the development of affordable housing in collaboration with faith and civic institutions including Clarendon Baptist Church, Arlington Presbyterian Church, and American Legion Post 139; and

WHEREAS, APAH is a leader in energy conservation at The Springs Apartments, the first multifamily property in the Commonwealth to be certified as Earthcraft Platinum; at Columbia Hills Apartments, opened in late 2018 and also designed to Earthcraft Platinum standards; and at Parc Rosslyn Apartments, Arlington's first multifamily mixed-income property to receive a Silver LEED certification from the United States Green Building Council; and

WHEREAS, APAH partnered with Arlington County to build Arlington Mill, the first use of public land for housing, effectively reducing land development costs through a long-term discounted land lease, and using savings to further reduce rents and shelter more very low-income residents at this affordable, four-story construction atop the county-built parking garage; and

WHEREAS, APAH is dedicated to the wider community and will build a 9,000-square-foot public park in the heart of Rosslyn as a part of the construction of the Queens Court Apartments; the organization celebrates the power of home by offering meaningful services to enrich and stabilize the lives of all of its residents both directly and through nonprofit partners, providing access to healthy food, financial coaching, wellness classes, and educational support; and

WHEREAS, APAH promotes equity and inclusion by nurturing resident leadership; creating opportunities for residents to participate in civic life; and creating, founding, and leading coalitions, including the Community Progress Network, to ensure that community programs and priorities reflect the needs and hopes of all while continuing a trajectory of extraordinary growth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Arlington Partnership for Affordable Housing on its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Nina Janopaul, APAH president and chief executive officer, and Kevin Yam, chair of the APAH board of directors, as an expression of the General Assembly's admiration for the Arlington Partnership for Affordable Housing's 30 years of continuous service to Arlington County and its mission to provide quality, affordable housing so that low-wage earners and their families can thrive and succeed in the community.

**HOUSE JOINT RESOLUTION NO. 1102**

*Commending Tony Bentley.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Tony Bentley, coach of the Wakefield High School varsity boys' basketball team, reached his 300th career victory on December 7, 2018; and

WHEREAS, the victory was another milestone in an exceptional 27-year career; in his 17 years with the Wakefield High School program, Coach Bentley has won seven district championships and three regional championships; his team has made seven state tournament appearances and was state finalist in 2018; and

WHEREAS, for his tremendous efforts leading the Wakefield High School varsity boys' basketball team, Coach Bentley has been recognized as District Coach of the Year eight times and Regional Coach of the Year three times; and

WHEREAS, Coach Bentley's defense first style has made the Wakefield High School varsity boys' basketball team a dominant force among Arlington County and Washington, D.C., metropolitan area schools; and

WHEREAS, Coach Bentley has always placed mentorship of his young student-athletes above wins and personal achievement, serving as an excellent role model for the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tony Bentley, coach of the Wakefield High School varsity boys' basketball team, on the occasion of his 300th career victory; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tony Bentley as an expression of the General Assembly's admiration for his impressive achievements and contributions to the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1103**

*Commending Not a Runaway, Inc.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Not a Runaway, Inc., a national nonprofit organization, supports families by raising awareness of missing teenagers; and

WHEREAS, in January 12, 2018, Veronica Eyenga's niece Jholie Moussa disappeared, but an Amber Alert was not issued due to a lack of evidence that she had been abducted; and

WHEREAS, Veronica Eyenga enlisted the help of family members, friends, and community members to mobilize a social media campaign that garnered attention across the nation and resulted in an investigation, which ultimately led to the discovery of Jholie Moussa's body on January 26, 2018; and

WHEREAS, Veronica Eyenga founded Not a Runaway in February 2018 to help ensure that no parent or family member experiences the same pain that Jholie Moussa's family continues to feel; and

WHEREAS, Not a Runaway disseminates timely information regarding cases of missing teenagers that have been labeled as runaways, specifically cases for children between the ages of 11 and 17 who have been missing for two weeks or less and do not have a history of running away; and

WHEREAS, Not a Runaway has fulfilled its mission by building a circle of trust between law enforcement, children's families, and members of the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Not a Runaway, Inc., for its work to support families of missing teenagers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Not a Runaway, Inc., as an expression of the General Assembly's admiration for the organization's important services.

**HOUSE JOINT RESOLUTION NO. 1104**

*Commending the Mount Vernon Council of Citizens' Associations.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Mount Vernon Council of Citizens' Associations, a nonpartisan, nonprofit organization of citizens' associations in the Mount Vernon District of Fairfax County, celebrates its 50th anniversary of service to the community in 2019; and

WHEREAS, established in 1969, the Mount Vernon Council of Citizens' Associations is the oldest and largest such council in Fairfax County; it is composed of 44 civic associations, community associations, property owners' associations, homeowners' associations, and condominium unit owners' associations; and

WHEREAS, the Mount Vernon Council of Citizens' Associations represents and promotes the interests of its member organizations and provides a forum for residents and groups to address concerns about land use, transportation, the environment, public safety, education, and housing; the council has also built strong partnerships with government agencies to address issues in a timely and effective manner; and

WHEREAS, the Mount Vernon Council of Citizens' Associations collaborated with the Department of Public Works to address property flooding due to new developments and increase transparency in the zoning process; and

WHEREAS, the Mount Vernon Council of Citizens' Associations has helped the Fairfax County Board of Supervisors and the Planning Commission make informed decisions regarding changes in traffic capacity due to the completion of the Woodrow Wilson Bridge Project at the Richmond Highway, Huntington Avenue, Old Richmond Highway, and Fort Hunt Road intersections; and

WHEREAS, the Mount Vernon Council of Citizens' Associations has also worked to ensure that quality transportation networks, mass transit projects, land-use planning, and school enhancements are integrated into Fairfax County's long-term planning; and

WHEREAS, the Mount Vernon Council of Citizens' Associations will commemorate the milestone with a gala event on May 4, 2019; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Mount Vernon Council of Citizens' Associations on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Mount Vernon Council of Citizens' Associations as an expression of the General Assembly's admiration for the council's work to advance the common good and promote the general welfare of the residents of Fairfax County.

#### HOUSE JOINT RESOLUTION NO. 1105

*Commending Richard Alderson.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Richard Alderson, lifelong resident of Mount Vernon and tireless advocate for affordable housing in Fairfax County and the Commonwealth, was awarded a 2018 Fairfax County Volunteer Service Award for Lifetime Achievement; and

WHEREAS, Richard "Dick" Alderson received the award for his work with New Hope Housing and Good Shepherd Housing; the award was presented at the 26th annual Fairfax County Volunteer Service Awards, sponsored by Volunteer Fairfax, members of the Fairfax County Board of Supervisors, and board chairman Sharon Bulova; and

WHEREAS, Dick Alderson began volunteering for New Hope Housing in 2000 after he was recruited to join their board of directors; he would ultimately serve as board president and, through his leadership, help the organization achieve its mission to provide homeless families and individuals with the shelter and tools they need to build a better life; and

WHEREAS, after leaving the New Hope board of directors in 2010, Dick Alderson was elected to its board of trustees, where he was part of the task force that oversaw the organization's expansion into Arlington County and the City of Alexandria; and

WHEREAS, since 2010, Dick Alderson has also served on the board of directors of Good Shepherd Housing, an organization dedicated to reducing homelessness, increasing community support, and promoting self-sufficiency; his leadership has helped the organization approach its long-term goal of creating 150 affordable housing units; and

WHEREAS, over the past two decades, Dick Alderson has been one of the most stalwart leaders in the effort to provide affordable housing and break the cycle of homelessness in Fairfax County and the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richard Alderson, recipient of a 2018 Fairfax County Volunteer Service Award for Lifetime Achievement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard Alderson as an expression of the General Assembly's admiration for his remarkable efforts to end homelessness and help countless families and individuals live healthier, more successful lives.

#### HOUSE JOINT RESOLUTION NO. 1106

*Commending Greg Joachim.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Greg Joachim, a Mount Vernon resident, raised over \$14,000 for Alzheimer's disease research on a one-of-a-kind canoe trip down the Susquehanna River in 2018; and

WHEREAS, Greg Joachim, a retired United States Army officer, was motivated to fundraise for a cure for this affliction by the death of his father, who succumbed to dementia; his grandmother currently struggles with Alzheimer's disease; and

WHEREAS, Greg Joachim developed his plan for the Barn to Bay Paddle fundraiser as he stood on his grandmother's porch in Milton, Pennsylvania, and looked out over the Susquehanna River; his family had a deep connection with the river and he knew that it could play a vital role in raising awareness for his grandmother's condition, possibly leading to a cure one day; and

WHEREAS, Greg Joachim worked with the Alzheimer's Association as a part of their Longest Day campaign, where people across the world participate in fundraising activities to raise awareness for Alzheimer's; the disease has a brutal effect on those who suffer from Alzheimer's, including family, leaving them with a hopeless feeling that can sometimes overwhelm loved ones as they watch the illness progress; and

WHEREAS, through careful planning, mapping, and physical conditioning, Greg Joachim and his close friend, Ron Miller, navigated the Susquehanna River over a period of five days, steering their way around six dams, camping out, and ending at Havre de Grace, Maryland; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Greg Joachim, a Mount Vernon resident, who raised over \$14,000 for Alzheimer's disease research on a one-of-a-kind canoe trip down the Susquehanna River in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Greg Joachim as an expression of the General Assembly's admiration for his commitment to raising awareness of Alzheimer's disease.

### HOUSE JOINT RESOLUTION NO. 1107

#### *Commending Gum Springs.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Gum Springs, the oldest African American community in Fairfax County, celebrated its 185th anniversary in 2018; and

WHEREAS, Gum Springs, named after a gum tree that once marked the community's location near Mount Vernon, traces its origins to a freeman, West Ford, who was born on the Bushfield Plantation in Westmoreland County circa 1784; and

WHEREAS, West Ford was the son of a female mulatto slave, Venus, who was owned by George Washington's brother, John Washington, and his wife, Hannah; as a young boy, he often served as a personal attendant to George Washington; and

WHEREAS, Hannah Washington decreed in her last will and testament for West Ford to be set free at the age of 21; and

WHEREAS, around 1806, West Ford was granted his freedom and, a few years later, he married Priscella Bell; the couple had four children, William, Daniel, Jane, and Julia, who were educated at Mount Vernon; and

WHEREAS, when Bushrod Washington died, he willed 160 acres of land adjacent to Mount Vernon to West Ford; two years later, West Ford sold the land and purchased 214 acres nearby, which became the black community of Gum Springs; and

WHEREAS, Gum Springs served as a haven for freed and runaway slaves during and after the Civil War; its residents began to build homes and establish their economic independence with the help of the Freedmen's Bureau and the Quaker community; and

WHEREAS, Gum Springs community members farmed the land and established themselves in trades learned while estate slaves; in 1867, the Freedmen's School was established at Bethlehem Baptist Church to educate Gum Springs residents; and

WHEREAS, in 1890, the Reverend Samuel K. Taylor, William Belfield, Lovelace Brown, Hamilton Gray, Robert D. King, Henry Randall, and Nathan Webb formed the Joint Stock Company of Gum Springs and sold lots; and

WHEREAS, Gum Springs continued to grow and thrive over the next century, with its members working in a variety of occupations, raising their families, and serving the community; Gum Springs now has more than 2,500 residents, many of whom are descendants of the original inhabitants; and

WHEREAS, Gum Springs commemorated its 185th anniversary with a festival and parade on community grounds on June 17, 2018; Ada Singletary, the oldest living resident of the community, who still lives on land that has been owned by her family for at least 100 years, was named grand marshal of the parade; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gum Springs on the occasion of its 185th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the New Gum Springs Civic Association as an expression of the General Assembly's admiration for the community's many contributions to the history and heritage of Fairfax County.

**HOUSE JOINT RESOLUTION NO. 1108**

*Commending United Community Ministries, Inc.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, for 50 years, United Community Ministries, Inc., has been in the community, of the community, and for the community, with a mission to empower neighbors in need in southeastern Fairfax County to transform their lives; and

WHEREAS, in 1969, members of Mount Vernon Presbyterian Church, Bethlehem Baptist Church, Saint Aidan's Episcopal Church, Mount Vernon Unitarian Church, and other faith communities joined together to start a food and clothing drive to support families living in poverty in the Mount Vernon area of Fairfax County; and

WHEREAS, United Community Ministries (UCM) was born from this humanitarian community service initiative as an independent, community-based nonprofit organization, with one employee, a \$7,000 budget, and a group of dedicated volunteers that provided food, clothing, and other emergency assistance to poor children, youth, and families; and

WHEREAS, in its 50-year history, UCM has grown tremendously to meet and serve the changing needs of Fairfax County, providing a range of holistic, life-changing services that address the complex challenges of multigenerational poverty, with a \$4.2 million operating budget and more than 70 employees, annually serving more than 6,000 vulnerable people, 40 percent of whom are children; and

WHEREAS, in addition to providing food and financial assistance, UCM also works to meet many other essential needs, including providing: emergency utility and medical assistance; an early learning center to prepare children for school readiness; a child abuse and neglect prevention program; youth development and enrichment programs at two community centers; English as a Second Language (ESL) and citizenship classes; immigration services; job readiness services; neighborhood community-building programs; and community schools; and

WHEREAS, with the changing population and increasing community needs, UCM's services and strategic partnerships with other nonprofit organizations, businesses, and government bodies have continued to evolve, leading UCM to serve as Lead Agency of Opportunity Mount Vernon, providing a continuum of services to children, youth, and adults to break the cycle of poverty, while embracing a vision of One Fairfax; and

WHEREAS, over five decades, hundreds of thousands of people in need have benefited from the caring work of UCM; and

WHEREAS, UCM envisions a community where everyone thrives and continues to empower neighbors in need with the dedicated leadership of its volunteer board of directors, the hard work of its team members and volunteers, and the generosity of its many community partners and donors; and

WHEREAS, for 50 years, UCM has been at the heart of neighbors helping neighbors and aspires to leverage this community spirit and work with critical partners to accelerate systemic changes to end multigenerational poverty in southeastern Fairfax County as a core value; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend United Community Ministries, Inc., on the occasion of its 50th anniversary, for its legacy of providing a strong safety net and performing a central role in facilitating a full spectrum of services to break the multigenerational cycle of poverty; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to United Community Ministries, Inc., as an expression of the General Assembly's admiration for the organization's vital role in southeastern Fairfax County.

**HOUSE JOINT RESOLUTION NO. 1109**

*Commending Michael Bennett.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Michael Bennett, CFO and partner with the Ourisman automotive group is the Mount Vernon-Lee Chamber of Commerce Citizen of the Year in 2019; and

WHEREAS, Michael Bennett is a lifelong resident of the Groveton area, where he was raised five houses down from the former Dixie Pig BBQ on Beacon Hill; he has worked to increase local business opportunities and has championed revitalization of the Richmond Highway corridor; as a community volunteer, his service is focused on helping children and those less fortunate, and on providing educational opportunities; and

WHEREAS, Michael Bennett started work at the age of 10, delivering papers for *The Washington Post*; he later worked at Joe Gill's service station in Beacon Mall and at the Hess gas station on Telegraph Road to pay his tuition to Bishop Ireton High School; and

WHEREAS, from this beginning, Michael Bennett went on to provide leadership for a string of successful automotive dealerships, opening the Ford store on Quander Road in 1979 before joining the Ourisman automotive group at the Ford store on Richmond Highway in 1983; he opened the Suzuki store on Richmond Highway in 1986 and subsequently a Chevy store in 2010; and

WHEREAS, Michael Bennett has been actively involved in youth sports; he helped start the Woodlawn Football League where he coached for nine years, leading teams that included two Metropolitan Super Bowl champion teams and one semi-finalist team; he coached Woodlawn Little League teams for eight years, including a state champion 12-year-old team; and he has served as a volunteer umpire and basketball official; and

WHEREAS, Michael Bennett serves on the boards of directors for Good Shepherd Housing and the Mount Vernon-Lee Education Partnership, and is a member of the Bishop Ireton High School Board of Governors; he is a past board member of the Southeast Fairfax Development Corporation; and

WHEREAS, Michael Bennett was appointed by the Governor to the Virginia Economic Development Partnership; since 1990 he has served as a National Automobile Dealers Charitable Foundation Ambassador; and

WHEREAS, Michael Bennett has been involved with the Mount Vernon-Lee Chamber of Commerce for 40 years; in 2014, the chamber recognized him as the founding sponsor of its annual Police and Firefighters Tribute; as a strong supporter of community policing, he helped create the Mount Vernon District Police Station's bike program; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michael Bennett, CFO and partner with the Ourisman automotive group, for being named the Mount Vernon-Lee Chamber of Commerce Citizen of the Year in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Bennett, as an expression of the General Assembly's admiration for receiving this distinction recognizing his good works in the community.

### HOUSE JOINT RESOLUTION NO. 1110

*Commending the South County High School boys' basketball team.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the South County High School boys' basketball team of Lorton won the Virginia High School League Class 6 state championship on March 8, 2018, at Virginia Commonwealth University's Siegel Center; and

WHEREAS, the South County High School Stallions defeated the West Branch High School Bruins 63-47 for the team's first state championship; and

WHEREAS, the team was led by senior Quentin Millora-Brown, 6A Occoquan Region player of the year, who had 13 points, 17 rebounds, eight assists, and four blocks, notching his 17th double-double of the season; senior forward Seth Dunn led the team in points scored with 19 in the championship game; and

WHEREAS, the championship victory culminated a 16-game winning streak that carried the South County Stallions to a 27-3 record for the season; and

WHEREAS, the South County Stallions' achievement was the result of the dedication of the student-athletes, the guidance of their coaches and teachers, and the support of the entire South County High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the South County High School boys' basketball team for winning the 2018 Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mike Robinson, coach of the South County High School boys' basketball team, as an expression of the General Assembly's admiration for his team's monumental triumph.

### HOUSE JOINT RESOLUTION NO. 1111

*Commending the South County High School band program.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the South County High School band program was named as a Virginia Honor Band for the second consecutive year in 2018; and

WHEREAS, the Virginia Honor Band award is presented by the Virginia Band and Orchestra Directors Association to schools that achieve a superior rating at both the Virginia State Marching Band Assessment and the Virginia State Concert Band Assessment; and

WHEREAS, at the Marching Band Assessment in the fall of 2017, the South County High School band performed its field show before a panel of seven judges—three music judges, two visual judges, and two general effects judges; and

WHEREAS, at the Concert Band Assessment in the spring of 2018, the South County High School band performed three pieces before a panel of three judges, followed by an impromptu piece before another judge; and

WHEREAS, the South County High School band was one of only a select few schools in the Commonwealth to achieve this high honor; it was the ninth time the program had received the honor in the school's 13-year history; and

WHEREAS, the South County High School band is ably led by Kevin Engdahl, who strives to instill in his students the importance of hard work and persistence as the key to success in music, academics, and beyond; and

WHEREAS, the successful season is a testament to the dedication and talents of all the members of the South County High School band program and the support of the school's faculty and staff, the students' families, and the entire South County High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the South County High School band program hereby be commended on its selection as a 2017-2018 Virginia Honor Band; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kevin Engdahl, director of the South County High School band program, as an expression of the General Assembly's admiration for the band's incredible achievements.

### HOUSE JOINT RESOLUTION NO. 1112

*Commending Shayla Young.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Shayla Young, a 13-year-old seventh-grader from Springfield who attends Irving Middle School, received a Prudential Spirit of Community Award for her volunteer efforts; and

WHEREAS, the Prudential Spirit of Community Award recognized Shayla Young for her volunteer community service; the award program is the largest youth recognition program based exclusively on volunteer community service in the country; and

WHEREAS, Shayla Young's community service project involved conducting a workshop at a veterans' retirement home to help the residents learn to make better use of their cell phones; many of the residents are in their 90s with poor vision and poor hearing; and

WHEREAS, Shayla Young enlisted her tech-savvy peers to teach the seniors the secrets of getting the most out of their cell phone use; and

WHEREAS, Shayla Young's young group explained various functions of cell phones, including how to increase font size, adjust volume and brightness, use password protection, save contacts, and link their phones to their email accounts; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Shayla Young of Irving Middle School for receiving a Prudential Spirit of Community Award for her outstanding volunteer efforts; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shayla Young as an expression of the General Assembly's admiration for her selfless drive to bridge generations and help veterans master useful technology.

### HOUSE JOINT RESOLUTION NO. 1113

*Commending the Northern Virginia Regional Park Authority.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Northern Virginia Regional Park Authority has served the community and the Commonwealth for 60 years; and

WHEREAS, the Northern Virginia Regional Park Authority (NOVA Parks) is a model of successful regionalism with member jurisdictions, including the Counties of Arlington, Fairfax, and Loudoun, and the Cities of Alexandria, Fairfax, and Falls Church; and

WHEREAS, NOVA Parks has conserved over 12,200 acres of land, much of it along the major rivers of Northern Virginia; and

WHEREAS, over 100 miles of trails, serving between two and three million users, have been created by NOVA Parks, including the Washington and Old Dominion Trail and the Bull Run/Occoquan Trails; and

WHEREAS, NOVA Parks has a positive economic impact of nearly \$50 million a year on the local economy; and

WHEREAS, significant historic sites connected with native peoples, the Colonial era, the Civil War, civil rights, and more have been preserved and interpreted by NOVA Parks; and

WHEREAS, NOVA Parks has created award winning facilities and programs, including two family campgrounds, five water parks, two holiday light shows, five event venues, and facilities for boating, hiking, riding, and much more; and

WHEREAS, parks continue to rank as one of the most important amenities for quality of life issues and NOVA Parks is known for having many of the best-quality parks in Virginia; in addition, entrepreneurial operations have resulted in a system that is over 85 percent self-funded; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Northern Virginia Regional Park Authority on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Northern Virginia Regional Park Authority as an expression of the General Assembly's admiration for a legacy of regional conservation and parks in Northern Virginia.

### HOUSE JOINT RESOLUTION NO. 1114

*Commending the Lakewood Hills #1 Home Owners Association.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for 40 years, the Lakewood Hills #1 Home Owners Association has provided a unified voice for the residents of Lakewood Hills and helped make the community an outstanding place to live and raise a family; and

WHEREAS, Lakewood Hills is a quiet community of 258 townhomes in a variety of styles situated next to Huntsman Lake in Springfield, conveniently located near the Fairfax County Parkway; and

WHEREAS, Lakewood Hills #1 Home Owners Association fosters a strong sense of community spirit by maintaining a variety of amenities, activities, and opportunities for civic engagement; and

WHEREAS, the members of the Lakewood Hills community make numerous contributions to the region, the Commonwealth, and the nation, serving as leaders in a variety of professions; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Lakewood Hills #1 Home Owners Association on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Lakewood Hills #1 Home Owners Association as an expression of the General Assembly's admiration for the many contributions of the Lakewood Hills community to Springfield and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1115

*Commending Michael Applegate.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Michael Applegate, dedicated volunteer at Laurel Hill Park, received the Fairfax County Park Authority's Elly Doyle Park Service Award in 2018; and

WHEREAS, Michael Applegate is a committed volunteer who contributes significant physical labor, regularly maintaining and improving the grounds and mountain bike trails in a large portion of Laurel Hill Park by mowing, trimming trees, and inspecting and repairing storm damage; and

WHEREAS, Michael Applegate improves trail surfaces and draining systems, builds ramp curves and moguls to enhance mountain biking trails, supervises contractors and Scout projects, and works with staff on trail improvements; and

WHEREAS, Michael Applegate contributes an average of 30 hours per week on the five-mile, single track trail network; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michael Applegate for receiving the Fairfax County Park Authority's Elly Doyle Park Service Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Applegate, dedicated volunteer at Laurel Hill Park, as an expression of the General Assembly's admiration for his selfless dedication to maintaining Fairfax County's recreational and natural resources.

### HOUSE JOINT RESOLUTION NO. 1116

*Commending Newington Forest Elementary School.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for 35 years, Newington Forest Elementary School in Springfield has provided a safe, caring, and supportive environment in which students can learn and grow; and

WHEREAS, Newington Forest Elementary School aims to provide a rigorous education to its culturally diverse student body through general education, special education, and English for Speakers of Other Languages programs; and

WHEREAS, the dedicated faculty of Newington Forest Elementary School adhere to best practices and strategies to support student-centered learning, and the school places a high emphasis on professional development for its teachers and administrators; and

WHEREAS, Newington Forest Elementary School is equipped with cutting-edge technology, including Smartboards in every classroom to provide an interactive, engaging learning experience; and

WHEREAS, Newington Forest Elementary School is known for creating an inclusive environment for students with disabilities; and

WHEREAS, outside of the classroom, Newington Forest Elementary School students have access to a wide array of extracurricular activities, including strings, band, chorus, STEAM, and other clubs; and

WHEREAS, Newington Forest Elementary School students follow the Knights C.A.R.E. pledge of making good Choices, having a positive Attitude, Respecting yourself and others, and giving the best Effort every day; and

WHEREAS, Newington Forest Elementary School faculty and parents work collaboratively together for high achievement in the classroom and the community; and

WHEREAS, the Newington Forest Elementary School PTA takes an active role in children's education, sponsoring after-school programs as well as fun activities like an annual haunted house at the Fall Festival; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Newington Forest Elementary School on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Newington Forest Elementary School as an expression of the General Assembly's admiration for the school's long legacy of service to students in Fairfax County.

### HOUSE JOINT RESOLUTION NO. 1117

*Commending Brian Dettelbach.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Brian Dettelbach, assistant inspector general for Legal, Legislative, and External Affairs at the United States Department of Transportation, was awarded the June Gibbs Brown Career Achievement Award by the Council of the Inspectors General on Integrity and Efficiency on October 17, 2018; and

WHEREAS, the Council of the Inspectors General on Integrity and Efficiency is an independent entity established within the executive branch of the federal government by the Inspector General Act and includes 73 statutorily created federal inspectors general; and

WHEREAS, the mission of the Council of the Inspectors General on Integrity and Efficiency is to address integrity, economy, and effectiveness issues that transcend individual government agencies and to aid the establishment of a well-trained and highly skilled workforce in the offices of the inspectors general; and

WHEREAS, the June Gibbs Brown Career Achievement Award recognizes noteworthy leadership and efforts that benefit the community of inspectors general at large; and

WHEREAS, Brian Dettelbach was awarded the June Gibbs Brown Career Achievement Award in recognition of his innovative and impactful contributions to legislation to protect the independence of inspectors general and benefit the entire community of inspectors general; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Brian Dettelbach for receiving the June Gibbs Brown Career Achievement Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brian Dettelbach as an expression of the General Assembly's admiration for his noteworthy leadership and efforts that benefit the community of inspectors general at large.

### HOUSE JOINT RESOLUTION NO. 1118

*Commending Edu-Futuro.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Edu-Futuro, an Arlington-based nonprofit that empowers low-income Latino and other immigrant youth through education, leadership development, and family engagement to become the next generation of successful professionals and transform their community, marked its 20th anniversary in 2018; and

WHEREAS, Edu-Futuro began in 1998 when a group of Bolivian parents and the Bolivian ambassador met with the superintendent of Arlington Public Schools to establish an academic enrichment program that would meet the needs of Arlington's growing immigrant Latino population; and

WHEREAS, since then, Edu-Futuro has grown to support and empower Latino and other immigrant families through educational programs and leadership development while teaching the broader community about Latin American culture; and

WHEREAS, Edu-Futuro has significantly expanded its programs and has grown from a group of less than a dozen volunteers to a recognized nonprofit organization with an established central office, a board of directors, a dedicated staff, and hundreds of volunteers dedicated to the group's mission; and

WHEREAS, Edu-Futuro has developed a research-based intergenerational approach to ensure that immigrant youth and families attain postsecondary goals, improve long-term financial stability, and strengthen interfamily cohesiveness, serving more than a thousand teens each year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Edu-Futuro on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Edu-Futuro as an expression of the General Assembly's admiration for the organization's mission and legacy of educational and professional excellence.

### HOUSE JOINT RESOLUTION NO. 1119

*Commending Nancy-Jo Manney.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Nancy-Jo Manney retired as chief executive officer of the Greater Springfield Chamber of Commerce on December 31, 2018, after 20 years of service; and

WHEREAS, founded in 1957, the Greater Springfield Chamber of Commerce brings local businesses together to develop and promote balanced economic growth and business opportunities in harmony with the objectives of the greater Springfield community by strengthening the local economy, promoting the community, providing opportunities to connect, representing the interests of businesses with government, and developing community leaders; and

WHEREAS, a graduate of Western Maryland College, Nancy-Jo Manney spent several years working in the hospitality industry before joining the Greater Springfield Chamber of Commerce as chief executive officer in November of 1998; and

WHEREAS, during her tenure as chief executive officer of the Greater Springfield Chamber of Commerce, Nancy-Jo Manney worked tirelessly to build relationships with members and other stakeholders, benefiting the broader Springfield community; and

WHEREAS, in addition to her service as chief executive officer of the Greater Springfield Chamber of Commerce, Nancy-Jo Manney has participated as a member of the Board of the Transportation Association of Greater Springfield and the Springfield Days Festival Board; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Nancy-Jo Manney on the occasion of her retirement as chief executive officer of the Greater Springfield Chamber of Commerce; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nancy-Jo Manney as an expression of the General Assembly's admiration for her service.

### HOUSE JOINT RESOLUTION NO. 1120

*Commending Johnson's Orchards.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Johnson's Orchards, a family-owned and -operated farm in Bedford, celebrated its 100th anniversary in 2018; and

WHEREAS, Johnson's Orchards was established in 1918 by Robert Lee and J.E. Johnson, and the first fruit trees were planted in 1919; and

WHEREAS, Johnson's Orchards is a six-generation farm that originated on the Peaks of Otter where the National Park Service has restored the family's original property; apples from the original planting have been grafted and nurtured on the present orchard site; and

WHEREAS, Johnson's Orchards' sale area is its old packing shed with a winery located in the cellar; crops include apples, peaches, nectarines, and plums; cold cider, jellies, jams, butter, and relish are products for sale; and

WHEREAS, the Johnson's Orchards winery is just as versatile as the orchard, with over 25 different fruit wines; facilities include a log cabin, a pavilion for picnicking, and trails for walking and hiking with breathtaking views; and

WHEREAS, today, Johnson's Orchards has around 5,000 apple trees with almost 200 different varieties and is a popular destination for day trippers, vacationers, and wedding parties; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Johnson's Orchards, a family-owned and -operated farm in Bedford, on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Johnson's Orchards as an expression of the General Assembly's admiration for the business's longevity and dedication to agricultural excellence.

### HOUSE JOINT RESOLUTION NO. 1121

*Commending the Mustang Heritage Foundation.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Mustang Heritage Foundation was commended by the United States Bureau of Land Management at a wild horse and burro event at Meadowood Recreation Area in November 2018; and

WHEREAS, the Mustang Heritage Foundation was recognized for its efforts to place over 11,200 trained, wild horses and burros since 2007; and

WHEREAS, the primary mission of the Mustang Heritage Foundation is to create and promote programs and activities that elevate the image, trainability, and placement of wild horses and burros, while educating the public about the program; and

WHEREAS, the wild horse and burro population is triple the size that the land can support; chronic overpopulation increases the risk of damage to rangeland resources through overgrazing and raises the chances of starvation and thirst for animals in overpopulated herds; and

WHEREAS, the Mustang Heritage Foundation has taken great strides to address this urgent problem; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Mustang Heritage Foundation for its commendation from the United States Bureau of Land Management; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Mustang Heritage Foundation as an expression of the General Assembly's admiration for the foundation's contributions to the nation and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1122

*Commending Ron Wasserstein.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Ron Wasserstein received the Fairfax County Champions of Character Award on October 16, 2018, for his extraordinary service in supporting the Virginia Youth Soccer Association's Springfield/South County Youth Soccer Club travel soccer team; and

WHEREAS, the Fairfax County Champions of Character Awards program honors youth, coaches, and parents for extraordinary service in pursuing victory with honor on and off the field of competition and supporting the ennobling tradition of amateur athletics in cultivating teamwork, leadership, good sportsmanship, and community service; and

WHEREAS, in addition to ably serving as registrar of the Springfield/South County Youth Soccer Club travel soccer team, Ron Wasserstein also provides support and mentorship and serves as a valuable resource for other clubs; he utilized his talents for organization and communication to coordinate the Springfield/South County Youth Soccer Club's 2018 spring tryouts; and

WHEREAS, the Springfield/South County Youth Soccer Club greatly appreciates Ron Wasserstein's contributions and support; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ron Wasserstein on being awarded the Fairfax County Champions of Character Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ron Wasserstein as an expression of the General Assembly's admiration for his extraordinary service in supporting the Virginia Youth Soccer Association's Springfield/South County Youth Soccer Club travel soccer team.

### HOUSE JOINT RESOLUTION NO. 1123

*Commending Jeff Creskoff.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Jeff Creskoff received a Fairfax County Champions of Character Award on October 16, 2018, for his extraordinary service in supporting the Springfield/South County Youth Club softball league; and

WHEREAS, the Fairfax County Champions of Character Awards program honors youth, coaches, and parents for extraordinary service in pursuing victory with honor on and off the field of competition and supporting the ennobling tradition of amateur athletics in cultivating teamwork, leadership, good sportsmanship, and community service; and

WHEREAS, in addition to ably managing and organizing the Springfield/South County Youth Club softball league in his role of softball commissioner, Jeff Creskoff also provides creative options for improving players' skills, including independently coordinating five hitting and pitching clinics and bringing in professional softball coaches to help players learn the mental and physical aspects of the game; and

WHEREAS, the Springfield/South County Youth Club greatly appreciates Jeff Creskoff's contributions and support; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jeff Creskoff on being awarded a Fairfax County Champions of Character Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jeff Creskoff as an expression of the General Assembly's admiration for his extraordinary service in supporting the Springfield/South County Youth Club softball league.

### HOUSE JOINT RESOLUTION NO. 1124

*Commending the Fairfax County Park Authority.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Fairfax County Park Authority received national accreditation from the Commission for Accreditation of Park and Recreation Agencies and the National Recreation and Park Association in 2018; and

WHEREAS, this accreditation marked the third consecutive time the Fairfax County Park Authority (FCPA) has received this distinction, which was awarded during the 2018 National Recreation and Park Association Conference in Indianapolis; and

WHEREAS, the Commission for Accreditation of Park and Recreation Agencies accreditation is the only national accreditation for park and recreation agencies and requires demonstrating compliance with 151 recognized performance and operations standards; this accreditation indicates the agency has complied with rigorous standards in relation to the management and administration of its lands, facilities, resources, programs, safety measures, and services; and

WHEREAS, this honorable distinction was the result of the hard work and dedication from FCPA staff, the Fairfax County Board of Supervisors and the Park Board, thousands of volunteers, park staff, and the community-at-large that supports their parks; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fairfax County Park Authority for receiving national accreditation in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kirk Kincannon, executive director of the Fairfax County Park Authority, as an expression of the General Assembly's admiration for his agency's remarkable accomplishment and its contributions to the community of Fairfax County.

### HOUSE JOINT RESOLUTION NO. 1125

*Commending Dr. Terri Mason.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Dr. Terri Mason, counselor at Hunt Valley Elementary School in Springfield for over two decades, was named Counselor of the Year by the Virginia Counselors Association in 2018; and

WHEREAS, Terri Mason began her career in education as a teacher, but later determined that counseling was her true calling; she has been a counselor with Fairfax County Public Schools for over 24 years and has also served as a counselor educator at George Mason University; and

WHEREAS, Terri Mason takes a holistic approach to counseling, placing emphasis on life skills training, peer support, and community engagement; and

WHEREAS, Terri Mason serves as president of the Virginia Association for Specialists in Group Work and plans its annual conference; the organization was recognized as Chapter of the Year by the national group in 2016 and Terri Mason was honored as Division Member of the Year; and

WHEREAS, students at Hunt Valley Elementary School have a more enjoyable learning experience as a result of the support and guidance provided by Terri Mason; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dr. Terri Mason, the Virginia Counselors Association's 2018 Counselor of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Terri Mason as an expression of the General Assembly's admiration for the care and attention she has shown students of the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1126

*Commending Lieutenant Colonel Adam Pannone, USAR.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Lieutenant Colonel Adam Pannone, USAR, an instructor at the United States Army Command and Staff School, was distinguished as The Army School System Instructor of the Year in 2018; and

WHEREAS, Lt. Col. Pannone earned this distinction in his second year teaching with the 10th-80th Officer Education System Battalion; he was selected after multiple levels of competition, including a live competition at Fort Knox, Kentucky; and

WHEREAS, a member of the United States Army Reserves, Lt. Col. Pannone is also a corporate educator with PricewaterhouseCoopers and applies many of the education principles he uses in the corporate world while educating Army organizational-level leaders; and

WHEREAS, Lt. Col. Pannone places an emphasis on incorporating technology and encouraging discussion in the classroom, enlivening the Command and General Staff Officer Course curriculum and readings; and

WHEREAS, Lt. Col. Pannone's service has strengthened the United States Army's leadership and the safety of the Commonwealth and nation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lieutenant Colonel Adam Pannone, USAR, for being selected as The Army School System Instructor of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lieutenant Colonel Adam Pannone, USAR, as an expression of the General Assembly's admiration for his service.

### HOUSE JOINT RESOLUTION NO. 1127

*Commending Carey J. Sienicki.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Carey J. Sienicki is retiring as a member of the Vienna Town Council in 2019; and

WHEREAS, Carey Sienicki has served as a councilmember since 2011 and also serves on the Windover Heights Board of Review; and

WHEREAS, Carey Sienicki formerly served as vice mayor and as planning commissioner; and

WHEREAS, Carey Sienicki is a member of the Virginia Municipal League, attaining the Advanced Certified Local Government Official certification, and serves on the General Laws Committee; and

WHEREAS, locally, Carey Sienicki is a member of the Vienna Arts Society and Historic Vienna, Inc.; professionally, she is a business owner, registered architect, and member of the American Institute of Architects; and

WHEREAS, Carey Sienicki is a charter member of the Vienna Business Association, serving in leadership positions on its Ambassador and Vienna Oktoberfest committees; and

WHEREAS, the citizens of Vienna are indebted to Councilmember Carey J. Sienicki for her service; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Carey J. Sienicki, member of the Vienna Town Council, on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carey J. Sienicki as an expression of the General Assembly's admiration for her contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1128

*Commending the Loudoun Freedom Center.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, on October 14, 2018, Pastor Michelle Thomas and Ron Campbell, founder and executive director of the Loudoun Freedom Center, respectively, announced plans for the creation of a "freedom trail" honoring the memory of African Americans who lived in Lansdowne; and

WHEREAS, Lansdowne was home to as many as 100 enslaved African Americans in the 1700s and 1800s; the freedom trail will feature six historical markers, installed in conjunction with the Lansdowne Town Center and its owner, Saul Centers, to share this story with Lansdowne residents and visitors; and

WHEREAS, Pastor Michelle Thomas made this announcement in tandem with the ribbon-cutting ceremony for a new walking path built to preserve and memorialize the burial ground for enslaved African Americans at Belmont; and

WHEREAS, the Belmont burial grounds walking path was built by Mikael Martinez Jaka and over 50 volunteers for Jaka's Eagle Scout service project, contributing to the Loudoun Freedom Center's plans to make the cemetery a historic destination for county residents and school field trips; and

WHEREAS, Michelle Thomas, Ron Campbell, and staff at the Loudoun Freedom Center have admirably dedicated their time to uncovering, preserving, and memorializing the history of African Americans in Loudoun County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun Freedom Center for their "freedom trail" honoring the lives of enslaved African Americans from Lansdowne; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun Freedom Center as an expression of the General Assembly's admiration for their important work to preserve the history of the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1129

*Commending the Young Entrepreneurs Academy.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Young Entrepreneurs Academy, an organization sponsored by the Loudoun County Chamber of Commerce to teach youth to develop business and nonprofit ideas, was launched in the county in 2017 and finished its second successful year in 2018; and

WHEREAS, the mission of the Young Entrepreneurs Academy is to teach middle and high school students how to make a job, not just take a job; the parent organization was founded in 2004 at the University of Rochester with support from the Kauffman Foundation; and

WHEREAS, in its first year, the Young Entrepreneurs Academy in Loudoun County enrolled 29 students; this year, it accepted 24 students out of 50 applicants; the students learn how to develop a business plan, conduct market research, and deliver a pitch to prospective investors; and

WHEREAS, a year-end competition gives Young Entrepreneurs Academy students the opportunity to pitch their ideas to a panel of local business leaders with the chance to win a share of \$5,000 in investor funds and a trip to the national Young Entrepreneurs Academy Saunders Scholars Competition; and

WHEREAS, support from the Loudoun County business community is a major part of the Young Entrepreneurs Academy's success as it prepares county youth to be the business leaders of tomorrow; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Young Entrepreneurs Academy for its recent launch and tremendous success in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Young Entrepreneurs Academy in Loudoun County as an expression of the General Assembly's admiration for the organization's contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1130

*Commending Tim Hemstreet.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, Tim Hemstreet, Loudoun County Administrator, received the 2018 Visionary Leadership Award from the Metropolitan Washington Council of Governments' Institute for Regional Excellence; and

WHEREAS, the Visionary Leadership Award recognizes government leaders for career achievements and extraordinary contributions to their community; and

WHEREAS, Tim Hemstreet has served as county administrator in Loudoun County since 2009, overseeing more than 5,000 full-time, part-time, and seasonal employees and a budget of \$2.6 billion; his responsibilities as county administrator include directing and overseeing day-to-day operations of all county departments and agencies, providing administrative support to the Board of Supervisors, implementing directives and resolutions from the Board of Supervisors, and serving as the Board of Supervisors' liaison to various entities; and

WHEREAS, as chief administrative officer of Loudoun County, Tim Hemstreet is involved with several collaborative efforts across the National Capital Region, including the Council of Governments, for which he serves as the chairman of the Homeland Security Executive Committee; and

WHEREAS, under Tim Hemstreet's leadership, major developments have been completed in Loudoun County including the extension of Metrorail's Silver Line into the county, an expansion in transportation infrastructure projects, reform of the Fire and Rescue Service System, and legislative enhancements to make the county a preferred destination for businesses; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tim Hemstreet, Loudoun County Administrator, for receiving the 2018 Visionary Leadership Award from the Metropolitan Washington Council of Governments' Institute for Regional Excellence; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tim Hemstreet as an expression of the General Assembly's admiration for his contributions to Loudoun County and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1131

*Commending Jason Kaiser, Jr.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Jason Kaiser, Jr., a senior at Brooke Point High School in Stafford, has been named 2018 Student Athlete of the Year by the Virginia Sports Hall of Fame Education Foundation; and

WHEREAS, Jason Kaiser has enjoyed an illustrious career as a two-sport star for the Black Hawks; a member of the wrestling and baseball teams, he has been a state qualifier in wrestling, helping his team win back-to-back Class 5A Virginia State Wrestling Championships; and

WHEREAS, Jason Kaiser has achieved a 4.62 grade point average and has earned numerous awards for his academic excellence, including the Virginia House of Delegates Academic Excellence Award; and

WHEREAS, a member of his school NJROTC program, Jason Kaiser is currently the Battalion Executive Officer and oversees more than 150 cadets in the program; and

WHEREAS, within his community, Jason Kaiser has logged countless volunteer hours with the Semper Fi Fund's Kid Camp at Outdoor Odyssey, the Special Olympics, and the community cleanup effort at Prince William Forest National Park; and

WHEREAS, Jason Kaiser will attend the United States Naval Academy and plans to receive a military commission as a Marine officer; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jason Kaiser, Jr., a senior at Brooke Point High School in Stafford, for being named 2018 Student Athlete of the Year by the Virginia Sports Hall of Fame Education Foundation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jason Kaiser, Jr., as an expression of the General Assembly's admiration for his many achievements in sports, academics, NJROTC, and community service.

### HOUSE JOINT RESOLUTION NO. 1132

*Commending the Virginia Scenic Rivers Program.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the Virginia Scenic Rivers Program was established in 1970 and will celebrate its 50th anniversary in 2020; and

WHEREAS, the Virginia Scenic Rivers Program designates and helps protect rivers and streams that possess outstanding scenic, recreational, historic, and natural characteristics that are of statewide significance; and

WHEREAS, scenic river designations result from initiatives launched by partnerships between local organizations, local governments, state agencies, and the General Assembly of Virginia; and

WHEREAS, since the advent of the program, 33 river segments totaling more than 850 river miles have been designated as state scenic rivers; and

WHEREAS, the Virginia Department of Conservation and Recreation administers the Virginia Scenic Rivers Program, is assisted and advised by the Board of Conservation and Recreation, and receives guidance from locally appointed advisory committees; and

WHEREAS, rivers possessing outstanding scenic qualities continue to be evaluated and added to the Virginia Scenic Rivers system; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Scenic Rivers Program in advance of its 50th anniversary so that the Board of Conservation and Recreation, the Virginia Department of Conservation and Recreation, advisory committees, interested citizens, and local governments may plan for appropriate celebrations in 2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Scenic Rivers Program as an expression of the General Assembly's gratitude for the efforts of those state and local entities and individuals who have moved the program forward for the benefit of all Virginians now and in the future.

### HOUSE JOINT RESOLUTION NO. 1133

*Commending American Jewish Committee Washington, D.C.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, for 75 years, American Jewish Committee Washington, D.C., has stood up for Jewish concerns in the United States and around the world and has advocated for the dignity of all people; and

WHEREAS, American Jewish Committee (AJC) Washington is a branch of the worldwide nonprofit organization AJC, which has supported civil liberties and fought anti-Semitism and discrimination in all forms since its founding in 1906; and

WHEREAS, with 22 offices in the United States and 12 posts around the world, AJC is a global Jewish advocacy network; AJC Washington serves Virginia, Maryland, and the District of Columbia and was founded in 1944 as the extent of the Holocaust was becoming known; and

WHEREAS, throughout its history, AJC has been a pioneer in interfaith relations, expanding dialogue and partnerships between religious and ethnic groups; the organization has also created public service campaigns to promote tolerance and pluralism in the United States; and

WHEREAS, in the landmark Brown v. Board of Education case, the Supreme Court of the United States called on AJC-sponsored research conducted by psychologist Kenneth Clark; and

WHEREAS, AJC Washington uses its unique connections to the nation's capital to promote strong alliances, policies, and legislation that make the United States and the world safer and more secure; and

WHEREAS, through its leadership development program, AJC ACCESS D.C., AJC Washington empowers young Jewish professionals to become leaders in their communities; and

WHEREAS, today, AJC Washington serves as a strong link between Jews and Muslims in Northern Virginia through its Muslim-Jewish Advisory Council and advocates for the rights of all Virginians; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend American Jewish Committee Washington, D.C., on the occasion of its 75th anniversary of service to communities throughout Virginia, Maryland, and the District of Columbia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alan Ronkin, regional director of American Jewish Committee Washington, D.C., as an expression of the General Assembly's admiration for the organization's achievements in defense of tolerance and social equity and best wishes for great success in years to come.

### HOUSE JOINT RESOLUTION NO. 1134

*Commending the 80th anniversary of the sit-in at the Kate Waller Barrett Branch of the Alexandria Library.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, the Thirteenth Amendment to the United States Constitution abolishing slavery was adopted in 1865 but was quickly contravened in the South by Jim Crow laws, which subjected people of color to discrimination and injustice; and

WHEREAS, the constitutionality of the doctrine of "separate but equal" was upheld by the courts and used as the mechanism for enforcing segregation of public facilities; and

WHEREAS, Alexandria established a public library in 1937, limiting membership to white residents of the city; and

WHEREAS, the African American citizens of Alexandria were not only denied membership in the library, but were also denied an equal facility dedicated to the African American community; and

WHEREAS, United States Army Sergeant George Wilson and attorney Samuel W. Tucker applied for and were refused library cards in 1937; and

WHEREAS, Samuel W. Tucker organized a peaceful protest at the library, and six courageous, young African American men—William Evans, Otto Tucker, Edward Gaddis, Morris Murray, Clarence Strange, and Robert Strange—put Samuel Tucker's plan into action; and

WHEREAS, on August 21, 1939, after the young men were denied library privileges at Alexandria's Kate Waller Barrett Library, they refused to comply with the orders to leave the building and were arrested while reading in silent protest in the library's public reading room; and

WHEREAS, after the young men were cleared of all charges of disturbing the peace, the City of Alexandria established the Robinson Library, which was the "separate but equal" facility that served the "colored community" of Alexandria for over 20 years after the 1939 sit-in; and

WHEREAS, the Alexandria Library is commemorating the 80th anniversary of the sit-in throughout 2019 through programming, guest speakers, book displays, performances, and an honorary ceremony; and

WHEREAS, the Alexandria Library Foundation honored the legacy of the peaceful protest, which was ahead of its time, by establishing the Samuel W. Tucker Fund, which provides support for library programming and collections that will center on civil rights, human rights, the African American diaspora, social freedoms, and equality; and

WHEREAS, on August 21, 2019, the Alexandria Library will commemorate the 80th anniversary of the Alexandria Library sit-in for civil rights; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the 80th anniversary of the sit-in at the Kate Waller Barrett Branch of the Alexandria Library be commemorated in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution to the Mayor of Alexandria as an expression of the General Assembly's respect for the historical significance of the sit-in and so that it may be read and distributed at the August 21, 2019, ceremony.

### HOUSE JOINT RESOLUTION NO. 1135

*Commending John C. Cook.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, John C. Cook, Braddock District representative of the Fairfax County Board of Supervisors, is retiring from his position in 2019; and

WHEREAS, John C. Cook has served on the Fairfax County Board of Supervisors since 2009; during his tenure with the board, he has served as chair of the Public Safety Committee and as representative to both the Domestic Violence Prevention, Policy, & Coordinating Council of Fairfax County and George Mason University's Campus Advisory Board; and

WHEREAS, John Cook currently serves as secretary and board member of the Virginia Railway Express Operations Board and was formerly the board's chair; he is also a member of the Northern Virginia Transportation Commission, where he is chair of the Governance and Personnel Committee, and the Northern Virginia Regional Commission, where he serves as treasurer; and

WHEREAS, for his tireless commitment to helping others in the community, in 2014, John Cook was named Shelter House, Inc.'s Community Champion and received the President's Award from the Fairfax branch of the NAACP; in 2008, he was recognized as Braddock District "Community Champion" by Volunteer Fairfax for his work as former president of the Kings Park Civic Association; and

WHEREAS, the citizens of Fairfax County are indebted to John Cook for his years of service to the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John C. Cook, Braddock District representative of the Fairfax County Board of Supervisors, on the occasion of his retirement from the position in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John C. Cook as an expression of the General Assembly's admiration for his contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1136

*Commending the Korean Independence Movement.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 22, 2019

WHEREAS, the nation of Korea was occupied by the Empire of Japan from 1910 to 1945; and

WHEREAS, on March 1, 1919, a series of demonstrations took place across Korea with over a million people taking to the streets to read their Declaration of Independence from the Japanese occupation; and

WHEREAS, the reprisals against demonstrators were swift, with more than 7,000 people killed and 16,000 wounded by Japanese soldiers and police, and more than 45,000 people arrested; and

WHEREAS, the Korean Independence Movement, also known as the March First or "Sam Il Jeol" Movement, was one of the earliest and most public displays of resistance against the Japanese annexation and colonial rule of Korea; and

WHEREAS, the Korean Independence Movement ultimately resulted in the formation of a Korean provisional government in exile; many of the legal traditions of the modern-day Republic of Korea are traced back to the provisional government, including the nation's commitment to peace, human rights, and a free and equal democracy; and

WHEREAS, in 2019, the Republic of Korea will commemorate the historic centennial anniversary of the Korean Independence Movement by laying a foundation for an exchange program with North Korea based on the two nations' shared history during the movement; and

WHEREAS, the joint commemoration of the Korean Independence Movement between the two nations represents a symbol of reconciliation, unity, and peace for the future; and

WHEREAS, the nearly two million Korean Americans make countless contributions to life in the United States and the Commonwealth as leaders in a variety of professions and as engaged members of society; the robust Korean American community in the Commonwealth will mark the centennial anniversary of the Korean Independence Movement through many special events; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby recognize and commend the Korean Independence Movement on the occasion of the 100th anniversary of its occurrence; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Embassy of the Republic of Korea as an expression of the General Assembly's admiration for the historical significance of the Korean Independence Movement.

### HOUSE JOINT RESOLUTION NO. 1137

*Celebrating the life of Command Sergeant Major Lorene Ann Wright, USA, Ret.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Command Sergeant Major Lorene Ann Wright, USA, Ret., honored veteran of the United States Army, died on December 2, 2018; and

WHEREAS, Lorene "Lori" Ann Wright retired from the United States Army in 2006 after 24 years of honorable service; over her military career, she was an intelligence analyst assigned to Korea, a veteran of Operation Enduring Freedom, a command sergeant major of the 165th Military Intelligence Battalion, and a senior drill sergeant at Fort Bragg, North Carolina; and

WHEREAS, for her service, Lori Wright was awarded the Legion of Merit, a Bronze Star Medal, and the Knowlton Award for Excellence in Intelligence; and

WHEREAS, after her service in the United States Army, Lori Wright worked as a counterintelligence analyst at the United States Office of Personnel Management until her full retirement in 2017; and

WHEREAS, Lori Wright will be dearly remembered and greatly missed by her husband, Alex; her daughter, Tiffany; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Command Sergeant Major Lorene Ann Wright, USA, Ret.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Command Sergeant Major Lorene Ann Wright, USA, Ret., as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1138

*Celebrating the life of Captain Anthony Reid Adams, USCG, Ret.*

Agreed to by the House of Delegates, February 20, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Captain Anthony Reid Adams, USCG, Ret., a distinguished veteran and a generous volunteer in his community, died on November 15, 2018; and

WHEREAS, a native of Bakersfield, California, Anthony "Tony" Reid Adams joined the United States Coast Guard (USCG) at the age of 17 and served the nation for more than 30 years as a search and rescue pilot, mastering several types of aircraft; and

WHEREAS, in 1977, Tony Adams was assigned to the Coast Guard Headquarters in Washington, D.C., where he directed the Marine Environmental Protection Program, managing key legislative proposals including the National Oil and Hazardous Substances Pollution Contingency Plan, the Oil Spill Liability Trust Fund, the Natural Resource Damage Assessment and Restoration Program, and the Comprehensive Environmental Response, Compensation, and Liability Act; and

WHEREAS, Tony Adams served as the fiduciary manager of the oil spill cleanup fund for USCG and Environmental Protection Agency responses to spills in the United States' navigable waters, and he researched, developed, and implemented innovative technologies such as "oil spill fingerprinting" to identify the source of leaks and spills; and

WHEREAS, Tony Adams then served as deputy group commander and executive officer of Coast Guard Air Station North Bend and commanding officer of Coast Guard Air Station Astoria, both located in Oregon, overseeing several enhancements to the two stations; and

WHEREAS, following his successful command assignment, Tony Adams was appointed as the USCG liaison to Forces Command at Fort McPherson in Georgia, then returned to Coast Guard Headquarters to finish his career; and

WHEREAS, after his retirement, Tony Adams pursued a second career as chief executive officer of Adams Maritime and the principal consultant for Gallagher Marine Systems, where he helped develop spill containment and countermeasure plans for ships calling on United States ports; and

WHEREAS, Tony Adams was a devout Roman Catholic who served as treasurer for the Knights of Columbus for 22 years, and he gave generously of his time and talents to support charitable organizations; he also fostered medically fragile or abused children; and

WHEREAS, Tony Adams will be fondly remembered and greatly missed by his wife of 54 years, Patricia Ann Adams; his children, the Honorable Dawn M. Adams, Anthony R. Adams, Jr., and Scott D. Adams, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Captain Anthony Reid Adams, USCG, Ret.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Captain Anthony Reid Adams, USCG, Ret., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1139

*Celebrating the life of Lieutenant Bradford Turner Clark.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 23, 2019

WHEREAS, Lieutenant Bradford Turner Clark, a dedicated husband and father who courageously served the Hanover County community as a firefighter, died in the line of duty on October 11, 2018; and

WHEREAS, a proud native of Hanover County, Bradford "Brad" Turner Clark joined the United States Army after graduating from Atlee High School; and

WHEREAS, upon completion of his honorable military service, Brad Clark returned home to the Commonwealth and joined Hanover County Fire and EMS on July 16, 2005, ultimately rising through the ranks to become a lieutenant; and

WHEREAS, a passionate lifelong learner who worked to ensure that public safety officers in Hanover County had the best possible training, Brad Clark served as lead instructor at Hanover Fire Academy 33 and as an instructor for Walker Sisk Memorial Truck School, Andy Fredericks Training Days, The 350' Line, and other training programs around the country; and

WHEREAS, Brad Clark recognized the sacrifices of his fellow firefighters as an honor guard at the National Fallen Firefighters Memorial in Emmitsburg, Maryland; and

WHEREAS, Brad Clark safeguarded the lives and property of his fellow Hanover County residents for more than a decade and was serving as the officer of a five-person squad of firefighters at Hanover Fire Station Six in Mechanicsville at the time of his passing; and

WHEREAS, Brad Clark made the ultimate sacrifice while responding to a vehicle crash during severe weather that resulted from Hurricane Michael; and

WHEREAS, Brad Clark will be fondly remembered and greatly missed by his wife, Melanie; his four daughters, Brady, Lilly, Olivia, and Madison; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lieutenant Bradford Turner Clark, a dedicated firefighter and a beloved member of the Hanover County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lieutenant Bradford Turner Clark as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1140

*Election of Circuit Court Judges, General District Court Judges, a Juvenile and Domestic Relations District Court Judge, and members of the Judicial Inquiry and Review Commission.*

Agreed to by the House of Delegates, February 21, 2019

Agreed to by the Senate, February 21, 2019

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed this day To the election of Circuit Court judges for terms of eight years commencing as follows:  
One judge for the Twenty-first Judicial Circuit, term commencing May 1, 2019.

One judge for the Twenty-sixth Judicial Circuit, term commencing September 1, 2019.

To the election of General District Court judges for terms of six years commencing as follows:

One judge for the Twenty-first Judicial District, term commencing May 1, 2019.

One judge for the Twenty-first Judicial District, term commencing July 1, 2019.

To the election of a Juvenile and Domestic Relations District Court judge for the Twenty-first Judicial District for a term of six years commencing July 1, 2019.

To the election of members of the Judicial Inquiry and Review Commission for terms as follows:

One member for an unexpired term commencing November 1, 2019, and ending June 30, 2021.

One member for an unexpired term ending June 30, 2020.

One member, term commencing July 1, 2019.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

### HOUSE JOINT RESOLUTION NO. 1141

*Amending and readopting Rules 20 and 23 of House Joint Resolution No. 606 of the 2019 Regular Session of the General Assembly of Virginia, relating to budget conference report, session adjournment and per diem payment.*

Agreed to by the House of Delegates, February 23, 2019

Agreed to by the Senate, February 23, 2019

RESOLVED by the House of Delegates, the Senate concurring, That Rules 20 and 23 of House Joint Resolution No. 606 of the 2019 Regular Session of the General Assembly of Virginia are amended and readopted as follows:

Rule 20. Any conference committee on the Budget Bill shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable. In accordance with House Rule 75(b) and Senate Rule 39(a), neither house shall receive, consider, or vote on any Budget Bill that is in conference unless it has been agreed to in writing by a majority of conferees from each house. Neither house shall consider such conference report earlier than 24 hours after receipt, unless both houses respectively determine to proceed earlier by a vote of two-thirds of the members voting in each house. No engrossment of the Budget Bill shall be required in either house, and any conference on the Budget Bill shall consider, as the basis of its deliberations, the Budget Bill as recommended by the Governor and introduced in the House and the amendments thereto proposed by each house. A report shall be issued concurrently with the report of the conference committee that identifies the following by item number, narrative description, and dollar amount: (i) any nonstate agency appropriation, (ii) any item in the conference report that was not included in a general appropriation bill as passed by either the House or the Senate, and (iii) any item that represents legislation that failed in either house during the regular or a special session.

Rule 23. This session of the General Assembly shall be extended beyond the 30-day period provided in Section 6 of Article IV of the Constitution of Virginia and shall adjourn sine die no later than *Sunday, February 24, 2019. During such extension, members of the General Assembly shall receive session per diem; however, session per diem shall not be allowed for legislative assistants.*

### HOUSE RESOLUTION NO. 211

*Commemorating the life and legacy of Aleksandr Isayevich Solzhenitsyn.*

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, it was in the same year and within the span of a few weeks a century ago that the Great War ended, Russia descended into revolution, and Aleksandr Isayevich Solzhenitsyn, destined to become one of the world's greatest writers, was born on December 11, 1918; and

WHEREAS, having before he was born lost his father to a hunting accident—hence his early baptism into the experience of violence—Aleksandr Solzhenitsyn was raised by his mother and aunt and witnessed the transformation of his family's farming estate into a communistic collective of the Union of Soviet Socialist Republics (USSR) in 1930; and

WHEREAS, his academic studies interrupted by the cataclysm of the Second World War, Aleksandr Solzhenitsyn served as captain of an artillery sound-testing and targeting battery in East Prussia, and there witnessed—and on at least one occasion participated in—the atrocities against civilians that became a ghastly characteristic of the conflict everywhere in the world; and

WHEREAS, despite having been decorated for heroism in combat, Aleksandr Solzhenitsyn was convicted of crimes against the state for expressing—in private correspondence—views mildly critical of Soviet leader Josef Stalin and was

confined to Lubyanka Prison, wherein, in mid-1945, he could hear crowds outside celebrating the end of the war in Europe; and

WHEREAS, Aleksandr Solzhenitsyn would serve eight years in a labor camp—a GULag—with millions of other Soviet citizens and a further two years of internal exile; and

WHEREAS, restored to his family, and employed as a teacher, Aleksandr Solzhenitsyn, as a consequence of his years of reflection, of punishment, and of exile, abandoned the Marxist ideology of the Soviet state and devoted himself to exploring the historical and spiritual origins and meaning of the calamities that had befallen not only himself and his family but his entire country, indeed, the entire world; and

WHEREAS, in one of those paradoxes that suggest that the miraculous remains possible within the most unjust of circumstances, Aleksandr Solzhenitsyn experienced an intellectual (and spiritual) conversion in a harsh confinement that Soviet authorities intended to demoralize him, later writing, "Bless you prison, bless you for being in my life. For there, lying upon the rotting prison straw, I came to realize that the object of life is not prosperity as we are made to believe, but the maturity of the human soul"; and

WHEREAS, freed from exile and exonerated in 1956, three years after the death of Josef Stalin, Solzhenitsyn resumed—and vastly expanded upon—the writing he had secretly begun in the GULag; and

WHEREAS, in 1962, with the permission of Soviet authorities, Aleksandr Solzhenitsyn's first published work, *One Day in the Life of Ivan Denisovich*, a short novel depicting, openly for the first time in Soviet history, something of the horrific story of the regime's vast network of penal camps appeared in the journal *Novy Mir*; and

WHEREAS, the modest light Aleksandr Solzhenitsyn had cast upon the Soviet system of terror was soon extinguished, and the succeeding years saw him subjected to harassment by the secret police, his papers seized, and his access to a public readership in his homeland closed; and

WHEREAS, despite Soviet threats, Aleksandr Solzhenitsyn continued, secretly, to write, including what would become his three-volume masterwork, *The GULag Archipelago*, with some of his friends hiding his manuscripts from spies and others smuggling manuscripts to the West, where his next major novels were published; and

WHEREAS, despite having been denied a readership of his works, including *Cancer Ward* and *The First Circle*, in his homeland, Aleksandr Solzhenitsyn was in 1970 awarded the Nobel Prize in Literature; and

WHEREAS, in 1971, owing solely to his renown, Aleksandr Solzhenitsyn was nearly assassinated through poisoning by the Soviet secret police; and

WHEREAS, in 1974, Aleksandr Solzhenitsyn was expelled from the Soviet Union, accepted asylum in the United States, and settled at last at a remote chalet in rural Vermont; and

WHEREAS, in 1978, Aleksandr Solzhenitsyn delivered a momentous address for Harvard University, challenging the institution's graduating seniors to confront what he deemed the evidence of "decline" in Western Civilization from a former "triumphal march to its present debility"; and

WHEREAS, a kernel of the legacy of Aleksandr Solzhenitsyn is to be found in his observation that "the line separating good and evil passes not through states, nor between classes, nor between political parties either—but right through every human heart—and through all human hearts"; and

WHEREAS, Aleksandr Solzhenitsyn was able to return to his homeland in 1994, three years after the collapse of the Soviet Union, whose prison system he survived and in his literary works disclosed to the entire world, and he died in his beloved Russia in 2008; and

WHEREAS, Aleksandr Solzhenitsyn, out of the depths of his suffering and the luminosity of his penetration into the stark realities of Soviet communism, deployed what an important scholar has described as "the creative power" of his mind, heart, and spirit "to the task of re-establishing objective truth in a country whose government had devoted so much murderous energy to proving that there can be no such thing"; and

WHEREAS, Lee Congdon, Professor Emeritus of History at James Madison University, is the author of a major new scholarly work entitled *Aleksandr Solzhenitsyn: The Historical-Spiritual Destinies of Russia and the West*; and

WHEREAS, Professor Lee Congdon will be principal speaker at an upcoming forum on Aleksandr Solzhenitsyn's life and works, which will be held in Richmond; now, therefore, be it

RESOLVED by the House of Delegates, That the life and legacy of Aleksandr Isayevich Solzhenitsyn hereby be commemorated on the occasion of the 100th anniversary of his birth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Professor Lee Congdon, a Virginian whose contributions to scholarship on the literary and spiritual legacy of Aleksandr Isayevich Solzhenitsyn are receiving national and even international attention.

## HOUSE RESOLUTION NO. 212

*Commending Steven Tranka, Jr.*

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, in 2018, Steven Tranka, Jr., of Jarratt achieved the prestigious rank of Eagle Scout, the highest rank of the Boy Scouts of America; and

WHEREAS, Steven Tranka began his Scouting career as a Cub Scout with Pack 209 in Emporia when he was five years old; after earning the Arrow of Light Award, he joined Boy Scout Troop 232 in Purdy, where he rose through the ranks to become an Eagle Scout on April 21, 2018; and

WHEREAS, only a limited number of Scouts meet the standards of excellence necessary to achieve the rank of Eagle Scout; Steven Tranka met and exceeded the requirements by earning 49 merit badges, demonstrating Scout spirit and leadership in his troop, and planning and completing a service project; and

WHEREAS, for his service project, Steven Tranka built a stable for Lebanon United Methodist Church that was used for a drive-through nativity scene, and, inside the church, he installed a step and hand railings at the pulpit; and

WHEREAS, a graduate of Greensville County High School, Steven Tranka also serves the community as an active member of the Jarratt Volunteer Fire Department, where he has been chosen as Cadet of the Year for two consecutive years and received awards for being among the top 10 volunteers who responded to the most calls in 2016 and 2017; now, therefore, be it

RESOLVED by the House of Delegates, That Steven Tranka, Jr., hereby be commended for attaining the rank of Eagle Scout in the Boy Scouts of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steven Tranka, Jr., as an expression of the House of Delegates' admiration for his commitment to the ideals of Scouting and generous service to the community.

### HOUSE RESOLUTION NO. 213

*Commending the Greater Manassas Baseball League 8U Lady Cavalry Blue and Gray Team.*

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, the Greater Manassas Baseball League 8U Lady Cavalry Blue and Gray Team, a group of determined young athletes hailing from the Manassas area, won the Babe Ruth League World Series Championship in August 2017; and

WHEREAS, after winning the Virginia State Title and placing second in the Southeast Regional Tournament, the members of the Greater Manassas Baseball League 8U Lady Cavalry Blue and Gray Team advanced to the Babe Ruth League World Series Championship, where they went undefeated and bested the team from Pitt County, North Carolina, by a score of 8-4 in the championship game; and

WHEREAS, the young athletes of the Greater Manassas Baseball League 8U Lady Cavalry Blue and Gray Team achieved a record of 34-1 through a complete effort by each member of the team: Lily Grace Roth, Victoria Nation, Kylie Nichols, Ella Pawlewicz, Jenna Wilson, Gracy Fox, Madison Mazingo, Lydia Hirschy, Samantha Bartoli, Madison Supinger, Cameryn Denhup, Caitlyn Abel, and Piper Thomas; and

WHEREAS, the members of the Greater Manassas Baseball League 8U Lady Cavalry Blue and Gray Team were supported along the way by a skilled coaching staff consisting of head coach John Roth and assistant coaches Brock Hirschy, Wayne Fox, and Rob Pawlewicz; and

WHEREAS, the Greater Manassas Baseball League 8U Lady Cavalry Blue and Gray Team's victory is a testament to the skill and hard work of each of the athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the Manassas community; now, therefore, be it

RESOLVED by the House of Delegates, That the Greater Manassas Baseball League 8U Lady Cavalry Blue and Gray Team hereby be commended on winning the 2017 Babe Ruth League World Series Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Roth, head coach of the Greater Manassas Baseball League 8U Lady Cavalry Blue and Gray Team, as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

### HOUSE RESOLUTION NO. 214

*Commending The Apprentice School football team.*

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, in 2018, The Apprentice School football team of Newport News won the National Club Football Association championship during its inaugural season in the league; and

WHEREAS, The Apprentice School Builders were undefeated in the championship tournament and dominated the Oakland University Golden Grizzlies of Michigan in the national final, winning by a score of 56-14; and

WHEREAS, after taking an early 14-0 lead, The Apprentice School Builders never looked back, holding the Oakland Golden Grizzlies to only two touchdowns in the first half and scoring 34 unanswered points in the second half; and

WHEREAS, The Apprentice School Builders were unstoppable on the ground, averaging 8.6 yards per carry on 46 attempts for a total of 395 rushing yards; and

WHEREAS, first-year head coach John Davis introduced a split-back option offense and revitalized the team's defense to help The Apprentice School Builders achieve their first winning season since 2006; and

WHEREAS, defensive lineman Khris Smith and cornerback Raekwon Jackson of The Apprentice School Builders were named to the Virginia Sports Information Directors 2018 College Division All-State Second Team; and

WHEREAS, the championship win is a testament to the skill and hard work of all the student-athletes, the leadership of coaches and staff, and the support of the entire Apprentice School community; now, therefore, be it

RESOLVED by the House of Delegates, That The Apprentice School football team hereby be commended for its victory in the 2018 National Club Football Association championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Davis, head coach of The Apprentice School football team, as an expression of the House of Delegates' admiration for the team's exceptional achievements and best wishes for the future.

### HOUSE RESOLUTION NO. 215

*Salaries, contingent and incidental expenses.*

Agreed to by the House of Delegates, January 9, 2019

RESOLVED by the House of Delegates, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the House to accomplish the work of the House of Delegates during the 2019 Regular Session of the General Assembly. Necessary payments to cover salaries of temporary employees, as well as contingent and incidental expenses, will be certified by the Clerk or his designee.

### HOUSE RESOLUTION NO. 216

*Celebrating the life of Walter Norris Hardy, Sr.*

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, Walter Norris Hardy, Sr., a dedicated family man and highly admired leader in the Surry community who was a trailblazer for civil rights, died on July 15, 2018; and

WHEREAS, Norris Hardy was born and raised in Surry and began his education in a two-room school house in the segregated school system of Surry County; he later attended and matriculated from Isle of Wight Training School in Smithfield and then served his country in the United States Army from 1954 to 1956; and

WHEREAS, Norris Hardy worked at Gwaltney of Smithfield for 36 years, retiring as a supervisor in ham-boning, and later co-owned and operated Rushmere Food Mart, Inc., for 10 years; and

WHEREAS, Norris Hardy was an engaged civic leader in Surry, helping to register area residents to vote, and, as someone who was very passionate about making Surry County a better place to live, running for public office and making history as one of the first African Americans to be elected to the Surry County Board of Supervisors, where he served for 27 years; and

WHEREAS, in Norris Hardy's capacity as a county supervisor, he assisted in the hiring of the superintendent of schools and a county attorney and was instrumental in the development of numerous schools, the county government center, and the county recreation center; his service included participating in numerous county and state boards; and

WHEREAS, Norris Hardy was a devoted member of his church, First Gravel Hill Baptist Church, contributing to the congregation over many years as an active congregant with his family and serving as treasurer, Sunday school teacher, and deacon; and

WHEREAS, preceded in death by his wife, Becky, and his daughter, Bernadeen, Norris Hardy will be fondly remembered and greatly missed by his children, Zelma, Bernita, Grace, Frances, Lisa, Daphne, Kimberly, Walter, Jr., and Thomas, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Walter Norris Hardy, Sr., a dedicated family man and highly admired leader in the Surry community, who was a trailblazer for civil rights; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Walter Norris Hardy, Sr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 218

*Commending the Town of Lebanon.*

Agreed to by the House of Delegates, January 15, 2019

WHEREAS, on January 15, 2019, the Town of Lebanon, the county seat of Russell County and a vibrant part of the Southwest Virginia community, celebrated the 200th anniversary of its establishment; and

WHEREAS, the Town of Lebanon traces its roots to 1819, when it was established in Russell County; the community is thought to have taken its name from the abundant cedar trees in the area as a reference to the Lebanon species of cedar mentioned often in the Old Testament; and

WHEREAS, Lebanon was officially chartered on January 4, 1831, and incorporated on January 31, 1835, with Robert Boyd, Thomas M'Clearey, John Sewell, William Gibson, Samuel Whitsell, Henry B. Gillespie, and James Dixon as trustees; and

WHEREAS, in the town's early years, the economy of Lebanon depended largely on agriculture and coal mining, but since the 1990s, it has evolved into a high-tech business hub, supporting two Fortune 500 companies, AT&T and Northrup Grumman, as well as other technology and manufacturing businesses; and

WHEREAS, nestled in the rolling foothills of Clinch Mountain, Lebanon maintains its small-town, Appalachian charms and is committed to sustaining a high quality of life; the community is known as the Heart of Southwest Virginia, owing to its central location and easy access to a host of recreational opportunities for residents and visitors; and

WHEREAS, Lebanon is committed to preserving its valuable natural and historic resources; the Clinch River has been ranked as one of the most important rivers in the nation for its environmental diversity and significance, and the town is home to several sites on the National Register of Historic Places and the Virginia Landmarks Register, including Jessee's Mill, a grain mill built prior to 1790 that once served as the primary source of agricultural products and trade in the area; now, therefore, be it

RESOLVED by the House of Delegates, That the Town of Lebanon hereby be commended on the occasion of its 200th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Town of Lebanon as an expression of the House of Delegates' admiration for its unique history and contributions to the Southwest Virginia community.

#### HOUSE RESOLUTION NO. 219

*Nominating a person to be elected to the Court of Appeals of Virginia.*

Agreed to by the House of Delegates, January 16, 2019

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the Court of Appeals of Virginia as follows:

The Honorable Glen A. Huff, of Virginia Beach, as a judge of the Court of Appeals of Virginia for a term of eight years commencing August 1, 2019.

#### HOUSE RESOLUTION NO. 220

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the House of Delegates, January 16, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Glenn R. Croshaw, of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing August 1, 2019.

The Honorable W. Revell Lewis, III, of Accomack, as a judge of the Second Judicial Circuit for a term of eight years commencing August 1, 2019.

The Honorable Everett A. Martin, Jr., of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing March 16, 2019.

The Honorable Carl Edward Eason, Jr., of Suffolk, as a judge of the Fifth Judicial Circuit for a term of eight years commencing February 1, 2019.

The Honorable C. Peter Tench, of Newport News, as a judge of the Seventh Judicial Circuit for a term of eight years commencing April 1, 2019.

The Honorable Christopher W. Hutton, of Hampton, as a judge of the Eighth Judicial Circuit for a term of eight years commencing September 1, 2019.

The Honorable Paul W. Cella, of Powhatan, as a judge of the Eleventh Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Bradley B. Cavedo, of the City of Richmond, as a judge of the Thirteenth Judicial Circuit for a term of eight years commencing February 1, 2019.

The Honorable James Stephen Yoffy, of Henrico, as a judge of the Fourteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Sarah L. Deneke, of Spotsylvania, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Timothy K. Sanner, of Orange, as a judge of the Sixteenth Judicial Circuit for a term of eight years commencing April 1, 2019.

The Honorable James C. Clark, of Alexandria, as a judge of the Eighteenth Judicial Circuit for a term of eight years commencing January 1, 2020.

The Honorable Randy I. Bellows, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing February 1, 2019.

James P. Fisher, Esquire, of Fauquier, as a judge of the Twentieth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable F. Patrick Yeatts, of Lynchburg, as a judge of the Twenty-fourth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Brett L. Geisler, of Carroll, as a judge of the Twenty-seventh Judicial Circuit for a term of eight years commencing April 1, 2019.

The Honorable Chadwick S. Dotson, of Wise, as a judge of the Thirtieth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable John C. Kilgore, of Scott, as a judge of the Thirtieth Judicial Circuit for a term of eight years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 221

*Nominating persons to be elected to general district court judgeships.*

Agreed to by the House of Delegates, January 16, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

The Honorable C. Ridley Bain, of Brunswick, as a judge of the Sixth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Stephen Ashton Hudgins, of Poquoson, as a judge of the Ninth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Keith Nelson Hurley, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Lawrence Brevard Cann, III, of the City of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Tracy W. J. Thorne-Begland, of the City of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing February 1, 2019.

The Honorable George Barton Chucker, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Hugh S. Campbell, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable James Bruce Strickland, of Stafford, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable R. Frances O'Brien, of Arlington, as a judge of the Seventeenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable William Harrison Cleaveland, of Botetourt, as a judge of the Twenty-fifth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Eric R. Thiessen, of Washington, as a judge of the Twenty-eighth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Henry A. Barringer, of Tazewell, as a judge of the Twenty-ninth Judicial District for a term of six years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 222

*Nominating persons to be elected to juvenile and domestic relations district court judgeships.*

Agreed to by the House of Delegates, January 16, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

Cheshire I'Anson Eveleigh, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing July 1, 2019.

Timothy J. Quick, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing April 1, 2019.

The Honorable Alotha C. Willis, of Portsmouth, as a judge of the Third Judicial District for a term of six years commencing February 16, 2019.

The Honorable Lauri D. Hogge, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing April 1, 2019.

The Honorable Carson E. Saunders, Jr., of Emporia, as a judge of the Sixth Judicial District for a term of six years commencing June 1, 2019.

The Honorable Jay Edward Dugger, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Robert B. Wilson, V, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing April 1, 2019.

The Honorable Robert H. Morrison, of Halifax, as a judge of the Tenth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Phillip T. DiStanislao, of Petersburg, as a judge of the Eleventh Judicial District for a term of six years commencing February 1, 2019.

The Honorable Richard B. Campbell, of the City of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing April 1, 2019.

The Honorable Phillip U. Fines, of Spotsylvania, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Joseph A. Vance, IV, of Fredericksburg, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Claude V. Worrell, of Charlottesville, as a judge of the Sixteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Kimberly J. Daniel, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Avelina S. Jacob, of Loudoun, as a judge of the Twentieth Judicial District for a term of six years commencing February 10, 2019.

The Honorable Susan N. Deatherage, of Martinsville, as a judge of the Twenty-first Judicial District for a term of six years commencing May 1, 2019.

The Honorable Leisa Kube Ciaffone, of Salem, as a judge of the Twenty-third Judicial District for a term of six years commencing July 1, 2019.

The Honorable William W. Sharp, of Warren, as a judge of the Twenty-sixth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Elizabeth S. Wills, of Wise, as a judge of the Thirtieth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Lisa Michelle Baird, of Manassas, as a judge of the Thirty-first Judicial District for a term of six years commencing July 1, 2019.

### **HOUSE RESOLUTION NO. 223**

*Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.*

Agreed to by the House of Delegates, January 16, 2019

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

The Honorable Stephanie E. Merritt, of New Kent, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2019.

### **HOUSE RESOLUTION NO. 224**

*Nominating a person to be elected as a member of the State Corporation Commission.*

Agreed to by the House of Delegates, January 16, 2019

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected as a member of the State Corporation Commission as follows:

Patricia L. West, of the City of Virginia Beach, to succeed James C. Dimitri as a member of the State Corporation Commission for an unexpired term commencing March 1, 2019, and ending January 31, 2020.

## HOUSE RESOLUTION NO. 225

*Commending the University of Virginia.*

Agreed to by the House of Delegates, January 18, 2019

WHEREAS, the story of the University of Virginia began over 200 years ago with the creation of a new model for higher learning, one shaped by the belief that only educated citizen-leaders would sustain freedom in the new republic; and

WHEREAS, on October 6, 1817, United States President James Monroe and former Presidents Thomas Jefferson and James Madison joined dignitaries, townspeople, and enslaved laborers in the laying of the cornerstone of Pavilion VII, the first building constructed in Jefferson's Academical Village for Central College; and

WHEREAS, on August 1, 1818, 21 representatives met at the Mountaintop Inn at Rockfish Gap and selected Central College as the home of a new state university; and

WHEREAS, on January 25, 1819, the General Assembly of Virginia established the charter for the University of Virginia, the first nonsectarian university in the United States; and

WHEREAS, the University of Virginia is a public institution of higher learning guided by a founding vision of discovery, innovation, and development of the full potential of talented students from all walks of life, that serves the Commonwealth, the nation, and the world by developing responsible citizen leaders and professionals; the university offers an affordable, world-class education that is consistently ranked among the best institutions, public or private, in the country; and

WHEREAS, the University of Virginia now includes 11 schools in Charlottesville, the College at Wise in Southwest Virginia, and a renowned academic medical center committed to providing outstanding patient care, educating tomorrow's health care leaders, and discovering new and better ways to treat diseases; its physicians and nurses are recognized for preeminence in patient care, education, and research; and

WHEREAS, the University of Virginia welcomes those who show exceptional promise, where students, faculty, and staff are, as Jefferson envisioned, "...not afraid to follow truth wherever it may lead, nor to tolerate any error so long as reason is left free to combat it"; and

WHEREAS, the University of Virginia is marked by its enduring commitment to a vibrant and unique residential learning environment with a free and collegial exchange of ideas and the unwavering support of a collaborative, diverse community bound together by distinctive foundational values of honor, integrity, trust, and respect; and

WHEREAS, over the past 200 years, the University of Virginia has grown from an institution at which the only students were white males, and which was not fully coeducational until 1970, to an institution at which over 50 percent of the students are women and one-third are minorities; and

WHEREAS, students thrive within a groundbreaking model of self-governance, a culture of leadership and responsibility which creates a lasting sense of initiative, decisiveness, and self-confidence; students adhere to the Honor Code, pledging to never lie, cheat, or steal, and by leading lives of honor, students have continuously renewed the unique spirit of compassion and interconnectedness that has come to be called the Community of Trust; and

WHEREAS, the Cavalier student-athletes consistently pursue academic and athletic distinction, capturing 76 Atlantic Coast Conference (ACC) championships since 2002, more than any other ACC school, across 25 NCAA Division I sports; University of Virginia teams have won six NCAA championships and 24 ACC titles since the fall of 2012 and placed first in the 2015 Men's Capital One Cup, honoring the nation's top Division I athletic programs; and 404 of the University's student-athletes were named to the Atlantic Coast Conference Academic Honor Roll in 2017-2018; and

WHEREAS, the Arts at the University of Virginia are crucial to the residential experience, inspiring students to innovate, create, collaborate, explore, and discover pursuits that enrich the larger community through an extraordinary array of performances, exhibitions, and creative opportunities; and

WHEREAS, the University of Virginia counts among its alumni individuals who have changed the nation and the world, including vice presidents, senators, congressional representatives, governors, poets, actors, scientists, authors, Olympians, inventors, educators, entertainers, astronauts, ambassadors, journalists, doctors, nurses, business leaders, and pioneers in a wealth of fields and industries; and

WHEREAS, the University of Virginia's faculty and staff pursue discovery through collaboration and cross-disciplinary exploration, develop cross-disciplinary institutes and initiatives, and provide valuable educational and research opportunities with a measurable impact, focusing research on complex intellectual and social challenges and creating new knowledge that produces unanticipated technologies and innovative ideas; and

WHEREAS, the University of Virginia is one of the great national and global universities of the 21st century, where the leaders of tomorrow are forged through the sharing of knowledge and the candid exchange of ideas, and where a 200-year commitment to Thomas Jefferson's belief in the "illimitable freedom of the human mind" has energized the University community and will continue to animate life at the University of Virginia for centuries to come; now, therefore, be it

RESOLVED by the House of Delegates, That the University of Virginia hereby be commended on the occasion of its 200th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Frank M. Conner III, Rector, and James E. Ryan, President of the University of Virginia, as an expression of the House of

Delegates' admiration for the institution's extraordinary history, unparalleled legacy of excellence, and invaluable contributions to the Commonwealth, the nation, and the world.

### HOUSE RESOLUTION NO. 227

*Commending the Rotary Club of Oyster Point.*

Agreed to by the House of Delegates, January 23, 2019

WHEREAS, in 2019, the Rotary Club of Oyster Point celebrated 35 years of fellowship and service to its local community; and

WHEREAS, the Rotary Club of Oyster Point, a chapter of the Rotary International service organization, was chartered in 1984 with 20 members; today, it boasts more than 80 members dedicated to enriching the lives of residents of Newport News and the Greater Virginia Peninsula; and

WHEREAS, the Rotary Club of Oyster Point's largest fundraising event is the Oyster Bash, an annual, all-volunteer event that has raised more than \$250,000 for local charities and projects, including its primary beneficiary, Smart Beginnings Virginia Peninsula; and

WHEREAS, the Rotary Club of Oyster Point coordinates numerous annual events, including Bikes for Tykes, a volunteer project to provide local children bicycles as Christmas presents, a Crystal House Golf Tournament, and fundraisers to support efforts for the global eradication of polio; and

WHEREAS, the Rotary Club of Oyster Point was instrumental in the creation of a community Rotaract club, which provides young professionals on the Virginia Peninsula with an opportunity for camaraderie and an avenue for service to the Hampton Roads area; and

WHEREAS, the Rotary Club of Oyster Point has had among its members National Aeronautics and Space Administration scientists, chief executive officers of Fortune 500 companies, elected officials, educators, faith leaders, medical doctors, accountants, attorneys, architects, and other distinguished professionals; and

WHEREAS, the Rotary Club of Oyster Point has been recognized by Rotary International through its Endowment Fund and the awarding of the Paul Harris Fellow to more than 250 current and past members; and

WHEREAS, the Rotary Club of Oyster Point has a longstanding tradition of successfully partnering with local nonprofit organizations for sustainable grant projects that improve the quality and access to childhood education on the Virginia Peninsula and further develop a community that provides ongoing support to its most vulnerable members; and

WHEREAS, in its dedication to the betterment of the Greater Virginia Peninsula, the Rotary Club of Oyster Point bestows the Community Citizenship Award upon an individual or entity who has made a lasting and positive impact on the local community, which aligns with one of Rotary International's Six Areas of Focus; and

WHEREAS, the Rotary Club of Oyster Point celebrated its 35th anniversary in January 2019 at the James River Country Club; now, therefore, be it

RESOLVED by the House of Delegates, That the Rotary Club of Oyster Point hereby be commended on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Rotary Club of Oyster Point as an expression of the House of Delegates' admiration for its longstanding service to the residents of Newport News and the Greater Virginia Peninsula.

### HOUSE RESOLUTION NO. 228

*Commending Gary Grutzik.*

Agreed to by the House of Delegates, January 28, 2019

WHEREAS, Gary Grutzik, an outstanding member of Boy Scouts of America Troop 150 in Annandale, earned the prestigious rank of Eagle Scout on September 4, 2018; and

WHEREAS, Eagle Scout is the highest attainable rank in the Boy Scouts of America and requires Scouts such as Gary Grutzik to earn at least 21 merit badges, display exceptional leadership, and perform extensive service to the community; and

WHEREAS, a hardworking young man, Gary Grutzik has adhered to the Scout Oath and Law while earning his merit badges, participating in numerous Scout activities and events and exercising his leadership abilities; and

WHEREAS, for his Eagle Scout Service Project, Gary Grutzik constructed boot brush stations which reduce the transfer of invasive species in Luria Park and along Holmes Run Trail; he conducted invasive species removal in Luria Park; and

WHEREAS, Gary Grutzik exemplifies the noble ideals of the Boy Scouts of America and donated his time and talents to provide a valuable service to the community through his Eagle Scout project; now, therefore, be it

RESOLVED by the House of Delegates, That Gary Grutzik hereby be commended for achieving the rank of Eagle Scout in the Boy Scouts of America Troop 150; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gary Grutzik as an expression of the House of Delegates' admiration for his service to the Fairfax County community.

**HOUSE RESOLUTION NO. 229**

*Celebrating the life of Edythe Horwitz Hoffman.*

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Edythe Horwitz Hoffman, a beloved mother and a respected entrepreneur in Richmond, died on July 24, 2018; and

WHEREAS, a native of Richmond, Edythe Hoffman spent her childhood in West Point, then returned to Richmond and graduated from Thomas Jefferson High School; and

WHEREAS, Edythe Hoffman met her future husband, Leon, in Philadelphia, Pennsylvania, while he was training for the United States Army Air Corps; the couple married after he returned from service in Europe during World War II, then settled in Richmond; and

WHEREAS, Edythe Hoffman and her husband worked in the grocery business until 1957, when they opened Music City in Southside Plaza; in 1965, the couple established Certified Cleaning Services, Inc., a fire and water damage restoration company that later partnered with Air Clean Corporation; and

WHEREAS, Edythe Hoffman was active in the operation of Certified Cleaning Services and Air Clean for more than five decades, serving generations of Richmond residents; and

WHEREAS, Edythe Hoffman enjoyed fellowship and worship with the community as a member of Temple Beth El, where she belonged to the Beth El Sisterhood and was a lifetime member of Hadassah; and

WHEREAS, predeceased by her husband of 56 years, Leon, Edythe Hoffman will be fondly remembered and greatly missed by her daughters, Ivy, Marcy, and Harriet, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Edythe Horwitz Hoffman, a vibrant member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edythe Horwitz Hoffman as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 230**

*Celebrating the life of Michael Joseph Bogese, Jr.*

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Michael Joseph Bogese, Jr., a successful Realtor who made many contributions to the Richmond community through his leadership, generosity, and commitment to excellence, died on April 24, 2018; and

WHEREAS, a native of Prince George County, Michael Bogese was active with the Boy Scouts of America, achieving the rank of Eagle Scout, and attended Prince George High School, where he excelled in both academics and athletics; and

WHEREAS, Michael Bogese earned a bachelor's degree from Virginia Polytechnic Institute and State University (Virginia Tech); as a member of the Virginia Tech Corps of Cadets, he served on the school's precision drill team, the Gregory Guard, and was vice president of the Class of 1968; and

WHEREAS, Michael Bogese served his country as a second lieutenant in the United States Army, assigned to the 2nd Infantry Division in the Republic of Korea, and was awarded the Army Commendation Medal; and

WHEREAS, after his honorable military service, Michael Bogese returned to the Commonwealth to work at Bogese, Inc., the business founded by his parents in 1945; he eventually oversaw the company's move to Richmond, where he developed more than 3,000 single-family homes in the area; and

WHEREAS, under Michael Bogese's leadership, the company subsequently developed a number of retail and multifamily structures, including the award-winning Belvedere Apartments in Bon Air and a regional landfill in Sussex County; and

WHEREAS, respected by his professional peers, Michael Bogese was a past president of the Home Builders Association of Virginia, a member of the board of directors of the Virginia Chamber of Commerce, and a member of the National Association of Home Builders and the National Association of Realtors; and

WHEREAS, Michael Bogese volunteered his time and wise leadership with many charitable organizations, including the Heart Fund, Kiwanis Club, United Way, Massey Cancer Center, and Memorial Sloan Kettering Cancer Center; and

WHEREAS, a proud alumnus of Virginia Tech and a dedicated fan of Hokie football, Michael Bogese was a member of the Ut Prosim Society, a generous benefactor of the Virginia Tech Hokie Club, and a former member of the board of directors of the Virginia Tech Foundation; and

WHEREAS, Michael Bogese will be fondly remembered and greatly missed by his children, Allyson, Michael, and Jessica, and their families, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Michael Joseph Bogese, Jr., a respected businessman and an active leader in the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Michael Joseph Bogese, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 231

*Celebrating the life of Robert Carey Goodman, Jr.*

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Robert Carey Goodman, Jr., who served generations of students throughout the Commonwealth and the southern United States as an educator and a school administrator, died on May 7, 2018; and

WHEREAS, a native of Broomall, Pennsylvania, Robert "Bob" Carey Goodman, Jr., attended the Friends' Central School near Philadelphia and graduated from the University of Connecticut; and

WHEREAS, Bob Goodman served his country in the United States Army, assigned to a psychological warfare unit in Germany that produced propaganda leaflets to be dropped over Soviet-occupied Poland during the Cold War; and

WHEREAS, after his honorable military service, Bob Goodman began his long and fulfilling career in education as a math teacher and coach at Staunton Military Academy; he subsequently taught at the Christchurch School and the Collegiate School in Richmond, then served as headmaster of schools in Tennessee and Georgia; and

WHEREAS, in 1972, Bob Goodman returned to the Commonwealth as the founding headmaster of Trinity Episcopal School in Richmond, where he drew upon his own experiences as a student to craft the school's outstanding foreign exchange program; after 14 years at Trinity Episcopal School, he accepted a position at Virginia Commonwealth University as a director of development for the performing arts; and

WHEREAS, Bob Goodman offered his leadership and expertise to the Southern Teachers Agency and the Richmond chapter of the English-Speaking Union, and he was the founding president of the James River Kiwanis Club; and

WHEREAS, after his well-earned retirement, Bob Goodman enjoyed spending time at school athletic events, concerts, and art shows, relishing every opportunity to meet with teachers, former students, and parents; and

WHEREAS, Bob Goodman will be fondly remembered and greatly missed by his wife of 62 years, Virginia; his children, Swannee, Carey, and Alice, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert Carey Goodman, Jr., a dedicated educator and school administrator in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Carey Goodman, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 232

*Celebrating the life of Edward Armistead Talman, M.D.*

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Edward Armistead Talman, M.D., a respected member of the Richmond community who touched countless lives through his work as a surgeon, died on October 31, 2018; and

WHEREAS, Edward Talman graduated from St. Christopher's School and earned a bachelor's degree from the University of Virginia (UVA), where he excelled in academics and was active in campus life, serving as president of the UVA Student Council; and

WHEREAS, after receiving his medical degree from the UVA School of Medicine and completing an internship in Boston, Edward Talman served his country as a captain in the United States Army Medical Corps, then began a five-year residency at the Hospital of the University of Pennsylvania; and

WHEREAS, in 1966, Edward Talman returned to the Commonwealth and practiced general surgery with Surgical Associates of Richmond; he also served on the board of Chippenham and Johnston-Willis Hospitals for 30 years and was chief of surgery at Johnston-Willis Hospital for 11 years; and

WHEREAS, Edward Talman offered his wise leadership to the Virginia Surgical Society and the Eastern Surgical Society as a past president of both organizations; he was appointed as a clinical professor of surgery at VCU Medical Center and coauthored two national continuing education examinations for the American College of Surgeons; and

WHEREAS, an avid outdoorsman, Edward Talman enjoyed skiing and sailing with friends and family, and his penchant for fly fishing took him on trips to Chile, Argentina, and New Zealand; and

WHEREAS, Edward Talman enjoyed fellowship and worship with the congregation of St. Mary's Episcopal Church, where he served on the vestry and was a senior warden; and

WHEREAS, Edward Talman will be fondly remembered and greatly missed by his wife of 44 years, Margaret; his daughter, Elizabeth, and her family; his stepchildren, Margaret, John, and Ann, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Edward Armistead Talman, M.D., an accomplished surgeon and a highly admired resident of Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edward Armistead Talman, M.D., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 233

*Commending Casanova Hunt.*

Agreed to by the House of Delegates, January 29, 2019

WHEREAS, Casanova Hunt, a hunting club that has welcomed generations of Fauquier County residents and visitors, celebrates its 110th anniversary in 2019; and

WHEREAS, Casanova Hunt has been a part of Virginia's friendly and social sporting traditions since 1909, making it one of the oldest recognized hunting clubs in the Commonwealth; and

WHEREAS, Casanova Hunt was established by a group of working farmers and local residents who wanted to hunt closer to their homes, and the club's ties to the land and the community have remained strong throughout its history; and

WHEREAS, Casanova Hunt has been a source of enjoyment for members, friends, and landowners alike; and

WHEREAS, Charlotte Nourse, Oscar Beach, and the Gulick family were honorable riders for Casanova Hunt and played vital roles in the organization's success; they served many seasons together, providing good sport and establishing the traditions of the hunt that are proudly carried on today; now, therefore, be it

RESOLVED by the House of Delegates, That Casanova Hunt hereby be commended on the occasion of its 110th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Casanova Hunt as an expression of the House of Delegates' admiration for its legacy.

### HOUSE RESOLUTION NO. 234

*Commending the Graham High School football team.*

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, the Graham High School football team of Bluefield claimed its fourth state title in program history with a win in the 2018 Virginia High School League Class 2 state championship; and

WHEREAS, the Graham High School G-Men defeated the Goochland High School Bulldogs 31-9 in the state final, held at Salem Football Stadium in Salem on December 8, 2018; and

WHEREAS, the Graham G-Men dominated the competition throughout the year, with their explosive offense averaging 38.5 points per game and stifling defense only allowing 12.5 points per game; the team outscored their postseason opponents 196-57; and

WHEREAS, Graham quarterback and defensive back Cameron Allen was named both Offensive Player of the Year and Defensive Player of the Year and head coach Tony Palmer, who previously won a state title as a player in 1989, received Coach of the Year honors; and

WHEREAS, several Graham G-Men were named to All-State teams, and every member of the team contributed to the victory, which capped off a spectacular 14-1 season; and

WHEREAS, the Graham High School G-Men benefited from the leadership of the team's coaches and staff and the passionate support of friends, family members, and the entire Graham High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Graham High School football team hereby be commended on winning the 2018 Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Graham High School football team as an expression of the House of Delegates' admiration for the team's hard work and determination.

### HOUSE RESOLUTION NO. 235

*Commending the Freeman High School Battle of the Brains team.*

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, the Freeman High School Battle of the Brains team of Henrico County claimed a championship title in the Battle of the Brains competition on June 2, 2018; and

WHEREAS, Battle of the Brains is the longest running academic quiz bowl show in Central Virginia; as one of only 38 participants, the Freeman High School Battle of the Brains team competed against some of the top schools in the Commonwealth to advance to the finals; and

WHEREAS, the Freeman High School Battle of the Brains team defeated a talented group of opponents from St. Christopher's School to win the championship, which featured three toss-up rounds and a category round; and

WHEREAS, coached by Matt Scott and Anne Harper Pittman, the Freeman High School Battle of the Brains team took an early lead and were ahead by 100 points at the end of three rounds, then dominated the final round to win by a score of 460-220; and

WHEREAS, each member of the Freeman High School Battle of the Brains team—Walker Barkstrom, William Chambers, Max Markel, Paul Sabharwal, and Nicholas Wright—contributed to the victorious season; and

WHEREAS, the Freeman High School Battle of the Brains team succeeded with the support of friends, family, teachers, and the entire Freeman High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Freeman High School Battle of the Brains team hereby be commended on winning the 2018 Battle of the Brains championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Freeman High School Battle of the Brains team as an expression of the House of Delegates' admiration for the team's commitment to academic excellence and congratulations on their victory.

### HOUSE RESOLUTION NO. 236

*Celebrating the life of Sarah Goldenberg Fraher.*

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Sarah Goldenberg Fraher, a respected Chesterfield County educator, died on September 9, 2018; and

WHEREAS, Sarah Fraher was born in Lynchburg and graduated from E. C. Glass High School in Lynchburg; she earned a bachelor's degree in psychology from the University of Virginia and a master's degree in education from Lynchburg College; and

WHEREAS, Sarah Fraher began her career in special education in Henrico County at Lakeside Elementary, and then taught in Chesterfield County at Salem Church Elementary, Swift Creek Elementary, Crestwood Elementary, and Providence Middle School, where she served as special education coordinator; and

WHEREAS, Sarah Fraher began her administrative career as an assistant principal at Falling Creek Middle School in 1998, and served as principal there from 2001 to 2008; in 2008, she was asked to help start Elizabeth Davis Middle School, where she served as principal for two years; and

WHEREAS, in 2010, Sarah Fraher became principal at Manchester Middle School, where she served until retiring in June 2018; and

WHEREAS, Sarah Fraher was known as a communicative and caring educator who had numerous interests as an avid sailor, hiker, traveler, reader, and lover of good food; and

WHEREAS, Sarah Fraher will be fondly remembered and greatly missed by her mother, Donna; her husband, Edward; her children, Carl and Catherine, and their families; and numerous other family and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Sarah Goldenberg Fraher, a respected Chesterfield County educator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sarah Goldenberg Fraher as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 237

*Commending Thomas Jefferson High School.*

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Thomas Jefferson High School in Richmond, a comprehensive and storied educational institution, celebrates its 90th anniversary in 2019; and

WHEREAS, Thomas Jefferson High School was designed by Charles Robinson as a solid, art deco-style institution; with its impressive interior and exterior, the building remains a striking architectural structure designated as a Virginia Historical Landmark; and

WHEREAS, Thomas Jefferson High School's opening day was September 11, 1930, which was a little more than a year after its cornerstone was laid; it was built to relieve overcrowding at the time in a West End location that was then far from the high-density population of the city's central core; and

WHEREAS, since the first students graduated from Thomas Jefferson High School in 1932, tens of thousands of students have followed in their footsteps; throughout the years, many significant events have transpired; students attending the school endured the Great Depression, and over a thousand students and alumni served in World War II, with over 70 giving their lives; students served in military conflicts throughout the school's history; and

WHEREAS, throughout the decades, high academic achievement was an expectation that permeated Thomas Jefferson High School's culture, with Advanced Placement courses offered in world history, mathematics, and sciences; a business department that offered courses for success in that field; and a cadet corps that prepared students for the military; and

WHEREAS, athletics and extracurricular activities have been an important part of Thomas Jefferson High School; in the early years, over 20 different service and interest organizations existed, giving students a broad range of opportunities to get involved in student life beyond the classroom; and

WHEREAS, although Thomas Jefferson High School was economically diverse from its opening day, it was racially segregated by legal mandates; following the Brown v. Board of Education case, Jane Cooper Johnson was the first African American student to enroll at the school in 1962; and

WHEREAS, Richmond eventually adopted a freedom of choice plan, diversifying the Thomas Jefferson High School student body and faculty further; following the court order on August 17, 1970, mandating busing, enormous demographic changes took place at the school; and

WHEREAS, a period of declining enrollment followed at Thomas Jefferson High School, resulting in two attempts to close the school, but the students who were denied admission during the days of segregation rallied their classmates, alumni, and other members of the community, then marched from the school to City Hall and convinced the school board to keep the school open; and

WHEREAS, once again Thomas Jefferson High School is a growing, vibrant educational resource with a dedicated staff that continues to serve many cultures which reflect dynamic changes in Richmond and in national populations; in addition to a traditional high school program for college-bound and non-college-bound students, a rigorous International Baccalaureate program is offered to any student who lives in the City of Richmond; now, therefore, be it

RESOLVED by the House of Delegates, That Thomas Jefferson High School in Richmond hereby be commended on the occasion of its 90th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Thomas Jefferson High School as an expression of the House of Delegates' admiration for the school's commitment to educating and nurturing generations of students.

#### HOUSE RESOLUTION NO. 238

*Commending Tommy Lee Jones.*

Agreed to by the House of Delegates, January 31, 2019

WHEREAS, Tommy Lee Jones has been a resident of Fauquier County for almost 50 years; and

WHEREAS, Tommy Lee Jones is a former rider and trainer of show horses, as well as a huntsman; and

WHEREAS, Tommy Lee Jones manages horse and pony shows, including the Upperville Colt and Horse Show and the Warrenton Horse Show; and

WHEREAS, Tommy Lee Jones currently serves as president of the advisory board for the Warrenton Pony Show; and

WHEREAS, Tommy Lee Jones has been a beloved member of the Casanova area for several decades; now, therefore, be it

RESOLVED by the House of Delegates, That Tommy Lee Jones hereby be commended for his contributions to the Fauquier County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tommy Lee Jones as an expression of the House of Delegates' admiration for his legacy of service.

#### HOUSE RESOLUTION NO. 239

*Commending Stop Child Abuse Now of Northern Virginia.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, for 30 years, Stop Child Abuse Now of Northern Virginia has worked to ensure that every child grows up in a safe, stable, and nurturing environment and receives the support every child needs to become a contributing member of the community; and

WHEREAS, established in 1988 by Dave Cleary, Stop Child Abuse Now (SCAN) of Northern Virginia promotes the health and wellness of children by working to improve parent-child relationships and prevent child abuse and neglect through comprehensive educational programs, innovative services, and passionate advocacy; and

WHEREAS, SCAN works directly with parents and raises awareness among members of the general public to cultivate engaging and empowering partnerships with the goal of ending child abuse and neglect; and

WHEREAS, SCAN supports Court Appointed Special Advocates (CASA) to ensure that children have well-qualified representation in the legal system; in 2017, 82 CASA volunteers dedicated more than 6,000 hours advocating for 198 abused and neglected children in Alexandria and Arlington; and

WHEREAS, SCAN has succeeded with the leadership of its board of directors, the help and hard work of countless staff members and volunteers, and generous donations from local service organizations, corporate partners, and members of the community; and

WHEREAS, SCAN commemorated its 30th anniversary with its Spring2Action campaign, profiles of the hardworking individuals who have helped the organization achieve its mission, and its Toast to Hope event in the fall of 2018; now, therefore, be it

RESOLVED by the House of Delegates, That Stop Child Abuse Now of Northern Virginia hereby be commended on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stop Child Abuse Now of Northern Virginia as an expression of the House of Delegates' admiration for the organization's mission to bring hope to children and families in the region.

### HOUSE RESOLUTION NO. 240

*Commending Renee Gholz.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Renee Gholz of Fairfax County, a consummate educator who instilled her passion for lifelong learning in children throughout the nation, celebrated her 102nd birthday on October 20, 2018; and

WHEREAS, born in St. Paul, Minnesota, in 1916, Renee Gholz was a witness to the seminal events of the 20th century, from the Great Depression and World War II to the moon landing and the dawn of the Internet; and

WHEREAS, Renee Gholz met her husband, Charles, while she was a student at Winona State Teachers College, and the couple went on to pursue long and fulfilling careers in education, making a difference in the lives of countless young people; and

WHEREAS, Renee Gholz began her career as a teacher in Minnesota and subsequently worked in Arizona, Texas, Colorado, and New Orleans, often working with underprivileged and at-risk students; and

WHEREAS, while teaching in Austin, Texas, Renee Gholz led successful efforts to fully integrate the local chapter of the National Education Association, which at the time had no African American members despite the integration of local schools; and

WHEREAS, after decades of service to students, Renee Gholz settled in the Commonwealth and lives with her son, Chico, and his family in Lake Barcroft; now, therefore, be it

RESOLVED by the House of Delegates, That Renee Gholz hereby be commended for personal and professional achievements as an educator on the occasion of her 102nd birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Renee Gholz as an expression of the House of Delegates' admiration for her contributions to communities throughout the United States.

### HOUSE RESOLUTION NO. 241

*Commending Dominion Hospital.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, for 50 years, Dominion Hospital, a freestanding mental health care facility, has provided accessible, short-term mental health services in the suburban Falls Church area; and

WHEREAS, Dominion Hospital is known as an outstanding inpatient mental health program in Northern Virginia, serving clients well beyond Fairfax and Loudoun County; and

WHEREAS, Dominion Hospital houses numerous programs including adolescent inpatient units, adult inpatient units, an eating disorders program, adolescent and adult partial-hospitalization programs, suicide prevention programs, school refusal programs, a Complex Trauma Disorders program, and LGBTQ-related mental health services; and

WHEREAS, the more than 1,500 members of the Dominion Hospital workforce are a group of skilled and highly trained mental health, medical, and support staff committed to a safe and secure treatment environment; and

WHEREAS, over its five-decade history, Dominion Hospital has remained committed to the idea that all people deserve access to first-rate mental health care; its talented doctors, nurses, and staff members have improved the quality of life for the many patients and their families; now, therefore, be it

RESOLVED by the House of Delegates, That Dominion Hospital hereby be commended on the occasion of its 50th anniversary for providing excellent mental health services in the suburban Falls Church area; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dominion Hospital as an expression of the House of Delegates' admiration for its dedication to mental health wellness and best wishes for continued success.

**HOUSE RESOLUTION NO. 242**

*Commending the Literacy Council of Northern Virginia.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, for more than 55 years, the Literacy Council of Northern Virginia has enabled generations of Northern Virginia residents to participate more fully in the community by helping them learn to speak, read, and understand English; and

WHEREAS, founded in 1962, the Literacy Council of Northern Virginia has become a nationally recognized leader in literacy education, known for its innovative methods and work to foster a supportive learning experience; and

WHEREAS, the Literacy Council of Northern Virginia offers beginner classes that focus on United States history and culture, civic responsibilities, and life skills; family learning program classes to help parents and caregivers become more engaged in their children's learning process; and skills-based classes with options to focus on particular language competencies; and

WHEREAS, the Literacy Council of Northern Virginia partners with employers to offer programs on industry-specific language, workplace communication, and employee advancement skills; and

WHEREAS, with its intensive curricula and wide range of support services such as tutoring and distance learning, the Literacy Council of Northern Virginia has helped countless students enhance their capacity to earn a living wage, care for their families, and become active, confident members of society; and

WHEREAS, the Literacy Council of Northern Virginia has fulfilled its mission to help non-English-speaking community members enhance their lives and better support their families through the hard work of highly trained and credentialed staff members and the generosity of many volunteer service providers; and

WHEREAS, this June, the Literacy Council of Northern Virginia will hold its 57th Annual Recognition Ceremony to celebrate the extraordinary achievements of students, community partners, volunteers, and instructors; now, therefore, be it

RESOLVED by the House of Delegates, That the Literacy Council of Northern Virginia hereby be commended for its decades of work to increase adult literacy in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Literacy Council of Northern Virginia as an expression of the House of Delegates' admiration for the organization's crucial contributions to the Northern Virginia community.

**HOUSE RESOLUTION NO. 243**

*Commending Richard L. Semmler.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Richard L. Semmler, a professor of mathematics at Northern Virginia Community College, has dedicated his life to the service of others and to support for higher education in Northern Virginia; and

WHEREAS, over the course of his 44-year career in higher education, Richard Semmler has donated more than \$1,000,000 to the Northern Virginia Community College (NVCC) Educational Foundation; and

WHEREAS, Richard Semmler takes an active role in his investments by engaging directly with the recipients of his Pathway to the Baccalaureate Program scholarships, inviting students to complete 15 hours of community service with him as part of the program; and

WHEREAS, while NVCC is Richard Semmler's primary beneficiary, he has also given generously to his alma mater, the State University of New York College at Plattsburgh, which hosts an annual day of service in his honor; and

WHEREAS, Richard Semmler volunteers his time with the Central Union Mission, where he has served weekly meals to the less fortunate for more than 18 years, and Habitat for Humanity, with which he has helped build more than 100 houses; and

WHEREAS, Richard Semmler has gone above and beyond in his philanthropic work, demonstrating great personal sacrifice and an unparalleled commitment to giving in his quest to enhance the lives of his students and fellow Northern Virginia residents; now, therefore, be it

RESOLVED by the House of Delegates, That Richard L. Semmler hereby be commended for his selfless volunteer service and legacy of support for Northern Virginia Community College; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard L. Semmler as an expression of the House of Delegates' admiration for his generosity and commitment to strengthening the Northern Virginia community.

**HOUSE RESOLUTION NO. 244**

*Celebrating the life of Richardson Grinnan, M.D.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Richardson Grinnan, M.D., an esteemed medical doctor and pulmonary specialist in Richmond, died on July 31, 2018; and

WHEREAS, Richardson Grinnan was born in Norfolk, attended St. Christopher's School as a boarding student, and earned a bachelor's degree in psychology from the University of Virginia; he graduated from the Medical College of Virginia, where he was inducted into the Sigma Zeta Honorary Society and Alpha Omega Alpha Honor Society, from which he received the William Harrison Higgins Medicine Award; and

WHEREAS, Richardson Grinnan specialized in the study and treatment of pulmonary disease at McGuire Clinic in Richmond; and

WHEREAS, among his many contributions, Richardson Grinnan served as president of the Virginia Thoracic Society and president of the American Lung Association in Virginia; he was a fellow in the American College of Physicians and American College of Chest Physicians, as well as a member of the Medical Society of Virginia and Richmond Academy of Medicine; and

WHEREAS, Richardson Grinnan joined Blue Cross Blue Shield of Virginia, where he served as a change agent for the insurance company as chief medical officer and senior vice president of quality management; among other appointments, he served as vice chairman on the Board of the Virginia Health Council; on the Governor's Commission on Health Care for All Americans; and on the Board of Directors for Virginia Health Information, Virginians Improving Patient Care and Safety, Virginia Health Quality Center, Virginia Department of Health, and the Medical Society of Virginia Foundation; and

WHEREAS, Richardson Grinnan will be fondly remembered and greatly missed by his wife, Lelia; his children, Richard, Lelia, and Martha, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Richardson Grinnan, M.D., an esteemed medical doctor and pulmonary specialist in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richardson Grinnan, M.D., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 245**

*Celebrating the life of Richard Eugene Kevorkian.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Richard Eugene Kevorkian, a respected contemporary artist and professor, died on August 6, 2018; and

WHEREAS, Richard Kevorkian was born in Dearborn, Michigan, and moved with his family to Richmond, where his father owned Tony's Lunch in Manchester; and

WHEREAS, Richard Kevorkian attended Thomas Jefferson High School, spending his youth in and around Forest Hill and in high adventure on the James River, where he developed his love of fishing; he was an avid outdoorsman who tied his own flies and crafted his own bamboo fly rods, and he was particularly fond of fishing in the Smith River in Philpott and visiting friends on the Pamunkey tribal lands; and

WHEREAS, Richard Kevorkian was educated at Richmond Professional Institute, which is now Virginia Commonwealth University (VCU), and at the California College of Arts and Crafts in Oakland, which is now California College of the Arts; and

WHEREAS, as chair of VCU's painting and printmaking department, Richard Kevorkian played a significant role in establishing the university's reputation as one of the top art schools in the nation; he exhibited his paintings extensively during a 60-year career, receiving grants and fellowships from the John Simon Guggenheim Foundation, the Virginia Museum of Fine Arts, the Fulbright Scholar Program, and the National Endowment for the Arts; and

WHEREAS, Richard Kevorkian served as a panelist for various arts institutions, including the Atlantic Center for the Arts and the National Foundation for the Arts; his work was included in survey exhibitions such as "Southern Abstraction: Five Painters in North Carolina, South Carolina, and Tennessee"; "Thirty-Five Artists in the Southeast"; and "Painting in the South: 1564-1980"; he also exhibited nationally at the Virginia Museum of Fine Arts, the New Orleans Museum of Art, the Birmingham Museum of Art, and the National Academy of Design in New York, among others; and

WHEREAS, Richard Kevorkian was a gifted storyteller and cook who loved to walk Virginia's fields and mountains; he enjoyed the subtle changes that each season's light caused upon the land throughout the year; the lifelong Richmond resident travelled the world extensively, both for sport and as a visiting professor; and

WHEREAS, born of a father who was an Armenian genocide survivor, Richard Kevorkian's heritage was important to him; he organized the inclusion of Armenian genocide history in Virginia's public school curriculum and promoted the creative arts in Armenia; and

WHEREAS, Richard Kevorkian will be fondly remembered and greatly missed by his wife, Salpy; his children, Salpi, Anna, Raffi, Ellina, and Soseh, and their families; and numerous other family members and friends; now, therefore, be it  
RESOLVED, That the House of Delegates hereby note with great sadness the loss of Richard Eugene Kevorkian, a respected contemporary artist and professor; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Eugene Kevorkian as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 246

*Celebrating the life of Edward Jarratt Ramsey, Jr., M.D.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Edward Jarratt Ramsey, Jr., M.D., an esteemed medical professional in Richmond, died on October 25, 2018; and

WHEREAS, Edward Ramsey graduated from Hermitage High School and received a Bachelor of Science degree with honors from Hampden-Sydney College, where he was a member of the Theta Chi Fraternity and Chi Beta Phi National Scientific Fraternity; and

WHEREAS, Edward Ramsey earned his medical degree from the Medical College of Virginia where he was a member of the Alpha Omega Alpha Honor Society; and

WHEREAS, in Dallas, Texas, Edward Ramsey completed his internal medicine residency and gastrointestinal fellowship at the University of Texas Southwestern Medical School at Parkland Hospital, where he studied among several Nobel laureates and under the tutelage of the eminent author and professor Dr. John Fordtran; and

WHEREAS, Edward Ramsey spent a year on the faculty of the medical school and felt honored to be on the original research team that eventually led to the discovery that the H. pylori bacteria causes peptic ulcers; years later, his work was cited by two physicians who won a Nobel Prize for their further research on the subject; and

WHEREAS, in 1979 Edward Ramsey returned to Richmond where he served on the board of directors of Johnston-Willis Hospital as the chief of medicine and the chief of gastroenterology for many years; and

WHEREAS, Edward Ramsey's other professional accomplishments include membership in the Virginia Gastroenterological Society, for which he served as secretary for 12 years, as well as memberships in the Richmond Academy of Medicine and the Medical Society of Virginia; and

WHEREAS, Edward Ramsey loved traveling with his family; he was a connoisseur of wine; he was fervently passionate about sports from an early age, and he excelled in baseball as a youth and played on the varsity basketball teams in high school and college; and

WHEREAS, after completing his medical training, tennis became a passion for Edward Ramsey; his United States Tennis Association 4.5 team won the National Championship in 1993 and made it to the semifinals in 1995; in his later years, he enjoyed golf tremendously and was named senior player of the year at the Country Club of Virginia; and

WHEREAS, Edward Ramsey will be fondly remembered and greatly missed by his wife of 48 years, Patty; his children, Jarratt and Catherine, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Edward Jarratt Ramsey, Jr., M.D., an esteemed medical professional in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edward Jarratt Ramsey, Jr., M.D., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 247

*Celebrating the life of Marshall Wayne Smith.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Marshall Wayne Smith, an accomplished and devoted educator and college administrator, died on April 24, 2018; and

WHEREAS, Marshall Smith was born in Jackson, Mississippi, and raised in Hueytown, Alabama; he studied at the United States Air Force Academy and earned his bachelor's degree from the University of Alabama, his master's in education from what is now the University of West Georgia, and his doctoral degree from the University of Alabama; and

WHEREAS, while a graduate student, Marshall Smith began his illustrious career in higher education with roles in student housing and residence halls; a course at the University of Alabama about the then relatively new concept of community colleges ignited his passion for educating students from a variety of backgrounds; and

WHEREAS, Marshall Smith went on to serve as dean of students and assistant professor of education at South Georgia College; dean of instruction and then dean of the college at John C. Calhoun State Community College in Alabama, where he taught a popular, interdisciplinary Great Ideas in Western Civilization course; president of Germanna Community College; and vice-chancellor for academic and student affairs at the Virginia Community College System (VCCS); and

WHEREAS, in 1990, Marshall Smith left the VCCS central office to become the sixth president of John Tyler Community College (JTCC), a position he would hold until his retirement in 2013; he was its longest serving president, and under his leadership, JTCC added a second campus in Midlothian, nearly doubling its enrollment, expanded its workforce and dual enrollment programs, and developed a Nursing Education Center; Marshall Smith viewed community college education as "the highest calling of all"; and

WHEREAS, outside of his prominent family and career focus, Marshall Smith was involved in a variety of organizations and had a number of hobbies and passions; he served in the United States Air Force Reserve in the 1970s; he was an active member of Presbyterian congregations in Richmond and Midlothian; and he was a classically trained pianist and football fan who was a high school football official in Georgia and Alabama and a loyal fan of the Alabama Crimson Tide, the Atlanta Falcons, and the Atlanta Braves; and

WHEREAS, Marshall Smith's hobbies included reading, building model ships and railroads, and woodworking; a passionate athlete, he loved skiing, white water rafting, and playing baseball; and a lifelong scholar, he loved everything to do with Scotland and naval history; and

WHEREAS, Marshall Wayne Smith will be fondly remembered and greatly missed by his wife, Sheila; his children, Heather and Matthew, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Marshall Wayne Smith, accomplished and devoted educator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Marshall Wayne Smith, as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 248

*Celebrating the life of Robert G. Davis, Jr.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Robert G. Davis, Jr., an active member of the Williamsburg community and trailblazing elected official in Clifton Forge, died on April 13, 2018; and

WHEREAS, Robert Davis was born and raised in Clifton Forge, graduating from Jefferson High School and then furthering his studies at Dabney S. Lancaster Community College and the University of Maryland, where he majored in business management; and

WHEREAS, Robert Davis served in the United States Army in World War II where he was deployed overseas in the Pacific Theater; and

WHEREAS, Robert Davis was elected to the Clifton Forge City Council, becoming the city's first black councilman; he held numerous other elected and community leadership positions in Clifton Forge, including serving as a member of the school board and the parent-teacher association, and as a Cub Scout master; he was elected as vice mayor by the Clifton Forge City Council and held that position until his transfer to Baltimore with the CSX Railroad System in 1975; and

WHEREAS, Robert Davis was actively involved in numerous social and religious organizations in Clifton Forge; he was a member of the First Baptist Church and of the deacon board; he held membership in the John W. Barnes Masonic Lodge Number 305, serving in leadership positions; and he chaired the Jefferson High School reunion committee; and

WHEREAS, while employed at CSX Railroad, Robert Davis served as safety coordinator, overseeing safety programs on the Maryland Division, and as an instructor for the brakeman training program; he later served as trainmaster in Martinsburg, West Virginia, until his retirement after 40 years of service; and

WHEREAS, following retirement, Robert Davis relocated to Williamsburg and lived in the area for more than 20 years; he was a devoted member of the First Baptist Church of Williamsburg, where he served as the chair of the diaconate board, as a Sunday school teacher, and as a Bible instructor for the retiree ministry; he was most recently honored with the title of Deacon Emeritus; and

WHEREAS, Robert Davis was an active member and leader of Masonic lodges in Virginia; and

WHEREAS, Robert Davis will be fondly remembered and greatly missed by his wife Opelene; his children, Frank, Kevin, Rhonda, and Deborah, and their families; and numerous other family and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert G. Davis, Jr., an active member of the Williamsburg community and a trailblazing elected official in Clifton Forge; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert G. Davis, Jr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 249**

*Commending Jack and Roberta McKay.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Jack and Roberta McKay, lifelong Northern Virginia residents, have made myriad contributions to the Alexandria community as active civic leaders and generous volunteers; and

WHEREAS, Jack McKay grew up in the Virginia Hills neighborhood and attended Benjamin Franklin University and the University of Maryland, while Roberta McKay, née Morris, grew up in the Groveton neighborhood and attended the University of Mary Washington; the University of North Carolina, Chapel Hill; and Mississippi University for Women; and

WHEREAS, after their marriage on July 20, 1966, at St. Louis Catholic Church in Alexandria, Jack and Roberta McKay moved to Sterling, then settled in the Mount Vernon area of Alexandria, where they raised their three children, Jennifer, Jeffrey, and Jessica, all of whom still live and work in Northern Virginia; and

WHEREAS, Jack McKay, who previously served his country as a member of the United States Air Force, has worked for 40 years as chief financial officer of the American Psychological Association in Washington, D.C., and offered his time and leadership as a board member of HumPRO and the Mount Vernon Country Club; and

WHEREAS, Roberta McKay has supported and inspired the youth of the community as an educator in local elementary and junior high schools, an officer in various parent-teacher organizations, and a Scout leader; now, therefore, be it

RESOLVED by the House of Delegates, That Jack and Roberta McKay hereby be commended for their many contributions to the Alexandria community on the occasion of their 50th wedding anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jack and Roberta McKay as an expression of the House of Delegates' admiration for their many achievements.

**HOUSE RESOLUTION NO. 250**

*Commending Elizabeth and Lauren Bradshaw.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, in 2018, Elizabeth and Lauren Bradshaw helped preserve Centreville history by directing efforts to restore a cemetery dating back to the 1700s as part of their Girl Scout Silver Award service project; and

WHEREAS, after Elizabeth and Lauren Bradshaw discovered that the Orr Family cemetery on Jade Post Lane had fallen into disrepair, the twin sisters resolved to clean and rehabilitate the site, which serves as the final resting place of John D. Orr, a Revolutionary War hero who donated land for the formation of Centreville, and other prominent Virginians; and

WHEREAS, Elizabeth and Lauren Bradshaw led a team of more than 50 volunteers that cleared weeds, undergrowth, dead trees, litter, and debris over the course of several weekends and raised more than \$2,000 for seven tons of gravel, 12 truckloads of mulch, and 3,000 periwinkle plants to increase accessibility to and beautify the cemetery; and

WHEREAS, Elizabeth and Lauren Bradshaw worked with the Fairfax County Cemetery Preservation Association to identify 28 graves and added stone markers to properly delineate each grave; and

WHEREAS, in addition to support from their fellow members of Girl Scout Troop 3327, Elizabeth and Lauren Bradshaw completed the project with the help and support of many local individuals, businesses, and community organizations; now, therefore, be it

RESOLVED by the House of Delegates, That Elizabeth and Lauren Bradshaw hereby be commended for restoring and preserving the Orr Family cemetery in Centreville; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elizabeth and Lauren Bradshaw as an expression of the House of Delegates' admiration for their work to preserve the history and heritage of Centreville and the Commonwealth.

**HOUSE RESOLUTION NO. 251**

*Commending Cameron Marks.*

Agreed to by the House of Delegates, February 7, 2019

WHEREAS, Cameron Marks of Fairfax County received an award for his courageous and life-saving actions to protect his sister during a dog attack; and

WHEREAS, on March 20, 2017, Cameron and Marin Marks, who were 11 and seven years old at the time, were walking home from their school bus stop when they encountered two aggressive dogs running loose in front of a neighbor's house; and

WHEREAS, without provocation, one dog attacked Marin Marks by jumping and biting her on the arm, while the other dog bit her ankles; Cameron Marks reacted immediately, pulling his sister away and placing himself between her and the dogs; and

WHEREAS, as both dogs continued to circle and jump on the children, Cameron Marks used his body as a shield to protect his sister, sustaining injuries of his own, until the neighbor was able to secure the dogs; and

WHEREAS, Marin Marks suffered from a broken arm, puncture wounds, and other minor lacerations, but both children ultimately recovered thanks to Cameron Marks' selflessness and decisive action; now, therefore, be it

RESOLVED by the House of Delegates, That Cameron Marks hereby be commended for his heroic efforts to protect his sister; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cameron Marks as an expression of the House of Delegates' admiration for his bravery and quick-thinking during a crisis.

### HOUSE RESOLUTION NO. 252

*Commending Richard David Legon.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, on July 25, 1983, Richard David Legon joined the Association of Governing Boards of Universities and Colleges and served in various leadership capacities, until being appointed as its president in 2006; and

WHEREAS, during Richard "Rick" David Legon's tenure as president, the Association of Governing Boards of Universities and Colleges (AGB) has taken the lead on important national and regional matters such as intercollegiate athletics, education quality, assessment and outcomes, external influences impacting higher education independence, and operational and enterprise risk assessment, among many other relevant issues; and

WHEREAS, under Rick Legon's leadership, AGB's reputation, both as a trusted adviser in all matters of governance and as a dependable advocate for higher education in national and state policy matters, has grown exponentially; and

WHEREAS, Rick Legon served honorably and capably on the Board of Visitors for Virginia State University, while also leading efforts at AGB to contribute statewide educational programs for the State Council of Higher Education for Virginia, thereby supporting the development and training of board members for all of Virginia's public colleges and universities; and

WHEREAS, Rick Legon created and led the visionary Guardians Initiative, which has provided thousands of volunteer advocates for public and private colleges and universities to promote the value of higher education; and

WHEREAS, Rick Legon initiated AGB's annual Foundation Leadership Forum, the only such gathering in which foundation executives and volunteer board leaders gather with higher education experts to discuss issues affecting public higher education institutions and their related foundations; the forum is now in its 23rd year, with an attendance of more than 600 foundation leaders; now, therefore, be it

RESOLVED by the House of Delegates, That Richard David Legon, the president of the Association of Governing Boards of Universities and Colleges, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard David Legon and his dedicated wife, Frances Park Legon, as an expression of the House of Delegates' admiration and appreciation for his 35 years of dedicated service and commitment to the mission of the nation's public and private universities and colleges and best wishes on a well-deserved retirement.

### HOUSE RESOLUTION NO. 253

*Commending Michael Joseph Grasso.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Michael Joseph Grasso, president and coach of the South County Outlaws travel baseball organization, has mentored and inspired countless young men and women in Northern Virginia through his generosity and dedication to service; and

WHEREAS, as president of the South County Outlaws for more than 20 years, Michael "Mike" Joseph Grasso has helped children between the ages of five and 18 achieve success on and off the baseball diamond and develop valuable skills like sportsmanship, teamwork, and perseverance; and

WHEREAS, Mike Grasso has supported the South County Outlaws by acquiring 70-foot and 90-foot baseball fields, as well as the use of an indoor training facility; he personally maintained the landscaping at both fields, often for no pay; and

WHEREAS, at the Mason Neck West Park field, Mike Grasso installed bleachers, dugouts, a full fence, flag poles, two batting cages, an equipment shed, a concessions shed, and an irrigation system; and

WHEREAS, working to ensure that all young people had a chance to take part in athletics, Mike Grasso created a scholarship program to support children from low-income families and established Fairness In School Sports, through which he personally represented students who had not been given a fair opportunity to participate in high school sports before the Fairfax County School Board; and

WHEREAS, Mike Grasso has been an exceptional role model for his athletes, striving to always do the right thing, even when no one is watching, and has inspired countless young men and women to do the same; now, therefore, be it

RESOLVED by the House of Delegates, That Michael Joseph Grasso hereby be commended for his service to young people as president and coach of the South County Outlaws travel baseball organization; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Joseph Grasso as an expression of the House of Delegates' admiration for his many contributions to the Northern Virginia community.

#### HOUSE RESOLUTION NO. 254

*Commending the Northern Virginia Dental Society.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, for 25 years, the Northern Virginia Dental Society has run the Northern Virginia Dental Clinic, which today consists of two health care dental facilities in which volunteer dentists, dental hygienists, and auxiliaries provide health care services for the indigent population of Northern Virginia; and

WHEREAS, when the Northern Virginia Dental Clinic was established on February 28, 1994, there were no other dental programs or safety-net providers available for indigent populations to access oral health care in Northern Virginia; the original clinic consisted of four small treatment rooms in a building in Falls Church; and

WHEREAS, the Northern Virginia Dental Society's outreach included the Mission of Mercy Project, started in 2002 to meet the high demand for dental care in areas of Virginia, especially rural areas, where no other resources existed; and

WHEREAS, over the last 25 years the Northern Virginia Dental Clinic has greatly evolved and is recognized as one of the most well-run, state-of-the-art dental clinics in the country, with a brand-new facility in Fairfax, as well as a second facility location in Loudoun County; and

WHEREAS, the Northern Virginia Dental Clinics have a total of ten treatment rooms and have provided well over \$5.5 million in care to more than 2,800 individuals through 11,300 dental appointments, with more than 27,000 dental procedures rendered and 5,300 dental professional volunteer hours contributed; and

WHEREAS, the Northern Virginia Dental Clinics are staffed with full-time and part-time dentists, auxiliary personnel, and many volunteers; the clinics also have affiliation agreements with seven higher-education institutions that send dental students to gain valuable clinical experience; to date, the clinics have provided essential oral health care to more than 30,000 low-income residents from throughout the Northern Virginia region who might otherwise have gone without proper dental care; and

WHEREAS, the Northern Virginia Dental Society's Northern Virginia Dental Clinic continues its commitment to providing dental services to indigent populations at its two locations as well as in rural localities with its unique public-private partnership between dental professionals, local governments, and social services agencies to reduce dental-related emergency room visits and build self-esteem among its clients; now, therefore, be it

RESOLVED by the House of Delegates, That the Northern Virginia Dental Society hereby be commended on the occasion of the 25th anniversary of the Northern Virginia Dental Clinic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Northern Virginia Dental Society as an expression of the House of Delegates' admiration for the Northern Virginia Dental Clinic's role in providing critically needed service to the community while preserving the dignity of the underserved.

#### HOUSE RESOLUTION NO. 255

*Celebrating the life of Anne B. Pendleton.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Anne B. Pendleton, a vibrant Fairfax County community member and entrepreneur, died on December 8, 2018; and

WHEREAS, Anne Pendleton moved to the Sleepy Hollow neighborhood with her husband, Elmer, a United States Army major general, and their son, Christian, in the late 1980s; to many in the neighborhood, she became known as the "general's wife," a term of both respect and endearment; and

WHEREAS, almost from the beginning, Anne Pendleton was active in the neighborhood and in the Sleepy Hollow Citizens' Association, serving on the executive board for many years, including terms as president; and

WHEREAS, Anne Pendleton held other positions in the association, and during the time she was responsible for membership, the association had its most successful years; it was said that she convinced even the FedEx driver to join; and

WHEREAS, Anne Pendleton wrote a regular column in the *Sleepy Hollow Legend*, the neighborhood newsletter, entitled "Eye on the Hollow" where she wrote about happenings in the neighborhood; for years she was the coordinator of the Neighborhood Watch; with a strong belief in community service, she was a leader for many years in handling the neighborhood's zoning disputes, and served as a representative to citizen's commissions; and

WHEREAS, Anne Pendleton was involved in beautification efforts in Sleepy Hollow and was the impetus for creating the fund that continues to support care of the triangle at Beechwood and Sleepy Ridge Roads; and

WHEREAS, Anne Pendleton was active in all the neighborhood social events and, with her do-it-now attitude, she organized the dinner-dance at Fort Myer, celebrating the neighborhood's 60th anniversary, hiring the hall, choosing the menu, hiring a band, and arranging for flowers all in the same day; she never missed a neighborhood picnic, nor did she fail to contribute her bowl of finely chopped onions for the hot dogs; and

WHEREAS, Anne Pendleton's organizational skills and attention to detail led her to develop a successful wedding planner business, serving prospective brides and their families in Northern Virginia; her love of weddings led her to become an official civil marriage celebrant in Fairfax County, officiating at numerous weddings in her home and other locations in the area; and

WHEREAS, predeceased by her first husband, Karl, and her second husband, Elmer, Anne Pendleton will be fondly remembered and greatly missed by her children, Allison, John, and Christian, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Anne B. Pendleton, a vibrant Fairfax County community member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anne B. Pendleton as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 256

*Commending Cristin Emrick.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Cristin Emrick won the Isle of Wight Chamber of Commerce 2018 Citizen of the Year award for her many contributions to the community; and

WHEREAS, formerly a resident of Orange County, New York, Cristin Emrick has embraced Isle of Wight with her lively, kind spirit, and is engaged in many organizations and community activities, all of which are better for her volunteer contributions which range from supporting the Westside PTA, to volunteering at the Education Foundation Dinner, to helping to pick the crop at SummerWind Vineyard before a hurricane endangered the harvest; and

WHEREAS, a longtime photographer and skilled communicator, Cristin Emrick was the driving creative marketing genius behind the success of Wharf Hill Brewing Company and is a refreshing, young force of nature making Isle of Wight County a better place to live; and

WHEREAS, the list of activities Cristin Emrick is involved in is long and includes coordinating the Wharf Hill Chuggers' volunteer efforts, volunteering as a race day staffer for the Smithfield Hog Jog, executing the Smithfield Six Pack run to benefit Smithfield Music, and assisting with the Main Street Mile run to benefit Smithfield High School and Isle of Wight Academy cross country teams; and

WHEREAS, Cristin Emrick coordinated a community-wide Hate Has No Home Here campaign through the distribution of signs and stickers to over 100 people to spread the message of acceptance of all people through the community; she championed the Friends of the Trail group in support of the Park-to-Park trail project and the Birthplace of America Trail that will connect the Capital Trail to the Elizabeth River Trail through Surry and Isle of Wight; now, therefore, be it

RESOLVED by the House of Delegates, That Cristin Emrick hereby be commended for winning the Isle of Wight Chamber of Commerce 2018 Citizen of the Year award for her many contributions to the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cristin Emrick for her positive influence and the passionate energy she injects into the civic life of Isle of Wight County.

### HOUSE RESOLUTION NO. 257

*Commending Q Daddy's Pitmaster BBQ.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Q Daddy's Pitmaster BBQ has been awarded the title of Business of the Year by the Isle of Wight Chamber of Commerce for making Smithfield a more delicious place and supporting many worthy causes in the community; and

WHEREAS, Q Daddy's Pitmaster BBQ is a family-owned business, and second generation pit-master joint, offering slow-smoked meaty morsels and quick service, with all food ingredients and preparations upholding the highest standards in the industry; and

WHEREAS, Q Daddy's Pitmaster BBQ serves appreciative diners a menu packed with carnivorous delicacies, including pulled pork, beef brisket, hand-breaded chicken tenders, and whole rack of ribs, with numerous delectable side dishes; and

WHEREAS, Q Daddy's Pitmaster BBQ was opened on January 2017 at a former gas station at 1007 South Church Street, by United States Marine veteran Jesse Whitten and his family, because the Virginia native was drawn to the charm and history of Smithfield, but also because of the lack of quality barbeque in an area known for producing quality smoked meats; and

WHEREAS, today, Q Daddy's Pitmaster BBQ offers pick-up, delivery, full-service catering, on-location vending at special events, and mobile food truck services, with a staff of 25 full and part-time employees; the business now looks to expand their kitchen space, install a walk-in refrigeration system, add a third 500-pound Southern Pride Pit, and increase available parking; now, therefore, be it

RESOLVED by the House of Delegates, That Q Daddy's Pitmaster BBQ hereby be commended for winning the Isle of Wight Chamber of Commerce Business of the Year title for making Smithfield a more delicious place and running a business that is very engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Q Daddy's Pitmaster BBQ as an expression of the House of Delegates' admiration for their business acumen and civic spirit.

### HOUSE RESOLUTION NO. 258

*Celebrating the life of Thomas Elder, Jr.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Thomas Elder, Jr., a longtime resident of Norfolk who served the residents of Isle of Wight County as economic development director, died on June 10, 2018; and

WHEREAS, Thomas Elder graduated from Norfolk Academy and earned a bachelor's degree from Washington and Lee University, then pursued a 30-year career as a commercial real estate agent; and

WHEREAS, prior to joining the Isle of Wight County staff, Thomas Elder served as executive vice president of the Hampton Roads Economic Development Alliance and assistant director of Chesapeake Economic Development; and

WHEREAS, in May 2015, Thomas Elder became the economic development director for Isle of Wight County, using his wealth of experience in the recruitment, retention, and expansion of businesses to strengthen the county and enhance the quality of life of all residents; and

WHEREAS, with his collaborative leadership style, Thomas Elder was a trusted mentor and friend to many colleagues throughout his career; and

WHEREAS, Thomas Elder worked to build strong, personal relationships with both business owners and members of the community, ensuring mutually beneficial economic growth and responsible development; and

WHEREAS, an avid sportsman who enjoyed hunting and fishing in the Commonwealth, Thomas Elder also played tennis at the Norfolk Yacht and Country Club and often participated in tournaments; and

WHEREAS, Thomas Elder will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Thomas Elder, Jr., who worked to enhance the quality of life in Isle of Wight County as economic development director; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Elder, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 259

*Celebrating the life of Charlotte Mae Satterwhite Troxell.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Charlotte Mae Satterwhite Troxell of Richmond, a talented singer and the head hostess of the Virginia State Capitol Tours program for 27 years, died on January 20, 2019; and

WHEREAS, born in Fredericksburg, Charlotte Troxell spent most of her life in Richmond, where she realized her passion for music at a young age and sang her first solo performance at Grove Avenue Baptist Church; and

WHEREAS, Charlotte Troxell continued to study music at Thomas Jefferson High School and The College of William & Mary; she performed solo cantatas for more than 20 years as a member of the St. Giles Presbyterian Church choir and brought joy to audiences with her beautiful soprano voice as a member of the Heart Strings choral group; and

WHEREAS, at the age of 55, Charlotte Troxell began a second career as head hostess at the Virginia State Capitol and went on to set a high bar for gracious hospitality from behind the welcome desk in the capitol rotunda; and

WHEREAS, Charlotte Troxell hosted visitors from all over the Commonwealth and the world, and as a lifelong Richmond resident, enriched guests' visits with local stories that couldn't be found in any history book; she retired at the age of 83 as a familiar face to state employees and a beloved icon to her fellow Virginia State Capitol staff members; and

WHEREAS, predeceased by her husband, Mark, and her son, Gerald, Charlotte Troxell will be fondly remembered and greatly missed by her son, Mark, Jr., her grandchildren and great-grandchildren, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Charlotte Mae Satterwhite Troxell, a vibrant member of the Richmond community, who served and educated generations of visitors to the Virginia State Capitol; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charlotte Mae Satterwhite Troxell as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 260

*Celebrating the life of Claxton M. Melvin.*

Agreed to by the House of Delegates, February 11, 2019

WHEREAS, Claxton M. Melvin, a respected member of the Portsmouth community, died on February 6, 2019; and

WHEREAS, born at Fort Bragg, North Carolina, Claxton Melvin grew up in Portsmouth and was part of the first graduating class of Manor High School in 1973; and

WHEREAS, after serving his country in the United States Army for three years, Claxton Melvin continued his education at Norfolk State University, graduating with honors; and

WHEREAS, Claxton Melvin relocated to Atlanta and pursued a career with Wachovia and subsequently Wells Fargo; he retired after 29 years of service in the financial industry; and

WHEREAS, Claxton Melvin will be fondly remembered and greatly missed by his wife of 32 years, Linda Pulley; his brothers, the Honorable Kenneth Melvin and Bruce Melvin; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Claxton M. Melvin; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Claxton M. Melvin as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 261

*Commending Educational Theatre Company.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Educational Theatre Company, an Arlington-based nonprofit arts organization with a mission to unlock the potential of children and adults through immersion in theatre arts, celebrated its 20th anniversary in 2018; and

WHEREAS, Educational Theatre Company (ETC) is committed to bringing the arts to underserved communities and works to ensure that everyone has the opportunity to pursue dreams of artistic expression; and

WHEREAS, ETC serves almost 7,000 students of all ages in Northern Virginia, Maryland, and the District of Columbia through student-centered programs that give aspiring performers, writers, and directors opportunities to create their own characters, write their own dialogue, and tell their own stories; and

WHEREAS, ETC trains elementary school students in writing, performing, and designing their own plays through the Main Stage Residency program, supplementing their Standards of Learning curriculum; and

WHEREAS, through its Shakespeare in the Schools program, ETC offers performances and workshops where students make direct connections to the universal themes of the works of William Shakespeare; and

WHEREAS, ETC strives to help students achieve success in the classroom through its STEAM (science, technology, engineering, arts, and mathematics) afterschool programs, which employ a variety of theatre techniques to help students better process science and math concepts; and

WHEREAS, ETC hosts 26 summer camps covering a broad spectrum of theatrical interests and disciplines; participants stage and film their own creative works, practicing skills such as acting, script writing, directing, choreography, comedy, improvisation, and filmmaking; and

WHEREAS, placing a high value on community engagement and philanthropy, ETC runs specialized programming such as Devising Hope, which pairs high school students with men and women who are experiencing homelessness to share their stories and create performance pieces; and

WHEREAS, ETC commemorated its 20th anniversary with a birthday party on November 17, 2018; now, therefore, be it

RESOLVED by the House of Delegates, That Educational Theatre Company hereby be commended on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Educational Theatre Company as an expression of the House of Delegates' admiration for the organization's mission to strengthen the community by giving adults and children opportunities for self-expression through the arts.

**HOUSE RESOLUTION NO. 262**

*Commending Virginia's State Forests.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, in 1919 Emmett D. Gallion bequeathed his 588 acres of woodlands to the Virginia Forest Service to create the first Virginia State Forest; and

WHEREAS, over the next 100 years additional properties were acquired or donated to become new state forests; and

WHEREAS, as of 2019, the Virginia Department of Forestry owns and manages 24 state forests, totaling 68,858 acres; and

WHEREAS, these forests are managed to conserve biological diversity, utilize their productive capacity, maintain their health and vigor, enhance the carbon cycle, increase socioeconomic benefits, protect water quality, and provide recreational opportunities to the residents of and visitors to Virginia; and

WHEREAS, the majority of the Commonwealth's total acreage is forestland, and the Virginia Department of Forestry protects and develops healthy, sustainable forest resources for the benefit of all Virginians; and

WHEREAS, well-managed forests benefit Virginia's economy, communities, air, water, soil, and wildlife, and the continued sustainable management of Virginia's State Forests is crucial to the economic vitality of the Commonwealth; and

WHEREAS, Virginia's forests provide an overall economic output of more than \$21 billion annually, employing more than 108,000 Virginians in forestry, forest products, and related industries; and

WHEREAS, active and viable forest product markets are necessary to support healthy forests, and Virginia's State Forests are being sustainably managed to meet the numerous environmental and economic needs of the Commonwealth; and

WHEREAS, the global demand for certified forest products has increased due to corporate environmental responsibility, green building standards, and government regulation; and

WHEREAS, the use of wood originating from well-managed forests is prudent, and Virginia forest landowners and forest product manufacturers benefit from access to certified product markets where the adoption of these systems occur; and

WHEREAS, certification to the Sustainable Forestry Initiative and American Tree Farm System standards provides a trustworthy and internationally recognized assurance to the marketplace that timber sources are managed and harvested in an environmentally responsible way; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Virginia's State Forests on the occasion of the 100th anniversary of the establishment of the first such forest; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Department of Forestry as an expression of the General Assembly's admiration for the environmental, economic, and recreational benefits of Virginia's State Forests.

**HOUSE RESOLUTION NO. 263**

*Commending the Reverend Ludwell Brown.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Reverend Ludwell Brown, a respected spiritual leader and an advocate for veterans and senior residents of Culpeper County, was named the 2018 Citizen of the Year by the *Culpeper Times*; and

WHEREAS, a native of Fauquier County, Reverend Brown joined the United States Army after high school and served his country for 32 years, retiring with the rank of sergeant major; he has continued to honor and support his fellow veterans as a frequent speaker at Culpeper National Cemetery; and

WHEREAS, Reverend Brown has been a guiding light in the community as minister of Mt. Calvary Baptist Church for 24 years; he has offered his leadership to the residents of Culpeper County as a member of the Culpeper Heat Shelter Oversight Committee and past president of the Culpeper Branch of the NAACP; and

WHEREAS, Reverend Brown has supported young people as the Culpeper Human Services Board's liaison to the Head Start Policy Council and was instrumental in the implementation of an Early Head Start program; and

WHEREAS, Reverend Brown generously volunteers his time at local retirement homes and nursing facilities, using his inspirational positivity to brighten the days of senior citizens; he acts as a guardian, assisting individuals who have no one to care for them; and

WHEREAS, in recognition of his service, Reverend Brown has received the Good Scout Award and the 5 over 50 Award from Aging Together; now, therefore, be it

RESOLVED by the House of Delegates, That the Reverend Ludwell Brown hereby be commended on his selection as the 2018 *Culpeper Times* Citizen of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Ludwell Brown as an expression of the House of Delegates' admiration for his legacy of contributions to the Culpeper County community.

**HOUSE RESOLUTION NO. 264**

*Commending the Freedom High School wrestling team.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Freedom High School wrestling team won its fourth consecutive Loudoun County Public Schools wrestling championship on December 15, 2018; and

WHEREAS, the Freedom High School Eagles finished with a score of 291.5, defeating the runner-up John Champe High School Knights by an impressive 58.5-point margin; and

WHEREAS, the Freedom Eagles earned the county title through teamwork, with two wrestlers taking home individual titles and 12 others placing in the top six of their respective weight classes; and

WHEREAS, senior Levi Moody took first place in the 152-pound championship match and junior Jacob Edwards finished the day in dramatic fashion with a win in the 285-pound match; and

WHEREAS, the other 12 starters to place were Jake Beyer, Connor Costello, Will Faber, Vyctor Galicia, Ben Hammett, Jack Karry, Carter Levin, Timothy Nguyen, Martin Parnell, Michael Parnell, Richard Pollick, and Cole Singer; and

WHEREAS, throughout the season, the Freedom Eagles have achieved success through the hard work of all the student-athletes, the leadership of the coaches and staff, and the enthusiastic support of the entire Freedom High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Freedom High School wrestling team hereby be commended on winning the 2018 Loudoun County Public Schools wrestling championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Greg Northart, head coach of the Freedom High School wrestling team, as an expression of the House of Delegates' admiration for the team's accomplishments and best wishes for the future.

**HOUSE RESOLUTION NO. 265**

*Commending Tim Rife.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Tim Rife, a member of Boy Scouts of America Troop 37 in Carrsville, earned the prestigious rank of Eagle Scout on August 22, 2018; and

WHEREAS, Tim Rife joined the Boy Scouts of America on June 7, 2011, and rose through the ranks of tenderfoot, second class, first class, star, and life over the next three years; and

WHEREAS, as a member of the Order of the Arrow, Tim Rife participated in service weekends and local community service initiatives, picking up trash, raking leaves for the elderly, and placing flags at the Beaver Dam Baptist Church cemetery on Memorial Day; and

WHEREAS, to achieve the rank of Eagle Scout, the highest rank in Scouting, Tim Rife earned 55 merit badges and completed a service project while upholding the highest ideals of the Scout Oath and Law; and

WHEREAS, for his Eagle Scout service project, Tim Rife built table and chair carts for the Carrsville Community Center; and

WHEREAS, in addition to his accomplishments as a Scout, Tim Rife achieved academic success as a member of the Junior Beta Club in middle school, and attended the Prudent Center for Industry Technology while he was in high school; now, therefore, be it

RESOLVED by the House of Delegates, That Tim Rife hereby be commended for earning the rank of Eagle Scout in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tim Rife as an expression of the House of Delegates' admiration for his outstanding service to the community.

**HOUSE RESOLUTION NO. 266**

*Celebrating the life of William F. Casey, Jr.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, William F. Casey, Jr., a longtime Sterling resident who served the community and the nation as a veteran and a federal employee, died on January 18, 2019; and

WHEREAS, William "Bill" F. Casey, Jr., was born to the late William and Irene Casey and grew up in Greenfield, Massachusetts; and

WHEREAS, Bill Casey enrolled at Boston University, but enlisted in the United States Army to serve his country during the Korean War as a medic; and

WHEREAS, after his honorable military service, Bill Casey completed his education at Boston University, then pursued a long and fulfilling career in government; and

WHEREAS, Bill Casey served the Commonwealth and the United States with integrity and distinction until his well-earned retirement from the United States Department of the Treasury in 1987; and

WHEREAS, predeceased by his wife of 59 years, Helen, Bill Casey will be fondly remembered and greatly missed by his children, Anne, Eric, Carl, and Mark, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William F. Casey, Jr., a respected member of the Sterling community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William F. Casey, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 267

*Commending Becky Morrison.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Becky Morrison, a passionate Advanced Placement United States history teacher at Poquoson High School, created the Poquoson Veterans Project to engage both students and area veterans; and

WHEREAS, Becky Morrison's Poquoson Veterans Project is an interactive, out-of-the-box, living history unit on World War II, inspired by her time at the Friends of the National World War II Memorial teacher conference; for the project, students "adopt" a local veteran of World War II, the Korean War, or the Vietnam War, whom they interview on video and develop biographies from their stories; and

WHEREAS, in Becky Morrison's Poquoson Veterans Project, students build lasting relationships with local veterans while learning about military service, geography, culture, and the role of the United States in various historical events; the project is in its second year and includes over 50 veterans; and

WHEREAS, with a bachelor's degree in history from Hampton University and a master's degree in history education from Regent University, Becky Morrison is currently in her 26th year of teaching; she has won the 2019 Teacher of the Year award from the Veterans of Foreign Wars Post 3160, the Friends of the World War II Memorial Model Community Service Project Award, and multiple grants from the Poquoson Education Foundation; and

WHEREAS, work done by Becky Morrison's students in the Poquoson Veterans Project will be archived for others to access and learn from at the Friends of the National World War II Memorial, as well as at the Poquoson Museum; now, therefore, be it

RESOLVED by the House of Delegates, That Becky Morrison, a passionate Advanced Placement United States history teacher at Poquoson High School, hereby be commended for creating the Poquoson Veterans Project to engage both students and area veterans; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Becky Morrison for her enterprising and engaging projects that utilize local resources and tell the stories of the residents of Poquoson.

### HOUSE RESOLUTION NO. 268

*Commending Percy F. Ward, Jr.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, after 41 years of outstanding service to the Poquoson community, Percy F. Ward, Jr., retired on January 1, 2019; and

WHEREAS, Percy Ward began his employment with the City of Poquoson on March 29, 1977, as a patrolman with the Poquoson Police Department; and

WHEREAS, throughout his career, Percy Ward has been an outstanding and loyal employee of the Poquoson Police Department, serving members of the public with the utmost dedication, integrity, and respect; and

WHEREAS, Percy Ward was well-known by his fellow law-enforcement officers as someone who always went the extra mile to accomplish the police department's mission to preserve a safe and secure environment by providing fair, friendly, and professional law-enforcement services to the citizens of Poquoson; and

WHEREAS, Percy Ward demonstrated his commitment to the Poquoson Police Department and to the law-enforcement profession by always exceeding the minimum requirements of his position and seeking advanced training and certifications in critical operational positions such as hostage negotiator, firearms instructor, emergency medical technician, advanced crash investigator, advanced internal affairs investigator, and armorer; and

WHEREAS, Percy Ward's love for the City of Poquoson and his commitment to the community is well established through his coordination of the Toys for Tots Program and the recognition he received from Mayor Howard Forrest for his outstanding civic service to the City of Poquoson and to the Poquoson Seafood Festival; and

WHEREAS, Percy Ward has earned the admiration and respect of all those who know him as evidenced by the numerous letters, commendations, and certificates of appreciation he has received during his career; now, therefore, be it

RESOLVED by the House of Delegates, That Percy F. Ward, Jr., hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Percy F. Ward, Jr., as an expression of the House of Delegates' admiration for his exemplary service to the residents of the Poquoson community.

### HOUSE RESOLUTION NO. 269

*Commending the Junior Beta Club of New Kent Elementary and Middle Schools.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Junior Beta Club of New Kent Elementary and Middle Schools is affiliated with the National Junior Beta Club, which is a leadership-service organization for grades four through 12, the purpose of which is to encourage effort, reward merit, and promote good citizenship; and

WHEREAS, membership in the Junior Beta Club of New Kent Elementary and Middle Schools is by invitation only and requires that potential members demonstrate academic excellence, service to community, and leadership and that members remain on the honor roll at all times; and

WHEREAS, Mia Forbes, Dwight Voelker, Noah Barnett, Liam Young, Max Burmeister, Rylan Horne, Peyton Carroll, Collin Smolnik, Camden Nogueras, Braidyn Bailey, Antony Zheng, Abigayle Simmons, Erica Larochelle, Annabella Seoane, Maggie Duncan, Hailee Roberts, Serra Swartout, Emily Burke, Jackson Pierce, Abigail Powers, and Olivia Carey, all members of the Junior Beta Club of New Kent Elementary and Middle Schools, competed at the Virginia Beta Leadership Summit and qualified in the Lead Outside the Box and Rapid Response competitions held in November 2018; and

WHEREAS, this great victory at the Virginia Beta Leadership Summit is an honor for the Junior Beta Club of New Kent Elementary and Middle Schools, which qualified for the national competition with the state win; and

WHEREAS, students Abigail Powers and Olivia Carey were selected as leadership representatives for Virginia Junior Beta Club and will hold leadership positions in the upcoming state and national conventions; and

WHEREAS, this achievement by these young people qualified the Junior Beta Club to represent New Kent County Elementary and Middle Schools in the National Junior Beta Club competition on June 15, 2019, in Oklahoma City, Oklahoma; now, therefore, be it

RESOLVED by the House of Delegates, That the Junior Beta Club of New Kent Elementary and Middle Schools be commended on its victory at the Virginia Beta Leadership Summit and its qualification for the National Leadership Summit; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Andrea Simmons and Cathy Bruner of New Kent Elementary School and Lindsay Horne and Rechele Gregory of New Kent Middle School as an expression of the House of Delegates' admiration for the many impressive achievements of the members of the Junior Beta Club of New Kent Elementary and Middle Schools.

### HOUSE RESOLUTION NO. 270

*Commending the Princess Anne High School girls' basketball team.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Princess Anne High School girls' basketball team secured its fifth consecutive state title with a historic victory in the Virginia High School League Class 5 state championship in 2018; and

WHEREAS, during their 26-1 season, the Princess Anne High School Cavaliers, who were ranked 10th in the nation by MaxPreps and 12th by *USA Today*, dominated their opponents and racked up an impressive average of 51 points per game; and

WHEREAS, in the state final, the Princess Anne Cavaliers never relinquished their early lead over the Thomas Edison High School Eagles and scored on eight of their final 10 possessions to win 61-45; the team's stifling defense forced 28 turnovers and caused the Thomas Edison Eagles to miss 13 of 16 three-point attempts; and

WHEREAS, Jasha Clinton led the Princess Anne Cavaliers with 17 points, followed by Brianna Jackson, who added 12 points and 15 rebounds for her third consecutive double-double; and

WHEREAS, with only three graduating seniors—Makayla Dickens, Bryonna Ferebee, and Xaria Wiggins—the Princess Anne Cavaliers will retain a core group of their championship team and stay poised for success in years to come; and

WHEREAS, the Princess Anne Cavaliers' win was the team's fifth consecutive state title and the program's ninth state title overall, both Virginia High School League records; and

WHEREAS, the Princess Anne Cavaliers achieved these historic milestones through the hard work and determination of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire Princess Anne High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Princess Anne High School girls' basketball team hereby be commended on its record-setting victory in the Virginia High School League Class 5 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Darnell Dozier, head coach of the Princess Anne High School girls' basketball team, as an expression of the House of Delegates' admiration for the team's extraordinary achievements.

### HOUSE RESOLUTION NO. 271

*Celebrating the life of Sergeant First Class Joshua Zachary Beale, USA.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Sergeant First Class Joshua Zachary Beale, USA, a Virginia native who served his country as a member of the elite Green Berets, was killed in action on January 22, 2019; and

WHEREAS, Joshua Zachary "Zach" Beale earned a bachelor's degree from Old Dominion University in 2008 and enlisted in the United States Army in 2011; and

WHEREAS, after graduating from the United States Army Airborne School, Zach Beale participated in the rigorous Special Forces Qualification Course and was subsequently assigned to the 3rd Special Forces Group at Fort Bragg, North Carolina; and

WHEREAS, a talented and dedicated soldier, Zach Beale deployed on four overseas tours, including three tours to Afghanistan, and furthered his training in the Advanced Leader Course, Special Forces Sniper Course, and Army Ranger School; and

WHEREAS, Zach Beale made the ultimate sacrifice while supporting combat operations in the Uruzgan Province of Afghanistan; and

WHEREAS, over the course of his distinguished military career, Zach Beale earned three Bronze Star Medals, the Purple Heart, the Meritorious Service Medal, and the Army Achievement Medal, among other awards and decorations; and

WHEREAS, Zach Beale enjoyed fellowship and worship with the congregation of James River Community Church in Suffolk; and

WHEREAS, Zach Beale will be fondly remembered and greatly missed by his wife, Lindsey; his daughters, Leah and Grace; his parents, Robert and Sheree; his brothers, Jesse and Jacob; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Sergeant First Class Joshua Zachary Beale, USA; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sergeant First Class Joshua Zachary Beale, USA, as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 272

*Celebrating the life of Jerry Allen Hurt.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Jerry Allen Hurt, a retired executive and an enthusiastic civic leader in Rural Retreat, died on December 27, 2018; and

WHEREAS, Jerry Hurt was born in Charleston, West Virginia; his family relocated to Rural Retreat where his grandparents lived on a farm at which he had previously spent his summers; he graduated from Rural Retreat High School, attended courses at Wytheville Community College, and earned a degree in finance from Virginia Polytechnic Institute and State University; he later earned his master's degree in business administration; and

WHEREAS, Jerry Hurt began his professional career with the mining and metals division of Union Carbide Corporation, later Elkem Metals USA, where he served as president; he later specialized in the development and diversification of numerous small business ventures and retired from the Pittsburgh-based Starck Van Lines after serving as chief executive officer; and

WHEREAS, upon retirement, Jerry Hurt retired to the town he loved, Rural Retreat, and the extended family he treasured; he devoted his time to serving the church, the community, foundations, boards, and civic organizations; he was passionate in his work for the Rural Retreat Depot Foundation, inspiring others to help him transform the nearly 150-year-old building into a center for community activities; and

WHEREAS, Jerry Hurt contributed to the Brock Hughes Medical Center and served on the board of Wytheville Community College; he was a member of Rural Retreat United Methodist Church, a member of the church council at St. Paul Lutheran Church, and a member of the Rural Retreat Lions Club; and

WHEREAS, Jerry Hurt was known for being generous with his time and expertise; he often attended town council meetings and always reviewed the town budget carefully; sometimes during meetings, if someone requested funds for a project, he would stand up and volunteer to match any funds the council allocated; to acknowledge his contributions he was named Rural Retreat's Citizen of the Year in 2016; and

WHEREAS, Jerry Hurt will be fondly remembered and greatly missed by his wife, Phyllis; his children, Richard, Meredith, and Melinda, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jerry Allen Hurt, a retired executive and an enthusiastic booster of the Rural Retreat community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jerry Allen Hurt as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 273

*Commending Elizabeth S. Dingus.*

Agreed to by the House of Delegates, February 13, 2019

WHEREAS, Elizabeth S. Dingus, chief finance officer of the House Clerk's Office, will retire in 2019, after 35 years of exceptional service to the Commonwealth; and

WHEREAS, a lifelong resident of Powhatan, Elizabeth "Beth" S. Dingus holds a bachelor's degree from the University of Richmond and began her career in state government with the Virginia Department of Motor Vehicles as a member of the training department; and

WHEREAS, Beth Dingus joined the House Clerk's Office as a fiscal assistant on August 1, 1985; in recognition of her attention to detail and work ethic, she was promoted to payroll manager and took on additional duties in the finance office, earning the admiration of her coworkers for her generosity, compassion, and willingness to help others; and

WHEREAS, Beth Dingus was subsequently promoted to payroll and administrative services manager, and in 2005, she was named chief finance officer; since then she has ably administered the budget for the Virginia House of Delegates and reconciled all agency payroll and accounting records; and

WHEREAS, under Beth Dingus' leadership, the finance team of the House Clerk's Office streamlined accounting processes to provide cost savings to the agency; she also led the transition to the Cardinal accounting program and coordinated preliminary integration efforts for Cardinal payroll; and

WHEREAS, among her many achievements while working for the Virginia House of Delegates, Beth Dingus oversaw the conversion of employee service records into the Virginia Retirement System's VNAV system; and

WHEREAS, as chief finance officer, Beth Dingus interacted directly with members of the Virginia House of Delegates on matters related to benefits programs, and she assisted with the development of the member expense account and session staff compensation database; and

WHEREAS, Beth Dingus served as a member of the National Conference of State Legislatures' American Society of Legislative Clerks and Secretaries and took on leadership roles in the Richmond chapter of the American Payroll Association; and

WHEREAS, Beth Dingus has served under three clerks—Joseph H. Holleman, Jr., Bruce F. Jamerson, and G. Paul Nardo—and six speakers—Albert L. Philpott, Thomas W. Moss, Jr., Lacey E. Putney, S. Vance Wilkins, Jr., William J. Howell, and M. Kirkland Cox; and

WHEREAS, after her well-earned retirement, Beth Dingus plans to pursue her interests in photography and craft projects and spend more time with her family, including her husband, Bryon, and their children, Will and Kyle; now, therefore, be it

RESOLVED by the House of Delegates, That Elizabeth S. Dingus hereby be commended on the occasion of her retirement as chief finance officer of the House Clerk's Office; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elizabeth S. Dingus as an expression of the House of Delegates' admiration for her legacy of contributions to the Commonwealth and best wishes on a happy retirement.

### HOUSE RESOLUTION NO. 275

*Celebrating the life of Herbert White, Jr.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Herbert White, Jr., founding member of King William Volunteer Rescue Squad and Fire Department, died on January 27, 2019; and

WHEREAS, Herbert White retired from Richmond Newspapers, Inc., in 1996 after 37 years of service; throughout his life, his philanthropic nature greatly impacted his community, as he was involved in numerous service organizations; and

WHEREAS, in 1963, Herbert White was one of four people who founded the King William Volunteer Rescue Squad and, in 1965, was instrumental to the organization's affiliation with the King William Volunteer Fire Department, remaining an active member in both organizations for more than 20 years, as well as a charter and life member; and

WHEREAS, Herbert White was a member of the King William Ruritan Club, serving as past secretary/treasurer of the Ruritan Foundation, Inc., during construction of the new Ruritan Community Building and Park, and also serving for a number of years as a director with 22 years of perfect attendance; and

WHEREAS, Herbert White was a charter member of the Mattaponi Crime Solvers; a director of Prevent Blindness Mid-Atlantic, serving as chairman of the board for two years; a member of Joppa Lodge No. 40 AF & AM; a member of Colosse Baptist Church; and the chair of the King William Board of Zoning Appeals, serving in that position for 36 years; and

WHEREAS, Herbert White will be fondly remembered and greatly missed by his wife, Marian; his son, Scott, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Herbert White, Jr., founding member of the King William Volunteer Rescue Squad and Fire Department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Herbert White, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 277

*Commending Richard DeSomma.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Richard DeSomma, head coach of the Freedom High School girls' lacrosse team, was named as a National Coach of the Year for the 2017-2018 academic year by the National Federation of State High School Associations Coaches Association; and

WHEREAS, Richard DeSomma was one of only 23 coaches nationwide to win the prestigious award, with nominees selected from state and geographic sectional winners, representing 11 boys' sports, 11 girls' sports, and a spirit coach; and

WHEREAS, Richard DeSomma joined the Freedom High School girls' lacrosse team as head coach in 2016 and quickly revitalized the struggling program; and

WHEREAS, in 2018, Richard DeSomma led the Freedom High School Eagles to a victory against the previously undefeated Atlee High School Raiders in the Virginia High School League Class 5 state championship; now, therefore, be it

RESOLVED by the House of Delegates, That Richard DeSomma hereby be commended on his selection as a 2018 National Coach of the Year by the National Federation of State High School Associations Coaches Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard DeSomma as an expression of the House of Delegates' admiration for his achievements in service to the young people of Loudoun County.

### HOUSE RESOLUTION NO. 278

*Celebrating the life of Ryan D. Murray.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Ryan D. Murray, a beloved member of the Gainesville community, died on July 22, 2018; and

WHEREAS, a student at Battlefield High School, Ryan Murray was well-known in Gainesville and Haymarket for his bright smile, outgoing personality, and unfailing kindness; and

WHEREAS, Ryan Murray was an inspirational member of the community, who made friends wherever he went and brought joy to everyone he met; and

WHEREAS, Ryan Murray will be fondly remembered and greatly missed by his parents, David and Brenda, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ryan D. Murray; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ryan D. Murray as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 281**

*Commending the Virginian Steak House.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, for 45 years, the Virginian Steak House served delicious steak, spaghetti, and seafood to generations of Virginia Beach families, becoming a hallmark of the Hilltop area, known as much for its culinary fare as for its contributions to community life; and

WHEREAS, the Virginian Steak House was founded by George Christodoulis, a Greek immigrant, and his brothers-in-law, Gus and Nick Kalivas; the group knocked on doors to raise money for a down payment on a building at 620 First Colonial Road, and with the help of friends and neighbors, the restaurant opened in 1973; and

WHEREAS, in the early days of the Virginian Steak House, there were few other restaurants and businesses in the Hilltop section of Virginia Beach, and George Christodoulis commuted from his home in Williamsburg to work more than 70 hours each week serving hamburgers, steak, and other homemade delights to the members of the community who would become loyal patrons as the years went on; and

WHEREAS, the Virginian Steak House became an integral part of local life, hosting everything from first dates, marriage proposals, and birth announcements to retirement parties and wakes, with regulars becoming a beloved second family to the restaurant's owners and employees; and

WHEREAS, as the Virginian Steak House grew in popularity, George Christodoulis and Gus Kalivas expanded the business in 1977, opening a second location, Gus and George's Spaghetti and Steak House, which remains open; and

WHEREAS, while the Virginian Steak House officially closed on July 24, 2018, the restaurant reopened for two hours on July 25 to proudly serve complimentary cheeseburgers, fries, and fountain drinks as a sign of appreciation to its legions of loyal customers; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginian Steak House hereby be commended for its 45 years of service to the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George Christodoulis and Gus Kalivas, owners of the Virginian Steak House, as an expression of the House of Delegates' admiration for the restaurant's important place in local history.

**HOUSE RESOLUTION NO. 282**

*Celebrating the life of Charles Thompson.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Charles Thompson, an active member of the Gloucester community, died on January 7, 2019; and

WHEREAS, Charles "Chuck" Thompson was born in Hardin, Montana, and later his family moved to Idaho; he served the country in the United States Army during World War II and the Korean War, and later assisted in the Vietnam War as a civilian; and

WHEREAS, Chuck Thompson received the World War II Victory Medal, Army of Occupation Medal, the Korean Service Medal with a Bronze Star, and the United Nations Service Medal in recognition of his service; and

WHEREAS, Chuck Thompson retired from the United State Army Reserves in 1969 and retired from civil service at Rock Island Arsenal in Illinois in 1984; and

WHEREAS, upon moving to Gloucester in 1991, Chuck Thompson became active in his church and the Gloucester community by joining the Knights of Columbus Council 9428, the American Legion Unit 75, the Veterans of Foreign Wars Post 8252, and the Moose Lodge 886; and

WHEREAS, as a volunteer, Chuck Thompson drove the Veterans Affairs van from the Hampton Veterans Affairs Medical Center to the Hunter Holmes McGuire Veterans Administration Medical Center in Richmond; and

WHEREAS, predeceased by his son, Charles, Jr., Chuck Thompson will be fondly remembered and greatly missed by his wife, Agnes; his granddaughter, Jeannette, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Charles Thompson, an active member of the Gloucester community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Thompson as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 283**

*Celebrating the life of John D. Jenkins.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, John D. Jenkins, a longtime member of the Prince William County Board of Supervisors who was dedicated to enhancing the quality of life in the community, died on February 6, 2019; and

WHEREAS, John Jenkins served his country as a member of the United States Army, with two tours of duty during the Vietnam War; he earned the Bronze Star Medal with Oak Leaf Cluster and retired from military service as a lieutenant colonel in 1980; and

WHEREAS, John Jenkins was an active member of the Prince William County community for 46 years, and had served on the Prince William County Board of Supervisors, representing the Neabsco District, since 1982; and

WHEREAS, John Jenkins was the most senior member on the Prince William County Board of Supervisors and the longest serving supervisor in the history of Prince William County; and

WHEREAS, John Jenkins served two terms as chair of the Northern Virginia Regional Commission, two terms as state president of the Virginia Association of Planning District Commissions, and two terms as chair of the Virginia Railway Express Operations Board; he served as state president of the Virginia Association of Counties and chair of the Potomac and Rappahannock Transportation Commission; and

WHEREAS, John Jenkins supported his fellow veterans as a member of the Veterans of Foreign Wars, American Legion, and Disabled American Veterans; and

WHEREAS, John Jenkins will be fondly remembered and greatly missed by his wife, Ernestine; his sons, Warren, Mark, and Gordon; his 14 grandchildren and three great-grandchildren; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John D. Jenkins, a faithful public servant in Prince William County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John D. Jenkins as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 284**

*Celebrating the life of John Harper.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, John Harper, a trailblazing civic leader in Dale City and Prince William County, died on February 6, 2019; and

WHEREAS, John Harper was a graduate of the University of Nebraska at Omaha and the United States Army Command and General Staff College and held a master's degree in technology management from the American University; and

WHEREAS, John Harper served his country as a member of the United States Army during the Vietnam War, earning the Bronze Star Medal with Oak Leaf Cluster during his two tours in combat; he retired as a lieutenant colonel after 24 years of service; and

WHEREAS, beginning in 1987, John Harper served the Prince William County community for 10 years as director of the Dale City Sanitary District; he was the first African American department head in the county; and

WHEREAS, in 1995, John Harper became the first African American elected to the Prince William County School Board, and in August 2017, Covington-Harper Elementary School was partially named in his honor by Prince William County Public Schools; and

WHEREAS, John Harper was the first African American to serve on the board of directors for the Prince William County Park Authority and the first African American to serve as grand marshal for the Dale City Fourth of July Parade; and

WHEREAS, in later life, John Harper earned his Realtor license and helped members of the community find the right home; and

WHEREAS, John Harper was a 33rd Degree Scottish Rite mason and a member of the NAACP and Alpha Phi Alpha Fraternity; he enjoyed fellowship and worship with the community as a member of Bethel United Methodist Church in Dale City; and

WHEREAS, John Harper will be fondly remembered and greatly missed by his wife, Beulah; their three sons; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Harper; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Harper as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 285**

*Commending Howard Lee Grove.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Howard Lee Grove, a successful farmer and community leader in Fauquier County, has dedicated his life to the promotion of agriculture and the conservation of the Commonwealth's valuable natural resources; and

WHEREAS, Howard Grove has been a steward of the land from a young age, growing up on his family's farm, which produced chickens, beef cattle, market hogs, hay, grain, and straw; he was active in Future Farmers of America and graduated from Virginia Polytechnic Institute and State University (Virginia Tech) in 1971 with a bachelor's degree in agriculture economics; and

WHEREAS, Howard Grove taught agriculture at Fauquier High School and Orange High School, then served as a regional agricultural consultant for National Bank and Trust for 15 years, until he returned to farming; and

WHEREAS, Howard Grove has been an early adopter of new technologies and unconventional farming techniques; he was among the first in the region to utilize haylage production to improve the quality of harvested forages and later utilized grazing and unique feeds like spent brewers' grains to grow and finish beef cattle; and

WHEREAS, Howard Grove has been an active member of the Fauquier County Farm Bureau, holding numerous offices, including president and state representative, and has worked diligently to improve safety guidelines and laws to help family farms; and

WHEREAS, as a member of the John Marshall Soil and Water Conservation District, Howard Grove promoted practices that protect the area's natural resources; he was proud to place his farm into a conservation easement and opened his land to farm tours and student groups; and

WHEREAS, Howard Grove has supported and inspired young people through his work with 4-H and his farm has employed many local youths and served as the location of a work-study program for a Virginia Tech student; now, therefore, be it

RESOLVED by the House of Delegates, That Howard Lee Grove hereby be commended for his contributions to agriculture in Fauquier County and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Howard Lee Grove as an expression of the General Assembly's admiration for his personal and professional achievements in service to the community.

**HOUSE RESOLUTION NO. 286**

*Nominating a person to be elected to the Supreme Court of Virginia.*

Agreed to by the House of Delegates, February 14, 2019

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the Supreme Court of Virginia as follows:

The Honorable Teresa M. Chafin, of Russell, as a justice of the Supreme Court of Virginia for a term of twelve years commencing September 1, 2019.

**HOUSE RESOLUTION NO. 287**

*Nominating a person to be elected to the Court of Appeals of Virginia.*

Agreed to by the House of Delegates, February 14, 2019

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the Court of Appeals of Virginia as follows:

The Honorable Clifford L. Athey, Jr., of Warren, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2019.

**HOUSE RESOLUTION NO. 288**

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the House of Delegates, February 14, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Stephen J. Telfeyan, of Chesapeake, as a judge of the First Judicial Circuit for a term of eight years commencing April 1, 2019.

The Honorable Matthew A. Glassman, of Suffolk, as a judge of the Fifth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Carson E. Saunders, Jr., of Emporia, as a judge of the Sixth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable James William Watson, Jr., of Halifax, as a judge of the Tenth Judicial Circuit for a term of eight years commencing April 16, 2019.

The Honorable Randall G. Johnson, Jr., of Henrico, as a judge of the Fourteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

William E. Glover, Esquire, of Fredericksburg, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Claude V. Worrell, II, of Charlottesville, as a judge of the Sixteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

Judith L. Wheat, Esquire, of Arlington, as a judge of the Seventeenth Judicial Circuit for a term of eight years commencing July 1, 2019.

Dontaé L. Bugg, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing March 16, 2019.

James E. Plowman, Esquire, of Loudoun, as a judge of the Twentieth Judicial Circuit for a term of eight years commencing November 1, 2019.

James Frederick Watson, Esquire, of Campbell, as a judge of the Twenty-fourth Judicial Circuit for a term of eight years commencing July 1, 2019.

Paul A. Dryer, Esquire, of Augusta, as a judge of the Twenty-fifth Judicial Circuit for a term of eight years commencing April 1, 2019.

Edward K. Stein, Esquire, of Alleghany, as a judge of the Twenty-fifth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Kevin C. Black, of Shenandoah, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing May 1, 2019.

The Honorable William W. Sharp, of Warren, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing July 1, 2019.

Fredrick A. Rowlett, Esquire, of Washington, as a judge of the Twenty-eighth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Angela L. Horan, of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 289

*Nominating persons to be elected to general district court judgeships.*

Agreed to by the House of Delegates, February 14, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

Erin L. Evans-Bedois, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing April 1, 2019.

Sandra L. Sampson, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing May 1, 2019.

Robert B. Rigney, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing July 1, 2019.

Nicole A. Belote, Esquire, of Suffolk, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2019.

Elbert D. Mumphery, IV, Esquire, of Henrico, as a judge of the Sixth Judicial District for a term of six years commencing July 1, 2019.

Robert G. Saunders, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing July 1, 2019.

Jody E. H. Fariss, Esquire, of Prince Edward, as a judge of the Tenth Judicial District for a term of six years commencing June 1, 2019.

Calvin S. Spencer, Jr., Esquire, of Lunenburg, as a judge of the Tenth Judicial District for a term of six years commencing April 16, 2019.

Darrel W. Puckett, Esquire, of Appomattox, as a judge of the Tenth Judicial District for a term of six years commencing June 1, 2019.

Thomas Stark, IV, Esquire, of Amelia, as a judge of the Eleventh Judicial District for a term of six years commencing May 1, 2019.

Lauren A. Caudill, Esquire, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing June 1, 2019.

Angela M. O'Connor, Esquire, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

Matthew J. Quatrara, Esquire, of Albemarle, as a judge of the Sixteenth Judicial District for a term of six years commencing June 1, 2019.

Daniel T.C. Lopez, Esquire, of Arlington, as a judge of the Seventeenth Judicial District for a term of six years commencing July 1, 2019.

Jason S. Rucker, Esquire, of Arlington, as a judge of the Seventeenth Judicial District for a term of six years commencing March 16, 2019.

Susan F. Earman, Esquire, of Falls Church, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2019.

Christopher Billias, Esquire, of Rockbridge, as a judge of the Twenty-fifth Judicial District for a term of six years commencing April 1, 2019.

Christopher B. Russell, Esquire, of Buena Vista, as a judge of the Twenty-fifth Judicial District for a term of six years commencing July 1, 2019.

Travis B. Lee, Esquire, of Smyth, as a judge of the Twenty-eighth Judicial District for a term of six years commencing July 1, 2019.

Turkessa B. Rollins, Esquire, of Prince William, as a judge of the Thirty-first Judicial District for a term of six years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 290

*Nominating persons to be elected to juvenile and domestic relations district court judgeships.*

Agreed to by the House of Delegates, February 14, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

Lori B. Galbraith, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing July 1, 2019.

Andrew D. Kubovcik, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing July 1, 2019.

Devon R. Paige Charity, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing July 1, 2019.

Christopher B. Ackerman, Esquire, of Colonial Heights, as a judge of the Sixth Judicial District for a term of six years commencing July 1, 2019.

Wallace W. Brittle, Jr., Esquire, of Sussex, as a judge of the Sixth Judicial District for a term of six years commencing July 1, 2019.

Jeffrey C. Rountree, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing July 1, 2019.

Rebecca M. Robinson, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing April 16, 2019.

Gregory C. Bane, Esquire, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing July 1, 2019.

Holly B. Smith, Esquire, of Gloucester, as a judge of the Ninth Judicial District for a term of six years commencing July 1, 2019.

Theresa J. Royall, Esquire, of Amelia, as a judge of the Eleventh Judicial District for a term of six years commencing July 1, 2019.

Brice E. Lambert, Esquire, of Henrico, as a judge of the Thirteenth Judicial District for a term of six years commencing July 1, 2019.

Sharon G. Jacobs, Esquire, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing July 1, 2019.

Gilbert H. Berger, Esquire, of Orange, as a judge of the Sixteenth Judicial District for a term of six years commencing July 1, 2019.

Barbara G. Lowe, Esquire, of Albemarle, as a judge of the Sixteenth Judicial District for a term of six years commencing July 1, 2019.

Maha-Rebekah R. Abejuela, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2019.

Jonathan D. Frieden, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2019.

Stephanie M. Ayers, Esquire, of Bedford, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2019.

Jennifer E. Stille, Esquire, of Lynchburg, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2019.

Susan B. Read, Esquire, of Staunton, as a judge of the Twenty-fifth Judicial District for a term of six years commencing July 1, 2019.

Rachel E. Figura, Esquire, of Rockingham, as a judge of the Twenty-sixth Judicial District for a term of six years commencing May 1, 2019.

Daryl L. Funk, Esquire, of Warren, as a judge of the Twenty-sixth Judicial District for a term of six years commencing July 1, 2019.

Chad A. Logan, Esquire, of Shenandoah, as a judge of the Twenty-sixth Judicial District for a term of six years commencing July 1, 2019.

Kimberly Michelle Jenkins, Esquire, of Scott, as a judge of the Thirtieth Judicial District for a term of six years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 291

*Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.*

Agreed to by the House of Delegates, February 14, 2019

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

The Honorable Shannon O'Connell Hoehl, of Hanover, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 292

*Commending Stop the Flooding NOW.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, for two years, Stop the Flooding NOW, a grassroots, nonpartisan organization of self-educated volunteers, has worked to address recurrent flooding of homes and businesses in Virginia Beach; and

WHEREAS, Stop the Flooding NOW was established in 2016, when over 1,000 Virginia Beach residents experienced flooding after Hurricane Matthew; a group of concerned citizens formed the organization to raise awareness and seek local, state, and federal support for flood mitigation; and

WHEREAS, Stop the Flooding NOW has given speeches and presentations at Virginia Beach City Council meetings to advocate for citizens' rights regarding the protection of their homes and businesses and to promote flooding solutions through science, engineering, and financing from both the public and private sectors; and

WHEREAS, Stop the Flooding NOW has grown into a valuable educational resource for all residents of Virginia Beach to learn about recurrent flooding, sea level rise, and climate change; and

WHEREAS, Stop the Flooding NOW has worked with other groups concerned with flooding throughout the country, including churches, civic organizations, Flood Forum USA, and Thriving Earth Exchange and its Community Science Connect program sponsored by the American Geophysical Union; and

WHEREAS, Stop the Flooding NOW partnered with the Thriving Earth Exchange for one year and worked with Old Dominion University's Dr. Michelle Covi to study the effects of sea level rise, flooding, and climate change on Hampton Roads, resulting in a public engagement event that raised significant awareness of those issues; and

WHEREAS, Stop the Flooding NOW encourages local, state, and federal officials to prioritize flooding as a threat to the security and vitality of the nation, and strives to leverage partnerships with public officials, educational institutions, scientific organizations, businesses, and residents to prevent and control flooding; now, therefore, be it

RESOLVED by the House of Delegates, That Stop the Flooding NOW hereby be commended for its service to the residents of Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stop the Flooding NOW as an expression of the House of Delegates' admiration for the organization's work to protect the homes and businesses of community members affected by flooding.

**HOUSE RESOLUTION NO. 294**

*Commending the Hylton Boys & Girls Club.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Hylton Boys & Girls Club, a local chapter of the Boys & Girls Clubs of Greater Washington dedicated to providing after-school programs for young people, celebrates its 28th anniversary in 2019; and

WHEREAS, the Hylton Boys & Girls Club was established by a partnership between Prince William County and the Hylton Foundation; and

WHEREAS, the Hylton Boys & Girls Club helps youths of all backgrounds build confidence, develop character, and acquire the skills needed to become productive, civic-minded, responsible adults; and

WHEREAS, the Hylton Boys & Girls Club has been a valuable resource for the community, welcoming all those who seek to benefit from its programs; and

WHEREAS, the Hylton Boys & Girls Club has overseen a 100 percent graduation rate of students who participate in its after-school programs; now, therefore, be it

RESOLVED by the House of Delegates, That the Hylton Boys & Girls Club hereby be commended on the occasion of its 28th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Hylton Boys & Girls Club as an expression of the House of Delegates' admiration for its legacy of service to the community.

**HOUSE RESOLUTION NO. 295**

*Commending Hearts Delight Baptist Church.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Hearts Delight Baptist Church, a place of worship founded by former slaves after the Civil War, celebrates its 150th anniversary in 2019; and

WHEREAS, Hearts Delight Baptist Church serves its community in Fauquier County by hosting various events to inform and uplift the public; and

WHEREAS, Hearts Delight Baptist Church has promoted friendly, wholesome competition and community engagement by participating in the Christian Bowling League; and

WHEREAS, Hearts Delight Baptist Church has expanded its reach to include ministry to incarcerated persons, support for the homeless, and foreign aid; and

WHEREAS, Hearts Delight Baptist Church has continued to worship in its current chapel since 1870; now, therefore, be it

RESOLVED by the House of Delegates, That Hearts Delight Baptist Church hereby be commended on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hearts Delight Baptist Church as an expression of the House of Delegates' admiration for its legacy of spiritual leadership and service to the Fauquier County community.

**HOUSE RESOLUTION NO. 296**

*Commending the Afro-American Historical Association of Fauquier County.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Afro-American Historical Association of Fauquier County, an organization dedicated to the preservation and promotion of the achievements of African Americans, celebrates its 25th anniversary in 2019; and

WHEREAS, the Afro-American Historical Association of Fauquier County works to provide an inclusive history of the United States by acknowledging the efforts of various groups over time, and collaborates with other historical and genealogical organizations in the area; and

WHEREAS, the Afro-American Historical Association of Fauquier County continues its service to the community by providing a space for members of the community to explore this history and information; and

WHEREAS, the Afro-American Historical Association of Fauquier County makes its unique educational programming available to the community via its museum, located in The Plains; and

WHEREAS, the Afro-American Historical Association of Fauquier County helps create a more complete and accurate history of the Commonwealth and the United States by facilitating additional research through the national Afro-American Historical Association; and

WHEREAS, many members of the community have depended on the Afro-American Historical Association of Fauquier County to provide accurate, reliable information for more than two decades; now, therefore, be it

RESOLVED by the House of Delegates, That the Afro-American Historical Association of Fauquier County hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Afro-American Historical Association of Fauquier County as an expression of the House of Delegates' admiration for its legacy of service to the community.

### HOUSE RESOLUTION NO. 297

*Commending Wendy Edwards.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Wendy Edwards has volunteered her time at the Fauquier Free Clinic for decades, ensuring the delivery of high-quality health care services to the community; and

WHEREAS, a certified public accountant, Wendy Edwards has served as a partner at the firm Scheulen, Patchett & Edwards, where she utilized her financial talents daily; and

WHEREAS, Wendy Edwards has shaped the policy of the Fauquier Free Clinic and influenced every major decision for the past 25 years, resulting in considerable growth; and

WHEREAS, as a member of the Fauquier Free Clinic's Board of Directors, Wendy Edwards has worked to ensure the continued growth of the clinic and, in 2013, secured \$1.5 million in gifts; and

WHEREAS, Wendy Edwards humbly dedicates her time to serving her local community in other unpublicized ways; now, therefore, be it

RESOLVED by the House of Delegates, That Wendy Edwards hereby be commended for her ongoing work with the Fauquier Free Clinic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Wendy Edwards as an expression of the House of Delegates' admiration for her legacy of service to the community.

### HOUSE RESOLUTION NO. 298

*Celebrating the life of Bellamy Malaki Gamboa.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Bellamy Malaki Gamboa, a vibrant member of the Hampton Roads community and a devoted mother, daughter, and sister, died in 2018; and

WHEREAS, born to a military family, Bellamy Gamboa spent much of her early life in Japan, where her father was stationed with the United States Navy; and

WHEREAS, in 1996, Bellamy Gamboa graduated from Nile C. Kinnick High School in Yokosuka, Japan, where she had made many lifelong friendships and cultivated her passion for music and singing; and

WHEREAS, Bellamy Gamboa served her country as a member of the United States Air Force, then returned to the Commonwealth, where she had deep family roots, and worked for the international shipping firm CMA CGM as an import customer service representative for the next 10 years; and

WHEREAS, Bellamy Gamboa subsequently worked for Livingston International in Norfolk and had been pursuing a degree at Tidewater Community College with a goal of becoming a licensed customs broker; and

WHEREAS, a proud mother who was deeply involved in the lives of her children, Bellamy Gamboa served as a team mom for her older son's baseball team and often invited friends and co-workers to her daughter's dance recitals; and

WHEREAS, Bellamy Gamboa's family members established the 4Bellamy campaign in her honor to raise awareness of the warning signs for domestic violence and support other women in the community who may be at risk for domestic violence; and

WHEREAS, Bellamy Gamboa will be fondly remembered and greatly missed by her four beloved children and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Bellamy Malaki Gamboa; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bellamy Malaki Gamboa as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 299**

*Commending the Honorable Daun Sessoms Hester.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, in 2018, the Honorable Daun Sessoms Hester became the first African American woman elected as treasurer of the City of Norfolk; and

WHEREAS, a recognized leader in the Norfolk community, Daun Hester has previously served as an educator in Norfolk Public Schools for 22 years, as a member of the Norfolk City Council for 14 years, including four years as vice mayor, and as a member of the Virginia House of Delegates representing the 89th House District for five years; and

WHEREAS, as Norfolk's chief tax collector, Daun Hester will use her experience in government and visionary leadership to build trust, transparency, and accountability in the office; and

WHEREAS, prior to her election, Daun Hester discovered that in the era of Jim Crow laws, her father and grandparents had been forced to pay poll taxes for the right to vote, a reminder of the hard work and significant achievements of the Civil Rights movement and of the importance of her own responsibilities to the public as she takes office as treasurer; now, therefore, be it

RESOLVED by the House of Delegates, That the Honorable Daun Sessoms Hester hereby be commended on becoming the first African American woman to serve as treasurer of the City of Norfolk; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Daun Sessoms Hester as an expression of the House of Delegates' admiration for her service to the members of the Norfolk community and the Commonwealth.

**HOUSE RESOLUTION NO. 300**

*Commending the Lake Taylor High School boys' basketball team.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Lake Taylor High School boys' basketball team claimed the first state title in the team's history, winning the Virginia High School League Class 4 state championship on March 10, 2018; and

WHEREAS, in a dramatic state finish, the Lake Taylor High School Titans defeated the John Handley High School Judges by a score of 72-66 in double overtime; and

WHEREAS, senior Dereon Seabron led the Lake Taylor Titans with a game-high 24 points, including a game-tying free throw with less than a second left in regulation time, and he became the first Lake Taylor player named as the All-Tidewater Boys Basketball Player of the Year; and

WHEREAS, Lake Taylor also had standout performances from Dee'vaughn Blackwell, who scored 15 points off the bench, and Joe Bryant, who recorded 13 points and eight rebounds; and

WHEREAS, the victory was the first state championship win for head coach Kenny Brown, who previously led the team to a state final appearance in 2016; and

WHEREAS, throughout the season, the Lake Taylor Titans enjoyed the support of friends, family, and the faculty and administrators of Lake Taylor High School; and

WHEREAS, the Lake Taylor Titans' state championship win is a testament to the hard work and dedication of all the student-athletes and the leadership and guidance of coaches and staff; now, therefore, be it

RESOLVED by the House of Delegates, That the Lake Taylor High School boys' basketball team hereby be commended on winning the Virginia High School League Class 4 state championship in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kenny Brown, head coach of the Lake Taylor High School boys' basketball team, as an expression of the House of Delegates' admiration for the team's exceptional achievements.

**HOUSE RESOLUTION NO. 301**

*Celebrating the life of Dr. Sandra J. DeLoatch.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Dr. Sandra J. DeLoatch, a highly admired educator who inspired countless young people through her trailblazing leadership, died on April 17, 2018; and

WHEREAS, born in Nansemond County, Dr. Sandra DeLoatch was a lifelong resident of Suffolk, where she attended John F. Kennedy High School; she earned a bachelor's degree from Howard University, where she was elected to Phi Beta Kappa and graduated *magna cum laude*; and

WHEREAS, Dr. Sandra DeLoatch continued her education at the University of Michigan, Indiana University, and The College of William & Mary, earning master's and doctoral degrees in mathematics and computer science; and

WHEREAS, Dr. Sandra DeLoatch joined Norfolk State University (NSU) as a professor of mathematics and subsequently became founding chair of the Department of Computer Science; she went on to serve as dean of the institution's College of Science, Engineering, and Technology and acting university president before retiring as provost and vice president for academic affairs in 2017; and

WHEREAS, throughout her career in higher education, Dr. Sandra DeLoatch was known as an innovator, a distinguished leader, and a champion for women, girls, and minorities in science, technology, engineering, and mathematics (STEM) fields; she was one of NSU's most generous donors and was recognized for giving more than \$100,000 to the institution; and

WHEREAS, Dr. Sandra DeLoatch laid the groundwork for NSU's success in the cybersecurity field and served as principal investigator for one of the first two research contracts ever awarded to a historically black college or university by the National Security Agency; she ultimately managed more than \$50 million in external funding for computer science and mathematics research projects; and

WHEREAS, Dr. Sandra DeLoatch offered her leadership to the Suffolk Board of Zoning Appeals, the Old Dominion University Research Foundation, and the Broad Creek Digital Inclusion Advisory Board; she was a member of the Lambda Gamma Omega Chapter of Alpha Kappa Alpha and a life member of the Girl Scouts of the USA; and

WHEREAS, Dr. Sandra DeLoatch received many awards and accolades for her personal and professional achievements, including the Trailblazer Award from the Norfolk Branch of the NAACP, the YWCA Woman of Distinction Award, and the Administrator of the Year award from the Virginia Association of Educational Office Professionals; and

WHEREAS, Dr. Sandra DeLoatch donated hundreds of hours of volunteer service to the Girl Scouts of the Colonial Coast, developing a technology plan that modernized the organization and introducing STEM programs to help girls explore new career paths; in 2011, the Girl Scouts of the Colonial Coast created a special STEM patch in her honor; and

WHEREAS, Dr. Sandra DeLoatch will be fondly remembered and greatly missed by her great-nephew, Tyler; her brothers, Charles and Earl; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Dr. Sandra J. DeLoatch, who made many contributions to her fellow residents of Suffolk and the students of Norfolk State University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dr. Sandra J. DeLoatch as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 302

#### *Commending Clover Hill Baptist Church.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, in 2019, Clover Hill Baptist Church celebrates 50 years of providing spiritual leadership, opportunities for joyful worship, and generous outreach to the members of the North Chesterfield community; and

WHEREAS, originally known as Gospel Crusade Baptist Church, Clover Hill Baptist Church traces its roots to the fall of 1968, when a group of believers met in a cabinet shop on Hull Street to form their own congregation; the Reverend Calvin T. Eaves was called as pastor, preaching his first sermon on November 24, 1968; and

WHEREAS, Clover Hill Baptist Church was formally organized with 80 charter members on February 9, 1969, and took its name from its location in the Clover Hill district of Chesterfield County; and

WHEREAS, shortly after its establishment, Clover Hill Baptist Church acquired a ten-acre tract of land on Courthouse Road and initiated a building fund under Harvey Tyndall; the church sold bonds to finance a new building, which was completed by general contractor Curtis Owens in 1972 and dedicated on Easter Sunday of that year; and

WHEREAS, Clover Hill Baptist Church sold additional bonds to fund a two-story educational building, which was completed in 1974, and later added a bus garage to better serve the growing congregation; the Reverend Dwight Norville was appointed director of the Bus Ministry and the Children's Church; and

WHEREAS, Clover Hill Baptist Church experienced significant growth in the 1970s, appointing its first associate pastor, the Reverend Barney Freasier, and music minister Wayne Raborn; the church continued to expand its ministries, including Sunday school programs and classes for the deaf, as well as the mentally and physically handicapped; and

WHEREAS, on May 12, 1976, Clover Hill Baptist Church assumed ownership of Richmond Christian School on Newby's Bridge Road and subsequently purchased the Gill School property on Belmont Road in 1983; by 2002, Richmond Christian School had grown to an enrollment of more than 600 students, and in 2005, the church sold the school to a group of parents who have maintained its legacy of excellence; and

WHEREAS, in September 1978, Clover Hill Baptist Church established the Clover Land Preschool and Day Care, which at one time cared for 200 children between the ages of two and five; Linda Crotty led the program for more than 30 years, and Jeannette Young has been the current director since 2015; and

WHEREAS, Clover Hill Baptist Church expanded its message in 1982 through a television ministry under the direction of Jay Sears that was broadcast every Monday night for 34 years; and

WHEREAS, Clover Hill Baptist Church has benefited from the leadership of the Reverend Robert Gallagher as associate pastor and the Reverend Abe Simon, who joined the church in 1987 as director of the Golden Age Fellowship and later became an associate pastor; and

WHEREAS, the current senior pastor of Clover Hill Baptist Church, the Reverend Mark Crockett, was elected on April 15, 2018, and has helped the church grow in both faith and numbers; and

WHEREAS, Clover Hill Baptist Church is a well-known landmark in Chesterfield County, providing spiritual guidance to many local families and significant outreach to the surrounding community, and supporting missionary programs at home and abroad; and

WHEREAS, Clover Hill Baptist Church commemorated its 50th anniversary milestone with a banquet at Bishop Ireton Center on February 9, 2019, and a service on February 10, 2019, featuring presentations on the history of the church, as well as testimonies and special guests; now, therefore, be it

RESOLVED by the House of Delegates, That Clover Hill Baptist Church hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Mark Crockett, senior pastor of Clover Hill Baptist Church, as an expression of the House of Delegates' admiration for its legacy of service to the residents of North Chesterfield.

### HOUSE RESOLUTION NO. 303

*Commending the Center for Innovative Technology's Center for Unmanned Systems and the Virginia Tech Mid-Atlantic Aviation Partnership.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Virginia is home to a unique combination of assets that establishes the Commonwealth as a national leader in all domains of unmanned systems—air, land, and sea; and

WHEREAS, the Commonwealth has aggressively pursued the long-term success of automated vehicle systems with an approach that emphasizes inclusion, diversity, and investment; and

WHEREAS, Virginia's geography provides extensive, open, and diverse training and testing locations that enable manufacturers and developers to demonstrate proofs of concept, acquire the data needed for Federal Aviation Administration (FAA) certifications and approvals, and to push the envelope of autonomous vehicle capabilities in a controlled, data-focused environment; and

WHEREAS, Virginia provides an ecosystem of innovation that leverages its geographical assets, university research, federal labs, and workforce development; the Commonwealth has one of only seven FAA-designated test sites in the nation through the Mid-Atlantic Aviation Partnership (MAAP) at Virginia Tech; and

WHEREAS, the United States Department of Transportation and the FAA selected Virginia as one of only 10 participants (from 230 proposals) in the Unmanned Aircraft Systems Integration Pilot Program that will help tackle the most significant challenges of integrating drones into the national airspace while reducing risks to public safety and security; and

WHEREAS, the Center for Innovative Technology and the Virginia Tech Mid-Atlantic Aviation Partnership teamed up with the Counties of Buckingham, Cumberland, Loudoun, Montgomery, Prince Edward, and Wise, and corporate partners, Google Wing, Intel, AT&T, Airbus Aerial, State Farm, Dominion Energy, Sinclair Broadcast Group, and HAZON Solutions to successfully compete for the Unmanned Aerial Systems Integration Pilot Program; and

WHEREAS, through the program, the Commonwealth will be eligible for expedited flight permission from the FAA to perform some of the most complex unmanned vehicle flight testing ever attempted in the United States; and

WHEREAS, Virginia's success in securing this FAA pilot program is the latest evidence of the Commonwealth's dominance in the growing field of unmanned systems technology; now, therefore, be it

RESOLVED by the House of Delegates, That the Center for Innovative Technology's Center for Unmanned Systems and the Virginia Tech Mid-Atlantic Aviation Partnership, and the entire team of corporate and local government partners hereby be commended on successfully submitting a proposal and winning the United States Department of Transportation Unmanned Aerial Systems Integration Pilot Program; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the Center for Innovative Technology's Center for Unmanned Systems and the Virginia Tech Mid-Atlantic Aviation Partnership as an expression of the House of Delegates' admiration for their work to promote the Commonwealth of Virginia as a leader in unmanned systems technologies.

**HOUSE RESOLUTION NO. 304**

*Celebrating the life of James Robert Bushong.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, James Robert Bushong, a celebrated educator and active Botetourt County community member, died on November 6, 2018; and

WHEREAS, James "Jim" Robert Bushong was a lifelong Botetourt resident who studied at Lord Botetourt High School and graduated from Virginia Polytechnic Institute at Dabney S. Lancaster Community College with a teaching certificate in architectural drafting and design; and

WHEREAS, Jim Bushong taught trades and construction skills at Botetourt Technical Education Center and at Lord Botetourt High School, impacting generations of students both through his mentorship and by organizing a yearly canned food drive during the holiday season; he held a wide variety of jobs including as Mr. Peanut, a radio DJ, a farmer, a painter, a butcher, a packaging designer, and an engineering draftsman; and

WHEREAS, Jim Bushong was involved in civic organizations like the Kiwanis Club of Botetourt, fundraising for the group's scholarship fund and laboring for the betterment of Botetourt County; he was recognized for his service with numerous awards and honors including the Richard Henegar, Jr. Acts of Kindness Community Award and being named Virginia Vocational Teacher of the Year and Virginia Association of Trade and Industrial Educators' Teacher of the Year; and

WHEREAS, Jim Bushong will be fondly remembered and greatly missed by his wife, Kay; his children, Kimberly and Kristal, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of James Robert Bushong, a celebrated educator and active Botetourt community member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Robert Bushong as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 305**

*Commending the National Conference Center's Project SEARCH team.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the National Conference Center's Project SEARCH team, which prepares young people with disabilities in Loudoun County for successful employment, received the Employment Outcome Award from the national Project SEARCH organization; and

WHEREAS, the Ohio-based Project SEARCH awarded the National Conference Center's Project SEARCH team with this prestigious award because of the high number of participants who were offered jobs in the community; and

WHEREAS, the National Conference Center's Project SEARCH team was recognized at the Project SEARCH International Conference, where 196 program sites from 34 states and three countries were recognized; Didlake, a nonprofit providing opportunities for people with disabilities in Maryland, Virginia, and the District of Columbia, serves as the Community Rehabilitation Partner for Project SEARCH at the National Conference Center; and

WHEREAS, the National Conference Center's Project SEARCH team was made up of 10 students who worked for 10 months rotating between different departments throughout the property, including the culinary, maintenance, IT technology, groundskeeping, housekeeping, front desk, and events departments; and

WHEREAS, the National Conference Center worked closely with Loudoun County Public Schools to recruit and supervise the Project SEARCH team; and

WHEREAS, the National Conference Center plans to continue hosting Project SEARCH teams and is encouraging other area businesses to do the same; now, therefore, be it

RESOLVED by the House of Delegates, That the National Conference Center's Project SEARCH team hereby be commended for receiving recognition from the national organization for preparing young people with disabilities in Loudoun County for successful employment; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the National Conference Center's Project SEARCH team as an expression of the House of Delegates' admiration for the organization's contributions to the community as a supportive stepping stone to success.

**HOUSE RESOLUTION NO. 306**

*Commending Monroe E. Harris, Jr., D.M.D.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Monroe E. Harris, Jr., D.M.D., the first African American president of the Virginia Museum of Fine Arts' board of trustees and a respected physician in the Richmond region, was named 2018 Person of the Year by the *Richmond Times-Dispatch*; and

WHEREAS, a native of Louisville, Kentucky, Monroe Harris is a graduate of the University of Louisville School of Dentistry and has practiced as an oral and maxillofacial surgeon in Richmond since 1988; and

WHEREAS, a dedicated health care provider, Monroe Harris has served as president of the Virginia Board of Dentistry, mentored and supported African American students pursuing careers in dentistry and oral surgery, and provided free care to individuals in need through the Crossover Clinic, the Fan Free Clinic, Donated Dental Services of Virginia, and Missions of Mercy; and

WHEREAS, Monroe Harris has served the greater Richmond community as a volunteer with an educational nonprofit for youths, a member of the boards of the Black History Museum and Cultural Center of Virginia and the American Civil War Museum, and president of the board of the Virginia Repertory Theater; and

WHEREAS, a passionate art collector, Monroe Harris has served as a member of the board, executive vice president and vice president of the board, and trustee of the Virginia Museum of Fine Arts and president of the Virginia Museum of Fine Arts Foundation, and was elected president of the Virginia Museum of Fine Arts' board of trustees in 2018; and

WHEREAS, in addition to his role as a respected physician and civic leader, Monroe Harris is a dedicated and loving husband to Dr. Jill Bussey Harris, father to son Monroe E. Harris III and daughter Madison; he is also a friend, colleague, and sports and music fan whose many contributions enrich the lives of those around him; now, therefore, be it

RESOLVED by the House of Delegates, That Monroe E. Harris, Jr., D.M.D., hereby be commended on his selection as 2018 Person of the Year by the *Richmond Times-Dispatch*; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Monroe E. Harris, Jr., D.M.D., as an expression of the House of Delegates' admiration for his extensive and dedicated service to the Richmond community.

**HOUSE RESOLUTION NO. 307**

*Commending the Armenian Food Festival.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Armenian Food Festival, held the third weekend of every September by the congregation of the St. James Armenian Church, celebrated its 60th anniversary in 2018; and

WHEREAS, the St. James Armenian Church in Richmond was founded in 1956; two years later the parish began the annual Armenian Food Festival, the oldest of its kind in the area; and

WHEREAS, each year, hungry attendees dine on traditional Armenian dishes cooked by the church's members, such as chicken and pork shish kebabs, lupia, pilaf, lahmejoon, pakhlava, and the famous hye burger; available only a few days a year, the Armenian Food Festival's highly sought after hye burger has been voted one of the best in Richmond; and

WHEREAS, along with the delicious food, attendees can enjoy fine Armenian beers and wines, live traditional music and dancing, tours of the St. James Armenian Church, and a gift shop; and

WHEREAS, one of the city's oldest cultural festivals, the Armenian Food Festival is an event the Richmond community eagerly awaits year after year; now, therefore, be it

RESOLVED by the House of Delegates, That the congregation of the St. James Armenian Church hereby be commended for feeding and entertaining the community of Richmond for the past 60 years at their annual Armenian Food Festival; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the congregation of the St. James Armenian Church as an expression of the House of Delegates' admiration for the positive impact the Armenian Food Festival has had on Richmond and the Commonwealth.

**HOUSE RESOLUTION NO. 308**

*Commending Mary-Martha Catlett.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Mary-Martha Catlett of Poquoson organized the Skate for our Servicemen event to benefit the Wounded Warrior Project and support the men and women who have served and sacrificed in defense of the nation; and

WHEREAS, Mary-Martha Catlett is a dedicated 12-year-old student who takes pride in academic achievement, and a vibrant member of her community who seeks opportunities to help people in need; and

WHEREAS, Mary-Martha Catlett was inspired by her grandfather, Dabney Gills, Sr., a veteran of the Vietnam War, and her great-grandfathers, Carter Nelson Catlett and Jack Harold Edwards, who were veterans of World War II, to create a community fundraiser through the Wounded Warrior Project; and

WHEREAS, Mary-Martha Catlett has raised hundreds of dollars to benefit wounded service members through the Skate for our Servicemen event, held at Hampton Roads IcePlex; and

WHEREAS, Mary-Martha Catlett's efforts will help the Wounded Warrior Project achieve its mission to foster the most successful, well-adjusted generation of wounded service members in the nation's history; now, therefore, be it

RESOLVED by the House of Delegates, That Mary-Martha Catlett hereby be commended for organizing the Skate for our Servicemen event to benefit the Wounded Warrior Project; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mary-Martha Catlett as an expression of the House of Delegates' admiration for her patriotism, compassion, and servant leadership.

### HOUSE RESOLUTION NO. 309

*Commending the Bedford Area Chamber of Commerce.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, for 80 years, the Bedford Area Chamber of Commerce has been a driving force behind the economic vitality and prosperity of Bedford County and the surrounding region; and

WHEREAS, the Bedford Area Chamber of Commerce was established in 1939 to facilitate networking and educational opportunities and provide a unified voice for its membership; and

WHEREAS, based in the Town of Bedford, the Bedford Area Chamber of Commerce operates satellite offices in Forest and Moneta and serves member businesses as far away as Roanoke, Lynchburg, Amherst, and Altavista; and

WHEREAS, the Bedford Area Chamber of Commerce is an active forum for communication between its members and hosts hundreds of networking events, including the Business After Hours events, which attract more than 100 attendees, and the Business Before Hours events that cater to smaller groups; and

WHEREAS, the Bedford Area Chamber of Commerce promotes the region's vital tourism industry, supports transportation infrastructure enhancements, and works with Bedford County Public Schools and other organizations to train the next generation of business leaders through workforce development initiatives; and

WHEREAS, the Bedford Area Chamber of Commerce highlights the achievements of outstanding member businesses and community organizations through its annual Dinner and Awards Reception; and

WHEREAS, in 2011, the Bedford Area Chamber of Commerce received four-star accreditation from the United States Chamber of Commerce, placing it among the top three percent of the nation's chambers; now, therefore, be it

RESOLVED by the House of Delegates, That the Bedford Area Chamber of Commerce hereby be commended on the occasion of its 80th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Bedford Area Chamber of Commerce as an expression of the House of Delegates' admiration for its work to support local businesses and build stronger communities.

### HOUSE RESOLUTION NO. 310

*Commending the Union High School golf team.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, on October 9, 2018, the Union High School golf team of Big Stone Gap won the Virginia High School League Class 2 state championship, the first state title of any sport in school history; and

WHEREAS, on the road to the state tournament, the Union High School Bears claimed first place in the Farmers and Miners Tournament at Cedar Hill Country Club in Jonesville and claimed the Region 2D team title, with Evan Blanton taking the Region 2D individual title; and

WHEREAS, in the state final, held at Lonesome Pine Country Club in Big Stone Gap, the Union Bears finished with a score of 303, defeating the runner-up Wilson Memorial High School Green Hornets by 23 strokes; and

WHEREAS, the Union Bears were led by Austin Schlobohm, who finished in second place overall, and Evan Blanton, who finished third overall; and

WHEREAS, the Union Bears achieved success through the hard work and dedication of all the student-athletes, the leadership and guidance of coaches and staff, and the support of the entire Union High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Union High School golf team hereby be commended on winning the Virginia High School League Class 2 state championship in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Union High School golf team as an expression of the House of Delegates' admiration for the team's achievements.

### HOUSE RESOLUTION NO. 311

*Commending Ron Kody.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Ron Kody of Richmond Ford Lincoln in Richmond is the 2019 *Time* magazine Quality Automobile Dealer of the Year Nominee for Virginia; and

WHEREAS, Ron Kody, whose career in the auto industry began during his summers in college, left a successful career at IBM to follow his brother into the auto industry full time in 1995; and

WHEREAS, with his experience in sales and management, Ron Kody quickly learned the auto industry through numerous positions in other dealerships and became the owner of Richmond Ford Lincoln and Richmond Ford West, beginning his family business and looking to the future with his daughters, Kayla and Kelsey, and son, Brett; and

WHEREAS, an active and dedicated member of his community, Ron Kody, along with his wife, Jeanine, has supported a wide array of industry and community causes for many years; they have become well-recognized and respected advocates for numerous community events; and

WHEREAS, Ron Kody has been a leader in his community through his support for numerous causes, including St. Jude's Children's Research Hospital, the Walk to End Alzheimer's, Mothers Against Drunk Driving, and the Susan G. Komen Foundation; and

WHEREAS, recognizing the need to support educational opportunities in his community, Ron Kody serves as a member of the Henrico County Career and Technical Education Business Advisory Council and the Hermitage Technical Center's advisory council; and

WHEREAS, through the leadership and example of Ron and Jeanine Kody, the employees of the Richmond Ford Lincoln organization have raised more than \$1 million for charitable causes in their community and have devoted countless volunteer hours to those efforts; and

WHEREAS, an active and dedicated member of his industry, Ron Kody has served his customers and his community with a generous spirit, and has been an example to dealers in his community and around the Commonwealth; and

WHEREAS, because Ron Kody brought his passion for providing a fun and rewarding teamwork environment to his dealerships, Richmond Ford has been recognized as a "Best Place to Work in Richmond" by the *Richmond Times-Dispatch*; and

WHEREAS, Ron Kody and Richmond Ford have been honored as a winner of the Ford President's Award for 11 consecutive years, and Ron Kody was one of only three Ford dealers in North America to receive the prestigious Ford Salute to Dealers Award in recognition of his community service; and

WHEREAS, Ron Kody was appointed to serve as a member of the Virginia Motor Vehicle Dealer Board and currently serves as vice chair of the board; and

WHEREAS, Ron Kody has served his industry as an active member of the Virginia Automobile Dealers Association and the Greater Richmond New Car Dealers Association; now, therefore, be it

RESOLVED by the House of Delegates, That Ron Kody hereby be commended on his selection as the 2019 *Time* magazine Quality Dealer of the Year Nominee for Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ron Kody as an expression of the House of Delegates' admiration for his achievements and best wishes for the future.

### HOUSE RESOLUTION NO. 312

*Commending Helen Turner Murphy and W. Tayloe Murphy, Jr.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Helen Turner Murphy and W. Tayloe Murphy, Jr., who have served the Commonwealth with the utmost integrity, dedication, and distinction, have received the 2019 Outstanding Virginian Award; and

WHEREAS, the Outstanding Virginian Award is presented by the Outstanding Virginian Committee in partnership with the University of Virginia Frank Batten School of Leadership and Public Policy to recognize leaders like Helen and Tayloe Murphy who have made an indelible mark on the Commonwealth; and

WHEREAS, a native of Emmerton, Tayloe Murphy holds a bachelor's degree from Hampden-Sydney College and a law degree from the University of Virginia School of Law, and he served his country as an officer in the United States Naval Reserve; and

WHEREAS, Helen and Tayloe Murphy married shortly after she graduated from Sweet Briar College, and the couple returned to the Northern Neck in the 1960s, when Tayloe Murphy began practicing law in Warsaw; Helen Murphy quickly became an active leader in the community, serving on the founding local board for Rappahannock Community College, which graduated its first class in 1973; and

WHEREAS, desirous to be of further service to the Commonwealth, Tayloe Murphy ran for and was elected to the Virginia House of Delegates, representing the residents of the 99th District from 1982 to 2000; he served as the chair of the Committee on Labor and Commerce and as a member of the Committee for Courts of Justice; the Committee on Corporations, Insurance and Banking; the Committee on Chesapeake and its Tributaries; and the Appropriations Committee; and

WHEREAS, Tayloe Murphy introduced important legislation to benefit all Virginians and was instrumental in the passage of the Chesapeake Bay Preservation Act and the Virginia Water Quality Improvement Act; and

WHEREAS, in recognition of Tayloe Murphy's experience and considerable expertise, he was appointed to serve as a member of the Chesapeake Bay Commission and the Virginia Code Commission, as well as chair of the Joint Legislative Audit and Review Commission during its two-year review of the Virginia Department of Environmental Quality; he also served as Secretary of Natural Resources under Governor Mark R. Warner; and

WHEREAS, in addition, Tayloe Murphy has served on numerous local and state civic and professional organizations, as the chair of the Westmoreland County Planning Commission and Westmoreland County Board of Zoning Appeals, as the president of the Westmoreland Ruritan Club, as a director of the Northern Neck State Bank, and as a member of the Southern Growth Policies Board, the Northern Neck Historical Society, the Northern Neck Bar Association, the Council of the Virginia State Bar, and the American Bar Association; and

WHEREAS, Helen Murphy continued her own service to the community and the Commonwealth as an activist for education and environmental health; she was a founding member of the Garden Club of the Northern Neck and president of the Garden Club of Virginia from 1992 to 1994; and

WHEREAS, Helen Murphy served as the president of the Menokin Foundation, created in 1994 to save and interpret the historic home of Francis Lightfoot Lee, a signer of the Declaration of Independence, and offered her leadership to the Virginia Outdoors Foundation, Lewis Ginter Botanical Garden, the Virginia Historical Society, the Virginia Nature Conservancy, St. Margaret's School, the Alliance for the Chesapeake Bay, and the Virginia Department of Historic Resources, among other organizations; and

WHEREAS, in 2002, Helen and Tayloe Murphy received the Massie Medal for Distinguished Achievement, the oldest and most prestigious award presented by the Garden Club of Virginia; and

WHEREAS, Helen and Tayloe Murphy have served the Commonwealth with great distinction and an uncommon commitment to the conservation and stewardship of Virginia's historic and natural resources; now, therefore, be it

RESOLVED by the House of Delegates, That Helen Turner Murphy and W. Tayloe Murphy, Jr., hereby be commended on their selection as the Outstanding Virginians for 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Helen Turner Murphy and W. Tayloe Murphy, Jr., as an expression of the House of Delegates' admiration for their long legacy of exemplary service to the citizens of the Commonwealth.

### HOUSE RESOLUTION NO. 313

*Commending Cyliene Montgomery.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Cyliene Montgomery has enriched the lives of people with disabilities through her advocacy and strengthened the Southside Virginia community through her leadership and generosity; and

WHEREAS, Cyliene Montgomery has served as the chair of the Democratic Party of Virginia's disAbility Caucus for many years, promoting the interests of individuals with disabilities in the political process and increasing awareness of the needs of individuals with disabilities among elected officials and the community; and

WHEREAS, in addition to her work as chair of the Democratic Party of Virginia's disAbility Caucus, Cyliene Montgomery actively participates in local political groups advocating on behalf of individuals with disabilities; and

WHEREAS, Cyliene Montgomery is active in her community, serving on the board of directors of the Improvement Association, Inc., as a member and current chair of the Brunswick County Litter Control Council, and as a member of the board of directors and current chair of the Coalition for Delaying Parenthood in Youth, Inc.; now, therefore, be it

RESOLVED by the House of Delegates, That Cyliene Montgomery hereby be commended for her tireless work to bring awareness to the needs of underrepresented and underserved individuals, including individuals with disabilities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cyliene Montgomery as an expression of the House of Delegates' admiration for her contributions to the community.

**HOUSE RESOLUTION NO. 314**

*Commending the Crater Area Agency on Aging.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, for over 40 years, the Crater Area Agency on Aging has played a vital role in helping the residents of the Cities of Petersburg, Hopewell, Colonial Heights, and Emporia, and the Counties of Dinwiddie, Prince George, Greensville, Sussex, and Surry; and

WHEREAS, the mission of the Crater Area Agency on Aging is to help meet the critical needs and enhance the lives of older adults, adults with disabilities, and caregivers in the community it serves; and

WHEREAS, to promote better health, the Crater Area Agency on Aging provides case management and medication management services, home-delivered meals, and disease prevention programming, as well as the Virginia Insurance Counseling and Assistance Program and the Senior Medical Patrol; and

WHEREAS, the Crater Area Agency on Aging has received an Outstanding Community Service Award from the Veterans of Foreign Wars and the Mayor's Award for Service Excellence in recognition of its important work; and

WHEREAS, with funding support from a Department of Rail and Public Transportation grant, the Crater Area Agency on Aging provides medical transportation services and transportation to seven Senior Cafés, where meals, educational programs, and socialization are provided; now, therefore, be it

RESOLVED by the House of Delegates, That the Crater Area Agency on Aging be commended for its work helping residents of the Commonwealth age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Crater Area Agency on Aging as an expression of the House of Delegates' admiration for the agency's work promoting healthy aging and improving the quality of life for older adults, their families, and their caregivers.

**HOUSE RESOLUTION NO. 315**

*Commending Judy Boyce Perry.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Judy Boyce Perry, a native of Portsmouth and indefatigable volunteer in service to her community, was named Portsmouth's First Citizen in 2018; and

WHEREAS, the award is bestowed upon individuals who embody the spirit of citizenship through service to the community; this accolade recognizes Judy Boyce Perry's leadership and support for her city over more than four decades; and

WHEREAS, an alumna of Woodrow Wilson High School and Mary Washington College of the University of Virginia, Judy Boyce Perry has been a leader of the community for nearly half a century; she has served on numerous boards and city commissions related to the arts and the Children's Museum of Virginia, and supported beautification and restoration initiatives of the Elizabeth River Garden Club, the Garden Club of Virginia, and the Elizabeth River Project; and

WHEREAS, Judy Boyce Perry addressed environmental and quality of life issues related to Portsmouth City Park, Hoffer Creek Nature Preserve, Paradise Creek Park, and the Elizabeth River; fundraised for the Virginia Sports Hall of Fame and Museum; and contributed to a variety of service projects as a longtime member of the Portsmouth Service League; and

WHEREAS, Judy Boyce Perry is a model citizen whose efforts have had a profound impact on the quality of life in Portsmouth; now, therefore, be it

RESOLVED by the House of Delegates, That Judy Boyce Perry hereby be commended for being named Portsmouth's First Citizen in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Judy Boyce Perry as an expression of the House of Delegates' admiration for her many years of service.

**HOUSE RESOLUTION NO. 316**

*Commending Hoffman Beverage Company.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, on August 5, 1919, the Hoffman Cigar Company was incorporated in Norfolk, Virginia, by J.H. Hoffman, G.B. Hoffman, and R.M. Hoffman; and

WHEREAS, on December 29, 1925, the three Hoffman brothers sold 50 percent of their equity in Hoffman Cigar Company to Old Dominion Tobacco Company, owned by Leroy Webb Davis, great-grandfather of Robin Ray; and

WHEREAS, in 1933, when the prohibition of alcohol was repealed, Anheuser-Busch appointed the Hoffman Cigar Company as a distributor for their beer and non-alcoholic products; and

WHEREAS, in 1944 and 1945, Hoffman Cigar Company used 100 percent of its profits (\$50,000) to buy war bonds; and  
WHEREAS, in 1962, the tobacco division for Hoffman Cigar Company was dissolved and focus was applied to the beer division, and in 1966, Hoffman Cigar Company began trading as Hoffman Beverage Company; and

WHEREAS, in 1968, Hoffman Beverage moved its headquarters to 5465 Greenwich Road in Virginia Beach to accommodate the need for additional space for the warehousing, delivering, and selling of Anheuser-Busch beer; and

WHEREAS, in 1983, Old Dominion Tobacco Company (doing business as Atlantic Dominion Distributors) purchased the remaining 50 percent of equity in Hoffman Beverage from the Hoffman family, and Robin Ray became chair of the board; and

WHEREAS, in 1988, Hoffman Beverage added a second warehouse facility, at 4105 South Military Highway in Chesapeake, to accommodate additional growth in beer sales; and

WHEREAS, in 2009, the company acquired Legendary Distributing, a Richmond-based start-up craft distribution company, allowing Hoffman Beverage to start selling a variety of local and regional craft beers; and

WHEREAS, in 2017, Hoffman Beverage expanded its Chesapeake facility and relocated its headquarters there to improve warehousing and to allow all products to be delivered from a central location; and

WHEREAS, in 2019, Hoffman Beverage now represents products from 65 breweries and cideries and 13 non-alcoholic beverage companies, encompassing more than 600 beverage brands, which provides incredible selection and variety for the people in its southeastern Virginia footprint; and

WHEREAS, in 2019, Hoffman Beverage serves 1,750 retailers and employs 175 people from its Chesapeake headquarters; Hoffman Beverage takes significant pride in being an employer of choice and the market leader in service to the retail community; and

WHEREAS, throughout its 100 years of operation, Hoffman Beverage has taken significant pride in investing in the surrounding community; through the efforts of Robin Ray, the company has shown continued support for organizations such as United Way, the Boys & Girls Club, Old Dominion University, the University of Virginia, Eastern Virginia Medical School, the Virginia Aquarium, and the Business Consortium for the Arts; now, therefore, be it

RESOLVED by the House of Delegates, That Hoffman Beverage Company hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hoffman Beverage Company as an expression of the House of Delegates' admiration for its many successful years in business and commitment to serving the community.

### HOUSE RESOLUTION NO. 317

*Commending John T. Atkinson.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, John T. Atkinson retired as treasurer of the City of Virginia Beach on December 31, 2018, after nearly 41 years of service; and

WHEREAS, John Atkinson, a native of Virginia Beach, grew up in the city's North End and served in the United States Navy before joining Atkinson Realty, the family-owned business located on the Virginia Beach oceanfront, in 1972; and

WHEREAS, desirous to be of service to his community, John Atkinson ran for and was elected treasurer of Virginia Beach in 1977, beginning a tenure marked by a commitment to efficiency, the use of technology, and innovation in his duties; and

WHEREAS, John Atkinson was the first Virginia Beach treasurer to allow payments to be made by credit card and was the first treasurer to use a computer database, which he programmed himself, to track payments received; and

WHEREAS, during John Atkinson's service as treasurer, the City of Virginia Beach grew from 220,000 residents to over 450,000; during the same period the staff of the Office of the Treasurer increased from 62 to 75 employees to keep pace with the demand for services; and

WHEREAS, in addition to his service as treasurer, John Atkinson served his community as an organizer of the Exchange Club annual pig roast to raise money for nonprofit organizations in the Commonwealth as well as an active leader in other community organizations; and

WHEREAS, at the time of his retirement, John Atkinson was the longest serving elected official in Virginia Beach and the longest serving treasurer in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That John T. Atkinson hereby be commended on his retirement as treasurer of the City of Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John T. Atkinson as an expression of the House of Delegates' admiration for his dedicated service to the City of Virginia Beach.

**HOUSE RESOLUTION NO. 318**

*Celebrating the life of Dr. David B. Crouse, Sr.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Dr. David B. Crouse, Sr., an accomplished dentist and active Virginia Beach community member, died on September 2, 2018; and

WHEREAS, David Crouse was born in Kelly Township, Pennsylvania, and graduated from Forest Park High School in Forest Park, Georgia; he went on to earn his undergraduate degree from York Junior College in York, Pennsylvania; from there, he attended Georgetown University where he received his Doctor of Dental Science degree in 1962; and

WHEREAS, David Crouse practiced dentistry in Arlington for 33 years and retired in 2000 to Virginia Beach; and

WHEREAS, David Crouse played a significant role in contributing to the success of the Red Cross dental clinic in Norfolk, inspired by the kindness his wife, Carole, experienced when she received a kidney donation; he volunteered with numerous other charities and service organizations including the Mission of Mercy project and Access Partnership, a dental service charity; and he served on the Advisory Board for the Oral Health Improvement Coalition of Virginia; and

WHEREAS, in 2009, David and Carole Crouse were recognized by the Governor of Virginia and the legislature for their service, receiving the Unsung Hero Award for outstanding health care volunteerisms; that same year, David Crouse also received the Distinguished Dental Service Award from the Tidewater Dental Association; in August 2018, he received the Dental Champion Award from the Virginia Association of Free and Charitable Clinics; and

WHEREAS, predeceased by his wife, Carole, David Crouse will be fondly remembered and greatly missed by his sons, David, Jr., and Sean, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Dr. David B. Crouse, Sr., an accomplished dentist and active Virginia Beach community member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dr. David B. Crouse, Sr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 319**

*Commending Robert Mawyer.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Robert Mawyer, an outstanding law-enforcement officer, retired as chief of the West Point Police Department in 2018; and

WHEREAS, Robert Mawyer was hired by the West Point Police Department in 2012 to assist with its accreditation process and became a part-time officer and an auxiliary officer in October of that year; and

WHEREAS, Robert Mawyer became interim police chief on April 1, 2013, and oversaw numerous enhancements to the department, including chaplain services to provide support for officers and citizens; upgrades to the computer-aided dispatch and records management systems; acquisition of the AFIS Love Scan fingerprint system; membership in the Crater Criminal Justice Academy; and the successful pursuit of grants to purchase vehicles and equipment for the department; and

WHEREAS, Robert Mawyer was instrumental in helping the West Point Police Department become the smallest accredited police department in the Commonwealth; and

WHEREAS, Robert Mawyer brought distinction to the West Point Police Department through his involvement with many community programs, including Trunk or Treat, the Boy Scouts of America, the Girl Scouts of the USA, Take Back the Night, Toys for Tots, the YMCA, and school reading programs; and

WHEREAS, Robert Mawyer offered his leadership to the Virginia Law Enforcement Accreditation Coalition, Virginia Transportation Safety Board, Bridges for Change, Crater Criminal Justice Academy, and Rappahannock Criminal Justice Community Services Board; now, therefore, be it

RESOLVED by the House of Delegates, That Robert Mawyer hereby be commended on the occasion of his retirement as chief of the West Point Police Department in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Mawyer as an expression of the House of Delegates' admiration for his legacy of service to the West Point community.

**HOUSE RESOLUTION NO. 320***Commending Tracey Zaval.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Tracey Zaval, Robious Middle School civics and economics teacher in Chesterfield County, won the 2018 Outstanding Middle School Level Social Studies Teacher of the Year award from the National Council for the Social Studies; and

WHEREAS, as a winner, Tracey Zaval was asked to present at the National Council for the Social Studies national conference in Chicago, where she also received her award; and

WHEREAS, Tracey Zaval is a veteran teacher with two decades of experience who has taught in Chesterfield since 2005; she is known for her engaging teaching style; and

WHEREAS, Tracey Zaval was the first in her immediate family to go to college; the Weaverville, North Carolina, native graduated from the University of North Carolina Asheville with a North Carolina Teaching Fellow Scholarship and earned a Master of Education in educational leadership and policy studies from the University of Richmond; and

WHEREAS, Tracey Zaval won the 2017 Virginia Council for the Social Studies Teacher of the Year award in 2017 while teaching at Midlothian Middle School, making her eligible for the national recognition that she has received; she is also a former Region I and Chesterfield County Public Schools Teacher of the Year; and

WHEREAS, Tracey Zaval constantly engages in leadership experiences and has contributed to her profession by leading numerous professional development presentations; now, therefore, be it

RESOLVED by the House of Delegates, That Tracey Zaval, Robious Middle School civics and economics teacher in Chesterfield County, hereby be commended for winning the 2018 Outstanding Middle School Level Social Studies Teacher of the Year award from the National Council for the Social Studies; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tracey Zaval as an expression of the House of Delegates' admiration for her dedication to engaging her students in the study of civics and economics.

**HOUSE RESOLUTION NO. 321***Commending Health Brigade.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Health Brigade, a Richmond-based clinic providing high-quality health services to those least served, celebrated its 50th anniversary in 2018; and

WHEREAS, Health Brigade was established in 1968 as the Fan Free Clinic, a small community clinic patterned after similar efforts in San Francisco's Haight-Ashbury neighborhood; it was incorporated two years later and was the first free clinic in the Commonwealth; and

WHEREAS, in the late 1960s and the 1970s, Health Brigade championed women's access to oral contraceptives, providing safe birth control in the light of day; staff wore arm bands identifying themselves as medical personnel and went into street protests to provide first aid; and

WHEREAS, Health Brigade provided primary care to the poor and uninsured; in the 1980s, staff members were early responders to the world's AIDS pandemic, sending out care teams to support those living-and dying-with AIDS; volunteers warmly embraced those who had been abandoned by family, friends, the community, and society; and

WHEREAS, in the 1990s, as HIV/AIDS became a manageable chronic disease, Health Brigade shifted its focus to HIV/AIDS education, prevention, testing, and support services; it came to be known as a place where people could obtain services and support if they were infected or affected by HIV/AIDS; and

WHEREAS, Health Brigade ushered in a new millennium by welcoming the transgender population a decade before transgender had become the mainstream word it is today; the clinic expanded its free mental health services well before headlines about mass shootings became tragically commonplace; now, therefore, be it

RESOLVED by the House of Delegates, That Health Brigade, a Richmond-based clinic providing high-quality health services to those least served hereby be commended for celebrating its 50th anniversary in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Health Brigade as an expression of the House of Delegates' admiration for the clinic's dedication to fearlessly addressing the health issues of the day.

**HOUSE RESOLUTION NO. 322***Commending the Virginia Girls Choir.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Virginia Girls Choir, a diverse group of Richmond-area girls in grades five through 12, celebrated its 10th anniversary in 2018; and

WHEREAS, the founding director of the Virginia Girls Choir was Dan Moriarty; the ensemble is made up of exceptionally talented and hard-working girls from all over the Richmond area who, in spite of differences in race, socioeconomic backgrounds, religious upbringing, and schools, have formed a strong, supportive community; and

WHEREAS, since the founding of the Virginia Girls Choir in 2008, the girls have worked to sing with spirit and understanding in a variety of musical styles, with the music of the Anglican tradition taking pride of place in their repertoire; and

WHEREAS, the Virginia Girls Choir sings for Choral Evensong at St. Stephen's Episcopal Church every Wednesday at 5:30 p.m., in addition to singing there on Sunday mornings; the choir has also sung at other churches throughout the community and the United States; and

WHEREAS, the Virginia Girls Choir released a CD in 2010 and went on tour in England in 2012; participants grow in confidence, poise, self-esteem, and collegiality, as well as gain deep awareness and appreciation for the disciplined study of poetry, music, and the arts; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Girls Choir, a diverse group of Richmond-area girls in grades five through 12, hereby be commended for celebrating its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kerry Court, director of the Virginia Girls Choir, as an expression of the House of Delegates' admiration for the many achievements of the Virginia Girls Choir.

**HOUSE RESOLUTION NO. 323***Celebrating the life of Master Sergeant Jerre S. Thomas II, USMC, Ret.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Master Sergeant Jerre S. Thomas II, USMC, Ret., a patriotic veteran, talented photographer and graphic artist, and respected member of the Quantico Town Council, died on April 12, 2018; and

WHEREAS, a native of York, Pennsylvania, Jerre Thomas served his country as a member of the United States Marine Corps for 20 years, covering national news with the military press corps at the White House during the presidencies of George H.W. Bush and Bill Clinton; and

WHEREAS, Jerre Thomas subsequently became a master instructor of photography and trained hundreds of Marines in photography and videography until his retirement in 2000; after his honorable military service, he worked for the Department of Defense as chief of audiovisual services for the Defense Threat Reduction Agency; and

WHEREAS, well-known for his leadership ability and dedication to his fellow Quantico residents, Jerre Thomas ran for and was elected as a member of the Quantico Town Council, where he made numerous contributions to the community; and

WHEREAS, Jerre Thomas will be fondly remembered and greatly missed by his children, Allison, Justin, and Nathaniel, and their families; his partner of eight years, Abigail, and her daughter, Esme; his mother, Francine; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Master Sergeant Jerre S. Thomas II, USMC, Ret.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Master Sergeant Jerre S. Thomas II, USMC, Ret., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 324***Commending Joseph Moore.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Joseph Moore retired as assistant chief of the Newport News Police Department on January 1, 2019, after 39 years of diligent work to serve and protect the members of the Newport News community; and

WHEREAS, Joseph Moore holds a bachelor's degree from Christopher Newport University and a master's degree from Golden Gate University in California; and

WHEREAS, during his nearly four decades as a law-enforcement officer in Newport News, Joseph Moore rose through the ranks and served at one time as interim chief of police, providing outstanding leadership to his fellow officers; and

WHEREAS, Joseph Moore served as a member of the International Association of Chiefs of Police and the Hampton Roads Chiefs of Police Association; and

WHEREAS, Joseph Moore served the residents of Newport News with the utmost integrity, dedication, and distinction; now, therefore, be it

RESOLVED by the House of Delegates, That Joseph Moore hereby be commended on the occasion of his retirement from the Newport News Police Department in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joseph Moore as an expression of the House of Delegates' admiration for his decades of contributions to Newport News.

### HOUSE RESOLUTION NO. 325

#### *Commending Liberty High School.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Liberty High School, an outstanding secondary school dedicated to providing a comprehensive education to young people in Fauquier County, celebrates its 25th anniversary in 2019; and

WHEREAS, Liberty High School promotes among students its core values of leadership, high expectations, and service; and

WHEREAS, Liberty High School was named one of America's Most Challenging High Schools in 2017 by *The Washington Post*; and

WHEREAS, graduates of Liberty High School have achieved successful careers in numerous industries and fields, and some have gone on to become professional athletes in the National Football League and the Women's National Basketball Association; now, therefore, be it

RESOLVED by the House of Delegates, That Liberty High School hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Liberty High School as an expression of the House of Delegates' admiration for its commitment to academic excellence and its legacy of service to the community.

### HOUSE RESOLUTION NO. 326

#### *Commending Minnieville Elementary School.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Minnieville Elementary School has been awarded the 2019 Prince William County Human Rights Award for its work promoting equality; and

WHEREAS, Minnieville Elementary School has continued to uphold its high educational standards since the 1970s; and

WHEREAS, Minnieville Elementary School has been recognized as a "School of Excellence" for the 2018-2019 academic year; and

WHEREAS, Minnieville Elementary School has the distinction of being recognized as a Title I Distinguished school by the Virginia Board of Education; now, therefore, be it

RESOLVED by the House of Delegates, That Minnieville Elementary School hereby be commended for its academic and humanitarian achievements; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Minnieville Elementary School as an expression of the House of Delegates' admiration of the school's legacy of service to the community.

### HOUSE RESOLUTION NO. 327

#### *Commending the Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., is an active part of the community; and

WHEREAS, the Delta Sigma Theta Sorority has existed for 106 years, and the Prince William County Alumnae Chapter has existed for 35 years; and

WHEREAS, the Prince William County Alumnae Chapter has a large variety of programs used to help individuals in the community, including programs on educational development, political awareness and involvement, social action, economic development, and physical and mental health; and

WHEREAS, the Prince William County Alumnae Chapter received many awards in 2018 from the South Atlantic Regional Conference, including first place for Information and Communication, first place for STEM, and first place for Educational Development and Awareness; they were a Quarter Round 1 Winner for Arts and Letters; now, therefore, be it

RESOLVED by the House of Delegates, That the Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., hereby be commended on the occasion of its 35th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc., as an expression of the House of Delegates' admiration for its legacy of service to the community.

### HOUSE RESOLUTION NO. 328

#### *Commending Salem High School.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Salem High School, an outstanding public secondary school in Virginia Beach, has helped students grow and develop academically and socially for 30 years; and

WHEREAS, Salem High School opened in September 1989 with Wylie French as the first principal; earlier in the year a group of future students and parents selected the Sun Devil as the school's mascot; and

WHEREAS, Salem High School's distinctive seal was created in 1996 with iconography representing academics, the fine arts, and athletics; a lighthouse and a sun with seven rays representing Virginia Beach and its seven boroughs; and clasped hands depicting unity between the school and the community; and

WHEREAS, Salem High School has given generations of Virginia Beach students the tools to achieve success in higher education and careers and become responsible citizens of the Commonwealth and a global society; and

WHEREAS, since 2004, Salem High School has been home to the Visual and Performing Arts Academy, a magnet program where students from throughout Virginia Beach can study music, dance, theatre, and visual arts; and

WHEREAS, Salem High School has fulfilled its mission through the hard work of its faculty, administrators, and staff, as well as the support of parents, families, local partners, and community members; now, therefore, be it

RESOLVED by the House of Delegates, That Salem High School hereby be commended on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Salem High School as an expression of the House of Delegates' admiration for the school's commitment to academic excellence and service to the Virginia Beach community.

### HOUSE RESOLUTION NO. 329

#### *Commending Green Run High School.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Green Run High School, an outstanding public secondary school in Virginia Beach, has helped students grow and develop academically and socially for 40 years; and

WHEREAS, Green Run High School opened in September 1979 with Wylie French as its first principal; the 247,000-square-foot building with 75 classrooms and laboratories and eight industrial shops was the largest high school in the Commonwealth at the time; and

WHEREAS, by 1985, Green Run High School needed portable classrooms to support its enrollment of 3,000 students; in 1990, enrollment dropped to 1,500 after Salem High School was established to better serve the growing community; and

WHEREAS, Green Run High School has given generations of Virginia Beach students the tools to achieve success in higher education and their careers and to become responsible citizens of the Commonwealth and a global society; and

WHEREAS, through its new Innovation iLab, Green Run High School provides an engaging, personalized learning experience that allows students to choose from a full range of co-curricular activities to enrich the learning process; and

WHEREAS, Green Run High School has fulfilled its mission through the hard work of its faculty, administrators, and staff, as well as the support of parents, families, local partners, and community members; now, therefore, be it

RESOLVED by the House of Delegates, That Green Run High School hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Green Run High School as an expression of the House of Delegates' admiration for the school's commitment to academic excellence and service to the Virginia Beach community.

**HOUSE RESOLUTION NO. 330***Commending New Castle Elementary School.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, for 20 years, New Castle Elementary School, an outstanding public primary school in Virginia Beach, has provided students with a safe and supportive environment in which to learn and grow; and

WHEREAS, New Castle Elementary School was established in 1999 with Janet Duff as its first principal; and

WHEREAS, New Castle Elementary School serves students in the communities of Hillcrest Farms, Bellwood Estates, Bellwood Meadows, Newcastle, Adam's Glen, Highland Parish, Highland Meadows, Highland Acres, Indian River Woods, Morgan's Walke, River Oaks, Indian River Farm, Dewberry Farm, and portions of Glenwood, Salem Lakes, and Bentley Gate; and

WHEREAS, utilizing a student-centered approach, New Castle Elementary School gives children a strong foundation for lifelong learning and the tools to become responsible citizens of the Commonwealth and a global society; and

WHEREAS, students at New Castle Elementary School are deeply engaged in the community; the school's ecology club participates in oyster farming to support the restoration of the Chesapeake Bay; and

WHEREAS, during the 2001-2002 school year, New Castle Elementary School launched an outreach program for children between the ages of two and five, which has helped prepare more than 100 future students for the school's academic rigor; and

WHEREAS, New Castle Elementary School has fulfilled its mission through the hard work of teachers, administrators, staff, and the students and their families; now, therefore, be it

RESOLVED by the House of Delegates, That New Castle Elementary School hereby be commended on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to New Castle Elementary School as an expression of the House of Delegates' admiration for its commitment to academic excellence and service to the students of Virginia Beach.

**HOUSE RESOLUTION NO. 331***Commending Indian Lakes Elementary School.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, for 40 years, Indian Lakes Elementary School, an outstanding public primary school in Virginia Beach, has provided students with a safe and supportive environment in which to learn and grow; and

WHEREAS, Indian Lakes Elementary School traces its roots to 1977, when the Virginia Beach School Board voted to create a new school to serve young people in the Indian Lakes, Lake Christopher, and Brigadoon communities; and

WHEREAS, Indian Lakes Elementary School opened on September 4, 1979, with an enrollment of 1,086 students in grades one through six with Peggy Bryson as its first principal; and

WHEREAS, utilizing a student-centered approach, Indian Lakes Elementary School gives children a strong foundation for lifelong learning and the tools to become responsible citizens of the Commonwealth and a global society; and

WHEREAS, Indian Lakes Elementary School has fulfilled its mission through the hard work of its teachers, administrators, and staff; now, therefore, be it

RESOLVED by the House of Delegates, That Indian Lakes Elementary School hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Indian Lakes Elementary School as an expression of the House of Delegates' admiration for its commitment to academic excellence and service to the students of Virginia Beach.

**HOUSE RESOLUTION NO. 332***Commending Centerville Elementary School.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Centerville Elementary School, a fully accredited public primary school in Virginia Beach, has provided a safe and supportive learning environment to students in Virginia Beach for 35 years; and

WHEREAS, established in 1984 with George Chandler as the first principal, Centerville Elementary School was built on land that was formerly Brown Farm and replaced Aragona Elementary School; and

WHEREAS, by 1988, enrollment at Centerville Elementary School had reached 1,200 students; the school used 11 portable classrooms until Tallwood Elementary School was built to relieve overcrowding the following year; and

WHEREAS, utilizing a student-centered approach, Centerville Elementary School gives children a strong foundation for lifelong learning and the tools to become responsible citizens of the Commonwealth and a global society; and

WHEREAS, Centerville Elementary School is certified by Advancement Via Individual Determination and was named as a Pearl School for its work on environmental education; and

WHEREAS, Centerville Elementary School has fulfilled its mission through the hard work of its teachers, administrators, and staff; and

WHEREAS, Centerville Elementary School's award-winning PTA facilitates strong communication between parents, teachers, and community partners to enrich the learning process; now, therefore, be it

RESOLVED by the House of Delegates, That Centerville Elementary School hereby be commended on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Centerville Elementary School as an expression of the House of Delegates' admiration for the school's commitment to academic excellence and service to the Virginia Beach community.

### HOUSE RESOLUTION NO. 333

*Commending JoAnn Falletta.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, JoAnn Falletta will retire as music director of the Virginia Symphony in June 2020 after 29 years of service; and

WHEREAS, JoAnn Falletta is internationally celebrated as a vibrant ambassador for music, an inspiring artistic leader, and a champion of American symphonic music; and

WHEREAS, JoAnn Falletta received her undergraduate degree from the Mannes School of Music of the New School in New York and her master's and doctoral degrees from The Juilliard School; and

WHEREAS, JoAnn Falletta has served as music director of the Virginia Symphony Orchestra for 28 years, while also serving with the Buffalo Philharmonic Orchestra and as principal guest conductor of both the Phoenix Symphony and the Brevard Music Center; and

WHEREAS, JoAnn Falletta has been acclaimed as an effervescent and exuberant figure on the podium, praised by *The Washington Post* as having "Toscanini's tight control over ensemble, Walter's affectionate balancing of inner voices, Stokowski's gutsy showmanship, and a controlled frenzy worthy of Bernstein"; she has been acclaimed by *The New York Times* as "one of the finest conductors of her generation"; and

WHEREAS, JoAnn Falletta has been invited to guest-conduct more than 100 orchestras in North America, including the orchestras of Philadelphia, Los Angeles, San Francisco, Dallas, St. Louis, Milwaukee, Indianapolis, Seattle, San Diego, Detroit, New Jersey, Montreal, Toronto, and the National Symphony, and many of the most prominent orchestras in Europe, Asia, South America, and Africa; and

WHEREAS, JoAnn Falletta has made international appearances with the London Symphony, Czech Philharmonic, Rotterdam Philharmonic, Korean Broadcast Symphony, Seoul Philharmonic, China National Symphony, Shanghai Symphony, Beijing Symphony, Liverpool Philharmonic, Manchester BBC Philharmonic, Scottish BBC Orchestra, Orchestra National de Lyon, Mannheim Orchestra, Lisbon Metropolitan Orchestra, Real Orquesta Sinfonica de Sevilla, the Ulster Orchestra, and at numerous music festivals, including Aspen, Tanglewood, the Hollywood Bowl, Wolf Trap, Mann Center, Meadow Brook, OK Mozart Festival, Grand Teton Festival, and the Brevard Festival; and

WHEREAS, JoAnn Falletta is the recipient of many of the most prestigious conducting awards, including the Seaver/National Endowment for the Arts Conductors Award, the coveted Stokowski Competition Award, and the Toscanini, Ditson, and Bruno Walter Awards for conducting, as well as the American Symphony Orchestra League's prestigious John S. Edwards Award; and

WHEREAS, JoAnn Falletta was elected to the American Academy of Arts and Sciences in 2016, joining an esteemed roster that dates back to the Academy's founding in 1780; and

WHEREAS, JoAnn Falletta is an ardent champion of modern composers, introducing more than 500 works by American composers, including more than 110 world premieres; she has been honored with three Grammy Awards and 10 nominations and 11 American Society of Composers, Authors and Publishers Awards; and

WHEREAS, JoAnn Falletta has recorded more than 115 titles, including the double Grammy Award-winning disc of works by John Corigliano and other Grammy-nominated discs of works of Tyberg, Dohnányi, Fuchs, Schubert, Respighi, Gershwin, Hailstork, and Holst; and

WHEREAS, during her 29-year tenure, JoAnn Falletta has helped the Virginia Symphony Orchestra earn international recognition and a ranking in the top 10 percent of all American orchestras, with performances at the Kennedy Center in Washington, D.C., and Carnegie Hall in New York City; now, therefore, be it

RESOLVED by the House of Delegates, That JoAnn Falletta hereby be commended on the occasion of her final season with the Virginia Symphony Orchestra; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to JoAnn Falletta as an expression of the House of Delegates' admiration for her many accomplishments.

### HOUSE RESOLUTION NO. 334

*Commending the Council of United Filipino Organizations of Tidewater, Virginia, Inc.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Council of United Filipino Organizations of Tidewater, Virginia, Inc., an organization devoted to promoting and preserving Filipino culture, celebrates its 40th anniversary in 2019; and

WHEREAS, the Council of United Filipino Organizations of Tidewater, Virginia, Inc., (CUFOT) was founded to unite and strengthen numerous organizations dedicated to supporting Filipino communities in the region; and

WHEREAS, CUFOT was originally formed by leaders from the Filipino Women's Club; the Batangas Association; the United Ilocano Association of Tidewater; the Bataan Association; the Seafarers, a Filipino veterans organization; and the Pampango Language Club; the organization was officially incorporated in 1979; and

WHEREAS, in 1979, the organization opened the Philippine Cultural Center of Virginia, located in a small ranch house on Baxter Road that was upgraded by volunteer craftsmen, making it functional as a meeting place for community events, parties, and youth and senior citizen groups; and

WHEREAS, in 1980, the organization Filipino-American Veterans of Hampton Roads led the Norfolk Memorial Day parade for the first time; their float carried Nellie Dabu, the reigning Mrs. Philippines and Jennifer Magpoc, the reigning Little Miss Philippines; and

WHEREAS, more programming at CUFOT was added in 1981, including the Annual Cultural Night and the formation of the Youth Division, providing educational programs and folk dance clinics; the Senior Citizens Health and Preventive Care program was formed and a newsletter started; and

WHEREAS, through the 1980s, CUFOT grew and flourished; leadership spearheaded fundraising campaigns that garnered funds to acquire adjacent properties to grow the Philippine Cultural Center of Virginia; and

WHEREAS, in 1998, Dr. Rose deVera Hipol organized an effort to enlist 32 families to sign up as guarantors for CUFOT, leading the bank to release the needed funds to build a modern facility for an updated Philippine Cultural Center of Virginia, and encouraged further fundraising to build a larger, modern facility; and

WHEREAS, in 2000, CUFOT held an opening ceremony for the newly built Philippine Cultural Center of Virginia, with seating capacity for over 1,000 theater-style seats or 600 table-style seats; and

WHEREAS, in the years that followed, numerous other organizations joined CUFOT including the National Federation of Filipino American Associations, the Philippine Nurses Association of Hampton Roads, Quezonians, and Circulo Tarlaqueno and Zambales Association; and

WHEREAS, to Filipino Americans in Virginia Beach and Hampton Roads, CUFOT and the Philippine Cultural Center of Virginia are the icons of Filipino unity and a source of pride as well as a legacy of the hardworking Filipino immigrant families that came to America throughout the 20th century to realize their dreams; and

WHEREAS, over the years, numerous members of the Filipino community have invested countless hours of their time in the well-being and development of CUFOT and in bringing it to its iconic and esteemed status today; and

WHEREAS, CUFOT has had an impact on the community, Virginia, and beyond; the Virginia General Assembly acknowledged Philippine Independence Day in 2008 and thereafter; the community has received recognition from the Bayaning Pilipino Awards, former Filipino president Joseph Estrada, and the Association of Philippine Physicians in America; now, therefore, be it

RESOLVED by the House of Delegates, That the Council of United Filipino Organizations of Tidewater, Virginia, Inc., hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Council of United Filipino Organizations of Tidewater, Virginia, Inc., as an expression of the House of Delegates' admiration for the organization's continued growth and its persistent dedication to maintaining Filipino culture.

### HOUSE RESOLUTION NO. 335

*Commending Oanh Pham Kim Dang.*

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Oanh Pham Kim Dang, an accomplished cosmetology professional and a small business owner in Virginia Beach, was appointed to serve as a member of the Board for Barbers and Cosmetology in 2018; and

WHEREAS, with more than 12 years of experience in the beauty industry, Oanh Pham Kim "Tina" Dang is a master permanent makeup instructor, master tattoo instructor, esthetician instructor, and cosmetologist instructor; and

WHEREAS, Tina Dang opened her own business in Norfolk in 2012, Lotus of Peace, Inc., a luxurious day spa offering a wide array of top-quality services from licensed professionals; and

WHEREAS, in 2014, Tina Dang became Chief Executive Officer of Lotus Miracle, Inc., and opened Miracle Beauty and Nails Academy in Virginia Beach; under her exceptional leadership, the adult learning facility has provided renowned instruction in the beauty arts; and

WHEREAS, combining her natural artistic talents and leadership, Tina Dang has helped thousands of clients and students; and

WHEREAS, Tina Dang has been a successful business leader in the Asian American community and as a member of the Board for Barbers and Cosmetology; she will use her expertise to help the board fulfill its duties to license individuals and businesses that perform barbering, cosmetology, nail care, waxing, tattooing, body piercing, and esthetics, and regulate teaching and training programs in those professions; now, therefore, be it

RESOLVED by the House of Delegates, That Oanh Pham Kim Dang hereby be commended on her community and business leadership and her appointment to the Virginia Board for Barbers and Cosmetology; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Oanh Pham Kim Dang as an expression of the House of Delegates' admiration for her service to the community and the Commonwealth.

### HOUSE RESOLUTION NO. 336

*Commending the Abingdon High School golf team.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Abingdon High School golf team won the Virginia High School League Class 3 state championship at Williamsburg National Golf Club on October 8, 2018; and

WHEREAS, the Abingdon High School Falcons' win marked the team's second consecutive state championship victory and its third state championship victory in the past four years; and

WHEREAS, the Abingdon Falcons were led by senior Connor Creasy, who edged out Hidden Valley High School's Ross Funderburke and Lord Botetourt High School's Bret Pennington by one stroke for the individual crown; and

WHEREAS, the Abingdon Falcons were supported by Will Watson, Bryce Addison, and George Green, whose stellar play contributed to the win; and

WHEREAS, the Abingdon Falcons' success was a result of the dedication of the student-athletes, the guidance of their teachers and coaching staff, and the support of the entire Abingdon High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Abingdon High School golf team hereby be commended for winning the Virginia High School League Class 3 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jason Delp, coach of the Abingdon High School golf team, as an expression of the House of Delegates' admiration for his team's impressive accomplishment.

### HOUSE RESOLUTION NO. 337

*Commending Rufus Edmond Tyler, Sr.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Rufus Edmond Tyler, Sr., has served as a dedicated member of the Sussex County Board of Supervisors for over 22 years; and

WHEREAS, a native of Greensville County and graduate of Greensville County High School, Rufus Tyler earned an associate's degree in business administration from Southside Community College, and a bachelor's degree in business administration and a master's degree in education from Virginia State University; and

WHEREAS, Rufus Tyler was first elected to the Sussex County Board of Supervisors in November 1994 to represent the Henry District; and

WHEREAS, during his tenure as chair of the Sussex County Board of Supervisors, Rufus Tyler oversaw completion of a new building to house the Office of the Commonwealth's Attorney in Sussex; and

WHEREAS, as a member of the Planning Commission and Personnel Committee, Rufus Tyler worked to increase teacher, public safety employee, and county employee salaries and oversaw construction of several new schools in the county; and

WHEREAS, in addition to his service as a member of the Sussex County Board of Supervisors, Rufus Tyler is employed as the chief executive officer of the Improvement Association, Inc., an organization working to enhance quality of life and improve self-sufficiency in the community through advocacy, initiatives, and services including five Head Start programs located in Sussex, Surry, Greensville, and Brunswick Counties and at St. Paul's College, as well as Project Discovery, employment training, parenting skills programs, independent living programs, and other programs; and

WHEREAS, under Rufus Tyler's able leadership, the Improvement Association, Inc., established the Early Childhood Learning and Workforce Development Center in Waverly in 2018; and

WHEREAS, the support of his wife, the Honorable Roslyn Tyler; his children, Rufus, Jr., Ronecia, Rosche', and Rameka; and his grandchildren, Karter and McKenzie, has enabled Rufus Tyler to better serve his community; now, therefore, be it RESOLVED by the House of Delegates, That Rufus Edmond Tyler, Sr., hereby be commended for his dedicated service as a member of the Sussex County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rufus Edmond Tyler, Sr., as an expression of the House of Delegates' admiration for his service to the community.

### HOUSE RESOLUTION NO. 338

*Commending St. Paul Elementary School.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, St. Paul Elementary School, an exceptional public primary school in Wise County, received a 2018 National Blue Ribbon School Award from the United States Department of Education; and

WHEREAS, the National Blue Ribbon Schools Program recognizes schools across the country for demonstrating superior academic performance or success in closing student achievement gaps; St. Paul Elementary School was one of only eight schools in the Commonwealth to receive this prestigious honor; and

WHEREAS, the hardworking faculty, staff, and administrators of St. Paul Elementary School strive to build strong, personal relationships with each student and give them the tools to become responsible citizens, informed decision makers, and productive lifelong learners; and

WHEREAS, St. Paul Elementary School utilizes a wide range of teaching techniques to overcome the cycle of underachievement, including extensive remediation, differentiated lessons, and explicit instruction, to ensure that every student can succeed in the classroom; and

WHEREAS, St. Paul Elementary School works with local partners to provide a science, technology, engineering, and mathematics coordinator each day, and encourages students to explore science through hands-on learning; the school organizes trips to local colleges and offers programs to help students understand career options; and

WHEREAS, St. Paul Elementary School and the other recipients of the National Blue Ribbon School Award were honored at a special ceremony in Washington, D.C., on November 7-8, 2018; now, therefore, be it

RESOLVED by the House of Delegates, That St. Paul Elementary School hereby be commended on receiving the 2018 National Blue Ribbon School Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen N. Dickenson, principal of St. Paul Elementary School, as an expression of the House of Delegates' admiration for the school's commitment to academic excellence and service to the young people of Wise County.

### HOUSE RESOLUTION NO. 339

*Commending Welton Tyler, Sr.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Welton Tyler, Sr., has served as a member of the Brunswick County Board of Supervisors for over 18 years, representing the Meherrin-Powelton District; and

WHEREAS, a native of Jarratt, Welton Tyler, Sr., earned a bachelor's degree in nursing from Hampton University before settling in Brunswick County; and

WHEREAS, Welton Tyler, Sr., was first elected to the Brunswick Board of Supervisors in 1999 and has ably served his constituents as a member of the Personnel Committee, working to increase salaries for teachers, county employees, and public safety officers; and

WHEREAS, Welton Tyler, Sr., has worked tirelessly to promote the economic well-being of Brunswick County, supporting broadband initiatives in partnership with the Mecklenburg Electric Cooperative, providing leadership in the purchase of the Brunswick Conference Center, supporting the Taste of Brunswick Festival to increase tourism, and helping to increase county revenue by more than \$3 million by facilitating the establishment of a natural gas-fired power station, under the authorization of Dominion Natural Gas Company, in the county; and

WHEREAS, the support of his wife, Jacquelyn, and his children, Welton, Jr., Terrence, and Justin, has enabled Welton Tyler, Sr., to better serve his community; now, therefore, be it

RESOLVED by the House of Delegates, That Welton Tyler, Sr., hereby be commended for his 18 years of service as a member of the Brunswick County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Welton Tyler, Sr., as an expression of the House of Delegates' admiration for his dedication to the people of Brunswick County.

**HOUSE RESOLUTION NO. 340***Commending Smokey Bear.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, for 75 years, Smokey Bear has educated millions of Americans and people throughout the world about the dangers of unplanned, human-caused wildfires and the easy steps that can be taken to prevent such disasters; and

WHEREAS, the Smokey Bear Wildfire Prevention campaign is the longest-running public service campaign in the United States and traces its origins to the early days of World War II, when the United States Forest Service identified the vital need to protect the nation's forests during wartime by reducing unintentional human-caused wildfires; and

WHEREAS, the United States Forest Service established the Cooperative Forest Fire Prevention program, which worked with the War Advertising Council and the National Association of State Foresters to create slogans and posters framing careful stewardship of the nation's forests as an important contribution to the war effort; and

WHEREAS, on August 9, 1944, to capitalize on the success of a poster featuring the Disney character Bambi, the creation of Smokey Bear was authorized by the United States Forest Service, and the first poster depicting a bear pouring water on a campfire was delivered by artist Albert Staehle on October 10; and

WHEREAS, Smokey Bear's original catchphrase, "Smokey Says-Care Will Prevent 9 out of 10 Forest Fires," was updated in 1947 to the iconic "Remember...Only YOU Can Prevent Wildfires," and again in 2001 to "Only You Can Prevent Wildfires"; and

WHEREAS, over the course of the past 75 years, Smokey Bear has raised awareness of how unplanned wildfires can occur at any time in any region of the country, and promoted campfire safety, proper maintenance and operation of outdoor equipment, and safe burning of backyard debris; and

WHEREAS, Smokey Bear was further popularized by the American country music song, "Smokey the Bear," performed by Eddy Arnold; he has been featured in posters, postage stamps, and merchandise, as well as in television, radio, and Internet campaigns; and

WHEREAS, actors portraying Smokey Bear have appeared at countless events around the country and two bears orphaned by wildfires served as live representations of Smokey Bear between 1950 and 1990; and

WHEREAS, Smokey Bear was removed from the public domain by the Smokey Bear Act of 1952, and the campaign is currently administered by the United States Forest Service, the National Association of State Foresters, and the Ad Council; and

WHEREAS, organizations throughout the Commonwealth and nation will commemorate Smokey Bear's 75th birthday on August 9, 2019, with special events throughout the year, beginning with an appearance at the Tournament of Roses Parade on New Year's Day; now, therefore, be it

RESOLVED by the House of Delegates, That Smokey Bear hereby be commended for 75 years of service to educate the public about the dangers of unplanned human-caused forest fires; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the United States Forest Service, the National Association of State Foresters, and the Ad Council as an expression of the House of Delegates' admiration for Smokey Bear's significant impact on preserving the valuable natural resources of Virginia and the United States by reducing forest fires.

**HOUSE RESOLUTION NO. 341***Commending the Eastside High School one-act play team.*

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Eastside High School one-act play team of Coeburn claimed its fifth consecutive state title at the Virginia High School League Group 1A State Theatre Festival in December 2018; and

WHEREAS, the Eastside High School one-act play team performed "The Light Princess," a stirring adaptation of an old Scottish fairy tale by George MacDonald adapted for the theater by Shane Burke, director of the Eastside one-act play team; and

WHEREAS, Eastside High School's Kailey Kyle and Jillian Hall both won Outstanding Actor awards in Group 1A for their incredible performances; and

WHEREAS, the victory is a testament to the focus and talents of the student actors and crew, the leadership of coaches and faculty advisors, and the enthusiastic support of the entire Eastside High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Eastside High School one-act play team hereby be commended on winning the state title at the Virginia High School League Group 1A State Theatre Festival in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shane Burke, director of the Eastside High School one-act play team, as an expression of the House of Delegates' admiration for the team's exceptional achievements and commitment to the performing arts.

**HOUSE RESOLUTION NO. 342***Commending the Warrenton Pony Show.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, for 100 years, the Warrenton Pony Show, the oldest pony show in America, has fostered a love of equestrian sports among the members of the Warrenton community, especially young people; and

WHEREAS, many years ago, young, enthusiastic equestrians were inspired by the Warrenton Horse Show to create an event of their own; the event is organized, promoted, and put on by a junior committee of equestrians 18 years of age and younger; the junior committee is involved in every aspect of the show, including timetable discussions, fundraising, ribbon presentations, merchandise sales, and site maintenance, making it the only show of its kind in the nation; and

WHEREAS, in 1988, a senior committee of mothers of junior committee members formed the Warrenton Pony Show, Inc., ensuring the event's continuity for years to come; the senior committee advises the junior committee and instructs the young equestrians on how to produce a successful horse show; and

WHEREAS, each year, the junior committee selects a charity to support with proceeds from the event; previous beneficiaries include the Fauquier SPCA, the Boys & Girls Club of America, and many other local businesses and charities; since 2006, the Warrenton Pony Show has raised nearly \$60,000 for the Fauquier SPCA alone; and

WHEREAS, the Warrenton Pony Show has been a formative, character-building event for generations of Fauquier youth, and an inspiration to the community; now, therefore, be it

RESOLVED by the House of Delegates, That the Warrenton Pony Show hereby be commended on the occasion of its 100th edition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tommy Jones, president of the Warrenton Pony Show senior committee, as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

**HOUSE RESOLUTION NO. 343***Commending Rappahannock Rapidan Community Services.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, for over 45 years, Rappahannock Rapidan Community Services has played a vital role in helping local residents age with dignity by providing education, advocacy, and support; and

WHEREAS, the goal of Rappahannock Rapidan Community Services is to improve the quality of life in Culpeper, Fauquier, Madison, Orange, and Rappahannock Counties by providing comprehensive services addressing behavioral health, developmental disabilities, substance use disorders, and aging; and

WHEREAS, to that end, Rappahannock Rapidan Community Services offers numerous programs including the Aging Together program supported by a grant from the Robert Wood Johnson Foundation's Community Partnerships for Older Adults; a regional transportation call center operated in partnership with Foothills Area Mobility System; the installation of over 400 Guardian Alert units; and a wheelchair-friendly van service; and

WHEREAS, more than 300 volunteers play a crucial role in supporting Rappahannock Rapidan Community Services by serving senior centers, assisting with Protective Money Management, and helping as medical transportation drivers; and

WHEREAS, Rappahannock Rapidan Community Services has been recognized with awards and grants from numerous organizations including the Virginia Housing Development Authority, Impact 1890, and the American Woodmark Corporation; now, therefore, be it

RESOLVED by the House of Delegates, That Rappahannock Rapidan Community Services hereby be commended for playing a vital role in helping local residents age with dignity by providing education, advocacy, and support; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rappahannock Rapidan Community Services as an expression of the House of Delegates' admiration for its efforts to foster independence and healthy aging and improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

**HOUSE RESOLUTION NO. 344***Commending Irma Becerra, Ph.D.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Irma Becerra, Ph.D., was selected as the seventh president of Marymount University on July 1, 2018; and

WHEREAS, Irma Becerra holds bachelor's and master's degrees in electrical engineering from the University of Miami and was the first woman to earn a Ph.D. in electrical engineering from Florida International University; and

WHEREAS, prior to joining Marymount University, Irma Becerra worked in the private sector, then joined Florida International University as a tenured professor in management information systems and later as director, vice provost, and vice president of the Entrepreneurship Center; she subsequently served as provost and chief academic officer at St. Thomas University; and

WHEREAS, while at Florida International University, Irma Becerra founded the University's Knowledge Management Lab and served as principal investigator on projects with the National Science Foundation, NASA, and the Air Force Research Laboratory; and

WHEREAS, Irma Becerra has authored four books and numerous refereed journal articles in the areas of knowledge management and business intelligence, and has conducted extensive research in such diverse areas as enterprise systems, disaster management, and IT entrepreneurship, making her a sought-after speaker and presenter nationally and internationally; and

WHEREAS, Irma Becerra's focus on expanding access to education for students and targeting programming to meet societal needs and changing demographics, as well as her commitment to scholarship and innovation, will significantly benefit Marymount University; now, therefore, be it

RESOLVED by the House of Delegates, That Irma Becerra, Ph.D., hereby be commended on the occasion of her selection as the seventh president of Marymount University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Irma Becerra, Ph.D., as an expression of the House of Delegates' admiration for her commitment to education.

### HOUSE RESOLUTION NO. 345

*Commending RevolutionaryVA250.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the American Revolution was a time of radical change when passionate activists, unafraid of challenging the established order, led a revolution that would change the world; and

WHEREAS, the American Revolution was more than a war; it was a revolution of ideas that combined the rational thought of the Enlightenment, a belief in the natural rights of man, and the New World experience; and

WHEREAS, hundreds of thousands of Americans were excluded from the Declaration of Independence's promise of equality, participation in government as delineated in the Constitution, and the protections defined in the Bill of Rights; yet, throughout American history, these documents have given legitimacy to disenfranchised, subjugated, and disempowered groups as they have claimed and fought for their rights as Americans; and

WHEREAS, the Revolutionary experiment continues, and the story of America is one of continually finding common ground to create something better; and

WHEREAS, Virginia's history is and has always been uniquely interwoven with that of the United States; and

WHEREAS, Virginia is uniquely positioned to bring the past and present together by telling the whole story of the American Revolution and its legacy; and

WHEREAS, RevolutionaryVA250, a coalition of nonprofit history organizations, including the American Revolution Museum at Yorktown, Colonial National Historical Park, Colonial Williamsburg Foundation, Gunston Hall, Monticello, Montpelier, George Washington's Mount Vernon, and the Virginia Museum of History & Culture, as well as other organizations such as the American Battlefield Trust, is working diligently under the coordination of the Virginia Museum of History & Culture to conduct the important work of planning the Commonwealth's commemoration of this historic anniversary; now, therefore, be it

RESOLVED by the House of Delegates, That RevolutionaryVA250 hereby be commended on the occasion of the 250th anniversary of the founding of the United States of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to RevolutionaryVA250 as an expression of the House of Delegates' admiration for the organization's important work to preserve and promote the history and heritage of the Commonwealth and the nation.

### HOUSE RESOLUTION NO. 346

*Commending Willard Intermediate School.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Willard Intermediate School opened in 2018 to provide new opportunities for the students of Loudoun County Public Schools, one of the fastest-growing school districts in the Commonwealth; and

WHEREAS, Willard Intermediate School was opened to reduce overcrowding in Mercer Middle School and John Champe High School; and

WHEREAS, Willard Intermediate School is only the second intermediate school in the history of Loudoun County Public Schools and serves eighth-grade middle school students and ninth-grade high school students; and

WHEREAS, Willard Intermediate School will serve the students of Loudoun County Public Schools temporarily, until Light Ridge High School opens in 2020; and

WHEREAS, Willard Intermediate School was part of a comprehensive initiative to enhance services within the district, which supported more than 83,000 students in 2018; now, therefore, be it

RESOLVED by the House of Delegates, That Willard Intermediate School hereby be commended on the occasion of its opening in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Willard Intermediate School as an expression of the House of Delegates' admiration for the school's contributions to Loudoun County's reputation for academic excellence.

### HOUSE RESOLUTION NO. 347

*Commending the Trinity Episcopal School varsity field hockey team.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Trinity Episcopal School varsity field hockey team won the Virginia Independent Schools Athletic Association state championship in 2018; and

WHEREAS, the Trinity Episcopal School varsity field hockey team defeated Collegiate School 3-0 to win the Virginia Independent Schools Athletic Association (VISAA) state championship title and finish its season undefeated with a record of 23-0; the team was also the League of Independent Schools (LIS) champion for the fifth consecutive year; and

WHEREAS, the Trinity Episcopal School varsity field hockey team was ranked first in the Metro Richmond area for the entire season, and ranked third and ninth in the Mid-Atlantic region and the nation, respectively, by the end of the season; the team outscored its opponents 99-4 over the season in a dominating display of athleticism; and

WHEREAS, the Trinity Episcopal School varsity field hockey team was led by Abby English, Cori Nichols, Erika Latta, and Sally Snead, who received VISAA First Team All-State honors, and head coach Margie Snead, who was named coach of the year by LIS, VISAA, and MAX Field Hockey; the team also excelled off the field, with eight upperclassmen named to the National Field Hockey Coaches Association All-Academic Squad; and

WHEREAS, the Trinity Episcopal School varsity field hockey team's success is a result of the hard work of the student-athletes, the guidance of their coaches and teachers, and the support of the entire Trinity Episcopal School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Trinity Episcopal School varsity field hockey team hereby be commended for winning the 2018 Virginia Independent Schools Athletic Association state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Margie Snead, head coach of the Trinity Episcopal School varsity field hockey team, as an expression of the House of Delegates' admiration for the team's extraordinary achievement.

### HOUSE RESOLUTION NO. 348

*Commending the Richmond Shakespeare Festival.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, for 20 years, the Richmond Shakespeare Festival, an annual summer festival held at the historic Agecroft Hall, has delighted Richmond audiences with the works of William Shakespeare, one of the most influential and widely known poets and playwrights of all time; and

WHEREAS, the first Richmond Shakespeare Festival was hosted by the Encore! Theatre in 1998 with performances held in the bandshell at The Boulders; the festival moved to its permanent home in Agecroft Hall the following year; and

WHEREAS, responding to a greater desire for the works of William Shakespeare and other classics in the community, Encore! changed its name to Richmond Shakespeare in 2006; and

WHEREAS, Richmond Shakespeare subsequently merged with the Henley Street Theatre in 2013, forming the Quill Theatre to better serve the Richmond community by producing intelligent, passionate works of theatre that celebrate the power of language; and

WHEREAS, the Richmond Shakespeare Festival now produces three shows each summer, hiring 30 to 40 actors from the Richmond area to perform the works of William Shakespeare, which are world-renowned for their exceptional characterization, plot, artistry of language, and sheer spectacle; and

WHEREAS, the Richmond Shakespeare Festival offers a Festival Young Company program, which gives students the opportunity to study the text, history, rhetoric, music, and acting techniques of William Shakespeare's works; now, therefore, be it

RESOLVED by the House of Delegates, That the Richmond Shakespeare Festival hereby be commended; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Quill Theatre as an expression of the House of Delegates' admiration for the Richmond Shakespeare Festival's contributions to cultural life in the Commonwealth.

### HOUSE RESOLUTION NO. 349

*Commending Lauren Serpa.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Lauren Serpa, devoted music educator at Spring Run Elementary School in Chesterfield, won a 2018 R.E.B. Award for Teaching Excellence; and

WHEREAS, Lauren Serpa will use the monetary award that accompanied this recognition to attend an intensive one-week comedy improvisation program in Chicago, then travel to Ireland and the Netherlands to learn about the cultures and musical styles performed in those countries; she will use the remaining funds to enroll in two courses at Virginia Commonwealth University to complete her certification in the Orff approach to music education, which combines music-making and movement; and

WHEREAS, the award was presented to Lauren Serpa by the R.E.B. Foundation and the Community Foundation, which have partnered to promote excellence in public education through awards programs for public school teachers and principals who work tirelessly to ensure that youth have the knowledge and skills they need to succeed in school and in life; and

WHEREAS, Lauren Serpa is a graduate of Warwick High School in Newport News and studied music at Virginia Commonwealth University; and

WHEREAS, outside of the classroom, Lauren Serpa dedicates herself to the arts as a photographer and flutist; she is also an improvisation performer at the Coalition Theater in Richmond and manages an improvisation team called "The Johnsons"; now, therefore, be it

RESOLVED by the House of Delegates, That Lauren Serpa, music educator at Spring Run Elementary School in Chesterfield, hereby be commended for winning a 2018 R.E.B. Award for Teaching Excellence; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lauren Serpa as an expression of the House of Delegates' admiration for her dedication to music education and the arts.

### HOUSE RESOLUTION NO. 350

*Commending the Ukrop's Monument Avenue 10k.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Ukrop's Monument Avenue 10k, an annual event beloved by the Richmond community, celebrates its 20th anniversary on April 13, 2019; and

WHEREAS, the Ukrop's Monument Avenue 10k welcomes runners of all skill levels, from seasoned veterans to first timers; over the years, the event has inspired countless citizens of Richmond and the Commonwealth to embrace regular exercise and a healthier lifestyle; and

WHEREAS, the Ukrop's Monument Avenue 10k features several contests throughout the day to inspire both the athleticism and creativity of the participants; the first seven men and first seven women are awarded cash prizes, as well as the top five finishers in each age category; additionally, the Dress Up & Run Contest honors the individual or duo and group that runs the race in the most clever and original costume; and

WHEREAS, the event encourages youth participation, hosting the Fit for Life Kids Challenge's Virginia529 Kids Run for children ages five to 12, and audience engagement, featuring the Allianz Partners Community Spirit Contest to recognize the most enthusiastic and unique spectator groups; and

WHEREAS, whether one has run the race every year, or is joining for the first time, the Ukrop's Monument Avenue 10k is a special annual event that brings the Richmond community together and encourages greater health and well-being for all; now, therefore, be it

RESOLVED by the House of Delegates, That the Ukrop's Monument Avenue 10k, an annual event cherished by the Richmond community, hereby be commended on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the staff of the Ukrop's Monument Avenue 10k as an expression of the House of Delegates' admiration for the event's significance to the Commonwealth.

**HOUSE RESOLUTION NO. 351**

*Commending Wayne Tinsley.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Wayne Tinsley, who served the Commonwealth for more than 50 years as a member of the Department of General Services and the House Clerk's Office, retired in December 2018; and

WHEREAS, Wayne Tinsley served his country as a member of the United States Army Reserve and began his career with the Department of General Services in June 1965; and

WHEREAS, after 35 years of service, Wayne Tinsley departed from the Department of General Services on April 28, 2000, and subsequently joined the House Clerk's Office on October 16, 2000; and

WHEREAS, throughout his career, Wayne Tinsley earned a reputation for being able to fix anything, from tables, desks, and chairs to eyeglasses, and ably responded to requests to fix many unusual items over the years; and

WHEREAS, Wayne Tinsley made friends wherever he went and was well-liked and respected by all of his coworkers; and

WHEREAS, outside of his professional life, Wayne Tinsley is an avid outdoorsman who loves to hunt, fish, and care for his animals; and

WHEREAS, after his well-earned retirement, Wayne Tinsley plans to spend more time with his wife of 44 years, Susan; their children, Brent and Aimee; and their grandchildren, Jayden and Chelsea; now, therefore, be it

RESOLVED by the House of Delegates, That Wayne Tinsley hereby be commended for his more than five decades of service to the Commonwealth on the occasion of his retirement from the House Clerk's Office in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Wayne Tinsley as an expression of the House of Delegates' appreciation for his contributions to the smooth and effective operation of state government.

**HOUSE RESOLUTION NO. 352**

*Commending Mark F. O'Neil.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, having enjoyed a career in the automotive industry spanning almost 30 years that included successful startups and distinguished executive roles, Mark F. O'Neil, an outstanding business leader in Virginia, retired on February 1, 2019; and

WHEREAS, a man who loves cars and always has something fun in his garage, Mark O'Neil was recruited into the automotive industry in the late 1980s and has never looked back; and

WHEREAS, Mark O'Neil earned a bachelor's degree in industrial engineering from Worcester Polytechnic Institute and a Master of Business Administration degree from Harvard Business School; and

WHEREAS, after beginning his career at Intel and McKinsey & Company, where he gained a great appreciation for technology and strategy development and operational excellence, Mark O'Neil joined the retail automotive industry and served as president of Ertley MotorWorld, a dealer group based in Pennsylvania; and

WHEREAS, Mark O'Neil went on to cofound and lead the development and rollout of CarMax, the original and revolutionary automobile superstore concept that is now a very recognizable \$3 billion, publicly held used-automobile retailer with roots in Virginia; and

WHEREAS, Mark O'Neil cofounded Dealertrack and, through his leadership, the company went public on the NASDAQ Stock Market in December 2005 and has grown to a more than \$800 million industry leader; and

WHEREAS, Mark O'Neil has helped reshape Dealertrack from a single credit application provider for automotive dealers and lenders into a true end-to-end technology innovator and pioneer that is transforming automotive retail; and

WHEREAS, Mark O'Neil serves as chief operating officer of Cox Automotive, which acquired Dealertrack and now provides technology solutions to connect consumers, manufacturers, dealers, and lenders at every stage of the automotive experience; and

WHEREAS, an active and dedicated member of his community, Mark O'Neil has served on a wide array of local boards and committees for many years; and

WHEREAS, Mark O'Neil has been a leader in his community as an angel investor in many start-up companies, including New Richmond Ventures, and he often provides mentorship and guidance to people in the business community; and

WHEREAS, Mark O'Neil is an avid runner who completed the Richmond Half Marathon in 2017, a hobby that serves to balance his great love of chocolate and hot dogs; and

WHEREAS, a true visionary, Mark O'Neil has helped reshape the automotive industry in Virginia and across the country throughout his long and distinguished career; now, therefore, be it

RESOLVED by the House of Delegates, That Mark F. O'Neil hereby be commended for his long career of business leadership in the automotive industry; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark F. O'Neil as an expression of the House of Delegates' admiration for his achievements and best wishes on his retirement.

### HOUSE RESOLUTION NO. 353

*Celebrating the life of the Honorable Kenneth N. Whitehurst, Jr.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Honorable Kenneth N. Whitehurst, Jr., who dedicated his life to the service of others as a former member of the House of Delegates and a judge of the 2nd Judicial District of Virginia, died on November 3, 2018; and

WHEREAS, Kenneth "Ken" Whitehurst learned the value of hard work and responsibility as a young man while growing up on his family's farm; after graduating from Princess Anne High School, he earned a bachelor's degree from the University of North Carolina at Chapel Hill, then served his country as a member of the United States Army; and

WHEREAS, upon completion of his military service, Ken Whitehurst earned a law degree from the Marshall-Wythe School of Law at The College of William and Mary, then practiced law in the newly formed City of Virginia Beach; and

WHEREAS, desirous to be of further service, Ken Whitehurst ran for and was elected to the House of Delegates in 1967 and ably represented the residents of the 55th District for one term; he introduced or supported numerous important pieces of legislation to benefit all Virginians and served with dedication and distinction; and

WHEREAS, in 1972, Ken Whitehurst was appointed as a judge to the Virginia Beach Juvenile and Domestic Relations District Court, where he presided with great fairness and wisdom for more than two decades; after his well-earned retirement from the bench in 2000, he continued to serve the court as a mediator; and

WHEREAS, Ken Whitehurst was an accomplished world traveler, but as an 11th-generation resident of the Tidewater region, he was happiest entertaining friends and family with tales of local lore and old Virginia Beach; and

WHEREAS, predeceased by his first wife, Martha, Ken Whitehurst will be fondly remembered and greatly missed by his wife of 47 years, Lillie; his children, Nanette and Kenneth, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable Kenneth N. Whitehurst, Jr., a respected public servant and judge in Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Kenneth N. Whitehurst, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 354

*Celebrating the life of Wesley Charles Lipicky.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Wesley Charles Lipicky, a beloved nine-year-old member of the Alexandria community who shared his happiness, joy, thoughtfulness, and sense of wonder with everyone he met, died on May 18, 2018; and

WHEREAS, Wesley Lipicky was a caring friend who went out of his way to help his classmates and make everyone feel included in activities; he frequently earned gold stars for good behavior and other school awards; and

WHEREAS, an exceptional student, Wesley Lipicky had hoped to one day follow in the footsteps of his maternal grandparents and attend The College of William & Mary, and he enjoyed many family outings to Williamsburg; and

WHEREAS, Wesley Lipicky was a valued teammate on his soccer and baseball teams and was committed to achieving success on a local diving team, participating in off-season programs to hone his skills; and

WHEREAS, Wesley Lipicky's caring and compassionate nature extended to animals; he enjoyed learning about all animals, but was especially interested in the African penguin and wanted to help protect the endangered species; and

WHEREAS, Wesley Lipicky is fondly remembered and greatly missed by his parents, Josh and Amy Lipicky; his grandparents, Lynn and Sallie Dievendorf and Janet Lee Lipicky; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Wesley Charles Lipicky; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Wesley Charles Lipicky as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 355**

*Commending the Thomas Jefferson Middle School counseling department.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, in 2019, the counseling department at Thomas Jefferson Middle School in Arlington was distinguished by the American School Counselor Association (ASCA) as a Recognized ASCA Model Program; and

WHEREAS, the Recognized ASCA Model Program (RAMP) distinction is awarded to schools that deliver an exemplary educational environment and align with criteria established in the ASCA National Model, a framework for comprehensive, data-driven school counseling programs; since the program's inception, over 650 schools have received the RAMP distinction for implementing data in ways that encourage school counselors to strive for excellence and students to achieve success; and

WHEREAS, as a result of the Thomas Jefferson Middle School counseling department's receiving high marks on their RAMP application, the school was one of only three to be recognized in 2019 as a School of Distinction by the ASCA; and

WHEREAS, the many exceptional counselors at Thomas Jefferson Middle School include the director of counseling, Susan Holland; Amelia Black, Erin Pennington, Ana Rodriguez, and Tiffini Woody-Pope, who all joined the department in 2014; and Susan Russo, who joined the team in 2017; and

WHEREAS, Thomas Jefferson Middle School is an International Baccalaureate Middle Years Program that currently has 1,144 students who speak 30 different languages and hail from 50 different countries; approximately 40 percent of the student body receives free or reduced lunch, 20 percent of the student body receives special education services, and 22 percent of the student body receives direct instruction as English Language Learners; the effective use of data enables the Thomas Jefferson Middle School counseling department to better accommodate and respond to this large and diverse student body; now, therefore, be it

RESOLVED by the House of Delegates, That the Thomas Jefferson Middle School counseling department hereby be commended for receiving the Recognized ASCA Model Program distinction; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Susan Holland, director of counseling at Thomas Jefferson Middle School, as an expression of the House of Delegates' admiration for her department's achievements and efforts to ensure the success of students in Arlington County and the Commonwealth.

**HOUSE RESOLUTION NO. 356**

*Commending the Virginia Stage Company.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Virginia Stage Company, Hampton Roads' leading professional theatre company, is celebrating its 40th season in 2019; and

WHEREAS, the Virginia Stage Company took over the Wells Theatre in 1979, after being incorporated under other names for 10 years prior; since its inception, the company has produced more than 300 different productions, 28 of which were world premieres, including the Tony Award-winning show, *The Secret Garden*; and

WHEREAS, the Virginia Stage Company has performed community engagement and tours in more than a dozen localities; more than two million people have walked through the doors of the Wells Theatre; and

WHEREAS, the Virginia Stage Company has modernized its facilities, restoring the Wells Theatre through three renovations and stewarding the 100th anniversary of the historic facility in 2012; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Stage Company hereby be commended on the occasion of its 40th season; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Stage Company as an expression of the House of Delegates' admiration for the organization's enduring work to enrich, educate, and entertain the region by creating and producing theatrical art of the highest quality.

**HOUSE RESOLUTION NO. 357**

*Commending the Freedom Museum.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Freedom Museum, located at the Manassas Regional Airport, was founded by two stalwart individuals, John Gregory, a veteran of World War II, and Charles Colgan, Jr., a veteran of the Vietnam War, on July 4, 1999; and

WHEREAS, the Freedom Museum's mission is threefold: to honor those Americans who made the supreme sacrifice in defense of freedom; to pay tribute to those who served the nation with honor and distinction; and to provide a place for young citizens to learn of their national history and heritage; and

WHEREAS, the Freedom Museum, daily living out its motto, "Lest We Forget," keeps the memories alive of the 162 men and women—residents from Manassas, Manassas Park, and Prince William County—who, whether military or civilian, died in the service of their country from World War I through the present day, including those who fought against terrorism around the world; and

WHEREAS, the Freedom Museum focuses on local men and women and depicts life in the area and how world events of the time impacted their lives, and it carries out its mission through exhibitions, education, and participation in community events; and

WHEREAS, families who have donated their loved ones' artifacts to the Freedom Museum express gratitude that the museum is preserving their memories in such a public way for future generations to learn that the freedoms Americans enjoy come with a very dear price; and

WHEREAS, the Freedom Museum hosts students and other group tours, and more than 5,000 visitors walked through the Freedom Museum's exhibits in 2018, including people from all across the United States and other countries, making the Freedom Museum an ambassador for the Commonwealth; and

WHEREAS, the Freedom Museum engages the community in honoring its local heroes by hosting commemorative events, such as bell-ringing ceremonies on Memorial Day, D-Day, Veterans Day and Pearl Harbor Day, to honor those who fought in the nation's battles; and

WHEREAS, the Freedom Museum is successfully reaching out to the community with educational programs that bridge the gap across multiple generations and backgrounds to create an appreciation and respect for local heroes; and

WHEREAS, the Freedom Museum helps develop local young men and women into engaged leaders through support of high school Junior Reserve Officer Training Corps cadets and Sea Scouts; both programs offer leadership opportunities for teenagers, teaching them responsibility through activities that are centered on community service; and

WHEREAS, all Freedom Museum events are free and open to the public, and the Freedom Museum operates solely on revenues generated by fundraising activities, membership dues, donations, and sponsorships; and

WHEREAS, the Freedom Museum, with 122 members, of whom more than 40 percent are actively involved in the museum's activities, relies on its members' generous donation of their time and talents as volunteers; now, therefore, be it

RESOLVED by the House of Delegates, That the Freedom Museum hereby be commended on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Freedom Museum as an expression of the House of Delegates' admiration for its contributions to the Commonwealth.

### HOUSE RESOLUTION NO. 358

#### *Commending the Virginia Opera.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Virginia Opera, declared The Official Opera Company of the Commonwealth by the General Assembly in 1994, celebrates its 45th anniversary in 2019; and

WHEREAS, the Virginia Opera was established in 1974 in Norfolk and held its first full season in 1975-1976; the organization subsequently began productions in Richmond in 1978 and in Fairfax in 1992, performing consecutive seasons in these three locations ever since; and

WHEREAS, the Virginia Opera is unique for providing a main stage season of opera in three different venues in three different cities, performing at the Edythe C. and Stanley L. Harrison Opera House in Norfolk, the Dominion Energy Center in Richmond, and the Center for the Arts at George Mason University in Fairfax; over the years, the Virginia Opera has demonstrated a wide and impressive repertory, performing classical and contemporary opera, works of American origin, and musical theater, including five original operas that were subsequently performed by other major opera companies; and

WHEREAS, along with its productions, the Virginia Opera has presented an education program in the Hampton Roads area for over 40 years and throughout the Commonwealth since the 1980s; this outreach effort brings educational operas into the schools, teaching Virginia youth about this important art form; and

WHEREAS, the Virginia Opera's productions serve over 150,000 Virginians each season, and thousands more through their radio and television broadcasts, providing accessible, affordable, and edifying entertainment to the public; for its many accomplishments, the Virginia Opera was cited as a Bedrock Institution of the Commonwealth by the Virginia Commission for the Arts in 2018, recognizing its vital importance to the state's cultural and artistic life; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Opera, the Official Opera Company of the Commonwealth of Virginia, hereby be commended on the occasion of its 45th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elisabeth M. Wollan, chair of the Virginia Opera board of directors, as an expression of the House of Delegates' admiration for the organization's contributions to the Commonwealth.

**HOUSE RESOLUTION NO. 359**

*Commending Goshen Post Elementary School.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Goshen Post Elementary School opened in 2018 to provide new opportunities for the students of Loudoun County Public Schools, one of the fastest-growing school districts in the Commonwealth; and

WHEREAS, Goshen Post Elementary School is located adjacent to John Champe High School and serves students in the rapidly growing Dulles South area of Loudoun County; and

WHEREAS, Goshen Post Elementary School opened at nearly full capacity with an enrollment of 1,000 students at its 105,000-square-foot facility in Aldie; and

WHEREAS, the addition of Goshen Post Elementary School will help Loudoun County Public Schools better prepare young students for success as lifelong learners; and

WHEREAS, Goshen Post Elementary School was part of a comprehensive initiative to enhance services within the district, which supported more than 83,000 students in 2018; now, therefore, be it

RESOLVED by the House of Delegates, That Goshen Post Elementary School hereby be commended on the occasion of its opening in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Goshen Post Elementary School as an expression of the House of Delegates' admiration for the school's contributions to Loudoun County's reputation for academic excellence.

**HOUSE RESOLUTION NO. 360**

*Commending Jai Kumar.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Jai Kumar, an esteemed resident of South Riding and a student at Freedom High School, has achieved national recognition for exemplary volunteer service by receiving a 2019 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Jai Kumar earned this award by giving generously of his time and energy to "ForTrinidad," a charity organization that has sent over 1,000 books, school supplies, and Christmas gifts to more than 150 children in Trinidad, and "Read a Book, Donate a Book," an initiative he created that encourages local fifth-grade students to donate books as part of a reading challenge; and

WHEREAS, the success of the Commonwealth, the strength of its communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Jai Kumar who use their considerable talents and resources to serve others; now, therefore, be it

RESOLVED by the House of Delegates, That Jai Kumar, a valued member of the South Riding community, hereby be commended for achieving the 2019 Prudential Spirit of Community Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jai Kumar as an expression of the House of Delegates' admiration for his outstanding record of volunteer service, peer leadership, and community spirit, and best wishes for his continued success and happiness.

**HOUSE RESOLUTION NO. 361**

*Commending the Freedom-South Riding High School girls' lacrosse team.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Freedom-South Riding High School girls' lacrosse team won the Virginia High School League Class 5 state championship in 2018; and

WHEREAS, the Freedom High School girls' lacrosse team defeated Atlee High School by a score of 9-8 to earn the state championship title and hand Atlee High School its first loss of the season, capping off an impressive 19-4 season; and

WHEREAS, the Freedom High School girls' lacrosse team was led by midfielder Emily Maier, who had five goals in the contest, and goalie Araya McNeal, who had 10 saves; and

WHEREAS, after 23 years of coaching and two previous appearances at the state finals, the victory marks the first state championship title for Richard DeSomma, coach of the Freedom High School girls' lacrosse team, whose defensive strategies for neutralizing Atlee High School's explosive offense were key to the win; and

WHEREAS, the state championship title was the result of the hard work of the student-athletes, the guidance of their coaches and teachers, and the support of the entire Freedom High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Freedom-South Riding High School girls' lacrosse team hereby be commended for winning the Virginia High School League Class 5 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard DeSomma, coach of the Freedom-South Riding High School girls' lacrosse team as an expression of the House of Delegates' admiration for the team's extraordinary achievement.

### HOUSE RESOLUTION NO. 362

*Commending the RoboLords robotics team.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the RoboLords robotics team from Ashburn won first place at the FIRST Tech Challenge Virginia State Championship on February 2, 2019; and

WHEREAS, For Inspiration and Recognition of Science and Technology (FIRST) is a nonprofit organization dedicated to challenging young minds; the organization holds an annual robotics competition in which teams of middle school and high school students collaborate to engineer a robot to solve a given problem; the 2019 competition required a robot to retrieve "minerals" from a crater and deposit as many as possible into a suspended container; and

WHEREAS, the RoboLords were the only team to advance to the international competition in Detroit this April; the team was formed in 2016 with students from Eagle Ridge Middle School seeking to learn more about STEM subjects and robotics through FIRST; team members include Aditya Kalkar, Advait Amdekar, Akash Pamal, Ananya Pamal, Ikhlash Bhat, Isha Thukral, Rohit Prasanna, Sanjay Mohan, and Aryan Thukral; and

WHEREAS, the experience has taught the RoboLords how to design, build, and program a robot, along with other skills like teamwork, marketing, fundraising, and outreach; and

WHEREAS, the RoboLords' success is the result of the hard work of the team members, the guidance of their coaches and teachers, and the support of the entire Ashburn community; now, therefore, be it

RESOLVED by the House of Delegates, That the RoboLords robotics team hereby be commended for winning first place at the FIRST Tech Challenge Virginia State Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pamal Meyana, coach of the RoboLords robotics team, as an expression of the House of Delegates' admiration for the team's monumental achievement.

### HOUSE RESOLUTION NO. 363

*Commending Duaah Hammad.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Duaah Hammad has promoted a message of unity and inclusivity through her self-published book *Finding Home*; and

WHEREAS, Duaah Hammad, a Northern Virginia Community College student, wrote her book, *Finding Home*, as a senior capstone project at Freedom High School in South Riding in 2017 to address her experiences as a first-generation Pakistani immigrant and feelings of not quite fitting in in either country; and

WHEREAS, Duaah Hammad's family immigrated to the United States when Duaah was three years old; she was encouraged to write about her experiences by her school principal, Doug Fulton, to merge her literary strengths with her love for engaging in political discussions and activism; and

WHEREAS, Duaah Hammad penned the book in verse and has found an appreciative audience for the message of understanding, as she details her experiences with teasing and prejudice; and

WHEREAS, as a student of business administration, Duaah Hammad has found new support for and confidence through her literary presentations of *Finding Home* as she continues to pursue publishing narratives of the immigrant experience; now, therefore, be it

RESOLVED by the House of Delegates, That Duaah Hammad hereby be commended for promoting a message of unity and inclusivity through her self-published book, *Finding Home*; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Duaah Hammad for shining a light on our diverse society and working to make it a more accepting place.

**HOUSE RESOLUTION NO. 364***Commending Good Dog Rocky.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Good Dog Rocky, a pet wellness center, opened in Brambleton Town Center in Loudoun County in early 2019; and

WHEREAS, established by Cindy Zelenko, who left her previous career with Freddie Mac to pursue her dreams of entrepreneurship, Good Dog Rocky promotes and supports a healthy lifestyle for pets; and

WHEREAS, Good Dog Rocky offers grooming services, self-serve dog bathing stations, natural foods for cats and dogs, and seminars about pet wellness; the business also offers free local delivery; and

WHEREAS, named for Cindy Zelenko's black Labrador, Good Dog Rocky is a boon to the already pet-friendly community of Brambleton; now, therefore, be it

RESOLVED by the House of Delegates, That Good Dog Rocky hereby be commended on the occasion of its opening in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Good Dog Rocky as an expression of the House of Delegates' admiration for the vibrant business community of Loudoun County.

**HOUSE RESOLUTION NO. 365***Commending Margaret O'Sullivan Flanagan.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, in the fall of 2018, Margaret O'Sullivan Flanagan, a beloved, longtime English teacher at Clover Hill High School in Chesterfield County, began her 60th year of teaching; and

WHEREAS, born in 1942 in County Mayo, Ireland, Margaret Flanagan grew up in various villages throughout Ireland, moving with her family as her father, a police officer, was assigned a new territory every few years; in 1957, she graduated with honors from Saint Xavier Secondary School in County Clare; and

WHEREAS, Margaret Flanagan chose to join the community of the Sisters of the Holy Spirit and Mary Immaculate, and was sent to San Antonio, Texas, on her first assignment; in 1958 she was given her first teaching job in Hondo, Texas, through the local Catholic school; and

WHEREAS, Margaret Flanagan was 16 years old when she was given the task of teaching reading to non-English speaking migrant second-graders; she was quite successful, and by the end of the school year the students were reading English and speaking with an Irish brogue; and

WHEREAS, in 1967 Margaret Flanagan returned to the United States, choosing New York City as her home; there, she worked for Allied Chemical Corporation as a proofreader in the legal department; in 1969, she accepted her first paid teaching position in Old Bridge, New Jersey, at a junior high school; she remained there until 1971, when she moved to Virginia with her fiancé, Thomas Flanagan; and

WHEREAS, the couple wed in 1972 and Margaret Flanagan continued teaching in several Catholic schools around Richmond including St. Elizabeth's and Sacred Heart; she also had a brief stint as a radio advertiser in Blackstone, Virginia, while taking courses at Longwood College; and

WHEREAS, Margaret Flanagan completed her teaching degree at Virginia Commonwealth University in the early 1980s; in 1983, she accepted a teaching position at Clover Hill High School; she has remained there for the past 35 years; and

WHEREAS, during Margaret Flanagan's tenure at Clover Hill High School, she has sponsored the yearbook, taught senior English, Advanced Placement English Literature, and Interdisciplinary Studies as well as serving on various committees; she was awarded Teacher of the Year, and began a food pantry for hungry children within the school, which expanded into FEED 23112, a community food bank; and

WHEREAS, Margaret Flanagan was honored on November 1, 2018, with the dedication of the Margaret O'Sullivan Flanagan Sharing Library at Clover Hill High School; now, therefore, be it

RESOLVED by the House of Delegates, That Margaret O'Sullivan Flanagan, a beloved, longtime English teacher at Clover Hill High School in Chesterfield County, hereby be commended for her 60th year of teaching; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Margaret O'Sullivan Flanagan as an expression of the House of Delegates' admiration for her dedication to her students and to education.

**HOUSE RESOLUTION NO. 366***Commending Burgerim.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Burgerim opened in Brambleton Town Center in Loudoun County in early 2019; and  
WHEREAS, Burgerim is a unique, international fast casual restaurant that allows guests to customize gourmet hamburgers with choices of three different buns, five sauces, nine toppings, and 11 patties; and  
WHEREAS, Burgerim offers vegetarian, salmon, and falafel options, as well as lettuce wraps to satisfy every palate; and  
WHEREAS, Burgerim is an exciting addition to culinary life in the Brambleton community; now, therefore, be it  
RESOLVED by the House of Delegates, That Burgerim hereby be commended on the occasion of its opening in 2019; and, be it  
RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Burgerim as an expression of the House of Delegates' admiration for the vibrant business community of Loudoun County.

**HOUSE RESOLUTION NO. 367***Celebrating the life of Police Officer Hunter Edwards.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Police Officer Hunter Edwards, a dedicated member of the Winchester Police Department and a beloved son, husband, father, brother, and friend, died in the line of duty on November 24, 2018; and  
WHEREAS, a native of Fredericksburg, Hunter Edwards attended Robinson Secondary School in Fairfax County and earned a bachelor's degree from Christopher Newport University; and  
WHEREAS, Hunter Edwards followed in the footsteps of his father, the late James Allen Edwards, Sr., as a sworn law-enforcement officer and joined the Winchester Police Department; and  
WHEREAS, Hunter Edwards was very active in the Winchester Police Department, serving on the civil disturbance team and the SWAT team, and he taught and mentored other members of the department as a field training officer; and  
WHEREAS, when he wasn't serving and safeguarding the residents of Winchester, Hunter Edwards enjoyed golfing and working out at the gym, and his greatest joy in life was spending time with his family; and  
WHEREAS, Hunter Edwards will be fondly remembered and greatly missed by his wife, Tara; their son, Landon; his mother and stepfather, Anne-Berry and Edmund; his siblings, Allen and Samantha; and numerous other family members, friends, and fellow law-enforcement officers; now, therefore, be it  
RESOLVED, That the House of Delegates hereby note with great sadness the loss of Police Officer Hunter Edwards, a respected member of the Winchester community; and, be it  
RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Police Officer Hunter Edwards as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 368***Celebrating the life of William Shendow.*

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, William Shendow, a business owner, academic, and active member of the Winchester community, died on October 19, 2018; and  
WHEREAS, William Shendow was a native of Winchester; and  
WHEREAS, William Shendow graduated from Wake Forest University and went on to serve as a second lieutenant in the United States Army; he received a deferment to attend graduate school at Georgetown University, but his work toward a master's degree was interrupted in the early winter of 1964 when he was called to active duty; and  
WHEREAS, William Shendow's two-year tour of duty included one year as an intelligence officer in Vietnam, for which he was awarded a Bronze Star; he was honorably discharged in December 1966 and the following year completed his master's degree in international relations at Georgetown University; and  
WHEREAS, in 1967, William Shendow returned to Winchester and entered his family's retail apparel business; from 1967 to 1986, he was vice president of Bell Clothes, Inc., a five-star men's and ladies' clothier; and  
WHEREAS, William Shendow was active in numerous civic and business organizations throughout his life; he served on the Winchester City Council from 1976 to 1983 and in March 1986 was selected president of the Winchester-Frederick County Chamber of Commerce and executive secretary of the Industrial Development Corporation; and  
WHEREAS, in 1991, William Shendow received his doctoral degree in public administration from the Center for Public Administration and Policy at Virginia Polytechnic Institute and State University; and

WHEREAS, from 1977 to 2007, William Shendow directed the John O. Marsh Institute for Government and Public Policy at Shenandoah University; he went on to serve as the chair of the Department of Political Science and coordinator of the Public Management Certificate Program and upon retirement was awarded the designation of professor emeritus; and

WHEREAS, William Shendow will be fondly remembered and greatly missed by his wife of 57 years, Katherine; his daughter, Stacey, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William Shendow, business owner, academic, and active member of the Winchester community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Shendow as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 369

*Commending Justin Hu.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Justin Hu, an esteemed resident of Vienna and a student at James Madison High School, has earned national accolades for his exemplary volunteer service, receiving the 2019 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America like Justin Hu, who have demonstrated an extraordinary commitment to serving their community; and

WHEREAS, Justin Hu earned this award through his work to promote confidence and physical fitness among children with disabilities by teaching kung fu classes as the founder of the nonprofit organization, ABLE Kung Fu; his organization has raised more than \$20,000 in donations to support clean water and health care initiatives in Africa and Asia; and

WHEREAS, the success of the Commonwealth, the strength of its communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Justin Hu, who use their considerable talents and resources to serve others; now, therefore, be it

RESOLVED by the House of Delegates, That Justin Hu, recipient of the 2019 Prudential Spirit of Community Award, hereby be commended for his outstanding record of volunteer service, peer leadership, and community involvement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Justin Hu as an expression of the House of Delegates' admiration for his achievements and best wishes for the future.

### HOUSE RESOLUTION NO. 370

*Commending Catherine M. Hudgins.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Catherine M. Hudgins, Fairfax County Supervisor representing the Hunter Mill District, will retire in 2019; and

WHEREAS, Catherine "Cathy" M. Hudgins was first elected to the Board of Supervisors in 1999 to represent the county's largest magisterial district; she currently chairs the board's human services and housing committee, and serves as a member of the governing board for Fairfax County's Initiative to Prevent and End Homelessness; and

WHEREAS, a resident of Reston since 1969, Cathy Hudgins earned a bachelor's degree in mathematics education from the University of Arkansas at Pine Bluff, and she holds a master's degree in public administration from George Mason University; prior to entering politics, she worked as a math teacher and as a computer programmer, instructor, analyst, and consultant for AT&T; and

WHEREAS, Cathy Hudgins was first elected as a Virginia national committeewoman on the Democratic National Committee in 1984; her political work before joining the Fairfax County Board of Supervisors also included two years as secretary of the Fairfax County Electoral Board, starting in 1993, and serving as chief of staff for chairman Katherine Hanley from 1995 to 1999; and

WHEREAS, Cathy Hudgins' work earned her the Public Official of the Year Award from the Virginia Transit Association in 2010, as well as the Distinguished Leadership Award from the Coalition for Mentally Disabled Citizens of Northern Virginia; her commitment to affordable housing has been recognized by the Housing Association of Nonprofit Developers, a regional network of housing providers dedicated to increasing the supply of affordable housing in the Washington, D.C., metropolitan area; now, therefore, be it

RESOLVED by the House of Delegates, That Catherine M. Hudgins, Fairfax County Supervisor representing the Hunter Mill District, hereby be commended on her well-deserved retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Catherine M. Hudgins as an expression of the House of Delegates' admiration for her years of public service and her tireless advocacy for the Hunter Mill District.

**HOUSE RESOLUTION NO. 371**

*Commending Pat Hynes.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Pat Hynes, a distinguished community leader, will retire from the Fairfax County School Board in 2019; and  
WHEREAS, Pat Hynes' service on the Fairfax County School Board began in 2012 and she became board vice chair in that same year; and

WHEREAS, Pat Hynes holds a bachelor's degree in economics from the University of Virginia and a law degree from Vanderbilt University; and

WHEREAS, Pat Hynes previously worked as an attorney with Simpson, Thacher, and Bartlett in New York; she was an elementary school teacher with Fairfax County Public Schools from 2002 to 2011; and

WHEREAS, Pat Hynes is a former member of the Superintendent's Business and Community Advisory Committee, founding member of the Vienna Teen Center Foundation, former PTA president at Louise Archer Elementary School, and former president of the Malcolm-Windover Heights Civic Association and FB Meekins Cooperative Preschool; now, therefore, be it

RESOLVED by the House of Delegates, That Pat Hynes hereby be commended on the occasion of her retirement as a member of the Fairfax County School Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pat Hynes as an expression of the House of Delegates' admiration for her commitment to academic excellence in the Fairfax County community.

**HOUSE RESOLUTION NO. 372**

*Commending Gerald T. Miller.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Gerald T. Miller, legislative aide to Delegate Terry Kilgore, is retiring in 2019; and

WHEREAS, Gerald Miller has loyally served as the legislative aide for Delegate Kilgore since August 1998; and

WHEREAS, Gerald Miller has faithfully executed the duties of a legislative aide to the fullest capacity in his almost 21 years of service; and

WHEREAS, Gerald Miller has dutifully performed constituency services for the citizens of the 1st District of the Commonwealth of Virginia; and

WHEREAS, Gerald Miller has been generously distributing cookies and sweets from the Kilgore office since January 1999; and

WHEREAS, Gerald Miller will be returning to the "Boondocks" of Scott County, Virginia, where he will begin the next chapter of his life; and

WHEREAS, Gerald Miller, known affectionately by those close to him as "Big G," has been a tremendous asset to the Virginia House of Delegates and the entire General Assembly community and will be sincerely missed; and

WHEREAS, there will be significantly less dancing in Richmond upon Gerald Miller's retiring from the General Assembly; now, therefore, be it

RESOLVED by the House of Delegates, That Gerald T. Miller hereby be commended on the occasion of his retirement in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gerald T. Miller as an expression of the House of Delegates' admiration for his service.

**HOUSE RESOLUTION NO. 373**

*Commending the State of Israel.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, the Jewish people have a long-standing connection to the land of Israel; and

WHEREAS, the claim and presence of the Jewish people in Israel has remained constant throughout the past 4,000 years; and

WHEREAS, Israel declared its independence and self-governance on May 14, 1948, with the goal of reestablishing a homeland for the Jewish people; and

WHEREAS, the Declaration of the Establishment of the State of Israel issued on May 14, 1948, declares the nation "will ensure complete equality of social and political rights to all its inhabitants regardless of religion, race or sex"; and

WHEREAS, there are those in the Middle East who, since the time of Israel's inception as a state, have continually sought to destroy Israel; and

WHEREAS, Israel and the United States have similar goals of democracy and stability in the Middle East; and

WHEREAS, the Commonwealth of Virginia and Israel have enjoyed a cordial and mutually beneficial relationship since 1948, a friendship that continues to strengthen with each passing year; and

WHEREAS, anti-Semitism is on the rise throughout the world, endangering communities in Israel and Jewish communities in the United States; in recent years, Virginia has witnessed stark examples of anti-Semitism including the deadly white supremacist rally in Charlottesville in 2017 and instances of Jewish community centers and synagogues being vandalized with swastikas; and

WHEREAS, anti-Semitism, as well as bigotry, hatred, and intolerance in all forms must be condemned; and

WHEREAS, anti-Semitism is a challenge to the basic principles of tolerance, pluralism, and democracy and the shared values that bind Americans together, and there is an urgent need to ensure the safety and security of Jewish communities, including synagogues, schools, cemeteries, and other institutions in the Commonwealth; and

WHEREAS, the United States, having been the first nation to recognize Israel as an independent nation, and as Israel's principal ally, has enjoyed a close and mutually beneficial relationship with Israel and her people; and

WHEREAS, Israel is the greatest friend and ally of the United States in the Middle East, and the two countries enjoy strong bonds and common values; now, therefore, be it

RESOLVED by the House of Delegates, That the State of Israel hereby be commended for its cordial and mutually beneficial relationship with the United States and with the Commonwealth of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dov Hoch, the executive director of the Virginia-Israel Advisory Board, Arthur Stark, chairman of the Conference of Presidents of Major Jewish Organizations, and Mark Wilf, chairman of the Jewish Federation of North America Board of Trustees as an expression of the House of Delegates' appreciation for the many contributions made by Jewish communities to the Commonwealth of Virginia.

#### HOUSE RESOLUTION NO. 374

*Celebrating the life of Russell Baker.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Russell Baker, newspaperman, novelist, humorist, two-time Pulitzer Prize winner, and Leesburg resident, died January 21, 2019; and

WHEREAS, born in the western Loudoun County hamlet of Morrisonville, Russell Baker was a columnist for *The New York Times* from 1962 to 1998 and hosted Masterpiece Theatre on PBS from 1992 to 2004; he won his first Pulitzer Prize for distinguished commentary in 1979 for his *Observer* columns; and

WHEREAS, Russell Baker's second Pulitzer Prize came in 1982 for his autobiography, *Growing Up*, in which he included descriptions of his childhood years in Morrisonville; and

WHEREAS, Russell Baker, to the residents of Loudoun County who knew him, was a personal friend, conversationalist, and member of a weekly lunch group; he lived on West Loudoun Street in downtown Leesburg; and

WHEREAS, Russell Baker will be fondly remembered and greatly missed by numerous family members and friends and the entire Leesburg community; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Russell Baker, newspaperman, novelist, humorist, two-time Pulitzer Prize winner, and Leesburg resident; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Russell Baker as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 375

*Commending the Freedom High School gymnastics team.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, the Freedom High School gymnastics team won the Virginia High School League Region 5C meet in 2019 and set a new school record for a single-meet overall high score; and

WHEREAS, the Freedom High School Eagles dominated the regional match with a score of 148.625, defeating the runners-up from Wakefield High School by nearly 12 points; and

WHEREAS, the Freedom High School Eagles claimed the top five scores on the uneven bars, the top three scores on the balance bar, the top two scores on the vault, and the four highest scores on the floor routine; and

WHEREAS, Freedom High School freshman Kelly Fangyen claimed the individual championship with an all-around score of 37.925 thanks in large part to her wins on the beam and in the floor routine; and

WHEREAS, the Freedom High School Eagles' victory was a testament to the skill and hard work of all the student-athletes, the leadership and guidance of coaches and staff, and the enthusiastic support of the entire Freedom High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Freedom High School gymnastics team hereby be commended on the occasion of its historic win in the Virginia High School League Region 5C meet; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Laura Wrighte, head coach of the Freedom High School gymnastics team, as an expression of the House of Delegates' admiration for the team's achievements.

### HOUSE RESOLUTION NO. 376

*Commending Norman Duncan.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Norman Duncan, veteran of the United States Army and World War II, was bestowed the rank of Knight of the Legion of Honor by the Government of the French Republic in 2018; and

WHEREAS, formally the National Order of the Legion of Honor, the French Legion of Honor was created by Napoleon Bonaparte in 1802 and remains today the highest French order of merit for military and civil conduct; and

WHEREAS, Norman Duncan received the distinction for his contributions to the liberation of France during World War II; as a young United States Army master supply sergeant, he supported the Allied invasion of Normandy in 1944 and subsequent military campaigns; and

WHEREAS, Norman Duncan received the honor at the Embassy of France in Washington, D.C., joining the ranks of other heroic American veterans who have received the honor, including Dwight D. Eisenhower and Douglas MacArthur; and

WHEREAS, born a century ago, Norman Duncan has been both a witness to and participant in many great chapters in American history, creating a better and more peaceful world for future generations; now, therefore, be it

RESOLVED by the House of Delegates, That Norman Duncan, veteran of World War II and Knight of the French Legion of Honor, hereby be commended for his recent distinction; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Norman Duncan as an expression of the House of Delegates' admiration of his bravery and service.

### HOUSE RESOLUTION NO. 377

*Commending the Rotary Club of Ashburn.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, the Rotary Club of Ashburn's annual charitable event to provide school supplies for local students in need doubled in size in 2018; and

WHEREAS, together with legions of volunteers, the Rotary Club of Ashburn filled 1,200 backpacks for elementary school students as a service project, carrying out the organization's mission to build good will and benefit the community; and

WHEREAS, on August 9, 2018, students, school staff, and Loudoun County School Board members gathered with the Rotary Club of Ashburn to pack supplies, which were donated by customers at 17 Giant stores across the region; FVCbank also made a substantial donation to buy additional supplies; and

WHEREAS, members of the Rotary Club of Ashburn collectively donated 200 hours of work to collect 10,000 pounds of supplies; JK Moving Services transported the supplies to the school administration building in Ashburn; Road Runner Wrecker Service in Sterling brought 1,200 backpacks, all donated by Costco; and the community came together in one hour to prepare every backpack; and

WHEREAS, the Rotary Club of Ashburn distributed 200 backpacks in Fairfax, and the remaining 1,000 backpacks were distributed at 60 Loudoun County elementary schools; now, therefore, be it

RESOLVED by the House of Delegates, That the Rotary Club of Ashburn hereby be commended on the success of its annual event to provide school supplies for local students in need; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Rotary Club of Ashburn as an expression of the House of Delegates' admiration for the service group's efforts to help every student begin the school year well-prepared, confident, and ready to learn.

**HOUSE RESOLUTION NO. 378**

*Commending Sandy Evans.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Sandy Evans, Mason District representative on the Fairfax County School Board, is retiring from her position in 2019; and

WHEREAS, during her time on the Fairfax County School Board (FCSB), Sandy Evans has served as board chair and vice chair, as well as chair of the Budget Committee, Governance Committee, Public Engagement Committee, and Comprehensive Planning and Development Committee; she has also served as board liaison to the School Health Advisory Committee, the Fairfax County Planning Commission, and the Fairfax County Park Authority; and

WHEREAS, prior to joining the FCSB, Sandy Evans was a reporter and staff writer for *The Washington Post* and an active community leader and advocate; she cofounded the Start Later for Excellence in Education Proposal; was president of the Sleepy Hollow Elementary School Parent Teacher Association, legislative committee chair for the Fairfax County Council of PTAs, and founding member of the Fairfax Education Council; and served on the School Health Advisory Committee, the FCSB Transportation Task Force, and the Northern Virginia Healthy Kids Coalition; and

WHEREAS, the community and students of Fairfax County are indebted to Sandy Evans for her many years of service; now, therefore, be it

RESOLVED by the House of Delegates, That Sandy Evans, Mason District representative on the Fairfax County School Board, hereby be commended on the occasion of her retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sandy Evans as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

**HOUSE RESOLUTION NO. 379**

*Celebrating the life of James P. Clouse, Ph.D.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, James P. Clouse, Ph.D., an esteemed educator, hardworking farmer, adventurous world traveler, talented craftsman and woodworker, loyal friend, caring neighbor, and beloved member of the Montgomery County community, died on February 10, 2019; and

WHEREAS, Dr. James Clouse married and was preceded in death by his beloved wife, Barbara; and

WHEREAS, Dr. James Clouse served as a sergeant in the 27th Army Air Force Base Unit out of Fort Sam Houston, Texas, during World War II; and

WHEREAS, Dr. James Clouse earned his degrees at Purdue University in West Lafayette, Indiana; and

WHEREAS, Dr. James Clouse taught agriculture education at Purdue University until 1973, when he came to Blacksburg to head the Virginia Polytechnic Institute and State University (Virginia Tech) Ag Education Department until 1978, during which time he received the prestigious rank of University Distinguished Professor; and

WHEREAS, Dr. James Clouse was a positive role model for his students and earned the admiration of his fellow faculty members at both Purdue and Virginia Tech; and

WHEREAS, Dr. James Clouse retired from Virginia Tech in 1978, then began his second career as a craftsman and woodworker; and

WHEREAS, Dr. James Clouse has been described as compassionate and always optimistic, and lived his life fully as a true Boilermaker and Hokie; and

WHEREAS, Dr. James Clouse was highly regarded by all who knew him, especially by the members of the Virginia Tech community; and

WHEREAS, Dr. James Clouse will be fondly remembered and greatly missed by his children, Ellen, Jim, Susan, and Peter; grandchildren, Bryan, April, Matthew, Seth, Rachel, John, and Ethan; and great-grandchildren, Avery and Charlie; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of James P. Clouse, Ph.D.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James P. Clouse, Ph.D., as an expression of the House of Delegates' respect for his memory and contributions to the Commonwealth of Virginia.

**HOUSE RESOLUTION NO. 380**

*Commending the Clover Hill High School show choirs.*

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Clover Hill High School show choirs celebrate 15 years of combining singing and dancing, often within the context of a specific idea or story, in Chesterfield County; and

WHEREAS, since 2011, Clover Hill High School show choirs have been among the top 15 show choirs in the nation; and

WHEREAS, in 2009, Clover Hill High School show choirs began hosting the Mid-Atlantic Show Choir Spectacular, the only show choir competition in the Commonwealth with a finals format; a portion of the proceeds are donated to the THIRST PROJECT; and

WHEREAS, in 2012, Clover Hill High School show choirs began hosting the Dominion Show Choir Camp as a summer camp for show choir enthusiasts; this camp is attended by students in grades three through 12 from all across the country; and

WHEREAS, so far in the 2019 season, Clover Hill High School show choirs have won numerous awards at the Hurricane Red Hot Championship in Hurricane, West Virginia, and at the Northrop Classique in Ft. Wayne, Indiana; the groups' success relies heavily on the dedication of the staff, students, parents, and greater community of Clover Hill High School; now, therefore, be it

RESOLVED by the House of Delegates, That the Clover Hill High School show choirs hereby be commended for celebrating their 15th anniversary of combining singing and dancing, often within the context of a specific idea or story, in Chesterfield County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sandra Marie Thomas, choral director of Clover Hill High School show choirs, as an expression of the House of Delegates' admiration for their longevity and their members' dedication to their art.

**HOUSE RESOLUTION NO. 381**

*Commending the Trip's Auto Sales DMV Select office.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 60 years, Trip's Auto Sales has partnered with the Virginia Department of Motor Vehicles as a DMV Select office; and

WHEREAS, as a Department of Motor Vehicles or DMV Select office, Trip's Auto Sales provides services to motorists including registration, titling, plates, registration renewal, and disabled and wheelchair accessible parking tags; and

WHEREAS, Trip's Auto Sales owner, Charles Triplett "Trip" Hardesty III, inspires those around him as an 89-year-old small business owner who is the longest-standing agent for the Virginia DMV, as he opened as a License Agent on May 4, 1959; and

WHEREAS, the Trip's Auto Sales office ranks as one of the busier DMV Selects in the Commonwealth, handling over 40,000 transactions each year; and

WHEREAS, the Trip's Auto Sales DMV Select office provides crucial services, like the DMV2Go monthly mobile office setup that gives Berryville motorists greater access and an alternative to the faraway DMV office in Winchester; now, therefore, be it

RESOLVED by the House of Delegates, That the Trip's Auto Sales DMV Select office hereby be commended for 60 years of service to the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charles Triplett "Trip" Hardesty III, owner of Trip's Auto Sales, as an expression of the House of Delegates' admiration for the business' longevity and its ongoing relationship with the DMV.

**HOUSE RESOLUTION NO. 382**

*Commending the Greater Manassas Baseball League 8U Lady Cavalry Blue & Gray Team.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Greater Manassas Baseball League 8U Lady Cavalry Blue & Gray Team, a group of determined young athletes hailing from the Manassas area, won the Babe Ruth League World Series Championship in August 2018; and

WHEREAS, after winning the Virginia state title, the members of the Greater Manassas Baseball League 8U Lady Cavalry Blue & Gray Team advanced to the Babe Ruth League World Series Championship, where they defeated teams from Kentucky, Louisiana, and China on their way to defeating the team from Oviedo, Florida, by a score of 10-3 in the championship game; and

WHEREAS, the accomplishments of these young athletes in attaining a record of 25-4 was a complete team effort by each member of the team: Lily Grace Roth, Madison Mozingo, Lydia Hirschy, Caitlyn Abel, Aaliyah Alexander, Kiara Cruz, Charlotte Ellis, Emmi Harris, Reagan Hwang, Gracyn Kopaniasz, Daisha Poe, and Trinity Poe; and

WHEREAS, they were supported along the way by a skilled coaching staff consisting of Head Coach John Roth and Assistant Coaches Brock Hirschy, Squire Poe, and Scott Mozingo; and

WHEREAS, the victory is a testament to the skill and hard work of each of the athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the Manassas community; now, therefore, be it

RESOLVED by the House of Delegates, That the Greater Manassas Baseball League 8U Lady Cavalry Blue & Gray Team hereby be commended on winning the 2018 Babe Ruth League World Series Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Roth, head coach of the Greater Manassas Baseball League 8U Lady Cavalry Blue & Gray Team, as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

### HOUSE RESOLUTION NO. 383

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the House of Delegates, February 21, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Marcus A. Brinks, of Patrick, as a judge of the Twenty-first Judicial Circuit for a term of eight years commencing May 1, 2019.

Brian M. Madden, Esquire, of Warren, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing September 1, 2019.

### HOUSE RESOLUTION NO. 384

*Nominating persons to be elected to general district court judgeships.*

Agreed to by the House of Delegates, February 21, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

James R. McGarry, Esquire, of Martinsville, as a judge of the Twenty-first Judicial District for a term of six years commencing May 1, 2019.

Joan Ziglar, Esquire, of Martinsville, as a judge of the Twenty-first Judicial District for a term of six years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 385

*Nominating a person to be elected to a juvenile and domestic relations district court judgeship.*

Agreed to by the House of Delegates, February 21, 2019

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the respective juvenile and domestic relations district court judgeship as follows:

Kimberly R. Belongia, Esquire, of Henry, as a judge of the Twenty-first Judicial District for a term of six years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 386

*Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.*

Agreed to by the House of Delegates, February 21, 2019

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

The Honorable James E. Plowman, of Loudoun, as a member of the Judicial Inquiry and Review Commission for an unexpired term commencing November 1, 2019 and ending June 30, 2021.

Marsha L. Garst, Esquire, of Rockingham, as a member of the Judicial Inquiry and Review Commission for an unexpired term ending June 30, 2020.

Humes J. Franklin, III, Esquire, of Augusta, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2019.

### HOUSE RESOLUTION NO. 387

*Commending Ronald D. Oakes.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Ronald D. Oakes began his service to the Commonwealth of Virginia with the Virginia State Police beginning in 1969; and

WHEREAS, Ronald D. Oakes served with honor and distinction with the Virginia State Police starting as a Trooper and ultimately achieving the rank of Master Trooper; and

WHEREAS, Ronald D. Oakes exhibited his bravery when he was seriously wounded in the line of duty in Wise County on February 6, 1972, after being shot, but after a lengthy recovery returned to service; and

WHEREAS, Ronald D. Oakes retired from the Virginia State Police after serving for 26 years; and

WHEREAS, Ronald D. Oakes continued his service to the citizens of the Commonwealth of Virginia when he was elected Sheriff of Wise County and the City of Norton in 1995 and reelected five successive times making him the longest serving Sheriff in the history of Wise County and the City of Norton; and

WHEREAS, Sheriff Oakes fulfilled his promises to the voters by leading the fight in the battle against drugs, promoting community policing by beginning a Neighborhood Watch program throughout communities in Wise County and Norton, and ensuring that the Wise County Sheriff's Office would serve the public effectively and be well-trained; and

WHEREAS, in 2002, the leadership of Sheriff Oakes enabled the Wise County Sheriff's Office to become the 13th law-enforcement agency and the fifth sheriff's office in Virginia to be accredited by the Virginia Law Enforcement Professional Standards Commission and the first such agency in far Southwest Virginia to receive accreditation and to receive reaccreditation in 2006, 2010, 2014, and more recently in 2018; and

WHEREAS, Sheriff Oakes has served the Commonwealth of Virginia with honor and distinction for over 50 years; now, therefore, be it

RESOLVED by the House of Delegates, That Ronald D. Oakes hereby be commended for over 50 years of service to the Commonwealth of Virginia as an officer with the Virginia State Police and as Sheriff of Wise County and the City of Norton; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ronald D. Oakes as an expression of the House of Delegates' admiration for his contributions and service to the citizens of Wise County and the City of Norton and to the Commonwealth of Virginia.

### HOUSE RESOLUTION NO. 388

*Commending the Brooke Point High School wrestling team.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Brooke Point High School wrestling team won the Virginia High School League Class 5 state championship at Robinson Secondary School on February 16, 2019; and

WHEREAS, the Brooke Point High School wrestling team sent five wrestlers to the state championship tournament, defeating runner-up Nansemond River High School by 13 points to earn its third consecutive state championship title; and

WHEREAS, the Brooke Point High School wrestling team defied expectations, battling through untimely injuries to win the day; the team was led by Bruno Alves, who placed first in the 120-pound weight class, and coach Travis Harris, who has instilled a team-first mentality in his young champions all season; and

WHEREAS, the Brooke Point High School wrestling team's state championship title was the result of the hard work of the student-athletes, the guidance of their coaches and teachers, and the support of the entire Brooke Point High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Brooke Point High School wrestling team hereby be commended for winning the Virginia High School League Class 5 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Travis Harris, coach of the Brooke Point High School wrestling team, as an expression of the House of Delegates' admiration for the team's extraordinary achievement.

**HOUSE RESOLUTION NO. 389**

*Commending Karen Legato.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Karen Legato, executive director of the Health Brigade in Richmond, was selected as a 2018 Richmond Times-Dispatch Person of the Year for her role in leading the Health Brigade to serve the medical needs of the underserved; and

WHEREAS, Karen Legato was raised in Roanoke and, as a first-generation Lebanese-American, faced prejudices that developed and enhanced her compassion for others who endure the same in marginalized communities; and

WHEREAS, Karen Legato has three decades of experience working with nonprofit organizations; she has led the Health Brigade, formerly the Fan Free Clinic, since 2010, and in that time has greatly expanded the reach of its services; and

WHEREAS, Karen Legato is gifted in bridging communities that might otherwise be at odds with each other and supporting vulnerable communities; she is known for work she has led in connecting the transgender community in Richmond to health care providers; and

WHEREAS, Karen Legato earned a bachelor's degree in psychology at Virginia Polytechnic Institute and State University, a master's degree in pastoral studies from Loyola University, and a master's degree in social work from Virginia Commonwealth University; now, therefore, be it

RESOLVED by the House of Delegates, That Karen Legato, executive director of the Health Brigade in Richmond, hereby be commended for being named a 2018 Richmond Times-Dispatch Person of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Legato as an expression of the House of Delegates' admiration for her passion for social justice.

**HOUSE RESOLUTION NO. 390**

*Commending Temple Beth-El.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Temple Beth-El, a Jewish synagogue in Richmond and home to a vibrant and thriving congregation, celebrates its 70th anniversary of worship in its building on Grove Avenue in 2019; and

WHEREAS, plans for Temple Beth-El were first conceived in 1931; a congregation was planned that would adhere to the fundamental principles of Judaism but still be alive to present-day thoughts and progress; and

WHEREAS, Temple Beth-El's congregation first met at the Scottish Rite Temple, then in Colombo Hall on West Broad Street; construction of a new building at 3330 Grove Avenue began in the late 1930s to accommodate a membership of 200 and a thriving school; the building was first dedicated in 1939, but due to hardships during the war years, the new building was not completed until 1949; through these years, membership steadily grew; and

WHEREAS, Temple Beth-El's mission is to lead people into a growing relationship with Jewish community, wisdom, and practice that helps them thrive intellectually, emotionally, and spiritually, and that inspires them to build a more compassionate, just, and peaceful world; and

WHEREAS, in order to provide for the spiritual, educational, and social needs of its members, Temple Beth-El provides and maintains synagogue facilities, cemetery facilities, and religious, educational, social, recreational, cultural, and other activities that preserve and strengthen Conservative Judaism; now, therefore, be it

RESOLVED by the House of Delegates, That Temple Beth-El hereby be commended on the occasion of its 70th anniversary of worship at 3330 Grove Avenue; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rabbi Michael Knopf, rabbi of Temple Beth-El, as an expression of the House of Delegates' admiration for Temple Beth-El's spiritual, communal, and educational legacy.

**HOUSE RESOLUTION NO. 391**

*Commending the Salisbury Garden Club.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 50 years, the Salisbury Garden Club in Chesterfield County has promoted a love of gardening, floral design, horticulture, education, civic beautification, and environmental responsibility; and

WHEREAS, the Salisbury Garden Club was organized in 1968 and federated in 1969; beginning with 51 members from the Salisbury neighborhood in Midlothian, who formed the club to study the fine art of gardening and arranging and to promote an interest in and desire for beautifying their homes and grounds; and

WHEREAS, the Salisbury Garden Club's first president was Helen Poliquin, and Doris Davenport, Ann Smith, Marion Timmons, and Sharon Wakefield comprised the board; over the years, the club's ongoing maintenance and seasonal planting projects have benefitted the Midlothian Post Office, the Midlothian Fire Station, a Habitat for Humanity entrance, a courtyard at Bettie Weaver Elementary, and a garden at Swansboro Elementary; and

WHEREAS, the Salisbury Garden Club coordinates numerous outreach programs, providing bouquets for Meals on Wheels, offering tutorials in floral design at senior centers, providing seasonal flower designs for Bon Secours Hospice House, and leading garden crafts with children at the Redeemer Preschool, Swansboro Elementary, Southampton Elementary, and Bon Air Elementary; now, therefore, be it

RESOLVED by the House of Delegates, That the Salisbury Garden Club hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lorna Boucher, president of the Salisbury Garden Club, as an expression of the House of Delegates' admiration for the group's longevity and commitment to horticulture and civic beautification.

### HOUSE RESOLUTION NO. 392

*Commending the Loudoun County Clerk of the Circuit Court Historic Records and Deed Research Division.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Loudoun County Clerk of the Circuit Court Historic Records and Deed Research Division won the 2018 National Association of Counties Achievement Award in recognition of its programming and preservation efforts; and

WHEREAS, the Loudoun County Clerk of the Circuit Court Historic Records and Deed Research Division (Historic Records) has, in recent years, greatly enhanced its programming to broaden awareness of and interest in historic court records and local history; partnerships with other history groups and government agencies have enabled Historic Records to expand its offerings; and

WHEREAS, Historic Records has one of the most complete and diverse collections of historic court records in Virginia, with documents dating back to Loudoun County's formation in 1757; and

WHEREAS, recent programming and exhibit offerings from Historic Records have included *From Slavery to Desegregation*, featuring local African American history; *Loudoun and the Great War 1917-1918*, highlighting Loudoun's role in World War I; programming offering information on preserving and accessing court documents; and walking tours, among other programming; and

WHEREAS, Historic Records has developed partnerships with the Loudoun County Public Schools, Loudoun County Public Libraries, the Library of Virginia, and other public and private entities to inform the public about the resources; Historic Records' curation of rare materials attracts the interest of the public and inspires citizens to do their own research into Loudoun County's history; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun County Clerk of the Circuit Court Historic Records and Deed Research Division hereby be commended for winning a national achievement award from the National Association of Counties; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County Clerk of the Circuit Court Historic Records and Deed Research Division as an expression of the House of Delegates' admiration for the division's efforts to make history more accessible.

### HOUSE RESOLUTION NO. 393

*Commending the Loudoun County Public Library.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, in 2018, the Loudoun County Public Library earned a 2018 Achievement Award from the National Association of Counties for its innovative programming, including efforts to promote literacy among adults in their 20s and 30s; and

WHEREAS, the Achievement Awards from the National Association of Counties recognize organizations like the Loudoun County Public Library that have helped make county government more efficient or helped increase services to residents; and

WHEREAS, the Loudoun County Public Library worked with local businesses and community partners to develop programs exclusively for library patrons aged 21 and older; and

WHEREAS, among its innovative initiatives, the Loudoun County Public Library hosted a "Harry Potter Night," which drew 600 attendees and was supported by local restaurants and the Loudoun County Office of Mapping and Geographic Information, which created an interactive map for the event; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun County Public Library hereby be commended on receiving a 2018 Achievement Award for its outstanding programs and community engagement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County Public Library as an expression of the House of Delegates' admiration for its commitment to promoting literacy among all residents of Loudoun County.

### HOUSE RESOLUTION NO. 394

*Commending China King.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, China King, a family-owned Chinese restaurant in Leesburg celebrates its 30th anniversary of ownership under the Whang family in February 2019; and

WHEREAS, beginning operation in the early 1970s and run by family members Ken and May Mao, China King came under the ownership of Wally Whang and his family in 1989, and the family has maintained the business in the decades since; and

WHEREAS, China King was the first Chinese restaurant in Leesburg and in the County of Loudoun; and

WHEREAS, China King's expansive menu offers traditional Chinese appetizers and soups, meat, seafood, and vegetable entrees, and a variety of chef's recommendations; and

WHEREAS, China King is an exciting and well-loved establishment in the Leesburg community; now, therefore, be it

RESOLVED by the House of Delegates, That China King hereby be commended on the occasion of its 30th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to China King as an expression of the House of Delegates' admiration for the business's longevity and culinary contributions to the Leesburg community.

### HOUSE RESOLUTION NO. 395

*Commending the Loudoun County High School marching band.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Loudoun County High School marching band won first place in the USBands Group IV A National Championships held on November 4, 2018; and

WHEREAS, the hardworking and musically talented 95-member Loudoun County High School Marching Raiders impressed the judges to earn a championship score of 97.512 points, putting them 1.674 points ahead of the second-place school; and

WHEREAS, the championship was held in Allentown, Pennsylvania, with the Loudoun Marching Raiders competing against 79 bands from Pennsylvania, New York, New Jersey, Maryland, Virginia, and Connecticut; and

WHEREAS, the Loudoun Marching Raiders performed a show entitled "Light Prevails," which combined "Moonlight Sonata" by Beethoven, "Fly to Paradise" by Eric Whitacre, and original music by Jeff Chambers; the show included choreography, multiple costume and flag changes by the color guard, a set of moving trees, solos on flute by Jemison Goforth and saxophone by Nick Wu, and beautiful vocals by Sophia Macchiarolo of the color guard; and

WHEREAS, throughout the 2018 season, the members of the band, led by drum majors Sayda Martinez and Megan Hardman, with direction by Darron Young, Kristy Lemieux, Aaron Bertoglio, Chris McNabb, and Mika Saario, were enthusiastically supported by their families, band boosters, fellow students, the school administration, and the entire school community; now, therefore, be it

RESOLVED, That the House of Delegates hereby commend the Loudoun County High School marching band for winning first place in the 2018 USBands Group IV A National Championships; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Loudoun County High School marching band director Darron Young as an expression of the House of Delegates' congratulations and admiration for the band's achievement and impressive performance.

### HOUSE RESOLUTION NO. 396

*Commending the Loudoun County Office of Emergency Management.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Loudoun County Office of Emergency Management won the 2018 National Association of Counties Achievement Award in recognition of its innovative methodology for assessing Loudoun County's capabilities across all types of hazards; and

WHEREAS, the Loudoun County Office of Emergency Management took an original approach to creating a Threat and Hazard Identification and Risk Assessment process; and

WHEREAS, the Loudoun County Office of Emergency Management built plausible scenarios, conducted stakeholder interviews, and identified desired resources to enhance the county's ability to effectively respond to and recover from a significant event; and

WHEREAS, to help its partner agencies in the planning process, the Loudoun County Office of Emergency Management provided an enhanced level of support by developing a customized planning toolkit and a process for tracking progress on each assignment; and

WHEREAS, the leadership of the Loudoun County Office of Emergency Management gained invaluable input from stakeholders in public safety, infrastructure, and human services agencies at the local, state, and federal levels; and

WHEREAS, in response to the number of localities asking for information about Loudoun County's successful effort, the Loudoun County Office of Emergency Management authored a *Threat and Hazard Identification and Risk Assessment Guide for Localities*, which describes Loudoun's methodology, illustrates best practices, and catalogs lessons learned; and

WHEREAS, the Loudoun County Office of Emergency Management has fulfilled its mission through the leadership of Kelly Myers, assistant coordinator of emergency management, Jeff Fletcher, deputy coordinator of emergency management, and Kevin Johnson, coordinator of emergency management; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun County Office of Emergency Management hereby be commended for winning the 2018 National Association of Counties Achievement Award in recognition of its innovative methodology to assess Loudoun County's capabilities across all types of hazards; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County Office of Emergency Management as an expression of the House of Delegates' admiration for its achievement and innovative threat and risk assessment efforts.

### HOUSE RESOLUTION NO. 397

*Commending Virginia Indians.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, beginning thousands of years before recorded history and European contact, indigenous peoples have populated the North and South American continents, including the Commonwealth of Virginia; and

WHEREAS, Virginia Indians are an integral part of Virginia and American history, including ensuring the survival of the first Europeans who arrived in North America during the 16th and 17th centuries; and

WHEREAS, Virginia Indians specifically contributed to the survival of the colonists during the 1610 "starving times," including by offering corn in exchange for copper and tools, as recorded by Captain John Smith; and

WHEREAS, for many years, the rich inventiveness of Virginia Indians was not acknowledged or celebrated; however, archeological evidence indicates that many contributions to modern society were either first invented or used by Virginia Indians; and

WHEREAS, Virginia Indian contributions to the humanities include oral literary and cultural traditions, art, sculpture, beadwork, pottery, music, poetry, literature, and well-known words that still exist today and have been adopted into the English language, such as moccasin, raccoon, and opossum; and

WHEREAS, "America's first peoples have endured and remain a vital cultural, political, social, and moral presence, and have contributed certain values and ideas that have become ingrained in the American spirit: the knowledge that humans can thrive and prosper without destroying the natural environment; the understanding that people from very different backgrounds, cultures, religions, and traditions can come together to build a great country; and the awareness that diversity can be a source of strength rather than division," the President of the United States stated on the occasion of National American Indian Heritage Month in 1996; and

WHEREAS, in 2018, the Virginia Indian Commemorative Commission, in the presence of Governor Ralph S. Northam and Chiefs of the various state-recognized tribes dedicated "Mantle," a permanent monument installed on the Virginia State Capitol Square as a lasting tribute to all Virginia Indians; and

WHEREAS, today, the Commonwealth recognizes 11 tribes and two reservations—the Pamunkey Indian Tribe and the Mattaponi Indian Tribe in King William County—which date back to the 1600s, and approximately 15,000 people of indigenous ancestry; and

WHEREAS, today in Virginia, seven tribes are federally recognized and have this sovereignty affirmed by the government of the United States; and

WHEREAS, it is fitting, with the advent of the commemoration of the American Evolution, Virginia to America 1619-2019, that the Commonwealth acknowledge and recognize the significant achievements and contributions of Virginia Indians in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia Indians hereby be commended on their many contributions to the Commonwealth and American life; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the Secretary of the Commonwealth, as the Governor's liaison to the Virginia Indian tribes, and to the 11 state-recognized tribes as an expression of the House of Delegates' admiration for Virginia Indian history, heritage, and contributions to the Commonwealth of Virginia and the United States.

### HOUSE RESOLUTION NO. 398

*Commending Tamarind Indian Cuisine.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Tamarind Indian Cuisine opened in Potomac Run Plaza in Sterling in November 2018; and  
WHEREAS, Tamarind Indian Cuisine is a fine dining restaurant known for its outstanding South and North Indian cuisine, excellent service, and lively and cultural ambience; and  
WHEREAS, Tamarind Indian Cuisine prepares all dishes fresh, using high-quality ingredients and garden-fresh vegetables; and  
WHEREAS, Tamarind Indian Cuisine's menu offers a wide variety of traditional Indian appetizers, chaats, breads, biryanis, and meat, seafood, and vegetarian entrees; and  
WHEREAS, Tamarind Indian Cuisine is an exciting and welcome addition to culinary life in Sterling; now, therefore, be it  
RESOLVED by the House of Delegates, That Tamarind Indian Cuisine hereby be commended on the occasion of its opening in 2018; and, be it  
RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tamarind Indian Cuisine as an expression of the House of Delegates' admiration for its place in the vibrant business community of Loudoun County.

### HOUSE RESOLUTION NO. 399

*Commending Marumen.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Marumen, an Asian comfort food restaurant, opened a new location in Sterling in January 2019; and  
WHEREAS, established in 2015, Marumen's menu offers a variety of ramen, a Japanese dish consisting of a clear soup with noodles, often served with vegetables or meat; and  
WHEREAS, Marumen's menu features tsukemen, a variety of Japanese ramen consisting of noodles which are eaten after being dipped in a separate bowl of soup or broth; and  
WHEREAS, rice dishes, small plates, drinks, and desserts are also offered at Marumen; and  
WHEREAS, Marumen is an exciting addition to culinary life in the Sterling community; now, therefore, be it  
RESOLVED by the House of Delegates, That Marumen, an Asian comfort food restaurant, hereby be commended on the occasion of its opening of a new location in Sterling in 2019; and, be it  
RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marumen as an expression of the House of Delegates' admiration for the restaurant's contribution to the vibrant business community of Loudoun County.

### HOUSE RESOLUTION NO. 400

*Commending the Step Sisters.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Step Sisters celebrates its fifth anniversary of offering services to improve the lives of local breast cancer patients in 2019; and  
WHEREAS, the Step Sisters was established by a group of women working to raise funds for breast cancer research; in 2014, the Step Sisters formally organized as a nonprofit organization and expanded its mission to include providing services directly supporting area breast cancer patients and their families; and  
WHEREAS, the Step Sisters first began providing services, including rides to treatment sessions, child care to allow patients to attend appointments, house cleaning and lawn care assistance, pet care, and healthy food delivery to patients' homes, for patients receiving care at Inova Loudoun Hospital; and  
WHEREAS, since its founding, the Step Sisters has expanded its services to include financial assistance from the Crisis Fund, to help patients pay rent, mortgages, and utilities while they undergo expensive treatment, and delivery of chemotherapy care bags to patients initiating chemotherapy; and

WHEREAS, the Step Sisters now offers support and services to patients receiving care at six medical care facilities in Loudoun and Fairfax Counties; now, therefore, be it

RESOLVED by the House of Delegates, That the Step Sisters hereby be commended on the occasion of its fifth anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Step Sisters as an expression of the House of Delegates' admiration for its service to patients undergoing breast cancer treatment, their families, and the community.

#### HOUSE RESOLUTION NO. 401

*Commending Bertram Aaron.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Bertram Aaron, a decorated veteran of World War II and generous philanthropist and patron of the arts in Williamsburg, was selected as the 2018 Citizen of the Year by the *Daily Press*; and

WHEREAS, Bertram "Bert" Aaron, a native of Newport News, graduate of Virginia Tech, and decorated military veteran who saw service in the Pacific Theater during World War II before embarking upon a career in national defense and innovative electronic work, has been an active member of the Williamsburg community for over a quarter of a century; and

WHEREAS, while Bert' Aaron is known as an active supporter of community organizations focused on education; Jewish studies; cancer research and support for cancer patients, survivors, and their families; and many other worthy causes, it was his dedicated work on behalf of the Virginia Symphony and the cause of sharing his passion for music with others for which he was honored; and

WHEREAS, a lifelong lover of classical music, Bert' Aaron was instrumental in bringing other fans of classical music together to provide the support necessary to continue the Virginia Symphony's presence in Williamsburg; and

WHEREAS, Bert' Aaron serves as a member of the board of directors of the Virginia Symphony and works with local schools to bring in professional musicians to teach and inspire students; now, therefore, be it

RESOLVED by the House of Delegates, That Bertram Aaron hereby be commended on his selection as the 2018 Citizen of the Year by the *Daily Press*; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bertram Aaron for his service to the Williamsburg community and his passionate and dedicated support for the Virginia Symphony.

#### HOUSE RESOLUTION NO. 402

*Commending Jae Cha.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Jae Cha of Haymarket received a Photography Fellowship from the Virginia Museum of Fine Arts for 2019-2020; and

WHEREAS, the Virginia Museum of Fine Arts Fellowship Program has been a major source of funding for the visual arts and art history in the Commonwealth for 75 years; Jae Cha was one of 28 artists selected for the prestigious fellowship in 2019; and

WHEREAS, Jae Cha is a student at Virginia Commonwealth University who is known for his exceptional creative ability; and

WHEREAS, Jae Cha's selection as a Fellow of the Virginia Museum of Fine Arts will help him further his education and hone his talents as a photographer; now, therefore, be it

RESOLVED by the House of Delegates, That Jae Cha hereby be commended on receiving a Fellowship from the Virginia Museum of Fine Arts for 2019-2020; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jae Cha as an expression of the House of Delegates' admiration for his artistic achievements.

#### HOUSE RESOLUTION NO. 403

*Commending George W. Lamb.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, George W. Lamb of Falls Church will retire from the Northern Virginia Soil and Water Conservation District at the end of his term in 2019; and

WHEREAS, a native of New York, George Lamb relocated to Fairfax County in 1993 and has been an active civic leader and a champion for environmental concerns; and

WHEREAS, George Lamb was a cofounder of the Fairfax League of Conservation Voters and represented the community on the Tysons Corner Land Use Task Force; he also serves as an at-large member of the Fairfax County Environmental Quality Advisory Council; and

WHEREAS, George Lamb joined the Northern Virginia Soil and Water Conservation District Board in 2009; an information technology (IT) professional by trade, he offered his leadership to the IT Committee of the Virginia Association of Soil and Water Conservation Districts; now, therefore, be it

RESOLVED by the House of Delegates, That George W. Lamb hereby be commended on the occasion of his retirement from the Northern Virginia Soil and Water Conservation District; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George W. Lamb as an expression of the House of Delegates' admiration for his service to the residents of Northern Virginia.

#### HOUSE RESOLUTION NO. 404

*Commending the Loudoun Valley High School boys' indoor track team.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Loudoun Valley High School boys' indoor track team won the 2018 4A State Championship in Salem, Virginia; and

WHEREAS, the Loudoun Valley boys' indoor track team, in only their third year of competing in indoor track, won the state championship by 35 points; and

WHEREAS, the Loudoun Valley boys' indoor track team event winners were Sam Affolder in the 1600 meter run, and the 4 x 800 meter relay team of Jacob Hunter, Colton Bogucki, Connor Wells, and Jacob Windle also brought home the gold medal; and

WHEREAS, the Loudoun Valley boys' indoor track team took seven of the top eight spots in the 1600 meter run to secure the victory; and

WHEREAS, the Loudoun Valley boys' indoor track team's victory is a tribute to the hard work and dedication of all its student athletes, the excellent guidance of coaches and staff, and the enthusiastic support of family members, friends, and the entire Loudoun Valley High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun Valley High School boys' indoor track team hereby be commended on winning the 2018 Virginia High School League Class 4A state title; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marc and Joan Hunter, head coaches of the Loudoun Valley High School boys' indoor track team, as an expression of the House of Delegates' admiration for the team's third state championship in four years.

#### HOUSE RESOLUTION NO. 405

*Commending the Loudoun Valley High School boys' outdoor track team.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Loudoun Valley High School boys' outdoor track team won the 2018 4A State Championship in Harrisonburg, Virginia; and

WHEREAS, the Loudoun Valley boys' outdoor track team won the state championship for the second year in a row and third in the past four years; and

WHEREAS, the Loudoun Valley boys' outdoor track team broke the 100 point mark, winning by an astonishing 51 points; and

WHEREAS, the Loudoun Valley boys' outdoor track team event winners were Sam Affolder in the 1600 meter run, Jacob Hunter in the 3200 meter run and the 4 x 800 meter relay team of Sam Affolder, Jacob Hunter, Colton Bogucki, and Jacob Windle also brought home the gold medal; and

WHEREAS, the Loudoun Valley boys' outdoor track team's victory is a tribute to the hard work and dedication of all its student athletes, the excellent guidance of coaches and staff, and the enthusiastic support of family members, friends, and the entire Loudoun Valley High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun Valley High School boys' outdoor track team hereby be commended on winning the 2018 Virginia High School League Class 4A state title; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marc and Joan Hunter, head coaches of the Loudoun Valley High School boys' outdoor track team, as an expression of the House of Delegates' admiration for the team's third state championship in four years.

**HOUSE RESOLUTION NO. 406**

*Commending the Loudoun Valley High School girls' cross country team.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Loudoun Valley High School girls' cross country team won the 2018 4A State Championship held in The Plains, Virginia; and

WHEREAS, the Loudoun Valley girls' cross country team, after finishing in the runner-up position for the years 2014-2017, defeated a nationally ranked Blacksburg, Virginia, team by four points; and

WHEREAS, the Loudoun Valley girls' cross country team was led by team members Elise Abbe, Caroline Bolen, Ricky Fetterolf, Abby Keane, Alice Roberts, Leah Snyder, and Ally Talley; and

WHEREAS, Ricky Fetterolf won her first individual 4A State Cross Country State Championship; and

WHEREAS, the Loudoun Valley girls' cross country team victory is a tribute to the hard work and dedication of all its student athletes, the excellent guidance of coaches and staff, and the enthusiastic support of family members, friends, and the entire Loudoun Valley High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun Valley High School girls' cross country team hereby be commended on winning the 2018 Virginia High School League Class 4A state title; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marc and Joan Hunter, head coaches of the Loudoun Valley High School girls' cross country team, as an expression of the House of Delegates' admiration for the team's first girls' state cross country championship.

**HOUSE RESOLUTION NO. 407**

*Celebrating the life of Kevin Corbett.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Kevin Corbett, a retired Bristol police officer and active community member, died on February 15, 2019; and

WHEREAS, Kevin Corbett was a veteran of the United States Army, serving during the Cold War era as an armored tank crewman and achieving the rank of staff sergeant; and

WHEREAS, Kevin Corbett served the citizens of Bristol as a police officer from 1982 until his retirement in 2006 as a detective lieutenant in the Criminal Investigation Division; and

WHEREAS, Kevin Corbett was an active member of St. Anne Catholic Church and served twice as chairman of the Bristol Virginia Republican Committee; he also served on the City of Bristol's Planning Commission and Transportation Safety Commission and was recently selected to serve on the Electoral Board; and

WHEREAS, Kevin Corbett will be fondly remembered and greatly missed by his children, Allison and Shawn, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Kevin Corbett, a retired Bristol police officer and active community member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Kevin Corbett as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 408**

*Celebrating the life of Louis Alexander Wacker.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Louis Alexander Wacker, Virginia native and hall of fame coach, died on February 15, 2019; and

WHEREAS, Louis Alexander "Lou" Wacker excelled in multiple sports from a young age; a graduate of Highland Springs High School and the University of Richmond, he still holds records at both schools for low hurdles in track and number of passes intercepted in a football game, respectively; and

WHEREAS, after a professional football career with the Detroit Lions and Calgary Stampeders, Lou Wacker returned to the Commonwealth to embark on what would be a storied, 46-year coaching career; and

WHEREAS, early success at Midlothian High School and Colonial Heights High School led Lou Wacker to a position as the defensive coordinator for the football team at Hampden-Sydney College under legendary coach J. Stokeley Fulton; from 1969 to 1979, this team's defense was one of only two Division III programs to limit opponents to a single digit average; and

WHEREAS, in 1982, Lou Wacker became head football coach at Emory & Henry College, where he would remain for the rest of his career, tallying 164 victories, 11 Old Dominion Athletic Conference (ODAC) championships, and five NCAA Division III playoff appearances; he was named ODAC Coach of the Year five times and coached 136 All-ODAC first team players; all of these accomplishments were ODAC records at the time of his retirement in 2004; and

WHEREAS, for his remarkable achievements as a coach and dedication to more than 2,000 student-athletes, Lou Wacker was inducted into the Highland Springs Hall of Fame (HOF), the University of Richmond HOF, the Hampden-Sydney HOF, the Emory & Henry HOF, and the Virginia Sports HOF; and

WHEREAS, predeceased by his wife, Mary, Lou Wacker will be dearly remembered and greatly missed by his children, Bruce, Kristen, and Louis, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Louis Alexander Wacker, son of Virginia and hall of fame coach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Louis Alexander Wacker as an expression of the House of Delegates' respect for his memory.

#### **HOUSE RESOLUTION NO. 409**

*Celebrating the life of Shirley Cox Warren Hale.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Shirley Cox Warren Hale, a beloved member of the Lynchburg community, died on January 28, 2019; and  
WHEREAS, Shirley Warren Hale's greatest joy in life was her family, and she relished every opportunity to spend time with them and share in their accomplishments; and

WHEREAS, Shirley Warren Hale brought joy to others through her love of music and she loved learning about the world as both a tech-savvy Internet user and an avid reader; and

WHEREAS, a devout Christian, Shirley Warren Hale enjoyed fellowship and worship with the congregations of Timberlake Christian Church and Thomas Road Baptist Church, where she was active in the senior ministry; and

WHEREAS, predeceased by her first husband, Chuck, and her second husband, Ronnie, Shirley Warren Hale will be fondly remembered and greatly missed by her daughters, Julie and Janet, and their families; Ronnie's children, Billy, Valerie, and Jay, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Shirley Cox Warren Hale; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Shirley Cox Warren Hale as an expression of the House of Delegates' respect for her memory.

#### **HOUSE RESOLUTION NO. 410**

*Celebrating the life of Dennis Wayne Nash.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Dennis Wayne Nash, a business owner and volunteer firefighter in Gladys, who was a selfless community member and a loving husband and father, died on January 12, 2019; and

WHEREAS, a native of Lynchburg, Dennis Nash worked as the president of Nash Forest Products; and

WHEREAS, Dennis Nash was best known as someone who spent his life safeguarding the community as a member of the Gladys Volunteer Fire Department for 45 years; and

WHEREAS, in 1979, Dennis Nash was recognized by former United States President Ronald Reagan and the Campbell County Board of Supervisors for heroically saving a tractor-trailer driver's life after the vehicle had caught fire; and

WHEREAS, Dennis Nash will be fondly remembered and greatly missed by his wife, Carrie; his son, Justin, and his family; his stepdaughters, Haleigh and Courtney, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Dennis Wayne Nash, a business owner and volunteer firefighter in Gladys; a selfless community member; and a loving husband and father; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Dennis Wayne Nash as an expression of the House of Delegates' respect for his memory.

#### **HOUSE RESOLUTION NO. 411**

*Celebrating the life of Mark Lee Fischer.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Mark Lee Fischer, who was born on June 14, 1964, in Corpus Christi, Texas, and grew up in Henrico County, died on February 17, 2019, at the age of 54; and

WHEREAS, Mark Lee Fischer graduated from Mills E. Godwin High School in 1983, then graduated from Concord University in Athens, West Virginia, where he played football; and

WHEREAS, Mark Lee Fischer served as the head football coach at Louisa County High School from 2003 to 2010 and again from 2014 to 2017, as well as head coach at St. James High School in Myrtle Beach, South Carolina, from 2011 to 2014; and

WHEREAS, in 12 seasons with Louisa County High School, Mark Lee Fischer won 96 games and became the program's winningest coach; and

WHEREAS, Mark Lee Fischer was named Jefferson District Coach of the Year six times (2004, 2005, 2006, 2009, 2010, and 2017) by his peers, named the 2006 Associated Press Virginia Coach of the Year, completed three undefeated regular seasons, won five Jefferson District championships, and led his Louisa Lions to the state title games in 2006 and 2017; and

WHEREAS, in 2017, the Louisa County School Board voted unanimously to name the playing surface at The Jungle football stadium at Louisa County High School "The Mark L. Fischer Field"; and

WHEREAS, Mark Lee Fischer spent more than 20 years as an educator for Richmond Public Schools and Louisa County Public Schools in Virginia and Horry County Public Schools in South Carolina; and

WHEREAS, Mark Lee Fischer courageously battled multiple myeloma for seven years, during which time he inspired thousands of people worldwide with his will to live and developed a mantra of "Run Through It," a phrase which became a rallying cry for his many supporters; and

WHEREAS, throughout his career, Mark Lee Fischer was known for his passion for football, his commitment to excellence in all his pursuits, his strength in the face of adversity, and his love for his players and students; and

WHEREAS, Mark Lee Fischer will be fondly remembered and greatly missed by his beloved and ever-faithful wife, Pam Hope Fischer; his children, Mackenzie and Troy; his parents, Fred and Virginia Fischer of Louisa; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Mark Lee Fischer, a respected and loved football coach, mentor, and father; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mark Lee Fischer as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 412

*Celebrating the life of Donald E. Boyd.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Donald E. Boyd, a respected member of the Clifton community, died on January 1, 2019; and

WHEREAS, a native of Michigan, Donald Boyd joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army; and

WHEREAS, in his professional career, Donald Boyd designed, built, and maintained trash systems in high-rise buildings in the Washington, D.C., area; and

WHEREAS, Donald Boyd was a founding member of Vienna Baptist Church, where he held leadership positions and enjoyed participating in church productions; and

WHEREAS, Donald Boyd gave generously of his time and talents to support the community and used his knowledge of construction as a volunteer for Habitat for Humanity; and

WHEREAS, Donald Boyd will be fondly remembered and greatly missed by his wife of 72 years, Betty; his daughters, Donna and Robin, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Donald E. Boyd; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Donald E. Boyd as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 413

*Celebrating the life of Theresa Herlihy Meade.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Theresa Herlihy Meade, longtime resident of the Commonwealth and valued member of the community, died on January 19, 2019; and

WHEREAS, Theresa Herlihy Meade was born in the Bronx and grew up in College Point, New York; she graduated from Hunter College and, after marrying Patrick Joseph Meade, Jr., in 1962, settled in Arlington; and

WHEREAS, after five years living in Spain from 1966 to 1971, Theresa Meade returned to Virginia, living in Annandale and ultimately Fairfax Station, where she realized her childhood dream of owning and caring for horses and a menagerie of other pets; and

WHEREAS, Theresa Meade was a board member, trustee, life member, and volunteer of numerous organizations in Northern Virginia, including the Northern Virginia Therapeutic Riding Program, the Girl Scouts of America, the Fairfax

Station Railroad Museum, the Clifton Community Woman's Club, the Dominion Valley Garden Club, the Fairfax County 4-H Program, the 4-H Extension Homemakers, and the Women's Auxiliary for the Centreville Volunteer Fire Department; and

WHEREAS, Theresa Meade served with the George Mason University Center for the Arts, the Wolf Trap National Park for the Performing Arts, the Reston Community Center, the Bull Run Civil War Roundtable, the Udvar-Hazy Center of the National Air and Space Museum, the Fairfax County Board of Elections, the Glenverdant Homeowners' Association, Holy Spirit Catholic Church, Saint Mary's Catholic Church, Saint Leo the Great Catholic Church, and Saint Clare of Assisi Catholic Church; and

WHEREAS, predeceased by her husband, Patrick, Theresa Meade will be dearly remembered and greatly missed by her children, Paul, Regina, Christopher, and John, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Theresa Herlihy Meade, tireless supporter of the Northern Virginia community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Theresa Herlihy Meade as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 414

*Commending the Mary Baldwin University Alumni Association.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, during 2019, Mary Baldwin University in Staunton is celebrating 125 years of its Alumni Association, an organization that includes former students and graduates as members; and

WHEREAS, founded in 1894, the Mary Baldwin University Alumni Association serves to enhance alumni's relationships with one another and with their alma mater, reaching across the years and to locations around the world; and

WHEREAS, alumni serve as ambassadors for Mary Baldwin University in their communities and help support the university's mission, especially those who serve on the Board of Trustees, which is now made up of 66 percent alumni members; and

WHEREAS, through the dedicated support of alumni, Mary Baldwin University has generated significant momentum over the past 12 months, welcoming the largest class of first-year students in its history and receiving legacy gifts of \$26 million; and

WHEREAS, Mary Baldwin alumni positively impact others in their professional and civic roles throughout the Commonwealth and the nation, showing students how they in turn can become the ethical, independent thinkers and leaders of tomorrow; and

WHEREAS, during this anniversary, the university recognizes its approximately 16,000 living alumni, and all of the ways in which they bring their Mary Baldwin University education to life as global citizens who achieve professional success and create change for the betterment of their communities; now, therefore, be it

RESOLVED by the House of Delegates, That the Mary Baldwin University Alumni Association hereby be commended on the occasion of its 125th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Mary Baldwin University Alumni Association as an expression of the House of Delegates' admiration for its service to the university and the Staunton community.

### HOUSE RESOLUTION NO. 415

*Commending John N. Paden.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Dr. John N. Paden, Robinson Professor Emeritus of International Studies, with a special focus on Asia and Africa, has taught at George Mason University for over 30 years; and

WHEREAS, Dr. Paden has received his B.A. in philosophy from Occidental College; and

WHEREAS, Dr. Paden has received his M.A. in philosophy, politics and economics from Oxford University as a Rhodes Scholar; and

WHEREAS, Dr. Paden has received his Ph.D. in politics from Harvard University; and

WHEREAS, Dr. Paden has received an Honorary Doctorate from Occidental College (2009) and from Usmanu Danfodiyo University, Sokoto, Nigeria (2012); and

WHEREAS, Dr. Paden has served as Director of African Studies at Northwestern University, Professor of Public Administration at Ahmadu Bello University (Zaria, Nigeria), and Dean, Faculty of Social and Management Sciences, at Bayero University (Kano, Nigeria); and

WHEREAS, Dr. Paden's publications include: *Religion and Political Culture in Kano* (winner of the Herskovits Prize); *The African Experience* (four volumes); *Black Africa: A Comparative Handbook*; *Understanding Black Africa: Data and Analysis of Social Change and Nation Building*; *Values, Identities, and National Integration: Empirical Research in Africa*;

and *Ahmadu Bello, Sardauna of Sokoto: Values and Leadership in Nigeria*; his book *Muslim Civic Cultures and Conflict Resolution: The Challenge of Democratic Federalism in Nigeria* was published by the Brookings Institution in 2005; his book with the Institute of Peace is entitled: *Faith and Politics in Nigeria: Nigeria as a Pivotal State in the Muslim World* (2008); his book *Postelection Conflict Management in Nigeria: The Challenge of National Unity* (2012) was published by the George Mason University School of Conflict Analysis and Resolution; his latest book, *Muhammadu Buhari: The Challenge of Leadership in Nigeria* (2016) was published by Roaring Forties Press in Berkeley, California; and

WHEREAS, Dr. Paden has traveled widely in Europe, Africa, the Middle East, and Asia; he was part of a 15-year project to help establish African studies in China; during 2002 to 2006, he served on a senior-level task force at The Brookings Institution on "United States Policy toward the Islamic world"; and

WHEREAS, Dr. Paden is a cofounder of the George Mason University graduate program in International Commerce and Policy, and is cofounder/co-director of the Center for Asia-Pacific Economic Cooperation; he has served as director of the summer graduate program in China, focusing on socio-economic changes and cross-cultural trade strategies, and participated in the summer trade programs in Oxford and Geneva. He serves on doctoral committees in Economics, Public Policy, and Conflict Analysis and Resolution; and

WHEREAS, Dr. Paden has developed and taught broad-gauged courses, including freshman seminars ("The nature of the non-western world" and "The idea of the nation state"), sophomore honors seminars ("Cross-cultural perspectives: understanding the giants of Asia and Africa"), and upper-division courses ("Religion and Post-modernism," "Political Culture and Leadership," "Cultural Dimensions of Globalization," and "The Globalization Debates"); he has helped develop undergraduate minors in Asia Pacific Studies, Islamic Studies, and Afro-American and African Studies; and he has served on the undergraduate General Education committee, with a focus on the requirement in global understanding; and

WHEREAS, in terms of outreach and community service, Dr. Paden has served as an international monitor with the United States Delegation during the Nigerian presidential elections in 1999 (Kaduna), 2003 (Kano), and 2007 (Katsina); he was part of a team which helped plan the new Nigerian federal capital at Abuja; he has served on review panels at the United States Institute of Peace and participated in the Nigeria Working Group, Council on Foreign Relations, and the Nigerian Working Group, Center for Strategic and International Studies; and

WHEREAS, Dr. Paden has donated his personal library to George Mason University, and the Provost and the Dean of Libraries have named a portion of Fenwick Library "The John N. Paden Nigeria & Africa Library"; and

WHEREAS, Dr. Paden has retired but stays in the forefront of undergraduate and graduate education; now, therefore, be it RESOLVED by the House of Delegates, That Dr. John N. Paden, Professor Emeritus, hereby be commended for his service to George Mason University and the Commonwealth of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. John N. Paden as an expression of the House of Delegates' respect and admiration for his service, leadership, and success.

### HOUSE RESOLUTION NO. 416

*Commending Black women in the General Assembly.*

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the first meeting of the body that came to be known as the Virginia General Assembly took place in 1619, and 2019 marks the 400th anniversary of the first meeting of the Virginia legislature; and

WHEREAS, 2019 is also the 35th anniversary of Black women serving in the Virginia General Assembly, beginning with the Honorable Yvonne Bond Miller; and

WHEREAS, Yvonne Miller was born on July 4, 1934, in Edenton, North Carolina, the eldest child of 13 born to John and Percy Bond; and

WHEREAS, Yvonne Miller was raised in Norfolk after her family moved to the city and attended local segregated public schools; and

WHEREAS, Yvonne Miller continued her education at the historically Black college Norfolk Division of Virginia State College (now known as Norfolk State University) for two years, then attended the historically Black college Virginia State College (now known as Virginia State University), graduating with her bachelor's degree in 1956; and

WHEREAS, Yvonne Miller began her career as a teacher in the segregated Norfolk Public Schools; witnessing the effects of Massive Resistance sparked her interest in the Civil Rights Movement and equal treatment; and

WHEREAS, Yvonne Miller earned a master's degree at Teachers College, Columbia University in 1962 and a doctorate in education from the University of Pittsburgh in 1973; she subsequently joined the education faculty at Norfolk State, becoming a professor and head of the Department of Early Childhood/Elementary Education; and

WHEREAS, desirous to be of further service to the community and the Commonwealth, Yvonne Miller ran for and was elected to the Virginia House of Delegates in 1983 and became the first Black woman to serve in the Virginia House of Delegates when she began her first term in 1984; and

WHEREAS, in 1988, Yvonne Miller began serving in the Senate of Virginia, becoming the first Black woman to serve in the Senate; and

WHEREAS, during her tenure, Yvonne Miller was a steadfast champion for civil rights and education, fighting against the radiating effects of poverty; she stood up for voting rights, opposing the Voter ID law in 2012, which she compared to Jim Crow-era efforts to suppress minority votes; and

WHEREAS, in 1996, Yvonne Miller became the first woman to chair a Senate committee when she became chair of the Transportation Committee; and

WHEREAS, as of 2012, Yvonne Miller was the longest-serving woman in the General Assembly, having served 28 years, and was ranked fourth in overall seniority; and

WHEREAS, Yvonne Miller died while in office on July 3, 2012; and

WHEREAS, Yvonne Miller set an example for those to come after her; since her trailblazing service began, 17 other Black women have served in both the Virginia House of Delegates and the Senate of Virginia; and

WHEREAS, in the past 35 years, with their presence and diligent work, those 18 women were and continue to be voices for those whose voices have been diminished by systemic forces; they fight for equity and fairness, and constantly call out injustice and work to find solutions to issues their communities face; now, therefore, be it

RESOLVED by the House of Delegates, That Black women in the General Assembly hereby be commended on the occasion of the 35th anniversary of the first Black female legislator to serve in the General Assembly; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Yvonne Bond Miller and the Virginia Legislative Black Caucus as an expression of the House of Delegates' admiration for the distinguished service of Black women in the Virginia General Assembly.

### HOUSE RESOLUTION NO. 417

*Commending the Northern Virginia Community College Educational Foundation.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 40 years, the Northern Virginia Community College Educational Foundation has supported the students, faculty, and staff of Northern Virginia Community College; and

WHEREAS, the Northern Virginia Community College (NVCC) Educational Foundation plays a vital role in upholding the mission and values of NVCC, which is the largest public institution of higher education in the Commonwealth and the second-largest multi-campus community college in the United States; and

WHEREAS, the NVCC Educational Foundation has awarded more than \$500,000 in scholarships each year to ensure that students are able to achieve their academic goals; and

WHEREAS, each year, the NVCC Educational Foundation awards \$100,000 in grants to faculty and staff to encourage professional development and the use of cutting-edge technology in the classroom; and

WHEREAS, the NVCC Educational Foundation supports campus projects designated by each campus provost, including efforts to help students in need and fund teaching grants for faculty and staff; and

WHEREAS, the NVCC Educational Foundation has achieved its mission through the generosity of countless donors and the leadership of its board of directors, which comprises distinguished representatives from the public and private sectors; now, therefore, be it

RESOLVED by the House of Delegates, That the Northern Virginia Community College Educational Foundation hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Northern Virginia Community College Educational Foundation as an expression of the House of Delegates' admiration for its commitment to supporting higher education and strengthening the Northern Virginia community.

### HOUSE RESOLUTION NO. 418

*Commending Britepaths.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, in 2019, Britepaths celebrates its 35th anniversary of serving working families in the Fairfax County area; and

WHEREAS, founded in 1984 as Our Daily Bread, Britepaths aims to stabilize, build resilience within, and offer seasonal supports to the Fairfax County area with short-term safety-net services that empower neighbors in need to work toward long-term self-sufficiency; and

WHEREAS, Britepaths is a dedicated leader in developing sustainable solutions, meeting the challenges experienced by low-income working families through emergency assistance, financial literacy programs, and one-on-one mentoring; and

WHEREAS, Britepaths began in 1984 as a temporary homeless shelter that rotated among several congregations in the region; when Fairfax County opened a shelter in Reston, efforts shifted to feeding the homeless and opening a soup kitchen, Our Daily Bread, staffed by volunteers; and

WHEREAS, with a present-day focus on working families who are not homeless but in danger of "falling through the cracks," Britepaths has continued to refine and expand its program offerings to respond to this urgent need by providing

stability services, emergency and short-term food assistance, and financial assistance grants; the BRIDGE Program brings together all of these services plus career and educational guidance; and

WHEREAS, in 2017, Britepaths entered a partnership with the United Way of the National Capital Area and Fairfax County to administer the Financial Empowerment Center at South County; now, therefore, be it

RESOLVED by the House of Delegates, That Britepaths hereby be commended on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Britepaths as an expression of the House of Delegates' admiration for the social service organization's legacy of impactful work uplifting Fairfax County residents.

### HOUSE RESOLUTION NO. 419

*Commending the Northern Virginia Conservation Trust.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 25 years, the Northern Virginia Conservation Trust has been dedicated to its mission of "Saving Nearby Nature" by conserving land and waters with natural, historical, and cultural value to the community; and

WHEREAS, the Northern Virginia Conservation Trust serves urban, suburban, and rural communities in the Counties of Arlington, Caroline, Fairfax, Fauquier, King George, Loudoun, Prince William, Spotsylvania, and Stafford and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park; and

WHEREAS, the Northern Virginia Conservation Trust stewards and monitors land with conservation, historical, and cultural values on parcels of all sizes, from small lots in heavily developed urban areas to largely undisturbed land, forests, grasslands, other habitats, and working farms in rural areas; and

WHEREAS, the Northern Virginia Conservation Trust holds 99 conservation easements, owns 21 parcels, and has conserved nearly 6,500 acres of private and public land, including a 70-acre great blue heron rookery in Stafford County, protecting one of the largest nesting sites in the Chesapeake area; and

WHEREAS, the Northern Virginia Conservation Trust has conserved 12 conservation properties designated as Virginia Treasures by the Governor in 2016 and protected the Alexandria at the Ready Civil War site, Lily's Beloved Farm in Fairfax County, Oak Hill in western Fairfax County, the Crow's Nest in Stafford County, and the Murray-Dick-Fawcett House in Old Town Alexandria; and

WHEREAS, the Northern Virginia Conservation Trust offers technical assistance to help local governments achieve comprehensive local plans in a way that preserves and enhances natural resources; and

WHEREAS, the Northern Virginia Conservation Trust builds engagement with the community through opportunities for volunteering, special programs and workshops, training courses, and outreach events; and

WHEREAS, many areas of Northern Virginia face increasing development pressures which leave few opportunities to save natural resources on which all Virginians depend; the Northern Virginia Conservation Trust is one of the few organizations with the goal, ability, and foresight to save diminishing lands and waters; and

WHEREAS, the Northern Virginia Conservation Trust was the first land trust in Virginia to be accredited by the Land Trust Accreditation Commission and is the leading nonprofit land and water conservation trust organization in Northern Virginia; and

WHEREAS, over the years, the Northern Virginia Conservation Trust has fulfilled its mission through the hard work of the Board of Directors, staff members, and volunteers and the able leadership of its officers and board members; now, therefore, be it

RESOLVED by the House of Delegates, That the Northern Virginia Conservation Trust hereby be commended on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Northern Virginia Conservation Trust as an expression of the House of Delegates' admiration for the organization's work to sustain the thriving natural spaces in communities throughout Northern Virginia.

### HOUSE RESOLUTION NO. 420

*Commending Brigadier General Sandra Louise Alvey, USAR.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Brigadier General Sandra Louise Alvey, USAR, a distinguished military officer and an accomplished medical entomologist, will retire from the United States Army Reserve in May 2019, after 32 years of outstanding service to the Commonwealth and the nation; and

WHEREAS, Sandra Alvey began her career in the military as a Reserve Officer Training Corps scholarship recipient at Western Maryland College, where she graduated with a bachelor's degree in 1987; she subsequently earned a master's degree in medical entomology from Georgia Southern University in 1989; and

WHEREAS, Sandra Alvey was commissioned as a second lieutenant in the United States Army Ordnance Corps and served on active duty for 10 years before joining the United States Army Reserve; and

WHEREAS, Sandra Alvey's duty stations have included deputy commanding general of the 807th Medical Command, a command of approximately 11,000 reserve soldiers; commander of the 196th Medical Support Unit in Germany; deputy commander and director of technical services for USACHPPM-Pacific in Japan; the 133rd Preventive Medicine Unit in Germany; the 20th CBRNE Command at Aberdeen Proving Ground, Maryland; and Joint Task Force-Bravo in Honduras; and

WHEREAS, Sandra Alvey spent much of her civilian career at the United States Army Environmental Command as the senior pest management consultant; she also served as chair of the Department of Defense Armed Forces Pest Management Board and is currently an analyst for the Defense Intelligence Agency at Rivanna Station in Charlottesville; and

WHEREAS, Sandra Alvey has participated in numerous United States Army Reserve recruitment and yellow ribbon events, and she supports historical military reenactment events to promote public awareness of Virginia history; and

WHEREAS, Sandra Alvey has received the Order of Military Medical Merit, Legion of Merit, Defense Meritorious Service Medal, Meritorious Service Medal, Army Commendation Medal, Joint Service Achievement Medal, Army Achievement Medal, and Army Reserve Components Achievement Medal, among many other awards and decorations; now, therefore, be it

RESOLVED by the House of Delegates, That Brigadier General Sandra Louise Alvey, USAR, hereby be commended on the occasion of her retirement from military service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brigadier General Sandra Louise Alvey, USAR, as an expression of the House of Delegates' admiration for her contributions to the Commonwealth and the nation during her military and civilian careers.

### HOUSE RESOLUTION NO. 421

*Commending Forest Webb.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Forest Webb, swimmer for the Carroll County High School swim team, won the Virginia High School League Class 4 state championship title for the 100-yard backstroke event at SwimRVA aquatic center on February 15, 2019; and

WHEREAS, Forest Webb swam the event in a lightning-fast 49.41 seconds, finishing a half second ahead of the event's runner-up and earning All-American honors; and

WHEREAS, Forest Webb improved upon his runner-up finish last year to bring home the state championship title; he also placed third and earned All-American honors in the boys' 200-yard freestyle event and joined his teammates in the 200-yard medley relay and 200-yard freestyle relay, placing 13th and 21st in those events, respectively; and

WHEREAS, Forest Webb will continue to make the Commonwealth proud when he takes his talents to Virginia Polytechnic Institute and State University this fall; and

WHEREAS, Forest Webb's success is the result of his hard work, the guidance of his coaches and teachers, and the support of the entire Carroll County High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Forest Webb, swimmer for the Carroll County High School swim team, hereby be commended for winning the Virginia High School League Class 4 state championship title in the 100-yard backstroke event; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Forest Webb as an expression of the House of Delegates' admiration for his extraordinary achievement.

### HOUSE RESOLUTION NO. 422

*Commending Cameron Wooldridge.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Cameron Wooldridge, wrestler for the Fort Chiswell High School wrestling team, won the Virginia High School League Class 2 state championship in the 126-pound weight class at the Salem Civic Center on February 16, 2019; and

WHEREAS, Cameron Wooldridge defeated Dawson Allen of Grayson County High School with a major decision of 15-4, earning his first state championship title; and

WHEREAS, along with teammate Jacob Turpin, Cameron Wooldridge brought home one of his school's first two individual championship titles; and

WHEREAS, with the championship victory, Cameron Wooldridge was redeemed after his runner-up finish in the 2018 Virginia High School League state championship tournament; and

WHEREAS, although wrestling through a shoulder injury, Cameron Wooldridge was nonetheless able to mount a dominant performance to capture the state championship title; and

WHEREAS, Cameron Wooldridge's success is the result of the student-athlete's hard work, the guidance of his coaches and teachers, and the support of the entire Fort Chiswell High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Cameron Wooldridge, wrestler for the Fort Chiswell High School wrestling team, hereby be commended for winning the Virginia High School League Class 2 state championship in the 126-pound weight class; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cameron Wooldridge as an expression of the House of Delegates' admiration for his extraordinary achievement.

#### HOUSE RESOLUTION NO. 423

*Commending Ethan Martin.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Ethan Martin, wrestler for the Rural Retreat High School wrestling team, won the Virginia High School League Class 1 state championship in the 182-pound weight class at the Salem Civic Center on February 16, 2019; and

WHEREAS, Ethan Martin pinned Ritchie Smith of Grundy High School at 2:28, earning his fourth consecutive state championship title and finishing the season undefeated; and

WHEREAS, Ethan Martin's victory helped Rural Retreat to a second place finish in the state tournament; and

WHEREAS, along with Joshua Spurlin from Galax High School, Ethan Martin was one of only two wrestlers to notch four consecutive state championship titles in this year's tournament; and

WHEREAS, Ethan Martin's success is the result of his hard work, the guidance of his coaches and teachers, and the support of the entire Rural Retreat High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Ethan Martin, wrestler for the Rural Retreat High School wrestling team, hereby be commended for winning the Virginia High School League Class 1 state championship in the 182-pound weight class; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ethan Martin as an expression of the House of Delegates' admiration for his extraordinary achievement.

#### HOUSE RESOLUTION NO. 424

*Commending Jacob Turpin.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Jacob Turpin, wrestler for the Fort Chiswell High School wrestling team, won the Virginia High School League Class 2 state championship in the 160-pound weight class at the Salem Civic Center on February 16, 2019; and

WHEREAS, Jacob Turpin defeated Brady Fincham of East Rockingham High School with a 3-1 decision, earning his first state championship title; and

WHEREAS, along with teammate Cameron Wooldridge, Jacob Turpin brought home one of his school's first two individual championship titles; and

WHEREAS, with the championship victory, Jacob Turpin finished his senior season with a record of 41-4; and

WHEREAS, although he came up bloodied in the final moments of the match, Jacob Turpin's grit and determination helped him finish victoriously; and

WHEREAS, Jacob Turpin's success is the result of the student-athlete's hard work, the guidance of his coaches and teachers, and the support of the entire Fort Chiswell High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Jacob Turpin, wrestler for the Fort Chiswell High School wrestling team, hereby be commended for winning the Virginia High School League Class 2 state championship in the 160-pound weight class; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jacob Turpin as an expression of the House of Delegates' admiration for his extraordinary achievement.

#### HOUSE RESOLUTION NO. 425

*Commending Will Moss.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Will Moss, wrestler for the Marion High School wrestling team, won the Virginia High School League Class 2 state championship in the 285-pound weight class at the Salem Civic Center on February 16, 2019; and

WHEREAS, after trailing 1-0 in the match, Will Moss pinned Levi Walker of James River High School at 4:46 for the win; and

WHEREAS, Will Moss's measured approach to a match is a key to his success; and

WHEREAS, Will Moss achieved his victory through hard work and determination, the guidance of his coaches and teachers, and the support of the entire Marion High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Will Moss, wrestler for the Marion High School wrestling team, hereby be commended for winning the Virginia High School League Class 2 state championship in the 285-pound weight class; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Will Moss as an expression of the House of Delegates' admiration for his extraordinary achievement.

### HOUSE RESOLUTION NO. 426

*Commending the Southeast Rural Community Assistance Project.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 50 years, the Southeast Rural Community Assistance Project, a nonprofit organization based in Roanoke, has worked to ensure that clean, safe drinking water is accessible in rural communities and has provided training and infrastructure to help those communities maintain self-sufficiency; and

WHEREAS, the Southeast Rural Community Assistance Project (SERCAP) is part of the national Rural Community Assistance Partnership and serves small towns and communities in Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia; and

WHEREAS, SERCAP upgrades water and wastewater facilities and provides technical training for the maintenance and operation of those systems to community leaders; most SERCAP programs are led by volunteers, and the organization collaborates with local, regional, state, and national partners to better serve residents of rural areas; and

WHEREAS, SERCAP's Essential Needs and Loans program has helped residents replace wells that are no longer functioning, and its Housing Authority program has made home modifications, such as accessibility ramps, that have helped individuals keep their homeowners insurance; and

WHEREAS, SERCAP has helped numerous communities throughout the Commonwealth and the region become stronger, healthier, and more self-sufficient; now, therefore, be it

RESOLVED by the House of Delegates, That the Southeast Rural Community Assistance Project hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Southeast Rural Community Assistance Project as an expression of the House of Delegates' admiration for the organization's important work to enhance the quality of life in rural areas.

### HOUSE RESOLUTION NO. 427

*Commending Lieutenant Karl P. Martin.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Lieutenant Karl P. Martin has been nominated for the National Fish and Wildlife Foundation's 2019 Guy Bradley Award; and

WHEREAS, the Guy Bradley Award recognizes the lifetime achievements of individuals for their commitment and performance in the field of wildlife law enforcement and is awarded to one state and one federal law-enforcement officer who demonstrate outstanding leadership, dedication, implementation, knowledge, and action in protecting the nation's natural resources and advancing the cause of wildlife conservation; and

WHEREAS, Karl Martin began his career with the Virginia Department of Game and Inland Fisheries in 1972, and rapidly rose to the rank of lieutenant and District 21 supervisor as a result of his hard work, dedication, integrity, and devotion to the mission of protecting the Commonwealth's natural resources; and

WHEREAS, over the course of his 47 years of service to the Commonwealth, Karl Martin has worked tirelessly to improve the ability of conservation police officers to enforce the laws and protect natural resources and the residents of Franklin County; and

WHEREAS, Karl Martin mentored and supervised many younger officers throughout his career and helped support legislation to give full law-enforcement authority to his fellow conservation police officers; and

WHEREAS, Karl Martin has received numerous other awards and accolades, including the prestigious Virginia Governor's Career Achievement Award in 2011; now, therefore, be it

RESOLVED by the House of Delegates, That Lieutenant Karl P. Martin hereby be commended on the occasion of his nomination for the National Fish and Wildlife Foundation's 2019 Guy Bradley Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lieutenant Karl P. Martin as an expression of the House of Delegates' admiration for his dedication to protecting the natural resources of the Commonwealth.

**HOUSE RESOLUTION NO. 428**

*Commending Jayson Richard Gowan Werth.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Jayson Richard Gowan Werth, an illustrious former member of the Washington Nationals baseball team and a leader in the McLean community, who has made many contributions to charitable causes and youth athletics, retired as a professional baseball player in 2018; and

WHEREAS, a native of Springfield, Illinois, Jayson Werth was a football and baseball player at Illinois State University and was selected by the Baltimore Orioles in the first round of the 1997 Major League Baseball (MLB) Draft; and

WHEREAS, Jayson Werth made his MLB debut for the Toronto Blue Jays in 2002 and subsequently played for the Los Angeles Dodgers and the Philadelphia Phillies; in 2010, he signed a seven-year contract with the Washington Nationals and played a pivotal role in the team's ascendancy as a powerhouse in the National League East; and

WHEREAS, known at the time for his trademark long hair and shaggy beard, Jayson Werth's appearance belied a commitment to professionalism both on and off the field; he supported his teammates by changing the culture of the organization, making recommendations on everything from the food in the club house to the quality of training equipment; and

WHEREAS, Jayson Werth motivated his teammates to achieve their fullest potential and worked with the organization to expand medical and auxiliary staff, such as practice pitchers and bullpen catchers; his efforts paid off, with the Washington Nationals winning four division titles during his tenure; and

WHEREAS, Jayson Werth played his final game for the Washington Nationals on October 1, 2017; after his retirement, his name was promptly added to the team's Ring of Honor at Nationals Park in September 2018; and

WHEREAS, Jayson Werth is an active member of the McLean community and has made appearances in support of local men's baseball leagues and youth leagues, as well as promoting important charitable causes; and

WHEREAS, Jayson Werth intends to spend more time with his beloved family and seek new opportunities to serve the community, especially as an athletics coach for his children and other local young people; now, therefore, be it

RESOLVED by the House of Delegates, That Jayson Richard Gowan Werth hereby be commended on the occasion of his retirement as a professional baseball player in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jayson Richard Gowan Werth as an expression of the House of Delegates' admiration for his exceptional contributions to the Washington Nationals and the McLean community.

**HOUSE RESOLUTION NO. 429**

*Commending the Reverend Michelle Thomas.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, in 2018, the Reverend Michelle Thomas was elected as president of the Loudoun County Branch of the NAACP; and

WHEREAS, Michelle Thomas is an Atlanta, Georgia, native and daughter of Jamaican immigrants; she grew up with the children of civil rights leaders like the Reverend Dr. Martin Luther King, Jr.; and

WHEREAS, as a high school student, Michelle Thomas led student demonstrations during the 1987 civil rights march in Forsyth County, Georgia; working alongside the likes of Coretta Scott King, the Reverend Jesse Jackson, Andrew Young, Dick Gregory, and the Reverend Ralph David Abernathy, she helped mobilize hundreds of high school students across Georgia; and

WHEREAS, Michelle Thomas' role with the NAACP is one of organizing the community and working with elected officials to put policy in place to counter hatred and prejudice and promote unity; and

WHEREAS, Michelle Thomas serves as the pastor at Holy and Whole Life Changing Ministries; she was the first African American woman to be appointed to the Loudoun County Heritage Commission; and

WHEREAS, Michelle Thomas established the Loudoun Freedom Center, which recognizes, preserves, protects, and restores historic African American cemeteries in the area; through her work, the African American Burial Ground for the Enslaved at Belmont was rediscovered and is now protected by the Loudoun Freedom Center; now, therefore, be it

RESOLVED by the House of Delegates, That the Reverend Michelle Thomas hereby be commended on her election as president of the Loudoun County Branch of the NAACP; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Michelle Thomas as an expression of the House of Delegates' admiration for her dedication to mobilizing the community against prejudice by focusing on community unity and love.

**HOUSE RESOLUTION NO. 430**

*Commending Jana Monaco.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Jana Monaco has served as the Rare Action Network State Ambassador for Virginia with the National Organization of Rare Disorders since 2016; and

WHEREAS, in 2000, Jana Monaco suffered an unimaginable tragedy when her three-year-old son, Stephen, went into a critical state overnight and slipped into a coma while hospitalized; the cause was determined to be isovaleric acidemia, a rare genetic condition that prohibits the body from breaking down the amino acid leucine, a byproduct of protein; and

WHEREAS, Stephen emerged from the coma, but his life would never be the same; at the hospital, Jana Monaco vowed that her son's plight would not be in vain; and

WHEREAS, Jana Monaco became an advocate for newborn screenings that would detect rare disorders and prevent conditions like Stephen's; she spoke before numerous organizations including the Virginia Genetics Advisory Committee, the Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children, and the Northern Virginia Pediatric Society; and

WHEREAS, for over 14 years, Jana Monaco has served as co-chair of the Children's National Hospital Center's Patient and Family Advisory Council; she has also been a panel member for the National Genetic Policy Summit and served on the Health Resources and Services Administration Advisory Committee for Heritable Disorders and Genetic Diseases; and

WHEREAS, these efforts helped the passage of the Newborn Screening Saves Lives Act in 2008 and a reauthorization bill in 2015; in 1997, Virginia newborns were only screened for nine genetic disorders; by 2016, every state in the country screened newborns for at least 29 genetic disorders; and

WHEREAS, as the Rare Action Network State Ambassador for Virginia with the National Organization of Rare Disorders, Jana Monaco is responsible for establishing a strong grassroots network of rare disease advocates within the state to increase awareness of rare diseases and the challenges parents and their families face; and

WHEREAS, Jana Monaco's efforts have saved thousands of lives and prevented untold, needless suffering; now, therefore, be it

RESOLVED by the House of Delegates, That Jana Monaco hereby be commended for her service as the Rare Action Network State Ambassador for Virginia with the National Organization of Rare Disorders; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jana Monaco as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

**HOUSE RESOLUTION NO. 431**

*Commending 100WomenStrong.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for more than 10 years, 100WomenStrong has harnessed the generosity of community members to improve the quality of life for the people of Loudoun County; and

WHEREAS, in 2008, a group of women leaders made a commitment to use their financial resources to help address shelter, health, hunger, and education issues in Loudoun County, forming 100WomenStrong to help meet the needs of less fortunate members of the community; and

WHEREAS, since 100WomenStrong was founded, it has provided more than \$1 million in financial assistance by awarding grants to nonprofit organizations that help people in need in Loudoun County; and

WHEREAS, in 2018, 100WomenStrong awarded grants to A Farm Less Ordinary, A Place to Be, Ability Fitness Center, All Ages Read Together, Catholic Charities of the Diocese of Arlington, Children's Science Center, Dulles South Food Pantry, ECHO, EveryMind, Five Stones Institute, Friends of Loudoun Mental Health, HealthWorks, and INMED; and

WHEREAS, 100WomenStrong also supported Loudoun Abused Women's Shelter, Loudoun Habitat for Humanity, Loudoun Hunger Relief, Loudoun Volunteer Caregivers, Northern Virginia Family Service, Northern Virginia Human Trafficking Initiative, Piedmont Environmental Council, Stop Child Abuse Now, Stroke Comeback Center, the New Ag School, the Arc of Loudoun Paxton Campus, the Fenwick Foundation, Windy Hill Foundation, and Women Giving Back; and

WHEREAS, the 100WomenStrong fund is maintained and operated by the Community Foundation for Loudoun and Northern Fauquier Counties, a charitable giving and community investment organization, and receives support from many individuals, families, and partner organizations in the region; and

WHEREAS, in fulfilling its mission to enhance the lives of the citizens of Loudoun County and provide strategic support to help address shelter, health, hunger, and education in the county, the members of 100WomenStrong have made a significant impact and helped thousands of their neighbors in countless ways; now, therefore, be it

RESOLVED by the House of Delegates, That 100WomenStrong hereby be commended on the occasion of its 10th anniversary in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Schaufeld, president and founder of 100WomenStrong, as an expression of the House of Delegates' admiration for the organization's work to support Loudoun County residents and strengthen the community.

### HOUSE RESOLUTION NO. 432

*Commending the Loudoun County Fire and Rescue Department.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Loudoun County Fire and Rescue Department earned a 2018 Achievement Award from the National Association of Counties for creating the Loudoun County Metrorail Training Simulator to help local first responders better prepare for emergency situations; and

WHEREAS, the Achievement Awards from the National Association of Counties recognize organizations like the Loudoun County Fire and Rescue Department that have helped make county governments more efficient or helped increase services to residents; and

WHEREAS, with the impending completion of the Washington Metro Silver Line, the Loudoun County Fire and Rescue Department identified the need for a specialized training facility to prepare first responders to safely and effectively respond to unique emergency situations related to the Metrorail; and

WHEREAS, the Loudoun County Fire and Rescue Department researched and constructed a 95-foot replica of a railcar track and worked with the Loudoun County Department of Transportation and Critical Infrastructure, which donated two decommissioned 1000-series railcars; and

WHEREAS, located at the Oliver Robert Dubé Fire and Rescue Training Academy in Leesburg, the Loudoun County Fire and Rescue Department's Metrorail Training Simulator is the only such simulator in the region and provides a realistic training environment for multi-agency drills incorporating other local public safety departments; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun County Fire and Rescue Department hereby be commended on receiving a 2018 Achievement Award for creating the Loudoun County Metrorail Training Simulator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Loudoun County Fire and Rescue Department as an expression of the House of Delegates' admiration for its accomplishments in service to Loudoun County.

### HOUSE RESOLUTION NO. 433

*Commending Bodhisattva Swami Anand Arun.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Bodhisattva Swami Anand Arun has enriched communities throughout the Commonwealth and the world by promoting the practice of meditation, known as "Dhyana" in Sanskrit, which means mindfulness, witnessing the mind, cultivating stillness, turning one's attention inwardly, silencing the mind, contemplation, and awareness; and

WHEREAS, meditation is a scientific and universal practice of relaxing the mind, shared by diverse cultures around the world for thousands of years, with origins in the Himalayan regions; and

WHEREAS, meditation can be practiced by anyone, anywhere, at any time, able-bodied or disabled, of any age, of any gender, of any religion or beliefs, and it is not affiliated with an organized religion; the resulting benefits of the practice of meditation have been validated; and

WHEREAS, meditation gradually produces many benefits for practitioners and contributes to a healthy community; and

WHEREAS, meditation promotes wellness, well-being, and good physical, mental, and emotional health; reduces stress, anxiety, and depression; strengthens focus and concentration; and enhances creativity, stability, and self-acceptance; and

WHEREAS, meditation improves breathing, decreases heart and brain diseases, gives peace of mind, enables better sleep quality, is helpful in overcoming addictions and suicidal tendencies, reduces violence, relieves suffering, overcomes loneliness, enhances learning and education, and transforms lifestyles by making its practitioners healthier and more aware, peaceful, loving, joyous, and compassionate human beings; and

WHEREAS, International Meditation Day, proposed by Bodhisattva Swami Anand Arun from Osho Tapoban in Nepal, has facilitated meditation and stress management programs all over the world, promoting global peace and welfare for humanity and all sentient beings through the practice of meditation; and

WHEREAS, International Meditation Day is celebrated on April 30, which is also recognized by the United Nations as Vesak Day which marks the day Buddha was born, attained Enlightenment and passed away; now, therefore, be it

RESOLVED by the House of Delegates, That Bodhisattva Swami Anand Arun hereby be commended for his work to promote the benefits of meditation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bodhisattva Swami Anand Arun as an expression of the House of Delegates' admiration for his contributions to the physical, mental, and emotional health of people in the Commonwealth and around the world.

**HOUSE RESOLUTION NO. 434**

*Commending Sangster Elementary School.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Sangster Elementary School of Fairfax County was awarded the Purple Star designation by the Virginia Department of Education and the Virginia Council on the Interstate Compact on Educational Opportunity for Military Children on October 24, 2018, and the 2018 Board of Education Excellence Award for advanced learning and achievement; and

WHEREAS, the Purple Star designation recognizes outstanding schools like Sangster Elementary School for their excellence in supporting military-connected children and their families; and

WHEREAS, to earn a Purple Star designation, schools must appoint a staff member to serve as a point of contact for military-connected students and their families and to serve as a liaison between the school and local military communities; schools must also demonstrate a commitment to meeting the needs of military-connected students and their families by providing resources and programming on issues like transitions and academic planning; and

WHEREAS, Sangster Elementary School was one of 14 public schools in Fairfax County and 59 schools in the Commonwealth to earn the Purple Star designation in 2018; and

WHEREAS, the Board of Education Excellence Award honors schools that meet all state and federal accountability benchmarks and demonstrate significant progress toward goals for increased student achievement and expanded educational opportunities set by the Board of Education; and

WHEREAS, Sangster Elementary School was one of 133 schools to earn the Board of Education Excellence Award in 2018; now, therefore, be it

RESOLVED by the House of Delegates, That Sangster Elementary School hereby be commended for receiving the Purple Star designation and the 2018 Board of Education Excellence Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lisa Reddel, principal of Sangster Elementary School, as an expression of the House of Delegates' admiration for the school's commitment to supporting military-connected children and their families and to advanced learning and achievement.

**HOUSE RESOLUTION NO. 436**

*Commending Keene Mill Elementary School.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Keene Mill Elementary School of Fairfax County was awarded the 2018 Governor's Award for Educational Excellence, the Virginia Index of Performance program's highest honor, for advanced learning and achievement; and

WHEREAS, the Virginia Index of Performance program recognizes schools and school divisions that meet or exceed state and federal accountability standards and achieve excellence goals established by the Governor and the Board of Education; and

WHEREAS, the Governor's Award for Educational Excellence honors schools that demonstrate exceptional performance by meeting all applicable state objectives for increased student achievement and expanded educational opportunities; and

WHEREAS, Keene Mill Elementary School was one of 14 schools to earn the Governor's Award for Educational Excellence in 2018; and

WHEREAS, Keene Mill Elementary is dedicated to nurturing creativity and innovation to enable all students to achieve future success by providing a safe learning environment, setting high expectations, and focusing on the excellence and achievement of individual learners; now, therefore, be it

RESOLVED by the House of Delegates, That Keene Mill Elementary School hereby be commended for receiving the 2018 Governor's Award for Educational Excellence; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Renee Miller, principal of Keene Mill Elementary School, as an expression of the House of Delegates' admiration for the school's commitment to advanced learning and achievement.

**HOUSE RESOLUTION NO. 437**

*Commending the Chris Atwood Foundation.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for more than five years, the Chris Atwood Foundation has worked to raise awareness of the dangers of addiction, end harmful stigmas surrounding the disease, and promote healthy communities; and

WHEREAS, the Chris Atwood Foundation was formed in 2013 to honor the memory of Reston native Chris Atwood, who died from a heroin overdose at the age of 21; and

WHEREAS, the Chris Atwood Foundation has provided housing grants to more than 275 individuals to support the transition from rehabilitation to sober living facilities; and

WHEREAS, the Chris Atwood Foundation has trained more than 3,000 people in the recognition of a drug overdose and the administration of naloxone; at least 165 lives have been saved as a direct result of this program; and

WHEREAS, the Chris Atwood Foundation received significant grants from Fairfax County and Loudoun County to increase its outreach efforts, which contributed to a 40 percent decrease in overdose deaths in Fairfax County in 2018; and

WHEREAS, the Chris Atwood Foundation has helped thousands of people throughout Virginia by supporting efforts to reform state laws related to distribution of naloxone by qualified private organizations; and

WHEREAS, the Chris Atwood Foundation has focused public attention on the opioid crisis, the lifesaving use of naloxone, and recovery from addiction throughout the United States, Europe, South America, and the Middle East through a variety of media outlets; now, therefore, be it

RESOLVED by the House of Delegates, That the Chris Atwood Foundation hereby be commended for its more than five years of innovative programs to address the opioid crisis; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ginny Atwood Lovitt, executive director of the Chris Atwood Foundation, as an expression of the House of Delegates' admiration for the organization's vital work.

### HOUSE RESOLUTION NO. 438

*Commending Orange Hunt Elementary School.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Orange Hunt Elementary School of Fairfax County was awarded the 2018 Board of Education Distinguished Achievement Award for advanced learning and achievement; and

WHEREAS, the Board of Education Distinguished Achievement Award honors schools that meet all state and federal accountability benchmarks and demonstrate progress toward goals for increased student achievement and expanded educational opportunities set by the Board of Education; and

WHEREAS, Orange Hunt Elementary School of Fairfax County was one of 202 schools to earn the Board of Education Distinguished Achievement Award in 2018; and

WHEREAS, it is the mission of Orange Hunt Elementary School to provide meaningful opportunities for students to learn at the highest levels so that all students are empowered to be independent problem solvers, critical and creative thinkers, and empathetic members of the community; now, therefore, be it

RESOLVED by the House of Delegates, That Orange Hunt Elementary School hereby be commended for receiving the 2018 Board of Education Distinguished Achievement Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Tuttle, principal of Orange Hunt Elementary School, as an expression of the House of Delegates' admiration for the school's commitment to advanced learning and achievement.

### HOUSE RESOLUTION NO. 439

*Commending the Alexandria Library Company.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Alexandria Library Company was founded on July 24, 1794, by the citizens of Alexandria as one of the first subscription libraries in the United States of America; and

WHEREAS, the Alexandria Library Company is one of the United States' oldest libraries to operate continuously, as it has from the 18th century to the present day; and

WHEREAS, the Alexandria Library Company was legally recognized by the Virginia General Assembly in 1798; and

WHEREAS, its successor agency, the Alexandria Library Association, retained custody of the Alexandria Library Company's books in 1897; and

WHEREAS, the Alexandria Library Association entered into an agreement with the City of Alexandria in 1937 to transform the subscription library into a public library and establish a governing board; and

WHEREAS, the Alexandria Library Company was recognized by the Virginia General Assembly in the 1980s as the successor agency to the Alexandria Library Association by reinstatement of the 1799 charter; and

WHEREAS, the Alexandria Library was segregated for "whites only," and, as such, its Queen Street location became the site of the first known non-violent sit-in of the Civil Rights Movement; and

WHEREAS, on August 21, 1939, five young black men organized by civil rights lawyer Samuel Tucker—Edward Gaddis, Morris Murray, William Evans, Clarence Strange, and Otto Tucker—visited the library and requested library cards, and upon having their requests denied, selected books off the shelves, sat down, and read them; and

WHEREAS, while the Alexandria Library system remained segregated into the 1960s, it is today a safe and inclusive place for people of all races and cultures; and

WHEREAS, in 2019, the Alexandria Library is commemorating the 225th anniversary of its founding with special programming, guest speakers, exhibits, performances, and an honorary ceremony, to be held on July 27 at the Charles E. Beatley, Jr., Central Library; now, therefore, be it

RESOLVED by the House of Delegates, That the Alexandria Library Company, the precursor to the Alexandria Library, hereby be commended on the occasion of the 225th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Mayor of Alexandria as an expression of the House of Delegates' respect for the profound contributions, history, and legacy of the Alexandria Library Company.

### HOUSE RESOLUTION NO. 440

*Commending Hunt Valley Elementary School.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Hunt Valley Elementary School of Fairfax County was awarded the Purple Star designation by the Virginia Department of Education and the Virginia Council on the Interstate Compact on the Educational Opportunity for Military Children on October 24, 2018; and

WHEREAS, the Purple Star designation recognizes outstanding schools like Hunt Valley Elementary for their excellence in supporting military-connected children and their families; and

WHEREAS, to earn a Purple Star designation, schools must appoint a staff member to serve as a point of contact for military-connected students and their families who also serves as a liaison between the school and local military communities; schools must also demonstrate commitment to meeting the needs of military-connected students and their families by providing resources and programming on issues like transitions and academic planning; and

WHEREAS, Hunt Valley Elementary School was one of 14 public schools in Fairfax County and 59 schools in the Commonwealth to earn the Purple Star designation in 2018; and

WHEREAS, it is the mission of Hunt Valley Elementary School to enable students to explore their talents, strengths, and passions, to achieve their highest academic potential, and to become productive, empathetic, responsible, well-rounded members of the community and empower them to be ready for the 21st century; now, therefore, be it

RESOLVED by the House of Delegates, That Hunt Valley Elementary School hereby be commended for receiving the Purple Star designation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Fee, principal of Hunt Valley Elementary School, as an expression of the House of Delegates' admiration for the school's commitment to supporting military-connected children and their families.

### HOUSE RESOLUTION NO. 441

*Commending Fort Belvoir Upper School.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Fort Belvoir Upper School of Fairfax County was awarded the Purple Star designation by the Virginia Department of Education and the Virginia Council on the Interstate Compact on the Educational Opportunity for Military Children on October 24, 2018; and

WHEREAS, the Purple Star designation recognizes outstanding schools like Fort Belvoir Upper School for their excellence in supporting military-connected children and their families; and

WHEREAS, to earn a Purple Star designation, schools must appoint a staff member to serve as a point of contact for military-connected students and their families who also serves as a liaison between the school and local military communities, and must demonstrate commitment to meeting the needs of military-connected students and their families by providing resources and programming on issues like transitions and academic planning; and

WHEREAS, Fort Belvoir Upper School was one of 14 public schools in Fairfax County and 59 schools in the Commonwealth to earn the Purple Star designation in 2018; now, therefore, be it

RESOLVED by the House of Delegates, That Fort Belvoir Upper School hereby be commended for receiving the Purple Star designation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jamey Chianetta, principal of Fort Belvoir Upper School, as an expression of the House of Delegates' admiration for the school's commitment to supporting military-connected children and their families.

**HOUSE RESOLUTION NO. 442***Commending Fort Belvoir Primary School.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Fort Belvoir Primary School of Fairfax County was awarded the Purple Star designation by the Virginia Department of Education and the Virginia Council on the Interstate Compact on Educational Opportunity for Military Children on October 24, 2018; and

WHEREAS, the Purple Star designation recognizes outstanding schools like Fort Belvoir Primary School for their excellence in supporting military-connected children and their families; and

WHEREAS, to earn a Purple Star designation, schools must appoint a staff member to serve as a point of contact for military-connected students and their families and to serve as a liaison between the school and local military communities; the school must also demonstrate a commitment to meeting the needs of military-connected students and their families by providing resources and programming on issues like transitions and academic planning; and

WHEREAS, Fort Belvoir Primary School was one of 14 public schools in Fairfax County and 59 schools in the Commonwealth to earn the Purple Star designation in 2018; and

WHEREAS, the mission of Fort Belvoir Primary School is to provide a quality education to empower all students to meet high academic standards, set goals for continuous growth, and be contributing members of the community, and to prepare all students for the global community by creating a dynamic culture through collaborative teamwork that develops a love of learning and the resilience essential for continuous success; now, therefore, be it

RESOLVED by the House of Delegates, That Fort Belvoir Primary School hereby be commended for receiving the Purple Star designation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Margo Pareja, principal of Fort Belvoir Primary School, as an expression of the House of Delegates' admiration for the school's commitment to supporting military-connected children and their families.

**HOUSE RESOLUTION NO. 443***Commending South County High School.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, South County High School of Fairfax County was awarded the 2018 Board of Education Distinguished Achievement Award for advanced learning and achievement; and

WHEREAS, the Board of Education Distinguished Achievement Award honors schools that meet all state and federal accountability benchmarks and demonstrate progress toward goals for increased student achievement and expanded educational opportunities set by the Board of Education; and

WHEREAS, South County High School of Fairfax County was one of 202 schools to earn the Board of Education Distinguished Achievement Award in 2018; now, therefore, be it

RESOLVED by the House of Delegates, That South County High School hereby be commended for receiving the 2018 Board of Education Distinguished Achievement Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gary Morris, principal of South County High School, as an expression of the House of Delegates' admiration for the school's commitment to advanced learning and achievement.

**HOUSE RESOLUTION NO. 444***Commending South County Middle School.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, South County Middle School of Fairfax County was awarded the 2018 Board of Education Distinguished Achievement Award for advanced learning and achievement; and

WHEREAS, the Board of Education Distinguished Achievement Award honors schools that meet all state and federal accountability benchmarks and demonstrate progress toward goals for increased student achievement and expanded educational opportunities set by the Board of Education; and

WHEREAS, South County Middle School of Fairfax County was one of 202 schools to earn the Board of Education Distinguished Achievement Award in 2018; and

WHEREAS, it is the mission of South County Middle School to empower all students through technology, service learning, and mastery of a challenging curriculum to enable them to become creative and critical thinkers prepared to meet the needs of a global economy; now, therefore, be it

RESOLVED by the House of Delegates, That South County Middle School hereby be commended for receiving the 2018 Board of Education Distinguished Achievement Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marsha Manning, principal of South County Middle School, as an expression of the House of Delegates' admiration for the school's commitment to advanced learning and achievement.

#### **HOUSE RESOLUTION NO. 445**

*Commending the Patriot High School boys' and girls' indoor track teams.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Patriot High School boys' and girls' indoor track teams of Prince William County are advancing to the 2019 Virginia High School League Class 6 state championship; and

WHEREAS, with a superb group performance, the Patriot High School Pioneers advanced to the state championship for the long jump, high jump, 55 meter hurdles, 55 meter dash, 4 by 200 meter relay, 1600 meter run, 500 meter dash, 300 meter dash, 3200 meter run, and 4 by 400 meter relay; and

WHEREAS, the individual athletes that qualified for the respective events are Denise Brookman-Amisshah and Justice Demby for the long jump; Marcus Wilson for the long jump, high jump, and 55 meter hurdles; Jasmine Coe for the 55 meter hurdles; Dorryen Henley for the 55 meter dash; Hailey Yentz for the 1600 meter run; Jacob Hamacher for the 1600 meter run and 3200 meter run; Ella Weaver for the 500 meter dash; Jack Daly and Michael Speency for the 500 meter dash; Noah Hackerson for the 300 meter dash; and Ryan Hamacher for the 3200 meter run; and

WHEREAS, the Patriot Pioneers' boys' and girls' indoor track teams' advancement to the state championship competition is a testament to the hard work of each of its talented student-athletes, the leadership of its coaches and staff, and the energetic support of the entire Patriot High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Patriot High School boys' and girls' indoor track teams hereby be commended; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Patriot High School boys' and girls' indoor track teams as an expression of the House of Delegates' admiration for the teams' extraordinary achievements.

#### **HOUSE RESOLUTION NO. 446**

*Commending Trace Wall.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Trace Wall, swimmer for the Rock Ridge High School boys' swim team, won the Virginia High School League Class 5 state title for the 50-yard freestyle event at George Mason University Aquatic Center on February 16, 2019; and

WHEREAS, Trace Wall finished the 50-yard freestyle race in 20.88 seconds, outpacing the runner-up by over half a second; and

WHEREAS, Trace Wall also posted second place finishes in the 100-yard freestyle, 200-yard freestyle relay, and 400-yard freestyle relay events; and

WHEREAS, with the help of Trace Wall's stellar performance, the Rock Ridge High School boys' swim team edged out Thomas Jefferson High School by 1.5 points to finish second in the team standings; and

WHEREAS, Trace Wall's success is a result of his hard work, the guidance of his coaches and teachers, and the support of his teammates and the entire Rock Ridge High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Trace Wall, swimmer for the Rock Ridge High School boys' swim team, hereby be commended for winning the Virginia High School League Class 5 state title for the 50-yard freestyle event; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Trace Wall as an expression of the House of Delegates' admiration for his extraordinary achievements.

#### **HOUSE RESOLUTION NO. 447**

*Commending Adda Lounge and Restaurant.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Adda Lounge and Restaurant opened in Broadlands Center Plaza in Ashburn on November 9, 2018; and

WHEREAS, Adda Lounge and Restaurant has quickly become a prominent feature of Ashburn's culinary and social landscape, with regular events featuring dancing, karaoke, and entertainment; and

WHEREAS, Adda's menu features a wide variety of selections that draw from traditional Indian, Mediterranean, and American cuisine and more, with menu items that include kabobs, samosas, wings, tacos, burgers, and sandwiches; and

WHEREAS, Adda also offers salads, soups, biryanis, rice, breads, meat and vegetarian entrees, pasta, and desserts to satisfy a variety of palates; and

WHEREAS, Adda is an exciting addition to culinary life in the Ashburn community; now, therefore, be it

RESOLVED by the House of Delegates, That Adda Lounge and Restaurant hereby be commended on the occasion of its opening in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Adda Lounge and Restaurant as an expression of the House of Delegates' admiration for the vibrant business community of Ashburn.

### HOUSE RESOLUTION NO. 448

*Commending the Manassas Park High School swim team.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Manassas Park High School swim team had an exceptional year of competition in the 2018-2019 season; and

WHEREAS, 10 student-athletes from the Manassas Park High School swim team competed at the state level of competition, the most competitors to earn a place at the state championship meet in the program's eight-year history; nine boys: freshmen Brayden Wence and Joey Bliem; sophomores Ben Petsopoulos, Jesse Dunn, and Ryan Schubert; juniors Kristopher Gardner and Daniel Calderon-Lameda; and seniors Ryan Harlan and Stephen Elliott, and one girl: sophomore Yenphi Vu, earned the opportunity to compete at the event on February 16th; and

WHEREAS, the team remained competitive in their respective events throughout the meet; their efforts earned the boys' team the rank of 14th out of 26 teams with 35 total points; and

WHEREAS, this is a young and talented team that has significant potential in the next few years to improve and perform very well; the community looks forward to watching this program continue to develop and grow over the coming years; and

WHEREAS, the Manassas Park High School swim team's success is a testament to the hard work of the student-athletes, the leadership of their coaches and teachers, and the energetic support of the entire Manassas Park High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Manassas Park High School swim team hereby be commended for advancing 10 swimmers to the 2019 Virginia High School League state championship meet; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Manassas Park High School swim team as an expression of the House of Delegates' admiration for the team's extraordinary achievements.

### HOUSE RESOLUTION NO. 449

*Celebrating the life of Theodore F. Adams, Jr.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Theodore F. Adams, Jr., a veteran and active Richmond community member who was devoted to his family and dedicated to serving others, died on January 24, 2019; and

WHEREAS, Theodore "Ted" F. Adams, Jr., was born in Toledo, Ohio, and moved to Richmond in 1936 when his father, the Reverend Theodore F. Adams, was called to First Baptist Church of Richmond; and

WHEREAS, Ted Adams graduated from Thomas Jefferson High School in Richmond; he studied at Mars Hill College and graduated from the University of Richmond with a bachelor's degree in business administration; and

WHEREAS, after graduation Ted Adams joined C&P Telephone but left to serve in the United States Army in the Korean War, where he was stationed outside Taegu, South Korea; his time serving in an army airfield control tower had a lasting effect on his life; after his service, he returned to C&P Telephone, which later became AT&T, where he faithfully served until his retirement in 1994; and

WHEREAS, throughout his life, Ted Adams gave of himself by serving on the boards of the Richmond Memorial Hospital, the Richmond Memorial Hospital Foundation, Memorial Regional Medical Center, St. Francis Hospital, and the Virginia Chapter of the American Red Cross; he served as president of the Boatwright Society at the University of Richmond and of the Richmond Rotary; and

WHEREAS, predeceased by his wife, Colleen, Ted Adams will be fondly remembered and greatly missed by his sons, Tray, Mark, Brad, and John, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Theodore F. Adams, Jr., a veteran and active Richmond community member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Theodore F. Adams, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 450

*Celebrating the life of Eldridge N. Cook.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Eldridge N. Cook, a lifelong resident of Gloucester County and an accomplished businessman who was known nationally as the owner of Cook's Oyster and Seafood Company, died on February 8, 2014; and

WHEREAS, a grandson of slaves, Eldridge Cook was born on February 14, 1915, in Gloucester County, Virginia; as a youth, he was mentored by Thomas C. Walker, who was the first African American attorney in Gloucester; and

WHEREAS, after graduating from high school, Eldridge Cook considered entering the oil business, but instead purchased a truck and began transporting fresh seafood from Gloucester County and the surrounding areas to New York, Baltimore, Philadelphia, and Savannah; and

WHEREAS, through Eldridge Cook's perseverance, the company purchased additional trucks and expanded hauling routes in the United States as far away as California and through East Coast ports overseas to Europe and to Turkey; and

WHEREAS, during World War II, Eldridge Cook supported the war effort by using his trucks to haul lumber and timber; and

WHEREAS, after the war, Eldridge Cook formed Cook's Oyster Company, Inc., and shortly thereafter began processing local seafood; through his efforts the business became a leading seafood supplier in Hampton Roads, employing nearly 250 people; and

WHEREAS, in 1996, Eldridge Cook was recognized by the *Daily Press* as one of the top 100 community leaders in Hampton Roads, gaining recognition not only for his business accomplishments but also for his efforts to encourage economic development in Gloucester County; and

WHEREAS, in recognition of his business acumen, community service, and national leadership in the seafood industry, Governor L. Douglas Wilder and Governor Mark R. Warner successively appointed Eldridge Cook to the Virginia Marine Products Board, where he served with distinction; and

WHEREAS, Eldridge Cook served as a member of the local Social Services Board and on the Gloucester Planning Commission from 1979 until 1997, when Gloucester was the fastest growing county in the Commonwealth; he supported the commission's work to adopt zoning and other land use ordinances for the first time in county history; and

WHEREAS, Eldridge Cook enjoyed fellowship and worship with the community at First Morning Star Baptist Church in Bena, where his family were founding members and he had served the congregation in many capacities over the years; and

WHEREAS, predeceased by his wife of 50 years, Velma, and his son, Eldridge, Jr., Eldridge Cook will be fondly remembered and greatly missed by his sister, Betty, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Eldridge N. Cook, a respected businessman and member of the Gloucester County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eldridge N. Cook as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 451

*Celebrating the life of Donald E. Shuemaker, Sr.*

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Donald E. Shuemaker, Sr., of Manassas Park, died on November 23, 2018; and

WHEREAS, Donald Shuemaker was born in Clearfield, Pennsylvania, on March 19, 1946, to Calvin Shuemaker and Wilma Parks Shuemaker; he was a devoted husband and father to his late wife, Bethiah, and son, Manassas Park City Councilmember Donald Shuemaker, Jr.; and

WHEREAS, Donald Shuemaker served his country in the United States Air Force and was stationed at Incirlik Air Force Base in Turkey early in his military career; as a sergeant, he received new orders to Andrews Air Force base in 1969, where he was assigned to the Air Force Communication Service as a communications specialist; and

WHEREAS, Donald Shuemaker was active in the Manassas Park community in many ways; when his son, Donald Shuemaker, Jr., was in school, he volunteered as a chaperone for school field trips and was the leader of the Music Boosters; he was an avid bowler for over 25 years at Bowl America in Manassas and assisted the women's competition team; and

WHEREAS, Donald Shuemaker was the winner of the City of Manassas Park Citizen of the Year award in 2006; and

WHEREAS, Donald Shuemaker was known for his wisdom, his talent for fixing or installing anything, and, most of all, for his readiness to help others; predeceased by his wife, Bethiah, he will be dearly remembered and greatly missed by his son, Donald, Jr., and numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Donald E. Shuemaker, Sr.; and, be it  
RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Donald E. Shuemaker, Sr., as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 452

*Commending Pearl Bevins Chew.*

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Pearl Bevins Chew, a vibrant member of the Roanoke community who served the Commonwealth and the nation during World War II, celebrated her 101st birthday on January 27, 2019; and

WHEREAS, born in Wise, Pearl Bevins Chew was a witness to the seminal events of the 20th century from the Great Depression and World War II to the moon landing and the rise of the Internet era; and

WHEREAS, in 1942, Pearl Bevins Chew joined the Women's Auxiliary State Police (WASP), which was formed to fill roles in the Virginia State Police vacated by men serving in the military during World War II; and

WHEREAS, after two weeks of formal training, Pearl Bevins Chew was assigned to a license examiner in Richlands, where she completed several additional weeks of on-the-job training; and

WHEREAS, Pearl Bevins Chew served in Richlands for two years, then subsequently worked in Wytheville, Tazewell, Buchanan, Russell County, and Bland County, providing outstanding service to every community she served and the Commonwealth as a whole; and

WHEREAS, in 1947, Pearl Bevins Chew married her husband, Robert, and the couple proudly raised three children, Bobby, Cathy, and Martha; now, therefore, be it

RESOLVED by the House of Delegates, That Pearl Bevins Chew hereby be commended on the occasion of her 101st birthday in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pearl Bevins Chew as an expression of the House of Delegates' admiration for her contributions to the Commonwealth.

#### HOUSE RESOLUTION NO. 453

*Commending the Langley High School Japanese Youth Exchange program.*

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, in 2018, the Langley High School Japanese Youth Exchange program promoted strong ties between the United States and Japan by giving students from both countries unique opportunities to learn about other cultures; and

WHEREAS, the Langley High School Japanese Youth Exchange program enabled 17 students from the Fairfax County high school to travel to Morioka Chuo High School for a Japanese language and culture program in June and July of 2018; and

WHEREAS, the Langley High School Japanese Youth Exchange program students mixed together with Japanese students for a variety of cultural and educational activities at the school and in the host town; and

WHEREAS, during the Langley High School Japanese Youth Exchange program, the students' host families were also able to show their American visitors local life and to share traditional dishes and customs; now, therefore, be it

RESOLVED by the House of Delegates, That the Langley High School Japanese Youth Exchange program hereby be commended for encouraging the study of world cultures and exercising hospitality and graciousness towards visitors from around the globe; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Langley High School Japanese Youth Exchange program as an expression of the House of Delegates' admiration for its efforts to develop strong social and economic ties between the United States and Japan on the crucial person-to-person level.

#### HOUSE RESOLUTION NO. 454

*Commending Johnston-Willis Hospital.*

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Johnston-Willis Hospital, a hospital delivering high-quality health care to the Greater Richmond and Tri-Cities area, celebrates its 110th anniversary and its accreditation from the American College of Surgeons' National Accreditation Program for Breast Centers in 2019; and

WHEREAS, Johnston-Willis Hospital was founded in 1909 and has, for over a century, provided a wide array of superior health care services with a patient-first mentality; the hospital has earned many recognitions and accolades over the years for its quality of care; the hospital was the first to receive the Gold Seal Certificate of Distinction for brain tumor care from the Joint Commission, which also awarded Johnston-Willis Hospital the Gold Seal of Approval and named it a Top

Performer on Key Quality Measures for surgical care, perinatal care, pneumonia, heart attack, and hip and knee replacement; the Johnston-Willis Hospital was also the first hospital in Virginia to receive the Comprehensive Stroke Certification by DNV-GL Healthcare, the highest level of competence possible for stroke care; and

WHEREAS, the Johnston-Willis Hospital is the only state-authorized Level III Trauma Center in Chesterfield County, providing acute care for the county's most emergent cases; the hospital is a member of the HCA Healthcare network, which holds the values of recognizing and affirming the unique and intrinsic worth of each individual; treating all those served with compassion and kindness; acting with absolute honesty, integrity, and fairness; and trusting colleagues as valuable members of the health care team; and

WHEREAS, the Sarah Cannon Cancer Institute at Johnston-Willis Hospital received accreditation for its Breast and Multidisciplinary Care Programs from the American College of Surgeons' National Accreditation Program for Breast Centers (NAPBC) in 2019; and

WHEREAS, the NAPBC accreditation acknowledges the institute's commitment to providing the highest quality evaluation and management of patients with breast disease; to receive accreditation, hospitals must demonstrate compliance with standards of proficiency in areas such as center leadership, clinical management, research, community outreach, professional education, and quality improvement; and

WHEREAS, members of the Greater Richmond and Tri-Cities community are safer and healthier as a result of the compassion and expertise of staff at the Johnston-Willis Hospital; now, therefore, be it

RESOLVED by the House of Delegates, That the Johnston-Willis Hospital hereby be commended on the occasion of its 110th anniversary and its accreditation from the American College of Surgeons' National Accreditation Program for Breast Centers in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Zach McCluskey, chief executive officer of Johnston-Willis Hospital, as an expression of the House of Delegates' admiration for the hospital's contributions to the Commonwealth.

#### HOUSE RESOLUTION NO. 455

*Celebrating the life of Joshua Wayne Bell.*

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Joshua Wayne Bell, a veteran of the United States Air Force and a beloved member of his community, died on January 17, 2019; and

WHEREAS, born on Chanute Air Force Base in Illinois, Joshua Bell grew up in New Hampshire and attended the University of Texas at Austin; and

WHEREAS, Joshua Bell followed in the footsteps of several family members and served his country as a member of the United States Air Force; he rose to the rank of staff sergeant and served in the Air National Guards of Massachusetts, Virginia, and Texas; and

WHEREAS, a talented and competitive athlete, Joshua Bell's passion for sports was only equal to his love for animals, having cared for many pets throughout his life; and

WHEREAS, Joshua Bell will be fondly remembered and greatly missed by his mother and stepfather, Annie and Miguel Hernandez; his father and stepmother, John and Margaret Bell; his fiancée, Brianna Fauley; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Joshua Wayne Bell; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joshua Wayne Bell as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 457

*Commending Wendy Wilcox.*

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Wendy Wilcox has faithfully served Fauquier County Public Schools for the past 37 years; and

WHEREAS, Wendy Wilcox started her career as a fourth grade teacher at W.G. Coleman Elementary School in 1982; and

WHEREAS, Wendy Wilcox taught at Northwestern Elementary School and Coleman Elementary School for over eight years before becoming assistant principal at Mary Walter Elementary School and subsequently Coleman Elementary School; and

WHEREAS, Wendy Wilcox has served as principal at H.M. Pearson Elementary School since 2015; and

WHEREAS, Wendy Wilcox has had a positive impact on thousands of Fauquier County students throughout her career and deserves the best in her retirement; now, therefore, be it

RESOLVED by the House of Delegates, That Wendy Wilcox hereby be commended on the occasion of her retirement in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Wendy Wilcox as an expression of the House of Delegates' admiration for her legacy of service to the community.

### SENATE JOINT RESOLUTION NO. 254

*Requesting the Department of Transportation to study the feasibility of purchasing all or part of the Dulles Greenway Report.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Dulles Greenway is a privately owned toll road extending 14 miles from Washington Dulles International Airport to the Town of Leesburg and connecting the same and is the first privately owned toll road in the Commonwealth since 1816; and

WHEREAS, the Dulles Greenway is regulated by the State Corporation Commission and the Virginia Highway Corporation Act of 1988; and

WHEREAS, the Dulles Greenway offers electronic toll collection through the Department of Transportation's Smart-Tag and E-ZPass program; and

WHEREAS, the owner of the Dulles Greenway, Toll Road Investors Partnership II, purchased all the land that the Dulles Greenway is situated on; and

WHEREAS, Toll Road Investors Partnership II completed a refinancing in 1999 that involved bonds that replaced all other outstanding agreements; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Transportation be requested to study the feasibility of purchasing all or part of the Dulles Greenway.

In conducting its study, the Department of Transportation shall (i) conduct a review of Toll Road Investors Partnership II's outstanding bonds, focusing on the 1999 series A and B bonds, which are callable, to determine if such bonds could be replaced with lower rate revenue bonds; (ii) devise an optimized buy-back plan that would allow the Commonwealth to obtain a partial ownership in the Dulles Greenway in order to pass along any resulting cost reductions to motorists with a dollar-for-dollar reduction in tolls and the implementation of distance-based pricing; (iii) determine what ownership percentage the Commonwealth would need to hold to enact toll-reducing measures, including granting tax-free status to the Dulles Greenway and eliminating the current fees charged for State Police patrols while allowing the Department of Transportation to operate and maintain the road, including snow removal; and (iv) evaluate the feasibility of distance-based tolling on the Dulles Greenway.

All agencies of the Commonwealth shall provide assistance to the Department of Transportation for this study, upon request.

The Department of Transportation shall complete its meetings by November 30, 2019, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2020 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 256

*Celebrating the life of William E. Ward.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, William E. Ward, a trailblazing public servant who strengthened the Chesapeake community as the city's first African American mayor and the longest-serving mayor in City of Chesapeake history, died on July 10, 2018; and

WHEREAS, a native of Central Virginia, William "Bill" Ward earned bachelor's and master's degrees from Virginia State University and master's and doctoral degrees from Clark University in Massachusetts; and

WHEREAS, Bill Ward pursued a 27-year career in higher education as a professor and chair of the history department at Norfolk State University, where he also served as president of the faculty senate, a member of the Council of Teacher Education, and chair of the institution's Black History Month Committee; and

WHEREAS, Bill Ward began his career in public life as a grassroots community organizer, working to bring sewer services and roads to neighborhoods in Chesapeake and Norfolk; desirous to be of further service to the community, he ran for and was elected to the Chesapeake City Council in 1978 and was subsequently elected vice mayor for two terms, from 1984-1986 and 1988-1990; and

WHEREAS, in 1990, Bill Ward was appointed as mayor of Chesapeake to fill an unexpired term, and he won reelection to the city's highest office in 1992, 1996, and 2000; during his tenure as mayor, he worked tirelessly to achieve his vision of Chesapeake as an economic driver in Hampton Roads; and

WHEREAS, Bill Ward oversaw the expansion of several national and international companies in Chesapeake, creating countless new employment opportunities and encouraging responsible growth and development throughout the region, and he played a vital role in the creation of the Chesapeake Conference Center in Greenbrier; and

WHEREAS, Bill Ward was a trusted mentor to countless aspiring public servants and community leaders and was the president of the Educational Foundation, Inc., of The New Chesapeake Men for Progress, which provides scholarships and grants to African American students in local high schools; and

WHEREAS, a true statesman, Bill Ward used his charismatic personality and quiet professionalism to build bipartisan consensus in pursuit of a bright future for the Chesapeake community, becoming known as "the people's mayor"; and

WHEREAS, Bill Ward also volunteered his wise leadership to the Virginia State University Board of Visitors, Hampton Roads Partnership, Hampton Roads Economic Development Alliance, Hampton Roads Planning District Commission, and Southeastern Public Service Authority; and

WHEREAS, Bill Ward will be fondly remembered and greatly missed by his wife of more than 50 years, Rose; children, Michael and Michelle, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of William E. Ward, an inspirational leader who dedicated his life to public service and left a legacy of unity to the residents of Chesapeake and Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William E. Ward as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 257

*Celebrating the life of the Reverend Dr. Joan S. Parrott.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, the Reverend Dr. Joan S. Parrott, a beloved spiritual leader who became the first woman pastor in the 154-year history of First Baptist Church of Hampton, died on August 12, 2018; and

WHEREAS, a native of Newark, New Jersey, Joan Parrott was raised in a devout home and was inspired by her parents and her grandmother to pursue a life of service to others; and

WHEREAS, as a young woman, Joan Parrott developed the Love Unlimited youth ministry at her church, giving more than 100 young people an opportunity to seek guidance on personal issues in a safe, supportive environment; and

WHEREAS, after earning a bachelor's degree from Montclair State University in New Jersey, Joan Parrott worked as executive director of the Lighthouse Community Service homeless shelter, then served as a rural health administrator in Niger as a volunteer for the United States Peace Corps; and

WHEREAS, Joan Parrott answered the call to ministry in the late 1960s and pursued degrees at Union Theological Seminary in New York and United Theological Seminary in Ohio, as well as postgraduate certificates from the Ecumenical Institute of Bossey in Switzerland and Harvard University; and

WHEREAS, Joan Parrott became the first woman ordained as a minister at Bethany Baptist Church in Newark, and she went on to teach and consult with clergy throughout the United States and the world, even receiving two private audiences with Pope John Paul II; and

WHEREAS, Joan Parrott volunteered her wise leadership with American Baptist Churches USA as deputy general secretary for cooperative Christianity and director of the board of International Ministries Missionary Recruitment and Volunteer Services Program; and

WHEREAS, Joan Parrott previously served as executive pastor and interim senior pastor of First Baptist Church of Hampton; she was elected senior pastor on September 29, 2017, and was installed as pastor in March 2018; and

WHEREAS, Joan Parrott used her abiding faith and vast experience in church administration to ably lead First Baptist Church of Hampton, becoming known as the "praying pastor" for her unwavering devotion to the power of prayer; and

WHEREAS, an exemplar of servant leadership, Joan Parrott strove for a life defined by humility, compassion, integrity, and excellence; and

WHEREAS, Joan Parrott will be fondly remembered and greatly missed by numerous family members, friends, and the congregation of First Baptist Church of Hampton; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Dr. Joan S. Parrott; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Reverend Dr. Joan S. Parrott as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 263**

*Commending the American Legion.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, for 100 years, the American Legion has promoted patriotism and advocated for military veterans, their families, and their communities throughout the Commonwealth and the United States; and

WHEREAS, the American Legion was founded in Paris, France, by veterans of World War I, who were concerned about maintaining the welfare of their comrades and communities after their return to the United States; the organization was officially chartered by the United States Congress on September 16, 1919; and

WHEREAS, based in Indianapolis, the American Legion has grown to become the largest wartime veterans service organization in the country, with more than 12,000 posts in all 50 states, as well as the District of Columbia, Puerto Rico, Mexico, the Philippines, and France; and

WHEREAS, in its early years, the American Legion helped create the United States Flag Code, which established the proper protocols of use, display, and respect for the flag, and the organization was instrumental in the creation of the U.S. Veterans Bureau, now the U.S. Department of Veterans Affairs; and

WHEREAS, during World War II, the American Legion advocated for improved support for medically discharged disabled veterans, which became known as the Serviceman's Readjustment Act of 1944 or the G.I. Bill; the bill provided a wide range of benefits for all returning veterans, including access to higher education; and

WHEREAS, members of the American Legion have strengthened their communities through volunteer outreach, civics programs, and fundraising for charitable organizations; after Hurricane Hugo in 1989, the American Legion established the National Emergency Fund to provide immediate cash relief for veterans who have been affected by natural disasters; and

WHEREAS, the American Legion's 100th anniversary celebration began at the 100th American Legion National Convention on August 24-30, 2018, in Minneapolis, the site of the first such convention in 1919, will continue through the 101st American Legion National Convention in August 2019, and will conclude on Veterans Day on November 12, 2019; and

WHEREAS, among many special events during this 15-month commemoration, the American Legion developed a video series and an illustrated book on the history of the organization, organized exhibits at national museums, and hosted several American Legion Legacy Run motorcycle rides; and

WHEREAS, the American Legion also launched a Post History Page on its website, allowing individual posts throughout the nation to build a unique page detailing that post's history and contributions to its community; and

WHEREAS, the American Legion's centennial provides an opportunity not only to look back upon the organization's storied history, but also to foster a new era of growth and engagement in the important programs that have served generations of veterans; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the American Legion for its legacy of service to veterans on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the American Legion as an expression of the General Assembly's admiration for the organization's contributions to American society, national security, and the welfare of military veterans and their families.

**SENATE JOINT RESOLUTION NO. 264**

*Commending R. Carroll Smith, Sr.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, R. Carroll Smith, Sr., the highly admired president and principal owner of Hearndon Construction Company and a generous volunteer, was named the 2018 First Citizen of Chesapeake by the Chesapeake Rotary Club; and

WHEREAS, a longtime resident of Chesapeake, Carroll Smith graduated from Oscar Smith High School in 1959 and served his country in the United States Army before returning to the Commonwealth to become a respected businessman and a devoted philanthropist; and

WHEREAS, throughout his 43-year career with Hearndon Construction Company, Carroll Smith has overseen the construction of thousands of homes in Hampton Roads and supported responsible economic growth and development in the region; and

WHEREAS, throughout his career, Carroll Smith has supported Habitat for Humanity, the Tidewater Builders Association Scholarship Fund, and the Children's Hospital of The King's Daughters, and he advocated for improvements to Dominion Boulevard and the construction of the Veterans Memorial Bridge; and

WHEREAS, as a charter member of the Chesapeake Sports Club, Carroll Smith has mentored young people as a youth baseball and football coach and supported the Virginia Tech Athletic Fund, the Old Dominion Athletic Foundation, and Grassfield High School athletics; and

WHEREAS, Carroll Smith has also volunteered his wise leadership with the United Way, the Lions Club, the Chesapeake Public Schools Education Foundation Blue Ribbon Committee, the Salvation Army, the Boy Scouts of America, and the Virginia Special Olympics, among many other civic organizations, and served on the board of directors of the Bank of Hampton Roads; and

WHEREAS, Carroll Smith has earned numerous other awards for his work, including the Tidewater Builders Association 2014 Member of the Year award and the Chesapeake Sports Club 2018 Member of the Year award; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend R. Carroll Smith, Sr., for his legacy of contributions to the Chesapeake community on the occasion of his selection as the 2018 First Citizen of Chesapeake; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to R. Carroll Smith, Sr., as an expression of the General Assembly's admiration for his generosity and incomparable civic leadership.

### SENATE JOINT RESOLUTION NO. 266

*Commending the Washington Capitals.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, on June 7, 2018, the Washington Capitals claimed their first National Hockey League championship in the franchise's 44-year history with a thrilling win in the 2018 Stanley Cup Finals; and

WHEREAS, the Washington Capitals defeated the red-hot Vegas Golden Knights in the Stanley Cup Finals in five games, closing out the best-of-seven series with four consecutive wins to lift Lord Stanley's Cup, the oldest existing trophy awarded in a professional sports league; and

WHEREAS, the Washington Capitals opened their historic postseason campaign as the Metropolitan Division number one seed and defeated the Columbus Blue Jackets in six games, then exorcised years of heartbreak to advance past the second round of the Stanley Cup playoffs for the first time since 1998, overcoming longtime rivals the Pittsburgh Penguins with a dramatic overtime win in Game 6; and

WHEREAS, the Washington Capitals defeated the Tampa Bay Lightning, the Atlantic Division number one seed, in seven games to clinch the Eastern Conference title, win their second Prince of Wales Trophy, and advance to the Stanley Cup Finals, with beloved Capitals radio announcer John Walton prophetically asserting, "It's OK to believe"; and

WHEREAS, with the 2018 Stanley Cup Finals tied 1-1 after the first two games in Las Vegas, Washington Capitals stars T.J. Oshie and Matt Niskanen shocked and delighted fans by riding the MetroRail Red Line to games three and four at Capital One Arena; and

WHEREAS, tens of thousands of fans watched Game 5 of the Stanley Cup Finals inside and outside of Capital One Arena and witnessed the Washington Capitals become the first team from Washington, D.C., in the four major professional sports leagues in the United States to win a championship since 1992, ending one of the longest citywide championship droughts in the country; and

WHEREAS, Alexander Ovechkin, captain of the Washington Capitals since 2010 and the first overall pick in the 2004 National Hockey League Draft, exhibited extraordinary leadership and delivered superstar-caliber play, leading all scorers in the postseason with 15 goals and receiving the Conn Smythe Trophy as the most valuable player for the 2018 Stanley Cup playoffs; and

WHEREAS, during the 2018 Stanley Cup playoffs, goalie Braden Holtby recorded 639 saves and two shutouts for a remarkable 0.922 save percentage; and

WHEREAS, during the 2018 Stanley Cup playoffs, Evgeny Kuznetsov recorded 32 points, including 12 goals and 20 assists, the second most points scored in a Stanley Cup playoff year since 1997, and he was only the fifth player to record 30 or more points in a single Stanley Cup playoff year since 1997; and

WHEREAS, Barry Trotz, head coach of the Washington Capitals, and the entire coaching staff kept the Capitals composed and organized, despite facing obstacles and adversity throughout the regular season and the playoffs; and

WHEREAS, the entire Washington Capitals postseason roster banded together as one family to contribute to the Stanley Cup victory, including Nicklas Backstrom, Jay Beagle, Travis Boyd, Madison Bowey, Andre Burakovsky, John Carlson, Alex Chiasson, Brett Connolly, Pheonix Copley, Christian Djoos, Lars Eller, Shane Gersich, Philipp Grubauer, Braden Holtby, Jakub Jerabek, Michal Kempny, Evgeny Kuznetsov, Matt Niskanen, Dmitry Orlov, Brooks Orpik, T.J. Oshie, Alex Ovechkin, Devante Smith-Pelly, Chandler Stephenson, Jakub Vrana, Nathan Walker, and Tom Wilson; and

WHEREAS, Ted Leonsis, chief executive officer of Monumental Sports and owner of the Washington Capitals since 1999, has built a culture of success and contributed greatly to the Washington, D.C., community through philanthropy and support for youth leadership in the region; and

WHEREAS, the Washington Capitals are welcoming to fans from all walks of life and hold a variety of special events throughout the season, including Fan Appreciation Week, Salute to the Military Night, and the organization's first annual Pride Night in support of the LGBT community on February 27, 2018; several members of the team, including

Braden Holtby, Chandler Stephenson, Brett Connolly, and Nathan Walker also attended the 2018 Human Rights Campaign National Dinner; and

WHEREAS, headquartered in the Commonwealth, the Washington Capitals practice at the MedStar Capitals Iceplex in Arlington, and a majority of the players reside in Virginia; the members of the team make many generous contributions to the Northern Virginia community, including through Caps Care programs to support special needs children, hunger relief, and cancer research; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Washington Capitals on winning the 2018 Stanley Cup Finals; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Washington Capitals as an expression of the General Assembly's admiration for the team's incredible achievements on and off the ice.

### SENATE JOINT RESOLUTION NO. 267

*Celebrating the life of Evelyn Marie Kerr.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, Evelyn Marie Kerr of Castleton, a woman of deep and abiding faith who left a legacy of contributions to the community, died on June 1, 2018; and

WHEREAS, born to Virgil and Elinor Tripplett Everhart, Evelyn Kerr was a native of Baltimore, Maryland, and later relocated to Rappahannock County; and

WHEREAS, Evelyn Kerr worked to enhance the quality of life of her fellow Castleton residents as a member of local garden clubs and as a longtime supporter, usher, and patron of the Castleton Festival; and

WHEREAS, an active civic leader, Evelyn Kerr helped preserve the Commonwealth's valuable natural resources as a director of the Culpeper Soil and Water Conservation District and served as chair of the Rappahannock County Republican Committee; and

WHEREAS, admired for her intellect and competitive spirit, Evelyn Kerr was an accomplished world traveler who relished opportunities to enjoy other cultures; and

WHEREAS, guided by her faith in all her good deeds, Evelyn Kerr enjoyed fellowship and worship with the community as a longtime member of St. Peter Catholic Church in Washington, where she taught religious education classes; and

WHEREAS, Evelyn Kerr will be fondly remembered and greatly missed by her husband, David; her children, Christopher, CariAnne, and Keirston, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Evelyn Marie Kerr; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Evelyn Marie Kerr as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 269

*Celebrating the life of Stacey Visser Dendy.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, Stacey Visser Dendy, a vibrant member of the Richmond community and a beloved wife and mother, died on August 29, 2018; and

WHEREAS, a native of Virginia Beach, Stacey Dendy attended Norfolk Christian High School and graduated from the University of Virginia; and

WHEREAS, Stacey Dendy lived on West Avenue in Richmond's historic Fan District for 27 years, building a strong sense of community with her neighbors through her kindness, generosity, and zest for life; and

WHEREAS, Stacey Dendy further worked to enhance the quality of life in her neighborhood by offering her leadership as president of the Fan Townhouse & Garden Club and chair of the West Avenue Garden Tour; and

WHEREAS, Stacey Dendy served two terms as Parent Teacher Association president of William F. Fox Elementary School; and

WHEREAS, an accomplished amateur athlete, Stacey Dendy excelled at tennis and golf and proudly made holes-in-one at her two home golf courses, the Princess Anne Country Club in Virginia Beach and Willow Oaks Country Club in Richmond; and

WHEREAS, Stacey Dendy's greatest joy in life was spending time with her family and friends, whether at home or traveling throughout the United States and the world; and

WHEREAS, guided by her faith in all her actions, Stacey Dendy enjoyed fellowship and worship with the community as a devout member of Second Presbyterian Church, where she served as a deacon; and

WHEREAS, Stacey Dendy will be fondly remembered and greatly missed by her husband, Ben; her sons, Marshall, Thomas, and Knox; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Stacey Visser Dendy; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Stacey Visser Dendy as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 271

*Celebrating the life of John Melburn Toups.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, John Melburn Toups, a respected leader in the civil engineering field and a champion for higher education and health care in Northern Virginia, died on June 14, 2018; and

WHEREAS, a native of Wichita Falls, Texas, John Toups left his studies at Stanford University to join many of the other young men of his generation in service to the nation during World War II as a member of the United States Army, earning a Silver Star Medal for his gallantry in action; and

WHEREAS, after his honorable military service, John Toups attended Compton Junior College and the University of California, Los Angeles, before earning a bachelor's degree in civil engineering from the University of California, Berkeley; and

WHEREAS, over the course of his long and successful career as a civil engineer, John Toups served as the city engineer for Seal Beach, California, and opened his own firm, Toups Engineering, in Orange County, California; and

WHEREAS, Toups Engineering was acquired by Planning Research Corporation in 1970 and subsequently relocated to Northern Virginia; when John Toups retired as president, chair, and chief executive officer of the company in 1987, it had become the third-largest employer in the region; and

WHEREAS, a passionate lifelong learner, John Toups believed wholeheartedly in the power of a good education and helped dozens of young adults both inside and outside of his family attend college; and

WHEREAS, as chair of the George Mason University Foundation, John Toups helped George Mason University (GMU) grow to become one of the largest public universities in the Commonwealth; in addition, he established the John Toups Presidential Medal for Excellence in Teaching at the Volgenau School of Engineering and provided support for a teaching lab at the school's Sid and Reva Dewberry Department of Civil, Environmental, and Infrastructure Engineering; and

WHEREAS, John Toups further enhanced the quality of life in Northern Virginia through his work as chair of the Inova Health System Board of Directors and chair of the Inova Health Foundation, overseeing the growth of Inova Hospitals from a two-hospital system to a world-class, multihospital health care organization; and

WHEREAS, John Toups also offered his wisdom and visionary leadership to a host of other public and private firms in Northern Virginia, and he enjoyed fellowship and worship with the community as a longtime member of Immanuel Presbyterian Church; and

WHEREAS, throughout his life, John Toups earned many awards and accolades for his personal and professional achievements, including the 2013 Washingtonian of the Year award from *Washingtonian* magazine, the Robert Kruger Award from the Professional Services Council, the James M. Reese Award for Lifetime Achievement from the Fairfax County Chamber of Commerce, the Legend of Northern Virginia Award from Northern Virginia Family Services, and the prestigious George Mason Medal from GMU; and

WHEREAS, John Toups will be fondly remembered and greatly missed by his wife, Nina; his children, Paul, Dana, Ellen, and Charles, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of John Melburn Toups, an accomplished businessman who made many contributions to higher education and health care in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Melburn Toups as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 272

*Designating August 13, in 2019 and in each succeeding year, as Shipbuilders Day in Virginia.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, shipbuilding plays a vital role in the national security and economic vitality of the United States, and Virginia maintains its proud maritime heritage as a national leader in the shipbuilding industry; and

WHEREAS, nationwide, the shipbuilding industry supports more than 400,000 jobs and generates \$23.9 billion in income and \$36 billion worth of goods and services; and

WHEREAS, the shipbuilding industry accounts for a tremendous \$5.5 billion economic impact in Virginia alone, with an estimated one in every 90 jobs in the Commonwealth related directly or indirectly to shipbuilding; and

WHEREAS, shipbuilders represent a diverse, dedicated, and highly skilled workforce and have put their expertise to use building and maintaining some of the most complex and advanced ships in the world; and

WHEREAS, Newport News is home to the headquarters of Huntington Ingalls Industries, the largest military shipbuilder in the United States, and its 550-acre shipyard, Newport News Shipbuilding; and

WHEREAS, founded as the Chesapeake Drydock and Construction Company in 1886, Newport News Shipbuilding is the largest industrial employer in the Commonwealth, employing approximately 23,000 people, many of whom are third-generation or fourth-generation shipbuilders; and

WHEREAS, the first ship built entirely at Newport News Shipbuilding, the tugboat *Dorothy*, was delivered in 1891 and demonstrated the young company's potential for innovation and excellence; the tugboat stayed in service until 1964 and was eventually returned to the shipyard, where it was put on display; and

WHEREAS, over the course of more than a century since *Dorothy* steamed away along the James River, Newport News Shipbuilding has produced more than 800 military and commercial vessels and has become the sole designer, builder, and refueler for United States Navy aircraft carriers and one of only two builders of Navy submarines; and

WHEREAS, with the United States Navy's plans to increase its fleet to 355 ships, Newport News Shipbuilding will continue to make significant contributions to the region and the nation; and

WHEREAS, Collis P. Huntington, the visionary founder of Newport News Shipbuilding, died on August 13, 1900; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate August 13, in 2019 and in each succeeding year, as Shipbuilders Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to Newport News Shipbuilding so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 273

*Commending the Loudoun County High School marching band.*

Agreed to by the Senate, January 10, 2019

Agreed to by the House of Delegates, January 14, 2019

WHEREAS, the Loudoun County High School marching band won first place in the USBands Group IV A National Championships held on November 4, 2018; and

WHEREAS, the hardworking and musically talented, 95-member Loudoun County High School Marching Raiders impressed the judges to earn a championship score of 97.512, 1.674 points ahead of the second-place school; and

WHEREAS, the championship was held in Allentown, Pennsylvania, with the Loudoun Marching Raiders competing against 79 bands from Pennsylvania, New York, New Jersey, Maryland, Virginia, and Connecticut; and

WHEREAS, the Loudoun Marching Raiders performed a show entitled "Light Prevails," which combined "Moonlight Sonata" by Beethoven, "Fly to Paradise" by Eric Whitacre, and original music by Jeff Chambers; the show included choreography, multiple costume and flag changes by the color guard, a set of moving trees, moving solos on flute by Jemison Goforth and saxophone by Nick Wu, as well as beautiful vocals by Sophia Macchiarolo of the color guard; and

WHEREAS, throughout the 2018 season, the members of the band, led by drum majors Sayda Martinez and Megan Hardman, with direction by Darron Young, Kristy Lemieux, Aaron Bertoglio, Chris McNabb, and Mika Saario, were enthusiastically supported by their families, band boosters, fellow students, the school administration, and the entire school community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Loudoun County High School marching band for winning first place in the 2018 USBands Group IV A National Championships; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Loudoun County High School marching band director Darron Young as an expression of the General Assembly's congratulations and admiration for the band's achievement and impressive performance.

**SENATE JOINT RESOLUTION NO. 276**

*Requesting the Commonwealth Transportation Board to study the portion of the Interstate 95 corridor between Exit 118 and the Springfield Interchange and financing options for improvements to the corridor. Report.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, an adequate, efficient, and safe Interstate 95 corridor is important to the economic well-being of the communities located along the corridor; and

WHEREAS, a 2017 nationwide study conducted by INRIX Research ranked the nation's worst single traffic hotspot as Interstate 95 southbound at Exit 133A in Fredericksburg, with 1,394 traffic jams over the two-month study period, with an average duration of 33 minutes. This hotspot is projected to cost drivers \$2.3 billion from 2017 through 2026 in time lost, fuel wasted, and carbon emitted; and

WHEREAS, the portion of Interstate 95 northbound between Massaponax and State Route 610 in North Stafford was ranked as the seventh worst traffic hotspot in the nation, with 936 traffic jams over the two-month study period, with an average duration of 33 minutes. This hotspot is projected to cost drivers \$1.1 billion from 2017 through 2026 in time lost, fuel wasted, and carbon emitted; and

WHEREAS, the existing transportation infrastructure in this corridor is inadequate and must be updated to meet the needs of the growing population along this corridor; and

WHEREAS, the Metropolitan Washington Council of Governments reported that the Interstate 95 corridor in Fairfax and Prince William Counties contained 566,000 residents and 187,000 jobs in 2010 and forecasts that 126,000 residents and 85,000 jobs will be added by 2030; and

WHEREAS, continued congestion in this corridor threatens the prosperity and economic development of the entire region and creates economic hardship for the residents; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Commonwealth Transportation Board be requested to study the portion of the Interstate 95 corridor between Exit 118 and the Springfield Interchange and financing options for improvements to the corridor.

In conducting its study, the Commonwealth Transportation Board (the Board) shall develop and adopt an Interstate 95 Corridor Improvement Plan (Plan). The Plan shall include the examination of potential improvements to the portion of Interstate 95 between Exit 118 and the Springfield Interchange and the methods of financing such improvements.

At a minimum, in the development of the Plan, the Board shall:

1. Designate specific segments of the Interstate 95 corridor between Exit 118 and the Springfield Interchange for improvement;
2. Identify a targeted set of improvements for each segment that may be financed or funded in such segment and evaluated using the statewide prioritization process pursuant to § 33.2-214.1 of the Code of Virginia;
3. Ensure that, in the overall plan of expenditure and distribution of any toll revenues or other evaluated financing means, each segment's total long-term benefit shall be approximately equal to the proportion of the toll revenues attributable to and other funds allocated to such segment divided by the total toll revenues and other revenues allocated to the Plan;
4. Study truck travel patterns along the Interstate 95 corridor and analyze policies that minimize the impact of the Plan on local truck traffic;
5. Identify incident management strategies corridor-wide;
6. Ensure that any revenues collected on the Interstate 95 corridor be used only for the benefit of that corridor; and
7. Determine potential solutions to address region-specific needs along this Interstate 95 corridor.

Technical assistance shall be provided to the Board by the Department of Transportation, the Department of Motor Vehicles, and the Department of State Police. All agencies of the Commonwealth shall provide assistance to the Board for this study, upon request.

The Board shall complete its meetings by November 30, 2019, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2020 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

**SENATE JOINT RESOLUTION NO. 277**

*Designating the first full week of September, in 2019 and in each succeeding year, as Resiliency Week in Virginia.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, hazard mitigation is the effort to reduce loss of life and property by lessening the impact of disasters and is most effective when implemented under a comprehensive, long-term mitigation plan; and

WHEREAS, the Pre-Disaster Mitigation Grant Program, administered by the Federal Emergency Management Agency (FEMA), is designed to assist states and local communities in implementing a sustained pre-disaster natural hazard mitigation program; and

WHEREAS, the Disaster Recovery Reform Act makes available additional funds for states and communities to undertake pre-disaster mitigation measures and creates new incentives for states to build resiliently; and

WHEREAS, since 1908, natural disasters have cost the United States more than \$1 trillion, with disasters affecting local and state economies through lost payrolls, lost sales and income tax, and long recovery periods; and

WHEREAS, 25 percent of small businesses that are impacted by a natural disaster never reopen their doors; and

WHEREAS, mitigation planning is a key process used to break the cycle of disaster damage, reconstruction, and repeated damage; and

WHEREAS, according to a FEMA-commissioned study conducted by the National Institute of Building Sciences, every \$1 spent on hazard mitigation provides the nation with \$6 in future benefits; and

WHEREAS, effective pre-disaster mitigation reduces the demand for relief services on volunteer organizations such as disaster rescue and recovery teams, along with food banks and homeless shelters that serve their communities by changing their operations to provide additional services to those affected by disaster; and

WHEREAS, Resiliency Week provides an opportunity to honor the brave men and women who, as first responders, selflessly provide aid in a disaster to safeguard Virginia citizens and to raise public awareness about the continuing need to plan for future disasters by instituting a pre-disaster mitigation strategy; and

WHEREAS, communities throughout the Commonwealth are encouraged to observe Resiliency Week by planning for natural disasters and developing long-range mitigation strategies for protecting people and property from future hazard events; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate the first full week of September, in 2019 and in each succeeding year, as Resiliency Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Department of Emergency Management so that the agency may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this week on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 280

*Celebrating the life of Dennis Dunne Horton.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Dennis Dunne Horton, an acclaimed vintner who helped lay the foundation for Virginia's thriving wine industry, died on June 19, 2018; and

WHEREAS, Dennis Horton served his country as a member of the United States Air Force during the Vietnam War, then earned a bachelor's degree from the University of Maryland and pursued a career in sales, specializing in federal government contracts for office supplies; and

WHEREAS, a passionate wine enthusiast, Dennis Horton planted a small vineyard at his home in 1983 and enjoyed making his own wines as a hobby for several years; and

WHEREAS, in 1988, using his experience as an amateur winemaker, Dennis Horton founded Horton Vineyards in Gordonsville and sought out new varieties of grapes that would flourish in the Commonwealth's climate; and

WHEREAS, a visionary leader in the industry, Dennis Horton introduced or reintroduced Cabernet Franc, Norton, Viognier, and several other grape varieties that are now common throughout Virginia; Horton Vineyards' 1993 Viognier earned acclaim from top California winemakers, and the variety is now considered one of the Commonwealth's signature grapes; and

WHEREAS, Dennis Horton offered his expertise to the Virginia Wineries Association, the Virginia Vineyards Association, the Monticello Wine Trail, and the Rhone Rangers; he was highly admired nationwide, inspiring other vintners as far away as Oregon; and

WHEREAS, Dennis Horton was an exceptional ambassador for the Commonwealth, and his wines have been served to numerous visiting dignitaries, including President Bill Clinton and Elizabeth II of England; his legacy lives on in the continued success of both Horton Vineyards and the more than 280 vineyards in Virginia; and

WHEREAS, Dennis Horton will be fondly remembered and greatly missed by his wife, Sharon; his daughter, Shannon, and her family; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Dennis Dunne Horton, a prominent vintner whose insights helped the Commonwealth gain global prestige in the wine industry; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Dennis Dunne Horton as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 281

*Commending the Society of NeuroInterventional Surgery.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, based in Fairfax, the Society of NeuroInterventional Surgery is a scientific and educational organization that strives to enhance the quality of patient care nationwide in neurological fields, particularly relating to stroke prevention and stroke systems of care; and

WHEREAS, strokes are a leading cause of death and long-term disability in the United States, taking the life of someone every four minutes and claiming more than 130,000 lives per year; and

WHEREAS, a stroke can affect anyone at any age and at any time and can have devastating, long-term effects if the victim is not treated immediately; and

WHEREAS, a stroke occurs when blood flow to the brain is blocked by a clot or aneurysm, but certain specialized care has been shown to provide stroke patients with an excellent chance of survival and even full recovery, depending on how quickly blood flow resumes to the brain; and

WHEREAS, advances in medical research and technology have led to the development of significantly improved treatments such as neuroendovascular surgery, in which highly trained stroke specialists treat patients suffering from a severe form of ischemic stroke by removing or dissolving the blood clot, increasing the patient's chances of survival while greatly reducing long-term disabilities; and

WHEREAS, all local emergency service providers, health care providers, stroke specialists, government agencies, and other stakeholders involved in stroke care, education, and treatment play a critical role in patients' wellness and recovery; and

WHEREAS, patients treated by emergency service providers and other first responders who are properly trained to assess stroke severity and transport stroke patients to neuroendovascular-ready stroke centers, when appropriate, can live up to five years longer than patients who do not receive this specialized treatment; and

WHEREAS, only a small percentage of stroke victims who would benefit from neuroendovascular treatment are currently receiving such lifesaving treatment, but by offering nonstop services, stroke treatment centers can ensure that patients receive appropriate treatment in a timely manner to improve health outcomes; and

WHEREAS, organizations should consider more instruction and education to establish or update stroke systems of care to align with the latest best practices, such as ensuring that members of the stroke response and treatment communities are properly trained to triage stroke patients using a stroke scale or other technology, creating plans to provide patients with emergent large vessel occlusion, and recognizing hospitals based on the level of stroke care they provide; and

WHEREAS, there is an emerging consensus based on quality research that the outcomes of severe strokes can be considerably improved when emergency service providers transport stroke patients to the most appropriate facility based on the severity of the stroke, rather than to the nearest hospital, which may not be equipped to effectively treat certain stroke patients; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Society of NeuroInterventional Surgery for its work to promote high-quality patient care through education about innovative techniques; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Society of NeuroInterventional Surgery as an expression of the General Assembly's admiration for its successful efforts to educate the residents of the Commonwealth about stroke prevention and work to improve stroke systems of care.

### SENATE JOINT RESOLUTION NO. 282

*Commending the Virginia Governmental Employees Association.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, the Virginia Governmental Employees Association was incorporated in Richmond in 1959 by a group of dedicated state employees to establish effective communication between the General Assembly and the employees of the Commonwealth; and

WHEREAS, for the past 60 years, the Virginia Governmental Employees Association has helped to promote effective government by ensuring a high-quality state workforce; and

WHEREAS, the members of the Virginia Governmental Employees Association have dedicated themselves to the service of the citizens of the Commonwealth; and

WHEREAS, the Virginia Governmental Employees Association has served its members and all state employees by providing timely information on issues that affect the careers of the state's public servants; and

WHEREAS, the Virginia Governmental Employees Association has provided a vehicle to recognize the exceptional achievements, heroic acts, and extraordinary dedication of many of the state's finest public employees through its outstanding public employees awards program; and

WHEREAS, the Virginia Governmental Employees Association has served as the face of Virginia's state employees before the General Assembly, the Governor's office, and fellow citizens of Virginia and has provided the information and education necessary to assist the General Assembly in making appropriate decisions regarding compensation and benefit programs for the employees of the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly commend and congratulate the Virginia Governmental Employees Association on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Governmental Employees Association as an expression of the General Assembly's gratitude for the organization's commitment and outstanding service to the Commonwealth of Virginia and its dedicated employees.

### SENATE JOINT RESOLUTION NO. 286

*Recognizing June 2019 as Move Over Awareness Month in honor of Lieutenant Bradford Turner Clark.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, law-enforcement officers and first responders face many dangers in their honorable mission to protect and serve their communities, and being struck and killed while working on highways is one of the most common causes of death for first responders in the United States; and

WHEREAS, since 2007, the Virginia State Police and the Virginia Department of Transportation have been actively involved in the Move Over or Slow Down Campaign to educate members of the public on the Move Over law, which was enacted to protect law-enforcement officers and first responders stopped on the side of a highway; and

WHEREAS, Move Over or Slow Down laws have been enacted in all 50 states, and in 2014, the General Assembly designated June as Move Over Awareness Month in Virginia to educate the public on how these laws can help save the lives of both first responders and motorists; and

WHEREAS, Lieutenant Bradford Turner Clark, a courageous member of the Hanover County Fire and EMS Department, was killed in the line of duty on October 11, 2018, when he and several other firefighters were struck by a tractor-trailer while responding to a vehicle crash on I-295 during severe weather; and

WHEREAS, Lieutenant Clark, a dedicated husband and father, a veteran, and a 13-year member of the department, worked diligently as an instructor to ensure the safety of his fellow firefighters, and his loss was felt deeply throughout the Hanover County community; and

WHEREAS, Lieutenant Clark's sacrifice is a stark reminder of the important steps that Virginians can take to support the law-enforcement officers, firefighters, and other first responders who put their lives on the line to serve and safeguard the members of the public; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly recognize June 2019 as Move Over Awareness Month in honor of Lieutenant Bradford Turner Clark; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the family of Lieutenant Bradford Turner Clark so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

### SENATE JOINT RESOLUTION NO. 287

*Designating August 16, in 2019 and in each succeeding year, as the Reverend Dr. Wyatt Tee Walker Day in Virginia.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the Reverend Dr. Wyatt Tee Walker of Chester, a passionate spiritual leader and a highly admired advocate for racial equality who worked directly with Dr. Martin Luther King, Jr., during the Civil Rights movement, was born on August 16, 1928; and

WHEREAS, born in Massachusetts, Wyatt Walker was raised in New Jersey and attended Virginia Union University; in 1953, he answered the call to the ministry as pastor of Gillfield Baptist Church, one of the oldest historically black churches in the country and the second oldest in Petersburg; and

WHEREAS, Dr. Walker led the community in protests against segregation and other injustices and served as president of the Petersburg branch of the NAACP, director of the Congress of Racial Equality, and cofounder of the Petersburg Improvement Association; and

WHEREAS, Dr. Walker subsequently served as chief of staff to Dr. Martin Luther King, Jr., and helped establish the Southern Christian Leadership Conference (SCLC) in 1957, using his personal relationships with fellow clergy to build support for the organization throughout the Commonwealth; and

WHEREAS, in 1960, Dr. Walker moved to Atlanta, Georgia, to become executive director of the SCLC and helped bring the organization to national prominence, sparking a new phase in Civil Rights organizing; and

WHEREAS, beginning in 1967, Dr. Walker served as senior pastor of Canaan Baptist Church of Christ in Harlem, New York, where he continued to be a beacon for justice and hosted numerous leaders from African nations that were seeking independence, including Nelson Mandela of South Africa; and

WHEREAS, Dr. Walker returned to Virginia in 2004 and taught at the Samuel DeWitt Proctor School of Theology at Virginia Union University; he became a staunch advocate for charter schools as a means to support equality in education, earning the second-ever Lifetime Achievement Award from the National Charter School Alliance; and

WHEREAS, Dr. Walker died on January 23, 2018, leaving behind a legacy of civic engagement and commitment to social justice that has inspired countless others to become leaders in their communities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate August 16, in 2019 and in each succeeding year, as the Reverend Dr. Wyatt Tee Walker Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit copies of this resolution to the family of the Reverend Dr. Wyatt Tee Walker and the Southern Christian Leadership Conference so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 288

*Commending the Benedictine Sisters of Virginia.*

Agreed to by the Senate, January 24, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, in 1852, three Benedictine Sisters from Bavaria landed in New York to minister to the children of the German-speaking immigrants who had settled in western Pennsylvania; and

WHEREAS, in 1868, two sisters from St. Marys, Pennsylvania, journeyed to Richmond to teach the children of German immigrants and established a new priory that became St. Mary's of Richmond; and

WHEREAS, in 1894, the Benedictine Sisters established a new convent and school on the Linton Estate in the small community of Bristow in Prince William County, from which the substantial and beneficent Benedictine presence in Virginia has grown; and

WHEREAS, during the 150 years they have been in Virginia and the 125 years they have prospered in Prince William County, the Benedictine Sisters have staffed more than a dozen schools, including Saint Gertrude High School in Richmond and Linton Hall School in Bristow; and

WHEREAS, serving as educators, nurses, dietitians, parish administrators, and counselors, the Benedictine Sisters have touched the lives of countless Virginians; and

WHEREAS, the Benedictine Sisters have reached out to many others through such programs as the Benedictine Pastoral Center, Benedictine Counseling Services, BARN Community Housing, and BEACON for Adult Literacy; and

WHEREAS, for more than a century, the Benedictine Sisters have provided much-needed educational, social, and spiritual services to the citizens of the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Benedictine Sisters of Virginia for their 150 years of selfless and invaluable service to the citizens of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Benedictine Sisters of Virginia as an expression of the General Assembly's appreciation for their many contributions to the quality of life in the Commonwealth.

### SENATE JOINT RESOLUTION NO. 289

*Designating February 20, in 2019 and in each succeeding year, as Cardiopulmonary Resuscitation Awareness Day in Virginia.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, each year, more than 600,000 people, including men, women, and children of all races and backgrounds, suffer from a sudden cardiac arrest; and

WHEREAS, in most adults, sudden cardiac arrest results from an electrical malfunction in the heart that causes an abnormal heart rhythm, which can disrupt blood flow to the brain, lungs, and other organs; while the terms are often used interchangeably, sudden cardiac arrest is medically distinct from a heart attack; and

WHEREAS, more than 395,000 out-of-hospital sudden cardiac arrests occur in the United States each year, and approximately 90 percent of sudden cardiac arrest victims die before arriving at a hospital; and

WHEREAS, when sudden cardiac arrest occurs outside of a hospital, a friend, family member, or bystander may be required to perform cardiopulmonary resuscitation (CPR) on the victim; 70 percent of Americans say they would not know how to act in a cardiac arrest emergency or do not feel comfortable performing CPR because their training has lapsed; and

WHEREAS, effective treatment demands an immediate response from a bystander to call 911, begin CPR, and locate an automated external defibrillator, with the victim's likelihood of survival decreasing by 10 percent every minute after sudden cardiac arrest; and

WHEREAS, CPR with only chest compressions has been found to be as effective as CPR with breaths in treating victims of sudden cardiac arrest, and the American Heart Association has recommended Hands-Only CPR for adults since 2008; a person performing CPR should push on the chest at a rate of 100 to 120 compressions per minute, a perfect match to the beat of the song "Stayin' Alive"; and

WHEREAS, prompt delivery of CPR more than doubles the chance of survival from sudden cardiac arrest by helping to maintain vital blood flow to the heart and brain, increasing the length of time after the onset of sudden cardiac arrest in which an electric shock from a defibrillator can be effective; and

WHEREAS, an automated external defibrillator, even when used by a bystander, is safe, easy to operate, and highly effective in restoring a normal heart rhythm, significantly increasing the chance of survival for many victims if used promptly after the onset of sudden cardiac arrest; and

WHEREAS, death or severe brain injury is likely to occur unless resuscitation measures are started no later than 10 minutes after the onset of sudden cardiac arrest; and

WHEREAS, the interval between a 911 call and the arrival of emergency medical personnel is typically longer than five minutes, making it vital for members of the public to seek training in cardiopulmonary resuscitation and automated external defibrillator use; and

WHEREAS, on February 20, 2017, 12-year-old John Michael Brereton was finishing baseball practice when he suffered sudden cardiac arrest; his coach, Jacob Alexander Hummer, performed CPR until emergency services arrived, saving the boy's life with his quick thinking and training; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate February 20, in 2019 and in each succeeding year, as Cardiopulmonary Resuscitation Awareness Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to American Heart Association so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 290

*Celebrating the life of Josiah Pollard Rowe III.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Josiah Pollard Rowe III, the esteemed former publisher of the *Free Lance-Star*, former Fredericksburg mayor, and a passionate advocate for the environment, died on November 3, 2018; and

WHEREAS, Josiah Rowe was born and raised in Fredericksburg; he graduated from James Monroe High School and Washington and Lee University, where he studied physics and mathematics; and

WHEREAS, Josiah Rowe was inducted into Omicron Delta Kappa, a national leadership honor society, and was a member of Delta Tau Delta Fraternity; he studied printing management at the Carnegie Institute of Technology and from 1951 to 1953 served in the United States Army; and

WHEREAS, when Josiah Rowe's father died in 1949, Josiah and his brother Charles were called on to manage the *Free Lance-Star*; under the brothers' leadership, the newspaper rose from a circulation of about 6,000 subscribers to a high of 50,000 subscribers as a seven-day newspaper, and the business was expanded to include WFLS, WYSK, WWUZ, Print Innovators, and fredericksburg.com; and

WHEREAS, Josiah Rowe always kept an eye on details, reading the newspaper every day with a red pen in hand to catch mistakes; he was also an early adopter of new technology; and

WHEREAS, Josiah and Charles Rowe received national recognition in 1986 when *Time* magazine named the *Free Lance-Star* as one of the nation's best newspapers for its size; the publication prided itself on being the primary source for news for the Fredericksburg region, giving readers little reason to subscribe to larger papers in Washington, D.C., or Richmond; and

WHEREAS, under Josiah and Charles Rowe's leadership, the *Free Lance-Star* paid journalists enough to make their careers there and raise families; the brothers were not afraid to take bold, even unpopular stances in the newspaper when they believed those positions were ethical, just, and correct; and

WHEREAS, as mayor of Fredericksburg from 1964 to 1972, Josiah Rowe helped lead the peaceful integration of schools and the city's workforce in Fredericksburg; he purposefully marched in solidarity with city residents mourning the death of

Dr. Martin Luther King, Jr., in 1968; and he made the trailblazing move for the city to acquire the land around the Rappahannock River to preserve the natural resource and the city's drinking water source; and

WHEREAS, Josiah Rowe followed in a long family tradition of public service, with his father, grandfather, and great-grandfather all having previously held the office of Fredericksburg mayor; Josiah Rowe also served on the Fredericksburg school board in the paradigm-shifting time after *Brown v. Board of Education*; and

WHEREAS, Josiah Rowe volunteered his leadership to many other organizations, including as president of the Virginia Press Association, chair of the Presbyterian School of Christian Education, trustee of the Virginia Museum of History & Culture, chair of Mary Washington Hospital, trustee and treasurer of the George Washington Foundation, member of the Fredericksburg Jaycees, chair of the Community Fund, and longtime member of the Fredericksburg Rotary Club; and

WHEREAS, for excellence in his profession, Josiah Rowe received awards from the Virginia Communications Hall of Fame and AP Broadcasters' Hall of Fame; the *Free Lance-Star* received awards from the Columbia Graduate School of Journalism and the University of Missouri; and

WHEREAS, Josiah Rowe was a passionate tennis player who reigned as city tennis champion for several decades and did not retire from the sport until well into his 80s; his love of tennis and his generosity prompted him to donate funds to build indoor courts at the University of Mary Washington and the Massad Branch of the Rappahannock Area YMCA; he was known for his enjoyment of puns and trivia, his dry wit, and his keen memory and could recite a linotype keyboard horizontally and vertically; and

WHEREAS, Josiah Rowe and his late wife, Anne Wilson Rowe, were generous philanthropists and contributed to institutions that reflected their interest in higher education, history, faith, and community; genealogy was of great interest to Josiah Rowe, who traced his family's origins to Stafford County's first peoples, leading him to join the Patowomeck Indian Tribe; and

WHEREAS, predeceased by his wife, Anne, Josiah Rowe will be fondly remembered and greatly missed by his children, Jeanette, Florence, Sallie, and Josiah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Josiah Pollard Rowe III, an esteemed newspaper publisher, former Fredericksburg mayor, and environmental advocate; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Josiah Pollard Rowe III as an expression of the General Assembly's respect for his memory as a champion for Fredericksburg, journalism, athletics, and the environment.

### SENATE JOINT RESOLUTION NO. 292

*Confirming appointments by the Governor of certain persons communicated May 17, 2018.*

Agreed to by the Senate, January 21, 2019

Agreed to by the House of Delegates, January 30, 2019

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly May 17, 2018.

#### SECRETARIAT

**Brian Ball** of **Richmond**, Virginia 23219, Secretary of Commerce and Trade, effective April 17, 2018, to serve at the pleasure of the Governor, to succeed Esther Lee.

#### AGENCY HEADS

**Hughes Melton** of **Richmond**, Virginia 23219, Commissioner, Department of Behavioral Health and Developmental Services, effective April 30, 2018, to serve at the pleasure of the Governor, to succeed Debra Ferguson.

**Nelson Moe** of **Chester**, Virginia 23836, Chief Information Officer, Virginia Information Technologies Agency, effective March 27, 2018, to serve at the pleasure of the Governor, to succeed himself.

**David Paylor** of **Richmond**, Virginia 23219, Director, Department of Environmental Quality, effective March 30, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Michael Westfall** of **Richmond**, Virginia 23219, State Inspector General, effective April 13, 2018, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2020, to succeed June W. Jennings.

### SENATE JOINT RESOLUTION NO. 293

*Confirming appointments by the Governor of certain persons communicated to the General Assembly June 1, 2018, and June 13, 2018.*

Agreed to by the Senate, January 21, 2019

Agreed to by the House of Delegates, January 30, 2019

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly June 1, 2018, and June 13, 2018.

#### AGENCY HEADS

**Jewel Bronaugh** of **Petersburg**, Virginia 23114, Commissioner of Agriculture and Consumer Services, effective May 25, 2018, to serve at the pleasure of the Governor, to succeed Sandra J. Adams.

**James Lane** of **Chesterfield**, Virginia 23112, Superintendent of Public Instruction, Department of Education, effective June 1, 2018, to serve at the pleasure of the Governor, to succeed Steven Staples.

**M. Norman Oliver** of **Charlottesville**, Virginia 22901, Commissioner of Health, effective May 30, 2018, to serve at the pleasure of the Governor, to succeed Marissa Levine.

#### ADMINISTRATION

##### State Compensation Board

**Tyrone Nelson** of **Henrico**, Virginia 23231, Member, appointed May 11, 2018, to serve at the pleasure of the Governor, to succeed Susan Swecker.

#### AUTHORITIES

##### Hampton Roads Sanitation District Commission

**Rick N. Elofson** of **Newport News**, Virginia 23606, Member, appointed April 27, 2018, for a term of four years beginning June 8, 2018, and ending June 7, 2022, to succeed himself.

**Vishnukumar K. Lakdawala** of **Virginia Beach**, Virginia 23455, Member, appointed April 27, 2018, for a term of four years beginning June 8, 2018, and ending June 7, 2022, to succeed himself.

##### Online Virginia Network Authority

**Karen Jackson** of **Poquoson**, Virginia 23662, Member, appointed May 11, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Andrew Ko** of **Ashburn**, Virginia 20147, Member, appointed May 11, 2018, for a term of two years beginning July 1, 2017, and ending June 30, 2019, to fill a new seat.

**Dave Leichtman** of **Arlington**, Virginia 22203, Member, appointed May 11, 2018, for a term of three years beginning July 1, 2017, and ending June 30, 2020, to fill a new seat.

#### COMMERCE AND TRADE

##### Auctioneers Board

**Betty Bennett** of **Staunton**, Virginia 24401, Member, appointed April 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

##### Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects

**Cameron C. Stiles** of **Ashland**, Virginia 23005, Member, appointed May 4, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Chris Stone** of **Virginia Beach**, Virginia 23451, Member, appointed May 4, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Michael Zmuda** of **Mechanicsville**, Virginia 23116, Member, appointed May 4, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

##### Board for Professional and Occupational Regulation

**Suzanne H. Conrad** of **Winchester**, Virginia 22601, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Martin A. Mooradian** of **Richmond**, Virginia 23235, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Ryan O'Toole** of **Richmond**, Virginia 23223, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Shelly A. Simonds** of **Newport News**, Virginia 23601, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

##### Board of Accountancy

**W. Barclay Bradshaw** of **Richmond**, Virginia 23233, Member, appointed May 4, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Andrea Kilmer.

##### Cemetery Board

**Enid Walker Butler** of **Williamsburg**, Virginia 23188, Member, appointed April 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Armistead W. Dudley** of **Norfolk**, Virginia 23505, Member, appointed April 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

##### Center for Rural Virginia

**Hope F. Cupit** of **Forest**, Virginia 24016, Member, appointed May 4, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**State Building Code Technical Review Board**

**J. Kenneth Payne, Jr.**, of **Chesterfield**, Virginia 23832, Member, appointed April 6, 2018, to serve at the pleasure of the Governor, to succeed Matthew Arnold.

**Virginia Board of Workforce Development**

**James A. Gray** of **Hampton**, Virginia 23664, Member, appointed March 9, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Lane Seawell Hopkins** of **Richmond**, Virginia 23226, Vice Chair, appointed March 9, 2018, for a term of two years beginning July 1, 2017, and ending June 30, 2019, to succeed Nathaniel X. Marshall.

**Nathaniel X. Marshall** of **Lynchburg**, Virginia 24501, Chair, appointed March 9, 2018, for a term of two years beginning July 1, 2017, and ending June 30, 2019, to succeed Mark Herzog.

**James Todd Monroe** of **Richmond**, Virginia 23221, Member, appointed March 9, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Virginia Gas and Oil Board**

**Mary Addington Quillen** of **St. Paul**, Virginia 24283, Member, appointed May 4, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed herself.

**Rita Surratt** of **Clintwood**, Virginia 24228, Member, appointed May 4, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed herself.

**Virginia Resources Authority Board of Directors**

**Thomas L. Hasty III** of **Chesapeake**, Virginia 23320, Member, appointed April 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Virginia Offshore Wind Development Authority**

**James D. McArthur, Jr.**, of **Suffolk**, Virginia 23435, Member, appointed March 9, 2018, to serve an unexpired term beginning January 13, 2018, and ending June 30, 2020, to succeed Varun Nikore.

**COMPACT**

**Atlantic States Marine Fisheries Commission**

**T. Montgomery Mason** of **Williamsburg**, Virginia 23185, Member, appointed May 4, 2018, to serve at the pleasure of the Governor, to succeed Richard Stuart.

**J. Bryan Plumlee** of **Virginia Beach**, Virginia 23451, Member, appointed May 4, 2018, to serve at the pleasure of the Governor, to succeed Catherine Davenport.

**Washington Metrorail Safety Commission Interstate Compact**

**Barbara W. Reese** of **Chesterfield**, Virginia 23113, Member, appointed March 23, 2018, for a term of three years beginning July 1, 2017, and ending June 30, 2020, to fill a new seat.

**EDUCATION**

**Institute for Advanced Learning and Research**

**John E. Mead** of **Danville**, Virginia 24137, Member, appointed May 18, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2020, to succeed Betty Jo Foster.

**Norfolk State University Board of Visitors**

**James W. Dyke, Jr.**, of **Reston**, Virginia 20191, Member, appointed March 9, 2018, to serve an unexpired term beginning February 7, 2018, and ending June 30, 2021, to succeed Rodney Powell.

**Southern Virginia Higher Education Center Board of Trustees**

**John C. Lee, Jr.**, of **Clarksville**, Virginia 23927, Member, appointed March 23, 2018, to serve an unexpired term beginning January 11, 2018, and ending June 30, 2020, to succeed J. Charles Lee.

**Southwest Virginia Higher Education Center Board of Trustees**

**Steve Ahn** of **Damascus**, Virginia 24236, Member, appointed April 6, 2018, to serve an unexpired term beginning December 19, 2017, and ending June 30, 2019, to succeed Danny Dixon.

**Keith S. Perrigan** of **Bristol**, Virginia 24201, Member, appointed April 6, 2018, to serve an unexpired term beginning December 19, 2017, and ending June 30, 2018, to succeed Christine Kinser.

**Virginia Commission on Higher Education Board Appointments**

**James Michael Burke** of **Richmond**, Virginia 23225, Member, appointed March 23, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Carlos Del Toro** of **Alexandria**, Virginia 22309, Member, appointed March 23, 2018, to serve at the pleasure of the Governor, to succeed Constance Kincheloe.

**Eva Hardy** of **Richmond**, Virginia 23221, Member, appointed March 23, 2018, to serve at the pleasure of the Governor, to succeed herself.

**Joni Ivey** of **Newport News**, Virginia 23607, Member, appointed March 23, 2018, to serve at the pleasure of the Governor, to succeed herself.

**Cathy Lewis** of **Norfolk**, Virginia 23507, Member, appointed March 23, 2018, to serve at the pleasure of the Governor, to succeed Leonard Sandridge.

**Charles Steger** of **Blacksburg**, Virginia 24060, Member, appointed March 23, 2018, to serve at the pleasure of the Governor, to succeed himself.

**FINANCE****Debt Capacity Advisory Committee**

**Ronald L. Tillet** of **Midlothian**, Virginia 23113, Member, appointed April 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Treasury Board**

**Neil Amin** of **Chester**, Virginia 23836, Member, appointed April 20, 2018, to serve at the pleasure of the Governor, to succeed himself.

**James Carney** of **Midlothian**, Virginia 23113, Member, appointed April 20, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Douglas Densmore** of **Roanoke**, Virginia 24014, Member, appointed April 20, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Lou Mejia** of **Alexandria**, Virginia 22304, Member, appointed April 20, 2018, to serve at the pleasure of the Governor, to succeed himself.

**HEALTH AND HUMAN RESOURCES****Advisory Board on Athletic Training**

**Deborah Beck Corbatta** of **Fairfax**, Virginia 22032, Member, appointed May 4, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Michael J. Puglia** of **Richmond**, Virginia 23225, Member, appointed May 4, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Advisory Board on Behavior Analysis**

**Christina B. Giuliano** of **Salem**, Virginia 24153, Member, appointed April 20, 2018, to serve an unexpired term beginning January 1, 2018, and ending June 30, 2021, to succeed Christina Evanko.

**Board of Counseling**

**Vivian Sanchez-Jones** of **Roanoke**, Virginia 24012, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Terry Tinsley** of **Bristow**, Virginia 20136, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Holly J. Tracy** of **Norfolk**, Virginia 23505, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Board of Health Professions**

**Kevin P. O'Connor** of **Leesburg**, Virginia 20176, Member, appointed April 27, 2018, to serve an unexpired term beginning January 11, 2018, and ending June 30, 2020, to succeed Barbara Allison-Bryan.

**Board of Nursing**

**Marie F. Gerardo** of **Midlothian**, Virginia 23114, Member, appointed May 11, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**A. Tucker Gleason** of **Louisa**, Virginia 22908, Member, appointed April 6, 2018, to serve an unexpired term beginning February 17, 2018, and ending June 30, 2020, to succeed Alice Bazemore Clark.

**Mark D. Monson** of **Fairfax**, Virginia 22033, Member, appointed May 11, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Meenakshi Shah** of **Roanoke**, Virginia 24018, Member, appointed May 11, 2018, to serve an unexpired term beginning May 11, 2018, and ending June 30, 2020, to succeed Dustin S. Ross.

**Board of Optometry**

**Helene D. Clayton-Jeter** of **Rosslyn**, Virginia 22209, Member, appointed April 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Board of Pharmacy**

**James L. Jenkins, Jr.**, of **Mechanicsville**, Virginia 23111, Member, appointed May 11, 2018, to serve an unexpired term beginning April 14, 2018, and ending June 30, 2019, to succeed Freeda Cathcart.

**Cheryl H. Nelson** of **Richmond**, Virginia 23238, Member, appointed May 11, 2018, to serve an unexpired term beginning February 10, 2018, and ending June 30, 2018, to succeed Ellen Shinaberry.

**Board of Psychology**

**Andrea O. Bailey** of **Dumfries**, Virginia 22025, Member, appointed May 18, 2018, to serve an unexpired term beginning February 11, 2018, and ending June 30, 2019, to succeed Deja M. Lee.

**James L. Werth, Jr.**, of **Bristol**, Virginia 24202, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Commonwealth Health Research Board**

**Eric J. Lowe** of **Norfolk**, Virginia 23507, Member, appointed May 25, 2018, for a term of five years beginning April 1, 2018, and ending March 31, 2023, to succeed John R. Onufer.

**Virginia Board for People with Disabilities**

**Sarah Kranz-Ciment** of **Richmond**, Virginia 23238, Member, appointed April 6, 2018, to serve an unexpired term beginning January 4, 2018, and ending June 30, 2020, to succeed Caroline Raker.

**INDEPENDENT****Virginia College Savings Plan Board**

**Edward H. Bersoff** of **Bethesda, Maryland** 20814, Member, appointed April 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**LEGISLATIVE****Commission on Youth**

**Avohom B. Carpenter** of **Chester**, Virginia 23831, Member, appointed April 13, 2018, to serve an unexpired term beginning January 11, 2018, and ending June 30, 2020, to succeed Karrie Delaney.

**Deirdre S. Goldsmith** of **Abingdon**, Virginia 24210, Member, appointed April 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Virginia Housing Commission**

**Cynthia B. Hall** of **Chesapeake**, Virginia 23321, Member, appointed May 25, 2018, to serve an unexpired term beginning January 14, 2018, and ending June 30, 2020, to succeed Mark Flynn.

**NATURAL RESOURCES****Virginia Marine Resources Commission**

**C. Chadwick Ballard III** of **Norfolk**, Virginia 23505, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**John E. Zydron** of **Chesapeake**, Virginia 23322, Member, appointed May 18, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**PUBLIC SAFETY AND HOMELAND SECURITY****Scientific Advisory Committee**

**Randall E. Beaty** of **Austin, Texas** 78703, Member, appointed April 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Maureen C. Bottrell** of **Vienna**, Virginia 22180, Member, appointed April 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Barry S. Levine** of **Columbia, Maryland** 21044, Member, appointed April 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Richard P. Meyers** of **Herndon**, Virginia 20170, Member, appointed April 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**TECHNOLOGY****Innovation and Entrepreneurship Investment Authority Board of Directors**

**Timothy Sands** of **Blacksburg**, Virginia 24061, Member, appointed May 18, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed himself.

**Michael Steed** of **Chevy Chase, Maryland** 20815, Member, appointed May 18, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed himself.

**TRANSPORTATION****Virginia Commercial Space Flight Authority Board of Directors**

**James D. McArthur, Jr.**, of **Suffolk**, Virginia 23435, Member, appointed March 9, 2018, to serve an unexpired term beginning January 13, 2018, and ending June 30, 2019, to succeed Varun Nikore.

**VETERANS AND DEFENSE AFFAIRS****Virginia War Memorial Board**

**Joshua L. King** of **Dumfries**, Virginia 22026, Member, appointed May 18, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Naveed A. Shah** of **Fairfax**, Virginia 22033, Member, appointed May 18, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**James A. Zollar** of **Mechanicsville**, Virginia 23116, Member, appointed May 18, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**SENATE JOINT RESOLUTION NO. 294**

*Confirming appointments by the Governor of certain persons communicated August 1, 2018.*

Agreed to by the Senate, January 22, 2019

Agreed to by the House of Delegates, January 30, 2019

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly August 1, 2018.

**AGENCY HEADS**

**Emily Elliott** of **Mechanicsville**, Virginia 23116, Director, Department of Human Resource Management, to serve at the pleasure of the Governor beginning August 6, 2018, to succeed Sara Redding Wilson.

**Scott Stroh** of **Mason Neck**, Virginia 22079, Executive Director, George Mason's Gunston Hall, to serve at the pleasure of the Governor beginning June 25, 2018, to succeed himself.

#### ADMINISTRATION

##### Council on Women

**Margie Del Castillo** of **Alexandria**, Virginia 22309, Member, appointed July 27, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Jill Gaitens** of **Virginia Beach**, Virginia 23454, Member, appointed July 27, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Amy K. Eckert.

**Diana Gates** of **Alexandria**, Virginia 22314, Member, appointed July 27, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Meta Robinson Braymer.

**Aisha Johnson** of **Salem**, Virginia 24153, Member, appointed July 27, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Lori A. Merricks.

**Noor Khalidi** of **Charlottesville**, Virginia 22903, Member, appointed July 27, 2018, to serve an unexpired term beginning March 22, 2018, and ending June 30, 2019, to succeed Lisa Speller-Davis.

**Chrystal Neal** of **Richmond**, Virginia 23229, Member, appointed July 27, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Miriam Bender.

**Holly Seibold** of **Vienna**, Virginia 22180, Member, appointed July 27, 2018, to serve an unexpired term beginning March 22, 2018, and ending June 30, 2019, to succeed Hala Ayala.

#### AGRICULTURE AND FORESTRY

##### Aquaculture Advisory Board

**Michael Oesterling** of **Gloucester**, Virginia 23061, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending on June 30, 2021, to succeed Chad Ballard.

**Bryan Plemmons** of **Goshen**, Virginia 24439, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending on June 30, 2021, to succeed himself.

#### AUTHORITIES

##### Virginia Alcoholic Beverage Control Authority Board of Directors

**Maria J. K. Everett** of **Henrico**, Virginia 23229, Member, appointed June 29, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to fill a new seat.

**Gregory Holland** of **Richmond**, Virginia 23113, Member, appointed June 29, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to fill a new seat.

**Beth G. Hungate-Noland** of **Richmond**, Virginia 23223, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to fill a new seat.

**Jeffrey L. Painter** of **Richmond**, Virginia 23225, Member, appointed January 13, 2018, for a term of two years beginning January 15, 2018, and ending January 14, 2020, to fill a new seat.

**Mark E. Rubin** of **Richmond**, Virginia 23227, Member, appointed January 13, 2018, for a term of one year beginning January 15, 2018, and ending January 14, 2019, to fill a new seat.

##### Virginia Public Building Authority

**Ann Shawver** of **Catawba**, Virginia 24070, Member, appointed July 27, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Kevin O'Neill.

##### Virginia Solar Energy Development and Energy Storage Authority

**Paul Duncan** of **Oakton**, Virginia 22124, Member, appointed July 27, 2018, to serve an unexpired term beginning April 10, 2018, and ending June 30, 2021, to succeed William Duff Carmack.

**Cody Nystrom** of **Richmond**, Virginia 23220, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Damian Pitt** of **Richmond**, Virginia 23221, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Sylvain X. Marsillac.

#### COMMERCE AND TRADE

##### Apprenticeship Council

**Christopher M. Cash** of **Manassas**, Virginia 20111, Member, appointed June 29, 2018, for a term of three years beginning June 21, 2018, and ending June 20, 2021, to succeed Greta Erin Nicholson.

**R. Dudley Harris** of **Newport News**, Virginia 23601, Member, appointed June 29, 2018, for a term of three years beginning June 21, 2018, and ending June 20, 2021, to succeed himself.

**Darold S. Kemp** of **Carrsville**, Virginia 23315, Member, appointed June 29, 2018, for a term of three years beginning June 21, 2017, and ending June 20, 2020, to succeed himself.

##### Board for Barbers and Cosmetology

**Gilda Acosta** of **Arlington**, Virginia 22204, Member, appointed June 22, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Thomas Daniel Jones.

**Darrin L. Hill** of **Petersburg**, Virginia 23805, Member, appointed June 22, 2018, to serve an unexpired term beginning January 9, 2018, and ending June 30, 2021, to succeed Jonathan W. Minor.

**Lonnie Quesenberry** of **North Tazewell**, Virginia 24630, Member, appointed June 22, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

### **Board of Housing and Community Development**

**Azfar Sonny Abbasi** of **Vienna**, Virginia 22182, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Shekar Narasimham.

**Mimi Milner Elrod** of **Lexington**, Virginia 24450, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Timothy Ivey Shields.

**Andrew M. Friedman** of **Virginia Beach**, Virginia 23451, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed John Walter Ainslie.

**Richard Gregory** of **Henrico**, Virginia 23238, Member, appointed July 13, 2018, to serve an unexpired term beginning January 24, 2018, and ending June 30, 2020, to succeed Charles Richard Napier.

### **Latino Advisory Board**

**Edgar Aranda-Yanoc** of **Arlington**, Virginia 22204, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Carolina Espinal.

**Cecilia E. Barbosa** of **Richmond**, Virginia 23229, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Damien Cabezas** of **Lynchburg**, Virginia 24551, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Zuraya Tapia-Hadley.

**Dania Matos** of **Woodbridge**, Virginia 22193, Member, appointed July 13, 2018, to serve an unexpired term beginning May 22, 2018, and ending October 14, 2020, to succeed Diana C. Vall-Ilobera.

**Aida Pacheco** of **Mechanicsville**, Virginia 23111, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Gloria Pe-a Rockhold** of **Charlottesville**, Virginia 22901, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Carmen Romero** of **Arlington**, Virginia 22207, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Julio Cesar Idrobo.

**Mercedes Santos-Bell** of **Chesapeake**, Virginia 23321, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Ana K. Solorio** of **Richmond**, Virginia 23221, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

### **Real Estate Board**

**Candice Bower** of **Purcellville**, Virginia 20176, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Joseph Funkhouser.

**Ibrahim A. Moiz** of **Loudoun County**, Virginia 20165, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Mayra Pineda** of **Fairfax**, Virginia 22031, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Sandra Ferebee.

### **Virginia Board of Workforce Development**

**Lynne Bushey** of **Arlington**, Virginia 22201, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Joan B. Peterson** of **Williamsburg**, Virginia 23188, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Becky Sawyer** of **Virginia Beach**, Virginia 23452, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Raheel Sheikh** of **Manassas**, Virginia 20112, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Travis W. Staton** of **Abingdon**, Virginia 24211, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Zuzana Steen** of **Manassas**, Virginia 20109, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

### **Virginia Economic Development Partnership Committee on International Trade**

**John G. Milliken** of **Arlington**, Virginia 22202, Member, appointed June 29, 2018, to serve an unexpired term beginning June 16, 2018, and ending June 30, 2021, to succeed John Pullen.

### **Virginia Housing Development Authority Commissioners**

**Barbara Blackston** of **Richmond**, Virginia 23230, Member, appointed June 8, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Lemella Carrington.

**Shekar Narasimhan** of **Dunn Loring**, Virginia 22027, Member, appointed June 8, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Timothy Chapman.

### **Virginia Manufactured Housing Board**

**Kris Bridges** of **Danville**, Virginia 24540, Member, appointed June 8, 2018, for a term of four years beginning April 1, 2018, and ending March 31, 2022, to succeed himself.

**Shawna Cheney** of **Lexington**, Virginia 24450, Member, appointed June 8, 2018, for a term of four years beginning April 1, 2018, and ending March 31, 2022, to succeed herself.

**Walter S. Cleaton of South Hill**, Virginia 23970, Member, appointed June 8, 2018, for a term of four years beginning April 1, 2018, and ending March 31, 2022, to succeed himself.

**Jon Gandy of Rockwell, North Carolina** 28138, Member, appointed June 8, 2018, for a term of four years beginning April 1, 2018, and ending March 31, 2022, to succeed Dennis Lee Jones.

**James P. Trepinski of Boones Mill**, Virginia 24065, Member, appointed June 8, 2018, to serve an unexpired term beginning June 13, 2017, and ending March 31, 2020, to succeed Ben Flores.

#### COMPACTS

##### Breaks Interstate Park Commission

**Richard Mullins of Clintwood**, Virginia 24228, Member, appointed June 8, 2018, for a term of four years beginning February 24, 2018, and ending February 23, 2022, to succeed Jim O'Quinn.

##### Southern Regional Education Board

**Janet D. Howell of Reston**, Virginia 20194, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

##### Virginia Council on the Interstate Compact on Educational Opportunity for Military Children

**Dede Bailer of Alexandria**, Virginia 22308, Member, appointed June 29, 2018, to serve at the pleasure of the Governor, to succeed Jill Gaitens.

**Joey L. Frantzen of Virginia Beach**, Virginia 23451, Member, appointed June 29, 2018, to serve at the pleasure of the Governor, to succeed himself.

**James Lane of Midlothian**, Virginia 23112, Chair, appointed June 29, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed M. Kirkland Cox.

**James Lane of Midlothian**, Virginia 23112, Member, appointed June 29, 2018, to serve at the pleasure of the Governor to succeed Steven R. Staples.

**Dorothy McAuliffe of McLean**, Virginia 22102, Member, appointed June 29, 2018, to serve at the pleasure of the Governor, to succeed John B. Gordon.

**Bradley Williams of Gloucester**, Virginia 23061, Member, appointed June 29, 2018, to serve at the pleasure of the Governor, to succeed himself.

#### DESIGNATED

##### Poet Laureate of Virginia

**Henry Hart of Williamsburg**, Virginia 23185, Member, appointed June 15, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed Timothy Seibles.

#### EDUCATION

##### Certified Seed Board

**Russell Owens of Dunnsville**, Virginia 22454, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed James Laine.

**Mark Simmons of Courtland**, Virginia 23837, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Charles Daniel.

##### Christopher Newport University Board of Visitors

**Bill Ermatinger of Toano**, Virginia 23168, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Maria Herbert of Suffolk**, Virginia 23435, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Vicki Freeman.

**C. Bradford Hunter of Portsmouth**, Virginia 23704, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Gabe Morgan of Newport News**, Virginia 23606, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Ella Ward of Chesapeake**, Virginia 23321, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

##### The College of William and Mary Board of Visitors

**Victor Branch of South Chesterfield**, Virginia 23834, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Christopher Little.

**Sue Gerdelman of Williamsburg**, Virginia 23185, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**William Payne II of Henrico**, Virginia 23238, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Lisa Roday of Henrico**, Virginia 23238, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

##### George Mason University Board of Visitors

**Ignacia Moreno of McLean**, Virginia 22101, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Jon Peterson.

**Paul Reagan of Springfield**, Virginia 22153, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Lisa Dwoskin.

**Edward Rice** of **Vienna**, Virginia 22181, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Mahfuz Ahmed.

**Denise Turner Roth** of **Washington, District of Columbia** 20003, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Teresa Schar.

**James Madison University Board of Visitors**

**Vanessa Evans-Grevious** of **Charlottesville**, Virginia 22901, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Frank Gadams** of **Norfolk**, Virginia 23507, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Warren Coleman.

**Lucy Hutchinson** of **New York, New York**, 10010, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Maggie Ragon** of **Staunton**, Virginia 24401, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Edward Rice.

**Zuraya Tapia-Hadley** of **Arlington**, Virginia 22206, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed William Bolling.

**Longwood University Board of Visitors**

**Eileen Anderson** of **Glen Allen**, Virginia 23059, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Larry Palmer** of **Richmond**, Virginia 23220, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Katherine Busser.

**Lucia Trigiani** of **Alexandria**, Virginia 22314, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Norfolk State University Board of Visitors**

**Dwayne Blake** of **Hampton**, Virginia 23666, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Elwood Boone.

**Jean Cunningham** of **Richmond**, Virginia 23231, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Bryan Cuffee.

**Deborah DiCroce** of **Chesapeake**, Virginia 23222, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Lawrence Griffith** of **Annandale**, Virginia 22003, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Tamara Jones** of **Portsmouth**, Virginia 23703, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Corynne Arnett.

**Old Dominion University Board of Visitors**

**Carlton Bennett** of **Virginia Beach**, 23462, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Unwanna Dabney** of **Richmond**, 23231, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed William Sessoms.

**Alton Jacinto Harris** of **Bristol, Connecticut**, 06010, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Pamela Kirk** of **Suffolk**, 23435, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Radford University Board of Visitors**

**Thomas Brewster** of **Falls Mills**, Virginia 24613, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Javaid Siddiqi.

**Krishna Chachra** of **Blacksburg**, Virginia 24060, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Susan Whealler Johnston** of **Berryville**, Virginia 22611, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Nancy Rice** of **Vienna**, Virginia 22181, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Steve Robinson.

**Southern Virginia Higher Education Center Board of Trustees**

**Douglas Lee** of **Lynchburg**, Virginia 24503, Member, appointed July 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Charlette Woolridge** of **Lawrenceville**, Virginia 23868, Member, appointed July 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**State Board for Community Colleges**

**Nathaniel Bishop** of **Christiansburg**, Virginia 24073, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Adnan Bokhari** of **Arlington**, Virginia 22201, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Molly Ward.

**Eleanor Saslaw** of **North Springfield**, Virginia 22151, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**State Council of Higher Education for Virginia**

**Marge Connelly** of **Keswick**, Virginia 22947, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Henry Light** of **Norfolk**, Virginia 23508, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Bill Murray** of **Henrico**, Virginia 23233, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**University of Mary Washington Board of Visitors**

**Martha Abbott** of **Alexandria**, Virginia 22314, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Holly Cuellar.

**Allida Black** of **Arlington**, Virginia 22205, Member, appointed June 13, 2018, to serve an unexpired term beginning February 6, 2018, and ending June 30, 2021, to succeed Carlos Del Toro.

**Edd Houck** of **Spotsylvania**, Virginia 22553, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Leopoldo Martinez** of **McLean**, Virginia 22101, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Frank Rankin.

**University of Virginia and Affiliated Schools Board of Visitors**

**L.D. Britt** of **Suffolk**, Virginia 23436, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Frank Conner III** of **Alexandria**, Virginia 22314, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Barbara Fried** of **Crozet**, Virginia 22932, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Charles Evans Poston** of **Norfolk**, Virginia 23505, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed John Granger Mcfarlane III.

**Virginia Commission for the Arts**

**Terry Emory Buntrock** of **Williamsburg**, Virginia 23185, Member, appointed July 27, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Shelley Kruger-Weisberg.

**Asa Jackson** of **Hampton**, Virginia 23601, Member, appointed July 27, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Faye Bailey.

**Ashleigh Smith Maggard** of **Cape Charles**, Virginia 23310, Member, appointed July 27, 2018, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2019, to succeed Robert Kemmerer Behr.

**Laurie Naismith** of **Norfolk**, Virginia 23505, Member, appointed July 27, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Wanda Judd.

**David Trinkle** of **Roanoke**, Virginia 24014, Member, appointed July 27, 2018, to serve an unexpired term beginning February 8, 2018, and ending June 30, 2019, to succeed Dorothy Blackwell.

**Virginia Commonwealth University Board of Visitors**

**Phoebe Hall** of **Richmond**, Virginia 23225, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Gopinath Jadhav** of **Richmond**, Virginia 23229, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Alexander McMurtrie.

**Colette McEachin** of **Richmond**, Virginia 23227, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Stuart Siegel** of **Richmond**, Virginia 23226, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed William Ginther.

**Virginia Military Institute Board of Visitors**

**Thomas E. Gottwald** of **Richmond**, Virginia 23221, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Bruce Gottwald.

**Conrad Hall** of **Norfolk**, Virginia 23510, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Richard Hines** of **Atlanta, Georgia** 30305, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Joe Reeder** of **Alexandria**, Virginia 22301, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Virginia Polytechnic Institute and State University Board of Visitors**

**Edward Baine** of **Moseley**, Virginia 23120, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Wayne Robinson.

**Mehul Sanghani** of **Vienna**, Virginia 22182, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Horacio Valeiras** of **La Jolla, California** 92037, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Preston White** of **Virginia Beach**, Virginia 23451, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Michael Quillen.

**Virginia School for the Deaf and Blind Board of Visitors**

**Judy Sorrell** of **Staunton**, Virginia 24401, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Nia Taylor** of **Virginia Beach**, Virginia 23464, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Paula Johnson.

**Virginia State University Board of Visitors**

**Valerie Brown** of **Chesapeake**, Virginia 23322, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Harry Black.

**Thursa Crittenden** of **Suffolk**, Virginia 23435, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Charlie Hill** of **Hampton**, Virginia 23666, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Xavier Richardson** of **Spotsylvania**, Virginia 22553, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Ruth Sandoval** of **Tysons**, Virginia 22102, Member, appointed June 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Alma Hobbs.

**FINANCE**

**Joint Advisory Board of Economists**

**Christine Chmura** of **Glen Allen**, Virginia 23059, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed herself.

**Stephen S. Fuller** of **Arlington**, Virginia 22209, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Alice Louise Kassens** of **Fincastle**, Virginia 24090, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed herself.

**Tu Le** of **Midlothian**, Virginia 23112, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Ann Battle Macheras** of **Richmond**, Virginia 23233, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed herself.

**A. Fletcher Mangum** of **Henrico**, Virginia 23233, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Robert McNab** of **Chesapeake**, Virginia 23322, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed Gilbert R. Yochum.

**Roy Pearson** of **Williamsburg**, Virginia 23188, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Gerald Prante** of **Forest**, Virginia 24551, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed Dan C. Messerschmidt.

**Michelle Albert Vachris** of **Virginia Beach**, Virginia 23455, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed herself.

**Mark Vitner** of **Charlotte, North Carolina** 28202, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Roy H. Webb** of **Richmond**, Virginia 23225, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed himself.

**HEALTH AND HUMAN RESOURCES**

**Advisory Board for the Virginia Department for the Deaf and Hard-of-Hearing**

**Shantell D. Lewis** of **Richmond**, Virginia 23231, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Colin Wells** of **Midlothian**, Virginia 23112, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Deborah Pfeiffer.

**Advisory Board on Genetic Counseling**

**Lori Swain** of **Alexandria**, Virginia 22301, Member, appointed June 22, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Alzheimer's Disease and Related Disorders Commission**

**Lana Sargent** of **Ashland**, Virginia 23005, Member, appointed June 22, 2018, to serve an unexpired term beginning April 7, 2018, and ending June 30, 2020, to succeed Katherine Kennedy.

**Assistive Technology Loan Fund Authority Board of Directors**

**Elise Nelson** of **Glen Allen**, Virginia 23060, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Vanessa Rakestraw** of **Henrico**, Virginia 23228, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed David Axselle.

**Behavioral Health and Developmental Services Board**

**Rebecca C. Graser** of **Warsaw**, Virginia 22572, Member, appointed July 13, 2018, to serve an unexpired term beginning June 9, 2018, and ending June 30, 2020, to succeed Jennifer Spangler.

**Djuna Osborne** of **Roanoke**, Virginia 24018, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Amelia Ross-Hammond.

**Board of Dentistry**

**Perry E. Jones** of **Richmond**, Virginia 23235, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed John Morten Alexander.

**Board of Medical Assistance Services**

**Peter R. Kongstvedt** of **McLean**, Virginia 22101, Member, appointed June 8, 2018, for a term of four years beginning March 8, 2018, and ending March 7, 2022, to succeed himself.

**Board of Medicine**

**Jim Arnold** of **Cross Junction**, Virginia 22625, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed John Randolph Clements.

**Manjit S. Dhillon** of **Chester**, Virginia 23836, Member, appointed June 29, 2018, to serve an unexpired term beginning June 25, 2018, and ending June 30, 2020, to succeed Isaac Koziol.

**Blanton Marchese** of **North Chesterfield**, Virginia 23236, Member, appointed June 29, 2018, to serve an unexpired term beginning May 1, 2018, and ending June 30, 2021, to succeed James Jenkins.

**Karen Ransone** of **Cobbs Creek**, Virginia 23035, Member, appointed June 29, 2018, to serve an unexpired term beginning January 16, 2018, and ending June 30, 2020, to succeed Barbara Allison-Bryan.

**Brenda Stokes** of **Lynchburg**, Virginia 24503, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Maxine Lee.

**Board of Pharmacy**

**Glenn Bolyard** of **Glen Allen**, Virginia 23059, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Jody Allen.

**Melvin L. Boone, Sr.**, of **Chesapeake**, Virginia 23320, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Cheryl H. Nelson** of **Richmond**, Virginia 23238, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Kristopher S. Ratliff** of **Marion**, Virginia 24354, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Michael Elliott.

**Patricia Lynn Richards-Spruill** of **Suffolk**, Virginia 23434, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Sheila Elliott.

**Board of Social Services**

**Lou Brown Ali** of **Henrico**, Virginia 23229, Member, appointed June 1, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Mona Malik** of **Great Falls**, Virginia 22066, Member, appointed June 1, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Clyde Santana** of **Norfolk**, Virginia 23518, Member, appointed June 1, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Kent Willis** of **Port Haywood**, Virginia 23138, Member, appointed June 1, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Board of Social Work**

**Maria Eugenia del Villar** of **Fairfax**, Virginia 22031, Member, appointed June 22, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Michael E. Hayter** of **Abingdon**, Virginia 24211, Member, appointed June 22, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Yvonne Haynes.

**Dolores Sweeny Paulson** of **McLean**, Virginia 22101, Member, appointed June 22, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Board of Veterinary Medicine**

**Ellen G. Hillyer** of **Richmond**, Virginia 23225, Member, appointed July 27, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Commonwealth Council on Aging**

**Davis Creef** of **Richmond**, Virginia 23220, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Deborah Davidson** of **Henrico**, Virginia 23229, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Valerie L'Herrou.

**Jennifer L. Disano** of **Fairfax Station**, Virginia 22039, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Roberto Quinones.

**Shewling Moy** of **Virginia Beach**, Virginia 23462, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Veronica Williams** of **Newport News**, Virginia 23606, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

#### **State Board of Health**

**James Edmonson** of **McLean**, Virginia 22012, Member, appointed June 1, 2018, for term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Linda T. Hines** of **Chesterfield**, Virginia 23235, Member, appointed June 1, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Benita Miller** of **Richmond**, Virginia 23221, Member, appointed June 1, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Faye Oliff Prichard** of **Ashland**, Virginia 23005, Member, appointed June 1, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

#### **State Executive Council for Children's Services**

**Mary W. Biggs** of **Blacksburg**, Virginia 24060, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Courtney Gaskins** of **Bristow**, Virginia 20136, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Willie T. Greene, Sr.**, of **Galax**, Virginia 24333, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Sheila Olem.

**Catherine M. Hudgins** of **Reston**, Virginia 20190, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**R. Morgan Quicke** of **Warsaw**, Virginia 22572, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Amanda Noell Stanley** of **Bedford**, Virginia 24523, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Greg Peters.

**Jessica J. Stern** of **Glen Allen**, Virginia 23060, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Elizabeth O'Shea.

#### **Virginia Board for People with Disabilities**

**Alexandra Dixon** of **Fairfax**, Virginia 22031, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Edmund Turner.

**Jocelyn A. Kilgore** of **Alexandria**, Virginia 22315, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Donna J. Lockwood** of **Virginia Beach**, Virginia 23464, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Dawn Missory** of **Chester**, Virginia 23831, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Curtis Andrews.

**Atima Omara** of **Arlington**, Virginia 22209, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Caroline Raker** of **Stephenson**, Virginia 22656, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Vicki B. Beatty.

**Frederique Vincent** of **Manassas**, Virginia 20110, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

#### **Virginia Interagency Coordinating Council**

**Kendall Lamar Lee** of **Farmville**, Virginia 23901, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Debra H. Rodman** of **Henrico**, Virginia 23228, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Daun Hester.

#### **INDEPENDENT**

##### **Chesapeake Bay Bridge and Tunnel Commission**

**Paul Bibbins, Jr.**, of **Cape Charles**, Virginia 23310, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Keith Colonna** of **Onancock**, Virginia 23417, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Robert Bloxom.

**Gregory Duncan** of **Mappsville**, Virginia 23407, Member, appointed July 13, 2018, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2022, to succeed Stephen Johnsen.

**John Malbon** of **Virginia Beach**, Virginia 23451, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Jeffrey Walker** of **Birdsnest**, Virginia 23307, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Virginia Birth-Related Neurological Injury Compensation Program Board of Directors**

**Rebecca Filla** of **Aldie**, Virginia 20105, Member, appointed June 29, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Vanessa Rakestraw** of **Richmond**, Virginia 23228, Member, appointed June 29, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Joseph Stepp** of **Glen Allen**, Virginia 23060, Member, appointed June 29, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Virginia Foundation for the Humanities and Public Policy Board of Directors**

**Megan C. Beyer** of **Alexandria**, Virginia 22207, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Renee Grisham.

**Marjorie M. Clark** of **North Chesterfield**, Virginia 23235, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**LEGISLATIVE**

**Capitol Square Preservation Council**

**Robert Brink** of **Arlington**, Virginia 22207, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Lauranett Lee.

**Lauranett Lee** of **North Chesterfield**, Virginia 23224, Member, appointed June 22, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Danielle Simms.

**NATURAL RESOURCES**

**Board of Historic Resources**

**David Ruth** of **Mechanicsville**, Virginia 23116, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Margaret Peters.

**Ashley Spivey** of **King William**, Virginia 23086, Member, appointed June 29, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Virginia Cave Board**

**Anthony R. Bessette** of **Richmond**, Virginia 23227, Member, appointed July 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Mark Hodge** of **McDowell**, Virginia 24458, Member, appointed July 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Janet Tinkham.

**Steve Lindeman** of **Saltville**, Virginia 24370, Member, appointed July 20, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**PUBLIC SAFETY AND HOMELAND SECURITY**

**Advisory Committee on Juvenile Justice and Prevention**

**Victoria Baldwin** of **Richmond**, Virginia 23220, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Shane Ringressy.

**Nancy Campos** of **Richmond**, Virginia 23224, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Alana Corn** of **Springfield**, Virginia 22152, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Leah Ganssle.

**Mary E. Langer** of **Richmond**, Virginia 23225, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Uley Damiani.

**State Board of Corrections**

**John Anderson, Jr.**, of **Winchester**, Virginia 22603, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Heather Masters** of **Mechanicsville**, Virginia 23116, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Karen Nicely** of **Ivor**, Virginia 23886, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Phyllis J. Randall.

**Bobby Vassar** of **Richmond**, Virginia 23222, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Virginia Fire Services Board**

**H. Lee Day III** of **Forest**, Virginia 24551, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Keith H. Johnson** of **Winchester**, Virginia 22602, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed David Layman.

**James Poindexter, Jr.**, of **Vinton**, Virginia 24179, Member, appointed July 13, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Virginia Parole Board**

**Linda L. Bryant** of **Chesapeake**, Virginia 23320, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed Joni Ivey.

**Jean W. Cunningham** of **Richmond**, Virginia 23231, Vice Chairman, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed herself.

**A. Lincoln James, Jr.**, of **Richmond**, Virginia 23235, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Sherman P. Lea** of **Roanoke**, Virginia 24019, Member, appointed June 8, 2018, to serve at the pleasure of the Governor, to succeed himself.

### TRANSPORTATION

#### Commonwealth Transportation Board

**Henry Connors, Jr.**, of **Fredericksburg**, Virginia 22407, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Alison DeTuncq** of **Charlottesville**, Virginia 22911, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Bert Dodson, Jr.**, of **Lynchburg**, Virginia 24503, Member, appointed June 15, 2018, to serve an unexpired term beginning January 13, 2018, and ending June 30, 2019, to succeed Shannon Valentine.

**Stephen A. Johnsen** of **Onancock**, Virginia 23417, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**W. Sheppard Miller III** of **Norfolk**, Virginia 23508, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Francis Garczynski.

**Marty Williams** of **Richmond**, Virginia 23219, Member, appointed June 15, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

### VETERANS AND DEFENSE AFFAIRS

#### Joint Leadership Council of Veterans Service Organizations

**William B. Ashton** of **Fredericksburg**, Virginia 22405, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Robert N. Barnette, Jr.**, of **Mechanicsville**, Virginia 23111, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Robert Huffman.

**Daniel Boyer** of **Galax**, Virginia 24333, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**John R. Clickener** of **Tappahannock**, Virginia 22560, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Craig D. Cressman** of **Arlington**, Virginia 22206, Member, appointed July 20, 2018, to serve an unexpired term beginning December 23, 2017, and ending June 30, 2020, to succeed Karen Jeffries.

**James Cuthbertson** of **Glen Allen**, Virginia 23059, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Michael Flanagan** of **Richmond**, Virginia 23221, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Robert Allen Sempek.

**Michael S. Herbert** of **Virginia Beach**, Virginia 23451, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Richard C. Oertel** of **Colonial Heights**, Virginia 23834, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Jon Ostrowski** of **Oakton**, Virginia 22124, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Judith Reid** of **Chesterfield**, Virginia 23832, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Marie Gabrielle Juliano.

**David Sitler** of **Midlothian**, Virginia 23112, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Perry C. Taylor, Jr.**, of **Salem**, Virginia 24153, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**L. Timothy Whitmore** of **Suffolk**, Virginia 23435, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Denice Faircloth Williams** of **Suffolk**, Virginia 23435, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Curtis Jennings.

**Thomas G. Wozniak** of **Yorktown**, Virginia 23693, Member, appointed July 20, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Harold H. Barton.

### SENATE JOINT RESOLUTION NO. 295

*Confirming appointments by the Governor of certain persons communicated to the General Assembly October 1, 2018.*

Agreed to by the Senate, January 21, 2019

Agreed to by the House of Delegates, January 30, 2019

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly October 1, 2018.

#### AGENCY HEAD

**Janet Starke** of **Richmond**, Virginia 23235, Director of the Virginia Commission for the Arts, effective August 20, 2018, to serve at the pleasure of the Governor, to succeed Margaret Vanderhye.

#### ADMINISTRATION

##### Art and Architectural Review Board

**Lindsey Brittain** of **Vienna**, Virginia 22182, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Donna Tuten.

**Thomas W. Papa** of **Richmond**, Virginia 23221, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Sanford Bond.

**Burchell F. Pinnock** of **Richmond**, Virginia 23230, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Ian Vaughan** of **Portsmouth**, Virginia 23704, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Robert Stephen Mills.

**Helen Wilson** of **Keswick**, Virginia 22947, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

##### Citizen's Advisory Council on Furnishing and Interpreting the Executive Mansion

**Anne Gedly Cross** of **Hanover**, Virginia 23069, Member, appointed September 21, 2018, for a term of five years beginning July 1, 2018, and ending on June 30, 2023, to succeed Mary Theobald.

**Peggy Layne** of **Henrico**, Virginia 23229, Member, appointed September 21, 2018, for a term of five years beginning July 1, 2018, and ending on June 30, 2023, to succeed Harry Davis.

#### AGRICULTURE AND FORESTRY

##### Board of Forestry

**Mike Hincer** of **Lebanon**, Virginia 24266, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed James D. Harder.

**J. Kenneth Morgan, Jr.**, of **Clarksville**, Virginia 23927, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Heather Richards** of **Culpeper**, Virginia 22701, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed D. Keith Drohan.

##### Wine Board

**Taylor Dameron** of **Charles City**, Virginia 23030, Member, appointed September 7, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed David Leslie King.

**Patrick Duffeler II** of **Williamsburg**, Virginia 23185, Member, appointed September 7, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Luca Paschina** of **Barboursville**, Virginia 22923, Member, appointed September 7, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Steven C. Brown.

#### AUTHORITY

##### Virginia Public School Authority Board of Commissioners

**Betty J. Burrell** of **Richmond**, Virginia 23224, Member, appointed August 24, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed Douglas Combs.

#### COMMERCE AND TRADE

##### Apprenticeship Council

**Laura Duckworth** of **Crozet**, Virginia 22932, Member, appointed August 17, 2018, to serve an unexpired term beginning June 19, 2018, and ending June 20, 2019, to succeed Rebecca R. Leinen.

##### Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects

**Karen Moore Reynes** of **Norfolk**, Virginia 23507, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to fill a new seat.

**Hypatia Lorena Rios Alexandria** of **Reston**, Virginia 20190, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to fill a new seat.

##### Board for Barbers and Cosmetology

**Oanh Dang** of **Virginia Beach**, Virginia 23455, Member, appointed September 7, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Tony Miles Williams.

**Alfred O. Mayes** of **Suffolk**, Virginia 23435, Member, appointed September 7, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Robert D. Jones.

##### Board for Hearing Aid Specialists and Opticians

**ReBecca Bennett** of **Fredericksburg**, Virginia 22405, Member, appointed September 21, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2021, to succeed Arva Priola.

**Beth Connors** of **Arlington**, Virginia 22204, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Eric Bruce Hecker.

**Debra Ogilvie** of **North Chesterfield**, Virginia 23236, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Board for Professional Soil Scientists, Wetland Professionals, and Geologists**

**Justin T. Brown** of **Glen Allen**, Virginia 23059, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Keith R. Goodwin.

**Alexis E. Jones** of **Jarratt**, Virginia 23867, Member, appointed September 28, 2018, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2020, to succeed Angela Cummings Whitehead.

**Michael D. Lawless** of **Blacksburg**, Virginia 24060, Member, appointed September 28, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2021, to succeed Julian Meade Anderson.

**Molly Parker** of **Henrico**, Virginia 23229, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Board of Coal Mining Examiners**

**Larance Eugene Middleton** of **Big Stone Gap**, Virginia 24219, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Common Interest Community Board**

**Thomas F. Burrell III** of **Fairfax**, Virginia 22031, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed David Watts.

**Amanda Jonas** of **Glen Allen**, Virginia 23060, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Kimberly B. Kacani.

**Drew R. Mulhare** of **Williamsburg**, Virginia 23188, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed John Alfred Rhoades.

**Latino Advisory Board**

**Paul Berry** of **Arlington**, Virginia 22209, Member, appointed July 27, 2018, to serve an unexpired term beginning July 27, 2018, and ending October 14, 2019, to succeed Christopher Jason Falcon.

**Safety and Health Codes Board**

**Louis J. Cernak, Jr.**, of **Clifton**, Virginia 20124, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**John D. Fulton** of **Mechanicsville**, Virginia 23111, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Philip Glaize, Jr.**, of **Winchester**, Virginia 22601, Member, appointed August 24, 2018, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2020, to succeed Daniel A. Sutton.

**Tina Hoover** of **Franklin, West Virginia** 26807, Member, appointed August 24, 2018, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2020, to succeed Charles Richardson.

**David Martinez** of **Reston**, Virginia 20190, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Travis Parsons** of **Annandale**, Virginia 22003, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Thomas Thurston** of **Sandston**, Virginia 23150, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**State Building Code Technical Review Board**

**Christina Jackson** of **Norfolk**, Virginia 23509, Member, appointed August 10, 2018, to serve at the pleasure of the Governor, to succeed W. Brower.

**Virginia-Asian Advisory Board**

**Shaheen E. Lakkan** of **Cave Spring**, Virginia 24018, Member, appointed August 31, 2018, to serve an unexpired term beginning August 24, 2018, and ending June 30, 2021, to succeed Anthony Terry Gitalado.

**Karla J. Soloria** of **Norfolk**, Virginia 23517, Member, appointed August 10, 2018, to serve an unexpired term beginning April 28, 2018, and ending June 30, 2019, to succeed James Heo.

**Virginia Board for Asbestos, Lead, and Home Inspectors**

**James Haltigan** of **Staunton**, Virginia 24401, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Richard L. Holtz, Jr.**, of **Richmond**, Virginia 23229, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to succeed himself.

**Galappa Madhusudhan** of **Clifton**, Virginia 20124, Member, appointed August 31, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2021, to succeed Erich J. Fritz.

**Gene E. Magruder** of **Newport News**, Virginia 23601, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Patrick Studley** of **Hampton**, Virginia 23664, Member, appointed August 31, 2018, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2020, to succeed W. Chris Nixon.

### Virginia Board of Workforce Development

**Barry DuVal** of **Williamsburg**, Virginia 23185, Member, appointed September 7, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Julie A. Gifford** of **Virginia Beach**, 23456, Member, appointed September 7, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to fill a new seat.

**Brett Vassey** of **Midlothian**, Virginia 23112, Member, appointed September 7, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

### Virginia Offshore Wind Development Authority

**B. Hayes Framme** of **Richmond**, Virginia 23229, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Deborah Ellen Miller.

**Phillip S. Green** of **Arlington**, Virginia 22205, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Laura McKay** of **Richmond**, Virginia 23226, Member, appointed August 24, 2018, to serve an unexpired term beginning July 24, 2018, and ending June 30, 2020, to succeed Ronald H. Rosenburg.

**Mark Mitchell** of **Doswell**, Virginia 23047, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Mary Doswell.

### COMPACT

#### Potomac River Fisheries Commission

**Kyle J. Schick** of **Colonial Beach**, Virginia 22443, Member, appointed August 31, 2018, for a term of four years beginning September 10, 2018, and ending September 9, 2022, to succeed Ida Colquitt Hall.

### EDUCATION

#### Board of Education

**Francisco Durán** of **Alexandria**, Virginia 22314, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Salvador Romero.

**Keisha Pexton** of **Hampton**, Virginia 23666, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed James Dillard.

#### Board of Trustees of the Frontier Culture Museum of Virginia

**Nwachukwu Anakwenze** of **Rolling Hills, California** 90274, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**David Bushman** of **Bridgewater**, Virginia 22812, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Dianne Fulk** of **Linville**, Virginia 22834, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Clifford Garstang** of **Staunton**, Virginia 24401, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Emmett W. Toms, Jr.** of **Waynesboro**, Virginia 22980, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Kenneth Venable** of **Staunton**, Virginia 24401, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**John Welch** of **Williamsburg**, Virginia 23185, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Joseph Fitzgerald.

#### Board of Trustees of the Roanoke Higher Education Authority

**G. Lyn Hayth III** of **Botetourt**, Virginia 24019, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Robert Archer.

**Tracy Harper Nester** of **Vinton**, Virginia 24179, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Patricia White-Boyd.

**Charles A. Price** of **Roanoke**, Virginia 24017, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

#### Board of Trustees of the Science Museum of Virginia

**Glenn K. Davidson** of **Arlington**, Virginia 22205, Member, appointed August 17, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed himself.

**Amy Laufer** of **Charlottesville**, Virginia 22901, Member, appointed August 17, 2018, to serve an unexpired term beginning January 16, 2018, and ending June 30, 2021, to succeed Pamela Northam.

**Lauren Mathena** of **Danville**, Virginia 24543, Member, appointed August 17, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed L. Clifford Schroeder.

**David Mills** of **Richmond**, Virginia 23220, Member, appointed August 17, 2018, to serve an unexpired term beginning February 5, 2018, and ending June 30, 2020, to succeed Matthew Mansell.

**Molly Joseph Ward** of **Hampton**, Virginia 23669, Member, appointed August 17, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Margaret Lewis.

**Eastern Virginia Medical School Board of Visitors**

**Alan Lewis Wagner** of **Virginia Beach**, Virginia 23451, Member, appointed August 17, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Barry Lee Gross.

**Institute for Advanced Learning and Research**

**Lott Rogers, Jr.**, of **Halifax**, Virginia 24558, Member, appointed August 3, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Christopher Lumsden.

**James Madison University Board of Visitors**

**Kathy Warden** of **Great Falls**, Virginia 22066, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Zuraya Tapia-Hadley.

**New College Institute Board of Directors**

**Richard Hall** of **Martinsville**, Virginia 24112, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Gracie Agnew.

**Naomi Hodge-Muse** of **Martinsville**, Virginia 24112, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**HEALTH AND HUMAN RESOURCES**

**Advisory Board on Respiratory Care**

**Santiera Brown** of **Chesapeake**, Virginia 23320, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Daniel Rowley.

**Daniel U. Gochenour** of **Charlottesville**, Virginia 22902, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Lois Rowland.

**Bruce K. Rubin** of **Henrico**, Virginia 23233, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Denver Supinger** of **Reston**, Virginia 20190, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Hollye Freeman.

**Shari A. Toomey** of **Roanoke**, Virginia 24101, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Sherry Compton.

**Advisory Board on Service and Volunteerism**

**Lily K. Beres** of **Falls Church**, Virginia 22044, Member, appointed August 31, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2019, to succeed Tashiara Scott.

**Vanessa Diamond** of **Richmond**, Virginia 23222, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Omari Faulkner** of **Bluemont**, Virginia 20135, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Tyee Davenport Mallory** of **Glen Allen**, Virginia 23060, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Peter Goldin.

**Julie M. Strandlie** of **Alexandria**, Virginia 22312, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**James H. Underwood** of **Midlothian**, Virginia 23112, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Leah Dozier Walker** of **Henrico**, Virginia 23233, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Board of Audiology and Speech-Language Pathology**

**Melissa McNichol** of **Charlottesville**, Virginia 22911, Member, appointed August 10, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Ann Gleason.

**Angela Moss** of **Richmond**, Virginia 23228, Member, appointed August 10, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Erin G. Piker** of **Harrisonburg**, Virginia 22801, Member, appointed August 10, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Lillian Beahm.

**Board of Medical Assistance Services**

**Raziuddin Ali** of **Midlothian**, Virginia 23114, Member, appointed September 14, 2018, for a term of four years beginning March 8, 2018, and ending March 7, 2022, to McKinley Price.

**Board of Nursing**

**Dixie McElfresh** of **Richmond**, Virginia 23223, Member, appointed August 17, 2018, to serve an unexpired term beginning March 21, 2017, and ending June 30, 2019, to succeed Regina Gilliam.

**Board of Physical Therapy**

**Rebecca Duff** of **Roanoke**, Virginia 24013, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Sarah C. Schmidt.

**Allen R. Jones, Jr.**, of **Newport News**, Virginia 23602, Member, appointed August 24, 2018, for term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Community Integration Advisory Commission**

**Tameka Burroughs** of **Alexandria**, Virginia 22315, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Sandra A. Cook** of **Petersburg**, Virginia 23805, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Susan A. Elmore** of **Colonial Heights**, Virginia 23834, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Stephen Grammer** of **Roanoke**, Virginia 24018, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Patrick D. Hickey** of **Richmond**, Virginia 23225, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Ayn Welleford.

**Jennifer Reese** of **Sterling**, Virginia 20164, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Lynn McCrobie.

**Daphne Stanley** of **Roanoke**, Virginia 24012, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Monica Wiley.

**Rose Sutton** of **Stafford**, Virginia 22554, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Danny Hodges.

**Bonita Wright** of **Prince George**, Virginia 23875, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Shareen Young-Chavez** of **South Chesterfield**, Virginia 23803, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Family and Children's Trust Fund Board of Trustees**

**Kenneth Carter Batey, Jr.**, of **Alexandria**, Virginia 22304, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Betty Wade Coyle.

**Yvonne Jones Bibbs** of **Richmond**, Virginia 23225, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Lisa Specter-Dunaway.

**Jennifer Gillyard** of **Alexandria**, Virginia 22304, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Candace Abbey.

**S. Kay Kovacs** of **Bristol**, Virginia 24202, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Judy Kurtz** of **Virginia Beach**, Virginia 23454, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Henrietta Lacks Commission**

**Mattie W. Cowan** of **South Boston**, Virginia 24592, Member, appointed August 17, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to fill a new seat.

**Adele Newson-Horst** of **Baltimore, Maryland** 21234, Member, appointed August 17, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to fill a new seat.

**Jeri Lacks Whye** of **Reisterstown, Maryland** 21136, Member, appointed August 17, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to fill a new seat.

**State Emergency Medical Services Advisory Board**

**Michel B. Aboutanos** of **Richmond**, Virginia 23238, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**John C. Bolling** of **Bristol**, Virginia 24201, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Ronald D. Passmore.

**Valetta C. Daniels** of **Richmond**, Virginia 23224, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Kevin Dillard** of **Fredericksburg**, Virginia 22408, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Daniel Wildman.

**Angela Pier Ferguson** of **Lawrenceville**, Virginia 23868, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Richard H. Decker.

**Dillard E. Ferguson, Jr.**, of **Manakin-Sabot**, Virginia 23103, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Byron Andrews.

**William B. Ferguson** of **Rocky Mount**, Virginia 24151, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Jonathan Henschel** of **Richmond**, Virginia 22844, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Sudha Jayaraman** of **Richmond**, Virginia 23220, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Lori L. Knowles** of **Fredericksburg**, Virginia 22405, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**John Korman** of **Washington, District of Columbia** 20008, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Matthew W. Lawler** of **Staunton**, Virginia 24401, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Gary Critzer.

**Rich Orndorff, Jr.**, of **Strasburg**, Virginia 22657, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Joan Foster.

**Jeremiah O'Shea** of **Midlothian**, Virginia 23113, Member, appointed September 7, 2018, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2020, to succeed Charlotte Tyson.

**Jose Salazar** of **Sterling**, Virginia 20165, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

**Gary Samuels** of **Mechanicsville**, Virginia 23116, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Jason R. Jenkins.

**Thomas E. Schwalenberg** of **Yorktown**, Virginia 23693, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Genemarie McGee.

**Gary Tanner** of **Concord**, Virginia 24538, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Sherrin Alsop.

**Sadie Thurman** of **Yorktown**, Virginia 23692, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Cheryl A. Lawson.

**Allen Yee** of **Moseley**, Virginia 23120, Member, appointed September 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Lisa D. Dodd.

#### **State Executive Council for Children's Services**

**Eric D. Campbell** of **Harrisonburg**, Virginia 22801, Member, appointed September 14, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Maurice Jones.

#### **Virginia Board for People with Disabilities**

**Eric Mann** of **Henrico**, Virginia 23233, Member, appointed August 17, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Angela Sadsad.

**Katherine Olson** of **Midlothian**, Virginia 23112, Member, appointed August 17, 2018, to serve an unexpired term beginning May 23, 2018, and ending June 30, 2021, to succeed Angela West.

#### **Virginia Foundation for Healthy Youth**

**Gina A. Bellamy** of **Manassas**, Virginia 20112, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Glory Leigh Gill.

**W. Curtis Coleburn III** of **Midlothian**, Virginia 23114, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Robert Leek.

**Sarah Bedard Holland** of **Richmond**, Virginia 23233, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Patte G. Koval** of **Richmond**, Virginia 23221, Member, appointed September 21, 2018, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2021, to succeed William Moskowitz.

**Andre A. Muelenaer, Jr.**, of **Roanoke**, Virginia 24018, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Ritso Kuno.

**John M. O'Bannon** of **Richmond**, Virginia 23229, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Sarah Melton.

**Vineeta Shah** of **Henrico**, Virginia 23231, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Lekeisha Terrell** of **Arlington**, Virginia 22201, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Valerie Bowman.

#### **INDEPENDENT**

##### **Virginia Lottery Board**

**Christopher Tsui** of **Henrico**, Virginia 23238, Member, appointed August 3, 2018, for a term of five years beginning January 15, 2018, and ending January 14, 2023, to succeed Frederick Helm.

#### **LEGISLATIVE**

##### **Commissioners for the Promotion of Uniformity of Legislation**

**Christopher Nolen** of **Glen Allen**, Virginia 23059, Member, appointed August 3, 2018, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

##### **Small Business Commission**

**Zakaria Barzinji** of **Vienna**, Virginia 22180, Member, appointed August 3, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed himself.

**Kunal Kumar** of **Norfolk**, Virginia 23517, Member, appointed August 3, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed Enoch Dana Dickens.

**Vickie R. Williams-Cullins** of **Hampton**, Virginia 23666, Member, appointed August 3, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed herself.

**NATURAL RESOURCES  
Board of Game and Inland Fisheries**

**John W. Daniel II** of **Richmond**, Virginia 23229, Member, appointed September 21, 2018, to serve an unexpired term beginning May 11, 2018, and ending June 30, 2021, to succeed Brian Robert Ball.

**Karen Terwilliger** of **Locustville**, Virginia 23404, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Watkins M. Abbitt.

**Gerald K. Washington** of **Dilwyn**, Virginia 23936, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Clayton Spruill.

**Virginia Outdoors Foundation Board of Trustees**

**Raul Garcia Lopez** of **Arlington**, Virginia 22207, Member, appointed August 10, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed John Lawrence Richardson.

**Thomas G. Slater** of **Richmond**, Virginia 23229, Member, appointed August 10, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Virginia Soil and Water Conservation Board**

**Charles Newton** of **Stanley**, Virginia 22851, Member, appointed August 17, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Stephen Lohr.

**Adam D. Wilson** of **Lebanon**, Virginia 24266, Member, appointed August 17, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Virginia Waste Management Board**

**Michael Benedetto** of **Virginia Beach**, Virginia 23454, Member, appointed August 3, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Jeffrey T. Crate** of **Blacksburg**, Virginia 24060, Member, appointed August 3, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Eric A. DeGroff** of **Chesapeake**, Virginia 23320, Member, appointed August 3, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to succeed himself.

**Amarjit Singh Riat** of **Haymarket**, Virginia 20169, Member, appointed August 3, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to succeed himself.

**Eric K. Wallace** of **McLean**, Virginia 22102, Member, appointed August 3, 2018, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to succeed himself.

**PUBLIC SAFETY AND HOMELAND SECURITY**

**Advisory Committee on Juvenile Justice and Prevention**

**Niyah White** of **Arlington**, Virginia 22206, Member, appointed September 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Alyssa Jones.

**Criminal Justice Services Board**

**Tonya D. Chapman** of **Portsmouth**, Virginia 23704, Member, appointed August 17, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Carolyn W. Dull** of **Staunton**, Virginia 24401, Member, appointed August 17, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Patricia L. Smith** of **Charlottesville**, Virginia 22902, Member, appointed August 17, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Stephanie Michelle Wright.

**William C. Smith** of **Windsor**, Virginia 23487, Member, appointed August 17, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Bobby Russell.

**Kelvin L. Wright** of **Chesapeake**, Virginia 23322, Member, appointed August 17, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Secure and Resilient Commonwealth Panel**

**Michael L. Hamlar** of **Roanoke**, Virginia 24014, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Aaron Hughes** of **Vienna**, Virginia 22180, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Donald Upson.

**Anna McRay** of **Henrico**, Virginia 23238, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed John Bell.

**Jonathan Newmark** of **Burke**, Virginia 22015, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Paul Diamond.

**Andrew Ramsey** of **Charlottesville**, Virginia 22903, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Reuben Varghese.

**James Redick** of **Virginia Beach**, Virginia 23462, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Marci Stone** of **Bedford**, Virginia 24523, Member, appointed August 31, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed R. Michael Mohler.

### Virginia State Crime Commission

**Mansi J. Shah** of **Richmond**, Virginia 23220, Member, appointed August 3, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed Kristine Rae Hall.

**Arthur Townsend, Jr.**, of **Victoria**, Virginia 23974, Member, appointed August 3, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed himself.

**John Venuti** of **Richmond**, Virginia 23238, Member, appointed August 3, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed himself.

### TECHNOLOGY

#### Data Sharing and Analytics Advisory Committee

**Arlyn Burgess** of **Charlottesville**, Virginia 22901, Member, appointed September 7, 2018, for a term of one year beginning July 1, 2018, and ending June 30, 2019, to fill a new seat.

**Joshua Levi** of **Leesburg**, Virginia 20175, Member, appointed September 7, 2018, for a term of one year beginning July 1, 2018, and ending June 30, 2019, to fill a new seat.

**Rowley Molina** of **Ashland**, Virginia 23005, Member, appointed September 7, 2018, for a term of one year beginning July 1, 2018, and ending June 30, 2019, to fill a new seat.

#### Virginia Geographic Information Network Advisory Board

**Pravin Mathur** of **Henrico**, Virginia 23229, Member, appointed September 7, 2018, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2021, to succeed Christopher Knights.

**Edgar J. T. Perrow, Jr.**, of **Lynchburg**, Virginia 24503, Member, appointed September 7, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2022, to succeed Constance Brennan.

### TRANSPORTATION

#### Commonwealth Transportation Board

**Raymond Smoot** of **Montgomery**, Virginia 24060, Member, appointed August 24, 2018, to serve an unexpired term beginning August 7, 2018, and ending June 30, 2021, to succeed Court Rosen.

### VETERANS AND DEFENSE AFFAIRS

#### Board of Veterans Services

**Carl F. Bess, Jr.**, of **Norfolk**, Virginia 23518, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed William Guernsey Haneke.

**Paige D. Cherry** of **Portsmouth**, Virginia 23703, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Susan Hippen** of **Virginia Beach**, Virginia 23464, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**James O. Icenhour, Jr.**, of **Williamsburg**, Virginia 23188, Member, appointed August 24, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Tammi Lambert** of **Woodbridge**, Virginia 22191, Member, appointed September 7, 2018, to serve an unexpired term beginning May 23, 2018, and ending June 30, 2020, to succeed Belinda Pinckney.

**John Lesinski** of **Washington**, Virginia 22747, Member, appointed September 7, 2018, to serve an unexpired term beginning September 1, 2018, and ending June 30, 2020, to succeed Chris Chon.

#### Joint Leadership Council of Veterans Service Organizations

**John Cooper** of **Virginia Beach**, Virginia 23462, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Richard A. Mansfield.

**Preston Curry** of **Midlothian**, Virginia 23112, Member, appointed September 14, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Raymond L. Kennedy.

**Kevin Hoffman** of **Staunton**, Virginia 24401, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Adam Christopher Provost.

**Charles R. Montgomery, Jr.**, of **Virginia Beach**, Virginia 23320, Member, appointed September 14, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Glenn Robert Rodriguez.

**Frank G. Wickersham III** of **Warrenton**, Virginia 20186, Member, appointed August 31, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed himself.

#### Veterans Services Foundation Board of Trustees

**Anthony Gitalado** of **Suffolk**, Virginia 23435, Member, appointed September 21, 2018, to serve an unexpired term beginning May 30, 2018, and ending June 30, 2020, to succeed Chris Chon.

**John Lesinski** of **Washington**, Virginia 22747, Member, appointed September 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

#### Virginia Military Advisory Council

**Juan Fernandez** of **Gainesville**, Virginia 20155, Member, appointed September 14, 2018, to serve at the pleasure of the Governor, to succeed Terron Sims.

**Julie Gifford** of **Virginia Beach**, Virginia 23456, Member, appointed September 14, 2018, to serve at the pleasure of the Governor, to succeed John Taylor.

**Vivian Greentree** of **Alexandria**, Virginia 22304, Member, appointed September 14, 2018, to serve at the pleasure of the Governor, to succeed herself.

## SENATE JOINT RESOLUTION NO. 296

*Confirming appointments by the Governor of certain persons communicated to the General Assembly December 1, 2018.*

Agreed to by the Senate, January 21, 2019

Agreed to by the House of Delegates, January 30, 2019

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly December 1, 2018.

## AGRICULTURE AND FORESTRY

## Egg Board

**Hobey Bauhan** of **Harrisonburg**, Virginia 22801, Member, appointed November 2, 2018, for a term of four years beginning January 1, 2018, and ending December 31, 2021, to succeed himself.

**Ken Risser** of **Hartfield**, Virginia 23071, Member, appointed November 2, 2018, for a term of four years beginning January 1, 2018, and ending December 31, 2021, to succeed himself.

**W. Keith Sheets** of **McGaheysville**, Virginia 22840, Member, appointed November 2, 2018, for a term of four years beginning January 1, 2018, and ending December 31, 2021, to succeed himself.

**W. Lake Wagner** of **Bristol**, Virginia 24201, Member, appointed November 2, 2018, for a term of four years beginning January 1, 2018, and ending December 31, 2021, to succeed Lori C. Wagner.

## Horse Industry Board

**Robert Banner, Jr.**, of **Middleburg**, Virginia 20198, Member, appointed October 26, 2018, for a term of three years beginning June 20, 2018, and ending June 19, 2021, to succeed Nancy A. Paschall.

**Susan Fanelli** of **Stafford**, Virginia 22556, Member, appointed October 26, 2018, for a term of three years beginning June 20, 2018, and ending June 19, 2021, to succeed herself.

**Nancy Troutman** of **Salem**, Virginia 24153, Member, appointed October 26, 2018, for a term of three years beginning June 20, 2018, and ending June 19, 2021, to succeed herself.

## Marine Products Board

**Kim Huskey** of **Yorktown**, Virginia 23692, Member, appointed October 12, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

## Milk Commission

**Jessica M. Jones** of **Gladys**, Virginia 24554, Member, appointed November 9, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Katherine B. Farmer.

**Bruce Mayer** of **Vinton**, Virginia 24179, Member, appointed November 9, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Rodrigo Velasquez** of **Springfield**, Virginia 22150, Member, appointed November 9, 2018, to serve an unexpired term beginning May 1, 2018, and ending June 30, 2019, to succeed John Swanson.

## Peanut Board

**John R. Crumpler II** of **Suffolk**, Virginia 23434, Member, appointed October 19, 2018, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2020, to succeed Thomas Rea Rountree.

**Donna N. Jones** of **Windsor**, Virginia 23487, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Stephanie E. Pope.

**Robert C. Rogers** of **Yale**, Virginia 23897, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

## Potato Board

**Ronald P. Bailey, Jr.**, of **Cheriton**, Virginia 23316, Member, appointed October 5, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Mark Hickman** of **Horntown**, Virginia 23395, Member, appointed October 5, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed David Lee Hickman.

**David L. Long** of **Cape Charles**, Virginia 23310, Member, appointed October 5, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

## AUTHORITIES

## Virginia Biotechnology Research Partnership Authority Board of Directors

**Mary C. Doswell** of **Richmond**, Virginia 23226, Member, appointed October 19, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Gail Letts** of **Midlothian**, Virginia 23113, Member, appointed October 19, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Vida Williams** of **Henrico**, Virginia 23231, Member, appointed October 19, 2018, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2019, to succeed Carrie Chenery.

**Virginia College Building Authority**

**Corynne Arnett of Richmond**, Virginia 23221, Member, appointed October 12, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Dennis LaGanza.

**Stephanie Adler Calliott of Norfolk**, Virginia 23507, Member, appointed October 12, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Katherine M. Bond.

**Lane B. Ramsey of Chesterfield**, Virginia 23822, Member, appointed October 12, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Virginia Recreational Facilities Authority Board of Directors**

**Peter Volosin of Roanoke**, Virginia 24016, Member, appointed October 19, 2018, to serve an unexpired term beginning June 16, 2018, and ending June 30, 2020, to succeed Samuel A. Simon.

**Virginia Tourism Authority Board of Directors**

**Damian Dajcz of Leesburg**, Virginia 20175, Member, appointed November 16, 2018, to serve an unexpired term beginning June 27, 2018, and ending June 30, 2020, to succeed Paul van Leeuwen.

**Pete Eshelman of Roanoke**, Virginia 24014, Member, appointed November 16, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed Mark Brophy Hubbard.

**Calvin Jai Jamison of Richmond**, Virginia 23225, Member, appointed November 16, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed Shelia Bradley.

**Anette Johnson of Virginia Beach**, Virginia 23451, Member, appointed November 16, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed herself.

**Kelli S. Lemon of Richmond**, Virginia 23222, Member, appointed November 16, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed Trixie L. Averill.

**Phyllis A. Terrell of Williamsburg**, Virginia 23188, Member, appointed November 16, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed herself.

**COMMERCE AND TRADE**

**Board for Professional Soil Scientists, Wetland Professionals, and Geologists**

**Warren T. Dean of Christiansburg**, Virginia 24073, Member, appointed October 12, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**David Hall of Floyd**, Virginia 24091, Member, appointed October 12, 2018, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2020, to succeed Harry Thomas Saxton.

**Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals**

**Don Riggleman of Winchester**, Virginia 22603, Member, appointed October 12, 2018, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2020, to succeed Richard C. Wadkins.

**Commission on Local Government**

**Rosemary M. Mahan of Hague**, Virginia 22469, Member, appointed November 2, 2018, for a term of five years beginning January 1, 2018, and ending December 31, 2022, to succeed Bruce Goodson.

**Real Estate Appraiser Board**

**Kelvin Bratton of Roanoke**, Virginia 24019, Member, appointed October 12, 2018, to serve an unexpired term beginning April 3, 2017, and ending April 2, 2021, to succeed Jean M. Gannon.

**H. Glenn James of Norfolk**, Virginia 23518, Member, appointed October 12, 2018, to serve an unexpired term beginning April 3, 2017, and ending April 2, 2021, to succeed Thomas McLean Strickland.

**Edythe Frankel Kelleher of Vienna**, Virginia 22180, Member, appointed October 12, 2018, for a term of four years beginning April 3, 2018, and ending April 2, 2022, to succeed herself.

**Robert Rochester of Richmond**, Virginia 23235, Member, appointed October 12, 2018, for a term of four years beginning April 3, 2018, and ending April 2, 2022, to succeed himself.

**Virginia Racing Commission**

**Stephanie B. Nixon of Ashland**, Virginia 23005, Member, appointed November 2, 2018, to serve an unexpired term beginning May 7, 2018, and ending December 31, 2019, to succeed Charles W. Steger.

**Virginia Small Business Financing Authority Board of Directors**

**Corey Holeman of Woodbridge**, Virginia 22192, Member, appointed October 26, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**COMPACTS**

**Metropolitan Washington Airports Authority**

**John A. Braun of Falls Church**, Virginia 22041, Member, appointed October 5, 2018, for a term of six years beginning November 24, 2018, and ending November 23, 2024, to succeed Anthony Griffin.

**Albert J. Dwoskin of McLean**, Virginia 22101, Member, appointed October 5, 2018, for a term of six years beginning October 12, 2018, and ending October 11, 2024, to succeed Caren Merrick.

**William Sudow of McLean**, Virginia 22101, Member, appointed October 5, 2018, for a term of six years beginning October 12, 2018, and ending October 11, 2024, to succeed himself.

**Walter Tejada of Arlington**, Virginia 22205, Member, appointed October 5, 2018, for a term of six years beginning November 24, 2018, and ending November 23, 2024, to succeed himself.

**Scientific and Technical Advisory Committee to the Chesapeake Bay Executive Council**

**Ellen Gilinsky** of **Richmond**, Virginia 23238, Member, appointed November 30, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Joshua G. Behr.

**Kirk Havens** of **Plainview**, Virginia 23156, Member, appointed November 30, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**EDUCATION**

**Board of Trustees of the A. L. Philpott Manufacturing Extension Partnership (dba GENEDGE)**

**John A. Downey** of **Harrisonburg**, Virginia 22802, Member, appointed November 30, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Brian O. Hemphill** of **Radford**, Virginia 24141, Member, appointed November 30, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Jonathan Alger.

**Roy Irvine** of **Petersburg**, Virginia 23803, Member, appointed November 30, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Abdelkarim Moharram** of **McLean**, Virginia 22102, Member, appointed November 30, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Meir Tollman.

**Wesley Reid** of **Roanoke**, Virginia 24012, Member, appointed November 30, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Hans de Koning.

**Board of Visitors for Gunston Hall**

**Edmund C. Graber** of **Fairfax**, Virginia 22030, Member, appointed November 9, 2018, for a term of one year beginning October 1, 2018, and ending September 30, 2019, to succeed himself.

**Eileen Cassidy Rivera** of **Falls Church**, Virginia 22043, Member, appointed November 9, 2018, for a term of one year beginning October 1, 2018, and ending September 30, 2019, to succeed herself.

**Timothy Sargeant** of **Fairfax Station**, Virginia 22039, Member, appointed November 9, 2018, for a term of one year beginning October 1, 2018, and ending September 30, 2019, to succeed himself.

**Jamestown-Yorktown Foundation Board of Trustees**

**Paul D. Koonce** of **Richmond**, Virginia 23221, Member, appointed October 26, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Susan Swecker** of **Richmond**, Virginia 23220, Member, appointed October 26, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Nancy Robertson Mc Nerney.

**Fred D. Thompson, Jr.**, of **Ashburn**, Virginia 20147, Member, appointed October 26, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**The Library Board**

**Robert D. Aguirre** of **Harrisonburg**, Virginia 22802, Member, appointed November 16, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Christopher Oprison.

**C. Paul Brockwell, Jr.**, of **Richmond**, Virginia 23225, Member, appointed November 16, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2022, to succeed Emily O'Quinn.

**Blythe Ann Scott** of **Norfolk**, Virginia 23507, Member, appointed November 16, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Carol Hampton.

**Martha J. Sims** of **Virginia Beach**, Virginia 23451, Member, appointed November 16, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed herself.

**State Historical Records Advisory Board**

**Bernadette Battle** of **Emporia**, Virginia 23847, Member, appointed November 30, 2018, to serve an unexpired term beginning November 1, 2017, and ending October 31, 2020, to succeed William O'Brochta.

**Audrey P. Davis** of **Washington, District of Columbia** 20008, Member, appointed November 30, 2018, for a term of three years beginning November 1, 2018, and ending October 31, 2021, to succeed herself.

**Michael L. Edwards** of **Mechanicsville**, Virginia 23116, Member, appointed November 30, 2018, for a term of three years beginning November 1, 2018, and ending October 31, 2021, to succeed Rob PW Havers.

**Amanda R. Lloyd** of **Norfolk**, Virginia 23517, Member, appointed November 30, 2018, to serve an unexpired term beginning November 1, 2018, and ending October 31, 2019, to succeed Garrett McGuire.

**Aaron D. Purcell** of **Blacksburg**, Virginia 24060, Member, appointed November 30, 2018, for a term of three years beginning November 1, 2018, and ending October 31, 2021, to succeed himself.

**FINANCE**

**Advisory Council on Revenue Estimates**

**Nancy Howell Agee** of **Salem**, Virginia 24153, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed herself.

**Neil Amin** of **Henrico**, Virginia 23229, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed Jonas Neihardt.

**Nancy Bagranoff** of **Henrico**, Virginia 23233, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed William Grace.

**Jennifer Bailey** of **Saint Paul**, Virginia 24283, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed William Crutchfield.

**Tom Barkin** of **Richmond**, Virginia 23219, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed Jeffrey Lacker.

**Karen I. Campbell** of **Richmond**, Virginia 23219, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed herself.

**Alison Corazzini** of **Midlothian**, Virginia 23112, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed Richard Scott Blackley.

**J. Morgan Davis** of **Virginia Beach**, Virginia 23451, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed Mitchell Schear.

**Thomas F. Farrell II** of **Henrico**, Virginia 23229, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Robert D. Hardie** of **Charlottesville**, Virginia 22901, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed himself.

**Brooke Kintz** of **Arlington**, Virginia 22201, Member, appointed November 16, 2018, to serve at the pleasure of the Governor to succeed Larry Pope.

**Jeff Ricketts** of **Palmyra**, Virginia 22963, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed C. Burke King.

**Ronald L. Tillett** of **Midlothian**, Virginia 23113, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed Robin Lineberger.

**Jody M. Wagner** of **Virginia Beach**, Virginia 23451, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed herself.

**Edward Whitmore** of **Norfolk**, Virginia 23523, Member, appointed November 16, 2018, to serve at the pleasure of the Governor, to succeed James Hixon.

## HEALTH AND HUMAN RESOURCES

### Advisory Board on Acupuncture

**R. Keith Bell** of **Richmond**, Virginia 23235, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Lynn Almloff.

**Janet L. Borges** of **Richmond**, Virginia 23235, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Sharon Crowell** of **Sterling**, Virginia 20164, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Beth Rodgers** of **Richmond**, Virginia 23238, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Leslie Rubio.

### Advisory Board on Physician Assistants

**James Carr** of **Woodbridge**, Virginia 22193, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Thomas Parish.

**Tracey Dunn** of **North Chesterfield**, Virginia 23235, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Frazier W. Frantz** of **Norfolk**, Virginia 23517, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Kathleen Scarbalis** of **Fairfax**, Virginia 22033, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Rachel Carlson.

**Portia S. Tomlinson** of **Roanoke**, Virginia 24019, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

### Advisory Board on Radiological Technology

**Joyce O. Hawkins** of **Mechanicsville**, Virginia 23116, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Rebecca H. Keith** of **Hampton**, Virginia 23666, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Jan Clark.

**Uma R. Prasad** of **Midlothian**, Virginia 23113, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Margaret Toxopeus.

**William E. Quarles, Jr.**, of **Gum Spring**, Virginia 23065, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Bonnie Kettlewell.

**David L. Roberts** of **Palmyra**, Virginia 22963, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Patti Hershey.

### Advisory Board on Service and Volunteerism

**Sheila Williamson-Branch** of **Danville**, Virginia 24541, Member, appointed November 2, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Rachel Thomas.

### Assistive Technology Loan Fund Authority Board of Directors

**Douglas A. Bierly** of **Henrico**, Virginia 23233, Member, appointed November 30, 2018, to serve an unexpired term beginning October 5, 2018, and ending June 30, 2020, to succeed AnnMarie Wakely.

**Behavioral Health and Developmental Services Board**

**Varun Choudhary** of **Glen Allen**, Virginia 23059, Member, appointed November 16, 2018, to serve an unexpired term beginning June 29, 2018, and ending June 30, 2019, to succeed James Reinhard.

**Board of Audiology and Speech-Language Pathology**

**Alison R. King** of **Amelia**, Virginia 23002, Member, appointed October 5, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Laura Purcell Verdun.

**Board of Funeral Directors and Embalmers**

**Muhammad Hanif** of **Midlothian**, Virginia 23113, Member, appointed October 12, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2021, to succeed Ibrahim Moiz.

**K. Scott Hickey** of **Maidens**, Virginia 23102, Member, appointed October 12, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Junius Williams.

**R. Thomas Slusser, Jr.**, of **Clifton Forge**, Virginia 24422, Member, appointed October 12, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Board of Health Professions**

**Allen R. Jones, Jr.**, of **Newport News**, Virginia 23602, Member, appointed November 2, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Louis R. Jones** of **Virginia Beach**, Virginia 23455, Member, appointed November 2, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Junius Williams.

**Alison R. King** of **Amelia**, Virginia 23002, Member, appointed November 2, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Laura Purcell Verdun.

**Martha Perry Rackets** of **McLean**, Virginia 22101, Member, appointed November 2, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**John M. Salay** of **Midlothian**, Virginia 23112, Member, appointed November 2, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Yvonne Haynes.

**Public Guardian and Conservator Advisory Board**

**James F. Almand** of **Arlington**, Virginia 22205, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**George McAndrews** of **Vienna**, Virginia 22181, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Rose A. Palmer** of **Mechanicsville**, Virginia 23111, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Angie Phelon** of **Glen Allen**, Virginia 23059, Member, appointed October 19, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed herself.

**Veronica E. Williams** of **Newport News**, Virginia 23606, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**State Rehabilitation Council**

**Linda Garris Bright** of **Virginia Beach**, Virginia 23452, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed herself.

**Pamela Cobler** of **Martinsville**, Virginia 24112, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed herself.

**Madeline H. Nunnally** of **Henrico**, Virginia 23294, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed Holly Love.

**Justin M. Spurlock** of **Aylett**, Virginia 23009, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed David Axselle.

**Shawn M. Utt** of **Pulaski**, Virginia 24301, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed Sandra Cook.

**Statewide Independent Living Council**

**Stephen Grammer** of **Roanoke**, Virginia 24018, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed himself.

**Brian S. Montgomery** of **Richmond**, Virginia 23227, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed Keith Enroughty.

**Gerald O'Neill** of **Glen Allen**, Virginia 23060, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed himself.

**Vasanth Rayman** of **Annandale**, Virginia 22003, Member, appointed October 5, 2018, to serve an unexpired term beginning October 1, 2018, and ending September 30, 2020, to succeed Karen Walker.

**Ed Turner** of **Virginia Beach**, Virginia 23451, Member, appointed October 5, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed Sandra Cook.

**Virginia Health Workforce Development Authority Board of Directors**

**Deborah Johnston** of **Richmond**, Virginia 23226, Member, appointed November 30, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed herself.

**Pamela P. Murphy** of **Mount Crawford**, Virginia 22841, Member, appointed November 30, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed Sunil Sinha.

**Elayne Kornblatt Phillips** of **Charlottesville**, Virginia 22901, Member, appointed November 30, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed herself.

**John T. White** of **Old Church**, Virginia 23111, Member, appointed November 30, 2018, for a term of two years beginning July 1, 2018, and ending June 30, 2020, to succeed himself.

#### **Virginia Interagency Coordinating Council**

**Penni Pfof Crist** of **Waynesboro**, Virginia 22980, Member, appointed November 9, 2018, to serve an unexpired term beginning July 13, 2018, and ending September 30, 2020, to succeed Sandra Woodward.

**Amy Fields** of **Bumpass**, Virginia 23024, Member, appointed November 9, 2018, to serve an unexpired term beginning May 25, 2018, and ending September 30, 2020, to succeed Joy Spencer.

**Debra H. Rodman** of **Henrico**, Virginia 23228, Member, appointed November 9, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed herself.

**Michael Saxon** of **Manakin-Sabot**, Virginia 23103, Member, appointed November 9, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to fill a new seat.

#### **INDEPENDENT**

##### **Virginia Commonwealth University Health System Authority Board of Directors**

**Timothy A. McDermott** of **Ashland**, Virginia 23005, Member, appointed November 30, 2018, to serve an unexpired term beginning July 1, 2018, and ending June 30, 2020, to succeed Gopinath Jadhav.

**Marilyn B. Tavenner** of **Amelia Court House**, Virginia 23002, Member, appointed October 5, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Eva Tieg Hardy.

##### **Volunteer Firefighters' and Rescue Squad Workers' Service Award Pension Fund Board**

**Gary A. Dalton** of **Woodstock**, Virginia 22664, Member, appointed October 26, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed John V. Hilliard.

**Richard W. Harris** of **Kenbridge**, Virginia 23944, Member, appointed October 26, 2018, for a term of six years beginning July 1, 2018, and ending June 30, 2024, to succeed himself.

#### **NATURAL RESOURCES**

##### **Alexandria Historical Restoration and Preservation Commission**

**Taryn E. Anthony** of **Alexandria**, Virginia 22312, Member, appointed October 26, 2018, for a term of four years beginning August 1, 2018, and ending July 31, 2022, to succeed Kenneth Carter Batey.

**Cynthia M. Stevens** of **Alexandria**, Virginia 22314, Member, appointed October 26, 2018, for a term of four years beginning August 1, 2018, and ending July 31, 2022, to succeed herself.

##### **Board of Conservation and Recreation**

**Angela S. Henderson** of **Glen Allen**, Virginia 23060, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Isaac J. Sarver.

**Patricia A. Jackson** of **Mechanicsville**, Virginia 23116, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Clayton L. Spruill** of **Virginia Beach**, Virginia 23456, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Andrew C. Jennison.

##### **State Air Pollution Control Board**

**Gail Bush** of **Stafford**, Virginia 22554, Member, appointed November 16, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Rebecca R. Rubin.

**Kajal B. Kapur** of **Charlottesville**, Virginia 22911, Member, appointed November 16, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Samuel Abram Bleicher.

##### **State Water Control Board**

**Paula Hill Jasinski** of **Richmond**, Virginia 23226, Member, appointed November 16, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Robert L. Dunn.

**James Lofton** of **Ruckersville**, Virginia 22968, Member, appointed November 16, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Roberta A. Kellam.

##### **Virginia Land Conservation Foundation Board of Trustees**

**Byron M. Adkins, Jr.**, of **Ruthville**, Virginia 23147, Member, appointed October 26, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Susan E. Donner** of **Suffolk**, Virginia 23434, Member, appointed October 26, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Bruce Vlk** of **Charlottesville**, Virginia 22903, Member, appointed October 26, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Joan Fenton.

#### **PUBLIC SAFETY AND HOMELAND SECURITY**

##### **Criminal Justice Services Board**

**Michael HuYoung** of **Glen Allen**, Virginia 23059, Member, appointed October 5, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed John A. Boneta.

**Secure and Resilient Commonwealth Panel**

**John L. Bell, Jr.**, of **Virginia Beach**, Virginia 23454, Member, appointed November 2, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Kirby Felts.

**VETERANS AND DEFENSE AFFAIRS**

**Veterans Services Foundation Board of Trustees**

**Matice Wright of Dunn Loring**, Virginia 22027, Member, appointed October 19, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**SENATE JOINT RESOLUTION NO. 297**

*Acknowledging with profound regret the existence and acceptance of lynching within the Commonwealth.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, the year 2019 marks the 400th anniversary of the arrival to the Jamestown settlement of the first Africans in what would become the United States, where they were enslaved, marking the beginning of nearly 250 years of slavery in the British colonies and in the new nation; and

WHEREAS, throughout America's history of slavery, segregation, and inequality, thousands of African Americans were lynched across America, particularly throughout the southern United States, to perpetuate racial inequality and white supremacy and to terrorize African American communities; and

WHEREAS, during Reconstruction, the Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution were ratified, abolishing slavery, granting citizenship to any person born or naturalized in the United States, and guaranteeing the rights to due process of law and equal protection under the law and the right to vote for African American men; and

WHEREAS, in outright defiance of the Reconstruction Amendments, people across the nation acted outside of the law, deliberately, violently, and brutally, against African American citizens in retribution for alleged or invented crimes and faced few or no consequences; and

WHEREAS, the Equal Justice Initiative has documented more than 4,000 lynchings that took place throughout the South between 1877 and 1950, over 80 of which took place in Virginia; other scholarship documents more than 100 lynchings in Virginia; and

WHEREAS, African American men, women, and children lived in fear that their lives and the lives of loved ones could end violently at any time and in any place; and

WHEREAS, lynchings were often widely known and publicly attended; some were witnessed by crowds that numbered in the thousands, reflecting community acceptance, and many leaders and authorities and much of society denied and enabled the illegal and horrific nature of the acts; and

WHEREAS, *Richmond Planet* editor John Mitchell, Jr., exposed lynchings in Virginia as they occurred and led the state's antilynching campaign; however, despite his efforts and other accounts, historians believe still more lynchings remain undocumented; and

WHEREAS, at the urging of *Norfolk Virginia-Pilot* editor Louis Isaac Jaffe and other antilynching activists, and to curtail mob violence in Virginia, the General Assembly passed an antilynching measure that was signed into law on March 14, 1928, declaring lynching a state crime; and

WHEREAS, the extreme racial animus, violence, and terror embodied in the act of lynching did not die with the criminalization of the act, and few, if any, prosecutions occurred under the measure; and

WHEREAS, the legacy of racism that outlived slavery, enabled the rise and acceptance of lynching, facilitated segregation and disenfranchisement, and denied education and civil rights to African Americans has yet to be uprooted in Virginia, the South, and the nation, and this dark and shameful chapter of American history must be understood, acknowledged, and fully documented and the seemingly irreparable breach mended; and

WHEREAS, the most abject apology for past wrongs cannot right them; yet the spirit of true repentance on behalf of a government and, through it, a people can promote reconciliation and healing and avert the repetition of past wrongs and the disregard of manifested injustices; and

WHEREAS, in 2010, the Equal Justice Initiative began investigating thousands of racial terror lynchings in the American South in an effort to understand the terror and trauma this sanctioned violence against the African American community created, resulting in the report *Lynching in America: Confronting the Legacy of Racial Terror* in 2015 and the opening of the Memorial for Peace and Justice on April 26, 2018, as the nation's first memorial dedicated to the legacy of enslaved black people, people terrorized by lynching, African Americans humiliated by racial segregation and Jim Crow, and people of color burdened with contemporary presumptions of guilt and police violence; and

WHEREAS, the Equal Justice Initiative created the Community Remembrance Project to create greater awareness and understanding about racial terror lynchings and to begin a necessary conversation that advances truth and reconciliation by working with communities to commemorate and recognize the traumatic era of lynching by collecting soil from lynching sites across the country and erecting historical markers and monuments in these spaces; and

WHEREAS, the General Assembly established the Virginia Dr. Martin Luther King, Jr. Memorial Commission in 1992 to continue the work of Dr. King, himself a victim of violence, as he sought to realize his dream of a "Beloved Community" in which love, peace, and justice prevail over hatred and fear; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby acknowledge with profound regret the existence and acceptance of lynching within the Commonwealth and call for reconciliation among all Virginians; and, be it

RESOLVED FURTHER, That the Virginia Dr. Martin Luther King, Jr. Memorial Commission make as complete a record as possible of each documented lynching that occurred in the Commonwealth of Virginia, including the names of the victims and the locations and circumstances of each occurrence, to be preserved on the Commission's website, and develop programming to bring awareness and recognition of this history to communities across the state, that such awareness might contribute to the process of healing and reconciliation in Virginia's still-wounded communities and for families and descendants affected by lynchings; and, be it

RESOLVED FURTHER, That the Virginia Dr. Martin Luther King, Jr. Memorial Commission coordinate with the Department of Historic Resources to identify sites for historic markers to recognize documented lynchings and assist the Equal Justice Initiative in its Community Remembrance Project in the Commonwealth; and, be it

RESOLVED FINALLY, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Dr. Martin Luther King, Jr. Memorial Commission, requesting that it further disseminate copies of this resolution to its constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

### SENATE JOINT RESOLUTION NO. 298

*Designating August, in 2019 and in each succeeding year, as Breastfeeding Awareness Month in Virginia.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, breastfeeding provides unique health, economic, and societal benefits to babies, mothers, families, and the community as a whole; and

WHEREAS, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Academy of Family Physicians, the Academy of Breastfeeding Medicine, and the World Health Organization recommend that babies be exclusively breastfed for the first six months of age and continue to be breastfed until 12 months of age or longer as mutually desired by the breastfeeding parent and infant; and

WHEREAS, in January 2011, the United States Surgeon General announced a "Call to Action to Support Breastfeeding" that identifies barriers to optimal breastfeeding in health care practices, employment, communities, research, public health infrastructure, and social networks, while also recommending methods by which families, communities, employers, and health care professionals could help to eliminate those barriers to improve breastfeeding rates and increase support for breastfeeding; and

WHEREAS, research shows that breastfeeding and human milk provide advantages to general health, growth, and development while significantly decreasing the risk of infant mortality and a large number of acute and chronic diseases, including, among others, sudden infant death syndrome, asthma, allergies, diabetes, viral and bacterial infections, childhood obesity, childhood leukemia, and necrotizing enterocolitis; and

WHEREAS, mothers who breastfeed have a decreased risk of breast, uterine, and ovarian cancer, postpartum depression, and osteoporosis later in life; and

WHEREAS, the nutrients exclusive to human milk are vital to the growth, development, and maintenance of the human brain and cannot be manufactured; and

WHEREAS, recent research estimates if 90 percent of American mothers could achieve optimal breastfeeding, it could prevent an estimated 2,619 premature maternal deaths and 721 child deaths, and save \$17.4 billion in maternal health costs and \$13 billion in child health costs each year; and

WHEREAS, breastfeeding has positive economic impacts on families by decreasing the need to pay for medical care for a sick infant and by eliminating the need to purchase infant formula; and

WHEREAS, the health benefits to breastfed children and their mothers result in lower health care costs for employers, less employee time off to care for sick children, and higher productivity and employee loyalty; and

WHEREAS, research suggests that breastfeeding facilitates and enhances bonding between parents and infants and may have a positive impact on long-term behavioral outcomes for children; and

WHEREAS, employers, employees, and society benefit by supporting a mother's decision to breastfeed and by helping to reduce the obstacles to initiating and continuing breastfeeding; and

WHEREAS, Virginians are encouraged to explore ways to improve women's access to breastfeeding support services in medical, social, and employment settings, to facilitate increased awareness and education about breastfeeding, to explore the use of breastfeeding supports, and to improve the availability of effective breastfeeding resources and community support services; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate August, in 2019 and in each succeeding year, as Breastfeeding Awareness Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Department of Health so that the agency may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this month on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 301

*Continuing the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century Report.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, Senate Joint Resolution No. 47 (2014) established the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century to (i) review and coordinate with the work of the Governor's Task Force on Improving Mental Health Services and Crisis Response; (ii) review the laws of the Commonwealth governing the provision of mental health services, including involuntary commitment of persons in need of mental health care; (iii) assess the systems of publicly funded mental health services, including emergency, forensic, and long-term mental health care and the services provided by local and regional jails and juvenile detention facilities; (iv) identify gaps in services and the types of facilities and services that will be needed to serve the needs of the Commonwealth in the twenty-first century; (v) examine and incorporate the objectives of House Joint Resolution 240 (1996) and House Joint Resolution 225 (1998) into its study; (vi) review and consider the report *The Behavioral Health Services Study Commission: A Study of Virginia's Publicly Funded Behavioral Health Services in the 21st Century*; and (vii) recommend statutory or regulatory changes needed to improve access to services, the quality of services, and outcomes for individuals in need of services; and

WHEREAS, Senate Joint Resolution 279 (2017) last continued the study to continue the work it has begun with regard to (a) reviewing the laws of the Commonwealth governing the provision of mental health services, including involuntary commitment of persons in need of mental health care; (b) assessing the systems and structure of publicly funded mental health services, including emergency, forensic, and long-term mental health care and the services provided by local and regional jails and juvenile detention facilities; (c) identifying gaps in services and the types of facilities and services that will be needed to serve the needs of the Commonwealth in the twenty-first century; and (d) recommending statutory or regulatory changes needed to improve access to services, the quality of services, and outcomes for individuals in need of services; and

WHEREAS, the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century and its work groups have met numerous times in 2017 and 2018 and have undertaken extensive work in (1) reviewing the laws of the Commonwealth governing the provision of mental health services, including involuntary commitment of persons in need of mental health care; (2) assessing the systems and structure of publicly funded mental health services, including emergency, forensic, and long-term mental health care and the services provided by local and regional jails and juvenile detention facilities; (3) identifying gaps in services and the types of facilities and services that will be needed to serve the needs of the Commonwealth in the twenty-first century; and (4) recommending statutory or regulatory changes needed to improve access to services, the quality of services, and outcomes for individuals in need of services; and

WHEREAS, despite the extensive work of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century over the last two years, it has become evident that additional work is required to meet the objectives of Senate Joint Resolution 47 (2014) and Senate Joint Resolution 279 (2017); now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century be continued. The joint subcommittee shall have a total membership of 12 members that shall consist of five members of the Senate, of whom two shall be members of the Senate Committee on Education and Health, two shall be members of the Senate Committee on Finance, and one shall be a member at-large, appointed by the Senate Committee on Rules; and seven members of the House of Delegates, of whom two shall be members of the House Committee on Health, Welfare and Institutions, two shall be members of the House Committee on Appropriations, and three shall be members at-large, appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. The current members appointed by the Senate Committee on Rules shall continue to serve until replaced. The current members appointed by the Speaker of the House of Delegates shall be subject to reappointment. Vacancies shall be filled by the original appointing authority. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall continue the work it has begun with regard to (A) reviewing the laws of the Commonwealth governing the provision of mental health services, including involuntary commitment of persons in need of mental health care; (B) assessing the systems and structure of publicly funded mental health services, including emergency, forensic, and long-term mental health care and the services provided by local and regional jails and juvenile detention facilities; (C) identifying gaps in services and the types of facilities and services that will be needed to serve the

needs of the Commonwealth in the twenty-first century; and (D) recommending statutory or regulatory changes needed to improve access to services, the quality of services, and outcomes for individuals in need of services.

Administrative staff support shall continue to be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall continue to be provided by the Division of Legislative Services. Technical assistance shall continue to be provided by the Department of Behavioral Health and Developmental Services. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2020 interim and four meetings for the 2021 interim, and the direct costs of this study shall not exceed \$ 22,560 for each year without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members or a majority of the House members appointed to the joint subcommittee vote against the recommendation and vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings for the first year by November 30, 2020, and for the second year by November 30, 2021, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2020 or 2021 interim.

### SENATE JOINT RESOLUTION NO. 303

*Celebrating the life of William Clinton Walker.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, William Clinton Walker, a respected educator, hardworking farmer, and beloved member of the Smyth County community, died on September 20, 2018; and

WHEREAS, William Walker shared his professional expertise as a farmer with local youth as an agriculture teacher at Chilhowie High School, where he was a positive role model for his students and earned the admiration of his fellow Smyth County Virginia Public Schools educators; and

WHEREAS, William Walker also supported and inspired young people as coach of the Chilhowie Warriors junior varsity basketball and football teams; and

WHEREAS, highly admired in the community, William Walker never met a stranger and was always willing to help a friend or neighbor in need; and

WHEREAS, William Walker will be fondly remembered and greatly missed by his wife, Ashley; daughter, Emery; mother and stepfather, Angela and Jeff; father and stepmother, Daniel and Kim; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of William Clinton Walker; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William Clinton Walker as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 304

*Celebrating the life of Derek Brandon Hill.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Derek Brandon Hill, a respected member of the Woodlawn community, died on September 11, 2018; and

WHEREAS, a native of Galax, Derek Hill was born to the late Roger Walter Hill and Doris Lee Roberts Hill Moody; and

WHEREAS, Derek Hill proudly served his country in the United States Army and later supported his fellow veterans as an active member of Veterans of Foreign Wars in Virginia and North Carolina; and

WHEREAS, Derek Hill inspired others through his patriotism and brought joy to everyone he met through his sense of humor and warm smile; and

WHEREAS, Derek Hill will be fondly remembered and greatly missed by his beloved daughters, Kamdyn and Brailyn, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Derek Brandon Hill; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Derek Brandon Hill as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 308

*Commending the Loudoun County Sheriff's Department.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Loudoun County Sheriff's Department earned accolades for its use of innovative and cutting-edge drone equipment, receiving a 2018 Achievement Award from the Virginia Association of Counties; and

WHEREAS, the Loudoun County Sheriff's Department is utilizing a drone to operate Project Lifesaver, an electronic-based locating system for people with medical conditions such as Alzheimer's disease, autism, or other conditions, who have a tendency to wander from home and get lost; and

WHEREAS, the Loudoun County Sheriff's Department's Lockheed Martin Indago drone can also carry infrared and high resolution cameras to help in search and rescue operations; and

WHEREAS, the Loudoun County Sheriff's Department's Search and Rescue Team received national attention when, in 2017, it used the drone to find a missing 92-year-old hunter in a heavily wooded area in Shenandoah County, using thermal imagers and the drone to search the area; and

WHEREAS, the Loudoun County Sheriff's Department was the first law-enforcement agency in Virginia and the sixth in the United States to have a drone equipped with a Project Lifesaver antenna; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Loudoun County Sheriff's Department for acquiring and utilizing innovative and cutting-edge drone equipment, and for receiving a 2018 Achievement Award from the Virginia Association of Counties; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Loudoun County Sheriff's Department as an expression of the General Assembly's admiration for its use of innovative technologies to solve unique challenges and help the community.

### SENATE JOINT RESOLUTION NO. 309

*Requesting the Virginia Marine Resources Commission to study the feasibility of creating protection zones for submerged fiber optic cables located along Virginia's shores. Report.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, submerged cables are any kind of fiber optic and electrical cables that are laid under and on the seabed; and

WHEREAS, submerged fiber optic cables are an important component of the national communications infrastructure of the Commonwealth and the United States, carrying the vast majority of the country's international voice and data traffic, and provide a vital link between the United States and the rest of the world; and

WHEREAS, due to their nature and location under and on the seabed, submerged fiber optic cables are susceptible to damage from certain activities, such as the anchoring of large vessels, some types of fishing, the dumping of materials, dredging, and minerals exploration; and

WHEREAS, submerged fiber optic cables off of Virginia's shores are particularly susceptible to unintended damage from the variety of activities that occur in these areas, ranging from recreational to commercial; and

WHEREAS, the Virginia Marine Resources Commission is charged with the responsibility of permitting specified uses in or over state-owned submerged lands; and

WHEREAS, there is a need to develop a strategy for concentrating the efforts and resources of state and federal agencies to assess the feasibility of establishing a submerged fiber optic cable protection zone to restrict activities that have the potential to damage submerged fiber optic cables and to assist with the planning of cable placement and protection; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia Marine Resources Commission be requested to study the feasibility of creating protection zones for submerged fiber optic cables located along or being developed on Virginia's shores.

In conducting its study, the Virginia Marine Resources Commission shall bring together interested parties at the state level as well as request the participation of relevant federal agencies to assess the feasibility of establishing a cable protection zone for submerged fiber optic cables located along Virginia's shores.

Technical assistance shall be provided to the Virginia Marine Resources Commission by the State Corporation Commission and the Department of Game and Inland Fisheries. All agencies of the Commonwealth shall provide assistance to the Virginia Marine Resources Commission for this study, upon request.

The Virginia Marine Resources Commission shall complete its meetings by November 30, 2019, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2020 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 310

*Commending Hanover County.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, in 2020, Hanover County will be celebrating the 300th anniversary of its founding and its unique role in events that have shaped the history of the Commonwealth and the United States; and

WHEREAS, Hanover County was formed on November 26, 1720, from New Kent County along the boundaries of St. Paul's Parish; and

WHEREAS, the original Hanover County Courthouse, believed to have been constructed between 1737 and 1743, is the second oldest courthouse in the Commonwealth still in use and appears as the most prominent feature on the seal of the County, along with references to Patrick Henry and Henry Clay, both of whom were natives of the County; and

WHEREAS, in 1743, the first Virginia Presbytery was formed at the Polegreen Meetinghouse and was soon led by the Reverend Samuel Davies, Virginia's first licensed non-Anglican pastor and an oratorical inspiration to a then-young parishioner named Patrick Henry; and

WHEREAS, the Polegreen Meetinghouse, which was representative of a Protestant religious revival known as "the Great Awakening," when Virginians sought freedom of religious expression, served as a treasured place in the community until its destruction during the Civil War; a memorial to the Historic Polegreen Church was created after the foundation of the original meetinghouse was uncovered in the early 1990s; and

WHEREAS, Patrick Henry, one of the most important Revolutionary War patriots, publicly challenged the King of England's authority in the "Parson's Cause" case, heard in the historic Hanover Courthouse in 1763, an argument that has been called "the opening bell of the American Revolution"; and

WHEREAS, in 1766, Patrick Henry authored *The Virginia Resolves*, which protested the Stamp Act passed by the British Parliament and led other colonies to protest in similar manners, ultimately sparking the American Revolution; and

WHEREAS, in the Second Virginia Convention of 1775, Patrick Henry, who is known to history as "the Voice of the Revolution," exhorted his fellow representatives to pass a resolution preparing Virginia troops for the Revolutionary War with one of America's most famous speeches, ending with "I know not what course others may take, but as for me, give me liberty or give me death!"; and

WHEREAS, Patrick Henry served as Virginia's first elected Governor, a post to which he was reelected four times; and

WHEREAS, sites associated with the life of Patrick Henry in Hanover County were among the first in the Commonwealth's Road to Revolution Heritage Trail, with historical markers erected at Scotchtown, which was built in the early 1700s and was his home from 1771 to 1778; Hanover Courthouse; Rural Plains, which was owned by the parents of his first wife and is now part of a Civil War battlefield preserved by Richmond National Battlefield Park; his birthplace at Studley; and at Pine Slash, his first home with his first wife; and

WHEREAS, Hanover County is also the home of the historic Hanover Tavern, the original structure of which dates to about 1732; and

WHEREAS, Hanover is proud to be the home of several churches that were founded in the 18th century including Slash Church, which was built around 1730 and is the oldest frame church in continuous use in Virginia; Fork Church, which was built around 1735; Winn's Baptist Church, established in 1776; and Black Creek Baptist Church, founded in 1777; and

WHEREAS, Hanover County is also the birthplace of Henry Clay, one of America's great political leaders of the first half of the 19th century, who served nearly 50 years in Congress and was known as "the Great Compromiser" for his efforts to preserve the Union in the years before the Civil War; and

WHEREAS, Hanover County's primary industry has always been agriculture, beginning with tobacco and over the centuries shifting to grain crops, primarily wheat and corn, and vegetables; the County was also the home of one of the greatest agricultural scientists of the 19th century, Edmund Ruffin, who discovered that the acidity of soils could be neutralized by applying marl; and

WHEREAS, Hanover County is home to 39 sites listed in the National Register of Historic Places and the Virginia Landmarks Register, including Sycamore Tavern, Hickory Hill, and Marlbourne; and

WHEREAS, Hanover County was the site of numerous battles in the Civil War, including the site of General Robert E. Lee's first (Gaines Mill) and last (Cold Harbor) major battlefield victories, with Gaines Mill, Cold Harbor, Beaver Dam Creek and Rural Plains at Totopotomoy Creek preserved as part of the Richmond National Battlefield Park, and North Anna and Cold Harbor preserved by the County; and

WHEREAS, Hanover County is home to the incorporated Town of Ashland, which was chartered in 1858 and named after Henry Clay's estate in Kentucky, and which is now home to more than 7,000 residents who enjoy its charming ambiance as both a railroad town and college town; and

WHEREAS, Randolph-Macon College, America's oldest Methodist-related college, moved to Ashland from Boydton in 1868 and now has an enrollment of more than 1,400 students on a beautiful 116-acre campus that has more than 60 buildings; and

WHEREAS, the construction of I-95 in the 1960s and I-295 in the 1980s helped bring additional prosperity to Hanover County; and

WHEREAS, Hanover County currently has the third largest population of the Metro Richmond suburban counties, with an estimated population of 110,000 in 2018; and

WHEREAS, Hanover County was one of the smallest local governments in the nation to achieve Triple-A ratings from each of the bond rating agencies; and

WHEREAS, Hanover County has been successful in attracting high-quality residential and business growth to its suburban services area while maintaining its rural charm and preserving its historic resources; and

WHEREAS, the residents of Hanover County are proud of their rich history and their prosperous present and look forward to a promising future; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Hanover County on the occasion of the 300th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the chair of the Hanover County Board of Supervisors as an expression of the General Assembly's admiration for the County's illustrious history and significant contributions to the Commonwealth.

### SENATE JOINT RESOLUTION NO. 313

*Commending the Commissioners of the Revenue Association of Virginia.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, during the earliest years of this country the General Assembly of Virginia understood the need for certain checks and balances in just and proper tax administration; and

WHEREAS, on October 16, 1786, the General Assembly enacted a law to create the office of Commissioner of the Revenue, for which office only "discreet and reputable persons" were to be considered; and

WHEREAS, having fulfilled the duties of the office for 130 years, on January 1, 1919, the elected Commissioners of the Revenue organized themselves into a professional association to provide expert counsel to the General Assembly, the Commonwealth's agencies and departments, and local governments in the formation of sound tax policy and the fair and uniform application of that policy; and

WHEREAS, the Commissioners of the Revenue Association of Virginia has met annually since its founding to advise and to disseminate and fairly, uniformly, and impartially apply the tax laws enacted by the General Assembly; and

WHEREAS, the Commissioners of the Revenue Association of Virginia, with the passage of a Virginia Senate joint resolution, adopted on March 19, 1920, "so as to extend the rights of suffrage to women" and the subsequent ratification of the Twentieth Amendment to the Constitution of the United States on August 18, 1920, began to assist local officials in the identification and registration of women voters; and

WHEREAS, on November 18, 1949, the Commissioners of the Revenue Association of Virginia, by resolution, recommended to the General Assembly the elimination of segregated real and personal property tax assessments books, on the basis of race, for citizens of the Commonwealth; and

WHEREAS, after the General Assembly Regular Session of 1966, the Commissioners of the Revenue Association of Virginia advised and assisted the Commonwealth in the implementation and administration of the newly enacted tax on retail sales, which became effective on July 1, 1966; and

WHEREAS, the Commissioners of the Revenue Association of Virginia also advised and assisted the Commonwealth in the implementation and administration of the Personal Property Tax Relief Act of 1998, which became effective on July 1, 1998; and

WHEREAS, the members of the Commissioners of the Revenue Association of Virginia have for 100 years consistently and faithfully discharged, with the highest integrity, the purpose for which the office was created; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Commissioners of the Revenue Association of Virginia on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Commissioners of the Revenue Association of Virginia as an expression of the General Assembly's gratitude and appreciation for the organization and its members, who have, for the last 100 years, faithfully fulfilled their stated purpose to advise and to disseminate and fairly, uniformly, and impartially apply the tax laws of the Commonwealth for the benefit of its citizens.

### SENATE JOINT RESOLUTION NO. 314

*Designating January 6, in 2020 and in each succeeding year, as Montessori Education Day in Virginia.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, based on her observations of children and the manner by which they learn, Maria Montessori, a visionary physician and educator, developed an innovative philosophy of education in the early 1900s that continues to influence learning throughout the Commonwealth and the United States; and

WHEREAS, the original Montessori school, the Casa dei Bambini in San Lorenzo, Italy, opened on January 6, 1907, and was the first to implement many of the learning strategies that would become hallmarks of the Montessori method; and

WHEREAS, a unique educational system for children from birth through the age of 18, the Montessori program uses materials, techniques, and observations that support students' natural development, encourage their learning, independence, and self-confidence, and advance the principles of peace through responsible citizenship; and

WHEREAS, the child-centered Montessori method includes developmental teaching, one-on-one lessons, and the promotion of respect between the children and peace toward all humankind; and

WHEREAS, studies have shown that Montessori school students demonstrate superior academic and social skills compared with children in other types of schooling and advance to higher education and careers as engaged, competent, responsible, and respectful leaders; and

WHEREAS, the Virginia Montessori Association represents the Montessori community in the Commonwealth, increasing awareness of the Montessori method, encouraging high-quality educational opportunities, and supporting Montessori teachers, administrators, and parents; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate January 6, in 2020 and in each succeeding year, as Montessori Education Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Montessori Association so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 315

*Celebrating the life of Master Sergeant Edward Colston Newton V, USA.*

Agreed to by the Senate, January 24, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Master Sergeant Edward Colston Newton V, USA, a highly admired member of the Northern Neck community who proudly served his country in the United States Armed Forces, died on July 11, 2018; and

WHEREAS, born at Fort Polk, Louisiana, Colston "Coley" Newton grew up in Hague and neighboring Kinsale in Westmoreland County, where he cultivated his love of the outdoors and began to earn his lifelong reputation as a skilled hunter and fisherman; and

WHEREAS, Coley Newton graduated from the Blue Ridge School in Saint George and attended Ferrum College; he was a standout football player at both schools, achieving local recognition for his dedication, toughness, and tenacity as an offensive and defensive lineman; and

WHEREAS, Coley Newton joined the United States Army to serve and safeguard his fellow Americans and rose through the ranks to become a master sergeant of infantry, earning the coveted Ranger Tab and Master Parachutist Badge; and

WHEREAS, Coley Newton served in the 101st Airborne Division and the 82nd Airborne Division as a team leader, squad leader, platoon sergeant, and jump master; in 2006, he began his first of 14 tours in Iraq and Afghanistan, during most of which he was a member of the United States Army Asymmetric Warfare Group; and

WHEREAS, in May 2018, the Northern Neck chapter of the Virginia Society, Sons of the American Revolution presented Coley Newton with the organization's Heroism Award for his legacy of courage and self-sacrifice in service to the community and the nation; and

WHEREAS, Coley Newton will be fondly remembered and greatly missed by his wife, Katherine; his son, Lee; his mother, Jane; his father, Edward; his brother, John; his sister, Cynthia; his beloved brothers of war; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Master Sergeant Edward Colston Newton V, USA; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Master Sergeant Edward Colston Newton V, USA, as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 316

*Commending Stephen K. White, Ph.D.*

Agreed to by the Senate, January 17, 2019

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Stephen K. White, Ph.D., a native Virginian and renowned professor at two of the Commonwealth's premier universities, Virginia Polytechnic Institute and State University and the University of Virginia, has made exceptional contributions to the study of political theory and has mentored thousands of students during his 37-year career as an educator; and

WHEREAS, Stephen White began his academic career at the University of Virginia as an undergraduate; he then pursued his doctoral research at the City University of New York before returning to the Commonwealth as an assistant professor with Virginia Polytechnic Institute and State University (Virginia Tech) in 1981; and

WHEREAS, Stephen White remained with Virginia Tech for 20 years, rising to the rank of full professor, and he was elected by his colleagues to serve as chair of the Department of Political Science from 2000 to 2001; and

WHEREAS, while at Virginia Tech, Stephen White authored many groundbreaking essays, articles, and books on political theory and the history of political thought, several of which have been translated into various languages, furthering the international impact of his scholarship; and

WHEREAS, in recognition of his commitment to excellence at Virginia Tech, Stephen White was awarded Phi Beta Kappa's Sturm Award for Excellence in Faculty Research with a Broad Public Impact in 1996; and

WHEREAS, in 2001, Stephen White returned to his alma mater, the University of Virginia, to accept an endowed professorship with the Department of Politics; over the last 17 years in this role, he has taught countless students from across the Commonwealth, the nation, and the world about the value of democracy, deliberation, equity, inclusion, and fairness; and

WHEREAS, Stephen White is the recipient of two of the University of Virginia's highest honors for teaching; he was awarded the All-University Teaching Award in 2009 and was chosen to be one of six Faculty Honorees at the Monticello Dinner for Teaching, hosted by the Seven Society, in 2009 and again in 2011 for his "willingness to teach students and cultivate minds that extends beyond the classroom"; and

WHEREAS, while at the University of Virginia, Stephen White has further shaped the field of political theory through his scholarship, authoring dozens of highly regarded articles and books, and worked as the editor-in-chief of the journal *Political Theory* from 2000 to 2005, which, during his tenure, became firmly established as the premier research platform for political theorists worldwide; and

WHEREAS, in recognition of his outstanding scholarship over the length of his career, Stephen White has received numerous prestigious international awards, including a Fulbright Fellowship in 1977, a Gastwissenschaftler Fellowship in 1982, and two Alexander von Humboldt Foundation Fellowships in 1987 and 1997; he has also been awarded highly competitive grants from the American Council of Learned Societies, the National Endowment for the Humanities, and Deutscher Akademischer Austauschdienst; and

WHEREAS, through these awards and the invitations of fellow scholars, Stephen White has served as a visiting professor at the University of Konstanz, Goethe University Frankfurt, and Erasmus University in Rotterdam, engaging with scholars and students across the world and providing an exemplary model of Virginian scholarship; and

WHEREAS, in recognition of Stephen White's distinguished career as a scholar and teacher, the Political Science Department at the City University of New York bestowed upon him its Outstanding Alumnus Award in 2005; and

WHEREAS, through his prolific scholarship, diligent mentoring, and faithful devotion to his students, Stephen White has shaped the lives of thousands of young people and earned distinctions worthy of the Commonwealth's most exalted institutions of higher learning; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Stephen K. White, Ph.D., a leading scholar in the fields of political theory and government; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stephen K. White, Ph.D., as an expression of the General Assembly's admiration and respect for his insightful examinations of contemporary political life and his deep commitment to students and fellow scholars in the Commonwealth and throughout the world.

**SENATE JOINT RESOLUTION NO. 317**

*Celebrating the life of Douglas Ronald Fahl.*

Agreed to by the Senate, January 24, 2019

Agreed to by the House of Delegates, February 4, 2019

WHEREAS, Douglas Ronald Fahl of Leesburg, a highly admired expert in engineering and community planning who touched countless lives through his professional achievements and generous volunteer leadership, died on August 12, 2018; and

WHEREAS, Douglas "Doug" Fahl was born in Washington, D.C., and grew up in Alexandria, where he graduated from Hammond High School, then earned a bachelor's degree in civil engineering from Virginia Polytechnic Institute and State University in 1967; and

WHEREAS, Doug Fahl began his professional career in the Fairfax County Planning Office, rising to become the chief of transportation planning; and

WHEREAS, Doug Fahl joined the engineering firm of Dewberry, Nealon, and Davis in 1970 as the director of the Planning and Landscape Architectural Division and was later selected as managing principal of the firm's newly created Land Design and Survey Division; and

WHEREAS, Doug Fahl served as the executive vice-president of the Dewberry Consulting Division, where he assisted the firm with industry, government, and community relations in Virginia; and

WHEREAS, Doug Fahl formed D.R. Fahl Consulting in 2014 to continue his work in public policy and advocacy in the areas of transportation, land development, housing, and associated regulatory processes in Virginia; and

WHEREAS, Doug Fahl served the Commonwealth on several boards and commissions, including the Board of Commissioners of the Virginia Housing and Development Authority, the Virginia Industrial Development Services Advisory Board, the Board of Housing and Community Development, the Board of Visitors of Virginia Tech, and the Technical Committee of the Northern Virginia Transportation Authority; and

WHEREAS, Doug Fahl served as secretary and legislative chair of the Northern Virginia Building Industry Association, as well as president of its Fairfax Chapter, where he was named both Associate of the Year and Builder of the Year and received the Emil Keen Award for lifetime achievement; and

WHEREAS, Doug Fahl chaired the Home Builders Association of Virginia's Educational Foundation, where he was named Associate of the Year and was inducted into the Home Builders Association of Virginia's Hall of Fame; and

WHEREAS, over the course of his career, Doug Fahl developed a professional reputation as a well-respected and trusted expert in the fields of planning, landscape architecture, land design and survey, and land-use law and was universally respected as an individual of great integrity and expertise in his fields; and

WHEREAS, Doug Fahl had tireless positive energy and was a passionate force for good, with a great sense of humor, a sharp intellect, and a quick wit that led to his many successes over his lifetime; and

WHEREAS, Doug Fahl tried to always look for and expected the best in others, and he in turn wanted to give his best to whatever activity in which he was involved; and

WHEREAS, predeceased by his first wife, Donna, Doug Fahl will be fondly remembered and greatly missed by his wife, Laurie; his daughter, Julie, and her family; his sister, Renee, and her family; and numerous others who knew him as a loving and dedicated husband, father, grandfather, and friend; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Douglas Ronald Fahl, a respected and dedicated professional in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Douglas Ronald Fahl as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 318**

*Celebrating the life of the Honorable Frederick MacDonald Quayle.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Honorable Frederick MacDonald Quayle, a consummate public servant who greatly enhanced the quality of life in his beloved home of Suffolk, died on November 24, 2018; and

WHEREAS, Frederick "Fred" Quayle began to cultivate his passion for community service at a young age, when he was elected as student government president of Suffolk High School; he continued to demonstrate his penchant for leadership as an editor of the *Cavalier Daily* newspaper at the University of Virginia; and

WHEREAS, Fred Quayle served his country as a member of the United States Army Reserve from 1956 to 1962, then earned a law degree from the University of Richmond's T. C. Williams School of Law, and pursued a career as an attorney in Norfolk and Chesapeake for more than 40 years; and

WHEREAS, well known in the legal community, Fred Quayle was a member of the Virginia State Bar and the Norfolk-Portsmouth Bar Association, and he was appointed as the divorce commissioner for the Chesapeake Circuit Court, arbitrating matters of divorce, child custody, and marital assets; and

WHEREAS, desirous to be of further service to the Commonwealth, Fred Quayle ran for and was elected to the Senate of Virginia in 1991; he ably represented the residents of the 13th District with integrity, dedication, and distinction for 20 years; and

WHEREAS, Fred Quayle introduced and supported many important pieces of legislation to benefit all Virginians and worked to build bipartisan consensus and respect between his fellow members of the General Assembly; and

WHEREAS, among his proudest accomplishments, Fred Quayle sponsored legislation to improve child support determination and collection procedures and helped create the Friend of the Chesapeake license plate, which has raised millions of dollars for education and conservation, earning national and state Legislator of the Year awards for his efforts; and

WHEREAS, Fred Quayle served as chair of the Senate Committee on Local Government and offered his wise insights to the Committees on Finance, Courts of Justice, Education and Health, and Rules; and

WHEREAS, Fred Quayle was a staunch advocate for the preservation of the Commonwealth's valuable environmental and historic resources, serving as chair of the Tidewater Rehabilitation Institute Advisory Board, a charter board member of the Hoffer Creek Wildlife Preserve, and a member of the Board of Trustees of the Jamestown-Yorktown Foundation; and

WHEREAS, in 2002, Fred Quayle began a second career as an educator, inspiring young men and women as an assistant professor in the Department of Government and Public Affairs at Christopher Newport University until 2005 and as a lecturer and adjunct professor in the Department of Political Science and Geography at Old Dominion University until 2011; and

WHEREAS, a former Eagle Scout, Fred Quayle also supported young people in the community as a cubmaster of Cub Scout Pack 212 in Chesapeake and an honorary lifetime member of the Virginia PTA; and

WHEREAS, Fred Quayle was an avid sailor and a talented woodworker, who enjoyed making everything from toys for his grandchildren to furniture; he built six houses as a general contractor, including vacation homes in Sandbridge and Greene County; and

WHEREAS, Fred Quayle will be fondly remembered and greatly missed by his wife of 41 years, Brenda; children, Frederick, Catherine, George, and Timothy, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Frederick MacDonald Quayle, a true statesman and a champion for the Suffolk community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Frederick MacDonald Quayle as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 319

*Confirming appointments by the Governor of certain persons communicated to the General Assembly January 8, 2019.*

Agreed to by the Senate, January 28, 2019

Agreed to by the House of Delegates, February 4, 2019

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly January 8, 2019.

#### AGRICULTURE AND FORESTRY

##### Marine Products Board

**Frederick Wayne Barlow, Jr.**, of **Richmond**, Virginia 23229, Member, appointed December 21, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Charles Meade Amory.

**James Hudgins** of **Mathews**, Virginia 23109, Member, appointed December 7, 2018, for a term of three years beginning July 1, 2018, and ending June 30, 2021, to succeed Peter David Nixon.

**Daniel L. Knott** of **Gloucester**, Virginia 23061, Member, appointed December 7, 2018, to serve an unexpired term beginning July 1, 2017, and ending June 30, 2020, to succeed Kevin G. Wade.

#### COMMERCE AND TRADE

##### Coal Surface Mining Reclamation Fund Advisory Board

**Barbara Farmer Altizer** of **Richlands**, Virginia 24641, Member, appointed December 7, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to fill a new seat.

**Gerald D. Collins** of **Wise**, Virginia 24293, Member, appointed December 7, 2018, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2020, to succeed Charles Hale.

**Christopher J. Stanley** of **Clintwood**, Virginia 24228, Member, appointed December 7, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed himself.

**Donna Stanley** of **Coeburn**, Virginia 24230, Member, appointed December 7, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to fill a new seat.

#### **Latino Advisory Board**

**Melody Gonzales** of **Arlington**, Virginia 22209, Member, appointed December 7, 2018, to serve an unexpired term beginning October 25, 2018, and ending October 14, 2020, to succeed Estuardo V. Rodriguez.

**Edgar Lara** of **Charlottesville**, Virginia 22903, Member, appointed December 7, 2018, to serve an unexpired term beginning July 31, 2018, and ending October 14, 2019, to succeed Louisa M. Meruvia.

#### **Tobacco Region Revitalization Commission**

**Becky Coleman** of **Gate City**, Virginia 24251, Member, appointed December 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Alexis I. Ehrhardt** of **Danville**, Virginia 24541, Member, appointed December 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed herself.

**Franklin D. Harris** of **Amelia**, Virginia 23002, Member, appointed December 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Edward Owens** of **South Boston**, Virginia 24592, Member, appointed December 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Cecil E. Shell** of **Kenbridge**, Virginia 23944, Member, appointed December 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Richard L. Sutherland** of **Elk Creek**, Virginia 24326, Member, appointed December 21, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

#### **EDUCATION**

##### **Board of Regents of Gunston Hall**

**Harrison Flynn Giddens (Mrs. Thomas L. Giddens)** of **Tampa, Florida** 33606, Member, appointed December 21, 2018, for a term of five years beginning October 26, 2018, and ending October 25, 2023, to succeed herself.

**Barbara Camp Linville (Mrs. David Linville)** of **Lake Bluff, Illinois** 60044, Member, appointed December 21, 2018, for a term of five years beginning October 26, 2018, and ending October 25, 2023, to succeed herself.

**Virginia Carswell Nicholson (Mrs. Justin Marshall Nicholson)** of **Marietta, Georgia** 30063, Member, appointed December 21, 2018, for a term of five years beginning October 26, 2018, and ending October 25, 2023, to succeed Loulie Eugenia Tarbutton.

**Sara Lynn Cline Postma (Mrs. Jan Hendrik Postma, Jr.)** of **Spartanburg, South Carolina** 29302, Member, appointed December 21, 2018, for a term of five years beginning October 26, 2018, and ending October 25, 2023, to succeed Josephine Plummer Jones Allen.

**Ann Taylor Schaeffer (Mrs. Ronald Lester Schaeffer)** of **Arlington**, Virginia 22205, Member, appointed December 21, 2018, for a term of five years beginning October 26, 2018, and ending October 25, 2023, to succeed Brantley B. Knowles.

**Rowena Boyd Van Dyke (Mrs. Jacob Van Dyke, Jr.)** of **St. Louis, Missouri** 63122, Member, appointed December 21, 2018, for a term of five years beginning October 26, 2018, and ending October 25, 2023, to succeed herself.

**Nancy Dempster White (Mrs. Roy Douglas White)** of **Knoxville, Tennessee** 37919, Member, appointed December 21, 2018, for a term of five years beginning October 26, 2018, and ending October 25, 2023, to succeed Penn Ervin Grove.

**Virginia Simonds White (Mrs. Stephen Hopkins White)** of **Dover, Delaware** 02030, Member, appointed December 21, 2018, for a term of five years beginning October 26, 2018, and ending October 25, 2023, to succeed herself.

#### **HEALTH AND HUMAN RESOURCES**

##### **Board for the Blind and Vision Impaired**

**Bonnie Atwood** of **Richmond**, Virginia 23226, Member, appointed December 28, 2018, to serve an unexpired term beginning May 19, 2018, and ending June 30, 2020, to succeed Lynn Lesko.

**Paul W. D'Addario** of **Arlington**, Virginia 22205, Member, appointed December 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Tina Hawley.

**Barbara N. McCarthy** of **White Post**, Virginia 22578, Member, appointed December 28, 2018, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Marsha Hester.

##### **State Rehabilitation Council for the Blind and Vision Impaired**

**Julie Akers** of **Radford**, Virginia 24141, Member, appointed December 14, 2018, to serve an unexpired term beginning October 1, 2016, and ending September 30, 2019, to succeed John Curtis Bailey.

**Nichole C. Drummond** of **Springfield**, Virginia 22153, Member, appointed December 14, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed herself.

**Larysa M. Kautz** of **Alexandria**, Virginia 22306, Member, appointed December 14, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed herself.

**Raymond L. Kenney** of **Richmond**, Virginia 23223, Member, appointed December 14, 2018, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed Karen Walker.

**Gina M. Koke** of **Henrico**, Virginia 23229, Member, appointed December 14, 2018, to serve an unexpired term beginning October 1, 2017, and ending September 30, 2020, to succeed Jeanette McAllister.

**TECHNOLOGY**  
**9-1-1 Services Board**

**Mary M. Blowe** of **Stephens City**, Virginia 22655, Member, appointed December 21, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Kathleen Seay.

**R. Scott Garber** of **Staunton**, Virginia 24401, Member, appointed December 21, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed Anthony E. McDowell.

**Lehew W. Miller III** of **Mechanicsville**, Virginia 23116, Member, appointed December 21, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed himself.

**Seth N. Weise** of **Chantilly**, Virginia 20152, Member, appointed December 21, 2018, to serve an unexpired term beginning January 19, 2017, and ending June 30, 2020, to succeed Diane S. Harding.

**Kelvin Wright** of **Chesapeake**, Virginia 23323, Member, appointed December 21, 2018, to serve an unexpired term beginning June 29, 2018, and ending June 30, 2020, to succeed Richard C. Clark.

**Jolena B. Young** of **Woodlawn**, Virginia 24381, Member, appointed December 21, 2018, for a term of five years beginning July 1, 2018, and ending June 30, 2023, to succeed herself.

**SENATE JOINT RESOLUTION NO. 320**

*Commemorating the 75th anniversary of D-Day.*

Agreed to by the Senate, February 23, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, June 6, 1944, marks the 75th anniversary of the Allied assault at Normandy, France, by American, British, and Canadian troops, which was known as Operation Overlord; and

WHEREAS, before Operation Overlord, the German Army still occupied France and the Nazi government still had access to the raw materials and industrial capacity of Western Europe; and

WHEREAS, the naval phase of the assault on Normandy was code-named Neptune, and June 6, 1944, the date of the landing, is referred to as D-Day; and

WHEREAS, the D-Day landing was the largest single amphibious assault in history, consisting of approximately 31,000 members of the United States Armed Forces, 153,000 members of the Allied Expeditionary Force, 5,000 naval vessels, and more than 11,000 sorties by Allied aircraft; and

WHEREAS, soldiers of six divisions (three American, two British, and one Canadian) stormed ashore in five main landing areas on beaches in Normandy, code-named Utah, Omaha, Gold, Juno, and Sword; and

WHEREAS, of the approximately 10,000 Allied casualties incurred on the first day of the landing, more than 6,000 casualties were members of the United States Armed Forces; and

WHEREAS, the age of the remaining World War II veterans and the gradual disappearance of any living memory of World War II and the Normandy landings make it necessary to increase activities intended to pass on the history of these events, particularly to younger generations; and

WHEREAS, the young people of Normandy and the United States have displayed unprecedented commitment to and involvement in celebrating the veterans of the Normandy landings and the freedom that they brought with them in 1944; and

WHEREAS, the significant material remains of the Normandy landing, such as shipwrecks and various items of military equipment found both on the Normandy beaches and at the bottom of the sea in French territorial waters, bear witness to the remarkable amount of resources needed to successfully execute the Normandy landings; and

WHEREAS, the five Normandy landing sites and a number of sites on the Normandy coast, including Pointe du Hoc, constitute a unique piece of American and European heritage and a symbol of peace and freedom, the unspoiled nature, integrity, and authenticity of which must be protected at all costs; and

WHEREAS, the French government has worked diligently to preserve the remains of the Normandy landing, by including them on the United Nations Educational, Scientific, and Cultural Organization (UNESCO) World Heritage List; and

WHEREAS, dedicated on June 6, 2001, the National D-Day Memorial honors the memory of the American and Allied troops who participated in Operation Overlord, many of whom made the ultimate sacrifice in defense of freedom; the memorial is located in Bedford, which suffered the highest per capita losses of any community in the United States on D-Day; and

WHEREAS, Virginians are encouraged to observe the 75th anniversary of D-Day with appropriate ceremonies and programs to honor the members of the Greatest Generation who sought to liberate Europe from Nazism and fascism and the service and sacrifices of all veterans; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the 75th anniversary of D-Day be commemorated on June 6, 2019; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the National D-Day Memorial Foundation, requesting that the organization further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

**SENATE JOINT RESOLUTION NO. 321**

*Commending the Liberty University School of Aeronautics.*

Agreed to by the Senate, January 24, 2019

Agreed to by the House of Delegates, February 1, 2019

WHEREAS, in April 2018, the Liberty University School of Aeronautics became one of the only schools in the nation to win the prestigious Loening Trophy for two consecutive years at the National Intercollegiate Flying Association's Safety and Flight Evaluation Conference; and

WHEREAS, the Safety and Flight Evaluation Conference (SAFECON) is a competition staged each year to test flight teams and aviation students on pre-flight inspections, simulator flights, navigation, flight planning, precision landing, and other aviation skills; the Liberty University School of Aeronautics competed against some of the top programs in the country to earn the Loening Trophy; and

WHEREAS, named for Grover Loening, an aeronautical engineer for the Wright Brothers, the award recognizes the best all-around college aviation program in the nation on the basis of flight skills, community involvement, academics, safety, professionalism, and other factors; in 2017, the Liberty University School of Aeronautics brought the Loening Trophy back to Virginia for the first time since 1933; and

WHEREAS, the Liberty University School of Aeronautics also claimed the American Airlines Safety Award for the third consecutive year, becoming the only school in history to win the award three times in a row; and

WHEREAS, founded in 2002, the Liberty University School of Aeronautics has quickly become one of the top aeronautical schools in the region; during the summer of 2018, the school partnered with the United States Air Force to train 54 JROTC high school cadets in an intensive eight-week private pilot's license course, in addition to its regular courses, summer camps, and training programs; and

WHEREAS, the members of the Liberty University School of Aeronautics SAFECON team are exceptional ambassadors for Virginia and represent a bright future for aeronautics throughout the Commonwealth and the United States; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Liberty University School of Aeronautics on winning its second consecutive Loening Trophy in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Liberty University School of Aeronautics as an expression of the General Assembly's admiration for the school's outstanding achievements and commitment to excellence.

**SENATE JOINT RESOLUTION NO. 322**

*Commending Elizabeth Crowther.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Elizabeth Crowther will retire as president of Rappahannock Community College on June 30, 2019, after 14 years of exceptional contributions to young men and women in the Northern Neck and Middle Peninsula; and

WHEREAS, Elizabeth Crowther grew up on her family's farm in Northumberland County and gained her appreciation for the importance of a good education from her father, who served on a local board affiliated with Rappahannock Community College in the 1980s; and

WHEREAS, after earning bachelor's and master's degrees from Virginia Polytechnic Institute and State University, Elizabeth Crowther worked at a financial services firm that provided educational opportunities for its employees through local community colleges; witnessing firsthand the difference these programs made in the lives of her coworkers, she was inspired to pursue a second career in higher education; and

WHEREAS, Elizabeth Crowther completed a doctoral program at The College of William and Mary, then accepted a research position with Rappahannock Community College; in 1993, she became the head of instruction at Lord Fairfax Community College and was subsequently hired by Blue Ridge Community College as vice president for academic and student affairs; and

WHEREAS, in 2004, Elizabeth Crowther returned to the Northern Neck as the third president of Rappahannock Community College and has since helped the institution earn local, state, and national recognition as a model for other institutions of higher education in rural areas; and

WHEREAS, during her tenure, Elizabeth Crowther increased Rappahannock Community College Educational Foundation's assets from \$1 million to \$11 million, oversaw renovations to both the Glens and Warsaw campuses, opened satellite campuses in Kilmarnock and New Kent, expanded opportunities for students through partnerships with local community organizations and businesses, and worked to ensure that faculty had access to world-class technology and instructional equipment that enhanced the learning process; and

WHEREAS, after her well-earned retirement, Elizabeth Crowther plans to spend more time with her beloved family and will continue to serve the community as a member of numerous professional boards and organizations; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Elizabeth Crowther on the occasion of her retirement as president of Rappahannock Community College; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Elizabeth Crowther as an expression of the General Assembly's admiration for her commitment to excellence in higher education.

### SENATE JOINT RESOLUTION NO. 323

*Commending Jay E. Ferriss.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Jay E. Ferriss served his country with dedication and distinction as a United States Marine for two decades, rising through the ranks to join the elite Marine Helicopter Squadron One, which is responsible for transporting the President of the United States and other high-ranking officials; and

WHEREAS, Jay Ferriss graduated from Marine Corps Recruit Depot, Parris Island in 1981 and subsequently held an array of aviation logistics and supply system analyst positions and served as a drill instructor at Marine Corps Recruit Depot, San Diego; and

WHEREAS, in 1988, Jay Ferriss was selected as a warrant officer and served as the aviation supply officer for Marine Aircraft Group 24; he was assigned to VMM-265 aboard the USS *Tripoli* and USS *Tarawa* and deployed in support of Operation Desert Shield, Operation Desert Storm, and humanitarian relief efforts in Bangladesh; and

WHEREAS, after graduating from Hawaii Pacific University in 1992, Jay Ferriss served as the repairable management officer and project officer for the AV-8B Harrier in Marine Aircraft Group 32 and the repairable management, supply management, and automated data processing officer for Marine Aircraft Group 14 and Marine Aircraft Group 29; and

WHEREAS, Jay Ferriss was promoted to captain in 1994, and in 1997 became the aviation supply officer for Marine Helicopter Squadron One, which is headquartered at Marine Corps Air Facility Quantico and provides logistical support to the White House Military Office; he served in this capacity until his retirement from active duty in 2001; and

WHEREAS, throughout his career, Jay Ferriss earned numerous awards and accolades, including the Meritorious Service Medal, Navy Commendation Medal, and the Navy Achievement Medal, among many others; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Jay E. Ferriss for his distinguished military service; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jay E. Ferriss as an expression of the General Assembly's admiration for his service to the Commonwealth and the nation.

### SENATE JOINT RESOLUTION NO. 324

*Celebrating the life of Lieutenant Bradford Turner Clark.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Lieutenant Bradford Turner Clark, a dedicated husband and father who courageously served the Hanover County community as a firefighter, died in the line of duty on October 11, 2018; and

WHEREAS, a proud native of Hanover County, Bradford "Brad" Clark joined the United States Army after graduating from Atlee High School; and

WHEREAS, upon completion of his honorable military service, Brad Clark returned home to the Commonwealth and joined Hanover County Fire and EMS on July 16, 2005, ultimately rising through the ranks to become a lieutenant; and

WHEREAS, a passionate lifelong learner who worked to ensure that public safety officers in Hanover County had the best possible training, Brad Clark served as lead instructor at Hanover Fire Academy 33 and as an instructor for Walker Sisk Memorial Truck School, Andy Fredericks Training Days, The 350' Line, and other training programs around the country; and

WHEREAS, Brad Clark also recognized the sacrifices of his fellow firefighters as an honor guard at the National Fallen Firefighters Memorial in Emmitsburg, Maryland; and

WHEREAS, Brad Clark safeguarded the lives and property of his fellow Hanover County residents for more than a decade and was serving as the officer of a five-person squad of firefighters at Hanover Fire Station 6 in Mechanicsville at the time of his passing; and

WHEREAS, Brad Clark made the ultimate sacrifice while responding to a vehicle crash during severe weather that resulted from Hurricane Michael; and

WHEREAS, Brad Clark will be fondly remembered and greatly missed by his wife, Melanie; his four daughters, Brady, Lily, Olivia, and Madison; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lieutenant Bradford Turner Clark, a dedicated firefighter and a beloved member of the Hanover County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lieutenant Bradford Turner Clark as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 325

*Commending Voices for Virginia's Children.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, for the past 25 years, Voices for Virginia's Children has championed public policies that improve the lives of the Commonwealth's children; and

WHEREAS, Voices for Virginia's Children (Voices) was founded in 1994 by a nonpartisan group of concerned citizens from across the Commonwealth, including two former First Ladies of Virginia, with the support of the Freddie Mac Foundation and the Annie E. Casey Foundation; and

WHEREAS, using the KIDS COUNT data system, Voices tracks and analyzes statistics about children to identify the root problems they are facing; and

WHEREAS, Voices educates policymakers about solutions that research and experience have demonstrated benefit children; and

WHEREAS, Voices mobilizes voters and partner organizations to advocate for changes in laws, funding priorities, and systems that result in better outcomes for children; and

WHEREAS, Voices focuses on young children whose needs are often unaddressed, such as those with mental health challenges, those in the child welfare system, those who have experienced trauma, and those whose families are economically disadvantaged; and

WHEREAS, Voices' approach to advocacy has evolved as the organization has matured over 25 years, and that has translated into greater wins for Virginia's children; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Voices for Virginia's Children for its outstanding leadership and effectiveness in improving the lives of the Commonwealth's children on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Margaret Nimmo Holland, executive director, and Keith Hare, chair of the Board of Voices for Virginia's Children, as an expression of the General Assembly's appreciation for the organization's dedication to the young people of the Commonwealth.

### SENATE JOINT RESOLUTION NO. 326

*Commending AMIkids.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, for 50 years, AMIkids has helped at-risk youth overcome negative influences and become productive members of their communities and responsible citizens of the Commonwealth; and

WHEREAS, founded in 1969 by Robert Rosof and Frank Orlando in Fort Lauderdale, Florida, AMIkids has proved itself a valuable ally in the great task of mentoring and nurturing at-risk youth; and

WHEREAS, from the beginning, AMIkids' mission has been to provide troubled youth with positive alternatives to institutional incarceration by offering them a second chance, a new direction, and caring, guiding hands within a community-based setting; and

WHEREAS, 32 years ago, AMIkids arrived in Virginia and began operations in urban and rural settings focused on serving youth involved in the juvenile probation system; and

WHEREAS, nationally, AMIkids has served and helped transform the lives of more than 136,000 youth, including more than 2,500 in Virginia; and

WHEREAS, AMIkids maintains a proactive relationship with state agencies, law enforcement, and government officials; the organization's visionary leadership has changed the lives of thousands of young people and helped Virginia achieve some of the lowest recidivism rates in the United States, saving the Commonwealth millions of dollars in institutional costs and increasing the safety and security of its citizens; and

WHEREAS, AMIkids gives young people the tools to work their way back into a world of opportunity; AMIkids graduates have gone on to earn high school and college diplomas, start small businesses, find gainful employment, enlist in the military, and serve as loving and nurturing parents; and

WHEREAS, holding fast to its mission, AMIkids continues to assist youth with "separating a troubled past from a bright future"; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend AMIkids on the occasion of its 50th anniversary for providing love, hope, and practical assistance to at-risk youth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to AMIkids as an expression of the General Assembly's admiration for the organization's incredible achievements and invaluable contributions to young people.

### SENATE JOINT RESOLUTION NO. 327

*Commending Doorways for Women and Families.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, for 40 years, Doorways for Women and Families has provided safety and stability to members of the Arlington community suffering from homelessness, violence, or abuse; and

WHEREAS, established in 1978 as the Arlington Community Temporary Shelter, Doorways for Women and Families (Doorways) was the first emergency shelter for children and adults in Arlington County; and

WHEREAS, in its 40-year history, Doorways has grown to provide a range of life-saving and life-changing services that address the complex challenges of homelessness, domestic violence, and sexual assault with dignity, respect, and compassion; and

WHEREAS, as a public-private partnership, Doorways utilizes every resource available to strengthen the community and has helped people of all races, ages, genders, and income levels reduce the impact of traumatic events and build personal resiliency; and

WHEREAS, in 2017, Doorways provided emergency residential services to 253 adults and children, 96 percent of whom subsequently returned to safe housing; of the 138 children in the program, 87 percent were enrolled in a licensed daycare; and

WHEREAS, the Doorways Sexual and Domestic Violence Hotline responded to 2,390 calls, and members of Doorways accompanied and supported 60 survivors of abuse during hospital visits and forensic exams; and

WHEREAS, 407 survivors received trauma counseling through the Doorways Revive Domestic and Sexual Violence Counseling Program, with 95 percent of participants reporting a reduction of trauma symptoms, and 342 survivors seeking legal representation through the Doorways Court Advocacy Program; and

WHEREAS, Doorways has succeeded in its mission with the dedicated leadership of its board of directors, the hard work of its staff and volunteers, and the generosity of community partners and donors; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Doorways for Women and Families for its legacy of support to victims of homelessness, violence, or abuse on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Doorways for Women and Families as an expression of the General Assembly's admiration for the organization's vital role in the Arlington community.

### SENATE JOINT RESOLUTION NO. 328

*Celebrating the life of Evelyn Belle Ware.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Evelyn Belle Ware, a dedicated public servant and a passionate historic preservationist who made many contributions to the Hillsboro community, died on November 25, 2018; and

WHEREAS, a native of Washington, D.C., Belle Ware moved to Hillsboro with her family shortly after World War II and went on to become the town's longest living resident, gaining an unparalleled knowledge of the community's history and heritage along the way; and

WHEREAS, Belle Ware was a founding member of the Short Hill Historical Society and helped save Hillsboro's Old Stone School from demolition in 1976; she was deeply involved in the nonprofit organization for 42 years and especially loved participating in the Hillsboro Historic Homes Tour; and

WHEREAS, desirous to be of further service to her fellow Hillsboro residents, Belle Ware ran for and was elected to the Hillsboro Town Council, following in the footsteps of her late mother, Evelyn Turbeville, who was the first woman mayor in Virginia; and

WHEREAS, over the course of her three decades in public office, Belle Ware served as treasurer and vice mayor and helped strengthen the Hillsboro community; and

WHEREAS, Belle Ware was also an active leader in the Hillsboro Community Association and the Daughters of the American Revolution, and she enjoyed fellowship and worship with the congregation of Hillsboro United Methodist Church; and

WHEREAS, predeceased by her husband, John, Belle Ware will be fondly remembered and greatly missed by her children, Vicki, Paige, John, and Mark, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Evelyn Belle Ware, a pillar of the Hillsboro community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Evelyn Belle Ware as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 329

*Commending David Allen Wright.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, David Allen Wright, a Norfolk native, finished his distinguished career in Major League Baseball as a member of the New York Mets in 2018; and

WHEREAS, a lifelong fan of the New York Mets due to the team's affiliation with the Class AAA Norfolk Tides, David Wright was selected by the Mets in the 2001 Major League Baseball Draft; and

WHEREAS, David Wright made his major league debut for the Mets on July 21, 2004, starting at second base against the Montreal Expos, and went on to become the team's starting third baseman for more than a decade; and

WHEREAS, as longtime captain of the Mets, David Wright helped lead the team to the 2015 World Series, where he hit a two-run home run in the Mets' Game 3 victory; and

WHEREAS, in 2015, David Wright was diagnosed with spinal stenosis and subsequently played in the minor leagues while undergoing surgeries for neck and shoulder injuries; he was activated from the Mets' disabled list on September 13, 2018, and made his final appearance for the team on September 29, 2018, a 1-0 victory against the Miami Marlins; and

WHEREAS, David Wright finished his career with 1,777 hits for an impressive .296 batting average, scoring 949 runs and 242 home runs; he holds Mets franchise records for at-bats, hits, runs scored, total bases, times on base, RBIs, and doubles, among many others; and

WHEREAS, David Wright earned numerous awards and accolades over the course of his career, including the Gold Glove Award and the Silver Slugger Award in 2007 and 2008; he made seven All-Star Game appearances and played for the United States in the 2009 World Baseball Classic; and

WHEREAS, David Wright earned the respect and admiration of fans for his loyalty, stellar performance, and gregarious personality, and was a trusted mentor and friend to generations of his fellow Mets players; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend David Allen Wright for his exceptional career as a professional baseball player; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to David Allen Wright as an expression of the General Assembly's admiration for his skill as a professional athlete and his inspirational determination.

### SENATE JOINT RESOLUTION NO. 330

*Commending Bishop Curtis Eugene Edmonds, Sr.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Bishop Curtis Eugene Edmonds, Sr., a highly admired religious leader and a pillar of the Portsmouth community, will retire as senior pastor of St. Mark Missionary Baptist Church in 2019; and

WHEREAS, a proud Portsmouth native, Curtis Edmonds graduated from I. C. Norcom High School, served his country as a member of the United States Air Force during the Vietnam War, then earned a bachelor's degree from Norfolk State University; and

WHEREAS, Curtis Edmonds answered the call to ministry and became a pastor of St. Mark Missionary Baptist Church in 1992; under his able leadership, the church has created dozens of new ministries, grown from 350 to 2,400 members, and moved to a state-of-the-art, 52,200-square-foot facility; and

WHEREAS, after his retirement from Norfolk Naval Shipyard as an industrial engineer technician in 1993, Curtis Edmonds attended Virginia Union University School of Theology; he continued his studies at United Theological Seminary in Ohio and Boston University School of Theology and has preached in communities throughout the world; and

WHEREAS, Curtis Edmonds earned the love and respect of his congregation for his kindness and generosity, and in recognition of his dedicated leadership and spiritual wisdom, St. Mark Missionary Baptist Church named him as the first bishop in the church's 115-year history; and

WHEREAS, over the course of his distinguished career, Curtis Edmonds has served as president of the Tidewater Metro Baptist Ministers' Conference, advisor to the Portsmouth Branch of the NAACP, and a member of the Portsmouth City Council from 2010 to 2016, and he has earned numerous awards and accolades for his personal and professional accomplishments; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Bishop Curtis Eugene Edmonds, Sr., on the occasion of his retirement as senior pastor of St. Mark Missionary Baptist Church; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bishop Curtis Eugene Edmonds, Sr., as an expression of the General Assembly's admiration for his achievements in service to the Portsmouth community.

### SENATE JOINT RESOLUTION NO. 331

*Commending Frances Mae West Byers.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Frances Mae West Byers, a vibrant member of the Ashland and Louisa communities, celebrated her 104th birthday on January 25, 2019; and

WHEREAS, born in Montpelier in 1915, Frances Byers was a witness to many of the seminal events of the 20th century, from the Great Depression and World War II to the moon landing and the dawn of the Internet era; and

WHEREAS, Frances Byers grew up living at Scotchtown, the historic former home of the first Governor of Virginia, Patrick Henry; at the age of 14, she left school to help support her family during the Great Depression and became a talented seamstress who made clothes for many people in her community; and

WHEREAS, in 1932, Frances Byers married her husband John, and the couple went on to raise seven children who have succeeded in many professions, the military, and public office; she is the proud matriarch of 28 grandchildren, 52 great-grandchildren, and 34 great-great-grandchildren; and

WHEREAS, Frances and John Byers worked as tenant farmers in the area until 1950, when they purchased a small farm of their own, where she still resides; and

WHEREAS, Frances Byers has generously volunteered her time to help the less fortunate in the community; she worked at a nursing care facility in Ashland for 16 years and she makes regular phone calls to check up on old neighbors and friends; and

WHEREAS, for more than 20 years, Frances Byers has served as a treasured local historian, sharing her wealth of knowledge about the history and heritage of Ashland and Hanover County as a speaker for local groups; and

WHEREAS, guided by her deep and abiding faith, Frances Byers enjoys fellowship and worship at Emmanuel Holiness Church, where she shares her wisdom with the congregation as the last living charter member; she has served as a deaconess, missionary secretary, and Sunday school teacher, and hosts a Bible study in her home every week; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Frances Mae West Byers on the occasion of her 104th birthday in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Frances Mae West Byers as an expression of the General Assembly's appreciation for her contributions to the Ashland community.

### SENATE JOINT RESOLUTION NO. 332

*Confirming appointments by the Governor of certain persons communicated to the General Assembly January 22, 2019.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Ralph Northam and communicated to the General Assembly January 22, 2019.

#### AGRICULTURE AND FORESTRY

##### Milk Commission

**Brian Linney of Leesburg**, Virginia 20176, Member, appointed January 18, 2019, to serve an unexpired term beginning June 23, 2018, and ending June 30, 2020, to succeed Patrick Hugh Crawford.

**Horse Industry Board**

**Kelly S. Foltman** of **Purcellville**, Virginia 20132, Member, appointed January 11, 2019, for a term of three years beginning June 20, 2018, and ending June 19, 2021, to succeed Alison Umberger.

**Soybean Board**

**Craig H. Giese** of **Lancaster**, Virginia 22503, Member, appointed January 11, 2019, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed himself.

**L. Bruce Holland** of **New Church**, Virginia 23415, Member, appointed January 11, 2019, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed himself.

**Reginald W. Nelson** of **Henrico**, Virginia 23231, Member, appointed January 11, 2019, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed himself.

**Ronnie Lee Russell** of **Water View**, Virginia 23180, Member, appointed January 11, 2019, for a term of three years beginning October 1, 2018, and ending September 30, 2021, to succeed himself.

**COMMERCE AND TRADE****Virginia Coal Mine Safety Board**

**Harry Dean Childress** of **Clintwood**, Virginia 24228, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed Thomas Asbury.

**Patricia Page Church** of **Pennington Gap**, Virginia 24277, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed herself.

**Brett Holbrook** of **Bristol**, Virginia 24202, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed himself.

**Christopher D. Lester** of **Abingdon**, Virginia 24211, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed Billy Powers.

**Harless A. Mullins** of **Coeburn**, Virginia 24230, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed himself.

**Michael G. Prater** of **Grundy**, Virginia 24614, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed Richard Waddell.

**Victoria Ratliff** of **Big Stone Gap**, Virginia 24219, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed Carroll Dale.

**Joseph H. Tate** of **Clintwood**, Virginia 24228, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed himself.

**Joshua P. West** of **Pound**, Virginia 24279, Member, appointed January 18, 2019, to serve at the pleasure of the Governor, to succeed Mike Kennedy.

**Virginia Economic Development Partnership Authority Board of Directors**

**Gregory B. Fairchild** of **Charlottesville**, Virginia 22903, Member, appointed January 18, 2019, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Deborah Kirk Flippo** of **Salem**, Virginia 24153, Member, appointed January 18, 2019, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed Carlos E. Tapias.

**Vincent J. Mastracco, Jr.**, of **Virginia Beach**, Virginia 23451, Member, appointed January 18, 2019, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Dan M. Pleasant** of **Danville**, Virginia 24541, Member, appointed January 18, 2019, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**Xavier R. Richardson** of **Spotsylvania**, Virginia 22553, Member, appointed January 18, 2019, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

**SENATE JOINT RESOLUTION NO. 333**

*Commending Falcon Heating and Air Conditioning.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, in 2018, Falcon Heating and Air Conditioning celebrated its 30th anniversary of serving customers' heating, ventilation, and air conditioning needs in the Washington, D.C., metropolitan area; and

WHEREAS, Falcon Heating and Air Conditioning has built its reputation upon the foundations of quality control, quality engineering, design efficiency, superior equipment, timely service response, and a cohesive flow of operations in the field of heating and cooling; and

WHEREAS, Falcon Heating and Air Conditioning believes in creating a culture around education and empowerment for its staff and for the community the company serves, supporting organizations such as HomeAid Northern Virginia, Wounded Warriors, Hero Homes, and other charities; and

WHEREAS, Falcon Heating and Air Conditioning will bring the business to a new level with a move into a new state-of-the-art facility in Loudoun County, which will expand the pioneering programs that have strengthened the Commonwealth's principles of craftsmanship and apprentice training; and

WHEREAS, Falcon Heating and Air Conditioning owner, Bruce Rahmani, has felt, as an immigrant business-owner, a patriotic duty to equip employees, past and future, with training and technical skills for success in heating, ventilation, and air conditioning service careers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Falcon Heating and Air Conditioning on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Falcon Heating and Air Conditioning owner, Bruce Rahmani, as an expression of the General Assembly's admiration for the company's contributions to technical craftsmanship and apprentice training.

### SENATE JOINT RESOLUTION NO. 334

*Commending Paul B. Ebert.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 14, 2019

WHEREAS, Paul B. Ebert has served the residents of Prince William County and the Cities of Manassas and Manassas Park as Commonwealth's Attorney for more than 50 years; and

WHEREAS, Paul Ebert holds degrees from Virginia Polytechnic Institute and State University and The George Washington University School of Law; he practiced law from 1963 to 1980 and previously worked as a justice of the peace for the City of Falls Church and an assistant Commonwealth's Attorney; and

WHEREAS, desirous to be of further service to the community, Paul Ebert ran for and was elected as Commonwealth's Attorney for Prince William County and the Cities of Manassas and Manassas Park in 1967; and

WHEREAS, Paul Ebert witnessed significant changes to the office of Commonwealth's Attorney, which was still a part-time position until 1980, and incredible growth in Prince William County, which has more than quadrupled in population since 1967; and

WHEREAS, having first assumed office at the age of 30, Paul Ebert was the youngest Commonwealth's Attorney in Virginia at the time and went on to become the oldest Commonwealth's Attorney after winning election to his 13th term in 2015; and

WHEREAS, as Commonwealth's Attorney, Paul Ebert has directed a staff of 23 Assistant Commonwealth's Attorneys with a total of 450 years of legal experience and 390 years of criminal prosecution experience among them; and

WHEREAS, throughout his distinguished career, Paul Ebert has presided over many high-profile cases that received national attention, including the John and Lorena Bobbitt case and the "Beltway Sniper" case involving John Allen Muhammad and Lee Boyd Malvo; and

WHEREAS, under Paul Ebert's leadership, the office has worked closely with police departments in multiple jurisdictions to provide 24-hour legal advice; the office has also provided its expertise to special prosecutions in other jurisdictions, delivered lectures throughout the Commonwealth, and conducted mock trials to educate local and state law-enforcement officers; and

WHEREAS, Paul Ebert also volunteered his time and wise leadership to numerous professional organizations in the legal field, and he has earned many awards and accolades for his personal and professional achievements; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Paul B. Ebert for dedicating more than 50 years of his life to the residents of Prince William County and the Cities of Manassas and Manassas Park as Commonwealth's Attorney; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Paul B. Ebert as an expression of the General Assembly's admiration for his legal acumen and legacy of public service.

### SENATE JOINT RESOLUTION NO. 335

*Celebrating the life of Gary M. Nuckols.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Gary M. Nuckols, a respected attorney who touched countless lives in Fredericksburg through his personal and professional contributions to the community, died on April 5, 2018; and

WHEREAS, a native of Fredericksburg, Gary Nuckols graduated from the University of Virginia (UVA) McIntire School of Commerce in 1971 and earned a law degree from UVA in 1974; he remained a passionate fan of his alma mater's basketball, football, and golf teams throughout his life; and

WHEREAS, Gary Nuckols practiced law in Charlottesville before returning to Fredericksburg in 1977; in 2001, he joined the firm Hirschler Fleisher, where he specialized in business and commercial real estate law and earned a reputation as a tireless and meticulous advocate for his clients; and

WHEREAS, Gary Nuckols also served as legal advisor to the University of Mary Washington Foundation, in which capacity he oversaw the purchase of what is now known as Eagle Village, an innovative mixed-use commercial development connected to campus by a pedestrian bridge; and

WHEREAS, Gary Nuckols volunteered his time and leadership to enhance quality of life in the Fredericksburg area as president of the Fredericksburg Rescue Squad and the Dominion Club, chair of the board of the Fredericksburg Regional Chamber of Commerce, board member of the Sunshine Ballpark Foundation, and treasurer of the UVA Club of Fredericksburg; and

WHEREAS, Gary Nuckols' greatest joy in life was his beloved family; he will be fondly remembered and greatly missed by his wife, Alice; his children, Ben and Kate, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Gary M. Nuckols, a highly admired member of the Fredericksburg community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Gary M. Nuckols as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 336

*Commending the City of Bristol.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, in 2018, the City of Bristol received a 2018 Great Streets in America award for its revitalization of State Street, a historic downtown community astride the border of Virginia and Tennessee; and

WHEREAS, the Great Streets in America award is presented as part of the American Planning Association's annual Great Places in America program; Bristol's State Street was one of five such streets throughout the country to receive the prestigious award; and

WHEREAS, the award recognizes the five-block district of Bristol's State Street from Martin Luther King Jr. Boulevard to Commonwealth Avenue and Volunteer Parkway, which was a focus of Ignite: Create Bristol's Future, a two-year, two-state, citizen-led planning process in the 1990s; and

WHEREAS, the City of Bristol invested wisely in State Street's infrastructure, transit, architecture, and landscaping to create a safe, pleasant space that supports businesses and residents; and

WHEREAS, State Street is home to a wide variety of local restaurants, shops, and cultural attractions that are essential to the unique community spirit of Bristol; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the City of Bristol for receiving a 2018 Great Streets in America award for State Street; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the City of Bristol as an expression of the General Assembly's admiration for the city's contributions to Southwest Virginia and the entire Commonwealth.

### SENATE JOINT RESOLUTION NO. 337

*Commending the recipients of the 2019 Virginia Outstanding Faculty Awards.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Commonwealth of Virginia offers one of the most respected and acclaimed systems of higher education in the United States due to the quality of each of its public and private colleges and universities; and

WHEREAS, Virginia colleges and universities educate more than 550,000 students annually, representing all demographics, all regions of the Commonwealth, and all corners of the nation and the world; and

WHEREAS, Virginia higher education advances learning, research, and public service to enhance the civic and financial health of the Commonwealth and the well-being of all its people, transforming the lives of Virginians, their communities, and the Commonwealth; and

WHEREAS, the success of the Virginia higher education system would not be possible without the dedicated, hard-working faculty at each of the Commonwealth's superb colleges and universities; and

WHEREAS, Virginia faculty contribute in innumerable ways to the intellectual and personal growth and development of their students, who then contribute greatly to the educational, economic, cultural, and civic vitality of the Commonwealth; and

WHEREAS, the Virginia Outstanding Faculty Awards program, now in its 33rd year, is presented by the State Council of Higher Education for Virginia and Dominion Energy and continues to recognize the finest among the Commonwealth's faculty for their superior abilities and accomplishments in teaching, research, service, and knowledge integration; and

WHEREAS, the 2019 Virginia Outstanding Faculty Award recipients—Alfred Abuhamad, Valerie S. Banschbach, Jeffrey Bellin, Valentina P. Dimitrova-Grajzl, Charlotte Elizabeth Gill, Helen I'Anson, Rowan Lockwood, Agida Gabil Manizade, Jill Elizabeth Mitchell, Sterling Nesbitt, Andrew Jefferson Offutt, Leo Eric Piilonen, and Jonathan W. White—are remarkable educators, productive scholars, and tremendous ambassadors for their academic disciplines, campuses, communities, and the entire Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the recipients of the 2019 Virginia Outstanding Faculty Awards for their professorial excellence and unparalleled achievements; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the State Council of Higher Education for Virginia and the recipients of the 2019 Virginia Outstanding Faculty Awards as an expression of the General Assembly's respect for the recipients' commitment to their profession and their outstanding contributions to the lives of Virginians and the Commonwealth as a whole.

### SENATE JOINT RESOLUTION NO. 338

*Designating July, in 2019 and in each succeeding year, as Cleft and Craniofacial Awareness and Prevention Month in Virginia.*

Agreed to by the Senate, February 5, 2019

Agreed to by the House of Delegates, February 20, 2019

WHEREAS, orofacial clefts are the most frequently occurring birth defects in the United States, affecting about 1 in 700 infants per year; and

WHEREAS, infants born with clefts and other craniofacial conditions usually require surgery as well as special feeding support, dental and orthodontic care, and speech therapy as they grow; and

WHEREAS, these complex services need to be provided in a synchronized manner over a period of years and are best provided by interdisciplinary cleft and craniofacial teams; and

WHEREAS, organizations such as the American Cleft Palate-Craniofacial Association Family Services serve populations affected by craniofacial differences in order to help these infants get a healthy start to life by providing their families with comprehensive information, counseling support, and connections to these interdisciplinary teams; and

WHEREAS, it is fitting and proper to recognize the efforts of organizations and families working to ensure a better life for those affected by cleft lip or cleft palate or other craniofacial conditions; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate July, in 2019 and in each succeeding year, as Cleft and Craniofacial Awareness and Prevention Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the American Cleft Palate-Craniofacial Association so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this month on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 339

*Commending Margaret E. McKeough.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Margaret E. McKeough, the executive vice president and chief operating officer of the Metropolitan Washington Airports Authority, will depart the authority in 2019 after more than 20 years of service; and

WHEREAS, Margaret McKeough has served in management and oversight roles at the Metropolitan Washington Airports Authority since 1998, demonstrating an unwavering dedication to the development, promotion, and safe operation of Virginia's two largest airports, Ronald Reagan Washington National Airport and Washington Dulles International Airport; and

WHEREAS, as chief operating officer since 2004, Margaret McKeough has continuously worked to improve efficiency, customer orientation, and the level of air service at Reagan National Airport and Dulles International Airport; and

WHEREAS, Margaret McKeough has ably managed corporate relationships with the 38 airlines serving Reagan National Airport and Dulles International Airport; and

WHEREAS, during her tenure, Margaret McKeough has also directed operations at the Dulles Airport Access Highway and the Dulles Toll Road while construction of the Metrorail Silver Line project, a 23-mile extension of the public transit system through Northern Virginia, is underway in the Dulles Corridor; and

WHEREAS, Margaret McKeough managed emergency preparedness operations at the airports and has been responsible for the Metropolitan Washington Airports Authority's Public Safety Division, which includes law-enforcement, fire, and emergency medical response functions, accounting for more than 1,300 employees; and

WHEREAS, in addition to her work with the Metropolitan Washington Airports Authority, Margaret McKeough served as the 2018 president of the Aero Club of Washington, one of the nation's oldest and most active aviation industry groups; is on the board of directors of the Airport Cooperative Research Program, an organization sponsored by the Federal Aviation Administration to develop solutions to issues facing the industry; and served on the U.S. Travel and Tourism Advisory Board, which advises the U.S. Secretary of Commerce on matters relating to travel and tourism in the United States; and

WHEREAS, Margaret McKeough was honored by *Washingtonian* magazine as one of the "Most Powerful Women in Washington" in 2017; and

WHEREAS, since moving to Virginia in 1998, Margaret McKeough and her family have been an integral part of their community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Margaret E. McKeough for her service to the Commonwealth as executive vice president and chief operating officer of the Metropolitan Washington Airports Authority; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Margaret E. McKeough as an expression of the General Assembly's admiration for her enduring commitment to planning and actively managing world-class access to the global aviation system in a way that anticipated and served the needs of the National Capital area.

#### SENATE JOINT RESOLUTION NO. 340

*Celebrating the life of Dennis Lynn Brent.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Dennis Lynn Brent, a Charlottesville firefighter specialist and the former chief of the Palmyra Volunteer Fire Company, died on December 1, 2018, from occupational cancer; and

WHEREAS, Dennis Brent valiantly served his community and started answering emergency calls with the Palmyra Volunteer Fire Company at the age of 17 and served for 38 years, holding several leadership positions and ultimately becoming chief; and

WHEREAS, in December 2000, Dennis Brent's dream came true when he was hired as a firefighter for the City of Charlottesville Fire Department; and

WHEREAS, Dennis Brent was a National Honor Guard Academy graduate and a proud member of the Charlottesville Honor Guard, which led him to travel the country to honor firefighters who had died in the line of duty; and

WHEREAS, Dennis Brent faithfully served the citizens of Charlottesville for 17 years before his diagnosis forced him to retire from the job he loved in February 2018; and

WHEREAS, Dennis Brent had a tremendous heart and was a natural mentor to younger firefighters and new company officers; he lived all of his life placing the needs of others before himself and did so with grace, humility, and love; and

WHEREAS, deeply dedicated to family and friends, Dennis Brent will be fondly remembered and greatly missed by his loving wife, Deborah McDonald Brent; his son, Travis Lynn Brent and his wife Kathryn Rachel; his brothers, Mike Brent and wife Kathy, and Paul Dean Brent; and many nieces, nephews, and cousins; and

WHEREAS, Dennis Brent will be missed, but never forgotten, and his fire department family will proudly carry forward his legacy of selfless service; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Dennis Lynn Brent, a tireless hero who dedicated 38 years of his life to fighting fires in the City of Charlottesville and Fluvanna County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Dennis Lynn Brent as an expression of the General Assembly's respect for his memory.

#### SENATE JOINT RESOLUTION NO. 341

*Commending the Honorable Robert W. Goodlatte.*

Agreed to by the Senate, January 31, 2019

Agreed to by the House of Delegates, February 1, 2019

WHEREAS, in 2019, the Honorable Robert W. Goodlatte retired from public office after 26 years of dedicated service to the residents of Roanoke, Lynchburg, and much of the Shenandoah Valley in Virginia's Sixth Congressional District; and

WHEREAS, a former attorney, Robert W. "Bob" Goodlatte first ran for the United States House of Representatives in 1992; he was undefeated in 13 general elections and three primary contests, becoming the longest-serving representative in the history of the Sixth District; and

WHEREAS, Bob Goodlatte represented more than 750,000 constituents through offices in Roanoke, Lynchburg, Staunton, and Harrisonburg; he held monthly Open Door Meetings in smaller cities and towns throughout the Sixth District and attended a multitude of community events, driving more than a million miles during his service; and

WHEREAS, during his tenure, Bob Goodlatte served as Chairman of the United States House Committee on Agriculture from 2003-2004, followed by four successive years as Ranking Member of the Agriculture Committee; and served as Chairman of the United States House Committee on the Judiciary for a full six-year term from 2013-2018; and

WHEREAS, Bob Goodlatte served as Co-Chair of the Congressional Internet Caucus, Chair of the House Republican Technology Working Group, Co-Chair of the International Creativity and Theft-Prevention Caucus, Co-Chair of the Congressional Civil Justice Caucus, and a member of the House Majority and House Minority Whip and leadership teams; and

WHEREAS, Bob Goodlatte introduced and supported numerous important pieces of legislation to support the Sixth District and benefit all Americans; his first piece of legislation signed into law created the Mount Pleasant National Scenic Area in Amherst County; and

WHEREAS, Bob Goodlatte secured final funding for the James R. Olin Flood Prevention Project in Buena Vista and the Roanoke River Flood Reduction Project in the City of Roanoke, a project designed to include portions of the hiking and biking trails comprising the Roanoke Valley Greenways; and

WHEREAS, Bob Goodlatte enhanced transportation in the Sixth District, introducing legislation to eventually enable the extension of Amtrak service to Lynchburg and Roanoke and legislation to route Interstate 73 through Roanoke; and

WHEREAS, a champion for fiscal responsibility, Bob Goodlatte proposed a Balanced Budget Amendment to the Constitution in each Congress for the last 10 years; and

WHEREAS, Bob Goodlatte sponsored the Anticounterfeiting Consumer Protection Act of 1996, which provided more controls and prevention of counterfeiting; the No Electronic Theft Act of 1997, which enhanced copyright protection through increased prosecutions of violators; and the Telemarketing Fraud Prevention Act of 1998, which boosted consumer protection from fraudulent telemarketing schemes; and

WHEREAS, the Clinton administration subsequently relaxed export restrictions on encrypted software and hardware, fully implementing efforts that had begun years prior thanks to Bob Goodlatte's visionary leadership; and

WHEREAS, Bob Goodlatte's contributions to the Telecommunications Act of 1996 paved the way for expanded competitive telecom services and wider deployment of broadband Internet; his leadership on the Internet Tax Freedom Act of 1998 prevented taxes on Internet access and a permanent ban that he authored was later signed into law by President Barack Obama; and his Rural Local Broadcast Signal Act of 2002 expanded access to local television stations on satellite television systems; and

WHEREAS, Bob Goodlatte's other work in the field of technology included the Unlawful Internet Gambling Enforcement Act of 2006 and the USA Freedom Act of 2015, which balanced national security with the protection of Americans' civil liberties and ended the bulk collection of personal data by the National Security Agency; and

WHEREAS, Bob Goodlatte made lasting contributions to civil justice reform including his Class Action Fairness Act of 2005 which protected consumers by curbing class action abuse; and

WHEREAS, building on his years of work to protect intellectual property, Bob Goodlatte was instrumental to the passage of the America Invents Act of 2011, which contained elements of his longtime work to reform the patent system; and

WHEREAS, Bob Goodlatte supported agriculture, assisting in the creation of the Virginia Poultry Growers Cooperative and passing the Farm Bill of 2008, overriding a Presidential veto; and

WHEREAS, among his recent contributions to the nation, Bob Goodlatte completed decades-long work to update the nation's music copyright laws for the digital age with the Hatch-Goodlatte Music Modernization Act of 2018 and a career-long, bipartisan goal to reform America's criminal justice system including sentencing reform for federal crimes and post-incarceration programs with the passage of the First Step Act of 2018; and

WHEREAS, throughout his career, Bob Goodlatte enjoyed the support of his devoted wife, Maryellen; his children, Jennifer and Bobby; his son-in-law, Matt Barblan, and his two beloved granddaughters; and

WHEREAS, Bob Goodlatte was the epitome of a servant-leader, who represented the Commonwealth with the utmost integrity and dedication, engendering the respect of his constituents and colleagues and the loyalty of his staff; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Robert W. Goodlatte on the occasion of his retirement from the United States House of Representatives; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Robert W. Goodlatte as an expression of the General Assembly's admiration for his legacy of leadership and unparalleled contributions to Virginia's Sixth Congressional District.

**SENATE JOINT RESOLUTION NO. 342**

*Commending the Appalachian Agency for Senior Citizens.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Appalachian Agency for Senior Citizens has helped residents of Buchanan, Dickenson, Russell, and Tazewell Counties age with dignity and stay engaged in the community for nearly 45 years; and

WHEREAS, the mission of the Appalachian Agency for Senior Citizens (AASC) is to foster independence and healthy aging, and to improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services in a sustainable, livable community; and

WHEREAS, to better serve the population, AASC offers numerous services including all-inclusive care for seniors, Generations Day Care, Four County Transit, care coordination, nutrition, in-home services, an ombudsman, guardianship assistance, and emergency in-home repair; a senior living community development is another notable accomplishment of AASC; and

WHEREAS, AASC has won numerous national, state and foundation awards and grants, including a National Association of Agencies on Aging Innovation Award for Senior Living Community for intergenerational programs, and a Health Quality Innovators Population Health Award for their Bridge Program; more recognition came from the Alzheimer's Foundation, the Virginia Community Foundation, a home repairs grant from Dominion Energy, and a Meals on Wheels grant from Subaru; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Appalachian Agency for Senior Citizens for its nearly 45 years of work to help residents age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Appalachian Agency for Senior Citizens for fostering independence and healthy aging, and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

**SENATE JOINT RESOLUTION NO. 343**

*Commending the New River Valley Regional Commission.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the New River Valley Regional Commission was chartered on October 9, 1969, establishing a Planning District Commission to serve Virginia's New River Valley; and

WHEREAS, the 50th anniversary of the New River Valley Regional Commission is an opportunity to recognize the agency's contributions to the betterment of the region and the Commonwealth; and

WHEREAS, the New River Valley Regional Commission was chartered following the visionary leadership provided by the General Assembly's 1968 Hahn Commission, which set forth the importance of working together regionally for the efficiencies of service delivery and economic wellbeing; and

WHEREAS, the initial localities that created the New River Valley Regional Commission included the Counties of Floyd, Giles, Montgomery, Pulaski; the City of Radford; and the Towns of Blacksburg, Christiansburg, and Pulaski; and

WHEREAS, the New River Valley Regional Commission's membership has since expanded twice, in 2000 and 2018, with membership now including Virginia Polytechnic Institute and State University, Radford University, New River Community College, and the Towns of Floyd, Pearisburg, Pembroke, Narrows, and Rich Creek; and

WHEREAS, the 2018 membership expansion included the first community college in Virginia to join a Planning District Commission, New River Community College, which exemplifies one of the region's key strengths, the ability of local governments to collaborate with higher education institutions to increase economic prosperity and enhance service delivery; and

WHEREAS, the New River Valley Regional Commission has remained focused on delivering services to support the area-wide planning for the physical, social, and economic elements of the region; helping members plan for their future; coordinating federal, state, and local efforts to secure resources to address challenges and opportunities; and implementing projects as requested; and

WHEREAS, the New River Valley Regional Commission serves as an Economic Development District established by the United States Economic Development Administration and a Local Development District for the Appalachian Regional Commission which directly benefits the region by securing federal funds to address local issues; and

WHEREAS, the members of the New River Valley Regional Commission have utilized the structure provided by the agency to establish many impactful regional solutions for issues such as community corrections, industrial park development, water and waste water systems, small business development, foreign trade zone designation, broadband planning and implementation, economic development, and preservation of natural resources; and

WHEREAS, the New River Valley Regional Commission has also addressed hazard mitigation, emergency services, cultural heritage development, human services, outdoor recreation asset development, water quality planning, transportation infrastructure, housing, downtown revitalization, tourism marketing, financial services, analytical mapping services, early childhood education, organizational development, and capacity building among elected and appointed officials; and

WHEREAS, the New River Valley Regional Commission continues to provide a critical forum for collaboration that benefits the residents of the region and the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the New River Valley Regional Commission on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the New River Valley Regional Commission as an expression of the General Assembly's admiration for its contributions to the New River Valley and the Commonwealth.

### SENATE JOINT RESOLUTION NO. 344

*Celebrating the life of Harry E. Diezel.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Harry E. Diezel, a veteran, firefighter, and public servant who dedicated his life to safeguarding and strengthening the Virginia Beach community, died on January 9, 2019; and

WHEREAS, a native of Washington, D.C., Harry Diezel graduated from Falls Church High School, then served his country as a member of the United States Army with the 82nd Airborne Division and the 1st Cavalry Division; and

WHEREAS, after his honorable military service, Harry Diezel briefly studied law, but was drawn to a career in public safety and joined the Fairfax County Fire and Rescue Department in 1966, rising to the rank of lieutenant; and

WHEREAS, on May 1, 1974, Harry Diezel became chief of the Virginia Beach Fire Department and quickly earned a reputation as an innovative leader and a staunch advocate for the firefighters under his command; and

WHEREAS, Harry Diezel was committed to the health and wellness of his firefighters, supporting state presumption laws for workplace-related heart and lung conditions, and implementing a voluntary physical fitness program; and

WHEREAS, Harry Diezel worked to change state building codes to improve fire prevention measures in high-rise and multi-dwelling structures and laid the groundwork for the Automatic Aid system, which allows dispatchers to reach across city lines to ensure that the closest fire company responds to an emergency; and

WHEREAS, among his proudest accomplishments, Harry Diezel secured funding for the Virginia Beach Fire Training Center, a 10,000-square-foot facility complete with offices, classrooms, an auditorium, and a burn building; and

WHEREAS, Harry Diezel also helped develop the Urban Search and Rescue Team, which led to the development of the FEMA Team, Virginia Task Force 2; members of the local team and other FEMA teams from around the country have trained at the Fire Training Center; and

WHEREAS, Harry Diezel helped the Virginia Beach Fire Department grow from a staff of 120 career firefighters to more than 500 firefighters, and he played an instrumental role in the recruitment of women into the fire department; and

WHEREAS, Harry Diezel retired as fire chief in 1997, but returned to public service when he was unanimously appointed to fill a vacancy on the Virginia Beach City Council; he subsequently won election to two additional terms and represented the residents of the Kempsville district for 10 years; and

WHEREAS, Harry Diezel also went on to serve on the leadership team of the city manager and used his wealth of experience to serve as an ombudsman for all public safety divisions within the city; and

WHEREAS, in May 2018, the Fire Training Center was renamed as the Chief Harry E. Diezel Fire Training Center in recognition of his legacy of excellence and incomparable service to the city; and

WHEREAS, Harry Diezel will be fondly remembered and greatly missed by his wife of 54 years, Ginny; his son, Matthew, and his family; and numerous other family members, friends, and fellow firefighters; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Harry E. Diezel, a pillar of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Harry E. Diezel as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 345

*Celebrating the life of William K. Coors.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, William K. Coors, master beer brewer, philanthropist, inventor, environmental steward, and patriarch of the Coors family, died on October 13, 2018, at the age of 102; and

WHEREAS, Bill Coors was the grandson of Adolph Coors, Sr., who founded the Coors Brewing Company in Golden, Colorado, in 1873; and

WHEREAS, Bill Coors joined the family business as a chemical engineer in 1939; among his most noteworthy achievements were the development of the recyclable aluminum can and the practice of offering a refund for each can brought to a recycling center; and

WHEREAS, during World War II, Bill Coors served the nation by facilitating the manufacture and delivery of large quantities of ceramic insulators for use by the Manhattan Project, later receiving the Energy Secretary's Appreciation Award for his efforts; and

WHEREAS, Bill Coors also pioneered corporate wellness programs, leading the Coors family's foundation in giving millions to environmental, educational, and cultural causes; and

WHEREAS, Bill Coors remained active in the company until his death and was instrumental in choosing Elkton, Virginia, as a second home for Coors Brewing Company, overseeing construction of the current MillerCoors Shenandoah Brewery while preserving agricultural land and natural resources; and

WHEREAS, the MillerCoors Shenandoah Brewery was established in the Shenandoah Valley in 1987 and presently employs 484 full-time employees; the facility brews and packages nearly eight million barrels of beer annually, including the premium brands Coors Light, Blue Moon, Miller High Life, and Miller Lite; and

WHEREAS, thanks to Bill Coors' visionary leadership, the MillerCoors Shenandoah Brewery has become an essential part of the Commonwealth's brewing industry, working with the local distributor network to contribute more than \$45 million in state excise tax revenue annually, all while demonstrating exemplary workplace safety and health, strictly adhering to industry standards for the responsible marketing and advertising of beer to persons of legal drinking age, consistently supporting education and prevention programs to prevent underage drinking, and encouraging the responsible retail sale of alcohol; and

WHEREAS, MillerCoors Shenandoah Brewery has maintained Bill Coors' commitment to the preservation of natural resources by promoting water pollution prevention and addressing water quality issues throughout the state; the brewery is committed to minimizing its environmental impact and has received the Governor's Environmental Excellence award for its waste reduction and "zero to landfill" green team efforts; and

WHEREAS, following Bill Coors' example of good corporate citizenship, the MillerCoors Shenandoah Brewery and its employees have contributed generously to a variety of local charities and organizations, including the United Way of Harrisonburg and Rockingham County, Rockingham Memorial Hospital, scholarship programs and program support for James Madison University and local public schools through the Rockingham Educational Foundation, Inc., local emergency and disaster response teams, and local chapters of the American Cancer Society and the March of Dimes; and

WHEREAS, known as a true gentleman, Bill Coors was admired for his integrity and wisdom and respected for his contributions to the malt beverage industry and the citizens of Virginia and Colorado; and

WHEREAS, Bill Coors will be fondly remembered and greatly missed by numerous family members and friends, as well as the employees of the MillerCoors Shenandoah Brewery and their families, local community leaders, and fellow brewers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of William K. Coors, an innovative leader in the brewing industry who made many contributions to the economic vitality of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William K. Coors as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 346

*Celebrating the life of James Mapp Chandler.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, James Mapp Chandler of Norfolk, who was a major force in the advancement of pre-hospital emergency care in Virginia while serving as the executive director of the Tidewater Emergency Medical Services Council for over 30 years, passed away unexpectedly following a brief illness on May 4, 2018; and

WHEREAS, James "Jim" Chandler was a native of the Eastern Shore of Virginia, having been born and raised in Onancock; as a teenager he became involved in emergency medical services (EMS), volunteering as a firefighter and rescue squad member with the Onancock Volunteer Fire Department; and

WHEREAS, Jim Chandler continued to pursue his passion for EMS while attending Virginia Tech, and was a life member and past captain of the Virginia Tech Volunteer Rescue Squad; and

WHEREAS, after graduating from Virginia Tech, Jim Chandler continued his work in the field of emergency medical services by volunteering with the Campbell County Rescue Squad in Lynchburg and the Princess Ann Courthouse Volunteer Rescue Squad in Virginia Beach; and

WHEREAS, Jim Chandler began his professional career in EMS as a field coordinator for the Eastern Shore Medical Services Council before joining the Blue Ridge EMS Council in Lynchburg as executive director; and

WHEREAS, Jim Chandler returned to the Tidewater area, first serving as a training coordinator and then as executive director for the Tidewater Emergency Medical Services Council, a position he held at the time of his death; and

WHEREAS, Jim Chandler also proudly served as an administrative and finance section chief for the Virginia-1 Disaster Assistance Team, a part of the National Disaster Medical System; and

WHEREAS, Jim Chandler was a true Virginia gentleman, and those who had the honor of knowing him are much better for having had Jim as their friend; and

WHEREAS, Jim Chandler will be lovingly remembered by his multitude of friends and will be especially missed by his devoted wife, Ramona, and his daughters, Chelsea and Kendall; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of a fine public servant and outstanding Virginian, James Mapp Chandler; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James Mapp Chandler as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 347

*Commending the Center for Innovative Technology's Center for Unmanned Systems and the Virginia Tech Mid-Atlantic Aviation Partnership.*

Agreed to by the Senate, February 4, 2019

Agreed to by the House of Delegates, February 5, 2019

WHEREAS, Virginia is home to a unique combination of assets that establishes the Commonwealth as a national leader in all domains of unmanned systems—air, land, and sea; and

WHEREAS, the Commonwealth has aggressively pursued the long-term success of automated vehicle systems with an approach that emphasizes inclusion, diversity, and investment; and

WHEREAS, Virginia's geography provides extensive, open, and diverse training and testing locations that enable manufacturers and developers to demonstrate proofs of concept, acquire the data needed for Federal Aviation Administration (FAA) certifications and approvals, and to push the envelope of autonomous vehicle capabilities in a controlled, data-focused environment; and

WHEREAS, Virginia provides an ecosystem of innovation that leverages its geographical assets, university research, federal labs, and workforce development; the Commonwealth has one of only seven FAA-designated test sites in the nation through the Mid-Atlantic Aviation Partnership (MAAP) at Virginia Tech; and

WHEREAS, the U.S. Department of Transportation and the FAA selected Virginia as one of only 10 participants (from 230 proposals) in the Unmanned Aircraft Systems Integration Pilot Program that will help tackle the most significant challenges of integrating drones into the national airspace while reducing risks to public safety and security; and

WHEREAS, the Center for Innovative Technology and the Virginia Tech Mid-Atlantic Aviation Partnership teamed with the Counties of Buckingham, Cumberland, Loudoun, Montgomery, Prince Edward, and Wise, and corporate partners, Google Wing, Intel, AT&T, Airbus Aerial, State Farm, Dominion Energy, Sinclair Broadcast Group, and HAZON Solutions to successfully compete for the Unmanned Aerial Systems Integration Pilot Program; and

WHEREAS, through the program, the Commonwealth will be eligible for expedited flight permission from the FAA to perform some of the most complex unmanned vehicle flight testing ever attempted in the United States; and

WHEREAS, Virginia's success in securing this FAA pilot program is the latest evidence of the Commonwealth's dominance in the growing field of unmanned systems technology; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Center for Innovative Technology's Center for Unmanned Systems and the Virginia Tech Mid-Atlantic Aviation Partnership, and the entire team of corporate and local government partners on successfully submitting a proposal and winning the U.S. Department of Transportation Unmanned Aerial Systems Integration Pilot Program; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the Center for Innovative Technology's Center for Unmanned Systems and the Virginia Tech Mid-Atlantic Aviation Partnership as an expression of the General Assembly's admiration for their work to promote the Commonwealth of Virginia as a leader in unmanned systems technologies.

### SENATE JOINT RESOLUTION NO. 348

*Commending Daniel T. McEathron.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Daniel T. McEathron, sheriff of Warren County, will retire from his position in November 2019 after 37 years in law enforcement; and

WHEREAS, Daniel "Danny" McEathron began his career with the Warren County Sherriff's Office in 1982 as a jailor and served as the narcotic and patrol K-9 officer for 20 years; and

WHEREAS, while working the patrol division, Danny McEathron was also assigned to the Northwest Virginia Narcotics Task Force as an investigator before being promoted to patrol sergeant and serving 18 years on the Special Operations team, including as its commander; and

WHEREAS, in 2002, Danny McEathron was promoted to captain, overseeing the law-enforcement division, and served in that capacity until being elected sheriff in 2003; and

WHEREAS, Danny McEathron has led an office of over 92 members and managed services that include court holdings, civil process, courthouse security, E-911 communications, animal control, patrol investigations, and law-enforcement services; and

WHEREAS, during his time in law enforcement, Danny McEathron has served on numerous local community and law-enforcement association boards, including as president of the Warren County Babe Ruth Baseball League; currently his community involvement includes serving as chair of the Northwest Virginia Regional Drug and Gang Task Force; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Daniel T. McEathron on the occasion of his retirement as sheriff of Warren County for his exceptional leadership; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Daniel T. McEathron as an expression of the General Assembly's admiration for his contributions to law enforcement in Warren County and Northwest Virginia.

### SENATE JOINT RESOLUTION NO. 349

*Celebrating the life of Edward Brown Snyder.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Edward Brown Snyder, a successful entrepreneur and a national leader in the automotive industry who worked tirelessly to strengthen and promote the Hampton Roads community, died on October 19, 2018; and

WHEREAS, a native of Norfolk, Edward "Ed" Snyder attended the University of Virginia and New York University, then served his country as a member of the United States Air Force; he met his wife, Jean, while stationed in England, and the couple went on to become accomplished world travelers, visiting more than 100 countries together; and

WHEREAS, Ed Snyder followed in the footsteps of his father and grandfather as a businessman, opening Checkered Flag Motor Car Company in 1964; under his leadership, the company grew to become one of the largest import dealers in Virginia with 10 franchises and hundreds of fulltime employees; and

WHEREAS, Ed Snyder treated his employees with the utmost respect and was committed to exceptional customer service; he meticulously landscaped his dealerships to help beautify the community, earning many awards from the Garden Club of Virginia Beach; and

WHEREAS, in addition to serving as president of the Tidewater Automobile Dealers Association, Ed Snyder was recruited by the National Automobile Dealers Association to form the Honda National Dealer Council and served on several other National Dealer Councils for imported brands; and

WHEREAS, Ed Snyder also served the Hampton Roads community as the founding chair of the DePaul Health Foundation, a founding member of the Virginia Aquarium and Marine Science Museum, and an active leader in many other civic organizations; and

WHEREAS, earning many awards and accolades for his personal and professional achievements, Ed Snyder was named King Neptune of the Neptune Festival in 1992, First Citizen of Virginia Beach in 1996, and *Time* magazine's Quality Auto Dealer of the Year in Virginia in 1999; and

WHEREAS, above all, Ed Snyder promoted a strong sense of community in Hampton Roads, making it his personal mission to build a unity of purpose that would elevate the region culturally and economically; and

WHEREAS, predeceased by his wife of 61 years, Jean, Ed Snyder will be fondly remembered and greatly missed by his children, Susan, Robin, Stephen, Kate, and Tammy, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Edward Brown Snyder; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Edward Brown Snyder as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 350**

*Celebrating the life of Captain Charles M. Heron, USN, Ret.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Captain Charles M. Heron, USN, Ret., a former United States Navy SEAL who inspired others through his deep and abiding faith, died on September 25, 2018; and

WHEREAS, Charles "Chaz" Heron grew up in Philadelphia, Pennsylvania, where he graduated from Father Judge High School; he continued his education at West Chester University and the Naval Postgraduate School; and

WHEREAS, Chaz Heron served his country with the United States Navy on active duty for nearly 30 years and for an additional six years as a civilian; as a member of the elite Navy SEALs, he earned a reputation as a decisive leader, a humble team player, and a faithful friend; and

WHEREAS, in recognition of his lifetime of meritorious service, Chaz Heron was inducted into the United States Special Operations Command Commando Hall of Honor in April 2018; and

WHEREAS, possessed of a servant's heart, Chaz Heron led by example and worked tirelessly to support his family and his community; he was guided by his devout faith in all his actions and enjoyed fellowship and worship with the congregation of Grace Bible Church; and

WHEREAS, Chaz Heron will be fondly remembered and deeply missed by his wife of 28 years, Rochelle; his sons, Casey and Carter, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Captain Charles M. Heron, USN, Ret., a distinguished veteran and a highly admired member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Captain Charles M. Heron, USN, Ret., as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 351**

*Celebrating the life of the Reverend Rudolph Bobby Lewis, Sr.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Reverend Rudolph Bobby Lewis, Sr., the senior pastor of New Light Full Gospel Baptist Church in Virginia Beach, who served communities throughout the Commonwealth and the world, died on October 16, 2018; and

WHEREAS, a native of Loris, South Carolina, Rudolph Lewis attended Finklea High School and graduated from Howard University, where he first answered the call to the ministry, becoming one of six out of his parents' ten children to do so; and

WHEREAS, Rudolph Lewis served as the national youth president of the First United Church of Jesus Christ before establishing a First United Church of Jesus Christ in Portsmouth, which he pastored for 14 years; and

WHEREAS, in 1979, Rudolph Lewis joined New Light Baptist Church in Virginia Beach, and under his visionary leadership, the church grew in both faith and numbers, developing many new ministries to strengthen the congregation and increase outreach to the community; and

WHEREAS, Rudolph Lewis also led New Light Baptist Church to become affiliated with Full Gospel Baptist Church Fellowship International; in 1998, he was ordained as a bishop and subsequently appointed as presiding bishop of the Full Gospel Baptist Church Covenant Partners program; and

WHEREAS, Rudolph Lewis preached at events throughout the United States, in 13 African countries, and in Israel, and he guided and mentored countless pastors, ministers, and community leaders around the world; and

WHEREAS, Rudolph Lewis will be fondly remembered and greatly missed by his devoted wife of 54 years, Maurine; his children, April, Rudolph, Jr., Estrelida, and Vicki, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Rudolph Bobby Lewis, Sr., a respected spiritual leader in Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Reverend Rudolph Bobby Lewis, Sr., as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 352**

*Celebrating the life of Linwood S. Matthews.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Linwood S. Matthews passed peacefully from his family and friends on August 7, 2018; and

WHEREAS, Linwood Matthews was a member of the Forest View Volunteer Rescue Squad for 54 years, displaying a commitment to volunteerism and service to his community that very few could equal, serving his squad as president, vice president, secretary, deputy chief, membership chair, day lieutenant and night lieutenant, rescue officer, and junior advisor; he began his career in 1964 as a first aid provider, then was an emergency medical technician before he moved on to vehicle extrication; and

WHEREAS, Linwood Matthews' training and instructor certifications would make a lengthy catalog of courses, but included subjects like the Emergency Medical Technician Course, CPR, Vertical Rescue Instructor Trainer, Emergency Vehicle Operators' Course, Basic and Light Duty Rescue, Heavy Rescue and Rescue Technician Instructor, Hazardous Materials, Search and Rescue and Incident Command, plus many more; and

WHEREAS, Linwood Matthews was an asset to District 3 of the Virginia Association of Volunteer Rescue Squads (VAVRS), serving as deputy rescue officer and rescue officer, where he competed and assisted with competitions, served on the EMS Advisory Committee, and promoted Recruitment and Retention in EMS; and

WHEREAS, Linwood Matthews also served the VAVRS as training officer, rescue officer, rescue college instructor, convention committee and convention vehicle extrication contest co-chair, and convention rescue contest co-chair and chair; he also represented the VAVRS on the Central Virginia Technical Rescue Committee; State Search and Rescue Committee; VA EMS Critical Incident Committee; EMS Task Force; and EMS Disaster, EMS Mass Casualty, and EMS Disaster Planning groups; and

WHEREAS, Linwood Matthews demonstrated his enthusiasm for community service through his 25-year career as an officer of the Chesterfield County Police Department, beginning in 1968, where he was responsible for establishing the first school bus rodeo and the department's driver training and pursuit driving program; he also developed the Neighborhood Watch and Crime Prevention programs and chaired the Torch Run Committee to raise funds for the Special Olympics; and

WHEREAS, Linwood Matthews was named as Chesterfield County's Outstanding Police Officer in 1971 and as Police Officer of the Year in 1972; when he retired in 1994, he had attained the rank of captain and served in a number of sections within the department, including uniform operations, emergency communications, and support services; and

WHEREAS, Linwood Matthews led the effort to create the department's first SWAT team, which included ten officers, and the first department yearbook, showing the department's history; and

WHEREAS, affectionately known to friends and colleagues as "Lin" or "Doc," Linwood Matthews was inducted as a life member of the Forest View Volunteer Rescue Squad in 1978 and 20 years later as a life member of the Virginia Association of Volunteer Rescue Squads; in September 2004, he was selected by his peers for induction into the prestigious Virginia Life Saving and Rescue Hall of Fame; and

WHEREAS, Linwood Matthews will be fondly remembered and greatly missed by his beloved wife, Judy; two daughters, Shari Caston (Dan) and Christy Koogler, and their families, including three granddaughters; and the numerous EMS friends, those he served with, students he taught, patients he treated, and members of the law-enforcement community, which made up his second family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Linwood S. Matthews; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Linwood S. Matthews as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 353**

*Commending Michael J. Brown.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, Michael J. Brown, Bedford County Sheriff, will retire on December 31, 2019, after 24 years in the law-enforcement leadership position; and

WHEREAS, Michael "Mike" Brown is a native of Bedford County and a graduate of American University, where he earned a bachelor's degree in the administration of justice and police administration; he has additional advanced training with the U.S. Department of Justice's Executive Development Program, the National Sheriffs' Institute, and numerous courses of instruction from federal agencies; and

WHEREAS, Mike Brown has brought a wide range of experience to his position; he is a retired senior special agent in the U.S. Treasury Department; he served in the U.S. Army Military Police Corps, in the Washington, D.C. Metropolitan

Police Department, in the U.S. Department of Defense, and as an instructor overseas with the U.S. Department of Justice International Criminal Investigative Training Assistance Program; and

WHEREAS, since 1998, Mike Brown has directed a national task force dealing with the sexual exploitation of children over the Internet for the U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention; he testified twice before Congress on these matters; and

WHEREAS, under Mike Brown's leadership, the Bedford County Sheriff's Office had one of the first 10 Internet Crimes Against Children task forces in the country, and in 2000, he founded the nonprofit Safe Surf'n' Foundation which seeks to educate people about Internet safety; and

WHEREAS, Mike Brown was selected by U.S. Attorney General Janet Reno to participate at the Crime Technology Initiative Forum of the Office of Science and Technology Policy, Executive Office of the White House; in 2002 he was a member of Virginia Attorney General Kilgore's task force on identity theft; and

WHEREAS, Mike Brown is a member of the executive committee and board of directors of the National Sheriffs' Association, focusing on education and awards, congressional affairs, and technology; he is also in a leadership position in the National White Collar Crime Center, as well as the Law Enforcement Innovation Center at the University of Tennessee; and

WHEREAS, Mike Brown maintains memberships in numerous other organizations focused on policing and the military; his concern for community involvement has twice earned him recognition as Citizen of the Year by the Bedford Chapter of the NAACP; he was named Sheriff of the Year in 2017 by the National Sheriffs' Association; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Michael J. Brown on his retirement as Bedford County Sheriff on December 31, 2019, after 24 years of service; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael J. Brown as an expression of the General Assembly's admiration for his service to Bedford County and the law-enforcement community.

#### SENATE JOINT RESOLUTION NO. 354

*Commending the Page County High School baseball team.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Page County High School baseball team won the Virginia High School League Class 2 state championship in June 2018; and

WHEREAS, the Page County High School Panthers defeated the Virginia High School Bearcats by a score of 5-4 to secure the state title; and

WHEREAS, the Page County Panthers scored four runs in the bottom of the second inning to take the lead and held off the Virginia Bearcats for the rest of the game; and

WHEREAS, freshman T.R. Williams pitched a complete game in the state final and was named as Region 2A Player of the Year and selected for the Class 2 All-State team, along with teammates Tristan Eppard, Tristan Gordon, and Josh Good; and

WHEREAS, the Page County Panthers' head coach, Wayne Corner, earned Coach of the Year honors for his exceptional leadership; and

WHEREAS, the victory is a testament to the skill and determination of all the student-athletes, the guidance of the coaches and staff, and the enthusiastic support of the entire Page County High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Page County High School baseball team on winning the 2018 Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Wayne Corner, head coach of the Page County High School baseball team, as an expression of the General Assembly's admiration for the team's accomplishments and best wishes for the future.

#### SENATE JOINT RESOLUTION NO. 355

*Commending the Page County High School softball team.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 18, 2019

WHEREAS, the Page County High School softball team won the Virginia High School League Class 2 state championship in June 2018; and

WHEREAS, the Page County High School Panthers defeated the Richlands High School Blue Tornado by a score of 3-0 to secure their third state title in the past five years; and

WHEREAS, Sabrina Foltz pitched a shutout in the final to help secure the win for the Page County Panthers, who did not allow a single run in their three state tournament games; and

WHEREAS, the Page County Panthers' head coach Alan Knight earned Coach of the Year honors for his exceptional leadership throughout the season; and

WHEREAS, the victory is a testament to the skill and determination of all the student-athletes, the guidance of coaches and staff, and the enthusiastic support of the entire Page County High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Page County High School softball team on winning the 2018 Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Alan Knight, head coach of the Page County High School softball team, as an expression of the General Assembly's admiration for the team's accomplishments and best wishes for the future.

### SENATE JOINT RESOLUTION NO. 356

*Commending the Loudoun County Area Agency on Aging.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, for more than 40 years, the Loudoun County Area Agency on Aging has played a vital role in helping local residents age with dignity by providing education, advocacy, and support; and

WHEREAS, the mission of the Loudoun County Area Agency on Aging (AAA) is to foster independence and healthy aging, and improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services; and

WHEREAS, to better serve the population, over the past six years, the Loudoun County AAA opened three new state-of-the-art senior centers and one new adult day center, making a total of four senior centers and three adult day centers; and

WHEREAS, the Loudoun County AAA utilizes county services to serve elderly residents and involves almost 800 volunteers, many of whom are over 90-years-old; and

WHEREAS, the Loudoun County AAA offers numerous resources including a caregiver support group, a caregiver book club, a community ambassadors program, the Loudoun County Home Improvement Program, a medication disposal drop box, and Loudoun County Public Library outreach to seniors; and

WHEREAS, the Loudoun County AAA staff present at conferences and, in service to the community, assisted United States Senator Tim Kaine with a Congressional Field Hearing in Loudoun County on opioid abuse; and

WHEREAS, the Loudoun County AAA has won numerous national, state, regional, and local awards recognizing its essential services to the elderly population; most notably, in 2018, a National Achievement Award from the National Association of County Park and Recreation Officials for its Senior Summer Adventure camp; and a National Achievement Award from the National Association of Agencies on Aging for its Caregiver Services Program, which assists family caregivers by providing education, training workshops, and other support; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Loudoun County Area Agency on Aging for more than 40 years of work to help residents age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Loudoun County Area Agency on Aging for fostering independence and healthy aging, and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### SENATE JOINT RESOLUTION NO. 357

*Commending Charles City County.*

Agreed to by the Senate, February, 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, 2019 marks the 400th anniversary of the American Revolution and as one of four boroughs created pursuant to the Great Charter in 1619, Charles City County is one of the oldest political jurisdictions in the nation; and

WHEREAS, the history of Charles City County is closely entwined with the early years of the nation; originally known as Charles Cittie, and named for a future king of England, it was established by the Virginia Company in 1619 as one of the first four boroughs in the region; and

WHEREAS, at the time, the Charles City County region was home to members of the Chickahominy, Paspahegh, and Weyanoke Native American tribes, and it had been home to various other tribes for thousands of years; and

WHEREAS, Charles City County was a participant in, witness to, and a beneficiary of four major events in 1619 that shaped the future of the young nation: the meeting of the first representative legislative assembly in the New World, the arrival of the first recorded Africans to English North America, the recruitment of English women in significant numbers, and the first official English Thanksgiving in North America; and

WHEREAS, a number of Charles City County residents have ancestral ties to those Africans and English women arriving in 1619; and

WHEREAS, Captain Thomas Graves, whose descendants reside in Charles City County today, was a representative attending that first General Assembly on behalf of Smyth's Hundred; and

WHEREAS, the first official English Thanksgiving in North America took place in Charles City County at the landing of the Berkeley Hundred settlers; and

WHEREAS, after Virginia became a royal colony, the borough became Charles City Shire in 1634 and was renamed Charles City County in 1643; the Counties of Amelia, Brunswick, Dinwiddie, Prince Edward, and Prince George and the Cities of Hopewell and Petersburg were all formed from what was originally Charles City Shire; and

WHEREAS, bounded by the James River and the Chickahominy River, Charles City County has always been known for its abundant natural resources, and the area quickly became a hub for agriculture and trade; and

WHEREAS, after the Civil War, logging, fishing, and small-scale farming operations replaced many of the tobacco plantations in Charles City County; the county remains largely rural and some of its farms have been in continuous operation for 400 years; and

WHEREAS, farms in Charles City County have won national recognition for grain, wheat, and corn production yields, and farmers from Charles City County have advanced the field of agriculture by developing new technology for controlling runoff from grain production; and

WHEREAS, until 2007, the historic Charles City County Court House, built in the 1730s, was one of only five courthouses in the United States built before the Revolutionary War that was still in use for judicial purposes; and

WHEREAS, Charles City County was also home to President William Henry Harrison and President John Tyler, the ninth and tenth presidents of the United States; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Charles City County on the occasion of its 400th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Charles City County as an expression of the General Assembly's admiration for the county's long history and unique contributions to the Commonwealth.

### SENATE JOINT RESOLUTION NO. 358

*Commemorating the 60th anniversary of the closing of Prince Edward County Public Schools.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the *Davis v. County School Board of Prince Edward County* case was one of the five cases represented in the *Brown v. Board of Education* lawsuit for school desegregation; and

WHEREAS, the first public schools in the Commonwealth of Virginia to be integrated were in Norfolk and Arlington in February 1959; and

WHEREAS, the federal courts ordered Prince Edward County to integrate its public school system in the summer of 1959; and

WHEREAS, on September 10, 1959, the Prince Edward County Board of Supervisors voted not to fund the public schools for the 1959-1960 school year; and

WHEREAS, the public schools in Prince Edward County would continue to be closed for a five-year period from 1959 to 1964, longer than anywhere in the country; and

WHEREAS, more than 3,000 students were displaced during the school closings; and

WHEREAS, public funds from the county were used to open a private school for white students to attend; and

WHEREAS, the African American students had to attend schools in other localities, create makeshift local options, or go without education for any number of years; and

WHEREAS, the 1964 Supreme Court decision in *Griffin v. County School Board of Prince Edward County* prevents other school divisions across the country from closing public schools and diverting funds to all private schools; and

WHEREAS, 2019 marks the 60th anniversary of the closing of the Prince Edward County Public Schools, and the Commonwealth honors those students who had their educations severely impacted during the achievement of school integration; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the 60th anniversary of the closing of Prince Edward County Public Schools be commemorated in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Robert Russa Moton Museum requesting that the museum further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

**SENATE JOINT RESOLUTION NO. 359**

*Celebrating the life of Scott Marvin Anderson.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Scott Marvin Anderson, a dynamic member of the Fredericksburg community, died on January 6, 2019; and WHEREAS, a native of Minnesota, Scott Anderson developed strong roots in the area, remaining a lifelong fan of the Minnesota Twins and the Minnesota Vikings; and

WHEREAS, Scott Anderson was born to a military family and lived throughout the United States, including in Mississippi, Arkansas, Nebraska, Missouri, Virginia, and Hawaii; he graduated from Warrensburg High School in Missouri and attended Central Missouri State University and Colorado Christian University; and

WHEREAS, Scott Anderson had an ear for music and was especially fond of the trombone and the piano; he shared his passion with countless listeners in Bath County as the host of the Eclectic Music Hour on Allegheny Mountain Radio; and

WHEREAS, an avid outdoorsman, Scott Anderson was passionate about golf and spent as much time as possible on the links as a player, coach, caddie, and teacher; for much of his adult life, he worked at golf courses throughout the Commonwealth and the United States; and

WHEREAS, Scott Anderson was a dedicated reader who impressed others with his encyclopedic knowledge of a vast array of subjects from sports trivia to current events; and

WHEREAS, guided by his deep and abiding faith, Scott Anderson also devoted himself to the study of the Bible and enjoyed fellowship and worship with the congregation of Bethel Free Will Baptist Church in Woodbridge; and

WHEREAS, Scott Anderson will be fondly remembered and greatly missed by his parents, Richard L. Anderson and Ruth M. Anderson; his son, Boden; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Scott Marvin Anderson, a charismatic and highly admired resident of Fredericksburg; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Scott Marvin Anderson as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 360**

*Commending Johanna Schuchert.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, for the past 42 years, Johanna Schuchert has dedicated her life to the prevention of child abuse and neglect; and

WHEREAS, Johanna Schuchert got her start in the cause in the 1970s by fundraising and increasing awareness of how preventing child abuse and neglect can disrupt cycles of poverty and abuse; and

WHEREAS, Johanna Schuchert's volunteering turned into full-time work when she founded Parents Anonymous of Virginia and became its director in 1980; and

WHEREAS, in 1991, Johanna Schuchert merged Parents Anonymous of Virginia with Stop Child Abuse Now to form Virginians for Child Abuse Prevention to create new programs that would benefit children and families across the Commonwealth; and

WHEREAS, Johanna Schuchert helped develop Hugs and Kisses, Virginia's only statewide, school-based child sexual abuse prevention and early intervention program that is now in its 35th year and reaches more than 40,000 Virginia elementary students each school year; and

WHEREAS, Johanna Schuchert was also involved in numerous other programs that have benefited Virginia's children and families, such as helping incarcerated parents remain connected to their children, creating training programs to better educate day care staff, and launching issue-based coalitions like the Virginia Statewide Parent Education Coalition; and

WHEREAS, Johanna Schuchert supported the merger of CHIP of Virginia, Early Impact Virginia, and Prevent Child Abuse Virginia to create Families Forward Virginia, giving an even stronger voice for the Commonwealth's children and families; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Johanna Schuchert, a passionate advocate for children and families in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Johanna Schuchert as an expression of the General Assembly's admiration for her many years of tireless service to protecting, improving and enhancing the lives of Virginia's children and families by disrupting the cycles of child abuse, neglect and poverty.

**SENATE JOINT RESOLUTION NO. 361**

*Commending the Greenbriar Civic Association.*

Agreed to by the Senate, February 14, 2019  
Agreed to by the House of Delegates, February 23, 2019

WHEREAS, for 50 years, the Greenbriar Civic Association has helped make the Greenbriar community in Chantilly a wonderful place to live and raise a family and a vital part of Fairfax County; and

WHEREAS, the Greenbriar Civic Association was established by Greenbriar's first 100 residents in 1968 to support and address the concerns of new homeowners; the all-volunteer nonprofit organization has grown to represent the community at local and state levels; and

WHEREAS, constructed in the early 1970s, Greenbriar features 1900 moderately priced homes in a variety of architectural styles near the intersection of Route 50 and Fairfax County Parkway, with convenient access to shopping, restaurants, theaters, museums, schools, parks, and other attractions, as well as close proximity to Washington Dulles International Airport; and

WHEREAS, Greenbriar Civic Association fosters a strong community spirit and a sense of identity through numerous events and services; the organization hosts yard sales, holiday parties, concerts, and clean up days; provides welcome kits to new residents; and publishes the *Greenbriar Flyer* to promote civic engagement; and

WHEREAS, Greenbriar Civic Association also oversees upgrades to parks and amenities, beautification projects, and traffic calming efforts and works with law-enforcement officers to keep the community safe; and

WHEREAS, the residents of Greenbriar make many valuable contributions to businesses and civic organizations throughout Fairfax County and the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Greenbriar Civic Association on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Greenbriar Civic Association as an expression of the General Assembly's admiration for the Greenbriar community's unique contributions to life in Fairfax County.

**SENATE JOINT RESOLUTION NO. 362**

*Commending the James Madison High School softball team.*

Agreed to by the Senate, February 14, 2019  
Agreed to by the House of Delegates, February 23, 2019

WHEREAS, after an undefeated season, the James Madison High School softball team of Vienna claimed its second consecutive Virginia High School League state championship with a win in the Class 6 state tournament in 2018; and

WHEREAS, the James Madison High School Warhawks defeated the Manchester High School Lancers by a score of 9-0 in the state final, held at Glen Allen High School in Henrico County; and

WHEREAS, the Madison Warhawks' state title win was the culmination of a perfect 28-0 season, in which the team dominated opponents 280-19 and extended its two-season winning streak to 42 games; and

WHEREAS, after the 2018 season, the Madison Warhawks were ranked as the top high school softball team in the nation by MaxPreps, and five players were selected for the Virginia High School League Class 6 All-State first team, including senior pitcher Alex Echazarreta, who was named Player of the Year; head coach Jim Adkins also received the Coach of the Year award; and

WHEREAS, the Madison Warhawks achieved success through the hard work and determination of all the student-athletes, the leadership of coaches and staff, and the passionate support of the entire James Madison High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the James Madison High School softball team on winning the Virginia High School League Class 6 state championship in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jim Adkins, head coach of the James Madison High School softball team, as an expression of the General Assembly's admiration for the team's exceptional accomplishments.

**SENATE JOINT RESOLUTION NO. 363**

*Commending Virginia Commonwealth University.*

Agreed to by the Senate, February 14, 2019  
Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Virginia Commonwealth University, which in 2018 celebrated the 180th anniversary of its founding and 50th anniversary under its current name, is committed to providing quality higher education and exemplary programs and services to the citizens of Virginia; and

WHEREAS, the Medical College of Virginia was established in 1838 as the medical department of Hampden-Sydney College, and the Richmond Professional Institute was established in 1917 as the Richmond School of Social Work and Public Health; and

WHEREAS, the 1968 merger of the Medical College of Virginia and Richmond Professional Institute created Virginia Commonwealth University, now one of the Commonwealth's largest public universities with 32,000 students; and

WHEREAS, Virginia Commonwealth University now has a \$6 billion impact on the Commonwealth through its commitment to education, research, innovation, creativity, health care, and social engagement; and

WHEREAS, Virginia Commonwealth University has increased its graduation rate by 37 percent in the last decade, one of the largest surges in the nation; and

WHEREAS, Virginia Commonwealth University has 19 nationally ranked academic programs, including six programs in their respective top five slots and two programs, nursing anesthesia and fine arts-sculpture, ranked the best in the nation; and

WHEREAS, Virginia Commonwealth University conducts groundbreaking research, offers relevant courses, delivers leading-edge medical care, and provides 1.3 million hours of service across Virginia and beyond; and

WHEREAS, Virginia Commonwealth University is recognized as a leader in teaching, research, public service, and patient care for the City of Richmond, the Commonwealth of Virginia, and the United States; and

WHEREAS, throughout its history, Virginia Commonwealth University has preserved its rich educational heritage, while recognizing the opportunities of the present and preparing for the challenges of the future; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Virginia Commonwealth University on the occasion of the 180th anniversary of its founding and 50th anniversary under its current name; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dr. Michael Rao, president of Virginia Commonwealth University, as an expression of the General Assembly's admiration for the university's outstanding efforts to provide exceptional services in the area of higher education and health care.

### SENATE JOINT RESOLUTION NO. 364

*Celebrating the life of David C. Creasy, Sr.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, David C. Creasy, Sr., a retired fire marshal with the City of Richmond Department of Fire and Emergency Services, died on October 15, 2018, from occupational cancer; and

WHEREAS, David Creasy began his career in 1968 as a volunteer with the Manchester Volunteer Fire Department in Chesterfield County and became a professional firefighter with the City of Richmond in 1974; and

WHEREAS, David Creasy dedicated more than 50 years of his life fighting fires with the City of Richmond Fire Department and Chesterfield County Fire and EMS Department; and

WHEREAS, David Creasy was a recognized leader among his peers and rose to the ranks of senior battalion chief and fire marshal; and

WHEREAS, David Creasy was diagnosed with Stage 4 neuroendocrine carcinoma in July 2014 as the result of prolonged exposure to toxic carcinogens during his firefighting career; and

WHEREAS, after his diagnosis, David Creasy dedicated himself to educating his fellow firefighters throughout the Commonwealth and the nation on the necessary steps to reduce the rate of cancer in the fire service; and

WHEREAS, David Creasy was a tireless champion of cancer awareness, all the while fighting a very aggressive form of cancer himself; and

WHEREAS, deeply dedicated to family and friends, David Creasy will be fondly remembered and greatly missed by the love of his life, Martha; son D.C. Creasy, Jr., and his wife, Jennifer; grandsons, Peyton and Hunter; father-in-law, Clyde Taylor; stepfather, Carl Fisher; and numerous other friends and colleagues; and

WHEREAS, David Creasy was a born leader and was well known for his trademark sense of humor, his unwavering love for family and friends, and his commitment to reducing the hazards of toxic exposure for his brothers and sisters in uniform; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of David C. Creasy, Sr., a tireless hero who dedicated more than 50 years of his life to fighting fires in the City of Richmond and Chesterfield County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of David C. Creasy, Sr., as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 365**

*Celebrating the life of Lillie A. Estes.*

Agreed to by the Senate, February 7, 2019

Agreed to by the House of Delegates, February 8, 2019

WHEREAS, Lillie A. Estes, passionate community strategist and advocate for her fellow residents of Gilpin Court and the members of the Richmond community as a whole, died on January 31, 2019; and

WHEREAS, a native of Newport News, Lillie Estes graduated from Menchville High School and relocated to Richmond after she earned a bachelor's degree from Virginia Commonwealth University in 1983; and

WHEREAS, Lillie Estes was a longtime resident of Gilpin Court and led efforts to support and revitalize public housing neighborhoods throughout Richmond; she was a founding member of Residents of Public Housing in Richmond Against Mass Eviction and served on the board of the Virginia Poverty Law Center and the advisory council for Hope in the Cities; and

WHEREAS, Lillie Estes offered her leadership to the Richmond mayor's anti-poverty commission, which became the Office of Community Wealth Building, and helped secure a \$1 million federal grant for a community-based crime reduction program through the Office of the Attorney General; and

WHEREAS, a determined organizer and a skilled strategist, Lillie Estes engaged members of the community in unique ways, including through her Community Justice Film Series and by working with local residents and civic groups to create the Charles S. Gilpin Community Farm, an urban garden on a formerly vacant lot on St. Peter Street; and

WHEREAS, in November of 2018, Lillie Estes, building upon the work of the Charles Hamilton Houston Institute for Race and Justice, established the Community Justice Network, a gathering of individuals and organizations who are committed to advancing community justice through their individual and collective work; and

WHEREAS, Lillie Estes positively influenced the work of younger community organizers through her wisdom and experience, while encouraging them to seek intersectionality within their separate areas of civic engagement to achieve common goals; and

WHEREAS, Lillie Estes will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lillie A. Estes, a champion for the residents of Gilpin Court who worked to build a more just, more humane community in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lillie A. Estes as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 366**

*Commending the Orange County Agricultural Initiative.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Orange County Agricultural Initiative was established by the Orange County Chamber of Commerce in July 2018 to enhance support for the county's vast agricultural community; and

WHEREAS, the Orange County Agricultural Initiative is a groundbreaking effort to create a centralized, comprehensive resource on agriculture-related funding, training and certification, education, staffing, government assistance, insurance, products, peer support, and advocacy; and

WHEREAS, the Orange County Agricultural Initiative pools the capabilities and knowledge of relevant local, state, and federal agencies; local, state, and national agricultural associations; farmers and agribusinesses; educational organizations such as 4-H, Future Farmers of America, Virginia Cooperative Extension, and local schools; and secondary contributors like vendors and retailers; and

WHEREAS, the Orange County Agricultural Initiative has developed plans to launch an informational website and will function as an independent nonprofit organization with oversight from the Orange County Chamber of Commerce and the Orange County Farm Bureau; and

WHEREAS, Orange County is the eighth-largest contributor to agriculture in Virginia, and the success of the Orange County Agricultural Initiative will broaden and increase agricultural revenue for the Commonwealth; and

WHEREAS, the Orange County Agricultural Initiative provides a model for how other localities in the Commonwealth and throughout the United States can strengthen their commitment to agriculture; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Orange County Agricultural Initiative, an innovative program to support the Orange County agricultural community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Orange County Chamber of Commerce as an expression of the General Assembly's admiration for the unique benefits of the Orange County Agricultural Initiative to the region and the Commonwealth as a whole.

**SENATE JOINT RESOLUTION NO. 367**

*Commending the Dolley Madison Garden Club.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Dolley Madison Garden Club, a nonprofit organization in the Town of Orange, has promoted horticulture and protected the agricultural heritage of the community for 100 years; and

WHEREAS, established in 1919 by a group of civic-minded women with an interest in gardening, the Dolley Madison Garden Club selected the zinnia, a symbol of friendship, endurance, and constancy, as its club flower; and

WHEREAS, the Dolley Madison Garden Club was the fourth such club to join the Garden Club of Virginia after it was founded in 1920, and it was admitted to the Garden Club of America in 1922; and

WHEREAS, among its many community improvement projects, the Dolley Madison Garden Club has worked to save dogwood trees, limit the use of billboards, and abolish automobile graveyards; the club also planted trees along U.S. Route 15 and worked with the Town of Orange to enhance Taylor Park; and

WHEREAS, each April, the Dolley Madison Garden Club produces a Historic Garden Week tour, with proceeds benefiting Garden Club of Virginia projects to restore and beautify gardens, and support an ongoing partnership with Virginia State Parks; and

WHEREAS, members of the Dolley Madison Garden Club give generously of their time and talents to increase the quality of life in Orange; the club has also received special recognition for its outstanding contributions to the Boys and Girls Clubs of Orange; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Dolley Madison Garden Club on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Dolley Madison Garden Club as an expression of the General Assembly's admiration for its legacy of contributions to the Orange community and the Commonwealth as a whole.

**SENATE JOINT RESOLUTION NO. 368**

*Celebrating the life of Donald Robert McCaig.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Donald Robert McCaig, a prolific and award-winning writer, author, sheep farmer, and dog breeder, died on November 11, 2018; and

WHEREAS, Donald McCaig was born in Butte, Montana, graduated from the University of Montana, and served two years in the United States Marine Corps where he was a weapons instructor; and

WHEREAS, Donald McCaig's early employment included teaching philosophy at Wayne State University in Detroit and working as a producer for Murray the K, the influential rock radio DJ; after settling into a lucrative copywriting position at a Madison Avenue advertising agency, Donald McCaig grew restless and decided to reinvent himself as a farmer and a writer; and

WHEREAS, affectionately known as Snee to his friends and family, Donald McCaig was drawn to his Highland County property during the 1970s back-to-the-land movement with his girlfriend, later his wife, Anne Ashley; and

WHEREAS, with no agricultural or construction experience, Donald McCaig experienced numerous fits and starts in his agrarian pursuits; he learned to master the techniques on his property, which he called Yucatec Farm, through trial and error and with help from his rural neighbors in Bath and Highland Counties who, over the years, related to him as an adopted son; and

WHEREAS, Donald McCaig and his wife raised Rambouillet sheep and sheepdogs, in particular Border Collies, becoming experts in shepherding and in breeding and raising sheepdogs; and

WHEREAS, Donald McCaig was drawn to writing because of the influence of an uncle who was a writer; his writing career began to take off on his Williamsville farm, and he produced articles and early books such as *Nop's Trial* about a Border Collie and its sequel, *Nop's Hope*; other titles included *An American Homeplace*, *The Bamboo Cannon*, and *The Man Who Made the Devil Glad*; and

WHEREAS, Donald McCaig continued to explore the lives of Border Collies in *Mr. and Mrs. Dog* in 2013, about training two pups, Luke and June, for the World Sheepdog Trials in Wales, and the subject of Virginia history in *Jacob's Ladder: A Story of Virginia During the War*, which covers, in rich detail, the fractious years between Lee's surrender at Appomattox and Custer's defeat at Little Big Horn; and

WHEREAS, Donald McCaig received approval from the Margaret Mitchell estate to further imagine her works with the 2014 book *Ruth's Journey*, a prequel telling the story of the character Mammy from Mitchell's *Gone with the Wind*, and *Rhett Butler's People* in 2017, an authorized sequel to *Gone with the Wind*; and

WHEREAS, Donald McCaig's books received numerous awards and accolades; *Jacob's Ladder: A Story of Virginia During the War* won the Library of Virginia Literary Award for fiction in 1999 and also garnered the American Library Association's top honor for military fiction and the Michael Shaara Award for Excellence in Civil War Fiction; and

WHEREAS, Donald McCaig established himself as one of America's leading chroniclers of rural life, a master stylist whose understated prose was often featured in the National Public Radio program *All Things Considered*; and

WHEREAS, Donald McCaig will be fondly remembered and greatly missed by his wife, Anne; his son, Jon; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Donald Robert McCaig, a prolific and award-winning writer, author, sheep farmer, and dog breeder; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Donald Robert McCaig as an expression of the General Assembly's admiration for his literary and community contributions and respect for his memory.

### SENATE JOINT RESOLUTION NO. 369

*Celebrating the life of Captain Andrew Patrick Ross, USA.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Captain Andrew Patrick Ross, USA, a beloved native of Lexington and a courageous member of the elite Green Berets, was killed in action in Afghanistan on November 27, 2018; and

WHEREAS, Andrew "Drew" Ross demonstrated a natural ability for leadership from a young age, serving as captain of his high school soccer team; and

WHEREAS, a proud patriot, Drew Ross fulfilled a longtime dream to serve his country when he was commissioned as a second lieutenant in the United States Army after graduating from the United States Military Academy at West Point in 2011; and

WHEREAS, a decorated and highly trained soldier, Drew Ross was assigned to 1st Battalion, 3rd Special Forces Group (Airborne), stationed at Fort Bragg, North Carolina; and

WHEREAS, Drew Ross made the ultimate sacrifice while deployed on his second tour to Afghanistan in support of Operation Freedom's Sentinel, when his vehicle was struck by an improvised explosive device in the Ghazni Province; and

WHEREAS, Drew Ross received many awards and decorations, including the Bronze Star Medal (2nd award), Purple Heart, Meritorious Service Medal, Army Commendation Medal, National Defense Service Medal, Afghanistan Campaign Medal, Overseas Service Ribbon, NATO Medal, Special Forces Tab, Ranger Tab, Combat Action Badge, Combat Infantry Badge, and Military Free Fall Parachutist Badge; and

WHEREAS, Drew Ross was an exemplar of the bravery, selflessness, and dedication to duty that is demonstrated by all of the American men and women in uniform who willingly go into harm's way in defense of freedom each day; and

WHEREAS, Drew Ross derived his greatest joy in life from his family, and will be fondly remembered and greatly missed by his beloved wife, Felicia; his mother, Beth; his father, Stephen; his sister, Sarah; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Captain Andrew Patrick Ross, USA, a distinguished native of Lexington and a courageous member of the elite Green Berets; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Captain Andrew Patrick Ross, USA, as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 370

*Celebrating the life of Sue Kimble Dudley.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Sue Kimble Dudley, a respected member of the Highland County community, died on November 12, 2018; and

WHEREAS, Sue Dudley was born in Upper Tract, West Virginia, and worked over the years at Aileen, Inc., Hooke Brothers Lumber Company, and Highland Appliance and Electric; and

WHEREAS, Sue Dudley served the community for over three decades as the clerk of the Circuit Court of Highland County; and

WHEREAS, Sue Dudley was very involved in community, civic, and religious organizations as a congregant of Victory Chapel Advent Christian Church and a member of the Virginia Court Clerks Association, Monterey Lions Club, Order of the Eastern Star, and the Highland County Volunteer Fire Department Ladies Auxiliary; and

WHEREAS, Sue Dudley was well known throughout the community for bringing joy to others with her homemade desserts, in particular her hummingbird cakes and Scooby Doo desserts; that delight extended into cultivating and maintaining her flower garden and participating in the Highland Mixed Bowling League; and

WHEREAS, predeceased by her husband, George, Sue Dudley will be greatly missed and fondly remembered by her children, Lisa, Gary, and Chris, and their families; her children's father, Edwin Lee Crigler; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Sue Kimble Dudley, a respected member of the Highland County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Sue Kimble Dudley as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 371

*Celebrating the life of James William Bryan, Jr.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, James William Bryan, Jr., the longtime sheriff of Bath County and a highly admired member of the Hot Springs community, died on November 3, 2018; and

WHEREAS, James "Jimmy" Bryan was born and raised in Bath County and served his country as a member of the United States Army; and

WHEREAS, Jimmy Bryan worked at the historic Omni Homestead Resort in the transportation department before becoming a law-enforcement officer; he was sheriff of Bath County and served the community for 15 years until his well-earned retirement; and

WHEREAS, Jimmy Bryan had more recently worked as a security guard at Bath Community Hospital, and he shared his faith with others as a member of Life Line Ministries; and

WHEREAS, an avid outdoorsman, Jimmy Bryan was a cofounder of the Warm Springs Mountain Hunt Club, and he found camaraderie with his fellow motorcycle riders as a member of the Gold Wing Road Riders Association and the Retreads Motorcycle Club; and

WHEREAS, Jimmy Bryan will be fondly remembered and greatly missed by his devoted wife of 54 years, Frances; his children, Crystal, Richard, and Jay, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of James William Bryan, Jr., a respected law-enforcement officer in Hot Springs; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James William Bryan, Jr., as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 372

*Celebrating the life of Carl David Brinkley.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Carl David Brinkley, the esteemed mayor of Clifton Forge, died on November 22, 2018; and

WHEREAS, Carl Brinkley was born in Torrington, Connecticut, and as an adult worked for the United States Postal Service for 42 years, retiring as postmaster of Low Moor, and later worked as a realtor with B.A. Rupert Real Estate; he also served with the Virginia National Guard for 30 years, retiring with the rank of master sergeant; and

WHEREAS, Carl Brinkley served on the Clifton Forge Town Council from 2004, and he held the office of mayor from 2013; he was vice mayor before becoming mayor and was known for his dedication to the people of the Alleghany Highlands and his efforts to promote intergovernmental cooperation throughout the area; and

WHEREAS, Carl Brinkley represented Clifton Forge on numerous committees and boards, including the Clifton Forge Economic Development Authority, the Clifton Forge Development Corporation, the Clifton Forge Parks and Trails Committee, and the Clifton Forge Planning Commission; he was a charter member of the Alleghany Highlands Free Clinic Board, elder board member of Clifton Forge Presbyterian Church, and an active member of Clifton Forge Main Street, Inc.; and

WHEREAS, Carl Brinkley will be fondly remembered and greatly missed by his wife, Jenny; sons, John and Bill, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Carl David Brinkley, esteemed mayor of Clifton Forge; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Carl David Brinkley as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 373

*Celebrating the life of William E. Edwards.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, William E. Edwards, a public servant, business owner, and highly admired resident of Goshen, died on December 25, 2018; and

WHEREAS, the only son of Doug and Alice Edwards, William "Billy" Edwards was born in Staunton in 1938; and

WHEREAS, Billy Edwards served his country as a member of the United States Air Force from 1958 to 1963; and

WHEREAS, after his honorable military service, Billy Edwards settled in Rockbridge County, where he became a valuable member of the Goshen community as the owner and operator of Edwards' Convenience for more than 40 years; and

WHEREAS, Billy Edwards went on to serve as mayor of Goshen, as well as a Rockbridge County supervisor for 12 years; and

WHEREAS, predeceased by his wife of 45 years, Leonia, Billy Edwards will be fondly remembered and greatly missed by his children, Eddie, Scarlett, and Cheryl, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of William E. Edwards; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William E. Edwards as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 374

*Commending Ghent in Norfolk.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the neighborhood of Ghent in Norfolk, a diverse and resilient community, was named as one of the Great Neighborhoods of 2018 by the American Planning Association; and

WHEREAS, the Great Neighborhoods award is presented annually as part of the American Planning Association's Great Places in America program, recognizing communities of exceptional quality, character, and planning throughout the United States; Ghent joins West Freemason as the second neighborhood in Norfolk to win the award; and

WHEREAS, named for the city in Belgium, Ghent was developed in the late 19th century as an early suburb of the City of Norfolk and was originally connected to the city by a streetcar system; the neighborhood was designed with a grid pattern of broad, tree-lined avenues, large areas of green space, and a waterfront arch; and

WHEREAS, due to housing shortages during and after World War II, the City of Norfolk redeveloped Ghent Square, designated Ghent as a conservation area, and developed local historic district zoning to address overcrowding and preserve the unique spirit of the neighborhood; and

WHEREAS, Ghent is now an inclusive, economically diverse community with a wide variety of housing types, including townhouses, multi-family developments, and well-preserved examples of Queen Anne, Colonial Revival, and Tudor Revival homes; and

WHEREAS, Ghent Square was named the nation's best large-scale residential development by the Urban Land Institute in 1991 and the areas of Ghent and North Ghent are listed on the National Register of Historic Places; and

WHEREAS, residents of Ghent have played a vital role in the preservation of the neighborhood by promoting flood mitigation efforts and taking proactive measures to address changes in sea level; and

WHEREAS, on October 18, 2018, the mayor of Norfolk and the president of the Virginia Chapter of the American Planning Association unveiled a plaque near the Hague Bridge commemorating the prestigious Great Neighborhoods award; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ghent in Norfolk on its selection by the American Planning Association as one of the 2018 Great Neighborhoods; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to representatives of Ghent in Norfolk as an expression of the General Assembly's admiration for the neighborhood's contribution to the history and community life of Norfolk and the Commonwealth.

**SENATE JOINT RESOLUTION NO. 375**

*Commending Joe Vaughan.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Joe Vaughan, a beloved member of the Grayson County community who served generations of students as a school bus driver, retired in November 2018; and

WHEREAS, Joe Vaughan has served and supported the residents of Grayson County in numerous ways, including as a former member of the Board of Supervisors; and

WHEREAS, Joe Vaughan was perhaps best known in the community as a bus driver, helping the students of Fries School travel to and from school safely for 55 years; and

WHEREAS, as one of the longest serving bus drivers in the Commonwealth, Joe Vaughan watched some of his students grow up to become staff members of Fries School; and

WHEREAS, Fries School and Grayson County Public Schools commemorated Joe Vaughan's contributions with a special ceremony on November 30, 2018; he was presented with cards and drawings from appreciative students, who lined up to hug him before his final bus trip at the end of the day; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Joe Vaughan on the occasion of his retirement as a bus driver for Grayson County Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Joe Vaughan as an expression of the General Assembly's admiration for his legacy of service to young people and the entire Grayson County community.

**SENATE JOINT RESOLUTION NO. 376**

*Celebrating the life of Edmund John Kelly.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Edmund John Kelly, a respected and highly decorated Virginia State Police lieutenant, died on December 17, 2018; and

WHEREAS, Edmund John "EJ" Kelly was born in Falls Church and spent much of his childhood overseas, growing up the son of a highly regarded foreign service officer; and

WHEREAS, after moving back to the United States, EJ Kelly attended middle school in Virginia and high school in Malvern, Pennsylvania, where he was a sought-after, three-sport, varsity letterman; he was recruited by several universities for both baseball and football before agreeing to accept a full scholarship to play strong safety for Kent State University; and

WHEREAS, EJ Kelly's passion for athletics and supreme knowledge of the game earned many accolades for the team and eventually earned him an assistant coaching position while he was finishing his degree; he graduated from Kent State University in 1993 with a bachelor of arts degree in criminology and justice studies; and

WHEREAS, EJ Kelly worked briefly for the International Association of Chiefs of Police, the Arlington Police Department, and the Federal Bureau of Prisons before deciding to apply to the Virginia State Police Academy; and

WHEREAS, EJ Kelly was the Honor Graduate, graduating first in his class at the Academy, and was placed into service in Northern Virginia; throughout his 23 years of service, he served the Commonwealth and the nation as a trooper, investigator, member of the bomb squad, and special agent assigned to the federal Drug Enforcement Agency, Washington Divisional Office, High Intensity Drug Trafficking Areas Task Force, participating in and eventually leading teams of law-enforcement officials from Virginia and various federal agencies; and

WHEREAS, for all his efforts EJ Kelly was awarded 24 medals, commendations, and awards from the Federal Bureau of Investigation, the Virginia State Police, the Drug Enforcement Agency, the State of Maryland, the District of Columbia, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and others; most recently he was awarded the 2017 United States Attorney General's Award for Distinguished Service in Policing and named first runner up for the national Trooper of the Year in 2018; and

WHEREAS, EJ Kelly continued to enjoy athletics throughout his life and imparted that joy, skill, and discipline to his young family; and

WHEREAS, EJ Kelly will be fondly remembered and greatly missed by his mother, Virginia; wife, Katie; children, Patrick and McKenna; and numerous other family and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Edmund John Kelly, a respected and highly decorated Virginia State Police lieutenant; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Edmund John Kelly as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 377**

*Celebrating the life of Garner Allen Barker.*

Agreed to by the Senate, February 14, 2019  
Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Garner Allen Barker, a longtime firefighter and an active member of the Big Stone Gap community, died on March 9, 2018; and

WHEREAS, a 1972 graduate of Powell Valley High School, Garner Barker made his career as a coal miner; he previously worked at Westmoreland Coal Company and had recently retired from Arch Coal, Inc.; and

WHEREAS, Garner Barker served and safeguarded his fellow residents as a member of the Big Stone Gap Fire Department, ably responding to fires, medical emergencies, and other crises for 27 years; and

WHEREAS, Garner Barker volunteered his time with Big Stone Gap Masonic Lodge No. 208, the Jericho Temple, and the Wise County Shrine Club, where he earned renown as the master of the smoker, using his own blend of spices to craft delicious ribs; and

WHEREAS, Garner Barker will be fondly remembered and greatly missed by his wife of 45 years, Cathy; his son, Clint, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Garner Allen Barker; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Garner Allen Barker as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 378**

*Celebrating the life of Joseph Frederick Hunnicutt.*

Agreed to by the Senate, February 14, 2019  
Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Joseph Frederick Hunnicutt, a respected public servant, longtime firefighter, and devoted father and grandfather in Norton, died on April 15, 2018; and

WHEREAS, a nearly lifelong resident of Norton, Joseph "Huck" Hunnicutt graduated from John I. Burton High School and Clinch Valley College; in 1989, he graduated magna cum laude from the Cumberland School of Law at Samford University, where he served as an editor of the *Cumberland Law Review*; and

WHEREAS, Huck Hunnicutt made his career as an attorney and practiced at the firm Adkins & Hunnicutt; in addition, he was a business partner of the Pepsi Cola Bottling Company of Norton, which was owned and operated by his family; and

WHEREAS, desirous to be of service to the community, Huck Hunnicutt ran for and was elected to several consecutive terms on the Norton City Council and was the city's representative to the Coeburn-Norton-Wise Regional Waste Water Treatment Authority for nearly two decades; and

WHEREAS, Huck Hunnicutt also safeguarded his fellow residents as a member of the Norton Fire Department, ably responding to fires, medical emergencies, and other crisis situations for more than 25 years; and

WHEREAS, Huck Hunnicutt supported young people as a coach and umpire with Norton Little League programs, and he volunteered his time with Suthers Lodge No. 259 of the Ancient Free and Accepted Masons; and

WHEREAS, Huck Hunnicutt will be fondly remembered and greatly missed by his children, Jessica, Lauren, and Joseph, and their families; his mother, Mary; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Joseph Frederick Hunnicutt; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Joseph Frederick Hunnicutt as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 379**

*Commending Robert Cellell Dalton.*

Agreed to by the Senate, February 14, 2019  
Agreed to by the House of Delegates, February 23, 2019

WHEREAS, after 21 years of diligent service to the residents of Wythe County, Robert Cellell Dalton retired in 2016 as county administrator; and

WHEREAS, a graduate of Hillsville High School, Cellell Dalton served his country in the United States Army during the Vietnam War, earning the Bronze Star and the Purple Heart; and

WHEREAS, after receiving a degree in civil engineering from Wytheville Community College, Cellell Dalton pursued a 15-year career with Anderson & Associates, Inc., where he worked on community enhancement projects, such as water and sewer improvements and industrial site development; and

WHEREAS, in 1995, Cellell Dalton became the director of the Wythe County Department of Water and Wastewater; he oversaw the installation of a new sewer system that serves approximately 600 customers, expanded the county water system from 700 customers to 2,100 customers, and developed a regional water treatment facility; and

WHEREAS, after becoming county administrator in 1997, Cellell Dalton focused on strengthening the county's infrastructure to attract new businesses and industries and investing in the county's future; and

WHEREAS, Cellell Dalton worked with the Wythe County School Board and the Board of Supervisors to initiate multimillion-dollar construction and renovation projects for local schools, resulting in improvements to Max Meadows Elementary School; Rural Retreat Elementary, Middle, and High Schools; Sheffey Elementary School; Jackson Memorial Elementary School; and Fort Chiswell Middle School; and

WHEREAS, Cellell Dalton oversaw the acquisition and development of Wythe County Progress Park, an industrial park accompanied by new rail and road corridors, which has attracted national businesses to the region, leading to the creation of 600 new job opportunities; and

WHEREAS, Cellell Dalton also offered his wisdom and leadership to the New River Valley Regional Water Authority, Wythe/Bland Joint Public Service Authority, Crossroads Regional Industrial Facility, New River Valley Regional Jail Authority, and the Tourism Advisory Committee; and

WHEREAS, since his well-earned retirement from public office, Cellell Dalton remains in Wythe County and continues to serve the community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Robert Cellell Dalton on the occasion of his retirement as county administrator of Wythe County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Robert Cellell Dalton as an expression of the General Assembly's admiration for his leadership and service to Wythe County and the Commonwealth.

### SENATE JOINT RESOLUTION NO. 380

*Celebrating the life of Walter T. Kenney, Sr.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Walter T. Kenney, Sr., a respected labor leader and public servant who strengthened the Richmond community as a longtime member of the Richmond City Council and an esteemed former mayor, died on January 28, 2019; and

WHEREAS, a proud native of Richmond, Walter Kenney graduated from Armstrong High School and served his country as a member of the United States Army during the Korean War; and

WHEREAS, after his honorable military service, Walter Kenney continued to serve the community as a postal worker and went on to become the first African American to lead a postal union in the southern United States when he was elected president of the Virginia chapter of the American Postal Workers Union, AFL-CIO; and

WHEREAS, Walter Kenney was subsequently elected as a vice president of the American Postal Workers Union in 1970, becoming the first African American to hold a national office in a labor organization; and

WHEREAS, in 1977, Walter Kenney was elected to the first African American-majority City Council in Richmond history and ably represented the residents of the 6th District, which included Highland Park, the East End, and parts of downtown; and

WHEREAS, Walter Kenney was elected as mayor by his fellow Richmond City Council members in 1990 and served two terms until his retirement from public office in 1994; and

WHEREAS, during his long tenure on the Richmond City Council, Walter Kenney led racial reconciliation efforts, opened more city jobs to African Americans, and supported development projects designed to revitalize downtown Richmond and enhance community services; and

WHEREAS, admired for his authenticity, integrity, and unfailing kindness toward others, Walter Kenney earned a reputation as a true gentleman who worked to build mutual respect and consensus across racial, political, and regional lines; and

WHEREAS, Walter Kenney enjoyed fellowship and worship with the community as a lifelong member of St. John Baptist Church in Richmond, where he served as chair of the church's trustee ministry; and

WHEREAS, predeceased by his wife of 41 years, Mamie, Walter Kenney will be fondly remembered and greatly missed by his children, Wilma, Marvette, and Walter, Jr., and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Walter T. Kenney, Sr., a trailblazer for African American leaders in the Commonwealth and the United States; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Walter T. Kenney, Sr., as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 381

*Commending The National Society of Madison Family Descendants.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, on March 4, 2019, the nation will celebrate the 210th anniversary of James Madison's inauguration as President of the United States; and

WHEREAS, President James Madison, more than any other single individual, successfully engineered the framing and ratifying of the Constitution that has ensured the freedom, peace, and prosperity this nation has enjoyed for more than two centuries; furthermore, in the first Congress, he served as chief architect and principal advocate for America's Bill of Rights, the 10 amendments that have protected those liberties retained by the people; and

WHEREAS, the collateral descendants of President James Madison formed an association, The National Society of Madison Family Descendants, to perpetuate the memory of his political achievements, foster fellowship among his lawful collateral descendants, share family research, and support activities which develop these goals, including preservation of family landmarks; and

WHEREAS, the members of The National Society of Madison Family Descendants aided the restoration of President James Madison's Orange County family estate, Montpelier, through significant individual financial contributions and by assisting in the identification, location, and encouragement of donations of family furniture, paintings, porcelain, and various works of art original to the house; and

WHEREAS, the collateral lawful descendants of President James Madison, both before and since the formation of The National Society of Madison Family Descendants, have maintained, restored, and preserved the Madison Family Cemetery at Montpelier, a private family cemetery created upon the burial of Ambrose Madison in 1732, belonging to the descendants of Ambrose Madison, and in which President James Madison and his wife Dolley Payne Todd Madison are buried; and

WHEREAS, The National Society of Madison Family Descendants uniquely continues to foster and encourage an authentic understanding of the political, philosophical, and moral legacy of President James Madison and his wife, Dolley Payne Todd Madison, both among its membership and to the benefit of a national audience, as well as internationally via the many collateral descendants of the family in England and elsewhere abroad; and

WHEREAS, President James Madison, in his first inaugural address, admonished his fellow citizens "to support the Constitution, which is the cement of the Union, as well in its limitations as in its authorities; to respect the rights and authorities reserved to the States and to the people as equally, incorporated with and essential to the success of the general system; to avoid the slightest interference with the right of conscience or the functions of religion, so wisely exempted from civil jurisdiction; to preserve in their full energy the other salutary provisions in behalf of private and personal rights"; and

WHEREAS, President James Madison, also in his first inaugural address, said that his "confidence will under every difficulty be best placed, next to that which we have all been encouraged to feel in the guardianship and guidance of that Almighty Being whose power regulates the destiny of nations, whose blessings have been so conspicuously dispensed to this rising Republic, and to whom we are bound to address our devout gratitude for the past, as well as our fervent supplications and best hopes for the future"; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend The National Society of Madison Family Descendants for their unique guardianship and perpetuation of the historic legacies of President James Madison and Dolley Payne Todd Madison; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Frederick Madison Smith, president of The National Society of Madison Family Descendants, as an expression of the General Assembly's admiration and support for the family's noble aims and notable achievements.

### SENATE JOINT RESOLUTION NO. 382

*Commending the Chancellor High School field hockey team.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Chancellor High School field hockey team of Spotsylvania County completed an outstanding season by winning the Virginia High School League Class 4 state championship on November 10, 2018; and

WHEREAS, the Chancellor High School Chargers took down talented teams from Heritage High School 4-2 in the state quarterfinal and Midlothian High School 3-0 in the state semifinal; and

WHEREAS, in the tournament final held at South County High School in Lorton, the Chancellor Chargers defeated the Eastern View Cyclones 2-1 to claim the sixth state field hockey title in school history; and

WHEREAS, each of the 22 student-athletes on the Chancellor High School field hockey team contributed to the victory, which capped off an impressive 16-6 season; and

WHEREAS, the Chancellor Chargers benefited from the leadership and guidance of coaches and staff and the support of friends, family members, and the entire Chancellor High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Chancellor High School field hockey team on winning the Virginia High School League Class 4 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jim Larkin, head coach of the Chancellor High School field hockey team, as an expression of the General Assembly's admiration for the team's achievements.

### SENATE JOINT RESOLUTION NO. 383

*Commending Dewey Leon Fincher.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Dewey Leon Fincher, an entrepreneur and a respected community leader in Culpeper, received the prestigious L.B. Henretty Outstanding Citizen Award from the Culpeper Chamber of Commerce in 2018; and

WHEREAS, Leon Fincher founded Precision Machine Works, Inc., in 1982, and since its founding the company has created several jobs in the community and produced quality products for high-profile clients; and

WHEREAS, over the course of its 37-year history, Precision Machine Works has sponsored numerous local organizations and events, including Powell Wellness Center, Culpeper County Chamber of Commerce Scholarship Fund, Germanna Community College Educational Fund Monte Carlo Night, Culpeper Fest, Free Clinic of Culpeper Oyster Roast, Brandy Station Volunteer Fire Department's annual carnival, American Cancer Society, Culpeper County Sheriff's calendar, Culpeper Air Fest Foundation, and the Mid-Day Lions Club; and

WHEREAS, in 1999, Leon Fincher worked on a citizen task force that created and funded the Daniel Technology Center campus of Germanna Community College and used his knowledge of workforce issues to provide valuable guidance to the center; and

WHEREAS, Leon Fincher also worked diligently for more than 25 years to establish a machinist apprentice program that would help businesses in Culpeper County and the surrounding region find qualified employees; and

WHEREAS, in 2016, Leon Fincher participated in a diverse committee to make the machinist apprentice program a reality, and in 2017, the Culpeper County Board of Supervisors voted to start the school, referred to as New Pathways Tech; and

WHEREAS, Leon Fincher secured a \$250,000 grant to provide cutting-edge CNC machining equipment for students; as a testament to his role making New Pathways Tech possible, the facility housing this unique school was named the Leon Fincher Building in his honor; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Dewey Leon Fincher, recipient of the L.B. Henretty Outstanding Citizen Award, for his contributions to the community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dewey Leon Fincher as an expression of the General Assembly's admiration for his legacy of service to his fellow residents of Culpeper.

### SENATE JOINT RESOLUTION NO. 384

*Celebrating the life of Joseph C. Whitaker.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Joseph C. Whitaker, a dedicated public servant who made many contributions to the Newport News community, died on January 8, 2019; and

WHEREAS, born in Enfield, North Carolina, Joseph Whitaker grew up in Newport News and graduated from George Washington Carver High School; he continued his education at Norfolk State College and Peninsula Business College; and

WHEREAS, Joseph Whitaker worked for Johnson and Winstead and Boise Cascade and retired from Lowe's as a contractor; and

WHEREAS, Joseph Whitaker offered his expertise to the community as a member of the Newport News Planning Commission and was elected as a member of the Newport News City Council, eventually becoming vice mayor; and

WHEREAS, predeceased by his wife of 65 years, Viola, Joseph Whitaker will be fondly remembered and greatly missed by his children, Lamont, Darrel, Regina, and DyVeta, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Joseph C. Whitaker, the former vice mayor of Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Joseph C. Whitaker as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 385

*Celebrating the life of Tyler McKellan Spruill.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Tyler McKellan Spruill, 32, of Chesapeake, passed away peacefully on January 12, 2019, at Sentara Hospice House; and

WHEREAS, born in Chesapeake, Tyler Spruill was a 2005 graduate of Great Bridge High School and a 2009 graduate of Radford University; and

WHEREAS, the son of Terry and Julia Spruill, Tyler Spruill was predeceased by his grandparents, Harry and Mae Dean Spruill, T. Ray Hassell III, and Fred D. Goad; and

WHEREAS, Tyler Spruill was the beloved brother of Tori; an amazing uncle to his precious niece, Emma; an incredible nephew to his two favorite aunts, Joretta and Royce, and uncle Tom Hassell; and very special grandson of Mollie Hassell; and

WHEREAS, Tyler Spruill was blessed with an abundance of best friends, including his seven cousins, Callie, Casey, Gaines, Mary, Lynne, Sarah, and Thomas, and his pup, Charlie; and

WHEREAS, Tyler Spruill was a realtor and worked for Berkshire Hathaway Home Services Towne Realty and previously for Rose & Womble Realty; and

WHEREAS, Tyler Spruill was a passionate community and civic leader, who loved politics and supporting great Republican candidates; and

WHEREAS, Tyler Spruill was actively involved in fundraising for charities and causes, including the Bra-ha-ha, breast cancer research, and Wounded Warriors, to name a few; and

WHEREAS, Tyler Spruill served on the Chesapeake Port Authority and was an Executive Board member of the Western Tidewater Young Republicans; and

WHEREAS, a man of strength, great humor, and faith, Tyler Spruill was always willing to enthusiastically help a friend, whenever and wherever they needed it; and

WHEREAS, Tyler Spruill's memory will be honored and treasured by many, knowing that his life set the standard for love, compassion, empathy, loyalty, and respect for all of us to emulate; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Tyler McKellan Spruill, a realtor, political enthusiast, and dear friend to many; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Tyler McKellan Spruill as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 386

*Commending Jesse's Barber Shop.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, after 70 years of service to generations of community members, Jesse's Barber Shop in Independence closed its doors on September 29, 2018; and

WHEREAS, Cebert Anders started Jesse's Barber Shop in 1948, and ownership of the business was passed down to his son, Jesse, and his grandsons, Bruce and Chris; and

WHEREAS, Cebert Anders owned and operated Jesse's Barber Shop until he passed away at the age of 65, when the business was handed down to Jesse Anders, who had begun shining shoes in the shop at age 11 and was cutting hair by the age of 13 in 1951; and

WHEREAS, turning 80 years old in January 2019 influenced Jesse Anders' decision to close the shop after a long career that included service to his profession, serving five terms on the Virginia State Board for Barbers and Cosmetology, attending barber seminars around the country and the globe, and running two other area salons; and

WHEREAS, along with providing quality personal care services at Jesse's Barber Shop, Jesse Anders also served an important role in the Grayson County community; he is a founding member of the Jaycees and helped start the first recreation and sports programs for Grayson County; he served as a Grayson County Board of Supervisors member from 1972 to 1976 while helping to develop the first trash pick-up and waste management services and also to survey land for significant community buildings, including the Grayson County Courthouse; and

WHEREAS, Jesse Anders' sons Bruce and Chris have been co-owners at Jesse's Barber Shop and eventually partnered in running the business as years passed; Bruce began his barbering career in 1979, and Chris followed shortly after in 1984;

both sons will continue the legacy and family profession at their own businesses, taking the memories and friendships that they have cultivated over the years; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Jesse's Barber Shop for providing quality personal care services for 70 years; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jesse's Barber Shop as an expression of the General Assembly's admiration for its longevity and service to the community.

### SENATE JOINT RESOLUTION NO. 387

*Celebrating the life of Jennifer Marable Stivers.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Jennifer Marable Stivers, an inspirational member of the Rockville community and a beloved wife and mother, died on January 4, 2019; and

WHEREAS, Jennifer Stivers was born in Columbus, Ohio, to the late Samuel Addison Marable III and Audrey V. Marable Fink; and

WHEREAS, Jennifer Stivers grew up in Dallas, Texas, and was educated at Ursuline Academy, the University of Texas, where she met her husband, Greg, and the University of San Diego, earning degrees in business and design; and

WHEREAS, Jennifer Stivers had an entrepreneurial spirit and was the owner of the successful design firm, Marable by Design; she also used her passion as a wine enthusiast as a manager at Four Seasons Hotel; and was a talented photographer, who had once worked in New York City's fashion and music industries; and

WHEREAS, Jennifer Stivers was an advocate for children and rural communities and she was passionate about caring for animals, especially dogs, cats, and horses; and

WHEREAS, Jennifer Stivers enjoyed fellowship and worship with the community at St. Bridget Catholic Church, where she was active in the Eldercare Ministry and Thrifty Sisters; and

WHEREAS, guided by her deep and abiding faith, Jennifer Stivers volunteered her time to offer the sacrament of Holy Communion at three local nursing homes, and provided comfort and fellowship to residents with the help of her Greater Swiss Mountain Dog, Ludwig; and

WHEREAS, Jennifer Stivers' greatest joy in life was her family, and she relished every opportunity to spend time with her four children; and

WHEREAS, Jennifer Stivers will be fondly remembered and greatly missed by her husband, Greg; her children, Elizabeth, Grace, Samuel, and Andrew; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Jennifer Marable Stivers; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jennifer Marable Stivers as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 388

*Celebrating the life of Trooper Lucas B. Dowell.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Trooper Lucas B. Dowell, a dedicated law-enforcement officer with the Virginia State Police, who was committed to helping others and serving the community, died in the line of duty on February 4, 2019; and

WHEREAS, Lucas Dowell grew up in Chilhowie, where he attended Chilhowie High School; he continued his education at Radford University, earning a bachelor's degree in criminal justice; and

WHEREAS, Lucas Dowell graduated from the Virginia State Police Academy with the 122nd Basic Session on November 21, 2014; he was assigned to Area 20 of Division III, which encompasses the City of Lynchburg and the Counties of Amherst and Campbell; and

WHEREAS, a model law-enforcement officer, Lucas Dowell went above and beyond in his service to the public and support for his fellow officers; he became a member of the Division III Tactical Team in 2016 and was certified as a general instructor; and

WHEREAS, Lucas Dowell worked to build trust and mutual respect with members of the public, and he was well known by family and friends for his sense of humor and ability to captivate a room with his penchant for storytelling; and

WHEREAS, Lucas Dowell made the ultimate sacrifice while executing a search warrant with the Piedmont Regional Drug and Gang Task Force near Farmville, a reminder of the dangers bravely faced by police officers throughout the Commonwealth and the United States as they strive to serve and protect the members of their communities each day; and

WHEREAS, Lucas Dowell will be fondly remembered and greatly missed by his parents, Michael and Rebecca; his sister, Erica; and numerous other family members, friends, and fellow law-enforcement officers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Trooper Lucas B. Dowell; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Trooper Lucas B. Dowell as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 389

*Commending Business Engineering, Inc.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Business Engineering, Inc., a privately owned business in Reston that provides information technology support to companies throughout the Washington, D.C., Metropolitan Area, was honored by the Greater Reston Chamber of Commerce and Cornerstones, Inc., with a prestigious 2019 Cornerstones of Our Community Best of Reston Award for its high emphasis on good corporate citizenship; and

WHEREAS, the Best of Reston awards honor individuals, organizations, and companies that have demonstrated an extraordinary commitment to helping others and improving the lives of people throughout the Greater Reston area; and

WHEREAS, founded in 1987 by Mike and Ellen Jennings, Business Engineering, Inc., (BEI) offers network evaluation, design, installation, and support; the company both functions as an outsourced information technology (IT) department for clients and works with existing internal IT departments; and

WHEREAS, BEI seeks out employees who share the company's values of honesty, integrity, and customer service and promotes a healthy life balance between work, family, and community; the company emphasizes the importance of professional development for its employees as well as customer education, hosting no-cost seminars on technical topics throughout the region; and

WHEREAS, for more than 15 years, BEI has been an active partner in the Reston community, with members of the company using their IT expertise to support other local businesses and organizations, such as the Greater Reston Arts Center; and

WHEREAS, BEI has been a member of the Greater Reston Chamber of Commerce since 2003 and has provided IT support to the chamber since 2009, with Mike Jennings serving on the chamber's Board of Directors; Ellen Jennings has been a member of Resourceful Women since 2013 and spearheaded the committee's support of the Artemis House domestic violence shelter; and

WHEREAS, other BEI executive staff serve on the chamber's Innovation Committee and Reston Planning and Zoning Committee, and many BEI employees are active in chamber-sponsored community events; and

WHEREAS, BEI supports young people as a sponsor for the South Lakes High School Athletic Boosters and is a supporter of the Northern Virginia Maker Faire, which gives children the opportunity to learn about computers and electronics; BEI is also active with Boy Scout Troop 20 and the Women in Technology and Girls in Technology organizations; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Business Engineering, Inc., for its many contributions to the Reston community and on the well-deserved honor as a 2019 Best of Reston award recipient; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Business Engineering, Inc., as an expression of the General Assembly's admiration for the organization's enduring commitment to making Reston a special place to live, work, and play.

### SENATE JOINT RESOLUTION NO. 390

*Commending Roz Rakoff.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Roz Rakoff, a retired social worker who goes above and beyond to support her fellow members of the Reston community as a prolific volunteer, was honored by the Greater Reston Chamber of Commerce and Cornerstones, Inc., with a prestigious 2019 Cornerstones of Our Community Best of Reston Award; and

WHEREAS, the Best of Reston awards honor individuals, organizations, and companies that have demonstrated an extraordinary commitment to helping others and improving the lives of people throughout the Greater Reston area; and

WHEREAS, Roz Rakoff pursued a career as a clinical social worker for 20 years, supporting many people in the community, but primarily working with teachers; prior to her career as a social worker, she promoted literacy and the importance of a good education as a librarian; and

WHEREAS, best known for her volunteer efforts, Roz Rakoff has strengthened the fabric of the Reston community through her unfailing kindness and exceptional generosity, donating countless hours of her time and tens of thousands of dollars to support worthy causes; and

WHEREAS, Roz Rakoff helps to ensure that young people in the community have the food and supplies they need to focus on their studies by volunteering at the South Lakes High School PTSA Food Pantry every week; in addition to purchasing food and collecting donations, she builds personal relationships with students to ensure that their unique needs are met; and

WHEREAS, Roz Rakoff has supported one such student, a single mother, by helping her obtain child care, purchasing baby clothes and other items, and encouraging her to stay in school and graduate, exemplifying the special care and attention she provides to individuals throughout the Reston community; and

WHEREAS, Roz Rakoff for many years helped to plan and manage the annual Northern Virginia Fine Arts Festival and has offered her time and support to Cornerstones, Giving Circle of Hope, and A Simple Gesture-Reston; her compassion for others is rivaled only by her profound humility; and

WHEREAS, Roz Rakoff is a founding member of Shoreshim, a synagogue that has served Reston residents for 50 years, and she was named by the Reston Historic Trust as a Woman Pioneer of Reston for her decades of work in community development; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Roz Rakoff for her legacy of contributions to the Reston community as a volunteer and on the well-deserved honor as a 2019 Best of Reston award recipient; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Roz Rakoff as an expression of the General Assembly's admiration for her enduring commitment to making Reston a special place to live, work, and play.

### SENATE JOINT RESOLUTION NO. 391

*Commending Margaret D. Parker.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Margaret D. Parker, a member of the executive team of Comstock Companies, who played a vital role in bringing a Washington Metro Silver Line station to Reston, was honored by the Greater Reston Chamber of Commerce and Cornerstones, Inc., with a prestigious 2019 Cornerstones of Our Community Best of Reston Award; and

WHEREAS, the Best of Reston awards honor individuals, organizations, and companies that have demonstrated an extraordinary commitment to helping others and improving the lives of people throughout the Greater Reston area; and

WHEREAS, as a member of the real estate firm Comstock Companies, Margaret "Maggie" Parker has worked with Fairfax County, Loudoun County, and Herndon to enhance the region around the Silver Line by creating vibrant mixed-use developments and facilitating innovative public-private partnerships; and

WHEREAS, with her boundless enthusiasm, magnetic charisma, and unparalleled work ethic, Maggie Parker is a proactive leader and a skilled communicator who builds consensus and can inspire others to achieve excellence in any project; and

WHEREAS, Maggie Parker has offered her expertise to the Greater Reston Chamber of Commerce, the Loudoun County Chamber of Commerce, and numerous local planning initiatives, including the realization of the Wiehle-Reston East Metro station project; and

WHEREAS, Maggie Parker is a tireless booster for the Reston community, supporting Cornerstones, the Greater Reston Arts Center, the Reston Community Center, the Reston Historic Trust, the Potomac School, and Reston Hospital Center; and

WHEREAS, as chair of Public Art Reston, Maggie Parker has advanced the organization's mission to support public art projects in Reston and Fairfax County by strengthening administrative resources, building connections with local developers and government agencies, and leading fundraising efforts; and

WHEREAS, over the past 30 years, Maggie Parker's volunteer efforts and professional leadership have benefited tens of thousands of community members; in 2018, she was recognized by Leadership Fairfax with a Northern Virginia Leadership Award; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Margaret D. Parker for her exceptional leadership in the region and on the well-deserved honor as a 2019 Best of Reston award recipient; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Margaret D. Parker as an expression of the General Assembly's admiration for her enduring commitment to making Reston a special place to live, work, and play.

**SENATE JOINT RESOLUTION NO. 392**

*Commending Synergy Design & Construction.*

Agreed to by the Senate, February 14, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Synergy Design & Construction, an innovative home design and renovation firm that gives back to the community through generous volunteer service, was honored by the Greater Reston Chamber of Commerce and Cornerstones, Inc., with a prestigious 2019 Cornerstones of Our Community Best of Reston Award; and

WHEREAS, the Best of Reston awards honor individuals, organizations, and companies that have demonstrated an extraordinary commitment to helping others and improving the lives of people throughout the Greater Reston area; and

WHEREAS, founded by Mina and Mark Fries, Synergy Design & Construction offers a unique approach to home design and construction through *The Renovation Roadmap*, a project management system for home remodeling that utilizes Mina's expertise in Interior Alignment and Mark's years of experience in retail management; and

WHEREAS, over the course of its nine years of service to the community, Synergy Design & Construction has grown from a team of three people to a team of 14, many of whom are longtime Reston residents; the company emphasizes volunteerism and good citizenship and regularly seeks opportunities to engage with the community; and

WHEREAS, Synergy Design & Construction donates unwanted items from home renovations, such as furniture, appliances, and cabinetry to the Habitat for Humanity ReStore and directly to members of the community in need; members of the company have also completed exterior home repair projects for local residents through the Reston Association's Helping Homes Project; and

WHEREAS, Synergy Design & Construction supports young people by dedicating time and resources to the Special Olympics and other youth athletics programs, participating in Ethics Day and Career Day at South Lakes High School, and coordinating programs for students through the Greater Reston Arts Center; and

WHEREAS, members of Synergy Design & Construction have volunteered for events at the Artemis House, Women Giving Back, the Embry Rucker Community Shelter, and LINK food banks, among many others, and host fundraisers, auctions, and drives to benefit the Loudoun First Responders Foundation, Georgetown Lombardi Comprehensive Cancer Center, and the United Way; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Synergy Design & Construction for its legacy of contributions to the Reston community and on the well-deserved honor as a 2019 Best of Reston award recipient; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Synergy Design & Construction as an expression of the General Assembly's admiration for the organization's enduring commitment to making Reston a special place to live, work, and play.

**SENATE JOINT RESOLUTION NO. 393**

*Commending the Oakton High School boys' lacrosse team.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Oakton High School boys' lacrosse team won the Virginia High School League Class 6 state title on June 9, 2018; and

WHEREAS, in the state championship final, held at Deep Run High School, the Oakton High School Cougars defeated the Robinson Secondary School Rams by a score of 11-10; and

WHEREAS, the Oakton Cougars scored first, but the Robinson Rams took the momentum until the Oakton defense reasserted itself in the second half; and

WHEREAS, in a dramatic finish, the Oakton Cougars came back from a five-goal deficit in the fourth quarter, when Jared Cole tied the game at 10-10 with only 39.8 seconds remaining and scored the game-winner after the following face-off; and

WHEREAS, every member of the Oakton Cougars contributed to the win, which capped off an impressive 17-3 season; and

WHEREAS, throughout the year, the Oakton Cougars benefited from the leadership and guidance of coaches and staff and the passionate support of the entire Oakton High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Oakton High School boys' lacrosse team on winning the Virginia High School Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jake Bullock, head coach of the Oakton High School boys' lacrosse team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

**SENATE JOINT RESOLUTION NO. 394**

*Celebrating the life of Anthony Robert Whetzel.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Anthony Robert Whetzel, a professional and devoted firefighter who safeguarded the lives and property of Rockingham County residents, died on September 15, 2018; and

WHEREAS, Anthony Whetzel was born in Harrisonburg and attended Broadway High School, where he played football and started volunteering with the fire department as a teenager, and where he also attended the Massanutten Technical Center; and

WHEREAS, in 2006 Anthony Whetzel became a paid Rockingham County firefighter, and in 2014 climbed the ranks to become a captain, where his colleagues say he truly loved his job of helping people; and

WHEREAS, his colleagues remember Anthony Whetzel as someone who was professional, but also fun to be around and could lighten the mood of the oftentimes stressful job of firefighting, and was especially memorable because of his signature majestic moustache; and

WHEREAS, Anthony Whetzel retired as a captain for the Rockingham County Department of Fire and Rescue; he volunteered his wise leadership to his peers in fire safety as vice president of the International Association of Professional Firefighters Local 3321; and he contributed to his community as a member of the Concord United Church of Christ near Timberville; and

WHEREAS, Anthony Whetzel, will be fondly remembered and greatly missed by his wife, Drenna Cook; children, Rylan and Callie; parents, Harry R. and Faye Price Whetzel; grandmother, Laverne Price; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Anthony Robert Whetzel, a professional and devoted firefighter who safeguarded the lives and property of Rockingham County residents; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Anthony Robert Whetzel as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 395**

*Celebrating the life of T. Rodman Layman.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, T. Rodman Layman, a respected attorney and civic leader in Pulaski County, died on October 27, 2018; and WHEREAS, a native of Troutville, Rodman "Rod" Layman grew up in Rockbridge County and Blacksburg; he graduated from Blacksburg High School and Bridgewater College and was a standout track and field athlete at both schools; and

WHEREAS, Rod Layman served his country as a member of the United States Army, then earned a master's degree from Indiana University and a law degree from the University of Richmond; he taught government at Virginia Polytechnic Institute and State University (Virginia Tech) before joining the Crowell-Nuckols law firm and serving as a United States District Attorney in the 1960s; and

WHEREAS, desirous to be of further service to the Commonwealth, Rod Layman ran for seats in the Virginia House of Delegates and the Senate of Virginia in the 1960s; while his campaigns were unsuccessful, he was appointed as chair of the Virginia Alcoholic Beverage Control Commission shortly thereafter; and

WHEREAS, Rod Layman was subsequently appointed as Secretary of Public Safety under Governor John Dalton; he served in that capacity until 1982, when he returned to Pulaski to continue practicing law; and

WHEREAS, Rod Layman was active in the Pulaski County community, offering his wise leadership to the Pulaski County Republican Party, the Pulaski County Touchdown Club, and the Rotary Club of Pulaski; and

WHEREAS, a lifelong fan and benefactor of Virginia Tech, Rod Layman served on the institution's Board of Visitors from 1995 to 2004; he reached Golden Hokie status in the Hokie Club and was a longtime season-ticket holder who attended 26 football bowl games; and

WHEREAS, a man of deep and abiding faith, Rod Layman enjoyed fellowship and worship in the Pulaski community as a member of First United Methodist Church, where he taught Sunday school and sang in the choir; and

WHEREAS, Rod Layman will be fondly remembered and greatly missed by his wife of nearly 54 years, Barbara; his sons, Geoff and Matt, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of T. Rodman Layman; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of T. Rodman Layman as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 396**

*Celebrating the life of Maxine Lyons Silver.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Maxine Lyons Silver, a loving wife and mother who enhanced community life in Fredericksburg by supporting philanthropic causes, died on September 19, 2018; and

WHEREAS, born in New York City, Maxine Silver relocated to the Commonwealth with her family at a young age and grew up in Fredericksburg; and

WHEREAS, Maxine Silver attended Lafayette Elementary School and James Monroe High School in Fredericksburg; after graduating from Ward-Belmont College, she moved to New York City to work as a fashion model, living with a cousin and creating lasting memories there; and

WHEREAS, Maxine Silver moved back to Fredericksburg in 1944 and began working for the war effort at Fort Belvoir; a few years later she married Carl D. Silver at the original synagogue in Fredericksburg, Beth Sholom Temple, where her parents were founding members; and

WHEREAS, Maxine Silver was an active member of the Fredericksburg community throughout her life and was passionate about making a positive impact by giving back to local children and families in need; and

WHEREAS, throughout their 60-year marriage, Maxine Silver proudly supported charitable efforts by her and her late husband, Carl D. Silver; these contributions included the Lloyd F. Moss Free Clinic, Mary Washington Healthcare, Boys & Girls Club of Fredericksburg, and Loisann's Hope House, named in memory of their daughter; and

WHEREAS, known as much for her principled generosity as for her elegance and grace, Maxine Silver brought joy to everyone she met through her charm, sense of humor, and unsurpassed kindness; and

WHEREAS, Maxine Silver will be fondly remembered and greatly missed by her loving son, Larry D. Silver, and his family, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Maxine Lyons Silver, a loving mother and wife who supported philanthropic causes in Fredericksburg; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Maxine Lyons Silver as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 397**

*Commending Ashland D. Fortune.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Ashland D. Fortune, Louisa County sheriff, is retiring in 2019 after serving in the position for two decades; and

WHEREAS, Ashland Fortune is a 55-year veteran of law enforcement and since January 2000 has served as the sheriff of Louisa County; he is also a successful businessman and a devoted and dedicated family man; and

WHEREAS, Ashland Fortune received his early education in Louisa County Public Schools graduating from A. G. Richardson High School; he attended Virginia State University, majoring in agriculture and business; he graduated from the Virginia State Police Academy in 1967; and

WHEREAS, Ashland Fortune was the first African American chief of police in the Town of Louisa, where he served for 35 years; he was also the first African American elected sheriff of Louisa County; and

WHEREAS, Ashland Fortune served as a career counselor for the youth of Louisa County; he was a First Aid instructor for over 17 years, formed the first auxiliary police force in the county, and successfully brought technology and proactive programs into the office addressing Internet crimes against children, elder checks, drug takebacks, citizens' academies, a K-9 unit, and forensic investigations and special operations; and

WHEREAS, Ashland Fortune implemented both a Narcotics Task Force and a Gang Task Force; he mandated cultural diversity training for all personnel prior to it being mandated by law; he consistently maintained excellent reviews on all exercises and drills at North Anna Nuclear Generating Station; and

WHEREAS, Ashland Fortune provided department instructors to train all personnel in active shooter situations, upgraded professional standards, and continually worked to provide a full range of professional law-enforcement services to the community including school resource officers, firearm safety classes, and community group educational programming about crime issues; and

WHEREAS, Ashland Fortune has maintained involvement in numerous community organizations and boards including the Galilee Baptist Church Louisa, the Virginia Sheriff's Association, the Fraternal Order of Police, the Virginia Association of Chiefs of Police, the Regional Crime Clinic, and the Piedmont Virginia Community College; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ashland D. Fortune, on the occasion of his retirement as sheriff of Louisa County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ashland D. Fortune as an expression of the General Assembly's admiration for his leadership and dedication to service and best wishes for his well-earned retirement.

### SENATE JOINT RESOLUTION NO. 398

*Commending William H. Talley III.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, William H. Talley III, a respected business leader, generous philanthropist, and a champion for higher education, has dedicated a lifetime of service to the Petersburg community and the Commonwealth; and

WHEREAS, in 1954, after graduating from Randolph-Macon College and the Richmond Professional Institute and serving his country as a member of the United States Army, William Talley returned to Petersburg to join the insurance and financial services firm, William H. Talley & Son, Inc.; and

WHEREAS, as chair of the board of William H. Talley & Son, Inc., William Talley has maintained the company's proud legacy of excellence that dates back to its establishment in 1905; and

WHEREAS, William Talley served the City of Petersburg as a member of the Architectural Review Board for eight years and has been a longtime member of the Industrial Development Authority, serving 14 years as chair; and

WHEREAS, a passionate lifelong learner who appreciates the importance of education, William Talley served on the John Tyler Community College Foundation from 1986 to 2015 and was a member of the College Board of John Tyler Community College from 1993-2001, with terms as vice chair and chair; and

WHEREAS, William Talley played a pivotal role in effecting the partnership between John Tyler Community College and the City of Petersburg that led to the creation of a new campus in July 2007 to better serve the needs of Virginia's Gateway Region; and

WHEREAS, William Talley has further supported students by establishing endowed scholarships at John Tyler Community College, Richard Bland College, and Randolph-Macon College; and

WHEREAS, William Talley enjoys fellowship and worship with the community as a charter member of St. Mark's United Methodist Church, and has held leadership positions in the Petersburg District of the United Methodist Church and the Virginia Conference of the United Methodist Church; and

WHEREAS, William Talley has generously offered his leadership and expertise to many other civic, service, and professional organizations, and he has earned numerous awards and accolades from Randolph-Macon College, the Virginia Community College System, and John Tyler Community College; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend William H. Talley III for his support for higher education and many contributions to John Tyler Community College and the residents of Petersburg; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William H. Talley III as an expression of the General Assembly's admiration for his legacy of servant leadership.

### SENATE JOINT RESOLUTION NO. 399

*Commending Virginia's State Forests.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, in 1919 Emmett D. Gallion bequeathed his 588 acres of woodlands to the Virginia Forest Service to create the first Virginia State Forest; and

WHEREAS, over the next 100 years additional properties were acquired or donated to become new state forests; and

WHEREAS, as of 2019, the Virginia Department of Forestry owns and manages 24 state forests, totaling 68,858 acres; and

WHEREAS, these forests are managed to conserve biological diversity, utilize their productive capacity, maintain their health and vigor, enhance the carbon cycle, increase socioeconomic benefits, protect water quality, and provide recreational opportunities to the residents of and visitors to Virginia; and

WHEREAS, the majority of the Commonwealth's total acreage is forestland, and the Virginia Department of Forestry protects and develops healthy, sustainable forest resources for the benefit of all Virginians; and

WHEREAS, well-managed forests benefit Virginia's economy, communities, air, water, soil and wildlife, and the continued sustainable management of Virginia's State Forests is crucial to the economic vitality of the Commonwealth; and

WHEREAS, Virginia's forests provide an overall economic output of more than \$21 billion annually, employing more than 108,000 Virginians in forestry, forest products, and related industries; and

WHEREAS, active and viable forest product markets are necessary to support healthy forests, and Virginia's State Forests are being sustainably managed to meet the numerous environmental and economic needs of the Commonwealth; and

WHEREAS, the global demand for certified forest products has increased due to corporate environmental responsibility, green building standards, and government regulation; and

WHEREAS, the use of wood originating from well-managed forests is prudent, and Virginia forest landowners and forest product manufacturers benefit from access to certified product markets where the adoption of these systems occur; and

WHEREAS, certification to the Sustainable Forestry Initiative and American Tree Farm System Standards provides a trustworthy and internationally recognized assurance to the marketplace that timber sources are managed and harvested in an environmentally responsible way; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Virginia's State Forests on the occasion of the 100th anniversary of the establishment of the first such forest; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Department of Forestry as an expression of the General Assembly's admiration for the environmental, economic, and recreational benefits of Virginia's State Forests.

### SENATE JOINT RESOLUTION NO. 400

*Commending the New River Valley Agency on Aging.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, for more than 40 years, the New River Valley Agency on Aging has played a vital role in helping local residents age with dignity by providing education, advocacy, and support; and

WHEREAS, the mission of the New River Valley Agency on Aging is to maximize the quality of life of older adults, adults with disabilities, and their care providers through support services, advocacy, and education; and

WHEREAS, to better serve constituents, the New River Valley Agency on Aging offers numerous programs including care coordination services, congregate meals, elder abuse prevention, home-delivered meals, homemaker services, information and assistance, legal services, medical transportation, an ombudsman program, and respite care; and

WHEREAS, the New River Valley Agency on Aging has saved hundreds of thousands of dollars annually for Medicare recipients through the services provided in the Virginia Insurance Counseling and Assistance Program, as well as cultivated strong community partnerships to proactively address aging in place within the communities the agency serves, engaging corporate support to contribute toward the service needs of vulnerable older adults; and

WHEREAS, the New River Valley Agency on Aging has won awards and recognition for its effective work including the National Area Agencies on Aging's Aging Innovations and Achievement Award, a Carilion Foundation grant to support transportation services; a New River Valley Health Foundation grant to support in-home services; the Commonwealth Council on Aging Best Practices Award; and funding from the Geriatric Training and Education initiative; and

WHEREAS, key volunteers like Deena Flinchum dedicate thousands of hours annually to serve the New River Valley Agency on Aging to support health insurance counseling and other services; groups like the Southeastern Association of Area Agencies on Aging have recognized the New River Valley Agency on Aging for volunteer engagement; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the New River Valley Agency on Aging for more than 40 years of assisting hundreds of older adults and their caregivers with services, information, and advocacy that helps them to stay in their homes and communities safely and with dignity; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the New River Valley Agency on Aging for fostering independence and healthy aging and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### SENATE JOINT RESOLUTION NO. 401

*Commending the King William County Ruritan Club.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the King William County Ruritan Club celebrated 80 years of service, fellowship, and goodwill to the community in 2018; and

WHEREAS, the King William County Ruritan Club was founded in 1938 and has served King William County with numerous fundraisers and community events; since it was founded, the club has raised and donated more than \$450,000 to the community from its fundraising events which include a fish fry, shrimp feast, steak feast, catfish fry, Octoberfest, Brunswick stew event, golf tournament, and more; and

WHEREAS, the King William County Ruritan Club has an active membership of men and women who represent a cross-section of the community; the club recently welcomed its first woman member, King William County Commissioner of the Revenue, Sally Pearson; the club's first African American president is its current leader Ronald A. Moore; and

WHEREAS, the King William County Ruritan Club, like all Ruritan Clubs, strives to make their community a better place in which to live and work through volunteerism, community service, fellowship, and scholarship, with monthly membership meetings at their facility at 156 Ruritan Lane in King William; and

WHEREAS, the King William County Ruritan Club's financial support to the community includes donations to the local fire and EMS organizations, law-enforcement agencies, and the county's school division for supplies; as well as community charity organizations and sports teams; and

WHEREAS, the King William County Ruritan Club has a proud history of assisting the King William County community on many different levels and the club's longevity is a testament to the hands-on approach its club members have taken to service over the past 80 years; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the King William County Ruritan Club on the occasion of its 80th anniversary, marking decades of service, fellowship, and goodwill to the community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ronald A. Moore, King William County Ruritan Club president, as an expression of the General Assembly's admiration for the organization's proud history of community service to King William County.

### SENATE JOINT RESOLUTION NO. 402

*Commending the W.T. Woodson High School boys' cross country team.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the W.T. Woodson High School boys' cross country team claimed the first cross country state title in school history with a victory in the Virginia High School League Class 6 state championship on November 10, 2018; and

WHEREAS, the W.T. Woodson High School Cavaliers took advantage of the colder conditions and their familiarity with the course at Great Meadow Park to score 72 points, defeating their season-long rivals, the West Springfield High School Spartans, by 6 points; and

WHEREAS, senior Jackson Leech led the way for the Woodson Cavaliers, finishing second overall with a time of 16:06, followed by senior John Leal who finished 16th overall and 10th in scoring; and

WHEREAS, senior Aslan Abrishami-azar finished 26th overall and 18th in scoring, senior Tyler French finished 30th overall and 20th in scoring, and sophomore Robert Johnson finished 33rd overall and 22nd in scoring; junior Alejandro Posadas-Nava and senior Ethan Callahan finished 45th overall and 49th overall, respectively; and

WHEREAS, the victory is a testament to the skill of all the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the entire W.T. Woodson High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the W.T. Woodson boys' cross country team on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the W.T. Woodson High School boys' cross country team as an expression of the General Assembly's admiration for the team's hard work and dedication.

### SENATE JOINT RESOLUTION NO. 403

*Commending the W.T. Woodson High School girls' tennis team.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, with a victory in the Virginia High School League Class 6 state championship, the W.T. Woodson High School girls' tennis team of Fairfax County secured the first state tennis title in school history on June 9, 2018; and

WHEREAS, after finishing as state runners-up in 2017, the W.T. Woodson High School Cavaliers returned to the state tournament to defeat the Kellam High School Knights 5-0 in singles matches and secure the historic win; and

WHEREAS, Woodson freshman Kaitlin Lemair earned the match-winning point with scores of 7-5 and 6-2; and

WHEREAS, the Woodson Cavaliers dominated the competition throughout the state final; junior Jess Lemair won 6-1 and 6-0, freshman Sarah Livingston won 6-0 and 6-1, and sophomore Camryn Kim won 6-1 and 6-0; and

WHEREAS, Woodson's star senior Lexi Merrill won 6-0 and 6-2, finishing her high school career with only one loss in singles matches; and

WHEREAS, the Woodson Cavaliers achieved success through the dedication and hard work of all the student-athletes, the leadership of coaches and staff, and the enthusiastic support of the entire W.T. Woodson High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the W.T. Woodson High School girls' tennis team on winning the Virginia High School League Class 6 state championship in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Susie Hamrock, head coach of the W.T. Woodson High School girls' tennis team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

#### SENATE JOINT RESOLUTION NO. 404

*Commending the Robinson Secondary School gymnastics team.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Robinson Secondary School gymnastics team of Fairfax County claimed the state crown for the first time since 1984 with a victory in the Virginia High School League Class 6 state championship on February 16, 2018; and

WHEREAS, the Robinson Secondary School Rams finished with a team score of 147.875, defeating the reigning state champion McLean High School Highlanders, as well as talented teams from Battlefield High School and Ocean Lakes High School; and

WHEREAS, sophomore Kelly Murphy led the Robinson Rams with a team-high 9.725 on the bars; other standouts were junior Katie Shiffer with a 9.625 on the beam, and senior Catherine Reynolds with a 9.575 on the vault and 9.35 in the floor routine; and

WHEREAS, every member of the Robinson Secondary School gymnastics team contributed to the momentous victory; and

WHEREAS, throughout the season, the Robinson Rams benefited from the leadership and guidance of coaches and staff and the energetic support of the entire Robinson Secondary School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Robinson Secondary School gymnastics team on winning the Virginia High School League Class 6 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Robinson Secondary School gymnastics team as an expression of the General Assembly's admiration for the team's accomplishments and best wishes for the future.

#### SENATE JOINT RESOLUTION NO. 405

*Commending Mt. Zion Baptist Church.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, for 160 years, Mt. Zion Baptist Church in Locust Grove has served the members of the Orange County community by providing spiritual leadership, generous outreach programs, and opportunities for joyful worship; and

WHEREAS, prior to the Emancipation Proclamation in 1863, the citizens of the Gordon District in Orange County who would become the congregation of Mt. Zion Baptist Church gathered to praise God through prayer, song, and testimony; and

WHEREAS, the early ancestors of Mt. Zion Baptist Church were many and consisted of members of the Armstead, Broadus, Brooks, Carter, Cottoms, Henderson, Johnson, Lewis, Minor, and Vass families, with birth dates as early as 1810; descendants of those families remain members and loyal supporters of the church; and

WHEREAS, initially, the residents formed a Prayer Band in the home of Maria Armstead and Peter Armstead, the congregation's first known spiritual leader, in an area referred to as Peter Bottom near Indiantown Road in Locust Grove; and

WHEREAS, the Prayer Band's next place of worship was a brush arbor built on a corner lot subsequently purchased by Nathan Henderson and his wife, Betsy, with the Reverend John C. Willis, Jr., a white minister, as the principal speaker; and

WHEREAS, in Mt. Zion Baptist Church's early days, many members walked to worship services and others traveled by horseback and carriages from the neighboring communities of Lewistown, Peter Bottom, Fox Neck, and Flat Run; and

WHEREAS, as the church community grew in numbers and spirituality, Prayer Band members decided to divide the travel distance and move from Indiantown Road in Lewistown to property owned by Abe Roach on Governor Almond Road, where the congregation erected a log cabin; and

WHEREAS, the Reverend Peter Armstead continued as the Prayer Band's leader until his death sometime prior to the 1860s; and

WHEREAS, in 1858, needing a larger sanctuary and unable to add to the log cabin, the Prayer Band moved to a property on land owned by Henry Willis, a few miles from the present location of Mt. Zion Baptist Church; during this period, the Reverend Robert Woodson, a traveling minister, served the congregation; and

WHEREAS, the Reverend Wanzer Tibbs, also a traveling minister, was the Prayer Band's next spiritual leader; he named the new sanctuary Zion Baptist Church, later referred to as Mt. Zion Baptist Church (Colored) and formally changed to Mt. Zion Baptist Church on November 5, 2000; and

WHEREAS, the Reverend James A. Robinson of Spotsylvania became the first official pastor of Mt. Zion Baptist Church and served the congregation for 33 years, from 1895 to 1928, and established the church's first Sunday school and Usher Board; and

WHEREAS, the next pastor of Mt. Zion Baptist Church, the Reverend Robert L. Harris, served from approximately 1930 to 1951, and oversaw the baptism of many new members in Floyd Hicks' farm pond; and

WHEREAS, in 1951, the Reverend Ellis W. Yancey was elected pastor, and designed and began the construction of a new church building; groundbreaking services took place in 1954, and Benny Carter of Spotsylvania was the builder; and

WHEREAS, in 1957, the Reverend Charles H. Sanford was elected as pastor of Mt. Zion Baptist Church and under his leadership the new building was completed; on May 5, 1962, Floyd E. Hicks and Mabel E. Hicks conveyed to Wyman H. Johnson and MacNeire Johnson, as trustees, the land on which the church currently stands; and

WHEREAS, the Reverend Winston L. Brock, who guided Mt. Zion Baptist Church from 1981 to 1995, was an inspirational and motivational leader who greatly improved and enhanced the church building and grounds; he was succeeded by the Reverend Ernest Woodson, who was pastor from 1996 to 1997; and

WHEREAS, on November 13, 1996, the interior of Mt. Zion Baptist Church suffered fire damage; deacons Howard Roberts, MacNeire Johnson, George Price, and Clarence Washington and sisters Betty Roberts and Joan Washington were instrumental in overseeing the restoration; and

WHEREAS, the Reverend Dr. Robert C. Stone, pastor of Mt. Zion Baptist Church from 2000 to 2006, was a man who walked among his people and appointed two associate ministers, the Reverend Eddie Naylor and the Reverend Alan Watkins, to better serve the congregation; and

WHEREAS, the current pastor of Mt. Zion Baptist Church, the Reverend Sanford Reaves, Jr., joined the church in 2007 and continues to answer God's call to grow the congregation both physically and spiritually, and preach the gospel to the people; and

WHEREAS, throughout the history of Mt. Zion Baptist Church, the members of the congregation have upheld their commitment to serve the Lord by believing, trusting, praising, and growing in their spiritual faith; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Mt. Zion Baptist Church on the occasion of its 160th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Sanford Reaves, Jr., pastor of Mt. Zion Baptist Church, as an expression of the General Assembly's admiration for the church's unique place in local history and contributions to the Locust Grove community.

### SENATE JOINT RESOLUTION NO. 406

*Celebrating the life of James Walter Rogers.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, James Walter Rogers, decorated veteran, active community member, and respected former sheriff of Henry County, died on January 24, 2019; and

WHEREAS, James Rogers was born in Stokes County, North Carolina, and served with the United States Marine Corps for 21 years; he was a decorated veteran of World War II and the Korean War where he fought in four major battles, including the Chosin Reservoir battle where temperatures reached 35 degrees below zero; and

WHEREAS, in addition to receiving three Presidential Unit Citations, James Rogers was awarded many medals including the Bronze Star Medal with Combat V and the Purple Heart for his valorous actions when he was wounded by machine gun fire during the Korean War; his outstanding marksmanship skills earned him highly coveted positions on the Marine Corps Competition Rifle Team, as well as the Competition Pistol Team; in addition to winning over 200 trophies, he also won two gold medals and one silver during inter-service and divisional rifle competitions; and

WHEREAS, immediately following his retirement from the Marine Corps in 1964, James Rogers joined the Henry County Sheriff's Department when there were only four other deputies; he worked as a road deputy and investigator and later established the department's first records system, which was highly praised by state and federal officials; and

WHEREAS, James Rogers was elected sheriff in November 1979 and completed three four-year terms until retiring on December 31, 1991; and

WHEREAS, as sheriff, James Rogers was known as a law-enforcement leader who built trust and mutual respect with members of the community; during his tenure, he expanded the Henry County Sheriff's Office's technology capabilities and significantly grew the department's ranks; and

WHEREAS, James Rogers was very active in local historical, civic, and veterans groups; he served as a member of the Martinsville and Henry County Veteran's Honor Guard, Veterans of Foreign Wars, Disabled American Veterans Chapter 52, American Legion Post 42, Sons of the American Revolution, and the Marine Corps League Edward W. Richardson Detachment; and

WHEREAS, James Rogers was a Master Mason of the Piedmont Masonic Lodge No. 152; he served on the board of directors for the Fieldale-Collinsville Rescue Squad for 16 years; he was a longtime member of Stone Memorial Christian Church where he served as a deacon and later was a charter member of Traditional Christian Church; he was also an avid outdoorsman who enjoyed gardening, hunting, and fishing; and

WHEREAS, predeceased by his wife, Vera, James Rogers will be fondly remembered and greatly missed by his children, Jan and Mike, and their families; and numerous other family and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of James Walter Rogers; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James Walter Rogers, decorated veteran, active community member, and respected former sheriff of Henry County, as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 407

*Commending St. Timothy's Episcopal Church.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, St. Timothy's Episcopal Church in Herndon celebrated its 150th anniversary in 2018; and

WHEREAS, St. Timothy's Episcopal Church had its beginnings on November 1, 1868, when a few Episcopal Christians in a small dairy farm community in Herndon met together to worship and give thanks on All Saints' Sunday; the service was led by a school teacher and licensed Episcopal lay reader; and

WHEREAS, by 1872, St. Timothy's Episcopal Church had formed a Sunday school with three teachers and seven students, and a small building at the corner of Grace and Vine Streets, once used as a cheese factory, was acquired and renovated for the church's use; and

WHEREAS, St. Timothy's Episcopal Church' first church building was consecrated in June 1881, and the bell was hung in its steeple in 1882; the church's status reverted from church to mission and back again several times prior to World War II, but the church remained active thanks to the dedication of a few committed families, two well-liked rectors, and students from the Episcopal Seminary in Alexandria; a parish hall was built in 1947; and

WHEREAS, the growth of Dulles Airport as well as the communities of Reston and Sterling Park spurred St. Timothy's Episcopal Church to plan seriously for major expansion; in 1969, the congregation consecrated Henry Hall which served as church, education building, and parish hall; and

WHEREAS, a strong tradition of liturgical music has been maintained throughout St. Timothy's Episcopal Church's history thanks to the dedicated efforts of talented choir directors, organists, volunteer instrumentalists, and singers; to support music at the congregation an antique two-manual tracker organ was acquired in 1972; and

WHEREAS, St. Timothy's Episcopal Church has a strong tradition of outreach, both within and beyond the community; the acclaimed preschool was founded in 1974; The Closet, Herndon's highly successful used clothing outlet, had its beginnings at St. Timothy's in the 1970s; a young deacon initiated the first shelter for the homeless in Fairfax County in 1984 leading to collaboration among other churches and later a more permanent shelter; and

WHEREAS, St. Timothy's Episcopal Church congregants support annual youth mission trips to Appalachia, adult mission trips to the Pine Ridge Reservation, South Dakota, and a mission to Chapoteau, Haiti; numerous other civic and service projects support numerous causes including a food ministry; and

WHEREAS, St. Timothy's Episcopal Church's present sanctuary, which seats 350, was consecrated on November 11, 1982; capital campaigns have renovated or added space for educational services, a music space, meeting spaces, a narthex, and offices; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend St. Timothy's Episcopal Church in Herndon on the occasion of its 150th anniversary in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to St. Timothy's Episcopal Church, as an expression of the General Assembly's congratulations on the church's 150th anniversary and appreciation of its service to the Greater Herndon community.

**SENATE JOINT RESOLUTION NO. 408**

*Commending Mary Price.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Mary Price, a respected and hardworking public servant, will retire as the Shenandoah County administrator on April 1, 2019, after 40 years of exceptional leadership in the public sector; and

WHEREAS, Mary Price began her professional life in government right out of high school, working for the Town of Strasburg during the day, while continuing her education at Lord Fairfax Community College during the evening; and

WHEREAS, it was at the local college that Mary Price earned her associate's degree in business and accounting; she would later obtain her bachelor's degree at Eastern Mennonite University by way of evening and online classes while working in public-sector positions; and

WHEREAS, Mary Price balanced her work and studies while raising two sons with her supportive husband, viewing her persistence in pursuing those credentials as an example to her children that hard work, dedication, and commitment can lead to professional advancement; and

WHEREAS, Mary Price was known to her staff as professional and industrious and to the citizenry of Shenandoah County as approachable, with an open door to listen to concerns; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Mary Price on the occasion of her retirement as Shenandoah County administrator; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Mary Price as an expression of the General Assembly's admiration for her service to the Shenandoah County community and to the Commonwealth.

**SENATE JOINT RESOLUTION NO. 409**

*Celebrating the life of Roy Linwood Clark.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Roy Linwood Clark, Grammy award-winning country musician and philanthropist, died on November 15, 2018; and

WHEREAS, Roy Clark was born in Meherrin, Virginia, and moved to Washington, D.C., when he was young; his father played in a square dance band and exposed his son to a wide variety of music through trips to see the National Symphony Orchestra, various military band concerts, and numerous other concerts; and

WHEREAS, with a strong music foundation, Roy Clark began playing tunes on a banjo and mandolin; as a 14-year-old, he got a Sears Silvertone guitar, and that same year, he made his first television appearance; he was 15 when he earned \$2 in his first paid performance in his father's band; and

WHEREAS, starting out, Roy Clark began playing his instruments in the fertile, diverse musical soil of cosmopolitan Washington, D.C., at bars and dives on Friday and Saturday nights until he was playing every night; and

WHEREAS, Roy Clark soon went on tour with country legends such as Hank Williams and Grandpa Jones; after winning a national banjo competition in 1950, he was invited to perform at the Grand Ole Opry, which led to shows with Red Foley and Ernest Tubbs; and

WHEREAS, in his early career, Roy Clark would often return to Washington, D.C., to play not only country but jazz, pop, and early rock and roll; known for his showmanship, he would play fast, and even play with his feet; and

WHEREAS, in 1954 Roy Clark joined Jimmy Dean and the Texas Wildcats, appearing in clubs and on radio and television, and even backing up Elvis Presley; at 27 an invitation to open for Wanda Jackson at the Golden Nugget in Las Vegas proved to be his big break, leading to his own tour; and

WHEREAS, on the road for 345 straight nights at one stretch, when Roy Clark returned to Las Vegas in 1962, he came back as a headliner and recording star with his debut album *The Lightning Fingers of Roy Clark*; the next year he had his first hit, *The Tips of My Fingers*; and

WHEREAS, Roy Clark co-hosted *Hee Haw* and made appearances on television shows *American Bandstand*, *The Tonight Show*, and variety shows, always with a smile and a sense of humor; and

WHEREAS, Roy Clark was best known for the song *Yesterday When I Was Young*; he had 23 Top 40 country hits, among them eight Top 10s: *The Tips of My Fingers*, *Yesterday When I Was Young*, *I Never Picked Cotton*, *Thank God and Greyhound You're Gone*, *The Lawrence Welk-Hee Haw Counter Revolution Polka*, *Come Live With Me*, *Somewhere Between Love and Tomorrow*, and *If I Had to Do It All Over Again*; his 12-string guitar rendition of *Malaguena* is considered a classic; and

WHEREAS, Roy Clark won numerous accolades for his work, including a Grammy for best country music instrumental performance for *Alabama Jubilee*, a star on the Hollywood Walk of Fame, an Academy of Country Music's Pioneer Award, membership in the Gibson Guitar Hall of Fame, and selection as the 63rd member of the Grand Ole Opry; and

WHEREAS, Roy Clark's groundbreaking friendship tours to the Soviet Union brought country music to appreciative audiences around the world, building people-to-people bridges in the height of the Cold War; and

WHEREAS, throughout Roy Clark's career, philanthropy and his Virginia roots remained important; he regularly returned to Prince Edward County to perform at Longwood University where a scholarship in his name supports music students; and

WHEREAS, Roy Clark will be missed by his wife, Barbara; children, Roy, Michael, Terry Lee, Susan, and Diane, and their families; and numerous other family and friends as well as his legions of fans; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Roy Linwood Clark, Grammy award-winning country musician and philanthropist; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Roy Linwood Clark, as an expression of the General Assembly's respect for his music and his memory.

### SENATE JOINT RESOLUTION NO. 410

*Celebrating the life of Mary E. Onley.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Mary E. Onley of Painter, an acclaimed folk artist known for her papier-mâché sculptures and colorful paintings, died on August 18, 2018; and

WHEREAS, Mary Onley, affectionately known as Mama Girl, was born and raised on the Eastern Shore to a family of farm laborers and started working in the fields herself at the age of 12; she had to stop because of severe allergies which resulted in numerous hospitalizations; and

WHEREAS, during one particularly grave medical episode, Mama Girl reported being visited by a spirit who instructed her to create art from paper and other found objects—something she had never attempted before; 20 years later, her work made her one of the most celebrated folk artists on the East Coast; and

WHEREAS, Mama Girl's work was shown at craft fairs across the Mid-Atlantic and is a favorite of many folk art collectors; she continued to credit every piece to the spirit who visited her in her studio each day; and

WHEREAS, the many subjects in Mama Girl's colorful artwork varied, from paintings of Biblical themes, including Adam and Eve in the Garden of Eden, Jonah and the whale, and the Last Supper, to papier-mâché watermelon-colored angels and sculptures of cats, crabs, and cardinals; and

WHEREAS, Mama Girl will be fondly remembered and greatly missed by her children and their families, as well as numerous other family members, friends, and fans; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Mary E. Onley of Painter, acclaimed folk artist known for her papier-mâché sculptures and colorful paintings; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Mary E. Onley as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 411

*Celebrating the life of Tony Robinson Washington, Jr.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Tony Robinson Washington, Jr., well-loved Eastern Shore educator and coach, died on September 19, 2018; and

WHEREAS, Tony Washington was born in Jacksonville, North Carolina, where he graduated from Georgetown High School and was an outstanding football player; his talents earned him a scholarship to Johnson C. Smith University in Charlotte, North Carolina, where he earned a bachelor's degree in education; he continued his educational studies at Old Dominion University and the University of Maryland Eastern Shore; and

WHEREAS, Tony Washington began his teaching career at York High School in South Carolina, where he coached the basketball team to victory in a state championship; in 1967, he relocated to teach in Northampton County Public Schools and dedicated 23 years of service to students on the Eastern Shore; and

WHEREAS, Tony Washington began his football coaching career at Cape Charles High School and later transitioned to Northampton High School, where he served as the assistant football coach; in 1990, he became the head football coach at Nandua High School and would later coach the boys track and field team; and

WHEREAS, Tony Washington mentored many of his players and other high school athletes in Accomack and Northampton counties, helping many of the students matriculate into four-year colleges and universities through athletic scholarships; it was at Nandua High School where he coached his own sons, Tony and Todd, both of whom starred at Virginia Polytechnic Institute and State University and then had professional football careers; and

WHEREAS, after retiring from Nandua High School, Tony Washington went on to become the first and only head basketball coach at Eastern Shore Community College, where he developed a thriving basketball program; he later returned to assist with the Nandua High School football program, helped develop a youth football and basketball league with the Accomack County Parks and Recreation Department, and became the driver's education instructor for Chincoteague High School, Arcadia High School, and the Tangier Combined School; and

WHEREAS, Tony Washington was involved in numerous fraternal and civic organizations including the Princess Anne Alumni Chapter of Kappa Alpha Psi Fraternity, the Eastern Shore Chamber of Commerce, and the Accomack County NAACP; he was also deeply involved in St. Mark Baptist Church in Melfa; and

WHEREAS, Tony Washington will be fondly remembered and greatly missed by his wife, Earline; sons, Tony and Todd, and their families; and numerous other family members, friends, students, and athletes; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Tony Robinson Washington, Jr., well-loved Eastern Shore educator and coach; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Tony Robinson Washington, Jr., as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 412

*Celebrating the life of Kevin Glenn Wade.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Kevin Glenn Wade of Middlesex County, a successful entrepreneur and a respected leader in Virginia's seafood industry, died on January 19, 2019; and

WHEREAS, a native of Richmond, Kevin Wade experienced several medical challenges in his youth but never let his circumstances keep him from achieving his goals, developing a strong resolve that would serve him well throughout his life; and

WHEREAS, Kevin Wade moved to Deltaville in 1972 after his family purchased Taylor's Restaurant; he learned the restaurant trade from his father, gaining an appreciation for the importance of hard work and responsibility at a young age; in 1982, he cofounded J&W Seafood in Deltaville; and

WHEREAS, Kevin Wade met the love of his life, Susan Schultz, while he was attending York Academy, and the couple were married in 1984; together they overcame many challenges to help grow J&W Seafood into a world-class seafood processor and retail business; and

WHEREAS, under Kevin Wade's leadership, J&W Seafood earned a reputation for offering the freshest, highest-quality Chesapeake Bay seafood, and it was selected as the only company from Virginia to represent the United States at the Outbound Seafood Trade Mission to Canada; and

WHEREAS, Kevin Wade also acquired Island Seafood Company and had recently launched an initiative to start an oyster farm; he was highly admired in the industry for his vision, knowledge, and commitment to balancing the needs of the community with strategies for growing and harvesting seafood; and

WHEREAS, Kevin Wade was a member of the Virginia Seafood Council and the Blue Crab and Shellfish Committees of the Virginia Marine Resources Commission, as well as a member of the Lower Middlesex Volunteer Fire Department; and

WHEREAS, Kevin Wade gave generously of his time and leadership in the community, and he was a trusted mentor to the young people who worked in his store, offering advice, emotional support, and assistance when needed; and

WHEREAS, Kevin Wade will be fondly remembered and greatly missed by his wife, Susan, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Kevin Glenn Wade; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Kevin Glenn Wade as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 413

*Commending Ohel Sholom Temple.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, since the late 1700s, the Commonwealth of Virginia and the City of Norfolk have provided a welcoming home to its Jewish residents, and one of its best-known early Jewish residents, Moses Myers, served as one of the city's most cherished early mayors; and

WHEREAS, Norfolk's Jewish population increased in the early nineteenth century, and Ohef Sholom Congregation was founded on Cumberland Street in 1844; thereafter, its members worshipped in synagogues throughout downtown Norfolk; and

WHEREAS, after the tragic destruction by fire of Ohef Sholom's synagogue at Freemason Street and Monticello Avenue in February 1916, the congregation moved to the tranquil northeast corner of Raleigh Avenue and Stockley Gardens, where its new synagogue, with its neoclassical design by architects Ferguson, Calrow and Wrenn, was completed in early 1918; and

WHEREAS, on April 22, 1918, Ohef Sholom Temple was dedicated by its eloquent rabbi, Dr. Louis D. Mendoza, "as a monument to Judaism and as a monument to the Americanism of the Jewish people," with his further admonition to those assembled, "Let no unkind thought be formulated within this house, let no word that stings be spoken here; may hatred and injustice be barred; may it be an inspiration to those who seek spiritual exaltation, and may those upon whom the hand of death has been heavily laid, find comfort here"; and

WHEREAS, in that same spirit, the words of the prophet Isaiah, "MY HOUSE SHALL BE CALLED A HOUSE OF PRAYER FOR ALL PEOPLES," are inscribed above the Stockley Gardens doors to Ohef Sholom Temple, and the congregation strives for warm relations with communities of all faiths in Hampton Roads; and

WHEREAS, the rabbis, cantors, and congregants of Ohef Sholom Temple have for decades dedicated themselves to Reform Judaism's principle of "tikkun olam" (perfecting the world) as community leaders in education, medicine, social action, business, the arts, philanthropy, and government, contributing greatly to the social fabric of the Hampton Roads community; and

WHEREAS, the clergy and congregants of Ohef Sholom Temple have also been civic leaders, strongly opposing Massive Resistance and supporting civil rights and equal rights for all, without regard to race, religion, or gender; its congregants have served on the Norfolk City Council, the Virginia House of Delegates, and the U.S. House of Representatives, as well as on countless municipal, state, civic, and charitable boards and commissions; and

WHEREAS, the October 2018 celebration of the 100th anniversary of Ohef Sholom's sanctuary also began a year-long celebration which marks, in 2019, the 175th anniversary of the congregation's founding, making it the second-oldest Jewish congregation in Virginia and the 19th oldest congregation within American Reform Judaism; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ohef Sholom Temple on the occasion of its 175th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ohef Sholom Temple as an expression of the General Assembly's admiration for its storied history and legacy of service to the residents of Hampton Roads.

#### SENATE JOINT RESOLUTION NO. 414

##### *Commending The Apprentice School.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 100 years, The Apprentice School at Newport News Shipbuilding has shaped the future of the shipbuilding industry by providing an exceptional vocational education; and

WHEREAS, the first Newport News Shipbuilding apprentice, Norwood Jones, graduated on April 4, 1894, and The Apprentice School was formally established on July 1, 1919; the school has since graduated more than 10,800 apprentices; and

WHEREAS, in its early years, The Apprentice School offered only shop training, but has expanded its rigorous curriculum to include the study of mathematics, physics, strength of materials, drafting, marine engineering, shipbuilding operations, technical communications, and other subjects to give students a strong academic foundation for technical training; and

WHEREAS, apprenticeship as a form of education provides significant benefits for both students and businesses, and The Apprentice School's highly effective instructional system and academic components ensure that students have the tools to succeed in demanding careers; and

WHEREAS, The Apprentice School offers 28 different four-year, five-year, or eight-year programs, enrolling approximately 800 young men and women, who not only learn valuable career skills, but earn compensation for on-the-job training; and

WHEREAS, The Apprentice School has been recognized regionally, nationally, and globally as an exceptional model for similar schools, providing an example of how the apprenticeship concept can apply to a wide array of skilled trades; and

WHEREAS, The Apprentice School has enhanced the reputation of Newport News Shipbuilding as a global leader in commercial and military shipbuilding and played a vital role in the company's traditions of success and commitment to excellence; and

WHEREAS, The Apprentice School will commemorate its centennial with special events and activities throughout 2019; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend The Apprentice School for its service to generations of students on the occasion of its 100th anniversary in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to The Apprentice School as an expression of the General Assembly's admiration for its commitment to craftsmanship, scholarship, and leadership.

### SENATE JOINT RESOLUTION NO. 415

*Commending the Boys & Girls Clubs of Southeast Virginia.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, the Boys & Girls Clubs of Southeast Virginia has fostered youth development initiatives and provided young people in Hampton Roads with safe places in which to learn and grow for 100 years; and

WHEREAS, the first Boys & Girls Club of Southeast Virginia was established in 1919, when the Boys Club of Norfolk was founded with eight charter members and assistance from the Rotary Club of Norfolk; and

WHEREAS, over the next 60 years, several clubs affiliated with the Boys Club of Norfolk were established in the area, including the Colonial Boys Club, the W.W. Houston Memorial Club, and the Virginia Beach Boys Club; and

WHEREAS, after the Boys Clubs of America began admitting girls in 1990, the Boys Club of Norfolk changed its name to the Boys & Girls Clubs of South Hampton Roads in 1993; 10 years later, the organization changed its name to the Boys & Girls Clubs of Southeast Virginia to better reflect its growing geographic service area; and

WHEREAS, the Boys & Girls Clubs of Southeast Virginia offers young people between the ages of six and 18 opportunities for recreation and companionship in a safe, fun, and affordable environment; and

WHEREAS, throughout its history, the Boys & Girls Clubs of Southeast Virginia has helped instill a sense of competence, usefulness, belonging, and hope through relationships with caring, trusted adult professionals, life-enhancing programs, and leadership development experiences; and

WHEREAS, the Boys & Girls Clubs of Southeast Virginia fills a critical need in the community by promoting academic success, good character and citizenship, and healthy lifestyles and has succeeded in its mission with support from individuals, corporations, foundations, and local government in the region; and

WHEREAS, in 2018, the Boys & Girls Clubs of Southeast Virginia served nearly 2,800 members through 11 clubs on the Eastern Shore and in the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach; and

WHEREAS, on April 25, 2019, the Boys & Girls Clubs of Southeast Virginia will join with other Boys & Girls Clubs throughout the Commonwealth to commemorate Boys & Girls Club Day; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Boys & Girls Clubs of Southeast Virginia on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Boys & Girls Clubs of Southeast Virginia as an expression of the General Assembly's admiration for the clubs' legacy of service to young people.

### SENATE JOINT RESOLUTION NO. 416

*Celebrating the life of Cynthia Grim Dellinger.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Cynthia Grim Dellinger, former broadcast journalist, esteemed elected official, and accomplished realtor in Shenandoah County, died on January 26, 2019; and

WHEREAS, Cynthia Dellinger was born and raised in Shenandoah County; she graduated from Stonewall Jackson High School and attended Lord Fairfax Community College; and

WHEREAS, from 1980 to 1987, Cynthia Dellinger worked in broadcasting as a radio and television news anchor and was known for her high journalistic standards; she became a licensed realtor in 1987 and started her own company in 1991; and

WHEREAS, in 1994, Cynthia Dellinger became a member of the United Country Shenandoah Valley real estate agency; leading her field, she served as president of the Massanutten Association of Realtors and on the Risk Management Advisory Group for the Virginia Association of Realtors; and

WHEREAS, Cynthia Dellinger was very active in the community, serving on the board of directors for Habitat for Humanity, the board of directors for the Mount Jackson Chamber of Commerce, the advisory board for a local bank, and the Valley Conservation Council; and

WHEREAS, Cynthia Dellinger was an active member of the Shenandoah County Republican Committee, representing the Conicville District for over 30 years; in 1987, she became the first woman elected to the Shenandoah County Board of Supervisors and later served as its first female chair; and

WHEREAS, Cynthia Dellinger will be fondly remembered and greatly missed by her mother, Dorothy; her husband, Charles; her son, Wesley, and his family; and numerous other family and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Cynthia Grim Dellinger, former broadcast journalist, esteemed elected official, and realtor in Shenandoah County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Cynthia Grim Dellinger as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 417

*Celebrating the life of Frank Huff.*

Agreed to by the Senate, February 23, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Frank Huff, a firefighter who dedicated a lifetime of service to the members of the Rappahannock County community, died on December 4, 2018; and

WHEREAS, a native of Madison County, Frank Huff lived in Sperryville and Washington before moving to Flint Hill while he was in high school; and

WHEREAS, at the age of 16, Frank Huff followed in his father's footsteps as a member of the Flint Hill Volunteer Fire and Rescue Company; he went on to hold nearly every office in the organization, including chief for more than 20 years and president; and

WHEREAS, Frank Huff was one of the first shock-trauma and cardiac technicians in Rappahannock County, and he served as a fire instructor and an emergency medical instructor for many years, teaching generations of fire and rescue personnel in the region; and

WHEREAS, Frank Huff also offered his leadership and expertise to the Rappahannock County Fire and Rescue Association and worked tirelessly to enhance the delivery of public safety services as deputy emergency services coordinator; and

WHEREAS, in addition to serving and safeguarding the community, Frank Huff worked for a soft drink bottling and distribution company for 46 years, retiring as a vending department manager in March 2015; and

WHEREAS, Frank Huff will be fondly remembered and greatly missed by his wife, Sherry; his son, Robbie; his sister, Connie; and numerous other family members, friends, and fellow firefighters; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Frank Huff, a dedicated firefighter and a respected member of the Flint Hill community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Frank Huff as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 418

*Confirming an appointment by the Senate Committee on Rules to the Virginia Conflict of Interest and Ethics Advisory Council.*

Agreed to by the Senate, February 20, 2019

Agreed to by the House of Delegates, February 22, 2019

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointment made by the Senate Committee on Rules to the Virginia Conflict of Interest and Ethics Advisory Council pursuant to § 30-355 of the Code of Virginia:

**The Honorable Walter W. Stout, III, of Richmond**, Virginia 23219, Member, for a term of four years beginning July 1, 2018, and ending June 30, 2022, to succeed himself.

### SENATE JOINT RESOLUTION NO. 419

*Commending the Brown family.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, over the past 100 years, the Richmond-based Brown Distributing Company, owned by the Brown family, has grown from a producer of a single cherry soda to a nationally acclaimed, highly regarded beverage distribution business that operates in two states; and

WHEREAS, in 1919, brothers Abraham and Isadore Brown formed a soda-bottling business where they produced a cherry-flavored soft drink; the company soon grew to become a Pepsi bottler and distributor, serving the Richmond-Petersburg market area; and

WHEREAS, the end of Prohibition in 1933 allowed the Brown family to add their first beer, the Maryland-brewed "Wolf Beer," to their operation; and

WHEREAS, as a result of their tremendous growth within the beer business, in 1935, the Brown family became the Anheuser-Busch wholesaler for the Richmond-Petersburg market area; and

WHEREAS, that same year, a second generation of the Brown family, Abraham Brown's son, Jacob, joined the business; and

WHEREAS, in 1951, Abraham and Jacob Brown formed Brown Distributing Company in Richmond to manage the beer side of the business; and

WHEREAS, in 1969, the Brown family sold its Pepsi operation in order to focus on its beer distribution; during this period, a third generation of the family, Jacob Brown's son, Larry, was instrumental in expanding their business when they acquired an Anheuser-Busch franchise in Petersburg in the footprint of the family's original Pepsi bottling operation; and

WHEREAS, in 1999 and 2006 respectively, a fourth generation of the family, Larry Brown's sons, Jason and Reid, joined the business and began enlarging its scope, adding a non-alcohol portfolio including teas, waters, and juices; and

WHEREAS, in 2009, Brown Distributing Company acquired Legendary Distributing, a Richmond start-up craft distribution company, which allowed the Brown family to start selling a variety of local and regional craft beers; and

WHEREAS, after 100 years in business, the Brown family now distributes more than 700 brands of beer and other beverages, operates a fleet of more than 115 vehicles, and employs more than 550 individuals; and

WHEREAS, the Brown family makes significant investments in alcohol awareness and education programs, as well as designated driver programs; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Brown family for its 100 years of success in the beverage industry; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Brown family as an expression of the General Assembly's admiration for the longevity of their business and their commitment to the community.

#### SENATE JOINT RESOLUTION NO. 420

*Celebrating the life of Cynthia Lynn Piazza.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Cynthia Lynn Piazza, a highly admired educator who touched countless lives in the Chesterfield community and helped her students achieve success both in and out of the classroom, died on October 31, 2018; and

WHEREAS, a native of Wilmington, Delaware, Cynthia Piazza attended Lake Braddock Secondary School in Burke and subsequently graduated from the University of Delaware, where she was a founding member of the university's Sigma Kappa sorority chapter; and

WHEREAS, Cynthia Piazza worked as an educator for more than two decades, including 14 years as a Title I math specialist at Harrowgate Elementary School in Chester; she took a special interest in elevating and supporting underprivileged students and was named the 2010 Elementary School Teacher of the Year by Chesterfield County Public Schools; and

WHEREAS, an avid runner, Cynthia Piazza completed 29 full marathons, including races in Boston, Chicago, and New York City, as well as the Marine Corps Marathon and 13 Richmond marathons; and

WHEREAS, Cynthia Piazza shared her passion for physical fitness with Hopewell elementary school students through the Greater Richmond Fit4Kids program, and her Kids Run RVA team raised \$4,000 to support youth running clubs in the area; and

WHEREAS, Cynthia Piazza inspired others through her passion, grace, positivity, and willingness to treat every challenge as an opportunity for self-improvement; and

WHEREAS, Cynthia Piazza will be fondly remembered and greatly missed by her husband, Michael; their son, Matthew; her parents, Joseph and Rose; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Cynthia Lynn Piazza, an educator and beloved member of the Chesterfield community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Cynthia Lynn Piazza as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 421**

*Celebrating the life of Thomas Pierce Power.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Thomas Pierce Power, a beloved husband and father and a respected Williamsburg resident who won legions of loyal customers as the owner of the popular business The Cheese Shop, died on June 13, 2017; and

WHEREAS, a native of St. Louis, Thomas "Tom" Power moved to Norfolk as a child and graduated from Granby High School; after attending Spring Hill College in Alabama, he served in the United States Marine Corps and then worked in real estate before starting a nine-year career as a salesman with National Cash Register; and

WHEREAS, while working as a salesman in Baltimore, Tom Power developed an interest in small business; along with his wife and business partner, Mary Ellen, he relocated to Newport News in 1971 and opened a small shop that sold imported cheese and wine; and

WHEREAS, Tom Power's keen business sense and commitment to customer service helped make his Newport News business a success; in 1973, he and Mary Ellen opened a second Cheese Shop in Williamsburg; and

WHEREAS, Tom Power's second Cheese Shop was even more popular than his first, and it soon became a Williamsburg institution known for its friendly staff, gourmet sandwiches, fine cheeses, bread ends, and signature house dressing; and

WHEREAS, in 1980, Tom Power opened another successful business when he cofounded The Trellis Restaurant, an award-winning dining establishment in Williamsburg; he and Mary Ellen remained involved with the business until 1994, when they sold their interest; and

WHEREAS, in 2003, Tom and Mary Ellen Power relocated the Williamsburg Cheese Shop to a larger space one block away; the new location included a restaurant, Fat Canary, as well as a cheese shop and wine cellar, and was operated along with the couple's three adult children; and

WHEREAS, during his more than 45-year career in business, Tom Power won the love and respect of the Williamsburg community and received several honors, including a 2016 induction into the Specialty Food Association Hall of Fame; in addition, his Fat Canary restaurant has been awarded AAA's Four Diamond Award and has twice been listed as one of the top 100 restaurants in the nation by OpenTable, and he and Mary Ellen received The College of William and Mary's 2017 Prentis Award together; and

WHEREAS, Tom Power will be fondly remembered and greatly missed by his wife of 56 years, Mary Ellen; his children, Mary Ellen, Cathy, and Thomas, Jr., and their families; and countless other family members, friends, and members of the Williamsburg community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Thomas Pierce Power, a dedicated business owner who served the residents of Williamsburg with honesty, integrity, and kindness; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thomas Pierce Power as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 422**

*Celebrating the life of Leonard Louis Dreyfus.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Leonard Louis Dreyfus, a champion for civil rights and a respected member of the Charlottesville community, died on December 7, 2018; and

WHEREAS, Leonard Dreyfus was born in New Orleans, Louisiana, to Max and Julie Dreyfus; he earned degrees in business, law, and architecture from Tulane University; and

WHEREAS, during World War II, Leonard Dreyfus joined many of the other young men of his generation in service to the nation as a member of the United States Navy; after graduating from Harvard Business School, he served three years as a supply officer on a ship in the Pacific theater; and

WHEREAS, from a young age, Leonard Dreyfus dedicated his life to the pursuit of equality, justice, and dignity for all people, and was one of the founding members and president of the New Orleans chapter of the American Civil Liberties Union; and

WHEREAS, Leonard Dreyfus also served on the board of the Public Concern Foundation, which publishes the *Washington Spectator*, and he remained active in civic affairs after relocating to Charlottesville; and

WHEREAS, predeceased by two children, Julie and Murray, Leonard Dreyfus will be fondly remembered and greatly missed by his wife, Rhoda; his daughter, Barbara; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Leonard Louis Dreyfus; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Leonard Louis Dreyfus as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 423

*Celebrating the life of Lloyd Thomas Smith, Jr.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 19, 2019

WHEREAS, Lloyd Thomas Smith, Jr., a Charlottesville lawyer, banker, businessman, and civic servant, died on June 25, 2018; and

WHEREAS, Lloyd Smith was born in Petersburg; he attended Petersburg High School, graduated from Virginia Episcopal School, and studied at the University of Virginia, pausing his undergraduate degree to serve in the United States Marine Corps with the 7th Marine Regiment in Korea and completing his bachelor's degree and law degree upon his return; and

WHEREAS, Lloyd Smith established the law firm Tremblay and Smith in Charlottesville, where he primarily worked in business planning and commercial litigation; he was a founder, chair, and president of the Virginia Broadcasting Corporation, the operator of Channel 29 TV, and a founder and first chair of Guaranty Bank which merged with Union Bank in 2004; and

WHEREAS, Lloyd Smith's varied civic involvement showed his passion for Charlottesville and Virginia history, he served as president of the Charlottesville-Albemarle Bar Association, served as trustee and president of the Jefferson-Madison Regional Library, and was instrumental in acquiring and renovating the former post office and federal court building for use as the main library; he organized the Minor-Preston Educational Fund, and for two decades served as its president; and

WHEREAS, drawn to historical structures, especially the historic Marshall-Rucker-Smith House in which he raised his family, Lloyd Smith played a part in maintaining historical aspects of his city by serving on the Charlottesville Planning Commission, the Board of Architectural Review, and the Board of Zoning Appeals; he also served for many years as director of the Albemarle County Historical Society, and director of the Associates of the University of Virginia Library; and

WHEREAS, Lloyd Smith demonstrated his support and fostered community spirit in his Charlottesville neighborhood by organizing the North Downtown Residents Association, founding the Park Lane Poker Club, the Park Lane Swim Club and Friday Evening Philosophical Society; and

WHEREAS, Lloyd Smith will be greatly missed and fondly remembered by his wife, the former Ashlin Wyatt; children Garrett, Ashlin, and Hilah, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lloyd Thomas Smith, Jr., Charlottesville lawyer, banker, businessman, and civic servant; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lloyd Thomas Smith, Jr., as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 424

*Remembering the 80th anniversary of Kristallnacht.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Holocaust was the state-sponsored, systematic persecution and annihilation of the European Jewry by Nazi Germany and its collaborators between 1933 and 1945, when more than six million Jews were murdered and millions of other people suffered grievous oppression and death under Nazi tyranny; and

WHEREAS, 2018 marks the 80th anniversary of Kristallnacht, a pogrom organized by Nazi officials and paramilitary forces against Jewish communities throughout Nazi Germany that took place on November 9-10, 1938; and

WHEREAS, during Kristallnacht, hundreds of synagogues in Germany and Austria were burned and destroyed, businesses and homes were ransacked, and scores of innocent Jews were killed and thousands of others were arrested and sent to concentration camps; and

WHEREAS, commonly translated as the Night of Broken Glass, Kristallnacht took its name from the shards of broken window glass littering the streets after the horrific attacks; and

WHEREAS, a major escalation of existing anti-Semitic policies at the time, Kristallnacht was the first coordinated assault on the Jewish population and served as a prelude to the greatest horrors of the Holocaust, a campaign of systematic mass murder on a scale never before witnessed in human history; and

WHEREAS, Kristallnacht and the entire reign of the Nazi government mark one of the darkest periods in the civilized era and are stark reminders of how easily hatred and bigotry can proliferate and erode societal norms; and

WHEREAS, the 80th anniversary of this unprecedented tragedy offers a solemn opportunity for all Virginians to keep alive the memory of the millions who perished during the Holocaust, more than one and a half million of whom were

innocent children; raise awareness of the dangers of bigotry and intolerance; and work to ensure that acts of genocide such as Kristallnacht never occur again; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the 80th anniversary of Kristallnacht be remembered in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit copies of this resolution to the Jewish Community Federation of Richmond, requesting that the organization further disseminate copies of this resolution so that members of the community may be apprised of the sense of the General Assembly in this matter.

### SENATE JOINT RESOLUTION NO. 425

*Commending the Deep Run High School golf team.*

Agreed to by the Senate, February 18, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Deep Run High School golf team of Henrico County won its fourth consecutive Virginia High School League Class 5 state championship on October 8, 2018; and

WHEREAS, in the state final held at Magnolia Green Golf Club in Moseley, the Deep Run High School Wildcats shot a 295, defeating the second-place Rock Ridge High School Phoenix by 19 strokes; and

WHEREAS, junior Charlie Hanson led the Deep Run Wildcats with a top-five finish in the individual standings, shooting a 73; and

WHEREAS, exceptional teamwork carried the day, with four Deep Run Wildcats—Brint Harbison, Ian Walters, Trent Sveum, and Zack Smith—all finishing at only two over par with 74 strokes; and

WHEREAS, the victory was a testament to the skill and determination of all the student-athletes, the leadership and guidance of coaches and staff, and the enthusiastic support of the entire Deep Run High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Deep Run High School golf team on winning the Virginia High School League Class 5 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Josh Aldrich, coach of the Deep Run High School golf team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

### SENATE JOINT RESOLUTION NO. 426

*Celebrating the life of Barbara Foster Freeman.*

Agreed to by the Senate, February 20, 2019

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Barbara Foster Freeman, an active member of the Reston community, died on January 26, 2018; and

WHEREAS, Barbara "Baba" Freeman was born in Seattle and raised in Waterford in an activist household where her mother was the president of the Virginia state League of Women Voters in the 1940s; she graduated from the Madeira School and from Bennington College, where she studied organizational development; and

WHEREAS, after graduation, Baba Freeman worked in Massachusetts Institute of Technology's Operations Evaluation Group in military operations research until 1959; she spent years in Germany with her husband, Mike Freeman, who was in the army; and

WHEREAS, Baba Freeman moved to Reston in 1967, drawn by the unique village setting at Lake Anne Plaza and its surrounding neighborhoods, and lived on Orchard Lane for decades; and

WHEREAS, as an early resident of Reston, Baba Freeman's generosity and leadership helped to define the emerging community; she worked at Common Ground and the Carter Glass Library and was a prime mover in Reston Interfaith, Reston Community Association, the Reston Community Center, the Reston Chorale, the League of Women Voters of the Fairfax Area, the Episcopal Diocese of Virginia, and various county boards; and

WHEREAS, in 2014, Baba Freeman was named Lady Fairfax by the Hunter Mill District for her longtime contributions to the county, including 28 years of continuous service on the Fairfax County Human Services Board; she coached boys' soccer teams for several years and served as a league commissioner; in 2010, she began volunteering in the library at Lake Anne Elementary while her grandchildren attended the school, sharing her deep love of children's books; and

WHEREAS, Baba Freeman will be fondly remembered and greatly missed by her husband, Mike; children, Emily, Roger, and Andrew, and their families; and numerous other family and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Barbara Foster Freeman, an active member of the Reston community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Barbara Foster Freeman as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 427**

*Celebrating the life of Barbara Beatrice Abernathy Ross.*

Agreed to by the Senate, February 20, 2019

Agreed to by the House of Delegates, February 21, 2019

WHEREAS, Barbara Beatrice Abernathy Ross, a passionate civic leader whose efforts to revitalize the Carver neighborhood strengthened the entire Richmond community, died on December 21, 2018; and

WHEREAS, Barbara Abernathy Ross, best known in the community as Barbara Abernathy, grew up in the Carver neighborhood and made her home there while working for Reynolds Metals Company for 23 years; and

WHEREAS, in the 1980s, Barbara Abernathy joined the West of Belvidere Civic Association to help preserve the single-family character of the Carver community; she formed the Carver Area Civic Improvement League in the 1990s in response to plans by Virginia Commonwealth University (VCU) to expand its campus into the neighborhood; and

WHEREAS, Barbara Abernathy's tenacity resulted in the formation of the Carver-VCU Partnership, a groundbreaking collaboration that preserved the history and integrity of the community; she served as co-chair of the partnership for 11 years, overseeing efforts to improve health care, increase neighborhood safety, and offer youth programs; and

WHEREAS, Barbara Abernathy's leadership ultimately led to the creation of the VCU Division of Community Engagement and a council with representatives from all neighborhoods adjacent to the university; and

WHEREAS, Barbara Abernathy also worked with the Richmond Redevelopment and Housing Authority to redevelop several blighted blocks in Carver, and with city officials to create a park on Catherine Street named after civic leaders Madeline T. Peters and Helen M. Smith; and

WHEREAS, Barbara Abernathy was a mentor and role model for generations of local activists, and her legacy is closely entwined with the heritage, culture, and people of the now thriving Carver neighborhood; and

WHEREAS, Barbara Abernathy will be fondly remembered and greatly missed by her sisters, Shelia and Katherina, and numerous other family members, friends, and Carver residents whose lives she changed for the better; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Barbara Beatrice Abernathy Ross, a passionate civic leader and a champion for the Carver community in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Barbara Beatrice Abernathy Ross as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 428**

*Commending Piedmont Senior Resources Area Agency on Aging, Inc.*

Agreed to by the Senate, February 20, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, for over 40 years, the Piedmont Senior Resources Area Agency on Aging, Inc., has played a vital role in helping local residents age with dignity by providing education, advocacy, and support; and

WHEREAS, the goal of Piedmont Senior Resources is to promote the maximum level of independence for persons 60 years of age and older, and to ensure that older residents of Buckingham, Cumberland, Amelia, Nottoway, Lunenburg, Charlotte, and Prince Edward counties live as an integral part of society, with access to programs and services that meet their needs and preferences; and

WHEREAS, to that end, Piedmont Senior Resources offers numerous programs, including a post-hospitalization program to decrease readmissions and a medical transportation program; major growth and expansion in recent years includes budget growth of over a half a million dollars and the No Wrong Door community expansion, with nutrition delivery growth up from 20,000 meals annually to 100,000 annually over the last four years; and

WHEREAS, key volunteers play a crucial role in supporting the Piedmont Senior Resources, namely Navona Hart of Real Living Cornerstone, Sidney Allen of Rochette's Florist, and Nash Osborn and Matt Hurley of The Fishin' Pig; other key volunteers include the volunteer advisory council; the board members; and students at Longwood University, Hampden-Sydney College, and Southside Virginia Community College; and

WHEREAS, Piedmont Senior Resources has been recognized with awards and grants by local, state, and national organizations including a Workplace Development Award, a No Wrong Door Award from the Department of Aging and Rehabilitation, and grants from Meals on Wheels of America, Subaru, the Centra Foundation, the Department of Rails and Transportation, Dominion Power, the Walter Payne Foundation, Norfolk and Southern Railroad, and Hampden-Sydney College; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Piedmont Senior Resources Area Agency on Aging, Inc., for playing a vital role in helping local residents age with dignity by providing education, advocacy, and support for over 40 years; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Piedmont Senior Resources Area Agency on Aging, Inc., as an expression of the General Assembly's admiration for its efforts to foster independence and healthy aging, and improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### SENATE JOINT RESOLUTION NO. 429

*Commending Linda Q. Smyth.*

Agreed to by the Senate, February 21, 2019  
Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Linda Q. Smyth, Fairfax County Supervisor representing the Providence magisterial district, will retire from public office in 2019; and

WHEREAS, for nearly two decades Linda Smyth has handled some of Fairfax County's largest and most challenging land use cases; and

WHEREAS, Linda Smyth is a former civic activist and Planning Commission member who was first elected in 2003; she is a Cape Girardeau, Missouri, native who holds a bachelor's degree in history from Washington University and master's and doctoral degrees from University of Virginia; and

WHEREAS, in her county leadership role, Linda Smyth was immersed for years in the ongoing redevelopments of Tysons and Merrifield; and early in her tenure tackled the Fairlee/MetroWest development just south of the Vienna Metro Station; and

WHEREAS, Linda Smyth's civic career began when she and her neighbors opposed having their subdivision, Briarwood, turned into high-rise office buildings and had to learn land use in a crash course to change the direction of the development plan; and

WHEREAS, Linda Smyth is known for being practical in her approach and voting consistently with her conscience and in the best interests of the county; she is committed to educating the public about county government processes, land use, the environment, and other related issues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Linda Q. Smyth on the occasion of her retirement from public office in 2019 as a Fairfax County Supervisor representing the Providence magisterial district; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Linda Q. Smyth as an expression of the General Assembly's admiration for her years of exceptional service to the residents of Fairfax County.

### SENATE JOINT RESOLUTION NO. 430

*Commending Sharon Bulova.*

Agreed to by the Senate, February 21, 2019  
Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Sharon Bulova, chair of the Fairfax County Board of Supervisors, will retire from her position in the Fall of 2019; and

WHEREAS, a native of Pikesville, Maryland, Sharon Bulova has been a Northern Virginia resident since 1966, and raised four children with her husband Lou DeFalaise in the area; she entered public service in 1984, leaving her role as president of the Kings Park West Civic Association to become a legislative aide to former Supervisor Audrey C. Moore in what was then known as the Annandale District; and

WHEREAS, Sharon Bulova won her first election in 1987, representing the new Braddock District; during that era she brought order to what had previously been a chaotic budget process, with supervisors debating individual line items during marathon meetings that sometimes stretched past midnight; and

WHEREAS, Sharon Bulova is known as a genial and pragmatic elected official who builds consensus by working individually with each of her fellow supervisors; and

WHEREAS, during her tenure, Sharon Bulova addressed improving public transportation, transforming older industrial areas into mixed-use zones, job growth, investing in Fairfax County's education system, safety, supporting elders, and supporting affordable housing; and

WHEREAS, Sharon Bulova championed a smart approach to regionalism by supporting the Washington Metropolitan Area Transit Authority's transformative regional Silver Line project, which opened in 2014; her leadership and service included involvement with Fairfax County's Governing Board to Prevent and End Homelessness; she also founded Faith Communities in Action, created the Communities of Trust Committee, and established the Ad Hoc Police Practices Review Commission; and

WHEREAS, numerous organizations have recognized Sharon Bulova's accomplishments including the Virginia Transit Association, the Center for Non-Profit Advancement, the Workhouse Arts Foundation, and *Washingtonian* magazine; and

WHEREAS, Sharon Bulova spearheaded numerous civic projects including community budget dialogues, history initiatives, local events such as summer concerts, and a seasonal farmers market; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Sharon Bulova on the occasion of her retirement as chair of the Fairfax County Board of Supervisors; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Sharon Bulova as an expression of the General Assembly's admiration for her civic contributions to life in Fairfax County.

### SENATE JOINT RESOLUTION NO. 431

*Commending the Peninsula Agency on Aging, Inc.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 45 years, the Peninsula Agency on Aging, Inc., has played a vital role in helping local residents age with dignity by providing education, advocacy, and support; and

WHEREAS, the goal of the Peninsula Agency on Aging is to promote the maximum level of independence for persons 60 years of age and older, and to ensure that older residents of the cities of Hampton, Newport News, Poquoson and Williamsburg, and the counties of James City and York live as an integral part of society by providing access to programs and services that meet their needs and preferences; and

WHEREAS, to that end, the Peninsula Agency on Aging offers numerous programs; top accomplishments include providing services and support to hundreds of Peninsula seniors on a daily basis to enable them to remain in their homes with a good quality of life, and arranging for income-restricted seniors to get free legal documents, including wills, powers of attorney, and advance directives; and

WHEREAS, the Peninsula Agency on Aging is the recognized leader for senior advocacy on the Virginia Peninsula and a lead agency for a successful regional care coordination collaboration, which has been sustained for more than 20 years and has served thousands of seniors and family caregivers; and

WHEREAS, the Peninsula Agency on Aging was a collaborating partner in the establishment of the Senior Center of York, Williamsburg Faith in Action, Historic Triangle Senior Center, and the Advanced Care Plan Coalition of Virginia; and

WHEREAS, the Peninsula Agency on Aging has been recognized statewide and nationally as a leader in the field of aging services; the Peninsula Agency on Aging has received recognition from the National Association for Area Agencies on Aging, Healthy Quality Innovators, Norfolk Admirals, Bon Secours, and the Southern Gerontological Society; and

WHEREAS, key volunteers like Jerry Dodson, Virginia Gall, John Krulas, and Dennis and Edith Trivette play a crucial part in the Peninsula Agency on Aging's success, as does support from businesses and institutions like Williams Mullen Law Firm, Newport News Shipbuilding, Langley Air Force Base, and students from area universities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Peninsula Agency on Aging, Inc., for playing a vital role in helping local residents age with dignity by providing education, advocacy, and support; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William S. Massey, president and CEO of Peninsula Agency on Aging, Inc., as an expression of the General Assembly's admiration for its efforts to foster independence and healthy aging, and to improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### SENATE JOINT RESOLUTION NO. 432

*Commending Braxton-Perkins American Legion Post 25.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Braxton-Perkins American Legion Post 25 was chartered as a wartime veterans organization by the American Legion Department of Virginia on August 25, 1919, providing what is known by the members of the American Legion as the Four Pillars of the American Legion: veterans affairs and rehabilitation, national security, Americanism, and support for children and youth; and

WHEREAS, Braxton-Perkins Post 25 has performed an exceptional amount of service for the community throughout the years, establishing a kindergarten for children of foreign-born parents, providing financial aid to military veterans, caring for the sick and war-wounded, locating employment opportunities, adjusting veterans benefit claims, and assisting with arrangements for military funerals given to deceased veterans, whether members or not; and

WHEREAS, Braxton-Perkins Post 25 continues to strive for a prominent role in civic life, and the men and women of the post work together to support the youth of America and the citizens of the community and have always supported service members and their families; and

WHEREAS, throughout the years, the Braxton-Perkins Post 25 has become a preeminent community service organization by establishing the renowned Virginia War Museum and providing headquarters for the National Guard Machine Gun Company and United States Navy Reserve within the Post 25 home; the post also holds annual ceremonies at the Victory Arch in Newport News for Memorial Day and Veterans Day; and

WHEREAS, for 100 years, the members of the Braxton-Perkins Post 25 have dedicated themselves to upholding the ideals of freedom and democracy, while working to make a difference in the lives of their fellow Virginians and Americans; and

WHEREAS, the centennial of Braxton-Perkins Post 25 provides an opportunity not only to look back upon the organization's storied history, but also to foster a new era of growth and engagement in the vital programs that have served generations of veterans; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Braxton-Perkins American Legion Post 25 for its legacy of service to veterans on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Braxton-Perkins American Legion Post 25 as an expression of the General Assembly's admiration for the organization's contributions to American society, national security, and the welfare of military veterans and their families.

### SENATE JOINT RESOLUTION NO. 433

*Celebrating the life of Harvey King Wilson.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Harvey King Wilson, a respected Henrico County police officer, died on July 8, 2018; and

WHEREAS, Harvey Wilson was born in Richmond and graduated from the University of Richmond; he began his career in the United States Army at Fort Belvoir where he found his calling in the military police, serving four years on active duty; he was honorably discharged as a captain in the reserves in 1983; and

WHEREAS, after his active duty military service, Harvey Wilson joined the Henrico County Police Division, proudly serving and protecting the community for 27 years before his retirement in 2001; and

WHEREAS, Harvey Wilson achieved the rank of Eagle Scout in his youth and was active in the Boy Scouts throughout his life, serving as a Scoutmaster of Troop 570 in Varina; he played several sports, but most enjoyed basketball, and was an avid season ticket holder to University of Richmond Spiders games; and

WHEREAS, Harvey Wilson started adventuring on motorcycles in college and this passion continued throughout his life as he traveled to all corners of the country and Europe, riding solo or joined by family and friends, reveling in the beauty of America and the joy of the open road; and

WHEREAS, Harvey Wilson will be fondly remembered and greatly missed by his wife, Pamela; sons, Ben and Brian, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Harvey King Wilson, a respected Henrico County police officer; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Harvey King Wilson, as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 434

*Celebrating the life of Leonard E. Phillips, Jr.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Leonard E. Phillips, Jr., a hardworking emergency medical professional who worked to advance the field throughout the Commonwealth, died on October 3, 2018; and

WHEREAS, Leonard "Buddy" Phillips began his career in the family business, Eastern Handle Corporation, which was later sold in the 1970s, and he began another career with medical and first aid equipment sales; and

WHEREAS, desirous to be of further service to the members of the community, Buddy Phillips joined the recently organized Forest View Volunteer Rescue Squad in 1956, beginning his training with other new members who hoped to make Forest View one of the best rescue squads in the Commonwealth; and

WHEREAS, Buddy Phillips was elected president of Forest View Volunteer Rescue Squad in 1959 and was subsequently elected four additional times; he also held additional offices of vice president, finance officer, secretary, training officer, and various other offices in the squad; and

WHEREAS, Buddy Phillips was involved with raising funds, going door to door, working the Christmas tree lot, helping make Brunswick stew, selling fruit cakes, working bingo nights, and other projects, including teaching vehicle extrication,

CPR, and first aid classes, while answering emergency calls for over 30 years; in 1977, he received life membership in the Forest View Volunteer Rescue Squad; and

WHEREAS, in 1967, Buddy Phillips began another part of his rescue squad life when he was elected to the office of secretary of the Virginia Association of Volunteer Rescue Squads (VAVRS), followed by winning the District III vice presidency; and

WHEREAS, Buddy Phillips was elected president of the VAVRS in 1970, serving two terms in that position; he also served the VAVRS as vice president, historian, convention chair, and Life Membership Committee chair, as well as, for 10 years, Convention Exhibit chair; and

WHEREAS, Buddy Phillips received life membership in the VAVRS in 1972 and also received recognition from the American Heart Association for his devotion to teaching first aid classes and CPR classes in Virginia; and

WHEREAS, Buddy Phillips advocated for his fellow public safety professionals before the Virginia General Assembly and helped achieve the passage of legislation that exempted rescue personnel from wrongful liability while providing emergency care; he was instrumental in achieving the proclamation of Rescue Squad Week; and

WHEREAS, Buddy Phillips shared his lifetime of expertise by working with administrators at the Medical College of Virginia to sponsor medical seminars for rescue squad personnel; and

WHEREAS, Buddy Phillips was elected to the Virginia Life Saving and Rescue Hall of Fame in 1995; and

WHEREAS, predeceased by his first wife, Frances, Buddy Phillips will be fondly remembered and greatly missed by his beloved wife, Dot; his five children and three stepchildren; his 21 grandchildren and 20 great-grandchildren; and his numerous EMS friends, public safety officials he served with, students he taught, and patients he treated, all of whom made up his second family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Leonard E. Phillips, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Leonard E. Phillips, Jr., as an expression of the General Assembly's respect for his memory.

#### **SENATE JOINT RESOLUTION NO. 435**

*Celebrating the life of Suzanne Curry McBride.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Suzanne Curry McBride, a respected educator and wildlife conservationist and a beloved wife, mother, friend, and volunteer in Virginia Beach, died on December 31, 2018; and

WHEREAS, Suzanne McBride was a 1968 graduate of Douglas S. Freeman High School in Henrico County and a graduate of Longwood University in Farmville; after earning her master's degree in early childhood education from Old Dominion University in Norfolk, she taught kindergarten in Hampton Roads for 20 years, until her retirement in 1989; and

WHEREAS, in 1996, Suzanne McBride began working with Wildlife Response, Inc., caring for injured and orphaned animals throughout Hampton Roads as a wildlife rehabilitator for 22 years and rising to the positions of vice president and director of rehabilitative services; and

WHEREAS, Suzanne McBride was a nationally respected authority on river otters and beavers and provided consultations and lectures to wildlife centers and rehabilitators throughout the United States; and

WHEREAS, Suzanne McBride also shared her expertise with students, traveling to elementary schools to educate young people on native Virginia wildlife; and

WHEREAS, Suzanne McBride dedicated her life to the pursuit of education, care of wildlife, and the best interests of her community and her family; and

WHEREAS, Suzanne McBride brought joy to everyone she met, and she will be fondly remembered and greatly missed by her husband of 30 years, Pat; her daughter, Kristen; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Suzanne Curry McBride; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Suzanne Curry McBride as an expression of the General Assembly's respect for her memory.

#### **SENATE JOINT RESOLUTION NO. 436**

*Commending Universal Corporation.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Universal Corporation, the world's leading tobacco leaf supplier, celebrated its 100th anniversary and its Richmond roots in 2018; and

WHEREAS, Universal Corporation traces its origins to the late 19th century, and producing leaf tobacco has been its core business since its founding; the process involves contracting with and providing agronomy support to farmers throughout the Commonwealth, country, and world; and

WHEREAS, through its affiliate, Universal Leaf Tobacco Company, Inc., and its subsidiaries, Universal Corporation procures and processes flue-cured, burley, dark-fire, and oriental leaf tobacco for manufacturers of consumer tobacco products; and

WHEREAS, founded in 1918 by Virginia tobacconist Jaquelin P. Taylor, Universal Corporation's original administrative office was located in the Allison Building at 803 1/2 East Main Street, adjacent to Virginia's Capitol; now at 9201 Forest Hill Avenue, Universal Corporation is proud to have provided job opportunities to Richmond's citizens for more than a century; and

WHEREAS, for 100 years, Universal Corporation has pursued innovative solutions to serve its customers and meet their leaf tobacco demand; the business has built a global presence, solidified long-term relationships with customers and suppliers, adapted to changing agricultural practices, embraced state of the art technology, and emerged as the recognized industry leader; today it conducts business in over 30 countries, spanning five continents and employing over 20,000 permanent and seasonal workers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Universal Corporation, the world's leading tobacco leaf supplier, on its 100th anniversary in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Universal Corporation as an expression of the General Assembly's admiration for its continued commitment to leadership in setting industry standards, operating with transparency, providing responsibly sourced products, and investing in and strengthening the Richmond community.

### SENATE JOINT RESOLUTION NO. 437

*Celebrating the life of Dr. Donn Lancaster.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Dr. Donn Lancaster, a longtime educator and leader at The New Community School in Richmond, died on January 5, 2019; and

WHEREAS, Donn Lancaster was born in Ithaca, New York, and was a graduate of the University of Arkansas, Colorado State University, and the University of Richmond, where he received a master's degree in teaching; and

WHEREAS, after a career as a scientist, Donn Lancaster was inspired by the potential of the students of The New Community School to join their faculty as a science teacher in its middle school in 1995; and

WHEREAS, Donn Lancaster's life's work was dedicated to the students at The New Community School, empowering them to feed their curiosity and encouraging them to strive for excellence in developing their gifts and passions; and

WHEREAS, as a founding leader of The New Community School middle school, Donn Lancaster helped to define and enhance the school's culture; he inspired students and his fellow faculty members as a teacher, mentor, advisor, coach, and friend before retiring in June 2018; and

WHEREAS, Donn Lancaster was a member of Three Chopt Presbyterian Church and an Elder of the Presbyterian Church (U.S.A.); and

WHEREAS, Donn Lancaster will be fondly remembered and greatly missed by his beloved wife, Carol; his son Jeffrey, and his family; his colleagues, students, and alumni of The New Community School, and his many friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Dr. Donn Lancaster, an educator who made many contributions to the Central Virginia community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Dr. Donn Lancaster, as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 438

*Celebrating the life of John Harper.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, John Harper, a trailblazing civic leader in Dale City and Prince William County, died on February 6, 2019; and

WHEREAS, John Harper was a graduate of the University of Nebraska at Omaha and the U.S. Army Command and General Staff College, and held a master's degree in technology management from the American University; and

WHEREAS, John Harper served his country as a member of the United States Army during the Vietnam War, earning the Bronze Star Medal with Oak Leaf Cluster during his two tours in combat; he retired as a lieutenant colonel after 24 years of service; and

WHEREAS, beginning in 1987, John Harper served the Prince William County community for 10 years as director of the Dale City Sanitary District; he was the first African American department head in the county; and

WHEREAS, in 1995, John Harper became the first African American elected to any public office in Prince William County when he was elected to Prince William County's first elected school board; and

WHEREAS, in August 2017, the Prince William County School Board cut the ribbon on the brand new Covington-Harper Elementary School in Dumfries, which was named in his honor; and

WHEREAS, John Harper was also the first African American to serve on the board of directors for the Prince William County Park Authority and the first African American to serve as grand marshal for the Dale City Fourth of July Parade; and

WHEREAS, in later life, John Harper earned his realtor license and helped members of the community find the right home; and

WHEREAS, John Harper was a 33rd Degree Scottish Rite mason and a member of the NAACP and Alpha Phi Alpha Fraternity; he enjoyed fellowship and worship with the community as a member of Bethel United Methodist Church in Dale City; and

WHEREAS, John Harper will be fondly remembered and greatly missed by his wife of 59 years, Beulah; their three sons, John III, Mark, and David; seven grandchildren; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of John Harper, a trailblazing civic leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Harper as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 439

*Commending United Community Ministries, Inc.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 50 years, United Community Ministries, Inc., has been in the community, of the community, and for the community, with a mission to empower neighbors in need in southeastern Fairfax County to transform their lives; and

WHEREAS, in 1969, members of Mount Vernon Presbyterian Church, Bethlehem Baptist Church, Saint Aidan's Episcopal Church, Mount Vernon Unitarian Church, and other faith communities joined together to start a food and clothing drive to support families living in poverty in the Mount Vernon area of Fairfax County; and

WHEREAS, United Community Ministries (UCM) was born from this humanitarian community service initiative as an independent, community-based nonprofit organization, with one employee, a \$7,000 budget, and a group of dedicated volunteers that provided food, clothing, and other emergency assistance to poor children, youth, and families; and

WHEREAS, in its 50-year history, UCM has grown tremendously to meet and serve the changing needs of Fairfax County, providing a range of holistic, life-changing services that address the complex challenges of multigenerational poverty, with a \$4.2 million operating budget and more than 70 employees annually serving more than 6,000 vulnerable people, 40 percent of whom are children; and

WHEREAS, in addition to providing food and financial assistance, UCM also works to meet many other essential needs, including providing emergency utility and medical assistance, an early learning center to prepare children for school readiness, a child abuse and neglect prevention program, youth development and enrichment programs at two community centers, English as a Second Language (ESL) and citizenship classes, immigration services, job readiness services, neighborhood community-building programs, and community schools; and

WHEREAS, with the changing population and increasing community needs, UCM's services and strategic partnerships with other nonprofit organizations, businesses, and government bodies have continued to evolve, leading UCM to serve as Lead Agency of Opportunity Mount Vernon, providing a continuum of services to children, youth, and adults to break the cycle of poverty, while embracing a vision of One Fairfax; and

WHEREAS, over five decades, hundreds of thousands of people in need have benefited from the caring work of UCM; and

WHEREAS, UCM envisions a community where everyone thrives and continues to empower neighbors in need with the dedicated leadership of its volunteer board of directors, the hard work of its team members and volunteers, and the generosity of its many community partners and donors; and

WHEREAS, for 50 years, UCM has been at the heart of neighbors helping neighbors and aspires to leverage this community spirit and work with critical partners to accelerate systemic changes to end multigenerational poverty in southeastern Fairfax County as a core value; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend United Community Ministries, Inc., on the occasion of its 50th Anniversary for its legacy of providing a strong safety net and performing a central role in facilitating a full spectrum of services to break the multigenerational cycle of poverty; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to United Community Ministries, Inc., as an expression of the General Assembly's admiration for the organization's vital role in southeastern Fairfax County.

### SENATE JOINT RESOLUTION NO. 440

*Commending the Northern Virginia Conservation Trust.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 25 years, the Northern Virginia Conservation Trust has been dedicated to its mission of "Saving Nearby Nature" by conserving land and water with natural, historical, and cultural value to the community; and

WHEREAS, the Northern Virginia Conservation Trust serves urban, suburban, and rural communities in the Counties of Arlington, Caroline, Fairfax, Fauquier, King George, Loudoun, Prince William, Spotsylvania, and Stafford and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park; and

WHEREAS, the Northern Virginia Conservation Trust stewards and monitors land with conservation, historical, and cultural values on parcels of all sizes, from small lots in heavily developed urban areas to largely undisturbed land, forests, grasslands, other habitats, and working farms in rural areas; and

WHEREAS, the Northern Virginia Conservation Trust holds 99 conservation easements, owns 21 parcels, and has conserved nearly 6,500 acres of private and public land, including a 70-acre great blue heron rookery in Stafford County, protecting one of the largest nesting sites in the Chesapeake area; and

WHEREAS, the Northern Virginia Conservation Trust has conserved 12 conservation properties designated as Virginia Treasures by the Governor in 2016 and protected the Alexandria at the Ready Civil War site, Lily's Beloved Farm in Fairfax County, Oak Hill in western Fairfax County, the Crow's Nest in Stafford County, and the Murray-Dick-Fawcett House in Old Town Alexandria; and

WHEREAS, the Northern Virginia Conservation Trust offers technical assistance to help local governments achieve comprehensive local plans in a way that preserves and enhances natural resources; and

WHEREAS, the Northern Virginia Conservation Trust builds engagement with the community through opportunities for volunteering, special programs and workshops, training courses, and outreach events; and

WHEREAS, many areas of Northern Virginia face increasing development pressures which leave few opportunities to save natural resources on which all Virginians depend; the Northern Virginia Conservation Trust is one of the few organizations with the goal, ability, and foresight to save diminishing lands and waters; and

WHEREAS, the Northern Virginia Conservation Trust was the first land trust in Virginia to be accredited by the Land Trust Accreditation Commission and is the leading nonprofit, land and water conservation trust organization in Northern Virginia; and

WHEREAS, over the years, the Northern Virginia Conservation Trust has fulfilled its mission through the hard work of the Board of Directors, staff members, and volunteers and the able leadership of its officers and board members; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Northern Virginia Conservation Trust on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Northern Virginia Conservation Trust as an expression of the General Assembly's admiration for the organization's work to sustain the thriving natural spaces in communities throughout Northern Virginia.

### SENATE JOINT RESOLUTION NO. 441

*Commending the Prince William County Bar Association.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, in 2018, the Prince William County Bar Association received the Frankie Muse Freeman Organizational Pro Bono Award for providing hundreds of hours of legal services to members of the community in need; and

WHEREAS, presented annually by the Virginia State Bar, the Frankie Muse Freeman Organizational Pro Bono Award is named for the first woman appointed to the U.S. Commission on Civil Rights; the Prince William County Bar Association received the prestigious award at a special ceremony in Norfolk on October 17, 2018; and

WHEREAS, the Prince William County Bar Association estimates that its more than 500 members provide more than \$400,000 in pro bono legal services each year; the association's longest running pro bono program, which provides legal assistance to survivors of domestic abuse, was established in 1995; and

WHEREAS, over the next 23 years, the Prince William County Bar Association established pro bono programs to support seniors, first responders, survivors of natural disasters, pro se litigants, tenants, veterans, and individuals with low income; and

WHEREAS, the Prince William County Bar Association also established an uncontested divorce program, which allows couples to avoid traditional court proceedings, with attorneys facilitating resolutions to custody, visitation, and support matters; and

WHEREAS, volunteer attorneys from the Prince William County Bar Association have helped nearly 7,000 local students learn about legal responsibilities through programs utilizing the Virginia State Bar's *So You're 18* booklets; and

WHEREAS, established in 1941, the Prince William County Bar Association has a long history of service to the legal community and has benefited from an exceptional leadership team, including executive director Alissa N. Hudson, current president Sarah J. Knapp, president-elect Kristina Keech Spittler, past president D. Bradley Marshall, secretary Jacqueline W. Lucas, and treasurer Justin M. Hargrove; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Prince William County Bar Association on receiving the 2018 Frankie Muse Freeman Organizational Pro Bono Award; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Prince William County Bar Association as an expression of the General Assembly's admiration for the organization's years of exceptional contributions to Prince William County.

### SENATE JOINT RESOLUTION NO. 442

*Commending Neabsco Elementary School.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, for 50 years, Neabsco Elementary School, an outstanding public primary school in Prince William County, has given young people a safe, supportive environment in which to learn and grow; and

WHEREAS, throughout its history, Neabsco Elementary School has proudly focused on consistency, communication, community, and excellence in support of its students; and

WHEREAS, Neabsco Elementary School is a Positive Behavior Interventions and Systems school and recently launched the Positive Office Referrals initiative, which encourages teachers to send students to the office for positive reasons; students get a positive phone call home from an administrator and a photo taken with the administrator, which is posted on social media; and

WHEREAS, Neabsco Elementary School hosts monthly assemblies, which have promoted school spirit and community engagement through activities like Jump Rope for Heart and quarterly awards assemblies to celebrate students' academic achievement, growth, and character; and

WHEREAS, Neabsco Elementary School has also adopted a "press in model" for language arts instruction in grades three, four, and five, where for 30 minutes every day, three to five adults "press in" to provide small-group guided reading instruction to all students at their instructional level; and

WHEREAS, other elementary schools in Prince William County have adopted this model to boost student achievement in reading, increase time on task for students and build stronger relationships between teachers and students; and

WHEREAS, Neabsco Elementary School is also the first school in Prince William County to use a program called ST Math to support its math instruction; ST Math has little to no language component, so it allows all students regardless of their language ability or development to learn about mathematical concepts in a way that enhances the core curriculum; and

WHEREAS, teachers at Neabsco Elementary School hold weekly circles to build a sense of community, while administrators and counselors use conflict and harm circles to help repair harm done and help students to understand how their actions affect others in their community; and

WHEREAS, Neabsco Elementary School places an emphasis on the concept of teachers, students, and families all working together on one team to support their child's education, as research shows that family engagement and involvement plays a significant role in student achievement; the school's theme for 2019 is "One Family"; and

WHEREAS, Neabsco Elementary School has four Title I family events, a growing PTO that puts on monthly events, and recently held its first Donuts with Dad event that resulted in a line that went out the door; and

WHEREAS, Neabsco Elementary School earned the distinction of being a Prince William County School of Excellence in the 2003-2004, 2004-2005, and 2005-2006 academic years; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Neabsco Elementary School on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Neabsco Elementary School as an expression of the General Assembly's admiration for the school's commitment to academic excellence and service to the students of Prince William County.

**SENATE JOINT RESOLUTION NO. 443**

*Commending the Hilton Downtown Richmond.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, in 2019, the Hilton Downtown Richmond celebrates its 10th anniversary of providing exceptional hospitality and service from inside the historic Miller & Rhoads Building on Broad Street; and

WHEREAS, on October 17, 1885, the same year that the nation's first electric trolley system debuted in Richmond, three businessmen from Pennsylvania opened the Miller, Rhoads & Gerhart dry goods store at 117 East Broad Street; the store was later renamed as Miller & Rhoads and moved to the 500 block of East Broad Street; and

WHEREAS, Miller & Rhoads prospered in the area and quickly became an upscale department store encompassing nearly half a million square feet of floor space on an entire city block; the store helped anchor downtown Richmond's retail district for decades, drawing shoppers from throughout the region; and

WHEREAS, Miller & Rhoads was the first store in Richmond to feature electric lighting, elevators, escalators, air conditioning, and underground plumbing and was known for its ornate clock on the first floor of the building, with the phrase "Meet me under the clock" becoming familiar to Richmonders planning downtown activities; and

WHEREAS, the famous Miller & Rhoads Tea Room was known as the center of Richmond's social scene, hosting fashion shows, book signings, and other events; the store also gained recognition for its elaborate holiday window displays, and thousands of children flocked to the store each Christmas to visit Santa Claus; and

WHEREAS, Miller & Rhoads opened 20 stores in Virginia and North Carolina before closing in 1990; throughout its history, the store maintained its traditional roots, even placing its elegant metal signs outside stores within shopping malls; and

WHEREAS, in 2009, the Miller & Rhoads Building reopened as the 250-room Hilton Downtown Richmond, elevating the commitment to excellence for which Miller & Rhoads was known with the prestige of the Hilton brand; the project also created 130 condominiums in the building and was the first development in the city to incorporate hotel and condominium units in the same space; and

WHEREAS, the opening of the Hilton Downtown Richmond was an important element in the revitalization of downtown Richmond, and the property has been a major contributor to the city's vibrant economy; and

WHEREAS, guests from around the world have stayed at the Hilton Downtown Richmond, enjoying the high quality of service provided by its employees, unique guest rooms, beautiful lobby with original marble floors, and nostalgic touches reminiscent of the building's past; and

WHEREAS, the Virginia Department of Historic Resources has approved the installation of a Virginia Highway Marker to be placed in front of the Hilton Downtown Richmond to preserve the story of the Miller & Rhoads Building; and

WHEREAS, in 2019, the Hilton Downtown Richmond also commemorates the 100th anniversary of Hilton Hotels and Resorts, which was established in 1919 and now serves millions of guests at 570 locations in 85 countries and territories on six continents; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Hilton Downtown Richmond in the historic Miller & Rhoads Building on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Hilton Downtown Richmond as an expression of the General Assembly's admiration for its contributions to the Richmond community.

**SENATE JOINT RESOLUTION NO. 444**

*Celebrating the life of the Honorable Oliver A. Pollard, Jr.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Honorable Oliver A. Pollard, Jr., an esteemed judge, greatly admired native and resident of Petersburg, and beloved husband and father, died on June 10, 2018; and

WHEREAS, Oliver A. Pollard, Jr., was born in Petersburg in 1932; he graduated from Petersburg High School, attended St. Christopher's School, and then graduated from the University of Virginia in 1954; and

WHEREAS, following service in the United States Army Counter Intelligence Corps, Oliver A. Pollard, Jr., earned a degree from T.C. Williams Law School of the University of Richmond in 1959; and

WHEREAS, Oliver A. Pollard, Jr., was an attorney, and later made a partner with White, Hamilton, Wyche and Shell, in Petersburg, while serving on the board of the Petersburg Savings and American Trust Co., the Hospital Authority of the City of Petersburg, the YMCA, the United Fund, and the Area Heart Fund; and

WHEREAS, following in the footsteps of his father, who had served as a judge, Oliver A. Pollard, Jr., became a judge of the Petersburg Circuit Court in 1972, and served with distinction for 29 years; and

WHEREAS, after his retirement, Oliver A. Pollard, Jr., remained active in numerous civic issues and projects in Petersburg, and spent his free time oil painting, building furniture, playing golf, gardening, supporting historic preservation, and writing *Under the Blue Ledge*, a history of Nelson County; and

WHEREAS, Oliver A. Pollard, Jr., will be fondly remembered and greatly missed by his wife, Elizabeth; his children, Trip, Mary, John, and Ed, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Oliver A. Pollard, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Oliver A. Pollard, Jr., as an expression of the General Assembly's admiration for his community contributions and respect for his memory.

### SENATE JOINT RESOLUTION NO. 445

*Commending Jimmye McFarland Laycock.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, in 2018, Jimmye McFarland Laycock retired as head coach of The College of William and Mary football team after 39 seasons of record-setting success and exceptional leadership both on and off the field; and

WHEREAS, a Virginia native, Jimmye Laycock was a 12-letter multisport athlete in high school and graduated from The College of William and Mary, where he played on the football team, starting in the secondary his sophomore year before later switching to quarterback; and

WHEREAS, Jimmye Laycock began his full-time coaching career at The Citadel, then went on to become quarterbacks coach at Memphis State University and offensive coordinator of Clemson University before returning to his alma mater in 1979 as The College of William and Mary's 29th head football coach; and

WHEREAS, in 1983, Jimmye Laycock led the William and Mary Tribe to its first winning season since 1977, and three years later the team made its first appearance in what is now the Football Championship Subdivision (FCS) playoffs; and

WHEREAS, in 1988, Jimmye Laycock became the winningest coach in the college's history; in 1990, the team won its first playoff game; in 2004, the team set another record for most wins in a season, finishing with an 11-3 record; and

WHEREAS, Jimmye Laycock's teams ultimately won five conference titles, made ten FCS playoff appearances, including two semifinal appearances, and finished a season as a nationally ranked team 13 times over the course of 24 winning seasons; and

WHEREAS, Jimmye Laycock's imaginative offensive schemes and ability to adapt to not only changes in the game, but to the strengths and weaknesses of each season's players resulted in a team that year after year was entertaining to watch and always competitive, often surprising opponents who had far more resources; and

WHEREAS, Jimmye Laycock finished with an impressive 249-194-2 record, becoming one of the few FCS coaches to achieve 200 wins; at the time of his retirement, no other coach in Virginia had led his team to as many victories over so long a time period, no other active coach in the nation had as many Division I wins, no other coach had led his alma mater for as long, and his uninterrupted tenure as coach of a Division I program ranked third of all-time; and

WHEREAS, under Jimmye Laycock's leadership, the Tribe football team has achieved success in the classroom as well as on the field; in the National Collegiate Athletic Association's 2016-2017 Academic Progress Report, Tribe football earned a perfect score of 1,000, an especially impressive feat given the institution's rigorous academic standards; and

WHEREAS, during the 2017 National Football League (NFL) season, there were seven players on active rosters and three head coaches in the league who had played or coached under Jimmye Laycock, and at least 40 former players have signed contracts in the NFL; and

WHEREAS, throughout his historic tenure, Jimmye Laycock served The College of William and Mary with the utmost integrity, dedication, and distinction, inspiring generations of student-athletes and upholding the institution's proud traditions of excellence; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Jimmye McFarland Laycock on the occasion of his retirement as head coach of The College of William and Mary football team; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jimmye McFarland Laycock as an expression of the General Assembly's admiration for his exceptional legacy of leadership to the students of The College of William and Mary and contributions to the Williamsburg community.

**SENATE JOINT RESOLUTION NO. 446**

*Celebrating the life of William McKinnon.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, William McKinnon, an esteemed and deeply loved attorney, a true Virginia gentleman, and a man of deep and abiding faith who devoted his life to serving others, died on May 30, 2018; and

WHEREAS, William "Tex" McKinnon graduated from Cooper High School in Abilene, Texas, where he was an accomplished football player who set the record for the most rushing yards; he was also regarded in the great state of Texas as an actor of considerable ability to the extent that he was voted the most outstanding high school thespian in 1965; and

WHEREAS, Tex McKinnon was also a fierce football player at The College of William and Mary while he earned his bachelor's degree; in 1967, under the leadership of the legendary coach Marv Levy, Tex McKinnon played in the astonishing 27–16 upset over the United States Naval Academy, which at the time was ranked number four in the nation, a game that ESPN ranks as one of the top 10 college football upsets of the 1960s; and

WHEREAS, during his college years, Tex McKinnon stayed true to the performer within by acting in several theatrical performances, much to the delight of his football teammates who threw roses on the stage at the mere sight of him; and

WHEREAS, Tex McKinnon joined the United States Navy and retired as a commander in the Naval Reserves, serving his country during the Vietnam War and the Gulf War; and

WHEREAS, Tex McKinnon began his legal career in the area of trusts and estates as a bank executive and went on to establish and run the trust department at several large financial institutions; and

WHEREAS, Tex McKinnon graduated from The College of William and Mary's Marshall-Wythe School of Law and he received a master's degree in law and taxation while he was working as a bank executive; and

WHEREAS, while working as a bank executive, Tex McKinnon also met his wife, Debbie, and his claim to be a bona fide Texan was never diminished despite the fact that he married a beautiful Okie who reportedly made him root for the University of Oklahoma Sooners; and

WHEREAS, for more than 20 years, Tex McKinnon practiced in the areas of juvenile criminal law, child custody, divorce, estate and trust planning and administration, and closely-held business representation; and

WHEREAS, in 2007, Tex McKinnon became a founding member and managing partner in the law firm of Montgomery, Kelly & McKinnon, where he was a mentor and friend to his fellow partners and staff; and

WHEREAS, Tex McKinnon could always be counted on to inject a bit of levity into otherwise serious matters, and he later played the role made famous by Lee J. Cobb in *Twelve Angry Men* in the local playhouse after he became a lawyer; he utilized his skills as an actor in the courtroom to the extent that the participants rarely realized they were merely bit players in a play that he was clearly directing; and

WHEREAS, one such performance involved misconduct on the part of his client toward a guinea pig, and as he painstakingly made his closing argument to the court, Tex McKinnon slowly and deliberately opened his coat that only the judge and his clerk could see to reveal a stuffed guinea pig in the coat pocket of his suit, defusing the seriousness of the situation; and

WHEREAS, these theatrics became the norm in a Tex McKinnon case, and his use of props and other theatrical techniques enhanced his reputation as a clever lawyer; members of the bench began to look for the proverbial "red herring" the moment he entered the courtroom; they couldn't take their eyes off him, and he never disappointed; and

WHEREAS, as he did in all endeavors of his life, Tex McKinnon was able to maintain his sense of humor and compassion while ably serving his clients, and at the same time, garnering the respect and friendship of his colleagues; and

WHEREAS, Tex McKinnon was trusted and relied upon by many judges before whom he presented; he was a true and faithful advocate and a model of propriety in all matters, whether he was retained or appointed by the court; and

WHEREAS, Tex McKinnon was well known for his humility, compassion, integrity, and zealous legal representation, and he touched countless lives in Williamsburg and throughout the Commonwealth; and

WHEREAS, Tex McKinnon will be fondly remembered and greatly missed by his wife, Debbie; his children, Hull, Garrett, and Catherine, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of William McKinnon; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William McKinnon as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 447**

*Celebrating the life of Robert Ewing Litton II.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Robert Ewing Litton II, a longtime resident of the Commonwealth and a respected leader in the coal mining industry, died on August 3, 2018; and

WHEREAS, a native of Pennington Gap, Robert Litton grew up in Jonesville, where he graduated from Jonesville High School in 1969; and

WHEREAS, Robert Litton began his long career in coal mining at Shackleford Coal Company, then worked for Westmoreland Coal Company for 19 years, followed by El Paso Energy and Progress Energy in North Carolina; and

WHEREAS, Robert Litton returned to the Commonwealth to join United Coal Company and offered his expertise to the Virginia Coal Association (VCA); he was chair of the VCA when it merged with two other organizations to become the Virginia Coal and Energy Alliance and later served as the association's secretary and treasurer; and

WHEREAS, Robert Litton was committed to mine safety throughout his career and was active in mine rescue competitions; one of his proudest accomplishments was in 2017, when his team won the National Coal Mine Rescue Contest; and

WHEREAS, after his well-earned retirement in 2016, Robert Litton and his wife, Janice, moved to Savannah, Georgia, and enjoyed fellowship and worship with the community at Christ Baptist Church in Ellabell, Georgia; and

WHEREAS, Robert Litton died from glioblastoma multiforme, an aggressive form of brain cancer, and donated his body to science, hoping to save the lives of others through the discovery of a cure; and

WHEREAS, Robert Litton will be fondly remembered and greatly missed by his wife of 47 years, Janice; his daughter, Samantha, and her family; and numerous other family members, friends, and fellow miners; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Robert Ewing Litton II; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Robert Ewing Litton II as an expression of the General Assembly's respect for his memory.

#### **SENATE JOINT RESOLUTION NO. 448**

*Celebrating the life of Manuel Baca Fierro.*

Agreed to by the Senate, February 23, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Manuel Baca Fierro, longtime resident of the Commonwealth and a respected attorney in Herndon, died on November 19, 2018; and

WHEREAS, Manuel "Mani" Baca Fierro was born in Western Kansas, but grew up in Northern Virginia, graduating from what was formerly Jeb Stuart High School in Falls Church; and

WHEREAS, Mani Fierro always considered himself a native of the Commonwealth and vowed he would never leave, doing so only briefly to attend Northeastern University in Boston, where he received a bachelor's degree in criminal justice; and

WHEREAS, Mani Fierro served as an LBJ Fellow in the office of Congressman Esteban Torres and worked for the Washington, D.C., law firm Arnold and Porter; these experiences inspired him to once again leave the Commonwealth for Boston, where he earned a Juris Doctor degree from the New England School of Law; and

WHEREAS, after law school, Mani Fierro opened the Herndon Law Firm with his wife, Rachel Marie Fierro, and proudly served clients for many years in the areas of family law, criminal law, real estate law, bankruptcy law, business law, personal injury law, and estate planning; and

WHEREAS, Mani Fierro loved and was embraced by his Herndon community; he was active in civic life, serving as a mentor to many, a Little League coach, the president of the Jeanie Schmidt Free Clinic, and a member of both the Rotary Club of Herndon and the Loyal Order of Moose; and

WHEREAS, predeceased by his father, Manuel, Mani Fierro will be dearly remembered by his mother and stepfather, Bettie and Alex; his children, Mason and Sierra; his former wife and dearest friend, Rachel; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Manuel Baca Fierro, longtime resident of the Commonwealth and treasured member of the Herndon community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Manuel Baca Fierro as an expression of the General Assembly's respect for his memory and his contributions to the Commonwealth.

**SENATE JOINT RESOLUTION NO. 449**

*Commending Sully Elementary School.*

Agreed to by the Senate, February 21, 2019  
 Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Sully Elementary School, an outstanding public primary school located in Sterling, celebrated its 50th anniversary in 2018; and

WHEREAS, Sully Elementary School suddenly opened for the 1967-1968 school year to alleviate overcrowding in area schools; the first principal, Wayne Mills, was 27 years old when he learned about his assignment the week before his first day; and

WHEREAS, during Sully Elementary School's first year, students had to pack a lunch and eat in their classrooms because there was no cafeteria; students also had to be kept inside during recess because the playground was a construction site and there was no homework because the students had no books to take home; and

WHEREAS, the Sully Elementary School community marked its 50th anniversary by inviting former administrators, teachers, and students back to campus for a celebration, and providing current students and their families with a barbeque lunch prepared by the Christian Fellowship Church, a courtesy of a grant from the Loudoun Education Foundation and the Claude Moore Charitable Foundation; and

WHEREAS, today, Sully Elementary School educates a diverse student body of approximately 450 students; and

WHEREAS, Sully Elementary School has given generations of students in Loudoun County a strong foundation for lifelong learning; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Sully Elementary School on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Colleen O'Neil, principal of Sully Elementary School, as an expression of the General Assembly's admiration for the school's legacy of academic excellence and its continued service to the Loudoun community.

**SENATE JOINT RESOLUTION NO. 450**

*Commending the NextStop Theatre Company.*

Agreed to by the Senate, February 21, 2019  
 Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the NextStop Theatre Company, a non-profit live professional theater in Herndon, celebrates its 30th anniversary; and

WHEREAS, the NextStop Theatre Company started as an amateur, experimental group in 1988 called the Elden Street Players; they were initially based in a warehouse, and grew over the years into a professional theater company; and

WHEREAS, in 1989, design and construction phases took place, and through public funding from the Town of Herndon, the Virginia Commission for the Arts, and the Elden Street Players themselves, the once-industrial warehouse space was named "The Industrial Strength Theatre"; and

WHEREAS, for over 25 years, the Elden Street Players knew that something special was occurring when friends and neighbors gathered to watch a work of theater together; to elevate to the professional level, the Elden Street Players hired Evan Hoffmann, a volunteer for more than 20 years, to lead an exciting new phase in the company's life; and

WHEREAS, rebranded and renovated, the company's new name, NextStop Theatre Company, sought to honor Herndon's heritage as a Washington and Old Dominion Railroad town and celebrate the location's future on the Washington, D.C., metro system; they affirm the company's future success with a mission to introduce theatrical performances and educational programs that are uniquely ambitious, intimate, and accessible both to and in the Northern Virginia and Dulles Corridor communities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the NextStop Theatre Company, a non-profit live professional theater in Herndon, on its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Evan Hoffman, the NextStop Theatre Company's producing artistic director, as an expression of the General Assembly's admiration for the theater's admirable artistic achievements and growth.

**SENATE JOINT RESOLUTION NO. 451**

*Commending Carol G. Jameson.*

Agreed to by the Senate, February 21, 2019  
 Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Carol G. Jameson, chief executive officer of HealthWorks for Northern Virginia, was named the 2019 Nonprofit Executive Leader at the Loudoun County Chamber of Commerce Annual Meeting & Community Leadership Awards; and

WHEREAS, the Community Leadership Awards recognize businesses and individuals that have shown remarkable leadership and commitment to the citizens and community of Loudoun County; Carol Jameson was selected as the winner among four finalists in the Nonprofit Executive Leader category; and

WHEREAS, Carol Jameson has worked in the nonprofit community for over 40 years; she began a career as a social worker after earning her Master of Social Work degree from Virginia Commonwealth University in 1986; and

WHEREAS, Carol Jameson's work in the health care industry began in the mid-1980s when she became the first dedicated HIV/AIDS social worker at Inova Fairfax Hospital, later joining the team that established the Inova Juniper Program, Northern Virginia's largest provider of HIV/AIDS care; and

WHEREAS, over a career with Inova, Whitman-Walker Health, Northern Virginia Family Service, the Jeanie Schmidt Free Clinic, and HealthWorks for Northern Virginia, Carol Jameson has cultivated strategic partnerships to break down barriers and provide comprehensive health care services to those in need; and

WHEREAS, as a result of Carol Jameson's wise leadership and tireless advocacy, thousands of individuals in Northern Virginia have access to quality health care, enabling them to be successful and productive members of their community; she has lived her values and in all of her work promoted the vision of access to health care for all; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Carol G. Jameson, the Loudoun County Chamber of Commerce 2019 Nonprofit Executive Leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Carol G. Jameson as an expression of the General Assembly's admiration for her efforts to improve the health and well-being of countless families in the Commonwealth.

#### **SENATE JOINT RESOLUTION NO. 452**

*Commending Food For Neighbors.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Food For Neighbors is an organization operated and supported by local volunteers and businesses who care about the children of their community, which is focused on helping students in Herndon and all of Fairfax and Loudoun Counties obtain a more reliable source of food; and

WHEREAS, Food For Neighbors' mission is to end child hunger in the Northern Virginia area by raising awareness and community involvement; and

WHEREAS, Food For Neighbors works with individuals from neighborhoods that have students attending local schools, distributing bags to be filled with food by partners that are then collected on a designated Saturday morning; and

WHEREAS, the bags that are collected by Food For Neighbors are given to the schools, then distributed to certain identified students every Friday via the school's Weekend Snack Program; and

WHEREAS, Karen Joseph began Food For Neighbors when she was PTA president of her son's middle school; she became aware of the high percentage of students participating in the free and reduced-price lunch program and their need for food over the weekends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Food For Neighbors for its important work helping students in Herndon and all of Fairfax and Loudoun Counties obtain a more reliable source of food; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Food For Neighbors as an expression of the General Assembly's admiration for the organization's dedication to combating hunger.

#### **SENATE JOINT RESOLUTION NO. 453**

*Commending the Rotary Club of Herndon.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Rotary Club of Herndon celebrates 80 years of service to the Herndon community in 2019; and

WHEREAS, formed in June of 1939 with Ernest Shull as the first president, the 61-member Rotary Club of Herndon follows the International Rotary motto of "Service Above Self" in providing an opportunity for business leaders to serve people in Herndon and around the world; and

WHEREAS, the Rotary Club of Herndon raises approximately \$60,000 each year and the majority of the funds go directly back into the community; and

WHEREAS, members of the Rotary Club of Herndon generously serve the community by working with Herndon schools, providing art activities for the United Airlines Fantasy Flight at Dulles International Airport, and cohosting Senior Senior Prom with the Rotary Club of Reston; and

WHEREAS, the Rotary Club of Herndon sponsors and runs Dolly Parton's Imagination Library project in the Herndon area, providing free books to children from birth to the age of five; and

WHEREAS, the Rotary Club of Herndon provides scholarships to high school students to attend Northern Virginia Community College; and

WHEREAS, the Rotary Club of Herndon also supports local community service organizations, such as HealthWorks for Northern Virginia, Herndon-Reston FISH, Cornerstones, and the Embry Rucker Community Shelter; and

WHEREAS, the Rotary Club of Herndon also supports international service projects, including providing clean drinking water for the 20,000 residents of Pignon, Haiti, providing basic sanitation facilities and water for residents of a rural South African village, and working toward the eradication of polio; and

WHEREAS, throughout the years, the Rotary Club of Herndon has used the innovative and creative ideas and business skills of its members as it has engaged in projects to raise funds; and

WHEREAS, the Rotary Club of Herndon created the Herndon-Reston community phone book, which is now published by other companies; and

WHEREAS, for the past 80 years, the Rotary Club of Herndon has provided its members with the opportunity to socialize with other business professionals and make valuable contributions to the Herndon and international communities; and

WHEREAS, the members of the Rotary Club of Herndon look forward to continuing to work as part of Rotary International to have a positive impact on the community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Rotary Club of Herndon on the occasion of its 80th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Erik Haas, president of the Rotary Club of Herndon, as an expression of the General Assembly's congratulations and admiration and gratitude for its service to the citizens of Herndon.

#### SENATE JOINT RESOLUTION NO. 454

*Celebrating the life of the Honorable Luther Ray Ashworth.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Honorable Luther Ray Ashworth of Richmond, a respected businessman who served the Commonwealth as a former member of the House of Delegates, died on May 9, 2018; and

WHEREAS, a native of Danville, Ray Ashworth attended Whitmell Farm-Life School and graduated from the University of Richmond, then served his country as a member of the United States Army; and

WHEREAS, respected for his business acumen, Ray Ashworth was the chief executive officer of Wakefield Oil Company from 1960 to 1979, receiving the Distinguished Service Award from the Virginia Jaycees in 1962; and

WHEREAS, Ray Ashworth served on the Town Council of Wakefield from 1966 to 1969; and

WHEREAS, desirous to be of further service to the Commonwealth, Ray Ashworth ran for and was elected to the House of Delegates in 1969 and reelected for six terms, until 1982, representing the residents of the Counties of Charles City, Greensville, New Kent, Surry, and Sussex, and the City of Emporia in the 45th District; and

WHEREAS, during his time as a state lawmaker, Ray Ashworth introduced and supported numerous pieces of important legislation for the benefit of all Virginians and served as Chairman of the House Committee on Conservation and Natural Resources from 1978 to 1982; and

WHEREAS, for 46 years, Ray Ashworth provided dedicated leadership to the Jamestown-Yorktown Foundation, first appointed to the Board of Trustees by the Speaker of the House of Delegates in 1972, then successively reappointed by Governors Charles S. Robb, Gerald L. Baliles, and L. Douglas Wilder; following his years as a gubernatorial appointee, he continued his service as a board-elected trustee, serving as board chairman from 1990 to 1994 and elected as chairman emeritus in 2002; he concurrently was an active member of the Jamestown-Yorktown Foundation's private affiliate boards for more than three decades, holding several officer positions and serving as president of the Jamestown-Yorktown Educational Trust from 1989 to 1990; and

WHEREAS, Ray Ashworth's leadership helped transform the Jamestown-Yorktown Foundation's museums, now known as Jamestown Settlement and the American Revolution Museum at Yorktown, into world-class centers of education for teaching the history of the founding and development of Virginia and the United States; and

WHEREAS, in his association with the Jamestown-Yorktown Foundation, Ray Ashworth provided outstanding leadership in the development and implementation of significant national commemorations recognizing 400 years of Virginia and American history as a member of the Jamestown 2007 and the 2019 Commemoration Steering Committees; and

WHEREAS, Ray Ashworth served on the Virginia State Crime Commission, first as an appointee of the Speaker of the House of Delegates and later as a gubernatorial appointee; and

WHEREAS, in 1980, Ray Ashworth was appointed by the Speaker of the House of Delegates as a founding member of the Chesapeake Bay Commission; and

WHEREAS, Ray Ashworth served as chairman of the Virginia YMCA Model General Assembly; and

WHEREAS, Ray Ashworth also served as executive vice president of the Virginia Trucking Association between 1981 and 1991; and

WHEREAS, Ray Ashworth volunteered his time and leadership with Southeast 4-H Educational Center, the Virginia Museum of Fine Arts, Chippokes Plantation Farm Foundation, the Virginia State Fair, and the Virginia Society, Sons of the American Revolution; and

WHEREAS, Ray Ashworth was appointed by the Richmond City Council to serve on the Richmond Regional Planning District Commission from 2010 through 2013; and

WHEREAS, predeceased by his wife, Anne, Ray Ashworth will be fondly remembered and greatly missed by his children, Sallie, George, and Anne, and their families; and by numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Luther Ray Ashworth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Luther Ray Ashworth as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 455

*Celebrating the life of Leonard Carlyle Ford.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Leonard Carlyle Ford, a respected member of the James City County community and an extraordinary public servant, died on November 14, 2018; and

WHEREAS, Carlyle Ford was born in Mabel, Minnesota, and moved to Virginia when he was three years old; and

WHEREAS, Carlyle Ford graduated from the Matthew Whaley School and served in the United States Army; and

WHEREAS, Carlyle Ford worked for Stadium Oil Sales, ran a Lum's restaurant, was a business license inspector for James City County, and retired as the commissioner of the revenue for James City County; and

WHEREAS, Carlyle Ford was engaged in the civic life of his community as a member of the Ruritan Club, the James City County Board of Agriculture, and the Norsemen's Federation, and was a life member of VFW Post 8046 and American Legion Post 1776; he was also an active member of Our Saviour's Lutheran Church in Norge; and

WHEREAS, Carlyle Ford will be fondly remembered and greatly missed by his wife, Katherine; stepdaughter, Lynn Starling; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Leonard Carlyle Ford, a respected member of the James City County community and an esteemed public servant; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Leonard Carlyle Ford as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 456

*Celebrating the life of Mary J. Barnett.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Mary J. Barnett, a Norfolk iconic small business owner, died on August 12, 2018; and

WHEREAS, Mary Barnett was born in Norfolk and raised on the rustic James family farm known as Grapevine Ridge; knowing the struggle of living in a historic farmhouse without running water or electricity during the Great Depression, and after losing both parents at a young age, along with her siblings, was first scattered to distant family members and ultimately to the Methodist orphanage in Richmond; she was always driven to study and work hard, determined to succeed; and

WHEREAS, Mary Barnett excelled at the former Oceana High School in Virginia Beach and then, upon moving in with cousins in Norfolk who treated her like their own daughter, transferred to Maury High School in Norfolk where she graduated at the top of her class; she continued her studies at Greensboro College in North Carolina, earning a degree in religion and English; and

WHEREAS, Mary Barnett worked for the former Seaboard Railway after college and during her first marriage became a teacher at Larchmont Elementary School; many years later, she would still see and be fondly remembered by many of her students from those days; and

WHEREAS, Mary Barnett was later a reading specialist for Norfolk Public Schools, earning her master's degree from Old Dominion University, and while teaching, first began investing in real estate and continued to own and manage several residential and commercial properties; and

WHEREAS, after her marriage to John Barnett, Mary Barnett helped transform Barnett Hardware, the family hardware store that opened in Wards Corner in 1945, into what is now Mary Barnett Gifts & Decorative Accessories, now in its 18th year on Granby Street in Norfolk's historic Riverview Village; and

WHEREAS, Mary Barnett was deeply involved in the First Presbyterian Church in Norfolk and was a member of the Daughters of the American Revolution, the Elizabeth River Women's Club, the Riverview Village Business District, and the Norfolk Yacht and Country Club; and

WHEREAS, predeceased by John, her husband of 26 years, Mary Barnett will be fondly remembered and greatly missed by her children, Nancy and Randy, and stepsons, Jack and Richard, and their families; and numerous other family and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Mary J. Barnett, Norfolk iconic small business owner; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Mary J. Barnett as an expression of the General Assembly's respect for her many contributions to the Tidewater region.

### SENATE JOINT RESOLUTION NO. 457

*Celebrating the life of Effie Marie Giddens Spady.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Effie Marie Giddens Spady, beloved member of the Northampton County community, died on October 21, 2018; and

WHEREAS, Effie Giddens Spady was born in Franktown and was baptized at Bethel Baptist Church, where she worshipped for over 60 years, contributing to various ministries and serving as a member of the Willie Frank Tanner Jr. Gospel Chorus and as a co-founder of the Rosebud Choir and Ushers; and

WHEREAS, Effie Giddens Spady was employed for 33 years at what was formerly the Northampton-Accomack Memorial Hospital, where she made many dear and lasting friends; she also helped run her family's business, the legendary Giddens' Do Drop Inn, the oldest ongoing African American business in Northampton County; and

WHEREAS, Effie Giddens Spady was also active in civic life, assisting with the annual Dr. Martin Luther King, Jr., Day celebrations, numerous voter registration drives, NAACP events, and community banquets; she was an advocate for social justice, a lifetime member of the NAACP, and a proud recipient of the Dr. Martin Luther King, Jr., Community Service Award; she also served as treasurer for the Virginia-Maryland Baptist Association District II Sunday School Convention for over 20 years; and

WHEREAS, Effie Giddens Spady will be dearly remembered by her children, Deborah and Stacy, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Effie Marie Giddens Spady, valued member of the Northampton County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Effie Marie Giddens Spady as an expression of the General Assembly's respect for her memory and appreciation of her contributions to the Commonwealth.

### SENATE JOINT RESOLUTION NO. 458

*Commending William Lindsey.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, William Lindsey, a member of the Plaza Volunteer Rescue Squad in Virginia Beach, went above and beyond in service to the community during a snow storm in January 2018; and

WHEREAS, William "Bill" Lindsey has dedicated countless hours of service to local residents as an emergency medical technician and an ambulance operator; he has also offered his leadership to the Plaza Volunteer Rescue Squad as an officer and a member of its board of directors; and

WHEREAS, on January 4, 2018, a severe snow storm resulted in power outages and other hazards throughout Virginia Beach; when Bill Lindsey heard reports that an ambulance had become stuck in the snow, he braved below-freezing temperatures and responded to the scene in his personal vehicle; and

WHEREAS, Bill Lindsey helped pull the stranded ambulance from the snow and went on to assist nine more ambulances and a city truck over the course of several hours; and

WHEREAS, Bill Lindsey's dedication to duty and concern for his fellow first responders and the residents of Virginia Beach are unparalleled; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend William Lindsey, a member of the Plaza Volunteer Rescue Squad, for his service during a snow storm in January 2018; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William Lindsey as an expression of the General Assembly's admiration for his exceptional contributions to the Virginia Beach community.

### SENATE JOINT RESOLUTION NO. 459

*Commending Captain Harold W. Hill.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Captain Harold W. Hill was named the Virginia Beach Fire Department Firefighter of the Year in 2018; and WHEREAS, Harold Hill received the honor after more than 20 years of service with the Virginia Beach Fire Department; having heard the calling to help others in peril, he has selflessly placed himself at great risk to help his community; and

WHEREAS, Harold Hill abides by the Virginia Beach Fire Department's principals of caring, honesty, integrity, and trust; he is considered a mentor to others and is an embodiment of service above self through his commitment to the Department's ladder companies, his service on various committees, and his work as an instructor for the Fire Explorers program; and

WHEREAS, Harold Hill is known as a captain who always goes the extra mile for his crew; he assists them, teaches them, and consistently shows them by example how to improve as firefighters; and

WHEREAS, Harold Hill was instrumental in the success of the Department's Auto Aid program with Chesapeake and Norfolk, and has been greatly involved in the mapping program within the Department; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Captain Harold W. Hill for being named the Virginia Beach Fire Department 2018 Firefighter of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Captain Harold W. Hill as an expression of the General Assembly's admiration for his years of service to the community and his leadership.

### SENATE JOINT RESOLUTION NO. 460

*Commending Deputy Amanda Vela.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Deputy Amanda Vela of the Virginia Beach Sheriff's Office was honored by the American Legion Princess Anne Post 113 on February 10, 2019, for her outstanding service to the community; and

WHEREAS, Amanda Vela epitomizes the meaning of determination, dedication, and professionalism; she has distinguished herself through her steadfast commitment, exhaustive efforts, and pride of purpose with the Virginia Beach Sheriff's Office and by serving her country in the United States Marine Corps; and

WHEREAS, Amanda Vela has been with the Virginia Beach Sheriff's office for four years; in her current assignment with Correctional Operations, she takes the time to mentor and support new deputies; and

WHEREAS, Amanda Vela is a true leader in every aspect of the word; she has proven her commitment to the Sheriff's Office by taking on the extra responsibility of becoming a member of the Emergency Response Team and holds many certifications in specialized areas of training; and

WHEREAS, before beginning her career with the Virginia Beach Sheriff's Office, Amanda Vela served in the United States Marine Corps from 2010 through 2014; her military experience has contributed to her excellence as a deputy; and

WHEREAS, Amanda Vela finds the time to give back to the community through worthwhile volunteer service; she helped start and coordinates the "Lunch with a Deputy" and "Reading with a Deputy" programs, which engage elementary school-age students in activities that help them see the sheriff's deputies in a positive light; and

WHEREAS, Amanda Vela is a dedicated professional who continually earns the LawFit Gold Standard in Physical Fitness and is recognized as a state certified instructor; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Deputy Amanda Vela of the Virginia Beach Sheriff's Office for her outstanding service to the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Deputy Amanda Vela as an expression of the General Assembly's admiration for her dedication to law enforcement.

**SENATE JOINT RESOLUTION NO. 461**

*Commending Barney Barnwell.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Barney Barnwell, a longtime resident of Fairfax County and a prolific volunteer in the Mount Vernon community, was named Lord Fairfax 2018 for his outstanding service; and

WHEREAS, Barney Barnwell volunteers at Inova Mount Vernon Hospital in the Joint Replacement Division, where he also served as past president of the Auxiliary Board and parliamentarian; and

WHEREAS, for more than 30 years, Barney Barnwell has worked with Rebuilding Together, formerly known as Christmas in April, and served as a Sunday school teacher and usher at the Fort Belvoir Chapel; and

WHEREAS, Barney Barnwell has donated over 20 years of service to the Capital Area Food Bank and served as a board member, treasurer, and trustee of New Hope Housing; in addition, he has served on the Fairfax County Human Services Council since 2003; and

WHEREAS, Barney Barnwell has also been a member of Omega Psi Phi Fraternity, Inc., for 60 years, including four years as the representative for the Third District; and

WHEREAS, Barney Barnwell's commitment to helping others is unparalleled, and he inspires his fellow volunteers through his passion for service and humble, reliable leadership; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Barney Barnwell on his selection as Lord Fairfax 2018; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Barney Barnwell as an expression of the General Assembly's admiration for his legacy of contributions to the Mount Vernon community.

**SENATE JOINT RESOLUTION NO. 462**

*Commending Lieutenant James Layne.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Lieutenant James Layne, a dedicated law-enforcement officer, retired as a member of the Division of Capitol Police on January 1, 2019, after more than 33 years of service; and

WHEREAS, a native of Essex County, James Layne earned degrees in police science and criminal justice from Rappahannock Community College and Strayer University; and

WHEREAS, James Layne joined the Division of Capitol Police, the oldest police department in the nation, in 1985; he served as a patrol officer, shift sergeant, lieutenant-watch commander, and, most recently, as a lieutenant overseeing special operations; and

WHEREAS, James Layne continued his education at the Federal Bureau of Investigation National Academy, the Virginia Association of Chiefs of Police Foundation Professional Executive Leadership School at the University of Richmond, the Institute for Leadership in Changing Times at Virginia Tech, the Public Safety Institute of Virginia Commonwealth University L. Douglas Wilder School of Government and Public Affairs, and the National Honor Guard Academy; and

WHEREAS, James Layne concurrently served his country as a member of the Virginia Army National Guard and was awarded the Military Achievement Medal for outstanding leadership in 1990; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Lieutenant James Layne on the occasion of his retirement as a member of the Division of Capitol Police; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lieutenant James Layne as an expression of the General Assembly's admiration for his distinguished service to the Commonwealth and the United States.

**SENATE JOINT RESOLUTION NO. 463**

*Commending Daily Planet Health Services.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, in 2019, Daily Planet Health Services celebrates 50 years of service to people in need in the Greater Richmond region; and

WHEREAS, founded in 1969, Daily Planet Health Services began by providing counseling, food, and shelter as a solution for those who were struggling with mental health issues and living on the streets; today, Daily Planet Health Services is part of a continuum of care in coordination with Homeward and, as such, is the community health provider of comprehensive, quality healthcare to those who are experiencing homelessness; and

WHEREAS, through five decades of identifying and meeting community need, Daily Planet Health Services has broadened its reach and today provides primary care, mental health, and substance use treatment and dental care to anyone without regard to their financial, citizenship, or housing status; and

WHEREAS, as a federally qualified health center, Daily Planet Health Services partners with all area health systems as a health safety net providing service on a sliding fee scale based on income; in 2017, a Medication-Assisted Treatment program was begun for those suffering from opioid use disorder; and

WHEREAS, in 2018 the Virginia Health Care Foundation bestowed its inaugural Health Safety Innovation Award on Daily Planet Health Services in recognition of the quality health outcome measures for homeless patients enrolled in its Diabetes Impact program; and

WHEREAS, today, Daily Planet Health Services serves nearly 8,000 unique patients a year; in addition to operating two free-standing health center locations in Richmond, Daily Planet Health Services partners with other community organizations to make care available to those who might not otherwise have access; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Daily Planet Health Services for celebrating 50 years of service to people in need in the Greater Richmond region; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Daily Planet Health Services as an expression of the General Assembly's admiration for its mission to provide accessible, comprehensive, and integrated quality health services to anyone regardless of housing, financial, or insurance status.

### SENATE JOINT RESOLUTION NO. 464

*Celebrating the life of Jeannine A. Hunter.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Jeannine A. Hunter, a beloved mother, grandmother, and great-grandmother, and a vibrant member of the Richmond community, died on June 12, 2018; and

WHEREAS, Jeannine Hunter served the General Assembly for many years as a member of the Journal team in the Senate Clerk's Office and as an administrative assistant to the Honorable Thomas K. Norment, Jr., from 1994 to 2018; and

WHEREAS, Jeannine served the people of the Commonwealth by contributing to the good and effective operation of state government; and

WHEREAS, Jeannine, working well into her late eighties, was an inspirational member of her community and brought joy to everyone who knew her; and

WHEREAS, Jeannine, a coffee fiend, was known for her giving nature, her zest for life, her dancing capabilities at the age of 88 and her outstanding lasagna; and

WHEREAS, Jeannine will be fondly remembered and greatly missed by her children Boruch, Steven, and Amy; and numerous other family members and friends and members of her Senate family; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Jeannine A. Hunter; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jeannine A. Hunter as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 465

*Commending the Honorable Jan Brodie.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Honorable Jan Brodie, a respected leader in the Fairfax County community, retired as a judge of the Fairfax County Circuit Court of the 19th Judicial Circuit of Virginia in 2018; and

WHEREAS, Jan Brodie is a graduate of The College of William & Mary, San Jose State University, and George Mason University; she also earned a professional teaching certificate from The College of William & Mary and taught students of all ages in Florida, Texas, California, and overseas, while her husband was serving with the United States Navy; and

WHEREAS, Jan Brodie served as a deputy county attorney for Fairfax County before she was appointed as a judge of the 19th Judicial Circuit Court of Virginia in 2008 and presided over the court with great fairness and wisdom for 10 years; and

WHEREAS, respected in the legal field, Jan Brodie is a member of the Virginia Women Attorneys Association and the George Mason American Inn of Court and a past president of the Fairfax Bar Association; and

WHEREAS, Jan Brodie also offered her leadership and expertise to her peers while serving as a member of the Fairfax Law Foundation Board, the Fairfax County Circuit Court Model Judiciary Program, the Virginia State Bar Association Executive Committee and Bar Council, the Mandatory Continuing Legal Education Board, and the Supreme Court of Virginia Circuit Court Forms Advisory Committee; she also served as a faculty member of the National Institute of Trial Advocacy and the Harry S. Carrico Professionalism Course; and

WHEREAS, Jan Brodie has served the Fairfax County community as a volunteer for the American Red Cross, a member of the board of the Edgewater Homeowners Association in Burke, and on the board of servant leaders and the school board for the Prince of Peace Lutheran Church and School in Springfield; and

WHEREAS, Jan Brodie has served Fairfax County with the utmost dedication and distinction; after her well-earned retirement from the bench, she will continue to support the community as a recall judge and a mediator; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Jan Brodie on the occasion of her retirement as a judge of the Fairfax County Circuit Court; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Jan Brodie as an expression of the General Assembly's admiration for her outstanding service to Fairfax County and the Commonwealth.

### SENATE JOINT RESOLUTION NO. 466

*Commending Officer Katherine E. Tassa.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Officer Katherine E. Tassa, a dedicated and hardworking law-enforcement officer with the Virginia Beach Police Department, was named the 2018 American Legion Officer of the Year; and

WHEREAS, K.E. Tassa has helped make the Virginia Beach community safer by keeping impaired drivers off the roads as a member of the Special Operations Traffic Safety Unit; and

WHEREAS, K.E. Tassa has served as a DUI training facilitator and a member of the Virginia Beach Police Department's DUI wet labs and DUI Conference; she has also assisted with countless traffic safety checkpoints and educates local students about the dangers of drinking and driving; and

WHEREAS, K.E. Tassa went above and beyond her regular duties and requested training on the Virginia Beach Police Department SWAT team's vehicles so that she could serve as a driver during high-risk incidents; and

WHEREAS, K.E. Tassa is committed to continuing education and routinely seeks out training courses that will help her better serve and protect the residents of Virginia Beach; and

WHEREAS, K.E. Tassa was one of the top-performing officers in the Virginia Beach Police Department in 2018, earning the Life Saving Award and two Class Act Awards; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Officer Katherine E. Tassa on being named the 2018 American Legion Officer of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Officer Katherine E. Tassa as an expression of the General Assembly's admiration for her exceptional service to the Virginia Beach community.

### SENATE JOINT RESOLUTION NO. 467

*Celebrating the life of Elizabeth May Verley.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Elizabeth May Verley, an active and beloved member of the Hampton community, died on January 23, 2019; and

WHEREAS, Elizabeth May Verley was born in Brooklyn, New York; she attended Catholic schools and graduated from Wingate High School in Brooklyn; and

WHEREAS, Elizabeth May Verley loved to sing; in her youth in the late 1950s, she and her group appeared on television on the Ted Mack Original Amateur Hour; and

WHEREAS, Elizabeth May Verley lived with her husband, Edmund T. Verley, for many years in the Gowanus Apartments in Brooklyn; she was employed by Gimbel Brothers department store in New York until it closed; she was then employed by Local 1199 SEIU, from which she retired; and

WHEREAS, Elizabeth May Verley moved to Hampton in 2004; she loved traveling and visited such places as Japan, France, Italy, Germany, and Jamaica; she also went on cruises with a group of friends; and

WHEREAS, Elizabeth May Verley loved to keep busy, and after moving to Virginia she began volunteering at Cooper Elementary School and Machen Elementary School; she also volunteered her time in support of several local and state election campaigns; and

WHEREAS, predeceased by her husband, Edmund, Elizabeth May Verley will be fondly remembered and greatly missed by her children, Edmund, Wayne, and Wonda, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Elizabeth May Verley, an active and beloved member of the Hampton community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Elizabeth May Verley as an expression of the General Assembly's respect for her memory.

### SENATE JOINT RESOLUTION NO. 468

*Commending the Jewish Community Federation of Richmond.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, in 2018, the Jewish Community Federation of Richmond and other organizations throughout the Commonwealth and the United States marked the 80th anniversary of Kristallnacht, a pogrom organized by Nazi officials and paramilitary forces against Jewish communities throughout Nazi Germany that took place on November 9-10, 1938; and

WHEREAS, Kristallnacht is considered a major turning point in the Holocaust, the state-sponsored, systematic persecution and annihilation of the European Jewry by Nazi Germany and its collaborators between 1933 and 1945, when more than six million Jews were murdered and millions of other people suffered grievous oppression and death under Nazi tyranny; and

WHEREAS, during Kristallnacht, hundreds of synagogues in Germany and Austria were burned and destroyed, businesses and homes were ransacked, and scores of innocent Jews were killed and thousands of others were arrested and sent to concentration camps; and

WHEREAS, commonly translated as the Night of Broken Glass, Kristallnacht took its name from the shards of broken window glass littering the streets after the horrific attacks; and

WHEREAS, a major escalation of existing anti-Semitic policies at the time, Kristallnacht was the first coordinated assault on the Jewish population and served as a prelude to the greatest horrors of the Holocaust, a campaign of systematic mass murder on a scale never before witnessed in human history; and

WHEREAS, Kristallnacht and the entire reign of the Nazi government mark one of the darkest periods in the civilized era and are stark reminders of how easily hatred and bigotry can proliferate and erode societal norms; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Jewish Community Federation of Richmond for its solemn work to preserve memory of the millions who perished during the Holocaust, more than one and a half million of whom were innocent children, on the occasion of the 80th anniversary of Kristallnacht; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Jewish Community Federation of Richmond as an expression of the General Assembly's admiration for the importance of confronting bigotry and hatred in all forms and working to ensure that acts of genocide like Kristallnacht never occur again.

### SENATE JOINT RESOLUTION NO. 469

*Celebrating the life of Wilbur Eugene Thomas.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Wilbur Eugene Thomas of Lawrenceville, a respected professional in the insurance industry and a generous philanthropist, died on January 30, 2019; and

WHEREAS, a native of Brunswick County, Wilbur Eugene "Gene" Thomas graduated from the University of Richmond and served his country as a member of the United States Army; and

WHEREAS, Gene Thomas served the community as the owner of Brunswick Insurance Agency and was a member of the Independent Insurance Agents of Virginia; and

WHEREAS, Gene Thomas volunteered his leadership and expertise to many civic organizations, including the Old Brunswick Foundation, the Brunswick County Industrial Development Authority, the Brunswick County Chamber of Commerce, and the Rotary Club of Lawrenceville, among others; and

WHEREAS, a champion for higher education, Gene Thomas served on the Virginia State Board for Community Colleges under two governors and was a member of the Local Board of Southside Virginia Community College (SVCC) from 1978 to 1989 and 2005 to 2013; and

WHEREAS, Gene Thomas was also a longtime member of the SVCC Foundation Board who endowed a scholarship in the name of former college president John J. Cavan and was instrumental in the creation of two other scholarships; and

WHEREAS, Gene Thomas enjoyed fellowship and worship with the community at Edgerton United Methodist Church, where he held several leadership positions and taught Sunday school; and

WHEREAS, Gene Thomas will be fondly remembered and greatly missed by his wife, Mary Alice, his sons, Michael and Ray, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Wilbur Eugene Thomas; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Wilbur Eugene Thomas as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 470

*Commending the Mount Vernon Council of Citizens' Associations.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Mount Vernon Council of Citizens' Associations, a nonpartisan, nonprofit organization of citizens' associations in the Mount Vernon District of Fairfax County, celebrates its 50th anniversary of service to the community in 2019; and

WHEREAS, established in 1969, the Mount Vernon Council of Citizens' Associations is the oldest and largest such council in Fairfax County; it is composed of 44 civic associations, community associations, property owners' associations, homeowners' associations, and condominium unit owners' associations; and

WHEREAS, the Mount Vernon Council of Citizens' Associations represents and promotes the interests of its member organizations and provides a forum for residents and groups to address concerns about land use, transportation, the environment, public safety, education, and housing; the council has also built strong partnerships with government agencies to address issues in a timely and effective manner; and

WHEREAS, the Mount Vernon Council of Citizens' Associations collaborated with the Department of Public Works to address property flooding due to new developments and increase transparency in the zoning process; and

WHEREAS, the Mount Vernon Council of Citizens' Associations has helped the Fairfax County Board of Supervisors and the Planning Commission make informed decisions regarding changes in traffic capacity due to the completion of the Woodrow Wilson Bridge Project at the Richmond Highway, Huntington Avenue, Old Richmond Highway, and Fort Hunt Road intersections; and

WHEREAS, the Mount Vernon Council of Citizens' Associations has also worked to ensure that quality transportation networks, mass transit projects, land-use planning, and school enhancements are integrated into Fairfax County's long-term planning; and

WHEREAS, the Mount Vernon Council of Citizens' Associations will commemorate the milestone with a gala event on May 4, 2019; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Mount Vernon Council of Citizens' Associations on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Mount Vernon Council of Citizens' Associations as an expression of the General Assembly's admiration for its work to advance the common good and promote the general welfare of the residents of Fairfax County.

### SENATE JOINT RESOLUTION NO. 471

*Commending the Alexandria Division of Aging and Adult Services.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, the Alexandria Division of Aging and Adult Services has helped residents of Alexandria age with dignity and stay engaged in the community for over 40 years; and

WHEREAS, the mission of the Alexandria Division of Aging and Adult Services is to foster independence and healthy aging and to improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services in a sustainable, livable community; and

WHEREAS, to better serve the population, the Alexandria Division of Aging and Adult Services offers numerous services including caregiver resources, employment and volunteer opportunity listings, financial assistance, housing, in-home services, insurance assistance, screening for long-term care and assisted living, nutrition and health programs, recreation, and transportation; and

WHEREAS, one of the Alexandria Division of Aging and Adult Services key accomplishments includes providing support over the past 32 years to the annual Northern Virginia Caregivers Conference and assisting a year-round home delivery meals service; and

WHEREAS, the Alexandria Division of Aging and Adult Services has a number of key volunteers; Jane King is a member of the Commission on Aging who shepherded the development of the first in Virginia World Health Organization/AARP-approved Age-Friendly Plan; Bob Eiffert is the chair of the Commission, and advocates for the group before federal, state, and local elected officials; Cedar Dvorin is a member of the Commission and a longtime, valued volunteer; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Alexandria Division of Aging and Adult Services for over 40 years of work to help residents age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Alexandria Division of Aging and Adult Services as an expression of the General Assembly's admiration for fostering independence and healthy aging and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### SENATE JOINT RESOLUTION NO. 472

*Commending Thomas Kail.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Thomas Kail, an Alexandria native and an accomplished musical theater director known for the Broadway hit *Hamilton: An American Musical*, was named a Kennedy Center Honoree in 2018; and

WHEREAS, Thomas Kail grew up in Alexandria and graduated from Sidwell Friends School in 1995 and Wesleyan University in 1999; his experiences growing up in Northern Virginia, close to the nation's capital, would become a major influence on his design and direction of *Hamilton*, which has been lauded as an achievement of historical and cultural reimagining; and

WHEREAS, Thomas Kail's interest in history and how to represent historical figures was first piqued by traveling to historical locations such as the Masonic Temple in Alexandria, George Washington's Mount Vernon, and James Madison's Montpelier; and

WHEREAS, Thomas Kail began his career in theater at New Jersey's American Stage Company before directing two plays, Julia Jordan's *A Bus Stop Play*, and Beau Willimon's *Zusammenbruch*, both which played at the American Airlines Theatre on Broadway; and

WHEREAS, Thomas Kail directed the Broadway musical *In the Heights*, written by Lin-Manuel Miranda, which garnered him a Tony Award nomination for Best Direction of a Musical; the musical premiered on Broadway; and

WHEREAS, after years of directing successful plays on and off Broadway, Thomas Kail again teamed up with playwright Lin-Manuel Miranda to direct *Hamilton*, for which he won the Lucille Lortel Award for Outstanding Director, the Drama Desk Award for Outstanding Director of a Musical, the Tony Award for Best Direction of a Musical, the Laurence Olivier Award for Best Director, and Kennedy Center Honors; and

WHEREAS, Thomas Kail's production of *Hamilton* was inspired by the 2004 biography *Alexander Hamilton* by historian Ron Chernow, and was unique for its incorporation of hip hop, R&B, pop, soul, traditional-style show tunes, and color-conscious casting of non-white actors as the Founding Fathers and other historical figures; the musical achieved both critical acclaim and box office success; and

WHEREAS, Thomas Kail won the 2016 Emmy for his direction of *Grease: Live* for Fox Broadcasting Company; he is also the recipient of a Drama Desk Award, an Obie Award, a Callaway Award, and a Martin E. Segal Award from Lincoln Center; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Thomas Kail, accomplished musical theater director and Alexandria native, for receiving the Kennedy Center Honors in 2018; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Thomas Kail as an expression of the General Assembly's admiration for his contributions to cultural life in the United States.

### SENATE JOINT RESOLUTION NO. 474

*Commending Signature Theatre.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 22, 2019

WHEREAS, Signature Theatre, an award-winning, nonprofit professional theater company in Arlington with a mission to produce contemporary musicals and plays, reinvent classic musicals, and develop new work, celebrates its 30th anniversary in 2019; and

WHEREAS, at the time of Signature Theatre's inception in 1989, the theater scene in Washington, D.C., was dominated by large venues that presented mostly traditional plays; few theaters dared to take the risk of producing new work, and even fewer produced lesser-known or new musicals; and

WHEREAS, to fill this gap and create Signature Theatre's brand of provocative works, graphic designer and performer Eric Schaeffer founded the organization with actor Donna Migliaccio; with a small startup budget, 126 subscribers, and a space in Arlington's Gunston Middle School auditorium, its first musical in 1991, a gutsy production of *Sweeney Todd*, was a stand-out hit, earning numerous awards; and

WHEREAS, in 1993, Signature Theatre took another risk and converted an old auto garage into a theater where it thrived for the following 13 years, growing into one of the area's leading producers of musical theater, attracting the best and brightest in the field, as well as nurturing new talent; and

WHEREAS, in January 2007, after many successful years in that location, Signature Theatre moved into its current Shirlington location, where it serves as a cultural anchor and an economic engine that generates jobs and tax revenue for Arlington and residents of the Commonwealth; and

WHEREAS, under the leadership of Signature Theatre's cofounder and artistic director, Eric Schaeffer, and managing director, Maggie Boland, the organization is one of the largest in the Commonwealth, attracting more than 100,000 patrons annually and earning recognition as one of the nation's best regional theaters for attracting the highest caliber artists, performers, and musicians and producing large-scale musicals in its intimate space; and

WHEREAS, in 2009, Signature Theatre earned a Tony Award, the regional theater's highest achievement; over the years, it has received 107 Hayes Awards and 452 nominations—all in recognition of its artistic excellence; and

WHEREAS, Signature Theatre trains and mentors artists and arts administrators of the future through new work developmental workshops, performance training programs, and partnerships with select organizations; education and outreach programs engage the area's increasingly diverse population and target those traditionally underserved by the arts in an effort to give back to the community; and

WHEREAS, Signature Theatre's Signature in the Schools program is a multifaceted program meeting curriculum standards in English, social studies, and theater that has enriched the lives of more than 20,000 students since its inception 25 years ago; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Signature Theatre, an award-winning, nonprofit professional theater company in Arlington with a mission to produce contemporary musicals and plays, reinvent classic musicals, and develop new work, on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Signature Theatre as an expression of the General Assembly's admiration for its important work upholding quality drama in an inclusive environment.

### SENATE JOINT RESOLUTION NO. 475

*Commending the Reverend Monsignor William H. Carr.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, the Reverend Monsignor William H. Carr, pastor of St. Bridget Catholic Church in Richmond, has offered his wise spiritual leadership to communities throughout the Roman Catholic Diocese of Richmond for 50 years; and

WHEREAS, William Carr was ordained on May 24, 1969, and began his ministry at The Cathedral of the Sacred Heart in Richmond, where he engaged with the community as director of parish productions, organizing plays and dinner-theatre events such as "Murder in the Cathedral"; and

WHEREAS, William Carr founded Holy Spirit Parish in Virginia Beach in 1975 and served as pastor of St. Augustine Parish in Richmond from 1983 to 1993, then became pastor of St. Bede Parish in Williamsburg; and

WHEREAS, in 2002, William Carr was elevated to the rank of reverend monsignor by Pope John Paul II, and in 2005, he returned to Richmond as pastor of St. Bridget Catholic Church; and

WHEREAS, William Carr worked with parish leadership to develop a master plan for St. Bridget Catholic Church and oversaw renovations of St. Bridget Catholic School, including new windows and a new heating and air conditioning system; and

WHEREAS, under William Carr's leadership, St. Bridget Catholic Church purchased a Buzard Opus 42-pipe organ to provide world-class musical accompaniment for the congregation; on January 12, 2019, the church also completed a landscaping project and dedicated its new bell tower; and

WHEREAS, William Carr helped the congregation of St. Bridget Catholic Church grow in faith through his "The Real Presence" programs, subsequently expanding those programs to local students; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Reverend Monsignor William H. Carr for his 50 years of service to many communities in the Roman Catholic Diocese of Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Monsignor William H. Carr as an expression of the General Assembly's admiration for his faith leadership and contributions to communities throughout the Commonwealth.

### SENATE JOINT RESOLUTION NO. 476

*Celebrating the life of Bettie Woodson Weaver.*

Agreed to by the Senate, February 21, 2019

Agreed to by the House of Delegates, February 23, 2019

WHEREAS, Bettie Woodson Weaver, a consummate educator who enriched the learning process with her kindness, creativity, and unparalleled commitment to her students, died on June 14, 2018; and

WHEREAS, born in Midlothian in 1920, Bettie Weaver was a witness to the seminal events of the 20th century; she gained her passion for learning from her grandmother, who entertained her young granddaughter with family stories and vivid history lessons; and

WHEREAS, Bettie Weaver graduated from John Marshall High School and earned a bachelor's degree from Westhampton College; she began her career in education at Manchester High School in Chesterfield County in 1941; and

WHEREAS, during World War II, Bettie Weaver lived in North Carolina, Texas, Oklahoma, and Kentucky before returning to Chesterfield County, where she and her husband, Albert, restored her family's historic home, Aetna Hill; and

WHEREAS, Bettie Weaver taught at Midlothian High School from 1946 to 1951, until her own children were born, then worked with Chesterfield County to document historic homes, churches, and buildings in the area for the Historic American Buildings Survey; and

WHEREAS, Bettie Weaver was also commissioned by the Chesterfield County Board of Supervisors to write a book on the history of the County, later served on the County's bicentennial committee, and helped develop the Chesterfield County Museum and Magnolia Grange; and

WHEREAS, Bettie Weaver returned to teaching at Midlothian High School in 1966 and subsequently joined Watkins Elementary School, where she worked until her well-earned retirement in 1981; and

WHEREAS, Bettie Weaver infused her lessons with unique perspectives and opportunities, such as field trips to a nearby coal mine, where she connected local history to early American industry, architecture, and environmental studies; she relished opportunities to teach students about the beauty of the natural world, especially her favorite animal, the bluebird; and

WHEREAS, in 1994, Bettie Weaver Elementary School was named in her honor, with the Bettie Weaver Bluebird as the school mascot; her legacy lives on in the many students who have passed through the school's doors, as well as the thousands of students she herself inspired to become inquisitive lifelong learners and engaged leaders in their professions and communities; and

WHEREAS, predeceased by her husband, Albert, Bettie Weaver will be fondly remembered and greatly missed by her children, Bettie and George, and their families; and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Bettie Woodson Weaver; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Bettie Woodson Weaver as an expression of the General Assembly's respect for her memory.

### SENATE RESOLUTION NO. 84

*Commending the Virginia Funeral Directors Association.*

Agreed to by the Senate, January 10, 2019

WHEREAS, the Virginia Funeral Directors Association is a professional organization founded in 1887 by funeral service providers; and

WHEREAS, the Virginia Funeral Directors Association (VFDA) serves communities throughout the Commonwealth and counts more than 550 funeral service professionals among its membership; and

WHEREAS, VFDA creates opportunities for professional development and fosters a positive environment in which members can build relationships with each other and with elected officials and decision makers; and

WHEREAS, VFDA provides mentoring to the next generation of funeral service professionals and works with its members and other stakeholders to promote the mutual advancement and elevation of the field and the attainment of a higher standard of excellence, which will ensure the respect and esteem of the community; and

WHEREAS, VFDA educates its members, the public, and government officials on relevant issues affecting funeral service through continuing education programs, general outreach and communications, and the work of its committees; and

WHEREAS, VFDA provides a unified voice for its members before local and state bodies and advocates for important initiatives to enhance the funeral service profession; and

WHEREAS, VFDA strives in every way to better enable its members to serve the public, who entrust their loved ones to them for their last act of care; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia Funeral Directors Association hereby be commended on the occasion of its 132nd anniversary for providing education, advocacy, and professional growth to its members and the broader funeral service profession; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Larry Spiaggi, president of the Virginia Funeral Directors Association, as an expression of the Senate of Virginia's best wishes for the organization's next hundred years of continuous service to the funeral service community in the Commonwealth.

### SENATE RESOLUTION NO. 85

*Celebrating the life of Brenda Lee Hansen-Ike.*

Agreed to by the Senate, January 31, 2019

WHEREAS, Brenda Lee Hansen-Ike, a warm and loving wife, mother, grandmother, co-worker, and friend, died on July 15, 2018; and

WHEREAS, Brenda Hansen-Ike was born in New London, Connecticut, and was known throughout her life as a kind and generous person; and

WHEREAS, Brenda Hansen-Ike was involved in numerous community groups for the betterment of the Chesapeake community and was active in civics as a member of the Republican Women's Club; and

WHEREAS, Brenda Hansen-Ike was a leader in the Fraternal Order of Police Auxiliary where she volunteered countless hours for the betterment of Lodge Number 9 and its members; and

WHEREAS, Brenda Hansen-Ike was the focal point for activities to help children, such as Shop With A Cop, Toys For Tots, Children's Hospital of the Kings Daughters, Boys and Girls Clubs, and many other worthy programs for children; and

WHEREAS, Brenda Hansen-Ike was the first to rush to the aid of any person in need in the Hampton Roads area; and

WHEREAS, Brenda Hansen-Ike endured two open heart and other surgeries and still kept working for the health and betterment of others; and

WHEREAS, Brenda Hansen-Ike found delight in sharing brunch and dinner at local restaurants with her close group of Chesapeake friends; and

WHEREAS, Brenda Hansen-Ike loved to travel and ride motorcycles with her husband and in her professional life worked diligently as vice-president of Sentry Security Systems; and

WHEREAS, Brenda Hansen-Ike will be fondly remembered and greatly missed by her husband, Robert; sons, Tanner, Robert, Christopher, and Jeramy, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Brenda Lee Hansen-Ike, a warm and loving wife, mother, grandmother, co-worker, and friend; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Brenda Lee Hansen-Ike as an expression of the Senate of Virginia's respect for her memory.

### SENATE RESOLUTION NO. 86

*2019 Operating Resolution.*

Agreed to by the Senate, January 9, 2019

RESOLVED by the Senate of Virginia, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the Senate, to accomplish the work of the Senate of Virginia as reported by the Clerk of the Senate to the Senate Committee on Rules during the 2019 Session. Necessary payments to cover salaries of temporary employees and the Pages, per diem for legislative assistants who establish a temporary residence, per diem for Pages and certain employees designated by the Clerk and reported to the Chair of the Senate Committee on Rules, as well as other contingent and incidental expenses, will be certified by the Clerk of the Senate or her designee. Per diem for orientation will be paid as approved by the Clerk.

**SENATE RESOLUTION NO. 87**

*Commending R. C. Haydon Elementary School.*

Agreed to by the Senate, January 17, 2019

WHEREAS, R. C. Haydon Elementary School, an exceptional public primary school in the City of Manassas, has given students the tools to build a strong foundation for lifelong learning for 40 years; and

WHEREAS, established in 1979, R. C. Haydon Elementary School was named for a lifelong Manassas resident and former superintendent of Manassas City Public Schools; and

WHEREAS, students at R. C. Haydon Elementary School benefit from a rigorous academic curriculum that utilizes project-based lessons, and the school offers a dual-language program in which half of all classes are taught in Spanish; and

WHEREAS, R. C. Haydon Elementary School also enhances the learning process by offering students the use of a 3-D printer, a gifted and talented center, and a science, technology, engineering, and mathematics lab, as well as a full range of co-curricular activities; and

WHEREAS, the dedicated teachers, administrators, and staff members of R. C. Haydon Elementary School strive to create a caring, safe, and respectful school environment and work closely with parents and the community to ensure each child's emotional and social well-being both in and out of the classroom; now, therefore, be it

RESOLVED by the Senate of Virginia, That R. C. Haydon Elementary School hereby be commended on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Karis Brooks, principal of R. C. Haydon Elementary School, as an expression of the Senate of Virginia's admiration for the school's commitment to innovative education and contributions to the youth of the City of Manassas.

**SENATE RESOLUTION NO. 88**

*Commending the Town of Lebanon.*

Agreed to by the Senate, January 15, 2019

WHEREAS, on January 15, 2019, the Town of Lebanon, the county seat of Russell County and a vibrant part of the Southwest Virginia community, celebrates the 200th anniversary of its establishment; and

WHEREAS, the Town of Lebanon traces its roots to 1819, when it was established in Russell County; the community is thought to have taken its name from the abundant cedar trees in the area as a reference to the Lebanon species of cedar mentioned often in the Old Testament; and

WHEREAS, Lebanon was officially chartered on January 4, 1831, and incorporated on January 31, 1835, with Robert Boyd, Thomas M'Clearey, John Sewell, William Gibson, Samuel Whitsell, Henry B. Gillespie, and James Dixon as trustees; and

WHEREAS, in the town's early years, the economy of Lebanon depended largely on agriculture and coal mining; since the 1990s, it has evolved into a high-tech business hub, supporting two Fortune 500 companies, AT&T and Northrup Grumman, as well as other technology and manufacturing businesses; and

WHEREAS, nestled in the rolling foothills of Clinch Mountain, Lebanon maintains its small-town, Appalachian charm and is committed to sustaining a high quality of life; the community is known as the Heart of Southwest Virginia, owing to its central location and easy access to a host of recreational opportunities for residents and visitors; and

WHEREAS, Lebanon is also committed to preserving its valuable natural and historic resources; the Clinch River has been ranked as one of the most important rivers in the nation for its environmental diversity and significance, and the town is home to several sites on the National Register of Historic Places and the Virginia Landmarks Register, including Jessee's Mill, a grain mill built prior to 1790 that once served as the primary source of agricultural products and trade in the area; and

WHEREAS, Lebanon will commemorate its bicentennial with special events throughout the year; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Town of Lebanon hereby be commended on the occasion of its 200th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Town of Lebanon as an expression of the Senate of Virginia's admiration for its unique history and contributions to the Southwest Virginia community.

## SENATE RESOLUTION NO. 89

*Commending the University of Virginia.*

Agreed to by the Senate, January 17, 2019

WHEREAS, the story of the University of Virginia began over 200 years ago with the creation of a new model for higher learning, one shaped by the belief that only educated citizen-leaders would sustain freedom in the new republic; and

WHEREAS, on October 6, 1817, United States President James Monroe and former Presidents Thomas Jefferson and James Madison joined dignitaries, townspeople, and enslaved laborers in the laying of the cornerstone of Pavilion VII, the first building constructed in Jefferson's Academical Village for Central College; and

WHEREAS, on August 1, 1818, 21 representatives met at the Mountaintop Inn at Rockfish Gap and selected Central College as the home of a new state university; and

WHEREAS, on January 25, 1819, the General Assembly of Virginia established the charter for the University of Virginia, the first nonsectarian university in the United States; and

WHEREAS, the University of Virginia is a public institution of higher learning guided by a founding vision of discovery, innovation, and development of the full potential of talented students from all walks of life, that serves the Commonwealth, the nation, and the world by developing responsible citizen leaders and professionals; the university offers an affordable, world-class education that is consistently ranked among the best institutions, public or private, in the country; and

WHEREAS, the University of Virginia now includes 11 schools in Charlottesville, the College at Wise in Southwest Virginia, and a renowned academic medical center committed to providing outstanding patient care, educating tomorrow's health care leaders, and discovering new and better ways to treat diseases; its physicians and nurses are recognized for preeminence in patient care, education, and research; and

WHEREAS, the University of Virginia welcomes those who show exceptional promise, where students, faculty, and staff are, as Jefferson envisioned, "...not afraid to follow truth wherever it may lead, nor to tolerate any error so long as reason is left free to combat it"; and

WHEREAS, the University of Virginia is marked by its enduring commitment to a vibrant and unique residential learning environment with a free and collegial exchange of ideas and the unwavering support of a collaborative, diverse community bound together by distinctive foundational values of honor, integrity, trust, and respect; and

WHEREAS, over the past 200 years, the University of Virginia has grown from an institution at which the only students were white males, and which was not fully coeducational until 1970, to an institution at which over 50 percent of the students are women and one-third are minorities; and

WHEREAS, students thrive within a groundbreaking model of self-governance, a culture of leadership and responsibility which creates a lasting sense of initiative, decisiveness, and self-confidence; students adhere to the Honor Code, pledging to never lie, cheat, or steal, and by leading lives of honor, students have continuously renewed the unique spirit of compassion and interconnectedness that has come to be called the Community of Trust; and

WHEREAS, the Cavalier student-athletes consistently pursue academic and athletic distinction, capturing 76 Atlantic Coast Conference (ACC) championships since 2002, more than any other ACC school, across 25 NCAA Division I sports; University of Virginia teams have won six NCAA championships and 24 ACC titles since the fall of 2012 and placed first in the 2015 Men's Capital One Cup, honoring the nation's top Division I athletic programs; and 404 of the University's student-athletes were named to the Atlantic Coast Conference Academic Honor Roll in 2017-2018; and

WHEREAS, the arts at the University of Virginia are crucial to the residential experience, inspiring students to innovate, create, collaborate, explore, and discover pursuits that enrich the larger community through an extraordinary array of performances, exhibitions, and creative opportunities; and

WHEREAS, the University of Virginia counts among its alumni individuals who have changed the nation and the world, including vice presidents, senators, congressional representatives, governors, poets, actors, scientists, authors, Olympians, inventors, educators, entertainers, astronauts, ambassadors, journalists, doctors, nurses, business leaders, and pioneers in a wealth of fields and industries; and

WHEREAS, the University of Virginia's faculty and staff pursue discovery through collaboration and cross-disciplinary exploration, develop cross-disciplinary institutes and initiatives, and provide valuable educational and research opportunities with a measurable impact, focusing research on complex intellectual and social challenges and creating new knowledge that produces unanticipated technologies and innovative ideas; and

WHEREAS, the University of Virginia is one of the great national and global universities of the 21st century, where the leaders of tomorrow are forged through the sharing of knowledge and the candid exchange of ideas, and where a 200-year commitment to Thomas Jefferson's belief in the "illimitable freedom of the human mind" has energized the university community and will continue to animate life at the University of Virginia for centuries to come; now, therefore, be it

RESOLVED by the Senate of Virginia, That the University of Virginia hereby be commended on the occasion of its 200th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Frank M. Conner III, Rector, and James E. Ryan, President, of the University of Virginia, as an expression of the Senate of Virginia's

admiration for the institution's extraordinary history, unparalleled legacy of excellence, and invaluable contributions to the Commonwealth, the nation, and the world.

### SENATE RESOLUTION NO. 90

*Commending Richard David Legon.*

Agreed to by the Senate, January 17, 2019

WHEREAS, on July 25, 1983, Richard David Legon joined the Association of Governing Boards of Universities and Colleges and served in various leadership capacities, until being appointed as its president in 2006; and

WHEREAS, during Richard "Rick" Legon's tenure as president, the Association of Governing Boards of Universities and Colleges (AGB) has taken the lead on important national and regional matters such as intercollegiate athletics, education quality, assessment and outcomes, external influences impacting higher education independence, and operational and enterprise risk assessment, among many other relevant issues; and

WHEREAS, under Rick Legon's leadership, AGB's reputation, both as a trusted adviser in all matters of governance and as a dependable advocate for higher education in national and state policy matters, has grown exponentially; and

WHEREAS, Rick Legon served honorably and capably on the Board of Visitors for Virginia State University, while also leading efforts at AGB to contribute statewide educational programs for the State Council of Higher Education for Virginia, thereby supporting the development and training of board members for all of Virginia's public colleges and universities; and

WHEREAS, Rick Legon created and led the visionary Guardians Initiative, which has provided thousands of volunteer advocates for public and private colleges and universities to promote the value of higher education; and

WHEREAS, Rick Legon initiated AGB's annual Foundation Leadership Forum, the only such gathering in which foundation executives and volunteer board leaders gather with higher education experts to discuss issues affecting public higher education institutions and their related foundations; the forum is now in its 23rd year, with an attendance of more than 600 foundation leaders; now, therefore, be it

RESOLVED by the Senate of Virginia, That Richard David Legon, the president of the Association of Governing Boards of Universities and Colleges, hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Richard David Legon and his dedicated wife, Frances Park Legon, as an expression of the Senate of Virginia's admiration and appreciation for his 35 years of dedicated service and commitment to the mission of the nation's public and private universities and colleges and best wishes on a well-deserved retirement.

### SENATE RESOLUTION NO. 91

*Commending Hanover County.*

Agreed to by the Senate, January 24, 2019

WHEREAS, in 2020, Hanover County will be celebrating the 300th anniversary of its founding and its unique role in events that have shaped the history of the Commonwealth and the United States; and

WHEREAS, Hanover County was formed on November 26, 1720, from New Kent County along the boundaries of St. Paul's Parish; and

WHEREAS, the original Hanover County Courthouse, believed to have been constructed between 1737 and 1743, is the second oldest courthouse in the Commonwealth still in use and appears as the most prominent feature on the seal of the County, along with references to Patrick Henry and Henry Clay, both of whom were natives of the County; and

WHEREAS, in 1743, the first Virginia Presbytery was formed at the Polegreen Meetinghouse and was soon led by the Reverend Samuel Davies, Virginia's first licensed non-Anglican pastor and an oratorical inspiration to a then-young parishioner named Patrick Henry; and

WHEREAS, the Polegreen Meetinghouse, which was representative of a Protestant religious revival known as the "Great Awakening," when Virginians sought freedom of religious expression, served as a treasured place in the community until its destruction during the Civil War; a memorial to the Historic Polegreen Church was created after the foundation of the original meetinghouse was uncovered in the early 1990s; and

WHEREAS, Patrick Henry, one of the most important Revolutionary War patriots, publicly challenged the King of England's authority in the "Parson's Cause" case, heard in the historic Hanover Courthouse in 1763, an argument that has been called "the opening bell of the American Revolution"; and

WHEREAS, in 1766, Patrick Henry authored *The Virginia Resolves*, which protested the Stamp Act passed by the British Parliament and led other colonies to protest in similar manners, ultimately sparking the American Revolution; and

WHEREAS, in the Second Virginia Convention of 1775, Patrick Henry, who is known to history as the "Voice of the Revolution," exhorted his fellow representatives to pass a resolution preparing Virginia troops for the Revolutionary War with one of America's most famous speeches, ending with "I know not what course others may take, but as for me, give me liberty or give me death!"; and

WHEREAS, Patrick Henry served as Virginia's first elected governor, a post to which he was reelected four times; and

WHEREAS, sites associated with the life of Patrick Henry in Hanover County were among the first in the Commonwealth's Road to Revolution Heritage Trail, with historical markers erected at Scotchtown, which was built in the early 1700s and was his home from 1771 to 1778; Hanover Courthouse; Rural Plains, which was owned by the parents of his first wife and is now part of a Civil War battlefield preserved by Richmond National Battlefield Park; his birthplace at Studley; and at Pine Slash, his first home with his first wife; and

WHEREAS, Hanover County is also the home of the historic Hanover Tavern, the original structure of which dates to about 1732; and

WHEREAS, Hanover is proud to be the home of several churches that were founded in the 18th century including Slash Church, which was built around 1730 and is the oldest frame church in continuous use in Virginia; Fork Church, which was built around 1735; Winn's Baptist Church, established in 1776; and Black Creek Baptist Church, founded in 1777; and

WHEREAS, Hanover County is also the birthplace of Henry Clay, one of America's great political leaders of the first half of the 19th century, who served nearly 50 years in Congress and was known as the "Great Compromiser" for his efforts to preserve the Union in the years before the Civil War; and

WHEREAS, Hanover County's primary industry has always been agriculture, beginning with tobacco and over the centuries shifting to grain crops, primarily wheat and corn, and vegetables; the County was also the home of one of the greatest agricultural scientists of the 19th century, Edmund Ruffin, who discovered that the acidity of soils could be neutralized by applying marl; and

WHEREAS, Hanover County is home to 39 sites listed in the National Register of Historic Places and the Virginia Landmarks Register, including Sycamore Tavern, Hickory Hill, and Marlbourne; and

WHEREAS, Hanover County was the site of numerous battles in the Civil War, including the site of General Robert E. Lee's first (Gaines Mill) and last (Cold Harbor) major battlefield victories, with Gaines Mill, Cold Harbor, Beaver Dam Creek and Rural Plains at Totopotomoy Creek preserved as part of the Richmond National Battlefield Park, and North Anna and Cold Harbor preserved by the County; and

WHEREAS, Hanover County is home to the incorporated Town of Ashland, which was chartered in 1858 and named after Henry Clay's estate in Kentucky, and which is now home to more than 7,000 residents who enjoy its charming ambiance as both a railroad town and college town; and

WHEREAS, Randolph-Macon College, America's oldest Methodist-related college, moved to Ashland from Boydton in 1868 and now has an enrollment of more than 1,400 students on a beautiful 116-acre campus that has more than 60 buildings; and

WHEREAS, the construction of I-95 in the 1960s and I-295 in the 1980s helped bring additional prosperity to Hanover County; and

WHEREAS, Hanover County currently has the third largest population of the Metro Richmond suburban counties, with an estimated population of 110,000 in 2018; and

WHEREAS, Hanover County was one of the smallest local governments in the nation to achieve Triple-A ratings from each of the bond rating agencies; and

WHEREAS, Hanover County has been successful in attracting high-quality residential and business growth to its suburban services area while maintaining its rural charm and preserving its historic resources; and

WHEREAS, the residents of Hanover County are proud of their rich history and their prosperous present and look forward to a promising future; now, therefore, be it

RESOLVED by the Senate of Virginia, That Hanover County hereby be commended on the occasion of the 300th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the chair of the Hanover County Board of Supervisors as an expression of the Senate of Virginia's admiration for the County's illustrious history and significant contributions to the Commonwealth.

## SENATE RESOLUTION NO. 92

*Nominating a person to be elected to the Court of Appeals of Virginia.*

Agreed to by the Senate, January 16, 2019

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected to the Court of Appeals of Virginia as follows:

The Honorable Glen A. Huff, of Virginia Beach, as a judge of the Court of Appeals of Virginia for a term of eight years commencing August 1, 2019.

**SENATE RESOLUTION NO. 93**

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the Senate, January 16, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Glenn R. Croshaw, of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing August 1, 2019.

The Honorable W. Revell Lewis, III, of Accomack, as a judge of the Second Judicial Circuit for a term of eight years commencing August 1, 2019.

The Honorable Everett A. Martin, Jr., of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing March 16, 2019.

The Honorable Carl Edward Eason, Jr., of Suffolk, as a judge of the Fifth Judicial Circuit for a term of eight years commencing February 1, 2019.

The Honorable C. Peter Tench, of Newport News, as a judge of the Seventh Judicial Circuit for a term of eight years commencing April 1, 2019.

The Honorable Christopher W. Hutton, of Hampton, as a judge of the Eighth Judicial Circuit for a term of eight years commencing September 1, 2019.

The Honorable Paul W. Cella, of Powhatan, as a judge of the Eleventh Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Bradley B. Cavedo, of the City of Richmond, as a judge of the Thirteenth Judicial Circuit for a term of eight years commencing February 1, 2019.

The Honorable James Stephen Yoffy, of Henrico, as a judge of the Fourteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Sarah L. Deneke, of Spotsylvania, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Timothy K. Sanner, of Orange, as a judge of the Sixteenth Judicial Circuit for a term of eight years commencing April 1, 2019.

The Honorable James C. Clark, of Alexandria, as a judge of the Eighteenth Judicial Circuit for a term of eight years commencing January 1, 2020.

The Honorable Randy I. Bellows, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing February 1, 2019.

James P. Fisher, Esquire, of Fauquier, as a judge of the Twentieth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable F. Patrick Yeatts, of Lynchburg, as a judge of the Twenty-fourth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Brett L. Geisler, of Carroll, as a judge of the Twenty-seventh Judicial Circuit for a term of eight years commencing April 1, 2019.

The Honorable Chadwick S. Dotson, of Wise, as a judge of the Thirtieth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable John C. Kilgore, of Scott, as a judge of the Thirtieth Judicial Circuit for a term of eight years commencing July 1, 2019.

**SENATE RESOLUTION NO. 94**

*Nominating persons to be elected to general district court judgeships.*

Agreed to by the Senate, January 16, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

The Honorable C. Ridley Bain, of Brunswick, as a judge of the Sixth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Stephen Ashton Hudgins, of Poquoson, as a judge of the Ninth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Keith Nelson Hurley, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Lawrence Brevard Cann, III, of the City of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Tracy W. J. Thorne-Begland, of the City of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing February 1, 2019.

The Honorable George Barton Chucker, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Hugh S. Campbell, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable James Bruce Strickland, of Stafford, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable R. Frances O'Brien, of Arlington, as a judge of the Seventeenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable William Harrison Cleaveland, of Botetourt, as a judge of the Twenty-fifth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Eric R. Thiessen, of Washington, as a judge of the Twenty-eighth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Henry A. Barringer, of Tazewell, as a judge of the Twenty-ninth Judicial District for a term of six years commencing July 1, 2019.

### SENATE RESOLUTION NO. 95

*Nominating persons to be elected to juvenile and domestic relations district court judgeships.*

Agreed to by the Senate, January 16, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

Cheshire l'Anson Eveleigh, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing July 1, 2019.

Timothy J. Quick, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing April 1, 2019.

The Honorable Alotha C. Willis, of Portsmouth, as a judge of the Third Judicial District for a term of six years commencing February 16, 2019.

The Honorable Lauri D. Hogge, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing April 1, 2019.

The Honorable Carson E. Saunders, Jr., of Emporia, as a judge of the Sixth Judicial District for a term of six years commencing June 1, 2019.

The Honorable Jay Edward Dugger, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Robert B. Wilson, V, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing April 1, 2019.

The Honorable Robert H. Morrison, of Halifax, as a judge of the Tenth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Phillip T. DiStanislaio, of Petersburg, as a judge of the Eleventh Judicial District for a term of six years commencing February 1, 2019.

The Honorable Richard B. Campbell, of the City of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing April 1, 2019.

The Honorable Joseph A. Vance, IV, of Fredericksburg, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Claude V. Worrell, of Charlottesville, as a judge of the Sixteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Kimberly J. Daniel, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2019.

The Honorable Avelina S. Jacob, of Loudoun, as a judge of the Twentieth Judicial District for a term of six years commencing February 10, 2019.

The Honorable Susan N. Deatherage, of Martinsville, as a judge of the Twenty-first Judicial District for a term of six years commencing May 1, 2019.

The Honorable Leisa Kube Ciaffone, of Salem, as a judge of the Twenty-third Judicial District for a term of six years commencing July 1, 2019.

The Honorable William W. Sharp, of Warren, as a judge of the Twenty-sixth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Elizabeth S. Wills, of Wise, as a judge of the Thirtieth Judicial District for a term of six years commencing February 1, 2019.

The Honorable Lisa Michelle Baird, of Manassas, as a judge of the Thirty-first Judicial District for a term of six years commencing July 1, 2019.

### SENATE RESOLUTION NO. 96

*Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.*

Agreed to by the Senate, January 16, 2019

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

The Honorable Stephanie E. Merritt, of New Kent, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2019.

### SENATE RESOLUTION NO. 97

*Nominating a person to be elected as a member of the State Corporation Commission.*

Agreed to by the Senate, January 16, 2019

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected as a member of the State Corporation Commission as follows:

Patricia L. West, of the City of Virginia Beach, to succeed James C. Dimitri as a member of the State Corporation Commission for an unexpired term commencing March 1, 2019, and ending January 31, 2020.

### SENATE RESOLUTION NO. 98

*Commending Rodney A. Robinson.*

Agreed to by the Senate, January 17, 2019

WHEREAS, Rodney A. Robinson, a history teacher at Virgie Binford Education Center in Richmond, won the Virginia Teacher of the Year award on October 16, 2018; and

WHEREAS, Rodney Robinson was raised in King William County and earned a bachelor's degree from Virginia State University and a master's degree from Virginia Commonwealth University; and

WHEREAS, Rodney Robinson was inspired to go into teaching while watching his mother pursue her GED after poverty and segregation initially thwarted her educational and professional aspirations, seeing how she clearly enjoyed the act of learning, even while working and caring for her children; and

WHEREAS, Rodney Robinson has 19 years of experience as an educator in Richmond Public Schools; he worked as a civics and economics teacher at Lucille M. Brown Middle School, a world geography and U.S. history teacher at George Wythe High School, and a government, history, and geography teacher at Armstrong High School; and

WHEREAS, since 2015, Rodney Robinson has taught history to students at the Virgie Binford Education Center, a school within the Richmond Juvenile Detention Center; he uses a whole child approach to education to help the students who are the most vulnerable, while conveying a passion for history; and

WHEREAS, Rodney Robinson views his classroom as a collaborative partnership between him and his students; he provides a civics-centered education that promotes social and emotional growth to reduce recidivism among his students and create socially and civically engaged citizens; and

WHEREAS, Rodney Robinson has earned numerous accolades for his work and has delivered many lectures on pedagogy; he rose to the top of the list of exemplary Richmond teachers, and outshone other regional winners from around the Commonwealth to claim the title of Virginia Teacher of the Year; now, therefore, be it

RESOLVED by the Senate of Virginia, That Rodney A. Robinson, history teacher at Virgie Binford Education Center, hereby be commended for winning the Virginia Teacher of the Year award; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Rodney A. Robinson as an expression of the Senate of Virginia's admiration for his commitment to serving, teaching, and inspiring the students of Richmond and the Commonwealth.

**SENATE RESOLUTION NO. 99**

*Commending the Associated General Contractors of America.*

Agreed to by the Senate, January 24, 2019

WHEREAS, the Associated General Contractors of America was founded in 1919 for the purpose of promoting the highest levels of skill, integrity, and responsibility in the construction industry; and

WHEREAS, the Associated General Contractors of America has been supporting commercial construction in America for over a century; and

WHEREAS, the Associated General Contractors of America's 27,500 member firms have made lasting contributions to the American economy and communities across the nation by building all manner of public infrastructure and private-sector developments; and

WHEREAS, the Associated General Contractors of America and its members have helped play a vital role in creating high-paying careers for millions of hard working Americans and hundreds of thousands of Virginians; and

WHEREAS, the Associated General Contractors of America and its members are working to make the construction industry more diverse, more efficient, and more prepared to embrace new technologies and new techniques; and

WHEREAS, the Associated General Contractors of America and its members are donating their time, skills, and resources to improving local communities across the country and the Commonwealth; and

WHEREAS, the Associated General Contractors of America and its members continue to serve as the voice of the construction industry in Washington, D.C., and in Virginia; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Associated General Contractors of America hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Associated General Contractors of America as an expression of the Senate of Virginia's admiration for the organization's success and professionalism in protecting and enhancing America's commercial construction industry.

**SENATE RESOLUTION NO. 100**

*Celebrating the life of Bradford Turner Clark.*

Agreed to by the Senate, January 31, 2019

WHEREAS, Bradford Turner Clark, a fire lieutenant at Station 6 with Hanover County Fire and EMS, died in the line of duty on October 11, 2018; and

WHEREAS, Brad Clark died doing what he loved, responding to a citizen's emergency call on Interstate 295 alongside his brothers and sisters in uniform; and

WHEREAS, born and raised in Hanover County, Brad Clark graduated from Atlee High School in 1993 and joined the United States Army after graduation, where he was stationed at Fort Sill, Oklahoma, from 1995-2000; and

WHEREAS, Brad Clark joined Hanover County Fire and EMS on July 16, 2005, and was promoted to fire lieutenant on July 16, 2015; and

WHEREAS, deeply dedicated to family and friends, Brad Clark will be fondly remembered and greatly missed by the love of his life, Melanie; his four daughters, Brady, Lilly, Olivia and Madison; his loving parents, Bob and Patsy Clark and Beth and Oscar Giles; siblings, Jonathan Clark, David Giles, and Christie Poats; nieces and nephews, Landry, Ellis, Zach, Peyton, Tripp, Henley, Campbell, and Carrison; and his many uncles, aunts, and cousins; and

WHEREAS, Brad Clark's strongest passion outside of his devotion to family was educating his brothers and sisters in the fire service and one of his proudest assignments was his role as lead instructor of Hanover Fire Academy 33, where he led a group of 28 recruits; and

WHEREAS, Brad Clark was an instructor at the Walter Sisk Memorial Truck School, Andy Fredericks Training Days, and with The 350' Line as well as fire training conferences around the country; and

WHEREAS, Brad Clark was a born leader and will be fondly remembered for his trademark sense of humor, his unwavering love for family and friends and commitment to his profession; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Bradford Turner Clark, a selfless hero who gave his life to save others; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Bradford Turner Clark as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 101**

*Commending Black Creek Volunteer Fire Department.*

Agreed to by the Senate, January 31, 2019

WHEREAS, for 50 years, Black Creek Volunteer Fire Department, located in Mechanicsville, has safeguarded the lives and property of generations of Hanover County residents; and

WHEREAS, Black Creek Volunteer Fire Department was formed in the spring of 1968 with approximately 30 members under the leadership of then-president Douglas Mantlo and the first chief, John Peace; and

WHEREAS, in the spring of 1969, the members of Black Creek Volunteer Fire Department constructed the original firehouse, which served as both firehouse and a community gathering place until June 2011, when the new firehouse was built; and

WHEREAS, Black Creek Volunteer Fire Department has been a fixture in the community, making countless contributions to local life, most notably the creation of the Hanover Tomato Festival; and

WHEREAS, Black Creek Volunteer Fire Department started the Hanover Tomato Festival as a fundraiser at the firehouse in 1978 with a small parade, various fire department competitions and games, tomato judging contests, one food vendor, and about 10 craft vendors; and

WHEREAS, through the hard work and dedication of the members of Black Creek Volunteer Fire Department, the Hanover Tomato Festival has grown into one of the biggest annual events in Hanover County and celebrated its 40th anniversary in 2018 with record-breaking attendance, delicious Hanover tomato cuisine, over 150 vendors, live music, and a play area for children featuring rides, games, and contests; and

WHEREAS, Black Creek Volunteer Fire Department has approximately 15 active members who work alongside career firefighters in a combination approach to provide service to the citizens of Hanover County; and

WHEREAS, the members of Black Creek Volunteer Fire Department have generously sacrificed countless hours of their time and often put their own lives at risk to ensure the safety of their fellow community members; and

WHEREAS, Black Creek Volunteer Fire Department commemorated its 50th anniversary with a special celebration in October 2018; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Black Creek Volunteer Fire Department hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Black Creek Volunteer Fire Department as an expression of the Senate of Virginia's admiration for its legacy of contributions to the Hanover County community.

**SENATE RESOLUTION NO. 102**

*Commending Dianne W. Whitaker.*

Agreed to by the Senate, February 7, 2019

WHEREAS, Dianne W. Whitaker, assistant journal clerk of the Senate of Virginia, retired on January 1, 2019, after 31 years of exceptional service to the Commonwealth; and

WHEREAS, prior to working for the Senate of Virginia, Dianne Whitaker served as a secretary at the Richmond-based Wheat, First Securities; and

WHEREAS, Dianne Whitaker joined the Senate of Virginia as a part-time proofreader in 1987 and quickly earned a reputation as an organized, detail-oriented, and dedicated member of the team; she was promoted to assistant journal clerk in 1999 and served in that capacity for the next 19 years; and

WHEREAS, among her many accomplishments while working for the Senate of Virginia, Dianne Whitaker updated the *Senate Manual* and *Faces of the Senate* publications and assisted with the implementation of the e-filing system and the amendment interface; and

WHEREAS, in her well-earned retirement, Dianne Whitaker plans to seek new opportunities to support her community, especially through volunteer service, and will spend more time with her two daughters and their families; now, therefore, be it

RESOLVED by the Senate of Virginia, That Dianne W. Whitaker hereby be commended for her more than three decades of service to the Commonwealth on the occasion of her retirement as assistant journal clerk of the Senate of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dianne W. Whitaker as an expression of the Senate of Virginia's admiration for her contributions to the Commonwealth and best wishes for a happy retirement.

**SENATE RESOLUTION NO. 103**

*Celebrating the life of Marjorie Hodges Lamar.*

Agreed to by the Senate, February 7, 2019

WHEREAS, Marjorie Hodges Lamar, former co-owner of the Madison Drug Company pharmacy and a dedicated public safety professional in Madison County, died on July 4, 2018; and

WHEREAS, Marjorie Lamar was born in Nathalie in 1931 and lived most of her life in Madison, where she was an active member of Beth Car Baptist Church; and

WHEREAS, Marjorie Lamar was a founding and charter member of the Madison County Rescue Squad and served the community from 1963 until the time of her passing; and

WHEREAS, as a member of the Madison County Rescue Squad, Marjorie Lamar was credited with answering 15,000 calls for assistance, was one of the original 16 individuals statewide to achieve shock trauma status in 1976, and became a cardiac technician in 1982; and

WHEREAS, Marjorie Lamar served the squad as their Board of Governors representative to the Virginia Association of Volunteer Rescue Squads for over two decades; and

WHEREAS, Marjorie Lamar retired as the co-owner and manager of the Madison Drug Company and was a member of the Virginia Pharmacist Association Auxiliary; and

WHEREAS, Marjorie Lamar will be fondly remembered and greatly missed by her husband of 67 years, James; three children, nine grandchildren, and two great-grandchildren, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Marjorie Hodges Lamar, a respected resident of Madison County, who made many contributions to the community through her work as a business owner and an emergency medical services professional; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Marjorie Hodges Lamar as an expression of the Senate of Virginia's respect for her memory.

**SENATE RESOLUTION NO. 104**

*Commending Clover Hill Baptist Church.*

Agreed to by the Senate, February 4, 2019

WHEREAS, in 2019, Clover Hill Baptist Church celebrates 50 years of providing spiritual leadership, opportunities for joyful worship, and generous outreach to the members of the North Chesterfield community; and

WHEREAS, originally known as Gospel Crusade Baptist Church, Clover Hill Baptist Church traces its roots to the fall of 1968, when a group of believers met in a cabinet shop on Hull Street to form their own congregation; the Reverend Calvin T. Eaves was called as pastor, preaching his first sermon on November 24, 1968; and

WHEREAS, Clover Hill Baptist Church was formally organized with 80 charter members on February 9, 1969, and took its name from its location in the Clover Hill district of Chesterfield County; and

WHEREAS, shortly after its establishment, Clover Hill Baptist Church acquired a ten-acre tract of land on Courthouse Road and initiated a building fund under Harvey Tyndall; the church sold bonds to finance a new building, which was completed by general contractor Curtis Owens in 1972 and dedicated on Easter Sunday of that year; and

WHEREAS, Clover Hill Baptist Church sold additional bonds to fund a two-story educational building, which was completed in 1974, and later added a bus garage to better serve the growing congregation; the Reverend Dwight Norville was appointed director of the Bus Ministry and the Children's Church; and

WHEREAS, Clover Hill Baptist Church experienced significant growth in the 1970s, appointing its first associate pastor, the Reverend Barney Freasier, and music minister Wayne Raborn; the church continued to expand its ministries, including Sunday school programs and classes for the deaf, as well as the mentally and physically handicapped; and

WHEREAS, on May 12, 1976, Clover Hill Baptist Church assumed ownership of Richmond Christian School on Newby's Bridge Road and subsequently purchased the Gill School property on Belmont Road in 1983; by 2002, Richmond Christian School had grown to an enrollment of more than 600 students; and

WHEREAS, Clover Hill Baptist Church has also benefited from the leadership of the Reverend Robert Gallagher as associate pastor and the Reverend Abe Simon, who joined the church in 1987 as director of the Golden Age Fellowship and later became an associate pastor; and

WHEREAS, Clover Hill Baptist Church will commemorate its milestone 50th anniversary with a banquet at Bishop Ireton Center on February 9, 2019, and a service on February 10, 2019, featuring presentations on the history of the church, as well as testimonies and special guests; now, therefore, be it

RESOLVED by the Senate of Virginia, That Clover Hill Baptist Church hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Mark Crockett, senior pastor of Clover Hill Baptist Church, as an expression of the Senate of Virginia's admiration for its legacy of service to the residents of North Chesterfield.

### SENATE RESOLUTION NO. 105

*Commending the Reverend Alphonso Washington.*

Agreed to by the Senate, February 7, 2019

WHEREAS, the Reverend Alphonso Washington, a proud veteran and a highly admired spiritual leader in Hume, celebrated his 105th birthday on October 18, 2018; and

WHEREAS, born in 1913 in Washington, D.C., Alphonso Washington moved to Hume with his mother at the age of three and began a lifelong association with Mount Morris Baptist Church; and

WHEREAS, as a teenager, Alphonso Washington returned to the nation's capital, where he worked several jobs to help support his family; in the 1930s, while working on a dairy farm in Loudoun County, he attended a revival service at Mount Olive Baptist Church in Lincoln and discovered his passion for ministry; and

WHEREAS, in 1942, Alphonso Washington joined many of the other young men in service to the nation during World War II when he was drafted as a member of the United States Army Air Corps; and

WHEREAS, Alphonso Washington was assigned to the base chaplain corps at San Marcos Army Air Field in Texas, where he met and married his first wife, Rosa, who passed away in the 1980s; in addition to his duties as a chaplain, he trained in aircraft maintenance and was later stationed in Florida and Jamaica; and

WHEREAS, after the war, Alphonso Washington continued to support his fellow veterans as a chaplain for the American Legion, and he traveled the country as a visiting preacher, eventually finding himself back at his home church in Hume; and

WHEREAS, as an associate minister of Mount Morris Baptist Church, Alphonso Washington has offered his leadership to the Sunday School Conference, the Women's Auxiliary, and the Ministers and Deacons Conference; he also continued to travel, preaching and performing marriages, funerals, and counseling throughout the region; and

WHEREAS, Alphonso Washington currently lives in Culpeper with his beloved wife, Carol, and he is a sought-after speaker at events throughout Culpeper County and Fauquier County, sharing his incomparable wisdom and wealth of life lessons to new generations of community leaders; now, therefore, be it

RESOLVED by Senate of Virginia, That the Reverend Alphonso Washington hereby be commended on the occasion of his 105th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Alphonso Washington as an expression of the Senate of Virginia's admiration for his lifetime of service and contributions to the Commonwealth.

### SENATE RESOLUTION NO. 106

*Commending Helen Turner Murphy and W. Tayloe Murphy, Jr.*

Agreed to by the Senate, February 5, 2019

WHEREAS, Helen Turner Murphy and W. Tayloe Murphy, Jr., who have served the Commonwealth with the utmost integrity, dedication, and distinction, have received the 2019 Outstanding Virginian Award; and

WHEREAS, the Outstanding Virginian Award is presented by the Outstanding Virginian Committee in partnership with the University of Virginia Frank Batten School of Leadership and Public Policy to recognize leaders like Helen and Tayloe Murphy who have made an indelible mark on the Commonwealth; and

WHEREAS, a native of Emmerton, Tayloe Murphy holds a bachelor's degree from Hampden-Sydney College and a law degree from the University of Virginia School of Law, and he served his country as a member of the United States Navy Reserve; and

WHEREAS, Helen and Tayloe Murphy married shortly after she graduated from Sweet Briar College, and the couple returned to the Northern Neck in the 1960s, when Tayloe Murphy began practicing law in Warsaw; Helen Murphy quickly became an active leader in the community, serving on the founding local board for Rappahannock Community College, which graduated its first class in 1973; and

WHEREAS, desirous to be of further service to the Commonwealth, Tayloe Murphy ran for and was elected to the House of Delegates, representing the residents of the 99th District from 1982 to 2000; he served as the chair of the Committee on Commerce and Labor and as a member of the Committee for Courts of Justice, the Committee on Corporations, Insurance and Banking, and the Committee on Chesapeake and its Tributaries; and

WHEREAS, Tayloe Murphy introduced important legislation to benefit all Virginians and was instrumental in the passage of the Chesapeake Bay Preservation Act and the Virginia Water Quality Improvement Act; and

WHEREAS, in recognition of Tayloe Murphy's experience and considerable expertise, he was appointed to serve as a member of the Chesapeake Bay Commission and the Virginia Code Commission, as well as chair of the Joint Legislative

Audit and Review Commission during its two-year review of the Virginia Department of Environmental Quality; he also served as Secretary of Natural Resources under Governor Mark Warner; and

WHEREAS, in addition, Tayloe Murphy has served on numerous local and state civic and professional organizations, as the chair of the Westmoreland County Planning Commission and Westmoreland County Board of Zoning Appeals, as the president of the Westmoreland Ruritan Club, as a director of the Northern Neck State Bank, and as a member of the Southern Growth Policies Board, the Northern Neck Historical Society, the Northern Neck Bar Association, the Council of the Virginia State Bar, and the American Bar Association; and

WHEREAS, Helen Murphy continued her own service to the community and the Commonwealth as an activist for education and environmental health; she was a founding member of the Garden Club of the Northern Neck and president of the Garden Club of Virginia from 1992 to 1994; and

WHEREAS, Helen Murphy served as the president of the Menokin Foundation, created in 1994 to save and interpret the historic home of Francis Lightfoot Lee, a signer of the Declaration of Independence, and offered her leadership to the Lewis Ginter Botanical Garden, the Virginia Historical Society, the Virginia Nature Conservancy, St. Margaret's School, the Alliance for the Chesapeake Bay, and the Virginia Department of Historic Resources, among other organizations; and

WHEREAS, in 2002, Helen and Tayloe Murphy received the Massie Medal for Distinguished Achievement, the oldest and most prestigious award presented by the Garden Club of Virginia; and

WHEREAS, Helen and Tayloe Murphy have served the Commonwealth with great distinction and an uncommon commitment to the conservation and stewardship of Virginia's historic and natural resources; now, therefore, be it

RESOLVED by the Senate of Virginia, That Helen Turner Murphy and W. Tayloe Murphy, Jr., hereby be commended on their selection for the 2019 Outstanding Virginian Award; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Helen Turner Murphy and W. Tayloe Murphy, Jr., as an expression of the Senate of Virginia's admiration for their long legacy of exemplary service to the citizens of the Commonwealth.

### SENATE RESOLUTION NO. 107

*Commending Senior Services of Southeastern Virginia.*

Agreed to by the Senate, February 14, 2019

WHEREAS, for more than 50 years, the Senior Services of Southeastern Virginia has functioned as a regional organization in South Hampton Roads that supports and enriches the lives of older residents and their families through advocacy, education, information, and comprehensive services; and

WHEREAS, in 1968, the Senior Services of Southeastern Virginia, then known as the Senior Citizens Service Center, incorporated as a nonprofit organization to serve the needs of seniors and their families and caregivers in South Hampton Roads; and

WHEREAS, in 1972, the name was changed to Southeastern Virginia Areawide Model Program; the program was designated as the Area Agency on Aging in 1973, and the name was changed to Senior Services of Southeastern Virginia in 1997; and

WHEREAS, the Senior Services of Southeastern Virginia provides numerous programs including advanced care planning, I-Ride Transit, in-home services, Medicare benefits counseling and information sessions, support to caregivers, wellness classes, veteran-directed care, and the establishment of the Livable Communities Initiative in Virginia Beach; and

WHEREAS, volunteers play an important part in relaying the core values of Senior Services of Southeastern Virginia, and key volunteers who received the Above and Beyond Award are Gary Zallas, for making Comfort Calls; Sharon Frarazier, a benefits counselor; Sandra Pierce, an ombudsman; Ty Anderson, an office associate; Jen VanDavier, a Meals on Wheels deliverer; and Valerie Smith, a wellness center aide; and

WHEREAS, the Senior Services of Southeastern Virginia has won numerous national, state, regional, and local awards recognizing its essential services to the senior population, including the Senior Corps Senior Companion of the Year award and the National Association of Agencies on Aging Excellence in Leadership Award; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Senior Services of Southeastern Virginia hereby be commended for more than 50 years of serving the regions' seniors; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Senior Services of Southeastern Virginia for supporting and enriching the lives of seniors and their families through advocacy, education, information, and comprehensive services.

**SENATE RESOLUTION NO. 108**

*Celebrating the life of Michael Timothy Tilley.*

Agreed to by the Senate, February 14, 2019

WHEREAS, Michael Timothy Tilley of Hanover County, a distinguished law-enforcement officer and a devoted husband, father, son, and brother, died on January 12, 2019; and

WHEREAS, Michael Tilley joined the Hanover County Sheriff's Office in 2004 and was assigned as a patrol deputy on the evening shift after completing the basic academy; he was transferred to the newly created Safe Streets Unit in 2008 and briefly served in the Uniform Patrol Division as a sergeant before returning to the Safe Streets Unit in 2015; and

WHEREAS, Michael Tilley was promoted to lieutenant in December 2018 and served as the officer in charge of the second platoon on the day shift in the Uniform Patrol Division; he was also the officer in charge of the Traffic Safety Unit and the Commercial Motor Carrier Unit; and

WHEREAS, Michael Tilley was best known for his work with the Safe Streets Unit and was highly regarded in the traffic safety community; with his leadership, the Hanover County Sheriff's Office received first place awards for the Highest Seat Belt Use and Most Improved Seat Belt Use in Virginia, and claimed second place in the 2018 Law Enforcement Challenge; and

WHEREAS, Michael Tilley received many awards and accolades for his exceptional service, including the Silver Star, three Unit Citations, the 2011 Dedication to Duty award, and the 2016 Excellent Service award; and

WHEREAS, outside of his law-enforcement career, Michael Tilley relished every opportunity to spend time with his family and was coach of his daughter's softball team; and

WHEREAS, Michael Tilley will be fondly remembered and greatly missed by his wife, Lisa Ann; his daughter, Caroline; his mother, Judy; his siblings, Shelly, Jim, and Paul; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Michael Timothy Tilley, a dedicated law-enforcement officer who made many contributions to the Hanover County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Michael Timothy Tilley as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 109**

*Celebrating the life of Staff Sergeant Jasper N. Beauchamp, USA, Ret.*

Agreed to by the Senate, February 7, 2019

WHEREAS, Staff Sergeant Jasper N. Beauchamp, USA, Ret., a patriotic veteran and a respected member of his community, died on February 6, 2019, at the age of 100; and

WHEREAS, born in Iowa Park, Texas, on August 15, 1918, Jasper "Chuck" Beauchamp was the oldest boy of eight children born to Jack and Essie Beauchamp; and

WHEREAS, Chuck Beauchamp learned the value of hard work and responsibility at a young age; he worked on his grandfather's farm in Falls County, Texas, from the age of nine and ran his own mule team to plow fields for several other local farms; and

WHEREAS, in his early years, Chuck Beauchamp also picked cotton, worked on a ranch, and provided care for a diabetic individual; during the Great Depression, he joined the Civilian Conservation Corps and sent his pay home to help support his family; and

WHEREAS, Chuck Beauchamp served as a coast watcher on the west coast in the lead up to World War II and was inducted into the United States Army on February 10, 1941; and

WHEREAS, assigned to the 330th Infantry Regiment, Chuck Beauchamp was in the second wave of the D-Day landings on the beaches of Normandy, France, in 1944 and participated in the Normandy, Ardennes, and Rhineland campaigns; and

WHEREAS, in recognition of his determination, courage, and gallantry in action, Chuck Beauchamp was awarded the Silver Star Medal, the Silver Star Oak Leaf Cluster, the Bronze Star Medal, and two Purple Hearts; and

WHEREAS, shortly before his honorable discharge in 1945, Chuck Beauchamp married Velma Mae Heathcoat, then pursued a long career with General Tire, retiring after 36 years of service; and

WHEREAS, Chuck Beauchamp's greatest joy in his life was his beloved family, and he was well known for opening his home to anyone in need; he proudly helped raise his brothers, nieces, nephews, grandchildren, and family friends, imparting to them his keen appreciation for the importance of leadership and service to others; and

WHEREAS, predeceased by his wife, Velma, Chuck Beauchamp will be fondly remembered and greatly missed by his children, Donald, Linda, and Michael, and their families, including his eight grandchildren, 12 great-grandchildren, and two great-great-grandchildren; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Staff Sergeant Jasper N. Beauchamp, USA, Ret., a member of the "Greatest Generation" who made many contributions to his community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Staff Sergeant Jasper N. Beauchamp, USA, Ret., as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 110

*Commending the 29th Infantry Division.*

Agreed to by the Senate, February 14, 2019

WHEREAS, June 6, 2019, marks the 75th anniversary of the Allied assault at Normandy, France, by American, British, and Canadian troops, known as Operation Overlord, in which the 29th Infantry Division, based at Fort Belvoir in Fairfax County, played a vital role; and

WHEREAS, the D-Day landing was the largest single amphibious assault in history, consisting of approximately 31,000 members of the United States Armed Forces; 153,000 members of the Allied Expeditionary Force; 5,000 naval vessels; and more than 11,000 sorties by Allied aircraft; and

WHEREAS, the Virginia National Guard, having been mobilized by the President of the United States starting in 1940, formed the 111th Field Artillery Battalion and the 116th Infantry Regiment; and

WHEREAS, these two units of the 29th Infantry Division would be among the very first units to land on Omaha Beach, thereby earning the unique battle streamer "Beaches of Normandy" for their unit flags; and

WHEREAS, among the soldiers on the beach that morning were Sergeant John Robert "Bob" Slaughter and Sergeant Arnold H. Lindblad; their heroic acts and devotion to duty gave cause to the Virginia National Guard to name their headquarters building the Sergeant Bob Slaughter Headquarters and to designate the Norfolk Virginia National Guard Readiness Center as the Chief Warrant Officer Arnold Lindblad Readiness Center; and

WHEREAS, in the early hours of the landing, the commander of the 111th Field Artillery, Lieutenant Colonel Thornton L. Mullins, on finding that the amphibious vehicles bringing his unit's howitzers ashore had sunk, told his men to forget their artillery training, saying, "We're infantrymen now"; and

WHEREAS, Lieutenant Colonel Mullins was killed in action shortly thereafter; and

WHEREAS, the subsequent fighting after the initial D-Day landing proved to be as dangerous and fraught with casualties; the individual heroic acts of Virginia National Guardsman Technical Sergeant Frank D. Peregory at Grandchamps, France, on June 8, 1944, in singlehandedly eliminating a German strongpoint and capturing more than thirty of the enemy earned him the Medal of Honor; and

WHEREAS, the 29th Infantry Division found itself fighting for weeks in the Bocage area of Normandy against a deadly foe that contested every field and hedgerow, and casualty rates soon exceeded those of the D-Day landing; and

WHEREAS, the breakout from the Bocage and subsequent capture of the town of Saint-Lô on July 19, 1944, was led by the Virginia Guardsmen of the 116th Infantry Regiment while supported by the 111th Field Artillery; after 45 days of continuous combat, more than 7,000 members of the 29th Infantry Division were killed or wounded; and

WHEREAS, the commander of the 2nd Battalion, 116th Infantry, Major Thomas Dry Howie, was killed by enemy artillery fire, and his body carried by his troops into the heart of the shattered city, then laid in state on the rubble of a church in the Saint-Lô square; and

WHEREAS, this incredible show of respect for their fallen leader was reported in the world press and gave rise to the legend of the "Major of Saint-Lô"; and

WHEREAS, the Virginia Guardsmen of the 29th Infantry Division would next be assigned to the assault on the German-fortified port city of Brest where they would be reunited with their former 116th Regimental Commander, Brigadier General Charles D. W. Canham, then Assistant Division Commander of the 8th Infantry Division, while fighting in the streets of Brest; and

WHEREAS, the final capture of Brest after weeks of street-to-street combat would lead to the movement of the 29th Infantry Division across France to take up positions in Holland, defending the northern flank of the U.S. Army forces in Europe; and

WHEREAS, units of the 29th Infantry Division participated in the assault across the Rur River in February 1945 and finished the war in a defensive position along the Elbe River in May of that year; now, therefore, be it

RESOLVED by the Senate of Virginia, That the 29th Infantry Division hereby be commended on the occasion of the 75th anniversary of its meritorious actions during World War II, from the beaches of Normandy on D-Day to the Elbe River; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the 29th Infantry Division and the National D-Day Memorial Foundation as an expression of the Senate of Virginia's admiration for the unit's meritorious service in combat during World War II and subsequent service to the Commonwealth and the United States.

**SENATE RESOLUTION NO. 111**

*Commending the Central Chesapeake Republican Women's Club.*

Agreed to by the Senate, February 14, 2019

WHEREAS, in 2019, the Central Chesapeake Republican Women's Club celebrates 50 years of empowering women leaders and supporting the members of the Chesapeake community; and

WHEREAS, the Central Chesapeake Republican Women's Club was officially recognized by the Virginia Federation of Republican Women and the National Federation of Republican Women in 1969; since that time, the club has welcomed women of all ages, ethnicities, and backgrounds; and

WHEREAS, throughout its history, the Central Chesapeake Republican Women's Club has counted among its membership school administrators, educators, public servants, business owners, and other distinguished professionals; the organization has received tireless leadership from its lifetime members, Margie Blevins, Irene Hurst, and Carol Stevenson, who was also a founding member; and

WHEREAS, the Central Chesapeake Republican Women's Club has worked to strengthen the community through its involvement in numerous worthy initiatives; the club takes a special interest in education by supporting the Barbara Bush Literacy Program to help elementary school students learn to read and by awarding an annual college scholarship to an outstanding high school senior; and

WHEREAS, the Central Chesapeake Republican Women's Club promotes patriotism and honors the nation's active-duty service members and veterans by preparing care packages and supporting Gold Star families; and

WHEREAS, the Central Chesapeake Republican Women's Club also donates goods and services to community programs that benefit the homeless, disaster victims, women's shelters, and underprivileged children and families; and

WHEREAS, each year, the Central Chesapeake Republican Women's Club presents the Chesapeake Leadership Award to a woman with a servant's heart who has made a positive difference in the community, regardless of her political affiliation; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Central Chesapeake Republican Women's Club hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Central Chesapeake Republican Women's Club as an expression of the Senate of Virginia's admiration for the organization's five decades of generous contributions to the Chesapeake community.

**SENATE RESOLUTION NO. 112**

*Celebrating the life of John D. Jenkins.*

Agreed to by the Senate, February 11, 2019

WHEREAS, John D. Jenkins, a longtime member of the Prince William County Board of Supervisors who was dedicated to enhancing the quality of life in the community, died on February 6, 2019; and

WHEREAS, John Jenkins served his country as a member of the United States Army, with two tours of duty during the Vietnam War; he earned the Bronze Star Medal with Oak Leaf Cluster and retired from military service as a lieutenant colonel in 1980; and

WHEREAS, John Jenkins was an active member of the Prince William County community for 46 years, and had served on the Prince William County Board of Supervisors, representing the Neabsco district, since 1982; and

WHEREAS, John Jenkins was the most senior member on the Prince William County Board of Supervisors and the longest serving supervisor in the history of Prince William County; and

WHEREAS, John Jenkins served two terms as chair of the Northern Virginia Regional Commission, two terms as state president of the Virginia Association of Planning District Commissions, and two terms as chair of the Virginia Railway Express Operations Board; he also served as state president of the Virginia Association of Counties and chair of the Potomac and Rappahannock Transportation Commission; and

WHEREAS, John Jenkins supported his fellow veterans as a member of the Veterans of Foreign Wars, American Legion, and Disabled American Veterans; and

WHEREAS, John Jenkins will be fondly remembered and greatly missed by his wife, Ernestine; his sons, Warren, Mark, and Gordon; his 14 grandchildren and 12 great-grandchildren; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of John D. Jenkins, a faithful public servant in Prince William County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John D. Jenkins as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 113**

*Celebrating the life of John Marshall Rasnick, Jr.*

Agreed to by the Senate, February 14, 2019

WHEREAS, John Marshall Rasnick, Jr., a respected veteran and a former legislative committee clerk for the Senate of Virginia, died on December 12, 2018; and

WHEREAS, born in Clintwood, John Rasnick graduated from Thomas Jefferson High School and studied at St. Christopher's School and Virginia Polytechnic Institute and State University before joining many of the other young men of his generation in service to the nation during World War II; and

WHEREAS, as a member of the United States Army, John Rasnick was one of the first infantrymen to land on Omaha Beach during the D-Day invasion of Normandy, France, in 1944 and participated in the subsequent campaigns across Europe; and

WHEREAS, after his honorable military service, John Rasnick returned to Virginia and served the Commonwealth in several capacities, including as executive director of the Compensation Board; and

WHEREAS, from 1984 to 1998, John Rasnick ably served the members of the General Assembly as the clerk for the Senate Committee on Finance; and

WHEREAS, John Rasnick also served the community as a 32nd degree Mason at Westhampton Lodge No. 302, and enjoyed fellowship and worship with the congregations of First Baptist Church and Second Baptist Church; and

WHEREAS, predeceased by his wife of 64 years, Lucille, and his daughter, Kathy, John Rasnick will be fondly remembered and greatly missed by his children, Marsha and John III, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of John Marshall Rasnick, Jr., a respected veteran who served the Commonwealth for more than a decade as a legislative committee clerk; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Marshall Rasnick, Jr., as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 114**

*Celebrating the life of Charlotte Mae Satterwhite Troxell.*

Agreed to by the Senate, February 14, 2019

WHEREAS, Charlotte Mae Satterwhite Troxell of Richmond, a talented singer and the head hostess of the Virginia State Capitol Tours program for 27 years, died on January 20, 2019; and

WHEREAS, born in Fredericksburg, Charlotte Troxell spent most of her life in Richmond, where she realized her passion for music at a young age and sang her first solo performance at Grove Avenue Baptist Church; and

WHEREAS, Charlotte Troxell continued to study music at Thomas Jefferson High School and The College of William and Mary; she performed solo cantatas for more than 20 years as a member of the St. Giles Presbyterian Church choir and brought joy to audiences with her beautiful soprano voice as a member of the Heart Strings choral group; and

WHEREAS, at the age of 55, Charlotte Troxell began a second career as head hostess at the Virginia State Capitol and went on to set a high bar for gracious hospitality from behind the welcome desk in the Capitol Rotunda; and

WHEREAS, Charlotte Troxell hosted visitors from all over the Commonwealth and the world, and as a lifelong Richmond resident, enriched guests' visits with local stories that couldn't be found in any history book; she retired at the age of 83 as a familiar face to state employees and a beloved icon to her fellow Virginia State Capitol staff members; and

WHEREAS, predeceased by her husband, Mark, and her son, Gerald, Charlotte Troxell will be fondly remembered and greatly missed by her son, Mark, Jr., her grandchildren and great-grandchildren; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Charlotte Mae Satterwhite Troxell, a vibrant member of the Richmond community, who served and educated generations of visitors to the Virginia State Capitol; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Charlotte Mae Satterwhite Troxell as an expression of the Senate of Virginia's respect for her memory.

**SENATE RESOLUTION NO. 115**

*Celebrating the life of Richard Leigh Towell, Sr.*

Agreed to by the Senate, February 14, 2019

WHEREAS, Richard Leigh Towell, Sr., a devoted educator and a respected member of the Richmond community, died on August 12, 2018; and

WHEREAS, after earning a bachelor's degree from the University of Virginia and a master's degree in mathematics from the University of South Carolina, Richard Towell pursued a long and fulfilling career in education; and

WHEREAS, over the course of more than 50 years, Richard Towell inspired generations of Richmond students at Collegiate School and St. Christopher's School to achieve success both in and out of the classroom; he also taught at Sevenoaks School in England on a Fulbright-Hayes Fellowship; and

WHEREAS, Richard Towell worked to build strong, personal relationships with his students, using his sense of humor to enhance the learning process and ensure that the young men and women in his care were prepared for success in higher education, careers, and citizenship; and

WHEREAS, a patron of the arts, Richard Towell enhanced cultural life in Richmond as a founding member of the Carillon Civic Association and the annual Arts in the Park event, which has showcased thousands of artists from around the country for nearly 50 years; and

WHEREAS, Richard Towell served the Senate of Virginia as a tutor for Senate pages from 1992 to 2002 and again from 2014 to 2016; and

WHEREAS, Richard Towell enjoyed fellowship and worship with the congregation of River Road Presbyterian Church, where he served as an elder; and

WHEREAS, predeceased by his first wife, Carol, Richard Towell will be fondly remembered and greatly missed by his wife, Anita; his children, Leigh, Ellen, Eric, and Sam, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Richard Leigh Towell, Sr.; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Richard Leigh Towell, Sr., as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 116**

*Commending The Apprentice School football team.*

Agreed to by the Senate, February 14, 2019

WHEREAS, in 2018, The Apprentice School football team of Newport News won the National Club Football Association national championship during its inaugural season in the league; and

WHEREAS, The Apprentice School Builders were undefeated in the championship tournament and dominated the Oakland University Golden Grizzlies of Michigan in the national final, winning by a score of 56-14; and

WHEREAS, after taking an early 14-0 lead, The Apprentice School Builders never looked back, holding the Oakland University Golden Grizzlies to only two touchdowns in the first half and scoring 34 unanswered points in the second half; and

WHEREAS, The Apprentice School Builders were unstoppable on the ground, averaging 8.6 yards per carry on 46 attempts for a total of 395 rushing yards; and

WHEREAS, first-year head coach John Davis introduced a split-back option offense and revitalized the team's defense to help The Apprentice School Builders achieve their first winning season since 2006; and

WHEREAS, defensive lineman Khris Smith and cornerback Raekwon Jackson of The Apprentice School Builders were named to the Virginia Sports Information Directors 2018 College Division All-State Second Team; and

WHEREAS, the championship win is a testament to the skill and hard work of all the student-athletes, the leadership of coaches and staff, and the support of the entire Apprentice School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That The Apprentice School football team hereby be commended for its victory in the 2018 National Club Football Association national championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John Davis, head coach of The Apprentice School football team, as an expression of the Senate of Virginia's admiration for the team's exceptional achievements and best wishes for the future.

**SENATE RESOLUTION NO. 117**

*Commending Bay Aging.*

Agreed to by the Senate, February 18, 2019

WHEREAS, for 40 years, Bay Aging has played a vital role in helping local residents age with dignity by providing education, advocacy, and support; and

WHEREAS, the mission of Bay Aging is to deliver the programs and services that people of all ages need to live independently in their communities for as long as possible; and

WHEREAS, to better serve the aging populations of the Middle Peninsula and Northern Neck, Bay Aging runs numerous support services programs for senior housing, senior centers, and public transportation, among other services; and

WHEREAS, Bay Aging's notable accomplishments include establishing a statewide veteran-directed care program and establishing collaborations that contract with health care providers and payers to improve health outcomes and lower health care costs; and

WHEREAS, Bay Aging has won numerous awards recognizing its important work, including the Archstone Award for Excellence in Program Innovation; a Bay Rivers Telehealth Rural Health Community Champions award; and the National Association of Area Agencies on Aging's Aging Innovations and Achievement Award for Care Transitions; and

WHEREAS, Bay Aging has an exceptional and dedicated cadre of 1,400 volunteers of all ages who work alongside staff to assist the aging citizens of the Middle Peninsula and Northern Neck; now, therefore, be it

RESOLVED by the Senate of Virginia, That Bay Aging hereby be commended for its 40 years of work to help residents age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bay Aging as an expression of the Senate of Virginia's admiration for Bay Aging's programming that fosters independence and healthy aging and improves the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

**SENATE RESOLUTION NO. 118**

*Celebrating the life of Captain Andrew Patrick Ross, USA.*

Agreed to by the Senate, February 18, 2019

WHEREAS, Captain Andrew Patrick Ross, USA, a beloved native of Lexington and a courageous member of the elite Green Berets, was killed in action in Afghanistan on November 27, 2018; and

WHEREAS, Andrew "Drew" Ross demonstrated a natural ability for leadership from a young age, serving as captain of his high school soccer team; and

WHEREAS, a proud patriot, Drew Ross fulfilled a longtime dream to serve his country when he was commissioned as a second lieutenant in the United States Army after graduating from the United States Military Academy at West Point in 2011; and

WHEREAS, a decorated and highly trained soldier, Drew Ross was assigned to 1st Battalion, 3rd Special Forces Group (Airborne), stationed at Fort Bragg, North Carolina; and

WHEREAS, Drew Ross made the ultimate sacrifice while deployed on his second tour to Afghanistan in support of Operation Freedom's Sentinel, when his vehicle was struck by an improvised explosive device in the Ghazni Province; and

WHEREAS, Drew Ross was posthumously awarded the Bronze Star Medal, the Purple Heart, the Meritorious Service Medal, and the Combat Infantry Badge; and

WHEREAS, Drew Ross was an exemplar of the bravery, selflessness, and dedication to duty, demonstrated by all of the American men and women in uniform who willingly go into harm's way in defense of freedom each day; and

WHEREAS, Drew Ross derived his greatest joy in life from his family, and will be fondly remembered and greatly missed by his beloved wife, Felicia; his mother, Beth; his father, Stephen; his sister, Sarah; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Captain Andrew Patrick Ross, USA, a distinguished native of Lexington and a courageous member of the elite Green Berets; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Captain Andrew Patrick Ross, USA, as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 119**

*Commending the Mattaponi Baptist Association of Virginia.*

Agreed to by the Senate, February 18, 2019

WHEREAS, in 2019, the Mattaponi Baptist Association of Virginia celebrates its 140th anniversary of service to the Baptist community, marking its growth to 72 churches engaged in evangelism, discipleship, ministry, worship, missions at home and abroad, and Christian education; and

WHEREAS, the Mattaponi Baptist Association of Virginia was first established in 1879 at Shiloh Baptist Church in Bowling Green; and

WHEREAS, the Mattaponi Baptist Association of Virginia helps churches serve local communities by providing women's and men's ministry opportunities, youth events, adult events, church and community ministries, and special projects; and

WHEREAS, the Mattaponi Baptist Association of Virginia assists its member churches through foreign and local mission partnerships, disaster relief, and leadership and volunteer training; and

WHEREAS, the Mattaponi Baptist Association of Virginia also supports education, fellowship, evangelism, and church leadership through workshops, Vacation Bible School, Christian education, retreats, praise and worship events, church counseling, pulpit support, ordination for clergy leaders, and pastoral search assistance; and

WHEREAS, to better serve the community, the Mattaponi Baptist Association of Virginia has established partnerships with the Baptist General Convention of Virginia, Children's Home of Virginia Baptists, the NAACP, National Baptist Association, USA, Virginia Union University, Virginia University of Lynchburg, and Richmond Virginia Seminary; now, therefore, be it

RESOLVED by the Senate of Virginia, That the General Assembly hereby commend the Mattaponi Baptist Association of Virginia on the occasion of its 140th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Mattaponi Baptist Association of Virginia, as an expression of the Senate's admiration for the organization's long history of serving its members' spiritual needs.

**SENATE RESOLUTION NO. 120**

*Nominating a person to be elected to the Supreme Court of Virginia.*

Agreed to by the Senate, February 14, 2019

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected to the Supreme Court of Virginia as follows:

The Honorable Teresa M. Chafin, of Russell, as a justice of the Supreme Court of Virginia for a term of twelve years commencing September 1, 2019.

**SENATE RESOLUTION NO. 121**

*Nominating a person to be elected to the Court of Appeals of Virginia.*

Agreed to by the Senate, February 14, 2019

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected to the Court of Appeals of Virginia as follows:

The Honorable Clifford L. Athey, Jr., of Warren, as a judge of the Court of Appeals of Virginia for a term of eight years commencing September 1, 2019.

**SENATE RESOLUTION NO. 122**

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the Senate, February 14, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Stephen J. Telfeyan, of Chesapeake, as a judge of the First Judicial Circuit for a term of eight years commencing April 1, 2019.

The Honorable Matthew A. Glassman, of Suffolk, as a judge of the Fifth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Carson E. Saunders, Jr., of Emporia, as a judge of the Sixth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable James William Watson, Jr., of Halifax, as a judge of the Tenth Judicial Circuit for a term of eight years commencing April 16, 2019.

The Honorable Randall G. Johnson, Jr., of Henrico, as a judge of the Fourteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

William E. Glover, Esquire, of Fredericksburg, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Claude V. Worrell, II, of Charlottesville, as a judge of the Sixteenth Judicial Circuit for a term of eight years commencing July 1, 2019.

Judith L. Wheat, Esquire, of Arlington, as a judge of the Seventeenth Judicial Circuit for a term of eight years commencing July 1, 2019.

Dontaé L. Bugg, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing March 16, 2019.

James E. Plowman, Esquire, of Loudoun, as a judge of the Twentieth Judicial Circuit for a term of eight years commencing November 1, 2019.

James Frederick Watson, Esquire, of Campbell, as a judge of the Twenty-fourth Judicial Circuit for a term of eight years commencing July 1, 2019.

Paul A. Dyer, Esquire, of Augusta, as a judge of the Twenty-fifth Judicial Circuit for a term of eight years commencing April 1, 2019.

Edward K. Stein, Esquire, of Alleghany, as a judge of the Twenty-fifth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Kevin C. Black, of Shenandoah, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing May 1, 2019.

The Honorable William W. Sharp, of Warren, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing July 1, 2019.

Fredrick A. Rowlett, Esquire, of Washington, as a judge of the Twenty-eighth Judicial Circuit for a term of eight years commencing July 1, 2019.

The Honorable Angela L. Horan, of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing July 1, 2019.

### SENATE RESOLUTION NO. 123

*Nominating persons to be elected to general district court judgeships.*

Agreed to by the Senate, February 14, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

Erin L. Evans-Bedois, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing April 1, 2019.

Sandra L. Sampson, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing May 1, 2019.

Robert B. Rigney, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing July 1, 2019.

Nicole A. Belote, Esquire, of Suffolk, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2019.

Elbert D. Mumphery, IV, Esquire, of Henrico, as a judge of the Sixth Judicial District for a term of six years commencing July 1, 2019.

Robert G. Saunders, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing July 1, 2019.

Jody E. H. Fariss, Esquire, of Prince Edward, as a judge of the Tenth Judicial District for a term of six years commencing June 1, 2019.

Calvin S. Spencer, Jr., Esquire, of Lunenburg, as a judge of the Tenth Judicial District for a term of six years commencing April 16, 2019.

Darrel W. Puckett, Esquire, of Appomattox, as a judge of the Tenth Judicial District for a term of six years commencing June 1, 2019.

Thomas Stark, IV, Esquire, of Amelia, as a judge of the Eleventh Judicial District for a term of six years commencing May 1, 2019.

Lauren A. Caudill, Esquire, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing June 1, 2019.

Angela M. O'Connor, Esquire, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2019.

Matthew J. Quatrara, Esquire, of Albemarle, as a judge of the Sixteenth Judicial District for a term of six years commencing June 1, 2019.

Daniel T.C. Lopez, Esquire, of Arlington, as a judge of the Seventeenth Judicial District for a term of six years commencing July 1, 2019.

Jason S. Rucker, Esquire, of Arlington, as a judge of the Seventeenth Judicial District for a term of six years commencing March 16, 2019.

Susan F. Earman, Esquire, of Falls Church, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2019.

Christopher Billias, Esquire, of Rockbridge, as a judge of the Twenty-fifth Judicial District for a term of six years commencing April 1, 2019.

Christopher B. Russell, Esquire, of Buena Vista, as a judge of the Twenty-fifth Judicial District for a term of six years commencing July 1, 2019.

Travis B. Lee, Esquire, of Smyth, as a judge of the Twenty-eighth Judicial District for a term of six years commencing July 1, 2019.

Turkessa B. Rollins, Esquire, of Prince William, as a judge of the Thirty-first Judicial District for a term of six years commencing July 1, 2019.

### SENATE RESOLUTION NO. 124

*Nominating persons to be elected to juvenile and domestic relations district court judgeships.*

Agreed to by the Senate, February 14, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

Lori B. Galbraith, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing July 1, 2019.

Andrew D. Kubovcik, Esquire, of Chesapeake, as a judge of the First Judicial District for a term of six years commencing July 1, 2019.

Devon R. Paige Charity, Esquire, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing July 1, 2019.

Christopher B. Ackerman, Esquire, of Colonial Heights, as a judge of the Sixth Judicial District for a term of six years commencing July 1, 2019.

Wallace W. Brittle, Jr., Esquire, of Sussex, as a judge of the Sixth Judicial District for a term of six years commencing July 1, 2019.

Jeffrey C. Rountree, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing July 1, 2019.

Rebecca M. Robinson, Esquire, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing April 16, 2019.

Gregory C. Bane, Esquire, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing July 1, 2019.

Holly B. Smith, Esquire, of Gloucester, as a judge of the Ninth Judicial District for a term of six years commencing July 1, 2019.

Theresa J. Royall, Esquire, of Nottoway, as a judge of the Eleventh Judicial District for a term of six years commencing July 1, 2019.

Brice E. Lambert, Esquire, of Henrico, as a judge of the Thirteenth Judicial District for a term of six years commencing July 1, 2019.

Sharon G. Jacobs, Esquire, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing July 1, 2019.

Gilbert H. Berger, Esquire, of Orange, as a judge of the Sixteenth Judicial District for a term of six years commencing July 1, 2019.

Barbara G. Lowe, Esquire, of Albemarle, as a judge of the Sixteenth Judicial District for a term of six years commencing July 1, 2019.

Maha-Rebekah R. Abejuela, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2019.

Jonathan D. Frieden, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing July 1, 2019.

Stephanie M. Ayers, Esquire, of Bedford, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2019.

Jennifer E. Stille, Esquire, of Lynchburg, as a judge of the Twenty-fourth Judicial District for a term of six years commencing July 1, 2019.

Susan B. Read, Esquire, of Staunton, as a judge of the Twenty-fifth Judicial District for a term of six years commencing July 1, 2019.

Rachel E. Figura, Esquire, of Rockingham, as a judge of the Twenty-sixth Judicial District for a term of six years commencing May 1, 2019.

Daryl L. Funk, Esquire, of Warren, as a judge of the Twenty-sixth Judicial District for a term of six years commencing July 1, 2019.

Chad A. Logan, Esquire, of Shenandoah, as a judge of the Twenty-sixth Judicial District for a term of six years commencing July 1, 2019.

Kimberly Michelle Jenkins, Esquire, of Scott, as a judge of the Thirtieth Judicial District for a term of six years commencing July 1, 2019.

### SENATE RESOLUTION NO. 125

*Nominating a person to be elected as a member of the Judicial Inquiry and Review Commission.*

Agreed to by the Senate, February 14, 2019

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected as a member of the Judicial Inquiry and Review Commission as follows:

The Honorable Shannon O'Connell Hoehl, of Hanover, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2019.

### SENATE RESOLUTION NO. 126

*Celebrating the life of Major Robert S. Gooch IV, USA.*

Agreed to by the Senate, February 18, 2019

WHEREAS, Major Robert S. Gooch IV, USA, a distinguished member of the United States Armed Forces and a devoted father, died on January 8, 2019; and

WHEREAS, Robert Gooch enlisted in the United States Navy at the age of 17 and was commissioned as an officer in the United States Army after he earned a bachelor's degree in health sciences; and

WHEREAS, Robert Gooch was stationed at Fort Belvoir, assigned to the Army Medical Service Corps; he served three rotations and one tour in Afghanistan, earning the Bronze Star Medal, Meritorious Service Medal, and Army Commendation Medal; and

WHEREAS, in civilian life, Robert Gooch was a skilled electrical technician who held many certifications and worked at his family's businesses; he was also an avid fitness and nutrition enthusiast; and

WHEREAS, Robert Gooch's greatest joy in life was spending time with his children, and he relished every opportunity to make lasting memories with them through swimming, skating, and biking trips; and

WHEREAS, Robert Gooch will be fondly remembered and greatly missed by his children, Mia, Abby, and Robert V; his fiancée, Kathryn; his mother, Sherry; his father, Robert III; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Major Robert S. Gooch IV, USA, a beloved member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Major Robert S. Gooch IV, USA, as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 127

*Commending Bishop Leon Benjamin.*

Agreed to by the Senate, February 18, 2019

WHEREAS, Bishop Leon Benjamin, senior pastor of New Life Harvest Church and an active civic leader, has worked to support and enhance the Richmond community for many years; and

WHEREAS, Leon Benjamin served his country as a member of the United States Navy, participating in Operation Desert Shield and Operation Desert Storm, before answering the call to ministry in 1993; and

WHEREAS, Leon Benjamin was ordained under the Potter's House International Pastoral Alliance and leads the congregation of New Life Harvest Church in Richmond, where he established the Kingdopreneur Now! program to assist developing entrepreneurs who are guided by their faith; and

WHEREAS, working with public officials and civic leaders, Leon Benjamin has supported meaningful reform in the areas of education, business development, and economic revitalization to build a stronger community; and

WHEREAS, Leon Benjamin has facilitated mentorship programs and community development initiatives through his work with the Virginia Department of Health, the Governor's office, the Richmond Redevelopment and Housing Authority, and the Richmond Behavioral Health Authority; and

WHEREAS, Leon Benjamin serves and inspires young people through his participation in programs at Richmond Public Schools, and he currently operates a daycare and learning center in Southside Richmond; and

WHEREAS, Leon Benjamin has also proven himself an active and effective leader in times of crisis, working with the Richmond Police Department as a faith initiative representative who offers prayer and comfort to members of the community when needed; now, therefore, be it

RESOLVED by the Senate of Virginia, That Bishop Leon Benjamin hereby be commended for his legacy of contributions to the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bishop Leon Benjamin as an expression of the Senate of Virginia's admiration for his civic and spiritual leadership.

### SENATE RESOLUTION NO. 128

*Celebrating the life of the Honorable Robert Elson Russell, Sr.*

Agreed to by the Senate, February 18, 2019

WHEREAS, the Honorable Robert Elson Russell, Sr., a former member of the House of Delegates and the Senate of Virginia and a respected member of the North Chesterfield community, died on January 19, 2019; and

WHEREAS, a native of Richmond, Robert "Bob" Russell graduated from Park View High School, where he honed his leadership skills as class president, and earned a bachelor's degree in mechanical engineering from Virginia Polytechnic Institute and State University (Virginia Tech); and

WHEREAS, Bob Russell worked as a commercial real estate agent, mortgage broker, and income property consultant; desirous to be of further service to the community, he ran for and was elected to the House of Delegates in 1981; and

WHEREAS, after serving one term in the House of Delegates, Bob Russell was elected to the Senate of Virginia, representing the residents of the 11th District, and took office in 1984; and

WHEREAS, over the course of his 10-year career in the Senate of Virginia, Bob Russell introduced and supported numerous important pieces of legislation to benefit all Virginians and offered his leadership and expertise to several committees; and

WHEREAS, Bob Russell was a member of Metropolitan Masonic Lodge No. 11 and Acca Temple Shrine in Richmond and was appointed to serve his alma mater as a member of the Virginia Tech Board of Visitors for two four-year terms from 1971 to 1979; and

WHEREAS, throughout his life, Bob Russell served the Commonwealth and his community with the utmost integrity, dedication, and distinction; and

WHEREAS, Bob Russell will be fondly remembered and greatly missed by numerous family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable Robert Elson Russell, Sr., a respected public servant; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Robert Elson Russell, Sr., as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 129

*Commending the Honorable Susan Clarke Schaar.*

Agreed to by the Senate, February 18, 2019

WHEREAS, the Honorable Susan Clarke Schaar was honored for her outstanding public service and distinguished professional accomplishments with a 2019 YWCA Outstanding Women Award; and

WHEREAS, since 1980, YWCA Richmond has celebrated the achievements of eight local women leaders, such as Susan Schaar, whose work has strengthened and enhanced the Richmond community and the Commonwealth; and

WHEREAS, a Brunswick County native and a graduate of Westhampton College at the University of Richmond, Susan Schaar has served the Senate of Virginia for more than 45 years and was elected Clerk of the Senate of Virginia in 1990; and

WHEREAS, as chief administrative officer of the Senate of Virginia, Susan Schaar has helped ensure the efficient operation of state government and served as a resource for the history and institutional memory of the General Assembly; and

WHEREAS, among her many accomplishments, Susan Schaar helped oversee the more than \$100 million renovation of the Virginia State Capitol and is currently overseeing construction of the new General Assembly Building; and

WHEREAS, Susan Schaar was also the first Virginian to serve as staff chair of the National Conference of State Legislatures and the first Virginian to serve as president of the American Society of Legislative Clerks and Secretaries; and

WHEREAS, Susan Schaar joins distinguished colleagues in business, education, health and science, human relations, media and marketing, nonprofit management, and volunteering as a recipient of the prestigious award; and

WHEREAS, Susan Schaar and the other honorees of the 2019 YWCA Outstanding Women Awards will be formally recognized at special ceremony on April 26, 2019; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Honorable Susan Clarke Schaar hereby be commended on receiving a 2019 YWCA Outstanding Women Award; and, be it

RESOLVED FURTHER, That the Chief Deputy Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Susan Clarke Schaar as an expression of the Senate of Virginia's admiration and gratitude for her decades of service to the Commonwealth.

### SENATE RESOLUTION NO. 130

*Commending Meg Medina.*

Agreed to by the Senate, February 18, 2019

WHEREAS, Richmond-based author Meg Medina received the 2019 John Newbery Medal for her children's book, *Merci Suárez Changes Gears*; and

WHEREAS, Meg Medina's award-winning book tells the story of an 11-year-old girl balancing the expectations of her peers at an elite private school with those of her large, lively Latino family; and

WHEREAS, as a Cuban-American, Meg Medina uses her own life experiences to craft relatable young adult, middle-grade, and picture books; and

WHEREAS, Meg Medina's childhood love of bicycling was a major influence for *Merci Suárez Changes Gears*, and she drew upon memories of her own Cuban-American grandmothers when creating the main character's vibrant family; and

WHEREAS, in *Merci Suárez Changes Gears*, Meg Medina strives to create positive characterizations of Latino families while portraying the immigrant experience in the United States; and

WHEREAS, Meg Medina has received many other awards and accolades, including the 2014 Pura Belpré Award and the 2012 Ezra Jack Keats Medal, for her other works, all of which focus on what it means to be a girl, or a girl in a Latino family; now, therefore, be it

RESOLVED by the Senate of Virginia, That Meg Medina hereby be commended on winning the John Newbery Medal for children's literature in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Meg Medina as an expression of the Senate of Virginia's admiration for her contributions to American literature and her work to inspire young women throughout the Commonwealth and the United States.

### SENATE RESOLUTION NO. 132

*Celebrating the life of Elma Mankin.*

Agreed to by the Senate, February 21, 2019

WHEREAS, Elma Mankin, lifelong resident of Herndon and active philanthropist, died on May 4, 2018; and

WHEREAS, beginning her career as the first secretary at her alma mater, Herndon High School, Elma Mankin served for five years before beginning a family; she then became the first secretary at Herndon Elementary School where she remained for 25 years; and

WHEREAS, after her daughters were grown, Elma Mankin returned to school and received her associate degree from Northern Virginia Community College graduating in 1989, summa cum laude, where she discovered a passion for art; and

WHEREAS, although art remained a hobby of hers, Elma Mankin's true calling was always volunteering, an area in which she helped make a difference in others' lives for numerous decades; and

WHEREAS, sharing her time and talents with many in the community, Elma Mankin spent countless hours volunteering at many Herndon historical sites and gave over 4,500 hours of her time to Reston Hospital, assisting in the rehabilitation center beginning in 1990; and

WHEREAS, Elma Mankin was a member of the "Lunch and Fun Bunch," the Herndon Council for the Arts, and the Herndon United Methodist Church, where she served as greeter and usher, as well as member of the Endowment Committee and History Committee; she was also a lifetime member of the Herndon Historical Society and a member since 1949 of the Herndon Woman's Club, where she served as the club historian and president; and also served as vice president of the Fairfax Federation of Woman's Clubs and treasurer of the Northern District Woman's Club; and

WHEREAS, earning numerous awards and accolades throughout her life, Elma Mankin received the Frist Humanitarian Award in 1996, the Herndon Mayor's Distinguished Service Award in 1997, the Herndon Rotary Club "Citizen of the Year"

in 2001 where she was crowned Queen of Herndon; and she was recognized at the Mayor's Volunteer Appreciation Night for her countless years of service to the community; and

WHEREAS, a proud and devoted family woman, Elma Mankin lived a long and meaningful life marked by service to others; and

WHEREAS, predeceased by her husband, Wilson, and her daughter, Nancy, Elma Mankin will be dearly remembered by her daughter, Gayle, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Elma Mankin, invaluable member of the Herndon community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Elma Mankin as an expression of the Senate of Virginia's respect for her memory and contributions to the Commonwealth.

### SENATE RESOLUTION NO. 133

*Celebrating the life of Captain Anthony Reid Adams, USCG, Ret.*

Agreed to by the Senate, February 21, 2019

WHEREAS, Captain Anthony Reid Adams, USCG, Ret., a distinguished veteran and a generous volunteer in his community, died on November 15, 2018; and

WHEREAS, a native of Bakersfield, California, Anthony "Tony" Adams joined the United States Coast Guard (USCG) at the age of 17 and served the nation for more than 30 years as a search and rescue pilot, mastering several types of aircraft; and

WHEREAS, in 1977, Tony Adams was assigned to the Coast Guard Headquarters in Washington, D.C., where he directed the Marine Environmental Protection Program, managing key legislative proposals including the National Oil and Hazardous Substances Pollution Contingency Plan, the Oil Spill Liability Trust Fund, the Natural Resource Damage Assessment and Restoration Program, and the Comprehensive Environmental Response, Compensation, and Liability Act; and

WHEREAS, Tony Adams also served as the fiduciary manager of the oil spill cleanup fund for USCG and Environmental Protection Agency responses to spills in the United States navigable waters, and he researched, developed, and implemented innovative technologies such as "oil spill fingerprinting" to identify the source of leaks and spills; and

WHEREAS, Tony Adams then served as deputy group commander and executive officer of Coast Guard Air Station North Bend and commanding officer of Coast Guard Air Station Astoria, both located in Oregon, overseeing several enhancements to the two stations; and

WHEREAS, following his successful command assignment, Tony Adams was appointed as the USCG liaison to Forces Command at Fort McPherson in Georgia, then returned to Coast Guard Headquarters to finish his career; and

WHEREAS, after his retirement, Tony Adams pursued a second career as chief executive officer of Adams Maritime and principal consultant for Gallagher Marine Systems, where he helped develop spill containment and countermeasure plans for ships calling on United States ports; and

WHEREAS, Tony Adams was a devout Roman Catholic who served as treasurer for the Knights of Columbus for 22 years, and he gave generously of his time and talents to support charitable organizations; he also fostered medically fragile or abused children; and

WHEREAS, Tony Adams will be fondly remembered by his wife of 54 years, Patricia Ann Adams; his children, the Honorable Dawn M. Adams, Anthony R. Adams, Jr., and Scott D. Adams, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Captain Anthony Reid Adams, USCG, Ret.; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Captain Anthony Reid Adams, USCG, Ret., as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 134

*Commending RevolutionaryVA250.*

Agreed to by the Senate, February 21, 2019

WHEREAS, the American Revolution was a time of radical change when passionate activists, unafraid of challenging the established order, led a revolution that would change the world; and

WHEREAS, the American Revolution was more than a war; it was a revolution of ideas that combined the rational thought of the Enlightenment, a belief in the natural rights of man, and the New World experience; and

WHEREAS, hundreds of thousands of Americans were excluded from the Declaration of Independence promise of equality, participation in government as delineated in the Constitution, and the protections defined in the Bill of Rights; yet, throughout American history, these documents have given legitimacy to disenfranchised, subjugated, and disempowered groups as they have claimed and fought for their rights as Americans; and

WHEREAS, the Revolutionary experiment continues, and the story of America is one of continually finding common ground to create something better; and

WHEREAS, Virginia's history is and has always been uniquely interwoven with that of the United States; and

WHEREAS, Virginia is uniquely positioned to bring the past and present together by telling the whole story of the American Revolution and its legacy; and

WHEREAS, RevolutionaryVA250, a coalition of nonprofit history organizations, including the American Revolution Museum at Yorktown, Colonial National Historical Park, Colonial Williamsburg Foundation, Gunston Hall, Monticello, Montpelier, George Washington's Mount Vernon, and the Virginia Museum of History & Culture, as well as other organizations such as the American Battlefield Trust, are working diligently under the coordination of the Virginia Museum of History & Culture to conduct the important work of planning the Commonwealth's commemoration of this historic anniversary; now, therefore, be it

RESOLVED by the Senate of Virginia, That RevolutionaryVA250 hereby be commended on the occasion of the 250th anniversary of the founding of the United States of America; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to RevolutionaryVA250 as an expression of the Senate of Virginia's admiration for the organization's important work to preserve and promote the history and heritage of the Commonwealth and the nation.

### SENATE RESOLUTION NO. 135

*Commending Jacob Alexander Hummer.*

Agreed to by the Senate, February 21, 2019

WHEREAS, Jacob Alexander Hummer demonstrated the importance of receiving training in cardiopulmonary resuscitation when he saved the life of a 13-year-old boy on February 20, 2017; and

WHEREAS, Jacob "Jake" Hummer, a native of Hanover County, was a certified personal trainer with an advanced nutrition certification who had been serving as a conditioning coach for a local youth baseball team; and

WHEREAS, at that time, Jake Hummer was also enrolled in classes at Reynolds Community College, working toward certification as an emergency medical services provider; and

WHEREAS, when a 13-year-old boy participating in the baseball training program experienced distress during a team run and subsequently suffered multiple seizures leading to cardiac arrest, Jake Hummer's hard work and dedicated training enabled him to quickly and effectively administer lifesaving cardiopulmonary resuscitation (CPR) while directing others to seek help; and

WHEREAS, since that time, Jake Hummer has continued to work toward his goal of certification as an emergency medical services provider while also working with the Richmond Ambulance Authority Advance Life Supporting unit, and teaching others the importance of CPR training as an instructor for the American Safety and Health Institute and the American Heart Association; now, therefore, be it

RESOLVED by the Senate of Virginia, That Jacob Alexander Hummer hereby be commended for his heroic, lifesaving actions on February 20, 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jacob Alexander Hummer as an expression of the Senate of Virginia's admiration for his service as an emergency medical professional and decisive action in a crisis situation.

### SENATE RESOLUTION NO. 136

*Celebrating the life of the Honorable John O. Marsh, Jr.*

Agreed to by the Senate, February 21, 2019

WHEREAS, the Honorable John O. Marsh, Jr., of Raphine, a dedicated public servant who ably represented the residents of Virginia's 7th Congressional District and was a trusted advisor to three United States presidents, died on February 4, 2019; and

WHEREAS, a native of Winchester, John Marsh graduated from Harrisonburg High School and joined many of the other young men of his generation in service to the nation as a member of the United States Army during World War II; and

WHEREAS, John Marsh served in the United States Army Reserve until 1951, when he graduated from Washington and Lee University and joined the Army National Guard; he ultimately retired from the military with the rank of lieutenant colonel in 1976; and

WHEREAS, in the 1950s, John Marsh made his career as an attorney in Strasburg, then ran for and was elected to the United States House of Representatives and served four terms between 1963 and 1971; he notably volunteered as a combat infantry officer in Vietnam for one month in 1966; and

WHEREAS, a proud patriot, John Marsh worked with the James Monroe Memorial Foundation to restore awareness of the legacy of the nation's fifth president and co-sponsored the bill that created the American Revolution Bicentennial Commission; and

WHEREAS, John Marsh went on to serve as the Assistant Secretary of Defense for Legislative Affairs under President Richard Nixon, then was appointed as Counselor to the President by President Gerald Ford, becoming known as the "presidential conscience" for his sage guidance; and

WHEREAS, in 1981, John Marsh was appointed as Secretary of the Army by President Ronald Reagan; over the next eight years and six months, he presided over a rebuilding of the United States Army's forces and enhanced its special operations capabilities; and

WHEREAS, after his well-earned retirement as Secretary of the Army, John Marsh helped streamline defense procurement procedures at the Pentagon and served on the Reserve Policy Forces Board, then joined the private sector as a successful executive; and

WHEREAS, John Marsh also shared his lifetime of leadership experience with students at Virginia Military Institute, The College of William and Mary, and George Mason University; and

WHEREAS, John Marsh served as honorary chairman of the James Monroe Memorial Foundation and helped create the original exhibits at the James Monroe Birthplace Museum and Visitor Center, which was dedicated on what would have been the 250th birthday of President James Monroe on April 28, 2008; and

WHEREAS, John Marsh received numerous awards and accolades for his personal and professional achievements, including recognition from the George Mason University School of Law in 1980, the Outstanding Virginian Award from the Virginia Press Association in 1988, the Presidential Citizens Medal in 1989, the Department of Defense Medal for Distinguished Public Service, and the James Monroe Medal of Freedom in 2009; and

WHEREAS, John Marsh will be fondly remembered and greatly missed by his children, Scot, John, and Rebecca, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the Honorable John O. Marsh, Jr., a distinguished public servant who made unparalleled contributions to the Commonwealth and the United States; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable John O. Marsh, Jr., as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 137

*Commending Jerry P. Bosserman.*

Agreed to by the Senate, February 21, 2019

WHEREAS, Jerry P. Bosserman, a master trooper with the Virginia State Police who served and protected the residents of the Commonwealth as a member of the Criminal Justice Information Services Division's Sex Offender Investigative Unit, retired on January 1, 2019; and

WHEREAS, Jerry Bosserman joined the Virginia State Police on November 1, 1977; from 1978 to 2004, he was assigned to Area 13, which includes the Counties of Clarke, Frederick, and Warren and the City of Winchester; and

WHEREAS, from 2002 to 2005, Jerry Bosserman worked in the Bureau of Field Operations as part of an Explosives and Weapons Detection Canine Team; and

WHEREAS, in 2005, Jerry Bosserman joined the Sex Offender Investigative Unit, where he was the sole officer representing the Counties of Clarke, Frederick, and Warren and the City of Winchester; and

WHEREAS, Jerry Bosserman oversaw compliance with sex offender registry laws through daily contact with offenders, hosting semi-annual educational programs for offenders, and ensuring awareness of changes and new laws; his exceptional work led to the lowest recidivism rate for sex offenders in the Commonwealth; and

WHEREAS, Jerry Bosserman received many awards and accolades throughout his career, including the Superintendent's Award of Excellence for his work with the Virginia Sex Offender and Crimes Against Minors Registry; now, therefore, be it

RESOLVED by the Senate of Virginia, That Jerry P. Bosserman hereby be commended on the occasion of his retirement from the Virginia State Police in 2019; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jerry P. Bosserman as an expression of the Senate of Virginia's admiration for his achievements in service to his community and the Commonwealth.

### SENATE RESOLUTION NO. 138

*Celebrating the life of Brittney L. Cason.*

Agreed to by the Senate, February 21, 2019

WHEREAS, Brittney L. Cason, a writer, blogger, radio personality, and vibrant Harrisonburg native, died on January 23, 2019; and

WHEREAS, Brittney Cason was born and raised in Harrisonburg, where she attended Harrisonburg High School; for college she studied at Virginia Polytechnic Institute and State University; and

WHEREAS, Brittney Cason was a writer and radio personality; after graduating from Virginia Tech she worked for *Maxim* magazine in New York City and for WSVB radio station in Harrisonburg; she later moved to Charlotte, North Carolina, where she was a Carolina Panthers cheerleader, wrote for *The Charlotte Observer* and *Creative Loafing Charlotte*, hosted the television show "Three Wide Life," and was a radio anchor for KISS 95.1 FM; and

WHEREAS, Brittney Cason was active in her church, where she taught Sunday school; she also enjoyed traveling, sports, dancing and, most of all, making friends; and

WHEREAS, Brittney Cason will be fondly remembered and greatly missed by her mother, Mary Lynn, and her father, David; her sisters, Donna, Kimberly, and Kathryn, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Brittney L. Cason, a writer, blogger, radio personality, and vibrant Harrisonburg native; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Brittney L. Cason as an expression of the Senate of Virginia's respect for her memory.

### SENATE RESOLUTION NO. 139

*Commending the District Three Governmental Cooperative.*

Agreed to by the Senate, February 21, 2019

WHEREAS, for over 40 years, the District Three Governmental Cooperative has played a vital role in helping residents of Bland, Carroll, Grayson, Smyth, Washington, and Wythe Counties, and the Cities of Bristol and Galax, age with dignity by providing education, advocacy, and support; and

WHEREAS, the mission of the District Three Governmental Cooperative as its Area Agency on Aging is to help meet the critical needs and enhance the quality of life for the elderly, disabled, and transportation-dependent residents of the area; and

WHEREAS, working toward better health, crucial services that the District Three Governmental Cooperative provides include a farmers market serving more than 3,850 seniors annually, a successful chronic disease self-management program with links to area correctional facilities, a chronic pain self-management program using the Stanford University Model, and certified Affordable Care Act Marketplace application counseling; and

WHEREAS, to assist with mobility, the District Three Governmental Cooperative's Chore Crew builds hundreds of home access ramps each year with a unique design that is reusable when the ramp is no longer needed; the Mountain Lynx Transit service also offers nonemergency medical trips for seniors; and

WHEREAS, the District Three Governmental Cooperative's crucial services have been supported with grants from the National Council on Aging and the Department of Criminal Justice System's Victims of Crime Fund for care coordination for victims of abuse in later life; now, therefore, be it

RESOLVED by the Senate of Virginia, That District Three Governmental Cooperative hereby be commended for its work of helping residents age with dignity and stay engaged in the community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the District Three Governmental Cooperative as an expression of the Senate of Virginia's admiration for the agency's work fostering independence and healthy aging and improving the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

### SENATE RESOLUTION NO. 140

*Commemorating the life and legacy of Victor J. Ashe.*

Agreed to by the Senate, February 21, 2019

WHEREAS, Victor J. Ashe was a trailblazing attorney and community leader in Norfolk who played a pivotal role in the desegregation of Norfolk Public Schools; and

WHEREAS, Victor Ashe attended Villanova College in Pennsylvania, then earned a law degree from Howard University in 1940; he opened a legal practice in Norfolk in 1942, then joined many of the other young men of his generation in service to the nation during World War II; and

WHEREAS, after his honorable discharge from the United States Navy, Victor Ashe was driven to be of further service to his community and became the first African American to run for Norfolk City Council in the 20th century; and

WHEREAS, despite his unsuccessful campaign for office, Victor Ashe served the community in other ways, becoming a founding member of the Twin City Bar Association and helping the first African American attorneys gain admittance to the Norfolk Bar Association and the Portsmouth Bar Association; and

WHEREAS, among his most notable accomplishments, Victor Ashe served as an attorney for the NAACP and helped represent members of the Norfolk 17, the first African American students to integrate Norfolk Public Schools, for several years; and

WHEREAS, Victor Ashe ultimately served as chair of the Board of Welfare and Institutions and was the first African American on the board of directors of the Norfolk Chamber of Commerce; and

WHEREAS, Victor Ashe passed away in 1974, having dedicated a lifetime of service to the people of Norfolk and the Commonwealth; his legacy lives on in the countless other African Americans in the Norfolk community who were inspired to pursue civic leadership roles and run for public office; now, therefore, be it

RESOLVED by the Senate of Virginia, That the life and legacy of Victor J. Ashe hereby be commemorated on the occasion of the 45th anniversary of his death; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Victor J. Ashe as an expression of the Senate of Virginia's admiration for his achievements in the Civil Rights Movement and respect for his memory.

### SENATE RESOLUTION NO. 141

*Commending Michael L. Wade.*

Agreed to by the Senate, February 21, 2019

WHEREAS, Michael L. Wade, Henrico County Sheriff, will retire in 2019; and

WHEREAS, Michael "Mike" Wade has served as the sheriff of Henrico County since 2000, overseeing two different jails, and is credited with implementing one of the nation's best substance abuse treatment programs for inmates; and

WHEREAS, Mike Wade is a native of the Richmond area; he graduated from Benedictine High School before attending Virginia Commonwealth University, where he earned a bachelor's and later a master's degree; and

WHEREAS, Mike Wade commands over 400 sworn civilians and contract employees; he is a career law-enforcement officer who served for 22 years as a member of the Henrico County Police Division; and

WHEREAS, Mike Wade began his career in law enforcement as a uniformed police officer in 1977 with the Henrico County Police Division where he investigated crimes against property, and then later served in the Criminal Intelligence Section; he was also assigned as the Commonwealth's Attorney Investigator Liaison during his tenure; and

WHEREAS, Mike Wade has served as National President of the American Correctional Association and received numerous local, regional, state, and national awards for innovative and creative approaches toward inmate rehabilitation; now, therefore, be it

RESOLVED by the Senate of Virginia, That Michael L. Wade, Henrico County Sheriff, hereby be commended on his lifetime of public service as a law-enforcement officer; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael L. Wade as an expression of the Senate of Virginia's admiration for his service to Henrico County and the law-enforcement community.

### SENATE RESOLUTION NO. 142

*Commending Lake Country Area Agency on Aging.*

Agreed to by the Senate, February 21, 2019

WHEREAS, Lake Country Area Agency on Aging has played a vital role in helping local residents age with dignity by providing education, advocacy, and support for close to 40 years; and

WHEREAS, the goal of Lake Country Area Agency on Aging is to promote the maximum level of independence for persons 60 years of age and older and to ensure that older residents of the south central Virginia Counties of Brunswick, Halifax, and Mecklenburg and the Town of South Hill live as an integral part of society, with access to programs and services that meet their needs and preferences; and

WHEREAS, to that end, Lake Country Area Agency on Aging offers numerous programs and services, including senior-friendly transportation, checking services, senior ID cards, adult day care, in-home care, nutrition, meals on wheels, an emergency food bank, legal services, and long-term care; and

WHEREAS, Lake Country Area Agency on Aging has been recognized for its crucial role in the community by grants from Altria and Microsoft to support the provision of home-delivered meals and aging services; now, therefore, be it

RESOLVED by the Senate of Virginia, That Lake Country Area Agency on Aging hereby be commended for playing a vital role in helping local residents age with dignity by providing education, advocacy, and support; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lake Country Area Agency on Aging as an expression of the Senate of Virginia's admiration for its efforts to foster independence and healthy aging, and improve the quality of life for older adults, their families, and their caregivers through comprehensive programs and services.

**SENATE RESOLUTION NO. 143**

*Confirming appointments by the Senate Committee on Rules to the Senate Ethics Advisory Panel.*

Agreed to by the Senate, February 23, 2019

RESOLVED by the Senate, That the Senate confirm the following appointments made by the Senate Committee on Rules to the Senate Ethics Advisory Panel made in accordance with § 30-112 of the Code of Virginia:

**The Honorable A. Joe Canada, Jr.**, of **Union Hall**, Virginia 24176, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed himself.

**Anita Poston**, of **Norfolk**, Virginia 23510, for a term of four years beginning July 1, 2019, and ending June 30, 2023, to succeed herself.

**The Honorable Malfourd W. Trumbo**, of **Fincastle**, Virginia 24090, to serve an unexpired term beginning March 1, 2019, and ending June 30, 2021, to succeed the Honorable Frederick M. Quayle.

**SENATE RESOLUTION NO. 144**

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the Senate, February 21, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Marcus A. Brinks, of Patrick, as a judge of the Twenty-first Judicial Circuit for a term of eight years commencing May 1, 2019.

Brian M. Madden, Esquire, of Warren, as a judge of the Twenty-sixth Judicial Circuit for a term of eight years commencing September 1, 2019.

**SENATE RESOLUTION NO. 145**

*Nominating persons to be elected to general district court judgeships.*

Agreed to by the Senate, February 21, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

James R. McGarry, Esquire, of Martinsville, as a judge of the Twenty-first Judicial District for a term of six years commencing May 1, 2019.

Joan Ziglar, Esquire, of Martinsville, as a judge of the Twenty-first Judicial District for a term of six years commencing July 1, 2019.

**SENATE RESOLUTION NO. 146**

*Nominating a person to be elected to a juvenile and domestic relations district court judgeship.*

Agreed to by the Senate, February 21, 2019

RESOLVED by the Senate of Virginia, That the following person is hereby nominated to be elected to the respective juvenile and domestic relations district court judgeship as follows:

Kimberly R. Belongia, Esquire, of Henry, as a judge of the Twenty-first Judicial District for a term of six years commencing July 1, 2019.

**SENATE RESOLUTION NO. 147**

*Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.*

Agreed to by the Senate, February 21, 2019

RESOLVED by the Senate of Virginia, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

The Honorable James E. Plowman, of Loudoun, as a member of the Judicial Inquiry and Review Commission for an unexpired term commencing November 1, 2019 and ending June 30, 2021.

Marsha L. Garst, Esquire, of Rockingham, as a member of the Judicial Inquiry and Review Commission for an unexpired term ending June 30, 2020.

Humes J. Franklin, III, Esquire, of Augusta, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2019.

### SENATE RESOLUTION NO. 148

*Celebrating the life of Alan Bruce Wambold.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Alan Bruce Wambold, who retired as a senior research associate with the Finance and Government Section of the Division of Legislative Services after 40 years of meritorious service to the Commonwealth, died on October 29, 2018; and

WHEREAS, a native of Emmaus, Pennsylvania, Alan Wambold earned bachelor's and master's degrees from the University of Virginia, where he was an esteemed member of the Jefferson Literary and Debating Society, then worked and studied in affiliation with the law faculty of the University of Belgrade in Yugoslavia; and

WHEREAS, a keen student of the complexities of history, government, and international affairs, Alan Wambold studied the Serbo-Croatian language at the Institut za Strane Jezike in Belgrade and traveled extensively in Eastern Europe; upon returning to the United States, he earned a doctorate in government from the University of Virginia and published *The National Question and the Evolution of the Yugoslav Constitution, 1971-1974*; and

WHEREAS, Alan Wambold worked as a long-term substitute teacher for Norfolk Public Schools; desirous to be of further service to the Commonwealth, he began a long and successful career in state government with the Division of Legislative Services in August 1975; and

WHEREAS, early in his career, Alan Wambold staffed the Senate Committee on Rules and the House and Senate Committees on General Laws; he later staffed the House Committee on Roads and Internal Navigation (now Transportation) and the Senate Committee on Transportation; and

WHEREAS, respected and highly regarded among his peers for his insights and acumen, Alan Wambold was at one time the only member of the Finance and Government Section assigned full-time to the transportation team, responsible for all research and legislative drafting related to transportation; and

WHEREAS, during Alan Wambold's tenure, he witnessed several milestones, including the establishment and expansion of the Washington Metro, the opening of the second tube of the Hampton Roads Bridge-Tunnel, the creation of the Northern Virginia Transportation District, and the construction of the Dulles Toll Road Extension, as well as numerous other enhancements to the Commonwealth's 57,867-mile highway system and other transportation networks; and

WHEREAS, over the course of his career, Alan Wambold developed a wealth of institutional knowledge related to motor vehicles and the Commonwealth's highways, railways, waterways, airports, and public transportation facilities; and

WHEREAS, in 1988, Alan Wambold led the Code Commission's revision and recodification of Title 46.1 of the Code of Virginia, removing ambiguities, simplifying language and structure, and generally improving the clarity of laws related to motor vehicles; and

WHEREAS, faithfully serving and advising the members of the General Assembly in the course of his duties, Alan Wambold prepared *A Legislator's Guide to Transportation in Virginia*, a comprehensive guide to transportation and highway issues in the Commonwealth, which was published in 1991; and

WHEREAS, in 2013 and 2014, Alan Wambold led the team that produced the successful revision and recodification of Title 33.1 of the Code of Virginia, enhancing the structure, clarity, and organization of laws related to highways, bridges, ferries, rail and public transportation, transportation funding, and local and regional transportation; and

WHEREAS, Alan Wambold's personal integrity, commitment to public service, and professional contributions helped ensure the good and efficient functioning of state government and enabled the General Assembly to better serve the residents of and visitors to the Commonwealth; and

WHEREAS, Alan Wambold will be fondly remembered and greatly missed by numerous family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Alan Bruce Wambold; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Alan Bruce Wambold as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 149

*Celebrating the life of William R. Ferguson.*

Agreed to by the Senate, February 23, 2019

WHEREAS, William R. "Moose" Ferguson, a loving husband, father, and grandfather, veteran, and accomplished Richmond realtor, died on February 5, 2019; and

WHEREAS, Bill "Moose" Ferguson graduated from Thomas Jefferson High School, attended Frederick Military Academy, and graduated from the University of Richmond; and

WHEREAS, after serving his country as a member of the United States Army, Bill "Moose" Ferguson enjoyed a successful 45-year career in real estate and was the owner of Ferguson & Associates Realtors from 1979 to 1989; and

WHEREAS, in 1984, Bill "Moose" Ferguson received the Adrian Bendheim Award for the Outstanding Salesman of the Year from the Richmond Board of Realtors; he was a member of the Richmond Board of Realtors and the West Richmond Businessmen's Association, serving as president from 1997 to 1998; and

WHEREAS, Bill "Moose" Ferguson spent the last 26 years of his career with Joyner Fine Properties; he was a dedicated member and volunteer for the John Rolfe YMCA and also a member of the Koinonia Class of Derbyshire Baptist Church; and

WHEREAS, Bill "Moose" Ferguson will be fondly remembered and greatly missed by his wife of 53 years, Pat; his children, Ray, Matthew, Stacey, and Campbell, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of William R. "Moose" Ferguson, a loving husband, father, and grandfather, veteran, and accomplished Richmond realtor; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of William R. "Moose" Ferguson as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 150

*Commending M. Siddique Sheikh.*

Agreed to by the Senate, February 23, 2019

WHEREAS, M. Siddique Sheikh has promoted economic cooperation between the United States and Pakistan as chairman and founder of the Pakistan American Business Association, based in Burke; and

WHEREAS, Siddique Sheikh immigrated to the United States nearly 40 years ago with little to support himself, aside from a will to succeed; he completed training in auto engineering while working odd jobs and ultimately saved enough money to buy his first service station; and

WHEREAS, Siddique Sheikh worked extremely long hours and soon was able to buy more stations; as he gained financial security, he branched out into other areas of commerce and community-building endeavors; and

WHEREAS, in an effort to assist fellow Pakistanis who were new to America, Siddique Sheikh started the Pakistan American Business Association in 1986, with a focus on leadership training, community service, business networking, and business conventions and trade shows; and

WHEREAS, Siddique Sheikh's tireless work has fostered communication and understanding between Pakistanis and Americans and has served to further education for citizens of both nations; now, therefore, be it

RESOLVED by the Senate of Virginia, That M. Siddique Sheikh hereby be commended for his contributions to the Commonwealth, the United States, and Pakistan as a business leader and dedicated community member; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to M. Siddique Sheikh as an expression of the Senate of Virginia's admiration for his personal and professional achievements.

### SENATE RESOLUTION NO. 151

*Commending the Mary Baldwin University Alumni Association.*

Agreed to by the Senate, February 23, 2019

WHEREAS, during 2019, Mary Baldwin University in Staunton is celebrating 125 years of its Alumni Association, an organization that includes former students and graduates as members; and

WHEREAS, founded in 1894, the Mary Baldwin University Alumni Association serves to enhance alumni relationships with one another and with their alma mater, reaching across the years and to locations around the world; and

WHEREAS, alumni serve as ambassadors for Mary Baldwin University in their communities and help support the university's mission, especially those who serve on the Board of Trustees, which is now made up of 66 percent alumni members; and

WHEREAS, through the dedicated support of alumni, Mary Baldwin University has generated significant momentum over the past 12 months, welcoming the largest class of first-year students in its history and receiving legacy gifts of \$26 million; and

WHEREAS, Mary Baldwin University alumni positively impact others in their professional and civic roles throughout the Commonwealth and the nation, showing students how they in turn can become the ethical, independent thinkers and leaders of tomorrow; and

WHEREAS, during this anniversary, the university recognizes its approximately 16,000 living alumni, and all of the ways in which they bring their Mary Baldwin University education to life as global citizens who achieve professional success and create change for the betterment of their communities; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Mary Baldwin University Alumni Association hereby be commended on the occasion of its 125th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Mary Baldwin University Alumni Association as an expression of the Senate of Virginia's admiration for its service to the university and the Staunton community.

### SENATE RESOLUTION NO. 152

*Commending Sunil Singh.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Sunil Singh has made many contributions to the Commonwealth as a hardworking business leader; and  
WHEREAS, Sunil Singh was born in Odra, India, where he later earned a degree in agricultural engineering and pursued a successful career in New Delhi; and

WHEREAS, Sunil Singh immigrated to the United States in 1994 with \$200 in his pocket and a dream to have a better life for his wife and children; in his early years in this country, he held three to four jobs at a time, often working over 16 hours a day in order to provide a better life and future for his family; and

WHEREAS, through Sunil Singh's diligence, perseverance, and commitment, he was able to acquire a struggling Papa John's franchise in 2002; by 2017, he had expanded the franchise to 56 stores; along the way he also invested in other businesses such as residential properties, a day care, and a Tropical Smoothie Cafe franchise; and

WHEREAS, Sunil Singh is also committed to community service as a highly involved member of the Rajput Association of North America, National Council of Asian Indian Associations, and the India Community Center; during the visit of India's Prime Minister Narendra Modi to the United States, he was a key coordinator for events with Indian leaders; now, therefore, be it

RESOLVED by the Senate of Virginia, That Sunil Singh hereby be commended for the many contributions he has made to the Commonwealth as a hardworking business leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Sunil Singh as an expression of the Senate of Virginia's admiration for his personal and professional achievements.

### SENATE RESOLUTION NO. 153

*Celebrating the life of Jason Dean Gibbs.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Jason Dean Gibbs, president and co-owner of Joe Gibbs Racing, died on January 11, 2019; and

WHEREAS, Jason Dean "J.D." Gibbs was born with a competitive spirit in his blood; his father, legendary National Football League coach, Joe Gibbs, led the Washington Redskins to three Super Bowl victories in the 1980s and 1990s; and  
WHEREAS, J.D. Gibbs was initially drawn to football, playing quarterback at Oakton High School and defensive back at The College of William & Mary, but would eventually find his true calling in professional stock car racing; and

WHEREAS, J.D. Gibbs started his racing career behind the wheel, and briefly worked in the pit, a stint that included a role as tire changer in Joe Gibbs Racing's first Daytona 500 victory behind driver Dale Jarrett; and

WHEREAS, in 1997, J.D. Gibbs became president of Joe Gibbs Racing and helped the team continue its relentless ascent; he was responsible for scouting Denny Hamlin, one of the best stock car drivers in the sport today, a story that will be told in NASCAR circles for years to come; and

WHEREAS, J.D. Gibbs was always guided by his faith and his love for his family; he will be dearly remembered and greatly missed by his wife, Melissa; his sons, Joe, William, Jason, and Zachary; numerous family members and friends; and legions of fans; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Jason Dean Gibbs, president and co-owner of Joe Gibbs Racing; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jason Dean Gibbs as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 154

*Commending Yvonne Bunn.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Yvonne Bunn, director of homeschool support and government affairs for the Home Educators Association of Virginia, has provided information, advocacy, and support to Virginia's home-educating parents for more than 30 years; and

WHEREAS, Yvonne Bunn is a veteran educator and homeschool parent who has helped thousands of Virginia families begin homeschooling through her popular "How to Begin Home Schooling" seminars, which are presented throughout the Commonwealth; and

WHEREAS, Yvonne Bunn is devoted to helping parents understand the options they have when they choose parent-controlled education; she has advocated for homeschoolers at the Virginia Department of Education, as well as directed the legislative team of the Home Educators Association of Virginia (HEAV); and

WHEREAS, Yvonne Bunn spearheaded HEAV's efforts to support the creation of the first homeschool license plate in the nation, "Education Begins at Home," and worked with the Secretary of the Commonwealth to initiate Governor Robert McDonnell's proclamation of February as Virginia Home Education Month; she also acted as the homeschool liaison on the Parent-Community Advisory Board at the Virginia Department of Education; and

WHEREAS, Yvonne Bunn has spoken at several national conferences throughout the United States, has been a guest on a nationally syndicated radio program, and is a regular speaker at HEAV's annual three-day state convention and educational fair in Richmond; and

WHEREAS, Yvonne Bunn also writes for *The Virginia Home Educator*, the premier magazine for Virginia homeschoolers, provides weekly e-mail updates for parents, and hosts a webinar series for new homeschooling parents; and

WHEREAS, Yvonne Bunn's work to provide accurate, up-to-date information to homeschoolers and their parents has helped countless Virginians make informed decisions about education; now, therefore, be it

RESOLVED by the Senate of Virginia, That Yvonne Bunn hereby be commended for her outstanding work as director of homeschool support and government affairs for the Home Educators Association of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Yvonne Bunn as an expression of the Senate of Virginia's admiration for her contributions to education in the Commonwealth.

#### SENATE RESOLUTION NO. 155

*Commending Bertram Aaron.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Bertram Aaron, a decorated veteran of World War II and generous philanthropist and patron of the arts in Williamsburg, was selected as the 2018 Citizen of the Year by the *Daily Press*; and

WHEREAS, Bertram "Bert" Aaron, a native of Newport News, graduate of Virginia Tech, and decorated military veteran who saw service in the Pacific Theater during World War II before embarking upon a career in national defense and innovative electronic work, has been an active member of the Williamsburg community for over a quarter of a century; and

WHEREAS, while Bert' Aaron is known as an active supporter of community organizations focused on education, Jewish studies, cancer research and support for cancer patients, survivors, and their families, and many other worthy causes, it was his dedicated work on behalf of the Virginia Symphony and the cause of sharing his passion for music with others for which he was honored; and

WHEREAS, a life-long lover of classical music, Bert' Aaron was instrumental in bringing other fans of classical music together to provide the support necessary to continue the Virginia Symphony's presence in Williamsburg; and

WHEREAS, Bert' Aaron also serves as a member of the board of directors of the Virginia Symphony and works with local schools to bring in professional musicians to teach and inspire students; now, therefore, be it

RESOLVED by the Senate of Virginia, That Bertram Aaron hereby be commended on his selection as the 2018 Citizen of the Year by the *Daily Press*; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bertram Aaron for his service to the Williamsburg community and his passionate and dedicated support for the Virginia Symphony.

#### SENATE RESOLUTION NO. 156

*Commending George T. Rublein.*

Agreed to by the Senate, February 23, 2019

WHEREAS, George T. Rublein, professor of mathematics at The College of William & Mary, is retiring after teaching at the college for 53 years; and

WHEREAS, George Rublein received his Doctor of Philosophy degree from the University of Illinois in 1963; three years later he began teaching at The College of William & Mary, where he remained for the rest of his career; and

WHEREAS, George Rublein's research over the past half century has focused on algebraic topology and control theory, informing our understanding of the mathematics that controls devices we use every day; and

WHEREAS, as a teacher, George Rublein has always sought to find real-life physical scenarios to demonstrate complex mathematical principles and theories to students; his famous Mathematics of Powered Flight course, affectionately referred to as the "airplane course," applies basic mathematical concepts to familiar situations involving flight and airplanes; and

WHEREAS, countless students of the Commonwealth have benefited from George Rublein's expertise over the past 53 years; now, therefore, be it

RESOLVED by the Senate of Virginia, That George T. Rublein, professor of mathematics and beloved member of the community at The College of William & Mary, hereby be commended for his long and productive career; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to George T. Rublein as an expression of the Senate of Virginia's admiration for his remarkable contributions to the Commonwealth.

### SENATE RESOLUTION NO. 157

*Commending Black women in the General Assembly.*

Agreed to by the Senate, February 23, 2019

WHEREAS, the first meeting of the body that came to be known as the Virginia General Assembly took place in 1619, and 2019 marks the 400th anniversary of the first meeting of the Virginia legislature; and

WHEREAS, 2019 is also the 35th anniversary of Black women serving in the Virginia General Assembly, beginning with the Honorable Yvonne Bond Miller; and

WHEREAS, Yvonne Miller was born on July 4, 1934, in Edenton, North Carolina, the eldest child of 13 born to John and Percy Bond; and

WHEREAS, Yvonne Miller was raised in Norfolk after her family moved to the city and attended local segregated public schools; and

WHEREAS, Yvonne Miller continued her education at the historically Black college Norfolk Division of Virginia State College (now known as Norfolk State University) for two years; and then attended the historically Black college Virginia State College (now known as Virginia State University), graduating with her bachelor's degree in 1956; and

WHEREAS, Yvonne Miller began her career as a teacher in the segregated Norfolk Public Schools; witnessing the effects of Massive Resistance sparked her interest in the Civil Rights Movement and equal treatment; and

WHEREAS, Yvonne Miller earned a master's degree at Teachers College, Columbia University in 1962 and a doctorate in education from the University of Pittsburgh in 1973; she subsequently joined the education faculty at Norfolk State, becoming a professor and head of the Department of Early Childhood/Elementary Education; and

WHEREAS, desirous to be of further service to the community and the Commonwealth, Yvonne Miller ran for and was elected to the House of Delegates in 1983 and became the first Black woman to serve in the House of Delegates when she began her first term in 1984; and

WHEREAS, in 1988, Yvonne Miller began serving in the Senate of Virginia, also becoming the first Black woman to serve in the Senate; and

WHEREAS, during her tenure, Yvonne Miller was a steadfast champion for civil rights and education, fighting against the radiating effects of poverty; she stood up for voting rights, opposing the Voter ID law in 2012, which she compared to Jim Crow era efforts to suppress minority votes; and

WHEREAS, in 1996, Yvonne Miller became the first woman to chair a Senate committee when she became chair of the Transportation Committee; and

WHEREAS, as of 2012, Yvonne Miller was the longest-serving woman in the General Assembly, having served 28 years, and was ranked fourth in overall seniority; and

WHEREAS, Yvonne Miller died while in office on July 3, 2012; and

WHEREAS, Yvonne Miller set an example for those to come after her; since her trailblazing service began, 17 other Black women have served in both the House of Delegates and the Senate; and

WHEREAS, in the past 35 years, with their presence and diligent work, those 18 women were and continue to be voices for those whose voices have been diminished by systemic forces; they fight for equity and fairness and constantly call out injustice and work to find solutions to issues their communities face; now, therefore, be it

RESOLVED by the Senate of Virginia, That Black women in the General Assembly hereby be commended on the occasion of the 35th anniversary of the first Black woman legislator to serve in the General Assembly; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Yvonne Bond Miller and the Virginia Legislative Black Caucus as an expression of the Senate of Virginia's admiration for the distinguished service of Black women in the Virginia General Assembly.

### SENATE RESOLUTION NO. 158

*Celebrating the Life of Fay Dutkin Slotnick.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Fay Dutkin Slotnick, a pillar of the Alexandria community, beloved mother, and civil rights activist, passed away in the company of family and friends on February 20, 2019; and

WHEREAS, born in Philadelphia, Fay Slotnick was a graduate of Temple University and Rutgers School of Law before raising her family in New Jersey; and

WHEREAS, Fay Slotnick and her husband, Jack, relocated to Alexandria, Virginia in 1996, immediately becoming active in a number of organizations in the community; and

WHEREAS, serving as an essential member of the local political community, Fay Slotnick was an active member of the Alexandria Democratic Committee, serving on the Executive Committee, and working as a legislative aide to City Council Member, Joyce Woodson; and

WHEREAS, a staunch supporter of local artists, Fay Slotnick served as a board member of Friends of the Torpedo Factory Arts Center in Alexandria; and

WHEREAS, Fay Slotnick served as a Court Appointed Special Advocate for at-risk children in Alexandria, listening to and advocating for their rights and best interests; and

WHEREAS, a fierce defender for fairness, diversity, equality, and inclusion, Fay Slotnick was a Board Member of the ACLU of Virginia, fighting for civil liberties for all; and

WHEREAS, believing in the power of every voice, Fay Slotnick was a founding member, and later Executive Director, and Board Chair of the Alexandria Parent Leadership Training Institute, which empowers and trains parents to become societal and policy leaders for the best interests of their children; and

WHEREAS, Fay Slotnick will be fondly remembered and dearly missed by her husband, Jack, her three children, Phyllis, Jennifer, and Steven; her four grandchildren, Aaron, Sean, Sydney Lynn, and Jacob; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Fay Dutkin Slotnick, a champion for fairness and inclusion in the Alexandria community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Fay Dutkin Slotnick, as an expression of the Senate of Virginia's respect for her memory.

#### SENATE RESOLUTION NO. 159

*Commending Cameron Wooldridge and Jacob Turpin.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Cameron Wooldridge and Jacob Turpin of the Fort Chiswell High School Pioneers wrestling team brought home the school's first two individual wrestling championship titles with wins in the Virginia High School League Class 2 state championship on February 16, 2019; and

WHEREAS, Cameron Wooldridge won a major decision of 15-4, earning his first state championship title; and

WHEREAS, Jacob Turpin won the state championship in the 160-pound weight class, with a 3-1 decision to earn his first state championship title; and

WHEREAS, Cameron Wooldridge and Jacob Turpin's success is the result of their hard work, the guidance of their coaches and teachers, and the support of the Fort Chiswell High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Cameron Wooldridge and Jacob Turpin of the Fort Chiswell High School wrestling team hereby be commended on winning individual titles in the Virginia High School League Class 2 state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to Cameron Wooldridge and Jacob Turpin as an expression of the Senate of Virginia's admiration for their extraordinary achievements.

#### SENATE RESOLUTION NO. 160

*Celebrating the life of Gordon Danny Jonas.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Gordon Danny Jonas, a Wythe County educator and the longtime basketball coach at Fort Chiswell High School, passed away October 27, 2018; and

WHEREAS, Danny Jonas was born on April 11, 1951, in Wytheville then moved to Covington and Radford; and

WHEREAS, upon graduation from Radford High School, Danny Jonas attended David Lipscomb University in Nashville, Tennessee, to play basketball and received his master's degree in political science from Virginia Polytechnic Institute and State University; and

WHEREAS, after completing his education, Danny Jonas returned to Wythe County where he accepted a position as a social studies teacher and basketball coach at Fort Chiswell; and

WHEREAS, Danny Jonas coached the boys' and girls' varsity basketball teams for more than 20 years, with his 1989 girls' basketball team advancing to the state final four, the first girls' team from Fort Chiswell High School to do so; and

WHEREAS, Danny Jonas led Pioneer basketball teams to more than 500 victories and more than a dozen regular season and district tournament championships in his career and coached several 1,000-point scorers; and

WHEREAS, upon his retirement, Danny Jonas continued to serve as athletic director for Fort Chiswell High School, where he helped lead an upgrade to the school's athletics facilities; and

WHEREAS, Danny Jonas taught government and history to more than 5,000 students during his teaching career and was fondly known as "Coach J" to everyone in the community; and

WHEREAS, Danny Jonas showed an innate ability to connect with a wide range of students and influence their lives long after they graduated from Fort Chiswell High School; and

WHEREAS, Danny Jonas is fondly remembered and greatly missed by his wife of 48 years, Deborah; sons, Shannon and Justin, and their families; and many other family members, school personnel, former players, students, community members, and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Gordon Danny Jonas, a Wythe County educator and the longtime basketball coach at Fort Chiswell High School; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Gordon Danny Jonas as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 161

*Commending the Honorable Robert W. "Bob" Goodlatte.*

Agreed to by the Senate, February 23, 2019

WHEREAS, the Honorable Robert W. "Bob" Goodlatte, the longest-serving member of Congress from Virginia's Sixth Congressional District, who left an indelible mark on the communities in the Roanoke and Shenandoah Valleys, the Alleghany Highlands, and Central Virginia while representing his constituents for 26 years, retired in 2019; and

WHEREAS, Bob Goodlatte graduated magna cum laude from Washington and Lee Law School in 1977; and

WHEREAS, a devoted husband of over forty years, Bob Goodlatte married the love of his life, Maryellen Goodlatte, in Lee Chapel; and

WHEREAS, soon thereafter, Bob Goodlatte started his political career as a district office manager for Congressman Caldwell Butler in Roanoke, where he served as a devoted public servant to the constituents of the Sixth Congressional District; and

WHEREAS, Bob Goodlatte opened a private law practice in Roanoke and soon became a partner at Bird, Kinder & Huffman, serving with longtime Virginia Republican Party Chairman Don Huffman; and

WHEREAS, Bob Goodlatte was elected as Roanoke City Republican Chairman, and then elected as Sixth District Republican Chairman serving the Republican Party from 1983 to 1988; and

WHEREAS, Bob Goodlatte won the 1992 general election by winning 60 percent of the vote, following retiring Democratic Congressman Jim Olin; and

WHEREAS, Congressman Goodlatte worked on numerous important legislative initiatives to benefit the citizens of the Sixth Congressional District, the Commonwealth, and the country; and

WHEREAS, a decade into his service, Congressman Goodlatte became Chairman of the House Committee on Agriculture and oversaw important and complex legislation affecting the agriculture industry and rural America; and

WHEREAS, Congressman Goodlatte became Chairman of the House Judiciary Committee's Subcommittee on Intellectual Property, Competition, and the Internet, navigating the changing landscape of technology in the modern age; and

WHEREAS, as the first Virginian since 1887 to be elected Chairman of the House Judiciary Committee, Congressman Goodlatte has worked to protect constitutional freedoms and civil liberties, promote American innovation, advance legal and regulatory reform, secure America's borders and fix the legal immigration system, and fight terrorism and crime; and

WHEREAS, a seasoned legislator, Congressman Goodlatte has been a powerful voice for fiscal conservatism and responsible stewardship of the United States Government's financial resources, working tirelessly with fellow legislators to pass a Balanced Budget Amendment to the U.S. Constitution and helping pass legislation permanently banning the Internet access tax; and

WHEREAS, committed to the growth and prosperity of the Sixth Congressional District, Congressman Goodlatte has worked with local and state government officials and business leaders to bring businesses and jobs to his constituency; and

WHEREAS, Congressman Goodlatte has a deep appreciation for the Sixth Congressional District's many contributions to the Commonwealth and the nation; he has served as a trusted advocate for farmers, veterans, and all constituents; and

WHEREAS, Congressman Goodlatte, because of his tireless work ethic, earned the support of numerous groups and constituencies over his career, including the National Right to Life Committee, the National Rifle Association, the American Farm Bureau Federation, and the U.S. Chamber of Commerce; and

WHEREAS, Congressman Goodlatte, as a member of the foremost lawmaking body in the world, has worked to preserve the integrity and collegiality of that noble body throughout his illustrious career, earning himself a clear place in the annals of Virginia and United States history; and

WHEREAS, Congressman Goodlatte's wife, Maryellen; daughter, Jennifer Barblan, and son-in-law, Matthew Barblan; granddaughters, Caroline and Claire; son, Bobby; and numerous other family members, friends, and colleagues witnessed his hard work and sacrifice, and will be overjoyed to spend more time with him in his retirement; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Honorable Robert W. "Bob" Goodlatte, a model legislator who has demonstrated an unwavering commitment to his constituents, hereby be commended on the occasion of his retirement from public office; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Robert W. "Bob" Goodlatte as an expression of the Senate of Virginia's admiration for his legacy of service to the Commonwealth.

### SENATE RESOLUTION NO. 162

*Commending the Salem High School baseball team.*

Agreed to by the Senate, February 23, 2019

WHEREAS, the Salem High School Spartans won the Virginia High School League Class 4 baseball state championship at Salem Memorial Stadium on June 9, 2018, to capture Salem High School's first ever baseball state championship; and

WHEREAS, the Salem Spartans defeated the Jamestown Eagles by a score of 2-1 in the championship game to complete a sweep of six postseason opponents; and

WHEREAS, the Salem Spartans sealed the victory in the final inning with a two-out single by Matt Wright that brought home Parker Stallard for the walk-off win; and

WHEREAS, the Salem Spartans were supported by a strong outing from pitcher Zian Honaker, who finished 8-0 on the season and 12-0 in his high school career; and

WHEREAS, the Salem Spartans were led by head coach Wes McMillian who was named 2018 Timesland Baseball Coach of the Year by the Roanoke Times for his leadership of the team; and

WHEREAS, the Salem Spartans stole a school record 88 bases and out-scored their opponents by an average of 7.2 runs to 2.3 runs while achieving a 19-3; and

WHEREAS, the Salem Spartans' success was the result of the hard work of student-athletes with the guidance of their teachers and coaches and the support of the entire Salem High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Salem Spartans hereby be commended for winning the Virginia High School League Class 4 state championship during their impressive 2018 season; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Salem Spartans baseball team, as an expression of the Senate of Virginia's admiration for the team's extraordinary achievement.

### SENATE RESOLUTION NO. 163

*Commending the Auburn High School boys' and girls' cross country teams.*

Agreed to by the Senate, February 23, 2019

WHEREAS, the Auburn High School boys' and girls' cross country teams won the 2018 Virginia High School League Class 1 state championship at the Great Meadow course; and

WHEREAS, the victories marked the third consecutive state championship title for the Auburn High School boys' cross country team and the first for the Auburn High School girls' cross country team; and

WHEREAS, the Auburn High School boys' cross country team was led by Nolan Harris, who was the individual champion at the state championship meet and who helped his team outmatch runner-up George Wythe High School by 30 points; and

WHEREAS, the Auburn High School girls' cross country team was led by Caitlin Dominy and Jessica Musselman, who earned All-State distinction with top-15 finishes in the individual standings; the team won by a comfortable margin over runner-up Mathews High School; and

WHEREAS, the success of the Auburn High School boys' and girls' cross country teams is the result of the hard work of the student-athletes, the guidance of their coaches and teachers, and the support of the entire Auburn High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Auburn High School boys' and girls' cross country teams hereby be commended for winning the 2018 Virginia High School League Class 1 state championships; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Auburn High School boys' and girls' cross country teams as an expression of the Senate of Virginia's admiration for the teams' extraordinary achievements.

**SENATE RESOLUTION NO. 164**

*Celebrating the life of Marshall Steven Gates.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Marshall Steven Gates, a hardworking member of the Botetourt County community, passed away on October 6, 2018; and

WHEREAS, Marshall Gates was born in Reading, Pennsylvania, and graduated from Cave Spring High School; he received his bachelor's degree from The College of William & Mary and his master's degree from the University of Maryland; and

WHEREAS, Marshall Gates worked as an insurance broker for 50 years and was involved in the community at the Botetourt County Recreation Department, including many years as a youth coach and supporter of local youth athletes; and

WHEREAS, Marshall Gates will be fondly remembered and greatly missed by his wife, Sandra Elizabeth Maeder Gates, and children, Brian, Michael, and Jenny, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Marshall Steven Gates; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Marshall Steven Gates as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 165**

*Commending Forest Webb.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Forest Webb, a swimmer for the Carroll County High School swim team, won the Virginia High School League Class 4 state championship title for the 100-yard backstroke event at SwimRVA aquatic center on February 15, 2019; and

WHEREAS, Forest Webb swam the event in a lightning-fast 49.41 seconds, finishing a half-second ahead of the event's runner-up and earning All-American honors; and

WHEREAS, Forest Webb's success is the result of his hard work, the guidance of his coaches and teachers, and the support of the entire Carroll County High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Forest Webb, a swimmer for the Carroll County High School swim team, hereby be commended for winning the Virginia High School League Class 4 state championship title in the 100-yard backstroke event; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Forest Webb as an expression of the Senate of Virginia's admiration for his extraordinary achievement.

**SENATE RESOLUTION NO. 166**

*Celebrating the life of Hazel Williams.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Hazel Williams, a businesswoman and active citizen of the Roanoke Valley passed away on January 22, 2019; and

WHEREAS, Hazel Williams was born in Pittsylvania County and grew up on a farm in the Gretna area; she graduated from Gretna High School and earned her bachelor's degree in business administration from Averett University in 1979; and

WHEREAS, Hazel Williams held many positions over the years supporting the Roanoke business community; she worked for the accounting firms of Saunders & White and Goodman & Co. and as a realtor at MKB, REALTORS; served as a coach for young mothers at Total Action for Progress; and helped her husband, Walter Williams, run his Volvo repair shop, Boxy Swedish Car Center; and

WHEREAS, Hazel Williams made contributions to the community as a supportive friend and as a volunteer at Carilion Clinic and the Roanoke Valley Association of Realtors; and

WHEREAS, Hazel Williams will be dearly remembered and greatly missed by her husband, Walter; her children, Stuart and Tawanda; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Hazel Williams, beloved member of the Roanoke community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Hazel Williams as an expression of the Senate of Virginia's respect for her memory.

**SENATE RESOLUTION NO. 167**

*Celebrating the life of Kevin Corbett.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Kevin Corbett, a retired Bristol police officer, and active civic leader, passed away on February 15, 2019; and  
WHEREAS, Kevin Corbett was a veteran of the United States Army, serving during the Cold War era as an armored tank crewman and achieving the rank of staff sergeant; and

WHEREAS, Kevin Corbett will be fondly remembered by the citizens of Bristol as a police officer from 1982 until his retirement in 2006 from his post as a detective lieutenant in the Criminal Investigation Division; and

WHEREAS, Kevin Corbett lived out his Christian faith as an active member of St. Anne Catholic Church in Bristol; and

WHEREAS, Kevin Corbett was a committed conservative active in the Commonwealth's civic life; he served on the City of Bristol's Planning Commission and Transportation Safety Commission, was twice elected Chairman of the Bristol Virginia Republican Committee, and represented Virginia's Ninth Congressional District on the Republican Party of Virginia's State Central Committee; and

WHEREAS, Kevin Corbett will be fondly remembered and greatly missed by his children, Allison and Shawn, and their families; and numerous other family and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Kevin Corbett, a retired Bristol police officer and active civic leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Kevin Corbett as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 168**

*Celebrating the life of Kenneth A. Hall.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Kenneth A. Hall, a longtime auto dealer and leader of the business community in Hampton Roads, and a beloved husband, father, grandfather, and friend, died on February 19, 2019; and

WHEREAS, a native of Gloucester County, Kenneth "Ken" Hall came from humble beginnings as a member of the Guinea community; and

WHEREAS, a loyal patriot, Ken Hall, served his country as a member of the United States Army; and

WHEREAS, possessing a strong work ethic, Ken Hall began working from his early teen years in various businesses including a general store and at Newport News Shipbuilding before turning his attention to the auto industry; and

WHEREAS, Ken Hall, who worked in the auto industry for more than 50 years, began his career as a used car salesman and founded his own business in 1975 with a Jeep/AMC dealership in Virginia Beach; and

WHEREAS, Ken Hall grew his business, Hall Automotive, into one of the 50 largest auto retailers in the country, with 17 dealerships in the Commonwealth and in North Carolina; and

WHEREAS, always cognizant of the contributions of all his employees to the success of Hall Automotive, Ken Hall routinely rewarded his administrative, clerical, and custodial staff with vacations aboard luxury cruise ships as an expression of his gratitude for their service; and

WHEREAS, an active and dedicated member of his community, Ken Hall supported a wide array of industry and community causes for many years; and

WHEREAS, Ken Hall was a leader in his community and supported numerous causes including local and collegiate sports programs and efforts to provide medical care and advance medical research; and

WHEREAS, Ken Hall was a strong supporter of Operation Smile, accompanying the organization and its physicians on trips to assist patients in underserved areas around the globe; and

WHEREAS, a true believer in the strength of the Virginia political process, Ken Hall counted among his friends and acquaintances elected officials in all levels of state and federal government, from both sides of the political aisle; and

WHEREAS, an active and dedicated member of the auto industry, Ken Hall served his customers and his community with a generous spirit and was an example to dealers in his community and around the Commonwealth; and

WHEREAS, Ken Hall always gave a helping hand to other people who were starting their careers in the auto industry and relished opportunities to serve as a mentor; and

WHEREAS, Ken Hall served his industry as an active member of the Virginia Automobile Dealers Association including service as a member of the Board of Directors; and

WHEREAS, Ken Hall served as chair of the Virginia Automobile Dealers Association in 1989, leading all his fellow franchise dealers as their top elected officer; and

WHEREAS, never one to be idle, Ken Hall pursued various interests including golf, aviation, and real estate; and

WHEREAS, Ken Hall will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Kenneth A. Hall, a respected member of the Hampton Roads community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Kenneth A. Hall as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 169

*Commending Meghan Conti.*

Agreed to by the Senate, February 23, 2019

WHEREAS, Meghan Conti, an animal control supervisor with the City of Virginia Beach, helped make dogs and cats in the Commonwealth safer through her passionate advocacy; and

WHEREAS, in 2016, after a dog named Sugar was brutally attacked with a machete, Meghan Conti made it her personal mission to raise the penalty for maliciously wounding or torturing a dog or cat from a Class 1 misdemeanor to a Class 6 felony; and

WHEREAS, in addition to her normal duties with Virginia Beach Animal Control, Meghan Conti drove to Richmond multiple times to attend committee and subcommittee meetings to provide her expert testimony on the importance of implementing laws against animal cruelty; and

WHEREAS, Meghan Conti's work is a tribute not only to Sugar, who survived her attack, but to all animals that have suffered cruelty, including Tommie, a dog who died from his injuries after he was tied to a pole and set on fire in 2019; and

WHEREAS, recognizing that people who abuse animals are a threat to public safety, Meghan Conti will continue her compassionate work to advocate for stronger laws against animal cruelty in Virginia; now, therefore, be it

RESOLVED by the Senate of Virginia, That Meghan Conti hereby be commended for her diligent efforts to reduce instances of animal cruelty and make dogs and cats in the Commonwealth safer; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Meghan Conti as an expression of the Senate of Virginia's admiration for her leadership, advocacy, and service to the Commonwealth.

## SUMMARY OF 2019 REGULAR SESSION LEGISLATION

TOTAL INTRODUCED LEGISLATION .....	3128
House Bills .....	1204
Senate Bills .....	796
House Joint Resolutions .....	565
Senate Joint Resolutions .....	228
House Resolutions .....	247
Senate Resolutions .....	88
TOTAL LEGISLATION PASSED AND/OR AGREED TO .....	1898
House Bills .....	522
Senate Bills .....	361
House Joint Resolutions .....	493
Senate Joint Resolutions .....	199
House Resolutions .....	238
Senate Resolutions .....	85
TOTAL BILLS ENACTED INTO LAW .....	854
House Bills .....	503
Senate Bills .....	346
House Joint Resolutions .....	3
Senate Joint Resolutions .....	2
TOTAL CHAPTERS .....	854
BILLS VETOED BY GOVERNOR .....	34
House Bills .....	19
Senate Bills .....	15

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1611	806	1892	1730	677	1251	1849	86	131	1960	466	829
1613	150	312	1731	31	57	1853	2	2	1962	467	834
1614	344	643	1732	140	303	1865	460	824	1963	389	716
1621	147	308	1733	455	816	1866	322	615	1964	4	3
1622	413	746	1734	456	817	1867	149	309	1965	468	836
1623	404	733	1737	141	303	1868	576	981	1966	698	1291
1625	532	913	1738	226	450	1870	136	286	1970	211	417
1626	345	643	1740	277	521	1871	166	330	1971	138	297
1627	273	516	1742	321	614	1874	536	931	1972	803	1883
1629	274	516	1743	135	285	1878	87	133	1973	184	369
1634	648	1129	1746	210	403	1881	577	982	1974	53	90
1636	612	1015	1751	46	81	1883	334	624	1975	419	753
1637	67	107	1753	369	693	1884	303	589	1979	375	695
1639	209	402	1759	692	1284	1885	279	523	1981	167	331
1640	332	623	1766	198	391	1887	388	715	1983	185	370
1642	453	815	1767	47	81	1889	323	616	1985	123	188
1648	103	167	1768	72	111	1893	239	461	1986	281	525
1649	385	712	1770	810	1897	1895	694	1287	1987	420	754
1650	247	473	1771	105	168	1898	28	54	1988	304	590
1652	569	977	1772	354	657	1905	175	346	1997	579	983
1655	15	19	1773	238	459	1909	8	12	1998	27	49
1656	120	184	1774	457	818	1911	850	2002	2002	207	401
1657	174	344	1777	144	306	1913	461	824	2003	699	1292
1659	414	748	1779	152	314	1914	335	627	2005	376	700
1660	386	712	1783	73	112	1915	826 E	1946	2007	700	1295
1662	196	387	1786	182	366	1916	280	524	2008	370	693
1663	275	517	1787	106	170	1917	463	828	2009	539	938
1664	68	107	1788	575	981	1918	695	1289	2011	540	939
1666	225 E	450	1790	278	522	1920	578	982	2012	363	680
1668	601	1006	1802	145	306	1922	132	282	2014	282 E	526
1671	276	519	1803	85	123	1923	324	616	2015	422	758
1673	197	388	1804	415	750	1924	519	900	2016	186	371
1674	234	455	1807	405	735	1925	464 E	828	2017	657	1180
1675	454	815	1812	416	751	1927	75	112	2018	143	305
1677	69	108	1814	518	900	1930	142	304	2019	390	716
1678	104	168	1815	602	1007	1932	538	937	2020	580	983
1679	52	85	1816	183	366	1933	809	1895	2021	32	57
1681	19	39	1817	458	819	1934	248	477	2022	470	838
1682	655	1178	1818	459	823	1935	199	391	2026	423	759
1696	151	312	1819	165	330	1936	329	620	2028	812	1901
1698	387	714	1820	131	282	1937	16	22	2030	33	59
1700	854	2009	1822	533	916	1938	88	136	2033	305	593
1704	571	979	1826	656	1179	1939	697	1290	2035	89	137
1709	70	110	1828	603	1009	1940	3	3	2037	407	736
1711	71	110	1832	74	112	1941	465	829	2038	396	728
1712	14	18	1833	107	173	1942	827	1949	2039	153	314
1715	148	308	1835	122	188	1944	411	743	2045	220	441
1719	825	1945	1836	693	1287	1945	133	283	2046	283	543
1720	573	979	1838	534	918	1950	20	40	2047	735	1696
1722	815	1906	1839	653 E	1140	1952	137	290	2052	306	593
1725	121	187	1840	535	918	1953	12	16	2054	5	7
1728	84	122	1841	417	751	1954	520	901	2055	424	759
1729	139	298	1848	418	752	1955	134	285	2056	471	839

Note: E signifies emergency status

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2057	168	331	2212	542	940	2337	588	999	2487	160	320
2058	611	1014	2213	702	1303	2339	853	2005	2489	547	954
2059	284	544	2215	222	445	2341	158	319	2490	638	1112
2060	541	940	2217	227	451	2342	245	470	2493	431	769
2061	472	839	2218	521	902	2343	783	1823	2494	774	1784
2065	21	42	2219	291	555	2344	543	941	2497	633	1082
2071	286	546	2220	194	385	2345	607	1011	2499	202	394
2073	29	54	2224	703	1304	2347	35	62	2509	485	856
2078	200	391	2225	339	634	2350	589	1000	2514	307	594
2080	473	840	2226	156	318	2352	395	726	2515	661	1190
2081	391	718	2228	169	332	2354	347	649	2521	294	563
2089	613	1015	2229	393	724	2356	482	851	2526	23	44
2093	208	402	2230	704	1305	2357	187 E	371	2527	548	955
2107	581	983	2234	829	1954	2358	54	90	2529	17 E	23
2108	336	631	2238	195	386	2360	188	374	2538	432	774
2109	799	1875	2239	240	464	2362	36	63	2539	189	374
2114	154	315	2242	241	466	2365	22	43	2540	549	956
2118	474	840	2247	340	636	2367	706	1309	2541	709	1313
2123	582	984	2251	740	1699	2375	483	853	2542	297	566
2124	644	1124	2252	830	1954	2380	590	1000	2546	834	1961
2126	337	632	2256	267	504	2384	246	472	2547	742	1715
2129	287	546	2258	604	1009	2385	364	682	2548	203	395
2133	615	1017	2262	477	844	2396	484	854	2551	161	324
2137	288	547	2263	831	1955	2400	228	451	2553	551	960
2138	6	10	2272	636	1093	2403	545	950	2555	24	46
2139	701	1301	2278	181	364	2405	159	319	2556	663	1193
2140	637	1112	2279	478	847	2406	252	481	2557	214	428
2141	828	1952	2282	428	767	2409	243	467	2558	223	447
2143	392	723	2284	325	618	2410	365	686	2559	664	1194
2147	585	989	2286	249	478	2411	348	650	2560	170	333
2148	289	554	2287	11 E	15	2413	522	904	2561	665	1196
2150	736	1697	2289	787	1842	2414	235	456	2563	215	429
2158	221	441	2290	124	188	2419	253	482	2569	380	701
2161	425	759	2292	741	1702	2420	707	1312	2572	308	595
2166	475	842	2293	397	729	2425	293	563	2576	486	857
2167	9	14	2297	586	993	2438	366	687	2577	452	813
2169	338	634	2298	242	467	2439	201	393	2578	400	731
2170	476	844	2300	480	850	2440	255	483	2585	298	575
2173	583	988	2304	394	724	2441	832	1955	2586	617	1024
2174	738	1698	2305	632	1076	2445	213	425	2597	381	702
2178	426	761	2306	851	2002	2449	229	451	2599	591	1001
2180	34	60	2311	251	480	2452	708	1312	2600	256	484
2181	60	100	2313	157	318	2453	176	347	2605	618	1032
2182	659	1183	2316	705	1308	2457	379	701	2609	487	858
2183	155	315	2317	378	701	2464	146	307	2613	433	775
2184	290	555	2318	212	421	2473	330	621	2615	835	1969
2185	647	1128	2320	616	1023	2474	430	769	2620	643	1123
2186	346	644	2322	429	768	2477	833	1958	2621	743	1725
2192	819	1934	2324	605	1010	2478	734	1604	2622	434	775
2197	10	15	2325	587	996	2482	649	1132	2625	382	703
2198	427	766	2327	481	850	2484	177	348	2632	204	397
2205	372	694	2332	399	730	2485	546	952	2634	178	348
2208	377	700	2336	408	739	2486	409	739	2637	552	961

Note: E signifies emergency status

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2639	666	1198	2758	437	788		
2647	367	691	2760	777	1795		
2648	216	430	2762	838	1978		
2651	728	1593	2766	839	1979		
2652	776	1794	2767	594	1002		
2653	794	1864	2768	261	492		
2655	355	657	2769	326	619		
2656	489	867	2770	439	789		
2659	205	398	2773	524	906		
2660	309	599	2776	262	495		
2662	640	1119	2779	496	877		
2664	836	1970	2783	497	878		
2665	13	17	2784	349	652		
2670	310	599	2786	650	1136		
2672	312	601	2789	748	1730		
2674	162	324	2790	668	1204		
2678	490	868	2792	746	1728		
2679	412	743	2796	236	457		
2681	257	485	2798	673	1224		
2685	491	868	2800	401	732		
2689	258	487	2805	557	967		
2690	634	1089	2807	727	1592		
2691	619	1042	2808	315	606		
2693	217	432	2809	316	610		
2694	368	691	2811	441 E	791		
2699	230	452	2814	525	907		
2702	592	1001					
2705	25	46	<b>HJR</b>	<b>Chapter</b>	<b>Page</b>		
2711	492	870	591	820	1938		
2717	745	1727	615	821	1938		
2718	837	1971	676	822	1940		
2719	383	708					
2720	231	453					
2721	493	870					
2722	299	575					
2723	523	905					
2726	593	1002					
2731	435	785					
2733	259	490					
2737	553	961					
2738	494	874					
2739	260	491					
2740	313	601					
2741	554	961					
2743	436	786					
2744	314	605					
2745	190	377					
2746	620	1043					
2747	555	963					
2748	90	144					
2750	670	1219					
2752	780	1800					
2756	667	1201					

Note: E signifies emergency status

## SENATE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

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SB	Chapter	Page									
1004	671	1220	1167	444	793	1274	479	849	1400	564	973
1005	570	978	1171	622	1044	1277	343	639	1401	507	887
1015	817	1928	1173	317	610	1286	658	1181	1405	96	155
1018	778	1796	1174	623	1050	1289	94	153	1406	796	1869
1020	402	732	1176	501	884	1292	504	885	1407	447	798
1025	848	1998	1178	333	623	1293	779	1797	1408	508	888
1026	669	1212	1179	624	1052	1295	172	342	1409	448	802
1030	26	48	1180	358	662	1296	403	733	1410	97	156
1031	498	878	1181	76	114	1298	232	454	1411	509	888
1041	264	497	1182	359	676	1300	66	106	1413	164 E	328
1042	341	636	1183	269	505	1301	271	514	1414	58	98
1044	711	1315	1184	729	1593	1304	713	1574	1415	627	1055
1045	108	174	1186	360	678	1307	527	908	1416	296	565
1048	608	1012	1188	558	968	1312	361	679	1418	614	1016
1050	621	1044	1191	109	174	1314	173	343	1419	597	1004
1060	163	325	1193	110	175	1315	804	1887	1420	628	1057
1061	179	355	1194	111	175	1318	55	93	1421	788	1844
1067	327	619	1195	445	793	1319	56 E	94	1422	49 E	83
1068	373	694	1196	737	1697	1325	800	1877	1424	714	1575
1069	48	82	1197	674	1229	1329	606	1011	1425	791	1860
1073	265	498	1201	126	274	1331	818	1930	1426	529	910
1077	91	146	1205	192	380	1333	77	114	1427	715	1579
1079	331	622	1209	92	146	1336	560	970	1428	263	496
1080	712	1315	1213	39	72	1339	446	794	1429	716	1579
1083	816	1917	1214	502	884	1342	561	971	1430	530	910
1086	499	878	1215	61	101	1343	352	655	1431	531	912
1088	250	479	1216	672	1220	1346	625	1053	1432	510	889
1089	469	837	1217	292	559	1347	78	115	1433	598	1005
1090	500	880	1219	503	885	1348	371	693	1434	233	455
1091	744	1726	1220	410	741	1349	626	1054	1435	449	803
1093	807	1893	1221	219	436	1350	113	177	1436	98	157
1094	442	792	1222	675	1230	1355	651	1137	1439	224	447
1097	374	695	1224	775	1785	1358	505	887	1445	43	76
1101	357	660	1227	765	1770	1365	808	1893	1448	180	357
1106	300	575	1231	797	1873	1366	95	155	1449	511	891
1108	526	907	1233	302	588	1367	562	972	1450	356	659
1110	37	65	1234	642	1122	1368	805	1892	1457	50	85
1118	584	988	1241	40	74	1370	41	74	1459	565	974
1126	789	1848	1244	342	638	1371	790	1858	1461	599	1005
1128	268	504	1247	93	153	1372	18 E	31	1462	566	976
1130	488	862	1248	559	969	1373	129	279	1463	512	892
1131	38	72	1249	62	101	1377	362	679	1464	739	1699
1135	301	588	1253	676	1250	1378	528	910	1468	749	1731
1139	65	106	1254	112	176	1379	42	76	1469	353	655
1141	595	1003	1255	1	1	1381	206	398	1474	80	119
1144	443	792	1256	270	507	1382	79	118	1475	450	807
1145	218	435	1257	295	564	1383	57	96	1477	652	1139
1152	350	653	1265	318	612	1386	125	231	1481	750	1735
1153	171	342	1269	645	1126	1388	563	973	1485	852	2004
1159	596	1004	1270	801	1879	1393	114	179	1486	128	278
1161	840 E	1982	1271	351	654	1395	506	887	1488	609	1013
1165	191	379	1272	244	470	1396	127	276	1490	421	756
1166	786	1839	1273	320	613	1397	63	102	1491	641	1122

Note: E signifies emergency status

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1492	629	1067	1610	757	1752	1727	102	165
1494	841	1985	1611	684	1259	1728	771	1773
1495	646	1127	1615	758	1755	1729	760	1757
1499	751	1747	1617	639	1115	1734	440	790
1501	717	1580	1618	710	1314	1736	515	897
1505	802	1882	1619	732	1603	1737	847 E	1997
1506	64	105	1625	720	1585	1738	761	1758
1507	781	1808	1626	785	1838	1746	772	1773
1509	610	1014	1627	130	281	1749	83	121
1510	630	1072	1628	795	1866	1751	517	898
1511	766	1770	1632	574	980	1752	762	1759
1513	752	1748	1634	721	1586	1755	723	1587
1515	678	1251	1638	635	1092	1756	724	1587
1516	679	1251	1644	685	1262	1758	631	1073
1519	600 E	1006	1652	759	1755	1759	792	1860
1520	544	946	1653	686	1262	1768	849	2001
1521	842	1986	1655	51	85	1769	763	1759
1529	115	180	1656	272	515	1771	406	735
1537	30	56	1661	687	1263	1772	725	1589
1538	44	77	1662	773	1774	1774	726	1589
1540	718	1581	1663	462	826	1775	568	977
1541	237	458	1667	285	545	1777	516	898
1542	730	1601	1668	811	1899	1779	747	1729
1543	328	619	1669	514	897	1781	691	1283
1547	680	1253	1676	45	78	1785	119	183
1554	843	1988	1677	319	613	1787	193	382
1556	731	1601	1678	100 E	159	1789	764	1770
1557	681	1253	1679	688	1264	1790	793	1861
1558	798	1874	1680	567	976	<b>SJR</b>	<b>Chapter</b>	<b>Page</b>
1559	753	1749	1681	660	1186	278	823	1942
1560	116	182	1684	81	119	306	824	1943
1562	813	1901	1685	689	1279			
1564	682	1255	1686	722	1587			
1565	266	499	1690	59	100			
1567	117	183	1691	311	600			
1575	767	1771	1692	654 E	1159			
1577	99	158	1693	451	810			
1580	513	893	1694	101	161			
1581	844	1988	1695	495	875			
1586	768	1772	1696	845	1989			
1588	754	1750	1700	82	120			
1591	719	1585	1705	784	1837			
1593	572	979	1707	556	965			
1594	118	183	1709	814	1905			
1596	662	1191	1713	769	1772			
1598	696	1289	1715	550	958			
1599	755	1751	1716	846	1990			
1600	756	1751	1718	770	1772			
1602	782	1809	1719	690	1281			
1604	537	934	1720	438	788			
1605	398	730	1722	384	711			
1607	683	1255	1724	733	1604			
1609	254	483	1726	7	11			

Note: E signifies emergency status

**BILLS VETOED BY THE GOVERNOR**

(Communications from the Governor, relating to the bills that were vetoed, may be found in the Journals of the House of Delegates and the Senate for the 2019 Regular Session.)

The following vetoed bills were returned unsigned by Governor Ralph S. Northam:

**HOUSE BILLS**

- HB 1620 Elections, State Board of; increases membership and terms, initial appointment of Commissioner of Elections by the State Board of Elections shall be for a term to expire on June 30, 2022, report. Chief Patron: Ransone
- HB 1661 Benefits consortium; formation by a sponsoring association operating as a nonprofit agricultural organization. Chief Patron: Head
- HB 2034 Local electoral boards and general registrars; removal from office by circuit court, etc. Chief Patron: McGuire
- HB 2042 Assault and battery against a family or household member; previous convictions within a period of 10 years, mandatory minimum term of confinement. Chief Patron: Murphy
- HB 2053 Guidance counselors; changes the name to school counselors and requires school boards to employ school counselors in accordance with certain ratios, effective with 2019-2020 school year, ratio of number of counselors to number of students as required by law shall be as is included in a general appropriation act. Chief Patron: McQuinn
- HB 2142 School protection officers; definition, compulsory minimum training standards. Chief Patron: Thomas
- HB 2253 Concealed handgun permits, nonresident; Department of State Police to issue a permit to a nonresident within 90 days of receipt of completed application, effective date. Chief Patron: Pogge
- HB 2260 Health insurance; health carriers may offer catastrophic plans on the individual market and may offer such plans to all individuals. Chief Patron: Robinson
- HB 2269 Regional transportation sector emissions programs; participation by Commonwealth. Chief Patron: Poindexter
- HB 2270 Incarcerated aliens, certain; release or discharge from jail, notice to U.S. Immigration and Customs Enforcement. Chief Patron: Poindexter
- HB 2296 Rights of persons with disabilities; procedures for certain actions, if the claimant is alleging that the website of a bank, trust company, etc., is inaccessible and abridges his rights, the claimant shall file by registered mail such written statement within such 180-day period, etc. Chief Patron: Leftwich
- HB 2303 Sex offenders; registered offenders who enter an emergency shelter to notify a member of shelter's staff, etc., any person who violates this subsection is guilty of a Class 3 misdemeanor, no person shall be denied entry into emergency shelter on basis of his status unless prohibited by law, use of Registry information. Chief Patron: Leftwich
- HB 2328 Virginia Public Procurement Act; proscribed subcontracting by certain small businesses. Chief Patron: McNamara
- HB 2443 Group health benefit plans; replaces references to bona fide associations with term sponsoring associations, formation of benefits consortium, sponsoring associations not subject to regulation or taxation as an insurance company. Chief Patron: Wilt
- HB 2528 Felony homicide; certain drug offenses, penalty. Chief Patron: Hugo
- HB 2611 Regional Greenhouse Gas Initiative; prohibition on participation by Commonwealth. Chief Patron: Poindexter

- HB 2686 Zoning Appeals, Board of; changes vote requirement. Chief Patron: Knight
- HB 2749 Temporary Assistance for Needy Families (TANF); restrictions on use of cash assistance, report. Chief Patron: Poindexter
- HB 2764 Voter registration; persons assisting with completion or collection of completed paper applications, certain identifying information required. Chief Patron: Wilt

**SENATE BILLS**

- SB 1027 Health insurance; health carriers may offer catastrophic plans on the individual market and may offer such plans to all individuals. Chief Patron: Sturtevant
- SB 1038 Voter registration; verification of social security numbers, provisional registration status, effective date. Chief Patron: Peake
- SB 1047 Sex offenders; registered offenders who enter an emergency shelter to notify a member of shelter's staff, etc., any person who violates this subsection is guilty of a Class 3 misdemeanor, no person shall be denied entry into emergency shelter on basis of his status unless prohibited by law, use of Registry information. Chief Patron: Cosgrove
- SB 1087 House of Delegates and Senate districts; technical adjustments subsequent to decennial redistricting. Chief Patron: Obenshain
- SB 1150 Warrants; issuance by magistrates. Chief Patron: DeSteph
- SB 1156 Sanctuary policies; no locality shall adopt any ordinance, procedure, etc., intended to restrict enforcement of federal immigration laws. Chief Patron: Black
- SB 1240 Individual health insurance coverage; authorizes carriers in the Commonwealth to offer short-term, limited-duration health plans. Chief Patron: Reeves
- SB 1251 Switchblade knives; manufacture and distribution, possession of knife by manufacturer or distributor in course of his employment, etc. Chief Patron: Reeves
- SB 1455 Elections, State Board of; increases membership and terms, initial appointment of Commissioner of Elections, by the State Board of Elections shall be for a term to expire on June 30, 2022, report. Chief Patron: Vogel
- SB 1579 Congressional and state legislative districts; standards and criteria. Chief Patron: Suetterlein
- SB 1592 Small Business and Supplier Diversity, Department of; Department shall amend its regulations regarding the certification of businesses as any subcategory of small businesses. Chief Patron: Dunnavant
- SB 1674 Health insurance; short-term, limited-duration health plans, guaranteed options. Chief Patron: Reeves
- SB 1675 Police animals; killing or injuring, penalty. Chief Patron: Reeves
- SB 1689 Group health benefit plans; sponsoring associations, formation of a benefits consortium, definition of "member." Chief Patron: Dunnavant
- SB 1782 Notaries; qualifications, persons pardoned, conviction vacated by granting of a writ of actual innocence, or rights restored qualified as a notary, person convicted of a felony offense of fraud, robbery, etc., grounds for removal from office. Chief Patron: Obenshain

**THE SENATE  
2019 REGULAR SESSION**

District Number	Name	County and/or City Represented
39	Barker, George L. (D)	Counties of Fairfax (part) and Prince William (part); City of Alexandria (part)
13	Black, Richard H. (R)	Counties of Loudoun (part) and Prince William (part)
33	Boysko, Jennifer B. (D)‡	Counties of Fairfax (part) and Loudoun (part)
40	Carrico, Charles W., Sr. (R)	Counties of Grayson, Lee, Scott, Smyth (part), Washington, Wise (part), and Wythe (part); City of Bristol
38	Chafin, A. Benton, Jr. (R)	Counties of Bland, Buchanan, Dickenson, Montgomery (part), Pulaski, Russell, Smyth (part), Tazewell, and Wise (part); Cities of Norton and Radford
11	Chase, Amanda F. (R)	Counties of Amelia and Chesterfield (part); City of Colonial Heights
14	Cosgrove, John A., Jr. (R)	Counties of Isle of Wight (part) and Southampton (part); Cities of Chesapeake (part), Franklin (part), Portsmouth (part), Suffolk (part), and Virginia Beach (part)
16	Dance, Rosalyn R. (D)	Counties of Chesterfield (part), Dinwiddie (part), and Prince George (part); Cities of Hopewell, Petersburg, and Richmond (part)
25	Deeds, R. Creigh (D)	Counties of Albemarle (part), Alleghany, Bath, Highland, Nelson, and Rockbridge; Cities of Buena Vista, Charlottesville, Covington, and Lexington
8	DeSteph, William R., Jr. (R)	City of Virginia Beach (part)
12	Dunnivant, Siobhan S. (R)	Counties of Hanover (part) and Henrico (part)
30	Ebbin, Adam P. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
21	Edwards, John S. (D)	Counties of Giles, Montgomery (part), and Roanoke (part); City of Roanoke
31	Favola, Barbara A. (D)	Counties of Arlington (part), Fairfax (part), and Loudoun (part)
24	Hanger, Emmett W., Jr. (R)	Counties of Augusta, Culpeper (part), Greene, Madison, and Rockingham (part); Cities of Staunton and Waynesboro
32	Howell, Janet D. (D)	Counties of Arlington (part) and Fairfax (part)
6	Lewis, Lynwood W., Jr. (D)	Counties of Accomack, Mathews, and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
2	Locke, Mamie E. (D)	County of York (part); Cities of Hampton (part), Newport News (part), and Portsmouth (part)

**THE SENATE  
2019 REGULAR SESSION**

District Number	Name	County and/or City Represented
18	Lucas, L. Louise (D)	Counties of Brunswick (part), Greenville, Isle of Wight (part), Southampton (part), Surry (part), and Sussex; Cities of Chesapeake (part), Emporia, Franklin (part), Portsmouth (part), and Suffolk (part)
37	Marsden, David W. (D)	County of Fairfax (part)
1	Mason, T. Montgomery (D)	Counties of James City (part) and York (part); Cities of Hampton (part), Newport News (part), Suffolk (part), and Williamsburg
9	McClellan, Jennifer L. (D)	Counties of Charles City, Hanover (part), and Henrico (part); City of Richmond (part)
4	McDougle, Ryan T. (R)	Counties of Caroline, Essex, Hanover (part), King George (part), Lancaster, Middlesex, Northumberland, Richmond, Spotsylvania (part), and Westmoreland (part)
29	McPike, Jeremy S. (D)	County of Prince William (part); Cities of Manassas and Manassas Park
23	Newman, Stephen D. (R)	Counties of Bedford (part), Botetourt, Campbell (part), Craig, and Roanoke (part); City of Lynchburg (part)
3	Norment, Thomas K., Jr. (R)	Counties of Gloucester, Isle of Wight (part), James City (part), King and Queen, King William, New Kent, Surry (part), and York (part); Cities of Hampton (part), Poquoson, and Suffolk (part)
26	Obenshain, Mark D. (R)	Counties of Page, Rappahannock, Rockingham (part), Shenandoah, and Warren; City of Harrisonburg
22	Peake, Mark J. (R)	Counties of Amherst, Appomattox, Buckingham, Cumberland, Fluvanna, Goochland, Louisa (part), and Prince Edward; City of Lynchburg (part)
34	Petersen, J. Chapman (D)	County of Fairfax (part); City of Fairfax
17	Reeves, Bryce E. (R)	Counties of Albemarle (part), Culpeper (part), Louisa (part), Orange, and Spotsylvania (part); City of Fredericksburg
15	Ruff, Frank M., Jr. (R)	Counties of Brunswick (part), Campbell (part), Charlotte, Dinwiddie (part), Halifax (part), Lunenburg, Mecklenburg, Nottoway, Pittsylvania (part), and Prince George (part); City of Danville (part)
35	Saslaw, Richard L. (D)	County of Fairfax (part); Cities of Alexandria (part) and Falls Church
5	Spruill, Lionell, Sr. (D)	Cities of Chesapeake (part) and Norfolk (part)
20	Stanley, William M., Jr. (R)	Counties of Carroll (part), Franklin (part), Halifax (part), Henry, Patrick, and Pittsylvania (part); Cities of Danville (part), Galax, and Martinsville
28	Stuart, Richard H. (R)	Counties of King George (part), Prince William (part), Spotsylvania (part), Stafford (part), and Westmoreland (part)

**THE SENATE  
2019 REGULAR SESSION**

District Number	Name	County and/or City Represented
10	Sturtevant, Glen H., Jr. (R)	Counties of Chesterfield (part) and Powhatan; City of Richmond (part)
19	Suetterlein, David R. (R)	Counties of Bedford (part), Carroll (part), Floyd, Franklin (part), Montgomery (part), Roanoke (part), and Wythe (part); City of Salem
36	Surovell, Scott A. (D)	Counties of Fairfax (part), Prince William (part), and Stafford (part)
27	Vogel, Jill Holtzman (R)	Counties of Clarke, Culpeper (part), Fauquier, Frederick, Loudoun (part), and Stafford (part); City of Winchester
7	Wagner, Frank W. (R)	Cities of Norfolk (part) and Virginia Beach (part)
33	Wexton, Jennifer T. (D)†	Counties of Fairfax (part) and Loudoun (part)

†Resigned January 3, 2019

‡Elected to fill vacancy of Jennifer T. Wexton. Sworn in January 11, 2019

**THE HOUSE OF DELEGATES  
2019 REGULAR SESSION**

District Number	Name	County and/or City Represented
68	Adams, Dawn M. (D)	Counties of Chesterfield (part) and Henrico (part); City of Richmond (part)
16	Adams, Leslie R. (R)	Counties of Henry (part) and Pittsylvania (part); City of Martinsville
63	Aird, Lashrecse D. (D)	Counties of Chesterfield (part), Dinwiddie (part), and Prince George (part); Cities of Hopewell (part) and Petersburg
19	Austin, Terry L. (R)	Counties of Alleghany, Bedford (part), and Botetourt (part); City of Covington
51	Ayala, Hala S. (D)	County of Prince William (part)
74	Bagby, Lamont (D)	Counties of Charles City and Henrico (part); City of Richmond (part)
87	Bell, John J. (D)	Counties of Loudoun (part) and Prince William (part)
20	Bell, Richard P. (R)	Counties of Augusta (part), Highland, and Nelson (part); Cities of Staunton and Waynesboro
58	Bell, Robert B. (R)	Counties of Albemarle (part), Fluvanna (part), Greene, and Rockingham (part)
100	Bloxom, Robert S., Jr. (R)	Counties of Accomack and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
71	Bourne, Jeffrey M. (D)	County of Henrico (part); City of Richmond (part)
86	Boysko, Jennifer B. (D)†	Counties of Fairfax (part) and Loudoun (part)
64	Brewer, Emily M. (R)	Counties of Isle of Wight (part), Prince George (part), Southampton (part), Surry (part), and Sussex (part); Cities of Franklin (part) and Suffolk (part)
37	Bulova, David L. (D)	County of Fairfax (part); City of Fairfax
22	Byron, Kathy J. (R)	Counties of Bedford (part), Campbell (part), and Franklin (part); City of Lynchburg (part)
6	Campbell, Jeffrey L. (R)	Counties of Carroll, Smyth (part), and Wythe
24	Campbell, Ronnie R. (R)	Counties of Amherst (part), Augusta (part), Bath, and Rockbridge; Cities of Buena Vista and Lexington
69	Carr, Betsy B. (D)	County of Chesterfield (part); City of Richmond (part)
2	Carroll Foy, Jennifer D. (D)	Counties of Prince William (part) and Stafford (part)
50	Carter, Lee J. (D)	County of Prince William (part); City of Manassas
88	Cole, Mark L. (R)	Counties of Fauquier (part), Spotsylvania (part), and Stafford (part); City of Fredericksburg (part)
29	Collins, Christopher E. (R)	Counties of Frederick (part) and Warren (part); City of Winchester

**THE HOUSE OF DELEGATES  
2019 REGULAR SESSION**

District Number	Name	County and/or City Represented
21	Convirs-Fowler, Kelly K. (D)	Cities of Chesapeake (part) and Virginia Beach (part)
66	Cox, M. Kirkland (R)	County of Chesterfield (part); City of Colonial Heights
84	Davis, Glenn R., Jr. (R)	City of Virginia Beach (part)
67	Delaney, Karrie K. (D)	Counties of Fairfax (part) and Loudoun (part)
60	Edmunds, James E., II (R)	Counties of Campbell (part), Charlotte, Halifax, and Prince Edward
59	Fariss, C. Matthew (R)	Counties of Albemarle (part), Appomattox, Buckingham, Campbell (part), and Nelson (part)
41	Filler-Corn, Eileen (D)	County of Fairfax (part)
55	Fowler, Hyland F., Jr. (R)	Counties of Caroline (part), Hanover (part), and Spotsylvania (part)
30	Freitas, Nicholas J. (R)	Counties of Culpeper (part), Madison, and Orange
23	Garrett, T. Scott (R)	Counties of Amherst (part) and Bedford (part); City of Lynchburg (part)
15	Gilbert, C. Todd (R)	Counties of Page, Rockingham (part), Shenandoah, and Warren (part)
10	Gooditis, Gwendolyn W. (D)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
31	Guzman, Elizabeth R. (D)	Counties of Fauquier (part) and Prince William (part)
77	Hayes, C. E. Cliff, Jr. (D)	Cities of Chesapeake (part) and Suffolk (part)
17	Head, Christopher T. (R)	Counties of Botetourt (part) and Roanoke (part); City of Roanoke (part)
91	Helsel, Gordon C., Jr. (R)	County of York (part); Cities of Hampton (part) and Poquoson
79	Heretick, Stephen E. (D)	Cities of Norfolk (part) and Portsmouth (part)
46	Herring, Charniele L. (D)	City of Alexandria (part)
98	Hodges, M. Keith (R)	Counties of Essex, Gloucester, King and Queen, King William (part), Mathews, and Middlesex
47	Hope, Patrick A. (D)	County of Arlington (part)
40	Hugo, Timothy D. (R)	Counties of Fairfax (part) and Prince William (part)
12	Hurst, Chris L. (D)	Counties of Giles, Montgomery (part), and Pulaski (part); City of Radford
62	Ingram, Riley E. (R)	Counties of Chesterfield (part), Henrico (part), and Prince George (part); City of Hopewell (part)
80	James, Matthew (D)††	Cities of Chesapeake (part), Norfolk (part), Portsmouth (part), and Suffolk (part)

**THE HOUSE OF DELEGATES  
2019 REGULAR SESSION**

District Number	Name	County and/or City Represented
89	Jones, Jerrauld C. (D)	City of Norfolk (part)
76	Jones, S. Chris (R)	Cities of Chesapeake (part) and Suffolk (part)
35	Keam, Mark L. (D)	County of Fairfax (part)
1	Kilgore, Terry G. (R)	Counties of Lee, Scott, and Wise (part); City of Norton
81	Knight, Barry D. (R)	Cities of Chesapeake (part) and Virginia Beach (part)
38	Kory, Kaye (D)	County of Fairfax (part)
44	Krizek, Paul E. (D)	County of Fairfax (part)
25	Landes, R. Steven (R)	Counties of Albemarle (part), Augusta (part), and Rockingham (part)
33	LaRock, David A. (R)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
78	Leftwich, James A., Jr. (R)	City of Chesapeake (part)
45	Levine, Mark H. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
90	Lindsey, Joseph C. (D)	Cities of Norfolk (part) and Virginia Beach (part)
49	Lopez, Alfonso H. (D)	Counties of Arlington (part) and Fairfax (part)
14	Marshall, Daniel W., III (R)	Counties of Henry (part) and Pittsylvania (part); City of Danville
56	McGuire, John J., III (R)	Counties of Goochland (part), Henrico (part), Louisa, and Spotsylvania (part)
8	McNamara, Joseph P. (R)	Counties of Craig, Montgomery (part), and Roanoke (part); City of Salem
70	McQuinn, Delores L. (D)	Counties of Chesterfield (part) and Henrico (part); City of Richmond (part)
82	Miyares, Jason S. (R)	City of Virginia Beach (part)
3	Morefield, James W. (R)	Counties of Bland, Buchanan, Russell (part), and Tazewell
93	Mullin, Michael P. (D)	Counties of James City (part) and York (part); Cities of Newport News (part) and Williamsburg
34	Murphy, Kathleen J. (D)	Counties of Fairfax (part) and Loudoun (part)
5	O'Quinn, Israel D. (R)	Counties of Grayson, Smyth (part), and Washington (part); Cities of Bristol and Galax
54	Orrock, Robert D., Sr. (R)	Counties of Caroline (part) and Spotsylvania (part)
97	Peace, Christopher K. (R)	Counties of Hanover (part), King William (part), and New Kent

**THE HOUSE OF DELEGATES  
2019 REGULAR SESSION**

District Number	Name	County and/or City Represented
4	Pillion, Todd E. (R)	Counties of Dickenson, Russell (part), Washington (part), and Wise (part)
36	Plum, Kenneth R. (D)	County of Fairfax (part)
96	Pogge, Brenda L. (R)	Counties of James City (part) and York (part)
9	Poindexter, Charles D. (R)	Counties of Franklin (part), Henry (part), and Patrick
95	Price, Marcia S. (D)	Cities of Hampton (part) and Newport News (part)
99	Ransone, Margaret B. (R)	Counties of Caroline (part), King George, Lancaster, Northumberland, Richmond, and Westmoreland
11	Rasoul, Sam (D)	City of Roanoke (part)
32	Reid, David A. (D)	County of Loudoun (part)
27	Robinson, Roxann L. (R)	County of Chesterfield (part)
73	Rodman, Debra H. (D)	County of Henrico (part)
13	Roem, Danica A. (D)	County of Prince William (part); City of Manassas Park
7	Rush, L. Nick (R)	Counties of Floyd, Montgomery (part), and Pulaski (part)
86	Samirah, Ibraheem S. (D)‡	Counties of Fairfax (part) and Loudoun (part)
43	Sickles, Mark D. (D)	County of Fairfax (part)
53	Simon, Marcus B. (D)	County of Fairfax (part); City of Falls Church
83	Stolle, Christopher P. (R)	Cities of Norfolk (part) and Virginia Beach (part)
48	Sullivan, Richard C., Jr. (D)	Counties of Arlington (part) and Fairfax (part)
28	Thomas, Robert M., Jr. (R)	County of Stafford (part); City of Fredericksburg (part)
52	Torian, Luke E. (D)	County of Prince William (part)
57	Toscano, David J. (D)	County of Albemarle (part); City of Charlottesville
42	Tran, Kathy KL (D)	County of Fairfax (part)
85	Turpin, Cheryl B. (D)	City of Virginia Beach (part)
75	Tyler, Roslyn C. (D)	Counties of Brunswick, Dinwiddie (part), Greensville, Isle of Wight (part), Lunenburg (part), Southampton (part), Surry (part), and Sussex (part); Cities of Emporia and Franklin (part)
72	VanValkenburg, Schuyler T. (D)	County of Henrico (part)
92	Ward, Jeion A. (D)	City of Hampton (part)
65	Ware, R. Lee (R)	Counties of Chesterfield (part), Fluvanna (part), Goochland (part), and Powhatan

**THE HOUSE OF DELEGATES  
2019 REGULAR SESSION**

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District Number	Name	County and/or City Represented
39	Watts, Vivian E. (D)	County of Fairfax (part)
18	Webert, Michael J. (R)	Counties of Culpeper (part), Fauquier (part), Rappahannock, and Warren (part)
26	Wilt, Tony O. (R)	County of Rockingham (part); City of Harrisonburg
61	Wright, Thomas C., Jr. (R)	Counties of Amelia, Cumberland, Lunenburg (part), Mecklenburg, and Nottoway
94	Yancey, David E. (R)	City of Newport News (part)

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†Resigned January 11, 2019

††Resigned May 19, 2019

‡Elected to fill vacancy of Jennifer B. Boysko. Sworn in February 20, 2019

**SENATORS AND DELEGATES BY COUNTIES  
2019 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Accomack.....	Lynwood W. Lewis, Jr. (D) .....	Robert S. Bloxom, Jr. (R)
Albemarle.....	R. Creigh Deeds (D)..... Bryce E. Reeves (R)	Robert B. Bell (R) C. Matthew Fariss (R) R. Steven Landes (R) David J. Toscano (D)
Alleghany.....	R. Creigh Deeds (D).....	Terry L. Austin (R)
Amelia.....	Amanda F. Chase (R) .....	Thomas C. Wright, Jr. (R)
Amherst.....	Mark J. Peake (R).....	Ronnie R. Campbell (R) T. Scott Garrett (R)
Appomattox.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Arlington.....	Adam P. Ebbin (D)..... Barbara A. Favola (D) Janet D. Howell (D)	Patrick A. Hope (D) Mark H. Levine (D) Alfonso H. Lopez (D) Richard C. Sullivan, Jr. (D)
Augusta.....	Emmett W. Hanger, Jr. (R) .....	Richard P. Bell (R) Ronnie R. Campbell (R) R. Steven Landes (R)
Bath.....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Bedford.....	Stephen D. Newman (R) .....	Terry L. Austin (R) Kathy J. Byron (R) T. Scott Garrett (R)
Bland.....	A. Benton Chafin, Jr. (R) .....	James W. Morefield (R)
Botetourt.....	Stephen D. Newman (R) .....	Terry L. Austin (R) Christopher T. Head (R)
Brunswick.....	L. Louise Lucas (D) .....	Roslyn C. Tyler (D)
Buchanan.....	Frank M. Ruff, Jr. (R) A. Benton Chafin, Jr. (R) .....	James W. Morefield (R)
Buckingham.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Campbell.....	Stephen D. Newman (R) .....	Kathy J. Byron (R) James E. Edmunds, II (R) C. Matthew Fariss (R)
Caroline.....	Ryan T. McDougale (R).....	Hyland F. Fowler, Jr. (R) Robert D. Orrock, Sr. (R) Margaret B. Ransone (R)
Carroll.....	William M. Stanley, Jr. (R)..... David R. Suetterlein (R)	Jeffrey L. Campbell (R)
Charles City.....	Jennifer L. McClellan (D).....	Lamont Bagby (D)
Charlotte.....	Frank M. Ruff, Jr. (R).....	James E. Edmunds, II (R)
Chesterfield.....	Amanda F. Chase (R) .....	Dawn M. Adams (D) Lashrecse D. Aird (D) Betsy B. Carr (D) M. Kirkland Cox (R) Riley E. Ingram (R) Delores L. McQuinn (D) Roxann L. Robinson (R) R. Lee Ware (R)
Clarke.....	Jill Holtzman Vogel (R).....	Gwendolyn W. Gooditis (D) David A. LaRock (R)
Craig.....	Stephen D. Newman (R) .....	Joseph P. McNamara (R)
Culpeper.....	Emmett W. Hanger, Jr. (R) .....	Nicholas J. Freitas (R) Michael J. Webert (R)
Cumberland.....	Bryce E. Reeves (R) Jill Holtzman Vogel (R) Mark J. Peake (R).....	
Dickenson.....	A. Benton Chafin, Jr. (R) .....	Thomas C. Wright, Jr. (R) Todd E. Pillion (R)

**SENATORS AND DELEGATES BY COUNTIES  
2019 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Dinwiddie.....	Rosalyn R. Dance (D) .....	Lashreese D. Aird (D)
	Frank M. Ruff, Jr. (R)	Roslyn C. Tyler (D)
Essex .....	Ryan T. McDougale (R).....	M. Keith Hodges (R)
Fairfax .....	George L. Barker (D) .....	Jennifer B. Boysko (D)††
	Jennifer B. Boysko (D)‡	David L. Bulova (D)
	Adam P. Ebbin (D)	Karrie K. Delaney (D)
	Barbara A. Favola (D)	Eileen Filler-Corn (D)
	Janet D. Howell (D)	Timothy D. Hugo (R)
	David W. Marsden (D)	Mark L. Keam (D)
	J. Chapman Petersen (D)	Kaye Kory (D)
	Richard L. Saslaw (D)	Paul E. Krizek (D)
	Scott A. Surovell (D)	Mark H. Levine (D)
	Jennifer T. Wexton (D)†	Alfonso H. Lopez (D)
		Kathleen J. Murphy (D)
		Kenneth R. Plum (D)
		Ibraheem S. Samirah (D)‡‡
		Mark D. Sickles (D)
		Marcus B. Simon (D)
		Richard C. Sullivan, Jr. (D)
		Kathy KL Tran (D)
		Vivian E. Watts (D)
Fauquier .....	Jill Holtzman Vogel (R).....	Mark L. Cole (R)
		Elizabeth R. Guzman (D)
		Michael J. Webert (R)
Floyd .....	David R. Suetterlein (R).....	L. Nick Rush (R)
Fluvanna.....	Mark J. Peake (R).....	Robert B. Bell (R)
		R. Lee Ware (R)
Franklin .....	William M. Stanley, Jr. (R).....	Kathy J. Byron (R)
	David R. Suetterlein (R)	Charles D. Poindexter (R)
Frederick .....	Jill Holtzman Vogel (R).....	Christopher E. Collins (R)
		Gwendolyn W. Gooditis (D)
		David A. LaRock (R)
Giles .....	John S. Edwards (D) .....	Chris L. Hurst (D)
Gloucester .....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
Goochland .....	Mark J. Peake (R).....	John J. McGuire, III (R)
		R. Lee Ware (R)
Grayson .....	Charles W. Carrico, Sr. (R).....	Israel D. O'Quinn (R)
Greene .....	Emmett W. Hanger, Jr. (R) .....	Robert B. Bell (R)
Greensville .....	L. Louise Lucas (D) .....	Roslyn C. Tyler (D)
Halifax.....	Frank M. Ruff, Jr. (R).....	James E. Edmunds, II (R)
	William M. Stanley, Jr. (R)	
Hanover.....	Siobhan S. Dunnivant (R).....	Hyland F. Fowler, Jr. (R)
	Jennifer L. McClellan (D)	Christopher K. Peace (R)
	Ryan T. McDougale (R)	
Henrico.....	Siobhan S. Dunnivant (R).....	Dawn M. Adams (D)
	Jennifer L. McClellan (D)	Lamont Bagby (D)
		Jeffrey M. Bourne (D)
		Riley E. Ingram (R)
		John J. McGuire, III (R)
		Delores L. McQuinn (D)
		Debra H. Rodman (D)
		Schuyler T. VanValkenburg (D)
Henry.....	William M. Stanley, Jr. (R).....	Leslie R. Adams (R)
		Daniel W. Marshall, III (R)
		Charles D. Poindexter (R)

**SENATORS AND DELEGATES BY COUNTIES  
2019 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Highland.....	R. Creigh Deeds (D).....	Richard P. Bell (R)
Isle of Wight.....	John A. Cosgrove, Jr. (R) .....	Emily M. Brewer (R)
	L. Louise Lucas (D)	Roslyn C. Tyler (D)
	Thomas K. Norment, Jr. (R)	
James City .....	T. Montgomery Mason (D) .....	Michael P. Mullin (D)
	Thomas K. Norment, Jr. (R)	Brenda L. Pogge (R)
King and Queen .....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
King George.....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
	Richard H. Stuart (R)	
King William.....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
		Christopher K. Peace (R)
Lancaster.....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Lee.....	Charles W. Carrico, Sr. (R).....	Terry G. Kilgore (R)
Loudoun .....	Richard H. Black (R).....	John J. Bell (D)
	Jennifer B. Boysko (D)‡	Jennifer B. Boysko (D)‡‡
	Barbara A. Favola (D)	Karrie K. Delaney (D)
	Jill Holtzman Vogel (R)	Gwendolyn W. Gooditis (D)
	Jennifer T. Wexton (D)†	David A. LaRock (R)
		Kathleen J. Murphy (D)
		David A. Reid (D)
		Ibraheem S. Samirah (D)‡‡
Louisa.....	Mark J. Peake (R).....	John J. McGuire, III (R)
	Bryce E. Reeves (R)	
Lunenburg .....	Frank M. Ruff, Jr. (R).....	Roslyn C. Tyler (D)
		Thomas C. Wright, Jr. (R)
Madison.....	Emmett W. Hanger, Jr. (R) .....	Nicholas J. Freitas (R)
Mathews .....	Lynwood W. Lewis, Jr. (D) .....	M. Keith Hodges (R)
Mecklenburg .....	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Middlesex.....	Ryan T. McDougle (R).....	M. Keith Hodges (R)
Montgomery.....	A. Benton Chafin, Jr. (R) .....	Chris L. Hurst (D)
	John S. Edwards (D)	Joseph P. McNamara (R)
	David R. Suetterlein (R)	L. Nick Rush (R)
Nelson .....	R. Creigh Deeds (D).....	Richard P. Bell (R)
		C. Matthew Fariss (R)
New Kent .....	Thomas K. Norment, Jr. (R).....	Christopher K. Peace (R)
Northampton .....	Lynwood W. Lewis, Jr. (D) .....	Robert S. Bloxom, Jr. (R)
Northumberland .....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Nottoway.....	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Orange.....	Bryce E. Reeves (R).....	Nicholas J. Freitas (R)
Page.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Patrick .....	William M. Stanley, Jr. (R).....	Charles D. Poindexter (R)
Pittsylvania.....	Frank M. Ruff, Jr. (R).....	Leslie R. Adams (R)
	William M. Stanley, Jr. (R)	Daniel W. Marshall, III (R)
Powhatan.....	Glen H. Sturtevant, Jr. (R).....	R. Lee Ware (R)
Prince Edward.....	Mark J. Peake (R).....	James E. Edmunds, II (R)
Prince George.....	Rosalyn R. Dance (D) .....	Lashrece D. Aird (D)
	Frank M. Ruff, Jr. (R)	Emily M. Brewer (R)
		Riley E. Ingram (R)
Prince William.....	George L. Barker (D) .....	Hala S. Ayala (D)
	Richard H. Black (R)	John J. Bell (D)
	Jeremy S. McPike (D)	Jennifer D. Carroll Foy (D)
	Richard H. Stuart (R)	Lee J. Carter (D)
	Scott A. Surovell (D)	Elizabeth R. Guzman (D)
		Timothy D. Hugo (R)

**SENATORS AND DELEGATES BY COUNTIES  
2019 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
		Danica A. Roem (D) Luke E. Torian (D)
Pulaski.....	A. Benton Chafin, Jr. (R) .....	Chris L. Hurst (D) L. Nick Rush (R)
Rappahannock.....	Mark D. Obenshain (R).....	Michael J. Webert (R)
Richmond.....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Roanoke .....	John S. Edwards (D) .....	Christopher T. Head (R)
	Stephen D. Newman (R)	Joseph P. McNamara (R)
	David R. Suetterlein (R)	
Rockbridge.....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Rockingham .....	Emmett W. Hanger, Jr. (R) .....	Robert B. Bell (R)
	Mark D. Obenshain (R)	C. Todd Gilbert (R) R. Steven Landes (R) Tony O. Wilt (R)
Russell.....	A. Benton Chafin, Jr. (R) .....	James W. Morefield (R) Todd E. Pillion (R)
Scott .....	Charles W. Carrico, Sr. (R).....	Terry G. Kilgore (R)
Shenandoah.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Smyth .....	Charles W. Carrico, Sr. (R).....	Jeffrey L. Campbell (R)
	A. Benton Chafin, Jr. (R)	Israel D. O'Quinn (R)
Southampton .....	John A. Cosgrove, Jr. (R) .....	Emily M. Brewer (R)
	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Spotsylvania.....	Ryan T. McDougle (R).....	Mark L. Cole (R)
	Bryce E. Reeves (R)	Hyland F. Fowler, Jr. (R)
	Richard H. Stuart (R)	John J. McGuire, III (R) Robert D. Orrock, Sr. (R)
Stafford.....	Richard H. Stuart (R) .....	Jennifer D. Carroll Foy (D)
	Scott A. Surovell (D)	Mark L. Cole (R)
	Jill Holtzman Vogel (R)	Robert M. Thomas, Jr. (R)
Surry.....	L. Louise Lucas (D) .....	Emily M. Brewer (R)
	Thomas K. Norment, Jr. (R)	Roslyn C. Tyler (D)
Sussex.....	L. Louise Lucas (D) .....	Emily M. Brewer (R) Roslyn C. Tyler (D)
Tazewell .....	A. Benton Chafin, Jr. (R) .....	James W. Morefield (R)
Warren.....	Mark D. Obenshain (R).....	Christopher E. Collins (R) C. Todd Gilbert (R) Michael J. Webert (R)
Washington.....	Charles W. Carrico, Sr. (R).....	Israel D. O'Quinn (R) Todd E. Pillion (R)
Westmoreland.....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
	Richard H. Stuart (R)	
Wise.....	Charles W. Carrico, Sr. (R).....	Terry G. Kilgore (R)
	A. Benton Chafin, Jr. (R)	Todd E. Pillion (R)
Wythe .....	Charles W. Carrico, Sr. (R).....	Jeffrey L. Campbell (R)
	David R. Suetterlein (R)	
York.....	Mamie E. Locke (D) .....	Gordon C. Helsel, Jr. (R)
	T. Montgomery Mason (D)	Michael P. Mullin (D)
	Thomas K. Norment, Jr. (R)	Brenda L. Pogge (R)

†Resigned January 3, 2019

††Resigned January 11, 2019

‡Elected to fill vacancy of Jennifer T. Wexton. Sworn in January 11, 2019

‡‡Elected to fill vacancy of Jennifer B. Boysko. Sworn in February 20, 2019

**SENATORS AND DELEGATES BY CITIES  
2019 REGULAR SESSION**

CITIES	SENATORS	DELEGATES
Alexandria .....	George L. Barker (D) .....	Charniele L. Herring (D)
	Adam P. Ebbin (D)	Mark H. Levine (D)
	Richard L. Saslaw (D)	
Bristol .....	Charles W. Carrico, Sr. (R).....	Israel D. O'Quinn (R)
Buena Vista .....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Charlottesville .....	R. Creigh Deeds (D).....	David J. Toscano (D)
Chesapeake.....	John A. Cosgrove, Jr. (R) .....	Kelly K. Convirs-Fowler (D)
	L. Louise Lucas (D)	C. E. Cliff Hayes, Jr. (D)
	Lionell Spruill, Sr. (D)	Matthew James (D)†
		S. Chris Jones (R)
		Barry D. Knight (R)
		James A. Leftwich, Jr. (R)
Colonial Heights .....	Amanda F. Chase (R) .....	M. Kirkland Cox (R)
Covington .....	R. Creigh Deeds (D).....	Terry L. Austin (R)
Danville.....	Frank M. Ruff, Jr. (R).....	Daniel W. Marshall, III (R)
	William M. Stanley, Jr. (R)	
Emporia .....	L. Louise Lucas (D) .....	Roslyn C. Tyler (D)
Fairfax .....	J. Chapman Petersen (D).....	David L. Bulova (D)
Falls Church .....	Richard L. Saslaw (D).....	Marcus B. Simon (D)
Franklin .....	John A. Cosgrove, Jr. (R) .....	Emily M. Brewer (R)
	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Fredericksburg.....	Bryce E. Reeves (R).....	Mark L. Cole (R)
		Robert M. Thomas, Jr. (R)
Galax .....	William M. Stanley, Jr. (R).....	Israel D. O'Quinn (R)
Hampton .....	Mamie E. Locke (D) .....	Gordon C. Helsel, Jr. (R)
	T. Montgomery Mason (D)	Marcia S. Price (D)
	Thomas K. Norment, Jr. (R)	Jeion A. Ward (D)
Harrisonburg .....	Mark D. Obenshain (R).....	Tony O. Wilt (R)
Hopewell .....	Rosalyn R. Dance (D) .....	Lashrecse D. Aird (D)
		Riley E. Ingram (R)
Lexington .....	R. Creigh Deeds (D).....	Ronnie R. Campbell (R)
Lynchburg .....	Stephen D. Newman (R) .....	Kathy J. Byron (R)
	Mark J. Peake (R)	T. Scott Garrett (R)
Manassas .....	Jeremy S. McPike (D).....	Lee J. Carter (D)
Manassas Park.....	Jeremy S. McPike (D).....	Danica A. Roem (D)
Martinsville .....	William M. Stanley, Jr. (R).....	Leslie R. Adams (R)
Newport News.....	Mamie E. Locke (D) .....	Michael P. Mullin (D)
	T. Montgomery Mason (D)	Marcia S. Price (D)
		David E. Yancey (R)
Norfolk .....	Lynwood W. Lewis, Jr. (D) .....	Robert S. Bloxom, Jr. (R)
	Lionell Spruill, Sr. (D)	Stephen E. Heretick (D)
	Frank W. Wagner (R)	Matthew James (D)†
		Jerrauld C. Jones (D)
		Joseph C. Lindsey (D)
		Christopher P. Stolle (R)
Norton .....	A. Benton Chafin, Jr. (R) .....	Terry G. Kilgore (R)
Petersburg.....	Rosalyn R. Dance (D) .....	Lashrecse D. Aird (D)
Poquoson.....	Thomas K. Norment, Jr. (R).....	Gordon C. Helsel, Jr. (R)
Portsmouth .....	John A. Cosgrove, Jr. (R) .....	Stephen E. Heretick (D)
	Mamie E. Locke (D)	Matthew James (D)†
	L. Louise Lucas (D)	
Radford.....	A. Benton Chafin, Jr. (R) .....	Chris L. Hurst (D)

**SENATORS AND DELEGATES BY CITIES  
2019 REGULAR SESSION**

CITIES	SENATORS	DELEGATES
Richmond.....	Rosalyn R. Dance (D) ..... Jennifer L. McClellan (D) ..... Glen H. Sturtevant, Jr. (R)	Dawn M. Adams (D) ..... Lamont Bagby (D) ..... Jeffrey M. Bourne (D) ..... Betsy B. Carr (D) ..... Delores L. McQuinn (D) ..... Christopher T. Head (R) ..... Sam Rasoul (D)
Roanoke .....	John S. Edwards (D) .....	Joseph P. McNamara (R) ..... Richard P. Bell (R)
Salem.....	David R. Suetterlein (R).....	Emily M. Brewer (R) ..... C. E. Cliff Hayes, Jr. (D) ..... Matthew James (D)† ..... S. Chris Jones (R)
Staunton .....	Emmett W. Hanger, Jr. (R) .....	Robert S. Bloxom, Jr. (R) ..... Kelly K. Convors-Fowler (D) ..... Glenn R. Davis, Jr. (R) ..... Barry D. Knight (R) ..... Joseph C. Lindsey (D) ..... Jason S. Miyares (R) ..... Christopher P. Stolle (R) ..... Cheryl B. Turpin (D)
Suffolk.....	John A. Cosgrove, Jr. (R) ..... L. Louise Lucas (D) ..... T. Montgomery Mason (D) ..... Thomas K. Norment, Jr. (R)	Richard P. Bell (R)
Virginia Beach.....	John A. Cosgrove, Jr. (R) ..... William R. DeSteph (R) ..... Lynwood W. Lewis, Jr. (D) ..... Frank W. Wagner (R)	Richard P. Bell (R)
Waynesboro.....	Emmett W. Hanger, Jr. (R) .....	Michael P. Mullin (D)
Williamsburg.....	T. Montgomery Mason (D) .....	Christopher E. Collins (R)
Winchester.....	Jill Holtzman Vogel (R) .....	

†Resigned May 19, 2019

## COUNTIES AND CITIES--LAND AREA AND POPULATION

United States Census of 2010 (December 21, 2010)

COUNTIES	Land Area in Square Miles	Population	COUNTIES	Land Area in Square Miles	Population
Accomack .....	449	33,164	Pittsylvania	969	63,506
Albemarle .....	721	98,970	Powhatan	260	28,046
Alleghany .....	445	16,250	Prince Edward	350	23,368
Amelia .....	355	12,690	Prince George	265	35,725
Amherst .....	474	32,353	Prince William	336	402,002
Appomattox .....	334	14,973	Pulaski	320	34,872
Arlington .....	26	207,627	Rappahannock	266	7,371
Augusta .....	967	73,750	Richmond	191	9,254
Bath .....	529	4,731	Roanoke	251	92,376
Bedford .....	753	68,676	Rockbridge	598	22,307
Bland .....	358	6,824	Rockingham	849	76,314
Botetourt .....	541	33,148	Russell	474	28,897
Brunswick .....	566	17,434	Scott	536	23,177
Buchanan .....	503	24,098	Shenandoah	509	41,993
Buckingham .....	580	17,146	Smyth	451	32,208
Campbell .....	504	54,842	Southampton	599	18,570
Caroline .....	528	28,545	Spotsylvania	401	122,397
Carroll .....	475	30,042	Stafford	269	128,961
Charles City .....	183	7,256	Surry	279	7,058
Charlotte .....	475	12,586	Sussex	490	12,087
Chesterfield .....	423	316,236	Tazewell	519	45,078
Clarke .....	176	14,034	Warren	213	37,575
Craig .....	330	5,190	Washington	561	54,876
Culpeper .....	379	46,689	Westmoreland	229	17,454
Cumberland .....	297	10,052	Wise	403	41,452
Dickenson .....	331	15,903	Wythe	462	29,235
Dinwiddie .....	504	28,001	York	105	65,464
Essex .....	257	11,151			
Fairfax .....	391	1,081,726	<b>CITIES</b>		
Fauquier .....	647	65,203	Alexandria	15	139,966
Floyd .....	380	15,279	Bedford*	7	6,222
Fluvanna .....	286	25,691	Bristol	13	17,835
Franklin .....	690	56,159	Buena Vista	7	6,650
Frederick .....	414	78,305	Charlottesville	10	43,475
Giles .....	356	17,286	Chesapeake	341	222,209
Gloucester .....	218	36,858	Colonial Heights	8	17,411
Goochland .....	282	21,717	Covington	5	5,161
Grayson .....	442	15,533	Danville	43	43,055
Greene .....	156	18,403	Emporia	7	5,927
Greensville .....	295	12,243	Fairfax	6	22,565
Halifax .....	818	36,241	Falls Church	2	12,332
Hanover .....	469	99,863	Franklin	8	8,582
Henrico .....	234	306,935	Fredericksburg	10	24,281
Henry .....	382	54,151	Galax	8	7,042
Highland .....	415	2,321	Hampton	51	137,436
Isle of Wight .....	316	35,270	Harrisonburg	17	48,914
James City .....	142	67,009	Hopewell	10	22,591
King and Queen .....	315	6,945	Lexington	2	7,042
King George .....	180	23,584	Lynchburg	49	75,568
King William .....	274	15,935	Manassas	10	37,821
Lancaster .....	133	11,391	Manassas Park	3	14,273
Lee .....	436	25,587	Martinsville	11	13,821
Loudoun .....	516	312,311	Newport News	69	180,719
Louisa .....	496	33,153	Norfolk	54	242,803
Lunenburg .....	432	12,914	Norton	7	3,958
Madison .....	321	13,308	Petersburg	23	32,420
Mathews .....	86	8,978	Poquoson	15	12,150
Mecklenburg .....	625	32,727	Portsmouth	34	95,535
Middlesex .....	130	10,959	Radford	10	16,408
Montgomery .....	387	94,392	Richmond	60	204,214
Nelson .....	471	15,020	Roanoke	43	97,032
New Kent .....	210	18,429	Salem	14	24,802
Northampton .....	212	12,389	Staunton	20	23,746
Northumberland .....	191	12,330	Suffolk	400	84,585
Nottoway .....	314	15,853	Virginia Beach	249	437,994
Orange .....	341	33,481	Waynesboro	15	21,006
Page .....	311	24,042	Williamsburg	9	14,068
Patrick .....	483	18,490	Winchester	9	26,203

Population of Virginia, 2010 Census, 8,001,024.

\*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

## COUNTIES AND CITIES--RANKED BY POPULATION

United States Census of 2010 (December 21, 2010)

<u>Population</u>	<u>County</u>	<u>Population</u>	<u>County</u>	<u>Population</u>	<u>County</u>
2,321.....	Highland	17,286.....	Giles	36,241 .....	Halifax
4,731.....	Bath	17,434.....	Brunswick	36,858 .....	Gloucester
5,190.....	Craig	17,454.....	Westmoreland	37,575 .....	Warren
6,824.....	Bland	18,403.....	Greene	41,452 .....	Wise
6,945.....	King and Queen	18,429.....	New Kent	41,993 .....	Shenandoah
7,058.....	Surry	18,490.....	Patrick	45,078 .....	Tazewell
7,256.....	Charles City	18,570.....	Southampton	46,689 .....	Culpeper
7,373.....	Rappahannock	21,717.....	Goochland	54,151 .....	Henry
8,978.....	Mathews	22,307.....	Rockbridge	54,842 .....	Campbell
9,254.....	Richmond	23,177.....	Scott	54,876 .....	Washington
10,052.....	Cumberland	23,368.....	Prince Edward	56,159 .....	Franklin
10,959.....	Middlesex	23,584.....	King George	63,506 .....	Pittsylvania
11,151.....	Essex	24,042.....	Page	65,203 .....	Fauquier
11,391.....	Lancaster	24,098.....	Buchanan	65,464 .....	York
12,087.....	Sussex	25,587.....	Lee	67,009 .....	James City
12,243.....	Greensville	25,691.....	Fluvanna	68,676 .....	Bedford
12,330.....	Northumberland	28,001.....	Dinwiddie	73,750 .....	Augusta
12,389.....	Northampton	28,046.....	Powhatan	76,314 .....	Rockingham
12,586.....	Charlotte	28,545.....	Caroline	78,305 .....	Frederick
12,690.....	Amelia	28,897.....	Russell	92,376 .....	Roanoke
12,914.....	Lunenburg	29,235.....	Wythe	94,392 .....	Montgomery
13,308.....	Madison	30,042.....	Carroll	98,970 .....	Albemarle
14,034.....	Clarke	32,208.....	Smyth	99,863 .....	Hanover
14,973.....	Appomattox	32,353.....	Amherst	122,397 .....	Spotsylvania
15,020.....	Nelson	32,727.....	Mecklenburg	128,961 .....	Stafford
15,279.....	Floyd	33,148.....	Botetourt	207,627 .....	Arlington
15,533.....	Grayson	33,153.....	Louisa	306,935 .....	Henrico
15,853.....	Nottoway	33,164.....	Accomack	312,311 .....	Loudoun
15,903.....	Dickenson	33,481.....	Orange	316,236 .....	Chesterfield
15,935.....	King William	34,872.....	Pulaski	402,002 .....	Prince William
16,250.....	Alleghany	35,270.....	Isle of Wight	1,081,726 .....	Fairfax
17,146.....	Buckingham	35,725.....	Prince George		

<u>Population</u>	<u>Cities</u>	<u>Population</u>	<u>Cities</u>	<u>Population</u>	<u>Cities</u>
3,958.....	Norton	16,408 .....	Radford	43,475 .....	Charlottesville
5,927.....	Emporia	17,411 .....	Colonial Heights	48,914 .....	Harrisonburg
5,961.....	Covington	17,835 .....	Bristol	75,568 .....	Lynchburg
6,222.....	Bedford*	21,006 .....	Waynesboro	84,585 .....	Suffolk
6,650.....	Buena Vista	22,565 .....	Fairfax	95,535 .....	Portsmouth
7,042.....	Galax	22,591 .....	Hopewell	97,032 .....	Roanoke
7,042.....	Lexington	23,746 .....	Staunton	137,436 .....	Hampton
8,582.....	Franklin	24,286 .....	Fredericksburg	139,966 .....	Alexandria
12,150.....	Poquoson	24,802 .....	Salem	180,719 .....	Newport News
12,332.....	Falls Church	26,203 .....	Winchester	204,214 .....	Richmond
13,821.....	Martinsville	32,420 .....	Petersburg	222,209 .....	Chesapeake
14,068.....	Williamsburg	37,821 .....	Manassas	242,803 .....	Norfolk
14,273.....	Manassas Park	43,055 .....	Danville	437,994 .....	Virginia Beach

\*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

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## 1950

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- 2.1. ADMINISTRATION OF THE GOVERNMENT GENERALLY [Repealed].
- 2.2. ADMINISTRATION OF GOVERNMENT.
3. AGRICULTURE, HORTICULTURE AND FOOD [Repealed].
- 3.1. AGRICULTURE, HORTICULTURE AND FOOD [Repealed].
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<b>Virginia Freedom of Information Act;</b> training requirements for local elected officials, proceedings for enforcement, Advisory Council shall provide online training, no penalty shall be imposed on an official for failing to complete a training session, effective date. (Patron—Obenshain)	SB 1431	531	912
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**Historical African American cemeteries;** adds New River Cemetery and West Dublin Cemetery in Pulaski County to list. (Patron—Hurst) . . . . . HB 1973 184 369

**Historical African American cemeteries;** adds Oak Lawn Cemetery in City of Suffolk to list. (Patron—Hayes) . . . . . HB 2311 251 480

**Historical African American cemeteries;** adds seven cemeteries in City of Hampton to list.  
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**Historical African American cemeteries;** adds six cemeteries in the City of Alexandria to list. (Patron—Herring) . . . . . HB 2739 260 491

**Virginia African American Advisory Board;** established, membership, report. (Patron—Bagby) . . . . . HB 2767 594 1002

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**Long-Term Employment Support Services and Extended Employment Services;** Department for Aging and Rehabilitative Services to make referrals to any employment services organizations that provide competitive or commensurate wages and is eligible to receive state-funded Services, Employment Service Organization Steering Committee established, Committee to report on policy, funding, and allocation of funds to organizations, the Committee shall meet no more than four times a year.  
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**Aging, Local Office on;** commending. (Patron—Rasoul) . . . . . HJR 738 2756

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**Animal fighting;** confiscation of tethered cocks. (Patron—Orrock) . . . . . HB 1626 345 643

**Animals;** remedies containing any part of the Cannabis plant, exemption. (Patron—Pogge) . . . . . HB 2256 267 504

**Companion animals;** adequate shelter means during hot weather, is properly shaded, etc., definition of adequate space includes tethering of animals. (Patron—Spruill) . . . . . SB 1025 848 1998

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Patron—DeSteph . . . . . SB 1604 537 934

**Dangerous dogs;** deferral of proceedings. (Patron—Hope) . . . . . HB 2745 190 377

**Dogs;** any locality may by ordinance prohibit the running at large in packs, except dogs used in hunting, civil penalty. (Patron—Norment) . . . . . SB 1367 562 972

**Industrial hemp;** clarifies definition of "hemp product," conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law, testing of Cannabis sativa, reports, abolishes the higher education and Virginia industrial hemp research programs, etc.  
Patron—Marshall . . . . . HB 1839 653 1140  
Patron—Ruff . . . . . SB 1692 654 1159

**Livestock;** changes definition to include alpacas. (Patron—Pogge) . . . . . HB 2689 258 487

**Personal property tax;** exemption for agricultural vehicles farm machinery includes equipment and machinery used by a nursery for production of horticultural products and any farm tractor. (Patron—Webert) . . . . . HB 2733 259 490

**AIRCRAFT AND AIRPORTS**

**Unmanned aircraft system;** trespassing with system if takes off or lands in violation of current Federal Aviation Administration Special Security Instructions, etc., guilty of Class 1 misdemeanor. (Patron—Knight) . . . . . HB 1636 612 1015

**Unmanned aircraft systems;** used by law-enforcement officer to aerially survey a primary residence of the subject of the arrest warrant to formulate a plan to execute an existing arrest warrant or capias for a felony offense, etc. (Patron—Carrico) . . . . . SB 1507 781 1808

**ALBEMARLE COUNTY**

**Court buildings;** courthouses allowed to be located on property owned jointly by a county and city, location of district courts for Albemarle County. (Patron—Bell, Robert B.) . . . . . HB 2239 240 464

**ALCOHOLIC BEVERAGE CONTROL ACT**

**Alcoholic beverage control;** alcoholic beverage licenses, definition of "bespoke clothier establishment," etc., cworking establishment license. (Patron—Sturtevant) . . . . . SB 1420 628 1057

**Alcoholic beverage control;** allows the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held, etc., certain provisions of enactments shall become effective on July 1, 2020, repeals provision relating to licenses for establishments in national forests, certain adjoining lands, etc.

Patron—Hurst . . . . . HB 2634 178 348

Patron—Reeves . . . . . SB 1110 37 65

**Alcoholic beverage control;** creates an annual mixed beverage performing arts facility license. (Patron—Landes) . . . . . HB 1657 174 344

**Alcoholic beverage control;** creates local special events license. (Patron—McPike) . . . . . SB 1171 622 1044

**Alcoholic beverage control;** distiller licensees, monthly revenue transfers from licensed distillers to Board electronically and through other methods, provisions shall become effective on July 1, 2020. (Patron—Peake) . . . . . SB 1709 814 1905

**Alcoholic beverage control;** happy hour advertising, using creative marketing techniques, techniques not intended to induce overconsumption or consumption by minors.

Patron—Bell, John J. . . . . HB 2073 29 54

Patron—McDougle . . . . . SB 1726 7 11

**Alcoholic beverage control;** manufacture of low alcohol beverage cooler by a licensed distiller or distiller located outside the Commonwealth, regulation of sale. (Patron—Toscano) . . . . . HB 1960 466 829

**Alcoholic beverage control;** notwithstanding the requirement for a referendum for liquor by the drink, Board of Directors of the Alcoholic Beverage Control Authority may issue a mixed beverage license to establishments located on property fronting Doe Creek Farm Road and various other properties. (Patron—Hurst) . . . . . HB 1905 175 346

**Alcoholic beverage control;** regulations, terms and conditions for a mixed beverage licensee, delivery permittees, records on deliveries of wine and beer, permittees shall remit records on a monthly basis for any month during which permittee makes a delivery and is required to collect and remit excise taxes due to Authority. (Patron—Knight) . . . . . HB 2367 706 1309

**Alcoholic beverage control;** Sunday store hours, Authority shall pay a licensed distiller certain commission.

Patron—Knight . . . . . HB 1770 810 1897

Patron—Reeves . . . . . SB 1668 811 1899

**Human trafficking hotline;** Virginia Alcoholic Beverage Control Authority and the Virginia Employment Commission shall post notice of the existence of a hotline in government stores and employment offices, to alert possible witnesses or victims. (Patron—Miyares) . . . . . HB 1887 388 715

**ALDERSON, RICHARD**

**Alderson, Richard;** commending. (Patron—Krizek) . . . . . HJR 1105 2942

**ALEXANDER, CHARLES**

**Alexander, Charles;** commending. (Patron—Toscano) . . . . . HJR 931 2855

**ALEXANDRIA, CITY OF**

**Historical African American cemeteries;** adds six cemeteries in the City of Alexandria to list. (Patron—Herring) . . . . . HB 2739 260 491

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**ALEXANDRIA DIVISION OF AGING AND ADULT SERVICES**

**Alexandria Division of Aging and Adult Services; commending.** (Patron—Ebbin) . . . SJR 471 3205

**ALEXANDRIA LIBRARY COMPANY**

**Alexandria Library Company; commemorating the occasion of the 225th anniversary of its founding.** (Patron—Levine) . . . HR 439 3061

**ALL-TERRAIN VEHICLES (ATVS)**

**All-terrain vehicles (ATVs), mopeds, and off-road motorcycles; clarifies taxation on vehicles, etc., in any city or county located within the Historic Triangle, an additional one percent tax shall be imposed.** (Patron—Orrock) . . . HB 1679 52 85

**ALTERNATIVE EDUCATION PROGRAMS**

**Alternative education programs; Department of Education shall annually collect from each school board and publish on its website various enrollment and achievement data on programs for students who have been suspended, expelled, or otherwise precluded from attendance at school, data shall include average length of enrollment in an alternative education program, etc.**  
Patron—Bell, Richard P. . . . HB 1985 123 188  
Patron—Barker . . . SB 1298 232 454

**ALVEY, SANDRA LOUISE**

**Alvey, Sandra Louise; commending.** (Patron—Toscano) . . . HR 420 3053

**AMERICAN JEWISH COMMITTEE WASHINGTON, D.C.**

**American Jewish Committee Washington, D.C.; commending the occasion of its 75th anniversary of service to communities throughout Virginia, Maryland, and the District of Columbia.** (Patron—Filler-Corn) . . . HJR 1133 2955

**AMERICAN LEGION**

**American Legion; commemorating its 100th anniversary.**  
Patron—Thomas . . . HJR 587 2703  
Patron—Cosgrove . . . SJR 263 3071

**AMIKIDS**

**AMIkids; commemorating its 50th anniversary.** (Patron—Marsden) . . . SJR 326 3126

**ANDERSON, ALVIN W., SR.**

**Anderson, Alvin W., Sr.; recording sorrow upon death.** (Patron—Jones, S.C.) . . . HJR 768 2772

**ANDERSON, SCOTT MARVIN**

**Anderson, Scott Marvin; recording sorrow upon death.**  
Patron—Cole . . . HJR 834 2805  
Patron—Stuart . . . SJR 359 3146

**APPALACHIAN AGENCY FOR SENIOR CITIZENS**

**Appalachian Agency for Senior Citizens; commending.** (Patron—Chafin) . . . SJR 342 3136

**APPALACHIAN CAST PRODUCTS**

**Appalachian Cast Products; commending.** (Patron—O'Quinn) . . . HJR 709 2742

**APPALACHIAN PLASTICS, INC.**

**Appalachian Plastics, Inc.; commemorating its 50th anniversary.** (Patron—O'Quinn) . . . HJR 764 2770

**APPLEGATE, MICHAEL**

**Applegate, Michael; commending.** (Patron—Tran) . . . HJR 1115 2947

**APPOINTMENTS**

**Governor; confirming appointments.**  
Patron—Vogel . . . SJR 292 3082  
Patron—Vogel . . . SJR 293 3082  
Patron—Vogel . . . SJR 294 3086  
Patron—Vogel . . . SJR 295 3096  
Patron—Vogel . . . SJR 296 3105  
Patron—Vogel . . . SJR 319 3121  
Patron—Vogel . . . SJR 332 3129

**Senate Ethics Advisory Panel; confirming appointments by Senate Committee on Rules.** (Patron—McDougle) . . . SR 143 3239

**Virginia Conflict of Interest and Ethics Advisory Council; confirming an appointment by Senate Committee on Rules.** (Patron—McDougle) . . . SJR 418 3177

**Virginia Retirement System, Board of Trustees; confirming appointments by Joint Rules Committee.** (Patron—Cox) . . . HJR 1097 2938

## APPROPRIATIONS

<b>Budget bill;</b> appropriations for 2018-2020 biennium. (Patron—Jones, S.C.) . . . . .	HB 1700	854	2009
<b>Cruelty to animals;</b> aggravated cruelty, definition of "serious bodily injury," increases penalty. Patron—Ransone . . . . .	HB 1874	536	931
Patron—DeSteph . . . . .	SB 1604	537	934
<b>Driving while intoxicated or operating watercraft while intoxicated;</b> maiming, etc., of another, definition of "serious bodily injury," penalties. (Patron—Bell, Robert B.) .	HB 1941	465	829
<b>Duties of drivers of vehicles approaching stationary vehicles displaying certain warning lights;</b> yielding of right-of-way or reducing speed, penalty, repeals certain provision relating to drivers yielding right-of-way when approaching stationary emergency vehicles, etc. (Patron—Peace) . . . . .	HB 1911	850	2002
<b>Prostitution and sex trafficking;</b> offenses involving a minor, penalties. (Patron—Bell, Robert B.) . . . . .	HB 2586	617	1024
<b>Relief;</b> Bush, Gary Linwood. (Patron—Deeds) . . . . .	SB 1477	652	1139

## AQUACULTURE

<b>Oyster planting grounds;</b> authorizes Commissioner of Marine Resources to decide which area within a riparian owner's waters shall be assigned for planting, Commissioner shall consider public benefits and impacts of shellfish aquaculture. (Patron—Mason) . . . . .	SB 1413	164	328
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## AQUIA HARBOUR COMMUNITY

<b>Aquia Harbour community;</b> commemorating its 50th anniversary. (Patron—Thomas)	HJR 1045		2914
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## ARLINGTON AREA AGENCY ON AGING

<b>Arlington Area Agency on Aging;</b> commending. (Patron—Hope) . . . . .	HJR 1015		2899
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## ARLINGTON COUNTY FIRE DEPARTMENT STATION 8

<b>Arlington County Fire Department Station 8;</b> commemorating its 100th anniversary. (Patron—Sullivan) . . . . .	HJR 686		2732
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## ARLINGTON FREE CLINIC

<b>Arlington Free Clinic;</b> commemorating its 25th anniversary. (Patron—Lopez) . . . . .	HJR 963		2871
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## ARLINGTON PARTNERSHIP FOR AFFORDABLE HOUSING

<b>Arlington Partnership for Affordable Housing;</b> commemorating its 30th anniversary. (Patron—Lopez) . . . . .	HJR 1101		2940
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## ARMED FORCES

<b>Commercial driver's licenses;</b> Commissioner of DMV to waive certain knowledge and skills tests required for obtaining a permit or license for certain current or former military service members. (Patron—Thomas) . . . . .	HB 2551	161	324
<b>Commercial driver's licenses;</b> entry-level driver training, Commissioner shall waive the knowledge test and driving skills test for certain current or former military service members applying for certain endorsements, etc. (Patron—Deeds) . . . . .	SB 1481	750	1735
<b>Concealed handgun permit;</b> application for a resident permit by a member of United States Armed Forces. (Patron—Stuart) . . . . .	SB 1179	624	1052
<b>Constitutional amendment;</b> personal property tax exemption for one motor vehicle owned and used primarily by or for a disabled veteran, "motor vehicle" shall include only automobiles and pickup trucks, exception (first reference). Patron—Filler-Corn . . . . .	HJR 676	822	1940
Patron—Reeves . . . . .	SJR 278	823	1942
<b>Military families;</b> relocation to the Commonwealth, students may register, remotely or in-person, for courses and other academic programs, etc. Patron—Cole . . . . .	HB 1623	404	733
Patron—Reeves . . . . .	SB 1249	62	101
<b>Military retirement benefits;</b> determination of benefits in a divorce. (Patron—Toscano) . . . . .	HB 1988	304	590
<b>Military retirement income;</b> Department of Veterans Services and the Department of Taxation to convene a joint working group to study the feasibility of exempting income from taxation. (Patron—Torian) . . . . .	HJR 674		2732
<b>Nursing, Board of;</b> application for license or certification by military spouse, expedited review. (Patron—Guzman) . . . . .	HB 2129	287	546

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**ARMED FORCES - Continued**

**Real property tax;** exemption for the surviving spouse of a disabled veteran to such spouse's principal place of residence regardless of whether such spouse moves to a different residence.

Patron—Miyares .....	HB 1655	15	19
Patron—Stuart .....	SB 1270	801	1879

**Veterans Services, Board of;** increases membership and clarifies scope of responsibilities.

Patron—Helsel .....	HB 2632	204	397
Patron—Reeves .....	SB 1241	40	74

**Virginia Military Survivors and Dependents Education Program;** eligibility, Virginia Military Survivors and Dependents Education Fund, stipends.

Patron—Torian .....	HB 2685	491	868
Patron—McPike .....	SB 1173	317	610

**ARMENIAN FOOD FESTIVAL**

**Armenian Food Festival;** commemorating its 60th anniversary in 2018. (Patron—Adams, D.M.) .....

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**ARROWHEAD ELEMENTARY SCHOOL**

**Arrowhead Elementary School;** commemorating its 55th anniversary. (Patron—Turpin) .....

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**ARTS AND HUMANITIES**

**Alcoholic beverage control;** creates an annual mixed beverage performing arts facility license. (Patron—Landes) .....

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**Smoking in outdoor amphitheater or concert venue;** any locality, by ordinance, may designate reasonable no-smoking areas. (Patron—Edwards) .....

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**ARUN, BODHISATTVA SWAMI ANAND**

**Arun, Bodhisattva Swami Anand;** commending. (Patron—Bell, John J.) .....

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**ASHBERRY, LANI**

**Ashberry, Lani;** commending. (Patron—Hodges) .....

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**ASHE, VICTOR J.**

**Ashe, Victor J.;** commemorating his life and legacy on the occasion of the 45th anniversary of his death. (Patron—Spruill) .....

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**ASHLAND, TOWN OF**

**Pedestrian crossings;** Town of Ashland added to list of localities that may provide by ordinance for the installation and maintenance of highway signs at marked crosswalks requiring drivers to yield to pedestrians. (Patron—Fowler) .....

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**ASHWORTH, LUTHER RAY**

**Ashworth, Luther Ray;** recording sorrow upon death. (Patron—Norment) .....

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**ASIAN AMERICAN CHAMBER OF COMMERCE**

**Asian American Chamber of Commerce;** commemorating its 10th anniversary. (Patron—Keam) .....

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**ASSISTED LIVING FACILITIES**

**Assisted living facilities;** Board of Social Services to amend regulations governing staffing of certain units during overnight hours.

Patron—Rasoul .....	HB 2521	294	563
Patron—Mason .....	SB 1410	97	156

**Assisted living facilities;** facility shall give immediate notice to regional licensing office, etc., that licensed administrator resigned, etc., and shall provide last date of employment, authorization to operate under supervision of an acting administrator for more than two times in any two-year period shall be made by the Department on a case-by-case basis. (Patron—Mason) .....

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**Assisted living facilities;** temporary emergency electrical power source, disclosure to prospective residents. (Patron—Hope) .....

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**Assisted living facility;** State Board of Social Services to amend its regulations regarding generator requirements. (Patron—Howell) .....

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**Child welfare agencies and assisted living facilities;** Commissioner of Social Services may issue a notice of summary suspension of the license, summary suspension hearing. (Patron—McClellan) .....

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<b>Attorney General, Office of the</b> ; representation of members of the General Assembly for violations of the Virginia Freedom of Information Act. (Patron—DeSteph) . . . . .	SB	1101	357 660
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<b>Attucks Theatre</b> ; commemorating its 100th anniversary. (Patron—Jones, J.C.) . . . . .	HJR	975	2878
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<b>Auburn High School boys' and girls' cross country teams</b> ; commending. (Patron—Suetterlein) . . . . .	SR	163	3247
<b>AUDITOR OF PUBLIC ACCOUNTS</b>			
<b>Annual local audit</b> ; notice of delay, any town with a population of less than 3,500 that voluntarily has an audit shall submit results to the Auditor of Public Accounts. (Patron—Peace) . . . . .	HB	1866	322 615
<b>Auditor of Public Accounts</b> ; Commonwealth Data Point, employee compensation information. (Patron—Peake) . . . . .	SB	1556	731 1601
<b>Voluntary town audits</b> ; submission to Auditor of Public Accounts. (Patron—Hanger) .	SB	1312	361 679
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<b>Austin, Robert J.</b> ; commending. (Patron—Jones, S.C.) . . . . .	HJR	1023	2903
<b>AUTHORITIES</b>			
<b>Alcoholic beverage control</b> ; allows the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held, etc., certain provisions of enactments shall become effective on July 1, 2020, repeals provision relating to licenses for establishments in national forests, certain adjoining lands, etc. Patron—Hurst . . . . .	HB	2634	178 348
Patron—Reeves . . . . .	SB	1110	37 65
<b>Alcoholic beverage control</b> ; notwithstanding the requirement for a referendum for liquor by the drink, Board of Directors of the Alcoholic Beverage Control Authority may issue a mixed beverage license to establishments located on property fronting Doe Creek Farm Road and various other properties. (Patron—Hurst) . . . . .	HB	1905	175 346
<b>Alcoholic beverage control</b> ; Sunday store hours, Authority shall pay a licensed distiller certain commission. Patron—Knight . . . . .	HB	1770	810 1897
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<b>Chesapeake Hospital Authority</b> ; investment of funds held by the Authority, or contributed to its affiliated foundations, shall be exempt from application of the Investment of Public Funds Act. Patron—Leftwich . . . . .	HB	2286	249 478
Patron—Spruill . . . . .	SB	1088	250 479
<b>Fort Monroe Authority</b> ; changes definition of "Area of Operation." Patron—Helsel . . . . .	HB	1963	389 716
Patron—Locke . . . . .	SB	1131	38 72
<b>Fort Monroe Authority</b> ; payments to the City of Hampton in lieu of real property taxes, leases with other government entities. Patron—Helsel . . . . .	HB	1965	468 836
Patron—Locke . . . . .	SB	1089	469 837
<b>Freedom of Information Act</b> ; authorizes board of trustees of the Fort Monroe Authority to hold closed meetings to discuss certain matters. Patron—Helsel . . . . .	HB	1964	4 3
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<b>Human trafficking hotline</b> ; Virginia Alcoholic Beverage Control Authority and the Virginia Employment Commission shall post notice of the existence of a hotline in government stores and employment offices, to alert possible witnesses or victims. (Patron—Miyares) . . . . .	HB	1887	388 715

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<b>Literary Fund;</b> Board of Education shall establish a program to subsidize interest payments on certain loans made by the Virginia Public School Authority. (Patron—Ruff) . . . . .	SB	1093	807	1893
<b>Living shorelines;</b> loans to businesses, to be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority. (Patron—Hodges) . . . . .	HB	2783	497	878
<b>Northern Virginia Transportation Authority;</b> analysis of projects, repeals provision relating to responsibilities of Department of Transportation for analysis of transportation projects in Northern Virginia Transportation District. (Patron—Black) . . . . .	SB	1468	749	1731
<b>Southwest Virginia Energy Research and Development Authority;</b> created, report, sunset provision. Patron—Kilgore . . . . .	HB	2747	555	963
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**AUTISM**

<b>Health insurance;</b> health insurers, health care subscription plans, and health maintenance organizations to provide coverage for autism spectrum disorder for the diagnosis and treatment of individuals of any age. Patron—Thomas . . . . .	HB	2577	452	813
Patron—Vogel . . . . .	SB	1693	451	810

**AVIATION**

<b>Unmanned aircraft system;</b> trespassing with system if takes off or lands in violation of current Federal Aviation Administration Special Security Instructions, etc., guilty of Class 1 misdemeanor. (Patron—Knight) . . . . .	HB	1636	612	1015
<b>Unmanned aircraft systems;</b> used by law-enforcement officer to aerially survey a primary residence of the subject of the arrest warrant to formulate a plan to execute an existing arrest warrant or <i>capias</i> for a felony offense, etc. (Patron—Carrico) . . . . .	SB	1507	781	1808

**AXSELLE, RALPH L., JR.**

<b>Axselle, Ralph L., Jr.;</b> recording sorrow upon death. (Patron—VanValkenburg) . . . . .	HJR	873		2824
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**BACKPACK BUDDIES FOUNDATION OF LOUDOUN**

<b>Backpack Buddies Foundation of Loudoun;</b> commending. (Patron—Reid) . . . . .	HJR	967		2873
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**BAIL AND RECOGNIZANCE**

<b>Bail and recognizances;</b> magistrate's checklist, surety's basis for request for <i>capias</i> . (Patron—Adams, L.R.) . . . . .	HB	2453	176	347
<b>Resetting bail, bond, and recognizance determinations;</b> appeal from order, bail decision, jurisdiction. (Patron—VanValkenburg) . . . . .	HB	2320	616	1023

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<b>Baker, Russell;</b> recording sorrow upon death. (Patron—Bell, John J.) . . . . .	HR	374		3034
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**BALDWIN, MALCOLM FORBES**

<b>Baldwin, Malcolm Forbes;</b> recording sorrow upon death. (Patron—LaRock) . . . . .	HJR	1084		2932
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**BALLOTS AND BALLOTING**

<b>Form of ballot;</b> on any ballot all offices to be elected shall appear before any questions presented to the voters. Patron—McNamara . . . . .	HB	2046	283	543
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<b>Bandazian and Company;</b> commemorating its 45th anniversary. (Patron—Carr) . . . . .	HJR	850		2813
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**BARKER, GARNER ALLEN**

<b>Barker, Garner Allen;</b> recording sorrow upon death. (Patron—Carrico) . . . . .	SJR	377		3155
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<b>Barnett, Mary J.;</b> recording sorrow upon death. (Patron—Lewis) . . . . .	SJR	456		3198
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<b>Barnwell, Barney;</b> commending. (Patron—Surovell) . . . . .	SJR	461		3201
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<b>Barrow, Leslyn;</b> commending. (Patron—Simon) . . . . .	HJR	859		2817
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<b>Child in foster care</b> ; local departments of social services shall notify appropriate community services board when child is identified as having a developmental disability. (Patron—Favola) . . . . .	SB 1135	301	588
<b>Corrections, Department of</b> ; development of policies to improve exchange of offender medical and mental health information and records, report. (Patron—Watts) . . . . .	HB 2499	202	394
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<b>Dental hygienist</b> ; remote supervision of a dentist employed by Department of Behavioral Health and Developmental Services or Department of Health, report, implementation of provisions. (Patron—Adams, D.M.) . . . . .	HB 1849	86	131
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<b>Government Data Collection and Dissemination Practices Act</b> ; dissemination of information concerning religious preferences and affiliations. (Patron—Tran) . . . . .	HB 2494	774	1784
<b>Health information</b> ; Department of Behavioral Health and Developmental Services shall convene a workgroup to study issue of and to develop a plan for sharing of protected information of individuals with mental health treatment needs between community services boards and local and regional jails. (Patron—Boysko) . . . . .	SB 1644	685	1262
<b>Health insurance</b> ; health insurers and other carriers that credential the mental health professionals in their provider networks may establish reasonable protocols and procedures for credentialing private mental health agencies, protocols and procedures shall require an agency to maintain minimum audit report requirements. (Patron—Dunnavant) . . . . .	SB 1685	689	1279
<b>Mental Health Services in the Commonwealth in the Twenty-First Century, Joint Subcommittee Studying</b> ; continued. (Patron—Deeds) . . . . .	SJR 301		3113
<b>Prisoners</b> ; process for sheriff or administrator to authorize medical and mental health treatment of those incapable of giving consent. (Patron—Hope) . . . . .	HB 1933	809	1895
<b>Qualified mental health professionals</b> ; Board of Counseling to promulgate regulations for registration of persons receiving supervised training.			
Patron—Price . . . . .	HB 2693	217	432
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<b>Recovery residences</b> ; definitions, certification by Department of Behavioral Health and Developmental Services, civil penalty. (Patron—Hurst) . . . . .	HB 2045	220	441

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**BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES - Continued**

<b>Regulation of licensed providers;</b> Board of Behavioral Health and Developmental Services to require disclosure of certain information about employees, information subject to privilege or confidentiality. (Patron—Hope) . . . . .	HB	2652	776	1794
<b>School-based health centers;</b> Virginia's Children's Cabinet shall establish a joint task force who shall be tasked with assessing the current landscape of school-based services and mental health screening, etc. (Patron—Dance) . . . . .	SB	1195	445	793
<b>State hospitals for individuals with mental illness;</b> Secretary of Health and Human Resources shall convene a work group to examine causes of high census at the Commonwealth's state hospitals. (Patron—Hanger) . . . . .	SB	1488	609	1013

**BELL, JOSHUA WAYNE**

<b>Bell, Joshua Wayne;</b> recording sorrow upon death. (Patron—Delaney) . . . . .	HR	455		3068
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**BENEDICTINE SISTERS OF VIRGINIA**

<b>Benedictine Sisters of Virginia;</b> commending. (Patron—Stuart) . . . . .	SJR	288		3080
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**BENJAMIN, LEON**

<b>Benjamin, Leon;</b> commending. (Patron—Chase) . . . . .	SR	127		3231
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**BENNETT, MICHAEL**

<b>Bennett, Michael;</b> commending. (Patron—Krizek) . . . . .	HJR	1109		2944
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**BENTLEY, TONY**

<b>Bentley, Tony;</b> commending. (Patron—Lopez) . . . . .	HJR	1102		2941
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**BERRYVILLE, TOWN OF**

<b>Berryville, Town of;</b> amending charter, updates boundary description, specifies certain town council appointments, etc. (Patron—LaRock) . . . . .	HB	2572	308	595
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**BETHEL, EVELYN**

<b>Bethel, Evelyn and Helen Davis;</b> commending. (Patron—Rasoul) . . . . .	HJR	950		2864
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**BEVILLE, JAY**

<b>BeVille, Jay;</b> commending. (Patron—Mullin) . . . . .	HJR	901		2838
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**BLACK CREEK VOLUNTEER FIRE DEPARTMENT**

<b>Black Creek Volunteer Fire Department;</b> commemorating its 50th anniversary. Patron—Peace . . . . .	HJR	635		2721
Patron—McDougle . . . . .	SR	101		3218

**BLACK WOMEN IN THE GENERAL ASSEMBLY**

<b>Black women in the General Assembly;</b> commemorating the occasion of the 35th anniversary of the first Black female legislator to serve in the General Assembly. Patron—Price . . . . .	HR	416		3051
Patron—Lucas . . . . .	SR	157		3244

**BLIND PERSONS**

<b>"Blind person";</b> amends definition in conformance with definition set forth by the Social Security Administration. (Patron—Krizek) . . . . .	HB	1938	88	136
<b>Special identification card;</b> applicants who are blind or vision impaired. (Patron—Keam) . . . . .	HB	1927	75	112

**BLOOM BY DOYLE'S**

<b>Bloom by Doyle's;</b> commemorating its 100th anniversary. (Patron—Garrett) . . . . .	HJR	1072		2927
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**BOBZIEN, DAVID P.**

<b>Bobzien, David P.;</b> recording sorrow upon death. (Patron—Plum) . . . . .	HJR	945		2862
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**BOGESE, MICHAEL JOSEPH, JR.**

<b>Bogese, Michael Joseph, Jr.;</b> recording sorrow upon death. (Patron—Adams, D.M.) . .	HR	230		2968
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**BOND ISSUES**

<b>Commonwealth of Virginia Institutions of Higher Education Bond Act of 2019;</b> created. Patron—Jones, S.C. . . . .	HB	2357	187	371
Patron—Hanger . . . . .	SB	1319	56	94

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<b>Bail bondsman;</b> surrender of principal, deposit. (Patron—Collins) . . . . .	HB	2659	205	398
<b>Forfeiture on recognizance;</b> bail bondsman, suspension of license. (Patron—Bell, Richard P.) . . . . .	HB	2078	200	391

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<b>Bosserman, Jerry P.;</b> commending. (Patron—Vogel) . . . . .	SR	137		3236
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**BOTETOURT COUNTY**

**Virginia Rural Information Technology Apprenticeship Grant Fund and Program**; established, Botetourt County included in definition of "qualified locality." (Patron—Kilgore) . . . . . HB 2185 647 1128

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**BOWLES, JAMES H.**

**Bowles, James H.**; recording sorrow upon death. (Patron—Ware) . . . . . HJR 906 2841

**BOYD, DONALD E.**

**Boyd, Donald E.**; recording sorrow upon death. (Patron—Hugo) . . . . . HR 412 3049

**BOYER, DAVID**

**Boyer, David**; commending. (Patron—Campbell, J.L.) . . . . . HJR 851 2814

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**Boys & Girls Clubs of Southeast Virginia**; commemorating its 100th anniversary. (Patron—Wagner) . . . . . SJR 415 3176

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**Bradshaw, Elizabeth and Lauren**; commending. (Patron—Hugo) . . . . . HR 250 2978

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**Branch, Alvin Deon**; recording sorrow upon death. (Patron—Miyares) . . . . . HJR 701 2738

**BRAXTON-PERKINS AMERICAN LEGION POST 25**

**Braxton-Perkins American Legion Post 25**; commemorating its 100th anniversary.  
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Patron—Mason . . . . . SJR 432 3184

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**Breastfeeding Awareness Month**; designating as August 2019, and each succeeding year thereafter. (Patron—McClellan) . . . . . SJR 298 3112

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**Brent, Dennis Lynn**; recording sorrow upon death. (Patron—Peake) . . . . . SJR 340 3134

**BRINKLEY, CARL DAVID**

**Brinkley, Carl David**; recording sorrow upon death. (Patron—Deeds) . . . . . SJR 372 3152

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**Bristol Chamber of Commerce**; commemorating its 110th anniversary. (Patron—O'Quinn) . . . . . HJR 1055 2919

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**BRISTOL MOTOR SPEEDWAY**

**The employees of Bristol Motor Speedway**; commending. (Patron—O'Quinn) . . . . . HJR 1054 2919

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**Brodie, Jan**; commending. (Patron—Surovell) . . . . . SJR 465 3202

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**Brooke Point High School wrestling team**; commending. (Patron—Thomas) . . . . . HR 388 3039

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**Brooking, Richard**; commending. (Patron—Freitas) . . . . . HJR 883 2829

**BROOKS, NORMAN**

**Brooks, Norman**; recording sorrow upon death. (Patron—Orrock) . . . . . HJR 1034 2909

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**Brown family**; commending their 100 years of success in the beverage industry.  
Patron—Bagby . . . . . HJR 978 2880  
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**Brown, Hugh Rose**; recording sorrow upon death. (Patron—Simon) . . . . . HJR 744 2760

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<b>Buckingham County;</b> conveyance of a right-of-way easement from Department of Forestry which will follow an existing road across a portion of Appomattox-Buckingham State Forest. (Patron—Fariss) . . . . .	HB	1783	73 112
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<b>Budget bill;</b> appropriations for 2018-2020 biennium. (Patron—Jones, S.C.) . . . . .	HB	1700	854 2009
<b>BUILDING CODE</b>			
<b>Public school building security enhancements;</b> compliance with Uniform Statewide Building Code and Statewide Fire Prevention Code. (Patron—Knight) . . . . .	HB	1725	121 187
<b>Uniform Statewide Building Code;</b> fees levied shall be used only to support functions of the local building departments, when denying an application for the issuance of a building permit, department shall provide to the applicant a written explanation detailing the reasons for which the application was denied. (Patron—Yancey) . . . . .	HB	1966	698 1291
<b>Uniform Statewide Building Code (USBC) and Statewide Fire Prevention Code (SFPC);</b> Department of Housing and Community Development to convene stakeholders to develop proposals for changes to Codes with the goal of assisting in the provision of safety and security measures for public or private elementary and secondary schools and public or private institutions of higher education for active shooter or hostile threats. (Patron—Hanger) . . . . .	SB	1755	723 1587
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<b>Bunn, Yvonne;</b> commending. (Patron—Black) . . . . .	SR	154	3242
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<b>Burgerim;</b> commending. (Patron—Bell, John J.) . . . . .	HR	366	3031
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<b>Burrus, Krissia Ansara Henderson;</b> recording sorrow upon death. (Patron—McQuinn) . . . . .	HJR	839	2807
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<b>Relief;</b> Bush, Gary Linwood. (Patron—Deeds) . . . . .	SB	1477	652 1139
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<b>Bush, George Herbert Walker;</b> recording sorrow upon death. (Patron—Cox) . . . . .	HJR	971	2875
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<b>Bushong, James Robert;</b> recording sorrow upon death.			
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<b>BUSINESS ENGINEERING, INC.</b>			
<b>Business Engineering, Inc.;</b> commending. (Patron—Howell) . . . . .	SJR	389	3161
<b>BUSINESSES</b>			
<b>Child day programs;</b> exempts from licensure any program in which child-minding services are offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and no more than eight hours per day, etc. (Patron—Miyares) . . . . .	HB	2756	667 1201
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<b>License tax, local;</b> definition of new business, owner of new business that operates a mobile food unit pays tax required by locality in which unit is registered. (Patron—Dunnivant) . . . . .	SB	1425	791 1860

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<b>Living shorelines;</b> loans to businesses, to be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority. (Patron—Hodges) . . . . .	HB 2783	497	878
<b>Major business facility job tax credit;</b> extends sunset date, Department of Taxation to publish information about companies in a manner that prevents identification of particular taxpayers and reports. (Patron—Aird) . . . . .	HB 2003	699	1292
<b>Worker retraining tax credit;</b> sunset date, worker training investment tax credit created. (Patron—Byron) . . . . .	HB 2539	189	374
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<b>Byers, Frances Mae West;</b> commemorating the occasion of her 104th birthday. (Patron—Peake) . . . . .	SJR 331		3129
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<b>CAMPAIGN PRACTICES</b>			
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<b>CAMPBELL, LAWRENCE G., SR.</b>			
<b>Campbell, Lawrence G., Sr.;</b> commending. (Patron—Marshall) . . . . .	HJR 1064		2924
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<b>Cancer patients;</b> expedited review of adverse coverage determinations, exhaustion of health carrier's internal appeal process.			
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<b>Workers' compensation;</b> presumption of compensability for certain diseases, adds cancers of the colon, brain, or testes to the list that are presumed to be an occupational disease when firefighters and certain employees develop the cancer, review of Virginia Workers' Compensation program.			
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<b>CANDIDATES IN ELECTIONS</b>			
<b>Campaign Finance Disclosure Act of 2006;</b> applicability to certain candidates for town offices. (Patron—Hurst) . . . . .	HB 1719	825	1945
<b>Elections, State Board of;</b> Board, on or before January 1, 2020, shall revise its processes and associated regulations for viewing and processing candidate petitions, checking petition signatures. (Patron—Lewis) . . . . .	SB 1564	682	1255
<b>Form of ballot;</b> uniformity of names of candidates. (Patron—Ingram) . . . . .	HB 2148	289	554
<b>CAPE CHARLES, TOWN OF</b>			
<b>Parking of certain vehicles;</b> adds the Town of Cape Charles to the list of towns that are permitted to regulate or prohibit the parking on any public highway of watercraft, boat trailers, etc.			
Patron—Bloxom . . . . .	HB 1777	144	306
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<b>CAPITAL MURDER</b>			
<b>Capital murder;</b> law-enforcement officers and fire marshals, where offender was 18 years of age or older at time of offense, punishment shall be no less than a mandatory minimum term of confinement for life.			
Patron—Pillion . . . . .	HB 2615	835	1969
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<b>Defendants;</b> no unrestorably incompetent defendant charged with capital murder shall be released except pursuant to a court order. (Patron—Ebbin) . . . . .	SB 1231	797	1873
<b>CAPRON, TOWN OF</b>			
<b>Capron, Town of;</b> new charter (previous charter repealed). (Patron—Tyler) . . . . .	HB 2808	315	606

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<b>Cardiopulmonary Resuscitation Awareness Day</b> ; designating as February 20, 2019, and each succeeding year thereafter. (Patron–McDougle) . . . . .	SJR 289		3080
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<b>Career and Technical Education Work-Based Learning Guide</b> ; Board of Education shall review and revise.			
Patron–Peace . . . . .	HB 2018	143	305
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<b>Teacher licensure</b> ; Board of Education shall provide for issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools, Chancellor of the Virginia Community College or his designee shall serve as an ex officio member of the Advisory Board on Teacher Education and Licensure, report. (Patron–Ebbin) . . . . .	SB 1575	767	1771
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<b>Carey, Justin</b> ; commending. (Patron–Hope) . . . . .	HJR 816		2795
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<b>Carlucci, Frank C., III</b> ; recording sorrow upon death. (Patron–Murphy) . . . . .	HJR 818		2796
<b>CAROLINE COUNTY</b>			
<b>Voluntary boundary</b> ; agreement between Counties of Caroline and Essex, attachment of GIS map to petitions. (Patron–Hodges) . . . . .	HB 2316	705	1308
<b>CARR, WILLIAM H.</b>			
<b>Carr, William H.</b> ; commending. (Patron–Sturtevant) . . . . .	SJR 475		3207
<b>CARROLL COUNTY</b>			
<b>Southwestern Virginia Training Center</b> ; the Commonwealth shall not convey, sell, or otherwise dispose of certain real property in Carroll County outside the Town of Hillsville on which the former Center was situated. (Patron–Carrico) . . . . .	SB 1509	610	1014
<b>CARTER, CHRISTOPHER C., SR.</b>			
<b>Carter, Christopher C., Sr.</b> ; commending. (Patron–Price) . . . . .	HJR 1079		2930
<b>CASANOVA HUNT</b>			
<b>Casanova Hunt</b> ; commemorating its 110th anniversary. (Patron–Guzman) . . . . .	HR 233		2970
<b>CASEY, WILLIAM F., JR.</b>			
<b>Casey, William F., Jr.</b> ; recording sorrow upon death. (Patron–Bell, John J.) . . . . .	HR 266		2985
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<b>Virginia Lottery Board</b> ; regulation of casino gaming, penalties, report. (Patron–Lucas) . . . . .	SB 1126	789	1848
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<b>Cason, Brittney L.</b> ; recording sorrow upon death. (Patron–Obenshain) . . . . .	SR 138		3236
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<b>Casto, Robert</b> ; commending. (Patron–Campbell, R.R.) . . . . .	HJR 807		2791
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<b>Catlett, Mary-Martha</b> ; commending. (Patron–Helsel) . . . . .	HR 308		3003
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<b>Handheld personal communications devices</b> ; unlawful for person while driving a motor vehicle to hold, in his hand, a device, definition of "highway work zone." (Patron–Mason) . . . . .	SB 1768	849	2001
<b>CENTER FOR INNOVATIVE TECHNOLOGY'S CENTER FOR UNMANNED SYSTEMS AND THE VIRGINIA TECH MID-ATLANTIC AVIATION PARTNERSHIP</b>			
<b>Center for Innovative Technology's Center for Unmanned Systems and the     Virginia Tech Mid-Atlantic Aviation Partnership</b> ; commending.			
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<b>Centerville Elementary School</b> ; commemorating its 35th anniversary. (Patron–Convirs–Fowler) . . . . .	HR 332		3014

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**Central Chesapeake Republican Women's Club**; commemorating its 50th anniversary. (Patron—Cosgrove) . . . . . SR 111 3224

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**Cha, Jae**; commending. (Patron—Bell, John J.) . . . . . HR 402 3045

**CHANCELLOR HIGH SCHOOL**

**Chancellor High School field hockey team**; commending.  
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Patron—Reeves . . . . . SJR 382 3157

**CHANDLER, JAMES MAPP**

**Chandler, James Mapp**; recording sorrow upon death. (Patron—Cosgrove) . . . . . SJR 346 3138

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**Chantilly High School boys' tennis team**; commending. (Patron—Delaney) . . . . . HJR 803 2789  
**Chantilly High School field hockey team**; commending. (Patron—Delaney) . . . . . HJR 783 2780  
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**Chapel Grove United Church of Christ**; commemorating its 150th anniversary. (Patron—Tyler) . . . . . HJR 782 2779

**CHARITABLE, CIVIC AND VOLUNTEER INSTITUTIONS, AND ORGANIZATIONS**

**Retail Sales and Use Tax**; clarifies definition of "nonprofit organization" or "nonprofit entity," exemption is available to a single member limited liability company whose sole member is a nonprofit organization. (Patron—Webert) . . . . . HB 1950 20 40

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**Charles City County**; commemorating its 400th anniversary. (Patron—McClellan) . . . . . SJR 357 3144

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**Berryville, Town of**; amending charter, updates boundary description, specifies certain town council appointments, etc. (Patron—LaRock) . . . . . HB 2572 308 595

**Bristol, City of**; amending charter, city powers, council meetings, etc. (Patron—O'Quinn) . . . . . HB 2497 633 1082

**Capron, Town of**; new charter (previous charter repealed). (Patron—Tyler) . . . . . HB 2808 315 606

**Dumfries, Town of**; amending charter, town council elections, etc.  
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**Eastville, Town of**; new charter (previous charter repealed). (Patron—Lewis) . . . . . SB 1562 813 1901

**Glasgow, Town of**; amending charter, replaces references to sergeant with chief of police. (Patron—Campbell, R.R.) . . . . . HB 2660 309 599

**Grottoes, Town of**; amending charter, extends term of mayor to four years. (Patron—Landes) . . . . . HB 2809 316 610

**Hopewell, City of**; amending charter, appointment of president of city council.  
Patron—Aird . . . . . HB 2002 207 401  
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**Irvington, Town of**; amending charter, updates the town's boundary description, elections of mayor and town council. (Patron—Ransone) . . . . . HB 1895 694 1287

**Irvington, Town of**; amending charter, updates town's boundary description, on first Tuesday in May 2020, and every four years thereafter, there shall be election of mayor, etc. (Patron—McDougle) . . . . . SB 1350 113 177

**James City County**; amending charter, inoperable vehicles. (Patron—Mason) . . . . . SB 1408 508 888

**Kenbridge, Town of**; amending charter, staggers election of town council members. (Patron—Wright) . . . . . HB 2740 313 601

**Keysville, Town of**; amending charter, shifts municipal elections to November. (Patron—Edmunds) . . . . . HB 2807 727 1592

**Luray, Town of**; new charter (previous charter repealed). (Patron—Obenshain) . . . . . SB 1424 714 1575

**Newport News, City of**; amending charter, inaugural meeting of newly elected council.  
Patron—Yancey . . . . . HB 1766 198 391  
Patron—Locke . . . . . SB 1045 108 174

**Onley, Town of**; amending charter, appointment of town manager by town council, duties. (Patron—Lewis) . . . . . SB 1558 798 1874

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**CHARTERS - Continued**

**Richmond, City of;** amending charter, runoff elections, procedures and deadlines for voter registration, etc.

Patron—McQuinn . . . . .	HB 2052	306	593
Patron—Dance . . . . .	SB 1193	110	175

**Waynesboro, City of;** amending charter, city council procedures, real estate tax assessments.

Patron—Bell, Richard P. . . . .	HB 1893	239	461
Patron—Hanger . . . . .	SB 1396	127	276

**CHASE, WILLIAM C., JR.**

**Chase, William C., Jr.;** commending. (Patron—Freitas) . . . . . HJR 886 2831

**CHATHAM HALL**

**Chatham Hall;** commemorating its 125th anniversary. (Patron—Adams, L.R.) . . . . . HJR 755 2766

**CHATHAM SOUTHERN RAILWAY DEPOT**

**Chatham Southern Railway Depot;** commemorating its 100th anniversary. (Patron—Adams, L.R.) . . . . . HJR 756 2766

**CHATHAM STAR-TRIBUNE**

**Chatham Star-Tribune;** commemorating its 150th anniversary. (Patron—Adams, L.R.) HJR 1068 2926

**CHAUDHRY, MAQSOOD**

**Chaudhry, Maqsood;** commending. (Patron—Murphy) . . . . . HJR 780 2778

**CHENARD, JOHN H.**

**Chenard, John H.;** recording sorrow upon death. (Patron—Delaney) . . . . . HJR 796 2786

**CHESAPEAKE BAY**

**Chesapeake Bay Watershed Implementation Plan;** repeals directions to state agencies to exclude the Lynnhaven River and Little Creek watersheds from the James River Basin for purposes of the Plan. (Patron—Wagner) . . . . . SB 1388 563 973

**Coal combustion residuals impoundment;** definitions, "carrying cost," owner or operator of certain CCR unit located within Chesapeake Bay watershed, that ceased accepting CCR prior to July 1, 2019, shall complete closure of such unit, report, Commonwealth shall not authorize any cost recovery by an owner or operator for any fines or civil penalties resulting from violations of federal and state law.

Patron—Ingram . . . . .	HB 2786	650	1136
Patron—Wagner . . . . .	SB 1355	651	1137

**CHEW, PEARL BEVINS**

**Chew, Pearl Bevins;** commemorating the occasion of her 101st birthday. (Patron—Campbell, R.R.) . . . . . HR 452 3067

**CHILD ABUSE OR NEGLECT**

**Child abuse and neglect;** adds to list of persons who are mandatory reporters.

Patron—Delaney . . . . .	HB 1659	414	748
Patron—Vogel . . . . .	SB 1257	295	564

**Child abuse and neglect;** local boards of social services, when investigating an individual who is the subject of allegations, to obtain and consider a search of the central registry, etc., family assessments. (Patron—Mullin) . . . . . HB 1671 276 519

**Child abuse and neglect;** sex trafficking assessments by local departments, notification to Child Protective Services Unit, valid report or complaint, child-protective services worker responding to a report or complaint may take a child into custody.

Patron—Herring . . . . .	HB 2597	381	702
Patron—Peake . . . . .	SB 1661	687	1263

**Child abuse or neglect;** appeals from founded complaints, concurrent criminal investigations.

Patron—Campbell, J.L. . . . .	HB 1953	12	16
Patron—Mason . . . . .	SB 1416	296	565

**Child abuse or neglect;** out-of-court and recorded statements made by a child 14 years of age or younger. (Patron—Collins) . . . . . HB 1622 413 746

**Child abuse or neglect;** prenatal substance exposure, mandatory reporters. (Patron—McClellan) . . . . . SB 1436 98 157

**CHILD CARE**

**Child care providers;** local law-enforcement agencies allowed to process and submit requests for national fingerprint background checks, forwarding fingerprints and personal descriptive information. (Patron—Mason) . . . . . SB 1407 447 798

**CHILD SUPPORT**

**Child support;** nonpayment, amount of arrearage paid, repayment agreement, suspension of driver's license.  
 Patron—Carr . . . . . HB 2059 284 544  
 Patron—Dance . . . . . SB 1667 285 545

**Child support;** raises from \$25 to \$35 fee charged by State Board of Social Services to individuals who authorize the Department of Social Services to enforce obligations, etc. (Patron—Delaney) . . . . . HB 1819 165 330

**CHILDREN**

**Child abuse and neglect;** local boards of social services, when investigating an individual who is the subject of allegations, to obtain and consider a search of the central registry, etc., family assessments. (Patron—Mullin) . . . . . HB 1671 276 519

**Child abuse or neglect;** out-of-court and recorded statements made by a child 14 years of age or younger. (Patron—Collins) . . . . . HB 1622 413 746

**Child day programs;** exempts from licensure any program in which child-minding services are offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and no more than eight hours per day, etc. (Patron—Miyares) . . . . . HB 2756 667 1201

**Child in foster care;** local departments of social services shall notify appropriate community services board when child is identified as having a developmental disability. (Patron—Favola) . . . . . SB 1135 301 588

**Child restraint devices and safety belts;** exempts any person operating taxicabs, emergency medical services agency vehicle, fire company vehicle, law-enforcement vehicle, etc., while in performance of his official duties from requirement that certain minors be secured.  
 Patron—Head . . . . . HB 1662 196 387  
 Patron—Suetterlein . . . . . SB 1677 319 613

**Children in residence or custody;** participation in any educational programs offered by the facility that is administered by the Department of Education, regardless of their enrollment status.  
 Patron—Bell, Richard P. . . . . HB 1986 281 525  
 Patron—Hanger . . . . . SB 1314 173 343

**Custody and visitation orders;** court may order that exchange of a child shall take place at an appropriate meeting place. (Patron—Aird) . . . . . HB 2317 378 701

**Deferral of jury service;** persons who have legal custody of and are responsible for the care of a child. (Patron—Hope) . . . . . HB 1814 518 900

**Removal of a child;** court may order parents or guardians of child to provide names and contact information of persons with legitimate interest. (Patron—Austin) . . . . . HB 2622 434 775

**CHINA KING**

**China King;** commemorating its 30th anniversary. (Patron—Gooditis) . . . . . HR 394 3042

**CHIROPRACTORS**

**Medicine, osteopathy, podiatry, or chiropractic, practitioners of;** Board of Medicine may issue a retiree license to any practitioner who holds an unrestricted, active license to practice in the Commonwealth. (Patron—Landes) . . . . . HB 2457 379 701

**CHRIS ATWOOD FOUNDATION**

**Chris Atwood Foundation;** commending. (Patron—Plum) . . . . . HR 437 3060

**CIGARETTES**

**Cigarette taxes;** definitions of noncombustible tobacco products, tobacco heated by an electronic device, extends study report date. (Patron—Norment) . . . . . SB 1371 790 1858

**CIRCUIT COURTS**

**Boundary agreements, local;** all localities, in adopting a voluntary boundary agreement, allowed to attach to their petitions to circuit court a Geographic Information System (GIS) map depicting boundary change.  
 Patron—Fowler . . . . . HB 1649 385 712  
 Patron—Dunnivant . . . . . SB 1594 118 183

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CIRCUIT COURTS - Continued

**Clerks of circuit courts;** clerk may destroy any will that has been lodged in his office for safekeeping for 100 years or more. (Patron—Obenshain) . . . . . SB 1426 529 910

**Felons;** mechanism for reporting to Department of State Police when a circuit court restores right to possess, transport, and carry a firearm, etc., effective date. (Patron—Rush) . . . . . HB 2548 203 395

**Human immunodeficiency virus or hepatitis B or C viruses;** exposure to bodily fluids, infection, expedited testing, hearing on petition shall be given precedence on docket so as to be heard by court within 48 hours of filing petition, if court is closed during this period, petition will be heard on next day that court is in session, person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of order. (Patron—Price) . . . . . HB 1998 27 49

**Judges;** election in circuit court, general district court, juvenile and domestic relations district court, and members of Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . . . . HJR 1140 2958

**Judges;** election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.) . . . . . HJR 718 2746

**Judges;** election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . . . . HJR 979 2881

**Judges;** nominations for election to circuit court.  
 Patron—Adams, L.R. . . . . HR 220 2963  
 Patron—Adams, L.R. . . . . HR 288 2993  
 Patron—Adams, L.R. . . . . HR 383 3038  
 Patron—Obenshain . . . . . SR 93 3214  
 Patron—Obenshain . . . . . SR 122 3228  
 Patron—Obenshain . . . . . SR 144 3239

**Zoning appeals, local board of;** in a town with a population of 3,500 or less, either three, five, or seven residents of the locality shall be appointed by circuit court of the locality. (Patron—O’Quinn) . . . . . HB 2224 703 1304

CIVIL REMEDIES AND PROCEDURE

**Appellate damages;** specifies that when any judgment is affirmed, whether in whole or in part, damages shall be awarded to the appellee on the portion of the judgment affirmed. (Patron—Campbell, J.L.) . . . . . HB 1955 134 285

**Corporate officer;** deposition witness.  
 Patron—Peace . . . . . HB 2167 9 14  
 Patron—Vogel . . . . . SB 1457 50 85

**Deferral of jury service;** persons who have legal custody of and are responsible for the care of a child. (Patron—Hope) . . . . . HB 1814 518 900

**Employment records;** written request from employee, employer may charge fee for electronic records, subpoena duces tecum, penalty for failure to provide, if requested by employee or his attorney or authorized insurer, such records or papers shall be furnished within 30 days of such request. (Patron—Norment) . . . . . SB 1724 733 1604

**Eviction;** changes terminology from writ of possession to writ of eviction for the writ executed by a sheriff to recover real property pursuant to an order of possession, pleadings and other papers by certain parties not represented by attorneys.  
 Patron—Aird . . . . . HB 2007 700 1295  
 Patron—Locke . . . . . SB 1448 180 357

**Evidence;** establishes that a party or potential litigant has a duty to preserve evidence that may be relevant to reasonably foreseeable litigation, spoliation of evidence. (Patron—Obenshain) . . . . . SB 1619 732 1603

**Habeas corpus;** reorganizes, updates outdated language, and removes unused provisions in several writ of habeas corpus statutes.  
 Patron—Leftwich . . . . . HB 1909 8 12  
 Patron—Obenshain . . . . . SB 1069 48 82

**Jurisdiction of claim;** plaintiff’s motion to amend claim amount, plaintiff shall provide a certified copy of transfer order to receiving court. (Patron—Leftwich) . . . . . HB 2289 787 1842

**Landlord;** clarifies that for purposes of signing pleadings and other papers and obtaining a judgment for possession or for rent or damages in general district court, the managing agent may act on behalf of the business. (Patron—Campbell, J.L.) . . . . . HB 2262 477 844

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<b>Newspapers;</b> legal notice and publications, requirements. (Patron—Boysko) . . . . .	SB 1638	635	1092
<b>No-fault divorce;</b> waiver of service of process, waiver may occur if final decree of divorce as proposed by complainant is signed by the defendant, etc.			
Patron—Campbell, J.L. . . . .	HB 1945	133	283
Patron—Surovell . . . . .	SB 1541	237	458
<b>Servicemembers Civil Relief Act;</b> when the appointment of counsel is necessary pursuant to the Act, any attorney fees assessed shall not exceed \$125, unless the court deems a higher amount appropriate. (Patron—Lindsey) . . . . .	HB 1675	454	815
<b>Statute of limitations;</b> action based on an unsigned, written contract. (Patron—Sullivan) . . . . .	HB 2242	241	466
<b>Summary judgment;</b> limited use of discovery depositions and affidavits.			
Patron—Gilbert . . . . .	HB 2197	10	15
Patron—Obenshain . . . . .	SB 1486	128	278
<b>Summons;</b> removes authorization of a summons to compel attendance before commissioner of another state. (Patron—Bourne) . . . . .	HB 1924	519	900
<b>Summons for unlawful detainer;</b> if an initial hearing cannot be held within 21 days from the date of filing, it shall be held as soon as practicable, but not later than 30 days after the date of the filing, termination notice.			
Patron—Bourne . . . . .	HB 1922	132	282
Patron—Barker . . . . .	SB 1627	130	281
<b>Wrongful death beneficiaries;</b> parents who receive support or services from decedent for necessities, etc., provisions shall apply only to causes of action arising on or after July 1, 2019.			
Patron—Jones, J.C. . . . .	HB 1767	47	81
Patron—Surovell . . . . .	SB 1543	328	619
<b>CLAIMS</b>			
<b>Relief;</b> Bush, Gary Linwood. (Patron—Deeds) . . . . .	SB 1477	652	1139
<b>CLARK, BRADFORD TURNER</b>			
<b>Clark, Bradford Turner;</b> recording sorrow upon death.			
Patron—Fowler . . . . .	HJR 1139		2958
Patron—Dunnavant . . . . .	SJR 324		3125
Patron—McDougle . . . . .	SR 100		3217
<b>CLARK, LIEUTENANT BRADFORD TURNER</b>			
<b>Move Over Awareness Month;</b> designating as June 2019, and in honor and memory of Lieutenant Bradford Turner Clark. (Patron—McDougle) . . . . .	SJR 286		3079
<b>CLARK, RICHARD CARROLL, JR.</b>			
<b>Clark, Richard Carroll, Jr.;</b> commending. (Patron—O'Quinn) . . . . .	HJR 708		2742
<b>CLARK, ROY LINWOOD</b>			
<b>Clark, Roy Linwood;</b> recording sorrow upon death. (Patron—Ruff) . . . . .	SJR 409		3172
<b>CLARKE COUNTY</b>			
<b>Clarke County High School girls' cross country team;</b> commending. (Patron—LaRock) . . . . .	HJR 1086		2933
<b>CLARKE, STANLEY S.</b>			
<b>Clarke, Stanley S.;</b> commending. (Patron—Hodges) . . . . .	HJR 1027		2905
<b>CLEFT AND CRANIOFACIAL AWARENESS AND PREVENTION MONTH</b>			
<b>Cleft and Craniofacial Awareness and Prevention Month;</b> designating as July 2019, and each succeeding year thereafter. (Patron—Lewis) . . . . .	SJR 338		3133
<b>CLEMENT, ROBERT A., JR.</b>			
<b>Clement, Robert A., Jr.;</b> commending. (Patron—Rasoul) . . . . .	HJR 952		2865
<b>CLERKS OF COURTS</b>			
<b>Clerks of circuit courts;</b> clerk may destroy any will that has been lodged in his office for safekeeping for 100 years or more. (Patron—Obenshain) . . . . .	SB 1426	529	910
<b>Clerks of court;</b> collection of DNA sample for certain offenses, disclosure of tax information, repeals the provision of law establishing the Torrens system. (Patron—Chafin) . . . . .	SB 1166	786	1839
<b>Clerks of court;</b> disclosure of tax information. (Patron—Campbell, R.R.) . . . . .	HB 2768	261	492
<b>Clerks of court;</b> repeals provision relating to continuing in force acts establishing Torrens system. (Patron—Campbell, R.R.) . . . . .	HB 2769	326	619

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CLOUSE, JAMES P.

Clouse, James P.; recording sorrow upon death. (Patron—Rush) . . . . . HR 379 3036

CLOVER HILL BAPTIST CHURCH

Clover Hill Baptist Church; commemorating its 50th anniversary.

Patron—Robinson . . . . . HR 302 3000

Patron—Chase . . . . . SR 104 3219

CLOVER HILL HIGH SCHOOL

Clover Hill High School show choirs; commemorating its 15th anniversary of combining singing and dancing. (Patron—Robinson) . . . . .

HR 380 3037

COAL MINING

Coal combustion residuals impoundment; definitions, "carrying cost," owner or operator of certain CCR unit located within Chesapeake Bay watershed, that ceased accepting CCR prior to July 1, 2019, shall complete closure of such unit, report, Commonwealth shall not authorize any cost recovery by an owner or operator for any fines or civil penalties resulting from violations of federal and state law.

Patron—Ingram . . . . . HB 2786 650 1136

Patron—Wagner . . . . . SB 1355 651 1137

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§§ 1-600 through 1-610, adding . . . . . SB 1080 712 1315

§ 2.2-222.1, amending . . . . . HB 2133 615 1017

§ 2.2-222.3, amending . . . . . HB 2133 615 1017

§ 2.2-402, amending . . . . . HB 2278 181 364

§ 2.2-435.8, amending . . . . . HB 1746 210 403

§ 2.2-507, amending . . . . . SB 1101 357 660

§ 2.2-510, amending . . . . . SB 1101 357 660

§ 2.2-515.2, amending . . . . . HB 1817 458 819

§ 2.2-613, repealing . . . . . HB 2133 615 1017

§ 2.2-614.5, adding . . . . . HB 1934 248 477

§ 2.2-621, amending . . . . . SB 1463 512 892

§ 2.2-1124, amending . . . . . HB 2161 425 759

§ 2.2-1130, amending . . . . . HB 2182 659 1183

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§ 2.2-1156, amending . . . . . HB 2182 659 1183

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§ 2.2-1202, amending . . . . . HB 2055 424 759

§ 2.2-1210, adding . . . . . HB 2234 829 1954

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§ 2.2-1509, amending . . . . . HB 2360 188 374

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§ 2.2-1829, amending . . . . . HB 2354 347 649

§ 2.2-1831.3, amending . . . . . HB 2354 347 649

§ 2.2-2001.3, amending . . . . . HB 2672 312 601

HB 2744 314 605

SB 1265 318 612

SB 1705 784 1837

§ 2.2-2009, amending . . . . . SB 1233 302 588

§ 2.2-2012.1, adding . . . . . HB 2324 605 1010

SB 1329 606 1011

§ 2.2-2101, amending . . . . . SB 1728 771 1773

§ 2.2-2279, amending . . . . . HB 2192 819 1934

SB 1331 818 1930

§ 2.2-2337, amending . . . . . HB 1963 389 716

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<b>Catlett, Mary-Martha;</b> commending. (Patron—Helsel) . . . . .	HR 308	3003	
<b>Center for Innovative Technology's Center for Unmanned Systems and the Virginia Tech Mid-Atlantic Aviation Partnership;</b> commending. Patron—Yancey . . . . .	HR 303	3001	
Patron—Cosgrove . . . . .	SJR 347	3139	
<b>Centerville Elementary School;</b> commemorating its 35th anniversary. (Patron—Convirs-Fowler) . . . . .	HR 332	3014	
<b>Central Chesapeake Republican Women's Club;</b> commemorating its 50th anniversary. (Patron—Cosgrove) . . . . .	SR 111	3224	
<b>Cha, Jae;</b> commending. (Patron—Bell, John J.) . . . . .	HR 402	3045	
<b>Chancellor High School field hockey team;</b> commending. Patron—Orrock . . . . .	HJR 1031	2908	
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<b>Chantilly High School boys' tennis team;</b> commending. (Patron—Delaney) . . . . .	HJR 803	2789	
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<b>Chantilly High School volleyball team;</b> commending. (Patron—Delaney) . . . . .	HJR 784	2780	
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<b>Chatham Star-Tribune;</b> commemorating its 150th anniversary. (Patron—Adams, L.R.) . . . . .	HJR 1068	2926	
<b>Chaudhry, Maqsood;</b> commending. (Patron—Murphy) . . . . .	HJR 780	2778	
<b>Chew, Pearl Bevins;</b> commemorating the occasion of her 101st birthday. (Patron—Campbell, R.R.) . . . . .	HR 452	3067	
<b>China King;</b> commemorating its 30th anniversary. (Patron—Gooditis) . . . . .	HR 394	3042	
<b>Chris Atwood Foundation;</b> commending. (Patron—Plum) . . . . .	HR 437	3060	
<b>Clark, Richard Carroll, Jr.;</b> commending. (Patron—O'Quinn) . . . . .	HJR 708	2742	

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<b>Clement, Robert A., Jr.;</b> commending. (Patron—Rasoul) .....	HJR 952	2865
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<b>Clover Hill High School show choirs;</b> commemorating its 15th anniversary of combining singing and dancing. (Patron—Robinson) .....	HR 380	3037
<b>Colonial Williamsburg;</b> commemorating the occasion of its 40th anniversary of its outstanding historical interpretation programs focusing on African Americans. (Patron—Mullin) .....	HJR 896	2836
<b>Commissioners and Cans;</b> commending. (Patron—Yancey) .....	HJR 942	2861
<b>Community of Faith Mission;</b> commending. (Patron—Mullin) .....	HJR 895	2835
<b>Conti, Meghan;</b> commending. (Patron—DeSteph) .....	SR 169	3250
<b>Cook, John C.;</b> commending. (Patron—Watts) .....	HJR 1135	2956
<b>Cotman, Timothy Wyatt, Jr.;</b> commending. (Patron—Hope) .....	HJR 1018	2901
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<b>CrisisLink;</b> commemorating its 50th anniversary. (Patron—Sullivan) .....	HJR 788	2782
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<b>Daily Planet Health Services;</b> commemorating 50 years of service to the people in need in the Greater Richmond region. (Patron—McClellan) .....	SJR 463	3201
<b>Dalton, Robert Cellett;</b> commending. Patron—Campbell, J.L. ....	HJR 809	2792
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<b>Dang, Oanh Pham Kim;</b> commending. (Patron—Convirs-Fowler) .....	HR 335	3016
<b>Davis, James E.;</b> commending. (Patron—Adams, L.R.) .....	HJR 757	2767
<b>D-Day;</b> commemorating its 75th anniversary. Patron—Austin .....	HJR 651	2725
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<b>The employees of Bristol Motor Speedway;</b> commending. (Patron—O'Quinn) . . . . .	HJR 1054		2919
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<b>Thompson, Allie, William Grayson, and William Thompson;</b> commemorating their lives and legacies. (Patron—Freitas) . . . . .	HJR 754		2765
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<b>Elections, State Board of;</b> Board, on or before January 1, 2020, shall revise its processes and associated regulations for viewing and processing candidate petitions, checking petition signatures. (Patron—Lewis) .....	SB	1564	682	1255
<b>Electric cooperatives;</b> authorizes any electric cooperative to increase or decrease its rates without State Corporation Commission approval for any of its services, cooperatives that are not current members of a utility aggregation cooperative may petition State Corporation Commission for approval of one or more rate adjustment clauses, etc., a cooperative may adopt any other cooperative's voluntary rate, program, or tariff, etc. (Patron—Newman) .....	SB	1346	625	1053
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<b>Pharmacy, Board of;</b> seizure of controlled substances and prescription devices. (Patron—Edwards) .....	SB	1289	94	153
<b>Pharmacy collaborative practice agreements, standing orders, and statewide protocols in the Commonwealth;</b> Joint Commission on Health Care to study the dispensing of drugs and devices pursuant to prescriptions. (Patron—Stolle) .....	HJR	662		2728
<b>Physician assistants;</b> Board of Medicine authorized to issue a license by endorsement to an applicant for licensure as an assistant, etc. (Patron—Thomas) .....	HB	2169	338	634
<b>Pregnant prisoners;</b> Board of Corrections shall review its standards related to allowable restraint practices. (Patron—Saslaw) .....	SB	1772	725	1589
<b>Prescription Monitoring Program;</b> veterinarians who dispense controlled substances for a course of treatment to last seven days or less or if such covered substance is feline buprenorphine or canine butorphanol, every veterinary establishment licensed by the Board of Veterinary Medicine shall maintain records of dispensing, etc. (Patron—Stanley) .....	SB	1653	686	1262

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COMMISSIONS, BOARDS, AND INSTITUTIONS GENERALLY - Continued

<b>Public elementary and secondary school students;</b> protective orders, notification to licensed instructional personnel and other school personnel, Board of Education shall establish guidelines and develop model policies to aid local school boards. (Patron—Price) . . . . .	HB 1997	579	983
<b>Public schools;</b> Board of Education shall identify and prohibit use of any method of restraint or seclusion that it determines poses a significant danger to the student, etc. (Patron—Bell, John J.) . . . . .	HB 2599	591	1001
<b>Qualified mental health professionals;</b> Board of Counseling to promulgate regulations for registration of persons receiving supervised training. Patron—Price . . . . .	HB 2693	217	432
Patron—Barker . . . . .	SB 1694	101	161
<b>Real Estate Board;</b> real estate licensees. Patron—Miyares . . . . .	HB 2352	395	726
Patron—Mason . . . . .	SB 1061	179	355
<b>Regulation of licensed providers;</b> Board of Behavioral Health and Developmental Services to require disclosure of certain information about employees, information subject to privilege or confidentiality. (Patron—Hope) . . . . .	HB 2652	776	1794
<b>Riparian planting ground;</b> Commissioner of Marine Resources Commission shall assign to land owner only a ground, in his discretion, he deems appropriate to encompass as much as one-half acre of ground, provided that it does not encroach into an existing oyster-planting ground. (Patron—Bloxom) . . . . .	HB 1779	152	314
<b>Robert O. Norris Bridge and Statewide Special Structure Fund;</b> created, report, Commonwealth Transportation Board shall evaluate feasibility of using the Public-Private Transportation Act of 1995 to design, build, operate, and maintain two bridges, etc. Patron—Hodges . . . . .	HB 2784	349	652
Patron—McDougle . . . . .	SB 1749	83	121
<b>School board employees;</b> Board of Education to include in its regulations that prescribe the requirements for the licensure of teachers and other school personnel required to hold a license, procedures for written reprimand of such license holders, notice of which shall be made by the Superintendent of Public Instruction to division superintendents, etc. (Patron—Thomas) . . . . .	HB 2325	587	996
<b>School bus operators;</b> Board of Education required to include in its training program for operators safety protocols for responding to adverse weather conditions, etc. (Patron—Vogel) . . . . .	SB 1713	769	1772
<b>Standards for Accreditation;</b> Board of Education shall establish a review process to assist any school that does not meet the standards established by the Board, establishes corrective action plan process. (Patron—Turpin) . . . . .	HB 2147	585	989
<b>Submerged fiber optic cables;</b> Virginia Marine Resources Commission to study the feasibility of creating protection zones located along or being developed on Virginia's shores. (Patron—DeSteph) . . . . .	SJR 309		3115
<b>Tax assessments;</b> Small Business Commission to study models and streamlined procedure for appealing decisions. (Patron—Keam) . . . . .	HJR 687		2733
<b>Teacher licensure;</b> Board of Education shall provide for issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools, Chancellor of the Virginia Community College or his designee shall serve as an ex officio member of the Advisory Board on Teacher Education and Licensure, report. (Patron—Ebbin) . . . . .	SB 1575	767	1771
<b>Teacher licensure;</b> Board of Education's regulations shall include requirements that a person demonstrate proficiency in the relevant content area, etc., or meeting alternative education evaluation standards, Board shall issue a license to an individual seeking initial licensure who has not completed the professional assessments prescribed by the Board, if such individual holds a provisional license that will expire within three months, etc. Patron—Carroll Foy . . . . .	HB 2037	407	736
Patron—Peake . . . . .	SB 1397	63	102
<b>Teacher licensure;</b> clarifies definition of "alternate route to licensure," Board of Education shall grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation, any such route may include alternatives to regulatory requirements for teacher preparation, etc. (Patron—Robinson) . . . . .	HB 2486	409	739

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<b>Uniform Law Commission, Commissioners of;</b> Commissioner expense reimbursements. (Patron—McDougle) . . . . .	SB	1378	528	910
<b>Veterans Services, Board of;</b> increases membership and clarifies scope of responsibilities. Patron—Helsel . . . . .	HB	2632	204	397
Patron—Reeves . . . . .	SB	1241	40	74
<b>Virginia African American Advisory Board;</b> established, membership, report. (Patron—Bagby) . . . . .	HB	2767	594	1002
<b>Virginia Fire Services Board;</b> changes membership. (Patron—Guzman) . . . . .	HB	2093	208	402
<b>Virginia Lottery Board;</b> regulation of casino gaming, penalties, report. (Patron—Lucas) . . . . .	SB	1126	789	1848
<b>Virginia voter registration system;</b> security plans and procedures, update of security standards at least annually, remedying security risks, State Board of Elections shall convene a work group prior to adopting standards. (Patron—Sickles) . . . . .	HB	2178	426	761
<b>Virginia War Memorial Board;</b> transfer of duties, sunset provision. Patron—Fowler . . . . .	HB	2744	314	605
Patron—McPike . . . . .	SB	1705	784	1837
<b>Zoning Appeals, Board of;</b> authorizes a locality to send a zoning administrator's appeal order using certified mail. (Patron—Fariss) . . . . .	HB	1698	387	714
<b>COMMONWEALTH PUBLIC SAFETY</b>				
<b>Central Criminal Records Exchange;</b> reports to the Exchange, duties and responsibilities of local community-based probation officers, unapplied criminal history record information. Patron—Bell, Robert B. . . . .	HB	2343	783	1823
Patron—Obenshain . . . . .	SB	1602	782	1809
<b>Firefighters and Emergency Medical Technicians Procedural Guarantee Act;</b> breach of procedures, evidence gathered through the conduct of an interrogation shall not be admissible in any administrative hearing against a firefighter or emergency medical services personnel. (Patron—Edwards) . . . . .	SB	1494	841	1985
<b>Firefighters and Emergency Medical Technicians Procedural Guarantee Act;</b> breach of procedures, interrogations shall be conducted at a reasonable time of day, evidence gathered through conduct of an interrogation shall not be admissible in any administrative hearing against a firefighter or emergency medical services personnel. (Patron—Krizek) . . . . .	HB	2263	831	1955
<b>Firefighting foam management;</b> beginning July 1, 2021, no person, local government, or agency of the Commonwealth shall discharge or otherwise use class B firefighting foam that contains intentionally added PFAS chemicals, etc. (Patron—Bulova) . . . . .	HB	2762	838	1978
<b>Forensic Science, Department of;</b> accrediting bodies. (Patron—Mullin) . . . . .	HB	2118	474	840
<b>Forensic Science, Department of;</b> possession of unlawful items by employees, immunity. (Patron—Petersen) . . . . .	SB	1401	507	887
<b>Forensic Science, Department of;</b> purchase of forensic laboratory services, laboratory that has entered into a contract with the Department for provision of services shall be deemed authorized by Department to conduct such analyses or examinations. Patron—Morefield . . . . .	HB	2279	478	847
Patron—Chafin . . . . .	SB	1274	479	849
<b>Forfeiture on recognizance;</b> bail bondsman, suspension of license. (Patron—Bell, Richard P.) . . . . .	HB	2078	200	391
<b>Juvenile correctional officers;</b> training standards, decreases number of members on the Committee of Training. (Patron—Mullin) . . . . .	HB	2438	366	687
<b>Law-enforcement officer;</b> removes from the definition of officer, as it applies to an investigator who is a sworn member of the security division of the Virginia Lottery, the requirement that such investigator be a full-time member of the division. (Patron—Rush) . . . . .	HB	2166	475	842
<b>Law-Enforcement Officers Procedural Guarantee Act;</b> amends definition of law-enforcement officer. (Patron—Collins) . . . . .	HB	2656	489	867
<b>School and Campus Safety, Virginia Center for;</b> Center shall develop a case management tool for collection and reporting of data by threat assessment teams. Patron—Marshall . . . . .	HB	1734	456	817
Patron—Newman . . . . .	SB	1213	39	72

**COMMONWEALTH PUBLIC SAFETY - Continued**

**School boards;** development of a model memorandum of understanding, board in each school division in which the local law-enforcement agency employs school resource officers shall enter into a memorandum of understanding with such agency.

Patron—Gilbert .....	HB 1733	455	816
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**School resource officers;** powers and duties of Department of Criminal Justice Services, compulsory minimum training standards for certification and recertification of law-enforcement officers, training shall be specific to role and responsibility of officer working with students, etc.

Patron—Jones, J.C. ....	HB 2609	487	858
Patron—Locke .....	SB 1130	488	862

**School security officers;** employment by private or religious schools, carrying a firearm in performance of duties. (Patron—Cole) .....

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**School security officers;** employment, law-enforcement officers previously employed by the United States or any state or political subdivision thereof, carrying a firearm in performance of duties. (Patron—Freitas) .....

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**Sex Offender and Crimes Against Minors Registry;** reregistration schedule, copies of all forms to be used and guidelines for submitting such forms, shall be available through distribution by the State Police, etc., effective date.

Patron—Watts .....	HB 2089	613	1015
Patron—Mason .....	SB 1418	614	1016

**Sex Trafficking Response Coordinator;** establishes position, duties, report.

Patron—Krizek .....	HB 2576	486	857
Patron—Vogel .....	SB 1669	514	897

**Virginia Fire Services Board;** changes membership. (Patron—Guzman) .....

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**Virginia Prevention of Sex Trafficking Fund;** created, moneys in the Fund shall be used for purpose of promoting prevention and awareness of sex trafficking, fees for offenses related to sex trafficking. (Patron—Yancey) .....

HB 2651	728	1593
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**COMMONWEALTH'S ATTORNEYS**

**Protective services;** multidisciplinary adult abuse, neglect, and exploitation, response teams may be established by Commonwealth attorney in each jurisdiction.

Patron—Pillion .....	HB 2560	170	333
Patron—Chafin .....	SB 1224	775	1785

**Volunteer assistant attorneys for the Commonwealth;** repeals provision relating to attorneys for the Commonwealth may only appoint volunteer assistants in cities with a population over 350,000, any city contiguous thereto, and the City of Richmond. (Patron—Peake) .....

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**COMMUNITY COLLEGES**

**Virginia Community College System;** the System, in consultation with the Department of Labor and Industry, shall develop and deliver uniform, related instruction for registered apprenticeships in high-demand programs. (Patron—James)

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**COMMUNITY OF FAITH MISSION**

**Community of Faith Mission;** commending. (Patron—Mullin) .....

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**COMPACTS**

**Physical therapists and physical therapist assistants;** licensure, authorizes Virginia to become a signatory to the Physical Therapy Licensure Compact. (Patron—Peake)

SB 1106	300	575
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**Potomac River Bridge Towing Compact;** adds the Harry W. Nice Bridge, Sandy Hook Bridge, Brunswick Bridge, and Point of Rocks Bridge to the Potomac River bridges subject to Compact, provisions shall become effective upon enactment by legislative bodies of Maryland and District of Columbia of similar legislation. (Patron—Barker) .....

SB 1296	403	733
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**COMPANION ANIMALS**

**Companion animals;** adequate shelter means during hot weather, is properly shaded, etc., definition of adequate space includes tethering of animals. (Patron—Spruill) ...

SB 1025	848	1998
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**COMPUTER SERVICES AND USES**

**Virginia Conflict of Interest and Ethics Advisory Council;** duties, training requirement for local elected officials, Council may provide such training sessions by online means, no penalty shall be imposed on an official for failing to complete training. (Patron—Obenshain) .....

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- Virginia Freedom of Information Act;** meetings held through electronic communication means. (Patron—Stuart) . . . . . SB 1182 359 676
- Virginia Freedom of Information Act;** training requirements for local elected officials, proceedings for enforcement, Advisory Council shall provide online training, no penalty shall be imposed on an official for failing to complete a training session, effective date. (Patron—Obenshain) . . . . . SB 1431 531 912
- Virginia Public Procurement Act;** removes the requirement for newspaper publication of Requests for Proposals for professional services, posting on Department of General Services' central electronic procurement website shall be required if local public body elects not to publish notice of Proposal in a newspaper of general circulation. (Patron—Fowler) . . . . . HB 1629 274 516

**CONCEALED WEAPONS**

- Concealed handgun permit;** application for a resident permit by a member of United States Armed Forces. (Patron—Stuart) . . . . . SB 1179 624 1052

**CONDEMNATION**

- Eminent domain;** entry upon private property, calculation of just compensation, damages, provisions shall not apply to condemnation proceedings in which petitioner filed, prior to July 1, 2019, etc. (Patron—Obenshain) . . . . . SB 1421 788 1844
- Income tax, state;** creates a subtraction for gain recognized by a taxpayer from a taking of real property by condemnation proceedings. (Patron—Ruff) . . . . . SB 1256 270 507

**CONDOMINIUMS**

- Condominium Act;** meetings of unit owners' associations, proxy voting, objections to proxy. (Patron—Reid) . . . . . HB 2647 367 691
- Condominium Act and Property Owners' Association Act;** delivery of condominium resale certificates and association disclosure packets, right of purchaser to cancel contract.  
Patron—Bulova . . . . . HB 2385 364 682  
Patron—Suetterlein . . . . . SB 1580 513 893
- Virginia Condominium and Virginia Property Owners' Association Acts;** stormwater facilities, transfer of control of management, maintenance, repair, or replacement. (Patron—Surovell) . . . . . SB 1756 724 1587

**CONFLICT OF INTERESTS**

- Conflict of Interests Act, State and Local Government;** school boards and school employees, hiring of relatives by any school district. (Patron—Chafin) . . . . . SB 1491 641 1122
- Virginia Conflict of Interest and Ethics Advisory Council;** duties, training requirement for local elected officials, Council may provide such training sessions by online means, no penalty shall be imposed on an official for failing to complete training. (Patron—Obenshain) . . . . . SB 1430 530 910
- Virginia Conflict of Interest and Ethics Advisory Council;** meetings requirement.  
Patron—James . . . . . HB 1889 323 616  
Patron—Howell . . . . . SB 1067 327 619

**CONGRESS OF UNITED STATES**

- Remote sales and use tax collection;** sufficient activity by dealers and marketplace facilitators as to require registration for sales and use tax collection, guidelines that establish the criteria for obtaining a waiver, process and procedure for a marketplace facilitator or marketplace to seller to apply for waiver, Department of Taxation may temporarily suspend or delay the collection or reporting requirements, or both, of a market facilitator, repeals several contingent provisions of previous related bills that would take effect if the United States Congress enacted legislation related to remote sales and use tax collection.  
Patron—Bloxom . . . . . HB 1722 815 1906  
Patron—Ruff . . . . . SB 1083 816 1917

**CONIGLIO, ROBERT JOSEPH**

- Coniglio, Robert Joseph;** recording sorrow upon death. (Patron—Delaney) . . . . . HJR 800 2788

**CONSERVATION**

- Dams;** prohibits Department of Conservation and Recreation from requiring the removal of wetland vegetation that is growing on certain portions of a dam if the vegetation is associated with an approved wetland mitigation bank, or in-lieu fee site, etc. (Patron—Bulova) . . . . . HB 1715 148 308

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CONSERVATION - Continued

**Forester title;** educational criteria, no person shall be appointed by the Governor to serve as State Forester unless he meets requirements. (Patron—Edmunds) . . . . . HB 2341 158 319

**Historical African American cemeteries;** adds Matthews Cemetery, The People's Cemetery, and Smith Street Cemetery in City of Martinsville to list. (Patron—Adams, L.R.) . . . . . HB 2406 252 481

**Historical African American cemeteries;** adds New River Cemetery and West Dublin Cemetery in Pulaski County to list. (Patron—Hurst) . . . . . HB 1973 184 369

**Historical African American cemeteries;** adds Oak Lawn Cemetery in City of Suffolk to list. (Patron—Hayes) . . . . . HB 2311 251 480

**Historical African American cemeteries;** adds seven cemeteries in City of Hampton to list.  
Patron—McQuinn . . . . . HB 2681 257 485  
Patron—Locke . . . . . SB 1128 268 504

**Historical African American cemeteries;** adds six cemeteries in the City of Alexandria to list. (Patron—Herring) . . . . . HB 2739 260 491

**Land preservation;** special assessment, optional limit on annual increase in assessed value. (Patron—Knight) . . . . . HB 2365 22 43

**Residential real property;** information on covenants, required disclosures, stormwater management facilities. (Patron—Murphy) . . . . . HB 2019 390 716

**Timber theft;** a person who buys and removes timber from a landowner's property is guilty of Class 1 misdemeanor if he fails to pay the landowner within date specified in written timber sales agreement, load tickets required for certain sales of timber.  
Patron—Adams, L.R. . . . . HB 2411 348 650  
Patron—Chafin . . . . . SB 1469 353 655

**Virginia Land Conservation Foundation;** list of proposed project proposals. (Patron—Krizek) . . . . . HB 2009 539 938

**Virginia Water Quality Improvement Fund;** grants for design and installation of wastewater conveyance infrastructure estimates of future funding requests, Stormwater Local Assistance Fund. (Patron—Bulova) . . . . . HB 1822 533 916

CONSTITUTIONAL AMENDMENTS

**Constitutional amendment;** General Assembly may make technical adjustments to legislative electoral district boundaries following the enactment of any decennial reapportionment law (first reference). (Patron—Cole) . . . . . HJR 591 820 1938

**Constitutional amendment;** personal property tax exemption for one motor vehicle owned and used primarily by or for a disabled veteran, "motor vehicle" shall include only automobiles and pickup trucks, exception (first reference).  
Patron—Filler-Corn . . . . . HJR 676 822 1940  
Patron—Reeves . . . . . SJR 278 823 1942

**Constitutional amendment;** Virginia Redistricting Commission established, apportionment, public meetings (first reference).  
Patron—Cole . . . . . HJR 615 821 1938  
Patron—Barker . . . . . SJR 306 824 1943

CONSUMER PROTECTION

**Consumer data;** State Corporation Commission shall convene and facilitate a Data Access Stakeholder group to review and consider protection issues, report. (Patron—Keam) . . . . . HB 2332 399 730

**Freedom of Information Act;** authorizes board of trustees of the Fort Monroe Authority to hold closed meetings to discuss certain matters.  
Patron—Helsel . . . . . HB 1964 4 3  
Patron—Locke . . . . . SB 1090 500 880

**Freedom of Information Act;** exclusions, proprietary records and trade secrets. (Patron—Chafin) . . . . . SB 1492 629 1067

**Virginia Consumer Protection Act;** prohibited practices, unlawful practice of an occupation or profession. (Patron—Bourne) . . . . . HB 2218 521 902

CONTI, MEGHAN

**Conti, Meghan;** commending. (Patron—DeSteph) . . . . . SR 169 3250

CONTRACTORS AND SUBCONTRACTORS

**Automatic fire sprinkler inspectors;** creates classification of fire sprinkler contractor for the purpose of licensure by the Board for Contractors, certification. (Patron—Edwards) . . . . . SB 1774 726 1589

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**CONTRACTORS AND SUBCONTRACTORS - Continued**

**Contractors, Board for;** Board to revise regulations to allow multiple individuals from a single firm to sit for the business examination required to be confirmed as firm's designated employee. (Patron—Newman) . . . . . SB 1219 503 885

**CONTRACTS**

**Virginia Public Procurement Act;** beginning on July 1, 2019, the maximum threshold amount shall be \$6 million, job order contracting, limitations.

Patron—Bell, John J. . . . . HB 2071 286 546

Patron—Black . . . . . SB 1153 171 342

**Virginia Public Procurement Act;** exempts counties, cities, school boards, and towns with populations greater than 3,500, competitive negotiation for professional services, cost of professional services expected to exceed \$80,000. (Patron—Gilbert) HB 2198 427 766

**Virginia Public Procurement Act;** high-risk contracts, definition, Department of General Services and Virginia Information Technologies Agency shall develop guidelines for state agencies to use when assigning staff to administer contracts, report. (Patron—Carr) . . . . . HB 1668 601 1006

**Virginia Public Procurement Act;** removes the requirement for newspaper publication of Requests for Proposals for professional services, posting on Department of General Services' central electronic procurement website shall be required if local public body elects not to publish notice of Proposal in a newspaper of general circulation. (Patron—Fowler) . . . . . HB 1629 274 516

**CONTROLLED SUBSTANCES**

**Controlled substances;** adds certain chemicals to Schedule I and Schedule II of the Controlled Substances Act. (Patron—Garrett) . . . . . HB 1803 85 123

**Corrections, Department of;** disclosure of information, delivery of controlled substances to prisoners. (Patron—Carrico) . . . . . SB 1516 679 1251

**Drug Control Act;** classifies gabapentin as a Schedule V controlled substance, storage requirements for substances containing gabapentin. (Patron—Pillion) . . . . . HB 2557 214 428

**Electronic transmission of certain prescriptions;** exceptions if prescriber dispenses the controlled substance that contains an opioid directly to patient or patient's agent, etc., report. (Patron—Pillion) . . . . . HB 2559 664 1194

**Pharmacy, Board of;** seizure of controlled substances and prescription devices. (Patron—Edwards) . . . . . SB 1289 94 153

**Prescription Monitoring Program;** veterinarians who dispense controlled substances for a course of treatment to last seven days or less or if such covered substance is feline buprenorphine or canine butorphanol, every veterinary establishment licensed by the Board of Veterinary Medicine shall maintain records of dispensing, etc. (Patron—Stanley) . . . . . SB 1653 686 1262

**COOK, ELDRIDGE N.**

**Cook, Eldridge N.;** recording sorrow upon death. (Patron—Hodges) . . . . . HR 450 3066

**COOK, JOHN C.**

**Cook, John C.;** commending. (Patron—Watts) . . . . . HJR 1135 2956

**COOKE, JOSEPHINE BERNADINE**

**Cooke, Josephine Bernadine;** recording sorrow upon death. (Patron—Roem) . . . . . HJR 1099 2939

**COORS, WILLIAM K.**

**Coors, William K.;** recording sorrow upon death. (Patron—Hanger) . . . . . SJR 345 3137

**CORBETT, KEVIN**

**Corbett, Kevin;** recording sorrow upon death.

Patron—O'Quinn . . . . . HR 407 3047

Patron—Suetterlein . . . . . SR 167 3249

**CORNMAN, JOHN M.**

**Cornman, John M.;** recording sorrow upon death. (Patron—Hope) . . . . . HJR 1008 2896

**CORPORATIONS**

**Limited liability companies;** creation by a company of one or more protected series. (Patron—Webert) . . . . . HB 2272 636 1093

**Virginia Stock Corporation Act;** updates and modernizes the Act to conform to many provisions of the 2016 revision of the Model Business Corporation Act produced by the Corporate Laws Committee of the American Bar Association's Business Law Section, until July 1, 2020, the term "conversion," when used in any provision of the first enactment of this Act, shall be construed to mean "entity conversion," repealing

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provisions relating to articles of domestication, abandonment of domestication, and abandonment of entity conversion. (Patron—Kilgore) . . . . .	HB 2478	734	1604
<b>CORRECTIONAL ENTERPRISES</b>			
<b>Behavioral health services;</b> exchange of medical and mental health information and records, standards for services provided in correctional facilities, report. (Patron—Bell, Robert B.) . . . . .	HB 1942	827	1949
<b>Corrections, Board of;</b> minimum standards for health care services in local, regional, and community correctional facilities.			
Patron—Stolle . . . . .	HB 1918	695	1289
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<b>Juvenile correctional officers;</b> training standards, decreases number of members on the Committee of Training. (Patron—Mullin) . . . . .	HB 2438	366	687
<b>State correctional facilities;</b> Director of the Department of Corrections shall review the Department's visitation policies concerning visitors' wearing of tampons or menstrual cups, Department shall make the policy available to the public as soon as practicable. (Patron—Keam) . . . . .	HB 1884	303	589
<b>Virginia Correctional Enterprises;</b> procedure for exemptions to the mandatory purchase provisions. (Patron—Fowler) . . . . .	HB 1981	167	331
<b>CORRECTIONAL OFFICERS' WEEK</b>			
<b>Correctional Officers' Week;</b> designating as the first full week of May 2019, and each succeeding year thereafter. (Patron—Kory) . . . . .	HJR 697		2736
<b>CORRECTIONS, BOARD OF OR DEPARTMENT OF</b>			
<b>Corrections, Board of;</b> minimum standards for health care services in local, regional, and community correctional facilities.			
Patron—Stolle . . . . .	HB 1918	695	1289
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<b>Corrections, Department of;</b> development of policies to improve exchange of offender medical and mental health information and records, report. (Patron—Watts) . . . . .	HB 2499	202	394
<b>Corrections, Department of;</b> Director shall establish health care continuous quality improvement committee, composition of committee, quarterly reports.			
Patron—Stolle . . . . .	HB 1917	463	828
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<b>Corrections, Department of;</b> disclosure of information, delivery of controlled substances to prisoners. (Patron—Carrico) . . . . .	SB 1516	679	1251
<b>Pregnant prisoners;</b> Board of Corrections shall review its standards related to allowable restraint practices. (Patron—Saslaw) . . . . .	SB 1772	725	1589
<b>Restrictive housing;</b> data collection and reporting, Department of Corrections' restrictive housing shall, at a minimum, adhere to standards adopted by the American Correctional Association, the accrediting body for the corrections industry, annual report.			
Patron—Hope . . . . .	HB 1642	453	815
Patron—Saslaw . . . . .	SB 1777	516	898
<b>State correctional facilities;</b> Director of the Department of Corrections shall review the Department's visitation policies concerning visitors' wearing of tampons or menstrual cups, Department shall make the policy available to the public as soon as practicable. (Patron—Keam) . . . . .	HB 1884	303	589
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Cotman, Timothy Wyatt, Jr.; commending. (Patron—Hope) . . . . .	HJR 1018		2901
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<b>Affordable housing;</b> waiver of fees. (Patron—Bagby) . . . . .	HB 2229	393	724
<b>Alcoholic beverage control;</b> allows the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held, etc., certain provisions of enactments shall become effective on July 1, 2020, repeals provision relating to licenses for establishments in national forests, certain adjoining lands, etc.			
Patron—Hurst . . . . .	HB 2634	178	348
Patron—Reeves . . . . .	SB 1110	37	65

## COUNTIES, CITIES, AND TOWNS - Continued

<b>All-terrain vehicles (ATVs), mopeds, and off-road motorcycles;</b> clarifies taxation on vehicles, etc., in any city or county located within the Historic Triangle, an additional one percent tax shall be imposed. (Patron—Orrock) . . . . .	HB 1679	52	85
<b>Annual local audit;</b> notice of delay, any town with a population of less than 3,500 that voluntarily has an audit shall submit results to the Auditor of Public Accounts. (Patron—Peace) . . . . .	HB 1866	322	615
<b>Boundary agreements, local;</b> all localities, in adopting a voluntary boundary agreement, allowed to attach to their petitions to circuit court a Geographic Information System (GIS) map depicting boundary change. Patron—Fowler . . . . .	HB 1649	385	712
Patron—Dunnivant . . . . .	SB 1594	118	183
<b>Buckingham County;</b> conveyance of a right-of-way easement from Department of Forestry which will follow an existing road across a portion of Appomattox-Buckingham State Forest. (Patron—Fariss) . . . . .	HB 1783	73	112
<b>Campaign Finance Disclosure Act of 2006;</b> applicability to certain candidates for town offices. (Patron—Hurst) . . . . .	HB 1719	825	1945
<b>Conditional rezoning proffers;</b> extensive changes to zoning provisions, specific amendments include the addition of provisions stating that no local governing body shall require any unreasonable proffer, etc., repeals enactment that refers to applications for rezoning filed prior to July 1, 2016, etc. Patron—Thomas . . . . .	HB 2342	245	470
Patron—Favola . . . . .	SB 1373	129	279
<b>Court buildings;</b> courthouses allowed to be located on property owned jointly by a county and city, location of district courts for Albemarle County. (Patron—Bell, Robert B.) . . . . .	HB 2239	240	464
<b>C-PACE loans;</b> any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy or resiliency improvements with free and willing property owners of both existing properties and new construction, improvements may include mitigation of flooding or impacts of flooding or stormwater management improvements, etc. (Patron—Lewis) . . . . .	SB 1559	753	1749
<b>C-PACE loans;</b> any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of stormwater management improvements with free and willing property owners of both existing properties and new construction. (Patron—Petersen) . . . . .	SB 1400	564	973
<b>Credit cards;</b> prosecution for card fraud may occur in county or city in which cardholder resides. (Patron—Hodges) . . . . .	HB 2484	177	348
<b>DNA analysis;</b> conviction of certain crimes or similar ordinance of a locality. (Patron—Campbell, R.R.) . . . . .	HB 2439	201	393
<b>Dogs;</b> any locality may by ordinance prohibit the running at large in packs, except dogs used in hunting, civil penalty. (Patron—Norment) . . . . .	SB 1367	562	972
<b>Economic revitalization zone, local;</b> towns may establish by ordinance. (Patron—Boysko) . . . . .	SB 1634	721	1586
<b>Family day homes;</b> zoning permits, applicable local ordinances. Patron—LaRock . . . . .	HB 2569	380	701
Patron—Favola . . . . .	SB 1094	442	792
<b>Firearms ordinances;</b> applicability to property located in multiple localities, landowner may elect to have ordinances of locality in which largest portion of contiguous parcel of land lies to apply to anyone hunting on the property, notification to Department of Game and Inland Fisheries, report. (Patron—Head) . . . . .	HB 2252	830	1954
<b>Fort Monroe Authority;</b> payments to the City of Hampton in lieu of real property taxes, leases with other government entities. Patron—Helsel . . . . .	HB 1965	468	836
Patron—Locke . . . . .	SB 1089	469	837
<b>General Services, Department of;</b> surplus property, opportunity for economic development entities to purchase prior to public sale, upon receipt of Secretary of Natural Resources' review and prior to offering surplus property for sale to the public, Department shall notify chief administrative officer of locality within which property is located of pending disposition of such property. Patron—Austin . . . . .	HB 2182	659	1183
Patron—Mason . . . . .	SB 1681	660	1186

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COUNTIES, CITIES, AND TOWNS - Continued

<b>Golf carts and utility vehicles;</b> adds Town of Dendron to list of towns that may authorize operation on designated public highways. (Patron—Tyler) . . . . .	HB 1678	104	168
<b>Historical African American cemeteries;</b> adds New River Cemetery and West Dublin Cemetery in Pulaski County to list. (Patron—Hurst) . . . . .	HB 1973	184	369
<b>Historical African American cemeteries;</b> adds Oak Lawn Cemetery in City of Suffolk to list. (Patron—Hayes) . . . . .	HB 2311	251	480
<b>Historical African American cemeteries;</b> adds seven cemeteries in City of Hampton to list. Patron—McQuinn . . . . .	HB 2681	257	485
Patron—Locke . . . . .	SB 1128	268	504
<b>Historical African American cemeteries;</b> adds six cemeteries in the City of Alexandria to list. (Patron—Herring) . . . . .	HB 2739	260	491
<b>Income tax, state;</b> adds Page County to the list of qualified localities in which a company may invest to become eligible for income tax modification. Patron—Gilbert . . . . .	HB 2776	262	495
Patron—Obenshain . . . . .	SB 1428	263	496
<b>Industrial development authorities;</b> legislative intent. (Patron—Hodges) . . . . .	HB 2485	546	952
<b>Industrial development authority;</b> King William County may expand the board of its authority. (Patron—Peace) . . . . .	HB 2012	363	680
<b>License tax, local;</b> definition of new business, owner of new business that operates a mobile food unit pays tax required by locality in which unit is registered. (Patron—Dunnivant) . . . . .	SB 1425	791	1860
<b>Living shorelines;</b> loans to businesses, to be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority. (Patron—Hodges) . . . . .	HB 2783	497	878
<b>Local service districts;</b> broadband and telecommunications services to unserved areas of the district, contracts with nongovernmental broadband service providers. (Patron—Thomas) . . . . .	HB 2141	828	1952
<b>Localities;</b> descriptions are replaced with locality names, and various technical amendments. (Patron—Leftwich) . . . . .	HB 2305	632	1076
<b>Marsh Criminal-Traffic Division at Manchester General District Court and John Marshall Criminal-Traffic Division at Richmond General District Court;</b> concurrent jurisdiction. Patron—Adams, D.M. . . . .	HB 1742	321	614
Patron—McClellan . . . . .	SB 1108	526	907
<b>Motorized skateboards or scooters;</b> clarifies definitions, riding or driving on sidewalks, exceptions, powers of localities to regulate use of scooters, etc., for hire, effective date for certain provisions, local authority. (Patron—Pillion) . . . . .	HB 2752	780	1800
<b>New Kent County;</b> Department of Forestry authorized to convey a permanent easement and right-of-way across a portion of the New Kent Forestry Center. (Patron—Peace) . . . . .	HB 2016	186	371
<b>Out-of-state conviction of drug offenses;</b> person may petition general district court in county or city in which he resides for restricted driver's license. Patron—Jones, J.C. . . . .	HB 1664	68	107
Patron—Stuart . . . . .	SB 1181	76	114
<b>Parking of certain vehicles;</b> adds the Town of Cape Charles to the list of towns that are permitted to regulate or prohibit the parking on any public highway of watercraft, boat trailers, etc. Patron—Bloxom . . . . .	HB 1777	144	306
Patron—Lewis . . . . .	SB 1560	116	182
<b>Parking ordinances;</b> enforcement by locality with a population of at least 40,000. Patron—Delaney . . . . .	HB 1818	459	823
Patron—Black . . . . .	SB 1044	711	1315
<b>Pedestrian crossings;</b> Town of Ashland added to list of localities that may provide by ordinance for the installation and maintenance of highway signs at marked crosswalks requiring drivers to yield to pedestrians. (Patron—Fowler) . . . . .	HB 1648	103	167
<b>Primary health care facility;</b> established for employees of localities and covered dependents. (Patron—Wagner) . . . . .	SB 1358	505	887
<b>Private collectors;</b> delinquent taxes and other charges. (Patron—Edwards) . . . . .	SB 1301	271	514

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COUNTIES, CITIES, AND TOWNS - Continued

<b>Protective services;</b> multidisciplinary adult abuse, neglect, and exploitation, response teams may be established by Commonwealth attorney in each jurisdiction. Patron—Pillion . . . . .	HB 2560	170	333
Patron—Chafin . . . . .	SB 1224	775	1785
<b>Real estate;</b> delinquent taxes or liens, adds City of Martinsville to list of cities with different requirements for the appointment of a special commissioner. (Patron—Adams, L.R.) . . . . .	HB 2405	159	319
<b>Redistricting;</b> Geographic Information System maps required, any county, city, or town that does not have GIS capabilities may request Department of Elections to create on its behalf, review by the Department of Elections. Patron—Sickles . . . . .	HB 2760	777	1795
Patron—Chase . . . . .	SB 1018	778	1796
<b>Rezoning and site plan approval;</b> a locality shall require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices, bonding provisions. (Patron—Reeves) . . . . .	SB 1091	744	1726
<b>Rezoning and site plan approval;</b> any locality shall require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices, bonding provisions. (Patron—Ingram) . . . . .	HB 2621	743	1725
<b>Richmond, City of;</b> restrictions on activities of former officers and employees. Patron—Adams, D.M. . . . .	HB 2061	472	839
Patron—Dance . . . . .	SB 1194	111	175
<b>Sales and Use Tax;</b> additional local tax in Halifax County, appropriations of Halifax County to incorporated towns for educational purposes. (Patron—Edmunds) . . . . .	HB 1634	648	1129
<b>Secondary state highways;</b> limits requirement that a governing body with a six-year plan advertise for and hold a public meeting. Patron—Plum . . . . .	HB 2578	400	731
Patron—Petersen . . . . .	SB 1684	81	119
<b>Sheriffs;</b> all marked motor vehicles used by offices shall conspicuously display on each front side door of such vehicles the words "Sheriff's Office" or "Sheriff," etc. (Patron—Gilbert) . . . . .	HB 2585	298	575
<b>Smoking in outdoor amphitheater or concert venue;</b> any locality, by ordinance, may designate reasonable no-smoking areas. (Patron—Edwards) . . . . .	SB 1304	713	1574
<b>Southwestern Virginia Training Center;</b> the Commonwealth shall not convey, sell, or otherwise dispose of certain real property in Carroll County outside the Town of Hillsville on which the former Center was situated. (Patron—Carrico) . . . . .	SB 1509	610	1014
<b>Sports or entertainment project;</b> City of Virginia Beach granted certain powers relating to construction, sports and entertainment projects qualifying for entitlement to sales and use tax revenues. (Patron—Wagner) . . . . .	SB 1790	793	1861
<b>Stormwater Management Fund, local;</b> locality by ordinance authorized to create. Patron—Cole . . . . .	HB 1614	344	643
Patron—Reeves . . . . .	SB 1248	559	969
<b>Subdivision ordinance;</b> any locality allowed to include provisions requiring that where a lot being subdivided or developed fronts on an existing street or when provision of a sidewalk, the need for which is substantially generated and reasonably required by proposed development, is in accordance with locality's adopted comprehensive plan. Patron—Bulova . . . . .	HB 1913	461	824
Patron—Barker . . . . .	SB 1663	462	826
<b>Towing;</b> only towing requests made by local law-enforcement officers are subject to local ordinances regulating towing services, nothing herein shall prohibit the Department of State Police from entering into a memorandum of understanding with a county, city, or town to provide for towing services. (Patron—Carrico) . . . . .	SB 1510	630	1072
<b>Towing fees;</b> localities in Planning District 8 (Northern Virginia) and Planning District 16 (George Washington RC) shall establish by ordinance a hookup and initial towing fee of no less than \$135, etc. Patron—Fowler . . . . .	HB 1865	460	824
Patron—Marsden . . . . .	SB 1567	117	183
<b>Transfer of development rights;</b> specified sending and receiving areas. (Patron—Thomas) . . . . .	HB 2139	701	1301
<b>Turns into or out of certain residential areas;</b> allows counties that operate under the urban county executive form of government (Fairfax County) by ordinance to			

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COUNTIES, CITIES, AND TOWNS - Continued

develop a program to issue permits or stickers to residents of a designated area, etc. (Patron—Murphy) . . . . . HB 2033 305 593

**Underground electric distribution lines;** pilot program established under which local government of any locality operating under urban county executive form of government may request an electric utility to place lines in transportation projects to serve and facilitate the creation of transit-oriented development, etc. (Patron—Surovell) . . . . . SB 1759 792 1860

**Vehicles on sidewalks;** public entity may allow use of certain power-driven mobility devices by disabled individuals on a sidewalk, etc. (Patron—Hurst) . . . . . HB 1786 182 366

**Virginia Conflict of Interest and Ethics Advisory Council;** duties, training requirement for local elected officials, Council may provide such training sessions by online means, no penalty shall be imposed on an official for failing to complete training. (Patron—Obenshain) . . . . . SB 1430 530 910

**Virginia Freedom of Information Act;** training requirements for local elected officials, proceedings for enforcement, Advisory Council shall provide online training, no penalty shall be imposed on an official for failing to complete a training session, effective date. (Patron—Obenshain) . . . . . SB 1431 531 912

**Virginia Public Procurement Act;** exempts counties, cities, school boards, and towns with populations greater than 3,500, competitive negotiation for professional services, cost of professional services expected to exceed \$80,000. (Patron—Gilbert) . . . . . HB 2198 427 766

**Virginia Regional Industrial Facilities Act;** requires Department of Taxation's calculation of true values as applied to the Commonwealth's composite index of local ability-to-pay to take into account an arrangement by localities entered into pursuant to the Act. (Patron—Marshall) . . . . . HB 1838 534 918

**Voluntary boundary;** agreement between Counties of Caroline and Essex, attachment of GIS map to petitions. (Patron—Hodges) . . . . . HB 2316 705 1308

**Voluntary town audits;** submission to Auditor of Public Accounts. (Patron—Hanger) . . . . . SB 1312 361 679

**Volunteer assistant attorneys for the Commonwealth;** repeals provision relating to attorneys for the Commonwealth may only appoint volunteer assistants in cities with a population over 350,000, any city contiguous thereto, and the City of Richmond. (Patron—Peake) . . . . . SB 1686 722 1587

**Zoning Appeals, Board of;** authorizes a locality to send a zoning administrator's appeal order using certified mail. (Patron—Fariss) . . . . . HB 1698 387 714

**Zoning appeals, local board of;** in a town with a population of 3,500 or less, either three, five, or seven residents of the locality shall be appointed by circuit court of the locality. (Patron—O'Quinn) . . . . . HB 2224 703 1304

**Zoning ordinance;** if local government reduces time period by which a planning commission shall review a proposed amendment to less than 100 days, they shall hold at least one public hearing, locality shall publish notice of hearing in a newspaper having general circulation and shall also publish the notice on the locality's website. (Patron—Roem) . . . . . HB 2375 483 853

COURT OF APPEALS OF VIRGINIA

**Judge;** nomination for election to Court of Appeals of Virginia.

Patron—Adams, L.R. . . . . HR 219 2963

Patron—Adams, L.R. . . . . HR 287 2993

Patron—Obenshain . . . . . SR 92 3213

Patron—Obenshain . . . . . SR 121 3228

**Judges;** election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.) . . . . . HJR 718 2746

**Judges;** election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . . . . HJR 979 2881

COURTHOUSES AND COURTROOMS

**Court buildings;** courthouses allowed to be located on property owned jointly by a county and city, location of district courts for Albemarle County. (Patron—Bell, Robert B.) . . . . . HB 2239 240 464

COURTS NOT OF RECORD

**Contempt of court;** willful failure to appear. (Patron—Adams, L.R.) . . . . . HB 2452 708 1312

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**COURTS NOT OF RECORD - Continued**

<b>Court buildings;</b> courthouses allowed to be located on property owned jointly by a county and city, location of district courts for Albemarle County. (Patron—Bell, Robert B.)	HB 2239	240	464
<b>Family First Prevention Services Act, federal;</b> statutory alignment.			
Patron—Peace	HB 2014	282	526
Patron—Mason	SB 1679	688	1264
<b>Human immunodeficiency virus or hepatitis B or C viruses;</b> exposure to bodily fluids, infection, expedited testing, hearing on petition shall be given precedence on docket so as to be heard by court within 48 hours of filing petition, if court is closed during this period, petition will be heard on next day that court is in session, person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of order. (Patron—Price)	HB 1998	27	49
<b>Judges;</b> election in circuit court, general district court, juvenile and domestic relations district court, and members of Judicial Inquiry and Review Commission. (Patron—Adams, L.R.)	HJR 1140		2958
<b>Judges;</b> election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.)	HJR 718		2746
<b>Judges;</b> election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.)	HJR 979		2881
<b>Judges;</b> nominations for election to general district court.			
Patron—Adams, L.R.	HR 221		2964
Patron—Adams, L.R.	HR 289		2994
Patron—Adams, L.R.	HR 384		3038
Patron—Obenshain	SR 94		3214
Patron—Obenshain	SR 123		3229
Patron—Obenshain	SR 145		3239
<b>Judges;</b> nominations for election to juvenile and domestic relations district court.			
Patron—Adams, L.R.	HR 222		2964
Patron—Adams, L.R.	HR 290		2995
Patron—Adams, L.R.	HR 385		3038
Patron—Obenshain	SR 95		3215
Patron—Obenshain	SR 124		3230
Patron—Obenshain	SR 146		3239
<b>Jurisdiction of claim;</b> plaintiff's motion to amend claim amount, plaintiff shall provide a certified copy of transfer order to receiving court. (Patron—Leftwich)	HB 2289	787	1842
<b>Juvenile and domestic relations district courts;</b> jurisdiction, state or federal benefit.			
Patron—Simon	HB 2679	412	743
Patron—Surovell	SB 1758	631	1073
<b>Landlord;</b> clarifies that for purposes of signing pleadings and other papers and obtaining a judgment for possession or for rent or damages in general district court, the managing agent may act on behalf of the business. (Patron—Campbell, J.L.)	HB 2262	477	844
<b>Marsh Criminal-Traffic Division at Manchester General District Court and John Marshall Criminal-Traffic Division at Richmond General District Court;</b> concurrent jurisdiction.			
Patron—Adams, D.M.	HB 1742	321	614
Patron—McClellan	SB 1108	526	907
<b>Medical evidence admissible in juvenile and domestic relations district court;</b> preliminary protective order hearings. (Patron—Obenshain)	SB 1429	716	1579
<b>Out-of-state conviction of drug offenses;</b> person may petition general district court in county or city in which he resides for restricted driver's license.			
Patron—Jones, J.C.	HB 1664	68	107
Patron—Stuart	SB 1181	76	114
<b>Post-adoption contact and communication agreements;</b> unless parental rights have been terminated, local board of social services or child welfare agency required to file a petition for a permanency planning hearing, may inform the birth parent or parents, etc.			
Patron—Reid	HB 1728	84	122
Patron—Favola	SB 1139	65	106

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COURTS NOT OF RECORD - Continued

**Protective orders;** contents of preliminary orders, docketing of an appeal, certain appeal issued shall be assigned a case number within two business days upon receipt of such appeal. (Patron—Surovell) . . . . . SB 1540 718 1581

**Protective orders, preliminary;** full hearing date, closure of a court, order shall remain in full force and effect until it is dissolved by court. (Patron—Mullin) . . . . . HB 1673 197 388

**Removal of a child;** court may order parents or guardians of child to provide names and contact information of persons with legitimate interest. (Patron—Austin) . . . . . HB 2622 434 775

**Students;** offenses reportable by intake officers to school division superintendents, a threat to commit seriously bodily harm to persons on school property, etc.  
 Patron—Ransone . . . . . HB 1787 106 170  
 Patron—McDougle . . . . . SB 1381 206 398

**Transfer of venue;** transfer may occur when such adjudication consists of a finding of facts sufficient to justify a finding of delinquency.  
 Patron—Adams, L.R. . . . . HB 2414 235 456  
 Patron—Stuart . . . . . SB 1201 126 274

**Unlawful detainer;** appeal bond. (Patron—Barker) . . . . . SB 1626 785 1838

**Vehicle registration;** dismissal of summons for expiration, proof of compliance.  
 Patron—Herring . . . . . HB 1712 14 18  
 Patron—McDougle . . . . . SB 1383 57 96

**Virginia Juvenile Community Crime Control Act;** prevention of juvenile crime prior to intake. (Patron—Mullin) . . . . . HB 1771 105 168

**Virginia Prevention of Sex Trafficking Fund;** created, moneys in the Fund shall be used for purpose of promoting prevention and awareness of sex trafficking, fees for offenses related to sex trafficking. (Patron—Yancey) . . . . . HB 2651 728 1593

COURTS OF RECORD

**Boundary agreements, local;** all localities, in adopting a voluntary boundary agreement, allowed to attach to their petitions to circuit court a Geographic Information System (GIS) map depicting boundary change.  
 Patron—Fowler . . . . . HB 1649 385 712  
 Patron—Dunnavant . . . . . SB 1594 118 183

**Civil actions;** in the case of a no-fault divorce, a person who is a current recipient of a state or federally funded public assistance program for the indigent shall not be subject to fees and costs. (Patron—Surovell) . . . . . SB 1542 730 1601

**Civil actions;** in the case of a no-fault divorce proceeding, there shall be a presumption that a person who is a current recipient of a state or federally funded public assistance program for the indigent is unable to pay. (Patron—Campbell, J.L.) . . . . . HB 1944 411 743

**Clerks of circuit courts;** clerk may destroy any will that has been lodged in his office for safekeeping for 100 years or more. (Patron—Obenshain) . . . . . SB 1426 529 910

**Felons;** mechanism for reporting to Department of State Police when a circuit court restores right to possess, transport, and carry a firearm, etc., effective date. (Patron—Rush) . . . . . HB 2548 203 395

**Human immunodeficiency virus or hepatitis B or C viruses;** exposure to bodily fluids, infection, expedited testing, hearing on petition shall be given precedence on docket so as to be heard by court within 48 hours of filing petition, if court is closed during this period, petition will be heard on next day that court is in session, person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of order. (Patron—Price) . . . . . HB 1998 27 49

**Judge;** nomination for election to Court of Appeals of Virginia.  
 Patron—Adams, L.R. . . . . HR 219 2963  
 Patron—Adams, L.R. . . . . HR 287 2993  
 Patron—Obenshain . . . . . SR 92 3213  
 Patron—Obenshain . . . . . SR 121 3228

**Judges;** election in circuit court, general district court, juvenile and domestic relations district court, and members of Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . . . . HJR 1140 2958

**Judges;** election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.) HJR 718 2746

**COURT OF RECORD - Continued**

<b>Judges;</b> election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . .	HJR	979		2881
<b>Judges;</b> nominations for election to circuit court.				
Patron—Adams, L.R. . . . .	HR	220		2963
Patron—Adams, L.R. . . . .	HR	288		2993
Patron—Adams, L.R. . . . .	HR	383		3038
Patron—Obenshain . . . . .	SR	93		3214
Patron—Obenshain . . . . .	SR	122		3228
Patron—Obenshain . . . . .	SR	144		3239
<b>Police and court records;</b> automatic expungement of records relating to a person's conviction if he has been granted an absolute pardon for a crime he did not commit. (Patron—Cole) . . . . .	HB	2278	181	364
<b>Prisoners;</b> process for sheriff or administrator to authorize medical and mental health treatment of those incapable of giving consent. (Patron—Hope) . . . . .	HB	1933	809	1895
<b>Remote access to land records;</b> exempts Department of General Services, Department of Conservation and Recreation, Department of Forestry, and Virginia Alcoholic Beverage Control Authority from paying the fee for records, etc. (Patron—Carr) . . . .	HB	2058	611	1014
<b>Virginia Prevention of Sex Trafficking Fund;</b> created, moneys in the Fund shall be used for purpose of promoting prevention and awareness of sex trafficking, fees for offenses related to sex trafficking. (Patron—Yancey) . . . . .	HB	2651	728	1593
<b>Zoning appeals, local board of;</b> in a town with a population of 3,500 or less, either three, five, or seven residents of the locality shall be appointed by circuit court of the locality. (Patron—O'Quinn) . . . . .	HB	2224	703	1304
<b>CRATER AREA AGENCY ON AGING</b>				
<b>Crater Area Agency on Aging;</b> commending. (Patron—Tyler) . . . . .	HR	314		3007
<b>CREASY, DAVID C., SR.</b>				
<b>Creasy, David C., Sr.;</b> recording sorrow upon death. (Patron—McClellan) . . . . .	SJR	364		3148
<b>CREDIT CARDS, CREDIT SERVICES, AND CREDIT UNIONS</b>				
<b>Credit cards;</b> prosecution for card fraud may occur in county or city in which cardholder resides. (Patron—Hodges) . . . . .	HB	2484	177	348
<b>CRENSHAW, ROBERT LEEERTIESE, JR.</b>				
<b>Crenshaw, Robert LeeErtiese, Jr.;</b> recording sorrow upon death. (Patron—McQuinn) . . . . .	HJR	987		2886
<b>CRESKOFF, JEFF</b>				
<b>Creskoff, Jeff;</b> commending. (Patron—Tran) . . . . .	HJR	1123		2950
<b>CRIDLIN, GEORGE FULLER</b>				
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<b>CRIMES AND OFFENSES GENERALLY</b>				
<b>Abuse and neglect of incapacitated adults;</b> informed consent. (Patron—Mullin) . . . .	HB	1674	234	455
<b>Cannabidiol oil and THC-A oil;</b> authorizes a patient or, if such patient is a minor or an incapacitated adult, such patient's parent or legal guardian may designate an individual to act as his registered agent for the purposes of receiving oil pursuant to a valid written certification, etc. (Patron—Marsden) . . . . .	SB	1719	690	1281
<b>Cannabidiol oil and THC-A oil;</b> possession or distribution at public school, storing, dispensing, or administering by school nurse employed by a local school board, etc., to a student, no school board shall be required to suspend or expel any student who holds a valid written certification for use of oils issued by a practitioner.				
Patron—Hurst . . . . .	HB	1720	573	979
Patron—Sturtevant . . . . .	SB	1632	574	980
<b>Capital murder;</b> law-enforcement officers and fire marshals, where offender was 18 years of age or older at time of offense, punishment shall be no less than a mandatory minimum term of confinement for life.				
Patron—Pillion . . . . .	HB	2615	835	1969
Patron—Carrico . . . . .	SB	1501	717	1580
<b>Child abuse and neglect;</b> sex trafficking assessments by local departments, notification to Child Protective Services Unit, valid report or complaint, child-protective services worker responding to a report or complaint may take a child into custody.				
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**Child victims and witnesses;** testimony, using two-way closed-circuit television, commercial sex trafficking and prostitution offenses. (Patron—Collins) . . . . .

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**Concealed handgun permit;** application for a resident permit by a member of United States Armed Forces. (Patron—Stuart) . . . . .

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**Contempt of court;** willful failure to appear. (Patron—Adams, L.R.) . . . . .

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**Credit cards;** prosecution for card fraud may occur in county or city in which cardholder resides. (Patron—Hodges) . . . . .

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**Defendants;** no unrestorably incompetent defendant charged with capital murder shall be released except pursuant to a court order. (Patron—Ebbin) . . . . .

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**Driving while intoxicated or operating watercraft while intoxicated;** maiming, etc., of another, definition of "serious bodily injury," penalties. (Patron—Bell, Robert B.) . . . . .

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**False caller identification information;** penalty. (Patron—Brewer) . . . . .

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**Family life education;** Board of Education, in its curriculum guidelines, to include instruction on prevention of human trafficking. (Patron—Favola) . . . . .

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**Felons;** mechanism for reporting to Department of State Police when a circuit court restores right to possess, transport, and carry a firearm, etc., effective date. (Patron—Rush) . . . . .

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**Fluorinated hydrocarbons or vapors, or hydrogenated fluorocarbons;** prohibited inhalants or other noxious chemical substances, definition. (Patron—Thomas) . . . . .

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**Forgery;** venue for prosecution, where an issuer, acquirer, or account holder sustained a financial loss as a result of the offense.

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**Fraud prevention;** Department of Medical Assistance Services shall conduct a pilot program to develop and implement means to mitigate risk of improper payment to services providers, etc., report. (Patron—Peace) . . . . .

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**Health care provider;** threats of death or bodily injury to a provider, penalty. (Patron—Howell) . . . . .

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**Illegal gambling;** definition. (Patron—Reeves) . . . . .

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**Law-enforcement officials;** unlawful for any person to knowingly, with intent to mislead an agency, cause another to give a false report to any official, penalty.

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**Motor vehicle registration, licensing, and certificates of title statutes;** reorganization, segregation of criminal offenses and traffic offenses.

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**Nondisclosure or confidentiality agreements;** sexual assault, condition of employment. (Patron—Delaney) . . . . .

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**Out-of-state conviction of drug offenses;** person may petition general district court in county or city in which he resides for restricted driver's license.

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<b>Passport and military identification numbers;</b> breach of personal information notification. (Patron—Lopez) . . . . .	HB 2396	484	854
<b>Prostitution;</b> unlawful for any travel agent to knowingly promote travel services, Class 1 misdemeanor. (Patron—Delaney) . . . . .	HB 1817	458	819
<b>Prostitution and sex trafficking;</b> offenses involving a minor, penalties. (Patron—Bell, Robert B.) . . . . .	HB 2586	617	1024
<b>School security officers;</b> employment by private or religious schools, carrying a firearm in performance of duties. (Patron—Cole) . . . . .	HB 1656	120	184
<b>Sex Offender and Crimes Against Minors Registry;</b> reregistration schedule, copies of all forms to be used and guidelines for submitting such forms, shall be available through distribution by the State Police, etc., effective date. Patron—Watts . . . . .	HB 2089	613	1015
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<b>Specialty dockets;</b> Office of the Executive Secretary of the Supreme Court shall develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets, report. Patron—Stolle . . . . .	HB 2665	13	17
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<b>Timber theft;</b> a person who buys and removes timber from a landowner's property is guilty of Class 1 misdemeanor if he fails to pay the landowner within date specified in written timber sales agreement, load tickets required for certain sales of timber. Patron—Adams, L.R. . . . .	HB 2411	348	650
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<b>Tobacco products, nicotine vapor products, and alternative nicotine products;</b> purchase, possession, and sale, minimum age requirements, provisions shall not apply to any active duty military personnel who are 18 years of age or older, etc., penalties. Patron—Stolle . . . . .	HB 2748	90	144
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<b>Unlawful dissemination or sale of images of another person;</b> "another person" includes a person whose image was used in creating, etc., a videographic or still image with intent to depict an actual person, etc., penalty. Patron—Simon . . . . .	HB 2678	490	868
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<b>Unmanned aircraft system;</b> trespassing with system if takes off or lands in violation of current Federal Aviation Administration Special Security Instructions, etc., guilty of Class 1 misdemeanor. (Patron—Knight) . . . . .	HB 1636	612	1015
<b>Virginia Prevention of Sex Trafficking Fund;</b> created, moneys in the Fund shall be used for purpose of promoting prevention and awareness of sex trafficking, fees for offenses related to sex trafficking. (Patron—Yancey) . . . . .	HB 2651	728	1593
<b>Wanton waste;</b> Class 2 misdemeanor for violating a regulation prohibiting, or allowing of a killed or crippled game animal or nonmigratory game bird to be wasted without making a reasonable effort to retrieve the animal. (Patron—Edmunds) . . . . .	HB 1613	150	312

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<b>Central Criminal Records Exchange;</b> Department of State Police shall accept requests for background checks through the use of Live Scan device. (Patron—Head) . . . . .	HB 2746	620	1043
<b>Central Criminal Records Exchange;</b> reports to the Exchange, duties and responsibilities of local community-based probation officers, unapplied criminal history record information. Patron—Bell, Robert B. . . . .	HB 2343	783	1823
Patron—Obenshain . . . . .	SB 1602	782	1809
<b>Criminal history background information;</b> licensed home care agency, community services board, licensed adult day care center, etc., that provide services under state plan for medical assistance services may disclose whether background check has been performed on an employee and whether such person is eligible for employment. (Patron—Price) . . . . .	HB 2035	89	137
<b>Insurance licensing, biennial;</b> renewal for individuals and business entities, criminal background checks, fingerprinting, insurance agents' continuing education requirements, removes obsolete requirements, effective date. (Patron—Chafin) . . . . .	SB 1222	675	1230

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**School resource officers;** powers and duties of Department of Criminal Justice Services, compulsory minimum training standards for certification and recertification of law-enforcement officers, training shall be specific to role and responsibility of officer working with students, etc.

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CRIMINAL PROCEDURE

**Bail and recognizances;** magistrate's checklist, surety's basis for request for *capias*. (Patron—Adams, L.R.) . . . . .

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**Bail bondsman;** surrender of principal, deposit. (Patron—Collins) . . . . .

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**Central Criminal Records Exchange;** Department of State Police shall accept requests for background checks through the use of Live Scan device. (Patron—Head)

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**Central Criminal Records Exchange;** reports, adds additional offenses to list. (Patron—Chafin) . . . . .

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**Central Criminal Records Exchange;** reports to the Exchange, duties and responsibilities of local community-based probation officers, unapplied criminal history record information.

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**Child care providers;** local law-enforcement agencies allowed to process and submit requests for national fingerprint background checks, forwarding fingerprints and personal descriptive information. (Patron—Mason) . . . . .

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**Child Pornography Registry;** contents of Registry, criminal investigations, report.

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**Clerks of court;** collection of DNA sample for certain offenses, disclosure of tax information, repeals the provision of law establishing the Torrens system. (Patron—Chafin) . . . . .

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**Community corrections alternative program;** establishment, repeals the boot camp incarceration program, diversion center incarceration program, and detention center incarceration program, etc. (Patron—Ward) . . . . .

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**Crime victim rights;** upon victim's request, victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of release of defendant found unrestorably incompetent or acquitted by reason of insanity. (Patron—Orrock) . . . . .

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**Criminal history background information;** licensed home care agency, community services board, licensed adult day care center, etc., that provide services under state plan for medical assistance services may disclose whether background check has been performed on an employee and whether such person is eligible for employment. (Patron—Price) . . . . .

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**Criminal Injuries Compensation Fund;** amount of award. (Patron—Bell, Robert B.) .

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**Defendants;** no unrestorably incompetent defendant charged with capital murder shall be released except pursuant to a court order. (Patron—Ebbin) . . . . .

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**DNA analysis;** conviction of certain crimes or similar ordinance of a locality. (Patron—Campbell, R.R.) . . . . .

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**Eviction;** changes terminology from writ of possession to writ of eviction for the writ executed by a sheriff to recover real property pursuant to an order of possession, pleadings and other papers by certain parties not represented by attorneys.

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**Forensic Science, Department of;** purchase of forensic laboratory services, laboratory that has entered into a contract with the Department for provision of services shall be deemed authorized by Department to conduct such analyses or examinations.

Patron—Morefield . . . . .	HB 2279	478	847
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**Forfeiture on recognizance;** bail bondsman, suspension of license. (Patron—Bell, Richard P.) . . . . .

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<b>Insurance licensing, biennial;</b> renewal for individuals and business entities, criminal background checks, fingerprinting, insurance agents' continuing education requirements, removes obsolete requirements, effective date. (Patron—Chafin) . . . .	SB 1222	675	1230	
<b>Investigations and reports by probation officers;</b> persons eligible for parole. (Patron—Tyler) .....	HB 1833	107	173	
<b>Medical evidence admissible in juvenile and domestic relations district court;</b> preliminary protective order hearings. (Patron—Obenshain) .....	SB 1429	716	1579	
<b>Multi-jurisdiction grand jury;</b> secrecy of information, use in a criminal investigation or proceeding. (Patron—Adams, L.R.) .....	HB 2413	522	904	
<b>Physical evidence recovery kits;</b> Department of Forensic Science shall maintain a statewide electronic tracking system for kits, etc., health care providers, law-enforcement agencies, etc., shall be required to enter identification number and other information pertaining to the kits in the System as required. (Patron—Watts) . .	HB 2080	473	840	
<b>Police and court records;</b> automatic expungement of records relating to a person's conviction if he has been granted an absolute pardon for a crime he did not commit. (Patron—Cole) .....	HB 2278	181	364	
<b>Prostitution;</b> unlawful for any travel agent to knowingly promote travel services, Class 1 misdemeanor. (Patron—Delaney) .....	HB 1817	458	819	
<b>Protective orders;</b> contents of preliminary orders, docketing of an appeal, certain appeal issued shall be assigned a case number within two business days upon receipt of such appeal. (Patron—Surovell) .....	SB 1540	718	1581	
<b>Protective orders, preliminary;</b> full hearing date, closure of a court, order shall remain in full force and effect until it is dissolved by court. (Patron—Mullin) .....	HB 1673	197	388	
<b>Resetting bail, bond, and recognizance determinations;</b> appeal from order, bail decision, jurisdiction. (Patron—VanValkenburg) .....	HB 2320	616	1023	
<b>Unmanned aircraft systems;</b> used by law-enforcement officer to aerially survey a primary residence of the subject of the arrest warrant to formulate a plan to execute an existing arrest warrant or capias for a felony offense, etc. (Patron—Carrico) . . . .	SB 1507	781	1808	
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<b>Crump, Grosjean Graves, Jr.;</b> recording sorrow upon death. (Patron—Peace) .....	HJR 632		2720	
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<b>Daily Planet Health Services;</b> commemorating 50 years of service to the people in need in the Greater Richmond region. (Patron—McClellan) .....	SJR 463		3201	
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**Dams;** prohibits Department of Conservation and Recreation from requiring the removal of wetland vegetation that is growing on certain portions of a dam if the vegetation is associated with an approved wetland mitigation bank, or in-lieu fee site, etc. (Patron—Bulova) . . . . . HB 1715 148 308

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**All-Payer Claims Database;** definitions, participation by issuers of individual or group accident and sickness insurance, etc., Commissioner shall establish a data release committee to review and approve requests for access to data.  
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<b>Cooke, Josephine Bernadine;</b> recording sorrow upon death. (Patron—Roem) . . . . .	HJR 1099	2939
<b>Coors, William K.;</b> recording sorrow upon death. (Patron—Hanger) . . . . .	SJR 345	3137
<b>Corbett, Kevin;</b> recording sorrow upon death. Patron—O'Quinn . . . . .	HR 407	3047
Patron—Suetterlein . . . . .	SR 167	3249
<b>Cornman, John M.;</b> recording sorrow upon death. (Patron—Hope) . . . . .	HJR 1008	2896
<b>Creasy, David C., Sr.;</b> recording sorrow upon death. (Patron—McClellan) . . . . .	SJR 364	3148
<b>Crenshaw, Robert Lee Ertiese, Jr.;</b> recording sorrow upon death. (Patron—McQuinn) . . . . .	HJR 987	2886
<b>Cridlin, George Fuller;</b> recording sorrow upon death. (Patron—Kilgore) . . . . .	HJR 908	2842
<b>Cromuel, March, Jr.;</b> recording sorrow upon death. (Patron—Hayes) . . . . .	HJR 1059	2921
<b>Crouse, David B., Sr.;</b> recording sorrow upon death. (Patron—Miyares) . . . . .	HR 318	3009
<b>Crump, Grosjean Graves, Jr.;</b> recording sorrow upon death. (Patron—Peace) . . . . .	HJR 632	2720
<b>Dabney, William Garfield;</b> recording sorrow upon death. (Patron—Rasoul) . . . . .	HJR 947	2863
<b>Davis, Charles William, Jr.;</b> recording sorrow upon death. (Patron—Ayala) . . . . .	HJR 711	2743
<b>Davis, John Maston;</b> recording sorrow upon death. (Patron—Ransone) . . . . .	HJR 691	2734
<b>Davis, Robert G., Jr.;</b> recording sorrow upon death. (Patron—Ward) . . . . .	HR 248	2977
<b>Dean, Lou;</b> recording sorrow upon death. (Patron—Rodman) . . . . .	HJR 923	2850
<b>Dellinger, Cynthia Grim;</b> recording sorrow upon death. Patron—Gilbert . . . . .	HJR 958	2868
Patron—Obenshain . . . . .	SJR 416	3176
<b>DeLoatch, Sandra J.;</b> recording sorrow upon death. (Patron—Lindsey) . . . . .	HR 301	2999
<b>Dendy, Stacey Visser;</b> recording sorrow upon death. Patron—Jones, S.C. . . . .	HJR 667	2731
Patron—Saslaw . . . . .	SJR 269	3073
<b>Denney, Lucy E.;</b> recording sorrow upon death. (Patron—Hope) . . . . .	HJR 1010	2897
<b>Diezel, Harry E.;</b> recording sorrow upon death. (Patron—DeSteph) . . . . .	SJR 344	3137
<b>Doane, Charles Edward;</b> recording sorrow upon death. (Patron—O'Quinn) . . . . .	HJR 766	2771
<b>Dodson, Thelma Virginia;</b> recording sorrow upon death. (Patron—Murphy) . . . . .	HJR 781	2779
<b>Dover, Dale Warren;</b> recording sorrow upon death. (Patron—Simon) . . . . .	HJR 970	2875
<b>Dowell, Lucas B.;</b> recording sorrow upon death. Patron—O'Quinn . . . . .	HJR 968	2874
Patron—Carrico . . . . .	SJR 388	3160
<b>Dreyfus, Leonard Louis;</b> recording sorrow upon death. (Patron—Deeds) . . . . .	SJR 422	3179
<b>Dudley, Sue Kimble;</b> recording sorrow upon death. (Patron—Deeds) . . . . .	SJR 370	3151

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<b>Earley, Robert Andrew, Sr.;</b> recording sorrow upon death. (Patron—Stolle) . . . . .	HJR 1047	2915	
<b>Edgerton, Milton Thomas, Jr.;</b> recording sorrow upon death. (Patron—Toscano) . . . . .	HJR 925	2851	
<b>Edwards, Hunter;</b> recording sorrow upon death. (Patron—Collins) . . . . .	HR 367	3031	
<b>Edwards, William E.;</b> recording sorrow upon death. (Patron—Deeds) . . . . .	SJR 373	3153	
<b>Elder, Andrew Dalton, Sr.;</b> recording sorrow upon death. (Patron—Edmunds) . . . . .	HJR 831	2803	
<b>Elder, Thomas, Jr.;</b> recording sorrow upon death. (Patron—Brewer) . . . . .	HR 258	2982	
<b>Estes, Lillie A.;</b> recording sorrow upon death. Patron—McQuinn . . . . .	HJR 872	2824	
Patron—McClellan . . . . .	SJR 365	3149	
<b>Fahl, Douglas Ronald;</b> recording sorrow upon death. (Patron—Howell) . . . . .	SJR 317	3120	
<b>Ferguson, William R.;</b> recording sorrow upon death. (Patron—McDougle) . . . . .	SR 149	3240	
<b>Fierro, Manuel Baca;</b> recording sorrow upon death. (Patron—Boysko) . . . . .	SJR 448	3194	
<b>Fischer, Mark Lee;</b> recording sorrow upon death. (Patron—McGuire) . . . . .	HR 411	3048	
<b>Ford, Leonard Carlyle;</b> recording sorrow upon death. (Patron—Norment) . . . . .	SJR 455	3198	
<b>Fraher, Sarah Goldenberg;</b> recording sorrow upon death. (Patron—Adams, D.M.) . . . . .	HR 236	2971	
<b>Freeman, Barbara Foster;</b> recording sorrow upon death. (Patron—Howell) . . . . .	SJR 426	3181	
<b>Fuller, Joseph Benjamin;</b> recording sorrow upon death. (Patron—Heretick) . . . . .	HJR 611	2714	
<b>Gamboa, Bellamy Malaki;</b> recording sorrow upon death. Patron—Convirs-Fowler . . . . .	HJR 940	2860	
Patron—Convirs-Fowler . . . . .	HR 298	2998	
<b>Gates, Ernest Pleasants;</b> recording sorrow upon death. (Patron—Robinson) . . . . .	HJR 819	2797	
<b>Gates, Marshall Steven;</b> recording sorrow upon death. (Patron—Suetterlein) . . . . .	SR 164	3248	
<b>Gibbs, Jason Dean;</b> recording sorrow upon death. (Patron—Stanley) . . . . .	SR 153	3242	
<b>Gooch, Robert S., IV;</b> recording sorrow upon death. (Patron—Chase) . . . . .	SR 126	3231	
<b>Goodman, Robert Carey, Jr.;</b> recording sorrow upon death. (Patron—Adams, D.M.) . . . . .	HR 231	2969	
<b>Grinnan, Richardson;</b> recording sorrow upon death. (Patron—Adams, D.M.) . . . . .	HR 244	2975	
<b>Hagans, Robert Franklin, Jr.;</b> recording sorrow upon death. (Patron—Lindsey) . . . . .	HJR 959	2869	
<b>Hale, Shirley Cox Warren;</b> recording sorrow upon death. (Patron—Garrett) . . . . .	HR 409	3048	
<b>Hall, Kenneth A.;</b> recording sorrow upon death. (Patron—DeSteph) . . . . .	SR 168	3249	
<b>Hansen-Ike, Brenda Lee;</b> recording sorrow upon death. (Patron—Cosgrove) . . . . .	SR 85	3209	
<b>Hardy, Walter Norris, Sr.;</b> recording sorrow upon death. (Patron—Ward) . . . . .	HR 216	2962	
<b>Harper, John;</b> recording sorrow upon death. Patron—Torian . . . . .	HR 284	2992	
Patron—Surovell . . . . .	SJR 438	3187	
<b>Heron, Charles M.;</b> recording sorrow upon death. (Patron—DeSteph) . . . . .	SJR 350	3141	
<b>Hill, Derek Brandon;</b> recording sorrow upon death. (Patron—Carrico) . . . . .	SJR 304	3114	
<b>Hoffman, Edythe Horwitz;</b> recording sorrow upon death. (Patron—Adams, D.M.) . . . . .	HR 229	2968	
<b>Hoge, Mary Barbara Kirk;</b> recording sorrow upon death. (Patron—Delaney) . . . . .	HJR 797	2787	
<b>Horton, Dennis Dunne;</b> recording sorrow upon death. (Patron—Hanger) . . . . .	SJR 280	3077	
<b>Huff, Frank;</b> recording sorrow upon death. (Patron—Obenshain) . . . . .	SJR 417	3177	
<b>Hunnicut, Joseph Frederick;</b> recording sorrow upon death. (Patron—Carrico) . . . . .	SJR 378	3155	
<b>Hunter, Jeannine A.;</b> recording sorrow upon death. (Patron—Norment) . . . . .	SJR 464	3202	
<b>Hurt, Jerry Allen;</b> recording sorrow upon death. (Patron—Campbell, J.L.) . . . . .	HR 272	2988	
<b>Inskeep, William Brinker;</b> recording sorrow upon death. (Patron—Freitas) . . . . .	HJR 696	2735	
<b>Jenkins, John D.;</b> recording sorrow upon death. Patron—Torian . . . . .	HR 283	2992	
Patron—McPike . . . . .	SR 112	3224	
<b>Johnson, Carolyn W.;</b> recording sorrow upon death. (Patron—Hope) . . . . .	HJR 1011	2897	
<b>Jonas, Gordon Danny;</b> recording sorrow upon death. (Patron—Suetterlein) . . . . .	SR 160	3245	
<b>Joy, Charles Austin, Jr.;</b> recording sorrow upon death. (Patron—Fowler) . . . . .	HJR 997	2890	
<b>Karl, Earl V.;</b> recording sorrow upon death. (Patron—Delaney) . . . . .	HJR 798	2787	
<b>Kelly, Edmund John;</b> recording sorrow upon death. (Patron—Carrico) . . . . .	SJR 376	3154	
<b>Kenney, Walter T., Sr.;</b> recording sorrow upon death. Patron—McQuinn . . . . .	HJR 840	2808	
Patron—McClellan . . . . .	SJR 380	3156	
<b>Kerr, Evelyn Marie;</b> recording sorrow upon death. (Patron—Obenshain) . . . . .	SJR 267	3073	
<b>Kevorkian, Richard Eugene;</b> recording sorrow upon death. (Patron—Adams, D.M.) . . . . .	HR 245	2975	
<b>Kim, James Hoshik;</b> recording sorrow upon death. (Patron—Keam) . . . . .	HJR 1035	2909	

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<b>Kinman, Guy Malcolm, Jr.;</b> recording sorrow upon death. (Patron—Bourne) . . . . .	HJR 1007	2895
<b>Kling, William Holt, Sr.;</b> recording sorrow upon death. (Patron—Ransone) . . . . .	HJR 731	2752
<b>Krum, Charles, Jr.;</b> recording sorrow upon death. (Patron—O'Quinn) . . . . .	HJR 710	2743
<b>Lamar, Marjorie Hodges;</b> recording sorrow upon death. (Patron—Hanger) . . . . .	SR 103	3219
<b>Lancaster, Donn;</b> recording sorrow upon death. Patron—Bourne . . . . .	HJR 957	2868
Patron—Sturtevant . . . . .	SJR 437	3187
<b>Landsrath, Ursula;</b> recording sorrow upon death. (Patron—Webert) . . . . .	HJR 924	2850
<b>LaPorta, Gary Carlo;</b> recording sorrow upon death. (Patron—Simon) . . . . .	HJR 1100	2939
<b>Laughon, Franklin E.;</b> recording sorrow upon death. (Patron—Cox) . . . . .	HJR 741	2758
<b>Lawler, Joan Albert;</b> recording sorrow upon death. (Patron—Ransone) . . . . .	HJR 638	2722
<b>Layman, T. Rodman;</b> recording sorrow upon death. (Patron—Obenshain) . . . . .	SJR 395	3164
<b>Lee, Richard Mimms;</b> recording sorrow upon death. (Patron—Fowler) . . . . .	HJR 722	2749
<b>Lewis, Rudolph Bobby, Sr.;</b> recording sorrow upon death. (Patron—DeSteph) . . . . .	SJR 351	3141
<b>Liakos, John George;</b> recording sorrow upon death. (Patron—Rasoul) . . . . .	HJR 946	2863
<b>Lineburg, Frederick;</b> recording sorrow upon death. (Patron—Reid) . . . . .	HJR 985	2885
<b>Lineweaver, Elizabeth Carter;</b> recording sorrow upon death. (Patron—Webert) . . . . .	HJR 767	2772
<b>Lipicky, Wesley Charles;</b> recording sorrow upon death. (Patron—Sickles) . . . . .	HR 354	3025
<b>Litton, Robert Ewing, II;</b> recording sorrow upon death. (Patron—Chafin) . . . . .	SJR 447	3193
<b>Logan, Joseph Dandridge, III;</b> recording sorrow upon death. (Patron—Carr) . . . . .	HJR 843	2810
<b>Loggans, Pat;</b> recording sorrow upon death. (Patron—Kilgore) . . . . .	HJR 719	2748
<b>Lord, Leslie Bain;</b> recording sorrow upon death. (Patron—Delaney) . . . . .	HJR 795	2786
<b>Mankin, Elma;</b> recording sorrow upon death. (Patron—Boysko) . . . . .	SR 132	3233
<b>Marsh, John O., Jr.;</b> recording sorrow upon death. (Patron—Vogel) . . . . .	SR 136	3235
<b>Martin, Fred Thomas, Sr.;</b> recording sorrow upon death. (Patron—Adams, L.R.) . . . . .	HJR 1081	2931
<b>Mason, Robert B.;</b> recording sorrow upon death. (Patron—Delaney) . . . . .	HJR 915	2845
<b>Matthews, Linwood S.;</b> recording sorrow upon death. Patron—Cox . . . . .	HJR 815	2795
Patron—Chase . . . . .	SJR 352	3142
<b>McBride, Suzanne Curry;</b> recording sorrow upon death. (Patron—DeSteph) . . . . .	SJR 435	3186
<b>McCaig, Donald Robert;</b> recording sorrow upon death. (Patron—Deeds) . . . . .	SJR 368	3150
<b>McCray, Ronnie Lee;</b> recording sorrow upon death. (Patron—Mullin) . . . . .	HJR 907	2842
<b>McGuire, Annie Lee Farmer;</b> recording sorrow upon death. (Patron—Rodman) . . . . .	HJR 948	2863
<b>McGuire, Hunter Holmes, Jr.;</b> recording sorrow upon death. (Patron—Carr) . . . . .	HJR 842	2809
<b>McKinnon, William;</b> recording sorrow upon death. (Patron—Norment) . . . . .	SJR 446	3193
<b>McLaughlin, Sylvia Overton;</b> recording sorrow upon death. (Patron—Edmunds) . . . . .	HJR 830	2803
<b>Meade, Theresa Herlihy;</b> recording sorrow upon death. (Patron—Hugo) . . . . .	HR 413	3049
<b>Melvin, Claxton M.;</b> recording sorrow upon death. (Patron—James) . . . . .	HR 260	2983
<b>Miller, Sandra Elizabeth;</b> recording sorrow upon death. (Patron—Carr) . . . . .	HJR 852	2814
<b>Mitchell, Willie Mae;</b> recording sorrow upon death. (Patron—Levine) . . . . .	HJR 1098	2938
<b>Moore, Audrey Elizabeth;</b> recording sorrow upon death. (Patron—Watts) . . . . .	HJR 961	2870
<b>Murray, Ryan D.;</b> recording sorrow upon death. (Patron—Bell, John J.) . . . . .	HR 278	2990
<b>Nash, Dennis Wayne;</b> recording sorrow upon death. (Patron—Edmunds) . . . . .	HR 410	3048
<b>Newton, Edward Colston, V.;</b> recording sorrow upon death. Patron—Ransone . . . . .	HJR 619	2716
Patron—Stuart . . . . .	SJR 315	3118
<b>Norman, Sheila Elizabeth;</b> recording sorrow upon death. (Patron—Hope) . . . . .	HJR 1012	2898
<b>Nuckols, Gary M.;</b> recording sorrow upon death. (Patron—Stuart) . . . . .	SJR 335	3131
<b>Nusbaum, Robert C.;</b> recording sorrow upon death. (Patron—Jones, J.C.) . . . . .	HJR 972	2877
<b>Olson, Cleonia B. Ramsey Agee;</b> recording sorrow upon death. (Patron—Delaney) . . . . .	HJR 801	2788
<b>Onley, Mary E.;</b> recording sorrow upon death. (Patron—Lewis) . . . . .	SJR 410	3173
<b>Parrott, Joan S.;</b> recording sorrow upon death. (Patron—Locke) . . . . .	SJR 257	3070
<b>Pendleton, Anne B.;</b> recording sorrow upon death. (Patron—Kory) . . . . .	HR 255	2980
<b>Phillips, Leonard E., Jr.;</b> recording sorrow upon death. Patron—Carr . . . . .	HJR 841	2808
Patron—Sturtevant . . . . .	SJR 434	3185

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<b>Piazza, Cynthia Lynn;</b> recording sorrow upon death.		
Patron—Cox .....	HJR 814	2794
Patron—Chase .....	SJR 420	3178
<b>Pollard, Oliver A., Jr.;</b> recording sorrow upon death. (Patron—Dance) .....	SJR 444	3191
<b>Power, Thomas Pierce;</b> recording sorrow upon death. (Patron—Mason) .....	SJR 421	3179
<b>Press, Alexis Wesolowsky;</b> recording sorrow upon death. (Patron—Keam) .....	HJR 1058	2921
<b>Price, David Allen, Sr.;</b> recording sorrow upon death. (Patron—Tyler) .....	HJR 602	2708
<b>Proffitt, Richard Lee;</b> recording sorrow upon death. (Patron—Roem) .....	HJR 1082	2932
<b>Quayle, Frederick MacDonald;</b> recording sorrow upon death.		
Patron—Jones, S.C. ....	HJR 712	2744
Patron—Cosgrove .....	SJR 318	3120
<b>Raftelis, Mitchel;</b> recording sorrow upon death. (Patron—Carroll Foy) .....	HJR 1049	2916
<b>Ramsey, Edward Jarratt, Jr.;</b> recording sorrow upon death. (Patron—Adams, D.M.) .	HR 246	2976
<b>Rasnick, John Marshall, Jr.;</b> recording sorrow upon death. (Patron—McDougle) ....	SR 113	3225
<b>Redd, Roy Lee;</b> recording sorrow upon death. (Patron—Hurst) .....	HJR 874	2825
<b>Rhee, Jhoon Goo;</b> recording sorrow upon death. (Patron—Sullivan) .....	HJR 790	2783
<b>Riddick, Charlotte Staples;</b> recording sorrow upon death. (Patron—Toscano) .....	HJR 927	2852
<b>Rogers, James Walter;</b> recording sorrow upon death. (Patron—Stanley) .....	SJR 406	3170
<b>Roller, Harold W.;</b> recording sorrow upon death. (Patron—Landes) .....	HJR 730	2752
<b>Ross, Andrew Patrick;</b> recording sorrow upon death.		
Patron—Deeds .....	SJR 369	3151
Patron—Dunnivant .....	SR 118	3227
<b>Ross, Barbara Beatrice Abernathy;</b> recording sorrow upon death.		
Patron—Bourne .....	HJR 812	2793
Patron—McClellan .....	SJR 427	3182
<b>Rowe, Josiah Pollard, III;</b> recording sorrow upon death.		
Patron—Thomas .....	HJR 1048	2915
Patron—Stuart .....	SJR 290	3081
<b>Rupe, Trina Nelson;</b> recording sorrow upon death. (Patron—Hurst) .....	HJR 875	2825
<b>Russell, Robert Elson, Sr.;</b> recording sorrow upon death. (Patron—Chase) .....	SR 128	3232
<b>Shendow, William;</b> recording sorrow upon death. (Patron—Collins) .....	HR 368	3031
<b>Shorter, John Britton, Jr.;</b> recording sorrow upon death. (Patron—Peace) .....	HJR 631	2719
<b>Shuemaker, Donald E., Sr.;</b> recording sorrow upon death. (Patron—Roem) .....	HR 451	3066
<b>Shumadine, Anne B.;</b> recording sorrow upon death. (Patron—Jones, J.C.) .....	HJR 973	2877
<b>Silver, Maxine Lyons;</b> recording sorrow upon death. (Patron—Stuart) .....	SJR 396	3165
<b>Slotnick, Fay Dutkin;</b> recording sorrow upon death. (Patron—Ebbin) .....	SR 158	3244
<b>Smith, Kenny;</b> recording sorrow upon death. (Patron—Keam) .....	HJR 1030	2907
<b>Smith, Lloyd Thomas, Jr.;</b> recording sorrow upon death. (Patron—Deeds) .....	SJR 423	3180
<b>Smith, Marshall Wayne;</b> recording sorrow upon death. (Patron—Adams, D.M.) .....	HR 247	2976
<b>Snodgrass, Inez Faye;</b> recording sorrow upon death. (Patron—O'Quinn) .....	HJR 707	2741
<b>Snook, Helen B.;</b> recording sorrow upon death. (Patron—Toscano) .....	HJR 926	2852
<b>Snyder, Edward Brown;</b> recording sorrow upon death. (Patron—DeSteph) .....	SJR 349	3140
<b>Spady, Effie Marie Giddens;</b> recording sorrow upon death. (Patron—Lewis) .....	SJR 457	3199
<b>Spain, Yvonne Elizabeth;</b> recording sorrow upon death. (Patron—Carr) .....	HJR 845	2811
<b>Spruill, Tyler McKellan;</b> recording sorrow upon death.		
Patron—Freitas .....	HJR 905	2840
Patron—Reeves .....	SJR 385	3159
<b>Stenke, George;</b> recording sorrow upon death. (Patron—Stolle) .....	HJR 1060	2921
<b>Stiles, George Edward Robertson;</b> recording sorrow upon death. (Patron—Peace) ...	HJR 633	2720
<b>Stivers, Jennifer Marable;</b> recording sorrow upon death. (Patron—Dunnivant) .....	SJR 387	3160
<b>Strickland, Troy Everette;</b> recording sorrow upon death. (Patron—Edmunds) .....	HJR 596	2706
<b>Talman, Edward Armistead;</b> recording sorrow upon death. (Patron—Adams, D.M.) .	HR 232	2969
<b>Thomas, Jerre S., II;</b> recording sorrow upon death. (Patron—Carroll Foy) .....	HR 323	3011
<b>Thomas, Wilbur Eugene;</b> recording sorrow upon death. (Patron—Ruff) .....	SJR 469	3204
<b>Thompson, Charles;</b> recording sorrow upon death. (Patron—Miyares) .....	HR 282	2991
<b>Tilley, Michael Timothy;</b> recording sorrow upon death. (Patron—McDougle) .....	SR 108	3222
<b>Toups, John Melburn;</b> recording sorrow upon death. (Patron—Saslaw) .....	SJR 271	3074
<b>Towell, Richard Leigh, Sr.;</b> recording sorrow upon death. (Patron—McDougle) .....	SR 115	3226

**DEATHS - Continued**

<b>Troxell, Charlotte Mae Satterwhite;</b> recording sorrow upon death.			
Patron—Cox	HR	259	2982
Patron—McDougle	SR	114	3225
<b>Verley, Elizabeth May;</b> recording sorrow upon death. (Patron—Locke)	SJR	467	3203
<b>Wacker, Louis Alexander;</b> recording sorrow upon death. (Patron—O'Quinn)	HR	408	3047
<b>Wade, Kevin Glenn;</b> recording sorrow upon death. (Patron—Lewis)	SJR	412	3174
<b>Walker, William Clinton;</b> recording sorrow upon death.			
Patron—O'Quinn	HJR	721	2749
Patron—Carrico	SJR	303	3114
<b>Wambold, Alan Bruce;</b> recording sorrow upon death. (Patron—Saslaw)	SR	148	3240
<b>Ward, William E.;</b> recording sorrow upon death.			
Patron—Hayes	HJR	586	2703
Patron—Spruill	SJR	256	3069
<b>Ware, Evelyn Belle;</b> recording sorrow upon death.			
Patron—LaRock	HJR	1083	2932
Patron—Black	SJR	328	3127
<b>Washington, Tony Robinson, Jr.;</b> recording sorrow upon death. (Patron—Lewis)	SJR	411	3173
<b>Weaver, Bettie Woodson;</b> recording sorrow upon death.			
Patron—Adams, D.M.	HJR	695	2735
Patron—Sturtevant	SJR	476	3208
<b>Welsh, George;</b> recording sorrow upon death. (Patron—Bell, Robert B.)	HJR	761	2769
<b>Whetzel, Anthony R.;</b> recording sorrow upon death. (Patron—Wilt)	HJR	871	2823
<b>Whetzel, Anthony Robert;</b> recording sorrow upon death. (Patron—Obenshain)	SJR	394	3164
<b>Whitaker, Joseph C.;</b> recording sorrow upon death. (Patron—Locke)	SJR	384	3158
<b>White, Herbert, Jr.;</b> recording sorrow upon death. (Patron—Peace)	HR	275	2989
<b>White, Richard Dudley;</b> recording sorrow upon death. (Patron—Jones, J.C.)	HJR	986	2885
<b>Whitehurst, Kenneth N., Jr.;</b> recording sorrow upon death.			
Patron—Knight	HJR	726	2750
Patron—Knight	HR	353	3025
<b>Whitmore, Edwin Burwell Jones, III;</b> recording sorrow upon death.			
(Patron—Campbell, J.L.)	HJR	811	2793
<b>Williams, Hazel;</b> recording sorrow upon death. (Patron—Suetterlein)	SR	166	3248
<b>Williams, John Davis;</b> recording sorrow upon death. (Patron—McQuinn)	HJR	1080	2931
<b>Wilson, Harvey King;</b> recording sorrow upon death. (Patron—McClellan)	SJR	433	3185
<b>Wise, Timothy Martin;</b> recording sorrow upon death. (Patron—Hope)	HJR	1009	2896
<b>Wood, Glen;</b> recording sorrow upon death. (Patron—Poindexter)	HJR	969	2874
<b>Wright, Lorene Ann;</b> recording sorrow upon death. (Patron—Tran)	HJR	1137	2957
<b>DEEP RUN HIGH SCHOOL</b>			
<b>Deep Run High School golf team;</b> commending. (Patron—Dunnivant)	SJR	425	3181
<b>DEFENDANTS</b>			
<b>Crime victim rights;</b> upon victim's request, victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of release of defendant found unrestorably incompetent or acquitted by reason of insanity. (Patron—Orrock)			
	HB	2648	216 430
<b>Defendants;</b> no unrestorably incompetent defendant charged with capital murder shall be released except pursuant to a court order. (Patron—Ebbin)			
	SB	1231	797 1873
<b>DELLINGER, CYNTHIA GRIM</b>			
<b>Dellinger, Cynthia Grim;</b> recording sorrow upon death.			
Patron—Gilbert	HJR	958	2868
Patron—Obenshain	SJR	416	3176
<b>DELOATCH, SANDRA J.</b>			
<b>DeLoatch, Sandra J.;</b> recording sorrow upon death. (Patron—Lindsey)	HR	301	2999
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<b>DeMolay International;</b> commemorating its 100th anniversary. (Patron—Ingram)	HJR	888	2832
<b>DEMPSEY, STEVE</b>			
<b>Dempsey, Steve;</b> commending. (Patron—Ransone)	HJR	725	2750
<b>DENDRON, TOWN OF</b>			
<b>Golf carts and utility vehicles;</b> adds Town of Dendron to list of towns that may authorize operation on designated public highways. (Patron—Tyler)			
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**Dendy, Stacey Visser;** recording sorrow upon death.

Patron—Jones, S.C. ....	HJR 667		2731
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**Dental hygienist;** remote supervision of a dentist employed by Department of Behavioral Health and Developmental Services or Department of Health, report, implementation of provisions. (Patron—Adams, D.M.) ..... HB 1849 86 131

**Dental services;** contracts between carriers and providers, PPO network arrangement, etc. (Patron—Ware) ..... HB 1682 655 1178

**Topical drugs;** administration by dental hygienists, physician assistants, and nurses. (Patron—Tran) ..... HB 2493 431 769

**Volunteer license, special;** shall not apply to dentists and dental hygienists volunteering to provide free health care to an underserved area, etc. (Patron—Kilgore) ..... HB 2184 290 555

**DESOMMA, RICHARD**

**DeSomma, Richard;** commending. (Patron—Bell, John J.) ..... HR 277 2990

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**Dettelbach, Brian;** commending. (Patron—Tran) ..... HJR 1117 2948

**DIEZEL, HARRY E.**

**Diezel, Harry E.;** recording sorrow upon death. (Patron—DeSteph) ..... SJR 344 3137

**DINGUS, ELIZABETH S.**

**Dingus, Elizabeth S.;** commending. (Patron—Bell, Richard P.) ..... HR 273 2989

**DISASTER**

**Certificate of public need;** establishing natural or man-made disaster exemption, for a period of no more than 30 days, from requirement to obtain a license to add temporary beds in an existing hospital or nursing home.

Patron—Sickles .....	HB 1870	136	286
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**DISTRICT COURTS**

**Court buildings;** courthouses allowed to be located on property owned jointly by a county and city, location of district courts for Albemarle County. (Patron—Bell, Robert B.) ..... HB 2239 240 464

**Human immunodeficiency virus or hepatitis B or C viruses;** exposure to bodily fluids, infection, expedited testing, hearing on petition shall be given precedence on docket so as to be heard by court within 48 hours of filing petition, if court is closed during this period, petition will be heard on next day that court is in session, person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of order. (Patron—Price) ..... HB 1998 27 49

**Judges;** election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.) HJR 718 2746

**Judges;** election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) ... HJR 979 2881

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**Landlord;** clarifies that for purposes of signing pleadings and other papers and obtaining a judgment for possession or for rent or damages in general district court, the managing agent may act on behalf of the business. (Patron—Campbell, J.L.) ... HB 2262 477 844

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**Marsh Criminal-Traffic Division at Manchester General District Court and John Marshall Criminal-Traffic Division at Richmond General District Court;** concurrent jurisdiction.

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**Out-of-state conviction of drug offenses;** person may petition general district court in county or city in which he resides for restricted driver's license.

Patron—Jones, J.C. . . . . HB 1664 68 107  
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**District Three Governmental Cooperative;** commending. (Patron—Stanley) . . . . . SR 139 3237

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**Civil actions;** in the case of a no-fault divorce, a person who is a current recipient of a state or federally funded public assistance program for the indigent shall not be subject to fees and costs. (Patron—Surovell) . . . . . SB 1542 730 1601

**Civil actions;** in the case of a no-fault divorce proceeding, there shall be a presumption that a person who is a current recipient of a state or federally funded public assistance program for the indigent is unable to pay. (Patron—Campbell, J.L.) . . . . . HB 1944 411 743

**Military retirement benefits;** determination of benefits in a divorce. (Patron—Toscano) . . . . . HB 1988 304 590

**No-fault divorce;** waiver of service of process, waiver may occur if final decree of divorce as proposed by complainant is signed by the defendant, etc.

Patron—Campbell, J.L. . . . . HB 1945 133 283  
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**DNA**

**Clerks of court;** collection of DNA sample for certain offenses, disclosure of tax information, repeals the provision of law establishing the Torrens system. (Patron—Chafin) . . . . . SB 1166 786 1839

**DNA analysis;** conviction of certain crimes or similar ordinance of a locality. (Patron—Campbell, R.R.) . . . . . HB 2439 201 393

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**Doane, Charles Edward;** recording sorrow upon death. (Patron—O'Quinn) . . . . . HJR 766 2771

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**Dodson, Thelma Virginia;** recording sorrow upon death. (Patron—Murphy) . . . . . HJR 781 2779

**DOGS AND DOG LAWS**

**Dangerous dogs;** deferral of proceedings. (Patron—Hope) . . . . . HB 2745 190 377

**Dogs;** any locality may by ordinance prohibit the running at large in packs, except dogs used in hunting, civil penalty. (Patron—Norment) . . . . . SB 1367 562 972

**DOLLEY MADISON GARDEN CLUB**

**Dolley Madison Garden Club;** commemorating its 100th anniversary.

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**Assisted conception;** definition of "legal or contractual custody," amends statute to provide gender-neutral terminology, etc. (Patron—Sullivan) . . . . . HB 1979 375 695

**Child support;** nonpayment, amount of arrearage paid, repayment agreement, suspension of driver's license.

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**Civil actions;** in the case of a no-fault divorce, a person who is a current recipient of a state or federally funded public assistance program for the indigent shall not be subject to fees and costs. (Patron—Surovell) . . . . . SB 1542 730 1601

**Civil actions;** in the case of a no-fault divorce proceeding, there shall be a presumption that a person who is a current recipient of a state or federally funded public assistance program for the indigent is unable to pay. (Patron—Campbell, J.L.) . . . . . HB 1944 411 743

**Custody and visitation orders;** court may order that exchange of a child shall take place at an appropriate meeting place. (Patron—Aird) . . . . . HB 2317 378 701

**Military retirement benefits;** determination of benefits in a divorce. (Patron—Toscano) . . . . . HB 1988 304 590

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**Parental or legal custodial powers;** delegation of powers, licensed child-placing agency, no person to whom powers have been delegated shall be required to obtain a license to operate an independent foster home or approval as a foster parent from the Commissioner. (Patron—Byron) .....

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**Commercial driver's licenses;** Commissioner of DMV to waive certain knowledge and skills tests required for obtaining a permit or license for certain current or former military service members. (Patron—Thomas) .....

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**Commercial driver's licenses;** entry-level driver training, Commissioner shall waive the knowledge test and driving skills test for certain current or former military service members applying for certain endorsements, etc. (Patron—Deeds) .....

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**Commercial driver's licenses;** specialized training required. (Patron—DeSteph) .....

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**Out-of-state conviction of drug offenses;** person may petition general district court in county or city in which he resides for restricted driver's license.

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**Dryden, Robert;** commending. (Patron—LaRock) .....

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**Dumfries, Town of;** amending charter, town council elections, etc.

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Cannabidiol oil and THC-A oil; possession or distribution at public school, storing, dispensing, or administering by school nurse employed by a local school board, etc., to a student, no school board shall be required to suspend or expel any student who holds a valid written certification for use of oils issued by a practitioner.			
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Patron—Peace . . . . .	HB 2018	143	305
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<b>Concussions in student-athletes;</b> guidelines, policies, and procedures shall be biennially updated. (Patron—Bell, Richard P.)	HB 1930	142	304
<b>Conflict of Interests Act, State and Local Government;</b> school boards and school employees, hiring of relatives by any school district. (Patron—Chafin)	SB 1491	641	1122
<b>Education Improvement Scholarships tax credits;</b> benefits and eligibility requirements, eligible students with a disability, provisions shall apply to taxable years beginning on and after January 1, 2019, but before January 1, 2024. (Patron—DeSteph)	SB 1365	808	1893
<b>Education Improvement Scholarships tax credits;</b> clarifies definition of "eligible pre-kindergarten child," etc., payout penalty. (Patron—Stanley)	SB 1015	817	1928
<b>Energy career cluster;</b> Department of Education, et al., to establish, report.			
Patron—Garrett	HB 2008	370	693
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<b>Family life education;</b> any high school curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the law and meaning of consent. (Patron—Filler-Corn)	HB 2205	372	694
<b>Family life education;</b> Board of Education, in its curriculum guidelines, to include instruction on prevention of human trafficking. (Patron—Favola)	SB 1141	595	1003
<b>Family life education;</b> curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the harmful physical and emotional effects of female genital mutilation, etc. (Patron—Black)	SB 1159	596	1004
<b>Free public elementary and secondary education;</b> eligibility criteria. (Patron—Simon)	HB 2297	586	993
<b>Guidance counselors;</b> changes name to school counselors, each counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students. (Patron—Landes)	HB 1729	139	298
<b>Guidance counselors;</b> changes the name to school counselors and requires school boards to employ school counselors in accordance with certain ratios, effective with 2019-2020 school year. (Patron—Dance)	SB 1406	796	1869
<b>High school graduation requirements;</b> work experience, requires students to complete a senior capstone project, etc., that relates to a work-based learning, service-learning, or community engagement activity, report. (Patron—Landes)	HB 2662	640	1119
<b>Length of school term;</b> Board of Education shall waive requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from an evacuation directed and compelled by the Governor for up to five teaching days.			
Patron—Davis	HB 2124	644	1124
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<b>Licensed local school board instructional or administrative employees;</b> service retirement allowance, extends sunset provision. (Patron—Chase)	SB 1227	765	1770
<b>Literary Fund;</b> Board of Education shall establish a program to subsidize interest payments on certain loans made by the Virginia Public School Authority. (Patron—Ruff)	SB 1093	807	1893
<b>Microcredential program;</b> Department of Education may establish, Department shall direct Advisory Board on Teacher Education and Licensure to convene a workgroup to determine how any microcredential awarded will be used.			
Patron—Bourne	HB 2217	227	451
Patron—Sturtevant	SB 1419	597	1004
<b>Military families;</b> relocation to the Commonwealth, students may register, remotely or in-person, for courses and other academic programs, etc.			
Patron—Cole	HB 1623	404	733
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<b>Naloxone;</b> possession and administration by school nurses and local health department employees, other school board employees or individuals contracted by a school board to provide school health services. (Patron—McGuire)	HB 2318	212	421
<b>National Math and Science Initiative;</b> Department of Education shall encourage school boards of school divisions that have a significant number of enrolled military-connected students to partner with Initiative. (Patron—Wagner)	SB 1746	772	1773
<b>Persons who are deaf or hard of hearing;</b> replaces certain terminology. (Patron—Thomas)	HB 2137	288	547

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<b>Public elementary and secondary school students;</b> protective orders, notification to licensed instructional personnel and other school personnel, Board of Education shall establish guidelines and develop model policies to aid local school boards. (Patron—Price) . . . . .	HB 1997	579	983
<b>Public Instruction, Superintendent of;</b> consolidation of surveys. (Patron—Suetterlein) SB 1586	1586	768	1772
<b>Public school building security enhancements;</b> compliance with Uniform Statewide Building Code and Statewide Fire Prevention Code. (Patron—Knight) . . . . .	HB 1725	121	187
<b>Public school buildings and facilities;</b> establishes standards for design, construction, maintenance, and operation, school board may enter into a lease agreement with a private entity to meet such standards, solar facilities shall be located on rooftops of buildings and facilities. Patron—Rush . . . . .	HB 2192	819	1934
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<b>Public School Security Equipment Grant Act of 2013;</b> security equipment includes building modifications and fixtures such as security vestibules. (Patron—Gooditis) . .	HB 2720	231	453
<b>Public schools;</b> Board of Education shall identify and prohibit use of any method of restraint or seclusion that it determines poses a significant danger to the student, etc. (Patron—Bell, John J.) . . . . .	HB 2599	591	1001
<b>Public schools;</b> each school board shall develop and implement a policy to prohibit the use and distribution of any tobacco product or nicotine vapor product on a school bus, on school property, or at an on-site or off-site school-sponsored activity, board shall work to ensure adequate notice of this policy. Patron—Hope . . . . .	HB 2384	246	472
Patron—Spruill . . . . .	SB 1295	172	342
<b>Public schools;</b> instruction on the health and safety risks of using tobacco and nicotine vapor products and alternative nicotine products, shall be provided in each public elementary and secondary school. (Patron—Keam) . . . . .	HB 1881	577	982
<b>Public schools;</b> parental review of certain anti-bullying and suicide prevention materials. (Patron—Ransone) . . . . .	HB 2107	581	983
<b>Reading diagnostic tests;</b> Department of Education, et al., shall develop a plan to implement a pilot program to incorporate additional diagnostic tools into tests used for screening students in kindergarten through grade three. (Patron—Black) . . . . .	SB 1718	770	1772
<b>Sales and Use Tax;</b> additional local tax in Halifax County, appropriations of Halifax County to incorporated towns for educational purposes. (Patron—Edmunds) . . . . .	HB 1634	648	1129
<b>Scholastic records;</b> disclosure of directory information. (Patron—Wilt) . . . . .	HB 2449	229	451
<b>School and Campus Safety, Virginia Center for;</b> Center shall develop a case management tool for collection and reporting of data by threat assessment teams. Patron—Marshall . . . . .	HB 1734	456	817
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<b>School and Campus Safety, Virginia Center for;</b> guidelines on information sharing. (Patron—Dunnivant) . . . . .	SB 1591	719	1585
<b>School board employees;</b> Board of Education to include in its regulations that prescribe the requirements for the licensure of teachers and other school personnel required to hold a license, procedures for written reprimand of such license holders, notice of which shall be made by the Superintendent of Public Instruction to division superintendents, etc. (Patron—Thomas) . . . . .	HB 2325	587	996
<b>School boards;</b> boards permitted to enter into College and Career Access Pathways Partnerships. (Patron—Carroll Foy) . . . . .	HB 2123	582	984
<b>School boards;</b> development of a model memorandum of understanding, board in each school division in which the local law-enforcement agency employs school resource officers shall enter into a memorandum of understanding with such agency. Patron—Gilbert . . . . .	HB 1733	455	816
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<b>School Breakfast Program and National School Lunch Program;</b> school boards to determine eligibility, etc. (Patron—Roem) . . . . .	HB 2400	228	451
<b>School buildings;</b> no school employee shall open or close an electronic room partition in any school building unless no student is present in such building, etc. (Patron—Sickles) . . . . .	HB 1753	369	693
<b>School buildings;</b> plans to be reviewed by an individual or entity with professional expertise in building security and crime prevention through building design. (Patron—Rush) . . . . .	HB 1738	226	450

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<b>School bus operators;</b> Board of Education required to include in its training program for operators safety protocols for responding to adverse weather conditions, etc. (Patron—Vogel) . . . . .	SB	1713	769 1772
<b>School calendar;</b> local school boards shall set the calendar so that the first day students are required to attend school shall be no earlier than 14 days before Labor Day, school divisions granted waivers for 2018-2019 school year. Patron—Robinson . . . . .	HB	1652	569 977
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<b>School calendar;</b> school board of any school division located in Planning District 16 (George Washington RC) may set calendar so students are required to attend earlier than Labor Day. (Patron—Thomas) . . . . .	HB	2140	637 1112
<b>School crisis, emergency management, and medical emergency response plans;</b> development and review, includes certain first responders and the executive director of the relevant regional emergency medical services council. Patron—Wright . . . . .	HB	1737	141 303
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<b>School resource officers;</b> powers and duties of Department of Criminal Justice Services, compulsory minimum training standards for certification and recertification of law-enforcement officers, training shall be specific to role and responsibility of officer working with students, etc. Patron—Jones, J.C. . . . .	HB	2609	487 858
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<b>School safety procedures;</b> each school board shall develop training on procedures in the event of an emergency situation on school property, training shall be delivered to each student and employee in each school at least once each school year. Patron—O'Quinn . . . . .	HB	1732	140 303
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<b>School security officers;</b> employment by private or religious schools, carrying a firearm in performance of duties. (Patron—Cole) . . . . .	HB	1656	120 184
<b>School security officers;</b> employment, law-enforcement officers previously employed by the United States or any state or political subdivision thereof, carrying a firearm in performance of duties. (Patron—Freitas) . . . . .	HB	2721	493 870
<b>School-based health centers;</b> Virginia's Children's Cabinet shall establish a joint task force who shall be tasked with assessing the current landscape of school-based services and mental health screening, etc. (Patron—Dance) . . . . .	SB	1195	445 793
<b>Standards for Accreditation;</b> Board of Education shall establish a review process to assist any school that does not meet the standards established by the Board, establishes corrective action plan process. (Patron—Turpin) . . . . .	HB	2147	585 989
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<b>State share for basic aid;</b> duration of certain cost-savings agreements. Patron—Bell, Richard P. . . . .	HB	1807	405 735
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<b>Students;</b> offenses reportable by intake officers to school division superintendents, a threat to commit seriously bodily harm to persons on school property, etc. Patron—Ransone . . . . .	HB	1787	106 170
Patron—McDougle . . . . .	SB	1381	206 398
<b>Teacher employment data;</b> Department of Education shall aggregate and report to each education preparation program data on such program's graduates, as available and to the extent that such data does not reveal personally identifiable information, etc. (Patron—McClellan) . . . . .	SB	1433	598 1005
<b>Teacher licensure;</b> Board of Education shall provide for issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools, Chancellor of the Virginia Community College or his designee shall serve as an ex officio member of the Advisory Board on Teacher Education and Licensure, report. (Patron—Ebbin) . . . . .	SB	1575	767 1771
<b>Teacher licensure;</b> Board of Education's regulations shall include requirements that a person demonstrate proficiency in the relevant content area, etc., or meeting alternative education evaluation standards, Board shall issue a license to an individual seeking initial licensure who has not completed the professional			

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assessments prescribed by the Board, if such individual holds a provisional license that will expire within three months, etc.			
Patron—Carroll Foy .....	HB 2037	407	736
Patron—Peake .....	SB 1397	63	102
<b>Teacher licensure</b> ; clarifies definition of "alternate route to licensure," Board of Education shall grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation, any such route may include alternatives to regulatory requirements for teacher preparation, etc. (Patron—Robinson) .....	HB 2486	409	739
<b>Uniform Statewide Building Code (USBC) and Statewide Fire Prevention Code (SFPC)</b> ; Department of Housing and Community Development to convene stakeholders to develop proposals for changes to Codes with the goal of assisting in the provision of safety and security measures for public or private elementary and secondary schools and public or private institutions of higher education for active shooter or hostile threats. (Patron—Hanger) .....	SB 1755	723	1587
<b>Virginia Index of Performance incentive program</b> ; renamed Exemplar School Recognition Program. (Patron—Hurst) .....	HB 1868	576	981
<b>Virginia Public Records Act</b> ; implementation in local school divisions, recommendations. (Patron—Ransone) .....	HB 1788	575	981
<b>EDUCATIONAL THEATRE COMPANY</b>			
<b>Educational Theatre Company</b> ; commemorating its 20th anniversary in 2018. (Patron—Lopez) .....	HR 261		2983
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<b>Edu-Futuro</b> ; commemorating its 20th anniversary. (Patron—Tran) .....	HJR 1118		2948
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<b>Edwards, Hunter</b> ; recording sorrow upon death. (Patron—Collins) .....	HR 367		3031
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<b>Edwards, Wendy</b> ; commending. (Patron—Guzman) .....	HR 297		2998
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<b>Edwards, William E.</b> ; recording sorrow upon death. (Patron—Deeds) .....	SJR 373		3153
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<b>Eggers, Allie</b> ; commending. (Patron—Sickles) .....	HJR 827		2801
<b>811 DAY</b>			
<b>811 Day</b> ; designating as August 11, 2019, and each succeeding year thereafter. (Patron—Carr) .....	HJR 595		2705
<b>ELDER, ANDREW DALTON, SR.</b>			
<b>Elder, Andrew Dalton, Sr.</b> ; recording sorrow upon death. (Patron—Edmunds) .....	HJR 831		2803
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<b>Elder, Thomas, Jr.</b> ; recording sorrow upon death. (Patron—Brewer) .....	HR 258		2982
<b>ELECTIONS</b>			
<b>Absentee voting</b> ; certain absentee voters permitted to vote after close of absentee voting location. (Patron—Krizek) .....	HB 1790	278	522
<b>Absentee voting</b> ; no-excuse, in-person, beginning on second Saturday immediately preceding election, report.			
Patron—Rush .....	HB 2790	668	1204
Patron—Spruill .....	SB 1026	669	1212
<b>Alcoholic beverage control</b> ; notwithstanding the requirement for a referendum for liquor by the drink, Board of Directors of the Alcoholic Beverage Control Authority may issue a mixed beverage license to establishments located on property fronting Doe Creek Farm Road and various other properties. (Patron—Hurst) .....	HB 1905	175	346
<b>Campaign Finance Disclosure Act of 2006</b> ; applicability to certain candidates for town offices. (Patron—Hurst) .....	HB 1719	825	1945
<b>Constitutional amendment</b> ; General Assembly may make technical adjustments to legislative electoral district boundaries following the enactment of any decennial reapportionment law (first reference). (Patron—Cole) .....	HJR 591	820	1938
<b>Constitutional amendment</b> ; Virginia Redistricting Commission established, apportionment, public meetings (first reference).			
Patron—Cole .....	HJR 615	821	1938
Patron—Barker .....	SJR 306	824	1943

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**Contests of certain elections;** location of proceeding to contest. (Patron—Obenshain) . SB 1781 691 1283

**Elections, State Board of;** Board, on or before January 1, 2020, shall revise its processes and associated regulations for viewing and processing candidate petitions, checking petition signatures. (Patron—Lewis) . . . . . SB 1564 682 1255

**Form of ballot;** on any ballot all offices to be elected shall appear before any questions presented to the voters.  
 Patron—McNamara . . . . . HB 2046 283 543  
 Patron—Suetterlein . . . . . SB 1577 99 158

**Form of ballot;** uniformity of names of candidates. (Patron—Ingram) . . . . . HB 2148 289 554

**Recounts;** rules of procedure, multiple simultaneous recounts. (Patron—Lindsey) . . . . HB 2625 382 703

**Redistricting;** Geographic Information System maps required, any county, city, or town that does not have GIS capabilities may request Department of Elections to create on its behalf, review by the Department of Elections.  
 Patron—Sickles . . . . . HB 2760 777 1795  
 Patron—Chase . . . . . SB 1018 778 1796

**Virginia voter registration system;** security plans and procedures, update of security standards at least annually, remedying security risks, State Board of Elections shall convene a work group prior to adopting standards. (Patron—Sickles) . . . . . HB 2178 426 761

**Voter registration;** notification of denial by general registrars. (Patron—Marsden) . . . SB 1042 341 636

**Voter registration;** protected voter, foster parents. (Patron—Reeves) . . . . . SB 1244 342 638

ELECTRIC COMPANIES

**Business parks;** definition, Virginia Economic Development Partnership shall conduct a pilot program to facilitate the construction of electric transmission infrastructure for parks, Partnership in conducting program is to certify that up to three petitions within certificated service territory of each Pilot Utility addresses eligibility criteria for participation in program, sunset provision. (Patron—Marshall) . . . . . HB 1840 535 918

**Electric utilities;** competitive suppliers, licensed retail energy suppliers. (Patron—Kilgore) . . . . . HB 2477 833 1958

**Electric utilities;** definitions, if State Corporation Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted that has bearing on Commission's decision. (Patron—Sullivan) . . . . . HB 2292 741 1702

**Electric utilities;** establishes requirements for net energy metering by electric cooperatives effective upon the earlier of July 1, 2019, or the effective date of implementing regulations by the State Corporation Commission, regulation of cooperative rates, report. (Patron—Sturtevant) . . . . . SB 1769 763 1759

**Electric utilities;** if State Corporation Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted that has bearing on Commission's determination. (Patron—Wagner) . . . . . SB 1662 773 1774

**Electric utilities;** net energy metering by electric cooperatives, community solar development regulation of cooperative rates after rate caps, stakeholder group, report. (Patron—Hugo) . . . . . HB 2547 742 1715

**Electric utilities;** stakeholder process for energy efficiency programs, independent monitor shall convene meetings of participants in the process not less frequently than twice in each calendar year ending July 1, 2028.  
 Patron—Sullivan . . . . . HB 2293 397 729  
 Patron—Ebbin . . . . . SB 1605 398 730

**Electric utilities;** State Corporation Commission to establish a pilot program that affords the opportunity for any municipality to participate in net energy metering, Commission shall require each utility to submit a proposal to conduct a pilot program, terms, conditions, and restrictions, report.  
 Patron—Tran . . . . . HB 2792 746 1728  
 Patron—Ebbin . . . . . SB 1779 747 1729

ELECTRONIC PROCESSES

**Alcoholic beverage control;** distiller licensees, monthly revenue transfers from licensed distillers to Board electronically and through other methods, provisions shall become effective on July 1, 2020. (Patron—Peake) . . . . . SB 1709 814 1905

**Electronic transmission of certain prescriptions;** exceptions if prescriber dispenses the controlled substance that contains an opioid directly to patient or patient's agent, etc., report. (Patron—Pillion) . . . . . HB 2559 664 1194

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<b>ELECTRONIC PROCESSES - Continued</b>			
<b>Portable electronics insurance;</b> issuing notices and correspondence by mail or electronic means. (Patron—Wilt) . . . . .	HB 2723	523	905
<b>Property Owners' Association Act;</b> association meetings, notice by email, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail. (Patron—Cole) . . . . .	HB 2694	368	691
<b>Virginia Freedom of Information Act;</b> meetings held through electronic communication means. (Patron—Stuart) . . . . .	SB 1182	359	676
<b>ELEMENTARY SCHOOLS</b>			
<b>Free public elementary and secondary education;</b> eligibility criteria. (Patron—Simon) . . . . .	HB 2297	586	993
<b>Guidance counselors;</b> changes name to school counselors, each counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students. (Patron—Landes) . . . . .	HB 1729	139	298
<b>Public elementary and secondary school students;</b> protective orders, notification to licensed instructional personnel and other school personnel, Board of Education shall establish guidelines and develop model policies to aid local school boards. (Patron—Price) . . . . .	HB 1997	579	983
<b>Public schools;</b> instruction on the health and safety risks of using tobacco and nicotine vapor products and alternative nicotine products, shall be provided in each public elementary and secondary school. (Patron—Keam) . . . . .	HB 1881	577	982
<b>Uniform Statewide Building Code (USBC) and Statewide Fire Prevention Code (SFPC);</b> Department of Housing and Community Development to convene stakeholders to develop proposals for changes to Codes with the goal of assisting in the provision of safety and security measures for public or private elementary and secondary schools and public or private institutions of higher education for active shooter or hostile threats. (Patron—Hanger) . . . . .	SB 1755	723	1587
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<b>Ellwood Thompson's;</b> commemorating its 30th anniversary. (Patron—Carr) . . . . .	HJR 847		2812
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<b>Property Owners' Association Act;</b> association meetings, notice by email, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail. (Patron—Cole) . . . . .	HB 2694	368	691
<b>EMERGENCY LEGISLATION</b>			
<b>Assumed or fictitious name certificates;</b> conforms January 1, 2020, as the date when certificates are to be filed centrally with the clerk of the State Corporation Commission rather than with the clerk of court. (Patron—Keam) . . . . .	HB 1925	464	828
<b>Cancer patients;</b> expedited review of adverse coverage determinations, exhaustion of health carrier's internal appeal process.			
Patron—Yancey . . . . .	HB 1915	826	1946
Patron—Ruff . . . . .	SB 1161	840	1982
<b>Civil relief;</b> citizens of the Commonwealth who are employees or contractors of the United States government who have been furloughed or otherwise are or were not receiving wages or payments as a result of partial closure of the federal government, non-rent violation, written proof of tenant being furloughed. (Patron—McPike) . . . .	SB 1737	847	1997
<b>Commonwealth of Virginia Institutions of Higher Education Bond Act of 2019;</b> created.			
Patron—Jones, S.C. . . . .	HB 2357	187	371
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<b>Family First Prevention Services Act, federal;</b> statutory alignment. (Patron—Peace) .	HB 2014	282	526
<b>Family First Prevention Services Act, federal;</b> statutory alignment, background check requirement. (Patron—Mason) . . . . .	SB 1678	100	159
<b>Income tax, state;</b> conformity of the Commonwealth's taxation system with the Internal Revenue Code, taxable income deductions, real property and personal property taxes, etc.			
Patron—Hugo . . . . .	HB 2529	17	23
Patron—Norment . . . . .	SB 1372	18	31
<b>Industrial hemp;</b> clarifies definition of "hemp product," conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law, testing of			

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**EMERGENCY LEGISLATION - Continued**

Cannabis sativa, reports, abolishes the higher education and Virginia industrial hemp research programs, etc.

Patron—Marshall	HB 1839	653	1140
Patron—Ruff	SB 1692	654	1159

**Lease agreements;** requirements, will or deed necessary to convey estate.

Patron—Leftwich	HB 2287	11	15
Patron—Obenshain	SB 1422	49	83

**Oyster planting grounds;** authorizes Commissioner of Marine Resources to decide which area within a riparian owner's waters shall be assigned for planting, Commissioner shall consider public benefits and impacts of shellfish aquaculture. (Patron—Mason)

	SB 1413	164	328
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**University of Virginia's College at Wise;** reduced rate tuition, students who reside in and are domiciled in Appalachian Region.

Patron—Kilgore	HB 1666	225	450
Patron—Carrico	SB 1519	600	1006

**Water pollution control projects;** adds to Virginia Department of Health's duties to serve as a state certifying authority in determining conformity with state requirements for certain tax-exempt projects, for pollution control equipment and facilities certified by the Department, exemption applies only to onsite sewage systems that serve 10 or more households, etc. (Patron—Webert)

	HB 2811	441	791
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**EMERGENCY SERVICES AND VEHICLES**

**Child restraint devices and safety belts;** exempts any person operating taxicabs, emergency medical services agency vehicle, fire company vehicle, law-enforcement vehicle, etc., while in performance of his official duties from requirement that certain minors be secured.

Patron—Head	HB 1662	196	387
Patron—Suetterlein	SB 1677	319	613

**Firefighters and Emergency Medical Technicians Procedural Guarantee Act;** breach of procedures, evidence gathered through the conduct of an interrogation shall not be admissible in any administrative hearing against a firefighter or emergency medical services personnel. (Patron—Edwards)

	SB 1494	841	1985
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**Firefighters and Emergency Medical Technicians Procedural Guarantee Act;** breach of procedures, interrogations shall be conducted at a reasonable time of day, evidence gathered through conduct of an interrogation shall not be admissible in any administrative hearing against a firefighter or emergency medical services personnel. (Patron—Krizek)

	HB 2263	831	1955
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**Naloxone;** expands list of individuals who may dispense to include emergency medical services personnel and health care providers, providing services in a hospital emergency department, etc. (Patron—Plum)

	HB 2158	221	441
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**School crisis, emergency management, and medical emergency response plans;** development and review, includes certain first responders and the executive director of the relevant regional emergency medical services council.

Patron—Wright	HB 1737	141	303
Patron—Newman	SB 1220	410	741

**Toll facilities, certain;** free use by emergency medical services vehicles. (Patron—Stuart)

	SB 1183	269	505
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**EMINENT DOMAIN**

**Eminent domain;** entry upon private property, calculation of just compensation, damages, provisions shall not apply to condemnation proceedings in which petitioner filed, prior to July 1, 2019, etc. (Patron—Obenshain)

	SB 1421	788	1844
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**Income tax, state;** creates a subtraction for gain recognized by a taxpayer from a taking of real property by condemnation proceedings. (Patron—Ruff)

	SB 1256	270	507
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**EMRICK, CRISTIN**

<b>Emrick, Cristin;</b> commending. (Patron—Brewer)	HR 256		2981
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**ENERGY CONSERVATION AND RESOURCES**

**Clean Energy Advisory Board;** established, membership, powers and duties, solar energy installation rebates, report, sunset provision. (Patron—Aird)

	HB 2741	554	961
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**Energy career cluster;** Department of Education, et al., to establish, report.

Patron—Garrett	HB 2008	370	693
Patron—Newman	SB 1348	371	693

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**ENERGY CONSERVATION AND RESOURCES - Continued**

- Energy conservation measures;** establishes, providing incentives for development of electric energy delivered from sunlight. (Patron—O'Quinn) . . . . . HB 2789 748 1730
- Rezoning and site plan approval;** a locality shall require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices, bonding provisions. (Patron—Reeves) . . . . . SB 1091 744 1726
- Rezoning and site plan approval;** any locality shall require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices, bonding provisions. (Patron—Ingram) . . . . . HB 2621 743 1725

**ENROLLED AGENTS WEEK**

- Enrolled Agents Week;** designating as first full week of February 2019, and each succeeding year thereafter. (Patron—Fowler) . . . . . HJR 603 2709

**ENTERPRISE ZONES**

- Enterprise zones;** designation, Governor may renew zones designated on or after July 1, 2005, for up to three five-year renewal periods and zones designated prior to July 1, 2005, for one five-year renewal period.
- Patron—Edmunds . . . . . HB 2779 496 877
- Patron—McDougle . . . . . SB 1785 119 183

**ESSEX COUNTY**

- Voluntary boundary;** agreement between Counties of Caroline and Essex, attachment of GIS map to petitions. (Patron—Hodges) . . . . . HB 2316 705 1308

**ESTES, LILLIE A.**

- Estes, Lillie A.;** recording sorrow upon death.
- Patron—McQuinn . . . . . HJR 872 2824
- Patron—McClellan . . . . . SJR 365 3149

**ETHNIC GROUPS**

- Historical African American cemeteries;** adds Matthews Cemetery, The People's Cemetery, and Smith Street Cemetery in City of Martinsville to list. (Patron—Adams, L.R.) . . . . . HB 2406 252 481
- Historical African American cemeteries;** adds New River Cemetery and West Dublin Cemetery in Pulaski County to list. (Patron—Hurst) . . . . . HB 1973 184 369
- Historical African American cemeteries;** adds Oak Lawn Cemetery in City of Suffolk to list. (Patron—Hayes) . . . . . HB 2311 251 480
- Historical African American cemeteries;** adds seven cemeteries in City of Hampton to list.
- Patron—McQuinn . . . . . HB 2681 257 485
- Patron—Locke . . . . . SB 1128 268 504
- Historical African American cemeteries;** adds six cemeteries in the City of Alexandria to list. (Patron—Herring) . . . . . HB 2739 260 491
- Lynching;** acknowledging with profound regret the existence and acceptance within the Commonwealth.
- Patron—McQuinn . . . . . HJR 655 2727
- Patron—McClellan . . . . . SJR 297 3111
- Virginia African American Advisory Board;** established, membership, report. (Patron—Bagby) . . . . . HB 2767 594 1002

**EVANS, SANDY**

- Evans, Sandy;** commending. (Patron—Kory) . . . . . HR 378 3036

**EVIDENCE**

- Evidence;** establishes that a party or potential litigant has a duty to preserve evidence that may be relevant to reasonably foreseeable litigation, spoliation of evidence. (Patron—Obenshain) . . . . . SB 1619 732 1603
- Medical evidence admissible in juvenile and domestic relations district court;** preliminary protective order hearings. (Patron—Obenshain) . . . . . SB 1429 716 1579
- Physical evidence recovery kits;** Department of Forensic Science shall maintain a statewide electronic tracking system for kits, etc., health care providers, law-enforcement agencies, etc., shall be required to enter identification number and other information pertaining to the kits in the System as required. (Patron—Watts) . . . . . HB 2080 473 840

**EXCISE TAX**

- Alcoholic beverage control;** regulations, terms and conditions for a mixed beverage licensee, delivery permittees, records on deliveries of wine and beer, permittees shall remit records on a monthly basis for any month during which permittee makes a

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delivery and is required to collect and remit excise taxes due to Authority. (Patron—Knight) .....	HB 2367	706	1309
<b>EXPLOSIVES</b>			
<b>Statewide Fire Prevention Code</b> ; changes definition of permissible fireworks. (Patron—McPike) .....	SB 1625	720	1585
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<b>Fahl, Douglas Ronald</b> ; recording sorrow upon death. (Patron—Howell) .....	SJR 317		3120
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<b>Fairfax County</b> ; commending. (Patron—Delaney) .....	HJR 1041		2912
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<b>Fairfax County Park Authority</b> ; commending. (Patron—Tran) .....	HJR 1124		2951
<b>Turns into or out of certain residential areas</b> ; allows counties that operate under the urban county executive form of government (Fairfax County) by ordinance to develop a program to issue permits or stickers to residents of a designated area, etc. (Patron—Murphy) .....	HB 2033	305	593
<b>FAIRFAX LIBRARY FOUNDATION, INC.</b>			
<b>Fairfax Library Foundation, Inc.</b> ; commemorating its 25th anniversary. (Patron—Bulova) .....	HJR 1096		2938
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<b>Falcon Heating and Air Conditioning</b> ; commemorating its 30th anniversary. (Patron—Black) .....	SJR 333		3130
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<b>Falletta, JoAnn</b> ; commending. (Patron—Convirs-Fowler) .....	HR 333		3015
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<b>Falling Creek Ironworks</b> ; commemorating its 400th anniversary. (Patron—Robinson) .....	HJR 820		2798
<b>FAMILY LIFE EDUCATION</b>			
<b>Family life education</b> ; any high school curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the law and meaning of consent. (Patron—Filler-Corn) .....	HB 2205	372	694
<b>Family life education</b> ; Board of Education, in its curriculum guidelines, to include instruction on prevention of human trafficking. (Patron—Favola) .....	SB 1141	595	1003
<b>Family life education</b> ; curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the harmful physical and emotional effects of female genital mutilation, etc. (Patron—Black) ...	SB 1159	596	1004
<b>FANNON, AMY G.</b>			
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<b>FELONS AND FELONIES</b>			
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<b>Ferguson, William R.</b> ; recording sorrow upon death. (Patron—McDougle) .....	SR 149		3240
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<b>Fieldale-Collinsville Volunteer Rescue Squad</b> ; commemorating its 50th anniversary. (Patron—Adams, L.R.) .....	HJR 1065		2924
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<b>Fierro, Manuel Baca</b> ; recording sorrow upon death. (Patron—Boysko) .....	SJR 448		3194
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<b>Aged or incapacitated adults;</b> financial exploitation, reporting by financial institution staff, staff may provide supporting information and records. (Patron—O’Quinn) . . . .	HB 2225	339	634
<b>Banks;</b> capital stock, repeals a provision that bars the State Corporation Commission from authorizing a bank to commence business if commissions or other compensation have been paid by the bank for the sale of stock in the bank. Patron—Yancey . . . . .	HB 2419	253	482
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<b>Banks;</b> directors’ meetings. Patron—O’Quinn . . . . .	HB 2298	242	467
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<b>Debt management plans, providers of;</b> exempts entities. (Patron—Heretick) . . . . .	HB 2284	325	618
<b>Financial institution;</b> payment or delivery of small asset by affidavit, check, draft, or other negotiable instrument. (Patron—Chafin) . . . . .	SB 1186	360	678
<b>Money transmitters;</b> licensure through the Nationwide Multistate Licensing System and Registry (NMLS). (Patron—Kilgore) . . . . .	HB 2690	634	1089
<b>Mortgage loan originators;</b> licensing, repeals provisions relating to the issuance of transitional mortgage loan originator licenses. (Patron—Marshall) . . . . .	HB 2251	740	1699

**FINCHER, DEWEY LEON**

<b>Fincher, Dewey Leon;</b> commending. (Patron—Reeves) . . . . .	SJR 383		3158
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**FINGERPRINTING**

<b>Child care providers;</b> local law-enforcement agencies allowed to process and submit requests for national fingerprint background checks, forwarding fingerprints and personal descriptive information. (Patron—Mason) . . . . .	SB 1407	447	798
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**FIRE INSURANCE**

<b>Commercial fire insurance policies or contracts;</b> change in amount of coverage. (Patron—Marshall) . . . . .	HB 1836	693	1287
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**FIRE PROTECTION**

<b>Firefighting foam management;</b> beginning July 1, 2021, no person, local government, or agency of the Commonwealth shall discharge or otherwise use class B firefighting foam that contains intentionally added PFAS chemicals, etc. (Patron—Bulova) . . . . .	HB 2762	838	1978
<b>Public school building security enhancements;</b> compliance with Uniform Statewide Building Code and Statewide Fire Prevention Code. (Patron—Knight) . . . . .	HB 1725	121	187
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<b>Felons;</b> mechanism for reporting to Department of State Police when a circuit court restores right to possess, transport, and carry a firearm, etc., effective date. (Patron—Rush) . . . . .	HB 2548	203	395
<b>Firearms ordinances;</b> applicability to property located in multiple localities, landowner may elect to have ordinances of locality in which largest portion of contiguous parcel of land lies to apply to anyone hunting on the property, notification to Department of Game and Inland Fisheries, report. (Patron—Head) . . . . .	HB 2252	830	1954
<b>School security officers;</b> employment by private or religious schools, carrying a firearm in performance of duties. (Patron—Cole) . . . . .	HB 1656	120	184
<b>School security officers;</b> employment, law-enforcement officers previously employed by the United States or any state or political subdivision thereof, carrying a firearm in performance of duties. (Patron—Freitas) . . . . .	HB 2721	493	870

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<b>Firefighters and Emergency Medical Technicians Procedural Guarantee Act;</b> breach of procedures, evidence gathered through the conduct of an interrogation shall not be admissible in any administrative hearing against a firefighter or emergency medical services personnel. (Patron—Edwards) . . . . .	SB 1494	841	1985
<b>Firefighters and Emergency Medical Technicians Procedural Guarantee Act;</b> breach of procedures, interrogations shall be conducted at a reasonable time of day, evidence gathered through conduct of an interrogation shall not be admissible in any administrative hearing against a firefighter or emergency medical services personnel. (Patron—Krizek) . . . . .	HB 2263	831	1955
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- Funeral establishments;** full time manager requirement, exception, number of calls. (Patron—Edwards) . . . . . SB 1300 66 106
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**Certificate of public need;** establishing natural or man-made disaster exemption, for a period of no more than 30 days, from requirement to obtain a license to add temporary beds in an existing hospital or nursing home.

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**Chief Medical Examiner, Office of the;** removes the requirement that the central office and facilities of the Office be located in the City of Richmond. (Patron—Carr) .....

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**Continuing care retirement communities;** accessing medical assistance, certificate of public need.

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**Death certificates;** requires the completed medical certification portion of a certificate to be filed electronically with the State Registrar of Vital Records through the Electronic Death Registration System, etc., Department of Health shall work with Virginia Morticians' Association, Inc., etc., to educate and encourage physicians, physician assistants, etc., to timely register with and utilize the System.

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**Elective procedure, test, or service;** every hospital shall provide written information about patient's ability to request an estimate of payment amount, posting information in conspicuous public areas, etc. (Patron—Chase) .....

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**Fraud prevention;** Department of Medical Assistance Services shall conduct a pilot program to develop and implement means to mitigate risk of improper payment to services providers, etc., report. (Patron—Peace) .....

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**Health care shared savings;** definitions, health insurance incentive programs, required disclosures by health care providers.

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**Health professions and facilities;** adverse action in another jurisdiction, suspension and reinstatement. (Patron—Stolle) .....

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**Health Professions, Department of, and health regulatory boards;** disclosure of investigative information. (Patron—Adams, D.M.) .....

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**Health Professions, Department of, and health regulatory boards;** information obtained in an investigation or disciplinary proceeding, authorized disclosures. (Patron—Plum) .....

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**Health, Virginia Department of;** monitoring of health care-associated infections, health care facilities shall release certain data to the Board. (Patron—Levine) .....

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**Hospice patients;** Department of Medical Assistance Services shall implement a process for direct payment of nursing facility or ICF/MR services. (Patron—Head) ..

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**Human immunodeficiency virus or hepatitis B or C viruses;** exposure to bodily fluids, infection, expedited testing, hearing on petition shall be given precedence on docket so as to be heard by court within 48 hours of filing petition, if court is closed during this period, petition will be heard on next day that court is in session, person

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<b>Immunizations;</b> extends the time by which an acellular pertussis booster shall be administered prior to entry into the seventh grade. (Patron—Bourne) . . . . .	HB 2215	222		445	
<b>Long-term care;</b> expediting review of applications, report. (Patron—Torian) . . . . .	HB 2474	430		769	
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<b>Maternity care patients;</b> adds information about perinatal anxiety. (Patron—Delaney) .	HB 2613	433		775	
<b>Medicaid recipients;</b> treatment involving opioids, prohibition on payment of costs shall not apply to a recipient's cost-sharing amounts required by the state plan for medical assistance, written notice to patient prior to health care services, etc. Patron—Pillion . . . . .	HB 2558	223		447	
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<b>Nursing homes;</b> truth in advertising for inspections, surveys, and investigations, no person shall use, in any advertisement for professional services provided by such person, results of any survey, etc. Patron—Orrock . . . . .	HB 2219	291		555	
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<b>Onsite sewage treatment systems;</b> Department of Health shall develop a plan for oversight and enforcement of requirements, Department shall present plan before implementation. (Patron—Hodges) . . . . .	HB 2322	429		768	
<b>PACE program;</b> definition, the Department of Medical Assistance Services shall develop and implement a coordinated plan to provide choice and education to eligible prospective PACE clients. (Patron—Rasoul) . . . . .	HB 1975	419		753	
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<b>Pharmacy collaborative practice agreements, standing orders, and statewide protocols in the Commonwealth;</b> Joint Commission on Health Care to study the dispensing of drugs and devices pursuant to prescriptions. (Patron—Stolle) . . . . .	HJR 662			2728	
<b>Primary health care facility;</b> established for employees of localities and covered dependents. (Patron—Wagner) . . . . .	SB 1358	505		887	
<b>Radon;</b> a list of persons who are nationally certified to offer screening, testing, or mitigation shall be made available to the public. (Patron—Bell, Richard P.) . . . . .	HB 1885	279		523	
<b>Rainwater;</b> Department of Health to evaluate additional issues related to use as part of the rulemaking process. (Patron—Yancey) . . . . .	HJR 641			2723	
<b>Retail Sales and Use Tax;</b> reduced rate on essential personal hygiene products, effective date. Patron—Byron . . . . .	HB 2540	549		956	
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<b>School-based health centers;</b> Virginia's Children's Cabinet shall establish a joint task force who shall be tasked with assessing the current landscape of school-based services and mental health screening, etc. (Patron—Dance) . . . . .	SB 1195	445		793	
<b>Shingles prevention;</b> Virginia Department of Health to take action to increase awareness of shingles. (Patron—Stolle) . . . . .	HJR 626			2718	
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<b>State hospitals for individuals with mental illness;</b> Secretary of Health and Human Resources shall convene a work group to examine causes of high census at the Commonwealth's state hospitals. (Patron—Hanger) .....	SB 1488	609	1013
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<b>Health insurance;</b> carrier business practices, authorization of health care services, prescriptive authority. (Patron—Dunnivant) .....	SB 1607	683	1255
<b>Health insurance;</b> health insurers and other carriers that credential the mental health professionals in their provider networks may establish reasonable protocols and procedures for credentialing private mental health agencies, protocols and procedures shall require an agency to maintain minimum audit report requirements. (Patron—Dunnivant) .....	SB 1685	689	1279
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**HEPATITIS**

**Human immunodeficiency virus or hepatitis B or C viruses;** exposure to bodily fluids, infection, expedited testing, hearing on petition shall be given precedence on docket so as to be heard by court within 48 hours of filing petition, if court is closed during this period, petition will be heard on next day that court is in session, person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of order. (Patron—Price) . . . . . HB 1998 27 49

**HERITAGE HIGH SCHOOL**

**Heritage High School football team;** commending. (Patron—Garrett) . . . . . HJR 863 2819

**HERON, CHARLES M.**

**Heron, Charles M.;** recording sorrow upon death. (Patron—DeSteph) . . . . . SJR 350 3141

**HESTER, DAUN SESSOMS**

**Hester, Daun Sessoms;** commending.  
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**HIGH-OCCUPANCY TOLL (HOT) LANES**

**Motor vehicles;** in the event of an accident on any part of Interstate 66, where a high-occupancy toll (HOT) lane is under construction and the shoulders of Interstate 66 are being or have been removed, the driver shall move the vehicle from the roadway to the nearest pull-off area if the driver can safely do so, etc. (Patron—Marsden) . . . . . SB 1073 265 498

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**Family life education;** any high school curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the law and meaning of consent. (Patron—Filler-Corn) . . . . . HB 2205 372 694

**High school graduation requirements;** work experience, requires students to complete a senior capstone project, etc., that relates to a work-based learning, service-learning, or community engagement activity, report. (Patron—Landes) . . . . . HB 2662 640 1119

**Teacher licensure;** Board of Education shall provide for issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools, Chancellor of the Virginia Community College or his designee shall serve as an ex officio member of the Advisory Board on Teacher Education and Licensure, report. (Patron—Ebbin) . . . . . SB 1575 767 1771

**HIGHER EDUCATION**

**Commonwealth of Virginia Institutions of Higher Education Bond Act of 2019;** created.

Patron—Jones, S.C. . . . . HB 2357 187 371  
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**Higher educational institution, public or private;** comprehensive financial aid award notification provided to a student. (Patron—Reid) . . . . . HB 1704 571 979

**Higher educational institutions, baccalaureate public;** institutions prohibited from employing an individual appointed by Governor to board of visitors within two years of expiration of such member's term, prohibition shall not apply to employment of an individual to serve as an institution president, etc. (Patron—Obenshain) . . . . . SB 1068 373 694

**Higher educational institutions, public;** educational programs for the governing boards shall include presentations relating to a review of student debt trends. (Patron—Miyares) . . . . . HB 2620 643 1123

**Higher educational institutions, public;** educational programs for the governing boards shall include presentations relating to board members' primary duty to the citizens of the Commonwealth and student debt trends. (Patron—DeSteph) . . . . . SB 1234 642 1122

**Higher educational institutions, public;** governing board shall report salary by position of any executive officer of such institution that exceeds for previous fiscal year salary limit for chief executive officer. (Patron—Landes) . . . . . HB 2336 408 739

**Higher educational institutions, public;** increase of undergraduate tuition and mandatory fees, prior to voting on increase, governing board of each institution shall permit public comment on proposed increase at a meeting of the board, report. (Patron—Landes) . . . . . HB 2337 588 999

**Higher educational institutions, public;** in-state tuition for any member of foreign service office who resided in the Commonwealth for at least 90 days, etc. (Patron—Krizek) . . . . . HB 1936 329 620

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<b>Higher educational institutions, public;</b> tuition and fee increases, prior to any vote, the governing board of each institution shall permit public comment on proposed increase. Patron—Miyares . . . . .	HB 2173	583	988
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<b>Higher educational institutions, public;</b> tuition and fees, foster care youth. (Patron—Miyares) . . . . .	HB 2350	589	1000
<b>Industrial hemp;</b> clarifies definition of "hemp product," conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law, testing of Cannabis sativa, reports, abolishes the higher education and Virginia industrial hemp research programs, etc. Patron—Marshall . . . . .	HB 1839	653	1140
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<b>Golf carts and utility vehicles;</b> adds Town of Dendron to list of towns that may authorize operation on designated public highways. (Patron—Tyler) . . . . .	HB 1678	104	168
<b>Highways, bridges, interchanges, and other transportation facilities;</b> cost of signage when named after a state official killed during performance of his official duties, etc., costs of producing, placing, and maintaining these signs shall be paid from Commonwealth Transportation Funds, Board must receive a letter or resolution from head of state agency by which state official was employed requesting such naming, etc. (Patron—Carrico) . . . . .	SB 1505	802	1882
<b>Highways, Commissioner of;</b> annual report on certain data regarding operation of overweight trucks on highways. Patron—Garrett . . . . .	HB 2800	401	732
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<b>Interstate 81;</b> Interstate 81 Corridor Improvement Fund created, Interstate 81 Committee established, Committee's meetings shall rotate between locations, report, responsibilities of Commonwealth Transportation Board and Department of Transportation, additional fees for certain vehicles, additional tax per gallon on diesel fuel, disposition of tax revenues, etc. Patron—Landes . . . . .	HB 2718	837	1971
Patron—Obenshain . . . . .	SB 1716	846	1990
<b>Interstate 95;</b> Commonwealth Transportation Board to study portion of corridor between Exit 118 and Springfield Interchange and financing options for improvements. Patron—Cole . . . . .	HJR 581		2702
Patron—Reeves . . . . .	SJR 276		3076
<b>Motor vehicles;</b> in the event of an accident on any part of Interstate 66, where a high-occupancy toll (HOT) lane is under construction and the shoulders of Interstate 66 are being or have been removed, the driver shall move the vehicle from the roadway to the nearest pull-off area if the driver can safely do so, etc. (Patron—Marsden) . . . . .	SB 1073	265	498
<b>Northern Virginia Transportation Authority;</b> analysis of projects, repeals provision relating to responsibilities of Department of Transportation for analysis of transportation projects in Northern Virginia Transportation District. (Patron—Black) . . . . .	SB 1468	749	1731

**HIGHWAYS AND OTHER SURFACE TRANSPORTATION SYSTEMS - Continued**

<b>Parking of certain vehicles;</b> adds the Town of Cape Charles to the list of towns that are permitted to regulate or prohibit the parking on any public highway of watercraft, boat trailers, etc. Patron—Bloxom .....	HB 1777	144	306
Patron—Lewis .....	SB 1560	116	182
<b>Potomac River Bridge Towing Compact;</b> adds the Harry W. Nice Bridge, Sandy Hook Bridge, Brunswick Bridge, and Point of Rocks Bridge to the Potomac River bridges subject to Compact, provisions shall become effective upon enactment by legislative bodies of Maryland and District of Columbia of similar legislation. (Patron—Barker) .....	SB 1296	403	733
<b>Private roads, certain, or rights-of-way;</b> removes requirement that a petitioner prove that a gate was willfully and maliciously erected in order for a court to require a landowner to make necessary and reasonable changes to a gate erected by such landowner. (Patron—Fariss) .....	HB 2212	542	940
<b>Rail Enhancement Fund;</b> federal government funds may be used to satisfy the requirement that any project funded by Fund include at least 30 percent matching funds from a private source which may include federal funds for freight rail projects. (Patron—Stolle) .....	HB 1983	185	370
<b>Robert O. Norris Bridge and Statewide Special Structure Fund;</b> created, report, Commonwealth Transportation Board shall evaluate feasibility of using the Public-Private Transportation Act of 1995 to design, build, operate, and maintain two bridges, etc. Patron—Hodges .....	HB 2784	349	652
Patron—McDougle .....	SB 1749	83	121
<b>Secondary state highways;</b> limits requirement that a governing body with a six-year plan advertise for and hold a public meeting. Patron—Plum .....	HB 2578	400	731
Patron—Petersen .....	SB 1684	81	119
<b>Toll facilities, certain;</b> free use by emergency medical services vehicles. (Patron—Stuart) .....	SB 1183	269	505
<b>Tolling;</b> prohibits the imposition and collection on any primary highway that is wholly located in Northern Virginia (Planning District 8), etc. (Patron—Hugo) .....	HB 2527	548	955
<b>Tolls;</b> any mandatory evacuation during a state of emergency shall require temporary suspension of toll collection operations in affected zones, Commissioner of Highways or his designee shall order temporary suspension of collection operations. (Patron—Jones, J.C.) .....	HB 2489	547	954
<b>Trooper Lucas B. Dowell Bridge;</b> designating as the bridge on Interstate 81 in Smyth County over Whitetop Road. (Patron—Peake) .....	SB 1789	764	1770
<b>Trooper Mark Barrett Memorial Bridge;</b> designating as the bridge on Meadow Road over Interstate 64 at mile marker 202 in Henrico County. Patron—Bagby .....	HB 2226	156	318
Patron—Dunnivant .....	SB 1690	59	100
<b>HILL, DEREK BRANDON</b>			
<b>Hill, Derek Brandon;</b> recording sorrow upon death. (Patron—Carrico) .....	SJR 304		3114
<b>HILL, HAROLD W.</b>			
<b>Hill, Harold W.;</b> commending. (Patron—DeSteph) .....	SJR 459		3200
<b>HILLSVILLE, TOWN OF</b>			
<b>Southwestern Virginia Training Center;</b> the Commonwealth shall not convey, sell, or otherwise dispose of certain real property in Carroll County outside the Town of Hillsville on which the former Center was situated. (Patron—Carrico) .....	SB 1509	610	1014
<b>HILTON DOWNTOWN RICHMOND</b>			
<b>Hilton Downtown Richmond;</b> commemorating its 10th anniversary. Patron—Bourne .....	HJR 955		2867
Patron—McClellan .....	SJR 443		3191
<b>HISTORIC AREAS, LANDMARKS, AND MONUMENTS</b>			
<b>Historical African American cemeteries;</b> adds Matthews Cemetery, The People's Cemetery, and Smith Street Cemetery in City of Martinsville to list. (Patron—Adams, L.R.) .....	HB 2406	252	481
<b>Historical African American cemeteries;</b> adds New River Cemetery and West Dublin Cemetery in Pulaski County to list. (Patron—Hurst) .....	HB 1973	184	369

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<b>HISTORIC AREAS, LANDMARKS, AND MONUMENTS - Continued</b>			
<b>Historical African American cemeteries</b> ; adds Oak Lawn Cemetery in City of Suffolk to list. (Patron—Hayes) . . . . .	HB	2311	251 480
<b>Historical African American cemeteries</b> ; adds seven cemeteries in City of Hampton to list. Patron—McQuinn . . . . .	HB	2681	257 485
Patron—Locke . . . . .	SB	1128	268 504
<b>Historical African American cemeteries</b> ; adds six cemeteries in the City of Alexandria to list. (Patron—Herring) . . . . .	HB	2739	260 491
<b>HOFFMAN BEVERAGE COMPANY</b>			
<b>Hoffman Beverage Company</b> ; commemorating its 100th anniversary. (Patron—Miyares) . . . . .	HR	316	3007
<b>HOFFMAN, EDYTHE HORWITZ</b>			
<b>Hoffman, Edythe Horwitz</b> ; recording sorrow upon death. (Patron—Adams, D.M.) . . .	HR	229	2968
<b>HOGBACK MOUNTAIN PAINTBALL</b>			
<b>Hogback Mountain Paintball</b> ; commemorating its 25th anniversary. (Patron—LaRock) . . . . .	HJR	1087	2934
<b>HOGUE, MARY BARBARA KIRK</b>			
<b>Hoge, Mary Barbara Kirk</b> ; recording sorrow upon death. (Patron—Delaney) . . . . .	HJR	797	2787
<b>HOLIDAYS, SPECIAL DAYS, ETC.</b>			
<b>Breastfeeding Awareness Month</b> ; designating as August 2019, and each succeeding year thereafter. (Patron—McClellan) . . . . .	SJR	298	3112
<b>Cameron Crowder Pediatric Care Awareness Day</b> ; designating as October 22, 2019, and each succeeding year thereafter. (Patron—Rush) . . . . .	HJR	705	2740
<b>Cardiopulmonary Resuscitation Awareness Day</b> ; designating as February 20, 2019, and each succeeding year thereafter. (Patron—McDougle) . . . . .	SJR	289	3080
<b>Cleft and Craniofacial Awareness and Prevention Month</b> ; designating as July 2019, and each succeeding year thereafter. (Patron—Lewis) . . . . .	SJR	338	3133
<b>Correctional Officers' Week</b> ; designating as the first full week of May 2019, and each succeeding year thereafter. (Patron—Kory) . . . . .	HJR	697	2736
<b>811 Day</b> ; designating as August 11, 2019, and each succeeding year thereafter. (Patron—Carr) . . . . .	HJR	595	2705
<b>Enrolled Agents Week</b> ; designating as first full week of February 2019, and each succeeding year thereafter. (Patron—Fowler) . . . . .	HJR	603	2709
<b>First Responders Day</b> ; designating as September 11, 2019, and each succeeding year thereafter. (Patron—Mullin) . . . . .	HJR	646	2723
<b>First Transcontinental Railroad</b> ; designating May 10, 2019, as the 150th anniversary of the completion of the Railroad in Virginia. (Patron—Keam) . . . . .	HJR	690	2733
<b>Montessori Education Day</b> ; designating as January 6, 2020, and each succeeding year thereafter. (Patron—Vogel) . . . . .	SJR	314	3118
<b>Move Over Awareness Month</b> ; designating as June 2019, and in honor and memory of Lieutenant Bradford Turner Clark. (Patron—McDougle) . . . . .	SJR	286	3079
<b>Resiliency Week</b> ; designating as first week of September 2019, and each succeeding year thereafter. (Patron—Sturtevant) . . . . .	SJR	277	3076
<b>Safe Digging Month</b> ; designating as April 2019, and each succeeding year thereafter. (Patron—Carr) . . . . .	HJR	594	2705
<b>Shipbuilders Day</b> ; designating as August 13, 2019, and each succeeding year thereafter. (Patron—Locke) . . . . .	SJR	272	3074
<b>Silence Empowers Violence Break the Code Awareness-to-Action Week</b> ; designating as third full week of September 2019, and each succeeding year thereafter. (Patron—Price) . . . . .	HJR	630	2718
<b>Susanna Bolling Day</b> ; designating as December 5, 2019, and each succeeding year thereafter. (Patron—Ingram) . . . . .	HJR	649	2725
<b>Taiwan Day</b> ; designating as October 10, 2019, and each succeeding year thereafter. (Patron—Morefield) . . . . .	HJR	659	2728
<b>The Reverend Dr. Wyatt Tee Walker Day</b> ; designating as August 16, 2019, and each succeeding year thereafter. (Patron—Dance) . . . . .	SJR	287	3079
<b>Trench Safety Stand Down Week</b> ; designating as third full week of June 2019, and each succeeding year thereafter. (Patron—Sickles) . . . . .	HJR	613	2715
<b>Trusted Choice® Independent Insurance Agents Week</b> ; designating the first full week of March 2019, and each succeeding year thereafter. (Patron—Fowler) . . . . .	HJR	703	2740

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**HOLIDAYS, SPECIAL DAYS, ETC. - Continued**

<b>Tuskegee Airmen Commemoration Day</b> ; designating as the fourth Thursday in March 2019, and each succeeding year thereafter. (Patron—Aird) . . . . .	HJR	732		2753
<b>World Refugee Day</b> ; designating as June 20, 2019, and each succeeding year thereafter. (Patron—Rodman) . . . . .	HJR	720		2748
<b>Year of Reconciliation and Civility</b> ; designating as year 2019. (Patron—McQuinn) . .	HJR	617		2715

**HOLLAND, LEROY**

<b>Holland, Leroy</b> ; commending. (Patron—Simon) . . . . .	HJR	991		2887
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**HOMESTEAD AND OTHER EXEMPTIONS**

<b>Real estate</b> ; exemptions, recordation of signed writing, location of real estate or residence of householder if property located outside the Commonwealth. (Patron—Simon) . . . . .	HB	2711	492	870
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**HOPE IN THE CITIES**

<b>Hope in the Cities</b> ; commending. (Patron—Carr) . . . . .	HJR	844		2810
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**HOPEWELL, CITY OF**

<b>Hopewell, City of</b> ; amending charter, appointment of president of city council.				
Patron—Aird . . . . .	HB	2002	207	401
Patron—Dance . . . . .	SB	1191	109	174

**HORIZON BEHAVIORAL HEALTH**

<b>Horizon Behavioral Health</b> ; commemorating its 50th anniversary. (Patron—Garrett) .	HJR	989		2886
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**HORTON, DENNIS DUNNE**

<b>Horton, Dennis Dunne</b> ; recording sorrow upon death. (Patron—Hanger) . . . . .	SJR	280		3077
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**HOSPICES**

<b>Hospice patients</b> ; Department of Medical Assistance Services shall implement a process for direct payment of nursing facility or ICF/MR services. (Patron—Head) . .	HB	1639	209	402
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**HOSPITALS AND HOSPITALIZATION**

<b>Certificate of public need</b> ; establishing natural or man-made disaster exemption, for a period of no more than 30 days, from requirement to obtain a license to add temporary beds in an existing hospital or nursing home.				
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Patron—Sickles . . . . .	HB	1870	136	286
Patron—Barker . . . . .	SB	1277	343	639

**Chesapeake Hospital Authority**; investment of funds held by the Authority, or contributed to its affiliated foundations, shall be exempt from application of the Investment of Public Funds Act.

Patron—Leftwich . . . . .	HB	2286	249	478
Patron—Spruill . . . . .	SB	1088	250	479

<b>Elective medical procedure, test, or service</b> ; advance estimate of patient payment amount, written information shall be posted conspicuously in public areas of the hospital, etc., and included on any website maintained by hospital. (Patron—Toscano)	HB	2750	670	1219
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<b>Elective procedure, test, or service</b> ; every hospital shall provide written information about patient's ability to request an estimate of payment amount, posting information in conspicuous public areas, etc. (Patron—Chase) . . . . .	SB	1004	671	1220
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<b>State hospitals for individuals with mental illness</b> ; Secretary of Health and Human Resources shall convene a work group to examine causes of high census at the Commonwealth's state hospitals. (Patron—Hanger) . . . . .	SB	1488	609	1013
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**HOTELS, RESTAURANTS, SUMMER CAMPS, AND CAMPGROUNDS**

**Alcoholic beverage control**; allows the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held, etc., certain provisions of enactments shall become effective on July 1, 2020, repeals provision relating to licenses for establishments in national forests, certain adjoining lands, etc.

Patron—Hurst . . . . .	HB	2634	178	348
Patron—Reeves . . . . .	SB	1110	37	65

<b>Restaurants</b> ; exemption of certain establishments from requirement of employing a certified food protection manager. (Patron—Edmunds) . . . . .	HB	1663	275	517
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**HOUSING**

<b>Affordable housing</b> ; waiver of fees. (Patron—Bagby) . . . . .	HB	2229	393	724
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HOUSING - Continued

**Auxiliary grants;** number of auxiliary grant recipients in supportive housing setting shall not exceed 90, etc.

Patron—Peace .....	HB 2017	657	1180
Patron—Barker .....	SB 1286	658	1181

**Income tax, state;** expands the definition of "eligible housing area" for purposes of the housing choice voucher tax credit, to include census tracts in the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area.

Patron—Jones, J.C. ....	HB 1681	19	39
Patron—Cosgrove .....	SB 1656	272	515

**Uniform Statewide Building Code;** fees levied shall be used only to support functions of the local building departments, when denying an application for the issuance of a building permit, department shall provide to the applicant a written explanation detailing the reasons for which the application was denied. (Patron—Yancey) .....

HB 1966	698	1291
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HU, JUSTIN

<b>Hu, Justin;</b> commending. (Patron—Plum) .....	HR 369		3032
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HUDGINS, CATHERINE M.

<b>Hudgins, Catherine M.;</b> commending. (Patron—Plum) .....	HR 370		3032
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HUFF, FRANK

<b>Huff, Frank;</b> recording sorrow upon death. (Patron—Obenshain) .....	SJR 417		3177
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HUMAN IMMUNODEFICIENCY VIRUS (HIV)

**Human immunodeficiency virus or hepatitis B or C viruses;** exposure to bodily fluids, infection, expedited testing, hearing on petition shall be given precedence on docket so as to be heard by court within 48 hours of filing petition, if court is closed during this period, petition will be heard on next day that court is in session, person who is subject to a testing order may appeal the order of the general district court to the circuit court of the same jurisdiction within 10 days of receiving notice of order. (Patron—Price) .....

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HUMAN TRAFFICKING

**Child abuse and neglect;** sex trafficking assessments by local departments, notification to Child Protective Services Unit, valid report or complaint, child-protective services worker responding to a report or complaint may take a child into custody.

Patron—Herring .....	HB 2597	381	702
Patron—Peake .....	SB 1661	687	1263

**Child victims and witnesses;** testimony, using two-way closed-circuit television, commercial sex trafficking and prostitution offenses. (Patron—Collins) .....

HB 2464	146	307
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**Family life education;** Board of Education, in its curriculum guidelines, to include instruction on prevention of human trafficking. (Patron—Favola) .....

SB 1141	595	1003
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**Human trafficking hotline;** Virginia Alcoholic Beverage Control Authority and the Virginia Employment Commission shall post notice of the existence of a hotline in government stores and employment offices, to alert possible witnesses or victims. (Patron—Miyares) .....

HB 1887	388	715
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**Prostitution and sex trafficking;** offenses involving a minor, penalties. (Patron—Bell, Robert B.) .....

HB 2586	617	1024
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**Virginia Prevention of Sex Trafficking Fund;** created, moneys in the Fund shall be used for purpose of promoting prevention and awareness of sex trafficking, fees for offenses related to sex trafficking. (Patron—Yancey) .....

HB 2651	728	1593
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HUMMER, JACOB ALEXANDER

<b>Hummer, Jacob Alexander;</b> commending. (Patron—McDougle) .....	SR 135		3235
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HUNNICUTT, JOSEPH FREDERICK

<b>Hunnicutt, Joseph Frederick;</b> recording sorrow upon death. (Patron—Carrico) .....	SJR 378		3155
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HUNT VALLEY ELEMENTARY SCHOOL

<b>Hunt Valley Elementary School;</b> commending. (Patron—Tran) .....	HR 440		3062
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HUNTER, JEANNINE A.

<b>Hunter, Jeannine A.;</b> recording sorrow upon death. (Patron—Norment) .....	SJR 464		3202
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HUNTING LAWS AND PERMITS

<b>Hunting license;</b> trip hunting license for residents. (Patron—Fowler) .....	HB 1621	147	308
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HURT, JERRY ALLEN

<b>Hurt, Jerry Allen;</b> recording sorrow upon death. (Patron—Campbell, J.L.) .....	HR 272		2988
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<b>Hylton Boys &amp; Girls Club</b> ; commemorating its 28th anniversary. (Patron—Guzman) .	HR	294	2997
<b>HYNES, PAT</b>			
<b>Hynes, Pat</b> ; commending. (Patron—Plum) . . . . .	HR	371	3033
<b>IMMUNIZATIONS</b>			
<b>Immunizations</b> ; extends the time by which an acellular pertussis booster shall be administered prior to entry into the seventh grade. (Patron—Bourne) . . . . .	HB	2215	222 445
<b>INCOME TAX</b>			
<b>Income tax, state</b> ; adds Page County to the list of qualified localities in which a company may invest to become eligible for income tax modification.			
Patron—Gilbert . . . . .	HB	2776	262 495
Patron—Obenshain . . . . .	SB	1428	263 496
<b>Income tax, state</b> ; changes definition of resident estate or trust.			
Patron—Hugo . . . . .	HB	2526	23 44
Patron—Stuart . . . . .	SB	1205	192 380
<b>Income tax, state</b> ; conformity of the Commonwealth's taxation system with the Internal Revenue Code, taxable income deductions, real property and personal property taxes, etc.			
Patron—Hugo . . . . .	HB	2529	17 23
Patron—Norment . . . . .	SB	1372	18 31
<b>Income tax, state</b> ; creates a subtraction for gain recognized by a taxpayer from a taking of real property by condemnation proceedings. (Patron—Ruff) . . . . .	SB	1256	270 507
<b>Income tax, state</b> ; expands the definition of "eligible housing area" for purposes of the housing choice voucher tax credit, to include census tracts in the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area.			
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<b>INDIAN LAKES ELEMENTARY SCHOOL</b>			
<b>Indian Lakes Elementary School</b> ; commemorating its 40th anniversary. (Patron—Convirs-Fowler) . . . . .	HR	331	3014
<b>INDUSTRIAL DEVELOPMENT</b>			
<b>Industrial development authorities</b> ; legislative intent. (Patron—Hodges) . . . . .	HB	2485	546 952
<b>Industrial development authority</b> ; King William County may expand the board of its authority. (Patron—Peace) . . . . .	HB	2012	363 680
<b>INDUSTRIAL HEMP</b>			
<b>Industrial hemp</b> ; clarifies definition of "hemp product," conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law, testing of Cannabis sativa, reports, abolishes the higher education and Virginia industrial hemp research programs, etc.			
Patron—Marshall . . . . .	HB	1839	653 1140
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<b>INFANTS</b>			
<b>Newborn screening</b> ; Board of Health to amend regulations to include screening for congenital cytomegalovirus in newborns who fail the newborn hearing screen. (Patron—Stolle) . . . . .	HB	2026	423 759
<b>INMATES</b>			
<b>Inmate workforces</b> ; eligibility for voluntary participation, approval of and under supervision of sheriff or his designee. (Patron—Collins) . . . . .	HB	1935	199 391
<b>INSANITY</b>			
<b>Crime victim rights</b> ; upon victim's request, victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of release of defendant found unrestorably incompetent or acquitted by reason of insanity. (Patron—Orrock) . . . . .	HB	2648	216 430
<b>INSKEEP, WILLIAM BRINKER</b>			
<b>Inskeep, William Brinker</b> ; recording sorrow upon death. (Patron—Freitas) . . . . .	HJR	696	2735

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<b>INSPECTIONS, MOTOR VEHICLE</b>			
<b>Motor vehicle safety inspections;</b> increases maximum charge from \$16 to \$20, \$0.70 shall be transmitted to Department of State Police for costs of administering program. (Patron—Hugo) . . . . .	HB 2514	307	594
<b>INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL AND CULTURAL INSTITUTIONS</b>			
<b>Advanced Learning and Research, Institute for;</b> board may appoint a president or president and executive director, duties. (Patron—Marshall) . . . . .	HB 1835	122	188
<b>Commonwealth of Virginia Institutions of Higher Education Bond Act of 2019;</b> created. Patron—Jones, S.C. . . . .	HB 2357	187	371
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<b>Higher Education for Virginia, State Council of;</b> financial aid award notification. (Patron—Dunnivant) . . . . .	SB 1593	572	979
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<b>Higher educational institution, public or private;</b> comprehensive financial aid award notification provided to a student. (Patron—Reid) . . . . .	HB 1704	571	979
<b>Higher educational institutions, baccalaureate public;</b> institutions prohibited from employing an individual appointed by Governor to board of visitors within two years of expiration of such member's term, prohibition shall not apply to employment of an individual to serve as an institution president, etc. (Patron—Obenshain) . . . . .	SB 1068	373	694
<b>Higher educational institutions, public;</b> educational programs for the governing boards shall include presentations relating to a review of student debt trends. (Patron—Miyares) . . . . .	HB 2620	643	1123
<b>Higher educational institutions, public;</b> educational programs for the governing boards shall include presentations relating to board members' primary duty to the citizens of the Commonwealth and student debt trends. (Patron—DeSteph) . . . . .	SB 1234	642	1122
<b>Higher educational institutions, public;</b> governing board shall report salary by position of any executive officer of such institution that exceeds for previous fiscal year salary limit for chief executive officer. (Patron—Landes) . . . . .	HB 2336	408	739
<b>Higher educational institutions, public;</b> increase of undergraduate tuition and mandatory fees, prior to voting on increase, governing board of each institution shall permit public comment on proposed increase at a meeting of the board, report. (Patron—Landes) . . . . .	HB 2337	588	999
<b>Higher educational institutions, public;</b> in-state tuition for any member of foreign service office who resided in the Commonwealth for at least 90 days, etc. (Patron—Krizek) . . . . .	HB 1936	329	620
<b>Higher educational institutions, public;</b> online course catalogue, no-cost and low-cost course materials. (Patron—Hurst) . . . . .	HB 2380	590	1000
<b>Higher educational institutions, public;</b> tuition and fee increases, prior to any vote, the governing board of each institution shall permit public comment on proposed increase. Patron—Miyares . . . . .	HB 2173	583	988
Patron—Petersen . . . . .	SB 1118	584	988
<b>Higher educational institutions, public;</b> tuition and fees, foster care youth. (Patron—Miyares) . . . . .	HB 2350	589	1000
<b>Humanities, Virginia Foundation for the;</b> adds members to task force. (Patron—McQuinn) . . . . .	HB 2699	230	452
<b>Industrial hemp;</b> clarifies definition of "hemp product," conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law, testing of Cannabis sativa, reports, abolishes the higher education and Virginia industrial hemp research programs, etc. Patron—Marshall . . . . .	HB 1839	653	1140
Patron—Ruff . . . . .	SB 1692	654	1159

## INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL AND CULTURAL INSTITU-

<b>Innovative Internship Fund and Program;</b> created and established, proposal of performance pilots.				
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Patron—Leftwich .....	HB	2290	124	188
Patron—McDougle .....	SB	1386	125	231
<b>Liberty University School of Aeronautics;</b> commending. (Patron—Newman) .....	SJR	321		3124
<b>Mary Baldwin University Alumni Association;</b> commemorating its 125th anniversary.				
Patron—Bell, Richard P. ....	HR	414		3050
Patron—Hanger .....	SR	151		3241
<b>New Economy Workforce Credential Grant Fund and Program;</b> giving priority to noncredit workforce training programs in high-demand fields. (Patron—Stolle) .....	HB	1920	578	982
<b>Northern Virginia Community College Educational Foundation;</b> commemorating its 40th anniversary. (Patron—Kearney) .....	HR	417		3052
<b>Patrick Henry College moot court team;</b> commending. (Patron—LaRock) .....	HJR	1076		2929
<b>Radford University;</b> authority to establish Radford University-Roanoke Division.				
Patron—Rush .....	HB	2181	60	100
Patron—Carrico .....	SB	1506	64	105
<b>Randolph-Macon College;</b> commemorating its 150th anniversary of the institution's move to Ashland. (Patron—Rodman) .....	HJR	857		2816
<b>Scholastic records;</b> disclosure of directory information. (Patron—Wilt) .....	HB	2449	229	451
<b>School and Campus Safety, Virginia Center for;</b> guidelines on information sharing. (Patron—Dunnavant) .....	SB	1591	719	1585
<b>School boards;</b> boards permitted to enter into College and Career Access Pathways Partnerships. (Patron—Carroll Foy) .....	HB	2123	582	984
<b>Southwest Virginia Higher Education Center;</b> powers and duties of board. (Patron—Carrico) .....	SB	1511	766	1770
<b>Teacher licensure;</b> Board of Education's regulations shall include requirements that a person demonstrate proficiency in the relevant content area, etc., or meeting alternative education evaluation standards, Board shall issue a license to an individual seeking initial licensure who has not completed the professional assessments prescribed by the Board, if such individual holds a provisional license that will expire within three months, etc.				
Patron—Carroll Foy .....	HB	2037	407	736
Patron—Peake .....	SB	1397	63	102
<b>Tech Talent Investment Program and Fund;</b> created, educational records and certain records of educational institutions, definitions, report.				
Patron—Rush .....	HB	2490	638	1112
Patron—Ruff .....	SB	1617	639	1115
<b>Uniform Statewide Building Code (USBC) and Statewide Fire Prevention Code (SFPC);</b> Department of Housing and Community Development to convene stakeholders to develop proposals for changes to Codes with the goal of assisting in the provision of safety and security measures for public or private elementary and secondary schools and public or private institutions of higher education for active shooter or hostile threats. (Patron—Hanger) .....	SB	1755	723	1587
<b>University of Mary Washington men's rugby team;</b> commending. (Patron—Thomas) .....	HJR	604		2710
<b>University of Mary Washington men's soccer team;</b> commending. (Patron—Thomas) .....	HJR	648		2724
<b>University of Virginia;</b> commemorating its 200th anniversary.				
Patron—Toscano .....	HR	225		2966
Patron—Deeds .....	SR	89		3211
<b>University of Virginia's College at Wise;</b> reduced rate tuition, students who reside in and are domiciled in Appalachian Region.				
Patron—Kilgore .....	HB	1666	225	450
Patron—Carrico .....	SB	1519	600	1006
<b>Virginia College Savings Plan;</b> definitions, prepaid tuition contracts, etc., tuition prepayments.				
Patron—Robinson .....	HB	1972	803	1883
Patron—Hanger .....	SB	1315	804	1887

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**INSTITUTIONS OF HIGHER EDUCATION; OTHER EDUCATIONAL AND CULTURAL INSTITU-**

**Virginia College Savings Plan;** definitions, prepaid tuition contracts, pricing reserves, limitations.

Patron—Landes .....	HB 1611	806	1892
Patron—Norment .....	SB 1368	805	1892

**Virginia Commonwealth University;** commemorating its 180th anniversary of its founding and 50th anniversary under its current name.

Patron—Bourne .....	HJR 791		2784
Patron—McClellan .....	SJR 363		3147

**Virginia Community College System;** the System, in consultation with the Department of Labor and Industry, shall develop and deliver uniform, related instruction for registered apprenticeships in high-demand programs. (Patron—James)

HB 2020	580	983
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**Virginia Military Survivors and Dependents Education Program;** eligibility, Virginia Military Survivors and Dependents Education Fund, stipends.

Patron—Torian .....	HB 2685	491	868
Patron—McPike .....	SB 1173	317	610

**Virginia Polytechnic Institute and State University and Virginia State University;** joint plan for establishment of a baccalaureate or other degree program. (Patron—Orrock)

HB 2702	592	1001
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**Virginia Rural Information Technology Apprenticeship Grant Fund and Program;** established, Botetourt County included in definition of "qualified locality." (Patron—Kilgore)

HB 2185	647	1128
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**Virginia Rural Information Technology Apprenticeship Grant Fund and Program;** established, Program established for purpose of awarding grants on a competitive basis from such funds as may be available. (Patron—Chafin)

SB 1495	646	1127
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**Virginia State University;** commending. (Patron—Aird)

HJR 748		2762
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**William & Mary, The College of;** commending. (Patron—Mullin)

HJR 890		2833
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**INSURANCE**

**Accident and sickness insurance;** restrictions relating to premium rates, variances in area rate factors, provisions shall apply only to proposed rate filings for 2020 plan year and subsequent plan years.

Patron—Murphy .....	HB 2770	439	789
Patron—Deeds .....	SB 1734	440	790

**Accident and sickness insurance;** step therapy protocols, definitions. (Patron—Davis)

HB 2126	337	632
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**Accident and sickness insurance and health services plans;** reimbursement for services provided by nurse practitioners, effective date.

Patron—Ransone .....	HB 1640	332	623
Patron—Sturtevant .....	SB 1178	333	623

**All-Payer Claims Database;** definitions, participation by issuers of individual or group accident and sickness insurance, etc., Commissioner shall establish a data release committee to review and approve requests for access to data.

Patron—Garrett .....	HB 2798	673	1224
Patron—Newman .....	SB 1216	672	1220

**Burn buildings;** changes the term in the Code of Virginia to "live fire training structures" to conform to the terminology used by the National Fire Protection Association and the Virginia Department of Fire Programs. (Patron—Mason)

SB 1411	509	888
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**Cancer patients;** expedited review of adverse coverage determinations, exhaustion of health carrier's internal appeal process.

Patron—Yancey .....	HB 1915	826	1946
Patron—Ruff .....	SB 1161	840	1982

**Carrier contracts with pharmacy providers;** limitations on audits of pharmacy records. (Patron—Pillion)

HB 2561	665	1196
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**Commercial fire insurance policies or contracts;** change in amount of coverage. (Patron—Marshall)

HB 1836	693	1287
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**Dental services;** contracts between carriers and providers, PPO network arrangement, etc. (Patron—Ware)

HB 1682	655	1178
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**Guaranteed asset protection waivers;** establishes requirements for offering waivers, etc., certain waivers are not insurance.

Patron—O'Quinn .....	HB 2109	799	1875
Patron—Chafin .....	SB 1325	800	1877

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### INSURANCE - Continued

<b>Health care shared savings;</b> definitions, health insurance incentive programs, required disclosures by health care providers.				
Patron—Byron .....	HB	2639	666	1198
Patron—Dunnavant .....	SB	1611	684	1259
<b>Health insurance;</b> carrier business practices, authorization of health care services, prescriptive authority. (Patron—Dunnavant) .....	SB	1607	683	1255
<b>Health insurance;</b> health insurers and other carriers that credential the mental health professionals in their provider networks may establish reasonable protocols and procedures for credentialing private mental health agencies, protocols and procedures shall require an agency to maintain minimum audit report requirements. (Patron—Dunnavant) .....	SB	1685	689	1279
<b>Health insurance;</b> health insurers, health care subscription plans, and health maintenance organizations to provide coverage for autism spectrum disorder for the diagnosis and treatment of individuals of any age.				
Patron—Thomas .....	HB	2577	452	813
Patron—Vogel .....	SB	1693	451	810
<b>Health insurance;</b> payment of out-of-network providers, patient access to elective services. (Patron—Ware) .....	HB	2538	432	774
<b>Health insurance;</b> revises definition of "small employer" for purposes of group policies.				
Patron—Pillion .....	HB	2719	383	708
Patron—Deeds .....	SB	1475	450	807
<b>Health plans;</b> calculation of enrollee's contribution to out-of-pocket maximum or cost-sharing requirement.				
Patron—Hugo .....	HB	2515	661	1190
Patron—Dunnavant .....	SB	1596	662	1191
<b>Individual and certain group health benefit plans;</b> rates for plans, minimum loss ratios. (Patron—Toscano) .....	HB	2345	607	1011
<b>Insurance holding companies;</b> supervision of internationally active insurance groups. (Patron—Ware) .....	HB	1759	692	1284
<b>Insurance licensing, biennial;</b> renewal for individuals and business entities, criminal background checks, fingerprinting, insurance agents' continuing education requirements, removes obsolete requirements, effective date. (Patron—Chafin) .....	SB	1222	675	1230
<b>Motor vehicle insurance policies;</b> prohibits an insurer from refusing to renew a policy solely because of status of person as a foster care provider or a person in foster care. (Patron—Keam) .....	HB	1883	334	624
<b>Pharmacies;</b> carriers that provide exclusive provider policies and contracts to allow consumers freedom of choice for pharmacy benefits. (Patron—Dance) .....	SB	1197	674	1229
<b>Portable electronics insurance;</b> issuing notices and correspondence by mail or electronic means. (Patron—Wilt) .....	HB	2723	523	905
<b>Property and motor vehicle insurance;</b> use of credit score, adverse actions. (Patron—Bagby) .....	HB	2230	704	1305
<b>Public adjusters;</b> regulation, public adjusting includes soliciting an insured. (Patron—Mason) .....	SB	1415	627	1055
<b>Telemedicine services;</b> payment of medical assistance for medically necessary health care services provided through telemedicine services, coverage shall include use of telemedicine technologies as it pertains to medically necessary remote patient monitoring services.				
Patron—Kilgore .....	HB	1970	211	417
Patron—Chafin .....	SB	1221	219	436
<b>Travel insurance;</b> establishes procedures and requirements for travel protection plans and travel administrators, classification of travel insurance.				
Patron—Kilgore .....	HB	2186	346	644
Patron—Dunnavant .....	SB	1565	266	499
<b>Uninsured motorist insurance coverage;</b> settlement and release. (Patron—Chafin) ..	SB	1293	779	1797

### INTERNET

<b>Electric utilities;</b> State Corporation Commission shall establish pilot programs under which certain utilities may submit one or more petitions to provide or make available broadband capacity to nongovernmental Internet service providers to unserved areas of the Commonwealth. (Patron—O'Quinn) .....	HB	2691	619	1042
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**INTERSTATE 66**

**Motor vehicles;** in the event of an accident on any part of Interstate 66, where a high-occupancy toll (HOT) lane is under construction and the shoulders of Interstate 66 are being or have been removed, the driver shall move the vehicle from the roadway to the nearest pull-off area if the driver can safely do so, etc. (Patron—Marsden) . . . . . SB 1073 265 498

**INTERSTATE 95**

**Interstate 95;** Commonwealth Transportation Board to study portion of corridor between Exit 118 and Springfield Interchange and financing options for improvements.  
Patron—Cole . . . . . HJR 581 2702  
Patron—Reeves . . . . . SJR 276 3076

**INTERSTATE ROUTE 64**

**Trooper Mark Barrett Memorial Bridge;** designating as the bridge on Meadow Road over Interstate 64 at mile marker 202 in Henrico County.  
Patron—Bagby . . . . . HB 2226 156 318  
Patron—Dunnavant . . . . . SB 1690 59 100

**INTERSTATE ROUTE 81**

**Interstate 81;** Interstate 81 Corridor Improvement Fund created, Interstate 81 Committee established, Committee's meetings shall rotate between locations, report, responsibilities of Commonwealth Transportation Board and Department of Transportation, additional fees for certain vehicles, additional tax per gallon on diesel fuel, disposition of tax revenues, etc.  
Patron—Landes . . . . . HB 2718 837 1971  
Patron—Obenshain . . . . . SB 1716 846 1990  
**Trooper Lucas B. Dowell Bridge;** designating as the bridge on Interstate 81 in Smyth County over Whitetop Road. (Patron—Peake) . . . . . SB 1789 764 1770

**IRVINGTON, TOWN OF**

**Irvington, Town of;** amending charter, updates the town's boundary description, elections of mayor and town council. (Patron—Ransone) . . . . . HB 1895 694 1287  
**Irvington, Town of;** amending charter, updates town's boundary description, on first Tuesday in May 2020, and every four years thereafter, there shall be election of mayor, etc. (Patron—McDougle) . . . . . SB 1350 113 177

**ISRAEL, STATE OF**

**Israel, State of;** commending. (Patron—Peace) . . . . . HR 373 3033

**JAILS AND PRISONS**

**Health information;** Department of Behavioral Health and Developmental Services shall convene a workgroup to study issue of and to develop a plan for sharing of protected information of individuals with mental health treatment needs between community services boards and local and regional jails. (Patron—Boysko) . . . . . SB 1644 685 1262  
**Medical and mental health information and records of person committed to jail;** allows local probation officers to exchange. (Patron—Heretick) . . . . . HB 2213 702 1303  
**Naloxone or other opioid antagonist;** adds employees of regional jails to the list of individuals who may possess and administer, provided that they have completed a training program. (Patron—Garrett) . . . . . HB 1878 87 133

**JAKA, MIKAEEL MARTINEZ**

**Jaka, Mikael Martinez;** commending. (Patron—Reid) . . . . . HJR 759 2768

**JAKA, RIZWAN**

**Jaka, Rizwan;** commending. (Patron—Murphy) . . . . . HJR 777 2777

**JAMES CITY COUNTY**

**James City County;** amending charter, inoperable vehicles. (Patron—Mason) . . . . . SB 1408 508 888

**JAMES MADISON HIGH SCHOOL**

**James Madison High School;** commemorating its 60th anniversary. (Patron—Keam) . . . . . HJR 1029 2906  
**James Madison High School softball team;** commending. (Patron—Petersen) . . . . . SJR 362 3147

**JAMES MADISON UNIVERSITY**

**James Madison University;** management agreement with the Commonwealth.  
Patron—Leftwich . . . . . HB 2290 124 188  
Patron—McDougle . . . . . SB 1386 125 231  
**James Madison University women's lacrosse team;** commending. (Patron—Wilt) . . . . . HJR 869 2822

**JAMES MONROE HIGH SCHOOL**

**James Monroe High School field hockey team;** commending. (Patron—Thomas) . . . HJR 605 2710

**JAMES RIVER**

**Chesapeake Bay Watershed Implementation Plan;** repeals directions to state agencies to exclude the Lynnhaven River and Little Creek watersheds from the James River Basin for purposes of the Plan. (Patron—Wagner) . . . . . SB 1388 563 973

**JAMESON, CAROL G.**

**Jameson, Carol G.;** commending. (Patron—Boysko) . . . . . SJR 451 3195

**JAMESTOWN HIGH SCHOOL**

**Jamestown High School Envirothon team;** commending.

Patron—Mullin . . . . . HJR 889 2833

Patron—Pogge . . . . . HJR 1039 2911

**JEFFERSON AREA BOARD FOR AGING**

**Jefferson Area Board for Aging;** commending. (Patron—Toscano) . . . . . HJR 929 2854

**JENKINS, JOHN D.**

**Jenkins, John D.;** recording sorrow upon death.

Patron—Torian . . . . . HR 283 2992

Patron—McPike . . . . . SR 112 3224

**JENKINSON, CLAY**

**Jenkinson, Clay;** commending. (Patron—Miyares) . . . . . HJR 663 2729

**JESSE'S BARBER SHOP**

**Jesse's Barber Shop;** commending. (Patron—Carrico) . . . . . SJR 386 3159

**JEWISH COMMUNITY FEDERATION OF RICHMOND**

**Jewish Community Federation of Richmond;** commemorating its 80th anniversary of Kristallnacht. (Patron—Dunnavant) . . . . . SJR 468 3204

**JOACHIM, GREG**

**Joachim, Greg;** commending. (Patron—Krizek) . . . . . HJR 1106 2942

**JOE BAGLEY VETERANS OF FOREIGN WARS POST 2582**

**Joe Bagley Veterans of Foreign Wars Post 2582;** commending. (Patron—Jones, S.C.) HJR 664 2730

**JOHNSON, CAROLYN W.**

**Johnson, Carolyn W.;** recording sorrow upon death. (Patron—Hope) . . . . . HJR 1011 2897

**JOHNSON, HARRY JAMES**

**Johnson, Harry James;** commending. (Patron—Marshall) . . . . . HJR 981 2883

**JOHNSON'S ORCHARDS**

**Johnson's Orchards;** commemorating its 100th anniversary. (Patron—Garrett) . . . . . HJR 1120 2949

**JOHNSTON-WILLIS HOSPITAL**

**Johnston-Willis Hospital;** commemorating its 110th anniversary and its accreditation from the American College of Surgeons' National Accreditation Program for Breast Centers in 2019. (Patron—Adams, D.M.) . . . . . HR 454 3067

**JONAS, GORDON DANNY**

**Jonas, Gordon Danny;** recording sorrow upon death. (Patron—Suetterlein) . . . . . SR 160 3245

**JONES, TOMMY LEE**

**Jones, Tommy Lee;** commending. (Patron—Guzman) . . . . . HR 238 2972

**JOY, CHARLES AUSTIN, JR.**

**Joy, Charles Austin, Jr.;** recording sorrow upon death. (Patron—Fowler) . . . . . HJR 997 2890

**JUDGES, JUSTICES, AND OTHER ELECTIVE OFFICERS**

**Judge;** nomination for election to Court of Appeals of Virginia.

Patron—Adams, L.R. . . . . HR 219 2963

Patron—Adams, L.R. . . . . HR 287 2993

Patron—Obenshain . . . . . SR 92 3213

Patron—Obenshain . . . . . SR 121 3228

**Judge;** nomination for election to Supreme Court of Virginia.

Patron—Adams, L.R. . . . . HR 286 2993

Patron—Obenshain . . . . . SR 120 3228

**Judges;** election in circuit court, general district court, juvenile and domestic relations district court, and members of Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . . . . HJR 1140 2958

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**JUDGES, JUSTICES, AND OTHER ELECTIVE OFFICERS - Continued**

<b>Judges;</b> election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.)	HJR	718		2746
<b>Judges;</b> election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . .	HJR	979		2881
<b>Judges;</b> nominations for election to circuit court.				
Patron—Adams, L.R. . . . .	HR	220		2963
Patron—Adams, L.R. . . . .	HR	288		2993
Patron—Adams, L.R. . . . .	HR	383		3038
Patron—Obenshain . . . . .	SR	93		3214
Patron—Obenshain . . . . .	SR	122		3228
Patron—Obenshain . . . . .	SR	144		3239
<b>Judges;</b> nominations for election to general district court.				
Patron—Adams, L.R. . . . .	HR	221		2964
Patron—Adams, L.R. . . . .	HR	289		2994
Patron—Adams, L.R. . . . .	HR	384		3038
Patron—Obenshain . . . . .	SR	94		3214
Patron—Obenshain . . . . .	SR	123		3229
Patron—Obenshain . . . . .	SR	145		3239
<b>Judges;</b> nominations for election to juvenile and domestic relations district court.				
Patron—Adams, L.R. . . . .	HR	222		2964
Patron—Adams, L.R. . . . .	HR	290		2995
Patron—Adams, L.R. . . . .	HR	385		3038
Patron—Obenshain . . . . .	SR	95		3215
Patron—Obenshain . . . . .	SR	124		3230
Patron—Obenshain . . . . .	SR	146		3239
<b>Judicial Inquiry and Review Commission;</b> nomination for election of a member.				
Patron—Adams, L.R. . . . .	HR	223		2965
Patron—Adams, L.R. . . . .	HR	291		2996
Patron—Obenshain . . . . .	SR	96		3216
Patron—Obenshain . . . . .	SR	125		3231
<b>Judicial Inquiry and Review Commission;</b> nominations for election of members.				
Patron—Adams, L.R. . . . .	HR	386		3038
Patron—Obenshain . . . . .	SR	147		3239
<b>State Corporation Commission;</b> nomination for election of a member.				
Patron—Kilgore . . . . .	HR	224		2965
Patron—Wagner . . . . .	SR	97		3216

**JUDGMENT**

<b>Appellate damages;</b> specifies that when any judgment is affirmed, whether in whole or in part, damages shall be awarded to the appellee on the portion of the judgment affirmed. (Patron—Campbell, J.L.) . . . . .	HB	1955	134	285
<b>Landlord;</b> clarifies that for purposes of signing pleadings and other papers and obtaining a judgment for possession or for rent or damages in general district court, the managing agent may act on behalf of the business. (Patron—Campbell, J.L.) . . . .	HB	2262	477	844
<b>Summary judgment;</b> limited use of discovery depositions and affidavits.				
Patron—Gilbert . . . . .	HB	2197	10	15
Patron—Obenshain . . . . .	SB	1486	128	278

**JUDICIAL INQUIRY AND REVIEW COMMISSION**

<b>Judges;</b> election in circuit court, general district court, juvenile and domestic relations district court, and members of Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . . . .	HJR	1140		2958
<b>Judges;</b> election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.)	HJR	718		2746
<b>Judges;</b> election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . .	HJR	979		2881
<b>Judicial Inquiry and Review Commission;</b> nomination for election of a member.				
Patron—Adams, L.R. . . . .	HR	223		2965
Patron—Adams, L.R. . . . .	HR	291		2996

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**JUDICIAL INQUIRY AND REVIEW COMMISSION - Continued**

Patron—Obenshain .....	SR	96	3216
Patron—Obenshain .....	SR	125	3231
<b>Judicial Inquiry and Review Commission;</b> nominations for election of members.			
Patron—Adams, L.R. ....	HR	386	3038
Patron—Obenshain .....	SR	147	3239

**JUDICIAL NOMINATIONS****Judge;** nomination for election to Court of Appeals of Virginia.

Patron—Adams, L.R. ....	HR	219	2963
Patron—Adams, L.R. ....	HR	287	2993
Patron—Obenshain .....	SR	92	3213
Patron—Obenshain .....	SR	121	3228

**Judge;** nomination for election to Supreme Court of Virginia.

Patron—Adams, L.R. ....	HR	286	2993
Patron—Obenshain .....	SR	120	3228

**Judges;** election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) ...

HJR 979 2881

**Judges;** nominations for election to circuit court.

Patron—Adams, L.R. ....	HR	220	2963
Patron—Adams, L.R. ....	HR	288	2993
Patron—Adams, L.R. ....	HR	383	3038
Patron—Obenshain .....	SR	93	3214
Patron—Obenshain .....	SR	122	3228
Patron—Obenshain .....	SR	144	3239

**Judges;** nominations for election to general district court.

Patron—Adams, L.R. ....	HR	221	2964
Patron—Adams, L.R. ....	HR	289	2994
Patron—Adams, L.R. ....	HR	384	3038
Patron—Obenshain .....	SR	94	3214
Patron—Obenshain .....	SR	123	3229
Patron—Obenshain .....	SR	145	3239

**Judges;** nominations for election to juvenile and domestic relations district court.

Patron—Adams, L.R. ....	HR	222	2964
Patron—Adams, L.R. ....	HR	290	2995
Patron—Adams, L.R. ....	HR	385	3038
Patron—Obenshain .....	SR	95	3215
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**Judicial Inquiry and Review Commission;** nominations for election of members.

Patron—Adams, L.R. ....	HR	386	3038
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**JURY SERVICE AND JURORS****Deferral of jury service;** persons who have legal custody of and are responsible for the care of a child. (Patron—Hope) .....

HB 1814 518 900

**Multi-jurisdiction grand jury;** secrecy of information, use in a criminal investigation or proceeding. (Patron—Adams, L.R.) .....

HB 2413 522 904

**JUVENILE AND DOMESTIC RELATIONS DISTRICT COURTS****Judges;** election in circuit court, general district court, juvenile and domestic relations district court, and members of Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) .....

HJR 1140 2958

**Judges;** election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.) .....

HJR 718 2746

**Judges;** election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) ...

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**Judges;** nominations for election to juvenile and domestic relations district court.

Patron—Adams, L.R. ....	HR	222	2964
Patron—Adams, L.R. ....	HR	290	2995
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<b>Capital murder;</b> law-enforcement officers and fire marshals, where offender was 18 years of age or older at time of offense, punishment shall be no less than a mandatory minimum term of confinement for life. Patron—Pillion . . . . .	HB 2615	835	1969
Patron—Carrico . . . . .	SB 1501	717	1580
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<b>Law-enforcement officer;</b> removes from the definition of officer, as it applies to an investigator who is a sworn member of the security division of the Virginia Lottery, the requirement that such investigator be a full-time member of the division. (Patron—Rush) . . . . .	HB 2166	475	842
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**License plates, special;** issuance for persons awarded the Armed Forces Expeditionary Medal or for unremarried surviving spouses of such persons. (Patron—O'Quinn) . . . HB 2220 194 385

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**License plates, special;** issuance for supporters of Virginia State Parks bearing legend VIRGINIA STATE PARKS. (Patron—Bulova) . . . . . HB 1709 70 110

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**License plates, special;** updates name of organization from Virginia Association for Community Conflict Resolution to Resolution Virginia. (Patron—Marsden) . . . . . SB 1020 402 732

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**Vehicle registration;** dismissal of summons for expiration, proof of compliance.  
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**Little Austria, LLC;** commending. (Patron—Bell, John J.) . . . . . HJR 1074 2928

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**Conflict of Interests Act, State and Local Government;** school boards and school employees, hiring of relatives by any school district. (Patron—Chafin) . . . . . SB 1491 641 1122

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<b>Lord, Leslie Bain;</b> recording sorrow upon death. (Patron—Delaney) . . . . .	HJR 795		2786
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**Madison Family Descendants, The National Society of;** commending. (Patron—Reeves) . . . . . SJR 381 3157

**MAGISTRATES**

**Bail and recognizances;** magistrate's checklist, surety's basis for request for *capias*. (Patron—Adams, L.R.) . . . . . HB 2453 176 347

**MANASSAS PARK HIGH SCHOOL**

**Manassas Park High School swim team;** commending. (Patron—Roem) . . . . . HR 448 3065

**MANCHESTER HIGH SCHOOL**

**Manchester High School football team;** commending. (Patron—Robinson) . . . . . HJR 983 2884

**MANKIN, ELMA**

**Mankin, Elma;** recording sorrow upon death. (Patron—Boysko) . . . . . SR 132 3233

**MANNEY, NANCY-JO**

**Manney, Nancy-Jo;** commending. (Patron—Tran) . . . . . HJR 1119 2949

**MARIJUANA**

**Industrial hemp;** clarifies definition of "hemp product," conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law, testing of *Cannabis sativa*, reports, abolishes the higher education and Virginia industrial hemp research programs, etc.  
Patron—Marshall . . . . . HB 1839 653 1140  
Patron—Ruff . . . . . SB 1692 654 1159

**Physicians;** advertising in connection with his practice shall not include in any advertisement a reference to marijuana unless for treatment of addiction or substance abuse, etc. (Patron—Orrock) . . . . . HB 1826 656 1179

**MARINE PRODUCTS, SCIENCE AND RESOURCES**

**Submerged fiber optic cables;** Virginia Marine Resources Commission to study the feasibility of creating protection zones located along or being developed on Virginia's shores. (Patron—DeSteph) . . . . . SJR 309 3115

**MARKS, CAMERON**

**Marks, Cameron;** commending. (Patron—Hugo) . . . . . HR 251 2978

**MARSH, JOHN O., JR.**

**Marsh, John O., Jr.;** recording sorrow upon death. (Patron—Vogel) . . . . . SR 136 3235

**MARTIN, ETHAN**

**Martin, Ethan;** commending. (Patron—Campbell, J.L.) . . . . . HR 423 3055

**MARTIN, FRED THOMAS, SR.**

**Martin, Fred Thomas, Sr.;** recording sorrow upon death. (Patron—Adams, L.R.) . . . . HJR 1081 2931

**MARTIN, KARL P.**

**Martin, Karl P.;** commending. (Patron—Edmunds) . . . . . HR 427 3056

**MARTIN, MARCUS L.**

**Martin, Marcus L.;** commending. (Patron—Toscano) . . . . . HJR 928 2853

**MARTINSVILLE, CITY OF**

**Historical African American cemeteries;** adds Matthews Cemetery, The People's Cemetery, and Smith Street Cemetery in City of Martinsville to list. (Patron—Adams, L.R.) . . . . . HB 2406 252 481

**Real estate;** delinquent taxes or liens, adds City of Martinsville to list of cities with different requirements for the appointment of a special commissioner. (Patron—Adams, L.R.) . . . . . HB 2405 159 319

**MARUMEN**

**Marumen;** commending. (Patron—Bell, John J.) . . . . . HR 399 3044

**MARY BALDWIN UNIVERSITY**

**Mary Baldwin University Alumni Association;** commemorating its 125th anniversary.

Patron—Bell, Richard P. . . . . HR 414 3050  
Patron—Hanger . . . . . SR 151 3241

**MARYLAND**

**Potomac River Bridge Towing Compact;** adds the Harry W. Nice Bridge, Sandy Hook Bridge, Brunswick Bridge, and Point of Rocks Bridge to the Potomac River bridges subject to Compact, provisions shall become effective upon enactment by legislative bodies of Maryland and District of Columbia of similar legislation. (Patron—Barker) . . . . .

SB 1296 403 733

**MARZANO, TODD**

**Marzano, Todd;** commending. (Patron—Hope) . . . . . HJR 1016 2900

**MASON, ROBERT B.**

**Mason, Robert B.;** recording sorrow upon death. (Patron—Delaney) . . . . . HJR 915 2845

**MASON, TERRI**

**Mason, Terri;** commending. (Patron—Tran) . . . . . HJR 1125 2951

**MASS TRANSIT**

**Mass transit providers;** Commonwealth Transportation Board may allocate supplemental operating funds in fiscal year 2020 to any transit provider that receives funds to support operating costs, etc., maximum amount of funds available shall not exceed \$3 million from nongeneral fund available to Department of Rail and Public Transportation. (Patron—Thomas) . . . . .

HB 2553 551 960

**Mass transit providers;** loss of certain operating funds, maximum amount of supplemental funds available shall not exceed \$3 million. (Patron—Mason) . . . . .

SB 1680 567 976

**MASSEY, LONNIE MANUEL**

**Massey, Lonnie Manuel;** commending. (Patron—Jones, S.C.) . . . . . HJR 769 2773

**MATTAPONI BAPTIST ASSOCIATION OF VIRGINIA**

**Mattaponi Baptist Association of Virginia;** commemorating its 140th anniversary. (Patron—McDougle) . . . . .

SR 119 3228

**MATTHEWS, LINWOOD S.**

**Matthews, Linwood S.;** recording sorrow upon death.

Patron—Cox . . . . . HJR 815 2795  
Patron—Chase . . . . . SJR 352 3142

**MAWYER, ROBERT**

**Mawyer, Robert;** commending. (Patron—Hodges) . . . . . HR 319 3009

**MCBRIDE, SUZANNE CURRY**

**McBride, Suzanne Curry;** recording sorrow upon death. (Patron—DeSteph) . . . . . SJR 435 3186

**MCCAIG, DONALD ROBERT**

**McCaig, Donald Robert;** recording sorrow upon death. (Patron—Deeds) . . . . . SJR 368 3150

**MCCRAY, RONNIE LEE**

**McCray, Ronnie Lee;** recording sorrow upon death. (Patron—Mullin) . . . . . HJR 907 2842

**MCCUE, RICHARD J.**

**McCue, Richard J.;** commending. (Patron—Hope) . . . . . HJR 1020 2902

**MCEATHRON, DANIEL T.**

**McEathron, Daniel T.;** commending. (Patron—Obenshain) . . . . . SJR 348 3139

**MCGUIRE, ANNIE LEE FARMER**

**McGuire, Annie Lee Farmer;** recording sorrow upon death. (Patron—Rodman) . . . . . HJR 948 2863

**MCGUIRE, HUNTER HOLMES, JR.**

**McGuire, Hunter Holmes, Jr.;** recording sorrow upon death. (Patron—Carr) . . . . . HJR 842 2809

**MCKAY, JACK AND ROBERTA**

**McKay, Jack and Roberta;** commemorating the occasion of their 50th wedding anniversary. (Patron—Sickles) . . . . .

HR 249 2978

**MCKEOUGH, MARGARET E.**

**McKeough, Margaret E.;** commending. (Patron—Howell) . . . . . SJR 339 3133

**MCKINNON, WILLIAM**

**McKinnon, William;** recording sorrow upon death. (Patron—Norment) . . . . . SJR 446 3193

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<b>McLaughlin, Sylvia Overton</b> ; recording sorrow upon death. (Patron—Edmunds) . . . .	HJR 830		2803
<b>MCLEAN NEWCOMERS AND NEIGHBORS CLUB</b>			
<b>McLean Newcomers and Neighbors Club</b> ; commemorating its 50th anniversary. (Patron—Sullivan) . . . . .	HJR 919		2848
<b>MEADE, THERESA HERLIHY</b>			
<b>Meade, Theresa Herlihy</b> ; recording sorrow upon death. (Patron—Hugo) . . . . .	HR 413		3049
<b>MECHANICS' AND CERTAIN OTHER LIENS</b>			
<b>Garage and mechanics' liens</b> ; in the case of any vehicle not subject to a chattel mortgage, etc., the keeper of the garage shall have a lien thereon for his reasonable charges for storage. (Patron—DeSteph) . . . . .	SB 1342	561	971
<b>Mechanic's liens</b> ; makes consistent the statute and statutory forms. (Patron—Adams, L.R.) . . . . .	HB 2409	243	467
<b>Mechanics' liens</b> ; notice of sale. (Patron—Edwards) . . . . .	SB 1336	560	970
<b>MEDICAID AND MEDICARE PROGRAMS</b>			
<b>Criminal history background information</b> ; licensed home care agency, community services board, licensed adult day care center, etc., that provide services under state plan for medical assistance services may disclose whether background check has been performed on an employee and whether such person is eligible for employment. (Patron—Price) . . . . .	HB 2035	89	137
<b>Medicaid recipients</b> ; treatment involving opioids, prohibition on payment of costs shall not apply to a recipient's cost-sharing amounts required by the state plan for medical assistance, written notice to patient prior to health care services, etc. Patron—Pillion . . . . .	HB 2558	223	447
Patron—Chafin . . . . .	SB 1167	444	793
<b>MEDICAL TREATMENT, CARE, AND ASSISTANCE</b>			
<b>Continuing care retirement communities</b> ; accessing medical assistance, certificate of public need. Patron—Watts . . . . .	HB 2722	299	575
Patron—Barker . . . . .	SB 1722	384	711
<b>Hospice patients</b> ; Department of Medical Assistance Services shall implement a process for direct payment of nursing facility or ICF/MR services. (Patron—Head) . .	HB 1639	209	402
<b>Medical Assistance Services, Department of</b> ; Department shall amend eligibility criteria for the Community Living waiver and the Family and Individual Support waiver, dependents of foreign service members. (Patron—Hope) . . . . .	HB 1812	416	751
<b>PACE program</b> ; definition, the Department of Medical Assistance Services shall develop and implement a coordinated plan to provide choice and education to eligible prospective PACE clients. (Patron—Rasoul) . . . . .	HB 1975	419	753
<b>MEDINA, MEG</b>			
<b>Medina, Meg</b> ; commending. Patron—VanValkenburg . . . . .	HJR 934		2856
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<b>MEEKS, STEVEN G.</b>			
<b>Meeks, Steven G.</b> ; commending. (Patron—Toscano) . . . . .	HJR 930		2854
<b>MELVIN, CLAXTON M.</b>			
<b>Melvin, Claxton M.</b> ; recording sorrow upon death. (Patron—James) . . . . .	HR 260		2983
<b>MIDDLETON, FREDERICK S., III</b>			
<b>Middleton, Frederick S., III</b> ; commending. (Patron—Toscano) . . . . .	HJR 933		2856
<b>MILITARY AND EMERGENCY LAWS</b>			
<b>Emergency Management, Virginia Department of</b> ; annual reporting requirements, etc., repeals provisions referring to agency mandates on localities. (Patron—Jones, J.C.) . . . . .	HB 2133	615	1017
<b>MILLER, GEORGE</b>			
<b>Miller, George</b> ; commending. (Patron—Rasoul) . . . . .	HJR 953		2866
<b>MILLER, GERALD T.</b>			
<b>Miller, Gerald T.</b> ; commending. (Patron—Kilgore) . . . . .	HR 372		3033
<b>MILLER, SANDRA ELIZABETH</b>			
<b>Miller, Sandra Elizabeth</b> ; recording sorrow upon death. (Patron—Carr) . . . . .	HJR 852		2814

## MINES AND MINING

<b>Clean Energy Advisory Board</b> ; established, membership, powers and duties, solar energy installation rebates, report, sunset provision. (Patron—Aird) . . . . .	HB 2741	554	961
<b>Mineral mining</b> ; increases permit fees, permit fee for successor operator. (Patron—Ware) . . . . .	HB 1932	538	937
<b>Oil and gas wells</b> ; bonding requirements, application notice. (Patron—Stuart) . . . . .	SB 1271	351	654

## MINNIEVILLE ELEMENTARY SCHOOL

<b>Minnieville Elementary School</b> ; commending. (Patron—Guzman) . . . . .	HR 326		3012
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## MINORS

<b>Adoption by relative</b> ; clarifies term "close relative placement." (Patron—Brewer) . . . . .	HB 2208	377	700
<b>Cannabidiol oil and THC-A oil</b> ; authorizes a patient or, if such patient is a minor or an incapacitated adult, such patient's parent or legal guardian may designate an individual to act as his registered agent for the purposes of receiving oil pursuant to a valid written certification, etc. (Patron—Marsden) . . . . .	SB 1719	690	1281
<b>Child abuse and neglect</b> ; local boards of social services, when investigating an individual who is the subject of allegations, to obtain and consider a search of the central registry, etc., family assessments. (Patron—Mullin) . . . . .	HB 1671	276	519
<b>Child abuse or neglect</b> ; out-of-court and recorded statements made by a child 14 years of age or younger. (Patron—Collins) . . . . .	HB 1622	413	746
<b>Child in foster care</b> ; local departments of social services shall notify appropriate community services board when child is identified as having a developmental disability. (Patron—Favola) . . . . .	SB 1135	301	588
<b>Child Pornography Registry</b> ; contents of Registry, criminal investigations, report. Patron—Bell, Robert B. . . . .	HB 1940	3	3
Patron—McDougle . . . . .	SB 1379	42	76
<b>Child restraint devices and safety belts</b> ; exempts any person operating taxicabs, emergency medical services agency vehicle, fire company vehicle, law-enforcement vehicle, etc., while in performance of his official duties from requirement that certain minors be secured. Patron—Head . . . . .	HB 1662	196	387
Patron—Suetterlein . . . . .	SB 1677	319	613
<b>Child victims and witnesses</b> ; testimony, using two-way closed-circuit television, commercial sex trafficking and prostitution offenses. (Patron—Collins) . . . . .	HB 2464	146	307
<b>Children in residence or custody</b> ; participation in any educational programs offered by the facility that is administered by the Department of Education, regardless of their enrollment status. Patron—Bell, Richard P. . . . .	HB 1986	281	525
Patron—Hanger . . . . .	SB 1314	173	343
<b>Custody and visitation orders</b> ; court may order that exchange of a child shall take place at an appropriate meeting place. (Patron—Aird) . . . . .	HB 2317	378	701
<b>Deferral of jury service</b> ; persons who have legal custody of and are responsible for the care of a child. (Patron—Hope) . . . . .	HB 1814	518	900
<b>Foster care</b> ; security freeze on credit report, removal of freeze in best interest of child, annual credit checks. Patron—Brewer . . . . .	HB 1730	677	1251
Patron—Reeves . . . . .	SB 1253	676	1250
<b>Motor vehicles</b> ; no person who is required to register with the Sex Offender and Crimes Against Minors Registry or the federal National Sex Offender Public Website for an offense that is similar to a sexually violent offense may operate a taxicab for transportation of passengers for remuneration over the highways. (Patron—Collins) . . . . .	HB 2300	480	850
<b>Prostitution and sex trafficking</b> ; offenses involving a minor, penalties. (Patron—Bell, Robert B.) . . . . .	HB 2586	617	1024
<b>Removal of a child</b> ; court may order parents or guardians of child to provide names and contact information of persons with legitimate interest. (Patron—Austin) . . . . .	HB 2622	434	775
<b>Sex Offender and Crimes Against Minors Registry</b> ; reregistration schedule, copies of all forms to be used and guidelines for submitting such forms, shall be available through distribution by the State Police, etc., effective date. Patron—Watts . . . . .	HB 2089	613	1015
Patron—Mason . . . . .	SB 1418	614	1016

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MINORS - Continued

Virginia Juvenile Community Crime Control Act; prevention of juvenile crime prior to intake. (Patron—Mullin) . . . . . HB 1771 105 168

Virginia Uniform Transfers to Minors Act; permits a transferor to transfer property under the Act to an individual under the age of 21 to be paid, conveyed, or transferred to such individual upon his attaining 25 years of age. (Patron—Edwards) . . . . . SB 1307 527 908

MISDEMEANORS

Prostitution; unlawful for any travel agent to knowingly promote travel services, Class 1 misdemeanor. (Patron—Delaney) . . . . . HB 1817 458 819

Timber theft; a person who buys and removes timber from a landowner's property is guilty of Class 1 misdemeanor if he fails to pay the landowner within date specified in written timber sales agreement, load tickets required for certain sales of timber.

Patron—Adams, L.R. . . . . HB 2411 348 650

Patron—Chafin . . . . . SB 1469 353 655

Unmanned aircraft system; trespassing with system if takes off or lands in violation of current Federal Aviation Administration Special Security Instructions, etc., guilty of Class 1 misdemeanor. (Patron—Knight) . . . . . HB 1636 612 1015

Wanton waste; Class 2 misdemeanor for violating a regulation prohibiting, or allowing of a killed or crippled game animal or nonmigratory game bird to be wasted without making a reasonable effort to retrieve the animal. (Patron—Edmunds) . . . . . HB 1613 150 312

MISSION OF MERCY PROJECT

Mission of Mercy project; commemorating its 100th event. (Patron—Kory) . . . . . HJR 612 2714

MITCHELL, WILLIE MAE

Mitchell, Willie Mae; recording sorrow upon death. (Patron—Levine) . . . . . HJR 1098 2938

MIXED BEVERAGES, ALCOHOLIC

Alcoholic beverage control; allows the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held, etc., certain provisions of enactments shall become effective on July 1, 2020, repeals provision relating to licenses for establishments in national forests, certain adjoining lands, etc.

Patron—Hurst . . . . . HB 2634 178 348

Patron—Reeves . . . . . SB 1110 37 65

Alcoholic beverage control; creates an annual mixed beverage performing arts facility license. (Patron—Landes) . . . . . HB 1657 174 344

Alcoholic beverage control; notwithstanding the requirement for a referendum for liquor by the drink, Board of Directors of the Alcoholic Beverage Control Authority may issue a mixed beverage license to establishments located on property fronting Doe Creek Farm Road and various other properties. (Patron—Hurst) . . . . . HB 1905 175 346

Alcoholic beverage control; regulations, terms and conditions for a mixed beverage licensee, delivery permittees, records on deliveries of wine and beer, permittees shall remit records on a monthly basis for any month during which permittee makes a delivery and is required to collect and remit excise taxes due to Authority. (Patron—Knight) . . . . . HB 2367 706 1309

MONACO, JANA

Monaco, Jana; commending. (Patron—Murphy) . . . . . HR 430 3058

MONTANA GOLD BREAD COMPANY

Montana Gold Bread Company; commemorating its 25th anniversary in 2019. (Patron—Carr) . . . . . HJR 846 2811

MONTESSORI EDUCATION DAY

Montessori Education Day; designating as January 6, 2020, and each succeeding year thereafter. (Patron—Vogel) . . . . . SJR 314 3118

MONTGOMERY, CYLIENE

Montgomery, Cyliene; commending. (Patron—Tyler) . . . . . HR 313 3006

MOORE, AUDREY ELIZABETH

Moore, Audrey Elizabeth; recording sorrow upon death. (Patron—Watts) . . . . . HJR 961 2870

MOORE, JOSEPH

Moore, Joseph; commending. (Patron—Yancey) . . . . . HR 324 3011

**MOPEDS**

**All-terrain vehicles (ATVs), mopeds, and off-road motorcycles;** clarifies taxation on vehicles, etc., in any city or county located within the Historic Triangle, an additional one percent tax shall be imposed. (Patron—Orrock) . . . . . HB 1679 52 85

**MORRISON, BECKY**

**Morrison, Becky;** commending. (Patron—Helsel) . . . . . HR 267 2986

**MOSS, WILL**

**Moss, Will;** commending. (Patron—Campbell, J.L.) . . . . . HR 425 3055

**MOTOR CARRIERS**

**Highways, Commissioner of;** annual report on certain data regarding operation of overweight trucks on highways.

Patron—Garrett . . . . . HB 2800 401 732

Patron—Carrico . . . . . SB 1775 568 977

**MOTOR FUELS**

**Gas severance tax, local;** extends sunset provision.

Patron—Pillion . . . . . HB 2555 24 46

Patron—Chafin . . . . . SB 1165 191 379

**Interstate 81;** Interstate 81 Corridor Improvement Fund created, Interstate 81 Committee established, Committee's meetings shall rotate between locations, report, responsibilities of Commonwealth Transportation Board and Department of Transportation, additional fees for certain vehicles, additional tax per gallon on diesel fuel, disposition of tax revenues, etc.

Patron—Landes . . . . . HB 2718 837 1971

Patron—Obenshain . . . . . SB 1716 846 1990

**Motor fuels;** every dispensing device used in the retail sale of fuel shall identify the fuel and be labeled. (Patron—Dance) . . . . . SB 1600 756 1751

**MOTOR VEHICLE INSURANCE**

**Motor vehicle insurance;** compliance verification by DMV.

Patron—Kilgore . . . . . HB 1867 149 309

Patron—Newman . . . . . SB 1787 193 382

**Motor vehicle insurance policies;** prohibits an insurer from refusing to renew a policy solely because of status of person as a foster care provider or a person in foster care. (Patron—Keam) . . . . . HB 1883 334 624

**Property and motor vehicle insurance;** use of credit score, adverse actions. (Patron—Bagby) . . . . . HB 2230 704 1305

**Uninsured motorist insurance coverage;** settlement and release. (Patron—Chafin) . . . . . SB 1293 779 1797

**MOTOR VEHICLES**

**Air bags;** manufacture, importation, sale, etc., of counterfeit or nonfunctional bags prohibited, penalty, provisions shall not apply to sale, installation, etc., on any motor vehicle used solely for police work. (Patron—Bell, Robert B.) . . . . . HB 2143 392 723

**Amber warning lights;** vehicles hauling forest products authorized to use.

Patron—Tyler . . . . . HB 1802 145 306

Patron—Ruff . . . . . SB 1254 112 176

**Certificate of title;** vehicle used as a taxicab. (Patron—Yancey) . . . . . HB 1768 72 111

**Child restraint devices and safety belts;** exempts any person operating taxicabs, emergency medical services agency vehicle, fire company vehicle, law-enforcement vehicle, etc., while in performance of his official duties from requirement that certain minors be secured.

Patron—Head . . . . . HB 1662 196 387

Patron—Suetterlein . . . . . SB 1677 319 613

**Child support;** nonpayment, amount of arrearage paid, repayment agreement, suspension of driver's license.

Patron—Carr . . . . . HB 2059 284 544

Patron—Dance . . . . . SB 1667 285 545

**Commercial driver's licenses;** Commissioner of DMV to waive certain knowledge and skills tests required for obtaining a permit or license for certain current or former military service members. (Patron—Thomas) . . . . . HB 2551 161 324

**Commercial driver's licenses;** entry-level driver training, Commissioner shall waive the knowledge test and driving skills test for certain current or former military service members applying for certain endorsements, etc. (Patron—Deeds) . . . . . SB 1481 750 1735

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<b>Commercial driver's licenses;</b> specialized training required. (Patron—DeSteph) . . . . .	SB	1343	352 655
<b>Commercial vehicles;</b> certain Class A driver training schools to be third party testers for the skills test component of the license examination, waiver of requirement that third party tester applicant employ 50 drivers, report. Patron—Austin . . . . .	HB	2183	155 315
Patron—Newman . . . . .	SB	1347	78 115
<b>Constitutional amendment;</b> personal property tax exemption for one motor vehicle owned and used primarily by or for a disabled veteran, "motor vehicle" shall include only automobiles and pickup trucks, exception (first reference). Patron—Filler—Corn . . . . .	HJR	676	822 1940
Patron—Reeves . . . . .	SJR	278	823 1942
<b>Driving while intoxicated or operating watercraft while intoxicated;</b> maiming, etc., of another, definition of "serious bodily injury," penalties. (Patron—Bell, Robert B.) .	HB	1941	465 829
<b>Duties of drivers of vehicles approaching stationary vehicles displaying certain warning lights;</b> yielding of right-of-way or reducing speed, penalty, repeals certain provision relating to drivers yielding right-of-way when approaching stationary emergency vehicles, etc. (Patron—Peace) . . . . .	HB	1911	850 2002
<b>Electric vehicle charging stations;</b> Department of General Services, DMV, and Department of Transportation may locate and operate a retail fee-based station on any property or facility that such agency controls, etc. (Patron—Bulova) . . . . .	HB	1934	248 477
<b>Garage and mechanics' liens;</b> in the case of any vehicle not subject to a chattel mortgage, etc., the keeper of the garage shall have a lien thereon for his reasonable charges for storage. (Patron—DeSteph) . . . . .	SB	1342	561 971
<b>Golf carts and utility vehicles;</b> adds Town of Dendron to list of towns that may authorize operation on designated public highways. (Patron—Tyler) . . . . .	HB	1678	104 168
<b>Handheld personal communications devices;</b> unlawful for person while driving a motor vehicle to hold, in his hand, a device, definition of "highway work zone." (Patron—Mason) . . . . .	SB	1768	849 2001
<b>Handheld photo speed monitoring devices;</b> Department of State Police or law-enforcement officer employed by Department may operate in or around highway work zones where law-enforcement vehicle is present and displaying lighted blue or blue combination lights, mailing of certain summons by first-class mail to owner, etc., of vehicle, report. (Patron—Carrico) . . . . .	SB	1521	842 1986
<b>License plates, special;</b> created for persons awarded the Navy and Marine Corps Medal or for unremarried surviving spouses of such persons. (Patron—Leftwich) . . .	HB	1832	74 112
<b>License plates, special;</b> issuance for members of the International Association of Fire Fighters. Patron—Plum . . . . .	HB	2114	154 315
Patron—Deeds . . . . .	SB	1474	80 119
<b>License plates, special;</b> issuance for persons awarded the Armed Forces Expeditionary Medal or for unremarried surviving spouses of such persons. (Patron—O'Quinn) . . .	HB	2220	194 385
<b>License plates, special;</b> issuance for supporters of the Virginia Aquarium bearing legend PROTECT SEA LIFE. (Patron—Knight) . . . . .	HB	1637	67 107
<b>License plates, special;</b> issuance for supporters of Virginia State Parks bearing legend VIRGINIA STATE PARKS. (Patron—Bulova) . . . . .	HB	1709	70 110
<b>License plates, special;</b> issuance for supporters of Virginia's Move Over law bearing legend MOVE OVER. (Patron—Peace) . . . . .	HB	2011	540 939
<b>License plates, special;</b> updates name of organization from Virginia Association for Community Conflict Resolution to Resolution Virginia. (Patron—Marsden) . . . . .	SB	1020	402 732
<b>Manufacturer or distributor;</b> shall not exercise or enforce right of first refusal if proposed sale or transfer is to a dealer licensed in the United States, etc. Patron—McPike . . . . .	SB	1464	739 1699
<b>Manufacturer or distributor;</b> shall not exercise or enforce right of first refusal if proposed sale or transfer is to a dealer licensed in the United States, etc., discontinuation of distributors. (Patron—Miyares) . . . . .	HB	2174	738 1698
<b>Mechanics' liens;</b> notice of sale. (Patron—Edwards) . . . . .	SB	1336	560 970
<b>Motor vehicle dealers;</b> definitions, new trailers to be treated similarly to new motor vehicles. (Patron—Garrett) . . . . .	HB	2487	160 320
<b>Motor vehicle dealers;</b> if manufacturer or factory branch discontinues its right to manufacture a line-make of motor vehicles, does not honor existing franchise			

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agreements of dealers, such discontinuation, etc., shall constitute termination of the franchise. (Patron—Cosgrove) . . . . .	SB 1333	77	114
<b>Motor vehicle insurance; compliance verification by DMV.</b>			
Patron—Kilgore . . . . .	HB 1867	149	309
Patron—Newman . . . . .	SB 1787	193	382
<b>Motor vehicle registration, licensing, and certificates of title statutes;</b> reorganization, segregation of criminal offenses and traffic offenses.			
Patron—Herring . . . . .	HB 1711	71	110
Patron—McDougle . . . . .	SB 1382	79	118
<b>Motor vehicle rental tax; filing sales and use tax return. (Patron—Bell, Robert B.) . . .</b>	HB 1974	53	90
<b>Motor vehicle safety inspections; increases maximum charge from \$16 to \$20, \$0.70 shall be transmitted to Department of State Police for costs of administering program. (Patron—Hugo) . . . . .</b>	HB 2514	307	594
<b>Motor vehicle sales locations; Motor Vehicle Dealer Board authorized to issue a temporary supplemental license for sale of used motor vehicles in a new motor vehicle show that is sponsored by a statewide or local trade association of franchised dealers, etc. (Patron—McGuire) . . . . .</b>	HB 2039	153	314
<b>Motor vehicles; in the event of an accident on any part of Interstate 66, where a high-occupancy toll (HOT) lane is under construction and the shoulders of Interstate 66 are being or have been removed, the driver shall move the vehicle from the roadway to the nearest pull-off area if the driver can safely do so, etc. (Patron—Marsden) . . . . .</b>	SB 1073	265	498
<b>Motor vehicles; no person who is required to register with the Sex Offender and Crimes Against Minors Registry or the federal National Sex Offender Public Website for an offense that is similar to a sexually violent offense may operate a taxicab for transportation of passengers for remuneration over the highways. (Patron—Collins) .</b>	HB 2300	480	850
<b>Motor vehicles; suspension of objects or alteration of vehicle so as to obstruct driver's view, allows the owner or operator of a parking lot or other building to immobilize a trespassing vehicle by use of any device in a manner that prevents its removal or lawful operation, provided that the device used does not damage the vehicle. (Patron—Obenshain) . . . . .</b>	SB 1432	510	889
<b>Motor vehicles, certain; expands mileage for driving distance for testing, etc. (Patron—Delaney) . . . . .</b>	HB 1677	69	108
<b>Motor Vehicles, Department of; hearings, motor vehicle dealers, report. (Patron—DeSteph) . . . . .</b>	SB 1499	751	1747
<b>Motor Vehicles, Department of; records released to certain private vendors, unauthorized use or disclosure of personal information, Commissioner may also release other appropriate information as governmental entity, etc., may require in order to carry out its official functions, civil penalty.</b>			
Patron—Bell, Robert B. . . . .	HB 2344	543	941
Patron—Carrico . . . . .	SB 1520	544	946
<b>Motorized skateboards or scooters; clarifies definitions, riding or driving on sidewalks, exceptions, powers of localities to regulate use of scooters, etc., for hire, effective date for certain provisions, local authority. (Patron—Pillion) . . . . .</b>	HB 2752	780	1800
<b>Out-of-state conviction of drug offenses; person may petition general district court in county or city in which he resides for restricted driver's license.</b>			
Patron—Jones, J.C. . . . .	HB 1664	68	107
Patron—Stuart . . . . .	SB 1181	76	114
<b>Parking; access aisles adjacent to parking spaces reserved for persons with disabilities. (Patron—LaRock) . . . . .</b>	HB 2805	557	967
<b>Parking of certain vehicles; adds the Town of Cape Charles to the list of towns that are permitted to regulate or prohibit the parking on any public highway of watercraft, boat trailers, etc.</b>			
Patron—Bloxom . . . . .	HB 1777	144	306
Patron—Lewis . . . . .	SB 1560	116	182
<b>Pedestrian crossings; Town of Ashland added to list of localities that may provide by ordinance for the installation and maintenance of highway signs at marked crosswalks requiring drivers to yield to pedestrians. (Patron—Fowler) . . . . .</b>	HB 1648	103	167
<b>Potomac River Bridge Towing Compact; adds the Harry W. Nice Bridge, Sandy Hook Bridge, Brunswick Bridge, and Point of Rocks Bridge to the Potomac River bridges subject to Compact, provisions shall become effective upon enactment by</b>			

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**MOTOR VEHICLES - Continued**

legislative bodies of Maryland and District of Columbia of similar legislation. (Patron—Barker) .....	SB 1296	403	733
<b>Sheriffs</b> ; all marked motor vehicles used by offices shall conspicuously display on each front side door of such vehicles the words "Sheriff's Office" or "Sheriff," etc. (Patron—Gilbert) .....	HB 2585	298	575
<b>Special identification card</b> ; applicants who are blind or vision impaired. (Patron—Keam) .....	HB 1927	75	112
<b>Special identification card without a photograph</b> ; fee, confidentiality, penalties. (Patron—Wilt) .....	HB 2441	832	1955
<b>Towing</b> ; only towing requests made by local law-enforcement officers are subject to local ordinances regulating towing services, nothing herein shall prohibit the Department of State Police from entering into a memorandum of understanding with a county, city, or town to provide for towing services. (Patron—Carrico) .....	SB 1510	630	1072
<b>Towing fees</b> ; localities in Planning District 8 (Northern Virginia) and Planning District 16 (George Washington RC) shall establish by ordinance a hookup and initial towing fee of no less than \$135, etc. Patron—Fowler .....	HB 1865	460	824
Patron—Marsden .....	SB 1567	117	183
<b>Vehicle registration</b> ; dismissal of summons for expiration, proof of compliance. Patron—Herring .....	HB 1712	14	18
Patron—McDougle .....	SB 1383	57	96
<b>Vehicles on sidewalks</b> ; public entity may allow use of certain power-driven mobility devices by disabled individuals on a sidewalk, etc. (Patron—Hurst) .....	HB 1786	182	366
<b>Virginia Driver's Manual course</b> ; computer-based mediums, providers of the Manual course online shall ensure that the certificate of completion is issued to the same person who took the course in a manner prescribed by the Department. (Patron—Carr) .....	HB 2717	745	1727
<b>Window tinting films</b> ; exemption from limitations for security canine handlers. (Patron—McPike) .....	SB 1174	623	1050

**MOTORCYCLES**

<b>All-terrain vehicles (ATVs), mopeds, and off-road motorcycles</b> ; clarifies taxation on vehicles, etc., in any city or county located within the Historic Triangle, an additional one percent tax shall be imposed. (Patron—Orrock) .....	HB 1679	52	85
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**MOUNT VERNON COUNCIL OF CITIZENS' ASSOCIATIONS**

<b>Mount Vernon Council of Citizens' Associations</b> ; commemorating its 50th anniversary. Patron—Krizek .....	HJR 1104		2941
Patron—Ebbin .....	SJR 470		3205

**MOVE OVER AWARENESS MONTH**

<b>Move Over Awareness Month</b> ; designating as June 2019, and in honor and memory of Lieutenant Bradford Turner Clark. (Patron—McDougle) .....	SJR 286		3079
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**MT. ZION BAPTIST CHURCH**

<b>Mt. Zion Baptist Church</b> ; commemorating its 160th anniversary. Patron—Freitas .....	HJR 884		2830
Patron—Reeves .....	SJR 405		3169

**MURPHY, HELEN TURNER**

<b>Murphy, Helen Turner and W. Tayloe Murphy, Jr.</b> ; commending. Patron—Ransone .....	HR 312		3005
Patron—Stuart .....	SR 106		3220

**MURPHY, W. TAYLOE, JR.**

<b>Murphy, Helen Turner and W. Tayloe Murphy, Jr.</b> ; commending. (Patron—Ransone Patron—Ransone .....	HR 312		3005
Patron—Stuart .....	SR 106		3220

**MURRAY, RYAN D.**

<b>Murray, Ryan D.</b> ; recording sorrow upon death. (Patron—Bell, John J.) .....	HR 278		2990
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**MUSTANG HERITAGE FOUNDATION**

<b>Mustang Heritage Foundation</b> ; commending. (Patron—Tran) .....	HJR 1121		2950
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**NALOXONE**

- Naloxone**; expands list of individuals who may dispense to include emergency medical services personnel and health care providers, providing services in a hospital emergency department, etc. (Patron—Plum) . . . . . HB 2158 221 441
- Naloxone**; possession and administration by school nurses and local health department employees, other school board employees or individuals contracted by a school board to provide school health services. (Patron—McGuire) . . . . . HB 2318 212 421
- Naloxone or other opioid antagonist**; adds employees of regional jails to the list of individuals who may possess and administer, provided that they have completed a training program. (Patron—Garrett) . . . . . HB 1878 87 133

**NANSEMOND RIVER HIGH SCHOOL**

- Nansemond River High School girls' track and field team**; commending. (Patron—Jones, S.C.) . . . . . HJR 666 2731

**NARCOTICS AND DRUGS**

- Cannabidiol oil and THC-A oil**; authorizes a patient or, if such patient is a minor or an incapacitated adult, such patient's parent or legal guardian may designate an individual to act as his registered agent for the purposes of receiving oil pursuant to a valid written certification, etc. (Patron—Marsden) . . . . . SB 1719 690 1281
- Cannabidiol oil and THC-A oil**; possession or distribution at public school, storing, dispensing, or administering by school nurse employed by a local school board, etc., to a student, no school board shall be required to suspend or expel any student who holds a valid written certification for use of oils issued by a practitioner.  
Patron—Hurst . . . . . HB 1720 573 979  
Patron—Sturtevant . . . . . SB 1632 574 980
- Controlled substances**; adds certain chemicals to Schedule I and Schedule II of the Controlled Substances Act. (Patron—Garrett) . . . . . HB 1803 85 123
- Corrections, Department of**; disclosure of information, delivery of controlled substances to prisoners. (Patron—Carrico) . . . . . SB 1516 679 1251
- Drug Control Act**; classifies gabapentin as a Schedule V controlled substance, storage requirements for substances containing gabapentin. (Patron—Pillion) . . . . . HB 2557 214 428
- Drug paraphernalia and controlled paraphernalia**; narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog. (Patron—Robinson) . . . . . HB 2563 215 429
- Electronic transmission of certain prescriptions**; exceptions if prescriber dispenses the controlled substance that contains an opioid directly to patient or patient's agent, etc., report. (Patron—Pillion) . . . . . HB 2559 664 1194
- Fluorinated hydrocarbons or vapors, or hydrogenated fluorocarbons**; prohibited inhalants or other noxious chemical substances, definition. (Patron—Thomas) . . . . . HB 2138 6 10
- Industrial hemp**; clarifies definition of "hemp product," conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law, testing of Cannabis sativa, reports, abolishes the higher education and Virginia industrial hemp research programs, etc.  
Patron—Marshall . . . . . HB 1839 653 1140  
Patron—Ruff . . . . . SB 1692 654 1159
- Medicaid recipients**; treatment involving opioids, prohibition on payment of costs shall not apply to a recipient's cost-sharing amounts required by the state plan for medical assistance, written notice to patient prior to health care services, etc.  
Patron—Pillion . . . . . HB 2558 223 447  
Patron—Chafin . . . . . SB 1167 444 793
- Naloxone**; expands list of individuals who may dispense to include emergency medical services personnel and health care providers, providing services in a hospital emergency department, etc. (Patron—Plum) . . . . . HB 2158 221 441
- Naloxone**; possession and administration by school nurses and local health department employees, other school board employees or individuals contracted by a school board to provide school health services. (Patron—McGuire) . . . . . HB 2318 212 421
- Naloxone or other opioid antagonist**; adds employees of regional jails to the list of individuals who may possess and administer, provided that they have completed a training program. (Patron—Garrett) . . . . . HB 1878 87 133
- Overdoses**; safe reporting. (Patron—McDougle) . . . . . SB 1349 626 1054

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<b>NARCOTICS AND DRUGS - Continued</b>			
<b>Pharmaceutical processors;</b> employment, misdemeanors, every processor shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees. (Patron—Marshall) . . . . .	HB 1841	417	751
<b>Pharmacist;</b> counseling for new prescriptions, disposal of medicine. Patron—Bulova . . . . .	HB 1743	135	285
Patron—Dance . . . . .	SB 1405	96	155
<b>Pharmacy, Board of;</b> alters definition of cannabidiol oil and tetrahydrocannabinol oil, regulation of pharmaceutical processors, report. (Patron—Dunnavant) . . . . .	SB 1557	681	1253
<b>Pharmacy, Board of;</b> seizure of controlled substances and prescription devices. (Patron—Edwards) . . . . .	SB 1289	94	153
<b>Pharmacy collaborative practice agreements, standing orders, and statewide protocols in the Commonwealth;</b> Joint Commission on Health Care to study the dispensing of drugs and devices pursuant to prescriptions. (Patron—Stolle) . . . . .	HJR 662		2728
<b>Physicians;</b> advertising in connection with his practice shall not include in any advertisement a reference to marijuana unless for treatment of addiction or substance abuse, etc. (Patron—Orrock) . . . . .	HB 1826	656	1179
<b>Prescription Monitoring Program;</b> veterinarians who dispense controlled substances for a course of treatment to last seven days or less or if such covered substance is feline buprenorphine or canine butorphanol, every veterinary establishment licensed by the Board of Veterinary Medicine shall maintain records of dispensing, etc. (Patron—Stanley) . . . . .	SB 1653	686	1262
<b>Topical drugs;</b> administration by dental hygienists, physician assistants, and nurses. (Patron—Tran) . . . . .	HB 2493	431	769
<b>NASH, DENNIS WAYNE</b>			
<b>Nash, Dennis Wayne;</b> recording sorrow upon death. (Patron—Edmunds) . . . . .	HR 410		3048
<b>NATIONAL ACTIVE AND RETIRED FEDERAL EMPLOYEES ASSOCIATION VIENNA-OAKTON CHAPTER 1116</b>			
<b>National Active and Retired Federal Employees Association Vienna-Oakton Chapter 1116;</b> commemorating its 50th anniversary. (Patron—Keam) . . . . .	HJR 776		2776
<b>NATIONAL AUTOMATED CLEARING HOUSE ASSOCIATION</b>			
<b>National Automated Clearing House Association;</b> commending. (Patron—Delaney) . . . . .	HJR 771		2774
<b>NATIONAL CONFERENCE CENTER'S PROJECT SEARCH</b>			
<b>National Conference Center's Project SEARCH team;</b> commending. (Patron—Bell, John J.) . . . . .	HR 305		3002
<b>NATURAL GAS</b>			
<b>Natural gas utilities;</b> State Corporation Commission shall make available for public inspection within 30 days receipt of request of a report regarding investigation of death or injury to any person or damage to property resulting from a leak, etc. (Patron—McPike) . . . . .	SB 1176	501	884
<b>NATURAL RESOURCES, SECRETARY OF</b>			
<b>General Services, Department of;</b> surplus property, opportunity for economic development entities to purchase prior to public sale, upon receipt of Secretary of Natural Resources' review and prior to offering surplus property for sale to the public, Department shall notify chief administrative officer of locality within which property is located of pending disposition of such property. Patron—Austin . . . . .	HB 2182	659	1183
Patron—Mason . . . . .	SB 1681	660	1186
<b>NAVAL WEAPONS STATION YORKTOWN</b>			
<b>Naval Weapons Station Yorktown;</b> commemorating its 100th anniversary. (Patron—Mullin) . . . . .	HJR 903		2839
<b>NEABSCO ELEMENTARY SCHOOL</b>			
<b>Neabsc Elementary School;</b> commemorating its 50th anniversary. (Patron—Surovell) . . . . .	SJR 442		3190
<b>NEUROINTERVENTIONAL SURGERY, SOCIETY OF</b>			
<b>NeuroInterventional Surgery, Society of;</b> commending. (Patron—Hanger) . . . . .	SJR 281		3078
<b>NEW CASTLE ELEMENTARY SCHOOL</b>			
<b>New Castle Elementary School;</b> commemorating its 20th anniversary. (Patron—Convirs-Fowler) . . . . .	HR 330		3014

**NEW KENT COUNTY**

**New Kent County**; Department of Forestry authorized to convey a permanent easement and right-of-way across a portion of the New Kent Forestry Center. (Patron—Peace) . . . . . HB 2016 186 371

**NEW KENT ELEMENTARY SCHOOL**

**Junior Beta Club of New Kent Elementary and Middle Schools**; commending. (Patron—Peace) . . . . . HR 269 2987

**NEW KENT MIDDLE SCHOOL**

**Junior Beta Club of New Kent Elementary and Middle Schools**; commending. (Patron—Peace) . . . . . HR 269 2987

**NEW RIVER VALLEY AGENCY ON AGING**

**New River Valley Agency on Aging**; commending. (Patron—Edwards) . . . . . SJR 400 3167

**NEW RIVER VALLEY COMMUNITY SERVICES**

**New River Valley Community Services**; commending. (Patron—Hurst) . . . . . HJR 876 2826

**NEW RIVER VALLEY REGIONAL COMMISSION**

**New River Valley Regional Commission**; commemorating its 50th anniversary.  
Patron—Rush . . . . . HJR 792 2784  
Patron—Chafin . . . . . SJR 343 3136

**NEWINGTON FOREST ELEMENTARY SCHOOL**

**Newington Forest Elementary School**; commemorating its 35th anniversary. (Patron—Tran) . . . . . HJR 1116 2947

**NEWPORT NEWS, CITY OF**

**Income tax, state**; expands the definition of "eligible housing area" for purposes of the housing choice voucher tax credit, to include census tracts in the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area.  
Patron—Jones, J.C. . . . . HB 1681 19 39  
Patron—Cosgrove . . . . . SB 1656 272 515  
**Newport News, City of**; amending charter, inaugural meeting of newly elected council.  
Patron—Yancey . . . . . HB 1766 198 391  
Patron—Locke . . . . . SB 1045 108 174  
**Newport News Fall Festival**; commemorating its 45th anniversary. (Patron—Mullin) . . . . . HJR 892 2834  
**Newport News Police Department's Young Adult Police Commissioners program**; commending. (Patron—Mullin) . . . . . HJR 893 2834

**NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY**

**Newport News Redevelopment and Housing Authority**; commemorating its 80th anniversary. (Patron—Price) . . . . . HJR 943 2861

**NEWS MEDIA**

**Newspapers**; legal notice and publications, requirements. (Patron—Boysko) . . . . . SB 1638 635 1092  
**Zoning ordinance**; if local government reduces time period by which a planning commission shall review a proposed amendment to less than 100 days, they shall hold at least one public hearing, locality shall publish notice of hearing in a newspaper having general circulation and shall also publish the notice on the locality's website. (Patron—Roem) . . . . . HB 2375 483 853

**NEWTON, EDWARD COLSTON, V**

**Newton, Edward Colston, V**; recording sorrow upon death.  
Patron—Ransone . . . . . HJR 619 2716  
Patron—Stuart . . . . . SJR 315 3118

**NEXTSTOP THEATRE COMPANY**

**NextStop Theatre Company**; commemorating its 30th anniversary. (Patron—Boysko) . . . . . SJR 450 3195

**NICHOLS, JAMIE FOLLIN**

**Nichols, Jamie Follin**; commending. (Patron—Rasoul) . . . . . HJR 951 2865

**NICHOLS, JOSEPH M.**

**Nichols, Joseph M.**; commending. (Patron—McQuinn) . . . . . HJR 838 2807

**NONPROFIT ORGANIZATIONS**

**Retail Sales and Use Tax**; clarifies definition of "nonprofit organization" or "nonprofit entity," exemption is available to a single member limited liability company whose sole member is a nonprofit organization. (Patron—Webert) . . . . . HB 1950 20 40

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**NORFOLK, CITY OF**

**Income tax, state;** expands the definition of "eligible housing area" for purposes of the housing choice voucher tax credit, to include census tracts in the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area.

Patron—Jones, J.C. . . . .	HB 1681	19	39
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**NORFOLK DRUG COURT**

**Norfolk Drug Court;** commemorating its 20th anniversary. (Patron—Jones, J.C.) . . . . HJR 974 2878

**NORIEGA, ALAIN**

**Noriega, Alain;** commending. (Patron—Reid) . . . . . HJR 702 2739

**NORMAN, ROBIN**

**Norman, Robin;** commending. (Patron—Hope) . . . . . HJR 1013 2898

**NORMAN, SHEILA ELIZABETH**

**Norman, Sheila Elizabeth;** recording sorrow upon death. (Patron—Hope) . . . . . HJR 1012 2898

**NORRBOM, ZACHARY**

**Norrbom, Zachary;** commending. (Patron—Hope) . . . . . HJR 1019 2901

**NORTHERN NECK GINGER ALE**

**Northern Neck Ginger Ale;** commending. (Patron—Ransone) . . . . . HJR 786 2781

**NORTHERN VIRGINIA**

**Higher educational institutions, public;** governing board shall report salary by position of any executive officer of such institution that exceeds for previous fiscal year salary limit for chief executive officer. (Patron—Landes) . . . . . HB 2336 408 739

**Northern Virginia Conservation Trust;** commemorating its 25th anniversary.

Patron—Keam . . . . .	HR 419		3053
Patron—Surovell . . . . .	SJR 440		3189

**Northern Virginia Dental Society;** commemorating its 25th anniversary. (Patron—Kory) . . . . . HR 254 2980

**Northern Virginia Regional Park Authority;** commemorating its 60th anniversary. (Patron—Tran) . . . . . HJR 1113 2946

**Northern Virginia Transportation Authority;** analysis of projects, repeals provision relating to responsibilities of Department of Transportation for analysis of transportation projects in Northern Virginia Transportation District. (Patron—Black) SB 1468 749 1731

**Tolling;** prohibits the imposition and collection on any primary highway that is wholly located in Northern Virginia (Planning District 8), etc. (Patron—Hugo) . . . . . HB 2527 548 955

**Towing fees;** localities in Planning District 8 (Northern Virginia) and Planning District 16 (George Washington RC) shall establish by ordinance a hookup and initial towing fee of no less than \$135, etc.

Patron—Fowler . . . . .	HB 1865	460	824
Patron—Marsden . . . . .	SB 1567	117	183

**NORTHERN VIRGINIA COMMUNITY COLLEGE**

**Northern Virginia Community College Educational Foundation;** commemorating its 40th anniversary. (Patron—Keam) . . . . . HR 417 3052

**NORTHERN VIRGINIA TECHNOLOGY COUNCIL FOUNDATION**

**Northern Virginia Technology Council Foundation;** commemorating its fifth anniversary of its Veterans Employment Initiative. (Patron—Reid) . . . . . HJR 966 2873

**NORTHWEST FEDERAL CREDIT UNION FOUNDATION**

**Northwest Federal Credit Union Foundation;** commemorating its 15th anniversary. (Patron—Keam) . . . . . HJR 775 2776

**NOT A RUNAWAY, INC.**

**Not a Runaway, Inc.;** commending. (Patron—Krizek) . . . . . HJR 1103 2941

**NUCKOLS, GARY M.**

**Nuckols, Gary M.;** recording sorrow upon death. (Patron—Stuart) . . . . . SJR 335 3131

**NURSES**

**Accident and sickness insurance and health services plans;** reimbursement for services provided by nurse practitioners, effective date.

Patron—Ransone . . . . .	HB 1640	332	623
Patron—Sturtevant . . . . .	SB 1178	333	623

**NURSES - Continued**

<b>Naloxone</b> ; possession and administration by school nurses and local health department employees, other school board employees or individuals contracted by a school board to provide school health services. (Patron—McGuire) . . . . .	HB	2318	212	421
<b>Nursing and Psychology, Boards of</b> ; alters composition, staggering terms of members of certain health regulatory boards. (Patron—Bagby) . . . . .	HB	2228	169	332
<b>Nursing, Board of</b> ; application for license or certification by military spouse, expedited review. (Patron—Guzman) . . . . .	HB	2129	287	546
<b>Patient care teams</b> ; podiatrists and physician assistants, amends physician assistant definition, regulations of physician assistants, licensure and practice of nurse practitioners, Board of Medicine shall promulgate regulations to implement the provisions. Patron—Campbell, J.L. . . . .	HB	1952	137	290
Patron—Peake . . . . .	SB	1209	92	146
<b>Topical drugs</b> ; administration by dental hygienists, physician assistants, and nurses. (Patron—Tran) . . . . .	HB	2493	431	769
<b>NURSING HOMES</b>				
<b>Certificate of public need</b> ; establishing natural or man-made disaster exemption, for a period of no more than 30 days, from requirement to obtain a license to add temporary beds in an existing hospital or nursing home. Patron—Sickles . . . . .	HB	1870	136	286
Patron—Barker . . . . .	SB	1277	343	639
<b>Hospice patients</b> ; Department of Medical Assistance Services shall implement a process for direct payment of nursing facility or ICF/MR services. (Patron—Head) . .	HB	1639	209	402
<b>Nursing homes</b> ; truth in advertising for inspections, surveys, and investigations, no person shall use, in any advertisement for professional services provided by such person, results of any survey, etc. Patron—Orrock . . . . .	HB	2219	291	555
Patron—Newman . . . . .	SB	1217	292	559
<b>NUSBAUM, ROBERT C.</b>				
<b>Nusbaum, Robert C.</b> ; recording sorrow upon death. (Patron—Jones, J.C.) . . . . .	HJR	972		2877
<b>O'NEIL, MARK F.</b>				
<b>O'Neil, Mark F.</b> ; commending. (Patron—McGuire) . . . . .	HR	352		3024
<b>OAKES, RONALD D.</b>				
<b>Oakes, Ronald D.</b> ; commending. (Patron—Kilgore) . . . . .	HR	387		3039
<b>OAKTON HIGH SCHOOL</b>				
<b>Oakton High School boys' lacrosse team</b> ; commending. (Patron—Petersen) . . . . .	SJR	393		3163
<b>OHEF SHOLOM TEMPLE</b>				
<b>Ohef Sholom Temple</b> ; commemorating its 175th anniversary. Patron—Jones, J.C. . . . .	HJR	976		2879
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<b>OLD DOMINION ASSOCIATION OF CHURCH SCHOOLS</b>				
<b>Old Dominion Association of Church Schools students</b> ; commending. (Patron—Gilbert) . . . . .	HJR	773		2775
<b>OLSON, CLEONIA B. RAMSEY AGEE</b>				
<b>Olson, Cleonia B. Ramsey Agee</b> ; recording sorrow upon death. (Patron—Delaney) . . .	HJR	801		2788
<b>OMICRON KAPPA KAPPA</b>				
<b>Omicron Kappa Kappa</b> ; commending. (Patron—Plum) . . . . .	HJR	937		2858
<b>ON OUR OWN</b>				
<b>On Our Own</b> ; commemorating its 25th anniversary. (Patron—Rasoul) . . . . .	HJR	1056		2919
<b>100WOMENSTRONG</b>				
<b>100WomenStrong</b> ; commemorating its 10th anniversary in 2018. (Patron—Murphy) . .	HR	431		3058
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<b>Onley, Mary E.</b> ; recording sorrow upon death. (Patron—Lewis) . . . . .	SJR	410		3173
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<b>Onley, Town of</b> ; amending charter, appointment of town manager by town council, duties. (Patron—Lewis) . . . . .	SB	1558	798	1874

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<b>Electronic transmission of certain prescriptions;</b> exceptions if prescriber dispenses the controlled substance that contains an opioid directly to patient or patient's agent, etc., report. (Patron—Pillion) . . . . .	HB 2559	664	1194
<b>Medicaid recipients;</b> treatment involving opioids, prohibition on payment of costs shall not apply to a recipient's cost-sharing amounts required by the state plan for medical assistance, written notice to patient prior to health care services, etc.			
Patron—Pillion . . . . .	HB 2558	223	447
Patron—Chafin . . . . .	SB 1167	444	793
<b>Naloxone or other opioid antagonist;</b> adds employees of regional jails to the list of individuals who may possess and administer, provided that they have completed a training program. (Patron—Garrett) . . . . .	HB 1878	87	133
<b>OPTICIANS AND OPTOMETRISTS</b>			
<b>Optometry, Board of;</b> adds requirements for members. (Patron—Robinson) . . . . .	HB 2247	340	636
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<b>Orange County Agricultural Initiative;</b> commending.			
Patron—Freitas . . . . .	HJR 882		2829
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<b>ORANGE HUNT ELEMENTARY SCHOOL</b>			
<b>Orange Hunt Elementary School;</b> commending. (Patron—Tran) . . . . .	HR 438		3061
<b>ORDINANCES</b>			
<b>C-PACE loans;</b> any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy or resiliency improvements with free and willing property owners of both existing properties and new construction, improvements may include mitigation of flooding or impacts of flooding or stormwater management improvements, etc. (Patron—Lewis) . . . . .	SB 1559	753	1749
<b>C-PACE loans;</b> any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of stormwater management improvements with free and willing property owners of both existing properties and new construction. (Patron—Petersen) . . . . .	SB 1400	564	973
<b>DNA analysis;</b> conviction of certain crimes or similar ordinance of a locality. (Patron—Campbell, R.R.) . . . . .	HB 2439	201	393
<b>Dogs;</b> any locality may by ordinance prohibit the running at large in packs, except dogs used in hunting, civil penalty. (Patron—Norment) . . . . .	SB 1367	562	972
<b>Economic revitalization zone, local;</b> towns may establish by ordinance. (Patron—Boysko) . . . . .	SB 1634	721	1586
<b>Family day homes;</b> zoning permits, applicable local ordinances.			
Patron—LaRock . . . . .	HB 2569	380	701
Patron—Favola . . . . .	SB 1094	442	792
<b>Firearms ordinances;</b> applicability to property located in multiple localities, landowner may elect to have ordinances of locality in which largest portion of contiguous parcel of land lies to apply to anyone hunting on the property, notification to Department of Game and Inland Fisheries, report. (Patron—Head) . . . . .	HB 2252	830	1954
<b>Parking ordinances;</b> enforcement by locality with a population of at least 40,000.			
Patron—Delaney . . . . .	HB 1818	459	823
Patron—Black . . . . .	SB 1044	711	1315
<b>Pedestrian crossings;</b> Town of Ashland added to list of localities that may provide by ordinance for the installation and maintenance of highway signs at marked crosswalks requiring drivers to yield to pedestrians. (Patron—Fowler) . . . . .	HB 1648	103	167
<b>Smoking in outdoor amphitheater or concert venue;</b> any locality, by ordinance, may designate reasonable no-smoking areas. (Patron—Edwards) . . . . .	SB 1304	713	1574
<b>Stormwater Management Fund, local;</b> locality by ordinance authorized to create.			
Patron—Cole . . . . .	HB 1614	344	643
Patron—Reeves . . . . .	SB 1248	559	969
<b>Subdivision ordinance;</b> any locality allowed to include provisions requiring that where a lot being subdivided or developed fronts on an existing street or when provision of a sidewalk, the need for which is substantially generated and reasonably required by proposed development, is in accordance with locality's adopted comprehensive plan.			
Patron—Bulova . . . . .	HB 1913	461	824
Patron—Barker . . . . .	SB 1663	462	826

**ORDINANCES - Continued**

<b>Towing;</b> only towing requests made by local law-enforcement officers are subject to local ordinances regulating towing services, nothing herein shall prohibit the Department of State Police from entering into a memorandum of understanding with a county, city, or town to provide for towing services. (Patron—Carrico) . . . . .	SB	1510	630	1072
<b>Towing fees;</b> localities in Planning District 8 (Northern Virginia) and Planning District 16 (George Washington RC) shall establish by ordinance a hookup and initial towing fee of no less than \$135, etc. Patron—Fowler . . . . .	HB	1865	460	824
Patron—Marsden . . . . .	SB	1567	117	183
<b>Turns into or out of certain residential areas;</b> allows counties that operate under the urban county executive form of government (Fairfax County) by ordinance to develop a program to issue permits or stickers to residents of a designated area, etc. (Patron—Murphy) . . . . .	HB	2033	305	593
<b>Zoning ordinance;</b> if local government reduces time period by which a planning commission shall review a proposed amendment to less than 100 days, they shall hold at least one public hearing, locality shall publish notice of hearing in a newspaper having general circulation and shall also publish the notice on the locality's website. (Patron—Roem) . . . . .	HB	2375	483	853
<b>OSTEOPATHY</b>				
<b>Medicine, osteopathy, podiatry, or chiropractic, practitioners of;</b> Board of Medicine may issue a retiree license to any practitioner who holds an unrestricted, active license to practice in the Commonwealth. (Patron—Landes) . . . . .	HB	2457	379	701
<b>OUSLEY, THOMAS E.</b>				
<b>Ousley, Thomas E.;</b> commending. (Patron—McQuinn) . . . . .	HJR	837		2806
<b>OWENS-ILLINOIS, INC., DANVILLE PLANT</b>				
<b>Owens-Illinois, Inc., Danville plant;</b> commemorating its 40th anniversary in 2018. (Patron—Marshall) . . . . .	HJR	1069		2926
<b>OYSTERS AND OYSTER PLANTING GROUNDS</b>				
<b>Oyster planting grounds;</b> authorizes Commissioner of Marine Resources to decide which area within a riparian owner's waters shall be assigned for planting, Commissioner shall consider public benefits and impacts of shellfish aquaculture. (Patron—Mason) . . . . .	SB	1413	164	328
<b>Oyster planting grounds;</b> municipal dredging projects, Commissioner shall notify, by certified letter, the holder of lease within footprint of proposed navigation channel, requesting a response within 60 days, extends sunset date, repeals current sunset provision. (Patron—Stolle) . . . . .	HB	2047	735	1696
<b>Riparian planting ground;</b> Commissioner of Marine Resources Commission shall assign to land owner only a ground, in his discretion, he deems appropriate to encompass as much as one-half acre of ground, provided that it does not encroach into an existing oyster-planting ground. (Patron—Bloxom) . . . . .	HB	1779	152	314
<b>PADEN, JOHN N.</b>				
<b>Paden, John N.;</b> commending. (Patron—Hugo) . . . . .	HR	415		3050
<b>PAGE COUNTY</b>				
<b>Income tax, state;</b> adds Page County to the list of qualified localities in which a company may invest to become eligible for income tax modification. Patron—Gilbert . . . . .	HB	2776	262	495
Patron—Obenshain . . . . .	SB	1428	263	496
<b>Page County High School baseball team;</b> commending. (Patron—Obenshain) . . . . .	SJR	354		3143
<b>Page County High School softball team;</b> commending. (Patron—Obenshain) . . . . .	SJR	355		3143
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<b>Pannone, Adam;</b> commending. (Patron—Tran) . . . . .	HJR	1126		2952
<b>PARKER, MARGARET D.</b>				
<b>Parker, Margaret D.;</b> commending. (Patron—Howell) . . . . .	SJR	391		3162
<b>PARKING AREAS AND REGULATIONS</b>				
<b>Parking;</b> access aisles adjacent to parking spaces reserved for persons with disabilities. (Patron—LaRock) . . . . .	HB	2805	557	967

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**PARKING AREAS AND REGULATIONS - Continued**

**Parking of certain vehicles;** adds the Town of Cape Charles to the list of towns that are permitted to regulate or prohibit the parking on any public highway of watercraft, boat trailers, etc.

Patron—Bloxom .....	HB 1777	144	306
Patron—Lewis .....	SB 1560	116	182

**Parking ordinances;** enforcement by locality with a population of at least 40,000.

Patron—Delaney .....	HB 1818	459	823
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**PAROLE AND PROBATION**

**Investigations and reports by probation officers;** persons eligible for parole. (Patron—Tyler) .....

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**PARROTT, JOAN S.**

**Parrott, Joan S.;** recording sorrow upon death. (Patron—Locke) .....

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**PARTNERSHIPS**

**Business parks;** definition, Virginia Economic Development Partnership shall conduct a pilot program to facilitate the construction of electric transmission infrastructure for parks, Partnership in conducting program is to certify that up to three petitions within certificated service territory of each Pilot Utility addresses eligibility criteria for participation in program, sunset provision. (Patron—Marshall) .....

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**PATRICK HENRY COLLEGE**

**Patrick Henry College moot court team;** commending. (Patron—LaRock) .....

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**PATRICK HENRY HIGH SCHOOL**

**Patrick Henry High School volleyball team;** commending. (Patron—O'Quinn) .....

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**PATRIOT HIGH SCHOOL**

**Patriot High School boys' and girls' indoor track teams;** commending. (Patron—Roem) .....

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**Pawnbrokers;** amends definition to only include natural persons. (Patron—Mullin) ...

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**PEDESTRIANS**

**Pedestrian crossings;** Town of Ashland added to list of localities that may provide by ordinance for the installation and maintenance of highway signs at marked crosswalks requiring drivers to yield to pedestrians. (Patron—Fowler) .....

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**PEDROTTY, FRANCIS W.**

**Pedrotty, Francis W.;** commending. (Patron—Heretick) .....

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**PEMBROKE MEADOWS ELEMENTARY SCHOOL**

**Pembroke Meadows Elementary School;** commemorating its 50th anniversary. (Patron—Turpin) .....

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**PENDLETON, ANNE B.**

**Pendleton, Anne B.;** recording sorrow upon death. (Patron—Kory) .....

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**PENINSULA AGENCY ON AGING, INC.**

**Peninsula Agency on Aging, Inc.;** commending. (Patron—Mason) .....

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**PENSIONS, BENEFITS, AND RETIREMENT**

**Long-Term Employment Support Services and Extended Employment Services;** Department for Aging and Rehabilitative Services to make referrals to any employment services organizations that provide competitive or commensurate wages and is eligible to receive state-funded Services, Employment Service Organization Steering Committee established, Committee to report on policy, funding, and allocation of funds to organizations, the Committee shall meet no more than four times a year.

Patron—Landes .....	HB 2306	851	2002
Patron—Hanger .....	SB 1485	852	2004

**Parental leave benefits;** Department of Human Resource Management shall implement and administer leave for eligible employees following birth, adoption, or foster placement of a child younger than age 18, an employee shall receive eight weeks of leave, etc.

Patron—Robinson .....	HB 2234	829	1954
Patron—Suetterlein .....	SB 1581	844	1988

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<b>Perry, Judy Boyce;</b> commending. (Patron—Heretick) . . . . .	HR 315		3007
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<b>Constitutional amendment;</b> personal property tax exemption for one motor vehicle owned and used primarily by or for a disabled veteran, "motor vehicle" shall include only automobiles and pickup trucks, exception (first reference).			
Patron—Filler-Corn . . . . .	HJR 676	822	1940
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<b>Intangible personal property;</b> classification and exemption of certain business property. (Patron—Campbell, R.R.) . . . . .			
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<b>Personal property tax;</b> exemption for agricultural vehicles farm machinery includes equipment and machinery used by a nursery for production of horticultural products and any farm tractor. (Patron—Webert) . . . . .			
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<b>PERSONS WITH DISABILITIES</b>			
<b>Abuse and neglect of incapacitated adults;</b> informed consent. (Patron—Mullin) . . . .			
	HB 1674	234	455
<b>Aged or incapacitated adults;</b> financial exploitation, authority of financial institution staff to refuse transactions or disbursements, etc.			
Patron—Toscano . . . . .	HB 1987	420	754
Patron—Obenshain . . . . .	SB 1490	421	756
<b>Aged or incapacitated adults;</b> financial exploitation, reporting by financial institution staff, staff may provide supporting information and records. (Patron—O'Quinn) . . . .			
	HB 2225	339	634
<b>Auxiliary grants;</b> number of auxiliary grant recipients in supportive housing setting shall not exceed 90, etc.			
Patron—Peace . . . . .	HB 2017	657	1180
Patron—Barker . . . . .	SB 1286	658	1181
<b>"Blind person";</b> amends definition in conformance with definition set forth by the Social Security Administration. (Patron—Krizek) . . . . .			
	HB 1938	88	136
<b>Cannabidiol oil and THC-A oil;</b> authorizes a patient or, if such patient is a minor or an incapacitated adult, such patient's parent or legal guardian may designate an individual to act as his registered agent for the purposes of receiving oil pursuant to a valid written certification, etc. (Patron—Marsden) . . . . .			
	SB 1719	690	1281
<b>Constitutional amendment;</b> personal property tax exemption for one motor vehicle owned and used primarily by or for a disabled veteran, "motor vehicle" shall include only automobiles and pickup trucks, exception (first reference).			
Patron—Filler-Corn . . . . .	HJR 676	822	1940
Patron—Reeves . . . . .	SJR 278	823	1942
<b>Parking;</b> access aisles adjacent to parking spaces reserved for persons with disabilities. (Patron—LaRock) . . . . .			
	HB 2805	557	967
<b>Persons who are deaf or hard of hearing;</b> replaces certain terminology. (Patron—Thomas) . . . . .			
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<b>Real property tax;</b> exemption for the elderly and disabled, improvements to a dwelling.			
Patron—Ingram . . . . .	HB 2150	736	1697
Patron—Dance . . . . .	SB 1196	737	1697
<b>Real property tax;</b> exemptions for elderly and handicapped, computation of income limitation. (Patron—Krizek) . . . . .			
	HB 1937	16	22
<b>Special identification card;</b> applicants who are blind or vision impaired. (Patron—Keam) . . . . .			
	HB 1927	75	112
<b>Vehicles on sidewalks;</b> public entity may allow use of certain power-driven mobility devices by disabled individuals on a sidewalk, etc. (Patron—Hurst) . . . . .			
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<b>Carrier contracts with pharmacy providers;</b> limitations on audits of pharmacy records. (Patron—Pillion) . . . . .			
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<b>Pharmacies;</b> carriers that provide exclusive provider policies and contracts to allow consumers freedom of choice for pharmacy benefits. (Patron—Dance) . . . . .			
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<b>Pharmacy, Board of;</b> alters definition of cannabidiol oil and tetrahydrocannabinol oil, regulation of pharmaceutical processors, report. (Patron—Dunnivant) . . . . .			
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<b>PHILLIPS, LEONARD E., JR.</b>			
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<b>PHOTO-MONITORING</b>			
<b>Handheld photo speed monitoring devices;</b> Department of State Police or law-enforcement officer employed by Department may operate in or around highway work zones where law-enforcement vehicle is present and displaying lighted blue or blue combination lights, mailing of certain summons by first-class mail to owner, etc., of vehicle, report. (Patron—Carrico) .....	SB 1521	842	1986
<b>PHYSICAL THERAPISTS</b>			
<b>Physical therapists and physical therapist assistants;</b> licensure, authorizes Virginia to become a signatory to the Physical Therapy Licensure Compact. (Patron—Peake) .....	SB 1106	300	575
<b>PHYSICIANS AND SURGEONS</b>			
<b>Death certificates;</b> requires the completed medical certification portion of a certificate to be filed electronically with the State Registrar of Vital Records through the Electronic Death Registration System, etc., Department of Health shall work with Virginia Morticians' Association, Inc., etc., to educate and encourage physicians, physician assistants, etc., to timely register with and utilize the System.			
Patron—Wilt .....	HB 2445	213	425
Patron—McClellan .....	SB 1439	224	447
<b>Patient care teams;</b> podiatrists and physician assistants, amends physician assistant definition, regulations of physician assistants, licensure and practice of nurse practitioners, Board of Medicine shall promulgate regulations to implement the provisions.			
Patron—Campbell, J.L. ....	HB 1952	137	290
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<b>Physician assistants;</b> Board of Medicine authorized to issue a license by endorsement to an applicant for licensure as an assistant, etc. (Patron—Thomas) .....	HB 2169	338	634
<b>Physicians;</b> advertising in connection with his practice shall not include in any advertisement a reference to marijuana unless for treatment of addiction or substance abuse, etc. (Patron—Orrock) .....	HB 1826	656	1179
<b>PIAZZA, CYNTHIA LYNN</b>			
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<b>Piney Grove Baptist Church;</b> commemorating its 150th anniversary. (Patron—Tyler) ..	HJR 601		2708
<b>PODIATRISTS</b>			
<b>Medicine, osteopathy, podiatry, or chiropractic, practitioners of;</b> Board of Medicine may issue a retiree license to any practitioner who holds an unrestricted, active license to practice in the Commonwealth. (Patron—Landes) .....	HB 2457	379	701
<b>POLICE</b>			
<b>Auxiliary law-enforcement officers;</b> purchase of service handguns or other weapons. (Patron—Cosgrove) .....	SB 1048	608	1012
<b>Capital murder;</b> law-enforcement officers and fire marshals, where offender was 18 years of age or older at time of offense, punishment shall be no less than a mandatory minimum term of confinement for life.			
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Patron—Carrico .....	SB 1501	717	1580

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<b>Child care providers;</b> local law-enforcement agencies allowed to process and submit requests for national fingerprint background checks, forwarding fingerprints and personal descriptive information. (Patron—Mason) . . . . .	SB	1407	447	798
<b>Child restraint devices and safety belts;</b> exempts any person operating taxicabs, emergency medical services agency vehicle, fire company vehicle, law-enforcement vehicle, etc., while in performance of his official duties from requirement that certain minors be secured.				
Patron—Head . . . . .	HB	1662	196	387
Patron—Suetterlein . . . . .	SB	1677	319	613
<b>Law-enforcement officer;</b> removes from the definition of officer, as it applies to an investigator who is a sworn member of the security division of the Virginia Lottery, the requirement that such investigator be a full-time member of the division. (Patron—Rush) . . . . .	HB	2166	475	842
<b>Law-Enforcement Officers Procedural Guarantee Act;</b> amends definition of law-enforcement officer. (Patron—Collins) . . . . .	HB	2656	489	867
<b>Law-enforcement officials;</b> unlawful for any person to knowingly, with intent to mislead an agency, cause another to give a false report to any official, penalty.				
Patron—Yancey . . . . .	HB	2056	471	839
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<b>Police and court records;</b> automatic expungement of records relating to a person's conviction if he has been granted an absolute pardon for a crime he did not commit. (Patron—Cole) . . . . .	HB	2278	181	364
<b>School boards;</b> development of a model memorandum of understanding, board in each school division in which the local law-enforcement agency employs school resource officers shall enter into a memorandum of understanding with such agency.				
Patron—Gilbert . . . . .	HB	1733	455	816
Patron—Newman . . . . .	SB	1214	502	884
<b>School resource officers;</b> powers and duties of Department of Criminal Justice Services, compulsory minimum training standards for certification and recertification of law-enforcement officers, training shall be specific to role and responsibility of officer working with students, etc.				
Patron—Jones, J.C. . . . .	HB	2609	487	858
Patron—Locke . . . . .	SB	1130	488	862
<b>School security officers;</b> employment, law-enforcement officers previously employed by the United States or any state or political subdivision thereof, carrying a firearm in performance of duties. (Patron—Freitas) . . . . .	HB	2721	493	870
<b>Towing;</b> only towing requests made by local law-enforcement officers are subject to local ordinances regulating towing services, nothing herein shall prohibit the Department of State Police from entering into a memorandum of understanding with a county, city, or town to provide for towing services. (Patron—Carrico) . . . . .	SB	1510	630	1072
<b>Unmanned aircraft systems;</b> used by law-enforcement officer to aerially survey a primary residence of the subject of the arrest warrant to formulate a plan to execute an existing arrest warrant or <i>capias</i> for a felony offense, etc. (Patron—Carrico) . . . . .	SB	1507	781	1808

**POLICE, STATE**

<b>Central Criminal Records Exchange;</b> Department of State Police shall accept requests for background checks through the use of Live Scan device. (Patron—Head)	HB	2746	620	1043
<b>Felons;</b> mechanism for reporting to Department of State Police when a circuit court restores right to possess, transport, and carry a firearm, etc., effective date. (Patron—Rush) . . . . .	HB	2548	203	395
<b>Handheld photo speed monitoring devices;</b> Department of State Police or law-enforcement officer employed by Department may operate in or around highway work zones where law-enforcement vehicle is present and displaying lighted blue or blue combination lights, mailing of certain summons by first-class mail to owner, etc., of vehicle, report. (Patron—Carrico) . . . . .	SB	1521	842	1986
<b>Motor vehicle safety inspections;</b> increases maximum charge from \$16 to \$20, \$0.70 shall be transmitted to Department of State Police for costs of administering program. (Patron—Hugo) . . . . .	HB	2514	307	594

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**Sex Offender and Crimes Against Minors Registry;** reregistration schedule, copies of all forms to be used and guidelines for submitting such forms, shall be available through distribution by the State Police, etc., effective date.

Patron—Watts .....	HB 2089	613	1015
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**Towing;** only towing requests made by local law-enforcement officers are subject to local ordinances regulating towing services, nothing herein shall prohibit the Department of State Police from entering into a memorandum of understanding with a county, city, or town to provide for towing services. (Patron—Carrico) .....

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**POLLARD, OLIVER A., JR.**

<b>Pollard, Oliver A., Jr.;</b> recording sorrow upon death. (Patron—Dance) .....	SJR 444		3191
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**PORNOGRAPHY**

**Child Pornography Registry;** contents of Registry, criminal investigations, report.

Patron—Bell, Robert B. ....	HB 1940	3	3
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**POTOMAC RIVER**

**Potomac River Bridge Towing Compact;** adds the Harry W. Nice Bridge, Sandy Hook Bridge, Brunswick Bridge, and Point of Rocks Bridge to the Potomac River bridges subject to Compact, provisions shall become effective upon enactment by legislative bodies of Maryland and District of Columbia of similar legislation. (Patron—Barker) .....

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**POWER, THOMAS PIERCE**

<b>Power, Thomas Pierce;</b> recording sorrow upon death. (Patron—Mason) .....	SJR 421		3179
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**PRACTITIONERS**

**Public health practitioners;** requirements for issuing prescriptions, exceptions. (Patron—Herring) .....

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**PRESBYTERIAN CHILDREN'S HOME OF THE HIGHLANDS**

**Presbyterian Children's Home of the Highlands;** commemorating its 100th anniversary. (Patron—Campbell, J.L.) .....

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**Electronic transmission of certain prescriptions;** exceptions if prescriber dispenses the controlled substance that contains an opioid directly to patient or patient's agent, etc., report. (Patron—Pillion) .....

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**Pharmacist;** counseling for new prescriptions, disposal of medicine.

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**Public health practitioners;** requirements for issuing prescriptions, exceptions. (Patron—Herring) .....

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**PRESS, ALEXIS WESOLOWSKY**

<b>Press, Alexis Wesolowsky;</b> recording sorrow upon death. (Patron—Keam) .....	HJR 1058		2921
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**PRICE, DAVID ALLEN, SR.**

<b>Price, David Allen, Sr.;</b> recording sorrow upon death. (Patron—Tyler) .....	HJR 602		2708
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**PRICE, MARY**

<b>Price, Mary;</b> commending. (Patron—Obenshain) .....	SJR 408		3172
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**PRINCE EDWARD COUNTY**

**Prince Edward County Public Schools closing;** commemorating its 60th anniversary in 2019. (Patron—McClellan) .....

SJR 358		3145
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**PRINCE WILLIAM COUNTY**

**Prince William County Alumnae Chapter of Delta Sigma Theta Sorority, Inc.;** commemorating its 35th anniversary. (Patron—Guzman) .....

HR 327		3012
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**Prince William County Bar Association;** commending. (Patron—Surovell) .....

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**Prince William County Human Rights Commission;** commemorating its 25th anniversary. (Patron—Roem) .....

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**PRINCESS ANNE HIGH SCHOOL**

**Princess Anne High School;** commemorating its 65th anniversary. (Patron—Turpin) ..

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**Princess Anne High School girls' basketball team;** commending.

Patron—Turpin .....	HJR 1001		2892
Patron—Turpin .....	HR 270		2987

**PRISONERS**

- Corrections, Department of;** disclosure of information, delivery of controlled substances to prisoners. (Patron—Carrico) . . . . . SB 1516 679 1251
- Pregnant prisoners;** Board of Corrections shall review its standards related to allowable restraint practices. (Patron—Saslaw) . . . . . SB 1772 725 1589
- Prisoners;** process for sheriff or administrator to authorize medical and mental health treatment of those incapable of giving consent. (Patron—Hope) . . . . . HB 1933 809 1895

**PRISONS AND OTHER METHODS OF CORRECTION**

- Behavioral health services;** exchange of medical and mental health information and records, standards for services provided in correctional facilities, report. (Patron—Bell, Robert B.) . . . . . HB 1942 827 1949
- Community corrections alternative program;** establishment, repeals the boot camp incarceration program, diversion center incarceration program, and detention center incarceration program, etc. (Patron—Ward) . . . . . HB 2605 618 1032
- Corrections, Board of;** minimum standards for health care services in local, regional, and community correctional facilities.  
Patron—Stolle . . . . . HB 1918 695 1289  
Patron—Dunnivant . . . . . SB 1598 696 1289
- Corrections, Department of;** development of policies to improve exchange of offender medical and mental health information and records, report. (Patron—Watts) . . . . . HB 2499 202 394
- Corrections, Department of;** Director shall establish health care continuous quality improvement committee, composition of committee, quarterly reports.  
Patron—Stolle . . . . . HB 1917 463 828  
Patron—Lucas . . . . . SB 1273 320 613
- Inmate workforces;** eligibility for voluntary participation, approval of and under supervision of sheriff or his designee. (Patron—Collins) . . . . . HB 1935 199 391
- Juvenile correctional officers;** training standards, decreases number of members on the Committee of Training. (Patron—Mullin) . . . . . HB 2438 366 687
- Medical and mental health information and records of person committed to jail;** allows local probation officers to exchange. (Patron—Heretick) . . . . . HB 2213 702 1303
- Pregnant prisoners;** Board of Corrections shall review its standards related to allowable restraint practices. (Patron—Saslaw) . . . . . SB 1772 725 1589
- Prisoners;** process for sheriff or administrator to authorize medical and mental health treatment of those incapable of giving consent. (Patron—Hope) . . . . . HB 1933 809 1895
- Restrictive housing;** data collection and reporting, Department of Corrections' restrictive housing shall, at a minimum, adhere to standards adopted by the American Correctional Association, the accrediting body for the corrections industry, annual report.  
Patron—Hope . . . . . HB 1642 453 815  
Patron—Saslaw . . . . . SB 1777 516 898
- Virginia Correctional Enterprises;** procedure for exemptions to the mandatory purchase provisions. (Patron—Fowler) . . . . . HB 1981 167 331

**PROFESSIONAL AND OCCUPATIONAL REGULATION**

- Occupation;** legislation increasing or beginning regulation, evaluation required. (Patron—Campbell, R.R.) . . . . . HB 2028 812 1901
- Professional and Occupational Regulation, Department of;** Director or his designee may issue a notice to any person violating provisions relating to practicing a profession or occupation without holding a valid license as required, etc., regulatory boards within Department. (Patron—Ruff) . . . . . SB 1751 517 898
- Professional and Occupational Regulation, Department of;** unlicensed practice, cease and desist notices, penalty. (Patron—McNamara) . . . . . HB 2327 481 850
- Regulatory boards;** adjustment of fees, distribution of excess fees to current regulants, effective date. (Patron—Webert) . . . . . HB 1939 697 1290

**PROFESSIONS AND OCCUPATIONS**

- Accident and sickness insurance and health services plans;** reimbursement for services provided by nurse practitioners, effective date.  
Patron—Ransone . . . . . HB 1640 332 623  
Patron—Sturtevant . . . . . SB 1178 333 623
- Assisted living facilities;** facility shall give immediate notice to regional licensing office, etc., that licensed administrator resigned, etc., and shall provide last date of

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employment, authorization to operate under supervision of an acting administrator for more than two times in any two-year period shall be made by the Department on a case-by-case basis. (Patron—Mason) . . . . .	SB	1409	448	802
<b>Automatic fire sprinkler inspectors;</b> creates classification of fire sprinkler contractor for the purpose of licensure by the Board for Contractors, certification. (Patron—Edwards) . . . . .	SB	1774	726	1589
<b>Cannabidiol oil and THC-A oil;</b> authorizes a patient or, if such patient is a minor or an incapacitated adult, such patient's parent or legal guardian may designate an individual to act as his registered agent for the purposes of receiving oil pursuant to a valid written certification, etc. (Patron—Marsden) . . . . .	SB	1719	690	1281
<b>Common Interest Community Board;</b> issuance of compliance orders. (Patron—Bulova) . . . . .	HB	1962	467	834
<b>Controlled substances;</b> adds certain chemicals to Schedule I and Schedule II of the Controlled Substances Act. (Patron—Garrett) . . . . .	HB	1803	85	123
<b>Corrections, Department of;</b> disclosure of information, delivery of controlled substances to prisoners. (Patron—Carrico) . . . . .	SB	1516	679	1251
<b>Death certificates;</b> requires the completed medical certification portion of a certificate to be filed electronically with the State Registrar of Vital Records through the Electronic Death Registration System, etc., Department of Health shall work with Virginia Morticians' Association, Inc., etc., to educate and encourage physicians, physician assistants, etc., to timely register with and utilize the System. Patron—Wilt . . . . .	HB	2445	213	425
Patron—McClellan . . . . .	SB	1439	224	447
<b>Dental hygienist;</b> remote supervision of a dentist employed by Department of Behavioral Health and Developmental Services or Department of Health, report, implementation of provisions. (Patron—Adams, D.M.) . . . . .	HB	1849	86	131
<b>Dental services;</b> contracts between carriers and providers, PPO network arrangement, etc. (Patron—Ware) . . . . .	HB	1682	655	1178
<b>Drug Control Act;</b> classifies gabapentin as a Schedule V controlled substance, storage requirements for substances containing gabapentin. (Patron—Pillion) . . . . .	HB	2557	214	428
<b>Drug paraphernalia and controlled paraphernalia;</b> narcotic testing products used to determine whether a controlled substance contains fentanyl or a fentanyl analog. (Patron—Robinson) . . . . .	HB	2563	215	429
<b>Electronic transmission of certain prescriptions;</b> exceptions if prescriber dispenses the controlled substance that contains an opioid directly to patient or patient's agent, etc., report. (Patron—Pillion) . . . . .	HB	2559	664	1194
<b>Funeral establishments;</b> full time manager requirement, exception, number of calls. (Patron—Edwards) . . . . .	SB	1300	66	106
<b>Health professions and facilities;</b> adverse action in another jurisdiction, suspension and reinstatement. (Patron—Stolle) . . . . .	HB	1971	138	297
<b>Health Professions, Department of, and health regulatory boards;</b> disclosure of investigative information. (Patron—Adams, D.M.) . . . . .	HB	1848	418	752
<b>Health Professions, Department of, and health regulatory boards;</b> information obtained in an investigation or disciplinary proceeding, authorized disclosures. (Patron—Plum) . . . . .	HB	2556	663	1193
<b>Issuance of temporary licenses;</b> individuals engaged in counseling residency. (Patron—Filler-Corn) . . . . .	HB	2282	428	767
<b>Medicaid recipients;</b> treatment involving opioids, prohibition on payment of costs shall not apply to a recipient's cost-sharing amounts required by the state plan for medical assistance, written notice to patient prior to health care services, etc. Patron—Pillion . . . . .	HB	2558	223	447
Patron—Chafin . . . . .	SB	1167	444	793
<b>Medicine, osteopathy, podiatry, or chiropractic, practitioners of;</b> Board of Medicine may issue a retiree license to any practitioner who holds an unrestricted, active license to practice in the Commonwealth. (Patron—Landes) . . . . .	HB	2457	379	701
<b>Music therapists;</b> Board of Health Professions shall evaluate whether therapists and practice of music therapy should be regulated and the degree of regulation to be imposed, report. (Patron—Vogel) . . . . .	SB	1547	680	1253
<b>Naloxone;</b> expands list of individuals who may dispense to include emergency medical services personnel and health care providers, providing services in a hospital emergency department, etc. (Patron—Plum) . . . . .	HB	2158	221	441

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<b>Naloxone</b> ; possession and administration by school nurses and local health department employees, other school board employees or individuals contracted by a school board to provide school health services. (Patron—McGuire) . . . . .	HB 2318	212	421
<b>Naloxone or other opioid antagonist</b> ; adds employees of regional jails to the list of individuals who may possess and administer, provided that they have completed a training program. (Patron—Garrett) . . . . .	HB 1878	87	133
<b>Nursing and Psychology, Boards of</b> ; alters composition, staggering terms of members of certain health regulatory boards. (Patron—Bagby) . . . . .	HB 2228	169	332
<b>Nursing, Board of</b> ; application for license or certification by military spouse, expedited review. (Patron—Guzman) . . . . .	HB 2129	287	546
<b>Optometry, Board of</b> ; adds requirements for members. (Patron—Robinson) . . . . .	HB 2247	340	636
<b>Patient care teams</b> ; podiatrists and physician assistants, amends physician assistant definition, regulations of physician assistants, licensure and practice of nurse practitioners, Board of Medicine shall promulgate regulations to implement the provisions. Patron—Campbell, J.L. . . . .	HB 1952	137	290
Patron—Peake . . . . .	SB 1209	92	146
<b>Pawnbrokers</b> ; amends definition to only include natural persons. (Patron—Mullin) . . . . .	HB 1773	238	459
<b>Pawning goods</b> ; requires unexpired government-issued identification card bearing the current legal address. (Patron—Mullin) . . . . .	HB 1774	457	818
<b>Pharmaceutical processors</b> ; employment, misdemeanors, every processor shall adopt policies for pre-employment drug screening and regular, ongoing, random drug screening of employees. (Patron—Marshall) . . . . .	HB 1841	417	751
<b>Pharmacist</b> ; counseling for new prescriptions, disposal of medicine. Patron—Bulova . . . . .	HB 1743	135	285
Patron—Dance . . . . .	SB 1405	96	155
<b>Pharmacy, Board of</b> ; alters definition of cannabidiol oil and tetrahydrocannabinol oil, regulation of pharmaceutical processors, report. (Patron—Dunnivant) . . . . .	SB 1557	681	1253
<b>Pharmacy, Board of</b> ; seizure of controlled substances and prescription devices. (Patron—Edwards) . . . . .	SB 1289	94	153
<b>Physical therapists and physical therapist assistants</b> ; licensure, authorizes Virginia to become a signatory to the Physical Therapy Licensure Compact. (Patron—Peake) . . . . .	SB 1106	300	575
<b>Physician assistants</b> ; Board of Medicine authorized to issue a license by endorsement to an applicant for licensure as an assistant, etc. (Patron—Thomas) . . . . .	HB 2169	338	634
<b>Physicians</b> ; advertising in connection with his practice shall not include in any advertisement a reference to marijuana unless for treatment of addiction or substance abuse, etc. (Patron—Orrock) . . . . .	HB 1826	656	1179
<b>Prescription Monitoring Program</b> ; veterinarians who dispense controlled substances for a course of treatment to last seven days or less or if such covered substance is feline buprenorphine or canine butorphanol, every veterinary establishment licensed by the Board of Veterinary Medicine shall maintain records of dispensing, etc. (Patron—Stanley) . . . . .	SB 1653	686	1262
<b>Public health practitioners</b> ; requirements for issuing prescriptions, exceptions. (Patron—Herring) . . . . .	HB 1914	335	627
<b>Qualified mental health professionals</b> ; Board of Counseling to promulgate regulations for registration of persons receiving supervised training. Patron—Price . . . . .	HB 2693	217	432
Patron—Barker . . . . .	SB 1694	101	161
<b>Real Estate Board</b> ; real estate licensees. Patron—Miyares . . . . .	HB 2352	395	726
Patron—Mason . . . . .	SB 1061	179	355
<b>Sale of caskets</b> ; no person except a licensed funeral service establishment or funeral service licensee shall offer when preneed arrangements for funeral services are being made. Patron—Orrock . . . . .	HB 1828	603	1009
Patron—Reeves . . . . .	SB 1247	93	153
<b>Servicemembers Civil Relief Act</b> ; when the appointment of counsel is necessary pursuant to the Act, any attorney fees assessed shall not exceed \$125, unless the court deems a higher amount appropriate. (Patron—Lindsey) . . . . .	HB 1675	454	815
<b>Topical drugs</b> ; administration by dental hygienists, physician assistants, and nurses. (Patron—Tran) . . . . .	HB 2493	431	769

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<b>Volunteer license, special;</b> shall not apply to dentists and dental hygienists volunteering to provide free health care to an underserved area, etc. (Patron—Kilgore) . . . . .	HB 2184	290	555
<b>Workers' compensation;</b> presumption of compensability for certain diseases, adds cancers of the colon, brain, or testes to the list that are presumed to be an occupational disease when firefighters and certain employees develop the cancer, revision of Virginia Workers' Compensation program. Patron—Hugo . . . . .	HB 1804	415	750
Patron—Cosgrove . . . . .	SB 1030	26	48

PROFFITT, RICHARD LEE

<b>Proffitt, Richard Lee;</b> recording sorrow upon death. (Patron—Roem) . . . . .	HJR 1082		2932
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PROPERTY AND CONVEYANCES

<b>Buckingham County;</b> conveyance of a right-of-way easement from Department of Forestry which will follow an existing road across a portion of Appomattox-Buckingham State Forest. (Patron—Fariss) . . . . .	HB 1783	73	112
<b>Clerks of court;</b> repeals provision relating to continuing in force acts establishing Torrens system. (Patron—Campbell, R.R.) . . . . .	HB 2769	326	619
<b>Common interest communities;</b> dissemination of annual budget, reserve for capital components. Patron—Bulova . . . . .	HB 2030	33	59
Patron—Surovell . . . . .	SB 1538	44	77
<b>Common Interest Community Board;</b> administrative proceedings, removes language that provides Board with investigative powers, etc. (Patron—Cosgrove) . . . . .	SB 1086	499	878
<b>Common Interest Community Board;</b> association fees, Common Interest Community Management Information Fund, fees based on number of units or lots in the association. (Patron—Watts) . . . . .	HB 2081	391	718
<b>Common Interest Community Board;</b> issuance of compliance orders. (Patron—Bulova) . . . . .	HB 1962	467	834
<b>Condominium Act;</b> meetings of unit owners' associations, proxy voting, objections to proxy. (Patron—Reid) . . . . .	HB 2647	367	691
<b>Condominium Act and Property Owners' Association Act;</b> delivery of condominium resale certificates and association disclosure packets, right of purchaser to cancel contract. Patron—Bulova . . . . .	HB 2385	364	682
Patron—Suetterlein . . . . .	SB 1580	513	893
<b>Eviction;</b> changes terminology from writ of possession to writ of eviction for the writ executed by a sheriff to recover real property pursuant to an order of possession, pleadings and other papers by certain parties not represented by attorneys. Patron—Aird . . . . .	HB 2007	700	1295
Patron—Locke . . . . .	SB 1448	180	357
<b>Eviction Diversion Pilot Program;</b> established, administration oversight of implementation of Program, report. Patron—Collins . . . . .	HB 2655	355	657
Patron—Locke . . . . .	SB 1450	356	659
<b>Landlord;</b> clarifies that for purposes of signing pleadings and other papers and obtaining a judgment for possession or for rent or damages in general district court, the managing agent may act on behalf of the business. (Patron—Campbell, J.L.) . . .	HB 2262	477	844
<b>Landlord and tenant;</b> disclosure of waiver of subrogation provision in renter's insurance policy obtained by a landlord on behalf of a tenant. (Patron—Leftwich) . .	HB 2304	394	724
<b>Landlord and tenant;</b> landlord may obtain damage insurance on behalf of tenant, provision of copy of insurance policy, if rental agreement does require tenant to obtain renter's insurance, landlord shall provide written notice to tenant stating landlord is not responsible for tenant's personal property, etc. (Patron—Delaney) . . .	HB 1660	386	712
<b>Lease agreements;</b> requirements, will or deed necessary to convey estate. Patron—Leftwich . . . . .	HB 2287	11	15
Patron—Obenshain . . . . .	SB 1422	49	83
<b>New Kent County;</b> Department of Forestry authorized to convey a permanent easement and right-of-way across a portion of the New Kent Forestry Center. (Patron—Peace) . . . . .	HB 2016	186	371
<b>Property and Conveyances;</b> revision of Title 55 to create Title 55.1, pertains to real estate settlements and recordation, rental conveyances, etc. (Patron—Edwards) . . . .	SB 1080	712	1315

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**PROPERTY AND CONVEYANCES - Continued**

<b>Property Owners' Association Act;</b> association meetings, notice by email, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail. (Patron—Cole) . . . . .	HB	2694	368	691
<b>Resident agent;</b> appointment by nonresident property owner. (Patron—Adams, L.R.) . . . . .	HB	2410	365	686
<b>Residential Executory Real Estate Contracts Act;</b> created. (Patron—Locke) . . . . .	SB	1449	511	891
<b>Residential real property;</b> information on covenants, required disclosures, stormwater management facilities. (Patron—Murphy) . . . . .	HB	2019	390	716
<b>Southwestern Virginia Mental Health Institute;</b> the Commonwealth, with approval of the Governor, is authorized to transfer a portion of property to Mount Rogers Community Services Board and a portion of such property to Smyth County. (Patron—Carrico) . . . . .	SB	1515	678	1251
<b>Southwestern Virginia Training Center;</b> the Commonwealth shall not convey, sell, or otherwise dispose of certain real property in Carroll County outside the Town of Hillsville on which the former Center was situated. (Patron—Carrico) . . . . .	SB	1509	610	1014
<b>Timber theft;</b> a person who buys and removes timber from a landowner's property is guilty of Class 1 misdemeanor if he fails to pay the landowner within date specified in written timber sales agreement, load tickets required for certain sales of timber. Patron—Adams, L.R. . . . .	HB	2411	348	650
Patron—Chafin . . . . .	SB	1469	353	655
<b>Virginia Condominium and Virginia Property Owners' Association Acts;</b> stormwater facilities, transfer of control of management, maintenance, repair, or replacement. (Patron—Surovell) . . . . .	SB	1756	724	1587
<b>Virginia Property Owners' Association Act;</b> home-based businesses. Patron—Bulova . . . . .	HB	1853	2	2
Patron—Surovell . . . . .	SB	1537	30	56
<b>Virginia Residential Landlord and Tenant Act;</b> noncompliance with rental agreement, if court finds that tenant has successfully raised a defense and enters judgment for the tenant, the court, in its discretion, may impose upon the landlord reasonable costs of the tenant, etc. (Patron—Bourne) . . . . .	HB	1923	324	616
<b>Virginia Residential Landlord and Tenant Act;</b> rental agreement, provisions made applicable by operation of law. Patron—Carr . . . . .	HB	2054	5	7
Patron—Stanley . . . . .	SB	1676	45	78
<b>Virginia Residential Landlord and Tenant Act;</b> tenant's right of redemption. Patron—Carroll Foy . . . . .	HB	1898	28	54
Patron—Locke . . . . .	SB	1445	43	76
<b>Virginia Residential Property Disclosure Act;</b> required disclosures, conveyances of mineral rights. (Patron—Vogel) . . . . .	SB	1292	504	885
<b>Virginia Self-Service Storage Act;</b> enforcement of liens, online public auction. (Patron—Hugo) . . . . .	HB	2509	485	856
<b>PROPERTY OWNERS</b>				
<b>Condominium Act and Property Owners' Association Act;</b> delivery of condominium resale certificates and association disclosure packets, right of purchaser to cancel contract. Patron—Bulova . . . . .	HB	2385	364	682
Patron—Suetterlein . . . . .	SB	1580	513	893
<b>C-PACE loans;</b> any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy or resiliency improvements with free and willing property owners of both existing properties and new construction, improvements may include mitigation of flooding or impacts of flooding or stormwater management improvements, etc. (Patron—Lewis) . . . . .	SB	1559	753	1749
<b>Nonconforming use;</b> a wall built on residential property shall be grandfathered as a valid use and the wall shall not be subject to removal solely due to such nonconformity. (Patron—Bell, Richard P.) . . . . .	HB	2420	707	1312
<b>Property Owners' Association Act;</b> association meetings, notice by email, in the event that such electronic mail is returned as undeliverable, notice is subsequently sent by United States mail. (Patron—Cole) . . . . .	HB	2694	368	691
<b>Virginia Condominium and Virginia Property Owners' Association Acts;</b> stormwater facilities, transfer of control of management, maintenance, repair, or replacement. (Patron—Surovell) . . . . .	SB	1756	724	1587

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<b>Virginia Property Owners' Association Act; home-based businesses.</b>			
Patron—Bulova .....	HB 1853	2	2
Patron—Surovell .....	SB 1537	30	56
<b>PROSTITUTION</b>			
<b>Child victims and witnesses; testimony, using two-way closed-circuit television, commercial sex trafficking and prostitution offenses. (Patron—Collins) .....</b>	HB 2464	146	307
<b>Prostitution; unlawful for any travel agent to knowingly promote travel services, Class 1 misdemeanor. (Patron—Delaney) .....</b>	HB 1817	458	819
<b>Prostitution and sex trafficking; offenses involving a minor, penalties. (Patron—Bell, Robert B.) .....</b>	HB 2586	617	1024
<b>PROTECTIVE ORDERS</b>			
<b>Medical evidence admissible in juvenile and domestic relations district court; preliminary protective order hearings. (Patron—Obenshain) .....</b>	SB 1429	716	1579
<b>Protective orders; contents of preliminary orders, docketing of an appeal, certain appeal issued shall be assigned a case number within two business days upon receipt of such appeal. (Patron—Surovell) .....</b>	SB 1540	718	1581
<b>Protective orders, preliminary; full hearing date, closure of a court, order shall remain in full force and effect until it is dissolved by court. (Patron—Mullin) .....</b>	HB 1673	197	388
<b>Public elementary and secondary school students; protective orders, notification to licensed instructional personnel and other school personnel, Board of Education shall establish guidelines and develop model policies to aid local school boards. (Patron—Price) .....</b>	HB 1997	579	983
<b>PROVIDENCE BAPTIST CHURCH</b>			
<b>Providence Baptist Church; commemorating its 55th anniversary. (Patron—Price) ...</b>	HJR 865		2820
<b>PSYCHOLOGISTS</b>			
<b>Nursing and Psychology, Boards of; alters composition, staggering terms of members of certain health regulatory boards. (Patron—Bagby) .....</b>	HB 2228	169	332
<b>PUBLIC BROADCASTING SERVICE</b>			
<b>Public Broadcasting Service; commemorating its 50th anniversary. (Patron—Sullivan)</b>	HJR 789		2783
<b>PUBLIC SCHOOLS</b>			
<b>Cannabidiol oil and THC-A oil; possession or distribution at public school, storing, dispensing, or administering by school nurse employed by a local school board, etc., to a student, no school board shall be required to suspend or expel any student who holds a valid written certification for use of oils issued by a practitioner.</b>			
Patron—Hurst .....	HB 1720	573	979
Patron—Sturtevant .....	SB 1632	574	980
<b>Free public elementary and secondary education; eligibility criteria. (Patron—Simon) .....</b>	HB 2297	586	993
<b>Guidance counselors; changes name to school counselors, each counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students. (Patron—Landes) .....</b>	HB 1729	139	298
<b>Public elementary and secondary school students; protective orders, notification to licensed instructional personnel and other school personnel, Board of Education shall establish guidelines and develop model policies to aid local school boards. (Patron—Price) .....</b>	HB 1997	579	983
<b>Public school building security enhancements; compliance with Uniform Statewide Building Code and Statewide Fire Prevention Code. (Patron—Knight) .....</b>	HB 1725	121	187
<b>Public school buildings and facilities; establishes standards for design, construction, maintenance, and operation, school board may enter into a lease agreement with a private entity to meet such standards, solar facilities shall be located on rooftops of buildings and facilities.</b>			
Patron—Rush .....	HB 2192	819	1934
Patron—Stanley .....	SB 1331	818	1930
<b>Public School Security Equipment Grant Act of 2013; security equipment includes building modifications and fixtures such as security vestibules. (Patron—Gooditis) ..</b>	HB 2720	231	453
<b>Public schools; Board of Education shall identify and prohibit use of any method of restraint or seclusion that it determines poses a significant danger to the student, etc. (Patron—Bell, John J.) .....</b>	HB 2599	591	1001

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**PUBLIC SCHOOLS - Continued**

**Public schools;** each school board shall develop and implement a policy to prohibit the use and distribution of any tobacco product or nicotine vapor product on a school bus, on school property, or at an on-site or off-site school-sponsored activity, board shall work to ensure adequate notice of this policy.

Patron—Hope ..... HB 2384 246 472  
Patron—Spruill ..... SB 1295 172 342

**Public schools;** instruction on the health and safety risks of using tobacco and nicotine vapor products and alternative nicotine products, shall be provided in each public elementary and secondary school. (Patron—Keam) .....

HB 1881 577 982

**Public schools;** parental review of certain anti-bullying and suicide prevention materials. (Patron—Ransone) .....

HB 2107 581 983

**Teacher licensure;** Board of Education shall provide for issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools, Chancellor of the Virginia Community College or his designee shall serve as an ex officio member of the Advisory Board on Teacher Education and Licensure, report. (Patron—Ebbin) .....

SB 1575 767 1771

**Uniform Statewide Building Code (USBC) and Statewide Fire Prevention Code (SFPC);** Department of Housing and Community Development to convene stakeholders to develop proposals for changes to Codes with the goal of assisting in the provision of safety and security measures for public or private elementary and secondary schools and public or private institutions of higher education for active shooter or hostile threats. (Patron—Hanger) .....

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**Business parks;** definition, Virginia Economic Development Partnership shall conduct a pilot program to facilitate the construction of electric transmission infrastructure for parks, Partnership in conducting program is to certify that up to three petitions within certificated service territory of each Pilot Utility addresses eligibility criteria for participation in program, sunset provision. (Patron—Marshall) .....

HB 1840 535 918

**Consumer data;** State Corporation Commission shall convene and facilitate a Data Access Stakeholder group to review and consider protection issues, report. (Patron—Keam) .....

HB 2332 399 730

**Electric cooperatives;** authorizes any electric cooperative to increase or decrease its rates without State Corporation Commission approval for any of its services, cooperatives that are not current members of a utility aggregation cooperative may petition State Corporation Commission for approval of one or more rate adjustment clauses, etc., a cooperative may adopt any other cooperative's voluntary rate, program, or tariff, etc. (Patron—Newman) .....

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**Electric utilities;** competitive suppliers, licensed retail energy suppliers. (Patron—Kilgore) .....

HB 2477 833 1958

**Electric utilities;** definitions, if State Corporation Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted that has bearing on Commission's decision. (Patron—Sullivan) .....

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**Electric utilities;** establishes requirements for net energy metering by electric cooperatives effective upon the earlier of July 1, 2019, or the effective date of implementing regulations by the State Corporation Commission, regulation of cooperative rates, report. (Patron—Sturtevant) .....

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**Electric utilities;** if State Corporation Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted that has bearing on Commission's determination. (Patron—Wagner) .....

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**Electric utilities;** net energy metering by electric cooperatives, community solar development regulation of cooperative rates after rate caps, stakeholder group, report. (Patron—Hugo) .....

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**Electric utilities;** stakeholder process for energy efficiency programs, independent monitor shall convene meetings of participants in the process not less frequently than twice in each calendar year ending July 1, 2028.

Patron—Sullivan ..... HB 2293 397 729  
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**Electric utilities;** State Corporation Commission shall establish pilot programs under which certain utilities may submit one or more petitions to provide or make available

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<b>Electric utilities;</b> State Corporation Commission to establish a pilot program that affords the opportunity for any municipality to participate in net energy metering, Commission shall require each utility to submit a proposal to conduct a pilot program, terms, conditions, and restrictions, report.			
Patron—Tran . . . . .	HB 2792	746	1728
Patron—Ebbin . . . . .	SB 1779	747	1729
<b>Electric vehicle charging stations;</b> Department of General Services, DMV, and Department of Transportation may locate and operate a retail fee-based station on any property or facility that such agency controls, etc. (Patron—Bulova) . . . . .	HB 1934	248	477
<b>Handheld personal communications devices;</b> unlawful for person while driving a motor vehicle to hold, in his hand, a device, definition of "highway work zone." (Patron—Mason) . . . . .	SB 1768	849	2001
<b>Natural gas utilities;</b> State Corporation Commission shall make available for public inspection within 30 days receipt of request of a report regarding investigation of death or injury to any person or damage to property resulting from a leak, etc. (Patron—McPike) . . . . .	SB 1176	501	884
<b>Public school buildings and facilities;</b> establishes standards for design, construction, maintenance, and operation, school board may enter into a lease agreement with a private entity to meet such standards, solar facilities shall be located on rooftops of buildings and facilities.			
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<b>Rezoning and site plan approval</b> ; any locality shall require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices, bonding provisions. (Patron—Ingram) . . . .	HB 2621	743	1725

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**Southwestern Virginia Training Center;** the Commonwealth shall not convey, sell, or otherwise dispose of certain real property in Carroll County outside the Town of Hillsville on which the former Center was situated. (Patron—Carrico) . . . . . SB 1509 610 1014

RECORDATION TAX

**Recordation tax;** exemption for property transferred by deed of distribution, such deed shall state therein on the front page that it is a deed of distribution. (Patron—McDougle) . . . . . SB 1610 757 1752

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**Death certificates;** requires the completed medical certification portion of a certificate to be filed electronically with the State Registrar of Vital Records through the Electronic Death Registration System, etc., Department of Health shall work with Virginia Morticians' Association, Inc., etc., to educate and encourage physicians, physician assistants, etc., to timely register with and utilize the System.  
Patron—Wilt . . . . . HB 2445 213 425  
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**Constitutional amendment;** Virginia Redistricting Commission established, apportionment, public meetings (first reference).  
Patron—Cole . . . . . HJR 615 821 1938  
Patron—Barker . . . . . SJR 306 824 1943  
**Redistricting;** Geographic Information System maps required, any county, city, or town that does not have GIS capabilities may request Department of Elections to create on its behalf, review by the Department of Elections.  
Patron—Sickles . . . . . HB 2760 777 1795  
Patron—Chase . . . . . SB 1018 778 1796

REFERENDUMS

**Alcoholic beverage control;** allows the sale of mixed beverages by licensed restaurants and the sale of alcoholic beverages by the Board of Directors of the Virginia Alcoholic Beverage Control Authority in any county, town, or supervisor's election district unless a referendum is held, etc., certain provisions of enactments shall become effective on July 1, 2020, repeals provision relating to licenses for establishments in national forests, certain adjoining lands, etc.  
Patron—Hurst . . . . . HB 2634 178 348  
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**Alcoholic beverage control;** notwithstanding the requirement for a referendum for liquor by the drink, Board of Directors of the Alcoholic Beverage Control Authority may issue a mixed beverage license to establishments located on property fronting Doe Creek Farm Road and various other properties. (Patron—Hurst) . . . . . HB 1905 175 346

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**Voter registration;** notification of denial by general registrars. (Patron—Marsden) . . . SB 1042 341 636

RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES

**Cemeteries;** adds the category of previously unidentified cemetery to the laws allowing for the removal of remains from graveyards or family cemeteries that have been abandoned or are unused and neglected by their owners. (Patron—McQuinn) . . . . . HB 2238 195 386  
**Government Data Collection and Dissemination Practices Act;** dissemination of information concerning religious preferences and affiliations. (Patron—Tran) . . . . . HB 2494 774 1784  
**Historical African American cemeteries;** adds Matthews Cemetery, The People's Cemetery, and Smith Street Cemetery in City of Martinsville to list. (Patron—Adams, L.R.) . . . . . HB 2406 252 481  
**Historical African American cemeteries;** adds New River Cemetery and West Dublin Cemetery in Pulaski County to list. (Patron—Hurst) . . . . . HB 1973 184 369  
**Historical African American cemeteries;** adds Oak Lawn Cemetery in City of Suffolk to list. (Patron—Hayes) . . . . . HB 2311 251 480

**RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES - Continued****Historical African American cemeteries;** adds seven cemeteries in City of Hampton to list.

Patron—McQuinn .....	HB 2681	257	485
Patron—Locke .....	SB 1128	268	504

**Historical African American cemeteries;** adds six cemeteries in the City of Alexandria to list. (Patron—Herring) .....

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**RESIDENTS OF THE ROLLINS FORD ROAD CORRIDOR****Residents of the Rollins Ford Road corridor;** commending. (Patron—Roem) .....

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**RESILIENCY WEEK****Resiliency Week;** designating as first week of September 2019, and each succeeding year thereafter. (Patron—Sturtevant) .....

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**RETAIL SALES AND USE TAX****Retail Sales and Use Tax;** absorption of tax by a dealer, repeals provision relating to absorption of tax prohibited. (Patron—McDougle) .....

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**Retail Sales and Use Tax;** clarifies definition of "nonprofit organization" or "nonprofit entity," exemption is available to a single member limited liability company whose sole member is a nonprofit organization. (Patron—Webert) .....

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**Retail Sales and Use Tax;** reduced rate on essential personal hygiene products, effective date.

Patron—Byron .....	HB 2540	549	956
Patron—Boysko .....	SB 1715	550	958

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**REVEREND DR. WYATT TEE WALKER DAY****The Reverend Dr. Wyatt Tee Walker Day;** designating as August 16, 2019, and each succeeding year thereafter. (Patron—Dance) .....

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**RICHMOND BALLET****Richmond Ballet;** commemorating its 35th anniversary. (Patron—Carr) .....

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**RICHMOND CAMERA****Richmond Camera;** commemorating its 80th anniversary. (Patron—Carr) .....

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**Marsh Criminal-Traffic Division at Manchester General District Court and John Marshall Criminal-Traffic Division at Richmond General District Court;** concurrent jurisdiction.

Patron—Adams, D.M. ....	HB 1742	321	614
Patron—McClellan .....	SB 1108	526	907

**Richmond, City of;** amending charter, runoff elections, procedures and deadlines for voter registration, etc.

Patron—McQuinn .....	HB 2052	306	593
Patron—Dance .....	SB 1193	110	175

**Richmond, City of;** restrictions on activities of former officers and employees.

Patron—Adams, D.M. ....	HB 2061	472	839
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<b>Private roads, certain, or rights-of-way;</b> removes requirement that a petitioner prove that a gate was willfully and maliciously erected in order for a court to require a landowner to make necessary and reasonable changes to a gate erected by such landowner. (Patron—Fariss) . . . . .	HB	2212	542 940
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<b>SALEM HIGH SCHOOL</b>			
<b>Salem High School</b> ; commemorating its 30th anniversary. (Patron—Convirs-Fowler) . . . . .	HR	328	3013
<b>Salem High School baseball team</b> ; commending. (Patron—Suetterlein) . . . . .	SR	162	3247
<b>SALES AND USE TAX</b>			
<b>Motor vehicle rental tax</b> ; filing sales and use tax return. (Patron—Bell, Robert B.) . . . . .	HB	1974	53 90
<b>Remote sales and use tax collection</b> ; sufficient activity by dealers and marketplace facilitators as to require registration for sales and use tax collection, guidelines that establish the criteria for obtaining a waiver, process and procedure for a marketplace facilitator or marketplace to seller to apply for waiver, Department of Taxation may temporarily suspend or delay the collection or reporting requirements, or both, of a market facilitator, repeals several contingent provisions of previous related bills that would take effect if the United States Congress enacted legislation related to remote sales and use tax collection.			
Patron—Bloxom . . . . .	HB	1722	815 1906
Patron—Ruff . . . . .	SB	1083	816 1917
<b>Retail Sales and Use Tax</b> ; absorption of tax by a dealer, repeals provision relating to absorption of tax prohibited. (Patron—McDougle) . . . . .	SB	1615	758 1755

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**SALES AND USE TAX - Continued**

<b>Retail Sales and Use Tax;</b> clarifies definition of "nonprofit organization" or "nonprofit entity," exemption is available to a single member limited liability company whose sole member is a nonprofit organization. (Patron—Webert) . . . . .	HB	1950	20	40
<b>Retail Sales and Use Tax;</b> reduced rate on essential personal hygiene products, effective date. Patron—Byron . . . . .	HB	2540	549	956
Patron—Boysko . . . . .	SB	1715	550	958
<b>Sales and Use Tax;</b> additional local tax in Halifax County, appropriations of Halifax County to incorporated towns for educational purposes. (Patron—Edmunds) . . . . .	HB	1634	648	1129
<b>Sports or entertainment project;</b> City of Virginia Beach granted certain powers relating to construction, sports and entertainment projects qualifying for entitlement to sales and use tax revenues. (Patron—Wagner) . . . . .	SB	1790	793	1861

**SALISBURY GARDEN CLUB**

<b>Salisbury Garden Club;</b> commemorating its 50th anniversary. (Patron—Adams, D.M.)	HR	391		3040
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**SANGSTER ELEMENTARY SCHOOL**

<b>Sangster Elementary School;</b> commending. (Patron—Tran) . . . . .	HR	434		3060
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**SCHAAR, SUSAN CLARKE**

<b>Schaar, Susan Clarke;</b> commending. (Patron—Dunnivant) . . . . .	SR	129		3232
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**SCHOLARSHIPS**

<b>Education Improvement Scholarships tax credits;</b> clarifies definition of "eligible pre-kindergarten child," etc., payout penalty. (Patron—Stanley) . . . . .	SB	1015	817	1928
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**SCHOOL BOARDS**

<b>Alternative education programs;</b> Department of Education shall annually collect from each school board and publish on its website various enrollment and achievement data on programs for students who have been suspended, expelled, or otherwise precluded from attendance at school, data shall include average length of enrollment in an alternative education program, etc. Patron—Bell, Richard P. . . . .	HB	1985	123	188
Patron—Barker . . . . .	SB	1298	232	454
<b>Cannabidiol oil and THC-A oil;</b> possession or distribution at public school, storing, dispensing, or administering by school nurse employed by a local school board, etc., to a student, no school board shall be required to suspend or expel any student who holds a valid written certification for use of oils issued by a practitioner. Patron—Hurst . . . . .	HB	1720	573	979
Patron—Sturtevant . . . . .	SB	1632	574	980
<b>Conflict of Interests Act, State and Local Government;</b> school boards and school employees, hiring of relatives by any school district. (Patron—Chafin) . . . . .	SB	1491	641	1122
<b>Guidance counselors;</b> changes name to school counselors, each counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students. (Patron—Landes) . . . . .	HB	1729	139	298
<b>Guidance counselors;</b> changes the name to school counselors and requires school boards to employ school counselors in accordance with certain ratios, effective with 2019-2020 school year. (Patron—Dance) . . . . .	SB	1406	796	1869
<b>Licensed local school board instructional or administrative employees;</b> service retirement allowance, extends sunset provision. (Patron—Chase) . . . . .	SB	1227	765	1770
<b>Naloxone;</b> possession and administration by school nurses and local health department employees, other school board employees or individuals contracted by a school board to provide school health services. (Patron—McGuire) . . . . .	HB	2318	212	421
<b>National Math and Science Initiative;</b> Department of Education shall encourage school boards of school divisions that have a significant number of enrolled military-connected students to partner with Initiative. (Patron—Wagner) . . . . .	SB	1746	772	1773
<b>Public elementary and secondary school students;</b> protective orders, notification to licensed instructional personnel and other school personnel, Board of Education shall establish guidelines and develop model policies to aid local school boards. (Patron—Price) . . . . .	HB	1997	579	983
<b>Public school buildings and facilities;</b> establishes standards for design, construction, maintenance, and operation, school board may enter into a lease agreement with a				

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**SCHOOL BOARDS - Continued**

private entity to meet such standards, solar facilities shall be located on rooftops of buildings and facilities.				
Patron—Rush .....	HB	2192	819	1934
Patron—Stanley .....	SB	1331	818	1930
<b>Public schools;</b> each school board shall develop and implement a policy to prohibit the use and distribution of any tobacco product or nicotine vapor product on a school bus, on school property, or at an on-site or off-site school-sponsored activity, board shall work to ensure adequate notice of this policy.				
Patron—Hope .....	HB	2384	246	472
Patron—Spruill .....	SB	1295	172	342
<b>School board employees;</b> Board of Education to include in its regulations that prescribe the requirements for the licensure of teachers and other school personnel required to hold a license, procedures for written reprimand of such license holders, notice of which shall be made by the Superintendent of Public Instruction to division superintendents, etc. (Patron—Thomas) .....	HB	2325	587	996
<b>School boards;</b> boards permitted to enter into College and Career Access Pathways Partnerships. (Patron—Carroll Foy) .....	HB	2123	582	984
<b>School boards;</b> development of a model memorandum of understanding, board in each school division in which the local law-enforcement agency employs school resource officers shall enter into a memorandum of understanding with such agency.				
Patron—Gilbert .....	HB	1733	455	816
Patron—Newman .....	SB	1214	502	884
<b>School Breakfast Program and National School Lunch Program;</b> school boards to determine eligibility, etc. (Patron—Roem) .....	HB	2400	228	451
<b>School buildings;</b> no school employee shall open or close an electronic room partition in any school building unless no student is present in such building, etc. (Patron—Sickles) .....	HB	1753	369	693
<b>School calendar;</b> local school boards shall set the calendar so that the first day students are required to attend school shall be no earlier than 14 days before Labor Day, school divisions granted waivers for 2018-2019 school year.				
Patron—Robinson .....	HB	1652	569	977
Patron—Chase .....	SB	1005	570	978
<b>School calendar;</b> school board of any school division located in Planning District 16 (George Washington RC) may set calendar so students are required to attend earlier than Labor Day. (Patron—Thomas) .....	HB	2140	637	1112
<b>School safety procedures;</b> each school board shall develop training on procedures in the event of an emergency situation on school property, training shall be delivered to each student and employee in each school at least once each school year. ....				
Patron—O'Quinn .....	HB	1732	140	303
Patron—Newman .....	SB	1215	61	101
<b>Virginia Public Procurement Act;</b> exempts counties, cities, school boards, and towns with populations greater than 3,500, competitive negotiation for professional services, cost of professional services expected to exceed \$80,000. (Patron—Gilbert)	HB	2198	427	766
<b>SCHOOL BUSES</b>				
<b>Public schools;</b> each school board shall develop and implement a policy to prohibit the use and distribution of any tobacco product or nicotine vapor product on a school bus, on school property, or at an on-site or off-site school-sponsored activity, board shall work to ensure adequate notice of this policy.				
Patron—Hope .....	HB	2384	246	472
Patron—Spruill .....	SB	1295	172	342
<b>SCHUCHERT, JOHANNA</b>				
<b>Schuchert, Johanna;</b> commending. (Patron—Howell) .....	SJR	360		3146
<b>2ND STREET FESTIVAL</b>				
<b>2nd Street Festival;</b> commemorating its 30th anniversary. (Patron—Bourne) .....	HJR	600		2707
<b>SELTZER-DUNY, LAURA</b>				
<b>Seltzer-Duny, Laura;</b> commending. (Patron—Mullin) .....	HJR	902		2839
<b>SEMMLER, RICHARD L.</b>				
<b>Semmler, Richard L.;</b> commending.				
Patron—Kory .....	HJR	728		2751
Patron—Kory .....	HR	243		2974

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<b>SENATE OF VIRGINIA</b>				
<b>Senate Ethics Advisory Panel</b> ; confirming appointments by Senate Committee on Rules. (Patron—McDougle) . . . . .	SR	143	3239	
<b>Senate of Virginia</b> ; 2019 operating resolution. (Patron—McDougle) . . . . .	SR	86	3209	
<b>Virginia Conflict of Interest and Ethics Advisory Council</b> ; confirming an appointment by Senate Committee on Rules. (Patron—McDougle) . . . . .	SJR	418	3177	
<b>SENIOR CITIZENS</b>				
<b>Aged or incapacitated adults</b> ; financial exploitation, authority of financial institution staff to refuse transactions or disbursements, etc.				
Patron—Toscano . . . . .	HB	1987	420	754
Patron—Obenshain . . . . .	SB	1490	421	756
<b>Aged or incapacitated adults</b> ; financial exploitation, reporting by financial institution staff, staff may provide supporting information and records. (Patron—O’Quinn) . . . .	HB	2225	339	634
<b>Real property tax</b> ; exemption for the elderly and disabled, improvements to a dwelling.				
Patron—Ingram . . . . .	HB	2150	736	1697
Patron—Dance . . . . .	SB	1196	737	1697
<b>Real property tax</b> ; exemptions for elderly and handicapped, computation of income limitation. (Patron—Krizek) . . . . .	HB	1937	16	22
<b>SENIOR CONNECTIONS</b>				
<b>Senior Connections, the Capital Area Agency on Aging</b> ; commending. (Patron—Carr) . . . . .	HJR	990	2887	
<b>SENIOR SERVICES OF SOUTHEASTERN VIRGINIA</b>				
<b>Senior Services of Southeastern Virginia</b> ; commending. (Patron—Lucas) . . . . .	SR	107	3221	
<b>SERPA, LAUREN</b>				
<b>Serpa, Lauren</b> ; commending. (Patron—Adams, D.M.) . . . . .	HR	349	3023	
<b>SERVICE DOGS LIBERTY AND JUSTICE</b>				
<b>Service dogs Liberty and Justice</b> ; commending. (Patron—Mullin) . . . . .	HJR	891	2834	
<b>SERVICE OF PROCESS</b>				
<b>No-fault divorce</b> ; waiver of service of process, waiver may occur if final decree of divorce as proposed by complainant is signed by the defendant, etc.				
Patron—Campbell, J.L. . . . .	HB	1945	133	283
Patron—Surovell . . . . .	SB	1541	237	458
<b>SEWAGE DISPOSAL AND SEWERAGE SYSTEMS</b>				
<b>Onsite sewage treatment systems</b> ; Department of Health shall develop a plan for oversight and enforcement of requirements, Department shall present plan before implementation. (Patron—Hodges) . . . . .	HB	2322	429	768
<b>SEXUAL OFFENSES</b>				
<b>Motor vehicles</b> ; no person who is required to register with the Sex Offender and Crimes Against Minors Registry or the federal National Sex Offender Public Website for an offense that is similar to a sexually violent offense may operate a taxicab for transportation of passengers for remuneration over the highways. (Patron—Collins) .	HB	2300	480	850
<b>Nondisclosure or confidentiality agreements</b> ; sexual assault, condition of employment. (Patron—Delaney) . . . . .	HB	1820	131	282
<b>Sex Offender and Crimes Against Minors Registry</b> ; reregistration schedule, copies of all forms to be used and guidelines for submitting such forms, shall be available through distribution by the State Police, etc., effective date.				
Patron—Watts . . . . .	HB	2089	613	1015
Patron—Mason . . . . .	SB	1418	614	1016
<b>SHARE, INC.</b>				
<b>Share, Inc.</b> ; commemorating its 50th anniversary. (Patron—Simon) . . . . .	HJR	746	2761	
<b>SHEIKH, M. SIDDIQUE</b>				
<b>Sheikh, M. Siddique</b> ; commending. (Patron—Black) . . . . .	SR	150	3241	
<b>SHENANDOAH AREA AGENCY ON AGING</b>				
<b>Shenandoah Area Agency on Aging</b> ; commending. (Patron—Gilbert) . . . . .	HJR	826	2801	
<b>SHENDOW, WILLIAM</b>				
<b>Shendow, William</b> ; recording sorrow upon death. (Patron—Collins) . . . . .	HR	368	3031	

**SHERIFFS**

**Inmate workforces;** eligibility for voluntary participation, approval of and under supervision of sheriff or his designee. (Patron—Collins) . . . . . HB 1935 199 391

**Sheriffs;** all marked motor vehicles used by offices shall conspicuously display on each front side door of such vehicles the words "Sheriff's Office" or "Sheriff," etc. (Patron—Gilbert) . . . . . HB 2585 298 575

**SHIPBUILDERS DAY**

**Shipbuilders Day;** designating as August 13, 2019, and each succeeding year thereafter. (Patron—Locke) . . . . . SJR 272 3074

**SHIPBUILDING**

**Advanced Shipbuilding Production Facility Grants;** grant availability dates.

Patron—Jones, S.C. . . . . HB 2362 36 63

Patron—Wagner . . . . . SB 1393 114 179

**SHUEMAKER, DONALD E., SR.**

**Shuemaker, Donald E., Sr.;** recording sorrow upon death. (Patron—Roem) . . . . . HR 451 3066

**SHUMADINE, ANNE B.**

**Shumadine, Anne B.;** recording sorrow upon death. (Patron—Jones, J.C.) . . . . . HJR 973 2877

**SIENICKI, CAREY J.**

**Sienicki, Carey J.;** commending. (Patron—Keam) . . . . . HJR 1127 2952

**SIGNATURE THEATRE**

**Signature Theatre;** commemorating its 30th anniversary. (Patron—Ebbin) . . . . . SJR 474 3206

**SILENCE EMPOWERS VIOLENCE BREAK THE CODE AWARENESS-TO-ACTION WEEK**

**Silence Empowers Violence Break the Code Awareness-to-Action Week;** designating as third full week of September 2019, and each succeeding year thereafter. (Patron—Price) . . . . . HJR 630 2718

**SILENCE EMPOWERS VIOLENCE COMMUNITY CARE AND ACTION TEAMS**

**Silence Empowers Violence Community Care and Action Teams;** commending. (Patron—Price) . . . . . HJR 1063 2923

**SILENT CHILDREN'S GARDEN**

**Silent Children's Garden;** commemorating its 10th anniversary. (Patron—Price) . . . . . HJR 944 2861

**SILVER, MAXINE LYONS**

**Silver, Maxine Lyons;** recording sorrow upon death. (Patron—Stuart) . . . . . SJR 396 3165

**SINGH, SUNIL**

**Singh, Sunil;** commending. (Patron—Black) . . . . . SR 152 3242

**SKIRVEN, JOHN N.**

**Skirven, John N.;** commending. (Patron—Stolle) . . . . . HJR 1036 2910

**SLOTNICK, FAY DUTKIN**

**Slotnick, Fay Dutkin;** recording sorrow upon death. (Patron—Ebbin) . . . . . SR 158 3244

**SMALL BUSINESSES**

**Small Business Investment Grant Fund;** investment in a small business on or after July 1, 2019, but prior to January 1, 2022, recapture of awards. (Patron—Herring) . . . . . HB 2347 35 62

**Tax assessments;** Small Business Commission to study models and streamlined procedure for appealing decisions. (Patron—Keam) . . . . . HJR 687 2733

**SMITH, KENNY**

**Smith, Kenny;** recording sorrow upon death. (Patron—Keam) . . . . . HJR 1030 2907

**SMITH, LLOYD THOMAS, JR.**

**Smith, Lloyd Thomas, Jr.;** recording sorrow upon death. (Patron—Deeds) . . . . . SJR 423 3180

**SMITH, MARSHALL WAYNE**

**Smith, Marshall Wayne;** recording sorrow upon death. (Patron—Adams, D.M.) . . . . . HR 247 2976

**SMITH, R. CARROLL, SR.**

**Smith, R. Carroll, Sr.;** commending. (Patron—Cosgrove) . . . . . SJR 264 3071

**SMOKEY BEAR**

**Smokey Bear;** commending his 75 years of service to educate the public about the dangers of unplanned human-caused forest fires. (Patron—Edmunds) . . . . . HR 340 3019

**SMOKING**

**Smoking in outdoor amphitheater or concert venue;** any locality, by ordinance, may designate reasonable no-smoking areas. (Patron—Edwards) . . . . . SB 1304 713 1574

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SMYTH COUNTY

- Southwestern Virginia Mental Health Institute;** the Commonwealth, with approval of the Governor, is authorized to transfer a portion of property to Mount Rogers Community Services Board and a portion of such property to Smyth County. (Patron—Carrico) . . . . . SB 1515 678 1251
- Trooper Lucas B. Dowell Bridge;** designating as the bridge on Interstate 81 in Smyth County over Whitetop Road. (Patron—Peake) . . . . . SB 1789 764 1770

SMYTH, LINDA Q.

- Smyth, Linda Q.;** commending.
  - Patron—Keam . . . . . HJR 1032 2908
  - Patron—Petersen . . . . . SJR 429 3183

SNODGRASS, INEZ FAYE

- Snodgrass, Inez Faye;** recording sorrow upon death. (Patron—O'Quinn) . . . . . HJR 707 2741

SNOOK, HELEN B.

- Snook, Helen B.;** recording sorrow upon death. (Patron—Toscano) . . . . . HJR 926 2852

SNYDER, EDWARD BROWN

- Snyder, Edward Brown;** recording sorrow upon death. (Patron—DeSteph) . . . . . SJR 349 3140

SOCIAL SERVICES, BOARD OF OR DEPARTMENT OF

- Assisted living facilities;** Board of Social Services to amend regulations governing staffing of certain units during overnight hours.
  - Patron—Rasoul . . . . . HB 2521 294 563
  - Patron—Mason . . . . . SB 1410 97 156
- Assisted living facility;** State Board of Social Services to amend its regulations regarding generator requirements. (Patron—Howell) . . . . . SB 1077 91 146
- Child support;** raises from \$25 to \$35 fee charged by State Board of Social Services to individuals who authorize the Department of Social Services to enforce obligations, etc. (Patron—Delaney) . . . . . HB 1819 165 330
- Taxation, Department of;** sharing information with the Department of Social Services. (Patron—Roem) . . . . . HB 2339 853 2005

SOLAR ENERGY

- Clean Energy Advisory Board;** established, membership, powers and duties, solar energy installation rebates, report, sunset provision. (Patron—Aird) . . . . . HB 2741 554 961
- Energy conservation measures;** establishes, providing incentives for development of electric energy delivered from sunlight. (Patron—O'Quinn) . . . . . HB 2789 748 1730
- Rezoning and site plan approval;** a locality shall require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices, bonding provisions. (Patron—Reeves) . . . . . SB 1091 744 1726
- Rezoning and site plan approval;** any locality shall require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices, bonding provisions. (Patron—Ingram) . . . . . HB 2621 743 1725

SOLZHENITSYN, ALEKSANDR ISAYEVICH

- Solzhenitsyn, Aleksandr Isayevich;** commemorating his life and legacy. (Patron—Ware) . . . . . HR 211 2959

SOUTH COUNTY HIGH SCHOOL

- South County High School;** commending. (Patron—Tran) . . . . . HR 443 3063
- South County High School band program;** commending. (Patron—Tran) . . . . . HJR 1111 2945
- South County High School boys' basketball team;** commending. (Patron—Tran) . . . . . HJR 1110 2945

SOUTH COUNTY MIDDLE SCHOOL

- South County Middle School;** commending. (Patron—Tran) . . . . . HR 444 3063

SOUTHEAST RURAL COMMUNITY ASSISTANCE PROJECT

- Southeast Rural Community Assistance Project;** commemorating its 50th anniversary. (Patron—Rasoul) . . . . . HR 426 3056

SOUTHERN AREA AGENCY ON AGING

- Southern Area Agency on Aging;** commending. (Patron—Marshall) . . . . . HJR 995 2889

SOUTHSIDE VIRGINIA WILDLIFE CENTER

- Southside Virginia Wildlife Center;** commending. (Patron—Edmunds) . . . . . HJR 589 2704

**SOUTHWEST VIRGINIA**

**Southwest Virginia Energy Research and Development Authority;** created, report, sunset provision.

Patron—Kilgore . . . . . HB 2747 555 963  
Patron—Chafin . . . . . SB 1707 556 965

**Southwest Virginia Higher Education Center;** powers and duties of board. (Patron—Carrico) . . . . .

SB 1511 766 1770

**Southwestern Virginia Training Center;** the Commonwealth shall not convey, sell, or otherwise dispose of certain real property in Carroll County outside the Town of Hillsville on which the former Center was situated. (Patron—Carrico) . . . . .

SB 1509 610 1014

**SPADY, EFFIE MARIE GIDDENS**

**Spady, Effie Marie Giddens;** recording sorrow upon death. (Patron—Lewis) . . . . . SJR 457 3199

**SPAIN, YVONNE ELIZABETH**

**Spain, Yvonne Elizabeth;** recording sorrow upon death. (Patron—Carr) . . . . . HJR 845 2811

**SPORTING EXHIBITIONS, EVENTS, AND FACILITIES**

**Sports or entertainment project;** City of Virginia Beach granted certain powers relating to construction, sports and entertainment projects qualifying for entitlement to sales and use tax revenues. (Patron—Wagner) . . . . .

SB 1790 793 1861

**SPRING HILL BAPTIST CHURCH**

**Spring Hill Baptist Church;** commemorating its 175th anniversary. (Patron—Wright) . . . . . HJR 828 2802

**SPRUILL, TYLER MCKELLAN**

**Spruill, Tyler McKellan;** recording sorrow upon death.

Patron—Freitas . . . . . HJR 905 2840  
Patron—Reeves . . . . . SJR 385 3159

**ST. AUGUSTINE'S EPISCOPAL CHURCH**

**St. Augustine's Episcopal Church;** commemorating its 30th anniversary of its Saturday Feeding Program. (Patron—Price) . . . . .

HJR 964 2872

**ST. PAUL ELEMENTARY SCHOOL**

**St. Paul Elementary School;** commending. (Patron—Pillion) . . . . . HR 338 3018

**ST. TIMOTHY'S EPISCOPAL CHURCH**

**St. Timothy's Episcopal Church;** commemorating its 150th anniversary in 2018. (Patron—Boysko) . . . . .

SJR 407 3171

**STANDARDS OF LEARNING**

**Standards of Learning Innovation Committee;** repeals the Committee. (Patron—Newman) . . . . .

SB 1728 771 1773

**STATE AGENCIES**

**Electric vehicle charging stations;** Department of General Services, DMV, and Department of Transportation may locate and operate a retail fee-based station on any property or facility that such agency controls, etc. (Patron—Bulova) . . . . .

HB 1934 248 477

**Highways, bridges, interchanges, and other transportation facilities;** cost of signage when named after a state official killed during performance of his official duties, etc., costs of producing, placing, and maintaining these signs shall be paid from Commonwealth Transportation Funds, Board must receive a letter or resolution from head of state agency by which state official was employed requesting such naming, etc. (Patron—Carrico) . . . . .

SB 1505 802 1882

**State agencies and employees;** break time and location for employees to express breast milk. (Patron—Yancey) . . . . .

HB 1916 280 524

**Virginia Public Procurement Act;** high-risk contracts, definition, Department of General Services and Virginia Information Technologies Agency shall develop guidelines for state agencies to use when assigning staff to administer contracts, report. (Patron—Carr) . . . . .

HB 1668 601 1006

**STATE CORPORATION COMMISSION**

**Assumed or fictitious name certificates;** conforms January 1, 2020, as the date when certificates are to be filed centrally with the clerk of the State Corporation Commission rather than with the clerk of court. (Patron—Keam) . . . . .

HB 1925 464 828

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STATE CORPORATION COMMISSION - Continued

**Banks;** capital stock, repeals a provision that bars the State Corporation Commission from authorizing a bank to commence business if commissions or other compensation have been paid by the bank for the sale of stock in the bank.

Patron—Yancey .....	HB 2419	253	482
Patron—Saslaw .....	SB 1609	254	483

**Consumer data;** State Corporation Commission shall convene and facilitate a Data Access Stakeholder group to review and consider protection issues, report. (Patron—Keam) .....

HB 2332	399	730
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**Electric cooperatives;** authorizes any electric cooperative to increase or decrease its rates without State Corporation Commission approval for any of its services, cooperatives that are not current members of a utility aggregation cooperative may petition State Corporation Commission for approval of one or more rate adjustment clauses, etc., a cooperative may adopt any other cooperative's voluntary rate, program, or tariff, etc. (Patron—Newman) .....

SB 1346	625	1053
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**Electric utilities;** definitions, if State Corporation Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted that has bearing on Commission's decision. (Patron—Sullivan) .....

HB 2292	741	1702
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**Electric utilities;** establishes requirements for net energy metering by electric cooperatives effective upon the earlier of July 1, 2019, or the effective date of implementing regulations by the State Corporation Commission, regulation of cooperative rates, report. (Patron—Sturtevant) .....

SB 1769	763	1759
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**Electric utilities;** if State Corporation Commission determines that an energy efficiency program or portfolio of programs is not in the public interest, its final order shall include all work product and analysis conducted that has bearing on Commission's determination. (Patron—Wagner) .....

SB 1662	773	1774
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**Electric utilities;** State Corporation Commission shall establish pilot programs under which certain utilities may submit one or more petitions to provide or make available broadband capacity to nongovernmental Internet service providers to unserved areas of the Commonwealth. (Patron—O'Quinn) .....

HB 2691	619	1042
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**Electric utilities;** State Corporation Commission to establish a pilot program that affords the opportunity for any municipality to participate in net energy metering, Commission shall require each utility to submit a proposal to conduct a pilot program, terms, conditions, and restrictions, report.

Patron—Tran .....	HB 2792	746	1728
Patron—Ebbin .....	SB 1779	747	1729

**Judges;** election in Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, member of Judicial Inquiry and Review Commission, and member of State Corporation Commission. (Patron—Adams, L.R.)

HJR 718		2746
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**Natural gas utilities;** State Corporation Commission shall make available for public inspection within 30 days receipt of request of a report regarding investigation of death or injury to any person or damage to property resulting from a leak, etc. (Patron—McPike) .....

SB 1176	501	884
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**State Corporation Commission;** nomination for election of a member.

Patron—Kilgore .....	HR 224		2965
Patron—Wagner .....	SR 97		3216

STENKE, GEORGE

**Stenke, George;** recording sorrow upon death. (Patron—Stolle) .....

HJR 1060		2921
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STEP SISTERS

**Step Sisters;** commemorating its fifth anniversary. (Patron—Bell, John J.) .....

HR 400		3044
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STILES, GEORGE EDWARD ROBERTSON

**Stiles, George Edward Robertson;** recording sorrow upon death. (Patron—Peace) ...

HJR 633		2720
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STIVERS, JENNIFER MARABLE

**Stivers, Jennifer Marable;** recording sorrow upon death. (Patron—Dunnivant) .....

SJR 387		3160
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STOOTS, ROBERT

**Stoots, Robert;** commending. (Patron—Hurst) .....

HJR 878		2827
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STOP CHILD ABUSE NOW OF NORTHERN VIRGINIA

**Stop Child Abuse Now of Northern Virginia;** commemorating its 30th anniversary.

Patron—Kory .....	HJR 624		2716
Patron—Kory .....	HR 239		2972

**STOP THE FLOODING NOW**

**Stop the Flooding NOW**; commending. (Patron—Convirs-Fowler) . . . . . HR 292 2996

**STORMWATER MANAGEMENT**

**C-PACE loans**; any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy or resiliency improvements with free and willing property owners of both existing properties and new construction, improvements may include mitigation of flooding or impacts of flooding or stormwater management improvements, etc. (Patron—Lewis) . . . . . SB 1559 753 1749

**C-PACE loans**; any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of stormwater management improvements with free and willing property owners of both existing properties and new construction. (Patron—Petersen) . . . . . SB 1400 564 973

**Residential real property**; information on covenants, required disclosures, stormwater management facilities. (Patron—Murphy) . . . . . HB 2019 390 716

**Stormwater Management Fund, local**; locality by ordinance authorized to create.  
Patron—Cole . . . . . HB 1614 344 643  
Patron—Reeves . . . . . SB 1248 559 969

**STRAUSS, JANE**

**Strauss, Jane**; commending. (Patron—Murphy) . . . . . HJR 1062 2922

**STRICKLAND, TROY EVERETTE**

**Strickland, Troy Everette**; recording sorrow upon death. (Patron—Edmunds) . . . . . HJR 596 2706

**STUART, BOB**

**Stuart, Bob**; commending. (Patron—Landes) . . . . . HJR 740 2757

**STUART, SHERLEY**

**Stuart, Sherley**; commending. (Patron—Rasoul) . . . . . HJR 949 2864

**STUDENTS**

**Alternative education programs**; Department of Education shall annually collect from each school board and publish on its website various enrollment and achievement data on programs for students who have been suspended, expelled, or otherwise precluded from attendance at school, data shall include average length of enrollment in an alternative education program, etc.  
Patron—Bell, Richard P. . . . . HB 1985 123 188  
Patron—Barker . . . . . SB 1298 232 454

**Cannabidiol oil and THC-A oil**; possession or distribution at public school, storing, dispensing, or administering by school nurse employed by a local school board, etc., to a student, no school board shall be required to suspend or expel any student who holds a valid written certification for use of oils issued by a practitioner.  
Patron—Hurst . . . . . HB 1720 573 979  
Patron—Sturtevant . . . . . SB 1632 574 980

**Concussions in student-athletes**; guidelines, policies, and procedures shall be biennially updated. (Patron—Bell, Richard P.) . . . . . HB 1930 142 304

**Education Improvement Scholarships tax credits**; benefits and eligibility requirements, eligible students with a disability, provisions shall apply to taxable years beginning on and after January 1, 2019, but before January 1, 2024. (Patron—DeSteph) . . . . . SB 1365 808 1893

**Guidance counselors**; changes name to school counselors, each counselor employed by a school board in a public elementary or secondary school shall spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students. (Patron—Landes) . . . . . HB 1729 139 298

**High school graduation requirements**; work experience, requires students to complete a senior capstone project, etc., that relates to a work-based learning, service-learning, or community engagement activity, report. (Patron—Landes) . . . . . HB 2662 640 1119

**Higher educational institution, public or private**; comprehensive financial aid award notification provided to a student. (Patron—Reid) . . . . . HB 1704 571 979

**Higher educational institutions, public**; educational programs for the governing boards shall include presentations relating to a review of student debt trends. (Patron—Miyares) . . . . . HB 2620 643 1123

**Higher educational institutions, public**; educational programs for the governing boards shall include presentations relating to board members' primary duty to the citizens of the Commonwealth and student debt trends. (Patron—DeSteph) . . . . . SB 1234 642 1122

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STUDENTS - Continued

**Military families;** relocation to the Commonwealth, students may register, remotely or in-person, for courses and other academic programs, etc.

Patron—Cole . . . . .	HB 1623	404	733
Patron—Reeves . . . . .	SB 1249	62	101

**National Math and Science Initiative;** Department of Education shall encourage school boards of school divisions that have a significant number of enrolled military-connected students to partner with Initiative. (Patron—Wagner) . . . . .

SB 1746	772	1773
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**Public elementary and secondary school students;** protective orders, notification to licensed instructional personnel and other school personnel, Board of Education shall establish guidelines and develop model policies to aid local school boards. (Patron—Price) . . . . .

HB 1997	579	983
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**Public schools;** Board of Education shall identify and prohibit use of any method of restraint or seclusion that it determines poses a significant danger to the student, etc. (Patron—Bell, John J.) . . . . .

HB 2599	591	1001
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**Reading diagnostic tests;** Department of Education, et al., shall develop a plan to implement a pilot program to incorporate additional diagnostic tools into tests used for screening students in kindergarten through grade three. (Patron—Black) . . . . .

SB 1718	770	1772
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**School calendar;** local school boards shall set the calendar so that the first day students are required to attend school shall be no earlier than 14 days before Labor Day, school divisions granted waivers for 2018-2019 school year.

Patron—Robinson . . . . .	HB 1652	569	977
Patron—Chase . . . . .	SB 1005	570	978

**School calendar;** school board of any school division located in Planning District 16 (George Washington RC) may set calendar so students are required to attend earlier than Labor Day. (Patron—Thomas) . . . . .

HB 2140	637	1112
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**School safety procedures;** each school board shall develop training on procedures in the event of an emergency situation on school property, training shall be delivered to each student and employee in each school at least once each school year. . . . .

Patron—O’Quinn . . . . .	HB 1732	140	303
Patron—Newman . . . . .	SB 1215	61	101

**Students;** offenses reportable by intake officers to school division superintendents, a threat to commit seriously bodily harm to persons on school property, etc.

Patron—Ransone . . . . .	HB 1787	106	170
Patron—McDougle . . . . .	SB 1381	206	398

**University of Virginia’s College at Wise;** reduced rate tuition, students who reside in and are domiciled in Appalachian Region.

Patron—Kilgore . . . . .	HB 1666	225	450
Patron—Carrico . . . . .	SB 1519	600	1006

STUDY COMMISSIONS, COMMITTEES, AND REPORTS

**Absentee voting;** no-excuse, in-person, beginning on second Saturday immediately preceding election, report.

Patron—Rush . . . . .	HB 2790	668	1204
Patron—Spruill . . . . .	SB 1026	669	1212

**Amtrak or intercity passenger rail stations;** Department of Rail and Public Transportation shall evaluate rail signage options, report. (Patron—Bagby) . . . . .

HB 2737	553	961
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**Behavioral health services;** exchange of medical and mental health information and records, standards for services provided in correctional facilities, report. (Patron—Bell, Robert B.) . . . . .

HB 1942	827	1949
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**Central Criminal Records Exchange;** reports to the Exchange, duties and responsibilities of local community-based probation officers, unapplied criminal history record information.

Patron—Bell, Robert B. . . . .	HB 2343	783	1823
Patron—Obenshain . . . . .	SB 1602	782	1809

**Child Pornography Registry;** contents of Registry, criminal investigations, report.

Patron—Bell, Robert B. . . . .	HB 1940	3	3
Patron—McDougle . . . . .	SB 1379	42	76

**Child protective services;** investigations and family assessments, contact information, report. (Patron—Morefield) . . . . .

HB 2743	436	786
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**Cigarette taxes;** definitions of noncombustible tobacco products, tobacco heated by an electronic device, extends study report date. (Patron—Norment) . . . . .

SB 1371	790	1858
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**STUDY COMMISSIONS, COMMITTEES, AND REPORTS - Continued**

<b>Clean Energy Advisory Board;</b> established, membership, powers and duties, solar energy installation rebates, report, sunset provision. (Patron—Aird) . . . . .	HB 2741	554	961
<b>Coal combustion residuals impoundment;</b> definitions, "carrying cost," owner or operator of certain CCR unit located within Chesapeake Bay watershed, that ceased accepting CCR prior to July 1, 2019, shall complete closure of such unit, report, Commonwealth shall not authorize any cost recovery by an owner or operator for any fines or civil penalties resulting from violations of federal and state law.			
Patron—Ingram . . . . .	HB 2786	650	1136
Patron—Wagner . . . . .	SB 1355	651	1137
<b>Commercial vehicles;</b> certain Class A driver training schools to be third party testers for the skills test component of the license examination, waiver of requirement that third party tester applicant employ 50 drivers, report.			
Patron—Austin . . . . .	HB 2183	155	315
Patron—Newman . . . . .	SB 1347	78	115
<b>Consumer data;</b> State Corporation Commission shall convene and facilitate a Data Access Stakeholder group to review and consider protection issues, report. (Patron—Keam) . . . . .	HB 2332	399	730
<b>Corrections, Department of;</b> development of policies to improve exchange of offender medical and mental health information and records, report. (Patron—Watts)	HB 2499	202	394
<b>Dental hygienist;</b> remote supervision of a dentist employed by Department of Behavioral Health and Developmental Services or Department of Health, report, implementation of provisions. (Patron—Adams, D.M.) . . . . .	HB 1849	86	131
<b>Dulles Greenway;</b> Department of Transportation to study feasibility of purchasing all or part of Greenway. (Patron—Black) . . . . .	SJR 254		3069
<b>Electric utilities;</b> establishes requirements for net energy metering by electric cooperatives effective upon the earlier of July 1, 2019, or the effective date of implementing regulations by the State Corporation Commission, regulation of cooperative rates, report. (Patron—Sturtevant) . . . . .	SB 1769	763	1759
<b>Electric utilities;</b> net energy metering by electric cooperatives, community solar development regulation of cooperative rates after rate caps, stakeholder group, report. (Patron—Hugo) . . . . .	HB 2547	742	1715
<b>Electric utilities;</b> stakeholder process for energy efficiency programs, independent monitor shall convene meetings of participants in the process not less frequently than twice in each calendar year ending July 1, 2028.			
Patron—Sullivan . . . . .	HB 2293	397	729
Patron—Ebbin . . . . .	SB 1605	398	730
<b>Electric utilities;</b> State Corporation Commission to establish a pilot program that affords the opportunity for any municipality to participate in net energy metering, Commission shall require each utility to submit a proposal to conduct a pilot program, terms, conditions, and restrictions, report.			
Patron—Tran . . . . .	HB 2792	746	1728
Patron—Ebbin . . . . .	SB 1779	747	1729
<b>Electronic transmission of certain prescriptions;</b> exceptions if prescriber dispenses the controlled substance that contains an opioid directly to patient or patient's agent, etc., report. (Patron—Pillion) . . . . .	HB 2559	664	1194
<b>Emergency Management, Virginia Department of;</b> annual reporting requirements, etc., repeals provisions referring to agency mandates on localities. (Patron—Jones, J.C.) . . . . .	HB 2133	615	1017
<b>Energy career cluster;</b> Department of Education, et al., to establish, report.			
Patron—Garrett . . . . .	HB 2008	370	693
Patron—Newman . . . . .	SB 1348	371	693
<b>Eviction Diversion Pilot Program;</b> established, administration oversight of implementation of Program, report.			
Patron—Collins . . . . .	HB 2655	355	657
Patron—Locke . . . . .	SB 1450	356	659
<b>Firearms ordinances;</b> applicability to property located in multiple localities, landowner may elect to have ordinances of locality in which largest portion of contiguous parcel of land lies to apply to anyone hunting on the property, notification to Department of Game and Inland Fisheries, report. (Patron—Head) . . . . .	HB 2252	830	1954
<b>Foster care;</b> numerous changes to laws governing provision of services in the Commonwealth. (Patron—Reeves) . . . . .	SB 1339	446	794

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STUDY COMMISSIONS, COMMITTEES, AND REPORTS - Continued

<b>Fraud prevention;</b> Department of Medical Assistance Services shall conduct a pilot program to develop and implement means to mitigate risk of improper payment to services providers, etc., report. (Patron—Peace) . . . . .	HB	2015	422	758
<b>Handheld photo speed monitoring devices;</b> Department of State Police or law-enforcement officer employed by Department may operate in or around highway work zones where law-enforcement vehicle is present and displaying lighted blue or blue combination lights, mailing of certain summons by first-class mail to owner, etc., of vehicle, report. (Patron—Carrico) . . . . .	SB	1521	842	1986
<b>Health care shared savings;</b> definitions, health insurance incentive programs, required disclosures by health care providers. Patron—Byron . . . . .	HB	2639	666	1198
Patron—Dunnivant . . . . .	SB	1611	684	1259
<b>Health information;</b> Department of Behavioral Health and Developmental Services shall convene a workgroup to study issue of and to develop a plan for sharing of protected information of individuals with mental health treatment needs between community services boards and local and regional jails. (Patron—Boysko) . . . . .	SB	1644	685	1262
<b>High school graduation requirements;</b> work experience, requires students to complete a senior capstone project, etc., that relates to a work-based learning, service-learning, or community engagement activity, report. (Patron—Landes) . . . . .	HB	2662	640	1119
<b>Higher educational institutions, public;</b> increase of undergraduate tuition and mandatory fees, prior to voting on increase, governing board of each institution shall permit public comment on proposed increase at a meeting of the board, report. (Patron—Landes) . . . . .	HB	2337	588	999
<b>Highways, Commissioner of;</b> annual report on certain data regarding operation of overweight trucks on highways. Patron—Garrett . . . . .	HB	2800	401	732
Patron—Carrico . . . . .	SB	1775	568	977
<b>Human Resource Management, Department of;</b> review of employee recruitment, retention, and compensation, report. (Patron—Carr) . . . . .	HB	2055	424	759
<b>Industrial hemp;</b> clarifies definition of "hemp product," conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law, testing of Cannabis sativa, reports, abolishes the higher education and Virginia industrial hemp research programs, etc. Patron—Marshall . . . . .	HB	1839	653	1140
Patron—Ruff . . . . .	SB	1692	654	1159
<b>Interstate 81;</b> Interstate 81 Corridor Improvement Fund created, Interstate 81 Committee established, Committee's meetings shall rotate between locations, report, responsibilities of Commonwealth Transportation Board and Department of Transportation, additional fees for certain vehicles, additional tax per gallon on diesel fuel, disposition of tax revenues, etc. Patron—Landes . . . . .	HB	2718	837	1971
Patron—Obenshain . . . . .	SB	1716	846	1990
<b>Interstate 95;</b> Commonwealth Transportation Board to study portion of corridor between Exit 118 and Springfield Interchange and financing options for improvements. Patron—Cole . . . . .	HJR	581		2702
Patron—Reeves . . . . .	SJR	276		3076
<b>Local workforce development boards;</b> career pathways for opportunity youth, report. (Patron—James) . . . . .	HB	2726	593	1002
<b>Long-term care;</b> expediting review of applications, report. (Patron—Torian) . . . . .	HB	2474	430	769
<b>Maternal Mortality Review Team;</b> created, duties, report. (Patron—Robinson) . . . . .	HB	2546	834	1961
<b>Mental Health Services in the Commonwealth in the Twenty-First Century, Joint Subcommittee Studying;</b> continued. (Patron—Deeds) . . . . .	SJR	301		3113
<b>Military retirement income;</b> Department of Veterans Services and the Department of Taxation to convene a joint working group to study the feasibility of exempting income from taxation. (Patron—Torian) . . . . .	HJR	674		2732
<b>Motor vehicle insurance;</b> compliance verification by DMV. Patron—Kilgore . . . . .	HB	1867	149	309
Patron—Newman . . . . .	SB	1787	193	382

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**STUDY COMMISSIONS, COMMITTEES, AND REPORTS - Continued**

<b>Motor Vehicles, Department of;</b> hearings, motor vehicle dealers, report. (Patron—DeSteph) . . . . .	SB	1499	751	1747
<b>Music therapists;</b> Board of Health Professions shall evaluate whether therapists and practice of music therapy should be regulated and the degree of regulation to be imposed, report. (Patron—Vogel) . . . . .	SB	1547	680	1253
<b>Pharmacy, Board of;</b> alters definition of cannabidiol oil and tetrahydrocannabinol oil, regulation of pharmaceutical processors, report. (Patron—Dunnivant) . . . . .	SB	1557	681	1253
<b>Pharmacy collaborative practice agreements, standing orders, and statewide protocols in the Commonwealth;</b> Joint Commission on Health Care to study the dispensing of drugs and devices pursuant to prescriptions. (Patron—Stolle) . . . . .	HJR	662		2728
<b>Physical evidence recovery kits;</b> Department of Forensic Science shall maintain a statewide electronic tracking system for kits, etc., health care providers, law-enforcement agencies, etc., shall be required to enter identification number and other information pertaining to the kits in the System as required. (Patron—Watts) . .	HB	2080	473	840
<b>Rainwater;</b> Department of Health to evaluate additional issues related to use as part of the rulemaking process. (Patron—Yancey) . . . . .	HJR	641		2723
<b>Reading diagnostic tests;</b> Department of Education, et al., shall develop a plan to implement a pilot program to incorporate additional diagnostic tools into tests used for screening students in kindergarten through grade three. (Patron—Black) . . . . .	SB	1718	770	1772
<b>Restrictive housing;</b> data collection and reporting, Department of Corrections' restrictive housing shall, at a minimum, adhere to standards adopted by the American Correctional Association, the accrediting body for the corrections industry, annual report. Patron—Hope . . . . .	HB	1642	453	815
Patron—Saslaw . . . . .	SB	1777	516	898
<b>Robert O. Norris Bridge and Statewide Special Structure Fund;</b> created, report, Commonwealth Transportation Board shall evaluate feasibility of using the Public-Private Transportation Act of 1995 to design, build, operate, and maintain two bridges, etc. Patron—Hodges . . . . .	HB	2784	349	652
Patron—McDougle . . . . .	SB	1749	83	121
<b>School and Campus Safety, Virginia Center for;</b> guidelines on information sharing. (Patron—Dunnivant) . . . . .	SB	1591	719	1585
<b>School-based health centers;</b> Virginia's Children's Cabinet shall establish a joint task force who shall be tasked with assessing the current landscape of school-based services and mental health screening, etc. (Patron—Dance) . . . . .	SB	1195	445	793
<b>Sex Trafficking Response Coordinator;</b> establishes position, duties, report. Patron—Krizek . . . . .	HB	2576	486	857
Patron—Vogel . . . . .	SB	1669	514	897
<b>Shingles prevention;</b> Virginia Department of Health to take action to increase awareness of shingles. (Patron—Stolle) . . . . .	HJR	626		2718
<b>Southwest Virginia Energy Research and Development Authority;</b> created, report, sunset provision. Patron—Kilgore . . . . .	HB	2747	555	963
Patron—Chafin . . . . .	SB	1707	556	965
<b>Specialty dockets;</b> Office of the Executive Secretary of the Supreme Court shall develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets, report. Patron—Stolle . . . . .	HB	2665	13	17
Patron—Cosgrove . . . . .	SB	1655	51	85
<b>Sports or entertainment project;</b> City of Virginia Beach granted certain powers relating to construction, sports and entertainment projects qualifying for entitlement to sales and use tax revenues. (Patron—Wagner) . . . . .	SB	1790	793	1861
<b>State hospitals for individuals with mental illness;</b> Secretary of Health and Human Resources shall convene a work group to examine causes of high census at the Commonwealth's state hospitals. (Patron—Hanger) . . . . .	SB	1488	609	1013
<b>Submerged fiber optic cables;</b> Virginia Marine Resources Commission to study the feasibility of creating protection zones located along or being developed on Virginia's shores. (Patron—DeSteph) . . . . .	SJR	309		3115
<b>Tax assessments;</b> Small Business Commission to study models and streamlined procedure for appealing decisions. (Patron—Keam) . . . . .	HJR	687		2733

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STUDY COMMISSIONS, COMMITTEES, AND REPORTS - Continued

**Teacher licensure;** Board of Education shall provide for issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools, Chancellor of the Virginia Community College or his designee shall serve as an ex officio member of the Advisory Board on Teacher Education and Licensure, report. (Patron—Ebbin) . . . . . SB 1575 767 1771

**Tech Talent Investment Program and Fund;** created, educational records and certain records of educational institutions, definitions, report.  
 Patron—Rush . . . . . HB 2490 638 1112  
 Patron—Ruff . . . . . SB 1617 639 1115

**Virginia African American Advisory Board;** established, membership, report. (Patron—Bagby) . . . . . HB 2767 594 1002

**Virginia Land Conservation Foundation;** list of proposed project proposals. (Patron—Krizek) . . . . . HB 2009 539 938

**Virginia Lottery Board;** regulation of casino gaming, penalties, report. (Patron—Lucas) . . . . . SB 1126 789 1848

**Virginia Polytechnic Institute and State University and Virginia State University;** joint plan for establishment of a baccalaureate or other degree program. (Patron—Orrock) . . . . . HB 2702 592 1001

**Virginia Public Procurement Act;** high-risk contracts, definition, Department of General Services and Virginia Information Technologies Agency shall develop guidelines for state agencies to use when assigning staff to administer contracts, report. (Patron—Carr) . . . . . HB 1668 601 1006

**Virginia Public Records Act;** implementation in local school divisions, recommendations. (Patron—Ransone) . . . . . HB 1788 575 981

**Virginia Water Quality Improvement Fund;** grants for design and installation of wastewater conveyance infrastructure estimates of future funding requests, Stormwater Local Assistance Fund. (Patron—Bulova) . . . . . HB 1822 533 916

SUBDIVISION OF LAND

**Subdivision ordinance;** any locality allowed to include provisions requiring that where a lot being subdivided or developed fronts on an existing street or when provision of a sidewalk, the need for which is substantially generated and reasonably required by proposed development, is in accordance with locality's adopted comprehensive plan.  
 Patron—Bulova . . . . . HB 1913 461 824  
 Patron—Barker . . . . . SB 1663 462 826

SUFFOLK CHRISTIAN ACADEMY

**Suffolk Christian Academy softball team;** commending. (Patron—Jones, S.C.) . . . . . HJR 714 2745

SUFFOLK, CITY OF

**Historical African American cemeteries;** adds Oak Lawn Cemetery in City of Suffolk to list. (Patron—Hayes) . . . . . HB 2311 251 480

SUICIDE

**Public schools;** parental review of certain anti-bullying and suicide prevention materials. (Patron—Ransone) . . . . . HB 2107 581 983

SULLY ELEMENTARY SCHOOL

**Sully Elementary School;** commemorating its 50th anniversary. (Patron—Boysko) . . . . . SJR 449 3195

SUMMONS AND PROCESS

**Summons;** removes authorization of a summons to compel attendance before commissioner of another state. (Patron—Bourne) . . . . . HB 1924 519 900

**Summons for unlawful detainer;** if an initial hearing cannot be held within 21 days from the date of filing, it shall be held as soon as practicable, but not later than 30 days after the date of the filing, termination notice.  
 Patron—Bourne . . . . . HB 1922 132 282  
 Patron—Barker . . . . . SB 1627 130 281

SUPREME COURT OF VIRGINIA

**Judge;** nomination for election to Supreme Court of Virginia.  
 Patron—Adams, L.R. . . . . HR 286 2993  
 Patron—Obenshain . . . . . SR 120 3228

**Judges;** election in Supreme Court of Virginia, Court of Appeals of Virginia, circuit court, general district court, juvenile and domestic relations district court, and a member of the Judicial Inquiry and Review Commission. (Patron—Adams, L.R.) . . . . . HJR 979 2881

**SUPREME COURT OF VIRGINIA - Continued**

**Specialty dockets;** Office of the Executive Secretary of the Supreme Court shall develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets, report.

Patron—Stolle .....	HB 2665	13	17
Patron—Cosgrove .....	SB 1655	51	85

**SUSANNA BOLLING DAY**

**Susanna Bolling Day;** designating as December 5, 2019, and each succeeding year thereafter. (Patron—Ingram) .....

HJR 649 2725

**SYLVAN LEARNING IN STERLING**

**Sylvan Learning in Sterling;** commending the occasion of their 40th year of helping students in the Commonwealth achieve academic success. (Patron—Bell, John J.) ..

HJR 1070 2926

**SYNERGY DESIGN & CONSTRUCTION**

**Synergy Design & Construction;** commending. (Patron—Howell) .....

SJR 392 3163

**TAIWAN DAY**

**Taiwan Day;** designating as October 10, 2019, and each succeeding year thereafter. (Patron—Morefield) .....

HJR 659 2728

**TALLEY, WILLIAM H., III**

**Talley, William H., III;** commending. (Patron—Dance) .....

SJR 398 3166

**TALMAN, EDWARD ARMISTEAD**

**Talman, Edward Armistead;** recording sorrow upon death. (Patron—Adams, D.M.) ..

HR 232 2969

**TAMARIND INDIAN CUISINE**

**Tamarind Indian Cuisine;** commending. (Patron—Bell, John J.) .....

HR 398 3044

**TASSA, KATHERINE E.**

**Tassa, Katherine E.;** commending. (Patron—DeSteph) .....

SJR 466 3203

**TAXATION**

**All-terrain vehicles (ATVs), mopeds, and off-road motorcycles;** clarifies taxation on vehicles, etc., in any city or county located within the Historic Triangle, an additional one percent tax shall be imposed. (Patron—Orrock) .....

HB 1679 52 85

**Cigarette taxes;** definitions of noncombustible tobacco products, tobacco heated by an electronic device, extends study report date. (Patron—Norment) .....

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**Clerks of court;** collection of DNA sample for certain offenses, disclosure of tax information, repeals the provision of law establishing the Torrens system. (Patron—Chafin) .....

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**Clerks of court;** disclosure of tax information. (Patron—Campbell, R.R.) .....

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**Constitutional amendment;** personal property tax exemption for one motor vehicle owned and used primarily by or for a disabled veteran, "motor vehicle" shall include only automobiles and pickup trucks, exception (first reference).

Patron—Filler-Corn .....

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**Education Improvement Scholarships tax credits;** benefits and eligibility requirements, eligible students with a disability, provisions shall apply to taxable years beginning on and after January 1, 2019, but before January 1, 2024. (Patron—DeSteph) .....

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**Education Improvement Scholarships tax credits;** clarifies definition of "eligible pre-kindergarten child," etc., payout penalty. (Patron—Stanley) .....

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**Historic rehabilitation;** limit on tax credit that may be claimed. (Patron—Bloxom) ..

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**Income tax, state;** adds Page County to the list of qualified localities in which a company may invest to become eligible for income tax modification.

Patron—Gilbert .....

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**Income tax, state;** creates a subtraction for gain recognized by a taxpayer from a taking of real property by condemnation proceedings. (Patron—Ruff) .....

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**Income tax, state;** expands the definition of "eligible housing area" for purposes of the housing choice voucher tax credit, to include census tracts in the Virginia Beach-Norfolk-Newport News Metropolitan Statistical Area.

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**Interstate 81;** Interstate 81 Corridor Improvement Fund created, Interstate 81 Committee established, Committee's meetings shall rotate between locations, report, responsibilities of Commonwealth Transportation Board and Department of Transportation, additional fees for certain vehicles, additional tax per gallon on diesel fuel, disposition of tax revenues, etc.

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Patron—Obenshain .....	SB 1716	846	1990

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**Land preservation tax credit;** extends allowable time to claim credit. (Patron—Fariss) .....

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**Land preservation tax credits;** operation of facility on donated land, agreements between the Commonwealth and a third party related to donated land. (Patron—Hodges) .....

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**License tax, local;** definition of new business, owner of new business that operates a mobile food unit pays tax required by locality in which unit is registered. (Patron—Dunnivant) .....

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**Lottery;** prohibits Virginia Lottery from disclosing information about individual winners whose prize exceeds \$10 million, etc.

Patron—Ware .....	HB 1650	247	473
Patron—Spruill .....	SB 1060	163	325

**Major business facility job tax credit;** extends sunset date, Department of Taxation to publish information about companies in a manner that prevents identification of particular taxpayers and reports. (Patron—Aird) .....

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**Military retirement income;** Department of Veterans Services and the Department of Taxation to convene a joint working group to study the feasibility of exempting income from taxation. (Patron—Torian) .....

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**Motor vehicle rental tax;** filing sales and use tax return. (Patron—Bell, Robert B.) ...

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**Personal property tax;** exemption for agricultural vehicles farm machinery includes equipment and machinery used by a nursery for production of horticultural products and any farm tractor. (Patron—Webert) .....

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**Real estate;** delinquent taxes or liens, adds City of Martinsville to list of cities with different requirements for the appointment of a special commissioner. (Patron—Adams, L.R.) .....

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**Real estate with delinquent taxes or liens;** appointment of special commissioner, increases required value. (Patron—Carr) .....

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**Real property tax;** exemption for the elderly and disabled, improvements to a dwelling.

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<b>Real property tax;</b> exemptions for elderly and handicapped, computation of income limitation. (Patron—Krizek) .....	HB 1937	16	22
<b>Real property taxes;</b> partial exemption for flood mitigation efforts. (Patron—Lewis) ..	SB 1588	754	1750
<b>Recordation tax;</b> exemption for property transferred by deed of distribution, such deed shall state therein on the front page that it is a deed of distribution. (Patron—McDougle) .....	SB 1610	757	1752
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<b>Virginia Lottery;</b> prohibits practice of ticket discounting and imposes three-tier civil penalties, corresponding to prize ranges, for any persons found to have engaged in such practice. (Patron—Ruff) .....	SB 1752	762	1759
<b>Virginia Lottery Board;</b> regulation of casino gaming, penalties, report. (Patron—Lucas) .....	SB 1126	789	1848
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<b>Water pollution control projects;</b> adds to Virginia Department of Health's duties to serve as a state certifying authority in determining conformity with state requirements for certain tax-exempt projects, for pollution control equipment and facilities certified by the Department, exemption applies only to onsite sewage systems that serve 10 or more households, etc. (Patron—Webert) .....	HB 2811	441	791
<b>Worker retraining tax credit;</b> sunset date, worker training investment tax credit created. (Patron—Byron) .....	HB 2539	189	374

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<b>Taylor, Joe;</b> commending. (Patron—Bagby) . . . . .	HJR 916		2846
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<b>School board employees;</b> Board of Education to include in its regulations that prescribe the requirements for the licensure of teachers and other school personnel required to hold a license, procedures for written reprimand of such license holders, notice of which shall be made by the Superintendent of Public Instruction to division superintendents, etc. (Patron—Thomas) . . . . .	HB 2325	587	996
<b>Teacher employment data;</b> Department of Education shall aggregate and report to each education preparation program data on such program's graduates, as available and to the extent that such data does not reveal personally identifiable information, etc. (Patron—McClellan) . . . . .	SB 1433	598	1005
<b>Teacher licensure;</b> Board of Education shall provide for issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools, Chancellor of the Virginia Community College or his designee shall serve as an ex officio member of the Advisory Board on Teacher Education and Licensure, report. (Patron—Ebbin) . . . . .	SB 1575	767	1771
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<b>Local service districts;</b> broadband and telecommunications services to unserved areas of the district, contracts with nongovernmental broadband service providers. (Patron—Thomas) . . . . .	HB 2141	828	1952
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<b>Virginia Telephone Privacy Protection Act;</b> joint liability of seller and telephone solicitor for violations, rebuttable presumption created, investigative authority, civil penalties. Patron—Bell, John J. . . . .	HB 2600	256	484
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<b>Public schools; each school board shall develop and implement a policy to prohibit the</b> <b>use and distribution of any tobacco product or nicotine vapor product on a school</b> <b>bus, on school property, or at an on-site or off-site school-sponsored activity, board</b> <b>shall work to ensure adequate notice of this policy.</b>			
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**Towing;** only towing requests made by local law-enforcement officers are subject to local ordinances regulating towing services, nothing herein shall prohibit the Department of State Police from entering into a memorandum of understanding with a county, city, or town to provide for towing services. (Patron—Carrico) . . . . . SB 1510 630 1072

**Towing fees;** localities in Planning District 8 (Northern Virginia) and Planning District 16 (George Washington RC) shall establish by ordinance a hookup and initial towing fee of no less than \$135, etc.

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**Agricultural equipment;** time frame for reporting nonconformities. (Patron—Carrico) SB 1513 752 1748

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**Auxiliary law-enforcement officers;** purchase of service handguns or other weapons. (Patron—Cosgrove) . . . . . SB 1048 608 1012

**Enterprise zones;** designation, Governor may renew zones designated on or after July 1, 2005, for up to three five-year renewal periods and zones designated prior to July 1, 2005, for one five-year renewal period.

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**Extended service contract providers;** bonding requirement, remedies, civil penalty.

Patron—Ransone . . . . . HB 2038 396 728

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**License tax, local;** definition of new business, owner of new business that operates a mobile food unit pays tax required by locality in which unit is registered. (Patron—Dunnivant) . . . . . SB 1425 791 1860

**Major business facility job tax credit;** extends sunset date, Department of Taxation to publish information about companies in a manner that prevents identification of particular taxpayers and reports. (Patron—Aird) . . . . . HB 2003 699 1292

**Major Headquarters Workforce Grant Fund;** created.

Patron—Jones, S.C. . . . . HB 2356 482 851

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**Motor fuels;** every dispensing device used in the retail sale of fuel shall identify the fuel and be labeled. (Patron—Dance) . . . . . SB 1600 756 1751

**Nursing homes;** truth in advertising for inspections, surveys, and investigations, no person shall use, in any advertisement for professional services provided by such person, results of any survey, etc.

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**Semiconductor Manufacturing Grant Fund;** created.

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**Small Business Investment Grant Fund;** investment in a small business on or after July 1, 2019, but prior to January 1, 2022, recapture of awards. (Patron—Herring) . . HB 2347 35 62

**Tax assessments;** Small Business Commission to study models and streamlined procedure for appealing decisions. (Patron—Keam) . . . . . HJR 687 2733

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**Motor vehicle registration, licensing, and certificates of title statutes;** reorganization, segregation of criminal offenses and traffic offenses.

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**Amtrak or intercity passenger rail stations;** Department of Rail and Public Transportation shall evaluate rail signage options, report. (Patron—Bagby) . . . . .

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**Dulles Greenway;** Department of Transportation to study feasibility of purchasing all or part of Greenway. (Patron—Black) . . . . .

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**Highways, bridges, interchanges, and other transportation facilities;** cost of signage when named after a state official killed during performance of his official duties, etc., costs of producing, placing, and maintaining these signs shall be paid from Commonwealth Transportation Funds, Board must receive a letter or resolution from head of state agency by which state official was employed requesting such naming, etc. (Patron—Carrico) . . . . .

SB 1505 802 1882

**Interstate 81;** Interstate 81 Corridor Improvement Fund created, Interstate 81 Committee established, Committee's meetings shall rotate between locations, report, responsibilities of Commonwealth Transportation Board and Department of Transportation, additional fees for certain vehicles, additional tax per gallon on diesel fuel, disposition of tax revenues, etc.

Patron—Landes . . . . . HB 2718 837 1971  
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**Interstate 95;** Commonwealth Transportation Board to study portion of corridor between Exit 118 and Springfield Interchange and financing options for improvements.

Patron—Cole . . . . . HJR 581 2702  
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**Mass transit providers;** Commonwealth Transportation Board may allocate supplemental operating funds in fiscal year 2020 to any transit provider that receives funds to support operating costs, etc., maximum amount of funds available shall not exceed \$3 million from nongeneral fund available to Department of Rail and Public Transportation. (Patron—Thomas) . . . . .

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**Mass transit providers;** loss of certain operating funds, maximum amount of supplemental funds available shall not exceed \$3 million. (Patron—Mason) . . . . .

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**Northern Virginia Transportation Authority;** analysis of projects, repeals provision relating to responsibilities of Department of Transportation for analysis of transportation projects in Northern Virginia Transportation District. (Patron—Black) . . . . .

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**Treasurers, local;** replaces term "well-bound book" with "record" relating to treasurers' required method of recordkeeping, etc. (Patron—Brewer) . . . . .

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**Timber theft;** a person who buys and removes timber from a landowner's property is guilty of Class 1 misdemeanor if he fails to pay the landowner within date specified in written timber sales agreement, load tickets required for certain sales of timber.

Patron—Adams, L.R. . . . . HB 2411 348 650  
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Unmanned aircraft system; trespassing with system if takes off or lands in violation of current Federal Aviation Administration Special Security Instructions, etc., guilty of Class 1 misdemeanor. (Patron—Knight) . . . . . HB 1636 612 1015

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Trooper Lucas B. Dowell Bridge; designating as the bridge on Interstate 81 in Smyth County over Whitetop Road. (Patron—Peake) . . . . . SB 1789 764 1770

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Trooper Mark Barrett Memorial Bridge; designating as the bridge on Meadow Road over Interstate 64 at mile marker 202 in Henrico County.  
Patron—Bagby . . . . . HB 2226 156 318  
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Patron—Cox . . . . . HR 259 2982  
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Patron—Garrett . . . . . HB 2800 401 732  
Patron—Carrico . . . . . SB 1775 568 977

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Trusted Choice® Independent Insurance Agents Week; designating the first full week of March 2019, and each succeeding year thereafter. (Patron—Fowler) . . . . . HJR 703 2740

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Income tax, state; changes definition of resident estate or trust.  
Patron—Hugo . . . . . HB 2526 23 44  
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**Contractors, Board for;** Board to revise regulations to allow multiple individuals from a single firm to sit for the business examination required to be confirmed as firm's designated employee. (Patron—Newman)

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**Elections, State Board of;** Board, on or before January 1, 2020, shall revise its processes and associated regulations for viewing and processing candidate petitions, checking petition signatures. (Patron—Lewis)

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**Electric utilities;** stakeholder process for energy efficiency programs, independent monitor shall convene meetings of participants in the process not less frequently than twice in each calendar year ending July 1, 2028.

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**Health information;** Department of Behavioral Health and Developmental Services shall convene a workgroup to study issue of and to develop a plan for sharing of protected information of individuals with mental health treatment needs between community services boards and local and regional jails. (Patron—Boysko)

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**Highways, Commissioner of;** annual report on certain data regarding operation of overweight trucks on highways.

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**Mass transit providers;** Commonwealth Transportation Board may allocate supplemental operating funds in fiscal year 2020 to any transit provider that receives funds to support operating costs, etc., maximum amount of funds available shall not exceed \$3 million from nongeneral fund available to Department of Rail and Public Transportation. (Patron—Thomas)

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**Mass transit providers;** loss of certain operating funds, maximum amount of supplemental funds available shall not exceed \$3 million. (Patron—Mason)

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**Medical Assistance Services, Department of;** Department shall amend eligibility criteria for the Community Living waiver and the Family and Individual Support waiver, dependents of foreign service members. (Patron—Hope)

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<b>Southwestern Virginia Training Center;</b> the Commonwealth shall not convey, sell, or otherwise dispose of certain real property in Carroll County outside the Town of Hillsville on which the former Center was situated. (Patron—Carrico) . . . . .	SB	1509	610	1014
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<b>State hospitals for individuals with mental illness;</b> Secretary of Health and Human Resources shall convene a work group to examine causes of high census at the Commonwealth's state hospitals. (Patron—Hanger) . . . . .	SB	1488	609	1013
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**Virginia's State Forests;** commemorating the occasion of the 100th anniversary of the establishment of the first such forest.

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Patron—Peake ..... SJR 399 3166

**VIRGINIA'S 21 PLANNING DISTRICT COMMISSIONS**

**Virginia's 21 planning district commissions;** commemorating its 50th anniversary. (Patron—Landes) .....

HJR 736 2755

**VIRGINIAN STEAK HOUSE**

**Virginian Steak House;** commending. (Patron—Miyares) .....

HR 281 2991

**VISUALLY HANDICAPPED PERSONS**

**Special identification card;** applicants who are blind or vision impaired. (Patron—Keam) .....

HB 1927 75 112

**VITAL STATISTICS**

**Death certificates;** requires the completed medical certification portion of a certificate to be filed electronically with the State Registrar of Vital Records through the Electronic Death Registration System, etc., Department of Health shall work with Virginia Morticians' Association, Inc., etc., to educate and encourage physicians, physician assistants, etc., to timely register with and utilize the System.

Patron—Wilt ..... HB 2445 213 425  
Patron—McClellan ..... SB 1439 224 447

**VOICES FOR VIRGINIA'S CHILDREN**

**Voices for Virginia's Children;** commemorating its 25th anniversary.

Patron—Peace ..... HJR 762 2769  
Patron—Dunnivant ..... SJR 325 3126

**VOTER REGISTRATION**

**Virginia voter registration system;** security plans and procedures, update of security standards at least annually, remedying security risks, State Board of Elections shall convene a work group prior to adopting standards. (Patron—Sickles) .....

HB 2178 426 761

**Voter registration;** notification of denial by general registrars. (Patron—Marsden) ...

SB 1042 341 636

**Voter registration;** protected voter, foster parents. (Patron—Reeves) .....

SB 1244 342 638

**VOTERS AND VOTING**

**Absentee voting;** certain absentee voters permitted to vote after close of absentee voting location. (Patron—Krizek) .....

HB 1790 278 522

**Absentee voting;** no-excuse, in-person, beginning on second Saturday immediately preceding election, report.

Patron—Rush ..... HB 2790 668 1204  
Patron—Spruill ..... SB 1026 669 1212

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**VOTERS AND VOTING - Continued**

**Form of ballot;** on any ballot all offices to be elected shall appear before any questions presented to the voters.

Patron—McNamara .....	HB 2046	283	543
Patron—Suetterlein .....	SB 1577	99	158

**Voter registration;** protected voter, foster parents. (Patron—Reeves) .....

	SB 1244	342	638
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**WACKER, LOUIS ALEXANDER**

**Wacker, Louis Alexander;** recording sorrow upon death. (Patron—O'Quinn) .....

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**WADE, KEVIN GLENN**

**Wade, Kevin Glenn;** recording sorrow upon death. (Patron—Lewis) .....

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**WADE, MICHAEL L.**

**Wade, Michael L.;** commending. (Patron—Dunnavant) .....

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**WAGES**

**Minimum wage;** eliminates the exemptions to Virginia's requirements for newsboys, shoe-shine boys, babysitters who work 10 hours or more per week, etc.

Patron—Price .....	HB 2473	330	621
Patron—Spruill .....	SB 1079	331	622

**Wage payment statements;** each employer, other than an employer engaged in agricultural employment including agribusiness and forestry, shall provide on each regular pay date, shall furnish employee a written statement of gross wages earned during the pay period, etc., effective date.

Patron—Aird .....	HB 2664	836	1970
Patron—Wagner .....	SB 1696	845	1989

**WALKER, THOMAS CALHOUN**

**Walker, Thomas Calhoun;** commemorating his life and legacy on the occasion of the 65th anniversary of his death. (Patron—Hodges) .....

	HJR 960		2870
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**WALKER, WILLIAM CLINTON**

**Walker, William Clinton;** recording sorrow upon death.

Patron—O'Quinn .....	HJR 721		2749
Patron—Carrico .....	SJR 303		3114

**WALL, TRACE**

**Wall, Trace;** commending. (Patron—Bell, John J.) .....

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**WAMBOLD, ALAN BRUCE**

**Wambold, Alan Bruce;** recording sorrow upon death. (Patron—Saslaw) .....

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**WARD, PERCY F., JR.**

**Ward, Percy F., Jr.;** commending. (Patron—Helsel) .....

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**WARD, WILLIAM E.**

**Ward, William E.;** recording sorrow upon death.

Patron—Hayes .....	HJR 586		2703
Patron—Spruill .....	SJR 256		3069

**WARE, EVELYNN BELLE**

**Ware, Evelyn Belle;** recording sorrow upon death.

Patron—LaRock .....	HJR 1083		2932
Patron—Black .....	SJR 328		3127

**WARRENTON-FAUQUIER JOINT COMMUNICATIONS CENTER**

**Warrenton-Fauquier Joint Communications Center;** commemorating its 25th anniversary. (Patron—Webert) .....

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**WARRENTON PONY SHOW**

**Warrenton Pony Show;** commemorating its 100th edition. (Patron—Webert) .....

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**WASHINGTON, ALPHONSO**

**Washington, Alphonso;** commending the occasion of his 105th birthday in 2018.

Patron—Freitas .....	HJR 753		2764
Patron—Reeves .....	SR 105		3220

**WASHINGTON CAPITALS**

**Washington Capitals;** commending.

Patron—Sickles .....	HJR 599		2706
Patron—Ebbin .....	SJR 266		3072

**WASHINGTON, TONY ROBINSON, JR.**

**Washington, Tony Robinson, Jr.;** recording sorrow upon death. (Patron—Lewis) .....

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<b>Wasserstein, Ron;</b> commending. (Patron—Tran) . . . . .	HJR 1122		2950
<b>WASTE MANAGEMENT</b>			
<b>Virginia Water Quality Improvement Fund;</b> grants for design and installation of wastewater conveyance infrastructure estimates of future funding requests, Stormwater Local Assistance Fund. (Patron—Bulova) . . . . .	HB 1822	533	916
<b>WATER AND SEWER SYSTEMS</b>			
<b>Onsite sewage treatment systems;</b> Department of Health shall develop a plan for oversight and enforcement of requirements, Department shall present plan before implementation. (Patron—Hodges) . . . . .	HB 2322	429	768
<b>WATER POLLUTION</b>			
<b>Water pollution control projects;</b> adds to Virginia Department of Health's duties to serve as a state certifying authority in determining conformity with state requirements for certain tax-exempt projects, for pollution control equipment and facilities certified by the Department, exemption applies only to onsite sewage systems that serve 10 or more households, etc. (Patron—Webert) . . . . .	HB 2811	441	791
<b>WATERCRAFT</b>			
<b>Driving while intoxicated or operating watercraft while intoxicated;</b> maiming, etc., of another, definition of "serious bodily injury," penalties. (Patron—Bell, Robert B.) .	HB 1941	465	829
<b>Parking of certain vehicles;</b> adds the Town of Cape Charles to the list of towns that are permitted to regulate or prohibit the parking on any public highway of watercraft, boat trailers, etc. Patron—Bloxom . . . . .	HB 1777	144	306
Patron—Lewis . . . . .	SB 1560	116	182
<b>Watercraft;</b> transfer by operation of law, transfer on death. (Patron—Yancey) . . . . .	HB 2796	236	457
<b>WATERS OF THE STATE, PORTS, AND HARBORS</b>			
<b>Chesapeake Bay Watershed Implementation Plan;</b> repeals directions to state agencies to exclude the Lynnhaven River and Little Creek watersheds from the James River Basin for purposes of the Plan. (Patron—Wagner) . . . . .	SB 1388	563	973
<b>Dams;</b> prohibits Department of Conservation and Recreation from requiring the removal of wetland vegetation that is growing on certain portions of a dam if the vegetation is associated with an approved wetland mitigation bank, or in-lieu fee site, etc. (Patron—Bulova) . . . . .	HB 1715	148	308
<b>Ground water withdrawal;</b> State Water Control Board shall adopt regulations providing incentives for the withdrawal of water from the surficial aquifer, rather than the deep aquifer, in the Eastern Shore Groundwater Management Area. (Patron—Lewis) . . . . .	SB 1599	755	1751
<b>Living shorelines;</b> loans to businesses, to be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority. (Patron—Hodges) . . . . .	HB 2783	497	878
<b>Loans and grants for agricultural best management practices;</b> riparian buffers. (Patron—Webert) . . . . .	HB 2637	552	961
<b>Port of Virginia Economic and Infrastructure Development Grant Fund and Program;</b> extends sunset date. (Patron—Vogel) . . . . .	SB 1459	565	974
<b>Potomac Aquifer recharge monitoring;</b> Potomac Aquifer Recharge Oversight Committee and Potomac Aquifer Recharge Monitoring Laboratory established, SWIFT Project. Patron—Jones, S.C. . . . .	HB 2358	54	90
Patron—Mason . . . . .	SB 1414	58	98
<b>Riparian planting ground;</b> Commissioner of Marine Resources Commission shall assign to land owner only a ground, in his discretion, he deems appropriate to encompass as much as one-half acre of ground, provided that it does not encroach into an existing oyster-planting ground. (Patron—Bloxom) . . . . .	HB 1779	152	314
<b>Submerged fiber optic cables;</b> Virginia Marine Resources Commission to study the feasibility of creating protection zones located along or being developed on Virginia's shores. (Patron—DeSteph) . . . . .	SJR 309		3115
<b>Virginia port volume increase tax credit;</b> transfer of credits. (Patron—Lucas) . . . . .	SB 1652	759	1755
<b>Virginia Water Quality Improvement Fund;</b> grants for design and installation of wastewater conveyance infrastructure estimates of future funding requests, Stormwater Local Assistance Fund. (Patron—Bulova) . . . . .	HB 1822	533	916

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**WATERS OF THE STATE, PORTS, AND HARBORS - Continued**

**Wetlands;** Board shall evaluate appropriate compensatory mitigation option on a case-by-case basis, etc. (Patron—Hodges) . . . . . HB 2403 545 950

**WAYNESBORO, CITY OF**

**Waynesboro, City of;** amending charter, city council procedures, real estate tax assessments.  
Patron—Bell, Richard P. . . . . HB 1893 239 461  
Patron—Hanger . . . . . SB 1396 127 276

**WEAPONS**

**Auxiliary law-enforcement officers;** purchase of service handguns or other weapons. (Patron—Cosgrove) . . . . . SB 1048 608 1012  
**Concealed handgun permit;** application for a resident permit by a member of United States Armed Forces. (Patron—Stuart) . . . . . SB 1179 624 1052  
**Felons;** mechanism for reporting to Department of State Police when a circuit court restores right to possess, transport, and carry a firearm, etc., effective date. (Patron—Rush) . . . . . HB 2548 203 395  
**Firearms ordinances;** applicability to property located in multiple localities, landowner may elect to have ordinances of locality in which largest portion of contiguous parcel of land lies to apply to anyone hunting on the property, notification to Department of Game and Inland Fisheries, report. (Patron—Head) . . . . . HB 2252 830 1954  
**School security officers;** employment by private or religious schools, carrying a firearm in performance of duties. (Patron—Cole) . . . . . HB 1656 120 184  
**School security officers;** employment, law-enforcement officers previously employed by the United States or any state or political subdivision thereof, carrying a firearm in performance of duties. (Patron—Freitas) . . . . . HB 2721 493 870

**WEATHERLY, JOHN A.**

**Weatherly, John A.;** commending. (Patron—Sickles) . . . . . HJR 825 2800

**WEAVER, BETTIE WOODSON**

**Weaver, Bettie Woodson;** recording sorrow upon death.  
Patron—Adams, D.M. . . . . HJR 695 2735  
Patron—Sturtevant . . . . . SJR 476 3208

**WEBB, FOREST**

**Webb, Forest;** commending.  
Patron—Campbell, J.L. . . . . HR 421 3054  
Patron—Suetterlein . . . . . SR 165 3248

**WELFARE (SOCIAL SERVICES)**

**Adoption by relative;** clarifies term "close relative placement." (Patron—Brewer) . . . . . HB 2208 377 700  
**Aged or incapacitated adults;** financial exploitation, authority of financial institution staff to refuse transactions or disbursements, etc.  
Patron—Toscano . . . . . HB 1987 420 754  
Patron—Obenshain . . . . . SB 1490 421 756  
**Aged or incapacitated adults;** financial exploitation, reporting by financial institution staff, staff may provide supporting information and records. (Patron—O'Quinn) . . . . . HB 2225 339 634  
**Assisted living facilities;** Board of Social Services to amend regulations governing staffing of certain units during overnight hours.  
Patron—Rasoul . . . . . HB 2521 294 563  
Patron—Mason . . . . . SB 1410 97 156  
**Assisted living facilities;** facility shall give immediate notice to regional licensing office, etc., that licensed administrator resigned, etc., and shall provide last date of employment, authorization to operate under supervision of an acting administrator for more than two times in any two-year period shall be made by the Department on a case-by-case basis. (Patron—Mason) . . . . . SB 1409 448 802  
**Assisted living facilities;** temporary emergency electrical power source, disclosure to prospective residents. (Patron—Hope) . . . . . HB 1815 602 1007  
**Assisted living facility;** State Board of Social Services to amend its regulations regarding generator requirements. (Patron—Howell) . . . . . SB 1077 91 146  
**Child abuse and neglect;** adds to list of persons who are mandatory reporters.  
Patron—Delaney . . . . . HB 1659 414 748  
Patron—Vogel . . . . . SB 1257 295 564

**WELFARE (SOCIAL SERVICES) - Continued**

<b>Child abuse and neglect;</b> local boards of social services, when investigating an individual who is the subject of allegations, to obtain and consider a search of the central registry, etc., family assessments. (Patron—Mullin) . . . . .	HB	1671	276	519
<b>Child abuse and neglect;</b> sex trafficking assessments by local departments, notification to Child Protective Services Unit, valid report or complaint, child-protective services worker responding to a report or complaint may take a child into custody. Patron—Herring . . . . .	HB	2597	381	702
Patron—Peake . . . . .	SB	1661	687	1263
<b>Child abuse or neglect;</b> appeals from founded complaints, concurrent criminal investigations. Patron—Campbell, J.L. . . . .	HB	1953	12	16
Patron—Mason . . . . .	SB	1416	296	565
<b>Child abuse or neglect;</b> out-of-court and recorded statements made by a child 14 years of age or younger. (Patron—Collins) . . . . .	HB	1622	413	746
<b>Child abuse or neglect;</b> prenatal substance exposure, mandatory reporters. (Patron—McClellan) . . . . .	SB	1436	98	157
<b>Child care providers;</b> local law-enforcement agencies allowed to process and submit requests for national fingerprint background checks, forwarding fingerprints and personal descriptive information. (Patron—Mason) . . . . .	SB	1407	447	798
<b>Child day programs;</b> exempts from licensure any program in which child-minding services are offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and no more than eight hours per day, etc. (Patron—Miyares) . . . . .	HB	2756	667	1201
<b>Child day programs;</b> staff training requirements, exemption for cooperative preschools. (Patron—Pogge) . . . . .	HB	2258	604	1009
<b>Child in foster care;</b> local departments of social services shall notify appropriate community services board when child is identified as having a developmental disability. (Patron—Favola) . . . . .	SB	1135	301	588
<b>Child protective services;</b> investigations and family assessments, contact information, report. (Patron—Morefield) . . . . .	HB	2743	436	786
<b>Child support;</b> raises from \$25 to \$35 fee charged by State Board of Social Services to individuals who authorize the Department of Social Services to enforce obligations, etc. (Patron—Delaney) . . . . .	HB	1819	165	330
<b>Child welfare agencies;</b> Commissioner of Social Services shall prioritize inspection of agencies. (Patron—Orrock) . . . . .	HB	1627	273	516
<b>Child welfare agencies and assisted living facilities;</b> Commissioner of Social Services may issue a notice of summary suspension of the license, summary suspension hearing. (Patron—McClellan) . . . . .	SB	1435	449	803
<b>Family day homes;</b> zoning permits, applicable local ordinances. Patron—LaRock . . . . .	HB	2569	380	701
Patron—Favola . . . . .	SB	1094	442	792
<b>Family First Prevention Services Act, federal;</b> statutory alignment. Patron—Peace . . . . .	HB	2014	282	526
Patron—Mason . . . . .	SB	1679	688	1264
<b>Family First Prevention Services Act, federal;</b> statutory alignment, background check requirement. (Patron—Mason) . . . . .	SB	1678	100	159
<b>Foster care;</b> numerous changes to laws governing provision of services in the Commonwealth. (Patron—Reeves) . . . . .	SB	1339	446	794
<b>Foster care;</b> security freeze on credit report, removal of freeze in best interest of child, annual credit checks. Patron—Brewer . . . . .	HB	1730	677	1251
Patron—Reeves . . . . .	SB	1253	676	1250
<b>Foster care agreements;</b> rights of foster parent, dispute resolution, regulations. (Patron—Bell, Richard P.) . . . . .	HB	2108	336	631
<b>Kinship foster care;</b> local board shall take all reasonable steps to provide notice to relatives of their potential eligibility. Patron—Carroll Foy . . . . .	HB	2758	437	788
Patron—Mason . . . . .	SB	1720	438	788
<b>Parental or legal custodial powers;</b> delegation of powers, licensed child-placing agency, no person to whom powers have been delegated shall be required to obtain a				

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**WELFARE (SOCIAL SERVICES) - Continued**

license to operate an independent foster home or approval as a foster parent from the Commissioner. (Patron—Byron) . . . . . HB 2542 297 566

**Post-adoption contact and communication agreements;** unless parental rights have been terminated, local board of social services or child welfare agency required to file a petition for a permanency planning hearing, may inform the birth parent or parents, etc.

Patron—Reid . . . . . HB 1728 84 122  
Patron—Favola . . . . . SB 1139 65 106

**Protective services;** multidisciplinary adult abuse, neglect, and exploitation, response teams may be established by Commonwealth attorney in each jurisdiction.

Patron—Pillion . . . . . HB 2560 170 333  
Patron—Chafin . . . . . SB 1224 775 1785

**Temporary Assistance for Needy Families (TANF);** eligibility. (Patron—Aird) . . . . HB 2005 376 700

**Virginia Initiative for Employment Not Welfare (VIEW);** changes name to the Virginia Initiative for Education and Work. (Patron—Bell, Richard P.) . . . . . HB 1746 210 403

**Virginia Initiative for Employment Not Welfare (VIEW);** transitional child care.

Patron—Jones, J.C. . . . . HB 1871 166 330  
Patron—Favola . . . . . SB 1145 218 435

**WELSH, GEORGE**

**Welsh, George;** recording sorrow upon death. (Patron—Bell, Robert B.) . . . . . HJR 761 2769

**WERTH, JAYSON RICHARD GOWAN**

**Werth, Jayson Richard Gowan;** commending. (Patron—Murphy) . . . . . HR 428 3057

**WEST ENGINEERING COMPANY**

**West Engineering Company;** commemorating its 100th anniversary. (Patron—Fowler) HJR 994 2889

**WEST SPRINGFIELD HIGH SCHOOL**

**West Springfield High School baseball team;** commending. (Patron—Filler-Corn) . . HJR 1022 2903

**WESTERN BRANCH HIGH SCHOOL**

**Western Branch High School track and field program;** commending. (Patron—Jones, S.C.) . . . . . HJR 665 2730

**WESTFIELD HIGH SCHOOL**

**Westfield High School football team;** commending. (Patron—Delaney) . . . . . HJR 914 2845

**WETLANDS**

**Dams;** prohibits Department of Conservation and Recreation from requiring the removal of wetland vegetation that is growing on certain portions of a dam if the vegetation is associated with an approved wetland mitigation bank, or in-lieu fee site, etc. (Patron—Bulova) . . . . . HB 1715 148 308

**Wetlands;** Board shall evaluate appropriate compensatory mitigation option on a case-by-case basis, etc. (Patron—Hodges) . . . . . HB 2403 545 950

**WHETZEL, ANTHONY R.**

**Whetzel, Anthony R.;** recording sorrow upon death. (Patron—Wilt) . . . . . HJR 871 2823

**WHETZEL, ANTHONY ROBERT**

**Whetzel, Anthony Robert;** recording sorrow upon death. (Patron—Obenshain) . . . . . SJR 394 3164

**WHITAKER, DIANNE W.**

**Whitaker, Dianne W.;** commending. (Patron—McDougle) . . . . . SR 102 3218

**WHITAKER, JOSEPH C.**

**Whitaker, Joseph C.;** recording sorrow upon death. (Patron—Locke) . . . . . SJR 384 3158

**WHITE, HERBERT, JR.**

**White, Herbert, Jr.;** recording sorrow upon death. (Patron—Peace) . . . . . HR 275 2989

**WHITE, RICHARD DUDLEY**

**White, Richard Dudley;** recording sorrow upon death. (Patron—Jones, J.C.) . . . . . HJR 986 2885

**WHITE, STEPHEN K.**

**White, Stephen K.;** commending. (Patron—Deeds) . . . . . SJR 316 3119

**WHITEHURST, KENNETH N., JR.**

**Whitehurst, Kenneth N., Jr.;** recording sorrow upon death.

Patron—Knight . . . . . HJR 726 2750  
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<b>Wilcox, Wendy</b> ; commending. (Patron—Guzman) . . . . .	HR 457		3068
<b>WILLARD INTERMEDIATE SCHOOL</b>			
<b>Willard Intermediate School</b> ; commending. (Patron—Bell, John J.) . . . . .	HR 346		3021
<b>WILLIAM &amp; MARY, THE COLLEGE OF</b>			
<b>William &amp; Mary, The College of</b> ; commending. (Patron—Mullin) . . . . .	HJR 890		2833
<b>WILLIAMS, HAZEL</b>			
<b>Williams, Hazel</b> ; recording sorrow upon death. (Patron—Suetterlein) . . . . .	SR 166		3248
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<b>Williams, John Davis</b> ; recording sorrow upon death. (Patron—McQuinn) . . . . .	HJR 1080		2931
<b>WILLIAMSBURG-JAMES CITY COUNTY COMMUNITY ACTION AGENCY</b>			
<b>Williamsburg-James City County Community Action Agency</b> ; commemorating its 50th anniversary. (Patron—Pogge) . . . . .	HJR 1037		2910
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<b>Williamsburg Unitarian Universalists</b> ; commemorating its 30th anniversary. (Patron—Mullin) . . . . .	HJR 1024		2904
<b>WILLIS, BRENDA G.</b>			
<b>Willis, Brenda G.</b> ; commending. (Patron—Hayes) . . . . .	HJR 1057		2920
<b>WILLS, TRUSTS, AND FIDUCIARIES</b>			
<b>Clerks of circuit courts</b> ; clerk may destroy any will that has been lodged in his office for safekeeping for 100 years or more. (Patron—Obenshain) . . . . .	SB 1426	529	910
<b>Financial institution</b> ; payment or delivery of small asset by affidavit, check, draft, or other negotiable instrument. (Patron—Chafin) . . . . .	SB 1186	360	678
<b>Guardianship</b> ; upon receiving notice from the local department of social services that a guardian has not filed the required annual report, the court may issue a summons or rule to show cause why the guardian has failed to file such report. (Patron—Peake) . . . . .	SB 1144	443	792
<b>Income tax, state</b> ; changes definition of resident estate or trust. Patron—Hugo . . . . .	HB 2526	23	44
Patron—Stuart . . . . .	SB 1205	192	380
<b>Uniform Power of Attorney Act</b> ; breach of fiduciary duty by agent, recovery of attorney fees to any person who petitions the court for relief to be paid by the agent found in violation. (Patron—Campbell, J.L.) . . . . .	HB 1954	520	901
<b>Virginia Uniform Transfers to Minors Act</b> ; permits a transferor to transfer property under the Act to an individual under the age of 21 to be paid, conveyed, or transferred to such individual upon his attaining 25 years of age. (Patron—Edwards) . . . . .	SB 1307	527	908
<b>WILSON, HARVEY KING</b>			
<b>Wilson, Harvey King</b> ; recording sorrow upon death. (Patron—McClellan) . . . . .	SJR 433		3185
<b>WILSON, RICK AND HENDERSON MOTORSPORTS</b>			
<b>Wilson, Rick and Henderson Motorsports</b> ; commemorating the occasion of the 30th anniversary of their victory in the 1989 Budweiser 200 at Bristol Motor Speedway. (Patron—O'Quinn) . . . . .	HJR 853		2814
<b>WINE</b>			
<b>Alcoholic beverage control</b> ; manufacture of low alcohol beverage cooler by a licensed distiller or distiller located outside the Commonwealth, regulation of sale. (Patron—Toscano) . . . . .	HB 1960	466	829
<b>Alcoholic beverage control</b> ; regulations, terms and conditions for a mixed beverage licensee, delivery permittees, records on deliveries of wine and beer, permittees shall remit records on a monthly basis for any month during which permittee makes a delivery and is required to collect and remit excise taxes due to Authority. (Patron—Knight) . . . . .	HB 2367	706	1309
<b>WINGFIELD, EUGENE C.</b>			
<b>Wingfield, Eugene C.</b> ; commending. (Patron—Fariss) . . . . .	HJR 1026		2905
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<b>Winston, Allyson Denise</b> ; commending. (Patron—Helsel) . . . . .	HJR 910		2843

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<b>Wise, Timothy Martin</b> ; recording sorrow upon death. (Patron–Hope) . . . . .	HJR 1009	2896	
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<b>Wood, Glen</b> ; recording sorrow upon death. (Patron–Poindexter) . . . . .	HJR 969	2874	
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<b>Woodall, Robbie</b> ; commending. (Patron–Marshall) . . . . .	HJR 1066	2925	
<b>WOODGROVE HIGH SCHOOL</b>			
<b>Woodgrove High School football team</b> ; commending. (Patron–LaRock) . . . . .	HJR 1078	2930	
<b>Woodgrove High School softball team</b> ; commending. (Patron–LaRock) . . . . .	HJR 1088	2934	
<b>WOOLDRIDGE, CAMERON</b>			
<b>Wooldridge, Cameron</b> ; commending. (Patron–Campbell, J.L.) . . . . .	HR 422	3054	
<b>Wooldridge, Cameron and Jacob Turpin</b> ; commending. (Patron–Suetterlein) . . . . .	SR 159	3245	
<b>WORKERS' COMPENSATION</b>			
<b>Virginia Initiative for Employment Not Welfare (VIEW)</b> ; changes name to the Virginia Initiative for Education and Work. (Patron–Bell, Richard P.) . . . . .	HB 1746	210	403
<b>Workers' compensation</b> ; payment of claims. (Patron–Norment) . . . . .	SB 1729	760	1757
<b>Workers' compensation</b> ; presumption of compensability for certain diseases, adds cancers of the colon, brain, or testes to the list that are presumed to be an occupational disease when firefighters and certain employees develop the cancer, review of Virginia Workers' Compensation program.			
Patron–Hugo . . . . .	HB 1804	415	750
Patron–Cosgrove . . . . .	SB 1030	26	48
<b>Workers' compensation</b> ; tolling of statute of limitations. (Patron–Murphy) . . . . .	HB 2022	470	838
<b>WORKFORCE</b>			
<b>Local workforce development boards</b> ; career pathways for opportunity youth, report. (Patron–James) . . . . .	HB 2726	593	1002
<b>WORLD REFUGEE DAY</b>			
<b>World Refugee Day</b> ; designating as June 20, 2019, and each succeeding year thereafter. (Patron–Rodman) . . . . .	HJR 720	2748	
<b>WRENN, ROBERT JOHN COCHRAN</b>			
<b>Wrenn, Robert John Cochran</b> ; commending. (Patron–Tyler) . . . . .	HJR 750	2763	
<b>WRIGHT, DAVID ALLEN</b>			
<b>Wright, David Allen</b> ; commending. (Patron–Cosgrove) . . . . .	SJR 329	3128	
<b>WRIGHT, LORENE ANN</b>			
<b>Wright, Lorene Ann</b> ; recording sorrow upon death. (Patron–Tran) . . . . .	HJR 1137	2957	
<b>WRITS</b>			
<b>Eviction</b> ; changes terminology from writ of possession to writ of eviction for the writ executed by a sheriff to recover real property pursuant to an order of possession, pleadings and other papers by certain parties not represented by attorneys.			
Patron–Aird . . . . .	HB 2007	700	1295
Patron–Locke . . . . .	SB 1448	180	357
<b>W.T. WOODSON HIGH SCHOOL</b>			
<b>W.T. Woodson High School boys' cross country team</b> ; commending. (Patron–Petersen) . . . . .	SJR 402	3168	
<b>W.T. Woodson High School girls' tennis team</b> ; commending. (Patron–Petersen) . . . . .	SJR 403	3168	
<b>YEAR OF RECONCILIATION AND CIVILITY</b>			
<b>Year of Reconciliation and Civility</b> ; designating as year 2019. (Patron–McQuinn) . . . . .	HJR 617	2715	
<b>YOUNG ENTREPRENEURS ACADEMY</b>			
<b>Young Entrepreneurs Academy</b> ; commending. (Patron–Bell, John J.) . . . . .	HJR 1129	2953	
<b>YOUNG, SHAYLA</b>			
<b>Young, Shayla</b> ; commending. (Patron–Tran) . . . . .	HJR 1112	2946	
<b>ZAVAL, TRACEY</b>			
<b>Zaval, Tracey</b> ; commending. (Patron–Adams, D.M.) . . . . .	HR 320	3010	
<b>ZETA CHAPTER OF OMEGA PSI PHI FRATERNITY, INC.</b>			
<b>Zeta Chapter of Omega Psi Phi Fraternity, Inc.</b> ; commemorating its 100th anniversary at Virginia Union University. (Patron–Hayes) . . . . .	HJR 854	2815	

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RES. NO. NO. NO.

**ZINDEL, LOUIS G., III**

**Zindel, Louis G., III;** commending. (Patron—Webert) . . . . . HJR 921 2849

**ZONING**

**Conditional rezoning proffers;** extensive changes to zoning provisions, specific amendments include the addition of provisions stating that no local governing body shall require any unreasonable proffer, etc., repeals enactment that refers to applications for rezoning filed prior to July 1, 2016, etc.

Patron—Thomas . . . . . HB 2342 245 470

Patron—Favola . . . . . SB 1373 129 279

**Zoning Appeals, Board of;** authorizes a locality to send a zoning administrator's appeal order using certified mail. (Patron—Fariss) . . . . . HB 1698 387 714

**Zoning appeals, local board of;** in a town with a population of 3,500 or less, either three, five, or seven residents of the locality shall be appointed by circuit court of the locality. (Patron—O'Quinn) . . . . . HB 2224 703 1304

**Zoning ordinance;** if local government reduces time period by which a planning commission shall review a proposed amendment to less than 100 days, they shall hold at least one public hearing, locality shall publish notice of hearing in a newspaper having general circulation and shall also publish the notice on the locality's website. (Patron—Roem) . . . . . HB 2375 483 853